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CHAPTER I

MISHNAH. FROM WHAT TIME MAY ONE RECITE THE SHEMA’ IN THE EVENING? FROM THE TIME THAT THE PRIESTS ENTER [THEIR HOUSES] IN ORDER TO EAT THEIR TERUMAH[1] UNTIL THE END OF THE FIRST WATCH.[2] THESE ARE THE WORDS OF R. ELIEZER. THE SAGES SAY: UNTIL MIDNIGHT. R. GAMALIEL SAYS: UNTIL THE DAWN COMES UP.[3] ONCE IT HAPPENED THAT HIS[4] SONS CAME HOME [LATE] FROM A WEDDING FEAST AND THEY SAID TO HIM: WE HAVE NOT YET RECITED THE [EVENING] SHEMA’. HE SAID TO THEM: IF THE DAWN HAS NOT YET COME UP YOU ARE STILL BOUND TO RECITE. AND NOT IN RESPECT TO THIS ALONE DID THEY SO DECIDE, BUT WHEREVER THE SAGES SAY UNTIL MIDNIGHT’, THE PRECEPT MAY BE PERFORMED UNTIL THE DAWN COMES UP. THE PRECEPT OF BURNING THE FAT AND THE [SACRIFICIAL] PIECES, TOO, MAY BE PERFORMED TILL THE DAWN COMES UP.[5] SIMILARLY, ALL [THE OFFERINGS] THAT ARE TO BE EATEN WITHIN ONE DAY MAY LAWFULLY BE CONSUMED TILL THE COMING UP OF THE DAWN. WHY THEN DID THE SAGES SAY ‘UNTIL MIDNIGHT’? IN ORDER TO KEEP A MAN FAR FROM TRANSGRESSION.

GEMARA. On what does the Tanna base himself that he commences: FROM WHAT TIME?[6] Furthermore, why does he deal first with the evening [Shema’]? Let him begin with the morning [Shema’]! — The Tanna bases himself on the Scripture, where it is written [And thou shalt recite them] . . . when thou liest down and when thou risest up,[7] and he states [the oral law] thus: When does the time of the recital of the Shema’ of lying down begin? When the priests enter to eat their terumah.[8] And if you like, I can answer: He learns [the precedence of the evening] from the account of the creation of the world, where it is written, And there was evening and there was morning, one day.[9] Why then does he teach in the sequel: THE MORNING [SHEMA’] IS PRECEDED BY TWO BENEDICTIONS AND FOLLOWED BY ONE. THE EVENING [SHEMA’] IS PRECEDED BY TWO BENEDICTIONS AND FOLLOWED BY TWO?[10] Let him there, too, mention the evening [Shema’] first? — The Tanna commences with the evening [Shema’], and proceeds then to the morning [Shema’]. While dealing with the morning [Shema’], he expounds all the matters relating to it, and then he returns again to the matters relating to the evening [Shema’].

The Master said: FROM THE TIME THAT THE PRIESTS ENTER TO EAT THEIR ‘TERUMAH’. When do the priests eat terumah? From the time of the appearance of the stars. Let him then say: ‘From the time of the appearance of the stars’? — This very thing he wants to teach us, in passing, that the priests may eat terumah from the time of the appearance of the stars. And he also wants to teach us that the expiatory offering is not indispensable,[11] as it has been taught:[12] And when the sun sets we-taher,[13] the setting of the sun is indispensable [as a condition of his fitness] to eat terumah, but the expiatory offering is not indispensable to enable him to eat terumah. But how do you know that these words ‘and the sun sets’ mean the setting of the sun, and this ‘we-taher’ means that the day clears away?

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(1) If the priests have become ritually unclean, they are not permitted to eat terumah, to which a certain holiness attaches, till they have taken a bath and the sun has set.

(2) I.e., until either a fourth or a third of the night has passed. V. infra 3a.

(3) Maim: about one and one fifth hours before actual sunrise. V. Pes. 93b.

(4) R. Gamaliel's.

(5) This sentence is parenthetical. It is nowhere laid down that the burning of the fat etc. is permitted only till midnight. It is mentioned here in order to inform us that wherever the time fixed for the performance of a duty is the night, it expires at the rise of the dawn (Rashi).

(6) I.e., where is it stated in the Law that the recital of the Shema' is prescribed at all?

(7) Deut. VI, 7.

(8) This answers also the second question, as the Bible mentions first the recital of the evening time.

(9) Gen. I, 5.

(10) Infra 11a.

(11) For the eating of terumah even where it is necessary to complete the purification rites, v. Ker. II,1.

(12) Sifra, Emor.

(13) Lev. XXII, 7. This can be rendered as E.V.: 'he (the man) is clean', or it (the day) is clean (clear), as understood now by the Gemara.

Talmud - Mas. Berachoth 2b

It means perhaps: And when the sun [of the next morning] appears, and we-taher means the man becomes clean?[1] — Rabbah son of R. Shila explains: In that case, the text would have to read we-yithar.[2] What is the meaning of we-taher?[3] The day clears away, conformably to the common expression, The sun has set and the day has cleared away. This explanation of Rabbah son of R. Shila was unknown in the West,[4] and they raised the question: This 'and the sun sets', does it mean the real setting of the sun, and 'we-taher' means the day clears away? Or does it perhaps mean the appearance of the sun, and we-taher means the man becomes clean? They solved it from a Baraitha, it being stated in a Baraitha: The sign of the thing is the appearance of the stars. Hence you learn that it is the setting of the sun [which makes him clean] and the meaning of we-taher is the clearing away of the day.

The Master said: FROM THE TIME THAT THE PRIESTS ENTER TO EAT THEIR 'TERUMAH'. They pointed to a contradiction [from the following]: From what time may one recite the Shema' in the evening? From the time that the poor man[5] comes [home] to eat his bread with salt till he rises from his meal. The last clause certainly contradicts the Mishnah. Does the first clause also contradict the Mishnah? — No. The poor man and the priest have one and the same time.

They pointed to a contradiction [from the following]: From what time may one begin to recite the Shema' in the evening? From the time that the people come [home] to eat their meal on a Sabbath eve. These are the words of R. Meir. But the Sages say: From the time that the priests are entitled to eat their terumah. A sign for the matter is the appearance of the stars. And though there is no real proof of it,[6] there is a hint for it. For it is written: So we wrought in the work: and half of them held the spears from the rise of the dawn till the appearance of the stars.[7] And it says further: That in the night they may be a guard to us, and may labour in the day.[8] (Why this second citation?[9] — If you object and say that the night really begins with the setting of the sun, but that they left late and came early, [I shall reply]: Come and hear [the other verse]: 'That in the night they may be a guard to us, and may labour in the day'). Now it is assumed that the 'poor man' and 'the people' have the same time [for their evening meal.][10] And if you say that the poor man and the priest also have the same time, then the Sages would be saying the same thing as R. Meir? Hence you must conclude that the poor man has one time and the priest has another time? — No; the 'poor man' and the priest have the same time, but the 'poor man' and the 'people' have not the same time.

But have the 'poor man' and the priest really the same time? They pointed to a contradiction [from the following]: From what time may one begin to recite the Shema' in the evening? From the time that the [Sabbath] day becomes hallowed on the Sabbath eve. These are the words of R. Eliezer. R. Joshua says: From the time that the priests are ritually clean to eat their terumah. R. Meir says: From the time that the priests take their ritual bath in order to eat their terumah. (Said R. Judah to him: When the priests take their ritual bath it is still day-time!)[11] R. Hanina says: From the time that the poor man comes [home] to eat his bread with salt. R. Ahai (some say: R. Aha). says: From the time that most people come home to sit down to their meal. Now, if you say that the poor man and the priest have the same time, then R. Hanina and R. Joshua would be saying the same thing? From this you must conclude, must you not, that the poor man has one time and the priest has another time. — Draw indeed that conclusion!

Which of them is later? — It is reasonable to conclude that the ‘poor man’ is later. For if you say that the ‘poor man’ is earlier, R. Hanina would be saying the same thing as R. Eliezer.[12] Hence you must conclude that the poor man is later, must you not? — Draw indeed that conclusion.

The Master said:[13] ‘R. Judah said to him: When the priests take their ritual bath it is still daytime!’ The objection of R. Judah to R. Meir seems well founded? — R. Meir may reply as follows: Do you think that I am referring to the twilight [as defined] by you?[14] I am referring to the twilight [as defined] by R. Jose. For R. Jose says: The twilight is like the twinkling of an eye. This[15] enters and that[16] departs — and one cannot exactly fix it.[17]

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(1) Through his sin-offering.

(2) The verb being in the future.

(3) Which may be taken as a past tense, the waw not being conversive.

(4) In the Palestinian schools.

(5) Who cannot afford an artificial light.

(6) That the day ends with the appearance of the stars.

(7) Neh. IV, 15.

(8) Ibid. 16.

(9) The first verse seems to afford ample proof.

(10) I.e., the time the ‘poor man’ mentioned in the first Baraitha comes home to take his evening meal is identical with that at which people generally come to eat their meals on Sabbath eve.

(11) And not even twilight, v. Shab. 35a.

(12) Tosef. points out that the ground for this statement is not clear.

(13) In the Baraitha just quoted.

(14) According to which definition it lasts as long as it takes to walk half a mil, v. Shab. 34b.

(15) The evening.

(16) The day.

(17) And consequently the priests may bathe at twilight as defined by R. Jose since it is still day, and one may also read at that time the Shema’ since it is practically night.

Talmud - Mas. Berachoth 3a

There is a contradiction between R. Meir [of one Baraitha][1] and R. Meir [of the last Baraitha]?[2] — Yes, two Tannaim transmit different versions of R. Meir's opinion. There is a contradiction between R. Eliezer [of the last Baraitha][3] and R. Eliezer [of the Mishnah]?[4] — Yes, two Tannaim[5] transmit two different versions of R. Eliezer's opinion. If you wish I can say: The first clause of the Mishnah[6] is not R. Eliezer's.[7]

UNTIL THE END OF THE FIRST WATCH. What opinion does R. Eliezer hold? If he holds that the night has three watches, let him say: Till four hours [in the night]. And if he holds that the night has four watches, let him say: Till three hours? — He holds indeed, that the night has three watches, but he wants to teach us that there are watches in heaven[8] as well as on earth. For it has been taught: R. Eliezer says: The night has three watches, and at each watch the Holy One, blessed be He, sits and roars like a lion. For it is written: The Lord does roar from on high, and raise His voice from His holy habitation; ‘roaring He doth roar’[9] because of his fold. And the sign of the thing is:[10] In the first watch, the ass brays; in the second, the dogs bark; in the third, the child sucks from the breast of his mother, and the woman talks with her husband. What does R. Eliezer understand [by the word watch]? Does he mean the beginning of the watches? The beginning of the first watch needs no sign, it is the twilight! Does he mean the end of the watches? The end of the last watch needs no sign, it is the dawn of the day! He, therefore, must think of the end of the first watch, of the beginning of the last watch, and of the midst of the middle watch. If you like I can say: He refers to the end of all the watches. And if you object that the last watch needs no sign, [I reply] that it may be of use for the recital of the Shema', and for a man who sleeps in a dark room[11] and does not know when the time of the recital arrives. When the woman talks with her husband and the child sucks from the breast of the mother, let him rise and recite.

R. Isaac b. Samuel says in the name of Rab: The night has three watches, and at each watch the Holy One, blessed be He, sits and roars like a lion and says: Woe to the children, on account of whose sins I destroyed My house and burnt My temple and exiled them among the nations of the world.

It has been taught: R. Jose says, I was once travelling on the road, and I entered into one of the ruins of Jerusalem in order to pray. Elijah of blessed memory appeared and waited for me at the door till I finished my prayer.[12] After I finished my prayer, he said to me: Peace be with you, my master! and I replied: Peace be with you, my master and teacher! And he said to me: My son, why did you go into this ruin? I replied: To pray. He said to me: You ought to have prayed on the road. I replied: I feared lest passers-by might interrupt me. He said to me: You ought to have said an abbreviated prayer.[13] Thus I then learned from him three things: One must not go into a ruin; one may say the prayer on the road; and if one does say his prayer on the road, he recites an abbreviated prayer. He further said to me: My son, what sound did you hear in this ruin? I replied: I heard a divine voice, cooing like a dove, and saying: Woe to the children, on account of whose sins I destroyed My house and burnt My temple and exiled them among the nations of the world! And he said to me: By your life and by your head! Not in this moment alone does it so exclaim, but thrice each day does it exclaim thus! And more than that, whenever the Israelites go into the synagogues and schoolhouses and respond: ‘May His great name be blessed!’[14] the Holy One, blessed be He, shakes His head and says: Happy is the king who is thus praised in this house! Woe[15] to the father who had to banish his children, and woe to the children who had to be banished from the table of their father!

Our Rabbis taught: there are three reasons why one must not go into a ruin: because of suspicion,[16] of falling debris and of demons. — [It states] ‘Because of suspicion’.[17] It would be sufficient to say, because of falling debris’? —

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(1) Where he says: When people come home for their Sabbath-meal, which is after twilight.

(2) Which fixes a time which is before twilight.

(3) Which fixes sunset as the time-standard.

(4) Which fixes as time-standard, the appearance of the stars (when priests enter to eat terumah).

(5) V. Glos.

(6) Where the beginning of the time is fixed.

(7) R. Eliezer's ruling being merely with reference to the terminus ad quem.

(8) Among the ministering angels.

(9) So literally. Thus ‘roaring’ is mentioned three times in the text.

(10) I.e., of each watch.

(11) That has no windows to admit the daylight.

(12) The Tefillah, v. Glos.

(13) V. infra 29a.

(14) The principal congregational response in the doxology, the Kaddish v. P.B. p. 37.

(15) V. D.S. cur. edd.; what is there for the father.

(16) That a woman may be waiting for him there.

(17) The Gemara now proceeds to explain why all the three reasons must be mentioned.

Talmud - Mas. Berachoth 3b

Talmud - Mas. Berachoth 3b

When the ruin is new.[1] But it would be sufficient to say: ‘because of demons’? — When there are two people.[2] If there are two people, then there is no suspicion either? — When both are licentious [there is suspicion]. — [It states] ‘Because of falling debris’. It would be sufficient to say: ‘because of suspicion and demons’? — When there are two decent people. [It states] ‘Because of demons’. It would be sufficient to say; ‘because of suspicion and falling debris’? — When there are two decent people going into a new ruin. But if there are two, then there is no danger of demons either? — In their haunt there is danger. If you like I can say, indeed the reference is to one man and to a new ruin which was situated in the fields; in which case there is no suspicion, for a woman would not be found in the fields, but the danger of demons does exist.

Our Rabbis taught: The night has four watches. These are the words of Rabbi. R. Nathan says: Three. What is the reason of R. Nathan? — It is written: So Gideon, and the hundred men that were with him, came into the outermost part of the camp in the beginning of the middle watch.[3] And one taught: Under ‘middle’ is to be understood only something which is preceded by one and followed by one. And Rabbi?[4] — ‘The middle’ means: one of the middle ones. And R. Nathan? — Not ‘one of the middle ones’ is written, but ‘the middle’ is written. What is Rabbi's reason? — R. Zerika, in the name of R. Joshua b. Levi, says: One verse reads, At midnight do I rise to give thanks unto Thee because of Thy righteous ordinances.[5] And another verse reads: Mine eyes forestall the watches.[6] How is this?[7] — [This is possible only if] the night has four watches. And R. Nathan? — He is of the opinion of R. Joshua, as we have learnt: R. Joshua says: until the third hour, for such is the custom of kings, to rise in the third hour.[8] Six hours of the night and two hours of the day amount to two watches.[9] R. Ashi says: One watch and a half are also spoken of as ‘watches’. (R. Zerika further said, in the name of R. Ammi in the name of R. Joshua b. Levi: One may discuss in the presence of a dead body only things relating to the dead. R. Abba b. Kahana says: This refers only to religious matters,[10] but as for worldly matter there is no harm. Another version is: R. Abba b. Kahana says: This refers even to religious matters. How much more so to worldly matters!)

But did David rise at midnight? [Surely] he rose with the evening dusk? For it is written: I rose with the neshef and cried.[11] And how do you know that this word neshef means the evening? It is written: In the neshef, in the evening of the day, in the blackness of night and the darkness![12] — R. Oshaia, in the name of R. Aha, replies: David said: Midnight never passed me by in my sleep. R. Zera says: Till midnight he used to slumber like a horse,[13] from thence on he rose with the energy of a lion. R. Ashi says: Till midnight he studied the Torah, from thence on he recited songs and praises. But does neshef mean the evening? Surely neshef means the morning? For it is written: And David slew them from the ‘neshef’ to the evening ‘ereb of the next day,[14] and does not this mean, from the ‘morning dawn’ to the evening? — No. [It means:] from the [one] eventide to the [next] eventide. If so, let him write: From neshef to neshef, or from ‘ereb to ‘ereb? — Rather, said Raba: There are two kinds of neshef: [the morning neshef], when the evening disappears [nashaf] and the morning arrives,[15] [and the evening neshef], when the day disappears [nashaf] and the evening arrives.[16]

But did David know the exact time of midnight? Even our teacher Moses did not know it! For it is written: About midnight I will go out into the midst of Egypt.[17] Why ‘about midnight’? Shall we say that the Holy One, blessed be He, said to him: ‘About midnight’? Can there be any doubt in the mind of God?[18] Hence we must say that God told him ‘at midnight’, and he came and said: ‘About midnight’. Hence he [Moses] was in doubt; can David then have known it? — David had a sign. For so said R. Aha b. Bizana in the name of R. Simeon the Pious: A harp was hanging above David's bed. As soon as midnight arrived, a North wind came and blew upon it and it played of itself. He arose immediately and studied the Torah till the break of dawn. After the break of dawn the wise men of Israel came in to see him and said to him: Our lord, the King, Israel your people require sustenance! He said to them: Let them go out and make a living one from the other.[19] They said to him: A handful cannot satisfy a lion, nor can a pit be filled up with its own clods.[20] He said to them: Then go out in troops and attack [the enemy for plunder]. They at once took counsel with Ahithofel and consulted the Sanhedrin and questioned the Urim and Tummim.[21] R. Joseph says: What verse [may be cited in support of this]? And after Ahithofel was Jehoiada, the son of Benaiah,[22] and Abiathar; and the captain of the King's host was Joab.[23] ‘Ahithofel’, this was the counsellor. And so it is said: Now the counsel of Ahithofel, which he counselled in those days, was as if a man inquired of the word of God.[24]

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(1) So that there is no danger of falling debris.

(2) The assumption is that where two are together there is no danger of an attack by demons.

(3) Judg. VII, 19.

(4) How does he explain the term middle?

(5) Ps. CXIX, 62.

(6) Ibid. 148.

(7) That somebody may rise at midnight and still have two watches before him, the minimum of the plural ‘watches’ being two.

(8) V. infra 9b. With reference to the morning Shema’.

(9) Since the day for royal personages begins at eight a.m. that is with the third hour when they rise. David by rising at midnight forestalled them by eight hours, i.e., two watches each having four hours.

(10) Lit., ‘words of the Torah’. It would show disrespect for the dead.

(11) Ibid. 147. E.V. ‘dawn’.

(12) Prov. VII, 9.

(13) That has a very light sleep, v. Suk. 26a.

(14) I Sam. XXX, 17.

(15) Neshef in this case denoting ‘dawn’.

(16) Neshef in this case denoting ‘dusk’.

(17) Ex. XI, 4.

(18) Lit., ‘heaven’.

(19) Let the rich support the poor.

(20) We cannot be self-supporting to supply all our needs, any more than a handful can satisfy a lion, or the soil taken out of a pit fill its cavity.

(21) The divine oracle of the High-Priest's breast-plate.

(22) The text here has ‘Benaiah, the son of Jehoiada’, who is mentioned in II Sam. XX, 23.

(23) I Chron. XXVII, 34.

(24) II Sam. XVI, 23.

Talmud - Mas. Berachoth 4a

‘Benaiah the son of Jehoiada’, this means the Sanhedrin. ‘And Abiathar’,[1] these are the Urim and Tummim. And so it says: And Benaiah the son of Jehoiada was over the Kerethi and Pelethi.[2] Why are they[3] called ‘Kerethi’ and ‘Pelethi’? Kerethi, because their words are decisive [korethim]; Pelethi, because they are distinguished [mufla'im] through their words. And then it comes ‘the captain of the King's host Joab’. R. Isaac b. Adda says: (Some say, R. Isaac the son of Addi says) Which verse?[4] Awake, my glory; awake, psaltery and harp; I will awake the dawn.[5]

R. Zera says:[6] Moses certainly knew and David, too, knew [the exact time of midnight]. Since David knew, why did he need the harp? That he might wake from his sleep. Since Moses knew, why did he say ‘about midnight’? — Moses thought that the astrologers of Pharaoh might make a mistake, and then they would say that Moses was a liar. For so a Master said: Let thy tongue acquire the habit of saying, ‘I know not’, lest thou be led to falsehoods [lying]. R. Ashi says: It[7] was at midnight of the night of the thirteenth passing into the fourteenth [of Nisan], and thus said Moses to Israel: The Holy One, blessed be He, said: Tomorrow [at the hour] like[8] the midnight of to-night, I will go out into the midst of Egypt.

A prayer of David . . . Keep my soul, for I am pious.[9] Levi and R. Isaac:[10] The one says, Thus spoke David before the Holy One, blessed be He; Master of the world, am I not pious? All the kings of the East and the West sleep to the third hour [of the day], but I, at midnight I rise to give thanks unto Thee.[11] The other one says: Thus spoke David before the Holy One, blessed be He: Master of the world, am I not pious? All the kings of the East and the West sit with all their pomp among their company, whereas my hands are soiled with the blood [of menstruation], with the foetus and the placenta, in order to declare a woman clean for her husband.[12] And what is more, in all that I do I consult my teacher, Mephibosheth, and I say to him: My teacher Mephibosheth, is my decision right? Did I correctly convict, correctly acquit, correctly declare clean, correctly declare unclean? And I am not ashamed [to ask]. R. Joshua, the son of R. Iddi, says Which verse [may be cited in support]? And I recite Thy testimonies before kings and am not ashamed.[13] A Tanna taught: His name was not Mephibosheth. And why then was he called Mephibosheth? Because he humiliated[14] David in the Halachah. Therefore was David worthy of the privilege that Kileab[15] should issue from him. R. Johanan said: His name was not Kileab but Daniel. Why then was he called Kileab? Because he humiliated [maklim] Mephibosheth [ab][16] in the Halachah. And concerning him Solomon said in his wisdom: My son, if thy heart be wise, my heart will be glad, even mine.[17] And he said further: My son, be wise, and make my heart glad, that I may answer him that taunteth me.[18]

But how could David call himself pious? It is not written: I am not sure [lule] to see the good reward of the Lord in the land of the living;[19] and a Tanna taught in the name of R. Jose: Why are there dots upon the world 'lule'?[20] David spoke before the Holy One, blessed be He: 'Master of the world, I am sure that you will pay a good reward to the righteous in the world to come, but I do not know whether I shall have a share in it'?[21] [He was afraid that] some sin might cause [his exclusion].[22] This conforms to the following saying of R. Jacob b. Iddi. For R. Jacob b. Iddi pointed to a contradiction. One verse reads: And behold, I am with thee, and will keep thee whithersoever thou goest,[23] and the other verse reads: Then Jacob was greatly afraid![24] [The answer is that] he thought that some sin might cause [God's promise not to be fulfilled]. Similarly it has been taught: Till Thy people pass over, O Lord, till the people pass over that Thou hast gotten.[25] 'Till Thy people pass over, O Lord': this is the first entry [into the Land]. 'Till the people pass over that Thou hast gotten': this is the second entry. Hence the Sages say: The intention was to perform a miracle for Israel[26] in the days of Ezra, even as it was performed for them in the days of Joshua bin Nun,[27] but sin caused [the miracle to be withheld].[28]

THE SAGES SAY: UNTIL MIDNIGHT. Whose view did the Sages adopt?[29] If it is R. Eliezer's view, then let them express themselves in the same way as R. Eliezer?

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(1) He was the High Priest of David.

(2) II Sam. XX, 23.

(3) The Sanhedrin (Rashi). The Tosafists, however, refer this to the Urim and Tummim.

(4) May be cited in support of the story of David's harp.

(5) Ps. LVII 9.

(6) Here the Gemara resumes the discussion of the question raised above as to how it is possible that David knew something which Moses did not know.

(7) The incident of Ex. XI, 4.

(8) The particle ka being rendered 'like' and not 'about'.

(9) Ps. LXXXVI, 1-2.

(10) Offer different homiletical interpretations.

(11) Ibid. CXIX, 62.

(12) The restrictions of Lev. XII, 2ff do not apply to all cases of abortion nor is all discharge treated as menstrual, and David is represented as occupying himself with deciding such questions instead of with feasting. MS.M. omits 'blood'.

(13) Ps. CXIX, 46.
(14) The homiletical interpretation of the name is, Out of my mouth humiliation.
(15) Cf. II Sam. III, 3.
(16) Lit., ‘father’, a teacher.
(17) Prov. XXIII, 15.
(18) Ibid. XXVII, II.
(19) Ps. XXVII, 13.
(20) The dots are interpreted as meaning he was not quite sure.
(21) Hence you see that he was not so sure of his piety.
(22) This is the reply to the question. David was quite sure of his general pious character, but he feared that his sins might exclude him from the reward etc.
(23) Gen. XXVIII, 15.
(24) Ibid. XXXII, 8. The contradiction lies in the fact that Jacob was afraid in spite of having God's promise.
(25) Ex. XV, 16.
(26) Lit. ‘the Israelites were worthy to have a miracle performed for them’.
(27) When they entered victoriously.
(28) And they entered only as subjects of Cyrus.
(29) According to the Gemara, R. Eliezer and R. Gamaliel differ in the interpretation of the Bible words, ‘And when thou liest down’. R. Eliezer explains them to mean, when you go to bed; hence he says that the time expires at the end of the first watch. R. Gamaliel understands them to mean, when you sleep; hence he fixes the whole night as the time of the recital.

Talmud - Mas. Berachoth 4b

If it is R. Gamaliel's view, let them express themselves in the same way as R. Gamaliel? — In reality it is R. Gamaliel's view that they adopted, and their reason for saying, UNTIL MIDNIGHT is to keep a man far from transgression. For so it has been taught: The Sages made a fence for their words so that a man, on returning home from the field in the evening, should not say: I shall go home, eat a little, drink a little, sleep a little, and then I shall recite the Shema’ and the Tefillah, and meanwhile, sleep may overpower him, and as a result he will sleep the whole night. Rather should a man, when returning home from the field in the evening, go to the synagogue. If he is used to read the Bible, let him read the Bible, and if he is used to repeat the Mishnah, let him repeat the Mishnah, and then let him recite the Shema’ and say the Tefillah, [go home] and eat his meal and say the Grace. And whosoever transgresses the words of the Sages deserves to die. Why this difference that, in other cases, they do not say ‘he deserves to die’, and here they do say ‘he deserves to die’? — If you wish, I can say because here there is danger of sleep overpowering him. Or, if you wish, I can say because they want to exclude the opinion of those who say that the evening prayer is only voluntary.[1] Therefore they teach us that it is obligatory.

The Master said:[2] ‘Let him recite Shema’ and say the Tefillah’. This accords with the view of R. Johanan.[3] For R. Johanan says: Who inherits the world to come? The one who follows the Ge'ullah[4] immediately with the evening Tefillah. R. Joshua b. Levi says: The Tefilloth were arranged to be said in the middle.[5] What is the ground of their difference? — If you like, I can say it is [the interpretation of] a verse, and if you like, I can say that they reason differently. For R. Johanan argues: Though the complete deliverance from Egypt took place in the morning time only,[6] there was also some kind of deliverance in the evening;[7] whereas R. Joshua b. Levi argues that since the real deliverance happened in the morning [that of the evening] was no proper deliverance.[8] ‘Or if you like, I can say it is [the interpretation of] a verse’. And both interpret one and the same verse, [viz.,] When thou liest down and when thou risest up.[9] R. Johanan argues: There is here an analogy between lying down and rising. Just as [at the time of] rising, recital of Shema’ precedes Tefillah, so also [at the time of] lying down, recital of Shema’ precedes Tefillah. R. Joshua b. Levi argues [differently]: There is here an analogy between lying down and rising. Just as [at the time of] rising, the recital of Shema’ is next to [rising from] bed,[10] so also [at the time of] lying down, recital of Shema’ must be next to [getting into] bed.[11]

Mar b. Rabina raised an objection. In the evening, two benedictions precede and two benedictions follow the Shema’.[12] Now, if you say he has to join Ge'ullah with Tefillah, behold he does not do so, for he has to say [in between], ‘Let us rest’?[13] — I reply: Since the Rabbis ordained the benediction, ‘Let us rest’, it is as if it were a long Ge'ullah. For, if you do not admit that, how can he join in the morning, seeing that R. Johanan says: In the beginning [of the Tefillah] one has to say: O Lord, open Thou my lips [etc.],[14] and at the end one has to say: Let the words of my mouth be acceptable?[15] [The only explanation] there [is that] since the Rabbis ordained that O Lord, open Thou my lips should be said, it is like a long Tefillah.[16] Here, too, since the Rabbis ordained that ‘Let us rest’ should be said, it is like a long Ge'ullah.

R. Eleazar b. Abina says: Whoever recites [the psalm] Praise of David[17] three times daily, is sure to inherit[18] the world to come. What is the reason? Shall I say it is because it has an alphabetical arrangement? Then let him recite, Happy are they that are upright in the way,[19] which has an eightfold alphabetical arrangement. Again, is it because it contains [the verse], Thou openest Thy hand [and satisfiest every living thing with favour]?[20] Then let him recite the great Hallel,[21] where it is written: Who giveth food to all flesh![22] — Rather, [the reason is] because it contains both.[23] R. Johanan says: Why is there no nun in Ashre?[24] Because the fall of Israel's enemies[25] begins with it. For it is written: Fallen is[26] the virgin of Israel, she shall no more rise.[27] (In the West[28] this verse is thus interpreted: She is fallen, but she shall no more fall. Rise, O virgin of Israel). R. Nahman b. Isaac says: Even so, David refers to it by inspiration[29] and promises them an uplifting. For it is written: The Lord upholdeth all that fall.[30]

R. Eleazar b. Abina said furthermore: Greater is [the achievement] ascribed to Michael than that ascribed to Gabriel. For of Michael it is written: Then flew unto me one of the Seraphim,[31] whereas of Gabriel it is written: The man Gabriel whom I had seen in the vision at the beginning, being caused to fly in a flight etc.[32] How do you know that this [word] ‘one’ [of the Seraphim] means Michael? — R. Johanan says: By an analogy from [the words] ‘one’, ‘one’. Here it is written: Then flew unto me one of the Seraphim; and in another place it is written: But, lo, Michael, one of the chief princes, came to help me.[33] A Tanna taught: Michael [reaches his goal] in one [flight], Gabriel in two, Elijah in four, and the Angel of Death in eight. In the time of plague, however, [the Angel of Death, too, reaches his goal] in one.

R. Joshua b. Levi says: Though a man has recited the Shema’ in the synagogue, it is a religious act to recite it again upon his bed. R. Assi says: Which verse [may be cited in support]? Tremble and sin not; commune with your own heart upon your bed, and be still, Selah.[34] R. Nahman, however, says:

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(1) V. infra 27b.

(2) In the Baraitha just quoted.

(3) That in the evening, too, the Shema’ has to precede the Tefillah.

(4) The benediction for the deliverance from Egypt (v. P. B. p. 99). It follows the Shema’ and precedes the Tefillah.

(5) Between the two Shema’ recitals. In the morning the Tefillah follows, and in the evening it precedes the Shema’.

(6) As it says, On the morrow of the Passover the children of Israel went forth (Num. XXXIII, 3).

(7) Hence even in the evening Ge'ullah must be joined closely to Tefillah.

(8) Hence in the evening the Ge'ullah must not be joined closely to Tefillah.

(9) Deut. VI, 7.

(10) I.e., it is the first prayer said on rising from the bed.

(11) I.e., it is the last prayer said before going to bed.

(12) V. infra 11a.

(13) This is the second benediction, to be said in the evening between Ge'ullah and Tefillah, v. P.B. p. 99. The prayer, ‘Blessed be the Lord for evermore’ that follows the second benediction is a later addition.

(14) Ps. LI, 17. This verse said in introduction to the Tefillah ought to be considered an interruption.

(15) Ps. XIX, 15.

(16) I.e., part of the Tefillah.

(17) I.e., Ps. CXLV.

(18) Lit., ‘that he is a son of’.

(19) Ps. CXIX.

(20) Ibid. CXLV, 16.

(21) I.e., Ibid. CXXXVI. On Hallel, v. Glos.

(22) Ibid. v. 25.

(23) The alphabetical arrangement and the sixteenth verse, dealing with God's merciful provision for all living things.

(24) This is Psalm CXLV, which is arranged alphabetically, save that the verse beginning with the letter nun (N) is missing.

(25) Euphemistic for Israel.

(26) Heb.נפלה

(27) Amos V, 2.

(28) Palestine. V. supra p. 3, n. 4.

(29) Lit., ‘the Holy Spirit’. The meaning is, David knew by inspiration that Amos was going to prophesy the downfall of Israel, and he refers to that verse and prophesies their being raised up again, though their downfall is not mentioned by David.

(30) Ps. CXLV, 14.

(31) Isa. VI, 6.

(32) Dan. IX, 21. The meaning is: Michael covered the distance in one flight, without any stop, whereas Gabriel had to make two flights, resting in between. This is inferred from the fact that the word fly occurs twice.

(33) lbid. X, 13.

(34) Ps. IV, 5.

Talmud - Mas. Berachoth 5a

If he is a scholar, then it is not necessary. Abaye says: Even a scholar should recite one verse of supplication, as for instance: Into Thy hand I commit my spirit. Thou hast redeemed me, O Lord, Thou God of truth.[1]

R. Levi b. Hama says in the name of R. Simeon b. Lakish: A man should always incite the good impulse [in his soul][2] to fight against the evil impulse. For it is written: Tremble and sin not.[3] If he subdues it, well and good. If not, let him study the Torah. For it is written: ‘Commune with your own heart’.[4] If he subdues it, well and good. If not, let him recite the Shema’. For it is written: ‘Upon your bed’. If he subdues it, well and good. If not, let him remind himself of the day of death. For it is written: ‘And be still, Selah’.

R. Levi b. Hama says further in the name of R. Simeon b. Lakish: What is the meaning of the verse: And I will give thee the tables of stone, and the law and the commandment, which I have written that thou mayest teach them?[5] ‘Tables of stone’: these are the ten commandments; ‘the law’: this is the Pentateuch; ‘the commandment’: this is the Mishnah; ‘which I have written’: these are the Prophets and the Hagiographa; ‘that thou mayest teach them’: this is the Gemara.[6] It teaches [us] that all these things were given to Moses on Sinai. R. Isaac says: If one recites the Shema’ upon his bed, it is as though he held a two-edged sword in his hand.[7] For it is said: Let the high praises of God be in their mouth, and a two-edged sword in their hand.[8] How does it indicate this? — Mar Zutra, (some say, R. Ashi) says: [The lesson is] from the preceding verse. For it is written: Let the saints exult in glory, let them sing for joy upon their beds,[9] and then it is written: Let the high praises of God be in their mouth, and a two-edged sword in their hand. R. Isaac says further: If] one recites the Shema’ upon his bed, the demons keep away from him. For it is said: And the sons of reshef[10] fly [‘uf] upward.[11] The word ‘uf refers only to the Torah, as it is written: Wilt thou cause thine eyes to close [hata'if][12] upon it? It is gone.[13] And ‘reshef’ refers only to the demons, as it is said: The wasting of hunger, and the devouring of the reshef [fiery bolt] and bitter destruction.[14] R. Simeon b. Lakish says: If one studies the Torah, painful sufferings are kept away from him. For it is said: And the sons of reshef fly upward. The word ‘uf refers only to the Torah, as it is written: ‘Wilt thou cause thine eyes to close upon it? It is gone’. And ‘reshef’ refers only to painful sufferings, as it is said: ‘The wasting of hunger, and the devouring of the reshef [fiery bolt]. R. Johanan said to him: This[15] is known even to school children.[16] For it is said: And He said: If thou wilt diligently hearken to the voice of the Lord thy God, and wilt do that which is right in His eyes, and wilt give ear to His commandments, and keep all His statutes, I will put none of the diseases upon thee which I have put upon the Egyptians; for I am the Lord that healeth thee.[17] Rather [should you say]: If one has the opportunity to study the Torah and does not study it, the Holy One, blessed be He, visits him with ugly and painful sufferings which stir him up. For it is said: I was dumb with silence, I kept silence from the good thing, and my pain was stirred up.[18] ‘The good thing’ refers only to the Torah, as it is said: For I give you good doctrine; forsake ye not My teaching.[19]

R. Zera (some say, R. Hanina b. Papa) says: Come and see how the way of human beings differs from the way of the Holy One, blessed be He. It is the way of human beings that when a man sells[20] a valuable object to his fellow, the seller grieves and the buyer rejoices. The Holy One, blessed be He, however, is different. He gave the Torah to Israel and rejoiced. For it is said: For I give you good doctrine; forsake ye not My teaching.

Raba (some say, R. Hisda) says: If a man sees that painful sufferings visit him, let him examine his conduct. For it is said: Let us search and try our ways, and return unto the Lord.[21] If he examines and finds nothing [objectionable], let him attribute it to the neglect of the study of the Torah. For it is said: Happy is the man whom Thou chastenest, O Lord, and teachest out of Thy law.[22] If he did attribute it [thus], and still did not find [this to be the cause], let him be sure that these are chastenings of love. For it is said: For whom the Lord loveth He correcteth.[23]

Raba, in the name of R. Sahorah, in the name of R. Huna, says: If the Holy One, blessed be He, is pleased with a man, he crushes him with painful sufferings. For it is said: And the Lord was pleased with [him, hence] he crushed him by disease.[24] Now, you might think that this is so even if he did not accept them with love. Therefore it is said: To see if his soul would offer itself in restitution.[25] Even as the trespass-offering must be brought by consent, so also the sufferings must be endured with consent. And if he did accept them, what is his reward? He will see his seed, prolong his days.[26] And more than that, his knowledge [of the Torah] will endure with him. For it is said: The purpose of the Lord will prosper in his hand.[27]

R. Jacob b. Idi and R. Aha b. Hanina differ with regard to the following: The one says: Chastenings of love are such as do not involve the intermission of study of the Torah. For it is said: Happy is the man whom Thou chastenest, O Lord, and teachest out of Thy law.[28] And the other one says: Chastenings of love are such as do not involve the intermission of prayer. For it is said: Blessed be God, Who hath not turned away my prayer, nor His mercy from me.[29] R. Abba the son of R. Hiyya b. Abba said to them: Thus said R. Hiyya b. Abba in the name of R. Johanan: Both of them are chastenings of love. For it is said: For whom the Lord loveth He correcteth.[30] Why then does it say: ‘And teachest him out of Thy law’? Do not read telammedennu, [Thou teachest him] but telammedenu, [Thou teachest us]. Thou teachest us this thing out of Thy law as a conclusion a fortiori from the law concerning tooth and eye.[31] Tooth and eye are only one limb of the man, and still [if they are hurt], the slave obtains thereby his freedom. How much more so with painful sufferings which torment the whole body of a man! And this agrees with a saying of R. Simeon b. Lakish. For R. Simeon b. Lakish said: The word ‘covenant’ is mentioned in connection with salt, and the word ‘covenant’ is mentioned in connection with sufferings: the word ‘covenant’ is mentioned in connection with salt, as it is written: Neither shalt thou suffer the salt of the covenant of thy God to be lacking.[32] And the word ‘covenant’ is mentioned in connection with sufferings, as it is written: These are the words of the covenant.[33] Even as in the covenant mentioned in connection with salt, the salt lends a sweet taste to the meat, so also in the covenant mentioned in connection with sufferings, the sufferings wash away all the sins of a man.

It has been taught: R. Simeon b. Yohai says: The Holy One, blessed be He, gave Israel three precious gifts, and all of them were given only through sufferings. These are: The Torah, the Land of Israel and the world to come. Whence do we know this of the Torah? — Because it is said: Happy is the man whom Thou chastenest, o Lord, and teachest him out of Thy law.[34] Whence of the Land of Israel? — Because it is written: As a man chasteneth his son, so the Lord thy God chasteneth thee,[35] and after that it is written: For the Lord thy God bringeth thee into a good land.[36] Whence of the world to come? — Because it is written: For the commandment is a lamp, and the teaching is light, and reproofs of sufferings are the way of life.[37]

A Tanna recited before R. Johanan the following: If a man busies himself in the study of the Torah and in acts of charity

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(1) Ibid. XXXI, 6.

(2) In the Talmud the good impulses and evil impulses of a man are personified as two genii or spirits dwelling in his soul, the one prompting him to do good things and the other one to do wicked things. The meaning of this saying here is that a man has always to make an effort and to fight against the evil instincts.

(3) Ibid. IV, 5. The word רגזו is translated, not as tremble, but as fight, incite to fight.

(4) Ibid.

(5) Ex. XXIV, 12.

(6) MS. M. Talmud, v. B.M., Sonc. ed., p. 206, n. 6.

(7) To protect him against the demons.

(8) Ps. CXLIX, 6.

(9) Ibid. v. 5.

(10) E.V. ‘sparks’.

(11) Job V, 7.

(12) I.e., if thou neglect it (the Torah). E.V. ‘Wilt thou set thine eyes etc.’.

(13) Prov. XXIII, 5.

(14) Deut. XXXII, 24.

(15) That the Torah is a protection against painful disease.

(16) Who study the Pentateuch, where it is plainly said.

(17) Ex. XV, 26.

(18) Ps. XXXIX, 3. E.V. ‘I held my peace, had no comfort, and my pain was held in check’.

(19) Prov. IV, 2.

(20) Out of poverty and not for business.

(21) Lam. III, 40.

(22) Ps. XCIV, 12.

(23) Prov. III, 12.

(24) Isa. LIII, 10.

(25) Ibid. The Hebrew word for ‘restitution’ is asham which means also ‘trespass-offering’.

(26) Ibid.

(27) Ibid.

(28) Ps. XCIV, 12.

(29) Ps. LXVI, 20.

(30) Prov. III 12.

(31) V. Ex. XXI, 26, 27. If the master knocks out the tooth or eye of his slave, then the slave has to be set free.

(32) Lev. II, 13.

(33) Deut. XXVIII, 69. These words refer to the chapter dealing with the sufferings of Israel.
(34) Ps. XCIV, 12.
(35) Deut. VIII, 5.
(36) Ibid. v. 7.
(37) Prov. VI, 23.

Talmud - Mas. Berachoth 5b

and [nonetheless] buries his children,[1] all his sins are forgiven him. R. Johanan said to him: I grant you Torah and acts of charity, for it is written: By mercy and truth iniquity is expiated.[2] 'Mercy' is acts of charity, for it is said: He that followeth after righteousness and mercy findeth life, prosperity and honour.[3] 'Truth' is Torah, for it is said: Buy the truth and sell it not.[4] But how do you know [what you say about] the one who buries his children? — A certain Elder [thereupon] recited to him in the name of R. Simeon b. Yohai: It is concluded from the analogy in the use of the word 'iniquity'. Here it is written: By mercy and truth iniquity is expiated. And elsewhere it is written: And who recompenseth the iniquity of the fathers into the bosom of their children.[5]

R. Johanan says: Leprosy and [the lack of] children are not chastisements of love. But is leprosy not a chastisement of love? Is it not taught: If a man has one of these four symptoms of leprosy,[6] it is nothing else but an altar of atonement? — They are an altar of atonement, but they are not chastisements of love. If you like, I can say: This [teaching of the Baraitha] is ours [in Babylonia], and that [saying of R. Johanan] is theirs [in Palestine].[7] If you like, I can say: This [teaching of the Baraitha] refers to hidden [leprosy], that [saying of R. Johanan] refers to a case of visible [leprosy]. But is [the lack of] children not a chastisement of love? How is this to be understood? Shall I say that he had children and they died? Did not R. Johanan himself say: This is the bone of my tenth son?[8] — Rather [say then] that the former saying refers to one who never had children, the latter to one who had children and lost them.

R. Hiyya b. Abba fell ill and R. Johanan went in to visit him. He said to him: Are your sufferings welcome to you? He replied: Neither they nor their reward.[9] He said to him: Give me your hand. He gave him his hand and he[10] raised him.

R. Johanan once fell ill and R. Hanina went in to visit him. He said to him: Are your sufferings welcome to you? He replied: Neither they nor their reward. He said to him: Give me your hand. He gave him his hand and he raised him. Why could not R. Johanan raise himself?[11] — They replied: The prisoner cannot free himself from jail.[12]

R. Eleazar fell ill and R. Johanan went in to visit him. He noticed that he was lying in a dark room,[13] and he bared his arm and light radiated from it.[14] Thereupon he noticed that R. Eleazar was weeping, and he said to him: Why do you weep? Is it because you did not study enough Torah? Surely we learnt: The one who sacrifices much and the one who sacrifices little have the same merit, provided that the heart is directed to heaven.[15] Is it perhaps lack of sustenance? Not everybody has the privilege to enjoy two tables.[16] Is it perhaps because of [the lack of] children? This is the bone of my tenth son! — He replied to him: I am weeping on account of this beauty[17] that is going to rot in the earth. He said to him: On that account you surely have a reason to weep; and they both wept. In the meanwhile he said to him: Are your sufferings welcome to you? — He replied: Neither they nor their reward. He said to him: Give me your hand, and he gave him his hand and he raised him.

Once four hundred jars of wine belonging to R. Huna turned sour. Rab Judah, the brother of R. Sala the Pious, and the other scholars (some say: R. Adda b. Ahaba and the other scholars) went in to visit him and said to him: The master ought to examine his actions.[18] He said to them: Am I suspect in your eyes? They replied: Is the Holy One, blessed be He, suspect of punishing without justice? —

He said to them: If somebody has heard of anything against me, let him speak out. They replied: We have heard that the master does not give his tenant his [lawful share in the] vine twigs. He replied: Does he leave me any? He steals them all! They said to him: That is exactly what the proverb says:[19] If you steal from a thief you also have a taste of it![20] He said to them: I pledge myself to give it to him [in the future]. Some report that thereupon the vinegar became wine again; others that the vinegar went up so high that it was sold for the same price as wine.

It has been taught: Abba Benjamin says, All my life I took great pains about two things: that my prayer should be before my bed and that my bed should be placed north and south. 'That my prayer should be before my bed'. What is the meaning of 'before my bed'? Is it perhaps literally in front of my bed? Has not Rab Judah said in the name of Rab (some say, in the name of R. Joshua b. Levi): How do you know that when one prays there should be nothing interposing between him and the wall? Because it says: Then Hezekiah turned his face to the wall and prayed?[21] — Do not read 'before my bed', but 'near[22] my bed'. 'And that my bed should be placed north and south'. For R. Hama b. R. Hanina said in the name of R. Isaac: Whosoever places his bed north and south will have male children, as it says: And whose belly Thou fillest with Thy treasure,[23] who have sons in plenty.[24] R. Nahman b. Isaac says: His wife also will not miscarry. Here it is written: And whose belly Thou fillest with Thy treasure, and elsewhere it is written: And when her days to be delivered were fulfilled, behold there were twins in her womb.[25]

It has been taught: Abba Benjamin says, When two people enter [a Synagogue] to pray, and one of them finishes his prayer first and does not wait for the other but leaves,[26] his prayer is torn up before his face.[27] For it is written: Thou that tearest thyself in thine anger, shall the earth be forsaken for thee?[28] And more than that, he causes the Divine Presence to remove itself from Israel. For it says Or shall the rock be removed out of its place?[29] And 'rock' is nothing else than the Holy One, blessed be He, as it says: Of the Rock that begot thee thou wast unmindful.[30] And if he does wait, what is his reward? —

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(1) An allusion to R. Johanan himself, who was a great scholar and a charitable man, and was bereft of his children.

(2) Ibid. XVI, 6.

(3) Ibid. XXI, 21.

(4) Ibid. XXIII, 23.

(5) Jer. XXXII, 18.

(6) Which are enumerated in Mishnah Nega'im I, I.

(7) In Palestine where a leprous person had to be isolated outside the city (cf. Lev. XIII, 46), leprosy was not regarded as 'chastisements of love' owing to the severity of the treatment involved.

(8) Who died in his lifetime. The Gemara deduces from that saying that he regarded the death of children as a chastisement of love. Aruch understands this to have been a tooth of the last of his sons which he preserved and used to show to people who suffered bereavement in order to induce in them a spirit of resignation such as he himself had in his successive bereavements.

(9) The implication is that if one lovingly acquiesces in his sufferings, his reward in the world to come is very great.

(10) R. Johanan. He cured him by the touch of his hand.

(11) If he could cure R. Hiyya b. Abba, why could not he cure himself?

(12) And the patient cannot cure himself.

(13) R. Eleazar was a poor man and lived in a room without windows.

(14) R. Johanan was supposed to be so beautiful that a light radiated from his body, v. B.M. 84a.

(15) Men. 110b.

(16) Learning and wealth. Or perhaps, this world and the next.

(17) I.e., the beautiful body of yours.

(18) You may perhaps have deserved your misfortune through some sin.

(19) Lit., 'what people say'.

(20) Even if your tenant is a thief this does not free you from giving him his lawful share.

(21) Isa. XXXVIII, 2.
(22) Near in time. He used to pray immediately after rising.
(23) The word צפונך may mean treasure and also north.
(24) Ps. XVII, 14.
(25) Gen. XXV, 24.
(26) The synagogues were outside the town and it was dangerous to remain alone.
(27) I.e., rejected.
(28) Job. XVIII, 4. The homiletical interpretation of the verse is: ‘Your prayer will be thrown into your face, if on your account the earth or synagogue is forsaken’.
(29) Ibid.
(30) Deut. XXXII, 18.

Talmud - Mas. Berachoth 6a

R. Jose b. R. Hanina says: He is rewarded with the blessings enumerated in the following verse: Oh that thou wouldest hearken to My commandments! Then would thy peace be as a river, and thy righteousness as the waves of the sea; Thy seed also would be as the sand, and the offspring of thy body like the grains thereof etc.[1]

It has been taught: Abba Benjamin says, If the eye had the power to see them, no creature could endure the demons. Abaye says: They are more numerous than we are and they surround us like the ridge round a field. R. Huna says: Every one among us has a thousand on his left hand and ten thousand on his right hand.[2] Raba says: The crushing in the Kallah[3] lectures comes from them.[4] Fatigue in the knees comes from them. The wearing out of the clothes of the scholars is due to their rubbing against them. The bruising of the feet comes from them. If one wants to discover them,[5] let him take sifted ashes and sprinkle around his bed, and in the morning he will see something like the footprints of a cock. If one wishes to see them, let him take the after-birth of a black she-cat, the offspring of a black she-cat, the first-born of a first-born, let him roast it in fire and grind it to powder, and then let him put some into his eye, and he will see them. Let him also pour it into an iron tube and seal it with an iron signet that they[6] should not steal it from him. Let him also close his mouth, lest he come to harm. R. Bibi b. Abaye did so,[7] saw them and came to harm. The scholars, however, prayed for him and he recovered.

It has been taught: Abba Benjamin says: A man's prayer is heard [by God] only in the Synagogue. For it is said: To hearken unto the song and to the prayer.[8] The prayer is to be recited where there is song.[9] Rabin b. R. Adda says in the name of R. Isaac: How do you know that the Holy One, blessed be He, is to be found in the Synagogue? For it is said: God standeth in the congregation of God.[10] And how do you know that if ten people pray together the Divine presence is with them? For it is said: ‘God standeth in the congregation of God’.[11] And how do you know that if three are sitting as a court of judges the Divine Presence is with them? For it is said: In the midst of the judges He judgeth.[12] And how do you know that if two are sitting and studying the Torah together the Divine Presence is with them? For it is said: Then they that feared the Lord spoke one with another;[13] and the Lord hearkened and heard, and a book of remembrance was written before Him, for them that feared the Lord and that thought upon His name.[14] (What does it mean: ‘And that thought upon His name’? — R. Ashi[15] says: If a man thought to fulfill a commandment and he did not do it, because he was prevented by force or accident, then the Scripture credits it to him as if he had performed it.) And how do you know that even if one man sits and studies the Torah the Divine Presence is with him? For it is said: In every place where I cause My name to be mentioned I will come unto thee and bless thee.[16] Now, since [the Divine presence is] even with one man, why is it necessary to mention two?[17] — The words of two are written down in the book of remembrance, the words of one are not written down in the book of remembrance. Since this is the case with two, why mention three? — I might think [the dispensing of] justice is only for making peace, and the Divine Presence does not come [to participate]. Therefore he teaches us that justice also is Torah. Since it is the case with three, why mention ten? — To [a gathering of] ten the Divine Presence comes first, to three, it comes only after they sit down.

R. Abin[18] son of R. Ada in the name of R. Isaac says [further]: How do you know that the Holy One, blessed be He, puts on tefillin?[19] For it is said: The Lord hath sworn by His right hand, and by the arm of His strength.[20] 'By His right hand': this is the Torah; for it is said: At His right hand was a fiery law unto them.[21] 'And by the arm of his strength': this is the tefillin; as it is said: The Lord will give strength unto His people.[22] And how do you know that the tefillin are a strength to Israel? For it is written: And all the peoples of the earth shall see that the name of the Lord is called upon thee, and they shall be afraid of thee,[23] and it has been taught: R. Eliezer the Great says: This refers to the tefillin of the head.[24]

R. Nahman b. Isaac said to R. Hiyya b. Abin: What is written in the tefillin of the Lord of the Universe? — He replied to him: And who is like Thy people Israel, a nation one in the earth.[25] Does, then, the Holy One, blessed be He, sing the praises of Israel? — Yes, for it is written: Thou hast avouched the Lord this day . . . and the Lord hath avouched thee this day.[26] The Holy One, blessed be He, said to Israel: You have made me a unique entity[27] in the world, and I shall make you a unique entity in the world. 'You have made me a unique entity in the world', as it is said: Hear, O Israel, the Lord our God, the Lord is one.[28] 'And I shall make you a unique entity in the world', as it is said: And who is like Thy people Israel, a nation one in the earth.[29] R. Aha b. Raba said to R. Ashi: This accounts for one case, what about the other cases?[30] — He replied to him: [They contain the following verses]: For what great nation is there, etc.; And what great nation is there, etc.;[31] Happy art thou, O Israel, etc.;[32] Or hath God assayed, etc.;[33] and To make thee high above all nations.[34] If so, there would be too many cases? — Hence [you must say]: For what great nation is there, and And what great nation is there, which are similar, are in one case; Happy art thou, O Israel, and Who is like Thy people, in one case; Or hath God assayed, in one case; and To make thee high, in one case.

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(1) lsa. XLVIII, 18, 19.

(2) Cf. Ps. XCI, 7 which verse is quoted in some editions.

(3) The Assemblies of Babylonian students during the months of Elul and Adar, v. Glos.

(4) For really the lectures are not overcrowded.

(5) MS. M.: their footprints.

(6) The demons.

(7) He put the powder into his eye.

(8) I Kings VIII, 28.

(9) The song of the community and of the officiating Cantor.

(10) Ps. LXXXII, I.

(11) And a congregation consists of not less than ten, v. Sanh. 2b.

(12) Ibid. A Beth din consists of three.

(13) A phrase denoting two.

(14) Mal. III, 16.

(15) MS.M.: R. Assi. This remark is made in passing by the editor of the Gemara, R. Ashi. Hence the reading 'R. Ashi' as given by the editions, seems to be correct.

(16) Ex. XX, 21. The lesson is derived from the use of the singular 'thee'.

(17) This question is asked by the Gemara apropos of Rabin's statement.

(18) The same as the Rabin mentioned above.

(19) Phylacteries, v. Glos.

(20) Isa. LXII, 8.

(21) Deut. XXXIII, 2.

(22) Ps. XXIX, 11.

(23) Deut. XXVIII, 10.
(24) The tefillin of the arm are covered by the sleeves.
(25) I Chron. XVII, 21.
(26) Deut. XXVI, 17, 18.
(27) So the Aruch. Jastrow, however, translates חטיבה ‘the only object of your love’.
(28) Deut. VI, 4.
(29) I Chron. XVII, 21.
(30) The tefillin of the head has four cases.
(31) Deut. IV, 7, 8.
(32) Ibid. XXXIII, 29.
(33) Ibid. IV, 34.
(34) Ibid. XXVI, 19.

Talmud - Mas. Berachoth 6b

And all these verses are written on [the tefillin of] His arm.

Rabin son of R. Adda in the name of R. Isaac says [further]: If a man is accustomed to attend Synagogue [daily] and one day does not go, the Holy One, blessed be He, makes inquiry about him. For it is said: Who is among you that feareth the Lord, that obeyeth the voice of His servant, and now walketh in darkness and hath no light?[1] [And still] if he absented himself on account of some religious purpose, he shall have light. But if he absented himself on account of a worldly purpose, he shall have no light. Let him trust in the name of the Lord.[2] Why?[3] Because he ought to have trusted in the name of the Lord and he did not trust.

R. Johanan says: Whenever the Holy One, blessed be He, comes into a Synagogue and does not find ten persons there,[4] He becomes angry at once.[5] For it is said: Wherefore, when I came, was there no man? When I called, was there no answer?[6]

R. Helbo, in the name of R. Huna, says: Whosoever has a fixed place for his prayer has the God of Abraham as his helper. And when he dies, people will say of him: Where is the pious man,[7] where is the humble man,[8] one of the disciples of our father Abraham! — How do we know that our father Abraham had a fixed place [for his prayer]? For it is written: And Abraham got up early in the morning to the place where he had stood.[9] And ‘standing’ means nothing else but prayer. For it is said: Then stood up Phinehas and prayed.[10]

R. Helbo, in the name of R. Huna, says [further]: When a man leaves the Synagogue, he should not take large steps. Abaye says: This is only when one goes from the Synagogue, but when one goes to the Synagogue, it is a pious deed to run. For it is said: Let us run to know the Lord.[11] R. Zera says: At first when I saw the scholars running to the lecture on a Sabbath day, I thought that they were desecrating the Sabbath.[12] But since I have heard the saying of R. Tanhum in the name of R. Joshua b. Levi: A man should always, even on a Sabbath, run to listen to the word of Halachah, as it is said: They shall walk after the Lord, who shall roar like a lion,[13] I also run. R. Zera says: The merit of attending a lecture lies in the running. Abaye says: The merit of attending the Kallah sessions[14] lies in the crush. Raba says: The merit of repeating a tradition lies in [improving] the understanding of it. R. Papa says: The merit of attending a house of mourning lies in the silence observed. Mar Zutra says: The merit of a fast day lies in the charity dispensed. R. Shesheth says: The merit of a funeral oration lies in raising the voice.[15] R. Ashi says: The merit of attending a wedding lies in the words [of congratulation addressed to the bride and bridegroom].[16]

R. Huna says: Whosoever prays at the rear of a Synagogue is called wicked. For it is said: The wicked walk round about.[17] Abaye says: This only applies where he does not turn his face towards the Synagogue, but if he does turn his face towards the Synagogue there is no objection to it. There was once a man who prayed at the rear of a Synagogue and did not turn his face towards the Synagogue. Elijah passed by and appeared to him in the guise of an Arabian[18] merchant. He said to him: Are you standing with your back to your Master?[19] and drew his sword and slew him.

One of the scholars said to R. Bibi b. Abaye (some say: R. Bibi said to R. Nahman b. Isaac): What is the meaning of: When vileness is exalted among the sons of men?[20] He replied to him: These are the things of supreme importance[21] which nevertheless people neglect.[22] R. Johanan and R. Eliezer both interpret: As soon as a man needs the support of his fellow-creatures his face changes colour like the kerum, as it is said: ‘As the kerum is to be reviled among the sons of men’. What is the ‘kerum’? When R. Dimi came [from Palestine] he said: There is a bird in the coast towns[23] whose name is kerum, and as soon as the sun shines upon it it changes into several colours.[24] R. Ammi and R. Assi both say: [When a man needs the support of his fellow-beings] it is as if he were punished with two [opposite] punishments, with fire and water. For it is said: When Thou hast caused men to ride over our heads, we went through fire and through water.[25]

R. Helbo further said in the name of R. Huna: A man should always take special care about the afternoon-prayer. For even Elijah was favourably heard only while offering his afternoon-prayer. For it is said: And it came to pass at the time of the offering of the evening offering, that Elijah the prophet came near and said . . . Hear me, O Lord, hear me.[26] ‘Hear me’, that the fire may descend from heaven, and ‘hear me’, that they may not say it is the work of sorcery. R. Johanan says: [Special care should be taken] also about the evening-prayer. For it is said: Let my prayer be set forth as incense before Thee, the lifting up of my hands as the evening sacrifice.[27] R. Nahman b. Isaac says: [Special care should be taken] also about the morning.prayer. For it is said: O Lord, in the morning shalt Thou hear my voice; in the morning will I order my prayer unto Thee, and will look forward.[28]

R. Helbo further said in the name of R. Huna: Whosoever partakes of the wedding meal of a bridegroom and does not felicitate him does violence to ‘the five voices’ mentioned in the verse: The voice of joy and the voice of gladness, the voice of the bridegroom and the voice of the bride, the voice of them that say, Give thanks to the Lord of Hosts.[29] And if he does gladden him what is his reward? — R. Joshua b. Levi said: He is privileged to acquire [the knowledge of] the Torah which was given with five voices. For it is said: And it came to pass on the third day, when it was morning, that there were thunders[30] and lightnings and a thick cloud upon the mount, and the voice of a horn . . . and when the voice of the horn waxed louder . . . Moses spoke and God answered him by a voice.[31] (This is not so![32] For it is written: And all the people perceived the thunderings?[33] — These voices were before the revelation of the Torah.) R. Abbahu says: It is as if he[34] had sacrificed a thanksgiving offering. For it is said: Even of them that bring offerings of thanksgiving into the house of the Lord.[35] R. Nahman b. Isaac says: It is as if he had restored one of the ruins of Jerusalem. For it is said: For I will cause the captivity of the land to return as at the first, saith the Lord.[36]

R. Helbo further said in the name of R. Huna: If one is filled with the fear of God his words are listened to. For it is said: The end of the matter, all having been heard: fear God, and keep his commandments, for this is the whole man.[37] What means, ‘For this is the whole man’? — R. Eleazar says: The Holy One, blessed be He, says: The whole world was created for his sake only. R. Abba b. Kahana says: He is equal in value to the whole world. R. Simeon b. ‘Azzai says (some say, R. Simon b. Zoma says): The whole world was created as a satellite for him.

R. Helbo further said in the name of R. Huna: If one knows that his friend is used to greet him, let him greet him first.[38] For it is said: Seek peace and pursue it.[39] And if his friend greets him and he does not return the greeting he is called a robber. For it is said: It is ye that have eaten up the vineyard; the spoil of the poor is in your houses.[40]

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(1) Isa. L, 10.
(2) Ibid.
(3) Has he no light.
(4) The number required for a public service.
(5) In the absence of a quorum of ten, a number of important features in the service are omitted.
(6) Sc. the congregational responses. Isa. L, 2.
(7) Aliter: Alas, the pious man (is no more)!
(8) Cf. previous note.
(9) Gen. XIX, 27.
(10) Ps. CVI, 30.
(11) Hos. VI, 3.
(12) It is forbidden to take large steps on the Sabbath, v. Shab. 113b.
(13) Hos. XI, 10. The text continues: For he shall roar, and the children shall come hurrying (E.V. 'trembling').
(14) V. Glos.
(15) I.e., in the loud lamentation of the listeners.
(16) These aphorisms are intended to bring home the lesson that the real merit of doing certain things lies not in themselves, but in their concomitants. For instance, the people running to the lectures do not benefit by the lectures, as they do not understand them. However they will be rewarded for enduring the rush and crush. The mechanical repetition of a tradition has no value if you do not try to understand it better. The merit of a fast day lies not in the fasting but in giving charity to the poor people, that they may have something to eat, etc.
(17) Ps. XII, 9.
(18) MS. M.: An Arab passed by and saw him.
(19) V. Jast. Rashi: 'As if there were two powers'.
(20) Ibid.
(21) Lit., 'standing on the highest point of the world'.
(22) He interprets, 'When the exalted things (kerum) are reviled among the sons of men'. The reference is to Prayer.
(23) The meaning is: In the distant countries lying across the sea.
(24) Lewysohn, Zoologie, p. 183 identifies the bird with the 'bird of Paradise'.
(25) Ps. LXVI, 12.
(26) I Kings XVIII, 36,37.
(27) Ps. CXLI, 2.
(28) Ibid. V, 4.
(29) Jer. XXXIII, II.
(30) Lit., 'voices'. The plural is counted as two.
(31) Ex. XIX, 16, 19.
(32) There were not only five, but seven voices.
(33) Ibid. XX, 15. Cf. n. 5.
(34) One who felicitates the bridegroom.
(35) Jer. XXXIII, II.
(36) Ibid.
(37) Eccl. XII, 13. He interprets: 'Everything is heard, if you fear God'.
(38) [MS.M.: If one is used to greet his neighbour and fails to do so a single day, he transgresses the injunction 'Seek peace, etc.']
(39) Ps. XXXIV, 15.
(40) Isa. III, 14.

Talmud - Mas. Berachoth 7a

R. Johanan says in the name of R. Jose: How do we know that the Holy One, blessed be He, says prayers? Because it says: Even them will I bring to My holy mountain and make them joyful in My house of prayer.[1] It is not said, 'their prayer', but 'My prayer'; hence [you learn] that the Holy One, blessed be He, says prayers. What does He pray? — R. Zutra b. Tobi said in the name of Rab: 'May it be My will that My mercy may suppress My anger, and that My mercy may prevail over My [other] attributes, so that I may deal with My children in the attribute of mercy and, on their behalf, stop short of the limit of strict justice'.[2] It was taught: R. Ishmael b. Elisha says: I once entered into the innermost part [of the Sanctuary] to offer incense and saw Akathriel Jah,[3] the Lord of Hosts, seated upon a high and exalted throne. He said to me: Ishmael, My son, bless Me! l replied: May it be Thy will that Thy mercy may suppress Thy anger and Thy mercy may prevail over Thy other attributes, so that Thou mayest deal with Thy children according to the attribute of mercy and mayest, on their behalf, stop short of the limit of strict justice! And He nodded to me with His head. Here we learn [incidentally] that the blessing of an ordinary man must not be considered lightly in your eyes.

R. Johanan further said in the name of R. Jose: How do you know that we must not try to placate a man in the time of his anger? For it is written: My face will go and I will give thee rest.[4] The Holy One, blessed be He, said to Moses: Wait till My countenance of wrath shall have passed away and then I shall give thee rest. But is anger then a mood of the Holy One, blessed be He? — Yes. For it has been taught:[5] A God that hath indignation every day.[6] And how long does this indignation last? One moment. And how long is one moment? One fifty-eight thousand eight hundred and eighty-eighth part of an hour. And no creature has ever been able to fix precisely this moment except the wicked Balaam, of whom it is written: He knoweth the knowledge of the Most High.[7] Now, he did not even know the mind of his animal; how then could he know the mind of the Most High? The meaning is, therefore, only that he knew how to fix precisely this moment in which the Holy One, blessed be He, is angry. And this is just what the prophet said to Israel: O my people, remember now what Balak king of Moab devised, and what Balaam the son of Beor answered him . . . that ye may know the righteous acts of the Lord.[8] What means 'That ye may know the righteous acts of the Lord'? — R. Eleazar says: The Holy One, blessed be He, said to Israel: See now, how many righteous acts I performed for you in not being angry in the days of the wicked Balaam. For had I been angry, not one remnant would have been left of the enemies of Israel.[9] And this too is the meaning of what Balaam said to Balak: How shall I curse, whom God hath not cursed? And how shall I execrate, whom the Lord hath not execrated?[10] This teaches us that He was not angry all these days. And how long does His anger last? One moment. And how long is one moment? R. Abin (some say R. Abina) says: As long as it takes to say Rega'.[11] And how do you know that He is angry one moment? For it is said: For His anger is but for a moment [rega'], His favor is for a lifetime.[12] Or if you prefer you may infer it from the following verse: Hide thyself for a little moment until the indignation be overpast.[13] And when is He angry? — Abaye says: In [one moment of] those first three hours of the day, when the comb of the cock is white and it stands on one foot. Why, in each hour it stands thus [on one foot]?[14] — In each other hour it has red streaks, but in this moment it has no red streaks at all.

In the neighbourhood of R. Joshua b. Levi there was a Sadducee[15] who used to annoy him very much with [his interpretations of] texts. One day the Rabbi took a cock, placed it between the legs of his bed and watched it. He thought: When this moment arrives I shall curse him. When the moment arrived he was dozing [On waking up][16] he said: We learn from this that it is not proper to act in such a way. It is written: And His tender mercies are over all His works.[17] And it is further written: Neither is it good for the righteous to punish.[18] It was taught in the name of R. Meir: At the time when the sun rises and all the kings of the East and West put their crowns upon their heads and bow down to the sun, the Holy One, blessed be He, becomes at once angry.

R. Johanan further said in the name of R. Jose: Better is one self-reproach in the heart of a man than many stripes, for it is said: And she shall run after her lovers . . . then shall she say,[19] I shall go and return to my first husband; for then was it better with me than now.[20] R. Simon b. Lakish says: It is better than a hundred stripes, for it is said: A rebuke entereth deeper into a man of understanding than a hundred stripes into a fool.[21]

R. Johanan further said in the name of R. Jose: Three things did Moses ask of the Holy One, blessed be He, and they were granted to him. He asked that the Divine Presence should rest upon Israel, and it was granted to him. For it is said: Is it not in that Thou goest with us [so that we are distinguished, I and Thy people, from all the people that are upon the face of the earth].[22] He asked that the Divine Presence should not rest upon the idolaters, and it was granted to him. For it is said: 'So that we are distinguished, I and Thy people'. He asked that He should show him the ways of the Holy One, blessed be He, and it was granted to him. For it is said: Show me now Thy ways.[23] Moses said before Him: Lord of the Universe, why is it that some righteous men prosper and others are in adversity, some wicked men prosper and others are in adversity? He replied to him: Moses, the righteous man who prospers is the righteous man the son of a righteous man; the righteous man who is in adversity is a righteous man the son of a wicked man. The wicked man who prospers is a wicked man son of a righteous man; the wicked man who is in adversity is a wicked man son of a wicked man.

The Master said above: 'The righteous man who prospers is a righteous man son of a righteous man; the righteous man who is in adversity is a righteous man son of a wicked man'. But this is not so! For, lo, one verse says: Visiting the iniquity of the fathers upon the children,[24] and another verse says: Neither shall the children be put to death for the fathers.[25] And a contradiction was pointed out between these two verses, and the answer was given that there is no contradiction. The one verse deals with children who continue in the same course as their fathers, and the other verse with children who do not continue in the course of their fathers! — [You must] therefore [say that] the Lord said thus to Moses: A righteous man who prospers is a perfectly righteous man; the righteous man who is in adversity is not a perfectly righteous man. The wicked man who prospers is not a perfectly wicked man; the wicked man who is in adversity is a perfectly wicked man. Now this [saying of R. Johanan][26] is in opposition to the saying of R. Meir. For R. Meir said: only two [requests] were granted to him, and one was not granted to him. For it is said: And I will be gracious to whom I will be gracious, although he may not deserve it, And I will show mercy on whom I will show mercy,[27] although he may not deserve it.[28]

And He said, Thou canst not see My face.[29] A Tanna taught in the name of R. Joshua b. Korhah: The Holy One, blessed be He, spoke thus to Moses: When I wanted, you did not want [to see My face][30] now that you want, I do not want. — This is in opposition to [the interpretation of this verse by] R. Samuel b. Nahmani in the name of R. Jonathan. For R. Samuel b. Nahmani said in the name of R. Jonathan: As a reward of three [pious acts][31] Moses was privileged to obtain three [favours]. In reward of 'And Moses hid his face', he obtained the brightness of his face.[32] In reward of 'For he was afraid', he obtained the privilege that They were afraid to come nigh him.[33] In reward of 'To look upon God', he obtained The similitude of the Lord doth he behold.[34]

And I will take away My hand, and thou shalt see My back.[35] R. Hama b. Bizana said in the name of R. Simon the Pious: This teaches us that the Holy One, blessed be He, showed Moses the knot of the tefillin.[36]

R. Johanan further said in the name of R. Jose: No word of blessing that issued from the mouth of the Holy One, blessed be He, even if based upon a condition, was ever withdrawn by Him. How do we know this? From our teacher Moses. For it is said: Let me alone, that I may destroy them, and blot out their name from under heaven; and I will make of thee a nation mightier and greater than they.[37] Though Moses prayed that this might be mercifully averted and it was cancelled, [the blessing] was nevertheless fulfilled towards his children. For it is said: The sons of Moses: Gershom and Eliezer . . . And the sons of Eliezer were Rehabia the chief . . . and the sons of Rehabiah were very many.[38] And R. Joseph learnt: They were more than sixty myriads. This is to be learnt from two occurrences of the term ‘manifold’. Here it is written: were very many, and elsewhere It is written: And the children of Israel were very fruitful and increased abundantly, and became very many.[39]

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(1) Ibid. LVI, 7. ‘In the house of My prayer’.
(2) I.e., not exact the full penalty from them.
(3) Lit., ‘crown of God’.
(4) Ex. XXXIII, 14.
(5) V. A.Z. 4a.
(6) Ps. VII, 12.
(7) Num. XXIV, 16.
(8) Micah VI, 5.
(9) Euphemism for Israel.
(10) Num. XXIII, 8.
(11) ‘A moment’.
(12) Ps. XXX, 6.
(13) Isa. XXVI, 20.
(14) A better reading is: ‘its comb is thus (viz., white)’.
(15) Var. lec. Min. v. Glos.
(16) Added with MS. M.
(17) Ps. CXLV, 9.
(18) Prov. XVII, 26.
(19) In her heart.
(20) Hos. II, 9.
(21) Prov. XVII, 10.
(22) Ex. XXXIII, 16.
(23) Ex. XXXIII, 13.
(24) Ibid. XXXIV, 7.
(25) Deut. XXIV, 16.
(26) That all the three requests of Moses were granted.
(27) Ex. XXXIII, 19.
(28) And God's ways therefore cannot be known.
(29) Ibid. v. 20.
(30) At the burning bush, Ex. III, 6.
(31) Mentioned in Ex. III, 6; (i) And Moses hid his face; (ii) for he was afraid; (iii) to look upon God.
(32) Cf. Ex. XXXIV, 29-30.
(33) Ibid. v. 30.
(34) Num. XII, 8.
(35) Ex. XXXIII, 23.
(36) Worn at the back of the head.
(37) Deut. IX, 14. This verse contains a curse and a blessing, the blessing being conditional upon the realization of the curse.
(38) I Chron. XXIII, 15-17.
(39) Ex. I, 7. And we know that they were about sixty myriads when leaving Egypt.

Talmud - Mas. Berachoth 7b

R. Johanan said [further] in the name of R. Simeon b. Yohai: From the day that the Holy One, blessed be He, created the world there was no man that called the Holy One, blessed be He, Lord,[1] until Abraham came and called Him Lord. For it is said: And he said, O Lord [Adonai] God, whereby shall I know that I shall inherit it?[2] Rab said: Even Daniel was heard [in his prayer] only for the sake of Abraham. For it says: Now therefore, O our God, hearken unto the prayer of Thy servant, and to his supplications, and cause Thy face to shine upon Thy sanctuary that is desolate, for the

Lord's sake.[3] He ought to have said: ‘For Thy sake’, but [he means]: For the sake of Abraham, who called Thee Lord.

R. Johanan further said in the name of R. Simeon b. Yohai: How do you know that we must not try to placate a man in the time of his anger? Because it is said: My face will go and I will give thee rest.[4]

R. Johanan further said in the name of R. Simeon b. Yohai: From the day that the Holy One, blessed be He, created His world there was no man that praised the Holy One, blessed be He, until Leah came and praised Him. For it is said: This time will I praise the Lord.[5]

Reuben. [What is the meaning of ‘Reuben’?][6] — R. Eleazar said: Leah said: See the difference between[7] my son and the son of my father-in-law. The son of my father-in-law voluntarily sold his birthright, for it is written: And he sold his birthright unto Jacob.[8] And, nonetheless, behold, it is written of him: And Esau hated Jacob,[9] and it is also written: And he said, is not he rightly named Jacob? for he hath supplanted me these two times.[10] My son, however, although Joseph took his birthright from him against his will — as it is written: But, for as much as he defiled his father's couch, his birthright was given unto the sons of Joseph,[11] — was not jealous of him. For it is written: And Reuben heard it, and delivered him out of their hand.[12]

Ruth. What is the meaning of Ruth? — R. Johanan said: Because she was privileged to be the ancestress of David, who saturated[13] the Holy One, blessed be He, with songs and hymns. How do we know that the name [of a person] has an effect [upon his life]?[14] — R. Eleazar said: Scripture says: Come, behold the works of the Lord, who hath made desolations in the earth.[15] Read not shammoth, [‘desolations’], but shemoth, [names].

R. Johanan further said in the name of R. Simeon b. Yohai: A bad son[16] in a man's house is worse than the war of Gog and Magog. For it is said: A Psalm of David, when he fled from Absalom his son,[17] and it is written after that: Lord, how many are mine adversaries become! Many are they that rise up against me.[18] But in regard to the war of Gog and Magog it is written: Why are the nations in an uproar? And why do the peoples mutter in vain,[19] but, it is not written: ‘How many are mine adversaries become!’

‘A Psalm of David, when he fled from Absalom his son’. ‘A Psalm of David’? He ought to have said: ‘A Lamentation of David’! R. Simeon b. Abishalom said: A parable: To what is this to be compared? To a man who has a bond outstanding against him; until he pays it he worries[20] but after he has paid it, he rejoices. So was it with David. When the Holy One, blessed be He, said to him: Behold, I will raise up evil against thee out of thine own house,[21] he began worrying. He thought: it may be a slave or a bastard who will have no pity on me. When he saw that it was Absalom, he was glad, and therefore he said: ‘A Psalm’.

R. Johanan further said in the name of R. Simeon b. Yohai: It is permitted to contend with the wicked in this world. For it is said: They that forsake the law praise the wicked, but such as keep the law contend with them.[22] It has been taught to the same effect: R. Dosthai son of R. Mattun says: It is permitted to contend with the wicked in this world. For it is said: ‘They that forsake the law praise the wicked, etc.’ — Should somebody whisper to you: But is it not written: Contend not with evil-doers, neither be thou envious against them that work unrighteousness,[23] then you may tell him: Only one whose conscience smites[24] him says so. In fact, ‘Contend not with evil-doers’, means, to be like them; ‘neither be thou envious against them that work unrighteousness’, means, to be like them. And so it is said: Let not thy heart envy sinners, but be in the fear of the Lord all the day.[25] But this is not so! For R. Isaac said: If you see a wicked man upon whom fortune[26] is smiling, do not attack him. For it is said: His ways prosper at all times.[27] And more than that, he is victorious in the court of judgment; for it is said: Thy judgments are far above out of his sight.[28] And still more than that, he sees the discomfiture of his enemies; for it is said: As for all his adversaries, he puffeth at them.[29] There is no contradiction. The one [R. Isaac] speaks of his private affairs, the other one [R. Johanan] of matters of religion.[30] If you wish I can say: both speak of matters of religion, and still there is no contradiction. The one [R. Isaac] speaks of a wicked man upon whom fortune is smiling, the other one speaks of a wicked man upon whom fortune is not smiling. Or if you wish, I can say, both speak of a wicked man upon whom fortune is smiling, and still there is no contradiction. The one [R. Johanan] speaks of a perfectly righteous man, the other one of a man who is not perfectly righteous. For R. Huna said: What is the meaning of the verse: Wherefore lookest Thou, when they deal treacherously, and holdest Thy peace, when the wicked swalloweth up the man that is more righteous than he?[31] Can then the wicked swallow up the righteous? Is it not written: The Lord will not leave him in his hand?[32] And is it not written further: There shall no mischief befall the righteous?[33] [You must] therefore [say]: He swallows up the one who is only ‘more righteous than he’, but he cannot swallow up the perfectly righteous man. If you wish I can say: It is different when fortune is smiling upon him.

R. Johanan further said in the name of R. Simeon b. Yohai: If a man has a fixed place for his prayer, his enemies succumb to him. For it is said: And I will appoint a place for My people Israel, and will plant them, that they may dwell in their own place, and be disquieted no more; neither shall the children of wickedness afflict them any more as at the first.[34] R. Huna pointed to a contradiction. [Here] it is written: ‘To afflict them’, and [elsewhere]: To exterminate them?[35] [The answer is]: First to afflict them and then to exterminate them.

R. Johanan further said in the name of R. Simeon b. Yohai: The service of the Torah is greater than the study thereof.[36] For it is said: Here is Elisha the son of Shaphat, who poured water on the hands of Elijah.[37] It is not said, who learned, but who poured water. This teaches that the service of the Torah is greater than the study thereof.

R. Isaac said to R. Nahman: Why does the Master not come to the Synagogue in order to pray?[38] — He said to him: I cannot.[39] He asked him: Let the Master gather ten people and pray with them [in his house]? — He answered: It is too much of a trouble for me. [He then said]: Let the Master ask the messenger of the congregation[40] to inform him of the time when the congregation prays?[41] He answered: Why all this [trouble]? — He said to him: For R. Johanan said in the name of R. Simeon b. Yohai:

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(1) In Hebrew: Adon.

(2) Gen. XV, 8.

(3) Dan. IX, 17.

(4) Ex. XXXIII, 14. Cf. also supra 7a.

(5) Gen. XXIX, 35. She implied that this had never been done before.

(6) Words in brackets added from MS.M. This passage is suggested by the mention of Leah.

(7) Reuben is explained as ראו בין, ‘See the difference between’.

(8) Ibid. XXV, 33.

(9) Ibid. XXVII, 41.

(10) Ibid. XXVII, 36.

(11) I Chron. V, I.

(12) Gen. XXXVII, 21.

(13) רות is derived from רוה to saturate.

(14) Lit., ‘causes’, ‘determines (one's destiny)’.

(15) Ps. XLVI, 9.

(16) Lit., ‘training’, ‘upbringing’.

(17) Ibid. III, I.

(18) Ibid. 2.

(19) Ibid, II, I.

(20) MS. M.: To a man to whom it is said tomorrow a bill will be issued against you until he sees it . . . after he sees it etc.

(21) II Sam. XII, II.

(22) Prov. XXVIII, 4.

(23) Ps. XXXVII, I. E.V. ‘Fret not thyself’.

(24) Lit., ‘whose heart knocks him’.

(25) Prov. XXIII, 17.

(26) Lit., ‘the hour’.

(27) Ps. X, 5.

(28) Ibid.

(29) Ibid.

(30) You may fight him with regard to religious affairs, but not with regard to his private affairs.

(31) Hab. I, 13.

(32) Ps. XXXVII, 33.

(33) Prov. XII, 21.

(34) II Sam. VII, 10.

(35) I Chron. XVII, 9. The Gemara read there לכלותו. Our masoretic text, however, reads לבלותו. The meaning is the same.

(36) To act as the famulus of the teacher is even more meritorious than being his disciple.

(37) II Kings III, II.

(38) Why does he not pray publicly with the congregation?

(39) For physical reasons.

(40) The Reader.

(41) So that R. Nahman might say his prayers at the same time as the congregation.

Talmud - Mas. Berachoth 8a

What is the meaning of the verse: But as for me, let my prayer be made unto Thee, O Lord, in an acceptable time?[1] When is the time acceptable? When the congregation prays. R. Jose b. R. Hanina says: [You learn it] from here: Thus saith the Lord, In an acceptable time have I answered thee.[2] R. Aha son of R. Hanina says: [You learn it] from here: Behold, God despiseth not the mighty.[3] And it is further written: He hath redeemed my soul in peace so that none came nigh me; for they were many with me.[4] It has been taught also to the same effect; R. Nathan says: How do we know that the Holy One, blessed be He, does not despise the prayer of the congregation? For it is said: ‘Behold, God despiseth not the mighty’. And it is further written: ‘He hath redeemed my soul in peace so that none came nigh me, etc.’. The Holy One, blessed be He, says: If a man occupies himself with the study of the Torah and with works of charity and prays with the congregation, I account it to him as if he had redeemed Me and My children from among the nations of the world.

Resh Lakish said: Whosoever has a Synagogue in his town and does not go there in order to pray, is called an evil neighbour. For it is said: Thus saith the Lord, as for all Mine evil neighbours, that touch the inheritance which I have caused My people Israel to inherit.[5] And more than that, he brings exile upon himself and his children. For it is said: Behold, I will pluck them up from off their land, and will pluck up the house of Judah from among them.[6]

When they told R. Johanan[7] that there were old men in Babylon, he showed astonishment and said: Why, it is written: That your days may be multiplied, and the days of your children, upon the land;[8] but not outside the land [of Israel]! When they told him that they came early to the Synagogue and left it late, he said: That is what helps them. Even as R. Joshua b. Levi said to his children: Come early to the Synagogue and leave it late that you may live long. R. Aha son of R. Hanina says: Which verse [may be quoted in support of this]? Happy is the man that hearkeneth to Me, watching daily at My gates, waiting at the posts of My doors,[9] after which it is written: For whoso findeth me findeth life.[10] R. Hisda says: A man should always enter two doors into the Synagogue.[11] What is the meaning of 'two doors'? Say: The distance of two doors, and then pray.[12]

For this let every one that is godly pray unto Thee in the time of finding.[13] R. Hanina says: 'In the time of finding' refers to [the finding of] a wife. For it is said: Whoso findeth a wife findeth a great good.[14] In the West they used to ask a man who married a wife thus: Maza or Moze?[15] 'Maza', for it is written: Whoso findeth [maza] a wife findeth a great good. 'Moze', for it is written: And I find [moze] more bitter than death the woman.[16] R. Nathan says: 'In the time of finding' refers to the [finding of] Torah. For it is said: For whoso findeth me findeth life, etc.[17] R. Nahman b. Isaac said: 'In the time of finding' refers to the [finding of] death. For it is said: The issues of death.[18] Similarly it has been taught: Nine hundred and three species of death were created in this world. For it is said: The issues of death, and the numerical value of Toza'oth is so. The worst of them is the croup, and the easiest of them is the kiss.[19] Croup is like a thorn in a ball of wool pulled out backwards.[20] Some people say: It is like [pulling] a rope through the loop-holes [of a ship].[21] [Death by a] kiss is like drawing a hair out of milk. R. Johanan said: 'In the time of finding' refers to the [finding of a] grave. R. Hanina said: Which verse [may be quoted in support]? Who rejoice unto exultation and are glad, when they can find the grave.[22] Rabbah son of R. Shila said: Hence the proverb: A man should pray for peace even to the last clod of earth [thrown upon his grave]. Mar Zutra said: 'In the time of finding', refers to the [finding of a] privy.[23] They said in the West: This [interpretation] of Mar Zutra is the best of all.

Raba said to Rafram b. Papa: Let the master please tell us some of those fine things that you said in the name of R. Hisda on matters relating to the Synagogue! — He replied: Thus said R. Hisda: What is the meaning of the verse: The Lord loveth the gates of Zion [Ziyyon] more than all the dwellings of Jacob?[24] The Lord loves the gates that are distinguished [me-zuyanim] through Halachah more than the Synagogues and Houses of study.[25] And this conforms with the following saying of R. Hiyya b. Ammi in the name of 'Ulla: Since the day that the Temple was destroyed, the Holy One, blessed be He, has nothing in this world but the four cubits of Halachah alone. So said also Abaye: At first I used to study in my house and pray in the Synagogue. Since I heard the saying of R. Hiyya b. Ammi in the name of 'Ulla: 'Since the day that the Temple was destroyed, the Holy One, blessed be He, has nothing in His world but the four cubits of Halachah alone',I pray only in the place where I study. R. Ammi and R. Assi, though they had thirteen Synagogues in Tiberias, prayed only between the pillars where they used to study.[26]

R. Hiyya b. Ammi further said in the name of 'Ulla: A man who lives from the labour [of his hands] is greater than the one who fears heaven.[27] For with regard to the one who fears heaven it is written: Happy is the man that feareth the Lord,[28] while with regard to the man who lives from his own work it is written: When thou eatest the labour of thy hands, happy shalt thou be, and it shall be well with thee.[29] 'Happy shalt thou be', in this world, 'and it shall be well with thee', in the world to come. But of the man that fears heaven it is not written: 'and it shall be well with thee'.

R. Hiyya b. Ammi further said in the name of 'Ulla: A man should always live in the same town as his teacher. For as long as Shimei the son of Gera was alive Solomon did not marry the daughter of Pharaoh.[30] — But it has been taught that he should not live [in the same place]? — There is no contradiction. The former [speaks of a disciple] who is submissive to him, the other [of a disciple] who is not submissive.

R. Huna b. Judah in the name of R. Menahem in the name of R. Ammi said: What is the meaning of the verse: And they that forsake the Lord shall be consumed?[31] This refers to people who leave the Scroll of the Law [while it is being read from] and go out [from the Synagogue]. R. Abbahu used to go out between one reader and the next.[32] R. Papa raised the question: What of going out between verse and verse? It remains unanswered. — R. Shesheth used to turn his face to another side and study. He said: We [are busy] with ours, and they [are busy] with theirs.[33]

R. Huna b. Judah says in the name of R. Ammi: A man should always complete his Parashoth together with the congregation,[34] [reading] twice the Hebrew text and once the [Aramaic] Targum,

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(1) Ps. LXIX, 14.
(2) Isa. XLIX, 8.
(3) Job. XXXVI, 5. I.e., the mighty and numerous people that pray to Him. E.V. God is mighty and despiseth not any.
(4) Joining me in prayer. Ps. LV, 19. (E.V. 'for there were many that strove with me'.)
(5) Jer. XII, 14.
(6) Ibid.
(7) Who was a Palestinian.
(8) Deut. XI, 21.
(9) Prov. VIII, 34.
(10) Ibid. 35.
(11) MS. M. adds: 'and then pray, for it is written: Waiting at the posts of My doors".'
(12) Were he to remain at the entrance, near the door, it would look as if he was anxious to leave.
(13) Ps. XXXII, 6.
(14) Prov. XVIII, 22.
(15) Whereas the word maza is used in the Bible in connection with a good wife, the word moze is used in connection with a bad wife.
(16) Eccl. VII, 26.
(17) Prov. VIII, 35.
(18) Ps. LXVIII, 21. תוצאות is translated 'findings'.
(19) The Talmud refers to an easy death as the 'death by a kiss'.
(20) And drawing the wool with it.
(21) The' friction being very great (Rashi). Jast.: Like the whirling waters at the entrance of a canal (when the sluicebars are raised).
(22) Job. III, 22.
(23) In Babylon, owing to the marshy character of the soil, privies were for the most part outside the town at some distance from the dwellings.
(24) Ps. LXXXVII, 2.
(25) Beth Midrash is here understood as the house of popular, aggadic lectures which, however, was not devoted to the study of Halachah.
(26) In the Beth-hamidrash.
(27) But for his living relies upon the support of other people.
(28) Ps. CXII, I.
(29) Ibid. CXXVIII, 2.
(30) The assumption is that he forbore to do so out of respect for his teacher.
(31) Isa. I, 28.
(32) I.e., when one portion was finished and before the next had commenced.
(33) They are engaged in listening to the public reading and we, more profitably, with more advanced study.
(34) I.e., recite (at home) the same weekly portion (parashah) from the Pentateuch.

Talmud - Mas. Berachoth 8b

and even [such verses as] Ataroth and Dibon,[1] for if one completes his Parashoth together with the congregation, his days and years are prolonged. R. Bibi b. Abaye wanted to finish all the Parashoth of the whole year on the eve of the Day of Atonement. But Hiyya b. Rab of Difti[2] recited to him [the following Baraitha]: It is written: And ye shall afflict your souls, in the ninth day of the month at even.[3] Now, do we fast on the ninth? Why, we fast on the tenth! But this teaches you that if one eats and drinks on the ninth, Scripture accounts it to him as if he fasted on the ninth and tenth.[4] Thereupon he wanted to finish them in advance. But a certain Elder recited to him a Baraitha teaching: However, he should not read them in advance of nor later [than the congregation]. Even so did R. Joshua b. Levi say to his children: Complete your Parashoth together with the congregation, twice the Hebrew text and once Targum; be careful with the jugular veins to follow [the teaching of] R. Judah, as we have learnt: R. Judah says: He must cut through the jugular veins; and be careful [to respect] an old man who has forgotten his knowledge through no fault of his own,[5] for it was said: Both the whole tables and the fragments of the tables were placed in the Ark.[6]

Raba said to his children: When you are cutting meat, do not cut it upon your hand. (Some people say on account of danger;[7] and some in order not to spoil the meal.)[8] Do not sit upon the bed of an Aramaean woman, and do not pass behind a Synagogue when the congregation is praying. 'Do not sit upon the bed of an Aramaean woman'; some say that this means: Do not go to bed before reciting the Shema';[9] some say it means: Do not marry a proselyte woman; and some say it means literally [the bed of] an Aramaean woman, and this rule was laid down because of what happened to R. Papa. For R. Papa once visited an Aramaean woman. She brought out a bed and said: Sit down. He said to her: I will not sit down until you raise the cover of the bed. She raised the cover and they found there a dead baby. Hence said the scholars: It is not permitted to sit down upon the bed of an Aramaean woman. 'And do not pass behind a Synagogue when the congregation is praying'; this supports the teaching of R. Joshua b. Levi. For R. Joshua b. Levi said: It is not permitted for a man to pass behind a Synagogue when the congregation is praying. Abaye said: This applies only when there is no other door, but when there is another door,[10] there is no objection. Furthermore, this applies only when there is no other Synagogue, but when there is another Synagogues there is no objection. And furthermore, this applies only when he does not carry a burden, and does not run, and does not wear tefillin. But where one of these conditions is present there is no objection.

It has been taught: R. Akiba says: For three things I like the Medes: When they cut meat, they cut it only on the table; when they kiss, they kiss only the hand; and when they hold counsel, they do so only in the field. R. Adda b. Ahabah says: Which verse [may be quoted in support of the last]? And Jacob sent and called Rachel and Leah to the field unto his flock.[11] It has been taught: R. Gamaliel says: For three things do I like the Persians: They are temperate in their eating, modest in the privy, and chaste in another matter.[12] I have commanded My consecrated ones.[13] R. Joseph learnt: This refers to the Persians who are consecrated and destined for Gehinnom.[14]

R. GAMALIEL SAYS: UNTIL THE DAWN RISES. Rab Judah says in the name of Samuel: The Halachah is as laid down by R. Gamaliel. It was taught, R. Simeon b. Yohai says: Sometimes a man may recite the Shema' twice in the night, once before the dawn breaks and once after the dawn breaks, and thereby fulfil his duty once for the day and once for the night.

Now this is self-contradictory. You say: 'A man may sometimes recite the Shema' twice in the night', which shows that it is still night after the dawn breaks. And then you say: 'He thereby fulfils his duty once for the day and once for the night', which shows that it is daytime? — No! It is in reality night, but he calls it day because some people rise at that time. R. Aha b. Hanina said in the name of R. Joshua b. Levi: The Halachah is as stated by R. Simeon b. Yohai. Some people refer this [statement] of R. Aha b. Hanina to the following lesson,[15] which has been taught: R. Simeon b. Yohai says in the name of R. Akiba: Sometimes a man may recite the Shema' twice in the day-time, once before sunrise and once after sunrise, and thereby fulfill his duty once for the day and once for the night. Now this is self-contradictory. You say: 'A man may sometimes recite the Shema' twice in the daytime', which shows that before sunrise it is daytime, and then you state: 'He thereby fulfills his duty once for the day and once for the night', which shows that it is night? —

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(1) Num. XXXII, 3. Even strings of names which are left untranslated in the Targum should be recited in Hebrew and in the Aramaic version.
(2) Dibtha on the Tigris.
(3) Lev. XXIII, 32.
(4) Therefore he should not devote the whole day to study.
(5) I.e., as a result of illness or struggle for a livelihood.
(6) V. B.B. 14b.
(7) Lest he should cut his hand.
(8) With the blood that will ooze from the meat.
(9) So that your bed should not be like that of an Aramaean.
(10) By which he can enter and join in the prayers.
(11) Gen. XXXI, 4.
(12) In sexual matters.
(13) Isa. XIII, 3.
(14) R. Joseph experienced the Persecution under Shapor II.
(15) Which is most probably only another version of the previous one.

Talmud - Mas. Berachoth 9a

No! It is in reality day, but he calls it night because some people go to bed at that time. R. Aha b. Hanina said in the name of R. Joshua b. Levi: The Halachah is as stated by R. Simeon who said in the name of R. Akiba. R. Zera says: However, he must not say [the prayer]: ‘cause us to lie down’.[1] When R. Isaac b. Joseph came [from Palestine], he said: This [tradition] of R. Aha b. Hanina in the name of R. Joshua b. Levi was not expressly said [by R. Joshua], but it was said [by R. Aha] by inference.[2] For it happened that a couple of scholars became drunk at the wedding feast of the son of R. Joshua b. Levi, and they came before R. Joshua b. Levi [before the rise of the sun] and he said: R. Simeon is a great enough authority to be relied on in a case of emergency.

IT ONCE HAPPENED THAT HIS SONS CAME HOME [LATE], etc. How is it that they had not heard before of this opinion of R. Gamaliel? — [They had heard], but they asked thus: Do the Rabbis join issue with you? For if so, where there is a controversy between an individual and a group, the Halachah follows the group. Or do the Rabbis agree with you [in substance], but they say: UNTIL MIDNIGHT, in order to keep a man far away from transgression? — He replied: The Rabbis do agree with me, and it is your duty [to recite the Shema’]. But they say, UNTIL MIDNIGHT, in order to keep a man far from transgression.

AND NOT IN RESPECT TO THIS ALONE DID THEY SO DECIDE, etc. But does R. Gamaliel say ‘until midnight’, that he should continue AND NOT IN RESPECT TO THIS ALONE DID THEY SO DECIDE? — That is what R. Gamaliel said to his sons: Even according to the Rabbis who say, ‘UNTIL MIDNIGHT’, the obligation continues until the dawn breaks, but the reason they said, ‘UNTIL MIDNIGHT’, was in order to keep a man far away from transgression.

THE BURNING OF THE FAT, etc. But [the Mishnah] does not mention the eating of the Passover offering. This would point to a contradiction [with the following Baraitha]: The duty of the recital of the Shema’ in the evening, and of the Hallel[3] on the night of the Passover, and of the eating of the Passover sacrifice can be performed until the break of the dawn? — R. Joseph says: There is no contradiction. One statement [the Mishnah] conforms with the view of R. Eleazar b. Azariah, and the other with the view of R. Akiba. For it has been taught: And they shall eat of the flesh in that night.[4] R. Eleazar b. Azariah says: Here it is said: ‘in that night’, and further on it is said: For I will go through the land of Egypt in that night.[5] Just as the latter verse means until midnight, so also here it means until midnight. R. Akiba said to him: But it is also said: Ye shall eat it in haste,[6] which means: until the time of haste?[7] [Until the break of the dawn]. [Said R. Eleazar to him,][8] If that is so, why does it say: in the night? [R. Akiba answered,][8] Because I might think that it may be eaten in the daytime[9] like the sacrifices; therefore it is said: ‘in the night’, indicating that only in the night is it eaten and not in the day. We can understand why according to R. Eleazar b. Azariah, whose opinion is based on the Gezerah shawah,[10] the word ‘that’ is necessary. But according to R. Akiba what is the purpose of this word ‘that’?[11] — It is there to exclude another night. For, since the Passover sacrifice is a sacrifice of minor sanctity and peace-offerings are sacrifices of minor sanctity, I might think that just as the peace-offerings are eaten for two days and one night so is also the Passover-offering eaten for two nights instead of the two days, and therefore it might be eaten for two nights and one day! Therefore it is said: ‘in that night’; in that night it is eaten, but it is not eaten in another night. And R. Eleazar b. Azariah?[12] He deduces it from the verse: And ye shall let nothing of it remain until the morning.[13] R. Akiba? — If [you deduced it] from there, I could say that ‘morning’ refers to the second morning. And R. Eleazar? — He answers you: ‘Morning’ generally means the first morning.

And [the controversy of] these Tannaim is like [the controversy of] the other Tannaim in the following Baraitha: There thou shalt sacrifice the passover-offering at even, at the going down of the sun, at the season that thou camest forth out of Egypt.[14] R. Eliezer says: ‘At even’,[15] you sacrifice; ‘at sunset’, you eat; and ‘at the season that thou camest out of Egypt’,[16] you must burn [the remainder]. R. Joshua says: ‘At even’, you sacrifice; ‘at sunset’, you eat; a and how long do you continue to eat? Till ‘the season that thou camest out of Egypt’.

R. Abba said: All agree that when Israel was redeemed[17] from Egypt they were redeemed in the evening. For it is said: The Lord thy God brought thee forth out of Egypt by night.[18] But they did not actually leave Egypt till the daytime. For it is said: On the morrow after the passover the children of Israel went out with a high hand.[19] About what do they disagree? — About the time of the haste.[20] R. Eleazar b. Azariah says: What is meant by ‘haste’? The haste of the Egyptians.[21] And R. Akiba says: It is the haste of Israel.[22] It has also been taught likewise: ‘The Lord thy God brought thee forth out of Egypt by night.’ But did they leave in the night? Did not they in fact leave only in the morning, as it says: ‘On the morrow after the passover the children of Israel went out with a high hand? But this teaches that the redemption had already begun in the evening.

Speak now [na] in the ears of the people, etc.[23] In the school of R. Jannai they said: The word ‘na’ means: I pray. The Holy One, blessed be He, said to Moses: I pray of thee, go and tell Israel, I pray of you to borrow from the Egyptians vessels of silver and vessels of gold, so that

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(1) V. P.B. p. 99. This is essentially a night prayer.

(2) From a decision of R. Joshua.

(3) V. Glos.

(4) Ex. XII, 8.

(5) Ibid. 12.

(6) Ibid. 11.

(7) The hour of the break of dawn, when they hastened out of Egypt, v. Ex. XII, 22.

(8) Inserted with MS.M.

(9) I.e., during the very day on which it was slaughtered.

(10) V. Glos.

(11) The text should have simply stated ‘in the night’.

(12) How does he deduce this latter ruling?

(13) Ibid. XII, 10.

(14) Deut. XVI, 6.

(15) In the afternoon.

(16) At the break of dawn. Hence according to R. Eliezer, the time of eating extends only till midnight.

(17) I.e., obtained permission to leave.

(18) Ibid. XVI, 1.
(19) Num. XXXIII, 3.
(20) Which is the termination of the time when it is permitted to eat; v. Ex. XII, 11 and the Gemara above.
(21) At midnight the Egyptians hastened to urge Israel to leave Egypt.
(22) I.e., in the morning when the Israelites hastened to go out.
(23) Ex. XI, 2.

Talmud - Mas. Berachoth 9b

this righteous man [Abraham] may not say: And they shall serve them, and they shall afflict them[1] He did fulfill for them, but And afterward shall they come out with great substance[2] He did not fulfill for them. They said to him: If only we could get out with our lives! A parable: [They were] like a man who was kept in prison and people told him: To-morrow, they will release you from the prison and give you plenty of money. And he answered them: I pray of you, let me go free today and I shall ask nothing more!

And they let them have what they asked.[3] R. Ammi says: This teaches that they let them have it against their will. Some say, against the will of the Egyptians, and some say, against the will of the Israelites. Those that say 'against the will of the Egyptians' cite the verse: And she that tarrieth at home divideth the spoil.[4] Those that say: 'against the will of the Israelites', say it was because of the burden [of carrying it]. And they despoiled Egypt.[5] R. Ammi says: This teaches that they made it like a snare[6] without corn. Resh Lakish said: They made it like a pond without fish.

I am that I am.[7] The Holy One, blessed be He, said to Moses: Go and say to Israel: I was with you in this servitude, and I shall be with you in the servitude of the [other] kingdoms.[8] He said to Him: Lord of the Universe, sufficient is the evil in the time thereof! Thereupon the Holy One, blessed be He, said to him: Go and tell them: I AM has sent me unto you.[9]

Hear me, O Lord, hear me.[10] R. Abbahu said: Why did Elijah say twice: 'Hear me'? This teaches that Elijah said before the Holy One, blessed be He: Lord of the Universe, 'hear me', that the fire may descend from heaven and consume everything that is upon the altar; and 'hear me', that Thou mayest turn their mind that they may not say that it was the work of sorcery. For it is said: For Thou didst turn their heart backward.[11]

MISHNAH. FROM WHAT TIME MAY ONE RECITE THE SHEMA IN THE MORNING? FROM THE TIME THAT ONE CAN DISTINGUISH BETWEEN BLUE AND WHITE. R. ELIEZER SAYS: BETWEEN BLUE AND GREEN. AND HE HAS TIME TO FINISH UNTIL SUNRISE. R. JOSHUA SAYS: UNTIL THE THIRD HOUR OF THE DAY, FOR SUCH IS THE CUSTOM OF KINGS, TO RISE AT THE THIRD HOUR. IF ONE RECITES THE SHEMA' LATER HE LOSES NOTHING, BEING LIKE ONE WHO READS IN THE TORAH.[12]

GEMARA. What is the meaning of BETWEEN BLUE AND WHITE? Shall I say: between a lump of white wool and a lump of blue wool? This one may also distinguish in the night! It means rather: between the blue in it and the white in it.[13] It has been taught: R. Meir says: [The morning Shema' is read] from the time that one can distinguish between a wolf and a dog; R. Akiba says: Between an ass and a wild ass. Others say: From the time that one can distinguish his friend at a distance of four cubits. R. Huna says: The halachah is as stated by the 'Others'. Abaye says: In regard to the tefillin,[14] the halachah is as stated by the 'Others'; in regard to [the recital of] the Shema', as practised by the watikin.[15] For R. Johanan said: The watikin used to finish it [the recital of the Shema'] with sunrise, in order to join the ge'ullah with the tefillah,[16] and say the tefillah in the daytime. R. Zera says: What text can be cited in support of this? They shall fear Thee with the sun,[17] and so long as the moon throughout all generations.[18] R. Jose b. Eliakim testified[19] in the name of the holy community of Jerusalem:[20] If one joins the ge'ullah to the tefillah, he will not meet with any mishap for the whole of the day. Said R. Zera: This is not so! For I did join, and did meet with a mishap. They asked him: What was your mishap? That you had to carry a myrtle branch into the king's palace?[21] That was no mishap, for in any case you would have had to pay something in order to see the king! For R. Johanan said: A man should always be eager to run to see the kings of Israel. And not only to see the kings of Israel, but also to see the kings of the Gentiles, so that, if he is found worthy,[22] he may be able to distinguish between the kings of Israel and the kings of the Gentiles.

R. Ela said to ‘Ulla: When you go up there,[23] give my greeting to my brother R. Berona in the presence of the whole college, for he is a great man and rejoices to perform a precept [in the correct manner]. Once he succeeded in joining ge'ullah with tefillah,[24] and a smile did not leave his lips the whole day. How is it possible to join the two, seeing that R. Johanan has said:[25] At the beginning of the tefillah one has to say, O, Lord, open Thou my lips,[26] and at the end he has to say, Let the words of my mouth be acceptable etc.?[27] — R. Eleazar replied: This[28] must then refer to the tefillah of the evening. But has not R. Johanan said: Who is it that is destined for the world to come? One who joins the ge'ullah of the evening with the tefillah of the evening? — Rather said R. Eleazar: This must then refer to the tefillah of the afternoon. R. Ashi said: You may also say that it refers to all the tefillahs, but since the Rabbis instituted [these words][28] in the tefillah, the whole is considered one long tefillah. For if you do not admit this, how can he join in the evening, seeing that he has to say the benediction of ‘Let us rest’?[29] You must say then that, since the Rabbis ordained the saying of ‘Let us rest’, it is considered one long ge'ullah.[30] So here, since the Rabbis instituted these words in the tefillah, the whole is considered one long tefillah.

Seeing that this verse, ‘Let the words of my mouth be acceptable etc.’ is suitable for recital either at the end or the beginning [of the tefillah], why did the Rabbis institute it at the end of the eighteen benedictions? Let it be recited at the beginning? — R. Judah the son of R. Simeon b. Pazzi said: Since David said it only after eighteen chapters [of the Psalms],[31] the Rabbis too enacted that it should be said after eighteen blessings. But those eighteen Psalms are really nineteen? — ‘Happy is the man’ and ‘Why are the nations in an uproar’[32] form one chapter. For R. Judah the son of R. Simeon b. Pazzi said: David composed a hundred and three chapters [of psalms], and he did not say ‘Hallelujah’ until he saw the downfall of the wicked, as it says, Let sinners cease out of the earth, and let the wicked be no more. Bless the Lord, O my soul. Hallelujah.[33] Now are these a hundred and three? Are they not a hundred and four? You must assume therefore that ‘Happy is the man’ and ‘Why are the nations in an uproar’ form one chapter. For R. Samuel b. Nahmani said in the name of R. Johanan:

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(1) Gen. XV, 14.

(2) Ibid.

(3) Ex. XII, 36.

(4) Ps. LXVIII, 13.

(5) Ex. XII, 36.

(6) For birds with corn for a lure. Var. lec.: like husks without grain, like a net without fish.

(7) Ibid. III, 14.

(8) Babylon and Rome.

(9) Ibid.

(10) I Kings XVIII, 37.

(11) Ibid. Sc., from such a thought.

(12) It is not a transgression. On the contrary, he has the ordinary merit of one who reads in the Torah, though he has not fulfilled the obligation of reading the Shema’.

(13) In one and the same lump of wool which was dyed blue but had some white spots in it. J. T. refers it to the ‘fringes’ which contain a thread of blue and which are used when reading the Shema’.

(14) I.e., the time for putting them on. MS.M. reads Tefillah (v. Glos.).

(15) Lit., strong' (sc.,in piety), a title probably applied to certain men who, in the time of the Hasmonean kingdom, set an example of exceptional piety. Some identify them with the Essenes.
(16) V. supra 4b.
(17) I.e., when the sun rises. E.V. 'While the sun endureth'.
(18) Ps. LXXII, 5.
(19) I.e., transmitted a tradition.
(20) V. J.E. p. 226.
(21) He was compelled to do some forced labour. V. T.J.
(22) To live to the time of the restoration of the Jewish kingdom and to see the Jewish kings.
(23) To Palestine.
(24) Apparently this means, having read the Shema' after the manner of the watikin. V. Tosaf. ad loc.
(25) V. supra, 4b.
(26) Ps. LI, 17.
(27) Ps. XIX, 15.
(28) The recital of these extra verses at the beginning and end of the tefillah.
(29) V. supra, 4b.
(30) The benediction of 'Let us rest' also comes between ge'ullah and tefillah.
(31) It comes at the end of Ps. XIX.
(32) The opening verses of Pss. I and II.
(33) Ibid. CIV, 35.

Talmud - Mas. Berachoth 10a

: Every chapter that was particularly dear to David he commenced with 'Happy' and terminated with 'Happy'.[1] He began with 'Happy', as it is written, 'Happy is the man', and he terminated with 'Happy', as it is written, 'happy are all they that take refuge in Him'.[2]

There were once some highwaymen[3] in the neighbourhood of R. Meir who caused him a great deal of trouble. R. Meir accordingly prayed that they should die. His wife Beruria[4] said to him: How do you make out [that such a prayer should be permitted]? Because it is written Let hatta'im cease? Is it written hot'im?[5] It is written hatta'im![6] Further, look at the end of the verse: and let the wicked men be no more. Since the sins will cease, there will be no more wicked men! Rather pray for them that they should repent, and there will be no more wicked. He did pray for them, and they repented.

A certain Min[7] said to Beruria: it is written: Sing, O barren, thou that didst not bear.[8] Because she did not bear is she to sing? She replied to him: You fool! Look at the end of the verse, where it is written, For the children of the desolate shall be more than the children of the married wife, saith the Lord.[9] But what then is the meaning of 'a barren that did not bear'? Sing, O community of Israel, who resemblest a barren woman, for not having born children like you for Gehenna.

A certain Min said to R. Abbahu: It is written: A Psalm of David when he fled from Absalom his son.[10] And it is also written, A mihtam of David when he fled from Saul in the cave.[11] Which event happened first? Did not the event of Saul happen first? Then let him write it first? He replied to him: For you who do not derive interpretations from juxtaposition, there is a difficulty, but for us who do derive interpretations from juxtaposition there is no difficulty. For R. Johanan said: How do we know from the Torah that juxtaposition counts? Because it says, They are joined[12] for ever and ever, they are done in truth and uprightness.[13] Why is the chapter of Absalom juxtaposed to the chapter of Gog and Magog?[14] So that if one should say to you, is it possible that a slave should rebel against his master,[15] you can reply to him: Is it possible that a son should rebel against his father? Yet this happened; and so this too [will happen].

R. Johanan said in the name of R. Simeon b. Yohai: What is the meaning of the verse, She openeth her mouth with wisdom, and the law of kindness is on her tongue?[16] To whom was Solomon alluding in this verse? He was alluding only to his father David who dwelt in five worlds and composed a psalm [for each of them]. He abode in his mother's womb, and broke into song, as it says, Bless the Lord, O my soul, and all my inwards[17] bless His holy name.[18] He came out into the open air and looked upon the stars and constellations and broke into song, as it says, Bless the Lord, ye angels of His, ye mighty in strength that fulfil His word, hearkening unto the voice of His word. Bless the Lord, all ye His hosts[19] etc. He sucked from his mother's bosom and looked on her breasts and broke into song, as it says, Bless the Lord, O my soul, and forget not all His benefits.[20] What means 'all His benefits'? — R. Abbahu said: That He placed her breasts at the source of understanding.[21] For what reason is this? — Rab Judah said: So that he should not look upon the place of shame; R. Mattena said: So that he should not suck from a place that is foul. He saw the downfall of the wicked and broke into song, as it says, Let sinners cease out of the earth and let the wicked be no more. Bless the Lord, O my soul, Hallelujah.[22] He looked upon the day of death and broke into song, as it says, Bless the Lord, O my soul. O Lord my God, Thou art very great, Thou art clothed with glory and majesty.[23] How does this verse refer to the day of death? — Rabbah son of R. Shila said: We learn it from the end of the passage, where it is written: Thou hidest Thy face, they vanish, Thou withdrawest their breath, they perish etc.[24]

R. Shimi b. 'Ukba (others say, Mar 'Ukba) was often in the company of R. Simeon b. Pazzi, who[25] used to arrange aggadahs [and recite them] before R. Johanan. He[26] said to him: What is the meaning of the verse, Bless the Lord, O my soul, and all that is within me bless His holy name?[27] — He replied: Come and observe how the capacity of human beings falls short of the capacity of the Holy One, blessed be He. It is in the capacity of a human being to draw a figure on a wall, but he cannot invest it with breath and spirit, bowels and intestines. But the Holy One, blessed be He, is not so; He shapes one form in the midst of another, and invests it with breath and spirit, bowels and intestines. And that is what Hannah said: There is none holy as the Lord, for there is none beside Thee, neither is there any zur [rock] like our God.[28] What means, neither is there any zur like our God'? There is no artist [zayyar] like our God. What means, 'For there is none beside Thee'? R. Judah b. Menasiah said: Read not, There is none bilteka, but, There is none lebalotheka [to consume Thee]. For the nature of flesh and blood is not like that of the Holy One, blessed be He. It is the nature of flesh and blood to be outlived by its works, but the Holy One, blessed be He, outlives His works. He said to him:[29] What I meant to tell you is this: To whom did David refer in these five verses beginning with 'Bless the Lord, O my soul'? He was alluding only to the Holy One, blessed be He, and to the soul. Just as the Holy One, blessed be He, fills the whole world, so the soul fills the body. Just as the Holy One, blessed be He, sees, but is not seen, so the soul sees but is not itself seen. Just as the Holy One, blessed be He, feeds the whole world, so the soul feeds the whole body. Just as the Holy One, blessed be He, is pure, so the soul is pure. Just as the Holy One, blessed be He, abides in the innermost precincts, so the soul abides in the innermost precincts. Let that which has these five qualities come and praise Him who has these five qualities.

R. Hamnuna said: What is the meaning of the verse, Who is as the wise man? And who knoweth the interpretation [pesher] of a thing?[30] Who is like the Holy One, blessed be He, who knew how to effect a reconciliation [pesharah] between two righteous men, Hezekiah and Isaiah? Hezekiah said: Let Isaiah come to me, for so we find that Elijah went to Ahab,[31] as it says, And Elijah went to show himself unto Ahab.[32] Isaiah said: Let Hezekiah come to me, for so we find that Jehoram son of Ahab went to Elisha.[33] What did the Holy One, blessed be He, do? He brought sufferings upon Hezekiah and then said to Isaiah, Go visit the sick. For so it says, In those days was Hezekiah sick unto death. And Isaiah the prophet, son of Amoz, came to him and said unto him, Thus saith the Lord, Set thy house in order, for thou shalt die and not live[34] etc. What is the meaning of 'thou shalt die and not live'? Thou shalt die in this world and not live in the world to come. He said to him: Why so bad? He replied: Because you did not try to have children. He said: The reason was because I saw by the holy spirit that the children issuing from me would not be virtuous. He said to him: What have you to do with the secrets of the All-Merciful? You should have done what you were commanded, and let the Holy One, blessed be He, do that which pleases Him. He said to him: Then give me now your daughter; perhaps through your merit and mine combined virtuous children will issue from me. He replied:[35] The doom has already been decreed. Said the other: Son of Amoz, finish your prophecy and go. This tradition I have from the house of my ancestor:[36] Even if a sharp sword rests upon a man's neck he should not desist from prayer.[37] This saying is also recorded in the names of R. Johanan and R. Eleazar: Even if a sharp sword rests on a man's neck, he should not desist from prayer, as it says, Though He slay me, yet will I trust in Him.[38]

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(1) In point of fact this is the only one. V. Tosaf. a.l.

(2) The last verse of Ps. II, which shows that according to R. Johanan Pss. I and II formed one Psalm.

(3) Baryone, a word of doubtful meaning.

(4) Valeria.

(5) Pres. part. of the verb hata, to sin. Hence meaning sinners.

(6) Which can be read חטאים sins. M.T. vocalizes חוטאםי (sinners).

(7) So MS.M. (v. Glos.) curr. edd.: Sadducee.

(8) Isa. LIV, 1.

(9) Apparently the point is that at present she is barren, but in the future she shall have many children. Probably Beruria was thinking of Rome as ‘the married wife’ and Jerusalem as ‘the desolate’.

(10) Ps. III, 1.

(11) Ibid. LVII, 1.

(12) Heb. semukim, the same word as for juxtaposed. E.V. ‘established’.

(13) Ibid. CXI, 8.

(14) Ps. II, which is supposed by the Rabbis to refer to the rebellion of Gog and Magog against God and the Messiah.

(15) Sc. the nations against God.

(16) Prov. XXXI, 26.

(17) I.e., his mother's womb. E.V. ‘all that is within me’.

(18) Ps. CIII, 1.

(19) Ps. CIII, 20, 21.

(20) Ibid. 2.

(21) I.e., the heart, (the seat of understanding). R. Abbahu connects the word gemulaw (his benefits) with gamal (weaned).

(22) Ibid. CIV, 35.

(23) Ibid. I.

(24) Ibid. 29.

(25) Reading דהוה with MS.M.

(26) R. Shimi or Mar ‘Ukba.

(27) Ibid. CIII, 1.

(28) I Sam. II, 2.

(29) R. Shimi to R. Simeon b. Pazzi.

(30) Eccl. VIII, 1.

(31) The prophet went to the king.

(32) 1 Kings XVIII, 2.

(33) V. II Kings III, 12.

(34) Isa. XXXVIII, 1.

(35) Insert with MS.M. Behold I say to you ‘Set thy house in order’, and you say to me ‘Give me now your daughter’.

(36) David.

(37) Cf. II Sam. XXIV, 17.

(38) Job XIII, 15.

Talmud - Mas. Berachoth 10b

([Similarly] R. Hanan said: Even if the master of dreams[1] says to a man that on the morrow he will die, he should not desist from prayer, for so it says, For in the multitude of dreams are vanities and also many words, but fear thou God).[2] Thereupon straightway, Hezekiah turned his face to the kir [wall] and prayed unto the Lord.[3] What is the meaning of ‘kir’? — R. Simeon b. Lakish said: [He prayed] from the innermost cham bers [kiroth] of his heart, as it says, My bowels, my bowels, I writhe in pain! Kiroth [The chambers] of my heart etc.[4] R. Levi said: [He prayed] with reference to [another] ‘kir’. He said before Him: Sovereign of the Universe! The Shunammite woman made only one little chamber [on the roof] and Thou didst restore her son to life.[5] How much more so then me whose ancestor[6] overlaid the Temple with silver and gold! Remember now, O Lord, I beseech Thee, how I have walked before Thee in truth and with a whole heart, and have done that which is good in Thy sight.[7] What means, ‘I have done that which is good in Thy sight’? — Rab Judah says in the name of Rab: He joined the ge'ullah with the tefillah.[8] R. Levi said: He hid away the Book of Cures.[9]

Our Rabbis taught:[10] King Hezekiah did six things; of three of them they [the Rabbis] approved and of three they did not approve. Of three they approved: he hid away the Book of Cures; and they approved of it; he broke into pieces the brazen serpent,[11] and they approved of it; and he dragged the bones of his father [to the grave] on a bed of ropes,[12] and they approved of it.[13] Of three they did not approve: He stopped up the waters of Gihon,[14] and they did not approve of it; he cut off [the gold] from the doors of the Temple and sent it to the King of Assyria,[15] and they did not approve of it; and he intercalated the month of Nisan during Nisan,[16] and they did not approve of it. But did not Hezekiah accept the teaching: This month shall be unto you the beginning of months:[17] [this means] that this is Nisan and no other month shall be Nisan?[18] — He went wrong over the teaching enunciated by Samuel. For Samuel said: The year must not be declared a prolonged year on the thirtieth of Adar, since this day may possibly belong to Nisan;[19] and he thought: We do not pay heed to this possibility.[20]

R. Johanan said in the name of R. Jose b. Zimra: If a man makes his petition depend on his own merit, heaven makes it depend on the merit of others; and if he makes it depend on the merit of others, heaven makes it depend on his own merit. Moses made his petition depend on the merit of others, as it says, Remember Abraham, Isaac and Israel Thy servants![21] and Scripture made it depend on his own merit, as it says, Therefore He said that He would destroy them, had not Moses His chosen stood before Him in the breach to turn back His wrath, lest He should destroy them.[22] Hezekiah made his petition depend on his own merit, as it is written: Remember now, O Lord, I beseech Thee, how I have walked before Thee,[23] and God made it depend on the merit of others, as it says, For I will defend this city to save it, for Mine own sake and for My servant David's sake.[24] And this agrees with R. Joshua b. Levi. For R. Joshua b. Levi said: What is the meaning of the verse, Behold for my peace I had great bitterness?[25] Even when the Holy One, blessed be He, sent him [the message of] peace it was bitter for him.[26]

Let us make, I pray thee, a little chamber on the roof.[27] Rab and Samuel differ.[28] One says: It was an open upper chamber, and they put a roof on it. The other says: It was a large verandah, and they divided it into two.[29] For him who says that it was a verandah, there is a good reason why the text says kir [wall]. But how does he who says that it was an upper chamber account for the word kir? — [It is used] because they put a roof on it [kiruah]. For him who says it was an upper chamber there is a good reason why the text uses the word ‘aliyath [upper chamber]. But how does he who says it was a verandah account for the word ‘aliyath? — It was the best [me'ulla][30] of the rooms.

And let us set for him there a bed, and a table, and a stool and a candlestick.[31] Abaye (or as some say, R. Isaac) said: If one wants to benefit from the hospitality of another, he may benefit, as Elisha did;[32] and if he does not desire to benefit, he may refuse to do so, as Samuel the Ramathite did,[33] of whom we read, And his return was to Ramah, for there was his house;[34] and R. Johanan said: [This teaches that] wherever he travelled, his house was with him.[35]

And she said unto her husband: Behold now, I perceive that he is a holy man of God.[36] R. Jose b. Hanina said: You learn from this that a woman recognizes the character of a guest better than a man. ‘A holy man’. How did she know this? — Rab and Samuel gave different answers. One said: Because she never saw a fly pass by his table. The other said: She spread a sheet of linen over his bed, and she never saw a nocturnal pollution on it. He is a holy [man]. R. Jose son of R. Hanina said: He is holy, but his attendant is not holy. For so it says: And Gehazi came near to thrust her away;[37] R. Jose son of Hanina said: He seized her by the breast.[38]

That passeth by us continually.[39] R. Jose son of R. Hanina said in the name of R. Eliezer b. Jacob: If a man entertains a scholar in his house and lets him enjoy his possessions, Scripture accounts it to him as if he had sacrificed the daily burnt-offering.[40]

R. Jose son of Hanina further said in the name of R. Eliezer b. Jacob: A man should not stand on a high place when he prays, but he should pray in a lowly place, as it says; Out of the depths have I called Thee, O Lord.[41] It has been taught to the same effect: A man should not stand on a chair or on a footstool or on a high place to pray, but he should pray in a lowly place, since there is no elevation before God, and so it says, ‘Out of the depths have I called Thee, O Lord’, and it also says, A prayer of the afflicted, when he fainteth.[42]

R. Jose son of R. Hanina also said in the name of R. Eliezer b. Jacob: When one prays, he should place his feet in proper position,[43] as it says, And their feet were straight feet.[44]

R. Jose son of R. Hanina also said in the name of R. Eliezer b. Jacob: What is the meaning of the verse, Ye shall not eat with the blood?[45] Do not eat before ye have prayed for your blood.[46] R. Isaac said in the name of R. Johanan, who had it from R. Jose son of R. Hanina in the name of R. Eliezer b. Jacob: If one eats and drinks and then says his prayers, of him the Scripture says, And hast cast Me behind thy back.[47] Read not gaweka [thy back], but geeka [thy pride]. Says the Holy One, blessed be He: After[48] this one has exalted himself, he comes and accepts the kingdom of heaven![49]

R. JOSHUA SAYS: UNTIL THE THIRD HOUR. Rab Judah said in the name of Samuel: The halachah is as stated by R. Joshua.

HE WHO RECITES THE SHEMA’ LATER LOSES NOTHING. R. Hisda said in the name of Mar ‘Ukba: Provided he does not say the benediction of ‘Who formest the light’.[50] An objection was raised from the statement: He who recites the Shema’ later loses nothing; he is like one reading in the Torah, but he says two blessings before it and one after. Is not this a refutation of R. Hisda? It is [indeed] a refutation. Some there are who say: R. Hisda said in the name of Mar ‘Ukba: What is the meaning of HE LOSES NOTHING? He does not lose the benedictions. It has been taught to the same effect: He who says the Shema’ later loses nothing, being like one who reads from the Torah, but he says two blessings before and one after.

R. Mani said: He who recites the Shema’ in its proper time is greater than he who studies the Torah.[51] For since it says, HE WHO SAYS LATER LOSES NOTHING, BEING LIKE A MAN WHO READS IN THE TORAH, we may conclude that one who recites the Shema’ at its proper time is superior. MISHNAH. BETH SHAMMAI SAY: IN THE EVENING EVERY MAN SHOULD RECLINE AND RECITE [THE SHEMA’], AND IN THE MORNING HE SHOULD STAND, AS IT SAYS, AND WHEN THOU LIEST DOWN AND WHEN THOU RISEST UP.[52] BETH HILLEL, HOWEVER, SAY THAT EVERY MAN SHOULD RECITE IN HIS OWN WAY, AS IT SAYS, AND WHEN THOU WALKEST BY THE WAY.[53] WHY THEN IS IT SAID, AND WHEN THOU LIEST DOWN AND WHEN THOU RISEST UP? [THIS MEANS], AT THE TIME WHEN PEOPLE LIE DOWN AND AT THE TIME WHEN PEOPLE RISE UP. R. TARFON SAID:

I WAS ONCE WALKING BY THE WAY AND I RECLINED TO RECITE THE SHEMA' IN THE MANNER PRESCRIBED BY BETH SHAMMAI, AND I INCURRED DANGER FROM ROBBERS. THEY SAID TO HIM: YOU DESERVED TO COME TO HARM, BECAUSE YOU ACTED AGAINST THE OPINION OF BETH HILLEL.

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(1) This seems to be simply a periphrasis for ‘if a man is told in a dream’. Two explanations are then possible of what follows. (i) If he dreams and the dream so far comes true that a sword is placed on his neck, still he should pray. (ii) Even if he only dreams this, he should still pray etc. (R. Bezalel of Regensburg.)

(2) Eccl. V, 6. Apparently this is how R. Hanan understands the verse. E.V. Through the multitude and vanities there are also many words.

(3) Isa. XXXVIII, 2. MS.M. adds: Finally he gave him his daughter (in marriage) and there issued from him Menasseh and Rabshakeh. One day he (Hezekiah) carried them on his shoulder to the Synagogue (Var. lec. to the house of learning) and one of them said, ‘Father's bald head is good for breaking nuts on’, while the other said, ‘it is good for roasting fish on. He thereupon threw them both on the ground and Rabshakeh was killed, but not Menasseh. He then applied to them the verse, The instruments also of the churl are evil; he deviseth wicked devices. (Isa. XXXII, 7).

(4) Jer. IV, 19.

(5) V. II Kings IV, 10.

(6) King Solomon.

(7) Isa. XXXVIII, 3. This comes in the prayer of Hezekiah.

(8) V. supra, 9b.

(9) A book containing remedies for various illnesses which Hezekiah hid from the public in order that people might pray for healing to God; v. infra.

(10) V. Pes. 56a.

(11) V. II Kings XVIII, 4.

(12) Instead of giving him a royal burial.

(13) Because Ahaz was a wicked man.

(14) V. II Chron. XXXII, 30.

(15) V. II Kings XVIII, 16.

(16) V. II Chron. XXX, 2.

(17) Ex. XII, 2.

(18) I.e., a second Nisan must not be intercalated.

(19) If the new moon is observed on it.

(20) And he declared the month Adar Sheni(Second Adar).

(21) Ex.XXXII, 13.

(22) Ps. CVI, 23.

(23) Isa. XXXVIII, 3.

(24) Ibid. XXXVII 35.

(25) Ibid. XXXVIII, 17.

(26) Because it was not made to depend on his own merit.

(27) II Kings IV, 10.

(28) In the explanation of עלית קיר which means literally ‘an upper chamber of (with) a wall’.

(29) By means of a wall.

(30) Lit., ‘elevated’.

(31) II Kings IV, 10.

(32) There is no prohibition against this.

(33) And this is not to be taken as a sign of pride or enmity.

(34) I Sam. VII, 17.

(35) I.e., he did not accept the hospitality of the people. R. Johanan takes the word ‘there’ to refer to all the places mentioned above.

(36) II Kings IV, 9.

(37) Ibid. 27.

(38) Lit. , ‘the pride of her beauty’, בהוד יפיה ,a play on the word להדפה ,’ to thrust her away’.

(39) Ibid. 9.
(40) Which is also called tamid, lit., ‘continually’.
(41) Ps. CXXX, 1.
(42) Ibid. CII, 1.
(43) I.e., close together and level.
(44) Ezek. I, 7.
(45) Lev. XIX, 26.
(46) I.e., life.
(47) I Kings XIV, 9.
(48) The same Hebrew word may be translated ‘behind’ and ‘after’.
(49) The technical term for reciting the Shema’.
(50) The first of the two introductory benedictions to the Shema’. V. P. B. p. 37.
(51) If he who says later is as good, he who says at the proper time must be better.
(52) Deut. VI, 7.
(53) Ibid.

Talmud - Mas. Berachoth 11a

GEMARA. Beth Hillel cause no difficulty; they explain their own reason and the reason [why they reject the opinion] of Beth Shammai. But why do not Beth Shammai accept the view of Beth Hillel? — Beth Shammai can reply: If this is so,[1] let the text say, ‘In the morning and in the evening’. Why does it say, ‘When thou liest down and when thou risest up’? To show that in the time of lying down there must be actual lying down, and in the time of rising up there must be actual rising up. And how do Beth Shammai explain the words ‘And when thou walkest by the way’? — They need it for the following, as has been taught: ‘When thou sittest in thy house’:[2] this excludes a bridegroom. ‘And when thou walkest by the way’: this excludes one who is occupied with the performance of a religious duty.[3] Hence they laid down that one who marries a virgin is free [from the obligation to say the Shema’ in the evening] while one who marries a widow is bound.[4] How is the lesson[5] derived? — R. Papa said: [The circumstances must be] like a ‘way’. As a ‘way’ [journey] is optional, so whatever is optional [does not exempt from the obligation]. But does not the text treat [also] of one who is going to perform a religious duty, and even so the All Merciful said that he should recite? — If that were so, the All Merciful should have written [simply], ‘While sitting and while walking’. What is the implication of when thou sittest and when thou walkest? — In the case of thy sitting and thy walking thou art under the obligation, but in the case of performing a religious duty thou art exempt. If that is so, one who marries a widow should also be exempt? — The one[6] is agitated, the other not. If a state of agitation is the ground, it would apply also the the case of his ship sinking at sea! And should you say, Quite so, why did R. Abba b. Zabda say in the name of Rab: A mourner is under obligation to perform all the precepts laid down in the Torah except that of the tefillin, because the term ‘headtire’ is applied to them, as it says, Bind thy headtire upon thee?[7] — In that case the agitation is over a religious duty, here it is over an optional matter.

And Beth Shammai?[8] — They require it to exclude persons on a religious mission.[9] And Beth Hillel?[10] — They reply: Incidentally it tells you that one recites also by the way.[11]

Our Rabbis taught: Beth Hillel say that one may recite the Shema’ standing, one may recite it sitting, one may recite it reclining, one may recite it walking on the road, one may recite it at one's work. Once R. Ishmael and R. Eleazar b. Azariah were dining at the same place, and R. Ishmael was reclining while R. Eleazar was standing upright. When the time came for reciting the Shema’, R. Eleazar reclined and R. Ishmael stood upright. Said R. Eleazar b. Azariah to R. Ishmael: Brother Ishmael, I will tell you a parable. To what is this [our conduct] like? It is like that of a man to whom people say, You have a fine beard, and he replies, Let this go to meet the destroyers.[12] So now, with you: as long as I was upright you were reclining, and now that I recline you stand upright![13] He replied: I have acted according to the rule of Beth Hillel and you have acted according to the rule of Beth Shammai. And what Is more, [I had to act thus], lest the disciples should see and fix the halachah so for future generations. What did he mean by ‘what is more’? He meant: Should you argue that Beth Hillel also allow reclining, [I reply that] this is the case only where one was reclining from the first. Here, however, since at first you were upright and now you recline, they may say, This shows that they [both] are of the opinion of Beth Shammai, and perhaps the disciples will see and fix the halachah so for future generations.

R. Ezekiel learnt: If one follows the rule of Beth Shammai he does right, if one follows the rule of Beth Hillel he does right. R. Joseph said: If he follows the rule of Beth Shammai, his action is worthless, as we have learnt: If a man has his head and the greater part of his body in the sukkah[14] while the table is in the house, Beth Shammai declare his action void, while Beth Hillel declare it valid. Said Beth Hillel to Beth Shammai: Once the Elders of Beth Shammai and the Elders of Beth Hillel went to visit R. Johanan b. Ha-horanith, and they found him with his head and the greater part of his body in the sukkah while the table was in the house, and they made no objection. They replied: Do you bring a proof from this?[15] [The fact is that] they also said to him: If such has been your regular custom, you have never performed the precept of the sukkah in your lifetime.[16] R. Nahman b. Isaac said: One who follows the rule of Beth Shammai makes his life forfeit, as we have learnt: R. TARFON SAID: I WAS ONCE WALKING BY THE WAY AND I RECLINED TO RECITE THE SHEMA’ IN THE MANNER PRESCRIBED BY BETH SHAMMAI, AND I INCURRED DANGER FROM ROBBERS. THEY SAID TO HIM: YOU DESERVED TO COME TO HARM, BECAUSE YOU ACTED AGAINST THE OPINION OF BETH HILLEL.

MISHNAH. IN THE MORNING TWO BLESSINGS ARE TO BE SAID BEFORE IT[17] AND ONE AFTER IT. IN THE EVENING TWO ARE SAID BEFORE IT AND TWO AFTER IT, ONE LONG AND ONE SHORT.[18] WHERE THEY [THE SAGES] LAID DOWN THAT A LONG ONE SHOULD BE SAID, IT IS NOT PERMITTED TO SAY A SHORT ONE. WHERE THEY ORDAINED A SHORT ONE A LONG ONE IS NOT PERMITTED. [A PRAYER] WHICH THEY ORDERED TO BE CONCLUDED [WITH A BENEDICTION][19] MUST NOT BE LEFT WITHOUT SUCH A CONCLUSION; ONE WHICH THEY ORDERED TO BE LEFT WITHOUT SUCH A CONCLUSION MUST NOT BE SO CONCLUDED.

GEMARA. What benedictions does one say [in the morning]? R. Jacob said in the name of R. Oshaia:

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(1) That only the time of the recital is meant.

(2) Ibid.

(3) This is the reading of MS.M., and this is the version found in Tosaf. Suk. 25a a.v. ובלכתך and elsewhere. Cur. edd. reverse the positions of ‘bridegroom’ and ‘one who is occupied, etc.’

(4) V. infra.

(5) Relating to one who is occupied with the performance.

(6) The one who marries a virgin is worried as to whether he shall find her really such.

(7) Ezek. XXIV, 17. Ezekiel, though a mourner, was commanded exceptionally to wear his headtire, i.e., (as the Rabbis understand) tefillin, from which it is deduced that ordinarily a mourner does not do so. But the fact remains that worry as a rule does not exempt from the precepts.

(8) How do they interpret the words ‘and when thou walkest by the way’? V. next note.

(9) This seems to be a repetition of the question and answer given above and is best left out with MS.M.

(10) How can they infer their view from this verse, seeing that it is required to exempt one who is occupied in performing a religious duty.

(11) I.e., in his own way, as explained above.

(12) As much as to say, I will have it cut off just to spite you.

(13) As if to spite me.

(14) V. Glos.
(15) In respect of fulfilling the precept of the sukkah, v. Suk. 28a.
(16) And since Beth Shammai invalidated action according to Beth Hillel, similarly Beth Hillel declared invalid action according to Beth Shammai.
(17) Sc. the Shema'.
(18) The reference is to the two that follow the evening Shema'.
(19) I.e., with the words, Blessed art Thou, O Lord, etc.

Talmud - Mas. Berachoth 11b

'[Blessed art Thou] who formest light and createst darkness'.[1] Let him say rather: 'Who formest light and createst brightness'? — We keep the language of the Scripture.[2] If that is so, [what of the next words in the text], Who makest peace and createst evil: do we repeat them as they are written? It is written 'evil' and we say 'all things' as a euphemism. Then here too let us say 'brightness' as a euphemism! — In fact, replied Raba, it is in order to mention the distinctive feature of the day in the night-time and the distinctive feature of the night in the day-time. It is correct that we mention the distinctive feature of the night in the day-time, as we say, 'Who formest light and createst darkness'.[3] But where do you find the distinctive feature of the day mentioned in the night-time? — Abaye replied: [In the words,] 'Thou rollest away the light from before the darkness and the darkness from before the light'.[4]

Which is the other [benediction]?[5] — Rab Judah said in the name of Samuel: 'With abounding love'.[6] So also did R. Eleazar instruct his son R. Pedath [to say]: 'With abounding love'. It has been taught to the same effect: We do not say, 'With everlasting love', but 'With abounding love'. The Rabbis, however, say that 'With everlasting love'[7] is said; and so it is also said, Yea, I have loved thee with an everlasting love; therefore with affection I have drawn thee.[8]

Rab Judah said in the name of Samuel: If one rose early to study [the Torah] before he had recited the Shema', he must say a benediction [over the study]. But if he had already recited the Shema', he need not say a benediction, because he has already become quit by saying 'With abounding love'.[9]

R. Huna said: For the reading of Scripture it is necessary to say a benediction,[10] but for the study of the Midrash[11] no benediction is required. R. Eleazar, however, says that for both Scripture and Midrash a benediction is required, but not for the Mishnah . R. Johanan says that for the Mishnah also a benediction is required, [but not for the Talmud]. Raba said: For the Talmud also it is necessary to say a blessing. R. Hiyya b. Ashi said:[12] Many times did I stand before Rab to repeat our section in the Sifra of the School of Rab,[13] and he used first to wash his hands and say a blessing, and then go over our section with us.[14]

What benediction is said [before the study of the Torah]? — Rab Judah said in the name of Samuel: [Blessed art Thou . . .] who hast sanctified us by Thy commandments, and commanded us to study the Torah.[15] R. Johanan used to conclude as follows:[16] 'Make pleasant, therefore, we beseech Thee, O Lord our God, the words of Thy Torah in our mouth and in the mouth of Thy people the house of Israel, so that we with our offspring and the offspring of Thy people the house of Israel may all know Thy name and study Thy Torah. Blessed art Thou, O Lord, who teachest Torah to Thy people Israel'.[17] R. Hamnuna said: '[Blessed art Thou . . .] who hast chosen us from all the nations and given us Thy Torah. Blessed art Thou, O Lord, who givest the Torah'.[18] R. Hamnuna said: This is the finest of the benedictions. Therefore let us say all of them.[19]

We have learnt elsewhere:[20] The deputy high priest[21] said to them [the priests], Say one benediction, and they said the benediction and recited the Ten Commandments, the Shema', the section 'And it shall come to pass if ye hearken diligently', and 'And the Lord said',[22] and recited with the people three benedictions, viz ., ‘True and firm’,[23] the benediction of the ‘Abodah,[24] and the priestly benediction.[25] On Sabbath they said an additional benediction for the outgoing watch.[26] Which is the ‘one benediction’ referred to above? The following will show. R. Abba and R. Jose came to a certain place the people of which asked them what was the ‘one benediction’ [referred to], and they could not tell them. They went and asked R. Mattena, and he also did not know. They then went and asked Rab Judah, who said to them: Thus did Samuel say: It means, ‘With abounding love’. R. Zerika in the name of R. Ammi, who had it from R. Simeon b. Lakish said: It is, ‘Who formest light’. When R. Isaac b. Joseph came [from Palestine] he said: This statement of R. Zerika was not made explicitly [by R. Simeon b. Lakish], but was inferred by him [from another statement]. For R. Zerika said in the name of R. Ammi, who had it from R. Simeon b. Lakish: This[27] shows that the recital of one blessing is not indispensable for that of the other. Now if you say that they used to recite ‘Who formest the light’, it is correct to infer that the recital of one blessing is not indispensable for that of the other, since they did not say, ‘With abounding love’.

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(1) V. P.B. P. 37.
(2) The words are a quotation from Isa. XLV, 7.
(3) This formula is said only in the morning prayer.
(4) V. P.B. p. 96.
(5) Said before the morning Shema’.
(6) V. P.B. p. 39.
(7) In fact this blessing is now said in the evening. V. P.B. p. 96.
(8) Jer. XXXI, 3.
(9) This blessing contains a benediction over the Torah, v. P.B. p. 39.
(10) In the morning, v. P. B. p. 4.
(11) The exegetical midrashim of the Torah (Sifra, Sifre and Mekilta) are referred to.
(12) So MS.M. Curr. edd., ‘For R. Hiyya b. Ashi, etc.’.
(13) Sifra debe Rab, an halachic Midrash on Leviticus, v. J.E. XI, p. 330.
(14) This proves that over Midrash a benediction is required.
(15) V. P.B. p. 4.
(16) In order both to open and close with a benediction.
(17) P.B. p. 4.
(18) Ibid.
(19) Alfasi and R. Asher have before these last words: R. Papa says.
(20) Tamid 32b.
(21) Memuneh; lit., ‘the appointed one’; v. Yoma, Sonc. ed., p. 97, n. 3.
(22) The second and third sections of the Shema’, Deut. XI, 13ff. and Num. XV, 37ff. V. P.B. p. 40ff.
(23) V. P.B. p. 42.
(24) The benediction commencing ‘Accept, O Lord our God’ in the Amidah. V. P.B. p. 50.
(25) V. P.B. P. 53.
(26) The priestly watches in the Temple (which were twenty-four in number) were changed every week.
(27) The fact that they said one blessing only.

Talmud - Mas. Berachoth 12a

But if you say that they used to say, ‘With abounding love’, how can you infer that one blessing is not indispensable for the recital of the other? Perhaps the reason why they did not say, Who formest the light’ was because the time for it had not yet arrived,[1] but when the time for it did arrive, they used to say it! And if this statement was made only as an inference, what does it matter? — If it was made only as an inference [I might refute it as follows]: In fact, they said, ‘With abounding love’, and when the time came for ‘Who formest the light’, they said that too. What then is the meaning of ‘One blessing is not indispensable for the other’? The order of the blessings is not indispensable.

‘They recited the Ten Commandments, the Shema’, the sections "And it shall come to pass if ye diligently hearken", and "And the Lord said", "True and firm", the ‘Abodah, and the priestly benediction’. Rab Judah said in the name of Samuel: Outside the Temple also people wanted to do the same,[2] but they were stopped on account of the insinuations of the Minim.[3] Similarly it has been taught: R. Nathan says, They sought to do the same outside the Temple,[4] but it had long been abolished on account of the insinuations of the Minim. Rabbah b. Bar Hanah[5] had an idea of instituting this in Sura,[6] but R. Hisda said to him, It had long been abolished on account of the insinuations of the Minim. Amemar had an idea of instituting it in Nehardea, but R. Ashi said to him, It had long been abolished on account of the insinuations of the Minim.

‘On Sabbath they said an additional blessing on account of the outgoing watch’. What was this benediction? — R. Helbo said: The outgoing watch said to the incoming one, May He who has caused His name to dwell in this house cause to dwell among you love and brotherhood and peace and friendship.

WHERE THEY ORDAINED THAT A LONG BENEDICTION SHOULD BE SAID. There is no question that where a man took up a cup of wine thinking that it was beer and commenced [with the intention to say the benediction] for beer but finished with that of wine, he has fulfilled his obligation. For even had he said the benediction, ‘By whose word all things exist’,[7] he would have fulfilled his duty, as we have learnt: ‘In the case of all of them,[8] if he says, "By whose word all things exist", he has performed his obligation’.[9] But where he took up a cup of beer thinking it was wine and began [with the intention to say the benediction] for wine and finished with the benediction for beer, the question arises, do we judge his benediction according to its beginning or according to its ending? — Come and hear: ‘In the morning, if one commenced with [the intention to say] "Who formest light" and finished with "Who bringest on the evening twilight",[10] he has not performed his obligation; if he commences [with the intention to say] "Who bringest on the evening twilight" and finished with Who formest the light", he has performed his obligation. In the evening, if one commenced [with the intention to say] "Who bringest on the evening twilight" and finished with "Who formest the light", he has not performed his obligation; if he begins with [the intention to say] "Who formest the light" and closes with "Who bringest on the evening twilight", he has performed his obligation. The principle is that the final form is decisive’. — It is different there because [at the end] he says, ‘Blessed art Thou who formest the luminaries’.[11] This would be a good argument for Rab who said that any blessing that does not contain the mention of God's name is no blessing.[12] But if we accept the view of R. Johanan who said that any blessing that does not contain a mention of the divine kingship is no blessing, what can be said?[13] Rather [we must reply]: Since Rabbah b. ‘Ulla has said: So as to mention the distinctive quality of the day in the night-time and the distinctive feature of the night in the day-time,[14] [we may assume that] when he said a blessing [with the divine name] and with the kingship[15] in the beginning, he refers to both of them.[16]

Come and hear from the concluding clause: ‘The principle is that the final form is decisive’. What further case is included by the words ‘the principle is’? Is it not the one we have mentioned?[17] — No; it is to include bread and dates. How are we to understand this? Shall I say that he ate bread thinking that he was eating dates,[18] and commenced [with the intention of saying the benediction] for dates and finished [with the blessing for] bread? This is just the same thing! — No, this is required [for the case where] he ate dates thinking that he was eating bread, and he began with [the intention to say the blessing] for bread and finished with that of dates. In this case he has fulfilled his obligation; for even if he had concluded with the blessing for bread, he would also have fulfilled it. What is the reason? — Because dates also give sustenance.[19]

Raba b. Hinena the elder said in the name of Rab: If one omits to say True and firm’[20] in the morning and ‘True and trustworthy’[21] in the evening, he has not performed his obligation; for it is said, To declare Thy lovingkindness in the morning and Thy faithfulness in the night seasons.[22]

Raba b. Hinena the elder also said in the name of Rab: In saying the Tefillah, when one bows,[23] one should bow at [the word] ‘Blessed’ and when returning to the upright position one should return at [the mention of] the Divine Name. Samuel said: What is Rab's reason for this? — Because it is written: The Lord raiseth up them that are bowed down.[24] An objection was raised from the verse, And was bowed before My name?[25] — Is it written, ‘At My name’? It is written, ‘Before My Name’.[26] Samuel said to Hiyya the son of Rab: O, Son of the Law, come and I will tell you a fine saying enunciated by your father.[27] Thus said your father: When one bows, one should bow at ‘Blessed’, and when returning to the upright position, one should return at [the mention of] the Divine Name.

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(1) The priests of the watch used to say the Shema’ before daybreak. V. infra.

(2) To say the Ten Commandments before the Shema’.

(3) That the Ten Commandments were the only valid part of the Torah. V. Glos. s.v. Min.

(4) Lit., ‘in the borders’, ‘outlying districts’.

(5) MS.M. reads: ‘Rabbah b. R. Huna’, which is more correct; v. D.S. a.l.

(6) In Babylon, the seat of the famous School founded by Rab.

(7) The blessing over all liquors except wine. V. P.B. p. 290.

(8) Even wine.

(9) V. infra 40a.

(10) Instead of the morning formula ‘Who formest light’ he employed the evening formula, P.B. p. 96.

(11) Which is the concluding formula of the morning benediction and is a complete blessing by itself. Hence we can disregard the beginning. The same is not the case with wine and beer where there was no benediction to rectify the error made at the beginning.

(12) Which implies that if this condition is fulfilled, it is a blessing.

(13) According to R. Johanan, since the concluding formula does not contain the words ‘King of the Universe’, it cannot be considered a complete benediction.

(14) V. supra 11b.

(15) The reference is to the introductory words ‘who createst darkness’ in the morning benediction and ‘who rollest away light’ in the evening benediction, which makes either of them appropriate for either morning or evening. These in turn are introduced by the formula making mention of Divine Kingship.

(16) Hence in this case the beginning too was in order, but not in the case of wine and beer.

(17) Of wine and beer.

(18) The benediction after which is different from that after bread. V. P. B. p. 287 for the former and p. 280 for the latter.

(19) Like bread, which is regarded as food par excellence.

(20) V. P.B. p. 42.

(21) V. ibid. P.

(22) Ps. XCII, 3.

(23) One has to bow four times in the course of the Tefillah: at the beginning and end of the first benediction (v. P. B. p. 44) and at ‘We give thanks unto Thee’ (p. 51) and at the close of the last but one benediction (p. 53).

(24) Ps. CXLVI, 8.

(25) Mal. II, 5. E.V. ‘And was afraid of My name’.

(26) I.e., before the mention of the name.

(27) Samuel outlived Rab.

Talmud - Mas. Berachoth 12b

R. Shesheth, when he bowed, used to bend like a reed,[1] and when he raised himself, used to raise himself like a serpent.[2]

Raba b. Hinena the elder also said in the name of Rab: Throughout the year one says in the Tefillah, ‘The holy God’, and ‘King who lovest righteousness and judgment’,[3] except during the ten days between New Year and the Day of Atonement, when he says, ‘The holy King’ and ‘The King of judgment’. R. Eleazar says: Even during these days, if he said, ‘The holy God’, he has performed his obligation, since it says, But the Lord of Hosts is exalted through justice, and the holy God is sanctified through righteousness:[4] When is the Lord of Hosts exalted through justice? In these ten days from New Year to the Day of Atonement; and none-the-less it says, ‘the holy God’. What do we decide?[5] — R. Joseph said: ‘The holy God’ and ‘The King who loves righteousness and judgment’; Rabbah said: ‘The holy King’ and ‘The King of judgment’. The law is as laid down by Rabbah.

Raba b. Hinena the elder said further in the name of Rab: If one is in a position to pray on behalf of his fellow and does not do so, he is called a sinner, as it says, Moreover as for me, far be it from me that I should sin against the Lord in ceasing to pray for you.[6] Raba said: If [his fellow] is a scholar, he must pray for him even to the point of making himself ill. What is the ground for this? Shall I say, because it is written, There is none of you that is sick for me or discloseth unto me?[7] Perhaps the case of a king is different. It is in fact derived from here: But as for me, when they[8] were sick, my clothing was sackcloth, I afflicted my soul with fasting.[9]

Raba b. Hinena the elder further said in the name of Rab: If one commits a sin and is ashamed of it,[10] all his sins are forgiven him, as it says, That thou mayest remember and be confounded, and never open thy mouth any more, because of thy shame; when I have forgiven thee all that thou hast done, saith the Lord God.[11] Perhaps with a whole congregation the case is different? — Rather [we derive it] from here: And Samuel said to Saul, Why hast thou disquieted me to bring me up? And Saul answered, I am sore distressed; for the Philistines make war against me, and God is departed from me, and answereth me no more, neither by prophets nor by dreams; therefore I called thee that thou mayest make known unto me what I shall do.[12] But he does not mention the Urim and Thummim[13] because he had killed all [the people of] Nob, the city of the priests.[14] And how do we know that Heaven had forgiven him? — Because it says, And Samuel said . . . Tomorrow shalt thou and thy sons be with me,[15] and R. Johanan said: ‘With me means, in my compartment [in Paradise]. The Rabbis say [we learn it] from here: We will hang them up unto the Lord in Gibeah of Saul, the chosen of the Lord.[16] A divine voice came forth and proclaimed: The chosen of the Lord.[17]

R. Abbahu b. Zutrathi said in the name of R. Judah b. Zebida: They wanted to include the section of Balak[18] in the Shema’, but they did not do so because it would have meant too great a burden for the congregation.[19] Why [did they want to insert it]? — Because it contains the words, God who brought them forth out of Egypt.[20] Then let us say the section of usury[21] or of weights[22] in which the going forth from Egypt is mentioned? — Rather, said R. Jose b. Abin, [the reason is] because it contains the verse, He couched, he lay down as a lion, and as a lioness; who shall rouse him up?[23] Let us then say this one verse and no more? — We have a tradition that every section which our master, Moses, has divided off we may divide off, but that which our master, Moses, has not divided off, we may not divide off. Why did they include the section of fringes?[24] — R. Judah b. Habiba said: Because it makes reference to five[25] things — the precept of fringes, the exodus from Egypt, the yoke of the commandments, [a warning against] the opinions of the Minim, and the hankering after sexual immorality and the hankering after idolatry. The first three we grant you are obvious: the yoke of the commandments, as it is written: That ye may look upon it and remember all the commandments of the Lord;[26] the fringes, as it is written: That they make for themselves fringes;[27] the exodus from Egypt, as it is written: Who brought you out of the land of Egypt.[28] But where do we find [warnings against] the opinions of the heretics, and the hankering after immorality and idolatry? — It has been taught: After your own heart:[29] this refers to heresy; and so it says, The fool hath said in his heart, There is no God.[30] After your own eyes:[29] this refers to the hankering after immorality; and so it says, And Samson said to his father, Get her for me, for she is pleasing in my eyes.[31] After which ye use to go astray:[29] this refers to the hankering after idolatry; and so it says, And they went astray after the Baalim.[32]

MISHNAH. THE EXODUS FROM EGYPT IS TO BE MENTIONED [IN THE SHEMA'] AT NIGHT-TIME. SAID R. ELEAZAR B. AZARIAH: BEHOLD I AM ABOUT[33] SEVENTY YEARS OLD,[33] AND I HAVE NEVER BEEN WORTHY TO [FIND A REASON] WHY THE EXODUS FROM EGYPT SHOULD BE MENTIONED AT NIGHTTIME UNTIL BEN ZOMA EXPOUNDED IT: FOR IT SAYS: THAT THOU MAYEST REMEMBER THE DAY WHEN THOU CAMEST FORTH OUT OF THE LAND OF EGYPT ALL THE DAYS OF THY LIFE.[34] [HAD THE TEXT SAID,] 'THE DAYS OF THY LIFE' IT WOULD HAVE MEANT [ONLY] THE DAYS; BUT 'ALL THE DAYS OF THY LIFE' INCLUDES THE NIGHTS AS WELL. THE SAGES, HOWEVER, SAY: 'THE DAYS OF THY LIFE REFERS TO THIS WORLD; ALL THE DAYS OF THY LIFE' IS TO ADD THE DAYS OF THE MESSIAH.

GEMARA. It has been taught: Ben Zoma said to the Sages: Will the Exodus from Egypt be mentioned in the days of the Messiah? Was it not long ago said: Therefore behold the days come, saith the Lord, that they shall no more say: As the Lord liveth that brought up the children of Israel out of the land of Egypt; but, As the Lord liveth that brought up and that led the seed of the house of Israel out of the north country and from all the countries whither I had driven them?[35] They replied: This does not mean that the mention of the exodus from Egypt shall be obliterated, but that the [deliverance from] subjection to the other kingdoms shall take the first place and the exodus from Egypt shall become secondary. Similarly you read: Thy name shall not be called any more Jacob, but Israel shall be thy name.[36]

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(1) I.e., sharply, all at once.

(2) Slowly and with effort.

(3) In the third and twelfth benedictions respectively, v. P.B. pp. 45 and 48.

(4) Isa. V, 16.

(5) What should be said on the ten days of penitence.

(6) I Sam. XII, 23.

(7) With reference to Saul. I Sam. XXII, 8. E.V. 'that is sorry for me'.

(8) This is said to refer to Doeg and Ahitophel, who were scholars.

(9) Ps. XXXV, 13.

(10) I.e., conscience-stricken.

(11) Ezek. XVI, 63.

(12) I Sam. XXVIII, 15.

(13) Though from v. 6 of this chapter it appears that he did consult the Urim.

(14) And his silence shows that he was conscience-stricken.

(15) I Sam. XXVIII, 16 and 19.

(16) II Sam. XXI, 6.

(17) And it was not the Gibeonites who said, this.

(18) Num. XXII-XXIV.

(19) On account of its length.

(20) Ibid. XXIII, 22.

(21) Lev. XXV, 35-38.

(22) Ibid. XIX, 36.

(23) Num. XXIV, 9. The reason is that it mentions 'lying down' and 'rising up'. Tanhuma substitutes XXIII, 24.

(24) Ibid. XV, 37-41.

(25) Var. lec.: 'six', which seems more correct.

(26) Ibid. XV, 39.

(27) Num. XV, 38.

(28) Ibid. 41.

(29) Ibid. 39.

(30) Ps. XIV, 1.

(31) Judg. XIV, 3.
(32) Ibid. VIII, 33.
(33) Or, 'like one'. V. infra, 28a.
(34) Deut. XVI, 3.
(35) Jer. XXIII, 7. 8.
(36) Gen. XXXV, 10.

Talmud - Mas. Berachoth 13a

This does not mean that the name Jacob shall be obliterated, but that Israel shall be the principal name and Jacob a secondary one. And so it says: Remember ye not the former things, neither consider the things of old.[1] 'Remember ye not the former things': this refers to the subjections to the other nations; 'Neither consider the things of old': this refers to the exodus from Egypt.

Behold I shall do a new thing; now shall it spring forth.[2] R. Joseph learnt: This refers to the war of Gog and Magog. A parable: To what is this like? To a man who was travelling on the road when he encountered a wolf and escaped from it, and he went along relating the affair of the wolf. He then encountered a lion and escaped from it, and went along relating the affair of the lion. He then encountered a snake and escaped from it, whereupon he forgot the two previous incidents and went along relating the affair of the snake. So with Israel: the later troubles make them forget the earlier ones.

Abram the same is Abraham.[3] At first he became a father to Aram [Ab-Aram] only, but in the end he became a father to the whole world.[4] [Similarly] Sarai is the same as Sarah. At first she became a princess to her own people, but later she became a princess to all the world.[5] Bar Kappara taught: Whoever calls Abraham Abram transgresses a positive precept, since it says, Thy name shall be Abraham.[6] R. Eliezer says: He transgresses a negative command,[7] since it says, Neither shall thy name any more be called Abram.[8] But if that is so, then the same should apply to one who calls Sarah Sarai? — In her case the Holy One, blessed be He, said to Abraham, As for Sarai thy wife, thou shalt not call her Sarai, but Sarah shall her name be.[9] But if that is so, the same should apply to one who calls Jacob Jacob? — There is a difference in his case, because Scripture restored it [the name Jacob] to him, as it is written: And God spoke unto Israel in the visions of the night, and said, Jacob, Jacob.[10] R. Jose b. Abin (or, as some say, R. Jose b. Zebida) cited in objection the following: Thou art the Lord, the God who didst choose Abram![11] — The answer was given: There the prophet[12] is recounting the noble deeds of the All Merciful [and relates] that that was the case originally.

CHAPTER II

MISHNAH. IF ONE WAS READING IN THE TORAH [THE SECTION OF THE SHEMA'] WHEN THE TIME FOR ITS RECITAL ARRIVED, IF HE HAD THE INTENTION[13] HE HAS PERFORMED HIS OBLIGATION. IN THE BREAKS[14] ONE MAY GIVE GREETING OUT OF RESPECT[15] AND RETURN GREETING; IN THE MIDDLE [OF A SECTION] ONE MAY GIVE GREETING OUT OF FEAR[16] AND RETURN IT. SO R. MEIR. RABBI JUDAH SAYS: IN THE MIDDLE ONE MAY GIVE GREETING OUT OF FEAR AND RETURN IT OUT OF RESPECT, IN THE BREAKS ONE MAY GIVE GREETING OUT OF RESPECT AND RETURN GREETING TO ANYONE. THE BREAKS ARE AS FOLLOWS: BETWEEN THE FIRST BLESSING AND THE SECOND,[17] BETWEEN THE SECOND AND 'HEAR', BETWEEN 'HEAR' AND 'AND IT SHALL COME TO PASS', BETWEEN AND IT SHALL COME TO PASS' AND 'AND THE LORD SAID AND BETWEEN AND THE LORD SAID' AND 'TRUE AND FIRM'.[18] RABBI JUDAH SAYS: BETWEEN 'AND THE LORD SAID' AND 'TRUE AND FIRM ' ONE SHOULD NOT INTERRUPT.

R. JOSHUA B. KORHAH SAID: WHY WAS THE SECTION OF ‘HEAR’ PLACED BEFORE THAT OF ‘AND IT SHALL COME TO PASS’? SO THAT ONE SHOULD FIRST ACCEPT UPON HIMSELF THE YOKE OF THE KINGDOM OF HEAVEN[19] AND THEN TAKE UPON HIMSELF THE YOKE OF THE COMMANDMENTS.[20] WHY DOES THE SECTION OF ‘AND IT SHALL COME TO PASS’ COME BEFORE THAT OF ‘AND THE LORD SAID’? BECAUSE [THE SECTION] ‘AND IT SHALL COME TO PASS’ IS APPLICABLE BOTH TO THE DAY AND TO THE NIGHT,[21] WHEREAS [THE SECTION] ‘AND THE LORD SAID’ IS APPLICABLE ONLY TO THE DAY.[22]

GEMARA. This[23] proves that precepts must be performed with intent.[24] [No, perhaps] what IF HE HAD THE INTENTION means is, if it was his intention to read the Scripture? ‘To read’? But surely he is reading! — [The Mishnah may refer] to one who is reading [a scroll] in order to revise it.[25]

Our Rabbis taught: The Shema’ must be recited as it is written.[26] So Rabbi. The Sages, however, say that it may be recited in any language. What is Rabbi's reason? — Scripture says: and they shall be,[27] implying, as they are they shall remain.[28] What is the reason of the Rabbis? — Scripture says ‘hear’,[29] implying, in any language that you understand.[30] Rabbi also must see that ‘hear’ is written? — He requires it [for the lesson]: Make your ear hear what your mouth utters.[21] , The Rabbis, however, concur with the authority who says that even if he did not say it audibly he has performed his obligation. The Rabbis too must see that ‘and they shall be’ is written? — They require this to teach that he must not say the words out of order. Whence does Rabbi derive the rule that he must not say the words out of order? — He derives it from the fact that the [text says] ‘ha-debarim’ [the words] when it might have said simply debarim [words]. And the Rabbis? — They derive no lesson from the substitution of ha-debarim for debarim.

May we assume that Rabbi was of opinion that the whole Torah is allowed to be read in any language, since if you assume that it is allowed to be read only in the holy tongue, why the ‘and they shall be’ written by the All-Merciful? — This was necessary, because ‘hear’ is written.[31] May we assume that the Rabbis were of opinion that the whole Torah is allowed to be read only in the holy tongue. since if you assume that it is allowed to be read only in any language. why the ‘hear’ written by the All-Merciful? — It is necessary because ‘and they shall be’ is written.[32]

Our Rabbis taught: ‘And they shall be’.[33] This teaches that they must not be read backwards. ‘These words upon thy heart’.[33] Am I to say that the whole [first] section requires kawanah?[34] Therefore the text says ‘these’: up to this point kawanah is necessary, from this point kawanah is not necessary. So R. Eliezer. Said R. Akiba to him: Behold it says.

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(1) Isa. XLIII, 18.

(2) Ibid. 29.

(3) I Chron. I, 27.

(4) As it says, Behold I have made thee a father of a multitude of nations, Gen. XVII, 5.

(5) ‘Sarai’ means literally ‘my princess’, Sarah ‘princess’ simply.

(6) Ibid.

(7) Which is more serious.

(8) Ibid.

(9) Sc. for you but not necessarily for others. Gen. XVII, 15.

(10) Ibid. XLVI, 2.

(11) Neh. IX, 7.

(12) Nehemiah, so called because he was here speaking under the guidance of the holy spirit.

(13) This is explained in the Gemara. Lit., ‘he directed his heart’.

(14) Between the sections, as presently explained.
(15) E.g., to a teacher.
(16) To one who he is afraid will harm him if he does not give greeting, but not merely out of respect.
(17) V. P.B. p. 39.
(18) Ibid. p. 42.
(19) By proclaiming the unity of God.
(20) By saying the words, if ye shall diligently hearken to all My commandments.
(21) Since it mentions all the commandments.
(22) Since it mentions only the precept of fringes, which is not obligatory by night.
(23) The words IF HE HAD INTENTION.
(24) And not, as it were, accidentally.
(25) And is not attending to the sense.
(26) I.e., in the original language.
(27) Deut. VI, 6.
(28) Lit., 'in their being they shall be'.
(29) Ibid. 4.
(30) The Hebrew verb shema', like the French entendre, means both 'hear' and 'understand'. (21) I.e., say it audibly.
(31) And otherwise I might take this to imply, in any language.
(32) Which otherwise I might take to imply, in the original only.
(33) Deut. VI, 6.
(34) The Hebrew word kawanah combines the meanings of attention and intention-attention to what is being said, intention to perform the commandment.

Talmud - Mas. Berachoth 13b

Which I command thee this day upon thy heart. From this you learn that the whole section requires to be said with kawanah. Rabbah b. Hanah said in the name of R. Johanan: The halachah is as laid down by R. Akiba. Some refer this statement[1] to the following. as it has been taught: One who reads the Shema' must pay proper attention[2] to what he says. R. Aha said in the name of R. Judah: If he has paid proper attention to the first section, he need not do so for the rest. Rabba b. Bar Hanah said in the name of R. Johanan: The halachah is as stated by R. Aha in the name of R. Judah.

Another [Baraitha] taught: 'And they shall be': this teaches that they must not be said backwards. 'upon thy heart': R. Zutra says: Up to this point extends the command of kawanah,[3] from this point only the command of reciting applies. R. Josiah says: Up to this point extends the command of reciting; from this point the command of kawanah applies. Why this difference in the application from this point of the command of reciting? [presumably] because it is written 'to speak of them';[4] here too [in the first] also it is written, 'and thou shalt speak of them'![5] What he means is this: Up to this point applies the command both of kawanah and reciting; from this point onwards applies the command of reciting [even] without kawanah.[6] And why this difference in the application up to the point of the command both of reciting and kawanah? [presumably] because it is written, upon thy heart and thou shalt speak of them?[7] [In the second section] there too it is written, 'upon thy hearts to speak of them.[8] That text was required for the lesson enunciated by R. Isaac, who said: 'Ye shall put these my words [upon your hearts]';[8] it is requisite that the placing [of the tefillin] should be opposite the heart.

The Master stated [above]: 'R. Josiah said: Up to this point extends the command of reciting; from this point onwards the command of kawanah applies'. Why this difference in the application from this point onward of the command of kawanah? [Presumably] because it is written, 'upon your heart'? There too [in the first section] also it is written upon thy heart? — What he meant is this: Up to this point applies the command of reciting and kawanah, from this point onwards applies that of kawanah [even] without reciting.[9] Why this difference in the application up to this point of the command of reciting and kawanah? [Presumably] because it is written, ‘upon thy heart and thou shalt speak of them?’ There too [in the second section] also it is written, ‘upon your heart to speak. of them’! These words have reference to words of Torah, and what the All-Merciful meant is this: Teach your children Torah, so that they may be fluent in them.

Our Rabbis taught: Hear, O Israel, the Lord our God, the Lord is one.[10] Up to this point concentration[11] is required. So says R. Meir. Raba said: The halachah is as stated by R. Meir.

It has been taught: Symmachus says: Whoever prolongs the word ehad [one]. has his days and years prolonged. R. Aha b. Jacob said: [He must dwell] on the daleth.[12] R. Ashi said: Provided he does not slur over the heth.[13] R. Jeremiah was once sitting before R. Hiyya b. Abba, and the latter saw that he was prolonging [the word ehad] very much. He said to him: Once you have declared Him king[14] over [all that is] above and below and over the four quarters of the ‘heaven, no more is required.

R. Nathan b. Mar ‘Ukba said in the name of Rab Judah: ‘upon thy heart’ must be said standing. [Only] ‘Upon thy heart’? How can you assume this? Rather say: Up to ‘upon thy heart’ must be said standing; from there onwards not [necessarily]. R. Johanan, however, said: The whole [first] section must be said standing. And R. Johanan in this is consistent; for Rabbah b. Bar Hanah said in the name of R. Johanan: The halachah is as stated by R. Aha in the name of R. Judah.[15]

Our Rabbis taught: ‘Hear, O Israel, the Lord our God, the Lord is one’: this was R. Judah the Prince's recital of the Shema’.[16] Rab said once to R. Hiyya: I do not see Rabbi accept upon himself the yoke of the kingdom of heaven.[17] He replied to him: Son of Princes![18] In the moment when he passes his hand over his eyes, he accepts upon himself the yoke of the kingdom of heaven. Does he finish it afterwards or does he not finish it afterwards?[19] Bar Kappara said: He does not finish it afterwards; R. Simeon son of Rabbi said, He does finish it afterwards. Said Bar Kappara to R. Simeon the son of Rabbi: On my view that he does not finish it afterwards, there is a good reason why Rabbi always is anxious to take a lesson in which there is mention of the exodus from Egypt.[20] But on your view that he does finish it afterwards, why is he anxious to take such a lesson? — So as to mention the going forth from Egypt at the proper time.[21]

R. Ela the son of R. Samuel b. Martha said in the name of Rab: If one said ‘Hear, O Israel, the Lord our God, the Lord is one’, and was then overpowered by sleep, he has performed his obligation. R. Nahman said to his slave Daru: For the first verse prod me,[22] but do not prod me for any more. R. Joseph said to R. Joseph the son of Rabbah: How did your father use to do? He replied: For the first verse he used to take pains [to keep awake], for the rest he did not use to take pains.

R. Joseph said: A man lying on his back should not recite the Shema’. [This implies] that he may not read [the Shema’ lying on his back], but there is no objection to his sleeping in this posture. But did not R. Joshua b. Levi curse anyone who slept lying on his back?[23] In reply it was said: To sleeping thus if he turns over a little on his side there is no objection, but to read the Shema’ thus is forbidden even if he turns over somewhat. But R. Johanan turned over a little and read the Scripture? — R. Johanan was an exception, because he was very corpulent.

IN THE BREAKS HE MAY GIVE GREETING etc. For what may he RETURN GREETING? Shall I say, out of respect? But seeing that he may give greeting, is there any question that he may return it? Rather [what I must say is]: He gives greeting out of respect and returns greeting to anyone. [But then] read the next clause: IN THE MIDDLE HE GIVES GREETING OUT OF FEAR AND RETURNS IT. Returns it for what reason? Shall I say, out of fear? But seeing that he may give greeting, is there any question that he may return it? Rather [what we must say is], out of respect. But then this is the view of R. Judah,[24] as we learn, R. JUDAH SAYS: IN THE MIDDLE HE

GIVES GREETING OUT OF FEAR AND RETURNS IT OUT OF RESPECT, AND IN THE BREAKS HE GIVES GREETING OUT OF RESPECT AND RETURNS GREETING TO ANYONE? — There is a lacuna, and [our Mishnah] should read as follows: IN THE BREAKS HE GIVES GREETING OUT OF RESPECT, and needless to say he may return it, AND IN THE MIDDLE HE GIVES GREETING OUT OF FEAR and needless to say he may return it. So R. Meir. R. Judah says: IN THE MIDDLE HE GIVES GREETING OUT OF FEAR AND RETURNS IT OUT OF RESPECT,

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(1) Of Rabbah b. Bar Hanah's statement of the halachah.

(2) Lit., 'direct his heart'. I.e., have kawanah.

(3) Presumably kawanah here means concentration without reciting. i.e., reading with the eyes.

(4) Ibid. VI; XI. This is the command of reciting.

(5) Deut. VI.

(6) I.e., attention is optional.

(7) Ibid. 6.

(8) Ibid. XI, 18. E.V. 'lay up in your heart'.

(9) I.e., it is permitted to read with the eyes.

(10) Ibid. VI, 4.

(11) Lit., 'direction of the heart'.

(12) Because the word does not mean 'one' till he comes to this letter.

(13) Omitting its vowel and so make the word meaningless.

(14) I.e., in your thoughts while saying the word.

(15) Supra, that the first section requires kawanah.

(16) I.e., he said only this verse and no more.

(17) V. supra, p. 75 n. 7. Rabbi commenced studying with his disciples before daybreak and did not break off when the time came for reciting the Shema'

(18) I.e., of great scholars; Rab was a nephew of R. Hiyya.

(19) After he dismisses his disciples.

(20) As a substitute for this, the third section, which deals with the exodus.

(21) I.e., when the Shema' is to be recited.

(22) Lit., 'worry me so that I may be wide awake'.

(23) V. infra 15a.

(24) Who is supposed to differ from R. Meir, whose views we have been stating so far.

Talmud - Mas. Berachoth 14a

AND IN THE BREAKS HE GIVES GREETING OUT OF RESPECT AND RETURNS IT TO ANYONE. It has been taught similarly: If one was reciting the Shema' and his teacher or superior meets him in the breaks, he may give greeting out of respect, and needless to say he may return it, and in the middle he may give greeting out of fear and needless to say he may return it. So R. Meir. R. Judah said: In the middle he may give greeting out of fear and return it out of respect, and in the breaks he may give greeting out of respect and return it to anyone.

Ahi the Tanna[1] of the school of R. Hiyya put a question to R. Hiyya: What of interrupting [to give greeting] during the recital of Hallel[2] and the reading of the Megillah?[2] Do we argue a fortiori that if he may interrupt during the recital of the Shema' which is a Biblical precept, there is no question that he may do so during the recital of Hallel, which is a Rabbinical precept, or do we say that the proclaiming of the miracle[3] is more important? — He replied: He may interrupt, and there is no objection. Rabbah said: On the days on which the individual says the complete Hallel,[4] he may interrupt between one section and another but not in the middle of a section; on the days on which the individual does not say the complete Hallel[5] he may interrupt even in the middle of a section. But that is not so. For surely Rab b. Shaba once happened to visit Rabina on one of the days on which the individual does not say the complete Hallel and he [Rabina] did not break off to greet him? — It is different with Rab b. Shaba, because Rabina had no great respect for him.

Ashian the Tanna' of the school of R. Ammi enquired of R. Ammi: May one who is keeping a [voluntary][6] fast take a taste?[7] Has he undertaken to abstain from eating and drinking, and this is really not such, or has he undertaken not to have any enjoyment, and this he obtains? — He replied: He may taste, and there is no objection. It has been taught similarly: A mere taste does not require a blessing, and one who is keeping a [voluntary] fast may take a taste, and there is no objection. How much may he taste? — R. Ammi and R. Assi used to taste as much as a rebi'ith.[8]

Rab said: If one gives greeting to his fellow before he has said his prayers[9] it is as if he made him a high place, as it says, Cease ye from man in whose nostrils is a breath, for how little is he to be accounted![10] Read not bammeh [how little], but bammah [high place].[11] Samuel interpreted: How come you to esteem this man and not God?[12] R. Shesheth raised an objection: IN THE BREAKS HE GIVES GREETING OUT OF RESPECT AND RETURNS IT![13] — R. Abba explains the dictum to refer to one who rises early to visit another.[14] R. Jonah said in the name of R. Zera: If a man does his own business before he says his prayers, it is as if he had built a high p]ace. He said to him: A high place, do you say? No, he replied; I only mean that it is forbidden.[15] R. Idi b. Abin said in the name of R. Isaac b. Ashian:[16] It is forbidden to a man to do his own business before he says his prayers, as it says, Righteousness shall go before him and then he shall set his steps on his own way.[17]

R. Jonah further said in the name of R. Zera: Whoever goes seven days without a dream is called evil, as it says, And he that hath it shall abide satisfied; he shall not be visited with evil.[18] Read not sabea', [satisfied] but sheba' [seven].[19] R. Aha the son of R. Hiyya b. Abba said to him: Thus said R. Hiyya in the name of R. Johanan: Whoever sates himself with words of Torah before he retires will receive no evil tidings, as it says, And if he abides sated he shall not be visited with evil.

THE BREAKS ARE AS FOLLOWS etc. R. Abbahu said in the name of R. Johanan: The halachah follows R. Judah, who says that one should not interrupt between 'your God' and 'True and firm'. R. Abbahu said in the name of R. Johanan: What is R. Judah's reason? Because we find in Scripture the words,

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(1) The one who repeated the section of the Mishnah for the teacher to expound. V. Glos. s.v. (b).

(2) V. Glos.

(3) The Hallel proclaims the exodus on Passover, and the Megillah the miraculous deliverance from Haman.

(4) E.g., Tabernacles and Hanukah. V. 'Ar. 10b.

(5) Viz., New Moon and the last six days of passover.

(6) V. Tosaf s.v.

(7) To see if food is cooked properly.

(8) A fourth of a log, i.e., about an egg and a half.

(9) I.e., before he recites the tefillah.

(10) Isa. II, 22.

(11) And render, if he is esteemed he becomes a high place.

(12) Samuel draws a similar lesson without altering the text.

(13) Though the Shema' is said before the tefillah.

(14) After the manner of the Roman clientes with their patrons. But if one meets his neighbour he may greet him.

(15) But it is not so bad as idolatry.

(16) This is the reading of Rashi. Cur. edd. have: This agrees with the dictum of R. Idi b. Abin etc., which is obviously a contradiction.

(17) Ps. LXXXV, 14. 'Righteousness' here is taken to mean justification by prayer. E.V., 'Righteousness shall go before Him and shall make His footsteps a way'.

(18) Prov. XIX, 23.

(19) And render, ‘if he abides seven nights without and is not visited (with a dream, this shows that) he is evil’.

Talmud - Mas. Berachoth 14b

The Lord God is truth.[1] Does he repeat the word ‘true’[2] or does he not repeat the word ‘true’? — R. Abbahu said in the name of R. Johanan: He repeats the word ‘true’; Rabbah says: He does not repeat the word ‘true’. A certain man went down to act as reader before Rabbah, and Rabbah heard him say ‘truth, truth’, twice; whereupon he remarked: The whole of truth has got hold of this man.[3]

R. Joseph said: How fine was the statement which was brought by R. Samuel b. Judah when he reported that in the West [Palestine] they say [in the evening], Speak unto the children of Israel and thou shalt say unto them, I am the Lord your God, True.[4] Said Abaye to him: What is there so fine about it, seeing that R. Kahana has said in the name of Rab: [In the evening] one need not begin [this third section of the Shema’] but if he does begin, he should go through with it? And should you say that the words, ‘and thou shalt say unto them’ do not constitute a beginning, has not R. Samuel b. Isaac said in the name of Rab, ‘Speak unto the children of Israel’ is no beginning, but ‘and thou shalt say unto them’ is a beginning? — R. Papa said: In the West they hold that ‘and thou shalt say unto them’ also is no beginning, until one says, ‘and they shall make unto themselves fringes’. Abaye said: Therefore we [in Babylon] begin [the section], because they begin it in the West; and since we begin we go through with it, because R. Kahana has said in the name of Rab: One need not begin, but if he begins he should go through with it.

Hiyya b. Rab said: If one has said [in the evening] ‘I am the Lord your God,’ he must say also, ‘True [etc.]’; if he has not said ‘I am the Lord your God’, he need not say ‘True’. But one has to mention the going forth from Egypt?[5] — He can say thus: We give thanks to Thee O Lord our God, that Thou hast brought us forth from the land of Egypt and redeemed us from the house of servitude and wrought for us miracles and mighty deeds, by the [Red] Sea, and we did sing unto Thee.[6]

R. JOSHUA B. KORHAH SAID: WHY IS THE SECTION OF ‘HEAR’ SAID BEFORE etc. It has been taught: R. Simeon b. Yohai says: It is right that ‘Hear’ should come before ‘And it shall come to pass because the former prescribes learning[7] and the latter teaching,[8] and that ‘and it shall come to pass’ should precede ‘And the Lord said’ because the former prescribes teaching and the latter performance. But does then ‘hear’ speak only of learning and not also of teaching and doing? Is it not written therein, ‘And thou shalt teach diligently, and thou shalt bind them and thou shalt write them’? Also, does ‘and it shall come to pass’ speak only of teaching and not also of performance? Is it not written therein, ‘and ye shall bind and ye shall write’? — Rather this is what he means to say: It is right that ‘hear’ should precede ‘and it shall come to pass’, because the former mentions both learning, teaching, and doing; and that ‘and it shall come to pass’ should precede ‘and the Lord said’, because the former mentions both teaching and doing, whereas the latter mentions doing only. But is not the reason given by R. Joshua b. Korhah sufficient? — He [R. Simeon b. Yohai] gave an additional reason. One is that he should first accept Upon himself the yoke of the kingdom of heaven and then accept the yoke of the commandments. A further reason is that it [the first section] has these other features.

Rab once washed his hands and recited the Shema’ and put on tefillin and said the tefillah. But how could he act in this way,[9] seeing that it has been taught: ‘One who digs a niche in a grave for a corpse is exempt from reciting Shema’ and tefillah and from tefillin and from all the commandments prescribed in the Torah. When the hour for reciting the Shema’ arrives, he goes up and washes his hands and puts on tefillin and recites the Shema’ and says the tefillah?’ Now this statement itself contains a contradiction. First it says that he is exempt and then it says that he is under obligation? — This is no difficulty; the latter clause speaks of where there are two,[10] the former of where there is only one. In any case this seems to contradict Rab? — Rab held with R. Joshua b. Korhah, who said that first he accepts the yoke of the kingdom of heaven and then he accepts the yoke of the commandments.[11] I will grant you that R. Joshua b. Korhah meant that the recital [of one section] should precede that of the other. But can you understand him to mean that the recital should precede the act [of putting on the tefillin]? And further, did Rab really adopt the view of R. Joshua b. Korhah? Did not R. Hiyya b. Ashi say: On many occasions I stood before Rab when he rose early and said a blessing and taught us our section and put on phylacteries and then recited the Shema'?[12] And should you say, he did this only when the hour for reciting the Shema' had not yet arrived — if that is so what is the value of the testimony of R. Hiyya b. Ashi? — To refute the one who says that a blessing need not be said for the study of the Mishnah;[13] he teaches us that for the Mishnah also a blessing must be said. All the same there is a contradiction of Rab?[14] — His messenger was at fault.[15]

'Ulla said: If one recites the Shema' without tefillin it is as if he bore false witness against himself.[16] R. Hiyya b. Abba said in the name of R. Johanan: It is as if he offered a burnt-offering without a meal-offering and a sacrifice without drink-offering.

R. Johanan also said: If one desires to accept upon himself the yoke of the kingdom of heaven in the most complete manner

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(1) Jer. X, 10. E.V. 'the true God'.

(2) After concluding the Shema' with the word true, does he have to repeat the word which is really the beginning of the next paragraph in the prayers?

(3) Sc., he cannot stop saying 'truth'.

(4) I.e., the opening and closing words of the third section, omitting the middle part which deals with the fringes since the law of fringes does not apply at night.

(5) And if he omits both the third section and 'True and faithful' where does he mention it?

(6) And he then continues, 'Who is like unto Thee' and 'Cause us to lie down'. P.B., p. 99.

(7) As it says, and thou shalt speak.

(8) As it says, and ye shall teach them to your children.

(9) Viz., say the Shema' before putting on tefillin.

(10) And one prays while the other goes on digging.

(11) By putting on tefillin.

(12) 'Teaching' is here regarded as equivalent to accepting the yoke of the commandments.

(13) V. supra 11b.

(14) The original contradiction has not yet been solved.

(15) And brought him his tefillin late, so he said the Shema' first.

(16) Rather, he accuses himself of falsehood, i.e., inconsistency.

Talmud - Mas. Berachoth 15a

, he should consult nature and wash his hands and put on tefillin and recite the Shema' and say the tefillah: this is the complete acknowledgment of the kingdom of heaven. R. Hiyya b. Abba said in the name of R. Johanan: If one consults nature and washes his hands and puts on tefillin and recites the Shema' and says the tefillah, Scripture accounts it to him as if he had built an altar and offered a sacrifice upon it, as it is written, I will wash my hands in innocency and I will compass Thine altar, O Lord.[1] Said Raba to him: Does not your honour think that it is as if he had bathed himself, since it is written, I will wash in purity and it is not written, 'I will wash my hands'.[2]

Rabina said to Raba: Sir, pray look at this student who has come from the West [Palestine] and who says: If one has no water for washing his hands, he can rub[3] his hands with earth or with a pebble or with sawdust. He replied: He is quite correct. Is it written, I will wash in water? It is written: In cleanliness — with anything which cleans. For R. Hisda cursed anyone who went looking for water at the time of prayer.[4] This applies to the recital of the Shema’, but for the tefillah one may go looking. How far? — As far as a parasang. This is the case in front of him, but in the rear, he may not go back even a mil. [From which is to be deduced], A mil he may not go back; but less than a mil he may go back.

MISHNAH. IF ONE RECITES THE SHEMA’ WITHOUT HEARING WHAT HE SAYS, HE HAS PERFORMED HIS OBLIGATION. R. JOSE SAYS: HE HAS NOT PERFORMED HIS OBLIGATION. IF HE RECITES IT WITHOUT PRONOUNCING THE LETTERS CORRECTLY, R. JOSE SAYS THAT HE HAS PERFORMED HIS OBLIGATION, R. JUDAH SAYS THAT HE HAS NOT PERFORMED HIS OBLIGATION. IF HE RECITES IT BACKWARD,[5] HE HAS NOT PERFORMED HIS OBLIGATION. IF HE RECITES IT AND MAKES A MISTAKE HE GOES BACK TO THE PLACE WHERE HE MADE THE MISTAKE.

GEMARA. What is R. Jose's reason? — Because it is written, ‘Hear’ which implies, let your ear hear what you utter with your mouth. The first Tanna, however, maintains that ‘hear’ means, in any language that you understand. But R. Jose derives both lessons from the word.

We have learnt elsewhere: A deaf person who can speak but not hear should not set aside terumah;[6] if, however, he does set aside, his action is valid. Who is it that teaches that the action of a deaf man who can speak but not hear in setting aside terumah is valid if done, but should not be done in the first instance? — Said R. Hisda: It is R. Jose, as we have learnt: IF ONE RECITES THE SHEMA’ WITHOUT HEARING WHAT HE SAYS, HE HAS PERFORMED HIS OBLIGATION. R. JOSE SAYS: HE HAS NOT PERFORMED HIS OBLIGATION. Now R. Jose holds that he has not performed his obligation only in the case of the recital of the Shema’, which is Scriptural, but the setting aside of terumah, [is forbidden] only on account of the blessing, and blessings are an ordinance of the Rabbis,[7] and the validity of the act does not depend upon the blessing. But why should you say that this[8] is R. Jose's opinion? Perhaps it is R. Judah's opinion, and he holds that in the case of the recital of the Shema’ also, it is valid only if the act is done, but it should not be done in the first instance, and the proof of this is that he states, IF ONE RECITES, which implies, if done, it is done, but it should not be done in the first instance? — The answer is: The reason why it says, IF ONE RECITES, is to show you how far R. Jose is prepared to go, since he says that even if it is done it is not valid. For as to R. Judah, he holds that even if he does it in the first instance he has performed his obligation. Now what is your conclusion? That it is the opinion of R. Jose. What then of this which we have learnt: A man should not say the grace after meals mentally, but if he does so he has performed his obligation. Whose opinion is this? It is neither R. Jose's nor R. Judah's. For it cannot be R. Judah's, since he said that even if he does so in the first instance he has performed his obligation; nor can it be R. Jose's, since he says that even if done it is not valid![9] What must we say then? That it is R. Judah's opinion’ and he holds that it is valid only if done but it should not be done in the first instance. But what of this which was taught by R. Judah the son of R. Simeon b. Pazzi: A deaf man who can speak but not hear may set aside terumah in the first instance. Whose view does this follow? It can be neither R. Judah's nor R. Jose's. For as for R. Judah, he says that it is valid only if done but it should not be done in the first instance; while R. Jose says that even if done it is not valid! In fact it follows R. Judah's view, and he holds that it may be done even in the first instance, and there is no contradiction [between the two views attributed to him], one being his own and the other that of his teacher, as we have learnt: R. Judah said in the name of R. Eleazar b. Azariah: When one recites the Shema’, he must let himself hear what he says,[10] as it says, ‘Hear, O Israel, the Lord our God, the Lord is one’. Said R. Meir to him: Behold it says, ‘Which I command thee this day upon thy heart’: on the intention of the heart depends the validity of the words.[11] If you come so far, you may even say that R. Judah agreed with his teacher, and there is no contradiction: one statement[12] gives R. Meir's view, the other R. Judah's.

We have learnt elsewhere:[13] All are qualified to read the Megillah[14] except a deaf-mute, an imbecile and a minor; R. Judah declares a minor qualified. Who is it that declares the act of a deaf-mute, even if done, to be invalid?[15] R. Mattena says: It is R. Jose, as we have learnt: IF ONE RECITES THE SHEMA' WITHOUT HEARING WHAT HE SAYS, HE HAS PERFORMED HIS OBLIGATION. SO R. JUDAH. R. JOSE SAYS: HE HAS NOT PERFORMED HIS OBLIGATION. But why should we say that the above statement [regarding a deaf-mute] follows R. Jose, and that the act even if done is invalid?

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(1) Ps. XXVI, 6.

(2) Raba apparently stresses the order of the words in the original, and renders: I will (do the equivalent) of bathing in purity [by washing] my hands.

(3) Lit., 'wipe'.

(4) And so delayed to say his prayers.

(5) I.e., with the sections in the wrong order.

(6) Because he cannot hear the blessing which he has to say over the action.

(7) V. Pes. 7.

(8) That a deaf man should not set aside terumah.

(9) Since grace after meals is a Scriptural injunction.

(10) I.e., in the first instance, but the act if done is valid.

(11) Hence even in the first instance the act is valid.

(12) That of R. Judah son of R. Simeon b. Pazzi.

(13) Meg. 1b.

(14) V. Glos.

(15) The questioner assumes this to be the intention of the statement just quoted.

Talmud - Mas. Berachoth 15b

Perhaps it follows R. Judah, and while the act may not be done [only] in the first instance, yet if done it is valid? — Do not imagine such a thing. For the statement puts a deaf-mute on the same level as an imbecile and a minor, [implying that] just as in the case of an imbecile and a minor the act if done is not valid,[1] so in the case of a deaf-mute the act if done is not valid. But perhaps each case has its own rule?[2] — But [even if so] can you construe this statement as following R. Judah? Since the later clause[3] says that 'R. Judah declares it valid', may we not conclude that the earlier clause does not follow R. Judah? — Perhaps the whole statement follows R. Judah, and two kinds of minor are referred to, and there is a lacuna, and the whole should read thus: All are qualified to read the Megillah except a deaf-mute, an imbecile and a minor. This applies only to one who is not old enough to be trained [in the performance of the precepts].[4] But one who is old enough to be trained may perform the act even in the first instance. This is the ruling of R. Judah: for R. Judah declares a minor qualified. How have you construed the statement? As following R. Judah, and that the act is valid only if done but should not be done in the first instance. But then what of that which R. Judah the son of R. Simeon b. Pazzi taught, that a deaf person who can speak but not hear may set aside terumah in the first instance-which authority does this follow? It is neither R. Judah nor R. Jose! For if it is R. Judah, he says that the act is valid only if done, but it may not be done in the first instance; and if R. Jose, he says that even if done it is not valid! — What then do you say, that the authority is R. Judah and that the act may be done even in the first instance? What then of this which has been taught: A man should not say the grace after meals mentally, but if he does so he has performed his obligation? Whose opinion is this? It can be neither R. Judah's nor R. Jose's. For as to R. Judah, he has said that it may be done even in the first instance, and as to R. Jose, he has said that even if done it is not valid! — In truth it is the opinion of R. Judah, and the act may be done even in the first instance, and there is no contradiction between his two statements; in one case he is giving his own view, in the other that of his teacher, as it has been taught: R. Judah said in the name of R. Eleazar b. Azariah: One who recites the Shema' must let his ear hear what he says, as it says, 'Hear, O Israel'. Said R. Meir to him: 'Which I command thee this day upon thy heart', indicating that the words derive their validity from the attention of the heart. Now that you have come so far, you may even say that R. Judah was of the same opinion as his teacher, and still there is no contradiction: one statement gives the view of R. Judah, the other that of R. Meir.

R. Hisda said in the name of R. Shila: The halachah is as laid down by R. Judah in the name of R. Eleazar b. Azariah, and the halachah is as laid down by R. Judah. Both these statements are necessary. For if we had been told only that the halachah is as stated by R. Judah I might have thought that the act may be done even in the first instance. We are therefore informed that the halachah is as laid down by R. Judah in the name of R. Eleazar b. Azariah. And if we had been told that the halachah is as laid down by R. Judah in the name of R. Eleazar b. Azariah, I might have thought that the act must [be performed thus] and if not there is no remedy.[5] We are therefore informed that the halachah is as stated by R. Judah.

R. Joseph said: The difference of opinion relates only to the recital of the Shema', but in the case of other religious acts all agree that he has not performed his obligation [if he says the formula inaudibly], as it is written, attend and hear, O Israel.[6] An objection was raised: A man should not say grace after meals mentally, but if he does he has performed his obligation! — Rather, if this statement was made it was as follows: R. Joseph said: The difference of opinion relates only to the Shema', since it is written, 'Hear O Israel'; but in regard to all the other religious acts, all are agreed that he performs his obligation. But it is written, 'Attend and hear, O Israel'? — That [text] applies only to words of Torah.[7]

IF ONE RECITED WITHOUT PRONOUNCING THE LETTERS DISTINCTLY. R. Tabi said in the name of R. Josiah: The halachah in both cases follows the more lenient authority.[8]

R. Tabi further said in the name of R. Josiah: What is meant by the text, There are three things which are never satisfied, . . . the grave and the barren womb?[9] How comes the grave next to the womb? It is to teach you that just as the womb takes in and gives forth again, so the grave takes in and will give forth again. And have we not here a conclusion a fortiori: if the womb which takes in silently gives forth with loud noise,[10] does it not stand to reason that the grave which takes in with loud noise[11] will give forth with loud noise? Here is a refutation of those who deny that resurrection is taught in the Torah.[12]

R. Oshaia taught in the presence of Raba: And thou shalt write them:[13] the whole section must be written [in the mezuzah[14] and tefillin], even the commands.[15] He said to him: From whom do you learn this?[16] This is the opinion of R. Judah, who said with reference to the sotah:[17] He writes the imprecation but not the commands. [And you argue that] this is the rule in that case, since it is written, And he shall write these curses,[18] but here, since it is written, 'and thou shalt write them', even the commands are included. But is R. Judah's reason because it is written, 'and he shall write'? [Surely] R. Judah's reason is because it is written, 'curses', which implies, curses he is to write but not commands![19] — It was still necessary.[20] You might have thought that we should draw an analogy between the 'writing' mentioned here and the 'writing' mentioned there, and that just as there he writes curses but not commands, so here he should not write commands. Therefore the All-Merciful wrote 'and thou shalt write them', implying, commands also.

R. Obadiah recited in the presence of Raba: 'And ye shall teach them':[21] as much as to say thy teaching must be faultless[22] by making a pause 'between the joints'.[23] For instance, said Raba, supplementing his words 'Al lebabeka [upon thy heart], 'al lebabekem [upon your heart], Bekol lebabeka [with all thy heart], bekol lebabekem [with all your heart], 'eseb be-sadeka [grass in thy field], wa-'abaddetem meherah [and ye shall perish speedily], ha-kanaf pesil [the corner a thread], etthkem me-erez [you from the land]. R. Hama b. Hanina said: If one in reciting the Shema' pronounces the letters distinctly, hell is cooled for him, as it says, When the Almighty scattereth kings therein, it snoweth in Zalmon.[24] Read not be-fares [when he scattereth] but befaresh [when one pronounces distinctly], and read not be-zalmon [in Zalmon] but be-zalmaweth [in the shadow of death].

R. Hama b. Hanina further said: Why are 'tents' mentioned

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(1) This is deduced in respect of a minor from the fact that he is mentioned in conjunction with an imbecile.
(2) I.e., we do not put a deaf-mute on the same footing as an imbecile, although they are mentioned in conjunction.
(3) In the passage cited from Meg.
(4) I.e., up to nine or ten years old; v. Yoma 82a.
(5) I.e., even if done, it is not valid.
(6) Deut. XXVII, 9. E.V. 'Keep silence and hear'.
(7) As explained infra 63b.
(8) I.e., R. Judah in the matter of audibility, and R. Jose in the matter of pronouncing distinctly.
(9) Prov. XXX, 15, 16.
(10) The crying of the child.
(11) The wailing of the mourners.
(12) V. Sanh. 92a.
(13) Deut. VI, 9.
(14) V. Glos.
(15) I.e., the words 'and thou shalt write them, and thou shalt bind them'. This is derived from וכתבתם being interpreted as וכתבתם a complete writing.
(16) That o special text is required to include the writing of the commands.
(17) The woman suspected of adultery, v. Num. V, 11ff.
(18) Num. V, 23.
(19) And but for that implied limitation the expression 'he shall write' by itself would have included commands.
(20) To appeal to the exposition based on וכתבתם .
(21) Deut. XI, 19.
(22) We-limmadetem (and you shall train them) is read as we-limmud tam (and the teaching shall be perfect); cf. p. 91, n. 10.
(23) I.e., not running together two words of which the first ends and the second begins with the same letter. The expression is from 1 Kings XXII, 34.
(24) Ps. LXVIII, 15.

Talmud - Mas. Berachoth 16a

alongside of 'streams' as it says, [How goodly are thy tents, O Jacob . . .][1] as streams[2] stretched out, as gardens by the river side, as aloes planted[3] etc.? To tell you that, just as streams bring a man up from a state of uncleanness to one of cleanness, so tents[4] bring a man up from the scale of guilt to the scale of merit.

IF ONE RECITES IT BACKWARD, HE HAS NOT PERFORMED HIS OBLIGATION etc. R. Ammi and R. Assi were once decorating the bridal chamber for R. Eleazar. He said to them: In the meantime I will go and pick up something from the House of Study and come back and tell you. He went and found a Tanna reciting before R. Johanan: If [reciting the Shema'] one [recollects that] he made a mistake but does not know where, if he is in the middle of a section he should go back to the beginning; if he is in doubt which section he has said, he should go back to the first break;[5] if he is in doubt which writing[6] he is on, he goes back to the first one. Said R. Johanan to him: This rule applies only where he has not yet got to 'In order that your days may be prolonged', but if he has got to 'In order that your days may be prolonged', then [he can assume that] force of habit has kept him right.[7] He came and told them, and they said to him, If we had come only to hear this, it would have been worth our while.

MISHNAH. WORKMEN MAY RECITE [THE SHEMA'] ON THE TOP OF A TREE OR THE TOP OF A SCAFFOLDING, A THING THEY ARE NOT ALLOWED TO DO IN THE CASE OF THE TEFILLAH. A BRIDEGROOM IS EXEMPT FROM THE RECITAL OF THE SHEMA' FROM THE FIRST NIGHT UNTIL THE END OF THE SABBATH, IF HE HAS NOT CONSUMMATED THE MARRIAGE.[8] IT HAPPENED WITH R. GAMALIEL THAT WHEN HE MARRIED HE RECITED THE SHEMA ON THE FIRST NIGHT: SO HIS DISCIPLES SAID TO HIM: OUR MASTER, YOU HAVE TAUGHT US THAT A BRIDEGROOM IS EXEMPT FROM THE RECITAL OF THE SHEMA'. HE REPLIED TO THEM: I WILL NOT LISTEN TO YOU TO REMOVE FROM MYSELF THE KINGSHIP OF HEAVEN EVEN FOR A MOMENT.

GEMARA. Our Rabbis taught: Workmen may recite [the Shema'] on the top of a tree or on the top of a scaffolding, and they may say the tefillah, on the top of an olive tree and the top of a fig tree,[9] but from all other trees they must come down to the ground before saying the tefillah, and the employer must in any case come down before saying the tefillah,[10] the reason in all cases being that their mind is not clear.[11] R. Mari the son of the daughter of Samuel[12] pointed out to Rab a contradiction. We have learnt, he said: WORKMEN MAY RECITE [THE SHEMA'] ON THE TOP OF A TREE OR THE TOP OF A SCAFFOLDING which would show that the recital does not require kawanah.[13] Contrast with this: When one recites the Shema', it is incumbent that he should concentrate his attention[14] on it, since it says, 'Hear, O Israel', and in another place it says, Pay attention and hear, O Israel,[15] showing that just as in the latter 'hearing' must be accompanied by attention, so here it must be accompanied by attention. He gave no reply. Then he said to him: Have you heard any statement on this point? — He replied: Thus said R. Shesheth: This is the case only if they stop from their work to recite. But it has been taught: Beth Hillel say that they may go on with their work while reciting? — There is no contradiction. The former statement refers to the first section, the latter to the second section [of the Shema'].

Our Rabbis taught: Labourers working for an employer recite the Shema' and say blessings before it and after it and eat their crust and say blessings before it and after it, and say the tefillah of eighteen benedictions, but they do not go down before the ark[16] nor do they raise their hands [to give the priestly benediction].[17] But it has been taught: [They say] a resume of the eighteen benedictions?[18] — Said R. Shesheth: There is no contradiction: one statement gives the view of R. Gamaliel, the other of R. Joshua.[19] But if R. Joshua is the authority, why does it say 'labourers' ? The same applies to anyone! — In fact, both statements represent the view of R. Gamaliel, and still there is no contradiction: one refers to [labourers] working for a wage, and the other to [those] working for their keep;[20] and so it has been taught: Labourers working for an employer recite the Shema' and say the tefillah and eat their crust without saying a blessing before it, but they say two blessings after it, namely, [he says] the first blessing[21] right through[22] and the second blessing he begins with the blessing for the land, including 'who buildest Jerusalem' in the blessing[23] for the land. When does this hold good? For those who work for a wage. But those who work for their keep or who eat in the company of the employer say the grace right through.[21]

A BRIDEGROOM IS EXEMPT FROM RECITING THE SHEMA'.[24] Our Rabbis taught: 'When thou sittest in thy house': this excludes one engaged in the performance of a religious duty. 'And when thou walkest by the way': this excludes a bridegroom. Hence they deduced the rule that one who marries a virgin is exempt, while one who marries a widow is not exempt. How is this derived? — R. Papa said: [The sitting in the house] is compared to the way: just as the way is optional, so here it must be optional. But are we not dealing [in the words 'walkest by the way'] with one who goes to perform a religious duty, and even so the All-Merciful said that he should recite? — If that were so, the text should say, 'in going'. What is meant by 'in thy going'? This teaches that it is in thy going that thou art under obligation, and in the going for a religious duty thou art exempt.

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(1) V. Tosaf., s.v. אהלים
(2) E.V. ‘valleys’.
(3) Num. XXIV, 5, 6.
(4) Where the Torah is studied.
(5) I.e. , to ‘and it shall come to pass’.
(6) I.e., ‘and thou shalt write them’ in the first section or ‘and ye shall write’ in the second.
(7) Lit., ‘he has taken his usual course’.
(8) Lit., ‘performed the act’.
(9) These trees have thick branches which afford a firm foothold.
(10) Seeing that he is not bound to work.
(11) To concentrate on their prayers, from anxiety lest they may fall.
(12) His mother was carried away captive and he was not born in lawful wedlock, and therefore his father's name is not mentioned. (Rashi). V. Keth. 23a.
(13) V. Glos.
(14) Lit., ‘direct his heart’.
(15) V. supra, p. 91 n. 1.
(16) I.e., act as reader to a congregation.
(17) Because this would rob their employer of too much of their time.
(18) V. P.B. p. 55.
(19) Infra, 28b.
(20) Those who work for a wage have less time to spare.
(21) V. P. B. p. 280.
(22) Lit., ‘as arranged’.
(23) The benedictions beginning with ‘We thank thee’ (ibid.) and ‘And rebuild Jerusalem’ (p. 282) are condensed into one.
(24) For notes on this passage, v. supra p. 60.

Talmud - Mas. Berachoth 16b

If that is the case, why does it say, ‘One who marries a virgin’? The same would apply to one who marries a widow! — In the former case he is agitated, in the latter case he is not agitated. If his agitation is the ground, then even if his ship has sunk in the sea he should also be exempt? [And if this is so] , why then has R. Abba b. Zabda said in the name of Rab: A mourner is under obligation to perform all the precepts laid down in the Torah except that of tefillin, because they are called ‘headtire’, as it says, ‘Thy headtire bound upon thy head’ etc.? — The reply is: There the agitation is over an optional matter, here it is over a religious duty.

MISHNAH. [RABBAN GAMALIEL] BATHED ON THE FIRST NIGHT AFTER THE DEATH OF HIS WIFE. HIS DISCIPLES SAID TO HIM: YOU HAVE TAUGHT US, SIR, THAT A MOURNER IS FORBIDDEN TO BATHE. HE REPLIED TO THEM: I AM NOT LIKE OTHER MEN, BEING VERY DELICATE. WHEN TABI HIS SLAVE DIED HE ACCEPTED CONDOLENCES FOR HIM. HIS DISCIPLES SAID TO HIM: YOU HAVE TAUGHT US, SIR, THAT CONDOLENCES ARE NOT ACCEPTED FOR SLAVES? HE REPLIED TO THEM: MY SLAVE TABI WAS NOT LIKE OTHER SLAVES: HE WAS A GOOD MAN. IF A BRIDEGROOM DESIRES TO RECITE THE SHEMA ON THE FIRST NIGHT, HE MAY DO SO. RABBAN SIMEON B. GAMALIEL SAYS: NOT EVERYONE WHO DESIRES TO PASS AS A SCHOLAR[1] MAY DO SO.

GEMARA. How did Rabban Gamaliel[2] justify his action?[3] — He held that the observance of aninuth[4] by night is only an ordinance of the Rabbis, as it is written, [And I will make it as the mourning for an only son,] and the end thereof as a bitter day,[5] and where it concerns a delicate person the Rabbis did not mean their ordinance to apply.

WHEN TABI HIS SLAVE DIED etc. Our Rabbis taught: For male and female slaves no row [of comforters][6] is formed, nor is the blessing of mourners[7] said, nor is condolence offered. When the bondwoman of R. Eliezer died, his disciples went in to condole with him. When he saw them he went up to an upper chamber, but they went up after him. He then went into an ante-room and they followed him there. He then went into the dining hall and they followed him there. He said to them: I thought that you would be scalded with warm water; I see you are not scalded even with boiling hot water.[8] Have I not taught you that a row of comforters is not made for male and female slaves, and that a blessing of mourners is not said for them, nor is condolence offered for them? What then do they say for them? The same as they say to a man for his ox and his ass: 'May the Almighty replenish your loss'. So for his male and female slave they say to him: 'May the Almighty replenish your loss'. It has been taught elsewhere: For male and female slaves no funeral oration is said. R. Jose said: If he was a good slave, they can say over him, Alas for a good and faithful man, who worked for his living! They said to him: If you do that, what do you leave for free-born?

Our Rabbis taught: The term 'patriarchs' is applied only to three,[9] and the term 'matriarchs' only to four.[10] What is the reason? Shall we say because we do not know if we are descended from Reuben or from Simeon? But neither do we know in the case of the matriarchs whether we are descended from Rachel or from Leah! — [Rather the reason is] because up to this point they were particularly esteemed, from this point they were not so particularly esteemed. It has been taught elsewhere: Male and female slaves are not called 'Father so-and so' or 'Mother so-and so'; those of Rabban Gamaliel, however, were called 'Father so-and-so' and 'Mother so-and-so'. The example [cited] contradicts your rule? It was because they were particularly esteemed.

R. Eleazar said: What is the meaning of the verse, So will I bless Thee as long as I live; in Thy name will I lift up my hands?[11] 'I will bless Thee as long as I live' refers to the Shema'; 'in Thy name I will lift up my hands' refers to the tefillah. And if he does this, Scripture says of him, My soul is satisfied as with marrow and fatness.[12] Nay more, he inherits two worlds, this world and the next, as it says, And my mouth doth praise Thee with joyful lips.[13]

R. Eleazar on concluding his prayer[14] used to say the following: May it be Thy will, O Lord our God, to cause to dwell in our lot love and brotherhood and peace and friendship, and mayest Thou make our borders rich in disciples and prosper our latter end with good prospect and hope, and set our portion in Paradise, and confirm us[15] with a good companion and a good impulse in Thy world, and may we rise early and obtain the yearning of our heart to fear Thy name,[16] and mayest Thou be pleased to grant the satisfaction of our desires![17]

R. Johanan on concluding his prayer added the following: May it be Thy will, O Lord our God, to look upon our shame, and behold our evil plight, and clothe Thyself in Thy mercies, and cover Thyself in Thy strength, and wrap Thyself in Thy lovingkindness , and gird Thyself with Thy graciousness, and may the attribute of Thy kindness and gentleness come before Thee!

R. Zera on concluding his prayer added the following: May it be Thy will, O Lord our God, that we sin not nor bring upon ourselves shame or disgrace before our fathers![18]

R. Hiyya on concluding his prayer added the following: May it be Thy will, O Lord our God, that our Torah may be our occupation, and that our heart may not be sick nor our eyes darkened!

Rab on concluding his prayer added the following: May it be Thy will, O Lord our God, to grant us long life, a life of peace, a life of good, a life of blessing, a life of sustenance, a life of bodily vigour,[19] a life in which there is fear of sin, a life free from shame and confusion, a life of riches and honour, a life in which we may be filled with the love of Torah and the fear of heaven, a life in which Thou shalt fulfil all the desires of our heart for good![20]

Rabbi on concluding his prayer added the following: May it be Thy will, O Lord our God, and God of our fathers, to deliver us from the impudent and from impudence, from an evil man, from evil hap, from the evil impulse, from an evil companion, from an evil neighbour, and from the destructive Accuser, from a hard lawsuit and from a hard opponent, whether he is a son of the covenant or not a son of the covenant![21] [Thus did he pray] although guards[22] were appointed[23] to protect Rabbi.

R. Safra on concluding his prayer added the following: May it be Thy will, O Lord our God, to establish peace

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(1) Lit., 'to take the name', viz., of a scholar.

(2) Cur. edd.: R. Simeon b. Gamaliel, which can hardly be justified.

(3) In bathing while onan.

(4) The name given to the mourning of the first day, or the whole period before the burial.

(5) Amos VIII, 10. This shows that according to Scripture mourning is to be observed only by day.

(6) It was customary for those returning from a burial to the mourner's house to stand in a row before him to comfort him.

(7) Said after the first meal taken by the mourner after the funeral, v. Keth. 8a.

(8) As much as to say: I thought you would take the first hint, and you do not even take the last!

(9) Abraham, Isaac and Jacob.

(10) Sarah, Rebeccah, Rachel and Leah.

(11) Ps. LXIII, 5.

(12) Ibid. 6.

(13) Ibid. Lit. , 'lips of songs', i.e., two songs.

(14) I.e., after the last benediction of the Amidah.

(15) Or perhaps, cause us to obtain.

(16) I.e., may we be filled with pious thoughts on waking.

(17) Lit., may the coolness of our soul come before Thee for good'.

(18) 'Aruch: more than our fathers.

(19) Lit,. 'vigour of the bones'.

(20) This prayer is now said on the Sabbath on which the New Moon is announced. V. P.B. p. 154.

(21) I.e., a Jew or non-Jew. This now forms part of the daily prayers. V. P. B. p. 7

(22) Lit., eunuchs'.

(23) By the Roman Government.

among the celestial family,[1] and among the earthly family,[2] and among the disciples who occupy themselves with Thy Torah whether for its own sake or for other motives; and may it please Thee that all who do so for other motives may come to study it for its own sake!

R. Alexandri on concluding his prayer added the following: May it be Thy will, O Lord our God, to station us in an illumined corner and do not station us in a darkened corner, and let not our heart be sick nor our eyes darkened! According to some this was the prayer of R. Hamnuna, and R. Alexandri on concluding his prayer used to add the following: Sovereign of the Universe, it is known full well to Thee that our will is to perform Thy will, and what prevents us? The yeast in the dough[3] and the subjection to the foreign Powers. May it be Thy will to deliver us from their hand, so that we may return to perform the statutes of Thy will with a perfect heart!

Raba on concluding his prayer added the following: My God, before I was formed I was not worthy [to be formed], and now that I have been formed I am as if I had not been formed. I am dust in my lifetime, all the more in my death. Behold I am before Thee like a vessel full of shame and confusion. May it be Thy will, O Lord my God, that I sin no more, and the sins I have committed before Thee wipe out in Thy great mercies, but not through evil chastisements and diseases! This was the confession of R. Hamnuna Zuti on the Day of Atonement.[4]

Mar the son of Rabina on concluding his prayer added the following: My God, keep my tongue from evil and my lips from speaking guile. May my soul be silent to them that curse me and may my soul be as the dust to all. Open Thou my heart in Thy law, and may my soul pursue Thy commandments, and deliver me from evil hap, from the evil impulse and from an evil woman and from all evils that threaten to come upon the world. As for all that design evil against me, speedily annul their counsel and frustrate their designs![5] May the words of my mouth and the meditation of my heart be acceptable before Thee, O Lord, my rock and my redeemer![6]

When R. Shesheth kept a fast, on concluding his prayer he added the following: Sovereign of the Universe, Thou knowest full well that in the time when the Temple was standing, if a man sinned he used to bring a sacrifice, and though all that was offered of it was its fat and blood, atonement was made for him therewith. Now I have kept a fast and my fat and blood have diminished. May it be Thy will to account my fat and blood which have been diminished as if I had offered them before Thee on the altar, and do Thou favour me.[7]

When R. Johanan finished the Book of Job,[8] he used to say the following: The end of man is to die, and the end of a beast is to be slaughtered, and all are doomed to die. Happy he who was brought up in the Torah and whose labour was in the Torah and who has given pleasure to his Creator and who grew up with a good name and departed the world with a good name; and of him Solomon said: A good name is better than precious oil, and the day of death than the day of one's birth.[9]

A favourite saying of R. Meir was: Study with all thy heart and with all thy soul to know My ways and to watch at the doors of My law. Keep My law in thy heart and let My fear be before thy eyes. Keep thy mouth from all sin and purify and sanctify thyself from all trespass and iniquity, and I will be with thee in every place.

A favourite saying of the Rabbis of Jabneh was: I am God's creature and my fellow[10] is God's creature. My work is in the town and his work is in the country. I rise early for my work and he rises early for his work. Just as he does not presume to do my work, so I do not presume to do his work. Will you say, I do much[11] and he does little? We have learnt:[12] One may do much or one may do little; it is all one, provided he directs his heart to heaven.

A favourite saying of Abaye was: A man should always be subtle in the fear of heaven.[13] A soft answer turneth away wrath,[14] and one should always strive to be on the best terms with his brethren and his relatives and with all men and even with the heathen in the street, in order that he may be beloved above and well-liked below and be acceptable to his fellow creatures. It was related of R. Johanan b. Zakkai that no man ever gave him greeting first, even a heathen in the street.

A favourite saying of Raba was: The goal of wisdom is repentance and good deeds, so that a man should not study Torah and Mishnah and then despise[15] his father and mother and teacher and his superior in wisdom and rank, as it says, The fear of the Lord is the beginning of wisdom, a good understanding have all they that do thereafter.[16] It does not say, 'that do',[17] but 'that do thereafter', which implies, that do them for their own sake and not for other motives.[18] If one does them for other motives, it were better that he had not been created.

A favourite saying of Rab was: [The future world is not like this world.][19] In the future world there is no eating nor drinking nor propagation nor business nor jealousy nor hatred nor competition, but the righteous sit with their crowns on their heads feasting on the brightness of the divine presence, as it says, And they beheld God, and did eat and drink.[20]

[Our Rabbis taught]:[21] Greater is the promise made by the Holy One, blessed be He, to the women than to the men; for it says, Rise up, ye women that are at ease; ye confident daughters, give ear unto my speech.[22] Rab said to R. Hiyya: Whereby do women earn merit? By making their children go to the synagogue[23] to learn Scripture and their husbands to the Beth Hamidrash to learn Mishnah, and waiting for their husbands till they return from the Beth Hamidrash. When the Rabbis[24] took leave from the school of R. Ammi — some say, of R. Hanina — they said to him: May you see your requirements provided[25] in your lifetime, and may your latter end be for the future world and your hope for many generations; may your heart meditate understanding, your mouth speak wisdom and your tongue indite song; may your eyelids look straight before you,[26] may your eyes be enlightened by the light of the Torah and your face shine like the brightness of the firmament; may your lips utter knowledge, your reins rejoice in uprightness[27] and your steps run to hear the words of the Ancient of Days. When the Rabbis took leave from the school of R. Hisda — others Say, of R. Samuel b. Nahmani — they said to him: We are instructed, we are well laden[28] etc. 'We are instructed, we are well laden'. Rab and Samuel — according to others, R. Johanan and R. Eleazar — give different explanations of this. One Says: 'We are instructed' — in Torah, 'and well laden' — with precepts. The other says: 'We are instructed' — in Torah and precepts; 'we are well laden' — with chastisements.

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(1) The Guardian Angels of the various nations.

(2) From the context this would seem to refer to the nations of the earth. Rashi, however, takes it to mean the assembly of the wise men.

(3) I.e., the evil impulse, which causes a ferment in the heart.

(4) It occupies the same place in the present day liturgy. V. P.B. p. 263.

(5) MS.M adds: Pay them their recompense upon their heads; destroy them and humble them before me, and deliver me from all calamities which are threatening to issue and break forth upon the world!

(6) In the present day liturgy this prayer is also added (in a slightly altered form) at the end of every Amidah. V. P.B. p. 54. The last sentence is from Ps. XIX, 15.

(7) MS.M. adds: A certain disciple after he prayed used to say: 'Close mine eyes from evil, and my ears from hearing idle words, and my heart from reflecting on unchaste thoughts, and my veins from thinking of transgression, and guide my feet to (walk in) Thy commandments and Thy righteous ways, and may Thy mercies be turned upon me to be of those spared and preserved for life in Jerusalem'!

(8) M. reads: R. Johanan said: When R. Meir finished etc.

(9) Eccl. VII, 1. R. Johanan was prompted to this reflection by the fact that Job departed with a good name.

(10) I.e., the ‘am ha-arez, or nonstudent.
(11) In the way of Torah.
(12) Men. 110a.
(13) I.e., in finding out new ways of fearing heaven.
(14) Prov. XV, I.
(15) Lit., ‘kick at’.
(16) Ps. CXI, 10.
(17) Another reading is, that learn them.
(18) I.e., to criticise and quarrel. V. Rashi and Tosaf. ad loc.
(19) These words are bracketed in the text.
(20) Ex. XXIV, 11 . These words are interpreted to mean that the vision of God seen by the young men was like food and drink to them.
(21) These words are missing in cur. edd., but occur in MS.M.
(22) Isa. XXXII, 9. The women are said to be ‘at ease’ and ‘confident’, which is more than is said of the men.
(23) Where children were usually taught.
(24) Who had left home to study with R. Ammi.
(25) Lit., ‘see your world’.
(26) The expression is taken from Prov. IV, 25. The meaning here seems to be, may you have a correct insight into the meaning of the Torah’.
(27) The reins were supposed to act as counsellors.
(28) Ps. CXLIV, 14. E.V. Our oxen are well laden.

Talmud - Mas. Berachoth 17b

There is no breach: [that is], may our company not be like that of David from which issued Ahitophel.[1] And no going forth: [that is] may our company not be like that of Saul from which issued Doeg the Edomite.[2] And no outcry: may our company not be like that of Elisha, from which issued Gehazi.[3] In our broad places: may we produce no son or pupil who disgraces himself[4] in public.[5]

Hearken unto Me, ye stout-hearted, who are far from righteousness.[6] Rab and Samuel — according to others, R. Johanan and R. Eleazar — interpret this differently. One says: The whole world is sustained by [God's] charity, and they[7] are sustained by their own force.[8] The other says: All the world is sustained by their merit, and they are not sustained even by their own merit. This accords with the saying of Rab Judah in the name of Rab. For Rab Judah said in the name of Rab: Every day a divine voice goes forth from Mount Horeb and proclaims: The whole world is sustained for the sake of My son Hanina, and Hanina My son has to subsist on a kab of carobs from one week end to the next. This [explanation] conflicts with that of Rab Judah. For Rab Judah said: Who are the ‘stout-hearted’? The stupid Gubaeans.[9] R. Joseph said: The proof is that they have never produced a proselyte. R. Ashi said: The people of Mata Mehasia[10] are ‘stout-hearted’,for they see the glory of the Torah twice a year,[11] and never has one of them been converted.

A BRIDEGROOM IF HE DESIRES TO RECITE etc. May we conclude from this that Rabban Simeon b. Gamaliel deprecates showing off[12] and the Rabbis do not deprecate it? But do we not understand them to hold the opposite views, as we have learnt: In places where people are accustomed to work in the month of Ab they may work, and in places where it is the custom not to work they may not work; but in all places Rabbinical students abstain from study. R. Simeon b. Gamaliel says: A man should always conduct himself as if he were a scholar.[13] We have here a contradiction between two sayings of the Rabbis, and between two sayings of R. Simeon b. Gamaliel! — R. Johanan said: Reverse the names; R. Shisha the son of R. Idi said: There is no need to reverse. There is no contradiction between the two sayings of the Rabbis. In the case of the recital of the Shema’, since everybody else recites, and he also recites, it does not look like showing off on his part; but in the case of the month of Ab, since everybody else does work and he does no work, it looks like showing off. Nor is there a contradiction between the two sayings of R. Simeon b. Gamaliel. In the case of the Shema', the validity of the act depends on the mental concentration and we are witnesses that he is unable to concentrate. Here, however, anyone who sees will say, He has no work; go and see how many unemployed there are in the market place.[14]

CHAPTER III

MISHNAH. ONE WHOSE DEAD [RELATIVE] LIES BEFORE HIM[15] IS EXEMPT FROM THE RECITAL OF THE SHEMA' AND FROM THE TEFILLAH AND FROM TEFILLIN AND FROM ALL THE PRECEPTS LAID DOWN IN THE TORAH. WITH REGARD TO THE BEARERS OF THE BIER AND THOSE WHO RELIEVE THEM AND THOSE WHO RELIEVE THEM AGAIN,[16] WHETHER IN FRONT OF THE BIER OR BEHIND THE BIER[17] — THOSE IN FRONT OF THE BIER, IF THEY ARE STILL REQUIRED, ARE EXEMPT; BUT THOSE BEHIND THE BIER EVEN IF STILL REQUIRED, ARE NOT EXEMPT.[18] BOTH, HOWEVER, ARE EXEMPT FROM [SAYING] THE TEFILLAH. WHEN THEY HAVE BURIED THE DEAD AND RETURNED [FROM THE GRAVE], IF THEY HAVE TIME TO BEGIN AND FINISH [THE SHEMA'] BEFORE FORMING A ROW,[19] THEY SHOULD BEGIN, BUT IF NOT THEY SHOULD NOT BEGIN. AS FOR THOSE WHO STAND IN THE ROW, THOSE ON THE INSIDE[20] ARE EXEMPT, BUT THOSE ON THE OUTSIDE ARE NOT EXEMPT. [WOMEN, SLAVES AND MINORS ARE EXEMPT FROM RECITING THE SHEMA' AND PUTTING ON TEFILLIN, BUT ARE SUBJECT TO THE OBLIGATIONS OF TEFILLAH, MEZUZAH, AND GRACE AFTER MEALS].[21]

GEMARA. [If the dead] LIES BEFORE HIM, he is exempt.[22] [implying] if it does not lie before him,[23] he is not exempt.[24] This statement is contradicted by the following:[25] One whose dead lies before him eats in another room. If he has not another room, he eats in his fellow's room. If he has no fellow to whose room he can go,he makes a partition and eats [behind it]. If he has nothing with which to make a partition, he turns his face away and eats. He may not eat reclining, nor may he eat flesh or drink wine; he does not say a blessing [over food] nor grace after meals[26]

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(1) Who made a 'breach' in the kingdom of David. V. Sanh. 106b.

(2) Who went forth to evil ways (ibid.).

(3) Who became a leper and had to cry 'unclean, unclean'.

(4) Lit., 'spoils his food', by addition of too much salt. A metaphor for the open acceptance of heretical teachings.

(5) MS.M. adds: like the Nazarene.

(6) Isa. XLVI, 12. Heb. zedakah, which is taken by the Rabbis in the sense of 'charity'.

(7) The 'stout-hearted', i.e., righteous.

(8) Lit., 'arm'. I.e., the force of their own good deeds.

(9) A tribe in the neighbourhood of Babylon.

(10) A suburb of Sura, where one of the great Academies was situated.

(11) At the 'kallahs' (v. Glos). In Adar and Elul.

(12) I.e., show of superior piety or learning.

(13) V. Pes. 55a.

(14) Even on working days.

(15) I.e., is not yet buried.

(16) In carrying the bier to the grave.

(17) Those in front of the bier have still to carry; those behind have already carried.

(18) Since they have already carried once.

(19) To comfort the mourners. v. p. 97, n. 2.

(20) If they stand two or more deep.

(21) Words in brackets belong properly to the next Mishnah, v. infra 20a.

(22) Lit., ‘yes’.

(23) This phrase is now understood literally and thus to include the case where he is in a different room.

(24) Lit., ‘No’.

(25) M.K. 23b.

(26) So Rashi. V. however M.K., Sonc. ed., p. 147,n. 2.

Talmud - Mas. Berachoth 18a

, nor do others say a blessing for him nor is he invited to join in the grace. He is exempt from reciting the Shema’, from saying the tefillah, from putting on tefillin and from all the precepts laid down in the Torah. On Sabbath, however, he may recline and eat meat and drink wine, and he says a blessing, and others may say the blessing for him and invite him to join in grace, [and he is subject to the obligation of reading the Shema’ and tefillah],[1] and he is subject to all the precepts laid down in the Torah. R. Simeon b. Gamaliel says: Since he is subject to these, he is subject to all of them; and R. Johanan said: Where do they differ in practice? In regard to marital intercourse.[2] At any rate it states that he is exempt from the recital of the Shema’ and from saying the tefillah and putting on tefillin and all the precepts laid down in the Torah?[3] — Said R. Papa: Explain this [Baraitha] as applying only to one who turns his face away and eats.[4] R. Ashi, however, said: Since the obligation of burial devolves on him, it is as if the corpse was before him,[5] as it says: And Abraham rose up from before his dead,[6] and it says. That I may bury my dead out of my sight:[7] this implies that so long as the obligation to bury devolves upon him, it is as if the corpse were lying before him.[8]

[I infer from our Mishnah] that this is the rule for a dead relative but not for one whom he is merely watching.[9] But it has been taught: One who watches a dead [body] even if it is not his dead [relative], is exempt from reciting the Shema’ and saying the tefillah and putting on tefillin and all the precepts laid down in the Torah? — [We interpret therefore]: He who watches the dead, even if it is not his dead [relative], [is exempt], and [likewise in the case of] his dead relative, even if he is not watching it, he is [exempt], but if he is walking in the cemetery, he is not. But it has been taught: A man should not walk in a cemetery with tefillin on his head or a scroll of the Law in his arm, and recite the Shema’,[10] and if he does so, he comes under the heading of ‘He that mocketh the poor[11] blasphemeth his Maker’?[12] — In that case the act is forbidden within four cubits of the dead, but beyond four cubits the obligation [to say Shema’ etc.] devolves. For a Master has said: A dead body affects four cubits in respect of the recital of the Shema’. But in this case he is exempt even beyond four cubits.

[To turn to] the above text: One who watches a dead [body], even though it is not his own dead [relative], is exempt from the recital of the Shema’ and from saying the tefillah and from putting on tefillin and from all the precepts laid down in the Torah. If there were two [watching], one goes on watching while the other recites, and then the other watches while this one recites. Ben ‘Azzai says: If they were bringing it in a ship, they put it in a corner and both say their prayers in another corner. Why this difference? — Rabina said: They differ on the question whether there is any fear of mice[13] [on board ship]. One held that there is a fear of mice and the other held that there is no fear of mice.

Our Rabbis taught: A man who is carrying bones from place to place should not put them in a saddle-bag and place them on his ass and sit on them, because this is a disrespectful way of treating them. But if he was afraid of heathens and robbers, it is permitted. And the rule which they laid down for bones applies also to a scroll of the Law. To what does this last statement refer? Shall I say to the first clause?[14] This is self-evident: Is a scroll of the Law inferior to bones? — Rather; it refers to the second clause.[15]

Rehaba said in the name of Rab Judah: Whoever sees a corpse [on the way to burial] and does not accompany it[16] comes under the head of ‘He that mocketh the poor blasphemeth his Maker’. And if he accompanies it, what is his reward? R. Assi says: To him apply the texts: He that is gracious unto the poor lendeth unto the Lord,[17] and he that is gracious unto the needy honoureth Him.[18]

R. Hiyya and R. Jonathan were once walking about in a cemetery, and the blue fringe of R. Jonathan was trailing on the ground. Said R. Hiyya to him: Lift it up, so that they [the dead] should not say: Tomorrow they are coming to join us and now they are insulting us! He said to him: Do they know so much? Is it not written, But the dead know not anything?[19] He replied to him: If you have read once, you have not repeated; if you have repeated, you have not gone over a third time; if you have gone over a third time, you have not had it explained to you. For the living know that they shall die:[20] these are the righteous who in their death are called living as it says. And Benaiah the son of Jehoiada, the son of a living[21] man from Kabzeel, who had done mighty deeds, he smote the two altar-hearths of Moab; he went down and also slew a lion in the midst of a pit in the time of snow.[22]

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(1) Inserted with MS.M.

(2) At a time when it is a duty. Rabban Simeon declares the mourner subject to this duty on the Sabbath, though it is otherwise forbidden during the week of mourning.

(3) Apparently even if he eats in a neighbour's house, contra the implied ruling of our Mishnah.

(4) I.e., has no other room and so it does not contradict our Mishnah.

(5) And this is the case mentioned n the Baraitha.

(6) Gen. XXIII, 3.

(7) Ibid. 4.

(8) Even if he is in another room. The phrase ‘lying before him’ is not to be understood literally, and consequently there is no contradiction between the Baraitha and our Mishnah.

(9) And which he is not under obligation to bury. A dead body, according to Jewish law, must be watched to protect it from mice, v. infra.

(10) And the same applies even if he is not carrying a scroll.

(11) I.e., the dead, who are ‘poor’ in precepts.

(12) Prov. XVII, 5.

(13) The reason why a corpse has to be watched is to protect it from mice.

(14) That it must not be ridden upon.

(15) That in time of danger it is permitted.

(16) MS.M. adds, for four cubits.

(17) Prov. XIX, 17.

(18) Ibid. XIV, 31.

(19) Eccl. IX, 5.

(20) Ibid.

(21) So the kethib. E.V., following the keri, ‘valiant’.

(22) II Sam XXIII, 20.

Talmud - Mas. Berachoth 18b

‘The son of a living man’: are all other people then the sons of dead men? Rather ‘the son of a living man’ means that even in his death he was called living. ‘From Kabzeel, who had done mighty deeds’: this indicates that he gathered [kibbez] numerous workers for the Torah. ‘He smote two altar-hearths of Moab’; this indicates that he did not leave his like either in the first Temple or in the second Temple.[1] ‘He went down and also slew a lion in the midst of a pit in the time of snow’: some say that this indicates that he broke blocks of ice and went down and bathed;[2] others say that he went through the Sifra of the School of Rab[3] on a winter's day. ‘But the dead know nothing’: These are the wicked who in their lifetime are called dead, as it says. And thou, O wicked one, that art slain, the prince of Israel.[4] Or if you prefer. I can derive it from here: At the mouth of two witnesses shall the dead be put to death.[5] He is still alive! What it means is, he is already counted as dead.

The sons of R. Hiyya went out to cultivate their property,[6] and they began to forget their learning.[7] They tried very hard to recall it. Said one to the other: Does our father know of our trouble? How should he know, replied the other, seeing that it is written, His sons come to honour and he knoweth it not?[8] Said the other to him: But does he not know? Is it not written: But his flesh grieveth for him, and his soul mourneth over him?[9] And R. Isaac said [commenting on this]: The worm is as painful to the dead as a needle in the flesh of the living? [He replied]: It is explained that they know their own pain, they do not know the pain of others. Is that so? Has it not been taught: It is related that a certain pious man gave a denar to a poor man on the eve of New Year in a year of drought, and his wife scolded him, and he went and passed the night in the cemetery, and he heard two spirits conversing with one another. Said one to her companion: My dear, come and let us wander about the world and let us hear from behind the curtain[10] what suffering is coming on the world.[11] Said her companion to her: I am not able, because I am buried in a matting of reeds.[12] But do you go, and whatever you hear tell me. So the other went and wandered about and returned. Said her companion to her: My dear, what have you heard from behind the curtain? She replied: I heard that whoever sows after the first rainfall[13] will have his crop smitten by hail. So the man went and did not sow till after the second rainfall,[14] with the result that everyone else's crop was smitten and his was not smitten.[15] The next year he again went and passed the night in the cemetery, and heard the two spirits conversing with one another. Said one to her companion: Come and let us wander about the world and hear from behind the curtain what punishment is coming upon the world. Said the other to her: My dear, did I not tell you that I am not able because I am buried in a matting of reeds? But do you go, and whatever you hear, come and tell me. So the other one went and wandered about the world and returned. She said to her: My dear, what have you heard from behind the curtain? She replied: I heard that whoever sows after the later rain will have his crop smitten with blight. So the man went and sowed after the first rain with the result that everyone else's crop was blighted and his was not blighted.[16] Said his wife to him: How is it that last year everyone else's crop was smitten and yours was not smitten, and this year everyone else's crop is blighted and yours is not blighted? So he related to her all his experiences. The story goes that shortly afterwards a quarrel broke out between the wife of that pious man and the mother of the child,[17] and the former said to the latter, Come and I will show you your daughter buried in a matting of reeds. The next year the man again went and spent the night in the cemetery and heard those conversing together. One said: My dear, come and let us wander about the world and hear from behind the curtain what suffering is coming upon the world. Said the other: My dear, leave me alone; our conversation has already been heard among the living. This would prove that they know? — Perhaps some other man after his decease went and told them. Come and hear; for Ze'iri deposited some money with his landlady, and while he was away visiting Rab[18] she died. So he went after her to the cemetery[19] and said to her, Where is my money? She replied to him: Go and take it from under the ground, in the hole of the doorpost, in such and such a place, and tell my mother to send me my comb and my tube of eye-paint by the hand of So-and-so who is coming here tomorrow. Does not this[20] show that they know? — Perhaps Dumah[21] announces to them beforehand.[22] Come and hear: The father of Samuel had some money belonging to orphans deposited with him. When he died, Samuel was not with him, and they called him, ‘The son who consumes the money of orphans’. So he went after his father to the cemetery, and said to them [the dead]. I am looking for Abba.[23] They said to him: There are many Abbas here. I want Abba b. Abba, he said. They replied: There are also several Abbas b. Abba here. He then said to them: I Want Abba b. Abba the father of Samuel; where is he? They replied: He has gone up to the Academy of the Sky.[24] Meanwhile he saw Levi sitting outside.[25] He said to him: Why are you sitting outside? Why have you not gone up [to heaven]? He replied: Because they said to me: For as many years as you did not go up to the academy of R. Efes and hurt his feelings,[26] we will not let you go up to the Academy of the Sky. Meanwhile his father came. Samuel observed that he was both weeping and laughing. He said to him: Why are you weeping? He replied: Because you are coming here soon. And why are you laughing? Because you are highly esteemed in this world. He thereupon said to him: If I am esteemed, let them take up Levi; and they did take up Levi. He then said to him: Where is the money of the orphans? He replied: Go and you will find it in the case of the millstones.

The money at the top and the bottom is mine, that in the middle is the orphans' He said to him: Why did you do like that? He replied: So that if thieves came, they should take mine, and if the earth destroyed any, it should destroy mine. Does not this[27] show that they know? — Perhaps Samuel was exceptional: as he was esteemed, they proclaimed beforehand, Make way [for him]!

R. Jonathan also retracted his opinion. For R. Samuel b. Nahmani said in the name of R. Jonathan: Whence do we know that the dead converse with one another? Because it says: And the Lord said unto him: This is the land which I swore unto Abraham, unto Isaac, and unto Jacob, saying.[28] What is the meaning of 'saying'?[29] The Holy One, blessed be He, said to Moses: Say to Abraham, Isaac and Jacob: The oath which I swore to you I have already carried out for your descendants.

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(1) 'Altar-hearths of Moab' are taken by the Rabbis to refer to the two Temples, on account of David's descent from Ruth the Moabitess.

(2) To cleanse himself of pollution in order to study the Torah in cleanliness.

(3) The halachic midrash on Leviticus. Lion-like he mastered in a short time (a winter's day) all the intricacies of this midrash.

(4) Ezek. XXI, 30. E.V. 'that art to be slain'.

(5) Deut. XVII, 6. E.V. 'he that is to die'.

(6) Lit., 'to the villages'.

(7) Lit., 'their learning grew heavy for them'.

(8) Job XIV, 21.

(9) Ibid. 22.

(10) Screening the Divine Presence.

(11) Sc., in the divine judgment pronounced on New Year.

(12) And not in a linen shroud.

(13) The first fall of the former rains, which would be about the seventeenth of Heshvan (Rashi).

(14) Which would be about six days after the first.

(15) Being not yet sufficiently grown.

(16) Being by now strong enough to resist.

(17) Whose spirit the pious man had heard conversing

(18) Or 'the school house'.

(19) Lit., 'court of death'.

(20) That she knew someone else was going to die.

(21) Lit., 'Silence'. The angel presiding over the dead.

(22) That So-and-so will die, but they know nothing else.

(23) This was his father's name.

(24) Where the souls of the pious learned foregathered.

(25) Apart from the other dead.

(26) v. Keth. 113b.

(27) His knowing that Samuel would soon die.

(28) Deut. XXXIV,4.

(29) Lit., 'to say'.

Talmud - Mas. Berachoth 19a

Now if you maintain that the dead do not know, what would be the use of his telling them? — You infer then that they do know. In that case, why should he need to tell them? — So that they might be grateful to Moses. R. Isaac said: If one makes remarks about the dead, it is like making remarks about a stone. Some say [the reason is that] they do not know, others that they know but do not care. Can that be so? Has not R. Papa said: A certain man made[1] derogatory remarks about Mar Samuel and a log fell from the roof and broke his skull?[2] — A Rabbinical student is different, because the Holy One, blessed be He, avenges his insult.[3]

R. Joshua b. Levi said: Whoever makes derogatory remarks about scholars after their death[4] is cast into Gehinnom, as it says, But as for such as turn aside[5] unto their crooked ways, the Lord will lead them away with the workers of iniquity. Peace be upon Israel:[6] even at a time when there is peace upon Israel, the Lord will lead them away with the workers of iniquity.[7] It was taught in the school of R. Ishmael: If you see a scholar who has committed an offence by night, do not cavil at him by day, for perhaps he has done penance. 'Perhaps', say you? — Nay, rather, he has certainly done penance. This applies only to bodily [sexual] offences, but if he has misappropriated money, [he may be criticised] until he restores it to its owner.

R. Joshua b. Levi further said: In twenty-four places we find that the Beth din inflicted excommunication for an insult to a teacher, and they are all recorded in the Mishnah.[8] R. Eleazar asked him, Where? He replied: See if you can find them. He went and examined and found three cases: one of a scholar who threw contempt on the bashing of the hands, another of one who made derogatory remarks about scholars after their death, and a third of one who made himself too familiar towards heaven. What is the case of making derogatory remarks about scholars after their death? — As we have learnt:[9] He[10] used to say: The water [of the sotah][11] is not administered either to a proselyte or to an emancipated woman; the Sages, however say that it is. They said to him: There is the case of Karkemith an emancipated bondwoman in Jerusalem to whom Shemaiah and Abtalyon administered the water? He replied: They administered it to one like themselves.[12] They thereupon excommunicated him, and he died in excommunication, and the Beth din stoned his coffin.[13] What is the case of treating with contempt the washing of the hands? — As we have learnt: R. Judah said: Far be it from us to think that Akabiah b. Mahalalel was excommunicated, for the doors of the Temple hall did not close on any man in Israel[14] the equal of Akabiah b. Mahalalel in wisdom, in purity and in fear of sin. Whom did they in fact excommunicate? It was Eleazar b. Hanoch, who raised doubts about washing the hands, and when he died the Beth din sent and had a large stone placed on his coffin, to teach you that if a man is excommunicated and dies in his excommunication, the Beth din stone his coffin.[15]

What is the case of one behaving familiarly with heaven? — As we have learnt: Simeon b. Shetah sent to Honi ha-Me'aggel:[16] You deserve to be excommunicated, and were you not Honi, I would pronounce excommunication against you. But what can I do seeing that you ingratiate yourself[17] with the Omnipresent and He performs your desires, and you are like a son who ingratiates himself with his father and he performs his desires; and to you applies the verse: Let thy father and thy mother be glad, and let her that bore thee rejoice.[18]

But are there no more [instances of excommunication]? Is not there the case learnt by R. Joseph: Thaddeus a man of Rome accustomed the Roman [Jews] to eat kids roasted whole[19] on the eve of Passover. Simeon b. Shetah sent to him and said: Were you not Thaddeus, I would pronounce sentence of excommunication on you, because you make Israel [appear to] eat holy things outside the precincts.[20] — We say, in our Mishnah. and this is in a Baraitha. But is there no other in our Mishnah? Is there not this one, as we have learnt: If he cuts it[21] up into rings and puts sand between the rings.[22] R. Eliezer declares that it is [permanently] clean, while the Rabbis declare that it is unclean; and this is the stove of Akna'i. Why Akna'i? Rab Judah said in the name of Samuel: Because they surrounded it with halachoth like a serpent [akna'i] and declared it unclean. And it has been taught: On that day they brought all the things that R. Eliezer had declared clean[23] and burnt them before him, and in the end they blessed[24] him.[25] — Even so we do not find excommunication stated in our Mishnah.[26] How then do you find the twenty-four places? — R. Joshua b. Levi compares one thing to another,[27] R. Eleazar does not compare one thing to another.

THOSE WHO CARRY THE BIER AND THOSE WHO RELIEVE THEM. Our Rabbis taught: A dead body is not taken out shortly before the time for the Shema', but if they began to take it they do not desist. Is that so? Was not the body of R. Joseph taken out shortly before the time for the Shema’? — An exception can be made for a distinguished man.

BEFORE THE BIER AND BEHIND THE BIER. Our Rabbis taught: Those who are occupied with the funeral speeches, if the dead body is still before them, slip out one by one and recite the Shema’; if the body is not before them, they sit and recite it, and he [the mourner] sits silent; they stand up and say the tefillah and he stands up and accepts God's judgement and says: Sovereign of the Universe, I have sinned much before Thee and Thou didst not punish me one thousandth part. May it be Thy will, O Lord our God, to close up our breaches and the breaches of all Thy people the house of Israel in mercy! Abaye said: A man should not speak thus,[28] since R. Simeon b. Lakish said, and so it was taught in the name of R. Jose: A man should never speak in such a way as to give an opening to Satan. And R. Joseph said: What text proves this? Because it says: We were almost like Sodom.[29] What did the prophet reply to them? Hear the word of the Lord, ye rulers of Sodom.[30]

WHEN THEY HAVE BURIED THE DEAD BODY AND RETURNED, etc. [I understand]: If they are able to begin and go through all of it, yes, but if they have only time for one section or one verse, no. This statement was contradicted by the following: When they have buried the body and returned, if they are able to begin and complete even one section or one verse, [they do so]! — That is just what he says: If they are able to begin and go through even one section or one verse before they form a row, they should begin, but otherwise they should not begin.

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(1) MS.M.: Did not R. Papa make etc.; cf. next note.

(2) MS.M.: and nearly broke (lit., ‘wished to break’) his skull. This suits better the reading of MS.M. mentioned in previous note.

(3) Lit., ‘his honour’.

(4) Lit., ‘Speaks after the bier of scholars’.

(5) Heb. mattim, connected by R. Joshua with mittathan (their bier) above.

(6) Ps. CXXV,5.

(7) To Gehinnom.

(8) I.e., the Mishnah as a whole.

(9) ‘Ed. V, 6.

(10) Akabiah b. Mahalalel.

(11) A woman suspected of infidelity. V. Num. V, 11ff.

(12) They were supposed to be descended from Sennacherib and so from a family of proselytes. Others render: they only pretended to administer it.

(13) V. ‘Ed. V. 6 (Sonc. ed.) notes.

(14) When they all assembled there to kill their paschal lambs.

(15) Pes. 64b.

(16) The word Me'aggel probably means ‘circle-drawer’; v. Ta'an. 19a.

(17) Aliter: ‘take liberties with’.

(18) Prov. XXIII, 25. V. Ta'an 19a.

(19) Lit., ‘Helmeted goats’ — goats roasted whole with their entrails and legs placed on the head, like a helmet. This was how the Passover sacrifice was roasted.

(20) V. Pes. (Sonc. ed.) p. 260 notes.

(21) An earthenware stove which has been declared unclean, and cannot be used till it has been broken up and remade.

(22) To cement them.

(23) After contact with such a stove.

(24) Euphemism for ‘excommunicated’.

(25) V. B.M. (Sonc. ed.) 59b notes.

(26) The last statement being from a Baraitha.

(27) I.e., he takes count of all the cases where the ruling of the Rabbis was disregarded by an individual, and excommunication should have been incurred, even if this is not mentioned.

(28) Saying, ‘Thou didst not punish me’, which is like a hint to punish.
(29) Isa. I, 9. E.V.’ . . a little. We were like etc.’
(30) Ibid. 10.

Talmud - Mas. Berachoth 19b

THOSE WHO STAND IN A ROW etc. Our Rabbis taught: The row which can see inside[1] is exempt, but one which cannot see inside is not exempt. R. Judah said: Those who come on account of the mourner are exempt, but those who come for their own purposes[2] are not exempt.

R. Judah said in the name of Rab: If one finds mixed kinds[3] in his garment, he takes it off even in the street. What is the reason? [It says]: There is no wisdom nor understanding nor counsel against the Lord;[4] wherever a profanation of God's name is involved no respect is paid to a teacher.

An objection was raised: If they have buried the body and are returning, and there are two ways open to them, one clean and the other unclean,[5] if [the mourner] goes by the clean one they go with him by the clean one, and if he goes by the unclean one they go with him by the unclean one, out of respect for him. Why so? Let us say, There is no wisdom nor understanding against the Lord? — R. Abba explained the statement to refer to a beth ha-peras,[6] which is declared unclean only by the Rabbis;[7] for Rab Judah has said in the name of Samuel: A man may blow in front of him[8] in a beth ha-peras and proceed. And Rab Judah b. Ashi also said in the name of Rab: A beth ha-peras which has been well trodden is clean.[9] — Come and hear; for R. Eleazar b. Zadok[10] said: We used to leap over coffins containing bodies to see the Israelite kings.[11] Nor did they mean this to apply only to Israelite kings, but also to heathen kings, so that if he should be privileged [to live to the time of the Messiah], he should be able to distinguish between the Israelite and the heathen kings. Why so? Let us say, ‘There is no wisdom and no understanding and no counsel before the Lord’? — [It is in accord with the dictum of Raba; for Raba said: It is a rule of the Torah[12] that a ‘tent’[13] which has a hollow space of a handbreadth[14] forms a partition against uncleanness, but if it has not a hollow space of a handbreadth it forms no partition against uncleanness.[15] Now most coffins have a space of a handbreadth, and [the Rabbis] decreed that those which had such a space [should form no partition] for fear they should be confused with those which had no space, but where respect to kings was involved they did not enforce the decree.

Come and hear. ‘Great is human dignity, since it overrides a negative precept of the Torah’.[16] Why should it? Let us apply the rule, ‘There is no wisdom nor understanding nor counsel against the Lord? — Rab b. Shaba explained the dictum in the presence of R. Kahana to refer to the negative precept of ‘thou shalt not turn aside’.[17] They laughed at him. The negative precept of ‘thou shalt not turn aside’ is also from the Torah![18] Said R. Kahana: If a great man makes a statement, you should not laugh at him. All the ordinances of the Rabbis were based by them on the prohibition of ‘thou shalt not turn aside’[19] but where the question of [human] dignity is concerned the Rabbis allowed the act.[20]

Come and hear.[21] And hide thyself from them.[22] There are times when thou mayest hide thyself from them and times when thou mayest not hide thyself from them. How so? If the man [who sees the animal] is a priest and it [the animal] is in a graveyard, or if he is an elder and it is not in accordance with his dignity [to raise it], or if his own work was of more importance than that of his fellow.[23] Therefore it is said, And thou shalt hide. But why so? Let us apply the rule, ‘There is no wisdom nor understanding nor counsel against the Lord’? — The case is different there, because it says expressly, And thou shalt hide thyself from them. Let us then derive from this [the rule for mixed kinds]?[24] — We do not derive a ritual ruling from a ruling relating to property.[25] Come and hear:[26] Or for his sister.[27] What does this teach us? Suppose he[28] was going to kill his paschal lamb or to circumcise his son, and he heard that a near relative of his had died, am I to say that he should go back and defile himself? You say, he should not defile himself.[29] Shall I say that just as he does not defile himself for them, so he should not defile himself for a meth mizwah?[30] It says significantly, ‘And for his sister’: for his sister he does not defile himself,

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(1) I.e., which can see the mourner, if they stand several deep.

(2) To see the crowd.

(3) Linen and wool.

(4) Prov. XXI, 30.

(5) Because there is a grave in it.

(6) A field in which there was once a grave which has been ploughed up, so that bones may be scattered about.

(7) But not by the Scripture.

(8) To blow the small bones away.

(9) V. Pes. (Sonc. ed.) p. 492-4 notes.

(10) He was a priest.

(11) Which proves that showing respect overrides the rules of uncleanness.

(12) I.e., a ‘law of Moses from Sinai’.

(13) I.e., anything which overshadows, v. Num. XIX, 14.

(14) Between its outside and what it contains.

(15) The uncleanness which it overshadows breaks through and extends beyond its confines.

(16) Men. 37b.

(17) Deut. XVII, 11, and not to negative precepts in general.

(18) And the objection still remains.

(19) They based on these words their authority to make rules equally binding with those laid down in the Torah, and Rab b. Shaba interprets the words ‘negative precept of the Torah’ in the passage quoted to mean, ‘Rabbinical ordinances deriving their sanction from this negative precept of their Torah’.

(20) V. Shab. 81b.

(21) For notes V. B.M. (Sonc. ed.) 30a.

(22) Deut. XXII, 1, 4.

(23) I.e., if he stood to lose more from neglecting his own work than the other from the loss of his animal.

(24) Of which it was said supra that he takes off the garment even in the street.

(25) Lit., ‘money’. To override a ritual rule is more serious.

(26) Nazir 48b.

(27) Num. VI, 7.

(28) A Nazirite who is also a priest.

(29) Because those things must be done at a fixed time, and cannot be postponed.

(30) Lit., ‘(the burial of) a dead, which is a religious obligation’. V. Glos.

Talmud - Mas. Berachoth 20a

but he does defile himself for a meth mizwah. But why should this be? Let us apply the rule, ‘There is no wisdom nor understanding nor counsel against the Lord?[1] — The case is different there, because it is written, ‘And for his sister’. Let us then derive a ruling from this [for mixed kinds]? — Where it is a case of ‘sit still and do nothing’, it is different.[2]

Said R. Papa to Abaye: How is it that for the former generations miracles were performed and for us miracles are not performed? It cannot be because of their [superiority in] study, because in the years of Rab Judah the whole of their studies was confined to Nezikin, and we study all six Orders, and when Rab Judah came in [the tractate] ‘Ukzin [to the law], ‘If a woman presses vegetables in a pot’[3] (or, according to others, ‘olives pressed with their leaves are clean’),[4] he used to say, I see all the difficulties of Rab and Samuel here.[5] and we have thirteen versions of Ukzin.[6] And yet when Rab Judah drew off one shoe,[7] rain used to come, whereas we torment ourselves and cry loudly, and no notice is taken of us![8] He replied: The former generations used to be ready to sacrifice their lives for the sanctity of [God's] name; we do not sacrifice our lives for the sanctity of [God's] name. There was the case of R. Adda b. Ahaba who saw a heathen woman wearing a red head-dress[9] in the street, and thinking that she was an Israelite woman, he rose and tore it from her. It turned out that she was a heathen woman, and they fined him four hundred zuz. He said to her: What is your name. She replied: Mathun. Mathun, he said to her: that makes four hundred zuz.[10]

R. Giddal was accustomed to go and sit at the gates of the bathing-place.[11] He used to say to the women [who came to bathe]: Bathe thus, or bathe thus. The Rabbis said to him: Is not the Master afraid lest his passion get the better of him? — He replied: They look to me like so many white geese. R. Johanan was accustomed to go and sit at the gates of the bathing place. He said: When the daughters of Israel come up from bathing they look at me and they have children as handsome as I am.[12] Said the Rabbis to him: Is not the Master afraid of the evil eye? — He replied: I come from the seed of Joseph, over whom the evil eye has no power, as it is written, Joseph is a fruitful vine, a fruitful vine above the eye,[13] and R. Abbahu said with regard to this, do not read ‘ale ‘ayin, but ‘ole ‘ayin’.[14] R. Judah son of R. Hanina derived it from this text: And let them multiply like fishes [we-yidgu] in the midst of the earth.[15] Just as the fishes [dagim] in the sea are covered by water and the evil eye has no power over them, so the evil eye has no power over the seed of Joseph. Or, if you prefer I can say: The evil eye has no power over the eye which refused to feed itself on what did not belong to it.[16]

MISHNAH. WOMEN, SLAVES AND MINORS ARE EXEMPT FROM RECITING THE SHEMA’

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(1) For notes V. Sanh. (Sonc. ed.) 35a.

(2) Wearing mixed kinds is certainly an active breaking of a rule, but it is not clear how attending to a meth mizwah comes under the head of ‘sit and do nothing’. V. Rashi and Tosaf. ad loc.

(3) ‘Ukzin, II, 1.

(4) Ibid.

(5) I.e., this Mishnah itself presents as many difficulties to me as all the rest of the Gemara.

(6) I.e., the Mishnah and the various Baraithas and Toseftas. Aliter: We have thirteen colleges which are well versed in it.

(7) In preparation for fasting.

(8) For fuller notes on the passage, v. Sanh. (Sonc. ed.) p. 728.

(9) Aliter: ‘mantle’.

(10) The Aramaic for two hundred is mathan. Mathun also means ‘deliberate’; had he been less rash he would have saved himself 400 zuz; there is here a double play on words.

(11) Where the women took their ritual bath.

(12) R. Johanan was famous for his beauty. V. supra 5b.

(13) Gen. XLIX, 22.

(14) Lit., ‘rising above the (power of the) eye’. I.e., superior to the evil eye.

(15) So lit. E.V. ‘grow into a multitude’. Ibid. XLVIII, 16.

(16) Sc. Potiphar's wife.

Talmud - Mas. Berachoth 20b

AND FROM PUTTING ON TEFILLIN. BUT THEY ARE SUBJECT TO THE OBLIGATIONS OF TEFILLAH AND MEZUZAH[1] AND GRACE AFTER MEALS.

GEMARA. That they are exempt from the Shema’ is self-evident — It is a positive precept for which there is a fixed time?[2] You might say that because it mentions the kingship of heaven it is different. We are therefore told that this is not so.

AND FROM PUTTING ON THE TEFILLIN. This also is self-evident?[3] You might say that because it is put on a level with the mezuzah[4] [therefore women should be subject to it]. Therefore we are told that this is not so.

THEY ARE SUBJECT TO THE OBLIGATION OF TEFILLAH. Because this [is supplication for Divine] mercy. You might [however] think that because it is written in connection therewith, Evening and morning and at noonday,[5] therefore it is like a positive precept for which there is a fixed time. Therefore we are told [that this is not so].

AND MEZUZAH. This is self-evident?[6] You might say that because it is put on a level with the study of the Torah,[7] [therefore women are exempt]. Therefore it tells us [that this is not so].

AND GRACE AFTER MEALS. This is self-evident? — You might think that because it is written, When the Lord shall give you in the evening flesh to eat and in the morning bread to the full,[8] therefore it is like a positive precept for which there is a definite time. Therefore it tells us [that this is not so].

R. Adda b. Ahabah said: Women are under obligation to sanctify the [Sabbath] day[9] by ordinance of the Torah. But why should this be? It is a positive precept for which there is a definite time, and women are exempt from all positive precepts for which there is a definite time? — Abaye said: The obligation is only Rabbinical. Said Raba to him: But it says, 'By an ordinance of the Torah'? And further, on this ground we could subject them to all positive precepts by Rabbinical authority? Rather, said Raba. The text says Remember and Observe.[10] Whoever has to 'observe' has to 'remember'; and since these women have to 'observe',[11] they also have to 'remember'.[12]

Rabina said to Raba: Is the obligation of women to say grace after meals Rabbinical or Scriptural? — What difference does it make in practice which it is? — For deciding whether they can perform the duty on behalf of others. If you say the obligation is Scriptural, then one who is bound by Scripture can come and perform the duty on behalf of another who is bound by Scripture. But if you say the obligation is only Rabbinical, then [a woman] is not strictly bound to do this, and whoever is not strictly bound to do a thing cannot perform the obligation on behalf of others. What [do we decide]? — Come and hear: 'In truth they did say: A son[13] may say grace on behalf of his father and a slave may say grace on behalf of his master and a woman may say grace on behalf of her husband. But the Sages said: A curse light on the man whose wife or children have to say grace for him.'[14] If now you say that [the obligation of these others] is Scriptural, then there is no difficulty: one who is bound by the Scripture comes and performs the duty on behalf of one who is bound by the Scripture. But if you say that the obligation is Rabbinic, can one who is bound only Rabbinically come and perform the duty on behalf of one who is bound Scripturally? — But even accepting your reasoning, is a minor subject to obligation [Scripturally]?[15] Nay. With what case are we dealing here? If, for instance, he ate a quantity for which he is only Rabbinically bound [to say grace],[16] in which case one who is Rabbinically bound[17] comes and performs the duty on behalf of one who is only Rabbinically bound.[18]

R. 'Awira discoursed — sometimes in the name of R. Ammi, and sometimes in the name of R. Assi — as follows: The ministering angels said before the Holy One, blessed be He: Sovereign of the Universe, it is written in Thy law, Who regardeth not persons[19] nor taketh reward,[20] and dost Thou not regard the person of Israel, as it is written, The Lord lift up His countenance upon thee?[21] He replied to them: And shall I not lift up My countenance for Israel, seeing that I wrote for them in the Torah, And thou shalt eat and be satisfied and bless the Lord thy God,[22] and they are particular [to say the grace] if the quantity is but an olive or an egg.[23]

MISHNAH. A BA'AL KERI[24] SAYS THE WORDS [OF THE SHEMA'][25] MENTALLY[26]

WITHOUT SAYING A BLESSING EITHER BEFORE OR AFTER. AT MEALS HE SAYS THE GRACE AFTER, BUT NOT THE GRACE BEFORE. R. JUDAH SAYS: HE SAYS THE GRACE BOTH BEFORE AND AFTER.

GEMARA. Said Rabina: This would show that saying mentally is equivalent to actual saying.[27] For if you assume that it is not equivalent to actual saying, why should he say mentally?[28] What then? [You say that] saying mentally is equivalent to actual saying. Then let him utter the words with his lips! — We do as we find it was done at Sinai.[29] R. Hisda said: Saying mentally is not equivalent to actual saying. For if you assume that saying mentally is equivalent to actual saying, then let him utter the words with his lips! What then? [You say that] saying mentally is not equivalent to actual saying? Why then should he say mentally? — R. Eleazar replied: So that he should not have to sit saying nothing while everyone else is engaged saying the Shema'. Then let him read some other section? — R. Adda b. Ahaba said: [He must attend to that] with which the congregation is engaged.

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(1) V. Glos.
(2) And women are exempt from such precepts. V. infra.
(3) For the same reason.
(4) Since it is written, and thou shalt bind them, and thou shalt write them.
(5) Ps. LV, 18.
(6) For what reason is there for exempting them?
(7) As it says, And ye shall teach them to your sons, and ye shall write them; and the obligation of teaching applies only to the males.
(8) Ex. XVI, 8.
(9) Over wine. V. P.B. p. 124.
(10) In the two versions of the Fourth Commandment, viz., Ex. XX, 8 and Deut. V, 12 respectively.
(11) I.e., abstain from work.
(12) I.e., say sanctification. (Kiddush). V. Glos.
(13) I.e., a minor.
(14) Because he cannot say it himself; v. Suk. 38a.
(15) As would be presupposed in your argument.
(16) Viz., the quantity of an olive according to R. Meir and an egg according to R. Judah. Infra 45a.
(17) A minor.
(18) The father who had less than the minimum quantity. And it is only in such a case that a woman may say grace on behalf of her husband.
(19) Lit., 'Who lifteth not up the countenance'.
(20) Deut. X, 17.
(21) Num. VI, 26.
(22) Deut. VIII, 10.
(23) Cf. supra n. 2.
(24) V. Glos.
(25) When the hour arrives for reciting it.
(26) Lit., 'in his heart'.
(27) Lit., 'thinking is like speech'.
(28) What religious act does he perform thereby?
(29) Moses ordered the Israelites to keep away from woman before receiving the Torah, but those who were unclean could still accept mentally.

Talmud - Mas. Berachoth 21a

But what of tefillah which is a thing with which the congregation is engaged, and yet we have learnt: If he was standing reciting the tefillah and he suddenly remembered that he was a ba'al keri he should not break off, but he should shorten [each blessing]. Now the reason is that he had commenced; but if he had not yet commenced, he should not do so? — Tefillah is different because it does not mention the kingdom of heaven.[1] But what of the grace after meals in which there is no mention of the sovereignty of heaven, and yet we have learnt: AT MEALS HE SAYS GRACE AFTER, BUT NOT THE GRACE BEFORE? — [Rather the answer is that] the recital of the Shema' and grace after food are Scriptural ordinances, whereas tefillah is only a Rabbinical ordinance.[2]

Rab Judah said: Where do we find that the grace after meals is ordained in the Torah? Because it says: And thou shalt eat and be satisfied and bless.[3] Where do we find that a blessing before studying the Torah is ordained in the Torah? Because it says: When I proclaim the name of the Lord, ascribe ye greatness to our God.[4] R. Johanan said: We learn that a blessing should be said after studying the Torah by an argument a fortiori from grace after food; and we learn that grace should be said before food by an argument a fortiori from the blessing over the Torah. The blessing after the Torah is learnt a fortiori from the grace after food as follows: Seeing that food which requires no grace before it[5] requires a grace after it, does it not stand to reason that the study of the Torah which requires a grace before it should require one after it? The blessing before food is learnt a fortiori from the blessing over the Torah as follows: Seeing that the Torah which requires no blessing after it[5] requires one before it, does it not stand to reason that food which requires one after it should require one before it? A flaw can be pointed out in both arguments. How can you reason from food [to the Torah], seeing that from the former he derives physical benefit? And how can you reason from the Torah [to food], seeing that from the former he obtains everlasting life? Further, we have learnt: AT MEALS HE SAYS THE GRACE AFTER BUT NOT THE GRACE BEFORE?[6] — This is a refutation.

Rab Judah said: If a man is in doubt whether he has recited the Shema', he need not recite it again. If he is in doubt whether he has said 'True and firm', or not, he should say it again. What is the reason? — The recital of the Shema' is ordained only by the Rabbis, the saying of 'True and firm' is a Scriptural ordinance.[7] R. Joseph raised an objection to this,[8] 'And when thou liest down, and when thou risest up'. — Said Abaye to him: That was written with reference to words of Torah.[9]

We have learnt: A BA'AL KERI SAYS MENTALLY, AND SAYS NO BLESSING EITHER BEFORE OR AFTER. AT MEALS HE SAYS THE GRACE AFTER BUT NOT THE GRACE BEFORE. Now if you assume that 'True and firm' is a Scriptural regulation, let him say the blessing after the Shema'? — Why should he say [the blessing after]? If it is in order to mention the going forth from Egypt, that is already mentioned in the Shema'! But then let him say the former, and he need not say the latter?[10] — The recital of Shema' is preferable, because it has two points.[11] R. Eleazar says: If one is in doubt whether he has recited the Shema' or not, he says the Shema' again. If he is in doubt whether he has said the Tefillah or not, he does not say it again. R. Johanan, however, said: Would that a man would go on praying the whole day!

Rab Judah also said in the name of Samuel: If a man was standing saying the Tefillah and he suddenly remembered that he had already said it, he breaks off even in the middle of a benediction. Is that so? Has not R. Nahman said: When we were with Rabbah b. Abbuha, we asked him with reference to disciples who made a mistake and began the weekday benediction on a Sabbath, whether they should finish it, and he said to us that they should finish that blessing! — Are these cases parallel? In that case one[12] is in reality under obligation,[13] and it is the Rabbis who did not trouble him out of respect for the Sabbath, but in this case he has already said the prayer.

Rab Judah further said in the name of Samuel: If a man had already said the Tefillah and went into a synagogue and found the congregation saying the Tefillah, if he can add something fresh, he should say the Tefillah again, but otherwise he should not say it again. And both these rulings are required.[14] For if I had been told only the first, I should have said, This applies only to [a case where he said the Tefillah] alone and [is repeating it] alone

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(1) The words ‘King of the Universe’ are not used in the Eighteen Benedictions.
(2) And therefore he need not say it even mentally.
(3) Deut. VIII, 10.
(4) Ibid. XXXII, 3. E.V. ‘for I will proclaim etc.’. V. Yoma 37a.
(5) I.e., no such grace is distinctly prescribed in the Torah.
(6) Which proves that the grace before food is not Biblical.
(7) Because it mentions the going forth from Egypt, as prescribed in Deut. XVI, 3.
(8) That the Shema’ is not Scriptural.
(9) And it is applied to the Shema’ only as an allusion.
(10) I.e., let him say the blessing openly, and not the Shema’ mentally.
(11) It mentions both the Kingdom of Heaven and the going forth from Egypt.
(12) Lit., ‘the man’.
(13) To say the weekday Tefillah.
(14) This latter ruling and the case where one remembered whilst praying that he had already prayed.

Talmud - Mas. Berachoth 21b

, or [where he said it] with a congregation and [is repeating it] with a congregation,[1] but when [one who has prayed] alone goes into a congregation, it is as if he had not prayed at all. Hence we are told that this is not so. And if we had been told only the second case, I might think that this ruling applies only because he had not commenced, but where he had commenced I might say that he should not [break off]. Therefore both are necessary.

R. Huna said: If a man goes into a synagogue and finds the congregation saying the Tefillah, if he can commence and finish before the reader[2] reaches ‘We give thanks’,[3] he may say the Tefillah,[4] but otherwise he should not say it. R. Joshua b. Levi says: If he can commence and finish before the reader reaches the Sanctification,[5] he should say the Tefillah, but otherwise he should not say it. What is the ground of their difference? One authority held that a man praying by himself does say the Sanctification, while the other holds that he does not. So, too, R. Adda b. Abahah said: Whence do we know that a man praying by himself does not say the Sanctification? Because it says: I will be hallowed among the children of Israel;[6] for any manifestation of sanctification not less than ten are required. How is this derived? Rabinai the brother of R. Hiyya b. Abba taught: We draw an analogy between two occurrences of the word ‘among’. It is written here, I will be hallowed among the children of Israel, and it is written elsewhere. Separate yourselves from among this congregation.[7] Just as in that case ten are implied,[8] so here ten are implied. Both authorities, however, agree that he does not interrupt [the Tefillah].[9]

The question was asked: What is the rule about interrupting [the Tefillah] to respond. May His great name be blessed?[10] — When R. Dimi came from Palestine, he said that R. Judah and R. Simeon[11] the disciples of R. Johanan say that one interrupts for nothing except ‘May His great name be blessed’, for even if he is engaged in studying the section of the work of [the Divine] Chariot,[12] he must interrupt [to make this response]. But the law is not in accordance with their view.[13]

R. JUDAH SAYS: HE SAYS THE GRACE BOTH BEFORE AND, AFTER. This would imply that R. Judah was of opinion that a ba'al keri is permitted to [occupy himself] with the words of the Torah. But has not R. Joshua b. Levi said: How do we know that a ba'al keri is forbidden to study the Torah? Because it says, Make them known unto thy children and thy children's children,[14] and immediately afterwards, The day that thou stoodest [before the Lord thy God in Horeb],[15] implying that just as on that occasion those who had a seminal issue were forbidden,[16] so here too those who have a seminal issue are forbidden? And should you say that R. Judah does not derive lessons from the juxtaposition of texts, [this does not matter] since R. Joseph has said: Even those who do not derive lessons from the juxtaposition of texts in all the rest of the Torah, do so in Deuteronomy; for R. Judah does not derive such lessons in all the rest of the Torah, and in Deuteronomy he does. And how do we know that in all the rest of the Torah he does not derive such lessons? — As it has been taught; Ben ‘Azzai says: Thou shalt not suffer a sorceress to live.[17] and it says [immediately afterwards], Whosoever lieth with a beast shall surely be put to death.[18] The two statements were juxtaposed to tell you that just as one that lieth with a beast is put to death by stoning, so a sorceress also is put to death by stoning. Said R. Judah to him: Because the two statements are juxtaposed, are we to take this one out to be stoned? Rather [we learn it as follows]: They that divine by a ghost or a familiar spirit come under the head of sorceress. Why then were they mentioned separately?[19] To serve as a basis for comparison: just as they that divine by a ghost or familiar spirit are to be stoned, so a sorceress is to be stoned. And how do we know that he derives lessons from juxtaposition in Deuteronomy? — As it has been taught: R. Eliezer said, A man may marry a woman who has been raped by his father or seduced by his father, one who has been raped by his son, or one who has been seduced by his son. R. Judah prohibits one who has been raped by his father or seduced by his father. And R. Giddal said with reference to this: What is the reason of R. Judah? Because it is written: A man shall not take his father's wife and shall not uncover his father's skirt;[20] which implies, he shall not uncover the skirt which his father saw. And how do we know that the text is speaking of one raped by his father? — Because just before it are the words, Then the man that lay with her shall give unto the father, etc.![21] — They replied: Yes, in Deuteronomy he does draw such lessons, but this juxtaposition he requires for the other statement of R. Joshua b. Levi. For R. Joshua b. Levi said: If any man teaches his son Torah, the Scripture accounts it to him as if he had received it from Mount Horeb, as it says, ‘And thou shalt make them known unto thy children and thy children's children’, and immediately afterwards it is written, ‘The day that thou stoodest before the Lord thy God in Horeb.[22]

We have learnt: A sufferer from gonorrhoea who had an emission, a niddah from whom semen has escaped and a woman who became niddah during sexual intercourse require ritual ablution;[23] R. Judah, however, exempts them.[24] Now R. Judah's exemption extends only to a gonorrhoeic person who had an emission, because ritual ablution in his first condition[25] is useless for him,[26] but an ordinary person who has an emission requires ritual ablution![27] And should you maintain that R. Judah exempts an ordinary ba'al keri also, and the reason why he and the Rabbis joined issue over the gonorrhoeic person was to show how far the Rabbis are prepared to go, then look then at the next clause: ‘A woman who became niddah during sexual intercourse requires a ritual ablution’. Whose opinion is here stated? Shall I say it is the Rabbis? Surely this is self-evident! Seeing that a gonorrhoeic person who has an emission, although a ritual ablution is useless in his first condition, was yet required by the Rabbis to take one, how much more so a woman who becomes niddah during sexual intercourse, for whom in her first condition a ritual ablution was efficacious![28] We must say therefore that it states the opinion of R. Judah, and he meant exemption to apply only to this case.

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(1) I.e., after having prayed with one congregation, he goes in to another.

(2) Lit., ‘the messenger of the congregation’.

(3) The seventeenth benediction, v. P.B. p. 51.

(4) In order that he may be able to bow at this point with the congregation.

(5) Recited in the third benediction. In this also the congregation joins in, v. P.B. p. 45.

(6) Lev. XXII, 32.

(7) Num. XVI, 21.

(8) The ‘congregation’ referred to being the ten spies, Joshua and Caleb being excluded. V. Meg. 23b.

(9) If he has commenced his Tefillah he does not interrupt in order to say the Sanctification with the congregation or to bow down with them.

(10) In the Kaddish, v. Glos.

(11) I.e., Judah b. Pazzi and Simeon b. Abba.

(12) V. Hag. 11b.

(13) So MS.M. Cur. edd., ‘with him’.
(14) Deut. IV, 9.
(15) Ibid. 10.
(16) V. supra p. 124 n. 1.
(17) Ex. XXII, 27.
(18) Ibid. 18.
(19) In Lev. XX, 27. ‘A man also . . . . that divineth by a ghost or a familiar spirit shall surely be put to death; they shall stone them with stones’.
(20) Deut. XXIII, 1.
(21) Ibid. XXII, 29. This shows that R. Judah derives lessons from juxtaposed texts in Deuteronomy. How then does he permit a ba'al keri to occupy himself with Torah in view of Deut. IV, 9 and 10?
(22) Ibid. IV, 9 and 10.
(23) In order to be able to read Shema’ or other words of the Torah.
(24) V. infra 26a.
(25) I.e., before he experienced the emission.
(26) He has to wait seven days before he is clean.
(27) Contra his own ruling in our Mishnah.
(28) To cleanse her from the seminal issue that took place before the niddah.

Talmud - Mas. Berachoth 22a

so that a woman who becomes niddah during sexual intercourse does not require a ritual ablution, but an ordinary ba'al keri does require ritual ablution! — Read [in the Mishnah] not: [R. JUDAH SAYS,] HE SAYS THE BLESSING, but ‘He says mentally’. But does R. Judah [in any case] prescribe saying mentally? Has it not been taught: A ba'al keri who has no water for a ritual ablution recites the Shema’ without saying a blessing either before or after, and he eats bread and says a blessing after it. He does not, however, say a blessing before it, but says it mentally without uttering it with his lips. So R. Meir. R. Judah says: In either case he utters it with his lips? — Said R. Nahman b. Isaac: R. Judah put it on the same footing as the halachoth of Derek Erez,[1] as it has been taught: ‘And thou shalt make them known to thy children and thy children's children’, and it is written immediately afterwards, ‘The day on which thou didst stand before the Lord thy God in Horeb’. Just as there it was in dread and fear and trembling and quaking, so in this case too[2] it must be in dread and fear and trembling and quaking. On the basis of this they laid down that sufferers from gonorrhoea, lepers, and those who had intercourse with niddoth are permitted to read the Torah, the Prophets and the Hagiographa, and to study the Mishnah, [Midrash][3] the Talmud,[4] halachoth and haggadoth, but a ba'al keri is forbidden.[5] R. Jose said: He may repeat those with which he is familiar, so long as he does not expound the Mishnah. R. Jonathan b. Joseph said: He may expound the Mishnah but he must not expound the Talmud.[6] R. Nathan b. Abishalom says: He may expound the Talmud also, provided only he does not mention the divine names that occur[7] in it. R. Johanan the sandal-maker, the disciple of R. Akiba, said in the name of R. Akiba: He should not enter upon the Midrash at all. (Some read, he should not enter the Beth Ha-midrash at all.) R. Judah says: He may repeat the laws of Derek Erez.[8] Once R. Judah after having had a seminal issue was walking along a river bank, and his disciples said to him, Master repeat to us a section from the laws of Derek Erez, and he went down and bathed and then repeated to them. They said to him: Have you not taught us, Master, ‘He may repeat the laws of Derek Erez’? He replied: Although I make concessions to others, I am strict with myself.

It has been taught: R. Judah b. Bathyra used to say: Words of Torah are not susceptible of uncleanness. Once a certain disciple was mumbling over against R. Judah b. Bathyra.[9] He said to him: My son, open thy mouth and let thy words be clear, for words of Torah are not susceptible to uncleanness, as it says, Is not My word like as fire.[10] Just as fire is not susceptible of uncleanness, so words of Torah are not susceptible of uncleanness.

The Master said: He may expound the Mishnah, but he must not expound the Talmud. This supports R. Ila'i; for R. Ila'i said in the name of R. Aha b. Jacob, who gave it in the name of our Master:[11] The halachah is that he may expound the Mishnah but he must not expound the Talmud. The same difference of opinion is found among Tannaim. 'He may expound the Mishnah but he must not expound the Talmud'. So R. Meir. R. Judah b. Gamaliel says in the name of R. Hanina b. Gamaliel: Both are forbidden. Others report him as having said: Both are permitted. The one who reports 'Both are forbidden' concurs with R. Johanan the sandal-maker; the one who reports, 'both are permitted' concurs with R. Judah b. Bathyra.

R. Nahman b. Isaac said: It has become the custom[12] to follow these three elders, R. Ila'i in the matter of the first shearing,[13] R. Josiah in the matter of mixed kinds, and R. Judah b. Bathyra in the matter of words of Torah. 'R. Ila'i in the matter of the first shearing', as it has been taught: R. Ila'i says: The rule of the first shearing applies only in Palestine. 'R. Josiah in the matter of mixed kinds', as it is written, Thou shalt not sow thy vineyard with two kinds of seeds.[14] R. Josiah says: The law has not been broken until one sows wheat, barley and grape kernels with one throw.[15] 'R. Judah b. Bathyra in the matter of words of Torah,' as it has been taught: R. Judah b. Bathyra says: Words of Torah are not susceptible of uncleanness. When Ze'iri came [from Palestine]. he said: They have abolished the ritual ablution. Some report him to have said: They have abolished the washing of hands. The one who reports 'they have abolished the ritual ablution' concurs with R. Judah b. Bathyra. The one who reports 'they have abolished the washing of hands' is in accord with R. Hisda, who cursed anyone who went looking for water at the hour of prayer.[16]

Our Rabbis taught: A ba'al keri on whom nine kabs[17] of water have been thrown is clean. Nahum a man of Gimzu[18] whispered it to R. Akiba, and R. Akiba whispered it to Ben 'Azzai, and Ben 'Azzai went forth and repeated it to the disciples in public. Two Amoraim in the West differed in regard to this, R. Jose b. Abin and R. Jose b. Zebida. One stated: He repeated it, and one taught, He whispered it. The one who taught 'he repeated it' held that the reason [for the concession] was to prevent neglect of the Torah and of procreation. The one who taught 'he whispered it' thought that the reason was in order that scholars might not always be with their wives like cocks.[19]

R. Jannai said: I have heard of some who are lenient in this matter,[20] and I have heard of some who are strict in it;[21] and if anyone is strict with himself in regard to it, his days and years are prolonged.

R. Joshua b. Levi said: What is the sense of those who bathe in the morning? [He asks], What is the sense! Why, it was he himself who said that a ba'al keri is forbidden [to occupy himself] with the words of the Torah! What he meant is this: What is the sense of bathing in forty se'ahs[22] when one can make shift with nine kabs? What is the sense of going right in when throwing the water over one is sufficient? R. Hanina said: They put up a very valuable fence by this,[23] as it has been taught: Once a man enticed a woman to commit an offence and she said to him: Vagabond,[24] have you forty se'ahs to bathe in, and he at once desisted. Said R. Huna to the disciples: My masters, why do you make so light of this bathing? Is it because of the cold? You can use the baths! Said R. Hisda to him: Can ablution be performed in hot baths? — He replied: R. Adda b. Ahabah is of the same opinion as you. R. Ze'ira used to sit in a tub of water in the baths and say to his servant, Go and fetch nine kabs and throw over me. R. Hiyya b. Abba said to him: Why, sir, do you take this trouble, seeing that you are sitting in [that quantity of] water? — He replied: The nine kabs must be like the forty se'ahs: just as the forty se'ahs are for immersion and not for throwing, so the nine kabs are for throwing and not for immersion. R. Nahman prepared an ewer holding nine kabs.[25] When R. Dimi came, he reported that R. Akiba and R. Judah Glostera[26] had said: The rule,[27] was laid down only for a sick person who has an emission involuntarily, but for a sick person who has a voluntary emission[28] forty se'ahs [are required]. Said R. Joseph: R. Nahman's ewer was broken.[29] When Rabin came, he said: The thing took place in Usha

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(1) Lit., ‘Good Behaviour’, two small tractates which did not enjoy the same authority as the rest of the Mishnah.
(2) Viz., the study of the Torah.
(3) Inserted with MS.M.
(4) So MS.M.; cur. edd. Gemara, v. supra p. 64, n. 9.
(5) Because the seminal issue is a sign of frivolity.
(6) Rashi reads ‘Midrash’.
(7) In the Biblical verses which it expounds (Rashi).
(8) V. M.K. 15a.
(9) He had had an issue and was afraid to say the words distinctly.
(10) Jer. XXIII, 29.
(11) Rab.
(12) Lit., ‘the world is accustomed’.
(13) V. Deut. XVIII, 4.
(14) Deut. XXII, 9.
(15) Wheat and barley being mixed seeds, and grape kernels mixed seeds of the vineyard.
(16) V. supra 15a.
(17) A kab is four logs of twenty-four eggs.
(18) V. Ta'an. 21a.
(19) And therefore he did not want it to be too well known among the scholars.
(20) Of using only nine kabs, or not bathing at all.
(21) Insisting on forty se'ahs.
(22) The minimum quantity of water required for ritual ablution.
(23) Insisting on forty se'ahs.
(24) Rekah (Raka) ‘empty one’, ‘good for nothing’.
(25) For the use of the disciples.
(26) According to some, this word means ‘locksmith’.
(27) That nine kabs are sufficient.
(28) Lit., ‘a sick person who induces it’. I.e., after marital intercourse.
(29) I.e rendered useless, because in view of his teaching nine kabs can rarely be of effect.

Talmud - Mas. Berachoth 22b

in the anteroom of R. Oshaia. They came and asked R. Assi, and he said to them, This rule was laid down only for a sick person whose emission is voluntary, but a sick person whose emission is involuntary requires nothing at all. Said R. Joseph: R. Nahman's ewer has been repaired again.[1]

Let us see! The dispute between all these Tannaim and Amoraim is as to the ordinance of Ezra. Let us see then what Ezra did ordain! Abaye said: Ezra ordained that a healthy man whose emission is voluntary must immerse in forty se'ahs, and a healthy man whose emission is involuntary must use nine kabs, and the Amoraim came and differed over the sick person.[2] One held that a sick person whose emission is voluntary is on the same footing as a healthy person whose emission is voluntary, and a sick person whose emission is involuntary as a healthy person whose emission is involuntary; while the other held that a sick person whose emission is voluntary is on the same footing as a healthy person whose emission is involuntary and a sick person whose emission is involuntary requires nothing at all. Raba said: Granted that Ezra ordained immersion, did he ordain throwing? Has not a master said: Ezra ordained immersion for persons who have had a seminal emission? Rather, said Raba, Ezra ordained for a healthy person whose emission is voluntary forty se'ahs, and the Rabbis [after Ezra] came and ordained for a healthy person whose emission is involuntary nine kabs. and the [Tannaim and][3] Amoraim came and differed with regard to a sick person,[4] one holding that a sick person whose emission is voluntary is on the same footing as a healthy person whose emission is voluntary and a sick person whose emission is involuntary as a healthy person whose emission is involuntary, while the other held that a healthy person whose emission is voluntary requires forty se'ahs and a sick person whose emission is voluntary is on the same footing as a healthy person whose emission is involuntary and requires nine kabs, while a sick person whose emission is involuntary requires nothing at all. Raba said: The law is that a healthy person whose emission is voluntary and a sick person whose emission is voluntary require forty se'ahs, a healthy person whose emission is involuntary requires nine kabs, and a sick person whose emission is involuntary requires nothing at all.[5]

Our Rabbis taught: A ba'al keri over whom nine kabs of water have been thrown is clean. When is this the case? When it is for himself;[6] but when it is for others,[7] he requires forty se'ahs. R. Judah says: Forty se'ahs in all cases. R. Johanan and R. Joshua b. Levi and R. Eleazar and R. Jose son of R. Hanina [made pronouncements]. One of the first pair and one of the second pair dealt with the first clause of this statement. One said: This statement of yours, ‘When is this the case? When it is for himself, but for others he requires forty se'ahs’, was meant to apply only to a sick person whose emission is voluntary, but for a sick person whose emission is involuntary nine kabs are enough. The other said: Wherever it is for others, even if he is a sick person whose emission is involuntary, there must be forty se'ahs. One of the first pair and one of the second pair differed as to the second clause of the statement. One said: When R. Judah said that ‘forty se'ahs are required in all cases’, he was speaking only of water in the ground,[8] but not in vessels. The other said: Even in vessels. On the view of the one who says ‘even in vessels’, there is no difficulty, that is why R. Judah taught: ‘Forty se'ahs in all cases’. But on the view of the one who says ‘in the ground, yes, in vessels, no’, what is added by the words ‘in all cases’? — They add drawn water.[9]

R. Papa and R. Huna the son of R. Joshua and Raba b. Samuel were taking a meal together. Said R. Papa to them: Allow me to say the grace [on your behalf] because nine kabs of water have been thrown on me. Said Raba b. Samuel to them: We have learnt: When is this the case? When it is for himself; but if it is for others, forty se'ahs are required. Rather let me say the grace, since forty se'ahs have been thrown on me. Said R. Huna to them: Let me say the grace since I have had neither the one nor the other on me.[10] R. Hama bathed on the eve of Passover in order [that he might be qualified] to do duty on behalf of the public,[11] but the law is not as stated by him.[12] MISHNAH. IF A MAN WAS STANDING SAYING THE TEFILLAH AND HE REMEMBERS THAT HE IS A BA'AL KERI, HE SHOULD NOT BREAK OFF BUT HE SHOULD SHORTEN [THE BENEDICTIONS].[13] IF HE WENT DOWN TO IMMERSE HIMSELF, IF HE IS ABLE TO COME UP AND COVER HIMSELF AND RECITE THE SHEMA’ BEFORE THE RISING OF THE SUN, HE SHOULD GO UP AND COVER HIMSELF AND RECITE, BUT IF NOT HE SHOULD COVER HIMSELF WITH THE WATER AND RECITE. HE SHOULD, HOWEVER, NOT COVER HIMSELF EITHER WITH FOUL WATER[14] OR WITH WATER IN WHICH SOMETHING[15] HAS BEEN STEEPED UNTIL HE POURS FRESH WATER INTO IT. HOW FAR SHOULD HE REMOVE HIMSELF FROM IT[14] AND FROM EXCREMENT? FOUR CUBITS.

GEMARA. Our Rabbis taught: If a man was standing saying the Tefillah and he remembered that he was a ba'al keri, he should not break off but shorten the benedictions. If a man was reading the Torah and remembered that he was a ba'al keri, he should not break off and leave it but should go on reading in a mumbling tone. R. Meir said: A ba'al keri is not permitted to read more than three verses in the Torah. Another [Baraitha] taught: If a man was standing saying the Tefillah and he saw excrement in front of him, he should go forward until he has it four cubits behind him. But it has been taught: He should move to the side? — There is no contradiction; one statement speaks of where it is possible for him [to go forward], the other of where it is not possible.[16] If he was praying and he discovered some excrement where he was standing, Rabbah says, even though he has sinned,[17] his prayer is a valid one. Raba demurred to this, citing the text, The sacrifice of the wicked is an abomination?[18] No, said Raba: Since he has sinned, although he said the Tefillah, his prayer is an abomination.

Our Rabbis taught: If a man was standing saying the Tefillah and water drips over his knees, he should break off until the water stops and then resume his Tefillah. At what point should he resume? — R. Hisda and R. Hamnuna gave different replies. One said that he should go back to the beginning, the other said, to the place where he halted. May we say that the ground of their difference is this

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(1) I.e., the disciples can still make use of it.

(2) Inserted with D.S.

(3) Inserted with MS.M.

(4) Cf. n. 1.

(5) This ruling was previous to, and therefore superseded by, that of R. Nahman, that the law follows R. Judah b. Bathyra.

(6) E.g., if he wants to study.

(7) E.g., if he has to teach.

(8) E.g., in a cistern, river or well.

(9) I.e., water not directly from a spring.

(10) I.e., I have required neither the one nor the other.

(11) Say grace on their behalf.

(12) That immersion is required to qualify for acting on behalf of others. Or it may mean that the law follows R. Judah b. Bathyra.

(13) I.e., say a shorter form of each one.

(14) I.e., urine, as explained below.

(15) E.g., flax.

(16) E.g., if there is a river in the way.

(17) I.e., is himself responsible, v. Tosaf.

(18) Prov. XXI, 27.

Talmud - Mas. Berachoth 23a

, that one authority holds that if one stops long enough to finish the whole he goes back to the beginning, while the other holds that he goes back [in any event] to the place where he stopped?[1] Said R. Ashi: In that case the statement should distinguish between whether he stopped [long enough] or did not stop.[2] We must therefore say that both are agreed that if he stopped long enough to finish the whole of it he goes back to the beginning, and here they differ in regard to the case where he did not stop [so long], one holding that the man was unfit[3] [to have commenced his prayers] and hence his prayer is no prayer, while the other holds that the man was [nevertheless] in a fit state [to pray] and his prayer is a valid one.

Our Rabbis taught: If a man needs to consult nature he should not say the Tefillah, and if he does, his prayer is an abomination. R. Zebid — or as some say Rab Judah — said: They meant this to apply only if he is not able to hold himself in, but if he is able to hold himself in, his prayer is a valid one. How much must he be able to hold himself in? — R. Shesheth said: Long enough to go a parasang. Some teach this statement as part of the Baraitha [just quoted], thus: When is this the case [that his prayer is an abomination]? When he cannot hold himself in; but if he can hold himself in, his prayer is valid. And how long must he be able to do so? — R. Zebid said: Long enough for him to walk a parasang.

R. Samuel b. Nahmani said in the name of R. Jonathan: One who needs to ease himself should not say the Tefillah, as it says, Prepare to meet thy God, O Israel.[4] R. Samuel b. Nahmani also said in the name of R. Jonathan: What is the meaning of the verse, Guard thy foot when thou goest to the house of God?[5] Guard thyself so that thou shouldst not sin, and if thou dost sin, bring an offering before Me. And be ready to hearken.[6] Raba said. Be ready to hearken to the words of the wise who, if they sin, bring an offering and repent. It is better than when the fools give![7] Do not be like the fools who sin and bring an offering and do not repent. For they know not to do evil,[8] — if that is the case, they are righteous? — What it means is: Do not be like the fools who sin and bring an offering and do not know whether they bring it for a good action or a bad action. Says the Holy One, blessed be He: They do not distinguish between good and evil, and they bring an offering before Me. R. Ashi, — or, as some say, R. Hanina b. Papa — said: Guard thy orifices[9] at the time when thou art standing in prayer before Me.

Our Rabbis taught: One who is about to enter a privy should take off his tefillin at a distance of four cubits and then enter. R. Aha son of R. Huna said in the name of R. Shesheth: This was meant to apply only to a regular privy,[10] but if it is made for the occasion, he takes them off and eases himself at once, and when he comes out he goes a distance of four cubits and puts them on, because he has now made it a regular privy. The question was asked, What is the rule about a man going in to a regular privy with his tefillin to make water? Rabina allowed it; R. Adda b. Mattena forbade it. They went and asked Raba and he said to them: It is forbidden, since we are afraid that he may ease himself in them, or, as some report, lest he may break wind in them. Another [Baraitha] taught: One who enters a regular privy takes off his tefillin at a distance of four cubits and puts them in the window on the side of the public way[11] and enters, and when he comes out he goes a distance of four cubits and puts them on. So Beth Shammai. Beth Hillel say: He keeps them in his hand and enters. R. Akiba said: He holds them in his garment and enters. ‘In his garment’, do you say? Sometimes they may slip out[12] and fall! — Say rather, he holds them in his hand and in his garment, and enters, and he puts them in a hole on the side of the privy, but he should not put them in a hole on the side of the public way, lest they should be taken by passers-by, and he should render himself suspect. For a certain student once left his tefillin in a hole adjoining the public way, and a harlot passed by and took them, and she came to the Beth ha-Midrash and said: See what So-and-so gave me for my hire, and when the student heard it, he went to the top of a roof and threw himself down and killed himself. Thereupon they ordained that a man should hold them in his garment and in his hand and then go in.

The Rabbis taught: Originally they used to leave tefillin in holes on the side of the privy, and mice used to come and take them. They therefore ordained that they should be put in the windows on the side of the public way. Then passers-by came and took them. So they ordained that a man should hold them in his hand and enter. R. Meyasha the son of R. Joshua b. Levi said: The halachah is that he should roll them up like a scroll[13] and keep them in his right hand, opposite his heart. R. Joseph b. Manyumi said in the name of R. Nahman: He must see that not a handbreadth of strap hangs loose from his hand. R. Jacob b. Aha said in the name of R. Zera: This is the rule only if there is still time left in the day to put them on[14] but if there is no time left in the day, he makes a kind of bag for them of the size of a handbreadth and puts them there.[15] Rabbah b. Bar Hanah said in the name of R. Johanan: In the daytime [when he enters a privy] he rolls them up like a scroll and keeps them in his hand opposite his heart, and for the night he makes a kind of bag for them of the size of a handbreadth, and puts them there. Abaye said: This rule was meant to apply only to a bag which is meant for them, but if the bag is not meant for them, even less than a handbreadth is sufficient. Mar Zutra — or as some say R. Ashi — said: The proof is that small vessels[16] protect [the contents from uncleanness] in a tent of the dead.[17]

Rabbah b. Bar Hanah further said: When we were following R. Johanan [as disciples], when he wanted to enter a privy, if he had a book of Aggada, he used to give it to us to hold, but if he was wearing tefillin he did not give them to us, saying, since the Rabbis have permitted them[18]

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(1) V. infra 24b.

(2) I.e., the two Rabbis should have stated their views on this case also.

(3) Since he could not contain himself till he finished. Lit., ‘rejected’. Cur. edd. add ‘and he is unfit’, which is omitted in MS.M.

(4) Amos. IV, 12. Interpreted to mean, Put thyself in a fit state to meet etc.

(5) Eccl. IV, 17.

(6) Eccl. IV, 17.

(7) Ibid.

(8) Ibid. This is the literal rendering; E.V. ‘for they know not that they do evil’.

(9) This is an alternative rendering of the word ragleka (thy foot) which is taken in the same sense as in I Sam. XXIV, 4.

(10) Where there is already excrement.

(11) The privies in Babylon were out in the fields.

(12) V. MS.M.

(13) I.e., wind the straps round them.

(14) It was customary to wear the tefillin the whole of the day and take them off at night-time.

(15) A bag of this size would protect them from uncleanness.

(16) With a tight fitting cover. V. Num. XIX, 15.

(17) Even if they are less than one handbreadth in size.

(18) To hold them to one's hand.

Talmud - Mas. Berachoth 23b

they will protect me.[1] Raba said: When we were following R. Nahman, if he had a book of Aggada he used to give it to us, but if he was wearing tefillin he did not give them to us, saying, since the Rabbis have permitted them, they will guard me.

Our Rabbis taught: A man should not hold tefillin in his hand or a scroll of the Law in his arm while saying the Tefillah,[2] nor should he make water while wearing them, nor sleep in them, whether a regular sleep or a short snatch. Samuel says: A knife, money, a dish and a loaf of bread are on the same footing as tefillin.[3] Raba said in the name of R. Shesheth: The law is not in accordance with this Baraitha,[4] since it expresses the view of Beth Shammai. For seeing that Beth Hillel declare it permissible in a regular privy [to hold the tefillin] is there any question that they would permit it in an ad hoc privy?

An objection was raised: The things which I have permitted to you in the one place I have forbidden to you in the other. Presumably this refers to tefillin. Now if you say the Baraitha quoted follows Beth Hillel, there is no difficulty. ‘l have permitted it to you in the one place’ — the regular privy, ‘and I have forbidden it to you in the other’ — the ad hoc privy. But if you say it is Beth Shammai, they do not permit anything! — That statement[5] refers to the baring of the handbreadth and two handbreadths, as one [Baraitha] taught: When a man eases himself, he may bare a hand breadth behind and two handbreadths in front, and another taught: a handbreadth behind and in front not at all. Is it not the case that both statements refer to a man, and there is no contradiction, the former referring to easing and the latter to making water? But do you think so? If for making water, why a handbreadth behind? Rather both refer to easing, and there is no contradiction, the one referring to a man and the other to a woman. If that is the case,[6] what of the succeeding statement, ‘This is an a fortiori which cannot be rebutted’? What is the point of ‘which cannot be rebutted’? This[7] is merely the natural way! We must say therefore that tefillin are referred to [in the Baraitha], and it is a refutation of what Raba said in the name of R. Shesheth. — It is a refutation. Still a difficulty remains: If it is permissible in a regular privy, how much more so in an ad hoc privy! — What it means is this: In a regular privy where there is no splashing, it is permitted; in an ad hoc privy where there is splashing,[8] it is forbidden. If that is the case, how can you say, ‘which cannot be rebutted’? There is an excellent refutation? — What it means is this: This[9] rule is based upon a reason[10] and not upon an argument a fortiori; for if we were to employ here an argument a fortiori,[11] it would be one which could not be rebutted.

Our Rabbis taught: One who wishes to partake [in company] of a regular meal,[12] should walk four cubits ten times or ten cubits four times and ease himself and then go in. R. Isaac said: One who wishes to [partake of] a regular meal should take off his tefillin[13] and then go in. He differs from R. Hiyya; for R. Hiyya said: He places them on his table, and so it is becoming for him. How long does he leave them there? Until the time for grace.[14]

One [Baraitha] taught: A man may tie up his tefillin in his headgear[15] along with his money, while another teaches, He should not so tie them! — There is no contradiction; in the one case he sets it aside for this purpose, in the other he does not set it aside. For R. Hisda said: If a man has [mentally] set aside a cloth to tie up tefillin in, once he has tied up tefillin in it, it is forbidden to tie up in it money; if he has set it aside but not tied up the tefillin in it, or if he has tied them up in it without setting it aside for the purpose, he may tie up money in it. According to Abaye, however, who says that mere setting aside is operative,[16] once he has set it aside, even though he has not tied up tefillin in it, it is forbidden to tie up money, and if he has tied up tefillin in it, if he has set it aside it is forbidden to tie up money, but if he has not set it aside it is not forbidden.

R. Joseph the son of R. Nehunia asked Rab Judah: What is the rule about placing one's tefillin under one's pillow? About putting them under the place of his feet I have no need to ask, because that would be treating them contemptuously. What I do want to know is, what is the rule about putting them under his pillow? — He replied: Thus said Samuel: It is permitted, even if his wife is with him. An objection was raised. A man should not put his tefillin under the place of his feet, because this is treating them contemptuously, but he may place them under his pillow, but if his wife is with him this is forbidden. If, however, there is a place three handbreadths above his head or three handbreadths below,[17] he may put them there. Is not this a refutation of Samuel? It is. Raba said: Although it has been taught that this is a refutation of Samuel, the law follows his opinion. What is the reason?

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(1) From evil spirits. Var. lec.: we need not trouble (to take them off).

(2) The fear of dropping them will distract his attention.

(3) They also will distract his attention if he is holding them.

(4) That it is forbidden to make water in tefillin.

(5) ‘The things I have forbidden to you, etc.’.

(6) If the Baraitha, ‘The things which I have permitted to you in the one place’ etc. refers to the difference between a man and a woman.

(7) Difference between man and woman.

(8) Since it is used for urine only.

(9) To permit in a regular privy and prohibit in an ad hoc one.

(10) The risk of soiling the hand.

(11) Viz., from a regular one to an ad hoc one.

(12) And is doubtful if he can contain himself, and to leave the company would be impolite. (Rashi.)

(13) As it would not be respectful to eat in them.

(14) When he puts them on again.

(15) Aparkesuth, a head-covering which flowed down over the body. Aliter: ‘underwear’, or ‘sheet’.

(16) In the matter of weaving a sheet for a dead body, Sanh. 47b.

(17) Projecting from the bed.

Talmud - Mas. Berachoth 24a

— Whatever conduces to their safe keeping[1] is of more importance.[2] Where should he put them? R. Jeremiah said: Between the coverlet and the pillow, not opposite to his head. But R. Hiyya taught:

He puts them in a turban[3] under his pillow? — It must be in such a way as to make the top of the turban[4] project outside [the pillow]. Bar Kappara used to tie them in the bed-curtain and make them project outside.[5] R. Shesheth the son of R. Idi used to put them on a stool and spread a cloth over them. R. Hamnuna the son of R. Joseph said: Once when I was standing before Raba he said to me: Go and bring me my tefillin, and I found them between the coverlet and the pillow, not just opposite his head, and I knew that it was a day of ablution [for his wife],[6] and I perceived that he had sent me in order to impress upon me a practical lesson.

R. Joseph the son of R. Nehunia inquired of Rab Judah: If two persons are sleeping in one bed, how would it be for one to turn his face away and recite the Shema', and for the other to turn his face away and recite? — He replied: Thus said Samuel: [It is permitted] even if his wife is with him. R. Joseph demurred to this. [You imply, he said] 'His wife', and needless to say anyone else. On the contrary, [we should argue]: His wife is like himself,[7] another is not like himself! An objection was raised: If two persons are sleeping in one bed, one turns his face away and recites the Shema' and the other turns his face away and recites the Shema'. And it was taught in another [place]: If a man is in bed and his children and the members of his household[8] are at his side, he must not recite the Shema' unless there is a garment separating them, but if his children and the members of his household are minors, he may. Now I grant you that if we accept the ruling of R. Joseph there is no difficulty, as we can explain one [statement] to refer to his wife and the other to another person. But if we accept Samuel's view there is a difficulty? — Samuel can reply: And on R. Joseph's view is there no difficulty, seeing that it has been taught: If a man was in bed, and his sons[9] and the members of his household with him,[10] he should not recite the Shema' unless his garments separated them from him? What then must you say? That in R. Joseph's opinion there is a difference of opinion among Tannaim as to his wife. In my opinion also there is a difference among Tannaim.[11]

The Master has said: 'One turns his face away and recites the Shema'. But there is the contact of the buttocks? — This supports the opinion of R. Huna, who said: Contact of the buttocks is not sexual. May we say that it supports the following opinion of R. Huna: A woman may sit and separate her hallah[12] naked, because she can cover her nakedness in the ground[13] but not a man! — Said R. Nahman b. Isaac: It means, if her nakedness was well covered by the ground.[14]

The Master said: 'If his children and the members of his household were minors, it is permitted'. Up to what age? — R. Hisda said: A girl up to three years and one day, a boy up to nine years and one day. Some there are who say: A girl up to eleven years and a day, and a boy up to twelve years and a day; with both of them [it is] up to the time when Thy breasts were fashioned and thy hair was grown.[15] Said R. Kahana to R. Ashi: In the other case[16] Raba said that, although there was a refutation of Samuel, yet the law followed his ruling. What is the ruling here?[17] — He replied to him: Do we weave them all in the same web?[18] Where it has been stated [that the law follows him] it has been stated, and where it has not been stated it has not been stated.

R. Mari said to R. Papa: If a hair protrudes through a man's garment,[19] what is the rule? — He exclaimed: 'Tis but a hair, a hair![20]

R. Isaac said: A handbreadth [exposed] in a [married] woman constitutes sexual incitement.[21] In which way? Shall I say, if one gazes at it? But has not R. Shesheth [already] said: Why did Scripture enumerate the ornaments worn outside the clothes with those worn inside?[22] To tell you that if one gazes at the little finger of a woman, it is as if he gazed at her secret place! — No, It means, in one's own wife, and when he recites the Shema'. R. Hisda said: A woman's leg is a sexual incitement, as it says. Uncover the leg, pass through the rivers,[23] and it says afterwards, Thy nakedness shall be uncovered, yea, thy shame shall be seen.[24] Samuel said: A woman's voice is a sexual incitement, as it says, For sweet is thy voice and thy countenance is comely.[25] R. Shesheth said: A woman's hair is a sexual incitement, as it says, Thy hair is as a flock of goats.[26]

R. Hanina said: I saw Rabbi hang up his tefillin. An objection was raised: If one hangs up his tefillin, his life will be suspended. The Dorshe hamuroth[27] said: And thy life shall hang in doubt before thee:[28] this refers to one who hangs up his tefillin! — This is no difficulty: the one statement refers to hanging by the strap, the other to hanging by the box. Or if you like, I can say that in either case, whether by the strap or by the box, it is forbidden, and when Rabbi hung his up it was in a bag. If so, what does this tell us? — You might think that they must be resting on something like a scroll of the Law. Therefore we are told that this is not necessary.

R. Hanina also said: I saw Rabbi [while Saying the Tefillah] belch and yawn and sneeze and spit

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(1) From mice or robbers.
(2) Than preserving them from disrespect.
(3) Which he uses as a bag.
(4) I.e., the side where the cases of the tefillin can be recognized.
(5) I.e., away from the bed.
(6) Which showed that he had slept with her.
(7) Lit., 'like his body'.
(8) I.e., slaves.
(9) Bah. omits this word.
(10) 'Members of the household' must here be understood to include the wife. This is a very unusual use of the expression, and Tosaf. emends, 'If he was in bed and his wife was by his side, etc.'.
(11) As to his wife or another person.
(12) V. Num. XV, 20. A blessing is prescribed for this rite.
(13) Although the posteriors are exposed.
(14) So that even the posteriors are covered.
(15) Ezek. XVI, 7.
(16) Of putting the tefillin under the pillow, supra.
(17) In regard to reciting the Shema' in bed.
(18) I.e., adopt all his rulings indiscriminately.
(19) Is it regarded as indecent exposure?
(20) I.e., it does not matter.
(21) Lit. — 'nakedness'.
(22) Among the ornaments taken by the Israelites from the women of Midian (Num. XXXI, 50) was the kumaz (E.V. 'girdles') which the Rabbis supposed to have been worn inside under the garments, while the others were worn outside.
(23) Isa. XLVII, 2.
(24) Ibid. 3.
(25) Cant. II, 14.
(26) Ibid. IV, 1.
(27) Lit., 'Expounders of essentials', a school of early homiletical exegetes; v. Pes. (Sonc. ed.) p. 266, n. 9.
(28) Deut. XXVIII, 66.

Talmud - Mas. Berachoth 24b

and adjust his garment,[1] but he did not pull it over him;[2] and when he belched, he would put his hand to his chin. The following objection was cited: 'One who says the Tefillah so that it can be heard is of the small of faith;[3] he who raises his voice in praying is of the false prophets;[4] he who belches and yawns is of the arrogant; if he sneezes during his prayer it is a bad sign for him — some say, it shows that he is a low fellow; one who spits during his prayer is like one who spits before a king'. Now in regard to belching and yawning there is no difficulty; in the one case it was involuntary, in the other case deliberate. But the sneezing in Rabbi's case does seem to contradict the sneezing in the other? — There is no contradiction between sneezing and sneezing either; in the one case it is above, in the other below.[5] For R. Zera said: This dictum was casually imparted to me in the school of R. Hamnuna, and it is worth all the rest of my learning: If one sneezes in his prayer it is a good sign for him, that as they give him relief below [on earth] so they give him relief above [in heaven]. But there is surely a contradiction between the spitting in the one case and the other? — There is no contradiction between the two cases of spitting either, since it can be done as suggested by Rab Judah. For Rab Judah said: If a man is standing saying the Tefillah, and spittle collects in his mouth, he covers it up in his robe, or, if it is a fine robe, in his scarf.[6] Rabina was once standing behind R. Ashi and he wanted to spit, so he spat out behind him. Said R. Ashi to him: Does not the Master accept the dictum of Rab Judah, that he covers it up in his scarf? He replied: I am rather squeamish.

'One who says the Tefillah so that it can be heard is of the small of faith'. R. Huna said: This was meant to apply only if he is able to concentrate his attention when speaking in a whisper, but if he cannot concentrate his attention when speaking in a whisper, it is allowed. And this is the case only when he is praying alone, but if he is with the congregation [he must not do so because] he may disturb the congregation.

R. Abba kept away from Rab Judah because he wanted to go up to Eretz Israel; for Rab Judah said, Whoever goes up from Babylon to Eretz Israel transgresses a positive precept, since it says, They shall be carried to Babylon and there shall they be, until the day that I remember them, saith the Lord.[7] He said: I will go and listen to what he is saying from outside[8] the Academy.[9] So he went and found the Tanna[10] reciting in the presence of Rab Judah: If a man was standing saying the Tefillah and he broke wind, he waits until the odour passes off and begins praying again. Some say: If he was standing saying the Tefillah and he wanted to break wind, he steps back four cubits and breaks wind and waits till the wind passes off and resumes his prayer, saying, Sovereign of the Universe, Thou hast formed us with various hollows and various vents. Well dost Thou know our shame and confusion, and that our latter end is worms and maggots! and he begins again from the place where he stopped. He said:[11] Had I come only to hear this, it would have been worth my while.

Our Rabbis taught: If a man is sleeping in his garment and cannot put out his head on account of the cold, he folds his garment round his neck to make a partition[12] and recites the Shema'. Some say, round his heart. But how can the first Tanna [say thus]? His heart is surely in sight of the sexual organ! — He was of opinion that if the heart is in sight of the sexual organ, it is still permissible [to say the Shema']. R. Huna said in the name of R. Johanan: If a man is walking in a dirty alley way, he puts his hand over his mouth and recites the Shema'. Said R. Hisda to him: By God, had R. Johanan said this to me with his own mouth, I would not have listened to him.[13] (Some report: Rabbah b. Bar Hanah said in the name of R. Joshua b. Levi: If a man is walking in a dirty alley way, he puts his hand over his mouth and recites the Shema'. Said R. Hisda to him: By God, had R. Joshua b. Levi said this to me with his own mouth, I would not have listened to him.) But could R. Huna have said this, seeing that R. Huna has said: A scholar is forbidden to stand in a place of filth, because he must not stand still without meditating on the Torah? — There is no contradiction: one statement speaks of standing, the other of walking. But could R. Johanan have said this, seeing that Rabbah b. Bar Hanah has said in the name of R. Johanan: In every place it is permitted to meditate on words of Torah except in the bath and in a privy? And should you reply, here also one statement speaks of standing and one of walking, can that be so, seeing that R. Abbahu was once walking behind R. Johanan and reciting the Shema', and when he came to a dirty alley way, he stopped; and [when they emerged] he said to R. Johanan, Where shall I commence again, and he replied: If you have stopped long enough to finish it, go back to the beginning? — What he meant to say to him was this: I do not hold [that you need have stopped]. But taking your view, that it was necessary, if you have stopped long enough to finish it, go back to the beginning. There is a teaching in accordance with R. Huna, and there is a teaching in accordance with R. Hisda. It has been taught in accordance with R. Huna: If one was walking in a dirty alley way, he puts his hand over his mouth and recites the Shema'. It has been taught in accordance with R. Hisda: If one was walking in a dirty alley way, he should not recite the Shema’; and what is more, if he was reciting and came to one, he should stop. Suppose he does not stop, what happens? R. Meyasha the grandson of R. Joshua b. Levi said: Of him Scripture says: Wherefore I gave them also statutes that were not good and ordinances whereby they should not live.[14] R. Assi said: Woe unto them that draw iniquity with cords of vanity.[15] R. Adda b. Ahabah said: Because he hath despised the word of the Lord.[16] And if he stops, what is his reward? — R. Abbahu said: Of him Scripture says: Through this word[17] ye shall prolong your days.[18]

R. Huna said: If a man's garment is girded round his waist,[19] he may recite the Shema’. It has been taught similarly: If his garment, whether of cloth or of leather or of sacking, is girded round his waist, he may recite the Shema’

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(1) Aliter: ‘feel his garment’, to remove insects.

(2) If it fell right off, as this would constitute an interruption in the Tefillah. So Rashi. R. Hananel, however, renders: He adjusted his robe so that it should not fall off his head, but if it did fall he did not replace it.

(3) Because he imagines that otherwise God will not hear him.

(4) Cf. I Kings XVIII, 28.

(5) Euphemism.

(6) Aliter: underwear. V. supra p. 142, n. 1.

(7) Jer. XXVII, 22; v. Keth. 110b.

(8) V. Rashi.

(9) Lit., ‘House of Meeting’.

(10) V. Glos. s.v. (b).

(11) Omitting ‘to him’ of cur. edd. V. Bah.

(12) Between his face and the lower part of his body, if it was bare.

(13) I.e., he would not permit it.

(14) Ezek. XX, 25.

(15) Isa. V, 18.

(16) Num. XV, 31.

(17) E.V. ‘thing’.

(18) I.e., through being careful with regard to the utterance of the Torah. Deut. XXXII, 47.

(19) And hangs down from there, leaving his upper part uncovered.

Talmud - Mas. Berachoth 25a

, but the Tefillah he may not say until he covers his chest.[1] R. Huna further said: If a man forgot and entered a privy while wearing his tefillin, he places his hand over them till he finishes. ‘Till he finishes’? How can this be assumed? Rather it is as R. Nahman b. Isaac said: Until he finishes the first discharge. But why should he not stop at once and get up? — On account of the dictum of R. Simeon b. Gamaliel, as it has been taught: R. Simeon b. Gamaliel says: Keeping back the faeces brings on dropsy, keeping back urine brings on jaundice.

It has been stated: If there is some excrement on a man's flesh or if his hand is inside a privy,[2] R. Huna says that he is permitted to say the Shema’, while R. Hisda says he is forbidden to say the Shema’. Raba said: What is the reason of R. Huna? — Because it is written, Let everything that hath breath praise the Lord.[3] R. Hisda says that it is forbidden to say the Shema’. What is the reason of R. Hisda? — Because it is written, All my bones shall say, Lord, who is like unto Thee.[4]

It has been stated: [If there is] an evil smell [proceeding] from some tangible source, R. Huna says that one removes [from the source of the smell] four cubits and recites the Shema’; R. Hisda says: He removes four cubits from the place where the smell ceases, and then recites the Shema’. It has been taught in accordance with R. Hisda: A man should not recite the Shema’ either in front of human excrement or of the excrement of dogs or the excrement of pigs or the excrement of fowls or the filth of a dungheap which is giving off an evil smell. If, however, it is in a place ten handbreadths above him or ten handbreadths beneath him, he can sit at the side of it and recite the Shema'; otherwise he removes himself out of sight of it; and similarly for the Tefillah. [If there is] an evil smell [proceeding] from a tangible object, he removes four cubits from [the source of] the smell and recites the Shema'. Raba said: The law is not as stated in this Baraitha,[5] but it has been taught in the following: A man should not recite the Shema' in front either of human excrement or excrement of pigs or excrement of dogs when he puts skins in them.[6] They asked R. Shesheth: What of an evil smell which has no tangible source?[7] He said to them: Come and see these mats in the school house; some sleep on them[8] while others study. This, however, applies only to study,[9] but not to the Shema'. And even as regards study it applies only if the smell is made by another but not if it is made by himself.

It has been stated: If manure is being carried past one, Abaye says it is permitted to recite the Shema',[10] while Raba says it is forbidden to recite the Shema'. Said Abaye: Whence do I derive my opinion? Because we have learnt: If an unclean person is standing under a tree and a clean one passes by, he becomes unclean. If a clean person is standing under a tree and an unclean one passes by, he remains clean, but if he [the unclean person] stands still, he becomes unclean. And similarly with a stone smitten with leprosy.[11] To which Raba can reply: In that case the deciding factor is the permanence,[12] as it is written, He shall dwell alone, without the camp shall his dwelling be.[13] But in this case, the All-Merciful has said, Therefore shall thy camp be holy,[14] and this condition is not fulfilled.

R. Papa said: The snout of a pig is like manure being carried past. This is obvious?[15] — It required to be stated, to show that it applies even if the animal is coming up from the river.

Rab Judah said: If there is a doubt about [the presence of] excrement, it is forbidden; if there is a doubt about urine, it is permitted. Some there are who say: Rab Judah said: If there is a doubt about excrement in the house, it is permitted,[16] in the dungheap it is forbidden. If there is a doubt about urine, it is permitted even in the dungheap. He adopted the view of R. Hamnuna; for R. Hamnuna said: The Torah forbade the recital of the Shema' only in face of the Stream [of urine]. And this is as taught by R. Jonathan; for R. Jonathan contrasted two texts. It is written: Thou shalt have a place also without the camp, whither thou shalt go forth abroad,[17] and it is also written, And thou shalt have a paddle . . . thou shalt cover that which cometh from thee.[18] How are these two statements to be reconciled? The one speaks of easing, the other of urine. This proves that urine was not forbidden by the Torah save in face of the stream only, and once it has fallen to the ground it is permitted, and it is the Rabbis who imposed a further prohibition, and when they did so, it was only in a case of certainty but not in a case of doubt. And in a case of certainty, how long is it forbidden? — Rab Judah said in the name of Samuel: So long as it moistens [the ground]. And so said Rabbah b. Hanah in the name of R. Johanan: So long as it moistens [the ground]. So too said 'Ulla: So long as it moistens [the ground]. Ganiba said in the name of Rab: So long as the mark is discernible. Said R. Joseph: May Ganiba be forgiven by his Master![19] Seeing that even of excrement Rab Judah has said in the name of Rab that as soon as it has dried on top it is permitted, is there any question about urine! Said Abaye to him: What reason have you for relying on this statement? Rely rather on this one which was made by Rabbah b. Bar Hanah in the name of Rab: Even if excrement is as a potsherd, it is forbidden [to recite the Shema' near it]. What is the test of its being as dry as a potsherd? — So long as one can throw it [on to the ground] and it does not break, [it is not so dry]. Some say: So long as one can roll it without breaking it.[20] Rabina said: I was once standing before Rab Judah of Difti, and he saw dung and said to me, Look if the top has dried, or not. Some say that what he said to him was this: Look if it has formed cracks. What is the ultimate decision?[21] It has been stated: When dung is like a potsherd, Amemar says it is forbidden and Mar Zutra says it is permitted [to say the Shema' near it]. Raba said: The law is that if dung is as dry as a potsherd it is forbidden, and in the case of urine as long as it is moistening [the ground]. An objection was raised:

As long as urine is moistening [the ground] it is forbidden; if it has been absorbed [in the ground] or has dried up,[22] it is permitted. Now are we not to understand that 'absorption' here is compared to 'drying', and that just as after drying there is no mark left, so after absorption there must be no mark left, and that if there is still a mark it is forbidden, even though it no longer moistens? — But adopting your line of argument, let us see the first clause: 'As long [as urine] is moistening [the ground] it is forbidden', which implies that if there is a mark it is permitted.[23] — The fact is from this [Baraitha] we cannot infer [either way].

Shall we say that there is a difference of Tannaim [on this point]? [For it was taught:] If Urine has been poured out of a vessel, it is forbidden to recite the Shema' in front of that vessel. As for urine itself, if it has been absorbed in the ground it is permitted, if it has not been absorbed it is forbidden. R. Jose says: So long as it moistens the ground. Now what is meant by the 'absorbed' and 'not absorbed' mentioned by the first Tanna? Shall I say that 'absorbed' means that it does not moisten and that 'not absorbed' means that it still moistens, and R. Jose came and said that so long as it moistens it is forbidden, but if only the mark is discernible it is permitted? This is the same as the first Tanna says! We must say then that 'absorbed' means that the mark is not discernible and 'not absorbed' means that the mark is discernible, and R. Jose came and said that so long as it moistens it is forbidden, but if only the mark is discernible it is permitted? — No; both agree that so long as it moistens it is forbidden, and if only the mark is discernible it is permitted,

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(1) Because in the Tefillah he is like one standing before a king.

(2) I.e., he was standing outside with his hand inside the window.

(3) Ps. CL. 6. As much as to say, only the mouth and other breathing organs are concerned with praise.

(4) Ibid. XXXV, 10.

(5) With reference to the excrement of dogs etc.

(6) The excrement of pigs and dogs was used for tanning.

(7) I.e., from the breaking of wind.

(8) And break wind.

(9) Rashi: lit., 'words of Torah'. He cannot study if he has to leave the school-house.

(10) And one need not break off.

(11) V. Kid. 33b. Neg. XIII, 7.

(12) I.e., the standing still of the unclean object.

(13) Lev. XIII, 46. This implies that the leper spreads uncleanness only if he remains in one place.

(14) Deut. XXIII, 15.

(15) That a pig's snout must always contain filth.

(16) Because excrement is not usually found in the house.

(17) Deut. XXIII, 13.

(18) Ibid. 14. Here 'covering' is mentioned.

(19) For reporting Rab wrongly.

(20) This is a more severe test.

(21) With regard to urine.

(22) On stones.

(23) Which is apparently in contradiction to the implication of the second clause.

Talmud - Mas. Berachoth 25b

and here the difference between them is whether it must be wet enough to moisten something else?[1]

IF HE WENT DOWN [TO IMMERSE HIMSELF], IF HE IS ABLE TO COME UP etc. May we say that the Mishnah teaches anonymously the same as R. Eliezer, who said that [the Shema' may be recited] until the rising of the sun?[2] You may even say that it is the same as R. Joshua,[3] and perhaps [the Mishnah] means this to apply to the wathikin, of whom R. Johanan said: The wathikin used to finish the recital with the rising of the sun.[4]

IF NOT, HE SHOULD COVER HIMSELF WITH WATER AND RECITE. But in this case his heart sees the sexual organs? — R. Eleazar said? — or as some also say, R. Aha b. Abba b. Aha said in the name of our teacher:[5] They meant this to apply to turbid water which is like solid earth, in order that his heart should not see his sexual organ.

Our Rabbis taught: If the water is clear, he may sit in it up to his neck and say the Shema'; some say, he should stir it up with his foot. On the ruling of the first Tanna, his heart sees his nakedness? — He held that if his heart sees the sexual organ it is permitted. But his heel sees his nakedness?[6] — He held that if his heel sees his nakedness it is permitted. It has been stated: If his heel sees his nakedness it is permitted [to read the Shema']; if it touches, Abaye says it is forbidden and Raba says it is permitted. This is the way in which R. Zebid taught this passage. R. Hinnena the son of R. Ika thus: If it touches, all agree that it is forbidden. If it sees, Abaye says it is forbidden and Raba says it is permitted; the Torah was not given to the ministering angels.[7] The law is that if it touches it is forbidden, but if it sees it is permitted.

Raba said: If one sees excrement through a glass,[8] he may recite the Shema' in face of it; if he sees nakedness through a glass, he must not recite the Shema' in face of it. 'If he sees excrement through a glass he may recite the Shema' in face of it', because [the permission or otherwise] in the case of excrement depends on whether it is covered.[9] 'If he sees nakedness through a glass it is forbidden to recite in face of it', because the All-Merciful said, that He see no unseemly thing in thee,[10] and here it is seen.

Abaye said: A little excrement may be neutralized with spittle; to which Raba added: It must be thick spittle. Raba said: If the excrement is in a hole, he may put his shoe over it and recite the Shema'. Mar the son of Rabina inquired: What is the rule if there is some dung sticking to his shoe? — This was left unanswered.

Rab Judah said: It is forbidden to recite the Shema' in face of a naked heathen. Why do you say a heathen? The same applies even to an Israelite! — In the case of an Israelite there is no question to him that it is forbidden, but this had to be stated in the case of a heathen. For you might have thought that since Scripture says of them, Whose flesh is as the flesh of asses and whose issue is as the issue of horses,[11] therefore he is just like a mere ass. Hence we are told that their flesh also is called 'nakedness', as it says. And they saw not their father's nakedness.[12]

HE SHOULD NOT COVER HIMSELF EITHER WITH FOUL WATER OR WITH WATER IN WHICH SOMETHING HAS BEEN STEEPED UNTIL HE POURS WATER INTO IT. How much water must he go on pouring?[13] — What it means is this: He must not cover himself with foul water or with water used for steeping at all, nor [may he recite in face of] urine until he pours water into it.

Our Rabbis taught: How much water must he pour into it? A few drops [are enough]. R. Zakkai says: A rebi'ith.[14] R. Nahman said: Where they differ is when the water is poured in last, but if the water was there first, a few drops are sufficient.[15] R. Joseph, however, said: Where they differ is if the water was there first; but if the water was poured in afterwards both agree that there must be a rebi'ith?. R. Joseph once said to his attendant: Bring me a rebi'ith of water, as prescribed by R. Zakkai.

Our Rabbis taught: It is forbidden to recite the Shema' in face of a chamber pot for excrement or urine even if there is nothing in it, or in face of urine itself [if it is in another vessel] until he pours water into it. How much must he pour? A few drops. R. Zakkai says: A Rebi'ith, whether it is in front of the bed or behind the bed.[16] R. Simeon b. Gamaliel says: If it is behind the bed, he may recite the

Shema', if it is in front of the bed he may not recite, but he must remove four cubits and then recite. R. Simeon b. Eleazar says: Even if the room is a hundred cubits long he should not say the Shema' in it until he takes it away or places it under the bed. The question was asked: How did he [R. Simeon b. Gamaliel] mean? That if it is behind the bed he may recite at once and that if it is in front of the bed he must remove four cubits and then recite? Or did he perhaps mean it this way, that if it is behind the bed he removes to a distance of four cubits, but if it is in front of the bed he does not recite at al? — Come and hear, for it has been taught: R. Simeon b. Eleazar says: If it is behind the bed he may recite at once, if it is in front of the bed he removes four cubits. R. Simeon b. Gamaliel Says: Even in a room a hundred cubits long he should not recite until he takes it out or puts it under the bed. Our question has been answered, but there is a contradiction between the Baraitha? — Reverse the [names in] the second one. What reason have you for reversing the second one? Why not reverse the first? — Who is recorded to have said that the whole room is like four cubits? R. Simeon b. Eleazar.[17]

R. Joseph said: I asked R. Huna as follows: There is no question in my mind that a bed with legs less than three handbreadths long is reckoned as being attached to the soil.[18] What of one with legs four, five, six, seven, eight or nine handbreadths long? — He replied: I do not know. About ten I was certain and did not need to ask. Said Abaye: You did well not to ask; ten handbreadths constitutes a different domain.[19] Raba said: The law is that less than three is regarded as attached to the soil, ten constitutes a different domain, from ten to three is what R. Joseph asked R. Huna about and he did not decide it for him. Rab said: The halachah follows R. Simeon b. Eleazar. So too said Bali in the name of R. Jacob the son of the daughter of Samuel:[20] The halachah follows R. Simeon b. Eleazar. Raba, however, said: The halachah does not follow R. Simeon b. Eleazar.

R. Ahai contracted a match for his son with the house of R. Isaac b. Samuel b. Marta. He brought him into the bridal chamber but it was not a success.[21] He went in after him to look, and saw a scroll of the Torah lying there. He said to them:[22] Had I not come now, you would have endangered the life of my son, for it has been taught: It is forbidden to have marital intercourse in a room in which there is a scroll of the Law or tefillin, until they are taken out or placed in one receptacle inside of another. Abaye said: This rule applies only to a receptacle which is not meant for them, but if the receptacles are specially meant for them, ten are no better than one. Raba said: A covering

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(1) Only in this case does the first Tanna forbid, but R. Jose is more stringent.

(2) V. supra 9b. And so the halachah is according to him.

(3) Who says that the time is up to the third hour, v. supra 9b.

(4) V. supra p. 49 n. 4.

(5) Rab.

(6) Since his knees are bent under him.

(7) As much as to say, too much must not be expected of human beings.

(8) Lit., 'a lantern' or 'anything transparent'.

(9) I.e., there is a partition between.

(10) Deut. XXIII, 15.

(11) Ezek. XXIII, 20.

(12) Gen. IX, 23 — of the sons of Noah.

(13) As much as to say, how can he hope to neutralize such a quantity?

(14) A quarter of a log.

(15) Because each drop of urine becomes neutralized as it falls in.

(16) I.e., whether the bed is between him and it or not.

(17) The source (If this dictum is not known (Rashi).

(18) Labud, v. Glos. And therefore anything placed under it is like being buried in the ground, (e.g., a chamber pot) and the Shema' may be recited.

(19) And therefore it is no covering.

(20) V. supra p. 94. n. 4.
(21) Euphemism.
(22) To the relatives of his daughter-in-law.

Talmud - Mas. Berachoth 26a

over a chest is like a receptacle within a receptacle.

R. Joshua b. Levi said: For a scroll of the Law it is necessary to make a partition of ten [handbreadths].[1] Mar Zutra was visiting R. Ashi, and he saw that in the place where Mar the son of R. Ashi slept there was a scroll of the Law and a partition of ten [handbreadths] was made for it. He said to him: Which authority are you following? R. Joshua b. Levi, is it not? I presume that R. Joshua b. Levi meant this to apply only where one had not another room, but your honour has another room! He replied: I had not thought of it.

HOW FAR SHOULD HE REMOVE FROM IT AND FROM EXCREMENT? FOUR CUBITS. Raba said in the name of R. Sehora reporting Rab: This was meant only if he leaves it behind him, but if he keeps it in front of him he must remove completely out of sight. The same rule applies to Tefillah. Is that so? Has not Rafram b. Papa said in the name of R. Hisda: A man can stand facing a privy [four cubits away] and say the Tefillah? What is referred to here?[2] A privy in which there is no excrement. Is that so? Has not R. Joseph b. Hanina said: When they spoke of a privy, they meant, even if there is no excrement in it, and when they spoke of a bath,[3] they meant even if there is no one in it! But in fact what is referred to here?[4] A new one. But surely this is the very thing about which Rabina asked a question: If a place has been set aside for a privy [but not yet used], what is the rule? Does setting aside count or does it not count?[5] — What Rabina wanted to know was whether one might stand in it to pray therein, but as to facing it [he was] not [in doubt].[6] Raba said: These Persian privies, although there is excrement in them, are counted as closed in.[7]

MISHNAH. A GONORRHOEIC PERSON WHO HAS AN EMISSION AND A NIDDAH FROM WHOM SEMEN ESCAPES AND A WOMAN WHO BECOMES NIDDAH DURING INTERCOURSE REQUIRE A RITUAL BATH; R. JUDAH, HOWEVER EXEMPTS THEM.[8]

GEMARA. The question was raised: What is R. Judah's opinion about a ba'al keri who has become gonorrhoeic? Are we to say that the case in which R. Judah exempted was that of a gonorrhoeic patient who had a seminal issue, because his first condition precludes him from ablution,[9] but he does not exempt a ba'al keri who becomes gonorrhoeic because in his first condition he does require ablution,[10] or are we to say that there is no difference? — Come and hear: A WOMAN WHO BECOMES NIDDAH DURING INTERCOURSE REQUIRES A RITUAL BATH: R. JUDAH, HOWEVER, EXEMPTS HER. Now a woman who becomes niddah during intercourse is on the same footing as a ba'al keri who becomes gonorrhoeic, and R. Judah exempts her. This proves [that there is no difference]. R. Hiyya taught expressly: A ba'al keri who has become gonorrhoeic requires ablution; R. Judah, however, exempts him.

CHAPTER IV

MISHNAH. THE MORNING TEFILLAH [CAN BE SAID] UNTIL MIDDAY; R. JUDAH SAYS TILL THE FOURTH HOUR. THE AFTERNOON PRAYER[11] [CAN BE SAID] TILL EVENING; R. JUDAH SAYS, UNTIL THE MIDDLE OF THE AFTERNOON.[12] THE EVENING PRAYER HAS NO FIXED LIMIT.[13] THE TIME FOR THE ADDITIONAL PRAYERS[14] IS THE WHOLE OF THE DAY; R. JUDAH SAYS, TILL THE SEVENTH HOUR.

GEMARA. [TILL MIDDAY]. This was contrasted with the following: The proper time for it [the

Shema’] is at the rising of the sun, so that ge'ullah should be followed immediately by Tefillah, with the result that he would say the Tefillah in the day time![15] — That was taught in reference only to the wathikin; for R. Johanan said: The wathikin used to conclude it [the Shema’] as the sun rose.[16] And may other people delay till midday, but no longer? Has not R. Mari the son of R. Huna the son of R. Jeremiah b. Abba said in the name of R. Johanan: If a man erred and did not say the evening Tefillah, he says it twice in the morning. [If he erred] in the morning, he says it twice in the afternoon? — He may go on praying the whole day. But up to midday he is given the reward of saying the Tefillah in its proper time; thereafter he is given the reward of saying Tefillah, but not of saying Tefillah in its proper time.

The question was raised: If a man erred and did not say the afternoon Tefillah, should he say it twice in the evening? Should you argue from the fact that if he erred in the evening he prays twice in the morning, [I may reply that] this is because it is all one day, as it is written, And there was evening and there was morning, one day;[17] but in this case, prayer being in the place of sacrifice,[18] since the day has passed the sacrifice lapses. Or should we rather say that since prayer is supplication for mercy, a man may go on praying as long as he likes ? — Come and hear: For R. Huna h. Judah said in the name of R. Isaac reporting R. Johanan: If a man erred and did not say the afternoon Tefillah, he says it twice in the evening, and we do not apply here the principle that if the day has passed the offering lapses. An objection was raised: That which is crooked cannot be made straight, and that which is wanting cannot be numbered.[19] ‘That which is crooked cannot be made straight’; this applies to one who omitted the Shema’ of the evening or the Shema’ of the morning or the Tefillah of the evening or the Tefillah of the morning. ‘And that which is wanting cannot be numbered’: this applies to one whose comrades formed a group to perform a religious act and he was not included with them. — R. Isaac said in the name of R. Johanan: With what case are we dealing here?[20] With one who omitted deliberately. R. Ashi said: The proof of this is that it says ‘omitted’, and it does not say, ‘erred’. This proves it.

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(1) To permit intercourse in the same room.

(2) In the ruling of R. Hisda.

(3) As being a forbidden place for meditating on words of Torah.

(4) In the ruling of R. Hisda.

(5) Shab. 10a; Ned. 7a.

(6) That it was permitted at a distance of four cubits.

(7) They were sloping and the excrement rolled into a deep hole out of sight.

(8) V. supra, p. 129, n. 4.

(9) A gonorrhoeic patient has to wait seven days.

(10) Before being able to study the Torah, according to the ordinance of Ezra, supra. p. 134.

(11) Minhah, v. Glos.

(12) This is explained in the Gemara.

(13) V. infra in the Gemara.

(14) Musaf, v. Glos.

(15) I.e., just after day-break.

(16) V. supra 9b.

(17) Gen. I, 5.

(18) V. infra 26b.

(19) Eccl. I, 25.

(20) In the teaching cited.

Talmud - Mas. Berachoth 26b

Our Rabbis taught: If a man erred and did not say the afternoon prayer on the eve of Sabbath, he says the [Sabbath] Tefillah[1] twice on the night of the Sabbath. If he erred and did not say the afternoon Tefillah on Sabbath, he says the [weekday] Tefillah twice on the outgoing of the Sabbath; he says habdalah[2] in the first but not in the second;[3] and if he said habdalah in the second and not in the first, the second is counted to him, the first is not counted to him. This is equivalent, is it not, to saying that since he did not say habdalah in the first, it is as if he had not said the Tefillah and we make him say it again. To this was opposed the following: If one forgot and did not mention the miracle of rain[4] in the benediction for the resurrection of the dead[5] and prayed for rain in the benediction of the years,[6] he is turned back; if he forgot habdalah in ‘who graciously grants knowledge’,[7] he is not turned back, because he can say it over wine! — This is indeed a difficulty.

It has been stated: R. Jose son of R. Hanina said: The Tefillahs were instituted by the Patriarchs. R. Joshua b. Levi says: The Tefillahs were instituted[8] to replace the daily sacrifices. It has been taught in accordance with R. Jose b. Hanina, and it has been taught in accordance with R. Joshua b. Levi. It has been taught in accordance with R. Jose b. Hanina: Abraham instituted the morning Tefillah, as it says, And Abraham got up early in the morning to the place where he had stood,[9] and ‘standing’ means only prayer, as it says, Then stood up Phineas and prayed.[10] Isaac instituted the afternoon Tefillah, as it says, And Isaac went out to meditate in the field at eventide,[11] and ‘meditation’ means only prayer, as it says, A prayer of the afflicted when he fainteth and poureth out his meditation[12] before the Lord.[13] Jacob instituted the evening prayer, as it says, And he lighted [wa-yifga’] upon the place,[14] and ‘pegi'ah’ means only prayer, as it says, Therefore pray not thou for this people neither lift up prayer nor cry for them, neither make intercession to [tifga’] Me.[15] It has been taught also in accordance with R. Joshua b. Levi: Why did they say that the morning Tefillah could be said till midday? Because the regular morning sacrifice could be brought up to midday. R. Judah, however, says that it may be said up to the fourth hour because the regular morning sacrifice may be brought up to the fourth hour. And why did they say that the afternoon Tefillah can be said up to the evening? Because the regular afternoon offering can be brought up to the evening. R. Judah, however, says that it can be said only up to the middle[16] of the afternoon, because the evening offering could only be brought up to the middle of the afternoon. And why did they say that for the evening Tefillah there is no limit? Because the limbs[17] and the fat[17] which were not consumed [on the altar] by the evening could be brought for the whole of the night. And why did they say that the additional Tefillahs[18] could be said during the whole of the day? Because the additional offering could be brought during the whole of the day. R. Judah, however, said that it can be said only up to the seventh hour, because the additional offering can be brought up to the seventh hour. Which is the ‘greater afternoon’? From six hours and a half onwards.[19] And which is the ‘small afternoon’? From nine hours and onwards.[20] The question was raised: Did R. Judah refer to the middle of the former afternoon-tide or the middle of the latter afternoon-tide?[21] Come and hear: for it has been taught: R. Judah said: They referred to the middle of the latter afternoon-tide, which is eleven hours less a quarter.[22] Shall we say that this is a refutation of R. Jose b. Hanina?[23] R. Jose b. Hanina can answer: I can still maintain that the Patriarchs instituted the Tefillahs, but the Rabbis found a basis for them in the offerings. For if you do not assume this,[24] who according to R. Jose b. Hanina instituted the additional Tefillah? He must hold therefore that the Patriarchs instituted the Tefillahs and the Rabbis found a basis for them in the offerings.[25]

R. JUDAH SAYS: TILL THE FOURTH HOUR. It was asked: Is the point mentioned itself included in the UNTIL or is it not included?[22] — Come and hear: R. JUDAH SAYS, UNTIL THE MIDDLE OF THE AFTERNOON. If you say that the point mentioned is included in the UNTIL, then there is no difficulty; this is where the difference lies between R. Judah and the Rabbis.[18] O But if you say that the point mentioned is not included,[26] then R. Judah says the same thing as the

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(1) V. Glosses. Vilna Gaon.

(2) V. P.B. p. 46.

(3) Because the one which is said in compensation is always said second.

(4) Lit., ‘the (divine) power (manifested) in rain’.

(5) The second benediction.
(6) The ninth benediction.
(7) The fourth benediction.
(8) By the Men of the Great Synagogue.
(9) Gen. XIX, 27.
(10) Ps. CVI, 30.
(11) Gen. XXIV, 63.
(12) E.V. ‘complaint’.
(13) Ps. CII, 1.
(14) Gen. XXVIII, 11.
(15) Jer. VII, 16.
(16) The precise time meant is discussed infra.
(17) Of the burnt-offerings. (12) Of the other offerings
(18) Said on Sabbaths, New Moons, and holy days.
(19) From 12.30 p.m. to 6 p.m. taking the day from 6 a.m. to 6 p.m.
(20) From 3.30 onwards.
(21) I.e., does he in his statement in the Mishnah mean midway between 12.30 and 6 or between 3.30 and 6?
(22) Viz., midway between 9 1/2 hours and 12.
(23) According to him it was the Patriarchs who instituted the prayers, and the time of the sacrifice should have no bearing on the time of the recital of the prayers.
(24) That R. Jose admits that the Rabbis based the Tefillah on the offerings.
(25) And accordingly added a musaf tefillah to those instituted by the Patriarchs, and for the same reason they made the time of the prayers to be determined by the time of the sacrifices. (9) I.e., does he mean the beginning or the end of the fourth hour? (10) Assuming that R. Judah meant the middle of the latter afternoontide, i.e., eleven hours less a quarter.
(26) So that ‘until’ means until the end of the point fixed by him.

Talmud - Mas. Berachoth 27a

Rabbis? — You conclude then that the point mentioned is not included in the UNTIL? Look now at the next clause: THE TIME FOR THE ADDITIONAL PRAYERS IS THE WHOLE DAY; R. JUDAH SAYS, TILL SEVEN HOURS, and it has been taught: If a man had two Tefillahs to say, one for musaf[1] and one for minhah,[1] he says first the minhah prayer and afterwards the musaf one, because the former is daily and the latter is not daily. R. Judah. however, says: He says the musaf one and afterwards the minhah one, because the [time for] the former [soon] lapses, while the [time for] the latter does not [so soon] lapse.[2] Now if you say that the point mentioned is included in the UNTIL there is no difficulty: on this supposition you can find a time which is appropriate to both of the Tefillahs.[3] But if you say that the point mentioned is not included in the UNTIL where can you find a time which is appropriate to both the Tefillahs?[4] As soon as the time for minhah has arrived, the time for musaf has passed! — What then? You say that the point mentioned is included in the UNTIL? Then there is the [afore-mentioned] difficulty of the first clause — what difference is there between R. Judah and the Rabbis? — Do you think that this MIDDLE OF THE AFTERNOON mentioned by R. Judah means the second half? It means the first half, and what he meant is this: When does the first half [of the second part of the afternoon] end and the second half begin? At the end of eleven hours less a quarter.

R. Nahman said: We also have learnt: R. Judah b. Baba testified five things — that they instruct a girl-minor to refuse,[5] that a woman may remarry on the evidence of one witness [that her husband is dead],[6] that a cock was stoned in Jerusalem because it killed a human being,[7] that wine forty days old was poured as a drink-offering on the altar,[8] and that the morning daily offering was brought at four hours.[9] This proves, does it not, that the point mentioned is included in the UNTIL? It does. R. Kahana said: The halachah follows R. Jose because we have learnt in the Select Tractate[10] as taught by him.

‘And concerning the regular daily offering that it was brought at four hours’. Who is the authority for what we have learnt: And as the sun waxed hot it melted:[11] this was at four hours. You say at four hours; or is it not so, but at six hours? When it says ‘in the heat of the day’,[12] here we have the expression for six hours. What then am I to make of ‘as the sun waxed hot it melted’? At four hours. Whose opinion does this represent? Apparently neither R. Judah's nor the Rabbis’. For if we go by R. Judah, up to four hours also is still morning;[13] if we go by the Rabbis, up to six hours is also still morning! — If you like I can say it represents the opinion of R. Judah. and if you like of the Rabbis. ‘If you like I can say it represents the opinion of the Rabbis’: Scripture says, morning by morning,[14] thus dividing the morning into two.[15] ‘If you like I can say R. Judah’: this extra ‘morning’ indicates that they began [gathering] an hour beforehand.[16] At any rate all agree that ‘as the sun waxed hot it melted’ refers to four hours. How does the text imply this? R. Aha b. Jacob said: The text says, As the sun waxed hot it melted. Which is the hour when the sun is hot and the shade is cool? You must say, at four hours.

THE AFTERNOON TEFILLAH TILL EVENING. R. Hisda said to R. Isaac: In the other case [of the morning offering] R. Kahana said that the halachah follows R. Judah because we have learnt in the Select Tractate as [taught] by him. What is the decision in this case? — He was silent, and gave him no answer at all. Said R. Hisda: Let us see for ourselves. Seeing that Rab says the Sabbath Tefillah on the eve of Sabbath while it is still day, we conclude that the halachah follows R. Judah![17] — On the contrary, from the fact that R. Huna and the Rabbis did not pray till night time, we conclude that the halachah does no follow R. Judah! Seeing then that it has not been stated definitely that the law follows either one or the other, if one follows the one he is right and if one follows the other he is right. Rab was once at the house of Genibah and he said the Sabbath Tefillah on the eve of Sabbath, and R. Jeremiah b. Abba was praying behind Rab and Rab finished but did not interrupt the prayer of R. Jeremiah.[18] Three things are to be learnt from this. One is that a man may say the Sabbath Tefillah on the eve of Sabbath. The second is that a disciple may pray behind his master. The third is that it is forbidden to pass in front of one praying. But is that so? Did not R. Ammi and R. Assi use to pass? — R. Ammi and R. Assi used to pass outside a four cubit limit. But how could R. Jeremiah act thus, seeing that Rab Judah has said in the name of Rab: A man should never pray

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(1) V. Glos.

(2) Musaf can be said up to seven hours and minhah up to eleven hours less a quarter.

(3) Viz., the second half of the seventh hour.

(4) Because when R. Judah says that the time for musaf is ‘till the seventh hour’, he must exclude the whole of the seventh hour itself.

(5) If a girl-minor who has lost her father is betrothed by her mother, when she becomes mature she can refuse to continue to be bound to her husband, and on some occasions the Beth din instruct her to refuse. V. Glos. s.v. mi'un; Yeb. 109a.

(6) V. Yeb. 122a.

(7) It pierced the skull of a child.

(8) Being no longer ‘new wine’, v. ‘Ed. VI, 1.

(9) As R. Judah says; which shows that he included the ‘four hours’ in the ‘until’.

(10) Behirta (selected). Eduyyoth is so called because all its statements are accepted as halachah; v. Introduction to ‘Ed. (Sonc. ed.).

(11) Ex. XVI, 21.

(12) Gen. XVIII, 1. Here the word ‘day’ is used, implying that it was hot everywhere, and not only in the sun, v. infra.

(13) It says that the Israelites gathered the manna every morning; why then had they stopped at this hour if it was still morning?

(14) Ex. loc. cit. Lit., ‘in the morning, in the morning’.

(15) And the Israelites gathered in the first ‘morning’.

(16) Thus finishing in the third hour of the day.

(17) That after the middle of the afternoon-tide, the afternoon Tefillah can no longer be said, and evening begins.
(18) By passing in front of him to resume his seat.

Talmud - Mas. Berachoth 27b

either next to this master[1] or behind his master?[2] And it has been taught: R. Eleazar says: One who prays behind his master, and one who gives [the ordinary] greeting to his master[3] and one who returns a greeting to his master[4] and one who joins issue with [the teaching of] the Academy of his master and one who says something which he has not heard from his master causes the Divine Presence to depart from Israel? — R. Jeremiah b. Abba is different, because he was a disciple-colleague; and that is why R. Jeremiah b. Abba said to Rab: Have you laid aside,[5] and he replied: Yes, I have; and he did not say to him, Has the Master laid aside. But had he laid aside? Has not R. Abin related that once Rab said the Sabbath Tefillah on the eve of Sabbath and he went into the bath[6] and came out and taught us our section, while it was not yet dark? — Raba said: He went in merely to perspire, and it was before the prohibition had been issued.[7] But still, is this the rule?[8] Did not Abaye allow R. Dimi b. Levai to fumigate some baskets?[9] — In that case there was a mistake.[10] But can [such] a mistake be rectified? Has not Abidan said: Once [on Sabbath] the sky became overcast with clouds and the congregation thought that is was night-time and they went into the synagogue and said the prayers for the termination of Sabbath, and then the clouds scattered and the sun came out and they came and asked Rabbi, and he said to them, Since they prayed, they have prayed?[11] — A congregation is different, since we avoid troubling them [as far as possible].[12]

R. Hiyya b. Abin said: Rab used to say the Sabbath Tefillah on the eve of Sabbath;[13] R. Josiah said the Tefillah of the outgoing of Sabbath on Sabbath. When Rab said the Sabbath Tefillah on the eve of Sabbath, did he say sanctification over wine or not? — Come and hear: for R. Nahman said in the name of Samuel: A man may say the Tefillah of Sabbath on the eve of Sabbath, and say sanctification over wine; and the law is as stated by him. R. Josiah used to say the end-of-Sabbath Tefillah while it was yet Sabbath. Did he say habdalah over wine or did he not say habdalah over wine? — Come and hear: for Rab Judah said in the name of Samuel: A man may say the end-of-Sabbath Tefillah while it is yet Sabbath and say habdalah over wine. R. Zera said in the name of R. Assi reporting R. Eleazar who had it from R. Hanina in the name of Rab: At the side of this pillar R. Ishmael son of R. Jose said the Sabbath Tefillah on the eve of Sabbath. When ‘Ulla came he reported that it was at the side of a palm tree and not at the side of a pillar, and that it was not R. Ishmael son of R. Jose but R. Eleazar son of R. Jose, and that it was not the Sabbath Tefillah on the eve of Sabbath but the end-of-Sabbath Tefillah on Sabbath.

THE EVENING PRAYER HAS NO FIXED LIMIT. What is the meaning of HAS NO FIXED LIMIT? Shall I say it means that if a man wants he can say the Tefillah any time in the night? Then let it state, ‘The time for the evening Tefillah is the ‘whole night’! — But what in fact is the meaning of HAS NO FIXED LIMIT? It is equivalent to saying, The evening Tefillah is optional. For Rab Judah said in the name of Samuel: With regard to the evening Tefillah, Rabban Gamaliel says it is compulsory, whereas R. Joshua says it is optional. Abaye says: The halachah is as stated by the one who says it is compulsory; Raba says the halachah follows the one who says it is optional.

It is related that a certain disciple came before R. Joshua and asked him, Is the evening Tefillah compulsory or optional? He replied: It is optional. He then presented himself before Rabban Gamaliel and asked him: Is the evening Tefillah compulsory or optional? He replied: It is compulsory. But, he said, did not R. Joshua tell me that it is optional? He said: Wait till the champions[14] enter the Beth ha-Midrash. When the champions came in, someone rose and inquired, Is the evening Tefillah compulsory or optional? Rabban Gamaliel replied: It is compulsory. Said Rabban Gamaliel to the Sages: Is there anyone who disputes this? R. Joshua replied to him: No. He said to him: Did they not report you to me as saying that it is optional? He then went on: Joshua, stand up and let them testify against you! R. Joshua stood up and said: Were I alive and he [the witness] dead, the living could contradict the dead. But now that he is alive and I am alive, how can the living contradict the living?[15] Rabban Gamaliel remained sitting and expounding and R. Joshua remained standing, until all the people there began to shout and say to Huzpith the turgeman,[16] Stop! and he stopped. They then said: How long is he [Rabban Gamaliel] to go on insulting him [R. Joshua]? On New Year last year he insulted him;[17] he insulted him in the matter of the firstborn in the affair of R. Zadok;[18] now he insults him again! Come, let us depose him! Whom shall we appoint instead? We can hardly appoint R. Joshua, because he is one of the parties involved. We can hardly appoint R. Akiba because perhaps Rabban Gamaliel will bring a curse on him because he has no ancestral merit. Let us then appoint R. Eleazar b. Azariah, who is wise and rich and the tenth in descent from Ezra. He is wise, so that if anyone puts a question to him he will be able to answer it. He is rich, so that if occasion arises for paying court[19] to Caesar he will be able to do so. He is tenth in descent from Ezra, so that he has ancestral merit and he [Rabban Gamaliel] cannot bring a curse on him. They went and said to him: Will your honour consent to become head of the Academy? He replied: I will go and consult the members of my family. He went and consulted his wife. She said to him:

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(1) Because he seems to put himself on a level with him.

(2) This also is a sign of pride. Or perhaps, because he seems to be bowing down to him (Tosaf.).

(3) I.e., he says, ‘Peace upon thee’ simply instead of ‘Pace upon thee, my master’.

(4) Omitted by Alfasi and Asheri.

(5) Have you laid aside all work, since you said the Sabbath Tefillah so early? Lit., ‘have you made the distinction’ (sc. between weekdays and Sabbath)?

(6) An act forbidden on the Sabbath.

(7) Against bathing and perspiring on Sabbath, v. Shab. 40a.

(8) That work may not be done after saying the Sabbath prayer early on Sabbath eve.

(9) After saying the Sabbath prayer.

(10) It was a dark afternoon, and he said the Sabbath prayer thinking that Sabbath had already commenced.

(11) And since the prayer need not be repeated, work in the case of Sabbath eve ought to be forbidden!

(12) To repeat the Tefillah.

(13) Before evening set in.

(14) Lit., ‘masters of bucklers’, ‘shield-bearers’, i.e., great scholars. The Rabbis often applied warlike terms to halachic discussion.

(15) I.e., how can l deny that I said this?

(16) Lit., ‘interpreter’, the man who expounded the ideas of the teacher to the public. The more usual later name is Amora.

(17) By telling him to appear before him on the Day of Atonement with his staff and wallet. V. R.H. 25a.

(18) V. Bek. 36a.

(19) Lit., ‘serve’.

Talmud - Mas. Berachoth 28a

Perhaps they will depose you later on. He replied to her: [There is a proverb:] Let a man use a cup of honour[1] for one day even if it be broken the next. She said to him: You have no white hair. He was eighteen years old that day, and a miracle was wrought for him and eighteen rows of hair [on his beard] turned white. That is why R. Eleazar b. Azariah said: Behold I am about seventy years old,[2] and he did not say [simply] seventy years old. A Tanna taught: On that day the doorkeeper was removed and permission was given to the disciples to enter. For Rabban Gamaliel had issued a proclamation [saying]. No disciple whose character does not correspond to his exterior[3] may enter the Beth ha-Midrash. On that day many stools[4] were added. R. Johanan said: There is a difference of opinion on this matter between Abba Joseph b. Dosethai and the Rabbis: one [authority] says that four hundred stools were added, and the other says seven hundred. Rabban Gamaliel became alarmed and said: Perhaps, God forbid, I withheld Torah from Israel![5] He was shown in his dream white casks full of ashes.[6] This, however, really meant nothing; he was only shown this to appease him.[7]

A Tanna taught: Eduyyoth[8] was formulated on that day — and wherever the expression ‘on that day’ is used, it refers to that day — and there was no halachah about which any doubt existed in the Beth ha-Midrash which was not fully elucidated. Rabban Gamaliel also did not absent himself from the Beth ha-Midrash a single hour, as we have learnt: On that day Judah, an Ammonite proselyte, came before them in the Beth ha-Midrash. He said to them: Am I permitted to enter the assembly?[9] R. Joshua said to him: You are permitted to enter the congregation. Said Rabban Gamaliel to him: Is it not already laid down, At Ammonite or a Moabite shall not enter into the assembly of the Lord?[10] R. Joshua replied to him: Do Ammon and Moab still reside in their original homes? Sennacherib king of Assyria long ago went up and mixed up all the nations, as it says, I have removed the bounds of the peoples and have robbed their treasures and have brought down as one mighty their inhabitants;[11] and whatever strays [from a group] is assumed to belong to the larger section of the group.[12] Said Rabban Gamaliel to him: But has it not been said: But afterward I will bring back the captivity of the children of Ammon, saith the Lord,[13] so that they have already returned? To which R. Joshua replied: And has it not been said, And I will turn the captivity of My people Israel,[14] and they have not yet returned? Forthwith they permitted him to enter the congregation. Rabban Gamaliel thereupon said: This being the case,[15] I will go and apologize to R. Joshua. When he reached his house he saw that the walls were black. He said to him: From the walls of your house it is apparent that you are a charcoal-burner.[16] He replied: Alas for the generation of which you are the leader, seeing that you know nothing of the troubles of the scholars, their struggles to support and sustain themselves! He said to him: I apologize.[17] forgive me. He paid no attention to him. Do it, he said, out of respect for my father. He then became reconciled to him. They said: Who will go and tell the Rabbis? A certain fuller said to them: I will go. R. Joshua sent a message to the Beth hamidrash saying: Let him who is accustomed to wear the robe wear it;[18] shall he who is not accustomed to wear the robe[19] say to him who is accustomed to wear it, Take off your robe and I will put it on? Said R. Akiba to the Rabbis: Lock the doors so that the servants of Rabban Gamaliel should not come and upset the Rabbis.[20] Said R. Joshua: I had better get up and go to them. He came and knocked at the door. He said to them: Let the sprinkler son of a sprinkler[21] sprinkle; shall he who is neither a sprinkler nor the son of a sprinkler say to a sprinkler son of a sprinkler, Your water is cave water[22] and your ashes are oven ashes?[23] Said R. Akiba to him: R. Joshua, you have received your apology, have we done anything except out of regard for your honour? Tomorrow morning you and I will wait on him.[24] They said: How shall we do? Shall we depose him [R. Eleazar b. Azariah]? We have a rule that we may raise an object to a higher grade of sanctity but must not degrade it to a lower.[25] If we let one Master preach on one Sabbath and one on the next, this will cause jealousy. Let therefore Rabban Gamaliel preach three Sabbaths and R. Eleazar b. Azariah one Sabbath. And it is in reference to this that a Master said: ‘Whose Sabbath was it? It was the Sabbath of R. Eleazar b. Azariah’.[26] And that disciple[27] was R. Simeon b. Yohai.

THE TIME FOR THE ADDITIONAL PRAYER IS THE WHOLE DAY. R. Johanan said: And he is [nevertheless] called a transgressor.[28]

Our Rabbis taught: If a man had two Tefillahs to say, one for minhah and one for musaf, he says the one for minhah, and afterwards he says the one for musaf. because the one is daily[29] and the other is not daily. R. Judah says: He says the musaf one first and then he says the minhah one; the former is an obligation that will soon lapse[30] while the other is an obligation that will not lapse. R. Johanan said: The halachah is that he says the minhah Tefillah first and then the musaf one. When R. Zera was tired from studying, he used to go and sit by the door of the school of R. Nathan b. Tobi. He said to himself: When the Rabbis pass by, I will rise before them and earn a reward.[31] R. Nathan b. Tobi came out. He said to him: Who enunciated a halachah in the Beth ha-Midrash? He replied:

Thus said R. Johanan: The halachah does not follow R. Judah who said that a man first says the musaf Tefillah and then the minhah one. He said to him: Did R. Johanan say it? — He replied, Yes.[32] He repeated it after him forty times. He said to him: Is this the one [and only] thing you have learnt [from him][33] or it is a new thing to you?[34] He replied: It is a new thing to me, because I was not certain [whether it was not the dictum] of R. Joshua b. Levi.

R. Joshua b. Levi said: If one says the musaf Tefillah after seven hours, then according to R. Judah the Scripture says of him, I will gather them that are destroyed [nuge][35] because of the appointed season, who are of thee.[36] How do you know that the word 'nuge' here implies destruction? It is as rendered by R. Joseph [in his Targum]:[37] Destruction comes upon the enemies of Israel[38] because they put off till late the times of the appointed seasons[39] in Jerusalem.

R. Eleazar said: If one says the morning Tefillah after four hours, then according to R. Judah the Scripture says of him, 'I will gather them that sorrow because of the appointed season, who are of thee'. How do we know that this word nuge implies sorrow? Because it is written, My soul melteth away for heaviness [tugah].[40] R. Nahman b. Isaac said: We learn it from here: Her virgins are afflicted [nugoth] and she herself is in bitterness.[41]

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(1) I.e., one used on state occasions. Aliter: 'a cup of filigree work'.
(2) V. supra p. 72 n. 7.
(3) Lit., 'whose inside is not as his outside'; a common Talmudic expression.
(4) Or 'benches'.
(5) By keeping out so many disciples.
(6) Signifying that those he kept out were in fact not genuine.
(7) I.e., they were in fact genuine.
(8) Lit., 'testimonies' not necessarily the Tractate Eduyyoth which we now have.
(9) I.e., marry a Jewess.
(10) Deut. XXIII, 4.
(11) lsa. X, 13.
(12) E.g., if there are nine shops in a street selling kasher meat and one selling trefa, and we find a piece of meat in the street, we presume that it came from one of the kasher shops, v. Keth. 15a. So here, we presume that this man came from one of the other nations.
(13) Jer. XLIX, 6.
(14) Amos IX, 24.
(15) Since he is held in such high respect.
(16) Aliter 'smith'.
(17) Lit., 'I am humbled to thee'.
(18) I.e.,let Rabban Gamaliel be restored to the presidency.
(19) I.e., R. Eleazar b. Azariah.
(20) The Rabbis did not want Rabban Gamaliel to be restored, being afraid of his autocratic disposition.
(21) I.e., a priest, son of a priest, sprinkle the water of purification. The reference is again to Rabban Gamaliel who had an hereditary claim to the presidency.
(22) And not living water as required, v. Num. XIX, 27.
(23) And not from the Red Heifer.
(24) I.e., on R. Eleazar b. Azariah. Lit., 'we will rise early to his door'.
(25) V. e.g. Yoma 22b.
(26) Hag. 3a.
(27) Who asked the question about the evening Tefillah.
(28) If he delays too much.
(29) Lit., 'continual', 'regular'.
(30) Its time being limited, in the view of R. Judah, until the seventh hour.
(31) In the next world.

(32) Var. lec. (v. D.S.): ‘Who enunciated a halachah etc.’? He replied, R. Johanan. He said to him, What was it. He replied, A man may say first etc.’.
(33) Sc. R. Johanan.
(34) That you set so much store by it.
(35) E.V. ‘Them that sorrow for’.
(36) Zeph. III, 28.
(37) To R. Joseph is ascribed the Targum on the prophets, v. Graetz, Geschichte, IV, 326.
(38) Euphemism.
(39) I.e., the festival prayers.
(40) Ps. CXIX, 28.
(41) Lam. I, 4.

Talmud - Mas. Berachoth 28b

R. ‘Awia was once ill and did not go to hear the lecture of R. Joseph.[1] On the next day when he came Abaye tried to appease R. Joseph. He said to him [R. ‘Awia]: Why did your honour not come to the lecture yesterday? He replied: I felt weak and was not able. He said to him: Why did you not take some food and come? He replied: Does not your honour hold with the dictum of R. Huna? For R. Huna said: It is forbidden to a man to taste anything until he has said the musaf Tefillah. He said to him: Your honour ought to have said the musaf Tefillah privately and taken something and come. He replied: Does not your honour hold with what R. Johanan has laid down, that it is forbidden for a man to say his Tefillah before the congregation says it? He said to him: Has it not been said in regard to this: This refers to when he is with the congregation? And the law is neither as stated by R. Huna nor by R. Joshua b. Levi. ‘It is not as stated by R. Huna’, namely in what we have just said.[2] ‘It is not as stated by R. Joshua b. Levi’, namely, in what R. Joshua b. Levi said: When the time for the minhah Tefillah arrives it is forbidden to a man to taste anything until he has said the minhah Tefillah.

MISHNAH. R. NEHUNIA B. HA-KANEH USED TO SAY A PRAYER AS HE ENTERED THE BETH HA-MIDRASH AND AS HE LEFT IT — A SHORT PRAYER. THEY SAID TO HIM: WHAT SORT OF PRAYER IS THIS? HE REPLIED: WHEN I ENTER I PRAY THAT NO OFFENCE SHOULD OCCUR THROUGH ME,[3] AND WHEN I LEAVE I EXPRESS THANKS FOR MY LOT.

GEMARA. Our Rabbis taught: On entering what does a man[4] say? ‘May it be Thy will, O Lord my God, that no offence may occur through me, and that I may not err in a matter of halachah and that my colleagues may rejoice in me[5] and that I may not call unclean clean or clean unclean, and that my colleagues may not err in a matter of halachah and that I may rejoice in them’. On his leaving what does he say? ‘I give thanks to Thee, O Lord my God, that Thou hast set my portion with those who sit in the Beth ha-Midrash and Thou hast not set my portion with those who sit in [street] corners,[6] for I rise early and they rise early, but I rise early for words of Torah and they rise early for frivolous talk; I labour and they labour, but I labour and receive a reward and they labour and do not receive a reward; I run and they run, but I run to the life of the future world and they run to the pit of destruction.

Our Rabbis taught: When R. Eliezer fell ill, his disciples went in to visit him. They said to him: Master, teach us the paths of life so that we may through them win the life of the future world. He said to them: Be solicitous for the honour of your colleagues, and keep your children from meditation,[7] and set them between the knees of scholars, and when you pray know before whom you are standing and in this way you will win the future world.

When Rabban Johanan ben Zakkai fell ill, his disciples went in to visit him. When he saw them he began to weep. His disciples said to him: Lamp of Israel, pillar of the right hand,[8] mighty hammer! Wherefore weepest thou? He replied: If I were being taken today before a human king who is here today and tomorrow in the grave, whose anger if he is angry with me does not last for ever, who if he imprisons me does not imprison me for ever and who if he puts me to death does not put me to everlasting death, and whom I can persuade with words and bribe with money, even so I would weep. Now that I am being taken before the supreme King of Kings, the Holy One, blessed be He, who lives and endures for ever and ever, whose anger, if He is angry with me, is an everlasting anger, who if He imprisons me imprisons me for ever, who if He puts me to death puts me to death for ever, and whom I cannot persuade with words or bribe with money — nay more, when there are two ways before me, one leading to Paradise and the other to Gehinnom, and I do not know by which I shall be taken, shall I not weep? They said to him: Master, bless us. He said to them,: May it be [God's] will that the fear of heaven shall be upon you like the fear of flesh and blood. His disciples said to him: Is that all?[9] He said to them: If only [you can attain this]! You can see [how important this is], for when a man wants to commit a transgression, he says, I hope no man will see me.[10] At the moment of his departure he said to them: Remove the vessels so that they shall not become unclean, and prepare a throne for Hezekiah the king of Judah who is coming.[11]

MISHNAH. RABBAN GAMALIEL SAYS: EVERY DAY A MAN SHOULD SAY THE EIGHTEEN BENEDICTIONS. R. JOSHUA SAYS: AN ABBREVIATED EIGHTEEN.[12] R. AKIBA SAYS: IF HE KNOWS IT FLUENTLY HE SAYS THE ORIGINAL EIGHTEEN, AND IF NOT AN ABBREVIATED EIGHTEEN. R. ELIEZER SAYS: IF A MAN MAKES HIS PRAYERS A FIXED TASK, IT IS NOT A [GENUINE] SUPPLICATION. R. JOSHUA SAYS: IF ONE IS TRAVELLING IN A DANGEROUS PLACE, HE SAYS A SHORT PRAYER, SAYING, SAVE, O LORD, THY PEOPLE THE REMNANT OF ISRAEL; IN EVERY TIME OF CRISIS[13] MAY THEIR REQUIREMENTS NOT BE LOST SIGHT OF BY THEE. BLESSED ART THOU, O LORD, WHO HEARKENEST TO PRAYER. IF HE IS RIDING ON AN ASS HE DISMOUNTS AND PRAYS. IF HE IS UNABLE TO DISMOUNT HE SHOULD TURN HIS FACE [TOWARDS JERUSALEM]; AND IF HE CANNOT TURN HIS FACE HE SHOULD CONCENTRATE HIS THOUGHTS ON THE HOLY OF HOLIES. IF HE IS TRAVELLING IN A SHIP OR ON A RAFT,[14] HE SHOULD CONCENTRATE HIS THOUGHTS ON THE HOLY OF HOLIES.

GEMARA. To what do these eighteen benedictions correspond? R. Hillel the son of Samuel b. Nahmani said: To the eighteen times that David mentioned the Divine Name in the Psalm, Ascribe unto the Lord, O ye sons of might.[15] R. Joseph said: To the eighteen times the Divine Name is mentioned in the Shema’. R. Tanhum said in the name of R. Joshua b. Levi: To the eighteen vertebrae in the spinal column.

R. Tanhum also said in the name of R. Joshua b. Levi: In saying the Tefillah one should bow down [at the appropriate places] until all the vertebrae in the spinal column are loosened. ‘Ulla says: Until an issar[16] of flesh is visible opposite his heart.[17] R. Hanina said: If he simply bows his head, he need do no more. Said Raba: This is only if it hurts him [to stoop] and he shows that he would like to bow down.

These eighteen are really nineteen? — R. Levi said: The benediction relating to the Minim[18] was instituted in Jabneh.[19] To what was it meant to correspond? — R. Levi said: On the view of R. Hillel the son of R. Samuel b. Nahmani,[20] to The God of Glory thundereth;[21] on the view of R. Joseph, to the word ‘One’[22] in the Shema’; on the view of R. Tanhum quoting R. Joshua b. Levi, to the little vertebrae in the spinal column.

Our Rabbis taught: Simeon ha-Pakuli[23] arranged the eighteen benedictions in order before Rabban Gamaliel in Jabneh. Said Rabban Gamaliel to the Sages:[24] Can any one among you frame a benediction relating to the Minim?[25] Samuel the Lesser arose and composed it. The next year[26] he forgot it

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(1) R. Joseph was the head of the school at Pumbeditha and he used to lecture every Sabbath morning before the musaf prayer.

(2) That he must not eat anything before saying musaf.

(3) E.g., by giving a wrong decision.

(4) Lit., ‘he say’; referring perhaps to R. Nehunia.

(5) Rashi translates: so that my colleagues may rejoice over me, i.e., over my discomfiture, and so bring sin upon themselves; and similarly in the next clause.

(6) Rashi explains this to mean shopkeepers or ignorant people. For an alternative rendering v. Sanh., Sonc. ed., p. 6, n. 4.

(7) Rashi explains this to mean too much reading of Scripture, or alternatively, childish talk. Others explain it as philosophic speculation.

(8) The reference is to the two pillars in the Temple. V. I Kings VII, 21.

(9) Should not the fear of God be more than that?

(10) And therefore if the fear of God is no more than this, it will keep him from many sins.

(11) Sc. to accompany me into the next world. Perhaps because he, like Hezekiah, had acted mightily for the spread of Torah; v. Sanh. 94b.

(12) Lit., ‘like the eighteen’. V. infra in the Gemara.

(13) Lit., ‘section of the crossing’, i.e., transition from one condition to another.

(14) Aliter: in prison.

(15) Ps. XXIX.

(16) A coin, v. Glos.

(17) I.e., till the flesh bulges.

(18) V. Glos. The reading ‘Sadducees’ in our edd. is a censor's correction.

(19) After the rest.

(20) This is a marginal correction of the reading in the text, R. Levi son of R. Samuel b. Nahmani said: R. Hillel etc.

(21) Ps. XXIX, 3. The Hebrew for God here is El.

(22) Which is also considered a Divine Name.

(23) Possibly this word means ‘cotton seller’. On this passage. cf. Meg. 17.

(24) On a subsequent occasion.

(25) V. n. 3.

(26) Apparently this benediction was at that time not recited daily as now, but on special annual occasions.

Talmud - Mas. Berachoth 29a

and he tried for two or three hours to recall it, and they did not remove him.[1] Why did they not remove him seeing that Rab Judah has said in the name of Rab: If a reader made a mistake in any of the other benedictions, they do not remove him, but if in the benediction of the Minim, he is removed, because we suspect him of being a Min? — Samuel the Lesser is different, because he composed it. But is there not a fear that he may have recanted? — Abaye said: We have a tradition that a good man does not become bad. But does he not? It is not written, But when the righteous turneth away from his righteousness and committeth iniquity?[2] — Such a man was originally wicked, but one who was originally righteous does not do so. But is that so? Have we not learnt: Believe not in thyself until the day of thy death?[3] For lo, Johanan the High Priest officiated as High Priest for eighty years and in the end he became a Min? Abaye said: Johanan[4] is the same as Jannai.[5] Raba said: Johanan and Jannai are different; Jannai was originally wicked and Johanan was originally righteous. On Abaye's view there is no difficulty, but on Raba's view there is a difficulty? — Raba can reply: For one who was originally righteous it is also possible to become a renegade. If that is the case, why did they not remove him? — Samuel the Lesser is different, because he had already commenced to say it [the benediction]. For Rab Judah said in the name of Rab — or as some say. R. Joshua b. Levi: This applies only if he has not commenced to say it, but if he has commenced, he is allowed to finish.

To what do the seven blessings said on Sabbath[6] correspond? — R. Halefta b. Saul said: To the seven voices mentioned by David [commencing with] 'on the waters'.[7] To what do the nine said on New Year [Musaf Tefillah] correspond?[8] Isaac from Kartignin[9] said: To the nine times that Hannah mentioned the Divine Name in her prayer.[10] For a Master has said: On New Year Sarah, Rachel and Hannah were visited.[11] To what do the twenty-four said on a last day correspond?[12] R. Helbo said: To the twenty-four times that Solomon used the expression 'prayer' etc. on the occasion when he brought the ark into the Holy of Holies.[13] If that is so, then let us say them every day? — When did Solomon say them? On a day of supplication;[14] We also say them on a day of supplication. R. JOSHUA SAYS: AN ABBREVIATED EIGHTEEN. What is meant by 'AN ABBREVIATED EIGHTEEN'? Rab said: An abbreviated form of each blessing; Samuel said: Give us discernment, O Lord, to know Thy ways, and circumcise our heart to fear Thee, and forgive us so that we may be redeemed, and keep us far from our sufferings, and fatten us in the pastures of Thy land, and gather our dispersions from the four corners of the earth, and let them who err from Thy prescriptions be punished,[15] and lift up Thy hand against the wicked, and let the righteous rejoice in the building of Thy city and the establishment of the temple and in the exalting of the horn of David Thy servant and the preparation of a light for the son of Jesse Thy Messiah; before we call mayest Thou answer; blessed art Thou, O Lord, who hearkenest to prayer.[16] Abaye cursed anyone who prayed 'Give us discernment'.[17] R. Nahman said in the name of Samuel: A man may say 'Give us discernment' any time of the year except on the outgoing of Sabbath and of festivals, because he has to say habdalah in 'that graciously giveth knowledge'. Rabbah b. Samuel demurred to this. Let him, [he said] make a fourth blessing[18] of it by itself. Have we not learnt: R. Akiba says: He says it as a fourth blessing by itself; R. Eleazar says: He says it in the thanksgiving?[19] — Do we follow R. Akiba all the year that we should follow him now? Why do we not follow R. Akiba the rest of the year? Because eighteen blessings were instituted, not nineteen. Here too, seven were instituted,[20] not eight. Mar Zutra demurred to this. Let him [he said] include it[21] in 'Give us discernment' [by saying]. O lord, our God, who distinguisheth between holy and profane. — This is indeed a difficulty.

R. Bibi b. Abaye said: A man may say 'Give us discernment' any time in the year except in the rainy season, because he requires to make a request in the benediction of the years.[22] Mar Zutra demurred to this. Let him include it [by saying], And fatten us in the pastures of Thy land and give dew and rain? — He might become confused. If so, by saying habdalah[23] in 'that grantest discernment' he might equally become confused? They replied: In that case, since it comes near the beginning of the Tefillah he will not become confused, here, as it comes in the middle of the Tefillah he will become confused. R. Ashi demurred to this. Let him say it in 'that hearkenest to prayer'?[24] For R. Tanhum said in the name of R. Assi: If a man made a mistake and did not mention the miracle of rain[25] in the benediction of he resurrection of the dead, we turn him back;[26] [if he forgot] the request for rain in the benediction of the years,[27] we do not turn him back, because he can say it in 'that hearkenest unto prayer', and [if he forgot] habdalah in 'that grantest knowledge' we do not turn him back, because he can say it later over wine?[28] — A mistake is different.[29]

The text above [said]: R. Tanhum said in the name of R. Assi: If one made a mistake and did not mention the miracle of rain in the benediction of the resurrection, he is turned back; [if he forgot] the request in the benediction of the years he is not turned back, because he can say it in 'that hearkenest unto prayer'; [if he forgot] habdalah in 'that grantest knowledge' he is not turned back, because he can say it later over wine. An objection was raised: If one made a mistake and did not mention the miracle of rain in the benediction of the resurrection, he is turned back; [if he forgot] the request in the benediction of the years, he is turned back; [if he forgot] habdalah in 'that grantest knowledge' he is not turned back because he can say it later over wine! — There is no contradiction; the one case where he is turned back refers to where he is saying it by himself, the other, with the congregation. What is the reason why he is not turned back when he says it with the congregation? Because he hears it from the Reader,[30] is it not? If so then instead of ‘because he can say it in "who hearkenest unto prayer"’, we should have ‘because he hears it from the Reader’? — In fact in both cases he is saying it by himself, and still there is no contradiction; the one case refers to where he remembers before he comes to ‘that hearkenest unto prayer’

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(1) From his post as reader.

(2) Ezek. XVIII, 24.

(3) Ab. II, 4.

(4) The Hasmonean king, John Hyrcanus, is meant.

(5) Alexander Jannaeus who was always hostile to the Pharisees, and who massacred Pharisaic Sages. Cf. Kid., Sonc. ed., p. 332. n. 22.

(6) In the Tefillah, instead of the eighteen on week-days. V. P.B. 136-142.

(7) Ps. XXIX, 3.

(8) V. P.B p. 239-242.

(9) Carthage or Carthagena in Spain.

(10) I Sam. II, 1-10.

(11) V. R.H. 11a.

(12) Ta'an. II, 3, where six additional blessings to be said on fast days are mentioned.

(13) I Kings VIII, 23-53.

(14) Because the gates would not open. V. M.K. 9a.

(15) Rashi, following Halakoth Gedoloth emends, Let those who err in judgment, judge according to Thy word.

(16) Thus Samuel included the contents of the twelve middle benedictions in one. (V. P.B. p. 55.) The first and last three must in every case be said in full.

(17) Instead of the eighteen benedictions in full.

(18) After the first three.

(19) Infra 33a.

(20) I.e., the first and last three and ‘Give us discernment’.

(21) The reference to habdalah.

(22) The twelfth.

(23) In the Tefillah on the termination of the Sabbath.

(24) Which is at the conclusion of the prayer.

(25) Lit., ‘the (divine) might (manifested) in the rain’.

(26) Because this, not being a prayer, cannot be said in ‘that hearkenest unto prayer’.

(27) V. P.B. p. 47.

(28) V. ibid. p. 216.

(29) From something which can confuse the person praying.

(30) When he repeats the ‘Amidah. V. Glos.

Talmud - Mas. Berachoth 29b

, the other case where he only remembers after ‘that hearkenest unto prayer’.

R. Tanhum said in the name of R. Assi quoting R. Joshua b. Levi: If one made a mistake and did not mention the New Moon in the ‘Abodah[1] benediction, he goes back to the ‘Abodah. If he remembered in the ‘thanksgiving’,[2] he goes back to the ‘Abodah; if he remembers in ‘grant peace’,[3] he goes back to the ‘Abodah. If he has finished, he goes back to the beginning. R. Papa son of R. Aha b. Ada said: In saying that if he has finished he goes back to the beginning, we mean only, if he has moved his feet; but if he has not yet moved his feet[4] he goes back to the ‘Abodah. He said to him: From where have you that? — He replied: I have heard it from Abba,[5] and Abba Meri had it from Rab. R. Nahman b. Isaac said: When we say that if he has moved his feet he goes back to the beginning, we mean this to apply only to one who is not accustomed to say a supplication after his Tefillah,[6] but if he is accustomed to say a supplication after his Tefillah, he goes back to the

‘Abodah. Some report: R. Nahman b. Isaac said: When we say that if he has not moved his feet he goes back to the ‘Abodah, we mean this to apply only to one who is accustomed to say a supplication after his Tefillah, but if he is not accustomed to say a supplication after his Tefillah, he goes back to the beginning.

R. ELIEZER SAYS: HE WHO MAKES HIS PRAYER A FIXED TASK etc. What is meant by a FIXED TASK? — R. Jacob b. Idi said in the name of R. Oshaiah: Anyone whose prayer is like a heavy burden on him. The Rabbis say: Whoever does not say it in the manner of supplication.[7] Rabbah and R. Joseph both say: Whoever is not able to insert something fresh in it.[8] R. Zera said: I can insert something fresh, but I am afraid to do so for fear I should become confused.[9] Abaye b. Abin and R. Hanina b. Abin both said: Whoever does not pray at the first and last appearance of the sun.[10] For R. Hiyya b. Abba said in the name of R. Johanan: It is a religious duty to pray with the first and last appearance of the sun. R. Zera further said: What text confirms this? — They shall fear Thee with the sun, and before the moon throughout all generations.[11] In the West they curse anyone who prays [minhah] with the last appearance of the sun. Why so? — Perhaps he will miss the time.[12]

R. JOSHUA SAYS: HE WHO IS WALKING IN A DANGEROUS PLACE SAYS A SHORT PRAYER. . . IN EVERY TIME OF CRISIS. What is ‘TIME OF CRISIS’ [‘ibbur]? R. Hisda said in the name of Mar ‘Ukba: Even at the time when Thou art filled with wrath [‘ebrah] against them like a pregnant woman, may all their need not be overlooked by Thee.[13] Some there are who say that R. Hisda said in the name of Mar ‘Ukba: Even at the time when they transgress [‘oberim] the words of the Torah may all their requirements not be overlooked by Thee.

Our Rabbis taught: One who passes through a place infested with beasts or bands of robbers says a short Tefillah. What is a short Tefillah? — R. Eliezer says: Do Thy will in heaven above,[14] and grant relief[15] to them that fear Thee below and do that which is good in Thine eyes.[16] Blessed art Thou, O Lord, who hearest prayer. R. Joshua says: Hear the supplication of Thy people Israel and speedily fulfil their request. Blessed art Thou, O Lord, who hearest prayer. R. Eleazar son of R. Zadok says: Hear the cry of thy people Israel and speedily fulfil their request. Blessed art Thou, O Lord, who hearkenest unto prayer. Others say: The needs of Thy people Israel are many and their wit is small.[17] May it be Thy will, O Lord our God, to give to each one his sustenance and to each body what it lacks. Blessed art Thou, O Lord, who hearkenest unto prayer. R. Huna said: The halachah follows the ‘Others’.

Said Elijah to Rab Judah the brother of R. Sala the Pious: Fall not into a passion and thou wilt not sin, drink not to excess and thou wilt not sin; and when thou goest forth on a journey, seek counsel of thy Maker and go forth. What is meant by ‘seek counsel of thy Maker and go forth’? — R. Jacob said in the name of R. Hisda: This refers to the prayer before setting forth on a journey. R. Jacob also said in the name of R. Hisda: Whoever sets forth on a journey should say the prayer for a journey. What is it? — ‘May it be Thy will, O Lord my God, to lead me forth in peace, and direct my steps in peace and uphold me in peace, and deliver me from the hand of every enemy and ambush by the way, and send a blessing on the works of my hands, and cause me to find grace, kindness, and mercy in Thy eyes and in the eyes of all who see me. Blessed art Thou, O Lord, who hearkenest unto prayer’.[18] Abaye said: A man should always

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(1) Lit., ‘Service’: the name of the sixteenth benediction.

(2) The last benediction but one.

(3) The last benediction.

(4) On concluding the Tefillah, one steps back three paces.

(5) Or, my father, my teacher.

(6) E.g., My God, keep my tongue from guile etc. V. P.B. p. 54. Cf. also supra 16b, 17a.

(7) I.e., as if he were really asking for a favour.

(8) So as to vary it in case of need.
(9) And not know where I broke off
(10) I.e., the morning Tefillah in the former case and the afternoon one in the latter. Lit., (a) ‘the reddening of the sun’, (b) ‘the stillness of the sun’ i.e., the time in the morning and evening when the sun appears to stand still, v. Jast.
(11) Ps, LXXII, 5. E.V.’They shall fear Thee while the sun endureth, and so long as the moon’.
(12) Through delaying so long.
(13) There is a play here on the words ‘ibbur (passage transition), ‘ebrah (wrath) and ‘ubereth (pregnant) Which are all from the same root, though with different meanings.
(14) Among the angels who never merit punishment.
(15) Lit., ‘ease of spirit’, i.e., a clear mind without fear of danger.
(16) Cf. Judg. X,. 15.
(17) I.e., they do not know how to ask for their needs.
(18) V. P. B. p. 310.

Talmud - Mas. Berachoth 30a

associate himself with the congregation. How should he say? ‘May it be Thy will, O Lord our God, to lead us forth in peace etc’. When should he say this prayer? — R. Jacob said in the name of R. Hisda: At the moment he starts on his journey. How long [is it still permissible to say it]?[1] — R. Jacob said in the name of R. Hisda: Until [he has gone][2] a parasang. How is he to say it? R. Hisda said: Standing still; R. Shesheth said: [He may] also [say it] while proceeding. Once R. Hisda and R. Shesheth were going along together, and R. Hisda stood still and prayed. R. Shesheth asked his attendant, What is R. Hisda doing?[3] — He replied: He is standing and praying. He thereupon said to him: Place me in position also that I may pray; if thou canst be good, do not be called bad.[4]

What is the difference between ‘Grant us discernment’ and the SHORT PRAYER? — ‘Grant us discernment’ requires to be accompanied by the first and last three blessings [of the ‘Amidah], and when he returns home he need not say the Tefillah again. The ‘short prayer does not require to be accompanied either by the first or the last three blessings, and when one returns home he must say the Tefillah. The law is that ‘Grant us discernment’ must be said standing, a ‘short prayer’ may be said either standing or journeying.

IF ONE WAS RIDING ON AN ASS etc. Our Rabbis taught: If one was riding on an ass and the time arrived for saying Tefillah, if he has someone to hold his ass, he dismounts and prays, if not, he sits where he is and prays. Rabbi says: In either case he may sit where he is and pray, because [otherwise] he will be worrying.[5] Rab — or, as some say, R. Joshua b. Levi — said: The halachah follows Rabbi.

Our Rabbis taught: A blind man or one who cannot tell the cardinal points should direct his heart towards his Father in Heaven, as it says, And they pray unto the Lord.[6] If one is standing outside Palestine, he should turn mentally towards Eretz Israel, as it says, And pray unto Thee towards their land.[7] If he stands in Eretz Israel he should turn mentally towards Jerusalem, as it says, And they pray unto the Lord toward the city which Thou hast chosen.[8] If he is standing in Jerusalem he should turn mentally towards the Sanctuary, as it says, If they pray toward this house.[9] If he is standing in the Sanctuary, he should turn mentally towards the Holy of Holies, as it says, If they pray toward this place.[10] If he was standing in the Holy of Holies he should turn mentally towards the mercy-seat.[11] If he was standing behind the mercy-seat[12] he should imagine himself to be in front of the mercy-seat. Consequently, if he is in the east he should turn his face to the west; if in the west he should turn his face to the east; if in the south he should turn his face to the north; if in the north he should turn his face to the south. In this way all Israel will be turning their hearts towards one place. R. Abin — or as some say R. Abina — said: What text confirms this? — Thy neck is like the tower of David builded with turrets [talpioth],[13] the elevation [tel][14] towards which all mouths (piyyoth) turn.[15]

When Samuel's father and Levi were about to set out on a journey, they said the Tefillah before [dawn],[16] and when the time came to recite the Shema', they said it. Whose authority did they follow? — That of the following Tanna, as it has been taught: If a man got up early to go on a journey, they bring him [before dawn] a shofar and he blows,[17] a lulab[18] and he shakes it,[19] a megillah[18] and he reads it,[20] and when the time arrives for reciting the Shema', he recites it. If he rose early in order to take his place in a coach or in a ship,[21] he says the Tefillah,[22] and when the time arrives for reciting he Shema', he recites it. R. Simeon b. Eleazar says: In either case he recites the Shema' and then says the Tefillah, in order that he may say the ge'ullah next to the Tefillah. What is the ground of the difference between the two authorities? — One held that it is more important to say the Tefillah standing,[23] the other that it is more important to say ge'ullah next to Tefillah. Meremar and Mar Zutra used to collect ten persons on the Sabbath before a festival[24] and say the Tefillah, and then they went out and delivered their lectures.[25] R. Ashi used to say the Tefillah while still with the congregation sitting.[26] and when he returned home he used to say it again standing. The Rabbis said to him: Why does not the Master do as Meremar and Mar Zutra did? — He replied: That[27] is a troublesome business. Then let the Master do like the father of Samuel and Levi? — He replied: I have not seen any of the Rabbis who were my seniors doing thus.[28]

MISHNAH. R. ELEAZAR B. AZARIAH SAYS: THE MUSAF PRAYERS ARE TO BE SAID ONLY WITH THE LOCAL CONGREGATION;[29] THE RABBIS, HOWEVER, SAY: WHETHER WITH OR WITH OUT THE CONGREGATION. R. JUDAH SAID IN HIS NAME:[30] WHEREVER THERE IS A CONGREGATION, AN INDIVIDUAL IS EXEMPT FROM SAYING THE MUSAF PRAYER.[31]

GEMARA. R. Judah says the same thing as the first Tanna? — They differ on the case of an individual living in a place where there is no congregation; the first Tanna holds that he is exempt, while R. Judah holds that he is not exempt. R. Huna b. Hinena said in the name of R. Hiyya b. Rab: The halachah follows R. Judah, citing R. Eleazar b. Azariah. Said R. Hiyya b. Abin to him: You are quite right; for Samuel said: All my life I have never said the musaf prayer alone

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(1) Another rendering is: How long must the journey be before this prayer is required to be said.
(2) Or, (v. previous note) up to the distance of a parasang.
(3) R. Shesheth was blind.
(4) I.e., although I may pray walking, to pray standing is still better.
(5) At the delay of his journey.
(6) I Kings VIII, 44.
(7) Ibid. 48.
(8) Ibid. 44.
(9) II Chron. VI, 26.
(10) I Kings VIII, 35'
(11) V. Ex. XXV, 17.
(12) In the western part of the Forecourt of the Temple.
(13) Cant. IV, 4.
(14) Taken as an expression for the Temple.
(15) Var. lec. omit 'mouths' and read: towards which all turn (ponim).
(16) So Rashi. Tosaf., however, says, before sunrise.
(17) On New Year.
(18) V. Glos.
(19) On Tabernacles.
(20) On Purim.
(21) Where he cannot stand.
(22) Before leaving.

(23) Which is not possible when journeying, hence the Tefillah is said at home before setting out.

(24) When they preached in public, before daybreak.

(25) Apparently the public who had gathered in the schoolhouse from early dawn said the Shema’ before he came, and after the lecture they would not wait to say the Tefillah together, each saying it by himself

(26) In the course of his lecture, when the turgeman (v. Glos.) was explaining his remarks to the public. He did not stand, as the congregation would have felt it their duty to rise with him.

(27) To collect ten persons.

(28) Saying Tefillah before dawn before the Shema’.

(29) I.e., in a place where at least ten Jews are living. On the term חבר עיר , a town organization, v. Meg. Sonc. ed., p. 164, n. 1.

(30) The name of R. Eleazar b. Azariah.

(31) If he says prayers alone.

Talmud - Mas. Berachoth 30b

in Nehardea except on that day when the king's forces came to the town and they disturbed the Rabbis and they did not say the Tefillah, and I prayed by myself, being an individual where there was no congregation. R. Hanina the Bible teacher[1] sat before R. Jannai and said: The halachah is as stated by R. Judah in the name of R. Eleazar b. Azariah. He said to him: Go and give your bible-reading outside; the halachah is not as stated by R. Judah citing R. Eleazar b. Azariah. R. Johanan said: I have seen R. Jannai pray [privately]. and then pray again.[2] R. Jeremiah said to R. Zera: Perhaps the first time he was not attending to what he said, and the second time he did attend? — He said to him: See what a great man it is who testifies concerning him.[3]

Although there were thirteen synagogues in Tiberias, R. Ammi and R. Assi prayed only between the pillars, the place where they studied.[4]

It has been stated: R. Isaac b. Abdimi said in the name of our Master:[5] The halachah is as stated by R. Judah in the name of R. Eleazar b. Azariah. R. Hiyya b. Abba prayed once and then prayed again. Said R. Zera to him: Why does the Master act thus? Shall I say it is because the Master was not attending? Has not R. Eleazar said: A man should always take stock of himself: if he can concentrate his attention he should say the Tefillah, but if not he should not say it? Or is it that the Master did not remember that it is New Moon?[6] But has it not been taught: If a man forgot and did not mention the New Moon in the evening Tefillah, he is not made to repeat, because he can say it in the morning prayer; if he forgot in the morning prayer, he is not made to repeat, because he can say it in the musaf if he forgot in musaf, he is not made to repeat, because he can say it in minhah? — He said to him: Has not a gloss been added to this: R. Johanan says: This applies only to prayer said in a congregation?[7]

What interval should be left between one Tefillah and another?[8] — R. Huna and R. Hisda gave different answers: one said, long enough for him to fall into a suppliant frame of mind; the other said, long enough to fall into an interceding frame of mind.[9] The one who says a suppliant frame of mind quotes the text, And I supplicated [wa-ethhanan] the Lord;[10] the one who says an interceding frame of mind quotes the text, And Moses interceded [wa-yehal].[11]

R. ‘Anan said in the name of Rab: If one forgot and made no mention of New Moon in the evening prayer, he is not made to repeat, because the Beth din sanctify the New Moon only by day. Amemar said: This rule of Rab seems right in a full month,[12] but in a defective month he is made to repeat. Said R. Ashi to Amemar: Let us see: Rab gave a reason, so what does it matter whether it is full or defective? In fact there is no difference.

CHAPTER V

MISHNAH. ONE SHOULD NOT STAND UP TO SAY TEFILLAH SAVE IN A REVERENT FRAME OF MIND.[13] THE PIOUS MEN OF OLD[14] USED TO WAIT AN HOUR BEFORE PRAYING IN ORDER THAT THEY MIGHT CONCENTRATE THEIR THOUGHTS UPON THEIR FATHER IN HEAVEN. EVEN IF A KING GREETS HIM [WHILE PRAYING] HE SHOULD NOT ANSWER HIM: EVEN IF A SNAKE IS WOUND ROUND HIS HEEL HE SHOULD NOT BREAK OFF.

GEMARA. What is the [Scriptural] source of this rule? — R. Eleazar said: Scripture says, And she was in bitterness of soul.[15] But how can you learn from this? Perhaps Hannah was different because she was exceptionally bitter at heart! Rather, said R. Jose son of R. Hanina: We learn it from here: But as for me, in the abundance of Thy lovingkindness will I come into Thy house, I will bow down toward Thy holy temple in the fear of Thee.[16] But how can we learn from this? perhaps David was different, because he was exceptionally self-tormenting in prayer! Rather, said R. Joshua b. Levi, it is from here: Worship the Lord in the beauty of holiness.[17] Read not hadrath [beauty] but herdath [trembling]. But how can you learn from here? perhaps I can after all say that the word ‘hadrath’ is to be taken literally, after the manner of Rab Judah, who used to dress himself up before he prayed! Rather, said R. Nahman b. Isaac: We learn it from here: Serve the Lord with fear and rejoice with trembling.[18] What is meant by ‘rejoice with trembling’? — R. Adda b. Mattena said in the name of Rab: In the place where there is rejoicing there should also be trembling. Abaye was sitting before Rabbah, who observed that he seemed very merry. He said: It is written, And rejoice with trembling? — He replied: I am putting on tefillin.[19] R. Jeremiah was sitting before R. Zera who saw that he seemed very merry. He said to him: It is written, In all sorrow there is profit?[20] — He replied: I am wearing tefillin. Mar the son of Rabina made a marriage feast for his son. He saw that the Rabbis were growing very merry

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(1) Heb. kara, a professional reciter of the Hebrew Scriptures.

(2) I.e., apparently, first the morning prayer and then the musaf.

(3) Viz., R. Johanan, who was not likely to have made a mistake.

(4) I.e., they said even the musaf there, privately.

(5) Rab (Rashi); Hyman (Toledoth, p. 785): Rabbi.

(6) And omitted the appropriate reference to it in the first prayer.

(7) Because then he hears the Reader repeat it, and as R. Hiyya b. Abba was praying privately he rightly repeated the Tefillah.

(8) On any occasion when two are to be said.

(9) The difference between them is little more than verbal.

(10) Deut. III, 23.

(11) Ex. XXXII, 11.

(12) When the preceding month is thirty days, two new moon days are observed, viz., the concluding day of the old month and the next day which is the first of the next; in this case if he omitted the reference on one evening, he can rectify the error on the next.

(13) Lit., ‘with heaviness of head’. Cf. Latin gravitas.

(14) Perhaps identical with the wathikin. V. supra p. 49 n. 4.

(15) I Sam. I, 10.

(16) Ps. V, 8.

(17) Ibid. XXIX, 2.

(18) Ibid. II, 11.

(19) And this is a guarantee that I am not going too far.

(20) Prov. XIV, 23. E.V. ‘In all labour’.

Talmud - Mas. Berachoth 31a

, so he brought a precious cup[1] worth four hundred zuz and broke it before them, and they became serious. R. Ashi made a marriage feast for his son. He saw that the Rabbis were growing very merry, so he brought a cup of white crystal and broke it before them and they became serious. The Rabbis said to R. Hamnuna Zuti at the wedding of Mar the son of Rabina: please sing us something. He said to them: Alas for us that we are to die! They said to him: What shall we respond after you? He said to them: Where is the Torah and where is the mizwah that will shield us![2]

R. Johanan said in the name of R. Simeon b. Yohai: It is forbidden to a man to fill his mouth with laughter in this world, because it says, Then will our mouth be filled with laughter and our tongue with singing.[3] When will that be? At the time when 'they shall say among the nations, The Lord hath done great things with these'.[4] It was related of Resh Lakish that he never again filled his mouth with laughter in this world after he heard this saying from R. Johanan his teacher.

Our Rabbis taught: A man should not stand up to say Tefillah either immediately after trying a case or immediately after a [discussion on a point of] halachah;[5] but he may do so after a halachic decision which admits of no discussion.[6] What is an example of a halachic decision which admits of no discussion? — Abaye said: Such a one as the following of R. Zera; for R. Zera said:[7] The daughters of Israel have undertaken to be so strict with themselves that if they see a drop of blood no bigger than a mustard seed they wait seven [clean] days after it.[8] Raba said: A man may resort to a device with his produce and bring it into the house while still in its chaff[9] so that his animal may eat of it without its being liable to tithe.[10] Or, if you like, I can say, such as the following of R. Huna. For R. Huna said in the name of R. Zeiri:[11] If a man lets blood in a consecrated animal, no benefit may he derived from it [the blood] and such benefit constitutes a trespass. The Rabbis followed the rule laid down in the Mishnah,[12] R. Ashi that of the Baraitha.[13]

Our Rabbis taught: One should not stand up to say Tefillah while immersed in sorrow, or idleness, or laughter, or chatter, or frivolity, or idle talk, but only while still rejoicing in the performance of some religious act.[14] Similarly a man before taking leave of his fellow should not finish off with ordinary conversation, or joking, or frivolity, or idle talk, but with some matter of halachah. For so we find with the early prophets that they concluded their harangues with words of praise and comfort; and so Mari the grandson of R. Huna the son of R. Jeremiah b. Abba learnt: Before taking leave of his fellow a man should always finish with a matter of halachah, so that he should remember him thereby. So we find that R. Kahana escorted R. Shimi b. Ashi from Pun, to Be-Zinyatha[15] of Babylon, and when he arrived there he said to him, Sir, do people really say that these palm trees of Babylon are from the time of Adam? — He replied: You have reminded me of the saying of R. Jose son of R. Hanina. For R. Jose son of R. Hanina said: What is meant by the verse, Through a land that no man passed through and where no man dwelt?[16] If no one passed, how could anyone dwell? It is to teach you that any land which Adam decreed should be inhabited is inhabited, and any land which Adam decreed should not be inhabited is not inhabited.[17] R. Mordecai escorted R. Shimi b. Abba from Hagronia to Be Kafi, or, as some report, to Be Dura.[18]

Our Rabbis taught: When a man prays, he should direct his heart to heaven. Abba Saul says: A reminder of this is the text, Thou wilt direct their heart, Thou wilt cause Thine ear to attend.[19] It has been taught: Such was the custom of R. Akiba; when he prayed with the congregation, he used to cut it short and finish[20] in order not to inconvenience the congregation,[21] but when he prayed by himself, a man would leave him in one corner and find him later in another, on account of his many genuflexions and prostrations.

R. Hiyya b. Abba said: A man should always pray in a house with windows, as it says, Now his windows were open.[22]

I might say that a man should pray the whole day? It has already been expressly stated by the hand of Daniel, And three times. etc.[23] But perhaps [this practice] began only when he went into captivity? It is already said, As he did aforetime.[24] I might say that a man may pray turning in any direction he wishes? Therefore the text states, Toward Jerusalem.[25] I might say that he may combine all three Tefillahs in one? It has already been clearly stated by David, as is written, Evening and morning and at noonday.[26] I might say that he should let his voice be heard in praying? It has already been clearly stated by Hannah, as is said, But her voice could not be heard.[27] I might say that a man should first ask for his own requirements[28] and then say the Tefillah?[29] It has been clearly stated by Solomon, as is said, To hearken unto the cry and to the prayer:[30] 'cry' here means Tefillah. 'prayer' means [private] request. A [private] request is not made after 'True and firm',[31] but after the Tefillah, even the order of confession of the Day of Atonement[32] may be said. It has also been stated: R. Hiyya b. Ashi said in the name of Rab: Although it was laid down that a man asks for his requirements in 'that hearkenest unto prayer', if he wants to say something after his prayer, even something like the order of confession on the Day of Atonement, he may do so.

R. Hamnuna said: How many most important laws can be learnt from these verses relating to Hannah![33] Now Hannah, she spoke in her heart: from this we learn that one who prays must direct his heart. Only her lips moved: from this we learn that he who prays must frame the words distinctly with his lips. But her voice could not be heard: from this, it is forbidden to raise one's voice in the Tefillah. Therefore Eli thought she had been drunken: from this, that a drunken person is forbidden to say the Tefillah. And Eli said unto her, How long wilt thou be drunken, etc.[34] R. Eleazar said: From this we learn that one who sees in his neighbour

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(1) Aliter: crystal cup.

(2) From the punishment that is to come.

(3) Ps. CXXVI, 2.

(4) Ibid. 3.

(5) Because through thinking of it he may be unable to concentrate on his prayer.

(6) Lit., 'a decided halachah'.

(7) Nid. 66a.

(8) Though Scripture requires this only if they saw three issues.

(9) I.e., before it is winnowed.

(10) Whereas if it had been winnowed before being brought into the house, it would have been liable to tithe, v. Pes., Sonc. ed. p. 39, n. 5.

(11) Me'il. 12b.

(12) That one should rise to pray only in a reverent frame of mind.

(13) That one should pray only after dealing with an undisputed halachah.

(14) I.e he should first say something like Ps. CXLIV.

(15) Lit., 'among the palms'. The district of the old city of Babylon which was rich in palms.

(16) Jer. II, 6.

(17) And Adam decreed that this should be inhabited, and so there have always been palm trees here. On the identification of all the places mentioned in this message v. Sotah, Sonc. ed., p. 243 notes.

(18) The text here seems to be defective, as we are not told what either of the Rabbis said.

(19) I.e., if the heart is directed to heaven, then God will attend. Ps. X, 17.

(20) Lit., 'ascend', 'depart'.

(21) By detaining them; the congregation would not resume the service until R. Akiba had finished his Tefillah.

(22) Dan. VI, 11.

(23) Ibid.

(24) Ibid.

(25) Ibid.

(26) Ps. LV, 18.

(27) I Sam. I, 13.

(28) In the middle benedictions of the 'Amidah.

(29) The first three benedictions.
(30) I Kings VIII, 28.
(31) And before the first three benedictions.
(32) V. P.B. p. 258.
(33) I Sam. I, 10ff.
(34) Ibid. 14.

Talmud - Mas. Berachoth 31b

something unseemly must reprove him. And Hannah answered and said, No, my lord.[1] 'Ulla, or as some say R. Jose b. Hanina, said: She said to him: Thou art no lord in this matter, nor does the holy spirit rest on thee, that thou suspectest me of this thing. Some say, She said to him: Thou art no lord, [meaning] the Shechinah and the holy spirit is not with you in that you take the harsher and not the more lenient view of my conduct.[2] Dost thou not know that I am a woman of sorrowful spirit: I have drunk neither wine nor strong drink. R. Eleazar said: From this we learn that one who is suspected wrongfully must clear himself. Count not thy handmaid for a daughter of Belial;[3] a man who says the Tefillah when drunk is like one who serves idols. It is written here, Count not thy handmaid for a daughter of Belial, and it is written elsewhere, Certain sons of Belial have gone forth from the midst of thee.[4] Just as there the term is used in connection with idolatry, so here. Then Eli answered and said, Go in Peace.[5] R. Eleazar said: From this we learn that one who suspects his neighbour of a fault which he has not committed must beg his pardon;[6] nay more, he must bless him, as it says, And the God of Israel grant thy petition.[5]

And she vowed a vow and said, O Lord of Zebaoth [Hosts].[7] R. Eleazar said: From the day that God created His world there was no man called the Holy One, blessed be He, Zeboath [hosts] until Hannah came and called Him Zebaoth. Said Hannah before the Holy One, blessed be He: Sovereign of the Universe, of all the hosts and hosts that Thou hast created in Thy world, is it so hard in Thy eyes to give me one son? A parable: To what is this matter like? To a king who made a feast for his servants, and a poor man came and stood by the door and said to them, Give me a bite,[8] and no one took any notice of him, so he forced his way into the presence of the king and said to him, Your Majesty, out of all the feast which thou hast made, is it so hard in thine eyes to give me one bite?

If Thou wilt indeed look.[9] R. Eleazar said: Hannah said before the Holy One, blessed be He: Sovereign of the Universe, if Thou wilt look, it is well, and if Thou wilt not look, I will go and shut myself up with someone else in the knowledge of my husband Elkanah,[10] and as I shall have been alone[11] they will make me drink the water of the suspected wife, and Thou canst not falsify Thy law, which says, She shall be cleared and shall conceive seed.[12] Now this would be effective on the view of him who says that if the woman was barren she is visited. But on the view of him who says that if she bore with pain she bears with ease, if she bore females she now bears males, if she bore swarthy children she now bears fair ones, if she bore short ones she now bears tall ones, what can be said? As it has been taught: 'She shall be cleared ad shall conceive seed': this teaches that if she was barren she is visited. So R. Ishmael. Said K. Akiba to him, If that is so, all barren women will go and shut themselves in with someone and she who has not misconducted herself will be visited! No, it teaches that if she formerly bore with pain she now bears with ease, if she bore short children she now bears tall ones, if she bore swarthy ones she now bears fair ones, if she was destined to bear one she will now bear two. What then is the force of 'If Thou wilt indeed look'? — The Torah used an ordinary form of expression.

If Thou wilt indeed look on the affliction of Thy handmaid . . . . and not forget Thy handmaid, but wilt give unto Thy handmaid etc. R. Jose son of R. Hanina said: Why these three 'handmaids'? Hannah said before the Holy One, blessed be He: Sovereign of the Universe, Thou hast created in woman three criteria [bidke] of death[13] (some say, three armour-joints [dibke] of death),[14] namely, niddah, hallah and the kindling of the light [on Sabbath].[15] Have I transgressed in any of them?

But wilt give unto Thy handmaid a man-child. What is meant by ‘a man-child’? Rab said: A man among men;[16] Samuel said: Seed that will anoint two men, namely, Saul and David; R. Johanan said: Seed that will be equal to two men, namely, Moses and Aaron, as it says, Moses and Aaron among His priests and Samuel among them that call upon His name;[17] the Rabbis say: Seed that will be merged among men.[18] When R. Dimi came [from Palestine] he explained this to mean: Neither too tall nor too short, neither too thin nor too corpulent,[19] neither too pale nor too red, neither overclever[20] nor stupid.

I am the woman that stood by thee here.[21] R. Joshua b. Levi said: From this we learn that it is forbidden to sit within four cubits of one saying Tefillah.[22] For this child I prayed.[23] R. Eleazar said: Samuel was guilty of giving a decision in the presence of his teacher; for it says, And when the bullock was slain, the child was brought to Eli.[24] Because the bullock was slain, did they bring the child to Eli? What it means is this. Eli said to them: Call a priest and let him come and kill [the animal]. When Samuel saw them looking for a priest to kill it, he said to them, Why do you go looking for a priest to kill it? The shechitah may be performed by a layman! They brought him to Eli, who asked him, How do you know this? He replied: Is it written, ‘The priest shall kill’? It is written, The priests shall present [the blood]:[25] the office of the priest begins with the receiving of the blood, which shows that shechitah may be performed by a layman.[26] He said to him: You have spoken very well, but all the same you are guilty of giving a decision in the presence of your teacher, and whoever gives a decision in the presence of his teacher is liable to the death penalty. Thereupon Hannah came and cried before him: ‘I am the woman that stood by thee here etc.’. He said to her: Let me punish him and I will pray to God and He will give thee a better one than this. She then said to him: ‘For this child I prayed’.

Now Hannah, she spoke in[27] her heart.[28] R. Eleazar said in the name of R. Jose b. Zimra: She spoke concerning her heart. She said before Him: Sovereign of the Universe, among all the things that Thou hast created in a woman, Thou hast not created one without a purpose, eyes to see, ears to hear, a nose to smell, a mouth to speak, hands to do work, legs to walk with, breasts to give suck. These breasts that Thou hast put on my heart, are they not to give suck? Give me a son, so that I may suckle with them.

R. Eleazar also said in the name of R. Jose b. Zimra: If one keeps a fast on Sabbath,[29] a decree of seventy years standing against him is annulled;[30] yet all the same he is punished for neglecting to make the Sabbath a delight. What is his remedy? R. Nahman b. Isaac said: Let him keep another fast to atone for this one. R. Eleazar also said: Hannah spoke insolently[31] toward heaven, as it says, And Hannah prayed unto[32] the Lord.[33] This teaches that she spoke insolently toward heaven.

R. Eleazar also said: Elijah spoke insolently toward heaven, as it says, For Thou didst turn their heart backwards.[34] R. Samuel b. Isaac said: Whence do we know that the Holy One, blessed be He, gave Elijah right?

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(1) Ibid. 15.

(2) Lit., ‘You have judged me in the scale of guilt and not of merit’.

(3) So lit. E.V. ‘wicked woman’. V. Kid. 16.

(4) Deut. XIII, 14. E.V. ‘certain base fellows’.

(5) I Sam. I, 17.

(6) Lit., ‘appease him’.

(7) Ibid. 11.

(8) Lit., ‘morsel’ (sc. of bread).

(9) Ibid.

(10) So that he will become jealous and test me.
(11) Lit., ‘as I will have been hidden’.
(12) Num. V, 28.
(13) Three things by which she is tested to see whether she deserves death.
(14) I.e., three vulnerable points. Hannah plays on the resemblance of the word amateka (thy handmaid) to mithah (death).
(15) V. Shab. 32a: For three transgressions woman die in childbirth; because they are not careful with niddah, with hallah and with the kindling of the light.
(16) I.e., conspicuous among men.
(17) Ps. XCIX, 6.
(18) I.e., average, not conspicuous.
(19) So Rashi.
(20) So as not to be talked about and so become exposed to the evil eye.
(21) I Sam. I, 26.
(22) Because the words imply that Eli also was standing.
(23) I Sam. I, 27.
(24) Ibid. 25.
(25) Lev. I, 5
(26) V. Zeb. 32a.
(27) Lit., ‘upon’.
(28) I Sam. I, 13.
(29) E.g., to avert the omen of a dream.
(30) I.e., even though it is high time that it was carried out (Rashi).
(31) Lit., ‘she hurled words’.
(32) The Hebrew word is ‘al, lit., ‘upon’, ‘against’.
(33) I Sam. I, 10.
(34) I Kings XVIII, 37. As much as to say, it was God's fault that they worshipped idols.

Talmud - Mas. Berachoth 32a

Because it says, And whom I have wronged.[1]

R. Hama said in the name of R. Hanina: But for these three texts,[2] the feet of Israel's enemies[3] would have slipped. One is Whom I have wronged; a second, Behold as the clay in the potter's hand, so are ye in My hand, O house of Israel;[4] the third, And I will take away the stony heart out of your flesh, and I will give you a heart of flesh.[5] R. papa said: We learn it from here: And I will put My spirit within you and cause you to walk in My statutes.[6]

R. Eleazar also said: Moses spoke insolently towards heaven, as it says, And Moses prayed unto the Lord.[7] Read not el [unto] the Lord, but ‘al [upon] the Lord, for so in the school of R. Eliezer alefs were pronounced like ‘ayins and ‘ayins like alefs. The school of R. Jannai learnt it from here: And Di-Zahab.[8] What is ‘ And Di-Zahab’? They said in the school of R. Jannai: Thus spoke Moses before the Holy One, blessed be He: Sovereign of the Universe, the silver and gold [zahab] which Thou didst shower on Israel until they said, Enough [dai], that it was which led to their making the Calf. They said in the school of R. Jannai: A lion does not roar over a basket of straw but over a basket of flesh. R. Oshaia said: It is like the case of a man who had a lean but large-limbed cow. He gave it lupines to eat and it commenced to kick him. He said to it: What led you to kick me except the lupines that I fed you with? R. Hiyya b. Abba said: It is like the case of a man who had a son; he bathed him and anointed him and gave him plenty to eat and drink and hung a purse round his neck and set him down at the door of a bawdy house. How could the boy help sinning? R. Aha the son of R. Huna said in the name of R. Shesheth: This bears out the popular saying: A full stomach is a bad sort, as It says, When they were fed they became full, they were filled and their heart was exalted; therefore they have forgotten Me.[9] R. Nahman learnt it from here: Then thy heart be lifted up and thou forget the Lord.[10] The Rabbis from here: And they shall have eaten their fill and waxen fat, and turned unto other gods.[11] Or, if you prefer, I can say from here. But Jeshurun waxed fat and kicked.[12] R. Samuel b. Nahmani said in the name of R. Jonathan. Whence do we know that the Holy One, blessed be He, in the end gave Moses right? Because it says, And multiplied unto her silver and gold, which they used for Baal.[13]

And the Lord spoke unto Moses, Go, get thee down.[14] What is meant by ‘Go, get thee down’? R. Eleazar said: The Holy One, blessed be He, said to Moses: Moses, descend from thy greatness. Have I at all given to thee greatness save for the sake of Israel? And now Israel have sinned; then why do I want thee? Straightway Moses became powerless and he had no strength to speak. When, however, [God] said, Let Me alone that I may destroy them,[15] Moses said to himself: This depends upon me, and straightway he stood up and prayed vigorously and begged for mercy. It was like the case of a king who became angry with his son and began beating him severely. His friend was sitting before him but was afraid to say a word until the king said, Were it not for my friend here who is sitting before me I would kill you. He said to himself, This depends on me, and immediately he stood up and rescued him.

Now therefore let Me alone that My wrath may wax hot against them, and that I may consume them, and I will make of thee a great nation.[16] R. Abbahu said: Were it not explicitly written, it would be impossible to say such a thing: this teaches that Moses took hold of the Holy One, blessed be He, like a man who seizes his fellow by his garment and said before Him: Sovereign of the Universe, I will not let Thee go until Thou forgivest and pardonest them.

And I will make of thee a great nation etc. R. Eleazar said: Moses said before the Holy One, blessed be He: Sovereign of the Universe, seeing that a stool with three legs[17] cannot stand before Thee in the hour of Thy wrath, how much less a stool with one leg! And moreover, I am ashamed before my ancestors, who will now say: See what a leader he has set over them! He sought greatness for himself, but he did not seek mercy for them!

And Moses besought [wa-yehal] the Lord his God.[18] R. Eleazar said: This teaches that Moses stood in prayer before the Holy One, blessed be He, Until he [so to speak] wearied Him [hehelahu]. Raba said: Until he remitted His vow for Him. It is written here wa-yehal, and it is written there [in connection with vows], he shall not break [yahel] his word;[19] and a Master has said: He [himself] cannot break, but others may break for him.[20] Samuel says: It teaches that he risked his life for them,[21] as it says, And if not, blot me, I pray Thee, out of Thy book which Thou hast written.[22] Raba said in the name of R. Isaac: It teaches that he caused the Attribute of Mercy to rest [hehelah] on them. The Rabbis say: It teaches that Moses said before the Holy One, blessed be He: Sovereign of the Universe, it is a profanation [hullin] for Thee to do this thing.

And Moses besought the Lord. It has been taught: R. Eliezer the Great says: This teaches that Moses stood praying before the Holy One, blessed be He, until an ahilu seized him. What is ahilu? R. Eleazar says: A fire in the bones. What is a fire in the bones? Abaye said: A kind of fever.

Remember Abraham, Isaac and Israel Thy servants, to whom Thou didst swear by Thyself.[23] What is the force of ‘by Thyself’? R. Eleazar said: Moses said before the Holy One, blessed be He: Sovereign of the Universe, hadst Thou sworn to them by the heaven and the earth, I would have said, Just as the heaven and earth can pass away, so can Thy oath pass away. Now, however, Thou hast sworn to them by Thy great name: just as Thy great name endures for ever and ever, so Thy oath is established for ever and ever.

And saidst unto them, I will multiply your seed as the stars of heaven and all this land that I have spoken of etc.[24] ‘That I have spoken of’? It should be, ‘That Thou hast spoken of’![25] — R. Eleazar said: Up to this point the text records the words of the disciple,[26] from this point the words of the master.[27] R. Samuel b. Nahmani, however, said: Both are the words of the disciple, only Moses spoke thus before the Holy One, blessed be He: Sovereign of the Universe, the things which Thou didst tell me to go and tell Israel in Thy name I did go and tell them in Thy name; now what am I to say to them?

Because the Lord was not able [yekoleth].[28] It should be yakol![29] R. Eleazar said: Moses said before the Holy One, blessed be He: Sovereign of the Universe, now the nations of the world will say, He has grown feeble like a female and He is not able to deliver. Said the Holy One, blessed be He, to Moses: Have they not already seen the wonders and miracles I performed for them by the Red Sea? He replied: Sovereign of the Universe, they can still say, He could stand up against one king, He cannot stand up against thirty. R. Johanan said: How do we know that in the end the Holy One, blessed be He, gave Moses right? Because it says, And the Lord said, I have pardoned according to thy word.[30] It was taught in the school of R. Ishmael: According to thy word: the nations of the world will one day say, Happy is the disciple to whom the master gives right!

But in very deed, as I live.[31] Raba said in the name of R. Isaac: This teaches that the Holy One, blessed be He, said to Moses: Moses, you have revived Me[32] with your words.

R. Simlai expounded: A man should always first recount the praise of the Holy One, blessed be He, and then pray. Whence do we know this? From Moses; for it is written, And I besought the Lord at that time,[33] and it goes on, O Lord God, Thou hast begun to show Thy servant Thy greatness and Thy strong hand; for what god is there in heaven and earth who can do according to Thy works and according to Thy mighty acts, and afterwards is written, Let me go over, I pray Thee, and see the good land etc.

(Mnemonic: Deeds, charity, offering, priest, fast, lock, iron].[34]

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(1) Micah IV, 6. This is taken to mean that God admits having wronged sinners by creating in them the evil impulse. E.V. ‘afflicted’.
(2) Which show that God is responsible for the evil impulse.
(3) Euphemism.
(4) Jer. XVIII, 6.
(5) Ezek. XXXVI, 26.
(6) Ibid. 27.
(7) Num. XI, 2.
(8) Deut. I, I.
(9) Hos. XIII, 6.
(10) Deut. VIII, 24.
(11) Ibid. XXXI, 20.
(12) Ibid. XXXII, 15.
(13) Hos. II, 10.
(14) Ex. XXXII, 7.
(15) Deut. IX, 14.
(16) Ex XXXII, 10.
(17) The three Patriarchs.
(18) Ex. XXXII, 11.
(19) Num. XXX, 3.
(20) I.e., find a ground of absolution.
(21) Connecting wayehal with halal, slain.
(22) Ex. XXXII, 32.
(23) Ibid. 13.
(24) Ex. XXXII, 13.
(25) If Moses were reporting God's promises to the Patriarchs, the words, ‘that I have spoken of’ are out of place.
(26) Moses.
(27) God.
(28) Num. XIV, 16.
(29) The ordinary form, which is masculine, while yekoleth, the word used, is feminine.
(30) Ibid. 20.
(31) Ibid. 21.
(32) I.e., preserved My estimation among the nations (Rashi).
(33) Deut. III, 23ff.
(34) This is a mnemonic for the seven dicta of R. Eleazar which follow.

Talmud - Mas. Berachoth 32b

R. Eleazar said: prayer is more efficacious even than good deeds, for there was no-one greater in good deeds than Moses our Master, and yet he was answered only after prayer, as it says, Speak no more unto Me,[1] and immediately afterwards, Get thee up into the top of Pisgah.[2]

R. Eleazar also said: Fasting is more efficacious than charity. What is the reason? One is performed with a man's money, the other with his body.

R. Eleazar also said: prayer is more efficacious than offerings, as it says, To what purpose is the multitude of your sacrifices unto Me,[3] and this is followed by, And when ye spread forth your hands.[4] R. Johanan said: A priest who has committed manslaughter should not lift up his hands [to say the priestly benediction], since it says [in this context], ‘Your hands are full of blood’.

R. Eleazar also said: From the day on which the Temple was destroyed the gates of prayer have been closed, as it says, Yea, when I cry and call for help He shutteth out my prayer.[5] But though the gates of prayer are closed, the gates of weeping are not closed, as it says, Hear my prayer, O Lord, and give ear unto my cry; keep not silence at my tears.[6] Raba did not order a fast on a cloudy day because it says, Thou hast covered Thyself with a cloud so that no prayer can pass through.[7]

R. Eleazar also said: Since the day that the Temple was destroyed, a wall of iron has intervened between Israel and their Father in Heaven, as it says, And take thou unto thee an iron griddle, and set it for a wall of iron between thee and the city.[8]

R. Hanin said in the name of R. Hanina: If one prays long his prayer does not pass unheeded. Whence do we know this? From Moses our Master; for it says, And I prayed unto the Lord,[9] and it is written afterwards, And the Lord hearkened unto me that time also.[10] But is that so? Has not R. Hiyya b. Abba said in the name of R. Johanan: If one prays long and looks for the fulfilment of his prayer, in the end he will have vexation of heart, as it says, Hope deferred maketh the heart sick?[11] What is his remedy? Let him study the Torah, as it says, But desire fulfilled is a tree of life;[12] and the tree of life is nought but the Torah, as it says, She is a tree of life to them that lay hold on her![13] — There is no contradiction: one statement speaks of a man who prays long and looks for the fulfilment of his prayer, the other of one who prays long without looking for the fulfilment of his prayer.[14] R. Hama son of R. Hanina said: If a man sees that he prays and is not answered, he should pray again, as it says, Wait for the Lord, be strong and let thy heart take courage; yea, wait thou for the Lord.[15]

Our Rabbis taught: Four things require to be done with energy,[16] namely, [study of] the Torah, good deeds, praying, and one's worldly occupation. Whence do we know this of Torah and good deeds? Because it says, Only be strong and very courageous to observe to do according to all the law:[17] ‘be strong’ in Torah, and ‘be courageous in good deeds. Whence of prayer? Because it says, ‘Wait for the Lord, be strong and let thy heart take courage, yea, wait thou for the Lord’. Whence of worldly occupation? Because it says, Be of good courage and let us prove strong for our people.[18]

But Zion said, The Lord hath forsaken me, and the Lord hath forgotten me.[19] Is not ‘forsaken’ the same as ‘forgotten’? Resh Lakish said: The community of Israel said before the Holy One, blessed be He: Sovereign of the Universe, when a man takes a second wife after his first, he still remembers the deeds of the first. Thou hast both forsaken me and forgotten me! The Holy One, blessed be He, answered her: My daughter, twelve constellations have I created in the firmament, and for each constellation I have created thirty hosts, and for each host I have created thirty legions, and for each legion I have created thirty cohorts, and for each cohort I have created thirty maniples, and for each maniple I have created thirty camps, and to each camp[20] I have attached three hundred and sixty-five thousands of myriads of stars, corresponding to the days of the solar year, and all of them I have created only for thy sake, and thou sayest, Thou hast forgotten me and forsaken me! Can a woman forsake her sucking child [‘ullah]?[21] Said the Holy One, blessed be He: Can I possibly forget the burn-offerings [‘olah] of rams and the firstborn of animals[22] that thou didst offer to Me in the wilderness? She thereupon said: Sovereign of the Universe, since there is no forgetfulness before the Throne of Thy glory, perhaps Thou wilt not forget the sin of the Calf? He replied: ‘Yea, "these "[23] will be forgotten’. She said before Him: Sovereign of the Universe, seeing that there is forgetfulness before the Throne of Thy glory, perhaps Thou wilt forget my conduct at Sinai? He replied to her: ‘Yet "the I"[24] will not forget thee’. This agrees with what R. Eleazar said in the name of R. Oshaia: What is referred to by the text, ‘yea, "these" will be forgotten’? This refers to the sin of the Calf. ‘And yet "the I" will not forget thee’: this refers to their conduct at Sinai.

THE PIOUS MEN OF OLD USED TO WAIT AN HOUR. On what is this based? — R. Joshua b. Levi said: On the text, Happy are they that dwell in Thy house.[25] R. Joshua b. Levi also said: One who says the Tefillah should also wait an hour after his prayer, as it says, Surely the righteous shall give thanks unto Thy name, the upright shall sit in Thy presence.[26] It has been taught similarly: One who says the Tefillah should wait an hour before his prayer and an hour after his prayer. Whence do we know [that he should wait] before his prayer? Because it says: ‘Happy are they that dwell in Thy house’. Whence after his prayer? Because it says, ‘Surely the righteous shall give thanks unto Thy name, the upright shall dwell in Thy presence’. Our Rabbis taught: The pious men of old used to wait for an hour and pray for an hour and then wait again for an hour. But seeing that they spend nine hours a day over prayer, how is their knowledge of Torah preserved and how is their work done? [The answer is] that because they are pious, their Torah is preserved[27] and their work is blessed.[28]

EVEN IF A KING GREETS HIM HE SHOULD NOT ANSWER HIM. R. Joseph said: This was meant to apply only to Jewish kings, but for a king of another people he may interrupt. An objection was raised: If one was saying Tefillah and he saw a robber[29] coming towards him or a carriage coming towards him, he should not break off but curtail it and clear off! — There Is no contradiction: where it is possible for him to curtail [he should curtail, otherwise he should break off].[30]

Our Rabbis taught: It is related that once when a certain pious man was praying by the roadside, an officer came by and greeted him and he did not return his greeting. So he waited for him till he had finished his prayer. When he had finished his prayer he said to him: Fool![31] is it not written in your Law, Only take heed to thyself and keep thy soul diligently,[32] and it is also written, Take ye therefore good heed unto your souls?[33] When I greeted you why did you not return my greeting? If I had cut off your head with my sword, who would have demanded satisfaction for your blood from me? He replied to him: Be patient and I will explain to you. If, [he went on], you had been standing before an earthly king and your friend had come and given you greeting, would you

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(1) Ibid. 26. The meaning is apparently that his good deeds did not avail to procure him permission to enter the land, but his prayer procured for him the vision of Pisgah.

(2) Ibid. 27.

(3) Isa. I, 11.

(4) Ibid. 15. Since spreading of hands is mentioned after sacrifice, it must be regarded as more efficacious.

(5) Lam. III, 8.

(6) Ps. XXXIX, 13. This shows that the tears are at any rate observed.

(7) Lam. III, 44.

(8) Ezek. IV, 3. This wall was symbolical of the wall separating Israel from God.

(9) Deut. IX, 26. This seems to be quoted in error for, And I fell down before the Lord forty days and forty nights, in v. 18; v. MS.M.

(10) Ibid. 19.

(11) Prov. XIII, 12.

(12) Ibid.

(13) Ibid. III, 18.

(14) V. B.B. (Sonc. ed.) p. 717, n. 8.

(15) Ps. XXVII, 14.

(16) Lit., ‘require vigour’.

(17) Joshua I, 7.

(18) II Sam. X, 12.

(19) Isa. XLIX, 14.

(20) These terms are obviously taken from Roman military language. There is, however, some difficulty about identifying rahaton (cohorts) and karton (maniples) in the text.

(21) Ibid. 25.

(22) Lit., ‘opening of the womb’.

(23) Referring to the golden calf incident when Israel exclaimed ‘These are thy gods’, Ex. XXXII, 4’

(24) Referring to the revelation at Sinai when God declared, ‘I am the Lord Thy God’. This incident will not be

forgotten. R.V. ‘Yet will I not forget thee’.
(25) Ps. LXXXIV, 5.
(26) Ibid. CXL, 14.
(27) I.e., they do not forget it.
(28) I.e., a little goes a long way.
(29) The Heb. annes usually means ‘a man of violence’. Some suppose that it is here equivalent to hamor, ass, which is actually found in J.T.
(30) Alfasi reads: In the one case it is possible for him to curtail, in the other it is not possible; where he can curtail he should, otherwise he may break off.
(31) Raka; v. supra p. 133, n. 3.
(32) Deut. IV, 9.
(33) Ibid. 15. ‘Soul’ in these texts is taken to mean ‘life’.

Talmud - Mas. Berachoth 33a

have returned it? No, he replied. And if you had returned his greeting, what would they have done to you? They would have cut off my head with the sword, he replied. He then said to him: Have we not here then an a fortiori argument: If [you would have behaved] in this way when standing before an earthly king who is here today and tomorrow in the grave, how much more so I when standing before the supreme King of kings, the Holy One, blessed be He, who endures for all eternity? Forthwith the officer accepted his explanation, and the pious man returned to his home in peace.

EVEN IF A SNAKE IS WOUND ROUND HIS FOOT HE SHOULD NOT BREAK OFF. R. Shesheth said: This applies only in the case of a serpent, but if it is a scorpion, he breaks off.[1] An objection was raised: If a man fell into a den of lions [and was not seen again] one cannot testify concerning him that he is dead; but if he fell into a trench full of serpents or scorpions, one can testify concerning him that he is dead!? — The case there is different, because on account of his crushing them [in falling] they turn and bite him. R. Isaac said: If he sees oxen [coming towards him] he may break off; for R. Oshaia taught: One should remove from a tam[2] ox fifty cubits, and from a mu'ad[3] ox out of sight. It was taught in the name of R. Meir: If an ox's head is in a [fodder] basket,[4] go up to a roof and kick the ladder away.[5] Samuel said: This applies only to a black ox and in the month of Nisan, because then Satan is dancing between his horns.[6]

Our Rabbis taught: In a certain place there was once a lizard[7] which used to injure people. They came and told R. Hanina b. Dosa. He said to them: Show me its hole. They showed him its hole, and he put his heel over the hole, and the lizard came out and bit him, and it died. He put it on his shoulder and brought it to the Beth ha-Midrash and said to them: See, my sons, it is not the lizard that kills, it is sin that kills! On that occasion they said: Woe to the man whom a lizard meets, but woe to the lizard which R. Hanina b. Dosa meets![8]

MISHNAH. THE MIRACLE OF THE RAINFALL[9] IS MENTIONED IN THE BENEDICTION OF THE RESURRECTION, AND THE PETITION[10] FOR RAIN IN THE BENEDICTION OF THE YEARS, AND HABDALAH[11] IN ‘THAT GRACIOUSLY GRANTEST KNOWLEDGE’.[12] R. AKIBA SAYS: HE SAYS IT AS A FOURTH BLESSING[13] BY ITSELF; R. ELIEZER SAYS: IT IS SAID IN THE THANKSGIVING BENEDICTION.[14]

GEMARA. THE MIRACLE OF THE RAINFALL etc. What is the reason? — R. Joseph said: Because it is put on a level with the resurrection of the dead, therefore it was inserted in the benediction of the resurrection.

THE PETITION FOR RAIN IN THE BENEDICTION OF THE YEARS. What is the reason? — R. Joseph said: Because [the petition] refers to sustenance, therefore it was inserted in the benediction of sustenance.

HABDALAH IN THAT GRACIOUSLY GRANTEST KNOWLEDGE’. What is the reason? — R. Joseph said: Because it is a kind of wisdom,[15] it was inserted in the benediction of wisdom. The Rabbis, however, say: Because the reference is to a weekday, therefore it was inserted in the weekday blessing. R. Ammi said: Great is knowledge, since it was placed at the beginning of the weekday blessings. R. Ammi also said: Great is knowledge since it was placed between two names,[16] as it says, For a God of knowledge is the Lord.[17] And if one has not knowledge, it is forbidden to have mercy on him, as it says, For it is a people of no understanding, therefore He that made them will have no compassion upon them.[18] R. Eleazar said: Great is the Sanctuary, since it has been placed between two names, as it says, Thou hast made, O Lord, the sanctuary, O Lord.[19] R. Eleazar also said: Whenever there is in a man knowledge, it is as if the Sanctuary had been built in his days; for knowledge is set between two names, and the Sanctuary is set between two names. R. Aha Karhina'ah demurred to this. According to this, he said, great is vengeance since it has been set between two names, as it says, God of vengeance, O Lord;[20] He replied: That is so; that is to say, it is great in its proper sphere; and this accords with what ‘Ulla said: Why two vengeances here?[21] One for good and one for ill. For good, as it is written, He shined forth from Mount Paran;[22] for ill, as it is written, God of vengeance, O Lord, God of vengeance, shine forth.[20]

R. AKIBA SAYS: HE SAYS IT AS A FOURTH BLESSING, etc. R. Shaman b. Abba said to R. Johanan: Let us see: It was the Men of the Great Synagogue[23] who instituted for Israel blessings and prayers, sanctifications and habdalahs.[24] Let us see where they inserted them! — He replied: At first they inserted it [the habdalah] in the Tefillah: when they [Israel] became richer, they instituted that it should be said over the cup [of wine]; when they became poor again they again inserted it in the Tefillah; and they said that one who has said habdalah in the Tefillah must say it [again] over the cup [of wine]. It has also been stated: R. Hiyya b. Abba said in the name of R. Johanan: The Men of the Great Synagogue instituted for Israel blessings and prayers, sanctifications and habdalahs. At first they inserted the habdalah in the Tefillah. When they [Israel] became richer, they instituted that it should be said over the cup [of wine]. When they became poor again, they inserted it in the Tefillah; and they said that one who says habdalah in the Tefillah must [also] say it over the cup [of wine]. It has also been stated: Rabbah and R. Joseph both say: One who has said habdalah in the Tefillah must [also] say it over the cup [of wine]. Said Raba: We can bring an objection against this ruling [from the following]: If a man forgot and did not mention the miracle of the rain in the resurrection blessing, or petition for rain in the blessing of the years, he is made to repeat the Tefillah. If, however, he forgot habdalah in ‘that graciously grantest knowledge’, he is not made to repeat, because he can say it over the cup [of wine]![25] Do not read, because he can say it over the cup [of wine], but read, because he says it over the cup [of wine].

It has also been stated: R. Benjamin b. Jephet said: R. Jose asked R. Johanan in Sidon — some report, R. Simeon b. Jacob from Tyre asked R. Johanan: But I have heard that one who has said habdalah in the Tefillah says it over the cup [of wine]; or is it not so? He replied to him: He must say it over the cup [of wine].

The question was raised: If one has said habdalah over the cup [of wine], need he say it [again] in the Tefillah? — R. Nahman b. Isaac replied: We learn the answer a fortiori from the case of Tefillah. The essential place of the habdalah is in the Tefillah, and yet it was laid down that one who has said it in the Tefillah must say it also over the cup [of wine]. Does it not then stand to reason that if he has said it over the cup [of wine], which is not its essential place, he must say it [again] in the Tefillah? R. Aha Arika[26] recited in the presence of R. Hinena: He who says habdalah in the Tefillah is more praiseworthy than he who says it over the cup [of wine], and if he says it in both, may blessings rest on his head! This statement contains a contradiction. It says that he who says habdalah in the Tefillah is more praiseworthy than he who says it over the cup [of wine], which would show that to say it in Tefillah alone is sufficient, and again it teaches, ‘and if he says it in both, may blessings rest on his head’, but since he has said it in one he is quit, the second is a blessing which is not necessary, and Raba, or as some say Resh Lakish, or again as some say, both Resh Lakish and R. Johanan, have said: Whoever says a blessing which is not necessary transgresses the command of ‘thou shalt not take [God's name in vain]’![27] Rather read thus: If he has said habdalah in one and not in the other, blessings shall rest upon his head.

R. Hisda inquired of R. Shesheth: If he forgot in both,[28] what is he to do? — He replied: If one forgot in both, he says the whole again.[29]

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(1) A scorpion is more certain to sting.

(2) One which has ‘lot gored before.

(3) One which has gored three times. For these terms, v. Glos.

(4) I.e., even if it is busy eating.

(5) This is a humorous exaggeration.

(6) I.e., it is high spirited and full of mischief in the spring.

(7) Heb. yarod, apparently a cross-breed of a snake and a lizard.

(8) According to J.T. a spring of water had miraculously opened at the feet of R. Hanina, and that sealed the fate of the lizard, for (it is asserted) when a lizard bites a man, if the man reaches water first, the lizard dies, but if the lizard reaches water first the man dies.

(9) The formula ‘that causest the wind to blow’ etc., P.B. P. 44.

(10) The words ‘and grant dew and rain for a blessing’, ibid. p. 47.

(11) V. Glos.

(12) Ibid. p. 46.

(13) After the first three.

(14) Ibid. p. 51.

(15) Viz., discerning between holy and profane and between clean and unclean etc.

(16) I.e., two mentions of the Deity. Lit., ‘letters’; var. lec. ‘words’.

(17) I Sam. II, 3.

(18) Isa. XXVII, 11.

(19) Ex. XV, 17. (lit. trans.).

(20) Ps. XCIV, 1.

(21) The word ‘vengeance’ is written twice in the verse cited from Psalms.

(22) Deut. XXXIII, 2. It is difficult to see what this has to do with vengeance. It seems that in fact the text does not explain the statement of ‘Ulla, and instead shows how there are two kinds of ‘shining forth’. V. Sanh. 92a.

(23) V. Aboth I, 1.

(24) The various divisions mentioned in the habdalah benediction.

(25) V. infra 26b. Which seems to show that it is optional.

(26) The Tall.

(27) Ex. XX, 7.

(28) In the case of habdalah over the cup, he failed to say the last benediction which contains the enumeration of the various divisions. V. D.S. a.l.

(29) He recites anew the Tefillah and the benediction over the cup of wine.

Talmud - Mas. Berachoth 33b

Rabina said to Raba: What is the law?[1] He replied to him: The same as in the case of sanctification. Just as the sanctification, although it has been said in the Tefillah, is also said over the cup [of wine], so habdalah, although it has been said in the Tefillah, is also to be said over the cup [of wine].

R. ELIEZER SAYS: IN THE THANKSGIVING BENEDICTION. R. Zera was once riding on an ass, with R. Hiyya b. Abin following on foot.[2] He said to him: Did you really say in the name of R.

Johanan that the halachah is as stated by R. Eliezer on a festival that falls after Sabbath?[3] He replied: Yes, that is the halachah. Am I to assume [he replied] that they [the Rabbis] differ from him?[4] — And do they not differ? Surely the Rabbis differ! — I would say that the Rabbis differ in regard to the other days of the year, but do they differ in regard to a festival which falls after a Sabbath? — But surely R. Akiba differs?[5] — Do we follow R. Akiba the rest of the year that we should now[6] commence to follow him? Why do we not follow R. Akiba all the rest of the year? Because eighteen blessings were instituted, not nineteen. Here too [on the festival] seven were instituted, not eight![7] [R. Zera then] said to him: It was not stated that such is the halachah,[8] but that we incline to this view.[9] It has been stated: R. Isaac b. Abdimi said in the name of our teacher [Rab]: Such is the halachah, but some say, we [merely] incline to this view. R. Johanan said: [The Rabbis] agree [with R. Eliezer].[10] R. Hiyya b. Abba said: This appears correct.[11] R. Zera said: Choose the statement of R. Hiyya b Abba, for he is very accurate in repeating the statements of his teacher, like Rahaba of Pumbeditha. For Rahaba said in the name of Rabbi Judah: The Temple Mount was a double stoa — a stoa within a stoa.[12] R. Joseph said: I know neither one nor the other,[13] but I only know that Rab and Samuel instituted for us a precious pearl in Babylon:[14] ‘And Thou didst make known unto us, O Lord our God, Thy righteous judgments and didst teach us to do the statutes that Thou hast willed, and hast made us inherit seasons of gladness and festivals of freewill-offering, and didst transmit to us the holiness of Sabbath and the glory of the appointed season and the celebration of the festival. Thou hast divided between the holiness of Sabbath and the holiness of the festival, and hast sanctified the seventh day above the six working days: Thou hast separated and sanctified Thy people Israel with Thy holiness. And Thou hast given us’ etc.[15]

MISHNAH. IF ONE [IN PRAYING] SAYS ‘MAY THY MERCIES EXTEND TO A BIRD'S NEST’,[16] ‘BE THY NAME MENTIONED FOR WELL-DOING’, OR ‘WE GIVE THANKS, WE GIVE THANKS’, HE IS SILENCED.[17]

GEMARA. We understand why he is silenced if he says ‘WE GIVE THANKS, WE GIVE THANKS’,because he seems to be acknowledging two powers;[18] also if he says, ‘BE THY NAME MENTIONED FOR WELL-DOING’, because this implies, for the good only and not for the bad, and we have learnt, A man must bless God for the evil as he blesses Him for the good.[19] But what is the reason for silencing him if he says ‘THY MERCIES EXTEND TO THE BIRD'S NEST? — Two Amoraim in the West, R. Jose b. Abin and R. Jose b. Zebida, give different answers; one says it is because he creates jealousy among God's creatures,[20] the other, because he presents the measures taken by the Holy One, blessed be He, as springing from compassion, whereas they are but decrees.[21] A certain [reader] went down [before the Ark] in the presence of Rabbah and said, ‘Thou hast shown mercy to the bird's nest, show Thou pity and mercy to us’. Said Rabbah: How well this student knows how to placate his Master! Said Abaye to him: But we have learnt, HE IS SILENCED? — Rabbah too acted thus only to test[22] Abaye.

A certain [reader] went down in the presence of R. Hanina and said, O God, the great, mighty, terrible, majestic, powerful, awful, strong, fearless, sure and honoured. He waited till he had finished, and when he had finished he said to him, Have you concluded all the praise of your Master? Why do we want all this? Even with these three that we do say,[23] had not Moses our Master mentioned them in the Law[24] and had not the Men of the Great Synagogue come and inserted them in the Tefillah, we should not have been able to mention them, and you say all these and still go on! It is as if an earthly king had a million denarii of gold, and someone praised him as possessing silver ones. Would it not be an insult to him?

R. Hanina further said: Everything is in the hand of heaven except the fear of heaven,[25] as it says, And now, Israel, what doth the Lord thy God require of thee but to fear.[26] Is the fear of heaven such a little thing? Has not R. Hanina said in the name R. Simeon b. Yohai: The Holy One, blessed be He, has in His treasury nought except a store of the fear of heaven, as it says, The fear of the Lord is His treasure?[27] — Yes; for Moses it was a small thing; as R. Hanina said: To illustrate by a parable, if a man is asked for a big article and he has it, it seems like a small article to him; if he is asked for a small article and he does not possess it, it seems like a big article to him.

WE GIVE THANKS, WE GIVE THANKS, HE IS SILENCED. R. Zera said: To say ‘Hear, hear’, [in the Shema’] is like saying ‘We give thanks, we give thanks’. An objection was raised: He who recites the Shema’ and repeats it is reprehensible. He is reprehensible, but we do not silence him? — There is no contradiction; in the one case he repeats each word as he says it,[28] in the other each sentence.[29] Said R. papa to Abaye: But perhaps [he does this because] at first he was not attending to what he said and the second time he does attend? — He replied:

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(1) About saying habdalah over wine, after having mentioned it in the Tefillah.

(2) Lit., ‘betaking himself and going’.

(3) I.e., on Saturday night, when the fourth benediction ‘that graciously grantest knowledge’ is not said.

(4) Because otherwise there would be no need to say that the halachah follows him.

(5) R. Akiba provides for habdalah a benediction by itself. Consequently is was necessary to declare the halachah follows R. Eliezer on at festival which follows Sabbath, to exclude the view of R. Akiba.

(6) On a festival following Sabbath.

(7) Why then is it necessary to say that the halachah is as R. Eliezer, not as stated by R. Akiba?

(8) And is to be taught as such in public.

(9) And we advise individuals to act thus if they inquire.

(10) When a festival falls on Saturday night.

(11) We do not recommend this, but if one does so, we do not interfere.

(12) Though the word used in the Mishnah of Pes. (13a) is not stoa (colonnade) but the more familiar iztaba which has the same meaning. V. Pes. (Sonc. ed.) P. 59. nn. 10-11 and Bez. (Sonc. ed.) p. 54 n. 9.

(13) That we incline towards the view of R. Eliezer or that we regard it as probable.

(14) To be inserted in the fourth benediction of the festival ‘Amidah.

(15) This form of habdalah prayer is used with slight variants on a festival that follows Sabbath, v. P.B. p. 227.

(16) V. Deut. XXII, 6.

(17) For the reasons, v. the Gemara. This Mishnah is found in Meg. 26a with a somewhat different reading.

(18) The dualism of the Persian — the God of darkness and the God of light.

(19) Infra 54a.

(20) By implying that this one is favoured above others.

(21) V. Meg. (Sonc. ed.) p. 149 notes.

(22) Lit., ‘sharpen’. He wanted to see if he knew the law.

(23) Great, mighty, and terrible, in the first benediction.

(24) Deut. X, 17.

(25) I.e., all a man's qualities are fixed by nature, but his moral character depends on his own choice.

(26) Deut. X, 12.

(27) Isa. XXXIII, 6.

(28) This is merely reprehensible.

(29) In this case he is silenced since this is as if he were addressing two Powers.

Talmud - Mas. Berachoth 34a

Can one behave familiarly with Heaven? If he did not recite with attention at first, we hit him with a smith's hammer until he does attend.

MISHNAH. [IF ONE SAYS, LET THE GOOD BLESS THEE, THIS IS A PATH OF HERESY].[1] IF ONE WAS PASSING BEFORE THE ARK AND MADE A MISTAKE, ANOTHER SHOULD PASS IN HIS PLACE, AND AT SUCH A MOMENT ONE MAY NOT REFUSE. WHERE SHOULD HE COMMENCE? AT THE BEGINNING OF THE BENEDICTION IN WHICH THE

OTHER WENT WRONG. THE READER[2] SHOULD NOT RESPOND AMEN AFTER [THE BENEDICTIONS OF] THE PRIESTS[3] BECAUSE THIS MIGHT CONFUSE HIM. IF THERE IS NO PRIEST THERE EXCEPT HIMSELF, HE SHOULD NOT RAISE HIS HANDS [IN PRIESTLY BENEDICTION], BUT IF HE IS CONFIDENT THAT HE CAN. RAISE HIS HANDS AND GO BACK TO HIS PLACE IN HIS PRAYER,[4] HE IS PERMITTED TO DO SO.

GEMARA. Our Rabbis taught: If one is asked to pass before the Ark, he ought to refuse,[5] and if he does not refuse he resembles a dish without salt; but if he persists too much in refusing he resembles a dish which is over-salted. How should he act? The first time he should refuse; the second time he should hesitate; the third time he should stretch out his legs and go down.

Our Rabbis taught: There are three things of which one may easily have too much[6] while a little is good, namely, yeast, salt, and refusal.

R. Huna said: If one made a mistake in the first three [of the Tefillah] blessings, he goes back to the beginning; if in the middle blessings, he goes back to 'Thou graciously grantest knowledge;[7] if in the last blessings, he goes back to the 'Abodah.[8] R. Assi, however, says that in the middle ones the order need not be observed.[9] R. Shesheth cited in objection: 'Where should he commence? At the beginning of the benediction in which the other went wrong'.[10] This is a refutation of R. Huna, is it not?[11] — R. Huna can reply: The middle blessings are all one.[12]

Rab Judah said: A man should never petition for his requirements either in the first three benedictions or in the last three, but in the middle ones. For R. Hanina said: In the first ones he resembles a servant who is addressing a eulogy to his master; in the middle ones he resembles a servant who is requesting a largess from his master, in the last ones he resembles a servant who has received a largess from his master and takes his leave.

Our Rabbis taught: Once a certain disciple went down[13] before the Ark in the presence of R. Eliezer, and he span out the prayer to a great length. His disciples said to him: Master, how longwinded this fellow is! He replied to them: Is he drawing it out any more than our Master Moses, of whom it is written: The forty days and the forty nights [that I fell down]?[14] Another time it happened that a certain disciple went down before the Ark in the presence of R. Eliezer, and he cut the prayer very short. His disciples said to him: How concise this fellow is! He replied to them: Is he any more concise than our Master Moses, who prayed, as it is written: Heal her now, O God, I beseech Thee?[15] R. Jacob said in the name of R. Hisda: If one prays on behalf of his fellow, he need not mention his name, since it says: Heal her now, O God, I beseech Thee', and he did not mention the name of Miriam.

Our Rabbis taught: These are the benedictions in saying which one bows [in the Tefillah]: The benediction of the patriarchs,[16] beginning and end, and the thanksgiving, beginning and end.[17] If one wants to bow down at the end of each benediction and at the beginning of each benediction, he is instructed not to do so. R. Simeon b. Pazzi said in the name of R. Joshua b. Levi, reporting Bar Kappara: An ordinary person bows as we have mentioned;

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(1) Minuth, (v. Glos. s.v. Min) implying that only the good are invited to bless God. This passage is wanting in the separate editions of the Mishnah, but occurs in Meg. 25a.

(2) Lit., 'he who passes before the Ark'.

(3) V. P.B. 283a (15th ed.).

(4) Without making a mistake in the prayers.

(5) As feeling himself unworthy for the sacred duty.

(6) Lit., 'a large quantity is hard'.

(7) The fourth benediction in the Tefillah, v. P.B. p. 46.

(8) Lit., ‘service’. The seventeenth blessing, v. P.B. p. 50.

(9) And if one was accidentally omitted it can be inserted anywhere. So Rashi. Tosaf., however, say that he goes back to that blessing and continues from there.

(10) So M.S. M. cur. edd. read: ‘To where does he go back’.

(11) Because it shows that he need not go back to ‘Thou graciously grantest’.

(12) And if one errs in any of them he has to go back to ‘Thou graciously grantest’.

(13) The reading desk was at a lower level than the floor of the Synagogue. (v. supra 10); hence the expression ‘went down’.

(14) Deut. IX, 25.

(15) Num. XII, 13.

(16) The first benediction.

(17) V. P.B. 51 and 53.

Talmud - Mas. Berachoth 34b

a high priest at the end of each benediction; a king at the beginning of each benediction and at the end of each benediction.[1] R. Isaac b. Nahmani said: It was explained to me by R. Joshua b. Levi that an ordinary person does as we have mentioned; a high priest bows at the beginning of each blessing; and a king, once he has knelt down, does not rise again [until the end of the Tefillah], as it says: And it was so that when Solomon had made an end of praying, ... he arose from before the Altar of the Lord, from kneeling on his knees.[2]

Kidah [bowing] is upon the face, as it says: Then Bath-Sheba bowed with her face to the ground.[3] Keri'ah [kneeling] is upon the knees, as it says: From kneeling on his knees, prostration is spreading out of hands and feet, as it says: Shall I and thy mother and thy brethren come to prostrate ourselves before thee on the ground.[4]

R. Hiyya the son of R. Huna said: I have observed Abaye and Raba bending to one side.[5] One [Baraitha] taught: To kneel in the thanksgiving benediction is praiseworthy, while another taught: It is reprehensible? — There is no contradiction: one speaks of the beginning,[6] the other of the end. Raba knelt in the thanksgiving at the beginning and at the end. The Rabbis said to him: Why does your honour act thus? He replied to them: I have seen R. Nahman kneeling, and I have seen R. Shesheth doing thus. But it has been taught: To kneel in the thanksgiving is reprehensible — That refers to the thanksgiving in Hallel.[7] But it has been taught: To kneel in the thanksgiving and in the thanksgiving of Hallel is reprehensible? — The former statement refers to the thanksgiving in the Grace after Meals.[8]

MISHNAH. IF ONE MAKES A MISTAKE IN HIS TEFILLAH IT IS A BAD SIGN FOR HIM, AND IF HE IS A READER OF THE CONGREGATION[9] IT IS A BAD SIGN FOR THOSE WHO HAVE COMMISSIONED HIM, BECAUSE A MAN'S AGENT IS EQUIVALENT TO HIMSELF. IT WAS RELATED OF R. HANINA BEN DOSA THAT HE USED TO PRAY FOR THE SICK AND SAY, THIS ONE WILL DIE, THIS ONE WILL LIVE. THEY SAID TO HIM: HOW DO YOU KNOW? HE REPLIED: IF MY PRAYER COMES OUT FLUENTLY,[10] I KNOW THAT HE IS ACCEPTED, BUT IF NOT, THEN I KNOW THAT HE IS REJECTED.[11]

GEMARA. In which blessing [is a mistake a bad sign]? — R. Hiyya said in the name of R. Safra who had it from a member of the School of Rabbi: In the blessing of the Patriarchs.[12] Some attach this statement to the following: ‘When one says the Tefillah he must say all the blessings attentively, and if he cannot say all attentively he should say one attentively’. R. Hiyya said in the name of R. Safra who had it from a member of the School of Rabbi: This one should be the blessing of the patriarchs.

IT WAS RELATED OF RABBI HANINA etc. What is the [Scriptural] basis for this? — R. Joshua b. Levi said: Because Scripture says: Peace to him that is far off and to him that is near, saith the Lord that createth the fruit of the lips, and I will heal him.[13]

R. Hiyya b. Abba said in the name of R. Johanan: All the prophets prophesied only on behalf of[14] one who gives his daughter in marriage to a scholar and who conducts business on behalf of a scholar and who allows a scholar the use of his possessions. But as for the scholars themselves, Eye hath not seen, oh God, beside Thee what He will do for him that waiteth for Him.[15]

R. Hiyya b. Abba also said in the name of R. Johanan: All the prophets prophesied only for the days of the Messiah, but as for the world to come, 'Eye hath not seen, oh God, beside Thee'. These Rabbis differ from Samuel; for Samuel said: There is no difference between this world and the days of the Messiah except [that in the latter there will be no] bondage of foreign powers, as it says: For the poor shall never cease out of the land.[16]

R. Hiyya b. Abba also said in the name of R. Johanan: All the prophets prophesied only on behalf of penitents; but as for the wholly righteous, 'Eye hath not seen, oh God, beside Thee'. He differs in this from R. Abbahu. For R. Abbahu said: In the place where penitents stand even the wholly righteous cannot stand, as it says: Peace, peace to him that was far and to him that is near[17] — to him that was far first, and then to him that is near. R. Johanan, however, said: What is meant by 'far'? One who from the beginning was far from transgression. And what is meant by 'near'? That he was once near to transgression and now has gone far from it.[18] What is the meaning of 'Eye hath not seen'? R. Joshua b. Levi said: This is the wine which has been preserved in its grapes from the six days of Creation.[19] R. Samuel b. Nahmani said: This is Eden,[20] which has never been seen by the eye of any creature, perhaps you will say, Where then was Adam? He was in the garden. Perhaps you will say, the garden and Eden are the same? Not so! For the text says: And a river went out of Eden to water the garden[21] — the garden is one thing and Eden is another.

Our Rabbis taught: Once the son of R. Gamaliel fell ill. He sent two scholars to R. Hanina b. Dosa to ask him to pray for him. When he saw them he went up to an upper chamber and prayed for him. When he came down he said to them: Go, the fever has left him; They said to him: Are you a prophet? He replied: I am neither a prophet nor the son of a prophet, but I learnt this from experience. If my prayer is fluent in my mouth, I know that he is accepted: but if not, I know that he is rejected.[22] They sat down and made a note of the exact moment. When they came to R. Gamaliel, he said to them: By the temple service! You have not been a moment too soon or too late, but so it happened: at that very moment the fever left him and he asked for water to drink.

On another occasion it happened that R . Hanina b. Dosa went to study Torah with R. Johanan ben Zakkai. The son of R. Johanan ben Zakkai fell ill. He said to him: Hanina my son, pray for him that he may live. He put his head between his knees and prayed for him and he lived. Said R. Johanan ben Zakkai: If Ben Zakkai had stuck his head between his knees for the whole day, no notice would have been taken of him. Said his wife to him: Is Hanina greater than you are? He replied to her: No; but he is like a servant before the king,[23] and I am like a nobleman before a king.[24]

R. Hiyya b. Abba said in the name of R. Johanan: A man should not pray save in a room which has windows,[25] since it says, Now his windows were open in his upper chamber towards Jerusalem.[26]

R. Kahana said: I consider a man impertinent who prays in a valley.[27] R. Kahana also said: I consider a man impertinent who openly[28] recounts his sins, since it is said, Happy is he whose transgression is forgiven, whose sin is covered.[29] [

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(1) I.e., the greater the individual, the more he humbles himself.
(2) I Kings VIII, 54.
(3) Ibid. I, 31.
(4) Gen. XXXVII, 10.
(5) And not completely prostrating themselves.
(6) This is praiseworthy.
(7) The verse, Give thanks unto the Lord, for he is good, etc., v. P.B. p. 222.
(8) P.B. p. 281.
(9) Lit., 'An agent of the congregation'.
(10) Lit., 'is fluent in my mouth'.
(11) Lit., 'he is torn'. The word, however, may refer to the Prayer, meaning that it is rejected.
(12) The first blessing in the Tefillah.
(13) Isa. LVII, 19. Bore translated 'created' has also the meaning 'strong', hence the verse is rendered to mean: if the fruit of the lips (prayer) is strong (fluent) then I will heal him.
(14) I.e., their promises and consolations had reference to.
(15) Isa. LXIV, 3.
(16) Deut. XV, 11. 'Never' i.e., not even in the Messianic era.
(17) Isa. LVII, 19.
(18) I.e., the Penitent.
(19) To feast the righteous in the future world.
(20) Paradise.
(21) Gen. II, 10.
(22) V. supra, p. 214 n. 4.
(23) Who has permission to go in to him at anytime.
(24) Who appears before him only at fixed times.
(25) So that he should have a view of the heavens.
(26) Dan. VI, 11.
(27) A level stretch of ground where people constantly pass; one should pray in an enclosed and secluded spot.
(28) As though unashamed.
(29) Lit., trans. E.V. 'whose sin is Pardoned' Ps. XXXII, 1.

Talmud - Mas. Berachoth 35a

CHAPTER VI

MISHNAH. WHAT BLESSINGS ARE SAID OVER FRUIT? OVER FRUIT OF THE TREE ONE SAYS, WHO CREATEST THE FRUIT OF THE TREE, EXCEPT FOR WINE, OVER WHICH ONE SAYS, WHO CREATEST THE FRUIT OF THE VINE. OVER THAT WHICH GROWS FROM THE GROUND ONE SAYS: WHO CREATEST THE FRUIT OF THE GROUND, EXCEPT OVER BREAD, FOR WHICH ONE SAYS, WHO BRINGEST FORTH BREAD FROM THE EARTH. OVER VEGETABLES ONE SAYS, WHO CREATEST THE FRUIT OF THE GROUND; R. JUDAH, HOWEVER, SAYS: WHO CREATEST DIVERS KINDS OF HERBS.

GEMARA. Whence is this derived?[1] — As our Rabbis have taught: The fruit thereof shall be holy, for giving praise unto the Lord.[2] This[3] teaches that they require a blessing both before and after partaking of them. On the strength of this R. Akiba said: A man is forbidden to taste anything before saying a blessing over it.

But is this the lesson to be learnt from these words 'Holy for giving praise'? Surely they are required for these two lessons: first, to teach that the All-Merciful has declared: Redeem it[4] and then eat it, and secondly,that a thing which requires a song of praise requires redemption,[5] but one that does not require a song of praise does not require redemption,[6] as has been taught by R. Samuel b.

Nahmani in the name of R. Jonathan. For R. Samuel b. Nahmani said in the name of R. Jonathan: Whence do we know that a song of praise is sung only over wine?[7] Because it says, And the vine said unto them: Should I leave my wine which cheereth God and man?[8] If it cheers man, how does it cheer God? From this we learn that a song of praise is sung only over wine.

Now this reasoning[9] is valid for him who teaches 'The planting of the fourth year'.[10] But for him who teaches 'The vineyard of the fourth year', what can be said? For it has been stated: R. Hiyya and R. Simeon the son of Rabbi [taught differently]. One taught, 'Vineyard of the fourth year', the other taught, 'Planting of the fourth year' . — For him who teaches 'Vineyard of the fourth year' also there is no difficulty if he avails himself of a gezerah shawah.[11] For it has been taught: Rabbi says: It says there, that it may yield unto you more richly the increase thereof,[12] and it says in another place, the increase of the vineyard.[13] Just as in the latter passage 'increase' refers to the vineyard, so here it refers to the vineyard. Thus one hillul is left over to indicate that a blessing is required. But if he does not avail himself of a gezerah shawah, how can he derive this lesson? And even if he does avail himself of a gezerah shawah, while we are satisfied that a blessing is required after it,[14] whence do we learn that it is required [before partaking]? — This is no difficulty. We derive it by argument a fortiori: If he says a blessing when he is full, how much more so ought he to do so when he is hungry?[15]

We have found a proof for the case of [the produce of the vineyard]: whence do we find [that a benediction is required] for other species?[16] It can be learnt from the vineyard. Just as the vineyard being something that is enjoyed requires a blessing, so everything that is enjoyed requires a blessing. But this may be refuted: How can we learn from a vineyard, seeing that it is subject to the obligation of the gleanings?[17] — We may cite the instance of corn.[18] How can you cite the instance of corn, seeing that it is subject to the obligation of hallah?[19] — We may then cite the instance of the vineyard, and the argument goes round in a circle: The distinguishing feature of the first instance is not like that of the second, and vice versa. The feature common to both is that being things which are enjoyed they require a blessing; similarly everything which is enjoyed requires a blessing. But this [argument from a] common feature [is not conclusive], because there is with them[20] the common feature that they are offered on the altar![21] We may then adduce also the olive from the fact that it is offered on the altar. But is [the blessing over] the olive derived from the fact that it is offered on the altar? It is explicitly designated kerem,[22] as it is written, And he burnt up the shocks and the standing corn and also the olive yards [kerem]?[23] — R. Papa replied: It is called an olive kerem but not kerem simply. Still the difficulty remains: How can you learn [other products] from the argument of a common factor, seeing that [wine and corn] have the common feature of being offered on the altar? — Rather it is learnt from the seven species.[24] Just as the seven species are something which being enjoyed requires a blessing,[25] so everything which is enjoyed requires a blessing. How can you argue from the seven species. seeing that they are subject to the obligation of first-fruits? And besides, granted that we learn from them that a blessing is to be said after partaking, how do we know it is to be said before? — This is no difficulty, being learnt a fortiori: If he says a blessing when he is full, how much more should he do so when he is hungry? Now as for the one who reads 'planting of the fourth year', we may grant he has proved his point with regard to anything planted. But whence does he derive it in regard to things that are not planted, such as meat, eggs and fish? — The fact is that it is a reasonable supposition that it is forbidden to a man to enjoy anything of this world without saying a blessing.[26]

Our Rabbis have taught: It is forbidden to a man to enjoy anything of this world without a benediction, and if anyone enjoys anything of this world without a benediction, he commits sacrilege.[27] What is his remedy? He should consult a wise man. What will the wise man do for him? He has already committed the offence! — Said Raba: What it means is that he should consult a wise man beforehand, so that he should teach him blessings and he should not commit sacrilege. Rab Judah said in the name of Samuel: To enjoy anything of this world without a benediction is like making personal use of things consecrated to heaven, since it says. The earth is the Lord's and the fulness there of.[28] R. Levi contrasted two texts. It is written, ‘The earth is the Lord's and the fulness thereof’, and it is also written, The heavens are the heavens of the Lord, but the earth hath He given to the children of men![29] There is no contradiction: in the one case it is before a blessing has been said

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(1) That a benediction is necessary before partaking of any food.

(2) Lev. XIX, 24, with reference to the fruit of the fourth year.

(3) The fact that the word hillulim (praise) is in the plural, indicating that there must be two praises.

(4) The fruit of the fourth year, if it is to be eaten outside Jerusalem.

(5) This is learnt from a play on the word hillulim, which is read also as hillulim (profaned, i.e., redeemed).

(6) Thus limiting the law relating to the fruit of the fourth year only to the vine, as infra.

(7) By the Levites at the offering of the sacrifices.

(8) Judg. IX, 13.

(9) That we learn the requirement of saying a blessing from the word hillulim.

(10) I.e., that the verse quoted from Leviticus refers to all fruit of the fourth year and not to the vine only. In this case the word hillulim can not be used to prove that only the vine requires redemption. and is available for teaching that a blessing must be said over fruit.

(11) v. Glos.

(12) Lev. XIX, 25.

(13) Deut. XXII, 9.

(14) On the analogy of grace after meals as prescribed in Deut. VIII, 10.

(15) And is about to satisfy his hunger.

(16) On the view that Lev. XIX, 24 refers only to a vineyard.

(17) Cf. Lev. XIX, 10. And this may be the reason why it requires a blessing.

(18) Which is not subject to the obligation of gleanings, and yet requires a blessing, as laid down in Deut. VIII, 10.

(19) The heave-offering of the dough.

(20) I.e., wine and corn.

(21) In the form of drink-offering and meal-offering.

(22) Lit. ‘vineyard’, and therefore it is on the same footing as wine.

(23) Judg. XV. 5.

(24) Mentioned in Deut. VIII, 8.

(25) As distinctly prescribed in Deut. VIII, 8.

(26) Whether we take the law of the fourth year to apply to the vine or to all fruit trees, we cannot derive from it the law for saying a blessing over all things — in the former case because of the difficulty about the altar, in the latter because of the difficulty about things other than plants. Nor can we derive the law from the ‘seven kinds’, because of the difficulty about first-fruits. Hence we are driven back upon ‘reasonable supposition’.

(27) Heb. ma'al, the technical term for the personal use of consecrated things by a layman.

(28) Ps. XXIV. 1.

(29) Ibid. CXV, 16.

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in the other case after. R. Hanina b. Papa said: To enjoy this world without a benediction is like robbing the Holy One, blessed be He, and the community of Israel, as it says. Whoso robbeth his father or his mother and saith, It is no transgression, the same is the companion of a destroyer;[1] and ‘father’ is none other but the Holy One, blessed be He, as it says. Is not He thy father that hath gotten thee;[2] and ‘mother’ is none other than the community of Israel, as it says, Hear, my son, the instruction of thy father, and forsake not the teaching of thy mother.[3] What is the meaning of ‘he is the companion of a destroyer’? — R. Hanina b. Papa answered: He is the companion of Jeroboam son of Nebat who destroyed Israel's [faith in] their Father in heaven.[4]

R. Hanina b. Papa pointed out a contradiction. It is written, Therefore will I take back My corn in the time thereof, etc.,[5] and it is elsewhere written, And thou shalt gather in thy corn, etc.![6] There is no difficulty: the one text speaks of where Israel do the will of the Omnipresent, the other of where they do not perform the will of the Omnipresent.[7]

Our Rabbis taught: And thou shalt gather in thy corn.[6] What is to be learnt from these words? Since it says, This book of the law shall not depart out of thy mouth,[8] I might think that this injunction is to be taken literally. Therefore it says, ‘And thou shalt gather in thy corn’, which implies that you are to combine the study of them[9] with a worldly occupation. This is the view of R. Ishmael. R. Simeon b. Yohai says: Is that possible? If a man ploughs in the ploughing season, and sows in the sowing season, and reaps in the reaping season, and threshes in the threshing season, and winnows in the season of wind, what is to become of the Torah? No; but when Israel perform the will of the Omnipresent, their work is performed by others, as it says. And strangers shall stand and feed your flocks. etc.,[10] and when Israel do not perform the will of the Omnipresent their work is carried out by themselves, as it says, And thou shalt gather in thy corn.[11] Nor is this all, but the work of others also is done by them, as it says. And thou shalt serve thine enemy etc.[12] Said Abaye: Many have followed the advice of Ishmael, and it has worked well; others have followed R. Simeon b. Yohai and it has not been successful. Raba said to the Rabbis: I would ask you not to appear before me during Nisan and Tishri[13] so that you may not be anxious about your food supply during the rest of the year.

Rabbah b. Bar Hanah said in the name of R. Johanan, reporting R. Judah b. Ila'i: See what a difference there is between the earlier and the later generations. The earlier generations made the study of the Torah their main concern and their ordinary work subsidiary to it, and both prospered in their hands. The later generations made their ordinary work their main concern and their study of the Torah subsidiary, and neither prospered in their hands.

Rabbah b. Bar Hanah further said in the name of R. Johanan reporting R. Judah b. Ila'i: Observe the difference between the earlier and the later generations. The earlier generations used to bring in their produce by way of the kitchen-garden[14] purposely in order to make it liable to tithe, whereas the later generations bring in their produce by way of roofs or courtyards or enclosures in order to make it exempt from tithe. For R. Jannai has said: Untithed produce is not subject to tithing[15] until it has come within sight of the house, since it says. I have put away the hallowed things out of my house.[16] R. Johanan, however, says that even [sight of] a courtyard imposes the obligation, as it says, That they may eat within thy gates and be satisfied.[17]

EXCEPT OVER WINE. Why is a difference made for wine? Shall I say that because [the raw material of] it is improved[18] therefore the blessing is different? But in the case of oil also [the raw material of] it is improved, yet the blessing is not different, as Rab Judah has laid down in the name of Samuel, and so R. Isaac stated in the name of R. Johanan,that the blessing said over olive oil is ‘that createst the fruit of the tree’?[19] — The answer given is that in the case of oil it is not possible to change the blessing. For what shall we say? Shall we say, ‘That createst the fruit of the olive’? The fruit itself is called olive![20] But we can say over it, ‘That createst the fruit of the olive tree’? — Rather [the real reason is], said Mar Zutra, that wine has food value but oil has no food value. But has oil no food value? Have we not learnt: One who takes a vow to abstain from food is allowed to partake of water and salt,[21] and we argued from this as follows: ‘Water and salt alone are not called food, but all other stuffs are called food? May we not say that this is a refutation of Rab and Samuel, who say that the blessing "who createst various kinds of food" is said only over the five species [of cereals]?’[22] and R. Huna solved the problem by saying that [the Mishnah] refers to one who says, ‘I vow to abstain from anything that feeds’; which shows that oil has food value?[23] — Rather [say the reason is that] wine sustains[24] and oil does not sustain. But does wine sustain? Did not Raba use to drink wine on the eve of the Passover in order that he might get an appetite and eat much unleavened bread? — A large quantity gives an appetite, a small quantity sustains. But does it in fact give any sustenance? Is it not written, And wine that maketh glad the heart of man . . . and bread that stayeth man's heart,[25] which shows that it is bread which sustains, not wine? — The fact is that wine does both, it sustains and makes glad, whereas bread sustains but does not cheer. If that is the case, let us say three blessings after it?[26] — People do not make it the basis of the meal. R. Nahman b. Isaac asked Raba: Suppose a man makes it the basis of his meal. what then? — He replied: When Elijah comes he will tell us whether it can really serve as a basis; at present, at any rate, no man thinks of such a thing.[27]

The text [above] stated: ‘Rab Judah said in the name of Samuel, and so too said R. Isaac in the name of R. Johanan, that the blessing said over olive oil is "that createst the fruit of the tree"’. How are we to understand this? Are we to say that it is drunk? If so, it is injurious, as it has been taught: If one drinks oil of terumah,[28] he repays the bare value, but does not add a fifth.[29] If one anoints himself with oil of terumah, he repays the value and also a fifth in addition. Do we suppose then that he consumes it with bread? In that case, the bread would be the main ingredient and the oil subsidiary, and we have learnt: This is the general rule: If with one article of food another is taken as accessory, a blessing is said over the main article, and this suffices also for the accessory![30] Do we suppose then that he drinks it with elaiogaron? (Rabbah b. Samuel has stated: Elaiogaron is juice of beetroots; oxygaron is juice of

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(1) Prov. XXVIII, 24. To rob God can only mean to enjoy something without saying a blessing, in recognition that it comes from Him.

(2) Deut. XXXII, 6.

(3) Prov. I, 8.

(4) Likewise he who enjoys things without a blessing sets a bad example to others.

(5) Hos. II, 11.

(6) Deut. XI,14.

(7) Who accordingly takes back the corn and shows that it is His.

(8) Joshua I, 8.

(9) Sc. the words of the Torah.

(10) Isa. LXI, 5.

(11) Tosaf. point out that this homily conflicts with that given above on the same verse by R. Hanina b. Papa.

(12) Deut. XXVIII, 48.

(13) Nisan being the time of the ripening of the corn and Tishri of the vintage and olive pressing.

(14) I.e., direct to the house, by the front way. V. infra.

(15) I.e., according to the Torah. The Rabbis, however, forbade a fixed meal to be made of any untithed produce.

(16) Deut. XXVI, 13.

(17) Ibid. 12; v. Git. 81a.

(18) Lit., ‘it has been changed for the better’.

(19) As over the olive itself.

(20) There is no special name in Hebrew for the olive tree as there is for the vine.

(21) ‘Er. 26b.

(22) wheat, barley, oats, spelt, and rye.

(23) Even according to Rab and Samuel.

(24) And has more than merely food value.

(25) Ps. CIV, 15.

(26) As after bread, v. infra 37a.

(27) Aliter ‘His opinion is rejected by all men’.

(28) V. Glos.

(29) Because the fifth is added only for what can be called food, since it says, And if a man eat of the holy thing through error (Lev. XXII, 14).

(30) V. infra 41a.

all other boiled vegetables.) In that case the elaiogaron would be the main thing and the oil subsidiary, and we have learnt: This is the general rule: If with one article of food another is taken as accessory, a blessing is said over the main article, and this suffices for the accessory! — What case have we here in mind?[1] The case of a man with a sore throat, since it has been taught: If one has a sore throat, he should not ease it directly with oil on Sabbath,[2] but he should put plenty of oil into elaiogaron and swallow it.[3] This is obvious![4] — You might think that since he intends it as a medicine he should not say any blessing over it. Therefore we are told that since he has some enjoyment from it he has to say a blessing.

Over wheaten flour[5] Rab Judah says that the blessing is 'who createst the fruit of the ground' '[6] while R. Nahman says it is, 'By whose word all things exist'. Said Raba to R. Nahman: Do not join issue with Rab Judah, since R. Johanan and Samuel would concur with him. For Rab Judah said in the name of Samuel, and likewise R. Isaac said in the name of R. Johanan: Over olive oil the blessing said is 'that createst the fruit of the tree', which shows that although it has been transformed it is fundamentally the same. Here too, although it has been transformed, it is fundamentally the same. But are the two cases alike? In that case [of olive oil] the article does not admit of further improvement, in this case it does admit of further improvement, by being made into bread; and when it is still capable of further improvement we do not say over it the blessing 'that createst the fruit of the ground', but 'by whose word all things exist'! — But has not R. Zera said in the name of R. Mattena reporting Samuel: Over raw cabbage and barley-flour we say the blessing 'by whose word all things exist', and may we not infer from this that over wheat-flour we say 'who createst the fruit of the ground'? — No; over wheat-flour also we say 'by whose word all things exist'. Then let him state the rule for wheat-flour, and it will apply to barley-flour as a matter of course?[7] — If he had stated the rule as applying to wheat-flour, I might have said: That is the rule for wheat-flour, but over barley-flour we need say no blessing at all. Therefore we are told that this is not so. But is barley-flour of less account than salt or brine, of which we have learnt[8] : Over salt and brine one says 'by whose word all things exist'? — It was necessary [to lay down the rule for barley-flour]. You might argue that a man often puts a dash of salt or brine into his mouth [without harm], but barley-flour is harmful in creating tapeworms, and therefore we need say no blessing over it. We are therefore told that since one has some enjoyment from it he must say a blessing over it.

Over the palm-heart,[9] Rab Judah says that the blessing is 'that createst the fruit of the ground', while Samuel says that it is 'by whose word all things exist'. Rab Judah says it is 'that createst the fruit of the ground', regarding it as fruit, whereas Samuel says that it is 'by whose word all things exist', since subsequently it grows hard. Said Samuel to Rab Judah: Shinnena![10] Your opinion is the more probable, since radish eventually hardens and over it we say 'who createst the fruit of the ground'. This, however, is no proof; radishes are planted for the sake of the tuber,[11] but palms are not planted for the sake of the heart. But [is it the case that] wherever one thing is not planted for the sake of another [which it later becomes], we do not say the blessing [for that other]?[12] What of the caper-bush which is planted for the sake of the caper-blossom, and we have learnt: In regard to the various edible products of the caper-bush, over the leaves and the young shoots, 'that createst the fruit of the ground' is said, and over the berries and buds,[13] 'that createst the fruit of the tree'! — R. Nahman b. Isaac replied: Caper-bushes are planted for the sake of the shoots, but palms are not planted for the sake of the heart. And although Samuel commended Rab Judah, the halachah is as laid down by Samuel.

Rab Judah said in the name of Rab: In the case of an 'uncircumcised'[14] caper-bush outside of Palestine,[15] one throws away the berries and may eat the buds. This is to say that the berries are fruit but the buds are not fruit — A contradiction was pointed out [between this and the following]: In regard to the various edible articles produced by the caper-bush, over the leaves and the young shoots ‘that createst the fruit of the ground’ is said; over the buds and the berries ‘that createst the fruit of the tree’ is said! — [Rab Judah] followed R. Akiba, as we have learnt: R. Eliezer says: From the caper-bush tithe is given from the berries and buds. R. Akiba, however, says that the berries alone are tithed, because they are fruit.[16] Let him then say that the halachah is as laid down by R. Akiba? — Had he said that the halachah is as laid down by R. Akiba, I should have thought that this was so even in the Holy Land. He therefore informs us that if there is an authority who is more lenient in regard to [uncircumcised products in] the Holy Land, the halachah follows him in respect of [such products] outside of the Holy Land, but not in the Land itself. But let him then say that the halachah is as laid down by R. Akiba for outside the Holy Land, because if an authority is more lenient with regard to the Land, the halachah follows him in the case of outside the Land? — Had he said so, I should have argued that this applies to tithe of fruit which in the Holy Land itself was ordained only by the Rabbis,[17] but that in the case of ‘orlah, the law for which is stated in the Torah, we should extend it to outside the Land. Therefore he tells us that we do not do so.

Rabina once found Mar b. R. Ashi throwing away [uncircumcised] caper-berries and eating the buds. He said to him: What is your view? Do you agree with R. Akiba who is more lenient?[18] Then follow Beth Shammai, who are more lenient still, as we have learnt: With regard to the caper-bush, Beth Shammai say that it constitutes kil'ayim[19] in the vineyard, whereas Beth Hillel hold that it does not constitute kil'ayim in the vineyard, while both agree that it is subject to the law of ‘orlah. Now this statement itself contains a contradiction. You first say that Beth Shammai hold that a caper-bush constitutes kil'ayim in a vineyard, which shows that it is a kind of vegetable,[20] and then you say that both agree that it is subject to the law of ‘orlah, which shows that it is a kind of tree![21] — This is no difficulty; Beth Shammai were in doubt [whether it was a fruit or a vegetable], and accepted the stringencies of both. In any case,[22] Beth Shammai regard it [the caper-bush] as a doubtful case of ‘orlah, and we have learnt: Where there is a doubt if a thing is subject to ‘orlah, in the Land of Israel, it is prohibited, but in Syria it is allowed; and outside of Palestine one may go down

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(1) When it is stated that oil requires a benediction.

(2) Medicine being forbidden on Sabbath, for fear one might come to pound drugs.

(3) For in this case it is not obvious that he is taking it as a medicine.

(4) That in this case one should make a blessing over the oil, because the oil is here the principal item.

(5) When eaten raw.

(6) Which is the blessing over crushed wheat, v. infra 37a.

(7) Since It is inferior to wheat-flour.

(8) More correctly, ‘as it has been taught’, v. infra 40b.

(9) An edible part of the young palm, which afterwards hardens and becomes part of the tree.

(10) An affectionate designation given by Samuel to his disciple Rab Judah. Apparently it means ‘sharp-witted’. V. B.K. (Sonc. ed.) p. 60, n. 2.

(11) To be eaten before it becomes hard and woody.

(12) But ‘by whose word all things exist’.

(13) Aliter: ‘caper-flowers’, or ‘husks’.

(14) I.e., in its first three years. V. Lev. XIX, 23 (A.V.).

(15) To which the Rabbis extended the obligation of ‘orlah, (v. Glos.).

(16) But the buds are not fruit.

(17) Since according to the written Torah, tithe was to be given only on corn, oil and wine.

(18) In not exacting tithe for the buds.

(19) Diverse seeds, v. Glos.

(20) Otherwise it would not constitute kil'ayim in a vineyard.

(21) Vegetables are not subject to the law of ‘orlah.

(22) Rabina resumes here his argument against Mar b. R. Ashi.

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and buy it, provided he does not see the man plucking it![1] — When R. Akiba conflicts with R. Eliezer, we follow him, and the opinion of Beth Shammai when it conflicts with that of Beth Hillel is no Mishnah.[2] But then let us be guided by the fact that it [the bud] is a protection for the fruit, and the All-Merciful said, Ye shall observe its uncircumcision along with its fruit;[3] 'with' refers to that which is attached to its fruit, namely, that which protects its fruit?[4] — Raba replied: When do we say a thing is a protection for the fruit? When it does so both when [the fruit is] still attached [to the tree] and after it is plucked. In this case it protects while [the fruit is] attached, but not after it is plucked.

Abaye raised an objection: The top-piece of the pomegranate is counted in with it,[5] but its blossom is not counted in.[6] Now since it says that its blossom is not counted in with it, this implies that it is not food: and it was taught in connection with 'orlah: The skin of a pomegranate and its blossom, the shells of nuts and their kernels are subject to the law of 'orlah![7] — We must say, then, said Raba, that we regard something as a protection to the fruit only where it is so at the time when the fruit becomes fully ripe; but this caper-bud falls off when the fruit ripens. But is that so? Has not R. Nahman said in the name of Rabbah b. Abbuha: The calyces surrounding dates in the state of 'orlah are forbidden, since they are the protection to the fruit. Now when do they protect the fruit? In the early stages of its growth [only]. Yet he calls them a protection to the fruit'? — R. Nahman took the same view as R. Jose, as we have learnt: R. Jose says, The grape-bud is forbidden because it is fruit; but the Rabbis differ from him.[8] R. Shimi from Nehardea demurred: Do the Rabbis differ from him in respect of other trees?[9] Have we not learnt: At what stage must we refrain from cutting trees in the seventh year?[10] Beth Shammai say: In the case of all trees, from the time they produce fruit; Beth Hillel say: In the case of carob-trees, from the time when they form chains [of carobs]; in the case of vines, from the time when they form globules; in the case of olive-trees, from the time when they blossom; in the case of all other trees, from the time when they produce fruit; and R. Assi said: Boser and garua'[11] and the white bean are all one. ('White bean', do you say?[12] — Read instead: the size [of them] is that of the white bean.) Now which authority did you hear declaring that the boser is fruit but the grape-bud is not? It is the Rabbis;[13] and it is they who state that we must refrain from cutting down all other trees from the time when they produce fruit![14] — No, said Raba. Where do you say that something is the protection to the fruit? Where if you take it away the fruit dies, Here[15] you can take it away and the fruit does not die. In an actual case, they once took away the blossom from a pomegranate and it withered; they took away the flower from a caper and it survived.[16] (The law is as [indicated by] Mar b. R. Ashi when he threw away the caper-berries and ate the buds. And since for purposes of 'orlah they [the buds] are not fruit, for the purposes of benedictions also they are not fruit, and we do not say over them, 'who createst the fruit of the tree', but, 'who createst the fruit of the ground'.)[17]

With regard to pepper, R. Shesheth says that the blessing is 'by whose word all things exist'; Raba says: It requires no blessing at all.[18] Raba in this is consistent; for Raba said: If a man chews pepper-corns on the Day of Atonement he is not liable [to kareth];[19] if he chews ginger on the Day of Atonement he is not liable. An objection was raised: R. Meir says: Since the text says. Ye shall count the fruit thereof as forbidden,[20] do I not know that it is speaking of a tree for food? Why then does it say [in the same context], ['and shall have planted all manner of] trees for food'? To include a tree of which the wood has the same taste as the fruit. And which is this? The pepper tree, This teaches you that pepper is subject to the law of 'orlah, and it also teaches you that the land of Israel lacks nothing, as it says, A land wherein thou shalt eat bread without scarceness, thou shalt not lack anything in it![21] — There is no contradiction; one statement refers to moist pepper,[22] the other to dried. The Rabbis[23] said to Meremar: One who chews ginger on the Day of Atonement is not liable [to kareth]. But has not Raba said: The preserved ginger which comes from India is permitted,[24] and we say over it the benediction 'Who createst the fruit of the ground'?[25] — There is no contradiction: one statement refers to moist ginger, the other to dried.

With regard to habiz[26] boiled in a pot, and also pounded grain, Rab Judah says the blessing is ‘by whose word all things exist’, while R. Kahana says that it is ‘who createst various kinds of foods’. In the case of simple pounded grain all agree that the correct blessing is ‘who createst various kinds of foods’. Where they differ is in respect of pounded grain made like boiled habiz.[27] Rab Judah says that the blessing for this is ‘by whose word etc.’, considering that the honey is the main ingredient; R. Kahana holds that the blessing is ‘who createst all kinds of food’, considering the flour the main ingredient. R. Joseph said: The view of R. Kahana is the more probable, because Rab and Samuel have both laid down that over anything containing an ingredient from the five species [of cereals] the blessing is ‘who createst all kinds of foods’.

The [above] text [states]: ‘Rab and Samuel both lay down that over anything containing an ingredient from the five species [of cereals] the blessing is ‘who createst all kinds of foods’. It has also been stated: Rab and Samuel both lay down that over anything made of the five species the blessing is ‘who createst all kinds of foods’. Now both statements are necessary. For if I had only the statement ‘anything made of etc.’, I might say, this is because the cereal is still distinguishable, but if it is mixed with something else, this is not [the blessing].

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(1) Consequently Mar b. R. Ashi should have eaten also the berries.

(2) Consequently the caper-bud is certainly subject to the law of ‘orlah.

(3) Lit. trans. E.V, ‘Then ye shall count the fruit thereof as forbidden’. Lev. XIX. 23.

(4) How then did he eat the buds?

(5) To bring it to the size of an egg and so render it susceptible to uncleanness.

(6) The blossom bears the same relationship to the pomegranate that the caper-bud bears to the berry.

(7) Although the blossom of the pomegranate does not protect it after it is plucked. The same should apply to the caper-bud.

(8) And the halachah follows the Rabbis, who are the majority. And similarly the caper-bud is not subject to ‘orlah.

(9) And can we say therefore that the halachah does not follow R. Nahman following R. Jose?

(10) Cf. Ex, XXIII, 21; Lev. XXV, 4.

(11) Boser is the sour grape; garua’ the grape when the stone is formed inside.

(12) Lit., can you imagine’.

(13) Who differ from R. Jose.

(14) Which shows that in other cases the halachah is according to R. Jose.

(15) In the case of the caper-bud.

(16) And therefore you cannot argue from one to the other.

(17) The passage in brackets reads like a marginal gloss.

(18) Not being regarded as food.

(19) V. Glos.

(20) Lev. XIX, 23.

(21) Deut. VIII, 9. This contradicts Raba.

(22) I.e., preserved only in this condition does it become an article of food.

(23) MS.M. Rabina.

(24) In spite of the fact that it has been prepared by heathens.

(25) Which shows that it is food. How then does the chewing thereof on the Day of Atonement not carry with it the guilt of kareth.

(26) This is described later as a kind of pull made of flour, honey, and oil.

(27) I.e., to which honey has been added.

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We are told therefore, ‘anything containing an ingredient etc.’. If again I had only the statement, anything containing an ingredient etc.’, I might think that this applies to the five species [of cereals], but not to rice and millet when they are mixed with other things; but when they are distinguishable the blessing even over rice and millet is ‘who createst various kinds of foods’. So we are told that over anything which is made of the five species we say ‘who createst various kinds of foods’, excluding rice and millet, over which we do not say ‘who createst various kinds of foods’ even when they are distinguishable.

And over rice and millet do we not say, ‘who createst various kinds of foods’? Has it not been taught: If one is served with rice bread or millet bread, he says blessings before and after it as for a cooked dish [of the five species]; and with regard to cooked dishes, it has been taught: He says before partaking, ‘Who createst various kinds of foods’, and after it, he says one blessing which includes three?[1] — It is on a par with cooked dishes in one way and not in another. It resembles cooked dishes in requiring a benediction before and after, and it differs from cooked dishes, because the blessing before these is ‘who createst various kinds of foods’ and the blessing after is the one which includes three, whereas in this case the blessing before is ‘by whose word all things exist’, and the blessing after. ‘Who createst many living beings with their wants, for all which He has created etc.’[2]

But is not rice a ‘cooked dish’?[3] Has it not been taught: The following count as cooked dishes: spelt groats, wheat groats, fine flour, split grain, barley groats, and rice? Whose opinion is this?[4] That of R. Johanan b. Nuri; for it has been taught: R. Johanan b. Nuri says: Rice is a kind of corn, and when leavened it can entail the penalty of kareth,[5] and it can be used to fulfil the obligation of [eating unleavened bread on] Passover.[6] The Rabbis, however, do not admit this.[4] But do not the Rabbis admit this? Has it not been taught: If one chews wheat, he says over it the benediction, ‘who createst the fruit of the ground’. If he grinds and bakes it and then soaks it [in liquid], so long as the pieces are still whole[7] he says before [partaking the blessing], ‘who bringest forth bread from the earth’ ‘and after, the grace of three blessings;[8] if the pieces are no longer whole, he says before partaking ‘that createst various kinds of foods’, and after it one blessing that includes three.[8] If one chews rice, he says before partaking ‘who createst the fruit of the ground’. If he grinds and bakes it and then soaks it, even if the pieces are still whole, he says before partaking who createst various kinds of foods’, and after it the one blessing which includes three? Now whose opinion is this? Shall I say it is R. Johanan b. Nuri's? But he said that rice is a kind of corn, and therefore [according to him] the blessing should be ‘who bringest forth food from the earth’ and the grace the one of three blessings! It must therefore be the Rabbis’; and this is a refutation of Rab and Samuel, is it not? — It is a refutation.

The Master said [above]: ‘If one chews wheat ‘he says over it the blessing, "who createst the fruit of the ground"’. But it has been taught: ‘Who createst various kinds of seeds’? There is no contradiction: one statement represents the view of R. Judah,[9] the other that of the Rabbis, as we have learnt: Over vegetables one says, ‘who createst the fruit of the ground’; R. Judah. however, says: ‘Who createst various kinds of herbs’.

The Master said [above]: ‘If one chews rice he says over it "Who createst the fruit of the ground". If he grinds and bakes it and then soaks it, even if the pieces are still whole, he says before it, "Who createst the various kinds of foods", and after it one blessing which includes three’. But it has been taught: After it he need not say any blessing at all?[10] — R. Shesheth replied: There is no contradiction: the one statement expresses the view of R. Gamaliel, the other that of the Rabbis, as it has been taught: This is the general rule: after partaking of anything that belongs to the seven species,[11] R. Gamaliel says that three blessings should be said, while the Rabbis say, one that includes three. Once R. Gamaliel and the elders were reclining in an upper chamber in Jericho, and dates[12] were brought in and they ate, and R. Gamaliel gave permission to R. Akiba to say grace. and R. Akiba said quickly the one blessing which includes three. Said R. Gamaliel to him: Akiba, how long will you poke your head into quarrels?[13] He replied: Master, although you say this way and your colleagues say the other way, you have taught us, master, that where an individual joins issue with the majority, the halachah is determined by the majority. R. Judah said in his [R. Gamaliel's] name:[14] [After partaking of] any food from the seven species

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(1) The benediction, ‘for the nourishment and the sustenance etc.’, V. infra 44a; v. P.B. p. 287ff.

(2) Ibid. p. 290.

(3) For the purpose of a blessing.

(4) That rice counts as a cooked dish.

(5) If eaten on Passover. V. Glos.

(6) V. Ex. XII, 19.

(7) I.e., have not been softened into a pulp.

(8) The grace after meals which originally consisted of three blessings. V. infra 46a.

(9) Who requires (infra 40a) a separate blessing for each kind of fruit or vegetable.

(10) Rashi explains this to mean, not one of the blessings said after the seven species of food, but simply ‘who createst many living creatures etc.’, (v. infra, and P.B. p. 287ff.).

(11) Enumerated in Deut. VIII, 8.

(12) One of the ‘seven species’, being included in the term ‘honey’ in Deut. VIII, 8.

(13) I.e., go against me.

(14) So Rashi. We should rather, however, expect it to be R. Akiba's, as R. Gamaliel is mentioned in the statement, and R. Judah can hardly have been a disciple of R. Gamaliel.

Talmud - Mas. Berachoth 37b

, not being a kind of corn or which belongs to one of the kinds of corn but has not been made into bread, R. Gamaliel says that three blessings are to be said, while the Sages say, only one blessing [which includes three]. [After] anything which belongs neither to the seven species nor to any kind of corn, for instance bread of rice or millet, R. Gamaliel says that one blessing which includes three is to be said, while the Sages say, no grace at all. To which authority do you then assign this statement?[1] To R. Gamaliel. Look now at the latter half of the first statement[2] viz., ‘if the pieces are no longer whole, he says before partaking "who createst various kinds of foods", and after partaking one blessing which includes three’. Whose view does this express? Shall I say that of R. Gamaliel? Seeing that R. Gamaliel requires a grace of three blessings after dates and pounded grain,[3] is there any question that he should require it if the pieces are no longer whole?[4] Hence, obviously, it must be the view of the Rabbis.[5] If that is the case, there is a contradiction between two statements of the Rabbis?[6] — No; I still say, it is the view of the Rabbis; and in connection with rice you should read, ‘after partaking he does not say any blessing’.

Raba said: Over the rihata[7] of the field workers, in which there is a large quantity of flour, the blessing said is ‘who createst various kinds of foods’. What is the reason? The flour is the main ingredient. Over the rihata of the townspeople in which there is not so much flour, the blessing said is ‘by whose word all things exist’. What is the reason? The main ingredient is the honey. Raba, however, corrected himself and said: Over both the blessing is ‘who createst various kinds of foods’. For Rab and Samuel both laid down that over anything containing one of the five species as an ingredient, the blessing to be said is ‘who createst various kinds of foods’.

R. Joseph said: If in a habiz there are pieces of bread[8] as big as an olive, the blessing said before it is ‘who bringest forth bread from the earth’, and after it a grace of three blessings is said. If there are no pieces as big as an olive in it, the blessing said before it is ‘who createst various kinds of foods’, and after it one blessing which includes three. Said R. Joseph: Whence do I derive this? Because it has been taught: If one[9] is in the act of offering meal-offerings in Jerusalem, he says, ‘Blessed be He that hath kept us alive and preserved us and brought us to this season’. When he[10] takes them up in order to eat them, he says the blessing, ‘Who bringest forth bread from the earth’, and it was taught in this connection. They are all[11] broken into fragments of the size of an olive.[12] Said Abaye to him: If that is so, then similarly according to the Tanna of the school of R. Ishmael who says that he crushes them until he reduces them to flour, he should not require to say who bringest forth bread from the earth'? And should you reply that that is indeed the case, has it not been taught: If he scraped together as much as an olive from all of them[13] and ate [all of] it, if it is leaven he is punished with kareth,[14] and if it is unleaven a man may perform his obligation with it on Passover?[15] — With what case are we dealing here?[16] If he re-kneaded the crumbs.[17] If so, look at the next clause: This is only if he ate them within the time which it takes to eat half [a roll].[18] Now if they are re-kneaded, instead of saying 'to eat them', it should say, 'to eat it'? [Rather] with what case are we here dealing? When it comes from a large loaf.[19] Now what do we decide upon this matter? R. Shesheth said: If the crumbs of bread in a habiz are even less than an olive, the benediction 'who bringest forth bread from the earth' is said over it. Raba added: This is only if they still have the appearance of bread.

Troknin[20] is subject to the law of hallah. When Rabin came, he said in the name of R. Johanan: Troknin is not subject to the law of hallah. What is Troknin? — Abaye said: [Dough baked] in a cavity made in the ground.

Abaye also said: Tarita is exempt from the obligation of hallah. What is tarita?-Some say, dough just lightly baked;[21] others say, bread baked on a spit;[22] others again, bread used for kuttah.[23] R. Hiyya said: Bread used for kuttah is not liable to hallah. But it has been taught that it is liable for hallah? — There the reason is stated: Rab Judah says that the way it is made shows what it is; if it is made

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(1) That after rice one has to say the one blessing including three.

(2) In the above-cited Baraitha, 'if one chews wheat etc.', supra p. 232.

(3) Which is the same as 'corn which has not been made into bread', mentioned in the Baraitha quoted above.

(4) Since they were originally bread.

(5) Who hold that after pounded grain (v. n. 2) only the one blessing which includes three is said, and where the pieces are no longer whole the cooked wheat is treated like pounded grain.

(6) There the Rabbis declare that after bread made of rice no benediction is necessary, while in the previously cited Baraitha they are said to require one benediction which includes three.

(7) A dish resembling the habiz, and containing the same ingredients.

(8) I.e., if bread is broken up into it.

(9) According to Rashi, this is the layman who gives it to the priest to offer; according to Tosaf., the priest himself.

(10) The priest.

(11) I.e., all the various kinds of meal-offerings mentioned in Lev. II.

(12) V. Lev. II, 6. This proves that crumbs must be at least the size of an olive for the benediction 'Who bringest forth bread' to be said.

(13) The various kinds of meal-offerings. Tosaf., however, refers it to ordinary crumbs of different species of cereals, since the continuation, 'if it is leaven etc.', could not apply to meal-offerings which had to be unleavened.

(14) If he eats it on Passover.

(15) And of course the prescribed blessing 'who bringest forth etc.', must be said over it also.

(16) In the teaching last cited.

(17) Making them into a compact mass.

(18) A piece of bread the size of four eggs. If he does not eat the size of an olive within this time, it does not count for any purpose.

(19) Some of which still remains unbroken, even though he did not reknead the bread crumbs.

(20) Bread baked in a hole in the ground.

(21) By being poured on the hot hearth and formed into fritters.

(22) And covered with oil, or eggs and oil. Aliter: 'Indian bread.'

(23) A dish made of bread mixed with sour milk and baked in the sun.

like cakes, it is liable for hallah, if like boards,[1] it is not liable.

Abaye said to R. Joseph: What blessing is said over dough baked in a cavity in the ground? — He replied: Do you think it is bread? It is merely a thick mass, and the blessing said over it is ‘who createst various kinds of foods’. Mar Zutra made it the basis of his meal and said over it the blessing, ‘who bringest forth bread from the earth’ and three blessings after it. Mar son of R. Ashi said: The obligation of Passover can be fulfilled with it. What is the reason? We apply to it the term, ‘bread of affliction.

Mar son of R. Ashi also said: Over honey of the date-palm we say, ‘by whose word all things exist’.[2] What is the reason? — Because it is merely moisture [of the tree]. With whose teaching does this accord? — With that of the following Tanna, as we have learnt: With regard to the honey of the date-palm and cider and vinegar from stunted grapes[3] and other fruit juices of terumah. R. Eliezer requires [in case of sacrilege] payment of the value and an additional fifth,[4] but R. Joshua exempts [from the additional fifth].[5]

One of the Rabbis asked Raba: What is the law with regard to trimma?[6] Raba did not quite grasp what he said. Rabina was sitting before Raba and said to the man: Do you mean of sesame[7] or of saffron[8] or of grape-kernels?[9] Raba thereupon bethought himself[10] and said: You certainly mean hashilta;[11] and you have reminded me of something which R. Assi said: It is permissible to make trimma[12] of dates of terumah, but forbidden to make mead of them.[13] The law is that over dates which have been used to make into trimma we say the blessing ‘who createst the fruit of the tree’. What is the reason? They are still in their natural state.

With regard to shatitha,[14] Rab said that the blessing is ‘by whose word all things were made’, while Samuel said that it is ‘who createst various kinds of foods’. Said R. Hisda: They do not really differ: the latter is said over the thick variety, the former over the thin. The thick is made for eating, the thin for a medicine. R. Joseph raised an objection to this: Both alike[15] say that we may stir up a shatitha on Sabbath and drink Egyptian beer. Now if you think that he intends it as a remedy, is a medicine permitted on Sabbath? — Abaye replied: And do you hold that it is not? Have we not learnt: All foods may be eaten on Sabbath for medical purposes and all drinks may be drunk?[16] But what you must say is: in these cases the man intends it for food;[17] here too, the man intends it for food. (Another version of this is: But what you can say is that the man intends it for food and the healing effect comes of itself. So here too. the man intends it for food, and the healing effect comes of itself.) And it was necessary to have this statement of Rab and Samuel.[18] For if I had only the other statement[19] I might think that [he says a blessing because] he intends it for food and the healing effect comes of itself; but in this case, since his first intention is to use it for healing. I might think that he should not say any blessing at all over it. We are therefore told that since he derives some enjoyment from it, he has to say a blessing.

FOR OVER BREAD IS SAID, WHO BRINGEST FORTH etc. Our Rabbis taught: What does he say? ‘Who bringest forth [ha-mozi] bread from the earth’. R. Nehemiah says: ‘Bringing [mozi][20] forth bread from the earth’. Both agree that the word mozi means ‘who has brought forth’,[21] since it is written, God who brought them forth [moziam] from Egypt.[22] Where they disagree is as to the meaning of ha-mozi. The Rabbis held that ha-mozi means ‘who has brought forth’, as it is written, Who brought thee forth [ha-mozi] water out of the rock of flint,[23] whereas R. Nehemiah held that ha-mozi means ‘who is bringing forth’, as it says, Who bringeth you out [ha-mozi] from under the burden of the Egyptians.[24] The Rabbis, however, say that those words spoken by the Holy One, blessed be He, to Israel were meant as follows: When I shall bring you out, I will do for you something which will show you that it is I who brought you forth from Egypt, as it is written, And ye shall know that I am the Lord your God who brought you out.[24]

The Rabbis used to speak highly to R. Zera of the son of R. Zebid[25] the brother of R. Simeon son of R. Zebid as being a great man and well versed in the benedictions. He said to them: When you get hold of him bring him to me. Once he came to his house and they brought him a loaf, over which he pronounced the blessing mozi. Said R. Zebid: Is this the man of whom they say that he is a great man and well versed in benedictions? Had he said ha-mozi,

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(1) I.e in flat thick pieces not resembling bread.
(2) Not 'who createst the fruit of the tree'.
(3) I.e., which never come to maturity. So Rashi; v.l. 'winter grapes'.
(4) V. Lev. V, 15ff.
(5) Because he does not regard these things as fruit.
(6) GR. **, something pounded but not out of recognition; here, a brew made of pounded fruit.
(7) Pounded sesame over which wine is poured.
(8) Saffron pounded to extract its oil.
(9) Over which water is poured to make mead.
(10) Rabina's question suggested to Raba the meaning of the question put to him.
(11) A brew made with rounded date-stones.
(12) I.e., a mere brew, not so strong as mead.
(13) Because then they completely lose their identity.
(14) Flour of dried barleycorns mixed with honey.
(15) R. Judah and R. Jose b. Judah; v. Shab. 156a.
(16) Shab. 109b.
(17) And the healing effect is produced incidentally.
(18) That shatitha though used for medicinal purpose is treated as food and requires a benediction, in addition to the teaching that it is regarded as food and may be partaken of on Sabbath.
(19) That all foods may be consumed on Sabbath for medical purposes.
(20) Mozi is the present participle; ha-,mozi is the same with the definite article.
(21) Which is the meaning required.
(22) Num. XXIII, 22.
(23) Deut. VIII, 15.
(24) Ex. VI, 7.
(25) So the text. There seems to be some corruption. and Goldschmidt reads: The Rabbis praised the father of R. Simeon b. Zebid to R. Zera b. Rab; cf. D.S.

Talmud - Mas. Berachoth 38b

he would have taught us the meaning of a text and he would have taught us that the halachah is as stated by the Rabbis. But when he says mozi, what does he teach us?[1] In fact he acted thus so as to keep clear of controversy. And the law is that we say, ha-mozi bread from the earth', since we hold with the Rabbis who say that it means 'who has brought forth'.

OVER VEGETABLES ONE SAYS etc. Vegetables are placed [by the Mishnah] on a par with bread: just as over bread which has been transformed by fire [the same blessing is said], so [the same blessing is said over] vegetables when they have been changed by fire. Rabinnai said in the name of Abaye: This means to say that over boiled vegetables we say 'who createst the fruit of the ground'. [How? — Because the Mishnah puts vegetables on a par with bread].[2]

R. Hisda expounded in the name of our Teacher, and who is this? Rab: Over boiled vegetables the blessing to be said is 'who createst the fruit of the ground'. But teachers who came down from the land of Israel, and who are these? ‘Ulla in the name of R. Johanan, said: Over boiled vegetables the blessing to be said is ‘by whose word all things exist’. I say, however,[3] that wherever we say over a thing in its raw state ‘who createst the fruit of the ground’, if it is boiled we say ‘by whose word all things exist’; and wherever we say over it in the raw state ‘by whose word all things exist’,if it is boiled we say ‘who createst the fruit of the ground’. We quite understand that where the blessing over a thing in its raw state is ‘by whose word all things were created’, if it is boiled we say, ‘who createst the fruit of the ground’;[4] you have examples in cabbage, beet, and pumpkin. But where can you find that a thing which in its raw state requires ‘who createst the fruit of the ground’ should, when boiled, require ‘by whose word all things exist’?[5] — R. Nahman b. Isaac replied: You have an instance in garlic and leek.

R. Nahman expounded in the name of our teacher, and who is this? Samuel: Over boiled vegetables the blessing to be said is ‘who createst the fruit of the ground’; but our colleagues who came down from the Land of Israel, and who are these? ‘Ulla in the name of R. Johanan, say: Over boiled vegetables the blessing to be said is ‘by whose word all things exist’. I personally say that authorities[6] differ on the matter, as it has been taught: One may satisfy the requirement [of eating unleavened bread on Passover] with a wafer which has been soaked, or which has been boiled, provided it has not been dissolved. So R. Meir. R. Jose, however, says: One fulfils the requirements with a wafer which has been soaked, but not with one which has been boiled, even though it has not been dissolved. But this is not the case.[7] All [in fact] would agree that over boiled vegetables the blessing is ‘who createst the fruit of the ground’; and R. Jose was more particular in the case of the wafer only because we require the taste of unleavened bread and it is not there. In this case, however, even R. Jose would admit [that boiling does not alter its character].

R. Hiyya b. Abba.said in the name of R. Johanan: Over boiled vegetables the blessing to be said is ‘who createst the fruit of the ground’. R. Benjamin b. Jefet, however, said in the name of R. Johanan: Over boiled vegetables the blessing to be said is ‘by whose word all things exist’. R. Nahman b. Isaac said: ‘Ulla[8] became confirmed in his error by accepting the word of R. Benjamin b. Jefet. R. Zera expressed his astonishment.[9] How [he said], can you mention R. Benjamin b. Jefet along with R. Hiyya b. Abba? R. Hiyya b. Abba was very particular to get the exact teaching of R. Johanan his master, whereas R. Benjamin b. Jefet was not particular. Further, R. Hiyya b. Abba used to go over what he had learnt every thirty days with his teacher R. Johanan, while R. Benjamin b. Jefet did not do so. Besides, apart from these two reasons[10] there is the case of the lupines which were cooked seven times in the pot, and eaten as dessert,[11] and when they came and asked R. Johanan about them, he told them that the blessing to be said was ‘who createst the fruit of the ground’. Moreover R. Hiyya b. Abba said: I have seen R. Johanan eat salted olives and say a blessing both before and after. Now if you hold that boiled vegetables are still regarded as the same, we can understand this: before eating he said ‘who createst the fruit of the tree’, and after it a grace of one blessing which includes three.[12] But if you hold that vegetables after being boiled are not regarded as the same, no doubt he could say before eating ‘by whose word all things are created’, but what could he say after? — Perhaps he said, ‘who createst many living things and their requirements for all that he has created’.

R. Isaac b. Samuel raised an objection: With regard to the herbs with which one may fulfil the requirement [of eating bitter herbs on] Passover,[13] both they and their stalks may serve this purpose, but not if they are pickled or cooked or boiled.[14] Now if you maintain that after boiling they are still regarded as the same, why may they not be used boiled? — The case is different there. because we require the taste of bitter herbs, and this we do not find.

R. Jeremiah asked R. Zera: How could R. Johanan make a blessing over a salted olive? Since the stone had been removed,

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(1) Seeing that all are agreed as to its meaning.

(2) These words seem to be a needless repetition, and are bracketed in the text.
(3) In order to reconcile the two opinions.
(4) Because usually it is improved by boiling.
(5) I.e., should deteriorate through being boiled.
(6) I.e., Tannaim.
(7) That the authorities differ with regard to vegetables and that R. Jose supports R. Johanan.
(8) Who reported supra in the name of R. Johanan that the blessing is 'by whose word etc.'.
(9) That this difference of opinion should have been recorded.
(10) Showing that R. Johanan did not make the statement attributed to him by R. Benjamin b. Jefet.
(11) And therefore required a separate blessing.
(12) Because in spite of the salting, it was still regarded as an olive.
(13) V. Ex. XII, 8.
(14) I.e., reduced to a pulp. V. Pes. 39a.

Talmud - Mas. Berachoth 39a

it was less than the minimum size! — He replied: Do you think the size we require is that of a large olive? We require only that of a medium sized olive, and that was there, for the one they set before R. Johanan was a large one, so that even when its stone had been removed it was still of the requisite size. For so we have learnt: The 'olive' spoken of[1] means neither a small nor a large one, but a medium one. This is the kind which is called aguri. R. Abbahu, however, said: Its name is not aguri but abruti, or, according to others, samrusi. And why is it called aguri? Because its oil is collected [agur] within it.[2]

May we say that this controversy [about the blessing to be said over boiled vegetables] is found between Tannaim? For once two disciples were sitting before Bar Kappara, and cabbage, Damascene plums and poultry were set before him. Bar Kappara gave permission to one of them to say a blessing, and he at once said the blessing over the poultry.[3] The other laughed at him, and Bar Kappara was angry, He said: I am not angry with the one who said the blessing, but with the one who laughed. If your companion acts like one who has never tasted meat in his life, is that any reason for you to laugh? Then he corrected himself and said: I am not angry with the one who laughed, but with the one who said the blessing. If there is no wisdom here, is there not old age here?[4] A Tanna taught: Neither of them saw the year out.[5] Now did not their difference lie in this, that the one who said the blessing held that the benediction over both boiled vegetables and poultry is 'by whose word all things exist', and therefore the dish he liked best had the preference,[6] while the one who laughed held that the blessing over boiled vegetables is 'who createst the fruit of the ground', and that over poultry is 'by whose word all things were created', and therefore the vegetables should have had the preference?[7] — Not so. All agree that for both boiled vegetables and poultry the blessing is 'by whose word all things exist', and their difference lies in this, that one held that what is best liked should have the preference, and the other held that the cabbage should have the preference, because it is nourishing.[8]

R. Zera said: When we were with R. Huna, he told us that with regard to the tops of turnips, if they are cut into large pieces, the blessing is 'who createst the fruit of the ground', but if they are cut into small pieces, 'by whose word all things exist'.[9] But when we came to Rab Judah, he told us that for both the blessing is 'who createst the fruit of the ground', since the reason for their being cut into small pieces is to make them taste sweeter.

R. Ashi said: When we were with R. Kahana, he told us that over a broth of beet, in which not much flour is put, the blessing is 'who createst the fruit of the ground', but for a broth of turnip, in which much flour is put, the blessing is 'who createst all kinds of foods'. Subsequently, however, he said that the blessing for both is 'who createst the fruit of the ground', since the reason why much flour is put in it is only to make it cohere better.

R. Hisda said: A broth of beet is beneficial for the heart and good for the eyes, and needless to say for the bowels. Said Abaye: This is only if it is left on the stove till it goes tuk, tuk.[10]

R. Papa said: It is quite clear to me that beet-water is on the same footing as beet,[11] and turnip-water on the same footing as turnips. and the water of all vegetables on the same footing as the vegetables themselves. R. Papa, however, inquired: What about aniseed water? Is its main purpose to sweeten the taste[12] [to the dish] or to remove the evil smell?[13] — Come and hear: Once the aniseed has given a taste to the dish, the law of terumah no longer applies to it,[14] and it is not liable to the uncleanness of foods.[15] This proves that its main purpose is to sweeten the dish, does it not? — It does.

R. Hiyya b. Ashi said: Over a dry crust which has been put in a pot [to soak], the blessing is ‘who bringeth forth bread etc.’. This view conflicts with that of R. Hiyya; for R. Hiyya said: The bread should be broken with the conclusion of the blessing.[16] Raba demurred to this. What [he said], is the reason [why hamozi should not be said] in the case of dry crust? Because, you say, when the blessing is concluded, it is concluded over a broken piece. But when it is said over a loaf, it finishes over a broken piece!

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(1) As a standard of quantity.

(2) I.e., can be squeezed out immediately. Probably all these names refer to the place of origin of different kinds of olive.

(3) As being the principal dish.

(4) And why did you not consult me?

(5) As a punishment for the disrespect shown to Bar Kappara.

(6) I.e., he said the blessing over that one first and commenced to eat it.

(7) Even though he liked the poultry better, because the blessing over vegetables is more dignified.

(8) I.e., more than poultry. v. infra 44b.

(9) Because they have been more or less spoilt.

(10) I.e., has been brought to the boil.

(11) And the blessing to be said over it is ‘who createst the fruit of the earth’.

(12) And is the blessing to be said over it ‘who createst the fruit of the ground’.

(13) And the blessing will be ‘by whose word etc.’.

(14) It is regarded as merely wood, not liable to terumah.

(15) ‘Uk. III, 4.

(16) But this has already been broken off, and therefore the blessing is ‘by whose word’.

Talmud - Mas. Berachoth 39b

The fact is, said Raba, that the benediction is said first and then the loaf is broken.[1] The Nehardeans acted as prescribed by R. Hiyya, while the Rabbis acted as prescribed by Raba. Rabina said: Mother told me: Your father acted as prescribed by R. Hiyya; for R. Hiyya said: The bread should be broken with the conclusion of the blessing, whereas the Rabbis acted as prescribed by Raba. The law is as laid down by Raba, that one says the blessing first and afterwards breaks the loaf.

It has been stated: If pieces and whole loaves are set before one, R. Huna says that the benediction can be said over the pieces,[2] and this serves also for the whole loaves, whereas R. Johanan says that the religious duty is better performed if the blessing is said over the whole one. If, however, a broken piece of wheat bread and a whole loaf of barley bread are set before one, all agree that the benediction is said over the piece of wheaten bread, and this serves also for the whole loaf of barley bread. R. Jeremiah b. Abba said: There is the same difference of opinion between Tannaim:[3] Terumah is given from a small whole onion, but not from the half of a large onion. R. Judah says:

Not so, but also from the half of a large onion.[4] Are we to say that the point in which they differ is this: one authority holds that the fact of being worth more is more important, while the other holds that the fact of being whole is more important? — Where a priest is on the spot,[5] all agree that the fact of being worth more is more important. Where they differ is when there is no priest on the spot, since we have learnt: Wherever a priest is on the spot, terumah is given from the best of the produce; where the priest is not on the spot,[6] terumah is set aside from that which will keep best. R. Judah said: Terumah is in all cases given from the best.[7] R. Nahman b. Isaac said: A Godfearing man will seek to satisfy both.[8] Who is such a one? Mar the son of Rabina. For Mar the son of Rabina used to put the broken piece under[9] the whole loaf and then break the bread.[10] A Tanna recited in the presence of R. Nahman b. Isaac: One should place the broken piece under the whole loaf and then break and say the benediction. He said to him: What is your name? Shalman, he replied. He said to him: Thou art peace [shalom] and thy Mishnah is faultless [shelemah], for thou hast made peace between the scholars.

R. Papa said: All admit that on Passover one puts the broken cake under the whole one and breaks [them together]. What is the reason? Scripture speaks of ‘Bread of poverty’.[11] R. Abba said: On Sabbath one should break bread from two loaves. What is the reason? Scripture speaks of ‘double bread’.[12] R. Ashi said: I have observed R. Kahana take two and break one. R. Zera used to break off [a piece of bread] sufficient for the whole meal [on Sabbath]. Said Rabina to R. Ashi: Does not this look like greediness? He replied: Since every other day he does not act thus and today he acts thus, it does not look like greediness. When R. Ammi and R. Assi happened to get hold of a loaf which had been used for an ‘erub,[13] they used to say over it the blessing, ‘who bringest forth bread from the earth’, saying, Since one religious duty has been performed with it, let us perform with it still another.

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(1) So that when the blessing is concluded the bread is still whole.

(2) Especially if they are larger than the whole loaf, in which case preference must be given to the broken one (Rashi).

(3) In the case where the broken one is of wheat and the whole one of barley.

(4) Ter. II, 5.

(5) And the terumah can be given to him immediately.

(6) And the produce has to be kept till he turns up.

(7) Ibid. 4.

(8) I.e., both points of view, sc. of R. Huna and R. Johanan.

(9) V. Rashi.

(10) From both, v. Rashi.

(11) Deut. XVI, 3. (E.V. ‘affliction’). A poor man has usually only a piece.

(12) Ex. XVI. 22, of the manna on Friday. (E.V. ‘twice as much bread’).

(13) For allowing transport through the courts on Sabbath. V. Glos.

Talmud - Mas. Berachoth 40a

Rab said: [If the host says to his guests,[1] Take, the benediction has been said,[2] take, the benediction has been said, he [the host] need not say the benediction [again].[3] If he said [between the benediction and the eating], Bring salt, bring relish, he must say the benediction [again]. R. Johanan, however, said that even if he said, Bring salt, bring relish, the benediction need not be repeated. If he said, Mix fodder for the oxen, mix fodder for the oxen, he must repeat the blessing; R. Shesheth. however, said that even if he said, Mix fodder for the oxen, he need not repeat; for Rab Judah said in the name of Rab: A man is forbidden to eat before he gives food to his beast, since it says. And I will give grass in thy fields for thy cattle, and then, thou shalt eat and be satisfied.[4]

Raba b. Samuel said in the name of R. Hiyya: The one who is about to break the bread is not permitted to do so before salt or relish is placed before each one at table. Raba b. Samuel was once at the house of the Exilarch, and they brought him bread and he broke it at once. They said to him: Has the Master retraced his own teaching? — He replied: This requires no condiment.[5]

Raba b. Samuel also said in the name of R. Hiyya: Urine is never completely discharged except when sitting.[6] R. Kahana said: If over loose earth, even when standing. If there is no loose earth, one should stand on a raised spot and discharge down a declivity.

Raba b. Samuel also said in the name of R. Hiyya: After every food eat salt, and after every beverage drink water, and you will come to no harm. It has been taught similarly: After every food eat salt, and after every beverage drink water, and you will come to no harm. It has been taught elsewhere: If one ate any kind of food without taking salt after it, or drank any kind of liquor without taking water after it, by day he is liable to be troubled with an evil-smelling mouth, and by night with croup. The Rabbis taught: One who swills down his food with plenty of water will not suffer with his bowels. How much should he drink? R. Hisda says: A cupful to a loaf.

R. Mari said in the name of R. Johanan: If one takes lentils regularly once in thirty days, he will keep croup away from his house.[7] He should not, however, take them every day. Why so? Because they cause a bad smell in the mouth. R. Mari also said in the name of R. Johanan: If one takes mustard regularly once in thirty days, he keeps sickness away from his house. He should not, however, take it every day. Why so? Because it is weakening for the heart. R. Hiyya b. Ashi said in the name of Rab: One who eats regularly small fish will not suffer with his bowels. Moreover, small fish stimulate propagation and strengthen a man's whole body. R. Hama b. Hanina said: One who takes regularly black cumin will not suffer from heartburn.[8] The following was cited in objection to this: R. Simeon b. Gamaliel says: Black cumin is one of the sixty poisons. and if one sleeps on the east side of the place where it is stored, his blood will be on his own head?[9] — There is no contradiction: The latter statement speaks of its smell, the former of its taste. The mother of R. Jeremiah used to bake bread for him and stick [black cumin] on it[10] and then scrape it off.[11]

R. JUDAH SAYS, WHO CREATEST DIVERS KINDS OF HERBS. R. Zera, or as some say R. Hinnena b. Papa, said: The halachah is not as stated by R. Judah. R. Zera, or as some say, R. Hinnena b. Papa, further said: What is R. Judah's reason? Scripture says, Blessed be the Lord day by day.[12] Are we then to bless Him by day and not bless Him by night? What it means to tell us is that every day we should give Him the blessing appropriate to the day.[13] So here, for every species we should give Him the appropriate blessing.

R. Zera, or as some say,R. Hinnena b. Papa, further said: Observe how the character of the Holy One, blessed be He, differs from that of flesh and blood. A mortal can put something into an empty vessel[14] but not into a full one. But the Holy One, blessed be He, is not so; He puts more into a full vessel[15] but not into an empty one; for it says, If hearkening thou wilt hearken,[16] implying, if thou hearkenest [once] thou wilt go on hearkening, and if not, thou wilt not hearken. Another explanation is: If thou hearkenest to the old,[17] thou wilt hearken to the new, but if thy heart turns away, thou wilt not hear any more.

MISHNAH. IF ONE SAYS OVER FRUIT OF THE TREE THE BENEDICTION, ‘WHO CREATEST THE FRUIT OF THE GROUND, HE HAS PERFORMED HIS OBLIGATION. BUT IF HE SAID OVER PRODUCE OF THE GROUND, ‘WHO CREATEST THE FRUIT OF THE TREE’, HE HAS NOT PERFORMED HIS OBLIGATION. IF HE SAYS ‘BY WHOSE WORD ALL THINGS EXIST OVER ANY OF THEM, HE HAS PERFORMED HIS OBLIGATION.

GEMARA. What authority maintains that the essence of the tree is the ground? — R. Nahman b. Isaac replied: It is R. Judah, as we have learnt: If the spring has dried up or the tree has been cut down,[18] he brings the first-fruits but does not make the declaration.[19] R. Judah, however, says that he both brings them and makes the declaration.[20]

OVER FRUIT OF THE GROUND etc. This is obvious, is it not? — R. Nahman b. Isaac said: It required to be stated in view of the opinion of R. Judah, who maintains that wheat is a kind of tree. For it has been taught: R. Meir holds that the tree of which Adam ate was the vine, since the thing that most causes wailing to a man is wine, as it says, And he drank of the wine and was drunken.[21] R. Nehemiah says it was the fig tree, so that they repaired their misdeed with the instrument of it, as it says, And they sewed fig leaves together.[22] R. Judah says it was wheat, since a child does not know how to call 'father' and 'mother' until it has had a taste of corn.[23] Now you might think that because R. Judah says that wheat is a kind of tree, therefore we should say over it the benediction 'who createst the fruit of the tree'. Therefore we are told that we say 'who createst the fruit of the tree' only in those cases where if you take away the fruit the stem still remains to produce fruit again

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(1) After saying the blessing on behalf of all.

(2) Lit., '(the bread) has been blessed'.

(3) In spite of the fact that there has been an interruption between the saying and the eating, because the words spoken have reference to the benediction.

(4) Deut. XI, 15.

(5) So Jast. Rashi translates: no delay (in waiting for the salt).

(6) Because one who discharges standing is afraid of the drops falling on his clothes (Rashi).

(7) Rashi explains that they keep away indigestion which is the cause of croup.

(8) Lit., 'pain of the heart'.

(9) Because the west wind will carry the odour to him and poison him.

(10) So that it should absorb the taste.

(11) To remove the smell.

(12) Ps. LXVIII, 20.

(13) E.g., on Sabbath the Sabbath blessing, on festivals the festival blessing. etc.

(14) Lit., 'in the case of a mortal man, an empty vessel can be made to hold, etc.'.

(15) I.e., He gives more wisdom to the wise.

(16) Ex. XV, 26, lit. trans. E.V. 'If thou wilt diligently hearken'.

(17) I.e., constantly revise what you have learnt.

(18) If one has gathered first-fruits, and before he takes them to Jerusalem the spring which fed the tree dries up, or the tree is cut down.

(19) V. Deut. XXVI, 5-10, because it contains the words 'of the land which Thou, O Lord, hast given me', and the land is valueless without the tree or the spring.

(20) Because the land is the essence, not the tree; v. Bik. I, 6.

(21) Gen. IX, 21. The reference is to Noah.

(22) Ibid. III, 7.

(23) Hence the Tree of Knowledge must have been some kind of corn.

Talmud - Mas. Berachoth 40b

, but in cases where if you take the fruit the stem does not remain to produce again, the benediction is not 'who createst the fruit of the tree' but 'who createst the fruit of the ground'.

IF HE SAYS, BY 'WHOSE WORD ALL THINGS EXIST' etc. It has been stated: R. Huna said: Except over bread and wine.[1] R. Johanan, however, said: Even over bread and wine. May we say that the same difference of opinion is found between Tannaim? [For it was taught:] 'If a man sees a loaf of bread and says, What a fine loaf this is! Blessed be the Omnipresent that has created it! he has performed his obligation. If he sees a fig and says, What a fine fig this is! Blessed be the Omnipresent that has created it! he has performed his obligation. So R. Meir. R. Jose says: If one alters the formula laid down by the Sages in benedictions, he has not performed his obligation'. May we say that R. Huna concurs with R. Jose and R. Johanan with R. Meir? — R. Huna can reply to you: I can claim even R. Meir as a supporter of my view. For R. Meir went as far as he did in that case only because the bread is actually mentioned, but where the bread is not actually mentioned even R. Meir would admit [that the obligation is not fulfilled]. And R. Johanan can reply to you: I may claim R. Jose also as a supporter of my view. For R. Jose only went as far as he did in that case because he made a benediction which was not instituted by the Sages, but if he says, ‘by whose word all things exist’, which has been instituted by the Sages, even R. Jose would admit [that he has performed his obligation].

Benjamin the shepherd made a sandwich[2] and said, Blessed be the Master of this bread,[3] and Rab said that he had performed his obligation. But Rab has laid down that any benediction in which God's name is not mentioned is no benediction? — We must suppose he said, Blessed be the All-Merciful, the Master of this bread. But we require three blessings?[4] — What did Rab mean by saying that he had performed his obligation? He had performed the obligation of the first blessing. What does this tell us [that we did not already know]? That [he has performed his obligation] even if he says it in a secular language. But we have already learnt this: ‘The following may be said in any language: the section of the Unfaithful wife,[5] the confession over tithe,[6] the recital of the Shema’, and the Tefillah and grace after food?[7] — It required to be stated. For you might have thought that this is the case only if one says the grace in a secular language in the same form as was instituted by the Rabbis in the holy tongue, but if one does not say it in the secular language in the same form as was instituted by the Rabbis in the holy tongue, he has not performed his obligation. We are therefore told [that this is not so].

It was stated above: Rab said that any benediction in which the Divine Name is not mentioned is no benediction. R. Johanan, however, said: Any benediction in which [God's] Kingship is not mentioned is no benediction. Abaye said: The opinion of Rab is the more probable. For it has been taught: I have not transgressed any of Thy commandments, neither have I forgotten.[8] This means: ‘I have not transgressed’ so as not to bless Thee,[9] ‘neither have I forgotten’ to mention Thy name therein. Of sovereignty, however, there is no mention here. R. Johanan, however, reads: ‘Neither have I forgotten’ to mention Thy name and Thy sovereignty therein.

MISHNAH. OVER ANYTHING WHICH DOES NOT GROW FROM THE EARTH ONE SAYS: ‘BY WHOSE WORD ALL THINGS EXIST’. OVER VINEGAR, NOBELOTH[10] AND LOCUSTS ONE SAYS, ‘BY WHOSE WORD ALL THINGS EXIST’. R. JUDAH SAYS: OVER ANYTHING TO WHICH A KIND OF CURSE ATTACHES NO BENEDICTION IS SAID.[11] IF ONE HAS SEVERAL VARIETIES BEFORE HIM, R. JUDAH SAYS THAT IF THERE IS AMONG THEM SOMETHING OF THE SEVEN KINDS,[12] HE MAKES THE BLESSING OVER THAT, BUT THE SAGES SAY THAT HE MAY MAKE THE BLESSING OVER ANY KIND THAT HE PLEASES.

GEMARA. Our Rabbis taught: Over anything which does not grow from the ground, such as the flesh of cattle, beasts and birds and fishes, one says ‘by whose word all things were created’. Over milk, eggs and cheese one says, ‘by whose word, etc.’. Over bread which has become mouldy and over wine on which a film has formed and cooked food which has become spoilt one says, ‘by whose word’. Over salt and brine and morils and truffles one says, ‘by whose word’. This would imply that morils and truffles do not grow from the ground. But has it not been taught: If one vows to abstain from fruit of the ground, he is forbidden to eat of fruit of the ground but is allowed to eat morils and truffles? If he said, I vow abstention from all that grows from the ground, he is forbidden to eat morils and truffles also?[13] — Abaye said: They do indeed spring up from the earth, but their sustenance is not derived[14] from the earth. But it says, ‘over anything which grows from the earth’? — Read: Over anything which draws sustenance from the earth.

OVER NOBELOTH. What are NOBELOTH? — R. Zera and R. El'a [gave different answers]. One said: fruit parched by the sun;[15] the other said: dates blown down by the wind. We have learnt: R. JUDAH SAYS: OVER ANYTHING TO WHICH A KIND OF CURSE ATTACHES NO BLESSING IS SAID. This accords with the view of the one who says that nobeloth are fruit parched by the sun, which can rightly be called something to which a curse attaches. But if we say they are dates blown down by the wind, what has ‘a kind of curse’ to do with them? — This expression relates to the other things [mentioned].[16]

Some report as follows: On the view of him who says that they are fruit parched by the sun, it is quite right that we should say ‘by whose word, etc.’; but according to the one who says that they are dates blown down by the wind, we should say, ‘who createst the fruit of the tree’?[17] — The fact is that all are agreed that nobeloth in general are fruit parched by the sun. The difference arises over nobeloth of the date-palm, since we have learnt:[18] Things in regard to which the law of demai is not so strict[19] are shittin, rimin, ‘uzradin, benoth shuah, benoth shikmah, gofnin, nizpah and the nobeloth of the date-palm. Shittin, according to Rabbah b. Bar Hanah reporting R. Johanan, are a kind of figs. Rimin are lote. ‘Uzradin are crabapples. Benoth shuah, according to Rabbah b. Bar Hanah reporting R. Johanan, are white figs. Benoth shikmah, according to Rabbah b. Bar Hanah reporting R. Johanan, are sycamore figs. Gofnin are winter grapes. Nizpah is the caper-fruit. Nobeloth of the date-palm are explained differently by R. Zera and R. El'a. One says that they are fruit parched by the sun, the other that they are dates blown down by the wind. Now the view of him who says that they are fruit parched by the sun accords well with what it teaches [concerning them], ‘things about which the law of demai is not so strict’, and if there is a doubt about them, they are free from the obligation of tithe, which shows that if there is no doubt[20] they are subject to it. But on the view of him who says that they are dates blown down by the wind, must, in case of certainty, tithe be given from them? They are hefker![21] — With what case are we dealing here? Where one made a store of them. For R. Isaac said in the name of R. Johanan reporting R. Eliezer b. Jacob: If [a poor man] has made a store of gleanings, forgotten sheaves and produce of the corner,[22] they are liable for tithe.

Some report as follows:

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(1) Bread because it is the mainstay of the meal, wine because many special benedictions are said over it.

(2) Lit., ‘doubled (wrapped) a loaf’, which seems to mean that he made a sandwich of bread and some relish.

(3) He said it in Aramaic.

(4) It was assumed that he said this formula after eating.

(5) Num. V, 21ff.

(6) Deut. XXVI, 13-15.

(7) V. Sot. 32a.

(8) Deut. XXVI, 13 in reference to the tithe.

(9) The benediction, ‘Blessed be He . . . who commanded us to set aside terumah and tithe’.

(10) Lit., ‘withering products’. This is explained in the Gemara.

(11) And the things just mentioned come under this heading.

(12) Enumerated in Deut. VIII, 8.

(13) V. Ned. 55b.

(14) Lit., ‘they do not suck’.

(15) While still on the tree.

(16) Viz., vinegar and locusts.

(17) Since they are still dates.

(18) Demai I, 1.

(19) I.e., which a haber (v. Glos.) need not tithe if he buys them from an ‘am ha-arez (v. Glos.). These things being of little value, the presumption is that they have been tithed.

(20) That they have not been tithed.

(21) I.e., ownerless (v. Glos.) and not subject to tithe.

(22) Which he had gathered and which are ordinarily not titheable.

Talmud - Mas. Berachoth 41a

The view of him who says that [they[1] are] dates blown down by the wind accords well with the fact that in one place[2] nobeloth simply[3] are spoken of and in the other[4] nobeloth of the date-palm. But on the view of him who says they[1] are fruit parched by the sun, in both places we should have nobeloth of the date-palm,[5] or in both places nobeloth simply, should we not?[6] — This is indeed a difficulty.

IF ONE HAD SEVERAL VARIETIES BEFORE HIM etc. ‘Ulla said: Opinions differ only in the case where the blessings [over the several varieties] are the same; in such a case R. Judah holds that belonging to the seven kinds is of more importance, while the Rabbis held that being better liked is of more importance. But where they have not all the same benediction, all agree that a blessing is to be said first on one variety[7] and then on another. An objection was raised: If radishes and olives are set before a person, he says a benediction over the radish, and this serves for the olive also! — With what case are we dealing here? When the radish is the main item.[8] If so, look at the next clause: R. Judah says that the benediction is said over the olive, because the olive is one of the seven species.[9] Now would not R. Judah accept the teaching which we have learnt: Whenever with one article of food another is taken as subsidiary to it, a blessing is said over the main article and this serves for the subsidiary one also?[10] And should you be disposed to maintain that in fact he does not accept it, has it not been taught: R. Judah said, If the olive is taken on account of the radish, a blessing is said for the radish and this serves for the olive? — In fact we are dealing with a case where the radish is the main item,[11] and the difference of opinion between R. Judah and the Rabbis is really over a different matter, and there is a lacuna in the text and it should read as follows: If radish and olives are set before a person, he says a benediction over the radish and this serves for the olive also. When is this the case? When the radish is the main item; but if the radish is not the main item, all agree that he says a blessing over one and then a blessing over the other. If there are two varieties of food[12] which have the same blessing, he says it over whichever he prefers. R. Judah, however, says that he says the blessing over the olive, since it is of the seven species.

R. Ammi and R. Isaac Nappaha understood this differently. One said that the difference between R. Judah and the Rabbis arises when the blessings over the two kinds of food are the same, R. Judah holding that the fact of belonging to the seven kinds is more important, while the Rabbis held that the fact of being better liked was more important; but where the blessings are not the same, both agreed that a blessing is first said over one kind and then over the other. The other said that R. Judah and the Rabbis differ even when the blessings are not the same. Now accepting the view of him who says that the difference arises when the blessings are the same, we find no difficulty. But accepting the view that they differ also when the blessings are not the same, [we have to ask] on what ground do they differ?[13] — R. Jeremiah replied: They differ on the question of precedence. For R. Joseph. or as some say. R. Isaac, said: Whatever comes earlier in this verse has precedence in the matter of benediction, viz., A land of wheat and barley, and vine and fig-trees and pomegranates, a land of olive trees and honey.[14]

[In the exposition of this verse, R. Isaac] differs from R. Hanan. For R. Hanan said: The whole purpose of the verse was to mention things which serve as standards of measurements. ‘Wheat’, as we have learnt: If one enters a house stricken with leprosy with his garments on his shoulder and his sandals and his rings in his hands, both he and they become unclean immediately. If he is wearing his garments and his sandals and has his rings on his fingers, he is immediately unclean but they remain clean until he stays in the house long enough to eat a piece of wheat bread,[15] but not of barley bread, reclining and taking with it a relish.[16] ‘Barley’, as we have learnt: A bone as large as a barleycorn renders unclean by touch and carrying, but it does not render a tent unclean.[17] ‘Vine’, the measurement for a Nazirite[18] is a fourth [of a log] of wine.[19] ‘Figtree’, a dried fig is the measurement of what may be taken out of the house on Sabbath. ‘Pomegranates’, as we have learnt: For utensils of a private person[20]

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(1) The nobeloth mentioned in Demai.

(2) In our Mishnah.

(3) Denoting fruit parched by the sun.

(4) In the passage from Demai.

(5) Because it is necessary to distinguish the two kinds of nobeloth.

(6) Because both passages are speaking about the same thing.

(7) Which he likes best.

(8) And the olive was only eaten to counteract the sharp taste.

(9) This shows that we are not dealing with the case where one of the two articles is more important.

(10) V. supra 35b.

(11) And we cannot say that in all cases a blessing is said first over one variety and then over the other.

(12) One of which is of the seven species, e.g., olives.

(13) Surely in this case the benediction for the one does not serve the other!

(14) Deut. VIII, 8. R. Judah agrees with R. Isaac, and therefore a fortiori holds that any of these species should have precedence over other species, whereas the Rabbis agree with the view of R. Hanan which follows.

(15) Which is eaten more quickly than barley bread.

(16) Neg. XIII, 9.

(17) Oh. II, 3.

(18) The quantity of grapes which he may eat without spoiling his Naziriteship.

(19) Which is somewhat larger than a log (v. Glos.) of water.

(20) As opposed to an artificer who makes them.

Talmud - Mas. Berachoth 41b

the measurement[1] is a pomegranate.[2] ‘A land of olive trees’, R. Jose son of R. Hanina said: A land in which the olive is the standard for all measurements. All measurements, do you say? What of those we have just mentioned? — Say rather, in which the olive is the standard for most measurements. ‘Honey’,[3] as much as a large date [is the quantity which renders one liable for eating] on the Day of Atonement. What says the other to this? — Are these standards laid down explicitly? They were instituted by the Rabbis, and the text is only an asmekta.[4]

R. Hisda and R. Hamnuna were seated at a meal, and dates and pomegranates were set before them. R. Hamnuna took some dates and said a blessing over them. Said R. Hisda to him: Does not the Master agree with what R. Joseph, or as some say R. Isaac, said: Whatever is mentioned earlier in this verse has precedence in the matter of benediction? — He replied: This [the date] comes second after the word ‘land’, and this [the pomegranate] comes fifth.[5] He replied: Would that we had feet of iron so that we could always [run and] listen to you!

It has been stated: If figs and grapes were set before them in the course of the meal, R. Huna says that they require a benediction before but they do not require a blessing after;[6] and so said R. Nahman: They require a blessing before but they do not require a blessing after. R. Shesheth, however, said: They require a blessing both before and after, since there is nothing requiring a blessing before which does not also require a blessing after, save bread taken with the sweets.[7] This is at variance with R. Hiyya; for R. Hiyya said: [A blessing said over] bread suffices for all kinds of food [taken in the meal], and a blessing said over wine for all kinds of drink. R. Papa said: The law is that things which form an integral part of the meal when taken in the course of the meal require no blessing either before or after; things which do not form an integral part of the meal when taken in the course of the meal require a blessing before but not after, and when taken after the meal require a blessing both before and after.

Ben Zoma was asked: Why was it laid down that things which form an integral part of the meal when taken in the course of a meal require no blessing either before or after? — He replied: Because the [blessing over] bread suffices for them. If so, [they said] let the blessing over bread suffice for wine also? — Wine is different, he replied

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(1) The size of a breakage which renders the utensil incapable of becoming unclean.

(2) V. Kel. XVI, 1.

(3) According to the Rabbis, the honey of dates is meant.

(4) Lit., 'support'; here, a kind of mnemonic. For further notes on this passage v. Suk. (Sonc. ed.) pp. 19ff.

(5) The verse referred to is Deut. VIII, 8, where two lists are given of the products of the Land of Israel, each introduced with the word 'land', and in the first pomegranates are mentioned fifth, while in the second honey (i.e., date honey) is mentioned second.

(6) The grace after meals serves for them too.

(7) More exactly, 'nibblings' — things like nuts or dates brought in to nibble after the grace after meals.

Talmud - Mas. Berachoth 42a

because it is itself a motive for benediction.[1]

R. Huna ate thirteen rolls[2] of three to a kab without saying a blessing after them. Said R. Nahman to him: This is what [you call] hunger.[3] [R. Nahman is consistent with his own view, for R. Nahman said:][4] Anything which others make the mainstay of a meal requires a grace to be said after it.

Rab Judah gave a wedding feast for his son in the house of R. Judah b. Habiba.[5] They set before the guests bread such as is taken with dessert. He came in and heard them saying the benediction ha-Mozi.[6] He said to them: What is this zizi that I hear? Are you perhaps saying the blessing 'who bringest forth bread from the earth'? — They replied: We are, since it has been taught: R. Muna said in the name of R. Judah: Over bread which is taken with dessert the benediction 'who bringest forth bread' is said; and Samuel said that the halachah is as stated by R. Muna. He said to them: It has been stated that the halachah is not as stated by R. Muna. They said to him: Is it not the Master himself who has said in the name of Samuel that bread wafers may be used for an erub,[7] and the blessing said over them is 'who bringest forth bread'? — [He replied]: There [we speak] of a different case, namely, where they are made the basis of the meal; but if they are not the basis of the meal, this does not apply.

R. Papa was once at the house of R. Huna the son of R. Nathan. After they had finished the meal, eatables were set before them and R. Papa took some and commenced to eat. They said to him: Does not the Master hold that after the meal is finished it is forbidden to eat?[8] He replied: 'Removed'[9] is the proper term.[10]

Raba and R. Zera once visited the Exilarch. After they had removed the tray from before them, a gift [of fruit] was sent them from the Exilarch. Raba partook, but R. Zera did not partake. Said the latter to him: Does not the Master hold that if the food has been removed it is forbidden to eat? He replied: We can rely on the tray of the Exilarch.[11]

Rab said: If one is accustomed to [rub his hands with] oil [after a meal], he can wait for the oil.[12] R. Ashi said: When we were with R. Kahana he said to us: I, for instance, who am accustomed to use oil, can wait for the oil. But the law is not as stated in all those dicta reported above, but as thus stated by R. Hiyya b. Ashi in the name of Rab: Three things should follow immediately one on the other. The killing [of the sacrifice] should follow immediately on the laying on of hands. Tefillah should follow immediately on ge'ullah.[13] Grace should follow immediately on the washing of hands.[14] Abaye said: We will add another case. A blessing follows immediately on [the entertaining of] scholars, since it says, The Lord hath blessed me for thy sake.[15] If you prefer, I can learn it from here: The Lord blessed the Egyptian's house for Joseph's sake.[16]

MISHNAH. A BLESSING SAID OVER THE WINE TAKEN BEFORE THE MEAL[17] SERVES ALSO FOR THE WINE TAKEN AFTER THE MEAL.[18] A BLESSING OVER THE HORS D'OEUVRES[19] TAKEN BEFORE THE MEAL SERVES FOR THE SWEETS[19] TAKEN AFTER THE MEAL. A BLESSING OVER BREAD SERVES FOR THE SWEETS BUT A BLESSING OVER THE HORS D'OEUVRES DOES NOT SERVE FOR THE BREAD. BETH SHAMMAI SAY: NEITHER [DOES IT SERVE] FOR A COOKED DISH. IF [THOSE AT THE TABLE] ARE SITTING UPRIGHT,[20] EACH ONE SAYS GRACE FOR HIMSELF; IF THEY HAVE RECLINED, ONE SAYS GRACE FOR ALL.

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(1) When used for such purposes as sanctification, and not merely as a beverage.

(2) With the ‘nibblings’.

(3) I.e., such is enough to satisfy any hunger, and therefore should necessitate grace after it. The original is obscure and the meaning doubtful.

(4) Inserted with MS.M. and deleting ‘but’ of cur. edd.

(5) Var. lec., R. Habiba.

(6) The ordinary blessing over bread.

(7) I.e., they are reckoned as substantial food.

(8) Until grace after meals had first been said, after which a fresh benediction has to be said.

(9) I.e., it is permissible (if grace has not yet been said) to eat as long as the table has not actually been cleared away.

(10) Lit., ‘it has been stated’.

(11) I.e., we can be sure that more food will come.

(12) I.e., he can go on eating till the oil is brought, even if the table has been cleared. Lit., ‘the oil impedes him’.

(13) v. supra. 4b, 9b.

(14) The second washing, at the end of the meal, the ‘latter water’ (v. infra 53b). and this washing is the signal that the meal is finished, whether or not the table has been cleared.

(15) Gen. XXX, 27.

(16) Ibid. XXXIX, 5.

(17) As an appetizer.

(18) Before grace is said.

(19) Lit., ‘dainty’.

(20) I.e., do not form a party.

Talmud - Mas. Berachoth 42b

IF WINE IS BROUGHT TO THEM IN THE COURSE OF THE MEAL, EACH ONE SAYS A BENEDICTION FOR HIMSELF; IF AFTER THE MEAL, ONE SAYS IT FOR ALL. THE SAME ONE SAYS [THE BENEDICTION] OVER THE PERFUME,[1] ALTHOUGH THE PERFUME IS NOT BROUGHT IN TILL AFTER THE MEAL.[2]

GEMARA. Rabbah b. Bar Hanah said in the name of R. Johanan: This[3] was meant to apply only to Sabbaths and festivals, because then a man makes wine an essential part of his meal.[4] On others days of the year, however, a blessing is said over each cup,[5] it has also been reported: Rabbah b. Mari said in the name of R. Joshua b. Levi: This was meant to apply only to Sabbaths and festivals, and to meals taken when a man leaves the bath or after bloodletting, because on such occasions a man makes wine an essential part of the meal. On other days of the year, however, a blessing is said over each cup. Rabbah b. Mari was once at the house of Raba on a weekday. He saw him say a blessing [over the wine taken] before the meal and again after the meal. He said to him: ‘Well done; and so said R. Joshua b. Levi!’

R. Isaac b. Joseph visited Abaye on a festival, and saw him say a blessing over each cup. He said to him: Does your honour not hold with the rule laid down by R. Joshua b. Levi? — He replied: I have just changed my mind.[6]

A question was asked: If wine was brought round in the course of the meal [but not before], can a blessing over it serve for the wine taken after the meal as well? Should you cite the ruling that A BLESSING SAID OVER THE WINE TAKEN BEFORE THE MEAL SERVES FOR WINE TAKEN AFTER THE MEAL, this may be because both are [drunk] for the sake of drinking. Here, however, where one cup is for steeping [the food in] and the other for drinking. shall I say that this is not the rule, or perhaps it makes no difference? — Rab replied that it does serve; R. Kahana that it does not; R. Nahman held that it does serve; R. Shesheth that it does not serve. R. Huna and Rab Judah and all the disciples of Rab held that it does not serve. Raba raised an objection to R. Nahman: IF WINE IS BROUGHT TO THEM IN THE COURSE OF THE MEAL, EACH ONE SAYS A BLESSING FOR HIMSELF; IF AFTER THE MEAL, ONE SAYS IT FOR ALL.[7] — He replied: The meaning is this: If no wine was brought in during the course of the meal but only after the meal, one says the blessing on behalf of all.

A BLESSING OVER BREAD SERVES FOR THE SWEETS, BUT A BLESSING OVER THE HORS D'OEUVRES DOES NOT SERVE FOR THE BREAD. BETH SHAMMAI SAY: NEITHER [DOES IT SERVE] FOR A COOKED DISH. The question was asked: Do Beth Shammai differ with regard to the first part of the statement or the second part? [Do we understand] that the First Tanna said that A BLESSING OVER BREAD SERVES FOR THE SWEETS and a fortiori for cooked dishes, and Beth Shammai on the contrary maintained that not merely does the blessing over bread not suffice for the sweets but it does not serve even for the cooked dishes; or are we perhaps to understand that they differ as to the second half of the statement, that A BLESSING OVER THE HORS D'OEUVRES DOES NOT SERVE FOR THE BREAD, which implies that it does not indeed serve for bread but it does serve for cooked dishes, and Beth Shammai on the contrary maintain that it does not serve even for cooked dishes? — This is left undecided.

IF [THEY] ARE SITTING UPRIGHT, EACH ONE etc. If they are reclining he may, if not he may not. With this was contrasted the following: If ten persons were travelling on the road, even though all eat of one loaf, each one says grace for himself; but if they sat down to eat, even though each one eats of his own loaf, one may say grace on behalf of all. It says here, ‘sat’, which implies, although they did not recline? — R. Nahman b. Isaac replied: This is the case if for instance, they say: Let us go and eat bread in such and such a place.[8]

When Rab died, his disciples followed his bier. When they returned[9] they said, Let us go and eat a meal by the river Danak.[10] After they had eaten, they sat and discussed the question: When we learnt ‘reclining’, is it to be taken strictly, as excluding sitting, or perhaps, when they say, Let us go and eat bread in such and such a place, it is as good as reclining? They could not find the answer. R. Adda b. Ahabah rose

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(1) I.e., spices put on coals and brought in after grace is said.

(2) And grace has intervened between it and the vine.

(3) That a blessing said over wine before the meal serves for wine after the meal. The reason is that from the beginning there is an intention to drink later.

(4) Rashi: he intends to linger at the table after the meal and drink wine.

(5) Because each cup requires a separate intention.

(6) To drink an additional cup,as I did not intend at first to take more wine after the meal.

(7) Assuming that the grace after the meal refers to a second serving of wine, this seems to show that wine taken in the course of the meal does not serve for wine taken after.

(8) Which is equivalent to making a party.

(9) Rab was buried in another town from that in which his Academy was situated.

(10) Perhaps a mistake for Anak, a river near Sura; v. MS.M.

Talmud - Mas. Berachoth 43a

and turned the rent in his garment[1] from front to back and made another rent, saying, Rab is dead, and we have not learnt the rules about grace after meals! At length an old man came and pointed out the contradiction between the Mishnah and the Baraitha, and solved it by saying, Once they have said, Let us go and eat bread in such and such a place, it is as if they were reclining.

IF THEY HAVE RECLINED, ONE SAYS GRACE: Rab said: The rule is that only bread requires reclining, but wine does not require reclining.[2] R. Johanan, however, says that wine also requires reclining. Some report thus: Rab said, This applies only to bread, for which reclining is of effect,[3] but for wine reclining is not of effect. R. Johanan, however, says that for wine also reclining is of effect.

The following was cited in objection [to Rab]: ‘What is the procedure for reclining? The guests[4] enter and sit on stools and chairs till they are all assembled. When water is brought, each one washes one hand.[5] When wine is brought, each one says a blessing for himself. When they go up [on to the couches] and recline, and water is brought to them, although each one of them has already washed one hand, he now again washes both hands. When wine is brought to them, although each one has said a blessing for himself, one now says a blessing on behalf of all.[6] Now according to the version which makes Rab say that ‘this applies only to bread which requires reclining, but wine does not require reclining’. there is a contradiction between his view and the first part of this statement?[7] — Guests are different, since they intend to shift their place.[8] According to the version which makes Rab say that this applies only to bread for which reclining is of effect, but for wine reclining is of no effect, there is a contradiction with the second part?[9] — The case is different there because, since reclining is of effect for bread, it is also of effect for wine.[10]

Ben Zoma was asked: Why was it laid down that if wine is brought in the course of the meal, each one says a blessing for himself, but if after the meal, one may say a blessing for all? He replied: Because [during meals] the gullet is not empty.[11]

THE SAME ONE SAYS [THE BENEDICTION] OVER THE PERFUME. Since it says, THE SAME ONE SAYS [THE BENEDICTION] OVER THE PERFUME, we may infer that there is present someone superior to him. Why then does he say it? — Because he washed his hands first [after the meal]. This supports Rab; for R. Hiyya b. Ashi said in the name of Rab: The one who first washes his hands [after the meal] can claim the right[12] to say grace. Rab and R. Hiyya were once sitting before Rabbi at dinner. Rabbi said to Rab: Get up and wash your hands. He [R. Hiyya] saw him trembling.[13] Said R. Hiyya to him: Son of Princes![14] He is telling you to think over the grace after meals.[15]

R. Zera said in the name of Raba b. Jeremiah: When do they say the blessing over the perfume? As soon as the smoke column ascends. Said R. Zera to Raba b. Jeremiah: But he has not yet smelt it! He replied: According to your reasoning, when one says ‘Who brings forth bread from the earth’, he has not yet eaten! But [he says it because] it is his intention to eat. So here, it is his intention to smell.

R. Hiyya the son of Abba b. Nahmani said in the name of R. Hisda reporting Rab — according to others, R. Hisda said in the name of Ze'iri: Over all incense-perfumes the blessing is ‘who createst fragrant woods’, except over musk, which comes from a living creature and the blessing is, ‘who createst various kinds of spices’. An objection was raised: The benediction ‘who createst fragrant woods’ is said only over the balsam-trees of the household of Rabbi and the balsam-trees of Caesar's household and over myrtle everywhere![16] — This is a refutation.

R. Hisda said to R. Isaac: What blessing is said over this balsam-oil? — He replied: Thus said Rab Judah: ‘Who createst the oil of our land’,[17] He then said to him: Leaving out Rab Judah, who dotes on the Land of Israel, what do ordinary people say? — He replied: Thus said R. Johanan: ‘Who createst pleasant oil’. R. Adda b. Ahabah said: Over costum the blessing is, ‘Who createst fragrant woods’, but not over oil in which it is steeped. R. Kahana, however, says: Even over oil in which it is steeped, but not over oil in which it has been ground. The Nehardeans say: Even over oil in which it has been ground.

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(1) Which he had made on hearing of the death of Rab.

(2) To constitute a party, and even without it one may say the blessing on behalf of all.

(3) For the purpose of constituting a party.

(4) Probably a party of Haberim (v. Glos.) is referred to.

(5) To take the wine which is to be offered before the meal.

(6) Since they now form a party.

(7) Which says that, till they have reclined, each one says a blessing for himself over wine.

(8) I.e., to go up from the stools on to the couches.

(9) Which says that having reclined one says a blessing on behalf of all also for wine.

(10) Since the guests on this occasion have been invited to partake of bread, the reclining is of effect also for the wine.

(11) The guests might be eating at the moment when the blessing was pronounced and would not be able to answer Amen (Tosaf).

(12) Lit., ‘he is prepared’.

(13) He thought Rab had told him to do this because his hands were dirty or something of the sort.

(14) V. supra p. 79’ n. 6.

(15) So as to be able to say it fluently.

(16) I.e., over plants of which the wood itself is fragrant.

(17) Balsam-trees grew near Jericho.

Talmud - Mas. Berachoth 43b

. R. Giddal said in the name of Rab: Over jasmine[1] the blessing is ‘who createst fragrant woods’. R. Hananel said in the name of Rab: Over sea-rush[2] the blessing is ‘who createst fragrant woods’. Said Mar Zutra: What Scriptural verse confirms this? She had brought them up to the roof and hid then, with the stalks of fax.[3] R. Mesharsheya said: Over garden narcissus the blessing is ‘who createst fragrant woods’; over wild narcissus, ‘who createst fragrant herbs’. R. Shesheth said: Over violets the blessing is, ‘who createst fragrant herbs’. Mar Zutra said: He who smells a citron or a quince should say. ‘Blessed be He who has given a sweet odour to fruits’. Rab Judah says: If one goes abroad in the days of Nisan [spring time] and sees the trees sprouting, he should say, ‘Blessed be He who hath not left His world lacking in anything and has created in it goodly creatures and goodly trees for the enjoyment of mankind’. R. Zutra b. Tobiah said in the name of Rab: Whence do we learn that a blessing should be said over sweet odours? Because it says, Let every soul[4] praise the Lord.[5] What is that which gives enjoyment to the soul and not to the body? — You must say that this is fragrant smell.

Mar Zutra b. Tobiah further said in the name of Rab: The young men of Israel[6] are destined to emit a sweet fragrance like Lebanon,[7] as it says His branches shall spread, and his beauty shall be as the olive tree, and his fragrance as Lebanon.[8]

R. Zutra b. Tobiah further said in the name of Rab: What is the meaning of the verse. He hath made everything beautiful in its time?[9] It teaches that the Holy One, blessed be He, made every man's trade seem fine in his own eyes. R. Papa said: This agrees with the popular saying:[10] Hang the heart of a palm tree on a pig, and it will do the usual thing with it.[11]

R. Zutra b. Tobiah further said in the name of Rab: A torch is as good as two [persons][12] and moonlight as good as three. The question was asked: Is the torch as good as two counting the carrier, or as good as two besides the carrier? — Come and hear: ‘Moonlight is as good as three’. If now you say, ‘including the carrier there is no difficulty. But if you say, ‘besides the carrier’, why do I want four, seeing that a Master has said: To one [person] an evil spirit may show itself and harm him; to two it may show itself, but without harming them; to three it will not even show itself? We must therefore say that a torch is equivalent to two including the carrier; and this may be taken as proved.

R. Zutra b. Tobiah further said in the name of Rab — according to others. R. Hanah b. Bizna said it in the name of R. Simeon the Pious, and according to others again. R. Johanan said it in the name of R. Simeon b Yohai: It is better for a man that he should cast himself into a fiery furnace rather than that he should put his fellow to shame in public.[13] Whence do we know this? From Tamar, of whom it says, When she was brought forth etc.[14]

Our Rabbis taught: If oil and myrtle are brought before one,[15] Beth Shammai say that he first says a benediction over the oil and then over the myrtle, while Beth Hillel say that he first says a benediction over the myrtle and then over the oil. Said Rabban Gamaliel: I will turn the scale.[16] Of oil we have the benefit both for smelling and for anointing; of myrtle we have the benefit for smelling but not for anointing. R. Johanan said: The halachah follows the one who turned the scale. R. Papa was once visiting R. Huna the son of R. Ika. Oil and myrtle were brought before him and he took up the myrtle and said the blessing over it first, and then he said the blessing over the oil. Said the other to him: Does not your honour hold that the halachah follows the one who turned the scale? He replied: Thus said Raba: The halachah follows Beth Hillel. This was not correct,[17] however; he said so only to excuse himself.

Our Rabbis taught: If oil and wine are brought before one,[18] Beth Shammai say that he first takes the oil in his right hand and the wine in his left hand and says a blessing over the oil[19] and then a blessing over the wine. Beth Hillel, however, say that he takes the wine in his right hand and the oil in his left, and says the blessing over the wine and then over the oil. [Before going out] he smears it on the head of the attendant; and if the attendant is a man of learning, he smears it on the wall, since it is unbecoming for a scholar to go abroad scented.

Our Rabbis taught: Six things are unbecoming for a scholar. He should not go abroad scented; he should not go out by night alone; he should not go abroad in patched sandals; he should not converse with a woman in the street; he should not take a set meal[20] in the company of ignorant persons; and he should not be the last to enter the Beth ha-Midrash. Some add that he should not take long strides nor carry himself stiffly.[21]

‘He should not go abroad scented’. R. Abba the son of R. Hiyya b. Abba said in the name of R. Johanan: This applies only to a place where people are suspected of pederasty. R. Shesheth said: This applies only to [the scenting of] one's clothes; but [perfuming] the body removes the perspiration. R. Papa said: The hair is on the same footing as clothes; others, however, say: as the body.

‘He should not go out at night alone’, so as not to arouse suspicion.[22] This is the case only if he has no appointment [with his teacher]; but if he has an appointment, people know that he is going to his appointment.

‘He should not go abroad in patched sandals’. This supports R. Hiyya b. Abba; for R. Hiyya b. Abba said: It is unseemly for a scholar to go abroad in patched sandals. Is that so? Did not R. Hiyya b. Abba go out in such? — Mar Zutra the son of R. Nahman said: He was speaking of one patch on top of another. And this applies only to the upper, but if it is on the sole, there is no objection. On the upper too this applies only to the public way; but in the house there is no objection. Further, this is the case only in summer; but in the rainy season there is no objection.[23]

‘He should not converse with a woman in the street’. R. Hisda said: Even with his wife. It has been taught similarly: Even with his wife, even with his daughter, even with his sister, because not everyone knows who are his female relatives.

‘He should not take a set meal with ignorant persons’. What is the reason? — Perhaps he will be drawn into their ways.

‘He should not be last to enter the Beth ha-Midrash’, because he will be called a transgressor.[24]

‘Some add that he should not take long strides’; because a Master has said: Long strides diminish a man's eyesight by a five-hundredth part. What is the remedy? He can restore it with [drinking] the sanctification wine of Sabbath eve.[25]

‘Nor should he carry himself stiffly’; since a Master has said: If one walks with a stiff bearing even for four cubits, it is as if he pushed against the heels of the Divine Presence,[26] since it is written, The whole earth is full of His glory.[27]

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(1) According to Krauss, it should be ‘elder-tree’.

(2) Which has stalks like flax.

(3) Lit., ‘flax of the tree’. Josh. II, 6.

(4) Heb. neshamah, lit., ‘breath’.

(5) Ps. CL, 6.

(6) MS.M. adds here: ‘who have not tasted sin’, and this seems to be the proper reading.

(7) From its trees and blossoms.

(8) Hos. XIV, 7.

(9) Eccl. III, 11.

(10) Lit., ‘this is what people say’.

(11) Sc. takes it to the dungheap.

(12) In respect of the injunction that a man should not go abroad at night unaccompanied, for fear of evil spirits.

(13) Lit., ‘cause his face to blanch’.

(14) Gen. XXXVIII, 25. Even to save herself from the stake, Tamar did not mention Judah's name.

(15) After a meal, oil for removing dirt from the hands, myrtle for scent.

(16) In favour of Beth Shammai.

(17) That Raba ever said so.

(18) After a meal on a weekday. the perfumed oil being for scent.

(19) ‘Blessed is He that created pleasant oil’.

(20) Lit., ‘recline’.

(21) Lit., ‘with erect stature’.

(22) Of immoral practices.

(23) Because the mud will hide it.

(24) Var. lec.: ‘idler’, which in any case is the meaning.

(25) V. Shab. 113b.

(26) I.e., acted haughtily against God.

(27) Isa. VI, 3.

Talmud - Mas. Berachoth 44a

Talmud - Mas. Berachoth 44a

MISHNAH. IF SALTED FOOD IS SET BEFORE HIM AND BREAD WITH IT, HE SAYS A BLESSING OVER THE SALTED FOOD AND THIS SERVES FOR THE BREAD, SINCE THE BREAD IS ONLY SUBSIDIARY TO IT. THIS IS THE GENERAL PRINCIPLE: WHENEVER WITH ONE KIND OF FOOD ANOTHER IS TAKEN AS SUBSIDIARY, A BENEDICTION IS SAID OVER THE PRINCIPAL KIND AND THIS SERVES FOR THE SUBSIDIARY.

GEMARA. But is it ever possible for salted food to be the principal item and bread subsidiary to it? — R. Aha the son of R. ‘Awira replied, citing R. Ashi: This rule applies to [one who eats] the fruit of Genessareth.[1] Rabbah b. Bar Hannah said: When we went after R. Johanan to eat the fruit of Genessareth, when there were a hundred of us we used each to take him ten, and when we were ten we used each to take him a hundred, and a hundred could not be got into a basket holding three se'ahs, and he used to eat them all and swear that he had not tasted food. Not tasted food, do you say? — Say rather: that he had not had a meal. R. Abbahu used to eat of them [so freely] that a fly slipped off his forehead.[2] R. Ammi and R. Assi used to eat of them till their hair fell out. R. Simeon b. Lakish ate until his mind began to wander, and R. Johanan told the household of the Nasi, and R. Judah the Prince send a band of men[3] for him and they brought him to his house.

When R. Dimi came [from Palestine], he stated that King Jannaeus[4] had a city in the King's Mountain[5] where they used to take out sixty myriads of dishes of salted fish for the men cutting down fig-trees from one week-end to the next.[6] When Rabin came, he stated that King Jannaeus used to have a tree on the King's Mountain from which they used to take down forty se'ahs of young pigeons from three broods every month. When R. Isaac came, he said: There was a town in the Land of Israel named Gofnith[7] in which there were eighty pairs of brothers, all priests, who were married to eighty pairs of sisters, also all of priestly family. The Rabbis searched from Sura to Nehardea and could not find [a similar case] save the daughters of R. Hisda who were married to Rami b. Hama and to Mar ‘Ukba b. Hama; and while they were priestesses, their husbands were not priests.

Rab said: A meal without salt is no meal. R. Hiyya b. Abba said in the name of R. Johanan: A meal without gravy[8] is no meal.

MISHNAH. IF ONE HAS EATEN GRAPES, FIGS OR POMEGRANATES HE SAYS A GRACE OF THREE BLESSINGS AFTER THEM. SO R. GAMALIEL. THE SAGES, HOWEVER, SAY: ONE BLESSING WHICH INCLUDES THREE. R. AKIBA SAYS: IF ONE ATE ONLY BOILED VEGETABLES, AND THAT IS HIS MEAL, HE SAYS AFTER IT THE GRACE OF THREE BLESSINGS. IF ONE DRINKS WATER TO QUENCH HIS THIRST, HE SAYS THE BENEDICTION ‘BY WHOSE WORD ALL THINGS EXIST. R. TARFON SAYS: ‘WHO CREATEST MANY LIVING THINGS AND THEIR REQUIREMENTS.

GEMARA. What is the reason of R. Gamaliel? — Because it is written, A land of wheat and barley. etc.,[9] and it is also written, A land wherein thou shalt eat bread without scarceness,[10] and it is written, And thou shalt eat and be satisfied and bless the Lord thy God.[11] The Rabbis, however, hold that the word ‘land’[12] makes a break in the context. R. Gamaliel also must admit that ‘land’ makes a break in the context? — He requires that for excluding one who chews wheat [from the necessity of saying grace].[13]

R. Jacob b. Idi said in the name of R. Hanina: Over anything belonging to the five species [of cereals],[14] before partaking the blessing ‘who createst all kinds of food’ is said, and after partaking one blessing which includes three. Rabbah b. Mari said in the name of R. Joshua b. Levi: Over anything belonging to the seven kinds,[15] before partaking the blessing ‘who createst the fruit of the tree’ is said, and after it the grace of one blessing which includes three.

Abaye asked R. Dimi: What is the one blessing which includes three? — He replied: Over fruit of the tree he says: 'For the tree and for the fruit of the tree and for the produce of the field and for a desirable, goodly, and extensive land which Thou didst give our ancestors to inherit to eat of its fruit and to be satisfied with its goodness. Have mercy, O Lord our God, on Israel Thy people and on Jerusalem Thy city and on Thy Sanctuary and on Thy altar, and build Jerusalem Thy holy city speedily in our days and bring us up into the midst thereof and rejoice us therein,[16] for Thou art good and doest good to all'.[17] Over the five species [of cereals] one says: 'For the provision and the sustenance and the produce of the field etc.', and he concludes, 'For the land and for the sustenance'.

How does one conclude [in the case of fruits]? When R. Dimi came, he said in the name of Rab: On New Moon one concludes, Blessed is He who sanctifies Israel and New Moons.[18]

What do we say in this case [over fruit]? — R. Hisda said: 'For the land and for its fruits'; R. Johanan said: 'For the land and for the fruits'. R. Amram said: They are not at variance: the one blessing[19] is for us [in Babylon], and the other for them [in Palestine].[20] R. Nahman b. Isaac demurred to this: Shall they eat and we bless?[21] You must therefore reverse the names, thus: R. Hisda said: For the land and for the fruits; R. Johanan said, For the land and for its fruits.

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(1) Which is highly prized. Tosaf. explains that the rule applies to salted food taken after the fruit of Genessareth to correct the excessive sweetness.

(2) They made his skin so smooth that it could not obtain a footing.

(3) Lit., 'searchers', 'officials'.

(4) Of the Hasmonean House.

(5) Probably some district in Judea was known by this name.

(6) So many workers were required for the task.

(7) Supposed to be the Biblical Ophni, modern Jifna.

(8) So Rashi. Aliter: 'vegetable juices'; aliter: 'something sharp'. In all cases the idea is to aid digestion.

(9) Deut. VIII, 8.

(10) Ibid. 9.

(11) Ibid. 10. The first two verses show that grapes etc. are on the same footing as bread, while the third verse contains a hint of three blessings, as explained infra 48b.

(12) In the second half of v. 9 so that 'and thou shalt bless' in v. 10 refers only to 'bread' mentioned in v. 9.

(13) The break is necessary to indicate that 'wheat' mentioned must first be made into 'bread' before the three benedictions are necessary.

(14) Viz., wheat, barley, oats, rye and spelt.

(15) Mentioned in v. 8, other than corn.

(16) Var. lec. (Similarly P.B.): Rejoice us in its rebuilding. MS.M. add (similarly P.B.): May we eat of the fruits of the land and be satisfied with its goodness and bless Thee for it in holiness and purity.

(17) Cf. P.B. p. 287.

(18) This paragraph seems to be out of place here and is deleted by Wilna Gaon. MS.M.: On New Moon one concludes etc. What do we say in this case?

(19) R. Hisda's.

(20) R. Hisda was from Babylon and R. Johanan from Palestine.

(21) They eat the fruit of Palestine, and we say its fruits!

Talmud - Mas. Berachoth 44b

R. Isaac b. Abdimi said in the name of our Master:[1] Over eggs and over all kinds of meat the blessing said before partaking is 'by whose word etc.', and after partaking 'who createst many living creatures etc.', vegetables, however, require no blessing [after]. R. Isaac, however, says that even vegetables also require a blessing [after], but not water. R. Papa says: Water also. Mar Zutra acted as prescribed by R. Isaac b. Abdimi and R. Shimi b. Ashi as prescribed by R. Isaac. (To remember which is which think of one[2] acting as two and two as one.)[3] R. Ashi said: When I think of it, I do as prescribed by all of them.[4]

We have learnt: Whatever requires a blessing to be said after it requires a blessing before it, but some things require a blessing before but not after.[5] Now this is right on the view of R. Isaac b. Abdimi, since it is to exclude vegetables, and on the view of R. Isaac to exclude water; but on the view of R. Papa, what does it exclude? — It is to exclude the performance of religious duties.[6] And according to the Palestinians[7] who after removing their tefillin say 'Blessed be Thou . . . who hast sanctified us with Thy commandments and commanded us to observe Thy statutes' — what does it exclude? — It excludes scents.

R. Jannai said in the name of Rabbi: An egg is superior [in food value] to the same quantity of any other kind of food. When Rabin came [from Palestine] he said: A lightly roasted egg is superior to six kaysi[8] of fine flour. When R. Dimi came, he said: A lightly roasted egg is better than six [kaysi]; a hard baked egg than four;[9] and a [boiled] egg is better than the same quantity of any other kind of boiled food except meat.

R. AKIBA SAYS: EVEN IF ONE ATE BOILED VEGETABLES etc. Is there any kind of boiled vegetable of which one can make a meal? — R. Ashi replied: The rule applies to the stalk of cabbage.

Our Rabbis taught: Milt is good for the teeth but bad for the bowels; horse-beans are bad for the teeth but good for the bowels. All raw vegetables make the complexion pale and all things not fully grown retard growth. Living beings[10] restore vitality[11] and that which is near the vital organs[12] restores vitality. Cabbage for sustenance and beet for healing. Woe to the house[13] through which vegetables are always passing!

The Master has said, 'Milt is good for the teeth and bad for the bowels.' What is the remedy? — To chew it well and then spit it out. 'Horse-beans are bad for the teeth but good for the bowels'. What is the remedy? — To boil them well and swallow them. 'All raw vegetables make the complexion pale'. R. Isaac said: That is, in the first meal taken after blood-letting. R. Isaac also said: If one eats vegetables before the fourth hour [of the day],[14] it is forbidden to talk with him. What is the reason? Because his breath smells. R. Isaac also said: It is forbidden to a man to eat raw vegetables before the fourth hour. Amemar and Mar Zutra and R. Ashi were once sitting together when raw vegetables were set before them before the fourth hour. Amemar and R. Ashi ate, but Mar Zutra would not eat. They said to him: What is your reason? Because R. Isaac said that if one eats vegetables before the fourth hour it is forbidden to converse with him because his breath smells? See, we have been eating, and you have been conversing with us? He replied: I hold with that other saying of R. Isaac, where he said that it is forbidden to a man to eat raw vegetables before the fourth hour.[15] 'Things not fully grown retard growth'. R. Hisda said: Even a kid worth a zuz.[16] This, however, is the case only with that which has not attained a fourth of its full size; but if it has attained a fourth, there is no objection. 'Living being restore vitality'. R. Papa said: Even tiny fishes from the pools. 'That which is near the vital organs restores vitality'. R. Aha b. Jacob said: Such as the neck.[17] Raba said to his attendant: When you buy a piece of meat for me, see that you get it from a place near where the benediction is said.[18] 'Cabbage for sustenance and beet for healing'. Is cabbage then good only for sustenance and not for healing? Has it not been taught: Six things heal a sick person of his disease with a permanent cure, namely, cabbage, beet, a decoction of dry[19] poley, the maw, the womb, and the large lobe of the liver'? — What you must say is that the cabbage is good for sustenance also. 'Woe to the house through which vegetables are always passing'. Is that so? Did not Raba say to his attendant: If you see vegetables in the market, do not stop to ask me, What will you put round your bread.[20] — Abaye said: [It means, when they are cooked] without meat;[21] Raba said: [It means, when they are taken] without wine. It has been stated: Rab says, without meat, Samuel says, without wood,[22] and R. Johanan says, without wine. Said Raba to R. Papa the brewer:[23] We neutralize[24] it with meat and wine; you who have not much wine, how you neutralize it? — He replied: With chips [of wood]. R. Papa's wife when she cooked vegetables neutralized their evil effects by using eighty Persian twigs.[25]

Our Rabbis taught: A small salted fish is sometimes deadly, namely on the seventh, the seventeenth and the twenty-seventh day of its salting. Some say, on the twenty-third. This is the case only if it is imperfectly roasted; but if it is well roasted, there is no harm in it. And even if it is not well roasted there is no harm in it unless one neglects to drink beer after it; but if one drinks beer after it,there is no harm.

IF ONE QUENCHES HIS THIRST WITH WATER etc. What does this exclude? — R. Idi b. Abin said: It excludes one

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(1) V. supra p. 185. n. 4.

(2) Lit., ‘and thy sign is’.

(3) I.e., the authority who was mentioned alone without his father (Mar Zutra). acted as prescribed by the authority who is mentioned with his father (R. Isaac b. Abdimi) and vice versa.

(4) Saying even after water.

(5) Nid. 51b.

(6) Which require a blessing before the performance of them but not after, such as taking off the tefillin, laying aside of the lulab, etc.

(7) Lit., ‘the sons of the West’.

(8) A measure equal to a log.

(9) Var. lec.: a lightly baked egg is better than four hard-baked and a hard-baked than four boiled.

(10) Taken whole, like small fish.

(11) Lit., ‘soul’.

(12) Of a slaughtered animal.

(13) I.e., stomach.

(14) When the first meal was taken.

(15) But it is not forbidden to converse with him.

(16) I.e., a good fat one.

(17) Which is near the heart.

(18) I.e., the neck, on cutting which a benediction is said.

(19) Reading יבשין for דבש in the text, as infra .

(20) To eat with it as a kind of sandwich.

(21) The juices of which neutralize the evil effects of the vegetables.

(22) I.e., a good fire to cook it.

(23) Aliter: (a) the landowner (v. Obermeyer p. 309); (b) ‘Man of Mystery!’, i.e., acquainted with the divine mysteries (v. ‘Aruch).

(24) Lit., ‘break (the evil effects)’.

(25) Twigs from Persian trees.

Talmud - Mas. Berachoth 45a

who is choked by a piece of meat.[1]

R. TARFON SAYS: WHO CREATEST MANY LIVING THINGS AND THEIR REQUIREMENTS. Raba son of R. Hanan said to Abaye, according to others to R. Joseph: What is the law? He replied: Go forth and see how the public are accustomed to act.[2]

CHAPTER VII

MISHNAH. IF THREE PERSONS HAVE EATEN TOGETHER, IT IS THEIR DUTY TO INVITE [ONE ANOTHER TO SAY GRACE].[3] ONE WHO HAS EATEN DEMAI,[4] OR FIRST TITHE[5] FROM WHICH TERUMAH HAS BEEN REMOVED,[6] OR SECOND TITHE OR FOOD BELONGING TO THE SANCTUARY THAT HAS BEEN REDEEMED,[7] OR AN ATTENDANT WHO HAS EATEN AS MUCH AS AN OLIVE OR A CUTHEAN MAY BE INCLUDED [IN THE THREE]. ONE WHO HAS EATEN TEBEL[8] OR FIRST TITHE FROM WHICH THE TERUMAH HAS NOT BEEN REMOVED, OR SECOND TITHE OR SANCTIFIED FOOD WHICH HAS NOT BEEN REDEEMED,[9] OR AN ATTENDANT WHO HAS EATEN LESS THAN THE QUANTITY OF AN OLIVE OR A GENTILE MAY NOT BE COUNTED. WOMEN, CHILDREN AND SLAVES MAY NOT BE COUNTED IN THE THREE. HOW MUCH [MUST ONE HAVE EATEN] TO COUNT? AS MUCH AS AN OLIVE; R. JUDAH SAYS, AS MUCH AS AN EGG.

GEMARA. Whence is this derived?[10] — R. Assi says: Because Scripture says, O magnify ye the Lord with me, and let us exalt His name together.[11] R. Abbahu derives it from here: When I [one] proclaim the name of the Lord, ascribe ye [two] greatness unto our God.[12]

R. Hanan b. Abba said: Whence do we learn that he who answers Amen should not raise his voice above the one who says the blessing? Because it says, O magnify ye the Lord with me and let us exalt His name together.[13] R. Simeon b. Pazzi said: Whence do we learn that the one who translates[14] is not permitted to raise his voice above that of the reader? Because it says, Moses spoke and God answered him by a voice.[15] The words ‘by a voice’ need not have been inserted. What then does ‘by a voice’ mean? [It means], by the voice of Moses.[16] It has been taught similarly: The translator is not permitted to raise his voice above that of the reader. If the translator is unable to speak as loud as the reader, the reader should moderate his voice and read.

It has been stated: If two have eaten together, Rab and R. Johanan differ [as to the rule to be followed]. One says that if they wish to invite one another [to say grace] they may do so, the other says that even if they desire to invite one another they may not do so. We have learnt: IF THREE PERSONS HAVE EATEN TOGETHER IT IS THEIR DUTY TO INVITE ONE ANOTHER. That means to say, three but not two? — No; there [in the case of three] it is a duty, here [in the case of two] it is optional.

Come and hear: If three persons have eaten together, it is their duty to invite one another [to say grace], and they are not permitted to separate. This means to say, three but not two, does it not?[17] — No; there is a special reason there [why they may not separate], because from the outset of the meal they laid upon themselves the duty to invite one another.[18]

Come and hear: If an attendant is waiting on two persons he may eat with them even without their giving him permission;[19] if he was waiting on three, he may not eat with them unless they give him permission! — There is a special reason there

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(1) And drinks simply to wash it down.

(2) And the general practice is to say ‘by whose word’ before and ‘that createst many living beings’ after.

(3) By means of the responses given in P.B. p. 279. This invitation is technically known as zimmun (inviting).

(4) Produce from which it is doubtful whether the tithe has been given.

(5) Due to the Levite, v. Num. XVIII, 21.

(6) The terumah (v. Glos) mentioned here is apparently the tithe, v. ibid. 26.

(7) And so has been made available for being eaten out of Jerusalem (cf. Deut. XIV, 22ff) or by a layman. All these are kinds of food which may be legitimately partaken of.

(8) Food from which it is known that tithe has not been separated.

(9) These are foods of which it is not legitimate to partake.

(10) That three who eat together should invite one another to say grace.

(11) Ps. XXXIV, 4. ‘Ye’ implies two, besides the speaker.

(12) Deut. XXXII, 3. E.V. ‘For I will proclaim etc..

(13) I.e., one not louder than the other.

(14) The public reading of the Pentateuch in Hebrew was followed by a translation in Aramaic.

(15) Ex. XIX, 19. Moses is here compared to a reader and God to a translator, v. however Tosaf. s.v. בקולו .

(16) I.e., a voice not raised above that of Moses.

(17) Because if two are sufficient, why may not one of the three separate?

(18) And though two may invite one another, yet to perform an obligation is more meritorious.

(19) And we assume that they approve of it so that they may be able to invite one another, and this is not presumptuous on his part.

Talmud - Mas. Berachoth 45b

, because [we assume that] it is with their approval[1] since he [thereby] makes [the zimmun] obligatory on them.[2]

Come and hear: Women by themselves invite one another, and slaves by themselves invite one another, but women, slaves and children together even if they desire to invite one another may not do so. Now[3] a hundred women are no better then two men,[4] and yet it says, Women by themselves invite one another and slaves by themselves invite one another? — There is a special reason there, because each has a mind of her own.[5] If that is so, look at the next clause: Women and slaves together, even though they desire to invite one another may not do so. Why not? Each has a mind! — There is a special reason in that case, because it might lead to immorality.

We may conclude that it was Rab who said, ‘Even though they [two] desire to invite one another they may not do so’, because R. Dimi b. Joseph said in the name of Rab: If three persons ate together and one of them went out, the others call to him and count him for zimmun.[6] The reason is, is it not, that they call him, but if they did not call him they could not [invite one another]? — There is a special reason there, that the obligation to invite one another devolved upon them from the outset. Rather you may conclude that it is R. Johanan who said that even though they desire to invite one another they may not do so. For Rabbah b. Bar Hanah said in the name of R. Johanan: If two persons eat together, one of them is exempted by the benediction of his fellow; and we were perplexed to know what it was that he tells us; for we have learnt: If he heard without responding [Amen], he has performed his obligation, and R. Zera explained that he tells us that they do not invite one another to say grace.[7] We may therefore draw this conclusion.

Raba b. R. Huna said to R. Huna: But the Rabbis who came from the West[8] say that if they desire to invite one another they may do so; and must they not have heard this from R. Johanan?[9] — No; they heard it from Rab before he went down to Babylon.[10]

The [above] text [stated]: ‘R. Dimi b. Joseph said in the name of Rab: If three persons ate together and one of them went out into the street, they can call to him and count him for zimmun’. Abaye says: This is only when they call to him and he responds.[11] Mar Zutra said: This applies only to three; but if it is for [the purpose of completing] ten,[12] they must wait till he comes. R. Ashi demurred to this. We should rather [he said], suppose the contrary; for nine look like ten, but two do not look like three. The law, however, is as laid down by Mar Zutra. What is the reason? — Since they [ten] have to mention God's name,[13] it is not proper that there should be less than ten.

Abaye said: We have a tradition that if two persons have eaten together, it is their duty to separate.[14] It has been taught similarly: If two persons have eaten together, it is their duty to separate. When is this case? When they are both educated men. But if one is educated and the other illiterate, the educated one says the benedictions and this exempts the illiterate one.

Raba said: The following statement was made by me independently and a similar statement has been made in the name of R. Zera: If three persons have been eating together, one breaks off to oblige two,[15] but two do not break off to oblige one. But do they not? Did not R. Papa break off for Abba Mar his son, he and another with him? — R. Papa was different because he went out of his way[16] to do so.[17] Judah b. Meremar and Mar son of R. Ashi and R. Aha from Difti took a meal with one another. No one of them was superior to the other[18] that he should have the privilege of saying grace.[19] They said: Where the Mishnah learnt[20] that IF THREE PERSONS HAVE EATEN TOGETHER IT IS THEIR DUTY TO INVITE [ONE ANOTHER TO SAY GRACE], this is only where one of them is superior [to the others], but where they are all on a level, perhaps it is better that the blessings should be separate. They thus said [the grace] each one for himself. Thereupon they came before Meremar and he said to them: You have performed the obligation of grace, but you have not performed the obligation of zimmun. Should you say, Let us start again with zimmun, zimmun cannot be said out of its place.[21]

If one came and found three persons saying grace,[22] what does he say after them? — R. Zebid says: Blessed and to be blessed [be His Name]. R. Papa said: He answers, Amen. They are not really at variance; the one speaks of the case where he found them saying ‘Let us say grace’, and the other where he found them saying ‘Blessed’. If he found them saying ‘Let us say grace’, he answers ‘Blessed and to be blessed’; if he found them saying ‘Blessed’, he answers ‘Amen’.

One [Baraitha] taught: One who answers ‘Amen’ after his own blessings is to be commended, while another taught that this is reprehensible! — There is no contradiction: the one speaks of the benediction ‘who buildest Jerusalem’,[23] the other of the other benedictions. Abaye used to give the response[24] in a loud voice so that the workmen should hear and rise,[25] since the benediction ‘Who is good and does good’[26] is not prescribed by the Torah.[27] R. Ashi gave the response in a low voice, so that they should not come to think lightly of the benediction ‘Who is good and does good’.

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(1) That the attendant joins them.

(2) Cur. edd. add in brackets ‘from the outset’, which is best omitted.

(3) Cur. edd. read here in brackets, ‘and surely as for women even a hundred’ which is best omitted.

(4) In respect of the obligation of zimmun. This proves that two by themselves are not sufficient to form a zimmun.

(5) Lit., ‘there are minds’ and therefore thanksgiving from three women is more valuable than from two men.

(6) Even while he remains outside, provided he joins in the response v. infra.

(7) But one may be exempted by the other.

(8) Palestine.

(9) Who lived in Palestine.

(10) From Palestine to settle there, v. Git. (Sonc. ed.) p. 17. n. 3.

(11) I.e., he joins in the responses.

(12) V. infra 49b.

(13) In the response, ‘Blessed is our God of whose food we have eaten’. V. P.B. p. 279.

(14) For the purpose of saying grace.

(15) If one has not yet finished, he interrupts his meal to join with the two who have finished for the purpose of zimmun.

(16) Lit., ‘acted within the limits of strict justice’.

(17) To show respect to his son.

(18) In years or learning.

(19) So MS.M. Cur. edd. add: ‘for them’.

(20) Emended reading. v. Marginal Gloss. The text has, They sat and discussed the question. When the Mishnah says. etc.

(21) Lit., ‘retrospectively’. I.e., it must come before the actual grace.

(22) Sc. the zimmun responses.
(23) The last of the three Scriptural benedictions in the Grace, v. P.B. p. 282.
(24) To this third benediction.
(25) To go to their work.
(26) Which follows 'Who buildest Jerusalem'; v. P.B. p. 283.
(27) Which prescribes only the first three.

Talmud - Mas. Berachoth 46a

R. Zera once was ill. R. Abbahu went to visit him, and made a vow, saying, If the little one with scorched legs[1] recovers, I will make a feast for the Rabbis. He did recover, and he made a feast for all the Rabbis. When the time came to begin the meal,[2] he said to R. Zera: Will your honour please commence for us.[3] He said to him: Does not your honour accept the dictum of R. Johanan that the host should break bread? So he [R. Abbahu] broke the bread for them. When the time came for saying grace he said to him [R. Zera], Will your honour please say grace for us, He replied: Does your honour not accept the ruling of R. Huna from Babylon,[4] who said that the one who breaks bread says grace? Whose view then did R. Abbahu accept? — That expressed by R. Johanan in the name of R. Simeon b. Yohai: The host breaks bread and the guest says grace. The host breaks bread so that he should do so generously,[5] and the guest says grace so that he should bless the host. How does he bless him? 'May it be God's will that our host should never be ashamed in this world nor disgraced in the next world'. Rabbi added some further items: 'May he be very prosperous with all his estates, and may his possessions and ours be prosperous and near a town,[6] and may the Accuser have no influence either over the works of his hands or of ours, and may neither our host nor we be confronted with[7] any evil thought or sin or transgression or iniquity from now and for all time'.

To what point does the benediction of zimmun extend?[8] — R. Nahman says: Up to [the conclusion of] 'Let us bless';[9] R. Shesheth says: Up to [the conclusion of] 'Who sustains',[10] May we say that there is the same difference between Tannaim? For one [authority] taught: The grace after meals is either two or three benedictions,[11] while another has taught: Either three or four. Now we assume that all agree that 'Who is good and does good' is not Scriptural. Is not then the difference [between the two authorities cited] this, that the one who says two or three holds that [the benediction of zimmun] extends up to 'Who sustaineth',[12] while the one who says three or four holds that it extends up to 'Let us bless'?[13] — No; R. Nahman explains according to his view and R. Shesheth explains according to his view. R. Nahman explains according to his view: All agree that it extends to 'Let us bless'. On the view of him who says, 'three or four', this creates no difficulty.[14] The one who says 'two or three' can say that here we are dealing with a grace said by work-people, regarding which a Master has said, He commences with 'Who sustaineth' and includes 'Who builds Jerusalem' in the benediction of the land.' R. Shesheth can also explain according to his view: All agree that the blessing of zimmun extends up to 'Who sustaineth'. On the view of him who says 'two or three', this creates no difficulty; while the one who says 'three or four' holds that the benediction 'Who is good and does good' is Scriptural.

R. Joseph said: You may know that the benediction 'who is good and does good' is not Scriptural from the fact that workpeople omit it. R. Isaac b. Samuel b. Martha said in the name of Rab: You may know that the benediction 'who is good and does good' is not Scriptural from the fact that it commences with 'Blessed' but does not conclude with 'Blessed', for so it has been taught: All benedictions commence with 'Blessed' and close with 'Blessed', except the blessing over fruits, the blessings said over the performance of precepts, one blessing which joins on to another, and the last blessing alter the recital of the Shema'.[15] Some of these commence with 'Blessed' but do not close with 'Blessed'[16]

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(1) A nickname of R. Zera, explained in B.M. 85a.

(2) By breaking bread.
(3) I.e., break the bread.
(4) R. Huna's place of origin is mentioned here because the meal was taking place in Palestine.
(5) Lit., ‘with a pleasant eye’.
(6) So that he can visit them without difficulty.
(7) Lit., ‘may there not leap before him or us’.
(8) The point of this query is not clear. Rashi takes it to mean, How much is said by three which is not said by two or one; but in this case the answer of R. Shesheth is unintelligible, since all agree that one says the blessing ‘Who sustaineth’. Tosaf. therefore explain that it refers to the statement above that one person may interrupt his meal to join two others in zimmun, and the question is now asked, How long must he wait before resuming.
(9) The zimmun responses proper.
(10) The first benediction.
(11) Emended reading, the numeral being in the feminine, v, Marginal Gloss. In the text the numeral is in the masculine, and we must translate (with Tosaf.), ‘with either two or three men’. Tosaf. ad loc. accept this reading and explain it to mean that the recital of the blessings can be shared out between a number of people if no-one knows the whole of it, by assigning to each one benedictions which he happens to know.
(12) So that if zimmun is said there are three blessings,the zimmun formula together with the first blessing constituting on this view one benediction, otherwise two.
(13) So that without zimmun there are three and with the zimmun there is an extra one.
(14) If grace is said with zimmun, there are four blessings, if without, three. (7) They combine the second and third benedictions into one, and thus when two labourers eat together there are two benedictions, when three, they form zimmun and say three.
(15) Which is separated by the Shema’ from the two blessings before it, though it is really a continuation of these.
(16) E.g., the benediction to be said before the putting on of tefillin.

Talmud - Mas. Berachoth 46b

, while some close with ‘Blessed’ but do not open with ‘Blessed’;[1] and ‘who is good and does good’ opens with ‘Blessed’ but does not close with ‘Blessed’. This shows that it is a separate blessing. R. Nahman b. Isaac said: You may know that ‘who is good and does good’ is not Scriptural from the fact that it is omitted in the house of a mourner,[2] as it has been taught: What blessing is said in the house of a mourner? ‘Blessed is He that is good and does good’. R. Akiba says: ‘Blessed be the true Judge’. And does one [according to the first authority] say. ‘Blessed be He that is good and does good’, and not ‘Blessed be the true Judge’? — Read: He says also,’Blessed be He that is good and does good’. Mar Zutra visited R. Ashi when the latter had suffered a bereavement, and in the grace after meals he began and uttered the benediction: ‘Who is good and does good, God of truth, true Judge, who judges in righteousness and takes away in righteousness, who is Sovereign in His universe to do as pleaseth Him in it, for all His ways are judgment; for all is His, and we are His people and His servants, — and for everything it is incumbent upon us to give thanks to Him and to bless Him. He who closes up the breaches of Israel will close up this breach in Israel, granting life’.

Where does he[3] commence again? — R. Zebid says in the name of Abaye: At the beginning; the Rabbis say, at the place where he left off.[4] The law is, at the place where he left off.

Said the Exilarch to R. Shesheth: Although you are venerable Rabbis, yet the Persians are better versed than you in the etiquette[5] of a meal. When there are two couches [in the set],[6] the senior guest takes his place first and then the junior one above him.[7] When there are three couches, the senior occupies the middle one, the next to him in rank takes the place above him, and the third one below him.[8] R. Shesheth said to him: So when he wants to talk to him,[9] he has to stretch himself and sit upright to do so![10] He replied: This does not matter to the Persians, because they speak with gesticulation. [R. Shesheth asked the Exilarch:] With whom do they commence the washing of the hands before the meal? — He replied: With the senior one. Is then the senior one to sit still [he exclaimed] and watch his hands[11] until they have all washed? — He replied: They bring a table before him immediately.[12] With whom do they begin the washing after the meal [he asked him]? — He replied: With the junior one present. And is the senior one to sit with greasy hands until all have washed? — He replied: They do not remove the table from before him till water is brought to him.[13] R. Shesheth then said: I only know a Baraitha, in which it is taught: ‘What is the order of reclining? When there are two couches in a set, the senior one reclines first, and then the junior takes his place below him. When there are three couches, the senior takes his place first, the second next above him, and then the third one below him. Washing before the meal commences with the senior one, washing after the meal, if there are five, commences with the senior, and if there are a hundred[14] it commences with the junior until five are left, and then they start[15] from the senior one. The saying of grace is assigned to the one to whom the washing thus reverts’.[16] This supports Rab; for R. Hiyya b. Ashi said in the name of Rab: Whoever washes his hands first at the end of the meal has the right to say grace. Rab and R. Hiyya were once dining with Rabbi. Rabbi said to Rab: Get up and wash your hands. R. Hiyya saw him trembling and said to him: Son of princes, he is telling you to think over the grace.[17]

Our Rabbis taught: We do not give precedence [to others][18] either on the road or on a bridge

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(1) E.g., the benedictions in the Tefillah.

(2) According to R. Akiba.

(3) Rashi explains this to mean the one who has interrupted his meal to join with two others in zimmun, (cf. supra 45b) and the question is, on the view of R. Shesheth, (cf. supra) where should he resume his grace.

(4) Viz., (on the view of R. Shesheth) at the second blessing. Tosaf. remark on this that it is very difficult to suppose that he is excused saying the first blessing after having eaten again. They accordingly refer it to the man who leads in the grace, and the question is, after the others have responded ‘Blessed be He of whose bounty we have partaken and through whose goodness we live’, where does he go on, and the reply is, on Abaye's view, that he repeats his own formula with the addition ‘Blessed be He of whose bounty etc.’, whereas according to the Rabbis he merely says ‘Blessed be He of whose bounty etc.’, v. P.B. p. 280.

(5) Lit., ‘requirements’.

(6) It was usual for guests at a set meal to recline on couches arranged in sets of two or three (the latter being the Roman triclinium).

(7) I.e., head to head.

(8) I.e., with his head to the other's feet.

(9) When the senior wishes to speak to the one who is above him.

(10) If he wants to face him.

(11) I.e., do nothing. Aliter: ‘guard them against impurity’.

(12) It was usual to place a small table before each guest.

(13) And meanwhile he can go on eating.

(14) Sc., any number more than five.

(15) I.e., removing the table (Rashi).

(16) I.e., either the senior one, or the one to whom he delegates the honour.

(17) V. supra p. 262, nn. 9 and 10.

(18) Lit., ‘honour’, i.e., ask another to go first, out of politeness.

or in the washing of the greasy hands [at the end of a meal]. Once Rabin and Abaye were on the road and the ass of Rabin got in front of Abaye, and he [Rabin] did not say to him, Will your honour proceed. Said Abaye: Since this student has come up from the West,[1] he has grown proud. When he arrived at the door of the synagogue, he said, Will your honour please enter. He said to him: Was I not 'Your honour', up to now? — He replied: Thus said R. Johanan: One gives precedence only in a doorway in which there is a mezuzah.[2] [You say] only where there is a mezuzah, but not where there is no mezuzah. If that is so, then in the case of a synagogue and Beth hamidrash also where there is no mezuzah we do not give precedence? What you must say is, in a doorway which is suitable for a mezuzah.[3]

R. Judah the son of R. Samuel b. Shilath said in the name of Rab: The guests may not eat anything until the one who breaks bread has tasted. R. Safra sat and stated: The statement was, 'May not taste'.[4] What difference does it make [in practice]? — [It teaches that] one must repeat the exact words of his teacher.

Our Rabbis taught: Two wait for one another[5] before commencing on the dish,[6] but three need not wait.[7] The one who has broken bread stretches out his hand first, but if he wishes to show respect to his teacher or to anyone senior to himself, he may do so. Rabbah b. Bar Hanah made a marriage feast for his son in the house of R. Samuel son of R. Kattina, and he first sat down and taught his son: The one who acts as host[8] may not break the bread until the guests have finished responding, Amen. R. Hisda said: The bulk of the guests. Rama b. Hama said to him: Why should this be the case only with the majority? Presumably it is because the benediction had not yet been completed.[9] The same should apply also to a minority, for the benediction has not yet been completed? — He replied: What I say is that whoever [draws out] the response of Amen longer than necessary is in error.[10]

Our Rabbis taught: The Amen uttered in response should be neither hurried[11] nor curtailed[12] nor orphaned,[13] nor should one hurl the blessing, as it were, out of his mouth.[14] Ben 'Azzai says: If a man says an 'orphaned' Amen in response, his sons will be orphans; if a hurried Amen, his days will be snatched away; if a curtailed Amen, his days will be curtailed. But if one draws out the Amen, his days and years will be prolonged. Once Rab and Samuel were sitting at a meal and R. Shimi b. Hiyya joined them and ate very hurriedly.[15] Said Rab to him: What do you want? To join us? We have already finished. Said Samuel to him: If they were to bring me mushrooms, and pigeon to Abba,[16] would we not go on eating?[17] The disciples of Rab were once dining together when R. Aha entered. They said: A great man has come who can say grace for us. He said to them: Do you think that the greatest present says the grace? One who was there from the beginning must say grace! The law, however, is that the greatest says grace even though he comes in at the end.

ONE WHO HAD EATEN DEMAI etc. But this is not a proper food for him?[18] — If he likes he can declare his possessions hefker[19] in which case he becomes a poor man, and it is suitable for him. For we have learnt: Demai may be given to the poor to ear and also to billeted soldiers.[20] And R. Huna said: A Tanna taught: Beth Shammai say that demai is not given to the poor and to billeted soldiers to eat.[21]

OR FIRST TITHE FROM WHICH TERUMAH HAS BEEN REMOVED. This is obvious! — This had to be stated, for the case in which the Levite came beforehand [and thus obtained the first tithe] in the ear and he separated the terumah of the tithe,[22] but not the great terumah.[23] And the rule stated follows R. Abbahu; for R. Abbahu said in the name of Resh Lakish: First tithe for which [the Levite] has come beforehand [and obtained] in the ear is not liable to great terumah, since it says, ye shall offer up an heave offering of it for the Lord, even a tenth part of the tithe.[24] I bid you offer a tithe from the tithe, not the great terumah plus the terumah of the tithe from the tithe. Said R. Papa to

Abaye: If that is so, the same should be the case even if he anticipates it at the heap?[25] — He replied: It was in anticipation of your question that the text says,

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(1) Palestine.
(2) V. Glos.
(3) Excluding open roads and bridges.
(4) And not ‘may not eat’.
(5) When one interrupts his eating, the other must wait till he resumes. This was according to the old custom when all diners ate from the same dish.
(6) After breaking bread, it was the custom for each of the guests to take something out of the dish.
(7) If one interrupts his eating.
(8) Who in this case would be the bridegroom. Lit., ‘he who breaks (the bread)’.
(9) As long as the Amen response had not been finished.
(10) And the minority who unduly prolong the Amen response need not be taken into consideration.
(11) I.e., the A should not be slurred over.
(12) The N should be clearly pronounced.
(13) Said by one who has not heard the blessing itself but only the others responding Amen.
(14) He should not gabble it.
(15) So as to be able to join them in the grace.
(16) A name of endearment given by Samuel to Rab.
(17) As dessert, these being our favourite dishes. Therefore it is as though we had not finished and he may join us.
(18) Sc. and it is as though he ate stolen property, over which it is forbidden to make a blessing.
(19) V. Glos.
(20) Dem. III, 1.
(21) I.e., it is only Beth Shammai who provided demai to the poor but Beth Hillel, with whom the law agrees, differ from them.
(22) The tithe given by the Levite to the priest.
(23) The ordinary terumah, (v. Glos. s.v. terumah).
(24) Num. XVIII, 26.
(25) The grain after winnowing, but before being ground.

Talmud - Mas. Berachoth 47b

Out of all your tithes ye shall offer.[1] But still what reason have you [for including corn in the ear and not grain]? — One has been turned into corn the other has not.[2]

SECOND TITHE OR FOOD BELONGING TO THE SANCTUARY THAT HAS BEEN REDEEMED. This is obvious! — We are dealing here with a case where, for instance, he has given the principal but not the additional fifth;[3] and he teaches us here that the fact that the fifth has not been given is no obstacle.[4]

OR IF AN ATTENDANT WHO HAS EATEN AS MUCH AS AN OLIVE etc. This is obvious! — You might object that the attendant does not sit through the meal.[5] This teaches, therefore, [that this is no objection].

A CUTHEAN MAY BE INCLUDED [IN THE THREE]. Why so? Wherein is he better than an ‘am ha-arez, and it has been taught: An ‘am ha-arez is not reckoned in for zimmun? — Abaye replied: It refers to a Cuthean who is a haber. Raba said: You may even take it to refer to a Cuthean who is an ‘am ha-arez, the passage cited referring to an ‘am ha-arez as defined by the Rabbis who join issue in this matter with R. Meir. For it has been taught: Who is an ‘am ha-arez[6] Anyone who does not eat non-sacred food in ritual cleanness. So R. Meir. The Rabbis, however, say: Anyone who does not tithe his produce in the proper way. Now these cutheans do tithe their produce in the proper way, since they are very scrupulous about any injunction written in the Torah; for a Master has said: Whenever the Cutheans have adopted a mizwah, they are much more particular with it than the Jews.[6]

Our Rabbis taught: Who is an ‘am ha-arez[6] Anyone who does not recite the Shema’ evening and morning. This is the view of R. Eliezer. R. Joshua says: Anyone who does not put on tefillin. Ben ‘Azzai says: Anyone who has not a fringe on his garment. R. Nathan says: Anyone who has not a mezuzah on his door. R. Nathan b. Joseph says: Anyone who has sons and does not bring them up to the study of the Torah. Others say: Even if one has learnt Scripture and Mishnah, if he has not ministered to the disciples of the wise,[7] he is an ‘am ha-arez. R. Huna said: The halachah is as laid down by ‘Others’.

Rami b. Hama refused to count to zimmun R. Menashiah b. Tahalifa who could repeat Sifra,[8] Sifre,[9] and halachah. When Rami b. Hama died, Raba said: Rami b. Hama died only because he would not count R. Menashiah b. Tahalifa for zimmun. But it has been taught: Others say that even if one has learnt Scripture and Mishnah but has not ministered to the disciples of the wise, he is an ‘am ha-arez? — R. Menashiah b. Tahalifa was different because he used to minister to the Rabbis, and it was Rami b. Hama who did not make proper inquiries about him. According to another version, he used to hear discussions from the mouth of the Rabbis and commit them to memory. and he was therefore like a Rabbinical scholar.

ONE WHO HAS EATEN TEBEL AND FIRST TITHE etc. In the case of tebel this is obvious! — It required to be stated for the case of that which is tebel only by the ordinance of the Rabbis. What for instance? Food grown in a pot without a hole in the bottom.[10]

FIRST TITHE etc. This is obvious! — It required to be stated for the case where [the Levite] anticipated [the priest] at the heap. You might think that the law is as indicated by R. Papa's question to Abaye;[11] this teaches that it is as indicated by the latter's answer.

SECOND TITHE etc. This is obvious! — It is required for the case in which the tithe etc., has been redeemed, but not properly redeemed. Second tithe, for instance, if it has been redeemed for

bar silver,[12] since the All-Merciful said; Thou shalt bind up [we-zarta] the silver in thy hands,[13] implying, silver on which a form [zurah] is stamped. As to FOOD BELONGING TO THE SANCTUARY, if for instance it has been rendered profane for its equivalent in land but has not been redeemed for money, whereas the All Merciful laid down, He shall give the money and it shall be assured unto him.[14]

OR THE ATTENDANT WHO HAS EATEN LESS THAN AN OLIVE. This is obvious! — Since the first clause states the rule for the quantity of an olive, the second clause states it for less than an olive.

A GENTILE MAY NOT BE COUNTED. This is obvious! — We are dealing here with the case of a proselyte who has been circumcised but has not yet made ablution. For R. Zera said in the name of R. Johanan: One does not become a proselyte until he has been circumcised and has performed ablution; and so long as he has not performed ablution he is a gentile.

WOMEN SLAVES AND CHILDREN ARE NOT COUNTED [IN THE THREE]. R. Jose said: An infant in the cradle may be counted for zimmun. But we have learnt: WOMEN SLAVES AND CHILDREN MAY NOT BE COUNTED? — He adopts the view of R. Joshua b. Levi. For R. Joshua b. Levi said: Although it was laid down that an infant in a cradle cannot be counted for zimmun, yet he can be counted to make up ten. R. Joshua b. Levi also said: Nine and a slave may be joined [to make up ten].[15]

The following was cited in objection: Once R. Eliezer entered a synagogue and not finding there ten he liberated his slave and used him to complete the ten. This was because he liberated him, otherwise he could not have done so? — He really required two, and he liberated one and one he used to make up the ten. But how could he act so seeing that Rab Judah has said: If one liberates his slave he transgresses a positive precept, since it says, they shall be your bondmen for ever?[16] — If it is for a religious purpose. It is different. But this is a religious act which is carried out by means of a transgression? — A religious act which affects a whole company[17] is different.

R. Joshua b. Levi also said: A man should always rise early to go to synagogue so that he may have the merit of being counted in the first ten; since if even a hundred come after him he receives the reward of all of them. ‘The reward of all of them’, say you? — Say rather: He is given a reward equal to that of all of them.

R. Huna said: Nine and the Ark join together [to be counted as ten]. Said R. Nahman to him: Is the Ark a man? I mean, said R. Huna, that when nine look like ten, they may be joined together. Some say [this means] when they are all close together,[18] others say when they are scattered. R. Ammi said: Two and the Sabbath may be joined together. Said R. Nahman to him: Is the Sabbath a man? What R. Ammi really said was that two scholars who sharpen one another in the knowledge of the halachah may count as three [for zimmun].[19] R. Hisda gave an example: For instance, I and R. Shesheth. R. Shesheth gave an example: For instance, I and R. Hisda.[20]

R. Johanan said: A boy [who has reached puberty] before his years[21] may be counted for zimmun. It has been taught similarly: A boy who has grown two hairs may be counted for zimmun, but if he has not grown two hairs he may not be counted; and we are not particular about a boy. Now this seems to contain a contradiction. You first say that if he has grown two hairs he may count and if not he may not, and then you say, We are not particular with a boy. What case does this include? Is it not

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(1) Num, XVIII, 29. The actual word in the text is ‘gifts’.

(2) And it is only from what can be called ‘corn’ that terumah has to be given.

(3) Required for the redemption of second tithe or anything belonging to the Sanctuary.

(4) To render the redemption valid.

(5) He has always to be getting up to wait on the guests.

(6) Hence a Cuthean may be reckoned in.

(7) Rashi explains this to mean that he has not learnt Gemara, which explains the Mishnah.

(8) The Midrash on Leviticus.

(9) The Midrash on Deuteronomy.

(10) So that the earth in it is not in contact with the soil.

(11) V. supra 46b ad fin.

(12) I.e., silver not turned into current coin.

(13) Deut. XIV, 25.

(14) Lev. XXVII, 19. The exact words of the text are: he shall add the fifth part of the money of thy valuation unto it, and it shall be assured to him; v. B.M. (Sonc. ed.) p. 321, n. 1.

(15) For a congregational service which requires a minimum quorum of ten males over the age of thirteen.

(16) Lev. XXV, 46. V. Git. 38b.

(17) As in the case of R. Eliezer.

(18) In which case the absence of one is not so noticeable. The Ark is probably mentioned as being a focal point which enables us to determine whether the worshippers are close together or scattered.

(19) שבת is accordingly explained as an abbreviation for שוגים בדברי תקרה (two) who study the Law; v. Goldschmidt.

(20) R. Shesheth and R. Hisda represented each a different type of scholar, the former's forte being an extensive knowledge of traditions, the latter's keen dialectical powers; v. ‘Er. 67a.

(21) I.e., before reaching the age of thirteen years and one day.

Talmud - Mas. Berachoth 48a

to include a boy who shows signs of puberty before his years? The law, however, is not as laid down in all these statements, but as in this statement of R. Nahman: A boy who knows to whom the benediction is addressed may be counted for zimmun. Abaye and Raba [when boys] were once sitting in the presence of Rabbah. Said Rabbah to them: To whom do we address the benedictions? They replied: To the All-Merciful. And where does the All-Merciful abide? Raba pointed to the roof; Abaye went outside and pointed to the sky. Said Rabbah to them: Both of you will become Rabbis. This accords with the popular saying: Every pumpkin can be told from its stalk.[1]

Rab Judah the son of R. Samuel b. Shilath said in the name of Rab: If nine persons have eaten corn and one vegetables, they may combine.[2] R. Zera said: I asked Rab Judah, What of eight, what of seven,[3] and he replied: It makes no difference. Certainly if six [were eating corn][4] I did not need to ask. Said R. Jeremiah to him: You were quite right not to ask. What was the reason there [in the first case]? Because there is a majority [eating corn]; here too there is a majority. He, however, thought that perhaps an easily recognizable majority is required.[5]

King Jannai and his queen were taking a meal together. Now after he had put the Rabbis to death,[6] there was no-one to say grace for them. He said to his spouse: I wish we had someone to say grace for us. She said to him: Swear to me that if I bring you one you will not harm him. He swore to her, and she brought Simeon b. Shetah, her brother.[7] She placed him between her husband and herself, saying. See what honour I pay you. He replied: It is not you who honour me but it is the Torah which honours me, as it is written, Exalt her and she shall promote thee,[8] [she shall bring thee to honour when thou dost embrace her].[9] He [Jannai] said to her: You see that he[10] does not acknowledge any authority![11] They gave him a cup of wine to say grace over.[12] He said: How shall I say the grace? [Shall I say] Blessed is He of whose sustenance Jannai and his companions have eaten? So he drank that cup, and they gave him another and he said grace over it. R. Abba the son of R. Hiyya b. Abba said: Simeon b. Shetah in acting thus[13] followed his own view. For thus said R. Hiyya b. Abba in the name of Johanan: A man cannot say grace on behalf of others until he has eaten at least the size of an olive of corn food with them. Even as it was taught:[14] R. Simeon b. Gamaliel says: If one went up [on the couch] and reclined with them, even though he only dipped [a little bit] with them in brine and ate only one fig with them, he can be combined with them [for zimmun]. Now he can be combined with them, but he cannot say grace on behalf of others until he eats the quantity of an olive of corn food. It has also been stated: R. Hanah b. Judah said in the name of Raba:

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(1) Var. lec. from its sap; i.e., as soon as it begins to emerge from the stalk.

(2) To say the zimmun formula for ten, v. next Mishnah.

(3) Who ate corn while two or three ate vegetables.

(4) Aliter: If six were eating corn and four vegetables (omitting ‘certainly’). Rashi's reading (which is found also in Ber. Rab. XCI) is: I am sorry I did not ask what is the rule if six eat (corn). This accords better with what follows.

(5) And even if he were to permit in the first case, he would not permit in the case of six.

(6) V. Kid. (Sonc. ed.) pp. 332ff. notes.

(7) Who was a Pharisaic leader and had been in hiding

(8) Prov. IV, 8.

(9) Cf. Ecclus. XI, 1.

(10) Simeon b. Shetah.

(11) So according to some edd. Cur. edd.: He said to him, See how they (i.e., the Pharisees) do not accept my authority! His reply to the king was regarded by Jannai as an affront and evidence of the Pharisees’ hostility to the throne.

(12) Though he had not joined in the meal.

(13) In saying grace without having eaten anything.
(14) So Bah. Cur. edd.: An objection was raised.

Talmud - Mas. Berachoth 48b

Even though he only dipped [a little bit] with them in brine or ate with them only one fig, he can be combined with them; but for saying grace on behalf of others he is not qualified until he eats the quantity of an olive of corn food with them. R. Hanah b. Judah said in the name of Raba: The law is that if he ate with them a vegetable-leaf and drank a cup of wine, he can be combined; but he cannot say grace on behalf of others until he eats with them the quantity of an olive of corn food.

R. Nahman said: Moses instituted for Israel the benediction 'Who feeds'[1] at the time when manna descended for them. Joshua instituted for them the benediction of the land[2] when they entered the land. David and Solomon instituted the benediction which closes 'Who buildest Jerusalem'.[3] David instituted the words. 'For Israel Thy people and for Jerusalem Thy city',[4] and Solomon instituted the words 'For the great and holy House'.[4] The benediction 'Who is good and bestows good'[5] was instituted in Jabneh with reference to those who were slain in Bethar. For R. Mattena said: On the day on which permission was given to bury those slain in Bethar,[6] they ordained in Jabneh that 'Who is good and bestows good' should be said: 'Who is good', because they did not putrefy, and 'Who bestows good', because they were allowed to be buried.

Our Rabbis taught: The order of grace after meals is as follows. The first benediction is that of 'Who feeds'. The second is the benediction of the land. The third is 'Who buildest Jerusalem'. The fourth is 'Who is good and bestows good'. On Sabbath [the third blessing] commences with consolation and closes with consolation.[7] and the holiness of the day is mentioned in the middle [of this blessing]. R. Eliezer says: If he likes he can mention it in the consolation, or he can mention it in the blessing of the land,[8] or he can mention it in the benediction which the Rabbis instituted in Jabneh.[9] The Sages, however, say that it must be said in the consolation blessing. The Sages say the same thing as the First Tanna? — They differ in the case where he actually did say it [in some other place].[10]

Our Rabbis taught: Where is the saying of grace intimated in the Torah? In the verse, And thou shalt eat and be satisfied and bless:[11] this signifies the benediction of 'Who feeds'.[12] 'The Lord Thy God': this signifies the benediction of zimmun.[13] 'For the land': this signifies the blessing for the land. 'The good': this signifies 'Who buildest Jerusalem'; and similarly it says This good mountain and Lebanon.[14] 'Which he has given thee': this signifies the blessing of 'Who is good and bestows good'. This accounts for the grace after [meals]; how can we prove that there should be a blessing before [food]? — You have an argument a fortiori; if when one is full he says a grace, how much more so should he do so, when he is hungry! Rabbi says: This argument is not necessary. 'And thou shalt eat and be satisfied and bless' signifies the benediction of 'Who feeds'. The responses of zimmun are derived from O magnify the Lord with me.[15] 'For the land': this signifies the blessing of the land. 'The good': this signifies, 'Who buildest Jerusalem'; and so it says, 'This goodly mountain and Lebanon'. 'Who is good and bestows good' was instituted in Jabneh. This accounts for the grace after [meals]; whence do I learn that a blessing must be said before [food]? — Because it says, 'Which He has given thee', implying, as soon as He has given thee.[16] R. Isaac says: This is not necessary. For see, it says, And He shall bless thy bread and thy water.[17] Read not u-berak [and he shall bless] but u-barek [and say a blessing]. And when is it called 'bread'? Before it is eaten. R. Nathan says: This is not necessary. For see, it says, As soon as ye be come into the city ye shall straightway find him, before he go up to the high place to eat; for the people will not eat until he come, because he doth bless the sacrifice, and afterwards they eat that be bidden.[18] Why did they[19] make such a long story of it? Because[20] women are fond of talking. Samuel, however, says that it was so that they might feast their eyes on Saul's good looks, since it is written, From his shoulders and upward he was higher than any of the people;[21] while R. Johanan says it was because one kingdom cannot overlap another by a hair's breadth.[22]

We have found warrant for blessing over food; whence do we derive it for the blessing over the Torah? R. Ishmael says: It is learnt a fortiori: If a blessing is said for temporal life, how much more should it be said for eternal life! R. Hiyya b. Nahmani, the disciple of R. Ishmael, said in the name of R. Ishmael: This is not necessary. For see, it says, ‘For the good land which He has given thee’, and in another place it says, And I will give thee the tables of stone and a law and commandments, etc.[23] (R. Meir says: Whence do we learn that just as one says a blessing for good hap, so he should say one for evil hap? — Because it says, Which the Lord thy God hath given thee, [as much as to say,] which He hath judged thee[24] — for every judgment which He has passed on thee, whether it is a doom of happiness or a doom of suffering.) R. Judah b. Bathyrah says: This is not necessary. For see, it says ‘the good’ where it need only have said ‘good’. ‘Good’ signifies the Torah; and so it says, For I give you a good doctrine.[25] ‘The good’ signifies the building of Jerusalem; and so it says, This good mount and Lebanon.[26]

It has been taught: If one does not say the words ‘a desirable, good and extensive land’ in the blessing of the land and does not mention the kingdom of the house of David in the blessing ‘Who buildest Jerusalem’, he has not performed his obligation. Nahum the Elder says: He must mention in it [the second blessing] the covenant. R. Jose says: He must mention in it the Torah. Pelimo says: He must mention the covenant before the Torah, since the latter was given with only three covenants[27]

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(1) The first benediction of the grace.

(2) The second benediction.

(3) The third benediction.

(4) In the third benediction.

(5) The fourth benediction.

(6) The scene of the last stand of the Bar Kocheba Wars, in 135 C.E.

(7) I.e., no change is made. The third blessing commences with ‘Have mercy’, and ends with a prayer for the rebuilding of Jerusalem, which is also a prayer for ‘consolation’.

(8) I.e., the second.

(9) The fourth.

(10) In which case the First Tanna insists that it must be said again in the proper place.

(11) Deut. VIII. 10.

(12) This appears to be a mistake for ‘zimmun’. V. Wilna Gaon Glosses.

(13) This appears to be a mistake for ‘Who feeds’. V. Wilna Gaon Glosses.

(14) Deut. III, 25.

(15) Ps. XXXIV, 4.

(16) Even before partaking thereof.

(17) Ex. XXIII, 25.

(18) I Sam. IX, 13.

(19) The women who were talking to Saul.

(20) MS.M. inserts, Rab said: Hence (is proved) that women etc.

(21) Ibid. 2.

(22) Samuel's regime was destined to cease as soon as Saul's commenced.

(23) Ex. XXIV, 12; the derivation here is based on the principle of Gezerah Shawah.

(24) So Bah. Cur. edd.: ‘Thy Judge’, explaining the term ‘thy God Elohim’, which in Rabbinic thought represents God as Judge.

(25) Prov. IV, 2.

(26) The text is in disorder, v. D.S. a.l.

(27) At Mount Sinai (or the Tent of Meeting). at Mount Gerizim and in the plains of Moab.

Talmud - Mas. Berachoth 49a

but the former with thirteen.[1] R. Abba[2] says: He must express thanksgiving at the beginning and end of it, or at the very least once; and one who omits to do so at least once is blameworthy. And whoever concludes the blessing of the land with ‘Who givest lands in inheritance’ and ‘Who buildest Jerusalem’ with the words ‘Saviour of Israel’ is a boor.[3] And whoever does not mention the covenant and the Torah in the blessing of the land and the kingdom of the house of David in ‘Who buildest Jerusalem’ has not performed his obligation. This supports R. Ela; for R. Ela said in the name of R. Jacob b. Aha in the name of our Teacher:[4] ‘Whoever omits to mention covenant and Torah in the blessing of the land and the kingdom of the house of David in ‘Who buildest Jerusalem’ has not performed his obligation. There is a difference of opinion between Abba Jose b. Dosethai and the Rabbis. One authority says that [God's] kingship must be mentioned in the blessing ‘Who is good and bestows good’, the other says it need not be mentioned. The one who says it must be mentioned holds that this blessing has only Rabbinic sanction,[5] the one who says it need not be mentioned holds that it has Scriptural sanction.

Our Rabbis taught: How does one conclude the blessing of the building of Jerusalem? — R. Jose son of R. Judah says: Saviour of Israel. ‘Saviour of Israel’ and not ‘Builder of Jerusalem’? Say rather, ‘Saviour of Israel’ also. Rabbah b. Bar Hanah was once at the house of the Exilarch. He mentioned one[6] at the beginning of [the third blessing] and both at the end.[7] R. Hisda said: Is it a superior way to conclude with two? And has it not been taught: Rabbi says that we do not conclude with two?

The [above] text [stated]: Rabbi says that we do not conclude with two. In objection to this Levi pointed out to Rabbi that we say ‘for the land and for the food’?[8] It means, [he replied] a land that produces food. [But we say,] ‘for the land and for the fruits’?[9] — [It means,] a land that produces fruits. [But we say], ‘Who sanctifiest Israel and the appointed seasons’?[10] [It means,] Israel who sanctify the seasons. [But we say,] Who sanctifiest Israel and New Moons? — [It means,] Israel who sanctify New Moons. [But we say,] Who sanctifies the Sabbath, Israel and the seasons?[11] — This is the exception.[12] Why then should it be different? — In this case it[13] is one act, in the other two, each distinct and separate.[14] And what is the reason for not concluding with two? — Because we do not make religious ceremonies into bundles.[15] How do we decide the matter? — R. Shesheth says: If one opens with ‘Have mercy on Thy people Israel’ he concludes with ‘Saviour of Israel’; If he opens with ‘Have mercy on Jerusalem’, he concludes with ‘Who buildest Jerusalem’. R. Nahman, however, said: Even if one opens with ‘Have mercy on Israel’, he concludes with ‘Who buildest Jerusalem’, because it says. The Lord doth build up Jerusalem. He gathereth together the dispersed of Israel,[16] as if to say: When does God build Jerusalem? — When He gathereth the dispersed of Israel.

R. Zera said to R. Hisda: Let the Master come and teach us [grace]. He replied: The grace after meals I do not know myself, and shall I teach it to others? — He said to him: What do you mean? — Once, he replied. I was at the house of the Exilarch, and l said grace after the meal, and R. Shesheth stretched out his neck at me like a serpent,[17] and why? — Because I had made no mention either of covenant or of Torah[18] or of kingship.[19] And why did you not mention them [asked R. Zera]? Because, he replied. I followed R. Hananel citing Rab; for R. Hananel said in the name of Rab: If one has omitted to mention covenant, Torah and kingship he has still performed his obligation: covenant, because it does not apply to women; ‘Torah and kingship’ because they apply neither to women nor to slaves. And you [he exclaimed] abandoned all those other Tannaim and Amoraim and followed Rab!

Rabbah b. Bar Hanah said in the name of R. Johanan: The blessing ‘Who is good and bestows good’ must contain mention of [God's] kingship. What does he tell us? That any benediction which does not contain mention of [God's] kingship is no proper blessing? R. Johanan has already said this once![20] R. Zera said: He tells us that it requires kingship to be mentioned twice,[21] once for itself and once for the benediction ‘Who buildest Jerusalem’.[22] If that is so, we should require three times, once for itself, once for ‘Who buildest Jerusalem’, and once for the blessing of the land?[23] Hence what you must say is: Why do we not require one for the blessing of the land? — Because it is a benediction closely connected with the one which precedes it. Then ‘Who buildest Jerusalem’ should also not require it, being a benediction closely connected with the one which precedes it? — The fact is that, strictly speaking, the blessing ‘Who buildest Jerusalem’ also does not require it, but since the kingdom of the house of David is mentioned,[24] it is not seemly that the kingship of heaven also should not be mentioned.[25] R. Papa said: What he [R. Johanan] meant is this: It requires two mentions of the kingship [of heaven] besides its own.[26]

R. Zera was once sitting behind R. Giddal, and R. Giddal was sitting facing R. Huna, and as he [R. Giddal] sat, he said: If one forgot and did not mention in the grace Sabbath, he says, ‘Blessed be He who gave Sabbaths for rest to His people Israel in love for a sign and a covenant, blessed is He who sanctifies the Sabbath!’ He [R. Huna] said to him: Who made this statement? — He replied, Rab. He then continued: If one forgot and did not mention the festival, he says, ‘Blessed is He who gave holy days to His people Israel for joy and for remembrance, blessed is He who sanctifies Israel and the festivals’. He again asked him who made the statement, and he answered, Rab. He then continued: If one forgot and did not mention the New Moon, he says, ‘Blessed is He who gave New Moons to His people Israel for a remembrance’. But, said R. Zera: I do not know whether he also said that he must add ‘for joy’, or not, whether he concluded with a benediction or not, or whether he said it on his own authority or was repeating the words of his teacher.[27]

Once when R. Giddal b. Manyumi was in the presence of R. Nahman, R. Nahman made a mistake [in the grace],[28]

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(1) The word of ‘covenant’ occurring thirteen times in the section of the circumcision of Abraham, Gen. XVII, 1-14.

(2) Rab is here intended, v. Marginal Gloss.

(3) Probably because he leaves out the reference to Palestine and Jerusalem; v. infra.

(4) This must refer to Rabbi, Rab, who is usually so designated, being excluded here, since Rab has already stated his view. (V. p. 294, n. 7.)

(5) Hence it is not a continuation of the preceding blessings, which are Scriptural; and therefore kingship must be mentioned afresh in it.

(6) Either Israel or Jerusalem. The third blessing begins ‘Have mercy . . . upon Israel Thy people and upon Jerusalem Thy city’.

(7) Of the third blessing.

(8) In concluding the second blessing.

(9) V. P.B. p. 289.

(10) Ibid. p. 229.

(11) V. P.B. p. 229.

(12) Israel do not sanctify the Sabbath by means of a formal proclamation, hence we cannot here apply the same explanation as in the case of festivals and New Moons.

(13) God's sanctifying of the Sabbath and Israel.

(14) Saving Israel and building Jerusalem.

(15) Cf. Pes. 102b.

(16) Ps. CXLVII. 2.

(17) In astonishment.

(18) In the second benediction.

(19) The kingship of the house of David in the third benediction.

(20) V. supra 40b.

(21) As in fact we find in the benediction of ‘Who is good etc.’, which begins with the formula, ‘Blessed art Thou . . . King of the Universe . . .’ and goes on, ‘Our father, our King . . .’.

(22) Which does not conclude with the formula, ‘Blessed art Thou . . . King of the universe,
(23) Which also concludes without the kingship formula.
(24) In the third blessing.
(25) And therefore we repair the omission in the next benediction.
(26) And in fact the benediction proceeds, ‘Our father our King . . . the king who is good etc.’.
(27) Rab.
(28) I.e., forgot to mention Sabbath or New Moon.

Talmud - Mas. Berachoth 49b

and he went back to the beginning. He said to him: What is the reason why your honour does this? — He replied: Because R. Shila said in the name of Rab: If one makes a mistake, he goes back to the beginning. But R. Huna has said in the name of Rab: If he goes wrong, he says, ‘Blessed be He who gave [etc.]’? — He replied: Has it not been stated in reference to this that R. Menashia b. Tahalifa said in the name of Rab: This is the case only where he has not commenced, ‘Who is good and bestows good’; but if he has commenced ‘Who is good and bestows good’, he goes back to the beginning.

R. Idi b. Abin said in the name of R. Amram quoting R. Nahman who had it from Samuel: If one by mistake omitted to mention New Moon in the Tefillah, he is made to begin again; if in the grace after meals, he is not made to begin again. Said R. Idi b. Abin to R. Amram: Why this difference between Tefillah and grace? — He replied: I also had the same difficulty, and I asked R. Nahman, and he said to me: From Mar Samuel personally I have not heard anything on the subject, but let us see for ourselves. [I should say that] in the case of Tefillah, which is obligatory, he is made to begin again, but in the case of a meal, which he can eat or not eat as he pleases, he is not made to begin again. But if that is so [said the other], in the case of Sabbaths and festivals, on which it is not possible for him to abstain from eating, I should also say that if he makes a mistake he must go back to the beginning? — He replied: That is so; for R. Shila said in the name of Rab: If one goes wrong, he goes back to the beginning. But has not R. Huna said in the name of Rab that if one goes wrong he says ‘Blessed is He who gave [etc.]’? — Has it not been stated in reference to this that this is the case only if he has not commenced ‘Who is good and bestows good’, but if he has commenced, ‘Who is good and bestows good’, he goes back to the beginning?

HOW MUCH [MUST ONE HAVE EATEN] TO COUNT etc. This would seem to show that R. Meir's standard is an olive and R. Judah's an egg. But we understand the opposite, since we have learnt: Similarly, if one has left Jerusalem and remembers that he has in his possession holy flesh, if he has gone beyond Zofim[1] he burns it on the spot, and if not he goes back and burns it in front of the Temple with some of the wood piled on the altar. For what minimum quantity do they turn back? R. Meir says: In either case,[2] the size of an egg; R. Judah says: In either case the size of an olive.[3] R. Johanan said: The names must be reversed. Abaye said: There is no need to reverse. In this case [of zimmun] they differ in the interpretation of a Scriptural text. R. Meir holds that ‘thou shalt eat’ refers to eating and ‘thou shalt be satisfied’ to drinking, and the standard of eating is an olive. R. Judah holds that ‘And thou shalt eat and be satisfied’ signifies an eating which gives satisfaction, and this must be as much as an egg. In the other case, they differ in their reasoning. R. Meir considers that the return for a thing should be analogous to its defilement; just as its defilement is conditioned by the quantity of an egg, so is the return for it conditioned by the quantity of an egg.[4] R. Judah held that the return for it should be analogous to its prohibition. Just as the prohibition thereof comes into force for the quantity of an olive, so is the return for it conditioned by the quantity of an olive. MISHNAH. WHAT IS THE FORMULA FOR ZIMMUN? IF THERE ARE THREE, HE [THE ONE SAYING GRACE] SAYS, ‘LET US BLESS [HIM OF WHOSE BOUNTY WE HAVE EATEN]’. IF THERE ARE THREE BESIDE HIMSELF HE SAYS, ‘BLESS’. IF THERE ARE TEN, HE SAYS, LET US BLESS OUR GOD’; IF THERE ARE TEN BESIDE HIMSELF HE

SAYS,’BLESS’. IT IS THE SAME WHETHER THERE ARE TEN OR TEN MYRIADS.[5] IF THERE ARE A HUNDRED HE SAYS, ‘LET US BLESS THE LORD OUR GOD’; IF THERE ARE A HUNDRED BESIDE HIMSELF HE SAYS, ‘BLESS’. IF THERE ARE A THOUSAND HE SAYS ‘LET US BLESS THE LORD OUR GOD, THE GOD OF ISRAEL’; IF THERE ARE A THOUSAND BESIDE HIMSELF HE SAYS ‘BLESS’. IF THERE ARE TEN THOUSAND HE SAYS, ‘LET US BLESS THE LORD OUR GOD, THE GOD OF ISRAEL, THE GOD OF HOSTS, WHO DWELLS AMONG THE CHERUBIM, FOR THE FOOD WHICH WE HAVE EATEN’. IF THERE ARE TEN THOUSAND BESIDE HIMSELF HE SAYS, ‘BLESS’. CORRESPONDING TO HIS INVOCATION THE OTHERS RESPOND, ‘BLESSED BE THE LORD OUR GOD THE GOD OF ISRAEL, THE GOD OF HOSTS, WHO DWELLS AMONG THE CHERUBIM, FOR THE FOOD WHICH WE HAVE EATEN’. R. JOSE THE GALILEAN SAYS: THE FORMULA OF INVOCATION CORRESPONDS TO THE NUMBER ASSEMBLED, AS IT SAYS: BLESS YE GOD IN FULL ASSEMBLIES, EVEN THE LORD, YE THAT ARE FROM THE FOUNTAIN OF ISRAEL.[6] SAID R. AKIBA: WHAT DO WE FIND IN THE SYNAGOGUE? WHETHER THERE ARE MANY OR FEW[7] THE READER SAYS, ‘BLESS YE THE LORD.[8] R. ISHMAEL SAYS: BLESS YE THE LORD WHO IS BLESSED.

GEMARA. Samuel said: A man should never exclude himself from the general body.[9] We have learnt: IF THERE ARE THREE BESIDE HIMSELF HE SAYS ‘BLESS’?[10] —

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(1) Mt. Scopus, the furthest point from which the Temple was still visible.

(2) The case of holy flesh just mentioned, and the case of leaven which one who is bringing the Paschal lamb remembers that he has not cleared out of his house.

(3) V. Pes. (Sonc. ed.) p. 23 notes.

(4) Less than the quantity of an egg does not communicate defilement in case of food.

(5) This is the opinion of R. Akiba, as appears infra.

(6) Ps. LXVIII, 27.

(7) Provided there are ten.

(8) V. P.B. p. 37 and p. 68.

(9) He should always say ‘Let us bless’.

(10) Thus excluding himself from their company.

Talmud - Mas. Berachoth 50a

Read: he may also say ‘Bless’; but all the same to say ‘Let us bless’ is preferable. For R. Adda b. Ahabah said: The school of Rab say: We have learnt that [a company consisting of from] six to ten may divide.[1] Now if you say that ‘Let us bless’ is preferable, we can see a reason why they should divide. But if you say that ‘Bless’ is preferable, why should they divide?[2] You must therefore conclude that ‘Let us bless’ is preferable; and so we do conclude.

It has been taught to the same effect: Whether he says ‘Bless’ or ‘Let us bless’, no fault is to be found with him for this. But those who are punctilious do find fault with him for this.[3] And from the way a man says the benedictions it may be recognized whether he is a scholar or not. For example, Rabbi says: If he says ‘and by his goodness’, he is a scholar; if he says ‘and from his goodness’, he shows himself an ignoramus.[4] Said Abaye to R. Dimi: But it is written, And from thy blessing let the house of thy servant be blessed for ever.?[5] — In a petition it is different.[6] But of a petition also it is written, Open thy mouth wide and I will fill it?[7] — That was written with reference to words of Torah. It has been taught: Rabbi says: If one says, ‘And by his goodness we live’, he shows himself a scholar; if he says ‘they live’, he shows himself an ignoramus.[8] The scholars of Neharbel[9] state the opposite,[10] but the law is not as stated by the scholars of Neharbel. R. Johanan says: If one says ‘let us bless Him of whose bounty we have partaken’ he shows himself a scholar; if he says ‘Let us bless the one of whose bounty we have partaken’, he shows himself an ignoramus.[11] Said R. Aha the son of Raba to R. Ashi: But do we not say ‘We will bless the one who wrought for our ancestors and for us all these miracles’?[12] — He replied: There the meaning is obvious, for who performs miracles? The Holy One, blessed be He. R. Johanan said: If one says ‘Blessed is He of whose bounty we have eaten’, he shows himself a scholar. If he says, ‘For the food which we have eaten’,[13] he shows himself an ignoramus. R. Huna the son of R. Joshua said: This is the case only where there are three, since the name of heaven is not mentioned [in the zimmun],[14] but if there are ten, since the name of heaven is mentioned, it is clear what is meant, as we have learnt: CORRESPONDING TO HIS INVOCATION THE OTHERS RESPOND,’BLESSED BE THE LORD OUR GOD, THE GOD OF ISRAEL, THE GOD OF HOSTS, WHO DWELLS AMONG THE CHERUBIM, FOR THE FOOD WHICH WE HAVE EATEN.’

IT IS THE SAME WHETHER THERE ARE TEN OR TEN MYRIADS. There seems here to be a contradiction. You say, IT IS THE SAME WHETHER THERE ARE TEN OR TEN MYRIADS, which would show that they are all alike. Then it states: IF THERE ARE A HUNDRED HE SAYS so and so, IF THERE ARE A THOUSAND HE SAYS, IF THERE ARE TEN THOUSAND HE SAYS? — R. Joseph said: There is no contradiction; the one statement expresses the view of R. Akiba, the other of R. Jose the Galilean, since we have learnt: R. JOSE THE GALILEAN SAYS: THE FORMULA OF INVOCATION CORRESPONDS TO THE NUMBER ASSEMBLED, AS IT SAYS: BLESS YE GOD IN ALL ASSEMBLIES, EVEN THE LORD, YE THAT ARE FROM THE FOUNTAIN OF ISRAEL.

SAID R. AKIBA: WHAT DO WE FIND IN THE SYNAGOGUE etc. And what does R. Akiba make of the verse cited by R. Jose the Galilean? — He wants it for the following lesson, as it has been taught: R. Meir used to say: Whence do we learn that even children [yet unborn] in their mothers’ womb chanted a song by the Red Sea? — Because it says, Bless ye the Lord in full assemblies, even the Lord, ye that are from the fountain of Israel.[15] What says the other [R. Jose] to this? — He derives the lesson from the word ‘fountain’.

Raba said: The halachah is as laid down by R. Akiba. Rabina and R. Hama b. Buzi once dined at the house of the Exilarch, and R. Hama got up and commenced to look about for a hundred. Said Rabina to him: There is no need for this. For thus said Raba: The halachah is as stated by R. Akiba.

Raba said: When we take a meal at the house of the Exilarch, we say grace in groups of three.[16] Why not in groups of ten?[17] — Because the Exilarch might hear them and be angry.[18] But could not the grace of the Exilarch suffice for them? — Since everybody would respond loudly, they would not hear the one who says grace.

Raba Tosfa'ah said: If three persons had a meal together and one said grace for himself before the others, his zimmun is effective for them but theirs is not effective for him,[19] since zimmun cannot be said out of its place.[20]

R. ISHMAEL SAYS. Rafram b. Papa once attended the synagogue of Abi Gobar.[21] He was called up to read in the Scroll and he said, ‘Bless ye the Lord’ and stopped, without adding ‘who is to be blessed’. The whole congregation cried out, ‘Bless ye the Lord who is to be blessed’. Raba said to him: You black pot![22] Why do you want to enter into controversy?[23] And besides, the general custom is to use the formula of R. Ishmael.

MISHNAH. IF THREE PERSONS HAVE EATEN TOGETHER THEY MAY NOT SEPARATE [FOR GRACE].[24] SIMILARLY WITH FOUR AND SIMILARLY WITH FIVE.[25] SIX MAY DIVIDE,[26] [AND HIGHER NUMBERS] UP TO TEN; BETWEEN TEN AND TWENTY THEY MAY NOT DIVIDE. IF TWO GROUPS EAT IN THE SAME ROOM, AS LONG AS SOME OF THE ONE CAN SEE SOME OF THE OTHER THEY COMBINE [FOR ZIMMUN], BUT

OTHERWISE EACH GROUP MAKES ZIMMUN FOR ITSELF. A BLESSING IS NOT SAID OVER THE WINE UNTIL WATER IS PUT IN IT.[27] SO R. ELIEZER. THE SAGES, HOWEVER, SAY THAT THE BLESSING MAY BE SAID.

GEMARA. What does this tell us? We have already learnt it once: Three persons who have eaten together must say zimmun?[28] — This teaches us the same thing as was stated by R. Abba in the name of Samuel: If three persons have sat down to eat, even though they have not yet commenced, they are not at liberty to separate. Another version: R. Abba said in the name of Samuel: What is meant is this: if three persons sit down to eat together, even though each eats of his own loaf, they are not at liberty to separate. Or [it may teach us] the same as R. Huna; for R. Huna said: If three persons from these groups come together,[29] they are not at liberty to separate.[30] R. Hisda said: This is only if they come from three groups of three men each.[31] Raba said:

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(1) I.e., form groups of three or four. But ten may not divide, since they will not then be able to say ‘Our God’.

(2) Rashi reads: ‘Why should six divide?’ If they form two groups of three, neither can say ‘bless’.

(3) For excluding himself from the group.

(4) Because he belittles the goodness of the Almighty.

(5) 11 Sam. VII, 29.

(6) The Petitioner likes to be modest in his request.

(7) Ps. LXXXI, 11.

(8) Because he excludes himself from their company.

(9) Neharbel, east of Bagdad.

(10) Taking ‘they live’ to refer to the whole of mankind.

(11) Because this form may be taken to refer to the host.

(12) In the Haggadah on Passover eve.

(13) Without assigning its ownership to God.

(14) In the responses ‘Let us bless our God’.

(15) The lesson being derived from the word ‘assemblies’.

(16) Before the Exilarch finishes and says grace.

(17) So as to add the word ‘Our God’.

(18) At their not waiting for him.

(19) I.e., he does not perform the mizwah of zimmun.

(20) V. supra. p. 278. n. 6.

(21) Be Gobar, in the vicinity of Mahuzah.

(22) Probably he was of swarthy complexion.

(23) I.e., follow a minority view.

(24) But must say zimmun together.

(25) One or two may not say grace for themselves.

(26) Into two groups of three.

(27) To dilute it, otherwise it is too strong to be drunk.

(28) V. supra 45b.

(29) Each having left his group for one reason or another.

(30) But they must say grace together even though they have not eaten together.

(31) So that each of them was under the obligation of zimmun.

Talmud - Mas. Berachoth 50b

This applies only if the groups had not already counted them for zimmun; but if they had reckoned upon them where they were,[1] the obligation of zimmun has departed from them. Said Raba: Whence do I derive this rule? Because we have learnt: If the half of a bed has been stolen or lost, or if a bed has been divided by brothers or partners, it cannot receive uncleanness. If it is restored [to its original state] it can receive uncleanness thenceforward. Thenceforward it can, but not retrospectively.[2] This shows that from the time it was divided, uncleanness no longer attached to it.[3] So here, once they had used them for zimmun, the obligation of zimmun no longer attached to them.[4]

TWO GROUPS etc. A Tanna taught: If there is an attendant waiting on both, the attendant combines them.[5]

A BLESSING IS NOT SAID OVER WINE. Our Rabbis taught: If wine has not yet been mixed with water, we do not say over it the blessing ‘Who createst the fruit of the vine’,[6] but ‘Who createst the fruit of the tree’, and it can be used for washing the hands.[7] Once water has been mixed with it, we say over it the blessing ‘Who createst the fruit of the vine’, and it may not be used for washing the hands. So R. Eliezer. The Sages, however, say: In either case we say over it the blessing ‘Who createst the fruit of the vine’, and we do not use it for washing the hands. Whose view is followed in this statement of Samuel: A man may use bread for any purpose he likes?[8] — Whose view? That of R. Eliezer. R. Jose son of R. Hanina said: The Sages agree with R. Eliezer in the matter of the cup of wine used for grace, that a blessing should not be said over it until water has been added. What is the reason? — R. Oshaiah said: For a religious ceremony we require the best. And according to the Rabbis — for what kind of drink is undiluted wine suitable? — It is suitable for [mixing with] karyotis.[9]

Our Rabbis taught: Four things have been said with reference to bread. Raw meat should not be placed on bread; a full cup should not be passed along over bread;[10] bread should not be thrown; and a dish should not be propped up on bread. Amemar and Mar Zutra and R. Ashi were once taking a meal together. Dates and pomegranates were served to them, and Mar Zutra took some and threw them in front of R. Ashi as his portion. He said to him: Does not your honour agree with what has been taught, that eatables should not be thrown? — [He replied]: That was laid down with reference to bread. But it has been taught that just as bread is not to be thrown, so eatables should not be thrown? But, he replied. it has also been taught that although bread is not to be thrown, eatables may be thrown? But in fact there is no contradiction; one statement refers to things which are spoilt by throwing,[11] the other to things which are not spoilt.

Our Rabbis taught: Wine can be run through pipes[12] before the bridegroom and the bride, and roasted ears of corn and nuts may be thrown in front of them in the summer season but not in the rainy season;[13] while cakes may not be thrown in front of them either in the summer or the rainy season.[14]

Rab Judah said: If one forgot and put food into his mouth without saying a blessing, he shifts it to the side of his mouth and says the blessing. One [Baraitha] taught that he swallows it, and another taught that he spits it out, and yet another taught that he shifts it to one side. There is no contradiction. Where it says that he swallows it, the reference is to liquids; where it says that he spits it out, the reference is to something which is not spoilt thereby; and when it says that he shifts it, the reference is to something which would be spoilt [by being spat out].

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(1) I.e., if the party to which they belonged consisted of four persons each and they had left only after their respective parties has said the zimmun formula introducing the grace.

(2) Kelim XVIII, 9.

(3) An incomplete article does not contract defilement.

(4) Lit., ‘flew away from them’.

(5) Even though they do not see one another.

(6) Because as yet it shows no improvement over its original condition. This, of course, refers to the very strong wine of the ancients.

(7) Like fruit juice.

(8) I.e., wiping his hands after a meal, in spite of the general rule that food must not be wasted.

(9) A kind of date with the shape of a nut, used for medicinal purpose.
(10) For fear some should spill on the bread.
(11) I.e., ripe, juicy figs.
(12) This was done either as a symbol of prosperity, or for the purpose of diffusing a pleasant odour; it could be caught up in cups and so not wasted.
(13) Because they may be spoilt by the muddy roads.
(14) Because in either case they may be spoilt.

Talmud - Mas. Berachoth 51a

But why should he not also shift to one side anything which would not be spoilt and say the blessing? — R. Isaac Kaskasa'ah[1] gave the reason in the presence of R. Jose son of R. Abin, quoting R. Johanan: Because it says, My mouth shall be filled with Thy praise.[2]

R. Hisda was asked: If one has eaten and drunk without saying a blessing, should he say the blessing afterwards? — He replied: If one has eaten garlic so that his breath smells, should he eat more garlic so that his breath should go on smelling?[3] Rabina said: Therefore[4] even if he has finished his meal he should say the blessing retrospectively, since it has been taught: If a man has taken a ritual immersion and come out of the water, he should say on his emerging, ‘Blessed be He who has sanctified us with His commandments and commanded us concerning immersion’. This, however, is not correct. In that case [of immersion] the man at the outset was not in a fit state to say a blessing;[5] in this case the man at the outset was in a fit state, and once it has been omitted it must remain omitted.

Our Rabbis taught: Asparagus brew[6] is good for the heart and good for the eyes, and, needless to say, for the bowels. If one uses it regularly it is good for the whole body, but if one gets drunk on it it is bad for the whole body. Since it is stated that it is good for the heart, we infer that we are dealing with a brew of wine. Yet it states that it is, needless to say, good for the bowels; but surely it has been taught: For La'AT[7] it is good. for Ramat[8] it is bad? — Our statement[9] was made with reference to a brew of old wine,[10] as we have learnt: If one takes a vow to abstain from wine because it is bad for the bowels and they say to him, Is not the old wine good for the bowels, and he says nothing, he is forbidden to drink new wine but permitted to drink old wine.[11] This proves [that we are dealing with old wine].

Our Rabbis taught: Six things were said with reference to asparagus. It is only taken when the wine is undiluted and from a [full] cup; it is received in the right hand and held in the left hand when drunk; one should not talk after drinking it, nor stop in the middle of drinking it, and it should be returned only to the person who served it; one should spit after drinking it, and he should take immediately after it[12] only something of the same kind. But it has been taught: He should take immediately after it only bread? — There is no contradiction: the one statement applies to a brew of wine, the other to a brew of beer.

One [authority] teaches: It is good for La'AT and bad for Ramat, while another teaches that it is good for Ramat and bad for La'AT! There is no contradiction: one statement speaks of a brew of wine, the other of a brew of beer. One [authority] teaches that if he spits after it he will suffer, another that if he does not spit after it he will suffer! There is no contradiction: the one statement speaks of a brew of wine, the other of a brew of beer. R. Ashi said: Now that you say that if he does not spit after it he will suffer, he should eject the liquid even in the presence of a king.

R. Ishmael b. Elisha said: Three things were told me by Suriel the Officer of the [Divine] Presence.[13] Do not take your shirt from the hand of your attendant when dressing in the morning,[14] and do not let water be poured over your hands by one who has not already washed his own hands, and do not return a cup of asparagus brew to anyone save the one who has handed it to you, because a company of demons (according to others, a band of destroying angels) lie in wait for a man and say, When will the man do one of these things so that we can catch him.

R. Joshua b. Levi says: Three things were told me by the Angel of Death. Do not take your shirt from your attendant when dressing in the morning, and do not let water be poured on your hands by one who has not washed his own hands,[15] and do not stand in front of women when they are returning from the presence of a dead person, because I go leaping in front of them with my sword in my hand, and I have permission to harm. If one should happen to meet them what is his remedy? — Let him turn aside four cubits; if there is a river, let him cross it, and if there is another road let him take it, and if there is a wall, let him stand behind it;[16] and if he cannot do any of these things, let him turn his face away and say, And the Lord said unto Satan, The Lord rebuke thee, O Satan etc.,[17] until they have passed by.

R. Zera said in the name of R. Abbahu — according to others, it was taught in a Baraitha: Ten things have been said in connection with the cup used for grace after meals. It requires to be rinsed and washed, it must be undiluted and full, it requires crowning and wrapping,[18] it must be taken up with both hands and placed in the right hand, it must be raised a handbreadth from the ground, and he who says the blessing must fix his eyes on it. Some add that he must send it round to the members of his household. R. Johanan said: We only know of four: rinsing, washing, undiluted and full. A Tanna taught: Rinsing refers to the inside, washing to the outside. R. Johanan said: Whoever says the blessing over a full cup is given an inheritance without bounds, as it says, And full with the blessing of the Lord; possess thou the sea and the south.[19] R. Jose son of R. Hanina says: He is privileged to inherit two worlds, this world and the next. ‘Crowning’: Rab Judah crowned it with disciples;[20] R. Hisda surrounded it with cups. ‘And undiluted’: R. Shesheth said: Up to the blessing of the land.[21] ‘Wrapping’: R. Papa used to wrap himself in his robe and sit down [to say grace over a cup]; R. Assi spread a kerchief over his head. ‘It is taken in both hands’: R. Hinena b. Papa said: What is the Scriptural warrant for this? — Lift up your hands in holiness and bless ye the Lord.[22] ‘And placed in the right hand’. R. Hiyya b. Abba said in the name of R. Johanan: The earlier [students] asked: Should the left hand support the right? — R. Ashi said: Since the earlier [students] inquired and the question was not decided

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(1) The reading is not certain.

(2) Ps. LXXI, 8. There should be no room for anything besides the benediction.

(3) I.e., having made one mistake, should he make another by not saying a blessing over the part he has still to eat (Maharsha).

(4) Since he stops in the middle to say the blessing which he did not say at the beginning.

(5) Having been unclean.

(6) A beverage made by soaking certain roots in wine or beer.

(7) L == leb (heart); ‘A == ‘ayin (eyes); T == tehol (milt).

(8) R == rosh (head); M == me'ayim (bowels); T == tahtonioth (piles).

(9) Lit., ‘that’.

(10) At least three years old (Rashi).

(11) Ned. 66a.

(12) Lit., ‘he must only support it with’. (9) According to Rashi, bread should be taken after wine; according to the Aruch, after beer.

(13) I.e., an angel of high rank.

(14) But get it yourself.

(15) MS.M. inserts: and do not return the cup of asparagus brew to anyone save the one who has handed it to you. Do not enter alone a synagogue in which children are not being taught, because I hide there my weapons; and when there is a pestilence raging in the city do not walk in the middle of the road but on the side, and when there is peace in the city, do not walk on the side but in the middle of the road.

(16) MS.M. inserts: and turn his face to the wall.
(17) Zech. III, 2.
(18) This is explained infra.
(19) Deut. XXXIII, 23.
(20) I.e., made them sit around him.
(21) I.e., up to this point he leaves it undiluted, then he adds water. This is the reading of Alfasi; the reading of our text which has the words ‘R. Hanan said’ before ‘and undiluted’ is not intelligible.
(22) Ps. CXXXIV, 2.

Talmud - Mas. Berachoth 51b

we will follow the more stringent view.[1] ‘He raises it a handbreadth from the ground’: R. Aha b. Hanina said: What Scriptural text have we for this? — I will lift up the cup of salvation and call upon the name of the Lord.[2] ‘He fixes his eyes on it’: so that his attention should not wander from it. ‘He sends it round to the members of his household’: so that his wife may be blessed.

‘Ulla was once at the house of R. Nahman. They had a meal and he said grace, and he handed the cup of benediction to R. Nahman. R. Nahman said to him: Please send the cup of benediction to Yaltha.[3] He said to him: Thus said R. Johanan: The fruit of a woman's body is blessed only from the fruit of a man's body, since it says, He will also bless the fruit of thy body.[4] It does not say the fruit of her body, but the fruit of thy body. It has been taught similarly: Whence do we know that the fruit of a woman's body is only blessed from the fruit of a man's body? Because it says: He will also bless the fruit of thy body. It does not say the fruit of her body, but the fruit of thy body. Meanwhile Yaltha heard,[5] and she got up in a passion and went to the wine store and broke four hundred jars of wine. R. Nahman said to him: Let the Master send her another cup. He sent it to her with a message: All that wine[6] can be counted as a benediction. She returned answer: Gossip comes from pedlars and vermin from rags.[7]

R. Assi said: One should not speak over the cup of benediction.[8] R. Assi also said: One should not speak over the cup of punishment. What is the cup of punishment? — R. Nahman b. Isaac said: a second cup.[9] It has been taught similarly: He who drinks an even number[10] should not say grace,[11] because it says, Prepare to meet thy God, O Israel,[12] and this one is not fitly prepared.

R. Abbahu said (according to others, it was taught in a Baraitha): One who eats as he walks says grace standing; if he eats standing up he says grace sitting; if he eats reclining he sits up to say grace. The law is that in all cases he says grace sitting.

CHAPTER VIII

MISHNAH. THESE ARE THE POINTS [OF DIFFERENCE] BETWEEN BETH SHAMMAI AND BETH HILLEL IN RELATION TO A MEAL. BETH SHAMMAI SAY THAT THE BENEDICTION IS FIRST SAID OVER THE DAY[13] AND THEN OVER THE WINE, WHILE BETH HILLEL SAY THAT THE BENEDICTION IS FIRST SAID OVER THE WINE AND THEN OVER THE DAY. BETH SHAMMAI SAY THAT WASHING THE HANDS PRECEDES THE FILLING OF THE CUP,[14] WHILE BETH HILLEL SAY THAT THE FILLING OF THE CUP PRECEDES THE WASHING OF THE HANDS. BETH SHAMMAI SAY THAT AFTER WIPING HIS HANDS WITH A NAPKIN THE DINER PLACES IT ON THE TABLE, WHILE BETH HILLEL SAY THAT HE PLACES IT ON THE CUSHION.[15] BETH SHAMMAI SAY THAT [AFTER THE MEAL] THE FLOOR IS SWEPT BEFORE THE WASHING OF THE HANDS,[16] WHILE BETH HILLEL SAY THAT [THE DINERS] WASH THEIR HANDS AND THEN THE FLOOR IS SWEPT. BETH SHAMMAI SAY THAT [THE PROPER ORDER[17] IS] LIGHT, GRACE, SPICES, AND HABDALAH, WHILE BETH HILLEL SAY: LIGHT, SPICES, GRACE, AND HABDALAH.[18] BETH SHAMMAI SAY [THAT THE BLESSING OVER LIGHT CONCLUDES WITH THE WORDS], WHO CREATED THE LIGHT OF THE FIRE, WHILE BETH HILLEL SAY [THAT THE WORDS ARE], WHO IS CREATING THE LIGHTS OF THE FIRE.

A BENEDICTION MAY NOT BE SAID OVER THE LIGHTS OR THE SPICES OF IDOLATERS OR OVER THE LIGHTS OR THE SPICES OF DEAD,[19] OR OVER THE LIGHTS OR THE SPICES OF IDOLATRY, AND A BLESSING IS NOT SAID OVER THE LIGHT UNTIL IT HAS BEEN UTILIZED.

IF ONE HAS EATEN AND FORGOTTEN TO SAY GRACE, BETH SHAMMAI SAY THAT HE MUST RETURN TO THE PLACE WHERE HE ATE AND SAY THE GRACE, WHILE BETH HILLEL SAY THAT HE SHOULD SAY IT IN THE PLACE WHERE HE REMEMBERED. UNTIL WHEN CAN HE SAY THE GRACE? UNTIL SUFFICIENT TIME HAS PASSED FOR THE FOOD IN HIS STOMACH TO BE DIGESTED. IF WINE IS SERVED TO THEM AFTER THE FOOD, AND THAT IS THE ONLY CUP THERE, BETH SHAMMAI SAY THAT A BLESSING IS FIRST SAID OVER THE WINE AND THEN [THE GRACE] OVER THE FOOD, WHILE BETH HILLEL SAY THAT A BLESSING IS FIRST SAID OVER THE FOOD AND THEN OVER THE WINE. ONE SAYS AMEN AFTER A BLESSING SAID BY AN ISRAELITE BUT NOT AFTER A BLESSING SAID BY A CUTHEAN, UNLESS THE WHOLE OF IT HAS BEEN HEARD.[20]

GEMARA. Our Rabbis taught: The points of difference between Beth Shammai and Beth Hillel in relation to a meal are as follows: Beth Shammai say that the blessing is first said over the [sanctity of] the day and then over the wine, because it is on account of the day that the wine is used, and [moreover] the day has already become holy[21] before the wine has been brought. Beth Hillel say that a blessing is said over the wine first and then over the day, because the wine provides the occasion for saying a benediction.[22] Another explanation is that the blessing over wine is said regularly[23] while the blessing of the day is said only at infrequent intervals, and that which comes regularly always has precedence over that which comes infrequently. The halachah is as laid down by Beth Hillel. What is the point of the ‘other explanation’? — Should you say that there [in explanation of Beth Shammai's view] two reasons are given and here [in explanation of Beth Hillel's] only one, we reply, there are two here also, [the second one being that] the blessing over wine is regular and the blessing of the day infrequent, and that which is regular has precedence over that which is infrequent, ‘And the halachah is as stated by Beth Hillel’. This is self-evident, for the Bath Kol[24] went forth [and proclaimed so]![25] If you like I can reply that this statement was made before the Bath Kol [had issued forth], and if you like I can say that it was made after the Bath Kol

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(1) And do not support with the left.

(2) Ibid. CXVI, 13.

(3) R. Nahman's wife.

(4) Deut. VII, 13.

(5) That ‘Ulla had refused to send her the cup.

(6) I.e., all the wine of the flask from which the cup of benediction was poured.

(7) As much as to say, what could he expected from a man like ‘Ulla.

(8) Once it is taken up for grace, it is not permitted to speak.

(9) Even numbers were supposed to he unlucky.

(10) Lit., ‘Doubles’.

(11) Probably it means, lead in the grace.

(12) Amos IV, 12.

(13) E.g., Sabbath or festival.

(14) The cup of benediction drunk before meals, v. supra 43a.

(15) The reason is given in the Gemara.
(16) The 'latter water' before grace.
(17) After a meal on the conclusion of the Sabbath or festival when habdalah (v. Glos.) has to be said.
(18) I.e., the principal benediction in the habdalah, v. Glos.
(19) Used at a funeral, cf. Roman turibula and faces.
(20) For fear he may have made all allusion to Mount Gerizim.
(21) At sunset or before by the formal acceptance of the sanctity of the day in prayers or otherwise.
(22) If there is no wine or its equivalent, no benediction is said.
(23) I.e., practically every day.
(24) Lit., 'daughter of a voice', 'A heavenly voice'.
(25) V. 'Er. 13b.

Talmud - Mas. Berachoth 52a

and that it represents the view of R. Joshua, who said that we pay no attention to a Bath Kol.[1]

But do Beth Shammai hold that the blessing over the day is more important, seeing that it has been taught: 'When one goes into his house on the outgoing of Sabbath, he says blessings over wine and light and spices and then he says the habdalah [benediction].[2] If he has only one cup, he keeps it for after the meal and then says the other blessings in order after it? — But how do you know that this represents the view of Beth Shammai? Perhaps it represents the view of Beth Hillel? — Do not imagine such a thing. For it mentions first light and then spices; and who is it that we understand to hold this view? Beth Shammai, as it has been taught: R. Judah says: Beth Shammai and Beth Hillel concurred in holding that the grace after food comes first and the habdalah [benediction] last. In regard to what did they differ? In regard to the light and the spices, Beth Shammai holding that light should come first and then spices, and Beth Hillel that spices should come first and then light. And how do you know that this represents the view of Beth Shammai as reported by R. Judah? Perhaps it represents the view of Beth Hillel as reported by R. Meir![3] — Do not imagine such a thing. For it states here, BETH SHAMMAI SAY, LIGHT, GRACE AND SPICES, AND HABDALAH; WHILE BETH HILLEL SAY LIGHT, SPICES, GRACE, AND HABDALAH, and there in the Baraitha it says, 'If he has only one cup he keeps it for grace and says the others in order after it'. This shows that it represents the view of Beth Shammai as reported by R. Judah. In any case there is a difficulty?[4] — Beth Shammai hold that the entrance of a [holy] day is different from its outgoing. At its entrance, the earlier we can make it the better, but at its exit, the longer we can defer it the better, so that it should not seem to be a burden on us.

But do Beth Shammai hold that grace requires a cup [of wine] seeing that we have learnt: IF WINE IS SERVED TO THEM AFTER THE FOOD,[5] AND THAT IS THE ONLY CUP THERE, BETH SHAMMAI SAY THAT A BLESSING IS FIRST SAID OVER THE WINE AND THEN [THE GRACE] OVER THE FOOD. Does not this mean that he says a blessing over it and drinks it?[6] No; he says a blessing over it and puts it aside.[7] But a Master has said: [After saying the blessing] one must taste it? — He does taste it. But a Master has said: If he tastes it he spoils it?[8] — He tastes it with his finger. But a Master has said: The cup of benediction must have a certain quantity, and he diminishes it? — We must suppose that he has more than the prescribed quantity. But it says, 'If there is only that cup'? — There is not enough for two but more than enough for one. But R. Hiyya taught: Beth Shammai say that he says a blessing over wine and drinks it and then says grace? — Two Tannaim report Beth Shammai differently.[9]

BETH SHAMMAI SAY etc. Our Rabbis taught: Beth Shammai say that washing of the hands precedes the filling of the cup. For should you say that the filling of the cup comes first, there is a danger lest liquid on the back of the cup will be rendered unclean through one's hands and it in turn will render the cup unclean. But would not the hands make the cup itself unclean? — Hands receive uncleanness in second degree,[10] and that which has received uncleanness in the second degree cannot pass on the uncleanness to a third degree in the case of non-sacred things, save through liquids.[11] Beth Hillel, however, say that the cup is first filled and then the hands are washed. For if you say that the hands are washed first, there is a danger lest the liquid on the hands should become unclean through the cup[12] and should then in turn make the hands unclean. But would not the cup make the hands themselves unclean? — A vessel does not make a man unclean. But would not [the cup] render unclean the liquid inside it? — We are here dealing with a vessel the outside of which has been rendered unclean by liquid, in which case its inside is clean and its outside unclean, as we have learnt: If the outside of a vessel has been rendered unclean by liquids, its outside is unclean

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(1) ‘Er. 7a.

(2) Which is the blessing of the day.

(3) Infra.

(4) That Beth Shammai seem to give precedence to the blessing over wine over that of the day.

(5) But before grace has been said.

(6) That is if he wishes, he can drink the wine before the grace.

(7) To serve as the cup of benediction.

(8) For other ceremonial purposes.

(9) R. Hiyya reporting them as saying that the grace after meals does not require a cup of benediction.

(10) They are rendered unclean by something which has become unclean through touching something by its nature unclean.

(11) This is a Rabbinic rule enunciated in Toh. II, 3.

(12) Supposing that this happens to be unclean.

Talmud - Mas. Berachoth 52b

while its inside, its rim, its handle and its haft are clean. If its inside has been rendered unclean, it is all unclean. What is the point at issue between them? — Beth Shammai hold that it is forbidden to use a vessel the outside of which has been rendered unclean by liquids for fear of drippings,[1] and consequently there is no need to fear that the liquid on the hands will be rendered unclean by the cup.[2] Beth Hillel on the other hand hold that it is permitted to use a vessel the outside of which has been rendered unclean by liquids, considering that drippings are unusual, and consequently there is a danger lest the liquid on the [undried] hands should be rendered unclean through the cup.[3] Another explanation is, so that the meal should follow immediately the washing of the hands. What is the point of this ‘other explanation’? — Beth Hillel argued thus with Beth Shammai: Even from your standpoint, that it is forbidden to use a vessel the outside of which has been rendered unclean by liquids, for fear of drippings, even so our ruling is superior, because the washing of the hands is immediately followed by the meal.

BETH SHAMMAI SAY THAT AFTER WIPING HIS HAND WITH THE NAPKIN etc. Our Rabbis taught: Beth Shammai say that [the diner] after wiping his hands with the napkin places it on the table. For if you say that he places it on the cushion, there is a danger lest liquid on the napkin may be rendered unclean through the cushion and then in turn render the hands unclean. But will not the cushion make the napkin itself unclean? — One vessel does not render another unclean. But will not the cushion make the man himself unclean? — A vessel does not render a man unclean. Beth Hillel, however, say that he puts it on the cushion. For if you say that he puts it on the table there is a fear lest the liquid on the napkin should be rendered unclean through the table and should in turn render the food unclean. But will not the table render the food on it unclean? — We are dealing here with a table which is unclean in the second degree, and that which is unclean in the second degree does not pass on uncleanness to a third degree in the case of non-sacred things, save through the medium of liquids. What is the point at issue between them? — Beth Shammai hold that it is forbidden to use a table which is unclean in the second degree for fear lest it may be used by persons eating terumah[4] , while Beth Hillel hold that it is permissible to use a table which is unclean in the second degree since persons who eat terumah are careful [to avoid such]. Another explanation is that washing of hands for non-sacred food is not prescribed by the Torah. What is the point of the 'other explanation'? — Beth Hillel argued thus with Beth Shammai: Should you ask what reason is there for being particular in the case of food[5] and not being particular in the case of hands, even granting this, our rule is better, since washing of hands for non-sacred food is not prescribed by the Torah. It is better that hands, the rule for which has no basis in the Torah, should become unclean, rather than food, the rule for which has a basis in the Torah.

BETH SHAMMAI SAY THAT THE FLOOR IS SWEPT etc. Our Rabbis taught: Beth Shammai say: The floor is swept and then they wash their hands. For should you say that the hands are washed first, the result might be to spoil the food. (Beth Shammai do not hold that the washing of the hands comes first.)[6] What is the reason? — On account of the crumbs [of bread]. Beth Hillel, however, say that if he the attendant is a scholar, he removes the crumbs which are as large as an olive and leaves those which are smaller than an olive. This supports the dictum of R. Johanan; for R. Johanan said: It is permissible to destroy wilfully crumbs [of bread] smaller than an olive.[7] What is the ground of their difference? — Beth Hillel hold that it is not permissible to employ an attendant who is an 'am ha-arez,[8] while Beth Shammai hold that is is permissible to employ an attendant who is an 'am ha-arez. R. Jose b. Hanina said in the name of R. Huna: In all this chapter the halachah is as stated by Beth Hillel, save in this point where it is as stated by Beth Shammai. R. Oshaia, however, reverses the teaching[9] and in this point also the halachah follows Beth Hillel.

BETH SHAMMAI SAY, LIGHT, GRACE, etc. R. Huna b. Judah was once at the house of Raba, and he saw Raba say the blessing over spices first.[10] He said to him: Let us see. Beth Shammai and Beth Hillel do not differ with respect to the light [that it should come first], as we learnt: BETH SHAMMAI SAY, [THE ORDER IS] LIGHT, GRACE, SPICES, AND HABDALAH, WHILE BETH HILLEL SAY THAT IT IS LIGHT, SPICES, GRACE AND HABDALAH! — Raba answered after[11] him: These are the words of R. Meir, but R. Judah said: Beth Shammai and Beth Hillel agreed that grace comes first and habdalah last. Where they differed was in respect of light and spices, Beth Shammai maintaining that light comes first and then spices, while Beth Hillel held that spices comes first and then light; and R. Johanan has stated: The public have adopted the custom of following Beth Hillel as reported by R. Judah.

BETH SHAMMAI SAY, WHO CREATED etc. Raba said: All are agreed that the word bara[12] refers to the past. Where they differ is with respect to the word bore.[13] Beth Shammai maintain that bore means 'who will create in the future', while Beth Hillel hold that bore can also refer to the past. R. Joseph cited in objection [to Beth Shammai] the verses, I form the light and create [bore] darkness,[14] He formeth the mountains and createth [bore] the wind,[15] He that created [bore] the heavens and stretched them forth.[16] Rather, said R. Joseph: Both sides are agreed that both bara and bore can refer to the past. Where they differ is as to whether ma'or [light] or me'- ore [lights] should be said. Beth Shammai are of the opinion that there is only one light in the fire, while Beth Hillel are of the opinion that there are several.[17] It has been taught to the same effect: Said Beth Hillel to Beth Shammai: There are several illuminations in the light.

A BLESSING IS NOT SAID etc. There is a good reason in the case of the light [of idolaters], because it has not 'rested'.[18] But what reason is there in the case of the spices? — Rab Judah said in the name of Rab: We are dealing here with [spices used at] a banquet of idolaters[19] because ordinarily a banquet of idolaters is held in honour of idolatry. But since it is stated further on, OR OVER THE LIGHT OR THE SPICES OF IDOLATRY, we may infer that the earlier statement does not refer to idolaters? — R. Hanina of Sura replied: The latter statement is explanatory. What is the reason why a blessing is not said over the light and the spices of idolaters? Because ordinarily a banquet of idolaters is in honour of idolatry.

Our Rabbis taught: A blessing may be said over a light which has ‘rested’, but not over one which has not ‘rested’. What is meant by ‘which has not rested’?

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(1) Drops from the inside may spill on to the outside, and in virtue of the uncleanness of the cup the drops would render the hands unclean.

(2) Since ex hypothesi the cup may not be used. Hence it is quite safe to wash the hands before filling the cup.

(3) Hence it is safer to wash the hands after the cup has been filled.

(4) And terumah would be rendered unclean by a table unclean in the second degree.

(5) To protect it from uncleanness.

(6) This sentence seems to be an interpolation.

(7) In spite of the prohibition against wasting food.

(8) Who would not know the difference between crumbs of the size of an olive and those of smaller size. Probably a meal of haberim (v. Glos.) is referred to.

(9) I.e., ascribes to Beth Hillel the teaching that an ‘am ha-arez may be employed, and consequently the floor is swept first.

(10) I.e., before the light.

(11) I.e., supplemented the reading in our Mishnah as follows.

(12) Past tense, ‘he created’.

(13) Participle, ‘creating’, or ‘who creates’.

(14) Isa. XLV, 7.

(15) Amos. IV, 13.

(16) Isa. XLII, 5.

(17) I.e., several colours in the light-red, white, green etc.

(18) I.e., forbidden work has been done by its light.

(19) Lit., ‘Cutheans’ which throughout this passage is probably a censor's correction for ‘Gentiles’.

Talmud - Mas. Berachoth 53a

. Shall we say that it has not rested on account of work [done by it], even permissible work?[1] But it has been taught: A blessing may be said over a light used for a woman in confinement or for the sake of a sick person? — R. Nahman b. Isaac replied: What is meant by ‘rested’? That it rested from work which is a transgression on Sabbath. It has been taught to the same effect: A blessing may be said over a lamp which has been burning throughout the day[2] to the conclusion of Sabbath.[3]

Our Rabbis taught: We may say the blessing over a light kindled by a Gentile[4] from an Israelite or by an Israelite from a Gentile, but not by a Gentile from a Gentile. What is the reason for barring a light kindled by a Gentile from a Gentile? Because it may not have rested.[5] But a light kindled by an Israelite from a Gentile also may not have rested? Perhaps you will say that the prohibited [flame] has vanished and the light is now a different one and is reborn in the hand of the Israelite.[6] What then of this which has been taught: If one carries out a flame to the public way [on Sabbath],[7] he is liable to a penalty.[8] Why is he liable? That which he took up he did not set down and that which he set down he did not take up?[9] — We must say therefore that [in our present case] the prohibited flame is still present, only the blessing which he says is said over the additional permitted part. If that is the case [a blessing over] a light kindled by a Gentile from a Gentile should also be permitted? — That is so; but [the prohibition is] a precaution on account of the first Gentile[10] and the first flame.[11]

Our Rabbis taught: If one was walking [at the termination of Sabbath] outside the town and saw a light, if the majority [of the inhabitants] are Gentiles he should not say a benediction, but if the majority are Israelites he may say the benediction. This statement is self-contradictory. You first say, ‘if the majority are Gentiles, he may not say the blessing’, which implies that if they are half and half he may say it, and then it states, ‘if the majority are Israelites, he may say it’, which implies that if they are half and half he may not say it! — Strictly speaking, even if they are half and half he may say it, but since in the first clause it says ‘the majority are Gentiles’, in the second clause it says ‘the majority are Israelites’.

Our Rabbis taught: If a man was walking outside the town and saw a child with a torch in its hands, he makes inquiries about it; if it is an Israelite child, he may say the benediction, but if it is a Gentile he may not. Why does it speak of a child? The same applies even to a grown-up! — Rab Judah said in the name of Rab: We suppose this to happen immediately after sunset. In the case of a grown-up it is obvious that he must be a Gentile.[12] In the case of a child, I can suppose that it is an Israelite child who happened to take hold [of the light].

Our Rabbis taught: If one was walking outside the town at the termination of Sabbath and saw a light, if it is thick like the opening of a furnace he may say the benediction over it,[13] otherwise not. One [authority] states: A benediction may be said over the light of a furnace, while another says that it may not! — There is no contradiction: one speaks of the beginning of the fire, the other of the end.[14] One [authority] teaches: A benediction may be said over the light of an oven or a stove, while another says that it may not, and there is no contradiction: one speaks of the beginning of the fire, the other of the end.[15] One [authority] teaches: The benediction may be said over the light of the synagogue or the Beth ha-Midrash, while another says it may not, and there is no contradiction: one speaks of a case where an eminent man is present,[16] the other of a case where no eminent man is present. Or if you like, I can say that both speak of where an eminent man is present, and there is no contradiction: one speaks of where there is a beadle,[17] and the other of where there is no beadle. Or if you like, I can say that both speak of where there is a beadle, and there is no contradiction; one speaks of where there is moonlight,[18] the other of where there is no moonlight.

Out Rabbis taught: If people were sitting in the Beth ha-Midrash and light was brought in [at the termination of the Sabbath], Beth Shammai say that each one says a blessing over it for himself, while Beth Hillel say that one says a blessing on behalf of all, because it says, In the multitude of people is the King's glory.[19] Beth Hillel at any rate explain their reason; but what is the reason of Beth Shammai? — It is probably to avoid an interruption of study.[20] It has been taught similarly: The members of the household of Rabban Gamaliel did not use to say ‘Good health’[21] in the Beth ha-Midrash so as not to interrupt their study.

A BENEDICTION MAY NOT BE SAID OVER THE LIGHTS OR THE SPICES OF THE DEAD. What is the reason? — The light is kindled only in honour of the dead, the spices are to remove the bad smell. Rab Judah said in the name of Rab: Wherever [the person buried is of such consequence that] a light would be carried before him either by day or by night, we do not say a blessing over the light [if he is buried on the termination of Sabbath];[22] but if he is one before whom a light would be carried only at night, we may say the blessing.[23]

R. Huna said: A blessing is not said over spices used in a privy[24] or oil used for removing grease [from the hands].[25] This implies that wherever [spice] is not used for scent no blessing is said over it. An objection was raised [to this]: If one enters a spice-dealer's shop and smells the fragrance, even though he sits there the whole day he makes only one blessing, but if he is constantly going in and out he makes a blessing each time he enters. Now here is a case where it is not used for smell,[26] and yet one makes a blessing? — In fact it is used for smell, the object being that people should smell and come and make purchases thereof.

Our Rabbis taught: If one was walking outside the town and smelt an odour [of spices], if the majority of the inhabitants are idolaters he does not say a blessing, but if the majority are Israelites he does say a blessing. R. Jose says: Even if the majority are Israelites he does not say a blessing, because the daughters of Israel use incense for witchcraft. Do all of them use incense for witchcraft? — The fact is that a small part is used for witchcraft and a small part for scenting garments, with the result that the greater part of it is not used for smell, and wherever the greater part is not used for smell a blessing is not said over it. R. Hiyya b. Abba said in the name of R. Johanan: If one was walking on the eve of Sabbath in Tiberias, or at the conclusion of Sabbath in Sepphoris, and smelt an odour [of spices], he does not say a blessing, because the probability is that they are being used only to perfume garments. Our Rabbis taught: If one was walking in a street of idolaters and smelt the spices willingly, he is a sinner.

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(1) E.g., a light lit for the sake of a sick person.

(2) I.e., which was lit before Sabbath came in.

(3) Because no Sabbath transgression had been performed with it.

(4) On the termination of Sabbath.

(5) I.e., some forbidden work has been done by its light.

(6) The light being regarded as not having a continuous existence but as consisting of a series of flashes.

(7) E.g., if burning wick is placed in oil in a potsherd so small that the prohibition of carrying on Sabbath does not apply to it.

(8) For transferring from one domain to another on Sabbath, v. Bezah 39a.

(9) Such transference renders liable only when the same object is taken up from its place in one domain and set down in its place in the other. Here the flame which is taken from its place in the house is not the same as is set down outside. The reason therefore why he is liable must be because the flame is in fact considered throughout to be one and the same.

(10) I.e., against the light kindled by a Gentile on Sabbath.

(11) Lit., 'pillar'. The first flame of the light kindled on Sabbath, by the Gentile.

(12) Since a grown-up Israelite would not use a light immediately on the termination of the Sabbath, before saying habdalah.

(13) Because this is a genuine light.

(14) A furnace (of lime burners) is first lit to burn the lime, but afterwards it is kept alight for the purpose of lighting.

(15) The fire is lit for cooking, but afterwards chips are thrown in to give light.

(16) In whose honour the light has been kindled.

(17) Who has his meals in the synagogue.

(18) Which suffices for the beadle, and the light must have been kindled out of respect for an eminent man.

(19) Prov. XIV, 28.

(20) One may be in the middle of a difficult part just at the moment for saying Amen.

(21) To someone who sneezed.

(22) Because the light is carried for his honour.

(23) Because the light is really to give light.

(24) To counteract the bad smell.

(25) This oil contained spices, and the blessing said over it was that for oil and not for spices.

(26) But for sale.

Talmud - Mas. Berachoth 53b

. A BLESSING IS NOT SAID OVER THE LIGHT TILL IT HAS BEEN UTILIZED. Rab Judah said in the name of Rab: This does not mean literally till it has been utilized, but it means a light which can be serviceable if one stands near enough to it, and then even those at a distance [may say the blessing]. So too said R. Ashi: We have learnt that it serves for those at a distance.

An objection was raised: If one had a light hidden in the folds of his dress or in a lamp, or if he could see a flame but could not use its light, or if he could do something by the light but saw no flame, he should not say the blessing; he must both see a flame and be able to use the light. We understand the statement 'he can use its light but sees no flame'; this can happen when the light is in a corner. But how can it happen that he sees the flame and cannot make use of the light? Is it not when he is at a distance? — No; it is when, for instance, the flame keeps on flickering.

Our Rabbis taught: We may say the blessing over glowing coals but not over dying coals. How do you define ‘glowing’? — R. Hisda replied: This means coals from which a chip, if inserted between them, will catch of itself. The question was asked: Is the proper form omemoth or ‘omemoth?[1] — Come and hear: for R. Hisda b. Abdimi quoted the verse, The cedars in the garden of God could not darken [‘amamuhu] it.[2]

Rab, however,[3] said that [the Mishnah means literally] ‘utilize it’. How near must one be? — ‘Ulla said: Near enough to distinguish between an as and a dupondium.[4] Hezekiah said: Near enough to distinguish between a meluzma[5] of Tiberias and one of Sepphoris. Rab Judah used to say the blessing over the light in the house of Adda the waiter.[6] Raba said the blessing over the light in the house of Guria b. Hama.[7] Abaye said it over the light in the house of Bar Abbuha. Rab Judah said in the name of Rab: We do not go looking for a light[8] in the same way as we do in the case of other commandments. R. Zera said: At first I used to go looking for a light. But since hearing this statement of Rab Judah reporting Rab, I also do not look for one, but if one comes my way I say the blessing over it.

IF ONE HAS EATEN etc. R. Zebid, or as some say R. Dimi b. Abba, said: Opinions differ only in the case where one forgot, but if he omitted wilfully he must return to his place and say grace. This is obvious! The Mishnah says ‘HAS FORGOTTEN’? — You might think that the rule is the same even if he did it purposely, and the reason why it says ‘HAS FORGOTTEN’ is to show you how far Beth Shammai are prepared to go. Therefore we are told [that this is not so]. It has been taught: Beth Hillel said to Beth Shammai: according to you, if one ate at the top of the Temple Mount and forgot and descended without having said grace, he should return to the top of the Temple Mount and say grace? Beth Shammai replied to Beth Hillel: According to you, if one forgot a purse at the top of the Temple Mount, is he not to go up and get it? And if he will ascend for his own sake, surely he should do so all the more for the honour of Heaven!

There were once two disciples who omitted to say grace. One who did it accidentally followed the rule of Beth Shammai[9] and found a purse of gold, while the other who did it purposely[10] followed the rule of Beth Hillel,[11] and he was eaten by a lion. Rabbah b. Bar Hanah was once travelling with a caravan, and he took a meal and forgot to say grace. He said to himself: What shall I do? If I say to the others, I have forgotten to say grace, they will say to me, Say it [here]: wherever you say the benediction you are saying it to the All-Merciful. I had better tell them that I have forgotten a golden dove. So he said to them: Wait for me, because I have forgotten a golden dove. He went back and said grace and found a golden dove. Why should it have been just a dove? — Because the community of Israel are compared to a dove, as it is written, The wings of the dove are covered with silver, and her pinions with the shimmer of gold.[12] Just as the dove is saved only by her wings, so Israel are saved only by the precepts.

UNTIL WHEN CAN HE SAY THE GRACE. How long does it take to digest a meal? — R. Johanan said: Until he becomes hungry again; Resh Lakish said: As long as one is thirsty on account of the meal. Said R. Yemar b. Shelemia to Mar Zutra, or, according to others R. Yemar b. Shezbi to Mar Zutra: Can Resh Lakish have said this? Has not R. Ammi said in the name of Resh Lakish: How long does it take to digest a meal? Long enough for one to walk four mil? — There is no contradiction: one statement refers to a light meal, the other to a heavy one.[13]

IF WINE IS SERVED etc. This implies, [if] an Israelite [says the grace],[14] even though one has not heard the whole of it he responds [Amen]. But if he has not heard how can he have performed his duty by doing so?[15] Hiyya b. Rab replied: This applies to one who has not joined in the meal. Similarly said R. Nahman in the name of Rabbah b. Abbuha: It refers to one who has not joined in the meal. Said Rab to his son Hiyya: My son, snatch [the cup of wine] and say grace.[16] And so said R. Huna to his son Rabbah: My son, snatch and say grace. This implies that he who says the grace is superior to one who answers, Amen. But it has been taught: ‘R. Jose says: Greater is he who answers, Amen than he who says the blessing? — Said R. Nehorai to him: I swear to you by heaven that it is so. The proof is that while the common soldiers advance and open the battle, it is the seasoned warriors who go down to win the victory!’ — On this point there is a difference between Tannaim, as it has been taught: Both he who says the blessing and he who answers, Amen are equally implied,[17] only he who says the blessing is more quickly [rewarded] than he who answers, Amen.

Samuel inquired of Rab: Should one respond Amen after [a blessing said by] schoolchildren? — He replied: We respond Amen after everyone except children in school, because they are merely learning. This is the case only when it is not the time for them to say the haftarah;[18] but when it is the time for them to say the haftarah, we respond Amen after them.

Our Rabbis taught: The absence of oil[19] is a bar to the saying of grace. So said R. Zilai. R. Ziwai said: It is no bar. R. Aha said: Good oil is indispensable. R. Zuhamai said: Just as a dirty person is unfit for the Temple service, so dirty hands unfit one for saying grace. R. Nahman b. Isaac said: I know nothing either of Zilai or Ziwai or Zuhamai, but I do know the following teaching, viz.: Rab Judah said in the name of Rab: some say it was taught in a Baraitha, Sanctify yourselves:[20] this refers to washing of the hands before the meal;[21] And be ye holy: this refers to washing of the hands after the meal;[22] ‘For holy’: this refers to the oil; ‘Am I the Lord your God’: this refers to the grace. [

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(1) I.e., does the word translated ‘dying’ commence with an alef or an ‘ayin.

(2) Ezek. XXXI, 8.

(3) This goes back to the statement of Rab Judah in the name of Rab above.

(4) A dupondium was twice the size of an as.

(5) According to Rashi, a weight; according to Jastrow, a stamp of a coin.

(6) Which was some distance away.

(7) Which was quite near.

(8) To say the blessing.

(9) And returned to the place where he forgot, thus following the stricter rule.

(10) Being in a hurry to go somewhere else.

(11) Which applies only to accidental omission.

(12) Ps. LXVIII, 14.

(13) According to Rashi, it takes the time for walking four mil to digest a heavy meal; according to Tosaf., to digest a light one.

(14) V. supra p. 312 n. 1.

(15) He assumes that he is one of the diners, who too must hear the grace.

(16) I.e., seize every opportunity of saying it on behalf of the company.

(17) In the text of Neh. IX, 5, which speaks of those who ‘stand up and bless’, and those who respond ‘Blessed be Thy glorious name’, which is equivalent to Amen, v. infra 63a.

(18) The prophetical reading following the public reading of the Pentateuch on Sabbath and festivals and public fasts.

(19) For cleansing the hands after the meal.

(20) Lev. XI, 44.

(21) Lit., ‘the first water’.

(22) Lit., ‘the latter water’.

Talmud - Mas. Berachoth 54a

CHAPTER IX

MISHNAH. IF ONE SEES A PLACE WHERE MIRACLES HAVE BEEN WROUGHT FOR ISRAEL, HE SHOULD SAY, BLESSED BE HE WHO WROUGHT MIRACLES FOR OUR ANCESTORS IN THIS PLACE. ON SEEING A PLACE FROM WHICH IDOLATRY HAS BEEN EXTIRPATED, HE SHOULD SAY, BLESSED BE HE WHO EXTIRPATED IDOLATRY FROM OUR LAND. [ON WITNESSING] SHOOTING STARS, EARTHQUAKES, THUNDERCLAPS, STORMS AND LIGHTNINGS ONE SHOULD SAY, BLESSED BE HE WHOSE STRENGTH AND MIGHT FILL THE WORLD. ON SEEING MOUNTAINS, HILLS, SEAS, RIVERS AND DESERTS HE SHOULD SAY, BLESSED BE HE WHO WROUGHT CREATION.[1] R. JUDAH SAYS: IF ONE SEES THE GREAT SEA[2] ONE SHOULD SAY, BLESSED BE HE WHO MADE THE GREAT SEA, [THAT IS] IF HE SEES IT AT [CONSIDERABLE] INTERVALS. FOR RAIN AND FOR GOOD TIDINGS ONE SAYS, BLESSED BE HE THAT IS GOOD AND BESTOWS GOOD. FOR EVIL TIDINGS ONE SAYS, BLESSED BE THE TRUE JUDGE. ONE WHO HAS BUILT A NEW HOUSE OR BOUGHT NEW VESSELS SAYS, BLESSED BE HE WHO HAS KEPT US ALIVE AND PRESERVED US AND BROUGHT US TO THIS SEASON. OVER EVIL A BLESSING IS SAID SIMILAR TO THAT OVER GOOD AND OVER GOOD A BLESSING IS SAID SIMILAR TO THAT OVER EVIL,[3] BUT TO CRY OVER THE PAST IS TO UTTER A VAIN PRAYER. IF A MAN'S WIFE IS PREGNANT AND HE SAYS, [GOD] GRANT THAT MY WIFE BEAR A MALE CHILD, THIS A VAIN PRAYER. IF HE IS COMING HOME FROM A JOURNEY AND HE HEARS CRIES OF DISTRESS IN THE TOWN AND SAYS, [GOD] GRANT THAT THIS IS NOT IN MY HOUSE, THIS IS A VAIN PRAYER. ONE WHO [IN THE COURSE OF A JOURNEY] GOES THROUGH A CAPITAL CITY[4] SHOULD SAY TWO PRAYERS, ONE ON ENTERING AND ONE ON LEAVING. BEN AZZAI SAYS, FOUR,[5] TWO ON ENTERING AND TWO ON LEAVING- HE GIVES THANKS FOR PAST MERCIES AND SUPPLICATES FOR THE FUTURE. IT IS INCUMBENT ON A MAN TO BLESS [GOD] FOR THE EVIL IN THE SAME WAY AS FOR THE GOOD, AS IT SAYS, AND THOU SHALT LOVE THE LORD THY GOD WITH ALL THY HEART ETC.[6] ‘WITH ALL THY HEART, MEANS WITH THY TWO IMPULSES, THE EVIL IMPULSE AS WELL AS THE GOOD IMPULSE; ‘WITH ALL THY SOUL’ MEANS, EVEN THOUGH HE TAKES THY SOUL [LIFE]; ‘WITH ALL THY MIGHT’ MEANS, WITH ALL THY MONEY. ANOTHER EXPLANATION OF ‘WITH ALL THY MIGHT [ME'ODEKA]’ IS, WHATEVER TREATMENT[7] HE METES OUT TO THEE.

ONE SHOULD AVOID SHOWING DISRESPECT TO THE EASTERN GATE[8] BECAUSE IT IS IN A DIRECT LINE WITH THE HOLY OF HOLIES.[9] A MAN SHOULD NOT ENTER THE TEMPLE MOUNT WITH HIS STAFF OR WITH HIS SHOES ON OR WITH HIS WALLET OR WITH HIS FEET DUST-STAINED; NOR SHOULD HE MAKE IT A SHORT CUT [KAPPANDARIA], AND SPITTING [ON IT IS FORBIDDEN] A FORTIORI.

AT THE CONCLUSION OF THE BENEDICTIONS SAID IN THE TEMPLE THEY USED AT FIRST TO SAY SIMPLY, ‘FOR EVER’.[10] WHEN THE SADDUCEES PERVERTED THEIR WAYS AND ASSERTED THAT THERE WAS ONLY ONE WORLD, IT WAS ORDAINED THAT THE RESPONSE SHOULD BE, FROM EVERLASTING TO EVERLASTING.[11] IT WAS ALSO LAID DOWN THAT GREETING SHOULD BE GIVEN IN [GOD'S] NAME,[12] IN THE SAME WAY AS IT SAYS, AND BEHOLD BOAZ CAME FROM BETHLEHEM AND SAID UNTO THE REAPERS, THE LORD BE WITH YOU; AND THEY ANSWERED HIM, THE LORD BLESS THEE;[13] AND IT ALSO SAYS,THE LORD IS WITH THEE,THOU MIGHTY MAN OF VALOUR;[14] AND IT ALSO SAYS, AND DESPISE NOT THY MOTHER WHEN SHE IS OLD;[15] AND IT ALSO SAYS, IT IS TIME TO WORK FOR THE LORD; THEY HAVE MADE VOID THY LAW.[16] R. NATHAN SAYS: [THIS MEANS] THEY HAVE MADE VOID THY LAW BECAUSE IT IS TIME TO WORK FOR THE LORD.

GEMARA. Whence is this rule[17] derived?-R. Johanan said: Because Scripture says, And Jethro said, Blessed be the Lord who hath delivered you, etc.[18] And is a blessing said only for a miracle wrought for a large body, but not for one wrought for an individual? What of the case of the man Who was once travelling through Eber Yemina[19] when a lion attacked him, but he was miraculously saved,and when he came before Raba he said to him, Whenever you pass that place say, Blessed be He who wrought for me a miracle in this place? There was the case, too, of Mar the son of Rabina who was once going through the valley of ‘Araboth[20] and was suffering from thirst and a well of water was miraculously created for him and he drank, and another time he was going through the manor of Mahoza[21] when a wild camel attacked him and at that moment the wall of a house just by fell in and he escaped inside; and whenever thereafter he came to ‘Araboth he used to say, Blessed be He who wrought for me miracles in ‘Araboth and with the camel, and when he passed through the manor of Mahoza he used to say, Blessed be He who wrought for me miracles with the camel and in ‘Araboth?-The answer [is that] for a miracle done to a large body it is the duty of everyone to say a blessing, for a miracle done to an individual he alone[22] is required to say a blessing.

Our Rabbis taught: If one sees the place of the crossing of the Red Sea, or the fords of the Jordan, or the fords of the streams of Arnon, or hail stones [abne elgabish] in the descent of Beth Horon, or the stone which Og king of Bashan wanted to throw at Israel, or the stone on which Moses sat when Joshua fought with Amalek, or [the pillar of salt of] Lot's wife,[23] or the wall of Jericho which sank into the ground,[24] for all of these he should give thanksgiving and praise to the Almighty. I grant you the passage of the Red Sea, because it is written, And the children of Israel went into the midst of the sea upon the dry ground;[25] also the fords of the Jordan, because it is written, And the priests that bore the ark of the covenant of the Lord stood firm on dry ground in the midst of the Jordan, while all Israel passed over on dry ground, until all the nation were passed clean over the Jordan.[26] But whence is the title derived for the fords of the streams of Arnon? — Because it is written: Wherefore it is said in the book of the Wars of the Lord, Eth and Heb in the rear;[27] [in explanation of which] a Tanna taught: ‘Eth and Heb in the rear’ were two lepers who followed in the rear of the camp of Israel, and when the Israelites were about to pass through [the valley of Arnon] the Amorites came

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(1) Var. lec.: who fashions the work of creation.

(2) Generally taken to refer to the Mediterranean Sea.

(3) This is explained in the Gemara.

(4) The residence of a governor or ruler.

(5) As explained in the Gemara.

(6) Deut. VI, 5.

(7) Heb. Lit., ‘measure’; Heb. middah, a play on me'odeka.

(8) Of the Temple Mount.

(9) I.e., a direct line led from it through the other gates up to the inner shrine.

(10) Heb. le'olam, which can also mean ‘for the world’.

(11) Or ‘from world to world’, i.e., two worlds.

(12) I.e., the Tetragrammaton, although this might appear to be breaking the third commandment. The reason of this ordinance is not certain. Marmorstein, The Old Testament Conception of God, etc. I, pp. 24ff conjectures this to have been designed to counteract the Hellenistic teaching that God had no name.

(13) Ruth 11, 4.

(14) Judg. VI, 12.

(15) Prov. XXIII, 22.

(16) In time of emergency the law of God may be set aside. Ps. CXIX, 126. E.V. ‘for the Lord to work’. The relevance of these citations is explained in the Gemara.

(17) Of saying a blessing over a miracle.

(18) Ex. XVIII, 10.

(19) Lit., ‘the south side’. The southern suburb of Mahoza, v. Obermeyer, p. 181.

(20) Between the river Chabor and the canal of Is.

(21) Rostaka di Mahoza, v. Obermeyer, p. 172.

(22) Alfasi adds, His son and his son's son.

(23) V. Gen. XIX, 26.
(24) Lit., ‘was swallowed in its place’.
(25) Ex. XIV, 22.
(26) Josh. III, 17.
(27) Num. XXI, 14. E.V. ‘Vahab in Suphah’.

Talmud - Mas. Berachoth 54b

and made cavities [in the rocks] and hid in them, saying, When Israel pass by here we will kill them. They did not know, however, that the Ark Was advancing in front of Israel and levelling the hills before them. When the Ark arrived there, the mountains closed together and killed them, and their blood flowed down to the streams of Arnon. When Eth and Heb came they saw the blood issuing from between the rocks[1] and they went and told the Israelites, who thereupon broke out into song. And so it is written, And he poured forth the streams[2] [from the mountain] which inclined toward the seat of Ar[3] and leaned upon the border of Moab.[4] ‘Hailstones [abne elgabish]’. What are ‘abne elgabish’? A Tanna taught: Stones [abanim] which remained suspended for the sake of a man [‘al gab ish] and came down for the sake of a man. ‘They remained suspended for the sake of a man’: this was Moses, of whom it is written, Now the man Moses was very meek,[5] and it is also written, And the soldiers and hail ceased, and the rain poured not upon the earth.[6] ‘They came down for the sake of a man’: this was Joshua, of whom it is written, Take thee Joshua the son of Nun, a man in whom there is spirit,[7] and it is written, And it came to pass as they fled from before Israel, while they were at the descent of Beth-Horon, that the Lord cast down great stones.[8]

‘The stone which Og, king of Bashan wanted to throw at Israel’. This has been handed down by tradition. He said: How large is the camp of Israel? Three parasangs. I will go and uproot a mountain of the size of three parasangs and cast it upon them and kill them. He went and uprooted a mountain of the size of three parasangs and carried it on his head. But the Holy One, blessed be He, sent ants which bored a hole in it, so that it sank around his neck. He tried to pull it off, but his teeth projected on each side, and he could not pull it off. This is referred to in the text, Thou hast broken the teeth of the wicked,[9] as explained by R Simeon b. Lakish. For R. Simeon b. Lakish said: What is the meaning of the text, Thou hast broken the teeth of the wicked? Do not read, shibbarta [Thou hast broken], but shirbabta [Thou hast lengthened]. The height of Moses was ten cubits.[10] He took an axe ten cubits long, leapt ten cubits into the air, and struck him on his ankle and killed him.

‘The stone on which Moses sat’. As it is written, But Moses’ hands were heavy; and they took a stone and put it under hint and he sat thereon.[11] ‘Lot's wife’. As it says, But his wife looked back from behind him and she became a pillar of salt.[12]

‘And the wall of Jericho which sank into the ground’. As it is written, And the wall fell down flat.[13]

We understand [why this blessing should be said over] all the others, because they are miracles, but the transformation of Lot's wife was a punishment. One should say on seeing it, Blessed be the true Judge,[14] yet [the Baraitha] says: ‘Thanksgiving and praise’? — Read: ‘For Lot and his wife two blessings are said. For his wife we say, "Blessed be the true Judge", and for Lot we say, "Blessed be He who remembereth the righteous"’. R. Johanan said: Even in the hour of His anger the Holy One, blessed be He, remembers the righteous, as it says, And it came to pass when God destroyed the cities of the Plain, that God remembered Abraham and sent Lot out of the midst of the overthrow.[15]

‘And the wall of Jericho which sank [into the ground]’. But did the wall of Jericho sink [into the ground]? Surely it fell, as it says, And it came to pass when the people heard the sound of the horn, that the people shouted with a great shout and the wall fell down flat?[16] — Since its breadth and its height were equal, it must have sunk [into the ground].[17]

Rab Judah said in the name of Rab: There are four [classes of people] who have to offer thanksgiving: those who have crossed the sea, those who have traversed the wilderness, one who has recovered from an illness, and a prisoner who has been set free. Whence do we know this of those who cross the sea? — Because it is written, They that go down to the sea in ships . . . . these saw the works of the Lord . . . . He raised the stormy wind . . . . they mounted up to the heaven, they went down to the deeps . . . . they reeled to and fro and staggered like a drunken man . . . . they cried unto the Lord in their trouble, and He brought them out of their distresses. He made the storm a calm . . . . then were they glad because they were quiet . . . . Let them give thanks unto the Lord for His mercy, and for His wonderful works to the children of men.[18] Whence for those who traverse the desert? — Because it is written: They wandered in the wilderness in a desert way; they found no city of habitation . . . . Then they cried unto the Lord . . . . and He led them by a straight way . . . . Let them give thanks unto the Lord for His mercy.[19] Whence for one who recovers from an illness? — Because it is written: Crazed because of the way of their transgressions and afflicted because of their iniquities, their soul abhorred all manner of food . . . . They cried unto the Lord in their trouble. He sent His word unto them . . . . Let them give thanks unto the Lord for His mercy.[20] Whence for a prisoner who was set free? — Because it is written: Such as sat in darkness and in the shadow of death . . . . Because they rebelled against the words of God . . . . Therefore He humbled their heart with travail . . . . They cried unto the Lord in their trouble . . . . He brought them out of darkness and the shadow of death . . . . Let them give thanks unto the Lord for His mercy.[21] What blessing should he say? Rab Judah said: ‘Blessed is He who bestows lovingkindnesses’. Abaye said: And he must utter his thanksgiving in the presence of ten, as it is written: Let them exalt Him in the assembly of the people.[22] Mar Zutra said: And two of them must be rabbis, as it says, And praise Him in the seat of the elders.[23] R. Ashi demurred to this: You might as well say [he remarked], that all should be rabbis! — Is it written, ‘In the assembly of elders’? It is written, ‘In the assembly of the people’! — Let us say then, in the presence of ten ordinary people and two rabbis [in addition]? — This is a difficulty.

Rab Judah was ill and recovered. R. Hanna of Bagdad and other rabbis went to visit him. They said to him: ‘Blessed be the All Merciful who has given you back to us and has not given you to the dust’. He said to them: ‘You have absolved me from the obligation of giving thanks’. But has not Abaye said that he must utter his thanksgiving in the presence of ten! — There were ten present. But he did not utter the thanksgiving? — There was no need, as he answered after them, Amen. Rab Judah said: Three persons require guarding,[24] namely, a sick person, a bridegroom, and a bride. In a Baraitha it was taught: A sick person, a midwife, a bridegroom and a bride; some add, a mourner, and some add further, scholars at night-time.

Rab Judah said further: There are three things the drawing out of which prolongs a man's days and years; the drawing out of prayer, the drawing out of a meal, and the drawing out of [easing in] a privy. But is the drawing out of prayer a merit? Has not R. Hiyya b. Abba said in the name of R. Johanan:

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(1) Lit., ‘mountains’. After they had opened out again.

(2) E.V. ‘and the slope of the valleys’.

(3) I.e., Moab.

(4) Ibid. 15.

(5) Num. XII, 3.

(6) Ex. IX, 33.

(7) Num. XXVII, 18.

(8) Josh. X, 11.

(9) Ps. III, 8.

(10) About fifteen feet.

(11) Ex. XVII, 12. MS.M adds: ‘Had not Moses a cushion or bolster to sit upon? Moses said to himself: Since Israel are suffering, I will suffer with them’; v. Ta'an. 11a.

(12) Gen. XIX, 26.

(13) Josh. VI, 20. This sentence is obviously out of place and should be transferred to the next paragraph.

(14) The formula recited on hearing bad news.

(15) Gen. XIX, 29.

(16) Josh. VI, 20.

(17) To enable the people to enter the city. According to Rashi this is also signified by the word translated ‘flat’, which means literally ‘under it’ or ‘in its place’.

(18) Ps, CVII, 23-31.

(19) Ibid. 4-8.

(20) Ibid. 17-21.

(21) Ibid. 10-15.

(22) Ibid. 32.

(23) Ibid.

(24) Against evil spirits (Rashi).

Talmud - Mas. Berachoth 55a

If one draws out his prayer and expects therefore its fulfilment, he will in the end suffer vexation of heart, as it says, Hope deferred maketh the heart sick;[1] and R. Isaac also said: Three things cause a man's sins to be remembered [on high], namely, [passing under] a shaky wall,[2] expectation of [the fulfilment of] prayer, and calling on heaven to punish his neighbour?[3] — There is no contradiction; one statement speaks of a man who expects the fulfilment of his prayer, the other of one who does not count upon it. What then does he do? — He simply utters many supplications. ‘He who draws out his meal’, because perhaps a poor man will come and he will give him something, as it is written, The altar of wood three cubits high . . . . and he said to me, This is the table that is before the Lord[4] [Now the verse] opens with ‘altar’ and finishes with ‘table’? R. Johanan and R. Eleazar both explain that as long as the Temple stood, the altar atoned for Israel, but now a man's table atones for him. ‘To draw out one's stay in a privy’, is this a good thing? Has it not been taught: Ten things bring on piles; eating the leaves of reeds, and the leaves of vines, and the sprouts of vines, and the rough parts of the flesh of an animal,[5] and the backbone of a fish, and salted fish not sufficiently cooked, and drinking wine lees, and wiping oneself with lime, potters’ clay or pebbles which have been used by another. Some add, to strain oneself unduly in a privy! — There is no contradiction: one statement refers to one who stays long and strains himself, the other to one who stays long without straining himself. This may be illustrated by what a certain matron said to R. Judah b. R. Ila'i: Your face is [red] like that of pig-breeders and usurers,[6] to which he replied: On my faith, both [occupations] are forbidden me, but there are twenty-four privies between my lodging and the Beth ha-Midrash, and when I go there I test myself in all of them.[7]

Rab Judah also said:[8] Three things shorten a man's days and years: To be given a scroll of the Law to read from and to refuse, to be given a cup of benediction to say grace over and to refuse, and to assume airs of authority. ‘To be given a scroll of the Law to read from and to refuse’, as it is written: For that is thy life and the length of thy days.[9] ‘To be given a cup of benediction to say grace over and to refuse’, as it is written: I will bless them that bless thee.[10] ‘To assume airs of authority’, as R. Hama b. Hanina said: Why did Joseph die before his brethren?[11] Because he assumed airs of authority.

Rab Judah also said in the name of Rab: There are three things for which one should supplicate: a good king, a good year, and a good dream.[12] ‘A good king’, as it is written: A king's heart is in the hands of the Lord as the water-courses.[13] ‘A good year’, as it is written: The eyes of the Lord thy

God are always upon it, from the beginning of the year even unto the end of the year.[14] ‘A good dream’, as it is written; Wherefore cause Thou me to dream[15] and make me to live.[16]

R. Johanan said: There are three things which the Holy One, blessed be He, Himself proclaims, namely, famine, plenty, and a good leader. ‘Famine’, as it is written: The Lord hath called for a famine.[17] ‘Plenty’, as it is written: I will call for the corn and will increase it.[18] ‘A good leader’, as it is written: And the Lord spoke unto Moses, saying, See I have called by name Bezalel, the son of Uri.[19]

R. Isaac said: We must not appoint a leader over a Community without first consulting it, as it says: See, the Lord hath called by name Bezalel, the son of Uri.[20] The Holy One, blessed be He, said to Moses: Do you consider Bezalel suitable? He replied: Sovereign of the Universe, if Thou thinkest him suitable, surely I must also! Said [God] to him: All the same, go and consult them. He went and asked Israel: Do you consider Bezalel suitable? They replied: If the Holy One, blessed be He, and you consider him suitable, surely we must!

R. Samuel b. Nahmani said in the name of R. Johanan: Bezalel was so called on account of his wisdom. At the time when the Holy One, blessed be He, said to Moses; Go and tell Bezalel to make me a tabernacle, an ark and vessels,[21] Moses went and reversed the order, saying, Make an ark and vessels and a tabernacle. Bezalel said to him: Moses, our Teacher, as a rule a man first builds a house and then brings vessels into it; but you say, Make me an ark and vessels and a tabernacle. Where shall I put the vessels that I am to make? Can it be that the Holy One, blessed be He, said to you, Make a tabernacle, an ark and vessels? Moses replied: Perhaps you were in the shadow of God[22] and knew!

Rab Judah said in the name of Rab: Bezalel knew how to combine the letters by which the heavens and earth were created.[23] It is written here, And He hath filled him with the spirit of God, in wisdom and in understanding, and in knowledge,[24] and it is written elsewhere, The Lord by wisdom founded the earth; by understanding He established the heavens,[25] and it is also written, By His knowledge the depths were broken up.[26]

R. Johanan said: The Holy One, blessed be He, gives wisdom only to one who already has wisdom, as it says, He giveth wisdom unto the wise, and knowledge to them that know understanding.[27] R. Tahlifa from the West[28] heard and repeated it before R. Abbahu. He said to him: You learn it from there, but we learn it from this text, namely, In the hearts of all that are wise-hearted I have put wisdom.[29]

R. Hisda said: Any dream rather than one of a fast.[30] R. Hisda also said: A dream which is not interpreted is like a letter which is not read.[31] R. Hisda also said: Neither a good dream nor a bad dream is ever wholly fulfilled. R. Hisda also said: A bad dream is better than a good dream.[32] R. Hisda also said: The sadness caused by a bad dream is sufficient for it and the joy which a good dream gives is sufficient for it.[33] R. Joseph said: Even for me[34] the joy caused by a good dream nullifies it. R. Hisda also said: A bad dream is worse than scourging, since it says, God hath so made it that men should fear before Him,[35] and Rabbah b. Bar Hanah said in the name of R. Johanan: This refers to a bad dream.

A prophet that hath a dream let him tell a dream: and he that hath My word let him speak My word faithfully. What hath the straw to do with the wheat, saith the Lord.[36] What is the connection of straw and wheat with a dream? The truth is, said R. Johanan in the name of R. Simeon b. Yohai, that just as wheat cannot be without straw, so there cannot be a dream without some nonsense. R. Berekiah said: While a part of a dream may be fulfilled, the whole of it is never fulfilled. Whence do we know this? From Joseph, as it is written, And behold the sun and the moon [and eleven stars bowed down to me,][37] and

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(1) Prov, XIII, 12. Cf. 32b, p. 200.
(2) Which is, as it were, tempting Providence.
(3) Which is a mark of selfrighteousness. Lit., 'surrendering the case against his fellow to heaven'.
(4) Ezek. XLI, 22.
(5) E.g., the palate. Lit., 'threshing-sledge'.
(6) Who were notoriously good livers.
(7) Cf. Ned. 49b.
(8) We should probably add, 'In the name of Rab'.
(9) Deut. XXX, 20.
(10) Gen. XII, 3. The one who says grace blesses his host.
(11) As we learn from Ex. I, 6: 'And Joseph died and (then) all his brethren'.
(12) These things depending directly upon the will of God.
(13) prov. XXI, 1.
(14) Deut. XI, 12.
(15) E.V. 'Recover Thou me'. The Talmud, however, connects the word in the text tahalimeni with halom, a dream.
(16) Isa. XXXVIII, 16.
(17) II Kings VIII, 1.
(18) Ezek. XXXVI, 29.
(19) Ex. XXXI, 1.
(20) Ibid. XXXV, 30.
(21) This is the order in Ex. XXXI, 7.
(22) Heb. bezel el.
(23) The Kabbalah assigns mystic powers to the letters of the Hebrew alphabet.
(24) Ibid. XXXV, 31.
(25) prov. III, 19.
(26) Ibid. 20.
(27) Dan. II, 21.
(28) I.e., palestine.
(29) Ex. XXXI, 6. It was preferable to learn it from a text of the Pentateuch.
(30) I.e., to dream oneself fasting. So Rashi. The Aruch, however, explains: There is reality in every dream save one that comes in a fast.
(31) Compare the dictum infra, 'A dream follows its interpretation
(32) Because it incites one to repentance.
(33) I.e., there is no need for them to be fulfilled.
(34) R. Joseph was blind, and consequently could not derive so much pleasure from a dream.
(35) Eccl. III, 14.
(36) Jer. XXIII, 28.
(37) Gen. XXXVII, 9.

Talmud - Mas. Berachoth 55b

at that time his mother was not living. R. Levi said: A man should await the fulfilment of a good dream for as much as twenty-two years. Whence do we know this? From Joseph. For it is written: These are the generations of Jacob. Joseph being seventeen years old, etc.;[1] and it is further written, And Joseph was thirty years old when he stood before Pharaoh.[2] How many years is it from seventeen to thirty? Thirteen. Add the seven years of plenty and two of famine,[3] and you have twenty-two.

R. Huna said: A good man is not shown a good dream, and a bad man is not shown a bad dream.[4] It has been taught similarly; David, during the whole of his lifetime, never saw a good dream and

Ahitophel, during the whole of his lifetime, never saw a bad dream. But it is written, There shall no evil befall thee,[5] and R. Hisda said, in the name of R. Jeremiah: this means that you will not be disturbed either by bad dreams or by evil thoughts, neither shall any plague come nigh thy tent[5] . . . . i.e., thou shalt not find thy wife doubtfully menstruous when thou returnest from a journey? — Though he does not see an evil dream, others see one about him. But if he does not see one, is this considered an advantage? Has not R. Ze'ira said: If a man goes seven days without a dream he is called evil, since it says, He shall abide satisfied, he shall not be visited by evil?[6] — Read not sabe'a [satisfied] but [seven] sheba'.[7] What he means is this: He sees, but he does not remember what he has seen.

R. Huna b. Ammi said in the name of R. Pedath who had it from R. Johanan: If one has a dream which makes him sad he should go and have it interpreted in the presence of three. He should have it interpreted! Has not R. Hisda said: A dream which is not interpreted is like a letter which is not read?[8] — Say rather then, he should have a good turn given to it in the presence of three. Let him bring three and say to them: I have seen a good dream; and they should say to him, Good it is and good may it be. May the All-Merciful turn it to good; seven times may it be decreed from heaven that it should be good and may it be good. They should say three verses with the word hapak [turn], and three with the word padah [redeem] and three with the word shalom [peace]. Three with the word 'turn', namely (i) Thou didst turn for me my mourning into dancing, Thou didst loose my sackcloth and gird me with gladness;[9] (ii) Then shall the virgin rejoice in the dance, and the young men and the old together; for I will turn their mourning into joy and will comfort them and make them rejoice from their sorrow;[10] (iii) Nevertheless the Lord thy God would not hearken unto Balaam; but the Lord thy God turned the curse into a blessing unto thee.[11] Three verses with the word 'redeem', namely, (i) He hath redeemed my soul in peace, so that none came nigh me;[12] (ii) And the redeemed of the Lord shall return and come with singing unto Zion . . . . and sorrow and sighing shall flee away;[13] (iii) And the people said unto Saul, Shall Jonathan die who hath wrought this great salvation in Israel? . . . . So the people redeemed Jonathan that he died not.[14] Three verses with the word 'peace', namely, (i) Peace, peace, to him that is far off and to him that is near, saith the Lord that createth the fruit of the lips; and I will heal him;[15] (ii) Then the spirit clothed Amasai who was chief of the captains: Thine are we, David, and on thy side, thou son of Jesse: Peace, peace, be unto thee and peace be to thy helpers, for thy God helpeth thee;[16] (iii) Thus ye shall say: All hail! and peace be both unto thee, and peace be to thy house, and peace be unto all that thou hast.[17]

Amemar, Mar Zutra and R. Ashi were once sitting together. They said: Let each of us say something which the others have not heard. One of them began: If one has seen a dream and does not remember what he saw, let him stand before the priests at the time when they spread out their hands,[18] and say as follows: 'Sovereign of the Universe, I am Thine and my dreams are Thine. I have dreamt a dream and I do not know what it is. Whether I have dreamt about myself or my companions have dreamt about me, or I have dreamt about others, if they are good dreams, confirm them and reinforce them[19] like the dreams of Joseph, and if they require a remedy, heal them, as the waters of Marah were healed by Moses, our teacher, and as Miriam was healed of her leprosy and Hezekiah of his sickness, and the waters of Jericho by Elisha. As thou didst turn the curse of the wicked Balaam into a blessing, so turn all my dreams into something good for me'.[20] He should conclude his prayer along with the priests, so that the congregation may answer, Amen! If he cannot manage this,[21] he should say: Thou who art majestic on high, who abidest in might, Thou art peace and Thy name is peace. May it be Thy will to bestow peace on us.

The second commenced and said: If a man on going into a town is afraid of the Evil Eye,[22] let him take the thumb of his right hand in his left hand and the thumb of his left hand in his right hand, and say: I, so-and-so, am of the seed of Joseph over which the evil eye has no power, as it says: Joseph is a fruitful vine, a fruitful vine by a fountain.[23] Do not read 'ale 'ayin [by a fountain] but 'ole 'ayin [overcoming the evil eye]. R. Jose b. R. Hanina derived it from here: And let them grow into a multitude [weyidgu] in the midst of the earth;[24] just as the fishes [dagim] in the sea are covered by the waters and the evil eye has no power over them so the evil eye has no power over the seed of Joseph.[25] If he is afraid of his own evil eye, he should look at the side of his left nostril.

The third commenced and said: If a man falls ill, the first day he should not tell anyone, so that he should not have bad luck; but after that he may tell. So when Raba fell ill, on the first day he did not tell anyone, but after that he said to his attendant: Go and announce that Raba is ill. Whoever loves him, let him pray for him, and whoever hates him, let him rejoice over him; for it is written: Rejoice not when thine enemy falleth, and let not thy heart be glad when he stumbleth, lest the Lord see it and it displease Him and He turn away His wrath from him.[26]

When Samuel had a bad dream, he used to say, The dreams speak falsely.[27] When he had a good dream, he used to say, Do the dreams speak falsely, seeing that it is written, I [God] do speak with him in a dream?[28] Raba pointed out a contradiction. It is written, ‘I do speak with him in a dream’, and it is written, ‘the dreams speak falsely’. — There is no contradiction; in the one case it is through an angel, in the other through a demon.

R. Bizna b. Zabda said in the name of R. Akiba who had it from R. Panda who had it from R. Nahum, who had it from R. Biryam reporting a certain elder — and who was this? R. Bana'ah: There were twenty-four interpreters of dreams in Jerusalem. Once I dreamt a dream and I went round to all of them and they all gave different interpretations, and all were fulfilled, thus confirming that which is said: All dreams follow the mouth.[29] Is the statement that all dreams follow the mouth Scriptural?[30] Yes, as stated by R. Eleazar. For R. Eleazar said: Whence do we know that all dreams follow the mouth? Because it says, and it came to pass, as he interpreted to us, so it was.[31] Raba said: This is only if the interpretation corresponds to the content of the dream: for it says, to each man according to his dream he did interpret.[32] When the chief baker saw that the interpretation was good.[33] How did he know this? R. Eleazar says: This tells us that each of them was shown his own dream and the interpretation of the other one's dream.[34]

R. Johanan said: If one rises early and a Scriptural verse comes to his mouth,[35] this is a kind of minor prophecy. R. Johanan also said: Three kinds of dream are fulfilled: an early morning dream, a dream which a friend has about one, and a dream which is interpreted in the midst of a dream. Some add also, a dream which is repeated, as it says, and for that the dream was doubled unto Pharoah twice, etc.[36]

R. Samuel b. Nahmani said in the name of R. Jonathan: A man is shown in a dream only what is suggested by his own thoughts, as it says, As for thee, Oh King, thy thoughts came into thy mind upon thy bed.[37] Or if you like, I can derive it from here: That thou mayest know the thoughts of the heart.[38] Raba said: This is proved by the fact that a man is never shown in a dream a date palm of gold, or an elephant going through the eye of a needle.[39]

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(1) Ibid. 2.

(2) Gen. XLI, 46.

(3) After which Joseph saw his brothers.

(4) Rashi reads: A good man is shown a bad dream and a bad man is shown a good dream. The purpose is to turn the good man to repentance and to give the bad man his reward in this world.

(5) Ps. XCI, 10.

(6) Prov. XIX, 23.

(7) And translate: If he abides seven nights without being visited, it is evil.

(8) And therefore what harm can it do?

(9) Ps. XXX, 12.

(10) Jer. XXXI, 13.

(11) Deut. XXIII, 6.
(12) Ps, LV, 19.
(13) Isa. XXXV, 10.
(14) I Samuel XIV, 45.
(15) Isa. LVII, 19.
(16) I Chron. XII, 19.
(17) I Sam. XXV, 6.
(18) To say the priestly benediction.
(19) Var. lec. adds here the words: And may they be fulfilled.
(20) This prayer is included in the prayer books and recited in some congregations between each of the three blessings constituting the priestly benediction, whether they have dreamt or not.
(21) I.e., he is unable to finish it together with the priests. Var. lec.: When the priests (at the conclusion of the benediction) turn their faces (to the ark).
(22) I.e., his own sensual passions.
(23) Gen. XLIX, 22.
(24) Ibid. XLVIII, 16.
(25) V. supra p. 120, nn. 9 and 10.
(26) Prov. XXiv, 17.
(27) Zech. X, 2.
(28) Num. XII, 6.
(29) ‘Mouth’ here seems to have the sense of interpretation.
(30) As the formula ‘thus confirming’ etc., would seem to imply.
(31) Gen. XLI, 13.
(32) Ibid. 12.
(33) Ibid. XL, 16.
(34) R. Eleazar stresses the word ‘saw’.
(35) I.e., either he spontaneously utters it, or he hears a child repeating it.
(36) Ibid. XLI, 32.
(37) Dan. II, 29.
(38) Ibid. 30.
(39) Because he never thinks of such things.

Talmud - Mas. Berachoth 56a

The Emperor [of Rome][1] said to R. Joshua b. R. Hananyah: You [Jews] profess to be very clever. Tell me what I shall see in my dream. He said to him: You will see the Persians[2] making you do forced labour, and despoiling you and making you feed unclean animals with a golden crook. He thought about it all day, and in the night he saw it in his dream.[3] King Shapor [I] once said to Samuel: You [Jews] profess to be very clever. Tell me what I shall see in my dream. He said to him: You will see the Romans coming and taking you captive and making you grind date-stones in a golden mill. He thought about it the whole day and in the night saw it in a dream.

Bar Hedya was an interpreter of dreams. To one who paid him he used to give a favourable interpretation and to one who did not pay him he gave an unfavourable interpretation. Abaye and Raba each had a dream. Abaye gave him a zuz, and Rab did not give him anything, They said to him: In our dream we had to read the verse, Thine ox shall be slain before thine eyes,[4] etc. To Raba he said: Your business will be a failure, and you will be so grieved that you will have no appetite to eat. To Abaye he said: Your business will prosper, and you will not be able to eat from sheer joy. They then said to him: We had to read in our dream the verse, Thou shalt beget sons and daughters but they shall not be thine,[5] etc. To Raba he interpreted it in its [literal] unfavourable sense. To Abaye he said: You have numerous sons and daughters, and your daughters will be married and go away, and it will seem to you as if they have gone into captivity. [They said to him:] We were made to read the verse: Thy sons and thy daughters shall be given unto another people.[6] To Abaye he said: You have numerous sons and daughters; you will want your daughters to marry your relatives, and your wife will want them to marry her relatives, and she will force you to marry them to her relatives, which will be like giving them to another people. To Raba he said: Your wife will die, and her sons and daughters will come under the sway of another wife. (For Raba said in the name of R. Jeremiah b. Abba, reporting Rab: What is the meaning of the verse: ‘Thy sons and thy daughters shall be given to another people’? This refers to a step-mother.) [They further said]: We were made to read in our dream the verse, Go thy way, eat thy bread with joy, etc.[7] To Abaye he said: Your business will prosper, and you will eat and drink, and recite this verse out of the joy of your heart. To Raba he said: Your business will fail, you will slaughter [cattle] and not eat or drink and you will read Scripture to allay your anxiety. [They said to him]: We were made to read the verse, Thou shalt carry much seed out into the field, [and shalt gather little in, for the locusts will consume it].[8] To Abaye he interpreted from the first half of the verse; to Raba from the second half. [They said to him:] We were made to read the verse, Thou shalt have olive trees throughout all thy borders, [but thou shalt not anoint thyself, etc.][9] To Abaye he interpreted from the first half of the verse; to Raba from the second half. [They said to him:] We were made to read the verse: And all the peoples of the earth shall see that the name of the Lord is called upon thee, etc.[10] To Abaye he said: Your name will become famous as head of the college, and you will be generally feared. To Raba he said: The King's treasury[11] will be broken into, and you will be arrested as a thief, and everyone will draw an inference from you.[12] The next day the King's treasury was broken into and they came and arrested Raba: They said to him: We saw a lettuce on the mouth of a jar. To Abaye he said: Your business will be doubled like a lettuce. To Raba he said: Your business will be bitter like a lettuce. They said to him: We saw some meat on the mouth of a jar. To Abaye he said: Your wine will be sweet, and everyone will come to buy meat and wine from you. To Raba, he said: Your wine will turn sour, and everyone will come to buy meat to eat with it.[13] They said: We saw a cask hanging on a palm tree. To Abaye he said: Your business will spring up like a palm tree. To Raba he said: Your goods will be sweet like dates.[14] They said to him: We saw a pomegranate sprouting on the mouth of a jar. To Abaye he said: Your goods will be high-priced like a pomegranate. To Raba he said: Your goods will be stale like a [dry] pomegranate. They said to him: We saw a cask fall into a pit. To Abaye he said: Your goods will be in demand according to the saying: The pu'ah[15] has fallen into a well and cannot be found.[16] To Raba he said: Your goods will be spoilt and they will be thrown into a pit. They said to him: We saw a young ass standing by our pillow and braying. To Abaye he said: You will become a king,[17] and an Amora[18] will stand by you. To Raba he said: The words ‘The first-born of an ass’[19] have been erased from your tefillin. Raba said to him: I have looked at them and they are there. He replied to him: Certainly the waw of the word hamor [ass] has been erased from your tefillin.[20]

Subsequently Raba went to him by himself and said to him: I dreamt that the outer door fell. He said to him: Your wife will die. He said to him: I dreamt that my front and back teeth fell out. He said to him: Your sons and your daughters will die. He said: I saw two pigeons flying. He replied: You will divorce two wives.[21] He said to him: I saw two turnip-tops.[22] He replied: You will receive two blows with a cudgel. On that day Raba went and sat all day in the Beth ha-Midrash. He found two blind men quarrelling with one another. Raba went to separate them and they gave him two blows. They wanted to give him another blow but he said, Enough! I saw in my dream only two.

Finally Raba went and gave him a fee. He said to him: I saw a wall fall down. He replied: You will acquire wealth without end. He said: I dreamt that Abaye's villa fell in and the dust of it covered me. He replied to him: Abaye will die and [the presidency of] his College will be offered to you. He said to him: I saw my own villa fall in, and everyone came and took a brick. He said to him: Your teachings will be disseminated throughout the world. He said to him: I dreamt that my head was split open and my brains fell out. He replied: The stuffing will fall out of your pillow. He said to him: In my dream I was made to read the Hallel of Egypt.[23] He replied: Miracles will happen to you.

Bar Hedya was once travelling with Raba in a boat. He said to himself: Why should I accompany a man to whom a miracle will happen?[24] As he was disembarking, he let fall a book. Raba found it, and saw written in it: All dreams follow the mouth. He exclaimed: Wretch! It all depended on you and you gave me all this pain! I forgive you everything except [what you said about] the daughter of R. Hisda.[25] May it be God's will that this fellow be delivered up to the Government, and that they have no mercy on him! Bar Hedya said to himself: What am I to do? We have been taught that a curse uttered by a sage, even when undeserved, comes to pass; how much more this of Raba, which was deserved! He said: I will rise up and go into exile. For a Master has said: Exile makes atonement for iniquity. He rose and fled to the Romans. He went and sat at the door of the keeper of the King's wardrobe. The keeper of the wardrobe had a dream, and said to him: I dreamt that a needle pierced my finger. He said to him: Give me a zuz! He refused to give him one, and he would not say a word to him. He again said to him: I dreamt that a worm[26] fell between two of my fingers. He said to him: Give me a zuz. He refused to give him one, and he would not say a word to him. I dreamt that a worm filled the whole of my hand. He said to him: Worms have been spoiling all the silk garments. This became known in the palace, and they brought the keeper of the wardrobe in order to put him to death. He said to them: Why execute me? Bring the man who knew and would not tell. So they brought Bar Hedya, and they said to him: Because of your zuz, the king's silken garments have been ruined

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(1) Probably Trajan, when he passed through Palestine during his expedition to Persia.

(2) I.e., the Parthians.

(3) Trajan was defeated by the Parthians in 116 C.E.

(4) Deut. XXVIII, 31.

(5) Ibid. 41.

(6) Deut. XXVIII, 32.

(7) Eccl. IX, 7.

(8) Deut. XXVIII, 38.

(9) Ibid. 40.

(10) Ibid. 10.

(11) Where the tax payments were received.

(12) Saying: If Raba is suspect, how much more so are we.

(13) I.e., to dip in it.

(14) Rashi explains this to mean: Sweet to the customer because of its cheapness.

(15) A vegetable dyer's madder, a prophylactic.

(16) I.e., it is a useless remedy, v. Shab. 66b. MS.M. reads: Your goods will be in demand like something which has fallen into a pit.

(17) I.e., president of a college.

(18) An interpreter.

(19) Ex. XIII, 13. This passage is one of the four contained in the tefillin.

(20) Bah adds: ‘Raba examined and found that the waw of hamor had been erased etc.’.

(21) A wife is compared to a dove in Cant. V, 2.

(22) Looking like sticks.

(23) I.e., the Hallel as said on Passover Eve to celebrate the going forth from Egypt, v. Glos. s.v. Hallel.

(24) As much as to say, he will be saved but I will not.

(25) Raba's wife, whose death Bar Hedya had foretold.

(26) Aliter: ‘decay’.

Talmud - Mas. Berachoth 56b

. They tied two cedars together with a rope, tied one leg to one cedar and the other to the other, and released the rope, so that even his head was split.[1] Each tree rebounded to its place and he was decapitated and his body fell in two.

Ben Dama, the son of R. Ishmael's sister, asked R. Ishmael: I dreamt that both my jaws fell out; [what does it mean]? — He replied to him: Two Roman counsellors[2] have made a plot against you, but they have died.

Bar Kappara said to Rabbi: I dreamt that my nose fell off. He replied to him: Fierce anger[3] has been removed from you. He said to him: I dreamt that both my hands were cut off. He replied: You will not require the labour of your hands. He said to him: I dreamt that both my legs were cut off. He replied: You will ride on horseback.[1] dreamt that they said to me: You will die in Adar and not see Nisan. He replied: You will die in all honour [adrutha], and not be brought into temptation [nisayon].

A certain Min said to R. Ishmael: I saw myself [in a dream] pouring oil on olives. He replied: [This man][4] has outraged his mother. He said to him: I dreamt I plucked a star. He replied: You have stolen an Israelite.[5] He said to him: I dreamt that I swallowed the star. He replied: You have sold an Israelite and consumed the proceeds. He said to him: I dreamt that my eyes were kissing one another. He replied: (This man] has outraged his sister. He said to him: I dreamt that I kissed the moon. He replied: He has outraged the wife of an Israelite. He said to him: I dreamt that I was walking in the shade of a myrtle. He replied: He has outraged a betrothed damsel.[6] He said to him: I dreamt that there was a shade above me, and yet it was beneath me. He replied: It means unnatural intercourse. He said to him: I saw ravens keep on coming to my bed. He replied: Your wife has misconducted herself with many men. He said to him: I saw pigeons keep on coming to my bed. He replied: You have defiled many women. He said to him: I dreamt that I took two doves and they flew away. He replied: You have married two wives and dismissed them without a bill of divorce. He said to him: I dreamt that I was shelling eggs. He replied: You have been stripping the dead. He then said to him: You are right in all of these, except the last! of which I am not guilty. Just then a woman came and said to him: This cloak which you are wearing belonged to So-and-so who is dead, and you have stripped it from him. He said to him: I dreamt that people told me: Your father has left you money in Cappadocia. He said to him: Have you money in Cappadocia? No, he replied. Did your father ever go to Cappadocia? No. In that case, he said, kappa means a beam and dika means ten.[7] Go and examine the beam which is at the head of ten, for it is full of coins. He went, and found it full of coins.

R. Hanina said: If one sees a well in a dream, he will behold peace,since it says: And Isaac's servants digged in the valley, and found there a well of living water.[8] R. Nathan said: He will find Torah, since it says, Whoso findeth me findeth life[9] and it is written here, a well of living water.[10] Raba said: It means life literally.

Rab Hanan said: There are three (kinds of dreams which signify] peace, namely, about a river, a bird, and a pot. ‘A river’,for it is written: Behold I will extend peace to her like a river.[11] ‘A bird’, for it is written: As birds hovering so will the Lord of Hosts protect Jerusalem.[12] ‘A Pot’ for it is written, Lord, thou wilt establish[13] peace for us.[14] Said R. Hanina: But this has been said of a pot in which there is no meat, [for it says]:[15] They chop them in pieces, as that which is in the pot and as flesh within the cauldron.[16]

R. Joshua b. Levi said: If one sees a river in his dreams, he should rise early and say: Behold I will extend peace to her like a river,[11] before another verse occurs to him, viz., for distress will come in like a river.[17] If one dreams of a bird he should rise early and say: As birds hovering, so will the Lord of Hosts protect,[12] before another verse occurs to him, viz., As a bird that wandereth from her nest, so is a man that wandereth from his place.[18] If one sees a pot in his dreams, he should rise early and say, Lord thou will establish [tishpoth] peace for us,[14] before another verse occurs to him, viz., Set [shefoth] on the pot, set it on.[19] If one sees grapes in his dream, he should rise early and say: I found Israel like grapes in the wilderness,[20] before another verse occurs to him, viz., their grapes are grapes of gall.[21] If one dreams of a mountain, he should rise early and say: How beautiful upon the mountains are the feet of the messenger of good tidings,[22] before another verse occurs to him, viz.,for the mountains will I take up a weeping and wailing.[23] If one dreams of a horn he should rise early and say: And it shall come to pass in that day that a great horn shall be blown,[24] before another verse occurs to him, viz., Blow ye the horn of Gibeah.[25] If one sees a dog in his dream, he should rise early and say: But against any of the children of Israel shall not a dog whet his tongue,[26] before another verse occurs to him, viz., Yea, the dogs are greedy.[27] If one sees a lion in his dream he should rise early and say: The lion hath roared, who will not fear?[28] before another verse occurs to him, viz., A lion is gone up from his thicket.[29] If one dreams of shaving, he should rise early and say: And Joseph shaved himself and changed his raiment,[30] before another verse occurs to him, viz., If I be shaven, then my strength will go from me.[31] If one sees a well in his dream, he should rise early and say: A well of living waters,[32] before another verse occurs to him, viz., As a cistern welleth with her waters, so she welleth with her wickedness.[33] If one sees a reed, he should rise early and say, A bruised reed shall he not break,[34] before another verse occurs to him, viz., Behold thou trusteth upon the staff of this bruised reed.[35]

Our Rabbis taught: If one sees a reed [kaneh] in a dream, he may hope for wisdom, for it says: Get [keneh] wisdom.[36] If he sees several reeds, he may hope for understanding, since it says: With all thy getting [kinyaneka] get understanding.[37] R. Zera said: A pumpkin [kara], a palm-heart [kora] wax [kira], and a reed [kanya] are all auspicious in a dream.[38] It has been taught: Pumpkins are shown in a dream only to one who fears heaven with all his might.[39] If one sees an ox in a dream, he should rise early and say: His firstling bullock, majesty is his,[40] before another verse occurs to him, viz., If an ox gore a man.[41]

Our Rabbis taught: There are five sayings in connexion with an ox in a dream. If one [dreams that he] eats of its flesh, he will become rich; if that an ox has gored him, he will have sons who will contend together[42] in the study of the Torah; if that an ox bit him, sufferings will come upon him; if that it kicked him, he will have to go on a long journey; if that he rode upon one, he will rise to greatness. But it has been taught: If he dreamt that he rode upon one,[43] he will die? — There is no contradiction. In the one case the dream is that he rides on the ox, in the other that the ox rode upon him.

If one sees an ass in a dream, he may hope for salvation, as it says, Behold thy king cometh unto thee; he is triumphant and victorious, lowly and riding upon an ass.[44] If one sees a cat in a dream, if in a place where they call it shunara, a beautiful song [shirah na'ah] will be composed for him; if in a place where they call it shinra, he will undergo a change for the worse [shinnui ra’].[45] If one sees grapes in a dream, if they are white, whether in their season or not in their season, they are a good sign; if black, in their season they are a good sign, not in their season a bad sign.[46] If one sees a white horse in a dream, whether walking gently or galloping, it is a good sign, if a red horse, if walking gently it is a good sign, if galloping it is a bad sign. If one sees Ishmael in a dream, his prayer will be heard.[47] And it must be Ishmael, the son of Abraham, but not an ordinary Arab.[48] If one sees a camel in a dream, death has been decreed for him from heaven and he has been delivered from it. R. Hama b. Hanina said: What is the Scriptural text for this? — I will go down with thee into Egypt, and I will also surely bring thee up again.[49] R. Nahman b. Isaac derives it from here: The Lord also hath put away thy sin, thou shalt not die.[50] If one sees Phineas in a dream, a miracle will be wrought for him. If one sees an elephant [pil] in a dream, wonders [pela'oth] will be wrought for him; if several elephants, wonders of wonders will be wrought for him. But it has been taught: All kinds of beasts are of good omen in a dream except the elephant and the ape? — There is no contradiction.

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(1) Another reading is: ‘released the rope till he was split in two. Said Raba: I will not forgive him till his head is split.

Each tree, etc.’.

(2) Signified by ‘jaws’ because of their powers of speech.

(3) The word for ‘nose’ (af) means also ‘anger’.

(4) In attributing to him such a crime he would not address him in the second person.

(5) The Israelites being compared to stars. Gen. XV, 5.

(6) For whom it is usual to make a canopy of myrtle.

(7) Kappa in the sense of ‘beam’ is an Aramaic word (Kofa), while dika in the sense of ten is the Greek GR.** The Jer. more plausibly explains kappa as the Greek letter equivalent to twenty, and dokia as representing the Greek GR.**, a beam.

(8) Gen. XXVI,19.

(9) Prov. VIII, 35.

(10) Lit. ‘water of life’.

(11) Isa. LXVI, 12.

(12) Ibid. XXXI, 5.

(13) Heb. tishpoth, which is also used for placing a pot on a fire.

(14) Ibid. XXVI, 12.

(15) V. Marginal Gloss.

(16) Micah III, 3.

(17) Isa. LIX, 19.

(18) Prov. XXVII, 8.

(19) Ezek. XXIV, 3.

(20) Hos. IX, 10.

(21) Deut. XXXII, 32.

(22) Isa. LII, 7.

(23) Jer. IX, 9.

(24) Isa. XXVII, 13.

(25) Hos. V, 8. This introduces a denunciation.

(26) Ex. XI, 7.

(27) Isa. LVI, 11.

(28) Amos III, 8.

(29) Jer. IV, 7.

(30) Gen. XLI, 24.

(31) Judg. XVI, 17. Spoken by Samson.

(32) Cant. IV, 15.

(33) Jer. VI, 7.

(34) Isa. XLII, 3.

(35) Ibid. XXXVI, 6.

(36) Prov. IV, 5.

(37) Ibid. 7.

(38) They all resemble in sound the word ‘reed’ and hence have a favourable significance.

(39) Despite their large size they do not grow high above the ground, and are plants symbolic of the Godfearing man who, despite his worth, remains lowly and humble. (R. Nissim, Gaon.)

(40) Deut. XXXIII, 17.

(41) Ex. XXI, 28.

(42) Lit., ‘gore’ (one another).

(43) The original can equally mean ‘it rides upon him’.

(44) Zech. IX, 9.

(45) MS.M. reads: If in a place . . . shunara he will undergo a change for the worse; if shunara a beautiful song, etc.

(46) MS.M. adds: He should offer supplication. If (he dreamt) that he had eaten these, he can be assured that he is a son of the world to come.

(47) Cf. Gen. XXI, 17.

(48) Who is also called Ishmael.

(49) Gen. XLVI, 4. The last words in the Hebrew are gam ‘aloh, which resemble gamal, ‘a camel’.

(50) II Sam. XII, 13. The derivation in this case is not clear; perhaps it is from the word gam ‘also’ which resembles gamal.

Talmud - Mas. Berachoth 57a

The elephants are of good omen[1] if saddled, of bad omen if not saddled. If one sees the name Huna in a dream, a miracle will be wrought for him.[2] If one sees the name Hanina, Hananiah or Jonathan, miracles will be wrought for him.[3] If one dreams of a funeral oration [hesped] mercy will be vouchsafed to him from heaven and he will be redeemed.[4] This is only if he sees the word in writing.[5] If one [in a dream] answers, ‘May His great name be blessed’, he may be assured that he has a share in the future world. If one dreams that he is reciting the Shema’, he is worthy that the Divine presence should rest upon him, only his generation is not deserving enough. If one dreams he is putting on tefillin, he may look forward to greatness, for it says: And all the peoples of the earth shall see that the name of the Lord is called upon thee, and they shall fear thee;[6] and it has been taught: R. Eliezer the Great says: This refers to the tefillin of the head.[7] If one dreams he is praying, it is a good sign, for him, provided he does not complete the prayer.[8]

If one dreams that he has intercourse with his mother, he may expect to obtain understanding, since it says, Yea, thou wilt call understanding ‘mother’.[9] If one dreams he has intercourse with a betrothed maiden, he may expect to obtain knowledge of Torah, since it says, Moses commanded us a law [Torah], an inheritance of the congregation of Jacob.[10] Read not morashah [inheritance], but me'orasah [betrothed]. If one dreams he has had intercourse with his sister, he may expect to obtain wisdom, since it says, Say to wisdom, thou art my sister.[11] If one dreams he has intercourse with a married woman, he can be confident that he is destined for the future world,[12] provided, that is, that he does not know her and did not think of her in the evening.

R. Hiyya b. Abba said: If one sees wheat in a dream, he will see peace, as it says: He maketh thy borders peace; He giveth thee in plenty the fat of wheat.[13] If one sees barley[14] in a dream, his iniquities will depart, as it says: Thine iniquity is taken away, and thy sin expiated.[15] R. Zera said: I did not go up from Babylon to the Land of Israel until I saw barley in a dream.[16] If one sees in a dream a vine laden with fruit, his wife will not have a miscarriage, since it says, thy wife shall be as a fruitful vine.[17] If one sees a choice vine, he may look forward to seeing the Messiah, since it says, Binding his foal unto the vine and his ass's colt unto the choice vine.[18] If one sees a fig tree in a dream, his learning will be preserved within him, as it says: Whoso keepeth the fig tree shall eat the fruit thereof.[19] If one sees pomegranates in a dream, if they are little ones, his business will be fruitful like a pomegranate; if big ones, his business will increase like a pomegranate. If they are split open, if he is a scholar, he may hope to learn more Torah , as it says: I would cause thee to drink of spiced wine, of the juice of my pomegranate;[20] if he is unlearned, he may hope to perform precepts, as it says: Thy temples are like a pomegranate split open.[21] What is meant by ‘Thy temples’ [rakothek]? — Even the illiterate [rekanim][22] among thee are full of precepts like a pomegranate. If one sees olives in a dream, if they are little ones his business will go on fructifying and increasing like an olive. This is if he sees the fruit; but if he sees the tree he will have many sons, as it says: Thy children like olive plants, round about thy table.[17] Some say that if one sees an olive in his dream he will acquire a good name, as it says , The Lord called thy name a leafy olive-tree, fair and goodly fruit.[23] If one sees olive oil in a dream, he may hope for the light of the Torah, as it says, That they bring unto thee pure olive oil beaten for the light.[24] If one sees palm-trees in a dream his iniquities will come to an end, as it says, The punishment of thine iniquity is accomplished, O daughter of Zion.[25]

R. Joseph said: If one sees a goat in a dream, he will have a blessed year; if several goats, several blessed years, as it says: And there will be goat's milk enough for thy food.[26] If one sees myrtle in his dream, he will have good luck with his property,[27] and if he has no property he will inherit some from elsewhere. ‘Ulla said — according to others, it was taught in a Baraitha: this is only if he sees myrtle on its stem.[28] If one sees citron [hadar] in his dream, he is honoured [hadur] in the sight of his Maker, since it says: The fruit of citrons,[29] branches of palm-trees.[30] If one sees a palm branch in a dream, he is single-hearted in devotion to his Father in Heaven.[31] If one sees a goose in a dream, he may hope for wisdom, since it says: Wisdom crieth aloud it, the street;[32] and he who dreams of being with one will become head of an academy. R. Ashi said: I saw one and was with one, and I was elevated to a high position.[33] If one sees a cock in a dream he may expect a male child; if several cocks, several sons; if a hen, a fine garden and rejoicing.[34] If one sees eggs in a dream, his petition remains in suspense;[35] if they are broken his petition will be granted. The same with nuts and cucumbers and all vessels of glass and all breakable things like these.

If one dreams that he enters a large town, his desire will be fulfilled, as it says, And He led them unto their desired haven.[36] If one dreams that he is shaving his head, it is a good sign for him; if his head and his beard, for him and for all his family. If one dreams that he is sitting in a small boat, he will acquire a good name; if in a large boat, both he and all his family will acquire one; but this is only if it is on the high sea. If one dreams that he is easing himself, it is a good omen for him, as it is said, He that is bent down shall speedily be loosed,[37] but this is only if he did not wipe himself [in his dream]. If one dreams that he goes up to a roof, he will attain a high position; if that he goes down, he will be degraded. Abaye and Raba, however, both say that once he has attained a high position he will remain there. If one dreams he is tearing his garments, his evil decree[38] will be rent. If one dreams that he is standing naked, if in Babylon he will remain sinless,[39] if in the Land of Israel he will be bare of pious deeds.[40] If one dreams that he has been arrested by the police, protection will be offered him; if that he has been placed in neck-chains,[41] additional protection will be afforded him. This is only [if he dreams] of neck-chains, not a mere rope. If one dreams that he walks into a marsh, he will become the head of an academy;[42] if into a forest he will become the head of the collegiates.[43]

R. Papa and R. Huna the son of Joshua both had dreams. R. Papa dreamt that he went into a marsh and he became head of an academy.[44] R. Huna the son of R. Joshua dreamt that he went into a forest and he became head of the collegiates. Some say that both dreamt they went into a marsh, but R. Papa who was carrying a drum[45] became head of the academy, while R. Huna the son of R. Joshua who did not carry a drum became only the head of the collegiates. R. Ashi said: I dreamt that I went into a marsh and carried a drum and made a loud noise with it.

A Tanna recited in the presence of R. Nahman b. Isaac: If one dreams that he is undergoing blood-letting, his iniquities are forgiven.[46] But it has been taught: His iniquities are recounted? — What is meant by recounted? Recounted so as to be forgiven.

A Tanna recited in the presence of R. Shesheth: If one sees a serpent in a dream, it means that his living is assured;[47] if it bites him it will be doubled; if he kills it he will lose his living. R. Shesheth said to him: [In this case] all the more will his living be doubled! This is not so, however; R. Shesheth [explained thus] because he saw a serpent in his dream and killed it.[48]

A Tanna recited in the presence of R. Johanan: All kinds of drinks are a good sign in a dream except wine; sometimes one may drink it and it turns out well and sometimes one may drink it and it turns out ill. ‘Sometimes one may drink it and it turns out well’, as it says: Wine that maketh glad the heart of man’.[49] ‘Sometimes one may drink it and it turns out ill’, as it says: Give strong drink unto him that is ready to perish, and wine unto the bitter in soul.’[50] Said R. Johanan unto the Tanna: Teach that for a scholar it is always good, as it says: Come eat of my bread and drink of the wine which I have mingled.[51]

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(1) Lit., ‘this is . . . that is’.
(2) The Hebrew for miracle, nes, also contains the letter nun.
(3) These names contain more than one nun.
(4) Heaped is here connected with hus ‘to have pity’ and padah ‘to redeem’.
(5) And similarly the proper names Huna, etc. enumerated above.
(6) Deut. XXVIII, 10.
(7) V. supra 6a.
(8) I.e., wakes up before it is finished.
(9) Prov. II, 3 with a slight change of reading. E.V. Yea, If thou wilt call for understanding.
(10) Deut. XXXIII, 4.
(11) Prov. VII, 4.
(12) The signification being that he obtains his own share and that of his neighbour (Rashi).
(13) Ps. CXLVII, 14.
(14) Se'orim (barley) equals sar ‘awon, ‘iniquity has departed’.
(15) Isa VI, 7.
(16) A visit to the Holy Land was held to bring with it an expiation for sin.
(17) Ps. CXXVIII, 3.
(18) Gen. XLIX, 11. This verse is supposed to refer to the Messiah.
(19) Prov. XXVII, 18.
(20) Cant. VIII, 2.
(21) Ibid. IV, 3.
(22) Lit., ‘the empty ones’.
(23) Jer. XI, 16.
(24) Ex. XX VII, 20.
(25) Lam. IV, 22. Temarin (palm-trees) suggest tammu morin, ‘finished are rebels (sins)’.
(26) Prov. XXVII, 27.
(27) Like a myrtle which has numerous leaves.
(28) I.e., attached to the soil.
(29) E.V. ‘Goodly trees’.
(30) Lev. XXIII, 40.
(31) The palm branch having no twigs.
(32) Prov. I, 20.
(33) He became the head of the Academy of Matha Mehasia (a suburb of Sura).
(34) The Hebrew word for cock (tarnegol) suggests these interpretations.
(35) Like the contents of the egg, of which one is doubtful as long as the shell is unbroken (Rashi).
(36) Ps. CVII, 30.
(37) Isa. LI, 14.
(38) The evil decreed against him from heaven.
(39) V. Keth. 110b. He who dwells outside the Land of Israel is as though he worshipped idols. To stand naked in a dream in Babylon hence means to be sinless.
(40) V. Keth. 111a. He who dwells in the Land abides sinless. To stand naked in a dream in Palestine hence means to be bare of pious deeds.
(41) With which criminals were strung together to be led to execution.
(42) Short and long reeds in a marsh are figurative of the students of different ages and standards attending the Academy.
(43) The full-grown trees in a forest represent the mature students who meet often for discussion and study. V., however, Rashi.
(44) He became the head of the school in Naresh, near Sura.
(45) Such as was used for announcing the approach of a man of distinction.
(46) Sins are described as crimson, cf. Isa. I, 18.
(47) Because the serpent eats dust of which there is always abundance.
(48) And he wished to give his dream a favourable interpretation.

(49) Ps. CIV, 15.
(50) Prov. XXXI, 6.
(51) Ibid. IX, 5.

Talmud - Mas. Berachoth 57b

R. Johanan said: If at the moment of rising a text occurs to one, this is a minor kind of prophecy.

Our Rabbis taught there are three kings [who are important for dreams]. If one sees David in a dream, he may hope for piety; if Solomon, he may hope for wisdom; if Ahab, let him fear for punishment. There are three prophets [of significance for dreams]. If one sees the Book of Kings, he may look forward to greatness; if Ezekiel, he may look forward to wisdom; if Isaiah he may look forward to consolation; if Jeremiah, let him fear for punishment. There are three larger books of the Hagiographa [which are significant for dreams]. If one sees the Book of Psalms, he may hope for piety; if the Book of Proverbs, he may hope for wisdom; if the Book of Job, let him fear for punishment. There are three smaller books of the Hagiographa [significant for dreams]. If one sees the Songs of Songs in a dream, he may hope for piety;[1] if Ecclesiastes, he may hope for wisdom; if Lamentations, let him fear for punishment; and one who sees the Scroll of Esther will have a miracle wrought for him. There are three Sages [significant for dreams]. If one sees Rabbi in a dream, he may hope for wisdom; if Eleazar b. Azariah, he may hope for riches;[2] if R. Ishmael b. Elisha, let him fear for punishment.[3] There are three disciples[4] [significant for dreams]. If one sees Ben ‘Azzai in a dream, he may hope for piety; if Ben Zoma, he may hope for wisdom; if Aher,[5] let him fear for punishment.

All kinds of beasts are a good sign in a dream, except the elephant, the monkey and the long-tailed ape. But a Master has said: If one sees an elephant in a dream, a miracle will be wrought for him?[6] — There is no contradiction; in the latter case it is saddled, in the former case it is not saddled. All kinds of metal implements are a good sign in a dream, except a hoe, a mattock, and a hatchet; but this is only if they are seen in their hafts.[7] All kinds of fruit are a good sign in a dream, except unripe dates. All kinds of vegetables are a good sign in a dream, except turnip-tops. But did not Rab say: I did not become rich until I dreamt of turnip-tops? — When he saw them, it was on their stems.[8] All kinds of colours are a good sign in a dream, except blue.[9] All kinds[10] of birds are a good sign in a dream, except the owl, the horned owl and the bat.

(Mnemonic: The body, The body, Reflex, Restore, Self-esteem.) Three things enter the body without benefiting it: melilot,[11] dateberries, and unripe dates. Three things benefit the body without being absorbed by it: washing, anointing, and regular motion. Three things are a reflex of the world to come: Sabbath, sunshine, and tashmish.[12] Tashmish of what? Shall I say of the bed?[13] This weakens. It must be then tashmish of the orifices. Three things restore a man's good spirits: [beautiful] sounds, sights, and smells. Three things increase a man's self-esteem:[14] a beautiful dwelling, a beautiful wife, and beautiful clothes.

(Mnemonic: Five, Six, Ten). Five things are a sixtieth part of something else: namely, fire, honey, Sabbath, sleep and a dream. Fire is one-sixtieth part of Gehinnom. Honey is one-sixtieth part of manna. Sabbath is one-sixtieth part of the world to come. Sleep is one-sixtieth part of death. A dream is one-sixtieth part of prophecy.

Six things are a good sign for a sick person, namely, sneezing, perspiration, open bowels, seminal emission, sleep and a dream. Sneezing, as it is written: His sneezings flash forth light.[15] Perspiration, as it is written, In the sweat of thy face shalt thou eat bread.[16] Open bowels, as it is written: If lie that is bent down hasteneth to be loosed, he shall not go down dying to the pit.[17] Seminal emission, as it is written: Seeing seed, he will prolong his days.[18] Sleep, as it is written: I should have slept, then should I have been at rest.[19] A dream, as it is written: Thou didst cause me to dream and make me to live.[20]

Six things heal a man of his sickness with a complete cure, namely, cabbage, beet, a decoction of dried poley, the maw [of an animal], the womb, and the large lobe of the liver. Some add small fishes, which [not only have this advantage] but also make fruitful and invigorate a man's whole body.

Ten things bring a man's sickness on again in a severe form, namely, to eat beef, fat meat, roast meat, poultry and roasted egg, shaving, and eating cress, milk or cheese, and bathing. Some add, also nuts; and some add further, also cucumbers. It was taught in the school of R. Ishmael: Why are they called kishshu'im [cucumbers]? Because they are painful [kashim] for the body like swords. Is that so? See, it is written: And the Lord said unto her, Two nations are in thy womb.[21] Read not goyim [nations] but ge'im [lords], and Rab Judah said in the name of Rab: These are Antoninus and Rabbi, whose table never lacked either radish, lettuce or cucumbers either in summer or winter![22] — There is no contradiction; the former statement speaks of large ones, the latter of small ones.

Our Rabbis taught: [If one dreams of] a corpse in the house, it is a sign of peace in the house; if that he was eating and drinking in the house, it is a good sign for the house; if that he took articles from the house, it is a bad sign for the house. R. Papa explained it to refer to a shoe or sandal. Anything that the dead person [is seen in the dream] to take away is a good sign except a shoe and a sandal; anything that it puts down is a good sign except dust and mustard.

A PLACE FROM WHICH IDOLATRY HAS BEEN UPROOTED. Our Rabbis taught: If one sees a statue of Hermes,[23] he says, Blessed be He who shows long suffering to those who transgress His will. If he sees a place from which idolatry has been uprooted, he says, Blessed be He who uprooted idolatry from our land; and as it has been uprooted from this place, so may it be uprooted from all places belonging to Israel; and do Thou turn the heart of those that serve them[24] to serve Thee. Outside Palestine it is not necessary to say: Turn the heart of those that serve them to serve Thee, because most of them are idolaters. R. Simeon b. Eleazar says: Outside Palestine also one should say this, because they will one day become proselytes, as it says, For then will I turn to the peoples a pure language.[25]

R. Hamnuna said in a discourse: If one sees the wicked Babylon, he should say five benedictions: On seeing [the city] Babylon itself he says, Blessed be He who has destroyed the wicked Babylon. On seeing the palace of Nebuchadnezzar, he says, Blessed be He who destroyed the palace of the wicked Nebuchadnezzar. On seeing the lions' den, or the fiery furnace, he says, Blessed be He who wrought miracles for our ancestors[26] in this place. On seeing the statue of Hermes, he says, Blessed be He who shows long suffering to those that transgress His will. On seeing the place from which dust is carried away,[27] he says, Blessed be He who says and does, who decrees and carries out. Rab, when he saw asses carrying dust, used to give them a slap on the back and say, Run, ye righteous ones, to perform the will of your Master. When Mar the son of Rabina came to [the city of] Babylon, he used to put some dust in his kerchief and throw it out, to fulfil the text, I will sweep it with the besom of destruction.[28] R. Ashi said: I had never heard this saying of R. Hamnuna, but of my own sense I made all these blessings.

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(1) The Song of Songs being calculated to implant in the reader the love of God.

(2) R. Eleazar was very wealthy.

(3) R. Ishmael suffered martyrdom under the Romans, v. Halevi, Doroth I, p. 309.

(4) Who became authorities though they were never ordained as Rabbis.

(5) Elisha b. Abuya, called Aher (lit., 'Another') when he came a renegade, v. Hag. 15a.

(6) V. supra 56b.

(7) Otherwise they portend blows, as stated above.
(8) I.e., attached to the soil.
(9) The colour of sickness.
(10) MS.M. inserts: 'of reptiles are a good sign in a dream except the mole. All kinds'.
(11) A kind of clover.
(12) Lit., 'service'.
(13) I.e., sexual intercourse.
(14) Lit., 'enlarge his spirit'.
(15) Job XLI, 10.
(16) Gen. III, 19.
(17) Isa. LI, 14. E.V. 'He that is bent down shall speedily, etc.'.
(18) Ibid. LIII, 10.
(19) Job. III, 13.
(20) Isa. XXXVIII, 16. V. p. 335, n. 10.
(21) Gen. XXV, 23.
(22) V. A.Z. (Sonc. ed.) p. 50, n. 3.
(23) Heb. Markolis, the Latin Mercurius. This was the commonest of the heathen images.
(24) I.e., of renegade Israelites.
(25) Zeph. III, 9.
(26) Daniel and Hananiah, Mishael and Azariah.
(27) The ruins of the city of Babylon from which earth was taken for building elsewhere, v. Obermeyer, p. 303.
(28) Isa. XIV, 23.

Talmud - Mas. Berachoth 58a

R. Jeremiah b. Eleazar said: When Babylon was cursed, her neighbours were also cursed; but when Samaria was cursed, her neighbours were blessed. 'When Babylon was cursed her neighbours were cursed', as it is written: I will also make it a possession for the bittern and pools of water.[1] 'When Samaria was cursed her neighbours were blessed', as it is written: Therefore I will make Samaria a heap in the field, a place for the planting of vineyards.[2]

R. Hamnuna further said: If one sees a crowd of Israelites, he should say: Blessed is He who discerneth secrets.[3] If he sees a crowd of heathens, he should say: Your mother shall be ashamed, etc.[4]

Our Rabbis taught: If one sees a crowd of Israelites, he says, Blessed is He who discerneth secrets, for the mind of each is different from that of the other, just as the face of each is different from that of the other. Ben Zoma once saw a crowd on one of the steps of the Temple Mount. He said, Blessed is He that discerneth secrets, and blessed is He who has created all these to serve me. [For] he used to say: What labours Adam had to carry out before he obtained bread to eat! He ploughed, he sowed, he reaped, he bound [the sheaves], he threshed and winnowed and selected the ears, he ground [them], and sifted [the flour], he kneaded and baked, and then at last he ate; whereas I get up, and find all these things done for me. And how many labours Adam had to carry out before he obtained a garment to wear! He had to shear, wash [the wool], comb it, spin it and weave it, and then at last he obtained a garment to wear; whereas I get up and find all these things done for me. All kinds of craftsmen[5] come early to the door of my house, and I rise in the morning and find all these before me.

He used to say: What does a good guest say? 'How much trouble my host has taken for me! How much meat he has set before me! How much wine he has set before me! How many cakes he has set before me! And all the trouble he has taken was only for my sake!' But what does a bad guest say? 'How much after all has mine host put himself out? I have eaten one piece of bread, I have eaten one slice of meat,I have drunk one cup of wine! All the trouble which my host has taken was only for the sake of his wife and his children!’ What does Scripture say of a good guest? Remember that thou magnify his works, where of men have sung.[6] But of a bad guest it is written: Men do therefore fear him; [he regardeth not any that are wise of heart].[7]

And the man was an old man in the days of Saul, stricken in years among men.[8] Raba (or, as some say, R. Zebid; or again, as some say, R. Oshaia) said: This is Jesse, the father of David, who went out with a crowd and came in with a crowd, and expounded [the Torah] to a crowd. ‘Ulla said: We have a tradition that there is no crowd[9] in Babylon. It was taught: A multitude is not less than sixty myriads.

Our Rabbis taught: On seeing the Sages of Israel one should say: Blessed be He who hath imparted of His wisdom to them that fear Him. On seeing the Sages of other nations, one says, Blessed be He who hath imparted of His wisdom to His creatures. On seeing kings of Israel, one says: Blessed be He who hath imparted of His glory to them that fear Him. On seeing non-Jewish kings, one says: Blessed be He who hath imparted of His glory to His creatures. R. Johanan said: A man should always exert himself and run to meet an Israelitish king; and not only a king of Israel but also a king of any other nation, so that if he is deemed worthy,[10] he will be able to distinguish between the kings of Israel and the kings of other nations.

R. Shesheth was blind. Once all the people went out to see the king, and R. Shesheth arose and went with them. A certain Sadducean[11] came across him and said to him: The whole pitchers go to the river, but where do the broken ones go to?[12] He replied:I will show you that I know more than you. The first troop passed by and a shout arose. Said the Sadducean: The king is coming. He is not coming, replied R. Shesheth. A second troop passed by and when a shout arose, the Sadducean said: Now the king is coming. R. Shesheth replied: The king is not coming. A third troop passed by and there was silence. Said R. Shesheth: Now indeed the king is coming. The Sadducean said to him: How did you know this? — He replied: Because the earthly royalty is like the heavenly. For it is written: Go forth and stand upon the mount before the Lord. And behold, the Lord passed by and a great and strong wind rent the mountains, and broke in pieces the rocks before the Lord; but the Lord was not in the wind; and after the wind an earthquake; but the Lord was not in the earthquake; and after the earthquake a fire; but the Lord was not in the fire; and after the fire a still small voice.[13] When the king came, R. Shesheth said the blessing over him. The Sadducean said to him: You, you say a blessing for one whom you do not see? What happened to that Sadducean? Some say that his companions put his eyes out; others say that R. Shesheth cast his eyes upon him and he became a heap of bones.

R. Shila administered lashes to a man who had intercourse with an Egyptian[14] woman. The man went and informed against him to the Government, saying: There is a man among the Jews who passes judgment without the permission of the Government . An official was sent to [summon] him. When he came he was asked: Why did you flog that man? He replied: Because he had intercourse with a she-ass. They said to him: Have you witnesses? He replied: I have. Elijah thereupon came in the form of a man and gave evidence. They said to him: If that is the case he ought to be put to death! He replied: Since we have been exiled from our land, we have no authority to put to death; do you do with him what you please. While they were considering his case, R. Shila exclaimed, Thine, Oh Lord, is the greatness and the power.[15] What are you saying? they asked him. He replied: What I am saying is this: Blessed is the All-Merciful Who has made the earthly royalty on the model of the heavenly, and has invested you with dominion, and made you lovers of justice. They said to him: Are you so solicitous for the honour of the Government? They handed him a staff[16] and said to him: You may act as judge. When he went out that man said to him: Does the All-Merciful perform miracles for liars? He replied: Wretch! Are they not called asses? For it is written: Whose flesh is as the flesh of asses.[17] He noticed that the man was about to inform them that he had called them asses.

He said: This man is a persecutor, and the Torah has said: If a man comes to kill you, rise early and kill him first.[18] So he struck him with the staff and killed him. He then said: Since a miracle has been wrought for me through this verse, I will expound it. ‘Thine, Oh Lord, is the greatness’: this refers to the work of creation; and so it says: Who doeth great things past finding out.[19] ‘And the power’: this refers to the Exodus from Egypt, as it says: And Israel saw the great work, etc.[20] ‘And the glory’: this refers to the sun and moon which stood still for Joshua, as it says: And the sun stood still and the moon stayed.[21] ‘And the victory [nezah]’: this refers to the fall of Rome,[22] as it says: And their life-blood [nizham] is dashed against my garments.[23] ‘And the majesty’: this refers to the battle of the valleys of Arnon, as it says, Wherefore it is said in the book of the wars of the Lord: Vaheb in Supah, and the valleys of Arnon.[24] ‘For all that is in heaven and earth’: this refers to the war of Sisera, as it says: They fought front heaven, the stars in their courses fought against Sisera.[25] ‘Thine is the kingdom, O Lord’: this refers to the war against Amalek. For so it says: The hand upon the throne of the Lord, the Lord will have war with Amalek from generation to generation.[26] ‘And Thou art exalted’: this refers to the war of Gog and Magog; and so it says: Behold I am against thee, Oh Gog, chief prince of Meshech and Tubal.[27] ‘As head above all’: R. Hanan b. Raba said in the name of R. Johanan: Even a waterman[28] is appointed from heaven. It was taught in a Baraitha in the name of R. Akiba: ‘Thine, oh Lord, is the greatness’: this refers to the cleaving of the Red Sea. ‘And the power’: this refers to the smiting of the first-born. ‘And the glory’: this refers to the giving of the Torah. ‘And the victory’: this refers to Jerusalem. ‘And the majesty’: this refers to the Temple.

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(1) Ibid. The whole neighbourhood of Babylon became desolate.

(2) Micah I, 6.

(3) Lit., ‘wise in secrets’. Vi., the secrets of each one's heart.

(4) Jer. L, 12.

(5) So Marginal Gloss. Cur. edd. ‘peoples’.

(6) Job XXXVI, 24.

(7) Ibid. XXXVII, 24.

(8) I Sam. XVII, 12.

(9) Of Israelites assembled to hear the Torah.

(10) Of the Messianic age.

(11) MS.M. min (v. Glos.).

(12) As much as to say: What is the use of a blind man going to see the king.

(13) 1 Kings XIX, 11f.

(14) Var. lec. Gentile.

(15) I Chron. XXIX, 11.

(16) Or perhaps, ‘strap’ (J.T.).

(17) Ezek. XXIII, 20.

(18) This lesson is derived by the Rabbis from Ex. XXII, 1 which declares it legitimate to kill a burglar who is prepared to commit murder.

(19) Job. IX, 10.

(20) Ex. XIV, 31.

(21) Josh. X, 13.

(22) MS.M.: The wicked kingdom.

(23) Isa. LXIII, 3.

(24) Num. XXI, 14.

(25) Judg. V, 20.

(26) Ex. XVII, 16.

(27) Ezek. XXXVIII, 3.

(28) A man who looked after the well from which fields were irrigated — quite a menial office.

Talmud - Mas. Berachoth 58b

Our Rabbis taught: On seeing the houses of Israel, when inhabited one says: Blessed be He who sets the boundary of the widow;[1] when uninhabited, Blessed be the judge of truth. On seeing the houses of heathens, when inhabited, one says: The Lord will pluck up the house of the proud;[2] when uninhabited he says: O Lord, thou God, to whom vengeance belongeth, thou God, to whom vengeance belongeth, shine forth.[3]

Once when ‘Ulla and R. Hisda Were walking along the road, they came to the door of the house of R. Hana b. Hanilai. R. Hisda broke down and sighed. Said ‘Ulla to him: Why are you sighing, seeing that Rab has said that a sigh breaks half a man's body, since it says, Sigh therefore thou son of man, with the breaking of thy loins,[4] etc.; and R. Johanan said that it breaks even the whole of a man's body, as it says: And it shall be, when they say unto thee, wherefore sighest thou? Thou shalt say: Because of the tidings for it cometh; and every heart shall melt, etc.?[5] — He replied: How shall I refrain from sighing on seeing the house in which there used to be sixty[6] cooks by day and sixty cooks by night, who cooked for every one who was in need. Nor did he [R. Hana] ever take his hand away from his purse, thinking that perhaps a respectable poor man might come, and while he was getting his purse he would be put to shame. Moreover it had four doors, opening on different sides, and whoever went in hungry went out full. They used also to throw wheat and barley outside in years of scarcity, so that anyone who was ashamed to take by day used to come and take by night. Now it has fallen in ruins, and shall I not sigh? — He replied to him: Thus said R. Johanan: Since the day when the Temple was destroyed a decree has been issued against the houses of the righteous that they should become desolate, as it says: In mine ears, said the Lord of hosts: Of a truth many houses shall be desolate, even great and fair, without inhabitants.[7] R. Johanan further said: The Holy One, blessed be He, will one day restore them to their inhabited state, as it says: A Song of Ascents. They that trust in the Lord are as Mount Zion.[8] Just as the Holy One, blessed be He, will restore Mount Zion to its inhabited state, so will He restore the houses of the righteous to their inhabited state. Observing that he was still not satisfied, he said to him: Enough for the servant that he should be like his master.[9]

Our Rabbis taught: On seeing Israelitish graves, one should say: Blessed is He who fashioned you in judgments who fed you in judgment and maintained you in judgment, and in judgment gathered you in, and who will one day raise you up again in judgment. Mar, the son of Rabina, concluded thus in the name of R. Nahman: And who knows the number of all of you; and He will one day revive you and establish you. Blessed is He who revives the dead.[10] On seeing the graves of heathens one says: Your mother shall be sore ashamed, etc.

R. Joshua b. Levi said: One who sees a friend after a lapse of thirty days says: Blessed is He who has kept us alive and preserved us and brought us to this season. If after a lapse of twelve months he says: Blessed is He who revives the dead. Rab said: The dead is not forgotten till after twelve months, as it says: I am forgotten as a dead man out of mind; I am like a lost vessel.[11] R. Papa and R. Huna the son of R. Joshua were once going along the road when they met R. Hanina, the son of R. Ika. They said to him: Now that we see you we make two blessings over you: ‘Blessed be He who has imparted of His wisdom to them that fear Him’, and ‘That has kept us alive etc.’. He said to them: I, also, on seeing you counted it as equal to seeing sixty myriads of Israel, and I made three blessings over you, those two, and ‘Blessed is He that discerneth secrets’. They said to him: Are you so clever as all that? They cast their eyes on him and he died.[12]

R. Joshua b. Levi said: On seeing pock-marked persons one says: Blessed be He who makes strange creatures. An objection was raised: If one sees a negro, a very red or very white person, a hunchback, a dwarf or a dropsical person, he says: Blessed be He who makes strange creatures. If he sees one with an amputated limb, or blind, or flatheaded, or lame, or smitten with boils, or pock-marked, he says: Blessed be the true Judge! — There is no contradiction; one blessing is said if he is so from birth, the other if he became so afterwards. A proof of this is that he is placed in the same category as one with an amputated limb; this proves it.

Our Rabbis taught: On seeing an elephant, an ape, or a long-tailed ape, one says: Blessed is He who makes strange creatures. If one sees beautiful creatures and beautiful trees, he says: Blessed is He who has such in His world.

OVER SHOOTING-STARS [ZIKIN]. What are ZIKIN? Samuel said: A comet.[13] Samuel also said: I am as familiar with the paths of heaven as with the streets of Nehardea, with the exception of the comet, about which I am ignorant. There is a tradition that it never passes through the constellation of Orion, for if it did, the world would be destroyed. But we have seen it pass through? — Its brightness passed through, which made it appear as if it passed through itself. R. Huna the son of R. Joshua said: Wilon[14] was torn asunder and rolled up,[15] showing the brightness of Rakia.[16] R. Ashi said: A star was removed from one side of Orion and a companion star appeared on the other side, and people were bewildered and thought the star had crossed over.[17]

Samuel contrasted two texts. It is written, Who maketh the Bear, Orion, and the Pleiades.[18] And it is written elsewhere, That maketh Pleiades and Orion.[19] How do we reconcile these? Were it not for the heat of Orion the world could not endure the cold of Pleiades; and were it not for the cold of Pleiades the world could not endure the heat of Orion. There is a tradition that were it not that the tail of the Scorpion has been placed in the Stream of Fire,[20] no one who has ever been stung by a scorpion could live. This is what is referred to in the words of the All-Merciful to Job: Canst thou bind the chains of Pleiades or loose the bands of Orion?[21]

What is meant by Kimah [Pleiades]?[18] Samuel said: About a hundred [ke'me-ah] stars. Some say they are close together; others say that they are scattered. What is meant by ‘’Ash [the Bear]’?[18] — Rab Judah said: Jutha. What is Jutha? — Some say it is the tail of the Ram; others say it is the hand of the Calf.[22] The one who says it is the tail of the Ram is more probably right, since it says: ‘Ayish will be comforted for her children .[23] This shows that it lacks something,

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(1) Sc., Jerusalem.

(2) Prov. XV, 25.

(3) Ps. XCIV, 1.

(4) Ezek. XXI, 11.

(5) Ibid. 22.

(6) I.e., a great many.

(7) Isa. V, 9.

(8) Ps. CXXV, 1.

(9) I.e., that R. Hana's house should be like the house of God.

(10) V. P.B. p. 319.

(11) Ps. XXXI, 13. A thing is not given up as lost till after twelve months.

(12) Apparently they thought he was sarcastic.

(13) Kokeba di-Shabi Lit., ‘Star that draws’. What exactly is meant is a matter of dispute. Rashi explains as ‘shooting-stars’.

(14) The lowest of the seven firmaments, which is a kind of ‘Veil’ to the others.

(15) Rashi and Tosaf. omit ‘and rolled up’.

(16) Lit., ‘firmament’. The next of the seven firmaments.

(17) I.e., mere error of perspective, v. on the passage Brodetsky, Jewish Review July, 1909, p. 167 ff.

(18) Job IX, 9.

(19) Amos V, 8. The order is here reversed.

(20) Mentioned in Dan. VII, 10, denoting probably the Milky Way.

(21) Job. XXXVIII, 31.

(22) This constellation follows that of the Ram.

(23) Ibid. 32. E.V. 'or canst thou guide the Bear with her sons'.

Talmud - Mas. Berachoth 59a

and in fact it looks like a piece torn off;[1] and the reason why she follows her is because she is saying to her: Give me my children. For at the time when the Holy One, blessed be He, wanted to bring a flood upon the world, He took two stars from Kimah and brought a flood upon the world. And when He wanted to stop it, He took two stars from 'Ayish and stopped it. But why did He not put the other two back? — A pit cannot be filled with its own clods;[2] or another reason is, the accuser cannot become advocate. Then He should have created two other stars for it? — There is nothing new under the sun.[3] R. Nahman said: The Holy one, blessed be He, will one day restore them to her, as it says: and 'Ayish will be comforted for her children.[4]

AND OVER EARTHQUAKES [ZEWA'OTH]. What are ZEWA'OTH? R. Kattina said: A rumbling of the earth. R. Kattina was once going along the road, and when he came to the door of the house of a certain necromancer, there was a rumbling of the earth. He said: Does the necromancer know what this rumbling is? He called after him, Kattina, Kattina, why should I not know? When the Holy One, blessed be He, calls to mind His children, who are plunged in suffering among the nations of the world, He lets fall two tears into the ocean, and the sound is heard from one end of the world to the other, and that is the rumbling. Said R. Kattina: The necromancer is a liar and his words are false. If it was as he says, there should be one rumbling after another! He did not really mean this, however. There really was one rumbling after another, and the reason why he did not admit it was so that people should not go astray after him. R. Kattina, for his own part, said: [God] clasps His hands, as it says: I will also smite my hands together, and I will satisfy my fury.[5] R. Nathan said: [God] emits a sigh, as it is said: I will satisfy my fury upon them and I will be eased.[6] And the Rabbis said: He treads upon the firmament, as it says: He giveth a noise as they that tread grapes against all the inhabitants of the earth.[7] R. Aha b. Jacob says: He presses his feet together beneath the throne of glory, as it says: Thus saith the Lord, the heaven is my throne and the earth is my foot-stool.[8]

AND OVER THUNDERS [RE'AMIM]. What are RE'AMIM? — Clouds in a whirl, as it says: The voice of Thy thunder was in the whirlwind; the lightning lighted up the world, the earth trembled and shook.[9] The Rabbis, however, say: The clouds pouring water into one another, as it says: At the sound of His giving a multitude of waters in the heavens.[10] R. Aha b. Jacob said: A powerful lightning flash that strikes the clouds and breaks off hailstones. R. Ashi said: The clouds are puffed out and a blast of wind comes and blows across the mouth of them and it makes a sound like wind blowing across the mouth of a jar. The most probable view is that of R. Aha b. Jacob; for the lightning flashes and the clouds rumble and then rain falls.

AND OVER STORMS [RUHOTH]. What are RUHOTH? — Abaye said: A hurricane. Abaye further said: We have a tradition that a hurricane never comes at night. But we see that it does come? — It must have commenced by day. Abaye further said: We have a tradition that a hurricane does not last two hours, to fulfil the words of Scripture, Troubles shall not rise up the second time.[11] But we have seen it lasting as long? — There was an interval in the middle.

OVER LIGHTNINGS [BERAKIM] ONE SAYS, BLESSED IS HE WHOSE STRENGTH AND MIGHT FILL THE WORLD. What are BERAKIM? Raba said: Lightning. Rab also said: A single flash, white lightning, blue lightning, clouds that rise in the west and come from the south, and two clouds that rise facing one another are all [signs of] trouble. What is the practical bearing of this remark? That prayer is needed [to avert the omen]. This is only the case by night; but in the daytime there is no significance in them. R. Samuel b. Isaac said: Those morning clouds have no significance,[12] as it is said: Your goodness is as a morning cloud.[13] Said R. Papa to Abaye: But there is a popular saying: When on opening the door you find rain, ass-driver, put down your sack and go to sleep [on it]?[14] — There is no contradiction; in the one case the sky is covered with thick clouds, in the other with light clouds.

R. Alexandri said in the name of R. Joshua b. Levi: Thunder was created only to straighten out the crookedness of the heart, as it says: God hath so made it that men should fear before him.[15] R. Alexandri also said in the name of R. Joshua b. Levi: One who sees the rainbow in the clouds should fall on his face, as it says, As the appearance of the bow that is in the cloud, and when I saw it I fell upon my face.[16] In the West [Palestine] they cursed anyone who did this, because it looks as if he was bowing down to the rainbow; but he certainly makes a blessing. What blessing does he say? — 'Blessed is He who remembers the Covenant'. In a Baraitha it was taught: R. Ishmael the son of R. Johanan b. Beroka says: He says: Who is faithful with his Covenant and fulfils his word.

FOR MOUNTAINS AND HILLS, etc. Do all the things we have mentioned hitherto not belong to the work of creation? Is it not written, He maketh lightnings for the rain?[17] — Abaye said: Combine the two statements.[18] Raba said: In the former cases he says two blessings, 'Blessed be He whose strength fills the world and who has wrought the work of creation'; in this case there is ground for saying 'Who has wrought creation' but not for 'Whose strength fills the world'.[19]

R. Joshua b. Levi said: If one sees the sky in all its purity, he says: Blessed is He who has wrought the work of creation. When does he say so? — Abaye said: When there has been rain all the night, and in the morning the north wind comes and clears the heavens. And they differ from Rafram b. Papa quoting R. Hisda. For Rafram b. Papa said in the name of R. Hisda: Since the day when the Temple was destroyed there has never been a perfectly clear sky, since it says: I clothe the heavens with blackness

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(1) And then stuck on artificially.
(2) V. supra, p. 10, n. 1.
(3) Eccl. 1, 9.
(4) Job. XXXVIII, 32. E.V. 'or canst thou guide the Bear with her sons'.
(5) Ezek. XXI, 22.
(6) Ibid. V, 13.
(7) Jer. XXV, 30.
(8) Isa. LXVI, 1.
(9) Ps. LXXVII, 19.
(10) Jer. X, 13.
(11) Nahum I, 9.
(12) I.e., do not portend a good fall of rain.
(13) Hosea VI, 4.
(14) Because corn will be cheap on account of the abundant rain.
(15) Eccl. III, 14.
(16) Ezek. I, 28.
(17) Ps. CXXXV, 7.
(18) I.e., say in all cases the double blessing.
(19) Because the mountains are not all in one place.

Talmud - Mas. Berachoth 59b

and I make a sackcloth their covering.[1]

Our Rabbis taught:* He who sees the sun at its turning point,[2] the moon in its power,[3] the planets in their orbits,[4] and the signs of the zodiac in their orderly progress,[5] should say: Blessed be He who has wrought the work of creation. And when [does this happen]?[6] — Abaye said: Every twenty-eight years when the cycle[7] begins again and the Nisan [Spring] equinox falls in Saturn on the evening of Tuesday,[8] going into Wednesday.

R. JUDAH SAYS: IF ONE SEES THE GREAT SEA etc. How long must the intervals be? Rami b. Abba said in the name of R. Isaac: From thirty days. Rami b. Abba also said in the name of R. Isaac: If one sees the River Euphrates by the Bridge of Babylon, he says: Blessed is He who has wrought the work of creation.[9] Now, however, that the Persians have changed it,[10] only if he sees it from Be Shapor[11] and upwards. R. Joseph says: From Ihi Dekira[12] and upwards. Rami b. Abba also said: If one sees the Tigris by the Bridge of Shabistana,[13] he says: Blessed is He who wrought the work of creation. Why is it [the Tigris] called Hiddekel?[14] — R. Ashi said: Because its waters are sharp [had] and swift [kal]. Why is it [the Euphrates] called Perath? — Because its waters are fruitful [parim] and multiply. Raba also said: The reason why people of Mahoza are so sharp is because they drink the waters of the Tigris; the reason why they have red spots is because they indulge in sexual intercourse in the daytime; the reason why their eyes blink is because they live in dark houses.[15]

FOR THE RAIN etc. Is the benediction for rain ‘Who is good and does good’? Has not R. Abbahu said — some say it has been taught in a Baraitha: From when do they say the blessing over rain? From the time when the bridegroom goes out to meet his bride.[16] What blessing do they say? R. Judah said: We give thanks to Thee for every drop which Thou hast caused to fall for us; and R. Johanan concluded thus: ‘If our mouths were full of song like the sea . . . . we could not sufficiently give thanks unto Thee, O Lord our God, etc.’ up to ‘shall prostrate itself before Thee. Blessed art Thou, O Lord, to whom abundant thanksgivings are due’.[17] (Is it abundant thanksgivings and not all thanksgivings? — Raba said: Say, ‘the God to whom thanksgivings are due’. R. Papa said: Therefore let us say both ‘to whom abundant thanksgivings are due’ and ‘God of thanksgivings’.) But after all there is a contradiction? — There is no contradiction; the one blessing[18] is said by one who has heard [that it has been raining]; the other by one who has seen it. But one who hears of it hears good tidings, and we have learnt: For good tidings one says: Blessed is He who is good and does good?[19] In fact both are said by one who sees it, and still there is no contradiction: the one is said if only a little falls, the other, if much falls. Or if you like, I can say that both are said for a heavy fall, and still there is no contradiction: the one is said by a man who has land, the other by one who has no land. Does one who has land say the blessing, ‘Who is good and does good’? Has it not been taught: One who has built a new house or bought new clothes says: Blessed is He who has kept us alive and brought us to this season; [if it is] for himself along with others, he says: ‘Who is good and does good’?[20] This is no contradiction. The one blessing[21] is said if he has a partnerships the others if he has no partnership. And thus it has been taught: In a word, for his own things he says: Blessed is He who has kept us alive and preserved us; for things which belong to him in conjunction with this neighbour, he says: Blessed is He who is good and does good.[22] And if no-one is associated with him in the ownership, does he never say the blessing, Who is good and does good? Has it not been taught: If a man is told that his wife has borne a son, he says: Blessed is He that is good and does good? — In that case, too, his wife is associated with him, because she is glad to have a son. Come and hear: If a man's father dies and he is his heir, first he says: Blessed is the true Judge, and afterwards he says: Blessed is He who is good and does good? — There, too, it is a case where there are brothers who inherit with him. Come and hear: Over a new kind of wine[23] there is no need to make a blessing; but if one goes to another place,[24] he must say a blessing again; and R. Joseph b. Abba said in the name of R. Johanan: Although they said that over a fresh kind of wine there is no need to make a blessing, still he says: Blessed is He who is good and does good? — There, too, It is a case where there are other members of the company who drink with him.

ONE WHO HAS BUILT A NEW HOUSE OR BOUGHT NEW VESSELS etc. R. Huna said: This is the rule only if he does not possess similar things; but if he has similar ones, he need not say the blessing. R. Johanan, however, says: Even if he has similar ones[25] he must make the blessing.[26]

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(1) Isa. L. 3.

(2) In its apparent motion in the ecliptic, the sun has four ‘turning points’ which mark the beginnings of the four respective seasons. These points are generically referred to as the tekufoth (sing. tekufah). They are: the two equinoctial points when the sun crosses the equator at the beginning of spring and autumn respectively, and ‘turns’ from one side of the equator to the other; and the two solstices, when the sun is at its maximum distance, or declination, from the equator, at one or other side of it, at the beginning (*) Note 6 and the notes on the following page are based on material supplied by the late Dr. W. M. Feldman, M.D., B.S., F.R.C.P., F.R.A.S., F.R.S. (Edin.), shortly before his death on July 1st, 1939. of summer and winter respectively, and instead of progressively increasing its declination it ‘turns’ to decrease it progressively. (It may be mentioned that the term ‘tekufah’ is also used not only for the beginning of a season but for the whole of the season itself.)

(3) As the sun and moon were created to rule the day and night respectively (Gen. I, 16), they are necessarily endowed with the attribute of power (cf. Sabbath Liturgy כח וגבורה נתן בהם). In this passage, however, ‘the moon in its power’ may have a special significance, because at the Nisan, or spring equinox, the spring tides are greatest, owing to the combined action of the sun and the moon in conjunction, or new moon. The moon in its power to cause tides (a fact known to Pliny and Aristotle, and referred to by Maimonides (Guide II, 10), although never directly mentioned in the Talmud), is therefore best seen at this time.

(4) The orbits of the planets which are now known to be ellipses, were, on the Ptolemaic system, which prevailed at that time, assumed to be traced out by a most ingenious combination of eccentric circles and epicycles, (v. for instance, the epicyclic theory of the moon in Feldman W.M., Rabbinical Mathematics and Astronomy, London, 1931, pp. 132ff). Hence the contemplation of the planets in their orbits was an adequate reason for pronouncing the blessing.

(5) The vernal or autumnal equinox is not a fixed point in relation to the signs of the zodiac, but keeps on changing its position to the extent of 50.1". (50.1 seconds of arc) per year. This movement which is called ‘precession of the equinoxes’ is due to the continual shifting of the point of intersection of the ecliptic with the equator, but was believed by the ancients to be due to the progressive movement of the signs of the zodiac. As the result of precession, the equinoctial point which 2,000 years ago was the beginning of the sign Ram (first point of Aries) has since shifted 30¡ to the sign Pisces, although it is still spoken of as the first point of Aries.

(6) The reference is to the sun at its turning point (Rashi).

(7) This means here the Big or Solar Cycle. Taking a Samuel, or Julian, year to consist of 365 1/4 days or 52 weeks 1/4 days, every tekufah occurs 1 1/4 days later in the week every consecutive year, so that after 4 years it occurs at the same time of the day but (1 1/4 X 4 =) 5 days later in the week. After 28, or 4 X 7 years, the tekufah will recur not only at the same time of the day, but also on the same day of the week. V. Feldman, op. cit. p. 199.

(8) As the sun and moon were created on the 4th day, the beginning of the 28 years cycle is always on a Wednesday which begins at the vernal equinox at 6 p.m. on Tuesday. This, according to computation coincides with the rise of Saturn, v. Rashi.

(9) Because it was supposed that the River Euphrates from that point upwards had never changed its course since the days of Adam (Rashi).

(10) By making canals.

(11) Piruz Shabur on the eastern side of the Euphrates at the part where the Nahr Isa Canal branches off from the Euphrates connecting it at Bagdad with the Tigris (Obermeyer P. 57).

(12) The modern Hit.

(13) The bridge on the southern Tigris forming part of the great trading route between Khurzistan and Babylon during the Persian period (Obermeyer pp. 62ff.). For a full discussion and explanation of this whole passage v. Obermeyer pp. 52ff.

(14) Gen. II, 14.

(15) I.e., well-shaded from the sun.

(16) I.e., when the drops commence to rebound from the earth.

(17) V. P.B. p. 125.

(18) I.e., ‘Who is good and does good’.

(19) And why should we be taught this again in the case of rain?

(20) And a landowner presumably does not share his land with others.

(21) The blessing, ‘Who has kept us alive, etc.’.

(22) And the landowner shares the rain with all other landowners. (V. Rashi and Asheri).

(23) I.e., if one drinks a new (and better) kind of wine in the course of a meal.

(24) To finish his meal, and wine is brought to him there.

(25) E.g., from an inheritance.

(26) Because the buying at any rate is fresh.

Talmud - Mas. Berachoth 60a

We infer from this that if one bought things, and then bought some more, all agree that he need not say a blessing.[1] Some say: R. Huna said, This rule applies only where he does not buy again after already buying; but if he buys again after already buying, he need not say the blessing. R. Johanan, however, says: Even if he buys again after already buying, he must make a blessing. We infer from this that if he buys a kind of thing which he has already,[2] all agree that he has to say a blessing. An objection was raised: If one builds a new house, not having one like it already, he must say a blessing. If he already has any like them, he need not say a blessing. So R. Meir. R. Judah says: In either case he must make a blessing. Now this accords well with the first version, R. Huna following R. Meir and R. Johanan following R. Judah. But if we take the second version, it is true that R. Huna follows R. Judah, but whom does R. Johanan follow? It is neither R. Meir nor R. Judah![3] — R. Johanan can reply: The truth is that according to R. Judah also If one buys again after already buying, he must make a blessing, and the reason why they join issue over the case of his buying something of a kind which he has already is to show you how far R. Meir is prepared to go, since he says that even if he buys something of a kind which he already has, he need not make a blessing, and all the more so if he buys again after already buying, he need not make a blessing. But should they rather not join issue over the case of buying again after already buying, where there is no need to say a blessing,[4] to show how far he [R. Judah] is prepared to go?[5] — He prefers that the stronger instance should be a case of permission.[6]

OVER EVIL A BLESSING IS SAID etc. How is this to be understood? — For instance, if a freshet flooded his land. Although it is [eventually] a good thing for him, because his land is covered with alluvium and becomes more fertile, nevertheless for the time being it is evil.[7]

AND OVER GOOD etc. How can we understand this? — If for instance he found something valuable. Although this may [eventually] be bad for him, because if the king hears of it he will take it from him, nevertheless for the time being it is good.

IF A MAN'S WIFE IS PREGNANT AND HE SAYS, MAY [GOD] GRANT THAT MY WIFE BEAR etc. THIS IS A VAIN PRAYER. Are prayers then [in such circumstances] of no avail? R. Joseph cited the following in objection: And afterwards she bore a daughter and called her name Dinah.[8] What is meant by ‘afterwards’? Rab said: After Leah had passed judgment on herself, saying, ‘Twelve tribes are destined to issue from Jacob. Six have issued from me and four from the handmaids, making ten. If this child will be a male, my sister Rachel will not be equal to one of the handmaids’. Forthwith the child was turned to a girl, as it says, And she called her name Dinah![9] — We cannot cite a miraculous event [in refutation of the Mishnah]. Alternatively I may reply that the incident of Leah occurred within forty days [after conception], according to what has been taught: Within the first three days a man should pray that the seed should not putrefy; from the third to the fortieth day he should pray that the child should be a male; from the fortieth day to three months he should pray that it should not be a sandal;[10] from three months to six months he should pray that it should not be still-born; from six months to nine months he should pray for a safe delivery. But does such a prayer[11] avail? Has not R. Isaac the son of R. Ammi said: If the man first emits seed, the child will be a girl; if the woman first emits seed, the child will be a boy?[12] — With what case are we dealing here? If, for instance, they both emitted seed at the same time.

IF HE WAS COMING FROM A JOURNEY. Our Rabbis taught: It once happened with Hillel the elder that he was coming from a journey, and he heard a great cry in the city, and he said: I am confident that this does not come from my house. Of him Scripture says: He shall not be afraid of evil tidings; his heart is steadfast, trusting in the Lord.[13] Raba said: Whenever you expound this verse you may make the second clause explain the first, or the first clause explain the second. 'You may make the second clause explain the first', thus: 'He will not fear evil tidings'. Why? Because 'his heart is steadfast, trusting in the Lord'. 'You may explain the second clause by the first', thus: 'His heart is steadfast trusting in the Lord'; therefore, 'he shall not be afraid of evil tidings'. A certain disciple was once following R. Ishmael son of R. Jose in the market place of Zion. The latter noticed that he looked afraid, and said to him: You are a sinner, because it is written: The sinners in Zion are afraid.[14] He replied: But it is written: Happy is the man that feareth alway?[15] — He replied: That verse refers to words of Torah.[16] R. Judah b. Nathan used to follow R. Hamnuna. Once he sighed, and the other said to him: This man wants to bring suffering on himself, since it is written; For the thing which I did fear is come upon me, and that which I was afraid of hath overtaken me.[17] But [he replied] it is written: 'Happy is the man who feareth alway'? — He replied: That is written in connection with words of Torah.

ONE WHO GOES THROUGH A CAPITAL CITY. Our Rabbis taught: What does he say on entering? 'May it be Thy will O Lord, my God, to bring me into this city in peace'. When he is inside he says: 'I give thanks to Thee, O Lord, my God, that Thou hast brought me into this city in peace'. When he is about to leave he says: 'May it be Thy will, O Lord, my God, and God of my fathers, to bring me out of this city in peace'. When he is outside he says: 'I give thanks to Thee, O Lord, my God, that Thou hast brought me out of this city in peace, and as Thou hast brought me out in peace, so mayest Thou guide me in peace and support me in peace and make me proceed in peace and deliver me from the hands of all enemies and liers-in-wait by the way'. R. Mattena said: This applies only to a city where criminals are not tried and sentenced:[18] but in a city where criminals are tried and sentenced, this is unnecessary. Some report: R. Mattena said: Even in a city where criminals are tried and sentenced, for sometimes he may happen not to find a man who can plead in his defence.

Our Rabbis taught: On entering a bath-house one should say: 'May it be Thy will O Lord, my God, to deliver me from this and from the like of this, and let no humiliation or iniquity befall me; and if I do fall into any perversity or iniquity, may my death be an atonement for all my iniquities'. Abaye said: A man should not speak thus, so as not to open his mouth for the Satan.[19] For Resh Lakish said-and so it was taught in the name of R. Jose: A man should never open his mouth for the Satan. R. Joseph said: What text proves this? Because it is written, We should have been as Sodom, we should have been like unto Gomorrah.[20] What did the prophet answer them? Hear the word of the Lord, ye rulers of Sodom, etc.[21] On leaving the bath-house what does he say? R. Aha said: 'I give thanks unto Thee, O Lord, my God, that Thou hast delivered me from the fire'. R. Abbahu once went into the bathhouse and the floor of the bath-house gave way beneath him, and a miracle was wrought for him, and he stood on a pillar and rescued a hundred and one men with one arm. He said: This is what R. Aha meant.[22]

On[23] going in to be cupped one should say: 'May it be Thy will, O Lord, my God, that this operation may be a cure for me, and mayest Thou heal me, for Thou art a faithful healing God, and Thy healing is sure, since men have no power to heal, but this is a habit with them'.[24] Abaye said: A man should not speak thus, since it was taught in the school of R. Ishmael: [It is written], He shall cause him to be thoroughly healed.[25] From this we learn that permission has been given to the physician to heal. When he gets up [after cupping] what does he say? — R. Aha said: Blessed be He who heals without payment.

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(1) Because in this case it is not a fresh buying.

(2) By inheritance or presentation.
(3) Because even R. Judah holds that if he buys again after already buying, he need not make a blessing.
(4) For the second purchase according to R. Meir.
(5) In demanding a blessing for the second purchase.
(6) I.e., a case in which a blessing need not be made.
(7) Because it spoils the produce of this year, and he has to say the blessing, ‘Blessed is the true Judge’.
(8) Gen. XXX, 21.
(9) Lit., ‘judgment’.
(10) A kind of abortion resembling a flat-shaped fish called sandal.
(11) That the child should be a male.
(12) Which shows that it is all fixed beforehand.
(13) Ps CXII, 7.
(14) Isa. XXXIII, 14.
(15) Prov. XXVIII, 14.
(16) A man should always be afraid lest he may forget them.
(17) Job III, 25.
(18) I.e., where the protection of the law can not be relied on
(19) Cf. supra 190.
(20) Isa. I, 9.
(21) Ibid., 10.
(22) In saying that one should give thanks on emerging.
(23) Cur. edd. introduce this with the words ‘for R. Aha said’: but this is best left out.
(24) To be cupped.
(25) Ex. XXI, 19.

Talmud - Mas. Berachoth 60b

On entering a privy one should say: ‘Be honoured, ye honoured and holy ones[1] that minister to the Most High. Give honour to the God of Israel. Wait for me till I enter and do my needs, and return to you’. Abaye said: A man should not speak thus, lest they should leave him and go. What he should say is: ‘Preserve me, preserve me, help me, help me, support me, support me, till I have entered and come forth, for this is the way of human beings’. When he comes out he says: ‘Blessed is He who has formed man in wisdom and created in him many orifices and many cavities. It is fully known before the throne of Thy glory that if one of them should be [improperly] opened or one of them closed it would be impossible for a man to stand before Thee’. How does the blessing conclude? Rab said: ‘[Blessed art Thou] that healest the sick’. Said Samuel: Abba[2] has turned the whole world into invalids! No; what he says is, ‘That healest all flesh’. R. Shesheth said: ‘Who doest wonderfully’. R. Papa said: Therefore let us say both, ‘Who healest all flesh and doest wonderfully’.[3]

On going to bed one says from ‘Hear, oh Israel’ to ‘And it shall come to pass if ye hearken diligently’. Then he says: ‘Blessed is He who causes the bands of sleep to fall upon my eyes and slumber on my eyelids, and gives light to the apple of the eye. May it be Thy will, O Lord, my God, to make me lie down in peace, and set my portion in Thy law and accustom me to the performance of religious duties, but do not accustom me to transgression; and bring me not into sin, or into iniquity, or into temptation, or into contempt. And may the good inclination have sway over me and let not the evil inclination have sway over me. And deliver me from evil hap and sore diseases, and let not evil dreams and evil thoughts disturb me, and may my couch be flawless before Thee, and enlighten mine eyes lest I sleep the sleep of death. Blessed art Thou, oh Lord, who givest light to the whole world in Thy glory.’[4]

When he wakes he says: ‘My God, the soul which Thou hast placed in me is pure. Thou hast fashioned it in me, Thou didst breathe it into me, and Thou preservest it within me and Thou wilt one day take it from me and restore it to me in the time to come. So long as the soul is within me I give thanks unto Thee, O Lord, my God, and the God of my fathers, Sovereign of all worlds, Lord of all souls. Blessed art Thou, O Lord, who restorest souls to dead corpses'.[5] When he hears the cock crowing he should say: 'Blessed is He who has given to the cock understanding to distinguish between day and night'. When he opens his eyes he should say: 'Blessed is He who opens the eyes of the blind'. When he stretches himself and sits up he should say: 'Blessed is He who looseneth the bound'. When he dresses he should say: 'Blessed is He who clothes the naked'. When he draws himself up he should say: 'Blessed is He who raises the bowed'. When he steps on to the ground he should say: 'Blessed is He who spread the earth on the waters'. When he commences to walk he should say: Blessed is He who makes firm the steps of man'. When he ties his shoes he should say: 'Blessed is He who has supplied all my wants'. When he fastens his girdle, he should say: 'Blessed is He who girds Israel with might'. When he spreads a kerchief over his head he should say: 'Blessed is He who crowns Israel with glory'. When he wraps himself with the fringed garment he should say: 'Blessed is He who hast sanctified us with His commandments and commanded us to enwrap ourselves in the fringed garment'. When he puts the tefillin on his arm he should say: 'Blessed is He who has sanctified us with His commandments and commanded us to put on tefillin'. [When he puts it] on his head he should say: 'Blessed is He who has sanctified us with His commandments and commanded us concerning the commandment of tefillin'. When he washes his hands he should say: 'Blessed is He who has sanctified us with His commandments and commanded us concerning the washing of hands'.[6] When he washes his face he should say: 'Blessed is He who has removed the bands of sleep from mine eyes and slumber from mine eyes. And may it be Thy will O Lord, my God, to habituate me to Thy law and make me cleave to Thy commandments, and do not bring me into sin, or into iniquity, or into temptation, or into contempt, and bend my inclination to be subservient unto Thee, and remove me far from a bad man and a bad companion, and make me cleave to the good inclination and to a good companion in Thy world, and let me obtain this day and every day grace, favour, and mercy in Thine eyes, and in the eyes of all that see me, and show lovingkindness unto me. Blessed art Thou, O Lord, who bestowest lovingkindness upon Thy people Israel'.[7]

IT IS INCUMBENT ON A MAN TO BLESS etc. What is meant by being bound to bless for the evil in the same way as for the good? Shall I say that, just as for good one says the benediction 'Who is good and bestows good', so for evil one should say the benediction 'Who is good and bestows good'? But we have learnt: FOR GOOD TIDINGS ONE SAYS, WHO IS GOOD AND BESTOWS GOOD: FOR EVIL TIDINGS ONE SAYS, BLESSED BE THE TRUE JUDGE? — Raba said: What it really means is that one must receive the evil with gladness. R. Aha said in the name of R. Levi: Where do we find this in the Scripture? I will sing of mercy and justice, unto Thee, O Lord, will I sing praises,'[8] whether it is 'mercy' I will sing, or whether it is 'justice' I will sing. R. Samuel b. Nahmani said: We learn it from here: In the Lord I will praise His word, in God I will praise His word.[9] 'In the Lord[10] I will praise His word': this refers to good dispensation; 'In God[11] I will praise His word': this refers to the dispensation of suffering. R. Tanhum said: We learn it from here: I will lift up the cup of salvation and call on the name of the Lord;[12] I found trouble and sorrow, but I called upon the name of the Lord.[13] The Rabbis derive it from here: The Lord gave and the Lord hath taken away,' blessed be the name of the Lord.[14]

R. Huna said in the name of Rab citing R. Meir, and so it was taught in the name of R. Akiba: A man should always accustom himself to say ' 'Whatever the All-Merciful does is for good', [as exemplified in] the following incident. R. Akiba was once going along the road and he came to a certain town and looked for lodgings but was everywhere refused. He said 'Whatever the All-Merciful does is for good', and he went and spent the night in the open field. He had with him a cock, an ass and a lamp. A gust of wind came and blew out the lamp, a weasel came and ate the cock, a lion came and ate the ass. He said: 'Whatever the All-Merciful does is for good'. The same night some brigands came and carried off the inhabitants of the town. He said to them:[15] Did I not say to you, ‘Whatever the All-Merciful does

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(1) These words are addressed to the angels who are supposed to accompany a man to the privies, which were regarded as the haunt of evil spirits, v. infra 61a.

(2) Rab.

(3) P.B. p. 4.

(4) Ibid. p. 293.

(5) Ibid. p. 5.

(6) For all these blessings v. P.B. P. 5f. These blessings are now no longer said after each act, but are all said together in the morning service.

(7) Ibid. p. 6.

(8) Ps. CI, 1.

(9) Ibid. LVI, 11. in the M.T. the order of the divine names is reserved.

(10) The name of the Attribute of Mercy.

(11) The name of the Attribute of Justice.

(12) Ibid. CXVI, 13.

(13) Ibid. 3.

(14) Job. I, 21.

(15) Apparently to the men of the town, on a subsequent occasion; or perhaps to his disciples who accompanied him.

Talmud - Mas. Berachoth 61a

is all for good?[1]

R. Huna further said in the name of R. Meir: A man's words should always be few in addressing the Holy One, blessed be He, since it says, Be not rash with thy mouth and let not thy heart be hasty to utter a word before God,’ for God is in heaven and thou upon earth; therefore let thy words be few.[2]

R. Nahman b. R. Hisda expounded: What is meant by the text, Then the Lord God formed [wa-yizer] man?[3] [The word wa-yizer] is written with two yods,[4] to show that God created two inclinations, one good and the other evil. R. Nahman b. Isaac demurred to this. According to this, he said, animals, of which it is not written wa-yizer,[5] should have no evil inclination ‘ yet we see that they injure and bite and kick? In truth [the point of the two yods] is as stated by R. Simeon b. Pazzi; for R. Simeon b. Pazzi said: Woe is me because of my Creator [yozri],[6] woe is me because of my evil inclination [yizri]![7] Or again as explained by R. Jeremiah b. Eleazar; for R. Jeremiah b. Eleazar said: God created two countenances in the first man,[8] as it says, Behind and before hast Thou formed me.[9]

And the rib which the Lord God had taken from man made he a woman.[10] Rab and Samuel explained this differently. One said that [this ‘rib’] was a face, the other that it was a tail.[11] No objection can be raised against the one who says it was a face, since so it is written, ‘Behind and before hast Thou formed me’. But how does he who says it was a tail explain ‘Behind and before hast Thou formed me’? — As stated by R. Ammi; for R. Ammi said: ‘Behind’ [i.e.,last] in the work of creation, and ‘before’ [i.e., first] for punishment. We grant you he was last in the work of creation, for he was not created till the eve of Sabbath. But when you say ‘first for punishment’, to what punishment do you refer? Do you mean the punishment in connection with the serpent? Surely it has been taught: Rabbi says, in conferring honour we commence with the greatest , in cursing with the least important . ‘In conferring honour we commence with the greatest’, as it is written, And Moses spoke to Aaron and to Eleazar and to Ithamar his sons that were left, Take the meal-offering that remaineth etc.[12] ‘In cursing we commence with the least’; first the serpent was cursed then Eve and then Adam![13] I must say then that the punishment of the Flood is meant, as it is written, And He blotted out every living substance which was upon the face of the ground, both man and cattle.[14]

No difficulty arises for the one who says that Eve was created from the face, for so it is written, wa-yizer, with two yods. But he who says it was a tail , what does he make of wa-yizer? — As explained by R. Simeon b. Pazzi? For R. Simeon b. Pazzi said: Woe is me because of my Creator [yozri,] woe is me because of my evil inclination [yizri]! No difficulty arises for one who says it was a face, for so it is written, Male and female created He them',[15] But he who says it was a tail, what does he make of 'male and female created He them'? — As explained by R. Abbahu. For R. Abbahu contrasted two texts. It is written, 'Male and female created He them', and it is also written, For in the image of God made He man.[16] How are these statements to be reconciled? At first the intention was to create two, but in the end only one was created. No difficulty arises for him who says it was a face, since so it is written, He closed up the place with flesh instead thereof.[17] But he who says it was a tail, how does he explain, 'he closed up the place with flesh instead thereof[18] — R. Jeremiah, or as some say R. Zebid, or again as some say, R. Nahman b. Isaac, replied: These words are meant to apply only to the place of the cut. No difficulty arises for the one who says it was a tail, for so it is written, And God built.[18] But he who says, it was a face, what does he make of the words 'And God built'?[19] As explained by R. Simeon b. Menasia. For R. Simeon b. Menasia expounded: What is meant by the words, 'And the Lord built the rib'? It teaches that the Holy One, blessed be He, plaited Eve's hair and brought her to Adam; for in the seacoast towns 'plaiting' [keli'atha][20] is called, 'building' [binyatha]. Another explanation: R. Hisda said (some say, it was taught in a Baraitha): It teaches that [God] built Eve after the fashion of a storehouse. Just as a storehouse is narrow at the top and broad at the bottom so as to hold the produce [safely], so a woman is narrower above and broader below so as to hold the embryo. And he brought her to the man.[21] R. Jeremiah b. Eleazar said: This teaches that [God] acted as best man[22] to Adam. Here the Torah teaches a maxim of behaviour, that a man of eminence should associate himself with a lesser man in acting as best man, and he should not take it amiss.

According to the one who says it was a face, which of the two faces went in front? — R. Nahman b. Isaac answered: It is reasonable to suppose that the man's face went in front, since it has been taught: A man should not walk behind a woman on the road,[23] and even if his wife happens to be in front of him on a bridge he should let her pass on one side, and whoever crosses a river behind a woman will have no portion in the future world.[24]

Our Rabbis taught: If a man counts out money from his hand into the hand of a woman so as to have the opportunity of gazing at her, even if he can vie in Torah and good deeds with Moses our teacher, he shall not escape the punishment of Gehinnom, as it says, Hand to hand, he shall not escape from evil,[25] he shall not escape from the punishment of Gehinnom.

R. Nahman said: Manoah was an 'am ha-arez:, since it is written, And Manoah went after his wife.[26] R. Nahman b. Isaac demurred to this. According to this, [he said,] in the case of Elkanah when it says, 'And Elkanah went after his wife',[27] and in the case of Elisha when it says, And he rose and went after her,[28] are we to suppose that this means literally after her? No; it means, after her words and her advice. So here [in the case of Manoah] it means, after her words and her advice! Said R. Ashi: On the view of R. Nahman that Manoah was an 'am ha'arez, he cannot even have known as much of Scripture as a schoolboy;[29] for it says, And Rebekah arose and her damsels, and they rode upon the cammels and followed the man,[30] [after the man] and not in front of the man.

R. Johanan said: Better go behind a lion than behind a woman; better go behind a woman than behind an idol; better go behind an idol than behind the synagogue when the congregation are praying.[31] This, however, is the case only when he is not carrying a load; if he is carrying a load, there is no objection. And also this is the case only when there is no other entrance; but if there is another entrance there is no objection. And again this is the case only when he is not riding on an ass, but if he is riding on an ass, there is no objection. And again this is the case only when he is not wearing tefillin; but if he is wearing tefillin there is no objection.

Rab said: The evil inclination resembles a fly[32] and dwells between the two entrances of the heart, as it says, Dead flies make the ointment of the perfumers fetid and putrid.[33] Samuel said: It is a like a kind of wheat [hittah], as it says, Sin [hattath] coucheth at the door.[34]

Our Rabbis taught: Man has two kidneys, one of which prompts him to good, the other to evil; and it is natural to suppose that the good one is on his right side and the bad one on his left, as it is written, A wise man's understanding is at his right hand, but a fool's understanding is at his left.[35]

Our Rabbis taught: The kidneys prompt, the heart discerns, the tongue shapes [the words], the mouth articulates, the gullet takes in and lets out all kinds of food, the wind-pipe produces the voice,

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(1) Because the lamp or the cock or the ass might have disclosed his whereabouts to the brigands.
(2) Eccl. V, 1.
(3) Gen. II, 7.
(4) וייצר .
(5) In Gen. II, 19, And the Lord God formed all the beasts of the field, etc., the word wa-yizer is spelt with one yod.
(6) If I follow my inclination.
(7) If I combat it.
(8) And out of one of them Eve was made.
(9) Ps. CXXXIX, 5. E.V. ‘ Thou host hemmed me in’.
(10) Gen. II, 22.
(11) I.e., projected like a tail.
(12) Lev. X, 12. Aaron is mentioned first.
(13) V. Gen. III, 14-20.
(14) Ibid. VII, 23. Man is here mentioned before cattle.
(15) Ibid. V, 2.
(16) Ibid. IX, 6.
(17) Ibid. II, 22.
(18) Ibid. 22. E.V. ‘made’.
(19) The face needed no ‘building’, since it was already there.
(20) This word in Aramaic also means ‘tents’.
(21) Gen. II, 22.
(22) Heb. shoshbin, the man who looks after the wedding arrangements; v. B.B. , Sonc. ed., p. 618 n. 10.
(23) To avoid unchaste thoughts.
(24) Because the woman in crossing will naturally lift up her dress.
(25) Prov. XI, 21. E.V. ‘My hand upon it! The evil man shall not be unpunished!’
(26) Judg. XIII, 11.
(27) This text is not found in the Scripture, and Tosaf. deletes the mention of Elkanah here; v. Rashal and Maharsha.
(28) II Kings IV, 30.
(29) Lit., ‘he did not read Scripture in a schoolhouse’.
(30) Gen. XXIV, 61.
(31) V. supra 8b.
(32) V. Suk. 52b.
(33) Eccl. X, 1.
(34) Gen. IV, 7. This is probably connected with the view that the forbidden fruit of which Adam ate was wheat; v. supra 40a (Maharsha).
(35) Eccl. X, 2.

Talmud - Mas. Berachoth 61b

the lungs absorb all kinds of liquids,[1] the liver is the seat of anger, the gall lets a drop fall into it and allays it, the milt produces laughter, the large intestine grinds [the food], the maw brings sleep and the nose awakens. If the awakener sleeps or the sleeper rouses,[2] a man pines away. A Tanna taught: If both induce sleep or both awaken, a man dies forthwith.

It has been taught: R. Jose the Galilean says, The righteous are swayed[3] by their good inclination, as it says, My heart[4] is slain within me.[5] The wicked are swayed by their evil inclination, as it says, Transgression speaketh to the wicked, methinks, there is no fear of God before his eyes.[6] Average people are swayed by both inclinations, as it says, Because He standeth at the right hand of the needy,[7] to save him from them that judge his soul.[8] Raba said: People such as we are of the average. Said Abaye to him: The Master gives no one a chance to live![9] Raba further said: The world was created only for either the totally wicked or the totally righteous.[10] Raba said: Let a man know concerning himself whether he is completely righteous or not! Rab said: The world was created only for Ahab son of Omri and for R. Hanina b. Dosa; for Ahab son of Omri this world, and for R. Hanina b. Dosa the future world.

And thou shalt love the Lord thy God etc.[11] It has been taught: R. Eliezer says: If it says 'with all thy soul', why should it also say, 'with all thy might',[12] and if it says 'with all thy might', why should it also say 'with all thy soul'? Should there be a man who values his life more than his money, for him it says; 'with all thy soul'; and should there be a man who values his money more than his life, for him it says, 'with all thy might' . R. Akiba says: With all thy soul': even if He takes away thy soul.[13]

Our Rabbis taught: Once the wicked Government[14] issued a decree forbidding the Jews to study and practise the Torah. Pappus b. Judah came and found R. Akiba publicly bringing gatherings together and occupying himself with the Torah. He said to him: Akiba, are you not afraid of the Government? He replied: I will explain to you with a parable. A fox was once walking alongside of a river, and he saw fishes going in swarms from one place to another. He said to them: From what are you fleeing? They replied: From the nets cast for us by men. He said to them: Would you like to come up on to the dry land so that you and I can live together in the way that my ancestors lived with your ancestors? They replied: Art thou the one that they call the cleverest of animals? Thou art not clever but foolish. If we are afraid in the element in which we live, how much more in the element in which we would die! So it is with us. If such is our condition when we sit and study the Torah, of which it is written, For that is thy life and the length of thy days,[15] if we go and neglect it how much worse off we shall be! It is related that soon afterwards R. Akiba was arrested and thrown into prison, and Pappus b. Judah was also arrested and imprisoned next to him. He said to him: Pappus, who brought you here? He replied: Happy are you, R. Akiba, that you have been seized for busying yourself with the Torah! Alas for Pappus who has been seized for busying himself with idle things! When R. Akiba was taken out for execution, it was the hour for the recital of the Shema', and while they combed his flesh with iron combs, he was accepting upon himself the kingship of heaven.[16] His disciples said to him: Our teacher, even to this point? He said to them: All my days I have been troubled by this verse, 'with all thy soul', [which I interpret,] 'even if He takes thy soul'. I said: When shall I have the opportunity of[17] fulfilling this? Now that I have the opportunity shall I not fulfil it? He prolonged the word ehad[18] until he expired while saying it. A bath kol[19] went forth and proclaimed: Happy art thou, Akiba, that thy soul has departed with the word ehad! The ministering angels said before the Holy One, blessed be He: Such Torah, and such a reward? [He should have been] from them that die by Thy hand, O Lord.[20] He replied to them: Their portion is in life.[21] A bath kol went forth and proclaimed, Happy art thou, R. Akiba, that thou art destined for the life of the world to come.

ONE SHOULD AVOID SHOWING DISRESPECT TO THE EASTERN GATE BECAUSE IT IS

IN A DIRECT LINE WITH THE HOLY OF HOLIES, etc. Rab Judah said in the name of Rab: These rules apply only to this side of Mount Scopus[22] and to one who can see the Temple.[23] It has also been recorded: R. Abba the son of R. Hiyya b. Abba said: Thus said R. Johanan: These rules apply only to this side of Scopus and to one who can see [Jerusalem], and when there is no fence intervening, and at the time when the Divine Presence rests on it.[24]

Our Rabbis taught: One who consults nature in Judea should not do so east and west[25] but north and south. In Galilee he should do so only east and west.[26] R. Jose, however, allows it, since R. Jose said: The prohibition was meant to apply only to one in sight of the Temple and in a place where there is no fence intervening and at the time when the Divine Presence rests there. The Sages, however, forbid it. The Sages say the same as the First Tanna? — They differ with regard to the sides.[27] It has been taught elsewhere: One who consults nature in Judea should not do so east and west but south and north, and in Galilee north and south is forbidden, east and west is permitted. R. Jose, however, permits it, since R. Jose used to say: This prohibition was meant to apply only to one who is in sight [of Jerusalem]. R. Judah says: When the Temple is in existence it is forbidden, when the Temple is not in existence it is permitted. R. Akiba forbids it in all places. R. Akiba says the same as the First Tanna? — They differ in the matter of outside of Palestine. Rabbah had bricks placed for him east and west.[28] Abaye went and changed them round to north and south. Rabbah went in and readjusted them. He said, Who is this that is annoying me? I take the view of R. Akiba, who said that it is forbidden in every place.

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(1) I.e.,they absorb some moisture from the stomach.

(2) I.e., if the nose induces sleep or the maw waking.

(3) Lit., ‘judged’.

(4) I.e., evil promptings

(5) Ps CIX, 22. E.V. ‘wounded’.

(6) Ibid. XXXVI, 2.

(7) I.e., in good deeds.

(8) I.e., his two inclinations. Ibid. CIX, 31.

(9) If Raba is only average, what must other people be?

(10) I.e., this world for the wicked and the next for the righteous.

(11) Deut. VI, 5.

(12) This word is interpreted by the Rabbis to mean money.

(13) I.e., thy very self, thy life.

(14) I.e., Roman.

(15) Deut. XXX, 20.

(16) I.e., recited the Shema’. V. supra 130.

(17) Lit., ‘when will it come to my hands’.

(18) ‘One’ in Hear, O Israel etc.

(19) V. Glos.

(20) Ps. XVII, 14. E.V. ‘From men by thy hand, O Lord’.

(21) Ibid.

(22) From the other side of Mount Scopus the Temple was no longer visible.

(23) Even from this side of Scopus, not being in a hollow.

(24) I.e., when the Temple is in existence.

(25) So as not to turn his back to Jerusalem.

(26) Galilee being north of Jerusalem.

(27) I.e., those parts of Judea and Galilee which were not due east or due north of Jerusalem. The first Tanna prohibits even in these parts, since they speak of the whole of Judea, whereas the Sages permit, referring as they do only to R. Jose's statement.

(28) So that he should not turn his back on Palestine.

Talmud - Mas. Berachoth 62a

. It has been taught: R. Akiba said: Once I went in after R. Joshua to a privy, and I learnt from him three things. I learnt that one does not sit east and west but north and south; I learnt that one evacuates not standing but sitting; and I learnt that it is proper to wipe with the left hand and not with the right. Said Ben Azzai to him: Did you dare to take such liberties with your master? He replied: It was a matter of Torah, and I required to learn. It has been taught: Ben ‘Azzai said: Once I went in after R. Akiba to a privy, and I learnt from him three things. I learnt that one does not evacuate east and west but north and south. I also learnt that one evacuates sitting and not standing. I also learnt it is proper to wipe with the left hand and not with the right. Said R. Judah to him: Did you dare to take such liberties with your master? — He replied: It was a matter of Torah, and I required to learn. R. Kahana once went in and hid under Rab's bed. He heard him chatting [with his wife] and joking and doing what he required. He said to him: One would think that Abba's mouth had never sipped the dish before! He said to him: Kahana, are you here? Go out, because it is rude.[1] He replied: It is a matter of Torah, and I require to learn.

Why should one wipe with the left hand and not with the right? — Raba said: Because the Torah was given with the right hand, as it says, At His right hand was a fiery law unto them.[2] Rabbah b. Hanah said: Because it is brought to the mouth.[3] R. Simeon b. Lakish said: Because one binds the tefillin [on the left arm] with it. R. Nahman b. Isaac said: Because he points to the accents in the scroll with it.[4] A similar difference of opinion is found among Tannaim. R. Eliezer says, because one eats with it; R. Joshua says, because one writes with it; R. Akiba says, because one points with it to the accents in the scroll.

R. Tanhum b. Hanilai said: Whoever behaves modestly in a privy is delivered from three things: from snakes, from scorpions, and from evil spirits. Some say also that he will not have disturbing dreams.[5] There was a certain privy in Tiberias which if two persons entered together even by day, they came to harm. R. Ammi and R. Assi used to enter it separately, and they suffered no harm. The Rabbis said to them, Are you not afraid? They replied: We have learnt a certain tradition.[6] The tradition for [avoiding harm in] the privy is modesty and silence; the tradition relating to sufferings is silence[7] and prayer. The mother of Abaye trained for him a lamb to go with him into the privy.[8] She should rather have trained for him a goat?[9] A satyr might be changed into a goat.[10] Before Raba became head of the Academy, the daughter of R. Hisda[11] used to rattle a nut in a brass dish.[12] After he became head, she made a window for him,[13] and put her hand on his head.[14]

‘Ulla said: Behind a fence one may ease himself immediately; in an open field, so long as he can break wind without anyone hearing it. Issi b. Nathan reported thus: Behind a fence, as long as he can break wind without anyone hearing it; in a open field, as long as he cannot be seen by anyone. An objection was raised: [The watchers][15] may go out by the door of the olive press and ease themselves behind a fence [immediately] and they [the olives] remain clean! — For the sake of ritual purity they made a concession. Come and hear: How far can one go without affecting the cleanness [of the olive press]? Any distance as long as he can still see it![16] — The case of food-stuffs prepared in purity is different, as the Rabbis made a concession for them. R. Ashi said: What is meant by the words ‘as long as he cannot be seen by anyone’ used by Issi b. Nathan? As long as the exposed part of his body cannot be seen; but the man himself may be seen.

A certain funeral orator went down in the presence of R. Nahman [to deliver an address] and said: This man was modest in all his ways. Said R. Nahman to him: Did you ever follow him into a privy so that you should know whether he was modest or not? For it has been taught: A man is called modest only if he is such in the privy. And why was R. Nahman so much concerned about it? Because it has been taught: Just as the dead are punished,[17] so the funeral orators are punished[18] and those who answer [Amen] after them.

Our Rabbis taught: Who is a modest man? One who eases himself by night in the place where he eased himself by day.[19] Is that so? Has not Rab Judah said in the name of Rab: A man should always accustom himself [to consult nature] in the early morning and in the evening[20] so that he may have no need to go a long distance? And again, in the day-time Raba used to go as far as a mile, but at night he said to his attendant, Clear me a spot in the street of the town, and so too R. Zera said to his attendant, See if there is anyone behind the Seminary as I wish to ease myself? — Do not read ‘in the place’, but read, ‘in the same way as he eases himself by day’.[21] R. Ashi said, You may even retain the reading ‘place’, the reference being to a private corner.[22]

The [above] text [states:] ‘Rab Judah said in the name of Rab: A man should always accustom himself to consult nature morning and evening so that he may have no need to go a long distance’. It has been taught similarly, Ben ‘Azzai said: Go forth before dawn and after dark, so that you should not have to go far. Feel yourself before sitting, but do not sit and then feel yourself, for if one sits and then feels himself, should witchcraft be used against him even as far away as Aspamia,[23] he will not be immune from it. And if he forgets and does sit and then feels, what is his remedy? — When he rises he should say, thus: Not for me, not for me; not tahim nor tahtim;[24] not these nor any part of these;[25] neither the sorceries of sorcerers nor the sorceries of sorceresses!

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(1) Lit., ‘it is not the way of the world’.

(2) Deut. XXXIII, 2.

(3) It was usual to bring food to the mouth with the right hand and not with the left.

(4) Rashi explains: Because in chanting he makes corresponding movements with the right hand, this having been the custom of Palestinians in his day.

(5) Lit., ‘his dreams will be settled on him’.

(6) Jastrow, with a slight change of reading (kible), renders ‘charm’.

(7) I.e., resignation.

(8) As a protection against evil spirits.

(9) Goats were associated by the ancients with evil spirits.

(10) The Hebrew word sa'ir means both ‘he-goat’ and ‘satyr’.

(11) His wife.

(12) To frighten away the evil spirits.

(13) In the wall of the house, through which she could put her hand.

(14) As a protection. After becoming head of the Academy, he was more exposed to danger from the evil spirits.

(15) Men who watched the olive-oil press to see that no unclean person entered.

(16) But not further, so that he would himself still be visible. This refutes Issi.

(17) If they were sinners.

(18) For uttering false eulogies.

(19) I.e., a long way off.

(20) I.e., before daylight and after dark.

(21) I.e., modestly; v. supra, p. 389.

(22) To be used by night as well as by day.

(23) A name given to several far-distant places, including Spain.

(24) Words apparently used in incantations

(25) Aliter: ‘Let not avail against me either the sorceries etc.’.

Talmud - Mas. Berachoth 62b

. It has been taught: Ben ‘Azzai says: Lie on anything but not on the ground;[1] sit on anything but not on a beam.[2]

Samuel said: Sleep[3] at dawn is like a steel edge to iron; evacuation at dawn is like a steel edge to iron. Bar Kappara used to sell sayings for denarii. ‘While thou art still hungry, eat; while thou art still thirsty, drink; while thy pot is still hot, empty it out.[4] When the horn is sounded in [the market of] Rome, do you, O son of the fig-seller, sell thy father's figs’.[5] Abaye said to the Rabbis: When you go through the lanes of Mahoza to get to the fields, do not look to this side or to that, for perhaps women[6] are sitting there, and it is not proper to gaze at them.

R. Safra entered a privy. R. Abba came and cleared his throat at the entrance.[7] He said to him: Let the master enter. When he came out, he [R. Abba] said to him: You have not yet been turned into a satyr,[8] but you have learnt the manners of a satyr.[9] Have we not learnt as follows: There was a fire there,[10] and a superior privy. Its superiority lay in this: if one found it locked, he could be sure that someone was in there, but if he found it open, he could be sure that there was no one there. We see therefore, that it is not proper [for two to be in a privy].[11] He [R. Safra], however, was of opinion that it was dangerous [to keep him waiting], as it has been taught:[12] R. Simeon b. Gamaliel says: To keep back the fecal discharge causes dropsy; to keep back the urinary discharge causes jaundice.

R. Eleazar once entered a privy, and a Persian[13] came and thrust him away. R. Eleazar got up and went out, and a serpent came and tore out the other's gut.[14] R. Eleazar applied to him the verse, Therefore will I give a man for thee.[15] Read not adam [a man] but edom [an Edomite].

And he bade to kill thee, but he spared thee.[16] ‘And he bade’! It should be, ‘And I bade’![17] ‘And he spared’! It should be, ‘And I spared’! R. Eleazar said: David said to Saul: According to the law, you deserve to be slain, since you are a pursuer, and the Torah has said, If one comes to kill your rise and kill him first.[18] But the modesty which you have shown has caused you to be spared. What is this? As it is written: And he came to the fences[19] by the way, where was a cave; and Saul went in le-hasek [to cover his feet].[20] It has been taught: There was a fence within a fence, and a cave within a cave. R. Eleazar says: It [the word le-hasek] teaches that he covered himself like a booth [sukkah].

Then David arose and cut off the skirt of Saul's robe privily.[21] R. Jose son of R. Hanina said: Whoever treats garments contemptuously will in the end derive no benefit from them; for it says, Now King David was old and stricken in years; and they covered him with clothes, but he could get no heat.[22]

If it be the Lord that hath stirred thee up against me, let Him accept an offering.[23] R. Eleazar said: Said the Holy One blessed be He, to David: Thou callest me a ‘stirrer-up’. Behold, I will make thee stumble over a thing which even school-children know, namely, that which is written, When thou takest the sum of the children of Israel according to their number, then shall they give every man a ransom for his soul into the Lord. ... [that there be no plague among them] etc.[24] Forthwith, Satan stood up against Israel;[25] and it is further written, He stirred up David against them saying, Go, number Israel.[26] And when he did number them, he took no ransom from them and it is written, So the Lord sent a pestilence upon Israel from the morning even to the time appointed.[27] What is meant by ‘the time appointed’? Samuel the elder, the son-in-law of R. Hanina, answered in the name of R. Hanina: From the time of slaughtering the continual offering until the time of sprinkling the blood. R. Johanan said: Right up precisely to midday.

And He said to the Angel that destroyed the people, It is enough[28] [rab]. R. Eleazar said: The Holy One, blessed be He, said to the Angel: Take a great man [rab] among them, through whose death many sins can be expiated for them.[29] At that time there died Abishai son of Zeruiah, who was [singly] equal in worth to the greater part of the Sanhedrin.

And as he was about to destroy, the Lord beheld, and He repented Him .[30] What did He behold? — Rab said: He beheld Jacob our ancestor, as it is written, And Jacob said when he beheld them.[31] Samuel said: He beheld the ashes of [the ram of] Isaac, as it says, God will see[32] for Himself the lamb.[33] R. Isaac Nappaha said: He saw the money of the atonement, as it says, And thou shalt take the atonement money from the children of Israel, and it shall be a memorial[34] etc. R. Johanan said: He saw the Temple, as it is written, In the mount where the Lord is seen.[35] R. Jacob b. Iddi and R. Samuel b. Nahmani differed on the matter. One said that He saw the atonement money, the other that He saw the Temple. The more likely view is that of him who says that He saw the Temple, since it is written, As it will be said on that day, in the mount where the Lord is seen.

A MAN SHOULD NOT ENTER THE TEMPLE MOUNT WITH HIS STAFF etc. What is the meaning of kappandaria? Raba said: A short cut, as its name implies.[36] R. Hanah b. Adda said in the name of R. Sama the son of R. Meri: It is as if a man said, instead of going round the blocks [makkifna adari], I will go in here. R. Nahman said in the name of Rabbah: If one enters a synagogue not intending to use it as a short cut, he may use it as a short cut. R. Abbahu said: If there was a path there originally,[37] it is permitted. R. Helbo said in the name of R. Huna: If one entered a synagogue to pray, he may use it as a short cut, as it says, But when the people of the land shall come before the Lord in the appointed seasons [he that entereth by the north gate shall go forth by the south gate, etc.].[38]

AND SPITTING [ON IT IS FORBIDDEN] A FORTIORI. R. Bibi said in the name of R. Simeon b. Lakish: If one spits in these times[39] on the Temple mount, it is as if he spat into the pupil of His eye, since it says: And Mine eyes and My heart shall be there perpetually.[40] Raba said: It is permitted to expectorate in the synagogue, this being on the same footing as wearing a shoe. Just as wearing a shoe is forbidden on the Temple mount but permitted in the synagogue, so spitting is forbidden in the Temple mount but permitted in the synagogue. Said R. Papa to Raba — according to others, Rabina said to Raba, while others again report that R. Adda b. Mattena said it to Raba, Instead of learning the rule from the analogy of a shoe, why not learn it from that of a short cut?[41] — He replied: The Tanna derives it from a shoe, and you want to derive it from a short cut! What is this [reference]? As it has been taught: ‘A man should not enter the Temple mount either with his staff in his hand or his shoe on his foot, or with his money tied up in his cloth, or with his money bag slung over his shoulder, and he should not make it a short cut, and spitting [on it is forbidden] a fortiori from the case of the shoe: seeing that regarding a shoe, the wearing of which does not show contempt, the Torah has said, Put off thy shoes from off thy feet,[42] must not the rule all the more apply to spitting, which does show contempt? R. Jose b. Judah said: This reasoning is not necessary. For see, it says, For none might enter within the king's gate clothed in sackcloth.[43] Now have we not here an argument a fortiori: if such is the case with sackcloth which is not in itself disgusting, and before an earthly king, how much more so with spitting which is in itself disgusting, and before the supreme King of Kings!’[44] He [R. Papa] replied to him [Raba]: What I mean is this. Let us be stringent in both cases,[45] and reason thus:

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(1) For fear of serpents.

(2) Lest it may break.

(3) The Aruch renders the word shinah here ‘Making water’.

(4) The proverb is applied to relieving oneself.

(5) And do not wait for thy father to come; an admonition against procrastination.

(6) MS.M. ‘men’.

(7) To find out if anyone was within.

(8) שעיר Lit., ‘goat’ v. supra p. 389, n. 6.

(9) Inviting me to come in, not in accordance with the rules of propriety. The meaning is not clear, Rashi seems to read שעיר (Seir), thus rendering: You have not yet entered Seir (Edom) and you have learnt the manners of (the people of) Seir, v. Maharsha.

(10) In the Temple court, to keep the priests warm.

(11) V. Strashun Glosses.

(12) V. supra 25a.

(13) This is obviously a censor's correction for ‘Roman’, v. MS.M.
(14) Jast. renders ‘his gut dropped’, from fright.
(15) Isa. XLIII, 4.
(16) I Sam. XXIV, 11.
(17) Since David is reporting his own action.
(18) V. supra 58a.
(19) E.V. ‘sheepcotes’.
(20) Ibid. 4.
(21) Ibid. 5.
(22) I Kings I, 1.
(23) I Sam. XXVI, 19.
(24) Ex. XXX, 12.
(25) I Chron. XXI, 1.
(26) II Sam. XXIV, 1.
(27) Ibid. 15.
(28) Ibid. 16.
(29) According to the dictum that the death of the righteous is an atonement.
(30) I Chron. XXI, 15.
(31) Gen. XXXII, 3.
(32) So lit., E.V. ‘provide’.
(33) Ibid. XXII, 8.
(34) Ex. XXX, 16.
(35) Adverting to the name of the mountain which is ‘The Lord shall see’. Gen. XXII, 14.
(36) Representing as it does the Latin compendiaria via. Raba seems to imply that there is no need to try to interpret it as an Aramaic expression.
(37) Before the synagogue was built.
(38) Ezek. XLVI, 9.
(39) When the Temple is no longer there.
(40) I Kings IX, 3.
(41) A synagogue may not be used as a short cut, v. Meg. 28a.
(42) Ex. III, 5.
(43) Esth. IV, 2.
(44) Thus we see that the Tanna derives the rule regarding spitting from the analogy of a shoe.
(45) Of spitting on the Temple mount and in the synagogue.

Talmud - Mas. Berachoth 63a

The rule [about spitting] for the Temple mount where the shoe is forbidden we may derive from the analogy of the shoe, but in the case of the synagogue where the shoe is permitted, instead of deriving the rule from the shoe and permitting it, let us rather derive it from the short cut and forbid it? — Rather, said Raba: [The synagogue is] on the same footing as a man's house. Just as a man objects to his house being made a short cut but does not object to the wearing of shoes or to spitting there, so in the case of the synagogue, the using it as a short cut is forbidden, but wearing the shoe and spitting in it is not forbidden.

AT THE CONCLUSION OF THE BENEDICTIONS SAID IN THE TEMPLE [THEY USED TO SAY, FOR EVER etc.]. Why all this? — Because the Amen response is not given in the Sanctuary. And whence do we know that the Amen response was not made in the Sanctuary? — Because it says, Stand up and bless the Lord your God from everlasting to everlasting,[1] and it goes on, And let them say,[2] Blessed be Thy glorious name that is exalted above every[3] blessing and praise. I might think that one praise would suffice for all the blessings.[4] It therefore says, ‘Above every blessing and praise’, implying, for every blessing assign to Him praise.[5]

IT WAS LAID DOWN THAT GREETING SHOULD BE GIVEN IN [GOD'S] NAME etc. Why the further citation? — You might think that Boaz spoke thus on his own accord;[6] come and hear, therefore, [the other text] 'THE LORD IS WITH THEE, THOU MIGHTY MAN OF VALOUR'. You might still say that it was an angel who spoke thus to Gideon;[7] come and hear, therefore, the other text, 'DESPISE NOT THY MOTHER WHEN SHE IS OLD';[8] and it says, 'IT IS TIME TO WORK FOR THE LORD, THEY HAVE MADE VOID THY LAW.[9] Raba said: The first clause of this verse can be taken as explaining the second, and the second can be taken as explaining the first. 'The first clause may be taken as explaining the second', thus: It is time to work for the Lord.[10] Why? Because they have made void Thy law.'The second clause may be taken as explaining the first', thus: They have made void Thy law.[11] Why? Because it is time to work for the Lord.

It was taught: Hillel the Elder said: When the scholars keep in [the teaching of] the Torah, do thou disseminate it,[12] and when they disseminate it do thou keep it in.[13] If thou seest a generation which is eager for the knowledge of the Torah, spread it abroad,[14] as it says, There is that scattereth and yet increaseth.[15] But if thou seest a generation which takes no interest in the Torah, keep it in to thyself, as it says, When it is time to work for the Lord,[16] they make void Thy law. Bar Kappara expounded: When goods are cheap, collect[17] [money] and buy. In a place where there is no man, there be a man. Abaye said: You may infer from this that in a place where there is a man [to teach the Torah], there you should not be a man. This is obvious? — It required to be stated for the case where the two are equal.[18]

Bar Kappara expounded: What short text is there upon which all the essential principles of the Torah depend? In all thy ways acknowledge Him and He will direct thy paths.[19] Raba remarked: Even for a matter of transgression.[20] Bar Kappara [further] expounded: A man should always teach his son a clean and not laborious trade. What, for example? R. Hisda said: Needle-stitching.[21]

It has been taught: Rabbi says, A man should not invite too many friends to his house, as it says, There are friends that one hath to his own hurt.[22] It has been taught: Rabbi says, A man should not appoint a steward over his house, for had not Potiphar appointed Joseph as steward over his house, he would not have fallen into such trouble as he did. It has been taught: Rabbi says, Why does the section of the Nazirite[23] follow immediately on that of the unfaithful wife?[24] To teach you that anyone who sees an unfaithful wife in her evil ways should completely abstain from wine. Hezekiah the son of R. Parnak said in the name of R. Johanan: Why does the section of the unfaithful wife follow immediately on one dealing with terumoth[25] and tithes?[26] To teach you that if one has terumoth and tithes and does not give them to the priest, in the end he will require the priest's services to deal with his wife. For so it says, Every man's hallowed things shall be his,[27] and immediately afterwards it says, If any man's wife go aside,[28] and later is it written, And the man shall bring his wife, etc.[29] Nay more, in the end he shall be in need of them,[30] as it says, 'Every man's hallowed things shall be his'.[31] R. Nahman b. Isaac said: If he does give, he will eventually become rich, as it says, Whatever a man giveth the priest, he shall have[32] — he shall have much wealth.

R. Huna b. Berekiah said in the name of R. Eleazar ha-Kappar: Whoever associates the name of heaven with his suffering[33] will have his sustenance doubled, as it says, And the Almighty shall be in thy distress, and thou shalt have double silver.[34] R. Samuel b. Nahmani said: His sustenance shall fly to him like a bird, as it says, And silver shall fly to thee.[35]

R. Tabi said in the name of R. Josiah: Whoso is faint[36] in the study of the Torah will have no strength to stand in the day of trouble, as it says, If thou art faint [in the study of the Torah] in the day of adversity thy strength will be small.[37] R. Ammi b. Mattenah said in the name of Samuel: Even if only in the performance of a single precept, as it says, 'If thou faint', in any case.

R. Safra said: R. Abbahu used to relate that when Hananiah the son of R. Joshua's brother went down to the Diaspora,[38] he began to intercalate the years and fix new moons outside Palestine. So they [the Beth din] sent after him two scholars, R. Jose b. Kippar and the grandson of R. Zechariah b. Kebutal. When he saw them, he said to them: Why have you come? — They replied: We have come to learn Torah [from you]. He thereupon proclaimed: These men are among the most eminent of the generation. They and their ancestors have ministered in the Sanctuary (as we have learnt: Zechariah b. Kebutal said: Several times I read to him[39] out of the book of Daniel). Soon they began to declare clean what he declared unclean and to permit what he forbade. Thereupon he proclaimed: These men are worthless, they are good for nothing. They said to him: You have already built and you cannot overthrow, you have made a fence and you cannot break it down.[40] He said to them: Why do you declare clean when I declare unclean, why do you permit when I forbid? — They replied: Because you intercalate years and fix new moons outside of Palestine. He said to them: Did not Akiba son of Joseph intercalate years and fix new moons outside of Palestine?[41] — They replied: Don't cite R. Akiba, who left not his equal in the Land of Israel. He said to them: I also left not my equal in the Land of Israel. They said to him: The kids which you left behind have become goats with horns, and they have sent us to you, bidding us, ‘Go and tell him in our name. If he listens, well and good; if not, he will be excommunicated.

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(1) Neh. IX, 5.

(2) Those who made the response.

(3) E.V. ‘all’.

(4) I.e., that one response should be made at the end of all the blessings (Rashi).

(5) V. Sot. (Sonc. ed.) p. 198, n. 2.

(6) And his action need not be taken as a precedent.

(7) Simply transmitting his message.

(8) I.e., despise not the example of Boaz.

(9) V. p. 329, n. 4.

(10) As much as to say, Boaz had good warrant for what he did. This rule apparently was cavilled at in certain quarters, and the Rabbis felt that some very strong justification was needed for it.

(11) Like Elijah in sacrificing on Mount Carmel.

(12) So that it should not be forgotten. Lit., ‘scatter’, like a sower scattering.

(13) So as not to compete with them.

(14) Lit., ‘scatter’. Cf. n. 7.

(15) Prov. XI, 24.

(16) I.e., when disseminating the Torah would bring it into contempt.

(17) The Aruch reads, ‘make haste’.

(18) For there is no question that a superior may displace an inferior.

(19) Prov. III, 6.

(20) Weigh the pros and cons of it. This must be linked with the foregoing principle which permits the violation of the law when the exigencies of the time demand it.

(21) Lit., ‘the stitching of furrows’.

(22) Prov. XVIII, 24.

(23) Num. VI.

(24) Ibid. V, 11-31.

(25) Plural of terumah, v. Glos.

(26) Ibid. V, 5-10.

(27) Ibid. 10.

(28) Ibid. 12. The juxtaposition implies: ‘If a man keeps his hallowed things to himself and does not give them to the priest, then this wife, etc.’.

(29) Ibid. 15.

(30) Since he will lose his money.

(31) In the form of poor man's tithe.

(32) Ibid. 10. E.V. ‘it shall be his’.
(33) By blessing God for the evil, or praying.
(34) Job XXII, 25. E.V. ‘And the Almighty shall be thy treasure, and thou shalt have precious silver. The word to'afoth (precious) is connected by the Rabbis with the Aramaic word ‘af, to double.
(35) Here the word to'afoth is connected with the Hebrew ‘uf, to fly.
(36) I.e., is negligent.
(37) Prov. XXIV, 10. E.V. ‘If thou art faint in the day of adversity, thy strength shall be small indeed’.
(38) Golah, Babylon. Here the reference is to Pumbeditha. This was during the Hadrianic persecution following the Bar Kochebah Wars. V. J.E. VI, p. 207.
(39) The High Priest. V. Yoma 18b.
(40) I.e., you cannot take away from us the name you have conferred on us.
(41) Yeb. 122a.

Talmud - Mas. Berachoth 63b

Tell also our brethren in the Diaspora [not to listen to him]. If they listen to you, well and good; if not, let them go up to the mountain, let Ahia[1] build an altar and let Hananiah play the harp,[2] and let them all become renegades and say that they have no portion in the God of Israel’. Straightway all the people broke out into weeping and cried, Heaven forbid, we have a portion in the God of Israel. Why all this to-do? — Because it says, For out of Zion shall go forth the law, and the word of the Lord from Jerusalem.[3] We can understand that if he declared clean they should declare unclean, because this would be more stringent. But how was it possible that they should declare clean what he declared unclean, seeing that it has been taught: If a Sage has declared unclean, his colleague is not permitted to declare clean? — They thought proper to act thus so that the people should not be drawn after him.

Our Rabbis have taught: When our teachers entered the vineyard at Jabneh,[4] there were among them R. Judah and R. Jose and R. Nehemiah and R. Eliezer the son of R. Jose the Galilean. They all spoke in honour of hospitality and expounded texts [for that purpose]. R. Judah, the head of the speakers in every place,[5] spoke in honour of the Torah and expounded the text, Now Moses used to take the tent and pitch it without the camp.[6] Have we not here, he said, an argument a fortiori? Seeing that the Ark of the Lord was never more than twelve mil distant[7] and yet the Torah says, Everyone that sought the Lord went out unto the tent of meeting,[8] how much more [is this title[9] applicable to] the disciples of the wise who go from city to city and from province to province to learn Torah!

And the Lord spoke unto Moses face to face.[10] R. Isaac said: The Holy One, blessed be He, said to Moses, Moses, I and thou will propound views[11] on the halachah. Some say that the Holy One, blessed be He, said thus to Moses: Just as I have turned upon thee a cheerful face, so do thou turn upon Israel a cheerful face and restore the tent to its place. And he would return to the camp.[12] R. Abbahu said: The Holy One, blessed be He, said to Moses: Now they will say, The Master[13] is angry and the disciple[14] is angry, what will happen to Israel? If thou wilt restore the tent to its place, well and goods but if not, Joshua son of Nun, the disciple, will minister in thy place. Therefore it is written, ‘And he would return to the camp’. Raba said: All the same [God's] word was not uttered in vain, since it says, But his minister Joshua, the son of Nun, a young man, departed not out of the tent.[15]

R. Judah spoke further in honour of the Torah, expounding the text, Attend [hasket] and hear, O Israel: this day thou art become a people unto the Lord thy God.[16] Now was it on that day that the Torah was given to Israel? Was not that day the end of the forty years [of the wandering]? It is, however, to teach thee that the Torah is as beloved every day to those that study it as on the day when it was given from Mount Sinai. R. Tanhum the son of R. Hiyya, a man of Kefar Acco[17] said:

The proof is that if a man recites the Shema’ every morning and evening and misses one evening, it is as if[18] he had never recited the Shema’. The word ‘hasket’ implies: Make yourselves into groups [kittoth] to study the Torah, since the knowledge of the Torah can be acquired only in association with others, as stated by R. Jose b. Hanina; for R. Jose b. Hanina said: What is the meaning of the text, A sword is upon the boasters [baddim] and they shall become fools?[19] A sword is upon the enemies of the disciples of the wise[20] who sit separately [bad bebad] and study the Torah. What is more, they become stupid. It is written here, ‘and they shall become fools’, and it is written elsewhere, For that we have done foolishly.[21] What is more, they are sinners, as it says, and we have sinned.[22] If you prefer, I can learn the meaning from here: The princes of Zoan are become fools [no'alu].[23] Another explanation of ‘Attend [hasket] and hear, Israel’. Cut yourselves to pieces [kattetu] for words of Torah, as was said by Resh Lakish. For Resh Lakish said: Whence do we learn that words of Torah are firmly held by one who kills himself for it? Because it says, This is the Torah, when a man shall die in the tent.[24] Another explanation of ‘Attend and hear, O Israel’: Be silent [has] and then analyse [katteth],[25] as stated by Raba; for Raba said: A man should always first learn Torah and then scrutinize it.

They said in the school of R. Jannai: What is meant by the verse, For the churning of milk bringeth forth curd, and the wringing of the nose bringeth forth blood; so the forcing of wrath bringeth forth strife?[26] With whom do you find the cream of the Torah? With him who spits out upon it the milk which he has sucked from the breasts of his mother.[27] ‘The wringing of the nose[28] bringeth forth blood’. Every student who is silent when his teacher is angry with him the first time will become worthy to distinguish between clean blood and unclean. ‘The forcing of wrath[29] bringeth forth strife’: Every student who is silent when his teacher is angry with him a first and a second time will be worthy to distinguish between money cases and capital cases,[30] as we have learnt: R. Ishmael says, One who desires to be wise should occupy himself with money judgments, since no branch of the Torah surpasses them, for they are like a perpetual fountain [of instruction]. R. Samuel b. Nahmani said: What is meant by the verse, If thou hast done foolishly [nobaltah] in lifting up thyself, or if thou hast planned devices [zammotah], lay thy hand upon thy mouth?[31] Whoever abases [menabbel] himself for words of Torah[32] will in the end be exalted, but if one muzzles [zamam] himself, his hand will be upon his mouth.[33]

R. Nehemiah began to speak in praise of hospitality, expounding the text, And Saul said unto the Kenites, Go, depart, get you down from among the Amalekites, lest I destroy you with them; for ye showed kindness to all the children of Israel when they came up out of Egypt.[34] Have we not here an argument a fortiori: if such was the reward of Jethro[35] who befriended Moses only for his own benefit, how much more will it be for one who entertains a scholar in his house and gives him to eat and drink and allows him the use of his possessions!

R. Jose began to speak in praise of hospitality, expounding the verse, Thou shalt not abhor an Edomite, for he is thy brother; thou shalt not abhor an Egyptian, because thou wast a stranger in his land.[36] Have we not here an argument a fortiori? If such was the reward of the Egyptians who befriended the Israelites only for their own purposes, as it says, And if thou knowest any able men among them, then make them rulers over my cattle,[37] how much more will it be for one who entertains a scholar in his house and gives him to eat and drink and allows him the use of his possessions!

R. Eliezer the son of R. Jose the Galilean began to speak in praise of hospitality, expounding the verse, And the Lord blessed Obed-Edom and all his house . . . . because of the Ark of God.[38] Have we not here an argument a fortiori? If such was the reward for attending to the ark which did not eat or drink, but before which he merely swept and laid the dust, how much more will it be for one who entertains a scholar in his house and gives him to eat and drink and allows him the use of his possessions! What was the blessing with which God blessed him [Obed-Edom]? — R. Judah b.

Zebida says: This refers to Hamoth[39] and her eight daughters-in-law who each bore six children at a birth,

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(1) The head of the community.
(2) Hananiah was a Levite.
(3) Isa. II, 3.
(4) The Academy at Jabneh, so called either because it actually was in a vineyard, or because the disciples sat in rows like the vines in a vineyard. The incident is related in a somewhat different form in the Midrash Rabbah on Cant. II, 5.
(5) V. Shab. 33b.
(6) Ex. XXXIII, 7.
(7) This being the extent of the Israelitish camp.
(8) Ex. XXXIII, 7.
(9) Of ‘one who seeks the Lord’.
(10) Ibid. 11.
(11) Lit., ‘faces’.
(12) Ibid.
(13) God.
(14) Moses.
(15) Ibid. This is taken to mean that he succeeded Moses.
(16) Deut. XXVII, 9.
(17) In Lower Galilee.
(18) I.e., he feels as if.
(19) Jer. L, 36.
(20) Euphemism for the disciples themselves.
(21) Num. XII, 11. In both texts the Hebrew word is no'alu.
(22) Ibid.
(23) Isa. XIX, 13.
(24) Num. XIX, 14. ‘Tent’ is taken to mean a place of study.
(25) I.e., first listen to the teacher, and then discuss what he has said.
(26) Prov. XXX, 33.
(27) I.e., who commences to learn in his earliest childhood.
(28) Heb. af, which also means anger.
(29) Heb. appayim, lit., ‘two angers’.
(30) I.e., to decide to which category an intricate case belongs.
(31) Prov. XXX, 32.
(32) I.e., is not ashamed to ask questions which may at first sound foolish.
(33) He will be unable to answer questions put to him.
(34) I Sam. XV, 6.
(35) Who is called the Kenite, Judg. I, 16.
(36) Deut. XXIII, 8.
(37) Gen. XLVII, 6.
(38) II Sam. VI, 12.
(39) The wife of Obed-Edom.

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as it says, Peullethai the eighth son[1] for God blessed him,[2] and it is written, All these were of the sons of Obed-Edom, they and their sons and their brethren, able men in the strength for the service, threescore and two of Obed-Edom.[3]

R. Abin the Levite said: Whoever tries to force his [good] fortune will be dogged by [ill] fortune,[4] and whoever forgoes his [good] fortune will postpone his [ill] fortune.[5] This we can illustrate from the case of Rabbah and R. Joseph. For R. Joseph was ‘Sinai’[6] and Rabbah was ‘an uprooter of mountains’.[7] The time came when they were required [to be head of the Academy].[8] They [the collegiates] sent there [to Palestine] to ask, As between ‘Sinai’ and an ‘uprooter of mountains’, which should have the preference? They sent answer: Sinai, because all require the owner of wheat.[9] Nevertheless, R. Joseph would not accept the post, because the astrologers had told him that he would be head for only two years. Rabbah thereupon remained head for twenty-two years, and R. Joseph after him for two years and a half.[10] During all the time that Rabbah was head, R. Joseph did not so much as summon a cupper to come to his house.[11]

R. Abin the Levite further said: What is the point of the verse, The Lord answer thee in the day of trouble, the name of the God of Jacob set thee up on high?[12] The God of Jacob and not the God of Abraham and Isaac? This teaches that the owner of the beam should go in with the thickest part of it.[13]

R. Abin the Levite also said: If one partakes of a meal at which a scholar is present, it is as if he feasted on the effulgence of the Divine Presence, since it says, And Aaron came and all the elders of Israel, to eat bread with Moses’ father-in-law before God.[14] Was it before God that they ate? Did not they eat before Moses? This tells you, however, that if one partakes of a meal at which a scholar is present,it is as if he feasted on the effulgence of the Divine Presence.

R. Abin the Levite also said: When a man takes leave of his fellow, he should not say to him, ‘Go in peace’. but ‘Go to peace’. For Moses, to whom Jethro said, Go to peace,[15] went up and prospered, whereas Absalom to whom David said, Go in peace,[16] went away and was hung.

R. Abin the Levite also said: One who takes leave of the dead[17] should not say to him ‘Go to peace’, but ‘Go in peace’, as it says, But thou shalt go to thy fathers in peace.[18]

R. Levi b. Hiyya said: One who on leaving the synagogue goes into the House of Study and studies the Torah is deemed worthy to welcome the Divine Presence, as it says, They go from strength to strength, every one of them appeareth before God in Zion.[19]

R. Hiyya b. Ashi said in the name of Rab: The disciples of the wise have no rest either in this world or in the world to come,[20] as it says, They go from strength to strength, every one of them appeareth before God in Zion’.

R. Eleazar said in the name of R. Hanina: The disciples of the wise increase peace in the world, as it says, And all thy children shall be taught of the Lord, and great shall be the peace of thy children.[21] Read not banayik [thy children] but bonayik [thy builders].[22] Great peace have they that love Thy law, and there is no stumbling for them.[23] Peace be within thy walls and prosperity within thy palaces.[24] For my brethren and companions’ sake I will now say, Peace be within thee.[25] For the sake of the house of the Lord our God I will seek thy good.[26] The Lord will give strength unto His people, the Lord will bless His people with peace.[27]

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(1) Omitting with Bah: ‘and it is written’ inserted in cur. edd.

(2) I Chron. XXVI, 5. This shows that he had eight sons.

(3) Ibid. 8. The sixty-two are made up of the eight sons mentioned, six more to his wife at one birth, and six to each of his eight daughters-in-law.

(4) Lit., ‘whoever pushes his hour will be pushed by his hour’.

(5) Lit., ‘if one is pushed away from before his hour, his hour is pushed away from before him’.

(6) I.e., possessed an encyclopaedic knowledge of the traditions.

(7) I.e., exceptionally skillful in dialectic.

(8) Sc. of Pumbeditha.

(9) I.e., to know the authentic traditions.

(10) Rabbah was head 309-330. R. Joseph who succeeded him died in 333.

(11) But went instead to him, like any ordinary individual. On the whole passage v. Hor. (Sonc. ed.) p. 105 notes.

(12) Ps. XX, 2.

(13) He should put the thicker end in the ground so as to give better support. So the name of Jacob would be more efficacious in prayer because he was the more immediate ancestor of the Jewish people.

(14) Ex. XVIII, 12.

(15) Ibid. IV, 18.

(16) II Sam. XV, 9.

(17) On leaving the funeral procession.

(18) Gen. XV, 15.

(19) Ps. LXXXIV, 8.

(20) Because they are always progressing in their spiritual strivings.

(21) Isa. LIV, 13.

(22) I.e., learned men.

(23) Ps. CXIX, 165.

(24) Ibid. CXXII, 7.

(25) Ibid. 8.

(26) Ibid. 9.

(27) Ibid. XXIX, 11.

Mishna - Mas. Pe'ah Chapter 1

MISHNAH 1. THE FOLLOWING ARE THE THINGS FOR WHICH NO DEFINITE QUANTITY IS PRESCRIBED:[1] THE CORNERS [OF THE FIELD].[2] FIRST-FRUITS,[3] [THE OFFERINGS BROUGHT] ON APPEARING [BEFORE THE LORD AT THE THREE PILGRIM FESTIVALS].[4] THE PRACTICE OF LOVINGKINDNESS,[5] AND THE STUDY OF THE TORAH.[6] THE FOLLOWING ARE THE THINGS FOR WHICH A MAN ENJOYS THE FRUITS IN THIS WORLD WHILE THE PRINCIPAL REMAINS FOR HIM IN THE WORLD TO COME: THE HONOURING OF FATHER AND MOTHER,[7] THE PRACTICE OF CHARITY, AND THE MAKING OF PEACE BETWEEN A MAN AND HIS FRIEND; BUT THE STUDY OF THE TORAH IS EQUAL TO THEM ALL.[8]

MISHNAH 2. ONE SHOULD NOT MAKE THE AMOUNT OF PE'AH LESS THAN ONE-SIXTIETH[9] [OF THE ENTIRE CROP]. BUT ALTHOUGH NO DEFINITE AMOUNT IS GIVEN FOR PE'AH,[10] YET EVERYTHING DEPENDS UPON THE SIZE OF THE FIELD, THE NUMBER OF POOR MEN,[11] AND THE EXTENT OF THE STANDING CROP.[12]

MISHNAH 3. PE'AH MAY BE GIVEN EITHER AT THE BEGINNING OF THE [REAPING OF THE] FIELD OR AT THE MIDDLE THEREOF.[13] R. SIMEON SAYS: [THIS IS SO] PROVIDED HE GIVES AT THE END ACCORDING TO THE AMOUNT FIXED.[14] R. JUDAH SAYS: SHOULD HE EVEN LEAVE [FOR THE CONCLUSION OF THE REAPING] ONE STALK, HE CAN RELY ON THIS[15] AS [FULFILLING THE LAW OF] PE'AH; AND IF HE DID NOT DO SO, [THEN EVEN THOSE STALKS LEFT AT THE BEGINNING OR AT THE MIDDLE] ARE TO BE REGARDED AS OWNERLESS PROPERTY.[16]

MISHNAH 4. A GENERAL PRINCIPLE HAS BEEN ENJOINED CONCERNING PE'AH: WHATSOEVER IS USED FOR FOOD,[17] AND IS LOOKED AFTER,[18] AND GROWS FROM THE SOIL,[19] AND IS HARVESTED ALTOGETHER,[20] AND IS BROUGHT IN FOR STORAGE,[21] IS SUBJECT TO THE LAW OF PE'AH. GRAIN[22] AND PULSE[23] FALL INTO THIS GENERAL PRINCIPLE.[24]

MISHNAH 5. AMONG TREES: THE SUMMACH, THE CAROB,[25] THE NUT, THE ALMOND, THE VINE, THE POMEGRANATE, THE OLIVE AND THE PALM[26] ARE SUBJECT TO PE'AH.

MISHNAH 6. ONE CAN ALWAYS GIVE PE'AH,[27] AND BE EXEMPT FROM GIVING TITHES[28] [FROM IT] UNTIL IT IS FINALLY STACKED.[29] OR ONE MAY PRONOUNCE [HIS FIELD] OWNERLESS AND BE EXEMPT FROM GIVING TITHE THEREOF UNTIL IT IS FINALLY STACKED.[30] ONE MAY FEED CATTLE, WILD ANIMALS AND BIRDS [OF THE CROP] BEFORE IT IS FINALLY STACKED AND BE EXEMPT FROM TITHES.[31] HE MAY TAKE FROM THE THRESHING FLOOR AND USE AS SEED AND BE EXEMPT FROM TITHES UNTIL IT IS STACKED.[32] SO R. AKIBA. IF A PRIEST OR LEVITE PURCHASE [THE GRAIN OF] A THRESHING FLOOR THE TITHES ARE THEIRS UNLESS THE STACKING HAS TAKEN PLACE.[33] ONE WHO DEDICATED [HIS CROP][34] AND REDEEMS IT [AFTERWARDS] IS BOUND TO GIVE TITHES SO LONG AS THE TREASURER HAD NOT YET FINALLY STACKED IT.

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(1) In the Torah; but v. the next Mishnah where Rabbinic tradition fixes the minimum at one-sixtieth.

(2) Lev. XIX, and XXIII, 22 enjoin the owner to leave unreaped the former for the poor and the stranger to gather.

(3) Bikkurim; v. Ex. XXIII, 19; Deut. XXVI, 1-11. These were presented to the priests in the Temple.

(4) Re'ayon; v. Ex. XXIII, 17; Deut. XVI, 16. Biblically, ‘every man according to the gift of his hand’ (Deut. XVI, 17), but Rabbinic halachah prescribes a ma'ah (a silver coin) as the minimum value of the burnt-offering and two silver coins that of the festival offering, v. Hag. 1a. According to Bertinoro, Re'ayon denoted ‘appearing’ in the Temple, i.e., there is no limit as to the number of times the Israelite may enter the Temple during the three festivals.

(5) Gemilluth hasadim, a term implying more than mere charity and denoting personal service to all men of all classes.

(6) Josh. 1, 8.

(7) Fifth Commandment; Ex. XX, 12, Deut. V, 16.

(8) The fuller version given in our Prayer Books (v. P.B. p. 5) is based on a Baraitha quoted in Shab. 127a.

(9) But he can, of course, give more.

(10) V. supra I, 1.

(11) If the field is large and the poor few, the amount of Pe'ah is determined by the size of the field, and he has to give the minimum of one-sixtieth; if, on the other hand, the field is small and the poor many, it is determined by the number of the poor and is to be increased beyond the barest minimum.

(12) Pe'ah may not be chosen only of the inferior crop, but from the whole field. ענוה usually identified with ענבה whence the adopted translation. V. infra VI, 7. Others render: ‘according to the piety (of the landowner)’.

(13) Pe'ah need not necessarily be given at the very end of the reaping.

(14) Opinion varies as to the precise meaning of this proviso. Maim. maintains that one-sixtieth must be left at the end, irrespective of what he has left before; others interpret R. Simeon's statement to mean that what he leaves at the end must supplement towards the minimum quantity prescribed. The object of the proviso is to counteract a deceitful plea that Pe'ah had been set aside already before. Tosephta and Yerushalmi cite other reasons.

(15) I.e., the last stalk and that which he gave at the beginning or middle together constitute the Pe'ah.

(16) If nothing is set aside for Pe'ah at the end, then even that left hitherto is hefker (v. Glos.), and even the rich can acquire possession thereof no less than the poor. In this R. Judah differs from R. Simeon, whereas according to R. Simeon all that he left counts as Pe'ah and is reserved for the poor; but according to It. Judah, if nothing is left as Pe'ah at the end, then the stalks left before are treated as hefker.

(17) To exclude aftergrowths not fit for human food. And when ye harvest, Lev. XIX, 9 rules out crop not normally cut.

(18) To exclude hefker, which is already the property of the poor; hence Lev, XIX, 10 can no longer apply to it.

(19) Mushrooms, which according to the Rabbis, receive their nurture not from the soil, are thus excluded. Lev. XIX, 9 stresses the harvest of your land (soil).

(20) Not singly as they ripen, as in the case of figs.

(21) Hence greens and herbs that will not keep are excluded.

(22) Of this, five species are included: wheat, barley, rye, oats and spelt.

(23) Such as lentils and peas.

(24) Because they fulfil the conditions concerning which the general principle was laid down, they are subject to the law of Pe'ah.

(25) Or Sr. John's bread; cf, Ma'as. I, 3. The ‘Aruch (s.v. חרב) says it takes seventy years for this tree to bear fruit from its planting.

(26) The eight trees here mentioned in no wise exclude others that fulfil the given conditions, but only those most common in Palestine are enumerated.

(27) If omitted from the standing corn, the stipulated amount (I, 2) must be given from the corn already cut.

(28) Tithes are of three kinds: (a) that given to the Levite, who in turn gives a tenth thereof to the priest (Num. XVIII, 26), is called First Tithe (cf. Num. XVIII, 21); (b) that which the owner himself must eat in Jerusalem (Deut. XIV, 23) is known as Second Tithe. The produce could be converted into money for which, plus one quarter of its original value, food was bought and eaten in Jerusalem (Deut. XIV, 26); (c) in the third and sixth year of the seven-year cycle a tithe was taken from the produce and given to the poor. This was known as Poor Man's Tithe, Deut. XIV, 29; XXVI, 12. Tithes are not given from Pe'ah.

(29) שימרח , ‘to smoothe, to make level’. The custom was to stack the produce, after the winnowing, in upright piles, broad at the base and thinning towards the top. The ‘smoothing’ was the final act of making the pile even prior to its being stored. If, however, the giving of the Pe'ah was delayed until after the stacking, the tithes had to be given from it.

(30) The exemption of hefker from tithes is based on Deut. XIV, 28. A declaration of hefker after the process of stacking, when the duty of tithes had already become incumbent, does not exempt the ‘ownerless’ produce from tithes. The fear was lest an ‘am ha-arez eat thereof under the impression that it had been tithed as soon as it had been finally stacked, Cf. Dem. III, 2.

(31) He could even snatch an improvised meal for himself since the law of tithe does not become binding prior to the final stacking. His cattle, however, could partake of regular meals therefrom. This is based on a statement in Ma'as. I, 1: ‘Whatsoever is not used for food at first but only in its later stage, is not liable to tithes until it has become fit for human food’,

(32) In Deut. XIV, 23, and thou shalt eat is used in reference to tithes; that used for seed is therefore excluded. Rabbinic tradition, however, compels also the tithe to be given from seeds. R. Akiba maintains that all seed before stacking is exempt.

(33) Had they purchased the store after the stacking, the tithes would not have been theirs as a penalty for snatching away the ‘gifts’ which might have been given to other priests and Levites. The custom indulged by some Levites of buying the grain prior to the winnowing in order to make sure of the tithes was condemned by the Rabbis.

(34) Hekdesh (v. Glos.) like hefker was not liable to tithes. Should this redemption take place before the Temple Treasurer had stacked it, the duty falls on the redeemer. Only if the stacking was done when it was still in the possession of the Sanctuary does it become exempt. The point stressed throughout the Mishnah is that the law of tithes comes into force with the stacking.

Mishna - Mas. Pe'ah Chapter 2

MISHNAH 1. THE FOLLOWING SERVE AS DIVIDING-LINES FOR PE'AH:[1] A STREAM, A POOL,[2] A PRIVATE ROAD,[3] A PUBLIC ROAD,[4] A PUBLIC PATH,[5] OR A PRIVATE PATH IN CONSTANT USE IN SUMMER AND THE RAINY SEASON, FALLOW LAND, NEWLY-CULTIVATED LAND AND A DIFFERENT SEED.[6] IF ONE CUT [YOUNG CORN] FOR FODDER, [THE PLOT SO REAPED] SERVES AS A DIVIDING-LINE.[7] THUS R. MEIR. BUT THE SAGES SAY: IT DOES NOT SERVE AS A BOUND FOR PE'AH UNLESS [THIS PLOT USED FOR FODDER] IS RE-PLOUGHED.[8]

MISHNAH 2. IF A WATER CHANNEL MAKES THE CUTTING OF THE CORN [ON EITHER SIDE] IMPOSSIBLE [FROM ITS MIDST],[9] R. JUDAH SAYS: IT SERVES AS A DIVISION.[10] ANY HILL-TOP THAT CAN BE DUG WITH A HOE,[11] ALTHOUGH THE HERD[12] CANNOT PASS OVER IT IN THEIR OUTFIT,[13] [IS REGARDED AS PART OF THE FIELD] FROM WHICH ONLY ONE PE'AH IS GRANTED.[14]

MISHNAH 3. ALL [THESE ABOVE ENUMERATED] SERVE AS DIVISIONS IN THE CASE OF SOWN CROPS,[15] BUT IN THE CASE OF TREES NOTHING SAVE A FENCE SERVES AS A DIVISION.[16] SHOULD THE BRANCHES INTERTWINE,[17] THEN [EVEN A FENCE] DOES NOT DIVIDE AND ONE PE'AH IS GRANTED FOR THE WHOLE FIELD.

MISHNAH 4. AS FOR CAROB TREES, THE GENERAL PRINCIPLE IS THAT THEY MUST BE IN SIGHT OF ONE ANOTHER.[18] RABBAN GAMALIEL SAID: THE CUSTOM PREVAILING IN THE HOUSE OF MY FATHER WAS TO GIVE SEPARATE PE'AH FROM THE OLIVE TREES IN EACH DIRECTION[19] AND [ONE PE'AH] FOR ALL THE CAROB TREES WITHIN SIGHT OF EACH OTHER. R. ELEAZAR SON OF R. ZADOK SAID IN HIS NAME, THAT ALSO FOR THE CAROB TREES THEY HAD IN THE WHOLE CITY[20] [ONE PE'AH ONLY WAS GIVEN].

MISHNAH 5. HE WHO SOWS HIS FIELD WITH ONE KIND OF SEED, THOUGH HE MAKES UP OF IT TWO THRESHING-FLOORS, NEED GIVE ONLY ONE PE'AH [FOR THE LOT]. IF HE SOWS IT OF TWO KINDS, THEN EVEN, IF ONLY HE MAKES UP OF IT ONE THRESHING-FLOOR, HE MUST GIVE TWO PE'AHS.[21] HE WHO SOWS HIS FIELD WITH TWO SPECIES OF WHEAT[22] AND HE MAKES UP OF IT ONE THRESHING-FLOOR, HE GIVES ONLY ONE PE'AH; BUT IF TWO THRESHING-FLOORS, HE GIVES TWO PE'AHS.

MISHNAH 6.THE STORY IS TOLD OF R. SIMEON OF MIZPAH[23] THAT HE SOWED ONCE HIS FIELD [WITH TWO DIFFERENT KINDS] AND CAME BEFORE RABBAN GAMALIEL.

THEY BOTH WENT UP TO THE CHAMBER OF HEWN STONE[24] AND ENQUIRED [THE LAW]. NAHUM THE SCRIBE[25] SAID: I HAVE A TRADITION FROM R. ME'ASHA,[26] WHO RECEIVED IT FROM ABBA,[27] WHO RECEIVED IT FROM THE ZUGOTH,[28] WHO RECEIVED IT FROM THE PROPHETS AS AN HALACHAH OF MOSES FROM SINAI,[29] THAT A MAN WHO SOWS HIS FIELD WITH TWO KINDS OF WHEAT AND MAKES IT UP INTO ONE THRESHING-FLOOR MUST GIVE ONE PE'AH, IF TWO THRESHING-FLOORS, [HE GIVES] TWO PE'AHS.[30]

MISHNAH 7. A FIELD REAPED BY GENTILES,[31] OR ROBBERS, OR WHICH ANTS HAVE BITTEN [THE GRAINS THEREOF AT THE ROOTS]. OR WHICH WIND AND CATTLE HAVE BROKEN DOWN, IS EXEMPT FROM PE'AH.[32] IF [THE OWNER] REAPED HALF THEREOF AND ROBBERS THE REMAINING HALF, IT IS EXEMPT FROM PE'AH; FOR THE OBLIGATION OF PE'AH IS IN THE STANDING CORN.[33]

MISHNAH 8. IF ROBBERS REAPED HALF AND THE OWNER THE OTHER HALF, HE GIVES PE'AH FROM WHAT HE HAS REAPED. IF HE REAPED HALF AND SOLD THE OTHER HALF, THEN THE PURCHASER MUST GIVE PE'AH FOR THE WHOLE.[34] IF HE REAPED HALF AND DEDICATED THE OTHER HALF, THEN HE WHO REDEEMS IT FROM THE TREASURER MUST GIVE PE'AH FOR THE WHOLE.[35]

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(1) From a field divided by these into sections, Pe'ah is given separately from each.

(2) A ‘wady’, smaller than a stream.

(3) Only four cubits in breadth.

(4) Sixteen cubits.

(5) Much smaller than a road. If used constantly, it is a division.

(6) E.g. a plot growing spelt ‘twixt two growing wheat. The length of the Iast three divisions mentioned must be three turns of the plough at least.

(7) Corn not quite a third of its full growth used to serve as fodder for cattle; hence is not to be regarded as crop from which Pe'ah is due. V. supra I, 4.

(8) The Sages hold that the cutting of fodder is to be regarded as the beginning of the reaping and consequently one Pe'ah for the whole field is to be given. Only when the plot cut for fodder is broken afresh does it indicate its separateness from the rest of the field.

(9) The reaper, standing in mid-stream, is unable to reap the field on either side.

(10) R. Judah opposes the view of the preceding Mishnah where a שלולית (the same as אמת המים) is held always to serve as a division, regardless of the stipulation here given.

(11) Isa. VII, 25. The criterion is the hoeing; the fact that its height precludes the oxen from passing over it does not serve as a division.

(12) Var. lec.: הבקר ‘the herdsman’.

(13) Pack-saddle and cushions.

(14) It will not be regarded on this account as fallow ground which serves as a division. People will interpret this inability of the oxen or herdsmen to pass over it as a disinclination on their part to dig to-day.

(15) Should even a rock interrupt the even tenure of the plough across the field, it is regarded as a division (J.).

(16) The fence must be at least ten handbreadths in height. Not all trees come under this category, for the following Mishnah prescribes a different rule for the carob and olive trees. Pe'ah was given also from trees.

(17) שער ‘hair’; here, the ramifications of a tree; כותש from כתש ‘to crush’; here, ‘to twine’. This intertwining renders the fence no division as to Pe'ah.

(18) Not even a fence divides as long as, standing near one tree, the other can be seen.

(19) East, west, north and south.

(20) Even when not in sight of one another.

(21) The point stressed is that Pe'ah is given from every kind and not according to quantity.

(22) Even of the same kind but of two different colours, like dark and white. Wheat is in a different category from seed, for here quantity rather than different species decides.

(23) With the def. article: Josh. XV, 38 (in Judah); XVIII, 26 (in Benjamin); II Kings XXV, 23. In Hos. V, 1 Mizpah appears without the def. article.

(24) V. Mid. v, 4; Sanh. XI, 2. One of the five chambers in the Temple Court, north of the Court of the Israelites. Named גזית either because of its hewn stone, or because it was ‘cut off’ (separate) from the other chambers, or on account of it being the seat of the Sanhedrin.

(25) לבלר from the Latin ‘libellarius’.

(26) The only reference to this Palestinian Tanna who lived in the time of Hillel's descendants.

(27) Or ‘(his) father’. As a praenomen the reference here is probably to Abba, a contemporary of R. Johanan b. Zakkai (v. J.E. I, s.v.).

(28) For a century and a half-from the time of Jose b. Joezer (c. 160 B.C.E.) to the time of Hillel and Shammai, there were two chiefs of the Sanhedrin, a President (נשיא) and a Vice-President (אב ב״ד). V. Aboth I, 4 — 10; Hag. II, 2.

(29) A formula denoting an ancient established tradition not derived from the Written Law.

(30) This tradition makes quantity the decisive factor in the giving of Pe'ah and contradicts the view of the preceding Mishnah which made the different species of wheat the criterion.

(31) Some versions instead of ‘gentiles’ read ‘Cutheans’, a sect of Samaritans. This is due to censorial influence. The Mishnah refers to non-Jews who reaped their own field; for had they been in the employ of Jews, Pe'ah would have been due.

(32) Even if the produce reaped had been returned (v. supra I, 6). The principle to bear in mind is that ובקצרכם (Lev. XXIII, 22) excludes Pe'ah from any reaping not done by or for the owner.

(33) Since the Law of Pe'ah comes into force with the cutting of the standing corn, it does not apply when reaped by someone other than the owner.

(34) For the Pe'ah due from the first reaping is included in that part of the field subsequently bought by the purchaser.

(35) Likewise the dedication cannot declare ‘holy’ the Pe'ah already due from the moment of the first reaping; accordingly the redeemer must return to the poor their due. In supra I, 6 the ‘dedication’ took place before Pe'ah was due, i.e., prior to any reaping whatsoever.

Mishna - Mas. Pe'ah Chapter 3

MISHNAH 1. IN THE CASE OF PLOTS OF CORN[1] BETWEEN OLIVE TREES, BETH SHAMMAI SAY ONE MUST GIVE PE'AH FROM EACH PLOT,[2] BUT BETH HILLEL MAINTAIN THAT FOR ALL [THE PLOTS] ONE PE'AH IS GIVEN. BETH SHAMMAI AGREE, HOWEVER, THAT IF THE ENDS OF THE ROWS BORDER ON ONE ANOTHER, ONE PE'AH IS GRANTED FROM ONE PLOT FOR THE WHOLE.[3]

MISHNAH 2. IF ONE GIVES A STRIPED APPEARANCE[4] TO HIS FIELD AND LEAVES BEHIND SOME MOIST STALKS,[5] R. AKIBA SAID, HE GIVES PE'AH FROM EVERY PATCH.[6] BUT THE SAGES SAY: FROM ONE PATCH ONLY FOR ALL. THE SAGES, HOWEVER, AGREE WITH R. AKIBA THAT ONE WHO SOWS DILL[7] OR MUSTARD SEED IN THREE PLACES MUST GIVE PE'AH FROM EACH PLACE.[8]

MISHNAH 3. HE WHO PLUCKS[9] FRESH ONIONS FOR THE MARKET AND LEAVES THE DRY ONES [IN THE GROUND] FOR LATER STORAGE, MUST GIVE PE'AH FROM EACH SEPARATELY.[10] THE SAME APPLIES TO BEANS[11] AND TO A VINEYARD. IF HE, HOWEVER, ONLY THINS THEM OUT,[12] THEN HE GIVES [PE'AH] FROM THE REMAINDER ACCORDING TO THE QUANTITY OF THAT WHICH HE LEFT. HE THAT PLUCKS UP FROM ONE PLACE,[13] GIVES FROM THE REMAINDER FOR THE WHOLE.

MISHNAH 4. SEED ONIONS[14] ARE LIABLE TO PE'AH, BUT R. JOSE EXEMPTS THEM.[15] IN THE CASE OF PLOTS OF ONIONS [GROWING] BETWEEN VEGETABLES, R. JOSE SAYS: PE'AH MUST BE GIVEN FROM EACH [PLOT].[16] BUT THE SAGES SAY: FROM ONE [PLOT] FOR ALL.

MISHNAH 5. [TWO] BROTHERS WHO HAVE DIVIDED [AN INHERITANCE] MUST GIVE [TWO] PE'AHS.[17] IF THEY AFTERWARDS AGAIN BECOME PARTNERS [IN THE WHOLE POSSESSION]. THEY NEED ONLY GIVE ONE PE'AH.[18] TWO WHO PURCHASE A TREE[19] GIVE ONE PE'AH. IF ONE BUYS THE NORTHERN SECTION THEREOF AND THE OTHER ITS SOUTHERN PART, EACH MUST GIVE PE'AH SEPARATELY. HE WHO SELLS THE TREE-STALKS IN HIS FIELD[20] MUST GIVE PE'AH FROM EACH STALK. R. JUDAH SAID: THIS IS ONLY WHEN THE OWNER OF THE FIELD LEFT NOTHING [FOR HIMSELF].[21] BUT IF HE DID LEAVE AUGHT FOR HIMSELF, HE GIVES ONE PE'AH FOR THE WHOLE.[22]

MISHNAH 6. R. ELIEZER SAYS: A PIECE OF GROUND, ONE FOURTH OF A KAB[23] IN SIZE IS SUBJECT TO PE'AH. R. JOSHUA SAYS: IT MUST [BE LARGE ENOUGH] TO PRODUCE TWO SE'AHS.[24] R. TARFON MAINTAINS THAT IT MUST BE SIX HANDBREADTHS BY SIX.[25] R. JUDAH B. BATHYRA[26] SAYS: [IT MUST BE LARGE ENOUGH] FOR THE SICKLE TO CUT AT LEAST TWO HANDFULS.[27] THE HALACHAH IS ACCORDING TO HIS WORDS. R. AKIBA SAYS: EVEN THE TINIEST PLOT IS LIABLE TO PE'AH AND THE FIRST-FRUITS,[28] AND [IS SUFFICIENT] FOR THE WRITING OF THE PROZBUL,[29] AND ALSO TO ACQUIRE THROUGH IT MOVABLE PROPERTY[30] BY MONEY, BY DEED OF SALE, OR BY A CLAIM BASED ON UNDISTURBED POSSESSION.[31]

MISHNAH 7. IF A MAN ON THE POINT OF DYING[32] ASSIGNED HIS PROPERTY IN WRITING [TO ANOTHER]. AND HE RETAINED ANY LAND, HOWEVER SMALL,[33] HE RENDERS HIS GIFT VALID; BUT IF HE RETAINS NO LAND WHATSOEVER, HIS GIFT IS NOT VALID.[34] HE WHO ASSIGNED IN WRITING HIS PROPERTY TO HIS CHILDREN, AND HE ASSIGNED TO HIS WIFE IN WRITING ANY PLOT OF LAND, HOWEVER SMALL, SHE THEREBY FORFEITS[35] HER KETHUBAH. R. JOSE SAYS: IF SHE ACCEPTED [SUCH AN ASSIGNMENT] EVEN THOUGH HE DID NOT ASSIGN IT TO HER IN WRITING. SHE FORFEITS HER KETHUBAH.[36]

MISHNAH 8. IF A MAN ASSIGNED IN WRITING HIS POSSESSIONS TO HIS SLAVE, HE THEREBY BECOMES A FREEDMAN.[37] IF HE, HOWEVER, RESERVED FOR HIMSELF ANY IMMOVABLE PROPERTY, HOWEVER SMALL, HE DOES NOT BECOME A FREEDMAN.[38] R. SIMEON SAYS: HE BECOMES A FREEDMAN UNDER ALL CONDITIONS,[39] UNLESS [THE MASTER] SAYS: BEHOLD, ALL MY GOODS ARE GIVEN TO SO-AND-SO MY SLAVE, WITH THE EXCEPTION OF ONE TEN-THOUSANDTH PART OF THEM.'[40]

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(1) Garden beds ploughed and sown with seed between the trees and arranged in square shapes in the form of bricks. Olive trees are specifically mentioned to teach that though liable to Pe'ah (II, 4) they do not, according to Beth Hillel, act as divisions between the grain plots. Others take מלבנות to refer to the light (white) colour of the grain.

(2) Since the corn of each row does not touch that of the other, each plot acts as a separate unit for Pe'ah.

(3) Since the entire field is then regarded as one, regardless of the intervening plots. (Cf. supra II, 4 in reference to the carob trees whose branches intertwined.)

(4) Each patch is reaped separately as soon as its corn is ready for cutting, a process the effect of which is to give a speckled appearance to the field. The more manured parts would, of course, ripen first.

(5) Those still unripe and not ready for cutting.

(6) When he later proceeds to cut the remaining stalks; for each patch must be regarded as a distinct unit.

(7) Dill is an 'umbelliferous, annual, yellow-flowered herb' (Concise Oxford Dictionary).

(8) Each patch is rendered a separate unit for Pe'ah, since the normal practice is not to have more than one plot of these in one field. Dill and mustard seed are subject to Pe'ah, though the general rule is to exempt vegetables (v. supra I, 4). since they are kept for seed.

(9) מחליק the act of removing at least three trees growing side by side. Another explanation is to divide the field's products into portions, some for storing and others for the market.

(10) Different objects in view convert the onions, as it were, into two kinds. Supra II, 5.

(11) Cf. Kel. III, 2.

(12) מדל is explained as the act of removing one or two olive tree seeds to allow the others crowded together more ‘breathing-space’. Those seeds removed to make room for the others are not subject to Pe'ah, since their removal cannot be regarded as the beginning of reaping.

(13) יד, ‘place’. Maim. explains it to mean that he reserved special parts of the field respectively for storage purposes and for the market. The Bertinoro explains מאחת יד ‘If he uprooted some of the onions for the same purpose for which he leaves the rest (i.e., either for storage or for sale)’.

(14) Lit., ‘the roots of onions’.

(15) Onions left in the ground too long become unfit to eat and therefore not subject to Pe'ah.

(16) Since this is not the usual practice, each plot must be regarded as a different unit, cf. supra II, 5.

(17) Each from his own portion.

(18) Since each has a right in the whole field, the number of owners makes no difference.

(19) Of those trees mentioned in I, 5.

(20) Stalks or tree-trunks from which Pe'ah is due. Cf. Kil. I, 8. Since he does not sell with the stalks the soil on which they grow, there is no connecting link to make them all of one ‘kind’.

(21) Also provided that the owner did not begin to reap the field prior to selling it, for in that case his would have been the duty of giving one Pe'ah for the whole (cf. II, 8).

(22) R. Judah elucidates the opinion of the first authority quoted anonymously in the Mishnah, without in any way differing from him.

(23) Approximately 10 1/2 X 10 cubits (Bert.).

(24) Twelve kabs’ space or forty-eight times the size required by R. Eleazar; R. Joshua stresses the produce rather than size of soil.

(25) One handbreadth equals four fingerbreadths (circa. 9 1/3 centimetres). R. Tarfon measures by distance instead of by dry measure. His measure equals one cubit or six handbreadths.

(26) A Tanna of the First Generation (c. 10-80 C.E.).

(27) Lit., ‘to cut and repeat’. Reapers usually cut a handful at a time, cf. Ps. CXXIX, 7. If there is sufficient for two cuttings, the law of Pe'ah is binding.

(28) Ex. XXIII, 19. The word אדמתך is there mentioned and refers to wheat and barley. The stipulation regarding first-fruits, that there should be sixteen cubits soil round the tree — the space required for its proper nurture, applies only to fruits of the tree (Bert.).

(29) Explained as an abbreviation of GR.** (before the council). A declaration made in court by the creditor to the effect that the operation of the law of the Sabbatical year (Deut. XV, 2) shall not apply to the loan transacted. V. Sheb. x, 3 and Git. (Sonc. ed.) p. 148, n. 4. The ‘Prozbul’ could only be drawn up when the debtor possessed immovable property. Of this, even the smallest amount sufficed in regarding the debt as mortgaged in a Court of Law, the principle being that the law of defrauding does not apply to immovable property, v. Sheb. X, 6.

(30) Lit., ‘property that has no security’. Movable goods cannot be resorted to by the creditor in the case of non-payment.

(31) Usucaption. The legally fixed period is three years and with it there must be a plea of purchase or any other mode of legal acquisition. v. B.B. 28a. Movable property is generally acquired by the purchaser ‘drawing’ it to himself (Meshikah, v. Glos.). But the tiniest piece of immovable property acquired by means of money, writ, or usucaption effects title to any movable property brought together along with it.

(32) Lit., ‘one that lies sick’.

(33) Thus indicating that the assignment was not prompted by thoughts of death, with the result that he cannot retract from the gift on his recovery. Bertinoro calls attention to the fact that קרקע, (land, immovable property) mentioned in this and the following Mishnah, does not refer specifically to immovable property; for even the minimum amount of movable goods is included in this term. The word קרקע is used here since it is the sine qua non of Pe'ah, Bikkurim and Prozbul mentioned in the Mishnah preceding.

(34) Had he not anticipated death, he would not have left himself penniless; his recovery. therefore, revokes the validity of his gift.

(35) The implication is that she prefers to be regarded among the heirs of her husband rather than demand her rights under her marriage settlement, the kethubah (v. Glos.).

(36) She cannot afterwards retract and claim it.
(37) Since the slave is part of the master's possessions, he becomes owner of himself, too. A more correct reading, which not all versions have, is ‘all his possessions’.
(38) Perhaps the slave is included in the part reserved for himself; if so, then the entire gift is nullified, since a slave has no legal right of possession. It is only when the master explicitly says: ‘I give thee thyself and my property’, that the slave becomes free, even if the owner still reserves aught for himself.
(39) Whether the master possessed naught else beside the slave and the portion reserved for himself, in which case the assignment of his possessions must refer to the slave; or whether he had other goods besides the portion reserved for himself, the slave becomes free. R. Simeon wishes to stress that the modification made in the assignment afterwards by no means invalidates the emancipation of the slave.
(40) Since this fraction is not specified, it may easily refer to the slave, though he be worth ever so much more.

Mishna - Mas. Pe'ah Chapter 4

MISHNAH 1. PE'AH IS GIVEN FROM [THE CROP] STILL DIRECTLY CONNECTED WITH THE SOIL,[1] BUT IN THE CASE OF HANGING VINE-BRANCHES[2] AND THE DATE-PALM, THE OWNER BRINGS DOWN [THE FRUIT] AND DISTRIBUTES IT AMONG THE POOR.[3] R. SIMEON SAYS: THE SAME APPLIES TO SMOOTH NUT TREES.[4] EVEN IF NINETY-NINE [OF THE POOR][5] URGE DISTRIBUTION [BY THE OWNER] AND ONE ONLY IS [IN FAVOUR] OF INDIVIDUAL SNATCHING, THIS LATTER IS LISTENED TO,[6] SINCE HE SPOKE IN ACCORDANCE WITH THE HALACHAH.

MISHNAH 2. BUT IT IS OTHERWISE WITH HANGING VINE-BRANCHES AND PALM TREES;[7] FOR EVEN IF NINETY-NINE URGE INDIVIDUAL SNATCHING AND ONE POOR MAN PRESSES FOR DISTRIBUTION,[8] THE LATTER IS LISTENED TO, SINCE HE SPOKE ACCORDING TO THE HALACHAH.

MISHNAH 3. IF [A POOR MAN] TOOK SOME OF THE PE'AH [ALREADY COLLECTED] AND CAST IT OVER THE REMAINDER [NOT YET COLLECTED],[9] HE THEREBY FORFEITS THE WHOLE.[10] IF HE FELL DOWN UPON IT,[11] OR SPREAD HIS CLOAK OVER IT,[12] IT IS TAKEN AWAY FROM HIM.[13] THE SAME APPLIES TO GLEANINGS,[14] AND THE FORGOTTEN SHEAF.[15]

MISHNAH 4. [THE POOR] MAY NOT REAP PE'AH WITH SCYTHES OR TEAR IT UP WITH SPADES, SO THAT THEY MIGHT NOT STRIKE AT ONE ANOTHER [WITH THESE IMPLEMENTS].[16]

MISHNAH 5. THRICE A DAY [THE POOR] MAKE A SEARCH:[17] MORNING,[18] NOON,[19] AND SUNSET.[20] RABBAN GAMALIEL SAYS, THESE [TIMES] WERE SET LEST THE POOR SEARCH LESS OFTEN.[21] ACCORDING TO R. AKIBA: THESE WERE SET LEST [THEY SEARCH] MORE OFTEN.[22] [THE MEN] OF BETH NAMER[23] USED TO REAP [THEIR CROPS] WITH THE AID OF A ROPE,[24] AND LEFT PE'AH AT THE END OF EACH FURROW.

MISHNAH6. IF A GENTILE REAPED HIS FIELD AND BECAME AFTERWARDS A PROSELYTE, HE IS EXEMPT FROM [LEAVING] GLEANINGS, THE FORGOTTEN SHEAF AND PE'AH.[25] R. JUDAH DECLARES HIM LIABLE TO LEAVE THE FORGOTTEN SHEAF SINCE THAT BECOMES Due AT THE TIME OF THE SHEAF-BINDING.[26]

MISHNAH 7. IF A MAN DEDICATED STANDING CORN [TO THE TEMPLE]. AND REDEEMED IT WHILE IT WAS YET STANDING CORN, HE IS LIABLE [TO GIVE THE POOR MAN'S GIFTS].[27] [IF HE DEDICATED] SHEAVES AND REDEEMED THEM WHILST THEY WERE YET SHEAVES, HE IS ALSO LIABLE [TO RENDER THE GIFTS].[28] [IF HE

DEDICATED] STANDING CORN AND REDEEMED IT [WHEN IT WAS ALREADY IN] SHEAVES, HE IS EXEMPT,[29] SINCE AT THE TIME WHEN IT BECAME LIABLE [AS STANDING CORN]. IT WAS EXEMPT [BY BEING DEDICATED].

MISHNAH 8. SIMILARLY IF ONE DEDICATED HIS HARVESTED PRODUCTS PRIOR TO THE STAGE WHEN THEY ARE SUBJECT TO TITHES[30] AND REDEEMED THEM AFTERWARDS, THEY ARE LIABLE[31] [TO THE GIFTS]. IF [HE DEDICATED THEM] WHEN THEY HAD ALREADY BECOME SUBJECT TO TITHES AND REDEEMED THEM, THEY ARE ALSO LIABLE [TO THE GIFTS].[32] IF HE DEDICATED THEM BEFORE THEY HAD RIPENED, AND THEY BECAME RIPE WHILE IN THE POSSESSION OF THE [TEMPLE] TREASURER, AND HE AFTERWARDS REDEEMED THEM, THEY ARE EXEMPT, SINCE AT THE TIME WHEN THEY WOULD HAVE BEEN LIABLE, THEY WERE EXEMPT.[33]

MISHNAH 9. IF ONE COLLECTED PE'AH AND SAID: THIS IS FOR SUCH-AND-SUCH A POOR MAN',[34] THEN R. ELIEZER SAYS HE HAS THUS ACQUIRED IT FOR HIM.[35] THE SAGES SAY: HE MUST GIVE IT TO THE POOR MAN HE FIRST COMES ACROSS.[36] GLEANINGS, THE FORGOTTEN SHEAF AND THE PE'AH OF GENTILES ARE SUBJECT TO TITHES,[37] UNLESS HE [THE GENTILE] HAD DECLARED THEM OWNERLESS.[38]

MISHNAH 10. WHAT CONSTITUTES GLEANINGS?[39] THAT WHICH FALLS DOWN DURING THE REAPING. IF WHILE HE WAS REAPING, HE GRASPED A HANDFUL OR PLUCKED A FISTFUL, AND THEN A THORN PRICKED HIM, AND WHAT HE HAD IN HIS HAND FELL TO THE GROUND, IT STILL BELONGS TO THE OWNER.[40] [THAT WHICH DROPS FROM] INSIDE THE HAND OR THE SICKLE [BELONGS] TO THE POOR,[41] BUT [THAT WHICH FALLS FROM] THE BACK OF THE HAND OR THE SICKLE [BELONGS] TO THE OWNER.[42] [ANYTHING FALLING OUT OF] THE TOP OF THE HAND OR SICKLE,[43] R. ISHMAEL SAYS, BELONGS TO THE POOR;[44] BUT R. AKIBA SAYS, IT BELONGS TO THE OWNER.[45]

MISHNAH 11. [GRAIN FOUND IN] ANT-HOLES[46] WHILE THE CORN IS STILL STANDING[47] BELONGS TO THE OWNER;[48] AFTER THE REAPERS [HAD PASSED OVER THEM][49] THOSE [FOUND LYING] UPPERMOST[50] [IN THE ANT-HOLES BELONG] TO THE POOR, BUT [THOSE FOUND] BENEATH[51] [BELONG] TO THE OWNER. R. MEIR SAYS: EVERYTHING BELONGS TO THE POOR;[52] FOR GLEANINGS ABOUT WHICH THERE IS ANY DOUBT ARE REGARDED AS GLEANINGS.

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(1) The Law: 'Thou shalt leave it to the poor and the stranger' (Lev. XIX, 10) implies that the Pe'ah must be left to the poor to seize for themselves while it is still joined to the ground.

(2) Branches of the vine twined to an espalier.

(3) Every caution must be taken to obviate any risk to the poor during their gathering. 'Distribution' is stressed, because the owner is precluded from giving the Pe'ah to a poor relative or to the first poor man who chances to pass by the field.

(4) Smooth nut trees, being free from joints or protuberances are all the more difficult to climb.

(5) This refers to the first clause of the Mishnah.

(6) Though his claim might be weakened by the fact that he is stronger or more voracious than the other poor and likely to obtain more of the Pe'ah.

(7) In whose case the Pe'ah is given after the fruit has been plucked by the owner, as stated' in the preceding Mishnah.

(8) Though he may be weakest of the poor and his claim construed as due to the fear lest he receive little Pe'ah, his view must be upheld.

(9) Under the impression that he has in this wise gained possession of the rest; though legally, this act by no means effects a title, v. B.M. 10b.

(10) Even the Pe'ah he had gathered; this is a punishment for his greed.

(11) The Iaw which enables a man to claim possession of things found within his four cubits, applies only to alleys adjoining open places or short cuts to public roads; not to fields owned by others. Moreover, by falling across the Pe'ah, his intention seems to have been to acquire possession by the act of falling and not by the law of ד אמות (B.M. 10aff.).

(12) Either as an assertion of possession or to hide the Pe'ah from the view of the other poor.

(13) From our text it would seem, that with the exception of the first instance, only the Pe'ah over which he fell or spread his cloak is taken away from him, but that he is allowed to retain that gathered in the ordinary way. According to Maim., however, it would seem that in all cases is the fine imposed on him by taking away even the Pe'ah he had already gathered. (So Tosaf. Y.T.).

(14) V. infra 10.

(15) V. infra V, 8.

(16) So great might the throng of poor be, that in their eagerness to gather they might accidentally strike one another with their sickles and spades; or some quarrels might easily break out between them and these implements be improvised as weapons.

(17) אבעיןת , ‘searchings’. Another rendering is ‘appearings’. The translation, accordingly, would be: ‘Thrice a day does the owner appear in his ‘field to attract the poor to come’. The word has also been connected with המבעה (B.K.I., 1) and the following translation effected: ‘Thrice daily is the crop of Pe'ah removed from the field’. Cf. T.f. IV, 3.

(18) To enable poor nursing mothers to come, whilst the children are still asleep.

(19) So that young children, awake by now, assist their poor parents in the search.

(20) To enable the old and the infirm, whose pace is of necessity slow, to obtain their share before the day passes.

(21) In order to afford an equal opportunity for all poor to come.

(22) Probably so as not to take up the time of the owner unduly.

(23) Either the town mentioned in Num. XXXII, 3, or the name of a family. It has been identified by some with the modern Nimrin in Transjordania. Others explain it as a field cultivated in irregular strips and patches (cf. supra III, 2).

(24) A rope was tied around the standing corn In a straight line and the reaping went on till the end of the measuring line. This generous practice is here held up for commendation for it enabled the poor to gather at the end of each furrow, instead of waiting patiently for the very end of the reaping. Other explanations have also been offered. The people of Beth Namer used to divide the field into three portions with a rope, a portion being reaped at each of the three searches, (v. n. 1 supra); the idea being that the three kinds of poor for whom provision was made do not encroach upon one another. Var lec.: יטים, ‘they made the poor to gather’.

(25) The phrase ‘and when ye reap’ (Lev. XXIII, 22) in reference to Gleanings and Pe'ah rules out non-Jews. In speaking of the Forgotten Sheaf, the word is also ‘thy reaping’ (Deut. XXIV, 19); hence a proselyte is exempt from giving the ‘poor man's gifts’ if the reaping took ploce before his conversion.

(26) When he has already become a Jew, upon whom all obligations are due.

(27) The law being binding as long as the corn is rooted in the soil, regardless of the change of ownership that took place in the interval.

(28) Even the Forgotten Sheaf (supra IV, 6); for Gleanings and Pe'ah automatically become due with the first reaping.

(29) The same word ‘thy reaping’ (Deut. XXIV, 19) that excludes non-Jews also excludes all Temple property from gifts to the poor and tithes. R. Judah would no doubt disagree with the Sages here, too, as he does in the case of the non-Jew who becomes a proselyte after the reaping.

(30) At the time when they were finally stacked (supra I, 6). Had they been finally stacked by the Treasurer they would be exempt from tithes. (V. Ma'as l, 2 for the times when the various fruits became subject to tithes). By ‘Tithes’ is understood the Heave-offering. the First (or Levitic) Tithe and the Second Tithe, and the Poor Man's Tithe in the third and sixth years of the seven years’ cycle.

(31) Since they ripen in his possession.

(32) One cannot dedicate the property of another, and the tithes were already virtually the property of the poor prior to the dedication.

(33) Temple property was exempt from tithes and gifts and by becoming ripe when still in the possession of the Temple, the law does not apply to them at all.

(34) A man not poor himself, i.e., a man possessing more than two hundred zuz, who wishes to acquire the Pe'ah for a poor friend.

(35) Because he could easily have declared all his possession ‘ownerless’ and thus rendered himself qualified to get the

Pe'ah for himself; and consequently he can acquire it for another.

(36) The Sages do not admit the argument advanced by R. Eliezer (v. B.M. 9b). But if the poor man for whom he had collected passes by first, it is given to him.

(37) The law of tithes does not apply to the gifts of the poor; but since a non-Jew is exempt from tithes, the gifts of the poor obtained from his field are not treated as such and any Jew who acquires them must set aside tithes.

(38) Ownerless property is exempt from dues.

(39) Lev. XIX, 9.

(40) That which drops accidentally out of his hand is not subject to ‘Gleanings’. The Bible stresses ‘the gleaning of thy reaping’ (Lev. XXIII, 22), thus precluding any accidental falling, such as the pricking of a thorn.

(41) After being within the hand, its falling out is not considered as accidental.

(42) This is evidently a pure accident.

(43) His fist is full to capacity and the grains that fall are those between his fingers.

(44) R. Ishmael regards the tops of his fingers as part of the hand (v. supra n. 6).

(45) R. Akiba regards the tops of the fingers as the back of the hand, hence the falling is accidental.

(46) Ants usually bring the grain into their holes.

(47) prior to the reaping

(48) While the corn is yet uncut, the poor have no claim.

(49) The ants had probably gathered the grains from the gleanings.

(50) I.e., grain still fresh and whitish in appearance (Bert.).

(51) The grain showing signs of staleness in appearance — an even better proof that the grains had been stored in these ant-holes for some considerable time before the reaping.

(52) Even the grain found below, for some rotten grains are found even among corn freshly cut. What assurance is there that these have not been brought even after the reaping had commenced or finished?

Mishna - Mas. Pe'ah Chapter 5

MISHNAH 1. IF A HEAP OF CORN WAS PLACED [ON PART OF A FIELD] FROM WHICH GLEANINGS HAD NOT YET BEEN COLLECTED,[1] WHATEVER TOUCHES THE GROUND BELONGS TO THE POOR.[2] IF THE WIND SCATTERED THE SHEAVES,[3] ONE ESTIMATES THE AMOUNT OF GLEANINGS THE FIELD WOULD HAVE YIELDED AND GIVES THAT TO THE POOR.[4] R. SIMEON B. GAMALIEL SAYS: ONE MUST GIVE TO THE POOR THE USUAL AMOUNT THAT FALLS [AT THE TIME OF REAPING].[5]

MISHNAH 2. IF THE TOP OF A SINGLE EAR OF CORN [THAT ESCAPED THE SICKLE] AFTER THE REAPING[6] TOUCHES THE STANDING CORN, IF IT CAN BE CUT WITH THE STANDING CORN, IT BELONGS TO THE OWNER;[7] BUT IF NOT, IT IS THE PROPERTY OF THE POOR. IF AN EAR OF CORN OF GLEANINGS BECAME MIXED UP WITH THE STACKED CORN, [THE OWNER] MUST TITHE ONE EAR OF CORN AND GIVE THAT TO HIM [THE POOR].[8] R. ELIEZER SAID: HOW CAN THIS POOR MAN GIVE IN EXCHANGE SOMETHING THAT HAD NOT YET BECOME HIS?[9] NO; [THE OWNER] MUST TRANSFER TO THE POOR MAN THE OWNERSHIP OF THE WHOLE STACK[10] AND THEN TITHE AN EAR OF CORN AND GIVE IT TO HIM.[11]

MISHNAH 3. ONE SHOULD NOT [IN SOWING] MIX INFERIOR SEEDS [WITH THE REST OF THE GRAIN].[12] THUS R. MEIR. THE SAGES PERMIT IT, BECAUSE IT IS STILL POSSIBLE [FOR THE POOR TO GET THEIR PROPER DUE].[13]

MISHNAH 4. IF A MAN OF PROPERTY[14] WAS TRAVELLING ABOUT FROM PLACE TO PLACE AND HAPPENED TO BE IN NEED OF TAKING GLEANINGS, THE FORGOTTEN SHEAF, PE'AH OR THE POOR MAN'S TITHE,[15] HE MAY TAKE THEM; AND ON HIS RETURN HOME, HE MUST PAY [FOR THE AMOUNT GATHERED]. SO R. ELIEZER. THE SAGES, HOWEVER, SAY: HE WAS A POOR MAN AT THAT TIME [AND SO HE NEED

MAKE NO RESTITUTION].

MISHNAH 5. HE THAT MAKES AN EXCHANGE WITH THE POOR,[16] [WHAT THEY GIVE IN EXCHANGE] FOR HIS IS EXEMPT [FROM TITHES].[17] BUT WHAT [HE GIVES IN EXCHANGE] FOR THAT OF THE POOR IS SUBJECT [TO TITHES].[18] TWO[19] WHO LEASE A FIELD ON A TENANCY[20] MUST GIVE, EACH TO THE OTHER, HIS DUE OF THE POOR MAN'S TITHE.[21] ONE[22] WHO UNDERTAKES TO REAP A FIELD MUST NOT TAKE GLEANINGS, THE FORGOTTEN SHEAF, PE’ AH OR THE POOR MAN'S TITHE.[23] R. JUDAH SAID: WHEN IS THIS SO? WHEN HE RENTS FROM THE OWNER ON THE TERMS OF [PAYING] A HALF, THIRD OR QUARTER[24] [OF THE CROP]; BUT [IF THE OWNER] HAD STIPULATED WITH HIM THAT: ‘A THIRD OF WHAT THOU REAPEST IS THINE’,[25] THEN HE IS PERMITTED TO TAKE GLEANINGS, THE FORGOTTEN SHEAF AND PE'AH, BUT NOT THE POOR MAN'S TITHE.[26]

MISHNAH 6. IF ONE SELLS A FIELD THE VENDOR IS PERMITTED[27] [TO GATHER THE DUES OF THE POOR]. BUT NOT THE PURCHASER. A MAN MAY NOT HIRE A LABOURER ON THE CONDITION THAT THE SON [OF THE LABOURER] SHOULD GATHER THE GLEANINGS AFTER HIM.[28] ONE WHO PREVENTS THE POOR TO GATHER, OR ALLOWS ONE BUT NOT ANOTHER, OR HELPS ONE OF THEM [TO GATHER]. IS DEEMED TO BE A ROBBER OF THE POOR. CONCERNING SUCH A ONE HATH IT BEEN SAID: REMOVE NOT THE LANDMARK OF THOSE THAT COME UP.[29]

MISHNAH 7. A SHEAF WHICH THE LABOURERS HAD FORGOTTEN BUT NOT THE LANDLORD, OR WHICH THE LANDLORD FORGOT BUT NOT THE LABOURERS;[30] OR A SHEAF IN FRONT OF WHICH THE POOR STOOD, OR COVERED UP WITH STUBBLE, IS NOT TO BE REGARDED AS A FORGOTTEN SHEAF.

MISHNAH 8. IF ONE BINDS SHEAVES TO COVER THE TOP OF THE HEAP[31] OR TO PLACE AT THE BOTTOM OF THE STACK,[32] OR FOR A TEMPORARY PILE,[33] OR INTO [SMALL BUNDLES OF] SHEAVES,[34] HE IS NOT SUBJECT TO THE LAW OF THE FORGOTTEN SHEAF;[35] IF THEY ARE AFTERWARDS TAKEN THENCE TO THE THRESHING-FLOOR, THE LAW OF THE FORGOTTEN SHEAF DOES APPLY. IF ONE PILES UP THE SHEAVES FOR THE STACK,[36] HE IS SUBJECT TO THE LAW OF THE FORGOTTEN SHEAF; IF HE AFTERWARDS REMOVES THEM THENCE TO THE THRESHING-FLOOR, THE LAW OF THE FORGOTTEN SHEAF DOES NOT APPLY.[37] THIS IS THE GENERAL PRINCIPLE: WHOEVER PILES UP THE SHEAVES AT THE PLACE WHICH MARKS THE END OF THE WORK [WHERE THEY ARE GOING TO BE THRESHED]. IS SUBJECT TO THE LAW OF THE FORGOTTEN SHEAF; BUT [IF THEY ARE REMOVED] FROM THENCE TO THE THRESHING-FLOOR, THE LAW OF THE FORGOTTEN SHEAF DOES NOT APPLY. HE, HOWEVER, WHO PILES UP THE SHEAVES AT A PLACE WHICH IS NOT TO MARK THE END OF THE WORK, IS NOT SUBJECT TO THE LAW OF THE FORGOTTEN SHEAF; BUT [IF THEY ARE REMOVED] FROM THENCE TO THE THRESHING-FLOOR, THE LAW OF THE FORGOTTEN SHEAF APPLIES.

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(1) A fine is imposed lest his intention was to hide the ‘Gleanings’ due to the poor.

(2) Even if he heaps up wheat upon ‘Gleanings’ of barley, the wheat which touches the ground also belongs to the poor.

(3) With the result that the sheaves of the owner got confused with those of ‘Gleanings’ belonging to the poor.

(4) In accordance with R. Meir's principle, infra v, 3.

(5) So Bertinoro and Tiferes Yisrael; roughly, the prescribed fortyfifth part. Maim., however, in E.M. IX, 5 explains as the amount of seed required for the field.

(6) Cf. ‘Ed.’ II. 4.

(7) If it is so near that it can be cut together with the standing corn in one fistful, the standing corn saves it from being regarded as ‘Gleanings’ since the words ‘thou shalt not go back to fetch it’ (Deut. XXIV, 19) do not apply to it.

(8) Upon each ear of corn there is the doubt whether it is ‘Gleanings’ and so exempt from all tithes, or whether it belongs to the owner and is subject to tithes. To solve this doubt, the owner must take another ‘ear of corn’ and give that to the poor, for the poor must be given that which is free from dues. Tithes, unlike Pe'ah (which falls due with the reaping). become liable with the final stacking. (V. supra I. 6). The ‘tithing’ here referred to is thus performed: Two ears of corn are brought from the stack which contains the ‘ear’ that became mixed up. The owner then says over one of the ‘ears’: ‘Should this one be the "Gleanings", well and good; but if not, then let the tithe due from it be fixed in the other ear and the first be given to the poor’.

(9) R. Eliezer is surprised at the view of the Sages seeing that they maintained (supra IV, 9) that the owner has no proprietary right to transfer gifts to any particular poor. How can they now allow the owner to exchange, in the name of a poor man, an ear of corn which had so far not become his? (It will be remembered that R. Eliezer in IV, 9 was of the opinion that a man could transfer ownership of Pe'ah to another).

(10) Holding the view that a gift given on condition of returning it later is valid. This makes the exchange possible here.

(11) The Sages, without agreeing with R. Eliezer, would reply that in this case the ear of corn was regarded as the poor man's property, in order to make the exchange possible.

(12) So Bert. and Maim. who take טופח to be an inferior type of barley seed or beans; for this mixing would be to the detriment of the poor (for the ‘Gleanings’ might fall from the inferior grain). Aliter: One should not irrigate the field (before Gleanings have been taken) with a pitcher (טיפח) of water (an irrigation); since this would make it all the more difficult for the poor to glean.

(13) Is it not equally possible for the ‘Gleanings’ to fall from the superior kinds of grain? According to the second explanation: ‘Is it not possible for the owner of the field to compensate the poor for their loss?’

(14) Lit., ‘a householder’; one who possesses more than two hundred zuz is disqualified from receiving these poor man's dues (v. infra VIII, 8).

(15) In the third and sixth years of the Sabbatical cycle, the Second Tithe was given to the poor (Deut. XIV. 29).

(16) Giving them some other produce in exchange for the ‘Gleanings’.

(17) All the dues of the poor are exempt from tithes.

(18) The produce of the owner must be tithed prior to the exchange.

(19) Poor men,

(20) An אריס is a labourer who accepts as his payment a stipulated portion of the field's harvest, The labourer thus becomes virtually the owner of the field and, though poor otherwise, is disqualified from taking the dues.

(21) In Lev. XIX, 10 the words לא תלקט לעני are taken to refer as a warning to the poor not to gather their own ‘Gleanings’. From this verse is also derived the law that one cannot gather ‘dues’ for another poor man (v. Git. 12a). Hence here, each one being the owner of his part of the field, can only accept the tithe due to the other (cf. Hul. 131b).

(22) A poor man.

(23) He is no longer regarded as poor.

(24) The produce then becomes the property of the labourer already before the reaping, when still attached to the soil.

(25) Since in this case, the poor man has only a share in the corn after its reaping, the duty falls upon the owner. Even from the Forgotten Sheaf is the poor man exempt, although its law comes into force at the time of the stacking of the sheaves (after reaping), since the word ‘thy reaping’ cannot here be applied; for it becomes the poor man's only after it had been cut.

(26) Since the tithe becomes due after the reaping (I, 6) when the poor man is already owner of his share in the produce.

(27) If compelled by poverty to do so. This only applies if he sold the field together with the standing corn thereon. For should he dispose of the latter and reserve the field for himself, both the vendor and buyer would be debarred; the former because ‘thy field’ (Lev. XIX, 9) still applies to him, and the latter because of the application in his case of ‘thy reaping’ (ibid.).

(28) On account of this concession, the labourer reduces his fees and the employer is thus found settling part of his debts with money due to the poor.

(29) Prov. XXII, 28; the word עולם ‘of old’ is read by the Mishnah as עולים ‘those who go up’, a euphemistic name for the poor, who ‘have come down in the world’ (יורדים); cf. infra VII, 3. Bert. also gives the following rendering: ‘Do not change the warnings (fences round the law) that were given to those who went up from Egypt’.

(30) The principle is that before being regarded as (Forgotten Sheaf), it must have been forgotten by both.

(31) In the shape of a hat. Or perhaps the hat improvised from a few sheaves and worn by the labourers as a protection from the sun (Bert.).

(32) As a foundation for the pile above. Others explain the reference to the holes dug in the field in which the sheaves were stacked temporarily.

(33) Often used with which to bake an improvised cake (חררה) or two on live coals. Bert. appends this illuminating note: ‘Some cut corn and heap it up into one place, afterwards carrying it to the threshing-floor. The names in the Mishnah are those given to the shapes of the piles prior to their removal to the threshing-floor. Accordingly, this temporary stacking does not constitute the end of the process’. In view of this explanation, חררה is a cake-shaped temporary pile.

(34) To be arranged afterwards into bigger piles, from which the threshing will be done.

(35) Those sheaves dropped during the process of carrying from place to place; for just as the law of Pe'ah in Deut. XXIV, 19 refers to the end of reaping, so the law of the Forgotten Sheaf applies only to the very end of the process of threshing.

(36) On the understanding that they are going to be threshed there.

(37) This change of mind shows that the process was not to be finished there and hence it does not conform to the general principle enunciated at the end of our Mishnah.

Mishna - Mas. Pe'ah Chapter 6

MISHNAH 1. BETH SHAMMAI SAY THAT RENUNCIATION OF OWNERSHIP[1] [OF THE CROP] IN FAVOUR OF THE POOR IS VALID; BUT BETH HILLEL SAY THAT IT IS NOT ‘OWNERLESS’[2] UNLESS THE RENUNCIATION IS ALSO MADE IN FAVOUR OF THE RICH, AS IN THE CASE OF THE YEAR OF RELEASE.[3] IF ALL THE SHEAVES IN A FIELD ARE A KAB[4] EACH IN QUANTITY, WHEREAS ONE COMPRISES FOUR KABS AND THAT ONE IS FORGOTTEN, BETH SHAMMAI SAY IT IS NOT DEEMED ‘FORGOTTEN’;[5] BUT BETH HILLEL SAY THAT IT IS DEEMED ‘FORGOTTEN’.[6]

MISHNAH 2. IF A SHEAF IS LEFT NEAR A STONE FENCE[7] OR NEAR A STACK [OF CORN]. OR NEAR OXEN AND [FIELD] IMPLEMENTS,[8] BETH SHAMMAI SAY IT IS NOT DEEMED ‘FOR GOTTEN’;[9] BETH HILLEL SAY THAT IT IS DEEMED ‘FORGOTTEN’.

MISHNAH 3. [WHETHER OR NOT ANY SHEAF] AT THE END OF THE ROW IS TO BE REGARDED AS FORGOTTEN’, THE SHEAF LYING OVER AGAINST IT SERVES AS AN INDICATION.[10] IF [THE OWNER] TOOK UP A SHEAF WITH THE INTENTION OF BRINGING IT TO THE CITY AND FORGOT IT, ALL AGREE[11] THAT IT IS NOT DEEMED A ‘FORGOTTEN SHEAF’.

MISHNAH 4. THESE ARE TO BE CONSIDERED ENDS OF THE ROWS:[12] IF TWO MEN BEGIN [TO GATHER] FROM THE MIDDLE OF THE ROW, ONE FACING NORTHWARDS AND THE OTHER SOUTHWARDS[13] AND THEY FORGET [SOME SHEAVES] EITHER IN FRONT OF THEM OR BEHIND THEM,[14] THEN THOSE LEFT IN FRONT OF THEM ARE TO BE DEEMED ‘FORGOTTEN’,[15] BUT THOSE LEFT BEHIND THEM ARE NOT DEEMED ‘FORGOTTEN’.[16] IF[17] AN INDIVIDUAL BEGINS FROM THE END OF THE ROW AND HE FORGETS [SOME SHEAVES] EITHER IN FRONT OF HIM OR BEHIND HIM, THOSE IN FRONT OF HIM ARE NOT TO BE DEEMED ‘FORGOTTEN’,[18] WHEREAS THOSE BEHIND HIM ARE DEEMED ‘FORGOTTEN’; FOR THIS COMES UNDER THE CATEGORY OF ‘THOU SHALT NOT GO BACK [TO FETCH IT].[19] THIS IS THE GENERAL RULE: ANYTHING THAT CAN BE SAID TO FALL UNDER THE LAW ‘THOU SHALT NOT GO BACK’ IS DEEMED ‘FORGOTTEN’; BUT THAT TO WHICH THE PRINCIPLE OF THOU SHALT NOT GO BACK’ CANNOT BE APPLIED IS NOT DEEMED ‘FORGOTTEN’.[20]

MISHNAH 5. TWO SHEAVES [LEFT LYING TOGETHER] ARE DEEMED ‘FORGOTTEN’, BUT THREE ARE NOT DEEMED FORGOTTEN’.[21] TWO BUNDLES[22] OF OLIVES OR

CAROBS [LEFT LYING] ARE DEEMED ‘FORGOTTEN’. BUT THREE ARE NOT DEEMED ‘FORGOTTEN’. TWO FLAX-STALKS[23] ARE DEEMED ‘FORGOTTEN’, BUT THREE ARE NOT DEEMED ‘FORGOTTEN’. TWO BERRIES ARE DEEMED ‘GRAPE GLEANINGS’,[24] BUT THREE ARE NOT DEEMED ‘GRAPE GLEANINGS’. TWO EARS OF CORN ARE DEEMED ‘GLEANINGS’[25] BUT THREE ARE NOT DEEMED GLEANINGS’. ALL THESE [RULINGS] ARE ACCORDING TO BETH HILLEL;[26] OF THEM ALL BETH SHAMMAI SAY THAT THREE [THAT ARE LEFT] BELONG TO THE POOR, AND FOUR BELONG TO THE OWNER.[27]

MISHNAH 6. IF A SHEAF OF TWO SE'AHS[28] WAS FOR GOTTEN IT IS NOT DEEMED ‘FORGOTTEN’.[29] IF TWO SHEAVES [BE FOUND] THAT TOGETHER COMPRISE TWO SE'AHS, RABBAN GAMALIEL SAYS THEY BELONG TO THE OWNER, BUT THE SAGES SAY THAT THEY BELONG TO THE POOR.[30] THEREUPON RABBAN GAMALIEL SAID: ‘ARE THE RIGHTS OF THE OWNER STRENGTHENED OR WEAKENED ACCORDING TO THE GREATER NUMBER OF THE SHEAVES?’ [TO WHICH] THEY REPLIED, ‘HIS RIGHTS ARE STRENGTHENED’.[31] THEN SAID HE UNTO THEM: ‘IF, THEREFORE, ONE SHEAF OF TWO SE'AHS IS NOT DEEMED "FORGOTTEN", THEN HOW MUCH MORE SHOULD BE THE CASE OF TWO SHEAVES THAT TOGETHER CONTAIN TWO SE'AHS?’ THEREUPON THEY REPLIED: ‘NO. IF YOU ARGUE IN THE CASE OF ONE SHEAF [TO WHICH WE AGREED]. BECAUSE IT IS LARGE ENOUGH TO BE CONSIDERED A STACK, ARE YOU GOING TO ARGUE LIKEWISE IN THE CASE OF TWO SHEAVES WHICH ARE AS SMALL BUNDLES?’

MISHNAH 7. IF STANDING CORN[32] THAT CONTAINS TWO SE'AHS WAS FORGOTTEN, IT IS NOT DEEMED ‘FORGOTTEN.’ IF IT DOES NOT CONTAIN TWO SE'AHS NOW, BUT WAS FIT TO YIELD TWO SE'AHS,[33] EVEN IF IT WAS OF AN INFERIOR KIND OF BARLEY.[34] IT IS REGARDED AS A YIELD[35] OF BARLEY.

MISHNAH 8. STANDING CORN[36] CAN SAVE A SHEAF AND OTHER STANDING CORN[37] [FROM BEING REGARDED AS ‘FOR GOTTEN’].[38] THE SHEAF,[39] HOWEVER, CANNOT SAVE EITHER ANOTHER SHEAF OR STANDING CORN.[40] WHAT STANDING CORN CAN SAVE THE SHEAF?[41] THAT WHICH HAS NOT BEEN FORGOTTEN, EVEN THOUGH IT IS A SINGLE STALK.[42]

MISHNAH 9. A SE'AH OF PLUCKED CORN AND A SE'AH OF UNPLUCKED CORN[43] (AND THE SAME APPLIES TO FRUIT TREES,[44] GARLIC AND ONIONS)[45] CANNOT BE COMBINED TOGETHER FOR THE PURPOSE OF COUNTING THEM AS TWO SEAHS.[46] BUT THEY MUST BE LEFT TO THE POOR. R. JOSE SAYS: IF ANYTHING THAT BELONGS TO THE POOR[47] INTERVENES, THE TWO CANNOT BE COMBINED TOGETHER;[48] , OTHERWISE, THEY MAY BE SO COMBINED.

MISHNAH 10. CORN USED FOR FODDER[49] OR [GRAIN-STALKS] USED FOR BINDING A SHEAF, (THE SAME APPLIES TO GARLIC-STALKS[50] USED FOR TYING OTHER BUNCHES, OR TIED BUNCHES[51] OF GARLIC AND ONIONS)[52] DO NOT COME UNDER THE LAW OF THE ‘FORGOTTEN SHEAF’.[53] ANYTHING STORED IN THE GROUND LIKE THE ARUM[54] AND GARLIC AND ONIONS, R. JUDAH SAYS, THEY DO NOT COME UNDER THE CATEGORY OF THE ‘FORGOTTEN SHEAF’;[55] BUT THE SAGES SAY, THE LAW OF THE ‘FORGOTTEN SHEAF’ APPLIES TO THEM.[56]

MISHNAH 11. ONE WHO REAPS BY NIGHT AND BINDS SHEAVES [BY NIGHT] OR ONE WHO IS BLIND[57] IS SUBJECT TO THE LAW OF THE ‘FORGOTTEN SHEAF’. IF HE INTENDS TO REMOVE ONLY THE LARGE LEAVES,[58] THEN THE LAW DOES NOT

APPLY.[59] IF HE SAYS: BEHOLD, I AM REAPING ON THE CONDITION THAT I TAKE AFTERWARDS THAT WHICH I HAVE FORGOTTEN', THE LAW OF THE 'FORGOTTEN SHEAF' STILL APPLIES TO HIM.[60]

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(1) Heb. Hefker (v. Glos.). The word הבקר in our Mishnah is the Palestinian dialect for הפקר. Cf. 'Ed. IV, 3. Deemed as ownerless, the standing crop is exempt from all tithes as is the case with all the other gifts to the poor discussed in this Tractate. The Shammaites find support for their view in Lev. XIX, 10 (v. Bert.).

(2) And, therefore, not exempt from tithes.

(3) Deut. XV, 1-6 describes the Sabbatical year in which the soil was to rest and in which all debts were cancelled. Beth Hillel argue that no hefker can be exempt from tithes unless it be declared the property of rich and poor alike, as is the case with the products of the Sabbatical year which all could enjoy.

(4) The kab was four logs == 24 eggs in size, and equal to a sixth of a se'ah.

(5) Since it comprises four kabs, it is to be regarded as a sheaf from which a row of four smaller sheaves could be made; and according to Beth Shammai (infra Mishnah 5) only three sheaves belonged to the poor, but not four. A similar provision would apply to a field in which all the sheaves were two kabs each in size and the Forgotten Sheaf of 8 kabs.

(6) Beth Hillel refuse to regard the large sheaf as so many potential smaller ones and regard it only as one sheaf that is left.

(7) Or a heap of stones piled one on top of another loosely (Bert.).

(8) Including the outfit of the oxen.

(9) The very fact that the sheaf had been left near these objects is an indication that the owner had but temporarily deposited it there.

(10) If a sheaf is left at the end of the row, then the other sheaf over against it at the end of the second row indicates whether it is to be deemed 'Forgotten'. A fuller explanation of what is implied by 'the ends of a row' is given in the Mishnah following.

(11) Even Beth Hillel. V. supra VI, 2.

(12) The reference is to many rows equally arranged; for example, ten rows of ten sheaves each, all arranged side by side.

(13) I.e., they stand back to back and face the two opposite ends of the fields. Each would thus recede further away from each other as they proceed.

(14) In the course of their gathering a sheaf or two came to be overlooked.

(15) Because Deut. XXIV, 19 can be applied to it.

(16) Since the sheaf is behind both of them, each relies on the other to pick it up.

(17) An illustration of the statement in the preceding Mishnah that the sheaf lying over against the ends of the row serves as an indication whether a sheaf is to be regarded as 'Forgotten' or not (Bert.).

(18) His intention may have been to include it in the new row about to be formed from east to 'west (Bert.).

(19) Deut. XXIV, 19.

(20) For other interpretations of this difficult Mishnah v. Tosaf. Y.T.

(21) The underlying principle seems to be, according to Beth Hillel, that whereas two can be deemed 'Forgotten', the number three suggests that these had been deposited there temporarily. Three is a number too large to be overlooked.

(22) 'Bundles' of olives, not single ones; for there must be a completion of the process of gathering (גמר מלאכה) before the law of the 'Forgotten Sheaf' is applied.

(23) These stalks must still be in the hard state, prior to being prepared for spinning and also fit for human food; otherwise the law of the 'Forgotten Sheaf' does not apply to them.

(24) V. Lev. XIX. 10.

(25) V. Ibid. XIX, 9.

(26) They find support for their contention in the words 'for the poor and the stranger', Ibid. XIX, 10, one for each; hence two in all.

(27) They cite Deut. XXIV, 19 instead of Lev. XIX, 10, and cite the words 'the stranger, the orphan and the widow' as proof that even three are to be regarded as the property of the poor.

(28) Twelve kabs are more than a man could carry. and the law regarding the 'Forgotten Sheaf' seems to stress the word to take it (Deut. XXIV, 19) that is, a sheaf which a man can easily carry.

(29) Since in size and weight it is almost as a stack, it cannot come under the law of the 'Forgotten Sheaf', which refers only to the single sheaf. V. supra the argument of the Sages.

(30) Both their views are clarified in the course of their discussion.

(31) Because the law refers only to a single sheaf that is left.

(32) The same law equally operates upon the standing corn as upon the sheaf.

(33) I.e., in a more fruitful year.

(34) ‘An aquatic plant like the Colocasia’ (fast.). Maim. defines it as ‘a seed similar to barley’. cf. Kil. I, 1.

(35) I.e., though the ears of corn have been blasted and do not contain two se'ahs, they are treated as if they were full (Bert.).

(36) That has clearly not been overlooked.

(37) Which seems to have been overlooked and that stands near to the corn that has not been so overlooked.

(38) For when he will return to cut the corn, he will bethink himself of the sheaf and the other corn unintentionally left. According to Bert. this is based on Deut. XXIV, 19.

(39) Which has obviously not been forgotten.

(40) Which have been forgotten and which lie in its proximity.

(41) Or the forgotten standing corn near it.

(42) Aliter: ‘Even a single ear of corn left unforgotten in the whole corn, can save’.

(43) Both had evidently been left forgotten; for had he forgotten only the plucked corn and not the other, the first would have saved the other from coming under the category of the ‘Forgotten Sheaf’. V. preceding Mishnah.

(44) Plucked and unplucked fruit that only together combine to make two se'ahs that have been forgotten. Had all the fruit been plucked, they would have belonged to the owner, according to Rabban Gamaliel (supra VI, 6).

(45) The same refers to all vegetables; two kinds cannot be combined together.

(46) And thus not be regarded as liable to the law; supra 6, n. 10.

(47) This refers only to the field or vineyard, where there can be ‘Gleanings’ or ‘Grape Gleanings’ between one se'ah and another. Unapplicable in the case of trees, where these laws do not operate.

(48) To make two se'ahs; but they belong to the poor.

(49) The Hebrew term for corn that had not yet reached a third of its full maturity. It was usually given to the cattle, cf. supra II, 1.

(50) Others render: ‘bunches of garlic on one stalk’.

(51) Tosef. Pe'ah III, 8, אוגרי

(52) These small bundles are afterwards re-tied into larger bundles; the ‘finishing process’ is not yet completed, hence the law is not yet applicable. Cf. supra V, 8.

(53) They are not used for human food.

(54) A species of onion whose root is exceedingly bitter. ‘A plant similar to colocasia with edible leaves and root, and bearing beans’ (Jast.). Like טפח in Mishnah 7 supra. V. Sheb. V, 2; VII, 1; Ter. IX, 6. A full discussion of the word ‘arum’ will be found in Kohut's ed. of the ‘Aruch s.v. חלוף

(55) R. Judah is of the opinion that the law of the ‘Forgotten Sheaf’ does not apply to things, though edible, that are stored in the ground.

(56) V. Bert. for the exegetical basis for the respective opinions of R. Judah and the Sages.

(57) Night-time or blindness cannot be grouped into the category of things that had been forgotten owing to an untoward accident. V. supra IV, 10.

(58) The largest leaves are those that began to grow first. Cf. Sheb. IV, 1. Nid. 2b.

(59) Since he does not gather them all but selects only the largest, the forgetfulness may be said to be due to untoward circumstances.

(60) The principle throughout the Talmud is that, ‘If one makes a stipulation which is contrary to what is written in the Torah, his stipulation is void’. Keth. IX, 1.

Mishna - Mas. Pe'ah Chapter 7

MISHNAH 1. AN OLIVE TREE THAT HAS A DISTINGUISHING NAME[1] IN THE FIELD, LIKE[2] THE OLIVE TREE OF ‘NETOFAH’ IN ITS SEASON,[3] AND THAT HAS BEEN LEFT FORGOTTEN, IS NOT DEEMED ‘FORGOTTEN’.[4] WHEN DOES THIS STIPULATION APPLY? [ONLY TO A TREE THAT ls DISTINGUISHED] BY ITS NAME, OR ITS PRODUCE, OR ITS SITUATION. ‘BY ITS NAME’: IF IT WERE [FOR INSTANCE] A SHIFKONI[5] OR BESHANI[6] TREE. ‘ITS PRODUCE’: IF IT YIELDS LARGE QUANTITIES. ‘ITS SITUATION’: IF IT STANDS AT THE SIDE OF THE WINEPRESS OR NEAR THE GAP IN THE FENCE.[7] AS FOR OTHER KINDS OF OLIVE TREES,[8] TWO [IF THEY ARE LEFT] ARE DEEMED ‘FORGOTTEN’, BUT THREE ARE NOT DEEMED ‘FORGOTTEN’.[9] R. JOSE IS OF THE OPINION THAT THE LAW OF THE ‘FORGOTTEN SHEAF’ DOES NOT AT ALL APPLY TO OLIVE TREES.[10]

MISHNAH 2. IF AN OLIVE-TREE WAS FOUND STANDING BETWEEN THREE ROWS [OF OLIVE TREES] AT A DISTANCE OF TWO PLOTS[11] FROM ONE ANOTHER, AND FORGOTTEN, IT IS DEEMED, ‘FORGOTTEN.[12] IF AN OLIVE TREE CONTAINING TWO SE'AHS[13] HAS BEEN LEFT, IT IS NOT DEEMED FORGOTTEN. WHEN DOES THIS APPLY?[14] ONLY WHEN HE [THE OWNER] HAD NOT YET BEGUN [TO PLUCK THE TREE]; BUT IF HE HAD BEGUN, (EVEN IF IT WERE LIKE THE OLIVE TREE NETOFAH IN ITS SEASON)[15] AND THEN FORGOTTEN IT, IT IS DEEMED FORGOTTEN’. AS LONG AS THE OWNER HAS SOME OF THE FRUIT BELONGING TO HIM LYING AT THE FOOT OF THE TREE, HE CAN CLAIM POSSESSION OF THOSE STILL ON TOP OF THE TREE.[16] R. MEIR SAYS: [THE LAW APPLIES ONLY] AFTER THOSE WITH THE BEATING-ROD[17] HAVE DEPARTED.

MISHNAH 3. WHAT IS MEANT BY PERET?[18] THAT WHICH FALLS DOWN DURING THE VINTAGE. IF WHILE HE WAS CUTTING [THE GRAPES], HE CUT OFF AN ENTIRE CLUSTER BY ITS STALK AND THIS WAS INTERCEPTED BY THE FOLIAGE, AND THEN IT FELL FROM HIS HAND TO THE GROUND AND THE SINGLE BERRIES DISPERSED THEREFROM, THEY STILL BELONG TO THE OWNER.[19] HE WHO PLACES A BASKET UNDER THE VINE[20] WHEN HE IS CUTTING [THE GRAPES], IS ROBBING THE POOR;[21] OF HIM IT HAS BEEN SAID: ‘REMOVE NOT THE LANDMARK OF THOSE THAT COME UP’.[22]

MISHNAH 4. WHAT CONSTITUTES A DEFECTIVE CLUSTER?[23] ANY CLUSTER[24] WHICH HAS NO SHOULDER[25] AND [OF WHICH THE TOP GRAPES] DO NOT HANG DOWN [FROM THE TRUNK].[26] IF IT HAS A SHOULDER OR ITS TOP GRAPES HANG DOWN, IT BELONGS TO THE OWNER; IF THERE IS A DOUBT, IT BELONGS TO THE POOR.[27] AS TO A DEFECTIVE CLUSTER ON THE JOINT[28] OF A VINE, IF IT[29] CAN BE NIPPED OFF WITH THE CLUSTER,[30] IT BELONGS TO THE OWNER; BUT IF IT CAN NOT, IT BELONGS TO THE POOR. R. JUDAH SAYS: A SINGLE STALK [OF BERRIES][31] IS DEEMED AS A WHOLE CLUSTER,[32] BUT THE SAGES CONTEND THAT [THEY ARE TO BE REGARDED] AS A DEFECTIVE CLUSTER.[33]

MISHNAH 5. HE WHO IS ENGAGED IN THINNING OUT[34] VINES MAY THIN OUT THE VINES THAT BELONG TO THE POOR JUST AS HE THINS OUT WHAT BELONGS TO HIMSELF;[35] SO R. JUDAH. BUT R. MEIR SAYS: HE CAN ONLY DO SO TO THAT WHICH BELONGS TO HIM BUT NOT TO THAT WHICH IS THE PROPERTY OF THE POOR.[36]

MISHNAH 6. [AS FOR THE GRAPES OF] A VINEYARD IN ITS FOURTH YEAR,[37] BETH SHAMMAI SAY, THE LAWS OF THE ADDED FIFTH[38] AND REMOVAL[39] DO NOT APPLY TO THEM; BUT BETH HILLEL SAY, THEY DO. BETH SHAMMAI FURTHER SAY: THE LAWS OF PERET[40] AND THE DEFECTIVE CLUSTERS[41] APPLY TO THEM, AND THE POOR CAN REDEEM THE GRAPES FOR THEMSELVES;[42] BUT BETH HILLEL MAINTAIN THAT THE WHOLE MUST GO TO THE WINE-PRESS.[43]

MISHNAH 7. IF A VINEYARD CONSISTS ENTIRELY OF DEFECTIVE CLUSTERS’,[44] R. ELIEZER SAYS IT BELONGS TO THE OWNER, BUT R. AKIBA SAYS, TO THE POOR. SAID

R. ELIEZER: [IT IS WRITTEN,] ‘WHEN THOU GATHEREST THE GRAPES OF THY VINEYARD, THOU SHALT NOT TAKE THE DEFECTIVE CLUSTERS AFTER THEE’.[45] IF THERE IS NO GRAPE GATHERING,[46] WHENCE WILL YOU HAVE ‘DEFECTIVE CLUSTERS’? SAID R. AKIBA TO HIM: [IT IS WRITTEN,] ‘AND FROM THY VINEYARD SHALT THOU NOT TAKE THE DEFECTIVE CLUSTERS’[47] — EVEN IF IT CONSISTS ENTIRELY OF DEFECTIVE CLUSTERS. IF THAT IS SO, WHY IS IT SAID: ‘WHEN THOU GATHEREST THE GRAPES OF THY VINEYARD THOU SHALT NOT TAKE THE DEFECTIVE CLUSTERS AFTER THEE’? — [TO TEACH THAT] THE POOR HAVE NO RIGHT TO CLAIM THE DEFECTIVE CLUSTERS PRIOR TO THE VINTAGE.[48]

MISHNAH 8. IF ONE DEDICATES HIS ENTIRE VINEYARD [TO THE SANCTUARY] BEFORE EVEN THE ‘DEFECTIVE CLUSTERS’[49] WERE RECOGNISABLE, THE ‘DEFECTIVE CLUSTERS’ DO NOT BELONG TO THE POOR; BUT [IF THE DEDICATION TOOK PLACE] AFTER THE DEFECTIVE CLUSTERS WERE RECOGNISABLE,[50] THEN THEY DO BELONG TO THE POOR.[51] R. JOSE SAYS: LET [THE POOR] GIVE THE VALUE OF THEIR IMPROVED GROWTH TO THE TEMPLE.[52] WHAT CAN BE DEEMED ‘FORGETFULNESS’ IN THE CASE OF AN ‘ESPALIER’?[53] WHEN ONE IS NO LONGER ABLE TO STRETCH FORTH HIS HAND AND TAKE THEREFROM.[54] AND IN THE CASE OF RUNNERS?[55] ONLY AFTER [THE GATHERERS] HAD PASSED BY IT.[56]

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(1) A differentiating epithet given on account of its general excellence.

(2) The word ‘even’ in our editions is best omitted; its inclusion here is due to its occurring in the next Mishnah.

(3) v. Ezra II, 22; Neh. VII, 26. In II Kings XXV, 23 it refers to a city near Bethlehem, in Judah, wherein olive trees were renowned. Others derive the word from נטף ‘to flow’, because it was a tree always overflowing with oil, and render: like an olive tree that yields much oil in its season. An alternative rendering: An olive tree which at one time bore a special name like the Netofah (olive tree).

(4) The literal interpretation of the law in Deut. XXIV, 19: ‘and thou shalt forget a sheaf in the field’ is of a sheaf that will always be left forgotten; but an olive tree of the kind referred to here is remembered after a time.

(5) The name applied to a species of olive tree, literally pouring forth (שפך) large quantities of oil. Others take the word as a place-name. like the following ‘Beshani’.

(6) The general explanation of this word is that it is an abbreviation of the place-name ‘Beth-Shean’. Others interpret the word figuratively, thus: ‘A tree, that on account of the abundance of its fruit and oil, puts all the other trees to shame’. The two words are thus either taken as adjectives or proper names; though logically they would point to being place-names. s1nce they are included under the rubric of ‘in its name’ and not ‘in its produce’. But then the retort of those who treat them as adjectives would be: ‘If so, then why are they not included as examples of "in its situation"?’ Others again render as the ‘ill-yielding’.

(7) When its trunk is used to block up the gap in the fence.

(8) Those not distinghuished by a special title.

(9) Agreeing with Beth Hillel, v. supra VI, 5.

(10) R. Jose referred to the days when owing to the Hadrianic persecutions (2nd cent. C.E.) Palestinian olive trees were rare; for the owner who left behind olives would bethink himself of them later, but at a time when the olive trees were no rarity, he would agree that the law of the ‘Forgotten Sheaf’ applies even to them (v. Bert.).

(11) A malben is a small garden plot, quadrangular in shape and three handbreadths in width, cf. supra III, 1, 4.

(12) As it is hidden from view by the other trees. V. supra V, 7. The reason why olive trees receive here such frequent mention, though the law applies to other trees, is that they are the most common trees of Palestine.

(13) V. supra VI, 6.

(14) This refers back to the opening Mishnah of this Chapter: ‘When does the law not apply to the tree of a special name?’

(15) It would be considered ‘Forgotten’ unless the fruit comprised two se'ahs.

(16) The fruit still ungathered at his feet is an indication that the ‘finishing process’ of plucking the whole tree has not yet been completed. V. supra V, 8.

(17) Aliter: ‘The workers searching after the remaining (hidden) olives’. This searching was done with the aid of a stick, w1th which they used to beat the branches, so that the olives still nestling between the leaves may fall down. T.J. Pe'ah substitutes the word כרכר ‘turner’ for the מחבא of our Mishnah.

(18) ‘Grape Gleanings’. Lev. XIX, 10. V. supra VI, 5, n. 6.

(19) Only those grapes belong to the poor that fall to the ground in the natural course of the vintage. The case cited in the Mishnah can be construed as an accidental cause.

(20) With the intention of collecting therein the single grapes that fall.

(21) The reason being that single grapes (peret) are already prior to their reaching earth the property of the poor.

(22) V. supra V, 6, n. 3.

(23) ‘Oleleth (lit., ‘grape gleaning’) which, according to Lev. XIX, 20 must be given to the poor. ‘Oleleth here used for a defective cluster is connected with עולל (a small child), the defective cluster being in proportion to the full cluster as that of the child to the man.

(24) That still remains on a stem.

(25) Its grapes hang loose and do not rest on other stalks as if on a shoulder as is usual with fully ripe grapes.

(26) Lit., ‘have no pendant’.

(27) Who always receive the benefit of the doubt. V. supra IV, 11.

(28) The word usually applied to the knee-joint, or the leg from under the hip bone to the ankle; Hul. IV, 6. Here it refers to one branch of the vine that comes out of another branch, like so many joints, or to that part of the vine which is bent down and laid in the ground to rise at another place; cf. Rail. VII, 1.

(29) Namely, the defective cluster on the joint of the vine.

(30) That adjoins it.

(31) Single grapes that are joined to the stem itself or to the rib of the cluster and not small bunches on top of one another.

(32) Belonging, accordingly, to the owner.

(33) And, therefore, the property of the poor.

(34) המדל, V. supra III, 3, n. 4.

(35) The reason being a logical one: since the object of this thinning out process is so that the grapes, or the clusters, may grow better by being less cramped together. V. next note.

(36) According to R. Meir, the poor are to be regarded only in the role of purchasers of the defective clusters, not as partners (which is the view of R. Judah) with the original owners; hence the latter have no right to touch these grapes.

(37) Cf. Lev. XIX, 23-25. After the first three years during which the fruit of any tree could not be eaten (ערלה), the fruit was in the fourth year taken to Jerusalem to be enjoyed there.

(38) Though the grapes required redemption if not taken to Jerusalem, yet the ‘Fifth’ which is prescribed for Second Tithe, need not be added; for the Torah mentions this only in the case of the Second Tithe. V. B.M. 55b.

(39) This refers to the removal from the house of fruits in the third and sixth year of the Sabbatical period; Deut. XIV, 28; XXVI, 13; Ma'as. Sh. V, 3, 6; Sheb. VII, 1.

(40) V. supra VII, 3.

(41) V. supra VII, 4.

(42) The poor can eat the grapes wherever they are, provided that they afterwards bring the redemption money to Jerusalem.

(43) Since in their view the grapes are ‘consecrated’, the poor have no right to them and they are, therefore, the property of the owner to bring them to Jerusalem or redeem them, as he thinks fit. Even the ‘defective clusters’ are thus ‘trodden’ together with the other grapes and the value of the whole yield taken off to the Holy City.

(44) I.e., in the entire vineyard there is not a single cluster which has either shoulder (כתף) or pendant (נטף).

(45) Deut. XXIV, 21.

(46) The extent of a vintage is at least three full clusters yielding at least one fourth of a log (v. GIos.). Since our Mishnah speaks of defective clusters, hardly likely to produce this required vintage the grapes therefore belong, according to R. Eliezer, to the owner.

(47) Lev. XIX, 10. This verse does not mention ‘grape gathering’ at all but just ‘thy vineyard’; hence, according to R. Akiba, even a vineyard of defective clusters belongs to the poor.

(48) They must wait until the owner has finished gathering his grapes. R. Eliezer would take R. Akiba's verse to debar the owner from taking possession of the defective clusters before he has finished the vintage.

(49) V. supra VII, 4. In ordinary circumstances, these would become the share of the poor.

(50) To be defective and not full clusters.

(51) The generally accepted principle being that a man cannot consecrate anything which does not belong to him.

(52) Unto the Temple authorities is due the value of the improvement the grapes have made since they were first dedicated. Cf. Me'il. III, 6.

(53) A lattice-work on which trees or shrubs are trained. In Kil. VI, 1 the word is explained as a row of at least five vines running along a fence, or perched on any high pole.

(54) When, later, he recalls the grapes thereon, he finds that he can no longer reach them.

(55) These are ground-trained vines; grapes growing in a row on isolated vines, almost foot level.

(56) For getting all about them. Each 'runner' vine is regarded as a border-bed or an outmost furrow by itself; on this account, the owner, after having forgotten to collect them once, can no longer return to them.

Mishna - Mas. Pe'ah Chapter 8

MISHNAH 1. FROM WHAT TIME ARE ALL MEN PERMITTED TO TAKE THE 'GLEANINGS'? AFTER THE LAST TROOP OF THE POOR[1] HAD GONE. AND IN THE CASE OF 'PERET'[2] AND 'DEFECTIVE CLUSTERS'?[3] AFTER THE POOR HAD GONE INTO THE VINEYARD AND COME BACK AGAIN.[4] AND IN THE CASE OF THE OLIVE TREES? AFTER THE DESCENT OF THE SECOND RAINFALL?[5] SAID R. JUDAH: 'BUT ARE THERE NOT SOME WHO DO NOT HARVEST THEIR OLIVES BEFORE THE SECOND RAINFALL?' NO;[6] [THE TIME LIMIT FOR OLIVES IS] AFTER THE POOR MAN GOES OUT[7] AND CANNOT BRING BACK WITH HIM [MORE THAN THE VALUE OF] FOUR ISSARS.[8]

MISHNAH 2. THEY[9] ARE TO BE BELIEVED CONCERNING GLEANINGS', THE FORGOTTEN SHEAF AND PE'AH DURING THEIR [HARVEST] SEASON, AND CONCERNING THE POOR MAN'S TITHE[10] DURING THE WHOLE YEAR THEREOF. A LEVITE IS ALWAYS TO BE TRUSTED.[11] THEY MUST NOT BE TRUSTED [IN OTHER CASES] SAVE IN THOSE THINGS WHICH MEN ARE WONT TO GIVE THEM.[12]

MISHNAH 3. THEY ARE TO BE TRUSTED CONCERNING WHEAT,[13] BUT NOT CONCERNING FINE FLOUR OR BREAD;[14] CONCERNING RICE STILL IN ITS STALK,[15] BUT NOT WHEN IT IS EITHER RAW OR COOKED.[16] THEY CAN BE TRUSTED CONCERNING BEANS BUT NOT WHEN THESE ARE POUNDED, WHETHER RAW OR COOKED. THEY ARE TO BE BELIEVED WHEN THEY DECLARE THAT THEIR OIL IS FROM THE 'POOR MAN'S TITHE', BUT THEY ARE NOT BELIEVED WHEN THEY CLAIM THAT IT IS FROM THE FEW OLIVES THAT HAVE BEEN KNOCKED DOWN.[17]

MISHNAH 4. THEY ARE TO BE TRUSTED CONCERNING RAW VEGETABLES,[18] BUT NOT CONCERNING THOSE THAT ARE COOKED, UNLESS HE HAD ONLY A SMALL QUANTITY; FOR SO IT WAS THE CUSTOM OF THE HOUSEHOLDER TO TAKE OUT OF HIS STEW-POT [AND GIVE TO THE POOR].[19]

MISHNAH 5. ONE MUST NOT GIVE TO THE POOR FROM THE THRESHING-FLOOR,[20] LESS THAN A HALF KAB OF WHEAT OR A KAB OF BARLEY.[21] R. MEIR SAYS: [ONLY] HALF A KAB.[22] [ONE MUST GIVE] A KAB AND A HALF OF SPELT, A KAB OF DRIED FIGS OR A MINA[23] OF PRESSED FIGS; R. AKIBA SAYS: [ONLY] HALF. [ONE MUST GIVE] HALF A LOG[24] OF WINE; BUT R. AKIBA SAYS: A QUARTER.[25] [ONE MUST GIVE] A QUARTER OF OIL; BUT R. AKIBA SAYS: AN EIGHTH.[26] AS FOR OTHER KINDS OF PRODUCE, ABBA SAUL SAYS, [THE AMOUNT GIVEN MUST BE SUCH] AS TO ENABLE THE POOR MAN TO SELL THEM AND BUY WITH THE PRICE THEREOF FOOD SUFFICIENT FOR TWO MEALS.

MISHNAH 6. THIS MEASURE IS STIPULATED FOR THE PRIEST, LEVITE AND

ISRAELITE ALIKE.[27] SHOULD HE DESIRE TO SAVE AUGHT,[28] HE CAN ONLY RETAIN A HALF[29] AND GIVE THE OTHER HALF AWAY. IF HE HAS ONLY A VERY SMALL QUANTITY,[30] THEN HE MUST PLACE IT BEFORE THEM AND THEY THEN DIVIDE IT AMONG THEMSELVES.[31]

MISHNAH 7. ONE MUST NOT GIVE THE WANDERING POOR MAN LESS THAN A LOAF WORTH A PONDION[32] AT A TIME WHEN FOUR SE'AHS [OF WHEAT COST] ONE SELA'.[33] IF HE SPENDS THE NIGHT [AT A PLACE], ONE MUST GIVE HIM THE COST OF WHAT HE NEEDS FOR A NIGHT.[34] IF HE STAYS OVER THE SABBATH HE IS GIVEN FOOD FOR THREE MEALS.[35] HE WHO HAS THE MEANS FOR TWO MEALS, MUST NOT ACCEPT ANYTHING FROM THE CHARITY DISH;[36] AND IF HE HAS FOR FOURTEEN MEALS, HE MAY NOT ACCEPT ANY SUPPORT FROM THE COMMUNAL FUND.[37] THE COMMUNAL FUND IS COLLECTED BY TWO[38] AND DISTRIBUTED BY THREE PEOPLE.[39]

MISHNAH 8. HE WHO POSSESSES TWO HUNDRED ZUZ,[40] MAY NOT TAKE ‘GLEANINGS’, THE FORGOTTEN SHEAF, PE'AH OR THE POOR MAN'S TITHE. IF HE POSSESSES TWO HUNDRED MINUS ONE DENAR,[41] THEN EVEN IF A THOUSAND [MEN] EACH GIVE HIM [ONE ZUZ], HE MAY ACCEPT.[42] IF HIS PROPERTY IS MORTGAGED UNTO HIS CREDITORS OR TO THE KETHUBAH[43] OF HIS WIFE, HE MAY ACCEPT. THEY[44] CANNOT COMPEL HIM[45] TO SELL HIS HOUSE OR HIS TOOLS.[46]

MISHNAH 9. IF A MAN POSSESSES FIFTY ZUZ AND HE USES THEM FOR HIS BUSINESS, HE MUST NOT TAKE [THE POOR GIFTS].[47] WHOEVER DOES NOT NEED TO TAKE [CHARITY] AND YET TAKES, WILL NOT DEPART FROM THIS WORLD BEFORE BEING ACTUALLY IN NEED OF HIS FELLOW-MEN;[48] BUT HE WHO NEEDS TO TAKE AND DOES NOT TAKE,[49] WILL NOT DIE BEFORE HE WILL HAVE COME IN OLD AGE TO SUPPORT OTHERS FROM HIS OWN [BOUNTY]. CONCERNING HIM THE VERSE SAYS: BLESSED BE THE MAN WHO TRUSTETH IN THE LORD AND WHOSE HOPE IS THE LORD.[50] THE SAME MAY BE APPLIED TO A JUDGE WHO JUDGES IN TRUTH ACCORDING TO ITS INTEGRITY.[51] AND IF A MAN IS NOT LAME,[52] BLIND OR HALTING, AND HE FEIGNS TO BE AS ONE OF THESE, HE WILL NOT DIE IN HIS OLD AGE BEFORE HE ACTUALLY BECOMES AS ONE OF THESE;[53] AS IT IS SAID: HE WHO SEARCHES FOR EVIL, IT SHALL COME UNTO HIM,[54] AND ALSO AS IT IS SAID: RIGHTEOUSNESS, RIGHTEOUSNESS SHALT THOU SURELY PURSUE.[55] AND ANY JUDGE WHO ACCEPTS A BRIBE OR WHO PERVERTS JUSTICE WILL NOT DIE IN OLD AGE BEFORE HIS EYES HAVE BECOME DIM, AS IT IS SAID: AND A GIFT SHALT THOU NOT ACCEPT; FOR A GIFT BLINDETH THEM THAT HAVE SIGHT.[56]

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(1) נמושות from מוש ‘to grope’, ‘search’. T.J. gives two explanations of the word. They are either so called because they are the very last searchers; or because they are the very old people, who have to grope their way painfully along (supra IV, 5). When these last have gone and the poor no longer seem to claim it, it becomes ‘ownerless’ — the property of rich and poor alike.

(2) V. supra VII, 3.

(3) V. supra VII, 4.

(4) A second time; v. Ta'an. 6a.

(5) Circa 23rd Heshwan (Ned. VIII, 5; Ta'an. I, 4). So called because this rain fructifies the soil. ‘The rain is husband to the soil’ (Ta'an. 6b). Cf. also Lev. XIX, 19. The Talmud (Ta'an. 6b) explains what is meant by a satisfactory second rainfall; when the soil is left fit to be used for sealing the mouth of a cask.

(6) This, therefore, cannot be the stipulated time.

(7) Of the vineyard.

(8) An issar == 8 perutahs (the smallest copper coin current). This sum was calculated as sufficient for a man to buy meals — two for himself and two for his wife. Cf. infra 7.

(9) Even the uninstructed poor (‘amme ha-arez) are to be relied on when they claim that the wheat they sell is what they received as gifts and hence exempt from all tithes.
(10) The tithe was given during the third and sixth year of the Sabbatical cycle.
(11) He is to be trusted in his declaration that the wheat is the ‘First Tithe’. Since this tithe to the Levite was unrestricted as to time, there is no doubt that he must afterwards give the tithe due to the priest. Just as an Israelite ‘am ha-arez was not suspected of retaining for himself the terumah due to the priest, because the penalty of eating this terumah was death at the hands of heaven, so the Levite is not to be suspected of having failed to give the ‘tithe of the tithe’ which he owes to the priest. (Num. XVIII, 26).
(12) As explained in the following Mishnah.
(13) To state that they receive it as Poor Man's Tithe.
(14) It is not usual to give these to the poor on account of the additional trouble and expense they involve. The same reason applies to the other instances cited in our Mishnah.
(15) Because in this state it was usually given to the poor. The word שעֲרה is also explained as the kernels of the rice after the threshing and prior to the peeling of the husks.
(16) That is after the rice has been threshed or peeled.
(17) It is hardly likely that the oil could have been produced from the few olives left on the tree after the continual beatings (נקוף) made upon it during the harvest-time, for the olives to drop down. (Cf. Isa. XVII, 6; XXIV, 13); and since the poor only receive the few remaining olives, their statement is not credible. Cf. Hallah III, 9.
(18) Vegetables (since they are perishable) though exempt from Pe'ah, supra I, 4, are subject rabbinically to the poor Man's Tithe.
(19) It is very likely that the owner, having forgotten to give his dues, does so afterwards direct from the stew-pot. This, however, would only be a small quantity; for as explained (supra 3, n. 5) it is unlikely for the owner to give the poor readily prepared food.
(20) The measures quoted in the Mishnah are based on the stipulation of Deut. XXVI, 12 that the gifts to the poor must be such as to satisfy them. This refers to the Poor Man's Tithe only; for with regard to ‘Gleanings’ or Pe'ah or the ‘Forgotten Sheaf’, the owner could leave these dues in the field for the poor to divide among themselves (supra IV, 1).
(21) . A kab == 4 logs == one sixth of a se'ah == 24 eggs (in size).
(22) The variance as to the amounts mentioned here is due to what is considered sufficient to satisfy temporarily the needs of the poor.
(23) A weight measure equalling 25 sela's or 100 denars. After the figs are pressed, they are sold according to weight.
(24) A log (v.n. 3) was 2 litras.
(25) Of a log. This is the standard measure mentioned in connection with religious ceremonies. V.B.B. 58b.
(26) All the measures given here apply only when the distribution takes place in the threshing-floor, amidst the scene of plenty; in his house, however, the owner can obey the dictates of his own heart, since the Rabbis have not fixed a minimum.
(27) The priest and the Levite, like the Israelite, are subject to the Poor Man's Tithe of which they must give sufficient for at least two meals (Bert.). Moreover, even if the priest and Levite had already received their tithes, they are further entitled, should they be very poor, to the stipulated minimum due to the poor (R. Samson of Sens).
(28) He is not desirous of giving away all the tithes he has at once, but would save some for his own poor relatives.
(29) For this purpose, but not more.
(30) After setting aside the half for his poor relative, the remainder is not sufficient with which to give each poor man the stipulated amount.
(31) As long as the poor have all that is left, it does not matter even if each does not receive the stipulated amount. The onus is thus shifted from the owner to the poor.
(32) Abridged from dupondium, a Roman coin equal to a half zuz or two issars (Ma'as. Sh. IV, 8).
(33) The sela’ == 4 denars == 24 ma'ah == 48 pondions. Four se'ahs would equal twenty-four kabs, though actually in the loaf worth one sela’, there would be less than this amount, since the baker would wish to profit for the expense of grinding and baking. Only when the distribution takes place in the threshing-floor is the poor to receive not less than the stipulated sum — half a kab; when receiving a baked loaf, this need not be more than a quarter of a kab, or six eggs in size. V. ‘Er. VIII, 2.
(34) I.e., for bed and warmth; Shab.118a.
(35) On the Sabbath day each Jew is enjoined to partake of three meals.

(36) Tamhui, a dish containing victuals for distribution among the poor, each receiving at least the amount of two meals, v. B.B. 8b.

(37) The Kuppah from which sustenance was disbursed among the poor every Friday, and since he has enough to eat for the whole of next week, he is not entitled to poor relief from this source.

(38) All charitable collections must be undertaken by at least two accredited persons, Shek. V, 2.

(39) The disbursement required the presence of three adjudicators as in a Beth din; v. B.B. 8a.

(40) The sum considered by the Rabbis sufficient for food and clothing for a whole year.

(41) Latin denarius, another name for a zuz. Roughly speaking, a denar or zuz may he considered the equivalent of a shilling or mark (Danby).

(42) The poor man's gifts above mentioned.

(43) The marriage contract, v. Glos.

(44) The overseers of the poor.

(45) The applicant for these gifts.

(46) Or such articles of furniture used to adorn his house on the Sabbath and festivals. Cf. Keth. 68a.

(47) Fifty zuz sunk in business are as good as two hundred lying idle.

(48) As a penalty for robbing the poor of their due.

(49) Preferring to lead a humbler, more economical life instead.

(50) Jer. XVII, 7.

(51) Lit., ‘who judges a true judgment according to its truth’, i.e., an absolutely true verdict which can be arrived at by the judge if he endeavours to find out the truth himself and does not rely on evidence alone, v. Sanh. (Sonc. ed.) p. 27, n. 8. A judge whose hope is God is one to whom the truth is above the fear of men; cf. Shab. 10.

(52) The distinction drawn between חגר and פסח is that the first describes a man lame in one foot and the second a man lame in both. (cf. II Sam. IV, 4). A few versions add also ‘deaf and dumb’.

(53) In accordance with the Rabbinic principle that God punishes ‘measure for measure’.

(54) Prov. XI, 27.

(55) Deut. XVI, 20.

(56) Ex. XXIII, 8; the verse goes on: ‘and perverteth the words of the righteous’. The judge who accepts a gift to pervert judgment is compared to the man who feigns blindness. He, therefore, courts the same punishment.

Mishna - Mas. Demai Chapter 1

MISHNAH 1. THE [FOLLOWING] ARE TREATED LENIENTLY[1] IN RESPECT OF [THE RULES OF] DEMAI: WILD FIGS,[2] JUJUBE FRUIT,[3] CRAB APPLES, WILD WHITE FIGS,[4] YOUNG SYCAMORE FIGS, UNRIPE DATES,[5] LATE GRAPES AND THORNY CAPERS; IN JUDEA[6] ALSO SUMACH, JUDEAN[7] VINEGAR, AND CORIANDER. R. JUDAH SAYS: ALL WILD FIGS ARE EXEMPT, EXCEPT THOSE WHICH HAVE A CROP TWICE [A YEAR]; ALL JUJUBE FRUITS ARE EXEMPT, EXCEPT THE JUJUBE FRUITS OF SHIKMONAH;[8] ALL YOUNG SYCAMORE FIGS ARE EXEMPT, EXCEPT THOSE THAT BURST OPEN ON THE TREE.

MISHNAH 2. THE [SECOND TITHE[9] OF] DEMAI IS NOT SUBJECT TO [THE RULES OF] THE FIFTH[10] AND OF REMOVAL;[11] IT MAY BE EATEN BY AN ONAN;[12] IT MAY BE BROUGHT INTO JERUSALEM AND TAKEN OUT AGAIN;[13] IF SMALL IN QUANTITY[14] IT MAY BE ALLOWED TO BE LOST ON THE ROAD;[15] ONE MAY GIVE IT TO AN ‘AM HA-AREZ[16] AND CONSUME ITS EQUIVALENT IN JERUSALEM. [SECOND TITHE MONEY[17] OF DEMAI] MAY BE CHANGED[18] AGAIN, SILVER [COINS] FOR [OTHER] SILVER [COINS], COPPER [COINS] FOR [OTHER] COPPER [COINS], SILVER FOR COPPER, AND COPPER [BACK] INTO FRUIT, PROVIDED[19] THAT THE FRUIT WILL AGAIN BE REDEEMED FOR MONEY; THUS R. MEIR. BUT THE SAGES SAY: THE FRUIT ITSELF MUST BE BROUGHT UP AND CONSUMED IN JERUSALEM.

MISHNAH 3. IF A MAN BOUGHT [CORN][20] FOR SEED OR FOR CATTLE, FLOUR FOR HIDES,[21] OIL FOR THE LAMP, OR OIL FOR GREASING UTENSILS, IT IS EXEMPT FROM [THE RULES OF] DEMAI. [PRODUCE GROWN] BEYOND CHEZIB[22] IS EXEMPT FROM [THE RULES OF] DEMAI. THE HALLAH[23] OF AN ‘AM HA-AREZ, PRODUCE MIXED WITH TERUMAH,[24] PRODUCE BOUGHT WITH SECOND TITHE MONEY,[25] AND THE REMAINDER OF MEAL-OFFERINGS[26] ARE EXEMPT[27] FROM [THE RULES OF] DEMAI. SPICED[28] OIL, BETH SHAMMAI DECLARE LIABLE [TO THE RULES OF DEMAI]; BUT BETH HILLEL EXEMPT[29] IT.

MISHNAH 4. DEMAI MAY BE USED FOR MAKING AN ‘ERUB[30] AND FOR FORMING A PARTNERSHIP.[31] A BENEDICTION IS SAID OVER IT,[32] AND GRACE IN COMPANY IS RECITED AFTER IT.[33] ONE MAY SEPARATE [TITHES] FROM IT EVEN WHEN ONE IS NAKED,[34] OR WHEN IT IS TWILIGHT[35] ON THE EVE OF SAB BATH. LO, IF ONE HAS TAKEN FROM IT THE SECOND TITHE BEFORE THE FIRST TITHE IT MATTERS NOUGHT.[36] THE OIL WITH WHICH THE WEAVER GREASES HIS FINGERS IS LIABLE[37] TO [THE RULES OF] DEMAI, BUT [THE OIL] WHICH THE WOOL-COMBER PUTS ON THE WOOL IS EXEMPT[38] FROM [THE RULES OF] DEMAI.

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(1) The rules of demai are not enforced in the case of these fruits when bought from an ‘am ha-arez. The list consists of fruits which are esteemed of little value, and the owners of which often leave them for general use without claiming in them their property rights. Therefore it may be assumed that they had not been grown by the ‘am ha-arez who sold them, but had been picked up by him as ownerless property, in which case they would be exempt from tithes; cf. Ma'as. I, 1. Or again, even if they had been grown by the ‘am ha-arez himself, it may be assumed that he had already tithed them, since the cost of tithing them would have been small. And on account of this double doubt they are treated leniently in respect of demai.

(2) Cf. Ber. 40b.

(3) Or ‘lote’.

(4) These grow wild once in three years.

(5) Which only ripen after they had been picked. According to another explanation: dates blown from the tree by the wind.

(6) Where the value of these articles is small.

(7) Made from wine which had been extracted from grape-skins, and therefore of little value. Ordinary wine was much used in Judea for drink-offerings in the Temple, and could not be spared for making vinegar; cf. Pes. 42b; Buchler, Der galilaeische ‘Am-ha-’Arez, p. 18, n. 1.

(8) A place in the vicinity of Haifa.

(9) Cf. Introduction p. 50.

(10) If a man set apart Second Tithe from demai produce and he wished to redeem it for money (Deut. XIV, 25) he need not add a fifth of its value, as in the case of Second Tithe from produce which had been certainly untithed; cf. Lev. XXVII, 31; Ma'as. Sh. IV, 3; B.M. IV, 8. The reason is because the duty of tithing demai is only a Rabbinic enactment; cf. B.M. 54a.

(11) Tithes taken from demai need not be removed from the house and distributed on the eve of the Passover of the fourth and seventh year of the Sabbatical cycle, as in the case of tithes from ordinary produce; cf. Deut. XIV, 28; XXVI, 13; Ma'as. Sh. V, 6; also ‘Ed. IV, 5 (Sonc. ed. p. 23, n. 12; p. 24, n. 1).

(12) Lit., ‘one who grieves’, ‘a mourner’: on the day of the death of a kinsman whether before or after the burial, and also Rabbinically on the day of the burial. This is forbidden in the case of Second Tithe from ordinary produce, Deut. XXVI, 14; Ma'as. Sh. V, 12.

(13) In the case of Second Tithe from ordinary produce this is forbidden, Ma'as. Sh. III, 5.

(14) And therefore of little value.

(15) If its preservation would involve risk from robbers and the like.

(16) He need not be suspected of eating it outside Jerusalem, though he may be suspected of eating it in uncleanness.

(17) V. n. 9, p. 53.

(18) Lit., ‘rendered common’; cf. ‘Ed. I, 9 (Sonc. ed. p. 4, n. 15).

(19) Other texts read: ‘And the fruit may again be redeemed for money’.

(20) Of demai.

(21) For use in tanning.

(22) The Biblical Achzib (Josh. XIX, 29; Judg.I,31) north of Acre. It formed the limit of Jewish territory after the return from the Babylonian exile, and what was beyond it was therefore treated as Syria; cf. infra VI, 11, n. 5.

(23) Lit., ‘cake’; the portion of dough which had to be given to the priest; cf. Num. XV, 20; ‘Ed. I, 2 (Sonc. ed. p. 2, n. 2).

(24) Cf. Introduction p. 50. If one part of terumah produce was mixed up with less than a hundred parts of common produce, the whole mixture could not be eaten by a non-priest, and had to be sold to a priest at the price of less than the terumah in the mixture. If terumah was mixed with common produce a hundred times in quantity, the terumah is neutralized in the mixture, and it may be eaten by a non-priest; cf. Ter. IV, 7.

(25) To be eaten in Jerusalem.

(26) After a handful of the meal had been offered on the altar. This remainder was to be eaten by the priests only, Lev. II, 3.

(27) Because owing to their great sanctity. the ‘am ha-arez may be presumed to have duly tithed them.

(28) Cf. Buchler, op. cit. p. 15, n. 2. Others explain it as Balsam oil.

(29) Because it may have been already tithed owing to its scarcity and its great value.

(30) Lit., ‘mixture’, or ‘amalgamation’ of boundaries; food placed before the Sabbath at a convenient spot, making that spot a temporary abode, and enabling the owner to move freely on the Sabbath day within a distance of 2000 cubits on all sides of the spot. The ‘erub thus serves to amalgamate and extend the limits of a Sabbath day journey; cf. ‘Er. III, 2.

(31) I.e., שתוף , shittuf, partnership of a courtyard or a private alley, containing several private domiciles. The owners of the domiciles combine to place jointly before the Sabbath some food in a convenient spot in the courtyard or the alley, which thus converts the several domiciles into a joint property, and enables the various owners to move freely on the Sabbath day from one domicile into the other; cf. ‘Er. VII, 6 — 8.

(32) V. Rashi Shab. 23a; Aliter: One recites grace after it (alone).

(33) I.e., זמון , invitation. Three or more persons eating together in the same room may be invited by one of them by a prescribed formula to join together in saying grace; cf. Ber. VII, 1,3. But produce which is certainly untithed cannot be used for these purposes, since its consumption involves a sin.

(34) Since no benediction need be said on tithing demai produce, as on tithing produce which is certainly untithed; cf. Ter. I, 6.

(35) This is forbidden in the case of produce certainly untithed; cf. Shab. II,7.

(36) This is forbidden in the case of ordinary produce; cf. Ter. III, 6; Ma'as. Sh. V, 11.

(37) This is like anointing the body, and anointing is equivalent to drinking, Shab. IX, 4.

(38) It is like the greasing of utensils, v. supra 3, p. 54.

Mishna - Mas. Demai Chapter 2

MISHNAH 1. THE FOLLOWING THINGS MUST BE TITHED AS DEMAI IN ALL PLACES:[1] PRESSED FIGS, DATES, CAROBS, RICE, AND CUMIN. AS TO RICE FROM OUTSIDE THE LAND [OF ISRAEL], WHOEVER USES IT[2] IS EXEMPT FROM TITHING IT.

MISHNAH 2. IF A MAN HAS TAKEN UPON HIMSELF TO BE TRUSTWORTHY,[3] HE MUST TITHE WHATEVER HE EATS AND WHATEVER HE SELLS[4] AND WHATEVER HE BUYS;[5] AND HE MAY NOT BE THE GUEST[6] OF AN ‘AM HA-AREZ.[7] R. JUDAH SAYS: A MAN WHO IS THE GUEST OF AN ‘AM HA-AREZ MAY STILL BE CONSIDERED TRUSTWORTHY.[8] BUT THEY SAID TO HIM: IF HE IS NOT TRUSTWORTHY IN RESPECT OF HIMSELF,[9] HOW CAN HE BE CONSIDERED TRUSTWORTHY IN RESPECT OF OTHERS?[10]

MISHNAH 3. IF A MAN HAS TAKEN UPON HIMSELF TO BECOME AN ASSOCIATE,[11] HE MAY NOT SELL TO AN ‘AM HA-AREZ EITHER MOIST OR DRY[12] [PRODUCE]; NOR MAY HE BUY FROM HIM MOIST[13] [PRODUCE]. HE MAY NOT BE THE GUEST OF AN ‘AM HA-AREZ,[14] NOR MAY HE RECEIVE AS GUEST AN AM HA-AREZ WHO IS WEARING HIS OWN GARMENT.[15] R. JUDAH SAYS: HE MAY NOT ALSO BREED SMALL CATTLE,[16] NOR MAY HE BE ADDICTED TO MAKING VOWS[17] , OR TO LAUGHTER;[18] NOR MAY HE DEFILE HIMSELF BY THE DEAD,[19] BUT HE MUST BE AN ATTENDANT AT THE HOUSE OF STUDY. BUT THEY SAID TO HIM: THESE [REQUIREMENTS] DO NOT COME WITHIN THE GENERAL RULE [OF ASSOCIATESHIP].[20]

MISHNAH 4. BAKERS[21] [WHO ARE ASSOCIATES] ARE BOUND BY THE SAGES TO SET APART [FROM DEMAI PRODUCE] NO MORE THAN SUFFICES FOR THE TERUMAH OF TITHE[22] AND FOR HALLAH.[23] SHOPKEEPERS[24] MAY NOT SELL DEMAI [PRODUCE]. ALL [MERCHANTS] WHO SUPPLY IN LARGE QUANTITIES[25] MAY SELL DEMAI. [MERCHANTS] WHO SUPPLY IN LARGE QUANTITIES ARE SUCH AS WHOLESALE PROVISION DEALERS AND VENDORS OF CORN.

MISHNAH 5. R. MEIR SAYS: IF [PRODUCE] WHICH IS USUALLY MEASURED OUT [FOR SALE] IN A LARGE [QUANTITY] HAPPENED TO HAVE BEEN MEASURED OUT IN A SMALL [QUANTITY]. THE SMALL QUANTITY IS TREATED AS IF IT WAS A LARGE[26] [QUANTITY]; IF [PRODUCE] WHICH IS USUALLY MEASURED OUT FOR SALE IN A SMALL [QUANTITY] HAPPENED TO HAVE BEEN MEASURED OUT IN A LARGE [QUANTITY]. THE LARGE [QUANTITY] IS TREATED AS IF IT WAS A SMALL[27] [QUANTITY]. WHAT IS CONSIDERED A LARGE QUANTITY? THREE KABS FOR DRY [PRODUCE], AND [OF THE VALUE OF] ONE DENAR FOR LIQUID [PRODUCE]. R. JOSE SAYS: IF BASKETS OF FIGS AND BASKETS OF GRAPES AND HAMPERS OF VEGETABLES ARE SOLD IN THE LUMP, THEY ARE EXEMPT [FROM THE RULES OF DEMAI].

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(1) Even when bought beyond Chezib (I, 3, n. 11). because they may be produce grown in the Land of Israel.

(2) Even in the Land of Israel, because foreign rice is easily distinguished by its reddish colour from the white rice grown in the Land of Israel.

(3) נאמן , in respect of tithes, so that the produce he sells may be considered duly tithed; cf. Introduction, p. 51.

(4) From his fields.
(5) For selling to others.
(6) That he may not be tempted to eat untithed produce.
(7) עם הארץ . Lit., ‘the people of the land’, an uninstructed person who is indifferent to the tithing of produce and to the observance of clean and unclean; cf. Introduction p. 51; ‘Ed. I, 14 (Sonc. ed. p. 8, n. 1).
(8) If he declares that he did not eat with his host anything untithed.
(9) As is proved by his eating with an ‘am ha-arez.
(10) In respect of the produce he sells to others.
(11) חבר , haber, a member of an association of scrupulous observers of the Law, especially in matters of tithes and purity.
(12) Lest it contract a defilement while in the possession of the ‘am ha-arez.
(13) Moisture renders produce susceptible to defilement; cf. Lev. XI, 38; ‘Ed. I, 8 (Sonc. ed. p. 4, n. 12); Maksh.
(14) Lest he contract a defilement while at his house.
(15) The garment of an ‘am ha-arez is considered a ‘principal’ cause of defilement, because it may have been used by a menstruous woman or by a person with an issue; cf. Lev. XV, 4, 20; Hag. II, 7.
(16) Breeding small cattle is prohibited in the Land of Israel because of the damage they cause to trees and bushes; cf. B.K. VII, 7.
(17) That he may not be tempted to break a vow; cf. Eccl. V, 4.
(18) Which leads to immorality; cf. Ab. III, 13 (Sonc. ed. p. 36, n. 3).
(19) Unnecessarily.
(20) Associateship is concerned only with the observance of tithing and purity.
(21) Who supply bread to shopkeepers at a low profit.
(22) The heave-offering which the Levite gives to the priest from the First Tithe; cf. Introduction p. 50.
(23) cf. I, 3, n. 12.
(24) Who sell to the private consumer at a big profit.
(25) Whose profit is small, as they generally give a liberally heaped measure.
(26) And is exempt from tithing as demai.
(27) It must be tithed as demai by the vendor.

Mishna - Mas. Demai Chapter 3

MISHNAH 1. ONE MAY GIVE DEMAI PRODUCE FOR FOOD TO THE POOR[1] AND TO PASSING TROOPS.[2] RABBAN GAMALIEL USED TO GIVE DEMAI FOR FOOD TO HIS WORKMEN.[3] AS FOR COLLECTORS OF CHARITY, BETH SHAMMAI SAY: THEY SHOULD GIVE TITHED [PRODUCE] TO PERSONS WHO DO NOT TITHE, AND UNTITHED [PRODUCE] TO PERSONS WHO DO TITHE;[4] IT WILL THUS RESULT THAT EVERY ONE WILL BE EATING [PRODUCE] THAT HAS BEEN SET RIGHT.[5] BUT THE SAGES SAY: THEY MAY COLLECT INDETERMINATELY[6] AND DISTRIBUTE INDETERMINATELY. AND WHOEVER [OF THE RECIPIENTS] WISHES TO SET RIGHT[7] [HIS PORTION] MAY DO SO.

MISHNAH 2. IF A MAN WISHED TO CUT OFF LEAVES OF VEGETABLES IN ORDER TO LIGHTEN HIS BURDEN, HE MAY NOT THROW THEM DOWN UNLESS HE HAS [FIRST] TITHED THEM.[8] IF A MAN PICKED UP VEGETABLES[9] IN THE MARKET [WITH THE INTENTION OF BUYING THEM], AND THEN DECIDED TO PUT THEM BACK, HE MAY NOT PUT THEM BACK EXCEPT HE HAD [FIRST] TITHED THEM,[10] FOR NOTHING WAS NEEDED [TO MAKE THEM HIS OWN] BUT NUMBERING[11] , [THEM]. BUT IF HE [ONLY] STOOD [THERE] BARGAINING[12] AND THEN SAW ANOTHER LOAD OF BETTER QUALITY, HE MAY PUT THEM BACK [UNTITHED]. SINCE HE HAD NOT YET DRAWN THEM INTO HIS POSSESSION.[13]

MISHNAH 3. IF A MAN FOUND FRUIT ON THE ROAD AND PICKED IT UP IN ORDER

TO EAT IT, AND THEN DECIDED TO HIDE IT, HE MAY NOT HIDE IT UNLESS HE HAS [FIRST] TITHED IT. BUT IF FROM THE FIRST HE HAD PICKED IT UP ONLY IN ORDER TO GUARD IT AGAINST DESTRUCTION,[14] HE IS EXEMPT [FROM TITHING IT]. ANY PRODUCE WHICH A MAN MAY NOT SELL[15] [IN THE CONDITION OF] DEMAI, HE MAY NEITHER SEND IT [AS A GIFT] TO HIS FRIEND[16] [IN THE CONDITION OF] DEMAI. R. JOSE PERMITS [TO BE SENT AS A GIFT PRODUCE] THAT IS CERTAINLY UNTITHED,[17] ON CONDITION THAT HE MAKES THE MATTER KNOWN TO THE RECIPIENT.

MISHNAH 4. IF A MAN CARRIED HIS WHEAT[18] TO A MILLER WHO WAS A CUTHEAN[19] OR TO A MILLER WHO WAS AN ‘AM HA-AREZ, [THE WHEAT WHEN GROUND CONTINUES] IN ITS FORMER CONDITION IN RESPECT OF TITHES AND THE LAW OF SEVENTH YEAR[20] PRODUCE. [BUT IF HE CARRIED IT] TO A MILLER WHO WAS A GENTILE, [THE WHEAT WHEN GROUND BECOMES] DEMAI.[21] IF A MAN LEFT HIS FRUIT IN THE KEEPING OF A CUTHEAN OR OF AN ‘AM HA-AREZ, [IT CONTINUES WHEN RETURNED] IN ITS FORMER CONDITION IN RESPECT OF TITHES AND THE LAW OF SEVENTH YEAR PRODUCE. [BUT IF HE LEFT IT] WITH A GENTILE,[22] [IT BECOMES] LIKE THE FRUIT OF THE GENTILE.[23] R. SIMEON SAYS: [IT BECOMES] DEMAI.[24]

MISHNAH 5.IF A MAN GAVE [PRODUCE] TO THE HOSTESS OF AN INN [TO PREPARE IT FOR FOOD], HE MUST TITHE WHAT HE GIVES TO HER[25] AND WHAT HE TAKES BACK FROM HER,[26] BECAUSE SHE MAY BE SUSPECTED OF CHANGING IT. R. JOSE SAID: WE ARE NOT RESPONSIBLE FOR IMPOSTORS.[27] NAY, HE NEED TITHE ONLY WHAT HE TAKES BACK FROM HER.

MISHNAH 6. IF A MAN GAVE [PRODUCE] TO HIS MOTHER-IN-LAW [TO PREPARE IT FOR FOOD], HE MUST TITHE WHAT HE GIVES TO HER[25] AND WHAT HE TAKES BACK FROM HER, BECAUSE SHE IS SUSPECTED OF CHANGING ANY [FOOD] WHICH IS LIABLE TO BE SPOILT. R. JUDAH SAID: [SHE MIGHT HAVE TO DO IT BECAUSE] SHE DESIRES THE WELFARE OF HER DAUGHTER AND IS BASHFUL OF HER SON-IN-LAW.[28] R. JUDAH AGREES THAT IF A MAN GAVE TO HIS MOTHER-IN-LAW SEVENTH YEAR PRODUCE,[29] SHE IS NOT SUSPECTED OF CHANGING IT[30] AND GIVING HER DAUGHTER TO EAT OF SEVENTH YEAR PRODUCE.

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(1) Even if they are associates; but they must be told that the food is demai.

(2) Who are Israelites. The Hebrew word אכסניא (from the Greek **) may also mean ‘passing guests’.

(3) Who were poor, though he was bound to provide their food during their working hours; cf. infra VII, 3, n. 2.

(4) Telling them that the produce is demai.

(5) Hebrew מתוקן ; i.e., that has been duly tithed; cf. Introduction p. 49.

(6) I.e., without inquiring from the donors whether the produce they give has been tithed.

(7) I.e., tithe it.

(8) To prevent their being eaten untithed by an ‘am ha-arez who may happen to pick them up.

(9) Which are sold at a fixed price per bundle.

(10) And paying the dealer the cost of the tithe.

(11) Since they are sold at a fixed price per bundle, the mere act of picking them up is sufficient to make him the owner of the vegetables, and to render him responsible for tithing them.

(12) Without having decided to buy them.

(13) I.e., he had not performed the required Meshikah, v. Glos.

(14) Without intending to take possession of them.

(15) Such as bread by shopkeepers, or produce in a small quantity; cf. supra II, 5.

(16) Even if his friend is an associate.

(17) Even in a small quantity.

(18) Which had been duly tithed.

(19) A man from Cutha, a Samaritan; cf. II Kings XVII, 24.

(20) The Cuthean and the ‘am ha-arez are not suspected of having changed the tithed wheat for untithed wheat, or for wheat of Seventh Year produce in which the laws regulating the produce of the Sabbatical Year had not been observed; cf. Lev. XXV, 4 — 7 and Tractate Shebi'ith.

(21) The Gentile may have exchanged the wheat for wheat brought to him by another Israelite, an ‘am ha-arez which is demai.

(22) Which is exempt from tithing.

(23) Unlike the case of the miller, it is not usual for people to deposit fruit with another person.

(24) The Gentile may still have exchanged it for the fruit of an Israelite ‘am ha-arez, who happened to deposit some with him.

(25) So that if she cheats him and eats it herself, she may not eat it untithed.

(26) This may not be the same produce he had given her.

(27) To guard them against eating untithed produce.

(28) She has a high respect for him. For these reasons she may be suspected of having exchanged the produce he had given her for produce of a better quality.

(29) In which the laws of Seventh Year produce had been observed, and was therefore permitted to be eaten.

(30) For Seventh Year produce in which the special laws had not been observed. She would not wish to cause her daughter to commit the sin of eating prohibited Seventh Year produce.

Mishna - Mas. Demai Chapter 4

MISHNAH 1. IF A MAN BOUGHT FRUIT FROM ONE WHO WAS NOT TRUSTWORTHY IN RESPECT OF TITHES, AND HE FORGOT TO TITHE IT,[1] HE MAY EAT OF IT AT THE VENDOR'S WORD IF HE ASKED HIM ON THE SABBATH.[2] BUT AT THE NIGHTFALL OF THE SABBATH DAY, HE MAY NOT EAT OF IT[3] UNLESS HE HAD FIRST TITHED IT. IF HE COULD NOT FIND THE VENDOR, BUT ANOTHER PERSON WHO WAS NOT TRUSTWORTHY IN RESPECT OF TITHES DECLARED TO HIM THAT IT HAD BEEN TITHED, HE MAY EAT OF IT AT HIS WORD.[4] BUT AT THE NIGHTFALL OF THE SABBATH DAY, HE MAY NOT EAT OF IT UNLESS HE HAD FIRST TITHED IT. IF TERUMAH OF THE TITHE OF DEMAI[5] HAD BECOME MIXED UP AGAIN [WITH THE FRUIT] FROM WHICH IT HAD BEEN TAKEN, R. SIMEON OF SHEZUR SAYS: EVEN ON A WEEK-DAY HE MAY ASK THE VENDOR AND EAT AT HIS WORD.[6]

MISHNAH 2. IF A MAN IMPOSED A VOW[7] UPON HIS FRIEND TO EAT WITH HIM, AND THE FRIEND DOES NOT TRUST HIM IN RESPECT OF TITHES, HE MAY EAT WITH HIM[8] ON THE FIRST SABBATH[9] THOUGH HE DOES NOT TRUST HIM IN RESPECT OF TITHES, PROVIDED THAT THE MAN HAD DECLARED TO HIM THAT THE FOOD HAD BEEN TITHED. BUT ON THE SECOND SABBATH, THOUGH THE MAN HAD BOUND HIMSELF BY A VOW NOT TO ENJOY ANY BENEFIT FROM HIM,[10] HE MAY NOT EAT WITH THE MAN EXCEPT HE HAD FIRST TITHED [THE FOOD].[11]

MISHNAH 3. R. ELIEZER SAYS: A MAN NEED NOT DESIGNATE[12] THE POORMAN'S[13] TITHE OF DEMAI. BUT THE SAGES SAY: HE MUST DESIGNATE IT, BUT HE NEED NOT SET IT APART.[14]

MISHNAH 4. IF A MAN HAD DESIGNATED[15] THE TERUMAH OF THE TITHE OF DEMAI,[16] OR THE POORMAN'S TITHE OF PRODUCE THAT HAD CERTAINLY NOT BEEN TITHED,[17] HE MAY NOT TAKE THEM ON THE SABBATH.[18] BUT IF THE PRIEST AND THE POOR MAN WERE WONT TO EAT WITH HIM, THEY MAY COME AND EAT OF THEM PROVIDED THAT HE MAKES THE MATTER KNOWN TO THEM.[19]

MISHNAH 5. IF A MAN SAID TO ONE WHO WAS NOT TRUSTWORTHY IN RESPECT OF

TITHES: ‘BUY [PRODUCE] FOR ME FROM ONE WHO IS TRUSTWORTHY OR FROM ONE WHO GIVES TITHES’, [THE MESSENGER] MAY NOT BE TRUSTED.[20] BUT IF THE MAN SAID: BUY IT FOR ME FROM SO-AND-SO’, HE IS TO BE TRUSTED.[21] IF HE WENT TO BUY IT FROM HIM [AND THEN CAME BACK] AND SAID:’I DID NOT FIND HIM, SO I BOUGHT FOR YOU FROM ANOTHER MAN WHO IS TRUSTWORTHY’, HE MAY NOT BE TRUSTED.

MISHNAH 6. IF A MAN ENTERED A CITY WHERE HE KNEW NO ONE, AND SAID: ‘WHO IS HERE TRUSTWORTHY? WHO GIVES TITHES HERE?’, AND SOME ONE REPLIED: ‘I’, HE MAY NOT BE TRUSTED. BUT IF HE REPLIED: ‘SO-AND-SO IS TRUSTWORTHY’, HE MAY BE BELIEVED.[22] IF THE MAN WENT TO BUY FROM SO-AND-SO, AND HE ASKED HIM: ‘WHO SELLS HERE OLD PRODUCE?’[23] AND SO-AND-SO REPLIED: ‘HE WHO HAD SENT YOU TO ME’, THOUGH THEY APPEAR AS REPAYING EACH OTHER'S FAVOUR, THEY MAY YET BE TRUSTED.[24]

MISHNAH 7. IF ASS-DRIVERS[25] ENTERED A CITY AND ONE OF THEM DECLARED: ‘MY PRODUCE IS NEW BUT MY FRIEND'S PRODUCE IS OLD’, OR: ‘MY PRODUCE HAS NOT BEEN SET RIGHT BUT MY FRIEND'S PRODUCE HAS BEEN SET RIGHT’,[26] THEY MAY NOT BE TRUSTED.[27] R. JUDAH SAYS: THEY MAY BE TRUSTED.[28]

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(1) Before the Sabbath. Tithing is not permitted on the Sabbath; cf. supra I, 4, n. 12.

(2) It may be presumed that the vendor, though an ‘am ha-arez, will not lie on the Sabbath day.

(3) Although he had already eaten of it on the Sabbath, because he is now able to tithe it.

(4) Even another person may be believed on the Sabbath day.

(5) Lit., ‘which had returned to its place’; supra II, 4, n. 10. The quantity of this terumah is one tenth of the tithe, or a hundredth part of the whole, and this had become mixed up with the remaining ninety-nine parts, which are not sufficient to neutralize the sanctity of the terumah; cf. I, 3, n. 2.

(6) If the vendor declares that the produce had been tithed from the first, and that the tithing by the buyer was unnecessary, he is believed, as otherwise the whole mixture would be rendered forbidden as terumah, and the buyer would suffer a great loss; v. Rashi. Men. 30b.

(7) He said: ‘May you be forbidden to derive any benefit from me if you do not eat with me’; cf. Ned. III, 1; IV. The man was celebrating his marriage to a virgin.

(8) In order to prevent ill-feeling.

(9) The Hebrew word ‘Sabbath’ may also mean ‘week’.

(10) A vow by which he binds his own person is more conducive to ill-feeling than a vow by which he binds his friend.

(11) The rule that an ‘am ha-arez may be believed on the Sabbath (supra 1, n. 2) applies only to the statement of a vendor.

(12) I.e., declare that the tithe shall be in a certain part of the produce, as infra V, 1, 2; VII; cf. Ter. III, 5, and Introduction p. 51. R. Eliezer holds that the ‘am ha-arez does set apart the Poorman's Tithe, but keeps it for his own use.

(13) V. Introduction p. 50.

(14) He need not give it to the poor, because the burden of proof that the demai produce had not been tithed by the ‘am ha-arez who was its original owner, lies on the poor; cf. Introduction p. 51.

(15) Before the Sabbath.

(16) In the case of produce that was certainly untithed, the owner himself cannot separate the Terumah of the Tithe. This must be done by the Levite who receives the tithe.

(17) In the case of demai produce there is no need to give away the Poorman's Tithe, as stated above n. 7.

(18) In order to deliver them respectively to the priest and to the poor. This delivery is forbidden on the Sabbath or on the Festival; cf. Bez. 12b.

(19) That they may know that they are eating their own produce. It is forbidden to discharge one's personal obligations to guests by treating them with tithes.

(20) When he says that he had bought it from a trustworthy person because the vendor considered trustworthy by the messenger may not really be so.

(21) When he says that he bought it from the person named by the sender.

(22) The rule that a person who is not trustworthy himself may not testify about the trustworthiness of another person is relaxed in this case, in view of the difficulty the enquirer may have in obtaining food in a strange place from a trustworthy person.

(23) Of last year's harvest. The new produce of the current year may not be eaten before the ‘Omer, or Sheaf-offering, has been offered on the altar on the first day of the Passover; cf. Lev. XXIII, 10 — 14; Men. X, 5.

(24) Most ‘amme ha-arez used to observe the rules respecting the consumption of new produce.

(25) ‘Who hawk their produce for sale in different localities.

(26) Duly tithed; III, 1, n. 5.

(27) This testimony may be part of a mutual arrangement to assist one another in the sale of their produce in different localities.

(28) Since most ‘amme ha-arez do tithe, the strict rule of demai may be relaxed in this case, in order to attract produce dealers to the city and thereby promote its economic prosperity.

Mishna - Mas. Demai Chapter 5

MISHNAH 1. IF A MAN[1] BOUGHT BREAD FROM A BAKER[2] HOW SHOULD HE TITHE? HE SHOULD TAKE[3] SUFFICIENT FOR THE TERUMAH OF THE TITHE[4] AND FOR HALLAH[5] AND SAY: A HUNDREDTH PART OF WHAT IS HERE[6] SHALL BE TITHE ON THIS SIDE, AND WHAT IS NEAREST TO IT SHALL BE THE REST OF THE TITHE;[7] THAT WHICH I MADE TITHE[8] SHALL BECOME THE TERUMAH OF THE TITHE FOR THE WHOLE;[9] THE REMAINDER[10] SHALL BE HALLAH, AND WHAT IS TO THE NORTH OR TO THE SOUTH OF IT[11] SHALL BE SECOND TITHE WHICH SHALL BE EXCHANGED[12] FOR MONEY.[13]

MISHNAH 2. IF A MAN WISHED TO SET APART[14] TERUMAH[15] AND THE TERUMAH OF THE TITHE BOTH TOGETHER, HE SHOULD TAKE THREE HUNDREDTHS[16] AND SAY: ONE HUNDREDTH PART OF WHAT IS HERE SHALL BE COMMON PRODUCE[17] ON THIS SIDE, AND THE REST[18] SHALL BE TERUMAH FOR THE WHOLE; THE HUNDREDTH PART[19] COMMON PRODUCE WHICH IS HERE SHALL BE TITHE ON THIS SIDE,[20] AND WHAT IS NEAREST TO IT SHALL BE THE REST OF THE TITHE;[21] THAT WHICH I MADE TITHE[22] SHALL BECOME THE TERUMAH OF TITHE FOR THE WHOLE;[23] THE REMAINDER SHALL BE HALLAH,[24] AND WHAT IS TO THE NORTH OR TO THE SOUTH OF IT SHALL BE SECOND TITHE WHICH SHALL BE EXCHANGED FOR MONEY.

MISHNAH 3. IF A MAN BOUGHT FROM A BAKER, HE MAY GIVE TITHE FROM HOT[25] BREAD FOR COLD[26] OR FROM COLD BREAD FOR HOT BREAD, EVEN WHEN THEY ARE OF VARIOUS MOULDS; THUS R. MEIR. R. JUDAH PROHIBITS IT, BECAUSE IT MAY BE ASSUMED THAT YESTERDAY'S WHEAT WAS BOUGHT FROM ONE MAN[27] AND TO-DAY'S WHEAT FROM ANOTHER MAN.[28] R. SIMEON PROHIBITS IT IN THE CASE OF TERUMAH OF THE TITHE, BUT PERMITS IT IN THE CASE OF HALLAH.[29]

MISHNAH 4. IF A MAN BOUGHT FROM A BREAD DEALER HE MUST TITHE EVERY MOULD [SEPARATELY;][30] THUS R. MEIR. R. JUDAH SAYS: HE MAY GIVE TITHES FROM ONE MOULD FOR ALL THE OTHERS.[31] BUT R. JUDAH AGREES THAT IF A MAN BOUGHT FROM A MONOPOLIST[32] HE MUST TITHE EVERY MOULD [SEPARATELY].

MISHNAH 5. IF A MAN BOUGHT FROM A POOR MAN[33] (LIKEWISE IF A POOR MAN WAS GIVEN SLICES OF BREAD OR PIECES OF FIG-CAKE) HE MUST TITHE EVERY PIECE;[34] BUT IN THE CASE OF DATES AND DRIED FIGS HE MAY MIX THEM TOGETHER AND TAKE [THE TITHES FROM THE MIXTURE]. R. JUDAH SAID: HE MAY DO SO ONLY WHEN THE POOR MAN WAS GIVEN A LARGE QUANTITY; BUT WHEN THE GIFT WAS SMALL [IN QUANTITY] HE MUST TITHE EACH KIND SEPARATELY.

MISHNAH 6. IF A MAN BOUGHT FROM A WHOLESALE MERCHANT[35] ONCE AND THEN AGAIN, HE MAY NOT GIVE TITHES FROM THE ONE [PURCHASE] FOR THE OTHER, EVEN WHEN BOTH CAME FROM THE SAME HAMPER AND BOTH ARE OF THE SAME KIND. BUT THE WHOLESALE MERCHANT MAY BE TRUSTED IF HE SAYS THAT BOTH CAME FROM ONE MAN.

MISHNAH 7. IF A MAN BOUGHT FROM A LANDOWNER[36] ONCE AND THEN AGAIN, HE MAY GIVE TITHES FROM THE ONE [PURCHASE] FOR THE OTHER,[37] EVEN WHEN THEY CAME FROM TWO BASKETS AND EVEN FROM TWO TOWNS. IF A LANDOWNER SOLD VEGETABLES IN THE MARKET, [HE THAT BOUGHT FROM HIM] MAY GIVE TITHES FROM ONE [LOT OF VEGETABLES] FOR ALL [THE OTHER LOTS] IF THEY WERE [ALL] BROUGHT TO THE LANDOWNER FROM HIS OWN GARDENS; BUT [IF THEY WERE BROUGHT] FROM OTHER GARDENS, THE PURCHASER MUST TITHE EACH LOT SEPARATELY.

MISHNAH 8. IF A MAN BOUGHT UNTITHED PRODUCE[38] FROM TWO PLACES HE MAY GIVE TITHES FROM ONE LOT FOR THE OTHER. ALTHOUGH THEY HAVE PERMITTED [THIS, NEVERTHELESS] ONE MAY NOT SELL UNTITHED PRODUCE[39] EXCEPT IN THE CASE OF A NECESSITY.[40]

MISHNAH 9. TITHES MAY BE GIVEN FROM PRODUCE [BOUGHT] FROM AN ISRAELITE FOR PRODUCE [BOUGHT] FROM A GENTILE,[41] FROM PRODUCE [BOUGHT] FROM A GENTILE FOR PRODUCE [BOUGHT] FROM AN ISRAELITE, FROM PRODUCE [BOUGHT] FROM AN ISRAELITE FOR PRODUCE [BOUGHT] FROM CUTHEANS,[42] AND FROM PRODUCE [BOUGHT] FROM CUTHEANS FOR PRODUCE [BOUGHT] FROM [OTHER] CUTHEANS. R. ELIEZER PROHIBITS [THE TITHING] FROM PRODUCE [BOUGHT] FROM CUTHEANS FOR PRODUCE [BOUGHT] FROM [OTHER] CUTHEANS.[43]

MISHNAH 10. A PERFORATED POT[44] IS CONSIDERED AS THE SOIL[45] [ITSELF]. IF A MAN GAVE TERUMAH FROM [PRODUCE GROWN IN] THE SOIL FOR [PRODUCE GROWN IN] A PERFORATED POT, OR FROM [PRODUCE GROWN IN] A PERFORATED POT FOR [PRODUCE GROWN IN] THE SOIL, THE TERUMAH IS VALID. [IF HE GAVE TERUMAH] FROM [PRODUCE GROWN IN] A POT THAT WAS NOT PERFORATED FOR [PRODUCE GROWN IN] A POT THAT WAS PERFORATED, [IT BECOMES] TERUMAH,[46] BUT HE MUST GIVE TERUMAH OVER AGAIN. [IF HE GAVE TERUMAH] FROM [PRODUCE GROWN IN] A PERFORATED POT FOR [PRODUCE GROWN IN] A POT WHICH WAS NOT PERFORATED, [IT BECOMES] TERUMAH, BUT MAY NOT BE EATEN[47] EXCEPT HE FIRST GAVE AGAIN TERUMAH AND TITHES FOR IT.

MISHNAH 11. IF A MAN GAVE TERUMAH FROM [PRODUCE OF] DEMAI FOR [OTHER PRODUCE OF] DEMAI, OR FROM [PRODUCE OF] DEMAI FOR [PRODUCE] WHICH WAS CERTAINLY UNTITHED, [THIS BECOMES] TERUMAH, BUT HE MUST GIVE TERUMAH OVER AGAIN.[48] [IF HE GAVE TERUMAH] FROM [PRODUCE] WHICH WAS CERTAINLY UNTITHED FOR [PRODUCE OF] DEMAI, [THIS BECOMES] TERUMAH, BUT IT MAY NOT BE EATEN[47] EXCEPT HE FIRST GAVE AGAIN TERUMAH AND TITHES FOR IT.

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(1) Who is an associate.

(2) Who is an ‘am ha-arez and who does not observe the rule laid down in II, 4 or one who sells in large quantities and is exempt from tithing demai produce; II, 4.

(3) By word of mouth, i.e., by designating them and without actually cutting off from the bread the various portions of the tithes.

(4) One hundredth part of the whole; IV, 1, n. 5.

(5) Cf. I, 3, n. 12. The legal quantity of Hallah for a private person is one twenty-fourth part of the whole, and one forty-eighth part for a baker; cf. Hal. II, 7.

(6) Of the bread.

(7) I.e., 9/100 of the whole, making together with the first hundredth, one tenth of the whole for First (Levitical) Tithe.

(8) I.e., the first hundredth.

(9) Of the 10/100, or the First Tithe.

(10) I.e., 1/24 of the 9/10 of the loaf.

(11) Of the Terumah of the Tithes.

(12) Lit., 'rendered common'; cf. I, 2, n. 7.

(13) To enable it to be eaten outside Jerusalem. He need not add the Fifth; I, 2, n. 10. This rather complicated method is enjoined because the more sacred portion must be set apart before the less sacred, (cf. Ter. III, 6 — 7). Hence when a person who is not a Levite wishes to set apart not only First Tithe but also the Terumah of the Tithe (cf. IV, 4, n. 9) he must set apart the Terumah of the Tithe (viz., one hundredth part) before the tithe, as more sacred than the tithe. But this hundredth part cannot become Terumah of the Tithe before it had first become tithe, therefore the man must set apart the tithe in two portions; first one tenth of the tithe (one hundredth of the whole), which later becomes Terumah of the Tithe, and then the remaining nine tenths of the tithe (nine hundredths of the whole). Hallah is indeed more sacred than the tithe (since Hallah belongs to the priest), but nevertheless it may be set apart after the tithe, from the remaining nine tenths of the whole, because Hallah need not be given from the tithe. Finally, Second Tithe must be set apart only after the First Tithe; cf. I, 4, n. 1.

(14) From produce which had certainly not been tithed.

(15) The Priest's heave-offering; cf. I, 3, n. 1.

(16) Lit., 'one part in thirty-three and a third'.

(17) Provisionally, to be made later into First Tithe, and finally into Terumah of the Tithe.

(18) Of the three hundredths, i.e., two hundredths, or one fiftieth of the whole, which is the usual quantity of the terumah; cf. Introd. p. 50. Terumah, as the most sacred of all portions, must be set apart first, to be followed by Terumah of the Tithe, as explained in n. 12, p. 67.

(19) I.e., the first hundredth of the three hundredths.

(20) Later to become Terumah of the Tithe, as in the last Mishnah.

(21) I.e., nine tenths of the tithe, or about nine hundredths of the whole, making together with the one hundredth, which will become Terumah of the Tithe, one tenth of the whole.

(22) I.e., the first hundredth.

(23) Of the ten hundredths.

(24) I.e., one twenty-fourth of the remainder of the produce after Terumah and the Tithe with its terumah have been taken off. In this way the more sacred portions, terumah and Terumah of the Tithe are separated first.

(25) I.e., freshly baked.

(26) Stale.

(27) Who gave tithes.

(28) Who did not give tithes. The buyer may thus be tithing from tithed produce for untithed produce, or from produce which is exempt for produce which is liable, but this is forbidden; cf. Ter. I, 5; B.M. 56a.

(29) Because produce does not become liable to Hallah, except when turned into dough (cf. Hal. II, 5); so that even if the wheat was bought from two different persons, it became liable to Hallah only after it had come into the possession of the baker.

(30) The dealer may have bought the bread in the different moulds from different people. Therefore if he tithed from one mould for another, he may be tithing from produce which is exempt for produce which is liable.

(31) The dealer usually buys his bread from one baker.

(32) A dealer who has the sole right of selling bread to the public. He usually buys from various bakers.

(33) Who begs from door to door.

(34) To prevent tithing from what is exempt for what is liable.

(35) Who buys from different people.

(36) Lit., 'a householder', who sells the produce of his own fields.

(37) Both purchases are either tithed or untithed.

(38) Lit., ‘tebel,’ but not quite in its stricter sense of produce from which neither terumah nor tithes have been separated; cf. Introd. p. 50.

(39) Even to an associate.

(40) As when some tithed produce was mixed up with tebel which can only be set right by finding for it Terumah and Tithes from another similar lot; cf. Men. 31a. But if the owner has not got other similar produce, he must sell the mixture to one who has.

(41) According to this halachah, produce grown by a Gentile in the soil of the Land of Israel is liable to the duty of tithes; cf. B.M. 101a.

(42) Cf. III, 4, n. 8. Samaritans usually tithe the produce they keep for their own use, but not the produce they keep for sale.

(43) One Cuthean may have sold tithed produce which he had originally intended for his own use, whilst the other Cuthean sold untithed produce. In tithing from one for the other, one may be tithing the exempt for the liable.

(44) A pot with holes in the bottom, filled with soil, and used for growing plants.

(45) Produce grown in it is liable to the laws of Terumah and Tithes.

(46) In name, and therefore can be eaten only by a priest; but it is not valid to discharge the produce of the other pot from the duty of terumah.

(47) Even by priests, because it is still tebel.

(48) The terumah he gave from demai is not valid to discharge the other produce from the duty of terumah, because the demai from which the terumah was taken may have been set right originally by its former owner, and the present owner may thus be giving terumah from what is exempt for what is liable.

Mishna - Mas. Demai Chapter 6

MISHNAH 1. IF A MAN RENTED A FIELD FROM AN ISRAELITE, OR FROM A GENTILE, OR FROM A CUTHEAN [FOR A SHARE IN THE PRODUCE].[1] HE MAY SET THE [LANDLORD'S] SHARE BEFORE HIM [UNTITHED].[2] IF A MAN HIRED A FIELD FROM AN ISRAELITE [FOR A FIXED RENTAL OUT OF THE PRODUCE],[3] HE MUST FIRST GIVE TERUMAH [FROM THE RENTAL][4] AND THEN GIVE IT TO THE LANDLORD.[5] R. JUDAH SAID: THIS APPLIES ONLY WHEN HE PAYS HIM [THE RENTAL WITH PRODUCE] OF THE SAME FIELD AND OF THE SAME KIND; BUT WHEN HE PAYS HIM WITH THE PRODUCE OF ANOTHER FIELD OR OF ANOTHER KIND, HE MUST [ALSO] TITHE [THE RENTAL FIRST] AND THEN GIVE IT TO HIM.[6]

MISHNAH 2. IF A MAN HIRED A FIELD FROM A GENTILE [FOR A FIXED RENTAL OUT OF THE PRODUCE], HE MUST [FIRST] TITHE [THE RENTAL] AND THEN GIVE IT TO HIM.[7] R. JUDAH SAYS: ALSO IF A MAN RENTED FROM A GENTILE A FIELD WHICH HAD FORMERLY BELONGED TO HIS FATHERS[8] [FOR A SHARE IN THE PRODUCE], HE MUST FIRST TITHE THE RENTAL[9] AND THEN GIVE IT TO HIM.

MISHNAH 3. IF A PRIEST OR A LEVITE RENTED A FIELD FROM AN ISRAELITE [FOR A SHARE IN THE PRODUCE], THE TENANTS SHARE WITH THE LANDLORD THE TERUMAH[10] JUST AS THEY SHARE THE COMMON PRODUCE. R. ELIEZER SAYS: ALSO THE TITHES[11] BELONG TO THE TENANTS, FOR THEY ENTERED THE FIELD WITH THIS EXPECTATION.

MISHNAH 4. IF AN ISRAELITE RENTED A FIELD FROM A PRIEST OR FROM A LEVITE [FOR A SHARE IN THE PRODUCE.] THE TITHES BELONG TO THE LANDLORD.[12] R. ISHMAEL SAYS: IF AN INHABITANT OF THE PROVINCES RENTED A FIELD FROM AN INHABITANT OF JERUSALEM, THE SECOND TITHE BELONGS TO THE INHABITANT OF JERUSALEM.[13] BUT THE SAGES SAY: THE INHABITANT OF THE PROVINCES IS ABLE TO GO UP HIMSELF AND EAT THE SECOND TITHE IN JERUSALEM.

MISHNAH 5. IF [AN ISRAELITE] RENTED OLIVE TREES [FROM A PRIEST OR A LEVITE] FOR THE OIL. HE AND THE LANDLORD SHARE THE TERUMAH[14] JUST AS THEY SHARE THE COMMON PRODUCE. R. JUDAH SAYS: IF AN ISRAELITE RENTED OLIVE TREES FROM A PRIEST OR A LEVITE FOR THE OIL FOR A SHARE OF HALF THE PROFIT, THE TITHES BELONG TO THE LANDLORD.[15]

MISHNAH 6. BETH SHAMMAI SAY: A MAN MAY ONLY SELL HIS OLIVES TO AN ASSOCIATE.[16] BUT BETH HILLEL SAY: ONE MAY SELL THEM ALSO TO A MAN WHO ONLY GIVES TITHES.[17] HOWBEIT, THE PIOUS AMONG BETH HILLEL USED TO ACT IN ACCORDANCE WITH THE OPINION OF BETH SHAMMAI.

MISHNAH 7. IF TWO MEN GATHERED [THE FRUIT OF] THEIR VINEYARDS INTO ONE VAT,[18] [OF WHOM] ONE GIVES TITHES AND THE OTHER DOES NOT GIVE TITHES, HE WHO GIVES TITHES MAY TITHE HIS OWN SHARE[19] AND [TAKE] HIS SHARE WHEREVER IT MAY BE.

MISHNAH 8. IF TWO MEN RENTED A FIELD [FOR A SHARE IN THE PRODUCE], OR IF THEY INHERITED [THE FIELD] OR BECAME PARTNERS IN IT, THE ONE [WHO GIVES TITHES] MAY SAY TO THE OTHER [WHO DOES NOT GIVE TITHES]: ‘YOU TAKE THE WHEAT WHICH IS IN THIS PLACE AND I WILL TAKE THE WHEAT WHICH IS IN THAT PLACE’, OR: ‘YOU TAKE THE WINE WHICH IS IN THIS PLACE AND I WILL TAKE THE WINE WHICH IS IN THAT PLACE’;[20] BUT HE MAY NOT SAY TO HIM: ‘YOU TAKE THE WHEAT AND I WILL TAKE THE BARLEY’, OR: ‘YOU TAKE THE WINE AND I WILL TAKE THE OIL.’[21]

MISHNAH 9. IF AN ASSOCIATE AND AN ‘AM HA-AREZ INHERITED [THE PROPERTY OF] THEIR FATHER WHO WAS AN ‘AM HA-AREZ, THE ASSOCIATE MAY SAY TO HIS BROTHER:’YOU TAKE THE WHEAT WHICH IS IN THIS PLACE AND I WILL TAKE THE WHEAT WHICH IS IN THAT PLACE’, OR: ‘YOU TAKE THE WINE WHICH IS IN THIS PLACE AND I WILL TAKE THE WINE WHICH IS IN THAT PLACE’; BUT HE MAY NOT[22] SAY TO HIM:’ YOU TAKE THE WHEAT AND I WILL TAKE THE BARLEY,’ OR: YOU TAKE THE MOIST PRODUCE AND I WILL TAKE THE DRY[23] PRODUCE’.

MISHNAH 10. IF A PROSELYTE AND A GENTILE INHERITED [THE PROPERTY OF] THEIR FATHER WHO WAS A GENTILE, THE PROSELYTE MAY SAY TO HIS BROTHER:[24] ‘YOU TAKE THE IDOLS[25] AND I WILL TAKE THE MONEY’, OR:’ YOU TAKE THE WINE[25] AND I WILL TAKE THE FRUIT’: BUT IF ANY [PART OF THE INHERITANCE] HAD ALREADY COME INTO THE POSSESSION OF THE PROSELYTE, HE IS FORBIDDEN[26] [TO SAY SO].

MISHNAH 11. IF A MAN SOLD FRUIT IN SYRIA[27] AND DECLARED THAT IT WAS GROWN IN THE LAND OF ISRAEL, THE PURCHASER IS BOUND TO TITHE IT.[28] [BUT IF HE ADDED THAT] IT HAD ALREADY BEEN TITHED, HE MAY BE TRUSTED, ‘BECAUSE THE EVIDENCE[29] WHICH MADE IT UNLAWFUL IS THE SAME EVIDENCE WHICH MADE IT LAWFUL’. [IF HE SAID:’ THE FRUIT IS] FROM MY OWN FIELD’,[30] THE PURCHASER IS BOUND TO TITHE IT. [BUT IF HE ADDED:] ‘IT HAS ALREADY BEEN TITHED’, HE MAY BE TRUSTED, ‘BECAUSE THE EVIDENCE WHICH MADE IT UNLAWFUL IS THE SAME EVIDENCE WHICH MADE IT LAWFUL’. IF IT WAS KNOWN THAT HE HAD ANOTHER FIELD IN SYRIA, THE PURCHASER IS BOUND[31] TO TITHE IT.

MISHNAH 12. IF AN ‘AM HA-AREZ SAID TO AN ASSOCIATE:[32] ‘BUY FOR ME A BUNDLE OF VEGETABLES’, OR: ‘BUY FOR ME A LOAF OF BREAD’, THE ASSOCIATE

MAY BUY IT WITHOUT INQUIRING [WHETHER IT HAD BEEN TITHED], AND HE IS ABSOLVED[33] [FROM TITHING IT]. BUT IF THE ASSOCIATE SAID: ‘THIS ONE I BUY FOR MYSELF AND THIS ONE FOR MY FRIEND’, AND THE TWO PURCHASES WERE MIXED UP, HE IS BOUND TO TITHE[34] [BOTH PURCHASES], EVEN IF THE PURCHASE [FOR THE ‘AM HA-AREZ] IS A HUNDRED [TIMES MORE THAN HIS OWN].

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(1) מקבל viz., באריסות ;cf. Mishnah 8.

(2) But he must tell the landlord that his share is untithed.

(3) חיכר .

(4) Because the produce becomes liable to terumah while still in the threshing-floor; but not tithes, which the landlord must give himself.

(5) After deducting the amount of the terumah from the rental.

(6) In this case he is like one paying a debt with his own produce, and therefore he is bound to tithe the produce before it leaves his possession.

(7) This rule is intended to make it unprofitable for a Jew to rent the field from the Gentile, originally confiscated from another Jew; and this may induce the Gentile to sell his field to the Jew rather than leave it uncultivated.

(8) And which the Gentile had seized by violence.

(9) In order to lead to the sale of the field by the Gentile; cf. n. 7.

(10) Including also the tithe. The landlord may give them to any other priest or Levite he likes.

(11) Including the terumah.

(12) It must be presumed that when the landlord leased his field he reserved the tithe for himself.

(13) The landlord must have reserved the Second Tithe for himself, since it can only be consumed in Jerusalem.

(14) In the case of trees the terumah, and also the tithe, belong to both landlord and tenant according to their respective shares.

(15) And also the terumah. R. Judah holds that trees must be treated in the same way as the field in Mishnah 4.

(16) An ‘am ha-arez may cause them to be defiled when they are pressed.

(17) And who does not observe the laws of purity.

(18) To press it together; and they pressed out the wine together.

(19) Which Is now mixed up with the other's share. According to the Palestinian Gemara he must also give tithe out of his own share for his fellow's share, as for demai produce.

(20) So that the one who gives tithes need only tithe his own share.

(21) For this would be like exchanging or selling one kind of produce for another, in which case the one who gives tithes would have to tithe also the produce he assigns to his partner who does not give tithes.

(22) For the reason given in the last note.

(23) Which is not susceptible to uncleanness; cf. II, 3, n. 1.

(24) The right of a proselyte to inherit his father's property is based only on Rabbinic law. Therefore the strict law laid down in the case of an associate and an ‘am ha-arez inheriting from their father is relaxed in the case of the proselyte, in order not to cause him a loss of property which might lead him to relapse back into heathenism; cf. Kid. 17b; ‘A. Z. 64a.

(25) It is prohibited to derive any benefit from idols, and also from heathen wine which may have been used for libation to the idols; cf. ‘A. Z. III, 1; II, 3.

(26) It has become his property, therefore such an exchange would involve deriving a benefit from the idols and their wine.

(27) Syria, which was conquered by David (II Sam. VIII, 10) and not by the whole nation under Joshua, was not considered a heathen country, but it did not possess the sanctity of the Land of Israel; cf. ‘A. Z. 21a. To the produce sold in Syria the laws of demai did not apply, as most of the produce sold there came from outside Palestine.

(28) As demai.

(29) Lit., ‘the mouth’. If you believe his statement that the produce came from the Land of Israel, which renders the produce liable to tithes as demai, you must also believe his statement that the produce had already been tithed; cf. ‘Ed. II, 6. (Sonc. ed. p. 19, n. 4).

(30) Situated in Syria.

(31) The produce would be liable to tithes even without the vendor's admission, so the above argument does not apply.

(32) Who was going to the market to buy for himself.

(33) Because from the first the particular purchase became the property of the ‘am ha-arez.

(34) Because what he gives to the ‘am ha-arez may have been his own purchase, which he is now exchanging for the purchase of the ‘am ha-arez; cf. supra 8, n. 4.

Mishna - Mas. Demai Chapter 7

MISHNAH 1. IF A MAN INVITED[1] HIS FRIEND TO EAT WITH HIM ON THE SABBATH, AND [HIS FRIEND] DOES NOT TRUST HIM IN RESPECT OF TITHES, [THE FRIEND] MAY SAY ON THE EVE[2] OF THE SABBATH: WHAT[3] I SHALL SET APART TO-MORROW[4] SHALL BE TITHE, AND WHAT IS NEAREST TO IT SHALL BE THE REST OF THE TITHE;[5] THAT WHICH I MADE TITHE SHALL BECOME THE TERUMAH OF THE TITHE FOR THE WHOLE,[6] AND WHAT IS TO THE NORTH OR TO THE SOUTH OF IT SHALL BE SECOND TITHE WHICH SHALL BE EXCHANGED FOR MONEY.

MISHNAH 2. WHEN THE CUP OF WINE[7] HAS BEEN FILLED FOR HIM [ON THE SABBATH].[8] HE MAY SAY: WHAT I SHALL LEAVE AT THE BOTTOM OF THE CUP SHALL BE TITHE, AND WHAT IS NEAREST TO IT SHALL BE THE REST OF THE TITHE; THAT WHICH I MADE TITHE SHALL BECOME THE TERUMAH OF TITHE FOR THE WHOLE, AND WHAT IS AT THE MOUTH[9] OF THE CUP SHALL BE SECOND TITHE WHICH SHALL BE EXCHANGED FOR MONEY.[10]

MISHNAH 3. IF A WORKMAN[11] DOES NOT TRUST HIS EMPLOYER [IN RESPECT OF TITHES], HE MAY TAKE ONE DRIED FIG[12] AND SAY: THIS ONE[13] AND THE NINE WHICH COME AFTER IT SHALL BECOME TITHE FOR THE NINETY WHICH I SHALL EAT; THIS ONE SHALL BECOME THE TERUMAH OF TITHE FOR THEM, AND THE LAST ONES SHALL BE SECOND TITHE WHICH SHALL BE EXCHANGED FOR MONEY; BUT HE MUST STINT HIMSELF OF ONE DRIED FIG.[14] RABBAN SIMEON THE SON OF GAMALIEL SAYS: HE MAY NOT STINT HIMSELF, SINCE THEREBY HE MAY REDUCE HIS WORK FOR HIS EMPLOYER.[15] R. JOSE SAYS: HE NEED NOT STINT HIMSELF, BECAUSE THIS IS A CONDITION [IMPOSED UPON THE EMPLOYER] BY THE COURT.[16]

MISHNAH 4. IF A MAN BOUGHT WINE AMONG CUTHEANS,[17] HE MAY SAY [ON THE SABBATH]:[18] TWO LOGS[19] WHICH I SHALL SET APART[20] SHALL BE TERUMAH, TEN LOGS TITHE, AND NINE LOGS[21] SECOND TITHE; HE MAY THEN EXCHANGE [THE SECOND TITHE FOR MONEY][22] AND DRINK IT [THE WINE].

MISHNAH 5. IF A MAN HAD FIGS OF TEBEL[23] IN HIS HOUSE WHEN HE WAS IN THE HOUSE OF STUDY OR IN THE FIELD,[24] HE MAY SAY: THE TWO FIGS[25] WHICH I SHALL SET APART SHALL BE TERUMAH, TEN FIGS SHALL BE FIRST TITHE, AND NINE FIGS SECOND TITHE. IF THE FIGS WERE DEMAI, HE MAY SAY: WHATEVER I SHALL SET APART TO-MORROW SHALL BE TITHE, AND WHAT IS NEAREST TO IT SHALL BE THE REST OF THE TITHE; THAT WHICH I MADE TITHE SHALL BECOME THE TERUMAH OF TITHE FOR IT, AND WHAT IS TO THE NORTH OF IT OR TO THE SOUTH OF IT SHALL BE SECOND TITHE, WHICH SHALL BE EXCHANGED FOR MONEY.

MISHNAH 6. IF HE HAD BEFORE HIM TWO BASKETS FULL OF PRODUCE OF TEBEL, AND HE SAID: LET THE TITHES OF THIS [BASKET] BE IN THAT [BASKET]. THE FIRST [BASKET] IS THEREBY TITHED;[26] [IF HE SAID:] LET THE TITHES OF THIS [BASKET] BE IN THAT [BASKET], AND THE TITHES OF THAT [BASKET] IN THIS [BASKET],THE FIRST [BASKET ALONE][27] IS THEREBY TITHED; [IF HE SAID:] LET THE TITHES OF BOTH BE SO THAT THE TITHES OF EACH BASKET BE IN THE OTHER, HE HAS THEREBY DESIGNATED[28] [THE TITHES OF BOTH BASKETS].

MISHNAH 7. IF A HUNDRED [PARTS OF] TEBEL[29] [WERE MIXED WITH] A HUNDRED [PARTS OF] COMMON[30] PRODUCE, ONE MUST TAKE OUT A HUNDRED AND ONE[31] [PARTS]. IF A HUNDRED [PARTS OF] TEBEL [WERE MIXED WITH] A HUNDRED [PARTS OF FIRST] TITHE,[32] ONE MUST TAKE OUT A HUNDRED AND ONE[33] [PARTS]. IF A HUNDRED [PARTS OF] COMMON PRODUCE WHICH HAD BEEN SET RIGHT[34] [WERE MIXED WITH] A HUNDRED [PARTS OF] TITHE,[35] ONE MUST TAKE OUT A HUNDRED AND TEN[36] [PARTS]. IF A HUNDRED [PARTS OF] TEBEL [WERE MIXED WITH] NINETY [PARTS OF] TITHE,[37] OR NINETY [PARTS OF] TEBEL [WERE MIXED WITH] EIGHTY[38] [PARTS OF] TITHE, ONE LOSES NOTHING. THIS IS THE GENERAL RULE: WHENEVER THE TEBEL IS THE GREATER [PORTION OF THE MIXTURE] ONE LOSES NOTHING.[39]

MISHNAH 8. IF A MAN HAD TEN ROWS EACH CONTAINING TEN JARS OF WINE,[40] AND HE HAD SAID: ONE EXTERIOR ROW[41] SHALL BE TITHE, AND IT IS NOT KNOWN WHICH ROW[42] [HE MEANT], HE MUST TAKE TWO JARS [EACH FROM THE ENDS OF] A DIAGONAL LINE.[43] [IF HE HAD SAID:] ONE HALF OF THE EXTERIOR ROW[44] SHALL BE TITHE, AND IT IS NOT KNOWN WHICH HALF ROW [HE MEANT], HE MUST TAKE FOUR JARS FROM THE FOUR CORNERS.[45] [IF HE HAD SAID:] ONE ROW[46] SHALL BE TITHE,[47] AND IT IS NOT KNOWN WHICH ROW [HE MEANT], HE MUST TAKE ONE [WHOLE] ROW IN A DIAGONAL LINE.[48] [IF HE HAD SAID:] HALF OF ONE ROW[49] SHALL BE TITHE, AND IT IS NOT KNOWN WHICH HALF ROW [HE MEANT], HE MUST TAKE TWO ROWS IN A DIAGONAL LINE.[50] [IF HE HAD SAID:] ONE JAR[51] SHALL BE TITHE, AND IT IS NOT KNOWN WHICH JAR [HE MEANT],HE MUST TAKE FROM EVERY JAR.[52]

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(1) Without the conditions mentioned supra IV, 2, n. 7; viz., the imposition of a vow and the celebration of a marriage feast.

(2) But not on the Sabbath itself; cf. IV, 1, n. 1.

(3) Viz., a hundredth part of the whole, which is subsequently to become Terumah of the Tithe. This is set apart first for the reason given supra, V, 1, n. 13.

(4) From my food and drink at the table of the ‘am ha-arez.

(5) Viz., nine hundredths, completing the one tenth which is to be set apart for the First Tithe.

(6) Of the First Tithe.

(7) Over which the benediction for the sanctification of the Sabbath day (Kiddush; cf. Ber. VIII, 1) is pronounced at the opening of the Sabbath meal.

(8) At the house of the ‘am ha-arez. The declaration made on the eve of the Sabbath must be repeated on the Sabbath before he drinks wine, and again before he eats food, when the wine and the food are actually before him, in order to complete thereby the process of tithing by designation (IV, 3, n. 5) begun by the declaration on the eve of the Sabbath.

(9) This formula must be used in the case of wine in a cup, instead of the formula ‘what is to the north or the south of it’, because one cannot distinguish the sides of a round cup.

(10) What he actually has to leave is one hundredth part of what he consumes for the Terumah of the Tithe.

(11) Whose food during his working hours must be provided by his employer; cf. III, 1, n. 3; B.M. VII, 2.

(12) If, for example, his meal consists of dried figs.

(13) To be made subsequently into Terumah of the Tithe; cf. VII, 1, n. 3.

(14) He must put it aside as Terumah of the Tithe which can be eaten by a priest only.

(15) Because he may be left hungry. Therefore he must buy a fig at his own expense, and complete his meal.

(16) That the employer should provide a full meal for his workmen; therefore the employer has to provide an extra fig.

(17) Samaritans, before the use of their wine was prohibited to Jews; cf. Hul, 6a. Produce sold by Samaritans is real tebel (cf. V, 9, n. 7), and the buyer must give from it terumah as well as First Tithe and Second Tithe, but not Terumah of the Tithe which devolves upon the Levite who receives the First Tithe,

(18) He bought on a week-day, but was prevented from tithing it before the Sabbath,

(19) Of a hundred logs, the usual quantity of terumah; cf, V, 2, n. 5. For the size of a log cf. ‘Ed, (Sonc. ed.) p. 2, n. 3,

(20) After the Sabbath.

(21) I.e., one tenth of the produce left after taking off First Tithe; cf. Introduction p. 50.

(22) מיחל So ‘Aruch. Maim. and other authorities render ‘begin’. R. Hai Gaon and others read מחל , ‘mix it with water’; cf. Kohut, Aruch Completum, III, p. 385.

(23) Cf. V, 8, n. 3.

(24) Late on Friday, when he had not sufficient time to return home and set apart the terumah and the tithes before the coming in of the Sabbath.

(25) Of every hundred.

(26) And he may give Tithes from the second basket both for its own contents and for the contents of the first basket.

(27) But not the second basket. For as soon as he said: ‘Let the tithes of the first be in the second’, the first becomes thereby tithed, but not yet the second; therefore when he added: ‘Let the tithes of the second be in the first’, he is tithing produce which is exempt for produce which is liable; cf, V, 3, n. 1.

(28) And he must give tithes for each one out of the other.

(29) Here equivalent to untithed produce. as supra V, 8, n. 3.

(30) Produce from which terumah and Terumah of the Tithe had been taken. The whole mixture becomes prohibited to non-priests like tebel, because of the Terumah of the Tithe contained in the tebel parts of it.

(31) Hundred parts being tebel from which the usual tithes must be taken, and one extra part being Terumah of the Tithe to free the hundred parts common produce in the mixture. The owner thus loses one part.

(32) From which Terumah of the Tithe had not been taken.

(33) Hundred parts being tebel from which the usual tithes must be taken, and one part being Terumah of the Tithe for the tebel. The remaining ninety-nine parts of the mixture are First Tithe, from which he must take 99/10 parts as Terumah of the Tithe. The owner thus loses 9/10 of a part.

(34) From which all the terumah and tithes had been taken; III, 1, n. 5.

(35) From which the Terumah of the Tithe had not been taken. The common produce becomes prohibited because of the ten parts Terumah of the Tithe in the other constituent of the mixture.

(36) Hundred parts being tithe from which terumah of the Tithe must be given,and ten parts being Terumah of the Tithe to free the hundred parts common produce. The owner thus loses ten parts.

(37) Terumah of the Tithe for hundred parts tebel is one part, and for ninety parts tithe nine parts; therefore he may take ten parts as Terumah of the Tithe and discharge the whole mixture.

(38) Terumah of the Tithe for ninety parts tebel is 9/10 of a part, and of eighty parts tithe eight parts; therefore he must take 89/10 parts as Terumah of the Tithe and discharge the whole mixture.

(39) In the case of a mixture of tithed and untithed produce, one cannot take tithe from the mixture for its untithed portion, because one may happen to pick up as tithe some of the tithed portion of the mixture, and this would be tithing produce which is exempt for produce which is liable (cf. supra 6, n. 7). But if the owner happens to have elsewhere other untithed produce of the same kind as the untithed produce in the mixture, he may use it for tithing the untithed produce in the mixture; cf. Hal. III, 9 and supra V, 8, n. 5. Hence when the tebel in the mixture exceeds the other portion of the mixture, this excess may be used for tithing the tebel as if the excess was elsewhere, and thus the owner loses nothing in the process of freeing the mixture from the Terumah of the Tithe in it. Similarly, if the owner had had tebel produce apart from the mixture and of the same kind as the tebel in the mixture, he may have used it for tithing the tebel mixture also in the cases mentioned above where the two constituents of the mixture were equal in quantity, thus obviating a loss of produce in extra Terumah of the Tithe.

(40) Forming a square of ten by ten.

(41) I.e., ten jars of which one jar will be Terumah of the Tithe.

(42) The problem is to secure that the one jar which has to be given to a priest as Terumah of the Tithe shall come from the exterior row which he had originally designated as tithe, and which may be any one of the, four exterior rows.

(43) So that the two jars belong together to all the four exterior rows. These two jars must be sold to a priest for the price of one jar, thus both jars will be consumed by a priest, and one of them will be a gift to him in respect of Terumah of the Tithe.

(44) Only fifty of the hundred jars had to be tithed. Here the half jar which must go as Terumah of the Tithe is to be found in one of the eight exterior half-rows.

(45) So that the four jars belong together to all the eight exterior half-rows. The four jars must be sold to a priest for the price of three and a half jars, so that all the four jars will be consumed by a priest and one half will be a gift to him in respect of Terumah of the Tithe.

(46) Not necessarily an exterior row.

(47) For all the hundred jars.

(48) I.e., ten jars, which together belong to all the ten rows of the square. These ten jars must be sold to a priest for the price of nine jars, so that all the ten jars will be consumed by a priest and one of them will be a gift to him in respect of Terumah of the Tithe,

(49) Only fifty of the hundred jars had to be tithed. Here the half jar of Terumah of the Tithe will be in one of the twenty half-rows of the square.

(50) The two diagonal lines of the square. The twenty jars of these two lines, which together belong to all the twenty half-rows of the square, must be sold to a priest for the price of nineteen and a half, and one half as a gift in respect of Terumah of the Tithe.

(51) Only one row had to be tithed.

(52) One hundredth part of it to make up one whole jar which must be sold to a priest for nine tenths of its price, one tenth bring a gift to him in respect of Terumah of the Tithe. The explanation of the Mishnah given here follows the commentary of R. Simson of Sens and Tifereth Yisrael. It accords well with the wording of the text, and seems to be supported by the Palestinian Gemara. R. Hai Gaon, Maimonides and Bertinoro explain the Mishnah in a more complicated manner, holding that the subject under discussion is of the designation of one jar only out of the hundred in the square as tithe for wine which was elsewhere.

Mishna - Mas. Kilayim Chapter 1

MISHNAH 1. WHEAT AND DARNEL[1] DO NOT CONSTITUTE KIL'AYIM[2] ONE WITH THE OTHER.[3] [LIKEWISE] BARLEY AND OATS, OR SPELT AND RYE, OR BEANS AND CHICK-PEAS, OR BITTER PEAS[4] AND TOFAH,[5] OR WHITE BEANS AND KIDNEY BEANS,DO NOT CONSTITUTE KIl'AYIM ONE WITH THE OTHER.[3]

MISHNAH 2. CUCUMBERS AND CUCUMBER-MELONS[6] DO NOT CONSTITUTE KIL'AYIM ONE WITH THE OTHER. R. JUDAH SAID THEY DO CONSTITUTE KIL'AYIM. GARDEN-LETTUCE AND WILD[7] LETTUCE, OR ENDIVES AND WILD[8] ENDIVES, OR LEEK AND WILD[8] LEEK, OR CORIANDER AND WILD[8] CORIANDER, OR MUSTARD AND EGYPTIAN MUSTARD, OR THE EGYPTIAN AND THE BITTER-APPLE,[9] OR EGYPTIAN BEANS[10] AND BEANS IN CAROB-SHAPED PODS DO NOT CONSTITUTE KIL'AYlm ONE WITH THE OTHER.

MISHNAH 3. TURNIPS AND RADISHES,[11] OR CABBAGE AND CAULIFLOWER, OR BEET AND GARDEN-ORACHE DO NOT CONSTITUTE KIL'AYIM ONE WITH THE OTHER. R. AKIBA ADDED: ALSO GARLIC AND SMALL WILD GARLIC, OR ONION AND SMALL WILD ONION, OR LUPINE AND WILD LUPINE DO NOT CONSTITUTE KIL'AYIM ONE WITH THE OTHER.

MISHNAH 4. AS FOR TREES, THE PEAR AND THE CRUSTUMENIAN PEAR,[12] OR THE QUINCE AND SORB-APPLE, DO NOT CONSTITUTE KIL'AYIM ONE WITH THE OTHER. THE APPLE AND THE CRAB-APPLE, OR THE PEACH AND ALMOND, OR THE JUJUBE[13] AND LOTE, EVEN THOUGH THEY ARE SIMILAR ONE TO THE OTHER, YET CONSTITUTE KIL'AYIM[14] ONE WITH THE OTHER.

MISHNAH 5. HORSE-RADISH AND RADISH,[15] OR MUSTARD AND CHARLOCK,[16] OR THE GREEK GOURD WITH THE EGYPTIAN GOURD OR [THE GREEK GOURD] WITH THE BITTER-APPLE, EVEN THOUGH THEY ARE SIMILAR ONE TO THE OTHER, ARE NEVERTHELESS,[17] KIL'AYIM ONE WITH THE OTHER.

MISHNAH 6. A WOLF AND A DOG, OR A Wlld[18] DOG AND A JACKAL, OR A GOAT AND A DEER, OR A GAZELLE AND A EWE-LAMB, OR A HORSE AND A MULE, OR A MULE AND AN ASS, OR AN ASS AND A WILD-ASS, EVEN THOUGH THEY ARE SIMILAR ONE TO THE OTHER, CONSTITUTE NEVERTHELESS, KIL'AYIM[19] ONE WITH THE OTHER.

MISHNAH 7. IT IS NOT PERMITTED TO GRAFT FROM ONE TREE TO ANOTHER,[20] OR FROM ONE HERB TO ANOTHER,[21] OR FROM A TREE TO A HERB, OR FROM A HERB TO A TREE. R. JUDAH PERMITS IT FROM A HERB TO A TREE.[22]

MISHNAH 8. IT IS NOT PERMITTED TO PLANT HERBS IN A TRUNK OF A SYCAMORE. IT IS NOT PERMITTED TO GRAFT RUE ON WHITE CASSIA, SINCE THAT IS [GRAFTING] A HERB ON A TREE. IT IS FORBIDDEN TO PLANT A YOUNG FIG-SHOOT IN A CISTUS SHRUB[23] FOR THE PURPOSE OF PROVIDING SHADE[24] FOR THE LATTER, OR TO INSERT A VINE-SHOOT INTO A MELON IN ORDER THAT THE LATTER MIGHT CONTRIBUTE[25] ITS MOISTURE TO THE FORMER, SINCE THAT IS [GRAFTING] A TREE ON A HERB. IT IS PROHIBITED TO PLACE GOURD SEED INTO THE JUICE OF A MALLOW FOR THE PURPOSE OF PRESERVING THE FORMER,[26] SINCE THAT CONSTITUTES [GRAFTING] A HERB ON A [HETEROGENEOUS] HERB.

MISHNAH 9. ONE WHO BURIES[27] TURNIPS OR HORSERADISH[28] BENEATH A VINE, WITH SOME OF THEIR LEAVES UNCOVERED,[29] NEED HAVE NO APPREHENSION AS TO TRANSGRESSING THE LAW OF KIL'AYIM,[30] OR THE LAW OF THE SEVENTH YEAR,[31] OR THAT OF TITHES;[32] THEY MAY ALSO BE PULLED UP ON THE SABBATH.[33] IF ONE SOWS A WHEAT-GRAIN AND A BARLEY-GRAIN WITH ONE THROW OF THE HAND IT DOES NOT CONSTITUTE KIL'AYlm.[34] R. JUDAH SAID IT IS NOT KIL'AYIM UNLESS THERE BE TWO WHEAT-GRAINS AND ONE BARLEY-GRAIN, OR ONE WHEAT-GRAIN AND TWO BARLEY-GRAINS, OR A WHEAT-GRAIN, A BARLEY-GRAIN AND A SPELT-GRAln.[35]

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(1) This Mishnah deals with grain and pulse which can be ground into flour.

(2) ‘Mingled seeds’ within the meaning of the Biblical precept, (Lev. XIX, 19) prohibiting the sowing of such.

(3) Despite such dissimilarities there is between the two of each pair.

(4) פרקדן T.J. 27a, גולבינא which according to Jast. quoting Fleischer (in Levy Talm. Dict.) is Vicia sativa, Lathsrus cicerea.

(5) Jast. An aquatic plant like the colocasia.

(6) מלפפון.

(7) Lit., mound:. or ‘hill’.

(8) Lit., ‘field’.

(9) רמוצה (דלעת), a kind of gourd made edible by rolling in hot ashes.

(10) Colocasia. (Jast.).

(11) A species having foliage like carrots and taste like radishes.

(12) Crushiminum (pyrum).

(13) Zizyphus.

(14) In respect of grafting only.

(15) V. supra 3, n. 11.

(16) A plant resembling the mustard plant.

(17) On account of dissimilarity of flavour.

(18) Lit., ‘village’.

(19) In respect of crossbreeding., v. Lev. XIX, 19, Deut. XXII, 10.

(20) Sc. dissimilar to it in accordance with Mishnah 4. This prohibition applies to grafting as between one fruit tree and another dissimilar to it, between a fruit tree and a non-fruit tree, but not as between one non-fruit tree and another.

(21) Sc. dissimilar to it in accordance with the classifications already given. ‘Herb’ (ירק) is the term for vegetables, garden produce planted in rows.

(22) Or vice-versa, since they never coalesce to form a hybrid species, even though one may draw nourishment from the other. The original Tanna of the Mishnah held that the latter consideration is decisive, and his opinion prevails.

(23) Used for hedging.

(24) Or, cooling.

(25) Lit., ‘inject’, ‘infuse’.

(26) Until it germinates in the soil (L.).

(27) For keeping fresh; not ‘plants’.

(28) In bundles, so that it is clear that the purpose is not planting.

(29) This proviso is immaterial except in respect of their being pulled out on the Sabbath.

(30) Since only the sowing of ‘mixed seeds’ in a vineyard is prohibited (Deut. XXII, 9), not the burying.

(31) Since only sowing (i.e., for purposes of reproduction), not burying (for purposes of keeping fresh) is prohibited in the Sabbatical Year. (Lev. XXV, 4).

(32) Produce is subject to tithes only as harvested off the tree or ground (v. Lev. XXVII, 30). These vegetables had, it is presumed, been duly tithed already; they do not require tithing again by reason of having been buried underground to be kept fresh.

(33) The prohibition of ‘plucking’ (תולש) on the Sabbath applies only to produce attached by roots to the ground; these vegetables had been ‘plucked’ already. Also the (indirect) ‘handling’ of the soil involved in the moving of the soil adhering to the vegetables, does not come within the prohibition of ‘handling’ on the Sabbath (v. Shab. 123a), since it is done for the purpose of what is permissible for use on the Sabbath.

(34) Since the word kil'ayim is a dual, it would follow that the sowing of the minimum of two heterogeneous seeds comes under the prohibition.

(35) Since Scripture says: Thou shalt not sow thy field with two kinds of seed (Lev. XIX, 19) it follows, according to R. Judah, that the sowing of two diverse seeds becomes prohibited only when it is on ‘Thy field’ i.e., on ground in which at least one other seed has been, or is being sown; the prohibition thus applies only to the sowing of a minimum of three seeds, either all three heterogeneous, or comprising two like seeds and one heterogeneous to them.

Mishna - Mas. Kilayim Chapter 2

MISHNAH 1. IF A SE'AH[1] CONTAINS A QUARTER [OF A KAB][2] OF A HETEROGENEOUS SPECIES, ONE SHOULD REDUCE [THE PROPORTION OF THE LATTER][3] (R. JOSE SAID ONE SHOULD PICK [IT ALL OUT]).[4] WHETHER IT [THE ADMIXTURE] CONSISTS OF ONE SPECIES OR OF TWO[5] SPECIES.[6] R. SIMEON SAID: THEY SAID THIS[7] ONLY IF IT CONSISTS OF ONE SPECIES.[8] THE SAGES SAID: [ONLY] THAT WHICH IS KIL'AYIM VIS-A-VIS THE [MAIN CONTENTS OF THE] SE'AH COUNTS IN MAKING UP THE QUARTER.[9]

MISHNAH 2. IN RESPECT OF WHAT [MIXTURES OF PRODUCE] ARE THE [ABOVE] RULES[10] STATED? IN RESPECT OF [AN ADMIXTURE OF] GRAIN [OCCURRING] IN [HETEROGENEOUS] GRAIN, OF PULSE IN [HETEROGENEOUS] PULSE, OF GRAIN IN PULSE, AND OF PULSE IN GRAIN.

IT IS AN IMMEMORIAL RULE:[11] GARDEN-SEED OF A KIND WHICH IS NOT USED AS FOOD,[12] COUNTS QUANTITATIVELY. [IN THE MATTER OF KIL'AYIM] IF [WITHIN A SE'AH OF PRODUCE] IT FORMS [AS LITTLE AS] ONE TWENTY-FOURTH OF THE QUANTITY [OF SUCH SEED] THAT CAN BE SOWN IN A BETH-SE'AH.[13] R. SIMEON SAID: EVEN AS THEY RULED[14] THUS [IN CIRCUMSTANCES WHEN THE APPLICATION OF THE RULE IS CALCULATED] TO RESULT IN A STRINGENCY,[15] EVEN SO THEY RULED THUS [IN CIRCUMSTANCES WHEN THE APPLICATION OF THE RULE IS CALCULATED] TO RESULT IN A LENIENCY.[16] [ACCORDINGLY,[17] IN THE CASE OF AN ADMIXTURE OF] LIN SEED[18] IN GRAIN THE QUANTITY [OF THE FORMER] COUNTS WHEN IT FORMS [AS MUCH AS] ONE TWENTY-FOURTH OF THE QUANTITY [OF SUCH SEED] THAT CAN BE SOWN IN A BETH-SE'AH.[19]

MISHNAH 3. IF ONE'S FIELD IS SOWN WITH WHEAT AND ON SECOND THOUGHTS HE DECIDES TO SOW IT WITH BARLEY, HE MUST WAIT UNTIL IT [THE WHEAT] ROTS,[20] THEN HE TURNS [THE SOIL].[21] AND, THEREAFTER, HE MAY SOW [THE BARLEY]. IF IT HAS ALREADY GROWN,[22] HE MUST NOT SAY: ‘I SHALL [FIRST] SOW [THE BARLEY] AND, THEREAFTER TURN [THE SOIL]’[23] BUT HE MUST TURN [THE SOIL] [FIRST], AND, THEREAFTER, HE MAY SOW [THE BARLEY]. TO WHAT EXTENT SHOULD ONE [IN THE ABOVE CIRCUMSTANCES] PLOUGH? FURROWS SUCH AS ARE PLOUGHED AFTER[24] THE [FIRST] RAINY SEASON.[25] ABBA SAUL SAID: [ONE SHOULD PLOUGH] SO THAT ONE DOES NOT LEAVE [UNPLOUGHED] AS MUCH [GROUND][26] AS HOLDS A QUARTER [KAB] TO A BETH-SE'AH.

MISHNAH 4. IF ONE'S FIELD HAS BEEN SOWN [WITH GRAIN, OR PULSE, OR GARDEN-SEED’], AND ON SECOND THOUGHTS HE DECIDED TO PLANT IT [WITH VINES], HE MAY NOT SAY: I SHALL [FIRST] PLANT [THE VINES] AND THEREAFTER TURN [THE SOIL],’ BUT HE MUST [FIRST] TURN [THE SOIL] AND THEREAFTER HE MAY PLANT [THE VINES].

[IF IT WAS] ‘PLANTED’ [WITH VINES][27] AND ON SECOND THOUGHTS HE DECIDED

TO SOW IT [WITH GRAIN ETC.], HE MAY NOT SAY: ‘I SHALL SOW [THE GRAIN ETC.] AND AFTERWARDS I SHALL UPROOT [THE VINES],’ BUT HE MUST [FIRST] UPROOT [THE VINES] AND THEREAFTER HE MAY SOW [THE GRAIN ETC.]. IF HE DESIRES IT, HE MAY CUT DOWN [THE VINES] TO LESS THAN A HANDBREADTH [ABOVE GROUND], WHEREAFTER HE MAY SOW [THE GRAIN ETC.] AND LATER, UPROOT [THE VINES].

MISHNAH 5. IF ONE'S FIELD IS SOWN WITH COMMON CUMIN[28] OR WITH LOF,[29] HE MUST NOT SOW[30] ON TOP OF THEM, SINCE THEY PRODUCE CROPS ONLY AFTER THREE YEARS.[31] [A FIELD OF] GRAIN AMONG WHICH SPRANG UP SOME AFTERGROWTH OF ISATIS [TINCTORIA].[32] LIKEWISE THE AREA OF A THRESHING-FLOOR IN WHICH MANY SPECIES[33] SPRANG UP, LIKEWISE [A FIELD OF] FENUGREEK AMONG WHICH GREW UP A NUMBER OF SPECIES OF HERBS,[34] HE IS NOT OBLIGED TO WEED THEM OUT.[35] BUT ONCE HE HAS DONE SOME WEEDING OUT OR [EVEN ONLY] CUTTING DOWN,[36] HE IS TOLD: ‘UPROOT ALL EXCEPT ONE SPECIES.’[37]

MISHNAH 6. IF ONE WISHES TO LAY OUT HIS FIELD IN LONG BEDS EACH SOWN WITH A DIFFERENT SPECIES, BETH SHAMMAI SAY: [HE SHOULD SEPARATE THEM BY THE WIDTH OF] THREE FURROWS OF NEWLY BROKEN LAND,[38] WHILE BETH HILLEL SAY: BY THE WIDTH OF A SHARON YOKE.[39] THE DICTUM OF THE ONE IS IN EFFECT APPROXIMATE TO THE DICTUM OF THE OTHER.[40]

MISHNAH 7. IF THE POINT OF A TRIANGLE[41] OF [A] WHEAT [FIELD] OVERLAPS INTO[42] [A] BARLEY [FIELD].[43] IT IS PERMITTED SINCE IT IS APPARENT THAT IT IS THE END OF HIS FIELD.[44] IF ONE MAN'S FIELD IS OF WHEAT, AND THAT OF HIS NEIGHBOUR OF ANOTHER SPECIES, THE FORMER IS PERMITTED TO SOW [IN HIS OWN FIELD] CLOSE TO HIS NEIGHBOUR'S FIELD, SOME OF THE SPECIES OF THE LATTER.[45] IF ONE MAN'S FIELD IS OF WHEAT AND THAT OF HIS NEIGHBOUR LIKEWISE OF WHEAT, HE MAY SOW CLOSE THERETO A ROW OF FLAX,[46] BUT NOT A ROW OF ANY OTHER [HETEROGENEOUS] SPECIES.[47] R. SIMEON SAID: IT IS ALL THE SAME WHETHER HE SOWS FLAX OR ANY OTHER SPECIES.[48] R. JOSE SAID: EVEN IN THE MIDDLE OF ONE'S FIELD IT IS PERMITTED TO SOW, FOR EXPERIMENTAL PURPOSES, A ROW OF FLAX.[49]

MISHNAH 8. IT IS FORBIDDEN TO SOW[50] MUSTARD OR SAFFRON CLOSE TO A CORN-FIELD,[51] BUT IT IS PERMITTED TO SOW MUSTARD OR BASTARD SAFFRON CLOSE TO A VEGETABLE FIELD.[52] ONE MAY SOW [HETEROGENEOUS SPECIES] CLOSE TO FALLOW LAND[53] OR TO PLOUGHED[54] LAND,[53] OR TO A LOOSESTONE FENCE, OR TO A PATH, OR TO A FENCE TEN HANDBREADTHS HIGH, OR TO A TRENCH TEN [HANDBREADTHS] DEEP AND FOUR WIDE, OR TO A TREE FORMING A TENT OVER THE GROUND, TO A ROCK TEN [HANDBREADTHS] HIGH AND FOUR WIDE [ON EITHER SIDE OF THE INTERVENING OBJECT OR SPACE].[55]

MISHNAH 9.IF ONE WISHES TO DIVIDE HIS FIELD KARAHATH[56] BY KARAHATH EACH TO BE SOWN WITH A DIFFERENT SPECIES, HE SHOULD DIVIDE IT INTO TWENTY-FOUR KARAHATH, A KARAHATH TO A BETH-ROBA’,[57] AND HE MAY THEN SOW IN EACH WHATEVER SPECIES HE DESIRES.[58] IF THERE IS ONE KARAHATH OR TWO,[59] HE MAY SOW THEM WITH MUSTARD, BUT IF THERE ARE THREE[59] HE MAY NOT SOW THEM WITH MUSTARD, SINCE IT WOULD LOOK LIKE A FIELD OF MUSTARD.[60] THIS IS THE OPINION OF R. MEIR. BUT THE SAGES SAID:[61] NINE KARAHATH ARE PERMITTED,[62] TEN ARE FORBIDDEN. R. ELlezer B. JACOB, SAID: EVEN THOUGH THE WHOLE OF ONE'S FIELD IS A BETH-KOR, HE MAY NOT MAKE WITHIN IT BEYOND ONE KARAHATH.[63]

MISHNAH 10. WHATEVER[64] THERE IS WITHIN A BETH-ROBA' [WHICH SEPARATES HETEROGENEOUS SPECIES] IS INCLUDED IN[65] THE AREA OF THE BETH-ROBA'. THE SPACE OCCUPIED BY VINE ROOTS,[66] LIKEWISE A GRAVE,[67] OR A ROCK,[68] IS INCLUDED. [A KARAHATH SOWN WITH] GRAIN WITHIN [A FIELD OF HETEROGENEOUS] GRAIN [MUST BE SEPARATED BY] A BETH-ROBA';[69] [A KARAHATH SOWN WITH] VEGETABLES WITHIN [A FIELD OF HETEROGENEOUS] VEGETABLES [BY] SIX HANDBREADTHS [SQUARE];[70] [A KARAHATH SOWN WITH] VEGETABLES WITHIN [A FIELD OF] GRAIN, OR [A KARAHATH SOWN WITH] GRAIN WITHIN [A FIELD OF] VEGETABLES [BY] A BETH-ROBA'.[71] R. ELIEZER SAID: [A KARAHATH SOWN WITH] VEGETABLES WITHIN [A FIELD OF] GRAIN [NEED BE SEPARATED BY] SIX HANDBREADTHS [SQUARE].[72]

MISHNAH 11. [EARS OF] CORN BENDING OVER ON TO [EARS OF HETEROGENEOUS] CORN,[73] OR VEGETABLE [LEAVES] ON TO [LEAVES OF A HETEROGENEOUS] VEGETABLE,[74] OR [EARS OF] CORN ON TO VEGETABLE [LEAVES],[74] OR VEGETABLE [LEAVES] ON TO [EARS OF] CORN,[74] ALL THIS IS PERMltted,[75] EXCEPT IN THE CASE OF THE GREEK GOURD.[76] R. MEIR SAID: '[EXCEPT] ALSO IN THE CASE OF THE CUCUMBER OR EGYPTIAN BEANS;[77] BUT I RECOGNIZE THEIR[78] DICTUM AS MORE ACCEPTABLE THAN MINE'.[79]

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(1) Of produce about to be sown.

(2) Also known as a log. 4 log == 1 kab; 6 kab == 1 se'ah.

(3) Either by adding to the main species or by taking away from the lesser admixture, so that the latter is less than one twenty-fourth of the bulk.

(4) Once he has to remove the admixture he should remove the whole of it. (T.J.). Otherwise it would appear as if he is positively maintaining, or even, as if he is deliberately bringing about kil'ayim. (T.B., B.B. 94b and Rashi ibid).

(5) Or more.

(6) Even if one of them is not kil'ayim vis-a-vis the main species. One must in either case reduce the proportion of the total of the admixture(s) to less than one twenty-fourth of the bulk. R. Jose's view is hot accepted.

(7) I.e., the authorities ruled thus.

(8) Sc. but not of two or more species, as long as these do not together amount to the greater part of the bulk; if they do, R. Simeon agrees that the proportion of the combined admixtures must be reduced.

(9) E.g., a se'ah of grain consisting substantially of barley and partially to the amount of the minimum of a quarter kab — of oats and spelt. Now whilst spelt is kil'ayim vis-a-vis the barley, oats are not. In such a case, the Sages said the spelt and oats do not 'combine' to form a quarter kab condemning the whole se'ah as kil'ayim (and there is, therefore, no need to reduce the proportion of the oats-cum-spelt); according to the anonymous original Tanna of the Mishnah they do 'combine' (and one should 'reduce'); according to R. Simeon even if both (or all) of the constituents of the quarter-kab of admixture are kil'ayim towards the main contents of the se'ah, they do not 'combine'.

(10) Lit., 'words'. Sc. regarding the proportion of admixture to bulk, viz., 1 to 24, rendering kil'ayim.

(11) באמת אמרו 'As a matter of (trustworthily tradited and undisputedly accepted) truth they said', a phrase which, according to R. Eleazar in T.J. to this Mishnah, introduces a rule held to have been orally communicated by God to Moses at Sinai. V. Frankel, Darke (ed. Warsaw 1923) p. 304, and Bacher, Tradition, p. 41.

(12) E.g., turnip-seed or parsley-seed or any seed which, by reason of fineness or any other reason, requires extensive area for sowing.

(13) A standard measure of area — to wit 2,500 square cubits — designed for sowing a se'ah of wheat. In relation to our problem it works out thus: Since 'garden-seed' is so much finer than wheat and its produce takes up more space, only 1 1/2 kab of it can be sown in a beth-se'ah. A twenty-fourth of that quantity viz., one sixteenth, of a kab of 'garden-seed' forming part of a se'ah of wheat, is, accordingly, sufficient to render it kil'ayim.

(14) Viz., that the proportion of produce which renders kil'ayim is one twenty-fourth of the quantity of that same produce which can be sown in a beth-se'ah. According to Maim. this refers to the rule in Mishnah 1 regarding an admixture consisting of one or two species. See latter part of n. 2, p. 93.

(15) Viz., necessitating the reduction of the proportion of an admixture of fine seed even when there is no more of it than one sixteenth kab within a se'ah of grain or pulse.

(16) I.e., when the admixture is of a seed coarser, or which is sown more closely, and therefore requires less area than wheat.

(17) Maim., however, says that what follows is not a continuation of R. Simeon's statement, but a resumption of the words of the anonymous original Tanna of the Mishnah., v. n. 2, p. 93, latter part.

(18) Which is sown more compactly than wheat, so that three se'ahs of it can be sown in a beth-se'ah.

(19) One need not reduce the proportion of linseed in wheat unless there is as much as 3/4 kab of the former within a se'ah of the latter. Maim. construes the Mishnah text thus: R. Simeon said: Even as they ruled (that two heterogeneous species do not ‘combine’) to effect a stringency (as implied in his statement in the preceding Mishnah., v. ibid. n. 8), even so they ruled (that two heterogeneous species do not ‘combine’) to effect a leniency. An instance of the latter is cited, by way of example in T.J. ad loc: A mixture measuring a se'ah (i.e., twenty-four quarter kabs) consists of twenty-two and a half ‘quarters’ of wheat, half ‘quarter’ of barley, and less than one ‘quarter’ of lentils. Now if ‘combining’ two or more species were permitted, then one might consider that, since the half ‘quarter’ of barley is too small a quantity to render the mixture (of twenty-two and a half quarter wheat plus half quarter barley) kil'ayim, the wheat and barley may be taken as forming a combined quantity of twenty-three quarters and since the maximum amount of lentils, viz, .9 ‘quarter’. is less than one twenty-fourth of 23.9 (the whole of the mixture) the lentils do not render the mixture kil'ayim, and there would consequently be no need to ‘reduce’ the lentils which, of course, is a ‘leniency’; but, says, R. Simeon, ‘combining’ is not allowed whatever the consequence, be it a stringency or a leniency. The position according to R. Simeon is that .9 ‘quarters’ dentils got mixed with twenty-two and a half ‘quarters’ wheat, and .9 being more than one twenty-fourth of (22.5 plus .9), the lentils alone are sufficient to render the mixture’ kil'ayim, and the proportion of these must be reduced.

(20) Or, ‘until it shoots forth thin worm-like roots in the soil’. In well-watered ground this takes three days; in dry soil it takes longer.

(21) With a plough; so as to destroy the first-sown crop.

(22) And the wheat is already visible above ground.

(23) Thinking to himself: ‘I shall be able, after sowing the new grain, to see the sprouting first-sown grain to destroy it’.

(24) So Rash. and Bert., but Maim. (Yad, Hilch. Kil'ayim II, 13) ‘before’.

(25) I.e., wide furrows, there being no need to plough close furrows.

(26) Either in one plot, or in an aggregate of more than one lesser patch.

(27) So the commentators, since with regard to other trees only grafting of a tree with a heterogeneous tree, or of trees with ‘herbs’, is prohibited.

(28) Edd. קנבוס (== hemp) which is impossible here, but read (with R. Isaac Sipponte) קרבם.

(29) לוף , a plant of the bulb type.

(30) Sc. a heterogeneous species.

(31) These species stay intact in the soil for a long time without rotting. Ploughing up the soil will, therefore, not avail to destroy their productivity, so that even with ‘turning the soil’ a heterogeneous seed sown on top of these would constitute kil'ayim.

(32) אסטים . It is injurious to grain.

(33) Which spoil the threshing-floor.

(34) Which are noxious to fenugreek when the latter is intended for human consumption.

(35) Because (a) the strange species have not been deliberately sown there; (b) their presence there is not welcome, and, consequently (c) no person noticing the mixed species will even suspect the owner of intentionally sowing kil'ayim. Weeding out means, of course, pulling out by the roots.

(36) Either of one or of some of the species springing up from the threshing.floor. This would show, or, at least, suggest, that the intention is not to clear the threshing.floor, but merely to get rid of only some of the growths and to retain the others.

(37) As otherwise it would appear as if he is purposely maintaining kil'ayim.

(38) Representing a distance of two cubits.

(39) A yoke, or team, as used in the plain of the Sharon, was wider than the yoke driven in the hilly districts.

(40) I.e., The Hillelite standard represents also about (but rather less than) two cubits. According to T.J. it is sufficient as long as at some place between the two long beds there is this distance, even if further on the intervening space narrows down, since it is already clear that the intention, so far from sowing kil'ayim, was, in fact, to keep the heterogeneous species apart.

(41) ראש תיר . Most commentators take תור as meaning originally, a triangular feminine ornament. (v. S.S. I, 10); Others as ‘ox’, an ‘ox-head’ suggesting a triangle.

(42) Or (as seems from the illustration within the text of Maim.’s commentary), abuts on.

(43) The possibilities visualized by commentators are: —

(44) The prohibition, according to Scripture, is only against sowing heterogeneous seeds with one and the same throw of the hand; otherwise the prohibition extends only to circumstances in which it would appear to strangers that kil'ayim had deliberately been sown. In this case it is clear to all that there was no such intention and that it is just a case of: here one field ends, and the other begins.

(45) So the majority of commentators. Rash attempts an alternative rendering. The reason for permissibility here is that (a) in strict law it is permitted, and (b) there is not even a likelihood of suspicion on the part of a stranger, since anyone not acquainted with the actual facts would assume that the heterogeneous crop belonged to the other man's field, where its presence is perfectly proper.

(46) No one will think that he sowed the one row of flax for its actual yield, but will assume that he did it as an experiment to test the suitability of the soil for flax.

(47) Since, even if his intention is experimentation. a stranger seeing it would not, as a matter of course, assume it.

(48) Either is prohibited; so Maim. and Rash. But according to T.J. ad lec. R. Simeon held that either is permitted., v. L. to our Mishnah.

(49) Because its legitimate purpose cannot be mistaken.

(50) Where A's field adjoins B's.

(51) This is forbidden, because a stranger will assume, correctly, that mustard etc. being harmful as a neighbour to corn, A would have objected to B sowing the former, and therefore, that A must have sown it himself, and, incorrectly,that it had been done with ‘one and the same handthrow’.

(52) Which is not harmed by the proximity of mustard etc.

(53) Being in area at least a beth-roba’ i.e. , capable of being sown with a roba’ (quarter kab) of wheat, viz., 104.15 square cubits; as long as there is this space somewhere between the two species, it does not matter if elsewhere the latter converge to within a narrower distance between them.

(54) But unsown.

(55) If the branches hang over until they reach to within three handbreadths from the ground, they are considered in law, as forming an effective partition.

(56) Lit., ‘a bald or bare patch’. A term for a piece of ground as yet unsown, forming a part of a field, and quadrilateral, approximately square in shape, and, therefore, substantial enough to sight to be readily distinguishable in its surroundings.

(57) Since a beth-se'ah == 2,500 square cubits, a beth-roba’ (one twenty-fourth of a beth-se'ah == 104.15 square cubits), i.e., an area of 10.205 cubits square.

(58) Since the various species each occupy an easily distinguishable plot, nobody will mistakenly think that heterogeneous species have been sown ‘with one handthrow’; there is therefore no need for any object or space to separate one species from another.

(59) Sc. together.

(60) Considering that it is not usual to sow large areas of mustard, three beth-roba’ thereof constitute a field, and a field within a field of heterogeneous species is prohibited.

(61) With regard to the subject of the first part of R. Meir's statement.

(62) The idea is that there must be a beth-roba’ separating heterogeneous species. A field of a beth-se'ah should, thus, be divided into twenty-five squares. Since between each karahath to be sown there must be a beth-roba’, i.e., a square approximately 10.205 X 10.205 cubits, the former will measure 9.86 X 9.86 cubits (approx), (After Maim.), thus. V. Diag. (a). Rash. visualized it similarly, except that he seems content to divide the beth-se'ah into 25 equal squares, and to accept an intervening unsown space of 10 X 10 cubits, instead of the strict beth-roba’ which is 10.205 X 10.205 cubits. According to T.J., however, the scheme should be either of the following. V. Diag. (b). The objection to (b) would be that the centre square though not adjoined by another sown patch is, nevertheless, ‘bound’ at its four corners. It is true that this junction at corners is not forbidden as it comes under the rule at the beginning of Mishnah 7, but it might be thought that it is too much to extend such permissibility to a case where a sown patch is ‘tied’, at all of its four corners to heterogeneous species. Diagram (c) whilst fulfilling the conditions of T.J. (viz., that three patches be sown in the first line, two in the second, one in the third, two in the fourth, and one in the fifth) avoids even that possible objection.

(63) What R. Eliezer b. Jacob meant was, apparently, that however large the field (one kor == thirty se'ah), it is permissible to have with it only one karahath sown with a heterogeneous species.

(64) Even if the space occupied thereby be unfit for sowing, e.g., a ditch or gutter filled with water.

(65) I.e., the space occupied thereby is not deducted.

(66) Calculated to be six handbreadths from the vine in all directions, within which space it is forbidden to sow anything else.

(67) Which is forbidden for other use, including sowing.

(68) On which it is impossible to sow. In view of the rule at the end of Mishnah 8, the reference here must be to a rock less than ten handbreadths in height and four in width.

(69) Which is the minimum for a grain plantation to be termed a grain field.

(70) The minimum for a vegetable plantation to be termed a vegetable field.

(71) I.e., when both are ‘fields’; but when there is only one row of vegetables adjoining a grain field, an intervening space of six by six handbreadths is sufficient.

(72) In his opinion we should not, in a case of a karahath and a field, be more stringent than in a case of a row and a field.

(73) Sc. although originally sown at the required distance from one another, and/or because, though separated by the required space at one place, the furrows or beds converge further on (cf. supra 8, n. 4).

(74) V. p. 99, n. 10.

(75) Since the heterogeneous species touch, one might have thought that on account of the appearance of kil'ayim, this is prohibited. The Mishnah therefore makes it clear that it is permitted.

(76) Whose leaves are particularly long and liable to entangle themselves with others, and thus create a very strong suggestion of kil'ayim.

(77) Their leaves and stalks are long enough and sufficiently liable to entangling to class them for the present purpose with the Greek gourd.

(78) I.e., the majority Rabbis’.

(79) R. Meir felt it his duty to record the view which had been tradited to him by his teachers, but also to acknowledge that there was more justification for the view put forward by his colleagues, and which he accepted as binding.

Mishna - Mas. Kilayim Chapter 3

MISHNAH 1. IN A VEGETABLE-BED MEASURING SIX HANDBREADTHS BY SIX HANDBREADTHS[1] IT IS PERMITTED TO SOW FIVE [HETEROGENEOUS] VEGETABLE-SEEDS,[2] VIZ., FOUR [SPECIES]. [ONE] ON [EACH OF] THE FOUR SIDES OF THE BED, AND ONE[3] IN THE MIDDLE.[4] IF A VEGETABLE-BED HAS A BORDER ONE HANDBREADTH HIGH,[5] ONE MAY SOW THEREIN THIRTEEN [HETEROGENEOUS SPECIES]. VIZ., THREE ON EVERY BORDER, AND ONE IN THE MIDDLE. IT IS PROHIBITED TO PLANT A TURNIP-HEAD IN THE BORDER SINCE THAT WOULD FILL IT [COMPLETELY].[6]

R. JUDAH SAID: [IT IS PERMITTED TO SOW] SIX [SPECIES] IN THE MIDDLE.[7]

MISHNAH 2. IT IS FORBIDDEN TO SOW HETEROGENEOUS SPECIES OF SEEDS[8] IN ONE BED; IT IS PERMITTED TO SOW HETEROGENEOUS SPECIES OF VEGETABLE [SEEDS][9] IN ONE BED.[10] MUSTARD AND SMALL POLISHED PEAS ARE A SPECIES OF SEED;[11] LARGE PEAS ARE A VEGETABLE SPECIES. IF A BORDER ORIGINALLY A HANDBREADTH HIGH[12] FELL IN HEIGHT, IT REMAINS VALID,[13] SINCE IT WAS VALID AT THE BEGINNING.[14]

IN A FURROW OR WATER-COURSE[15] A HANDBREADTH DEEP,[16] IT IS PERMITTED TO SOW THREE HETEROGENEOUS SPECIES OF VEGETABLE [SEEDS]. ONE ON ONE SIDE, ONE ON THE OTHER SIDE, AND ONE IN THE MIDDLE.[17]

MISHNAH 3.THE HEAD OF A TRIANGLE[18] OF A VEGETABLE-FIELD OVERLAPPING INTO[18] A FIELD OF ANOTHER VEGETABLE, IS PERMITTED, SINCE IT IS APPARENT THAT IT IS THE END OF THE FORMER FIELD! IF ONE'S FIELD IS SOWN WITH A CERTAIN VEGETABLE AND HE WISHES TO PLANT THEREIN A ROW OF ANOTHER VEGETABLE,[19] R. ISHMAEL SAID: [HE MAY DO SO] AS LONG AS THE FURROW[20] RUNS RIGHT THROUGH FROM ONE END OF THE FIELD TO THE OTHER; R. AKIBA SAID: [AS LONG AS] THE LENGTH [THEREOF] IS SIX HANDBREADTHS AND THE WIDTH [THEREOF] ITS FULL ONE;[21] R. JUDAH SAID: [AS LONG AS] THE WIDTH [THEREOF] IS THE FULL WIDTH OF A FOOTSTEP.[22]

MISHNAH 4. PLANTING TWO ROWS[23] OF CUCUMBERS, TWO ROWS OF GOURDS, AND TWO ROWS OF EGYPTIAN BEANS IS PERMITTED,[24] [BUT PLANTING] ONE ROW OF CUCUMBERS, ONE ROW OF GOURDS AND ONE ROW OF EGYPTIAN BEANS IS PROHIBITED.[25] [AS FOR PLANTING] ONE ROW OF CUCUMBERS, ONE ROW OF GOURDS, ONE ROW OF EGYPTIAN BEANS AND [AGAIN] ONE ROW OF CUCUMBERS, R. ELIEZER PERMITS,[26] BUT THE SAGES FORBID.[27]

MISHNAH 5. ONE MAY PLANT A CUCUMBER AND A GOURD[28] IN ONE DECLIVITY[29] PROVIDED ONLY THAT ONE [SPECIES] INCLINE IN ONE DIRECTION, AND THE OTHER IN THE OPPOSITE DIRECTION,[30] OR THAT THE TIPS OF THE LEAVES OF ONE [SPECIES] INCLINE ONE WAY, AND THE OTHER THE OPPOSITE WAY,[30] SINCE ALL THE SAGES' PROHIBITIONS [IN THE MATTER OF KIL'AYIM] WERE DECREED BY THEM ON ACCOUNT OF APPEARANCES.[31]

MISHNAH 6. IF ONE'S FIELD IS SOWN WITH ONIONS,[32] AND HE WISHES TO PLANT THEREIN ROWS OF GOURDS, R. ISHMAEL SAID: HE MUST PULL UP TWO ROWS[33] [OF ONIONS]. AND PLANT [IN THE CLEARED SPACE] ONE ROW [OF GOURDS].[34] LEAVE THE ONION CROP OVER A SPACE OF TWO ROWS, PULL UP TWO ROWS [OF ONIONS] AND PLANT [IN THE CLEARED SPACE] ONE ROW [OF GOURDS; AND SO ON].[35] R. AKIBA SAID: HE MUST PULL UP TWO ROWS [OF ONIONS], PLANT [IN THE CLEARED SPACE] TWO ROWS [OF GOURDS].[36] LEAVE THE ONION CROP OVER A SPACE OF TWO ROWS, PULL UP TWO ROWS [OF ONIONS], AND PLANT TWO ROWS [OF GOURDS; AND SO ON].[37] THE SAGES SAID: IF BETWEEN ONE ROW [OF GOURDS] AND THE NEXT THERE ARE NOT TWELVE CUBITS, ONE MAY NOT ALLOW THAT WHICH IS SOWN IN THE INTERVENING SPACE TO REMAIN.[38]

MISHNAH 7. A GOURD[39] AMONG A [HETEROGENEOUS] VEGETABLE [IS TO BE SEPARATED FROM THE LATTER BY AS MUCH] AS ANY OTHER [HETEROGENEOUS] VEGETABLE.[40] [A GOURD] AMONG CORN IS TO BE GIVEN [A SEPARATING SPACE OF] A BETH-ROBA'.[41] IF ONE'S FIELD IS SOWN WITH CORN, AND HE WISHES TO PLANT WITHIN IT A ROW OF GOURDS, THE LATTER IS TO BE PROVIDED WITH A SERVICE-BORDER[42] OF SIX HANDBREADTHS,[43] AND IF IT OVERGROWS [INTO THE BORDER] HE MUST PULL UP THAT WHICH IS WITHIN IT.[44] R. JOSE SAID: IT IS TO BE PROVIDED WITH A SERVICE-BORDER OF FOUR CUBITS. SAID THEY TO HIM: DO YOU RULE MORE STRINGENTLY WITH REGARD TO THIS THAN WITH REGARD TO A VINE'?[45] — SAID HE TO THEM: 'INDEED WE FIND THAT THIS IS TREATED MORE STRINGENTLY THAN A VINE, INASMUCH AS FOR A SINGLE VINE A SERVICE-BORDER IS PRESCRIBED OF SIX HANDBREADTHS,[46] BUT FOR A SINGLE GOURD ONE OF A BETH-ROBA'.[47] R. MEIR SAID IN THE NAME OF R. ISHMAEL: IF THERE ARE AS MANY AS THREE GOURDS IN A BETH-SE'AH, ONE MAY NOT BRING [HETEROGENEOUS] SEED

INTO THE BETH-SE'AH.[48] R. JOSE B. HA-HOTEF THE EPHRATHITE[49] SAID IN THE NAME OF R. ISHMAEL: IF THERE ARE AS MANY AS THREE GOURDS IN A BETH-KOR, ONE MAY NOT BRING [HETEROGENEOUS] SEED INTO THE BETH-KOR.[50]

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(1) I.e., a square cubit, the smallest area for such a bed.

(2) It is possible to effect this by sowing five heterogeneous seeds set as specified infra.

(3) Sc. single seed (Bert.).

(4) For diagrams v. Shab. Sonc. ed. p. 403. The shaded part is shown. (For another possible arrangement v. printed edition of the separate Mishnayoth). The main underlying principle is that there must be a distance of at least three handbreadths between seed and seed, allowing for each species a space of one and a half handbreadths for drawing sustenance without coming into contact with any of the roots of another species. The contact of the diverse seeds at the corners does not matter, as the very position shows that they belong to different beds, v. Shab, Sonc. ed., p. 403. n. 5. and Feldman W.M., Rabbinical Mathematics pp. 45ff.

(5) And of the same width, designed for a person attending to the patch to stand on, a human foot being a ‘handbreadth’ in width. The whole of the area of the patch is now 8 X 8 handbreadths.

(6) And to appearances all the species would be mixed up.

(7) Sc. of the last bed (8 X 8 handbreadths) mentioned, (v. diagram in printed editions of the separate Mishnayoth). It is equally clear that in the first mentioned bed (6 x 6 handbreadths) also, R. Judah permitted the sowing of six species. According to Maim. R. Judah actually contested the anonymous Tanna's planning of the five species, presumably on the ground that the species on the large centre patch would predominate to such an extent as to make the whole bed look as if intended to be solely of that species and the heterogeneous species on the borders would make it appear like kil'ayim.

(8) Such as grain and others which are usually sown in large quantities in fields.

(9) Such as are themselves not used for human consumption,and are as a rule sown in smaller quantities in beds.

(10) In the manner prescribed in the preceding Mishnah.

(11) And, though used for human consumption, are not considered ‘vegetable-seed’, and are, consequently, not to be sown with heterogeneous varieties in the same bed.

(12) The reference is to the case mentioned in the preceding Mishnah.

(13) There is no need to pull up the vegetables sown on the border.

(14) But before the next sowing it must be raised to the proper level.

(15) When dry and fit for sowing.

(16) And six handbreadths (== a cubit) wide.

(17) So that there are three handbreadths between any two heterogeneous species. Rashi, followed by Bert., requires three handbreadths as the minimum in such circumstances, whereas Maim., also Rash., ‘require only one and a half handbreadths, the radius of ground from which such a plant ‘sucks’. In accordance with this it should be permitted to sow five heterogeneous vegetable seeds across a furrow etc., six handbreadths wide.

(18) V. II, 7, notes.

(19) According to Maim. it must be assumed that the new row is being kept at the requisite distance from the main field.

(20) Either: (i) in which the new row is planted (Maim., Bert.) or (ii) which separates the new row from the crop already there (Rash.).

(21) I.e., the width of a normal furrow, viz., six handbreadths. In accordance with Rash's interpretation of ‘furrow’ (supra note 1) this means that at some place between the row and the rest of the field there must be an intervening space of 6 x 6 handbreadths. Maim., however, understands the words רוחב מלואו as ‘the width as its full depth’ i.e., whatever the depth of the furrow (in which he plants the new row) its width must be the same. On the matter of width R. Ishmael agreed with R. Akiba, but as to length the latter held that the row itself (Maim.) or the intervening space (Rash.) need be only six handbreadths.

(22) I.e., a handbreadth (v. supra Mishnah 1, n. 5). According to R. Judah the new row (Maim.) needs only. or the space separating the new row from the rest (Rash.) should at least, measure 6 X 1 handbreadths.

(23) A normal ‘row’ is four cubits wide, v. infra 6.

(24) Since two rows of each of these species present the appearance of a whole field, and as long as between the several sets of two rows there is the requisite intervening space, there is no objection to their being alongside.

(25) Even if they are separated, the leaves of these species are long and intertwine one with another, and thus, present an appearance of having been sown indiscriminately with one ‘handthrow’.

(26) On the ground that two rows of cucumbers, though not next to one another, are yet sufficient to constitute the plot into a cucumber field, within which it is permitted, in accordance with the preceding Mishnah, to plant a row of heterogeneous vegetables. Sipponte gives as R. Eliezer's reason that these four rows are to be regarded as two separate sets of two species each, one of a row each of cucumbers and Egyptian beans and the other one of a row each of cucumbers and gourds, which, in accordance with the next Mishnah, may be planted. In T.J., R. Jannai holds that R. Eliezer's permission refers also to the case, immediately preceding, of the three rows (one of cucumbers, one of gourds, and one of Egyptian beans) in pursuance of his principle that two species combine so as to effect a permission or a leniency. According to this, in the case of the three rows, the cucumbers and gourds are (under conditions stipulated in Mishnah 5) permitted, and these two ‘combine’ to make the three rows together permitted; likewise in the case of the four rows.
(27) Because the two rows of cucumbers, not being close to one another, do not give the appearance of a cucumber field, and the whole of the four rows look as if haphazardly sown. According to Sipponte, the Sages’ prohibition is in keeping with their principle that though two species combine to effect a prohibition, they do not combine to effect a permlsslon.
(28) I.e., even cucumbers and gourds, although their leaves are long and liable to intertwine.
(29) Without an intervening space between the two species.
(30) This makes it abundantly clear that they were certainly not planted with ‘one handthrow’ (which is all that the Torah prohibits).
(31) I.e., so as to obviate all reasonable possibility of strangers getting the impression that the Biblical prohibition had been transgressed
(32) Onions are instanced merely as an example. presumably because the procedure described in this Mishnah was a common practice in onion fields (Maim.).
(33) I.e., over a space of eight cubits.
(34) I.e., in the middle of the cleared space of eight cubits, thus leaving two cubits unsown on either side.
(35) Each row of gourds would thus be separated two cubits from the adjoining onions, and twelve cubits from the nearest row of gourds.
(36) One species being, of course, separated from the other by a furrow.
(37) One plot of gourds being eight cubits from the next, thus:
(38) The Sages agree with R. Ishmael except in so far as he requires unsown spaces of two cubits each separating gourds from onions, whilst they do not, but permit onions to remasn over all the space of twelve cubits (provided of course that a furrow's width separates species from species).
(39) It should be noted that wherever the gourd has been instanced it was, and is here, in consequence of its long leaves which become tangled with nearby vegetation; hence the Greek gourd is meant and no other variety.
(40) Six handbreadths, v. supra II, 10.
(41) V. ibid.
(42) עבודה, ‘service’ , used here as an agricultural technical term for a border along which one has access to a plantation for watering and other purposes.
(43) A single gourd requires a large separating space. viz., a beth-roba’ (approx. 10.15 cubits square), because the single gourd in the midst of a heterogeneous species would otherwise look as if haphazardly sown and constituting kil'ayim; a whole row of gourds, however, needs a separating space only like that for any other heterogeneous vegetable viz., of six handbreadths (one cubit) square, since the row by itself already presents something distinctive, and makes it clear to all and sundry that it was sown separately.
(44) If the gourd leaves have spread into the service-border separating the gourds from the corn, these leaves must be pulled up and the border kept clear.
(45) The prohibition of kil'ayim in connection with vines, extending as it does to consumption and other uses, is stricter than kil'ayim of corn, pulse, and vegetables, applying as it does only to sowing and to deliberately suffering them to remain in one's field; here R. Jose reverses the order of stringency.
(46) Cf. infra IV, 5.
(47) As supra in this Mishnah.
(48) I.e., heterogeneous species are not allowed within a third of a beth-se'ah of a gourd. So Maim. and Bert., but v. L. for another interpretation.
(49) Mentioned here only. V. Bacher, Tradition, p. 91.
(50) I.e., heterogeneous species are not allowed within a third of a beth-kor of a gourd., v. note I.

Mishna - Mas. Kilayim Chapter 4

MISHNAH 1. A KARAHATH[1] [I.E.. A BARE PATCH] WITHIN A VINEYARD. SHOULD MEASURE, BETH SHAMMAI SAY, TWENTY-FOUR CUBITS;[2] BUT BETH HILLEL SAY, SIXTEEN CUBITS.[3] A MEHOL [I.E.. AN UNSOWN BELT OF GROUND ROUND THE OUTER EDGES] OF A VINEYARD BETH SHAMMAI SAY, SHOULD MEASURE SIXTEEN CUBITS, BUT BETH HILLEL SAY, TWELVE CUBITS. NOW WHAT CONSTITUTES A KARAHATH OF A VINEYARD? A PLOT WITHIN A VINEYARD WHICH HAS BEEN DENUDED[4] [OF VINES]. IF IT IS LESS THAN SIXTEEN CUBITS, THEN[5] ONE MUST NOT INTRODUCE SEED INTO IT;[6] IF IT IS SIXTEEN CUBITS. IT[7] IS GIVEN ITS SERVICE-BORDER, AND ONE MAY SOW THE REST.

MISHNAH 2. WHAT IS A MEHOL OF A VINEYARD? [THE SPACE] BETWEEN VINEYARD [PRO PER] AND FENCE. IF IT DOES NOT MEASURE TWELVE CUBITS,[8] IT IS FORBIDDEN TO INTRODUCE SEED INTO IT;[9] IF IT DOES MEASURE TWELVE CUBITS, IT[10] IS GIVEN ITS SERVICE-BORDER, AND ONE MAY SOW THE REST.

MISHNAH 3. R. JUDAH SAID: THE ABOVE IS BUT A VINEYARD FENCE [GADER].[11] WHAT THEN IS A MEHOL OF A VINEYARD? [AN INTERVENING SPACE] BETWEEN TWO VINEYARDS.[12] WHAT NOW IS A [STATUTORY] VINEYARD FENCE? — ONE TEN HANDBREADTHS HIGH.[13] AND [WHAT Is] A [STATUTORY] TRENCH? — ONE TEN HANDBREADTHS DEEP AND FOUR WIDE.[13]

MISHNAH 4. [IF A VINEYARD HAS] A PARTITION OF REEDS, THEN IF BETWEEN ONE REED AND ANOTHER THERE BE LESS THAN THREE HANDBREADTHS, [THE SPACE] THROUGH WHICH A KID CAN ENTER, IT COUNTS AS A [LEGALLY EFFECTIVE] PARTITION.[14] IF A [STONE] FENCE HAS BEEN BROKEN THROUGH UP TO [THE LENGTH OF] TEN CUBITS, IT [THE BREACH] IS [REGARDED] AS A DOORWAY;[15] [IF THE BREACH IS] MORE THAN THAT, [SOWING CLOSE TO THE LINE OF THE FENCE] IMMEDIATELY OPPOSITE THE BREACH IS PROHIBITED. IN THE EVENT OF MANY BREACHES HAVING BEEN MADE THEREIN, THEN IF THAT WHICH REMAINS STANDING[16] EXCEEDS THAT WHICH IS BROKEN THROUGH,[16] IT IS PERMITTED [TO SOW CLOSE TO THE LINE OF THE FENCE OPPOSITE THE BREACHES]; BUT IF THAT WHICH IS BROKEN THROUGH EXCEEDS THAT WHICH REMAINS STANDING, IT IS FORBIDDEN [TO SOW CLOSE TO THE LINE OF THE FENCE] OPPOSITE THE BREACH [OR BREACHES].[17]

MISHNAH 5. WHEN A MAN HAS SOWN A LINE OF [AT LEAST] FIVE VINES, BETH SHAMMAI SAID: THESE CONSTITUTE A VINEYARD;[18] BUT BETH HILLEL SAID: THEY [VINES][19] DO NOT CONSTITUTE A VINEYARD[20] UNLESS THEY BE IN TWO ROWS.[21] CONSEQUENTLY, IF ONE HAS SOWN IN THE FOUR CUBITS [OF THE SERVICE-PATH] WITHIN THE VINEYARD, BETH SHAMMAI SAID: HE HAS [THEREBY] CAUSED THE PROHIBITION [AS KIL'AYIM][22] OF ONE ROW,[23] WHEREAS BETH HILLEL SAID: HE HAS CAUSED THE PROHIBITION OF TWO ROWS.[24]

MISHNAH 6. IF ONE HAS PLANTED TWO [VINES] OPPOSITE TWO, AND ONE [OTHER VINE] FORMING A ‘TAll’,[25] THIS CONSTITUTES A VINEYARD. IF ONE HAS PLANTED TWO [VINES] OPPOSITE TWO, AND ONE [OTHER VINE] IN BETWEEN,[26] OR TWO OPPOSITE TWO, AND ONE IN THE MIDDLE,[17] , NEITHER OF THESE [COLLECTIONS OF VINES] CONSTITUTE A VINEYARD UNLESS THERE BE TWO OPPOSITE TWO WITH ONE [OTHER] PROJECTING LIKE A TAIL.[27]

MISHNAH 7. IF ONE HAS PLANTED ONE ROW[28] [OF VINES] ON HIS OWN [LAND] AND ANOTHER ROW[28] ON HIS NEIGHBOUR'S [LAND], THEN EVEN THOUGH THERE BE IN THE MIDDLE A PRIVATE ROAD,[29] OR A PUBLIC ROAD,[30] OR A FENCE LOWER THAN TEN HANDBREADTHS, THESE [TWO ROWS] COMBINE.[31] IF THERE BE A FENCE HIGHER THAN TEN HANDBREADTHS[32] THEY DO NOT COMBINE. R. JUDAH SAID: IF HE INTERTWINES THEM [THE ROWS OF VINES] ABOVE [THE FENCE, THOUGH IT BE HIGHER THAN TEN HANDBREADTHS] THEY DO COMBINE.

MISHNAH 8. IF ONE HAS PLANTED TWO ROWS [OF VINES][33] AND THERE ARE NOT EIGHT CUBITS BETWEEN THEM, HE MAY NOT INTRODUCE SEED THERE [I.E., IN THE SPACE INTERVENING BETWEEN THE TWO ROWS].[34] IF THERE BE THREE [ROWS].[35] THEN IF BETWEEN ONE ROW AND ITS COMPANION [ROW][36] THERE ARE NOT SIXTEEN CUBITS,[37] HE MAY NOT INTRODUCE SEED THERE. R. ELIEZER B. JACOB SAID IN THE NAME OF HANINA B. HAKINAI: IF EVEN THE MIDDLE ROW WAS LAID WASTE AND BETWEEN ONE ROW AND ITS COMPANION [ROW] THERE ARE NOT SIXTEEN CUBITS,[38] HE MAY NOT INTRODUCE SEED THERE;[39] ALTHOUGH, HAD HE AB INITIO PLANTED THESE [TWO ROWS], IT WOULD HAVE BEEN PERMITTED [TO SOW BETWEEN THEM] IF THEY WERE EIGHT CUBITS [APART].[40]

MISHNAH 9. IF ONE HAS PLANTED HIS VINEYARD ON [A PLAN OF] SIXTEEN CUBlts FOR EVERY INTER-SPACE,[41] IT IS PERMITTED TO INTRODUCE SEED THERE.[42] R. JUDAH SAID: IT HAPPENED AT ZALMON[43] THAT A MAN PLANTED HIS VINEYARD ON [A PLAN OF] SIXTEEN CUBlts TO EVERY INTER-SPACE; [ONE YEAR] HE TURNED THE TIPS OF THE VINE BRANCHES OF TWO [ADJACENT ROWS] TOWARDS ONE PLACE,[44] AND SOWED[45] THE PLOUGHED LAND, AND THE FOLLOWING YEAR HE TURNED THE TIPS OF THE VINE BRANCHES IN THE OPPOSITE DIRECTION, AND SOWED THE LAND WHICH HAD BEEN LEFT UNTILLED [THE PRECEDING YEAR]. THE MATTER CAME BEFORE THE SAGES, AND THEY DECLARED IT PERMITTED. R. MEIR AND R. SIMEON SAID: EVEN IF ONE HAS PLANTED ONE'S VINEYARD ON [A PLAN OF] EIGHT CUBITS [BETWEEN EVERY TWO ROWS], THIS IS PERMITTED.[46]

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(1) Cf. supra II, 9.

(2) Allowing for vineyard service-borders of four cubits each (v. infra VI, 1) on either side, and sixteen cubits in the middle for sowing. It should be borne in mind that Beth Shammai hold that 8 X 8 cubits is the smallest area that can be regarded as a ‘field’. If therefore in our case, less than eight cubits remain, that ground is reckoned as forming a part of the vineyard, and it is forbidden to plant seeds there. As our karahath is flanked by vines on (at least) two sides there must be the minimum of eight cubits towards either side of the vineyard, i.e., a block of at least sixteen cubits in all, before it can be sown.

(3) Allowing for service-borders as above, and four cubits, the minimum ‘field’ after Beth Hillel, towards either side, i.e., altogether eight cubits, for sowing.

(4) **. lit., ‘laid waste’.

(5) Sc. in accordance with the Hillelite ruling.

(6) Even its very centre may not be sown.

(7) The vineyard.

(8) The Hillelite minimum; i.e., after allowing for four cubits of service-border and after deducting the four cubits close to the fence which are not sown, there are left less than four cubits.

(9) Since not being large enough to constitute a ‘field’ on Its own, it is regarded as part of the vineyard.

(10) V. supra I, n. 7.

(11) I.e., the technical term for the space ‘between vineyard and fence’, is not mehal ha-kerem, as stated by the original anonymous Tanna, but geder ha-kerem (‘the vineyard fence’), and it is to this geder ha-kerem (as long as it measures not less than six (Maim. four and a half) cubits) that the rule ‘it is given its service-border, and one may sow the rest’ applies.

(12) And this must measure at least twelve cubits if it is in part to be sown.

(13) Cf. supra II, 8. These are effective partitions and one may sow vines hard upon one side and seeds hard upon the other side of such partitions.

(14) That a gap of less than three handbreadths does not impair the character of a partition where the law depends on the presence or absence of a partition is a law (orally imparted) to Moses at Sinai', (v. 'Er. 15a).

(15) Which is regarded de jure as wall or fence, and it is therefore permitted to sow immediately in front of it a vine on the side of the boundary. and seed on the other just as if the fence were actually standing between them.

(16) In the aggregate.

(17) But it is permitted to do so where the fence still stands; if, however, the standing part is less than four handbreadths and more than three (and the broken part exceeds it) it is forbidden to sow vines on one side, and seed on the other even where the fence still stands.

(18) And sowing of seed within four cubits thereof is prohibited.

(19) Any number of them.

(20) And one may sow seed at a distance of six handbreadths.

(21) Either of three vines each, vine opposite vine (v. T.J.) or of five vines altogether set out as described infra 6.

(22) **, as used in Deut. XXII, 9.

(23) Since, according to them this constitutes a vineyard.

(24) Which according to them form the vineyard which according to Scripture (Deut. ibid.) becomes prohibited as a result of too close a proximity of other seed. How many and which of the vines are thus affected is discussed in detail in T.J. Our Mishnah is an instance of the rare occasions on which Beth Shammai took the more lenient, and Beth Hillel the more stringent rule. Cf. 'Ed. V, 2. (Sonc. ed.) p. 31f.

(25) Thus: Rash and Bert.: Maim.:

(26) Maim. and Rash: 'between either pair', thus: Bert.: in the continuation of the space between the pairs, thus: (11) Rash. and Bert.: Maim., Sipponte:

(27) I.e., if in addition to either of the arrangements just described there is another vine 'projecting like a tail', they constitute a vineyard.

(28) One row of two vines and one row of three vines (v. preceding Mishnah).

(29) Four cubits wide.

(30) The standard 'public road', דרך הרבים (referred to in Pe'ah II, 1) is sixteen cubits wide; this is taken by Maim. as meant here. Others, however, say that here a path less than eight cubits wide is to be understood, rather the kind designated in Pe'ah ibid., as שביל הרבים,' a public path' (passable in the rainy as well as in the dry season).

(31) Sc. to constitute a vineyard so as to forbid sowing seed either between the two rows or within four cubits from either of them. Even though according to R. Jose and R. Simeon one man's vine forming a tent over another person's produce does not cause kil'ayim (infra VII, 4). here not another person's but the man's own 'seed' is concerned; moreover the second row belongs to the first man's next-door neighbour, and this might easily give rise to a notion that the two rows belong to the same man, whose sowing seed between them causes kil'ayim.

(32) The same applies if it is only ten handbreadths high; it is on account of what follows in this Mishnah that here it is said: 'higher than ten etc.'.

(33) Of two vines in each, without another one 'projecting like a tail'.

(34) Because they form sufficient of a vineyard to disallow sowing in the middle of it, even though for the purposes of sowing on the outer sides they are deemed as not forming a vineyard but as just individual vines. If, however, there are eight cubits (exclusive of the ground occupied by the vines) between them, the two rows (of two vines each) are deemed as separate, unrelated rows, and one may sow even between them at a distance of six handbreadths from the vines on either side.

(35) Of two vines each. Such three rows constitute a vineyard.

(36) Some say (a) between the two outer rows. Others say (b) between one and the next.

(37) The size of a karahath of a vineyard (v. supra 1).

(38) In accordance with note 2 (a), this means only as long as all three rows are there, is a distance of sixteen cubits required between the two outer rows (before sowing can be done in the intervening space); but if the middle row has been razed, the character of 'vineyard' ceases and one may sow between them (six handbreadths from the vines) even if they are not sixteen cubits apart. In accordance with note 2 (b) it means: Three rows constitute a 'vineyard' and sowing in either inter-row space is permitted only when each of the latter measures sixteen cubits (v. 1). If the middle row is razed, the character of the vineyard ceases, etc.

(39) Having once been a vineyard, it remains a vineyard even if any of the three vines, even the middle one, is razed, and a full-size karahath, i.e. of sixteen cubits, is essential, if the inter-space is to be sown.

(40) According to the beginning of this Mishnah.

(41) Originally so, and not when there were sixteen cubits only after the elimination of one row or more.

(42) At a distance from the vines of only six handbreadths. Even Beth Shammai concur that if, originally, rows of vines are planted sixteen cubits apart, it is permitted to sow there; they require twenty-four cubits (supra I) only when the empty space has been formed by the elimination of some vines.

(43) A place-name. Mount Zalmon is mentioned in Judg. IX, 47-48, as near Shechem.

(44) I.e., towards one another.

(45) Leaving six handbreadths clear.

(46) Because then they are deemed as individual vines, and one may sow seed at a distance of six handbreadths.

Mishna - Mas. Kilayim Chapter 5

MISHNAH 1. IF A VINEYARD HAS BEEN [PARTLY] RAZED,[1] THEN SHOULD IT STILL BE POSSIBLE TO PICK TEN VINES WITHIN A BETH-SE'AH,[2] AND THESE ARE PLANTED ACCORDING TO THE ESTABLISHED LAW,[3] IT CONSTITUTES A ‘POOR’ VINEYARD. IF A [POOR][4] VINEYARD IS PLANTED IN IRREGULAR LAY-OUT, THEN SHOULD THERE BE THEREIN AN ALIGNMENT OF [ONE LINE OF] TWO [VINES] PARALLEL AND OPPOSITE TO [A LINE OF] THREE, IT CONSTITUTES A VINEYARD;[5] BUT IF THERE IS NOT [SUCH AN ALIGNMENT] IT DOES NOT CONSTITUTE A VINEYARD. R. MEIR SAID: SINCE IT IS IN APPEARANCE LIKE VINEYARDS [IN GENERAL], IT CONSTITUTES A VINEYARD.

MISHNAH 2. IF A VINEYARD[6] HAS BEEN PLANTED ON [A PLAN OF] LESS THAN FOUR CUBITS [TO AN INTER-SPACE].[7] R. SIMEON SAID: IT DOES NOT CONSTITUTE A VINEYARD.[8] THE SAGES, ON THE OTHER HAND, SAID: IT DOES CONSTITUTE A VINEYARD, AND WE REGARD THE MIDDLE [ROWS] AS IF THEY WERE NOT [VINES].[9]

MISHNAH 3. IF A TRENCH PASSES THROUGH A VINEYARD, AND IS TEN [HANDBREADTHS] DEEP AND FOUR WIDE,[10] R. ELIEZER B. JACOB SAYS: IF IT RUNS RIGHT THROUGH FROM THE BEGINNING OF THE VINEYARD TO THE END THEREOF,[11] IT PRESENTS THE APPEARANCE OF TWO [SEPARATELY OWNED] VINEYARDS, AND IT IS PERMITTED TO SOW THEREIN; BUT IF IT IS NOT,[12] IT IS [DEEMED] AS [IF IT WERE] A WINE-PRESS. AND AS FOR A WINE-PRESS IN A VINEYARD THAT IS TEN [HANDBREADTHS] DEEP AND FOUR WIDE, R. ELIEZER SAYS: IT IS PERMITTED TO SOW THEREIN,[13] WHILST THE SAGES,[14] FORBID.[15] IF A WATCH-MOUND IN A VINEYARD IS TEN HANDBREADTHS HIGH AND FOUR WIDE IT IS PERMITTED TO SOW THEREIN;[16] BUT IF THE ENDS OF THE VINE-BRANCHES BECAME INTERTWINED THEREON,[17] IT IS FORBIDDEN.

MISHNAH 4. IF A VINE IS PLANTED IN A WINE-PRESS OR IN A DEPRESSION,[18] IT IS ALLOWED ITS SERVICE-BORDER,[19] AND ONE MAY SOW IN THE REST.[20] R. JOSE SAYS: IF THERE ARE NOT FOUR CUBITS THERE,[21] ONE MAY NOT INTRODUCE SEED THITHER.[22] AS FOR A HOUSE THAT IS WITHIN A VINEYARD, IT IS PERMITTED TO SOW THEREIN.[23]

MISHNAH 5. IF ONE PLANTS A VEGETABLE OR SUFFERS IT TO REMAIN IN A VINEYARD, HE RENDERS PROHIBITED [AS KIL'AYIM] FORTY-FIVE VINES. WHEN? IN THE EVENT OF THEIR HAVING BEEN PLANTED ON A PLAN OF EITHER FOUR OR FIVE [CUBITS TO AN INTER-SPACE].[24] IN THE EVENT, HOWEVER, OF THEIR HAVING BEEN PLANTED ON [A PLAN OF] EITHER SIX OR SEVEN [CUBITS TO AN INTER-SPACE] HE

RENDERS PROHIBITED AS KIL'AYIM [THE VINES WITHIN AN AREA OF] SIXTEEN CUBITS IN EVERY DIRECTION, IN THE FORM OF A CIRCLE, NOT OF A SQUARE.[25]

MISHNAH 6. IF ONE[26] SEES A VEGETABLE IN A VINEYARD, AND SAYS: WHEN I REACH IT I SHALL PLUCK IT', [ALL THAT HAS GROWN THERE] IS PERMITTED;[27] [BUT IF HE SAYS:] 'WHEN I COME BACK I SHALL PLUCK IT', THEN IF IT [THE VEGETABLE] HAS [IN THE MEANTIME] INCREASED BY A TWO-HUNDREDTH,[28] IT [ALL THAT HAS GROWN THERE] IS FORBIDDEN.[29]

MISHNAH 7. IF, WHEN ONE HAS PASSED THROUGH A VINEYARD, SEEDS HAVE FALLEN FROM HIM, OR [SEEDS] HAVE GONE [INTO THE FIELD] WITH MANURE OR WITH [IRRIGATION] WATER, OR IF AS HE WAS [IN A CORNFIELD] SCATTERING SEED, THE WIND BLEW SOME BEHIND HIM [INTO A VINEYARD]. NO PROHIBITION APPLIES;[30] IF THE WIND BLEW THE SEED BEFORE HIM [INTO A VINEYARD][31] R. AKIBA SAID: IF[32] IT HAS PRODUCED BLADES, HE MUST TURN THE SOIL;[33] IF IT HAS REACHED THE STAGE OF GREEN EARS,[34] HE MUST BEAT THEM OUT;[35] IF IT HAS GROWN INTO CORN,[36] IT MUST BE BURNT.[37]

MISHNAH 8. IF ONE SUFFERS THORNS TO REMAIN GROWING IN A VINEYARD, R. ELIEZER SAID: [THEREBY] HE EFFECTS A STATE OF PROHIBITION,[38] BUT THE SAGES SAID: NOTHING CAUSES SUCH A STATE OF PROHIBITION EXCEPT THAT WHICH IT IS A COMMON PRACTICE [IN THE PLACE CONCERNED] TO PERMIT TO GROW.[39] IRIS,[40] IVY,[41] AND THE KING'S LILY,[42] LIKEWISE ALL MANNER OF SEEDS[43] [OTHER THAN THOSE ALREADY SPECIFICALLY DEALT WITH][44] ARE NOT KIL'AYIM IN A VINEYARD.[45] [AS FOR] HEMP, R. TARFON SAID: IT IS NOT KIL'AYIM, BUT THE SAGES SAY IT IS KIL'AYIM.[46] ARTICHOKES[47] ARE KIL'AYIM IN A VINEYARD.

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(1) Not a substantial patch (karahath) denuded of vines within a vineyard, but a vine, or a few vines missing here and there.

(2) An area of 2,500 square cubits (v. supra II, 9).

(3) 'Two vines opposite two, with one projecting like a tail', (v. supra IV. 6). and not more than sixteen cubits apart (supra IV, 9).

(4) So some versions.

(5) R. Zera in T.J.

(6) Of three or more rows of three vines in a row.

(7) I.e., less than the minimum distance required for attendance on a vineyard (with a yoke of oxen) v. infra VI, 1.

(8) Sc. but the vines are regarded as single vines, at a distance of six handbreadths (one cubit) from which it is permitted to sow other seed.

(9) But intended for fuel only. Close planting of vines would seem according to this to have been practised with a view to utilizing only the best rows for their fruit, but not the inferior ones. According to the Sages the latter, if they are inner rows, are virtually eliminated (they may even be trained to hang over corn, without bringing about kil'ayim) and the remaining ones are sufficiently apart to constitute a vineyard. R. Simeon's view is (v. T.J.) that all the vines, including those regarded by the Sages as so negligible as if nonexistent, are an essential part of the plantation (one does not plant vines with a view to pulling them out), which is therefore not a vineyard in respect of the law requiring inter-spaces of four cubits.

(10) V. supra IV, 3.

(11) Cf. supra III, 3.

(12) Either ten handbreadths deep, or four wide, or it does not traverse the plantation from end to end.

(13) Since, owing to its dimensions, it is deemed a separate domain.

(14) As well as R. Eliezer b. Jacob.

(15) Since it is within a hollow space formed by a vineyard.

(16) Cf. supra II, 8. The Sages and R. Eliezer are agreed on this.

(17) So rendered by Rash. (who insists on adding ‘of their own accord and not trained by hand’) and others. Maim. renders ‘reach and touch’. Some render the verb used here, viz., כותש , in the sense in which it is used in the Bible, viz., ‘pound’, ‘pulverize’, and say that the point here is that if the vine branches reach the top of the mound, they will rub the soil and powder it so that the wind blows it off and the mound becomes lower than ten handbreadths and/or narrower than four. (v. Rosh. and Rash. and cf. Pe'ah II. 3 and commentators a.l.).

(18) Measuring two to three cubits in length and three handbreadths in width (T.J., v. Rash. and Sipponte).

(19) Of six handbreadths, like an individual vine.

(20) Sc. of the wine-press or depression.

(21) Either in length or in width.

(22) But if there are four cubits, R. Jose agrees with the anonymous Tanna.

(23) Even if the vines hang over the house; since the house has a roof over it.

(24) In an area planted at intervals of four cubits (especially if it be four cubits clear, exclusive of the thickness of the vines), a circle with a radius of sixteen cubits (v. infra in this Mishnah) will contain forty-five vines. In an area planted, at intervals of five cubits, such a circle will actually contain only thirty-seven vines, but as the circumference passes only just four cubits (the width of a statutory service-border for a vineyard) from the outermost rows, we must visualize a virtual circle having a twenty cubit radius, which too, would contain forty-five vines. So Maim., Asheri, and Bert.

(25) In the six-cubit plan, twenty-four, in the seven-cubit plan, twenty-one. vines become kil'ayim. The numbers mentioned in this and the preceding notes can be easily verified by drawing appropriate diagrams.

(26) In this case, either the owner or an employee.

(27) Because his evident readiness to remove the vegetable (or corn) shows that the latter is there without his knowledge or intention, whereas the Torah says: (Lev. XIX, 19) Thy field thou shalt not sow etc., and (Deut. XXII, 9) Thou shalt ‘not sow thy vineyard etc., a prohibition, explain the Rabbis, only against such making or maintaining kil'ayim as is as deliberate as the act of sowing.

(28) Since the processes of growth and withering are one the inverse of the other, it was assumed that the time taken by any species of produce to grow is the same as taken by that same species to become dried up after it had been cut or plucked, which period was of course, easily determinable by experiment.

(29) Since he had knowingly allowed the ‘offending’ vegetable or corn to remain among the vines for a substantial period.

(30) Since in each case the introduction of the seed was unintentional. If and when he notices it, he must of course remove it, as indicated in the preceding Mishnah.

(31) Sc. and he has noticed it, then the prohibition applies, and he must retrieve the seed.

(32) In the event of his having failed to retrieve the seed soon enough.

(33) So as to ensure that they do not grow again.

(34) I.e., before it has reached a third of its normal full growth.

(35) And make no use of either grain or stalk. So R. Johanan; but in R. Hoshaia's view only the grain is prohibited, but the stalks are permitted. (T.J.).

(36) Having attained a third of its possible normal growth.

(37) The rule of burning kil'ayim is derived from Deut. XXII, 9, which says: Thou shalt not sow thy vineyard with kil'ayim; lest the fulness of the seed which thou hast sown be forfeited with the increase of the vineyard. The Hebrew word for ‘be forfeited’ viz. תקדש , is explained as signifying ‘it shall be burnt’.

(38) Sc. of kil'ayim; since thorns are deliberately allowed to grow in some countries, e.g.. Arabia, for camel's food, this reason, primarily local, for ruling that they produce a state of kil'ayim in a vineyard, is deemed, by extension, as making the ruling applicable universally.

(39) Thus only in places where thorns are suffered gladly do they render a vineyard kil'ayim, but not elsewhere.

(40) ארים.

(41) קיסום.

(42) שושנת המלך rendered by T.J. קירינטון which according to Kohut, is the lily flower, white in colour. Maim. renders (in Arabic) נעמן i.e., anemone. Danby renders ‘fritillary’; there is a type called Fritillaria imperialis.

(43) Viz., grain and vegetables.

(44) Such as legumes, which also come under the term ‘seeds’ (zera'im).

(45) The reason being, according to Maim., that they are ‘seeds’, but not vegetables (or grain) which alone constitute kil'ayim in a vineyard; or, according to Rabad, that even though (in his view) both ‘seeds’ and vegetables are prohibited in a vineyard, the specimens mentioned here are permitted because it is not the usual thing to let them grow in a vineyard. In Rabad's view, it appears, the Mishnah found it necessary to state specifically that these species do not constitute kil'ayim, because otherwise one might have thought that they do, on the analogy of the Sages’ principle in the matter of thorns, inasmuch as both iris and ivy are, on botanical authority, eaten by cattle. The same uses probably apply to the ‘king's lily’. The permissibility, however, is only as far as the purely Pentateuchal requirements are concerned. The Rabbis, however, have, some say, on the authority of a prophetic tradition, extended the prohibition to include other types of ‘seeds’ (Men. 15b). Some are of the opinion that they are prohibited also by Pentateuchal law though no penalty of stripes is prescribed for sowing these ‘seeds’ in a vineyard.

(46) Because hemp resembles grapes.

(47) קינרס , cynara.

Mishna - Mas. Kilayim Chapter 6

MISHNAH 1. WHAT IS AN ‘ARIS[1] [WHICH IS REGARDED AS A VINEYARD]?[2] IF ONE HAS PLANTED A [SINGLE] ROW CONSISTING OF FIVE VINES BESIDE A FENCE TEN HANDBREADTHS HIGH,[3] OR BESIDE A TRENCH TEN HANDBREADTHS DEEP AND FOUR WIDE,[3] IT IS ALLOWED ITS SERVICE-BORDER OF FOUR CUBITS.[4] BETH SHAMMAI SAY: THE FOUR CUBITS ARE TO BE MEASURED FROM THE BODY OF THE VINE TO THE FIELD;[5] BUT BETH HILLEL SAY: FROM THE FENCE TO THE FIELD.[5] R. JOHANAN B. NURI SAID: ALL WHO SAY SO[6] ARE MISTAKEN;[7] IN FACT [WHAT WAS SAID[8] WAS]: IF THERE BE FOUR CUBITS FROM THE BODY OF THE VINES TO THE FENCE, THE APPROPRIATE SERVICE-BORDER IS ALLOWED, AND THE REST MAY BE SOWN.[9] AND HOW MUCH IS THE SERVICE-BORDER OF A VINE? SIX HANDBREADTHS IN EVERY DIRECTION;[10] R. AKIBA SAID: THREE.[11]

MISHNAH 2. AS FOR AN ‘ARIS WHICH PROJECTS FROM A TERRACE, R. ELIEZER B. JACOB SAID: IF A PERSON STANDING ON THE [LEVEL] GROUND IS ABLE TO PICK ALL OF IT, [SUCH AN ‘ARIS] PROHIBITS [THE SOWING OF SEED IN] FOUR CUBITS OF THE FIELD;[12] IF [HE IS] NOT [ABLE TO DO SO], IT PROHIBITS [THE SOWING OF SEED] ONLY [IN] THE [SOIL] WHICH IS DIRECTLY OPPOSITE[13] IT.[14] R. ELIEZER SAID: LIKEWISE,[15] IF ONE HAS PLANTED ONE ON THE GROUND, AND ONE ON A TERRACE, THEN IF IT IS TEN HANDBREADTHS ABOVE THE [LEVEL] GROUND, ONE DOES NOT COMBINE WITH THE OTHER;[6] , IF IT IS NOT [SO HIGH] ONE DOES COMBINE WITH THE OTHER.

MISHNAH 3. IF ONE HAS SUSPENDED VINE-BRANCHES OVER SOME OF THE LATHS [OF A TRELLIS], HE MAY NOT INTRODUCE SEED [INTO THE SOIL] BENEATH THE REMAINDER [OF THE TRELLIS]; YET IF HE DID INTRODUCE HE HAS NOT THEREBY BROUGHT ABOUT A PROHIBITED STATE.[16] IF, HOWEVER, NEW [TENDRILS] HAVE SPREAD [OVER THE ‘REMAINDER’]. THAT [WHICH HAD BEEN SOWN UNDER THE ‘REMAINDER’] IS PROHIBITED.[17] EVEN SO IS IT WHEN ONE SUSPENDS VINE-BRANCHES OVER SOME PART OF A NON-FRUIT-BEARING[18] TREE.

MISHNAH 4. IF ONE SUSPENDS [BRANCHES OF] A VINE ON PART OF [THE BRANCHES OF] A FRUIT TREE,[19] IT IS PERMITTED TO INTRODUCE SEED BENEATH THE ‘REMAINDER’;[20] IF A NEW [GROWTH] SPREAD [OVER THE REMAINDER’]. HE MUST TURN IT BACK.[21] THERE WAS THE CASE OF R. JOSHUA WHO WENT TO R. ISHMAEL IN KEFAR ‘AZIZ,[22] AND THE LATTER SHOWED HIM A VINE [WITH ITS BRANCHES] SUSPENDED ON PART OF [THE BRANCHES OF] A FIG-TREE. HE [R. JOSHUA] ASKED HIM [R. ISHMAEL]: ‘WHAT [IS THE LAW? MAY] I INTRODUCE SEED BENEATH THE REMAINDER?’ HE ANSWERED HIM: IT IS PERMITTED’.[23] HE TOOK HIM TO BETH-HAMMAGGANYAH[24] WHERE HE SHOWED HIM A VINE [WHOSE BRANCHES WERE] SUSPENDED ON PART OF A BEAM[25] BELONGING TO THE TRUNK OF A

SYCAMORE,[26] WHICH HAD MANY BEAMS.[25] HE SAID TO HIM: BENEATH THIS BEAM IT IS PROHIBITED [TO SOW].[27] BUT BENEATH THE REMAINDER IT IS PERMITTED'.[28]

MISHNAH 5. WHAT IS A SERAK[29] TREE? ANY TREE WHICH DOES NOT YIELD FRUIT. R. MEIR SAID: ALL TREES ARE SERAK, EXCEPT OLIVE AND THE FIG TREE.[30] R. JOSE SAID: ALL SUCH TREES AS ARE NOT PLANTED IN WHOLE FIELDS, ARE SERAK TREES.

MISHNAH 6. 'ARIS-GAPS[31] MUST BE EIGHT CUBITS AND SOMEWHAT MORE.[32] [IN THE CASE OF] ALL MEASUREMENTS [BY THE CUBIT] SPOKEN OF BY THE SAGES IN CONNECTION WITH A VINEYARD,[33] THERE IS NO 'AND SOMEWHAT MORE', EXCEPT IN THAT OF 'ARIS-GAPS. THE FOLLOWING CONSTITUTES AN 'ARIS-GAP: IF AN 'ARIS WAS RAZED MIDWAY, AND FIVE VINES WERE LEFT ON ONE SIDE AND FIVE VINES ON THE OTHER SIDE,[34] THEN IF THE GAP[35] BE [ONLY] EIGHT CUBITS, ONE MUST NOT INTRODUCE SEED THITHER;[36] IF IT BE EIGHT CUBITS AND SOMEWHAT MORE, ONE SHOULD ALLOT THE REQUISITE SERVICE-BORDER,[37] AND HE MAY SOW THE REST.[38]

MISHNAH7. IF AN 'ARIS TURNS AWAY FROM A WALL WHERE IT FORMS AN ANGLE, AND COMES TO AN END,[39] IT[40] IS GIVEN ITS SERVICE-BORDER,[41] AND IT IS PERMITTED TO SOW THE REST.[42] R. JOSE SAID: IF THERE BE NOT FOUR CUBITS THERE,[43] ONE MAY NOT INTRODUCE SEED THITHER.[44]

MISHNAH 8. IF CANES [FORMING THE TRELLIS] PROTRUDE FROM THE 'ARIS AND ONE HAS FORBORNE FROM CUTTING THEM SHORT,[45] IT IS PERMITTED TO SOW DIRECTLY BENEATH[46] THEM; IF, HOWEVER, HE MADE THEM [LONG] SO THAT THE NEW [GROWTH] MIGHT SPREAD ALONG THEM, IT IS FORBIDDEN.

MISHNAH 9. IF A BLOSSOM PROTRUDED BEYOND THE ARIS, IT IS REGARDED AS IF A PLUMMET WERE SUSPENDED THEREFROM: DIRECTLY BENEATH IT, IT is PROHIBITED [TO SOW].[47] IT IS LIKEWISE IN THE CASE OF A [PROTRUDING] BLOSSOM FROM A HANGING BRANCH OF A SINGLE VINE. IF ONE HAS STRETCHED A VINE-SHOOT FROM TREE TO TREE, IT IS FORBIDDEN TO SOW BENEATH IT.[48] IF HE MADE AN EXTENSION THERETO BY MEANS OF ROPE OR REED-GRASS, IT IS PERMITTED UNDER THE EXTENSION; IF HE MADE THE EXTENSION SO THAT THE NEW [GROWTH] MIGHT SPREAD ALONG IT, IT IS FORBIDDEN.[49]

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(1) עריס a plaited cradle (cf. Biblical Heb. ערש) or trellis, on which vines are trained.

(2) And which forms, infra, a subject of dispute between the Shammaites and Hillelites.

(3) V. supra IV, 3.

(4) Thus the 'aris is regarded as a vineyard even by Beth Hillel who (supra IV, 5) require a minimum of two rows to form a vineyard within the meaning of the Scriptural precept.

(5) Either (a) to a field on the same side of the fence thus: (i) According to Shammaites: (ii) According to Hillelites: or (b) to a field on the other side of the fence, thus: (i) According to the Shammaites: (ii) According to the Hillelites: Although interpretation (b) (Maim. and Bert.) is apparently borne out by T.J. there is this difficulty, that this would constitute a stringency of Beth Hillel against a leniency of Beth Shammai, which is not mentioned in the list of such instances given in 'Ed. IV, and V, (v. Rash.). L. gets over the difficulty by explaining: A field on either side of the fence.

(6) Viz., that Beth Hillel ever, in any circumstances, recognized one row as a vineyard.

(7) They did not get the correct version of the orally transmitted tradition.

(8) By Beth Hillel.

(9) But not if there are not four cubits between the vines and the fence, in which case it is forbidden to plant seed there altogether (cf. supra V, 4).

(10) This is not part of R. Johanan b. Nuri's statement, but a consensus of opinion.

(11) שלשה == three, masc. qualifying the masc. noun טפחים 'handbreadths'. Rash. mentions a variant reading

שלש == three, fem. qualifying, apparently, the fem. noun אמות , ‘cubits’ and referring to the distance between the vines and the fence. It is, however, clear from T.J. that the correct reading is the one accepted here.

(12) I.e., four cubits in every direction outward from the edge of the plot of ground immediately beneath the ‘aris.

(13) I.e., beneath.

(14) R. Eliezer b. Jacob's view is accepted. L. thinks that the same rule applies when a vine planted on flat ground has its uppermost branches resting on an aris.

(15) In so far as the dictum following refers to a terrace. The consideration of an ‘aris does not, according to Maim. and Bert. enter into the latter case; according to Sipponte it does. V. next note. (11) Maim. and Bert. interpret: If one has planted one row of vines on the ground and another on a terrace, one row of two vines and the other of three vines, one of which projects like a tail (v. IV, 6), then if the terrace is ten handbreadths above the level, the row on the terrace does not combine with the row on the level to form a vineyard in respect of the laws of kil'ayim. Sipponte interprets: If one has planted one vine on the level and one on a terrace, and so on, in all five vines, three of which are on the level and two on the terrace, then if those on the terrace are ten handbreadths high, the five trees do not combine to form an ‘aris which requires that seed should not be sown within four cubits thereof. Rash. mentions both interpretations.

(16) Sc. of kil'ayim.

(17) According to Bert, this is so only if the crop of the vine increased by a two-hundredth part since the sowing under the ‘remainder’. L. says, even if the increase was less.

(18) סרק , v. infra 5. Such a tree is considered ‘inconsiderable’, in relation to a vine, and when the branches of the latter rest on it, the non-fruit-bearing tree is deemed the same as a trellisframe of dead wood.

(19) Lit., ‘(human) food tree’.

(20) Because such a tree retains its full individuality vis-a-vis the vine, and such ground beneath its branches over which vine-tendrils are not actually suspended, ‘belongs’ to the tree itself, and one may, therefore, sow seed there.

(21) And keep it within the original bounds.

(22) South of Hebron, v. Klein, S. Beitrage p. 52.

(23) Because a fig-tree as a tree producing fruit for human consumption does not become subsidiary to the vine.

(24) Near Hebron., v. Horowitz, I.S. Palestine, p. 143.

(25) Apparently in view of the Tosef. (v. n. 6 infra) a rough beam or beams, severed from, but still resting, on the trunk.

(26) Which is a kind of wild fig tree.

(27) Even under that part of that beam which is not itself overhung by vine-branches.

(28) Maim.: since the sycamore is a fruit tree. Tosef. IV, 4, however, gives the reason: Since every single beam is like a tree by itself. This would seem to suggest that the sycamore was not universally considered an אילן מאכל , ‘a tree bearing fruit for human consumption’.

(29) The term has already been used at the end of Mishnah 3, where in anticipation of the accepted definition given here, it was rendered a non-fruit-bearing tree’.

(30) These alone, in R. Meir's minority view, do not become negligible vis-a-vis a vine in the circumstances discussed in the two preceding Mishnahs.

(31) Explained infra.

(32) Fixed in T.J. as one handbreadth, Tosef. as one sixth of a cubit (which is one handbreadth). Maim. both in Mishnah-Commentary and Yad (Hil. Kil. VIII, 6) also Shulhan Aruk, Yoreh De'ah Sec. 296. sub-sec. 60, say one-sixtieth of a cubit. This is due evidently to another reading in the Tosef.

(33) L. says that from T.J. it seems to him that ‘in a vineyard’ should be omitted.

(34) Less than which number do not form an ‘aris.

(35) Between the two short ‘arisin newly formed out of the one long one.

(36) In accordance with supra IV, 8.

(37) According to R. Johanan b. Nuri (Mishnah 1), six handbreadths; according to the first-quoted Tanna (ibid), four cubits.

(38) R. Johanan b. Nuri and the original Tanna differ on the extent of this ‘rest’. V. preceding note.

(39) Or is completed (to the number of five vines) thus: The above is the accepted interpretation of the Mishnah. Maim. interprets: If an ‘aris goes forth (i.e., commences) from the angles formed by two walls with another, and comes to a point. thus:

(40) I.e., each vine.

(41) Of six handbreadths.

(42) Even if there be less than four cubits.
(43) This refers to the space between the two walls (Maim.) or to the length of the wail (Sipponte).
(44) In pursuance of his (R. Jose's) view expressed supra V, 4.
(45) So that the protrusion of the canes is due not to deliberation but to passivity.
(46) Lit., ‘opposite’.
(47) I.e., even when the blossom extended beyond the six handbreadths (of the service-border) from the stem of the vine, within which space sowing is prohibited even when there is no blossom overhanging.
(48) But not either side of it (as long, of course, as it is not within six handbreadths of the vine itself).
(49) Since the circumstances resemble those of Mishnah 3.

Mishna - Mas. Kilayim Chapter 7

MISHNAH 1. IF ONE HAS BENT [INTO, AND CONDUCTED THROUGH, THE SOIL] A VINE [SHOOT][1] , THEN IF THERE IS NOT SOIL OVER IT TO THE HEIGHT OF THREE HANDBREADTHS, HE MAY NOT INTRODUCE SEED ABOVE IT,[2] EVEN IF HE BENT [AND CONDUCTED IT UNDERGROUND] THROUGH A GOURD[3] OR THROUGH A PIPE.[4] IF HE BENT [AND CONDUCTED] IT THROUGH ROCKY SOIL,[5] THEN EVEN IF THERE BE NOT SOIL OVER IT TO THE HEIGHT OF THREE HANDBREADTHS, IT IS PERMITTED TO INTRODUCE SEED ABOVE IT. AS FOR A KNEE-JOINT-LIKE VINE-STEM [FORMED BY BURYING AND CONDUCTING IT UNDERGROUND],[6] ITS SERVICE-BORDER IS MEASURED FROM THE SECOND ROOT.[7]

MISHNAH 2. IF ONE HAS BENT [AND CONDUCTED UNDERGROUND] THREE VINES SO THAT THEIR [ORIGINAL] STEMS ARE VISIBLE [AS WELL AS THE CONTINUATION OF THESE EMERGING ABOVE GROUND][8] . R. ELIEZER B. ZADOK SAID: IF THERE IS BETWEEN THEM FROM FOUR TO EIGHT CUBITS,[9] THEY COMBINE,[10] IF NOT, THEY DO NOT COMBINE. IF A VINE IS WITHERED, IT IS PROHIBITED [TO SOW NEAR IT].[11] BUT[12] IT DOES NOT CONDEMN [THE SEED AS KIL'AYIM]. R. MEIR SAID: THE SAME APPLIES TO A COTTON-PLANT.[13] IT IS FORBIDDEN [TO SOW NEAR IT.] BUT IT DOES NOT CONDEMN. R. ELIEZER B. ZADOK SAID IN HIS[14] NAME: ABOVE THE VINE[15] TOO, IT IS PROHIBITED [TO SOW], YET IT DOES NOT CONDEMN.

MISHNAH 3. IN THE FOLLOWING [SOWING] IS PROHIBITED, BUT THEY DO NOT CONDEMN [SEED ALREADY SOWN THERE]:[16] THE REMAINDER OF A [STATUTORILY INADEQUATE] KARAHATH OF A VINEYARD,[17] THE REMAINDER OF A [STATUTORILY INADEQUATE] MEHOL OF A VINEYARD,[18] THE REMAINDER OF A [STATUTORILY INADEQUATE] ‘ARIS-GAP,[19] THE [GROUND UNDER THE] REMAINDER OF TRELLIS-LATHS.[20] BUT [THE GROUND] BENEATH A VINE,[21] AND THE SERVICE-BORDER OF A VINE,[22] AND THE [GROUND WITHIN] FOUR CUBITS OF A VINEYARD,[23] DO CONDEMN [SEED SOWN THERE].[24]

MISHNAH 4. IF ONE CAUSES HIS VINE TO OVERHANG THE [STANDING] CORN OF HIS NEIGHBOUR, HE RENDERS [THAT CORN] CONDEMNED [AS KIL'AYIM].[25] AND HE IS RESPONSIBLE FOR IT.[26] R. JOSE AND R. SIMEON SAID: A PERSON DOES NOT CONDEMN [AS KIL'AYIM] THAT WHICH IS NOT HIS OWN.[27]

MISHNAH 5. R. JOSE SAID: IT HAPPENED THAT A MAN SOWED [SEED IN] HIS VINEYARD IN THE SABBATICAL YEAR,[28] AND THE MATTER CAME BEFORE R. AKIBA, WHO SAID: A PERSON DOES NOT CONDEMN [AS KIL'AYIM] THAT WHICH IS NOT HIS OWN.[29]

MISHNAH 6. IF A HIGH-HANDED OCCUPIER[30] HAS SOWN SEED IN A VINEYARD,[31] AND IT LEFT HIS OCCUPATION [AND REVERTED TO THE RIGHTFUL OWNER],[32] THE LATTER SHOULD CUT IT DOWN,[33] EVEN IF IT BE DURING [THE MIDDLE DAYS OF] A FESTIVAL.[34] UP TO WHAT AMOUNT SHOULD HE PAY THE LABOURERS?[35] UP TO A THIRD.[36] IF [THEY DEMAND] MORE THAN THIS, HE SHOULD CUT IT IN HIS USUAL WAY EVEN IF HE HAS TO RESUME AFTER THE FESTIVAL.[37] FROM WHAT STAGE [ONWARDS] IS ONE TERMED A ‘HIGH-HANDED OCCUPIER’ [‘ANNAS]?[38] FROM SUCH TIME AS [THE NAME OF THE ORIGINAL OWNER] HAS SUNK [INTO OBLIVION].[39]

MISHNAH 7. IF THE WIND HAS BLOWN[40] VINE-SHOOTS [SO THAT THEY] OVERHANG [STANDING] CORN, ONE SHOULD IMMEDIATELY LOP THEM OFF;[41] IF A MISHAP OCCURRED TO HIM,[42] IT [I.E., THE PRODUCE] IS PERMITTED.[43] IF CORN IS BENT [AND THE EARS REACH] BENEATH A VINE [LIKEWISE IN THE CASE OF GREENS], ONE SHOULD TURN THEM BACK, BUT [IF THIS HAS NOT BEEN DONE], IT DOES NOT CREATE A STATE OF CONDEMNATION [AS KIL'AYIM].[44] FROM WHAT STAGE IS CORN CAPABLE OF BEING CONDEMNED AS KIL'AYIM? FROM THE TIME IT HAS STRUCK ROOT.[45] AND GRAPES? FROM THE TIME THEY BECOME AS LARGE AS WHITE BEANS.[46] CORN WHICH HAS BECOME THROUGHLY DRY,[47] AND GRAPES WHICH HAVE BECOME FULLY RIPE,[48] ARE NOT LIABLE TO BE CONDEMNED [As KIL'AYIM].

MISHNAH 8. [SEED SOWN IN A] PERFORATED FLOWERPOT,[49] CREATES A STATE OF CONDEMNATION [AS KIL'AYIM] IN A VINEYARD;[50] [IN] ONE NOT PERFORATED, IT DOES NOT CREATE A STATE OF CONDEMNATION.[51] R. SIMEON, HOWEVER, SAID: [THE SOWING OF SEED IN] EITHER ONE OR THE OTHER IS PROHIBITED, BUT IT DOES NOT [IN THE EVENT] CREATE A STATE OF CONDEMNATION. IF ONE CARRIES A PERFORATED FLOWER-POT THROUGH A VINEYARD, THEN IF [THAT WHICH IS SOWN THEREIN] HAS GROWN A TWO-HUNDREDTH PART,[52] IT IS FORBIDDEN.[53]

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(1) And it emerges more than six handbreadths away; otherwise the question does not arise.

(2) Since the roots struck by the ‘seed’ are then liable to penetrate into the soft vine-shoot and this would be like grafting, that is forbidden.

(3) Which has been hollowed out and dried; otherwise the very putting into or passing through it of a vine-shoot would constitute kil'ayim.

(4) Made of earthenware, which is soft enough for the roots of the ‘seed’ to penetrate.

(5) Or through a conduit of metal or other substance impervious to penetration by the roots.

(6) Emerging above the ground some distance from the root of the vine.

(7) I.e., where it emerges from the ground; this applies only if the original root and stem are completely concealed underground.

(8) Thus presenting six vines in two rows of three each, which constitute a statutory vineyard. In fact only two of the trees need be assumed to have been bent into the soil and conducted underground to emerge some distance away, as then the result would be five vines in two rows of two vines opposite two, and one other ‘projecting like a tail’.

(9) I.e., not less than four, and not more than eight cubits.

(10) To form a statutory vineyard, and inter alia necessitate a service-border of four cubits.

(11) On account of appearances, sine people might think that the vine had cast its leaves only temporarily, which happens to all vines, as a rule in the autumn but in some instances also in the summer; this rule, therefore, applies throughout the year.

(12) Once the seed has in innocence been sown.

(13) צמר גפן , lit., ‘vine-wool’; the cotton-plant bears resemblance to the vine.

(14) R. Meir's.

(15) When it is sunk underground, and there is not a depth of three handbreadths of soil over it (Maim. and Bert.).

(16) As kil'ayim.

(17) According to supra IV, 1, end, in a karahath of the statutory measure of sixteen cubits, four cubits are allotted on each side as service-borders, and the remaining eight cubits may be sown. Here we speak of a karahath less than sixteen cubits, in which case the space left for sowing is less than eight cubits.

(18) V. supra IV, 1 and 2; a mehol should be twelve cubits if any of it is to be sown, i.e., to allow for a service-border of four cubits on each side leaving four cubits for sowing.

(19) V. supra VI, 6. An ‘aris-gap should be eight cubits and one handbreadth.

(20) As already stated in VI, 3, it is prohibited to sow beneath those laths of a trellis which are not themselves overhung with vine-shoots, but once seed has been innocently sown there, it is not condemned as kil'ayim.

(21) I.e., beneath a vine-shoot which extends beyond the six handbreadths constituting the vine's service-border.

(22) I.e., of an individual vine not being part of a vineyard, viz., six handbreadths.

(23) I.e., its service-border. Cf. IV, 5.

(24) As kil'ayim.

(25) Just as if it were his own; especially since it was a deliberate action.

(26) He must compensate his neighbour for the amount of corn which had thus become a total loss to the latter

(27) Since Scripture says: Thou shalt not sow thy vineyard with two kinds of seed (Deut. XXII, 9); the effect of this dictum in the present case is that he has made his own vine kil'ayim1, but not his neighbour's corn.

(28) When all produce is hefker, i.e., ownerless, and at the disposal of any person wishing to help himself to it.

(29) Applied to the case in question this would mean that, in the circumstances given, neither the seed-produce nor the grapes of the vineyard are kil'ayim. The vines — themselves, however, are condemned as kil'ayim, even according to R. Akiba, since there are not hefker in the Sabbatical Year, (v. T.J., and L.).

(30) אנס , one who has seized property illegally and by violence.

(31) Since the public are under the impression that it is his own vineyard, the rule that ‘a person does not condemn as kil'ayim that which is not his own’ does not apply here.

(32) Now the position is that the person who had sown the seed in the vineyard had been operating with something not his own, and that, therefore, no state of kil'ayim had in fact been brought about.

(33) On account of ‘appearances’. i.e., in order that people might not be under the impression that this man, the rightful owner, is allowing kil'ayim to stay in his vineyard.

(34) When, as a rule only such work may be done as is necessary to obviate deterioration or loss; here this consideration does not apply, but in order to remove suspicion through ‘appearances’, the work is permitted.

(35) For cutting the corn.

(36) Either a third more than the customary wage-rate, or a third of the value of the entire produce affected.

(37) Even though by this time the produce might have increased by a two-hundredth part. (Cf. supra V, 6).

(38) In the sense that the field is regarded as his, so that the sowing by him of seed in a vineyard results in kil'ayim.

(39) Maim. renders: From such time as he, i.e., the original owner has sunk, i.e., disappeared, withdrawn himself, hidden, to avoid terrorization by the ‘annas.

(40) Maim. ‘broken’; L. adds ‘but not severed’.

(41) Reading יגדוד Maim. ‘Our text יגדור might mean: ‘prop up (the shoots) with a fence’.

(42) Preventing him from taking the measure prescribed.

(43) Since it is there not with the owner's acquiescence.

(44) The difference between this case and the one dealt with in Mishnah 4 is that in the latter the roots of the corn are under the foliage of the vine, and here only the top ends.

(45) Reading משתשריש . Another version mentioned already in T.J. משתשליש , ‘from the time it has grown a third (of its possible full size)’. Till then there is no ‘fulness of the seed’, required by the precept of kil'ayim (Deut. XXII, 9).

(46) Till then the ‘produce (E.V. ‘increase’) of the vineyard’ (ibid.) is not applicable.

(47) After this the term ‘(fulness of the) seed’ no longer applies; (it is called just wheat or barley etc. Maim.).

(48) After this the expression ‘produce of the vineyard’ is no longer applied; (the term is just: ‘grapes’, Maim.).

(49) The hole being sufficient to permit a thin root to go through.

(50) Or within its four cubits service-border, just as if it had been sown in the soil of the vineyard itself; if the flower-pot stayed there long enough for the seed in it to grow a two-hundredth part of its normally possible full size.

(51) Since the earth in the flower-pot is not exposed towards the soil of the vineyard or of its service-border.

(52) Of its possible full size. For the method of calculating this, v. supra V, 6, notes.

(53) The seed; but since the flowerpot had not been set down on the ground, the vines are not affected. Maim. understands this passage thus: Carrying a perforated flower-pot across a vineyard, if in the course of transit it could grow a two-hundredth part, is prohibited (Yad. Hil. Kil'ayim V, 23). It seems that according to Maim. it is prohibited ab initio to do this, but that in the event the seed does not thereby become forbidden.

Mishna - Mas. Kilayim Chapter 8

MISHNAH 1. KIL'AYIM OF THE VINEYARD IT IS FORBIDDEN EITHER TO SOW OR TO SUFFER TO GROW; IT IS, MOREOVER, FORBIDDEN TO DERIVE USE THEREFROM.[1] KIL'AYIM OF SEEDS'[2] IT IS PROHIBITED EITHER TO SOW[3] OR TO SUFFER TO GROW;[3] BUT IT IS PERMITTED TO CONSUME IT, AND, SO MUCH THE MORE, TO DERIVE USE THEREFROM. KIL'AYIM OF CLOTHING MATERIALS IS PERMITTED IN ALL RESPECTS, EXCEPT THAT THE WEARING THEREOF [ALONE] IS FORBIDDEN.[4] KIL'AYIM OF CATTLE IT IS PERMITTED TO REAR AND TO KEEP,[5] THE DELIBERATE CROSS-BREEDING [PRODUCING SUCH] BEING ALONE PROHIBITED. [THE DELIBERATE MATING, OR YOKING TOGETHER OF] ONE KIND OF KIL'AYIM OF CATTLE WITH ANOTHER[6] IS PROHIBITED.[7]

MISHNAH 2.IT IS PROHIBITED TO USE A BEHEMAH[8] WITH A BEHEMAH [OF ANOTHER SPECIES], OR A HAYYAH[9] WITH A HAYYAH [OF ANOTHER SPECIES], OR A BEHEMAH WITH A HAYYAH, OR A HAYYAH WITH A BEHEMAH, OR AN UNCLEAN BEAST WITH AN UNCLEAN BEAST [OF ANOTHER SPECIES], OR A CLEAN BEAST WITH A CLEAN BEAST [OF ANOTHER SPECIES], OR AN UNCLEAN BEAST WITH A CLEAN BEAST, OR A CLEAN BEAST WITH AN UNCLEAN BEAST,[10] FOR PLOUGHING OR FOR TRACTION, OR TO LEAD THEM [TIED TOGETHER].[11]

MISHNAH 3. THE PERSON DRIVING[12] RECEIVES THE FORTY [LASHES].[13] AND THE PERSON SITTING IN THE WAGON RECEIVES THE FORTY [LASHES].[14] BUT R. MEIR EXEMPTS [THE LATTER].[15] [THE TYING OF] A THIRD [ANIMAL HETEROGENEOUS TO TWO ALREADY HARNESSED TO A WAGON] TO THE STRAPS [OF THOSE ANIMALS][16] IS PROHIBITED.

MISHNAH 4. IT IS PROHIBITED TO TIE A HORSE EITHER TO THE SIDES OF A WAGON [DRAWN BY OXEN] OR BEHIND THE WAGON,[17] OR [TO TIE] A LIBYAN ASS TO [THE SIDES OF, OR BEHIND, A WAGON DRAWN BY] CAMELS.[18] R. JUDAH SAID: ALL [MULES] BORN FROM MARES, NOTWITHSTANDING THAT THEIR SIRES WERE ASSES, ARE PERMITTED ONE WITH ANOTHER;[19] LIKEWISE [MULES] BORN FROM SHE-ASSES, NOTWITHSTANDING THAT THEIR SIRES WERE HORSES, ARE PERMITTED ONE WITH ANOTHER;[19] BUT [MULES] BORN FROM MARES WITH [MULES] BORN FROM SHE-ASSES ARE PROHIBITED ONE WITH ANOTHER.[20]

MISHNAH 5. MULES OF UNCERTAIN PARENTAGE[21] ARE FORBIDDEN ONE WITH ANOTHER, BUT A RAMMAK [A MULE WHOSE DAM IS KNOWN TO HAVE BEEN A MARE] IS PERMITTED [WITH ANOTHER RAMMAK].[22] WILD MAN-LIKE CREATURES[23] ARE DEEMED AS BELONGING TO THE CATEGORY OF HAYYAH.[24] R. JOSE SAID: [WHEN DEAD] THEY [OR PART OF THEIR CORPSES] COMMUNICATE UNCLEANNESS [TO MEN AND TO OBJECTS SUSCEPTIBLE THERETO WHICH ARE] UNDER THE SAME ROOF,[25] AS DOES [THE CORPSE OF] A HUMAN BEING.[26] THE HEDGEHOG AND THE MOLE[27] OF THE BUSHES BELONG TO THE CATEGORY OF HAYYAH.[28] AS FOR A MOLE, R. JOSE SAID IN THE NAME OF BETH SHAMMAI: AN OLIVE'S SIZE [OF ITS CARCASE] RENDERS A PERSON CARRYING IT UNCLEAN, AND A LENTILS SIZE THEREOF RENDERS A PERSON TOUCHING IT UNCLEAN.[29]

MISHNAH 6. THE WILD OX BELONGS TO THE CATEGORY OF BEHEMAH,[30] BUT R.

JOSE SAID: TO THE CATEGORY OF HAYYAH.[31] THE DOG BELONGS TO THE CATEGORY OF HAYYAH,[32] BUT R. MEIR SAID: TO THE CATEGORY OF BEHEMAH.[32] THE SWINE BELONGS TO THE CATEGORY OF BEHEMAH; THE WILD ASS TO THAT OF HAYYAH,[33] THE ELEPHANT AND THE APE TO THAT OF HAYYAH.[32] A HUMAN BEING IS PERMITTED TO DRAW, PLOUGH, OR LEAD WITH ANY OF THEM.[34]

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(1) According to supra V, 7, it should be burnt.

(2) Including grain and vegetables.

(3) Only in the Holy Land.

(4) V. Lev. XIX, 19 and Deut. XXII, 12.

(5) For one's use. It was necessary for the Mishnah to mention both ‘rear’ and ‘keep’. If the former only had been mentioned one might have thought that whilst rearing was permitted, it was forbidden to use the animal. If the latter only had been mentioned one might have thought that one may use such an animal only when it had been reared by a non-Israelite.

(6) E.g.. the sire of one having been a horse, and of the other, an ass.

(7) The prohibition applies to any two kil'ayim offspring of cattle which are unlike in respect of ears, tail and the sound emitted by them.

(8) The word rendered in E.V. ‘cattle’; it is, however, used also for an individual piece of cattle and denotes a domestic, mostly horned, animal.

(9) (One of the) animals of chase. Cf. supra I, 6. Scripture forbids ploughing with an ox and an ass together (Deut. XXII, 10), but on analogy with the prohibition of suffering one's animals to work on the Sabbath, this prohibition is understood as applying to any two animals of diverse species and likewise to birds.

(10) The repetition of ‘A with B, or B with A’ in all these instances is for the purpose of making it clear that the prohibition applies whether animal A is the principal factor in the case and B secondary. or vice-versa.

(11) Ploughing is expressly forbidden in Scripture, y. Deut. loc. cit.; the Rabbis extend the prohibition to all forms of traction and load-carrying, as well as to tying them together even if it be for the purpose only of leading them, without their drawing or carrying a load. T.J. discusses whether leading them together by means of the driver's call is also prohibited. According to T.B., B.M. 9a it would appear that ‘drawing’ (מושך) and ‘leading’ (מנהיג) are synonymous terms, the first being used in connection with camels and the latter with asses.

(12) Lit.,’leading’. sc. two heterogeneous animals.

(13) Prescribed as the penalty for the transgression of a negative precept (v. Deut, XXV, 3).

(14) Since it is on his account that the wagon is being drawn.

(15) On the ground that he takes no active part in the driving.

(16) I.e., even though not to the wagon itself. Maim. (in his commentary) renders: ‘Sitting in a third wagon tied to the straps of a second which is attached to the first wagon’.

(17) Since the horse assists in some measure in the propelling of the vehicle.

(18) One would think that an ass can make no appreciable difference to the propelling of the wagon already drawn by camels, since the latter are so much the stronger. The Libyan ass, however, was of a heftier species approximately to the camel, and would, when tied even to a camel-drawn vehicle, help in pulling it.

(19) Since their sires and dams respectively were, in each case,of the same species.

(20) Sc., for purposes of cross.breeding or use, but one is not liable to lashes. On the other hand if their respective sires were of the same species and not their dams, transgression of the prohibition is punishable by lashes.

(21) In the case of these mules it is impossible, when they are young, to recognize whether its sire belonged to the horses and its dam to the asses, or vice-versa.

(22) L., ‘with other horses’.

(23) אדני השדה n . Perhaps a chimpanzee or gorilla. Another reading אדמי (? constr. pl. of אדם , ‘man’). Some versions, אבני השדה. Cf. Rashi to Job. V, 23. T.J. renders בר נש דטורא , ‘man of the mountain’ in connection with which Kohut suggests that the reading must be supposed to have been ארני (a fem. sing. adjective from the noun GR.** ‘mountain’).

(24) And are subject to the same laws re yoking etc., together as a hayyah. Cf. supra 2, n. 9.

(25) v. Num. XIX, 14. Cf. Oh. II, 1.

(26) Which means that the creatures referred to are deemed as belonging to the human species, and not to the category of hayyah, and therefore, not subject to the laws applying to a hayyah in respect of yoking etc., together with other animals.

(27) Or, weasel.

(28) In respect of the laws of uncleanness.

(29) V. B. K. 80a. If the mole (or weasel) is identical with inn of Lev. XI, 23. it is a שרע , ‘a creeping thing’, a lentil's-size thereof renders unclean by contact, not by carrying; if it is a hayyah, an olive's-size thereof renders a person carrying it unclean. As there is doubt as to which category the mole belongs, both disabilities attach thereto.

(30) On the assumption that its origin is domestic. As a behemah, its heleb (fat v. Glos.) is prohibited and when it is slaughtered its blood does not require covering with earth.

(31) His assumption being that its origin is wild. As a hayyah, its heleb is permitted, and its blood requires covering.

(32) The matter is of practical importance in the event of a person entering into a contract to sell all his hayyah, or all his behemah.

(33) And is therefore forbidden with a domestic ass.

(34) I.e., a human being may pull a vehicle-drawing (or load-carrying) animal by the bridle, help to propel and guide a plough drawn by an animal, and walk beside an animal attached to him by a rope.

Mishna - Mas. Kilayim Chapter 9

MISHNAH 1. NO [CLOTHING MATERIAL] IS FORBIDDEN ON ACCOUNT OF KIL'AYIM EXCEPT [A MIXTURE OF] WOOL AND LINEN.[1] NO [CLOTHING MATERIAL] IS SUBJECT TO UNCLEANNESS BY LEPROSY EXCEPT [SUCH AS IS MADE OF] WOOL OR LINEN.[2] PRIESTS DON FOR SERVICE IN THE SANCTUARY, NONE BUT [GARMENTS OF] WOOL AND LINEN.[3] IF ONE HAS HACKLED TOGETHER CAMEL'S WOOL WITH SHEEP'S WOOL, IF THE GREATER PART BE CAMEL'S WOOL, IT IS PERMITTED [TO MIX LINEN THEREWITH];[4] IF THE GREATER PART BE SHEEP'S WOOL, IT IS FORBIDDEN; IF IT IS HALF AND HALF, IT IS FORBIDDEN. THE SAME APPLIES TO HEMP AND LINEN HACKLED TOGETHER.

MISHNAH 2. [GARMENTS MADE OF A MIXTURE OF] SILK AND FLOSS-SILK[5] DO NOT COME UNDER THE PROHIBITION OF KIL'AYIM, BUT ARE PROHIBITED ON ACCOUNT OF APPEARANCES.[6] TO MATTRESSES AND PILLOWS THE PROHIBITION OF KIL'AYIM DOES NOT APPLY,[7] PROVIDED ONE'S FLESH DOES NOT COME INTO [IMMEDIATE] CONTACT WITH THE MIXED MATERIAL. THERE IS NO [PERMISSIBILITY FOR THE] CASUAL [WEARING] OF KIL'AYIM,[8] NEITHER MAY ONE WEAR KIL'AYIM EVEN ON TOP OF TEN [GARMENTS]. EVEN FOR THE PURPOSE OF ELUDING [UNAUTHORIZED] IMPOSTS.[9]

MISHNAH 3. HAND-TOWELS, SCROLL-WRAPPINGS,[10] AND BATH-TOWELS DO NOT COME UNDER THE PROHIBITION OF KIL'AYIM.[11] R. ELIEZER DECLARED THEM SUBJECT TO THAT PROHIBITION.[12] BARBERS’-SHEETS ARE SUBJECT TO THE PROHIBITION OF KIL'AYIM.[13]

MISHNAH 4. SHROUDS FOR THE DEAD, AND THE PACKSADDLE OF AN ASS ARE NOT SUBJECT TO THE LAW OF KILAYIM;[14] ONE MUST NOT [HOWEVER] PLACE A PACK-SADDLE [MADE OF KIL'AYIM] ON ONE'S SHOULDER EVEN FOR THE PURPOSE OF CARRYING DUNG OUT THEREON.

MISHNAH 5. VENDORS OF CLOTHES MAY SELL [CLOTHES MADE OF KIL'AYIM] IN ACCORDANCE WITH THEIR [TRADE] CUSTOM,[15] AS LONG AS THEY HAVE NOT THE INTENTION. IN THE SUN, [TO PROTECT THEMSELVES] FROM THE SUN, OR, IN THE RAIN, [TO PROTECT THEMSELVES THEREBY] FROM THE RAIN. THE PARTICULARLY SCRUPULOUS[16] SUSPEND [SUCH MATERIALS OR GARMENTS] ON A STICK OVER THEIR BACKS.[17]

MISHNAH 6. TAILORS MAY SEW [MATERIALS WHICH ARE KIL'AYIM] IN THEIR ACCUSTOMED WAY,[18] AS LONG AS THEY HAVE NO INTENTION, IN THE SUN, [TO PROTECT THEMSELVES THEREBY] FROM THE SUN, OR, IN THE RAIN, [TO PROTECT THEMSELVES THEREBY] FROM THE RAIN. THE PARTICULARLY SCRUPULOUS SEW [SUCH MATERIALS AS THEY ARE LAID] ON THE GROUND.[19]

MISHNAH 7. THE BIRRUS BLANKET OR BRINDISIAN[20] BLANKET, OR [NETHER GARMENTS OF] DALMATIAN CLOTH, OR FELT[21] SHOES, MAY NOT BE WORN UNTIL ONE HAS EXAMINED THEM].[22] R. JOSE SAID THAT SUCH [OF THE ABOVE] AS COME FROM THE SEA-COAST OR FROM LANDS BEYOND THE SEA, DO NOT REQUIRE EXAMINATION, SINCE THE PRESUMPTION WITH REGARD TO THEM IS [THAT THEY ARE SEWN] WITH HEMPEN THREAD.[23] TO CLOTH-LINED FOOTWEAR THE PROHIBITION OF KIL'AYIM DOES NOT APPLY.[24]

MISHNAH 8. ONLY THAT WHICH IS SPUN OR WOVEN IS FORBIDDEN[25] UNDER THE LAW OF KIL'AYIM, FOR IT IS SAID: THOU SHALT NOT WEAR SHA'ATNEZ,[26] WHICH WORD IS A COMPOUND STANDING FOR SHUA',[27] TAWUI,[28] AND NUZ.[29] R. SIMEON SAID: [THE WORD SHA'ATNEZ SUGGESTS THAT] HE [THE TRANSGRESSOR OF THE PRECEPT] IS PERVERTED[30] AND CAUSES HIS FATHER IN HEAVEN TO AVERT HIMSELF [FROM HIM].[31]

MISHNAH 9. TO FELTED MATERIALS THE PROHIBITION OF KIL'AYIM APPLIES, SINCE [THE STRANDS CONSTITUTING THEM] HAVE BEEN CARDED. IT IS PROHIBITED TO ATTACH[32] AN EDGING OF WOOL TO LINEN MATERIAL,[33] SINCE THIS RESEMBLES WEAVING.[34] R. JOSE SAID: IT IS FORBIDDEN TO USE CORDS OF RED PURPLE [WOOL] [TO TIE ROUND A LOOSE LINEN GARMENT], SINCE PRIOR TO TYING IT, ONE STITCHES IT ON. IT IS FORBIDDEN TO TIE A STRIP OF WOOLLEN MA TERIAL WITH ONE OF LINEN MATERIAL FOR THE PURPOSE OF GIRDLING ONE'S LOINS THEREWITH, EVEN IF THERE IS A LEATHER STRAP BETWEEN THE TWO.[35]

MISHNAH 10. TO [STITCHED-ON] WEAVERS' MARKS OR LAUNDRYMEN'S MARKS THE PROHIBITION OF KIL'AYIM APPLIES. IF ONE HAS DRAWN A THREAD [THROUGH MATERIAL][36] ONCE, THIS DOES NOT [IN LAW] CONSTITUTE A CONNECTION,[37] NOR DOES [THE PROHIBITION OF] KIL'AYIM APPLY THERETO,[38] AND IF ONE HAS DRAWN IT OUT ON THE SABBATH, HE IS NOT PUNISHABLE.[39] IF ONE MADE ITS TWO ENDS COME OUT ON THE SAME SIDE [OF THE MATERIAL], THIS CONSTITUTES A CONNECTION, AND COMES UNDER THE PROHIBITION OF KIL'AYIM,[40] AND ONE WHO HAS DRAWN THIS THREAD OUT ON THE SABBATH IS LIABLE.[41] R. JUDAH SAID: [THE PROHIBITION DOES NOT APPLY] UNTIL ONE HAS MADE THREE STITCHES. A SACK AND A BASKET [ONE HAVING A STRIP OF WOOLLEN MATERIAL ATTACHED TO IT, AND THE OTHER A STRIP OF LINEN] COMBINE TO FORM KIL'AYIM.[42]

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(1) Termed sha'atnez cf. infra 8. V. Lev. XIX, 19 and, more explicitly. Deut. XXII, 11. Wool for the purpose of this prohibition, is only sheep's wool, since from II Kings III, 4 it is apparent that צמר (zemer) 'wool' without any qualifying description, means, sheep's wool.

(2) V. Lev. XIII, 47ff. This is taken to apply only to undyed wool or linen. With regard to kil'ayim, however, there is no difference whether these be dyed or undyed.

(3) The priestly garments were made of byssus (fine linen) and wool dyed blue-purple, red-purple and crimson. V. Ex. XXVIII, 4-8, XXXIX, 1.

(4) The permission applies only when the two kinds of wool have been well mixed together e.g., by hackling or combing or crushing; but if a piece of cloth of camel's wool has one distinct thread of sheep's wool drawn through it, it is not permitted to draw a linen thread through the material.

(5) כלך. A vegetable yarn variously identified which in some respects resembles sheep's wool.

(6) Since the silk resembles linen, and the floss-silk wool. Likewise silk would be forbidden with wool (and floss-silk with linen) ‘on account of appearances’, but since silk has become a generally known commodity, the reason ‘on account of appearances’ has entirely fallen away, and silk is permitted with either wool or linen. V. Yoreh De'ah 298, 1. and cf. L. to our Mishnah and his בתי כלאים 113. and Pithehe Teshubah to Yoreh De'ah, loc. cit.

(7) Since Scripture says of material which is kil'ayim: ‘it shall not come upon thee’ (Lev. XIX, 19) and: ‘thou shalt not wear’ (Deut. XXII, 11), having it beneath a person, is not forbidden. This permission is, in practice, operative only if the bolsters or mattresses made with kil'ayim are hard; but if they are soft, and there is consequently the possibility of even a thread winding itself round one's body and giving some warmth, it is not permitted to lie on them even if they are under ten permitted blankets.

(8) When the person's intention is that it shall serve him as a garment or covering.

(9) The commentators explain: By wearing garments which, had they been carried otherwise, would have been dutiable, a device not unknown nowadays. According to the Gemara in B.K. 113a (Sonc. ed. p. 662 f.) the Mishnah must have had in mind here imposts unauthorized by the proper authority, since were it otherwise, the duty of complying with the law of the land is, in Jewish teaching, beyond question; in fact the eluding of customs is denounced (Semahoth II, 9) as being as reprehensible as bloodshed, idol-worship, incest and Sabbath-desecration. In connection with an incident reported (Gen. R. LXXXII, 8) of two scholars who in time of persecution varied their garb but were, nevertheless, held up by Roman soldiers, who expressed surprise that the scholars should have attempted to save their lives by transgressing the Torah, the present writer has suggested, that since it was evidently a transgression of a biblical precept relating to clothing that was involved, it seems that the disguise consisted in wearing kil'ayim so as not to be recognized as Jews. The tax referred to in our Mishnah might thus have been the Fiscus Judaicus which was considered an affront to Jewish religious feelings. The editor has, as a comment on this surmise, brought to my notice an anonymous opinion cited in שאלות ותשובות מהרי ק No. 84, to the effect that the impost referred to in our Mishnah might have been one enforced on Jews only. In B.K., loc. cit. the view is expressed that the legal principle involved is the question of דבר שאינו מתכוון i.e., the permissibility of an action which is in itself permissible, but which unavoidably, though unintentionally, results in something forbidden.

(10) Cloth bands and ‘mantles’ used to tie up and cover Scrolls of the Law, or cloths spread on the desk on which the Scrolls are unrolled and read.

(11) Since these are not intended for protecting or warming the human body. A table-cloth is in the same category.

(12) Since when drying oneself with either towel one does warm oneself; with a bath-towel one also covers oneself as with a cloak; when one clasps the covered Torah-scroll one derives warmth therefrom.

(13) Only if it has an aperture for the head; otherwise it is not an article of wear nor is it intended to protect the body, but one's clothes.

(14) In the case of the shrouds the reason is that on the strength of a Rabbinic interpretation of Ps. LXXXVIII, 6, the dead are declared exempt from all precepts. The saddle-cloth is exempt because it is stiff (cf. p. 135. n. 1). The exemption in the latter case operate only when the heterogeneous element is recognizable in the material but not otherwise, since one might in error use some of it for patching one's garments. (V. Nid. 61b).

(15) Either by way of carrying them over their shoulder, or by way of putting them for the purpose of displaying them before prospective customers.

(16) צנועים , lit., the ‘modest’, denoting a positive quality, probably nothing else but discretion or modesty ‘Buchler’ Types (contra Kohler who identifies the Zenu'im with the Essenes) pp. 59 ff.

(17) So that the forbidden materials or garments do not touch the person carrying them.

(18) I.e., letting them lie across one's lap.

(19) Placing the material on a board or table would answer the same purpose viz., avoid letting the material rest on one's body.

(20) הברסין והברדין. Our rendering is after last. But v. Kohut, ‘Aruk s.v. בדם for variant readings and varying renderings; he concludes that one represents a (? woven) woollen and the other a felt material. Maim., frankly admits that he is unable definitely to identify the materials mentioned here except in so far as it is apparent from T.J. that they were woollens for covering the feet and thighs, and were often sown with linen thread.

(21) פינון, pile.

(22) To see whether they are made with linen.

(23) Since in the days of the Mishnah linen was very rare in those countries. T.J., however, says: Now that linen is common, all must be examined. Rash. (ca. 1150 — 1230 C.E.) says that in his own locality (Sens, district of Yonne, France) there was no need to examine because hempen thread was much cheaper there than linen and also made a stronger thread and was therefore commonly used; but, he adds, in England and Normandy (of which he was a native) where hemp is scarce, examination is essential.

(24) Maim., Yad. Hil. Kil. X, 15 gives as the reason that the skin of the feet is very hard and that consequently in comparison with that of other parts of the body, the foot does not derive so much warmth from the cloth lining. Kesef Mishneh to this says that the footwear spoken of in our Mishnah was lined with linen for the summer, but additionally lined with wool for the winter. Ikkar Tosaf. Yomtov rightly says that the reason for this exemption is not apparent.

(25) By the Pentateuchal law.

(26) שעטנז, Deut. XXII, 11. What follows is an interpretation by the Midrashic device of Notarikon.

(27) שוע , each thread (one of wool and the other of linen) smoothed out by the process of carding.

(28) טווי (each strand) spun.

(29) נוז. Maim., and Rashi to Nid., 61b, 'woven', but Rashi to Lev. XIX, 19, also R. Tam (v. Tosaf. to Nid. l.c.) 'twisted'. The latter is the accepted meaning, and the Mishnah is taken to mean that according to Pentateuchal law, the prohibition of sha'atnez applies only when a strand of wool and one of linen, each carded (shua'), and spun (tawui), and twisted (nuz) have been joined together (יחדן in the text) by weaving or sewing or tying. According to R. Tam (also Maim.), we should understand: When each strand has been carded, or spun, or twisted etc. This is accepted as a Rabbinic extension of the Pentateuchal law. Bert., prefers a rendering which he quotes (among others) from an anonymous teacher. Viz., 'When the strands have been shua' (carded), and tawui (spun), and nuz, which he renders 'woven'. This authority apparently takes the word יחדן 'together' in the text as adding sewing and tying to the prohibition of weaving, which according to him, is covered by nuz.

(30) נלוז , Naloz, another play on the last syllable of the word sha'atnez.

(31) So Maim., and others. An alternative rendering: 'And he perverts or subverts (the order willed by) his Father in Heaven (in that he joins together species which He ordained should be kept distinct)'.

(32) Either by drawing through or interlacing, or by means of an adhesive substance (v. L.).

(33) Or vice-versa.

(34) Or, 'since this (i.e., the edging) is wound round (or encloses) the woven material'.

(35) Since the woollen and linen strips will be tied together when the girdle is used. Otherwise such a combination of wool-leather-linen is not forbidden.

(36) A thread of linen through woollen material, or vice versa; or any thread through two pieces of material one woollen and the other linen.

(37) In the case of more than one piece of material, the drawing through of a thread once would not make them into one piece in respect of the laws of uncleanness, thus: If one piece becomes unclean, the other is not thereby rendered unclean; likewise if both are unclean, the ritual cleansing of the one will not restore cleanness to the other.

(38) Some stipulate: As long as the ends of the thread are not tied together, (v. L.).

(39) Even if he has done so in order later to sew up again, since it is 'tearing so as to sew two stitches' which is prohibited on the Sabbath (Shab. VII, 2).

(40) Some say: Even if the ends of the thread are not tied together, (v. L.).

(41) But only if the ends had been tied together.

(42) Sc. when the two strips are sewn together (with at least two stitches); and we do not say that each piece of cloth, being merely an appendage to the principal article, is negligible. Maim.: A garment made of wool and linen joined together by a sack or basket. Sipponte, apparently on the basis of a variant reading in Sifre, Deut. 232 (ed. Friedmann, p. 117a): If a sack, or a basket, contain wool and linen, the sack, or basket have the effect of combining the two species, so as to form kil'ayim (and it is therefore forbidden to carry such a sack or basket on one's shoulder). v. Rosh. In view of the fact that T.J. here comments: 'But tents, (covered enclosures containing wool and linen together) do not effect kil'ayim,' the latter interpretation seems to be the correct one.

Mishna - Mas. Shevi'ith Chapter 1

MISHNAH 1. UNTIL WHEN MAY AN ORCHARD[1] BE PLOUGHED IN THE SIXTH YEAR?[2] BETH SHAMMAI SAY: AS LONG AS SUCH WORK WILL BENEFIT THE FRUIT;[3] BUT BETH HILLEL SAY: TILL PENTECOST.[4] [IN FACT] THE VIEWS OF ONE [SCHOOL] APPROXIMATE THE OTHER.[5]

MISHNAH 2. WHAT CONSTITUTES AN ORCHARD? ANY FIELD TO WHICH THERE ARE AT LEAST THREE TREES TO EVERY SE'AH.[6] IF EACH TREE BE CAPABLE[7] OF A YIELD OF A TALENT OF PRESSED FIGS, BEING SIXTY MANEH[8] OF THE ITALIAN [SYSTEM] IN WEIGHT, THEN THE ENTIRE AREA MAY BE PLOUGHED FOR THEIR SAKE.[9] IF LESS THAN THIS AMOUNT,[10] THEN ONLY SUCH AREA MAY BE PLOUGHED THAT IS ACTUALLY OCCUPIED BY THE GATHERER WHEN HIS BASKET[11] , IS PLACED BEHIND HIM.[12]

MISHNAH 3. WHETHER THEY BE FRUIT-BEARING TREES OR NON-FRUIT-BEARING TREES,[13] THEY ARE TREATED AS FIG-TREES; AND IF THEY ARE ABLE TO YIELD A CAKE OF PRESSED FIGS, SIXTY MANEH OF THE ITALIAN [SYSTEM] IN WEIGHT,[14] THEN THE WHOLE AREA OF THE SE'AH MAY BE PLOUGHED ON THEIR ACCOUNT.[15] IF NOT, ONLY SUCH AREA MAY BE PLOUGHED THAT IS ESSENTIAL FOR THEM.[16]

MISHNAH 4. IF ONE TREE IS CAPABLE OF BEARING A CAKE OF DRIED FIGS, AND THE OTHER TWO UNABLE; OR, IF TWO CAN DO SO, BUT ONE CANNOT, THEN PLOUGHING IS PERMITTED ONLY WITHIN SUCH AREA ESSENTIAL FOR EACH OF THEM [THIS IS THE RULE IF THE NUMBER OF TREES IS] FROM THREE TO NINE;[17] BUT IF THERE WERE TEN TREES OR MORE, THE WHOLE AREA MAY ON THEIR ACCOUNT BE PLOUGHED, IRRESPECTIVE OF THE FACT WHETHER THEY BEAR FRUIT OR NOT.[18] BECAUSE IT SAYS: ‘IN PLOUGHING-TIME AND IN HARVEST, THOU SHALT REST’.[19] NOW IT WAS UNNECESSARY TO SPEAK OF PLOUGHING AND HARVESTING IN THE SEVENTH YEAR,[20] BUT [WHAT IT MEANS IS] THE PLOUGHING OF THE YEAR PRECEDING, WHICH ENCROACHES ON THE SABBATICAL YEAR, AND THE HARVEST OF THE SEVENTH YEAR WHICH EXTENDS INTO THE YEAR AFTER. R. ISHMAEL SAYS:[21] JUST AS PLOUGHING IS AN OPTIONAL ACT,[22] SO HARVESTING REFERS TO SUCH AS IS OPTIONAL, THUS EXCLUDING THE HARVESTING OF THE OMER[23] [WHICH IS OBLIGATORY].

MISHNAH 5. IF THREE TREES BELONG TO THREE PERSONS, THEY ARE INCLUDED TOGETHER AND THE WHOLE AREA OF THE SE'AH MAY BE PLOUGHED ON THEIR ACCOUNT.[24] WHAT SPACE SHOULD THERE BE BETWEEN THEM?[25] R. GAMALIEL SAID: SUFFICIENT FOR THE DRIVER OF THE HERD[26] TO PASS THROUGH WITH HIS IMPLEMENTS.[27]

MISHNAH 6. IF TEN SAPLINGS ARE SCATTERED OVER THE ENTIRE AREA OF A SE'AH, ONE MAY PLOUGH THE WHOLE SPACE OF THE SE'AH,[28] EVEN UNTIL THE NEW YEAR;[29] BUT IF THEY WERE ARRANGED IN A ROW AND SURROUNDED BY A FENCE,[30] THEN ONLY SUCH PLOUGHING IS PERMITTED THAT IS ESSENTIAL TO THEM.[31]

MISHNAH 7. SAPLINGS AND GOURDS MAY BE INCLUDED[32] WITHIN THE SE'AH'S SPACE. R. SIMEON B. GAMALIEL SAYS: ONE MAY PLOUGH THE WHOLE SPACE UNTIL THE NEW YEAR WHEN THERE ARE TEN GOURDS TO THE SE'AH.[33]

MISHNAH 8. TILL WHEN ARE THEY TERMED SAPLINGS?[34] R. ELEAZAR B. AZARIAH

SAYS: UNTIL THEY ARE PERMITTED FOR COMMON USE;[35] BUT R. JOSHUA SAYS: UNTIL THEY ARE SEVEN YEARS OLD. R. AKIBA SAYS: [THE WORD] SAPLING MUST BE TAKEN LITERALLY.[36] IF A TREE HAD BEEN FELLED AND PRODUCED FRESH SHOOTS OF ONE HANDBREADTH OR LESS, THEY ARE REGARDED AS SAPLINGS;[37] IF OF MORE THAN A HANDBREADTH THEY ARE REGARDED AS TREES. SO R. SIMEON.

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(1) Lit., ‘a field with trees’; opp. to שדה לבן , ‘a field of white’, ‘a bright, shadeless field, sown with grain or vegetables.

(2) Lit., ‘on the eve of the seventh year’. Like the weekly Sabbath, the Sabbatical year also cast a foreglow of sanctity on the preceding year. This was to safeguard the inviolability of the holy day or year itself.

(3) That will ripen in the sixth year; but all work must cease as soon as the fruit of the sixth year no longer needs attention.

(4) All work after this period being considered as intended to benefit the crop of the seventh year. Were it a vegetable field (שדה לבן) work could only be done until Passover, v. infra II, 1. This is the earlier teaching; later legislation enacted for post-Temple times, however, permitted labour till the New Year itself.

(5) Though Beth Hillel's view would still be the more lenient, in accordance with their usual tradition.

(6) An area of 2,500 square cubits. Normally, such a space contains ten trees, each within a square of sixteen cubits.

(7) Considering its size, and even if not actually bearing such a crop. Maim, and others interpret: ‘If the three trees together are capable’.

(8) A gold or silver weight equal to a hundred common, or fifty sacred, shekels; v. Bek. 5a.

(9) Till Pentecost.

(10) Viz., than sixty maneh in the Italian system.

(11) In which figs picked were placed.

(12) Lit., ‘outside’ him’. More space is thus needed than if he had placed the basket in front of him; i.e., between him and the tree. Outside this area, the orchard is placed in the category of a vegetable field, to be ploughed until Passover.

(13) Namely, the three trees above-mentioned. The phrase אילן סרק is defined in Kil. VI, 5 as fruitless trees.

(14) The fruit of the fig-tree is large and abundant, hence this seemingly large criterion.

(15) The stems of fruitless trees are made thicker by ploughing.

(16) I.e.,for the gatherer and his basket, when deposited behind him.

(17) Within a se'ah's area.

(18) Even if they do not yield the amount above stipulated.

(19) Ex. XXXIV, 21. Context is Sabbath observance, but since there was no point in saying that one must not plough on the Sabbath, when all kinds of work are forbidden, the verse was applied to ploughing and harvesting of the seventh year, and even of the sixth year after periods duly prescribed.

(20) Since this is specifically stated in Lev. XXV, 3ff.

(21) That verse quoted applies indeed to the Sabbath.

(22) Neither ploughing nor harvesting are found as obligatory commands, and therefore are never permitted on Sabbath.

(23) And consequently overrides even the Sabbath; Men. X, 9; Mak. 8b.

(24) As if there were only one proprietor; supra I, 2.

(25) Between each tree.

(26) Reading בקר nomen agentis. Aliter: for oxen and yoke to pass through; reading בקר ‘herd’.

(27) About four cubits; ‘Er. III, 1. If less than this space separates each tree, it is obvious that trees are needed more for their wood than for their fruit. The more space that exists, the better will be the quality of the fruit.

(28) Whereas three trees constituted an orchard (supra I, 2). of saplings there must be ten in this area, and each equi-distant from the other.

(29) In order to safeguard the saplings that they might not wither. V. Ta'an. 3a.

(30) Being thus arranged and fenced in, work done would be interpreted as intended not for the trees but for the soil, for the purpose of the Sabbatical year.

(31) Namely, sufficient space for the gatherer and his basket behind him; the rest is treated as a vegetable field.

(32) To complement the number of saplings required in the preceding Mishnah. The Greek gourd is meant, which is as large as a young tree. Bert. stipulates that saplings have to be in a majority of 6 : 4.

(33) With no saplings whatsoever; regarding the gourds as tantamount to saplings.

(34) So that ploughing should be allowed for the whole area until New Year.

(35) In the fourth year, when they cease to be ‘Orlah (v. Glos.) Lev. XIX, 23. They are then ‘redeemed’, their equivalent in money plus one fifth of their value being set apart. After this, they were then fit for common use. The fruit had to be consumed in Jerusalem, wherever possible; but should distance prevent, then their money equivalent was spent there. Fruit not redeemed in the fourth year, automatically became fit for common use in the fifth year.

(36) I.e., if in its first year; maintaining that after this it is called a tree.

(37) Both as regards ploughing in the seventh year and also with regard to ‘Orlah.

Mishna - Mas. Shevi'ith Chapter 2

MISHNAH 1. UNTIL WHEN MAY A GRAIN-FIELD[1] BE PLOUGHED IN THE SIXTH YEAR? UNTIL THE MOISTURE HAS DRIED UP IN THE SOIL;[2] OR AS LONG AS MEN STILL PLOUGH IN ORDER TO PLANT CUCUMBERS AND GOURDS.[3] SAID R. SIMEON: IN THIS CASE YOU ARE PLACING THE LAW IN THE HANDS OF EACH MAN?[4] NO; [THE PRESCRIBED PERIOD] IN THE CASE OF A GRAIN-FIELD[5] IS UNTIL PASSOVER, AND IN THE CASE OF AN ORCHARD,[6] TILL PENTECOST.[7]

MISHNAH 2. BEDS OF CUCUMBERS AND GOURDS MAY BE MANURED[8] AND HOED[9] UNTIL THE NEW YEAR;[10] SO, TOO, MAY FIELDS THAT MUST BE IRRIGATED.[11] ONE MAY REMOVE PARASITIC EXCRESCENCES FROM TREES,[12] STRIP OFF LEAVES,[13] COVER ROOTS WITH POWDER,[14] AND FUMIGATE PLANTS.[15] R. SIMEON SAYS: ONE MAY ALSO REMOVE LEAVES[16] FROM A GRAPE CLUSTER EVEN IN THE SEVENTH YEAR ITSELF.[17]

MISHNAH 3. STONES MAY BE CLEARED AWAY UNTIL THE ADVENT OF THE NEW YEAR.[18] TREES MAY BE TRIMMED,[19] NIPPED,[20] AND THE DRY TWIGS LOPPED OFF UNTIL THE NEW YEAR. R. JOSHUA SAYS: JUST AS ONE MAY TRIM AND SNIP IN THE FIFTH YEAR [TO AID GROWTH IN THE SIXTH]. SO MAY ONE PERFORM THIS WORK IN THE SIXTH YEAR [IN PREPARATION FOR THE SEVENTH];[21] BUT R. SIMEON SAYS: AS LONG AS I MAY LEGALLY TEND THE TREE ITSELF, SO LONG MAY I LOP OFF THE BRANCHES THEREOF.[22]

MISHNAH 4. SAPLINGS MAY BE BESMEARED,[23] WRAPPED ROUND,[24] AND TRIMMED,[25] AND UNTIL THE NEW YEAR ONE MAY ALSO CONSTRUCT FOR THEM SHELTERS[26] AND IRRIGATE THEM.[27] R. ELEAZAR B. ZADOK SAYS: THE FOLIAGE MAY EVEN BE WATERED IN THE SEVENTH YEAR ITSELF, BUT NOT THE ROOTS THEMSELVES.[28]

MISHNAH 5. UNRIPE FIGS MAY BE SMEARED WITH OIL[29] OR PIERCED[30] UNTIL THE NEW YEAR; BUT THOSE OF THE SIXTH YEAR[31] WHICH REMAIN UNPLUCKED UNTIL THE SEVENTH YEAR, OR OF THOSE OF THE SEVENTH YEAR WHICH REMAIN UNPLUCKED UNTIL THE EIGHTH, MUST NOT BE SMEARED OR PLUCKED.[32] R. JUDAH SAYS: IN PLACES WHERE IT IS THE CUSTOM TO DO SO,[33] ONE MAY NOT SMEAR [THE FIGS], SINCE THAT WOULD BE CONSIDERED WORK; BUT WHERE THIS WAS NOT DONE, THEN PERMISSION WAS GIVEN TO ONE TO DO SO. R. SIMEON PERMITTED ANY KIND OF WORK IN CONNECTION WITH THE TREE ITSELF,[34] BECAUSE ALL WORK BENEFITING THE TREE WAS LEGAL.

MISHNAH 6. ONE MAY NOT PLANT, ENGRAFT[35] TREES, NOR SINK [VINE-SHOOTS][36] IN THE SIXTH YEAR[37] WITHIN THIRTY DAYS OF THE NEW YEAR. IF HE HAS DONE SO, HE MUST UPROOT THEM ALL. R. JUDAH SAYS: ANY GRAFTING THAT HAS NOT TAKEN ROOT WITHIN THREE DAYS WILL NEVER DO SO. R. JOSE AND R. SIMEON SAY:

TWO WEEKS.[38]

MISHNAH 7. RICE, MILLET, PANIC[39] AND SESAME[40] THAT HAD TAKEN ROOT BEFORE THE NEW YEAR MUST BE TITHED[41] ACCORDING TO THE PREVIOUS YEAR,[42] AND BECOME PERMISSIBLE IN THE SEVENTH YEAR.[43] IF THEY DID NOT,[44] THEN THEY ARE FORBIDDEN IN THE SEVENTH YEAR, AND ARE TITHED ACCORDING TO THE YEAR FOLLOWING.[45]

MISHNAH 8. R. SIMEON SHEZURI[46] SAID: EGYPTIAN BEANS SOWN ORIGINALLY AS SEED ONLY,[47] FOLLOW A LIKE PROCEDURE.[48] R. SIMEON SAYS: ALSO LARGE BEANS[49] FOLLOW A LIKE PROCEDURE; BUT R. ELIEZER SAYS: [THIS IS SO] IN THE CASE OF LARGE BEANS ONLY IF THEY BEGAN TO FORM PODS[50] BEFORE THE NEW YEAR.

MISHNAH 9. SEEDLESS ONIONS[51] AND EGYPTIAN BEANS[52] FROM WHICH WATER HAS BEEN WITHHELD FOR THIRTY DAYS PRIOR TO NEW YEAR[53] ARE TITHED IN ACCORDANCE WITH THE YEAR PRECEDING,[54] AND BECOME PERMITTED IN THE SEVENTH YEAR. IN OTHER CASES THEY ARE FORBIDDEN IN THE SEVENTH,[55] AND ARE TITHED IN ACCORDANCE WITH THE YEAR FOLLOWING. [A SIMILAR PROCEDURE IS FOLLOWED] SAYS R. MEIR, IN THE CASE OF A NATURALLY-WATERED FIELD[56] FROM WHICH TWO SEASONS[57] OF RAIN HAVE BEEN WITHHELD; BUT THE SAGES SAY: THREE.

MISHNAH 10. IF GOURDS HAD BEEN KEPT FOR SEED[58] AND THEY HAD HARDENED BEFORE THE NEW YEAR, THUS BECOMING UNFIT FOR HUMAN FOOD, THEY MAY BE LEFT GROWING DURING THE SEVENTH YEAR; OTHERWISE, THEY MUST NOT BE KEPT IN THE SEVENTH YEAR.[59] THEIR BUDS[60] ARE FORBIDDEN IN THE SEVENTH YEAR.[61] THE SOIL OF ‘A WHITE FIELD’ MAY BE IRRIGATED;[62] SO R. SIMEON; BUT R. ELEAZAR B. JACOB FORBIDS. THE SOIL OF A RICE FIELD MAY BE STIRRED[63] IN THE SABBATICAL YEAR [WITH WATER]. R. SIMEON SAYS: BUT [THE RICE-PLANTS] MAY NOT BE TRIMMED.[64]

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(1) Lit., ‘field of white’; v. supra I, 1, n. 1.

(2) After Passover, when rains cease.

(3) That need much moisture in order to expedite their ripeness before the dawn of the seventh year. After this period work is forbidden.

(4) For one person will claim that the moisture in his soil has dried up and the other will claim to the contrary; not all soil being of even nature.

(5) Sown after ploughing requiring more moisture.

(6) Which does not need much ploughing, and all that is required is to enable the rain to descend to the soil.

(7) V. supra I, 1, n. 4.

(8) Manure is formed from the garbage of foliage that had been piled up.

(9) I.e., to dig around the roots of the trees. Only such work being permitted at the approach of the Sabbatical year as is essential for the fruit of the sixth year. Work calculated to improve the tree itself is forbidden, unless it be such work that is prohibited in the seventh year by Rabbinical decree.

(10) The Biblical prohibition of Sabbatical year only embraces such labour as ploughing, sowing, reaping, pruning and gleaning. According to Maim., ploughing itself is only of Rabbinical origin.

(11) בית השלהין . Opp, to בית הבעל , a naturally irrigated field; v. M.K. 2a. Cucumbers must have plenty of moisture in the soil.

(12) Heb. יבלת , a withered excrescence on trees, or a wart on the skin.

(13) To lighten the burden of the tree.

(14) To enhance fertility of plants.

(15) So as to stay the worms gnawing around them.

(16) That had withered.

(17) If it would damage the cluster itself. R. Simeon is of the opinion that such work does not directly benefit the tree itself.

(18) Even if the stones were piled one on top of the other to resemble some construction: loose, isolated stones could of course be removed without the slightest qualms; infra III, 7.

(19) V. Ps. LXXX, 14. Maim. translates: Cut the ears off, leaving only the stems.

(20) When shoots abound, they are clipped to accelerate and strengthen their growth.

(21) Could proof be clearer that his work is intended solely for the sixth year?

(22) Namely, until Pentecost.

(23) With rancid oil to ward off vermin. According to last, it means ‘to cover a wound in a tree with dung and tie it up’. so that the tree improves and becomes strong.

(24) With rags as protection against heat and cold.

(25) מקטמין Suk. 29b. Aliter: And covered with powder washes; cf. supra 2.

(26) A booth-construction whereby to protect tender saplings from spells of heat and cold, heavy downpours or storms that might blight the fruit. Others: a fence-like arrangement, a cubit in height, filled with soil, to aid the tree's growth.

(27) By pouring water on them so that their roots may receive the needed moisture. Because such work, even in the seventh year, was only due to Rabbinical prohibition, no ban was placed on it being performed in the sixth year.

(28) For this would be to encourage work in the Sabbatical year ordinarily performed in the sixth year, and it is essential that distinction should be made.

(29) To accelerate their ripeness.

(30) Either to lubricate them from within, or to expedite growth by allowing rain to soak them thoroughly.

(31) That usually ripen in Tishri of the seventh year.

(32) Since they had not ripened in the seventh year even after oiling in the sixth, they must not be oiled in the seventh to facilitate their full growth in the eighth year.

(33) To smear or pierce unripe figs in the sixth year.

(34) Refers to unripe figs of the seventh year that are still on the tree in the eighth year. Though such work in the eighth year was permitted, yet fruit of the seventh year could not be eaten till the fifteenth of Shebat of the eighth year.

(35) Lit., ‘to form a tree’; viz., to bend a vine by driving it into the ground, and making it grow forth as an independent plant.

(36) Lit., ‘causing one branch to ride on another of the same kind’; another form of engrafting.

(37) Even after Temple times. Laws of the Sabbatical year must not be forgotten.

(38) These periods are apart from the thirty days before the New Year within which no work may be done.

(39) Lat. panicum; a genus of grasses including Italian millet. According to Bert. it is a kind of pomegranate, filled with seed which can be heard rattling from within.

(40) Very copious in Palestine.

(41) In an ordinary year.

(42) Thus if the previous year was the first, second, fourth or fifth of the Sabbatical cycle, the First and Second Tithe must be given; and if it was the third, then both the First Tithe and the Poor Man's Tithe must be given; R.H. 14a.

(43) Since they took root in the sixth year, the sanctity of the seventh year does not apply to them.

(44) Take root before the New Year.

(45) I.e., of the year they are plucked. Should this be the seventh year itself, they are not to be tithed at all, since the sanctity of the Sabbatical year already applies to them. Tithing is due in the case of trees from their moment of blossoming, of vegetables as soon as they had been picked, and in the case of grain and olives after they had become a third ripe, but in the case of rice, etc. the time is when they have taken root. Being planted at the same time, the flowering of roots is also identical

(46) So named after his birth-place, Shezur.

(47) Never intending to use them as food.

(48) Described in the Mishnah preceding; i.e., when they have taken root, and not when plucked, as in the case of vegetable and edible produce.

(49) Kil. III, 2 includes them with vegetables.

(50) Tithing is due when beans harden, and appear encased in a kind of bag.

(51) Lit., ‘eunuchs’. Unlike other species of onion that are kept in the soil in order to yield seed, the shallot onion is the fruit itself, and is seedless.

(52) Sown for food, and grown after irrigation. Had they been sown for seed, tithing would have been due from the time of taking root, even if they had not been watered; cf. supra 8.

(53) They now become as naturally watered fields dependent on rain.

(54) Following the practice of trees and grain, and not of vegetables that are watered by hand and tithed according to the year when they are gathered. This law is derived from a comparison of phrase between 'threshing-floor' and 'wine-press' (גרן ויקב), produce of which depends on rainfalls and tithed in accordance with the preceding year. Vegetables that need hand-irrigation are regarded as naturally watered fields if water has been withheld from them.

(55) Since they are still moist when the New Year dawns, it would seem as if they had been watered in the Sabbatical year. Other vegetables do not share this distinction.

(56) Independent of hand-irrigation, but relying on the winter rainfalls. The term בעל is still correct among the Arab felaheen.

(57) I.e., the two usual spells when rain might normally have been expected, a period longer than thirty days.

(58) Left growing in the soil

(59) Even for seed. All Sabbatical year produce must be 'removed'; they may be kept only when they become unfit for human food.

(60) Lit, 'palms'; the efflorescence on gourds resembles palm-leaves; Suk. 33a.

(61) Like all other things that grow of their own accord in that year; cf. infra IX, 1.

(62) In the sixth and seventh years, so that vegetables may ripen before the dawn of the Sabbatical year. The law was modified in the case of damage accruing to the former, so that irrigation was allowed in the seventh year to enable vegetables to ripen in the eighth year.

(63) A rice-field requires a good soaking, so that the soil becomes well-kneaded; cf. Yoma 43b.

(64) Calculated to benefit the growth of the rice.

Mishna - Mas. Shevi'ith Chapter 3

MISHNAH1. WHEN MAY MANURE BE BROUGHT OUT TO THE DUNG-HEAPS?[1] R. MEIR SAYS: TILL SUCH TIME WHEN THE LABOURERS HAVE CEASED;[2] BUT R. JUDAH OPINES TILL THE MANURE[3] HAS DRIED UP.[4] R. JOSE SAYS: TILL [THE DUNG DRIES] INTO KNOTTY EXCRESCENCES.[5]

MISHNAH 2. WHAT QUANTITY OF DUNG MAY BE DEPOSITED[6]. THREE DUNG-HEAPS TO EVERY SE'AH, [CONSISTING OF] TEN BASKETS [OF FOLIAGE][7] OF A LETHEK[8] EACH. YOU MAY ADD TO THE NUMBER OF BASKETS,[9] BUT NOT TO THE NUMBER OF HEAPS.[10] R. SIMEON SAYS: ALSO TO THE NUMBER OF HEAPS.[11]

MISHNAH 3.A MAN MAY DEPOSIT IN HIS FIELD THREE DUNG-HEAPS TO EVERY SE'AH-SPACE, SO R. SIMEON;[12] MORE THAN THIS,[13] HE MUST ARRANGE IN THE FORM OF A TRIPOD.[14] THE SAGES FORBID UNLESS HE DEPOSITS [THEM] THREE [HANDBREADTHS] BELOW OR ABOVE.[15] A MAN MAY PILE UP ALL THE MANURE INTO ONE [LARGE] STORE;[16] R. MEIR FORBIDS, UNLESS HE DEPOSITS [THEM] EITHER THREE [HANDBREADTHS] BELOW OR ABOVE [THE SOIL].[17] IF HE HAD A LITTLE PILE, HE MAY CONSTANTLY ADD TO IT.[18] R. ELEAZAR B. AZARIAH FORBIDS[19] UNLESS HE DEPOSITS [IT] THREE [HANDBREADTHS] BELOW OR ABOVE THE SOIL, OR HE DEPOSITS [IT] ON ROCKY GROUND.[20]

MISHNAH 4. HE WHO ALLOWS CATTLE TO CHANGE FOLDS WITHIN HIS FIELDS,[21] MUST MAKE AN ENCLOSURE TWO SE'AHS IN AREA.[22] HE THEN PULLS OUT THREE SIDES THEREOF,[23] AND LEAVES THE MIDDLE SIDE; HE WILL THEN POSSESS A FOLD OF FOUR SE'AHS SPACE[24] R. SIMEON B. GAMALIEL SAYS: EVEN ONE OF EIGHT SE'AHS [MAY BE USED].[25] IF HIS ENTIRE FIELD IS ONLY FOUR SE'AHS IN AREA, HE MUST ALLOW A PORTION THEREOF TO REMAIN [UNENCLOSED] FOR APPEARANCE'S

SAKE.[26] AND HE MAY TAKE THE DUNG[27] FROM THE ENCLOSURE, AND SPREAD ACROSS HIS FIELD IN THE MANNER OF THOSE WHO MANURE THEIR FIELDS.[28]

MISHNAH 5. A MAN MAY NOT OPEN A STONE-QUARRY WITHIN HIS FIELD FOR THE FIRST TIME,[29] UNLESS THERE BE THEREIN THREE LAYERS [OF HEWN STONES], EACH THREE [CUBITS LONG], THREE WIDE AND THREE HIGH, TOGETHER MAKING TWENTY-SEVEN STONES.[30]

MISHNAH 6. A WALL OF TEN STONES, EACH A LOAD FOR TWO MEN, MAY BE REMOVED [PROVIDED] THAT THIS WALL IS [AT LEAST] TEN HANDBREADTHS HIGH;[31] LESS THAN THAT,[32] IT IS REGARDED AS A QUARRY, AND IT IS TO BE RAZED[33] WITHIN ONE HANDBREADTH OF THE GROUND.[34] THIS REFERS ONLY TO [THE REMOVAL] FROM HIS OWN FIELD;[35] BUT FROM THAT OF ANOTHER, HE MAY REMOVE WHATEVER HE WISHES.[36] THIS APPLIES ONLY TO A CASE WHERE THE REMOVAL [OF THE STONES] WAS NOT BEGUN BEFORE THE SIXTH YEAR; BUT IF HE HAD BEGUN IN THE SIXTH YEAR, HE MAY REMOVE WHATEVER HE PLEASES.[37]

MISHNAH 7. STONES WHICH THE PLOUGHSHARE HAS STIRRED UP,[38] OR WHICH HAD BEEN HIDDEN AND ARE NOW LAID BARE, MAY BE REMOVED IF THERE BE AMONG THEM AT LEAST TWO, [EACH] THE LOAD OF TWO MEN.[39] HE WHO REMOVES[40] STONES FROM A FIELD MAY REMOVE ONLY THE TOP LAYERS, BUT MUST LEAVE THOSE TOUCHING THE GROUND.[41] AND LIKEWISE IN THE CASE OF A HEAP OF PEBBLES, OR A PILE OF STONES; HE MAY REMOVE THE TOP LAYERS BUT MUST LEAVE THOSE TOUCHING THE GROUND. IF, HOWEVER, THERE IS BENEATH THEM ROCKY SOIL OR STUBBLE,[42] THEY MAY BE REMOVED.

MISHNAH 8. STEPS[43] LEADING TO RAVINES MUST NOT BE CONSTRUCTED IN THE SIXTH YEAR AFTER THE CESSATION OF THE RAINFALLS; FOR THIS WOULD BE [A CASE OF] INPROVING THE FIELDS FOR THE SEVENTH YEAR. IN THE SEVENTH YEAR ITSELF, THEY MAY BE BUILT EVEN AFTER THE RAINS HAVE CEASED, SINCE SUCH AN ACT WILL BENEFIT THE FIELD IN THE EIGHTH YEAR. THEY [THE STEPS] MAY NOT BE BLOCKED WITH EARTH,[44] BUT ONLY MADE IN A LOOSE EMBANKMENT.[45] ANY STONE WHICH CAN BE TAKEN BY THE MERE STRETCHING OUT OF A HAND,[46] MAY BE REMOVED.[47]

MISHNAH 9. SHOULDER-STONES MAY BE REMOVED FROM ANY PLACE,[48] AND THEY MAY BE BROUGHT BY A CONTRACTOR[49] FROM ANYWHERE.[50] THESE ARE SHOULDER-STONES: SUCH AS CANNOT BE HELD WITH ONE HAND;[51] SO R. MEIR. BUT R. JOSE SAYS: THE NAME IS TO BE TAKEN LITERALLY, NAMELY, SUCH STONES AS CAN BE CARRIED ON A MAN'S SHOULDER, EITHER TWO OR THREE AT A TIME.

MISHNAH 10. IF ONE MAKES A FENCE BETWEEN HIS OWN PROPERTY AND THAT BELONGING TO THE PUBLIC DOMAIN, HE IS ALLOWED TO DIG DOWN TO ROCK LEVEL.[52] WHAT SHOULD HE DO WITH THE SOIL? HE MAY PILE IT UP IN THE PUBLIC DOMAIN,[53] AND AFTERWARDS REPAIR IT.[54] SO R. JOSHUA. R. AKIBA SAYS: JUST AS NO DAMAGE MAY BE DONE TO A PUBLIC DOMAIN, SO MAY ONE NOT RESTORE IT TO ORDER.[55] THEN WHAT SHOULD HE DO WITH THE SOIL [DUG UP]? HE HEAPS IT UP IN HIS OWN FIELD IN THE MANNER OF THOSE WHO BRING OUT DUNG [FOR MANURE].[56] IT IS LIKEWISE WHEN ONE DIGS A WELL, A TRENCH OR A CAVE.[57]

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(1) Till what time in the seventh year may the field be manured to benefit the produce of the eighth year? Manure used to be collected in one spot during the seventh year, and when it became a huge pile was scattered across the field.

(2) עובדי עבודה , work in the fields. Var. lec. עוברי עברה , referring to those who contravene the Sabbatical laws.

(3) Lit., ‘sweetness’, because it imparts flavour and ripeness to the fruit; infra IX, 6; Job XXI, 33.

(4) When all work ceases, since the manure is no longer of any use to the soil.

(5) Manure is said to be dried up as soon as an uppermost protuberance is noticeable.

(6) Without the semblance of infringing upon the Sabbatical law.

(7) Used for dung; Kel. XIX, 10.

(8) Fifteen se'ahs, or half a kor.

(9) To be placed on dung-hills, and add to the number of ten.

(10) One may not exceed three, for this would come into the actual category of manuring.

(11) Since they are all piled in one heap, it will not be interpreted as manuring.

(12) Amplifying his statement in the previous Mishnah.

(13) I.e., more than three heaps.

(14) מחציב , an unusual word; here connected with a stand for a pitcher, triangular in shape, and not in a row, so as to avoid the appearance that he is measuring his field. Var. lec.: מותר

(15) Ground level; an action clearly designed to show that his purpose is not actually to manure.

(16) I.e. heap. Viz., even one hundred baskets on one dung-heap; for this is not the same as placing more than three dung-heaps in a se'ah's space.

(17) For in the event of this huge pile covering the extent of the field, the suspicion will he aroused that he is actually manuring the soil

(18) Of smaller quantity than those above mentioned; hence insufficient to take into the fields.

(19) He may not procure more manure, and the little he has would give the impression of actually manuring the soil. He must then wait until he has dung below, or until it has been piled on high.

(20) Unfit for sowing and hence impervious to manure. Being rocky soil it need not he raised three handbreadths.

(21) By allowing his cattle to abide there, manure is collected. The case is of one who has no other place to keep his cattle; for bad his intention been deliberately to gather manure, it would have been forbidden in the seventh year.

(22) I.e., 100 X 50 cubits.

(23) After that area has been filled with dung.

(24) Having set up the three sides uprooted around the adjoining two se'ah's space.

(25) On this device; without being suspected of manuring in the Sabbatical year.

(26) Lest it appear that his primary intention was to manure his field.

(27) After the enclosure had been filled.

(28) Viz., three dung-heaps to every se'ah's space; supra III,3.

(29) In the seventh year.

(30) For a smaller quantity would excite suspicion that he is merely clearing his field in order to sow it in the Sabbatical year an act forbidden with the advent of the seventh year; v. supra II, 3. Only when the quarry has sufficient stones for building purposes was the act allowed.

(31) Such heavy stones are obviously for building purposes.

(32) Than ten stones, each two men's burden, and ten handbreadths high.

(33) Heb. גמם , ‘to peel’, or ‘raze’; applicable to cases where no complete uprootal takes place.

(34) Still regarded as unfit for sowing. Greater precaution was taken in the case of a stone quarry, whose soil was natural and lent itself to sowing.

(35) Where there is the fear lest his intention be to do work forbidden on the eve of the seventh year.

(36) For why should one be so eager to perform work in the field of another?

(37) Even from his own field may he do so, since he had begun to clear away the stones when such action was perfectly lawful still.

(38) Or loosened from the soil, so as easily to be removed.

(39) An essential stipulation for the removal of stones.

(40) Heb. מסקל Piel in Heb. has the effect of the alpha in Greek; cf. Isa. V, 2.

(41) For all to see that his intention is to build, and not to plant.

(42) Unfit for sowing, even after the removal of stones.

(43) To convey the water for irrigation during the rainfalls. These steps were built along mountain slopes to lead the water into the valleys.

(44) To prevent the water from flowing away. Such a completed dam would be interpreted as doing work in the seventh year.

(45) I.e., a pile of loose and uneven material, uncemented, forming a rough, extemporized embankment.

(46) Which the builder can grasp just by the mere stretching out of a hand.

(47) Otherwise, it would be deemed work.

(48) Even from his own field; for such heavy stones can only be intended obviously for no other purpose than is building.

(49) For being a building contractor, all will divine that his purpose is for building.

(50) Even from a field of his own.

(51) Cf. supra III, 6; in the case of such stones which two men together could lift, we permit even the smaller stones to be removed

(52) As it is unusual for one to sow on soil bordering on public property, he will not be suspected of infringing the Sabbatical laws; but if the fence demarcates his field and that of a neighbour's, digging is not allowed lest he afterwards decides to plant thereon.

(53) I.e., he removes afterwards the soil from the public domain to scatter it on his own field. To do so, however, in the first instance is forbidden, lest the impression be given that he is preparing his field for sowing.

(54) I.e., remove soil piled up in the public domain to fill up therewith holes in public ways.

(55) For every respect must be paid to public property, lest the slightest damage accrue to it (Bert.).

(56) I.e., three heaps to every se'ah's space; supra III, 2.

(57) In such cases, too, the same dispute occurs between R. Joshua and R. Akiba as to what he should do with the soil dug out.

Mishna - Mas. Shevi'ith Chapter 4

MISHNAH 1. AT FIRST IT WAS THE PRACTICE TO ALLOW A MAN TO GATHER THE LARGEST[1] WOOD, STONES AND HERBS FROM HIS FIELD AS HE WAS ALLOWED TO DO FROM THE FIELD OF HIS FELLOW.[2] WHEN THE TRANSGRESSORS MULTIPLIED,[3] PERMISSION WAS ONLY GIVEN TO COLLECT THEM FROM ANOTHER'S FIELD, PROVIDED IT WAS NOT [PRE-ARRANGED] AS BESTOWING A MUTUAL FAVOUR.[4] IT GOES WITHOUT SAYING THAT NO STIPULATION COULD BE MADE THEREWITH FOR MAINTENANCE.[5]

MISHNAH 2. A FIELD FROM WHICH THORNS HAD BEEN REMOVED[6] MAY BE SOWN IN THE EIGHTH YEAR; BUT IF IT HAD BEEN IMPROVED UPON,[7] OR CATTLE HAD BEEN ALLOWED TO LIVE THEREON,[8] IT MAY NOT BE SOWN IN THE EIGHTH YEAR.[9] IF A FIELD HAD BEEN IMPROVED UPON IN THE SEVENTH YEAR, BETH SHAMMAI SAY: ITS FRUITS MAY NOT BE EATEN, BUT BETH HILLEL SAY: THEY MAY BE EATEN. BETH SHAMMAI SAY: FRUITS OF THE SABBATICAL YEAR MAY NOT BE EATEN AS A FAVOUR,[10] BUT BETH HILLEL SAY: THEY MAY BE EATEN, WHETHER THEY BE REGARDED AS A FAVOUR OR OTHERWISE. R. JUDAH SAYS: THE STATEMENTS MUST BE REVERSED; FOR THIS IS ONE OF THE INSTANCES WHERE BETH SHAMMAI ARE THE MORE LENIENT AND BETH HILLEL THE MORE RIGOROUS.

MISHNAH 3. NEWLY-PLOUGHED LAND MAY BE HIRED FROM A GENTILE IN THE SEVENTH YEAR,[11] BUT NOT FROM AN ISRAELITE; GENTILES MAY BE ENCOURAGED DURING THE SEVENTH YEAR,[12] BUT NOT ISRAELITES. IN THE INTERESTS OF PEACEFUL RELATIONSHIPS, GREETINGS MAY BE EXCHANGED WITH THEM.[13]

MISHNAH 4. IF ONE THINS OUT HIS OLIVE-TREES [IN THE SEVENTH YEAR].[14] BETH SHAMMAI SAY: HE MAY ONLY RAZE THEM TO THE GROUND;[15] BETH HILLEL SAY: HE MAY COMPLETELY UPROOT. THEY, HOWEVER, CONCUR THAT IF ONE LEVELS HIS

FIELD, HE MAY ONLY RAZE IT TO THE GROUND. WHAT IS THE PROCESS OF THINNING-OUT [MODDAL]? THE TAKING OUT OF ONE OR TWO PLANTS. AND LEVELLING?[16] THE REMOVING OF AT LEAST THREE PLANTS CLOSE TO EACH OTHER. THIS APPLIES TO HIS OWN PROPERTY ONLY, FOR FROM THE PROPERTY OF ANOTHER, EVEN HE THAT LEVELS MAY UPROOT.[17]

MISHNAH 5. IF ONE CUTS DOWN AN OLIVE-TREE,[18] HE MAY NOT COVER UP [THE STUMP] WITH EARTH,[19] BUT HE MAY COVER IT WITH STONES OR STRAW.[20] IF ONE FELLS A SYCAMORE TREE,[21] HE MUST NOT COVER [THE STUMP] WITH EARTH, BUT HE MAY COVER IT WITH STONES OR STRAW. ONE MAY NOT HEW DOWN A VIRGIN SYCAMORE[22] IN THE SEVENTH YEAR, FOR THIS WOULD CONSTITUTE ACTUAL LABOUR.[23] R. JUDAH SAYS: IF [CUT DOWN] IN THE USUAL MANNER,[24] IT IS FORBIDDEN; BUT HE EITHER CUTS IT TEN HANDBREADTHS ABOVE [THE SOIL], OR HE RAZES IT TO GROUND LEVEL.[25]

MISHNAH 6. IF ONE TRIMS GRAPE-VINES,[26] OR CUTS REEDS,[27] R. JOSE THE GALILEAN SAYS: HE MUST LEAVE [UNCUT AT LEAST] ONE HANDBREADTH;[28] BUT R. AKIBA SAYS: HE MAY CUT THEM WITH THE AXE, SICKLE OR SAW IN THE USUAL MANNER, OR WITH WHATSOEVER HE PLEASES. A TREE THAT HAD SPLIT MAY BE TIED UP IN THE SEVENTH YEAR, NOT THAT IT MAY HEAL, BUT ONLY THAT IT SHOULD NOT WIDEN.

MISHNAH 7. FROM WHEN MAY ONE BEGIN TO EAT OF THE FRUIT OF THE TREES IN THE SEVENTH YEAR?[29] WITH UNRIPE FIGS AS SOON AS THEY HAD ASSUMED A ROSY APPEARANCE,[30] ONE MAY EAT THEREOF IN THE FIELD WITH HIS BREAD;[31] ONCE THEY HAD RIPENED, HE MAY ALSO TAKE THEM HOME. AND SIMILARLY IN THE OTHER YEARS OF THE SABBATICAL CYCLE [WHEN THIS LATTER STAGE HAS BEEN REACHED] THEY ARE SUBJECT TO TITHES.[32]

MISHNAH 8. UNRIPE GRAPES[33] AS SOON AS THEY CONTAIN JUICE,[34] MAY BE EATEN WITH BREAD IN THE FIELD; BUT AS SOON AS THEY HAVE RIPENED,[35] THEY MAY BE TAKEN HOME. AND SIMILARLY IN THE OTHER YEARS OF THE SABBATICAL CYCLE [WHEN THEY HAVE REACHED THIS LATTER STAGE] THEY ARE SUBJECT TO TITHES.[36]

MISHNAH 9. OLIVES AS SOON AS THEY PRODUCE[37] A QUARTER LOG [OF OIL] TO EACH SE'AH, MAY BE SPLIT[38] AND EATEN IN A FIELD; WHEN THEY PRODUCE A HALF-LOG,[39] THEN HE MAY CRUSH THEM IN A FIELD AND USE THEIR OIL. WHEN THEY ARE ABLE TO PRODUCE A THIRD,[40] THEY MAY BE CRUSHED IN THE FIELD[41] AND BROUGHT HOME. AND SIMILARLY IN THE OTHER YEARS OF THE SABBATICAL CYCLE [WHEN THEY HAVE REACHED THIS LATTER STAGE] THEY ARE SUBJECT TO TITHES.[42] WITH ALL OTHER FRUIT OF TREES [THE SEASON WHEN THEY BECOME DUE TO BE TITHED] IS THE SEASON WHEN THEY ARE PERMITTED IN THE SEVENTH YEAR.[43]

MISHNAH10. FROM WHEN CAN TREES NO LONGER BE FELLED[44] IN THE SEVENTH YEAR?[45] BETH SHAMMAI SAY: AFTER THEY HAD PUT FORTH LEAVES.[46] BETH HILLEL SAY: CAROB-TREES AFTER THEY[47] BEGIN TO DROOP;[48] VINES AFTER THEY HAD YIELDED BERRIES; OLIVE-TREES AFTER THEY HAD BLOSSOMED, ANY OTHER TREES AFTER THEY HAD PRODUCED LEAVES.[49] ANY TREE AS SOON AS IT REACHES THE SEASON FOR TITHES MAY BE CUT DOWN.[50] WHAT QUANTITY SHALL AN OLIVE-TREE YIELD THAT IT BE NOT CUT DOWN? — A QUARTER [KAB]. R. SIMEON B. GAMALIEL SAYS: ALL DEPENDS ON THE OLIVE-TREE.[51]

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(1) By selecting only the largest, he makes obvious his intention to use them only for building purposes.

(2) From which he may collect even the smallest pieces of wood or stones, for none is keen on rendering unnecessary service in a field not his own; supra III, 6.

(3) Who removed even the smallest stones under the pretence of clearing away only the biggest of their kind.

(4) For then the fear would be instinctive that the field is being prepared for sowing.

(5) To consider them as a reward for labour would to be derive benefit from work done in the Sabbatical year.

(6) During the seventh year.

(7) Tilled oftener than is usual; i.e., twice instead of once. Though even one ploughing was originally prohibited, yet permission was given during years of persecution when triumphant Emperors would impose a land tax on Israelitish property.

(8) Thus collecting manure over the extra field; supra III, 4 allowed cattle-folds within a field provided a pen of two se'ah's space was constructed.

(9) Since no such pen was erected, it seems that the field is being prepared for the seventh year.

(10) Since all produce grown of its accord in the seventh year is declared ownerless, it is not within the prerogative of the original owner to bestow favours, or rewards; cf. ‘Ed. V, 1

(11) I.e., an Israelite may hire a field in the seventh year to sow in the eighth year, though a Gentile will have ploughed it in the seventh.

(12) By extending them every encouragement and greeting during their work in the seventh.

(13) Irrelevant to our theme, but to emphasize the desirability of greeting them even in their pagan festivals, a reminder necessitated by Israel's care to steer clear of every association with idolatry.

(14) When olives are clustered together in too close proximity, several are plucked away to afford the remainder more growing space.

(15) Only as far as the roots; further would be categorized as forbidden labour.

(16) A process which leaves a large portion of the soil bare of all trees, and ready for ploughing.

(17) For all will gather that the plants are here wanted for fuel purposes, cf. supra 1, n. 2.

(18) In the seventh year, for fuel purposes.

(19) For he would thus be improving the growth of trees through work done in the seventh year.

(20) To protect it from drying up.

(21) For building purposes; these trunks grow again after being cut.

(22) That had not known an axe before.

(23) Improving the tree, which yields more abundant fruit as a result.

(24) Lower than ten handbreadths from the soil, constituting work equivalent to pruning in the case of grapes.

(25) Since he goes out of his way to differentiate between the usual practice; cf. supra I, 8.

(26) I.e., clipping their ends only; not like pruning which entails an actual clipping of grapes from the top of the trees, a labour forbidden expressly in the Bible.

(27) That they grow more copiously.

(28) So that it does not appear as if he is working his field.

(29) Fruits may not be wantonly destroyed, for the Bible emphasizes לאכלה ‘for food’; and to eat them before they are fully ripe would be a sheer waste.

(30) Lit., ‘to glisten’, a sign of incipient ripeness.

(31) For to take them home is forbidden.

(32) Cf. Ma'as. I, 2. The criterion given above for fruit to be taken home is also the time when other fruits are liable to tithes.

(33) Not yet the size of a white bean.

(34) Lit., ‘water’; when pressed juice comes out.

(35) Lit., ‘became foul’. Fruits begin to deteriorate when kernels become visible beneath their shells.

(36) V. supra n. 2.

(37) When crushed.

(38) This was done to soften them and sweeten their taste prior to eating them.

(39) Viz., a third of their usual quantity when fully ripe.

(40) Of their full quantity.

(41) This couid be done even in the home; our Mishnah just cites an example at random.

(42) V. supra n. 2.

(43) Only figs, grapes and olives which were often eaten before becoming fully ripe may be eaten in the seventh year, even before they reached their season for tithes.

(44) Since the Bible stipulates ‘for eating’ any wastage is debarred, especially since in the case of ownerless Sabbatical produce it would likewise constitute a deprivation of the poor to enjoy the fruits.

(45) The Mishnah refers to fruit-trees.

(46) Usually in Nisan.

(47) Their branches.

(48) The leaves become abundant, and droop from the tree like chains. Alter: when carobs begin to assume a round shape.

(49) When no tree may be cut down.

(50) For there is no longer any wastage of fruit. A tree may not be cut if the fruit thereof be more valuable than its wood for fuel.

(51) Cf. Deut. XX, 19; trees of a besieged city may not be destroyed. V. also B.K. 91b. T.J. refers the question to the seventh year, maintaining that if it involves loss it should not be cut down. The better the tree, the more is it forbidden to be felled; cf. Pe'ah VII, 1.

Mishna - Mas. Shevi'ith Chapter 5

MISHNAH 1. WHITE FIGS HAVE THE LAW OF THE SEVENTH YEAR[1] APPLIED TO THEM IN THE SECOND YEAR,[2] SINCE THEY RIPEN ONCE IN THREE YEARS. R. JUDAH SAYS: PERSIAN FIGS HAVE THE LAW OF THE SEVENTH YEAR APPLIED TO THEM IN THE YEAR FOLLOWING THE SEVENTH YEAR,[3] SINCE THEY RIPEN ONCE IN TWO YEARS. THEREUPON THEY SAID TO HIM: THIS WAS SAID ONLY OF THE SPECIES OF WHITE FIGS?[4]

MISHNAH 2. IF LOF[5] IS PLACED IN THE SOIL FOR PRESERVATION DURING THE SABBATICAL YEAR, R. MEIR SAYS: IT MUST BE NOT LESS THAN TWO SE'AHS IN QUANTITY, THREE HANDBREADTHS IN HEIGHT, AND COVERED WITH EARTH ONE HANDBREADTH DEEP.[6] THE SAGES SAY: IT MUST BE NOT LESS THAN FOUR KABS IN QUANTITY, ONE HANDBREADTH HIGH, AND COVERED WITH EARTH ONE HANDBREADTH DEEP. MOREOVER, IT SHALL BE HIDDEN IN GROUND OVER WHICH MEN MAY TREAD.[7]

MISHNAH 3. IF LOF HAS REMAINED [IN THE GROUND UNTIL] AFTER THE PASSING OF THE SEVENTH YEAR, R. ELIE ZER SAYS: IF THE POOR HAD GATHERED THE LEAVES THEREOF,[8] ALL IS WELL; IF NOT,[9] THEN AN ACCOUNT SHOULD BE MADE WITH THE POOR.[10] R. JOSHUA SAYS: IF THE POOR HAD PLUCKED THE LEAVES THEREOF, ALL IS WELL; IF NOT, NO ACCOUNT IS NECESSARY.[11]

MISHNAH 4. LOF OF THE SIXTH YEAR[12] THAT REMAINS UNTIL THE SEVENTH, SIMILARLY SUMMER ONIONS[13] AND PU’ AH[14] GROWN IN CHOICE SOIL, BETH SHAMMAI SAY MUST BE UPROOTED WITH WOODEN RAKES.[15] BETH HILLEL SAY: [EVEN] WITH METAL SPADES.[16] THEY[17] CONCUR IN THE CASE OF PU’ AH GROWN IN STRONG SOIL[18] , THAT THEY MAY BE UPROOTED WITH METAL SPADES.

MISHNAH 5. FROM WHEN MAY A MAN BUY THE LOF AFTER THE GOING OUT OF THE SEVENTH YEAR?[19] R. JUDAH SAYS: AT ONCE;[20] BUT THE SAGES SAY: [ONLY] AFTER THE NEW CROP HAS APPEARED.[21]

MISHNAH 6. THESE ARE THE IMPLEMENTS WHICH A CRAFTSMAN MAY NOT SELL

IN THE SEVENTH YEAR:[22] A PLOUGH AND ALL ITS APPURTENANCES, A YOKE, A WINNOWING-FAN, AND A MATTOCK;[23] BUT HE MAY SELL A SICKLE USED BY HAND,[24] A SCYTHE, AND A CART WITH ALL ITS IMPLEMENTS. THIS IS THE GENERAL PRINCIPLE: ANY TOOLS DESIGNED FOR WORK INVOLVING A TRANSGRESSION IN THE SEVENTH YEAR MUST NOT BE SOLD; BUT IF IT IS USED BOTH FOR A FORBIDDEN AND A PERMISSIBLE PURPOSE, IT MAY BE [SOLD].[25]

MISHNAH 7. THE POTTER MAY SELL[26] FIVE OIL-JARS AND FIFTEEN WINE-JARS. FOR THIS IS THE USUAL AMOUNT ONE COLLECTS FROM OWNERLESS PRODUCE;[27] BUT IF HE BROUGHT MORE,[28] THIS IS STILL PERMITTED HIM.[29] HE[30] MAY ALSO SELL [MORE JARS] TO GENTILES IN PALESTINE AND TO ISRAELITES IN OTHER LANDS.[31]

MISHNAH 8. BETH SHAMMAI SAY: ONE MUST NOT SELL HIM[32] A PLOUGHING-COW IN THE SEVENTH YEAR, BUT BETH HILLEL PERMIT, SINCE HE MAY BE SLAUGHTERING IT.[33] ONE MAY SELL HIM FRUIT EVEN AT SOWING-TIME,[34] AND ONE MAY LEND HIM A SE'AH MEASURE THOUGH IT IS KNOWN THAT HE HAS A THRESHING-FLOOR.[35] ONE MAY GIVE HIM SMALL MONEY IN CHANGE THOUGH IT IS KNOWN THAT HE HAS LABOURERS. BUT IF ALL THESE THINGS [ARE] EXPRESSLY [KNOWN] TO BE REQUIRED FOR UNLAWFUL PURPOSES,[36] THEN THEY ARE FORBIDDEN.[37]

MISHNAH 9. A WOMAN MAY LEND TO HER NEIGHBOUR WHO IS SUSPECT OF TRANSGRESSING THE SABBATICAL LAW,[38] A WINNOW,[39] A SIEVE, A HAND-MILL, OR AN OVEN; BUT SHE MAY NOT [ACTUALLY] WINNOW OR GRIND [CORN] WITH HER.[40] THE WIFE OF A HABER[41] MAY LEND TO THE WIFE OF AN ‘AM HA-AREZ[42] A WINNOW AND A SIEVE[43] AND MAY EVEN WINNOW, GRIND CORN OR SIFT FLOUR WITH HER;[44] BUT ONCE SHE POURED OUT THE WATER [OVER THE FLOUR],[45] SHE SHOULD NOT TOUCH HER, FOR NO HELP MUST BE GIVEN TO THOSE WHO COMMIT TRANSGRESSION.[46] ALL THESE THINGS WERE ONLY ALLOWED IN THE INTERESTS OF PEACE.[47] TO HEATHENS, ENCOURAGEMENT MAY BE OFFERED IN THE SABBATICAL YEAR,[48] BUT [ON NO ACCOUNT] TO ISRAELITES. IN THE INTERESTS OF PEACE, ONE MAY ALSO OFFER GREETINGS TO HEATHENS.[49]

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(1) With regard to the renunciation of ownership and other regulations.

(2) Of the Sabbatical cycle. Though the fruit does not actually ripen until the third year, they are already fit to be eaten in the second year.

(3) I.e., the eighth year, which is the first of the new Sabbatical year.

(4) And not in the case of Persian figs; for after much investigation, it was discovered that the latter ripen each year (Tosef.). Moreover, the Rabbis were mainly concerned with such fruit grown in Eretz Israel; Bez. 19a.

(5) A plant resembling colocasia with edible leaves and root, and bearing beans. It is classified with onions and garlic (Jast.). The usual translation is ‘arum’. It was placed underground for preservation.

(6) To remove all semblance of sowing.

(7) To avoid it burgeoning forth into fruit.

(8) In the seventh year the leaves of the lof were subject to the law of Removal; v. infra VII, 7.

(9) And the arum had increased in the eighth year.

(10) The owner must give the poor the amount calculated to have grown in the seventh year. The rest he can keep for himself.

(11) Since he himself is also entitled to their possession after they had been liable to the law of Removal, he being of the view that after the removal, the rich too can eat of the fruit; v. infra VIII, 9.

(12) It was perfectly ripe then; had its growth increased in the seventh, it would be forbidden to eat it as all aftergrowth; v. infra IX, 1.

(13) Either that had been sown in summer, or had been set aside for summer use.

(14) Dyer's madder (Jast.). Madder is an herbaceous climbing-plant with yellowish flowers.

(15) For the usual metal implements would arouse the suspicion that he is cultivating his field in the seventh year.

(16) Since he is using spades he has averted suspicion; for this is not the usual practice.

(17) Beth Shammai.

(18) צלעות. Lit., ‘on the ribs (sides) of the fields’. Being an unusual place for sowing, it will not appear suspicious. Aliter: צלעות is the same as סלעות , ‘rocky’.

(19) Without fear lest it is Sabbatical produce; i.e., in the case of a seller who is suspect of infringing Biblical laws.

(20) Since the lof had to be uprooted not in the usual way, prohibited Sabbatical produce was not likely to be available in the market immediately after the termination of the seventh year; only in the case of other vegetables requiring no such differentiation was the stipulation made until such new crop could have grown (Bert.).

(21) Usually from the time of Passover of the eighth year; cf. infra VI, 4.

(22) To a man who is suspect only. To one who is not, this may be done, for his intentions are honourable.

(23) A pronged tool.

(24) Being hand-tools, only little could be cut at a time; not enough to pile up a store. One was allowed to give of it to cattle, since it was ownerless property.

(25) Since the purchaser can claim that the tools are going to be used for such work as is permitted.

(26) To one even suspect of disregarding Sabbatical regulations.

(27) Of the seventh year.

(28) I.e., the one who is suspect brought more produce for which he wants jars.

(29) The potter may sell him more jars. Perhaps he desires the other jars for legitimate uses. Wine-and oil-jars were distinctive and could not be mixed.

(30) The potter.

(31) To these he may sell more than the amount prescribed above and we do not fear lest the Gentile or the Israelite, if outside Palestine, will later sell them again to Israelites in Palestine suspected of illegitimate trading in the seventh year.

(32) Who is suspect in regard to the Sabbatical laws.

(33) Beth Shammai were of the opinion that a cow used for ploughing would not be slaughtered for food. A heifer used for ploughing was one that was barren and whose breasts had dried up. Oxen were used ordinarily.

(34) We assume he needs it for food rather than for sowing.

(35) We do not suspect him of the intention to measure therewith seventh year produce for storage purposes, but assume his intention to be for grinding purposes.

(36) That his intention is deliberately to transgress the Sabbatical laws.

(37) To be an accessory to the infringement of a Biblical law is indefensible.

(38) Namely, eating its produce without removal after the time of its removal has been due. They may be wanted here for legal uses.

(39) The holes of the נפה are smaller than those of the sieve (כברה). One may need them for sifting sand, or the mill for spices or drugs, and the oven for dry flax.

(40) Actually to help a violation of the law is not to be thought of.

(41) V. Glos. This statement of our Mishnah is actually more relevant to the laws of purity than to those of the Sabbatical year.

(42) V. Glos.

(43) The hand-mill and oven are omitted, since being large, they are not easily immersed into water for purification purposes; if they were of clay or earthenware, they had to be broken up.

(44) As the majority even of the ‘am ha-arez give tithes.

(45) Thus rendering it ‘susceptible to uncleanness’ (Lev. XI, 34), as was the case of all food that had received contact with liquids like water.

(46) To help her rolling the dough and thus assist her in causing uncleanness to bread that becomes in the process subject to the law of Hallah (v. Glos.). Once the dough is rolled it is liable to Hallah.

(47) Lit., ‘ways of peace’, cf. prov. III, 17.

(48) Even when actually working in the seventh year; cf. supra IV, 3.

(49) And even on their pagan festivals. It must be remembered that the name of God was used in all greetings, and Jews always had an instinctive shudder at associating His name with anything pagan.

Mishna - Mas. Shevi'ith Chapter 6

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MISHNAH 1. [PALESTINE IS DIVIDED INTO] THREE COUNTRIES WITH REFERENCE TO THE SABBATICAL LAW.[1] [THE FRUIT OF] THAT TERRITORY OCCUPIED BY THOSE WHO CAME UP FROM BABYLON,[2] NAMELY FROM ERETZ ISRAEL AS FAR AS CHEZIB,[3] MAY NOT BE EATEN,[4] NOR [MAY ITS SOIL] BE CULTIVATED.[5] [THE FRUIT OF] THAT TERRITORY OCCUPIED BY THOSE WHO CAME UP FROM EGYPT, NAMELY FROM CHEZIB TO THE RIVER,[6] AND UNTIL AMONAH,[7] MAY BE EATEN, BUT [ITS SOIL] NOT CULTIVATED. FROM THE RIVER TILL AMONAH AND INWARDS, [PRODUCE] MAY BE EATEN AND [THE SOIL] CULTIVATED.[8]

MISHNAH 2. IN SYRIA,[9] ONE MAY PERFORM WORK ON SUCH PRODUCE AS HAD BEEN DETACHED,[10] BUT NOT ON SUCH STILL ATTACHED [TO THE SOIL].[11] THEY MAY THRESH,[12] WINNOW, AND TREAD [THE CORN], AND EVEN BIND THEM [INTO SHEAVES], BUT THEY MAY NOT REAP [THE CROPS], NOR CUT THE GRAPES, NOR HARVEST THE OLIVES.[13] R. AKIBA FORMULATED THIS PRINCIPLE: THE KIND OF WORK THAT IS PERMITTED IN ERETZ ISRAEL MAY ALSO BE DONE IN SYRIA.[14]

MISHNAH 3. ONIONS[15] ON WHICH RAIN HAD DESCENDED AND WHICH HAD SPROUTED FORTH, ARE FORBIDDEN IF THEIR LEAVES HAD TURNED BLACK;[16] IF THEY HAD BECOME GREEN THEY ARE PERMITTED.[17] R. HANINA B. ANTIGONUS SAYS: AS LONG AS THEY CAN BE PLUCKED OUT BY THEIR LEAVES,[18] THEY ARE FORBIDDEN. IN THE YEAR AFTER THE SABBATICAL YEAR, THE LIKE OF THESE[19] ARE PERMITTED.[20]

MISHNAH 4. WHEN MAY A MAN BUY VEGETABLES AT THE OUTGOING OF THE SABBATICAL YEAR?[21] WHEN THE CROP OF THE SAME KIND BEGINS [AGAIN] TO RIPEN.[22] WHERE FRUIT RIPENS QUICKLY. EVEN THAT WHICH IS LATE IN RIPENING IS ALSO PERMISSIBLE.[23] , RABBI USED TO ALLOW THE BUYING OF VEGETABLES ON THE IMMEDIATE TERMINATION OF THE SEVENTH YEAR.[24]

MISHNAH 5. ONE MAY NOT EXPORT OIL [OF TERUMAH] THAT HAD TO BE BURNT,[25] NOR PRODUCE OF THE SEVENTH YEAR,[26] FROM THE LAND [OF ISRAEL] TO OTHER COUNTRIES. R. SIMEON SAID: I HAVE HEARD IT EXPRESSLY STATED THAT THEY MAY BE EXPORTED TO SYRIA, BUT NOT TO ANY OTHER COUNTRY OUTSIDE THE LAND.

MISHNAH 6. TERUMAH MAY NOT BE IMPORTED FROM OUTSIDE THE LAND OF ERETZ ISRAEL.[27] R. SIMEON SAID: I HAVE HEARD IT EXPRESSLY STATED THAT ONE MAY BRING FROM SYRIA,[28] BUT NOT FROM OUTSIDE THE LAND.

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(1) V. infra IX, 2.

(2) Under Ezra and Nehemiah. Our Tanna is of the opinion that the land then became holy for all time.

(3) The Biblical Achzib, between Acre and Tyre; Josh. XIX, 29; Judg. I, 31. North of Acre.

(4) If illegally cultivated, or without the removal of the produce which grew of its own accord.

(5) In the seventh year.

(6) The Orontes in Northern Syria; v. Horowitz, Palestine, p. 20.

(7) Mount Ammanon, N.W. Syria; v. Git. (Sonc. ed.) p. 27. n. 1.

(8) Since its soil does not possess holiness of the Lord; and in Ex. XXIII, 10 the stress is on ‘thy land’ (ארצך), thus implying that only ‘thy land’ was subject to these laws.

(9) Conquered by David, Mesopotamia was awarded the character of Eretz Israel in some things, and of other lands in other things. It was conquered before David had yet finally subdued the whole of the land.

(10) Even with those suspect of disregarding the law; cf. supra V, 9.

(11) Then no reaping or gleaning may be done in the Sabbatical year. The reason for this precaution was lest people, on account of the difficulties of the Sabbatical observance, forsake the cultivation of the land and settle in Mesopotamia. In the case of detached produce it was permitted, so that the poor of Eretz Israel be able to obtain extra means in Syria, which was quite near.

(12) Our Mishnah defines the kinds of labour permitted when produce no longer Is attached to the Soil.

(13) Being work on what is still attached to the soil.

(14) Work, which in Palestine could be performed provided the procedure was different from the usual (supra V, 4), was allowed in Syria in the ordinary way (Bert.).

(15) That had remained in the soil until the Sabbatical year.

(16) Not actually black, but a deep green, like all unripe onions. They are forbidden because they had benefited by the seventh year.

(17) Not having benefited by the seventh year, it is as if they had been plucked before.

(18) The whole onion following suit. This is evidence of their ripeness in the seventh year. When onions begin to wither, their leaves weaken.

(19) Viz., onions that had been plucked in the sixth year and re-planted in the seventh, and uprooted again in the eighth year. Since they were almost ripe before the seventh year, the little improvement they received in the Sabbatical year was neutralized by their growth in the eighth year.

(20) Even when pulled out by their leaves.

(21) Without being suspect of trading with seventh year produce.

(22) Until such time that it takes other vegetables to ripen. The quantity of vegetables permitted negative the minority prohibited.

(23) Since it can be claimed that this belongs to the crop that ripened early.

(24) Vegetables were not only imported from other lands, where they had grown legally, but could also be grown in the land in two or three days.

(25) Having become unclean, it had to be burnt in Palestine. On terumah v. Glos.

(26) The Removal of fruits of the third and sixth years of the Sabbatical period had to be done in Palestine; v. Lev. XXV, 7.

(27) So that priests be not tempted to go outside the Land to fetch terumah, and thus be defiled by a pagan atmosphere; v. Shab. 16b.

(28) Since its air was not held to be contaminating; moreover, it showed some of the sanctity of Palestine.

Mishna - Mas. Shevi'ith Chapter 7

MISHNAH 1. AN IMPORTANT GENERAL PRINCIPLE WAS LAID DOWN CONCERNING SABBATICAL YEAR PRODUCE. TO ANYTHING THAT MAY BE CONSIDERED FOOD FOR MAN OR CATTLE, OR TO A SPECIES [OF PLANTS] USED FOR DYEING, IF IT IS NOT LEFT GROWING IN THE SOIL,[1] THE LAW OF THE SABBATICAL YEAR IS APPLIED BOTH TO IT[2] AND TO ITS MONEY SUBSTITUTE.[3] [SIMILARLY] THE LAW OF REMOVAL[4] APPLIES BOTH TO IT AND TO ITS MONEY SUBSTITUTE. WHICH ARE THEY?[5] THE EDIBLE LEAVES OF THE WILD ARUM,[6] OF MINT,[7] ENDIVES,[8] LEEKS,[9] PORTULACA,[10] AND ASPHODEL.[11] WHAT IS THE FOOD FOR CATTLE?[12] THORNS AND THISTLES. WHAT IS SPECIES OF DYEING MATTER?[13] AFTERGROWTHS OF WOAD[14] AND MADDER.[15] THE LAW OF THE SEVENTH YEAR APPLIES TO THEM AND THEIR EQUIVALENTS AND THE LAW OF REMOVAL APPLIES TO THEM AND THEIR MONEY [SUBSTITUTES].

MISHNAH 2. YET ANOTHER GENERAL PRINCIPLE WAS ENUNCIATED. EVEN SUCH THINGS NOT FIT FOR FOOD OF MAN OR BEAST, OR THOSE PLANTS NOT USED FOR DYEING PURPOSES, IF THEY HAD BEEN LEFT IN THE SOIL,[16] ARE SUBJECT TO THE SABBATICAL LAW[17] AS ARE THEIR SUBSTITUTES. BUT THE LAW OF REMOVAL DOES NOT APPLY EITHER TO THEM OR TO THEIR MONEY SUBSTITUTE. WHICH ARE THESE? THE ROOTS OF THE WILD ARUM, THE MINT, AND THE HART'S TONGUE,[18] THE

ASPHODEL AND THE HAZEL-WORT.[19] WHAT IS THE SPECIES OF DYEING MATTER? DYER'S MADDER AND SOW-BREAD.[20] THE SABBATICAL LAW APPLIES TO THEM AND TO THEIR MONEY EQUIVALENT, BUT THE LAW OF REMOVAL DOES NOT APPLY EITHER TO THEM OR TO THEIR MONEY EQUIVALENT. R. MEIR SAYS: THE LAW OF REMOVAL APPLIES TO THEIR MONEY SUBSTITUTE UNTIL THE NEW YEAR.[21] THE SAGES ANSWERED: SINCE THIS LAW DOES NOT APPLY TO THE PLANTS THEMSELVES, HOW MUCH LESS DOES IT APPLY TO THEIR MONEY SUBSTITUTE![22]

MISHNAH 3. THE LAW OF THE SABBATICAL YEAR APPLIES TO HUSKS AND BLOSSOMS OF THE POMEGRANATE, TO SHELLS AND KERNELS OF NUTS, AND ALSO TO THEIR MONEY SUBSTITUTES. THE DYER MAY USE THEM[23] FOR HIMSELF, BUT NOT FOR PAYMENT[24] SINCE NO TRADE MAY BE DONE WITH SEVENTH YEAR PRODUCE, OR WITH FIRSTLINGS,[25] OR WITH HEAVE-OFFERINGS, OR WITH CARRION, OR WITH TREFAH,[26] OR WITH REPTILES[27] OR WITH CREEPING THINGS.[28] ONE SHOULD NOT GATHER[29] WILD VEGETABLES[30] AND SELL THEM IN THE MARKET; BUT IF HE GATHERS THEM AND HIS SON SELLS THEM FOR HIM, IT IS WELL.[31] IF HE GATHERED THEM FOR HIS OWN USE, AND AUGHT REMAINS OVER, HE MAY SELL THEM.[32]

MISHNAH 4. IF ONE BUYS A FIRSTLING[33] FOR HIS SON'S [WEDDING] FEAST, OR FOR A FESTIVAL, AND THEN DECIDES THAT HE HATH NO NEED OF IT, HE MAY SELL IT.[34] HUNTERS OF WILD ANIMALS, BIRDS AND FISHES, WHO CHANCED UPON UNCLEAN SPECIES, MAY SELL THEM.[35] R. JUDAH SAYS: ALSO A MAN WHO HAPPENED TO CHANCE UPON BY ACCIDENT[36] MAY BUY OR SELL, PROVIDED THAT HE DOES NOT MAKE A REGULAR TRADE OF IT. BUT THE SAGES DO NOT ALLOW THIS.[37]

MISHNAH 5. THE LAW OF THE SABBATICAL YEAR IS APPLIED[38] TO THE YOUNG SPROUTS OF THE SERVICE-TREE[39] AND THE CAROBS AND THEIR MONEY EQUIVALENT; SO ALSO IS THE LAW OF REMOVAL APPLIED BOTH TO THEM AND THEIR SUBSTITUTES. THE LAW OF THE SABBATICAL YEAR IS APPLIED TO BRANCHES OF THE TEREBINTH, THE PISTACHIO TREE AND THE WHITE THORN,[40] AND TO THEIR SUBSTITUTES; BUT THEY ARE NOT LIABLE TO THE LAW OF REMOVAL, NOR IS THEIR MONEY SUBSTITUTE LIABLE TO THE LAW OF REMOVAL.[41] BUT THE LAW OF REMOVAL APPLIES TO THEIR LEAVES,[42] SINCE THEY HAD ALREADY FALLEN FROM THEIR STEM.[43]

MISHNAH 6. THE SABBATICAL LAW APPLIES TO THE ROSE, HENNA,[44] BALSAM, THE LOTUS TREE AND TO THEIR MONEY SUBSTITUTES.[45] R. SIMEON SAYS: THE SABBATICAL LAW DOES NOT APPLY TO THE BALSAM, SINCE THIS CANNOT BE REGARDED AS A FRUIT.[46]

MISHNAH 7. IF A NEW ROSE[47] HAS BEEN PRESERVED IN OLD OIL,[48] THE ROSE MAY BE TAKEN OUT;[49] BUT IF AN OLD ROSE[50] WAS PRESERVED IN NEW OIL,[51] IT IS SUBJECT TO THE LAW OF REMOVAL.[52] NEW CAROBS[50] PRESERVED IN OLD WINE, OR OLD CAROBS IN NEW WINE,[53] ARE SUBJECT TO THE LAW OF REMOVAL. THIS IS THE GENERAL PRINCIPLE:[54] IF ONE KIND IS MIXED WITH A DIFFERENT KIND[55] AND IT HAS THE POWER TO IMPART FLAVOUR [TO THE OTHER], BOTH KINDS ARE SUBJECT TO THE LAW OF REMOVAL; BUT IF IT IS MIXED WITH THE IDENTICAL KIND, THEN [THE WHOLE IS SUBJECT TO REMOVAL] EVEN IF ONLY THE SMALLEST QUANTITY EXISTS.[56] PRODUCE OF THE SEVENTH YEAR RENDERS SIMILAR KINDS PROHIBITED[57] EVEN [IF IT EXISTS] IN THE SMALLEST QUANTITY; BUT IF THEY BE OF DIFFERENT SPECIES [PROHIBITION SETS IN] ONLY WHEN FLAVOUR IS IMPARTED.[58]

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(1) Had it been left rooted, it would have rotted in winter.

(2) Not to be sold as merchandise, but eaten free.

(3) Cf. infra VIII, 3. Should the produce be exchanged for meat or fish, then the latter become endowed with the sanctity of the former. Should the meat or fish be in turn exchanged for other things, they too become holy.

(4) Sabbatical produce could be eaten as long as similar produce grew in the country of his domicile, and was available to the beast of the field. Once the produce began to wither and was no longer available to the cattle, all similar produce that had been gathered had to be removed from one's possession; Deut. XXVI, 13 and infra IX, 2.

(5) Plants fit for human food.

(6) Though these leaves are not subject to food uncleanness (‘Uk. III, 4), nevertheless, they have to conform to the Sabbatical rules, since they are human food.

(7) Or, miltwaste.

(8) Of endives there are two kinds: those grown in the orchard and those in the field. When the former abound, the latter are not regarded as human food, and hence are not subject to food uncleanness; but in the seventh year, when endives are not found in the orchard, those in the field are food and accordingly are subject to food uncleanness, and the Sabbatical laws apply to them.

(9) Also of two kinds, as of endives.

(10) Or purslane; ‘Uk. III, 2.

(11) A bulbous plant. Star of Bethlehem; the plants referred to by poets as ‘the immortal flower in Elysium’. Some explain חלב as either referring to the colour of the plant, pure white like milk, or by the fact that when cut open, a milk juice pours forth.

(12) To which the law is applied.

(13) The Mishnah now demands details.

(14) Isatis tinctoria, producing a deep blue dye.

(15) A plant used for red dye.

(16) Over the winter.

(17) Since the cattle can still eat thereof.

(18) Prickly creepers on palm-trees.

(19) Baccor, an aromatic plant identified with spikenard.

(20) Or round-leaved cyclamen; a tuberous rooted plant used for dyeing; a remedy for worms (Bert.).

(21) Of the eighth year.

(22) To which R. Meir could retort that greater rigidity was applied to substitutes than to original produce which are easily recognizable, and will not be used in the seventh year. Not so with their substitutes.

(23) The plants of the seventh year.

(24) I.e., he must not dye for others with them.

(25) Ex. XIII, 2, 12. They were not to remain in his possession lest he transgress the law concerning them. When slaughtered, they could be sold, but not in market places.

(26) Which could neither be eaten nor sold; Pes. 23a (On trefah,v. Glos.). Trade was forbidden with such animals as are generally used for food, but such as are specially used for work like the camel, the horse and the mule, could be sold; Lev. XXII, 8. Trefah signified flesh of clean beasts which had been mauled, or killed by beasts of prey, and thus rendered unfit for Jewish food.

(27) Lev. XI. 4ff.

(28) Ibid. 29ff.

(29) In the Sabbatical year.

(30) Vegetables that grow of their own accord.

(31) For this does not court the suspicion of trading with Sabbatical produce.

(32) Namely, those left over, since his primary intention to eat all the wild vegetables he had gathered.

(33) That was blemished and could, therefore, be eaten by non-priests.

(34) Only at the price he paid for it.

(35) Not being forbidden to sell if accidentally acquired.

(36) Lit., ‘according to his way’. Even without hunting for wild game.

(37) Only the professional hunter was given this concession, since he had a heavy tax into the royal coffers. Where they differ from the first Tanna is that they even make the concession for a huntsman even if his deliberate intention was to

catch game of the unclean species (Tosaf. Yom Tob).
(38) Since they are food for cattle.
(39) Whose interior is eaten as relish.
(40) Which sprouts a kind of acorn.
(41) Since they are there even in winter.
(42) Separated from their branches.
(43) Since they are now lost even to beasts of the field, they are liable to the law of Removal.
(44) Tif. Yis. identifies it with the cypress tree. Jast. s.v. כופרא says: ‘the inflorescence of palms, a spike covered with numerous flowers, and enveloped by one or more sheathing bracts called spathes’.
(45) So is the law of Removal applied to them.
(46) Being used as ordinary wood for fuel, to which the Sabbatical law does not apply. The Torah stresses ‘for eating’, the prohibition only of such produce as is actually food.
(47) Of the seventh year.
(48) Of the sixth year.
(49) The oil does not become subject to the law of Removal on account of the rose.
(50) Of the seventh year.
(51) Of the eighth year.
(52) Since one flavours the other, they must be removed.
(53) Of the eighth year. Since flavour is imparted, the wine cannot be drunk after the time of removal.
(54) Applicable to all Sabbatical year produce.
(55) Both the new and the old produce.
(56) Even without the imparting of flavour.
(57) If mixed with a similar kind allowed in the seventh year. The Mishnah refers to after the time of removal period.
(58) An explanation of the opening statement of the Mishnah. This is the determining factor even after the period of removal to render the mixture forbidden.

Mishna - Mas. Shevi'ith Chapter 8

MISHNAH 1. AN IMPORTANT PRINCIPLE WAS LAID DOWN CONCERNING SABBATICAL YEAR PRODUCE. OF SUCH PRODUCE AS IS DESIGNATED AS FOOD FOR MAN,[1] ONE MAY NOT MAKE A POULTICE[2] FOR MAN; AND NEEDLESS TO SAY, FOR CATTLE. SUCH PRODUCE, HOWEVER, THAT IS NOT EXCLUSIVELY USED FOR HUMAN FOOD MAY BE USED AS A POULTICE FOR MAN, BUT NOT FOR CATTLE. SUCH PRODUCE NOT USUALLY DESIGNATED EITHER FOR HUMAN OR FOR CATTLE FOOD, BUT NOW INTENDED[3] AS FOOD FOR BOTH MAN AND CATTLE, HAS IMPOSED UPON IT THE STRINGENT LAWS APPLYING BOTH TO MEN[4] AND BEASTS.[5] IF HIS INTENTION[6] WAS TO USE IT [ONLY] AS FUEL, IT MUST BE ACCOUNTED ONLY AS WOOD;[7] AS, FOR EXAMPLE, SAVORY,[8] HYSSOP, OR THYME.[9]

MISHNAH 2. SABBATICAL YEAR PRODUCE MAY BE USED FOR FOOD, DRINK AND FOR ANOINTING.[10] THAT USUALLY EATEN SHOULD BE USED FOR FOOD ONLY; THAT USUALLY USED FOR ANOINTING PURPOSES IS TO BE USED AS AN UNGUENT [ONLY], AND THAT USED USUALLY FOR DRINKING IS TO BE USED FOR THIS PURPOSE ONLY.[11] ONE MAY NOT ANOINT WITH WINE AND VINEGAR, BUT WITH OIL ONLY.[12] SO IS THE CASE WITH HEAVE-OFFERING AND SECOND TITHE.[13] GREATER LENIENCY WAS APPLIED TO [OIL OF] THE SEVENTH YEAR, SINCE IT CAN ALSO BE USED FOR LAMP-KINDLING.[14]

MISHNAH 3. PRODUCE OF THE SEVENTH YEAR[15] MAY NOT BE SOLD BY MEASURE, WEIGHT OR NUMBER.[16] NEITHER MAY FIGS [BE SOLD] BY NUMBER, NOR VEGETABLES BY WEIGHT.[17] BETH SHAMMAI SAY: THEY MAY NOT BE SOLD, EVEN IN BUNDLES;[18] BUT BETH HILLEL SAY: PRODUCTS USUALLY TIED IN BUNDLES IN THE

HOUSE[19] MAY ALSO BE TIED INTO BUNDLES FOR THE MARKET;[20] FOR EXAMPLE: LEEKS AND ASPHODEL.[21]

MISHNAH 4. IF ONE SAYS TO A LABOURER: ‘TAKE THIS ISSAR[22] AND GATHER VEGETABLES FOR ME TO-DAY’, HIS PAYMENT IS PERMITTED;[23] [BUT IF HE TOLD HIM THUS:] ‘IN RETURN [FOR THIS ISSAR], DO THOU GATHER VEGETABLES FOR ME TO-DAY’,THEN HIS PAYMENT IS FORBIDDEN.[24] IF ONE BOUGHT A LOAF FROM A BAKER WORTH A PONDION[25] [AND SAID:] ‘WHEN I HAVE GATHERED VEGETABLES FROM THE FIELD,[26] THEN I WILL BRING THEM TO YOU’, THIS IS PERMITTED.[27] IF, HOWEVER, HE BOUGHT IT OF HIM WITHOUT ANY EXPLANATION,[28] HE MAY NOT PAY HIM HIS DEBT WITH THE VALUE OF SEVENTH YEAR PRODUCE;[29] FOR NO DEBT CAN BE PAID WITH THE VALUE OF SUCH PRODUCE.

MISHNAH 5. ONE MUST NOT PAY[30] A WELL-DIGGER,[31] AN ATTENDANT AT THE PUBLIC BATH,[32] A BARBER, OR A SAILOR; BUT HE MAY GIVE THE WELL-DIGGER [THE PRODUCE] TO BUY THEREWITH TO DRINK. AS A FREE GIFT, HOWEVER, HE MAY GIVE IT TO ALL OF THEM.[33]

MISHNAH 6. SABBATICAL FIGS MAY NOT BE CUT WITH A FIG-KNIFE,[34] BUT WITH AN ORDINARY KNIFE.[35] GRAPES MAY NOT BE TRODDEN IN THE WINE-PRESS,[36] BUT THEY ARE TRODDEN IN THE KNEADING-TROUGH.[37] OLIVES MAY NOT BE PREPARED IN AN OLIVE-PRESS OR WITH AN OLIVE-CRUSHER.[38] BUT THEY MAY BE CRUSHED AND BROUGHT INTO A SMALL OLIVE-PRESS. R. SIMEON SAYS: THEY MAY EVEN BE CRUSHED IN THE [LARGER] OLIVE-PRESS, AFTERWARDS TO BE BROUGHT INTO THE SMALLER PRESS.

MISHNAH 7. SABBATICAL VEGETABLES MAY NOT BE COOKED IN OIL OF TERUMAH LEST THEY BECOME INVALIDATED;[39] BUT R. SIMEON PERMITS IT.[40] THE LAST THING EXCHANGED IS ALWAYS SUBJECT TO THE SABBATICAL LAW,[41] AND THE PRODUCE ITSELF[42] ALSO REMAINS FORBIDDEN.[43]

MISHNAH 8. SLAVES, PROPERTY, OR UNCLEAN CATTLE MAY NOT BE BOUGHT WITH MONEY REALIZED BY SALE OF SEVENTH YEAR PRODUCTS; IF ONE HAS DONE SO HE MUST [BUY AND] EAT [FOOD] FOR THEIR EQUIVALENT.[44] BIRD-OFFERINGS BROUGHT BY A MAN OR WOMAN WHO SUFFERED A FLUX,[45] OR BY A WOMAN AFTER CHILDBIRTH,[46] MUST NOT BE BOUGHT WITH THE VALUE OF SABBATICAL PRODUCE; AND IF THIS HAS BEEN DONE, HE MUST [BUY AND] EAT [FOOD] FOR THEIR EQUIVALENT. VESSELS MAY NOT BE ANOINTED WITH OIL OF SEVENTH YEAR PRODUCE; WHERE THIS HAS BEEN DONE, HE MUST [BUY AND] EAT [FOOD] FOR THEIR EQUIVALENT.[47]

MISHNAH 9. A HIDE[48] SMEARED WITH OIL OF THE SEVENTH YEAR, R. ELIEZER SAYS, MUST BE BURNT; BUT THE SAGES SAY THAT HE MUST [BUY AND] EAT [PRODUCE] OF CORRESPONDING VALUE. THEY TOLD R. AKIBA THAT R. ELIEZER USED TO SAY, A HIDE THAT HAS BEEN SMEARED WITH OIL OF THE SEVENTH YEAR MUST BE BURNT. HE REPLIED: ‘HOLD YOUR PEACE; FOR I WILL NOT DIVULGE TO YOU WHAT R. ELIEZER ACTUALLY SAID IN THIS CONNECTION’.[49]

MISHNAH 10. THEY ALSO TOLD HIM[50] THAT R. ELIEZER SAID: ‘HE WHO EATS BREAD [BAKED] BY SAMARITANS[51] IS LIKE ONE WHO EATS THE FLESH OF A PIG’.[52] [TO THIS, TOO] HIS REPLY WAS: ‘HOLD YOUR PEACE; FOR I WILL NOT DIVULGE TO YOU WHAT R. ELIEZER REALLY DID SAY IN THIS CONNECTION’.

MISHNAH 11. ONE MAY WASH IN A BATH HEATED WITH STRAW OR STUBBLE OF THE SEVENTH YEAR;[53] BUT IF HE IS A MAN HELD IN HONOUR, HE SHOULD NOT WASH THEREIN.[54]

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(1) Sabbatical produce was not to be wasted; hence if fit for human food it must not be used for healing purposes.

(2) Greek** (Jast.); an emollient, or plaster.

(3) At the time of gathering.

(4) Not to make a poultice thereof.

(5) Not to cook vegetables if they can be eaten raw.

(6) At the time of gathering.

(7) Since they were only used for burning purposes, they are not liable to the law of Removal

(8) A herb of mint, classified with hyssop, Satureia thymbra (Jast.).

(9) A shrub with pungent aromatic leaves used in cooking. The three shrubs here specified are not usually designated for any particular purpose; hence his intention is respected.

(10) Such produce as grapes and olives are borne in mind which can be used for all these three purposes.

(11) No change was allowed in the natural purpose of the food; such food, however, that had become unfit for human consumption could be used for other purposes.

(12) Wine, being used for drinking, was not to be wasted on an inferior purpose; cf. B.K. 15b.

(13) Which can only be applied for the abovementioned purposes.

(14) Whether the oil is clean or unclean. Forbidden, however, in the case of oil of terumah that is clean. Oil of the Second Tithe could be burnt only when clean; but oil of the seventh year could be burnt regardless of its being clean or not.

(15) Left over after having been gathered to be eaten in one's household; v. supra VII, 3.

(16) Respect must be attached to Sabbatical produce; accordingly, different methods of sale procedure must be employed.

(17) In departure from the regular procedure in order to emphasize the sanctity of seventh year products. He can only sell them by approximation.

(18) To obviate the impression that they are being sold as ordinary wares.

(19) For private purposes.

(20) Since this is unusual it will be regarded as different produce entitled to regard.

(21) Cf. supra VII, I notes.

(22) Equivalent to eight perutahs.

(23) The issar can be regarded as a gift, and the work to be done as a favour.

(24) Being too much like an express wish to perform work for him in the seventh year.

(25) Equivalent to two issars.

(26) That grow of their own accord.

(27) For it is like exchanging gifts. The baker gives his loaf, he his vegetables, with no money crossing their hands.

(28) I.e., on credit.

(29) This would be actually a case of trading with Sabbatical produce.

(30) With Sabbatical year produce.

(31) Who supplies the town with water from the wells he is asked to dig.

(32) Who heats the water to his liking. Though the labour of all these mentioned is for his own personal benefit, yet they must not be paid with produce of the seventh year.

(33) Even though, as a consequence, no reward for labour may be demanded.

(34) The one used specially for this purpose.

(35) Sword-like in shape. The point emphasized is that some different procedure must be followed (שנוי). Aliter: These figs are not to be cut in the place usually designated for this purpose, thus taking the words מוקצה and חרבה as names of places instead of names of knives.

(36) As usual

(37) To show the nature of the produce.

(38) A small olive-press with a cylindrical beam with which to extract oil from olives in the press. According to Bert. it consisted of a large beam, topped by a large stone, with which oil was extracted from the olives.

(39) Since the oil is susceptible to uncleanness, the vegetables, too, will have to be burnt, and thus wilful wastage of Sabbatical produce will accrue. Terumah, with its special sanctity, can suffer impurity at one further remove than ordinary food; and when invalid, must be burnt.

(40) Being of the opinion that dedicated things may be brought to a state of invalidity. Pes. 98b.

(41) The equivalent of the thing exchanged is also regarded as invested with Sabbatical sanctity, and though not all the substitutes are considered Sabbatical, yet the original produce still remains forbidden.

(42) Of the seventh year.

(43) V. Bert. ad loc.

(44) Since sanctity cannot be attached to the things bought, he must eat produce of equal value.

(45) Lev. XV, 14, 29; the sacrifice being two turtle-doves, or two pigeons.

(46) Ibid. XII, 6, 8. These are cited here to show that though they permit the bearer to eat of holy things, nevertheless, they cannot be purchased with Sabbatical produce.

(47) Only man could be anointed with Sabbatical oil. Oil preserves vessels.

(48) Or any other object; a hide is cited as being the more usual object to receive such treatment.

(49) From this it would appear that R. Eliezer held very lenient views which R. Akiba was not eager to discuss (Bert.). V. however, T.J. ad loc. R. Eliezer b. Hyrcanus was under a ban (v. B.M. 59b), and was forbidden to participate in the discussions and decisions of the court; Yad. IV, 3.

(50) R. Akiba.

(51) Excommunicated by Ezra for their intransigence in disturbing the construction of the Temple.

(52) Not to be taken too literally. Their bread was prohibited as a punishment; v. Hul. 4a.

(53) In pursuance of the policy formulated in supra VIII, 1 that anything not used exclusively for human food can be used for other purposes.

(54) Such a man must impose upon himself added restrictions.

Mishna - Mas. Shevi'ith Chapter 9

MISHNAH 1. RUE,[1] GOOSEFOOT,[2] PURSLANE,[3] HILL CORIANDER,[4] WATER-PARSLEY,[5] AND MEADOW-BERRIES, ARE EXEMPT FROM TITHES.[6] AND MAY BE PURCHASED[7] FROM ANY MAN[8] DURING THE SABBATICAL YEAR, SINCE SUCH PRODUCE IS NOT USUALLY WATCHED. R. JUDAH SAYS: AFTERGROWTHS OF MUSTARD ARE PERMITTED, SINCE TRANSGRESSORS ARE NOT SUSPECTED CONCERNING THEM.[9] R. SIMEON SAYS: ALL AFTERGROWTHS ARE PERMITTED,[10] WITH THE EXCEPTION OF THE AFTERGROWTHS OF CABBAGE,[11] SINCE SUCH CANNOT BE PLACED WITHIN THE CATEGORY OF WILD VEGETABLES. BUT THE SAGES SAY: ALL AFTERGROWTHS ARE FORBIDDEN.[12]

MISHNAH 2. THERE ARE THREE DISTINCT COUNTRIES[13] IN RESPECT OF THE LAW OF REMOVAL.[14] [THESE ARE]: JUDAH, TRANSJORDANIA, AND GALILEE, EACH OF THESE IS [IN TURN] DIVIDED INTO THREE TERRITORIES.[15] THUS [GALILEE[16] IS DIVIDED INTO] UPPER GALILEE, NETHER GALILEE, AND THE VALLEY; FROM KEFAR HANANIAH UPWARDS, [NAMELY], THE REGION WHERE SYCAMORES DO NOT GROW,[17] IS UPPER GALILEE; FROM KEFAR HANANIAH DOWNWARDS, WHERE THE SYCAMORES DO GROW, IS NETHER GALILEE; THE NEIGHBOURHOOD OF TIBERIAS IS THE VALLEY. THOSE OF JUDAH ARE: THE MOUNTAIN REGION, THE SHEPHELAH,[18] AND THE VALLEY.[19] THE PLAIN OF LYDDA[20] IS LIKE THE PLAIN OF THE SOUTH, AND ITS MOUNTAIN REGION IS LIKE THE KING'S HILL-COUNTRY.[21] FROM BETH-HORON TO THE SEA IS CONSIDERED AS ONE DISTRICT.[22]

MISHNAH 3. WHY DID THEY SPEAK OF THREE COUNTRIES?[23] SO THAT THEY MAY EAT IN EACH COUNTRY UNTIL THE LAST OF THE SEVENTH YEAR PRODUCE IN THAT COUNTRY IS ENDED.[24] R. SIMEON SAID: THEY HAVE SPOKEN OF THREE COUNTRIES

ONLY IN THE CASE OF JUDAH, BUT ALL OTHER COUNTRIES[25] ARE TO BE REGARDED AS ROYAL HILL-COUNTRY;[26] AND ALL OTHER COUNTRIES RECEIVE EQUAL TREATMENT WITH REGARD TO THE OLIVE AND DATE.[27]

MISHNAH 4. ONE MAY EAT[28] [ONLY SO LONG AS] SIMILAR PRODUCE IS STILL REGARDED AS OWNERLESS[29] [IN THE FIELDS], BUT NOT WHEN IT IS BEING WATCHED.[30] R. JOSE, HOWEVER, PERMITS IT ALSO WHEN [SIMILAR PRODUCE] IS FOUND GUARDED.[31] ONE MAY CONTINUE TO EAT[32] SO LONG AS THERE IS STILL GROWTH BETWEEN THE GRASS,[33] OR BY VIRTUE OF THE TREES THAT YIELD BI-ANNUALLY;[34] BUT ONE MUST NOT EAT BY VIRTUE OF WINTER-GRAPES.[35] R. JUDAH PERMITS [EVEN BY VIRTUE OF THE LATTER] PROVIDED THEY BEGAN TO RIPEN BEFORE THE SUMMER [OF THE SEVENTH YEAR] HAD ENDED.

MISHNAH 5. IF THREE KINDS OF VEGETABLES[36] WERE PRESERVED IN ONE JAR, THEY MAY BE EATEN ONLY SO LONG AS THE FIRST STILL REMAINS;[37] SO R. ELIEZER. BUT R. JOSHUA SAYS: EVEN SO LONG AS THE LAST REMAINS.[38] RABBAN GAMALIEL SAYS: WHEN THE LIKE KIND IS NO LONGER TO BE FOUND WITHIN THE FIELD, THE CORRESPONDING KIND IN THE JAR MUST BE REMOVED.[39] AND THE HALACHAH AGREES WITH HIM. R. SIMEON SAYS: ALL VEGETABLES ARE REGARDED AS ONE [KIND] IN RESPECT OF THE LAW OF REMOVAL. PURSLANE[40] MAY BE EATEN AS LONG AS VETCHES[41] ARE STILL FOUND IN THE VALE OF BETH NETOPHA.[42]

MISHNAH 6. IF ONE GATHERED FRESH VEGETABLES,[43] HE MAY EAT THEM UNTIL THE [GROUND] MOISTURE IS DRIED UP;[44] AND IF HE GATHERED DRY [VEGETABLES] [HE MAY EAT THEM] UNTIL THE SECOND RAINFALL.[45] LEAVES OF REEDS AND OF THE VINE[46] [MAY BE EATEN] UNTIL THEY FALL FROM THE STEMS; BUT IF THEY HAVE BEEN GATHERED DRY, THEY MAY BE EATEN ONLY UNTIL THE SECOND RAINFALL. R. AKIBA SAYS: IN ALL CASES,[47] [THEY MAY BE EATEN] UNTIL THE SECOND RAINFALL.

MISHNAH 7. SIMILARLY, IF ONE HIRES TO ANOTHER A HOUSE ‘UNTIL THE RAINFALL’, [HE IMPLIES THEREBY] ‘UNTIL THE SECOND RAINFALL’; OR IF ONE HAD VOWED NOT TO DERIVE ANY BENEFIT FROM HIS FELLOW ‘UNTIL THE RAINS’. [THIS LIKEWISE IMPLIES] ‘UNTIL THE SECOND RAINFALL’. UNTIL WHEN MAY THE POOR ENTER THE GARDENS?[48] UNTIL THE SECOND RAINFALL.[49] AND WHEN MAY ONE BEGIN TO ENJOY OR BURN THE STRAW AND STUBBLE OF SABBATICAL PRODUCE?[50] AFTER THE SECOND RAINFALL.[51]

MISHNAH 8. IF ONE HAD SABBATICAL PRODUCE [AT HOME] AND THE TIME OF REMOVAL HAD COME,[52] HE MAY APPORTION FOOD FOR THREE MEALS TO EVERY ONE.[53] R. JUDAH SAYS: THE POOR[54] MAY EAT THEREOF, EVEN AFTER THE REMOVAL, BUT NOT THE RICH;[55] BUT R. JOSE SAYS: THE POOR AND THE RICH ALIKE MAY EAT THEREOF.[56] [EVEN AFTER THE TIME OF] THE REMOVAL.

MISHNAH 9.IF ONE HAD INHERITED SEVENTH YEAR PRODUCE,[57] OR HAD RECEIVED THEM AS A GIFT, R. ELIEZER SAYS: THEY MUST BE GIVEN[58] UNTO ALL WHO WISH TO EAT THEREOF.[59] BUT THE SAGES SAY: THE SINNER MUST NOT BENEFIT,[60] BUT THE PRODUCE SHOULD BE SOLD TO THOSE WHO WOULD EAT THEREOF,[61] AND ITS PRICE DIVIDED AMONG THEM ALL.[62] IF ONE EATS OF DOUGH OF THE SEVENTH YEAR [PRODUCE] BEFORE THE HALLAH[63] WAS TAKEN FROM IT, HE HAS INCURRED THEREBY THE DEATH PENALTY.[64]

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(1) A perennial ever-green shrub with bitter, strong-scented leaves frequently used in medicine.
(2) A kind of asparagus, says Bert. Goosefoot is so named from the shape of its leaves.
(3) A low succulent herb used in salads and pickled.
(4) Annual plants with aromatic fruit used for flavouring. Kil. I, 2.
(5) An umbelliferous plant.
(6) Tithes are only taken from owned produce; those above-mentioned generally grow in ownerless property and are not deemed of much value.
(7) For food.
(8) Even from such that are suspected of trading with Sabbatical produce; for the law does not embrace ownerless produce.
(9) To guard them in the seventh year.
(10) Since they are usually ownerless.
(11) Which are not generally ownerless and do not grow wild.
(12) As a precaution against transgressors who will sow things in secret, and then claim that they are aftergrowths. Those of vegetables were permitted, according to all, since it was not usual to sow them at all.
(13) Though they are all in the Land, they differ with regard to the application of this law; the reason being that produce ripens at different seasons in each of these territories.
(14) Sabbatical produce stored in the house may be eaten as long as similar produce still abounds in the fields of the country of his domicile; as soon as this produce begins to wither or disappear from the fields, the time has come for him to remove that which he has stored up at home. The object of this law was to enable man and beast alike to have equal access to seventh year produce. This stipulation was based on the words in Lev. XXV, 7 (ולבהמתך ולחיה) as long only as cattle can eat thereof in the field, may man eat thereof in his house.
(15) Though three territories, yet each is part of one country-Galilee.
(16) The three partitions of Galilee are given.
(17) These grow in the plain; I Kings X, 27.
(18) Maritime Plain.
(19) From Engedi to Jericho; Josh. X, 40. The three partitions ‘If Transjordania seem to be inadvertently omitted; these are outlined in Josh. XV and in Tosef Shebi'ith, and also consist of hill-country, plain and valley. Machwar, Gador and the rest are the hill-country, Heshbon with its surrounding towns constitute the plain, and the valley is Beth Haran and its environs.
(20) Continuing the description of Judah's territories.
(21) Viz., the mountain region of Judah, in the region of Lydda, Sabbatical produce could be eaten until similar produce declines in the Judean hill-country, where, owing to its altitude, it is late in ripening.
(22) As line as the cattle of that region still find food in the fields, one can continue to eat at home food stored.
(23) Since each, in turn, is again partitioned into three, there are really nine in all. Why then three?
(24) Viz., if produce in Judah's hilly region has ended in the field, but is still found in the plain; or if it has ceased in the fields of the plain and hill-country, but is still to be found in the valley, then the whole country of Judah may still eat. Similarly with Transjordania and Galilee. One cannot, however, eat in Judah because produce is still found in the fields of Galilee and Transjordania, for each of the three countries is perfectly autonomous with regard to the law of Removal.
(25) I.e., Galilee and Transjordania.
(26) Where there is always an abundance of fruit, even late in the year, and as long as there is produce to be found there, it may be eaten also in Galilee and Transjordania.
(27) As long as they are still to be found in one place, they may be eaten in those even where they have ceased from the fields, be it Judah, Galilee, or Transjordania.
(28) Stored Sabbatical produce.
(29) Regardless of the fact whether it be attached or plucked from the soil.
(30) Symbol of private ownership, as for example, produce from one's garden. From the words ולבהמתך ולחיה we deduce that men cannot eat from produce of which the beasts cannot avail themselves; viz., from one's garden.
(31) And still attached to the soil; but once detached, and guarded, the produce is forbidden.
(32) Sabbatical produce.
(33) So Jast. Bert. explains it as ‘a pitcher-shaped vessel, put up in walls and crevices as a bird's nest’. As long as grain is found in these pitchers, so long may one eat similar grain stored at home. Aliter: ‘poor, stunted grain kept in soil’; also,

‘the ledges placed on roofs of houses, where crumbs were scattered for birds to pick’; cf. I Kings VII, 9.

(34) I.e., as long as there is on the tree fruit of the second crop.

(35) Late fruits remaining on the edges of the trees till the approach of winter. I.e., one may not eat of the summer grapes by virtue of the grapes that will ripen in the winter of the eighth year.

(36) The time of Removal of each being different.

(37) In the field. I.e., as soon as one of them has ceased from the fields, the other two will then be forbidden, though their like is still in the fields.

(38) Though the other two kinds similar to those in the jar have ceased from fields, those preserved can still be eaten by virtue of the one which is still in the fields with which they are intermixed.

(39) And each vegetable may be eaten as long as that kind of vegetable is still found in the fields.

(40) In the seventh year.

(41) Of the artichoke genus, a plant of which the base of the flower and the scales thereof are edible. Those grown in the Holy Land were species of sunflower with edible tuberous roots.

(42) Purslane, which after being plucked, lasts longest, owing to the moisture within, may be eaten as long as the vetches last in Beth Netopha, where on account of its fertility and plentiful supply of water, the crop remains longest in the field. Beth Netopha has been identified with the El Battof valley in Galilee, v. Klein, Beitrage, p. 83.

(43) Of the seventh year.

(44) After this drying up, those left in the field are no longer fit for food, and therefore those in the house must be removed. The word for ‘moisture’ (מתוק) is lit., ‘sweetness’, since it is this that makes them palatable. Cf. supra III, 1.

(45) Usually the twenty-third Heshwan (November) of the eighth year. Plants in the field then become unfit even for beasts in the fields.

(46) Eaten as long as they were still attached to their stems.

(47) Of plants enumerated in the Mishnah. The Halachah is not in agreement with Akiba.

(48) To gather gleanings, the Forgotten Sheaf and Pe'ah every year, and in the seventh year, the produce; Pe'ah VIII, 1.

(49) But not afterwards; for they will then harm the soil that has become soft on account of the rain; B.K. 81b.

(50) During the seventh year the produce can only be food for the cattle of the field not for man's profit; Lev. XXV, 7. Straw and stubble were eaten by cattle, hence they must not be used for any other purpose until such time when they cease to be fit for them.

(51) When nothing left in the field is fit for food, and henceforth the Sabbatical law no longer applies to things stored at home.

(52) Of each species, according to its place and season; Pes, 53a.

(53) Of his household, and friends and neighbours; the rest must be removed, after he had issued an open invitation to all to partake thereof.

(54) Who gathered ownerless produce.

(55) Who had gathered from their own fields v. Tif. Yis.

(56) Maim. reads: ‘may not eat’.

(57) Legally gathered, but now the period of Removal had come.

(58) Free.

(59) This is in accordance with Beth Shammai, supra IV, 2, who forbid the eating of Sabbatical produce when bestowed by the owner as a favour. The beneficiary consequently must share the produce he had received with others (Bert.).

(60) For he has been the recipient of a forbidden gift, and if allowed to eat himself and bestow favours on others, he will be deriving benefit from forbidden gifts.

(61) So that he be not the bestower of favours.

(62) Perhaps by the Beth din (v., however, Tif. Yis).

(63) Lit., ‘cake’; Num. XV. 18 — 21 Though we deduce from לאכלה (‘for eating’), ולא לשרפה , (‘and not for burning’), and the dough-offering if rendered unclean had to be burnt, still Hallah had to be taken from seventh year produce.

(64) The ‘heavenly’ penalty (בידי שמים) for such an offence, no distinction being made in the dough from which Hallah had to be taken.

Mishna - Mas. Shevi'ith Chapter 10

Mishna - Mas. Shevi'ith Chapter 10

MISHNAH 1. THE SABBATICAL YEAR CANCELS A CASH DEBT,[1] WHETHER IT IS SECURED BY BOND[2] OR NOT; BUT SHOP-DEBTS[3] IT DOES NOT CANCEL. IF, HOWEVER, IT HAD BEEN CONVERTED INTO THE FORM OF A LOAN, THEN IT IS CANCELLED. R. JUDAH SAYS: THE FORMER DEBT IS ALWAYS CANCELLED.[4] THE WAGE OF A HIRELING IS NOT CANCELLED, BUT IF IT HAD BEEN CONVERTED INTO A LOAN IT IS CANCELLED. R. JOSE SAYS: THE [PAYMENT FOR] ANY WORK THAT MUST CEASE[5] WITH THE SEVENTH YEAR, IS CANCELLED; BUT IF IT NEED NOT CEASE WITH THE SEVENTH YEAR, THEN IT IS NOT CANCELLED.[6]

MISHNAH 2. HE WHO SLAUGHTERS A COW AND DIVIDES IT UP ON THE NEW YEAR,[7] IF THE MONTH HAD BEEN INTERCALATED,[8] [THE DEBT INCURRED BY THEN] IS REMITTED; BUT IF IT HAD NOT BEEN INTERCALATED, IT IS NOT REMITTED. [FINES FOR] OUTRAGES,[9] FOR SEDUCTION,[10] FOR DEFAMATION,[11] AND ALL OTHER OBLIGATIONS ARISING FROM LEGAL PROCEDURE,[12] ARE NOT CANCELLED. A LOAN SECURED BY A PLEDGE, AND ONE THE BONDS OF WHICH HAVE BEEN HANDED OVER TO A COURT, ARE NOT CANCELLED.[13]

MISHNAH 3. [A LOAN SECURED BY] A PROZBUL[14] IS NOT CANCELLED. THIS WAS ONE OF THE THINGS INSTITUTED BY HILLEL THE ELDER; FOR WHEN HE OBSERVED PEOPLE REFRAINING FROM LENDING TO ONE ANOTHER, AND THUS TRANSGRESSING WHAT IS WRITTEN IN THE LAW, ‘BEWARE, LEST THERE BE A BASE THOUGHT IN THY HEART’,[15] .... HE INSTITUTED THE PROZBUL.

MISHNAH 4. THIS IS THE FORMULA[16] OF THE PROZBUL: ‘I DECLARE BEFORE YOU, SO-AND-SO,[17] JUDGES OF THAT PLACE,[17] THAT TOUCHING ANY DEBT THAT I MAY HAVE OUTSTANDING, I SHALL COLLECT IT WHENEVER I DESIRE’. AND THE JUDGES SIGN BELOW, OR THE WITNESSES.[18]

MISHNAH 5. AN ANTE-DATED PROZBUL IS LEGAL;[19] IF POST-DATED, IT IS ILLEGAL.[20] ANTE-DATED BONDS [OF LOANS] ARE NOT VALID,[21] BUT THOSE POST-DATED ARE VALID.[22] IF ONE BORROWS FROM FIVE PERSONS, A SEPARATE PROZBUL MUST BE MADE FOR EACH [CREDITOR]; BUT IF FIVE BORROW FROM THE SAME PERSON, THEN ONE PROZBUL ONLY WILL SUFFICE FOR THEM ALL.

MISHNAH 6. A PROZBUL IS WRITTEN ONLY FOR [A DEBT SECURED BY] IMMOVABLE PROPERTY; AND IF [THE DEBTOR] HAS NONE, THEN [THE CREDITOR] CAN GIVE HIM TITLE TO A SHARE, HOWEVER SMALL, OF HIS OWN FIELD.[23] IF HE[24] HAD LAND IN PLEDGE IN A CITY, A PROZBUL CAN BE WRITTEN ON [THE SECURITY THEREOF]. R. HUZPETH SAYS: A PROZBUL MAY BE WRITTEN FOR A MAN ON THE SECURITY OF HIS WIFE'S PROPERTY,[25] OR FOR AN ORPHAN ON THE SECURITY OF PROPERTY BELONGING TO HIS GUARDIAN.[26]

MISHNAH 7. A BEE-HIVE, R. ELIEZER SAYS, IS CONSIDERED LANDED ESTATE;[27] A PROZBUL MAY BE DRAWN UP ON ITS SECURITY, AND IT IS NOT SUSCEPTIBLE TO UNCLEANNESS WHILE IT REMAINS IN ITS PLACE, AND HE WHO TAKES HONEY THEREFROM ON THE SABBATH DAY IS HELD CULPABLE.[28] THE SAGES, HOWEVER, SAY: IT IS NOT LIKE LANDED ESTATE, A PROZBUL MAY NOT BE DRAWN UP ON ITS SECURITY, IT DOES CONTRACT UNCLEANNESS WHILE IN ITS PLACE, AND HE WHO TAKES HONEY THEREFROM ON THE SABBATH IS EXEMPT FROM ANY PENALTY.

MISHNAH 8. IF ONE WOULD RETURN A DEBT IN THE SEVENTH YEAR, THE

[CREDITOR] MUST SAY TO [THE DEBTOR]: ‘I REMIT IT’; BUT SHOULD [THE LATTER] SAY: ‘NONE-THE-LESS [I WILL REPAY IT]’. HE MAY ACCEPT IT FROM HIM, BECAUSE IT SAYS:’ AND THIS IS THE WORD OF THE RELEASE’.[29] SIMILARLY, WHEN [AN INVOLUNTARY] MANSLAYER HAS ARRIVED AT HIS CITY OF REFUGE, AND THE CITIZENS THEREOF DESIRE TO DO HIM HONOUR, HE MUST SAY TO THEM: ‘I AM A MURDERER’.[30] IF THEY SAY: ‘[NONE-THE-LESS WE WOULD HONOUR THEE]’. THEN HE MAY ACCEPT [THE HONOUR] FROM THEM, BECAUSE IT SAYS: ‘AND THIS IS THE WORD OF THE MANSLAYER’.[31]

MISHNAH 9. IF ONE REPAYS HIS DEBTS IN THE SEVENTH YEAR THE SAGES ARE WELL PLEASED WITH HIM. IF ONE BORROWS FROM A PROSELYTE WHOSE SONS HAD BECOME CONVERTED WITH HIM, THE DEBT NEED NOT BE REPAID TO HIS SONS;[32] BUT IF HE RETURNS IT THE SAGES ARE WELL PLEASED WITH HIM. ALL MOVABLE PROPERTY CAN BE ACQUIRED [ONLY] BY THE ACT OF DRAWING THEM;[33] BUT WHOSOEVER FULFILLS HIS [BARE] WORD, THE SAGES ARE WELL PLEASED WITH HIM.

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(1) Deut. XV, 2. With the passing of the Sabbatical year, the creditor has no longer any claim on the debtor.

(2) Though the debtor had pledged in the bond his immovable property for the recovery of the debt.

(3) Goods purchased on credit.

(4) When a second credit purchase is transacted, the first is always considered a loan subject to the Sabbatical law of cancellation, and the last credit purchase a trust not subject to this law.

(5) Such as pruning, ploughing, sowing, etc.

(6) Since it is the price of such labour as is permitted.

(7) On the first of Tishri of the eighth year, he sells portions of it to purchasers.

(8) I.e., Ellul, the preceding month, had been declared by the Beth din to possess thirty instead of twenty-nine days. Accordingly, the day when the cow was distributed among purchasers was the last day of the seventh year, and the debts are released. Note that debts were only released at the end of the seventh year; Deut. XV, 2.

(9) Deut. XXII, 29.

(10) Ex. XXII, 16. Penalty for both was fifty shekels.

(11) Deut. XXII, 18, 19. Penalty, one hundred shekels.

(12) All payments enjoined by the Beth din are regarded as if they were already claimed.

(13) Being in the hands of the Beth din, the debt is considered as if it had already been paid.

(14) It was a declaration made in court, to the effect that the law shall not apply to the loan transacted; cf. Pe'ah III, 6. For a full discussion v. Git. 36b and note in Sonc. ed. a.l.

(15) Deut. XV, 9.

(16) Lit., ‘the body of’.

(17) The exact names being given.

(18) The effect of this document was tantamount to the debt already having been collected before the advent of the Sabbatical year (v. supra 2). According to Asheri the time of writing the Prozbul was until the end of the sixth year; but Maim. is of the opinion that since the law of cancellation actually came into force at the end of the seventh year, it could be written even in the seventh year.

(19) For the harm done by this is only to the lender himself; for should he lend any money after the drawing up of the Prozbul, the Prozbul will have no effect on the claim of the loan.

(20) For all the debts contracted in the interval will be claimed in the seventh year, contrary to the law, which limits the operation of the Prozbul to loans made before it had been drawn up.

(21) Because he will be illegally claiming from property which the debtor had sold before the actual transaction of the debt.

(22) For the lender will then be harming only himself, as he will not be entitled to claim any property other than from such time mentioned in the bond.

(23) Immovable property of little value is sufficient to secure a large debt (v. Tosaf. Yom. Tov.).

(24) The debtor.

(25) Even of his wife's estate of which the husband enjoys the fruit without the responsibility for loss or deterioration,

(26) Where the guardian had borrowed money on behalf of the orphan.

(27) All would agree with R Eliezer if it were attached to the soil with lime. On the other hand, were it suspended above ground on pegs, all would agree that it is movable property. The dispute only arose here, where the bee-hive is lying on the ground, unattached to the soil with lime; cf. ‘Uk. III, 10.

(28) ‘Plucking’ from the soil on Sabbath was classed under the category of reaping; Shab. VII, 2.

(29) Deut. XV, 2. The emphasis is in word, hence by a single admission of the obligation to cancellation the law is fulfilled, and no qualms need be felt now at accepting the debt.

(30) Cf. Mak. II, 8.

(31) Deut, XIX, 4; having demurred but once at the honour extended to him, he may now be the recipient thereof.

(32) Children of a proselyte are regarded as newly born; accordingly, they are not the legal heirs of their pagan father, and, consequently, cannot claim debts due to him. Nevertheless, if his debt is returned to them, the Rabbis are pleased with the debtor.

(33) Into the possession of the purchaser; Kid. I, 4 — 5. Both parties could retract, even if money had already crossed hands, as long as the object to be acquired had not yet been drawn into the possession of the purchaser; v. Glos. s.v. Meshikah.

Mishna - Mas. Terumoth Chapter 1

MISHNAH 1. FIVE MAY NOT GIVE TERUMAH, AND IF THEY DO SO, THEIR TERUMAH IS NOT CONSIDERED VALID:[1] THE HERESH [DEAF MUTE], THE IMBECILE,[2] THE MINOR,[3] AND THE ONE WHO GIVES TERUMAH FROM THAT WHICH IS NOT HIS OWN. IF A GENTILE GAVE TERUMAH FROM THAT WHICH BELONGS TO AN ISRAELITE, EVEN IF IT WAS WITH HIS FULL CONSENT, HIS TERUMAH IS NOT VALID.

MISHNAH 2. A HERESH, WHO SPEAKS BUT CANNOT HEAR, MAY NOT GIVE TERUMAH,[4] BUT IF HE DOES SO, HIS TERUMAH IS VALID.[5] THE HERESH OF WHOM THE SAGES GENERALLY SPEAK IS ONE WHO NEITHER HEARS NOR SPEAKS.

MISHNAH 3. IF A MINOR HAS NOT YET PRODUCED TWO HAIRS [OF PUBERTY] R. JUDAH SAYS: HIS TERUMAH IS VALID. R. JOSE SAYS: IF HE HAS NOT ARRIVED AT THE AGE WHEN HIS VOWS ARE VALID, HIS TERUMAH IS NOT VALID, BUT AS SOON AS HIS VOWS BECOME VALID, HIS TERUMAH BECOMES VALID.[6]

MISHNAH 4. TERUMAH SHOULD NOT BE TAKEN FROM OLIVES FOR OIL, OR FROM GRAPES FOR WINE.[7] IF THIS IS DONE, BETH SHAMMAI SAY: THERE IS THEN TERUMAH OF [THE OLIVES OR GRAPES] THEMSELVES,[8] BUT BETH HILLEL SAY: THE [WHOLE] TERUMAH IS NOT VALID.[9]

MISHNAH 5. TERUMAH IS NOT TAKEN FROM ‘GLEANINGS’, FROM ‘THE FORGOTTEN SHEAF’, FROM PE'AH[10] OR FROM OWNERLESS PRODUCE.[11] [NEITHER IS IT TAKEN] FROM FIRST TITHE FROM WHICH ITS TERUMAH HAD ALREADY BEEN TAKEN,[12] NOR FROM SECOND TITHE AND DEDICATED PRODUCE THAT HAD NOT BEEN REDEEMED.[13] [NOR MAY IT BE TAKEN] FROM WHAT IS SUBJECT [TO TERUMAH] FOR THAT WHICH IS EXEMPT;[14] OR FROM THAT WHICH IS EXEMPT FOR THAT WHICH IS SUBJECT. ALSO, NOT FROM PRODUCE ALREADY PLUCKED [FROM THE SOIL] FOR THAT STILL ROOTED TO IT,[15] OR FROM THAT ROOTED [TO THE SOIL] FOR THAT ALREADY PLUCKED; ALSO, NOT FROM NEW PRODUCE[16] FOR OLD,[17] OR FROM OLD FOR NEW. ALSO NOT FROM FRUIT OF THE LAND[18] FOR FRUIT GROWN OUTSIDE THE LAND,[19] OR FROM THOSE GROWN WITH OUT THE LAND FOR THOSE GROWN IN THE LAND. [IN ALL THESE CASES] SHOULD THIS HAVE BEEN DONE, THE TERUMAH IS NOT VALID.

MISHNAH 6. FIVE MAY NOT GIVE TERUMAH, BUT IF THEY DO, THEIR TERUMAH IS VALID. HE THAT IS MUTE,[20] OR DRUNKEN,[21] OR NAKED,[22] OR BLIND,[21] OR HAS SUFFERED POLLUTION BY SEMEN;[23] THESE MAY NOT GIVE TERUMAH,[24] BUT IF THEY DO, THEIR TERUMAH IS VALID.[25]

MISHNAH 7. TERUMAH MAY NOT BE GIVEN ACCORDING TO MEASURE,[26] OR WEIGHT, OR NUMBER, THOUGH ONE MAY GIVE IT FROM THAT WHICH HAS ALREADY BEEN MEASURED,[27] WEIGHED OR COUNTED. TERUMAH MAY NOT BE GIVEN IN A BASKET OR A HAMPER OF A MEASURED CAPACITY,[28] BUT IF THEY BE ONLY [ABOUT A] HALF OR A THIRD FILLED, ONE MAY GIVE TERUMAH IN THEM. TERUMAH MAY NOT BE GIVEN IN [A VESSEL] CONTAINING A SE'AH, THOUGH IT BE ONLY A HALF FULL, FOR THIS HALF CONSTITUTES A KNOWN MEASURE.[29]

MISHNAH 8. OIL MAY NOT BE GIVEN AS TERUMAH FOR OLIVES DUE TO BE CRUSHED,[30] NOR MAY WINE FOR GRAPES DUE TO BE TRODDEN; IF, HOWEVER, ONE HAS DONE SO, HIS TERUMAH IS VALID,[31] BUT HE MUST GIVE TERUMAH ANEW.[32] THE

FIRST TERUMAH RENDERS [PRODUCE INTO WHICH IT HAD FALLEN] MEDUMMA'[33] AND IS SUBJECT TO THE ADDED FIFTH,[34] BUT NOT THE SECOND.[35]

MISHNAH 9. TERUMAH MAY BE GIVEN FROM OIL FOR OLIVES DUE FOR PICKLING[36], OR FROM WINE FOR GRAPES ABOUT TO BE MADE INTO RAISINS.[37] HE WHO GIVES TERUMAH FROM OIL FOR OLIVES INTENDED FOR EATING,[38] OR FROM [OTHER] OLIVES FOR OLIVES INTENDED FOR EATING, OR FOR WINE FOR GRAPES INTENDED FOR EATING, OF FROM [OTHER] GRAPES FOR GRAPES INTENDED FOR EATING, AND DECIDES AFTERWARDS TO PRESS THEM,[39] NEED NOT GIVE TERUMAH ANEW.[40]

MISHNAH 10. TERUMAH MAY NOT BE TAKEN FROM PRODUCE IN A FINISHED STATE[41] FOR PRODUCE IN AN UNFINISHED STATE,[42] OR FROM PRODUCE IN AN UNFINISHED STATE FOR PRODUCE IN A FINISHED STATE. NOR CAN IT BE TAKEN FROM PRODUCE IN AN UNFINISHED STATE FOR OTHER PRODUCE IN AN UNFINISHED STATE. IF, HOWEVER, TERUMAH HAD BEEN TAKEN, IT IS CONSIDERED VALID.[43]

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(1) And the produce remains forbidden to be eaten as tebel (v. Glos.)

(2) V. Hag. 3b for some signs of idiocy, to which Maim. adds other instances.

(3) A boy prior to the age of thirteen years and one day, and a girl of twelve years and one day.

(4) As he cannot hear the blessing to be made when giving the terumah; v. Ber. II, 3; Meg. II, 4.

(5) The omission of the blessing does not de facto affect the validity of the terumah, since he knows in whose honour the terumah is being given.

(6) The age for vows is twelve years and a day for a boy, and eleven years and a day for a girl, when they already know to whom the vow is made. Terumah and vows all belong to the same category, since they all depend on the spoken word.

(7) One who has olives and oil or grapes and wine subject to terumah, cannot take terumah from the olives or grapes to cover the amount of terumah due from both. From Num. XVIII, 27, it is inferred that terumah cannot be taken from produce still in the process of completion to cover also the terumah due from produce in a completed state. Hence olives or grapes cannot be classed together with oil or wine for purposes of terumah. Cf. infra I, 8.

(8) And separate terumah must again be given for the oil and the wine.

(9) Accordingly, he must give the whole terumah anew, for the olives or grapes separately, and the oil and wine separately.

(10) V. Pe'ah IV, 10 — 11, V. 7. Since they are dues belonging to the poor, they are exempt from terumah which can only be taken from produce of which one is the owner; but even the poor themselves cannot take terumah from these gifts for any other produce he may have, since these are originally exempt, v. infra.

(11) By renouncing all ownership before the process of completion of the produce had ended, the owner renders it exempt from terumah.

(12) I.e., the terumah of the tithe, even though the terumah gedolah had not been given. (If the Levite had obtained tithe from ears of corn, when fully grown, the produce is exempt from terumah gedolah).

(13) Since not having been redeemed, these are not his property but the property of the Sanctuary.

(14) E.g., not having yet reached a third of their full growth; cf. R.H. 13.

(15) Terumah could only be given from detached produce.

(16) Grown that year; Deut. XIV, 22.

(17) That grown last year; cf. ibid. XIV, 22.

(18) Palestine. Syria is here included.

(19) The general name for the lands of the Diaspora, where fruits are exempt from terumah, as they do not possess the desired Sanctity.

(20) He can hear, but cannot speak, and his disqualification is due to his inability to recite the blessing when taking the terumah.

(21) Being drunk or blind, he might take terumah from inferior produce and Num. XVIII, 29 explicitly tells us that it must be of the very best (מכל חלבו). The term DRUNKEN is applied to one who could not appear in the presence of a king (Bert.): but if the state of inebriation resembled that of Lot, his action was invalid even 'de facto'.

(22) Derived from Deut. XXIII, 15; no blessing may be recited before any nakedness.

(23) Before ritual ablution, he was debarred from reciting any blessing. Lest it be asked: Why does not the Mishnah include these five classes under the one category of all those unable to recite the requisite blessing? The answer is, that if even one man combined within himself all these five disqualifications, his action would be valid.
(24) The repetition to emphasize that on no account may they give terumah at the outset, relying on its validity after the act (Maim.).
(25) Important as the blessing over the terumah is, the non-recital thereof does not invalidate the terumah. The same is true of having taken terumah from inferior produce (infra II, 6).
(26) From Num. XVIII, 27 it was derived that terumah could only be given approximately. Since even ‘the giving of one wheat exempts the whole pile’, the amount given varied with the disposition of the giver and mattered not from the legal standpoint. The heave-offering of tithe had to be measured. The order followed in the Mishnah corresponds to that which was more usual. Only a minority gave it by counting.
(27) Prior to the giving of terumah, the untithed produce would often be measured or weighed.
(28) Though he had not measured the whole pile nor intended the basket to serve as a measure. This was to avoid the very semblance of wrong-doing. ‘A thing forbidden for appearance sake, is forbidden even in the strictest privacy’ (Bez. 9a).
(29) Unlike a basket nor hamper, it was usual to have in a se'ah measure indications marking the proportional capacity of measurement at different heights in the measure; hence it was forbidden even in a se'ah which has no such indications.
(30) For the oil to come. Terumah cannot be given from produce in a finished state, as oil, for oil that is still awaiting the final process — in these cases, the olives and the grapes.
(31) Having fulfilled the command of the Torah, if not according to Rabbinic interpretation.
(32) In order to lend strength to the ruling of the Rabbis, fresh terumah had to be taken after the olives and grapes had been turned into oil and wine respectively. It is not clear from our Mishnah whether even the second terumah (really a fine) must be given to the priest free, as his right due; or in view of his having fulfilled the Biblical command the first time, he may sell the second terumah to the priest; cf. infra V, 1.
(33) מדומע Lit., ‘that which becomes demai’,’ (the priest's share of the produce, v. Ex. XXII, 28). If the hullin into which the terumah had fallen is less than 100 times the quantity of the amount that had fallen in, the whole produce becomes forbidden to non-priests and must be sold to priests with the exception of the value of the terumah therein, for which no money may be taken; (v. Glos.).
(34) V. Lev. V. 16.
(35) Since this second terumah was only imposed as a fine, it does not have the same sanctity as the first terumah, which fulfilled the injunction of the Torah. The reason why the same alternative is not given in supra I, 4 is because it would involve loss to the priest if terumah were allowed to be taken ‘de facto’ from olives for oil. In our Mishnah, no such loss is entailed, hence this second giving of terumah makes even the first valid.
(36) To preserve them, they were placed in salt or vinegar. Though the olives were still awaiting this final process, the Rabbis regarded them as finished products and terumah could, accordingly, be taken from oil on their behalf.
(37) When they would no longer be deemed grapes at all. The amount of terumah to be given from the oil and wine must be according to the quantity yielded after the olives had been preserved and the grapes converted into raisins.
(38) The best olives or grapes were eaten in their natural state.
(39) Instead of his original intention of eating them; cf. Demai III, 2.
(40) Having fulfilled his duty with the first giving of terumah, since both the grapes and olives were fit for food and were in a finished state.
(41) Lit., ‘a thing, the work of which is finished’. After e.g., corn had been winnowed and shaped into a pile and taken into the house for food.
(42) E.g., not yet winnowed or stacked up. The priest had to be spared unnecessary trouble. From Num. XVIII, 29 it was inferred that both the produce from which terumah is taken and that for which it is taken must be in their finished stages; cf. Ma'as. I, 2.
(43) This cannot refer to olives and grapes, concerning which supra I, 4 declared the terumah invalid even ‘de facto’; it must, therefore, refer to other kinds of fruit.

Mishna - Mas. Terumoth Chapter 2

MISHNAH 1. TERUMAH MAY NOT BE GIVEN FROM THE CLEAN FOR THE UNCLEAN,[1] BUT IF IT IS GIVEN, THE TERUMAH IS VALID.[2] IN TRUTH THEY HAVE SAID:[3] IF A CAKE OF PRESSED FIGS[4] HAD BECOME PARTLY DEFILED, TERUMAH MAY BE TAKEN FROM THE CLEAN PART FOR THAT PART WHICH HAD BECOME DEFILED. THE SAME APPLIES TO A BUNCH OF VEGETABLES,[5] OR A STACK OF GRAIN.[6] IF THERE WERE TWO CAKES [OF FIGS], TWO BUNCHES, TWO STACKS OF GRAIN, AND ONE OF THEM WAS DEFILED AND THE OTHER CLEAN, TERUMAH CANNOT BE GIVEN FROM ONE FOR THE OTHER. R. ELIEZER SAYS THAT ONE CAN GIVE TERUMAH FROM THAT WHICH IS CLEAN FOR THAT WHICH IS DEFILED.[7]

MISHNAH 2. TERUMAH MAY NOT BE GIVEN FROM UNCLEAN [PRODUCE] FOR THAT WHICH IS CLEAN;[8] AND IF IT IS GIVEN UNWITTINGLY,[9] THE TERUMAH IS VALID; IF INTENTIONALLY THE ACT IS VOID.[10] SO TOO, IF A LEVITE HAD [UNCLEAN] TITHE [FROM WHICH TERUMAH] HAD NOT BEEN GIVEN,[11] AND HE GAVE TERUMAH FROM THIS,[12] IF PERFORMED IN ERROR HIS ACTION IS VALID;[13] BUT IF INTENTIONALLY HIS ACT IS OF NO EFFECT.[14] R. JUDAH SAYS: IF HE KNEW OF IT AT THE OUTSET,[15] EVEN IF DONE IN ERROR, HIS ACTION IS OF NO EFFECT.

MISHNAH 3. HE WHO IMMERSES [UNCLEAN] VESSELS ON THE SABBATH[16] IN ERROR MAY USE THEM,[17] BUT IF DONE DELIBERATELY HE MAY NOT USE THEM.[18] HE WHO SEPARATES TITHES,[19] OR COOKS ON THE SABBATH, UNWITTINGLY, MAY EAT OF IT,[20] BUT IF INTENTIONALLY, HE MAY NOT EAT OF IT. HE WHO PLANTS ANYTHING ON THE SABBATH[21] IN ERROR CAN ALLOW IT TO REMAIN, BUT IF DELIBERATELY MUST UPROOT IT. BUT DURING THE SABBATICAL YEAR, WHETHER [IT WAS PLANTED] UNWITTINGLY OR DELIBERATELY[22] HE MUST UPROOT IT.

MISHNAH 4. TERUMAH MAY NOT BE GIVEN FROM ONE KIND FOR ANOTHER KIND,[23] AND IF ONE DOES SO, THE TERUMAH IS NOT VALID. ALL KINDS OF WHEAT[24] COUNT AS ONE,[25] ALL KINDS OF FRESH FIGS, DRIED FIGS AND FIG CAKES COUNT AS ONE,[26] AND TERUMAH CAN BE TAKEN FROM ONE FOR THE OTHER.[27] WHEREVER THERE IS A PRIEST, ONE MUST GIVE TERUMAH OF THE VERY BEST,[28] AND WHERE THERE BE NO PRIEST, TERUMAH MUST BE GIVEN OF THAT KIND WHICH KEEPS LONGEST.[29] R. JUDAH SAYS: AT ALL TIMES MUST IT BE GIVEN ONLY FROM THE VERY BEST.[30]

MISHNAH 5. A WHOLE ONION, THOUGH SMALL, SHOULD BE GIVEN AS TERUMAH RATHER THAN HALF OF A LARGE ONION.[31] R. JUDAH SAYS: NOT SO, BUT HALF OF A LARGE ONION.[32] SO TOO, R. JUDAH SAID: TERUMAH SHOULD BE GIVEN FROM TOWN ONIONS FOR THOSE OF THE VILLAGE,[33] BUT NOT FROM VILLAGE ONIONS FOR THOSE OF THE TOWN, SINCE THESE[34] ARE THE FOOD OF ITS PRINCIPAL CITIZENS.[35]

MISHNAH 6. TERUMAH MAY BE GIVEN FROM OLIVES [TO BE USED] FOR OIL FOR THOSE DUE TO BE PRESERVED,[36] BUT NOT FROM OLIVES DUE TO BE PRESERVED FOR OLIVES [TO BE USED] FOR OIL. [IT MAY BE GIVEN] FROM UNBOILED WINE FOR BOILED WINE, BUT NOT FROM BOILED WINE FOR UNBOILED WINE. THIS IS THE GENERAL RULE: ANY TWO THINGS WHICH TOGETHER INFRINGE THE LAW OF DIVERSE KINDS[37] CANNOT BE USED FOR TERUMAH FROM ONE FOR THE OTHER, EVEN IF THE KIND FROM WHICH IT IS GIVEN BE SUPERIOR TO THE ONE FOR WHICH IT IS GIVEN;[38] BUT IF THEY DO NOT CONSTITUTE DIVERSE KINDS, THEN ONE MAY GIVE TERUMAH FROM THE SUPERIOR KIND FOR THAT WHICH IS INFERIOR, BUT NOT FROM THE INFERIOR KIND FOR THAT WHICH IS SUPERIOR. IF ONE DOES GIVE TERUMAH FROM THE INFERIOR KIND FOR THAT WHICH IS SUPERIOR, HIS TERUMAH IS VALID,[39] EXCEPTING WHEN TARES[40] ARE GIVEN FOR WHEAT, SINCE THESE ARE

NOT FOOD. CUCUMBERS AND SWEET MELONS[41] COUNT AS ONE KIND.[42] R. JUDAH SAYS: TWO KINDS.

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(1) Being afraid that the unclean fruit defiles by contact the clean, he might take the terumah from produce that is not lying near by, contrary to the regulation; v. Hal. I, 9.

(2) Being only a precautionary measure, the fear was expressed at the outset only.

(3) באמת ; v. Kil. II, 2.

(4) Though all the figs are closely pressed together,the presence of one that is unclean does not contaminate the others, because of the absence of any of the seven liquids (dew, water, wine, oil, blood, milk, and bees’ honey) that render edibles susceptible to levitical uncleanness (Maksh. VI; 4; Tebul Yom II, 3). The figs are connected only by their own juice, and fruit-juice does not render food susceptible to defilement; cf. Lev. XI, 34.

(5) Not so tightly compressed into one mass as a cake of pressed figs.

(6) Not even tied together as the vegetables. Since each of these three instances is not similar, all the three are quoted.

(7) He does not fear lest he will contravene the rule mentioned in n. 1; cf. Hal. II, 8.

(8) Since defiled terumah had to be burnt, he would thus be robbing the priest of his due.

(9) Provided that it was at one time clean and subject to tithe, otherwise it could not be deemed terumah.

(10) A fresh terumah is necessary, as in supra I, 8. According to some, even the second terumah is of no effect if done with intention.

(11) The terumah of the tithe he had to give to the priest.

(12) To serve as terumah for other untithed produce in his possession; cf. Hal. IV, 6. The expression היה מפריש עליו והולך means that from the very first he had set aside this tithe for this purpose, discovering only later that it had been defiled.

(13) After his action, he discovered that it had been unclean.

(14) Since it could not be considered terumah when he separated it.

(15) He maintains that forgetfulness cannot be considered ‘in error’.

(16) When it is forbidden, being considered the equivalent of repairing and thus constituting work.

(17) Even on the Sabbath day itself.

(18) He must wait till the termination of the Sabbath.

(19) An act considered as work since it qualifies the tebel to be eaten.

(20) When Sabbath terminates. The reason why the cases of tithe and cooking are cited together is because the words ‘he may eat’ can be applied to them both; otherwise, the instance of tithe would have been better bracketed with the case of vessel immersion.

(21) Planting is forbidden on the Sabbath.

(22) Though the average Israelite would not lightly break the Sabbath, he was suspected of treating the Seventh year lightly; hence no distinction is drawn here between the unwitting and deliberate transgression.

(23) E.g., from wheat for barley.

(24) Either reddish or white in hue; B.B. V, 6.

(25) For the purpose of terumah.

(26) The black and the white species are regarded of one kind.

(27) E.g., from fig cakes for fresh figs.

(28) The kind best to eat, i.e., fresh figs.

(29) Dried figs keep longer than fresh figs.

(30) Cf. Num. XVIII, 30.

(31) Whole onions keep longest, and where there is no priest, these are to be given preference.

(32) Since it is the best; v. supra 4.

(33) Those from the town are better and healthier to eat, though wild onions of the villages keep longest; cf Ned. 66a.

(34) Those of the town.

(35) Bert. renders: of royal courtiers. Village onions have a more pungent flavour and, being inferior, cannot be given as terumah for that of a superior kind.

(36) Being from a superior kind for an inferior kind. (Olives which were pickled in vinegar had not oil.) The same reason applies to the case of wine.

(37) V. Kil. I, 1 — 2.

(38) Even ‘de facto’, the terumah would not be valid.
(39) Since they are not of two kinds.
(40) Field-seed or vetch similar to wheat used as animal fodder and unfit for human food.
(41) An apple-shaped melon, probably the fruit-squash (Jast); v. Kil. I, 2.
(42) For terumah purposes.

Mishna - Mas. Terumoth Chapter 3

MISHNAH 1. IF ONE GAVE A CUCUMBER AS TERUMAH AND IT WAS FOUND TO BE BITTER, OR A MELON AND IT WAS FOUND TO BE ROTTEN, IT MAY BE CONSIDERED TERUMAH,[1] BUT HE MUST AGAIN GIVE TERUMAH.[2] IF ONE GAVE A JAR OF WINE AS TERUMAH AND IT WAS FOUND TO BE OF VINEGAR, IF PRIOR TO HIS ACT HE KNEW THAT IT WAS VINEGAR,[3] THE TERUMAH IS NOT VALID; BUT IF IT HAD TURNED SOUR AFTER HE HAD GIVEN IT AS TERUMAH, HIS ACTION IS VALID.[4] IN CASE OF DOUBT,[5] IT IS TERUMAH BUT HE MUST AGAIN GIVE TERUMAH.[6] THE FIRST DOES NOT OF ITSELF MAKE ANY OTHER PRODUCE[7] MEDUMMA’, NOR IS IT SUBJECT TO THE LAW OF THE FIFTH.[8] THE SAME APPLIES TO THE SECOND [TERUMAH].[9]

MISHNAH 2. IF ONE OF THEM[10] FALLS INTO COMMON PRODUCE,[11] IT DOES NOT MAKE [THE MIXTURE] MEDUMMA’.[12] IF THE SECOND [PORTION OF TERUMAH] FALLS [THEN] INTO ANOTHER PLACE,[13] IT ALSO DOES NOT MAKE IT MEDUMMA’; BUT IF BOTH FALL INTO ONE PLACE,[14] THEY DO MAKE IT MEDUMMA’, ACCORDING TO THE SIZE OF THE SMALLER OF THE TWO.[15]

MISHNAH 3. IF [TWO] PARTNERS TOOK TERUMAH, THE ONE AFTER THE OTHER,[16] R. AKIBA SAYS: THE TERUMAH OF THEM BOTH IS VALID;[17] BUT THE SAGES SAY: ONLY THE TERUMAH OF THE FIRST IS VALID.[18] R. JOSE SAYS:[19] IF THE FIRST GAVE THE PRESCRIBED AMOUNT,[20] THE TERUMAH OF THE SECOND IS NOT VALID, BUT HAD HE NOT GIVEN THE PRESCRIBED AMOUNT,[21] THE TERUMAH OF THE SECOND IS VALID.

MISHNAH 4. WHEN DO THESE WORDS APPLY?[22] ONLY IF THE ONE DID NOT CONFER WITH THE OTHER;[23] BUT IF A MAN SANCTIONS A MEMBER OF HIS HOUSEHOLD,[24] OR HIS SLAVE OR BOND-MAID TO GIVE TERUMAH FOR HIM, THIS TERUMAH IS VALID.[25] IF HE ANNULLED [THIS SANCTION],[26] THE TERUMAH IS RENDERED INVALID IF HE ANNULLED IT BEFORE THE TAKING OF THE TERUMAH, BUT IF HE ANNULLED IT AFTER THE TERUMAH HAD BEEN TAKEN, THE TERUMAH IS VALID. LABOURERS HAVE NO AUTHORITY TO GIVE TERUMAH,[27] SAVE THOSE WHO TREAD [GRAPES]. FOR THEY[28] DEFILE THE WINEPRESS IMMEDIATELY.[29]

MISHNAH 5. IF ONE SAYS: ‘[LET] THE TERUMAH OF THIS PILE BE WITHIN IT’, OR, ‘LET ITS TITHES BE WITHIN IT’, OR, ‘LET THE HEAVE-OFFERING OF TITHE BE WITHIN IT’, R. SIMEON SAYS: HE HAS THEREBY DESIGNATED IT;[30] BUT THE SAGES SAY: NOT UNLESS HE SAID, LET IT BE TO THE NORTH OR SOUTH OF IT.[31] R. ELEAZAR HISMA SAYS: HE WHO SAYS, LET TERUMAH BE GIVEN FROM THIS FOR THIS SAME PILE’, HAS THEREBY DESIGNATED IT.[32] R. ELIEZAR B. JACOB SAYS: IF HE SAYS, ‘LET THE TENTH PART OF THIS TITHE BE THE HEAVE-OFFERING OF TITHE FOR THAT PILE’, HE HAS THEREBY DESIGNATED IT.[33]

MISHNAH 6. HE WHO GIVES TERUMAH BEFORE FIRST-FRUITS,[34] OR FIRST TITHE BEFORE TERUMAH,OR SECOND TITHE BEFORE FIRST TITHE, ALTHOUGH HE TRANSGRESSES A NEGATIVE COMMAND,[35] HIS ACTION IS VALID, FOR IT IS SAID:

THOU SHALT NOT DELAY TO OFFER OF THE FULNESS OF THY HARVEST AND OF THE OUTFLOW OF THY PRESSES.[36]

MISHNAH 7. WHENCE DO WE DERIVE THAT FIRST-FRUITS MUST PRECEDE TERUMAH, SEEING THAT THE ONE IS CALLED ‘TERUMAH’ AND ‘THE FIRST AND THE OTHER IS CALLED ‘TERUMAH’ AND ‘THE FIRST’?[37] FIRST-FRUITS TAKE PRECEDENCE SINCE THEY ARE THE FIRST FRUITS OF ALL PRODUCE,[38] AND TERUMAH COMES BEFORE THE FIRST TITHE ALSO, BECAUSE IT IS [CALLED] ‘FIRST’. AND FIRST TITHE PRECEDES SECOND TITHE, BECAUSE IT INCLUDES THAT WHICH IS CALLED ‘FIRST’.[39]

MISHNAH 8. HE WHO INTENDS SAYING ‘TERUMAH’ AND SAYS ‘TITHE’, OR ‘TITHE’ AND HE SAYS ‘TERUMAH’; OR ‘BURNT-OFFERING’ AND HE SAYS ‘PEACE-OFFERING’, OR ‘PEACE-OFFERING’ AND HE SAYS ‘BURNT-OFFERING’; OR ‘[I VOW] THAT I WILL NOT ENTER THIS HOUSE’ AND SAYS INSTEAD ‘THAT HOUSE’, OR, ‘THAT I WILL NOT DERIVE ANY BENEFIT FROM THIS [MAN]’ ,[40] AND SAYS INSTEAD ‘FROM THAT [MAN]’, HE HAS SAID NOTHING UNTIL HIS HEART AND MIND ARE AT ONE.

MISHNAH 9. TERUMAH GIVEN BY A HEATHEN OR A SAMARITAN IS VALID; THEIR TITHES AND THEIR DEDICATIONS ARE ALSO VALID ACTS.[41] R. JUDAH SAYS: THE LAW OF THE VINEYARD IN THE FOURTH YEAR[42] IS NOT APPLICABLE TO A HEATHEN;[43] BUT THE SAGES SAY: IT IS. THE TERUMAH OF THE HEATHEN RENDERS [PRODUCE INTO WHICH IT FALLS] MEDUMMA’ AND IS SUBJECT TO THE LAW OF THE FIFTH,[44] BUT R. SIMEON EXEMPTS IT.[45]

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(1) Since it was given unintentionally; besides even a bad cucumber is used for human food in emergency.

(2) A penalty for not tasting thereof prior to giving it away. Being only a Rabbinical prohibition, tasting thereof was first allowed.

(3) Wine and vinegar were regarded as of two different kinds.

(4) He cannot be held responsible after having discharged his obligation.

(5) Whether it had turned sour before or after his act.

(6) Both are given to the priest. Being a doubt concerning a Biblical prohibition, we adopt stringency and pronounce even the first portion as terumah. The priest, however, can have definite claim only to the second portion, which is smaller than the first, having been taken from a diminished pile, and consequently he can be asked to return the value of the first portion, on the principle that in case of doubt the claimant must bring proof of his claim.

(7) Should the first portion of terumah fall into common produce of less than a hundred times its quantity, it does not make the whole subject to terumah.

(8) A non-priest eating any of the two portions of terumah is not required to return its value, plus the requisite Fifth, as in the case of having eaten that which was unquestionably terumah; cf. Lev. V, 16.

(9) For of each it can be said that the other is the real terumah, and this only common produce.

(10) This Mishnah elaborates the one previous.

(11) Heb. hullin, produce from which terumah has been taken, as opposed to untithed produce (tebel)

(12) Since neither of them can definitely be said to be terumah.

(13) Also common produce.

(14) That is into hullin less than a hundred times the amount of both.

(15) If there be a hundred times the amount of the second terumah, which is smaller, the hullin may be eaten after he had given to the priest the amount of the two portions that had fallen in.

(16) If from a pile of fifty se'ahs held in joint ownership, each took one se'ah as terumah, (1/50th being the amount usually given).

(17) Each of the two se'ahs can only be considered half terumah and half hullin, as each partner gave terumah without permission of the other. They then must give the two se'ahs to the priest, and the priest returns them the value of the price of one.

(18) They hold that the whole se'ah of the first is terumah, and that of the second hullin.

(19) Explaining the view of the sages.
(20) 1/50th of the whole produce.
(21) Giving either 1/40th or 1/60th.
(22) Referring to words of R. Akiba in the Mishnah preceding.
(23) The partners acting independently.
(24) Who has no proprietary rights in the pile. The slave here is ‘a son of the Covenant’ and, therefore, can act as a messenger.
(25) And even if the owner himself later gives terumah anew, his action is void, though he gives a larger amount than the messenger; cf. infra IV.
(26) After the departure of the messenger to perform his charge, he publicly renounces his first charge.
(27) Though they are responsible for its growth, it is not theirs to give away.
(28) The owners who are ‘amme ha-arez; v. next note.
(29) The Mishnah refers to owners who are ‘amme ha-arez (v. Glos.) who defile terumah with their touch, and to labourers who are haberim (associates) who, unlike their employers, were most scrupulous in observing the laws of purity and in setting apart tithes from produce. It was therefore the duty of ‘associate’ labourers to take terumah immediately they began treading, lest the owners, thinking that terumah had already been taken, might touch the grapes or olives and thus defile them. This is, therefore, a case where the owners tacitly give the labourers sanction to give terumah on their behalf in purity. Moreover, it was even allowed here to take terumah before the entire process was finished, contrary to the ruling of supra I, 8, in order to safeguard terumah being taken in purity, Tif. Yis.
(30) And cannot set aside terumah from any other pile.
(31) The designation must be more definite. Just to say ‘within it’ is not enough, as not sufficient distinction is made between that which is taken and that left. V. ‘Er. 37b.
(32) Agreeing with R. Simeon that it is not necessary to have a discernible distinction between the portion given as terumah and the remainder.
(33) Differing from R. Simeon in that he insists that the tithe must be separated before the heave-offering of tithe can be taken or designated as such.
(34) Declaring: ‘Let these fruits be terumah as soon as they are plucked’. The fruit is not yet fully ripe.
(35) V. n. 3.
(36) Ex. XXII, 28. ‘Fulness’ and ‘harvest’ are respectively interpreted as referring to first fruits and to terumah and First Tithe. The words ‘thou shalt not delay’ are also taken to enjoin against a variation of this order. Cf. Bez. 13b.
(37) Deut. XII, 6 refers to first-fruits as ‘the terumah of your hands’ (cf. Deut. XXVI, 4) and in Ex. XXIII, 19, we read ‘the first of the first fruits of thy ground’; of terumah, too, both terms are used (Num. XVIII, 8; Deut. XVIII, 4).
(38) The word ‘bikkurim’ actually implies what is brought first.
(39) Since it contains the heave-offering of tithe to which applies as terumah the term, ‘The first’.
(40) Since he wrongly specifies the man or thing intended for his ban.
(41) Only if the things tithed and dedicated are their very own.
(42) Lev. XIX, 23 — 25.
(43) In the fourth year of planting Jews could eat fruits from the vineyard of a gentile without redemption, R. Judah being of the opinion that the gentile can take ‘possession’ of land in Eretz Israel to exempt him from the law of the vineyard.
(44) If there be not in the produce a hundred times the quantity of the terumah that fell in.
(45) From the added Fifth, since it is not definitely terumah; R. Simeon, however, agrees that it does make other produce medumma’.

Mishna - Mas. Terumoth Chapter 4

MISHNAH 1. HE WHO SETS ASIDE ONLY PART OF TERUMAH AND TITHES,[1] MAY EXTRACT FROM THAT [HEAP] THE OTHER TERUMAH DUE,[2] BUT HE MAY NOT EXTRACT THEREFROM FOR PRODUCE ELSEWHERE.[3] R. MEIR SAYS: HE CAN ALSO TAKE THEREFROM TERUMAH AND TITHES[4] FOR PRODUCE ELSEWHERE.

MISHNAH 2. IF ONE HAD HIS FRUIT IN THE STOREHOUSE,[5] AND GAVE A SE'AH TO A

LEVITE,[6] AND A SE'AH TO A POOR MAN,[7] HE MAY SET ASIDE FROM THE STORE AS MANY AS EIGHT SE'AHS AND EAT THEM;[8] THIS IS THE OPINION OF R. MEIR. BUT THE SAGES SAY: HE MAY ONLY SET ASIDE ACCORDING TO PROPORTION.[9]

MISHNAH 3. [THIS IS] THE AMOUNT OF TERUMAH: THE BENEVOLENT[10] [GIVES] A FORTIETH; BETH SHAMMAI SAY, ONE THIRTIETH. THE AVERAGE MAN ONE FIFTIETH[11] AND THE NIGGARDLY MAN ONE SIXTIETH.[12] IF HE GAVE TERUMAH[13] AND DISCOVERED THAT IT WAS ONLY ONE SIXTIETH, HIS TERUMAH IS VALID AND HE NEED NOT GIVE IT ANEW. IF HE ADDS TO IT,[14] THEN IT IS LIABLE TO TITHES.[15] IF HE FOUND THAT IT WAS ONLY ONE SIXTY-FIRST IT IS VALID, BUT HE MUST GIVE TERUMAH ANEW ACCORDING TO HIS ESTABLISHED PRACTICE,[16] IN MEASURE, WEIGHT OR NUMBER.[17] R. JUDAH SAYS: EVEN IF IT BE NOT FROM PRODUCE CLOSE BY.[18]

MISHNAH 4. HE WHO SAYS TO HIS MESSENGER: ‘GO AND GIVE TERUMAH [FOR ME]’. THEN [THE LATTER] MUST DO SO IN ACCORDANCE WITH THE MIND OF THE OWNER.[19] , IF HE DOES NOT KNOW THE MIND OF THE OWNER, HE GIVES ACCORDING TO THE AMOUNT OF THE AVERAGE MAN — ONE FIFTIETH. IF HE GAVE TEN PARTS LESS OR MORE,[20] THE TERUMAH IS VALID.[21] IF, HOWEVER, HIS INTENTION WAS TO ADD EVEN ONE PART MORE, HIS TERUMAH IS NOT VALID.[22]

MISHNAH 5.IF ONE WISHES TO GIVE MORE TERUMAH,[23] R. ELIEZER SAYS HE MAY GIVE UP TO A TENTH PART, AS IN THE CASE OF HEAVE-OFFERING OF TITHE.[24] [IF HE GAVE] MORE THAN THIS [MEASURE] HE MUST MAKE IT TERUMAH OF TITHE FOR OTHER PRODUCE.[25] R. ISHMAEL SAYS: TILL HALF BE SECULAR AND HALF TERUMAH.[26] R. TARFON AND R. AKIBA SAY: AS LONG AS HE RETAINS A PART AS HULLIN.[27]

MISHNAH 6. ON THREE OCCASIONS[28] DOES ONE MEASURE THE CONTENTS OF THE BASKET:[29] AT THE FULL TIME OF THE FIRST RIPE FRUITS,[30] AND OF THE LATE SUMMER FRUITS,[31] AND IN THE MIDDLE OF THE SUMMER.[32] HE WHO COUNTS [THE FRUITS] DESERVES PRAISE,[33] , HE WHO MEASURES THEM EVEN MORE PRAISE, BUT HE WHO WEIGHS THEM IS MOST MERITORIOUS.

MISHNAH 7. R. ELIEZER SAYS: TERUMAH IS NEUTRALIZED IN A HUNDRED AND ONE PARTS;[34] R. JOSHUA SAYS: IN JUST A LITTLE OVER A HUNDRED,[35] AND THIS ‘LITTLE OVER’ HAS NO DEFINITE MEASURE.[36] R. JOSE B. MESHULLAM SAYS: THIS ‘LITTLE OVER’ MUST BE A KAB TO A HUNDRED SE'AHS,[37] NAMELY A SIXTH [OF THE SE'AH][38] WHICH RENDERS THE WHOLE AS MEDUMMA’.

MISHNAH 8. R. JOSHUA SAYS: BLACK FIGS SERVE TO NEUTRALIZE WHITE ONES, AND WHITE ONES SERVE TO NEUTRALIZE BLACK ONES.[39] IN THE CASE OF CAKES OF FIGS, THE LARGE SERVE TO NEUTRALIZE THE SMALL, AND THE SMALL SERVE TO NEUTRALIZE THE LARGE.[40] ROUND CAKES OF FIGS SERVE TO NEUTRALIZE THOSE PRESSED IN SQUARE MOULDS,[41] AND THOSE PRESSED IN SQUARE MOULDS SERVE TO NEUTRALIZE THE ROUND ONES. R. ELIEZER PROHIBITS THIS. R. AKIBA SAYS: IF THE KIND WHICH FELL IN BE KNOWN,[42] THEN THE ONE KIND CANNOT NEUTRALIZE THE OTHER;[43] BUT IF THE KIND BE NOT KNOWN, THEN THE ONE KIND SERVES TO NEUTRALIZE THE OTHER.[44]

MISHNAH 9. FOR EXAMPLE:[45] IF THERE WERE FIFTY BLACK FIGS AND FIFTY WHITE ONES,[46] AND A BLACK ONE[47] FELL AMONG THEM, THE BLACK ONES ARE

FORBIDDEN, BUT THE WHITE FIGS ARE PERMITTED; AND IF A WHITE FIG[47] FELL AMONG THEM, THE WHITE ONES ARE FORBIDDEN AND THE BLACK FIGS ARE PERMITTED. IF IT BE NOT KNOWN WHICH KIND FELL IN, THEN EACH KIND HELPS TO NEUTRALIZE THE OTHER. IN THIS CASE, R. ELIEZER IS MORE STRINGENT AND R. JOSHUA MORE LENIENT.

MISHNAH 10. BUT IN THIS INSTANCE [THAT FOLLOWS].[48] R. ELIEZER IS THE MORE LENIENT AND R. JOSHUA THE MORE STRINGENT. IF A LITRA[49] OF DRIED FIGS[47] WAS PRESSED INTO A JAR[50] AND IT IS NOT KNOWN INTO WHICH,[51] R. ELIEZER SAYS: THEY[52] ARE TO BE REGARDED AS IF THEY WERE SEPARATED,[53] SO THAT THOSE BELOW NEUTRALIZE THOSE ABOVE. R. JOSHUA MAINTAINS THAT NO NEUTRALIZATION CAN TAKE PLACE UNTIL THERE BE A HUNDRED JARS.[54]

MISHNAH 11. IF A SE'AH OF TERUMAH FELL ON TOP OF A PILE[55] AND HE SKIMMED IT OFF,[56] R. ELIEZER SAYS, IF THERE BE IN WHAT HE SKIMMED OFF[57] A HUNDRED SE'AHS, IT BECOMES NEUTRALIZED IN ONE HUNDRED AND ONE; BUT R. JOSHUA SAYS THAT IT DOES NOT BECOME NEUTRALIZED.[58] [BUT WHAT SHOULD HE DO?] IF A SE'AH OF TERUMAH FELL ON TOP OF A PILE OF GRAIN, IT MUST BE SKIMMED OFF WITH THE WHOLE OF THE TOP LAYER.[59] IF THIS BE SO, WHEREFORE THEN HAVE THEY SAID THAT TERUMAH BECOMES NEUTRALIZED IN ONE HUNDRED AND ONE PARTS?[60] [ONLY] WHEN IT BE NOT KNOWN WHETHER IT HAS BECOME MIXED UP OR WHERE IT HAS FALLEN.[61]

MISHNAH 12. IF INTO TWO BASKETS OR TWO PILES[62] A SE'AH OF TERUMAH FELL, AND IT IS NOT KNOWN INTO WHICH IT HAD FALLEN, THEY SERVE TO NEUTRALIZE EACH OTHER.[63] R. SIMEON SAYS: EVEN IF THEY BE IN TWO CITIES, THEY SERVE TO NEUTRALIZE THE TERUMAH.

MISHNAH 13. R. JOSE SAID: A CASE ONCE CAME BEFORE R. AKIBA CONCERNING FIFTY BUNDLES OF VEGETABLES INTO WHICH A LIKE BUNDLE HAD FALLEN,[64] HALF OF WHICH WAS TERUMAH, AND I RULED IN HIS PRESENCE THAT IT BECAME NEUTRALIZED, NOT BECAUSE TERUMAH CAN BE NEUTRALIZED IN FIFTY AND ONE, BUT SIMPLY BECAUSE THERE WERE ONE HUNDRED AND TWO HALVES THERE.[65]

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(1) Only one se'ah instead of the usual two from a pile containing a hundred se'ahs, with the result that a part is ‘tithed’ and a part still untithed.

(2) The other se'ah must be taken from that pile and we do not fear lest it be taken just from that part which is ‘tithed’ and thus have a case of terumah being taken from that which is methukan (v. Glos.) for that which is not.

(3) If he has another pile of a hundred se'ahs, he may not take two se'ahs from the pile already partly tithed. In the case of two piles the fear is expressed lest he take terumah from that which is tithed for that untithed.

(4) R. Meir follows his principle of bererah (v. Glos.) ‘retrospective designation’; that is, the legal effect resulting from an actual selection or disposal of things previously undefined as to their purpose; here, since part of the pile is partly untithed, we assume that it is from that part that the terumah for the second pile is taken.

(5) Cf. Hag. II, 19.

(6) As first tithe.

(7) What in other years would be set apart as second tithe was, in the third and sixth years of the Sabbatical Cycle, given to the poor; v. Deut. XIV, 29. In reality. only 9/10ths of a se'ah is due to the poor man, as the pile had been diminished by a tenth after the Levite had received his due.

(8) The case dealt with is that of an ‘am ha-arez who gives a se'ah each to a Levite and a poor man; should his workmen be ‘associates’ they may eat, on the strength of the two se'ahs thus set aside, eight se'ahs, on the assumption that the terumah gedolah had been set aside. For even an ‘am ha-arez was not suspected of not taking terumah gedolah.

(9) I. e., the workman may eat only as much as he requires for one meal, since it is to be assumed that the owner gave tithe only in proportion of what his workman would need for one meal, and whatever he gave in excess to the Levite and poor man was to be considered a free gift. This is the interpretation of this obscure Mishnah according to the first version in Bert.

(10) Lit., ‘a good eye’; cf. Ex. XXV, 2.

(11) Cf. Num. XXXI, 30.

(12) Cf. Ezek. XLV, 13.

(13) Namely, the generous or average man. Since terumah had to be given approximately, it was only natural to err in the amount.

(14) Till it becomes his usual gift.

(15) The amount added is not considered terumah and is subject to tithes.

(16) As much as he usually gives.

(17) This second terumah may be given by measure etc. Cf supra I, 7.

(18) The condition governing the first taking of terumah.

(19) Finding out first what amount he usually gave.

(20) Mistaking in each case the usual practice of the owner.

(21) On the plea of the messenger that since some people do give these amounts, he had judged his sender in that light.

(22) The sine qua non of a messenger is that he must fulfil the wishes of the one who sent him to the most minute particular, and since he knows how much his sender gave, he had no right to add to it; cf. Me'il. VI, 4.

(23) Even more than 1/40th, the most generous measure.

(24) Which is also known by the name of terumah.

(25) The surplus cannot be deemed as terumah, but as produce from which terumah has been taken but not the tithe with which terumah is mixed up. It can consequently be sold to a Levite who can use it only as terumah of tithe for other produce.

(26) One may even declare half his pile terumah, leaving only half as hullin.

(27) He may separate most of his pile as terumah; v. Hal. I, 9.

(28) When the fruits vary in size.

(29) In which the tithes are usually taken. Terumah gedolah was given approximately, yet consideration must be taken as to the size of the fruits.

(30) Being large, the basket will not contain so many.

(31) Of these, since they are parched and shrivelled, there will be more in the basket.

(32) When the fruits are midway in quality between the first-ripe and late summer fruits.

(33) With reference to tithes only. Terumah gedolah is to be given approximately, since the amount fixed is only a Rabbinical injunction, the Torah requiring only one grain. Tithes had to be properly measured; cf. Aboth. I. 16.

(34) If into a hundred se'ahs of hullin there falls one of terumah, making a hundred and one se'ahs in all, one se'ah is taken out and given to the priest and the rest is permissible to the Israelite, though the se'ah of terumah may still be in the pile.

(35) Even if the se'ah of terumah falls into a pile of hullin of just over ninety-nine se'ahs, a little more than a hundred se'ahs in all, the terumah is neutralized.

(36) Even if it be the most trifling over a hundred, then terumah is negatived.

(37) A kab equals 1/6th of a se'ah. The whole mixture including the se'ah of terumah must then be at least a hundred se'ahs plus one kab.

(38) I.e., of terumah that fell into ninety-nine se'ahs and a kab of hullin.

(39) If a white or black fig of terumah falls into a basket containing fifty of each kind so that it is impossible to discern which is terumah and which is hullin, the two kinds combine to neutralize the fig of terumah. He must, however, first give to the priest a fig of the same kind that fell in before all the figs of hullin are permitted to him.

(40) Similarly, a large or small cake of figs of terumah falling into a pile containing fifty of each kind, is neutralized, and all the figs may be eaten after having given to the priest a cake of figs similar to the kind that fell in.

(41) Cf. Pe'ah III, 1, where the word is used of a garden-bed three handbreadths in width.

(42) What its colour, size or shape was.

(43) Since he can only eat those figs of hullin that are of a different kind to that of the terumah which fell in.

(44) The whole pile being in a state of doubt, one kind serves to neutralize the other. The ruling adopted is that of R. Akiba.

(45) Elucidating the opinion of R. Akiba in the Mishnah preceding.
(46) Of hullin.
(47) Of terumah.
(48) V. Infra n. 8.
(49) Latin libra. The figs used to be pressed into round shapes of a pound in weight.
(50) Near a lot of others each containing a hundred litras of figs of hullin.
(51) There is definitely a litra of terumah on top of one of the vessels, but of which one it is unknown.
(52) The litra of dried figs that fell in.
(53) And not as pressed together into one solid mass; accordingly a doubt rests on each fig of the vessel, even on those at the bottom, if it be of the litra that fell in. Hence all help to neutralize the terumah. But R. Eliezer will admit that this only applies when the figs in the vessel are of the same kind that fell in, but in the case of white figs that fell into black ones, or those of a different shape into those of another, no neutralization can take place, since the terumah is easily discernible.
(54) In order to neutralize the top layer of figs in the jars. Should there be less than this number, the top layers in all the jars are prohibited, and subject to the law of terumah.
(55) In a barn stacked with grain.
(56) Together with much other grain of hullin.
(57) By skimming the entire top layer, it is clear that he does not intend including the bottom layer at all for the purpose of neutralization, for though the grain can be said to have become mixed with the whole stack, yet it is apparently only the top layer which is his concern.
(58) On the ground that it is suspiciously like an attempt to nullify terumah deliberately. (V. however, Bert.)
(59) This agrees with R. Joshua that no neutralization can take place, but the whole top layer must be removed.
(60) Since the remedy lies in the removal of the top layer, then in which case is the principle of one hundred and one applied?
(61) Either when the terumah is not definitely present or if he had forgotten or was unaware from the outset where it had fallen.
(62) In each basket being at least fifty se'ahs of hullin.
(63) I.e., they combine with each other to effect neutralization. This is achieved by extracting one se'ah from any of the two baskets, or even half a se'ah from each.
(64) Similar in all respects to the others, but consisting half of terumah and half of hullin. It is immaterial whether he knew which half was terumah or whether he had originally just declared half of the bundle terumah, without precisely specifying which that half was.
(65) For together with the half of the bundle that fell in, there are one hundred and one parts of hullin, and one part of terumah; hence the half bundle of terumah cannot render the whole a mixture of terumah.

Mishna - Mas. Terumoth Chapter 5

MISHNAH 1. IF A SE'AH OF UNCLEAN TERUMAH FELL INTO LESS THAN A HUNDRED OF HULLIN,[1] OR FIRST TITHE, OR SECOND TITHE, OR DEDICATED PROPERTY,[2] WHETHER THESE WERE UNCLEAN OR CLEAN, THEY MUST ALL BE LEFT TO ROT.[3] IF, HOWEVER, THAT SE AH WAS CLEAN,[4] [THE ADMIXTURE] MUST BE SOLD TO PRIESTS AT THE PRICE OF TERUMAH,[5] EXCLUDING THE VALUE OF THAT SE'AH ITSELF.[6] IF IT FELL INTO FIRST TITHE,[7] THE WHOLE IS PRONOUNCED AS HEAVE-OFFERING OF TITHE;[8] AND IF IT FELL INTO SECOND TITHE OR DEDICATED PROPERTY, THEY MUST BE REDEEMED.[9] IF THE HULLIN[10] WAS UNCLEAN, IT MAY BE EATEN IN THE FORM OF DRIED CRUSTS,[11] OR PARCHED CORN,[12] OR KNEADED WITH FRUIT JUICE,[13] OR DIVIDED INTO PIECES OF DOUGH SO THAT THE CONTENTS OF ONE EGG BE NOT IN ANY ONE PLACE.[14]

MISHNAH 2. IF A SE'AH OF UNCLEAN TERUMAH FELL INTO A HUNDRED OF CLEAN HULLIN,[15] R. ELIEZER SAYS: A SE'AH MUST BE TAKEN OUT AND BURNT,[16] ON THE ASSUMPTION THAT THE SE'AH TAKEN OUT IS THE ONE THAT FELL IN. BUT THE

SAGES SAY: IT is NEUTRALIZED AND EATEN[17] AS DRIED CRUSTS, PARCHED CORN, OR WHEN KNEADED WITH FRUIT-JUICE, OR DIVIDED INTO PIECES OF DOUGH SO THAT THE CONTENTS OF ONE EGG BE NOT FOUND IN ANY ONE PLACE.[18]

MISHNAH 3. IF A SE'AH OF CLEAN TERUMAH FELL INTO A HUNDRED OF UNCLEAN HULLIN, IT BECOMES NEUTRALIZED[19] AND MAY BE EATEN IN THE FORM OF DRY CRUSTS, OR PARCHED CORN, OR KNEADED WITH FRUIT-JUICE, OR DIVIDED INTO PIECES OF DOUGH SO THAT THE CONTENTS OF ONE EGG BE NOT FOUND IN ANY ONE PLACE.

MISHNAH 4. IF A SE'AH OF UNCLEAN TERUMAH FELL INTO ONE HUNDRED SE'AHS OF CLEAN TERUMAH, BETH SHAMMAI PROHIBIT[20] [THE WHOLE], BUT BETH HILLEL PERMIT IT. SAID BETH HILLEL TO BETH SHAMMAI: SEEING THAT CLEAN [TERUMAH] IS FORBIDDEN TO NON-PRIESTS AND UNCLEAN [TERUMAH IS FORBIDDEN] TO PRIESTS, THEN JUST AS CLEAN [TERUMAH] BECOMES NEUTRALIZED,[21] SO SHOULD UNCLEAN [TERUMAH] BE NEUTRALIZED.[22] BETH SHAMMAI ANSWERED THEM: CERTAINLY NOT; JUST BECAUSE HULLIN WHICH IS TREATED MORE LENIENTLY [IN THAT IT IS PERMITTED TO NON-PRIESTS], NEUTRALIZES CLEAN [TERUMAH], [SHALL] TERUMAH [WHICH IS FAR MORE STRINGENT IN THAT IT IS FORBIDDEN TO NON-PRIESTS] ALSO NEUTRALIZE THAT WHICH IS UNCLEAN? AFTER THEY HAD AGREED,[23] R. ELIEZER SAID: IT SHOULD BE TAKEN OUT AND BURNT, BUT THE SAGES SAID: IT IS REGARDED, ON ACCOUNT OF ITS PAUCITY, AS NON-EXISTENT.[24]

MISHNAH 5. IF A SE'AH OF TERUMAH FELL INTO A HUNDRED [OF HULLIN] AND WAS LIFTED OUT AND FELL INTO [HULLIN] ELSEWHERE, R. ELIEZER SAYS: THE WHOLE IS RENDERED MEDUMMA'[25] AS THOUGH UNDOUBTED TERUMAH [HAD FALLEN IN].[26] BUT THE SAGES SAY: IT IS RENDERED MEDUMMA' ONLY ACCORDING TO PROPORTION.[27]

MISHNAH 6. IF A SE'AH OF TERUMAH FELL INTO LESS THAN A HUNDRED [OF HULLIN], RENDERING THE WHOLE MEDUMMA, AND PART OF THIS ADMIXTURE FELL AFTERWARDS INTO ANOTHER PLACE,[28] R. ELIEZER SAYS: IT RENDERS THIS AGAIN MEDUMMA. AS THOUGH UNDOUBTED TERUMAH [HAD FALLEN IN][29] ; BUT THE SAGES SAY THAT THE [FIRST] MIXTURE CAN AFFECT THE [SECOND] MIXTURE ONLY ACCORDING TO THE PROPORTION.[30] [SIMILARLY], THAT WHICH IS LEAVENED [WITH TERUMAH] CAN RENDER OTHER DOUGH LEAVENED [AS WITH TERUMAH], ONLY ACCORDING TO THE PROPORTION;[31] AND DRAWN WATER CAN DISQUALIFY THE RITUAL BATH ALSO ONLY ACCORDING TO THE PROPORTION.[32]

MISHNAH 7. IF A SE'AH OF TERUMAH FELL INTO A HUNDRED [OF HULLIN] AND [A SE'AH] IS LIFTED OUT,[33] AND THERE FELL IN ANOTHER AND IS LIFTED OUT AND ANOTHER FELL IN,[34] THE HULLIN IS PERMISSIBLE AS LONG AS THE AMOUNT OF TERUMAH DOES NOT EXCEED THAT OF THE HULLIN.[35]

MISHNAH 8. IF A SE'AH OF TERUMAH FELL INTO A HUNDRED [OF HULLIN], AND BEFORE HE COULD TAKE IT OUT, ANOTHER FELL IN, THE WHOLE BECOMES FORBIDDEN.[36] R. SIMEON PERMITS IT.[37]

MISHNAH 9. IF A SE'AH OF TERUMAH FELL INTO A HUNDRED [OF HULLIN], AND THEY WERE GROUND TOGETHER AND REDUCED IN BULK, [IT IS ASSUMED THAT] JUST AS THE HULLIN BECAME LESS SO THE TERUMAH BECAME LESS, AND THE WHOLE IS PERMISSIBLE.[38] IF A SE'AH OF TERUMAH FELL INTO LESS THAN A

HUNDRED [OF HULLIN] AND THEY WERE GROUND TOGETHER AND INCREASED IN BULK, [IT IS ASSUMED THAT] JUST AS THE HULLIN BECAME MORE, SO DID THE TERUMAH BECOME MORE,[39] AND IT IS FORBIDDEN. IF IT IS KNOWN THAT THE WHEAT OF HULLIN WAS BETTER THAN THE TERUMAH, IT IS PERMITTED.[40] IF A SE'AH OF TERUMAH FELL INTO LESS THAN A HUNDRED [OF HULLIN], AND MORE HULLIN FELL THEREIN LATER,[41] IF [THE OCCURRENCE WAS] ACCIDENTAL IT IS PERMISSIBLE,[42] BUT IF INTENTIONAL IT IS FORBIDDEN.[43]

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(1) Had there been the prescribed hundred se'ahs, even unclean terumah, though forbidden to priests, would have been neutralized.

(2) For sacred Temple use, either for sacrifice purchase or for Temple repair.

(3) Since even a priest cannot eat it. It must not be burnt, like other terumah, lest he come to eat thereof.

(4) And, of course, also the hullin into which it had fallen.

(5) Which is less than that of hullin since only priests can be the purchasers, and since it cannot be eaten by them when they are unclean.

(6) Which must be given free to the priest, its rightful owner.

(7) From which the Levite had to give heave-offering of tithe to the priest.

(8) And must be sold to the priest, with the exception of the value of the terumah and the heave-offering of tithe therein, which already belong to the priest.

(9) The redemption money to be enjoyed in Jerusalem.

(10) Into which it had fallen.

(11) It can only be enjoyed in these forms. Each crust must be less than half an egg in size and must be eaten without any liquid, so it be not susceptible to uncleanness.

(12) If roasted in fire in its dry state, it will not be susceptible to defilement.

(13) Which is not of those seven liquids that render food susceptible to uncleanness (v. Maksh. VI, 4). Once the terumah becomes susceptible, it can no longer be eaten by the priest.

(14) The amount fixed in Toh. III, 4 for foods to be susceptible to uncleanness. Unclean terumah cannot be eaten even in these forms.

(15) Thus becoming neutralized. The reference is to hullin that had not been rendered susceptible by means of liquids to uncleanness.

(16) As is the law regarding all terumah that had become defiled. Since prior to burning it had become neutralized, there is no fear lest he may eat thereof. No benefit, however, must be derived from the actual burning.

(17) I.e., the whole mixture, v. Rashi Bek. 22b.

(18) V notes to preceding Mishnah. One se'ah, however, must actually be burnt or given to a priest, since its very retention would give the appearance of ‘robbing the tribe’. For other interpretations v. Tif. Yis.

(19) Even R. Eliezer, who maintained above that the se'ah taken out as terumah must be burnt, will here admit that it may be eaten, for, when taken out, it resumes its status of clean terumah. Yet, despite this admission, he insists that it can be enjoyed only in the manner here prescribed, arguing that when he ruled that ‘the se'ah which is taken out may be the one that fell in’, it was meant as a stringent measure and not as a tendency to leniency.

(20) Maintaining that terumah failing into other terumah is not neutralized even in one hundred and one parts.

(21) By falling into a hundred parts of clean hullin.

(22) The instance cited in our Mishnah.

(23) Beth Shammai agreed to the view of Beth Hillel — said to be the only admission of such a kind. The counter-argument of Beth Hillel, omitted from the Mishnah, must have been this: If clean terumah (which non-priests must not eat on penalty of death) is neutralized, then surely unclean terumah, which the priest is debarred from eating only by a positive command, ought certainly to be neutralized!

(24) The admixture pronounced clean and there is no need for even one se'ah to be taken out and burnt, since the whole has been neutralized.

(25) V. Glos.

(26) In accordance with his principle (supra V, 2) that the se'ah taken out is assumed to be the very one that fell in; hence though neutralized the first time, it is treated as terumah once again and requires a hundred se'ahs of hullin to neutralize it.

(27) After it had been neutralized, only one 1/100th part thereof is actually terumah, and accordingly it becomes nullified in one se'ah of hullin the second time, and only that proportion need be separated as terumah to make the second admixture permissible.
(28) Into other hullin.
(29) True to his principle of supra V, 2.
(30) Of terumah in the mixture that fell in. An illustration: If a se'ah of terumah fell into fifty of hullin, rendering the whole medumma', and a se'ah of the medumma' afterwards fell into other hullin, it only requires two se'ahs, to counteract the terumah in the se'ah which fell in a second time, to neutralize it.
(31) Dough leavened with terumah is forbidden to non-priests ('Orlah II, 4).
(32) A mikweh has to contain forty se'ahs of undrawn water, and if the slightest amount be lacking of this quantity and three logs of drawn water from a vessel were poured therein, it becomes ritually disqualified. If some water of this disqualified mikweh afterwards fell into another mikweh, likewise defective in the prescribed quantity, it only disqualifies according to the proportion of drawn water in the quantity now poured in.
(33) In order to make the hullin by which it was neutralized permissible.
(34) Into the same hullin, a se'ah of terumah keeps falling in and a se'ah is taken out.
(35) As long as over fifty se'ahs of terumah have not fallen in one after another.
(36) To a non-priest; it is as if the two had fallen in together, with no hundred to neutralize it.
(37) On this principle that since it was about to be removed, we deem it as already removed.
(38) And there is still the prescribed quantity in the hullin to neutralize the terumah. (The wheat becomes less in grinding if worms had got in and had taken out the flour).
(39) Since both are ground together.
(40) It being now obvious that the hullin had become more, and therefore possesses now the amount to neutralize the terumah.
(41) Making the hullin one hundred and one se'ahs.
(42) He must remove, however, the se'ah that fell in.
(43) An intentional act implies a disregard of an injunction. The admixture is then treated as medumma'.

Mishna - Mas. Terumoth Chapter 6

MISHNAH 1. ONE WHO EATS TERUMAH UNWITTINGLY MUST REPAY ITS VALUE PLUS A FIFTH,[1] WHETHER HE EATS OR DRINKS IT, OR ANOINTS HIMSELF WITH IT,[2] OR WHETHER THE TERUMAH IS CLEAN OR UNCLEAN; HE MUST PAY ITS FIFTH, AND A FIFTH OF THAT FIFTH.[3] THE REPAYMENT MUST NOT BE IN TERUMAH BUT IN HULLIN,[4] DULY TITHED, WHICH BECOMES TERUMAH, AND WHATEVER MAY BE REPAID IN ITS PLACE ALSO BECOMES TERUMAH.[5] IF THE PRIEST WISHES TO FOREGO [THE FINE], HE CANNOT DO SO.[6]

MISHNAH 2. IF THE DAUGHTER OF AN ISRAELITE ATE TERUMAH[7] AND AFTERWARDS MARRIED A PRIEST,[8] IF THE TERUMAH SHE HAD EATEN HAD NOT YET BEEN ACQUIRED BY ANOTHER PRIEST SHE CAN REPAY TO HERSELF THE VALUE AND THE FIFTH;[9] BUT IF A PRIEST HAD ALREADY ACQUIRED THE TERUMAH SHE HAD EATEN, SHE MUST REPAY THE VALUE TO THE OWNERS,[10] BUT THE FIFTH TO HERSELF; BECAUSE IT HAD BEEN SAID THAT HE WHO EATS TERUMAH UNWITTINGLY, MUST PAY THE VALUE TO THE OWNERS AND THE FIFTH TO WHOMSOEVER[11] HE DESIRES.

MISHNAH 3. IF ONE GIVES HIS WORKMEN OR HIS GUESTS TERUMAH TO EAT HE MUST REPAY THE VALUE THEREOF,[12] WHILST THEY MUST PAY THE FIFTH;[13] SO R. MEIR. BUT THE SAGES SAY: THEY MUST PAY BOTH THE VALUE AND THE FIFTH, WHILST HE MUST PAY THEM FOR THE PRICE OF THEIR MEAL.[14]

MISHNAH 4. IF ONE STEALS TERUMAH BUT DID NOT EAT IT, HE MUST RETURN

TWOFOLD AT THE PRICE OF THE TERUMAH.[15] IF HE HAD EATEN IT, HE MUST PAY TWICE THE VALUE PLUS A FIFTH: ONE VALUE AND A FIFTH FROM HULLIN,[16] AND THE OTHER VALUE AT THE PRICE OF TERUMAH.[17] IF ONE STEALS THE TERUMAH OF DEDICATED PROPERTY[18] AND ATE IT, HE MUST REPAY TWO FIFTHS,[19] IN ADDITION TO THE VALUE, FOR TO DEDICATED THINGS [THE LAW OF] TWOFOLD RESTITUTION DOES NOT APPLY.[20]

MISHNAH 5. THIS REPAYMENT[21] CANNOT BE MADE FROM GLEANINGS, AND THE FORGOTTEN SHEAF, FROM PE'AH OR OWNERLESS PROPERTY;[22] NOR FROM FIRST TITHE FROM WHICH TERUMAH HAS BEEN TAKEN, OR FROM SECOND TITHE[23] OR DEDICATED PRODUCE[24] WHICH HAVE BEEN REDEEMED, FOR ONE DEDICATED THING CANNOT REDEEM ANOTHER WHICH HAS BEEN DEDICATED. SO R. MEIR; BUT THE SAGES PERMIT [PAYMENT] WITH THESE.[25]

MISHNAH 6. R. ELIEZER SAYS: REPAYMENT MAY BE MADE FROM ONE KIND FOR THAT OF ANOTHER,[26] PROVIDED THAT IT IS FROM A SUPERIOR FOR THAT OF AN INFERIOR KIND.[27] R. AKIBA SAYS: REPAYMENT CAN BE MADE ONLY FROM THE SAME KIND. HENCE IF A MAN ATE CUCUMBERS GROWN A YEAR BEFORE THE SEVENTH YEAR, HE MUST WAIT FOR THOSE GROWN AFTER THE TERMINATION OF THE SEVENTH YEAR AND REPAY WITH THEM.[28] THE SAME SOURCE WHICH CAUSES R. ELIEZER TO BE LENIENT CAUSES R. AKIBA TO ADOPT A STRINGENT RULING; FOR IT IS WRITTEN: AND HE SHALL GIVE UNTO THE PRIEST THE HOLY THING,[29] [IMPLYING,] WHATEVER IS LIABLE TO BECOME ‘HOLY’. SO. R ELIEZER. BUT R. AKIBA SAYS: ‘AND HE SHALL GIVE UNTO THE PRIEST THE HOLY THING’, [MEANING] THE SAME KIND OF HOLY THING WHICH HE HAD EATEN.

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(1) V. Lev. XXII, 14. This Fifth amounts to a quarter of the value of the terumah he ate. Thus if the terumah was valued at one denar, he must pay a denar and a quarter. All fifths mentioned in the Torah are computed thus.

(2) Drinking wine of terumah is like eating terumah, and anointing oneself with oil of terumah like drinking it; cf. Shab. IX, 4.

(3) If he further unwittingly eats of the Fifth he had brought, he must bring yet another fifth of this Fifth.

(4) Since a debt must be repaid from one's own possessions, he cannot do so from terumah, which belongs to the priest. Even terumah which he inherits and may sell cannot be brought as compensation.

(5) If he ate the hullin which he had repaid for eating terumah, the second repayment, too, becomes terumah.

(6) The priest has no power to renounce a due ordained by the Torah.

(7) Before giving it to the priest, she ate of it in error. The term ‘Israelite’ in this connection denotes one who is not a priest.

(8) Prior to bringing the required compensation of the value plus a Fifth. Being now the wife of a priest, she could eat terumah herself (Lev. XXII, 11).

(9) For she is now like any other priest.

(10) Here, to the priest who had already acquired the terumah.

(11) Any priest.

(12) Lit., ‘the principal’.

(13) As an atonement for having eaten terumah unwittingly, but he must pay the whole value for having ‘robbed the tribe’ The case is of one who is unaware that he is giving them terumah to eat. The Fifth is only paid by him who actually derives benefit from the terumah (supra VI, 1). and not by him who causes it to be eaten. This is derived from Lev. XXII, 14, ‘and if a man eat of the holy thing’, which excludes one who causes damage to it.

(14) He intended to give them. According to R. Meir, he has to pay them the value of the terumah they ate in their meal, which is cheaper in price; but according to the Sages, the full value of what they had eaten, as though it was hullin. For though they had eaten the meal, their enjoyment of it had been impaired when they learnt that they had eaten terumah.

(15) V. Ex. XXII, 3.

(16) Which becomes terumah automatically.

(17) As the twofold restitution.
(18) Which the priest had dedicated for Temple repairs.
(19) One fifth for the terumah he ate, and the other because he had enjoyed consecrated property; Lev. V, 16.
(20) Ex. XXII, 8; the word 'to his neighbour' excludes property which has been 'dedicated'.
(21) To the priest for eating terumah unwittingly.
(22) These, being once exempt from all tithes and dues (supra I, 5), cannot become terumah even when now acquired by him. Cf. Pe'ah IV passim.
(23) Being of the opinion that Second Tithe is also 'dedicated' produce.
(24) Also exempt from terumah (supra I, 5), hence even after their redemption, no repayment can be made with them.
(25) With tithes and dedicated produce that have been redeemed.
(26) If he had eaten figs of terumah, he can repay with dates, but those offered must be of a superior kind to those eaten.
(27) Must be of the same amount as those eaten, but of better value and more sought after by purchasers.
(28) Those now left of the sixth year are no longer fit to be eaten, owing to having become hard, whilst from those grown in the Sabbatical year no benefit whatsoever may be derived (Sheb. VII, 3). Repayment, which must be of the same kind can, therefore, only be made with those grown after the Seventh year.
(29) Lev. XXII, 14.

Mishna - Mas. Terumoth Chapter 7

MISHNAH 1. HE WHO EATS TERUMAH OF SET PURPOSE[1] MUST REPAY ITS VALUE,[2] BUT NOT THE FIFTH,[3] AND THE REPAYMENT REMAINS HULLIN.[4] [ACCORDINGLY,] IF THE PRIEST WISHES TO REMIT THIS, HE CAN.

MISHNAH 2. IF THE DAUGHTER OF A PRIEST MARRIED AN ISRAELITE[5] AND AFTERWARDS ATE TERUMAH, SHE MUST REPAY THE VALUE BUT NOT THE FIFTH;[6] AND HER DEATH-PENALTY [FOR ADULTERY] IS BY BURNING.[7] IF SHE MARRIED ANY OF THOSE DISQUALIFIED,[8] SHE MUST PAY BACK BOTH THE VALUE AND THE FIFTH, AND HER DEATH-PENALTY [FOR ADULTERY] IS BY STRANGLING; SO SAYS R. MEIR. BUT THE SAGES SAY: IN EITHER CASE, SHE REPAYS THE VALUE BUT NOT THE FIFTH, AND THE DEATH PENALTY IS BY BURNING.

MISHNAH 3. [AN ISRAELITE] WHO FEEDS [WITH TERUMAH] HIS SMALL SONS, OR HIS SLAVES WHETHER THEY ARE OF AGE OR MINORS,[9] OR WHO EATS TERUMAH FROM OUTSIDE THE LAND,[10] OR LESS THAN AN OLIVE'S BULK OF TERUMAH,[11] MUST REPAY THE VALUE THEREOF, BUT NOT THE FIFTH; AND THE REPAYMENT REMAINS HULLIN. [HENCE] IF THE PRIEST DESIRES TO FOREGO [THE RESTITUTION], HE MAY DO SO.

MISHNAH 4. THIS IS THE GENERAL PRINCIPLE: WHENSOEVER ONE HAS TO REPAY BOTH THE VALUE AND THE FIFTH, THE REPAYMENT BECOMES TERUMAH, AND IF THE PRIEST DESIRES TO REMIT, HE CANNOT REMIT REPAYMENT; BUT WHENSOEVER ONE HAS TO REPAY THE VALUE ONLY AND NOT THE FIFTH, THE REPAYMENT REMAINS HULLIN, AND IF THE PRIEST WISHES TO REMIT HE CAN REMIT.

MISHNAH 5. IF THERE WERE TWO BASKETS, ONE OF TERUMAH AND ONE OF HULLIN, AND A SE'AH OF TERUMAH FELL INTO ONE OF THEM, BUT IT IS NOT KNOWN INTO WHICH, I ASSUME THAT IT HAD FALLEN INTO THAT OF THE TERUMAH.[12] IF IT IS NOT KNOWN WHICH WAS OF TERUMAH AND WHICH OF HULLIN,[13] AND HE EATS FROM ONE OF THEM, HE IS EXEMPT,[14] AND THE SECOND BASKET IS TREATED AS TERUMAH AND SUBJECT TO THE LAW OF 'DOUGH-OFFERING', SO R. MEIR;[15] BUT R. JOSE EXEMPTS IT.[16] IF ANOTHER MAN EATS OF THE SECOND BASKET HE IS EXEMPT,[17] BUT IF ONE MAN ATE OF BOTH, HE MUST REPAY THE VALUE OF THE

SMALLER OF THE TWO.[18]

MISHNAH 6. IF ONE OF THESE [BASKETS] FELL INTO HULLIN, IT DOES NOT RENDER IT MEDUMMA',[19] BUT THE SECOND IS TREATED AS TERUMAH AND SUBJECT TO THE LAW OF HALLAH, SO R. MEIR. R. JOSE EXEMPTS IT.[20] IF THE SECOND FALLS ELSEWHERE [INTO HULLIN]. IT DOES NOT RENDER IT MEDUMMA'. IF BOTH OF THEM FALL INTO ONE PLACE, THEY RENDER IT MEDUMMA' ACCORDING TO [THE PROPORTION] OF THE SMALLER OF THE TWO.[21]

MISHNAH 7. IF HE USED ONE OF THESE [BASKETS] AS SEED, HE IS EXEMPT,[22] AND THE SECOND IS TREATED AS IF IT WERE TERUMAH AND SUBJECT TO THE LAW OF HALLAH: SO R. MEIR; BUT R. JOSE EXEMPTS IT. IF ANOTHER PERSON USES THE SECOND AS SEED, THEN HE IS EXEMPT. IF ONE MAN SOWS BOTH AS SEED, IF IT IS OF A KIND WHOSE SEED ROTS [IN THE GROUND][23] IT IS PERMISSIBLE, BUT IF IT IS OF THE KIND WHOSE SEED DOES NOT ROT,[24] IT IS PROHIBITED.

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(1) But did not receive legal warning by witnesses (התראה); for had he been so warned prior to committing the offence, he would have received flogging (מלקות) and be exempt from the monetary fine, the lesser penalty being merged in the greater offence. The wilful offender without such warning, incurred the penalty of death (heavenly) which did not, however, exempt him from repayment.

(2) Having robbed a priest.

(3) Which was brought as atonement only in the case of him who ate terumah unwittingly.

(4) The repayment becomes terumah only when this restitution was made for an unintentional act; v. supra VI, 1.

(5) Thus forfeiting her right to terumah; Lev. XXII, 12.

(6) Which was only paid by one totally alien to priesthood. Besides she may qualify again to eat terumah on her return to her father's household after her husband's death (Lev. XXII, 13). Since sanctity of priestly stock clings to her, she is not deemed totally a stranger to terumah.

(7) Like all daughters of a priest, v. Lev. XXI, 9. Though irrelevant to our main issue, it is cited here en passant.

(8) From marrying into the priesthood, e.g., a חלל one who is profane (Lev. XXI, 7), or a Nathin, a descendant of the Gibeonites, or a ממזר , a bastard. By marrying any of these, she severs all connection with the priesthood and is deemed the daughter of an Israelite.

(9) Not having property of their own, the owner must pay the value for them, but not the Fifth, which is only paid by him who actually eats of the terumah. The case here is of one who feeds them on terumah unintentionally.

(10) Regarded as terumah only by an injunction of the Rabbis; cf. Yad. IV, 3.

(11) The minimum standard for culpability.

(12) And the basket of hullin is absolutely permissible, even if there be not therein a hundred to neutralize it. This leniency is due to the fact that terumah these days is only a Rabbinical injunction.

(13) In this case, the above hypothetical argument cannot be applied.

(14) From the value of the terumah and its Fifth, since he can claim that he had eaten of the hullin.

(15) Doubt cannot exempt it from obligations that fall upon hullin; cf. Hal. 1, 3.

(16) From hallah, since it may contain an admixture of terumah.

(17) The proviso here is that they must come independently to enquire about their own position, for we can then argue that each one had eaten of the pile of hullin, an argument hardly tenable if both come together. The exemptions refer only to the Fifth; cf. Toh. V, 5.

(18) In all cases of doubt we inflict the smaller penalty on the plea that it is upon him who claims to bring proof.

(19) On the plea that it might have been the hullin which fell in.

(20) Each of the two instances are necessary; the first to emphasize the view of R. Jose, though the terumah is still actually there; and the present to emphasize the view of R. Meir who subjects the admixture to the law of hallah.

(21) And if there be a hundred to neutralize this smaller of the two, the admixture is permitted.

(22) I.e., what will grow therefrom will be hullin and he must not plough up the seed, as is the case where one sows undoubted terumah; cf. infra IX, 1. But where there is the slightest doubt, leniency is advised.

(23) Like seed of wheat and barley. In this case it is regarded as what grows from medumma' and hence permissible; cf.

infra IX, 6.

(24) Like seed of garlic and onion. It is regarded as the growth of terumah, and hence prohibited.

Mishna - Mas. Terumoth Chapter 8

MISHNAH 1. IF A WOMAN WAS EATING TERUMAH,[1] AND THEY CAME AND SAID TO HER: ‘THY HUSBAND IS DEAD’, OR ‘HE HAS DIVORCED THEE’;[2] OR, IF A SLAVE WAS EATING TERUMAH,[3] AND THEY CAME AND SAID TO HIM: ‘THY MASTER IS DEAD’,[4] OR ‘HE HAS SOLD THEE TO AN ISRAELITE’, OR ‘HE HAS GIVEN THEE AWAY AS GIFT’, OR ‘HE HAS EMANCIPATED THEE’; SO, TOO, IF A PRIEST WAS EATING TERUMAH AND IT BECAME KNOWN THAT HE WAS THE SON OF A DIVORCED WOMAN[5] OR OF ONE THAT HAD GIVEN HALIZAH,[6] R. ELIEZER SAYS: THEY MUST REPAY BOTH THE VALUE AND THE FIFTH;[7] BUT R. JOSHUA EXEMPTS THEM.[8] IF [A PRIEST] WAS STANDING AND SACRIFICING ON THE ALTAR AND IT BECAME KNOWN THAT HE WAS THE SON OF A DIVORCED WOMAN OR OF ONE WHO HAD GIVEN HALIZAH, R. ELIEZER SAYS: ALL THE SACRIFICES HE HAD OFFERED ON THE ALTAR ARE RITUALLY DISQUALIFIED; BUT R. JOSHUA PRONOUNCES THEM VALID.[9] IF IT, HOWEVER, BECAME KNOWN THAT HE POSSESSED A BLEMISH, HIS MINISTRATION IS INVALID.[10]

MISHNAH 2. IN ALL THE ABOVE CASES[11] IF TERUMAH WAS STILL IN THEIR MOUTH,[12] R. ELIEZER SAYS: THEY MAY SWALLOW IT;[13] BUT R. JOSHUA SAYS: THEY MUST SPIT IT OUT. [IF IT WAS SAID TO HIM]. ‘THOU ART BECOME UNCLEAN’,[14] OR THAT ‘THE TERUMAH IS DEFILED’, R. ELIEZER SAYS: HE MAY SWALLOW IT; BUT R. JOSHUA SAYS: HE MUST SPIT IT OUT. [IF IT WAS SAID TO HIM], ‘THOU HAST BEEN UNCLEAN’[15] OR THAT THE TERUMAH WAS DEFILED’, OR IT HAD BECOME KNOWN THAT IT WAS UNTITHED, OR THAT IT WAS FIRST TITHE FROM WHICH TERUMAH HAD NOT YET BEEN TAKEN, OR SECOND TITHE OR DEDICATED PRODUCE THAT HAD NOT BEEN REDEEMED, OR IF HE TASTED THE TASTE OF A BUG IN HIS MOUTH,[16] HE MUST SPIT IT OUT.

MISHNAH 3. IF HE WAS EATING A BUNCH OF GRAPES,[17] AND HE ENTERED FROM THE GARDEN INTO THE COURTYARD,[18] R. ELIEZER SAYS: HE MAY FINISH EATING;[19] BUT R. JOSHUA SAYS: HE MAY NOT FINISH.[20] IF DUSK SET IN AT THE EVE OF SABBATH,[21] R. ELIEZER SAYS: HE MAY FINISH EATING;[22] BUT R. JOSHUA SAYS: HE MAY NOT FINISH.[23]

MISHNAH 4. IF WINE OF TERUMAH HAD REMAINED UNCOVERED,[24] IT MUST BE POURED OUT;[25] AND THERE IS LESS NEED TO SAY THIS IN THE CASE OF HULLIN.[26] THREE KINDS OF LIQUIDS ARE FORBIDDEN ON ACCOUNT OF BEING UNCOVERED: WATER, WINE AND MILK, BUT ALL OTHER DRINKS ARE PERMITTED. HOW LONG SHOULD THEY REMAIN UNCOVERED FOR THEM TO BECOME PROHIBITED? THE TIME IT TAKES THE SERPENT[27] TO CREEP OUT FROM A PLACE NEAR BY AND DRINK.[28]

MISHNAH 5. THE AMOUNT OF WATER THAT MAY REMAIN UNCOVERED[29] MUST BE SUFFICIENT TO NEGATIVE THE POISON THEREIN. R. JOSHUA SAYS: IN VESSELS [IT IS FORBIDDEN] WHATEVER BE THE QUANTITY, BUT FOR WATER ON THE GROUND, IT MUST BE FORTY SE'AHS.[30]

MISHNAH 6. FIGS, GRAPES, CUCUMBERS, PUMPKINS, WATER-MELONS OR SWEET MELONS THAT HAVE BEEN BITTEN,[31] EVEN IF THERE IS AS MUCH AS A TALENT,[32] WHETHER THEY BE LARGE OR SMALL,[33] PLUCKED OR STILL ATTACHED TO THE SOIL, THEY ARE FORBIDDEN AS LONG AS THERE IS JUICE IN THEM.[34] [A BEAST]

BITTEN BY A SERPENT[35] IS FORBIDDEN ON ACCOUNT OF THE DANGER TO LIFE.[36]

MISHNAH 7. A WINE-FILTER, USED AS A COVER, RENDERS [THE WINE BENEATH ALSO] FORBIDDEN THROUGH BEING UNCOVERED;[37] BUT R. NEHEMIAH PERMITS IT.[38]

MISHNAH 8. IF A DOUBT OF IMPURITY ARISES CONCERNING A JAR OF TERUMAH,[39] R. ELIEZER SAYS: IF IT HAD BEEN HITHERTO DEPOSITED IN AN EXPOSED PLACE,[40] HE MUST NOW PLACE IT IN A HIDDEN PLACE;[41] AND IF IT HAD FORMERLY BEEN UNCOVERED, IT MUST NOW BE COVERED.[42] BUT R. JOSHUA MAINTAINS THAT IF IT HAD BEEN IN A HIDDEN PLACE, HE MUST[43] NOW DEPOSIT IT IN AN EXPOSED PLACE; AND IF IT HAD FORMERLY BEEN COVERED UP, HE MUST[43] NOW UNCOVER IT.[44] R. GAMALIEL SAYS: LET HIM NOT DO ANYTHING NEW TO IT.[45]

MISHNAH 9. IF A JAR [OF TERUMAH] WAS BROKEN IN THE UPPER PART OF THE WINE-PRESS,[46] AND THE LOWER PART WAS UNCLEAN,[47] BOTH R. ELIEZER AND R. JOSHUA AGREE THAT IF ONE CAN SAVE AT LEAST A REBI'ITH[48] THEREOF IN CLEANNESS HE SHOULD SAVE IT;[49] BUT IF NOT,[50] R. ELIEZER SAYS: LET IT FLOW DOWN AND BECOME UNCLEAN OF ITS OWN ACCORD,[51] AND LET HIM NOT MAKE IT UNCLEAN WITH HIS OWN HANDS.[52]

MISHNAH 10. SIMILARLY, IF A JAR OF OIL [OF TERUMAH] WAS UPSET, BOTH R. ELIEZER AND R. JOSHUA AGREE THAT IF HE CAN SAVE THEREOF AT LEAST A REBI'ITH IN CLEANNESS HE SHOULD SAVE IT; BUT IF NOT, R. ELIEZER SAYS: LET IT FLOW AWAY AND BE ABSORBED [IN THE GROUND] AND LET HIM NOT GATHER IT UP WITH HIS OWN HANDS.[53]

MISHNAH 11. CONCERNING BOTH CASES,[54] R. JOSHUA SAID: ‘THIS IS NOT THE KIND OF TERUMAH OVER WHICH I AM CAUTIONED LEST I DEFILE IT, BUT LEST I EAT OF IT.’ OF WHICH [WAS IT CAUTIONED] ‘THAT THOU MUST NOT DEFILE IT’? IF ONE WAS PASSING FROM PLACE TO PLACE WITH LOAVES OF TERUMAH IN HIS HAND AND A GENTILE SAID TO HIM: ‘GIVE ME ONE OF THESE AND I WILL MAKE IT UNCLEAN; FOR IF NOT, I WILL DEFILE THEM ALL’, LET HIM DEFILE THEM ALL, AND NOT GIVE HIM DELIBERATELY ONE TO DEFILE. BUT R. JOSHUA SAYS: HE SHOULD PLACE ONE OF THEM ON A ROCK.[55]

MISHNAH 12. SIMILARLY,[56] IF GENTILES SAY TO WOMEN: ‘GIVE US ONE OF YOU THAT WE MAY DEFILE HER,[57] AND IF NOT, WE WILL DEFILE YOU ALL’, THEN LET THEM ALL BE DEFILED RATHER THAN HAND OVER TO THEM ONE SOUL FROM ISRAEL.[58]

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(1) The daughter of an Israelite married to a priest, unless she is divorced or widowed, may eat terumah. The mother of a priest's son may also eat terumah, v. supra VII, 2.

(2) I.e., he had delivered the bill of divorce to your messenger at the place appointed for him to receive it (T.J.).

(3) Lev. XXII, 11 permits non-Hebrew slaves of priests to eat terumah; Hebrew slaves, not being the ‘possession’ of their masters, cannot eat terumah.

(4) ‘And a non-priestly relative of his has now inherited thee’, such as his daughter or the son of his daughter who married an Israelite.

(5) And, therefore, deprived of all the rights and privileges of the priesthood: Lev. XXI, 7 and cf. supra VII, I.

(6) The ceremony of taking off the levir's shoe by his childless sister-in-law on his refusing to contract with her the levitical marriage; Deut. XXV, 7 — 9.

(7) As in all cases of an Israelite eating terumah unwittingly, and as if these never had connection with the priesthood.

(8) On the grounds that these are cases not of mere unwitting transgression (שוגג) but of pure accident. V. Yeb 34a.

(9) He holds that even the work of one unfit for priesthood, owing to illegitimacy, is acceptable to God.

(10) Even R. Joshua agrees to this.

(11) Enumerated in the previous Mishnah; v. however, n. 4.

(12) When word came that their right of eating terumah had ceased.

(13) In the case of the son of a divorced woman or one who had performed halizah, since he never had the right to eat terumah, R. Eliezer will admit that the terumah must be spewed out (Bert.).

(14) The defilement coming after he had begun to eat the terumah legally.

(15) Before eating the terumah, similar to the son of a divorced woman or haluzah, who never possessed the privilege of eating terumah.

(16) In such cases, he need have no qualms for wasting terumah by spitting it out. In these cases, R. Eliezer agrees with R. Joshua.

(17) It was permissible to take a casual snack from the produce prior to tithing.

(18) Once produce enters the owner's domain, it becomes subject to tithes and even a casual meal is now disallowed; Ma'as. I, 5.

(19) I.e., he returns to the garden where he may finish that which he had begun to eat legally; should he want more to eat, he must take tithe first.

(20) Before he has taken tithe; even in the garden. without first tithing what he had begun to eat.

(21) When it is forbidden to tithe (Shab. II, 7) and he had not yet finished his casual meal in the garden. The Sabbath converts even the casual meal into a fixed one.

(22) After its termination (Bert.)

(23) Even on the termination of the Sabbath, without first tithing it.

(24) The danger being lest a serpent had drunk of it and deposited therein some of its venom, a fear more real than imaginary in Talmudic times.

(25) Without the slightest qualms of wasting terumah; the saving of one's life being more important than a prohibition. The wine may not be given to cattle to drink, lest the poison which may not affect them may affect those who will afterwards eat of their flesh.

(26) In which case no qualms exist about waste.

(27) Lit., ‘the creeping thing’.

(28) That place may even be the vessel containing the liquid itself; namely, as long as it takes the serpent to crawl out from the crevice in the handle of the vessel, sip of its contents and creep back.

(29) And be used for drinking.

(30) The coldness of the ground helps to neutralize poison.

(31) Lit., ‘hollowed’, probably by snakes.

(32) Cf. R. H. 15. I.e., even though the fruit on the trees are many so that a serpent cannot be supposed to have gnawed them all, Tif. Yis. The phrase is obscure.

(33) This probably refers to the holes.

(34) The juice in the fruit helps to circulate the venom; if the fruit is, however, very dry, the affected part can be cut out and thrown away and the rest eaten.

(35) An animal bitten by a serpent and afterwards slaughtered must not be eaten, not because it is trefah, but because of danger to life.

(36) Cf. Hul. 49a.

(37) The poison can easily percolate into the wine through the tiny holes of the strainer.

(38) Maintaining that since it is the nature of poison to swim on the surface, it would be easily discernible were it in the strainer.

(39) The instance is of two jars, each containing terumah and left in private grounds one of which had come into contact with a dead serpent, but which it was is uncertain. Being in private territory, all doubts of impurity are unclean; whereas in public grounds it would have been deemed pure; cf. Nazir 57a.

(40) Lit., ‘filth’, ‘dirt’. A place to which all and sundry can have access, for being an open place, uncleanness can easily come.

(41) Since it is terumah and only a doubt has arisen as to its uncleanness, it must be further protected from uncleanness, and cannot be laid open to contamination deliberately. Even terumah suspected of uncleanness must be protected.

(42) So that no serpent may now have access to it.

(43) Or ‘may’ v. Rashi; Pes. 15a.

(44) Once a doubt has arisen, it no longer requires the protection due to the sacred nature of terumah. When it has definitely become unclean, the wine of terumah may be used for aromatic sprinkling, but not when only a doubt exists concerning its nature. R. Joshua's intention is not leniency, but in order to make the wine forbidden definitely.

(45) But allow it to remain in the position it was before doubt arose, not being required to guard it any more closely, or deliberately to allow it to become defiled.

(46) The vat consisted of two parts, one above the other, so that when the grapes were trodden above, the wine flowed down below.

(47) Containing wine of hullin that had become unclean and less than a hundred to neutralize the clean wine of terumah now about to fall in.

(48) A quarter of a log.

(49) In clean vessels; for it is more important to save the terumah from becoming unclean than to save the hullin below from becoming through an admixture of terumah forbidden both to priest and to Israelite. If it be not possible to save terumah in clean vessels then he must save the hullin.

(50) No clean vessels being at hand.

(51) With the hullin becoming forbidden as a result.

(52) By saving the terumah in unclean vessels in order to save the hullin.

(53) Lit., ‘absorb it with his hands’. Had the jar been merely broken, as in the case of the wine, R. Joshua would agree with R. Eliezer that he may not save it in unclean vessels, since there would not be much loss in allowing the oil to flow down in the lower part of the vat, for the hullin oil even when containing an admixture of terumah that has become unclean may still be used for burning purposes.

(54) In the case of terumah whose defilement is in doubt (supra 8) and in the case of the two previous Mishnahs where the terumah is in danger of being lost.

(55) And on no account defile the loaves with his own hands and also not give it from hand to hand.

(56) Irrelevant to our main theme, but indirectly connected with the preceding Mishnah.

(57) By forcibly cohabiting with her.

(58) The general principle is that no person may be sacrificed for the saving of others. If, however, they specify one woman in particular, then she may be given over in order to prevent the others from impurity; but if they specify any one man for slaughter, he must not be handed over unless he had been legally condemned to death as a result of some crime. But some maintain that even if he had not been condemned to death owing to some crime, he may be handed over to them if specified by name, in order to save the others (Tif. Yis.).

Mishna - Mas. Terumoth Chapter 9

MISHNAH 1. HE WHO PLANTS TERUMAH, IF UNWITTINGLY, MAY UPROOT IT;[1] IF OF SET PURPOSE, HE MUST ALLOW IT TO REMAIN.[2] IF IT HAD ALREADY GROWN A THIRD OF ITS FULL SIZE, WHETHER HE HAD PLANTED IT UNWITTINGLY OR INTENTIONALLY, HE MUST ALLOW IT TO REMAIN;[3] BUT IN THE CASE OF FLAX, EVEN WHEN PLANTED INTENTIONALLY[4] HE MUST UPROOT IT.

MISHNAH 2. AND IT[5] IS SUBJECT TO GLEANINGS, THE FORGOTTEN SHEAF AND PE'AH.[6] POOR ISRAELITES AND POOR PRIESTS MAY GLEAN THEM, BUT THE POOR ISRAELITES MUST SELL THEIRS TO PRIESTS FOR THE PRICE OF TERUMAH[7] AND THE MONEY BECOMES THEIRS. R. TARFON SAYS: ONLY POOR PRIESTS MAY GLEAN THEM, LEST [THE OTHERS] FORGET AND PUT IT INTO THEIR MOUTHS.[8] WHEREUPON R. AKIBA SAID TO HIM: IF THAT BE SO, THEN ONLY THOSE WHO ARE CLEAN SHOULD BE ALLOWED TO GLEAN.[9]

MISHNAH 3. AND IT[10] IS ALSO SUBJECT TO TITHES[11] AND POOR MAN'S TITHE. BOTH ISRAELITES AND PRIESTS THAT ARE POOR MAY ACCEPT THEM, BUT THE POOR ISRAELITES MUST SELL THAT WHICH IS THEIRS TO THE PRIEST FOR THE PRICE OF TERUMAH AND THE MONEY BELONGS TO THEM.[12] HE WHO THRESHES THE GRAIN[13]

IS TO BE PRAISED;[14] BUT HE WHO TREADS IT,[15] WHAT SHOULD HE DO?[16] HE MUST SUSPEND BAGS[17] FROM THE NECK OF THE ANIMAL AND PLACE THEREIN FODDER OF THE SAME KIND, WITH THE RESULT THAT HE WILL NEITHER MUZZLE[18] THE ANIMAL NOR CAUSE IT TO EAT TERUMAH.[19]

MISHNAH 4. WHAT GROWS FROM TERUMAH IS TERUMAH,[20] BUT THAT WHICH [FIRST] GREW OUT FROM IT IS HULLIN. AS FOR UNTITHED PRODUCE,[21] FIRST TITHE,[22] THE AFTER-GROWTH OF THE SABBATICAL YEAR,[23] TERUMAH GROWN OUTSIDE THE LAND,[24] THE ADMIXTURE OF HULLIN WITH TERUMAH,[25] THE FIRST-FRUITS[26] — WHAT GROWS FROM THEM IS REGARDED AS HULLIN. WHAT GROWS FROM DEDICATED PRODUCE AND SECOND TITHE IS HULLIN AND IS TO BE REDEEMED [AT ITS VALUE][27] AT THE TIME WHEN IT WAS SOWN.

MISHNAH 5. IF A HUNDRED ROWS WERE PLANTED WITH TERUMAH SEEDS AND ONE WITH HULLIN,[28] THEY ALL ARE PERMITTED, IF THEY ARE OF A KIND WHOSE SEED PERISHES IN THE SOIL;[29] BUT IF THEY ARE OF A KIND WHOSE SEED DOES NOT PERISH IN THE SOIL, THEN EVEN IF THERE BE A HUNDRED [ROWS] OF HULLIN AND ONE OF TERUMAH, THEY ALL ARE PROHIBITED.

MISHNAH 6. AS FOR UNTITHED PRODUCE,[30] WHAT GROWS FROM IT IS PERMISSIBLE IF OF A KIND WHOSE SEED PERISHES [IN THE SOIL]; BUT IF OF A KIND WHOSE SEED DOES NOT PERISH, THEN EVEN WHAT GROWS FROM WHAT [LATER] GREW OUT OF IT IS FORBIDDEN. WHICH IS THE KIND WHOSE SEED DOES NOT PERISH?[31] ANYTHING LIKE ARUM,[32] GARLIC AND ONIONS. R. JUDAH SAYS: ONIONS [IN THIS RESPECT] ARE LIKE BARLEY.[33]

MISHNAH 7. HE WHO WEEDS[34] LEEK-PLANTS[35] FOR A GENTILE,[36] THOUGH THE PRODUCE STILL BE UNTITHED,[37] MAY SNATCH THEREFROM A CASUAL MEAL.[38] PLANTINGS OF TERUMAH[39] WHICH HAD BECOME UNCLEAN AND WERE RE-PLANTED, BECOME CLEAN INSOFAR THAT THEY DO NOT CAUSE DEFILEMENT,[40] BUT THEY MUST NOT BE EATEN[41] UNTIL THE EDIBLE PART [OF THE STALK] HAS BEEN LOPPED OFF.[42] R. JUDAH SAYS: HE MUST [BEFORE EATING] LOP OFF A SECOND TIME THAT WHICH GREW ON THE EDIBLE PART.[43]

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(1) By ploughing the soil and tearing out the roots, so that the produce does not grow and be forbidden as terumah.

(2) As a penalty, the produce will be forbidden to him. He must not plough it up, as it would appear as if he is wilfully destroying terumah.

(3) For having attained this size, it is already fit for food and it would appear as if he is destroying terumah deliberately.

(4) And even after it had reached a third of its full size. The reason for this additional stringency in the case of flax is lest he derive benefit from the stalks on the plea that only the seeds are forbidden as terumah, but not the stalks; whereas the main part about flax is just the stalks and not the seed.

(5) What grows from the terumah seeds.

(6) Cf. supra VI, 5 and Pe'ah IV, 10. These Poor Man's dues are imposed since the terumah here is only a Rabbinic ordinance.

(7) Though what grows from terumah is forbidden to strangers, the sanctity of the terumah does not descend upon the money value thereof.

(8) Arguing that since they are allowed to glean the terumah, they may unwittingly eat of it.

(9) Since a priest who had become unclean must not eat terumah. To this challenge, R. Tarfon's rejoinder no doubt was that a priest who is unclean is very careful not to eat terumah Cf. Pes. 33a, 40a.

(10) What grows from terumah seeds.

(11) Including terumah, in the third and sixth year of the Sabbatical cycle.

(12) The fear expressed by R. Tarfon in the previous Mishnah does not apply here, since not being preoccupied as at the

time of gleaning, the poor Israelites will be careful not to eat the terumah.
(13) Smiting the ears of corn with flails.
(14) Because he need not muzzle the oxen in order to prevent them from eating of terumah, forbidden to animals not belonging to priests.
(15) Employing oxen to do the threshing for him.
(16) To avoid them eating terumah. Muzzling during threshing is forbidden in Deut. XXV, 4.
(17) Containing fodder of hullin of the same kind which he is treading.
(18) For it still eats of the same kind which it is threshing.
(19) The fodder in the bags containing hullin.
(20) Being one of the eighteen decrees of the Rabbis to prevent priests in possession of terumah that had become unclean, from keeping it till seedtime and then sowing it in order to eat the products Shab. 17a.
(21) Since most of the grain is hullin, only when the seed is entirely terumah is what grows from it also deemed terumah.
(22) Only a tenth being terumah, the rest being hullin.
(23) That which falls from ears of corn at harvest time and grows again of its own accord in the Sabbatical year. This after-growth is dated from the sixth year. Being an infrequent occurrence, occurring once in seven years, it was not held necessary to impose this added stricture regarding what grows from it.
(24) Eretz Israel. Since it was not so usual to import terumah from places outside Palestine, no additional stricture was imposed.
(25) Since most of it is hullin, as in the case of untithed produce and First Tithe.
(26) Brought only of the seven kinds mentioned in Deut. VIII, 8: (wheat, barley, grapes, figs, pomegranates, olives and honey dates) and they are not of such frequent occurrence to warrant the restriction upon what grows from terumah.
(27) I.e., the value of the seeds actually sown.
(28) And it be not known which this is.
(29) leniency was always followed in cases in connection with what grows from terumah, and thus one row of hullin makes all that grows from the hundred rows of terumah permitted, though no neutralization takes place in anything still attached to the soil.
(30) V. supra Mishnah 4, which our Mishnah explains. One may partake a casual meal of what grows from tebel, as long as it does not reach the stage when it is liable to tithes.
(31) So that what grows of it, even in the second grade, is forbidden.
(32) V. Pe'ah VI, 10.
(33) Whose seed perishes. Barley is cited because its seeds perish very quickly. Bert. explains R. Judah's statement thus: ‘Only seeds of onions as large as barley do not perish, but those smaller than barley do perish’.
(34) Removing weeds interfering with growth.
(35) Species of onions whose seeds do not rot.
(36) In a field belonging to a non-Jew.
(37) A non-Jew cannot acquire land in Eretz Israel in order to exempt its produce from tithes.
(38) During his labours.
(39) שתילין . Seedlings ready for planting.
(40) Because rooted to the soil, they do not receive defilement and are not yet regarded as food.
(41) Being products of terumah, supra IX, 4.
(42) Leaving only the root. That which grows afterwards is permitted; v. Pes. 34a.
(43) Only that which grows a third time on the spot twice lopped off is permitted.

Mishna - Mas. Terumoth Chapter 10

MISHNAH 1. IF AN ONION [OF TERUMAH] WAS PLACED INTO LENTILS[1] AND THE ONION WAS WHOLE, [THE LENTILS] ARE PERMISSIBLE;[2] BUT IF [THE ONION] HAD BEEN CUT UP, [IT IS FORBIDDEN[3] IF THE ONION] IMPARTS A FLAVOUR. IN THE CASE OF OTHER DISHES,[4] WHETHER THE ONION IS WHOLE OR CUT UP [IT IS FORBIDDEN] IF IT IMPARTS A FLAVOUR. R. JUDAH PERMITS[5] IT IN THE CASE OF PICKLED FISH,[6] BECAUSE THERE IT IS USED ONLY TO REMOVE THE UNPLEASANT FLAVOUR.

MISHNAH 2. IF AN APPLE [OF TERUMAH] WAS CHOPPED AND PLACED INTO DOUGH [OF HULLIN] SO THAT IT LEAVENED IT,[7] [THE DOUGH] IS FORBIDDEN.[8] IF BARLEY [OF TERUMAH] FELL INTO A CISTERN OF WATER, THOUGH [THE BARLEY] DETERIORATE IT, THE WATERS ARE PERMISSIBLE.[9]

MISHNAH 3. IF ONE TAKES OFF WARM BREAD[10] FROM THE OVEN[11] AND PLACES IT OVER AN OPEN BARREL OF WINE OF TERUMAH,[12] R. MEIR SAYS: IT IS FORBIDDEN;[13] BUT R. JUDAH[14] PERMITS IT. R. JOSE PERMITS THE BREAD IF IT IS OF WHEAT BUT NOT OF BARLEY, BECAUSE BARLEY ABSORBS.[15]

MISHNAH 4. IF AN OVEN WAS HEATED WITH CUMMIN[16] OF TERUMAH AND BREAD WAS BAKED THEREIN, THE BREAD IS PERMITTED, BECAUSE IT IS THE SMELL BUT NOT THE FLAVOUR OF THE CUMMIN [THAT IS CONVEYED THEREIN].[17]

MISHNAH 5. IF FENUGREEK[18] FELL INTO A WINE-VAT AND IT WAS TERUMAH OR SECOND TITHE, AND IF THERE IS IN THE SEED ALONE WITHOUT THE STALK SUFFICIENT TO IMPART A FLAVOUR[19] [IT IS FORBIDDEN].[20] BUT IN THE CASE OF SEVENTH YEAR[21] PRODUCE, OR MIXED SEEDS IN VINEYARDS,[22] OR DEDICATED PRODUCE, [IT IS FORBIDDEN] IF IN BOTH SEED AND STALK THERE IS SUFFICIENT TO IMPART A FLAVOUR.

MISHNAH 6. IF ONE HAD BUNCHES OF FENUGREEK OF MIXED SEEDS OF THE VINEYARD, THEY MUST BE BURNT.[23] IF HE HAD BUNCHES OF FENUGREEK OF UNTITHED PRODUCE, HE MUST BEAT THEM AND CALCULATE[24] THE AMOUNT OF SEED WITHIN THEM AND SET ASIDE [TERUMAH] FROM THE SEED, BUT NOT FROM THE STALKS.[25] BUT IF HE DID SET ASIDE [THE TERUMAH ALSO FROM THE STALKS][26] HE MUST NOT SAY: ‘I WILL BEAT OUT [THE SEED] AND TAKE THE STALKS AND GIVE ONLY THE SEED’, BUT HE MUST GIVE THE STALKS TOGETHER WITH THE SEED.[27]

MISHNAH 7. IF OLIVES OF HULLIN WERE PICKLED TOGETHER[28] WITH OLIVES OF TERUMAH, WHETHER IT WAS A CASE WHERE CRUSHED [OLIVES] OF HULLIN [WERE PICKLED TOGETHER] WITH CRUSHED [OLIVES] OF TERUMAH, OR CRUSHED [OLIVES] OF HULLIN WITH WHOLE [OLIVES] OF TERUMAH,[29] OR WITH JUICE OF TERUMAH,[30] THEY ARE FORBIDDEN. BUT IF WHOLE [OLIVES] OF HULLIN WERE PICKLED WITH CRUSHED [OLIVES] OF TERUMAH, THEY ARE PERMITTED.[31]

MISHNAH 8. IF UNCLEAN FISH WAS PICKLED WITH CLEAN FISH THE BRINE THEREOF IS FORBIDDEN IF IN A BARREL OF TWO SE'AHS THE UNCLEAN FISH WEIGHS TEN ZUZ[32] IN JUDEAN MEASURE, WHICH IS FIVE SELA'S IN GALILEAN MEASURE.[33] R. JUDAH SAYS: IT NEEDS BE A QUARTER [OF A LOG] IN TWO SE'AHS;[34] R. JOSE SAYS: ONE-SIXTEENTH THEREOF.[35]

MISHNAH 9. IF UNCLEAN LOCUSTS WERE PICKLED TOGETHER WITH CLEAN ONES, THEY DO NOT MAKE THE BRINE FORBIDDEN.[36] R. ZADOK TESTIFIED THAT THE BRINE OF UNCLEAN LOCUSTS[37] IS CLEAN.[38]

MISHNAH 10. WHATSOEVER [VEGETABLES] ARE PICKLED TOGETHER[39] ARE PERMITTED, SAVE [WHEN PICKLED] WITH LEEKS.[40] LEEKS OF HULLIN [PICKLED] WITH THOSE OF TERUMAH, OR OTHER VEGETABLES OF HULLIN WITH LEEKS OF TERUMAH ARE FORBIDDEN,[41] BUT LEEKS OF HULLIN WITH VEGETABLES OF TERUMAH ARE PERMITTED.

MISHNAH 11. R. JOSE SAYS: WHATSOEVER IS STEWED WITH BEET[42] BECOMES FORBIDDEN, BECAUSE THE LATTER IMPARTS A FLAVOUR. R. SIMEON SAYS: CABBAGE FROM A FIELD ARTIFICIALLY IRRIGATED [THAT IS STEWED] WITH CABBAGE[43] FROM A FIELD WATERED BY RAIN, IS FORBIDDEN BECAUSE IT ABSORBS.[44] R. AKIBA SAYS:[45] ALL THINGS COOKED TOGETHER[46] ARE PERMITTED, EXCEPT THOSE WITH MEAT.[47] R. JOHANAN B. NURI SAYS: LIVER RENDERS OTHER THINGS FORBIDDEN,[48] BUT DOES NOT ITSELF BECOME FORBIDDEN,[49] BECAUSE IT EXUDES AND DOES NOT ABSORB.[50]

MISHNAH 12. IF AN EGG IS BOILED[51] WITH FORBIDDEN SPICES[52] EVEN ITS YOLK IS FORBIDDEN, BECAUSE IT ABSORBS.[53] THE WATER IN WHICH TERUMAH HAS BEEN STEWED OR PICKLED IS FORBIDDEN TO NON-PRIESTS.

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(1) Of hullin, cooked but dry. Lit., ‘it is permissible’. T.J., basing itself on the word in the sing., says that the case here is of an onion of hullin placed into lentils of terumah, and that the onion is permissible though mixed with terumah.

(2) Even to non-priests; for a whole onion does not impart to the entire dish the pungency imparted by an onion sliced up; and similarly, if the lentils had been of terumah and the onion of hullin, the onion does not absorb from them or their juice any of their taste, unless they have been cooked together.

(3) To non-priests.

(4) Not of lentils, like garlic or leeks of hullin into which an onion of terumah has been placed.

(5) The use of terumah in a dish of hullin.

(6) Small fish pickled in brine, of unsavoury flavour. When the onion, whose sole purpose here was to absorb the unpleasant flavour of the fish, has been removed, the fish may be eaten. R. Judah will admit that if the onion had been sliced up or crushed with the fish, the dish would be forbidden.

(7) With its pungent flavour; ‘Orlah II, 4.

(8) To all non-priests, because the dough had been flavoured with terumah.

(9) According to the principle that any flavour which has a deteriorating effect is permissible.

(10) Of hullin.

(11) In ancient ovens, bread was stuck to the sides of the oven during baking and it required great skill to remove the bread.

(12) Warm bread quickly absorbs the flavour of wine in the barrel below.

(13) Because the flavour is as forbidden as the substance itself.

(14) Being of the opinion that smell is of no consequence; v. Pes. 76b.

(15) Its tendency is to absorb moisture of the wine.

(16) An umbelliferous plant like fennel.

(17) Agreeing with the opinion of R. Judah in the preceding Mishnah.

(18) A leguminous plant with seeds, used in farriery. Its fruit and stalk taste alike: Kil. II, 5.

(19) The flavour of terumah itself making the wine forbidden. Only the seed is forbidden in the case of terumah and second tithe and though stalks have the same taste as seed, yet they were not considered holy enough to be counted as terumah.

(20) If it flavours the second tithe, it must not be eaten outside Jerusalem without redemption, and in Jerusalem it must be eaten with the sanctity due to tithes.

(21) When even the stalks of fenugreek are forbidden, because they have the same taste as the fruit.

(22) Lev. XIX, 19; Deut. XXII, 9 — 11. The prohibition applies to stalks as well as to the seed.

(23) Like all other products of kil'ayim, since even the stalks are forbidden; v. Deut. XXII, 9.

(24) For all terumah had to be given approximately.

(25) Though the taste of both stalk and seed is similar the stalks are not subject to terumah.

(26) I.e., he set aside terumah from seed and stalk before beating them out.

(27) Once terumah had been pronounced in regard to the stalks, they belong to the priest, and especially since they have the same taste as the seeds.

(28) In salt water.

(29) Once the olives of hullin are crushed they absorb the taste of those of terumah that are whole.

(30) Water in which terumah olives had been pickled.

(31) Because whole olives only emit flavour, but do not absorb that of the olives of terumah.

(32) Or 1/960th of the whole contents of the barrel. A se'ah == 24 logs == 48 litras == 4,800 zuzim. If the unclean fish is less than this prescribed amount the brine is permitted. Brine, on account of its pungency, requires a greater amount than 60 to neutralize it.

(33) Judean measures being double those of Galilee.

(34) The brine of the unclean fish must be 1/192nd of the contents of the barrel before we declare it forbidden. (The se'ah == 6 kabs == 24 logs; 2 se'ahs == 48 logs, and a quarter of a log is, therefore, 1/192nd of two se'ahs). Though R. Judah is of opinion that the admixture of a prohibited matter in another of a like kind is not neutralized even in a thousand, he is more lenient in the case of brine, since it is only the perspiration of the fish and is only forbidden on Rabbinical authority.

(35) Only when the brine of the unclean fish is 1/16th part of the contents of the barrel is all the brine forbidden.

(36) This leniency is due to the fact that they have no blood, but only perspiration.

(37) Forbidden in Lev. XI, 20.

(38) I.e., it may be eaten; v. ‘Ed. VII, 2.

(39) Those of terumah with hullin.

(40) A species of onions like leek, garlic and onions, that are very sharp in taste and pungent in smell.

(41) On account of their pungency, which pervades everything.

(42) Of terumah or kil'ayim. Beet, unlike other vegetables (which, in the opinion of R. Jose, as distinct from the Tanna of the preceding Mishnah, are permitted when stewed together) impart a sharp flavour.

(43) Of terumah or kil'ayim.

(44) The former being by nature dry and always ready for moisture, will easily absorb flavour of cabbage of terumah.

(45) Var. lec.: R. Judah.

(46) Even when one is permitted and the other is not; for one does not absorb from the other to the extent of rendering it prohibited; Tif. Yis.

(47) That is when forbidden meat is cooked together with permissible meat. It is the nature of meat to exude and to absorb.

(48) If it be the liver of an animal declared to be trefah.

(49) Permissible liver does not become forbidden if cooked with things forbidden; v. Hul. 110a.

(50) While it is engaged in exuding its own juice, it does not absorb the juices of other flesh.

(51) Var. lec.: ‘that had been spiced’.

(52) Of ‘orlah, terumah or kil'ayim.

(53) The shell of the egg being thin, the yolk absorbs the spices. The white of the egg, being outside, certainly becomes forbidden.

Mishna - Mas. Terumoth Chapter 11

MISHNAH 1. ONE MUST NOT PUT INTO FISH-BRINE[1] A CAKE OF PRESSED FIGS OR DRIED FIGS,[2] SINCE IT SPOILS THEM;[3] BUT ONE MAY PLACE WINE OF TERUMAH] INTO FISH BRINE.[4] ONE MUST NOT PERFUME THE OIL,[5] BUT IT MAY BE MADE INTO HONIED WINE.[6] WINE OF TERUMAH MUST NOT BE BOILED, BECAUSE THAT MAKES IT DECREASE.[7] R. JUDAH PERMITS THIS, BECAUSE IT IMPROVES IT.[8]

MISHNAH 2. [IF A NON- PRIEST DRANK] HONEY OF DATES, WINE OF APPLES,[9] VINEGAR FROM WINTER GRAPES,[10] AND ALL OTHER KINDS OF FRUIT JUICE OF TERUMAH,[11] R. ELIEZER DECLARES HIM LIABLE TO REPAY THEIR VALUE AND THE FIFTH;[12] BUT R. JOSHUA EXEMPTS FROM THE FIFTH.[13] R. ELIEZER DECLARES [THESE] SUSCEPTIBLE TO UNCLEANNESS AS LIQUIDS.[14] R. JOSHUA, HOWEVER, SAYS: THE SAGES HAVE NOT ENUMERATED SEVEN LIQUIDS[15] AS THOSE THAT COUNT SPICES,[16] BUT HAVE EXPRESSLY STATED: SEVEN LIQUIDS MAKE THINGS SUSCEPTIBLE TO DEFILEMENT, WHEREAS ALL OTHER LIQUIDS ARE NOT SUSCEPTIBLE.[17]

MISHNAH 3. ONE MUST NOT MAKE DATES INTO HONEY,[18] APPLES INTO WINE, WINTER-GRAPES INTO VINEGAR, OR CHANGE ANY OTHER KIND OF FRUIT THAT IS TERUMAH OR SECOND TITHE FROM THEIR NATURAL STATE, WITH THE SOLE EXCEPTION OF OLIVES AND GRAPES.[19] ONE DOES NOT ADMINISTER THE FORTY LASHES[20] ON ACCOUNT OF ‘ORLAH EXCEPT WITH THE PRODUCT OF OLIVES AND GRAPES.[21] LIQUIDS CANNOT BE BROUGHT AS FIRST FRUITS, EXCEPT THE PRODUCT OF OLIVES AND GRAPES, AND NO FRUIT JUICE IS SUSCEPTIBLE TO UNCLEANNESS AS LIQUIDS EXCEPT THE PRODUCT OF OLIVES AND GRAPES. NO FRUIT JUICE IS BROUGHT ON THE ALTAR, EXCEPT THAT WHICH PROCEEDS FROM OLIVES AND GRAPES.[22]

MISHNAH 4. THE STALKS[23] OF FRESH FIGS AND DRIED FIGS, ACORNS[24] AND CAROBS OF TERUMAH ARE FORBIDDEN TO NON-PRIESTS.[25]

MISHNAH 5. KERNELS OF TERUMAH[26] ARE FORBIDDEN[27] WHEN IN THE POSSESSION OF A PRIEST, BUT PERMITTED WHEN HE CASTS THEM AWAY. SIMILARLY, THE BONES OF HOLY OFFERINGS[28] ARE FORBIDDEN WHEN [THE PRIEST HAS THEM] IN HIS POSSESSION, BUT PERMITTED WHEN HE CASTS THEM AWAY.[29] COARSE BRAN IS PERMITTED,[30] BUT FINE BRAN IS FORBIDDEN IF IT IS OF NEW WHEAT, AND PERMITTED IF IT IS OF OLD WHEAT.[31] ONE MAY ADOPT IN TERUMAH THE PRACTICE FOLLOWED IN HULLIN.[32] HE WHO SIFTS[33] A KAB OR TWO [OF FINE FLOUR] FROM A SE'AH OF WHEAT, MUST NOT ABANDON THE REST, BUT DEPOSIT IT IN SOME HIDDEN PLACE.[34]

MISHNAH 6. IF A STORE-CHAMBER WAS CLEARED OF WHEAT OF TERUMAH, ONE NEED NOT SIT DOWN AND COLLECT EACH GRAIN, BUT SWEEP IT ALL UP IN HIS USUAL MANNER[35] AND THEN DEPOSIT HULLIN THEREIN.

MISHNAH 7. SIMILARLY, IF A JAR OF OIL[36] IS UPSET, HE NEED NOT SIT DOWN AND SCOOP IT UP [WITH HIS FINGERS],[37] BUT DEAL WITH IT AS HE WOULD IN A CASE OF HULLIN.

MISHNAH 8. HE WHO POURS OUT[38] FROM JAR TO JAR AND ALLOWS THREE DROPS TO DRIP,[39] MAY PLACE HULLIN THEREIN.[40] BUT IF HE INCLINES THE JAR [ON ITS SIDE] IN ORDER TO DRAIN IT,[41] IT IS TERUMAH. HOW MUCH TERUMAH OF TITHE OF

DEM'AI[42] MUST THERE BE FOR HIM TO TAKE IT TO THE PRIEST?[43] ONE EIGHTH OF AN EIGHTH.[44]

MISHNAH 9. VETCHES[45] OF TERUMAH MAY BE GIVEN[46] TO CATTLE, BEASTS OR FOWLS.[47] IF AN ISRAELITE HIRED A COW FROM A PRIEST, HE MAY GIVE IT VETCHES OF TERUMAH[48] TO EAT, BUT IF A PRIEST HIRED A COW FROM AN ISRAELITE, THOUGH THE RESPONSIBILITY OF FEEDING IT IS HIS,[49] HE MUST NOT FEED IT WITH VETCHES OF TERUMAH. IF AN ISRAELITE UNDERTAKES THE CARE OF A COW FROM A PRIEST,[50] HE MUST NOT FEED IT WITH VETCHES OF TERUMAH[51] BUT IF A PRIEST UNDERTAKES THE CARE OF A COW FROM AN ISRAELITE, HE MAY FEED IT ON VETCHES OF TERUMAH.[52]

MISHNAH 10. ONE MAY KINDLE OIL THAT HAS TO BE BURNT[53] IN SYNAGOGUES, HOUSES OF STUDY, DARK ALLEYS, AND FOR SICK PEOPLE WHEN A PRIEST IS NEAR.[54] IF THE DAUGHTER OF AN ISRAELITE MARRIED TO A PRIEST REGULARLY GOES TO HER FATHER'S HOUSE, HER FATHER MAY KINDLE [SUCH OIL] IN HER PRESENCE. IT MAY ALSO BE KINDLED AT A BANQUETING HOUSE[55] BUT NOT IN A HOUSE OF MOURNING;[56] SO R. JUDAH. R. JOSE SAYS: [IT MAY BE KINDLED] IN THE HOUSE OF MOURNING, BUT NOT IN THE BANQUETING HOUSE.[57] R. MEIR FORBIDS IT IN BOTH PLACES[58] BUT R. SIMEON PERMITS IT IN EITHER CASE.[59]

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(1) Latin muria or muries, a kind of salted pickle, containing fish hash and occasionally wine; also salt water in which chopped fish or locusts have been pickled.

(2) Of terumah.

(3) After the brine they had absorbed is squeezed out, the figs were thrown away.

(4) Wine was often put into the brine in order to deodorize it.

(5) Of terumah with spices of hullin, since the oil of terumah is thus absorbed by the spices and later wasted by being thrown away. Moreover, the oil is rendered unfit for food, and used only for anointing purposes, thus causing damage to terumah.

(6) I.e., wine of terumah may be mixed with water, honey and spices to make it into a sweet-honied wine; ‘A.Z. 30a.

(7) And terumah must not suffer damage either by reduction in quantity, or by making it fit for less people to drink, boiled wine not being agreeable to many.

(8) Unboiled wine may taste better, but turns sour more quickly than boiled wine.

(9) Cider.

(10) Being very sour, they were usually converted into vinegar.

(11) Except wine and oil.

(12) As in all cases of a non-priest eating terumah.

(13) He does not consider these as liquid of terumah, but simply as exudation of the fruit.

(14) Lev. XI, 34, 38.

(15) Water, dew, wine, oil, honey, milk, blood (Maksh. VI, 4). These become unclean themselves and make other foods susceptible to defilement. R. Joshua, therefore, debars those mentioned in our Mishnah, which R. Eliezer includes.

(16) That are not at all precise in the enumeration of their wares.

(17) Even they themselves contract no defilement.

(18) Once the fruit is converted from its original state into a liquid, some loss is incurred to the terumah by reducing it in quantity or value.

(19) Which are more usually made into oil and wine than eaten as olives and grapes; hence, it cannot be said that fruits of terumah have in any way been altered from their natural state.

(20) In reality thirty-nine, forty being a round number.

(21) The juice of any other fruit of ‘orlah not being considered as a liquid for which the penalty is administered.

(22) Oil for meal-offerings and wine for libations.

(23) By which the fruit is attached to the tree.

(24) כלּיסים ‘Word of dubious meaning. According to Maim.: a species of fig; Hash; a kind of pea or bean. Others

think it is the fruit of the carob-tree.
(25) Being considered as part of the actual fruit.
(26) Those that are soft and left with some sap.
(27) To be eaten by a non-priest.
(28) That contain marrow and can yet be enjoyed.
(29) Thus showing that he has no further use for them. If the kernels and the bones cannot be enjoyed at all any more, they are permitted to non-priests even whilst still in possession of the priest.
(30) Being almost useless as food.
(31) When the bran is new (within thirty days of being cut), much of the flour clings to the bran even after being ground, but old wheat is dry and grinds so well that little flour is left in the bran.
(32) That is, he may extract from terumah also the fine flour and cast away the coarse bran without scruples of wasting terumah.
(33) A se'ah has six kabs, and after extracting the kab or two of fine flour, the rest was thrown away as refuse.
(34) Since some of it is still edible in cases of emergency, non-priests may not eat thereof, for the name of terumah still adheres to it. (In other cases, food only used in cases of emergency is not deemed food at all, but being terumah added strictures have been imposed.)
(35) That is with a broom, and even if a few grains of terumah are left, it matters not, since he has no intention of wilfully destroying the terumah.
(36) Of terumah.
(37) Cf. Shab. 143b.
(38) Wine and oil of terumah.
(39) After emptying a bottle.
(40) Regardless of some drops that may still be in the first jar.
(41) After the dripping of the three drops.
(42) V. Glos.
(43) A question somewhat irrelevant here, but cited in consequence of the reference to small grains and drops of terumah about which one need not bother. Note that the question only concerns doubtful terumah, for in a case of definite and clean terumah, even smallest particles must not be wasted.
(44) Of a log, that is 1/64th of a log. Less than that may be wasted.
(45) A species of bean rarely used as human food, serving mostly as fodder for animals, but since man eats of it in cases of emergency, terumah must be taken therefrom.
(46) By the priest.
(47) If these are his own. Of terumah, only that which man could not eat, was given to animals.
(48) Since the cow belongs to a priest, he might just as well give the vetches to her as to any other priest.
(49) Hiring not constituting a sale, the cow is still the property of the Israelite.
(50) Lit., ‘values’; he undertakes to tend it and to share in its increased value after he had fattened it. Thus, if the cow was now worth 20 dollars and he improved it to be worth 30 dollars, he would share half of the 10 dollars with the priest.
(51) By this arrangement, the cow actually becomes the property of the Israelite and not of the priest; v. Lev, XXII, 11.
(52) Since it becomes his own possession.
(53) Oil of terumah which becomes unclean must be burnt.
(54) Since a priest himself may enter these places and derive benefit from the kindled oil. Only in the case of the sick should the priest be near; he is sure to enter the other places sooner or later (T.J.).
(55) Since a priest may enter there; nor need one fear lest the guests will carry the lamp into a chamber where the priest is not present, for they will not risk soiling the festive garments in which they are attired.
(56) In the house of mourning, where no festive garments are worn, the fear referred to in the preceding note is entertained.
(57) On the contrary, argues R. Jose. In a house of mourning, all sit quietly and will not think of removing the lamp to a room where the priest is not there, but the merriment of the banqueting chamber may prompt them to do so, regardless of soiling their clothes.
(58) Applying the arguments of both R. Judah and R. Jose, and adopting the stringent ruling of each.
(59) Adopting the lenient ruling of both and having no fear that the lamp will be shifted to a place in which no priest is

present.

Mishna - Mas. Ma'aseroth Chapter 1

MISHNAH 1. THEY HAVE LAID DOWN A GENERAL RULE CONCERNING TITHES:[1] WHATEVER IS [CONSIDERED] FOOD[2] AND IS GUARDED[3] AND GROWS OUT OF THE SOIL,[4] IS LIABLE TO TITHES.[5] AND THEY HAVE FURTHER LAID DOWN ANOTHER RULE [AS REGARDS TITHE]: WHATSOEVER IS CONSIDERED FOOD BOTH AT THE BEGINNING AND AT THE CONCLUSION [OF ITS GROWTH].[6] EVEN THOUGH HE WITHHOLDS IT FROM USE SO AS TO ENABLE THE QUANTITY OF FOOD TO INCREASE, IS LIABLE [TO TITHE]. WHETHER [IT BE GATHERED] IN ITS EARLIER OR LATER STAGES [OF RIPENING].[7] WHEREAS WHATSOEVER IS NOT CONSIDERED FOOD IN THE EARLIER STAGES [OF ITS GROWTH] BUT ONLY IN ITS LATER STAGES,[8] IS NOT LIABLE [TO TITHE] UNTIL IT CAN BE CONSIDERED FOOD.[9]

MISHNAH 2. WHEN DO THE FRUITS BECOME LIABLE TO TITHE?[10] FIGS FROM THE TIME THEY ARE CALLED BOHAL,[11] GRAPES AND WILD GRAPES IN THE EARLY STAGES OF RIPENING,[12] RED BERRIES AND MULBERRIES AFTER THEY BECOME RED; [SIMILARLY] ALL RED FRUITS, AFTER THEY BECOME RED. POMEGRANATES ARE LIABLE TO TITHE AFTER THEIR CORE BECOMES PULPY,[13] DATES AFTER THEY BEGIN TO SWELL,[14] PEACHES AFTER THEY ACQUIRE [RED] VEINS,[15] WALNUTS FROM THE TIME THEY FORM DRUPES.[16] R. JUDAH SAYS: WALNUTS AND ALMONDS, AFTER THEIR KERNEL SKINS HAVE BEEN FORMED.[17]

MISHNAH 3. CAROBS [ARE SUBJECT TO] TITHES AFTER THEY FORM DARK SPOTS.[18] SIMILARLY ALL BLACK-FINISHED FRUITS[19] AFTER THEY FORM DARK SPOTS; PEARS AND CRUSTUMENIAN PEARS,[20] QUINCES,[21] AND MEDLARS[22] [ARE LIABLE TO TITHES] AFTER THEIR SURFACE BEGINS TO GROW SMOOTH.[23] SIMILARLY ALL WHITE FRUITS,[24] AFTER THEIR SURFACE BEGINS TO GROW SMOOTH; FENUGREEK [IS LIABLE TO TITHE, WHEN IT IS SO FAR ADVANCED] THAT THE SEEDS [CAN BE PLANTED AND] WILL GROW,[25] GRAIN AND OLIVES AFTER THEY ARE ONE-THIRD RIPE.[26]

MISHNAH 4. WITH REGARD TO VEGETABLES,[27] CUCUMBERS, GOURDS, WATER-MELONS, CUCUMBER-MELONS,[28] APPLES AND CITRONS ARE LIABLE [TO TITHE], WHETHER GATHERED IN THE EARLIER OR LATER STAGES OF RIPENING.[29] R. SIMEON EXEMPTS THE CITRON IN THE EARLIER STAGES.[30] THE CONDITION IN WHICH BITTER ALMONDS ARE LIABLE [TO TITHE] IS EXEMPT IN THE CASE OF SWEET ALMONDS, AND THE CONDITION IN WHICH SWEET ALMONDS ARE LIABLE [TO TITHE] IS EXEMPT IN THE CASE OF BITTER ALMONDS.[31]

MISHNAH 5. WHEN ARE THE FRUITS FIXED TO BE TITHED?[32] CUCUMBERS AND GOURDS [ARE LIABLE TO TITHE] AFTER THEIR FRINGE[33] FALLS OFF, OR IF THIS DOES NOT FALL OFF, AFTER [THE FRUIT] HAS BEEN PILED UP; MELONS SO SOON AS THEY BECOME SMOOTH,[34] AND IF THEY HAVE NOT BECOME SMOOTH, AFTER THEY ARE STORED AWAY;[35] VEGETABLES WHICH ARE TIED IN BUNDLES,[36] FROM THE TIME THEY ARE TIED UP IN BUNDLES; IF THEY ARE NOT TIED UP IN BUNDLES, AFTER THE VESSEL HAS BEEN FILLED WITH THEM;[37] IF THE VESSEL. IS NOT TO BE FILLED WITH THEM, AFTER THERE HAS BEEN GATHERED ALL THAT HE WISHES TO GATHER. [PRODUCE WHICH IS PACKED IN] A BASKET [IS LIABLE TO TITHE] AFTER IT HAS BEEN COVERED;[38] IF IT IS NOT TO BE COVERED, AFTER A VESSEL IS FILLED; IF A VESSEL IS NOT TO BE FILLED, AFTER HE HAS GATHERED ALL HE REQUIRES. WHEN DOES THIS REGULATION APPLY?[39] WHEN A MAN BRINGS [THE PRODUCE] TO THE MARKET, BUT WHEN HE BRINGS IT TO HIS OWN HOUSE, HE MAY MAKE A CHANCE

MEAL OF IT, UNTIL HE REACHES HIS HOUSE.

MISHNAH 6. DRIED SPLIT-POMEGRANATES, RAISINS AND CAROBS, ARE LIABLE [TO TITHE] AFTER THEY ARE STACKED; ONIONS, AFTER THEY ARE STRIPPED;[40] IF THEY ARE NOT STRIPPED, AFTER THEY ARE STACKED; GRAIN, AS SOON AS THE PILE HAS BEEN EVENED;[41] IF IT IS NOT EVENED, AFTER IT HAS BEEN STACKED; PULSE, AFTER IT HAS BEEN SIFTED;[42] IF IT IS NOT SIFTED, AFTER THE PILE HAS BEEN EVENED. EVEN AFTER THE PILE HAS BEEN EVENED, HE MAY [WITHOUT TITHING] TAKE OF THE TINY EARS,[43] FROM THE SIDES OF THE PILES, AND FROM THAT WHICH IS STILL IN THE HUSK, AND EAT.[44]

MISHNAH 7. WINE [IS LIABLE TO TITHE] AFTER IT HAS BEEN SKIMMED;[45] BUT ALTHOUGH IT HAS BEEN SKIMMED, HE MAY TAKE FROM THE UPPER WINE-PRESS,[46] OR FROM THE DUCT,[47] AND DRINK THEREOF [WITHOUT GIVING TITHE]. OIL, AFTER IT HAS DRIPPED INTO THE TROUGH,[48] BUT EVEN AFTER IT HAS DRIPPED HE MAY STILL TAKE OF THE OIL FROM THE BALE,[49] OR FROM THE PULP [UNDER THE PRESS],[50] OR FROM BETWEEN THE BOARDS OF THE PRESS,[51] [WITHOUT TITHING,] AND PUT THE OIL ON A CAKE,[52] OR PLATE,[53] BUT NOT IN A DISH OR STEWPOT, WHILE THE CONTENTS THEREOF ARE BOILING.[54] R. JUDAH SAYS: HE MAY PUT IT INTO ANYTHING[55] SAVE IN TO THAT WHICH CONTAINS VINEGAR OR BRINE.[56]

MISHNAH 8. A CAKE OF PRESSED FIGS [IS LIABLE TO TITHE] FROM THE MOMENT ITS SURFACE HAS BEEN SMOOTHED.[57] IT MAY BE SMOOTHED WITH [THE JUICE OF] UNTITHED FIGS OR GRAPES,[58] BUT R. JUDAH FORBIDS THIS. IF IT IS SMOOTHED WITH GRAPES, IT IS NOT SUSCEPTIBLE TO [RECEIVE] LEVITICAL UNCLEANNESS;[59] R. JUDAH, HOWEVER, SAYS, IT IS SUSCEPTIBLE.[60] DRIED FIGS [ARE LIABLE TO TITHE] AFTER THEY HAVE BEEN TRODDEN,[61] AND [FIGS] STORED IN A BIN [ARE LIABLE TO TITHE] AFTER THEY HAVE BEEN PRESSED. IF ONE WAS TREADING [THE FIGS] INTO A JAR, OR PRESSING THEM IN A STORE BIN, AND THE CASK WAS BROKEN OR THE STORE BIN OPENED, IT IS NOT ALLOWED TO MAKE A CHANCE MEAL OF THEM; R. JOSE, HOWEVER, PERMITS THIS.

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(1) V. Introduction. The ruling here also applies to terumah.

(2) This excludes e.g., madder, although in times of dire necessity both are used as food.

(3) In contradistinction to ownerless property, looked after by no private owner.

(4) This excludes such things as mushrooms and truffles, which are not deemed to be things growing from the soil, since they are not sown. In all these cases the ruling is deduced from Deut. XIV, 22, Thou shalt surely tithe all the produce of thy seed, identifying ‘produce’ with food; ‘thy seed’, with privately owned produce, and ‘seed’ with earth-sown produce.

(5) The whole of this paragraph refers to what are technically known as ‘regular’ meals in contradistinction to ‘chance’ meals, to which this ruling does not apply.

(6) As for example, all herbs which become fit for consumption as soon as they begin to ripen. The owner nevertheless withholds them from being gathered until they are fully ripe, so as to enable him to accumulate the maximum quantity of produce.

(7) Since they are considered as food, fit to be eaten, from the very beginning of their ripening. Lit., ‘whether small or large’.

(8) As for example, certain kinds of fruit which grow on trees.

(9) Derived from Lev. XXVII, 30. From the seed of the earth, from the fruit of the tree, which is interpreted to mean that it is not to be considered food until it grows up and becomes fruit proper.

(10) Fruit, that is to say, which in the early stages of its growth is not considered a food, and which is also eaten at regular times.

(11) The commencement of the ripening is known as בוחל . Rashi: From the time their tips become white.

(12) They have reached that stage of ripeness when the berries appear from inside the husks. In the case of a cluster, if one berry has reached this measure of ripeness, the whole of the cluster is liable to tithe.

(13) When the eatable portion, the core, can be mashed under one's fingers.

(14) Lit., ‘they cast a dough’. When they rise like dough.

(15) When there appears in the skin a sort of red vein.

(16) Lit., ‘they form a store’. When the food is actually separated from the outer shell, and gives the appearance of something laid in a store-house.

(17) R. Judah refers to a thin skin nearest to the food, which does not form upon the fruit until after the completion of the ripening.

(18) They begin to darken at the completion of their ripening.

(19) This refers to all fruits which are black on the completion of their ripening, eg., the berries of the myrtle and thorn.

(20) Small pears resembling nuts. These have hair on them which needs smoothening.

(21) V. Kil. I, 4.

(22) A sort of crab-apple.

(23) After the hair upon them, which covers them in the earlier stages of ripening, falls out. These fruits in their early stages are covered with small hairs, like feathers, and as they ripen they gradually become bald, so that eventually when they are completely ripe, all their hair has fallen out.

(24) The law does not specifically apply only to those which are actually white, but it also includes those which are neither black nor red.

(25) Namely when it has become so complete in its ripeness that if it were seed, it would sprout forth. The method of testing to discover when it had reached this stage is by putting the plant in water.

(26) A third part of that which will eventually grow, or alternately, if he were to store them or in the case of grain to grind them) he would be able to produce from them, at that stage, one third of the amount which will be produced when they are fully ripe.

(27) The four species of vegetables enumerated here.

(28) An apple-shaped melon.

(29) Since both in their earlier and later stages they are considered to be food. Lit., ‘whether large or small’.

(30) Since he holds that they are not eaten at this stage.

(31) Bitter almonds are gathered and eaten at their earlier stages, not at their later. With sweet almonds the reverse is the case.

(32) To forbid even a chance meal. LIt., ‘when is their threshing-floor (condition) for tithes’. In the case of corn, the tithing-season begins alter the produce has been stacked on the threshing-floor.

(33) In the early stages of ripening there is a woolly substance on their surface; when fully ripe this falls off.

(34) By the loss of their woolly substance on the surface.

(35) Lit ‘made into a store’. When they have been spread out to be dried. Melons are not piled up but spread out.

(36) That which it is customary to sell in bundles.

(37) If a man customarily fills many vessels from his field, he may eat a chance meal until the last vessel has been filled.

(38) It was customary to cover the fruits with the leaf of a tree when taken to the market so that they should not wither.

(39) When do the above conditions concerning the season for tithing hold good?

(40) After the bad peel has been taken off.

(41) After the produce has been cleansed from its chaff, it is heaped up and levelled.

(42) Since it is usual to uproot the pulse with dust, it is therefore necessary to sift it in a sieve in order to cleanse it.

(43) Plucked ears of corn not well threshed.

(44) Since all these latter things are as yet not ready for tithe.

(45) From the time that he removes the kernels and the husks which rise to the surface of the wine on its fermenting.

(46) From the wine which has not yet gone into the press tank.

(47) Formed in the mouth of the wine-press from which the wine flows into the press tank. The wine which is still in the upper wine-press or in the duct is as yet not completely ready for use.

(48) The cavity into which the oil drips.

(49) The meaning of this Hebrew word is obscure; Jast. translates: ‘A bale of loose texture containing the olive pulp to be pressed’. Bert.: ‘A vessel made of ropes in which the olives are heaped up during the time they lay the press-beam upon them’. Tif. Yis: A perforated basket into which the pressed-out olives are placed when they are gathered together. The oil creeps and oozes out from the holes in the basket.

(50) The upper millstone with which they grind the olives (Bert.). The stone placed in the basket to press upon the olives and to squeeze them (Tif. Yis.).
(51) The oil which comes out from between the boards.
(52) A small, thin and hot cake which, when taken out of the oven, used to be smoothed with oil over its face. This last statement is made to teach us that the cake is not considered in the category of ‘cooked’ dishes, since generally it is forbidden to eat a chance meal from all produce, fruits and vegetables, cooked by the fire.
(53) A large dish upon which there is hot cooking.
(54) Even though he has removed them from the fire.
(55) He may put it into all boiling pots and dishes, after he has removed it from the fire, and it is still not liable to tithe.
(56) Brine-water which issues from salted fish or meat. The sharpness of these two ingredients, vinegar and brine, aids considerably in the cooking process.
(57) It is customary to smoothen its surface with juice in order to beautify it. Then, and then only, does the tithing stage begin.
(58) Since juices used for smoothing purposes are considered of no consequence. R. Judah, however, holds the contrary view, and therefore, since their fruit is untithed, they are forbidden.
(59) V. Lev. XI, 34, 38. This refers only to grapes and not to figs, since fig-juice does not render food susceptible to uncleanness.
(60) The dispute between R. Judah and the other authorities is as to whether the juice is to be considered liquid or not.
(61) The figs are dried and then are trodden with staves in a vessel, or are pressed with the hands in the store-house.

Mishna - Mas. Ma'aseroth Chapter 2

MISHNAH 1. IF A MAN WAS PASSING THROUGH THE STREET,[1] AND SAID ‘TAKE YE OF MY FIGS’, ONE MAY EAT AND BE EXEMPT FROM TITHE;[2] THEREFORE IF[3] THEY BROUGHT THEM INTO THEIR HOUSES,[4] THEY MUST GIVE THE PRIESTLY DUES AS IF THEY WERE CERTAINLY UNTITHED. [IF HE SAID] TAKE YE AND BRING INTO YOUR HOUSES’,[5] THEY MAY NOT MAKE A CHANCE MEAL OF THEM.[6] THEREFORE, IF THEY BROUGHT THEM INTO THEIR HOUSES, THEY NEED TITHE THEM ONLY AS DEMAI.[7]

MISHNAH 2. IF MEN WERE SITTING IN A DOORWAY OR A SHOP, AND HE[8] SAID, ‘TAKE YE OF MY FIGS’,[9] THEY MAY EAT AND BE EXEMPT FROM TITHES,[10] BUT THE OWNER OF THE DOORWAY, OR THE OWNER OF THE SHOP, IS LIABLE [TO GIVE TITHE]. R. JUDAH, HOWEVER, EXEMPTS HIM[11] UNLESS HE TURNS HIS FACE[12] OR CHANGES THE PLACE WHERE HE WAS SITTING [AND SELLING].[13]

MISHNAH 3. IF A MAN BRINGS FRUIT FROM GALILEE TO JUDEA,[14] OR IF HE GOES UP TO JERUSALEM, HE MAY EAT OF THEM,[15] UNTIL HE ARRIVES AT THE PLACE TO WHICH HE INTENDS TO GO;[16] AND SO, ALSO, IF HE RETURNS.[17] R. MEIR, HOWEVER, SAYS: [HE MAY EAT] ONLY UNTIL HE REACHES THE PLACE WHERE HE INTENDS TO REST [ON THE SABBATH].[18] BUT PEDLARS WHO GO ABOUT THE CITIES,[19] MAY EAT,[20] UNTIL THEY REACH THE PLACE WHERE THEY INTEND STAYING OVER NIGHT.[21] R. JUDAH SAYS: ‘THE FIRST HOUSE [HE REACHES] IS HIS HOUSE’.[22]

MISHNAH 4. IF ONE SET ASIDE THE TERUMAH FROM FRUITS BEFORE THEIR WORK WAS FINISHED,[23] R. ELIEZER SAYS: IT IS FORBIDDEN TO MAKE A CHANCE MEAL OF THEM,[24] BUT THE SAGES PERMIT IT[25] EXCEPT WHEN IT IS A BASKET OF FIGS. IF ONE SET ASIDE THE TERUMAH FROM A BASKET OF FIGS, R. SIMEON PERMITS IT,[26] BUT THE SAGES FORBID IT.[27]

MISHNAH 5. IF A MAN SAYS TO HIS FELLOW: ‘HERE IS THIS ISSAR,[28] GIVE ME FIVE FIGS FOR IT’, HE MAY NOT EAT OF [THEM] UNTIL HE HAS TITHED THEM;[29] SO R. MEIR. R. JUDAH SAYS: IF HE ATE THEM ONE BY ONE, HE IS EXEMPT, BUT IF SEVERAL

TOGETHER,[30] HE IS LIABLE [TO TITHE.] R. JUDAH SAID: IT HAPPENED IN A ROSE-GARDEN IN JERUSALEM THAT THERE WERE FIGS BEING SOLD THREE OR FOUR FOR AN ISSAR,[31] AND NEITHER TERUMAH NOR TITHE WAS EVER GIVEN FROM IT.[32]

MISHNAH 6. IF A MAN SAID TO HIS FELLOW: ‘HERE IS AN ISSAR FOR TEN FIGS WHICH I MAY SELECT FOR ME’,[33] HE MAY SELECT AND EAT;[34] [IF HE SAID] ‘FOR A CLUSTER OF GRAPES WHICH I MAY SELECT FOR ME’, HE MAY PICK GRAPES FROM THE CLUSTER AND EAT;[35] [IF HE SAID], ‘FOR A POMEGRANATE WHICH I MAY SELECT FOR ME’, HE MAY SPLIT[36] [THE POMEGRANATE] AND EAT [A SLICE]; [IF HE SAID] ‘FOR A WATER-MELON, WHICH I MAY SELECT FOR ME’, HE MAY SLICE AND EAT;[37] IF HE, HOWEVER, SAID ‘FOR THESE TWENTY FIGS’, OR ‘FOR THESE TWO CLUSTERS’, OR ‘FOR THESE TWO WATER-MELONS’, HE MAY EAT THEM IN HIS USUAL WAY AND BE EXEMPT [FROM TITHE], BECAUSE HE BOUGHT THEM WHILST THEY WERE STILL ATTACHED TO THE GROUND.[38]

MISHNAH 7. IF A MAN HIRED A LABOURER TO HELP HIM HARVEST FIGS,[39] AND HE [THE LABOURER] SAID UNTO HIM ‘ON CONDITION THAT I MAY EAT THE FIGS’, HE MAY EAT THEM AND BE EXEMPT [FROM TITHE].[40] IF HE, HOWEVER, SAID, ‘ON CONDITION THAT I AND MY SON MAY EAT’,[41] OR ‘THAT MY SON MAY EAT OF THEM IN LIEU OF MY RECEIVING A WAGE’,[42] HE MAY EAT AND BE EXEMPT [FROM TITHE], BUT IF HIS SON EATS HE IS LIABLE. IF HE SAID: ‘ON CONDITION THAT I MAY EAT OF THEM DURING THE TIME OF THE FIG HARVEST, AND AFTER THE FIG HARVEST’, DURING THE TIME OF THE FIG HARVEST HE MAY EAT AND BE EXEMPT [FROM TITHE], BUT IF HE EATS AFTER THE FIG HARVEST HE IS LIABLE, SINCE HE DOES NOT EAT OF THEM AFTER THE MANNER PRESCRIBED BY THE TORAH.[43] THIS IS THE GENERAL RULE: ONE WHO EATS AFTER THE MANNER PRESCRIBED BY THE TORAH IS EXEMPT [FROM TITHE], AND ONE WHO DOES NOT EAT AFTER THE MANNER PRESCRIBED BY THE TORAH IS LIABLE.[44]

MISHNAH 8. IF A MAN IS DOING [HIRED LABOUR] AMONG POOR FIGS, HE MAY NOT EAT OF GOOD FIGS,[45] AND IF HE IS DOING [HIRED LABOUR] AMONG GOOD FIGS, HE MAY NOT EAT OF THE POOR FIGS, BUT HE MAY RESTRAIN HIMSELF UNTIL HE REACHES THE PLACE WHERE THERE ARE THE BETTER FIGS,[46] AND THEN HE MAY EAT. IF A MAN EXCHANGES WITH HIS FELLOW EITHER HIS FRESH FIGS FOR HIS FRESH FIGS,[47] HIS DRIED FIGS FOR HIS DRIED FIGS,[48] HIS FRESH FIGS FOR HIS DRIED FIGS, THEN HE IS LIABLE TO GIVE TITHE.[49] R. JUDAH, HOWEVER, SAYS: IF A MAN EXCHANGES [HIS FIGS] FOR [HIS FELLOW'S] FRESH FIGS HE IS LIABLE, BUT [IF FOR THE OTHER'S] DRIED FIGS HE IS EXEMPT.[50]

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(1) The statement speaks of an ‘am ha-arez who is suspected of not having given his tithe, and also of fruit which is not being taken to be sold.

(2) Because we can say they have not been taken indoors, and therefore, the time has not yet arrived when they are liable to tithe; v. supra I, 5.

(3) Since he uses only this phrase ‘Take’ in his statement, implying a chance meal.

(4) The man who gave them had not tithed them, thinking they were going to eat them in the street, which does not require tithing. From the moment, however, that they are taken indoors, they are liable to tithe. In this ease, they give the tithe of tithe which the Levite owes to the priest (תרומת מעשר) v. Num. XVIII, 26; the first tithe (מעשר ראשון) belonging to the Levite; the second tithe (מעשר שני) to be consumed by the owner in Jerusalem (v. Deut. XIV, 23) they may keep for themselves.

(5) Thus indicating that they may he eaten, even in the house, as having been tithed, after having become liable to tithe.

(6) The man is believed in so far that the produce had reached the stage when it became liable to tithe, and consequently forbidden even for a chance meal, but he is not believed that the tithe had been taken from them.

(7) v. Glos.

(8) The owner of the doorway or the ship, who was carrying fruit.

(9) Which I have in the street; because if they were in the doorway or shop they would become liable, as if they were in the house.

(10) Since a man's house renders produce liable to tithe only as far as he is concerned.

(11) R. Judah holds that since a doorway or shop is a place where he will be ashamed to eat, it is not regarded as a courtyard or house which renders produce liable to tithe.

(12) Enabling him to eat without feeling ashamed.

(13) Even though his face is turned towards his buyers, by changing his position he indicates his desire to find a place where he can eat unashamed.

(14) He gathered them in his field in Galilee with the intention of taking them up to Judea and selling them there.

(15) A chance meal without tithing.

(16) Even if he stops on the way, he is still exempt from giving tithe, because it is his intention to sell them only in Judea.

(17) If before he reached Judea he decided to take them back to Galilee, he may make a chance meal of them until he reaches Galilee again.

(18) That is to say until he has brought them into the house where he intends to rest on Sabbath, and as soon as he reaches his destination, and even though Sabbath has not yet arrived, he is liable to give tithe.

(19) To sell spices and other perfumery of women; and they carry with them at the same time fruit which has been given to them, but which has not yet been tithed.

(20) A chance meal, until they reach their destination, and then the fruit is liable to tithe.

(21) He is only liable when they have been actually brought into the house.

(22) As regards the law of tithes. Because as soon as the man reaches the city he will enter the first house he can find with the intention of staying there. Therefore, even although ultimately he does not settle with the owner of the house to stay in this particular house, he has, by bringing his fruit into this house, made it liable to tithe.

(23) The season has not yet been reached when they are liable to tithe, as defined supra I.

(24) Until all the tithes have been separated. because he holds the view that the setting aside of terumah fixes the liability of fruit tithes, even though they are not yet fully finished.

(25) They do not accept R. Eliezer's principle.

(26) Because the tithing season in this case begins only after all the fruit has been gathered or as much as is required; V. supra I, 5.

(27) Because once the terumah has been set aside from the basket, it is indicative that all that is needful has been gathered.

(28) V. Glos.

(29) Because the sale fixes liability to tithing.

(30) If the owner of the garden gives him two or more, at the same time, he is liable to tithe, because these constitute for him an immature threshing-floor.

(31) Here the seller used to gather them, since he would allow no buyers to enter the garden on account of the roses.

(32) Since they eat them one by one.

(33) Which I may select and gather from the trees.

(34) He may pluck them one by one, and eat without tithing. If, however, he plucked two together he is liable to give tithe.

(35) He may gather the single berries from the cluster which he has chosen and eat. The cluster itself must be attached to the ground, otherwise even under these conditions he is liable.

(36) While the pomegranate is still attached to the ground he may eat it slice by slice

(37) He may cut off separate thin slices from the fruit whilst it is attached in the ground

(38) Since he bought that which was attached to the ground his is the same ruling as that if the owner of the garden who may eat a chance meal until he reaches his house (v. supra I, 5). For the sale does not fix the liability to tithe in that which is attached to the ground.

(39) Either to cut them or to store them for drying.

(40) The condition does not invalidate anything normally observed, since even without this stipulation he is legally entitled to eat, according to Deut. XXIII, 25: ‘If thou shalt come to the vineyard of thy friend and thou shalt eat grapes’

etc., which verse refers to a workman. It is therefore not like a sale and does not therefore fix liability to tithing.
(41) The eating by the son constitutes a sale and therefore fixes the liability in tithing.
(42) In lieu of wages for my work, and instead of my eating.
(43) Since his status is then not one of a workman, he eats on the basis of a condition, and hence it is like a sale.
(44) V. B.M. 87b as to what work entitles the labourer to eat.
(45) Deduced from Deut. XXIII, 25. V. supra p. 264, n. 6.
(46) The labourer who harvests both amongst poor and good figs restrains himself from eating whilst working amongst the poor figs, and then when he arrives at the good figs, he may eat even the amount due to him from the previous poor figs.
(47) Lit., ‘the one to eat, and the one to eat’ . If he says, you eat my fresh figs and I yours.
(48) Lit., ‘the one to store’ etc.. A similar stipulation with regard to figs spread out to dry.
(49) Since the exchange is considered equivalent to the sale.
(50) R. Judah holds that a sale does not fix liability to tithe in regard to anything the work of which is unfinished, as in the case of figs stored for drying.

Mishna - Mas. Ma'aseroth Chapter 3

MISHNAH 1. IF A MAN WAS TAKING HIS FIGS THROUGH HIS COURTYARD TO BE DRIED,[1] HIS CHILDREN AND THE OTHER MEMBERS OF HIS HOUSEHOLD[2] MAY EAT [OF THEM] AND BE EXEMPT [FROM TITHE].[3] THE LABOURERS[4] [WHO WORK] WITH HIM MAY EAT,[5] AND BE EXEMPT[6] SO LONG AS HE IS NOT OBLIGED TO MAINTAIN THEM;[7] IF, HOWEVER, HE IS OBLIGED TO MAINTAIN THEM,[8] THEY MAY NOT EAT.[9]

MISHNAH 2. IF A MAN BROUGHT HIS LABOURERS INTO THE FIELD,[10] SO LONG AS HE IS NOT OBLIGED TO MAINTAIN THEM, THEY MAY EAT AND BE EXEMPT FROM TITHES.[11] IF, HOWEVER, HE IS OBLIGED TO MAINTAIN THEM THEY MAY EAT OF THE FIGS ONE AT A TIME,[12] BUT NOT FROM THE BASKET, NOR FROM THE LARGE VESSELS, NOR FROM THE DRYING SHED.[13]

MISHNAH 3. IF A MAN HIRED A WORKMAN TO PREPARE HIS OLIVES[14] AND HE SAID TO HIM, ‘ON CONDITION THAT I MAY EAT THE OLIVES’,[15] HE MAY EAT OF THEM ONE AT A TIME AND BE EXEMPT [FROM TITHE]. IF, HOWEVER, HE ATE SEVERAL TOGETHER HE IS LIABLE. [IF HE HAD BEEN HIRED] TO WEED OUT ONIONS,[16] AND HE SAID TO HIM, ‘ON CONDITION THAT I MAY EAT THE VEGETABLES’, HE MAY PLUCK LEAF BY LEAF,[17] AND EAT [WITHOUT TITHING]; IF, HOWEVER, HE ATE SEVERAL TOGETHER, HE IS LIABLE [TO GIVE TITHE].[18]

MISHNAH 4. IF A MAN FOUND CUT FIGS[19] ON THE ROAD, OR EVEN BESIDE A FIELD [WHERE CUT FIGS] HAVE BEEN SPREAD [TO DRY] (AND SO, TOO, IF A FIG TREE OVERHANGS THE ROAD, AND FIGS WERE FOUND BENEATH IT). THEY ARE ALLOWED [AS NOT COMING WITHIN THE LAW] OF ROBBERY,[20] AND THEY ARE EXEMPT FROM TITHE;[21] OLIVES AND CAROBS, HOWEVER, ARE LIABLE.[22] IF A MAN FOUND DRIED FIGS, THEN IF THE MAJORITY OF PEOPLE HAD ALREADY TRODDEN [THEIR FIGS].[23] HE IS LIABLE [TO TITHE], BUT IF NOT HE IS EXEMPT. IF A MAN FOUND SLICES OF FIG-CAKE[24] HE IS LIABLE [TO TITHE]. SINCE IT IS OBVIOUS THEY COME FROM SOMETHING [THE WORK IN CONNECTION THEREWITH IS] FULLY COMPLETED. WITH CAROBS,[25] IF THEY HAD NOT YET BEEN ON THE TOP OF THE ROOF, HE MAY TAKE SOME DOWN FOR THE CATTLE[26] AND BE EXEMPT [FROM TITHE]. SINCE HE MAY RETURN THAT WHICH IS LEFT OVER.[27]

MISHNAH 5. WHICH COURTYARD IS IT WHICH MAKES [THE PRODUCE] LIABLE TO TITHE.[28] R. ISHMAEL SAYS: THE TYRIAN YARD [WITH A LODGE AT THE ENTRANCE].[29]

WHEREIN WATCH IS KEPT OVER THE VESSELS. R. AKIBA SAYS: ANY YARD WHICH ONE PERSON MAY OPEN AND ANOTHER MAY SHUT [AS THEY PLEASE],[30] IS EXEMPT. R. NEHEMIAH SAYS: ANY YARD IN WHICH A MAN IS NOT ASHAMED TO EAT, IS LIABLE. R. JOSE SAYS: ANY YARD INTO WHICH A PERSON[31] MAY ENTER, AND ONE DOES NOT SAY UNTO HIM, WHAT ARE YOU SEEKING? IS EXEMPT.[32] R. JUDAH SAYS:'IF THERE ARE TWO YARDS ONE WITHIN THE OTHER, THE INNER ONE MAKES [THE PRODUCE] LIABLE [TO TITHE], THE OUTER ONE IS EXEMPT'.[33]

MISHNAH 6. ROOFS DO NOT RENDER [PRODUCE] LIABLE, EVEN THOUGH THEY BELONG TO A COURTYARD WHICH RENDERS IT LIABLE.[34] A GATEWAY,[35] PORTICO,[36] OR BALCONY,[37] IS CONSIDERED [IN THE SAME CATEGORY] AS THE COURTYARD [TO WHICH IT BELONGS]; IF THIS MAKES [PRODUCE] LIABLE [TO TITHE] SO DO THEY, AND IF IT DOES NOT, THEY DO NOT.

MISHNAH 7. CONE-SHAPED HUTS,[38] THE STORES IN TURRETS,[39] AND SHEDS IN THE FIELD[40] DO NOT RENDER [PRODUCE] LIABLE; THE LODGE OF GENESARETH GARDENS,[41] EVEN THOUGH IT CONTAINS HANDMILL AND POULTRY,[42] DOES NOT RENDER [PRODUCE] LIABLE. AS FOR THE POTTER'S HUT,[43] THE INNER PART RENDERS [PRODUCE] LIABLE, THE OUTER PART DOES NOT. R. JOSE SAYS: ANYTHING WHICH IS NOT BOTH A SUMMER AND WINTER DWELLING DOES NOT RENDER [PRODUCE] LIABLE [TO TITHES].[44] AS REGARDS THE FESTIVE BOOTHS USED ON THE FESTIVAL, R. JUDAH SAYS: THIS ALSO RENDERS [PRODUCE] LIABLE TO TITHE,[45] BUT THE SAGES SAY: IT DOES NOT.

MISHNAH 8. IF A FIG TREE STOOD IN A COURTYARD,[46] A MAN MAY EAT THE FIGS FROM IT SINGLY AND BE EXEMPT [FROM TITHE], BUT IF HE TOOK TWO OR MORE TOGETHER HE IS LIABLE. R. SIMEON SAYS: [EVEN] IF HE HAS [AT ONE AND THE SAME TIME] ONE IN HIS RIGHT HAND, ONE IN HIS LEFT HAND AND ONE IN HIS MOUTH, HE IS STILL EXEMPT.[47] IF HE ASCENDED TO THE TOP [OF IT],[48] HE MAY FILL HIS BOSOM AND EAT.[49]

MISHNAH 9, IF A VINE WAS PLANTED IN A COURTYARD, A MAN MAY TAKE A WHOLE CLUSTER.[50] SIMILARLY WITH A POMEGRANATE, OR A MELON. SO R. TARFON. R. AKIBA SAYS: HE SHOULD PICK SINGLE BERRIES FROM THE CLUSTER,[51] OR SPLIT THE POMEGRANATE INTO SLICES, OR CUT SLICES OF MELON. IF CORIANDER WAS SOWN IN A COURTYARD HE MAY PLUCK LEAF BY LEAF AND EAT [WITHOUT TITHING], BUT IF HE ATE THEM TOGETHER HE IS LIABLE [TO GIVE TITHE]. SAVORY AND HYSSOP, AND THYME[52] WHICH ARE IN THE COURTYARD,[53] IF KEPT WATCH OVER, ARE LIABLE TO TITHE.[54]

MISHNAH 10. IF A FIG TREE STOOD IN A COURTYARD, AND OVERHUNG A GARDEN, A MAN MAY EAT AFTER HIS CUSTOMARY FASHION[55] AND BE EXEMPT [FROM TITHE]. IF, HOWEVER, IT STOOD IN THE GARDEN AND OVERHUNG THE COURTYARD, A MAN MAY EAT [THE FIGS] SINGLY[56] AND BE EXEMPT, BUT IF HE TAKES TWO OR MORE TOGETHER, HE IS LIABLE [TO TITHES]. IF IT STOOD IN THE LAND [OF ISRAEL] AND OVERHUNG [THE TERRITORY] OUTSIDE THE LAND, OR IF IT STOOD IN [THE TERRITORY] OUTSIDE THE LAND, AND OVERHUNG THE LAND, IN ALL THESE CASES [THE LAW IS] DECIDED ACCORDING TO THE POSITION OF THE ROOT.[57] AND AS REGARDS HOUSES IN WALLED CITIES, EVERYTHING IS DECIDED ACCORDING TO THE POSITION OF THE ROOT.[58] BUT AS REGARDS CITIES OF REFUGE, EVERYTHING IS DECIDED [ALSO] ACCORDING TO THE LOCATION OF THE BRANCHES.[59] AND ALSO IN WHAT CONCERNS JERUSALEM,[60] EVERYTHING IS [ALSO] DECIDED BY THE

LOCATION OF THE BRANCHES.[61]

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(1) He was taking them through his courtyard to the place where they were to be dried.

(2) His wife.

(3) Because a courtyard does not fix the liability to tithing any produce the work of which is not complete. Nevertheless he himself is still forbidden to make a chance meal of them, without tithing, except in the place where they are to be dried, where it is evident that the work in connection with the figs has not been completed.

(4) Whom he has hired to take the fruit through the courtyard. Then it is a work which does not entitle them to eat; v. supra II, 7.

(5) If he offered the fruit to them.

(6) A gift, unlike a sale, does not fix liability to tithing; v. supra II. 2.

(7) Lit., ‘their food is not upon him’. So long as he has not stipulated that he will maintain them.

(8) He stipulated he would maintain them.

(9) For this is like a sale.

(10) For some other work, and not to gather fruits, and therefore, not entitled Biblically to eat.

(11) If he gave unto them, because a gift does not follow the same ruling as a sale.

(12) Which is a casual meal and permissible even in the case of a sale, unless the work in connection with the produce had been completed.

(13) In these cases it is treated as produce taken to the market, which is in itself sufficient to fix ‘liability to tithing; v. supra I, 5.

(14) To hoe beneath the olives, but not to gather, and therefore not entitled to eat according to the Biblical law.

(15) This is equivalent to a sale.

(16) To weed out the bad herbs which grow beneath the onions. This also does not entitle him to eat Biblically.

(17) Singly, from that which is joined to the ground.

(18) The combination of several together constitutes a kind of threshing-floor and fixes liability to tithing; v. supra II, 5.

(19) קציצות , figs partly dried. The development in the growth of figs is as follows: When they are plucked from the tree and are still juicy they are called in Hebrew תאנים ; after this, when they are laid upon mats of reed grass to be dried, and their surface contracts a little when they begin to dry they are called קציעות or קציצות. Then when they are altogether dried they are called גרוגרות, and finally, when they are trodden into a round cake they are called דבילה. The vessel in which the figs are dried is called מוקצה.

(20) Because when a fig falls it is spoilt and the owners have therefore disclaimed ownership from it. Similarly, where the figs are found on the road, it is assumed the owner has surrendered his ownership of them.

(21) As all ownerless produce.

(22) It is considered robbery because the owners do not give it up; moreover its appearance proves that it fell from this tree; but when a fig falls it is spoilt, and it is not known from which tree it fell.

(23) If the majority of the inhabitants of that city had already trodden their dried figs in their fields, we can see, therefore, that these are also from the trodden ones, and therefore have become liable to tithe, and this liability remains even when the produce becomes ownerless.

(24) After the round cake has been trodden, it is divided up into many slices.

(25) This does not refer to a find, but to the case where a man had carobs on his roof. Since it was his intention to bring them up on to this roof in order to dry them, therefore their work is not complete, and their liability to tithe is not fixed by the courtyard.

(26) Though they are already on the roof, provided they have not been thoroughly dried, and not yet heaped up there for storing (Tif. Yis.).

(27) To the place where he spreads them out to dry; even if he has brought down much for the cattle, he is nevertheless exempt.

(28) Which like a house determines the tithe brought there.

(29) In the province of Tyre there sat a watchman at the entrance to the courtyard (cf. Isa. XXIII, 8). Because all the inhabitants of Tyre were princes and dwelt in royal residences, therefore out of respect for them, there was also a lodge to their court in which sat a watchman (Tif. Yis.).

(30) I.e., in a court in which there are two houses for two men, and where one opens the entrance of the court, the second may come in and close it; similarly where one locks it, the second may object and open it, such a court is ‘not

well-guarded’.
(31) A stranger.
(32) Even though he is not ashamed to eat in it.
(33) Since access is gained to the inner one through the outer one, the latter is not considered ‘well guarded’.
(34) Even though he has brought the produce up to the roof by the way of the courtyard, it is nevertheless not liable to tithe, since at the time he brought them into the courtyard it was his intention to bring them up, and to eat them on the roof.
(35) Near the entrance of the courtyard.
(36) Exedra, a covered place in front of the house surrounded by three walls.
(37) A gallery from which one descends by a ladder to the courtyard.
(38) They have no roof, but the walls at the top touch one another and then gradually broaden downwards.
(39) Sort of network arrangement in the field, to store therein the fruits. Often used as a station for travellers.
(40) A booth erected in the summer and generally in the days of the sun as a shade. A shed for stacks in the field.
(41) The district of the Sea of Galilee, where the fruits are many and good, and its inhabitants make booths in which to dwell during the entire season of the fruits, which means actually the greater part of the year.
(42) Which indicates that this is their dwelling place day and night.
(43) It has two booths, one within the other; in the outer one he makes dishes etc. and sells them, and in the inner one, where he lives, he keeps and stores them.
(44) Consequently, since the potter does not live in the inner booth in the rainy season, it does not render produce liable.
(45) He holds the opinion that since the booth is a regular abode it fixes liability to tithing. The law was not according to R. Judah.
(46) Of a kind which renders produce liable for tithing.
(47) Even three taken in this manner are not considered as taken together, and are allowed.
(48) The fig-tree.
(49) Only at the top of the tree. He is allowed to eat so long as he does not descend into the courtyard.
(50) He may eat after his customary fashion, and he need not pick single berries only nor take separate slices of pomegranate and melon.
(51) Whilst it is still joined to the soil.
(52) Or, origanum.
(53) It is usual for these plants to grow in gardens etc., without being sown; v. Nid. 51b.
(54) Otherwise they are ownerless property since it is their custom to grow without being sown, and exempt from tithes.
(55) From the branch which overhangs the garden.
(56) From that branch which overhangs the courtyard.
(57) This follows the principle laid down that the branches always comply with the same conditions as the root, which is the source from which the tree grows.
(58) V. Lev. XXV, 29ff, and ‘Ar. 31aff, Whether or not the tree is included in the law depends on whether the roots are within or outside the bounds of the walled city.
(59) If there is a tree the branch of which is within the area allocated to the city of refuge, and the root outside the area, as soon as the murderer reaches the rout, though it is outside the area, the avenger of blood may not kill him; v. Mak. 12a — b.
(60) As regards second tithe which may not be taken out of Jerusalem once it has entered the city (v. M. Sh. III, 5, 7) and the holy sacrifices which must be consumed within the wall of Jerusalem.
(61) We adopt the more stringent ruling, as is done in what appertains to the cities of refuge.

Mishna - Mas. Ma'aseroth Chapter 4

MISHNAH 1. IF A MAN PICKLED,[1] STEWED,[2] OR SALTED[3] [PRODUCE].[4] HE IS LIABLE[5] [TO GIVE TITHE]; IF HE HID [PRODUCE] IN THE GROUND,[6] HE IS EXEMPT.[7] IF HE DIPPED IT [WHILE YET] IN THE FIELD,[8] HE IS EXEMPT. IF HE BRUISED OLIVES[9] SO THAT THE ACRID SAP MAY COME OUT OF THEM, HE IS EXEMPT. IF A MAN SQUEEZED OLIVES AGAINST HIS SKIN,[10] HE IS EXEMPT; IF HOWEVER, HE SQUEEZED THEM AND PUT THEM INTO HIS HAND,[11] HE IS LIABLE. HE THAT SKIMS [WINE PUT IN] A [COLD][12]

DISH[13] IS EXEMPT.[14] BUT [IF WINE IS PUT] IN AN [EMPTY] POT, HE IS LIABLE BECAUSE IT MAY BE CONSIDERED AS A SMALL VAT.[15]

MISHNAH 2. IF CHILDREN[16] HAVE HIDDEN FIGS [IN THE FIELD] FOR THE SABBATH AND THEY FORGOT TO TITHE THEM,[17] THEY MUST NOT BE EATEN[18] AFTER THE CONCLUSION OF THE SABBATH UNTIL THEY HAVE BEEN TITHED.[19] IN THE CASE OF A BASKET OF FRUITS FOR THE SABBATH,[20] BETH SHAMMAI EXEMPT IT FROM TITHE; BUT BETH HILLEL RENDER IT LIABLE.[21] R. JUDAH SAYS: ALSO HE WHO SELECTS A BASKETFUL OF FIGS TO SEND AS A PRESENT TO HIS FRIEND,[22] MUST NOT EAT OF THEM, UNTIL THEY HAVE BEEN TITHED.

MISHNAH 3. IF A MAN TOOK OLIVES FROM THE VAT,[23] HE MAY DIP THEM SINGLY IN SALT, AND EAT THEM;[24] IF, HOWEVER, HE SALTED THEM, AND PUT THEM IN FRONT OF HIM,[25] HE IS LIABLE [TO GIVE TITHE]. R. ELIEZER SAID: [IF AN UNCLEAN PERSON TOOK THEM OUT] FROM A CLEAN VAT HE IS LIABLE;[26] FROM AN UNCLEAN [VAT]. HE IS EXEMPT BECAUSE HE IS ABLE TO RESTORE THAT WHICH IS LEFT OVER.

MISHNAH 4. ONE MAY DRINK [WINE] OUT OF THE WINEPRESS,[27] WHETHER[28] [IT IS MIXED] WITH HOT OR COLD WATER, AND BE EXEMPT [FROM TITHE]; SO R. MEIR. R. ELIEZER, THE SON OF R. ZADOK, HOWEVER, RENDERS THIS LIABLE;[29] WHILST THE SAGES SAY: IF MIXED WITH HOT WATER IT IS LIABLE [TO TITHE]. BUT WITH COLD WATER, IT IS EXEMPT.[30]

MISHNAH 5. HE WHO HUSKS BARLEY MAY HUSK EACH [GRAIN] SINGLY AND EAT[31] [WITHOUT TITHING], BUT IF HE HUSKED AND PUT THEM INTO HIS HAND, HE IS LIABLE [TO TITHE].[32] HE WHO RUBS PARCHED EARS OF WHEAT[33] MAY BLOW OUT [THE CHAFF OF THE WHEAT] FROM HAND TO HAND AND EAT,[34] BUT IF HE BLOWS AND PUTS THE GRAIN IN HIS LAP HE IS LIABLE. IF CORIANDER WAS SOWN FOR THE SAKE OF THE SEED, THE PLANT[35] IS EXEMPT [FROM TITHE]. BUT IF SOWN FOR THE SAKE OF THE PLANT THEN BOTH THE SEED AND THE PLANT MUST BE TITHED. R. ELIEZER SAID: AS FOR DILL, TITHE MUST BE GIVEN FROM THE SEED AND THE PLANT, AND THE PODS. BUT THE SAGES, HOWEVER, SAY: BOTH THE SEEDS AND PLANT ARE TITHED ONLY IN THE CASE OF PEPPERWORT AND ERUCA.

MISHNAH 6. RABBAN GAMALIEL[36] SAID: SHOOTS[37] OF FENUGREEK, OF MUSTARD, AND OF WHITE BEANS ARE LIABLE [TO TITHE].[38] R. ELIEZER SAYS: AS FOR THE CAPER-TREE, TITHES MUST BE GIVEN FROM THE SHOOTS.[39] THE CAPERBERRIES AND THE CAPER FLOWER.[40] R. AKIBA SAYS: ONLY THE CAPERBERRIES ARE TITHED SINCE THEY [ALONE] COUNT AS FRUIT.

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(1) Olives or vegetables in vinegar or in wine.

(2) השולק This is a more thorough preparation than mere boiling.

(3) Many vegetables, olives etc. together.

(4) Var. lec. add: ‘while yet in the field’.

(5) Any one of these acts fixed liability to tithing.

(6) Fruits which have not completely ripened on the tree are hidden in the earth, where, by means of the warmth, they ripen.

(7) I.e., he may take of it ‘a chance meal’.

(8) In salt, brine or vinegar, and eats it.

(9) He crushes and pounds them so that the acrid sap should go forth from them.

(10) To anoint his skin.

(11) Because that which he puts into his hand can be considered as if he had put it into a small cistern or pit into which the oil flows.

(12) Boiling fixes liability to tithing, v. supra I, 7.

(13) He removes the kernels which float above the wine after it has been put in a dish; when he skims it the work is complete. v. supra I, 7.

(14) Liability to tithing is not fixed here by this skimming, since the wine has been already mixed before the skimming.

(15) Before he puts the food into it he puts the wine into it and skims it, therefore it is as one skimming wine in a small tank, and is therefore liable.

(16) Whose intention usually is of no effect.

(17) On the Sabbath eve.

(18) Not even a chance meal.

(19) Sabbath fixes the liability to tithing; now since their intention to have them for the Sabbath meal has fixed the liability of them to tithing, they therefore remain forbidden for ever until they have been tithed.

(20) A basket full of fruits which has been set apart for the Sabbath.

(21) The dispute here is in the case of one who wishes to make a ‘chance meal’ of them before the Sabbath.

(22) This selection fixes the liability of the fruits to tithing, and he must not make a chance meal of it until it has been tithed, even if he does not eventually send it.

(23) The place where they pile up olives in order that they should become soft, and capable of exuding their oil.

(24) Normally salting itself is sufficient to fix liability to tithe, provided, however, some time is allowed for the salt to penetrate and to soften the produce; if, however, it is immediately eaten as salted, salting does not fix liability to tithing.

(25) That is, at least the two together.

(26) Since they cannot be put back: for by so doing, the olives in the vat would be defiled; the salting fixes the liability to tithing.

(27) Outside the wine-press the liability to tithing is fixed and it is forbidden to drink of the wine

(28) Whether the wine is mixed with hot or cold water.

(29) This enactment has been made by R. Eliezer as a precaution lest the wine is taken outside the wine-press, and drunk there.

(30) If mixed with hot water, the wine which is left over cannot be put back, because the wine in the press will thus be spoilt; the taking out of the wine thus fixes the liability to tithing; but if it is mixed with cold water, what is left over can be put back, hence it is exempt.

(31) One barley-corn. This applies only when it is not near the threshing-floor.

(32) Even if only three kernels are husked together he is liable (T.J.).

(33) He parches ears if corn over the fire and crushes them in his hand to remove the worthless matter.

(34) He shakes them from one hand to the other, and blows to separate.

(35) The seed is the principal and the herb or plant secondary. The plant here means the herb or foliage.

(36) Var. lec.: R. Simeon b. Gamaliel.

(37) תמרות . Either the shoots or the berries.

(38) Because they can be eaten.

(39) Its sprouts or stalks.

(40) Which protects the fruit that surrounds it.

Mishna - Mas. Ma'aseroth Chapter 5

MISHNAH 1. IF ONE UPROOTS SEEDLINGS[1] OUT OF HIS OWN [PROPERTY] AND PLANTS THEM [ELSEWHERE] WITHIN HIS OWN [PROPERTY]. HE IS EXEMPT FROM TITHE.[2] IF HE BOUGHT SUCH AS WERE ATTACHED TO THE GROUND,[3] HE IS EXEMPT;[4] IF HE GATHERED THEM IN ORDER TO SEND THEM TO HIS FELLOW, HE IS EXEMPT.[5] R. ELIEZER SON OF AZARIAH SAID: IF THEIR LIKE WERE BEING SOLD IN THE STREET,[6] THEY ARE LIABLE TO TITHE.

MISHNAH 2. IF A MAN UPROOTS TURNIPS AND RADISHES FROM WITHIN HIS OWN [PROPERTY] AND PLANTS [THEM ELSEWHERE] WITHIN HIS OWN [PROPERTY] FOR THE PURPOSE OF SEED,[7] HE IS LIABLE TO TITHE,[8] SINCE THIS WOULD BE

[CONSIDERED] THEIR HARVEST-TIME.[9] IF ONIONS TAKE ROOT IN AN UPPER STOREY[10] THEY BECOME LEVITICALLY CLEAN FROM ANY IMPURITY;[11] IF SOME DEBRIS FELL UPON THEM AND THEY ARE UNCOVERED,[12] THEY ARE REGARDED AS THOUGH THEY WERE PLANTED IN THE FIELD.[13]

MISHNAH 3. NO PERSON MAY SELL HIS FRUITS[14] AFTER THE SEASON FOR TITHING HAS ARRIVED[15] TO ONE WHO IS NOT TO BE TRUSTED CONCERNING TITHES, NOR IN THE SABBATICAL YEAR [MAY ONE SELL SABBATICAL YEAR PRODUCE][16] TO ANYONE SUSPECTED OF [INFRINGING] THE SABBATICAL YEAR. IF ONLY [SOME] PRODUCE RIPENED,[17] HE TAKES THE RIPE ONES AND MAY SELL THE REMAINDER.

MISHNAH 4. A MAN MAY NOT SELL HIS STRAW,[18] NOR HIS OLIVE-PEAT,[19] NOR HIS GRAPE-POMACE[20] TO ONE WHO IS NOT TO BE TRUSTED IN [THE OBSERVANCE OF] TITHES, FOR HIM TO EXTRACT THE JUICE FROM THEM.[21] IF HE, HOWEVER, EXTRACTED THEM HE IS LIABLE TO TITHES, BUT IS EXEMPT FROM TERUMAH; BECAUSE WHEN A MAN SEPARATES TERUMAH HE HAS IN MIND THE FRAGMENTS,[22] AND WHAT [IS] BY THE SIDES,[23] AND INSIDE THE STRAW.[24]

MISHNAH 5. IF A MAN BOUGHT A FIELD OF VEGETABLES IN SYRIA[25] BEFORE THE SEASON FOR TITHING ARRIVED, THEN HE IS LIABLE TO TITHE[26] ; AFTER THE SEASON FOR TITHING HE IS EXEMPT, AND MAY GO ON GATHERING AFTER HIS USUAL MANNER.[27] R. JUDAH SAYS: HE MAY ALSO HIRE WORKMEN AND GATHER.[28] R. SIMEON B. GAMALIEL SAYS: THIS[29] APPLIES ONLY IF HE HAS BOUGHT THE LAND; IF, HOWEVER, HE HAS NOT BOUGHT THE LAND, THOUGH IT WAS BEFORE THE SEASON FOR TITHING ARRIVED, HE IS EXEMPT.[30] RABBI SAYS: HE MUST ALSO TITHE ACCORDING TO CALCULATION.[31]

MISHNAH 6. IF A MAN MAKES POMACE WINE,[32] PUTTING WATER ON BY MEASURE, AND HE FINDS [AFTERWARDS] THE SAME QUANTITY, HE IS EXEMPT FROM GIVING TITHE.[33] R. JUDAH RENDERS HIM LIABLE.[34] IF, HOWEVER, HE FOUND MORE THAN THE SAME QUANTITY, HE MUST GIVE [TITHE] FOR IT FROM ANOTHER PLACE, IN PROPORTION.[35]

MISHNAH 7. IF ANT-HOLES HAVE REMAINED THE WHOLE NIGHT NEAR A PILE OF CORN WHICH WAS LIABLE TO TITHE,[36] THEN THESE ARE ALSO LIABLE,[37] SINCE IT IS OBVIOUS THAT THEY [THE ANTS] HAVE BEEN DRAGGING AWAY THE WHOLE NIGHT FROM SOMETHING [OF WHICH THE WORK] HAD BEEN COMPLETED.[38]

MISHNAH 8. BAALBEK GARLIC,[39] RIKPA[40] ONIONS, CICILIAN BEANS AND EGYPTIANS LENTILS (R. MEIR INCLUDES ALSO COLOCASIA, AND R. JOSE SAYS: ALSO WILD LENTILS)[41] ARE EXEMPT FROM TITHES[42] AND MAY BE BROUGHT FROM ANY MAN IN THE SEVENTH YEAR.[43] THE HIGHER SEED-PODS OF THE ARUM,[44] THE SEED OF LEEKS, THE SEED OF ONIONS, THE SEED OF TURNIPS AND RADISHES, AND OTHER SEEDS OF GARDEN PRODUCE WHICH ARE NOT EATEN, ARE EXEMPT FROM TITHES, AND MAY BE BOUGHT FROM ANY MAN IN THE SEVENTH YEAR;[45] AND ALTHOUGH THE STOCK FROM WHICH THEY GREW WAS TERUMAH, THEY MAY STILL BE EATEN [BY NON-PRIESTS][46] .

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(1) E.g., onions or leeks which are fit to be eaten. It was customary for gardeners to uproot them and to plant them in another place, where they became thicker and broader.

(2) He may make a chance meal of them, even though they have been fixed for tithe before he plants them again, since it was his intention to sow them again at the time he uprooted them, and not to eat them.

(3) If one buys fruits when they were still attached.
(4) Sale fixes liability to tithe only in the case of plucked produce, but not attached.
(5) A gift does not fix liability to tithe (v. supra IV, 2) in respect of that which is attached.
(6) It must be considered as though their growth was complete.
(7) So that the seed should increase and multiply in the place where it was planted in the second time.
(8) Before he re-plants them.
(9) Their uprooting is the final work completing their harvesting.
(10) Where they have been stored.
(11) The floor of the upper storey is treated like the natural ground that frees anything sown in it from Levitical impurity in accordance with Lev XI, 37.
(12) I.e., the leaves remained uncovered.
(13) I.e., he who plucks of them on the Sabbath is liable, and the law of the Sabbatical year and of tithes applies to them.
(14) In an unplucked condition. This ruling is laid down on the basis of the Biblical command: ‘Do not put a stumbling block before the blind’, Lev. XIX, 14.
(15) V. supra II, 2.
(16) Under conditions defined Sheb. VIII, 3.
(17) And thus reached the season for tithing.
(18) Ears of corn which have been threshed out and sometimes some wheat grains remain.
(19) The residue of the olives after they have been pressed out.
(20) The residue of squeezed-out grapes.
(21) From the peat and grape-pomace, and in the case of straw, to gather wheat from it.
(22) The wheat fragments which have not yet been threshed.
(23) The sides of the pile (store) of grain, similarly with grapes and olives; cf. supra I, 6.
(24) Also what is in the peat, and grape-pomace.
(25) V. Demai VI, 11; supra p. 75, n. 5.
(26) Since at the time of liability for tithing they were under the control of an Israelite.
(27) He is exempt from tithe even as regards that which grows whilst already in his possession. But he should not hire workmen since he might do likewise in a field which he bought before the season for tithing arrives.
(28) V. preceding note.
(29) That he is liable if he buys before the season for tithing arrives.
(30) Since he possesses nothing in the actual land.
(31) This statement reverts back to the first authority. Just as he is liable, if he bought it before the tithing season, to tithe all he had acquired, so is he liable if it was after the tithing season had arrived, to tithe according to calculation that which has grown whilst in his possession; e.g., if the produce had reached only one-third of its normal growth at the time of the purchase (v. supra I, 3) he must tithe the two-thirds which grew after it came into his possession.
(32) He puts water upon the lees of wine which is untithed so as to obtain the taste of wine from it.
(33) Because it is mere water, though it has slightly absorbed the appearance and taste of wine from the husks and kernels.
(34) Because its appearance and taste determine its status as wine, v. B. B. 96b.
(35) I.e., he can even give tithe for it from other wine according to the proportion of the wine he found more than the measure of water he had put in it.
(36) Cf. supra I, 6.
(37) The produce which is found inside the holes is liable both to teruma and tithe.
(38) Since it was near the pile.
(39) Enbekhi, later Heliopolis, an ancient city of Syria, v. ‘A.Z. 11b. Aliter: weeping garlic, i.e., the garlic is so pungent that it makes the eyes water.
(40) A tuberous rooted plant used for dyeing Aliter: a name of a place.
(41) Kind of lentil.
(42) Because they grow wild.
(43) Even from one who is normally suspected of selling fruits in the Sabbatical year.
(44) It is classified with onions and garlic.
(45) Because all these are not considered food.

(46) I.e., although the seedlings from which they grew were terumah (cf. supra 1) and the law is that what grows out of terumah is terumah, these species may be eaten even by non-priests, since they are not considered food.

Mishna - Mas. Ma'aser Sheni Chapter 1

MISHNAH 1. SECOND TITHE MAY NOT BE SOLD,[1] NOR MAY IT BE PLEDGED, NOR MAY IT BE EXCHANGED,[2] NOR MAY IT BE USED AS A WEIGHT.[3] ONE MAY NOT SAY TO HIS FELLOW [EVEN] IN JERUSALEM: HERE IS WINE,[4] GIVE ME [FOR IT] OIL;[4] THIS APPLIES ALSO TO ALL OTHER PRODUCE. BUT PEOPLE MAY GIVE IT TO ONE ANOTHER AS A FREE GIFT.

MISHNAH 2. TITHE OF CATTLE[5] WHEN UNBLEMISHED MAY NOT BE SOLD[6] ALIVE,[7] AND WHEN BLEMISHED NEITHER ALIVE NOR SLAUGHTERED; NOR MAY A WIFE BE BETROTHED THEREWITH.[8] A FIRSTLING[9] WHEN UNBLEMISHED MAY BE SOLD ALIVE, AND WHEN BLEMISHED BOTH ALIVE AND SLAUGHTERED; AND A WIFE MAY BE BETROTHED THEREWITH.[10] SECOND[11] TITHE MAY NOT BE EXCHANGED[12] FOR UNSTAMPED COIN,[13] NOR FOR COIN WHICH IS NOT CURRENT,[14] NOR FOR MONEY WHICH IS NOT IN ONE'S POSSESSION.[15]

MISHNAH 3. IF CATTLE WAS BOUGHT[16] FOR A PEACE-OFFERING OR A WILD ANIMAL[17] FOR SECULAR MEAT,[18] THE HIDE BECOMES COMMON,[19] EVEN THOUGH THE VALUE OF THE HIDE EXCEEDS THE VALUE OF THE FLESH. IF SEALED JARS OF WINE [WERE BOUGHT] IN A LOCALITY WHERE THEY WERE USUALLY SOLD SEALED,[20] THE JARS BECOME COMMON.[19] IF WALNUTS AND ALMONDS [WERE BOUGHT], THEIR SHELLS BECOME COMMON. GRAPE-SKIN WINE[21] MAY NOT BE BOUGHT WITH SECOND TITHE MONEY BEFORE IT HAS FERMENTED,[22] BUT AFTER IT HAS FERMENTED IT MAY BE BOUGHT WITH SECOND TITHE MONEY.

MISHNAH 4. IF A WILD ANIMAL[23] WAS BOUGHT FOR A PEACE-OFFERING OR CATTLE FOR SECULAR MEAT, THE HIDE DOES NOT BECOME COMMON.[24] IF OPEN OR SEALED JARS OF WINE [WERE BOUGHT] IN A LOCALITY WHERE THEY ARE USUALLY SOLD OPEN, THE JARS DO NOT BECOME COMMON.[25] IF BASKETS OF OLIVES OR BASKETS OF GRAPES WERE BOUGHT TOGETHER WITH THE VESSEL, THE VALUE OF THE VESSEL DOES NOT BECOME COMMON.[26] MISHNAH 5. IF WATER OR SALT[27] WERE BOUGHT, OR PRODUCE STILL JOINED TO THE SOIL, OR PRODUCE WHICH CANNOT REACH JERUSALEM, THE PURCHASE DOES NOT BECOME SECOND TITHE. IF PRODUCE WAS BOUGHT UNWITTINGLY,[28] THE MONEY MUST BE RESTORED TO ITS FORMER PLACE;[29] BUT IF WITH FULL KNOWLEDGE, THE PRODUCE MUST BE TAKEN UP AND BE CONSUMED IN THE [HOLY] PLACE;[30] AND WHEN THERE IS NO SANCTUARY,[31] IT MUST BE LEFT TO ROT.

MISHNAH 6. IF CATTLE WAS BOUGHT UNWITTINGLY,[28] THE MONEY MUST BE RESTORED TO ITS FORMER PLACE;[29] BUT IF [IT WAS BOUGHT] WITH FULL KNOWLEDGE, THE CATTLE MUST BE TAKEN UP AND BE CONSUMED IN THE [HOLY] PLACE; AND WHEN THERE IS NO SANCTUARY, IT MUST BE BURIED TOGETHER WITH ITS HIDE.[32]

MISHNAH 7. MAN-SERVANTS OR MAID-SERVANTS, LAND OR UNCLEAN CATTLE[27] MAY NOT BE BOUGHT WITH SECOND TITHE MONEY; AND IF ANY OF THESE WERE BOUGHT, THEIR VALUE MUST BE CONSUMED [AS SECOND TITHE IN JERUSALEM].[33] BIRD-OFFERINGS OF MEN OR WOMEN WHO HAD A FLUX,[34] OR BIRD-OFFERINGS OF WOMEN AFTER CHILD-BIRTH,[35] OR SIN-OFFERINGS, OR GUILT-OFFERINGS, MAY NOT BE OFFERED OUT OF SECOND TITHE MONEY; BUT IF ANY OF THESE WERE OFFERED, THEIR VALUE MUST BE CONSUMED [AS SECOND TITHE IN JERUSALEM]. THIS IS THE GENERAL RULE: WHATEVER [IS BOUGHT] OUT OF SECOND TITHE MONEY WHICH

CANNOT BE USED FOR EATING OR DRINKING OR ANOINTING, ITS VALUE MUST BE CONSUMED [AS SECOND TITHE IN JERUSALEM].

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(1) In Jerusalem or elsewhere, even on condition that it would be taken up to Jerusalem to be consumed there as Second Tithe. But it may be sold in order that its purchase money should be taken up to Jerusalem and be spent there as Second Tithe money, just as Second Tithe can be redeemed by the owner for money; cf. infra IV, 6, n. 1.

(2) Bartered for other produce.

(3) To weigh by it other produce in the scales of a balance. Second Tithe is ‘holy unto the Lord’, (Lev. XXVII, 30), and must not be treated like secular produce.

(4) Of Second Tithe.

(5) Cf. Ibid. XXVII, 32 — 33.

(6) This is deduced from the expression ‘it shall not be redeemed’. (Ibid., 33), which includes any business transaction.

(7) Nor when slaughtered. The only difference between unblemished and blemished is that the unblemished has to be offered as a sacrifice and its flesh consumed by the owner in Jerusalem (cf. Zeb. V, 8), whereas the blemished may be slaughtered and eaten by the owner anywhere. The wording of the text is merely intended to bring out the difference between cattle tithes and firstlings, spoken of lower down in our Mishnah.

(8) Cf. Kid. II, 8. This is also considered a business transaction.

(9) Cf. Deut. XV, 19 — 23 etc.

(10) Only when it cannot be offered as a sacrifice, viz., after the destruction of the Temple. It is then the property of the Priest.

(11) Cf. ‘Ed. III, 2.

(12) Lit., render it ‘non-holy’ or common.

(13) This cannot be called ‘money’; Deut. XIV, 25.

(14) Which has become obsolete, or is of foreign origin.

(15) E.g., where one has lost his money in the sea, though a diver could recover it for him. (Bert.). With such coin nothing can be bought. (Deut. ibid., 26).

(16) With Second Tithe money in Jerusalem.

(17) An animal of chase.

(18) Lit.,’flesh of lusting’; cf. Deut. XII, 15.

(19) Lit., ‘non-holy’. No sanctity of Second Tithe attaches to it.

(20) I.e., these jars are not sold as a rule without wine, so that the relation of the jar to the wine is that of the hide to the flesh of the animal.

(21) תמד an inferior wine made by steeping in water husks and stones of pressed grapes.

(22) It is not yet wine, but mere water; cf. infra 5. Mik. VII, 2, nn. 8 — 9.

(23) A wild animal may not be offered as a sacrifice.

(24) In order to encourage people to use Second Tithe money for buying peace-offerings.

(25) And their value must be consumed as Second Tithe in Jerusalem.

(26) Since it is unusual to sell olives and grapes without the vessel.

(27) These do not belong to the list in Deut. XIV, 26.

(28) Not knowing that the money was Second Tithe money.

(29) The bargain is void.

(30) In Jerusalem. Things bought with Second Tithe money cannot be redeemed.

(31) After the destruction of the Temple.

(32) The hide also belongs to Second Tithe; cf. III, 2.

(33) I.e.. the owner must set aside an amount of money corresponding to the amount of money he had expended for them and consume it as Second Tithe. The reference is where he did it with full knowledge, otherwise the law here applies as supra 5 and 6.

(34) Cf. Lev XV, 14, 29.

(35) Lev. XII, 8.

Mishna - Mas. Ma'aser Sheni Chapter 2

MISHNAH 1. SECOND TITHE MUST BE SET APART FOR EATING, FOR DRINKING[1] AND FOR ANOINTING;[2] FOR EATING WHAT IS USUALLY EATEN,[3] FOR DRINKING WHAT IS USUALLY DRUNK, AND FOR ANOINTING WHAT IS CUSTOMARILY USED FOR ANOINTING. [THUS] ONE MAY NOT ANOINT ONESELF WITH WINE OR WITH VINEGAR, BUT ONE MAY ANOINT ONESELF WITH OIL. OIL OF SECOND TITHE MAY NOT BE SPICED,[4] NOR MAY SPICED OIL BE BOUGHT WITH SECOND TITHE MONEY;[5] BUT WINE MAY BE SPICED. IF HONEY OR SPICES FELL INTO WINE[6] AND IMPROVED ITS VALUE, THE IMPROVED VALUE [IS DIVIDED] ACCORDING TO THE PROPORTION.[7] IF FISH WAS COOKED WITH LEEK OF SECOND TITHE AND IT IMPROVED IN VALUE, THE IMPROVED VALUE [IS DIVIDED] ACCORDING TO THE PROPORTION. IF DOUGH OF SECOND TITHE WAS BAKED AND IT IMPROVED IN VALUE, THE WHOLE IMPROVED VALUE BELONGS TO THE SECOND [TITHE].[8] THIS IS THE GENERAL RULE: WHENEVER THE IMPROVEMENT IS RECOGNIZABLE[9] [EXTERNALLY] THE IMPROVED VALUE [IS DIVIDED] ACCORDING TO THE PROPORTION, BUT WHENEVER THE IMPROVED VALUE IS NOT RECOGNIZABLE THE IMPROVED VALUE BELONGS TO THE SECOND [TITHE].

MISHNAH 2. R. SIMEON SAYS: ONE MAY NOT ANOINT ONESELF WITH OIL[10] OF SECOND TITHE IN JERUSALEM. BUT THE SAGES ALLOW IT. THEY SAID TO R. SIMEON: IF A LENIENT RULING HAS BEEN ADOPTED IN THE CASE OF HEAVE-OFFERING[11] WHICH IS A GRAVE MATTER,[12] SHOULD WE NOT ALSO ADOPT A LENIENT RULING IN THE CASE OF SECOND TITHE WHICH IS A LIGHT MATTER? HE SAID TO THEM: WHY, NO; A LENIENT RULING HAS BEEN ADOPTED IN THE CASE OF HEAVE-OFFERING THOUGH IT IS A GRAVE MATTER, BECAUSE IN HEAVE-OFFERING WE HAVE ADOPTED A LENIENT RULING ALSO AS REGARDS VETCHES[13] AND FENUGREEK;[14] BUT HOW CAN WE ADOPT A LENIENT RULING IN THE CASE OF SECOND TITHE THOUGH IT IS A LIGHT MATTER, WHEN WE HAVE NOT ADOPTED A LENIENT RULING IN SECOND TITHE AS REGARDS VETCHES AND FENUGREEK?[15]

MISHNAH 3. FENUGREEK OF SECOND TITHE MAY BE EATEN [ONLY] WHEN IT IS STILL TENDER;[16] BUT AS FOR FENUGREEK OF HEAVE-OFFERING, BETH SHAMMAI SAY: WHATEVER IS DONE WITH IT MUST BE DONE IN A STATE OF PURITY,[17] EXCEPT WHEN IT IS USED FOR CLEANSING THE HEAD. BUT BETH HILLEL SAY: WHATEVER IS DONE WITH IT MAY BE DONE IN A STATE OF IMPURITY,[18] EXCEPT SOAKING IT IN WATER.[19]

MISHNAH 4. VETCHES[20] OF SECOND TITHE MAY BE EATEN ONLY WHEN STILL TENDER, AND MAY BE BROUGHT INTO JERUSALEM AND TAKEN OUT AGAIN.[21] IF THEY BECAME UNCLEAN, R. TARFON SAYS: THEY MUST BE DIVIDED[22] AMONG PIECES OF DOUGH. BUT THE SAGES SAY: THEY MAY BE REDEEMED.[23] [VETCHES] OF HEAVE OFFERING, BETH SHAMMAI SAY: THEY MUST BE SOAKED AND RUBBED IN A STATE OF PURITY,[24] BUT MAY BE GIVEN AS FOOD[25] IN A STATE OF IMPURITY.[26] BETH HILLEL SAY: THEY MUST BE SOAKED [ONLY] IN A STATE OF PURITY,[27] BUT MAY BE RUBBED AND GIVEN AS FOOD IN A STATE OF IMPURITY. BETH SHAMMAI SAY: THEY MUST BE EATEN DRY[28] [ONLY]. R. AKIBA SAYS: WHATEVER IS DONE WITH THEM[29] MAY BE DONE IN A STATE OF IMPURITY.

MISHNAH 5. IF COMMON MONEY AND SECOND TITHE MONEY WERE SCATTERED TOGETHER,[30] WHATEVER IS PICKED UP [SINGLY] BELONGS TO SECOND TITHE UNTIL ITS SUM IS COMPLETED, AND THE REMAINDER BELONGS TO THE COMMON MONEY.[31] IF THEY WERE SO MIXED UP AS TO BE TAKEN UP BY THE HANDFUL, [THEY ARE DIVIDED] ACCORDING TO THE PROPORTION.[32] THIS IS THE GENERAL RULE: WHAT IS PICKED UP [SINGLY] MUST BE FIRST GIVEN TO SECOND TITHE, BUT WHAT

IS PICKED UP IN A MIXED [QUANTITY MUST BE DIVIDED] ACCORDING TO THE PROPORTION.

MISHNAH 6. IF A SELA[33] OF SECOND TITHE WAS MIXED UP WITH A SELA' OF COMMON MONEY,[34] ONE MAY BRING COPPER COINS FOR A SELA' AND SAY: LET THE SELA' OF SECOND TITHE WHEREVER IT MAY BE, BE EXCHANGED FOR THESE COPPER COINS;[35] AND THEN HE MUST SELECT THE BETTER OF THE TWO SELA'S, AND CHANGE [AGAIN] THE COPPER COINS FOR IT.[36] FOR THEY HAVE DECLARED: ONE MAY CHANGE SILVER FOR COPPER [ONLY] IN CASE OF NECESSITY, AND NOT TO LEAVE IT SO BUT TO CHANGE IT AGAIN FOR SILVER.

MISHNAH 7. BETH SHAMMAI SAY: ONE MAY NOT TURN HIS SELA'S[37] INTO GOLD DENARS.[38] BUT BETH HILLEL ALLOW IT. R. AKIBA SAID: ONCE I TURNED SILVER COINS FOR GOLD DENARS FOR RABBAN GAMALIEL AND R. JOSHUA.

MISHNAH 8. IF[39] ONE CHANGES FOR A SELA' COPPER COINS OF SECOND TITHE,[40] BETH SHAMMAI SAY: HE MAY CHANGE COPPER COINS FOR A WHOLE SELA. BUT BETH HILLEL SAY: SILVER FOR ONE SHEKEL AND COPPER COINS FOR THE OTHER SHEKEL.[41] R. MEIR SAYS: SILVER AND PRODUCE MAY NOT BE EXCHANGED TOGETHER FOR SILVER.[42] BUT THE SAGES ALLOW IT.

MISHNAH 9. IF[43] ONE CHANGES A SELA OF SECOND TITHE IN JERUSALEM,[44] BETH SHAMMAI SAY: HE MAY CHANGE THE WHOLE SELA' FOR COPPER COINS. BETH HILLEL SAY: SILVER FOR ONE SHEKEL AND COPPER COINS FOR THE OTHER SHEKEL. THE DISPUTANTS[45] BEFORE THE SAGES SAY: SILVER FOR THREE DENARS AND COPPER COINS FOR ONE DENAR. R. AKIBA SAYS: SILVER FOR THREE DENARS AND COPPER COINS FOR A FOURTH [OF THE FOURTH DENAR].[46] R. TARFON SAYS: FOUR ASPERS[47] IN SILVER. BETH SHAMMAI SAY: HE MUST LEAVE IT[48] IN A SHOP AND EAT ON THE CREDIT THEREOF.

MISHNAH 10. IF ONE HAD SOME OF HIS SONS CLEAN AND SOME UNCLEAN,[49] HE MAY LAY DOWN A SELA'[50] AND SAY: MAY THIS SELA BE AN EXCHANGE FOR WHAT THE CLEAN SHALL DRINK. THUS THE CLEAN AND THE UNCLEAN MAY DRINK FROM ONE JAR.[51]

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(1) Drinking is implied in the expression 'and for wine, or for strong drink'. (Deut. XIV, 26).

(2) Ointment is considered a drink for the bones of the human body; cf. Ps. CIX, 18.

(3) But not spoilt or raw food.

(4) The spices absorb oil which is thus wasted.

(5) Because spiced oil is an unusual luxury.

(6) Second Tithe wine.

(7) If for example the wine alone was worth two sela's and the honey or spices which fell into it was worth one sela', and the mixture was now worth six sela's, the wine must be assessed for redemption at four sela's, and two sela's must be assigned to the spices.

(8) It must be redeemed at the price of bread without deduction for the cost of baking etc.

(9) By an increase in the weight or measure.

(10) He holds that oil must be used for food only.

(11) Oil of heave-offering may be used as an ointment; cf. Sheb. VIII, 3.

(12) Heave offering is of greater sanctity than Second Tithe.

(13) It may be given to animals; cf. Ter. XI, 9,

(14) It may be eaten when green or dry.

(15) Both these if of Second Tithe may only be eaten when green; cf. 3 and 4.

(16) When it overgrows it becomes tasteless and unfit for ordinary food. But fenugreek of heave-offering may be eaten also when dry since it may be used for other purposes than eating and in an unclean state.
(17) With clean hands, as mere indication that it is heave-offering, not to be eaten by non-priests
(18) With hands unclean.
(19) Cf. n. 8. Because the water renders it susceptible to contract uncleanness from the touch of the unclean hands. Cf. Lev. XI, 37 — 38. Maksh., Introd.
(20) Like fenugreek, n. 7. They are eaten by human beings only in case of great poverty.
(21) Which is not permitted in the case of other produce; cf. III, 5.
(22) In quantities less than the size of an egg, so that they may be neutralized by the dough.
(23) Like other Second Tithe produce which has become unclean.
(24) As in n. 8, p 289.
(25) To animals.
(26) As in n. 9, P. 289.
(27) As in n. 10, p 289.
(28) When it is not susceptible to uncleanness, cf. n. 10, p. 289.
(29) Even soaking in water.
(30) And were mixed up.
(31) Stipulating to the effect that whatever coin in the remainder may belong to the Second Tithe would be exchanged for a corresponding coin the lot first picked up.
(32) If the Second Tithe money was ten and the common money twenty, a third of the money recovered belongs to the Second Tithe and two thirds to the common money.
(33) סלע . It equals two silver shekels or four silver denars.
(34) And the owner wants to spend the common sela’ outside Jerusalem.
(35) So that now both sela's are common.
(36) Thus turning the better sela’ back into Second Tithe.
(37) Of Second Tithe money.
(38) The difficulty of changing again the gold into silver may cause the owner to delay his pilgrimage to Jerusalem.
(39) Cf. ‘Ed. I, 9. (Sonc. Ed.).
(40) He changes copper coin into silver sela's, in order to lighten for the journey to Jerusalem the weight of the money.
(41) If pilgrims will bring to Jerusalem only silver coin, copper coin will go up in price and thus cause a loss to Second Tithe.
(42) Half a silver denar and its value in produce may not together be changed for a silver denar.
(43) Cf. ‘Ed. I, 10. (Sonc. Ed.).
(44) Silver for copper in order to buy provisions.
(45) Young Sages who were not yet members of the Sanhedrin. For their identity cf. Sanh. 17b.
(46) I.e., for one sixteenth of a sela’. So the commentaries, The text is uncertain.
(47) According to Bert. it equals one fifth of a denar, or one twentieth of a sela’.
(48) The whole sela’ without changing it at all, lest when there is any surplus he may unwittingly use it as common money.
(49) Unclean persons may not consume Second Tithe produce, but the father wants all the sons to drink wine out of one jug, and the drink of the clean ones should be on the account of Second Tithe.
(50) Second Tithe money.
(51) The wine drunk by the clean sons becomes Second Tithe, while the wine drunk by the unclean sons (without, of course, coming into contact with the jar itself) remains common.

Mishna - Mas. Ma'aser Sheni Chapter 3

MISHNAH 1. A MAN MAY NOT SAY TO HIS FELLOW: CARRY UP THIS [SECOND TITHE] PRODUCE TO JERUSALEM THAT YOU MAY HAVE A SHARE THEREIN[1] BUT HE MAY SAY TO HIM: ‘CARRY IT UP THAT WE MAY BOTH EAT AND DRINK OF IT IN JERUSALEM’. ‘BUT[2] PEOPLE MAY GIVE IT TO ONE ANOTHER AS A FREE GIFT.

MISHNAH 2. HEAVE-OFFERING MAY NOT BE BOUGHT WITH SECOND TITHE MONEY, BECAUSE THEREBY THE NUMBER OF THOSE WHO CAN EAT IT BECOMES REDUCED.[3] BUT R. SIMEON ALLOWS IT. R. SIMEON SAID TO THEM: WHY, IF A LENIENT RULING HAS BEEN ADOPTED IN THE CASE OF PEACE-OFFERINGS,[4] THOUGH THEY MAY BECOME UNFIT OR A REMNANT OR UNCLEAN,[5] SHOULD WE NOT ALSO ADOPT A LENIENT RULING IN THE CASE OF HEAVE-OFFERING?[6] BUT THEY SAID TO HIM: WHY, IF A LENIENT RULING HAS BEEN ADOPTED IN THE CASE OF PEACE-OFFERINGS, IT IS BECAUSE THEY ARE PERMITTED TO NON-PRIESTS,[7] BUT HOW CAN WE ADOPT A LENIENT RULING IN THE CASE OF HEAVE-OFFERING, SEEING THAT IT IS FORBIDDEN TO NON-PRIESTS?

MISHNAH 3. IF A MAN HAD [SECOND TITHE] MONEY IN JERUSALEM AND HE NEEDED [TO SPEND] IT,[8] AND HIS FELLOW HAD [COMMON] PRODUCE, HE MAY SAY TO HIS FELLOW: ‘LET THIS MONEY BE EXCHANGED FOR YOUR PRODUCE’. THUS, THE ONE EATS HIS PRODUCE IN A CONDITION OF PURITY[9] AND THE OTHER MAY DO WHAT HE NEEDS WITH HIS MONEY. BUT HE MAY NOT SAY THUS TO AN AM HA-AREZ[10] EXCEPT WHEN [THE MONEY WAS] FROM [SECOND TITHE OF] DEMAI.[11]

MISHNAH 4. IF [ONE HAD COMMON] PRODUCE IN JERUSALEM AND [SECOND TITHE MONEY] IN THE PROVINCES,[12] HE MAY SAY: ‘LO, LET THAT MONEY BE EXCHANGED FOR THIS PRODUCE’.[13] IF [HE HAD SECOND TITHE] MONEY IN JERUSALEM AND [COMMON] PRODUCE IN THE PROVINCES, HE MAY SAY: LO, LET THIS MONEY BE EXCHANGED FOR THAT PRODUCE, BUT ONLY ON CONDITION THAT THE PRODUCE SHALL BE CARRIED UP AND BE EATEN IN JERUSALEM.

MISHNAH 5. [SECOND TITHE] MONEY MAY BE BROUGHT INTO JERUSALEM AND BE TAKEN OUT AGAIN, BUT [SECOND TITHE] PRODUCE MAY ONLY BE BROUGHT IN, BUT MAY NOT BE TAKEN OUT AGAIN.[14] RABBAN SIMEON B. GAMALIEL SAYS: PRODUCE[15] ALSO MAY BE BROUGHT IN AND BE TAKEN OUT AGAIN.

MISHNAH 6. IF PRODUCE HAD ALL ITS WORK FINISHED[16] AND IT PASSED THROUGH JERUSALEM.[17] THE SECOND TITHE THEREOF MUST BE BROUGHT BACK AND EATEN IN JERUSALEM.[18] IF ALL ITS WORK HAD NOT BEEN FINISHED, [SUCH AS] BASKETS OF GRAPES [THAT WERE GOING] TO THE WINE-PRESS OR BASKETS OF FIGS [THAT WERE GOING] TO THE DRYING-PLACE, BETH SHAMMAI SAY: THE SECOND TITHE THEREOF MUST BE BROUGHT BACK AND BE EATEN IN JERUSALEM.[19] BUT BETH HILLEL SAY: IT MAY BE REDEEMED AND EATEN ANYWHERE. R. SIMEON B. JUDAH SAYS IN THE NAME OF R. JOSE: THERE WAS NO CONTROVERSY BETWEEN BETH SHAMMAI AND BETH HILLEL CONCERNING PRODUCE WHICH DID NOT HAVE ALL ITS WORK FINISHED THAT THE SECOND TITHE THEREOF MAY BE REDEEMED AND BE EATEN ANYWHERE. BUT ABOUT WHAT WAS THEIR CONTROVERSY? ABOUT PRODUCE WHICH HAD ALL ITS WORK FINISHED, OF WHICH BETH SHAMMAI SAID THAT THE SECOND TITHE THEREOF MUST BE BROUGHT BACK AND BE EATEN IN JERUSALEM, AND BETH HILLEL SAID THAT IT MIGHT BE REDEEMED AND BE EATEN ANYWHERE.[20] IN THE CASE OF DEMAI[21] , [THE SECOND TITHE THEREOF] MAY BE BROUGHT IN AND TAKEN OUT AGAIN AND BE REDEEMED.[22]

MISHNAH 7. IF A TREE STOOD WITHIN[23] AND WAS BENDING OUTWARDS, OR IF IT STOOD OUTSIDE AND WAS BENDING INWARDS, WHAT FACES THE WALL INWARDS AS DEEMED AS BEING WITHIN,[24] AND WHAT FACES THE WALL OUTWARDS IS DEEMED AS BEING OUTSIDE. OLIVE-PRESSES WHICH HAVE THEIR ENTRANCE WITHIN AND THEIR INNER SPACE OUTSIDE, OR WHICH HAVE THEIR ENTRANCE

OUTSIDE AND THEIR INNER SPACE WITHIN, BETH SHAMMAI SAY: THE WHOLE IS DEEMED AS BEING WITHIN.[25] BUT BETH HILLEL SAY: WHAT FACES THE WALL INWARDS IS DEEMED AS BEING WITHIN, AND WHAT FACES THE WALL OUTWARDS IS DEEMED AS BEING OUTSIDE.

MISHNAH 8. IN CHAMBERS WHICH WERE BUILT ON HOLY GROUND[26] BUT WERE OPEN TOWARDS COMMON GROUND,[27] THE INTERIOR WAS DEEMED COMMON[28] AND THEIR ROOFS WERE DEEMED HOLY.[29] IN THOSE WHICH WERE BUILT ON COMMON GROUND BUT WERE OPEN TOWARDS HOLY GROUND, THE INTERIOR WAS DEEMED HOLY AND THEIR ROOFS WERE DEEMED COMMON. IN THOSE WHICH WERE BUILT BOTH ON HOLY AND ON COMMON GROUND AND WERE OPEN BOTH TOWARDS HOLY AND COMMON GROUND, [THE INTERIOR AND THE ROOFS] FACING HOLY GROUND INWARDS[30] WERE DEEMED HOLY, BUT THOSE FACING COMMON GROUND OUTWARDS[31] WERE DEEMED COMMON.

MISHNAH 9. IF SECOND TITHE WAS BROUGHT INTO JERUSALEM AND IT BECAME UNCLEAN, WHETHER IT BECAME UNCLEAN BY A PRINCIPAL DEFILEMENT[32] OR BY A SECONDARY DEFILEMENT,[33] WHETHER IT BECAME UNCLEAN WITHIN [JERUSALEM] OR OUTSIDE, BETH SHAMMAI SAY: IT MUST ALL BE REDEEMED AND BE EATEN WITHIN EXCEPT WHAT BECAME UNCLEAN BY A PRINCIPAL DEFILEMENT OUTSIDE.[34] BUT BETH HILLEL SAY: IT MUST ALL BE REDEEMED AND BE EATEN OUTSIDE EXCEPT WHAT BECAME UNCLEAN BY A SECONDARY DEFILEMENT WITHIN.

MISHNAH 10. IF WHAT WAS BOUGHT WITH SECOND TITHE MONEY BECAME UNCLEAN, IT SHOULD BE REDEEMED. R. JUDAH SAYS: IT MUST BE BURIED.[35] THEY SAID TO R. JUDAH: WHY, IF SECOND TITHE ITSELF WHEN IT BECAME UNCLEAN MAY BE REDEEMED, SHOULD NOT ALSO WHAT IS BOUGHT WITH SECOND TITHE MONEY BE REDEEMED WHEN IT BECAME UNCLEAN? HE SAID TO THEM: NO; IF YOU SAY THUS OF SECOND TITHE ITSELF, IT IS BECAUSE IT MAY BE REDEEMED ALSO WHEN CLEAN AT A DISTANCE FROM THE [HOLY] PLACE;[36] BUT HOW CAN YOU SAY THUS OF WHAT IS BOUGHT WITH SECOND TITHE MONEY, SEEING THAT IT CANNOT BE REDEEMED WHEN CLEAN AT A DISTANCE FROM THE [HOLY] PLACE.

MISHNAH 11. IF A GAZELLE WHICH HAD BEEN BOUGHT WITH SECOND TITHE MONEY DIED, IT MUST BE BURIED TOGETHER WITH ITS HIDE. R. SIMEON SAYS: IT MAY BE REDEEMED.[37] IF IT WAS BOUGHT ALIVE AND SLAUGHTERED AND IT THEN BECAME UNCLEAN, IT MAY BE REDEEMED. R. JOSE SAYS: IT MUST BE BURIED. IF IT WAS BOUGHT SLAUGHTERED AND IT BECAME UNCLEAN, THIS IS LIKE PRODUCE.[38]

MISHNAH 12. IF JARS WERE LENT[39] FOR SECOND TITHE [WINE], EVEN IF THEY WERE CORKED,[40] THEY DO NOT ACQUIRE [THE SANCTITY OF] SECOND TITHE.[41] IF UNDEFINED WINE[42] WAS POURED INTO THEM THEY DO NOT ACQUIRE [THE SANCTITY OF] SECOND TITHE BEFORE THEY ARE CORKED,[43] BUT AFTER THEY ARE CORKED[44] THEY ACQUIRE [THE SANCTITY OF] SECOND TITHE. BEFORE THEY ARE CORKED THEY ARE NEUTRALIZED IN A HUNDRED AND ONE,[45] BUT AFTER THEY ARE CORKED THEY SANCTIFY ANY QUANTITY.[46] BEFORE THEY ARE CORKED HEAVE-OFFERING MAY BE TAKEN FROM ONE JAR FOR ALL THE OTHERS, BUT AFTER THEY ARE CORKED HEAVE-OFFERING MUST BE TAKEN FROM EACH JAR SEPARATELY.

MISHNAH 13. BETH SHAMMAI SAY: THE JARS MUST BE OPENED AND EMPTIED INTO THE WINE-PRESS.[47] BETH HILLEL SAY: THEY MUST BE OPENED BUT NEED NOT

BE EMPTIED. WHERE IS THIS THE CASE?[48] IN A PLACE WHERE THEY ARE USUALLY SOLD CLOSED;[49] BUT IN A PLACE WHERE THEY ARE USUALLY SOLD OPEN, THE JAR DOES NOT REMAIN COMMON.[50] IF, HOWEVER, THE DEALER WISHED TO IMPOSE A STRINGENCY UPON HIMSELF AND TO SELL [ONLY] BY MEASURE, THE JAR REMAINS COMMON.[51] R. SIMEON SAYS: ALSO WHEN ONE SAYS TO HIS FELLOW: ‘THIS JAR [OF WINE] I SELL THEE[52] WITHOUT THE EMPTY JAR’, THE JAR[53] REMAINS COMMON.

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(1) It is the duty of the owner to carry up his Second Tithe to Jerusalem. If he employs another person to do it for him, he must not pay him out of the Second Tithe. But he may make him a gift of Second Tithe.

(2) A quotation from I, 1.

(3) Heave-offering may only be eaten by priests, and by them also only when they are in a state of purity.

(4) Allowing it to be bought with Second Tithe money.

(5) Which restricts the consumption of peace-offerings. Cf. Lev. VII, 17,19; Zeb. I, 2 ff.

(6) And allow it to be bought with Second Tithe money.

(7) Thus everybody can eat of it.

(8) On things which cannot be bought with Second Tithe money; cf. II, 1.

(9) The produce has now become Second Tithe which may be eaten only by those who are clean.

(10) Who does not observe the laws of purity; cf. Demai, Introd.

(11) And thus it is doubtful whether it is really Second Tithe.

(12) And he needed the money for things which may not be bought with Second Tithe money.

(13) The produce becomes Second Tithe and the money becomes common. For the purpose of such an exchange the produce and the money need not be both in one and the same place.

(14) Once produce enters Jerusalem, it must be consumed there as Second Tithe and cannot be redeemed for money.

(15) Such as wheat may be taken out of Jerusalem to be ground and baked and then be brought back to Jerusalem for consumption.

(16) In connection with its harvesting, when it becomes liable for tithing; cf. Ma'as. I, 1 ff.

(17) Before, it had been tithed.

(18) It may not be redeemed for money. For since the produce was already liable to tithing when it reached Jerusalem, a tenth part of it is considered as virtual Second Tithe which had entered Jerusalem; cf. n. 7, p. 294.

(19) Like regular Second Tithe which had once been brought into Jerusalem.

(20) Since the Second Tithe had not actually been separated from the produce.

(21) Even if all its work had been finished.

(22) Even according to Beth Shammai.

(23) Within the wall of Jerusalem.

(24) And the Second Tithe of its fruit may not be redeemed, like Second Tithe which has once entered into Jerusalem, n. 7, p. 294.

(25) It all belongs to the precincts of the Holy City in respect of the consumption of sacrificial flesh (cf. Zeb. V, 6 — 8), of Second Tithe, etc.

(26) On the Temple court.

(27) Outside the Temple precincts.

(28) As outside the Temple.

(29) As within the Temple.

(30) Lit., ‘towards the holy’.

(31) Lit., ‘towards the common’.

(32) By the touch of a carcase or a dead creeping thing; cf. Kelim I, 1 ff.

(33) A defilement produced by the touch of a principal defilement; cf. ‘Ed.. (Sonc. Ed.), p. 9, n. 14.

(34) The rule that Second Tithe which had entered Jerusalem may not be redeemed does not apply to such unclean Second Tithe.

(35) It may not be redeemed again.

(36) From Jerusalem.

(37) And given to dogs for food.

(38) Viz., like the case of produce bought with Second Tithe money, which had become unclean, discussed in the last

Mishnah.

(39) Outside Jerusalem.

(40) After being filled with Second Tithe wine.

(41) And the owner need redeem the wine only.

(42) Which had not been tithed.

(43) If after pouring in the wine and before corking the jars he designated the wine as Second Tithe.

(44) If he designated the wine as Second Tithe.

(45) If such an open jar containing heave-offering wine was mixed up with 101 jars of common wine, it is neutralized and becomes common, as in the case of heave-offering becoming mixed up with ordinary common produce; ef. Ter. IV, 7.

(46) If a corked jar of heave-offering wine was mixed with any number of jars containing common wine, all the jars become forbidden to the non-priest, and the owner must sell all the jars, but one, to a priest at the price of heave-offering wine (which is lower than the price of common wine, because its consumption is restricted to the small public of priests), and one jar he must give away to a priest as heave-offering.

(47) If he wants to give heave-offering from one corked jar for other corked jars.

(48) That if he designated the wine as Second Tithe after he had corked the jars they acquire the sanctity of Second Tithe.

(49) Cf. supra I, 3.

(50) And the jar has to be redeemed together with its contents.

(51) If he sold for Second Tithe money a jar full of wine by measure, whether the jar was open or closed.

(52) For Second Tithe money.

(53) Var. lec. ‘its jar’.

Mishna - Mas. Ma'aser Sheni Chapter 4

MISHNAH 1. IF A MAN CARRIED PRODUCE OF SECOND TITHE FROM A PLACE WHERE IT WAS DEAR TO A PLACE WHERE IT WAS CHEAP, OR FROM A PLACE WHERE IT WAS CHEAP TO A PLACE WHERE IT WAS DEAR, HE MAY REDEEM IT ACCORDING TO THE MARKET PRICE OF THE PLACE [OF REDEMPTION]. IF A MAN BROUGHT PRODUCE FROM THE THRESHING-FLOOR INTO THE CITY, OR JARS OF WINE FROM THE WINE-PRESS INTO THE CITY, THE INCREASE IN THE PRICE[1] BELONGS TO THE SECOND TITHE AND THE EXPENSES[2] [MUST BE COVERED] FROM HIS HOUSEHOLD.

MISHNAH 2. SECOND TITHE MAY BE REDEEMED AT THE LOWER MARKET PRICE, AT THE PRICE AT WHICH THE SHOPKEEPER BUYS AND NOT AT WHICH HE SELLS, AT THE PRICE AT WHICH THE MONEY-CHANGER TAKES[3] SMALL CHANGE AND NOT AT THE PRICE AT WHICH HE GIVES[4] SMALL CHANGE. SECOND TITHE MAY NOT BE REDEEMED IN A LUMP.[5] IF ITS VALUE IS KNOWN,[6] IT MAY BE REDEEMED ACCORDING TO THE VALUATION OF ONE WITNESS;[7] BUT IF ITS VALUE IS NOT KNOWN, IT MUST BE REDEEMED ACCORDING TO THE VALUATION OF THREE, AS FOR INSTANCE IN THE CASE OF WINE WHICH HAS FORMED A FILM,[8] OR PRODUCE WHICH HAS BEGUN TO ROT, OR COINS WHICH HAVE BECOME RUSTY.

MISHNAH 3. IF THE OWNER OFFERED A SELA[9] AND A STRANGER OFFERED A SELA, THE OWNER HAS THE FIRST RIGHT, BECAUSE HE MUST ADD A FIFTH.[10] IF THE OWNER OFFERED A SELA AND A STRANGER OFFERED A SELA’ AND AN ISSAR,[11] THE ONE WHO OFFERED A SELA’ AND AN ISSAR HAS THE FIRST RIGHT, BECAUSE HE ADDED TO THE PRINCIPAL.[12] IF A MAN REDEEMS HIS SECOND TITHE HE MUST ADD A FIFTH,[13] WHETHER IT IS HIS OWN OR IT WAS GIVEN HIM AS A GIFT.[14]

MISHNAH 4. ONE MAY USE AN ARTIFICE IN RESPECT OF SECOND TITHE.[15] IN WHAT MANNER? A MAN MAY SAY TO HIS GROWN-UP SON OR DAUGHTER, OR TO HIS

HEBREW MAN-SERVANT OR MAID-SERVANT: TAKE THIS MONEY[16] AND REDEEM[17] THIS SECOND TITHE FOR THYSELF’. BUT HE MAY NOT SAY SO TO HIS SON OR DAUGHTER WHO ARE MINORS OR TO HIS CANAANITE MAN-SERVANT OR MAID-SERVANT, BECAUSE THEIR HAND IS AS HIS OWN HAND.[18]

MISHNAH 5. IF A MAN WAS STANDING IN HIS THRESHING-FLOOR AND HE HAD NO MONEY,[19] HE MAY SAY TO HIS FELLOW: ‘LO, THIS PRODUCE IS GIVEN TO THEE AS A GIFT’, AND THEN HE MAY SAY AGAIN: ‘LO, LET THIS PRODUCE BE EXCHANGED FOR MONEY WHICH I HAVE IN THE HOUSE’.[20]

MISHNAH 6. IF A MAN[21] TOOK POSSESSION[22] FROM THE OWNER OF SECOND TITHE FOR A SELA’, BUT BEFORE HE HAD TIME TO REDEEM IT,[23] IT STOOD AT THE PRICE OF TWO SELA'S, HE MAY GIVE HIM ONE SELA’ AND MAKE A PROFIT OF ONE SELA’ AND THE SECOND TITHE REMAINS HIS.[24] IF HE TOOK POSSESSION FROM THE OWNER OF SECOND TITHE FOR TWO SELA'S, BUT BEFORE HE HAD TIME TO REDEEM[23] IT, IT STOOD AT THE PRICE OF ONE SELA’,[25] HE MAY GIVE HIM ONE SELA’ OUT OF COMMON [MONEY] AND ONE SELA’ OUT OF HIS SECOND TITHE [MONEY].[26] IF THE OWNER WAS AN'AM HA-AREZ, HE MAY GIVE HIM OUT OF [SECOND TITHE OF] DEM'AI.[27]

MISHNAH 7. IF A MAN REDEEMED SECOND TITHE BUT DID NOT CALL IT BY ITS NAME,[28] R. JOSE SAYS: IT IS SUFFICIENT. BUT R. JUDAH SAYS: HE MUST NAME IT EXPLICITLY. IF A MAN WAS SPEAKING TO A WOMAN CONCERNING HER DIVORCE OR HER BETROTHAL, AND GAVE HER HER BILL OF DIVORCE OR HER GIFT OF BETROTHAL BUT DID NOT NOTIFY IT EXPLICITLY,[29] R. JOSE SAYS: IT IS SUFFICIENT. BUT R. JUDAH SAYS: HE MUST NOTIFY IT EXPLICITLY.

MISHNAH 8. IF A MAN PUT DOWN AN ISSAR[30] [FOR THE REDEMPTION OF SECOND TITHE] AND ON THE ACCOUNT THEREOF HE ATE [THE VALUE OF] HALF [AN ISSAR] AND THEN WENT TO ANOTHER PLACE WHERE THE PRODUCE WAS SOLD FOR A PONDION,[31] HE MAY EAT OF IT [ONLY TO THE VALUE OF] ANOTHER ISSAR.[32] IF HE PUT DOWN A PONDION [FOR THE REDEMPTION OF SECOND TITHE] AND ON THE ACCOUNT THEREOF HE ATE [TO THE VALUE OF] HALF [A PONDION] AND THEN WENT TO ANOTHER PLACE WHERE THE PRODUCE WAS SOLD FOR AN ISSAR, HE MAY EAT OF IT [ONLY TO THE VALUE OF ANOTHER] HALF [AN ISSAR].[33] IF HE PUT DOWN AN ISSAR[34] OF SECOND TITHE [MONEY] HE MAY EAT ON THE ACCOUNT THEREOF [UNTIL THERE IS LEFT] AN ELEVENTH PART[35] OF [THE VALUE OF] AN ISSAR,[36] OR [UNTIL THERE IS LEFT] A HUNDREDTH PART OF [THE VALUE OF] AN ISSAR.[37] BETH SHAMMAI SAY: IN BOTH CASES[38] [HE MAY EAT UNTIL THERE IS LEFT THE VALUE OF] ONE TENTH PART[39] [OF AN ISSAR]. BUT BETH HILLEL SAY: IN THE CASE OF CERTAIN[40] [SECOND TITHE HE MAY EAT UNTIL THERE IS LEFT THE VALUE OF] AN ELEVENTH PART[41] [OF AN ISSAR] BUT IN THE CASE OF [SECOND TITHE] OF DEMAI,[42] [HE MAY EAT UNTIL THERE IS LEFT THE VALUE OF] A TENTH PART[41] [OF AN ISSAR].

MISHNAH 9. ANY MONEY FOUND[43] IS CONSIDERED COMMON,[44] EVEN A GOLD DENAR WITH SILVER AND WITH COPPER COINS.I[35] IF A POTSHERD WAS FOUND WITH THE MONEY ON WHICH WAS WRITTEN ‘TITHE’ THIS IS CONSIDERED SECOND TITHE [MONEY].

MISHNAH 10. IF A VESSEL WAS FOUND ON WHICH WAS WRITTEN ‘KORBAN’[45] R. JUDAH SAYS: IF IT WAS OF EARTHENWARE, IT IS ITSELF COMMON AND WHAT IS IN IT IS KORBAN;[46] BUT IF IT WAS OF METAL IT IS ITSELF KORBAN AND WHAT IS IN IT IS

COMMON. BUT THEY SAID UNTO HIM: IT IS NOT THE CUSTOM OF PEOPLE TO PUT WHAT IS COMMON INTO WHAT IS KORBAN.[47]

MISHNAH 11. IF A VESSEL WAS FOUND ON WHICH WAS WRITTEN A KOF,[48] IT IS KORBAN; IF A MEM, IT IS MA'ASER;[49] IF A DALETH, IT IS DEMAI; IF A TETH, IT IS TEBEL;[50] IF A TAW, IT IS TERUMAH,[51] FOR IN THE TIME OF DANGER[52] PEOPLE WROTE TAW FOR TERUMAH. R. JOSE SAYS: THEY MAY ALL STAND FOR THE NAMES OF MEN.[53] R. JOSE SAID: EVEN IF A JAR WAS FOUND WHICH WAS FULL OF PRODUCE AND ON IT WAS WRITTEN ‘TERUMAH’[54] IT MAY YET BE CONSIDERED COMMON PRODUCE, BECAUSE I MAY ASSUME THAT LAST YEAR IT WAS FULL OF PRODUCE OF HEAVE-OFFERING AND WAS AFTERWARDS EMPTIED.[55]

MISHNAH 12. IF A MAN SAID TO HIS SON: ‘THERE IS SECOND TITHE [MONEY] IN THIS CORNER, BUT THE SON FOUND [MONEY] IN ANOTHER CORNER, THIS MAY BE CONSIDERED COMMON[56] [MONEY]. [IF THE FATHER SAID] THERE WAS THERE A HUNDRED AND THE SON FOUND TWO HUNDRED, THE REMAINDER IS COMMON. [IF THE FATHER SAID THERE WERE THERE] TWO HUNDRED AND THE SON FOUND ONE HUNDRED, IT IS ALL SECOND TITHE MONEY.

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(1) In the city, as compared with the lower price at the threshing-floor or wine-press.

(2) Of the transport to the city.

(3) For a sela’ in exchange for the customer's copper coin. He receives copper coin at a lower rate than its real value.

(4) For the sela’ of his customer. He charges the copper coin at a higher rate than its true value.

(5) But only according to its exact measure or weight.

(6) It has a more or less fixed price.

(7) Who acts as valuer.

(8) שקרם . Var. lec. שקסם ‘which has become pungent’.

(9) For Second Tithe produce which is to be redeemed.

(10) As infra, n. 5.

(11) The Roman As. Its value was 1/24 of a denar, or 1/96 of a sela’; cf. B.M. IV, 5.

(12) Thus increasing the real price of the Second Tithe, although the increase is less than the fifth which the owner would have to add.

(13) In accordance with the law in Lev. XXVII, 31; cf. Introd.; B.M. IV, 8.

(14) I.e., the produce was given him as a gift before the Second Tithe was taken from it. Cf. supra I, 1.

(15) To escape the duty of adding a fifth.

(16) As a gift.

(17) I.e., buy, and since they are not the owners, they need not add the fifth.

(18) Whatever they do possess is deemed his possession.

(19) He wants to evade paying the fifth in redeeming his Second Tithe, but has no money in hand which he might give to his fellow that his fellow should redeem the Second Tithe for him.

(20) It is as if he had bought back his gift from his fellow.

(21) Who had bought Second Tithe produce in order that its purchase money might be turned by the owner.

(22) Lit., ‘drew into his possession.’ I.e., he acquired it by means of Meshikah, v. Glos.

(23) To pay its purchase money.

(24) The produce became the property of the purchaser as soon as he took possession of it; cf. B.M. IV, 2. But it still retained its sanctity as Second Tithe until its price was paid. Therefore the sela’ increase in its value becomes Second Tithe money, and the purchaser must redeem the produce at its new price of two sela's, one of which is Second Tithe which must be spent in Jerusalem.

(25) But he must still pay the seller two sela's.

(26) Thus redeeming the produce at its present price of one sela’.

(27) מדמאי, the sanctity of which is not as great as of certain Second Tithe. Var. lec., מדמיו , ‘of his own money’. I.e., he may pay the sela’ with common money.

(28) He had not designated the money as Second Tithe money; cf. infra, V. .
(29) That what he gave her was a bill of divorce or a gift of betrothal.
(30) Cf. supra, 3, n. 3.
(31) Which is equal to two issars.
(32) And not one issar and a half.
(33) And not to the value of half a pondion.
(34) To serve as the purchase price of produce.
(35) Lit., ‘eleven’. The interpretation of this passage is difficult and doubtful. The explanation given here follows Maim. and Bert.
(36) In case the issar was the redemption money of Second Tithe of demai, and then the remaining eleventh becomes common produce.
(37) In case the issar was the redemption money of certain Second Tithe, and then the remaining hundredth becomes common produce.
(38) Whether the issar was the redemption money of demai Second Tithe or of certain Second Tithe.
(39) Lit., ‘ten’.
(40) The issar was the redemption money of certain Second Tithe.
(41) Lit., ‘eleven’, ‘ten’.
(42) The issar was the redemption money of demai Second Tithe.
(43) Except in Jerusalem during a festival or pilgrimage; cf. Shek. VII, 2.
(44) It need not be suspected of being Second Tithe money. (15) Which is not usual to mix together, except in the case of Second Tithe money; cf. supra, II, 7 ff.
(45) ‘Offering’, or gift to the Temple.
(46) Holy property, because people did not make gifts to the Temple of earthenware articles and therefore the inscription was intended for the contents, and not for the vessel itself.
(47) Therefore in the case of a metal vessel, both the vessel and its contents are holy.
(48) This and the following are names of letters of the Hebrew alphabet.
(49) ‘Tithe’.
(50) Produce from which heave-offering and tithes have not yet been taken.
(51) Heave-offering.
(52) When Jews were persecuted by the Romans for the observance of the Torah.
(53) The initials of the names of the owners of the vessels.
(54) The word in full.
(55) And then filled again with common produce.
(56) The Second Tithe money had been removed before the son came to look for it, and this is other money, which is usually common money.

Mishna - Mas. Ma'aser Sheni Chapter 5

MISHNAH 1. A VINEYARD[1] IN ITS FOURTH YEAR[2] MUST BE MARKED[3] WITH CLODS OF EARTH, [TREES OF] ‘ORLAH[4] WITH POTTER'S CLAY, AND GRAVES[5] WITH LIME WHICH IS DISSOLVED AND POURED ON.[6] RABBAN SIMEON R. GAMALIEL SAID: WHEN IS THIS DONE?[7] IN THE SEVENTH YEAR.[8] THE CONSCIENTIOUS[9] USED TO PUT DOWN MONEY AND SAY: ANY FRUIT GATHERED FROM THIS VINEYARD MAY BE EXCHANGED FOR THIS MONEY.

MISHNAH 2. [THE FRUIT OF] A VINEYARD IN ITS FOURTH YEAR WAS BROUGHT UP TO JERUSALEM[10] WITHIN A DISTANCE OF ONE DAY'S JOURNEY ON EACH SIDE. AND WHAT WAS THE LIMIT THEREOF? ELATH ON THE SOUTH, AKRABAH ON THE NORTH, LYDDA ON THE WEST, AND THE JORDAN ON THE EAST.[11] WHEN FRUIT INCREASED,[12] IT WAS ORDAINED THAT IT SHOULD BE REDEEMED EVEN IF THE VINEYARD WAS CLOSE TO THE WALL;[13] BUT THIS WAS DONE ON THE CONDITION THAT WHENEVER IT WAS SO DESIRED, THE ARRANGEMENT WOULD BE RESTORED AS IT HAD BEEN

BEFORE.[14] R. JOSE SAYS: THIS WAS THE UNDERSTANDING AFTER THE TEMPLE WAS DESTROYED, AND THE UNDERSTANDING WAS THAT WHEN THE TEMPLE SHOULD BE REBUILT THE ARRANGEMENT WOULD BE RESTORED AS IT HAD BEEN BEFORE.[14]

MISHNAH 3. A[15] VINEYARD[16] IN ITS FOURTH YEAR, BETH SHAMMAI SAY, IS NOT SUBJECT TO THE LAW OF THE FIFTH[17] NOR TO THE LAW OF REMOVAL.[18] BUT BETH HILLEL SAY: IT IS SUBJECT. BETH SHAMMAI SAY: IT IS SUBJECT[19] TO THE LAW OF THE GRAPE GLEANING AND TO THE LAW OF DEFECTIVE CLUSTER, AND THE POOR MUST REDEEM THEM FOR THEMSELVES.[20] BUT BETH HILLEL SAY: ALL OF IT[21] GOES TO THE WINE-PRESS.[22]

MISHNAH 4. HOW DOES ONE REDEEM THE FRUIT OF A PLANT IN ITS FOURTH YEAR? THE OWNER PUTS DOWN A BASKET IN THE PRESENCE OF THREE [PERSONS][23] AND SAYS: HOW MANY SUCH BASKETS WOULD A MAN WISH TO REDEEM[24] FOR HIMSELF FOR A SELA' ON CONDITION THAT THE OUTLAY[25] SHALL BE BORNE BY THIS HOUSE?'[26] HE THEN PUTS DOWN THE MONEY[27] AND SAYS: WHATEVER SHALL BE PICKED FROM THIS PLANT MAY IT BE EXCHANGED FOR THIS MONEY AT THE PRICE OF SO MANY BASKETS FOR A SELA'.

MISHNAH 5. BUT IN THE SEVENTH[28] YEAR HE MUST REDEEM IT FOR ITS FULL VALUE.[29] IF IT HAD ALL BEEN MADE OWNERLESS PROPERTY,[30] THE PERSON WHO SEIZED IT CAN ONLY CLAIM THE COST OF PICKING IT.[31] IF A MAN REDEEMED HIS FRUIT OF A PLANT IN ITS FOURTH YEAR, HE MUST ADD A FIFTH OF ITS VALUE,[32] WHETHER THE FRUIT WAS HIS OWN OR WAS GIVEN HIM AS A GIFT.

MISHNAH 6. ON THE EVE OF THE FIRST FESTIVAL-DAY OF THE PASSOVER IN THE FOURTH AND IN THE SEVENTH[33] [YEARS OF THE SABBATICAL CYCLE] THE REMOVAL[34] WAS PERFORMED. HEAVE-OFFERING AND THE HEAVE-OFFERING OF TITHE[35] WERE GIVEN TO THEIR OWNERS,[36] THE FIRST TITHE WAS GIVEN TO ITS OWNER,[37] THE TITHE OF THE POOR TO ITS OWNER,[38] AND SECOND TITHE AND FIRST-FRUITS[39] WERE REMOVED EVERYWHERE. R. SIMEON SAYS: FIRST-FRUITS WERE GIVEN TO THE PRIESTS[40] LIKE HEAVE-OFFERING. AS FOR BROTH,[41] BETH SHAMMAI SAY: IT MUST BE REMOVED. BUT BETH HILLEL SAY: LO, IT MAY BE CONSIDERED AS ALREADY REMOVED.[42]

MISHNAH 7. IF A MAN HAD PRODUCE AT THIS TIME[43] AND THE TIME OF REMOVAL ARRIVED, BETH SHAMMAI SAY: HE MUST EXCHANGE IT FOR MONEY.[44] BUT BETH HILLEL SAY: IT IS ALL THE SAME WHETHER IT BECOMES MONEY OR IT REMAINS FRUIT.[45]

MISHNAH 8. R. JUDAH SAID: FORMERLY THEY USED TO SEND TO HOUSEHOLDERS IN THE PROVINCES [SAYING:] 'HASTEN TO SET RIGHT YOUR PRODUCE[46] BEFORE THE TIME OF REMOVAL ARRIVES', UNTIL R. AKIBA CAME AND TAUGHT THAT ALL PRODUCE WHICH HAS NOT REACHED THE SEASON[47] OF TITHING IS EXEMPT FROM THE REMOVAL.

MISHNAH 9. IF A MAN HAD HIS PRODUCE AT A DISTANCE FROM HIM,[48] HE MUST CALL BY NAME [THE RECIPIENTS OF THE TITHE] THEREOF.[49] ONCE IT HAPPENED THAT RABBAN GAMALIEL AND THE ELDERS WERE TRAVELLING HOME BY SHIP,[50] AND RABBAN GAMALIEL SAID: 'ONE TENTH WHICH I SHALL MEASURE IS GIVEN TO JOSHUA,[51] AND THE PLACE THEREOF IS LEASED TO HIM;[52] THE OTHER TENTH WHICH I SHALL MEASURE IS GIVEN TO AKIBA B. JOSEPH[53] THAT HE MAY HOLD IT FOR THE

POOR, AND THE PLACE THEREOF IS LEASED TO HIM’. R. JOSHUA SAID: THE TENTH WHICH I SHALL MEASURE[54] IS GIVEN TO ELEAZAR B. AZARIAH,[55] AND THE PLACE THEREOF IS LEASED TO HIM’, AND THEY EACH RECEIVED RENT[56] ONE FROM ANOTHER.

MISHNAH 10. IN THE AFTERNOON OF THE LAST FESTIVAL-DAY THE CONFESSION[57] WAS MADE. HOW WAS THE CONFESSION MADE? [HE SAID:] ‘I HAVE REMOVED THE HALLOWED THINGS OUT OF MINE HOUSE’ — THIS MEANS[58] SECOND TITHE AND THE FRUIT OF PLANTS IN THEIR FOURTH YEAR; ‘I HAVE GIVEN THEM TO THE LEVITE’ — THIS MEANS THE TITHE OF THE LEVITES; ‘AND ALSO[59] I HAVE GIVEN THEM’ — THIS MEANS HEAVE-OFFERING AND THE HEAVE-OFFERING OF TITHE; ‘UNTO THE STRANGER, TO THE FATHERLESS, AND TO THE WIDOW’ — THIS MEANS THE TITHE OF THE POOR, GLEANINGS, FORGOTTEN SHEAF, AND THE CORNER OF THE FIELD, ALTHOUGH THESE DO NOT DEBAR[60] [ONE FROM MAKING] THE CONFESSION; ‘OUT OF MINE HOUSE’ — THIS MEANS THE DOUGH-OFFERING.[61]

MISHNAH 11. ‘ACCORDING TO ALL THY COMMANDMENTS WHICH THOU HAST COMMANDED ME’ — LO, IF HE TOOK OFF THE SECOND TITHE BEFORE THE FIRST TITHE HE CANNOT MAKE THE CONFESSION; ‘I HAVE NOT TRANSGRESSED ANY OF THY COMMANDMENTS’ — I HAVE NOT SET APART [DUES] FROM ONE KIND FOR SOME OTHER KIND, NOR FROM PLUCKED [PRODUCE] FOR [PRODUCE STILL] JOINED [TO THE SOIL], NOR FROM NEW [PRODUCE] FOR OLD [PRODUCE], NOR FROM OLD [PRODUCE] FOR NEW;[62] ‘NEITHER HAVE I FORGOTTEN’ — I HAVE NOT FORGOTTEN TO BLESS THEE, NOR TO MAKE MENTION OF THY NAME OVER IT.[63]

MISHNAH 12. ‘I HAVE NOT EATEN THEREOF IN MY MOURNING’ — LO, IF HE HAD EATEN THEREOF IN HIS MOURNING,[64] HE CANNOT MAKE THE CONFESSION; ‘NEITHER HAVE I REMOVED OUGHT THEREOF WHEN UNCLEAN’ — LO, IF HE HAD SET IT APART IN UNCLEANNESS HE CANNOT MAKE THE CONFESSION; ‘NOR GIVEN OUGHT THEREOF FOR THE DEAD’ — I HAVE NOT TAKEN THEREOF FOR A COFFIN OR SHROUDS FOR THE DEAD, NOR HAVE I GIVEN THEREOF TO OTHER MOURNERS: ‘I HAVE HEARKENED TO THE VOICE OF THE LORD MY GOD ‘ — I HAVE BROUGHT IT TO THE CHOSEN HOUSE.[65] ‘I HAVE DONE ACCORDING TO ALL THAT THOU HAST COMMANDED ME’ — I HAVE REJOICED AND MADE OTHERS[66] TO REJOICE.

MISHNAH 13. ‘LOOK DOWN FROM THY HOLY HABITATION, FROM HEAVEN’ — WE HAVE DONE WHAT THOU HAST DECREED CONCERNING US, DO THOU ALSO WHAT THOU HAST PROMISED US; ‘LOOK DOWN FROM THY HOLY HABITATION, FROM HEAVEN, AND BLESS THY PEOPLE ISRAEL’ — WITH SONS AND DAUGHTERS; ‘AND THE LAND WHICH THOU HAST GIVEN US’ — WITH DEW AND RAIN AND WITH OFFSPRING OF CATTLE; ‘AS THOU DIDST SWEAR UNTO OUR FATHERS, A LAND THAT FLOWETH WITH MILK AND HONEY’ — THAT THOU MAYEST GRANT A GOOD TASTE IN THE FRUIT.

MISHNAH 14. HENCE[67] IT WAS DEDUCED THAT ISRAELITES AND BASTARDS MAY MAKE THE CONFESSION, BUT NOT PROSELYTES, NOR FREED BONDMEN, SINCE THEY HAVE NO SHARE IN THE LAND. R. MEIR SAYS: NEITHER MAY PRIESTS AND LEVITES SINCE THEY DID NOT RECEIVE A SHARE IN THE LAND. R. JOSE SAYS: THEY HAVE THE CITIES WITH SUBURBS.[68]

MISHNAH 15. JOHANAN[69] THE HIGH PRIEST[70] SET ASIDE THE CONFESSION OF THE TITHES.[71] HE ALSO ABOLISHED THE ‘WAKERS’[72] AND THE ‘STRIKERS’.[73] UNTIL HIS

DAYS THE HAMMER USED TO BEAT IN JERUSALEM.[74] AND IN HIS DAYS ONE HAD NO NEED TO ENQUIRE CONCERNING DEMAI.[75]

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(1) The same applies also to a single vine or other fruit tree.

(2) Cf. Lev. XIX, 24. The Fruit of the fourth year since the tree was planted was considered like Second Tithe. It had to be consumed in Jerusalem, or redeemed and its value spent in Jerusalem.

(3) As a sign that its fruit must not be picked and eaten.

(4) ‘Uncircumcision’, Lev. XIX, 23.

(5) To mark them as a place of impurity, cf. Shek I, 1; M.K. I, 2.

(6) On the grave.

(7) The marking of forbidden fruit.

(8) The sabbatical year when all produce was ownerless and free to everybody; cf. Lev. XXV, 6. But in other years no marking was needed because strangers who were scrupulous about the observance of religious laws would not in any case eat of fruit which was private property.

(9) Who were eager to prevent the commission of a religious transgression through their fruit. Lit., ‘the modest’. v. Kil'ayim, IX, 5.

(10) The fruit itself, and not its redemption money, in order to enrich the Holy City with an abundance of fruit.

(11) V. Bez. 5a, R.H. 31b.

(12) And there was a superfluity of fruit in Jerusalem.

(13) Of Jerusalem.

(14) That no redemption of such fruit should be allowed within a day's journey from Jerusalem. When Jerusalem was in the hand of the enemy there was no eagerness to increase the supply of fruit in Jerusalem, and it was therefore permitted to redeem all such fruit from outside Jerusalem, even within a day's journey from the city.

(15) Cf. Pe'ah. VII, 6; ‘Ed. IV, 5.

(16) The same applies also to a single fruit tree; cf. note I, p. 305.

(17) Like Second Tithe; cf. IV, 3, n. 5.

(18) Like Second Tithe; cf. infra Mishnah 6.

(19) Like common fruit; cf. Lev. XIX, 10; Pe'ah VII, 3-4.

(20) If they will not take up their gleanings to Jerusalem.

(21) The whole crop, including defective cluster and gleanings.

(22) As the property of the owner, who must take up to Jerusalem either itself or its redemption money.

(23) Who are expert valuers of fruit.

(24) I.e., to buy it on the tree.

(25) The cost of guarding, hoeing, picking etc.

(26) Thus reducing the value of the fruit by the amount of this outlay.

(27) As fixed by the valuers in reply to his inquiry.

(28) When there is no work on the soil, nor guarding of produce in the field; Lev. XXV, 4.

(29) And without having to value by experts the cost involved by the fruit on the tree until it is gathered.

(30) In years other than the seventh year.

(31) He must redeem it at its full value minus the cost of picking it.

(32) In accordance with the opinion of Beth Hillel in Mishnah 3.

(33) Cf. Deut. XIV, 28: ‘At the end of every three years’. i.e., at the end of each period of three years, viz., the fourth and the seventh years; cf. also Deut. XXVI, 12.

(34) בִעוּר , derived from the verb בִעַרְתִּי, Deut. XXVI. 13; cf. infra 10. All the dues on the produce which had not been paid in the previous three years had to be removed from the house and given to those who had a right to receive them.

(35) Of the First, or Levitical, Tithe; cf. Num. XVIII, 26ff.

(36) Viz., the priests.

(37) The Levites; cf. Mishnah 10.

(38) The poor.

(39) Of the previous three years were removed and destroyed.

(40) They originally belonged to the priests.

(41) Containing produce subject to removal.

(42) Such produce is absorbed and neutralized by the broth.

(43) After the destruction of the Temple.

(44) And destroy the money.

(45) Since neither itself nor its value in money can nowadays be consumed in Jerusalem; therefore it should just be destroyed.

(46) By distributing its dues in the manner prescribed by the law.

(47) As laid down in Ma'as. I, 2ff.

(48) When the season for removal arrived.

(49) And this is considered as if the tithes were already given away.

(50) At the season of removal.

(51) Who was a Levite.

(52) That this place may secure for him the ownership of the tithe.

(53) Who was a guardian of the poor.

(54) The heave.offering of the Levitical tithe.

(55) Who was a priest.

(56) For the lease of the respective places.

(57) The declaration as given in Deut. XXVI, 13ff.

(58) Here follows a running commentary on the verses of the confession after the Midrashic method of exposition of the Torah. Cf. also Sifre, Deut., ad loc.

(59) The particle וגם , ‘and also’, implies something more than the explicit words of the text.

(60) One may make the confession even if these had not been given to the poor.

(61) Which was given from the home; cf. Num. XV, 20.

(62) All of which acts would have rendered the tithing invalid; cf. Ter. I, 5; II, 4.

(63) To pronounce the prescribed benediction prior to setting apart these dues.

(64) אנינות , the interval between the death and the end of the day on which the deceased was buried.

(65) The Temple. Cf. Deut. XII, 5.

(66) The poor and the unprotected; cf. Deut. XXVI, 11; XII, 12.

(67) From the expression ‘the land which thou hast given us’.

(68) Cf. Num. XXXV, 2 ff.

(69) Cf. Sot. IX, 10.

(70) John Hyrcanus, 135 — 104 B.C.E. The rendering and explanation of this ancient Mishnah are uncertain. The interpretation given here follows the explanations found in Tosef Sot. XIII, 9 — 10; T.J. Ma'as Sh. ad loc., and Sot. l.c.; V. Sot. 47b, 48a and notes a.l. in Sonc. ed.

(71) Because Ezra had enacted that the First Tithe should be given to the priests, not to the Levites, as a punishment for the refusal of the Levites to return from Babylon; cf. Ezra VIII, 15. Therefore one could not truthfully declare in confession, ‘I have given it to the Levite’.

(72) The singing by the Levites in the temple of the verse ‘Awake, why sleepest thou, O Lord?’ (Ps. XLIV, 24), because it sounded like blasphemy.

(73) Those who used to strike the animal between its horns before slaughtering it for a sacrifice, in order to stun it. This appeared like causing a blemish in the sacrifice.

(74) Workmen's hammers on the middle days of Passover and the Feast of Tabernacles. Johanan abolished work on these semi-sacred days.

(75) Whether the original owner had tithed it. Johanan ordered that all demai produce of an ‘am ha-arez must be tithed by the new owners; cf. Demai, introd.

Mishna - Mas. Hallah Chapter 1

MISHNAH 1. FIVE SPECIES [OF CEREALS] ARE SUBJECT TO [THE LAW OF] HALLAH.[1] WHEAT, BARLEY, SPELT, OATS AND RYE.[2] THESE ARE SUBJECT TO HALLAH, AND [SMALL QUANTITIES OF DOUGH MADE OF THE DIFFERENT SPECIES] ARE RECKONED TOGETHER ONE WITH ANOTHER [AS ONE QUANTITY][3] AND ARE ALSO SUBJECT TO THE PROHIBITION OF [THE CONSUMPTION OF] ‘NEW’ [PRODUCE][4] PRIOR TO THE OMER,[5] AND TO [THE PROHIBITION OF] REAPING PRIOR TO PASSOVER.[6] IF THEY TOOK ROOT PRIOR TO THE OMER, THE OMER RELEASES THEM;[7] IF NOT, THEY ARE PROHIBITED UNTIL THE NEXT OMER HAS COME.

MISHNAH 2. IF ONE HAS EATEN ON THE PASSOVER AN OLIVE-SIZE[8] OF UNLEAVENED BREAD [MADE] OF THESE [CEREALS], HE HAS FULFILLED HIS OBLIGATION;[9] [IF ONE HAS EATEN ON THE PASSOVER] AN OLIVE-SIZE OF LEAVEN [MADE OF THESE CEREALS], HE HAS INCURRED THE PENALTY OF KARETH.[10] IF ONE OF THESE [CEREALS, HAVING BECOME LEAVENED,] HAS BECOME MIXED WITH ANY OTHER SPECIES, ONE TRANSGRESSES THE [LAWS OF] PASSOVER.[11] IF ONE HAS VOWED [TO ABSTAIN] FROM [CONSUMING] BREAD AND TEBU'AH [(CEREAL) PRODUCE].[12] HE IS PROHIBITED FROM CONSUMING THESE [FIVE SPECIES]; THIS IS THE OPINION OF R. MEIR. THE SAGES SAY: IF ONE HAS VOWED [TO ABSTAIN] FROM [CONSUMING] DAGAN [CORN], HE IS PROHIBITED FROM [CONSUMING] THESE [SPECIES] ONLY.[13] THEY ARE SUBJECT TO HALLAH AND TITHES.[14]

MISHNAH 3. THE FOLLOWING ARE SUBJECT TO HALLAH, BUT EXEMPT FROM TITHES: LEKET,[15] SHIKEHAH,[16] PE'AH,[17] AND PRODUCE, OWNERSHIP OF WHICH HAS BEEN WAIVED,[18] AND THE FIRST TITHE[19] OF WHICH TERUMAH [THE PRIEST'S PORTION] HAD BEEN TAKEN OFF,[20] AND THE SECOND TITHE,[21] AND CONSECRATED [PRODUCE][22] WHICH HAVE BEEN REDEEMED, AND THAT WHICH REMAINS OVER FROM THE OMER,[23] AND GRAIN WHICH HAS NOT GROWN ONE-THIRD [RIPE].[24] R. ELIEZER SAID: GRAIN WHICH HAS NOT GROWN ONE-THIRD [RIPE] IS EXEMPT [ALSO] FROM HALLAH.[25]

MISHNAH 4. THE FOLLOWING ARE SUBJECT TO TITHES, BUT EXEMPT FROM HALLAH: RICE, MILLET, POPPY-SEED, SESAMUM, PULSE,[26] AND LESS THAN FIVE-FOURTHS [OF A KAB] OF [THE FIVE KINDS OF] GRAIN,[27] SPONGE-BISCUITS, HONEYCAKES,[28] DUMPLINGS,[29] CAKE [COOKED] IN A PAN[30] AND MEDUMMA’[31] ARE EXEMPT FROM HALLAH.

MISHNAH 5. DOUGH WHICH WAS ORIGINALLY [INTENDED FOR] FANCY-BAKING,[32] AND FINALLY [COOKED AS] FANCY-BAKING, IS EXEMPT FROM HALLAH.[33] [IF IT WAS] ORIGINALLY [ORDINARY] DOUGH, BUT FINALLY [COOKED AS] FANCY-BAKING, [OR IF IT WAS] ORIGINALLY [INTENDED FOR] FANCY-BAKING, BUT FINALLY [COOKED AS ORDINARY] DOUGH, IT IS SUBJECT TO HALLAH; SIMILARLY ARE RUSKS[34] SUBJECT [TO HALLAH].[35]

MISHNAH 6. THE [FLOUR-PASTE CALLED] ME'ISAH[36] BETH SHAMMAI DECLARE EXEMPT [FROM], BUT BETH HILLEL DECLARE SUBJECT [TO HALLAH].[37] THE [FLOUR-PASTE CALLED] HALITA[38] BETH SHAMMAI DECLARE SUBJECT [TO], AND BETH HILLEL DECLARE EXEMPT [FROM HALLAH].[39] AS FOR THE LOAVES OF THE THANKSGIVING SACRIFICE[40] AND THE WAFERS OF A NAZIRITE,[41] — IF ONE MADE THEM FOR ONESELF, THEY ARE EXEMPT [FROM HALLAH].[42] [IF ONE MADE THEM] TO SELL IN THE MARKET,[43] THEY ARE SUBJECT [TO HALLAH].

MISHNAH 7. IF A BAKER MADE DOUGH FOR DISTRIBUTING,[44] IT IS SUBJECT TO HALLAH.[45] IF WOMEN GAVE [FLOUR][46] TO A BAKER TO MAKE FOR THEM DOUGH,[47] — AND IF THERE IS NOT IN THAT WHICH BELONGS TO [ANY] ONE OF THEM THE [MINIMUM] MEASURE,[48] IT[49] IS EXEMPT FROM HALLAH.[50]

MISHNAH 8. DOUGH FOR DOGS,[51] AS LONG AS [IT IS SUCH AS] SHEPHERDS PARTAKE THEREOF,[52] IS SUBJECT TO HALLAH;[53] AND ONE MAY MAKE AN ‘ERUB[54] THEREWITH,[55] AND EFFECT A SHITTUF[56] THEREWITH;[55] AND ONE SHOULD SAY THE BLESSINGS FOR [BEFORE[57] AND AFTER[58] EATING] IT, AND ONE SHOULD SAY THE INTRODUCTORY FORMULA TO A CORPORATE RECITAL OF GRACE AFTER IT;[59] AND IT MAY BE COOKED ON A FESTIVAL,[60] AND A PERSON DISCHARGES THEREWITH ONE'S OBLIGATION ON THE PASSOVER;[61] BUT IF [THE DOUGH BE SUCH AS] SHEPHERDS DO NOT PARTAKE THEREOF[62] IT IS NOT SUBJECT TO HALLAH;[63] NOR MAY ONE MAKE AN ‘ERUB THEREWITH, NOR EFFECT A SHITTUF THEREWITH; NOR SHOULD ONE SAY THE BLESSINGS FOR [BEFORE[64] AND AFTER][65] IT, NOR SAY THE INTRODUCTORY FORMULA TO A CORPORATE RECITAL OF GRACE AFTER IT;[66] NOR MAY IT BE COOKED ON A FESTIVAL; NOR DOES A PERSON DISCHARGE THEREWITH ONE'S OBLIGATION ON THE PASSOVER. IN EITHER CASE IT IS SUSCEPTIBLE TO RITUAL DEFILEMENT AFFECTING FOODSTUFFS.[67]

MISHNAH 9. IN THE CASE OF HALLAH AND TERUMAH; ONE IS LIABLE, ON ACCOUNT OF [HAVING EATEN] THEM, TO DEATH,[68] OR[69] TO [REPAY] ‘ONE-FIFTH’;[70] AND THEY ARE FORBIDDEN [AS FOOD] TO ‘STRANGERS’,[71] THEY ARE THE PROPERTY OF THE PRIEST;[72] THEY ARE VOID [IF ONE PART OF EITHER IS MIXED] WITHIN ONE-HUNDRED-AND-ONE [PARTS, THE REST BEING NON-SACRED DOUGH OR PRODUCE];[73] THEY REQUIRE WASHING OF ONE'S HANDS,[74] AND [WAITING UNTIL] THE SETTING OF THE SUN [PRIOR TO EATING THEM];[75] THEY MAY NOT BE TAKEN OFF A CLEAN [LOT][76] FOR [DISCHARGING THE OBLIGATION[77] IN RESPECT ALSO OF] AN UNCLEAN [LOT],[78] AND [ARE NOT TAKEN OFF ONE LOT IN RESPECT ALSO OF ANY OTHER LOT][79] EXCEPT OF SUCH [LOTS] AS ARE CLOSE TOGETHER,[80] AND FROM SUCH AS ARE [IN A] FINISHED [STATE].[81] IF ONE SAID: ALL MY THRESHING-FLOOR IS TERUMAH, OR ALL MY DOUGH IS HALLAH, HE HAS NOT SAID ANYTHING, UNLESS HE HAS LEFT SOME OVER.[82]

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(1) The law relating to the portion of dough assigned to the priests in accordance with Num. XV, 17-21, . . . When ye eat the bread of the land . . . of the first of your dough ye shall set apart a cake (hallah) for a gift . . .. Of the first of your dough ye shall give unto the Lord a portion for a gift throughout your generations.

(2) V. Kil. I, notes. These species are held to be subject to Hallah because the word לחם (bread) is used here and also in connection with Passover, ‘bread of affliction’, Deut. XVI, 3. The argument, by gezerah shawah (v. Glos.) is: Since, in the case of Passover, לחם obviously implies a cereal capable of becoming leavened, so too does the capacity for leavening determine the liability of produce to hallah.

(3) Amounting to the minimum subject to hallah. It is only when all of these are mixed together in the flour, or if after having been kneaded separately, they are kneaded together, that this rule applies unconditionally. If, however, the doughs (each less than the minimum) were kneaded out of various species and later they stuck together (v. infra II. 4) their being deemed as forming one quantity liable to hallah depends on which particular species have been used (v. note ibid).

(4) V. Lev. XXIII, 14.

(5) ‘This selfsame day’ (ibid.) refers to the day on which the Omer was brought to the Temple. viz., the second day of Passover.

(6) V. ibid. v. 10ff. The expression ‘The sheaf (Omer) of the first of your harvest’, is taken to imply that the reaping of the Omer must be the first reaping, and that, therefore, there must be no reaping prior thereto, i.e., before Passover. The analogy between liability to hallah and liability to Hadash (the law relating to ‘new’ sc. produce) is based — by gezerah shawah — on the use of the term ראשית ‘first’ in the case of hallah (the first of your dough) as well as in the case of new produce (the first of your harvest).

(7) For harvesting.

(8) The statutory minimum in matters of this kind.

(9) Only species which are liable to leaven can, when deliberately prevented from doing so, serve for unleavened bread for Passover.

(10) ‘Cutting off’, ‘excision’; a punishment by the hand of God as distinct from one by that of man; v. Ex. XII, 19: For whosoever eateth that which is leavened, that soul shall be cut off from the Congregation of Israel.

(11) If he keeps the mixture in his possession during the festival; v. Ibid. XII, 19; XIII. 7.

(12) A term which, in the opinion of all, denotes only the five species enumerated in Mishnah I.

(13) because they considered Tebu'ah and Dagan synonymous whereas H. Meir — who was at one with the Sages with regard to the word Tebu'ah — considered Dagan a more comprehensive term including also all seed- and pulse-foods and held that a man using that term in his vow debarred himself not only from the five species but also from seed- and pulse-foods.

(14) There are also other species subject to tithes, but the species so far enumerated are subject to both tithes and hallah. The Mishnah proceeds to specify categories which are subject to hallah but not to tithes, and vice-versa.

(15) Gleanings, v. Lev. XIX, 9.

(16) The Forgotten, sc. Sheaf. Deut. XXIV, 19.

(17) The Corner, sc. of the field. Lev. XIX, 9.

(18) Such waiving of ownership is termed hefker. It is only when the owner declared the produce hefker before smoothing the pile of grain that it is exempt from tithing. The Levites were entitled to tithes from commodities belonging to Israelites, in which the former, on account of being Levites, had no share (deduced from Deut. XIV, 29, v. T.J.); but since the Levites were included among those entitled to help themselves to the produce coming under the categories named (v. Deut. ibid.). the latter were not subject to being tithed for the benefit of the Levites.

(19) Assigned to the Levites.

(20) The terumah which the Levite had to give, a tithe out of the tithe received by him from the Israelite, to the Priests. In Ter. I, 5, a marginal reading is ‘of which terumah had not been taken’, meaning the terumah gedolah due from the Israelite to the Priest, The case contemplated in our reading is, according to T.J., one in which a Levite took his tithe from an Israelite whilst the grain was still in ears, and before the ordinary terumah had been taken off. In that event a Levite is bound to give thereof only his terumah (a tithe from the tithe he received) to the priest, but he is not expected to give to the priest anything on account of the terumah which would have accrued to the latter from the Israelite if the Levite had not claimed his tithe so soon. It might have been thought that as the Levite's portion in such a case contained something that might be regarded as due to the priest, it would, for that reason, be exempt from hallah; the Mishnah therefore makes it clear that it is subject thereto.

(21) Which at the end of the agricultural year was to be taken to Jerusalem and consumed there. In the event of inconvenience through distance, it was to be redeemed and the money spent in Jerusalem on food, drink and anointing oneself, in which case (v. Lev. XXVII, 31) the proceeds of the redemption were to be increased by an amount equal to one-fifth of the eventual sum total, i.e., by one-fourth of the money-value of the tithe. The Mishnah here intimates that in the event of the second tithe having been separated whilst the corn was in a state when it was not liable to terumah or tithes (viz., when still in ear, v. T. J. and L.) it is exempt from the (first) tithe even after redemption, cf. Terumah I, 5. Such redeemed second tithe is, however, subject to hallah, because the latter is to be taken from the dough, and at the time of kneading the produce is already hullin (non-sacred).

(22) Being Temple property, technically termed hekdesh. V. Lev. XXVII, 11-27; cf. infra III, 3.

(23) In the Omer they offered up one-tenth of an ephah taken from flour made from three se'ah of barley; the remainder of the flour (spoken of here) was redeemed and could thereafter be eaten by anybody, and was therefore subject to hallah. It is, on the other hand, exempt from tithes, because at the material time, i.e., ‘when the pile was made even’ it was Temple property and thus exempt from tithes.

(24) T.J. deduces this exemption from Deut. XIV, 22, Thou shalt surely tithe the produce of thy sowing, the argument being: If the sowing has been productive it is to be tithed, if it has not been productive (and if it has resulted in a crop less than one-third ripe it cannot be said to have been productive) it does not require to be tithed. To hallah, however, it is subject because even when only one-third ripe it is capable of leavening (v. supra I, n. 2).

(25) This view is based on Num. XV, 20, where with reference to hallah it is said: As that which is set apart (terumah) of the threshing-floor so shall ye set it (i.e., hallah) apart, from which R. Eliezer deduces that whatever applies to terumah applies equally to hallah and, therefore, that just as a grain which has not grown one-third ripe is exempt from terumah and tithes it is likewise exempt from hallah.

(26) These are liable to tithes as produce, but not being capable of leavening, are not subject to hallah (v. supra I, n. 2). There are other species of produce which do not leaven, but these are particularized because they were often milled into flour and made into dough.

(27) The statutory minimum amount subject to hallah, as laid down infra II, 6; somewhat over 3 1/2 lbs. V. ‘Ed. I, 2 and notes (Sonc. ed.) p. 2.

(28) T.J. renders ‘honey-milk (cake)’. v. Simponte a.l. Cake made of ordinary dough cooked in honey. According to some, also is made of dough kneaded with honey, it is exempt from hallah, but v. infra p. 328. n. 1.

(29) אסקריטין Jast. ‘dumpling’. B. here and Rashi (to Pes. 37a) ‘something made of a very soft (light) dough’. T.J. (p. 57) renders Halita, ‘sold in the open market’. Halita, according to Pes. 37b (explaining the terms of Hallah I, 5), is dough made by pouring boiling water on flour, but according to R. Ishmael b. Jose (T.J.) it is flour poured into hot water. Aruch identifies the term with the Latin crustulum, ‘small cake’. For other possible etymologies v. Kohut in Aruch Completum s.v.

(30) A cake or loaf prepared in a משרת pan (rather in a manner of frying) and not in an oven, and it is only something baked inside an oven and also styled bread (לחם) which is liable to hallah. T.J. renders halita, of water v. preceding note. Maim. emphasizes that the point about these four preparations is that from the very beginning they are kneaded with oil, or honey, or spices and are cooked in unusual ways, and are, in fact, designated not as bread but are named after the various admixtures which give them their distinctive character.

(31) I.e., produce or (as here) dough to which originally no holiness attached, but which by accidentally receiving an admixture of terumah of a quantity more than one-hundredth part of the original amount, becomes thereby prohibited to non-priests and permitted only to priests and is, therefore, not liable to hallah. Tosaf Yom-Tob and other commentators say that here the Mishnah has in mind post-Temple days, for the following reason: In Temple times hallah is a biblical precept, but medumma’ is a Rabbinic institution (in purely Biblical law the admixture of terumah of a lesser quantity than the original amount of non-sacred produce is considered as neutralized, ‘lost’ and ritually of none effect, so that the whole mixed quantity would, in such a case, be non-sacred, hullin, and subject to hallah), and a remission resulting from the application of a Rabbinic ordinance cannot cancel a duty imposed by Scriptural command. In non-Temple times, however, when hallah, too, is only on Rabbinic authority, it can be, and is over-ridden by the Rabbinic regulation of medumma’.

(32) סופגנין ,the word translated ‘sponge-biscuits’ in Mishnah 4, but used here for all fancy-baking, various kinds of which are enumerated there.

(33) This is explanatory of Mishnah 4.

(34) הקנובקאות , explained by Maim, and others as brittle cakes of parched flour kneaded with oil, which after having been baked, are crushed and prepared as gruel for very young children, v. Jast. For possible etymologies v. Aruch Completum.

(35) R. Joshua b. Levi (T.J. Hallah 58a) explains: Since these are to be crushed back into flour, it might have been thought that they are exempt from hallah, the Mishnah had, therefore, to make it clear that this is not the case.

(36) Made by pouring hot water on flour.

(37) Cf. ‘Ed. V, 2 where this is mentioned as one of six exceptional instances in which Beth Hillel hold the stringent, and Beth Shammai the lenient view.

(38) Made by pouring flour into hot water (v. Mish. 4, n. 6).

(39) For the purposes of practical law the difference between me'isah and halita does not matter. The relevant difference between the two statements is that whilst the first-reported Tanna held that in this instance Beth Hillel were stringent and Beth Shammai the lenient, the latter Tanna held that the reverse was the case. The final state of the law with regard to any variety of plain dough is that if cooked inside an oven (i.e., baked), it is subject to hallah, but if cooked in a pan over a flame that passes underneath it, it is exempt.

(40) V Lev. VII, 22ff.

(41) Forming part of the sacrifice brought by a Nazirite when the period for which he vowed self-consecration is completed. Num. VI, 15. In fact, both loaves and wafers were required in either case.

(42) Being intended for the offering the dough was thus consecrated ab initio.

(43) But, naturally, with the intention of making ordinary use of them should there be no buyers requiring them for sacrificial purposes; thus at the material time (viz., of kneading) these loaves or wafers were not consecrated.

(44) In portions every one of which is less than the minimum liable to hallah.

(45) Because it is obviously his intention, in the event of there being no customers, to bake it all himself,

(46) But not money. v. Yoreh De'ah, 326, 3.

(47) And he, without their knowledge, kneaded all the flour together.

(48) Liable to hallah, viz., 1 1/4 kab, v. supra Mish. 4.

(49) I.e., the whole dough.

(50) Though the dough as a whole is now large enough to be subject to hallah; for the reason that it is taken for granted that those who gave their flour to the baker were ‘particular’ that their several quantities of flour be kneaded separately.
— The Mishnah here speaks of women, because it is, as a rule, they who attend to a matter of this kind.

(51) I.e., for baking bread or biscuits for dogs. It consisted of flour and coarse bran (T.J.).

(52) When it contains rather less bran.

(53) The law of hallah is introduced (Num. XV, 19), And it shall come to pass when ye eat of the bread . . . . Since this dough (when baked) is fit for human food, it is liable to hallah.

(54) Lit., ‘a merging’ of rights, interests or privileges; the legal device whereby permission is contrived for (a) carrying on the Sabbath from a private to a public domain, and vice-versa (v. Shabb. 6a), known as ‘The ‘Erub of Courtyards’, for (b) walking on the Sabbath more than the Sabbath limit (2000 cubits) outside a town, known as ‘The ‘Erub of Boundaries’, and for (c) cooking food on a festival for the following day, if a Sabbath, known as ‘The ‘Erub of Cooked Foods’ (Bezah II, 1). In (a), the food, contributed to by all the participants and kept in a place accessible to all of them, creates and represents a community of possession, constituting the area concerned a private domain ad hoc; in (b),the placing of food at the Sabbath boundary is presumed to constitute, for those having and deemed as having, a share in that food, a ‘dwelling-place’ which serves as a starting-point for a further Sabbath-limit of 2000 cubits; in (c), the setting aside of food cooked on the day prior to the festival, and leaving it till the end of the Sabbath is presumed to have the effect of rendering the cooking on the festival day (originally permitted in the Bible, Ex. XII, 16 for that day only) merely a continuation of the cooking in preparation for the Sabbath which had been commenced on the week-day prior to the festival.

(55) For the above purposes human food is obviously essential,

(56) Lit., ‘a partnership’; the full form is ‘a partnership in an alley or street’, presumed to create ‘a private domain’, and conferring the right to carry on the Sabbath between a number of courtyards and an alley into which these open. ‘Shittuf’ is similar in significance to ‘Erub.

(57) Viz., ‘Who bringest forth bread from the earth’, the benediction for bread.

(58) ברכת המזון. The full form of Grace after Meals said only if bread was part of the meal, v. Ber. 44a.

(59) When three or more adults have partaken of a common major meal (i.e.. one of which bread formed part) a special formula (termed ‘summoning’) is pronounced by one of them, calling on his companions to join in Grace. V. Ber. 45a.

(60) The law prohibiting work on festivals is qualified thus: No manner of work shall be done in them, save that which every man may eat (Ex.. XII, 16). The word rendered ‘by you’, viz., לכם. is capable of being translated ‘for yourselves’, from which the Rabbis infer that only food fit for human beings is permitted to be cooked on a festival.

(61) Sc. to eat unleavened bread on the first night of Passover. Only that which is capable of leavening is (if fit for human food) subject to hallah, and is also (if deliberately prevented from leavening) usable for unleavened bread (v. supra I, 1, n. 2, 2, n. 3). In the course of mixing this dough it was intended that it should be eatable by human beings; it is therefore subject to the same laws as all dough meant for human consumption.

(62) On account of there being too much bran in the mixture.

(63) Because hallah is due only from ‘your dough’ (Num. XV, 20) i.e. , dough fit for human consumption (Sifre Zutta).
— According to Tosef. Hal. I and T.J. 58a this rule obtains only if the ‘dog's dough’ was baked in the shape of boards, i.e., quite unlike bread for human consumption, but not if baked in the shape of ככרין ‘round cakes’ (so Tosef. ed. Wilna. Jast reads there כעכין which he renders ‘prongs’, also in T.J. where some texts have כעבין) V. Yoreh De'ah 310, 9. In Pithehe Teshubah, ad loc., it is pointed out that the latter ruling can be applicable only to the Land of Israel where alone hallah is a Biblical precept (cf. infra IV, 8), and that, even so, the insistence on separating hallah from exclusively ‘dog's dough’ for no other reason than their having been baked in the shape of ordinary loaves, can be attributed only to the principle of ‘appearance to the eyes’, i.e., the desire to avoid even the merest semblance of wrong-doing, in conjunction with the maxim ‘that which the Rabbis have decreed on account of appearances is

prohibited even in the strictest privacy’.

(64) I.e., not ‘Who bringest forth bread from the earth’; the correct blessing in this case is ‘by Whose word all things came into being’, (so L. q.v.).

(65) I.e., not the full grace after meals. The correct one in this case is the shorter grace after food.

(66) I.e., if two of the three forming the (minimum) company at the meal have eaten bread made of ‘dog's dough’. If, however, two ate real bread, and only the third had the other kind (or any which is not considered bread), then the latter man may be reckoned in the company for purposes of zimmun.

(67) According to Lev. XI, 34. All food which may be eaten, that on which water cometh, shall be unclean, when it has come into contact with the carcass of an unclean swarming thing. The Rabbis understood ‘all food that may be eaten’ by anyone, whether man or beast; as long, therefore, as any food is fit for dogs, it is susceptible to ritual uncleanness. Dough, of course, satisfies the condition: ‘That on which water cometh’.

(68) Sc. ‘by the hand of heaven’, Sanh. 83a. This refers to a non-priest who has eaten either hallah or terumah wittingly, though without having been first warned. If he has eaten these after statutory warning, his punishment is ‘stripes’ (v. Ter. VII, 1). This is deduced from Lev. XXII, 9 in conjunction with v. 10 and v. 6, it being understood from the latter that by the ‘holy things’ spoken of throughout the passage, precisely terumah is intended (since only for eating terumah need the priest who had been unclean wait, on the day of his ablution, till sunset). V. Sanh. loc. cit. Hallah is considered as terumah since in Num. XV, 20 the latter term is applied also to the former.

(69) In ease of an unwitting transgressor.

(70) V. Lev. XXII. 14, And if a man eat of the holy thing unwittingly, then he shall put the fifth part thereof unto it and shall give unto the priest the holy thing, i.e its cost. The added sum was to be equal to a fifth of the eventual total paid, i.e., a quarter of the assessed money-value of the consecrated produce or dough eaten. Cf supra 3, n. 4. The principal was to be paid to the priest whose property the terumah or hallah was, and the added sum to any priest.

(71) I.e., non-priests, non-Aaronides. Though this prohibition is already understood from the provisions preceding it in this Mishnah, its re-statement in positive form is not superfluous — as some authorities thought it to be — but is required to establish the fact that the prohibition is against non-priests consuming even less than the minimum quantity for which they are punishable.

(72) He may sell it, or acquire with it anything he wishes; if it should become unclean, he may use it as fuel over which to do cooking for himself.

(73) If the non-sacred is more than a hundred times the sacred (terumah or hallah), the non-sacred character of the mixture is in no wise affected; if the proportion of non-sacred to sacred is less than 100 to 1, the mixture is medumma’ and prohibited to non-priests (v. supra 4 n. 8).

(74) On the part of the priest, before touching or eating them. If he does not wash his hands specially he renders terumah (even of fruit) or hallah pasul i.e., unfit.

(75) A priest who has become unclean has to undergo ablutions and wait till after sunset before eating terumah (or hallah), Lev. XXII, 6-7.

(76) Of produce or dough.

(77) Of terumah, hallah or tithes.

(78) Terumah, hallah or tithes may be separated from one lot of produce or dough in a quantity sufficient to cover the terumah-, hallah- or tithe-obligation, also for other lots, but only if all such lots are close together; should one of the lots be unclean, the owner would be afraid to let it be close enough to the others lest the unclean touches the clean and makes the latter, too, unclean. Hence this regulation. Cf, infra IV, 6.

(79) So Maim. and other commentators.

(80) V. n. 5.

(81) Ma'as. I, 2ff, enumerate the stages at which various kinds of produce are considered in a ‘finished’ state, at which they severally become liable to have terumah or tithes separated from them. In the case of dough the time of separating hallah is when it has been rolled (v. infra III, 1).

(82) Terumah and hallah are both to be the ‘first’ of the produce or the dough respectively (Deut. XVIII, 4, Num. XV, 20), which implies that there must be some left over after they have been taken off.

Mishna - Mas. Hallah Chapter 2

MISHNAH 1. PRODUCE [GROWN] OUTSIDE THE LAND,[1] THAT CAME INTO THE LAND

IS SUBJECT TO HALLAH;[2] [IF IT] WENT OUT FROM HERE[3] TO THERE,[4] R. ELIEZER DECLARES [IT] TO BE SUBJECT [THERETO],[5] BUT R. AKIBA DECLARES [IT] TO BE EXEMPT [THEREFROM].[6]

MISHNAH 2. IF EARTH FROM OUTSIDE THE LAND HAS COME TO THE LAND IN A BOAT,[7] [THE PRODUCE GROWN THEREIN] IS SUBJECT TO TITHES AND TO THE [LAW RELATING TO] THE SEVENTH YEAR.[8] SAID R. JUDAH: WHEN [DOES THIS APPLY]? WHEN THE BOAT TOUCHES [THE GROUND].[9] DOUGH WHICH HAS BEEN KNEADED WITH FRUIT-JUICE[10] IS SUBJECT TO HALLAH,[11] AND MAY BE EATEN WITH UNCLEAN HANDS.[12]

MISHNAH 3. A WOMAN MAY SIT AND SEPARATE HER HALLAH[13] [WHILST SHE IS] NAKED,[14] SINCE SHE CAN COVER HERSELF[15] BUT A MAN [MAY] NOT. IF ONE IS NOT ABLE TO MAKE ONE'S DOUGH IN CLEANNESS HE SHOULD MAKE IT [IN SEPARATE] KABS,[16] RATHER THAN MAKE IT IN UNCLEANNESS;[17] BUT R. AKIBA SAYS: LET HIM MAKE IT IN UNCLEANNESS RATHER THAN MAKE IT [IN SEPARATE] KABS, SINCE THE SAME DESIGNATION AS HE GIVES TO THE CLEAN, HE LIKEWISE GIVES TO THE UNCLEAN; THE ONE HE DECLARES HALLAH TO THE NAME,[18] AND THE OTHER HE DECLARES HALLAH TO THE NAME[18] BUT [SEPARATE] KABS HAVE NO PORTION [DEVOTED] TO THE NAME.[19]

MISHNAH 4. IF ONE MAKES HIS DOUGH [IN SEPARATE] KABS,[20] AND THEY TOUCH ONE ANOTHER,[21] THEY ARE EXEMPT FROM HALLAH,[22] UNLESS THEY STICK TOGETHER.[23] R. ELIEZER SAYS: ALSO IF ONE SHOVELS[24] [LOAVES FROM AN OVEN] AND PUTS [THEM] INTO A BASKET,[25] THE BASKET JOINS THEM TOGETHER FOR [THE PURPOSES OF] HALLAH.[26]

MISHNAH 5. IF ONE SEPARATES HIS HALLAH [IN THE STATE OF] FLOUR, IT IS NOT HALLAH,[27] AND IN THE HAND OF A PRIEST IT IS [AS] A THING ROBBED;[28] THE DOUGH ITSELF[29] IS STILL SUBJECT TO HALLAH,[30] AND THE FLOUR,[31] IF THERE BE OF IT THE STATUTORY MINIMUM QUANTITY,[32] IT[33] [ALSO IS] SUBJECT TO HALLAH;[34] AND IT IS PROHIBITED TO NONPRIESTS:[35] [THE LATTER IS] THE OPINION OF R. JOSHUA. THEY TOLD HIM OF AN OCCURRENCE WHEN A SCHOLAR — NONPRIEST — SEIZED IT.[36] SAID HE TO THEM: INDEED, HE DID SOMETHING DAMAGING TO HIMSELF,[37] BUT BENEFITING TO OTHERS.[38]

MISHNAH 6. FIVE-FOURTHS [OF A KAB][39] OF FLOUR[40] ARE SUBJECT TO HALLAH. [IF] THESE[41] INCLUDING THEIR LEAVEN[42] AND THEIR LIGHT BRAN AND THEIR COARSE BRAN [MAKE UP THE] FIVE-FOURTHS, THEY ARE SUBJECT;[43] IF THEIR COARSE BRAN HAD BEEN REMOVED FROM THEM[44] AND RETURNED TO THEM, THEY ARE EXEMPT.[45]

MISHNAH 7. THE [STATUTORY MINIMUM] MEASURE OF HALLAH IS ONE TWENTY-FOURTH [PART OF THE DOUGH].[46] IF ONE MAKES DOUGH FOR ONESELF, OR ONE MAKES IT FOR HIS SON'S BANQUET,[47] IT IS ONE TWENTY-FOURTH. IF A BAKER MAKES TO SELL IN THE MARKET, AND SO [ALSO] IF A WOMAN[48] MAKES TO SELL IN THE MARKET, IT IS ONE FORTY-EIGHTH.[49] IF DOUGH IS RENDERED UNCLEAN EITHER UNWITTINGLY OR BY FORCE,[50] IT IS ONE FORTY-EIGHTH,[51] IF IT WAS RENDERED UNCLEAN DELIBERATELY, IT IS ONE TWENTY-FOURTH, IN ORDER THAT ONE WHO SINS SHALL NOT PROFIT [FROM HIS SIN].[52]

MISHNAH 8. R. ELIEZER SAID: HALLAH MAY BE TAKEN FROM [DOUGH] THAT IS

CLEAN, [IN A QUANTITY SUFFICIENT TO DISCHARGE THE OBLIGATION] IN RESPECT ALSO OF [DOUGH] THAT IS UNCLEAN![53] HOW [MAY THIS BE DONE]? [IF ONE HAS] A CLEAN DOUGH AND AN UNCLEAN DOUGH, HE TAKES SUFFICIENT HALLAH[54] OUT OF A DOUGH, HALLAH WHEREOF HAD NOT YET BEEN TAKEN,[55] AND PUTS [DOUGH] LESS THAN THE SIZE OF AN EGG[56] IN THE MIDDLE,[57] IN ORDER THAT HE MAY TAKE OFF [THE HALLAH] FROM WHAT IS CLOSE TOGETHER;[58] BUT THE SAGES PROHIBIT.[59]

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(1) Sc. of Israel.

(2) Based on Num. XV, 18 ff. When ye come to the land whither I bring you . . . ye shall set apart hallah......which implies that in Palestine dough from grain whether of native or foreign growth is subject to hallah (v. T.J.).

(3) Palestine.

(4) Abroad.

(5) Relying on When ye eat of the bread (i.e., cereal produce) of the land (ibid 19), whether made into dough in the Land or elsewhere (T.J.).

(6) Being of the opinion that the word ‘There’ (in Num. XV, 18, which literally translated is When ye come to the land which I bring you there) has the force of making the law of hallah applicable exclusively to dough kneaded in the Land (T.J.).

(7) Which has an aperture in its bottom, and (as explained by R. Judah) is aground on Palestinian soil, and thus anything grown in the soil in the boat sucks up sustenance from the soil of Palestine.

(8) And to all laws applicable to Palestinian produce (v. Maim.). On the ‘SEVENTH YEAR’ v. Ex. XXIII, 10 and Lev. XXV, 3-7; it is the subject of Tractate Shebi'ith in this Seder.

(9) V. supra n. 1. R. Judah explains what the first reported unnamed Tanna (R. Meir) meant. The term ‘WHEN’ used by R. Judah in the Mishnah introduces, as here, an explanation; in Baraitha it introduces, as a rule, a differing view (v. ‘Ikkar Tosaf. Yom. Tob).

(10) Apparently even without water (v. infra p. 328, n. 1).

(11) There are two considerations that might have led people to assume a contrary ruling. (a) The principle indicated in I, 4 and 5 that any but plain dough, and especially such as had an admixture giving it a special character, is exempt from hallah. (b) If a standard for liquids affecting ritual considerations regarding food were sought, it could be found in the seven liquids (viz., wine, date-honey, blood, water, oil, milk and dew) which when they moisten food render it susceptible to uncleanness (v. p. 325. n. 1). It might have been thought that whichever liquids rendered the flour-paste susceptible to uncleanness, also rendered it subject to hallah, in which case it would have appeared as if only those fruit-juices which had the former effect and are numbered among the seven liquids (viz., wine, date-honey and oil) rendered dough kneaded with them subject to hallah, but that dough kneaded with other fruit-juices is exempt from hallah. Hence the need for the Mishnah to make it clear that dough kneaded with any fruit-juice is liable to hallah. On the other hand, however, according to I, 4 (v. p. 320, n. 5) cake dough prepared with date-honey appears to be exempt from hallah. Thus there seems to be no unexceptionable guidance on the subject of how fruit-juices affect liability to hallah in view of these uncertainties, the dilemma could, in practice, be solved either by separating hallah in such a case, but without reciting the blessing (‘who . . . hast commanded us to separate hallah from the dough’), or by putting that doubtful dough close to dough that is certainly subjected to hallah, and take hallah from the latter for both (cf. supra I, 9). V. Yoreh De'ah, 329, 9 and the commentators ad loc.

(12) This can be the case only if fruit-juices are not considered as moisture rendering food liable to uncleanness, as it is only then that unclean hands will not make the dough (or whatever is baked therefrom) unclean. Incidentally the difficulty arises again in that three of the liquids rendering food susceptible to uncleanness are fruit-juices; but even if we should decide that ‘fruit-juices’ in this Mishnah means ‘fruit-juices except those among the seven liquids’ there should still arise the following dilemma: In non-Temple days hallah is separated (and a blessing recited), but it is not given to a priest to eat because hallah must be eaten only in the levitical purity of the person, which state of purity is virtually nonexistent in non-Temple times (owing to the absence of means of purification). Eo ipso the hand of the person separating the hallah, who too cannot be ritually clean, renders the hallah unclean, and it is for these reasons burnt. Now if it be the case that dough kneaded with fruit-juice is altogether insusceptible to defilement and yet liable to hallah, then since one is debarred from giving the hallah to a priest, the only alternative would be to burn perfectly ‘clean’ hallah, and that is a thing that should not be done. To avoid this dilemma it is strongly recommended by the authorities that those who bake should be sure always to mix into the dough some water or other liquid which renders it susceptible to uncleanness; hallah is then separated (accompanied with the recital of the appropriate blessing) and being through unavoidable conditions unclean is burnt (v. Yoreh De'ah ibid, 10).

(13) Pronouncing the appropriate benediction.

(14) Not withstanding the rule that in the presence of nakedness one is not permitted to utter sacred words (v. Per. 22b).

(15) By sitting with her feet together, so that the labia cannot be seen (Maim). The buttocks do not constitute ‘nakedness’ for the purpose of preventing the uttering of a benediction (v. Ber. 24a).

(16) Less than 1 1/4 kab being exempt from hallah (v. infra Mishnah 6).

(17) Which would result in wittingly defiling sacred matter, viz., hallah.

(18) Reading not בשם but לשם the variant mentioned in the commentators. For שם as The Name of God, v. Yoma III, 8 etc. and Marmorstein The Old Rabbinic Doctrine of God, p. 105.

(19) R. Akiba held that as hallah is given to the priest, whether — when it is clean — to be eaten or — when it is unclean — to be burnt by him as fuel for cooking for himself, it is — in either case — an expression of the Israelite's indebtedness to God, and of use to the priest, and should therefore not be avoided by deliberately kneading one's dough in quantities less than the minimum liable to hallah. R. Akiba's view is not accepted since as ‘they said before R. Akiba: One does not say to a person: "Arise and commit a transgression so that thou mayest create for thyself an opportunity for a meritorious act’’, or ‘’Arise and spoil in order that thou mayest mend’’ (Tosef. Hal. 1, 8).

(20) Every separate piece of dough being thus exempt from hallah.

(21) In the course of baking (Maim.).

(22) But not from terumah, with regard to which, only proximity is required.

(23) Lit., ‘bite [one into another]’, stick together in the oven so that when pulling apart a portion of one loaf is detached by the other. Even so the effectiveness of such coalescence in rendering such loaves liable to hallah, depends on the precise species thus stuck together. V. infra IV, 2.

(24) Singly and separately, and they had not stuck together.

(25) Or any container.

(26) In Pes. 48b, it is discussed whether a flat board having no rim is to be considered as ‘joining together’ small quantities of dough for purposes of hallah, but the matter is left undecided. Later authorities recommend the covering over of all pieces of dough, or loaves, with a cloth, which has the same effect as a basket. (Yoreh De'ah, 325, 1).

(27) Because the commandment is definitely ‘the first of your dough’.

(28) He must give it back to the Israelite, else by retaining it he would cause the latter to believe that he has duly performed the obligation of hallah, and that the dough he makes from the remaining flour is thereby exempt and permitted to be eaten, which is not the case (v. Kid. 46b).

(29) Made from the remaining flour.

(30) V. supra n. 7.

(31) Erroneously separated as hallah.

(32) 1 1/4 kab, or an Omer. v. infra Mish. 6.

(33) When made into dough.

(34) According to Maim. this liability is not a definite one.

(35) Lit., ‘strangers’. This prohibition has, according to Rash and Asheri, no positive basis and is enacted only in view of the possibility of people seeing a non-priest eating something that had already been given to a priest, and thinking that the non-priest is committing the sin of partaking of consecrated food.

(36) קפשה the verb is, according to Maim. a cognate of כבש . Maim. appears to say that the word occurs often, and Emden (Glosses in Wilna Talmud) says. I know no place where it occurs except Lam. III, 16 (where the root is כפש). Maim. evidently thought of the frequent occurrence of כבש. The assumption, in T.J., is that this lay scholar not only seized the flour but also ate it, and thus demonstrated a view opposed to that of R. Joshua. L. assumed that the scholar, before eating the flour, had separated hallah from the flour, or that the latter was less in quantity than the statutory minimum and, of course, exempt from hallah.

(37) Since he is punished (T.J.).

(38) In that ‘They eat and rely on him’ (T.J.) which B. and L. and the codes apparently assume to mean that non-priests will be glad to partake of such flour and escape punishment by referring to a authoritative personal example. This interpretation was evidently felt to be, and indeed it is, strained and unsatisfactory; witness that some read the reverse (v. T.J.) viz., ‘he did something that is benefiting to himself, but damaging to others’ which is explained (ibid.), ‘he benefited himself since — anyway — he ate it, but did a disservice to others who will think that what he has eaten is exempt from hallah, whereas it is subject.

(39) 1 1/4 of this measure, as standardized in Sepphoris, was equivalent to an Omer which in the wilderness was the standard measure of food per person per day (Ex. XVI, 16); v. supra I, 4.

(40) When made into dough.

(41) Quantities of flour.

(42) The leaven (yeast) put into the dough-mixture.

(43) Because such flour, though coarse, is largely used for human food, particularly by the poor.

(44) And less than 1 1/4 kab is, thus, left.

(45) Because whilst it is usual, for the purposes of kneading dough, to sift flour and remove the coarse bran, it is not usual to put it back once it has been removed (T.J.); also, because coarse bran itself is not subject to hallah (Maim.).

(46) The proportions here laid down are not indicated in the Torah, but are ‘a tradition of the Scribes’. T.J. explains that since Scripture says of hallah ‘ye shall give’, the amount handed over as hallah should be sufficiently appreciable to be handed over. From the minimum quantity of dough liable to hallah, viz., 1 1/4 kab (which == about 3 1/2 lbs), one twenty-fourth amounts to 2 to 2 1/2 ounces.

(47) No distinction is made between doughs whether big or small intended for private consumption

(48) This applies equally to a man in similar circumstances, viz., who bakes in a small way at home but for sale. The Mishnah speaks here of a woman because it was as a rule women who engaged in this kind of small baking-business. Again no distinction is made between doughs whether large or small, intended for trading purposes.

(49) T.J. (as corrected according to Tosef Hal. I, 6) explains the reason for varying the proportions: The individual person baking for one's private use is more liberal than the professional baker who bakes to sell and make profit. — In non-Temple times when, owing to the all-prevailing ritual uncleanness (from defilement, direct and indirect, by dead bodies) all hallah is unclean, and cannot be given to priests (even in Palestine, and certainly outside Palestine even in Temple times since there hallah is separated always in deference not to a Scriptural precept, but only to a Rabbinic requirement), just a kazayith ‘the size of an olive’ of dough is taken off and burnt.

(50) Of unavoidable or overpowering circumstances.

(51) The smaller proportion is laid down in this case because the hallah being unclean it may not be eaten and can serve the priest only as fuel (Rash and Bert.); also, because one should not deliberately increase the amount of such holy things as are ab initio and inevitably rendered unclean.

(52) I.e., so that no premium be placed on transgression by way of deliberate defilement of dough for the purpose of evading half of one's obligation in respect of hallah.

(53) Even if each dough is large enough to be itself subject to hallah. The advantage of this procedure is that the full quota of hallah in respect of all the doughs concerned could be eaten by the priest.

(54) I.e., the aggregate amount due from both doughs.

(55) Because it is not permitted to reckon in dough (already) exempt from hallah.

(56) ‘Less than the size of an egg’ is a quantity which even though it may itself become unclean, does nut render other objects unclean by contact (‘Orlah II, 4, end). For the principle that the standard proportion in matters of food rendered unclean by contact with or being in the same vessel as, a dead reptile, is ‘the size of an egg’, v. Yoma 79b-80a.

(57) The commentators amplify: the portion of clean dough already taken off as hallah is placed on the small piece put in the middle — between the two doughs — and lifted off as hallah for all the doughs together. By this method (a) all the dough has had the hallah levy discharged for it; (b) all the hallah is available as food (for the priest); (c) the (bulk of the) clean dough remains clean.

(58) V supra p. 326, n. 5.

(59) The Sages’ ruling is due to the possibility of the two main pieces of dough coming into contact (Bert.) or the middle piece (advocated by R. Eliezer) being the size of an egg (Rashi, Sotah 30b). For a full examination of the possible reasons underlying the difference of opinion between R. Eliezer and the Sages on this point v. Sotah 30a — b.

Mishna - Mas. Hallah Chapter 3

MISHNAH 1. ONE MAY EAT IN A CASUAL MANNER FROM DOUGH BEFORE IT IS ROLLED,[1] IN [THE CASE OF] WHEATEN [FLOUR], OR BEFORE IT IS MIXED INTO A COHESIVE BATTER, IN [THE CASE OF] BARLEY [FLOUR].[2] [ONCE] ONE HAS ROLLED IT

[IN THE CASE OF] WHEATEN [FLOUR], OR ONE HAS MIXED IT INTO A COHESIVE PASTE, IN [THE CASE OF] BARLEY [FLOUR], ONE WHO EATS THEREOF,[3] IS LIABLE TO DEATH.[4] AS SOON AS SHE[5] PUTS IN THE WATER SHE SHOULD LIFT OFF HER HALLAH,[6] PROVIDED ONLY THAT THERE ARE NOT FIVE-FOURTHS [OF A KAB] OF FLOUR[7] THERE.[8]

MISHNAH 2. [IF] THE DOUGH BECAME MEDUMMA’[9] BEFORE SHE HAD ROLLED IT, IT IS EXEMPT [FROM HALLAH].[10] [IF] AFTER SHE HAD ROLLED IT, IT IS SUBJECT [THERETO].[11] [IF] THERE OCCURRED TO HER SOME UNCERTAIN UNCLEANNESS[12] BEFORE SHE HAD ROLLED IT, IT MAY BE COMPLETED[13] IN UNCLEANNESS,[14] [IF] AFTER SHE HAD ROLLED IT, IT SHOULD BE COMPLETED IN CLEANNESS.[15]

MISHNAH 3 . [IF] SHE[16] CONSECRATED[17] HER DOUGH BEFORE ROLLING IT, AND REDEEMED IT,[18] SHE IS BOUND [TO SEPARATE HALLAH];[19] [IF SHE CONSECRATED IT] AFTER ROLLING IT, AND REDEEMED IT, SHE IS [LIKEWISE] BOUND;[20] [BUT IF] SHE CONSECRATED IT BEFORE ROLLING IT, AND THE GIZBAR[21] ROLLED IT, AND AFTER THAT SHE REDEEMED IT, SHE IS EXEMPT, SINCE AT THE TIME OF HER OBLIGATION[22] IT WAS EXEMPT.[23]

MISHNAH 4.[24] SIMILAR THERETO[25] [IS THE FOLLOWING]: [IF] ONE CONSECRATED HIS PRODUCE BEFORE IT REACHED THE STAGE [WHEN IT BECOMES LIABLE] FOR TITHES,[26] AND REDEEMED IT,[27] IT IS SUBJECT [TO TITHES];[28] [IF ONE CONSECRATED IT] AFTER IT HAD REACHED THE STAGE FOR TITHES, AND REDEEMED IT, IT IS [LIKEWISE] SUBJECT;[29] [BUT IF] ONE CONSECRATED IT BEFORE IT WAS ‘COMPLETED’,[30] AND THE GIZBAR ‘COMPLETED’ IT,[31] AND AFTERWARDS [THE OWNER] REDEEMED IT, IT IS EXEMPT, SINCE AT THE TIME OF ITS OBLIGATION IT WAS EXEMPT.[32]

MISHNAH 5. [IF] A NON-ISRAELITE GAVE [FLOUR] TO AN ISRAELITE TO MAKE FOR HIM DOUGH, IT IS EXEMPT FROM HALLAH;[33] IF HE [THE NON-ISRAELITE] GAVE IT TO HIM AS A GIFT, BEFORE ROLLING IT, HE IS LIABLE.[34] [IF] AFTER ROLLING IT, HE IS EXEMPT.[35] [IF] ONE MAKES DOUGH TOGETHER WITH A NON-ISRAELITE, [THEN] IF THERE IS NOT IN [THE PORTION] OF THE ISRAELITE THE [MINIMUM] MEASURE SUBJECT TO HALLAH,[36] IT IS EXEMPT FROM HALLAH.[37]

MISHNAH 6. [IF] ONE BECAME A PROSELYTE AND HAD DOUGH, [THEN IF] IT WAS MADE[38] BEFORE HE BECAME A PROSELYTE, HE IS EXEMPT [FROM HALLAH]. [BUT IF] AFTER HE BECAME A PROSELYTE, HE IS LIABLE. ALSO IF THERE IS A DOUBT,[39] HE IS LIABLE;[40] BUT [A NON-PRIEST WHO HAS UNWITTINGLY EATEN OF SUCH HALLAH] IS NOT LIABLE IN RESPECT THEREOF TO [REFUND AN ADDITIONAL] ‘ONE-FIFTH.[41] R. AKIBA SAID: IT ALL DEPENDS ON THE [TIME OF THE] FORMATION OF THE LIGHT CRUST IN THE OVEN.[42]

MISHNAH 7. [IF] ONE MAKES DOUGH FROM WHEATEN [FLOUR] AND FROM RICE [FLOUR],[43] AND IT HAS A TASTE OF CORN, IT IS SUBJECT TO HALLAH,[44] AND ONE FULFILS THEREWITH ONE'S OBLIGATION ON PASSOVER;[45] BUT IF IT HAS NO TASTE OF CORN, IT IS NOT SUBJECT TO HALLAH, NOR DOES ONE FULFIL THEREWITH ONE'S OBLIGATION ON PASSOVER.

MISHNAH 8. [IF] ONE HAS TAKEN LEAVEN[46] OUT OF DOUGH FROM WHICH HALLAH HAD NOT BEEN TAKEN,[47] AND PUT IT INTO DOUGH FROM WHICH HALLAH HAD BEEN TAKEN,[48] [THEN] IF HE HAS A SUPPLY FROM ANOTHER PLACE,[49] HE [RECKONS IN

WITH IT THE LEAVEN],[50] [AND] TAKES OUT[51] [HALLAH] IN ACCORDANCE WITH THE PRECISE AMOUNT;[52] BUT IF [HE HAS] NOT,[53] HE TAKES OUT ONE [PORTION OF] HALLAH FOR THE WHOLE [DOUGH].[54]

MISHNAH 9. SIMILAR THERETO[55] [IS THE FOLLOWING]: IF OLIVES OF [REGULAR] PICKING[56] BECAME MIXED WITH OLIVES [LEFT OVER] FOR STRIKING-OFF[57] [BY THE NEEDY],[58] OR GRAPES OF [REGULAR] VINTAGE WITH GRAPES [LEFT OVER] FOR GLEANING [BY THE NEEDY],[59] [THEN] IF HE HAS A SUPPLY FROM ANOTHER PLACE[60] HE [RECKONS IN WITH IT THE REGULAR FRUIT CONTAINED IN THE MIXTURE, AND] TAKES OUT[61] [TERUMAH AND TITHES] IN ACCORDANCE WITH THE PRECISE AMOUNT,[62] IF [HE HAS] NOT,[63] HE TAKES OUT TERUMAH AND TERUMAH-OF-THE-TITHE[64] FOR ALL [THE FRUIT][65] , AND [AS FOR] THE REST [OF THE DUES], [HE SEPARATES] THE TITHE AND THE SECOND TITHE[66] IN ACCORDANCE WITH THE PRECISE AMOUNT.[67]

MISHNAH10 . IF ONE TAKES LEAVEN FROM A DOUGH OF WHEATEN [FLOUR][68] AND PUTS [IT] INTO DOUGH OF RICE [FLOUR],[69] [THEN] IF IT HAS THE TASTE OF CORN, IT IS SUBJECT TO HALLAH,[70] [BUT] IF [IT HAS] NOT, IT IS EXEMPT.[70] IF [THAT IS] SO, WITH REGARD TO WHAT[71] THEN DID THEY SAY:[72] '[AN ADMIXTURE OF] TEBEL,[73] HOWEVER LITTLE OF IT[74] THERE BE, RENDERS FOOD PROHIBITED'? [WITH REGARD TO A MIXTURE OF] A SPECIES WITH ITS OWN SPECIES,[75] BUT [WITH REGARD TO A MIXTURE OF A SPECIES] NOT WITH ITS OWN SPECIES,[76] [THE PROHIBITION APPLIES ONLY] WHEN IT [THE TEBEL ADMIXTURE] IMPARTS TASTE.

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(1) I.e., properly kneaded, when it constitutes dough in the sense of the Biblical precept relating to hallah.

(2) Barley flour does not form so firm a dough as wheaten flour, and there is no point in waiting for a perfect dough which cannot be achieved.

(3) Without hallah having been taken from it. in that state it is termed Tebel.

(4) Sc. 'by the hand of Heaven', v. Lev. XXII. 9; cf., supra I, 9.

(5) This provision applies also to a man; but the Mishnah speaks here of a woman since (a) it is women who are usually occupied in baking, cf. supra II, 7, n. 2 and (b) the reason for the regulation which follows is the contingency of a condition more liable to occur with a woman than with a man.

(6) This a Rabbinic precautionary regulation, viz., to take off hallah at the earliest possible moment (even though the stage of liability according to Scriptural requirement has not fully been reached, v. supra n. 1) lest the dough become unclean before there is a chance of separating hallah from the rolled dough. In non-Temple times the point of anticipating possible defilement does not arise, and hallah should be taken off when the dough has been rolled, prior to dividing it up into loaves.

(7) Sc. left entirely unmixed with the water, and as dry flour not yet liable to hallah, being also of an amount large enough to become (when eventually mixed with water) liable thereto. T.J. rules that in these circumstances one may take hallah for the whole of the contents of the mixing vessel by deliberately and explicitly reckoning in the as yet unmixed flour which is in it. — Another reading is 'provided only that there are five-fourths of flour' etc. already mixed with the water.

(8) In the mixing vessel.

(9) V. supra I, 4, n. 8.

(10) For the reason explained ibid.

(11) It had already, through having been rolled, become liable to hallah, and this being a Biblical precept, it cannot be overridden by the Rabbinic regulation of Medumma'.

(12) V. Nid. 5a ff.

(13) Lit., 'done'.

(14) Because in any case the hallah when taken will be unfit for eating owing to the possibility of its being unclean. Further, it is permitted to cause uncleanness to hullin (Sot. 30b) v. Hid. 6b (bottom).

(15) Because hullin which is subject to hallah is like hallah, and the latter, like all terumah (a term also applied to hallah) the cleanness of which is in doubt, must not be made unclean deliberately. Such ‘hallah in suspense’ is not to be eaten, as it may be unclean, nor may it be burnt, as it may be clean; one should wait until it becomes certainly unclean and then burn it (v. Nid. 7a).

(16) V. supra Mishnah I n. 5.

(17) V. Lev. XXVII, 14 and passim.

(18) Also before rolling. On ‘redeeming’ consecrated things. v. Lev. ibid. 15 and passim.

(19) Since at the material time, viz., that of rolling, it was her property (again), cf. supra I, 3.

(20) Since at the material time it was obviously her property.

(21) The Temple store-keeper who received and was in charge of consecrated objects.

(22) I.e., the time of rolling.

(23) Because at that time the dough was not her property, but that of the Sanctuary.

(24) This Mishnah occurs verbatim also in Pe'ah IV, 8. The reason for this repetition is discussed in T.J. Hal. ad loc. and T.J. Pe'ah ad loc.

(25) Lit., ‘as something that goes in [the same way as] it (viz., the preceding case)’, a case that takes the same course, follows the same lines.

(26) The several stages at which different kinds of produce become subject to tithes are particularized in Ma'as. I, 2 — 4.

(27) Also before the tithestage.

(28) Since at the material time it was his property (again).

(29) Since at the material time it was certainly his property.

(30) I.e., brought to the state at which it becomes subject to terumah and tithes. Such ‘completed state’ varies according to the produce, v. ibid. I, 5 ff.

(31) By the appropriate act which brings it to the terumah and tithe stage.

(32) Having been at the time Temple property.

(33) Since it is not the property of an Israelite, and it is only the ‘first of your dough’ which I commanded, Num. XV, 20.

(34) Because at the material time (viz., of rolling) it was the Israelite's property.

(35) Because at the material time, it was not the property of an Israelite.

(36) 1 1/4 kab., v. supra II, 6.

(37) The converse is implied, viz., if the portion belonging to the Israelite is itself sufficiently large to be subject to hallah, the hallah must be given accordingly.

(38) V. supra Mishnah 1, n. 1.

(39) As to whether he was a proselyte at the material time.

(40) Since, however, it is doubtful whether the priest is entitled to it, it may be sold — instead of given — to him.

(41) Lev. XXII, 14 And if a man eat of the holy thing through error, then he shall put the fifth part thereof unto it, and shall give unto the priest the holy thing. On ‘one-fifth’, v. supra I, 9, n. 4. p. 325, In our case, in view of the doubt, he is to separate as a compensatory quantity of dough as great as, but not greater than, he had eaten; because of the doubt too, he is permitted to sell it to the priest. V. preceding note. Cf. Demai I, 2.

(42) R. Akiba differs from the accepted view. From T.J. ad loc. it would appear as if R. Akiba is here confining himself to the case under discussion. Maim., however, basing himself on Sifre to Num. XV, 21 understands R. Akiba as regarding the formation of a light crust in the oven as the statutory stage at which dough, in all cases, becomes liable to hallah.

(43) Which is a species not subject to hallah, v. supra I, 4.

(44) Even if it contains less than the minimum (1 1/4 kab) liable to hallah. L. points out that this ruling applies exclusively in the case of wheat and rice, because of the latter's resemblance to the former; if, however, a species which is subject to hallah has been kneaded with some species which is exempt, then the resultant dough is subject to hallah only if both the following conditions are present: (a) the taste of corn is noticeable, and (b) it contains at least the minimum quantity (1 1/4 kab) of corn, even though the latter be exceeded by the non-liable species present in the mixture.

(45) Cf. supra I, 2.

(46) To be used for leavening another dough; likewise, for the purpose of this Mishnah, dough.

(47) Such dough, or produce, from which the priestly dues had not been separated is known as tebel and may not be eaten.

(48) This latter dough thereby becomes prohibited for eating (v. infra 10, n. 4) until an appropriate portion, such as the

Mishnah proceeds to define, is separated as hallah.

(49) I.e., some dough from which or in respect of which no hallah had yet been taken.

(50) So Tosef.; so as to make up with the leaven the minimum subject to hallah.

(51) From the new supply.

(52) In respect of which no hallah had yet been taken, viz., the tebel leaven put into the dough, and the dough ‘from another place’.

(53) Sc. any other such dough, or flour, to reckon in with the leaven.

(54) Including the leaven and the dough into which it had got mixed. In this case he takes off as hallah the appropriate proportion (1/24th or 1/48th, v. supra II, 7) of the whole dough.

(55) V. supra Mishnah 4, n. 17.

(56) Which are subject to terumah and tithes.

(57) A term suggested by the expression ‘the striking-off of olives’, Isa. XVII, 6, XXIV, 13.

(58) As commanded in Deut. XXIV, 20. When thou beatest thine olive-tree, thou shalt not go over the boughs again; it shall be for the stranger, for the fatherless, and the widow. These olives are exempt from priestly and levitical dues; v. Pe'ah I, 6.

(59) As commanded Deut. ibid. v. 21: When thou gatherest the grapes of thy vineyard, thou shalt not glean after thee; it shall be for the stranger, for the fatherless, and for the widow. These gleanings are exempt from priestly and levitical dues; v. Pe'ah ibid.

(60) I.e., other lots of regular olives and grapes in respect of which terumah or tithes have yet to be taken.

(61) From the new supply.

(62) Viz., of the regular fruit mixed with the gleanings, plus the new supply, in respect of both of which terumah and tithes are still outstanding.

(63) I.e., no new supply.

(64) Otherwise called the ‘tithe of the tithe’, Num. XVIII, 26. I.e., the tithe which a Levite is enjoined to give to the priest out of the tithe which he, the Levite himself, receives from the Israelite (ibid. vv. 21ff). Here it means the amount that would become due for this ‘tithe of the tithe’, if the first tithe were to be taken off the total produce (which, in fact, is not the case; v. note 4) i.e., one-hundredth part of the latter.

(65) I.e., the gleanings together with the admixture of regular fruit which made the whole lot tebel.

(66) The designation given by tradition to the tithe (commanded in Deut. XIV, 22ff) which was itself, or its equivalent in money, to be taken to Jerusalem and there consumed in rejoicing.

(67) I.e supposing the total that had got mixed up was 100 quarters, 50 of regular fruit (still to be tithed etc.), and 50 of gleanings (which do not require to be tithed etc.). In that case the owner is to give 2 quarters (i.e, one-fiftieth of the total) as terumah, and 1 quarter (one-hundredth of the total, v. note 1) as ‘tithe of the tithe’. For the first tithe, however, he is to separate only 5 quarters (one-tenth of the 50 quarters which alone are liable to tithing) and deduct half a quarter in respect of the ‘tithe of the tithe’ (which he had already set aside), thus handing over to the Levite4 1/2 quarters. The ‘second tithe’ he is to take from that which remains (over from the 50 quarters which were liable to tithing (after Simponte). L. explains the procedure thus: He separates terumah, tithe and second tithe from all the produce; from the first tithe lie gives a tithe to the priest as the ‘tithe of the tithe’; but to the Levite he gives only such part of the tithe as is due from the amount that had been originally liable to tithing. The second tithe he also gives as from the bulk amount. — The requirement, here, that terumah and terumah of the tithe be levied upon a larger amount of produce than are the other dues, is attributed to the circumstance that the penalty for infringement of the law of terumah of the tithe is death (‘by the hand of heaven’; cf. I, 9 note 2), and so as to be certain of having fully complied with these precepts, the proportions to be set aside are computed on the maximum amount of produce so ‘taxable’.

(68) Which is subject to hallah and from which hallah is still due.

(69) Which, as such, is not subject to hallah (v. supra I, 4).

(70) In accordance with the principle established in Mishnah 7.

(71) Vocalizing למה .

(72) The Sages, v. ‘Abodah Zara 73b. Halevy, Doroth II, p. 830 says, אמרו (‘they said’) introduces a quotation from the Mishnah in its original form; such passages as ours are additions made at the time of the closing of the Mishnah for the purpose of finally elucidating the point under discussion by correlating all the relevant dicta having a bearing thereon.

(73) Eatables at the stage when they severally become subject to the separation of priestly and levitical dues, but before that separation has been effected, at which stage they may not be eaten.

(74) I.e., of the tebel.

(75) E.g., wheat which is tebel, with other wheat (or like species; v. infra IV, 2) which is not.

(76) E.g., wheat-dough which is tebel, with dough from a grain dissimilar thereto (v. IV, 2) which is exempt (either ab intio or so rendered) from hallah, or with rice dough which is in no circumstances subject to hallah.

Mishna - Mas. Hallah Chapter 4

MISHNAH 1. IF TWO WOMEN[1] MADE [SEPARATE DOUGHS] FROM TWO [SEPARATE] KABS,[2] AND THESE [THE DOUGHS] TOUCHED ONE ANOTHER, [THEN] EVEN IF THEY ARE OF ONE SPECIES, THEY ARE EXEMPT [FROM HALLAH].[3] BUT IF THEY BELONG TO ONE WOMAN, [THEN] IF IT BE [A CASE OF] ONE SPECIES WITH ITS [LIKE] SPECIES, THEY ARE SUBJECT [TO HALLAH].[4] BUT WITH AN UNLIKE SPECIES, THEY ARE EXEMPT.[5]

MISHNAH 2. WHAT IS IT [THAT CONSTITUTES THE CATEGORY OF] A SPECIES WITH ITS [LIKE] SPECIES?[6] WHEAT IS NOT RECKONED TOGETHER WITH ANY [SPECIES][7] OTHER THAN WITH SPELT; BARLEY IS RECKONED TOGETHER WITH ALL [SPECIES] EXCEPT WHEAT. R. JOHANAN B. NURI SAID, THE REST OF THE SPECIES[8] ARE RECKONED TOGETHER ONE WITH ANOTHER.[9]

MISHNAH 3. [IF THERE ARE TWO DOUGHS FROM] TWO [SEPARATE] KABS,[10] AND [DOUGH FROM] A KAB OF RICE,[11] OR [FROM] A KAB OF TERUMAH[12] [LYING] BETWEEN,[13] THEY ARE NOT RECKONED TOGETHER;[14] [IF THERE WAS] A THING [VIZ., DOUGH] FROM WHICH HALLAH HAD BEEN TAKEN[15] [LYING] BETWEEN, THEY ARE RECKONED TOGETHER, SINCE IT[16] HAD ALREADY [ONCE] BEEN SUBJECT TO HALLAH.[17]

MISHNAH 4. [IF DOUGH FROM] A KAB OF 'NEW' [CORN].[18] AND [DOUGH FROM] A KAB OF 'OLD' [CORN][18] STUCK ONE WITH THE OTHER,[19] R.ISHMAEL SAID: LET HIM TAKE [HALLAH] FROM THE MIDDLE,[20] BUT THE SAGES PROHIBIT.[21] IF ONE HAS TAKEN HALLAH FROM [DOUGH MADE OUT OF] ONE KAB, R. AKIBA SAYS: IT IS HALLAH,[22] BUT THE SAGES SAY: IT IS NOT HALLAH.[23]

MISHNAH 5. [IF ONE HAS] TWO [SEPARATE] KABS [OF DOUGH],[24] FROM ONE OF WHICH HALLAH HAD BEEN TAKEN SEPARATELY, AND FROM THE OTHER [TOO,] SEPARATELY, AND HE WENT BACK [TO THEM] AND MADE [OF] THEM ONE DOUGH, R. AKIBA DECLARES IT EXEMPT,[25] BUT THE SAGES DECLARE IT LIABLE.[26] [THUS] IT IS FOUND THAT [THE VERY PROPOSITION[27] GIVING RISE TO] THE STRINGENCY OF THE ONE [RULING][28] IS [THE PROPOSITION THAT GIVES RISE TO] THE LENIENCY OF THE OTHER [RULING].[29]

MISHNAH 6. A MAN MAY TAKE THE REQUISITE AMOUNT FOR HALLAH OUT OF A [CLEAN] DOUGH FROM WHICH HALLAH HAS NOT [PREVIOUSLY] BEEN TAKEN — [HIS PURPOSE BEING] TO EFFECT IT IN CLEANNESS — BY WAY OF GOING ON SEPARATING [HALLAH] THEREFROM IN RESPECT OF [UNCLEAN] DEMAI,[30] UNTIL IT PUTRIFIES, SINCE HALLAH IN RESPECT OF DEMAI MAY BE TAKEN FROM CLEAN [DOUGH] IN RESPECT OF UNCLEAN [DOUGH], AND FROM [ONE DOUGH IN RESPECT OF ANOTHER DOUGH] WHICH IS NOT CLOSE TOGETHER.

MISHNAH 7. IF ISRAELITES WERE TENANTS OF GENTILES IN SYRIA,[31] R. ELIEZER DECLARES THEIR PRODUCE SUBJECT TO TITHES AND TO [THE LAW OF] THE

SEVENTH [YEAR],[32] BUT RABBAN GAMALIEL DECLARES [IT] EXEMPT.[33] RABBAN GAMALIEL SAYS: [ONE IS TO GIVE] TWO HALLAH-PORTIONS IN SYRIA,[34] BUT R. ELIEZER SAYS: [ONLY] ONE HALLAH-PORTION.[35] THEY[36] ADOPTED THE LENIENT RULING OF RABBAN GAMALIEL,[37] AND THE LENIENT RULING OF R. ELIEZER.[38] EVENTUALLY THEY WENT BACK [ON THIS PRACTICE][39] AND INSTITUTED THE PRACTICE IN ACCORDANCE WITH RABBAN GAMALIEL IN BOTH RESPECTS.[40]

MISHNAH 8. RABBAN GAMALIEL SAYS: THERE ARE THREE TERRITORIAL DIVISIONS[41] WITH REGARD TO [LIABILITY TO] HALLAH: FROM THE LAND OF ISRAEL TO KEZIB[42] — ONE HALLAH-PORTION; FROM KEZIB[43] TO AMANAH[44] — TWO HALLAH-PORTIONS: ONE FOR THE FIRE[45] AND ONE FOR THE PRIEST,[46] TO THE ONE FOR THE FIRE THE [RULE OF THE STATUTORY] PROPORTION APPLIES,[47] TO THE ONE FOR THE PRIEST THE [RULE OF THE STATUTORY] PROPORTION DOES NOT APPLY;[48] FROM THE RIVER[42] TO AMANAH AND [THE ZONE] INWARD, TWO HALLAH-PORTIONS: ONE FOR THE FIRE AND ONE FOR THE PRIEST, TO THE ONE [INTENDED] FOR THE FIRE THE [RULE OF THE STATUTORY] PROPORTION DOES NOT APPLY,[49] TO THE ONE [INTENDED] FOR THE PRIEST THE [RULE OF THE STATUTORY] PROPORTION APPLIES,[50] AND [A PRIEST] WHO HAS IMMERSED HIMSELF DURING THE DAY [AND HAS TO WAIT TILL SUNSET FOR HIS PURIFICATION TO BE COM PLETE][51] MAY EAT IT.[52] R. JOSE SAYS: ONE DOES NOT REQUIRE IMMERSION.[53] IT IS FORBIDDEN [AS FOOD] TO MEN WHO HAVE AN ISSUE,[54] TO WOMEN WHO HAVE AN ISSUE, TO WOMEN DURING MENSTRUATION,[55] TO WOMEN AFTER CHILDBIRTH,[56] BUT MAY BE EATEN WITH A ‘STRANGER’ AT THE [SAME] TABLE,[57] AND MAY BE GIVEN TO ANY PRIEST.[58]

MISHNAH 9. THESE, TOO, MAY BE GIVEN TO ANY PRIEST:[59] DEVOTED THINGS,[60] FIRSTLINGS,[61] THE [LAMB SUBSTITUTED AS] RANSOM FOR THE FIRSTLING OF AN ASS,[62] THE SHOULDER, THE TWO CHEEKS AND THE MAW,[63] THE FIRST OF THE FLEECE,[64] OIL [FIT ONLY] FOR BURNING,[65] CONSECRATED FOOD [ORDAINED TO BE CONSUMED WITHIN THE PRECINCTS] OF THE SANCTUARY,[66] AND THE FIRST-RIPE FRUITS.[67] R. JUDAH PROHIBITS IN [THE CASE OF] FIRST-RIPE FRUITS.[68] [AS FOR] HORSEBEANS [SET ASIDE] FOR TERUMAH, R. AKIBA PERMITS,[69] BUT THE SAGES PROHIBIT.[70]

MISHNAH 10. NITTAI [A MAN OF] TEKOA[71] BROUGHT HALLAH-PORTIONS FROM BE-JATTIR,[72] BUT THEY DID NOT ACCEPT [THESE] FROM HIM.[73] THE MEN OF ALEXANDRIA BROUGHT THEIR HALLAH-PORTIONS FROM ALEXANDRIA, BUT THEY DID NOT ACCEPT [THESE] FROM THEM.[73] THE MEN OF MOUNT ZEBOIM[74] BROUGHT THEIR FIRST-RIPE FRUITS PRIOR TO THE FESTIVAL,[75] BUT THEY DID NOT ACCEPT [THESE] FROM THEM, ON ACCOUNT OF THAT WHICH IS WRITTEN IN THE LAW: AND THE FEAST OF THE HARVEST, THE FIRST-FRUITS OF THY LABOURS, WHICH THOU SOWEST IN THE FIELD.[76]

MISHNAH 11. BEN ANTIGONUS[77] BROUGHT UP[78] FIRSTLINGS FROM BABYLON, BUT THEY DID NOT ACCEPT [THESE] FROM HIM.[79] JOSEPH THE PRIEST[80] BROUGHT FIRST-RIPE FRUITS [IN THE FORM] OF WINE AND OIL,[81] BUT THEY DID NOT ACCEPT [THESE] FROM HIM;[82] HE ALSO BROUGHT UP HIS SONS AND MEMBERS OF HIS HOUSEHOLD TO CELEBRATE THE LESSER PASSOVER[83] IN JERUSALEM, BUT THEY TURNED HIM BACK,[84] SO THAT THE THING SHOULD NOT BECOME FIRMLY FIXED AS AN OBLIGATION. ARISTON[85] BROUGHT HIS FIRST-RIPE FRUITS FROM APAMEA[86] AND THEY ACCEPTED [THESE] FROM HIM,[87] BECAUSE THEY SAID,[88] ONE WHO OWNS [LAND] IN SYRIA IS AS ONE WHO OWNS [LAND] IN THE OUTSKIRTS OF JERUSALEM.[89]

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(1) Not necessarily, but most likely to occur with women in the course of their household activities.

(2) One kab is not subject to hallah, in accordance with the view of the School of Hillel (‘Ed. I, 2).

(3) Because as a rule each of the women not only does not contemplate her dough coming into contact with someone else's, but actually objects to it; the two kabs are, therefore, considered as separate (just as their owners deem them to be) despite the fact that by chance they touched or even stuck together.

(4) In circumstances explained supra II, 4.

(5) This exemption applies also in the event of the two doughs being of the same species but otherwise different, e.g., one of coarse and the other of fine flour (T.J.) or one seasoned with saffron and the other not (v. L.).

(6) So that they might combine by contact to make up the requisite minimum (viz., 1 1/4 kab) to be subject to hallah. It should be noted that the considerations envisaged in this Mishnah have reference only to hallah but not to other priestly or levitical dues.

(7) Of the five kinds of grain. v. supra I, 1.

(8) Enumerated supra I, 1.

(9) The question as to which species combine with which to form a minimum subject to hallah, arises only when the doughs touch or stick to one another; if any two or more species (liable to hallah) have mingled, either in the flour or in two kneading, they are without question ‘reckoned together’ (T.J.).

(10) Both of one species which is liable to hallah.

(11) A species not liable to hallah

(12) Which, as a priestly perquisite, is not liable to hallah.

(13) And sticking to the two on either side.

(14) Because the connecting intervening piece of dough, whether it is of rice or terumah, is one not liable to hallah. T.J. explains the necessity for instancing both rice and terumah: (a) if rice only had been mentioned, it might have been thought that just rice is not to be ‘reckoned in’ for the reason that it is a species ab initio not subject to hallah, but that terumah, which is of course of grain, that is in itself liable to hallah, should be reckoned in; (b) if terumah alone had been mentioned it might have been inferred, that just terumah is not ‘reckoned in’ for the reason that an admixture of it to other dough, by making the whole Medumma’ (v. I, 4, n. 8). renders it exempt from hallah, but that rice, an admixture of which to grain does not invariably impair the liability of the dough to hallah (v. III. and 10), might he ‘reckoned in’.

(15) And therefore no longer liable to hallah.

(16) The piece of dough in the middle.

(17) Constituting in this respect a category different from the preceding cases where the dough lying in the middle had never been liable to hallah.

(18) According to Ter. I, 5, it is unavailing to separate terumah from one years corn an amount large enough to cover the requirements for terumah in respect also of either the preceding or the following year's corn. The same rule applies mutatis mutandis to taking hallah.

(19) Lit., ‘hit one with the other’, cf. supra II, 4, n. 2.

(20) Where the two doughs run into one another, thus taking some from each.

(21) The prohibition of the Sages is directed against taking, in these circumstance, just one hallah-portion even if it be out of the place where both doughs coalesce. The fact that the two doughs have stuck together certainly renders them jointly subject to hallah, but since one is of ‘old’ and the other of ‘new’ corn, the statutory proportion (1/24th or 1/48th v. supra II, 7) must be taken separately from each dough.

(22) I.e., if subsequently the kab was increased to 1 1/4 kab, whereby the portion that had erroneously been taken off is deemed as having been only prematurely separated and retroactively made into hallah with all due sanctity attaching thereto.

(23) Since at the time a portion was taken off the dough was, owing to the small amount thereof, not subject to hallah, the separation of the dough portion was gratuitous and entirely without effect on its non-sacred (hullin) status.

(24) I.e., neither is large enough to be subject to hallah.

(25) Since in accordance with the view enunciated in his name in Mishnah 4, the dough-portions taken separately from each of the doughs and, erroneously, but in good faith-intended as hallah, have been validated as such by the subsequent addition of the other dough.

(26) In accordance with their view, contrary to R. Akiba's, in Mishnah 4.

(27) Viz., that of R. Akiba set out supra n. I.

(28) I.e., the stringency which results from the application of R. Akiba's view to the case in Mish. 4, where the owner is thereby deprived of the dough-portions which are, in that view, held to have been consecrated by him as hallah.

(29) I.e., the leniency which is the effect of the application of that same view to the case in our Mishnah, inasmuch as here the owner is thereby exempted from giving away a further portion of dough as hallah.

(30) Ordinarily demai denotes produce with regard to which there is suspicion, inasmuch as it has been obtained from an ‘am ha-arez, that it may not have been properly tithed. Here, according to Maim. it means dough with regard to which there is doubt, for the same reason as above, whether hallah had been separated. Rash and Bert, say it means dough from grain that was demai (in the original sense, viz., in respect of tithes). Such corn presumed to have come from an ‘am ha-arez was unclean and so, too, the dough made from it. L. reviews and criticizes the above interpretations and finally rejects them as untenable. His own interpretation is, that this Mishnah is concerned with dough bought from a Cuthean (Samaritan) and it is uncertain whether the latter has intended the dough for his own consumption (when, in view of known Samaritan religious scruples, he can be trusted to have separated hallah), or for sale (when one cannot assume that the Samaritan had separated hallah, inasmuch as the Samaritan code did not require hallah to be taken from dough intended for sale). Such dough is thus demai (in respect of hallah), and it is this kind of demai that is meant here. Furthermore, a Samaritan's dough is, failing certain knowledge to the contrary, unclean. The dough spoken of first in our Mishnah is also demai, but it is clean, either because the Samaritan had, in the presence of an Israelite, undergone ritual ablution from uncleanness immediately prior to preparing the dough, or because the flour had been mixed not with water but with fruit-juice (which does not render dough capable of contracting uncleanness; cf. supra II, 2, p. 328, n. 1). The position then is this: One dough is clean, the other unclean. In ordinary circumstances it is not permitted to take hallah from clean dough in sufficient quantity to exempt also unclean dough (v. supra I, 9), but because in our case both doughs are demai in respect of hallah, it is permitted to do so, as well as to take hallah from such a dough in sufficient quantity to exempt also other similar doughs without putting them close together.

(31) A geographical term denoting territories outside the boundaries of the Land of Israel (as delimited in Num. XXXIV) which were captured by King David before he completed the conquest of the Land of Israel proper (Jebus i.e. Zion remained in gentile possession till nearly the end of David's reign; v. II Sam. XXIV). It was agreed that these adjacent territories were of lesser sanctity than the Land proper, but there were differences of opinion as to which of the precepts enjoined for the Land of Israel were applicable also to Syria.

(32) Since in his view Syria was like the Land of Israel in these matters. In T.J. it is suggested that the intention of R. Eliezer in imposing this obligation was to ‘fine’ these Israelite tenants in Syria. Rash suggests that the purpose of the proposed fine was to discourage Jews from settling permanently in Syria. The law of the ‘Seventh Year’ is promulgated in Ex. XXIII, 10-11, Lev, XXV, 1 ff and forms the subject of tractate Shebi'ith in our Seder.

(33) Because he held that Syria was like the Land of Israel in regard to tithes etc., only if the land (in Syria) on which the produce was grown was the property of Israelites (v. end of chapter) but not when, as here, the latter were merely tenants.

(34) One portion to burn, because it is unclean (as everywhere outside the Land), and the other to give to a priest so as to prevent the law of hallah from being entirely forgotten (v. infra 9).

(35) Just as in the Land of Israel (v. n. i).

(36) The Jews in Syria.

(37) Exempting the produce of Israelite tenants in Syria from tithes and Shebi'ith.

(38) Demanding from them only one hallah-portion (instead of two as R. Gamaliel).

(39) Because they found that it was considered unworthy, and even wicked, to take advantage of the lenient rulings of two authorities when those rulings arose from opposing principles. The norm was that if you adopt the principle of one authority giving rise to a lenient ruling, you must consistently follow that principle wherever it applies, whether the effect of such application is a leniency or a stringency.

(40) Lit., ‘ways’; i.e., both in the matter of tithes and Shebi'ith (where he is lenient) and in that of hallah (where he is stringent).

(41) Lit.,’lands’.

(42) For these geographical items v. Shebi'ith VI, 1. notes.

(43) That zone was authentic Land of Israel by reason of being within the boundaries mentioned in Num. XXXIV, having been occupied in the first conquest, and also reoccupied by the returned Babylonian exiles under Zerubbabel and Ezra, and therefore indubitably subject to the precepts bound up with the sanctity of the Land.

(44) A zone within the Pentateuchal boundaries of the Land of Israel and therefore originally holy; but since it had not been reoccupied by those who returned from Babylon, it did not re-assume complete holiness.

(45) I.e., to be burnt by the owner, being unclean hallah. Since this zone was not restored to its original holiness, its hallah is unclean just as the hallah in any land outside the Land of Israel.
(46) This is not mandatory, but instituted by the authorities to draw attention to the peculiar character of that zone with regard to sanctity. This procedure is to obviate on the one hand the likely erroneous notion that the territory is to be regarded as definitely outside the Land in respect of sanctity, and on the other hand the other mistaken notion that it is to be regarded as completely holy territory. The very contradictoriness of the procedure will stimulate enquiry which will enable people to learn of the special status of the zone.
(47) Because this portion is in virtue of that zone having been originally holy and liable to hallah on Biblical authority — the direction to burn it being due solely to its being unclean, in which circumstances it would have to be burnt even in the Land of Israel proper.
(48) Because this portion is only an institution of the Scribes.
(49) Less than the minimum may be separated because (a) it is on solely Scribal authority and (b) because it is to be burnt.
(50) This hallah-portion too is only on Scribal authority, but since it is to be eaten the full amount should be given.
(51) V. supra I, 9, p. 326, n. 2. The regulations with regard to a person in that state are detailed in the tractate of that name Tebul Yom in seder Tohoroth.
(52) Since this hallah-portion is on the authority only of the Scribes, the eating thereof is prohibited only to such as are in a state of actual uncleanness by reason of an issue or of menstruation (v. infra notes 4-6) but not to anyone unclean through any other cause, or whose cleanness is, as in the case of tebul yom, in a state of suspense until the end of the day.
(53) So that, according to R. Jose, outside the Land, one who has had an issue may eat hallah.
(54) V. Lev. XV, 2-15.
(55) V. ibid. 19-30.
(56) V. ibid. XII.
(57) With consecrated food it is insisted that it should not be eaten by the priest at the same table where a non-priest is eating, lest the latter partake of the consecrated food either by accident or in error. Since the hallah-portion with which we are here concerned is not scripturally ordained this precaution is not required.
(58) Maim. reproduces the T.J. interpretation of ‘any priest’, viz., ‘be it a priest who is a kaber (i.e., a scholar) or one who is an ‘am ha-rez (i.e.. an unlearned person)’. Evidently what is meant is: whether the priest be one who takes care to eat consecrated food in cleanness, or one who does not. V. Bert. and Tusef. Yom Tob. Bert. writes as if Maim.’s explanation is at variance with that of the Talmud, whilst Maim. does nothing but reproduce T.J. verbatim.
(59) V. preceding Mishnah, end n. 8.
(60) V. Lev. XXVII, 28. No devoted thing, a man may devote to the Lord of all that he hath . . . shall be sold or redeemed: every devoted thing is most holy unto the Lord; Num. XVIII, 14: Every devoted thing in Israel shall be thine i.e., the priest's. Since it is to be redeemed with money, the latter may obviously be given to any priest without references to the likelihood of his being clean or unclean.
(61) V. Ex XIII, 12: Thou shalt set apart unto the Lord all that oppeneth the womb; every firstling that is a male, which thou hast coming of a beast, shall be the Lord's, Deut. XV, 19 ff: All the firstling males of thy herd all of thy flock thou shalt sanctify unto the Lord thy God . . . thou shalt eat it before the Lord thy God . . . in the place which the Lord shall choose (i.e. the Holy City of Jerusalem) . . . And if there be any blemish therein, lameness, or blindness, any ill blemish whatsoever, thou shalt not sacrifice it unto the Lord thy God. Thou shalt eat it within thy gates: the unclean and the clean may eat it. Reference to Num. XVIII, 17-18 shows that ‘Thou shalt eat it’ is addressed to the priest. It is clear that our Mishnah speaks of the flesh of a blemished firstling, and since this may be eaten by ‘the unclean and the clean’ it may, obviously, be given to any priest irrespective of his cleanness.
(62) V. Ex. XIII, 13: And the firstling of an ass thou shalt redeem with a lamb. This lamb is not considered consecrated (Bert.).
(63) V. Deut, XVIII, 3: And this shall be the priests’ due from the people, from them that offer a sacrifice, whether it be ox or sheep, that they shall give to the priest the shoulder, the two cheeks and the maw. V. n. 5 infra.
(64) V. ibid. 4 . . . the first of thy fleece shalt thou give him.
(65) I.e. , oil set aside as terumah, which has become unclean.
(66) Since these are parts of sacrifices brought into the Sanctuary where no unclean priest may enter there is, obviously, no fear that it may be eaten by a priest during his uncleanness. (It is different with hallah and terumah; these may be

eaten outside sacred precincts where there are priests of all kinds, and care should therefore be taken that these priestly dues do not get into the hands of priests who are either unclean or possibly neglectful of their ritual cleanness.)

(67) V. Num. XVIII, 13: The first-ripe fruits of all that is in their land, which they bring unto the Lord, shall be thine; every one that is clean in thy house may eat thereof. These were to be brought by the Israelite direct to the Sanctuary, v. n. 5.

(68) R. Judah's reason is: Seeing that first-ripe fruits are not offered on the altar, ignorant priests are likely to underrate the sacredness of first-ripe fruits and to eat them prior to self-purification.

(69) Sc. to give to any priest, since these are rarely eaten by human beings, and the likelihood of these being eaten by an unclean priest is therefore remote.

(70) Seeing that they are sometimes eaten by human beings, no exception is to be made of them.

(71) In South Judah v. Amos I, 1, II Sam. XIV, 2.

(72) Reading with Kohut, Aruch Completum, s.v. יתיר ץבי יתיר תביתור (or spelt defectivum יתר) is mentioned Josh. XV, 48, XXI, 14, I Sam. XXX, 27, I Chron. VI, 42 in S. Judah. In T.J. Sheb. p. 36, it is mentioned among places on the borders of the Land of Israel in relation to the applicability of the laws of the sanctity of the Land. According to the above data it would be in the neighbourhood of Tekoa. It is this place that is probably meant by Schurer (Geschichte des Volkes Israel I, p. 693) when he identifies our place-name as Be-jittar. Hirschensohn, Sheba' Hokmoth s.v. בתיר thinks of Botrys on the North African coast.

(73) For the reasons: (a) These hallah-portions could not be eaten, since, coming from not fully sacred territory, they were unclean. (b) They could not accept them and burn them, because (since their place of origin was in a zone of partial but not complete sanctity) the fact that such hallah is unclean is not generally known, and people might be led to think that clean hallah was being — and permitted to be — burnt in Palestine. (c) Accepting these hallah-portions and sending them out of Palestine to burn them, would lead people to think, entirely erroneously, that any hallah or terumah may be sent out of the Land of Israel. The only possible thing to do is to let these dough-portions remain till the Eve of Passover when they should be burnt with other leaven (T.J.).

(74) Probably close to the valley of that name (I Sam. XIII, 18) and the town of that name (Neh. XI, 34) in Judea.

(75) Azereth, a Rabbinic designation for the Feast of Weeks or Pentecost, on which the first-ripe fruits were due to be brought to the Temple. Lit., 'the closing', Pentecost being considered the closing festival to Passover.

(76) Ex. XXIII, 16 (cf. Lev. XXIII, 15-21, Num. XXVIII, 26). According to this verse it was the first-fruits coming from 'that which thou sowest in the field' i.e., the 'Two Loaves' (which, too, were termed 'First-fruits') that were the first to be brought to the Temple, before the other first-ripe produce, indeed before any of the other priestly and levitical dues. Seemingly the refusal recorded here is contrary to Mishnah Men. X, 6 which lays it down that although the first-fruits are in the first instance not to be brought before the Two Loaves, nevertheless if one had already unintentionally done so, such first-fruits are valid. (They are not accepted at the time but laid aside till after the bringing of the Two Loaves on the day of the Festival, and then they are handed to the priest and the declaration prescribed in Deut. XXVI is recited.) T.J., however, explain that the refusal of the prematurely brought first-fruits, in our case, was on the ground that acceptance would, in the circumstances, have given the impression that it was the proper thing to bring first-fruits prior to the Feast of Weeks.

(77) Var. lec.: Antinos.

(78) To the Temple.

(79) From Deut. XIV, 23. And thou shalt eat before the Lord thy God, in the place which He shall choose . . . the tithes of thy corn, thy wine and thine oil, and the firstlings of thy cattle and thy flocks, a deduction is made that even as terumah and tithes are not to be brought to the altar from outside of sacred territory so too are firstlings not to be brought from such places. Such firstlings are to be allowed to pasture till they become unfit for sacrifice and then they are eaten by priests (v. T.J.).

(80) He was evidently well-known as one who was particularly concerned to avoid circumstances defiling the sanctity attaching to a priest (v. Zeb. 10a, Sifra to Lev. XXI, 2, 'Er. 47b; 'A.Z. 13a).

(81) The law is that first-ripe fruits may be brought in liquid form only if there was such intention at the time of the picking of the olives or grapes.

(82) Because there had been no prior intention to bring them in liquid form; T.J.

(83) As a rule designated 'the Second Passover'. According to Num. IX, 1-12, a person who was unclean on the Eve of the Passover and therefore unable to offer up the Paschal Lamb, was to do so exactly a month later (i.e. on the eve of the 15th Iyyar). The occasion reported here was probably in the year when his wife died on the Eve of Passover. Unwilling to miss the Paschal Sacrifice, he was, then, most reluctant to allow himself to become defiled through her dead body (v. Num. XIX, II, 14) although the death of a wife is a case in which a man is permitted to defile himself (Lev. XXI, 2, where the phrase ‘for his kin that is near unto him’ refers, according to Rabbinic interpretation, to his wife). His colleagues, however, forcibly overcame his reluctance and he did allow himself to become unclean (Sifra loc. cit. , Zeb. loc. cit. and parallels). V. Hyman, Toledoth Tannaim s.v. where he usually corrects an erroneous inference by Weiss (Dor I. P. 46, n. 2, p. 47) as to the date of the halachah permitting a priest to defile himself on the death of his wife.

(84) According to Ex. XXIII, 17, Passover was one of the three festivals when all males were to ‘appear before the Lord’, but that is ordained only for the real Passover and not for the ‘Second (called here Lesser) Passover’. Pilgrimage to the Temple was of course permitted throughout the year and priests — like Joseph ha-Kohen — naturally had access to the Temple. Notwithstanding this and the fact that he was attending for the purposes of carrying out the precept of the ‘Second Passover’, he was turned back because he brought his young sons etc. with him, lest his act lead the public — as it was most likely to do — to an erroneous conclusion that the Second Passover required just like Passover itself not only the sacrifice of the Paschal Lamb by those who had been unable to do so on the real Passover, but also the pilgrimage of all males.

(85) Perhaps not the proper name of a man, but just a man of noble birth or standing.

(86) A few places of this name are known. Probably Paneas in Syria is meant here.

(87) First-ripe fruits were accepted from abroad, unlike terumah. The decision not to subject produce abroad to terumah is due to a desire to discourage priests from leaving the Holy Land as they would be tempted to do in order to collect terumah abroad. Owners had no need to ‘bring’ terumah to the Temple but just to distribute it among priests. Such a cause did not exist in the case of first-ripe fruits which had to be brought to the Sanctuary.

(88) The phrase indicates a reference to a Mishnah in the Mishnah-collection in its earliest form. Cf. supra III end.

(89) And the product of such Jewish owned land in Syria is accordingly subject to tithes etc. This is not the case if the land in Syria is held by Jews only on tenancy v. supra Mish. 7. V. Git. 8a for a list of particulars in which Syria is treated in law like the Land of Israel. MS. M. adds the following passage (which is quoted in B. K 110b and Hul. 133b as a Baraitha): Twenty-four dues were given to the priests: ten in the Temple and four in Jerusalem and ten within the borders (of the Land of Israel). These are the ten given them in the Temple: Sin-offerings, sin-offerings of birds, the unconditional and suspensive guilt-offerings, the peace-offering of the congregation, the log of oil of the leper, the remainder of the Omer, the Two Loaves, the Shewbread, the residue of the meal-offerings. And these are the four given in Jerusalem: The firstlings, the first-fruits, the heave-offering from the thank-offering, and the ram of the Nazirite, and the skins of hallowed sacrifices. And these are the ten given them within the borders: Terumah, terumah of the tithe, hallah, the first of the shearing, the priestly gifts (from every beast slaughtered for food), the redemption price of the firstborn son, the redemption price of the firstling of an ass, the field of possession, the devoted field, and what was wrongly obtained of a proselyte (who died without any legal issue). No priest who is not well versed in these things may receive them as gifts.

Mishna - Mas. Orlah Chapter 1

MISHNAH 1. IF ONE PLANTS [A FRUIT-TREE] TO SERVE AS FENCING[1] OR TO PROVIDE BEAMS,[2] IT IS EXEMPT FROM [THE LAW OF] ‘ORLAH.[3] R. JOSE SAYS: EVEN IF HE INTENDED[4] ONLY THE INWARD [-FACING PART OF THE TREE][5] FOR FOOD, AND THE OUTWARD [-FACING PART] FOR FENCING, THE INWARD [-FACING PART] IS SUBJECT [TO ‘ORLAH], AND THE OUTWARD [-FACING PART] IS EXEMPT.[6]

MISHNAH 2. IF AT THE TIME WHEN OUR FOREFATHERS CAME INTO THE LAND[7] THEY FOUND [A TREE ALREADY] PLANTED IT WAS EXEMPT,[8] IF THEY[9] PLANTED [A TREE], WHILST THEY HAD NOT YET CONQUERED [THE LAND],[10] IT WAS SUBJECT. IF ONE PLANTED A TREE][11] FOR [THE USE OF] THE MANY,[12] IT IS SUBJECT. BUT R. JUDAH DECLARES IT EXEMPT.[13] IF ONE HAS PLANTED [A TREE] IN THE PUBLIC DOMAIN,[14] OR IF A NON-ISRAELITE HAS PLANTED,[15] OR IF A ROBBER[16] HAS PLANTED ON A BOAT,[17] OR [IT IS A TREE] THAT HAS GROWN OF ITSELF,[18] IT IS SUBJECT TO ‘ORLAH.

MISHNAH 3. IF A TREE WAS UPROOTED[19] AND THE HARD SOIL[20] TOGETHER WITH IT,[21] OR IF A STREAM SWEPT IT AWAY AND THE HARD SOIL TOGETHER WITH IT,[21] [THEN] IF IT COULD HAVE LIVED[22] IT IS EXEMPT,[23] BUT IF [IT COULD] NOT, IT IS SUBJECT.[24] IF THE HARD SOIL HAS BEEN DETACHED FROM ITS SIDE,[25] OR IF A PLOUGHSHARE SHOOK IT, OR IF SOMEONE SHOOK IT,[26] AND ONE RESET[27] IT WITH EARTH,[28] [THEN] IF IT COULD HAVE LIVED,[29] IT IS EXEMPT, BUT IF NOT — IT IS SUBJECT.

MISHNAH 4. IF A TREE WAS UPROOTED[30] AND ONE ROOT THEREOF IS LEFT,[31] IT IS EXEMPT.[32] NOW HOW MUCH MUST THE [THICKNESS OF THE] ROOT BE?[33] R. SIMEON B. GAMALIEL SAID IN THE NAME OF R. ELIEZER B. JUDAH A MAN OF BERTOTHA:[34] AS [THICK AS] A PIN [USED FOR] STRETCHING.[35]

MISHNAH 5. IF A TREE WAS UPROOTED AND IT HAS A BENT-DOWN [AND ROOTED] SHOOT,[36] AND IT [THE TREE] DERIVES SUSTENANCE FROM IT [THE SHOOT], THE OLD [TREE] TURNS TO BE [CONSIDERED] LIKE THE SHOOT.[37] IF ONE BENT [AND ROOTED] A SHOOT THEREFROM[38] YEAR AFTER YEAR, AND IT BECAME DETACHED, ONE COUNTS[39] FROM THE TIME IT BECAME DETACHED.[40] THE CONNECTING SHOOT OF VINES,[41] AND A CONNECTING SHOOT [GROWING] ON ANOTHER CONNECTING SHOOT, EVEN IF ONE ROOTED THEM IN THE SOIL,[42] ARE PERMITTED [FOR CONSUMPTION].[43] R. MEIR SAID: IN AN INSTANCE[44] WHERE ITS[45] [PRODUCTIVE] CAPACITY[46] IS GOOD, IT IS PERMITTED, BUT IN AN INSTANCE WHERE ITS [PRODUCTIVE] CAPACITY IS DEFICIENT,[47] IT IS PROHIBITED. SO, TOO, IF A BENT-DOWN [AND ROOTED] SHOOT HAS BECOME DETACHED AND IT IS FULL OF FRUIT, [THEN] IF IT[48] INCREASED[49] TWO HUNDREDFOLD,[50] IT IS PROHIBITED.[51]

MISHNAH 6. IF A SHOOT OF ‘ORLAH OR OF THE ‘MIXTURE OF THE VINEYARD’[52] , BECAME MIXED UP WITH [OTHER] SHOOTS,[53] IN SUCH AN EVENT ONE MAY NOT GATHER [THE FRUIT]; BUT IF ONE HAS GATHERED [IT], IT IS NEUTRALIZED IN TWO HUNDRED-AND-ONE,[54] PROVIDED ONLY THAT [IN GATHERING THE FRUIT] HE DID NOT ACT DELIBERATELY.[55] R. JOSE SAID: EVEN IF HE ACTED DELIBERATELY, IT BECOMES NEUTRALIZED IN TWO HUNDRED-AND-ONE.[56]

MISHNAH 7. LEAVES, SPROUTS, SAP OF VINES,[57] AND VINE-BUDS[58] ARE PERMITTED IN RESPECT OF ORLAH[59] AND REBA ‘I,[60] ALSO TO A NAZIRITE,[61] BUT ARE

PROHIBITED IN [THE EVENT OF THEIR COMING FROM] AN ASHERAH.[62] R. JOSE SAID: VINE-BUDS ARE PROHIBITED BECAUSE THEY ARE FRUIT.[63] R. ELIEZER SAID: IF ONE CURDLES [MILK] WITH THE RESINOUS SUBSTANCES OF [A TREE LIABLE TO] ORLAH, IT IS PROHIBITED.[64] R. JOSHUA SAID: I HAVE RECEIVED AN EXPLICIT TRADITION[65] THAT IF ONE CURDLES [MILK] WITH THE RESINOUS SUBSTANCE OF THE LEAVES, OR WITH THE RESINOUS SUBSTANCE OF THE ROOTS, IT IS PERMITTED,[66] BUT WITH THE RESINOUS SUBSTANCE OF THE UNRIPE BERRIES, IT IS PROHIBITED, BECAUSE THESE ARE FRUIT.[67]

MISHNAH 8. GRAPES LESS THAN A THIRD GROWN,[68] AND GRAPE-STONES,[69] AND GRAPE-HUSKS,[70] AND THE TAMAD[71] MADE OF THESE, THE SKIN OF A POMEGRANATE AND ITS SPROUTINGS,[72] THE SHELLS OF NUTS, AND FRUIT-STONES,[73] ARE PROHIBITED IN RESPECT OF ‘ORLAH, ASHERAH AND A NAZIRITE,[74] BUT PERMITTED IN RESPECT OF REBA'I.[75] UNDERRIPE FRUIT[76] IS PROHIBITED [IN RESPECT OF] ALL OF THEM.[77]

MISHNAH 9. R. JOSE SAID: ONE MAY PLANT A SHOOT[78] OF [A TREE WHICH IS] ‘ORLAH,[79] BUT ONE MAY NOT PLANT A NUT OF [A TREE WHICH IS] ‘ORLAH, BECAUSE IT IS FRUIT;[80] AND ONE MAY NOT GRAFT [PALM BRANCHES BEARING] EARLY DATE BERRIES[81] BELONGING TO [A TREE WHICH IS] ‘ORLAH.[82]

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(1) Sc. to the orchard or field on the outskirts of which he plants it.

(2) I.e., to be ultimately lopped or cut down for timber, either for building or for fuel.

(3) In Lev. XIX, 23 it is enjoined: And when ye shall have planted all manner of trees for food, then ye shall count the fruit thereof as forbidden (lit., ‘uncircumcised’, ‘orlah)’; three years shall it be as forbidden unto you. Thus only trees grown to provide food for human consumption are subject to this law of ‘orlah.

(4) Lit., ‘he said’; cf. the use of the verb in, e.g., I Kings V, 19.

(5) I.e., the fruit on the branches spreading towards the interior of the field or orchard.

(6) Also if he intended the upper part of the tree for food and the lower for timber or vice versa, only the part meant for food is liable to ‘orlah (V. T.J.).

(7) I e., the Land of Israel, led by Joshua.

(8) Because ‘orlah applies only ‘when ye shall have planted’ (Lev. loc cit.).

(9) ‘They’ in the impersonal sense. I.e. , someone planted, whether Israelites or non-Israelites

(10) Sc. completely, but as long as they had already entered it.

(11) On his private ground.

(12) I.e he intends to waive his property-rights in the fruit, which is thus to become available gratis to the general public. Such a tree is subject to ‘orlah in accordance with the hermeneutical application of the wording of the text (Lev. loc. cit.) ‘shall be forbidden unto you’ (לכם) which as a plural has an ‘extending’ effect (Ribbui) on the application of the precept, viz., to make the latter include even trees planted for unrestricted public benefit.

(13) In his opinion, if a word or expression having the force of ‘extending’ is followed by another word or expression itself of similar force, then the latter is to be interpreted as having the effect of ‘limiting’ (Men. 89a). In our case the wording ‘when ye shall have planted all manner of trees for food’ by itself might have operated as ‘extending’ the application of the law of ‘orlah to all trees whether the owner, at the time of planting, intends to retain his right to the fruit, or not; but the immediately following wording forbidden unto you’ (which, too, on its own has the force of ‘extending’) has now the effect of ‘limiting’ the application of the law to trees planted for producing fruit intended to be the owner's property.

(14) But for his own benefit.

(15) For an Israelite, whether the non-Israelite is paid to do it, or he does it of his own free will without pay (Maim.) on an Israelite's ground (Bert.); but L. says, whether on an Israelite's or a non-Israelite's ground, as long as it is for an Israelite, nor does it make any difference whether it is in the Land of Israel or outside thereof — the only difference being that in Palestine the liability to ‘orlah is directly derived from Scripture, whereas in other lands (v. infra III, 9) ‘orlah is an ancient tradition.

(16) I.e., one who had acquired another person's ground by forcible means in face of protest; Bert. adds, only if the original owners have given up hope of recovering their property. L. says he cannot see why this should make a difference here.

(17) Made of earthenware, and which touches the ground (v. Hal. II, 2). Earthenware permits tree-roots to strike through and absorb sap from the ground beneath it (v. T.J.). If the boat is made of wood, liability to ‘orlah would apply only if the boat has a hole or crack, since otherwise wood does not allow roots to strike through.

(18) I.e., was planted unintentionally (v. Rashi to Sot. 43b). Sc. in a fruit cultivated area, but not if in uncultivated or forest land; in the latter kind of place such a tree is exempt from ‘orlah, unless it produces enough fruit to make worth while the trouble taken over it (sc. in conveying it to inhabited quarters). So T.J., v. however Rash to our Mishnah.

(19) Sc. after the three years of ‘orlah had passed.

(20) Lit., ‘rock’.

(21) And such tree was reset into soil.

(22) From the soil adhering to it, without the adding of more soil.

(23) Even when reset in new soil, because it derives its sustenance from and through the soil in which it was originally planted, and in respect of which it had already served the ‘orlah period.

(24) Because it derives its sustenance from a new source, and is therefore accounted as a tree newly planted.

(25) By wind or flood.

(26) I.e., pulled it up, but not right out, and shook off the earth and replaced the tree in the same spot.

(27) Lit., ‘made it (up)’ .

(28) Reading: בעפר I.e. , the loosened soil and/or other earth. Another reading is כעפר : (by shaking etc.), he made it (viz. the hardened soil) like dust (or loose earth).

(29) Without the attention mentioned.

(30) V. supra Mish. 3, n. 7.

(31) Sc. fast in the soil.

(32) Since it continues without interruption to derive its sustenance from its original soil, in which position it has already served the ‘orlah period.

(33) Sc. so that, through its having remained in the soil, the tree might be exempt from ‘orlah.

(34) In Upper Galilee. Baer (in Siddur Abodath Israel, to Aboth III,7) identifies it with Berothah (Ezek. XLVII, 16) and Berothai (II Sam. VIII, 8) which places have not been precisely located (v. BDB).

(35) מיתון ; var. lec מיתוח sc. cloth after weaving or thread in embroidery v. fast.

(36) בריכה, a shoot bent down and its top set into the soil (where it strikes roots) whilst this shoot remains attached to the stem.

(37) Sc. in respect of ‘orlah. Now that the tree is uprooted, the whole tree derives the whole of its sustenance through a new channel, viz., the bent and rooted shoot, and the old tree as well as the bent shoot are liable to ‘orlah. As long as the tree stood and the shoot was attached to it, the latter, not with standing its top being sent in the soil, was considered as deriving most of its sustenance through the medium of the old stem (and was therefore at that time exempt from ‘orlah).

(38) I.e., a (secondary) shoot which sprouted out of an original bent shoot.

(39) Sc. the three years of ‘orlah.

(40) As soon as the shoot is detached from the tree it begins a new life of its own, and is therefore liable to orlah as if it were a newly planted tree.

(41) It is usual to trail and graft a long shoot of one vine on another vine.

(42) The middle of a connecting shoot is sometimes set into the soil.

(43) Such connecting shoots are not subject to ‘orlah because being still attached to the old vine, they are presumed to be drawing the bulk of their sustenance from the latter.

(44) Lit., ‘place’.

(45) I.e., that of the parent vine.

(46) Lit., ‘strength’ , vitality’.

(47) Lit., ‘bad’.

(48) I.e., the fruit.

(49) After the shoot became detached.

(50) V. Kil. V, 6; cf. infra 6.

(51) The overwhelming quantity of fruit having been produced as from a new source of sustenance, the whole of the fruit is subject to ‘orlah. This applies also to a tree with fruit on it, which was completely uprooted and then replanted.

(52) This is prohibited in Deut. XXII, 9, v. Kil. VIII, 1. In the case of a vineyard a whole bed, and not merely one shoot, must be understood here.

(53) And one cannot definitely distinguish the prohibited from the permitted.

(54) I.e., if the permitted trees are two hundred times as many as the prohibited, the latter, if not identifiable, are considered as neutralized in the total, and all the trees are permitted.

(55) The provision whereby the prohibition attaching to any prohibited commodity is neutralized through the latter being indistinguishably mixed with a given multiple of like permitted commodity, is valid only when such a state of affairs is an unintentional fait accompli; but not if deliberately contrived.

(56) It should be noted that he does not dispute the principle on which the first-stated opinion is based (v. note 2), but he rules to the contrary on the ground that no Rabbinic precautionary prohibition is enacted for unlikely contingencies — and it is unlikely that one should plant a new tree among other, older trees without some distinguishing mark (v. Rashi to Git. 54b). In the case of a vineyard, it may be that he is aware of having accidentally made one of his vines kil'ayim, but he does not know which vine (v. T.J.).

(57) Which oozes out when a vine is cut during the month of Nisan (about April).

(58) Incipient grape berries.

(59) Since those parts of the tree are not looked upon as ‘fruit’ to which alone the law of ‘orlah applies, according to Lev. XIX, 23, ‘ye shall declare the fruit thereof forbidden (‘orlah)’, v. Sifra ad. loc.

(60) Lit., ‘the fourth’, sc. year in age. Lev. XIX, 24 says of the tree the fruit of which had been prohibited as ‘orlah’ for three years, And in the fourth year all the fruit thereof shall be holy, for giving praise unto the Lord. The technical term for this fruit is neta’ (the plantation of) reba'i. The fruit of the fourth year could not be eaten without having been first redeemed in the same manner as the Second Tithe.

(61) According to Num. VI, 1-4, a man who takes the vow to be a Nazirite, shall abstain from wine and strong drink: he shall drink no vinegar of wine, or vinegar of strong drink, neither shall he drink any liquor of grapes, nor eat fresh grapes or dried. All the days of his Naziriteship shall he eat nothing that is made of the grape-vine, from the pressed grapes even to the grape-stone. As Scripture says: ‘he shall not drink . . . nor eat’ the prohibition applies only to such portions of the vine which it is usual to consume either as food or drink, and not to those other parts of the vine enumerated in the Mishnah.

(62) A tree (or grove) which is itself an object of worship, or under which an idol has been placed. Not only is the planting or the appointing of an Asherah prohibited (Deut. XVI, 21) and its destruction, in the Land of Israel, commanded (ibid. XII, 2-3). but according to the general rule (ibid. XIII, 18) and there shall cleave nought of the thing devoted (sc. to idolatry) to thy hand, no benefit whatsoever may be enjoyed from even the most insignificant portion of an Asherah or of any other idolatrous object.

(63) I.e., ultimately.

(64) Since, in R. Eliezer's view, the resinous substance is considered as ‘fruit’.

(65) Lit., ‘I have heard in explicit form’. Halevy (Doroth II, p. 265 ff) says the traditions (שוען) cited by the Tannaim were from two main sources: (a) Teachers who transmitted early Mishnayoth, or decisions arrived at in the schools, literally as heard by them, but without elucidation. Such teachers are designated in T.J. רבה דמתניתא , and in T.B. רבו שלמדו מקרא ומשנה , (v. B.M. 33 and Rashi ad. loc.). (b) Teachers who explained the reasons for the main laws, and taught in what circumstances and how these were to be varied. Sometimes a scholar had not managed to get such elucidation from the latter kind of teacher, so he brought the matter before the Assembly of Scholars where it was clarified and amplified by one of the scholars (called in T.J. רבה דאולפנא and in T.B. רבו שלמדו חכמה).In our case both R. Eliezer and R. Joshua had learnt the general rule that the resinous substance of a tree which is ‘orlah was prohibited, but R. Joshua had, in addition, (from his רבו דאןלפנא) detailed instruction as to its application and was able to supply it to his colleagues in Jamnia, when the main rule was stated by R. Eliezer.

(66) Because this resinous substance is from parts of trees which are definitely not considered as ‘fruit’.

(67) Which can be and — in certain circumstances — are consumed. R. Joshua's amplified form of the rule is the accepted law.

(68) Which have fallen off a vine (L.). For the term ענקוקלות meaning ‘undeveloped grapes’, v. Dictionaries.

(69) חרצנים .

(70) זגים cf. Num. VI, 4. Our translation follows Targum Jonathan and R. Judah in Nazir 34b (so also Maim.); but R.

Jose (Nazir loc. cit.) reverses the identifications as does also Targum Orkelos, v. Ibn Ezra to Num. loc. cit.

(71) תמד a drink made by allowing grape-stones or husks or lees to steep in water (for a continuous period, a derivative of תמיד ; v. Ma'as. V. 6.

(72) The flower-like leaves on top of the pomegranate. These sproutings and the peel are prohibited in respect of ‘orlah, not because they are considered fruit, but because they can be used for dyeing, and it is prohibited to dye with ‘orlah (v. infra III, 1).

(73) E.g., of dates, olives or peaches.

(74) In the Nazirite's case the Mishnah thinks of grape-husks and stones; cf. supra Mishnah 7. n. 8.

(75) Reba'i, like the Second Tithe, is subject to a prohibition of eating (outside Jerusalem) only (but not of otherwise enjoying benefit therefrom), so that the prohibition applies only (a) to fruit ripe enough to be eaten (and not e.g., to grapes only a third grown),and (b) to such parts of the fruit as are normally eaten (and therefore not to skin, nut-shells, fruit-stones, etc.).

(76) Fruit which has fallen off the tree when it had grown more than a third of the normal full size of that particular fruit, i.e., when in a more developed condition than ענקוקלות (undeveloped grapes).

(77) Viz., ‘orlah, Asherah, Naziriteship, or (since such fruit can be eaten) even reba'i.

(78) Sc. on which there is no fruit.

(79) Because it is only the fruit, but neither the stem nor the branch, that is prohibited in respect of ‘orlah.

(80) He agrees, however, that in the event of one having already (planted) fruit of ‘orlah (without having known the law), or having already bent down and rooted, or grafted a branch of ‘orlah bearing fruit-buds, the fruit grown from these is permitted (after the three years of orlah), in conformity with the principle referred to infra II, 10, n. 6; v. ‘A.Z. 48b and commentaries.

(81) According to M. Sh. I, 14 these are considered as fruit in all respect except that of tithes.

(82) As this Mishnah reads, this statement may be either anonymous, or yet another statement by R. Jose, but in T.J. it is established that it is by R. Jose.

Mishna - Mas. Orlah Chapter 2

MISHNAH 1. TERUMAH, TERUMAH-OF-THE-TITHE OF DEMAI,[1] OR HALLAH[2] OR FIRST-RIPE FRUITS,[3] BECOME NEUTRALIZED IN A HUNDRED-AND-ONE,[4] AND LESSER QUANTITIES OF THESE ARE RECKONED TOGETHER [AS FORMING THE STATUTORY MINIMUMS]. AND IT IS NECESSARY TO TAKE OFF [FROM THE MIXTURE AN AMOUNT EQUAL TO THAT OF THE CONSECRATED PRODUCE CONTAINED THEREIN].[5] ‘ORLAH AND MIXED-SEEDS’ OF THE VINEYARD[6] BECOME NEUTRALIZED IN TWO-HUNDRED-AND-ONE,[7] AND [LESSER QUANTITIES OF THESE] ARE RECKONED TOGETHER [AS FORMING THE STATUTORY MINIMUM]. AND IT IS NOT NECESSARY TO TAKE OFF [FROM THE MIXTURE AN AMOUNT EQUAL TO THAT OF THE CONSECRATED PRODUCE CONTAINED THEREIN].[8] R. SIMEON SAID: [LESSER QUANTITIES OF THESE[9]] ARE NOT RECKONED TOGETHER [AS FORMING A STATUTORY MINIMUM].[10] R. ELIEZER SAID: THEY ARE RECKONED TOGETHER IN [INSTANCES IN WHICH THERE IS INVOLVED THE PRINCIPLE OF A ‘QUANTITY] IMPARTING FLAVOUR’,[11] BUT NOT FOR IMPOSING A PROHIBITION [IN OTHER CIRCUMSTANCES].[12]

MISHNAH 2. TERUMAH GOES TOWARDS NEUTRALIZING ‘ORLAH, AND ‘ORLAH[13] TERUMAH. IN WHAT [DEFINED] MANNER? [FOR INSTANCE] IF A SE'AH OF TERUMAH HAS ‘ORLAH, OR THREE KABS OF MIXED-SEEDS OF THE VINEYARD [FELL IN]. THIS IS [AN INSTANCE] WHEREIN TERUMAH GOES TOWARDS NEUTRALIZING ‘ORLAH, AND ‘ORLAH TERUMAH.

MISHNAH 3. ‘ORLAH GOES TOWARDS NEUTRALIZING ‘MIXED-SEEDS’, AND ‘MIXED-SEEDS’ ‘ORLAH, AND ‘ORLAH ‘ORLAH.[14] IN WHAT [DEFINED] MANNER? [FOR INSTANCE] IF A SE'AH OF ‘ORLAH HAS FALLEN INTO TWO HUNDRED [SE'AHS] AND

AFTERWARDS THERE FELL IN A SE'AH AND OVER OF ‘ORLAH, OR A SEAH AND OVER[15] OF ‘MIXED-SEEDS’ OF THE VINEYARD. THIS IS [AN INSTANCE] WHEREIN ‘ORLAH GOES TOWARDS NEUTRALIZING ‘MIXED-SEEDS’, AND ‘MIXED-SEEDS’ ‘ORLAH, AND ‘ORLAH ‘ORLAH.[14]

MISHNAH 4. WHATEVER ONE CAUSES TO FERMENT,[16] OR SEASONS,[17] OR MAKES MEDUMMA’[18] WITH TERUMAH OR ‘ORLAH OR WITH ‘MIXED-SEEDS’ OF THE VINEYARD,[19] IS PROHIBITED; BETH SHAMMAI SAY: IT ALSO BECOMES UNCLEAN,[20] BUT BETH HILLEL SAY: IN ANY CIRCUMSTANCES NOTHING RENDERS UNCLEAN UNLESS THERE BE OF IT [A QUANTITY IN SIZE] ‘LIKE AN EGG’.[21]

MISHNAH 5. DOSETHAI [A MAN OF] KEFAR YATHMAI:[22] WAS ONE OF THE DISCIPLES OF THE SCHOOL OF SHAMMAI, AND HE SAID: I RECEIVED A TRADITION[23] FROM SHAMMAI HA-ZAKEN[24] WHO SAID: NEVER DOES ANYTHING RENDER UNCLEAN[25] UNLESS THERE BE OF IT [A OUANTITY IN SIZE] ‘LIKE AN EGG’.[26]

MISHNAH 6. NOW IN REFERENCE TO WHAT [CASES] DID THEY SAY[27] ‘WHEN ANYTHING CAUSES FERMENTATION OR SEASONS[28] OR MAKES MEDUMMA’ [IT IS PROPER] TO RULE STRINGENTLY’? [IN THE CASE OF] A SPECIES [MIXED] WITH ITS [LIKE] SPECIES; ‘TO RULE [SOMETIMES] LENIENTLY, AND [SOMETIMES] STRINGENTLY’? [IN THE CASE OF] A SPECIES [MIXED] WITH [SOMETHING] NOT ITS [LIKE] SPECIES. IN WHAT [DEFINED] MANNER [OF A MIXTURE OF SPECIES, SHOULD ONE RULE STRINGENTLY]? IF LEAVEN OF WHEAT FELL INTO DOUGH OF WHEAT[29] AND THERE BE OF IT [THE ADMIXTURE] A QUANTITY SUFFICIENTLY [LARGE] TO CAUSE FERMENTATION, [THEN] WHETHER THERE BE OF IT A QUANTITY SUFFICIENTLY [SMALL] TO BECOME NEUTRALIZED IN ONE-HUNDRED-AND-ONE, OR THERE BE OF IT [A QUANTITY] NOT SUFFICIENTLY [SMALL] TO BECOME NEUTRALIZED IN ONE-HUNDRED-AND-ONE, IT [THE MIXTURE] IS PROHIBITED;[30] [ALSO] IF THERE BE OF IT [THE ADMIXTURE] A QUANTITY NOT SUFFICIENTLY [SMALL] TO BECOME NEUTRALIZED IN ONE-HUNDRED-AND-ONE, [THEN] WHETHER THERE BE OF IT [A QUANTITY] SUFFICIENTLY [LARGE] TO CAUSE FERMENTATION, OR THERE BE OF IT [A QUANTITY] NOT SUFFICIENTLY [LARGE] TO CAUSE FERMENTATION, [THE MIXTURE] IS [LIKEWISE] PROHIBITED.[31]

MISHNAH 7. [THEY SAID ‘IT IS PROPER] TO RULE [SOMETIMES] LENIENTLY AND [SOMETIMES] STRINGENTLY’ IN [REFERENCE TO] A SPECIES [MIXED] WITH NOT ITS [LIKE] SPECIES. IN WHAT [DEFINED] MANNER? [FOR INSTANCE] IF POUNDED BEANS[32] WERE BOILED TOGETHER WITH LENTILS,[33] AND THERE IS OF THEM [THE FORMER] [A QUANTITY] SUCH AS IMPARTS FLAVOUR, [THEN] WHETHER THERE BE OF THEM [A QUANTITY] SUFFICIENTLY [SMALL] TO BECOME NEUTRALIZED IN ONE-HUNDRED-AND-ONE, OR THERE BE OF THEM [A QUANTITY NOT SUFFICIENTLY SMALL] TO BECOME NEUTRALIZED IN ONE-HUNDRED-AND-ONE, IT [THE MIXTURE] IS PROHIBITED;[34] [BUT] IF THERE BE NOT OF THEM [A QUANTITY] SUCH AS IMPARTS FLAVOUR, [THEN] WHETHER THERE BE OF THEM [A QUANTITY SUFFICIENTLY SMALL] TO BECOME NEUTRALIZED IN ONE-HUNDRED-AND-ONE, OR THERE BE NOT OF THEM [A QUANTITY SUFFICIENTLY SMALL] TO BECOME NEUTRALIZED IN ONE-HUNDRED-AND-ONE, IT [THE MIXTURE] IS PERMITTED.[35]

MISHNAH 8. IF LEAVEN OF HULLIN HAS FALLEN INTO DOUGH, AND THERE WAS OF IT SUFFICIENT TO CAUSE FERMENTATION, AND AFTER THAT[36] THERE FELL IN LEAVEN ONE TERUMAH OR LEAVEN OF ‘MIXED-SEED’ OF THE VINEYARD, OF WHICH [TOO] THERE WAS SUFFICIENT TO CAUSE FERMENTATION, IT [THE DOUGH] IS

PROHIBITED.[37]

MISHNAH 9. IF LEAVEN OF HULLIN HAS FALLEN INTO DOUGH AND CAUSED IT TO FERMENT, AND AFTER THAT THERE FELL IN LEAVEN OF TERUMAH OR OF ‘MIXED-SEEDS’ OF THE VINEYARD, OF WHICH THERE WAS SUFFICIENT TO CAUSE FERMENTATION, IT [THE DOUGH] IS PROHIBITED;[38] BUT R. SIMEON DECLARES [IT] PERMITTED.[39]

MISHNAH 10. [THE ADMIXTURE OF] SEASONINGS[40] [CON SISTING] OF TWO OR THREE CATEGORIES[41] OF ONE SPECIES,[42] OR [CONSISTING] OF THREE SPECIES [OF ONE CATEGORY][43] , [RENDER THE MIXTURE] PROHIBITED,[44] AND THEY ARE RECKONED TOGETHER.[45] R. SIMEON SAID: [ADMIXTURES OF SEASONINGS CONSISTING OF] TWO OR THREE CATEGORIES OF ONE SPECIES, OR [CONSISTING OF] TWO SPECIES OF ONE CATEGORY, ARE NOT ‘RECKONED TOGETHER’.[46]

MISHNAH 11. IF LEAVEN OF HULLIN AND OF TERUMAH HAVE FALLEN INTO DOUGH, AND NEITHER OF THE ONE WAS THERE SUFFICIENT TO CAUSE FERMENTATION, NOR OF THE OTHER WAS THERE SUFFICIENT TO CAUSE FERMENTATION, BUT TOGETHER THEY CAUSED [THE DOUGH] TO FERMENT, [THEN] R. ELIEZER SAYS: I GO AFTER THE LAST;[47] BUT THE SAGES SAY: WHETHER THE PROHIBITED QUANTITY FELL IN FIRST OR LAST, NEVER DOES IT [THE DOUGH] BECOME PROHIBITED UNLESS THERE BE OF IT [OF THE PROHIBITED ADMIXTURE BY ITSELF] SUFFICIENT TO CAUSE FERMENTATION.

MISHNAH 12. JO'EZER, MASTER OF THE TEMPLE,[48] [WHO] WAS ONE OF THE DISCIPLES OF THE SCHOOL OF SHAMMAI, SAID: I ASKED RABBAN GAMALIEL HA-ZAKEN[49] AS HE WAS STANDING AT THE EASTERN GATE,[50] AND HE SAID: NEVER DOES ANY [ADMIXTURE OF PROHIBITED LEAVEN] RENDER [DOUGH] PROHIBITED UNLESS THERE BE OF IT SUFFICIENT TO CAUSE FERMENTATION.[51]

MISHNAH 13. IF ONE OILED ARTICLES[52] WITH UNCLEAN OIL, AND [LATER] HE RETURNED [TO THE ARTICLES][53] AND OILED THEM WITH CLEAN OIL; OR HE [FIRST] OILED THEM WITH CLEAN OIL, AND [LATER] HE RETURNED [TO THEM] AND OILED THEM WITH UNCLEAN OIL, R. ELIEZER SAYS: ‘I GO AFTER THE FIRST’,[54] AND THE SAGES SAY: AFTER THE LAST’.[55]

MISHNAH 14. IF LEAVEN OF TERUMAH AND OF ‘MIXED-SEEDS’ OF THE VINEYARD HAVE FALLEN INTO DOUGH, AND NEITHER OF THE ONE IS THERE SUFFICIENT TO CAUSE FERMENTATION, NOR IS THERE OF THE OTHER SUFFICIENT TO CAUSE FERMENTATION, BUT TOGETHER THEY CAUSED FERMENTATION, IT [THE DOUGH] IS PROHIBITED TO NON-PRIESTS[56] AND PERMITTED TO PRIESTS.[57] R. SIMEON DECLARES IT PERMITTED BOTH TO NON-PRIESTS AND TO PRIESTS.[58]

MISHNAH 15. IF SEASONINGS OF TERUMAH AND OF ‘MIXED-SEEDS’ OF THE VINEYARD HAVE FALLEN INTO A DISH, AND THERE IS NOT OF THE ONE SUFFICIENT TO SEASON, NOR IS THERE OF THE OTHER SUFFICIENT TO SEASON, BUT TOGETHER THEY SEASONED, IT [THE DISH] IS PROHIBITED TO NON-PRIESTS BUT PERMITTED TO PRIESTS.[59] R. SIMEON DECLARES IT PERMITTED TO NON-PRIESTS AND TO PRIESTS.[59]

MISHNAH 16. IF A PIECE OF [FLESH OF THE] MOST HOLY [SACRIFICES][60] AND [A PIECE] OF [FLESH WHICH IS] PIGGUL,[61] OR NOTHAR,[62] HAVE BEEN COOKED WITH PIECES [OF NON-SACRED FLESH],[63] IT [THE NON-SACRED FLESH][64] IS PROHIBITED TO

NON-PRIESTS[65] BUT PERMITTED TO PRIESTS.[66] R. SIMEON DECLARES IT PERMITTED TO NON-PRIESTS AND TO PRIESTS.[67]

MISHNAH 17. IF FLESH OF MOST HOLY [SACRIFICES][68] AND FLESH OF [SACRIFICES] HOLY IN A LESSER DEGREE[69] HAVE BEEN COOKED TOGETHER WITH ‘THE FLESH OF DESIRE’,[70] IT [THE LATTER] IS PROHIBITED TO UNCLEAN PERSONS,[71] BUT PERMITTED TO CLEAN PERSONS.[72]

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(1) V. Dem. I, 1, Hal. IV, 6, n. 1. The law stated here applies of course, and with greater force, to terumah and terumah-of-the-tithe of waddai (i.e., certainly untithed produce). Rash's reading was: Terumah and terumah-of-the-tithe of waddai, and terumah-of-the-tithe of demai’.

(2) Which, too, is spoken of as ‘terumah. ‘Num. XV, 20; cf. Hallah I, 3, n. 11.

(3) Bikkurim. The word terumah in ‘the terumah of thy hand’ (Deut. XII, 17) is interpreted as referring to Bikkurim (Sifre ad loc.). This is arrived at by a gezerah shawah, thus: Deut. XII, 17 speaks of ‘the terumah of thy hand’, and of the first-ripe fruits it is said ‘And the priest shall take the basket out of thy hand’ (Deut. XXVI, 4).

(4) When quantities of such consecrated produce (which is prohibited to non-priests) become mixed with a greater amount of hullin (i.e. non-sacred produce). If the prohibited is more than one to a hundred of the permitted, the whole becomes consecrated, and thus prohibited to non-priests (v. Ter. IV, 7). This rule is derived as follows: Num. XVIII, 29 says, Ye shall set apart the terumah of the Lord . . . even the hallowed part thereof out of it. By noting the words, ‘the hallowed part thereof’ signifying ‘that which halloweth it’, the sense is obtained that if anything that had been separated unto the Lord falls into non-sacred produce etc., the former hallows the latter with its own sanctity and renders it similarly prohibited. Further, since this passage deals in particular with the tithe-of-the-tithe, the proportion for the purpose of our rule is fixed as one part of the sacred (and prohibited) to a hundred parts of the non-sacred (and permitted), i.e., a proportion of forbidden admixture greater than one per cent of the permitted renders the mixture prohibited (Sifre ad loc.). (5) For the purpose of the law here concerned — a quantity a hundredth part of the non-sacred; v. preceding note.

(5) And give it to the priests, even though the consecrated matter has become void, so as to avoid ‘robbing the tribe’ sc. of Levi, i.e., depriving the priests and Levites of their perquisites.

(6) Cf. supra I, 6, n. 15.

(7) That ‘mixed-seeds’ of the vineyard also, like terumah, becomes neutralized in a given larger quantity of permitted produce is derived by gezerah shawah as follows: In Ex. XXII, 28 ‘the fulness of thy harvest’ is taken to refer to terumah, and in Deut. XXII, 9 the same term, viz., ‘the fulness of the seed’, refers expressly to ‘mixed seeds’ of the vineyard. — ‘Orlah is placed for this purpose in the same category as ‘mixed-seeds’ , because, like the latter, it is prohibited not only for consumption but also for deriving any benefit whatsoever. — The proportion of ‘orlah and ‘mixed-seeds’ of the vineyard becoming neutralized, viz., 1 to 200, is arrived at a fortiori from terumah as follows: Since in the case of the latter which is prohibited only for consumption the cancelling proportion is 100 of permitted to 1 of forbidden, it follows that in the case of ‘orlah and ‘mixed-seeds’ of the vineyard which are doubly prohibited (viz., both for consumption and deriving any benefit) the cancelling proportion should correspondingly be doubled viz., 200 of permitted to 1 of prohibited (T.J.).

(8) Because (a) the prohibited matter has become neutralized, and (b) the reason for ‘taking off’ when the admixture was terumah, viz., avoiding ‘robbing of the tribe’ (v. note 1) does not exist here, inasmuch as priests and Levites are prohibited from consuming or deriving benefit from ‘orlah and ‘mixed-seeds’ just as much as any Israelite.

(9) Viz., ‘orlah and ‘mixed-seeds’ of the vineyard.

(10) Whether dry or liquid forms of produce are concerned, because ‘orlah and ‘mixed-seeds’ are two distinct prohibited categories, and it is R. Simeon's view (infra Mish. 10) that lesser quantities are ‘reckoned together’ only when they are of the same ‘name’ i.e., they belong to the same prohibited category and are, too, of a like species. (Cf. T.J.).

(11) Where, in the case of liquids and cooked dishes, the prohibited admixture is of a species unlike the bulk, the question as to whether the whole mixture is rendered as forbidden depends on whether the forbidden admixture imparts its flavour to the mixture. It is computed that a prohibited component imparts flavour to a mixture and renders it prohibited, when the former is more than a sixtieth of the permitted portion (v. Hul. 68b for an explanation how this proportion is arrived at). It is the view of R. Eliezer that if such a prohibited flavour-imparting quantity is made up of ‘orlah and ‘mixed-seeds’ of the vineyard, then though either of these by itself be too little to impart flavour without the other, still the composite admixture renders the whole mixture prohibited.

(12) I.e. where ‘imparting flavour’ is not involved, viz., with dry produce. If in such a case the two prohibited lesser amounts, each not more than a two-hundredth part of the bulk, have fallen in separately, and are of two unlike species, but one is of a like species with the bulk, then the latter being less than the statutory minimum becomes merged and neutralized in the bulk and is not ‘reckoned together with’ the other of the lesser prohibited amounts which is of an unlike species. The latter, now on its own less than the statutory minimum, becomes neutralized in the rest of the mixture, the whole of which thus remains permitted.

(13) Or ‘mixed-seeds’ of the vineyard, as is evident from the rest of the Mishnah. (3) I.e., the non-sacred produce together with the terumah-admixture making a hundred se'ahs. One must assume that this is meant, since if there were a hundred se'ahs clear of permitted produce, that itself, without reckoning in the terumah, would since to make void the three kabs of ‘orlah. (4) I.e. half a se'ah. When this half-a-se'ah of ‘orlah falls into the produce which already contains an admixture of terumah, the latter is reckoned in with the original non-sacred produce to make void the ‘orlah which now is one part of a total quantity of 201 (v. supra p. 355, n. 3).

(14) This must be assumed to mean: ‘Orlah goes towards neutralizing neta’ reba'i fruit (v. supra. I, 7, n. 7) and vice-versa (Asheri). Since all are agreed that two lesser quantities of the same prohibited category are reckoned together, ‘’orlah.....’orlah’ cannot be taken literally. The interchangeability here of the terms ‘orlah and neta’ reba'i is no doubt due to the fact that the state of neta’ reba'i is an inevitable and automatic continuation of that of ‘orlah. L. suggests the ‘’orlah ‘orlah’ can be taken literally by’ assuming the Mishnah to mean that the first admixture of ‘orlah fell into full 200 parts of hullin and became neutralized, in which case the mixture is permitted and neutralizes the second admixture of ‘orlah. In this way the first admixture of ‘orlah may be said to help to neutralize the second admixture of ‘orlah

(15) Tosef. Yom Tob says that ‘and over’ is added to intimate that a ‘little over’ can also be considered as becoming neutralized. See L. for a discussion of the various views on this point.

(16) E.g., by means of an apple (of ‘orlah) falling into dough (T.J. cf. Terumah X, 2).

(17) Fermentation, like seasoning, of course imparts flavour (v. supra I).

(18) V. Hal. I, 4, n. 7.

(19) This passage is to be understood as: ‘. . . . causes to ferment, or seasons with terumah or ‘orlah or ‘mixed-seeds’......or makes medumma’ with terumah’.

(20) This is qualified in the next Mishnah.

(21) Sc. even if it is big enough to cause prohibition in respect of medumma’ (to priests) or of ‘orlah or ‘mixed-seeds’ (to all Israelites). On the fixing of the ‘size of an egg’ as a norm in the matter of uncleaness of comestibles, v. Yoma 79b-80a. Cf. Hal. II, 8, n. 3.

(22) Perhaps Jetma, in the district of Samaria, so Jast. who refers to Neubauer. Geographie, p. 268. in Kaftor wa-Ferah the reading is Kefar Jama.

(23) Lit., ‘I heard’. Another reading has ‘I asked’.

(24) I.e., the Elder, or the Sage. The same designation was accorded also to Shammai's contemporary and controversialist, Hillel.

(25) Sc. as far as comestibles are concerned.

(26) Thus the School of Shammai agrees on this point with the School of Hillel (Mish. 4). This is an instance of how in the Tannaitic Schools, the original halachoth before them — when indefinite — were amplified and defined with the aid of traditions received by one or other of those present; v. Halevy, Doroth, p. 846.

(27) Quoted also in Hul. 99a.

(28) V. supra 4, n. 4.

(29) Likewise if leaven of barley has fallen into dough of barley, i.e. , where both the bulk and the admixture are of the same species.

(30) Because in the case of a mixture of a species with its like (as here, wheat with wheat) for the permitted bulk to neutralize the prohibited admixture two conditions are essential: the prohibited portion must be (a) not more than one within 101 of the whole, and (b) incapable of imparting flavour to the mixture. Here even if the former condition is present, the latter is lacking.

(31) Because condition (in) referred to in the preceding note, is lacking here, even if condition (b) exists.

(32) Sc. of terumah. The rules given in this Mishnah apply also when the admixture is of ‘orlah or ‘mixed-seeds’ of the vineyard, with the substitution of 201 where our Mishnah has 101.

(33) This is an example of ‘a species with not its species’, which would cover an instance of, say, leaven of barley in wheaten dough. Pounded beans are cited as an example probably to show that though pounded beans as such have a decided flavour, yet if (as in the second contingency) the flavour cannot be distinctly felt in the mixture, the whole dish is permitted. In addition, this instance is an intimation that beans and lentils are not deemed like species, notwithstanding the fact that both are legumens.

(34) In conformity with the principle that an admixture of prohibited matter of an unlike species renders the whole prohibited when the former (being in a proportion of more than one in sixty) imparts its flavour; v. supra I, n. 7.

(35) Because the circumstance of imparting flavour is absent; v. preceding note.

(36) I.e. , after the non-sacred (hullin) dough had fallen in, but before it had time to ferment the dough.

(37) One might have argued that since the dough would have fermented from the permitted leaven alone, the second admixture of leaven can be deemed as of no material effect, and that, therefore, the dough is permitted. We do not argue thus because the second — prohibited — admixture certainly accelerated the fermentation.

(38) In spite of the fact that the second admixture of leaven overferments the dough and spoils it, and the rule, which thus becomes applicable, that a prohibited admixture which imparts a deteriorating flavour (נותן טעם לפגם) does not render the mixture prohibited; the dough though now unfit for consumption by itself, can be used as leavening for a number of other doughs.

(39) On the ground that since the dough had already become fermented before the prohibited leaven came in, the latter is deemed as of no effect. In the case stated in the preceding Mishnah, R. Simeon does not dispute the prohibition, since there, at the time the prohibited leaven fell in, the permitted leaven had not yet caused any fermentation, and the prohibited leaven, though it came in later, played an equal part with the permitted leaven in the process of fermentation.

(40) Maim. points out that the term ‘seasoning’ (תבלין) includes not only spices but onions, garlic, wine, vinegar, oil — in fact everything used for the purpose of giving the dish a special flavour.

(41) Sc. of prohibitions; lit ‘names’ (שמות). So explained by Rabbenu Jacob Tam quoted in Tosaf. Shab. 89b in opposition to Rashi (ibid.) whose interpretation is: ‘names’ denoting several varieties of one species, (so also Maim. to our Mishnah).

(42) E.g., (a) pepper of ‘orlah, of Asherah and of the city condemned for apostacy (Deut. XIII, 13 ff), or (b) of terumah of the Second Tithe, and of the Seventh-Year produce (Ex. XXIII, 10-11, Lev. XXV, 2-7), or (c); cummin of ‘mixed-seeds’ of the vineyard, of terumah, and of the Second Tithe; so Rash, following R. Tam in Tosaf. (loc. cit.). against Rashi whose example is long (-grain) pepper, white pepper and black pepper (so also Maim. and Siponto). R. Tam points with justification to the beginning of T. J. to Mishnah I as conclusively bearing out his interpretation. V. Rash. to our Mishnah for a review of this point.

(43) E.g., pepper and ginger and cummin of ‘orlah, or of terumah.

(44) V. Rash. who favours reading אוסרין rather than אסור .

(45) Bert., following Maim., takes ‘prohibited’ and ‘reckoned together’ as one rule meaning that the two (or three) are reckoned together as forming the statutory proportion rendering a dish thus seasoned prohibited in-so-far as the seasonings impart taste (v. L.’s note 36). Rash. after Tosaf. (loc. cit.), gives also an alternative interpretation, viz., ‘render prohibited’ in the case of liquid food or cooked dishes (where ‘imparting flavour is a factor), and ‘are reckoned together’ in the case of dry produce (where the principle of neutralization in 101 or in 201, operates), v. L. Another alternative explanation is: they are ‘reckoned together’ as forming a kazayyith (a quantity equal to the size of an olive) of a consecrated comestible which, when consumed by a person to whom it is prohibited, renders the consumer liable to punishment by stripes, v. Rash.

(46) R. Simeon's view, as that of an individual against that of a majority, is rejected. — The general term for the principle involved in this dispute is זה וזה גורם i.e., the status (whether permitted or forbidden) of something brought into being by two contributing causes, one of which is prohibited and the other permitted, or both of which are prohibited but each subject to a different prohibition.

(47) I.e., If the leaven of terumah was the last to fall in the dough becomes medumma’; if the non-sacred leaven fell in last the dough remains permitted, but only if the prohibited leaven was removed before the permitted fell in. In such a case R. Eliezer would overlook as inconsiderable the slight contribution towards the ultimate fermentation made by the prohibited leaven whilst it was with the dough.

(48) איש הבירה . This Jo'ezer was apparently the senior officer of the Temple. W. Jawitz identifies this office with ‘The Master of the Temple Mount’, cf. Mid. I, 2. The office שר הבירה is already mentioned in Neh. VII, 2. As some Amoraim are also so designated Bacher (Ag. Pal. Am. I) concludes that it became eventually an honorary title of the descendants of priests who had held the post. V. Klein, S. מחקרים ארצי ישראלים II, p. 76.

(49) I.e the Sage or the Elder, the first Tanna of that name, the grandson of Hillel. Tosaf. Yom Tob points out that the Shammaites did not abstain from seeking knowledge from the Hillelites. Bacher, Tradition und Tradentem (p. 88), points out that this is the earliest instance of a legal ‘tradition’ recorded as having been passed on in this manner.
(50) Sc. of the Temple.
(51) The purpose of this Mishnah is purely the corroboration of the view of the Sages against that of R. Eliezer as stated in the preceding Mishnah (Maim.).
(52) Skin or leather articles, such as sandals, oiled for the purpose of softening.
(53) After the (unclean) oil had become fully absorbed in the material, and after the articles had been immersed for ritual cleansing.
(54) When the oil is thoroughly absorbed and dried into the material, the article, after ritual immersion, is clean. Use of the articles expels the oil which then, as a liquid — if itself unclean — renders unclean whatever is in contact with it. R. Eliezer holds that the first oil is expelled (as well as the second oil) so that in whatever order the oils were applied, the article is rendered unclean, since one of the oils is unclean. R. Eliezer's dictum is to be understood as ‘I go even after the first’ if that was unclean.
(55) Their point is that the article already saturated with oil does not readily or thoroughly absorb any more oil, so that the liquid oil (expelled by use) on the article, must be presumed to be of the oil applied last; therefore the cleanness or otherwise of the article depends on the cleanness or otherwise of the oil applied last. — The purpose of this Mishnah in the present context is apparently to give an example involving the principle of ‘going after the first (or the last)’ referred to in Mishnah 11.
(56) Since to them both parts of the admixture are prohibited, and the Sages hold that admixtures of two or three prohibited categories are ‘reckoned together’ (supra 10).
(57) Since to them the terumah leaven is permitted, and the leaven of ‘mixed-seeds’ which is prohibited to them is of a quantity insufficient by itself to cause fermentation (Bert.). Since they hold that something which results from a combination of something prohibited and something permitted, is permitted, cf. supra 20, n. 5 (L).
(58) In conformity with his view that admixtures of two or more prohibited categories are not ‘reckoned together’, (v. Mish. 10).
(59) By the same reasoning as Mishnah 14 notes 5,6,7. The virtual repetition of these views of R. Eliezer and of the Sages in this and the preceding Mishnahs give definite examples of the application of the principles as laid down by the disputants in Mishnah 10. Thus according to the Sages different prohibited categories of one species (the subject of this Mishnah), as well as different species subject to the same prohibition (dealt with in Mishnah 14), ‘are reckoned together’, whilst R. Eliezer differs from the Sages in both instances. In addition, our Mishnah establishes beyond a peradventure the application of the principles of Mishnah 10 to mixtures with cooked dishes and liquids (as well as to instances of mixtures where both the bulk and the admixture are dry).
(60) Viz., sin-offerings, guilt-offerings, and the ‘peace-offerings of the congregation’, viz., the two he-lambs offered on the Feast of Weeks (Lev XXIII, 19-20). (The burnt-offering also belongs to the category of the ‘most holy’, but as it is wholly burnt on the altar no question arises as to any portion thereof being eaten.)
(61) Lit., ‘an abhorred thing’, a term used in Lev. VII, 18: And if any of the flesh of the sacrifice of his peace-offerings be at all eaten on the third day, it shall not be accepted, neither shall it be imputed unto him that offereth it; it shall be an abhorred thing; and the soul that eateth of it shall bear his iniquity. V. also Lev. XIX, 7,8. The penalty for transgression is kareth (‘excision’). In Zeb. 28a this term is interpreted as applying to sacrificial flesh which is invalidated through the (improper) intention of the officiating priest either to have it eaten or burnt on the altar later than the appointed time
(62) Lit., ‘that which remaineth over’. According to Ex. XII, 10, the Paschal lamb was to be eaten on the day of the sacrifice only; according to Lev. VII, 15-17, and XIX, 8, the flesh of certain other sacrifices was to be eaten only on the day of the sacrifice and the following; whatever ‘remaineth over’ to the day after, may not be eaten, and must be burnt. Nothar, like Piggul is prohibited to priests and non-priests alike.
(63) Of which there is sufficient to neutralize either of the prohibited pieces there being 60 parts of the permitted to one part of each of the prohibited) but not enough to neutralize both of them together.
(64) The pieces that had fallen in having been removed (Maim.).
(65) In accordance with the view of the Sages that two or three admixtures of prohibited matter of one species but belonging to different prohibited categories, are ‘reckoned together’, and both the ‘most holy’ and the Piggul or Nothar are prohibited to non-priests.
(66) Because only the Piggul or Nothar is prohibited to them, but not the ‘most holy’, which by itself is small enough to

neutralize.

(67) In accordance with his views that admixtures of differing prohibited categories are not ‘reckoned together’. L. suggests a reason for the Mishnah citing this after the principles involved have already, and apparently adequately, been established, viz.: It is stated in Lev. VI, 11, that anything touched by the flesh of sacrifices itself becomes consecrated and from this is inferred (in Pes. 45a) the principle היתר מצטרף לאיסור i.e., that permitted food is added to prohibited food as making up the statutory minimum of a kazayith (the equivalent of an olive in size). It might have been thought that in view of this, R. Simeon would, in the circumstances stated in the first part of the Mishnah, agree with the Sages. Our Mishnah, therefore, goes on to inform us that R. Simeon nevertheless adheres to his principle that quantities of the same species belonging to different prohibited categories are not ‘reckoned together’.

(68) Which is prohibited to all non-priests, whether clean or unclean.

(69) Viz., the thank-offering the male firstborn of clean animals, the Paschal lamb, the tithe of clean animals (which has been redeemed) and the Nazirite's ram. The flesh of these is permitted to non-priests as long as they are clean.

(70) I.e., ordinary flesh for consumption by Israelites, which is non-sacred. It is termed ‘the flesh of desire’ because in the injunction relating to the slaughter of animals for general Israelite consumption, the phrase used is, when thy soul desireth to eat flesh (Deut. XII, 20). This flesh is permitted to clean and unclean alike (ibid. verse 22). In our case there is of this non-sacred flesh to neutralize either of the two sacred pieces separately, but not sufficient to neutralize both pieces taken together.

(71) Because the ‘most holy’ and the ‘holy in a lesser degree’ are prohibited to unclean persons. Even R. Simeon agrees that in this case the two quantities are reckoned together’ as they are not only of the same matter (viz., flesh) but belong to the same prohibited category (the difference between ‘most holy’ and ‘holy in a lesser degree’ being only a matter of degree and not of category).

(72) Even the Sages are of this opinion, since the ‘most holy’ is neutralized by the overwhelming quantity of the non-sacred flesh, and the ‘less holy’ is in any case permitted to clean persons.

Mishna - Mas. Orlah Chapter 3

MISHNAH 1. IF ONE DYED[1] A GARMENT WITH SHELLS[2] OF ‘ORLAH, IT [THE GARMENT] SHALL BE BURNT; IF IT BECAME MIXED UP WITH OTHER [GARMENTS], ALL OF THEM SHALL BE BURNT. [THIS IS] THE OPINION[3] OF R. MEIR,[4] BUT THE SAGES SAY: IT BECOMES NEUTRALIZED IN TWO-HUNDRED-AND-ONE.

MISHNAH 2. IF ONE DYED A THREAD THE WHOLE [LENGTH] OF A SIT[5] WITH SHELLS OF ‘ORLAH, AND WOVE IT INTO A GARMENT, AND IT IS NOT KNOWN WHICH [THREAD] IT IS, R. MEIR SAYS: THE GARMENT SHALL BE BURNT;[6] BUT THE SAGES SAY: IT [THE THREAD] BECOMES NEUTRALIZED IN TWO-HUNDRED-AND-ONE.[7]

MISHNAH 3. IF ONE WOVE THE WHOLE OF A SIT'S LENGTH OF THE WOOL OF A FIRSTLING[8] INTO A GARMENT, THE GARMENT SHALL BE BURNT;[9] AND [IF ONE WOVE A SIT] OF THE HAIR OF A NAZIRITE[10] OR OF THE FIRST-BORN OF AN ASS[11] INTO SACK-CLOTH, THE SACK-CLOTH SHALL BE BURNT,[12] AND [IF ONE HAS WOVEN] WITH [SOME WOOL OR HAIR OF] CONSECRATED [ANIMALS],[13] THESE [KINDS OF WOOL OR HAIR] HAVE THE EFFECT OF RENDERING [THE WOVEN ARTICLE] CONSECRATED, WHATEVER [SMALL AMOUNT] OF THEM[14] THERE BE.[12]

MISHNAH 4. A DISH WHICH ONE COOKED WITH SHELLS[15] OF ‘ORLAH[16] SHALL BE BURNT;[17] IF IT [SUCH COOKED FOOD] BECAME MIXED UP WITH OTHER [COOKED FOODS], IT BECOMES NEUTRALIZED IN TWO-HUNDRED-AND-ONE.[18]

MISHNAH 5. IF ONE FIRED AN OVEN WITH SHELLS OF ‘ORLAH, AND BAKED THEREIN BREAD, THE BREAD SHALL BE BURNT. IF IT BECAME MIXED UP WITH OTHER [LOAVES] IT BECOMES NEUTRALIZED IN TWO-HUNDRED-AND-ONE.[19]

MISHNAH 6. IF ONE HAS BUNDLES OF TREFOIL[20] OF ‘MIXED-SEEDS’ OF THE VINEYARD, THEY SHALL BE BURNT; IF THEY BECAME MIXED UP WITH OTHERS,[21] ALL OF THEM SHALL BE BURNT. THIS IS THE OPINION OF R. MEIR; BUT THE SAGES SAY THEY BECOME NEUTRALIZED IN TWO-HUNDRED-AND-ONE.[22]

MISHNAH 7. BECAUSE R. MEIR USED TO SAY: [THE ADMIXTURE OF] ANYTHING WHATSOEVER ONE IS WONT TO COUNT [WHEN SELLING],[23] CONDEMNS TO FORFEITURE;[24] BUT THE SAGES SAY ONLY SIX THINGS CONDEMN TO FORFEITURE, AND R. AKIBA SAYS SEVEN [THINGS], AND THESE ARE THEY: NUTS WITH BRITTLE SHELLS,[25] AND POMEGRANATES OF BADAN,[26] AND STOPPED-UP CASKS,[27] AND SHOOTS OF BEET, AND CABBAGE-HEADS, AND GREEK PUMPKINS. R. AKIBA[28] SAYS: ALSO LOAVES OF A HOUSEHOLDER.[29] SUCH [OF THESE] AS ARE LIABLE TO ‘ORLAH[30] [CONDEMN THE MIXTURE TO FORFEITURE] AS ORLAH, [SUCH OF THESE AS ARE LIABLE TO THE LAW OF] ‘MIXED-SEEDS’ OF THE VINEYARD[31] [CONDEMN THE MIXTURE TO FORFEITURE AS] ‘MIXED-SEEDS’ OF THE VINEYARD.

MISHNAH 8. IN WHAT [DEFINED] MANNER[32] [MAY THE ABOVE BECOME NEUTRALIZED]? IF THE NUTS CRACKED, OR IF THE POMEGRANATES BURST OPEN, OR THE CASKS BECAME UNSTOPPED, OR THE PUMPKINS WERE CUT, OR THE LOAVES WERE BROKEN UP, THEY BECOME NEUTRALIZED IN TWO-HUNDRED-AND-ONE.[33]

MISHNAH 9. [WHATEVER IS UNDER DOUBT] AS TO [WHETHER IT IS] ‘ORLAH[34] IS, IN THE LAND OF ISRAEL, PROHIBITED,[35] AND IN SYRIA — PERMITTED;[36] [AND] OUTSIDE THE LAND[37] ONE MAY GO DOWN AND PURCHASE [FROM A NON-ISRAELITE],[38] PROVIDED ONLY THAT ONE HAS NOT SEEN HIM GATHERING IT.[39] IF [THERE IS] A VINEYARD PLANTED WITH GREENS, AND GREENS ARE SOLD OUTSIDE THEREOF,[40] THESE ARE, IN THE LAND OF ISRAEL, PROHIBITED,[41] AND IN SYRIA — PERMITTED;[42] OUTSIDE THE LAND[43] ONE MAY [PURCHASE THEM FROM A NON-ISRAELITE WHOM ONE HAS SEEN] GO DOWN AND GATHER [‘MIXED-SEEDS’ OF THE VINEYARD], PROVIDED ONLY THAT ONE DOES NOT GATHER [THEM] WITH [ONE'S OWN] HAND.[44] ‘NEW [PRODUCE]’[45] IS PROHIBITED BY THE TORAH IN ALL PLACES;[46] AND ‘ORLAH IS A HALACHAH;[47] AND ‘MIXED-SEEDS’[48] IS ONE OF THE ENACTMENTS OF THE SCRIBES[49] .

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(1) It is prohibited to derive any sort of use or benefit (hanna'ah) from ‘orlah. The Mishnah instances dyeing rather than state this rule in general terms, because if it had done the latter, it might have been thought that dyeing was not included in the prohibition of hanna'ah in conformity with the principle, that, i.e., improvement in appearance is not (considered) a (substantial) thing (to be taken account of in prohibitions), a principle which applies only to Rabbinic and not to Biblical prohibitions, to which category ‘orlah belongs, v. B.K. 101a.

(2) Or peel, or husks; these, as an integral part of the fruit, are subject to ‘orlah, v. supra I, 8.

(3) Lit., ‘(these are) the words of....’.

(4) In conformity with his (unaccepted) principle (Mish. infra) that a consecrated article of any kind sold by number, when mixed with others, consecrates and prohibits the others irrespective of the relative proportions of forbidden and permitted articles.

(5) A measure of length. Definitions vary; viz., (a) the distance between the tips of the forefinger and middle finger when fully stretched apart (the distance between the tips of the forefinger and the thumb when fully stretched apart being a ‘double sit’), v. Rashi to Shab. 105b-106a; (b) a handbreadth (i.e. the width, across the knuckles, of the four fingers held together, plus the thumb when held close to them; (c) ==a sixth of a span (zereth), (Maim.).

(6) But he permits the material as long as the length of the ‘orlah-dyed thread is less than a sit.

(7) Even if the length of the prohibited thread is less than a sit, the Sages require two hundred times of permitted thread to neutralize the prohibited.

(8) The use of such wool is forbidden, as the whole animal is consecrated and its shearing is forbidden. Deut. XV, 19, All the firstling males that are born of thy herd and of thy flock shalt sanctify unto the Lord thy God . . . . thou shalt not shear the firstling of thy flock.

(9) However overwhelming the amount of permitted thread it contains.

(10) In Num. VI, 5, He shall be holy, he shall let the locks of the hair of his head grow long; the words קדש יהיה are interpreted 'it shall be holy' and taken to refer to the hair; so that a Nazirite's hair is deemed consecrated and prohibited for use, v. Josephus Ant. VI, 4.

(11) Sc. which has not been redeemed and is to have its neck broken. Ex. XIII, 13, And every firstling of an ass thou shalt redeem . . . . and if thou wilt not redeem it, then thou shalt break its neck. By analogy with Deut. XXI, 4 . . . . and shall break the heifer's neck, the rule is derived that (at any rate after the breaking of its neck) the firstling of an ass is subject to the same prohibitions of use as are prescribed, or inferred, with regard to the heifer whose neck is broken. That the use of the latter's hair is forbidden is inferred, by analogy, from the 'red heifer'. Of the firstling ass it is said (Deut. XXI, 2). which hath not drawn in the yoke, and of the 'red heifer' it is said (Num. XIX, 3), upon which never came a yoke. This common factor is interpreted to render both subject to the same prohibitions of use, and since in the case of the 'red heifer', the injunction to burn it whole deliberately mentions the skin, it is clear that its skin and hair are deemed consecrated and their use prohibited, and likewise, by analogy, the hair of the heifer-whose-neck-is-broken; by extension of the analogy, also the hair of the firstling of an ass (that has not been redeemed) is forbidden.

(12) However large the proportion of permitted wool or hair. Sack-cloth is instanced in regard to hair, and a garment in regard to wool, Because such were the uses to which hair and wool respectively were commonly put.

(13) I.e only such as one may redeem, e.g., קדשי מזבח animals voluntarily designated for sacrifice which became unfit, through blemish, for the altar, and קדשי בדק הבית such animals (or objects) devoted for purposes of the upkeep of the Temple.

(14) I.e. of the prohibited hair or wool. (8) This stringent ruling applies only, as already stated, to such (consecrated) objects as can be made permitted by redemption, to which applies the principle that 'whatever may be rendered permitted is not annulled even in a thousand'. Where, however, Scripture has precluded the alternative redemption (v. note 6), the law is more lenient, viz., only if the prohibited admixture is of a given minimum measure (in our case a sit of consecrated wool or hair) has it the effect of rendering the rest consecrated, prohibited for use and condemned to destruction (T.J.).

(15) V. supra Mish. 1, n. 2.

(16) Or stubble of 'mixed-seeds' of the vineyard, used as fuel; the dish being open to the flame (v. Pes. 26b and Rashi ad loc.).

(17) The dish having become prohibited by absorbing, as it were, the 'goodness of the prohibited fuel.

(18) Even R. Meir agrees with this, and does not insist, as he does in the instances cited earlier in the chapter, that the slightest amount of matter affected by 'orlah, should render other matter mixed therewith similarly prohibited. The reason for leniency here, is that the prohibited element in the dish is from shells etc, a material not significant enough that its flame should impose not only a prohibition, but also a completely prohibitory character on a dish cooked in front of it.

(19) V. notes to Mishnah 4.

(20) תלתן from the Aramaic תלת == three, a three-leaved leguminous plant, particularly fenugreek (v. Jast.). A bundle of this consists of twenty-five stalks (T.J.).

(21) In the quotation of this Mishnah in Bez. 3b 'and (these) others with other' is added. Tosaf. there, in the name of R. Tam, rejects the addition. In Zeb. 72a — b the added words are enclosed in brackets. In Yeb. 81a — b the text is as in our Mishnah.

(22) For reasons stated by him in the next Mishnah.

(23) I.e., sold and bought by number (so R. Johanan Bez. 3b). This would include bundles of fenugreek, which are spoken of in Mishnah 6.

(24) By way of disposal in a manner whereby no benefit whatsoever is derived. The term used here, viz., מקדש is based on the use of the verb in Deut. XXII, 9, Thou shalt not sow thy vineyard with two kinds of seeds, lest the fullness of the seed which thou hast sown be forfeited (תקדש) together with the increase of the vineyard.

(25) פרך but Maim. and Bert. (also Rashi to Bez. loc. cit.) take it as a place known for its nuts, just as בדן mentioned immediately afterwards as a place famous for pomegranates. B., however, already mentions the alternative adopted in our translation.

(26) A place N.E. of Shechem.

(27) I.e., stopped-up casks of forbidden wine mixed up with stopped-up casks of permitted wine (v. T.J.); cf. M. Sh. III, 13.

(28) Not R. Simeon, as in one text.

(29) These are usually larger, and more distinctive than bakers' loaves.

(30) I.e., such of the enumerated items as are tree-produce, viz., nuts, pomegranates and wine.

(31) I.e., such of the enumerated items as are vegetable-produce or grain, viz., shoots of beet, cabbage-heads, Greek pumpkins, also loaves.

(32) כיצד . The text of the Mishnah in T.J. omits the word, which, indeed, appears superfluous, though Maim. tries to justify its retention.

(33) When these things are no longer whole, their significance is impaired, and they have a prohibitory effect only if there be of any of them the minimum of one part to two hundred parts of the permitted.

(34) E.g., produce which is being sold outside a vineyard which is 'orlah, but with regard to which fruit it is nor known whether it is from that vineyard or another permitted one (T.J.); or, the fruit of an orchard of a non-Israelite (Rash, Bert.) or of an Israelite suspected of neglecting the law of 'orlah (Rashi to Ber. 36a, q.v.), but it is nor known whether the fruit he is selling is from an old tree or from a young tree still subject to 'orlah; or, simply, from a tree of unknown age (Rashi to Kid. 38b, q.v.).

(35) On the principle that wherever there exists a doubt, however slight, as to whether a Scriptural prohibition applies, the ruling is stringent, i.e., the prohibition is, the doubt notwithstanding, enforced.

(36) Syria was conquered not by the Israelites coming up from Egypt but later by King David, and therefore, as the conquest of an individual, has not the full sanctity of the Land of Israel proper. This inferiority of status accounts for the difference of the treatment of 'doubtful' 'orlah (or 'doubtful' 'mixed-seeds' of the vineyard). In the Land of Israel it is prohibited (just as is 'certain' 'orlah or 'mixed-seeds' of the vineyard); in Syria it is permitted, but only when the presumption against its being 'orlah (or 'mixed-seeds' of the vineyard) is a formidable one. — Tosef. has 'in Syria and outside the Land it is permitted'.

(37) There 'orlah, though not forbidden by the Torah, is nevertheless forbidden by a rule orally given to Moses at Sinai (v. later in this Mishnah). Ordinarily when there is a doubt whether anything is subject to such a prohibition, the prohibition is yet maintained (just as in the ease of a doubt in connection with a Scriptural prohibition, v. supra n. 2), but in this case it is held that the 'Rule given to Moses at Sinai' explicitly stated that whilst 'certain' 'orlah was forbidden, outside Palestine 'doubtful' 'orlah was permitted (Kid. 39a).

(38) Or from an Israelite suspected of neglecting 'orlah (v. supra n. 1).

(39) This example shows that 'doubtful' 'orlah outside the Land of Israel is permitted even when the presumption against its being 'orlah is a very slender one. In Syria the permission is applied in rather stricter fashion (v. supra n. 3).

(40) These greens are thus 'doubtful' 'mixed-seeds' of the vineyard.

(41) V supra n, 2.

(42) V. p. 381, n. 3.

(43) Where 'mixed-seeds' of the vineyard are not prohibited by the Torah, but by Rabbinic enactment (v. later in the Mishnah and n. 7).

(44) Ordinarily, where there is a doubt as to whether anything is subject to a Rabbinic (as distinct from a direct Scriptural) prohibition, the prohibition is not maintained but here in the case of 'mixed-seeds' of the vineyard outside the Land, it is maintained to a rather minor degree, viz., only forbidding an Israelite to pick such doubtful 'mixed-seed's with his own hand, for the purpose of impressing on the mind of the Israelite that the sowing of 'mixed-seeds' of the vineyard is something forbidden (v. L.).

(45) V. Lev. XXIII, 14.

(46) Outside as well as in the Land of Israel. Cf. Kid. I, 9, where according to the Gemara (p. 37a) the extension of the application of the law to countries outside the Land of Israel is in accordance with (Lev. ibid.) 'in all your dwelling places', viz., whether in the Land or elsewhere.

(47) 'Rule'. According to to T.J. ad loc. and Kid. 38b it means here הלכה למשה מסיני 'A Rule given to Moses at Sinai'. This is the view of R. Johanan, accepted against that of Samuel who thought it meant הלכתא מדינה i.e., a rule voluntarily adopted by Jews outside the Land of Israel as binding upon themselves. Cf. Bacher Tradition and Tradenter, p. 39; v. p. 381, n. 4.

(48) Sc. of the vineyard; these alone are to be understood here. As for other kinds of mixed-seeds, since they are prohibited in the Land of Israel only for eating, the Rabbis made no prohibition at all regarding them outside the Land (v.

Kid. 39a). Other kinds of kil'ayim (mixture of species) e.g. of animals or of garments (cloth) (Lev. XIX,19) which have no connection with land, and come under the category of ‘obligation of the person’, are incumbent equally inside and outside the Land of Israel.

(49) Soferim, a designation of the teachers of the period, from Ezra (cf. Ezra VII, 6, 10-11) to the beginning of the Tannaitic age. But דברי סופרים says Bacher, Tradition p. 163 — means the same as דברי חכמים ‘the words of the ‘Wise’, which means words, or enactments of the oral tradition (v. op. cit. p. 160).

Mishna - Mas. Bikkurim Chapter 1

MISHNAH 1. SOME THERE ARE WHO BRING BIKKURIM[1] AND RECITE [THE DECLARATION];[2] OTHERS WHO MAY ONLY BRING THEM, BUT DO NOT MAKE RECITAL; AND SOME THERE ARE WHO MAY NOT EVEN BRING THEM AT ALL. THESE MAY NOT BRING THEM: HE WHO PLANTS [A TREE] ON HIS OWN SOIL, BUT SINKS[3] [A SHOOT] SO THAT [IT] GROWS IN THE TERRITORY BELONGING TO AN INDIVIDUAL[4] OR TO THE PUBLIC; AND LIKEWISE IF ONE SINKS [A SHOOT] IN ANOTHER'S PRIVATE PROPERTY OR IN PUBLIC PROPERTY, SO THAT IT GROWS ON HIS OWN PROPERTY:[4] OR, IF ONE PLANTS [A TREE] ON HIS OWN [PROPERTY] AND SINKS IT SO THAT IT STILL GROWS ON HIS OWN PROPERTY, BUT THERE IS A PRIVATE OR PUBLIC ROAD BETWEEN, SUCH A ONE MAY NOT BRING BIKKURIM.[5] R. JUDAH SAYS, SUCH A ONE HAS TO BRING BIKKURIM.[6]

MISHNAH 2. FOR WHAT REASON MAY HE NOT BRING THEM? BECAUSE IT IS SAID,' THE FIRST-FRUITS OF THY LAND', MEANING THAT THOU MAYEST NOT BRING THEM UNLESS ALL THE PRODUCE [COMES] FROM THY LAND. TENANTS,[7] LESSEES,[8] OR OCCUPIERS OF CONFISCATED PROPERTY,[9] OR A ROBBER MAY NOT BRING THEM FOR THE SAME REASON, BECAUSE IT SAYS, 'THE FIRST-FRUITS OF THY LAND'.

MISHNAH 3. BIKKURIM ARE BROUGHT ONLY FROM SEVEN KINDS,[10] BUT NONE [MAY BE BROUGHT] FROM DATES GROWN ON HILLS, OR FROM VALLEY-FRUITS,[11] OR FROM OLIVES THAT ARE NOT OF THE CHOICE KIND. BIKKURIM ARE NOT TO BE BROUGHT BEFORE PENTECOST.[12] THE MEN OF MT. ZEBOIM[13] BROUGHT THEIR BIKKURIM BEFORE PENTECOST,[14] BUT THEY WERE NOT ACCEPTED BECAUSE OF WHAT IS WRITTEN IN THE TORAH: 'AND THE FEAST OF HARVEST, THE FIRST-FRUITS OF THY LABOURS, WHICH THOU SOWEST IN THE FIELD'.[15]

MISHNAH 4. THESE BRING [BIKKURIM] BUT DO NOT MAKE THE RECITAL: THE PROSELYTE, SINCE HE CANNOT SAY: WHICH THE LORD HATH SWORN TO OUR FATHERS, TO GIVE UNTO US'.[16] IF HIS MOTHER WAS AN ISRAELITE, THEN HE BOTH BRINGS BIKKURIM AND RECITES THE DECLARATION.[17] WHEN HE PRAYS PRIVATELY, HE SHALL SAY:'O GOD OF THE FATHERS OF ISRAEL'; BUT WHEN HE IS IN THE SYNAGOGUE, HE SHOULD SAY: 'THE GOD OF YOUR FATHERS'.BUT IF HIS MOTHER WAS AN ISRAELITE WOMAN, HE SAYS: 'THE GOD OF OUR FATHERS'.[17]

MISHNAH 5. R. ELIEZER B. JACOB SAYS: A WOMAN WHO IS A DAUGHTER OF A PROSELYTE MAY NOT MARRY A PRIEST UNLESS HER MOTHER WAS HERSELF AN ISRAELITE WOMAN. [THIS LAW APPLIES EQUALLY TO THE OFFSPRING] WHETHER OF PROSELYTES OR FREED SLAVES, EVEN TO TEN GENERATIONS, UNLESS THEIR MOTHER IS AN ISRAELITE. A GUARDIAN,[18] AN AGENT, A SLAVE, A WOMAN,[19] ONE OF DOUBTFUL SEX, OR A HERMAPHRODITE[20] BRING THE BIKKURIM, BUT DO NOT RECITE, SINCE THEY CANNOT SAY: 'WHICH THOU, O GOD, HAST GIVEN UNTO ME'.[21]

MISHNAH 6. HE WHO BUYS TWO TREES [THAT HAD GROWN] IN PROPERTY BELONGING TO HIS FELLOW BRINGS BIKKURIM BUT IS NOT TO MAKE THE RECITAL.[22] R. MEIR SAYS: HE ALSO MAKES THE RECITAL.[23] IF THE WELL DRIED UP,[24] OR THE TREE WAS CUT DOWN,[25] HE BRINGS BUT DOES NOT RECITE. R. JUDAH SAYS: HE BRINGS AND RECITES.[26] FROM PENTECOST TILL SUKKOTH[27] ONE MAY BRING [BIKKURIM] AND MAKE THE RECITAL; FROM SUKKOTH TILL HANUKAH,[28] ONE MAY BRING, BUT DOES NOT MAKE THE RECITAL. R. JUDAH B. BATHYRA SAYS: ONE MAY BRING AND ALSO MAKE THE RECITAL.

MISHNAH 7. IF A MAN SET ASIDE HIS BIKKURIM AND SOLD [AFTERWARDS] HIS FIELD, HE BRINGS THEM BUT DOES NOT MAKE THE RECITAL;[29] WHEREAS THE OTHER [WHO BOUGHT THE FIELD] MAY NOT BRING [BIKKURIM] OF THE SAME SPECIES,[30] BUT HE BRINGS THEM OF ANOTHER KIND AND MAKES THE RECITAL. R. JUDAH SAYS: HE MAY ALSO BRING FIRST-FRUITS OF THE SAME KIND AND MAKE THE RECITAL.

MISHNAH 8. IF ONE SET ASIDE [HIS BIKKURIM] AND THEY WERE PLUNDERED, OR ROTTED WERE STOLEN OR LOST, OR CONTRACTED UNCLEANNESS, HE MUST BRING OTHERS IN THEIR STEAD,[31] BUT DOES NOT MAKE THE RECITAL.THESE OTHERS ARE NOT SUBJECT TO THE LAW OF THE [ADDED] FIFTH.[32] IF THEY CONTRACTED UNCLEANNESS WHILE IN THE TEMPLE COURT, HE MUST SCATTER THEM[33] AND DOES NOT MAKE THE RECITAL.

MISHNAH 9. WHENCE DO WE INFER THAT A MAN IS RESPONSIBLE FOR THEM UNTIL HE BRINGS THEM INTO THE TEMPLE MOUNT? BECAUSE IT SAYS: ‘THE FIRST OF THE FIRST-FRUITS OF THY LAND SHALT THOU BRING INTO THE HOUSE OF THE LORD THY GOD’;[34] THIS TEACHES THAT HE IS RESPONSIBLE UNTIL HE BRINGS THEM INTO THE TEMPLE MOUNT. IF HE BROUGHT [BIKKURIM] OF ONE KIND AND MADE THE RECITAL AND THEN BROUGHT OF ANOTHER KIND, HE MAKES NO [SECOND] RECITAL.[35]

MISHNAH 10. THESE BRING AND MAKE THE RECITAL: [ONE WHO BRINGS BIKKURIM] FROM PENTECOST TO SUKKOTH, FRUITS OF THE SEVEN SPECIES, AND THOSE GROWN ON THE MOUNTAINS,[36] OR DATES GROWN IN THE VALLEYS,[37] OIL-OLIVES[38] [AND PRODUCE] FROM TRANSJORDANIA.[39] R. JOSE THE GALILEAN SAYS: ONE MAY NOT BRING [BIKKURIM] FROM TRANSJORDANIA, SINCE THAT IS NOT ‘A LAND FLOWING WITH MILK AND HONEY’.

MISHNAH11. IF ONE BOUGHT THREE TREES IN THE FIELD OF HIS FELLOW, HE BRINGS [BIKKURIM] AND MAKES THE RECITAL.[40] R. MEIR SAYS: EVEN [IF HE BOUGHT] ONLY TWO.[41] IF HE BOUGHT ONE TREE WITH ITS SOIL, HE BRINGS [BIKKURIM] AND MAKES THE RECITAL. R. JUDAH SAYS, ALSO TENANTS AND LESSEES[42] BRING AND RECITE.[43]

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(1) Deut. XXVI, 1-11.

(2) Ibid. 5-11.

(3) By bending the shoot-into the ground so that it springs forth as an independent plant.

(4) The sine qua non of bikkurim is that the fruit had to he grown in soil indisputably that of the owner, v. next Mishnah.

(5) The reason being that some of the fruit of both his fields derive their nature from soil belonging to another.

(6) Agreeing with the view of B.B. 60a, which permits a cavity to be dug under public property provided that the surface still remains firm enough to hear a waggon loaded with stones traversing across it. Accordingly, the fruit grown in such wise is still sufficiently his own to warrant bikkurim. R. Judah. however, only claims his view in the case of a public foot-path, and even then no recital is to be made. In the case of a private foot-path, he concurs that the products cannot be deemed his own.

(7) Heb. אריסין , labourers who receive a certain share of the produce in lieu of their work for the owner.

(8) Heb חכורות, labourers who, irrespective of the yield of the crops, pay the landlord a certain rent in kind.

(9) Heb. סקריקין , probably of Greek origin. Lat. sicarius. The allusion is no doubt to the Hadrianic persecutions following the Bar Cochba wars (132-135 C.E.) when the Romans confiscated the property of the Jews killed or taken captive in the wars. The produce of such confiscated property, afterwards re-acquired by other Jews, was exempt from the law of Bikkurim, v. Git. (Sonc. ed.) p. 252, n. 2.

(10) For which Palestine was renowned, namely wheat, barley, grapes, figs, pomegranates, olive-oil and date-honey; cf. Deut. VIII, 8.

(11) Fruit grown in valleys (except dates) were not of the choice kind.

(12) Azereth, the closing festival, Pentecost. Shabuoth being the closing festival to Passover, on this festival two wheaten loaves of new corn were offered in the Temple, and these sanctioned the use of new produce in the Temple. Lev. XXIII, 17.

(13) Neh. XI, 34.

(14) V. Hal. IV, 10.

(15) Ex. XXIII, 16.

(16) Deut. XXVI, 3. Proselytes did not receive any portion in the division of the land under Joshua. Maim. contends contrary to this Mishnah, that since Eretz Israel was given to Abraham, who was also the father of proselytes (Gen. XVII, 4), even the latter can conscientiously declare ‘to our fathers’ in the recital, and in his prayers ‘God of our fathers’.

(17) In Jewish Law the child always assumes the religious status of the mother.

(18) An administrator of the property of orphans appointed either by the Beth din or the family of the orphan during his minority.

(19) But if she has a husband, he may bring and recite for her.

(20) A person of double sex.

(21) Because the Land was not divided among women. Num. XXVI, 54 implies that only ‘men’, i.e., such whose sex was not the subject of doubt, were the inheritors.

(22) Since it is doubtful whether in such a case the purchaser also acquires the soil beneath the trees, whereas the avowal is conditional on the fact that the soil that had borne the fruits was his own. Two trees are stressed, because had the number been more, the declaration could be made; for with such a purchase, the purchaser acquires the soil under the trees too.

(23) Contending that even in the case of two trees, the soil beneath them becomes also the property of the purchaser.

(24) From which the tree receives its vitality.

(25) Prior to the offering of the first-fruits.

(26) Since the soil is still there.

(27) Lit., ‘the festival’, par excellence.

(28) This is the Maccabean festival commemmorating the victory of Judas Maccabeus over the Greco-Syrians on Kislev 25th, 165 B.C.E. (I Macc. IV, 45 ff).

(29) Since the land is no longer his.

(30) Since the first-fruits of this field had already been set aside.

(31) For only the choicest fruits could be brought; cf. Mal. I, 8.

(32) V. Lev. XXII, 14.

(33) The fruit is thrown out and the basket given to the officiating priest, v. infra III, 8. The fruit need not be substituted, as responsibility for their safety ceases with their entry into Temple precincts.

(34) Ex. XXIII, 19.

(35) Even R. Judah (v. supra 7) concurs that two recitals cannot be made by the same man even over two kinds of produce.

(36) These are choicer than those grown in the valley.

(37) Such dates are of superior brand and contain more honey than those grown on the mountains.

(38) Being the choicest of this kind.

(39) So Bert. Cf. the view of R. Jose the Galilean.

(40) Because in this case the soil beneath them and round about them also passes into the hands of the purchaser. V. B.B. 82a and b.

(41) V. previous note.

(42) Cf. supra I, 2.

(43) The reference is such as descend from a family that have for long had this particular field farmed out to them; cf. I, 2.

Mishna - Mas. Bikkurim Chapter 2

MISHNAH 1 . FOR TERUMAH AND BIKKURIM ONE IS LIABLE TO DEATH[1] AND THE [ADDITIONAL] FIFTH;[2] AND THEY ARE FORBIDDEN TO NON-PRIESTS[3] AND ACCOUNTED AS THE PROPERTY OF THE PRIEST;[4] THEY ARE NEUTRALIZED IN A HUNDRED AND ONE PARTS,[5] REQUIRE THE WASHING OF HANDS,[6] AND [AWAITING] TILL SUNSET.[7] THESE [LAWS] APPLY ONLY TO TERUMAH AND BIKKURIM, WHICH IS NOT SO IN THE CASE OF TITHE.[8]

MISHNAH 2. THERE ARE [LAWS] WHICH APPLY TO SECOND TITHE AND BIKKURIM BUT NOT TO TERUMAH: FOR [SECOND] TITHE AND BIKKURIM REQUIRE TO BE BROUGHT TO [THE APPOINTED] PLACE;[9] THEY REQUIRE CONFESSION;[10] AND ARE FORBIDDEN TO AN ONAN[11] (BUT R. SIMEON PERMITS [BIKKURIM TO AN ONAN]);[12] AND THEY ARE SUBJECT TO [THE LAW OF] REMOVAL[13] (BUT R. SIMEON EXEMPTS [BIKKURIM FROM REMOVAL]).[14] AND THE SLIGHTEST ADMIXTURE OF THEM [WITH COMMON PRODUCE OF A LIKE KIND] RENDERS IT FORBIDDEN TO BE CONSUMED [AS COMMON FOOD] IN JERUSALEM;[15] AND SO IS WHAT GROWS FROM THEM FORBIDDEN TO BE CONSUMED IN JERUSALEM EVEN BY NON-PRIESTS OR BY CATTLE,[16] BUT R. SIMEON PERMITS THEM.[17] THESE ARE [THE LAWS] WHICH APPLY TO [SECOND] TITHE AND BIKKURIM, WHICH IS NOT THE CASE WITH TERUMAH.

MISHNAH 3. THERE ARE [LAWS] WHICH APPLY TO TERUMAH AND TITHE BUT NOT TO BIKKURIM; TERUMAH AND THE [SECOND] TITHE RENDER FORBIDDEN [THE CONTENTS OF] THE THRESHING-FLOOR,[18] AND HAVE THEIR QUANTITY [PRESCRIBED].[19] AND APPLY TO ALL PRODUCE BOTH DURING AND AFTER TEMPLE TIMES,[20] AND [TO PRODUCE GROWN] BY TENANTS, LESSEES, HOLDERS OF CONFISCATED PROPERTY AND ROBBERS.[21] THESE ARE [THE LAWS] WHICH APPLY TO TERUMAH AND TITHE, WHICH IS NOT THE CASE WITH BIKKURIM.[22]

MISHNAH 4. AND THERE ARE [LAWS] APPLYING TO BIKKURIM WHICH DO NOT [APPLY] TO TERUMAH AND TITHE; FOR BIKKURIM CAN BECOME ACQUIRED WHILE STILL ATTACHED [TO THE SOIL].[23] AND A MAN MAY MAKE HIS ENTIRE FIELD AS BIKKURIM; HE IS RESPONSIBLE FOR THEM,[24] AND THEY REQUIRE AN OFFERING,[25] SINGING,[26] WAVING AND THE PASSING OF THE NIGHT IN JERUSALEM.[27]

MISHNAH 5. THE TERUMAH OF THE TITHE IS LIKE TO BIKKURIM IN TWO INSTANCES, AND LIKE TO TERUMAH IN TWO OTHERS. IT MAY BE TAKEN FROM CLEAN PRODUCE FOR THAT WHICH IS UNCLEAN,[28] AND FROM SUCH PRODUCE THAT IS NOT IN CLOSE PROXIMITY LIKE BIKKURIM.[29] AND IT RENDERS THE CONTENTS OF THE THRESHING-FLOOR FORBIDDEN,[30] AND HAS A PRESCRIBED AMOUNT LIKE TERUMAH.[31]

MISHNAH 6. THE ETHROG[32] IS IN THREE THINGS LIKE TO AN [ORDINARY] TREE, AND IN ONE THING LIKE TO A VEGETABLE.[33] IT IS LIKE TO A TREE IN RESPECT OF ‘ORLAH,[34] FOURTH YEAR PLANTINGS,[35] AND [THE LAW OF] THE SEVENTH YEAR;[36] AND LIKE TO A VEGETABLE IN ONE THING IN THAT ITS TITHING SEASON COMMENCES WITH THE SEASON OF ITS GATHERING.[37] SO R. GAMALIEL; BUT R. ELIEZER SAYS, [THE CITRON] IS LIKE A TREE IN ALL THINGS.

MISHNAH 7. THE BLOOD OF A HUMAN BEING[38] IS LIKE TO THE BLOOD OF ANIMALS IN THAT IT RENDERS SEEDS SUSCEPTIBLE [TO LEVITICAL IMPURITY][39] AND [LIKE TO] THE BLOOD OF A REPTILE, NO CULPABILITY IS INCURRED ON ACCOUNT THEREOF.[40]

MISHNAH 8. A KOY[41] IS IN SOME WAYS LIKE TO A BEAST OF CHASE; IN SOME WAYS IT IS MORE LIKE TO CATTLE; AND AGAIN IN SOME WAYS IT IS LIKE TO BOTH A BEAST OF CHASE AND CATTLE, AND IN SOME THINGS IS NEITHER LIKE TO A BEAST OF CHASE NOR CATTLE.

MISHNAH 9. WHEREIN IS IT LIKE TO A BEAST OF CHASE? ITS BLOOD MUST BE COVERED LIKE THE BLOOD OF A BEAST OF CHASE.[42] IT MAY NOT BE SLAUGHTERED ON A FESTIVAL; IF IT IS SLAUGHTERED, ITS BLOOD IS NOT TO BE COVERED.[43] ITS FAT CONVEYS CARRION UNCLEANNESS[44] LIKE A BEAST OF CHASE, BUT ITS UNCLEANNESS IS ALSO A MATTER OF DOUBT. NOR CAN ONE REDEEM WITH IT THE FIRST-BORN OF AN ASS.[45]

MISHNAH 10. AND WHEREIN DOES IT RESEMBLE CATTLE? ITS FAT IS PROHIBITED LIKE THE FAT OF CATTLE,[46] BUT ONE DOES NOT INCUR ON ACCOUNT THEREOF THE PENALTY OF KARETH;[47] IT MAY NOT BE BOUGHT WITH THE REDEMPTION MONEY OF THE SECOND TITHE[48] TO BE EATEN IN JERUSALEM; IT IS SUBJECT TO [THE PRIEST'S DUE OF] THE SHOULDER, THE TWO CHEEKS AND THE MAW.[49] R. ELIEZER EXEMPTS IT [FROM THESE DUES] BECAUSE UPON HIM WHO WISHES TO EXACT AUGHT OF HIS NEIGHBOUR IT DEVOLVES TO BRING PROOF [OF HIS CLAIM].[50]

MISHNAH 11. AND WHEREIN IS IT NEITHER LIKE TO CATTLE NOR TO BEAST OF CHASE? IT IS FORBIDDEN ON ACCOUNT OF [THE LAW OF] KIL'AYIM[51] [TO YOKE IT] WITH EITHER A BEAST OF CHASE OR CATTLE, AND IF ONE ASSIGNED TO HIS SON HIS BEAST OF CHASE AND[52] HIS CATTLE HE HAS NOT [THEREBY] ASSIGNED THE KOY. IF ONE SAYS, I WILL BECOME A NAZIRITE IF THIS IS A BEAST OF CHASE OR ['IF THIS IS] A CATTLE', HE BECOMES A NAZIRITE.[53] IN ALL OTHER WAYS IT IS LIKE BOTH ANIMALS OF CHASE AND CATTLE: IT REQUIRES SLAUGHTERING LIKE THEM BOTH,[54] IT CAN CONVEY CARRION UNCLEANNESS,[55] AND TO IT APPLIES THE LAW RELATING TO A LIMB OF A LIVING BEING — LIKE TO THEM BOTH.[56]

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(1) If eaten by ‘a stranger’; Lev. XXII, 9. First-fruits are also designated as heave-offering.

(2) V. Lev. XXII, 14.

(3) This is implied to the previous ruling, but is mentioned here to contrast it with tithes.

(4) In that he can employ them as kiddushin (v. Glos.) for betrothing a woman.

(5) If one se'ah of terumah or bikkurim fell into one hundred se'ahs of ordinary produce, numbering one hundred and one in all, any one se'ah may be taken out and given to the priest; the rest is free for common use. V. Ter. I, 7.

(6) He who wishes to eat them must first wash his hands, as according to the laws of levitical purity, unwashed hands which are of second degree uncleanness, cause in terumah uncleanness in the third grade.

(7) According to Lev. XXII, 6ff, a priest who had become unclean had to immerse himself and await sunset before he could eat terumah.

(8) The reference is to Second Tithe. It may be eaten by non-priests; it cannot be used for kiddushin (v. Kid. 52b); It is neutralized in a majority; it may be eaten with unwashed hands; it can be eaten after immersion even before sunset.

(9) Jerusalem; v. Deut. XIV, 22ff and XXVI, 2ff.

(10) V. Deut. XXVI, 10 (bikkurim); ibid. 13 (tithe).

(11) V. Glos. Cf. Deut. XXVI, 14.

(12) Since bikkurim are designated terumah, which is permitted to an onan.

(13) V. Deut. XXVI, 12ff and M. Sh. V, 6.

(14) He compares bikkurim to terumah which is not removed but given to the priests; v. M. Sh. ibid.

(15) I.e., if the admixture occurred after they had been brought into Jerusalem, since the whole mixture can be eaten without any extra trouble in Jerusalem respectively as second tithe or bikkurim; if, however, the admixture took place before they had been brought to Jerusalem, it is neutralized in one hundred and one parts, since otherwise it would mean taking up the whole of the mixture to Jerusalem.

(16) I.e., the character of the bikkurim and second tithe is extended alike to the whole mixture referred to as well as to what grows from them, not only in that these must not be consumed outside Jerusalem but also in that that they are forbidden even in Jerusalem to non-priests and cattle.

(17) With reference to what grows from them.

(18) Whereas fruit may be eaten even before the bikkurim were delivered in the Temple Mount, the produce of the threshing-floor could not be eaten prior to the actual taking of terumah and tithes; cf. Ma'as. I, 5.

(19) Whereas no quantity was fixed for first-fruits, that for terumah has been fixed for the ordinary man as one-fiftieth of his produce. The generous man could bring one-fortieth, and the niggardly even one-sixtieth.

(20) First-fruits were brought only during Temple times, being conditional on the existence of an altar; v. Deut. XXVI, 4. Hence no altar, no offering.

(21) V. supra I, 2 notes.

(22) V. p. 395, n. 10.

(23) They can be designated as such while still unplucked. V. infra III, 2.

(24) Until they are brought to the Mount. If lost on the way, bikkurim had to be replaced; cf. supru I, 9.

(25) The peace-offering had to be brought on all joyous occasions; v. infra III, 3.

(26) V. infra III, 4.

(27) Derived from Deut. XVI, 7.

(28) Not permissible in the case of terumah.

(29) Since terumuh required proximity it was not permissible to have clean and unclean together, lest the latter defile the former. V. Ter. II, 1.

(30) Prior to the separation of the terumah of the tithe.

(31) One-tenth of what the Levite receives from the Israelite.

(32) The citron used with the festive wreath in Tabernacles; Lev. XXIII, 40.

(33) Because both grow by means of artificial irrigation as well as rain.

(34) V. Glos.

(35) V. ‘Orlah I, 7.

(36) Lev. XXV, 2-7. 20. In respect of these three things the citron is assimilated to trees in that the years are determined by the time of the formation of the fruit, unlike vegetables, where they are determined by the time of their gathering.

(37) Unlike lotus where it is determined by the time of the formation of the fruits or leaves.

(38) Lit., ‘two-legged creature’.

(39) V. lev. XI, 34-38; Maksh. VI, 4. Blood is likened to water in Deut. XII, 16.

(40) The blood of animals is forbidden in Lev. VII, 26, but no prohibitions as blood attaches to the blood of a reptile.

(41) A kind of bearded deer or antelope. The Talmud is undecided whether it belongs to the genus of cattle or beasts of chase.

(42) Lev. XVII, 13.

(43) Since a doubt exists regarding koy whether it is in the category of a beast if chase the blood of which is to be covered, or in the category of cattle the blood of which is exempt, it may not be slaughtered perchance it is a cattle and the covering of the blood would involve handling earth unnecessarily on the festival, and if it is slaughtered the blood is not covered up, v. Bez. 8a.

(44) Lev. VII, 24. Only the fat of a clean animal that died of itself was deemed clean; that of a beast of chase was regarded as carrion.

(45) Ex. XXXIV, 20. Only a lamb could be used for the purpose.

(46) The heleb (v. Glos.) of the ox, lamb or goat was prohibited, v. Lev. VII, 23.

(47) V. Glos. Since it may be in the category of a beast of chase.

(48) As a peace-offering on account of its dubious origin. A wild beast was barred from the category of sacrifices.

(49) The portions due to the priest from the slaughtered ox or sheep; Deut. XVIII, 3.

(50) Since the owner of the koy could retort to the priest: ‘Cite evidence that it is of the cattle genus and the dues are yours’.

(51) Lev. XIX, 19; Deut. XXII, 10.

(52) Aliter: ‘or’.

(53) The rigidity of this law is evidenced by the fact that the vow becomes valid even in the case of doubt regarding its efficacy.

(54) To render it permissible for food.
(55) V. Lev. XI, 8.
(56) Cf. Hul. 101b.

Mishna - Mas. Bikkurim Chapter 3

MISHNAH 1. HOW WERE THE BIKKURIM SET ASIDE? A MAN GOES DOWN INTO HIS FIELD, HE SEES A FIG THAT RIPENED,[1] OR A CLUSTER OF GRAPES THAT RIPENED, OR A POMEGRANATE THAT RIPENED, HE TIES A REED-ROPE AROUND IT AND SAYS: LET THESE BE BIKKURIM'.[2] R. SIMEON SAYS: NOTWITHSTANDING THIS HE MUST AGAIN DESIGNATE THEM AS BIKKURIM AFTER THEY HAVE BEEN PLUCKED FROM THE SOIL.

MISHNAH 2. HOW WERE THE BIKKURIM TAKEN UP [TO JERUSALEM]? ALL [THE INHABITANTS OF] THE CITIES THAT CONSTITUTED THE MA'AMAD[3] ASSEMBLED IN THE CITY OF THE MA'AMAD,[4] AND SPENT THE NIGHT IN THE OPEN PLACE THEREOF WITHOUT ENTERING ANY OF THE HOUSES.[5] EARLY IN THE MORNING THE OFFICER[6] SAID: 'LET US ARISE AND GO UP TO ZION, INTO THE HOUSE OF THE LORD OUR GOD'.[7]

MISHNAH 3. THOSE WHO LIVED NEAR[8] BROUGHT FRESH FIGS AND GRAPES, BUT THOSE FROM A DISTANCE BROUGHT DRIED FIGS AND RAISINS.[9] AN OX WITH HORNS BEDECKED WITH GOLD AND WITH AN OLIVE-CROWN ON ITS HEAD[10] LED THE WAY.[11] THE FLUTE WAS PLAYED BEFORE THEM[12] UNTIL THEY WERE NIGH TO JERUSALEM; AND WHEN THEY ARRIVED CLOSE TO JERUSALEM THEY SENT MESSENGERS IN ADVANCE,[13] AND ORNAMENTALLY ARRAYED THEIR BIKKURIM.[14] THE GOVERNORS AND CHIEFS AND TREASURERS [OF THE TEMPLE][15] WENT OUT TO MEET THEM. ACCORDING TO THE RANK OF THE ENTRANTS[16] USED THEY TO GO FORTH. ALL THE SKILLED ARTISANS OF JERUSALEM WOULD STAND UP BEFORE THEM AND GREET THEM:[17] 'BRETHREN, MEN OF SUCH AND SUCH A PLACE, WE ARE DELIGHTED TO WELCOME YOU'.[18]

MISHNAH 4. THE FLUTE WAS PLAYING BEFORE THEM TILL THEY REACHED THE TEMPLE MOUNT; AND WHEN THEY REACHED THE TEMPLE MOUNT EVEN KING AGRIPPA WOULD TAKE THE BASKET AND PLACE IT ON HIS SHOULDER[19] AND WALK AS FAR AS THE TEMPLE COURT. AT THE APPROACH TO THE COURT, THE LEVITES WOULD SING THE SONG: 'I WILL EXTOL THEE, O LORD, FOR THOU HAST RAISED ME UP, AND HAST NOT SUFFERED MINE ENEMIES TO REJOICE OVER ME'.[20]

MISHNAH 5. THE TURTLE-DOVES [TIED TO] THE BASKET[21] WERE [OFFERED UP AS] BURNT-OFFERINGS, BUT THAT WHICH THEY HELD IN THEIR HANDS[22] THEY PRESENTED TO THE PRIESTS.

MISHNAH 6. WHILE THE BASKET WAS YET ON HIS SHOULDER HE WOULD RECITE FROM: 'I PROFESS THIS DAY UNTO THE LORD THY GOD',[23] UNTIL THE COMPLETION OF THE PASSAGE.[24] R. JUDAH SAID: TILL [HE HAD REACHED] 'A WANDERING ARAMEAN WAS MY FATHER'.[25] HAVING REACHED THESE WORDS, HE TOOK THE BASKET OFF HIS SHOULDER AND HELD IT BY ITS EDGE;[26] AND THE PRIEST PLACED HIS HAND BENEATH IT AND WAVED IT, HE[27] THEN RECITED FROM 'A WANDERING ARAMEAN WAS MY FATHER' UNTIL HE COMPLETED THE ENTIRE PASSAGE. HE WOULD THEN DEPOSIT THE BASKET BY THE SIDE OF THE ALTAR,[28] PROSTRATE HIMSELF, AND DEPART.

MISHNAH 7. ORIGINALLY ALL WHO KNEW HOW TO RECITE WOULD RECITE

WHILST THOSE UNABLE TO DO SO WOULD REPEAT IT;[29] BUT WHEN THEY REFRAINED FROM BRINGING,[30] IT WAS DECIDED THAT BOTH THOSE WHO COULD AND THOSE WHO COULD NOT [RECITE] SHOULD REPEAT THE WORDS.

MISHNAH 8. THE RICH BROUGHT THEIR BIKKURIM IN BASKETS OVERLAID WITH SILVER OR GOLD, WHILST THE POOR USED WICKER-BASKETS OF PEELED WILLOW-BRANCHES, AND THEY[31] USED TO GIVE BOTH THE BASKETS AND THE BIKKURIM TO THE PRIEST.

MISHNAH 9. R. SIMEON B. NANOS SAID: THE BIKKURIM MAY BE BEDECKED [WITH PRODUCE] OTHER THAN THE SEVEN SPECIES,[32] BUT R. AKIBA SAYS: THEY COULD ONLY BE BEDECKED WITH PRODUCE OF THE SEVEN KINDS.[33]

MISHNAH 10. R. SIMEON SAYS:THERE ARE THREE ELEMENTS IN BIKKURIM: THE BIKKURIM,[34] THE ADDITIONS[35] TO THE BIKKURIM, AND THE ORNAMENTATIONS OF THE BIKKURIM.[36] THE ADDITIONS TO THE BIKKURIM HAD TO BE OF A LIKE KIND, BUT THE ORNAMENTAL FRUIT OF THE BIKKURIM COULD ALSO BE OF ANOTHER KIND.[37] THE ADDITIONS TO THE BIKKURIM COULD ONLY BE EATEN IN LEVITICAL PURITY, AND WERE EXEMPT FROM [THE LAW OF] DEMAI,[38] BUT THE FRUITS USED FOR ORNAMENTATIONS OF THE BIKKURIM WERE SUBJECT TO [THE LAW OF] DEMAI.

MISHNAH 11. WHEN DID [THE SAGES] DEEM THE ADDITIONS TO THE BIKKURIM IN THE SAME RANK AS THE BIKKURIM [THEMSELVES]? WHEN THEY COME FROM THE LAND [OF ISRAEL]; BUT IF THEY DO NOT COME FROM THE LAND,[39] THEY WERE NOT TO BE REGARDED AS THE BIKKURIM [THEMSELVES].

MISHNAH 12. IN WHAT RESPECT DID THEY RULE THAT THE BIKKURIM WERE THE [EXCLUSIVE] PROPERTY OF THE PRIEST? IN THAT HE CAN PURCHASE THEREWITH SLAVES AND IMMOVABLE PROPERTY AND UNCLEAN CATTLE, AND A CREDITOR [OF HIS] MAY TAKE THEM FOR HIS DEBT, AND HIS WIFE FOR HER KETHUBAH[40] — AS MAY BE DONE ALSO WITH A SCROLL OF THE LAW.[41] R. JUDAH SAYS: THE BIKKURIM MAY BE GIVEN ONLY TO [A PRIEST THAT IS] AN ASSOCIATE][42] AND AS A FAVOUR;[43] AND THE SAGES SAY: THEY ARE GIVEN TO THE MEN OF THE Mlshmar,[44] AND THEY DIVIDE THEM AMONG THEMSELVES AS [THEY DO] WITH ALL OTHER CONSECRATED OBJECTS.[45]

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(1) Though the vine is enumerated first in Deut. VIII, 8, yet the fig is the first to ripen; cf. Cant. II, 13. The fruits had to be fully ripe when they were brought (Deut. XXVI, 10) but not necessarily at the time of their designation.

(2) This exempts him from further specification at the time of cutting.

(3) Lit., ‘place of standing’. The name of a group of Israelite representatives from outlying districts, corresponding to the twenty-four courses of priests (Mishmaroth), each ma'amad serving a week in turn. Some would go to the Temple to witness the sacrificial offerings, whilst others would assemble in their home town to conduct prayers during the day corresponding to the fixed time when the sacrifices were brought in the Temple. V. Ta'an. 26a.

(4) Where the leader resided; the idea being to form one united and impressive procession. The principle governing Jewish ceremonial being that majesty resides with a throng of worshippers.

(5) Lest impurity be contracted through contact with the dead.

(6) The head of the Ma'amad.

(7) Jer. XXXI, 6. They also recited various Psalms as they wended their way to the Temple Mount (Bert.). According to the T. Y. the fifteen Songs of Degrees (Pss. CXX — CXXXIV) were recited.

(8) Jerusalem.

(9) For fresh fruit would rot on the way.

(10) The olive-tree supplies the richest leaves, and served as a token of the kinds of fruit brought as Bikkurim

(11) This ox afterwards served as the peace-offering.
(12) Lit. , ‘was struck’, referring to the tapping of the tips of the fingers on the little openings of the flute.
(13) To herald their coming.
(14) Fresh figs would be placed as the top layer of a basket containing dried ones, and raisins would be covered by fresh grapes; whilst the choicest of the fruit would be placed on top of a basket containing only fresh fruits.
(15) Cf. Shek. V, I. The ‘governors’ were the heads of the priests, and the ‘chiefs’ were the leaders of the Levites.
(16) The size of the welcoming delegation would vary with the size of the procession.
(17) A craftsman at his work was exempt from the command of rising before a scholar, but in order to manifest his love for the precept, he was to rise before the Bikkurim procession.
(18) Lit, ‘you have come in peace’.
(19) For the priest had to receive it from his hand; Deut. XXVI, 4.
(20) Ps. XXX, 2.
(21) They were suspended from the sides of the basket so as not to soil the fruit.
(22) I.e., the bikkurim. Maim. refers them to pigeons.
(23) Deut. XXVI, 3.
(24) Ibid.
(25) Ibid. 5.
(26) Whilst the priest officiated (Bert.).
(27) The Israelite.
(28) In the S.W. corner.
(29) After the priest. The declaration had to be made in Hebrew. v. Sot. VII, 3.
(30) Abashed at this public avowal of their ignorance in reading Hebrew.
(31) I.e., the poor; the rich retained their valuable baskets (Bert). This gave rise to the saying, ‘poverty drags after the poor’ (v. B.K. 92a). Though the poor would thereby be abashed, yet it was considered prudent to encourage the rich to bring valuable baskets out of respect for God's house.
(32) Deut. VIII,8. R. Simeon maintained that they could be ornamented with citrons and quinces, or fruits imported from abroad.
(33) That grew in Palestine.
(34) The actual first-fruits.
(35) The fruit added at the time of plucking to the first ripened figs or cluster of grapes.
(36) The choice fruit placed on top and around the basket.
(37) Even such fruit not enumerated in Deut. VIII, 8 could be used.
(38) V. Glos. If the priest accepts them from the hands of an ‘am ha-arez.
(39) From Transjordania. Cf. supra I, 10 where we learn that produce from Transjordania could be offered up as Bikkurim.
(40) Marriage settlement, v. Glos.
(41) Others explain: One may also buy with the Bikkurim a Scroll of the Law.
(42) One who undertook to be conscientious in observing the laws appertaining especially to cleanness and impurity. V. Glos. s.v. haber.
(43) The priest must not sell it. T. Y. refers it to owners who are at liberty to give it to any haber.
(44) The men on duty in the Temple be they associates or not. V. Glos.
(45) Including things dedicated to the Temple for various uses; since they are brought to the Temple, the priests will take care not to eat them in impurity.

Mishna - Mas. Bikkurim Chapter 4

MISHNAH 1. THE HERMAPHRODITE[1] IS IN SOME THINGS LIKE TO MEN, AND IN OTHER THINGS LIKE TO WOMEN. IN OTHER THINGS AGAIN HE IS like TO MEN AND TO WOMEN, AND IN OTHERS HE IS LIKE NEITHER MEN NOR WOMEN.

MISHNAH 2. WHEREIN IS HE LIKE TO MEN? HE CONTAMINATES WITH THE SEMINAL FLUX[2] LIKE MEN, AND HE DRESSES LIKE MEN;[3] HE CAN TAKE A WIFE BUT

NOT BE TAKEN AS A WIFE LIKE MEN.[4] AT HIS BIRTH HIS MOTHER MUST COUNT THE BLOOD OF PURIFICATION LIKE MEN,[5] AND HE MUST NOT BE ALONE IN THE COMPANY OF WOMEN LIKE MEN.[6] HE IS NOT MAINTAINED WITH THE DAUGHTERS LIKE MEN,[7] AND MAY NOT TRANSGRESS THE LAW OF: 'YE SHALL NOT ROUND',[8] AND 'THOU SHALT NOT DEFlle FOR THE DEAD'[9] LIKE MEN; AND HE MUST PERFORM ALL THE COMMANDS OF THE TORAH[10] LIKE MEN.

MISHNAH 3. AND WHEREIN IS HE LIKE WOMEN? IN THAT HE CONTAMINATES WITH HIS MENSTRUAL FLOW LIKE WOMEN;[11] AND HE MUST NOT BE ALONE IN THE COMPANY OF MEN LIKE WOMEN; AND DOES NOT SHARE [THE INHERITANCE] WITH THE SONS LIKE WOMEN[12] AND CANNOT EAT OF MOST HOLY SACRIFICES LIKE WOMEN.[13] AT HIS BIRTH HIS MOTHER REMAINS UNCLEAN ON ACCOUNT OF THE BLOOD OF HER IMPURITY;[14] AND LIKE WOMEN, TOO, HE IS DISQUALIFIED FROM ACTING AS A WITNESS. IF HE HAD BECOME THE VICTIM OF ILLICIT INTERCOURSE, HE IS DISQUALIFIED FROM THE PARTAKING OF TERUMAH LIKE WOMEN.[15]

MISHNAH 4. WHEREIN IS HE COMPARED TO BOTH MEN AND WOMEN? GUILT IS INCURRED FOR SMILING OR CURSING HIM[16] AS IN THE CASE OF MEN AND WOMEN, AND HE WHO UNWITTINGLY SLAYS HIM MUST GO INTO EXILE;[17] AND IF OF SET PURPOSE, THEN [THE SLAYER] RECEIVES THE DEATH PENALTY.[18] HIS MOTHER MUST [AT HIS BIRTH] BRING AN OFFERING AS FOR MEN AND WOMEN, AND LIKE MEN AND WOMEN HE MAY PARTAKE OF THE SACRED GIFTS[19] OF THE BORDER,[20] AND MAY INHERIT ANY INHERITANCE[21] LIKE MEN AND WOMEN.

MISHNAH 5. AND WHEREIN IS HE LIKENED NEITHER TO MEN NOR WOMEN? BECAUSE OF HIS UNCLEAN ISSUE[22] TERUMAH IS NOT TO BE BURNT, NEITHER IS ANY PENALTY INCURRED BY HIM ON ENTERING THE TEMPLE IN AN UNCLEAN STATE.[23] HE MUST NOT BE SOLD AS A HEBREW SLAVE, UNLIKE MEN OR WOMEN,[24] AND HE CANNOT BE EVALUATED, UNLIKE MEN OR WOMEN.[25] IF ONE SAYS: 'I WILL BECOME A NAZIRITE, IF HE IS NEITHER A MAN NOR A WOMAN', THEN HE BECOMES A NAZIRITE. R. JOSE SAYS: THE HERMAPHRODITE IS A CREATURE BY ITSELF, AND THE SAGES COULD NOT DECIDE ABOUT HIM. BUT THIS IS NOT SO WITH ONE OF DOUBTFUL SEX, FOR SUCH A ONE IS, AT TIMES, A MAN AND AT OTHERS, A WOMAN.

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(1) This chapter is entirely irrelevant to this tractate, yet included in all printed editions. Derived from the Tosef. of Bikkurim and develops the subject of the hermaphrodite; supra I, 5. The text is in disorder and receives various expansions in different editions. The text adopted here is of the Stettin edition 1862.

(2) Lit., 'the white'; Lev. XV. 2: Zab. II. 1.

(3) He must not don woman's dress, lest he be a man.

(4) This would be regarded as sodomy.

(5) Lev. XII, 1 ff.

(6) Cf. Kid. IV, 12.

(7) In the event of little property having been left, the hermaphrodite is thrust by the daughters among the males, who must seek maintenance elsewhere; B.B. IX, 1-2.

(8) Lev. XIX, 27.

(9) V. Lev. XXI, 1.

(10) Even those occasioned by time from which women are exempt.

(11) Lit., 'the red'; Lev. XV, 19ff.

(12) When much property was left the sons inherited and the daughters received maintenance B.B. IX, 1

(13) I.e., of sin- and meal-offerings; for of these the Bible says (Lev. VI, 22) that only those who are definitely males may eat.

(14) For two weeks, Lev. XII, 5.

(15) A male, in such circumstances, would not have been disqualified, but the hermaphrodite is here treated as a woman; Bek. VII, 7.
(16) Ex. XXI, 15, 17.
(17) Ibid. 13.
(18) Ibid 14.
(19) I.e., holy food that could be eaten, e.g., terumah.
(20) Even outside ‘the border’, Jerusalem. Keth. 24b; Shek. VII, 3.
(21) If there be no other heir. We do not allow the argument lest he be a creature apart from all others to interfere with his rights of inheritance.
(22) Cf. Zab. II, 1; Nid. 28b.
(23) Because the penalty was only imposed upon those whose sex was not a matter of doubt.
(24) V. Ex. XXI. 2, 7.
(25) V. Lev. XXVII, 2ff.

Talmud - Mas. Shabbath 2a

CHAPTER I

MISHNAH. THE CARRYINGS OUT[1] OF THE SABBATH[2] ARE TWO WHICH ARE FOUR WITHIN, AND TWO WHICH ARE FOUR WITHOUT.[3] HOW SO? THE POOR MAN STANDS WITHOUT AND THE MASTER OF THE HOUSE WITHIN: [i] IF THE POOR MAN STRETCHES HIS HAND WITHIN AND PLACES [AN ARTICLE] INTO THE HAND OF THE MASTER OF THE HOUSE, OR [ii] IF HE TAKES [AN ARTICLE] FROM IT AND CARRIES IT OUT, THE POOR MAN IS LIABLE,[4] AND THE MASTER OF THE HOUSE IS EXEMPT.[5] [AGAIN] [i] IF THE MASTER OF THE HOUSE STRETCHES HIS HAND WITHOUT AND PLACES [AN OBJECT] IN THE POOR MAN'S HAND, OR [ii] TAKES [AN OBJECT] THEREFROM AND CARRIES IT IN, THE MASTER IS LIABLE, WHILE THE POOR MAN IS EXEMPT.[6] [iii] IF THE POOR MAN STRETCHES HIS HAND WITHIN AND THE MASTER TAKES [AN OBJECT] FROM IT, OR PLACES [AN OBJECT] THEREIN AND HE CARRIES IT OUT, BOTH ARE EXEMPT; [iv] IF THE MASTER STRETCHES HIS HAND WITHOUT AND THE POOR MAN TAKES [AN OBJECT] FROM IT, OR PLACES [AN ARTICLE] THEREIN AND HE CARRIES IT INSIDE, BOTH ARE EXEMPT.[7]

GEMARA, We learnt elsewhere:[8] [False] oaths are two which are four:[9]

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(1) Lit., ‘outgoings’.

(2) i.e., the acts of transporting objects from private to public ground or vice versa, which are forbidden on the Sabbath, Tosaf. observes that the phraseology, ‘outgoings,יציאות’ instead of the more usual ‘carryings out’ הוצאות is based on Ex. XVI, 29: let no man go out of his place on the seventh day.

(3) I.e., by Biblical law two acts of carrying out are interdicted to the person standing in a private domain (‘within’) and two to the person standing in public ground (‘without’); to each two the Rabbis added another two, thus making ‘TWO WHICH ARE FOUR.’ Tosaf. is much exercised with the question why this is taught at the beginning of the Tractate, instead of in the seventh chapter, where all the principal forbidden acts of the Sabbath, including this, are enumerated, and offers various answers. L. Blau in MGWJ.,1934 (Festschrift), P. 124f maintains that this was originally part of the Mishnah of Shebu. I, 1, which is quoted at the beginning of the Gemara (infra), where a number of subjects, having no inner connection, are grouped together by the catch phrase ‘two which are four.’ As an aid to the memory each subject was then put at the head of the Tractate to which it refers.

(4) For desecrating the Sabbath.

(5) Because the poor man performs the two acts which together constitute ‘carrying out’ in the Biblical sense, viz., he removes an object from one domain and replaces it in another. (When he withdraws the object into the street, holding it in his hand, he is regarded as having deposited it in the street.) The master, on the other hand, is quite passive, performing no action at all.

(6) In both cases here the master performs the two acts, the poor man being passive. Thus there are two Biblically forbidden acts for each.-’Liable’ means to a sin-offering, if the acts are committed unwittingly, or to death (in theory, hardly in practice) if committed knowingly, and can apply here only to a Biblical interdict.

(7) In iii and iv each performs one act only, either removing from one domain or depositing in another. This is Rabbinically forbidden, and involves no liability. (When the master places an object into the poor man's outstretched hand, which is already in the house, he, and not the poor man, is regarded as having removed it from the private domain.)

(8) Shebu. I, 1.

(9) In Lev. V, 4-7 (q.v.) a variable sacrifice (vv. 6-7) is imposed for taking a false oath (v. 4 is so explained). ‘To do evil, or to do good,’ is interpreted as meaning that one swears, ‘I will eat,’ or ‘I will not eat,’ which are the two referred to, viz., a positive or a negative oath relating to the future. These are further increased to four by including similar oaths relating to the past: ‘I ate’, or ‘I did not eat.’

Talmud - Mas. Shabbath 2b

the forms of consciousness of uncleanness are two which are four;[1] the appearances of leprosy are two, which are four;[2] the carryings out of the Sabbath are two which are four.[3] Now, why is it taught here, TWO WHICH ARE FOUR WITHIN, AND TWO WHICH ARE FOUR WITHOUT; whereas there it is [simply] stated, ‘two which are four,’ and nothing else? — Here, since the Sabbath is the main theme, [both] principal [forms of labour] and derivatives are taught;[4] but there, since the main theme is not the Sabbath, principal labours only are taught, but not derivatives. What are the principal labours? — carryings out! But the carryings out are only two?[5] And should you answer, some of these involve liability, and some do not involve liability[6] — surely it is taught on a par with the appearances of leprosy: just as there all involve liability,[7] so here too all involve liability?-Rather said R. Papa: here that the Sabbath is the main theme, acts of liability and non-liability are taught;[8] there, since the Sabbath is not the main theme, only acts of liability are taught, but not of exemptions.[9] Now, what are the cases of liability-carryings out? But the carryings out are [only] two?[10] — There are two forms of carrying out and two of carrying in. But ‘carry ings out’ are taught?-Said R. Ashi: The Tanna designates carrying in’ too as ‘carrying out.’[11] How do you know it? — Because we learnt: If one carries out [an object] from one domain to another, he is liable. Does this not mean even if he carries [it] in from the public to a private domain, and yet it is called ‘carrying out.’ And what is the reason? — Every removal of an article from its place the Tanna designates ‘carrying out.’ Rabina said: Our Mishnah too proves it, because CARRYINGS OUT are taught, yet straightway a definition of carrying in is given; this proves it. Raba said: He [the Tanna] teaches [the number of] domains; the domains of the Sabbath are two.[12]

R. Mattenah objected to Abaye: Are there eight?[13] but there are twelve![14] — But according to your reasoning, there are sixteen![15] Said he to him, That is no difficulty: as for the first clause, it is well:

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(1) In Lev. V, 2f, 5-7 a variable sacrifice is also decreed for transgressing through uncleanness. According to the Talmud (Shebu. 7b) this refers to the eating of holy food, e.g., the flesh of sacrifices, and entering the Temple while unclean. Further, liability is contracted only if one was originally aware of his uncleanness, forgot it, and ate sacred food or entered the Temple, and then became conscious of it again. Thus there are two, viz., forgetfulness of uncleanness when eating sacred food, and same when entering the Temple. To these another two are added: forgetfulness of the sacred nature of the food and forgetfulness of the sanctity of the Temple while being aware of one's uncleanness.

(2) The two are ‘a rising’ and ‘a bright spot’ (Lev. XIII, 2), which, in order to be unclean, must be snowy white and white as wool respectively. To these the Rabbis added, by exegesis, the whiteness of the plaster of the Temple and the whiteness of the white of an egg respectively-in each case a darker shade.

(3) Bah, on the basis of the text in Shebu. I, 1, reverses the order of the last two.

(4) Labours forbidden on the Sabbath are of two classes: (i) principal labours (aboth, lit., ‘fathers’) and (ii) derivatives (toledoth, lit., ‘offsprings’), which are prohibited as partaking of the nature of the principal labours. Both are regarded as Biblical. Carrying out from private into public ground is a principal labour, while the reverse is a derivative thereof (infra 96b).

(5) Viz., that of the poor man who takes an article from the houseowner's hand, and that of the master of the house who puts an article into the poor man's hand. Where then are the ‘two which are four?’

(6) I.e., two carryings out impose liability, as in preceding note, and another two are forbidden yet do not involve liability. Viz., if the poor man stretches his hand within, receives an article, and withdraws it; likewise, if the master of the house puts forth his hand with an object which the other takes, as explained on p. 1, n. 5 on the Mishnah. — Thus there are ‘two which are four,’ all referring to carrying out.

(7) To the purificatory sacrifices of a leper (Lev. XIV).

(8) V. notes on Mishnah.

(9) Two instances of carrying out, and two of carrying in, as explained in the Mishnah.

(10) Though there is liability for carrying in, the Mishnah in Shebu. speaks only of ‘carryings out.’

(11) Employing ‘carrying out’ in the wider sense of transporting between private and public ground.

(12) I.e., in respect of the Sabbath we recognize two domains, public and private, carrying between which is prohibited.

On account of these two four acts are forbidden to a person standing within and four to a person standing without, and that is the meaning of ‘TWO WHICH ARE FOUR,’ both here and in Shebu. (Rashi). Riba explains it differently. — Actually four domains are distinguished (infra 6a), but these are the principal two.

(13) ‘TWO WHICH ARE FOUR WITHIN, AND TWO WHICH ARE FOUR WITHOUT.’

(14) In addition to the four acts which involve liability, there are eight which do not. Viz., two acts of removal by the poor man without depositing, i.e., if he stretches his hand into the house and the master takes an object from him, or the master puts his hand without and the poor man places an object in it. Reversing these, we have two acts of depositing by the poor man without removal. These four, again, are also to be viewed from the standpoint of the master of the house, which gives eight in all.

(15) For the two actions which involve liability for the poor man are likewise to be regarded from the standpoint of the master of the house, and vice versa, which yield another four.

Talmud - Mas. Shabbath 3a

he does not teach what involves no liability and is [also] permitted.[1] But the last clause, where no liability is involved, yet it is forbidden, is indeed difficult.[2] (But is there in the whole [of the laws relating to] Sabbath [an action described as involving] no liability [yet] permitted: did not Samuel say: Everything [taught as] involving no liability on the Sabbath, involves [indeed] no liability, yet it is forbidden, save these three, which involve no liability and are [also] permitted: [viz.,] the capture of a deer,[3] the capture of a snake, and the manipulation of an abscess?[4] — Samuel desires to say this only of exemptions where an act is performed; but as for exemptions where no act [at all] is done, [of such] there are many?)

Yet still there are twelve? — Non-liable acts whereby one can come to the liability of a sin-offering are counted; those whereby one cannot come to the liability of a sin-offering are not counted.[5]

‘BOTH ARE EXEMPT?’ But between them a [complete] action is performed! — It was taught: [And if anyone] of the common people sin unwittingly, in doing [any of the things etc.]:[6] only he who performs the whole of it [a forbidden action], but not he who performs a portion thereof. [Hence] if a single person performs it, he is liable; if two perform it, they are exempt. It was stated likewise: R. Hiyya b. Gamada said: It emanated[7] from the mouth of the company[8] and they said: ‘In doing’: if a single person performs it, he is liable: if two perform it, they are exempt.

Rab asked Rabbi: If one's neighbour loads him with food and drink, and he carries them without, what is the law? Is the removing[9] of one's body like the removing of an article from its place, and so he is liable; or perhaps it is not so? He replied: He is liable, and it is not like his hand.[10] What is the reason? — His body is at rest[11] whereas his hand is not at rest.[12]

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(1) E.g., if the man without extends his hand and places an article into the hand of the man within, the latter commits no action at all, being passive throughout, and, as far as the Sabbath is concerned, he does nothing forbidden.

(2) Why these are not counted as separate actions, as explained in n. 4.

(3) V. infra 106b end and 107a.

(4) V. infra 107a.

(5) Stretching out one's hand with an article from a private to a public domain or vice versa may involve a sin-offering, viz., by depositing the said article in the new domain. But acceptance can never lead to this (Riba).

(6) Lev. IV, 27.

(7) Lit., ‘it was cast forth’.

(8) Of scholars — i.e., it was generally ruled.

(9) Lit., ‘uprooting’.

(10) For, as stated in the Mishnah, if an article is placed in one's hand and he withdraws it, he is exempt.

(11) Hence the article upon his body is likewise at rest, and he effects its removal,

(12) On the ground: hence he does not actually remove the article from its place.

Talmud - Mas. Shabbath 3b

Said R. Hiyya to Rab: Son of illustrious ancestors! Have I not told you that when Rabbi is engaged on one Tractate you must not question him about another, lest he be not conversant with it. For if Rabbi were not a great man, you would have put him to shame, for he might have answered you incorrectly.[1] Still, he has now answered you correctly, for it was taught: If one was laden with food and drink while it was yet day,[2] and he carries them out after dark, he is culpable, because it is not like his hand.[3]

Abaye said: I am certain that a man's hand is neither like a public nor like a private domain:[4] it is not like a public domain [this follows] from the poor man's hand;[5] it is not like a private domain — [this follows] from the hand of the master of the house.[6] Abaye propounded: Can a man's hand become as a karmelith:[7] did the Rabbis penalize him not to draw it back to himself, or not? — Come and hear: If one's hand is filled with fruit and he stretches it without — one [Baraitha] taught: He may not draw it back; another taught: He may draw it back. Surely they differ in this: one Master holds that it [the hand] is like a karmelith, and the other holds that it is not? [No.] All agree that it is like a karmelith, yet there is no difficulty: the one [refers to a case where it is] below ten [handbreadths], and the other [where it is] above ten [handbreadths].[8] Alternatively, both [Baraithas refer] to [a hand) below ten, and [hold that] it is not like a karmelith, yet there is no difficulty: one [speaks of a case] while it is yet day; the other, when it is already dark [the Sabbath has commenced]. [If he stretches out his hand] while it is yet day, the Rabbis did not punish him;[9] if after sunset, the Rabbis punished it. On the contrary, the logic is the reverse: [if he stretches out his hand] by day, so that if he throws it [the article] away he does not come to the liability of a sin-offering,[10] let the Rabbis penalize him; but if [he does it] after nightfall, so that if he throws it away he incurs the liability of a sin-offering, the Rabbis should not punish him. Now, since we do not answer thus,[11] you may solve R. Bibi b. Abaye's [problem]. For R. Bibi b. Abaye asked: If a person places a loaf in an oven,[12] do the Rabbis permit him to remove it before he incurs the liability of a sin-offering, or not?[13] Now you may deduce that they do not permit it![14] That is no difficulty, and indeed solves it! Alternatively, you cannot solve it, after all: [and reply thus],[15] The one Baraitha refers to an unwitting, the other to a deliberate act. Where it is unwitting, the Rabbis did not punish him[16] for it; where it is deliberate, they punished.[17] Another alternative: both [Baraithas] refer to an unwitting act, but here they differ as to whether they [the Rabbis] punished an unwitting [offender] on account of a deliberate one: one Master holds that they did punish an unwitting [offender] on account of a deliberate one; the other, that they did not punish an unwitting [offender] on account of a deliberate one. Another alternative: after all, they did not punish [the one on account of the other], yet there is no difficulty. The one [Baraitha] means into the same courtyard; [

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(1) Lit., ‘he would have given you an answer which is not an answer.’

(2) I.e., before sunset on Friday.

(3) As explained above.

(4) If a man stands in one and stretches out his hand into the other, the hand is not accounted the same as his body, to have the legal status of the domain in which the body is.

(5) For the Mishnah states that if the Master takes an article from the poor man's hand stretched within he is exempt.

(6) If the poor man takes an object from it, he is not liable.

(7) V. infra 6a. A karmelith is part of a public domain which is but little frequented, therefore regarded as neither public nor private ground; by Rabbinical law one may not carry from a karmelith to a public or a private domain, or vice versa. Now, as we have seen, when one stretches out his hand into another domain, it does not enjoy the body's status. Yet does it occupy the intermediate status of a karmelith, and since it holds an object, its owner shall be forbidden to withdraw it until the termination of the Sabbath?

(8) V. infra 100a. If the hand is within ten handbreadths from the ground it is in a public domain, and therefore the

Rabbis ordered that he must not withdraw it. But if it is above, it is in a place of non-liability; hence he is not penalized.

(9) Lit. ‘it’ sc. his hand. They did not compel him to keep his hands stretched out till the termination of the Sabbath.

(10) Since he does not perform a complete forbidden act on the Sabbath.

(11) This reversed answer.

(12) Lit.,’sticks a loaf to (the wall of) an oven.’

(13) If it remains in the oven until baked he incurs a sin-offering for baking on the Sabbath. On the other hand, it is Rabbinically forbidden to remove bread from the oven on the Sabbath. How is it here?

(14) Since the reverse answer is not given, we see that the Rabbis do not abrogate their interdict even when it leads to a liability to a sin-offering.

(15) To reconcile the two Baraithas.

(16) V.n.1.

(17) Thus this has no bearing on R. Bibi b. Abaye's problem.

Talmud - Mas. Shabbath 4a

the other, into a different courtyard.[1] Even as Raba asked R. Nahman: If a person holds a handful of produce in his hand and he extends it without,[2] may he withdraw it into the same courtyard? He replied, It is permitted. And what about another courtyard? Said he to him, It is forbidden. And what is the difference? — When you measure out a measure of salt for it![3] There his intention is not carried out; here his intention is carried out.[4]

[To revert to] the main text: ‘R. Bibi b. Abaye propounded: If one places a loaf of bread in an oven, do they permit him to remove it before he incurs the liability of a sin-offering or not?’ R. Aha b. Abaye said to Rabina: What are the circumstances? Shall we say [that he did it] unwittingly and he did remind himself;[5] then whom are they to permit?[6] Hence it must surely mean that he did afterwards become aware thereof,[7] but then would he be liable? Surely we learnt: All who are liable to sin-offerings are liable only if the beginning and end [of the forbidden action] are unwitting. On the other hand, if his problem refers to a deliberate action, he should have asked [whether he may remove it] before he comes to an interdict involving stoning![8] -R. Shila said: After all, it means unwittingly; and [as to the question] ‘whom are they to permit?’, [the reply is], Others. R. Shesheth demurred: Is then a person told, ‘Sin, in order that your neighbour may gain thereby?’[9] Rather, said R. Ashi, after all it refers to a deliberate act; but say [in the problem], before he comes to an interdict involving stoning.[10] R. Aba son of Raba recited it explicitly: R. Bibi b. Abaye said: If one places a loaf in an oven, he is permitted to remove it before he comes to an interdict involving stoning.

IF THE POOR MAN STRETCHES OUT HIS HAND. Why is he liable? Surely removal and depositing must be from [and into] a place four [handbreadths] square,[11] which is absent here?[12] — Said Rabbah: The author of this [Mishnah], is R. Akiba, who maintains: We do not require a place four by four. For we learnt: If one throws [an article] from one private domain to another and public ground lies between: R. Akiba holds him liable; but the Sages hold him not liable. R. Akiba holds: We say, An object intercepted by [air] is as though it rested there;[13] While the Rabbis maintain: We do not say, An object intercepted by [air] is as though it rested there. Shall we say that Rabbah is certain that they differ as to whether an object intercepted is considered at rest,

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(1) When one stands in a courtyard, which is private ground, and stretches his laden hand into the street, he may withdraw it into the same courtyard, but not into an adjoining one and drop the article there.

(2) I.e., into the street.

(3) A jesting remark: then I will tell you the difference.

(4) If he stretches out his hand into the street he wants to remove the produce from that courtyard. Hence he may draw it back into the same, when his intention remains unfulfilled, but not into an adjoining courtyard, whereby his intention would be carried out.

(5) Before it was completely baked, that it was the Sabbath, or that baking on the Sabbath is forbidden.

(6) Being unaware of anything wrong, he does not come to ask.

(7) Before it was baked.

(8) Which is the penalty for the deliberate desecration of the Sabbath, and not ‘before he incurs the liability of a sin-offering’?

(9) Can one be told to infringe the minor injunction of removing bread from an oven in order to save his neighbour from the greater transgression of baking on the Sabbath?

(10) From this it is obvious that R. Bibi's original question was merely whether he is permitted to remove it or not. ‘Before he incurs etc.,’ was a later addition, which R. Ashi emends. The same assumption must be made in similar cases. V. Kaplan, Redaction of the Talmud, Ch. XIII.

(11) Removal from one domain and depositing in the other necessitates in each case that the object shall rest upon a place four handbreadths square.

(12) A person's hand does not fulfil this condition.

(13) Hence when it crosses public ground it is as though it rested there, and so liability is incurred.

Talmud - Mas. Shabbath 4b

and when it [crosses the public domain] within ten handbreadths [of the ground]?[1] But surely Rabbah asked a question thereon. For Rabbah propounded: Do they disagree when it is below ten, and they differ in this: R. Akiba holds, An object intercepted is as through it rested, while the Rabbis hold that it is not as though it rested; but above ten all agree that he is not liable, all holding that we do not derive throwing from reaching across?[2] Or perhaps they disagree when it is above ten, and they differ in this: R. Akiba holds, We derive throwing from reaching across, while the Rabbis hold, We do not learn throwing from reaching across; but below ten all agree that he is liable. What is the reason? We say that an object intercepted is as though it rested?-That is no difficulty: after propounding, he solved it that R. Akiba holds that an object intercepted is as though it rested.[3]

But perhaps he [R. Akiba] does not require depositing [on a place four handbreadths square], yet he may require removal [from such a place]?[4] Rather, said R. Joseph, the author of this [Mishnah] is Rabbi. Which [ruling of] Rabbi [intimates this]? Shall we say, This [ruling of] Rabbi: If one throws [an object][5] and it comes to rest upon a projection,[6] of a small size,[7] Rabbi holds him liable; the Sages exempt him? [But] surely there, as we will state below, it is in accordance with Abaye. For Abaye said: The reference here is to a tree standing in private ground while its branch inclines to the street, and one throws [an article] and it comes to rest upon the branch,[8] Rabbi holding, We say, cast the branch after its trunk;[9] but the Rabbis maintain; We do not rule, Cast the branch after its stock? — Rather it is this [ruling of] Rabbi. For it was taught: If one throws [an article] from public to public ground, and private ground lies between: Rabbi holds him liable; but the Sages exempt him. Now, Rab Judah said in Samuel's name: Rabbi imposed a twofold liability, one on account of carrying out and one on account of carrying in:[10] this proves that neither removal nor depositing requires a place four by four. But surely it was stated thereon, Rab and Samuel both assert,

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(1) For the space above ten does not rank as public ground.

(2) If one reaches over an object from private to private ground across public ground, even if it is above ten handbreadths, he is liable.

(3) Var. lec.:... he solved it. Granted that R. Akiba holds, An object intercepted is as at rest, yet perhaps (etc., continuing text as in next paragraph).

(4) This objection reverts to Rabbah's answer that our Mishnah agrees with R. Akiba.

(5) In the street.

(6) A bracket moulding, or anything which projects from the wall of a house; both the house and the projection are private ground.

(7) Lit.,’whatever (size) it is’. I.e., very small, less than four square.

(8) Which is a projection of the tree.

(9) Hence it is private ground, and therefore liability is incurred. — The tree as a whole is regarded, and so we have ‘a place four by four.’

(10) When the object enters the air space in a private domain, there is ‘carrying in’ from public to private ground; when it leaves it and re-enters the public domain, there is ‘carrying out’ from private to public ground. Since the man's act has caused both, he is liable twice over.

Talmud - Mas. Shabbath 5a

Rabbi imposed liability only in the case of a covered-in private domain, for we say that a house is as though it were full,[1] but not in one which is uncovered. And should you answer, Here too [in our Mishnah it speaks of] it as covered, [I might retort] that is well of a covered private ground, but is one liable for a covered public ground? Did not R. Samuel b. Judah say in the name of R. Abba in the name of R. Huna in Rab's name: If one carries an article four cubits in covered public ground, he is not liable, because it is not like the banners of the wilderness?[2] — Rather, said R. Zera, the authority of this is the ‘others.’[3] For it was taught: Others say: If he stands still in his place and catches it, he [the thrower] is liable; if he moves from his place and catches it, he [the thrower] is exempt.[4] [Now it states], ‘If he stands in his place and catches it, he [the thrower] is liable’, — but surely there must be depositing on an area four [handbreadths square], which is absent! Hence this proves that we [i.e., ‘others’] do not require a place four by four. Yet perhaps only depositing [on such an area] is not required, but removal [from such] may be necessary? And even in respect to depositing too: perhaps it means that he spread out his garment and caught it, so that there is also depositing [on such an area]? — Said R. Zera: Our Mishnah also means that he removes it [the article] from a basket and places it in a basket, so that there is depositing too [in a place four square]. But HIS HAND is stated? — Learn: a basket in HIS HAND. Now, that is well of a basket in a private domain; but a basket in public ground ranks as a private domain?[5] Must we then say that it does not agree with R. Jose son of R. Judah? For it was taught: R. Jose son of R. Judah said: If one fixes a rod in the street, at the top of which is a basket, [and] throws [an article] and it comes to rest upon it, he is liable.[6] , For if it agrees with R. Jose son of R. Judah, WHERE THE MASTER OF THE HOUSE STRETCHES HIS HAND WITHOUT AND PLACES [AN OBJECT] IN THE POOR MAN'S HAND, why is he LIABLE? Surely he [merely] carries it from private ground to private ground! — You may even say [that it agrees with] R. Jose son of R. Judah: There it is above ten [handbreadths];[7] here it is below ten.[8] This[9] presented a difficulty to R. Abbahu: Is then ‘a basket in his hand’ taught: surely HIS HAND [alone] is stated! Rather, said R. Abbahu, it means that he lowered his hand to within three handbreadths [of the ground] and accepted it.[10] But HE STANDS is taught![11] — It refers to one who bends down. Alternatively, [he is standing] in a pit; another alternative: this refers to a dwarf. Raba demurred: Does the Tanna trouble to inform us of all these![12] Rather, said Raba, A man's hand is accounted to him as [an area) four by four. And thus too, when Rabin came,[13] he said in R. Johanan's name: A man's hand is accounted to him as [an area] four by four.

R. Abin said in the name of R. Elai in R. Johanan's name: If one throws an article and it alights on his neighbour's hand, he is liable. What does he inform us? [that] a man's hand is accounted to him as [an area] four by four! But surely R. Johanan already stated it once? — You might argue. That is only when he himself accounts his hand such,[14] but where he does not account his hand as such,[15] I might say [that it is] not [so]. Therefore we are informed [otherwise].

R. Abin said in R. Elai's name in the name of R. Johanan: If he [the recipient stands still in his place and catches it, [the thrower] is liable; if he moves from his place and catches it, he [the thrower] is exempt. It was taught likewise: Others say: If he stands still in his place and catches it, he [the thrower] is liable; if he moves from his place and catches it, he [the thrower] is exempt.[16] R. Johanan propounded: What if he throws an article and himself moves from his place, and catches it? What is his problem?[17] — Said R. Ada b. Ahaba: His problem concerns two forces in the same man: are two forces in the same man accounted as the action of one man, hence he is liable, or perhaps they count as the action of two men?[18] The question stands over.

R. Abin said in R. Johanan's name: If he puts his hand into his neighbour's courtyard and receives [some] rain, and then withdraws it, he is liable. R. Zera demurred: What does it matter whether his neighbour loads him[19] or Heaven loads him; he himself did not effect removal? — Do not say, he [passively] receives rain, but, he catches it up.[20] But removal must be from a place four [square], which is absent? — Said R. Hiyya son of R. Huna: E.g., he catches it up [as it rebounds] from the wall. But even on the wall, it does not rest there?[21] — It is as Raba[22] said [elsewhere], It refers to a sloping wall; so here too it refers to a sloping wall. Now, where was Raba's [dictum] said? — In connection with the following. For we learnt:

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(1) Of articles — i.e., it is accounted as though lacking air space entirely, and immediately an object enters therein, we regard it as lying on the ground.

(2) It is stated infra 49b and 96b that the definition of what constitutes forbidden work on the Sabbath is dependent on the work that was done in connection with the Tabernacle in the wilderness. Carrying was necessary, and so carrying an article four cubits is work. But there it was done under the open sky; hence Rab's dictum, and the same applies here. By ‘banners of the wilderness’ is meant the whole disposition and encampment of the Israelites, and they did not have any covered-in public ground.

(3) In Hor. 13b ‘others’ is identified with R. Meir.

(4) If A throws an article in the street to B, and B catches it while standing in his place, A is liable, because he is regarded as having both removed and deposited it. But if B moves away and catches it, A did not effect its deposit, since it does not lie where it would have done on account of his throw.

(5) Why then should he be liable in respect of carrying out?

(6) For it ranks as private ground, v. infra 101a.

(7) Then it ranks as private ground.

(8) Then it is public ground.

(9) Explanation of R. Abba.

(10) Everything within three handbreadths is regarded as the ground itself on the principle of labud (v. Glos), and thus the hand becomes a place four square.

(11) And he would have to be sitting for his hand to be so low.

(12) Surely he does not state a law which requires all these conditions. He should rather have taught: If the poor man spreads out his garment, etc.

(13) From Palestine to Babylon. Rabin and R. Dimi were two Palestinian amoraim who travelled between the Palestinian and the Babylonian academies to transmit the teachings of one to the other.

(14) If one intentionally deposits an article in his neighbour's hand, or takes an article into his own, in each case he accounts the hand as a resting place, i.e., an area four square.

(15) I.e., when it merely chances to alight on a man's hand.

(16) V. supra 5a notes.

(17) On what grounds should be he exempted: did he not remove it from one place and deposit it in another?

(18) The throw is one manifestation of his force: the catch arrests that force and is in the nature of a counter act; hence they may be regarded as performed by two people, which involves no liability.

(19) In which case the Mishnah declares him exempt.

(20) Actively. This is assumed to mean that he intercepts the flow of rain, beating it with one hand into the other.

(21) The side of a wall — it being assumed that an ordinary vertical one is meant — affords no resting place for the rain, whereas removal must be from a place where it can stay.

(22) Rashal reads: Rabbah.

Talmud - Mas. Shabbath 5b

If he is reading a scroll on a threshold, and it rolls out of his hand,[1] he may rewind it to himself.[2] If one is reading on the top of a roof,[3] and the scroll rolls out of his hand, — before it comes within ten handbreadths [of the ground] he may wind it back himself;[4] if it comes within ten handbreadths, he must turn the written side inwards.[5] Now, we pondered thereon: why must he turn the written side inwards, surely it did not come to rest?[6] and Raba answered: This refers to a sloping wall.[7] Yet may it not be urged that Raba said this [only] of a scroll, whose nature it is to rest [where it falls]; but is it the nature of water to rest?[8] Rather, said Raba, [R. Johanan spoke of a case] where he collected [the rain] from the top of a [water] hole. ‘A hole’! But then it is obvious? — You might argue, Water upon water is not at rest;[9] [therefore] he [R. Johanan] informs us [that it is].

Now Raba follows his opinion. For Raba said: Water [lying] upon water, that is its [natural] rest; a nut upon water, that is not its [natural] rest.[10] Raba propounded: If a nut [lies] in a vessel, and the vessel floats on water,[11] do we regard the nut, which is at rest,[12] or the vessel, which is not at rest, since it is unstable? The question stands over.

In respect to oil floating upon wine R. Johanan b. Nuri and the Rabbis differ. For we learnt: If oil is floating upon wine[13] and a tebul yom[14] touches the oil, he disqualifies the oil only. R. Johanan b. Nuri said: Both are attached to each other.[15]

R. Abin said in R. Elai's name in the name of R. Johanan: If one is laden with food and drink and goes in and out all day,[16] he is liable only when he stands still.[17] Said Abaye: Providing that he stands still to rest.[18] How do you know it? — Because a Master said: Within four cubits, if he stops to rest, he is exempt; to shoulder his burden, he is liable. Beyond four cubits, if he stops to rest, he is liable; to rearrange his burden, he is exempt.[19] What does he [R. Johanan] inform us — that the original removal was not for this purpose?[20] But R. Johanan stated it once. For R. Safra said in R. Ammi's name in R. Johanan's name: If one is carrying articles from corner to corner [in private ground] and then changes his mind and carries them out, he is exempt, because his original removal was not for this purpose? — It is dependent on Amoraim: one stated it in the former version; the other stated it in the latter version.[21]

Our Rabbis taught: If one carries [an article] from a shop to an open space via a colonnade,[22] he is liable; but Ben ‘Azzai holds him not liable. As for Ben ‘Azzai, it is well: he holds that walking is like standing.[23] But according to the Rabbis, granted that they hold that walking is not like standing, yet where do we find liability for such a case?[24] — Said R. Safra in the name of R. Ammi in R. Johanan's name:

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(1) Into a public domain skirting it.

(2) This refers, e.g., to a threshold three handbreadths above the ground and four handbreadths square, This constitutes a karmelith (v. p. 6, n. 7), and even if it entirely falls out of his hand it is only Rabbinically prohibited to carry it back; hence here that he retains one end there is not even that.

(3) Which is a private domain. In the East all roofs were flat and put to use; T.A.I, p. 33.

(4) Because only the first ten handbreadths above the street surface count as public ground.

(5) He must not draw it back, since it has entered public ground, so he reverses it, because it is degrading for a scroll to lie open with its writing upward.

(6) Hence he should be permitted to roll it back.

(7) V.’Er., Sonc. ed., p. 697 and notes.

(8) It does not stay even on a sloping wall.

(9) The article must be removed from a place where it may be regarded as naturally at rest, e.g., a stone lying on the ground.

(10) And if one picks it up and carries it without, he is not liable.

(11) And he lifts up both and carries them out.

(12) In the vessel.

(13) Both of terumah.

(14) V. Glos. He renders terumah (q.v. Glos.) unfit for food.

(15) And both become unfit. Thus in respect to the Sabbath too: the Rabbis hold that the oil is not at rest upon the wine, whereas R. Johanan b. Nuri holds that the oil is at rest upon the wine. The same applies to oil floating upon water: wine is mentioned on account of the quotation, as there is no terumah of water.

(16) From private to public ground.

(17) And then goes in or out; this alone constitutes removal. He was laden in the first place to carry the stuff from one part of a private domain to another, and if he goes out instead it is not removal, since when the food was moved at first there was no intention of carrying from a private to a public domain; v. supra 3a.

(18) But if he stops merely to rearrange the burden, it is all part of his walking.

(19) One is liable for carrying an article four cubits over public ground, providing that he himself removes it from the first spot and deposits it on the other. Now, if he stops to rest within the four cubits, that constitutes depositing, and when he restarts there is a fresh removal; consequently, the article was carried four cubits with a single removal and deposit, and so he is exempt. But if he stops to rearrange the burden, it is still part of the first removal; therefore he is liable. Hence if he stops to rest after walking four cubits, he is regarded as depositing the article there, and is liable. But if he stops to rearrange his burden, he is still engaged in walking, and should another relieve him of it before he stops to rest, both are exempt.

(20) Viz., to carry it without, and so he is not liable.

(21) R. Johanan did not teach both, but amoraim reporting his words gave different versions of what he did state.

(22) The shop is private ground, the open space is public ground, and the colonnade ranks as a karmelith, being occupied by stall holders and not frequented as a public thoroughfare.

(23) When he walks through the colonnade it is as though he stood there. Hence he performs two separate actions: (i) carrying an object from private ground to a karmelith; (ii) carrying an object from a karmelith to public ground. Neither of these imposes liability.

(24) In Scripture, by analogy with the Tabernacle (v. p. 11, n. 2) we find liability only for direct transference from private to public ground.

Talmud - Mas. Shabbath 6a

Compare it to one who carries an article in the street: there, surely, though he is not liable as long as he holds it and proceeds, yet when he lays it down he is liable; so here too, it is not different. How compare! there, wherever he puts it down it is a place of liability; but here, if he deposits it in the colonnade, it is a place of non-liability? Rather compare it to one who carries an article [in the street] exactly four [cubits].[1] There, surely, though he is exempt if he deposits it within the four cubits, yet when he deposits it at the end of the four cubits he is liable; so here too, it is not different. How compare? There it is a place of exemption [only] as far as this man is concerned, but to all others[2] it is a place of liability; but here it is a place of exemption for all? Rather compare it to one who carries [an object] from private to public ground through the sides of the street:[3] there, surely, though he is exempt if he lays it down in the sides of the street, yet when he lays it down in the street [itself] he is liable; so here too it is not different.

R. Papa demurred thereto: that is well according to the Rabbis, who maintain that the sides of the street are not regarded as the street; but according to R. Eliezer [b. Jacob],[4] who rules that the sides of the street are regarded as the street, what can be said? — Said R. Aha son of R. Ika to him: Granted that you know R. Eliezer [b. Jacob] to rule that the sides of the street are regarded as the street where there is no fencing;[5] but do you know him [to rule thus] where there is fencing?[6] Hence it[7] is analogous to this.

R. Johanan said: Yet Ben ‘Azzai agrees in the case of one who throws.[8] It was taught likewise: If one carries [an object] from a shop to an open place through a colonnade, he is liable, whether he carries [it] out or carries [it] in; or whether he reaches it across or throws it. Ben ‘Azzai said: If he carries it out or in, he is exempt; if he reaches it across or throws it, he is liable.

Our Rabbis taught: There are four domains in respect to the Sabbath; private ground, public ground, karmelith, and a place of non-liability. And what is private ground? A trench ten [handbreadths] deep and four wide, and likewise a wall ten [handbreadths] high and four broad, — that is absolute private ground.[9] And what is public ground? A highroad,[10] a great public square,[11] and open alleys,[12] — that is absolute public ground. One may not carry out from this private to this public ground, nor carry in from this public to this private ground; and if one does carry out or in, unwitting, he is liable to a sin-offering; if deliberately, he is punished by kareth[13] or stoned.[14] But the sea, a plain, a colonnade, or a karmelith, ranks neither as public nor as private ground:[15] one must not carry [objects] about[16] within it and if he does, he is liable; and one must not carry out [an object] thence into public ground or from the public ground into it, nor carry [an object] from it into private ground or from the private ground into it; yet if he does carry out or in, he is not liable. As to courtyards with many owners[17] and blind alleys,[18] if an ‘erub is made, they are permitted; if an ‘erub is not made, they are forbidden.[19] A man standing on a threshold[20] may take [an object] from the master of the house, or give [it] to him, and may take [an object] from the poor man or give [it] to him; providing however that he does not take from the master of the house and give to the poor man or from the poor man and give it to the master of the house;[21] and if he does take and give, the three are exempt. Others state, A threshold serves as two domains: if the door is open, it is as within; if shut, it is as without. But if the threshold is ten [handbreadths] high and four broad, it is a separate domain.[22] The Master said: ‘That is [absolute] private ground.’ What does this exclude?[23] — It excludes the following [view] of R. Judah. For it was taught: Even more than this did R. Judah say: If one owns two houses on the opposite sides of the street,[24] he can place

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(1) Lit., ‘from the beginning of four to the end of four’.

(2) To whom the limit of four cubits terminates at this particular spot.

(3) E.g., if the wall of a private courtyard fronting on the street is broken through, the place of the wall is called the sides of the street. In ‘Er. 94b (quoted below) it is disputed whether this is private or public ground; yet when one carries an object into the street through the breach he is certainly liable.

(4) b. Jacob is omitted in ‘Er. 94b and Keth. 31a.

(5) Rashi: stakes against which vehicles rub to protect the wall.

(6) And yet if one carries through the breach into the street he is liable.

(7) The case of the colonnade.

(8) From a shop to an open place through a colonnade: he is then liable.

(9) Even if they are in a public thoroughfare. A house, of course, is also private ground.

(10) Jast.: a camp.

(11) Or, an open place.

(12) i.e., open at both ends into streets.

(13) If he was not formally warned.

(14) If formally warned.

(15) The former, because they are not for the general passage of the multitude; the latter, because they are not enclosed. It should be observed that ‘public ground’ does not mean any ground that is open to the public, but that which is actually frequented by the masses.

(16) Lit., ‘carry and give,’ across a distance of four or more cubits.

(17) I.e., a courtyard into which many houses open and which itself abuts on the street. The inhabitants of these houses own the courtyard in common and must pass through it into the street.

(18) These too are provided with courtyards through which the inhabitants pass into the streets.

(19) For ‘erub v. Glos. If the separate householders make an ‘erub, e.g., each contributing a little flour for baking a large loaf, all the houses and the courtyard into which they open are counted as one domain, and carrying between them is permitted. Again, if all the courtyards are thus joined by an ‘erub, carrying is permitted between the courtyards themselves and between them and the blind alley on which they abut.

(20) This is less than four handbreadths square, and is a place of non-liability, i.e., not a separate domain at all, but counted with public or private ground indifferently.

(21) This is a Rabbinical measure, lest one treat the Sabbath lightly and carry direct between public or private ground.

(22) Like the trench or wall mentioned above. it is private ground, yet not part of the house, and carrying between the two is prohibited.

(23) The emphasis suggests that only that is private ground.

(24) Facing each other.

Talmud - Mas. Shabbath 6b

a board or a beam at each side[1] and carry between them.[2] Said they to him: A street cannot be made fit [for carrying] by an ‘erub in this way.[3] And why is it called ‘absolute’ [public ground]? — You might argue, The Rabbis differ from R. Judah, [maintaining] that it is not private ground only in respect of carrying [therein]:[4] but in respect of throwing[5] they agree with R. Judah:[6] hence we are informed [otherwise].

The Master said: ‘That is [absolute] public ground.’ What does this exclude? — It excludes R. Judah's other [ruling]. For we learnt: R. Judah said: If the public thoroughfare interposes between them, it must be removed to the side; but the Sages maintain: It is unnecessary.[7] And why is it called ‘absolute?’ — Because the first clause states ‘absolute’, the second does likewise. Now, let the desert too be enumerated, for it was taught: What is public ground? A high-road, a great open space, open alleys and the desert?-Said Abaye, There is no difficulty: The latter means when the Israelites dwelt in the desert; the former refers to our own days.[8]

The Master said: ‘If one carries out or in, unwittingly, he is liable to a sin-offering; if deliberately, he is punished by kareth or stoned.’ ‘Unwittingly, he is liable to a sin-offering’: but it is obvious? — It is necessary [to state] ‘If deliberately, he is punished by kareth or stoned.’ But that too is obvious? — We are informed the following, in agreement with Rab. For Rab said, I found a secret scroll of the school of R. Hiyya[9] wherein it is written, Issi b. Judah said: There are thirty-nine principal labours, but one is liable only [for] one. Yet that is not so? for we learnt: The principal labours are forty less one: and we pondered thereon, Why state the number?[10] And R. Johanan answered: [To teach] that if one performs all of them in one state of unawareness,[11] he is liable for each separately! Rather, say thus: for one of these he is not liable; and so we are informed here that this one [sc. carrying] is of those about which there is no doubt.

The Master said: ‘But the sea, a plain, a colonnade, and a karmelith rank neither as public nor as private ground.’ But is a plain neither private nor public ground? Surely we learnt: A plain: in summer it is private ground in respect to the Sabbath and public ground in respect to uncleanness;[12] in winter it is private ground in both respects![13] — Said ‘Ulla: After all it is a karmelith; yet why is it called private ground? Because it is not public ground.[14] R. Ashi said:

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(1) Of one of the houses.

(2) R. Judah holds that two partitions facing each other render the space between private ground by Biblical law. The outside walls of the houses are two such partitions, while the two are added to mark out this particular space and distinguish it from the rest of the street.

(3) V. ‘Er., Sonc. ed,, p. 32 notes.

(4) Forbidding it as a precautionary measure, lest one carry in public ground too.

(5) An object from other public ground into this.

(6) That liability is incurred, because by Biblical law two partitions constitute private ground,

(7) A well ten handbreadths deep and four broad in a public highway is private ground, as stated above; consequently, if one draws water and places it at the side, he desecrates the Sabbath. Therefore the Rabbis enacted that it should be surrounded by boards, even at some distance, and placed at intervals, providing that there is not a gap of more than ten cubits between any two; this renders the whole private ground, as though it were entirely enclosed. But R. Judah maintains that if the actual road taken by travellers lies between these boards, it destroys its character as private ground and makes it public ground in spite of the boards, and therefore it must be diverted. The emphasis in our Baraitha — that is public ground — is to reject this view of R. Judah.

(8) When it is not frequented.

(9) מגלת סתרים Rashi: When a scholar heard a new law which had no authoritative tradition behind it and was thus rejected by the schools, he committed it to writing for fear that he might forget it, and kept it secret. Weiss, Dor, II, 189 thinks that the scroll contained views which R. Juda ha-Nasi had desired to exclude from his authoritative compilation, and therefore it was kept concealed. — On these lines a very considerable portion of the Baraitha would have had to be kept secret! Kaplan, Redaction of the Talmud, p. 277 suggests that the concealed scroll contained laws which were unsuited for unrestricted publicity. He also suggests that the phrase may not mean ‘concealed’ but written in a ‘concealed’, i.e. esoteric style. But there is nothing particularly esoteric about the style of the law quoted here. V. also Levi, Worterbuch s.v.
(10) Since they are all stated separately,
(11) I,e., he is unaware throughout that these are forbidden on the Sabbath.
(12) In summer it is not sown, hence a few may pass through it, yet not many will trouble to leave the highway. Hence carrying therein is permitted. With respect to uncleanness, it is a general principle that if a doubt arises in a strictly private place, a stringent ruling is given, and the article or person concerned is unclean; if it arises in a public i.e., not a strictly private place, we are lenient. Hence, since the plain is not strictly private, it ranks as public ground.
(13) Since it is sown, no stranger enters therein.
(14) And as the main purpose of that Mishnah is to draw a distinction between the Sabbath and uncleanness, that is sufficient, without pointing out that it is a karmelith.

Talmud - Mas. Shabbath 7a

E.g., when it has barriers,[1] and [this is] in accordance with the following dictum of ‘Ulla in R. Johanan's name: An enclosure more than two se'ahs [in area][2] which is not enclosed in attachment to a dwelling place,[3] even if it is a kor or two kor [in area],[4] if one throws [an article] therein [from public ground] he is liable. What is the reason? It is a partitioned area, but it lacks inhabitants.[5] Now, as for R. Ashi, it is well that he does not explain it as ‘Ulla;[6] but why does ‘Ulla not explain it in accordance with his own dictum? — He answers you: if it has barriers, is it called a plain: [surely] it is an enclosure! And R. Ashi?[7] -’Private ground’ is taught.[8]

‘And a karmelith.’ Are then all these [sea, plain and colonnade] too not karmelith? — When R. Dimi came,[9] he said in the name of R. Johanan: This is necessary only in respect of a corner near a street[10] : though the masses sometimes press and overflow therein,[11] yet since it is inconvenient for [general] use, it ranks as a karmelith.

When R. Dimi came, he said in R. Johanan's name: [The place] between the pillars[12] is treated as a karmelith. What is the reason? Though the general public walk through there, since they cannot proceed with ease,[13] it is as a karmelith. R. Zera said in Rab Judah's name: The balcony in front of the pillars is treated as a karmelith. Now, he who stated thus of [the ground] between the pillars, — how much more so the balcony![14] But he who mentions the balcony-only the balcony [ranks as a karmelith], because it is inconvenient for [general] use, but not [the ground] between the pillars, which is convenient for [general] use.[15] Another version: but [the place] between the pillars, through which the public occasionally walk, is as public ground.

Rabbah b. Shila said in R. Hisda's name: If a brick is standing upright in the street, and one throws [an article][16] and it adheres to its side, he is liable; on top, he is not liable.[17] Abaye and Raba both state: Providing that it is three handbreadths high, so that the public do not step on it;[18] but thorns and shrubs, even if not three [handbreadths] high.[19] Hiyya b. Rab maintained: Even thorns and shrubs, but not dung.[20] R. Ashi ruled: Even dung.

Rabbah, of the school of R. Shila, said: When R. Dimi came,[21] he said in the name of R. Johanan: No karmelith can be less than four [handbreadths square].[22] And R. Shesheth said: And it extends[23] up to ten. What is meant by, ‘and it extends up to ten?’ Shall we say that only if there is a partition ten [handbreadths high] is it a karmelith, not otherwise;[24] but is it not? Surely R. Gidal said in the name of R. Hiyya b. Joseph in Rab's name: In the case of a house, the inside of which is not ten [hand breadths in height] but its covering makes it up to ten, it is permitted to carry on the roof over the whole [area];[25] but within, one may carry only four cubits![26] But what is meant by ‘and it extends up to ten?’ That only up to ten is it a karmelith, but not higher.[27] And even as Samuel said to Rab Judah, Keen scholar![28] In matters concerning the Sabbath do not consider[29] aught above ten. In what respect? Shall we say, that there is no private ground above ten? Surely R. Hisda said: If one fixes a rod in private ground[30] and throws [an article from the street] and it alights on the top, even if it is a hundred cubits high, he is liable, because private ground extends up to heaven!

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(1) i.e., it is enclosed by a fence, wall, etc. Though the Rabbis treat it as a karmelith in so far that carrying therein is forbidden, it is nevertheless private ground by Biblical law, and carrying between it and public ground involves liability. It is in that sense that the Mishnah designates it a private domain.

(2) Se'ah is primarily a measure of capacity; by transference it is used as a surface measure on the basis that two se'ahs’ seed require an area of five thousand square cubits.

(3) V. Rashi: Aliter: which is not enclosed for living purposes.

(4) 1 kor = 6 se'ahs.

(5) An enclosed place is private ground by Biblical law, whatever its size. Now, if it is attached to a dwelling (or enclosed for living purposes), e.g., a house stood in a field and then the field, upon which one of the doors of the house opens, was enclosed, it remains private ground by Rabbinical law too. But if it is not connected with a house, it is private ground only up to the area of two se'ahs; beyond that one may not carry therein by Rabbinical law. Since, however, it is private ground by Biblical law, if one throws an article into it from public ground he is liable, and to this the Mishnah quoted refers when it states that a plain is private ground.

(6) Viz., that the Mishnah means that it is a karmelith, because he prefers to explain it in accordance with ‘Ulla's other dictum.

(7) That being so, why does he not accept ‘Ulla's explanation?

(8) Which is definitely not a karmelith.

(9) V. p. 12, n. 9.

(10) At which stood a house the front of which the owner had thrown open to the public.

(11) When the street is very crowded.

(12) Pillars were erected in public squares or markets, upon which traders hung their wares.

(13) Lit., ‘directly’. On account of the numerous pillars, which were not always in a straight line.

(14) Which is even less convenient. — The balcony was used as a stand for traders’ stalls.

(15) In his opinion.

(16) Across a distance of at least four cubits.

(17) When an article lies in the street and is less than ten handbreadths high and four square it is a place of non-liability; but that is only in respect of what can be put to a well-defined, natural use; e.g., the top of a low wall or of a brick, upon which articles may be placed. But the side of a wall or a brick can only give accidental service, as in the example, and in that case everything less than ten handbreadths high is as the street itself, and so when one throws an article and after traversing four cubits it cleaves to the side of the brick, it is as though it fell in the street, and he is liable. But the top, which, as explained by Abaye and Raba, is three handbreadths high, constitutes a separate domain — a place of non-liability.

(18) Then it is not part of the street; v. preceding note. [Whether the surface area of the brick has to be four square handbreadths v. Tosaf. a.l.].

(19) Rank as a separate domain, because people avoid stepping on them.

(20) People wearing thick shoes may step upon the former; but dung is avoided.

(21) V. P. 12, n. 9.

(22) If it is, it is not a karmelith but a place of non-liability.

(23) Lit., ‘takes hold’.

(24) I.e., an enclosed space less than two se'ahs in area and not attached to a house (v. p. 21, n. 7) is a karmelith only if its fencing is ten handbreadths high.

(25) The roof is ten high, and therefore private ground.

(26) Since it is unfit for a dwelling, its walls are disregarded and it ranks not as a private domain but as a karmelith (R.

Han.). This is the reverse of our hypothesis.

(27) If its top is more than ten handbreadths above ground level it is not a karmelith.

(28) Or, man of long teeth.

(29) Lit., 'be'.

(30) A rod is generally less than four handbreadths square.

Talmud - Mas. Shabbath 7b

But [if it means] that there is no public ground above ten,[1] it is our Mishnah! For we learnt: If one throws [an article] four cubits on to a wall above ten handbreadths, it is as though he throws it into the air;[2] if below ten, it is as though he throws it on to the ground.[3] Hence he must refer to a karmelith, [teaching] that there is no karmelith above ten. And [R. Dimi and R. Shesheth inform us that] the Rabbis treated it with the leniencies of both private and public ground. 'With the leniencies of private ground': that only if [it measures] four [handbreadths square] is it a karmelith, but if not it is simply a place of non-liability. 'With the leniencies of public ground': only up to ten is it a karmelith, but above ten it is not a karmelith.

[To revert to] the main text: 'R. Gidal said in the name of R. Hiyya b. Joseph in Rab's name: In the case of a house, the inside of which is not ten [handbreadths in height] but its covering makes it up to ten, it is permitted to carry on the roof thereof over the whole [area]; but within, one may carry only four cubits.' Said Abaye: But if one digs out four square [handbreadths][4] and makes it up to ten, carrying over the whole is permitted. What is the reason? [The rest] is [as] cavities of a private domain, and such are [themselves] a private domain.[5] For it was stated: The cavities of a private domain constitute private ground. As to the cavities of a public domain,[6] — Abaye said: They are as public ground; Raba said: They are not as public ground.[7] Said Raba to Abaye: According to you who maintains that the cavities of public ground are as public ground, wherein does it differ from what R. Dimi, when he came, said in the name of R. Johanan: 'This is necessary only in respect of a corner near to the street',[8] — yet let it be as cavities of a public domain? — There the use thereof is inconvenient; here the use thereof is convenient.

We learnt: If one throws an article four cubits on to a wall, above ten handbreadths, it is as though he throws it into the air; if below ten, it is as though he throws it on to the ground.[9] Now we discussed this: why 'as though he throws it on the ground'; surely it does not rest [there]?[10] And R. Johanan answered: This refers to a juicy cake of figs.[11] But if you maintain that the cavities of public ground are as public ground, why relate it to a juicy cake of figs; relate it to a splinter or any article and it is a case where it alighted in a cavity?-Sometimes he answered him, A splinter or any other article are different, because they fall back;[12] sometimes he answered him: The reference must be to a wall not possessing a cavity. — How do you know it? — Because the first clause states: If one throws above ten handbreadths, it is as though he throws it into the air. Now if you imagine that this refers to a wall with a cavity, why is it as though he throws It into the air; surely it came to rest in the cavity?[13] And should you answer, Our Mishnah [refers to a cavity] that is not four square, — surely did not Rab Judah say in R. Hiyya's name: If one throws [an article] above ten handbreadths and it goes and alights in a cavity of any size,[14] we come to a controversy of R. Meir and the Rabbis, R. Meir holding, We [imaginarily] hollow it out to complete it,[15] while the Rabbis maintain, We do not hollow it out to complete it.[16] Hence it surely follows that the reference is to a wall without a cavity. This proves it.

[To revert to] the main text: R. Hisda said: If one fixes a rod in private ground and throws [an article from the street] and it alights on the top, even if it is a hundred cubits high, he is liable, because private ground extends up to heaven'. Shall we say that R. Hisda holds with Rabbi?[17] For it was taught: If one throws [an object] and it alights upon a projection of whatever size; Rabbi holds him liable; the Sages exempt him!

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(1) I.e., anything above ten handbreadths from ground level is not treated as public ground.

(2) He is not liable.

(3) And since it traverses four cubits, he is liable. — Why then need Samuel state it?

(4) I.e., he lowers the level of four square handbreadths of the ground.

(5) Cavities in a wall bounding private ground rank as private ground. Here, the lowered portion is true private ground, and the rest is regarded as cavities in an imaginary wall surrounding it.

(6) I.e., in a wall fronting a street.

(7) But constitute a separate domain. If four handbreadths square, they are a karmelith; if less, a place of non-liability.

(8) V- supra 7a, notes, it is there accounted as a karmelith.

(9) Mishnah, infra 100a.

(10) Since it must rebound at least slightly, the final distance is less than the four cubits that is the least for which a penalty is incurred.

(11) Which sticks.

(12) Lit., 'come again'. Even if they do not rebound.

(13) Which, if four handbreadths square, is private ground.

(14) I.e., less than four square.

(15) Where the wall is thick enough, we regard the small cavity as enlarged to four square, and liability is incurred.

(16) And since the Mishnah under discussion is anonymous, it reflects R. Meir's view; v. Sanh. 86a.

(17) That depositing upon a place four handbreadths square is not required.

Talmud - Mas. Shabbath 8a

— Said Abaye: In the case of private ground none differ, agreeing with R. Hisda. But here the reference is to a tree standing in private ground, while a branch inclines to the street, and one throws [an article] and it alights on the branch: Rabbi holds, We say, Cast the branch after its trunk; but the Rabbis maintain, We do not say, Cast the branch after its trunk.[1]

Abaye said: If one throws a bin[2] into the street, [even] if it is ten [handbreadths] high but not six broad, he is liable; if six broad, he is exempt.[3] Raba said: Even if it is not six broad, he is [still] exempt. What is the reason? It is impossible for a piece of cane not to project above ten.[4] If he overturns it,[5] mouth downwards, [and throws it], then if it is a shade more than seven [in height] he is liable; if seven and a half, he is exempt.[6] R. Ashi said: Even if it is seven and a half, he is liable. What is the reason? The walls are made for their contents.[7]

'Ulla said: If there is a column nine [handbreadths high] in the street, and the public rest and rearrange their burdens thereon,[8] and one throws [an object] and it alights upon it, he is liable. What is the reason? It if is less than three, the multitude step upon it;[9] from three to nine, they neither walk upon it nor arrange their burdens upon it;[10] nine, they certainly re-arrange their burdens upon it.[11] Abaye asked R. Joseph: What of a pit?[12] — He replied: The same holds good of a pit. Raba said: It does not hold good of a pit. What is the reason? Service through difficulty is not designated service.[13]

R. Adda b. Mattenah raised an objection before Raba: If one's basket is lying in the street, ten [handbreadths] high and four broad,[14] one may not move an object] from it into the street or from the street into it; but if less, one may carry; and the same applies to a pit. Surely that refers to the second clause?[15] — No: to the first clause.

He raised an objection:

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(1) V. supra 4b for notes.

(2) Jast.: a large round vessel, receptacle of grain, water, etc.

(3) A circle with a diameter of six is the least (roughly) in which a square of four can be inscribed. Now, as stated above (6a), an object four square is a separate domain itself, and no liability is incurred for throwing one domain into another.

(4) Since it is ten handbreadths high, it is impossible that the top and bottom canes of the circumference shall be absolutely even and straight, and so something must project above ten from ground level, which is a place of non-liability, not public ground. But in order to incur liability the whole of the article thrown must rest in public ground.

(5) Where it was less than six handbreadths broad (Rashi).

(6) It is a principle that the walls of an object are regarded as extending beyond its opening down to the ground itself as soon as that opening comes within a shade less than three handbreadths from the ground. V. Glos. s.v. labud. Hence, when this overturned bin, which is a shade more than seven in height (and certainly if less), enters within just under three handbreadths from the ground and is regarded as already resting on the ground, the whole is within ten from the ground, and therefore he is liable. But if it is slightly taller than this it is partly above ten; hence there is no liability.

(7) I.e., to enable it to be used as a receptacle, and not to create an imaginary extension downwards.

(8) it being of the exact height to facilitate this.

(9) And it is therefore part of the street.

(10) It is too low for the latter purpose.

(11) And since it is thus put to public use, it is part of the thoroughfare.

(12) Nine deep.

(13) It can only be used with difficulty; therefore it is not part of the street.

(14) As such it is private ground; v. supra fol. 6a.

(15) sc. o n nine handbreadths.

Talmud - Mas. Shabbath 8b

If one intends to take up his Sabbath abode in a public ground, and places his ‘erub[1] in a pit above ten handbreadths, it is a valid ‘erub; if below ten handbreadths, it is not a valid ‘erub.[2] How is this meant? Shall we say, [he placed it] in a pit ten [handbreadths] in depth, and ‘above’ means that he raised [the bottom] and set it [the ‘erub] there;[3] and ‘below’ means that he lowered it[4] and set it there: what is the difference between above and below? He is in one place and his erub in another![5] Hence it must surely refer to a pit not ten deep,[6] and it is taught, it is a valid ‘erub, which proves that use with difficulty is regarded as use?[7] Sometimes he answered him: Both he and his ‘erub were in a karmelith,[8] and why is it called public ground? Because it is not private ground.[9] And sometimes he answered him: He was on public ground while his ‘erub was in a karmelith, this agreeing with Rabbi, who maintained: Whatever is [interdicted] as a shebuth[10] was not forbidden at twilight.[11] And do not think that I am merely putting you off, but I say it to you with exactitude.[12] For we learnt: If there is a water pool and a public road traverses it, if one throws [an object] four cubits therein, he is liable. And what depth constitutes a pool? Less than ten handbreadths. And if there is a pool of water traversed by a public road, and one throws [an object] four cubits therein,[13] he is liable. Now, as for mentioning this pool twice, it is well; one refers to summer and the other to winter, and both are necessary. For if we were informed [this about] summer, [it might be said the reason] is because it is the practice. of people to cool themselves;[14] but in winter I would say [that it is] not [so]. And if we were informed this of winter, [it might be id the reason] is because becoming mud-stained[15] it may happen that he goes down [into the water]; but in summer [I would say that it is] not [so]; thus both are necessary. But why mention traversing, twice? Hence. it must surely follow that a passage under difficulties[16] is regarded as a [public] passage, whereas use under difficulties is not regarded as [public] use.[17] This proves it . Rab Judah said: In the case of a bundle of canes: if one repeatedly throws it down and raises it,[18] he is not liable unless he lifts it up.[19]

The Master said: ‘A man standing on a threshold may take [an object] from or give [it] to the master of the house, and may take an object] from or give [it] to the poor man.’ What is this threshold? Shall we say, a threshold of a public road?[20] [How state that] he ‘may take [an object] from the master of the house’? Surely he [thereby] carries [it] from private to public ground! Again, if it is a threshold of a private domain-[how state that] ‘he may take [an object] from the poor man’?

Surely he [thereby] carries [it] from public to private ground? Or again if it is a threshold of a karmelith,[21] — [how state that] 'he may take or give' [implying] even at the very outset? But after all, the prohibition does exist.[22] Rather it must mean a threshold which is merely a place of non-liability, e.g., if it is not four [handbreadths] square. And [it is] even as what R. Dimi, when he came,[23] said in the name of R. Johanan: A place which is less than four square, the denizens both of public and private ground may rearrange their burdens upon it, provided that they do not exchange.[24]

The Master said: 'Providing that he does not take from the. master of the house and give to the poor man or the reverse, and if he does take and give [from one to the other], the three are exempt.' Shall we say that this refutes Raba? For Raba said: if one carries an object full four cubits[25] in the street, even if he carries it

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(1) V. Glos.

(2) Lit., 'his 'erub is an 'erub ... his 'erub is not an 'erub.' On the Sabbath one may not go more than two thousand cubits out of the town. This, however. may be extended by placing some food (called an 'erub) at any spot within the two thousand cubits on Friday; by a legal fiction that spot becomes the Sabbath abode, since he can now eat his meal there, and from there he is permitted to walk a further two thousand cubits in any direction. This food must so be placed that it is permissible to take it on the Sabbath.

(3) E.g., he placed a small board on the bottom and the food upon it.

(4) E.g., by removing some of the earth at the bottom.

(5) The whole of that pit being ten deep, it is private ground (supra 6a), and no object in it, even if raised to the very edge, may be taken out into the thoroughfare. Hence the 'erub is inaccessible, and therefore invalid.-'He is in one place' — sc. in public ground, 'and his 'erub in another,'-in private ground.

(6) 'Above' and 'below' referring to the bottom of the pit.

(7) For otherwise it would not be regarded as public ground.

(8) E.g., the pit was in a plain; supra fol. 6a.

(9) Cf. supra 6b.

(10) V. Glos. This includes carrying between public ground and a karmelith.

(11) On Friday, because it is doubtful whether twilight belongs to the day (Friday) or night (the Sabbath), while a shebuth itself is not a stringent prohibition. Hence be could have taken out his food at twilight, which is just the time when the 'erub acquires that spot for him as his resting place for the Sabbath,

(12) Viz., that service with difficulty is not regarded as public use.

(13) I.e., it travels four cubits before it alights.

(14) Hence it is open for public use.

(15) Through travelling.

(16) As when the public road traverses a pool.

(17) This is deduced from the emphasis on 'traversing'.

(18) Thus moving it: yet he does not actually lift it entirely from the ground at any moment.

(19) Lit,, 'removes it' completely from the ground.

(20) Rashi: e.g., one leading to an alley.

(21) Being four handbreadths square but less than ten high, so that it does not rank as private ground.

(22) Of carrying between a karmelith and public or private ground, though its infringement is not punishable.

(23) V. p. 12, n. 9.

(24) Using it as a means of transport between public and private ground.

(25) Lit., 'from the beginning of four to the end of four.'

Talmud - Mas. Shabbath 9a

across [or, over] himself,[1] he is liable.[2] -There it does not come to rest [in the place of non-liability], whereas here it does.[3]

'Others state, A threshold serves as two domains: if the door is open, it is as within; if the door is shut, it is as without.’[4] Even if it has no stake?[5] But R. Hama b. Goria said in Rab's name: That which lies within the opening requires another stake to permit it.[6] And should you answer that [the reference is to a threshold which] is not four square: surely R. Hama b. Goria said in Rab's name: That which lies within the opening, even if less than four square, requires another stake to permit it!-Said Rab Judah in Rab's name: The reference here is to the threshold of an alley, half of which [threshold] is covered and half uncovered, the covering being toward the inner side: [hence] if the door is open, it is as within; if the door is shut, it is as without.[7] R. Ashi said: After all, it refers to the threshold of a house, and e.g., where it is covered over with two beams, neither being four [handbreadths wide], and there are less than three [handbreadths] between them, while the door is in the middle: if the entrance is open, it is as within, if shut, it is as without.[8]

‘But if the threshold is ten [handbreadths] high and four broad, it is a separate domain.’ This supports R. Isaac b. Abdimi. For R. Isaac b. Abdimi said, R. Meir[9] used to teach: Wherever you find two domains which are really one, e.g., a pillar in private ground ten high and four broad, one may not re-arrange a burden thereon, for fear of a mound in a public domain.[10]

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(1) Rashi: above his hand; i.e., through space more than ten handbreadths from the ground, which is a place of non-liability. R. Han. and Tosaf.: from the right to the left hand, i.e., across his body.

(2) On Rashi's interpretation the difficulty is obvious: carrying an object via a place of non-liability is the same as transferring it from public to private ground by way of a threshold, which is a similar place, yet Raba rules that the former imposes liability, whereas the Baraitha states that the three are exempt. According to R. Han. and Tosaf. the difficulty appears to be this: when a person passes an object from one hand to another, his own body not moving, he is in a similar position to this man who stands on the threshold and takes the one and gives to the other, himself not moving, and its passing his stationary body in the former case is the same as when in the latter case it is laid down on the threshold; so, at least, one might argue. (Tosaf. a.l. s.v. לימא and in ‘Er. 98a s.v. והאמר)

(3) Hence in the case posited by Raba we disregard the method of its passage and condemn him for carrying an object four cubits in the street.

(4) Rashi: this is now assumed to refer to a threshold lying at the opening of a blind alley between it and the public road. An alley was made fit for carrying by planting a stake at the side of the opening, which by a legal fiction was regarded as a complete partition stretching right across, and it is understood that this threshold is excluded from the partitioning influence of a stake, which was fixed at the inner side of the threshold. Tosaf. explains it somewhat differently.

(5) On the outer side; v. preceding note.

(6) ‘That which ... opening’ is understood to mean the threshold, it being assumed that the stake is fixed on its inner side, so that the threshold does not come within its influence and therefore it must be enclosed, as it were, and converted into private ground before carrying therein is permitted. This contradicts the Baraitha.

(7) This alley was rendered fit for carrying not by a stake but by a beam across its front (v. ‘Er. 11b); and it was also furnished with a door or gate at its opening. Now, the threshold referred to here lies in front of the door, while the beam overhead covers the inner half of the threshold. If the door is open (it opened inwards) the whole threshold is counted as part of the alley, and so it is permitted; if it is closed, the threshold is shut out, and even the portion under the beam is forbidden.

(8) The entrance was covered over from above; if the cover was a single beam four handbreadths wide, everything beneath it, including the threshold, is permitted, as imaginary partitions are assumed to descend from the sides of the beam parallel to the house and enclose the entrance. But this assumption is not made when the beam is less than four in width. Again, when two beams are less than three handbreadths apart, the whole, including the space, is regarded as one, on the principle of labud, providing that there is nothing between them to break their imaginary unity. Now, the reference here is to a threshold in the middle of which the door is set. If this entrance is open, nothing breaks the unity above, and since the width of the two beams plus the space between is four cubits, the threshold is permitted. But if it is shut, the door coming between the two beams above forbids the assumption that they are united, and by corollary, the imaginary existence of partitions; hence the threshold remains forbidden.

(9) Who is the ‘others’ mentioned as authors of this teaching, v. supra p. 11, n. 3.

(10) Of the same size; since such constitutes private ground, one may not move an article from it into the street, and so even when situated in private ground it is also forbidden, lest one lead to the other.

Talmud - Mas. Shabbath 9b

MISHNAH. ONE MUST NOT SIT DOWN BEFORE A BARBER NEAR MINHAH[1] UNTIL, HE HAS PRAYED: NOR MAY HE ENTER THE BATHS OR A TANNERY, NOR TO EAT NOR FOR A LAWSUIT,[2] YET IF THEY BEGAN, THEY NEED NOT BREAK OFF.[3] ONE MUST BREAK OFF FOR THE READING OF THE SHEMA', BUT NOT FOR PRAYER.[4]

GEMARA. Near what minhah?[5] Shall we say, near the major minhah? But why not, seeing that there is yet plenty of time in the day? But if near the minor Minhah: YET IF THEY BEGAN THEY NEED NOT BREAK OFF? Shall we say that this is a refutation of R. Joshua b. Levi? For R. Joshua b. Levi said: As soon as it is time for the minhah service one may not eat[6] anything before he has recited the minhah service. — No. After all [it means] near the major minhah, but the reference is to a hair-cut in the fashion of Ben' Elasah.[7] [Similarly.] [NOR MAY HE ENTER] THE BATHS [means] for the complete process of the baths; NOR A TANNERY, for tanning on a large scale; NOR EAT at a long meal [of many courses]:[8] NOR FOR A LAWSUIT, at the beginning of the trial.

R. Aha b. Jacob said: After all, it refers to our mode of hair cutting and why must he not sit down [for it] at the very outset? For fear lest the scissors be broken.[9] [Similarly] NOR TO THE BATHS [means] merely for sweating; [and] why not [do this] in the first place? For fear lest he faint [there].[10] NOR A TANNERY, merely to inspect it:[11] [and] why not at the very outset? Lest he see his wares being spoilt, which will trouble him.[12] NOR TO EAT [means even] a small meal: [and] why not at the very outset? Lest he come to prolong it. NOR TO A LAWSUIT, for the end of the trial; [and] why not [enter] at the very outset? Lest he see an argument to overthrow the verdict.[13]

What is the beginning of a hair-cut?[14] — Said R. Abin: When the barber's sheet is placed on one's knees. And when is the beginning of a bath? Said R. Abin: When one removes his cloak.[15] And when is the beginning of tanning? When he ties [an apron] round his shoulders. And when is the beginning of eating?Rab said: When one washes his hands; R.Hanina said: When he loosens his girdle. But they do not differ: the one refers to ourselves [Babylonians]: the other to them [Palestinians].[16] Abaye said: These Babylonian scholars, on the view that the evening service is voluntary,[17] once they have undone their girdle [to eat], we do not trouble them;[18] but on the view that it is obligatory, do we trouble them? But what of the minhah service, which all agree is obligatory, and still we learnt, YET IF THEY BEGAN, THEY NEED NOT BREAK OFF; whereon R. Hanina said, [That means] when he loosens his girdle?

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(1) The afternoon service.

(2) Lest he forget about the service. This refers to weekdays, and is taught here because of its similarity to the next Mishnah on 11a.

(3) For the service — providing that there will still be time when they finish.

(4) The Shema'('hear') is the name of the Biblical passages Deut. VI, 4-9; XI, 13-21; Num. XV, 37-41 the first of which commences with that word shema' (Hear O Israel, the Lord our God the Lord is One). The 'prayer' par excellence is the 'Eighteen Benedictions.' Both the shema' and the service must be recited daily, but the former is regarded as a Biblical obligation whereas the latter is a Rabbinical institution (v. Elbogen, Judische Gottesdienst, 27ff; J.E. art. Shemoneh Esreh); hence the activities mentioned in the Mishnah must be interrupted as soon as it is time to recite the shema', even though it can be recited later, but not for the 'service.'

(5) The Talmud distinguished two times for minhah: the major, i.e., first minhah, at 12:30 p.m. and the minor, i.e., the late minhah, from 3:30 to sunset, which was calculated as at 6 p.m. but the service was not generally delayed after the minor minhah, i.e., after 3:30. V. Elbogen, op. cit. pp. 98ff; J. E. XVIII, 59b.

(6) Lit., 'taste'.

(7) The son-in-law of R. Judah ha-Nasi; he cropped his hair closely in the manner of the High Priest, v. Sanh. 22b. This was a long process and if one commenced it even before the major minhah he might be too late for the service.

(8) For descriptions of long meals and short meals v. T.A. III, pp. 28f.
(9) And by the time another pair is procured it may be too late for the service.
(10) Or, be overcome by weakness.
(11) Even not to superintend the whole process.
(12) And make him forget about the service.
(13) Which will necessitate starting afresh.
(14) So that it shall be unneccesary to break it off for the service.
(15) I.e., when he starts undressing.
(16) Rashi: the Babylonians were tightly belted, so they loosened the girdle before eating; but for the Palestinians this was unnecessary. R. Han. reverses it.
(17) It is disputed in Ber. 27b whether the evening service is compulsory or voluntary.
(18) To refrain from their meal until they have prayed.

Talmud - Mas. Shabbath 10a

— There[1] drinking is rare; here it is usual.[2] Alternatively, as for minhah, since it has a fixed time, one is afraid[3] and will not come to transgress; but as for the evening service, since there is time for it all night, he is not afraid, and may come to transgress.

R. Shesheth demurred: Is it any trouble to remove the girdle![4] moreover, let him stand thus [ungirdled] and pray?-Because it is said, prepare to meet thy God, O Israel.[5] Raba son of R. Huna put on stockings and prayed, quoting, ‘prepare to meet etc.’ Raba removed his cloak,[6] clasped his hands and prayed, saying, ‘[I pray] like a slave before his master.’ R. Ashi said: I saw R. Kahana, when there was trouble in the world, removing his cloak, clasp his hands, and pray, saying, ‘[I pray] like a slave before his master.’ When there was peace, he would put it on, cover and enfold himself and pray, quoting, ‘Prepare to meet thy God, O Israel.’[7]

Raba saw R. Hamnuna prolonging his prayers.[8] Said he, They forsake eternal life and occupy themselves with temporal life.[9] But he [R. Hamnuna] held, The times for prayer and [study of the] Torah are distinct from each other. R. Jeremiah was sitting before R. Zera engaged in study; as it was growing late for the service, R. Jeremiah was making haste [to adjourn]. Thereupon R. Zera applied to him [the verse], He that turneth away from hearing the law, even his prayer is an abomination.[10]

When is the beginning of a lawsuit? R. Jeremiah and R. Jonah one maintains: When the judges wrap themselves round;[11] and the other says: When the litigants commence [their pleas]. And they do not differ: the latter means when they are already engaged in judging;[12] the former, when they are not already engaged in judging.

R. Ammi and R. Assi were sitting and studying between the pillars;[13] every now and then they knocked at the side of the door and announced: If anyone has a lawsuit, let him enter and come. R. Hisda and Rabbah son of R. Huna were sitting all day [engaged] in judgments, and their hearts grew faint,[14] [whereat] R. Hiyya b. Rab of Difti[15] recited to them, and the people stood about Moses from the morning into the evening;[16] now, can you really think that Moses sat and judged all day? when was his learning done? But it is to teach you, Every judge who judges with complete fairness[17] even for a single hour, the Writ gives him credit as though he had become a partner to the Holy One, blessed be He, in the creation.[18] [For] here it is written, ‘and the people stood about Moses from the morning into the evening’; whilst elsewhere it is written, and there was morning, and there was evening, one day.[19]

Until when must they [the judges)sit at judgment?-R. Shesheth said: Until the time of the [main] meal [of the day]. R. Hama observed, What verse [teaches this]? For it is written, Woe to thee, O land, when thy king is a child, and thy princes eat in the morning! Happy art thou, O land, when thy king is the son of nobles, and thy princes eat in due season, for strength, and not for drunkenness![20] [i.e.,] in the strength of the Torah and not in the drunkenness of wine.[21]

Our Rabbis taught: The first hour [of the day][22] is the mealtime for gladiators;[23] the second, for robbers;[24] the third, for heirs;[25] the fourth, for labourers,[26] the fifth, for all [other] people. But that is not so, for R. Papa said: The fourth [hour] is the mealtime for all people?-Rather the fourth hour is the mealtime for all [other] people, the fifth for [agricultural] labourers, and the sixth for scholars. After that it is like throwing a stone into a barrel.[27] Abaye said: That was said only if nothing at all is eaten in the morning; but if something is eaten in the morning, there is no objection.[28]

R. Adda b. Ahabah said: One may recite his prayers [the Eighteen Benedictions] at the baths. An objection is raised: If one enters the baths in the place where people stand dressed,[29] both reading [the shema'] and prayer [the Eighteen Benedictions] are permissible, and a greeting of 'Peace'[30] goes without saying;and one may don the phylacteries there,[31] and it goes without saying that he need not remove them [if already wearing them]; in the place where people stand undressed,[32] a greeting of 'Peace' is not permissible there[33] and reading and praying goes without saying; the phylacteries must be removed, and it goes without saying that they must not be donned!-When R. Adda b. Ahabah made his statement it referred to baths in which no one is present. But did not R. Jose b. Hanina say: The baths of which they [the Rabbis] spoke are even those in which none are present; the privy closet of which they spoke[34] means even such as contains no excrement?-Rather, when R. Adda stated [his ruling] it was in reference to new [baths].[35] But surely [this is just what] Rabina propounded: What if a place is designated for a privy closet; is designation recognized or not?[36] and it was not solved. Now did not the same [query of his] apply to baths?[37] No. Perhaps

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(1) At minhah time.

(2) It was not customary to drink much by day; but the evening meal was often prolonged through drinking; therefore, on the view that the evening service is obligatory, one must refrain from his meal even if he has removed his girdle.

(3) Careful not to overstep it.

(4) Surely you cannot maintain that by that slight act he has commenced his meal.

(5) Amos IV, 12. When it is customary to wear a girdle, it is not fitting to pray without one.

(6) Rashi: divested himself of his costly upper cloak as a mark of humility.

(7) On these preparations for prayer cf. MGWJ. 1935 Vol. 4, pp. 330f.

(8) Though the general order and contents of the service, e.g., the Eighteen Benedictions (v. Elbogen, op. cit. pp. 5, 27: צלי and צלותא refer to these) was settled, the actual text was left to each individual (ibid, pp. 41 seqq.), and R. Hamnuna may have thus prayed at great length; or perhaps this length was due to devotional intensity.

(9) They spend time in prayer which might be more usefully employed in study: the former, which is a petition for health, sustenance, etc., he called temporal life — not with great exactitude, as it also contains prayers for knowledge, repentance, and forgiveness. This is interesting as shewing the high place occupied by study as a religious observance in itself,

(10) Prov. XXVIII, 9.

(11) In their praying shawls (tallith), that they might be duly impressed with the solemnity of dispensing justice,

(12) Having started earlier with a different suit.

(13) Of the Beth Hamidrash.

(14) Rashi: they grieved at not being able to study. Or literally, because they had not eaten all day.

(15) A town probably to be identified with Dibtha, in the vicinity of Wasit on the Tigris; Obermeyer, p. 197.

(16) Ex. XVIII, 13.

(17) Lit., 'who judges a true judgment according to its truth'. V. Sanh., Sonc. ed., p. 27, n. 8.

(18) Lit., 'work of the Beginning'.

(19) Gen. 1, 5. The deduction is based on the similarity of the phrases used in both cases.-Thus, according to Rashi's first reason for their faintness (v. n. 4) he comforted them with the assurance of great reward. According to the second, he told them that they were not bound to sit and judge all day.

(20) Eccl. X, 16f.

(21) Translating: thy princes, viz., judges, do not eat the first thing in the morning, but sit and judge until the proper time for eating.
(22) Which was reckoned from six a.m. to six p.m.
(23) Whose diet required special attention (Jast.); or perhaps, circus attendants.
(24) Rashi in Pes. 12b: both are rapacious, hence they eat so early; but robbers, being awake all night, sleep during the first hour of the day.
(25) Not having to earn a living, they can eat earlier than others.
(26) In the field.
(27) Rashi: no benefit is derived.
(28) To postponing the main meal,
(29) In the outer chamber.
(30)) Lit., 'enquiring after one's Peace.'
(31) In Talmudic times these were worn all day, not only at the morning service as nowadays.
(32) In the inner chamber.
(33) V. infra.
(34) In the same connection.
(35) I.e., which had never been used, but merely (designated for baths
(36) Does designation subject the place to the laws appertaining to a privy?
(37) But surely he could have solved it on the latest interpretation from R. Adda's ruling.

Talmud - Mas. Shabbath 10b

a privy is different, because it is offensive.[1]

'A greeting of 'Peace' is not permissible there'. This supports the following dictum of R. Haninuna on 'Ulla's authority: A man may not extend a greeting of 'Peace' to his neighbour in the baths, because it is said, And he called it, The Lord is peace.[2] If so, let it also be forbidden to mention, By faith![3] in a privy, for it is written, the faithful God?[4] And should you answer, that indeed is so: but R. Hama b. Goria said in Rab's name, By faith! may be mentioned in a privy?-There the Name itself is not so designated, as we translate it, God is faithful; but here the Name itself is designated 'Peace,' as it is written, and he called it, The Lord is Peace.[5]

Raba b. Mehasia also said in the name of R. Hama b. Goria in Rab's name: If one makes a gift to his neighbour, he must inform him [beforehand], as it is written, that ye may know that I the Lord sanctify you:[6] It was taught likewise: That ye may know that I the Lord sanctify you: The Holy One, blessed be He, said to Moses, I have a precious gift in My treasure house, called the Sabbath, and desire to give it to Israel; go and inform them. Hence R. Simeon b. Gamaliel said: If one gives a loaf to a child, he must inform his mother. What shall he do to him?[7] — Said Abaye, He must rub him with oil and paint[8] him with kohl.[9] But nowadays that we fear witchcraft what [shall be done]?[10] -Said R. Papa: He must rub him with the self-same kind.[11] But that is not so, for R. Hama son of R. Hanina said: If one makes a gift to his neighbour, he need not inform him, as it is said, and Moses did not know that the skin of his face shone by reason of his speaking with him?[12] — There is no difficulty: the one refers to a matter which is likely to be revealed; the other, to one which is not likely to be revealed. But the Sabbath is a matter which stood to be revealed!-Its reward did not stand to be revealed.[13]

R. Hisda was holding two [priestly] gifts of oxen in his hand.[14] Said he, 'Whoever will come and tell me a new dictum in Rab's name, I will give them to him.' Said Raba b. Mehasia to him, Thus did Rab say: If one makes a gift to his neighbour he must inform him, as it is said, 'that ye may know that I the Lord sanctify you'. Thereupon he gave them to him. Are Rab's dicta so dear to you? asked he. Yes, he replied. That illustrates what Rab said, he rejoined, A garment is precious to its wearer.[15] Did Rab indeed say thus! he exclaimed; I rate the second higher than the first, and if I had another [priestly gift] I would give it to you.

Raba b. Mehasia also said in the name of R. Hama b. Goria in Rab's name: A man should never single out[16] one son among his other sons, for on account of the two sela's weight of silk, which Jacob gave Joseph in excess of his other sons, his brothers became jealous of him and the matter resulted in our forefathers' descent into Egypt.[17]

Raba b. Mehasia also said in the name of R. Hama b. Goria in Rab's name: A man should always seek to dwell in a city but recently populated, for since it is but recently populated its sins are few, as it is said, behold now, this city is near [kerobah] to flee to, and it is a little one.[18] What is meant by 'kerobah'? Shall we say that it is near and small? But surely they could see that for themselves! Rather [he meant,] because it has been recently populated[19] its sins are few. R. Abin said: What verse [supports this]? Oh, let me [na] escape thither:[20] the numerical value of na is fifty-one;[21] whereas that of Sodom is fifty-two, whilst its peace

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(1) Hence mere designation may suffice there, yet be ineffective in respect to baths.

(2) Judg. VI, 24. The form of the greeting was 'Peace unto thee,' 'What is thy peace?'

(3) By my word! A term of asseveration,

(4) Deut. VII, 9.

(5) 'Faithful' is an adjective; 'peace' is a predicative substantive referring to God.

(6) Ex. XXXI, 13.

(7) To the child, that his mother may know.

(8) Lit., 'fill',

(9) A powder used for painting the eyelids.-His mother, seeing this, will enquire who did it, and so the child will tell her about the loaf too.

(10) The mother may think that the child was put under a spell.

(11) Of whatever he gives him.

(12) Ex. XXXIV, 29.

(13) And this Moses was bidden to do.

(14) He was a priest, v. Ber. 44a. The 'gifts' are the priestly dues, viz., the shoulder, jaws and the maw.

(15) And you, being Rab's disciple, cherish his sayings.

(16) Lit., 'distinguish'.

(17) Lit., 'and the matter was rolled on and our forefathers descended' etc.

(18) Gen. XIX, 20.

(19) Likewise expressed by kerobah.

(20) Gen. XIX, 20.

(21) Heb. נא; every letter in Hebrew is also a number.

Talmud - Mas. Shabbath 11a

[lasted] twenty-six [years], as it is written, Twelve years they served Chedorlaomer, and thirteen years they rebelled. And in the fourteenth year, etc.[1] Raba b. Mehasia also said in the name of R. Hama b. Goria in Rab's name: Every city whose roofs are higher than the synagogue will ultimately be destroyed, as it is said, to exalt the house of our God, and to repair the ruins thereof.[2] Yet that refers only to houses; but as for towers and turrets, we have no objection. R. Ashi said: I achieved for the town of Mehasia[3] that it was not destroyed.[4] But it was destroyed![5] -It was not destroyed as a result of that sin.

Raba b. Mehasia also said in the name of R. Hama b. Goria in Rab's name: [Let one be] under an Ishmaelite but not under a 'stranger';[6] under a stranger but not under a Gueber;[7] under a Parsee but not under a scholar; under a scholar but not under an orphan or a widow.[8]

Raba b. Mehasia also said in the name of R. Hama b. Goria in Rab's name: Rather any complaint, but not a complaint of the bowels; any pain, but not heart pain; any ache, but not head ache; any evil, but not an evil wife! Raba b. Mehasia also said in the name of R. Hama b. Goria in Rab's name: If all seas were ink, reeds pens, the heavens parchment, and all men writers, they would not suffice to write down the intricacies of government. Said R. Mesharshia, What verse [teaches this]? The heaven for height, and the earth for depth, and the heart of kings is unsearchable.[9]

Raba b. Mehasia also said in the name of R. Hama b. Goria in Rab's name: Fasting is as potent against a dream as fire against tow.[10] Said R. Hisda: Providing it is on that very day. R. Joseph added: And even on the Sabbath.[11]

R. Joshua son of R. Idi chanced on the home of R. Ashi. A third grown calf[12] was prepared for him and he was invited, ‘Master, partake somewhat.’ ‘I am engaged in a fast,’ he replied. ‘And do you not accept Rab Judah's ruling in Rab's name: One may borrow his fast and repay it?[13] ‘It is a fast on account of a dream,’ he answered, ‘and Raba b. Mehasia said in the name of R. Hama b. Goria in Rab's name: Fasting is as potent against a dream as fire against tow; and R. Hisda said, Providing it is on that very day; and R. Joseph added: And even on the Sabbath.’

YET IF THEY BEGAN, THEY NEED NOT BREAK OFF. ONE MUST BREAK OFF FOR THE READING OF THE SHEMA’, [BUT NOT FOR PRAYER]. But the first clause teaches, THEY NEED NOT BREAK OFF?-The second clause refers to study.[14] For it was taught: If companions [scholars] are engaged in studying, they must break off for the reading of the shema’, but not for prayer. R. Johanan said: This was taught only of such as R. Simeon b. Yohai and his companions, whose study was their profession; but we[15] must break off both for the reading of the shema’ and for prayer. But it was taught: Just as they do not break off for the service, so do they not break off for the reading of the shema’?-That was taught in reference to the intercalation of the year.[16] For R. Adda b. Ahabah said, and the Elders of Hagrunia[17] recited likewise: R. Eleazar b. Zadok said: When we were engaged in intercalating the year at Yabneh,[18] we made no break for the reading of the shema’ or prayer.

MISHNAH. A TAILOR MUST NOT GO OUT WITH HIS NEEDLE NEAR NIGHTFALL,[19] LEST HE FORGET AND GO OUT,[20] NOR A SCRIBE WITH HIS QUILL; AND ONE MAY NOT SEARCH HIS GARMENTS [FOR VERMIN, NOR READ BY THE LIGHT OF A LAMP.[21] IN TRUTH IT WAS SAID, THE HAZZAN[22] MAY SEE WHERE THE CHILDREN READ,[23] BUT HE HIMSELF MUST NOT READ. SIMILARLY IT WAS SAID, A ZAB MUST NOT DINE TOGETHER WITH A ZABAH,[24] AS IT MAY LEAD TO SIN.[25]

GEMARA. We learnt elsewhere: One must not stand in private ground and drink in public ground, or on public ground and drink in private ground;[26] but if he inserts his head and the greater part [of his body] into the place where he drinks, it is permitted;

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(1) Ibid. XIV, 4f. During the twelve years of servitude, the thirteen of rebellion, and the fourteenth of war, they were not at peace; this leaves 26 years of peace before its destruction.

(2) Ezra IX, 9. Thus, when ‘the house of our God’ is exalted, the ruins are repaired; the present saying is its converse.

(3) A famous town near Sura on the Euphrates (Obermeyer, p. 188) which possessed an academy of which R. Ashi was the principal.

(4) By not permitting houses to be built higher than the Synagogue.

(5) There is evidence that Mehasia was still standing in the second half of the seventh; consequently the destruction mentioned here must have been a partial one; ibid. p. 290.

(6) Var. lec.: Edomite. Jast.: rather under Arabic dominion than under Byzantium.

(7) Parsee, v. Git., Sonc. ed., p. 63, n. 2.

(8) A scholar is quick to punish; and God himself punishes an affront to an orphan or widow.

(9) Prov. XXV, 3.

(10) Dreams were believed portents foreshadowing the future, though, as seen here, the evil they foretold might be averted. Cf. Ber. 55-58. B.B. 10a; Yoma 87b et passim. Though R. Meir said,' Dreams neither help nor harm,' (Hor. 13b) we find that he was warned against a certain innkeeper in a dream (Yoma 38b).

(11) Though otherwise fasting is forbidden on the Sabbath, a dream-fast is permitted.

(12) So Rashi in 'Er. 63a.

(13) If one vows to fast, he may 'borrow,' i.e., postpone it and subsequently 'repay,' i.e., keep it later.

(14) Lit., 'words of Torah.'

(15) Who interrupt our studies for business.

(16) The Jewish year consists of twelve lunar months. As this is about eleven days shorter than the solar year, an additional month was periodically intercalated, and when the Intercalatory Board deliberated the question of prolonging the year, they did not interrupt themselves for the shema or the service.

(17) A town in immediate proximity to Nehardea on the Euphrates. By the middle of the fourth century Nehardea was already on the decline and many scholars preferred to live in Hagrunia, as shown by the phrase, the Elders (i.e., the leading scholars) of Hagrunia. Obermeyer, pp. 265-267.

(18) The famous town N.W. of Jerusalem which R. Johanan b. Zakkai made the chief academical centre and the seat of the Sanhedrin after the fall of the Jewish state in 70 C.E.

(19) Of the Sabbath.

(20) In the evening.

(21) Lest the light flickers and he tilts the lamp that the oil should flow more freely, which is forbidden on the Sabbath.

(22) Lit., 'supervisor.' In the Talmudic period the word did not denote synagogue reader, as in modern times, but was applied to various functionaries, e.g., the person who supervised children's studies in the synagogue, the beadle, the court crier, and the janitor at academical debates. Possibly the same man combined a number of these functions. V. Sot., Sonc. ed., p. 202, n. 4.

(23) V. Gemara.

(24) On zab and zabah v. Glos.

(25) Viz., intimacy, which is forbidden.

(26) On the Sabbath. He must not put his head into the other domain, lest he draw the drinking cup to himself, thus transferring an object from one domain to another.

Talmud - Mas. Shabbath 11b

and the same applies to a wine vat.[1] The scholars propounded: What of a karmelith?[2] -Abaye said: It is precisely the same. Raba said: That itself[3] is only a preventive measure:[4] are we to arise and enact a preventive measure[5] to safeguard[6] another preventive measure![7]

Abaye said, Whence do I say it? Because it is taught, and the same applies to a wine vat. Now what is this wine vat? If private ground, it has [already] been taught: if public ground, it has [also] been taught. Hence it must surely refer to a karmelith. Raba said: 'And the same applies to a wine vat' is [stated] in reference to tithes; and R. Shesheth said likewise, 'And the same applies to a wine vat' refers to tithes. For we learnt: One may drink [wine] over the vat in [a dilution of] both hot or cold [water], and is exempt [from tithing]: this is R. Meir's view. R. Eleazar son of R. Zadok holds him liable. But the Sages maintain: For a hot [dilution] he is liable; for a cold one he is exempt, because the rest is returned.[8] We learnt: A TAILOR MUST NOT GO OUT WITH HIS NEEDLE NEAR NIGHTFALL, LEST HE FORGET HIMSELF AND GO OUT. Surely that means that it is stuck in his garment?[9] -No: it means that he holds it in his hand.[10] Come and hear: A tailor must not go out with a needle sticking in his garment. Surely that refers to the eve of Sabbath?-No; that was taught with reference to the Sabbath. But it was taught, A tailor must not go out with a needle sticking in his garment on the eve of the Sabbath just before sunset?-The author of that is R. Judah, who maintained, An artisan is liable [for carrying out an object] in the manner of his trade.[11] For it was taught: A tailor must not go out with a needle stuck in his garment, nor a carpenter with a chip behind his ear,[12] nor a [wool] corder with the cord in his ear, nor a weaver with the cotton[13] in his ear, nor a dyer with a [colour] sample round his neck, nor a money-changer with a denar[14] in his ear; and if he does go forth, he is not liable, though it is forbidden: this is R. Meir's view.[15] R. Judah said: An artisan is liable [for carrying out an object] in the manner of his trade, but all other people are exempt. One [Baraitha] taught: A zab must not go out with his pouch;[16] yet if he goes out he is not liable, though it is forbidden. And another taught: A zab must not go out with his pouch, and if he goes out he is liable to a sin-offering!-Said R. Joseph, There is no difficulty: the former is R. Meir; the latter R. Judah. Abaye said to him. When have you heard R. Meir [to give this ruling], in respect to something which it is not natural [to carry thus]; but have you heard him in respect to something which demands that mode [of carrying]? For should you not say so, then if an unskilled worker hollows out a measure from a log on the Sabbath, would he indeed be exempt on R. Meir's view?[17] Rather, said R. Hamnuna, there is no difficulty; the one refers to a zab who has had two attacks,[18] the other to a zab who has had three attacks.[19] Now, why does a zab of two attacks differ in that he is liable? [Presumably] because he requires it for examination![20] But then a zab of three attacks also requires it for counting?[21] It holds good only for that very day.[22] Yet still he needs it to prevent the soiling of his garments?-Said R. Zera, This agrees with the following Tanna, who maintains, The prevention of soiling has no [positive] importance.[23] For we learnt: If one overturns a basin on a wall, in order that the basin be washed [by the rain], it falls within [the terms of], ‘and if it [water] be put [etc.]’; if in order

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(1) This is now assumed to mean that one must not stand in either a public or private ground, as the case may be, and drink from the vat.

(2) May one stand in public or private ground and drink in a karmelith, or vice versa?

(3) The prohibition of actually transporting an object between a karmelith and public or private ground.

(4) V. supra 6a on karmelith.

(5) Sc. the prohibition of standing in one domain and drinking in another.

(6) Lit., ‘for’.

(7) Surely not.

(8) The vat is the utensil into which the expressed juice of the grapes runs, whence it descends into the pit beneath. Once it is in the pit its manufacture as wine is complete, and it is liable to tithes, before the rendering of which nothing at all may be drunk. But while it is yet in the vat its manufacture is not complete, and so a little wine may be drunk even before the rendering of the tithes. That, however, is only if it is drunk directly over the vat; if it is taken out, that action itself confers upon it the status of finished wine, and the tithes, etc., must first be given. Thus, when it is taught, ‘and the same applies to a wine vat’, it means that if one drinks wine from the vat, he is regarded as taking it away, unless he has his head and greater part of his body in the vat, and must render the tithes before he drinks.-Wine was not drunk neat, but diluted with water; if it is diluted with cold water, the rest can be poured back into the vat; if with hot water, it cannot, the hot mixture injuring the rest. R. Meir holds that in both cases, since he does not take it away from the vat, he can drink a little without tithing; R. Eleazar b. R. Zadok rejects this view. The Sages agree with R. Meir if it is diluted with cold water; if it is diluted with hot, since the rest cannot be returned into the vat, it is as though it were carried away, and therefore may not be drunk.

(9) Then even carrying it out on the Sabbath is only Rabbinically forbidden as a preventive measure, lest one carry in general, and yet he must also not go out before the Sabbath as a preventive measure lest he go on the Sabbath itself. Thus we have one preventive measure to safeguard another in respect to the Sabbath.

(10) This is Biblically forbidden on the Sabbath.

(11) And this is such; thus he regards it as Biblically forbidden.

(12) Rashi: this was the sign of his trade, and he wore it that he might be recognized and offered employment.

(13) Krauss in T.A. 1. p. 249 and p. 281 a.l. translates: a small distaff, carried behind the ear as an indication of a man's trade.

(14) A coin.

(15) He regards these as unnatural ways of carrying, whereas Scripture prohibits only the natural mode of any particular form of labour.

(16) To receive his discharge.

(17) Because he did not do it in a professional manner? Surely not, for if so only a skilled worker will be liable for doing something of his own trade. Hence it must be that a person is liable for doing any labour in the manner natural to himself, and the same applies to a zab and his pouch.

(18) Lit., ‘sights’-of discharge.

(19) When a zab has had three attacks be must bring a sacrifice (Lev. XV, 13-15). Consequently, after two attacks he needs this pouch to see whether he has a third (which otherwise may pass unknown to him), and since he needs it that is the natural way for him to carry it, and therefore he is liable.

(20) As in last note.

(21) After he ceases to discharge he must count seven consecutive days of cleanness, i.e., in which there is no discharge (ibid.): a single attack during this period necessitates counting afresh from the following day. Hence he too needs this pouch for that period.

(22) I.e., he is not liable only if he had the third attack on that Sabbath itself; he does not need the pouch then, as in any case he commences counting only on the next day.

(23) I.e., when a thing is done not for its own sake but to prevent something from being soiled, it is not regarded as a positive act and involves no liability.

Talmud - Mas. Shabbath 12a

that the wall be not damaged [by the rain], it does not fall within [the terms of] ‘and if it be put [etc.]’[1] But how compare! There he does not want that fluid at all, whereas here he needs this pouch to receive the discharge.[2] This can only be compared to the second clause: If a tub[3] is placed so that the dripping [of water] should fall therein, the water which rebounds or overflows is not within [the meaning of] ‘and if [water] be put’; but the water inside it is within [the meaning of] and if [water] be put![4] -Rather, said both Abaye and Raba, There is no difficulty: the one is according to R. Judah; the other agrees with R. Simeon.[5]

The School of R. Ishmael taught: A man may go out with his tefillin[6] on the eve of Sabbath near nightfall.[7] What's the reason? Because Rabbah son of R. Huna said: One must feel his tefillin every now and then, [inferring] a minori from [the High Priest's] headplate. If in the case of the headplate, which contained the Divine Name[8] only once, yet the Torah said, and it shall always be on his forehead,[9] [i.e.,] his mind must not be diverted from it; then with the tefillin, which contain the Divine Name many times, how much more so! therefore he is fully cognizant thereof.[10]

It was taught: Hanania said: One must examine[11] his garments on Sabbath eve before nightfall. R. Joseph observed: That is a vital[12] law for the Sabbath.[13]

ONE MAY NOT SEARCH HIS GARMENTS [FOR VERMIN] etc. The scholars propounded: [Does this mean] , ONE MAY NOT SEARCH HIS GARMENTS by day, lest he kill [the vermin], and would this agree with R. Eliezer, (for it was taught, R. Eliezer said: If one kills vermin on the Sabbath, it is as though he killed a camel);[14] while ONE MAY NOT READ BY THE [LIGHT OF A LAMP, lest he tilt it? Or perhaps, both are [forbidden] lest he tilt [the lamp]?[15] -Come and hear: One may not search [his garments] nor read by the light of a lamp. But is it stronger than our Mishnah?[16] Come and hear: One may not search his garments by the light of a lamp, nor read by the light of a lamp, and these are of the halachoth stated in the upper chamber of Hananiah b. Hezekiah b. Garon.[17] This proves that both are on account lest he tilt [the lamp]; this proves it.

Rab Judah said in Samuel's name: [It is forbidden] even to distinguish between one's own garments and his wife's [by lamp light]. Said Raba: That was stated only of townspeople;[18] but those of country folk[19] are easily distinguished. And [even] in the case of townspeople this was stated only of old women; but those of young women are readily distinguishable. Our Rabbis taught: One must not search [his garments] in the street out of decency. In like way R. Judah-others state, R. Nehemiah-said: One must not cause himself to vomit in the street, out of decency. Our Rabbis taught: If one searches his garments [on the Sabbath] he may press [the vermin] and throw it away, providing that he does not kill it. Abba Saul said: He must take and throw it away, providing that be does not press it. R. Huna said, The halachah is, he may press and throw it away, and that is seemly, even on weekdays. Rabbah killed them, and R. Shesheth killed them.[20] Raba threw them into a basin of water. R. Nahman said to his daughters, ‘Kill them and let me hear the sound of the hated ones.’[21]

It was taught, R. Simeon b. Eleazar said: Vermin must not be killed on the Sabbath: this is the view of Beth Shammai; while Beth Hillel permit it. And R. Simeon b. Eleazar said likewise on the authority of R. Simeon b. Gamaliel: One must not negotiate for the betrothal of children [girls],[22] nor for a boy, to teach him the book[23] and to teach him a trade,[24] nor may mourners be comforted, nor may the sick be visited on the Sabbath:[25] that is the ruling of Beth Shammai; but Beth Hillel permit it.

Our Rabbis taught: If one enters [a house] to visit a sick person [on the Sabbath], he should say, ‘It is the Sabbath, when one must not cry out, and recovery will soon come.’ R. Meir said, [One should say] ‘It [the Sabbath] may have compassion.’[26]

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(1) V. Lev. XI, 38. Foodstuffs, e.g., grain, fruit, etc., cannot become unclean unless moisture has fallen upon them after being harvested; also, this moisture must be such as the owner of the foodstuffs desires. Now, in the first instance the rain was desired; hence, even if it rebounds from the basin on to the fruit, it is regarded as desired moisture, though it was not wanted for the latter, and the fruit is henceforth liable to uncleanness. But in the second it was not wanted at all, and therefore does not render the fruit liable. This proves that an action to prevent another thing from being soiled (here, to save the wall from damage) has no positive value.

(2) And precisely because he needs the pouch be should be liable.

(3) Or kneading trough.

(4) The latter is desired, and therefore if it comes into contact with fruit the fruit is liable to uncleanness, but the water that squirts or overflows is not desired. This shows that when a man's intentions are fulfilled, the action is of positive value; so here too, he carries the pouch with a definite intention, which is fulfilled. Hence he should be liable!

(5) R. Judah maintains that one is culpable for an act even if that which necessitates it is undesired; while R. Simeon holds that there is no liability for such. Thus, here the carrying of the pouch is necessitated by the discharge, but the discharge itself is certainly unwanted.

(6) V. Glos. phylacteries.

(7) In Talmudic times the phylacteries were worn all day and in the street, but not on the Sabbath.

(8) Lit., ‘mention’.

(9) Ex. XXVIII, 38.

(10) And need not fear that he will go out with them after nightfall,

(11) Lit., ‘feel’; to see whether there is anything attached to them or in them.

(12) Lit., .great’.

(13) In general, steps must be taken before the Sabbath to avoid the desecration of the Sabbath.

(14) I.e., it is a complete labour, and forbidden.

(15) In which case HE MAY NOT SEARCH HIS GARMENTS at night only.

(16) The same question of interpretation arises here.

(17) V. Mishnah infra 13b.

(18) Rashi: being idle, the men wear wide garments like women's.

(19) Land workers. (11) Whose garments were more like those of men.

(20) Even on the Sabbath (Rashi).

(21) Of their death?

(22) On marrying young v. T.A. II, pp, 28f.

(23) I.e., for his elementary education. The obligation of a child's education lies primarily upon his father (Kid. 30a), and was left to him originally, public instruction being given to adults only. By the reforms of R. Simeon b. Shetah and Joshua b. Gamala elementary schools were set up for children from the age of six or seven and upwards (J. Keth VIII, ad fin.). From this passage we may conclude that the system of engaging private teachers was also in vogue in the education of girls, v. Kid., Sonc. ed., p. 141, n. 1 and Ned., p. 107, n. 2. It may be observed that only boys are referred to here.

(24) This was definitely obligatory upon the father; Kid. 29a.
(25) Both are too sad for the Sabbath.
(26) The due observance of the Sabbath will bring recovery in its wake.

Talmud - Mas. Shabbath 12b

R. Judah said, ‘May the Omnipresent have compassion upon you and upon the sick of Israel.’ R. Jose said, ‘May the Omnipresent have compassion upon you in the midst of the sick of Israel.’ Shebna, a citizen of Jerusalem, on entering would say ‘Peace’; and on leaving, ‘It is the Sabbath, when one must not cry out and healing will soon come, His compassion is abundant and enjoy the Sabbath rest in peace.’ With whom does this dictum of R. Hanina agree: One who has an invalid in his house should combine him with other Jewish sick?[1] With whom? — With R. Jose.

R. Hanina also said: It was [only] with difficulty that comforting mourners and visiting the sick was permitted on the Sabbath.[2]

Rabbah b. Bar Hanah said: When we followed R. Eleazar to inquire after a sick person. sometimes he would say to him, [in Hebrew], ‘The Omnipresent visit thee in peace’; at others, be said, [in Aramaic], ‘The Omnipresent remember thee in peace’. But how might he do thus: did not Rab Judah say, One should never petition for his needs in Aramaic; and R. Johanan said: When one petitions for his needs in Aramaic, the Ministering Angels do not heed him, for they do not understand Aramaic ?[3] — An invalid is different, because the Divine Presence is with him. For R. ‘Anan said in Rab's name, How do you know that the Divine Presence supports an invalid? Because it is written, The Lord supports him upon the couch of languishing.[4] It was taught likewise: One who enters [a house] to visit the sick may sit neither upon the bed nor on a seat, but must wrap himself about[5] and sit in front of him,[6] for the Divine Presence is above an invalid's pillow, as it is said, The Lord supports him upon the couch of languishing. And Raba said in Rabin's name: How do we know that the Holy One, blessed be He, sustains the sick? Because it is said, The Lord supports him on the couch of languishing.

NOR MUST HE READ BY THE LIGHT OF A LAMP. Raba said: Even if it is as high as twice a man's stature, or as two ox-goads [height],[7] or even as ten houses on top of each other.[8]

One alone may not read, but for two [together] it is well?[9] But it was taught: Neither one nor two! — Said R. Eleazar, There is no difficulty: the former refers to one subject; the latter to two.[10] R. Huna said: But by [the light] of an open fire even ten people are forbidden.[11] Said Raba: If he is an important man,[12] it is permitted.

An objection is raised: One must not read by the light of a lamp, lest he tilt [it]. Said R. Ishmael b. Elisha, ‘I will read and will not tilt.’ Yet once he read and wished to tilt. ‘How great are the words of the Sages!’ he exclaimed, ‘who said, One must not read by the light of a lamp.’ R. Nathan said, He read and did tilt [it], and wrote in his note book, ‘I, Ishmael b. Elisha, did read and tilt the lamp on the Sabbath. When the Temple is rebuilt I will bring a fat sin-offering.’[13] -R. Ishmael b. Elisha was different, since he treated himself as an ordinary person in respect to religious matters.

One [Baraitha] taught: An attendant may examine glasses and plates by the light of a lamp; and another taught: He must not examine [them]! There is no difficulty: one refers to a permanent attendant, the other to a temporary one.[14] Alternatively, both refer to a permanent attendant yet there is no difficulty: one refers to [a lamp fed with] oil, the other to naphtha.[15]

The scholars propounded: What of a temporary attendant and a [lamp fed with] oil?-Rab said: There is the halachah, but we do not teach thus.[16] R. Jeremiah b. Abba said: There is the halachah and we teach it so. R. Jeremiah b. Abba chanced to visit R. Assi. Now, his[17] attendant arose and examined [the glasses] by candlelight.[18] Thereupon his [R. Assi's] wife said to him [R. Assi], ‘But you do not act thus!’ ‘Let him be,’ he answered her, ‘he holds with his master.’[19]

IN TRUTH IT WAS SAID, THE HAZZAN etc., But you say in the first clause, [HE] MAY SEE; Surely that means to read?[20] -No: to arrange the beginnings of the sections.[21] And Rabbah b. Samuel said likewise: But he may arrange the beginnings of the sections; But not the whole section?

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(1) I.e., pray for him as one of many.

(2) Because both induce grief, which is contrary to the spirit of the Sabbath, which is ‘a day of delight.’

(3) Angels were held to mediate between God and man, carrying the prayers of the latter to the Former (Tobit XII, 12, 15). This is not to be compared with prayer to or worshipping angels, from which Judaism is free. ‘Not as one who would first send his servant to a friend to ask for aid in his hour of need should man apply to Michael, or Gabriel, to intercede for him; but he should turn immediately to God Himself, for ‘whosoever shall call on the name of the Lord shall be delivered’. (Joel III, 5; Yer. Ber. IX, ‘3a. Many Rabbinical authorities disapprove even of invoking angels as mediators, as shown by the passage quoted; v. Zunz, S P. p. 148,)

(4) Ps. XLI, 4. — Hence he does not need the angel's intercession,

(5) In a spirit of reverence.

(6) In Ned. 40a the reading is, ‘upon the ground.’

(7) Probably twice the height of an ass and its saddle.

(8) Though the lamp is inaccessible and cannot be tilted, the Rabbis enacted a general measure without distinctions.

(9) This follows from the use of the singular in the Mishnah. But when two read, each may remind the other should he wish to tilt the lamp.

(10) When both are reading the same subject in the scroll, each can remind the other. But if they are occupied with different subjects, neither thinks of his companion.

(11) Each sits at a distance from the other, and any one may forget himself and stir up the fire.

(12) Who is not accustomed even on weekdays to trim the lamp.

(13) This shows that the prohibition applies even to a great man like R. Ishmael b. Elisha.

(14) The former is more careful, and may tilt the lamp to see whether there is the least grease on the crockery; hence he must not examine them by a lamp.

(15) The latter emits an unpleasant odour, and so one naturally refrains from tilting.

(16) It is permitted, but this must not be publicly diffused.

(17) R. Jeremiah's.

(18) In R. Assi's house; he was not of course a permanent attendant.

(19) The light of naphtha (or of a candle) is the same as the light of an oil-fed lamp,

(20) How then explain BUT HE HIMSELF MAY NOT READ?

(21) In ancient times the Pentateuch portion which was part of the Sabbath service was read by a number of worshippers (on Sabbaths, seven), whilst the hazzan prompted them.

Talmud - Mas. Shabbath 13a

An objection is raised: R. Simeon b. Gamaliel said: School children used to prepare their [Biblical] portions and read by lamplight?[1] — There is no difficulty: I can answer either [that it means] the beginnings of the sections; or that children are different: since they are in awe of their teacher, they will not come to tilt it.

SIMILARLY ... A ZAB MUST NOT DINE, [etc.]. It was taught, R. Simeon b. Eleazar said: Come and see how far purity has spread in Israel! For we did not learn, A clean man must not eat with an unclean woman, but A ZAB MUST NOT DINE TOGETHER WITH A ZABAH, AS IT MAY LEAD To SIN.[2] Similarly, a zab, a parush[3] may not dine with a zab, who is an ‘am ha-arez,[4] lest he cause him to associate with him. But what does it matter if he does cause him to associate with him? Rather say [thus]: lest he offer him unclean food to eat. Does then a zab who is a parush not eat unclean food?[5] -Said Abaye: For fear lest he provide him with unfit food.[6] Raba said: The majority of the ‘amme ha-arez do render tithes, but [we fear] lest he associate with him and he provide him with unclean food in the days of his purity.[7]

The scholars propounded: May a niddah[8] sleep together with her husband, she in her garment and he in his?[9] - Said R. Joseph, Come and hear: A fowl may be served together with cheese at the [same] table, but not eaten [with it]: this is Beth Shammai's view. Beth Hillel rule: It may neither be served nor eaten [together]![10] -There it is different, because there are no [separate] minds.[11] It is reasonable too that where there are [separate] minds it is different, because the second clause teaches, R. Simeon b. Gamaliel said: Two boarders[12] eating at the same table, one may eat meat and the other cheese, and we have no fear.[13] But was it not stated thereon, R. Hanin b. Ammi said in Samuel's name: This was taught only when they do not know each other;[14] but if they do, they are forbidden? And here too they know each other!-How compare! There we have [separate] minds but no unusual feature;[15] but here there are [separate] minds and an unusual feature.[16]

Others state, Come and hear: R. Simeon b. Gamaliel said: Two boarders may eat at the same table, one meat and the other cheese. And it was stated thereon, R. Hanin b. Ammi said in Samuel's name: This was taught only if they do not know each other, but if they do, it is forbidden; and these two know each other! — [No.] There we have [separate] minds but nothing unusual, whereas here there are [separate] minds and an unusual feature.

Come and hear: A ZAB MUST NOT DINE TOGETHER WITH A ZABAH, LEST IT LEAD TO SIN![17] — Here too there are [separate] minds but nothing unusual.

Come and hear: And hath not eaten upon the mountains, neither hath lifted up his eyes to the idols of the house of Israel, neither hath defiled his neighbour's wife, neither hath come near to a woman who is a niddah:[18] thus a woman who is a niddah is assimilated to his neighbour's wife: just as his neighbour's wife, he in his garment and she in hers is forbidden, so if his wife is a niddah, he in his garment and she in hers is forbidden. This proves it. Now, this disagrees with R. Pedath. For R. Pedath said: The Torah interdicted only intimacy of incestuous coition, as it is said, None of you, shall approach to any that is near of kin to him, to uncover their nakedness.[19]

‘Ulla, on his return from the college,[20] used to kiss his sisters on their bosoms; others say, on their hands. But he is self-contradictory, for ‘Ulla said, Even any form of intimacy is forbidden,[21] because we say, ‘Take a circuitous route, O nazirite, but do not approach the vineyard.’[22] [It is taught in the] Tanna debe Eliyahu:[23] It once happened that a certain scholar who had studied much Bible and Mishnah[24] and had served scholars much,[25] yet died in middle age. His wife took his tefillin and carried them about in the synagogues and schoolhouses and complained to them, It is written in the Torah, for that is thy life, and the length of thy days:[26] my husband, who read [Bible], learned [Mishnah],

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(1) [This proves that children may read on Friday night by lamplight? Our Mishnah affords no such proof as it could refer to children who read in disregard of the prohibition, v. Tosaf. a.l.].

(2) But there was no need to interdict the first, because even Israelites ate their food only when it was ritually clean (though under no obligation) and would not dine together with an unclean woman, sc. a niddah (v. Glos.) in any case.

(3) Lit., ‘separated,’ v. text note.

(4) Lit., ‘people of the earth’, ‘the rural population’; the term is synonymous with ignoramous and law breaker, for living on the land they were only partially accessible to the teachings of the Rabbis, and in particular were negligent of ritual purity and the separation of tithes. Those who held aloof from them (separatists) were known as perushim (sing. parush), who were very particular in matters of purity and tithes; v. also Glos. s.v. haber.

(5) Whatever he eats is unclean, since his contact defiles food.

(6) I.e., food from which the priestly and Levitical dues were not rendered,

(7) If he is a visitor, he will continue even when he becomes clean.
(8) V. Glos.
(9) Taking precaution to avoid all bodily contact. Intimacy, of course, is forbidden: do we fear that this may lead to it?
(10) And the halachah is always as Beth Hillel. They may not be served lest they be eaten together, and by analogy the answer to our problem is in the negative.
(11) There is no one to restrain the diner from eating the fowl and the cheese together. But here each may restrain the other.
(12) Or travellers lodging at an inn.
(13) The assumed reason is that each restrains the other.
(14) Then one does not take from the other.
(15) Lit., ‘change’. There is nothing on the table to remind one diner that he must not eat of his neighbour's.
(16) Viz., that they take care to avoid all bodily contact.
(17) And the same applies here.
(18) Ezek. XVIII, 6.
(19) Lev. XVIII, 6. ‘Incest’ in the Talmud includes adultery.-The same applies to a niddah.
(20) The term Be Rab denotes either the great Academy founded by Rab or college in general.
(21) With consanguineous relations, such as a sister.
(22) A nazirite must not eat grapes or drink wine (v. Num. VI, 1-3); as a precaution he is forbidden even to approach a vineyard. The same reasoning holds good here.
(23) This is the Midrash consisting of two parts, ‘Seder Eliyahu Rabbah’ and ‘Seder Eliyahu Zuta’. According to the Talmud Keth. 106a the Prophet Elijah taught this Midrash, the Seder Eliyahu, to R. ‘Anan, a Babylonian amora of the third century. Scholars are agreed that the work in its present form received its final redaction in the tenth century C.E., though they are not agreed as to where it was written. V. Bacher, Monatsschrift, XXIII, 267 et seqq.; in R.E.J. XX, 144-146; Friedmann, introduction to his edition of Seder Eliyahu.
(24) Kara refers to the study of the Bible; shanah to the study of the Mishnah.
(25) ‘Serving scholars’, i.e., being in personal attendance on scholars, was one of the requisites of an academical course.
(26) Deut. XXX, 20.

Talmud - Mas. Shabbath 13b

and served scholars much, why did he die in middle age? and no man could answer her. On one occasion I[1] was a guest at her house,[2] and she related the whole story to me. Said I to her, ‘My daughter! how was he to thee in thy days of menstruation?’ ‘God forbid!’ she rejoined; ‘he did not touch me even with his little finger.’ ‘And how was he to thee in thy days of white [garments]?’[3] ‘He ate with me, drank with me and slept with me in bodily contact, and it did not occur to him to do other.’ Said I to her, ‘Blessed be the Omnipresent for slaying him, that He did not condone on account of the Torah![4] For lo! the Torah hath said, And thou shalt not approach unto a woman as long as she is impure by her uncleanness.’[5] When R. Dimi came,[6] he said, It was a broad bed. In the West [Palestine] they said, R. Isaac b. Joseph said: An apron interposed between them.[7] MISHNAH. AND THESE ARE OF THE HALACHOTH WHICH THEY STATED IN THE UPPER CHAMBER OF HANANIAH B. HEZEKIAH B. GARON, WHEN THEY WENT UP TO VISIT HIM. THEY TOOK A COUNT, AND BETH SHAMMAI OUTNUMBERED BETH HILLEL.; AND ON THAT DAY THEY ENACTED EIGHTEEN MEASURES.[8]

GEMARA. Abaye said to R. Joseph: Did we learn, THESE ARE or AND THESE ARE? Did we learn AND THESE ARE [viz,] those that we have stated [in the former Mishnah]; or did we learn THESE ARE [viz.,] those that are to be stated soon?[9] -Come and hear: One may not search his garments by the light of a lamp, nor read by the light of a lamp; and these are of the halachoth stated in the upper chamber of Hananiah b. Hezekiah b. Garon. This proves that we learnt, AND THESE ARE;[10] this proves it.

Our Rabbis taught: Who wrote Megillath Ta'anith?[11] Said they, Hananiah b. Hezekiah and his companions, who cherished their troubles.[12] R. Simeon b. Gamaliel observed: We too cherish our troubles, but what can we do? For if we come to write [them down], we are inadequate.[13] Another reason is: a fool is not assailed.[14] Another reason: the flesh of the dead does not feel the scalpel. But that is not so, for did not R. Isaac say, Worms are as painful to the dead as a needle in the flesh of the living, for it is said, But his flesh upon him hath pain, And his soul within him mourneth?[15] Say: The dead flesh in a living person does not feel the scalpel.

Rab Judah said in Rab's name: In truth, that man, Hananiah son of Hezekiah by name, is to be remembered for blessing:[16] but for him, the Book of Ezekiel would have been hidden,[17] for its words contradicted the Torah.[18] What did he do? Three hundred barrels of oil were taken up to him and he sat in an upper chamber and reconciled[19] them.

AND ON THAT DAY THEY ENACTED EIGHTEEN MEASURES. What are the eighteen measures?-For we learnt: The following render terumah unfit:[20] one who eats food of the first degree or the second degree, or who drinks unclean liquid;[21] one who enters with head and the greater part of his body into drawn water;[22] a clean person upon whose head and the greater part of his body there fell three logs[23] of drawn water; a Book;[24] one's hands;[25] a tebul yom;[26] and food or utensils which were defiled by a liquid.[27]

which Tanna [holds that] one who eats food of the first or of the second degree [merely] renders unfit

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(1) Elijah, the supposed author of the Tanna debe Eliyahu; v. n. 1.

(2) Elijah was believed to visit the earth and speak to people.

(3) When a niddah's discharge ceased, she donned white garments and examined herself for seven consecutive days, which had to pass without any further discharge of blood before she became clean. During this time she was forbidden to her husband.

(4) He showed no unfair favoritism because of the man's learning.

(5) Lev. XVIII, 19.

(6) V. p. 12, n. 9.

(7) But they were not actually in bodily contact.

(8) Scholars are divided as to when this took place. Z. Frankel, Darke ha-Mishnah assigns it to the beginning of the division of the two schools. Graetz maintains that it took place about four years before the destruction of the Temple; Weiss favours the last generation before the destruction, not long after the death of Agrippa I. V. also Halevi, Doroth, 1, 3, 580 seq.

(9) Lit., ‘before us’. The actual eighteen were forgotten in course of time-hence Abaye's question.

(10) Since the halachoth quoted are given in the previous Mishnah.

(11) ‘The scroll of fasting’, containing a list of the days on which fasting is forbidden. Thirty five days are listed; on fourteen public mourning was forbidden, whilst fasting was prohibited on all. V. J.E. VIII, 427.

(12) I.e., the days of victorious release from their troubles, and declared the minor festivals.

(13) Every day marks the release from some trouble.

(14) I.e., he does not perceive the troubles which surround him. So we too do not perceive our miraculous escapes.

(15) Job XIV, 22.

(16) Lit., ‘for good’.

(17) The technical term for exclusion from the Canon’

(18) E.g. Ezek. XLIV, 31; XLV, 20, q.v.

(19) Lit., ‘expounded them’.

(20) For terumah v. Glos. ‘Unfit’ denotes that it may not be eaten on account of defilement, but does not defile any other terumah by its contact; ‘unclean’ denotes that it defiles other food too by its touch.

(21) Various degrees of uncleanness are distinguished. The greatest of all is that of a human corpse, called the prime origin (lit., ‘father of fathers’) of uncleanness; this is followed in successively decreasing stages by ‘origin’ (lit., ‘father’) of uncleanness, first, second, third and fourth degrees of uncleanness. When an object becomes unclean through contact with another, its degree of defilement is one stage below that which defiles it. By Biblical law unclean food or drink does not defile the person who cats it; but the Rabbis enacted that it does, and so he in turn renders terumah unfit by contact.-Ordinary unsanctified food (hullin) does not proceed beyond the second degree; i.e., if second degree hullin touches other hullin the latter remains clean; but if it touches terumah, it becomes a third degree. Again, terumah does not go beyond the third degree (hence it is then designated ‘unfit’, not ‘unclean’ in respect of other terumah); but if it touches flesh of sacrifices (hekdesh) it renders this unfit, and it is called ‘fourth degree’.

(22) Water which had passed through a vessel, as opposed to ‘living water’, i.e., well water, river water, or rain water collected in a pit.

(23) 1 log = 549.4 cu.centimetres; v. J.E. Weights and Measures.

(24) Any of the Books of the Bible.

(25) Before washing.

(26) V. Glos.

(27) All these render terumah unfit-they are all discussed in the Gemara.

Talmud - Mas. Shabbath 14a

but does not defile?[1] -Said Rabbah b. Bar Hanah, It is R. Joshua. For we learnt: R. Eliezer said: One who eats food of the first degree is [himself defiled in] the first degree; of the second degree, is [defiled in] the second degree, of the third degree, is [defiled in] the third degree.[2] R. Joshua said: One who eats food of the first or of the second degree is [defiled in] the second degree;[3] of the third degree, [he enters] the second degree in respect of hekdesh,[4] but not in respect of terumah,[5] this referring to hullin subjected to the purity of terumah.[6]

When one eats food of the first or of the second degree, why did the Rabbis decree uncleanness in his case? Because one may sometimes eat unclean food [hullin] and take a liquid of terumah and put it in his mouth and thus render it unfit.[7] When one drinks unclean liquid, why did the Rabbis decree uncleanness in his case?-Because he may sometimes drink unclean liquid and take food of terumah and put it in his mouth, and thus render it unfit. But it is the same thing![8] -You might argue, The first is usual but not the second:[9] therefore he informs us [that it is not so]. And one who comes with his head and the greater part of his body] into drawn water, why did the Rabbis decree uncleanness in his case?-Said R. Bibi in R. Assi's name: Because originally people performed tebillah[10] in collected pit water, which was stagnant [noisome], and so they poured drawn water upon them selves.[11] [But when] they began to make this a fixed [law], the Rabbis imposed uncleanness thereon. What is meant by ‘a fixed [law]?’Abaye said: They maintained, Not this [pit water] purifies, but both together purify. Said Raba to him, Then what did it matter, seeing that they did perform tebillah in this [the pit water]? But, said Raba, they maintained, Not this [the pit water] purifies but that [the drawn water].[12]

And a clean person upon whose head and the greater part of his body there fell three logs of drawn water, why did the Rabbis decree uncleanness in his case? For if not this, the other would not stand.[13]

And why did the Rabbis impose uncleanness upon a Book?Said R. Mesharsheya: Because originally food of terumah was stored near the Scroll of the Law, with the argument, This is holy and that is holy.[14] But when it was seen that they [the Sacred Books] came to harm,[15] the Rabbis imposed uncleanness upon them.[16] ‘And the hands’?-Because hands are fidgety.[17] It was taught: Also hands which came into contact with a Book[18] disqualify terumah, on account of R. Parnok[‘s dictum]. For R. Parnok said in R. Johanan's name: One who holds a Scroll of the Law naked[19] will be buried naked. ‘Naked!’ can you really think so? Rather said R. Zera, [It means] naked without good deeds.[20] ‘Without good deeds!’ can you really think so?[21] Rather say, naked, without that good deed [to his credit].[22] Which was first enacted? Shall we say that the former was first enacted?[23]

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(1) 4. P. 55, n. 5.
(2) Hence, when he eats defiled food in the first degree, he defiles terumah, not merely renders it unfit (v. p. 55, nn. 5, 6).
(3) Hence in both cases he merely renders terumah unfit.
(4) Flesh of sacrifices.
(5) If he touches hekdesh he defiles it in the third degree, being regarded himself as second degree in respect thereto; but he does not affect terumah at all.
(6) People (particularly perushim, v. p. 51, n. 1) voluntarily treated hullin as terumah; then it could become unfit in the third degree, but not otherwise (v. p. 55, n. 6), and this is the only way in which it is possible for a person to eat hullin of the third degree, v. Hul. 33b.
(7) For it may touch the food still in his mouth. Unfit terumah may not be eaten.
(8) Both being based on the same reason, the second is a corollary of the first and need not be stated.
(9) So that a Rabbinical measure is not required in the second case.
(10) I.e., took a ritual bath to be purified of defilement.
(11) The correct reading appears to be: three logs of drawn water; v. Marginal Gloss to cur. edd.
(12) This would lead to the neglect of proper tebillah.
(13) A general measure had to be enacted that three logs of drawn water defiled a person, whether it came upon him by his intention or accidentally. Had the Rabbis drawn a distinction, the former too would have remained unobserved.
(14) Hence it is fitting that they be placed together.
(15) The food attracted mice, which naturally injured the Books too.
(16) To put an end to the practice.
(17) They are active and apt to touch things. Hence unless their owner has taken care that they should not touch a ritually unclean object after he washed them, they are treated as unclean.
(18) Lit., ‘which come on account of a Book.’
(19) Without its wrapping.
(20)) As though he had never performed a good deed or fulfilled a precept.
(21) Surely that act does not nullify all his meritorious deeds!
(22) If he took it for Study or to wrap it up after the public reading likewise a ‘good deed’-it is not accounted to him (Tosaf.). Tosaf. also observes that presumably this applies to any of the Books of the Bible.-The reference is to the actual parchment; but there is no objection to the modern practice of elevating the uncovered Scroll whilst holding it by the rollers on which it is wound. The Sephardi Jews, i.e., the descendants of the Spanish Jews, have the entire parchment of the Scroll from end to end shielded with silk or cloth.
(23) Viz., that hands in general are unclean.

Talmud - Mas. Shabbath 14b

But since this was first enacted, why was the other too needed?-Rather the latter was first decreed, and then it was enacted in respect of all hands.

‘And a tebul yom.’ But the law of tebul yom is Biblical, for it is written, and when the sun is down, he shall be clean; [and afterwards he shall eat of the holy things,[1] i.e., terumah]?-Delete tebul yom from here.

‘And food which was defiled through liquid’. Through liquid of which [uncleanness]?[2] Shall we say, through liquid which was defiled by a [dead] reptile:[3] then its law is Biblical,[4] for it is written, and all drink that may be drunk [in every such vessel shall be unclean]?[5] _ Rather it means through liquid defiled by the hands, and it is a preventive measure on account of liquid defiled by a reptile.[6]

‘And vessels which were defiled by liquid’. Vessels which were defiled by liquid of which [uncleanness]?[7] Shall we say, By the liquid of a zab? But that is Biblical, for it is written, and if the zab spit upon him that is clean; [then he shall wash his clothes, and bathe himself in water],[8] [meaning] what is in the clean man's hand have I declared unclean unto thee![9] Rather it refers to liquid defiled by a reptile, and it is a preventive measure on account of the fluid of a zab.[10]

‘And the hands’. Did then the disciples of Shammai and Hillel[11] decree this: [Surely] Shammai and Hillel [themselves] decreed it! For it was taught, Jose b. Jo'ezer of Zeredah[12] and Jose b. Johanan of Jerusalem[13] decreed uncleanness in respect of the country of the heathens and glassware.[14] Simeon b. Shetah instituted the woman's marriage settlement[15] and imposed uncleanness upon metal utensils.[16] Shammai and Hillel decreed uncleanness for the hands. And should you answer, [It means] Shammai and his band and Hillel and his band [of scholars];[17] surely Rab Judah said in Samuel's name: They enacted eighteen measures, and they differed on eighteen measures,[18] whereas Hillel and Shammai differed only in three places; for R. Huna said, in three places they differed, and no more! And should you answer, They [Hillel and Shammai] came and decreed that it be suspended,[19] while their disciples came and decreed that it be burnt:[20] surely Ilia said: The original decree concerning hands was for burning?-Rather, they [Hillel and Shammai] came and decreed it, yet it was not accepted from them; then their disciples came and decreed, and it was accepted from them.[21]

But still, Solomon decreed it? For Raba Judah said in Samuel's name, When Solomon instituted ‘erubin[22] and the washing of the hands, a Heavenly Echo came forth and declared, ‘My son, if thine heart be wise; My heart shall be glad, even mine’;[23] and ‘My son, be wise, and make my heart glad, That I may answer him that reproacheth me’?[24]

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(1) Lev. XXII, 7.

(2) I.e., how did this liquid itself become unclean?

(3) Lit., ‘which come on account of a reptile’.

(4) Sc. that this food disqualifies terumah.

(5) Ibid. XI, 34. Though that refers to a liquid defiled through an earthenware vessel, the Talmud deduces in Pes. 18b that the same holds good if it is defiled by a reptile. Now, the latter is original (‘father of’) uncleanness; the fluid is first degree, and the food is second degree, and therefore it renders terumah the third degree, i.c,, unfit (v. p. 55, n. 6), and all this is Biblical law, not a Rabbinical enactment.

(6) The latter is Biblical; but if the former were not declared unclean, it would be thought that the latter is not unclean either.

(7) How did the liquid itself become unclean?

(8) lbid. XV, 8.

(9) This interpretation is not really germane to the difficulty which arises directly from the verse; v. Rashi. Since the clothes are to be washed etc., the saliva must rank as original (‘father of’) uncleanness, for only such defiles garments and man. The vessels therefore defiled by the saliva (or any fluid emanating from a zab) are unclean in the first degree, and defile terumah by Biblical law.

(10) The former is unclean in the first degree, and by Biblical law does not (defile vessels (v. previous note); nevertheless the Rabbis enacted that it shall defile vessels, which in turn render terumah unfit, lest it might be confused with the fluid of a zab, which will also be held incapable of defiling vessels.

(11) As is implied by the terms Beth Shammai, Beth Hillel.

(12) A town in Persia; Neub. Geogr. p. 275.

(13) Two Rabbis of the early Maccabean period (second century B.C.E.); together they formed the beginning of the Zugoth (duumvirate) which governed Jewish religious life until Hillel and Shammai. It may be observed that the title ‘Rabbi’ is not prefixed to their names: the famous letter of Sherira Gaon to Jacob b. Nissim, quoted by Nathan b. Jehiel in the Aruk (s.v. declares that this title dates from the time of R. Johanan b. Zakkai only.

(14) The former, to stem the emigration of Jews from Palestine consequent upon the troublous times of the Maccabees; and the latter probably because glassware was manufactured in those countries, or because they learnt at that time that its manufacture was similar to that of earthenware; Weiss, Dor. 1, 105

(15) When a woman married, she brought a dowry to her husband, which was returnable if he divorced her. Originally the security for the return of the dowry was deposited with her father. This went through a number of changes until Simeon b. Shetah enacted that the husband should trade with the dowry and mortgage all his effects for its repayment, the purpose being to make divorce more difficult. This is the meaning of the present passage, not that he actually instituted the marriage settlement itself, J, Keth. end of chapter VIII, and Weiss, Dor. 1, 144 and note a.l.

(16) This is discussed below,.

(17) I.e., enacted the eighteen measures.

(18) I.e., these eighteen measures which they enacted jointly were originally subjects of controversy between them (Rashi).

(19) I.e., that the hands are only suspected of uncleanness, and if they touch terumah it is ‘suspended’, and may neither be eaten, as clean, nor burnt as unclean.

(20) Ruling that the hands are definitely unclean, not merely suspected.

(21) The need for renewing some of the early Rabbinical enactments, to which reference is made in the present discussion, arose through the interdict which the Sadducees laid upon their observance; Weiss, Dor, I, 143f; cf. Halevi, Doroth, I, 3, pp. 584 seq.

(22) V, Glos. and p. 18, n. 7.

(23) Prov. XXIII, 15.

(24) Ibid. XXVII, 11.

Talmud - Mas. Shabbath 15a

— Solomon came and decreed in respect of holy things,[1] while they came and instituted [it] in respect of terumah.

[To revert to] the main text: ‘Rab Judah said in Samuel's name: They enacted eighteen measures, and differed in eighteen ‘But it was taught: They were in agreement?-On that day they differed and [only] on the morrow were they in agreement.[2]

[To revert to] the main text: R. Huna said: In three places Shammai and Hillel differed: Shammai said: Hallah[3] is due from a kab [of flour]; Hillel said: From two kabs: but the Sages ruled neither as the one nor as the other, but a kab and a half is liable to hallah. When the measures were enlarged, they said, Five quarters of flour are liable to hallah. R. Jose said: [Exactly] five are exempt; just over five are liable.[4]

And the second?-Hillel said: A hin full of drawn water renders a mikweh unfit. (For one must state [a dictum] in his teacher's phraseology. Shammai maintained: nine kabs). But the Sages ruled neither as one nor as the other, until two weavers[5] came from the dung gate of Jerusalem and testified on the authority of Shemaiah and Abtalion that three logs of drawn water render a mikweh unfit, and the Sages ratified their words.[6]

And the third?-Shammai said: All women, their time suffices them; Hillel maintained: From examination to examination; but the Sages ruled neither as the one nor as the other, but a full day[7] reduces [the time] between examination and examination, and [the time] between examination and examination reduces a full day.[8] And are there no more? But there is [this]: Hillel said: One shall lay [hands]; while Shammai ruled that one must not lay [hands]?[9] — R. Huna spoke only of those concerning which there is no dispute of their teachers in addition.[10] But there is also [this:] When one vintages [grapes] for the vat [i.e., to manufacture wine], Shammai maintains: It is made fit [to become unclean]; while Hillel ruled: It is not made fit.[11] — That is excepted, for there Hillel was silenced by Shammai’.[12]

‘Jose b. Jo'ezer of Zeredah and Jose b. Johanan of Jerusalem decreed uncleanness in respect of the country of the heathens and glassware.’ But the Rabbis of the ‘eighty years’ decreed this? For R. Kahana said, When R. Ishmael son of R. Jose fell sick, they [the Rabbis] sent [word] to him, ‘Rabbi, Tell us the two or three things which you stated [formerly] on your father's authority.’ He sent back, ‘Thus did my father say: One hundred and eighty years before the destruction of the Temple the wicked State [sc. Rome] spread over Israel.[13] Eighty years before the destruction of the Temple uncleanness was imposed in respect of the country of heathens and glassware. Forty years before the destruction of the Temple the Sanhedrin went into exile[14] and took its seat in the trade Halls.[15] (in respect to what law [is this stated]?-Said R. Isaac b. Abdimi, To teach that they did not adjudicate in laws of fines.[16] 'The laws of fines' can you think so![17] But say: They did not adjudicate in capital cases.[18]) And should you answer, They [Jose b. Jo'ezer and Jose b. Johanan] flourished during these eighty years too: surely it was taught: Hillel and Simeon [his son], Gamaliel and Simeon wielded their Patriarchate during one hundred years of the Temple's existence;[19] whereas Jose b. Jo'ezer of Zeredah and Jose b. Johanan were much earlier![20]

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(1) That the hands must be washed before eating e.g., flesh of sacrifices.

(2) V. Halevi, Doroth, 1, p. 600 for a discussion of a variant which he considers correct.

(3) V. Glos.

(4) 1 kab =four logs=2197.4 cu.cm. The controversy centres on the interpretation of 'your dough' in Num. XV, 20. The Talmud does not state when the measures were enlarged, but the enlargement was by one fifth, i.e., one 'Sepphoric' log (which was the name of the new measure) == one and one fifth Jerusalem log, as the old one was called; v. 'Ed., Sonc. ed., p. 2, n. 3.

(5) V. Halevi, op. cit., p. 122, n. 59.

(6) A mikweh (v. Glos.) must be filled with 'living' water, as opposed to 'drawn' water, i.e., water drawn in vessels, and it must contain not less then forty se'ahs. The controversy refers to the quantity of drawn water which, if poured into the mikweh before it contains forty se'ahs of 'living' water, renders it unfit. The hin is a Biblical measure, equal to twelve logs. The passage 'for one must state (a dictum) in his teacher's phraseology' is difficult, and various interpretations have been advanced. They are discussed by Halevi in Doroth, 1, 3, 95-7, who explains it thus: The teachers referred to are not Shemaiah and Abtalion, Hillel's masters in Palestine, but his Babylonian teachers (unnamed). Now hin is not the usual Mishnaic term but Biblical. This, however, was sometimes preferred to Babylonian because it was constant, whereas the Babylonian measure varied in different places (cf. J. E. XIII, 488 s:v. Cab.). Thus Hillel said a hin full instead of twelve logs, in order to be faithful to his teacher's phraseology. V. 'Ed., Sonc. ed., p. 2 notes.

(7) Lit., 'from time to time', the technical phrase for a twenty-four hour day.

(8) A menstruous woman defiles whatever food she touches. Shammai maintains that this is only from when she discovers her discharge, but not retrospectively. Hillel holds that since her discharge may have been earlier, though she has only now observed it, her uncleanness is retrospective to when she last examined and found herself clean. Thus Shammai said, Their time, sc. when they actually find that they are unclean, suffices them and it has no retrospective effects; whilst Hillel rules, They are retrospectively unclean from the present examination to the last. The Sages make a compromise: she is retrospectively unclean for twenty-four hours or from the last examination, whichever is less. V. 'Ed., Sonc. ed., p. 1 notes.

(9) When a man brings a freewill-offering, part of the ritual consists in his laying hands upon the head of the animal (v. Lev. I, 4; III, 2, 8). The dispute refers to festivals.

(10) This matter was disputed by Shammai and Hillel's predecessors too; v. Hag. 16a. For the importance of this particular question v. Frankel, Darke ha-Mishnah, p. 44; Weiss, Dor. I, 104.

(11) V. P. 45, nn. 1, 4; the same applies to grapes. Now, if the grapes are to be eaten, the liquid they exude whilst being gathered does not subject them to uncleanness, since their owner is displeased therewith. But when they are vintaged for wine they differ; V. infra 17a for the full discussion.

(12) I.e., he was unable to refute his proofs and accepted Shammai's ruling.

(13) Judea appears to have entered into official relations with Rome for the first time in 161 B.C.E. at the instance of Judas Maccabeus; Margolis and Marx, Jewish History, p. 145. But the first step which laid Judea under subjection of Rome was the quarrel of Hyrcanus II and Aristobulus II over the throne, when both brothers appealed to Pompey (e. 66 C.E). A date midway between these two is given here (110 B.C.E.) which may be assumed as merely approximate. This corresponds roughly to the death of Hyrcanus I in 106 B.C.E.

(14) I.e., they forsook their locale in the Chamber of Hewn Stones in the Temple.

(15) A place on the Temple Mount Hannuth, v. Sanh., Sonc. ed., p. 267, n. 11.

(16) E.g., the fine for seduction, Deut. XXII, 29.

(17) Any court in Palestine consisting of ordained judges was competent to adjudicate in laws of fine, whatever its locale.

(18) V. Krauss, op. cit., pp. 23f.

(19) I.e., Hillel commenced his Patriarchate a hundred years before the destruction of the Temple, and he was followed by Simeon, Gamaliel and Simeon, his direct descendants, the four spreading over that century. V, Halevi, Doroth, I, 3, pp. 706 seq.

(20) V. P. 59, n. 4.

Talmud - Mas. Shabbath 15b

Rather say they came and decreed in respect to a clod, that it be burnt,[1] but nothing at all in respect to the atmosphere;[2] while the Rabbis of the eighty years came and decreed in respect to the atmosphere that it [terumah] be suspended.[3] Shall we say that the original enactment was for burning? Surely Ilfa said: The original decree concerning hands was for burning. Thus, only concerning hands was the original decree for burning, but concerning nothing else?-Rather say they came and decreed in respect to a clod, that it be suspended, and nothing at all in respect to the atmosphere; and then the Rabbis of these eighty years came and decreed in respect to a clod that it be burnt and in respect to the atmosphere that it be suspended. Yet still, that[4] was decreed in Usha?[5] For we learnt: Terumah is burnt on account of six doubtful cases [of uncleanness]: — [i] The doubt of Beth ha-Peras;[6] [ii] The doubt of earth which comes from the land of the heathens;[7] [iii] The doubt attached to the garments of an ‘am ha-arez;[8] [iv] the doubt of vessels which are found;[9] [v] doubtful saliva;[10] and [vi] the doubtful human urine near cattle urine.[11] On account of their certain contact, which is doubtful defilement, terumah is burnt.[12] R. Jose said: It is burnt even on account of their doubtful contact in a private domain.[13] But the Sages maintain: [If there is doubtful contact] in a private domain we suspend it; in public ground, it [the terumah] is clean. Now ‘Ulla observed, These six cases of doubt were enacted at Usha![14] -Rather say they [Jose b. Jo'ezer and Jose b. Johanan] came and decreed suspense in respect of a clod and nothing at all in respect of atmosphere; then the Rabbis of the eighty years came and decreed suspense in both cases; then they came at Usha and decreed burning in respect of a clod, and as to the atmosphere they left it in status quo.

Why did the Rabbis impose uncleanness upon glassware? — Said R. Johanan in the name of Resh Lakish, Since it is manufactured from[15] sand, the Rabbis declared it the same as earthenware.[16] If so, let them be incapable of purification in a mikweh?[17] Why then did we learn, And the following interpose in utensils: pitch and myrrh gum in the case of glass vessels?[18] -The circumstances here[19] are e.g., they were perforated, and molten lead was poured into them, this agreeing with R. Meir, who maintained, Everything depends on the support.[20] For it was taught: If glass vessels are perforated and [molten] lead is poured into them,-said R. Simeon b. Gamaliel: R. Meir declares them unclean, while the Sages declare them clean.[21] If so,[22]

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(1) Sc. terumah which came into contact with a clod of earth from the ‘land of the heathens’, as something definitely unclean.

(2) When terumah enters the atmosphere of the ‘land of the heathen’ with nothing intervening between it and the ground.

(3) On ‘suspended’ v. p. 60, n. 2

(4) The enactment of burning in respect to a clod.

(5) A city in Galilee, near Sepphoris and Tiberias, and the scene of an important Rabbinical synod or synods about the time of the Hadrianic persecution in the middle of the second century C.E. V. J.E. ‘Synod of Usha’.

(6) A field one square peras (peras half the length of a furrow — fifty cubits) in area, declared unclean because a grave was ploughed in it and the crushed bones scattered over the field, so that their exact position is not known, If terumah enters its atmosphere it must be burnt, though it is doubtful whether it was actually over the crushed bones.

(7) I.e., any earth which comes thence.

(8) V. P. 51, n. 1. His garments are doubtful, because his wife may have sat upon them while a menstruant; v. Hag. 18b.

(9) And it is unknown whether they are clean or not.

(10) All saliva found is suspected of uncleanness, as it may be of a zab; v. p. 58, n. 10.

(11) This is not the same as the preceding, where the substances themselves were not in doubt; e.g., the object was definitely a utensil, or saliva. Here, however, there is a double doubt; it may not be human urine at all, but cattle urine; and even if it is, it may not be a zab's (only his defiles). Yet the Rabbis ruled it definitely unclean, even when found near cattle urine, so that it might be supposed that this is the same.

(12) If terumah comes definitely into contact (or as explained in n. 2) with these, which renders it doubtfully unclean, it is burnt.

(13) Cf. p. 20, n. 5.

(14) The difficulty arises from ii.

(15) Lit., 'the beginning of its making'.

(16) Other edd. omit 'R. Johanan said in the name of', reading simply Resh Lakish. It is certainly unlikely that R. Johanan, who, as head of the Academy at Tiberias enjoyed a superiority over Resh Lakish, his contemporary, would report his statement.

(17) Just as earthenware.

(18) Mik. IX, 5. When a utensil is purified in a mikweh, nothing must interpose between it and the water; if it does, the immersion is ineffective: pitch and gum on the side of a glass vessel constitute an interposition.

(19) In Mik. IX, 5.

(20) The perforated glass vessel is supported by the lead, i.e., it can be used only through the lead. Hence, according to R. Meir, it is a metal, not a glass vessel.

(21) Rashi in R.H. 19a offers two explanations: (i) When an unclean vessel is perforated, it becomes clean, since it can no longer be used as a vessel. Now, if a metal utensil is thus broken and then repaired, it reverts to its former state, but not so a glass vessel (infra 16a). R. Meir maintains that a glass vessel supported by metal is treated as metal; while the Rabbis hold that it is still regarded as a glass vessel. (ii) A clean glass vessel supported by metal becomes Biblically unclean, according to R. Meir, as a metal utensil, while the Rabbis hold that it is Biblically clean, as a glass vessel, and is subject to defilement only on account of the Rabbinical enactment; the reasoning being the same as before. Tosaf. a.l. s.v. יהודה is inclined to agree with the second interpretation.

(22) Since they are treated as earthenware vessels.

Talmud - Mas. Shabbath 16a

let them not become unclean through their [flat or convex] backs.[1] Why did we learn, Earthen vessels and nether vessels[2] are alike in regard to their uncleanness: they become defiled and defile [other objects] through their air space;[3] they become unclean through their outside,[4] but they cannot be defiled through their backs;[5] and their breaking renders them clean.[6] Thus, only earthen and nether vessels are alike in regard to their uncleanness, but not other things?[7] -I will tell you: since they can be repaired when broken,[8] they were assimilated to metal utensils.[9]

If so, let them revert to their former uncleanness, like metal utensils? For we learnt: Metal vessels, both flat and hollow,[10] are subject to defilement. If broken, they become clean; if remade into utensils , they revert to their former uncleanness. s. Whereas in respect to glass vessels we learnt: Wooden, skin, bone and glass utensils, if flat, they are clean;[11] if hollow, they are unclean;[12] if broken, they become clean; if remade into vessels, they are liable to defilement from then onwards. [Thus] only from then onwards, but not retrospectively?-The uncleanness of glass utensils is Rabbinical, and [the resuscitation of] former uncleanness is [also] Rabbinical: now, in the case of that which is unclean by Scriptural law, the Rabbis have imposed [retrospective] uncleanness upon it, but upon that which is unclean by Rabbinical law the Rabbis have imposed no [retrospective] uncleanness.

Yet at least let their flat utensils be unclean, since flat metal utensils are [susceptible to uncleanness] by Scriptural law!-The Rabbis made a distinction in their case, so that terumah and sacred food should not be burnt on their account.[13]

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(1) If an unclean object touches them on the back, which is flat or convex, they should not become unclean, in accordance with the Mishnah quoted.

(2) Rashi: a kind of white earth; Jast.: a vessel made of alum crystals.

(3) If an unclean object is suspended in the hollow of one of these vessels, even if it does not touch its side, it becomes unclean. Again, if a clean object is suspended in the hollow of an unclean vessel, though it does not actually touch it, it too becomes unclean.

(4) E.g., if the base is concave, and an unclean object is suspended from the outside in the hollow.

(5) Which are flat or convex.

(6) If these vessels, being already unclean, are broken, they become clean; cf. p. 65, n. 7.

(7) yet glass vessels too should be the same according to Resh Lakish's reason.

(8) By being melted down and refashioned, which is impossible with earthen utensils.

(9) Which can be repaired in the same way.

(10) Lit., ‘those of them which receive’.

(11) I.e., they cannot be defiled.

(12) As in n. 7.

(13) For these must not be burnt when defiled by Rabbinical law, except in the six cases of doubtful uncleanness enumerated on 15b.

Talmud - Mas. Shabbath 16b

R. Ashi said: After all, it is similar to earthen utensils, and as for your difficulty, ‘let them not become unclean through their [flat or convex] backs’, [the reply] is because its inside is as visible as its outside.[1]

‘Simeon b. Shetah instituted a woman's marriage settlement and imposed uncleanness upon metal utensils.’ But [the uncleanness of] metal utensils is Biblical, for it is written, howbeit the gold, and the silver [... etc.]?[2] -This [the Rabbinical law] was necessary only in respect of former uncleanness.[3] For Rab Judah said in Rab's name: It once happened that Queen Shalzion[4] made a banquet for her son and all her utensils were defiled. Thereupon she broke them and gave them to the goldsmith, who melted them down and manufactured new utensils of them. But the Sages declared, They revert to their previous uncleanness. What is the reason?-They were concerned there to provide[5] a fence against the water of separation.[6]

Now, that is well on the view that they [the Sages] did not rule thus in respect of all forms of defilement but only in respect of the defilement of the dead:[7] then it is correct. But on the view that they ruled thus for all forms of uncleanness, what can be said?-Abaye answered: As a preventive measure lest he might not perforate it to the standard of purification.[8] Raba said: As a preventive measure lest it be said that tebillah[9] of that very day is effective for it.[10] Wherein do they differ?-They differ where a smith refashioned it.[11] And what is another?[12] For we learnt: If one places vessels under a spout to catch rain water therein, whether they are large vessels or small, or even vessels [made] of stone, earth[13] or dung, they render the mikweh unfit. It is all one whether he places or forgets them [there]: that is Beth Shammai's view; but Beth Hillel declare it clean[14] if he forgets them.[15] Said R. Meir: They took a count, and Beth Shammai outnumbered Beth Hillel. Yet Beth Shammai admit it that if he forgets [the utensils] in a courtyard,[16] it is clean.[17] R. Jose said: The controversy still stands in its place.[18]

R. Mesharsheya said: The scholars of Rab[19] said: All agree that, if he places them [under the spout] when clouds are massing, they[20] are unclean;[21] [if he places them there] when the clouds are dispersed, all agree that they are clean.[22] They differ only if he places them there when the clouds were massing, but they then dispersed, and subsequently massed together again:[23] one Master [Beth Hillel] holds that his intention was nullified,[24] while the other Master holds that his intention was not nullified.

Now, according to R. Jose, who maintained, The controversy still stands in its place, they are less [than eighteen]?[25] -Said R. Nahman b. Isaac: On that same day they also enacted that the daughters of Cutheans[26] are niddoth[27] from their cradles.[28]

And what is another? For we learnt: All movable objects induce uncleanness by the thickness of an ox-goad.[29] Said R. Tarfon,

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(1) From without; hence it is all regarded as the inside.

(2) Num. XXXI, 22. The text continues: everything that may abide the fire, ye shall make go through the fire, and it shall be clean; nevertheless it shall be purified with the water of separation.

(3) V, supra a.

(4) i.e., Salome Alexandra, wife and successor of Alexander Jannai and according to the Talmud, sister of Simeon b. Shetah.

(5) Lit., 'on account of'.

(6) V. n. 2.; i.e., they were anxious to safeguard this law, which would fall into disuse if the expedient of melting and refashioning were widely adopted.

(7) Only then is the former uncleanness revived.-The verse quoted in n. 2. refers to such.

(8) The hole which removes its status of a utensil must be of a certain size, — large enough to permit a pomegranate to fall through.

(9) V. Glos.

(10) When it is purified by means of tebillah it may not be used until the evening; but making a hole and repairing it permits its immediate use. One seeing this vessel thus used on the same day may think that it underwent tebillah, and that the latter too releases it for immediate use.

(11) Abaye's reason still holds good, for one may think that a small note too would have sufficed. But Raba's reason does not operate, for it is plainly evident that this was newly remade.

(12) Of the eighteen enactments.

(13) Roughly manufactured, without being kneaded and baked.

(14) I.e, the mikweh retains its powers of purification.

(15) V. p. 61, n. 3. The spout was fixed in the earth before it was actually a spout, and after fixing it was made hollow to act as a water duct to the mikweh. In that case the water that passes through it is regarded as 'living water'. When, however, the water falls from the spout into vessels, it becomes 'drawn water', which renders the mikweh unfit. This holds good whether they are very large vessels, too big to be susceptible to uncleanness, e.g., a tub more than forty se'ahs in capacity, or very small, so that I might think of disregarding them altogether; also, even if of dung, when they are not regarded as vessels at all in respect to uncleanness. If they are merely forgotten there, Beth Hillel maintain that the water is not 'drawn', since it was unintentional.

(16) But not under the spout, and they are filled with the rain water which flows thence into the mikweh.

(17) V. n. 3. Because he had no intention at all of filling it, since he did not place it under the spout.

(18) I.e., they differ here too.

(19) The term debe Rab means either the disciples of the Academy founded by Rab or scholars in general; Weiss, Dor, III, 158 (Ed. 1924).

(20) Utensils purified in the mikweh.

(21) Because the mikweh was rendered unfit, as above. For he showed that he desired the water to flow into the utensils, and though he had forgotten them by the time the rain descended, his original intention was fulfilled, and the water is regarded as drawn.

(22) Since there were no clouds, his placing the utensils there was not with the intention of filling them.

(23) And by then he has forgotten them.

(24) By the dispersal of the clouds; hence the subsequent filling does not render the water drawn.

(25) Since there is a controversy, the halachah agrees with Beth Hillel, that the mikweh is fit.

(26) The Cutheans were the descendants of the heathens who settled in Samaria after the destruction of the Northern Kingdom. They accepted a form of Judaism, and the Rabbis' attitude towards them varied. At times they were regarded as Jews, but they were subsequently declared non-Jews. The present enactment treats them as Jews, who, however, are looked upon with disfavour.

(27) Pl. of niddah, a menstruant woman.

(28) I.e., from birth they are treated as unclean, like a niddah. The purpose of this enactment was to discourage intermarriage with them (Tosaf.).

(29) This refers to the defilement caused by a dead person, not by contact but through the fact that both the dead person and the object defiled are under the same covering, e.g., the roof of a house or an overhead awning (cf. Num. XIX, 14f), which induces uncleanness to the object defiled. The width of the covering object must not be less than the thickness of an ox-goad, for which v. infra ‘7a.

Talmud - Mas. Shabbath 17a

May I bury my children,[1] if this is not an erroneous halachah, for the hearer heard [a ruling] and erred [therein]. [Viz.,] a peasant was passing with an ox-goad on his shoulder and one end thereof overshadowed a grave, and he was declared unclean in virtue of [the law of] utensils which overshadowed the dead.[2] R. Akiba said, I will rectify [it] so that the words of the Sages[3] may be fulfilled. [Viz.,] all movable objects induce uncleanness in their bearers by the thickness of an ox-goad; [and induce uncleanness] in themselves, by any thickness; and in other people or utensils, by the width[4] of a handbreadth. And R. Jannai observed: and the ox-goad of which they spoke is not a handbreadth in thickness but in circumference, and they enacted [this law] concerning its circumference on account of its thickness.[5] But according to R. Tarfon who said, 'May I bury my children but this halachah is incorrect!' they are less [than eighteen]? — Said R. Nahman b. Isaac, That the daughters of Cutheans are niddoth from their cradles was also enacted on that same day; and on the other [question][6] he agrees with R. Meir.[7]

And another?-When one vintages [grapes] for the vat [I.C., to manufacture wine], Shammai maintains: It is made fit (to become unclean]; while Hillel ruled, It is not made fit.[8] Said Hillel to Shammai: Why must one vintage [grapes] in purity, yet not gather [olives] in purity?[9] If you provoke me, he replied, I will decree uncleanness in the case of olive gathering too. A sword was planted in the Beth Hamidrash and it was proclaimed, 'He who would enter, let him enter, but he who would depart, let him not depart!'[10] And on that day Hillel sat submissive before Shammai, like one of the disciples,[11] and it was as grievous to Israel[12] as the day when the [golden] calf was made. Now, Shammai and Hillel enacted [this measure], but they would not accept it from them; but their disciples came[13] and enacted it, and it was accepted from them.[14]

[Now,] what is the reason?[15] -Said Ze'iri in R. Hanina's name: For fear lest he vintage it into unclean baskets.[16] Now, that is well on the view that an unclean vessel renders fluid effective;[17] but on the view that an unclean vessel does not render fluid effective, what can be said?-Rather, said Ze'iri in R. Hanina's name: For fear lest he vintage it in pitch lined baskets.[18] Raba said: It is a preventive measure on account of tightly cleaving, [clusters].[19] R. Nahman said in Rabbah b. Abbuha's name: [It is a preventive measure, for] a man sometimes goes to his vineyard to see if the grapes are ready for vintaging, takes a bunch of grapes to squeeze it, and sprinkles [the juice] on the grapes, and at the time of gathering the moisture is still dripping on them.

And another?-Said

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(1) Lit., 'may I cut off my children that this halachah is cut off'.

(2) I.e. any utensil which overshadows the dead becomes itself unclean, whatever its width, and the peasant was declared unclean for the same day till the evening because he was actually carrying and in direct contact with this ox-goad. But one of the disciples who heard this ruling erroneously imagined that he was unclean in virtue of the law stated in n. 7. involving an uncleanness of seven days, and thus drew a false conclusion.

(3) Who said that all movable objects induce uncleanness by the thickness of an ox-goad.

(4) Lit., 'aperture'.

(5) If its thickness is a handbreadth, it induces uncleanness of seven days by Biblical law, and therefore the Sages extended this to the former case too, to prevent confusion. This is one of the eighteen enactments. V. Oh. XVI, 1.

(6) Sc. one who places vessels under a spout, v. supra 16b.

(7) Rashba's version omits this passage, because R. Tarfon accepted R. Akiba's view; v. Halevi, Doroth, I, 3, P. 587-8.

(8) V. P. 45, nn. 1 and 4.

(9) You maintain that grapes are fit to become defiled, and therefore must be vintaged into ritually clean baskets: why then do you not insist upon it when the olives are gathered too, for surely the same reasoning applies?

(10) This was the practice when a vote was taken upon any question; Halevi, Doroth, I, 3, p. 585 n. 18.

(11) I.e., the assembly voted against him-of course the actual expression is not to be understood literally.

(12) In view of the humility to which Hillel, who was the Nasi, had been subjected.
(13) At the assembly in the house of Hananiah b. Hezekiah b. Garon.
(14) Hence it is one of the eighteen measures.
(15) Why does the exuding liquid make the grapes susceptible to uncleanness? For the logic is the reverse, seeing that this liquid is wasted and its exuding is not with its owner's desire, whereas the owner's desire is necessary for it to cause susceptibility to defilement.
(16) Since the uncleanness comes simultaneously with the fluid, the latter renders the grapes fit to become unclean, even without the owner's desire.
(17) Lit., 'makes the liquid count'-to qualify other objects to become unclean.
(18) Since the liquid is not lost, its exuding is not contrary to the owner's desire.
(19) Lit., 'the biting ones'. One must separate these by force, thus causing juice to spurt out. Since he does this himself, the juice certainly makes the grapes susceptible; then as a preventive measure the law was extended to all exuding juice, in order to obviate confusion.

Talmud - Mas. Shabbath 17b

Tabi the hunter in Samuel's name: That the produce of terumah is terumah was also enacted on that day.[1] What is the reason?-R. Hanina said: It was a preventive measure, on account of undefiled terumah [being retained] in the hand of an Israelite.[2] Raba observed: If they are suspected of this, they would not separate [terumah] at all: [and furthermore] — since he can render one grain of wheat [as terumah for the whole], in accordance with Samuel,[3] and does not, he is indeed trusted.[4] Rather, said Raba, it is a preventive measure on account of unclean terumah in the priest's hands, lest he keep it with him and be led to sin.[5]

And another?-R. Hiyya b. Ammi said in 'Ulla's name: That one must give his purse to a Gentile if [the Sabbath] evening falls upon him on the road was also enacted on that day.[6]

And another? — Bali said in the name of Abimi of Senawta:[7] [The interdict against] their bread, oil, wine and daughters[8] all these are of the eighteen measures.[9]

Now, this is well according to R. Meir; but according to R. Jose, there are only seventeen?[10] — There is also that of R. Aha b. Adda. For R. Aha b. Adda said in R. Isaac's name: Their bread was forbidden on account of their oil, and their oil on account of their wine.[11] 'Their bread on account of their oil'!-wherein is [the interdict of] oil stronger than that of bread?[12] Rather [say] they decreed against their bread and oil on account of their wine, and against their wine on account of their daughters, and against their daughters on account of 'the unmentionable,'[13] and [they decreed] something else on account of some other thing. What is this 'something else?'- Said R. Nahman b. Isaac: They decreed that a heathen child shall defile by gonorrhoea,[14] so that an Israelite child should not associate with him for sodomy.[15] But if so, according to R. Meir too [it is difficult, for] there are nineteen!-Food and drink which were defiled through liquid he accounts as one.

MISHNAH. BETH SHAMMAI RULE: INK, DYES AND ALKALINE PLANTS[16] MAY NOT BE STEEPED UNLESS THEY CAN BE DISSOLVED WHILE IT IS YET DAY;[17] BUT BETH HILLEL, PERMIT IT. BETH SHAMMAI RULE: BUNDLES OF WET FLAX MAY NOT BE PLACED IN AN OVEN UNLESS THEY CAN BEGIN TO STEAM WHILE IT IS YET DAY, NOR WOOL. IN THE DYER'S KETTLE UNLESS IT CAN ASSUME THE COLOUR [OF THE DYE]; BUT BETH HILLEL PERMIT IT. BETH SHAMMAI MAINTAIN: SNARES FOR WILD BEASTS, FOWLS, AND FISH, MAY NOT BE SPREAD UNLESS THEY CAN BE CAUGHT WHILE IT IS YET DAY; BUT BETH HILLEL PERMIT IT. BETH SHAMMAI RULE: ONE MUST NOT SELL, TO A GENTILE, OR HELP HIM TO LOAD [AN ASS], OR LIFT UP [AN ARTICLE] UPON HIM UNLESS HE CAN REACH A NEAR PLACE;[18] BUT BETH HILLEL PERMIT IT. BETH SHAMMAI MAINTAIN: HIDES MUST NOT BE GIVEN TO A TANNER, NOR GARMENTS TO A GENTILE FULLER, UNLESS THEY CAN BE DONE WHILE IT IS YET DAY; BUT IN ALL THESE [CASES] BETH HILLEL, PERMIT [THEM]

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(1) By Biblical law, if terumah is resown its produce is hullin (q.v. Glos.), but the Rabbis decreed that it is terumah and belongs to the priest.

(2) Who may resow and keep it for himself, thus depriving the priest of his dues. (10) The text is in slight disorder.

(3) V. Kid. 58b.

(4) Not to retain the terumah, by resowing it.

(5) Whilst keeping it for resowing, he may forget that it is unclean, and eat it. Therefore it was enacted that even if resown its produce may not be eaten, though it will not be regarded as unclean (Tosaf. as explained by Maharsha).

(6) Infra 153a; and not carry it along short distances of less than four cubits each.

(7) In A.Z. 36a the reading is Niwte, i.e., the Nabatean. Senawta is probably a dialect form of the same.

(8) Sc. of Gentiles.

(9) They are counted as one.

(10) V. supra 16b. This seems a repetition of the question there.

(11) Actually these were ancient prohibitions, going back to the days of Daniel (cf. Dan. I, 8; Josephus, Ant. I. 3, 12.). But in the course of time their observance grew weak, and the disciples of Shammai and Hillel renewed and strengthened the prohibition as one of their eighteen enactments. V. Halevi, Doroth, I, 3, pp. 591ff, seq., v. also Weiss, Dor, I, 129.

(12) For this implies that there was greater reason for prohibiting their oil than their bread.

(13) Lit., 'something else', viz., idolatry.

(14) Even if he is not suffering therewith.

(15) Thus this is the eighteenth.

(16) Jast. Rashi: horse beans, used for cattle.

(17) These materials had to be steeped in water before they were fit for their purpose, and Beth Shammai rule that this may not be done on Friday unless there is time for the process to be completed before the Sabbath. Yashuru means dissolved and soaked through, and will bear the latter meaning in respect of beans, according to Rashi's translation.

(18) i.e., his destination must be near enough to be reached before the Sabbath.

Talmud - Mas. Shabbath 18a

BEFORE SUNSET.[1] R. SIMEON B. GAMALIEL, SAID: IT WAS THE PRACTICE IN MY FATHER'S HOUSE TO GIVE WHITE GARMENTS TO A GENTILE FULLER THREE DAYS BEFORE THE SABBATH.[2] AND BOTH [SCHOOLS] AGREE THAT THE BEAM OF THE [OIL] PRESS AND THE CIRCULAR WINE PRESS MAY BE LADEN.[3] GEMARA. Which Tanna [holds that] pouring water into ink constitutes its steeping?[4] -Said R. Joseph, It is Rabbi. For it was taught: If one pours in flour and another water, the second s liable:[5] this is Rabbi's view.[6] R. Jose son of R. Judah said: He is not liable unless he kneads [them]. Abaye said to him, Yet perhaps R. Jose [son of R. Judah] ruled thus only in respect to flour, which is subject to kneading: but as for ink, which is not subject to kneading, I may say that he is liable?[7] -You cannot think so, for it was taught: if one pours in the ashes and another the water, the second is liable: this is Rabbi's view. R. Jose son of R. Judah said: [He is not liable] unless he kneads them.[8] Yet perhaps what is [meant by] ashes? Earth [dust],[9] which does require kneading.[10] But both ashes and earth [dust] were taught?-Were they then taught together?[11]

Our Rabbis taught: Water may be conducted into a garden on the eve of the Sabbath just before dark, and it may go on being filled the whole day; and a perfume brazier may be placed under garments which continue to absorb the perfume the whole day; and sulphur may be placed under [silver) vessels and they undergo the process of sulphuring the whole day; and an eye salve[12] may be placed on the eye and a plaster on a wound and the process of healing continues all day.[13] But wheat may not be placed in a water-mill unless it can be ground when it is still day. What is the reason? Rabbah answered, Because it makes a noise.[14] Said R. Joseph to him, Let the Master say it is on account of the resting of utensils? For it was taught: And in all things that I have said unto you take ye heed:[15] this includes the resting of utensils![16] Rather, said R. Joseph, it is on account of the resting of utensils. Now that you say that according to Beth Hillel the resting of utensils is a Biblical precept,[17] why are sulphur and a perfume brazier permitted?-Because it [the vessel in which they lie] performs no action. Why are wet bundles of flax permitted? — Because it [the oven in which they lie] performs no action and is motionless. But what of the trap for wild beasts, fowl and fish, which performs an action,[18] Why are they permitted?-There too [it means] with a fish hook and a trap made with little joists,[19] so that no action is performed.

Now, however, that R. Oshaia said in R. Assi's name, Which Tanna [maintains that] the resting of utensils is a Biblical precept? It is Beth Shammai: then according to Beth Shammai, whether it [the utensil] performs an action or not, it is forbidden, while in the opinion of Beth Hillel even if it performs an action it is permitted. And now that you say that according to Beth Shammai it is forbidden even if it performs no action, if so,

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(1) Lit., ‘with the sun’, i.e., while the sun is shining.

(2) Because these require more time.

(3) By day, though the fluid goes on oozing during the Sabbath.

(4) The Mishnah merely discusses this, and does not speak about kneading the ingredients too. Hence the mere pouring must be regarded as a labour forbidden on the Sabbath, for otherwise there would be no controversy in respect to Friday.

(5) For desecrating the Sabbath.

(6) Thus he holds that the mere pouring in of water constitutes kneading, which is forbidden on the Sabbath. The making of ink is prohibited as a derivative (v. p. 3, n. 2.) of kneading.

(7) For mere pouring, even on R. Jose son of Judah's view.

(8) Though ashes do not require kneading.

(9) In Heb. these words are very similar and sometimes interchanged.

(10) For making clay.

(11) In the same Baraitha? They were stated in separate Baraithas, not necessarily by the same teacher, and both may mean the same thing.

(12) Heb. kilur, ** collyrium.

(13) Healing on the Sabbath itself is forbidden, unless there is danger to life.

(14) Which detracts from the sanctity of the Sabbath.

(15) Ex. XXIII, 13. The preceding verse deals with the Sabbath.

(16) A man is commanded to let the vessels rest as well as he himself.

(17) For this Baraitha must reflect Beth Hillel's ruling, since its other clauses oppose the views of Beth Shammai as expressed in our Mishnah.

(18) The spring of the trap closes and the mesh of the nets tightens as they catch their prey,

(19) So arranged as to permit the animal to get in but not out. Thus they are passive instruments.

Talmud - Mas. Shabbath 18b

why are a perfume brazier and sulphur permitted?[1] -There it lies upon the earth.[2] What of a tank [for brewing beer], a lamp, a pot and a spit-why do Beth Shammai permit [them]?[3] -Because their ownership is renounced.[4] Who is the author of the following, which our Rabbis taught: A woman must not fill a pot with pounded wheat[5] and lupines and place it in the oven on the eve of the Sabbath shortly before nightfall; and if she does put them [there], they are forbidden at the conclusion of the Sabbath for as long as they take to prepare.[6] Similarly, a baker must not fill a barrel of water and place it in the oven on the eve of the Sabbath shortly before nightfall; and if he does, it [the water] is forbidden at the conclusion of the Sabbath for as long as it takes to prepare [boil]. Shall we say that this agrees with Beth Shammai, not Beth Hillel?[7] — You may even say that it is Beth Hillel: it is a preventive measure, lest he stir the coals. If so, let us decree [likewise] in respect of a perfume brazier and sulphur?-There he will not stir them] for if he does, the smoke will enter and harm them.[8] Let us decree in respect of wet bundles of flax too?-There, since a draught is injurious to them, he will not uncover it.[9] Let us decree also in respect of wool in the dye kettle?-Samuel answered: This refers to a kettle removed [from the fire]. But let us fear that he may stir within it?[10] -This refers to [a kettle] removed from [the fire] and sealed down.[11]

And now that the Master said: ‘It is a preventive measure, lest one rake the coals’, a raw dish[12] may be placed in an oven on the eve of Sabbath shortly before nightfall. What is the reason? Since it will not be fit for the evening,[13] he withdraws his mind from it and will not come to rake the coals.[14] Again, if it is [quite] boiled, it is well.[15] If partly boiled,[16] it is forbidden. Yet if a raw bone is thrown into it, it is permitted.[17]

And now that the Master said, ‘Whatever may be harmed by the draught, one will not uncover it’: with flesh of a kid, where it [the oven] is daubed round,[18] it is well;[19] with [flesh] of a buck, where it [the oven] is not daubed round, is forbidden. But as to [flesh] of a kid, where it is not daubed round, or of a buck, where it is daubed round: R. Ashi permits it, while R. Jeremiah of Difti[20] forbids it. Now, according to R. Ashi, who permits it, did we not learn, Meat, onion[s] or egg[s] may not be roasted unless they can be roasted before sunset?-There the reference is to [flesh] of a buck, and where it [the oven] is not daubed round. Others state: With [the flesh] of a kid, whether it [the oven] is daubed round or not, it is well; of a buck too, if it is daubed round, it is well. They differ in respect to [flesh] of a buck, it [the oven] not being daubed: R. Ashi permits it, while R. Jeremiah of Difti forbids it. Now, according to R. Ashi who permits it, did we not learn, Meat, onion[s] or egg[s] may not be roasted unless they can be roasted before sunset?-There the reference is to meat on the coals [direct].[21] Rabina said: As for a raw gourd, it is well:[22] since a draught is injurious to it, it is like flesh of a kid.

BETH SHAMMAI MAINTAIN: ONE MUST NOT SELL[etc.]. Our Rabbis taught: Beth Shammai maintain: A man must not sell an article to a Gentile, nor lend [it] to him nor loan him [money] nor make him a gift [on the eve of Sabbath], unless he can reach his house [before sunset]; while Beth Hillel rule: [unless] he can reach the house nearest the [city] wall.[23] R. Akiba said: [Unless] he can depart from the door of his [the Jew's] house [before the Sabbath]. Said R. Jose son of R. Judah: The words of R. Akiba are the very words of Beth Hillel:[24] R. Akiba comes only to explain the words of Beth Hillel.[25]

Our Rabbis taught: Beth Shammai maintain: A man must not sell his leaven to a Gentile, unless he knows that it will be consumed before Passover: this is Beth Shammai's view. But Beth Hillel say: As long as he [the Jew] may eat it, he may sell it. R. Judah said:

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(1) For on this hypothesis the Baraitha must agree with Beth Shammai, since the placing of wheat in a mill is forbidden.

(2) Not in a vessel.

(3) Beer brews in its tank more than eight days, thus including the Sabbath. Similarly, the lamp burns during the Sabbath, the pot stands on the heated range, causing some shrinkage of its contents, and the spit was allowed to lie in the oven with the Passover sacrifice roasting on Friday night. Thus all these utensils are employed on the Sabbath.

(4) This is a legal fiction. Their owner formally renounces his ownership, and then he is under no obligation to ensure that they rest.

(5) Or, peas.

(6) So that she should not profit by having virtually prepared it on the Sabbath.

(7) Since Beth Hillel do not require utensils to rest.

(8) The garments or vessels.

(9) The oven, to rake up the coals.-The coals burnt inside the ancient ovens.

(10) Sc. the wool within the kettle, to make it absorb the dye more thoroughly. This too is forbidden.

(11) Hence he is not likely to forget.-In this and the following cases the fear is not that he may do these things intentionally but unintentionally in a moment of forgetfulness.

(12) I.e., a pot containing a raw dish.

(13) The evening meal was eaten soon after nightfall, and it would not be ready by then.

(14) There is ample time for it to be ready on the morrow without his stirring. But pounded wheat and lupines require very much boiling, and therefore they are forbidden.

(15) Permitted, because the coals will not require raking.

(16) Lit., 'boiled and not boiled'.

(17) This serves to show that he has no mention of eating it before the morrow.

(18) To seal it down.

(19) Goat flesh is tender and injured by a draught.

(20) V. p. 35, n. 5.

(21) Not in the oven. It is then easy to turn it and rake the coals: hence it is forbidden.

(22) It may be placed in the oven even if it cannot be cooked by the Sabbath.

(23) If the Gentile lives in another town, it is sufficient if he can take it to the nearest house there, even if he cannot reach his own before the Sabbath.

(24) Their views are identical.

(25) I.e., he states Beth Hillel's ruling, not an independent one, and thus differs from the first Tanna's interpretation of Beth Hillel's attitude.

Talmud - Mas. Shabbath 19a

Babylonian kutah[1] and any [other] kind of kutah may not be sold thirty days before Passover.[2]

Our Rabbis taught: Food may be placed before a dog in a courtyard, [and] if it takes it and goes out, one has no duty toward it.[3] Similarly, food may be placed before a Gentile in a courtyard, [and] if he takes it and goes out, one has no duty toward him. What is the purpose of this further [dictum]; [surely] it is the same [as the first]?-You might argue, The one is incumbent upon him, whereas the other is not:[4] therefore we are informed [otherwise].[5]

Our Rabbis taught: A man must not hire his utensils to a Gentile on the eve of Sabbath; [but] on Wednesday or Thursday it is permitted.[6] Similarly, letters may not be sent by a Gentile on the eve of Sabbath, [but] on Wednesday or Thursday it is permitted. It was related of R. Jose the priest-others say, of R. Jose the Pious-that his handwriting was never found in a Gentile's hand.[7] Our Rabbis taught: Letters may not be sent by Gentiles on the eve of Sabbath unless a fee is stipulated.[8] , Beth Shammai maintain: There must be time to reach his [the addressee's] house [before the Sabbath];[9] while Beth Hillel rule: There must be time to reach the house nearest the [city] wall.[10] But has he not stipulated?[11] -Said R. Shesheth, This is its meaning: And if he did not stipulate, Beth Shammai maintain: There must be time to reach his [the addressee's] house; while Beth Hillel rule: to reach the house nearest the [city] wall. But you said in the first clause that one must not send [at all]?[12] — There is no difficulty: in the one case a post office is permanently located in the town,[13] in the other case a post office is not permanently located in the town.[14] Our Rabbis taught: One may not set out in a ship less than three days before the Sabbath. This was said only [if it is] for a voluntary purpose, but [if] for a good deed,[15] it is well; and he stipulates with him[16] that it is on condition that he will rest [on the Sabbath], yet he does not rest:[17] this is Rabbi's view. R. Simeon b. Gamaliel said: It is unnecessary. But from Tyre to Sidon[18] it is permitted even on the eve of Sabbath.[19]

Our Rabbis taught: Gentile cities must not be besieged less than three days before the Sabbath, yet once they commence they need not leave off. And thus did Shammai say: until until it fall,[20] even on the Sabbath. R. SIMEON B. GAMALIEL, SAID: IT WAS THE PRACTICE IN MY FATHER'S HOUSE etc. It was taught, R. Zadok said, This was the practice of R. Gamaliel's house, viz., they used to give white garments to the fuller three days before the Sabbath, but coloured garments even on the eve of the Sabbath. And from their usage[21] we learn that white [garments] are more difficult to wash than coloured ones. Abaye was giving a coloured garment to a fuller and asked him, How much do you want for it? 'As for a white garment,' he answered. 'Our Rabbis have already anticipated you,' said he.[22]

Abaye said: When one gives a garment to a fuller he should deliver it to him by measure and receive it back by measure, for if it is more, he spoiled it by stretching, and if less he spoiled it by shrinking.[23]

AND BOTH AGREE THAT THE BEAM OF THE [OIL] PRESS AND THE CIRCULAR WINE PRESS MAY BE LADEN. Wherein do all [the other acts] differ that Beth Shammai forbid them, and wherein do [those relating to] the beam of the [oil] press and the circular wine press differ, that Beth Shammai do not forbid them?-Those other [acts] which, if done on the Sabbath involve a sin-offering, Beth Shammai forbade on the eve of the Sabbath just before nightfall; [but the loading of] the beam of the [oil] press and the circular wine press, which if done on the Sabbath does not involve a sin-offering, they did not forbid.[24]

Which Tanna [maintains] that everything which comes automatically is well?[25] — Said R. Jose son of R. Hanina, It is R. Ishmael. For we learnt: [In the case of] garlic, half-ripe grapes, and parched ears [of corn] were crushed before sunset, R. Ishmael said: One may finish them at night; R. Akiba said:

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(1) Jast.: a preserve consisting of sour milk, bread-crusts and salt.

(2) It is used as a sauce or relish and hence lasts a long time. It was customary to give popular lectures about the Festivals thirty days before them, and therefore from that time one was forbidden to sell kutah to a Gentile.

(3) To restrain it from carrying it out into the street.

(4) He has a duty towards his animals which he does not owe to a stranger, and therefore I might think that in the latter case food must not be given, since it may be carried out.

(5) That even so food may be placed before a Gentile. Because though one has no legal obligation, he has the duty of charity towards him, just as towards a Jew, as stated in Git. 61a (Tosaf.).

(6) Though he will use it on the Sabbath.

(7) He never sent a letter by a Gentile lest he might take it to its destination on Sabbath. This was a measure of ultra stringency.

(8) Once the fee is stipulated the Gentile works for himself, to earn it, and not for the Jew.

(9) Otherwise it is forbidden even if the fee was already stipulated.

(10) If the addressee lives in a different town; cf. p. 77, n. 9.

(11) In which case the first Tanna, i.e., Beth Hillel, rules that it may be carried on the Sabbath itself.

(12) Other edd. more plausibly, But it was taught that they must not be sent (at all)? The reference is then to the preceding Baraitha, not this one, for this one distinctly states that if the fee was arranged it is permitted; v. marg. gloss, cur. edd.

(13) Of the addressee. Then letters may be sent, even if the fee was not stipulated, providing that the messenger can reach the post office or the nearest house in that town before the Sabbath.

(14) Rashi: then one must not send if the fee was not stipulated, as he may go searching for him on the Sabbath.

(15) Lit., 'a matter of a precept'.

(16) The Gentile owner of the ship.

(17) I.e., though the condition will not be carried out.

(18) Both on the Phoenician coast, about thirty miles apart.

(19) Being such a short distance.

(20) Deut. XX, 20. The reference is to a besieged city.

(21) Lit., 'words'.

(22) I know from them that this requires less labour.

(23) And he is entitled to make a deduction.

(24) On Sabbath eve before nightfall.

(25) I.e., permitted, as here, the beams being laden before the Sabbath and the juice then oozing automatically on the Sabbath.

One may not finish them [at night].[1] And R. Eleazar [b. Pedath] said, It is R. Eleazar [b. Shammua’]. For we learnt: If honeycombs are crushed on the eve of Sabbath and it [the honey] exudes spontaneously,[2] it is forbidden;[3] but R. Eleazar permits it.

Now, as to R. Jose son of R. Hanina, what is the reason that he did not answer as R. Eleazar?-He can tell you: it is only there [that R. Eleazar permits it], since it was originally food and still food;[4] but here[5] it was originally food and now a liquid.[6] And R. Eleazar [b. Pedath]?[7] - He can answer you: But we know R. Eleazar [b. Shammua’] to hold that even olives and grapes are also permitted. For when R. Hoshaya came from Nehardea, he came and brought a Baraitha in his hands: If olives and grapes are crushed on the eve of Sabbath and they [their juices] exude spontaneously, they are forbidden;[8] R. Eleazar and R. Simeon permit it. And R. Jose b. R. Hanina?-He did not know this Baraitha.[9]

And R. Eleazar! what is the reason that he did not answer as R. Jose son of R. Hanina?-He can tell you: was it not stated thereon:[10] where they lack crushing there is no controversy at all;[11] they differ only where pounding is lacking:[12] and these too[13] are similar to those that lack crushing. R. Jose son of R. Hanina gave a practical decision in accordance with R. Ishmael.[14]

As to the oil belonging to the pressers, and the mats of the pressers:[15] Rab forbade it,[16] and Samuel permitted it.[17] As to coupled mattings[18] Rab forbids them,[19] and Samuel permits [them R. Nahman said: As to a goat [kept] for its milk, a ewe for its shearings, a fowl for its eggs, oxen for ploughing and dates for trading: Rab forbids, and Samuel permits [them],[20] and they differ in the controversy of R. Simeon and R. Judah.[21] A certain disciple gave a practical decision in Harta of Argiz[22] in accordance with R. Simeon;[23] thereupon R. Hamnuna banned him.[24] But do we not hold as R. Simeon?-It was in the place of Rab,[25] and so he should have acted accordingly. There were two disciples: one saved [food, etc.] in one utensil, and one saved [it] in four or five utensils;[26] and they differ in the same dispute as that of Rabbah b. Zabda and R. Huna.[27]

MISHNAH. MEAT, ONION[S], AND EGG[S] MAY NOT BE ROASTED UNLESS THEY CAN BE ROASTED WHILE IT IS YET DAY. BREAD MAY NOT BE PUT INTO AN OVEN JUST BEFORE NIGHTFALL, NOR A CAKE UPON COALS, UNLESS ITS SURFACE CAN FORM A CRUST WHILE IT IS YET DAY; R. ELEAZAR SAID: THERE MUST BE TIME FOR THE BOTTOM [SURFACE] THEREOF TO FORM A CRUST. THE PASSOVER SACRIFICE MAY BE LOWERED INTO THE OVEN JUST BEFORE NIGHTFALL;[28] AND THE FIRE MAY BE LIGHTED WITH CHIPS[29] IN THE PILE IN THE CHAMBER OF THE HEARTH;[30]

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(1) A heavy weight was placed upon them to cause their juice to run out, and the controversy is whether this may be done on the Sabbath, since they were already crushed before.

(2) On the Sabbath.

(3) To consume them on the Sabbath.

(4) Honey is a food, not a drink, even after it oozes out.

(5) The case of the Mishnah, where the oil exudes from the olives, etc.

(6) Olives and grapes are food; oil and wine are liquid. Since it changes so much on the Sabbath, it may be that R. Eleazar forbids it.

(7) Does he not admit the force of this argument?

(8) For drinking on the Sabbath.

(9) This may also mean: he rejects the authenticity of this Baraitha, for not all Baraithas were of equal authority.

(10) On the Mishnah quoted by R. Jose b. R. Hanina.

(11) It is certainly forbidden on all views.

(12) ‘Pounding’ (shehikah) connotes a further stage in the process, after crushing.
(13) In our Mishnah.
(14) Supra a bottom.
(15) The remnants of the oil in the corners and the oil which gathered in the mats with which the olives were covered belonged to the workers who pressed it out.
(16) To be handled on the Sabbath.
(17) This oil is ‘mukzeh,’ v. p. 81, n. 4, and it is disputed infra44a et passim whether such may be handled on the Sabbath. Rab and Samuel differ on the same question.
(18) Keroke (כרכי) connotes mattings which can be rolled up, and zuze means in pairs. Rashi explains: mattings used in couples to form a roof-like protection for merchandise. He also quotes a variant found in Geonic responsa: כרכי דזיווי ship mattings.
(19) To be handled on the Sabbath.
(20) V. next note.
(21) Infra 156b on ‘mukzeh’. All these are ‘mukzeh’, set apart, i.e., their owner has set them apart not to be eaten but for the purposes stated, and it is disputed infra 156b whether one may change his mind and slaughter them on Festivals for food. With the exception of dates kept for trading the present controversy is in respect of Festivals, whilst that of dates refers to the Sabbath too.
(22) In S. Babylon on the right arm of the Euphrates, subsequently called Hira. Obermeyer, Landschaft, p. 234.
(23) That the above are permitted.
(24) A form of excommunication. The banned person observed certain mourning rites and was shunned by his colleagues. Generally speaking it lasted for thirty days.
(25) I.e., it was within his jurisdiction.
(26) They saved them from being destroyed in a fire.
(27) V. infra i 20a.
(28) And left to roast on the Sabbath. We have no fear that one may rake the coals on the Sabbath (v. supra 18b),
(29) Ma'ahizin means to ignite logs by means of burning chips.
(30) A room where the priests warmed themselves, as they performed the service in the Temple barefoot and became cold. The priests were very careful, and so it is sufficient if the fire just catches on, and no fear is entertained that they may forgetfully rake it into a blaze in the evening.

Talmud - Mas. Shabbath 20a

BUT IN THE COUNTRY[1] THERE MUST BE TIME FOR THE FIRE TO TAKE HOLD OF ITS GREATER PART.[2] R. JUDAH SAID: IN THE CASE OF CHARCOAL, JUST A LITTLE [SUFFICES].[3]

GEMARA. And how much?[4] - R. Eleazar said in Rab's name: That it may be roasted before sunset as the food of the son of Derusai.[5] It was stated likewise: R. Assi said in R. Johanan's name: Whatever is as the food of the son of Derusai's not subject to [the interdict of] the cooking of Gentiles.[6] It was taught: Hanina said: Whatever is as the food of the son of Derusai may be kept on the stove,[7] though it is not swept [clear of the cinders] and besprinkled with ashes.[8]

BREAD MAY NOT BE PUT, etc. The scholars propounded: Does the BOTTOM [surface] mean the one by the oven, or perhaps BOTTOM means the one by the fire?[9] -Come and hear: R. Eleazar said: There must be time for the surface adhering to the oven to form a crust.

because a whole company is present and should one man forget himself another will remind him. THE PASSOVER SACRIFICE MAY BE LOWERED), [etc.]. What is the reason?- Because the members of the company are extremely careful.[10] But otherwise, it would not [be permitted]? Yet a Master said: [With the flesh of) a kid, whether it [the oven] is daubed round or not, it is well?[11] — There it is cut up, whereas here it is not cut up.[12]

AND THE FIRE IS LIGHTED WITH CHIPS, etc. Whence do we know this?-Said R. Huna: Ye shall kindle no fire throughout your habitations:[13] [only] throughout your habitations you may not kindle, but you may kindle in the pile in the chamber of the Hearth. R. Hisda demurred: If so, even on the Sabbath too![14] Rather, said R. Hisda: The verse, when it comes, conies to permit [the burning of] limbs and the fat;[15] while the priests are very particular.[16]

BUT IN THE COUNTRY, THERE MUST BE TIME FOR THE FIRE TO TAKE HOLD, etc. What is meant by ‘their greater part?’ — Rab said: the greater part of each [log]; and Samuel said: That it should not be said, Let us bring chips to place under them.[17] R. Hiyya taught [a Baraitha which affords] support to Samuel: That the flame should ascend of its own accord, and not with the help of something else.[18]

As to a single log, Rab said: The greater part of its thickness; while others state, The greater part of its circumference. R. Papa observed: Therefore we require the greater part of both its thickness and its circumference. This is a controversy of Tannaim: R. Hiyya said: That the log may be rendered unfit for an artisan's work; R. Judah b. Bathyra said: That the fire should take hold on both sides.[19] And though there is no proof of the matter, there is a hint thereof: the fire hath devoured both the ends of it, and the midst of it is burned;is it profitable for any work.[20]

And there was a fire lit the ah[21] burning before him,[22] What is ‘ah?[20] ‘Rab said, Willow-fire;[23] while Samuel said: Logs kindled by willowfire. A certain man announced, who wants ahwawna? and it was found to be willows.

R. Huna said: Canes do not require the greater part,[24] [but] if they are tied together, the greater part is required;[25] kernels [of dates] do not require the greater part; but if they are put in bales they require the greater part. R. Hisda demurred: On the contrary, [separate] canes may fall apart,[26] but if tied together they cannot fall apart; kernels can fall apart, but if placed in bales they cannot? It was stated likewise,

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(1) Lit., ‘borders’, the technical term for Palestine in contradistinction to the Temple (and generally, though not here, to Jerusalem).

(2) Sc. of the logs.

(3) Providing that the coals start burning before nightfall, even if only slightly, it is permitted.

(4) Must the meat etc. be roasted before the Sabbath?

(5) I.e., a third done. Rashi: he was a robber and always ate in a hurry.

(6) Food cooked entirely by Gentiles is forbidden; but if a third done by a Jew, it may be finished by a Gentile.

(7) On the Sabbath; i.e., if it was a third done before.

(8) V. infra 36b.

(9) The oven or stove would appear to have been without a closed bottom, but perhaps consisted of a number of bars over the fire, and the loaves were placed thereon and pressed to the sides of the oven; v. T.A., pp. 87f- The question is whether BOTTOM surface means the surface directly on the open bars facing the fire underneath, or that adhering to the side of the oven.

(10) V. p. 82, n. 11.

(11) V. supra 18b.

(12) The Passover sacrifice was roasted whole. Hence the draught would not injure it, and therefore it is permitted only on account of the reason stated.

(13) Ex. XXXV, 3.

(14) Let it be permitted.

(15) Of animals sacrificed on Friday; these may be burnt on Friday night, the interpretation being, ‘through all your habitations’, i.e., for a secular purpose, but not for a sacred purpose.

(16) That is the real reason of the ruling in the Mishnah, as explained in p. 83, n. 2.

(17) it should be burning strongly enough not to require such assistance.

(18) V. infra 21a (p. 89). But Rashi observes that its author there is Hama b. Hama, and further that it is not a Baraitha, and so he mentions that other scholars relate it immediately to this Mishnah, whereof it is an explanation. (10) The fire must take hold of the greater part of its thickness before the Sabbath. (11) I.e., the fire must take hold of the greater part of its thickness.

(19) I.e., the greater part of its circumference.

(20) Ezek. XV, 4.

(21) A.V. hearth; R.V. brazier.

(22) Jer. XXXVI, 22.

(23) אהוונא ahwawna; willow twigs used for kindling a fire.

(24) it is sufficient if they are kindled before the Sabbath, even if the greater part has not caught on, because they will go on burning without further attention.

(25) To be burning before the Sabbath, because the air has no access and it may otherwise require attention.

(26) And fail to catch alight from each other, thus necessitating attention.

Talmud - Mas. Shabbath 20b

R. Kahana said: Canes tied together require the greater part; if not tied together, they do not require the greater part. Kernels require the greater part; if put in bales they do not.[1]

R. Joseph learned: Four fires do not require the greater part, [viz.] of pitch, sulphur, cheese,[2] and grease.[3] In a Baraitha it was taught: straw and rakings too.[4] R. Johanan said: Babylonian woods do not require the greater part. R. Joseph demurred: To what does this refer? Shall we say, To chips?[5] But if [concerning] a wick ‘Ulla said, He who kindles must kindle the great part of what protrudes,[6] is there a question of chips![7] Rather, said R. Joseph: [It refers to] the bark of cedar.[8] Rami b. Abba said: [It refers to] dry twigs.

CHAPTER II

MISHNAH. WHEREWITH MAY WE KINDLE [THE SABBATH LIGHTS], AND WHEREWITH MAY WE NOT KINDLE THEM]?[9] WE MAY NOT KINDLE [THEM] WITH LEKESH, HOSEN [TOW], KALLAK, A BAST WICK, A DESERT WICK, SEAWEED, ZEFETH [PITCH], SHA'AWAH [WAX], KIK OIL, OIL OF BURNING,[10] TAIL FAT, OR TALLOW. NAHUM THE MEDE SAID: WE MAY KINDLE [THEM] WITH BOILED HELEB; BUT THE SAGES MAINTAIN: WHETHER BOILED OR NOT, YOU MAY NOT KINDLE THEREWITH.[11]

GEMARA. Lekesh is cedar bark. But cedar bark is simply wood![12] -It means the woolly substance [bast] within it.

NOR WITH HOSEN [TOW]. R. Joseph said: [That is,] hatcheled flax. Abaye demurred: But it is written, And the hason shall be as ne'oreth?[13] Rather said Abaye: It is crushed but uncombed flax.

NOR WITH KALLAK. Samuel said: I asked all seafarers about it, and they told me that it is called kulka.[14] R. Isaac b. Ze'ira said: Gushkera.[15] Rabin and Abaye were sitting before Rabana[16] Nehemiah the brother of the Resh Galutha.[17] Seeing that he was wearing metaksa,[18] Rabin said to Abaye, That is the kallak of which we learnt. We call it peranda silk, he answered him. An objection is raised: [Garments of] silk, kallak and corded [silk], are liable to fringes.[19] This refutes it.[20] Alternatively, silk is one thing and peranda silk is another.

NOR WITH A BAST WICK: [I.e.,] willow-bast. Rabin and Abaye were walking in the valley of Tamruritha,[21] when they saw some willows. Said Rabin to Abaye, That is the idan [bast] of which we learnt. But that is simply wood, he objected. Thereupon he peeled it and showed him the wool-like substance within.

NOR WITH A DESERT WICK: Mullein.[22]

NOR WITH SEAWEED. What is this? Shall we say, The black moss of pits? But that is crumbly![23] Rather said R. Papa: it is the black fungus of ships. A Tanna taught: To these [enumerated in the Mishnah] were added [wicks] of wool and hair.[24] And our Tanna?-Wool shrinks [and] hair smoulders.[25]

NOR WITH PITCH [ZEFETH]. ZEFETH is pitch; SHA'AWAH is wax. A Tanna taught: Thus far the unfitness of wicks [is taught]; from here onwards it is the unfitness of oils.[26] But that is obvious?-It is necessary in respect to wax: you may say, It is not fit for wicks either; hence we are informed [otherwise].[27]

Rami b. Abin said: ‘Itrona[28] is the by-product of pitch; wax is the residue of honey.

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(1) Thus he agrees with R. Huna in respect to staves, and with R. Hisda in respect to kernels.
(2) Alfasi reads: wax.
(3) I.e., any fatty substance.
(4) ‘Rakings’ refers to small stubble collected in the field.
(5) Because they burn easily.
(6) Before the Sabbath.
(7) Which burn less freely.
(8) This was extremely dry and burnt rapidly.
(9) I.e., of what must the wick be made?
(10) Explained in the Gemara.
(11) The foreign terms are discussed in the Gemara.
(12) And is obviously unfit for a wick.
(13) Isa. I, 31. E.V. And the strong shall be as tow, but Abaye identifies hason with hosen and thus deduces that hosen is not ne'oreth (hatcheled flax).
(14) Jast.: cissaros-blossom, ‘a woolly substance growing on stones at the Dead Sea, looking like gold, and being very soft; its name is כלך (**): and it resembles sheep wool’.
(15) A cotton-like plant.
(16) I.e., Rabbi. This is a Babylonian title, perhaps = Rabbenu, our teacher.
(17) ‘Head of the Exile’, the title of the official head of Babylonian Jewry.
(18) **, silk. (11)Sachs, Beitr. II, p. 185 refers to late Greek ** (**, fillet) from which he derives French frange, Eng. fringe (Jast.).
(19) V. Num. XV, 38.-This shows that kallak is not identical with silk.
(20) Raban's observation.
(21) Or perhaps, in a secluded valley.
(22) A tall, woolly weed.
(23) A wick cannot be made from it in any case.
(24) As being unfit for use.
(25) When lit; hence they are unfit in any case.
(26) I.e., from PITCH.
(27) A waxen wick (i.e., a wax candle) is permitted. V., however, Tosaf. a.l,
(28) A sort of resin.

Talmud - Mas. Shabbath 21a

What is the practical bearing of this?-In respect of buying and selling."[1]

Our Rabbis taught: All those of which they ruled that you must not light [the Sabbath lamp] therewith on the Sabbath, yet a fire may be made of them, both for warming oneself and for using the light thereof, whether on the earth or on the stove;[2] and they merely prohibited the making of a wick of them for a [Sabbath] lamp. NOR WITH KIK OIL. Samuel said: I asked all seafarers about it, and they told me that there is a certain bird in the sea towns called kik.[3] R. Isaac son of Rab Judah said: It is cotton-seed oil; Resh Lakish said: Oil from Jonah's kikayon.[4] Rabbah b. Bar Hanah said: I myself have seen Jonah's kikayon; it resembles the ricinus tree and grows in ditches. It is set up at the entrance of shops;[5] I from its kernels oil is manufactured, and under its branches rest all the sick of the West [i.e., Palestine].

Raba said: As to the wicks which the Sages said that you must not kindle therewith for the Sabbath, [the reason] is because their flame burns unevenly.[6] The oils which the Sages said you must not kindle therewith is because they do not flow [freely] to the wick.[7] Abaye asked Rabbah: As to the oils which the Sages said you must not kindle therewith for the Sabbath, is it permissible to pour a little [good] oil into them and light [therewith]? Do we forbid it, lest one come to light therewith [the forbidden oil in its unmixed state, or not? He answered him, You must not light [therewith]. What is the reason?-Because you must not light.[8]

He raised an objection: if one wraps a material which may be used [as a wick] for lighting around a material which may not be lit, one must not light therewith. R. Simeon b. Gamaliel said: In my father's house a wick was wound over a nut and they did light therewith. Thus he teaches that one may light![9] -He replied: Instead of refuting me by R. Simeon b. Gamaliel's view, support me by the first Tanna's [ruling]!- That is no difficulty: an act is [more] weighty.[10] Thus the difficulty still remains, [for] surely it was for lighting?[11] - No: for floating.[12] If for floating, what is the reason of the first Tanna?[13] -It is all R. Simeon b. Gamaliel, but there is a lacuna, and it was taught thus: If one wraps a material which may be used for lighting around a material which may not be lit, you must not light therewith. When is that said? For lighting; but for floating it is permitted, for R. Simeon b. Gamaliel said, In my father's house a wick was wound about a nut and lit. Yet that is not so, for R. Beruna said in Rab's name: The melted tallow and the dissolved inwards of fish, one may pour a little oil and light [therewith]?[14] -These flow [freely] in their natural state, while those [in the Mishnah] do not flow [freely] in their natural state,[15] but that the Rabbis forbade melted tallow on account of unmelted tallow and the dissolved inwards of fish on account of the undissolved inwards of fish.[16] Then let us prohibit melted tallow and the dissolved inwards of fish diluted with oil on account of the same without an admixture of oil?[17] -That itself is [merely] a preventive measure, and are we to arise and enact one preventive measure to safeguard[18] another preventive measure?

Rami b. Hama recited: The wicks and oil which the Sages said, One may not light therewith on the Sabbath, one must [also] not light therewith in the Temple, because it is said, to cause a lamp to burn continually.[19] -He recited and he interpreted it: the flame must ascend of itself, and not through something else.[20] We learnt: The outworn breeches and girdles of priests were unravelled, and with these they kindled [the lights]?[21] -The rejoicing of the Water-Drawing[22] was different.[23] Come and hear: Worn out priestly garments were unravelled, and of these wicks were made for the Temple. Surely that means [the garments] of composite materials?[24] -No: [the garments] of linen [are meant].[25]

R. Huna said: With regard to the wicks and oils which the Sages said, One must not light therewith on the Sabbath, one may not light therewith on Hanukkah,[26] either on the Sabbath or on weekdays. Raba observed, What is R. Huna's reason? He holds that if it [the Hanukkah lamp] goes out, one must attend thereto,[27] and one may make use of its light.[28] R. Hisda maintained: One may light therewith on weekdays, but not on the Sabbath. He holds, If it goes out,

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(1) When one orders ‘itrona or wax, he must be supplied with the residue of pitch or honey respectively.

(2) Var. lec.: in the lamp.

(3) Jast. identifies it with the pelican.

(4) V. Jonah IV, 6. E.V. gourd, Jast.: ricinus tree, or the sprout bearing the castor-berry.

(5) To provide shade and fragrance.

(6) In a notched manner, as it were (Rashi). Jast.: the flame nibbles at them, producing sputtering sparks.

(7) And so one may trim the wick or tilt the lamp on the Sabbath; hence they are forbidden, Riban states the reason because the lamp may go out, thus destroying the cheerfulness of the Sabbath.

(8) Rashi: you must not light it when unmixed, and therefore when mixed too it is forbidden, as a preventive measure. The ‘Aruk explains; Because etc., i.e., there is a tradition to that effect. But there is also another reading: because it cannot be lit., i.e., the mixture has the same defects as the forbidden oil itself.

(9) Though a nut itself is not fit.

(10) Lit., ‘an act is a teacher’. Since R. Simeon b. Gamaliel relates that this was actually done, it must be presumed that this is the halachah, for an individual did not act upon his view in opposition to the majority

(11) I.e., the wick and the nut were meant to burn together.

(12) To enable the wick to float on the surface of the oil instead of sinking.

(13) Why does he forbid it?

(14) Though tallow itself is forbidden (supra 20b), which refutes Raba.

(15) The Mishnah speaks of unmelted tallow.

(16) But the prohibition went no further; hence if diluted with oil, it is permissible.

(17) If the former is permitted, the latter too may be used.

(18) Lit., ‘for’.

(19) Ex. XXVII, 21.

(20) Le-ha'aloth (E.V. to burn) literally means to cause to go up.-These wicks and oils do not burn of themselves but need frequent attention. V. p. 84, n. 9.

(21) The girdles contained wool, which, as stated on 20b, was added to the forbidden materials enumerated in the Mishnah. The reference is to the Temple, and thus this refutes Rami b. Hama.

(22) Lit., ‘the house of drawing’.

(23) At the daily morning service during the Feast of Tabernacles a libation of water, in addition to the usual libation of wine, was poured out on the altar. This was drawn from the Pool of Siloam on the night of the first day, and carried in procession to the Temple amid great rejoicing; cf. Suk. 53a: ‘He who has not seen the rejoicing of the Water-Drawing has never seen rejoicing in his life.’ The outer court of the Temple was brilliantly illuminated, and for this, not for the ordinary Temple lamp, the unravelled breeches and girdles were used. Rashi observes: because this was not a Biblical precept. Another reason may be that so much was used that it was really a fire, rather than a flame, which is permitted supra. V. J.E. XII, 476 2.

(24) Of wool and linen. I.e., the girdles; v. n. i.

(25) The breeches.

(26) V. infra b.

(27) I.e., relight it. Therefore it must be made of good oil in the first place, lest it go out and is not relit.-This, of course, can only apply to weekdays.

(28) E.g., for reading. Therefore these wicks and oils are forbidden on the Sabbath as the first reason in p. 88, n. 5, which applies here too.

Talmud - Mas. Shabbath 21b

it does not require attention, and one may make use of its light. R. Zera said in R. Mattenah's name — others state, R. Zera said in Rab's name — :Regarding the wicks and oils which the Sages said, One must not light therewith on the Sabbath, one may light therewith on Hanukkah, either on weekdays or on the Sabbath. Said R. Jeremiah, What is Rab's reason? He holds, If it goes out, it does not require attention, and one may not make use of its light.[1] The Rabbis stated this before Abaye in R. Jeremiah's name, but he did not accept it. [But] when Rabin came,[2] the Rabbis stated it before Abaye in R. Johanan's name, whereupon he accepted it.[3] Had I, he observed, merited the great fortune,[4] I would have learnt this dictum originally. But he learnt it [now]?-The difference is in respect of the studies of one's youth.[5]

Now, if it goes out, does it not require attention? But the following contradicts it: Its observance is from sunset until there is no wayfarer in[6] the street. Does that not mean that if it goes out [within that period] it must be relit?-No: if one has not yet lit, he must light it;[7] or, in respect of the statutory period.[8]

‘Until there is no wayfarer in the street.’ Until when [is that]? — Rabbah b. Bar Hanah said in R. Johanan's name: Until the Palmyreans have departed.[9]

Our Rabbis taught: The precept of Hanukkah [demands] one light for a man and his household;[10] the zealous [kindle] a light for each member [of the household]; and the extremely zealous, — Beth Shammai maintain: On the first day eight lights are lit and thereafter they are gradually reduced;[11] , but Beth Hillel say: On the first day one is lit and thereafter they are progressively increased.[12] ‘Ulla said: In the West [Palestine] two amoraim,[13] R. Jose b. Abin and R. Jose b. Zebida, differ therein: one maintains, The reason of Beth Shammai is that it shall correspond to the days still to come,[14] and that of Beth Hillel is that it shall correspond to the days that are gone; but another maintains: Beth Shammai's reason is that it shall correspond to the bullocks of the Festival;[15] whilst Beth Hillel's reason is that we promote in [matters of] sanctity but do not reduce.

Rabbah b. Bar Hana said: There were two old men[16] in Sidon:[17] one did as Beth Shammai and the other as Beth Hillel: the former gave the reason of his action that it should correspond to the bullocks of the Festival, while the latter stated his reason because we promote in [matters of] sanctity but do not reduce.

Our Rabbis taught: It is incumbent to place the Hanukkah lamp by the door of one's house on the outside;[18] if one dwells in an upper chamber, he places it at the window nearest the street. But in times of danger[19] it is sufficient to place it on the table. Raba said: Another lamp is required for its light to be used;[20] yet if there is a blazing fire it is unnecessary. But in the case of an important person,[21] even if there is a blazing fire another lamp is required.

What is [the reason of] Hanukkah? For our Rabbis taught: On the twenty-fifth of Kislew[22] [commence] the days of Hanukkah, which are eight on which a lamentation for the dead and fasting are forbidden.[23] For when the Greeks entered the Temple, they defiled all the oils therein, and when the Hasmonean dynasty prevailed against and defeated them, they made search and found only one cruse of oil which lay with the seal of the High Priest,[24] but which contained sufficient for one day's lighting only; yet a miracle was wrought therein and they lit [the lamp] therewith for eight days. The following year these [days] were appointed a Festival with [the recital of] Hallel[25] and thanksgiving.[26]

We learnt elsewhere: If a spark which flies from the anvil goes forth and causes damage, he [the smith] is liable. If a camel laden with flax passes through a street, and the flax overflows into a shop, catches fire at the shopkeeper's lamp, and sets the building alight, the camel owner is liable; but if the shopkeeper placed the light outside, the shopkeeper is liable.[27] R. Judah said: In the case of a Hanukkah lamp he is exempt.[28] Rabina said in Rab's name: This proves that the Hanukkah lamp should [in the first instance] be placed within ten.[29] For should you think, above ten, let him say to him, ‘You ought to have placed it higher than a camel and his rider.’ ‘Yet perhaps if he is put to too much trouble, he may refrain from the [observance of the] precept’.[30]

R. Kahana said, R. Nathan b. Minyomi expounded in R. Tanhum's name:

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(1) To show that it was lit in celebration of Hanukkah, not merely for illumination.

(2) V. p. 12, n. 9.

(3) R. Johanan being a greater authority than R. Jeremiah.

(4) The verb denotes both to be fortunate and to merit.

(5) These are more abiding. Abaye felt that he would have had a surer hold upon it had he learned it earlier.

(6) Lit., ‘Until the foot ceases from’.

(7) Anytime within that period.

(8) I.e., the lamp must contain sufficient oil to burn for that period. Nevertheless, if it goes out sooner, it need not be rekindled.

(9) Lit., ‘until the feet of the Tarmodians have ceased’. Tarmod or Tadmor is Palmyra, an oasis of the Syrian desert. They sold lighting materials and went about in the streets later than the general populace as their wares might be needed.

(10) I.e., one light is lit every evening of the eight days (v.infra) for the entire household.

(11) One less each day.

(12) Up to eight.

(13) V. Glos.

(14) I.e., each evening one must kindle as many lights as the number of days of Hanukkah yet to come.

(15) ‘The Festival’, without a determinate, always refers to Tabernacles (Sukkoth). Thirteen bullocks were sacrificed on the first day, twelve on the second, and so on, one less each succeeding day; v, Num. XXIX, 12 seqq.

(16) The Heb. zaken, pl. zekenim, frequently means learned men, without particular reference to age (Kid. 32b), and may connote this here.

(17) On the coast of Phoenicia.

(18) To advertise the miracle. Their houses did not open directly on to the street but into a courtyard, and there the lamp was to be placed (Rashi); v., however, Tosaf, a.l.

(19) When there is religious persecution.

(20) Agreeing with the view supra that the light of the Hanukkah lamp may not be used.

(21) Who is not accustomed to work at the light of a blazing fire.

(22) The ninth month of the Jewish year, corresponding to about December.

(23) This is an extract of the Megillath Ta'anith, lit., ‘the scroll of fasting’.

(24) Hence untouched and undefiled.

(25) ‘Praise’, Ps. CXIII-CXVIII, recited on all Festivals; v. Weiss, Dor, I, p. 108, n. 1.

(26) This lighting took place in 165 B.C.E. Exactly three years before, on the same day, Antiochus Epiphanes had a pagan altar erected in the Temple, upon which sacrifices were offered (I Macc. I, 41-64). Apart from the Talmudic reason stated here, Judas Maccabeus chose 25th of Kislew as the anniversary of the Temple's defilement, and the dedication of the new altar was celebrated with lights for eight days, similarly to the Feast of Tabernacles, which lasted eight days and was celebrated by illuminations (I Macc. IV, 36;II Macc. X, 6; supra a, p. 90, n. 3). Actually the revolt was against the Syrians, of whom Antiochus Epiphanes was king, but the term ‘Greeks’ is used loosely, because the Seleucid Empire was part of the older Empire founded by Alexander the Great of Macedon, and because it was a reaction against the attempted Hellenization of Judea. The historic data are contained in the First Book of the Maccabees.

(27) For the loss of the flax.

(28) Because, as stated above, it should be placed outside; the onus then lies upon the camel driver.

(29) Handbreadths from the ground.

(30) Possibly the lamp may be placed at the outset higher, yet the Rabbis did not wish to make the precept too burdensome.

Talmud - Mas. Shabbath 22a

If a Hanukkah lamp is placed above twenty cubits [from the ground] it is unfit, like sukkah and a cross-beam over [the entrance of] an alley.[1] R. Kahana also said, R. Nathan b. Minyomi expounded in R. Tanhum's name: Why is it written, and the pit was empty, there was no water in it?[2] From the implication of what is said, ‘and the pit was empty’, do I not know that there was no water in it; what then is taught by, ‘there was no water in it’? There was no water, yet there were snakes and scorpions in it.

Rabbah said: The Hanukkah lamp should be placed within the handbreadth nearest the door.[3] And where is it placed?-R. Aha son of Raba said: On the right hand side: R. Samuel[4] of Difti[5] said: On the left hand side.[6] And the law is, on the left, so that the Hanukkah lamp shall be on the left and the mezuzah[7] on the right.

Rab Judah said in R. Assi's name:[8] One must not count money by the Hanukkah light. When I state this before Samuel, he observed to me, Has then the lamp sanctity?[9] R. Joseph demurred: Does blood possess sanctity? For it was taught: he shall pour out [the blood thereof], and cover it [with dust]:[10] wherewith he pours out, he must cover,[11] i.e., he must not cover it with his foot,[12] so that precepts may not appear contemptible to him. So here too[13] it is that precepts may not appear contemptible to him.

R. Joshua b. Levi was asked: Is it permitted to make use of the booth decorations during the whole of the seven days?[14] He answered him [the questioner], Behold! it was said, One must not count money by the Hanukkah light.[15] God of Abraham! exclaimed R. Joseph, he makes that which was taught dependent upon what was not taught: [of] booths it was taught, whereas of Hanukkah it was not. For it was taught: if one roofs it [the booth] in accordance with its requirements, beautifies it with hangings and sheets, and suspends therein nuts, peaches, almonds, pomegranates, grape clusters, garlands of ears of corn, wines, oils and flours; he may not use them until the conclusion of the last day of the Feast; yet if he stipulates concerning then,[16] it is all according to his stipulation. — Rather, said R. Joseph: The basis[17] of all is [the law relating to] blood.[18]

It was stated: Rab said: One must not light from lamp to lamp;[19] but Samuel maintained, You may light from lamp to lamp. Rab said: Fringes[20] may not be detached[21] from one garment for [insertion in] another, but Samuel ruled, Fringes may be detached from garment to garment. Rab said, The halachah is not as R. Simeon in respect to dragging; but Samuel maintained, The halachah is as R. Simeon in respect to dragging. Abaye said: In all matters the Master [Rabbah] acted in accordance with Rab, except in these three, where he did as Samuel: [viz.,] one may light from lamp to lamp; one can detach [the fringes] from one garment for [insertion in] another; and the halachah is as R. Simeon in respect to dragging. For it was taught: R. Simeon said: One may drag a bed, seat, or bench,[22] provided that he does not intend to make a rut.

One of the Rabbis sat before R. Adda b. Ahabah and sat and said: Rab's reason[23] is on account of the cheapening of the precept. Said he to them, Do not heed him: Rab's reason is because he impairs the precept.[24] Wherein do they differ?-They differ where he lights from lamp to lamp:[25] on the view that it is because of the cheapening of the precept, one may light from lamp to lamp;[26] but on the view that it is because he impairs the precept, even from lamp to lamp is forbidden.

R. Awia objected: As to a sela'[27] of

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(1) A sukkah (q.v. Glos.) built higher than twenty cubits, or a cross-beam which permits carrying in a side street (v. p. 30, n. 5 and 'Er. 2a) placed higher than twenty cubits from the ground, is unfit. Similarly a Hanukkah lamp, because it is too high to be noticed and does not advertise the miracle.

(2) Gen. XXXVII, 24.

(3) On the outside, as stated on 21b. But if it is placed further away, there is nothing to show that it was set there by the owner of the house.

(4) In She'eltoth, Wa-yishlah, 26 the reading is R. Jeremiah.

(5) V. p. 35, n. 5.

(6) Both meaning as one enters the house.

(7) V. Glos.

(8) Cur. ed. adds: in Rab's name: Rosh omits it, and it appears to be absent from Rashi's text too.

(9) Surely not.

(10) Lev. XVII, 13. This refers to a beast or a fowl killed for food.

(11) Sc. with this hand.
(12) Kicking the dust over it.
(13) Viz., the Hanukkah lamp.
(14) The booths which were erected for the Feast of Tabernacles (Lev. XXIII, 42) were adorned with fruit suspended from the roofs.
(15) Being dedicated to a religious observance, it must not be put to secular use. The same applies here.
(16) the prohibition is regarded as coming into force at twilight of the first day when they become dedicated to their religious purpose. The stipulation whereby the prohibition is lifted is: ‘I will not hold aloof from them throughout the period of twilight’, so that it does not become dedicated them,
(17) Lit. ‘the father’.
(18) As stated above: things taken for religious purposes must not be treated slightingly.
(19) One Hanukkah lamp must not be lit from another. Or, when a lamp with several branches is used, in accordance with the practice of the ‘most zealous’ (supra 21b; this too is the modern usage), one branch must not be lit from another.
(20) V. Num. XV, 38.
(21) Lit.,’untied’.
(22) Over an earthen floor on the Sabbath.
(23) For ruling that one must not kindle one lamp from another.
(24) It looks like taking light away from one lamp and giving it to another.
(25) Directly, without an intermediary chip.
(26) There is nothing degrading when it directly lights another lamp for the same religious purpose.
(27) V. Glos.

Talmud - Mas. Shabbath 22b

second tithe,[1] one may not weigh by it gold denarii,[2] even to redeem therewith other second tithe. Now, it is well if you say that Rab and Samuel differ [over direct lighting] from lamp to lamp, yet with a chip Samuel admits that it is forbidden: then this is not a refutation.[3] But if you [on Samuel's view] say that it is permitted even with a chip, then this is a refutation?-Rabbah answered: It is a preventive measure, lest he does not find his weights exact and leaves[4] them hullin.[5]

R. Shesheth objected: Without the vail of testimony ... shall [Aaron] order it.[6] does He then require its light: surely, during the entire forty years that the Israelites travelled in the wilderness they travelled only by His light! But it is a testimony to mankind[7] that the Divine Presence rests in Israel. What is the testimony?[8] — Said Rab: That was the western branch [of the candelabrum] in which the same quantity of oil was poured as into the rest, and yet he kindled [the others] from it and ended therewith.[9] Now here, since the branches are immovable, it is impossible other than that he take [a chip] and kindle [it];[10] which is a difficulty both on the view that it is because of the cheapening of the precept and on the view that it is because of the impairing of the precept? — R. Papa reconciled it [thus: it is lit] by long wicks.[11] Yet after all, on the view that it is because of the impairing of precepts there is a difficulty? That is [indeed] a difficulty.

What is our decision thereon? — R. Huna, the son of R. Joshua, said: We consider: if the lighting fulfils the precept, one may light from lamp to lamp:[12] but if the placing [of the lamp] fulfils the precept,[13] one may not light from lamp to lamp.[14] For the scholars propounded: Does the kindling or the placing constitute the precept? — Come and hear: For Raba said, If one was holding the Hanukkah lamp and thus standing, he does nothing:[15] this proves that the placing constitutes the precept! — [No:] There a spectator may think that he is holding it for his own purposes.[16] Come and hear: For Raba said: if one lights it within and then takes it outside, he does nothing. Now, it is well if you say that the kindling constitutes the precept; [for this reason] we require the kindling to be [done] in its proper place,[17] [and] therefore he does nothing. But if you say that the placing constitutes the precept, why has he done nothing? — There too an observer may think that he lit it for his own purposes. Come and hear: For R. Joshua b. Levi said,

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(1) The tenth of the produce which was eaten by its owner in Jerusalem. When the actual produce could not be carried, it was redeemed, and the redemption money assumed the sanctity of second tithe and was expended in Jerusalem, v. Deut. XIV, 22-26.

(2) One sela' = four denarii, and the value depended on the weight.

(3) For the gold denarii are not actually sanctified when they are weighed, though that is their purpose. Thus they are similar to the chip which may not be lit at the Hanukkah lamp because it is secular itself.

(4) Lit., 'withdraws'.

(5) The gold denarii may be deficient in weight and not be declared second tithe after all. Thus he will have used the second tithe sela' purely for a secular purpose.

(6) Lev. XXIV, 3; v. 1-4.

(7) Lit., 'those who enter the world'.

(8) How was this a testimony?

(9) Half a log of oil was poured into each branch, which was estimated to burn through the longest night. Thus by the morning they were extinguished. The following evening the priest cleaned out the old wicks, poured in fresh oil, and relit it: yet this western branch was still burning when he came to clean them out, which was done last of all. This miracle testified to the Divine Presence in Israel. On the western branch of the candelabrum v. Men. 78b.

(10) In order to light the others.

(11) Which reached the other branches.

(12) Just as the kindling of the branches of the candlestick in the Temple from the western branch.

(13) I.e., the prime observance of the Hanukkah lamp is not the kindling thereof but placing it in a conspicuous place.

(14) For the lit lamp or branch is already sanctified, as it were, whilst no complete religious observance is fulfilled by the act of lighting the next, on the present hypothesis.

(15) He does not fulfil the precept.

(16) Whereas the essence of the Hanukkah lamp is to advertise the miracle.

(17) Sc. outside; supra 21b.

Talmud - Mas. Shabbath 23a

With regard to a lantern which was burning the whole day [of the Sabbath],[1] at the conclusion of the Sabbath it is extinguished and then [re-]lit.[2] Now, it is well if you say that the kindling constitutes the precept: then it is correct. But if you say that the placing constitutes the precept, is this [merely] extinguished and [re-]lit: surely it should [have stated], It must be extinguished, lifted up, replaced and then relit? Moreover, since we pronounce a benediction, 'Who sanctified us by His commandments and commanded us to kindle the lamp of Hanukkah,' it proves that the kindling constitutes the precept. This proves it.

And now that we say that the kindling constitutes the precept, if a deaf-mute, idiot, or minor[3] lights it, he does nothing. But a woman may certainly light [it], for R. Joshua b. Levi said: The [precept of the] Hanukkah lamp is obligatory upon women, for they too were concerned in that miracle.[4]

R. Shesheth said: The [precept of the] Hanukkah lamp is incumbent upon a guest.[5] R. Zera said: Originally, when I was at the academy, I shared the cost[6] with mine host;[7] but after I took a wife I said, Now I certainly do not need it, because they kindle [the lamp] on my behalf at my home.[8]

R. Joshua b. Levi said: All oils are fit for the Hanukkah lamp, but olive oil is of the best. Abaye observed: At first the Master [Rabbah] used to seek poppy-seed oil, saying, The light of this is more lasting;[9] but when he heard this [dictum] of R. Joshua b. Levi, he was particular for olive oil, saying, This yields a clearer light. R. Joshua b. Levi also said: All oils are fit[10] for ink, and olive oil is of the best. The scholars propounded: for kneading or for smoking?[11] — Come and hear: For R. Samuel b. Zutra recited: All oils are fit for ink, and olive oil is of the best, both for kneading and for smoking.

R. Samuel b. Zutra recited it thus: All soots are fit for ink: and olive oil is the best. R. Huna said: All gums are good for ink, but balsam gum is the best of all.

R. Hiyya b. Ashi said: He who lights the Hanukkah lamp must pronounce a blessing; while R. Jeremiah said He who sees the Hanukkah lamp must pronounce a blessing. Rab Judah said: On the first day, he who sees must pronounce two, and he who lights must pronounce three blessings;[12] thereafter, he who lights pronounces two, and he who sees pronounces one. What is omitted?[13] — The ‘season’ is omitted.[14] Yet let the ‘miracle’ be omitted?[15] The miracle holds good for every day.[16]

What benediction is uttered?[17] -This: Who sanctified us by His commandments and commanded us to kindle the light of Hanukkah.[18] And where did He command us?[19] -R. Awia said: [It follows] from, thou shalt not turn aside [from the sentence Which they shall shew thee].[20] R. Nehemiah quoted: Ask thy father, and he will shew thee; Thine elders, and they will tell thee.[21]

R. Amram objected: Dem'ai[22] can be employed for an ‘erub[22] and for a joint ownership;[23] a benediction is pronounced over it, and grace in common is recited after it,[24] and it[25] may be separated by a naked person, and at twilight.[26] But if you say that every Rabbinical [precept] requires a benediction, here, when one stands naked, how can he pronounce a benediction: lo! we require, therefore shall thy camp be holy [that he see no unclean thing in thee],[27] which is absent?-Said Abaye, A certain Rabbinical law[28] requires a benediction, whereas a doubtful Rabbinical law does not.[29] But what of the second day of Festivals, which is a Rabbinical [institution] based on doubt,[30] and yet it requires a benediction?[31] -There it [was instituted] in order that it should not be treated slightingly.[32] Raba said: The majority of the ‘amme ha-arez tithe[33] [their produce].[34] R. Huna said: If a courtyard has two doors, it requires two [Hanukkah] lamps. Said Raba, That was said only [if they are situated] at two [different] sides; but [if] on the same side, it is unnecessary. What is the reason?[35] Shall we say, because of suspicion?[36] Whose suspicion? Shall we say, that of strangers:[37] then let it be necessary even on the same side?[38] Whilst if the suspicion of townspeople, then even [if] on two different sides it is still unnecessary?[39] — After all, it is on account of the suspicion of the townspeople, yet perchance they may pass one [door] and not the other, and say, ‘just as it [the lamp] has not been lit at this door, so has it not been lit at the other.’

And whence do you know[40] that we pay regard to suspicions? Because it was taught, R. Simeon said: On account of four considerations the Torah ordered pe'ah[41] to be left at the end of the field:[42] [as a precaution] against the robbing of the poor, against wasting the time of the poor, against suspicion, and against [transgressing], thou shalt not finish off [the corners of thy field].[43] [As a precaution] against the robbing of the poor: lest the owner see a free hour[44] and say to his poor relations, ‘This is pe'ah;’[45]

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(1) Having been lit on the Sabbath eve as a Hanukkah lamp,

(2) As a Hanukkah lamp for the next day.

(3) These three are frequently grouped: their actions have no legal or religious validity.

(4) According to the Talmud Jewish virgins were subjected to the jus primae noctis before the Maccabean revolt (cf. I Macc. I, 26f, which may perhaps refer to this), and were rescued from it by the ‘miracle’, i.e., the successful Maccabean uprising.

(5) Not living in his own house but as a guest or boarder elsewhere.

(6) Lit., ‘the coins’-the cost of the oil for the Hanukkah lamp.

(7) He did not kindle lights for himself but purchased a share in those lit by his host.

(8) He continued to study away from home after marriage.

(9) Rashi: this oil burned slower. Tosaf.’s reading seems to be: this gives a stronger light: on grounds of logic this would appear preferable.

(10) Ink was made of soot and oil or gum, and was a solid cake of pigment which had to be loosened before use. Cf.

supra, Mishnah on 17b.

(11) Is it the best for kneading with soot or for creating the smoke which produces the soot?

(12) V. P.B. p. 274; the spectator omits the first, since he does not kindle the lights. Rashi and Asheri observe that only a spectator who has not yet kindled the lights himself, or who cannot do so, e.g., when he is in a boat, is required to pronounce these benedictions.

(13) After the first day.

(14) ibid. the third blessing: '. . . and has enabled us to reach this season'. This is appropriate for the first evening only.

(15) I.e., the second benediction: ' . . Who wroughtest miracles . . .'

(16) The cruse miraculously burned all the eight days; v. supra 21b.

(17) Lit., 'he blesses'.

(18) Ibid. the first blessing. The literal translation is given here, the passage being in the third person.

(19) This precept is not Biblical, of course.

(20) Deut. XVII, 11.

(21) Ibid. XXXII, 7. Both verses teach that a Rabbinical observance has Biblical sanction, and thus roots subsequent tradition in the Bible itself. Cf. I. Abrahams, Permanent Values of the Talmud, pp. 79ff.

(22) V. Glos,

(23) I.e., to link up a number of side streets in respect of carrying on the Sabbath; v. p. 18, n. 7; it is the same with side streets.

(24) 'Grace in common' is recited when three persons or more dine together; it is then prefaced by one of them saying, 'My masters, let us recite grace;'this man acts as leader. When only two dine together, each recites grace by himself.

(25) The tithe of dem'ai.

(26) Friday evening. The tithe of certain tebel (v. Glos.) may not be separated on the Sabbath, nor at twilight, for it is doubtful whether this belongs to the previous or to the following day. But since dem'ai is only a doubtful tithe, it is permitted as a double doubt; cf. p. 64, n. 7.

(27) Deut. XXIII, 15.

(28) Lit., 'a certain (law) of their words'.

(29) The kindling of light is a definite and certain observance; the tithing of dem'ai, however, is done through doubt.

(30) Scripture ordained Festivals of one day only at the beginning and end (viz., Passover and Tabernacles, v. Lev. XXIII, 7f, 35f) or one day altogether (Pentecost and New Year; ibid. 21, 24). The exact days when these were to be observed depended upon New Moon of the month in which they fell (except Pentecost), which was originally determined by direct observation, not by calculation. By experience it was found that New Moon was always either twenty-nine or thirty days after the previous New Moon, and as soon as it was thus fixed by the Great Court in Jerusalem, envoys were dispatched to inform the communities in time for the Festival. But they could not reach the Jewish communities outside Palestine in time, and therefore they observed two days instead of one. Thus the original reason of the added second day at the beginning and the end was on account of doubt, though it was retained even when the New Moon came to be determined by calculation, which precluded doubt.

(31) Viz. 'sanctification of the Festival', which was done by means of a benediction.

(32) Unless the second day was formally sanctified people would not treat it as holy.

(33) Pl. of 'am ha-arez; v. p. 51, n. 1.

(34) So that dem'ai is less than an ordinary doubt, but merely a Rabbinical stringency; therefore a benediction is not required.

(35) That two lamps are required.

(36) Viz., if a person sees a door without a lamp he may suspect the owner of having neglected it altogether.

(37) Lit., the world'-i.e., a stranger passing through the town may be unaware that a lamp is burning at another door.

(38) For a stranger may think that the courtyard fronts two separate houses.

(39) They know that both belong to the same house.

(40) Lit., 'say'.

(41) V. Glos.

(42) Instead of enacting that a certain portion of the field be left for the poor, its situation to be at the owner's discretion.

(43) Lev. XIX, 9. 'Thou shalt not finish off' implies at the end of the field, where the harvesting is completed.

(44) When no poor are about in the field.

(45) But now the poor will know when the end of the field is likely to be reached.

and against wasting the time of the poor: that the poor should not have to sit and watch out, ‘now the owner will leave pe'ah’; and against suspicion: that passers-by may not say, ‘cursed be the man who has not left pe'ah in his field’; and against [transgressing] thou shalt not finish off: are not all these on account of, ‘thou shalt not finish off’?[1] -Said Raba, [It means, as a precaution] against cheats.[2]

R. Isaac b. Redifah said in R. Huna's name: A lamp with two spouts is credited to two people.[3] Raba said: If one fills a dish with oil and surrounds it with wicks, and places a vessel over it,[4] it is credited to many people; if he does not place a vessel over it, he turns it into a kind of fire,[5] and is not credited even to one.

Raba said: It is obvious to me [that if one must choose between] the house light and the Hanukkah light,[6] the former is preferable, on account [of the importance] of the peace of the home;[7] [between] the house light and [wine for] the Sanctification of the Day,[8] the house light is preferable, on account of the peace of the home. Raba propounded: What [if the choice lies between] the Hanukkah lamp and the Sanctification of the Day: is the latter more important, because it is permanent;[9] or perhaps the Hanukkah lamp is preferable, on account of advertising the miracle? After propounding, he himself solved it: The Hanukkah lamp is preferable, on account of advertising the miracle.

R. Huna said: He who habitually practises [the lighting of] the lamp will possess scholarly sons; he who is observant of [the precept of] mezuzah[10] will merit a beautiful dwelling; he who is observant of fringes[11] will merit a beautiful garment; he who is observant of the Sanctification of the Day will be privileged to fill barrels of wine.[12]

R. Huna was accustomed frequently to pass the door of R. Abin the carpenter.[13] Seeing that he habitually lit many lights, he remarked, Two great men will issue hence. R. Idi b. Abin and R. Hiyya b. Abin issued thence. R. Hisda was accustomed frequently to pass the house of R. Shizbi's father.[14] Seeing that he habitually lit many lights, he remarked, A great man will issue hence. R. Shizbi issued thence.

R. Joseph's wife used to kindle [the Sabbath lights] late.[15] [Thereupon] R. Joseph said to her, It was taught: He took not away the pillar of cloud by day, and the pillar of fire by night:[16] this teaches that the pillar of cloud overlapped[17] the pillar of fire, and the pillar of fire overlapped the pillar of cloud. Thereupon she thought of doing it very early. Said an old man to her: It was taught: Providing that one is not too early[18] or too late.

Raba said: He who loves the Rabbis will have sons who are Rabbis ; he who honours the Rabbis will have Rabbis for sons-in-law; he who stands in awe of the Rabbis will himself be a Rabbinical scholar. But if he is not fit for this, his words will be heeded like those of a Rabbinical scholar.[19]

NOR WITH OIL OF BURNING. What is OIL OF BURNING? Said Rabbah, Oil of terumah which was defiled; and why is it called OIL OF BURNING? Because it stands to be burnt. And why is this forbidden on the Sabbath?-Since it is one's duty to destroy it, we fear lest he tilt [the lamp].[20] Abaye objected: if so, let it be permitted on Festivals.[21] Why did we learn: One must not kindle [the lamp] on Festivals with oil of burning!-Festivals are forbidden on account of the Sabbath.[22] R. Hisda said: We have no fear lest he tilt [it], but here the reference is to a Festival which falls on the eve of the Sabbath, and as for the prohibition, [the reason is] because sacred food[23] must not be burnt on Festivals.[24] But since the second clause[25] states, One must not light on Festivals with oil of burning, it follows that the first clause does not refer to Festivals?-R. Hanina of Sura answered: This [the second clause] states, ‘What is the reason’: what is the reason that one must not light [the lamp] on

Festivals with oil of burning? Because sacred food must not be burnt on Festivals.[26]

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(1) The other three are reasons why the Torah said this.

(2) Who may not leave anything and maintain that they left pe'ah in the middle of the field.

(3) Who each fulfils his obligations, i.e., where only one light is used; supra 21b.

(4) So that the whole looks like a lamp with many spouts.

(5) All the flames merge into one and create one great blaze; it does not look like a lamp at all then.

(6) He cannot afford both. Rashi observes that this refers to the Sabbath.

(7) V. infra 25b.

(8) The Sabbath and the Festivals were sanctified over wine.

(9) Coming every week; by comparison Hanukkah is temporary, coming but once a year.

(10) V. Glos.

(11) V.Num. XV, 38.

(12) I.e., he will be wealthy.

(13) Many of the Rabbis were workers or tradespeople, the office of the Rabbinate being unpaid in most cases.

(14) So translated by Bah.

(15) Just before nightfall.

(16) Ex. XIII, 22.

(17) Lit., ‘completed’.

(18) As it is not evident that it is lit in honour of the Sabbath.

(19) This dictum was possibly a reproof of the hostility sometimes shown towards the Rabbis: cf. Sanh. 99b.

(20) To accelerate it.

(21) Since making a fire on Festivals is permitted.

(22) Lest it be thought that the latter too is permitted.

(23) Which includes terumah.

(24) Even when, being defiled, it is unfit for food.

(25) The Mishnah on 24b.

(26) [The words, ‘one must not light on Festivals with oil of burning’ in the second clause, is another way of stating the rule that holy food must not be burnt on Festivals].

Talmud - Mas. Shabbath 24a

It was taught in accordance with R. Hisda: All those [materials] concerning which the Rabbis ruled, One must not light therewith on Sabbath, may be used for lighting on Festivals, except oil of burning,[1] because sacred food must not be burnt on Festivals.

The scholars propounded: Is Hanukkah to be mentioned in grace after meals? Since it is a Rabbinical [institution], we do not mention it; or perhaps it is mentioned to give publicity to the miracle?-Said Raba in R. Sehora's name in R. Huna's name: It need not be mentioned; yet if one comes to mention it, he does so in the ‘Thanks’ [benediction].[2] R. Huna b. Judah chanced to visit Raba's academy [and] thought to mention it [Hanukkah] in [the benediction] ‘he will rebuild Jerusalem.’[3] Said R. Shesheth to them [the scholars], It is as the Prayer:[4] Just as [it is inserted in] the Prayer in the [benediction of] ‘Thanks,’[5] So [is it inserted in] grace after meals in the [benediction of] ‘Thanks’.[6]

The scholars propounded: Is New Moon to be mentioned in grace after meals? Should you say that it is unnecessary in the case of Hanukkah, which is only Rabbinical, then on New Moon, which is Biblical,[7] it is necessary; or perhaps since the performance of work is not forbidden, it is not mentioned? Rab said: It is mentioned; R. Hanina said: It is not mentioned. R. Zerika said: Hold fast[8] to Rab's [ruling], because R. Oshaia supports him. For R. Oshaia taught: On those days when there is an additional offering,[9] viz., New Moon and the weekdays of Festivals[10] at the Evening, Morning and Afternoon [services] the Eighteen [Benedictions] are recited, and the nature of the occasion is inserted in the ‘Abodah;[11] and if one does not insert it, he is turned back;[12] and there is no Sanctification over wine,[13] and mention thereof is made in grace after meals. On those days when there is no additional offering, viz., Mondays, Thursdays,[14] Fasts,[15] and Ma'amadoth[16] -What business have Mondays and Thursdays [here]?[17] -Rather [say thus:] on the Mondays, Thursdays and the [following] Mondays of Fasts[18] - and of Ma'amadoth[19] — at the Evening, Morning and Afternoon [Services] the Eighteen [Benedictions] are recited, and the nature of the occasion is inserted in ‘Thou hearkenst unto Prayer’;[20] yet if one does not insert it he is not made to repeat it,[21] and no reference is made on these [days] in grace after meals.[22]

The scholars propounded: Should one refer to Hanukkah in the Additional Services?[23] Since there is no Additional Service for [Hanukkah] itself, we do not refer to it; or perhaps it [the Sabbath and New Moon] is a day which requires four services?[24] — R. Huna and Rab Judah both maintain: It is not referred to; R. Nahman and R. Johanan both maintain: It is referred to. Abaye observed to R. Joseph. This [ruling] of R. Huna and Rab Judah is [synonymous with] Rab's. For R. Gidal said in Rab's name: If New Moon falls on the Sabbath, he who reads the Haftarah[25] in the prophetic lesson need not mention New Moon,[26] since but for the Sabbath there is no prophetic lesson on New Moon.[27] How compare! There, there is no prophetic lesson on New Moon at all; whereas here it [the reference to Hanukkah] is found in the Evening, Morning and Afternoon Services. Rather it is similar to the following. Viz., R. Ahadebuy said in the name of R. Mattenah in Rab's name: When a Festival falls on the Sabbath, he who reads the haftarah in the prophetic lesson at the Sabbath Afternoon Service[28] need not mention the Festival, since but for the Sabbath there is no prophetic lesson at the Afternoon Service on Festivals.

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(1) [Although one may light therewith on Sabbaths, one may not do so on Festivals, v. Tosaf a.l.].

(2) The second benediction of grace; so called because it commences with, ‘we give thanks unto Thee’.

(3) The fourth benediction of grace.

(4) The ‘Prayer’ par excellence is the Eighteen Benedictions; v. p. 32, n. 3.

(5) The eighteenth benediction.

(6) The ‘mention’ is an added passage which relates very briefly the story of Hanukkah.

(7) Cf. Num. XXVIII, 11-15.

(8) Lit., ‘in your hand’.

(9) I.e., additional to the daily burnt-offering; v. Num. XXVIII, 1, seq.

(10) The first and seventh days of Passover, and the first and eighth of Tabernacles have the full sanctity of Festivals, and no work, except what is necessary for the preparation of food, is permitted. The intermediate days are of a semi-festive nature, other work too being permitted under certain conditions.

(11) Lit., ‘(sacrificial) service’, the name of the seventeenth Benediction.

(12) To repeat the passage, because these are special occasions instituted in the Bible.

(13) Lit., ‘goblet’. V. p. 102, n. 8.

(14) On these days Reading of the Law forms part of the Service, as on the Sabbath. According to the Talmud (B.K. 82a) this was instituted by Ezra, so that three days should not pass without Torah.

(15) Specially proclaimed for rain (Ta'an. 10a).

(16) Ma'amad, pl. ma'amadoth, lit., posts’: ‘a division of popular representatives deputed to accompany the daily services in the Temple with prayers, and also a corresponding division in the country towns, answering to the divisions of priests and Levites’ (Jast.). Each district sent its representatives on certain days; v. Ta'an. Mishnah 26a.

(17) This is an interjection. Why should I think that special mention must be made? The Reading of the Law is certainly insufficient cause.

(18) In times of drought fasts were held on Monday, Thursday and the following Monday.

(19) On these days four fasts were kept: Tuesday, Wednesday and Thursday; Ta'an ibid.

(20) The name of the sixteenth Benediction.

(21) Because these are not Biblical institutions.

(22) The first clause states that a reference is made on New Moon, in agreement with Rab.

(23) Of the Sabbath and New Moon; these always occur during Hanukkah, which commences on the 25th of the month and lasts eight days.

(24) The three stated above plus the Additional. Hence this Additional Service ranks as the rest, and requires a mention of Hanukkah.

(25) ‘Conclusion’. A passage of the Prophets, with which the Reading of the Law concludes. The passage generally had some bearing upon the portion of the Law, except on special occasions. On the origin and the development of the Haftarah v. J.E. s.v. ‘Haftarah’ and ‘Liturgy’: Elbogen, Der Judische Gottesdienst, 174 seq.

(26) ‘Who sanctifieth the Sabbath and the New Moon’, the conclusion of the last benediction after the haftarah.

(27) This is the same reasoning as that which governs R. Huna's and Rab Judah's view above.

(28) This is not mentioned elsewhere in the Talmud. Rashi quotes a Geonic responsum that a haftarah from the prophets was read in early times, until the practice was forbidden by the Persians. V. Elbogen, op. cit., p. 182.

Talmud - Mas. Shabbath 24b

Yet the law is as none of these rulings, but as R. Joshua b. Levi's dictum: When the Day of Atonement falls on the Sabbath, he who recites the Ne'ilah Service[1] must refer to the Sabbath:[2] it is a day when four services are obligatory.[3] Then one law contradicts another! [First] you say that the law is as R. Joshua b. Levi, whereas it is an established principle that the law is as Raba. For Raba said: On a Festival that falls on the Sabbath, the Reader[4] who descends before the desk[5] at the Evening Service[6] need not make mention of the Festival,[7] since but for the Sabbath the Reader would not descend [before the desk] at the Evening Service on Festivals.[8] -How compare! There, by ritual law it is not required even on the Sabbath,[9] and it was the Rabbis who instituted it on account of danger;[10] but here it is a day when four services are a [statutory] obligation.

NOR WITH TAIL FAT etc. But the SAGES are identical with the first Tanna?[11] -They differ in respect to R. Beruna's dictum in Rab's name,[12] but it is not clearly defined.[13]

MISHNAH. ONE MAY NOT KINDLE [THE SABBATH LAMP] WITH OIL OF BURNING ON FESTIVALS.[14] R. ISHMAEL SAID: ONE MAY NOT LIGHT [IT] WITH ‘ITRAN,[15] FOR THE HONOUR OF THE SABBATH; BUT THE SAGES PERMIT IT WITH All OILS; WITH SESAME OIL, NUT OIL, RADISH OIL, FISH OIL,, GOURD OIL, ITRAN AND NAPHTHA. R. TARFON SAID: ONE MAY LIGHT [IT] WITH OLIVE OIL, ONLY.

GEMARA. What is the reason?-Because sacred [commodities] may not be burnt on Festivals.[16] Whence do we know it?-Said Hezekiah, and the School of Hezekiah taught likewise: And ye shall let nothing of it remain until the morning; but that which remaineth of it until the morning [ye shall burn with fire]:[17] now [the second] until the morning’ need not be stated. What then is the teaching of, until the morning’? Scripture comes to appoint the second morning for its burning.[18] Abaye said: Scripture saith, ‘the burnt-offering of the Sabbath [shall be burnt] on its Sabbath’,[19] but not the burnt-offering of weekdays on the Sabbath, nor the burnt-offering of weekdays on Festivals.[20] Raba said, Scripture saith, [no manner of work shall be done on them, save that which every man must eat,] that only may be done of you:[21] ‘that’, but not its preliminaries;[22] ‘only’, but not circumcision out of its proper time, which might [otherwise] be inferred a minori.[23] R. Ashi said: on the first day shall be a solemn rest [Shabbathon][24]

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(1) The ‘closing service’. Originally this was held daily in the Temple just before the closing of the Temple gates (cf. Ta'an. IV, 1). Outside the Temple a Ne'ilah service was held only on public fast days; sub sequently, however, it was abolished and retained for the Day of Atonement only. Elbogen, pp. 68, 152.

(2) ‘Thou didst sanctify the Sabbath and this Day of Atonement’.

(3) And the same applies to Festivals falling on the Sabbath.

(4) Lit., ‘the congregation messenger or representative’.

(5) In Talmudic times the reading desk in Babylonian synagogues was on a lower level than the rest of the synagogue.

(6) He recites the ‘one benediction embodying the seven’. V. P.B. pp. 119f.

(7) He merely concludes with ‘Who sanctifiest the Sabbath’.
(8) To read the benediction mentioned in n. 5. This runs counter to the view of R. Joshua b. Levi.
(9) The repetition of the Eighteen Benedictions on weekdays and the ‘seven benedictions’ on Sabbaths and Festivals by the Reader was originally instituted on account of the uneducated, who could not pray for themselves. In the Evening Service, however, which in origin was regarded as of a voluntary character (v. Ber. 27b), this repetition was omitted, and the same should apply to the Sabbath too.
(10) The Synagogues were situated outside the town, therefore the Rabbis prolonged the service by the addition of this passage so that latecomers might not be left alone in the synagogue and have to return home by themselves.
(11) V. Mishnah on 20b.
(12) Supra 21a.
(13) Who accepts and who rejects that view.
(14) V. supra 23b.
(15) Jast.: a sort of resin used for lighting in place of oil.
(16) V. supra 23b.
(17) Ex. XII, 10. The reference is to the Passover sacrifice.
(18) i.e., the sixteenth of the month, which was not a Festival, v. p. 105, n. 2. This shows that its burning on the Festival is forbidden.
(19) Num. XXVIII, 10. This is the literal translation of the verse; the E.V. is not so true to the original.
(20) E.g., the animal sacrificed before the Sabbath or a Festival is not to be burnt the following evening. Hence sacrifices and sacred food in general, if unfit, may a minori not be burnt on Festivals.
(21) With reference to festivals. Ex. XII, 16.
(22) E.g., one may roast meat, but not construct an oven or make a spit for the roasting.
(23) A child is circumcised on the Sabbath if it is the eighth day after birth (Lev. XII, 3), but not otherwise. This is deduced from ‘alone’, which is a limitation. But for this one could infer a minori (v. infra 132b) that it is permissible. Thus we learn that when an act need not be done on a particular day, it may not be done on the Sabbath or Festivals, and the same applies to the burning of defiled sacred food.
(24) Lev. XXIII, 39.

Talmud - Mas. Shabbath 25a

is an affirmative precept:[1] thus there is an affirmative and a negative precept in respect of Festivals, and an affirmative precept cannot supersede a negative and an affirmative precept.[2]

Thus it [the burning of defiled terumah] is forbidden only on Festivals, but on weekdays it is well.[3] , What is the reason?Said Rab: Just as it is obligatory to burn defiled sacred food, so t is obligatory to burn defiled terumah, and the Torah said, When it is burnt, you may benefit therefrom. Where did the Torah say thus?-[It follows] from R. Nahman's [dictum]. For R. Nahman said in Rabbah b. Abbuha's name, Scripture saith, And I, behold, I have given thee the charge of mine heave-offerings:[4] the Writ refers to two terumoth,[5] viz., clean and unclean terumah, and the Divine Law said’[I have given] thee’, [meaning], let it be thine for burning it under thy pot. Alternatively, [it follows] from R. Abbahu's [dictum]. For R. Abbahu said in R. Johanan's name: ‘Neither have I put away thereof, being unclean:’[6] ‘thereof’ you may not ‘put away,’[7] but you may ‘put away’ [burn] defiled oil of terumah. Yet [perhaps] say: ‘thereof’ you may not ‘put away’, but you may ‘put away undefiled oil of kodesh[8] which is defiled? — Does it [the reverse] not follow a fortiori: if tithe, which is light,[9] yet the Torah said, neither have I put away thereof, being unclean’; then how much more so kodesh, which is more stringent? If so, in the case of terumah too let us say, does it [the reverse] not follow a afortiori?[10] — Surely thereof’ is written![11] And why do you prefer it thus?[12] — It is logical that I do not exclude kodesh, since it is [stringent] in respect of (Mnemonic: Pa Nak'akas):[13] [i] Piggul, [ii] Nothar, [iii] sacrifice [Korban], [iv] Me'ilah, [v] Kareth, and [vi] ‘it is forbidden [asur] to an onen.[14] On the contrary, terumah is not to be excluded, since [it is stringent] in respect of its (mnemonic Ma HPaz): [i] Death [Mithah], [ii] a fifth [Homesh],

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(1) For it intimates, rest therein.

(2) The negative precept is ‘no manner of work’ etc.; while the affirmative precept to burn what is left over is in Ex. XII, 10, quoted supra. Thus unfit sacred food may not be burnt on Festivals, and the same applies to unclean terumah.

(3) One may benefit from the burning, e.g., by using it as fuel.

(4) Num. XVIII, 8. Heb. terumothai, pl. of terumah with passage.

(5) Since it is in the plural.

(6) Deut. XXVI, 14; v. whole passage. The reference is to the second tithe, and ‘being unclean’ is understood as meaning whether the person or the tithe was unclean.

(7) I.e., by using it as fuel.

(8) V. Glos. E.g., that used in connection with the meal offerings; v. Lev. II, 1.

(9) I.e., its sanctity is less than that of sacrifices.

(10) For its sanctity is higher than that of tithes.

(11) Implying a limitation as stated.

(12) Lit., ‘what (reason) do you see?’- Why exclude terumah by exegesis and include kodesh a fortiori? Perhaps it should be the reverse?

(13) A mnemonic is a word or phrase made up of the initial letters of a number of other words or phrases, as an aid to the memory.

(14) V. Glos. for these words. (i) Piggul, lit., ‘abomination’, is a sacrifice killed with the intention of eating it without the boundaries appointed for same; (ii) nothar, with the intention of eating it after its appointed time. These are the connotations of the words here, though elsewhere piggul has the meaning given here to nothar (Tosaf.). These unlawful intentions render the sacrifice an ‘abomination’, and it may then not be eaten even within its lawful boundaries and time on pain of kareth. (iii) It is designated a sacrifice (,Korban). (iv) If one puts it to secular use he is liable to a trespass-offering (Me'ilah). (v) Kareth is incurred for eating it in an unclean bodily state. Kareth (lit., ‘cutting off’) is the Divine penalty of premature death and childlessness, which is severer than ‘Death at the hand of Heaven’, which does not include childlessness.-Since Kodesh is so strict in all these matters, it is logical that the limitation does not apply to it.

Talmud - Mas. Shabbath 25b

, [iii] it cannot be redeemed [Pidyon], and [iv] it is forbidden to Zarim?[1] The former are more numerous. Alternatively, kodesh is more stringent, since it involves the penalty of kareth. R. Nahman b. Isaac said: Scripture. saith, [The first-fruits of thy corn, of thy wine, and of thine oil ...] shalt thou give to him:[2] to ‘him’, but not for its light;[3] hence it can be used for light [if defiled].[4]

R. ISHMAEL SAID etc. What is the reason?-Rabbah answered, Since it is malodorous, it is feared that he [the occupant of the house] will leave it and go out. Said Abaye to him, Then let him leave it! I maintain, he replied, that the kindling of the lamp on the Sabbath is a duty,[5] for R. Nahman b. R. Zabda-others state, R. Nahman b. Raba-said in Rab's name: The kindling of the lamp for the Sabbath is a duty; the washing of the hands and the feet in warm water on the eve [of the Sabbath] is voluntary. Whilst I maintain that it is a mizwah.[6] How is it a mizwah? For Rab Judah said in Rab's name: This was the practice of R. Judah b. Il'ai: On the eve of the Sabbath a basin filled with hot water was brought to him, and he washed his face, hands, and feet, and he wrapped himself and sat in fringed linen robes,[7] and was like an angel of the Lord of Hosts. But his disciples hid the corners of their garments from him.[8] Said he to them, My sons! Have I not thus taught you: A linen robe, in respect to fringes-Beth Shammai exempt it, while Beth Hillel hold it liable, and the halachah is as Beth Hillel? But they held, It is forbidden on account of a night garment.[9]

And thou hast removed my soul far off from peace; I forgot prosperity.[10] What is the meaning of, ‘and thou hast removed my soul far off from peace’?-R. Abbahu said: This refers to the kindling of the light on the Sabbath.[11] I forgot prosperity;[12] R. Jeremiah said: This refers to the [loss of] baths. R. Johanan said: This means the washing of hands and feet in hot water. R. Isaac Nappaha[13] said: This refers to a beautiful bed and beautiful bedclothes upon it.[14] R. Abba said: This refers to a decked-out bed and an adorned wife for scholars. Our Rabbis taught: Who is wealthy? He who has pleasure in his wealth: this is R. Meir's view. (Mnemonic: Mat Kas).[15] R. Tarfon said: He who possesses a hundred vineyards, a hundred fields and a hundred slaves working in them.[16] R. Akiba said: He who has a wife comely in deeds.[17] R. Jose said: He who has a privy near his table.[18]

It was taught: R. Simeon b. Eleazar said: One may not light [the Sabbath lamp] with balsam. What is the reason?-Rabbah said: Since its smell is fragrant, there is [the need of] a preventive measure, lest one draw supplies from it.[19] Said Abaye to him,

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(1) For Zar, pl. Zarim, v. Glos. (i) If a zar or an unclean priest eats terumah, he is liable to Death at the hand of heaven; (ii) if a zar eats it unwittingly, he must restore it and add a fifth; (iii) under no circumstances can terumah be redeemed and converted to hullin, whereas kodesh can be redeemed if it is blemished; and finally (iv), it is always forbidden to zarim. But certain sacrifices (kodesh) are permitted to zarim after the sprinkling of the blood, e.g., the thanksgiving and the peace-offerings.

(2) Deut. XVIII, 4.

(3) I.e., the priest must be able to use it himself, and not have to burn it for its heat or light. Hence defiled corn, etc., which may not be eaten as terumah, may not be separated as terumah for undefiled corn.

(4) For otherwise, why exclude it?

(5) I.e., the lamp must be lit where the evening repast is consumed. If the person leaves it and dines elsewhere he does not fulfil his obligation.

(6) Mizwah denotes either a definite precept or something which while not actually commanded is meritorious. The latter is meant here.

(7) The fringes were of wool. This constitutes a forbidden mixture (v. Deut. XXII, 11), and it is disputed by Tannaim whether this should be done.

(8) Because they were not provided with fringes, V. next note.

(9) A garment worn only at night is not subject to fringes; consequently, this forbidden mixture (v. n. 3) is then forbidden, since there is no precept of fringes to supersede it. The disciple held that Beth Hillel's ruling was Scriptural only; nevertheless it is forbidden by Rabbinical law, to avoid confusing night attire with day attire.

(10) Lam. III, 17.

(11) Jeremiah laments that they could not even afford this; loss of light brings loss of peace.

(12) Lit., ‘good’.

(13) Or, the smith; v. p. 102, n. 13.

(14) Or, a beautiful couch and its appointments.

(15) V. p. 110, n. 1. R. Meir, R. Tarfon, R. AKiba, and R. Jose.

(16) The most famous dictum on wealth is in Ab. IV, 1: Who is wealthy? He who rejoices in his portion. Nevertheless, other Rabbis took a more material view of wealth, as here. Maharsha suggests that R. Tarfon intentionally states his case in an exaggerated form, to intimate that one who seeks wealth can never really attain it, unless he is satisfied with what he possesses. On that view R. Tarfon's statement really agrees with that in Aboth. Actually R. Tarfon was very wealthy, and Judaism is not opposed to wealth in principle. ‘Despise not riches. Honour the wealthy if they are benevolent and modest. But remember that the true riches is contentment’. — Sefer Ma'aloth Hammidoth, quoted by M. Joseph in Judaism as Creed and Life, p. 388.

(17) He spoke from personal experience: his wife stood out as a model of fidelity and trust, and it was she alone who enabled and encouraged him to attain his high position (Ned. 50a).

(18) In a time when sanitary arrangements were very primitive and privies were situated in fields, this would be a sign of wealth, V. T.A. I, 48.

(19) Which is forbidden; v. Bez. 22a.

Talmud - Mas. Shabbath 26a

Let the Master say, because it is volatile?[1] — He states, one thing and yet another.’ One thing, because it is volatile; and yet another, as a preventive measure, lest he draw supplies from it.

A certain mother-in-law hated her daughter-in-law. Said she to her, ‘Go and adorn yourself with balsam oil.’[2] She went and adorned herself. On her return she said to her, ‘Go and light the lamp.’ She went and lit the lamp: a spark flew out on her and consumed her.

But Nebuzaradan the captain of the guard left of the poorest of the land to be vinedressers [kormim] and husbandmen [yogbim].[3] ‘Kornim:’ R. Joseph learnt: This means balsamum gatherers from the En Gedi to Ramah. Yogbim: These are those which catch hilazon[4] from the promontory of Tyre as far as Haifa.[5]

Our Rabbis taught: One must not feed a lamp with unclean tebel[6] on weekdays, and all the more so on the Sabbath. Similarly, one must not light [a lamp] with white naphtha on weekdays, and all the more so on the Sabbath. As for white naphtha, that is well, [the reason being] because it is volatile. But what is the reason of unclean tebel?-Scripture saith, And I, behold, I have given thee the charge of mine heave-offerings [terumothai]:[7] the Writ refers to two terumoth, clean and unclean terumah:[8] just as you enjoy nought of clean terumah save from its separation and onwards,[9] So also unclean terumah, you may enjoy nought thereof save from its separation and onwards.[10]

[To turn to] the main text: R. Simeon b. Eleazar said: One may not kindle [the Sabbath lamp] with balsam. And thus did R. Simeon b. Eleazar say: Balsam [zari] is merely the sap of resinous trees. R. Ishmael said: All that proceeds from trees, one may not light. R. Ishmael b. Berokah said: One may light only with the produce of fruit.[11] R. Tarfon said: One may light [the Sabbath lamp] with nought but olive oil. Thereupon R. Johanan b. Nuri rose to his feet and exclaimed, What shall the Babylonians do, who have only sesame oil? And what shall the Medeans do, who have only nut oil? And what shall the Alexandrians do, who have only radish oil? And what shall the people of Cappadocia[12] do, who have neither the one nor the other, save naphtha? But you have nought else but that concerning which the Sages said, One may not kindle [therewith].[13] And one may kindle with fish oil and ‘itran.[14] R. Simeon Shezuri[15] said: One may kindle with oil of gourds and with naphtha. Symmachos said: All that which comes from flesh, we may not kindle therewith, except fish oil. But Symmachos is identical with the earlier Tanna?[16] -They differ in respect to R. Beruna's dictum in Rab's name,[17] but it is not clearly defined.[18]

It was taught, R. Simeon b. Eleazar said: Whatever comes forth from trees is not subject to the law of three by three fingerbreadths,[19] and one may cover [a booth] therewith,[20] except flax.[21] Abaye observed,

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(1) Explosive and dangerous.

(2) Anointing with oil is and was a common practice in the hot eastern countries; Krauss, T.A. I, 229 and 233.

(3) Jer. LII, 16.

(4) Purple-fish, used for dyeing tekeleth, a peculiar kind of blue.

(5) יוגבים is derived from גוב ‘to split’, with reference to the splitting of the mollusc in order to extract the dye; v. infra 76a.

(6) V. Glos.

(7) Num. XVIII, 8.

(8) V. supra 25a.

(9) Clean terumah is used for human consumption, and before it is actually separated it is forbidden, even to the priest, i.e., he may not enjoy the produce in which it is contained.

(10) Unclean terumah can be used only as fuel, and the analogy shows that this is permitted only when it is actually separated, but not while it is yet tebel.

(11) Excluding fish and mineral oil, and oil tapped direct from the tree.

(12) A district of Asia Minor.

(13) You cannot add to the list of forbidden oils enumerated on 20b.

(14) A sort of resin.

(15) Of Shezor, supposed to be Sheghor, near Kefar Anan in Galilee, v. Neub., Geogr., p. 278.

(16) Sc. R. Johanan b. Nuri.

(17) V. supra 11a. One holds that tallow, being flesh, may not be used at all, even if mixed with oil, thus rejecting the view expressed there, and the other maintains that the mixture is permitted.

(18) Who accepts R. Beruna's dictum and who rejects it.

(19) A piece of cloth three fingerbreadths square (or more) is liable to become unclean. R. Simeon b. Eleazar excepts the produce of trees, e.g., cotton cloth.

(20) The booth (sukkah), in which one must dwell during the Feast of Tabernacles (Lev. XXIII, 42), must be covered with a material that is not liable to defilement (Suk. 12.b); hence the produce of trees is fit for this purpose.

(21) Even if not made up into a garment and as yet merely spun (v. infra 27b). Though not liable to defilement by reptiles it is subject to the uncleanness of leprosy.

Talmud - Mas. Shabbath 26b

R. Simeon b. Eleazar and the Tanna of the School of R. Ishmael[1] said the same thing. R. Simeon b. Eleazar, as stated. The Tanna of the School of R. Ishmael: what is that? For the School of R. Ishmael taught: Since garments are mentioned in the Torah unspecified, while the Writ specified wool and flax in the case of one of them: [then] just as there, wool and flax [are specified], so all [garments] are of wool and flax.[2] Raba said: They differ in respect to three [handbreadths] by three in other clothes [not wool or linen]: R. Simeon b. Eleazar accepts [their liability to defilement],[3] whilst the Tanna of the School of R. Ishmael rejects it.[4]

Now all at least agree that an area of three [fingerbreadths] of wool or linen is subject to the defilement of leprosy. How do we know it? Because it was taught, A garment:[5] I know it only of a [complete] garment; whence do I learn it of [cloth] three [fingerbreadths] square? From the verse, and the garment.[6] Yet say that it is to include three [handbreadths] square?[7] -Does that not follow a minori: if a warp and a woof become unclean,[8] is there a question of three [handbreadths] square?[9] If so, if it is three [fingerbreadths] square, let it also be deduced a minori?[10] — Rather, [this is the reply]: three [handbreadths] square, which is of use[11] both to the wealthy and to the poor, can be deduced a minori[12] three [fingerbreadths] square, which is of use to the poor only, but not to the rich,[13] cannot be learnt a minori: hence it is only because Scripture wrote it; but had Scripture not written it, we could not deduce it a minori.

Yet say [that its purpose is] to include three [handbreadths] square of other materials?[14] -Scripture saith, a woollen garment, or a linen garment:[15] only a woollen or a linen garment, but not anything else. Yet say, when it is excluded it is from [the defilement of] three [fingerbreadths] square, but three [handbreadths] square can become unclean?-Two limitations are written: ‘a woollen garment or a linen garment’,[16] [hence] one is to exclude [them] from [the defilement of] three [fingerbreadths] square, and the other to exclude them from [the defilement of] three [handbreadths] square.

Now, according to Raba, who said, They differ in respect of three [handbreadths] by three in other cloths, R. Simeon b. Eleazar accepting [their liability to defilement], whilst the Tanna of the School of R. Ishmael rejects it,-how does he [R. Simeon b. Eleazar] know [the defilement of] three [handbreadths] square of other materials?

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(1) No particular Tanna is meant, but the collective view of that School.

(2) E.g., the uncleanness of garments caused by the carcases of forbidden animals (Lev. II, 25) or reptiles (v. 32): there the garments are unspecified. On the other hand, with respect to leprosy in garments wool and flax are specified: The garment also that the plague of leprosy is in, whether it be a woollen garment, or a linen garment.-Lev. XIII, 47.

(3) In his statement he employs the word shalosh, feminine, which must refer to fingerbreadths (ezba'oth, fem.). Hence they are not subject to the stricter law that even when only three fingerbreadths square they shall be liable to defilement. Whence it follows that they are subject to the next standard of liability, viz., three handbreadths (sheloshah, masc.

agreeing with tefahim, handbreadths); v. infra.

(4) For he simply rules that wherever ‘garments’ is stated it means wool or flax.

(5) Lev. XIII, 47: referring to leprosy.

(6) We-habeged, E.V. The garment also, ‘And’ is regarded as an extension.

(7) But not the smaller standard.-Shalosh refers to ezba'oth, fingerbreadths; sheloshah to tefahim, handbreadths; v. n. 1.

(8) Lev. ibid.

(9) No extension is needed for that.

(10) Since cloth containing a warp and a woof can be less.

(11) Lit., ‘fit’.

(12) For it is then nearer to an actual garment.

(13) A rich man would not trouble to save it for some possible service-hence it is further removed from ‘garment’.

(14) Lit., ‘garments’.

(15) Lev. XIII, 48; these are also specified in v. 47.

(16) V. P. 115, n. 13.

Talmud - Mas. Shabbath 27a

— He deduces it from, or raiment.[1] For it was taught:[2] ‘raiment’: I only know [it] of raiment,[3] how do I know [it of] three [handbreadths] square of other materials?[4] Therefore it is stated, ‘or raiment.’ And Abaye? how does he employ this or raiment!-He utilizes it to include three [fingerbreadths] square of wool or linen, that it becomes unclean through creeping things.[5] And Raba?[6] -The Merciful One revealed this in reference to leprosy,[7] and the same holds good of reptiles. And Abaye?[8] — It [the analogy] may be refuted: as for leprosy, [the reason is] because the warp and the woof [of wool or linen] become defiled n their case.[9] And the other?[10] -Should you think that leprosy is stricter, let the Divine Law write [it][11] with reference to reptiles,[12] and leprosy would be learnt from them. And the other?-Leprosy could not be derived from reptiles, because it may be refuted: as for reptiles, [the reason is] because they defile by the size of a lentil.[13] Abaye said: This Tanna of the School of R. Ishmael rebuts another Tanna of the School of R. Ishmael. For the School of R. Ishmael taught: ‘A garment’: I know it only of a woollen or a linen garment: whence do I know to include camel hair[14] , rabbit wool, goat hair,[15] silk, kallak,[16] and seritim?[16] From the verse, or raiment’. Raba said: When does this Tanna of the School of R. Ishmael reject [the defilement of] other materials? [Only in respect of] three [fingerbreadths] square; but [if it is] three [handbreadths] square, be accepts it. But it was Raba who said that in respect of three [handbreadths] by three in other clothes, R. Simeon b. Eleazar accepts [their liability to defilement], while the Tanna of the School of R. Ishmael rejects it?-Raba retracted from that [view]. Alternatively, this latter [statement] was made by R. Papa.[17]

R. Papa said: ‘So all [are of wool or flax],[18] is to include kil'ayim.[19] But of kil'ayim it is explicitly stated, Thou shalt not wear a mingled stuff, wool and linen together?[20] -I might argue, That is only in the manner of wearing,[21] but to place it over oneself[22] any two materials [mingled] are forbidden. Now, does that not follow a fortiori’: if of wearing, though the whole body derives benefit from kil'ayim,[23] you say, wool and linen alone [are forbidden] but nothing else; how much more so wrapping oneself! Hence this [dictum] of R. Papa is a fiction.[24] R. Nahman b. Isaac said: ‘So all etc.’

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(1) Lev. XI, 32, q.v. ‘Or’-(Heb. או is an extension.

(2) This phrase always introduces a Baraitha, which contains the teaching of a Tanna. Since it is controverted by Abaye (v. text), Rashi deletes ‘for it was taught’, for it is axiomatic that an amora (Abaye was such) cannot disagree with a Tanna, and assumes that it is a continuation of Raba's statement. Tosaf. defends it, and the style too is that of a Baraitha.

(3) Sc. that a garment is subject to defilement.

(4) Not wool or linen.

(5) ‘Or raiment’ is in a passage referring to these.

(6) How does he know that?

(7) V. supra 26b.

(8) Does he not admit this?
(9) I.e., the thread itself, whether warp or woof, is liable to defilement. But Scripture does not state this in reference to reptiles, and so the deduction of three fingerbreadths square may not apply to it either.
(10) Raba: how does he dispose of this refutation?
(11) The extension of ‘and the garment’ supra 26b.
(12) Instead of leprosy.
(13) A piece the size of a lentil is sufficient to defile, whereas the smallest leprous eruption to defile is the size of a bean, which is larger than a lentil.
(14) Lit., ‘wool of camels’.
(15) I.e., stuffs made of these.
(16) V. supra p. 86, n. 6.
(17) Raba's successor; of many dicta it was not known whether they were his or Raba's; Tosaf. infra b. s.v. רב פפא
(18) In the first citation of the Tanna of the School of R. Ishmael, supra 26b.
(19) V. Glos. I.e., only a mixture of wool or flax is forbidden, but no other. Accordingly it does not relate to defilement at all, and does not contradict the other teaching of the School of R. Ishmael. — Rashi reads at the beginning of this passage, For R. Papa said, since this dictum of R. Papa explains why in his opinion the two are not contradictory.
(20) Deut. XXII, 11.
(21) Then a mixture of wool and linen alone is forbidden.
(22) E.g., as a covering or wrap.
(23) When one wears a garment it comes into closer contact with the separate limbs of the body, affording them protection and warmth, than when he merely covers or wraps himself in a robe.
(24) Incorrect.

Talmud - Mas. Shabbath 27b

is to include fringes.[1] [But] of fringes it is explicitly stated, ‘Thou shalt not wear a mingled stuff, wool and linen together’; and then it is written, Thou shalt make thee fringes?[2] , I might argue, it is as Raba. For Raba opposed [two verses]: it is written, [and that they put upon the fringe of] each border,[3] [which indicates] of the same kind of [material as the] border; but it is also written, ‘[Thou shalt not wear a mingled stuff,] wool and linen together’?[4] How is this [to be reconciled]? Wool and linen fulfil [the precept][5] both in their own kind and not in their own kind;[6] other kinds [of materials] discharge [the obligation] in their own kind, but not in a different kind. [Thus,] you might argue, it is as Raba:[7] therefore we are informed [otherwise].[8]

R. Aha son of Raba asked R. Ashi: According to the Tanna of the School of R. Ishmael, why is uncleanness different that we include other garments? Because ‘or raiment’ is written! Then here too[9] let us say that other garments are included from [the verse] wherewith thou coverest thyself?[10] — That comes to include a blind person's garment. For it was taught: That ye may look upon it:[11] this excludes a night garment. You say, this excludes a night garment; yet perhaps it is not so, but rather it excludes a blind man's garment? When it is said, ‘wherewith thou coverest thyself’, lo! a blind man's garment is stated. How then do I interpret[12] that ye may look upon it’? As excluding a night garment. And what [reason] do you see to include a blind man's [garment], and to exclude a night garment? I include a blind man's garment, which can be seen by others,[13] while I exclude night garments, which are not seen by others. Yet say [rather] that it[14] is to include other garments?[15] It is logical that when one treats of wool and linen he includes [a particular garment of] wool and linen; but when one treats of wool and linen, shall he include other garments?[16]

Abaye said: R. Simeon b. Eleazar and Symmachos said the same thing. R. Simeon b. Eleazar, as stated.[17] Symmachos, for it was taught: Symmachos said: If one covers it [the booth] with spun [flax], it is unfit, because it may be defiled by leprosy. With whom [does that agree]? With this Tanna. For we learnt: The warp and the woof are defiled by leprosy immediately:[18] this is R. Meir's ruling. But R. Judah maintained: The warp, when it is removed;[19] the wool, immediately; and bundles of [wet] flax,[20] after bleaching.[21]

MISHNAH. WHATEVER COMES FORTH FROM A TREE [‘EZ] YOU MAY NOT LIGHT [THE SABBATH LAMP] THEREWITH,[22] SAVE FLAX; AND WHATEVER COMES FORTH FROM A TREE CANNOT BE DEFILED WITH THE UNCLEANNESS OF TENTS,[23] EXCEPT LINEN.[24] GEMARA. How do we know that flax is designated tree [‘ez]?Said Mar Zutra, Because Scripture saith, But she had brought them up to the roof, and hid them with the stalks [‘ez] of the flax.[25]

AND WHATEVER COMES FORTH FROM A TREE CANNOT BE DEFILED WITH THE UNCLEANNESS OF TENTS, EXCEPT LINEN. How do we know it?-Said R. Eleazar, The meaning of tent [ohel] is learnt

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(1) Num. XV, 38; i.e., only wool and linen garments are liable thereto.

(2) And the juxtaposition shows that they are required only in garments of wool or linen. It may be observed that the Talmud regards the deduction from this juxtaposition as an explicit statement, and not merely as something derived by exegesis.

(3) Num. ibid. ‘Border’ is superfluous, since the first half of the verse reads, and bid them that they make them fringes in the borders of their garments. Hence it is thus interpreted.

(4) Since this is immediately followed by the precept of fringes, we translate: though a mixture of wool and linen are forbidden, yet ‘thou shalt make thee fringes’, i.e., wool fringes are permitted in a linen garment and vice versa, which contradicts the implication of the other verse.

(5) Lit., ‘acquit’ (the garment of its obligation).

(6) Whatever the material, wool or linen fringes may be inserted.

(7) That the juxtaposition illumines the nature of the fringes, but does not teach that the garment itself must be of wool or linen. For in fact, according to Raba, there is an obligation whatever the material.

(8) V. Yeb., Sonc. ed., p. 15 notes.

(9) In reference to fringes.

(10) Ibid. This too is superfluous and indicates extension.

(11) Sc. the fringed garment. — Num. XV, 39.

(12) Lit., ‘fulfil’.

(13) Lit., ‘which is subject to looking in respect to others’.

(14) Sc. ‘wherewith thou coverest thyself’.

(15) Not of wool or linen.

(16) Surely not.

(17) Supra, 26a bottom, and note a.l.

(18) After spinning, though given no further treatment.

(19) From the kettle in which it is boiled. Maim. Neg. XI, 8 appears to read: when it has been boiled.

(20) Jast. Rashi: unspun flax; Tosaf.: spun flax.

(21) Thus Symmachos, who rules that it is liable to leprous defilement immediately it is spun (this being the reason that it may not be used as a covering of the booth, v. p. 114, n. 8.), agrees with R. Meir.

(22) Using it as a wick.

(23) If a tent or awning of such material overshadows a dead body, it does not become unclean, just as the roof of a house which contains a dead body is not unclean, though all utensils under the same roof or covering are defiled.

(24) If the tent is of linen, that itself is defiled.

(25) Josh. II, 6.

Talmud - Mas. Shabbath 28a

from the Tabernacle. Here it is written, This is the law when a man dieth in a tent [ohel];[1] and there it is written, and he spread the tent [ohel] over the Tabernacle:[2] just as there [the covering] of linen is designated tent, so here too, [a covering] of linen is designated tent.[3] If so, just as there it was twisted and the thread was doubled sixfold,[4] so here too it must be twisted and its thread doubled sixfold?[5] - The repetition of tent[6] is an extension.[7] If the repetition of tent is an extension, then everything else[8] too should be included? — If so, what avails the gezerah shawah?[9] Yet [perhaps] say, just as there [the Tabernacle was of] boards, so here too [a tent of] boards [is meant]?-Scripture saith, And thou shalt make boards for the tabernacle:[10] the tabernacle[11] is called tabernacle, but the boards are not designated tabernacle. If so, [when it is stated,] and thou shalt make a covering[12] for the tent [ohel],[13] is the covering indeed not designated tent [ohel]? But when R. Eleazar propounded: Can the skin of an unclean animal[14] be defiled by overshadowing[15] the dead?-[What doubt was there] seeing that the skin of a clean animal cannot be defiled,[16] is there a question of the skin of an unclean animal[7] — There it is different, because Scripture restored it,[17] as it is written, they shall bear the curtains of the tabernacle, and the tent of meeting, its covering and the covering of sealskin that is above it:[18] thus the upper [covering][19] is assimilated to the lower:[20] just as the lower is designated tent,[21] so is the upper designated tent.

[To revert to] the main text: ‘R. Eleazar propounded: Can the skin[22] of an unclean animal be defiled with the defilement of tents?’[23] What is his problem?[24] -Said R. Adda b. Ahabah: His question relates to the tahash which was in the days of Moses,[25] -was it unclean or clean? R. Joseph observed, What question is this to him? We learnt it! For the sacred work none but the skin of a clean animal was declared fit.

R. Abba objected: R. Judah said: There were two coverings, one of dyed rams’ skins, and one of tahash skins. R. Nehemiah said: There was one covering[26] and it was like a squirrel[‘s].[27] But the squirrel is unclean!-This is its meaning: like a squirrel[‘s], which has many colours, yet not [actually] the squirrel, for that is unclean, whilst here a clean [animal is meant]. Said R. Joseph: That being so, that is why we translate it sasgawna [meaning] that it rejoices in many colours.[28]

Raba said: That the skin of an unclean animal is defiled by overshadowing[29] the dead [is inferred] from the following. For it was taught: [Scripture could state] skin; [by stating or in] skin[30] it extends [the law to] the skin of an unclean animal and to one which was smitten [with leprosy] in the priests hand.[31] If one cuts off [pieces] of all these[32] and makes one [piece] out of them, how do we know [it]?[33] From the verse, ‘or in any thing [meleketh] made of skin’.[34] But this [Raba's statement] can be refuted: as for leprosy, [the reason[35] is] because the warp and the wool is defiled in their case?[36] Rather it is learnt from leprosy. For it was taught: Skin:[37] I know it only of the skin of a clean animal; how do I know it of the skin of an unclean animal? Therefore it is stated, or skin.[38] But this may be refuted: as for reptiles, [the reason is] they defile by the size of a lentil.[39] Let leprosy prove it.[40] And thus the argument revolves: the characteristic of one is not that of the other, and vice versa: the feature common to both is that skin is unclean in their case, and the skin of an unclean animal was assimilated to that of a clean animal: so also do I adduce the tent of the dead, that skin is unclean in its case,[41] and the skin of an unclean animal is assimilated to that of a clean animal.

Raba of Barnesh[42] observed to R. Ashi: But this can be refuted: as for the feature common to both, it is that they defile others in less than the size of an olive:[43] will you say [the same] of the dead, which defiles only by the size of an olive? Rather, said Raba of Barnesh,

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(1) Num. XIX, 14.

(2) Ex. XL,19.

(3) The only covering of vegetable growth of the Tabernacle was linen.

(4) Deduced in Yoma 71b.

(5) Otherwise it should not be defiled.

(6) Lit., ‘tent, tent’: ‘tent’ is mentioned three times in Num. XIX, 14 in reference to defilement.

(7) Extending the law to a linen tent even if not made in the same way as the covering of the tabernacle.

(8) Any other material.

(9) V. Glos.

(10) Ex. XXVI, 15.

(11) E.g., the ten curtains on the roof curtains thereof, ibid 1.

(12) Of animal skins.

(13) ibid. 14.

(14) I.e., which is not fit for food.

(15) Lit., 'by the uncleanness of tents'.

(16) On the present hypothesis that the covering, which included ramskins (Ex. XXVI, 14; the ram is a clean animal), is not a tent, hence excluded from Num. XIX, 14. (18) For this is less likely to suffer such defilement, as is shown below, where a superfluous word is necessary to include it, and also in the Sifra, Thazria'.

(17) To be included in the term 'tent' (ohel).

(18) Num. IV 25.

(19) The covering of animal skins.

(20) Viz., the eleven curtains of goats' hair, v. Ex. XVI, 7.

(21) The 'tent of meeting' is understood to refer not to the Tabernacle as a whole but to these curtains.

(22) It is so designated in verse 7.

(23) The wording is not exactly as above, but the sense is.

(24) How can he think that it is subject to such defilement, seeing that he learns the definition of 'tent' from the Tabernacle (supra 27b bottom), where the skins of clean animals alone were used?

(25) A.V. badger; R.V. seal, Levy, Worterbuch: marter, others: badges, sea-dog, seal, cf. Lewysohn, Zool. d. Tal. I, 95f. Tahash skins formed one of the coverings of the Tabernacle; verse quoted supra et passim.

(26) Consisting half of rams' skin and half of tahash skins.-I.e., apart from the coverings of linen, etc. and of goats' hair.

(27) Jast., lit.,'hanging on the tree'. It is doubtful, however, whether a squirrel is meant, as the context shows that a striped (or speckled) animal of many colours is referred to.

(28) Sas, it rejoices, be-gawwanim, in colours. R. Joseph was an expert in the Targumim (Aramaic translations of the Bible), and given to quoting them.

(29) Lit., 'by the tent of a dead'.

(30) Lev. XIII, 48.

(31) In Heb. ב is an extension (Rashi). Even if the skin was not leprous when the priest was sent for, but became affected whilst he was examining it (or after), it is unclean. By analogy, the skin of an unclean animal too is defiled by overshadowing the dead.

(32) Materials mentioned in the verse, q.v.

(33) That it is liable to defilement.

(34) Meleketh, melakah, work, suggests a manufactured article, and is therefore applied to a combination Of materials.

(35) Sc. the defilement of the skin of an unclean animal.

(36) Which is not the case with corpse defilement, v. infra 64a.

(37) Ibid. XI, 32. This refers to the materials liable to defilement by reptiles.

(38) Or is an extension. By analogy the same applies to the defilement of the dead.

(39) V. p. 116, n. 14. But the minimum portion of a human corpse is the size of an olive, which is larger than a lentil. Since the defilement of reptiles is stricter in that respect, it may also be stricter in respect of the skin of an unclean animal.

(40) The minimum for leprosy is the size of a bean.

(41) I.e., if it forms a tent,

(42) In Babylon on the canal of the same name, near the town of Mehasia, and some three parasangs from a synagogue named after Daniel; Obermeyer, Landschaft, p. 302.

(43) A bean too is less.

Talmud - Mas. Shabbath 28b

it is inferred a minori from goats' hair, which is not defiled by leprosy, yet is defiled by overshadowing the dead; then the skin of an unclean animal, which is defiled by leprosy, is surely defiled by overshadowing the dead.

Then when R. Joseph recited, ‘For the sacred work none but the skin of a clean animal was considered fit,’ for what practical law [did he say it]?[1] -In respect of phylacteries.[2] Of phylacteries it is explicitly stated, that the law of the Lord may be in thy mouth,[3] [meaning] of that which is permitted in thy mouth?[4] Rather in respect of their hide.[5] But Abaye said, The skin of phylacteries is a law of Moses from Sinai?[6] — Rather, it is in respect of tying it with hair and sewing it with its tendons.[7] But that is a law of Moses from Sinai. For it was taught: Rectangular phylacteries[8] are a law of Moses from Sinal: they must be tied with their hair and sewn with their tendons.[9] — Rather it is in respect of their straps.[10] But R. Isaac said, Black straps are a law of Moses from Sinai? Granted that black is traditional, is clean traditional?[11]

What is our conclusion with respect to the tahash which existed in Moses’ days? — Said R. Elai in the name of R. Simeon b. Lakish, R. Meir used to maintain, The tahash of Moses’ day was a separate species, and the Sages could not decide whether it belonged to the genus of wild beasts or to the genus of domestic animals; and it bad one horn in its forehead, and it came to Moses’ hand [providentially] just for the occasion,[12] and he made the [covering of the] Tabernacle, and then it was hidden. Now, since he says that it had one horn in its forehead, it follows that it was clean. For R. Judah said, The ox which Adam the first [man] sacrificed had one horn in its forehead, for it is said, and it shall please the Lord better than an ox, or a bullock that hath a horn [sic] and hoofs.[13] But makrin[14] implies two?-Said R. Nahman b. Isaac: Mi-keren[15] is written.[16] Then let us solve thence that it was a genus of domestic animal?[17] — Since there is the keresh,[18] which is a species of beast, and it has only one horn, one can say that it [the tahash] is a kind of wild beast.

MISHNAH. A WICK [MADE] OF A CLOTH WHICH WAS TWISTED BUT NOT SINGED,-R. ELIEZER SAID: IT IS UNCLEAN, AND ONE MAY NOT LIGHT [THE SABBATH LAMP] THEREWITH; R. AKIBA MAINTAINED: IT IS CLEAN, AND ONE MAY LIGHT THEREWITH."

GEMARA. As for the matter of uncleanness, it is well, [for] they differ in this: R. Eliezer holds that twisting is of no effect, and it remains in its previous condition;[19] while R. Akiba holds that twisting is effective, and it [its previous condition] is indeed annulled. But with reference to lighting, wherein do they differ? — R. Eleazar said in R. Oshaia's name, and R. Adda b. Ahabah said likewise: The reference here is to [a rag] exactly three [fingerbreadths] square;[20] and also to a Festival falling on the eve of the Sabbath. Now, all agree with R. Judah, who maintained, One may fire [an oven, etc.,] with [whole] utensils, but not with broken utensils.[21] Further, all agree with ‘Ulla's dictum, viz.: He who lights must light the greater part [of the wick] which protrudes. R. Eliezer holds that twisting is of no avail, and immediately one kindles it slightly it becomes a broken utensil,[22] and when he goes on kindling it,[23] he kindles a broken utensil. But R. Akiba holds that twisting is effective, and it does not bear the character of a utensil, and therefore when he kindles, he kindles a mere piece of wood.[24] R. Joseph observed: This is what I learnt, exactly three [fingerbreadths] square, but did not know in reference to what law.

Now, since R. Adda b. Ahabah explains it in accordance with R. Judah,[25] it follows that he himself holds as R. Judah. Yet did R. Adda b. Ahabah say thus? Surely R. Adda b. Ahabah said:

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(1) As a mere historical fact it is of no importance. Hence what is its purpose, seeing that it does not teach that the skin of an unclean animal is not defiled by overshadowing the dead, as one wished to deduce supra a?

(2) That the parchment of these must be made of the skin of a clean animal.

(3) Ex. XIII, 9; the reference is to tefillin (v. Glos.).

(4) Cf. p. 118, n. 2 (on explicitness).

(5) The leather of the capsules in which the parchment is placed. This cannot be deduced from the verse quoted, for ‘the law of the Lord’ was not written upon them.

(6) The letter shin (ש) is stamped out of the leather itself at the side of the capsule. This is part of the Name Shaddai (שדי) and therefore comes within the meaning of ‘the law of the Lord’. — With respect to the meaning of ‘a law of Moses from Sinai’, some take it literally: this was handed down direct from Moses; others understand it in a more figurative sense: it is traditional, but its exact origin is unknown, and hence ascribed to Moses, who in general is the source of Jewish law. V. Weiss, Dor, I, 71 seq.

(7) The parchment within the phylacteries, on which Biblical passages are written, is rolled up and tied round with animal hair. The receptacles themselves are sewn together with the tendons of animals. Both must be from clean animals.

(8) I.e., the faces of the capsules must be rectangular in shape, the whole forming a cube.

(9) ‘Their’ meaning of the same animal or species which furnishes the parchment and the leather. Thus they must be all of a clean animal and this is a traditional law.

(10) These must be of the skin of a clean animal.

(11) I.e., is there a tradition that they must be of the skin of a clean animal? Surely not! Hence R. Joseph's teaching is necessary.

(12) Lit., ‘garment’.

(13) Ps. LXIX, 32.

(14) E. V. ‘that hath horns.’

(15) Than a horn,

(16) I.e., which is normally punctuated מקרן (mi-keren), but here מקרין makrin. On the identification of this ox with that sacrificed by Adam v. A.Z. 8a.

(17) Viz., an ox or bullock.

(18) Jast.: a kind of antelope, unicorn. (10) The reasons are discussed in the Gemara,

(19) A rag, being part of a garment, is liable to become unclean, a wick does not become unclean. R. Eliezer holds that mere twisting without singeing-this was done to facilitate the lighting-does not make it a wick, and therefore it is still subject to uncleanness.

(20) This is the smallest size liable to defilement (supra 26b); in that sense it is regarded as a whole garment (or utensil).

(21) On Festivals. A whole utensil may be handled on Festivals, and therefore it may be taken for burning. But if a utensil is broken on the Festival so that it can now be used as fuel only, it is regarded as a thing newly-created (nolad v. Glos.)-i.e., a new use for it has just been created-and such may not be handled on Festivals.

(22) Since it was the minimum size originally.

(23) Until the greater part is alight.

(24) I.e., this twisted rag is just like a piece of wood,

(25) That nolad (v. n. 3) is forbidden.

Talmud - Mas. Shabbath 29a

If a Gentile hollows out a kab[1] in a log, an Israelite may heat [the oven] therewith on a Festival.[2] Yet why? Is it not nolad!-He states [it] according to the views of R. Eliezer and R. Akiba, but does not hold thus himself. Raba said, This is R. Eliezer's reason: Because one must not light [the Sabbath lamp] with an unsinged wick or unsinged rags.[3] Then when R. Joseph recited, Exactly three [fingerbreadths] square, In respect of what law [was it]? — In respect of uncleanness. For we learnt, The three [fingerbreadths] square of which they [the Sages] spoke is exclusive of the hem: this is R. Simeon's view. But the Sages say: Exactly three [fingerbreadths] square.[4]

Rab Judah said in Rab's name: One may fire [an oven, etc.,] with [whole] utensils, but not with broken utensils: this is R. Judah's opinion; but R. Simeon permits it.[5] One may fire [it] with dates;[6] but if they are eaten, one may not fire [it] with their stones:[7] that is R. Judah's opinion; but R. Simeon permits it. One may heat with nuts: if they are eaten, one must not heat with their shells: this is R. Judah's ruling; but R. Simeon permits it.

Now, they are [all] necessary. For if we were told the first, R. Judah rules [thus] in that case, because it was a utensil before but only a fragment of a utensil now, and so it is nolad, hence forbidden; but as for dates, since they were stones originally and are stones now, I might argue that it is well [permitted]. And if we were informed [this] of dates, I might say, [the reason is] because they [the stones] were originally concealed but are now revealed; but as for nutshells, which were uncovered originally and are uncovered still, I might argue that it is well [permitted]. Thus they are necessary.[8]

Now, this [ruling] of Rab was stated not explicitly but by implication. For Rab ate dates and threw the stones into a pan;[9] whereupon R. Hiyya said to him, ‘Son of great ancestors![10] A similar act on Festivals is forbidden.’ Did he accept [this ruling] from him or not?-Come and hear: For when Rab came to Babylon,[11] he ate dates[12] and threw the stones to animals. Surely this means Persian [dates]?[13] No: this means Syrian [dates], since they are fit [for handling] on account of their flesh.[14]

R. Samuel b. Bar Hanah said to R. Joseph: According to R. Judah who ruled, One may fire [an oven] with utensils, but not with broken utensils,-immediately one lights with it a little it becomes a broken utensil, and when he stirs [the fuel] he is stirring something that is forbidden?-He acts in accordance with R. Mattenah: For R. Mattenah said in Rab's name: if wood falls from a palm tree into a stove on a Festival, one adds more prepared wood and lights them.[15]

R. Hamnuna said: The reference here [in our Mishnah] is to [a rag] less than three [handbreadths] square,[16] and they taught here some of the leniencies [relating to the law] of rags, both R. Eliezer and R. Akiba following their views. For we learnt: If [material] less than three [handbreadths] square is set aside for stopping a bath, pouring from a pot,[17] or cleaning a mill therewith, whether it is of prepared (material] or not,[18] it is unclean:[19] that is R. Eliezer's view; R. Joshua maintained: Whether it is of prepared [material] or not, it is clean; R. Akiba ruled: If of prepared [material], it is unclean; if of unprepared, it is clean. Now ‘Ulla-others state, Rabbah b. Bar Hanah in R. Johanan's name-said: All admit that if it was thrown away on the refuse heap,[20] it is universally agreed that it is clean;[21]

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(1) A measure; or, a kind of artificial leg.

(2) Though it is nolad,

(3) These do not burn well. Thus R. Eliezer refers to all Sabbaths.

(4) V. Kelim. XXVIII, 7.

(5) He permits nolad.

(6) Since they may be handled as food, they may be handled as fuel.

(7) This and the following are similar to the first, the stones of dates and the shells of nuts being like fragments of utensils.

(8) Reversing the argument, all cases are necessary for R. Simeon's view.

(9) A kind of coal brazier.-This was done on weekdays.

(10) Supra 3b,

(11) Rab was a Babylonian who went to study in Palestine and then returned.

(12) On Festivals.

(13) These become very ripe, so that the whole of the fruit can be removed from the stones. Since he threw them to animals, he evidently held that they might be handled, and could also have used them for fuel. Hence he must have rejected R. Hiyya's view.

(14) The fruit cannot be entirely separated from the stone.

(15) The timber that falls may not be handled by itself, since it was not destined for this before the Festival. Hence a greater quantity of wood set aside for fuel must be added, and both may be handled together. The same must be done here.

(16) He holds that if it is three handbreadths square, it retains the character of a garment and is liable to defilement on all views.

(17) Using this material as a holder.

(18) The meaning is discussed below.

(19) I.e., liable to uncleanness as a garment (beged), which connotes any material that may be put to a useful purpose.

(20) And then salved for one of these purposes.

(21) Since it is less than three handbreadths square, and was also thrown away as worthless, it is certainly not a ‘garment’, even when salved.

Talmud - Mas. Shabbath 29b

if one placed it in a chest, all agree that it is unclean.[1] They differ only where he hung it on a frame or placed it behind the door: R. Eliezer holds: Since he did not throw it on the refuse heap, he had his mind upon it; why then does he call it ‘unprepared’?[2] Because relatively to [placing it in] a chest it is not prepared.[3] While R. Joshua maintains: Since he did not place it in a chest, he has indeed accounted it as nought;[4] and why then does he call it ‘prepared’? Because relatively to [throwing it on] a refuse heap it is prepared. But R. Akiba agrees with R. Eliezer where he hangs it on a clothes frame, and with R. Joshua, where he puts it behind the door. Yet R. Akiba retracted in favour of R. Joshua [‘s view]. Whence [is this deduced]?-Said Raba, Since it is stated, A WICK [MADE] OF A CLOTH: why choose to teach A WICK [MADE] OF A CLOTH, teach A WICK OF CLOTH; why a WICK [MADE] OF A CLOTH? [To show] that it is still a cloth.[5]

MISHNAH. A MAN MAY NOT PIERCE AN EGG SHELL, FILL IT WITH OIl, AND PLACE IT OVER THE MOUTH OF A LAMP, IN ORDER THAT IT SHOULD DRIP, AND EVEN IF IT IS OF POT;[6] BUT R. JUDAH PERMITS IT. BUT IF THE POTTER JOINS IT BEFOREHAND, IT IS PERMITTED, BECAUSE IT IS ONE UTENSIL. A MAN MUST NOT FILL A DISH OF OIl, PLACE IT AT THE SIDE OF A LAMP, AND PUT THE WICK END THEREIN IN ORDER THAT IT SHOULD DRAW; BUT R. JUDAH PERMITS IT. GEMARA. Now, they are [all] necessary. For if we were told about an eggshell; there the Rabbis say [that it is forbidden] because since it is not loathsome[7] he will come to take supplies therefrom;[8] but as for an earthen [shell], which is loathsome,[9] I might argue that they agree with R. Judah.[10] While if we were told of an earthen [shell]: [only] there does R. Judah rule thus, but in the other case I might say that he agrees with the Rabbis.[11] And if we were told of these two: R. Judah rules [thus] of these because nothing interposes;[12] but as for a dish, which interposes,[13] I would say that he agrees with the Rabbis. While if we were told of that: [only] there do the Rabbis rule [thus], but in the first two I would say that they agree with R. Judah. Thus they are necessary.

BUT IF THE POTTER JOINS IT BEFOREHAND, IT IS PERMITTED, etc. It was taught: if he joins it with plaster or potter's clay, it is permitted. But we learnt, THE POTTER?[14] -What is meant by POTTER? After the manner of a potter.[15]

It was taught, R. Judah said: We were once spending the Sabbath in the upper chamber of Nithzeh's house in Lydda, when an eggshell was brought, which we filled with oil, perforated, and placed over the mouth of the lamp; and though R. Tarfon and the elders were present, they said nothing to us.[16] Said they [the Sages] to him, Thence [you adduce] proof? The house of Nithzeh is different, because they were most heedful.[17]

Abin of Sepphoris dragged a bench in a stone-paved upper chamber in the presence of R. Isaac b. Eleazar, Said he to him, If I let this pass in silence,[18] as his companions kept silent before R. Judah, harm will ensue: a stone-paved chamber is forbidden on account of an ordinary chamber.[19] The synagogue overseer[20] of Bazrah[21] dragged a bench in front of R. Jeremiah Rabbah. Said he to him, in accordance with whom?[22] [Presumably] R. Simeon![23] Assume that R. Simeon ruled [thus] in the case of larger ones, since it is impossible otherwise;[24] did he say thus of small ones?[25] Now, he disagrees with ‘Ulla, who said: They differ [only] in respect of small ones, but as for large, all agree that it is permitted.

R. Joseph objected: R. Simeon said, A man may drag a couch, chair, or bench, providing that he does not intend making a rut. Thus both large and small [articles] are taught,[26] which is a difficulty on both views.[27] -'Ulla reconciles it according to his view, and R. Jeremiah Rabbah reconciles it according to his. 'Ulla reconciles it according to his view: the couch is like the chair.[28] While R. Jeremiah Rabbah reconciles it according to his: the chair is like the couch.[29]

Rabbah objected: Clothes merchants sell in their normal fashion, providing that one does not intend [to gain protection] from the sun in hot weather[30] or from the rain when it is raining;[31] but the strictly religious[32] sling them on a staff behind their back.[33] Now here that it is possible to do as the strictly religious, it is the same as small [articles of furniture], yet when one has no intention R. Simeon permits it at the outset? This refutation of R. Jeremiah Rabbah is indeed a refutation. MISHNAH. IF ONE EXTINGUISHES THE LAMP BECAUSE HE IS AFRAID OF GENTILES, ROBBERS, OR AN EVIL SPIRIT,[34] OR FOR THE SAKE OF AN INVALID, THAT HE SHOULD SLEEP, HE IS NOT CULPABLE.[35] IF [BECAUSE] HE WOULD SPARE THE LAMP, THE OIL, OR THE WICK, HE IS CULPABLE. R. JOSE EXEMPTS HIM IN ALL CASES, EXCEPT IN RESPECT OF THE WICK, BECAUSE HE MAKES CHARCOAL.[36]

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(1) He showed that he attributed value to it, hence it is a 'garment'.

(2) Since he intends to use it, it is 'prepared', i.e., designated for use.

(3) When he places it in a chest he certainly intends using it; but here he merely ensures that he will have it in case he wants it.

(4) Not assigning any real worth to it.

(5) The suggested reading פתילה של בגד implies that a portion of a beged (cloth) is taken, viz., such as itself is not a cloth (in the sense stated in p. 127, n. 9). The actual reading פתילת הבגד implies that a cloth itself is turned into a wick. Since R. Akiba maintains in the Mishnah that it is not liable to uncleanness, he evidently agrees with R. Judah that it is not 'prepared'.

(6) I.e., even a pot shell may not be used thus.

(7) The oil in the eggshell is clean.

(8) On the Sabbath. This is forbidden on account of extinguishing the light. [Though it is not actually extinguished when he removes some oil, it subsequently goes out sooner than it would otherwise have done.]

(9) The oil in it becomes soiled and unclean.

(10) There is no fear that one may draw supplies from it.

(11) Inverting the reasoning.

(12) Between the lamp and the shell, which is directly over its mouth: hence R. Judah regards it all as one, even when not actually joined.

(13) Between the lamp and the oil.

(14) Which implies that it must be professionally done, whereas 'he joins it' denotes an amateur job by the owner.

(15) I.e., firmly.

(16) To forbid it.

(17) And there was no fear of their drawing off oil.

(18) Lit., 'if I am silent for you'.

(19) Which is earth-paved; dragging there is prohibited because it forms a rut.

(20) Rashi: the man who conducts worshippers (assemblies) in and out of the synagogue and supervises the seating of pupils.

(21) An Idumean town; cf. Isa. XXXIV, 6; LXIII, 1.

(22) Do you act thus.

(23) Supra 22a.

(24) A large bench, table, etc., cannot be lifted but must be dragged.

(25) Here it was a small one.

(26) A couch is large; a chair is small.

(27) For R. Judah forbids both.

(28) I.e., a small couch is meant.

(29) A large, heavy chair is meant.

(30) Lit., 'in the sun'.

(31) The reference is to garments containing the forbidden mixture of wool and linen (v. Deut. XXII, 11) sold to Gentiles. Merchants slung their wares across their shoulders for display, and though some protection is afforded thereby and it is like wearing them, it is permitted.
(32) צנועים ‘modest’,’humble’, hence punctilious in carrying out religious duties. V. Buchler, Types p. 60ff].
(33) So that they do not actually lie upon them.
(34) V. MGWJ. 11 (1927)pp. 162-165.
(35) For desecrating the Sabbath.
(36) By extinguishing the light he makes kindling material, i.e., prepares the wick for easier lighting.

Talmud - Mas. Shabbath 30a

GEMARA. Since the second clause teaches, HE IS CULPABLE, it may be inferred that it is R. Judah.[1] Then to what does the first clause refer? if to an invalid dangerously ill, [the Tanna] should have stated, ‘it is permitted’?[2] While If to an invalid who is not in danger, he should have stated, He is liable to a sin-offering?[3] -After all, [it refers] to an invalid dangerously sick, and logically he should teach, it is permitted; but because he wishes to teach ‘HE IS CULPABLE’ in the second clause, he also teaches ‘HE IS NOT CULPABLE’ in the first. And as for what R. Oshaia taught: If it is for the sake of a sick person, that he should sleep, he must not extinguish it; but if he extinguishes it, he is not liable, though it is forbidden-that refers to one who is not dangerously ill, and agrees with R. Simeon.[4]

This question was asked before R. Tanhum of Neway:[5] What about extinguishing a burning lamp for a sick man on the Sabbath? — Thereupon he commenced and spake:[6] Thou, Solomon, where is thy wisdom and where is thine understanding? It is not enough for thee that thy words contradict the words of thy father David, but that they are self-contradictory! Thy father David said, The dead praise not the Lord;[7] whilst thou saidest, Wherefore I praised the dead which are already dead[8] but yet again thou saidest, for a living dog is better than a dead lion.[9] Yet there is no difficulty. As to what David said: ‘The dead praise not the Lord’, this is what he meant: Let a man always engage in Torah and good deeds before he dies, for as soon as he dies he is restrained from [the practice of] Torah and good deeds, and the Holy One, blessed be He, finds nought to praise in him. And thus R. Johanan said, What is meant by the verse, Among the dead [I am] free?[10] Once a man dies, he becomes free of the Torah and good deeds. And as to what Solomon said, ‘Wherefore I praised the dead that are already dead’ for when Israel sinned in the wilderness, Moses stood before the Holy One, blessed be He, and uttered many prayers and supplications before Him, but he was not answered. Yet when he exclaimed, ‘Remember Abraham, Isaac, and Israel, thy servants!’[11] he was immediately answered. Did not then Solomon well say, wherefore I praised the dead that are already dead’? Another interpretation: In worldly affairs, when a prince of flesh and blood issues a decree, it is doubtful whether it will be obeyed or not; and even if you say that it is obeyed, it is obeyed during his lifetime but not after his death. Whereas Moses our Teacher decreed many decrees and enacted numerous enactments, and they endure for ever and unto all eternity. Did then not Solomon well say, ‘Wherefore I praise the dead, etc.’ Another interpretation [of] ‘wherefore I praise, etc.’ is in accordance with Rab Judah's dictum in Rab's name, viz., What is meant by, Shew me a token for good, that they which hate me may see it, and be ashamed?[12] David prayed before the Holy One, blessed be He, ‘Sovereign of the Universe! Forgive me for that sin!’[13] ‘It is forgiven thee,’ replied He. ‘Shew me a token in my lifetime,’ he entreated. ‘In thy lifetime I will not make it known,’ He answered, ‘but I will make it known in the lifetime of thy son Solomon.’ For when Solomon built the Temple, he desired to take the Ark into the Holy of Holies, whereupon the gates clave to each other. Solomon uttered twenty-four prayers,[14] yet he was not answered. He opened [his mouth] and exclaimed, ‘Lift up your heads, O ye gates; and be ye lifted up, ye everlasting doors: And the King of glory shall come in.[15] They rushed upon him to swallow him up, crying, ‘Who is the king of glory’? ‘The Lord, strong and mighty,’[16] answered he. Then he repeated, ‘Lift up your heads, O ye gates; Yea, lift them up, ye everlasting doors: and the King of glory shall come in. Who is this King of glory? The Lord of hosts, He is the King of glory. Selah';[17] yet he was not answered. But as soon as he prayed, 'O Lord God, turn not away the face of thine anointed remember the good deeds of David thy servant,'[18] he was immediately answered. In that hour the faces of all David's enemies turned [black] like the bottom of a pot, and all Israel knew that the Holy One, blessed be He, had forgiven him that sin. Did then not Solomon well say, wherefore I praised the dead which are already dead'? And thus it is written, On the eighth day he sent the people away, and they blessed the king, and went into their tents joyful and glad of heart for all the goodness that the Lord had shewed unto David his servant, and to Israel his people.[19] 'And they went unto their tents' [means] that they found their wives clean; 'joyful', because they had enjoyed the lustre of the Divine Presence; 'and glad of heart', because their wives conceived and each one bore a male child; 'for all the goodness that the Lord had shewed unto David his servant', that He had forgiven him that sin; and to Israel his people', for He had forgiven them the sin of the Day of Atonement.[20]

And as to what Solomon said, 'for a living dog is better than a dead lion', — that is as Rab Judah said in Rab's name, viz.; what is meant by the verse, Lord, make me to know mine end, and the measure of my days, what it is; let me know how frail I am.[21] David said before the Holy One, blessed be He, 'Sovereign of the Universe! Lord, make me to know mine end.' 'It is a decree before Me,' replied He, 'that the end of a mortal[22] is not made known.' 'And the measure of my days, what it is'-'it is a decree before Me that a person's span [of life] is not made known.' 'Let me know how frail [hadel] I am.'[23] Said He to him. 'Thou wilt die on the Sabbath.' 'Let me die on the first day of the week!'[24] 'The reign of thy son Solomon shall already have become due, and one reign may not overlap another even by a hairbreadth.' 'Then let me die on the eve of the Sabbath!' Said He, 'For a day in thy courts is better than a thousand':[25] better is to Me the one day that thou sittest and engagest in learning than the thousand burnt-offerings which thy son Solomon is destined to sacrifice before Me on the altar.'[26]

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(1) The work of extinguishing is not needed per se but merely to effect something else, e.g., to spare the oil, and it is R. Judah who maintains that such work involves liability.

(2) 'He is exempt' implies that it is actually forbidden.

(3) Since there is no danger of life, it is prohibited like any other work.

(4) That no liability is incurred on account of a labour not required for itself, v. n. 4 and infra 93b.

(5) A district in North Palestine (Jast.). MS.M. reads: Nineweh. V. Ta'an., Sonc. ed., p. 64, n. 5.

(6) This formula generally introduces a popular sermon, which preceded the answering of the question. Such follows here.

(7) Ps. CXV, 17.

(8) Eccl. IV, 2.

(9) Ibid. IX, 4.

(10) Ps. LXXXVIII, 6 (E.V. 5: (Cast off among the dead).

(11) Ex. XXXII, 13.

(12) Ps. LXXXVI, 17.

(13) Sc. of Bathsheba.

(14) Heb. רננות songs. In Solomon's prayer (I Kings VIII, 23-53) expressions of entreaty (רנה song; תפלה, prayer; and תחינה, supplication) occur twenty-four times.

(15) Ps. XXIV, 7.

(16) Ibid. 8,

(17) lbid. 9f.

(18) 11 Chron. VI, 42.

(19) I Kings VIII,66.

(20) Which they had kept as a Feast instead of a Fast. V. vv. 2 and 65: the fourteen days must have included the tenth of the seventh month, which is the Day of Atonement; v. M.K. 9a.

(21) Ps. XXXIX, 5 (E.V. 4).

(22) Lit., 'flesh and blood'.

(23) Translating: Let me know when I will cease (to be), fr. hadal, to cease.
(24) The following day, so that the usual offices for the dead may be performed, some of which are forbidden on the Sabbath.
(25) Ps. LXXXIV, 11 (E.V. 10).
(26) Thus your life is too precious for a single day to be renounced.-Study itself is regarded in Judaism as an act of worship — indeed, the greatest, though only when it leads to piety; cf. Pe'ah I, 1.

Talmud - Mas. Shabbath 30b

Now, every Sabbath day he would sit and study all day.[1] On the day that his soul was to be at rest,[2] the Angel of death stood before him but could not prevail against him, because learning did not cease from his mouth. ‘What shall I do to him?’ said he. Now, there was a garden before his house; so the Angel of death went, ascended and soughed in the trees. He [David] went out to see: as he was ascending the ladder, it broke under him. Thereupon he became silent [from his studies] and his soul had repose. Then Solomon sent to Beth Hamidrash: My father is dead and lying in the sun; and the dogs of my father's house are hungry; what shall I do? They sent back, Cut up a carcase and place it before the dogs; and as for thy father, put a loaf of bread or a child upon him and carry him away.[3] Did then not Solomon well say, for a living dog is better than a dead lion?[4] And as for the question which I asked before you,[5] — a lamp is designated lamp, and the soul of man is called a lamp:[6] better it is that the lamp of flesh and blood be extinguished before the lamp of the Holy One, blessed be He.[7]

Rab Judah son of R. Samuel b. Shilath said in Rab's name: The Sages wished to hide the Book of Ecclesiastes,[8] because its words are self-contradictory; yet why did they not hide it? Because its beginning is religious teaching[9] and its end is religious teaching. Its beginning is religious teaching, as it is written, What profit hath man of all his labour wherein he laboureth under the sun?[10] And the School of R. Jannai commented: Under the sun he has none, but he has it [sc. profit] before the sun.[11] The end thereof is religious teaching, as it is written, Let us hear the conclusion of the matter, fear God, and keep his commandments: for this is the whole of man.[12] What is meant by, ‘for this is the whole of man’?-Said R. Eleazar, The entire world was created only for the sake of this [type of] man. Simeon b. ‘Azzai-others state, Simeon b. Zoma-said: The entire world was created only to be a companion to this man.

And how are its words self-contradictory?-It is written, anger is better than play;[13] but it is written, I said of laughter, It is to be praised.[14] It is written, Then I commended joy;[15] but it is written, and of joy [I said] What doeth it?" There is no difficulty: ‘anger is better than laughter’: the anger which the Holy One, blessed be He, displays to the righteous in this world is better than the laughter which the Holy One, blessed be He, laughs with the wicked in this world.[16] ‘And I said of laughter, it is to be praised’: that refers to the laughter which the Holy One, blessed be He, laughs with the righteous in the world to come. ‘Then I commended joy’: this refers to the joy of a precept.[17] ‘And of joy [I said], what doeth it’: this refers to joy [which is] not in connection with a precept.[18] This teaches you that the Divine Presence rests [upon] man] neither through gloom,[19] nor through sloth, nor through frivolity, nor through levity, nor through talk, nor through idle chatter,[20] save through a matter of joy in connection with a precept, as it is said, But now bring me a minstrel. And it came to pass, when the minstrel played, that the hand of the Lord came upon him.[21]

Rab Judah said: And it is likewise thus for a matter of halachah.[22] Raba said: And it is likewise thus for a good dream.[23] But that is not so, for R. Giddal said in Rab's name: If any scholar sits before his teacher and his lips do not drip bitterness,[24] they shall be burnt, for it is said, his lips are as lilies [shoshanim], dropping liquid myrrh [mor'ober]:[25] read not mor'ober, but mar'ober [dropping bitterness]; read not shoshanim but sheshonin [that study]?[26] There is no difficulty: the former applies to the teacher; the latter to the disciple. Alternatively, both refer to the teacher, yet there is no difficulty: the one means before he commences; the other, after he commences. Even as Rabbah before he commenced [his discourse] before the scholars used to say something humorous, and the scholars were cheered; after that he sat in awe and began the discourse.

The Book of Proverbs too they desired to hide, because its statements are self-contradictory. Yet why did they not hide it? They said, Did we not examine the Book of Ecclesiastes and find a reconciliation? So here too let us make search. And how are its statements self-contradictory?-It is written, Answer not a fool according to his folly;[27] yet it is also written, Answer a fool according to his folly?[28] There is no difficulty: the one refers to matters of learning;[29] the other to general matters. Even as a certain person came before Rabbi and said to him, ‘Your wife is my wife and your children are mine.’[30] ‘Would you like to drink a glass of wine?’ asked he. He drank and burst.

A certain man came before R. Hiyya and said to him, ‘Your mother is my wife and you are my son! Would you like to drink a glass of wine?’ asked he. He drank and burst.

R. Hiyya observed: Rabbi's prayer was in-so-far effective that his sons were not made illegitimate.[31] For when Rabbi prayed he used to say, May it be Thy will, O Lord our God, to save me this day from the impudent and from impudence.[32]

‘Matters of learning’-what is that?-As R. Gamaliel sat and lectured, Woman is destined to bear every day, for it is said, the woman conceived and beareth simultaneously.[33] But a certain disciple scoffed at him, quoting, ‘there is no new thing under the sun.’[34] Come, and I will show you its equal in this world,[35] be replied. He went forth and showed him a fowl. On another occasion R. Gamaliel sat and lectured, Trees are destined to yield fruit every day, for it is said, and it shall bring forth boughs and bear fruit:[36] just as the boughs [exist] every day, so shall there be fruit every day. But a certain disciple scoffed at him, saying, but it is written, ‘there is no new thing under the sun!’ Come, and I will show you its equal in this world, replied he. He went forth and showed him the caper bush.[37] On another occasion R. Gamaliel sat and expounded, Palestine is destined to bring forth cakes and wool robes, for it is said, There shall be an handful of corn in the land.[38] But a certain disciple scoffed at him, quoting, ‘there is no new thing under the sun!’ ‘Come, and I will show you their equal in this world,’ replied he. He went forth and showed him morels and truffles;[39] and for silk robes [he showed him] the bark of a young palm-shoot.[40]

Our Rabbis taught: A man should always be gentle like Hillel, and not impatient like Shammai. It once happened that two men

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(1) The angel of death cannot approach one who is studying the Torah; Sot. 21a.

(2) A euphemism for death.

(3) V. infra 156b.

(4) For the sake of the living dogs it was permitted to handle the carcase without further ado, yet the great king David might not be handled this! Or, the answer concerning the dogs was given precedence over that concerning David.

(5) Supra a. This was said in a spirit of humility, instead of ‘which you asked before me.’

(6) Prov. XX, 27: the soul of man is the lamp of the Lord.

(7) Where life is endangered, the lamp may certainly be extinguished.

(8) V. supra p. 55, n. 2. Weiss, Dor, 1, p. 212 conjectures that this was at the time of the Synod in the upper chamber of Hanania b. Hezekiah b. Garon (v. p. 54, n. 1), when it was desired to ‘hide’ Ezekiel too. This activity was occasioned by the spread of books of Hellenistic tendencies, in consequence of which existing material was closely scrutinized as to its fitness.

(9) Lit., ‘words of the Torah’.

(10) Eccl. 1, 3.

(11) I.e., one profits if he toils in the Torah, which existed before the sun; Pes. 54a; Ned. 39b.

(12) Ibid. XII, 13.

(13) Ibid. VII, 3.
(14) Ibid. II, 2.
(15) Ibid. VIII, 15. (12) Ibid. II, 2.
(16) The latter is an idiom for prosperity and well being: the sufferings inflicted upon the righteous are preferable to the prosperity conferred upon the wicked.
(17) The celebrations of such, e.g., a marriage.
(18) The Rabbis frowned upon this. But in all probability this does not apply to a simple and harmless gathering, but to attendance at theatres and circuses, at which the Jewish authorities looked askance, perhaps because they originated in idolatry and also because images of royalty were placed there. — Lev. R. XXXIV. The early Christians too were opposed to this, Tertullian (De Spectaculis, X) describing the theatre as a place of sexual immorality,
(19) Judaism does not encourage asceticism; cf. Ned. 10a.
(20) Or, vain pursuits.
(21) II Kings III, 15. Maharsha observes that the verse is quoted merely to show that the Divine Presence does not rest on a man plunged in gloom, Elisha requiring the minstrel to dissipate the gloom occasioned by Jehoram's visit.
(22) Serious study must be preceded by some light-hearted conversation.
(23) If one goes to sleep in good spirits, he has happy dreams.
(24) Caused by his awe and reverence.
(25) Cant. V, 13.
(26) Translating: the lips of those who study drop bitterness.-This shows that one must not study light-heartedly.
(27) Prov. XXVI, 4.
(28) Ibid. 5.
(29) Then he may be answered.
(30) Thus accusing his wife of adultery and his children of illegitimacy,
(31) The man's miraculous death proved his accusation unfounded. [The text is not clear. Var. lec,: that he was not made (accused to be) illegitimate unlike R. Hiyya, who was declared by the man to be his son; only the character of Rabbi's son was impugned but not of Rabbi himself].
(32) Private prayers were added after the Eighteen Benedictions (v. p. 32, n. 3); Elbogen, Der Judische Gottesdienst, p. 75. This prayer has become incorporated in the daily liturgy. Weiss, Dor, II, 192 conjectures, though on insufficient grounds, that it was occasioned by the opposition he met with among the Rabbis.
(33) Jer. XXXI, 7. (E.V. 8: the woman with child and her that travaileth with child ,together).
(34) Eccl. I, 9.
(35) ‘This world’ is here contrasted with the destined future of change, while generally it is contrasted with the ‘world to come’. Whether these two are synonymous it is difficult to say; v. Sanh. p. 601, n. 3. But perhaps the phrase here means, ‘the world under present conditions.’
(36) Ezek. XVII, 23.
(37) Jast: of which the various products are eaten successively; v. B.B. 28b.
(38) Ps. LXXII, 16. Rashi: this implies, corn as wide as a handbreadth, i.e., cakes as wide. The Hebrew pissath bar may also be translated pure wool (or, silken) garments’.
(39) Which resemble cakes.
(40) This has a downy, silk-like substance on the inside.

Talmud - Mas. Shabbath 31a

made a wager with each other, saying, He who goes and makes Hillel angry shall receive four hundred zuz. Said one, ‘I will go and incense him.’ That day was the Sabbath eve, and Hillel was washing his head. He went, passed by the door of his house, and called out, ‘Is Hillel here, is Hillel here?’[1] Thereupon he robed and went out to him, saying, ‘My son, what do you require?’ ‘I have a question to ask,’ said he. ‘Ask, my son,’ he prompted. Thereupon he asked: ‘Why are the heads of the Babylonians round?[2] ‘My son, you have asked a great question,’ replied he: ‘because they have no skillful midwives.’ He departed, tarried a while, returned, and called out, ‘Is Hillel here; is Hillel here?’ He robed and went out to him, saying, ‘My son, what do you require?’ ‘I have a question to ask,’ said he. ‘Ask, my son,’ he prompted. Thereupon he asked: ‘Why are the eyes of the

Palmyreans[3] bleared?' 'My son, you have asked a great question, replied he: 'because they live in sandy places.' He departed, tarried a while, returned, and called out, 'Is Hillel here; is Hillel here?' He robed and went out to him, saying, 'My son, what do you require?' 'I have a question to ask,' said he. 'Ask, my son,' he prompted. He asked, 'Why are the feet of the Africans [negroes] wide?' 'My son, you have asked a great question,' said he; 'because they live in watery marshes.'[4] 'I have many questions to ask,' said he, 'but fear that you may become angry.' Thereupon he robed, sat before him and said, 'Ask all the questions you have to ask,' 'Are you the Hillel who is called the nasi[5] of Israel?' 'Yes,' he replied. 'If that is you,' he retorted, may there not be many like you in Israel. ' ' Why, my son?' queried he. 'Because I have lost four hundred zuz through you,' complained he. 'Be careful of your moods,' he answered. 'Hillel is worth it that you should lose four hundred zuz and yet another four hundred zuz through him, yet Hillel shall not lose his temper.'

Our Rabbis taught: A certain heathen once came before Shammai and asked him, 'How many Toroth[6] have you?' 'Two,' he replied: 'the Written Torah and the Oral Torah.'[7] 'I believe you with respect to the Written, but not with respect to the Oral Torah; make me a proselyte on condition that you teach me the Written Torah [only].[8] [But] he scolded and repulsed him in anger. When he went before Hillel, he accepted him as a proselyte. On the first day, he taught him, Alef, beth, gimmel, daleth;[9] the following day he reversed [them] to him. 'But yesterday you did not teach them to me thus,' he protested. 'Must you then not rely upon me?[10] Then rely upon me with respect to the Oral [Torah] too.'[11]

On another occasion it happened that a certain heathen came before Shammai and said to him, 'Make me a proselyte, on condition that you teach me the whole Torah while I stand on one foot.' Thereupon he repulsed him with the builder's cubit which was in his hand.[12] When he went before Hillel, he said to him, 'What is hateful to you, do not to your neighbour:[13] that is the whole Torah, while the rest is the commentary thereof; go and learn it.' On another occasion it happened that a certain heathen was passing behind a Beth Hamidrash, when he heard the voice of a teacher[14] reciting, And these are the garments which they shall make; a breastplate, and an ephod.[15] Said he, 'For whom are these?' 'For the High Priest,' he was told. Then said that heathen to himself, 'I will go and become a proselyte, that I may be appointed a High Priest.' So he went before Shammai and said to him, 'Make me a proselyte on condition that you appoint me a High Priest.' But he repulsed him with the builder's cubit which was in his hand. He then went before Hillel, who made him a proselyte. Said he to him, 'Can any man be made a king but he who knows the arts of government? Do you go and study the arts of government!'[16] He went and read. When he came to, and the stranger that cometh nigh shall be put to death,[17] he asked him, 'To whom does this verse apply?' 'Even to David King, of Israel,' was the answer. Thereupon that proselyte reasoned within himself a fortiori: if Israel, who are called sons of the Omnipresent,[18] and who in His love for them He designated them, Israel is my son, my firstborn,[19] yet it is written of them, 'and the stranger that cometh nigh shall be put to death': how much more so a mere proselyte, who comes with his staff and wallet! Then he went before Shammai and said to him. 'Am I then eligible to be a High Priest; is it not written in the Torah, 'and the stranger that cometh nigh shall be put to death?' He went before Hillel and said to him, 'O gentle Hillel; blessings rest on thy head for bringing me under the wings of the Shechinah!'[20] Some time later the three met in one place; said they, Shammai's impatience sought to drive us from the world, but Hillel's gentleness brought us under the wings of the Shechinah.[21]

Resh Lakish said, What is meant by the verse, and there shall be faith in thy times, strength, salvation, wisdom and knowledge?[22] 'Faith' refers to the Order of Seeds; thy times, the Order of Festivals; strength, the Order of Women; salvation, the Order of Nezikin;[23] wisdom, the Order of Sacrifices; and knowledge, to the Order of Purity.[24] Yet even so the fear of the Lord is his treasure.[25]

Raba said, When man is led in for Judgment[26] he is asked, Did you deal faithfully [i.e., with integrity], did you fix times for learning, did you engage in procreation, did you hope for salvation, did you engage in the dialectics of wisdom, did you understand one thing from another.[27] Yet even so, if 'the fear of the Lord is his treasure,' it is well: if not, [it is] not [well]. This may be compared to a man who instructed his agent, 'Take me up a kor of wheat in the loft,' and he went and did so. 'Did you mix in a kab of humton?'[28] he asked him, 'No,' replied he. 'Then it were better that you had not carried it up,' he retorted. The School of R. Ishmael taught: A man may mix a kab of humton in a kor of grain, and have no fear.[29]

Rabbah b. R. Huna said: Every man who possesses learning without

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(1) Insolently, without the courtesy of a title.

(2) Hillel himself was a Babylonian.

(3) V. p. 91, n. 8.

(4) Hence their feet must be wide to enable them to walk there, just as ducks' feet are webbed.

(5) Patriarch, the religious head of the people.

(6) Torah, pl. Toroth, is generally, though incorrectly, translated 'law'. It means rather a system of teaching; v.R.T.Herford, The Pharisees.pp-53ff.

(7) The Written Torah is the Pentateuch; the Oral Torah is the whole body of Rabbinical and traditional teaching thereon. This was originally not committed to writing (for the reasons v. Weiss, Dor, 111, 24b; and Kaplan, Redaction of the Talmud, ch. XIX), and hence designated the Oral Torah. Weiss, op. cit. I, p. 1, n. 1. observes that Hillel was the first man to whom the use of the term תורה שבעל פה 'Oral Law' is found ascribed.

(8) Of teaching him.

(9) The first four letters of the Hebrew alphabet.

(10) As to what the letters are.

(11) There must be a certain reliance upon authority before anything can be learnt at all. Cf. M. Farbridge, Judaism and the Modern Mind, chs. VII and VIII.

(12) Rashi: a cubit to measure off the amount of work done by a builder.

(13) The golden Rule; cf. Lev. XIX, 18: but thou shalt love thy neighbour as thyself.- V. Hertz, Leviticus, pp.22 or 223, and cf. R. T. Herford, Talmud and Apocrypha, p. 148.

(14) Lit.,'a scribe'.

(15) Ex. XXVIII, 4.

(16) The laws appertaining to the functions of a High Priest.

(17) Num. I, 51.

(18) Deut. XIV, 11.

(19) Ex. IV, 22.

(20) V. Glos.

(21) From these stories it would appear that proselytes were eagerly accepted by Hillel; v. Kid., Sonc. ed., p. 313, n. 3.

(22) Isa. XXXIII, 6.

(23) V. n. 9.

(24) These are the six orders into which the Talmud is divided. Faith is applied to Seeds, because it requires faith in the Almighty to sow with the assurance of a crop (J.T.); 'times' as meaning Festivals is self-explanatory; hosen, here translated 'strength', is derived by Rashi from a root meaning to inherit, and thus identified with the Order of Women, because heirs are created through women; Nezikin treats of civil law, knowledge of which saves men (i.e., brings him 'salvation') from encroaching upon his neighbour's rights or allowing his own to be filched away; the last two Orders are very intricate and require deep understanding, and are therefore identified with wisdom and knowledge.

(25) Ibid. Learning without piety is valueless.

(26) In the next world.

(27) That is Raba's interpretation of the verse; he too translates 'hosen' as inheritance, and thus applies it to procreation (v. preceding note), and understands 'knowledge' as the process of inferring the unknown from the known.

(28) last.: a sandy soil containing salty substances and used for the preservation of wheat.

(29) Of dishonesty, when he sells the whole as grain, because that proportion is necessary for its preservation. One kab = one hundred and eightieth of a kor.

the fear of Heaven is like a treasurer who is entrusted with the inner keys but not with the outer: how is he to enter? R. Jannai proclaimed: Woe to him who has no courtyard yet makes a gate for same![1] Rab Judah said, The Holy One, blessed be He, created His world only that men should fear Him,[2] for it is said, and God hath done it, that men should fear before Him.[3]

R. Simon and R. Eleazar[4] were sitting, when R. Jacob b. Aha came walking past. Said one to his companion, 'Let us arise before him, because he is a sin-fearing man.' Said the other, 'Let us arise before him, because he is a man of learning.' 'I tell you that he is a sin-fearing man, and you tell me that he is a man of learning!' retorted he.[5] It may be proved that it was R. Eleazar who observed that he was a sin-fearing man. For R. Johanan said in R. Eleazar's name:[6] The Holy One, blessed be He, has nought else in His world but[7] the fear of Heaven alone, for it is said, And now, Israel, what doth the Lord thy God requires of thee, but to fear the Lord thy God?[8] and it is written, And unto man he said, Behold [hen], the fear of the Lord, that is wisdom, and in Greek one is hen.[9] That proves it.[10]

R. 'Ulla expounded: Why Is it written, Be not much wicked?[11] must one not be much wicked, yet he may be a little wicked! But if one has eaten garlic and his breath smells, shall he eat some more garlic that his breath may [continue to] smell?[12]

Raba son of R. 'Ulla expounded: What is meant by, For there are no pangs [harzuboth] in their death: but their strength is firm [bari] ulam]?[13] The Holy One, blessed be He, said, it is not enough for the wicked that they do not tremble and are not grief-stricken before the day of death, but their hearts are as firm as an edifice.[14] And that is what Raba said, What is meant by, This their way is their confidence [kesel]?[15] The wicked know that their way is to death, but they have fat on their loins [kislam].[16] But lest you think that it is their forgetfulness, therefore it is stated, and they approve their end with their own mouths.[15]

IF HE WOULD SPARE THE LAMP, etc. With whom does R. Jose agree? If with R. Judah,[17] then one should be liable for the others too; and if with R. Simeon,[18] he should be exempt even for[sparing] the wick?-Said 'Ulla, After all, he agrees with R. Judah; yet R. Jose holds that demolishing in order to rebuild on the same site is destroying, but if it is in order to rebuild elsewhere, it is not destroying.[19] Said Rabbah to him, Consider; all forms of labour are derived from the Tabernacle,[20] yet there it was taking down in order to rebuild elsewhere?[21] It was different there, answered he; for since it is written, At the commandment of the Lord they encamped, [and at the commandment of the Lord they journeyed],[22] it was like demolishing in order to rebuild on the same site.

But R. Johanan maintained: After all, he agrees with R. Simeon, yet why is the case of a wick different? As R. Hamnuna-others state, R. Adda b. Ahabah-said: This refers to a wick which needs singeing,[23] and in such a case even R. Simeon agrees since he renders an object fit.[24] Raba said, This may be inferred too, for it is stated, BECAUSE HE MAKES CHARCOAL, and not, because a charcoal is formed.[25] This proves it.

MISHNAH. FOR THREE SINS WOMEN DIE IN CHILDBIRTH: BECAUSE THEY ARE NOT OBSERVANT OF [THE LAWS OF] NIDDAH, HALLAH,[26] AND THE KINDLING OF THE [SABBATH] LIGHTS.[27]

GEMARA. What is the reason of niddah?-Said R. Isaac: She transgressed through the chambers of her womb, therefore she is punished through the chambers of her womb. That is right of niddah, but what can be said of hallah and the kindling of lights? — As a certain Galilean lectured before R.

Hisda: The Holy One, blessed be He, said: I put a rebi'ith of blood in you;[28] therefore I commanded you concerning blood.[29]

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(1) Learning is a gate whereby one enters the court of piety. Woe to him who prepares the entry without the court itself!

(2) By ‘fear’ not dread but awe and reverence is to be understood, proceeding out of man's realization of God's essential perfection. This reverence, and the attempt to attain something of that perfection which it inculcates, is man's highest aim in life, and that is probably the meaning of this dictum; cf. Maim. (Guide, III, 52.

(3) Eccl. III, 14.

(4) in the Yalkut, ‘Ekeb, 855 the reading is: Rabbi and R. Eleazar b. Simeon.

(5) The former is a greater attribute.

(6) This would be R. Eleazar b. Pedath, R. Johanan's younger contemporary; he is hardly likely to have quoted him. Hence the Yalkut's version given in p. 142, n. 7 is preferable, and the reading is: R. Johanan in the name of R. Eleazar b. R. Simeon.

(7) i.e., cherishes nothing so highly.

(8) Deut. X, 12.

(9) Thus translating: the fear of the Lord is one, unique (in God's affections).

(10) Sc. R. Eleazar's (or, R. Eleazar b. Simeon's) view.

(11) Eccl. VII, 17.

(12) i.e., having sinned a little, do not think that you must go on sinning.

(13) Ps. LXXIII, 4.

(14) Regarding harzuboth as a combination of hared (trembling) and ‘azeb (grief-stricken) and translating ulam, a hall, edifice.

(15) Ps. XLIX, 14.

(16) Which close their understanding. The loins (reins) were regarded as the seat of understanding.

(17) That one is liable for work not needed in itself, v. p. 131, n. 4

(18) V. supra 12a.

(19) One is not liable for desecrating the Sabbath when his work is destructive; but if he demolishes a house in order to rebuild, it is regarded as constructive. Now, extinguishing a wick, thereby destroying its light, is the equivalent of demolishing a house; if the purpose is to save the wick to be used again later, it is analogous to demolishing a house to build on the same site, since it is the wick which is extinguished and the wick which is to be relit. But if the purpose is to save the oil or the lamp, it is analogous to demolishing a house in order to rebuild elsewhere, for whereas the wick is extinguished, it is the oil or lamp that is saved for subsequent use.

(20) infra 49b.

(21) The Tabernacle was only taken down when they had to journey onwards, and it was re-erected on their new camping pitch.

(22) Num. IX, 23.

(23) In order to burn clearer.

(24) For its purpose, and thus it is a labour needed for itself, which involves liability.

(25) The text implies that by extinguishing it he intends making charcoal, i.e., to make it more ready for relighting, and thus must apply to a wick which needs singeing.

(26) On the terms v. Glos.

(27) [In time before Sabbath sets in, v. Strashun].

(28) Rebi'ith=one log=one fourth of a kab, and was held to be the smallest quantity of blood within a human being on which life in be supported.

(29) Not to shed it: Gen. IX. 5f.

I designated you the first;[1] wherefore I commanded you concerning the first.[2] The soul which I placed in you is called a lamp, wherefore I commanded you concerning the lamp.[3] If ye fulfil them, ‘tis well; but if not, I will take your souls.

And why particularly in childbirth?-Raba said, When the ox is fallen, sharpen the knife. Abaye said, Let the bondmaid increase her rebellion: it will all be punished by the same rod. R. Hisda said, Leave the drunkard alone: he will fall of himself. Mar ‘Ukba said, When the shepherd is lame, and the goats are fleet, at the gate of the fold are words, and in the fold there is the account. R. Papa said, At the gate of the shop there are many brothers and friends; at the gate of loss[4] there are neither brothers nor friends.[5]

And when are men examined?-Said Resh Lakish: When they pass over a bridge.[6] A bridge and nothing else?-Say, that which is similar to a bridge. Rab would not cross a bridge where a heathen was sitting; said he, Lest judgment be visited upon him, and I be seized together with him. Samuel would cross a bridge only when a heathen was upon it, saying, Satan has no power over two nations [simultaneously]. R. Jannai examined [the bridge] and then crossed over. R. Jannai [acted] upon his views, for he said, A man should never stand in a place of danger and say that a miracle will be wrought for him, lest it is not. And if a miracle is wrought for him, it is deducted from his merits.[7] R. Hanin said, Which verse [teaches this]? I am become diminished[8] by reason of all the deeds of kindness and all the truth.[9] R. Zera would not go out among the palm-trees on a day of the strong south wind.[10]

R. Isaac the son of Rab Judah said: Let one always pray for mercy not to fall sick; for the falls sick he is told, Show thy merits [rights] and be quit.[11] Said Mar ‘Ukba, Which verse [teaches this]? If any man fall mimmenu;[12] It is from him [mimmenu] that proof must be brought.[13] The School of R. Ishmael taught: ‘If any man [hanofel] fall from thence’: this man was predestined to fall since the six days of Creation, for lo! he has not [yet] fallen, and the Writ [already] calls him nofel [a faller].[14] But reward [zekut] is brought about through a person of merit [zakkai], and punishment [hobah] through a person of- guilt.[15]

Our Rabbis taught: if one falls sick and his life is in danger,[16] he is told, Make confession, for all who are sentenced to death make confession. When a man goes out into the street, let him imagine that he is given in charge of an officer;[17] when he has a headache, let him imagine that he is put in irons; when he takes to bed, let him imagine that he ascended the scaffold to be punished. For whoever ascends the scaffold to be punished, if he has great advocates he is saved, but if not he is not saved. And these are man's advocates: repentance and good deeds. And even if nine hundred and ninety-nine argue for his guilt, while one argues in his favour, he is saved, for it is said, If there be with him an angel, an advocate, one among a thousand, To shew unto man what is right for him; Then he is gracious unto him, and saith, Deliver him from going down to the pit, etc.[18] R. Eliezer the son of R. Jose the Galilean said: Even if nine hundred and ninety-nine parts of that angel are in his disfavour and one part is in his favour, be is saved, for it is said, ‘an advocate, one part in a thousand’.

Our Rabbis taught: For three sins women die in childbirth. R. Eleazar said: women die young.[19] R. Aha said, As a punishment for washing their children's napkins[20] on the Sabbath. Others say, Because they call the holy ark a chest.

It was taught, R. Ishmael b. Eleazar said: On account of two sins ‘amme ha-arez[21] die: because they call the holy ark a chest, and because they call a synagogue beth-’am.[22]

It was taught, R. Jose said: Three death scrutineers were created in woman; others state: Three causes[23] of death: niddah, hallah, and the kindling of the [Sabbath] lights. One agrees with R. Eleazar, and the other with the Rabbi's.[24]

It was taught, R. Simeon b. Gamaliel said: The laws of hekdesh, terumoth[25] and tithes are indeed essential parts of the law,

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(1) Jer. II, 3: Israel was holiness unto the Lord, the first-fruits of his increase.

(2) Sc. the first portion of the dough, which is hallah; Num. XV, 20.

(3) Sc. the Sabbath lights.

(4) Rashi. Levi, Worterbuch s.v. זיינא conjectures that בי זיינא should be read instead of אבב בזיונא: he translates as Rashi: where there is loss. Jast.: at the prison gate, Krauss in T.A. II, p. 699, n. 435 appears to translate: at the toll-gate, and this is a reference to the severity with which tolls were exacted.

(5) These are a series of proverbs, the general tenor of which is that when danger is near, one's faults are remembered and punished. Childbirth is dangerous, and that is when a woman is punished for her transgressions. — Mar ‘Ukba's proverb means: the shepherd waits until the goats are by the gate of the fold or pen, and then rebukes and punishes them.

(6) That involves danger, and then they are liable to be punished for their misdeeds,

(7) The miracle is a reward for some of his merits, and so he has now less to his credit.

(8) I.e., I have less merit to my credit.

(9) Gen, XXXII, 10.

(10) Aruch: east wind.

(11) I.e., he must prove by what merit he is entitled to regain his health.

(12) Deut. XXII, 8.

(13) Of merit, that he is entitled to recover from his injuries.

(14) The lit. translation of the verse is: if the faller falls. But before he starts falling he should not be designated the faller.

(15) And this man who builds a house without a parapet is guilty therein, and he is used as the Divine instrument for fulfilling the other man's destiny to fall as a punishment.

(16) Lit., ‘inclines to death’.

(17) To be bought to trial.

(18) Job. XXXIII, 23f.

(19) For these three sins. The variants involve but a change of vocalization in the Hebrew text.

(20) Lit., ‘excrement’.

(21) Pl. of ‘am ha-arez, q.v. Glos,

(22) Lit., ‘house of the people’-a contemptuous designation.

(23) Cf. n. 2..

(24) ‘Death scrutineers’ connotes sins which scrutinize a woman when she is in danger, sc. at childbirth; thus this agrees with the Rabbis, ‘Causes’ implies avenues to premature death, thus agreeing with R. Eleazar's dictum, ‘women die young’-The translation of the first follows Rashi. last.: breaches through which death enters, i.e., sins for which one is visited with death.

(25) V. Glos.

Talmud - Mas. Shabbath 32b

and they were entrusted to the ignorant.[1]

It was taught, R. Nathan said: A man's wife dies in punishment for [his unfulfilled] vows, for it is said. If thou, hast not wherewith to pay [thy vows], why should he take away thy bed [i.e., wife]from under thee?[2] Rabbi said, For the sin of [unfulfilled] vows one's children die young, for it is said, Suffer not thy mouth to cause thy flesh to sin, neither say thou, before the angel, that it was an error: wherefore should God be angry at thy voice, and destroy the work of thine hands.[3] What is the work of a man's hands? Say, it is a man's sons and daughters.

Our Rabbis taught: Children die as a punishment for [unfulfilled] vows: this is the view of R. Eleazar b. R. Simeon. R. Judah the Nasi said: For the sin of neglect of Torah [study]. As for the view that it is for the sin of vows, it is well, even as we have said. But on the view that it is for the sin of neglect of Torah, what verse [teaches this]? — For it is written, Have I smitten your children for nought? They received no instruction![4] R. Nahman b. Isaac said: The view that it is for the sin of vows is also [deduced] from this: For vain [utterance] have I smitten your children, i.e., on account of vain (neglected] vows.[5] Consider: R. Judah the Nasi is identical with Rabbi, whereas Rabbi said that is it for the sin of vows? — He said that after he had heard it from R. Eleazar son of R. Simeon.[6]

R. Hiyya b. Abba and R. Jose[7] differ therein: one maintained: It is for the sin of [neglect of] mezuzah;[8] while the other held that it is for the sin of neglect of Torah. On the view that it is for the sin of mezuzah: a verse is interpreted with its precedent, but not with its ante-precedent verse. While on the view that it is for the sin of neglect of Torah: a verse is interpreted with its precedent and its ante-precedent.[9] R. Meir and R. Judah differ therein: One maintains, It is for the neglect of mezuzah, while the other holds that it is for the neglect of fringes.[10] Now, as for the view that it is for the neglect of mezuzah, it is well, for it is written, ‘and thou shalt write them upon the door posts [mezuzoth] of thine house’, which is followed by, ‘that your days may be multiplied, and the days of your children’. But what is the reason of the view that it is for the neglect of fringes?-Said R. Kahana-others state, Shila Mari: because it is written, Also in thy skirts is found the blood of the souls of the innocent poor.[11] R. Nahman b. Isaac said, The view that it is for the neglect of mezuzah is also [learnt] from this: did I not find them like caves?[12] [which means] that they made their entrances like caves.[13]

Resh Lakish said: He who is observant of fringes will be privileged to be served by two thousand eight hundred slaves, for it is said, Thus saith the Lord of hosts: In those days it shall come to pass, that ten men shall take hold, out of all the languages of the nations shall even take hold of the skirt of him that is a Jew, saying, We will go with you, etc.[14]

(Mnemonic: Hate, Hallah, Terumah, Robbed, Law, Oath, Shedding, Uncovering, Folly.)[15] It was taught, R. Nehemiah said: As a punishment for causeless hate strife multiplies in a man's house, his wife miscarries, and his sons and daughters die young.

R. Eleazar b. R. Judah said: Because of the neglect of hallah there is no blessing in what is stored, a curse is sent upon prices,[16] and seed is sown and others consume it, for it is said, I also will do this unto you: I will visit you with terror [behalah], even consumption and fever, that shall consume the eyes, and make the soul to pine away. and ye shall sow your seed in vain, for your enemies shall eat it:[17] read not behalah but be-hallah.[18] But if they give it, they are blessed, for it is said, ye shall also give unto the priest the first of your dough, to cause a blessing to rest on thine house.[19]

As a punishment for the neglect of terumoth and tithes the heavens are shut up from pouring down dew and rain, high prices are prevalent, wages are lost, and people pursue a livelihood but cannot attain it,[20] for it is written: Drought [ziyyah] and heat [hom] consume the snow waters: So doth the grave those which have sinned.[21] How does this imply it?-The School of R. Ishmael taught: On account of the things which I commanded you in summer[22] but ye did them not, the snowy waters shall rob you in winter.[23] But if they render them, they are blessed, for it is said, Bring ye the whole tithe into the storehouse, that there may be meat in mine house, and prove me now herewith, saith the Lord of Hosts, if I will not open you the windows of heaven, and pour you out a blessing, that there shall not be room enough to receive it [‘ad beli day].[24] What is meant by ‘ad beli day?-Said Rami b. Hama: Until your lips are exhausted[25] through saying, ‘Enough!’ [day].

For the crime of robbery locusts make invasion, famine is prevalent, and people eat the flesh of their sons and daughters, for it is said, Hear this word, ye kine of Bashan, that are in the mountain of Samaria, which oppress the poor, which crush the needy.[26] (Said Raba, E.g., these women of Mahoza,[27]

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(1) No supervisors were appointed to ensure that the ignorant observe them. Rashi: haberim (q.v. Glos.) eat the bread of the ignorant and assume that the priestly dues have been rendered. Likewise, they use their movables without fearing that they may have dedicated them as hekdesh and rendered them forbidden for secular use.

(2) Prov. XXII, 27.

(3) Eccl. V, 5.

(4) Jer. II, 30.

(5) The Heb. is la-shaw, which bears this meaning too. Cf.Deut. V, 11: Thou shalt not take the name of the Lord thy God in vain (la-shaw).

(6) But the compiler of this Baraitha quoted his former view.

(7) Wilna Gaon emends this to R. Ammi or R. Assi.

(8) V. Glos.

(9) V. Deut. XI, 19-21: And ye shall teach them your children ... and thou shalt write them upon the door posts of thine house (mezuzoth) ... that your days may be multiplied. and the days of your children. One maintains: the promise ‘and the days of your children’ is made conditional upon the immediately preceding command, and thou shalt write them (sc. mezuzah); the other holds that it refers to the previous verse too, viz., and ye shall teach them your children.

(10) Num. XV, 38.

(11) Jer. II, 34: ‘in thy skirts’-i.e., in the neglect of fringes, which are inserted in the skirts of one's garment: ‘the innocent poor,’ i.e., the children who die guiltlessly.

(12) E.V.: I have not found it at the place of breaking in.

(13) Without mezuzoth.

(14) Zech. VIII, 23, ‘Skirt’ is regarded as referring to the fringe (cf. n. 2.). There are four fringes, and traditionally there are seventy languages: we thus have 70 X 10 X 4 = 2800.

(15) Catch words of the themes that follow, as an aid to memory.

(16) What is stored — grain, wine, oil, etc. does not keep, with the result that prices rise.

(17) Lev. XXVI, 16.

(18) On account of (the neglect of) hallah.

(19) Ezek. XLIV, 30.

(20) Cf. Ab. V. 8.

(21) Job. XXIV, 19.

(22) Viz., the rendering of terumoth and tithes.

(23) I.e., there will be no rain, etc. Ziyyah (E.V. drought) is thus connected with ziwah (he commanded), and hom (E.V. heat) with summer.

(24) Mal. III, 10.

(25) Yibelu, connected here with beli.

(26) Amos. IV, 1. The proof lies in the sequel, quoted below.

(27) The famous town on the Tigris not far from Ktesifon, where Raba possibly founded the academy (Weiss, Dor, 111, 202) with himself as head, which was recognized as one of the foremost in Babylon; Obermeyer, p. i 66. (i 2.) Thus they rob their husbands; or, demanding food and producing nothing in return, they may force their husbands to robbery,-Women were expected to do a certain amount of labour, e.g., spinning; Keth. 59b, cf. Prov. XXXI, 13, 19. It would appear that Raba was not very popular in Mahoza (cf. Sanh. 99b); such sentiments may be either partially the cause, or Raba's reaction.

Talmud - Mas. Shabbath 33a

who eat without working). And it is [further] written, I have smitten you with blasting and mildew: the multitude of your gardens and your vineyards and your fig trees and your olive trees hath the palmerworm devoured.[1] and it is also written, That which the palmerworm hath left hath the locust eaten; and that which the locust hath left hath the cankerworm eaten; and that which the cankerworm hath left hath the caterpillar eaten;[2] and it is written, And one shall snatch on the right hand, and be hungry, and he shall eat on the left hand, and they shall not be satisfied; they shall eat every man the flesh of his own arm.[3] Read not, the flesh of his own arm [zero'o], but, the flesh of his own seed [zar'o].

As a punishment for delay of judgment,[4] perversion of judgment,[5] spoiling of judgment,[6] and neglect of Torah, sword and spoil increase, pestilence and famine come, people eat and are not satisfied, and eat their bread by weight, for it is written, and I will bring a sword upon you, that shall execute the vengeance of the covenant:[7] now ‘covenant’ means nothing else but Torah, as it is written, But for my covenant of day and night [I had not appointed the ordinances of heaven and earth];[8] and it is written, When I break your staff of bread, ten women shall bake your bread in one oven, and they shall deliver your bread again by weight;[9] and it is written, because, even because they rejected my judgments.[10]

For the crime of vain oaths, false oaths,[11] profanation of the Divine Name,[12] and the desecration of the Sabbath, wild beasts multiply, [domestic] animals cease, the population decreases, and the roads become desolate, for it is said, And if by these things [be-eleh] ye will not be reformed unto me;[13] read not be-eleh but be-alah;[14] and it is written, and I will send the beast of the field among you, etc.[15] Now, in respect to false oaths it is written, And ye shall not swear by my name falsely, so that you profane [we-hillalta] the name of thy God;[16] and of the profanation of the Name it is written, and that they profane not [ye-hallelu] my holy name;[17] and of the profanation of the Sabbath it is written, every one that profaneth it [mehallelehah] shall surely be put to death:[18] and [the punishment for] profanation is learnt[19] from a false oath.[20]

Through the crime of bloodshed the Temple was destroyed and the Shechinah departed from Israel, as it is written, So ye shall not pollute the land wherein ye are; for blood, it polluteth the land ... And thou shalt not defile the land which ye inhabit, in the midst of which I dwell.-[21] hence, if ye do defile it, ye will not inhabit it and I will not dwell in its midst.[22]

As a punishment for incest,[23] idolatry, and non-observance of the years of release and jubilee[24] exile comes to the world, they [the Jews] are exiled, and others come and dwell in their place, for it is said, for all these abominations have the men of the land done, etc.;[25] and it is written, and the land is defiled,- therefore do I visit the in iniquity thereof upon it;[26] and it is written, that the land vomit not you out also, when ye defile it.[27] Again, with respect to idolatry it is written, and I will cast your carcases [upon the carcases of your idols];[28] and it is written, And I will make your cities a waste, and will bring your sanctuaries into desolation etc....[29] and you will I scatter among the nations.[30] Further, in reference to release and jubilee years it is written, Then shall the land enjoy her sabbaths, as long as it lieth desolate, and ye be in your enemies’ land, etc.;[31] and it is written, As long as it lieth desolate it shall have rest.[32]

As a punishment for obscenity,[33] troubles multiply, cruel decrees are proclaimed afresh, the youth of Israel's enemies[34] die, and the fatherless and widows cry out and are not answered; for it is said, Therefore shall the Lord not rejoice over the young men, neither shall he have compassion over their fatherless and their widows: for every one is profane and an evil-doer, and every mouth speaketh folly. For all is his anger is not turned away, but his hand is stretched out still.[35] What is meant by, ‘but his hand is stretched out still’?-Said R. Hanan b. Rabbah: All know for what purpose a bride enters the bridal canopy, yet against whomsoever who speaks obscenely [thereof], even if a sentence of seventy years’ happiness had been sealed for him,[36] it is reversed for evil.

Rabbah b. Shila said in R. Hisda's name: He who puts his mouth to folly,[37] Gehenna is made deep for him, as it is said, A deep pit is for the mouth [that speaketh] perversity.[38] R. Nahman b. Isaac said, Also [for] one who hears and is silent,[39] for it is said, he that is abhorred of the Lord[40] shall fall therein.[41]

R. Oshaia said: He who devotes himself[42] to sin, wounds and bruises break out over him, as it is said, Stripes and wounds are for him that devoteth himself to evil.[43] Moreover, he is punished by dropsy, for it is said, and strokes reach the innermost parts of the belly.[44] R. Nahman b. Isaac said: Dropsy is a sign of sin.

Our Rabbis taught: There are three kinds of dropsy: that [which is a punishment] of sin is thick; that caused by hunger is swollen; and what is caused by magic is thin.[45] Samuel the Little[46] suffered through it. 'Sovereign of the Universe!' he cried out, who will cast lots?'[47] [Thereupon] he recovered. Abaye suffered from it. Said Raba, I know of Nahmani[48] that he practises hunger.[49] Raba suffered from it. But was it not Raba himself who said, More numerous are those slain by delayed calls of nature[50] than the victims[51] of starvation?[52] -Raba was different, because the scholars compelled him [to practise restraint] at the set times [for lectures].

Our Rabbis taught: There are four signs:-[i] Dropsy is a sign of sin; [ii] jaundice is a sign of causeless hatred; [iii] poverty is a sign of conceit;[53] croup[54] is a sign of slander.[55]

Our Rabbis taught: Croup comes to the world

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(1) Prov. XXXI, 9.
(2) Joel I, 4.
(3) Isa. IX, 19.
(4) Lit., 'affliction of judgment'-through unnecessary delay in executing judgment.
(5) Intentionally, through bias or partiality.
(6) Giving erroneous verdicts through carelessness and insufficient deliberation; cf. Aboth, I, 2.
(7) Lev. XXVI, 25.
(8) Jer. XXXIII, 25. 'The covenant of day and night' is understood to refer to the Torah, which should be studied day and night; v. Ned. 32.
(9) Ibid. XXVI, 26.
(10) Ibid. 43.
(11) Rashi: the first is swearing what is obviously untrue; the second is an ordinary false oath which can deceive. Cf. Aboth, Sonc. ed., p. 47, n. 11.
(12) Any unworthy action which reflects discredit upon Judaism since Judaism is blamed for it'-is regarded as profanation of the Divine Name. Cf. Aboth, V, 9, and IV, 4.
(13) Ibid. 23.
(14) the consonants are the same. The verse then reads: and if ye will not be reformed unto me in the matter of (false) oaths.
(15) Lev. XXVI, 22.
(16) Ibid. XIX, 12.
(17) Ibid. XXII, 2.
(18) Ex. XXXI, 14.
(19) Lit., 'and profanation, profanation is learnt'. I.e., the statement made in respect to one profanation holds good for the others too.
(20) just as this is punished by the sending of wild beasts, etc. (Lev. XXVI, 22), so are the others.
(21) Num. XXXV, 33f.
(22) It may be remarked that the destruction of the Temple is regarded here as synonymous with exile from the country.
(23) Which includes adultery.
(24) V. Lev. XXV, 1ff.
(25) Ibid. XVIII, 27; 'abominations' refers to incest, of which the whole passage treats.
(26) ibid. 25.
(27) Ibid. 28.

(28) Ibid. XXVI, 30.
(29) Ibid. 31.
(30) Ibid. 33.
(31) Lev. XXVI, 34.
(32) Ibid. 35.
(33) Lit., ‘folly of the mouth’.
(34) A euphemism for the youth of Israel. It was held inauspicious even merely to express a possible mishap, on the score of ‘open not thy mouth to Satan’.
(35) Isa. IX, 16.
(36) This derives from the idea that there is a book of Life, in which man's destiny is recorded; cf. Ned., Sonc. ed., p. 62, n. 7.
(37) Speaks lewdly.
(38) Prov. XXII, 14. Lit., ‘strange (things)’.-Gehenna, as an equivalent of hell, takes its name from the place where children were once sacrificed to Moloch, viz., ge ben hinnom, the valley of the son of Hinnom, to the south of Jerusalem. (Josh. XV, 8; II Kings XXIII, 10; Jer. II, 23; VII, 31-32; XIX, 6).
(39) Does not protest.
(40) Viz., who hears it without protesting.
(41) Prov.XXII, 14.
(42) Either: makes himself empty from all other purposes; or, polishes himself up, i.e., prepares himself.
(43) Ibid. XX, 30.
(44) Ibid.
(45) Jewish magic is mentioned in Deut. XVIII, 10-11, in a passage forbidding its practice. But its potency was generally recognized. V. J.E. Arts, ‘Magic’, and ‘Demonology’.
(46) A Tanna, contemporary of R. Gamaliel I.
(47) To see from what cause I am suffering-I will be accused of sin.
(48) A nickname of Abaye, who was brought up in the house of Rabbah b. Nahmani.
(49) This may indicate that Abaye was an ascetic. Judaism generally was opposed to asceticism (cf. Ned. 10a: he who deprives himself of what he may legitimately enjoy is called a sinner); nevertheless, in times of stress or for particular reasons Rabbis resorted to fasting (B.M. 85a), and private fasts were practised from early times: Judith VIII, 6; 1 Macc. III, 47.
(50) Lit.,’pot’.
(51) Lit.,’swollen’.
(52) Now, Raba evidently disapproved of Abaye's fasting; also, he himself warned against trifling with nature's calls. How then did he come to dropsy — sin being ruled out?-Presumably its symptoms precluded the assumption that he was a victim of witchcraft.
(53) In Kid. 49b it is explained that this refers to poverty of knowledge, which results when one is too conceited to learn from others.
(54) אסכרה , or perhaps ‘Diphtheria’.
(55) Each is the punishment for the other.

Talmud - Mas. Shabbath 33b

on account of [neglect of] tithes.[1] R. Eleazar b. R. Jose said: On account of slander. Said Raba-others maintain, R. Joshua b. Levi-what verse [teaches this]? But the king shall rejoice in God: Everyone that sweareth by him shall glory; For the mouth of them that speak lies shall be stopped [yissaker].[2] The scholars propounded: Does R. Eleazar son of R. Jose say, [Only] on account of slander, or perhaps on account of slander too? — Come and hear: For when our Rabbis entered the ‘vineyard’ in Yabneh,[3] R. Judah, R. Eleazar son of R. Jose and R. Simeon were present, and this question was raised before them: why does this affliction commence in the bowels and end in the throat? Thereupon R. Judah son of R. Ila'i, the first speaker on all occasions[4] answered and said: Though the kidneys counsel, the heart gives understanding,[5] and the tongue gives form,[6] yet the mouth completes it. R. Eleazar son of R. Jose answered: Because they eat unclean food therewith. ‘Unclean food!' can you think so?[7] Rather [say] because they eat unfit food.[8] R. Simeon answered and said, As a punishment for the neglect of study.[9] Said they to him. Let women prove it![10] -That is because they restrain their husbands [from study]. Let Gentiles prove it![11] -That is because they restrain Israel. Let children prove it! — That is because they make their fathers to neglect [study].[12] Then let school-children prove it!-There it is as R. Gorion. For R. Gorion-others state, R. Joseph son of R. Shemaiah-said: When there are righteous men in the generation, the righteous are seized [by death] for the [sins of the] generation; when there are no righteous in a generation, school-children are seized for the generation.[13] R. Isaac b. Ze'iri others state, R. Simeon b. Neizra-said: Which verse [teaches this]? If thou know not, O thou, fairest among women, Go thy way forth by the footsteps of the flock, etc.,[14] and we interpret this as [referring to] the goats which are taken in pledge for the [debts of the] shepherds. Thus this proves that he said on account of slander too. This proves it.

Now, why is he [R. Judah son of R. Ila'i] called the first speaker on all occasions?-For R. Judah, R. Jose, and R. Simeon were sitting, and Judah, a son of proselytes, was sitting near them. R. Judah commenced [the discussion] by observing, 'How fine are the works of this people![15] They have made streets, they have built bridges, they have erected baths.' R. Jose was silent. R. Simeon b. Yohai answered and said, 'All that they made they made for themselves; they built market-places, to set harlots in them; baths, to rejuvenate themselves; bridges, to levy tolls for them.' Now, Judah the son of proselytes went and related their talk,[16] which reached[17] the government. They decreed: Judah, who exalted [us], shall be exalted,[18] Jose, who was silent, shall be exiled to Sepphoris;[19] Simeon, who censured, let him be executed.

He and his son went and hid themselves in the Beth Hamidrash,[and] his wife brought him bread and a mug of water and they dined.[20] [But] when the decree became more severe be said to his son, Women are of unstable temperament: she[21] may be put to the torture and expose us.'[22] So they went and hid in a cave. A miracle occurred and a carob-tree and a water well were created for them. They would strip their garments and sit up to their necks in sand. The whole day they studied; when it was time for prayers they robed, covered themselves, prayed, and then put off their garments again, so that they should not wear out. Thus they dwelt twelve years in the cave.[23] Then Elijah came and stood at the entrance to the cave and exclaimed, Who will inform the son of Yohai that the emperor is dead and his decree annulled?[24] So they emerged. Seeing a man ploughing and sowing, they exclaimed, 'They forsake life eternal and engage in life temporal!' Whatever they cast their eyes upon was immediately burnt up. Thereupon a Heavenly Echo came forth and cried out, 'Have ye emerged to destroy My world: Return to your cave!'[25] So they returned and dwelt there twelve months, saying, 'The punishment[26] of the wicked in Gehenna is [limited to] twelve months.'[27] A Heavenly Echo then came forth and said, 'Go forth from your cave!' Thus.'; they issued: wherever R. Eleazar wounded,[28] R. Simeon healed. Said he to him, 'My son! You and I are sufficient for the world.'[29] On the eve of the Sabbath before sunset they saw an old man holding two bundles of myrtle and running at twilight. What are these for?' they asked him. 'They are in honour of the Sabbath,' he replied.[30] 'But one should suffice you'?-One is for 'Remember-' and one for 'Observe.'[31] Said he to his son, 'See how precious are the commandments to Israel.' Thereat their minds were tranquilized. R. Phinchas b. Ya'ir his son-in-law heard [thereof] and went out to meet him. He took him into the baths and massaged[32] his flesh. Seeing the clefts in his body[33] he wept and the tears streamed from his eyes. 'Woe to me that I see you in such a state!' he cried out. 'Happy are you that you see me thus,' he retorted, 'for if you did not see me in such a state you would not find me thus [learned].[34] For originally, when R. Simeon b. Yohai raised a difficulty, R. Phinehas b. Ya'ir would give him thirteen answers, whereas subsequently when R. Phinehas b. Ya'ir raised a difficulty, R. Simeon b. Yohai would give him twenty-four answers.

Since a miracle has occurred, said he, let me go and amend something, for it is written, and Jacob came whole[35] [to the city of Shechem],[36] which Rab interpreted. Bodily whole [sound], financially whole, and whole in his learning. And he was gracious to the city.,[37] Rab said: He instituted coinage for them.[38] Samuel said: He instituted markets for them; R. Johanan said: He instituted baths for them. Is there ought that requires amending? he[39] asked. There is a place of doubtful uncleanness,[40] he was informed,

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(1) Rashi: one who eats untithed food (tebel) is liable to death by a divine visitation, which takes the form of croup. Having sinned through his throat (eating), he is punished through his throat.

(2) Ps. LXIII, 12. Yissaker is connected here with askera, croup.

(3) The famous town north west of Jerusalem, the seat of the Sanhedrin and R. Johanan b. Zakkai's academy after the destruction of the Temple. Sittings were held in a ‘vineyard’, i.e., members sat in rows similar to vines in a vineyard.

(4) The reason is given below, p. 56.

(5) ‘Counsel’ and ‘understanding’ were ascribed to these two organs respectively. Rashi in Ber. 61a s.v. והלב quotes: Ps. XVI, 7: Yea, my kidney (E.V. reins) admonish me in the night seasons, and Isa. VI, 10: and he understands with his heart.

(6) To the words. Lit., ‘cuts’.

(7) That does not merit so heavy a punishment, particularly as only terumah and sacred food are forbidden when defiled.

(8) I.e., untithed.

(9) Which is likewise performed with the mouth.

(10) Who are not bidden to study (Kid. 29b), and yet suffer from croup. (cf. Sot. III, 4).

(11) Who are not bidden to study the Torah, and are yet subject to it.

(12) By childish demands on their time;-a harsh doctrine, but it is abandoned.

(13) This is not to be confused with the doctrine of vicarious atonement, which is rejected by Judaism.

(14) Cant. I, 8. The Midrash and the Targum interpret the whole of this poem as a dialogue between God and Israel, This verse is explained: If you do not understand how to keep God's commandments, go and learn them for the sake of the flocks, sc. your children, who otherwise may die on your account.

(15) The Romans.

(16) Rashi: to his parents, without evil intent.

(17) Lit., ‘and they were heard by’.

(18) With the privilege of being the first to speak on all occasions.

(19) In Upper Galilee.

(20) Lit., ‘they wrapped (bread)’; a term derived from the custom of eating bread with a relish wrapped in it.

(21) His wife.

(22) The context shows that he was not censuring women for constitutional instability, but feared their weakness.

(23) Notwithstanding its miraculous elements this story is substantially true. R. Simeon b. Yohai was persecuted very much by the Roman authorities; this explains his anti-Gentile (i.e., Roman) utterances, which are not illustrative of the Talmud as a whole.

(24) Elijah the Prophet was believed to appear frequently to men; cf, supra 13b.

(25) This story is a protest against super piety and an assertion that practical work is necessary for the world. Their return to the cave is thus depicted as a punishment, not a meritorious deed.

(26) Lit., ‘judgment’.

(27) On ‘Gehenna’ v. p. 153, n. 8. Judaism rejects on the whole the idea of eternal punishment, for punishment is regenerative, not vindictive, and therefore must terminate; v. M. Joseph, Judaism as Creed and Life, p. 145.

(28) With a glance of his eyes.

(29) Not to be taken literally.

(30) Their fragrance is to beautify the Sabbath and lend cheer to it.-Contrary to the opinion of many, the Sabbath, in spite of its prohibitions, is and has been ‘a day of delight’ and spiritual nourishment to millions of observant Jews, not a day of gloom; v. Shechter, Studies in Judaism, p. 296.

(31) Ex. XX, 8. Remember the Sabbath day; Deut. V, 12: Observe the Sabbath day.

(32) Lit., ‘dressed’.

(33) Caused by the sand,

(34) He felt that all his sufferings were compensated for by the knowledge he had gained. R. Simeon b. Yohai was one of the few Rabbis who devoted himself entirely to learning, ‘his study being his profession’ (supra 11a) not interrupting it even for prayer.

(35) E. V. ‘in peace’.
(36) Gen. XXXIII, 18.
(37) Ibid.; Wa-yihan is thus derived from hanan, to be gracious. E.V.: and he encamped before the city.
(38) In place of barter.
(39) R. Simeon b. Yohai.
(40) A grave or human bones having been lost there.

Talmud - Mas. Shabbath 34a

and priests have the trouble of going round it. Said he: Does any man know that there was a presumption of cleanness here?[1] A certain old man replied, Here [R. Johanan] b. Zakkai cut down lupines of terumah. So he did likewise. Wherever it (the ground] was hard he declared it clean, while wherever it was loose he, marked it out. Said a certain old man. The son of Yohai has purified a cemetery! Said he, Had you not been with us, even if you have been with us but did not vote,[2] you might have said well. But now that you were with us and voted with us,[3] It will be said, [Even] whores paint one another; how much more so scholars![4] He cast his eye upon him, and he died. Then he went out into the street and saw Judah, the son of proselytes: ‘That man is still in the world!’ he exclaimed. He cast his eyes upon him and he became[5] a heap of bones.

MISHNAH. ON THE EVE OF THE SABBATH JUST BEFORE NIGHT[6] A MAN MUST SAY THREE THINGS IN HIS HOUSE: HAVE YE RENDERED TITHES?[7] HAVE YE PREPARED THE ‘ERUB?[8] KINDLE THE [SABBATH] LAMP. WHEN IT IS DOUBTFUL, WHETHER IT IS NIGHT[9] OR NOT,[10] THAT WHICH IS CERTAINLY [UNTITHED] MAY NOT BE TITHED, UTENSILS MAY NOT BE IMMERSED,[11] AND THE LIGHTS MAY NOT BE KINDLED. BUT DEM'AI[12] MAY BE TITHED,[13] AN ‘ERUB MAY BE PREPARED, AND HOT FOOD MAY BE STORED AWAY.[14]

GEMARA. Whence do we know it?-Said R. Joshua b. Levi, Scripture saith, And thou, shalt know that thy tent is in peace; and thou shalt visit thy habitation, and shalt not err.[15]

Rabbah son of R. Huna said: Although the Rabbis said, a man MUST SAY THREE THINGS, etc., yet they must be said with sweet reasonableness, so that they may be accepted from him. R. Ashi observed: I had not heard this [statement] of Rabbah son of b. R. Huna, but understood[16] it by logic.

This is self contradictory. You say, ON THE EVE OF THE SABBATH JUST BEFORE NIGHT A MAN MUST SAY THREE THINGS IN HIS HOUSE: only just before night, but not when it is doubtful whether it is night or not;[17] then you teach, WHEN IT IS DOUBTFUL, WHETHER IT IS NIGHT OR NOT ... AN ‘ERUB MAY BE PREPARED? (Mnemonic: Self, Pruning, Bird, Cord, Silk.)[18] — Said R. Abba in the name of R. Hiyya b. Ashi in Rab's name: There is no difficulty: the one refers to ‘erub of boundaries; the other to the ‘erub of courtyards.[19] Now Raba said: If two men said to one person, ‘Go forth and place an ‘erub for us’, and he placed an ‘erub for one while it is yet day, and for the other he made the ‘erub at twilight, and the ‘erub of him for whom he placed it by day was eaten at twilight, and the ‘erub of him for whom he placed it at twilight was eaten after nightfall, both acquire [their] ‘erub.[20] What will you: if twilight is day, the second should acquire, but not the first; while if twilight is night, the first should acquire, but not the second?-Twilight is doubtful,[21] and a doubt in respect to a Rabbinical law is judged leniently.[22]

Raba said: Why was it said, One must not store [food] after nightfall [even] in a substance that does not add heat?[23] For fear lest he make it boil.[24] Said Abaye to him: if so, let us forbid it at twilight too?-The average pot is at the boil, he replied.[25]

Raba also said:

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(1) Before the doubt arose, was there a time when this place was assumed to be clean, so that it enjoyed the status of cleanness? (11) I.e., he planted them while terumah and cut them down after they had grown. (12) As unclean. In the Pesikta and 1. Shab. VII it is stated that a miracle happened and the dead floated upwards (v. Rashi). (13) Derisively.
(2) Lit., ‘you were not counted’. — R. Simeon b. Yohai had acted in accordance with the decision of the majority of the Rabbis.
(3) In favour of this.
(4) Surely they should pay regard to each other's honour.
(5) Lit., ‘he made him’.
(6) Lit., with darkness (setting in),
(7) Of the food we are to eat on the Sabbath,
(8) V. Glos. The ‘erub referred to is for courtyards; v. p. 18, n. 7.
(9) Lit., ‘dark’.
(10) I.e., at twilight.
(11) Made fit for use by means of tebillah (immersion) in a ritual bath (mikweh). Both these acts render objects fit for use, which is forbidden at twilight.
(12) V. Glos.
(13) Because the probability is that tithes have already been rendered, and thus this tithing does not really make it fit.
(14) To retain its heat.
(15) Job V. 24, She'eltoth 63 explains: if an ‘erub has not been prepared, so that the carrying of utensils is forbidden, or if the lights have not been kindled, or the tithes rendered, so that the food may not be eaten, the resultant inconvenience and lack of cheer are inimical to the peace of the household.
(16) Lit., ‘adduced’. V. Marginal Gloss.
(17) Which implies that there is no purpose in his saying it then, since an ‘erub may not be prepared then.
(18) These indicate statements made in the Tractate by R. Abba in the name of R. Hiyya on Rab's authority. Doubt arose as to the authorship of some of these, and so this mnemonic was given. ‘Self’ indicates the present passage, ‘This is self contradictory’. For the others v. infra 73b (pruning); 107a (bird), 113a (cord) and 124b (silk). — Maharsha,
(19) V. p. 18, n. 7. The limitation of boundaries was held to be either Biblical or partaking of the nature of a Scriptural law; therefore the ‘erub, whereby that limitation is extended, really makes the territory beyond these boundaries accessible on the Sabbath, and consequently its preparation is forbidden at twilight, when the Sabbath may have commenced, although where it was prepared at twilight, it is effective. But the prohibition of carrying between houses and courtyards was merely a measure of stringency; hence the ‘erub permits only what might have been permitted in any case, and so it may be prepared at twilight.
(20) ‘Acquire their ‘erub’ means that the ‘erub confers upon on them the rights for which it is set. Now, an ‘erub must be prepared by day and be still in existence when the Sabbath commences, otherwise it is invalid. Now, in respect of the first, whose ‘erub was placed by day and eaten at twilight, twilight is regarded as night, i.e., the commencement of the Sabbath, when the ‘erub was still in existence. Whilst in respect of the second twilight is regarded as day, so that it was placed the day. — Rashi: the reference is to the ‘erub of boundaries which, though it may not be set at the outset at twilight, is nevertheless effective. Tosaf.: the ‘erub of courtyards is meant.
(21) Whether it is day or night.
(22) The law of ‘erub is Rabbinical, as stated above.
(23) The Mishnah states that storing away food is permitted at twilight, whence it follows that it is forbidden after nightfall. And the reference must be to a substance which does not add heat, for if it does, food may not be stored in it even by day (infra 47b).
(24) When he comes to put it away, he may find it cold and heat up it first, which is the equivalent of cooking on the Sabbath.
(25) At twilight, because it has only just been removed from the fire.

Talmud - Mas. Shabbath 34b

Why was it said that one must not put away [food] in a substance which adds heat, even by day? For fear lest he put it away in hot ashes containing a burning coal. Said Abaye to him, Then let him put it away![1] -[That is forbidden] for fear lest he rake the coals.[2]

Our Rabbis taught: As to twilight [period] it is doubtful whether it is partly day and partly night, or the whole of it [belongs to the] day, or the whole of it night: [therefore] it is cast upon the stringencies of both days.[3] And what is twilight? From sunset as long as the face of the east has a reddish glow: when the lower [horizon] is pale[4] but not the upper, it is twilight; [but] when the upper [horizon] is pale and the same as the lower, it is night: this is the opinion of R. Judah. R. Nehemiah said: For as long as it takes a man to walk half a mil[5] from sunset. R. Jose said: Twilight is as the twilight of an eye, one entering and the other departing,[6] and it is impossible to determine it. The Master said: ‘One applies to it the stringencies of both days.’ In respect of what [point of] law?-Said R. Huna son of R. Joshua, In respect of uncleanness. Even as we learnt: if he saw [discharges] on two days at twilight, he is doubtful in respect of uncleanness and sacrifice: if he sees [a discharge] one day at twilight, he is doubtful in respect of uncleanness.[7]

This is self-contradictory. You say, ‘What is twilight? From sunset as long as the face of the east has a reddish glow.’ Hence, if the lower horizon is pale but not the upper, it is night.[8] Then it is taught, ‘When the lower [horizon] is pale but not the upper, it is twilight’?-Rabbah answered in the name of Rab Judah in Samuel's name: Combine [them] and learn: What is twilight? From sunset as long as the face of the east has a reddish glow, And if the lower [horizon] is pale but not the upper, that too is twilight. But when the upper horizon is pale and the same as the lower, it is night. While R. Joseph answered in the name of Rab Judah in Samuel's name, This is what he teaches: From sunset as long as the face of the east has a reddish glow, it is day; if the lower [horizon] is pale but not the upper, it is twilight; when the upper is pale and the same as the lower, it is night.

Now, they follow their views. For it was stated: How long is the period of twilight?-Rabbah said in the name of Rab Judah in Samuel's name. Three parts of a mil.[9] What is meant by, ‘three parts of a mil’? Shall we say, three half mils? Then let him say, ‘A mil and a half’? While if it is three thirds of a mil, let him say, ‘One mil’? Hence it must mean three quarters of a mil. While R. Joseph said in the name of Rab Judah in Rab's name: Two parts of a mil. What is ‘two parts of a mil’? Shall we say, two halves: let him say, ‘One mil’? while if it means two quarters of a mil; let him say, ‘half a mil’. Hence

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(1) Even in such, since it is yet day.

(2) In the evening.

(3) This is explained infra.

(4) I.e., dark, no longer red.

(5) = Two thousand cubits =112,037’316 cm, i.e., about three fourths of an English mile; v. J.E. XII, 487,

(6) Night enters and day departs in the twinkling of an eye.

(7) If a zab (q.v. Glos.) has two discharges on one day or on two consecutive days, or one discharge spread over parts of two days, e.g., the end of one and the beginning of the next, which likewise counts as two discharges, he becomes unclean for seven days, as a zab. If he has three discharges (taking into account that one discharge spread over two days ranks as two), he incurs a sacrifice in addition. Now, if he has discharges for a short period at twilight on Sunday and Monday there are the following possibilities: — (i) The twilight of both were either day or night, so that he had two discharges on two consecutive days, viz., Sunday and Monday or Monday and Tuesday, the night belonging to the following day, which render him unclean, but not liable to a sacrifice; (ii) the first twilight period was day, while the second was night, so that his two discharges were on Sunday and Tuesday, and he is not unclean for seven days, because the discharges were not on consecutive days; and (iii) the first twilight period was day (Sunday) and the second embraced the end of one day (Monday) and the beginning of the night (Tuesday), so that he had three discharges on three consecutive days, and therefore incurs a sacrifice.-On account of these doubts he is unclean for seven days and must bring a sacrifice, which, however, may not be eaten. Similarly, if he has one discharge at twilight, it is doubtful whether it counts as one or two.

(8) For ‘the face of the east’ includes the lower horizon.

(9) As long as it takes to walk this.

Talmud - Mas. Shabbath 35a

it must mean two thirds of a mil. What is the difference between them?-One half of a sixth.[1]

Now, it is the reverse in respect of a bee-hive.[2] For Rabbah said: A bee-hive of two kors capacity[3] may be moved; of three kors capacity, may not be moved. But R. Joseph said: Three kors capacity also is permitted; four kors is forbidden.[4]

Abaye said: I asked it of Mar[5] at the time of action,[6] and he did not permit one [to move] even a two-kors size. With whom [does that agree]?-With the following Tanna. For we learnt: A receptacle of stubble, or of staves, and the cistern of an Alexandrian boat, though they have rims and contain forty se'ahs in liquid measure which is two kors in dry measure,[7] are clean.[8] Abaye observed: This proves that the heap [in dry measures] is a third. Abaye saw Raba gazing at the West.[9] Said he to him, But it was taught, ‘As long as the face of the east has a reddish glow?’ Do you think that the face of the east is meant literally? he replied. [It means] the face which casts a red glow upon the east,[10] and your token is a window.[11]

‘R. Nehemiah said: For as long as it takes a man to walk half a mil from sunset.’ R. Hanina said: One who wishes to know R. Nehemiah's period should leave the sun on the top of the Carmel,[12] descend, dip in the sea, and reascend, and this is R. Nehemiah's period. R. Hiyya said: One who wishes to see Miriam's well should ascend to the top of the Carmel and gaze, when he will observe a kind of sieve in the sea, and that is Miriam's well. Rab said: A moveable well is clean,[13] and that is Miriam's well.[14]

Rab Judah said in Samuel's name: At twilight, as defined by R. Judah, unclean priests may perform tebillah.[15] According to whom? Shall we say, according to R. Judah [himself]? but it is doubtful![16] But if it means twilight, as defined by R. Judah, according to R. Jose; [why state] priests may perform tebillah then-it is obvious![17] -I might think that twilight, as defined by R. Jose, is a continuation of R. Judah's; [therefore] we are told that R. Judah's twilight ends and then R. Jose's commences.

Rabbah b. Bar Hanah said in R. Johanan's name: The halachah is as R. Judah in respect to the Sabbath, and the halachah is as R. Jose in respect to terumah. Now, as for the halachah being as R. Judah in respect to the Sabbath, it is well: this is in the direction of stringency.[18] But in respect of terumah, what is it? Shall we say, for tebillah?[19] it is doubtful![20]

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(1) Rabbah's period is one twelfth of a mil longer than R. Joseph's; above too Rabbah gives a longer period than R. Joseph. — In the East night comes more quickly than in the West.

(2) Rashi. Jast.: a loose wicker-work used for making bee-hives, etc.

(3) One kor = thirty se'ahs = 395,533’2 cu.cent; J.E. XII, 489 (Table).

(4) A utensil may be moved on the Sabbath. Rabbah maintains that if it is more than two kors in capacity it ceases to be a utensil, while R. Joseph holds that it is a utensil up to three kors. Thus R. Joseph's standard here is larger than Rabbah's, while in respect to twilight it is smaller.

(5) The Master-i.e., Rabbah.

(6) When I actually wished to move it.

(7) Two kors — sixty se'ahs. A utensil held more in dry measure, because it could be heaped up.

(8) These are too large to rank as utensils, and only utensils are liable to uncleanness; V. ‘Er., Sonc. ed., 14b notes.

(9) To see whether the reddish glow was still discernible.

(10) By reflection hence the west.

(11) Through which light enters and irradiates the opposite wall.

(12) I.e., when the sun is going down and its dying rays illumine the top of the mountain.

(13) Its waters cannot become unclean and it is fit for ritual purification (tebillah).

(14) According to the Rabbis the well miraculously followed Israel for Miriam's sake; Ta'an. 9a.

(15) V. Glos. Its purpose was to cleanse them and permit them to eat sacred food. Sunset had to follow the tebillah before they might do so, but Rab Judah holds that twilight, as defined by R. Judah, is day, and therefore sunset does follow it.

(16) Whether it is day or night. It may be night already, in which case the tebillah is not followed by sunset.

(17) R. Judah's twilight period is certainly earlier than that of R. Jose which is but the twinkling of an eye.

(18) All those things which are forbidden Friday at twilight are forbidden at the earlier time stated by R. Judah.

(19) That priests may perform tebillah during twilight as defined by R. Judah, because the halachah is as R. Jose that it is still day then.

(20) Since he rules that the halachah is as R. Judah in respect to the Sabbath, he must regard R. Judah's view as possibly correct.

Talmud - Mas. Shabbath 35b

— Rather it is in respect of the eating of terumah, viz., the priests may not eat terumah until twilight, as defined by R. Jose, ends.[1]

Rab Judah said in Samuel's name: When [only] one star [is visible], it is day; when two [appear], it is twilight; three, it is night. It was taught likewise: When one star [is visible], it is day; when two [appear], it is twilight; three, it is night. R. Jose b. Abin[2] said: Not the large stars, which are visible by day, nor the small ones, which are visible only at night, but the medium sized.

R. Jose son of R. Zebida said: If one performs work at two twilights,[3] he incurs a sin-offering, whatever view you take.[4]

Raba said to his attendant: You, who are not clear in the Rabbinical standards, light the lamp when the sun is at the top of the palm trees.[5] How is it on a cloudy day? — In town, observe the fowls; in the field, observe the ravens or arone.[6]

Our Rabbis taught: Six blasts were blown on the eve of the Sabbath. The first, for people to cease work in the fields; the second, for the city and shops to cease [work]; the third, for the lights to be kindled: that is R. Nathan's view. R. Judah the Nasi said: The third is for the tefillin to be removed.[7] Then there was an interval for as long as it takes to bake a small fish, or to put a loaf in the oven,[8] and then a teki'ah, teru'ah, and a teki'ah were blown,[9] and one commenced the Sabbath. Said R. Simeon b. Gamaliel, What shall we do to the Babylonians who blow a teki'ah and a teru'ah, and commence the Sabbath in the midst of the teru'ah?[10] (They blow a teki'ah and a teru'ah [only]: but then there are five?-Rather they blow a teki'ah, repeat the teki'ah, and then blow a teru'ah and commence the Sabbath in the midst of the teru'ah.) — They retain their fathers’ practice.[11]

Rab Judah recited to R. Isaac, his son: The second is for the kindling of the lights. As which [Tanna]? Neither as R. Nathan nor as R. Judah the Nasi!-Rather [read] ‘the third is for the kindling of the lights’. As which [Tanna]? — As R. Nathan.

The School of R. Ishmael taught: Six blasts were blown on the eve of the Sabbath. When the first was begun, those who stood in the fields ceased to hoe, plough, or do any work in the fields, and those who were near [to town] were not permitted to enter [it] until the more distant ones arrived, so that they should all enter simultaneously.[12] But the shops were still open and the shutters were lying.[13] When the second blast began, the shutters were removed and the shops closed. Yet hot [water] and pots still stood on the range. When the third blast was begun, what was to be removed[14] was removed, and what was to be stored away[15] was stored away, and the lamp was lit.[16] Then there was an interval for as long as it takes to bake a small fish or to place a loaf in the oven; then a teki'ah, teru'ah and a teki'ah were sounded, and one commenced the Sabbath. R. Jose b. R. Hanina said: I have heard that if one comes to light after the six blasts he may do so, since the Sages gave the hazzan of the community[17] time to carry his shofar[18] home.[19] Said they to him, If so, your rule depends on [variable] standards.[20] Rather the hazzan of the community had a hidden place on the top of his roof, where he placed his shofar, because neither a shofar nor a trumpet may be handled [on the Sabbath].[21] But it was taught: A shofar may be handled, but not a trumpet?[22] -Said R. Joseph: There is no difficulty: The one refers to an individual[‘s]; the other to a community[‘s]. Said Abaye to him, And in the case of an individual's, what is it fit for?-It is possible to give a child a drink therewith?

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(1) Only then is it evening for certain, but not at the end of R. Judah's period.

(2) So the text as amended by Bah.

(3) Of Friday and Saturday. It means either during the whole of both twilights or at exactly the same point in each (Tosaf. 34b s.v. ספק

(4) Whether twilight is day or night, he has worked on the Sabbath.

(5) I.e., by day.

(6) Fowls and ravens retire to roost at night: hence the lamp should be lit before. Arone is a plant whose leaves turn eastward by day and westward by night (Rashi). MS.M. reads: in marsh-land observe arone (Jast.: name of certain plants growing in marshes which close their leaves at nightfall).

(7) In Talmudic times they were worn all day; but they are not worn on the Sabbath.

(8) The word literally means to cause it to cleave, because the loaf was pressed to the side of the oven.

(9) Teki'ah is a long blast; teru'ah, a series of very short blasts, all counted as one. These three were blown in rapid succession.

(10) I.e., hard on the heels of(or, immediately they hear) the teru'ah.

(11) This was a very ancient custom; v. Neh. XIII, 19 and Halevi, Doroth, I, 3, pp. 336f.

(12) To protect the more distant ones from the suspicion of continuing their work after the first blast.

(13) The shutters were placed on trestles during the day to serve as stalls.

(14) For the evening meal.

(15) For the next day.

(16) Lit., ‘and the lighter lit’.

(17) V. p. 41, n. 7.

(18) The ram's horn, on which these blasts were produced.

(19) The shofar was blown on the top of a high roof, and R. Jose b. Hanina assumed that the hazzan then took it home.

(20) The commencement of the Sabbath will depend on the distance of that roof from his house.

(21) A shofar was curved, whereas a trumpet was straight.

(22) The shofar, being curved, could be used for taking up a drink of water; this being permitted, its handling too (even without that use) is permitted.

Talmud - Mas. Shabbath 36a

Then in the case of a community[‘s] too, it is fit for giving a drink to a poor child?[1] Moreover, as to what was taught: ‘Just as a shofar may be moved, so may a trumpet be moved’: with whom does that agree?-Rather [reply thus]; there is no difficulty: one agrees with R. Judah, one with R. Simeon, and one with R. Nehemiah;[2] and what indeed is meant by ‘shofar’, a trumpet,[3] in accordance with R. Hisda. For R. Hisda said: The following three things reversed their designations after the destruction of the Temple: [i] trumpet [changed to] shofar, and shofar to trumpet. What is the practical bearing thereof? in respect of the shofar [blown] on New Year.[4] [ii] ‘Arabah [willow] [changed to] zafzafah and zafzafah to ‘Arabah. What is the practical bearing thereof?-In respect of the lulab[5] [iii] Pathora[6] [changed to] pathorta[7] and pathorta to Pathora. What is the practical bearing thereof?-In respect of buying and selling.[8] Abaye observed: We too can state: Hoblila [changed to] be kasse and be kasse to hoblila.[9] What is the practical bearing thereof? In respect of a needle which is found in the thickness of the beth hakosoth,[10] which if [found] on one side, it [the animal] is fit [for food];]if through both sides,[11] it [the animal] is terefah.[12] R. Ashi said, We too will state: Babylon [changed to] Borsif and Borsif to Babylon.[13]

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(1) The community has to look after him, and therefore the community's shofar may be used for this purpose.

(2) (i) R. Judah holds that a shofar may be moved, since it can be put to a permitted use, but not a trumpet. This can be used only in a way that is forbidden on the Sabbath, sc. drawing a blast, and is therefore mukzeh (q.v. Glos.), the handling of which R. Judah prohibits on the Sabbath, (ii) R. Simeon holds that mukzeh may be handled, hence both may be moved. (iii) R. Nehemiah holds that a utensil may be handled only for its normal use: hence both are forbidden:

(3) In the first Baraitha, once it is stated that a shofar may not be moved, though it can be put to a permitted use, a trumpet need not be mentioned. Hence it is stated that the language changed in the course of time, ‘shofar’ and ‘trumpet’ reversing their meaning. Thus the first Baraitha first states that a trumpet may not be handled, and then adds that the same applies even to a shofar.

(4) V. Lev. XXIII, 24; Num. XXIX, 1. This must be blown on what is popularly called a trumpet, which is really a shofar (ram's horn).

(5) The palm-branch; V. Lev. XXIII, 40. For the willow (Heb. ‘arabah), what is now called zafzafah must be taken.

(6) A small money-changer's table, counter.

(7) A large table.

(8) If one orders a pathora it now means a large table.

(9) Hoblila is the second stomach in ruminants; be kasse the first. But nowadays the terms have reversed their meanings.

(10) I.e., the be kasse.

(11) I.e., penetrating both sides of the wall.

(12) Unfit for food. Abaye states that this law applies only to what is now called hoblila.

(13) The town Babylon is on the Euphrates, and Borsipha is on an arm of the Euphrates. V. Obermeyer, P. 314 and map.

Talmud - Mas. Shabbath 36b

What is the practical difference? — In respect of women's bills of divorce.[1]

CHAPTER III

MISHNAH. IF A [DOUBLE][2] STOVE IS HEATED WITH STUBBLE OR RAKINGS, A POT MAY BE PLACED THEREON;[3] WITH PEAT OR WOOD, ONE MAY NOT PLACE [A POT THERE] UNTIL, HE SWEEPS IT[4] OR COVERS IT WITH ASHES.[5] BETH SHAMMAI MAINTAIN: HOT WATER, BUT NOT A DISH;[6] BUT BETH HILLEL RULE; BOTH HOT WATER AND A DISH. BETH SHAMMAI MAINTAIN: ONE MAY REMOVE [IT], BUT NOT PUT [IT] BACK; BUT BETH HILLEL RULE: ONE MAY PUT [IT] BACK TOO.

GEMARA. The scholars propounded: Does this, ONE MAY NOT PLACE, mean one must not put [it] back,[7] yet it is permitted to keep [it there],[8] even if it [the stove] is neither swept nor covered with ashes: and who is the authority thereof? Hananiah. For it was taught, Hananiah said: ‘Whatever is as the food of the son of Derusai[9] may be kept on the stove, even if it is neither swept nor covered with ashes’?[10] Or perhaps we learnt about keeping [it there], and that is [permitted] only if it is swept or covered with ashes, but not otherwise: how much more so with respect to putting it back!-Come and hear! For two clauses are taught in our Mishnah: BETH SHAMMAI MAINTAIN: HOT WATER, BUT NOT A DISH; BUT BETH HILLEL RULE: BOTH HOT WATER AND A DISH. BETH SHAMMAI MAINTAIN: ONE MAY REMOVE [IT], BUT NOT PUT[IT] BACK; BUT BETH HILLEL, RULE: ONE MAY PUT [IT] BACK TOO. Now, if you say that we learnt about keeping [it there], it is well, for this is what he [the Tanna] teaches: IF A STOVE IS HEATED WITH STUBBLE OR RAKINGS, a pot may be kept thereon; WITH PEAT OR WOOD, one may not keep [a pot] there UNTIL, HE SWEEPS IT OR COVERS IT WITH ASHES. And what may be kept there? BETH SHAMMAI MAINTAIN: HOT WATER, BUT NOT A DISH; BUT BETH HILLEL. RULE: BOTH HOT WATER AND A DISH. And just as they differ in respect to keeping it there, so do they differ in respect to putting it back, where BETH SHAMMAI MAINTAIN: ONE MAY REMOVE [IT], BUT NOT PUT [IT] BACK; BUT BETH HILLEL- RULE: ONE MAY PUT [IT] BACK TOO. But if you say that we learnt about putting it back, then this is what he teaches: IF A STOVE IS HEATED WITH STUBBLE OR RAKINGS, A POT MAY BE PUT BACK THEREON; WITH PEAT OR WOOD, one must not put it back UNTIL, HE SWEEPS IT OR COVERS IT WITH ASHES. And what may be put back? BETH SHAMMAI MAINTAIN: HOT WATER, BUT NOT A DISH; BUT BETH HILLEL, RULE: BOTH HOT WATER AND A DISH. BETH SHAMMAI MAINTAIN: ONE MAY REMOVE [IT], BUT NOT PUT [IT] BACK;[11] BUT BETH HILLEL, RULE: ONE MAY PUT [IT] BACK TOO. Then what is the purpose of this addition?[12] —

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(1) The name of the towns in which the husband and wife are residing must be written in divorces. With respect to Babylon and Borsipha, the names as after the change must be written.

(2) A stove which held two pots.

(3) On the eve of the Sabbath, the reference being to a cooked dish.

(4) Clear of burning pieces.

(5) Otherwise it adds heat, which is forbidden; v. supra 34a.

(6) Only the former may be placed there after it is swept; but not the latter, because he may wish it to boil more, forget himself, and rake the coals or logs.

(7) After the commencement of the Sabbath.

(8) From the eve of the Sabbath.

(9) A third cooked.

(10) V. supra 20a, q.v. notes.

(11) Presumably referring to a dish, since Beth Shammai permit the replacing of hot water.

(12) It has already been stated in the previous clause, ‘BUT NOT A DISH’.

Talmud - Mas. Shabbath 37a

After all, I can tell you that we learnt about replacing it, but the text is defective, and this is what he [the Tanna] teaches: IF A STOVE IS HEATED WITH STUBBLE OR RAKINGS, A POT may be placed thereon; WITH PEAT OR WOOD, one must not replace it UNTIL HE SWEEPS IT OR COVERS IT WITH ASHES; but as for keeping it there, that is permitted even if it is neither swept nor covered with ashes. Yet what may be kept there? BETH SHAMMAI MAINTAIN; HOT WATER, BUT NOT A DISH; WHILE BETH HILLEL RULE: BOTH HOT WATER AND A DISH. And as to this replacing, of which I tell you,[1] it is not an agreed ruling, but [the subject of] a controversy between Beth Shammai and Beth Hillel. For BETH SHAMMAI MAINTAIN: WE MAY REMOVE [IT], BUT NOT REPLACE [IT]; BUT BETH HILLEL RULE: WE MAY REPLACE [IT] TOO. Come and hear: For R. Helbo said in the name of R. Hama b. Goria in Rab's name: We learnt this only of the top [of the stove]; but within it is forbidden. Now, if you say that we learnt about replacing it, it is well: hence there is a difference between the inside and the top.[2] But if you say that we learnt about keeping it there, what does it matter whether it is within or on top?-Do you think that R. Helbo refers to the first clause? He refers to the last: BUT BETH HILLEL RULE: WE MAY REPLACE [IT] TOO, Whereon R. Helbo said in the name of R. Hama b. Goria in Rab's name: We learnt this only of the top; but within it is forbidden.

Come and hear: If two stoves that are joined, one being swept or covered with ashes, whilst the other is not, we may keep [aught] upon the one that is swept or covered with ashes[3] but not upon the one that is not swept or covered with ashes. And what may be kept there? Beth Shammai maintain: Nothing at all; while Beth Hillel rule: Hot water, but not a dish. If one removes it, all agree that he must not replace it: that is R. Meir's view. R. Judah said: Beth Shammai maintain: Hot water, but not a dish; while Beth Hillel rule: Both hot water and a dish. Beth Shammai maintain: We may remove, but not replace it; while Beth Hillel rule: We may replace it too. Now, if you say that we learnt about keeping [it] there, it is well; with whom does our Mishnah agree? R. Judah. But if you say that we learnt about replacing, who is the authority of our Mishnah? neither R. Judah nor R. Meir! [For] if R. Meir, there is a difficulty on Beth Shammai's view in one respect,[4] and on Hillel's in two?[5] If R. Judah, [the case of a stove that is] swept or covered with ashes is difficult![6] -After all, I can tell you that we learnt about replacing it, but our Tanna agrees with R. Judah in one respect and disagrees with him in another. He agrees with R. Judah in one respect, viz., in respect to hot water, and a dish, and removing and replacing [them]. But he disagrees with him in another. For whereas our Tanna holds that keeping them [there is permitted] even if it is neither swept nor covered with ashes, R. Judah maintains that even keeping [them there] is [permitted] only if it is swept or covered with ashes, but not otherwise.

The scholars propounded: May one lean [a pot] against it?[7] on the inside and top thereof it is forbidden, but leaning against it may be permitted; or perhaps, there is no difference?-Come and hear: If two stoves are joined, one being swept and covered with ashes, whilst the other is neither swept nor covered with ashes: we may keep [aught] upon the one that is swept or covered with ashes, but not upon the one that is not swept or covered with ashes, though the heat reaches it from the other.[8] Perhaps there it is different, because since it is elevated, the air affects it.[9] Come and hear: For R. Safra said in R. Hiyya's name: If it [the stove] was covered with ashes, yet blazed up again, one may lean [a pot] against it, keep [a pot) upon it, remove [it] thence and replace [it]. This proves that even leaning is [permitted] only when it is covered with ashes, but not otherwise. Yet according to your reasoning, when he states, ‘one may remove [it] thence,’[does this imply] only if covered with ashes, but not otherwise?[10] But [you must answer,] removing is mentioned on account of replacing; so here too, leaning is stated on account of keeping.[11] How compare! There, since removing and replacing refer to the same place, removing is stated on account of replacing; but here, the leaning is in one place whereas the keeping is in another! What is our decision thereon?-Come and hear: If a stove is heated with peat or wood, one may lean [a pot] against it, but must not keep [it there] unless it is swept or covered with ashes. If the coals have died down,[12] or thoroughly beaten flax is placed upon it, it is as though covered with ashes.[13]

R. Isaac b. Nahmani said in R. Oshaia's name: If he covered it with ashes yet it blazed up again, one may keep upon it hot water that has [previously] been heated as much as is required, or a dish which has been boiled all it needs.

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(1) That it is permissible provided the stove is swept.

(2) It is intelligible that a pot may not be replaced within the oven, even after it is swept or covered with ashes, since the heat there is naturally greater than on top (Ri in Tosaf).

(3) Though heat reaches it from the second stove.

(4) In our Mishnah they permit hot water to be kept there even if it is not swept or covered with ashes, whilst here they permit nothing.

(5) In the Mishnah they permit hot water and a dish to be kept there even if it is unswept, etc., whilst here it is stated that if it is swept hot water only may be kept there, and nothing at all if it is unswept. Again, in the Mishnah they state that it may be replaced if it is swept, whereas here it is taught that all agree that it may not be replaced.

(6) Here it is stated that nothing at all may be kept there, while in the Mishnah either hot water alone or a dish too may be kept there according to Beth Shammai and Beth Hillel respectively.

(7) Sc. a stove that is unswept etc.

(8) Our problem is similar, and this shows that it is permitted.

(9) The pot stands on the stove and is surrounded by air, which cools it, and therefore the heat from the other stove is disregarded. But leaning against an unswept stove, without air interposing, may be forbidden.

(10) Surely not!

(11) Yet covering with ashes may not be required for leaning.

(12) Not being entirely extinguished, but burning dully and feebly.

(13) Thus for leaning it need not be swept, etc.

Talmud - Mas. Shabbath 37b

Then this proves that when it shrinks[1] and is improved thereby, it is permitted?[2] -[No.] There it is different, because he covered it with ashes. If so, why state it?-It is necessary [to state it, because] it blazed up again. You might argue, since it blazed up again, it reverts to its original state;[3] hence he informs us [that it is not so].[4]

Rabbah b. Bar Hanah said in R. Johanan's name: If he covered it with ashes, yet it blazed up again; one may keep upon it hot water, if that has been heated all it needs, or a dish which has been boiled all it needs, even if they are coals of broom.[5] Then this proves that when it shrinks and is improved thereby it is permitted?-[No.] Here it is different, because he covered it with ashes. If so, why state it? It is necessary [to state it where] it blazed up again. Then it is identical with the first [dictum]?-It is necessary [to state it] of coals of broom.

R. Shesheth said in R. Johanan's name: If a stove is fired with peat or wood, hot water insufficiently heated, and a dish insufficiently cooked, may be kept upon it. But if he [the owner] moved [them], he must not replace [them] before he sweeps or covers [it] with ashes. Thus he holds that we learnt our Mishnah with respect to replacing, but keeping is permitted even if it is not swept or covered with ashes.[6] Said Raba: We learnt both: We learnt with respect to keeping: ‘Bread may not be set in an oven before nightfall, nor a cake set upon coals, unless its surface can form a crust while it is yet day’.[7] Hence if its surface formed a crust, it is permitted.[8] With respect to replacing we also learnt: BETH HILLEL RULE: WE MAY REPLACE TOO. Now Beth Hillel permit it only when it is swept or covered with ashes, but not if it is neither swept nor covered with ashes.[9] -R. Shesheth indeed informs us of the deduction of the Mishnah.[10]

R. Samuel b. Judah said in R. Johanan's name: If a stove is fired with peat or wood, one may keep upon it a dish sufficiently cooked or hot water which is sufficiently heated, even if it [the dish] shrinks and is improved thereby. Said one of the Rabbis to R. Samuel b. Judah. But Rab and Samuel both maintain: If it shrinks and is improved thereby it is forbidden?[11] -He answered him: Do I then not know that R. Joseph said in Rab Judah's name in Samuel's name: If it shrinks and is improved thereby it is forbidden? I tell it to you[12] according to R. Johanan. R. ‘Ukba of Mesene[13] said to R. Ashi: You, who are near to Rab and Samuel, do act as Rab and Samuel; but we will act according to R. Johanan.[14] Abaye asked R. Joseph, What about keeping [a pot on the stove]?[15] — He answered him, It is indeed kept for Rab Judah, and he eats thereof! Put Rab Judah aside, said he, for since he is in danger,[16] it may be done for him even on the Sabbath. What about keeping it for me and you? — in Sura,[17] he replied, they do keep it. For R. Nahman b. Isaac is most particular,[18] and yet they keep it for him and he eats.

R. Ashi said: I was standing before R. Huna, when he ate a fish pie which they bad kept [on the stove] for him. And I do not know whether it is because he holds that if it shrinks and is improved thereby it is permitted, or because since it contains flour paste it deteriorates in shrinking. R. Nahman said: If it shrinks and is improved thereby, it is forbidden;[19] if it shrinks and deteriorates, it is permitted. This is the general rule of the matter: whatever contains flour paste, shrinks and deteriorates, except a stew of turnips, which though containing flour paste shrinks and improves. Yet that is only if it contains meat; but if it contains no meat, it shrinks and deteriorates. And even if it contains meat, we say thus only if it is not intended for guests; but if it is intended for guests, it deteriorates in the shrinking.[20] Pap of dates, daysa,[21] and a dish of dates shrink and deteriorate.

R. Hiyya b. Abba was asked:

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(1) Through cooking.

(2) Rashi: the reference must be to a dish which improves the longer it is kept on the stove, for if it deteriorates, it may obviously be kept there, as we certainly need not fear that the owner may rake up the coals, and the dictum is superfluous. Ri: the reference is presumably to the average dish, which improves with shrinking.

(3) And the dish may not be kept there.

(4) For by covering it with ashes he showed that he did not desire any further shrinkage.

(5) Rothem is a species of broom growing in the desert (Jast.), which retains its heat longer than other coals and is slower to go out.

(6) V. supra 37a.

(7) V. supra 19b.

(8) To keep it there, though the oven is not swept, etc.

(9) What need then of R. Johanan's dictum?

(10) This is the answer: R. Shesheth informs us that the Mishnah refers to replacing (v. Tosaf. a.l.). Though Raba takes that for granted, the matter was in doubt (supra 36b).

(11) To keep it on the stove.

(12) That it is permitted.

(13) In Babylon: it is the island formed by the Euphrates, the Tigris, and the Royal Canal.

(14) Though they too were much nearer to the academies of Rab and Samuel than to R. Johanan's, the communities of Mesene preferred the authority of Palestine; v. Obermeyer, p. 204.

(15) If the stove is unswept.

(16) He suffered from bulimy, and had to eat hot food.

(17) A town on the Euphrates, where Rab founded his famous academy.

(18) Rashi. Or perhaps, a master of practice (Jast,), i.e., thoroughly versed in correct practice.

(19) To keep it on the stove.

(20) When intended for personal consumption it is cut up into small pieces before being placed in the pot, and so the fat pervades the whole and prevents deterioration. But when intended for guests it is cut up in large chunks; since the fat cannot pervade the whole the shrinking causes it to deteriorate.

(21) A dish of pounded grain.

Talmud - Mas. Shabbath 38a

What[1] if one forgot a pot on the stove and [thus] cooked it on the Sabbath? He was silent and said nothing to them [his questioners]. On the morrow he went out and lectured to them: If one cooks [food] on the Sabbath unwittingly, he may eat [it]; if deliberately, he may not eat [it];[2] and there is no difference. What is meant by, ‘and there is no difference’?-Rabbah and R. Joseph both explain it permissively: only he who cooked it, thus performing an action, may not eat if it was deliberate; but this one[3] who did no action may eat even if it was deliberate. R. Nahman b. Isaac explained it restrictively: only one who cooks may eat if it was done unwittingly, because he will not [thereby] come to dissemble;[4] but this one, who may come to dissemble,[5] may not even eat if it was unwitting.

An objection is raised: if one forgot a pot on the stove and [thus] cooked it on the Sabbath: unwittingly, he may eat [thereof]; if deliberately, he may not eat. When is that said? In the case of hot water insufficiently heated or a dish insufficiently cooked; but as for hot water sufficiently heated or a dish sufficiently cooked, whether unwitting or deliberate, he may eat [thereof]: thus said R. Meir. R. Judah said: Hot water sufficiently heated is permitted, because it boils away[6] and is thus harmed;[7] a dish sufficiently cooked is forbidden, because it shrinks and is thereby improved, and whatever shrinks and is thereby improved, e.g., cabbage, beans, and mincemeat, is forbidden; but whatever shrinks and thereby deteriorates, is permitted. At all events, a dish insufficiently cooked is mentioned.[8] As for R. Nahman b. Isaac, it is well, there is no difficulty: here[9] it is before [the enactment of] the preventive measure;[10] there[11] it is after the preventive measure.[12] But [on the view of] Rabbah and R. Joseph who explain it permissively, if before the preventive measure,[13] ‘deliberate’ is a difficulty;[14] if after the preventive measure, even unwitting’ too is a difficulty.[15] That is [indeed] a difficulty.

What was the preventive measure?-For R. Judah b. Samuel said in the name of R. Abba in the name of R. Kahana in Rab's name: At first it was ruled: One who cooks [food] on the Sabbath unwittingly, he may eat [thereof], if deliberately, he may not eat; and the same applies to one who forgets.[16] But when those who intentionally left [it there] grew numerous, and they pleaded, We had forgotten [it on the stove], they [the Sages] retraced their steps and penalized him who forgot.

Now, R. Meir is self-contradictory, and R. Judah is [likewise] self-contradictory?[17] -R. Meir is not self-contradictory: the one means at the outset; the other, if done.[18] R. Judah too is not self-contradictory: there it means that it [the stove] was swept or covered with ashes;[19] here, that it was not swept or covered with ashes.

The scholars propounded: What if one transgressed and deliberately left it? Did the Rabbis penalize him or not?-Come and hear: For Samuel b. Nathan said in R. Hanina's name: When R. Jose went to Sepphoris, he found hot water which had been left on the stove, and did not forbid it to them; [he also found] shrunken eggs,[20] and forbade them to them. Surely it means for that Sabbath?[21] -No: for the following Sabbath.[22] Now, this implies that shrunken eggs go on shrinking and are thereby improved?-Yes. For R. Hama b. Hanina said: My Master and I were once guests in a certain place, and eggs shrunk to the size of crab-apples were brought before us, and we ate many of them.

BETH HILLEL RULE: ONE MAY REPLACE [IT] TOO. R. Shesheth said: On the view of him who maintains

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(1) On the view that it is forbidden to keep food on an unswept stove.

(2) This is a Mishnah. ‘And there is no difference’ is R. Hiyya b. Abba's addition in answer to the question.

(3) Sc. who left the pot on the stove. ‘If one cooks’ means by placing it on the stove.

(4) I.e., cook deliberately and pretend that it was unwitting. Since cooking is Biblically forbidden, one is not suspected of evading the prohibition.

(5) If it may be eaten when it is inadvertently left on the stove and cooked, he may leave it there deliberately and pretend forgetfulness, for the prohibition of leaving a pot on the stove is only Rabbinical.

(6) Lit., ‘shrinks’.

(7) By the loss. Hence there is no fear of raking up the coals to make it boil more.-’Sufficiently heated’ means to boiling point.

(8) And a distinction is drawn between inadvertence and a deliberate act. This contradicts both views supra.

(9) In the Baraitha quoted.

(10) Stated infra.

(11) R. Nahman's interpretation of R. Hiyya b. Abba's ruling.

(12) The prohibition stated by R. Nahman is only a preventive measure of the Rabbis, and the Baraitha states the law prior thereto.

(13) I.e., if R. Hiyya b. Abba's ruling was stated before the preventive measure was enacted.

(14) The Baraitha states that it is forbidden, whilst he ruled that it is permitted.

(15) Because the Baraitha which states that it is permitted in that case was taught before the preventive measure.

(16) A dish on the stove, and it is cooked.

(17) V. supra 37a. There R. Meir forbids a dish, even if sufficiently cooked, whilst here he permits it. On the other hand, R. Judah permits there a dish if sufficiently cooked, whilst here he forbids it. — The views they both give there of Beth Hillel's ruling must be regarded as their own too, since the halachah is always as Beth Hillel.

(18) On 37a the question is what may be done at the outset; there R. Meir rules that one must not leave a dish on the stove, even if it was sufficiently cooked before the Sabbath. But here he rules that if it was so left it is permitted.

(19) Then the dish is permitted.

(20) Eggs boiled or roasted down to a small size.

(21) He forbade them to eat the eggs on that Sabbath. This answers the question.
(22) He told them not to leave the eggs on the stove for the future.

Talmud - Mas. Shabbath 38b

that one may replace it, [it is permitted] even on the Sabbath.[1] And R. Oshaia too holds that ONE MAY REPLACE IT TOO means even on the Sabbath. For R. Oshaia said: We were once standing before R. Hiyya Rabbah, and we brought up a kettle of hot water for him from the lower to the upper storey, mixed the cup for him,[2] and then replaced it, and he said not a word to us. R. Zerika said in the name of R. Abba in R. Taddai's name: We learnt this only if they[3] are still in his hand: but if he set them down on the ground, it is forbidden.[4] R. Ammi observed: R. Taddai who acted [thus] acted for himself [only].[5] But thus did R. Hiyya say in R. Johanan's name: Even if he set them down on the ground, it is permitted. R. Dimi and R. Samuel b. Judah differ therein, and both [state their views] in R. Eleazar's name: One says: If they are still in his hand, it is permitted; on the ground, it is forbidden. While the other maintains: Even If he placed them on the ground, it is still permitted. Hezekiah[6] observed in Abaye's name: As to what you say that if it is still in his hand it is permitted, — that was said only where it was his [original] intention to replace them; but if it was not his intention to replace them, it is forbidden. Hence it follows that [if they are] on the ground, even if it was his intention to replace them, it is forbidden. Others state: Hezekiah observed in Abaye's name: As to what you say that if they are on the ground it is forbidden, that was said only if it was not his [original] intention to replace them; but if it was his intention to replace them, it is permitted. Hence it follows that [if they are] in his hand, even if it was not his intention to replace them, it is permitted.

R. Jeremiah propounded: What if he hung them on a staff or placed them on a couch?[7] R. Ashi propounded: What if he emptied them from one kettle to another? The questions stand over.

MISHNAH. IF AN OVEN WAS HEATED WITH STUBBLE OR RAKINGS, ONE MUST NOT PLACE [A POT, ETC.,] EITHER INSIDE OR ON TOP.[8] IF A KUPPAH[9] WAS HEATED WITH STUBBLE OR RAKINGS, IT IS LIKE A DOUBLE STOVE;[10] WITH PEAT OR TIMBER, IT IS LIKE AN OVEN,

GEMARA. IF AN OVEN WAS HEATED: R. Joseph thought to explain INSIDE AND ON TOP literally, but as for leaning [a pot against it], that is well. Abaye objected to him: IF A KUPPAH WAS HEATED WITH STUBBLE OR RAKINGS, IT IS LIKE A DOUBLE STOVE; WITH PEAT OR TIMBER, IT IS LIKE AN OVEN, and is forbidden. Hence if it were like a [double] stove, it would be permitted. To what is the reference: Shall we say, on its top? Then under what circumstance? Shall we say that it is not swept or covered with ashes? Is the top of a stove permitted when it is not swept or covered with ashes? Hence it must surely mean to lean against it; yet it is taught, IT IS LIKE AN OVEN, and forbidden? — Said R. Adda b. Ahabah: Here the reference is to a kuppah that is swept or covered with ashes, and an oven that is swept or covered with ashes: IT IS LIKE AN OVEN, in that though it is swept or covered with ashes, the top is forbidden; for if it were like a [double] stove, if swept or covered with ashes, it would be well.[11]

It was taught in accordance with Abaye: If an oven is heated with stubble or rakings, one may not lean [a pot, etc.,] against it, and [placing on] the top goes without saying,[12] and in the inside goes without saying; and it goes without saying [when it is heated] with peat or wood. If a kuppah is heated with stubble or rakings, one may lean [a pot] against it, but not place [it] on top;[13] [but if it is heated] with peat or wood, one must not lean [a pot] against it.

R. Aha son of Raba asked R. Ashi: How is this kuppah regarded? If like a [double] stove, even with peat or wood too?[14] If like an oven, neither with stubble or rakings?[15] He answered: Its heat is greater than a [double] stove's but less than an oven's.[16] What is a kuppah and what is a [double] stove [kirah]?-Said R. Jose b. Hanina: A kuppah has room for placing one pot; a [double] stove [kirah] has room for placing two pots. Abaye — others state, R. Jeremiah — said: We learnt likewise: If a [double] stove [kirah] is divided along its length, it is clean; along its breadth, it is unclean; [if] a kuppah [is divided], whether along its length or along its breadth, it is clean.[17]

MISHNAH. ONE MUST NOT PLACE AN EGG AT THE SIDE OF A BOILER FOR IT TO BE ROASTED,[18] AND ONE MUST NOT BREAK IT INTO A [HOT] CLOTH;[19] BUT R. JOSE PERMITS IT. AND ONE MAY NOT PUT IT AWAY IN [HOT] SAND OR ROAD DUST FOR IT TO BE ROASTED. IT ONCE HAPPENED THAT THE PEOPLE OF TIBERIAS DID THUS: THEY CONDUCTED A PIPE OF COLD WATER THROUGH AN ARM OF THE HOT SPRINGS.[20] SAID THE SAGES TO THEM: IF ON THE SABBATH,[21] IT IS LIKE HOT WATER HEATED ON THE SABBATH, AND IS FORBIDDEN BOTH FOR WASHING AND FOR DRINKING; IF ON A FESTIVAL, IT IS LIKE WATER HEATED ON A FESTIVAL, WHICH IS FORBIDDEN FOR WASHING BUT PERMITTED FOR DRINKING.

GEMARA. The scholars propounded: What if one does roast[22] it?-Said R. Joseph: If one roasts it, he is liable to a sin-offering. Mar son of Rabina said, We learnt likewise:

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(1) Rashi: not only Friday evening, but on the morrow too.

(2) Wine was not drunk neat but diluted.

(3) The pot or hot water.

(4) To replace them on the stove.

(5) Being stricter than necessary.

(6) Var. lec.: Rab Hezekiah.

(7) That is intermediate between retaining them in his hand and placing them on the ground.

(8) The oven (tannur) had a broad base and narrowed at the top. It thereby retained more heat than a stove (kirah); hence the prohibition even if it is beated with stubble or rakings only.

(9) Jast.: a small stove or brazier.

(10) I.e., the ordinary stove which held two pots; v. 38b.

(11) I.e., permitted.

(12) That it is forbidden.

(13) Wilna Gaon emends: and may place (it) on top.

(14) It should be permitted, if it is swept or covered with ashes.

(15) Should it be permitted.

(16) Hence it occupies an intermediate position.

(17) When the kirah is divided along its length it cannot be used at all, hence it ceases to be a utensil and is clean (cf p. 163, n. 9); but when divided along its breadth, each portion can be used for one pot, and it is therefore subject to uncleanness. Since a kuppah has room for only one pot, whichever way it is divided it ceases to be a utensil and is clean.

(18) Lit., 'that it should be rolled'.

(19) To be roasted thus (Rashi). Others: he must not cause it to crack by wrapping it in a hot cloth and rolling it; v. Tosaf. Yom. Tob. a.l.

(20) Tiberias possesses thermal springs. This was done before the Sabbath.

(21) I.e., the water which is drawn from the pipe on the Sabbath.

(22) Lit., 'roll'.

Talmud - Mas. Shabbath 39a

That which came into hot water before the Sabbath[1] may be steeped in hot water on the Sabbath;[2] but whatever did not come into hot water before the Sabbath, may be rinsed with hot water on the Sabbath,[3] except old salted [pickled] fish and the colias of the Spaniards,[4] because their rinsing completes their preparation.[5] This proves it.

AND HE MUST NOT BREAK IT INTO A [HOT] CLOTH. Now, as to what we learnt: 'A dish may be placed in a pit, in order that it should be guarded, and wholesome water into noisome water,[6] for it to be cooled, or cold water in the sun, for it to be heated'[7] shall we say that that agrees with R. Jose, but not with the Rabbis? Said R. Nahman: In the sun, all agree that it is permitted;[8] in a fire-heated object,[9] all agree that it is forbidden.[10] Where do they differ? Concerning a sun-heated object.[11] One Master holds that we forbid a sun-heated object on account of a fire-heated object; whilst the other Master holds that we do not forbid it.

AND ONE MAY NOT PUT IT AWAY IN [HOT] SAND. Now, let R. Jose differ here too? — Rabbah said: It is a preventive measure, lest one come to hide it in hot ashes.[12] R. Jose said: Because he may move earth [sand] from its place.[13] Wherein do they differ?-In respect of crushed earth.[14]

An objection is raised: R. Simeon b. Gamaliel said: An egg may be rolled [roasted] on a hot roof[15] but not on boiling lime.[16] As for the view that it is forbidden lest he hide it in hot ashes, it is well: there is nought to fear (here].[17] But on the view that it is because he may move earth from its place, let us forbid it?-The average roof has no earth.

Come and hear: IT ONCE HAPPENED THAT THE PEOPLE OF TIBERIAS DID THUS: THEY CONDUCTED A PIPE OF COLD WATER THROUGH AN ARM OF THE HOT SPRINGS etc. On the view that it is forbidden lest he hide it in hot ashes, it is well: hence this is similar to hiding.[18] But on the view that it is because he may move earth from its place, what can be said?[19] -Do you think that the incident of Tiberias refers to the second clause?[20] It refers to he first clause: ONE MUST NOT BREAK IT INTO A [HOT] CLOTH; BUT R. JOSE PERMITS IT; and the Rabbis argued thus with R. Jose: but in the incident of the people of Tiberias, it was a sun-heated object,[21] yet the Rabbis forbade it? That was a product of fire, he retorted, because they[22] pass over the entrance to Gehenna.[23] R. Hisda said:

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(1) I.e., anything which was boiled before the Sabbath.

(2) To soften it. It is not regarded as preparing the food in any way, since it was already prepared before the Sabbath.

(3) But not steeped.

(4) Jast.: A species of tunny fish.

(5) The phrase implies that it is 'work' in the full sense of the term, involving the doer in a sin-offering. The same applies to an egg placed at the side of a boiler and roasted.

(6) A vessel of hot water may be placed in a pool of stagnant cold water.

(7) V. infra 146b.

(8) Because it is unusual to cook thus, and there is no fear that it will lead to cooking by fire.

(9) Sc. a cloth.

(10) Because it can be confused with the fire itself, and if that is permitted, people will roast directly on the fire.

(11) A cloth heated by the sun.

(12) Which is definitely forbidden as cooking; hence R. Jose admits the interdict here.

(13) He may have insufficient sand, and scoop out more, which itself is forbidden; therefore R. Jose agrees. — The Mishnah treats of sand scooped out before the Sabbath, and even then it is forbidden.

(14) In a large quantity. R. Joseph's reason does not operate, hence it will be permitted; but Rabbah's reason still holds good.

(15) Heated by the sun.

(16) Heated by the fire.

(17) In the case of a hot roof, since the egg is not hidden in anything.

(18) The cold water is kept in the pot.

(19) That does not apply here; why did they forbid it?

(20) The prohibition of putting an egg in hot sand, etc.

(21) He thought that the thermal springs were hot through the sun,

(22) The springs.

(23) And are heated by the fires of hell! On Gehenna v. p. 153, n. 8. [Maim. Mishnah Commentary Nega'im IX, 1: It is said that the springs (of Tiberias) are hot because they pass a sulphur source.]

Talmud - Mas. Shabbath 39b

On account of the incident of what the people of Tiberias did and the Rabbis forbade them, [the practice of] putting away [aught] in anything that adds heat, even by day,[1] has no sanction.[2] ‘Ulla said: The halachah agrees with the inhabitants of Tiberias.[3] Said R. Nahman to him, The Tiberians have broken their pipe long ago![4]

IT ONCE HAPPENED THAT THE PEOPLE OF TIBERIAS DID THIS: [etc.] which washing [is meant]? Shall we say, of the whole body; is only hot water heated on the Sabbath forbidden, whereas hot water heated on the eve of the Sabbath is permitted? Surely it was taught: As to hot water which was heated on the eve of the Sabbath, on the morrow [Sabbath day] one may wash his face, hands, and feet in it, but not his whole body. Hence [it must refer to] his face, hands, and feet. Then consider the second clause: IF ON A FESTIVAL, IT IS LIKE WATER HEATED ON A FESTIVAL, WHICH IS FORBIDDEN FOR WASHING BUT PERMITTED FOR DRINKING. Shall we say that we learnt an anonymous [Mishnah] in accordance with Beth Shammai? For we learnt, Beth Shammai maintain: A man must not heat water for [washing his] feet, unless it is fit for drinking; but Beth Hillel permit it![5] -Said R. Ika b. Hanina: The reference is to the sousing[6] of the whole body, and it agrees with the the following Tanna. For it was taught: A man must not souse the whole of his body, whether with hot or with cold water:[7] this is R. Meir's view; but R. Simeon permits it. R. Judah said: It is forbidden with hot water, but permitted with cold. R. Hisda said: They differ only in respect to a vessel;[8] but if [the water is] in the earth,[9] all agree that it is permitted. But the case of the people of Tiberias was in respect to the earth,[10] yet the Rabbis forbade them?-Rather if stated, it was thus stated: They differ only in respect to earth [-heated water]; but as for a vessel, all agree that it is prohibited.

Rabbah b. Bar Hanah said in R. Johanan's name: The halachah is as R. Judah. Said R. Joseph to him, Did you hear this explicitly, or [learn it] by deduction? What is the deduction? For R. Tanhum said in the name of R. Johanan in the name of R. Jannai in Rabbi's name: Wherever you find two disputing and a third compromising, the halachah is as the words of the compromiser, except in the case of the leniencies relating to rags,[11] Where though R. Eliezer is stringent and R. Joshua is lenient and R. Akiba makes a compromise, the halachah is not as the words of the compromiser. Firstly, because R. Akiba was a disciple;[12] moreover, R. Akiba indeed

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(1) I.e., before the Sabbath.

(2) Lit , ‘has ceased’.

(3) Their action is permitted.

(4) They themselves retracted. Thus all agree now that it is forbidden.

(5) The reference is to Festivals.-Thus our Mishnah would appear to agree with Beth Shammai, whereas it is a principle throughout the Talmud that Beth Hillel's view is always halachah, and no anonymous Mishnah is taught according to the former.

(6) Not washing-sousing is more lenient.

(7) On the Sabbath. ‘Hot water’ means even if it was heated before the Sabbath.

(8) I.e., if the water is in a vessel. Obviously it was heated by fire, and one seeing it may think that it was heated on the Sabbath. Hence it was forbidden.

(9) E.g., a spring.

(10) The water was heated by being passed through a natural hot-water spring.

(11) V. supra 29a.

(12) His principal teacher was R. Eliezer, but he studied under R. Joshua too (Ab. R.N.; Ned. 50a).-From Raba (fourth century) and onwards the halachah is always as the later view, hence, generally speaking as the disciple; but before that it was always as the teacher. V. Asheri: ‘Er. I, 4.

Talmud - Mas. Shabbath 40a

retracted in favour of R. Joshua.[1] Yet what if it is by deduction?-Perhaps that[2] is only in the Mishnah, but not in a Baraitha? — I heard it explicitly, said he to him.

It was stated: if hot water is heated on the eve of the Sabbath, — Rab said: On the morrow one may wash his whole body in it, limb by limb; while Samuel ruled: They [the Sages] permitted one to wash his face, hands, and feet only.

An objection is raised: If hot water is heated on the eve of the Sabbath, on the morrow one may wash his face, hands, and feet therein, but not his whole body. This refutes Rab?-Rab can answer you: Not his whole body at once, but limb by limb. But he [the Tanna] states, his face, hands, and feet?-[It means] similar to the face, hands, and feet.[3] Come and hear: It was permitted to wash only one's face, hands, and feet [on the Sabbath] in water heated on the eve of the Sabbath? — Here too [it means] similar to the face, hands, and feet.

It was taught in accordance with Samuel: If hot water is heated on the eve of the Sabbath, on the morrow [the Sabbath day] one may wash his face, hands, and feet therein, but not his whole body limb by limb; and with water heated on a Festival it goes without saying.[4] Rabbah recited this ruling of Rab in the following version: If hot water is heated on the eve of the Sabbath,-Rab said, On the morrow one may wash his whole body in it,[5] but must omit one limb. He raised against him all the [above] objections. He is [indeed] refuted.[6]

R. Joseph asked Abaye, Did Rabbah act in accordance with Rabis ruling? I do not know, he replied. What question is this: it is obvious that he did not act, for he was refuted? He did not hear them.[7] But if he had not heard them he certainly acted [thus]! For Abaye said: In all matters the Master [sc. Rabbah] acted in accordance with Rab, except in these three where he did as Samuel: [viz.,] one may light from lamp to lamp, one can detach [the fringes] from one garment for [insertion in] another, and the halachah is as R. Simeon in respect to dragging.[8] -He followed Rab's restrictions, but not his leniencies.

Our Rabbis taught: If the holes of a bath-house are plugged[9] on the eve of the Sabbath, one may bathe therein immediately after the conclusion of the Sabbath; if on the eve of a Festival, one may enter on the morrow,[10] sweat, and go out and have a souse bath[11] in the outer chamber.[12] Rab Judah said: it once happened at the baths of Bene Berak[13] that the holes were plugged on the eve of a Festival: on the morrow R. Eleazar b. ‘Azariah and R. Akiba entered, sweated therein, went out, and had a souse bath in the outer chamber, but the warm water was covered over with boards.[14] When the matter came before the Sages, they said: Even if the warm water is not covered with boards.[15] But when transgressors grew in number, they began forbidding it.[16] One may stroll through the baths of large cities and need have no fear.[17]

What is [this reference to] transgressors? For R. Simeon b. Pazzi said in the name of R. Joshua b. Levi on the authority of Bar Kappara: At first people used to wash in pit water heated on the eve of the Sabbath; then bath attendants began to heat the water on the Sabbath, maintaining that it was done on the eve of the Sabbath. So [the use of] hot water was forbidden, but sweating was permitted. Yet still they used to bathe in hot water and maintain, We were perspiring. So sweating was forbidden, yet the thermal springs of Tiberias were permitted. Yet they bathed in water heated by fire and maintained, We bathed in the thermal springs of Tiberias. So they forbade the hot springs of Tiberias but permitted cold water. But when they saw that this [series of restriction] could not stand,[18] they permitted the hot springs of Tiberias, whilst sweating remained in status quo.[19]

Raba said: He who violates [even) a Rabbinical enactment, may be stigmatized a transgressor.[20] According to whom?

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(1) Supra 29b.

(2) Sc. Johanan's rule on compromise.

(3) I.e., limb by limb.

(4) One may certainly not wash his whole body therein on the Festival.

(5) This, in view of the reservation that follows, must mean simultaneously (Rashi).

(6) As the answer given previously that it means similar to the face, etc., does not apply to his version in which he permits the wholy body simultaneously, v. n. 2.

(7) Rabbah did not know of these refutations. Or possibly, he did not accept them; cf. Kaplan, Redaction of the Talmud, p. 138.

(8) V. supra 22a, q.v. notes.

(9) So that its steam should not be lost.

(10) I.e., the Festival day.

(11) Of cold water or water warmed on Sabbath eve, v. supra 39b.

(12) But not in the inner chamber where people wash, lest it be said that he washed his whole body. which is forbidden.

(13) Near Jaffa, the seat of R. Akiba's academy: v. Josh. XIX, 45.

(14) I.e., and they had no fear that the water in which they soused might have been heated by the heat of the baths. (Rashi). [Aliter: they took a souse in cold water, and the hot water in the bath house was covered to prevent the shower-bath water getting warm, v. Tosaf. a.l.]

(15) It is permitted.

(16) A steam bath on Sabbath.

(17) He may stroll through, not to sweat, and need not fear that he will be suspected of an unlawful purpose.

(18) They could not be enforced, being regarded as too onerous for the masses.

(19) Forbidden. — It is not clear whether these subterfuges were resorted to because the Rabbis might punish non-observance, or because public opinion condemned the open desecration of the Sabbath, even in respect of Rabbinical enactments.

(20) Without fear of proceedings for libel.

Talmud - Mas. Shabbath 40b

According to this Tanna.[1] ‘One may stroll through the baths of large cities, and need have no fear.’ Raba said: Only in large cities, but not in villages. What is the reason? Since they are small, their heat is great.[2]

Our Rabbis taught: A man may warm himself at a big fire, go out, and have a souse in cold water; providing that he does not have a souse in cold water [first] and then warm himself at the fire, because he warms the water upon him.

Our Rabbis taught: A man may heat a cloth on the Sabbath to place it on his stomach, but must not bring a hot water bottle[3] and place it on his stomach on the Sabbath;[4] and this is forbidden even on weekdays, because of its danger.[5]

Our Rabbis taught: A man may bring a jug of water and stand it in front of a fire; not for it to become warm, but for its coldness to be tempered. R. Judah said: A woman may bring a cruse of oil and place it in front of the fire; not for it to boil, but to become lukewarm. R. Simeon b. Gamaliel said: A woman may smear her hand with oil, warm it at a fire, and massage her infant son without fear.[6]

The scholars propounded: What is the first Tanna's view on oil? — Rabbah and R. Joseph both interpret it permissively; R. Nahman b. Isaac interprets it restrictively. Rabbah and R. Joseph both interpret it permissively: Oil, even if the hand shrinks from it,[7] is permitted, the first Tanna holding that oil is not subject to [the prohibition of] cooking. Then R. Judah comes to say that oil is subject to cooking, but making it lukewarm is not cooking [boiling] it; whereupon R. Simeon b. Gamaliel comes to say that oil is subject to cooking, and making it lukewarm is tantamount to cooking in its case. R. Nahman b. Isaac interprets it restrictively: oil, even if the hand does not shrink from it, is forbidden, the first Tanna holding that oil is subject to [the prohibition of] cooking, and making it lukewarm is cooking it; then R. Judah comes to say that oil is subject to cooking, but making it lukewarm is not boiling it; whereupon R. Simeon b. Gamaliel comes to say: oil is subject to boiling, and making it lukewarm is tantamount to boiling it.[8] Then R. Simeon b. Gamaliel is identical with the first Tanna? — They differ in respect to a back-handed manner.[9]

Rab Judah said in Samuel's name: Both in the case of oil and water, if the hand shrinks from it,[10] it is forbidden;[11] if the hand does not shrink from it, it is permitted. And how is ‘the hand shrinking from it’ defined?-Said Rahaba: if an infant's belly is scalded [by it].

R. Isaac b. Abdimi said: I once followed Rabbi into the baths, and wished to place a cruse of oil for him in the bath.[12] Whereupon be said to me, Take [some water] in a second vessel[13] and put [the cruse of oil in it]. Three things are inferred from this: [i] Oil is subject to [the prohibition of] boiling; [ii] a second vessel cannot boil; [iii] making it lukewarm is boiling it.[14] But how might he [Rabbi] act thus? Did not Rabbah b. Bar Hanah say in R. Johanan's name: One may meditate [on the words of the Torah] everywhere, except at the baths or a privy?[15] And should you answer, He said it to him in secular language,[16] -surely Abaye said: Secular matters may be uttered in the Holy language, whereas sacred matters must not be uttered in secular language. — Restraining one from transgression is different. The proof is: Rab Judah said in Samuel's name: It once happened that a disciple of R. Meir followed him into the baths and wished to swill the ground for him, but he said to him, One may not swill;[17] [then he wished] to oil the ground for him, but he said to him, One may not oil. This proves that restraining one from transgression is different; so here too, restraining one from transgression is different.

Rabina said: This proves that if one cooks in the hot waters of Tiberias on the Sabbath, he is liable. For the incident of Rabbi happened after the decree,[18] yet he said to him, Take [some water] in a second vessel and put [the cruse of oil in it].[19] But that is not so? For R. Hisda said: If one cooks in the hot springs of Tiberias on the Sabbath, he is exempt? — By ‘liable’ he too meant flagellation for disobedience.[20]

R. Zera said: I saw R. Abbahu swimming in a bath, but I do not know whether he lifted [his feet] or not.[21] Is it not obvious that he did not ‘lift’ [his feet]? For it was taught: One must not swim in a pool full of water, even if it stands in a courtyard.[22] There is no difficulty: in the one case

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(1) Who refers to the above as transgressors for evading Rabbinical enactments,

(2) And even a stroll through them causes sweating.

(3) Kumkumos is a kind of kettle; obviously something in the nature of an open hot water bottle is meant here.

(4) Rashi: in case it spills, and so he will have bathed on the Sabbath.

(5) Of scalding. — Needless self-endangering of life is forbidden.

(6) Of desecrating the Sabbath.

(7) I.e., even if it becomes so hot that one involuntarily withdraws his hand when he touches it.-In respect to Sabbath prohibitions, as also in respect to certain laws concerning the mixing of forbidden with permitted commodities, this is recognized as the last stage before boiling.

(8) Since a higher temperature is not required. Hence he permits it only when the oil is smeared on one's hand, which is an unusual way of heating it, but it may not be put in front of the fire in a cruse.

(9) An idiom for doing anything in an unusual way. R. Simeon permits it, while the first Tanna forbids it.

(10) I.e., the hand put in it is spontaneously withdrawn.
(11) They may not be placed in front of a fire to reach temperature.
(12) This was in the hot springs of Tiberias, which was finally permitted; supra a.-He wished to warm the oil before use.
(13) A vessel into which a boiling mass has been poured, opposed to כלי ראשון, a first vessel, containing the mass direct from the fire. The water was drawn direct from the spring into the bath (it was a bath naturally constructed in the ground), which is regarded as a first vessel. It is a Talmudic principle that a first vessel, if the mass in it is still seething, can cook or boil something placed in it, but a second vessel, even if very hot, cannot do this. He therefore told him to pour water out of the bath into a second vessel, and then place the oil in it, to avoid boiling.
(14) For he did not intend more than this, and yet Rabbi forbade him to place it in the bath itself. In the second vessel it would not even become lukewarm, but merely have its coldness tempered.
(15) Hence Rabbi should not have thought of the religious aspect of the act in the bath.
(16) Probably: in a phraseology not usually associated with learning. This might indicate that the language of learning as incorporated in the Mishnah was an artificial one; scholars, however, are opposed to that view; v. Segal, Mishnaic Hebrew Grammar, Introduction; S. D. Luzatto in ‘Orient. Lit.’ 1846, col. 829; 1847, cols. 1 et seq.
(17) Lest the water form ruts, which is forbidden.
(18) Forbidding sweating in ordinary (artificially heated) baths. Hence this must have happened in the natural thermal baths of Tiberias.
(19) But he forbade him to put it directly in the first vessel (v. p. 188, n. 6.), which proves that boiling even in naturally hot water involves liability.
(20) Punishment decreed by the Rabbis, as opposed to stripes, ordained by Biblical law.
(21) I.e., he did not know whether he was actually swimming or merely bathing.
(22) Where there is no fear of splashing water for a distance of four cubits in public ground.

Talmud - Mas. Shabbath 41a

it [the pool] has no embankments; in the other case it has.[1]

R. Zera also said: I saw R. Abbahu put his hand near his buttocks,[2] but do not know whether he touched them or not. It is obvious that he did not touch them, for it was taught, R. Eliezer said: He who holds his membrum and passes water is as though he brought a flood upon the world?[3] — Said Abaye: It was accounted as [analogous to] a marauding band. For we learnt: If a marauding band enters a town[4] in peace-time, open barrels [of wine] are forbidden,[5] closed barrels are permitted; in war time, both are permitted, because they have no time to make nesek.[6] Thus we see, since they are afraid,[7] they do not make nesek; so here too, since he is in fear, he will not come to meditate [impure thoughts]. And what fear is there here?-The fear of the river.

But that is not so? For R. Abba said in the name of R. Huna in Rab's name: He who puts his hand near his buttocks is as though he denied the covenant of Abraham?[8] There is no difficulty: the one means when he descends [into the river];[9] the other refers to when he ascends.[10] Just as Raba used to bend over; R. Zera would stand upright. The scholars of the college of R. Ashi, when they descended, they stood upright, [but] when they ascended they bent over.

R. Zera was evading Rab Judah. For he [R. Zera] desired to emigrate[11] to Palestine, whereas Rab Judah said, He who emigrates from Babylon to Palestine violates a positive command, for it is said, They shall be carried to Babylon, and there they shall be.[12] Said he, I will go, hear a teaching from him, return and emigrate. He went and found him standing at the baths and saying to his attendant, Bring me natron,[13] bring me a comb,[14] open your mouths and expel the heat,[15] and drink of the water of the baths. Said he, Had I come to hear nought but this, it would suffice me. As for ‘bring me natron, bring me a comb,’ it is well: he informs us that secular matters may be said in the Holy Tongue. ‘Open your mouths and expel the heat’ too is as Samuel. For Samuel said: Heat expels heat.[16] But ‘drink the water of the baths’ — what is the virtue of that?-For it was taught: If one eats without drinking, his eating is blood,[17] and that is the beginning of stomach trouble. If one eats without walking four cubits [after it], his food rots,[18] and that is the beginning of a foul smell.[19] One who has a call of nature yet eats is like an oven which is heated up on top of its ashes,[20] and that is the beginning of perspiration odour. If one bathes in hot water and drinks none, he is like an oven heated without but not within. If one bathes in hot water and does not have a cold shower bath, he is like iron put into fire but not into cold water.[21] If one bathes without anointing,[22] he is like water [poured] over a barrel.[23]

MISHNAH. IF A MILIARUM IS CLEARED [OF ITS] COALS,[24] ONE MAY DRINK FROM IT ON THE SABBATH. BUT AS TO AN ANTIKI,[25] EVEN IF ITS COALS HAVE BEEN CLEARED ONE MAY NOT DRINK FROM IT.[26]

GEMARA. What is meant by 'IF A MILIARUM IS CLEARED OF ITS] COALS'?-A Tanna taught: the water is within and the coals are without.[27] Antiki: Rabbah said: [It means a vessel suspended] between fire places [heated bricks]; R. Nahman b. Isaac said: [It means a vessel suspended] within a cauldron-like vessel.[28] He who defines it [as a vessel suspended] within a cauldron-like vessel, all the more so a vessel between fire places;[29] whereas he who defines it as [a vessel] between fire places, — but not one within a cauldron-like vessel.[30] It was taught in accordance with R. Nahman: From an antiki, even when cleared of coals and covered with ashes, one may not drink, because its copper heats it.[31]

MISHNAH. IF A BOILER IS REMOVED, ONE MAY NOT POUR COLD WATER THEREIN TO HEAT IT, BUT ONE MAY POUR IT [WATER] THEREIN [THE BOILER] OR INTO A GOBLET IN ORDER TO TEMPER IT.[32]

GEMARA. What does this mean? — Said R. Adda b. Mattenah, This is its meaning: in the case of a boiler from which the hot water is removed, one must not pour into it a little [cold] water in order to heat it, but he may pour in a large quantity of [cold] water to temper it.

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(1) Rashi: in the former case it is like a river; hence forbidden (the prohibition in Bez. 36b refers to a river); in the latter case it is like a large utensil, hence permitted.

(2) When bathing in the river; this was a gesture of decency.

(3) Because lust is inflamed.

(4) And they may have touched or moved open barrels of wine, thus rendering them forbidden.

(5) V. preceding note.

(6) Lit., 'make a libation'. That is the reason of the interdict mentioned in n. 4, because the heathen is suspected of having dedicated the wine to his deity,

(7) To put their minds to such things.

(8) As though he were ashamed of being circumcised.

(9) As his face is towards the river, a gesture of decency is not needed.

(10) His face is towards the people, and so he can cover his circumcision in modesty.

(11) Lit., 'ascend'.

(12) Jer. XXVII, 22. — Weiss, Dor, III, p. 188, maintains that R. Zera's desire to emigrate was occasioned by dissatisfaction with Rab Judah's method of study; it his is vigorously combatted by Halevi, Doroth, II pp. 421 et seq. The sequel of this story, as also of the similar one in Ber. 24b, shows that he prized Rab Judah's teaching very highly indeed; Rab Judah's prohibition of emigration was merely a reflex of his great love for Babylon, though his love for Palestine too was extraordinarily great: v. Ber. 43a.

(13) For cleansing.

(14) These were said in pure Hebrew.

(15) Rashi: let the heat of the baths enter and the heat of perspiration be driven out.

(16) V. n. 4.

(17) I.e., harmful.

(18) Is not properly digested.

(19) Issuing from the mouth.
(20) New fuel being added without the ashes of the old being cleared out.
(21) To temper it.
(22) Anointing with oil is and was practised in hot countries; T.A. I, 229 and 233.
(23) Which is poured all over the barrel, but does not enter it.
(24) Lit., ‘a cauldron that is swept out’ — before the Sabbath.
(25) The Gemara discusses what this is.
(26) The antiki retains its heat more effectively than the miliarum and therefore adds heat on Sabbath to the water it contains, which makes it forbidden.
(27) This explains מוליאר (miliarum). It is a large vessel on the outside of which a receptacle for coals is attached. Thus it would be something like the old-type Russian samowar.
(28) The vacant space beneath being filled with coals. — Jast.
(29) The ruling of the Mishnah will certainly apply to the latter too.
(30) The ruling of the Mishnah will not apply to the latter, which in his opinion is the same as a miliarium.
(31) Thus it adds heat, which is forbidden.
(32) This is discussed in the Gemara.

Talmud - Mas. Shabbath 41b

But does he not harden it?[1] -This agrees with R. Simeon, who ruled: That which is unintentional is permitted.[2] Abaye demurred to this: Is it then stated, A BOILER from which the water IS REMOVED: Surely it is stated, IF A BOILER IS REMOVED? Rather said Abaye, this is the meaning: If a boiler is removed [from the fire] and it contains hot water, one must not pour therein a little water to heat it [the added water], but he may pour a large quantity of [cold] water therein to temper it.[3] But if the water is removed from a boiler, no water at all may be poured therein, because that hardens it; this agreeing with R. Judah, who maintains: [Even] that which is un-intentional is forbidden.

Rab said: They taught [that it is permitted] only to temper [the water]; but if it is to harden [the metal], it is forbidden. Whereas Samuel ruled: Even if to harden it, it is still permitted. If the primary purpose is to harden it, can it be permitted![4] Rather if stated, it was thus stated: Rab said: They taught this only where there is [merely] a sufficient quantity to temper it; but if there is enough to harden it, it is forbidden.[5] Whereas Samuel maintained: Even if there is a sufficient quantity to harden it,

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(1) Sc. The metal of the boiler, by pouring cold water into it while it is hot. This itself is forbidden on the Sabbath.
(2) Supra 22a, 29b.
(3) I.e., reduce its heat.
(4) Surely not.
(5) Rashi; Rab explains the Mishnah as R. Adda b. Mattenah, viz., that the water was removed from the boiler. Thereon Rab observes: though a large quantity of water may be poured into it, it must nevertheless be insufficient to harden it, but merely enough to temper the water, i.e., it must not be completely filled with cold water, for that hardens the metal. Ri maintains that if the hot water is first emptied, even a small quantity of cold water poured into it immediately afterwards will harden it. Hence he interprets it thus: Rab explains the Mishnah as Abaye, as meaning that the boiler was removed with its hot water. Nevertheless, it must not be filled up with cold water, for that hardens it, as before.

Talmud - Mas. Shabbath 42a

it is permitted.[1]

Shall we say that Samuel agrees with R. Simeon?[2] But surely Samuel said: One may extinguish a lump of fiery metal in the street, that it should not harm the public,[3] but not a burning piece[4] of wood.[5] A Now if you think that he agrees with R. Simeon, even that of wood too [should be permitted]?[6] -In respect to what is unintentional he holds with R. Simeon; but in the matter of work which is not needed per se, he agrees with R. Judah.[7] Rabina said: As a corollary, a thorn in public ground may be carried away in stages of less than four cubits;[8] whilst in a karmelith[9] even a great distance too [is permitted).

BUT ONE MAY POUR, etc. Our Rabbis taught: A man may pour hot water into cold, but not cold water into hot; this is the view of Beth Shammai;[10] while Beth Hillel maintain: Both hot into cold and cold into hot are permitted. This applies only to a cup,[11] but in the case of a bath, hot into cold [is permitted], but not cold into hot.[12] But R. Simeon b. Menassia forbids it.[13] R. Nahman said: The halachah is as R. Simeon b. Menassia.

R. Joseph thought to rule: A basin is as a bath. Said Abaye to him, R. Hiyya taught: A basin is not as a bath. Now, on the original supposition that it is as a bath, while R. Nahman ruled, The halachah is as R. Simeon, can there be no washing in hot water on the Sabbath?[14] -Do you think that R. Simeon refers to the second clause? He refers to the first clause: ‘While Beth Hillel maintain: Both hot into cold and cold into hot are permitted’;[15] but R. Simeon b. Menassia forbids even cold into hot. Shall we say that R. Simeon b. Menassia rules as Beth Shammai?[16] -He says thus: Beth Shammai and Beth Hillel did not differ in this matter.[17]

R. Huna son of R. Joshua said: I saw that Raba was not particular about vessels,[18] since R. Hiyya taught: A person may pour a jug of water into a basin of water, hot into cold or cold into hot.[19] Said R. Huna to R. Ashi: Perhaps it is different there, because the vessel intervenes?[20] -It is stated that he pours it, was his answer.[21] [Thus:] A person may pour a jug of water into a basin of water, both hot into cold and cold into hot.

MISHNAH. IF A STEW POT OR A BOILING POT[22] IS REMOVED SEETHING; [FROM THE FIRE],[23] ONE MUST NOT PUT SPICES THEREIN,[24]

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(1) Since that is not his intention.

(2) That whatever is unintentional is permitted.

(3) Metal does not really burn, but throws off fiery sparks when red-hot. The prohibition of extinguishing does not apply in this case by Biblical law at all, save by Rabbinical law; hence where general damage may ensue the Rabbis waived their prohibition.

(4) Lit., ‘coal’.

(5) For that is Biblically forbidden.

(6) For R. Simeon rules that if work is not needed per se (v. p, 510, n. 3) it imposes no liability, and every case of extinguishing, except the extinguishing of a wick to make it easier for subsequent relighting (v. supra 29b bottom), falls within this category. Hence it is only Rabbinically forbidden, and therefore the same as metal.

(7) That it is interdicted.

(8) The least distance which is Biblically forbidden is four cubits in a single passage, without an interval. A thorn too may cause harm to the public; hence the Rabbinical interdict is waived.

(9) V. Glos. and supra 6a.

(10) Rashi: they hold that the lower prevails against the upper. Hence in the former case the hot water is tempered by the cold, which is permitted; but in the latter the cold is heated by the hot, which is forbidden. R. Tam: ‘hot water into cold’ implies that the cold water exceeds the hot, and therefore cools it, hence it is permitted. ‘Cold water into hot’ implies that there is more hot water, which heats the cold; consequently, it is forbidden. According to this interpretation this is independent of the question whether the lower prevails against the upper or the reverse, which refers to equal quantities; cf. ערוך השלחן Yoreh De'ah XCI, 12.

(11) The water being required for drinking, one does not wish it to become very hot. Moreover, a cup is a ‘second vessel’ (v. supra p. 188, n. 6), I.e., the water is not actually heated therein, and the contents of a second vessel cannot cause anything that comes into contact therewith to boil.

(12) The water is needed for washing, and must be very hot. Therefore if the latter case is permitted, we fear that one will come intentionally to heat water in a forbidden manner. The reference is to a bath which is a 'second vessel', and yet it is forbidden for this reason.
(13) Even hot into cold.
(14) Rashi: even if heated on the eve of the Sabbath, cold water must be added to temper its heat, which according to R. Simeon b. Menassia is forbidden.
(15) The reference being to a cup, not a bath, as stated.
(16) Surely not, for it is axiomatic that the halachah is always as Beth Hillel.
(17) Both agreeing that it is forbidden.
(18) Pouring hot water into cold and vice versa. Asheri omits 'about vessels.'
(19) Tosaf. suggests that this may be the identical Baraitha cited above, but that there it was quoted in brief.
(20) He assumed that the water is poured on to the inner side of the basin first, which somewhat cools it.
(21) I.e., directly into the water.
(22) The first means a tightly covered pot.
(23) At twilight on Friday.
(24) After nightfall. The pot is a 'first vessel' (v. p. 188, n. 6) and its contents, as long as they are seething, cause any other commodity put therein to boil likewise.

Talmud - Mas. Shabbath 42b

BUT ONE MAY PUT [SPICES] INTO A DISH OR A TUREEN.[1] R. JUDAH SAID: HE MAY PUT [SPICES] INTO ANYTHING EXCEPT WHAT CONTAINS VINEGAR OR BRINE.[2] GEMARA. The scholars propounded: Does R. Judah refer to the first clause, and [he rules] in the direction of leniency;[3] or perhaps he refers to the second clause, [inclining] to stringency?[4] — Come and hear: R. Judah said: One may put [spices] into all stew pots and into all boiling pots that are seething, except aught that contains vinegar or brine.[5]

R. Joseph thought to rule that salt is like spices, [viz.,] that it boils in a 'first vessel' but not in a second vessel'. Said Abaye to him, R. Hiyya taught: Salt is not like spices, for it boils even in a second vessel'. Now, he differs from R. Nahman, who said: Salt requires as much boiling as ox flesh. Others state, R. Joseph thought to rule: Salt is like spices, [viz.,] that it boils in a 'first vessel' but not in a 'second vessel'. Said Abaye to him, R. Hiyya taught: Salt is not like spices, for it does not boil even in a 'first vessel'. And this is identical with R. Nahmanis dictum: Salt requires as much boiling as ox flesh.[6]

MISHNAH. ONE MAY NOT PLACE A VESSEL UNDER A LAMP TO CATCH THE OIL.[7] BUT IF IT IS PI,ACED THERE BEFORE SUNSET,[8] IT IS PERMITTED. YET ONE MAY NOT BENEFIT FROM IT,[9] BECAUSE IT IS NOT OF MUKAN.[10]

GEMARA. R. Hisda said: Though they [the Sages] ruled, A vessel may not be placed under a fowl to receive its eggs,[11] yet a vessel may be overturned upon it [the egg] that it should not be broken. Said Rabbah, What is R. Hisda's reason? — He holds that it is usual for a fowl to lay her eggs in a dung heap, but not on sloping ground; now, they [the Sages] permitted[12] in a common [case of] saving,[13] but in an uncommon [case of] saving they did not permit.[14] Abaye raised an objection: Now, did they [the Sages] not permit in an uncommon [case of] saving? Surely it was taught: If a person's barrel of tebel[15] burst on the top of his roof, he may bring a vessel and place it beneath it.[16] -The reference is to new jars, which frequently burst.

He raised an objection: A vessel may be placed under a lamp to catch the sparks?-Sparks too are common.

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(1) Containing a hot stew. The dish or tureen is a 'second vessel', which cannot make the spices boil.

(2) Being sharp, they cause the spices to boil.

(3) I.e., the first Tanna, having stated that spices may not be put into a ‘first vessel’, R. Judah permits it, save where it contains vinegar or brine.

(4) The first Tanna permits spices to be put into a ‘second vessel’, no matter what its contents, whereas R. Judah makes an exception.

(5) Thus he refers to a ‘first vessel’.

(6) Hence it does not boil unless actually on the fire.

(7) On the Sabbath. Rashi offers two reasons: (i) The oil, having been set apart for fuel, is mukzeh, i.e., it must not be used in any other manner, nor may it be handled, and this Tanna holds that a utensil can be moved only for the sake of an object which may itself be handled. (ii) At present the vessel may be handled for a number of purposes. Once oil drops into it, it may not be moved, because the oil is mukzeh, and in the opinion of this Tanna one may not cause a vessel to become immovable, for it is as though he joins it to the lamp on the Sabbath.

(8) Lit.,’while it is yet day.’

(9) I.e., use the oil which drops therein.

(10) V.Glos.

(11) When she lays them on sloping ground; the vessel is to prevent them from rolling down the incline and breaking.

(12) To move a vessel for the sake of an object that may not be handled, as the egg in question.

(13) Viz., to save the eggs from being trampled upon while they lay on the dung heap. People walked over dung (manure) heaps; cf. B.K. 30a.

(14) Viz., to save them from rolling down the slope.

(15) V. Glos. The reference is to oil or wine.

(16) Though tebel itself may not be handled, while such a case of saving is uncommon, as it is rare for a barrel to burst. The same assumption is made in the other attempted refutations, that the savings permitted are in an uncommon case.

Talmud - Mas. Shabbath 43a

He raised an objection: A dish may be overturned above a lamp, that the beams should not catch [fire]? This refers to houses with low ceilings, for it is a common thing for them to catch fire. [He raised a further objection:] And likewise, if a beam is broken, it may be supported by a bench or bed staves?[1] -This refers to new planks, for it is a common thing for them to split. [Another objection:] A utensil may be placed under a leak [in the roof] on the Sabbath?-This refers to new houses, where leaking is common.

R. Joseph said: This is R. Hisda's reason, [viz.,] because he deprives the vessel of its readiness [for use].[2] Abaye objected to him: if a barrel [of tebel] is broken, another vessel may be brought and placed under it?[3] -Tebel is ready [for use] in respect to the Sabbath, replied he, for if he transgresses and prepares it,[4] it is prepared. [Another objection:] A vessel may be placed under a lamp to catch the sparks?-Said R. Huna son of R. Joshua: Sparks are intangible.[5] [Another objection:] And likewise, if a beam is broken, it may be supported by a bench or bed-staves?[6] That means that it is loose,[7] So that, if he desires, he can remove it. [Another objection:] A vessel may be placed under drippings on the Sabbath?[8] -The reference is to drippings that are fit [for use]. [Another objection:] A basket may be overturned before fledglings, for them to ascend or descend?[9] -He holds that it [the basket] may [still] be moved. But it was taught, It may not be moved?-That is [only] while they [the fledglings] are yet upon it. But it was taught, Though they are not still upon it, it is forbidden?-Said R. Abbahu: That means that they were upon it throughout the period of twilight; since It was forbidden to handle[10] at twilight, it remains so forbidden for the whole day.[11]

R. Isaac said: just as a vessel may not be placed under a fowl to receive her eggs, so may a vessel not be overturned upon it [the egg] that it should not be broken. He holds that a vessel may be handled only for the sake of that which itself may be handled on the Sabbath.[12] All the foregoing objections were raised;[13] and he answered, It means that its place is required.[14] Come and hear: An egg laid on the Sabbath or an egg laid on a Festival may not be moved, neither for covering a vessel[15] nor for supporting the legs of a bed therewith;[16] but a vessel may be turned over it, that it [the egg] should not be broken? — Here too it means that its place is required.

Come and hear: Mats may be spread over stones on the Sabbath?[17] -The reference is to smoothly rounded stones, which are fit [for use] in a privy.

Come and hear: Mats may be spread on the Sabbath upon bricks which were left over from a building?-That is because they are fit for reclining [thereon].

Come and hear: One may spread mats over bee-hives on the Sabbath: in the sun on account of the sun and in the rain on account of the rain, providing he has no intention of capturing [the bees]?[18] -The circumstances are that they contain honey. Said R. ‘Ukba of Mesene[19] to R. Ashi: That is correct of summer,

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(1) I.e., the longsides of bedsteads.

(2) V. p. 196, n. 5.

(3) Tebel may not be made fit for food on the Sabbath by rendering its dues. Hence neither it nor the vessel which receives it may be handled. Thus that too loses its general fitness, and yet it is permitted.

(4) On the Sabbath, by separating the tithes.

(5) Consequently the vessel into which they fall may be handled.

(6) Though it is then impossible to remove them for general use.

(7) The bench, etc., is not planted there firmly.

(8) He assumed that the drippings consisted of dirty water, unfit for use, as a result of which one may not handle the vessel which receives them.

(9) Into or from the hen-coop.

(10) I.e., mukzeh q.v. Glos.

(11) This is a principle often met with. But if the basket is placed there after nightfall, so that it was fit for handling at twilight, it may be moved when the birds are not upon it.

(12) Which excludes an egg laid on the Sabbath.

(13) In every case there the article itself for which the utensil is taken may not be handled.

(14) A utensil may be moved when its place is required, and when so moved it may be utilized for the purposes enumerated above,

(15) E.g., the neck of a bottle.

(16) The egg did not actually support the bed, but was placed near it for magical purposes; v. A. Marmorstein, MGWJ. 72. 1928, pp. 391-395.

(17) Stones, being unfit for use, may not be handled.

(18) Though the hives themselves may not be handled.

(19) The region to the south of Babylon bounded by the Tigris, the Euphrates and the Royal Canal, and differentiated from Babylon proper in respect to marriage; v. Kid. 71b, Obermeyer, pp. 90 seqq.

Talmud - Mas. Shabbath 43b

when there is honey; but what can be said of winter, when it does not contain honey?[1] -It is in respect of two loaves.[2] -But they are mukzeh?[3] -It means that he designated them.[4] Then what if he did not designate them? It is forbidden! If so, instead of teaching, ‘providing be has no intention of capturing [the bees],’ let a distinction be drawn and taught in that itself: [thus:] when is that said? When he designated them; but if he did not designate them, it is forbidden?-He [the Tanna] teaches us this: even if he designated them, yet there is the proviso that he must not intend to capture [the bees]. With whom does this agree?[5] If R. Simeon, surely he rejects [the prohibition of] mukzeh! If R. Judah, then what matters if one does not intend [to capture the bees],-[surely he holds that] an unintentional act is forbidden?[6] -In truth this agrees with R. Judah; and what is meant by, ‘providing he has no intention of capturing [the bees]?’ That he must not arrange it like a net, namely, he must leave an opening[7] so that they [the bees] should not be automatically caught.

R. Ashi said:[8] Is it then taught, ‘in summer’ and ‘in winter’? Surely, it is stated, ‘in the sun because of the sun and in the rain because of the rain.’ [That means,] in the days of Nisan and Tishri,[9] when there is sun, rain, and honey.

R. Shesheth said to them [his disciples], ‘Go forth and tell R. Isaac, R. Huna has already stated your ruling in Babylon. For R. Huna said: A screen may be made for the dead for the sake of the living, but not for the sake of the dead. What does this mean? As R. Samuel b. Judah said, and Shila Mari recited likewise: If a dead man is lying in the sun, two men come and sit down at his side. If they feel hot underneath,[10] each brings a couch and sits upon it.[11] If they feel hot above, they can bring a hanging and spread it above them: then each sets up his couch, slips away and departs, and thus the screen [for the dead] is found to have been made automatically.[12]

It was stated: If a corpse is lying in the sun, — Rab Judah maintained in Samuel's name: It may be changed over from bier to bier.[13] R. Hanina said on Rab's authority: A loaf or a child is placed upon it,[14] and it is moved away. Now, if a loaf or a child is available, all agree that that is permitted. When do they differ?-When they are not available: one Master holds, Sidelong moving is designated moving;[15] while the other Master holds, Sidelong moving is not designated moving.

Shall we say that this is dependent on Tannaim? A corpse may not be rescued from a conflagration.[16] R. Judah b. Lakish said: I have heard that a corpse may be rescued from a fire. What are the circumstances? if a loaf or a child is available, what is the reason of the first Tanna? If it is not,[17] what is the reason of R. Judah b. Lakish? Hence they surely differ in respect to sidelong moving, one Master holding that such is designated moving, while the other Master holds that it is not? — No. All agree that sidelong moving is designated moving, but this is the reason of R. Judah b. Lakish: since a man is agitated over his dead,

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(1) The questioner assumes ‘in the sun’ and ‘in the rain’ to mean ‘in the days of the sun’ and ‘in the days of rain’ respectively, i.e., in summer and in winter.

(2) Of honey, left in the honeycomb for the bees themselves.

(3) V. Glos. Having been set apart for the bees, they may not be handled.

(4) For food, before the Sabbath.

(5) Assuming that the reference ‘is to one who designated the two loaves, who is the author of this Baraitha?

(6) Since the covering blocks the bees’ exit, he does in fact capture them, not- withstanding his lack of intention.

(7) Lit., ‘space’

(8) In reply to the objection from the last cited Baraitha.

(9) The first and seventh months of the Jewish year, corresponding roughly to mid-March-April and mid-September-October.

(10) The sun having heated the pavement.

(11) The prohibitions of carrying from domain to domain (v. supra 2a, 6a) must of course not be violated.

(12) Thus the awning is not made for the dead, but for the sake of the living. This is a legal fiction.

(13) Until it reaches the shade.

(14) Cf. supra 30b; infra 142b.

(15) Moving indirectly, by changing over from bier to bier, is nevertheless moving, and forbidden.

(16) On the Sabbath, because it must not be handled.

(17) And consequently the point at issue is whether the dead may be rescued directly.

Talmud - Mas. Shabbath 44a

if you do not permit [it] to him, he will come to extinguish [the fire].[1] R. Judah b. Shila said in the name of R. Assi in R. Johanan's name: The halachah is as R. Judah b. Lakish in the matter of the corpse.

YET ONE MAY NOT BENEFIT FROM IT, BECAUSE IT IS NOT OF MUKAN. Our Rabbis taught: The residue of oil in the lamp or in the dish is forbidden; but R. Simeon permits [it].

MISHNAH. A NEW LAMP[2] MAY BE HANDLED, BUT NOT AN OLD ONE.[3] R. SIMEON MAINTAINED: ALL LAMPS MAY BE HANDLED, EXCEPT A LAMP [ACTUALLY] BURNING ON THE SABBATH.

GEMARA. Our Rabbis taught: A new lamp[4] may be moved, but not an old one: this is R. Judah's opinion. R. Meir ruled: All lamps may be moved, except a lamp which was lit on the Sabbath;[5] R. Simeon said: Except a lamp burning on the Sabbath; if it is extinguished, it may be moved; but a cup, dish or glass lantern[6] may not be stirred from its place. R. Eliezer son of R. Simeon said: One may take supplies from an extinguished lamp or from dripping oil, even while the lamp is burning.

Abaye observed: R. Eliezer son of R. Simeon agrees with his father on one [point] and disagrees with him on another. He agrees with his father on one [point] in reflecting [the prohibition of] mukzeh. Yet he disagrees with him on another: for whereas his father holds, Only if it is extinguished [is it permitted], but not otherwise; he holds, Even if it is not extinguished. ‘But a cup, dish, or glass lantern may not be stirred from its place’. Wherein do these differ? — Said ‘Ulla: This last clause follows R. Judah. Mar Zutra demurred to this: If so, why ‘but’? — Rather, said Mar Zutra: In truth, it follows R. Simeon; yet R. Simeon permits [handling] only in the case of a small lamp, because one's mind is set upon it;[7] but not [in the case of] these, which are large. But it was taught: The residue of oil in a lamp or in a dish is forbidden; while R. Simeon permits [it]?-There the dish is similar to the lamp:[8] here the dish is similar to the cup.[9]

R. Zera said: A shaft[10] in which [a lamp] was lit on [that] Sabbath,[11] in the view of him who permits [an earthen lamp],[12] this is prohibited;[13] in the view of him who forbids [an earthen lamp],[14] this is permitted.[15] Shall we say that R. Judah accepts [the prohibition of] mukzeh on account of repulsiveness, but rejects [that of] mukzeh on account of an interdict? But it was taught, R. Judah said: All metal lamps may be handled, except a lamp which was lit on the Sabbath?[16] But if stated, it was thus stated: R. Zera said: A shaft on which a lamp was lit[17] on the Sabbath, all agree that it is forbidden [to handle it]; if a lamp was not lit therein, all agree that it is permitted.

Rab Judah said in Rab's name: If a bed is designated for money, it may not be moved.[18] R. Nahman b. Isaac objected: A NEW LAMP MAY BE HANDLED, BUT NOT AN OLD ONE.

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(1) Yet he may not permit it when the corpse is lying in the sun.

(2) I.e., one which has never been used.

(3) Once used it is mukzeh (q. v. Glos.) on account of its repulsiveness, which this Tanna holds is forbidden.

(4) The reference is to an earthenware lamp.

(5) Var. lec.: on that Sabbath.

(6) The three used as lamps. For the various types of lamps and their descriptions v. T.A. I, 68 seq.

(7) Thinking, the oil will not last long, and when it goes out I will use the lamp.

(8) I.e., small.

(9) Large.

(10) פמוט: ‘a shaft with a receptacle for a lamp, a plain candlestick’, Jast. Rashi: a metal candlestick.

(11) jast. reads: a shaft on which a lamp was lit etc. V. also) T.A. I, p. 70 and n. 234.

(12) R. Meir.

(13) Because it burnt on that Sabbath. This is known as mukzeh on account of an interdict, I.e., the lamp was employed on that Sabbath for burning, and one may not light a lamp on the Sabbath itself.

(14) R. Judah: the reference is to an old lamp, which is mukzeh on account of repulsiveness.

(15) Because R. Judah rejects the prohibition of mukzeh on account of an interdict.-Being of metal, the lamp is not regarded as repulsive, even when it has been used.

(16) Var. lec.: on that Sabbath.

(17) V. P. 202, n. 7. Here this is the reading of cur. edd.

(18) Mere designation renders it forbidden, even if money was not actually placed there.

Talmud - Mas. Shabbath 44b

Now if a lamp, though made for that purpose, may be handled if it was not lit, how much more so a bed, which was not made for that purpose! Rather if stated, it was thus stated: Rab Judah said in Rab's name: In the case of a bed which was designated for money, if money was placed upon it,[1] it may not be handled; if money was not placed upon it, it may be handled. But if it was not designated for money, then if money is lying upon it [now], it may not be handled; if money is not lying upon it, it may be handled, provided that there was none upon it at twilight.[2]

R. Eleazar objected: As for its wheel-work, if detachable, it has no connection therewith, is not measured with it, does not protect together with it in [the matter of] a covering above the dead, and it may not be rolled on the Sabbath if there is money upon it.[3] Hence if there is no money upon it [now] it is permitted, though it was there at twilight?-That is according to R. Simeon, who rejects [the law of] mukzeh,[4] whereas Rab agrees with R. Judah.

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(1) Even on weekdays, and it was removed before the Sabbath. Yet it has thereby been set apart and employed for something (sc. money) that may not be handled on the Sabbath, and therefore may not be handled itself either.

(2) Before the commencement of the Sabbath. For if there was money upon it at twilight, it could not be handled then, and being interdicted then it remains so for the whole Sabbath.

(3) Kel. XVIII, 2. The reference is to the wheel-work of a carriage. It has no connection with the body of the carriage: if either the wheel-work or the carriage comes into contact with an unclean object, the other remains unaffected. Now, a utensil can become unclean only if its capacity is less than forty se'ahs, which Beth Hillel defines as referring to its displacement. Thus, not only is the hollow of the vessel reckoned, but also its sides, etc. Consequently, if the wheel-work were not detachable, its own volume too would be measured in conjunction with the body itself, but being detachable, it is not. Again, if any object or a human being is stationed directly above a corpse, e.g., it is suspended above a grave, even without touching it, it becomes unclean; but if an object of forty se'ahs capacity, e.g., a large box or the body of a carriage, intervenes, it is saved from uncleanliness. Now, if the body of this carriage, which is of forty se'ahs capacity, is piled up with articles, some of which protrude and overflow its sides, while the detachable wheel-work too is higher than the body, and thus the wheel-work interposes between these articles and the grave, it does not save them from uncleanness. For the body itself does not intervene, while the wheel-work has not a capacity of forty se'ahs, and it is not counted as part of the whole. The object which becomes unclean is technically called a tent or covering (ohel) of the dead. With respect to the last clause Ri explains: if it is not detachable it may be rolled even if money is lying upon it, because the wheel-work is then only part of the carriage, whilst there is no money upon the body thereof, which is the chief portion.

(4) Nevertheless, since money may not be handled for any purpose whatsoever, he admits that the wheel may not be rolled when there is actually money upon it now.

Talmud - Mas. Shabbath 45a

Logic too avers that Rab agrees with R. Judah. For Rab said: A lamp may be placed on a palm tree for the Sabbath,[1] but not on a Festival.[2] Now, it is well if you admit that Rab holds as R. Judah: hence he draws a distinction between the Sabbath and Festivals.[3] But if you say that he holds as R. Simeon, what is the difference between the Sabbath and Festivals?[4]

But does Rab hold as R. Judah? Surely Rab was asked: Is it permitted to move the Hanukkah lamp[5] on account of the Guebres on the Sabbath?[6] and he answered them, It is well.[7] -A time of emergency is different. For R. Kahana and R. Ashi asked Rab: Is that the law? whereat he answered them, R. Simeon is sufficient to be relied upon in an emergency.

Resh Lakish asked R. Johanan: What of wheat sown in the earth or eggs under a fowl?[8] When does R. Simeon reflect [the prohibition of] mukzeh? Where one has not rejected it [an object] with his [own] hands; but where one rejects it with his own hands,[9] he accepts [the interdict of] mukzeh: or perhaps there is no difference? — He answered him: R. Simeon accepts mukzeh only in respect of the oil in the [Sabbath] lamp while it is burning: since it was set apart for its precept,[10] and set apart on account of its prohibition.[11] But does he not [accept it where] it [only] was set apart for its precept?[12] Surely it was taught: If one roofs it [the booth] in accordance with its requirements, beautifies it with hangings and sheets, and suspends therein nuts, peaches, almonds, pomegranates, grape clusters, garlands of ears of corn, wines, oil, and flours, he may not use them until the conclusion of the last Festival day of the Feast; yet if he stipulates concerning them, it is all according to his stipulation.[13] And how do you know that this is R. Simeon's view? Because R. Hiyya b. Joseph recited before R. Johanan: Wood must not be taken from a hut on a Festival,[14] save from what is near it;[15] but R. Simeon permits it.[16] Yet both agree in respect to the sukkah of the Festival[17] that it is forbidden on the Festival;[18] yet if he [the owner) stipulated concerning it, it all depends on his stipulation![19] — We mean, similar to the oil in the lamp: since it was set apart for its precept, it was set apart for its interdict.[20] It was stated likewise: R. Hiyya b. Abba said in R. Johanan's name: R. Simeon rejects mukzeh save in a case similar to the oil in the lamp while it is burning: since it was set apart for its precept, it was set apart for its interdict.

Rab Judah said in Samuel's name: In R. Simeon's view mukzeh applies only to drying figs and grapes.[21] But [does it apply] to nothing else? Surely it was taught: If one was eating figs, left [some] over, and took them up to the roof to make dried figs; or grapes, and left [some] over and took them up to the roof to make raisins: he may not eat [of them] unless he designates them.[22] And you must say the same of peaches, quinces, and other kinds of fruit.[23] Which Tanna is this? Shall we say, R. Judah: seeing that he maintains [the prohibition of] mukzeh even where one does not reject it with his own hands, how much more so where he does reject it with his own hands![24] Hence it must surely be R. Simeon?[25] -After all, it is R. Judah, yet the case of eating is necessary: I might argue, since he was engaged in eating, no designation is required; hence we are informed that since he took them up to the roof, he withdrew his thoughts thence.

R. Simeon b. Rabbi asked Rabbi:

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(1) I.e., before the Sabbath, that it should burn during the Sabbath. There is no fear that he will take and use it if it goes out, thereby technically making use of what is attached to the soil. For since it was mukzeh at twilight it may not be used for the whole of the Sabbath.

(2) For then one may remove it from the tree, replace it, and so on, thus making use of the tree itself, which is prohibited.

(3) He will not remove it from the tree on the Sabbath, because of the interdict of mukzeh, which in this respect does not operate on Festivals.

(4) None at all. Hence he must hold as R. Judah.

(5) After it has been extinguished.

(6) The Parsees, being fire worshippers, forbade the Jews to have fire in their houses during their (the Parsees') festivities. Consequently the Hanukkah lamp, which was lit near the street (supra 21b), would have to be hidden on the approach of a Parsee.

(7) This does not agree with R. Judah.

(8) May they be removed on the Sabbath for use, before the wheat has taken root or the egg become addled?

(9) As here. When one sows wheat in the soil or places an egg under a fowl, he rejects it for the time being.

(10) I.e., for the Sabbath lamp.

(11) Sc. the prohibition of extinguishing a light on the Sabbath renders this oil inaccessible while the lamp is burning. The text follows an old Tosaf. (v. Marginal gloss). Curr. edd.: since it was set apart for its precept, it was set apart (i.e., rendered mukzeh and forbidden) for its interdict. But the general context shows that the amended version is preferable.

(12) Viz., that that alone suffices to render it forbidden.

(13) V. supra 22a for notes. Thus we see that mere setting apart for the fulfilment of a precept casts an interdict.

(14) The reference is not to a sukkah (q.v. Glos.) but to an ordinary booth or hut. Even if it collapses during a Festival, one must not take the timber for use, because had it not collapsed it might not be pulled down on the Festival, and this renders it mukzeh.

(15) Or, supporting it. If a bundle of wood was laid against the wall of the hut, in a measure serving as a support, it may be used on the Festival, because that must have been the owner's intention before the Festival, and so it is not mukzeh. Again, its removal will not cause the hut to collapse.

(16) Because he rejects the prohibition of mukzeh,

(17) ‘The Festival’ without a determinant always means Tabernacles.

(18) if the sukkah collapses, its wood must not be used during the whole seven days of the Festival, as it had been set aside for the precept.

(19) Thus we see that the previous Baraitha does agree with R. Simeon!

(20) I.e., the former alone imposes the interdict.

(21) When they are spread out to dry they cease to be fit for food until fully dried. Hence they are certainly rejected as food, and so even R. Simeon admits the prohibition.

(22) He may not eat them on a Festival, because he has rendered them mukzeh, unless he designates them as food before the Festival, thereby annulling their character of mukzeh.

(23) Though they are fit during the process of drying.

(24) Hence it is unnecessary to state it where he puts fruit aside for drying. Even if he merely stores it is forbidden, according to R. Judah.

(25) Proving that he admits mukzeh in other cases too,

Talmud - Mas. Shabbath 45b

What of unripe dates[1] according to R. Simeon? Said he to him: R. Simeon holds that mukzeh applies only to drying figs and raisins.

But does not Rabbi accept mukzeh?[2] Surely we learnt: Pasture animals may not be watered and killed,[3] but home animals may be watered and killed. And it was taught: These are pasture animals: those that go out on Passover and re-enter [the town limits] at the rainfall;[4] home animals: those that go out and graze beyond the tehum and re-enter and spend the night within the tehum.[5] Rabbi said: Both of these are home animals; but the following are pasture animals: those that graze in the meadow[6] and do not enter the town limits[7] either in summer or in winter.[8] -If you wish I can answer: these too are like drying figs and raisins. Alternatively, he[9] answered according to R. Simeon's view, which he himself does not accept. Another alternative: he[10] speaks according to the view of the Rabbis. As for me, I do not accept mukzeh at all;[11] but even on your view, you must at least agree with me that if they go out on Passover and return at the rainfall they are home animals? But the Rabbis answered him: No! they are pasture animals.[12]

Rabbah b. Bar Hanah said in R. Johanan's name: They[13] ruled: The halachah is as R. Simeon. But did R. Johanan say thus? Surely a certain old man of Kirwaya-others say, of Sirvaya-asked R. Johanan: May a fowl-nest be handled on the Sabbath? He answered him: Is it made for aught but fowls?[14] — Here the circumstances are that it contains a dead bird.[15] That is well according to Mar b. Amemar in Raba's name, who said: R. Simeon admits that if living creatures die, they are forbidden;[16] but on the view of Mar son of R. Joseph in Raba's name, who maintained: R. Simeon differed even in respect of living creatures that died, [ruling] that they are permitted, what can be said? — The reference here is to one [sc. a hen coop] that contains an egg.[17] But R. Nahman said: He who accepts [the prohibition of] mukzeh accepts [that of] nolad; he who rejects mukzeh, rejects nolad?-That is when it contains the egg of a fledgling.[18]

When R. Isaac son of R. Joseph came,[19] he said in the name of R. Johanan The halachah is as R. Judah: while R. Joshua b. Levi said: The halachah is as R. Simeon. R. Joseph observed: Hence Rabbah b. Bar Hanah said in R. Johanan's name, They said, The halachah is as R. Simeon: they said, but he himself [R. Johanan] did not rule thus. Said Abaye to R. Joseph: And do you yourself not hold that R. Johanan [rules] as R. Judah?[20] Surely R. Abba and R. Assi visited R. Abba of Haifa,[21] when a candelabrum fell on R. Assi's robe, but he did not remove it. What is the reason? Surely because R. Assi was R. Johanan's disciple, and R. Johanan held as R. Judah, who maintained [the prohibition of] mukzeh?-You speak of a candelabrum? he replied. A candelabrum is different, for R. Aha b. Hanina said in R. Assi's name: Resh Lakish gave a practical ruling in Zidon: A candelabrum which can be lifted with one hand may be moved; that which requires two hands may not be moved. But R. Johanan said: In the matter of a lamp we accept no other view but R. Simeon's; but as for a candelabrum, whether it can be lifted by one hand or by two, it may not be moved.[22] And what is the reason?[23] -Rabbah and R. Joseph both say: Because one appoints a place for it. Said Abaye to R. Joseph, But what of a bridal couch[24] for which [too] one appoints a place, yet Samuel said on R. Hiyya's authority: A bridal couch

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(1) Lit., ‘burst dates’, I.e., unripe dates that fell off from the tree and were placed in the sun to ripen (Jast.). Others: dates that are split and placed in the sun to ripen. Whilst they are ripening and drying they suffer discoloration and are unfit, yet not so unfit as drying figs and raisins.

(2) It is now assumed that Rabbi was asked about R. Simeon's view because it is his own too.

(3) On Festivals. The animals were first watered, to make it easier to flay them.

(4) Which takes place in Marheshwan: thus they spend about eight months in the commons beyond the town limits.

(5) V. Glos.

(6) Outside the town limits.

(7) Lit., ‘inhabited territory’.

(8) Pasture animals may not be slaughtered on Festivals because they are mukzeh, i.e., their owner has altogether put them out of mind.-Animals were frequently watered before slaughter, in order to facilitate the flaying of their skin.

(9) Rabbi, in his reply to his son Simeon.

(10) Rabbi, in the last cited Baraitha.

(11) So that pasture animals, however defined, are permitted.

(12) On this passage see Bezah, Sonc. ed., p. 202f notes.

(13) The scholars of the Academy.

(14) I.e., it is mukzeh, and forbidden. Thus he does not rule as R. Simeon.

(15) Hence it may not be handled, even according to R. Simeon.

(16) They may not even be cut up for dogs. That is if they were in good health at twilight, so that one's thoughts were completely turned away from it. If the animal was dying at twilight and perished after nightfall, R. Simeon maintains that it can be cut up for dogs, because the owner must have thought of it.

(17) Laid that day. It is then nolad (newly created), which R. Simeon admits is forbidden.

(18) I.e., upon which the fowl is brooding. This is quite unfit and the nest may not be handled on all views.

(19) From Palestine to Babylon. He was a Palestinean amora, the disciple of R. Abbahu and R. Johanan, and transmitted teachings in the latter's name; he travelled to Babylon (Hul. 101a) and acted as an intermediary between the two countries on religious questions.

(20) Even before you heard it from R. Isaac.

(21) A harbour of the Mediterranean sea on the coast of Palestine.

(22) Hence, but for the dictum of R. Isaac, R. Joseph would not have known R. Johanan's view. But now he knows that in all cases R. Johanan ruled as R. Judah, that mukzeh is forbidden, save in the matter of an old lamp, which he holds may be handled, agreeing there with R, Simeon.

(23) That a candelabrum which requires both hands for lifting may not be moved.

(24) Without an overhead awning. V. also T.A. III, 42f, ¤ 122.

Talmud - Mas. Shabbath 46a

may be set up and dismantled on the Sabbath?[1] Rather, said Abaye: [it refers to a candelabrum] of [movable] joints.[2] If So, what is the reason of R. Simeon b. Lakish, who permits it? What is meant by joints'? Similar to joints, viz., it has grooves.[3] Hence, [if it is of real] joints, whether large or small it may not be handled; also, a large one which has grooves is forbidden on account of a large jointed one;[4] where do they differ? in respect to a small grooved one: one Master holds, We forbid it as a preventive measure;[5] while the other Master holds, We do not forbid it thus.[6]

But did R. Johanan rule thus?[7] Surely R. Johanan said: The halachah is [always] as an anonymous Mishnah,[8] and we learnt: As for its wheel-work, if detachable, it has no connection therewith, is not measured with it, and does not protect together with it in [the matter of] a covering over the dead, and it may not be rolled on the Sabbath if there is money upon it.[9] Hence if there is no money upon it, it is permitted, though it was upon it at twilight?[10] — Said. R. Zera: Interpret our Mishnah as meaning[11] that there was no money upon it during the whole of twilight, so as not to overthrow[12] R. Johanan's words.

R. Joshua b. Levi said: Rabbi once went to Diospera[13] and gave a practical ruling in respect to a candelabrum as R. Simeon's view in respect to a lamp.[14] — The scholars asked: Did he give a practical ruling in respect to a candelabrum as R. Simeon's view in respect to a lamp, i.e., permissively; or perhaps he gave a restrictive ruling in respect to a candelabrum, and as R. Simeon in respect to a lamp, i.e., permissively?[15] The question stands over.

R. Malkia visited R. Simlai's home and moved a lamp,[16] to which R. Simlai took exception. R. Jose of Galilee visited the town of R. Jose son of R. Hanina; he moved a lamp, to which R. Jose son of R. Hanina took exception. When R. Abbahu visited R. Joshua b. Levi's town he would move a lamp: when he visited R. Johanan's town he would not move a lamp. What will you: if he holds as R. Judah, let him act accordingly; while if he holds as R. Simeon, let him act accordingly?- In truth, he agreed with R. Simeon, but did not act [thus] out of respect to R. Johanan. R. Judah said: An oil lamp may be handled;[17] a naphtha lamp may not be handled.[18] Rabbah and R. Joseph both maintain: A naphtha [lamp] too may be handled.[19]

R. Awia visited Raba's home. Now, his boots were muddied with clay, [yet] he sat down on a bed before Raba. [Thereupon] Raba was annoyed and wished to vex him. Said he to him: What is the reason that Rabbah and R. Joseph both maintain that a naphtha lamp too may be handled? — Because it is fit for covering a utensil, replied he. If so, all chips of the yard may be handled, since they are fit to cover a utensil?-The one [a naphtha lamp] bears the character of a utensil; the others do not bear the character of a utensil. Was it not taught:

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(1) The ordinary bed had an overhead awning. Hence when it was set up or dismantled, technically speaking it constituted the erecting or the taking down of a tent, which is forbidden. But that prohibition does not hold good here, since there is no overhead awning.

(2) it may not be handled lest it fall to pieces and be put together again, which is tantamount to making a utensil.

(3) It is all fastened in one piece, but by means of grooves it looks like being moveably jointed.

(4) Since a large one is generally jointed, even if it is only an imitation, it is still forbidden, lest they be confused with each other.

(5) Likewise lest it be confused with a jointed candelabrum.

(6) Since a small one is not generally jointed.

(7) That the halachah is as R. Judah.

(8) If a Mishnah bears no name it represents the final decision of Rabbi and his colleagues.

(9) V. p. 203, n. 6.

(10) Which renders it mukzeh.

(11) Lit., 'let our Mishnah be.' I.e., the Mishnah, Kel. XVIII, 2.

(12) Lit.,'break'.

(13) Probably Diosopolis = Lydda (Jast.),

(14) Menorah is a branched candlestick; ner a single lamp.

(15) The exact version of R. Joshua's statement is in doubt.

(16) That had gone out.

(17) Because it is not repulsive.

(18) Even R. Simeon agrees, because of its unpleasant odour it cannot be used for anything save its purpose.

(19) Its unpleasant odour does not make it repulsive, whilst at the same time it is fit for covering a utensil.

Talmud - Mas. Shabbath 46b

Bracelets, ear-rings and [finger]rings are like all utensils which may be handled in a yard.[1] And ‘Ulla said: What is the reason? Since they bear the character of a utensil. So here too, since it bears the character of a utensil [it may be handled]. R. Nahman b. Isaac observed: Praised be the All Merciful, that Raba did not put R. Awia to shame.

Abaye pointed out a contradiction to Rabbah: It was taught: The residue of the oil in the lamp or in the dish is forbidden; but R. Simeon permits [it]. Thus we see that R. Simeon rejects mukzeh. But the following opposes it: R. Simeon said: Wherever the blemish was not perceptible from the eve of the Festival, it is not mukan![2] -How compare! There, a man sits and hopes, When will his lamp go out![3] But here, does a man sit and hope, When will it receive a blemish?[4] [For] he argues: Who can say that it will receive a blemish? And even if you say that it will, who can say that it will be a permanent blemish?[5] And even if you say that it will be a permanent blemish, who can say that a scholar will oblige him?[6]

Rami b. Hama objected: Vows can be annulled on the Sabbath,[7] and one may apply[8] for absolution from vows where such is necessary for the Sabbath. Yet why: let us argue, who can say that her husband will oblige her?[9] -There it is as R. Phinehas in Raba's name. For R. Phinehas said in Raba's name: Whoever vows does so conditional upon her husband's consent.[10]

Come and hear: One may apply for absolution from vows on the Sabbath where it is necessary for the Sabbath. Yet why? let us argue, Who can say that a Sage will oblige him?-There, if a Sage will not oblige, three laymen suffice; but here,[11] who can say that a Sage will oblige him?[12]

Abaye raised a difficulty before R. Joseph: Did then R. Simeon rule, If it [the lamp] is extinguished, it may be handled: thus, only if it is extinguished, but not if it is not extinguished What is the reason? [Presumably] lest through his handling it, it goes out?[13] But we know R. Simeon to rule that whatever is unintentional is permitted. For it was taught, R. Simeon said: One may drag a bed, seat, or bench, providing that he does not intend to make a rut! — Wherever there is a Scriptural interdict if it is intentional,[14] R. Simeon forbids it by Rabbinical law even if unintentional; but wherever there is [only] a Rabbinical interdict even if it is intentional,[15] R. Simeon permits it at the outset if unintentional.

Raba objected: Clothes’ merchants may sell in their normal fashion, providing that one does not intend [to gain protection] from the sun in hot weather or from the rain when it is raining; but the strictly religious sling them on a staff behind their back.[16] Now here, though it is Scripturally intentional, yet if unintentional R. Simeon permits it at the outset?-Rather said Raba,

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(1) Though a woman may not wear them in the street; v. infra 59b and M.K. 12b.

(2) V. Bez. 27a. A firstling may not be slaughtered and consumed unless it has a blemish: R. Simeon said that it may not be slaughtered on a Festival unless its blemish was already known on the eve thereof. Otherwise the animal was not mukan, i.e., prepared for the Festival, Thus he accepts the interdict of mukzeh.

(3) To save the oil. Hence R. Simeon holds that it is not really mukzeh.

(4) Surely not! In fact, he does hope, but without expecting it, whereas one does expect a lamp to go out.
(5) For a temporary blemish does not permit the animal to be slaughtered.
(6) A scholar had to examine the blemish and declare it permanent. Could he be sure that he would obtain a scholar for this on the Festival?
(7) A husband can annul his wife's vows, or a father his daughter's.
(8) To a scholar.
(9) When a woman forswears benefit from anything, she thrusts it away from herself, and it becomes like mukzeh. Even if her husband annuls her vow, she could not have anticipated it, and so it should remain mukzeh.
(10) Hence she relies that her husband will annul it as soon as he is cognizant of it and the object was never mukzeh.
(11) In the case of the blemish of a firstling.
(12) Absolution can be granted by a Sage or three laymen; but only a Sage can declare a blemish permanent, unless it is obvious, e.g., when a limb is missing.
(13) By lifting it up he may create a draught.
(14) Extinguishing a light is Scripturally forbidden.
(15) E.g., indirectly making a rut by dragging a heavy article over the floor.
(16) V. supra 29b.

leave the lamp, oil, and wicks alone,[1] because they become a base for a forbidden thing.[2]

R. Zera said in R. Assi's name in R. Johananis name in R. Hanina's name in the name of R. Rommanus: Rabbi permitted me to handle a pan with its ashes.[3] Said R. Zera to R. Assi: Did R. Johanan say thus? But we learnt: A man may take up his son while he is holding a stone, or a basket containing a stone. Whereon Rabbah b. Bar Hanah said in R. Johanan's name: The reference is to a basket filled with fruit. Thus, only because it contains fruit; but if it does not contain fruit, it is not so?[4] 'He was astonied for a while,'[5] then answered, Here too it means that it [the pan] contains [also] some grains [of spice]. Abaye objected: Did grains have any value in Rabbi's house?[6] And should you answer, They were fit for the poor,-surely it was taught: 'The garments of the poor for the poor, and the garments of the wealthy for the wealthy'.[7] But those of the poor are not [deemed fit] for the purpose of the wealthy?[8] But said Abaye, it is analogous to a chamber pot.[9] Raba observed: There are two refutations to this. Firstly, a chamber pot is repulsive, while this is not repulsive.[10] And secondly, a chamber pot is uncovered, whereas this is covered![11] Rather, said Raba, when we were at R. Nahmanis we would handle a brazier on account of its ashes,[12] even if broken pieces of wood were lying upon it.[13]

An objection is raised: And both[14] agree that if it [a lamp] contains fragments of a wick, it may not be handled.[15] Said Abaye: They learnt this of Galilee.[16]

Levi b. Samuel met R. Abba and R. Huna b. Hiyya standing at the door of R. Huna's college. Said he to them: Is it permissible to re-assemble a weaver's frame on the Sabbath?[17] -It is well, answered they. Then he went before Rab Judah, who said: Surely Rab and Samuel both rule: If one re-assembles a weaver's frame on the Sabbath, he as liable to a sin-offering.[18]

An objection is raised: If one puts back the branch of a candelabrum on the Sabbath, he is liable to a sin-offering; as for the joint of a whitewasher's pole,[19] it must not be re-inserted, yet if one does re-insert it, he is exempt, but it is forbidden.[20] R. Simai said: For a circular horn, one is liable; for a straight horn, one is exempt![21] -They[22] ruled as this Tanna. For it was taught: The sockets of a bed,[23] the legs of a bed, and the archer's tablets,[24] may not be re-inserted, yet if one does re-insert [them], he is not liable [to a sin-offering],

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(1) They cannot be compared with others.

(2) Sc. the flame. Whilst the lamp is alight everything may be regarded as subsidiary to the flame: R. Simeon admits that such mukzeh is forbidden.

(3) Used for fumigating. This is the meaning as first supposed. Ashes are mukzeh, and it is assumed that he was permitted to move the ashes on account of the pan, which is a utensil.

(4) And the pan is analogous.

(5) Dan. IV, 16.

(6) Surely not! Hence the pan with the ashes may not be handled on their account.

(7) The reference is to the minimum size of material which is liable to defilement as a 'garment'. The smallest size which has any value to a wealthy person is three handbreadths square; if it is less, he throws it away. A poor man, however, endeavours to find a use for it even if it is only three fingerbreadths square, and that accordingly is his minimum (cf. supra 26b seq.). These are the minima for the wealthy and the poor respectively which are technically called garments.

(8) They do not rank as 'garments' when in a wealthy man's possession. The same principle applies here.

(9) Which may be carried away with the excrements, and similarly the pan and ashes.

(10) Hence the former must be removed.

(11) Their shovels or coal pans were covered with a lid or top.

(12) I.e., when the ashes were needed for covering anything. These ashes were counted upon for this from before the Sabbath, and hence the whole might be handled. So here too, R. Romanus states that Rabbi permitted him to handle a fumigating pan on account of the ashes.

(13) The latter might not be handled, and therefore the utensil which contained it likewise, save that it also contained ashes.

(14) R. Judah and R. Simeon.

(15) The same applies to pieces of wood on a brazier. For the lamp also contains oil, just as the brazier contains ashes too.

(16) Owing to the abundance of oil in Galilee the residue of oil in the lamp would be of no value to its owner, and therefore the lamp with the fragments of wick may not be handled on account of its oil (Tosaf. and R. Nissim Gaon).

(17) The frame or loom consisted of jointed parts, which fitted into each other.

(18) If done in ignorance.

(19) The handle of the painter's brush was jointed, to allow of different lengths according to requirements.

(20) A candelabrum is not taken to pieces frequently, and therefore when one inserts its branches he finishes its manufacture; hence he is liable to a sin-offering, it being a general rule that this is incurred for the completion of any utensil. But a painter's brush is continually taken to pieces; therefore the insertion of one of its parts is only temporary and does not complete it.

(21) These are musical instruments into which reeds were inserted to give various notes; v. T.A. III, 96. The putting together of the former was skilled work; hence liability is incurred. But the latter was assembled amateurishly, being frequently taken to pieces; hence no liability is incurred.-The difficulty is presented by the branch of a candelabrum, whose principle is the same as a weaver's frame.

(22) R. Abba and R. Huna b. Hiyya.

(23) Into which the legs of a bed fitted. to prevent them from being rotted by the damp earth.

(24) Rashi: a small wooden plaque inserted in the bow upon which the arrow presses before it is released. Jast. translates: ‘the boards on which the straw rests’, but does not make it clear what fitting or joining is required there.

Talmud - Mas. Shabbath 47b

but it is forbidden; nor must they be [tightly] fixed in, and if one does so, he is liable to a sin offering. R. Simeon b. Gamaliel said: if it is loose, it is permitted.[1] At R. Hama's home there was a folding bed, which they used to put up on Festivals. Said one of the Rabbis to Raba: What is your view, that it is building from the side:[2] granted that there is no Scriptural prohibition, yet it is Rabbinically forbidden?Said he to him, I agree with R. Simeon b. Gamaliel, who ruled: If it is loose, it is permitted.

MISHNAH. A VESSEL, MAY BE PLACED UNDER A LAMP TO CATCH THE SPARKS, BUT ONE MUST NOT POUR WATER THEREIN, BECAUSE HE EXTINGUISHES [THEM].

GEMARA. But he deprives the vessel of its readiness?[3] — Said R. Huna the son of R. Joshua: Sparks are intangible.[4]

BUT ONE MUST NOT POUR WATER THEREIN, BECAUSE HE EXTINGUISHES [THEM]. Shall we say that we learnt anonymously as R. Jose, who maintained: That which is a cause of extinguishing is forbidden?[5] Now, is that logical: granted that R. Jose ruled thus for the Sabbath: did he rule thus for the eve of the Sabbath? And should you say, Here also it refers to the eve of the Sabbath, — surely it was taught: A vessel may be placed under a lamp on the Sabbath to catch the sparks, and on the eve of the Sabbath goes without saying; but one must not pour water therein on the eve of the Sabbath, because he extinguishes [them], and the Sabbath goes without saying?-Rather, said R. Ashi, you may say that it agrees even with the Rabbis: here it is different, because one brings the extinguisher near.[6]

CHAPTER IV

MISHNAH. WHEREIN MAY WE STORE [FOOD], AND WHEREIN MAY WE NOT STORE

[IT]?[7] WE MAY NOT STORE [IT] IN PEAT,[8] FOLIAGE,[9] SALT, LIME, OR SAND, WHETHER MOIST OR DRY; NOR IN STRAW, GRAPE-SKINS, SOFT FLOCKING[10] OR HERBAGE, WHEN THEY ARE MOIST; BUT WE MAY STORE [FOOD] IN THEM WHEN THEY ARE DRY.

GEMARA. The scholars propounded: Did we learn, peat of olives, whereas peat of poppy seed is well; or perhaps we learnt peat of poppy seed, and how much more so of olives?-Come and hear: For R. Zera said on the authority of one of the disciples of the School of R. Jannai: A basket in which one put away [food][11] may not be placed on peat of olives. This proves that we learnt peat of olives!-[No.] After all I may tell you that in respect of storing [peat] of poppy seed too is forbidden; [but] as for

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(1) I.e., if it is so constructed that it need be only loosely joined, it is permitted even at the very outset. R. Abba and R. Huna b. Hiyya likewise refer to branches that sit lightly in their sockets.

(2) The technical term for work not done in a professional and usual way.-I.e., do you think that because it is loosely fitted it does not constitute building?

(3) V. p. 196, n. 5.

(4) V. p. 198, n. 2.

(5) Even if one does not directly extinguish; v. infra 120a.

(6) By pouring water into the vessel, And therefore as a preventive measure it is forbidden, also on the eve of sabbath. But in the case below, q.v., it is indirect extinguishing, because the heat must first cause the jars to burst before the water is released.

(7) When a pot is removed from the fire on the eve of the Sabbath, it may be stored in anything that preserves heat, but not in something that adds heat (supra 34b).

(8) I.e., a pressed, hard mass. The Gemara discusses which mass is meant.

(9) Zebel is foliage piled up for forming manure.

(10) E.g., rags, wool, etc.

(11) For the Sabbath, to preserve its heat.

Talmud - Mas. Shabbath 48a

causing heat to ascend,[1] [peat] of olives causes heat to ascend, but not [peat] of poppy seed.

Rabbah and R. Zera visited the Resh Galutha,[2] and saw a slave place a pitcher of water on the mouth of a kettle.[3] Thereupon Rabbah rebuked him. Said R. Zera to him: Wherein does it differ from a boiler [placed] upon a boiler?[4] -There he [merely] preserves [the heat][5] , he replied, whereas here he creates it.[6] Then he saw him spread a turban over the mouth of a cask and place a cup[7] upon it. Thereupon Rabbah rebuked him. Said R. Zera to him: Why? You will soon see,[8] said he. Subsequently he saw him [the servant] wringing it out.[9] Wherein does this differ from [covering a cask with] a rag?[10] he asked him. There one is not particular about it;[11] here he is particular about it.[12]

[NOR WITH] STRAW. R. Adda b. Mattenah asked Abaye: Is it permissible to handle flocking in which one stored [food]?[13] Said he to him: Because he lacks a bundle of straw, does he arise and renounce a bundle of soft flocking?[14] - Shall we say that the following supports him: We may store [food] in wool clip, hatchelled wool, strips of purple [wool],[15] and flocking, but they may not be handled?-As for that, it is no proof: this may be its meaning: if one did not store [food] in them, they may not be handled. If so, why state it?[16] -You might say, They are fit for reclining:[17] hence we are told [otherwise].

R. Hisda permitted stuffing to be replaced in a pillow on the Sabbath. R. Hanan b. Hisda objected to R. Hisda: The neck [of a shirt] may be undone on the Sabbath,[18] but may not be opened;[19] nor may flocking be put into a pillow or a bolster on a Festival, and on the Sabbath it goes without saying?-There is no difficulty: one refers to new ones, the other to old ones.[20] It was taught likewise: Flocking may not be put into a pillow or a bolster on the Festival, and on the Sabbath it need not be stated; if it falls out, it may be replaced [even] on the Sabbath, while on Festivals it goes without saying.

Rab Judah said in Rab's name: One who opens the neck [of a shirt] on the Sabbath incurs a sin-offering.[21] R. Kahana objected:

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(1) As here, the food is stored in a substance which does not add heat, but heat may mount up from the peat and penetrate the basket.

(2) Head of the Exile, Exilarch, official title of the head of Babylonian and Persian Jewry, whose authority was recognized and sustained by the State. V. J.E. V, p. 228, s.v. Exilarch.

(3) The pitcher contained cold water, and the kettle was hot.

(4) Which is permissible; 51b.

(5) For the upper boiler too is filled with hot water.

(6) The kettle below heats the cold water in the pitcher.

(7) Natla is a ladle or a small vessel for taking liquid out of a large vessel.

(8) Lit., ‘you see now’.

(9) This is forbidden on the Sabbath.

(10) Which is permitted, and we do not fear that the owner will wring it dry. And though the servant did so here, yet on what grounds did Rabbah rebuke him at the outset?

(11) He does not mind if the rag remains wet.

(12) Hence he is likely to wring it.

(13) Normally they may not be handled; the question is whether this use converts it into a ‘utensil’ which may be handled on the Sabbath.

(14) Where possible straw is used, because it is cheaper. When one must use rags, he does not on that account renounce them, i.e., declare that they have no value in his eyes save for that purpose, but they remain independent, as it were, just as before they were so used: hence they may not be handled.

(15) ארגמן is translated purple in E.V. (Ex. XXV, 4). But this was an extremely costly dye, and its proposed use here for storing food shows that such is not meant. It is rather a scarlet red dye, more brilliant than purple but not so enduring; v. T.A. I, 146f.

(16) In their present state they cannot be used, hence they certainly do not rank as ‘utensils’.

(17) So that they are utensils.

(18) When it is returned by the launderer, who generally tied the neck up.

(19) The first time after it is sewn. This opening makes it fit for wear and thus finishes its work.

(20) A pillow etc., must not be stuffed for the first time, as that is part of its manufacture; but if the stuffing falls out, it may be replaced.

(21) V. n. 1.

Talmud - Mas. Shabbath 48b

What is the difference between this and the bung of a barrel?[1] -Said Raba to him: The one is an integral part thereof, whereas the other is not.

R. Jeremiah pointed out a contradiction to R. Zera. We learnt: The fuller's loosely stitched bundle,[2] or a bunch of keys, or a garment stitched together with kil'ayim thread[3] are counted as connected in respect of uncleanness,[4] until one begins to undo them. This proves that they are [regarded as] joined even not at the time of work.[5] But the following is opposed thereto: If a stick is improvised to serve as a handle for an axe, it is counted as connected in respect of uncleanness at the time of work. [Thus,] only at the time of work, but not otherwise? — There, he replied, a man is wont to throw it [the handle] among the timber when it is not being used. Here, a man prefers [that pieces remain together][6] even not at the time of work, so that if they are soiled he can rewash them.[7]

In Sura the following discussion was recited in R. Hisda's name. in Pumbeditha it was recited in R. Kahana's name-others state, in Raba's name. Who is the Tanna responsible for the statement of the Rabbis: Whatever is joined to an article is counted as the article itself?-Said Rab Judah in Rab's name, It is R. Meir. For we learnt: The receptacles on a stove for the oil-flask, spicepot, and the lamp are defiled through contact, but not through air space: this is R. Meir's opinion. But R. Simeon declares them clean.[8] Now, as for R. Simeon, it is well: he holds that they are not as the stove. But according to R. Meir, — if they are as the stove, let them be defiled even through air space; if they are not as the stove, let them not be defiled even through contact?In truth, they are not as the stove, but the Rabbis decreed [uncleanness] in their case. If they decreed it, let them be defiled even through air space too?-The Rabbis made a distinction, so that people might not come to burn terumah and holy food on account of them.[9]

Our Rabbis taught: A shears of separate blades[10] and the cutter of a [carpenter's] plane are [counted as] connected in respect of uncleanness,[11] but not in respect of sprinkling.[12] What will you: if they are both [counted as] connected, [they are so] even in respect of sprinkling too; if [they do] not [count as] connected, [they are not so] even in respect of defilement?-Said Raba: By Scriptural law, when in use they are [counted as] connected in respect of both defilement and sprinkling, when not in use, they are [counted as] connected in respect of neither defilement nor sprinkling,

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(1) Which according to the Rabbis infra 146a, may be pierced on the Sabbath.

(2) Of linen; they used to sew articles of washing loosely together, to prevent loss.

(3) V. Glos.

(4) If one part becomes unclean, the others are likewise, though they are sure to be untied at a later stage.

(5) E.g., the fuller's bundle need be sewn together only at the actual washing, yet the single pieces are regarded as one even afterwards, so long as one has not commenced to untie them.

(6) That the pieces remain together until required.

(7) Without having to search for the pieces.

(8) Separate receptacles for a flask of oil, spices, and a lamp were attached to earthen stoves. These stoves are defiled in two ways: (i) when an unclean object actually touches them on the inside; (ii) if an unclean object is suspended within their cavity, i.e., their air space. R. Meir holds that in the first case the attached receptacles too are defiled, as part of the stove, but not in the second; while R. Simeon maintains that they remain clean in both cases.

(9) If these receptacles, having been defiled through the stove, came into contact with terumah and holy food, they are unclean in their turn, but only by Rabbinical law, whereas they must be unclean by Scriptural law before they may be burnt. Hence the Rabbis limited their defilement, that it might be fully understood that it is merely Rabbinical.

(10) Lit., ‘joints’

(11) If one part becomes unclean the other is too.

(12) If a utensil is defiled through a corpse, it needs sprinkling of water mixed with the ashes of the red heifer to render it clean (v. Num. XIX). If the mixture is sprinkled on one part but not on the other the latter is not cleansed.

Talmud - Mas. Shabbath 49a

But the Rabbis imposed a preventive measure in respect of defilement, when they are not in use,[1] on account of defilement when they are in use;[2] and in respect of sprinkling, when they are in use,[3] on account of when they are not in use.

WHEN THEY ARE MOIST. The Scholars propounded: Naturally moist, or artificially moist?[4] — Come and hear: [WE MAY NOT STORE . . .] IN STRAW, (GRAPE-SKINS, FLOCKING OR HERBAGE WHEN THEY ARE MOIST. Now, if you say [that it means] artificially moistened, it is well; but if you say, naturally moist, how can flocking be naturally moist?-[It is possible] in the case of wool plucked from between the flanks.[5] And as to what R. Oshaia taught: We may store [food] in a dry cloth[6] and in dry produce, but not in a damp cloth or moist produce,-how is naturally damp cloth possible?-In the case of- wool plucked from between the flanks.

MISHNAH. WE MAY STORE [FOOD] IN, GARMENTS, PRODUCE,[7] DOVES' WINGS, CARPENTERS' SAWDUST[8] AND THOROUGHLY BEATEN HATCHELLED FLAX. R. JUDAH FORBIDS [STORING] IN FINE, BUT PERMITS [IT] IN COARSE [BEATEN FLAX].

GEMARA. R. Jannai said: Tefillin[9] demand a pure body, like Elisha, the man of wings. What does this mean?-Abaye said: That one must not pass wind while wearing them; Raba said: That one must not sleep in them.[10] And why is he called the man of wings'? Because the wicked Roman government once proclaimed a decree against Israel that whoever donned tefillin should have his brains pierced through;[11] yet Elisha put them on and went out into the streets. [When] a quaestor saw him, he fled before him, whereupon he gave pursuit. As he overtook him he [Elisha] removed them from his head and held them in his hand. 'What is that in your hand?' he demanded. 'The wings of a dove,' was his reply. He stretched out his hand and lo! they were the wings of a dove. Therefore he is called 'Elisha the man of the wings'. And why the wings of a dove rather than that of other birds? Because the Congregation of Israel is likened to a dove, as it is said, as the wings of a dove covered with silver:[12] just as a dove is protected by its wings, so is Israel protected by the precepts.[13]

IN CARPENTERS' SAWDUST, etc. The scholars propounded: Does R. Judah refer to carpenters' sawdust or to hatchelled flax?Come and hear: R. Judah said: Fine hatchelled flax is like foliage.[14] This proves that he refers to hatchelled flax. This proves it.

MISHNAH. WE MAY STORE [FOOD] IN FRESH HIDES, AND THEY MAY BE HANDLED;[15] IN WOOL SHEARINGS, BUT THEY MAY NOT BE HANDLED.[16] WHAT THEN IS DONE? THE LID [OF THE POT] IS LIFTED, AND THEY [THE SHEARINGS] FALL OFF OF THEIR OWN ACCORD. R. ELEAZAR B. AZARIAH SAID: THE BASKET[17] IS LIFTED ON ONE SIDE AND [THE FOOD] IS REMOVED, LEST ONE LIFT [THE LID OF THE POT] AND BE UNABLE TO REPLACE IT.[18] BUT THE SAGES SAY: ONE MAY TAKE AND REPLACE [IT].[19] GEMARA. R. Jonathan b. Akinai and R. Jonathan b. Eleazar were sitting, and R. Hanina b. Hama sat with them and it was asked: Did we learn, FRESH HIDES belonging to a private individual, but those of an artisan, since he is particular about them[20] may not be handled; or perhaps, we learnt about those of an artisan, and all the more so those of a private individual?-Said R. Jonathan b. Eleazar to them: It stands to reason that we learnt about those belonging to a private individual, but as for those of an artisan, he is particular about them. Thereupon R. Hanina b. Hama observed to them: Thus did R. Ishmael b. R. Jose say:

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(1) That both limbs should count as one.

(2) To prevent laxity in the latter case,

(3) That they should not count as one.

(4) Lit., 'through themselves or through something else'. The former throws out more heat.

(5) Of a living animal: this contains its own moisture.

(6) Lit., 'raiment'.

(7) E.g., corn or pulse.

(8) Or, shavings.

(9) V. Glos.

(10) Phylacteries used to be worn all day.

(11) V. infra 130a.

(12) Ps. LXVIII, 14.

(13) In Gen. R. XXXIX, 8 the point of comparison is stated thus: all birds fly with both wings, and when exhausted they rest on a crag or rock; but the dove, when tired, rests on one wing and flies with the other. So Israel, when driven from one country, finds refuge and rest in another; v. also note a.l. in Sonc. ed.

(14) Which may not be used; supra 47b.

(15) Whether food was put away in them or not. They are fit for reclining upon, and therefore rank as utensils, which may be handled.

(16) Because they are mukzeh, being set aside to be woven and spun.

(17) Containing the pot and the shearings,

(18) If the pot is bodily lifted out, the shearings may all collapse, and since they must not be handled, they cannot be parted in order to replace the pot.

(19) This is discussed in the Gemara.

(20) He has to sell, and is therefore particular not to spoil them. This may render them mukzeh.

Talmud - Mas. Shabbath 49b

My father was a hide worker, and he would say: Fetch hides and that we may sit on them.[1]

An objection is raised: Boards belonging to a householder may be handled; those of an artisan may not be handled;[2] but if one intended to place bread upon them for guests, in both cases they may be handled? — Boards are different, for one is [certainly] particular about them.

Come and hear: Hides, whether tanned or not, may be.handled on the Sabbath, 'tanned' being specified only in respect to uncleanness.[3] Now surely, no distinction is drawn whether they belong to a householder or an artisan? — No: [It means those] of a householder. But what of those of an artisan? They may not be handled? If so, when it is taught, "'tanned" being specified only in respect to uncleanness,' let a distinction be drawn and taught in that itself: [viz.,] when is that said? [Only] of those belonging to a householder, but not concerning those of an artisan?-The whole deals with those of a householder.[4]

This is dependent on Tannaim: Hides of a private individual may be handled, but those of an artisan may not: R. Jose maintained: Either the one or the other may be handled.

Again they[5] sat and pondered: Regarding what we learnt, The principal categories of labour[6] are forty less one,-to what do they correspond?[7] -Said R. Hanina b. Hama to them: To the forms of labour in the Tabernacle.[8] R. Jonathan son of R. Eleazar said to them, Thus did R. Simeon b. R. Jose b. Lakonia say: They correspond to [the words] 'work' [melakah], 'his work' [melakto], and 'the work of' [meleketh], which are [written] thirty-nine times in the Torah.[9] R. Joseph asked: Is 'and he went into the house to do his work'[10] included in this number, or not?-Said Abaye to him, Then let a Scroll of the Torah be brought and we will count! Did not Rabbah b. Bar Hanah say in R. Johanan's name: They did not stir thence until they brought a Scroll of the Torah and counted them?[11] The reason that I am doubtful, replied he, is because it is written, for the work[12] they had was sufficient:[13] is that of the number, while this[14] is [to be interpreted] in accordance with the view that he entered to perform his business;[15] or perhaps and he went into the house to do his work' is of the number, while this 'for the work they had was sufficient' is meant thus: their business was completed?[16] The question stands over.

It was taught as the opinion that it corresponds to the forms of labour in the Tabernacle. For it was taught: Liability is incurred only for work of which the same was performed in the Tabernacle. They sowed, hence ye must not sow; they reaped, hence ye must not reap;[17] they lifted up the boards from the ground to the waggon,[18] hence ye must not carry in from a public to a private domain; they lowered the boards from the waggon to the ground, hence ye must not carry out from a private to a public domain; they transported [boards, etc.,] from waggon to waggon, hence ye must not carry from one private to another private domain. 'From one private to another private domain'- what [wrong] is done? Abaye and Raba both explained — others say, R. Adda b. Ahabah: It means from one private to another private domain via public ground.

IN WOOL. SHEARINGS, BUT THEY MAY NOT BE HANDLED. Raba said: They learnt this only where one had not stored [food] in them; but if one had stored food in them [on that Sabbath], they may be handled. A certain student of one day's standing[19] refuted Raba: WE MAY STORE [FOOD] ... IN WOOL. SHEARINGS, BUT THEY MAY NOT BE HANDLED. WHAT THEN IS DONE?

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(1) This shows that he was not particular.

(2) This shows that an artisan is particular.

(3) Tanned hides are subject to the laws of defilement; untanned hides are not.

(4) In whose case no distinction can be drawn between tanned and untanned skins save in respect of defilement.

(5) The Rabbis maintained above.

(6) Forbidden on the Sabbath; for aboth, lit., ‘fathers’, v. supra 2b.

(7) On what basis are they selected?

(8) Every form of labour necessary in the Tabernacle was regarded as a principal category of work forbidden on the Sabbath. This is learnt from the juxtaposition of the commands concerning the Sabbath and the erection of the Tabernacle, Ex. XXXV, 1-3;4 seq.

(9) Lit., ‘forty times minus one’.

(10) Gen. XXXIX, 11

(11) Rashi conjectures that the reference may be to the waw (ו) of gahown (גחון); v. Kid, 30a.

(12) E.V. ‘stuff’.

(13) Ex. XXXVI, 7.

(14) ‘And he went into the house to do his work’,

(15) A euphemism for adultery; v. Sot. 36b. In that case melakto (his work) does not connote actual work, and is not included.

(16) They had brought all the materials required. On this supposition the verse is translated as in the E.V.

(17) Certain vegetables had to be sown and reaped to provide dyes for the hangings.

(18) The ground was a public domain, while the waggon was a private domain.

(19) I.e., who had come to the college for the first time that day. V. Hag. 5b.

Talmud - Mas. Shabbath 50a

THE LID [OF THE POT] IS LIFTED, AND THEY [THE SHEARINGS] FALL. OFF OF THEIR OWN ACCORD.[1] Rather if stated, it was thus stated: Raba said: They learnt this only when one had not designated them for storing, but if he had, they may be handled. It was stated likewise: When Rabin came,[2] he said in the name of R. Jacob in the name of R. Assi b. Saul in Rab's name: They learnt this only where one had not designated them for [constant][3] storing; but if he had designated them for [constant) storing, they may be handled. Rabina said: They [the Sages of the Mishnah] learnt in reference to the [merchant's] shelves.[4] it was taught likewise: Wool shearings of the shelves may not be handled; but if a private individual prepared them for use, they may be handled.

Rabbah b. Bar Hanah recited before Rab: If one cuts down dried branches of a palm tree for fuel and then changes his mind, [intending them] for a seat, he must tie [them] together;[5] R. Simeon b. Gamaliel said: He need not tie them together. He recited it and he stated it: The halachah is as R. Simeon b. Gamaliel.

It was stated: Rab said: He must tie [them] together; Samuel maintained: He must intend [to sit upon them]: while R. Assi ruled: If he sits upon them,[6] though he had neither tied nor intended them [for sitting, it is well].[7] As for Rab, it is well: he rules as the first Tanna: and Samuel too [is not refuted, for he] rules as R. Simeon b. Gamaliel. But according to whom does R. Assi rule?-He rules as the following Tanna. For it was taught: One may go out [into the street] with a wool tuft or a flake of Wool,[8] if he had dipped them [in oil][9] and tied them with a cord. If he did not dip them [in oil] and tie them with a cord, he may not go out with them; yet if he had gone out with them for one moment[10] before nightfall,[11] even if he had not dipped or tied them with a cord, he may go out with them [on the Sabbath].[12]

R. Ashi said, We too have learnt [so]: One must not move straw [lying] upon a bed with his hand, yet he may move it with his body;[13] but if it is fodder for animals, or a pillow or a sheet was upon it before nightfall,[14] he may move it with his hand.[15]

And which Tanna disagrees with R. Simeon b. Gamaliel?R. Hanina b. Akiba. For when R. Dimi came,[16] he said in the name of Ze'iri in R. Hanina's name: R. Hanina b. Akiba once went to a certain place and found dried branches of a palm tree cut down, and he said to his disciples, ‘Go out and declare your intention,[17] so that we may be able to sit upon them tomorrow’. And I do not know whether it was a house of feasting or a house of mourning.[18] Since he says, ‘[I do not know] whether it was a house of feasting or a house of mourning’, [it implies] only there, because they are occupied;[19] but elsewhere it must be tied together; but if not, it is not [permitted].

Rab Judah said: A man may bring a sack full of earth [into the house] and use it for his general needs.[20] Mar Zutra lectured in the name of Mar Zutra Rabbah: Providing that he allotted a certain corner to it.[21] Said the students before R. Papa: With whom [does this agree]: R. Simeon b. Gamaliel? For if with the Rabbis, — an act is required![22] -R. Papa answered: You may even say, with the Rabbis. The Rabbis ruled that an act is required only where an act is possible,[23] but not where it is impossible.[24]

Shall we say that this is disputed by Tannaim? Utensils may be cleaned[25] with anything,[26] save silver vessels with white earth.[27] This [implies] that natron[28] and sand are permitted. But surely it was taught, Natron and sand are forbidden? Surely they differ in this: one Master holds that an act is required,[29] while the other Master holds that no act is required? No. All agree that no act is required, yet there is no difficulty: one is according to R. Judah, who maintains, What is unintentional is forbidden; the other is according to R. Simeon, who rules, What is unintentional is permitted.[30]

How have you explained the view that it is permitted? As agreeing with R. Simeon! Then consider the last clause: But one must not cleanse his hair with them.[31] Rather if R. Simeon, surely he permits it? For we learnt:

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(1) This proves that even when food was stored in the shearings on that day, they may not be handled.

(2) V. p. 12, n. 9.

(3) So Rashi.

(4) Wool shearings stored in the merchant's shelves are certainly not designated for storing, and even if thus employed they will eventually be replaced in the shelves. Hence they may not be handled even if used for storing. But Raba referred to ordinary shorn wool: when one employs them for such a purpose, it is as though he designated them for storing, and therefore they may be handled. Thus Rabina justifies the first version of Raba's statement.

(5) Before the Sabbath, thus indicating their purpose, Otherwise they are regarded as fuel and may not be handled on the Sabbath, a change of mind without corresponding action being of no account. — ‘Intended’ means that this was verbally stated, and not mental.

(6) Before the Sabbath.

(7) He may handle and use them as a seat on the Sabbath.

(8) Both used as a dressing for a wound. Tosaf. translates a wig.

(9) So Rashi. He thereby shows that his purpose is to prevent his garments from chafing the wound. Rashal deletes ‘in oil’, and translates: if he had dyed them, thus rendering them an adornment. Otherwise, on both translations, they are a burden and may not be taken out into the street.

(10) Lit., ‘one hour’.

(11) Lit., ‘while yet daytime’-i.e., before the Sabbath.

(12) The principle is the same as in R. Assi's ruling.

(13) Generally speaking, straw is meant for fuel or brickmaking, and is therefore mukzeh. Therefore if straw is lying on a bed, not having been designated for a mattress, one must not move it with his hand to straighten it and make the bed more comfortable, but be may do so with his body, because that is an unusual manner (v. p. 201, n. 1 and p. 115, n. 7).

(14) Lit., 'by day'-i.e., if one had lain upon it before the Sabbath, though he had neither put aside the straw nor declared his intention to use it as a mattress.

(15) Here too the principle is the same as in R. Assi's ruling.

(16) V. P. 12, n. 9,

(17) To sit upon them on the Sabbath.

(18) This is Ze'iri's comment.

(19) Lit., 'troubled'. For that reason mere intention was sufficient.

(20) On the Sabbath or Festivals. This must be done before the Sabbath or Festivals.

(21) Which renders it prepared (mukan) for these purposes.

(22) The equivalent of tying the branches.

(23) Lit., 'for something that can be the subject of an act'.

(24) Nothing can be done to the earth to show that it is meant for a particular purpose.

(25) Lit., 'rubbed'.

(26) On the Sabbath.

(27) A kind of chalk. Rashi: אלום i.e., the tartar deposited in wine vessels; Aruch: pulverized resin, These do more than cleanse, but actually smooth the silver, which is forbidden work.

(28) V. Sanh., Sonc. ed., p. 330, n. 5.

(29) To show its purpose, and since such is impossible, they are forbidden, but not because there is anything objectionable in them per se.

(30) Supra,22a, 29b. Natron and sand sometimes smooth the silver too, in addition to cleansing it, but that smoothing is unintentional. But white chalk always smooths: hence all rule it out.

(31) Because it pulls hair out.

Talmud - Mas. Shabbath 50b

A nazirite may cleanse [his hair][1] and part it,[2] but he must not comb it.[3] Rather both are according to R. Judah, yet two Tannaim differ as to R. Judah's view: one Tanna holds that in R. Judah's view they [natron and sand] smooth,[4] while the other Tanna holds that in R. Judah's view they do not smooth. How have you explained them? As agreeing with R. Judah! Then consider the second clause: 'But the face, hands, and feet are permitted';[5] but surely it removes the hair?-If you wish, I can answer that it refers to a child; alternatively, to a woman, another alternative, to a eunuch [by nature].[6]

Rab Judah said: Powdered brick is permitted.[7] R. Joseph said: Poppy pomace [scented] with jasmine is permitted.[8] Raba said: Crushed pepper is permitted. R. Shesheth said: Barda is permitted. What is barda?-Said R. Joseph: [A compound consisting of] a third aloes, a third myrtle, and a third violets. R. Nehemiah b. Joseph said: Providing that there is not a greater quantity of aloes, it is well.[9]

R. Shesheth was asked: Is it permissible to bruise olives on the Sabbath?[10] He answered them: Who permitted it then on weekdays? (He holds [that it is forbidden] on account of the destruction of food).[11] Shall we say that he disagrees with Samuel; for Samuel said: One may do whatever he desires with bread?-I will tell you: A loaf [crumbled] is not repulsive, but these are.

Amemar, Mar Zutra, and R. Ashi were sitting, when barda was brought before them.[12] Amemar and R. Ashi washed [their hands therewith]; Mar Zutra did not. Said they to him, Do you not accept R. Shesheth's ruling that barda is permitted? R. Mordecai answered them: Exclude the Master [Mar Zutra], who does not hold it [permitted] even on weekdays. His view is as what was taught: One may scrape off the dirt scabs and wound scabs that are on his flesh because of the pain;[13] [but] if in order to beautify himself, it is forbidden.[14] And whose view do they adopt? — As what was taught: One must wash his face, hands, and feet daily in his Maker's honour, for it is said, The Lord hath made every thing for his own purpose.[15]

R. ELEAZAR B. AZARIAH SAID: THE BASKET IS TILTED ON ONE SIDE AND [THE FOOD] IS REMOVED, LEST ONE LIFT [THE LID OF THE POT], etc. R. Abba said in R. Hiyya b. Ashi's name: All agree that if the cavity becomes disordered,[16] we may not replace [the pot].[17] We learnt: BUT THE SAGES SAY: ONE MAY TAKE AND REPLACE [IT]. What are the circumstances? If the cavity is not disordered, the Rabbis [surely] say well?[18] Hence it must mean even if the cavity becomes disordered!-No. In truth, it means that the cavity was not disordered, but here they differ as to whether we fear. One Master holds: We fear lest the cavity become disordered;[19] while the other Master holds: We do not fear.

R. Hana said: With respect to selikustha,[20] if one put it in, drew it out, and put it in again,[21] it is permitted;[22] if not, it is forbidden.

Samuel said: As regards the knife between the rows of bricks,[23] — if one inserted it, withdrew it, and reinserted it,[24] it is permitted; if not, it is forbidden. Mar Zutra-others state R. Ashi-said: Yet it is well [to insert a knife] between the branches of a reed hedge.[25] R. Mordecai said to Raba, R. Kattina raised an objection: if one stores turnips or radishes under a vine, provided some of their leaves are uncovered, he need have no fear

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(1) By rubbing it (hafaf denotes to rub) with sand or natron.

(2) With his fingers (Jast.). Rashi: he may beat out his hair.

(3) With a comb. A nazirite may not cut his hair (v. Num, VI, 5); a comb is certain to pull some hair out (v. T.A. II, 197 and note a.l.), and therefore it is forbidden as cutting. Now the first clause permits sand or natron: it can only agree with R. Simeon, who holds that what is unintentional is permitted, and it must be assumed therefore that sand or natron is not bound to pull out the hair. But that being so, R. Simeon will permit it on the Sabbath too.

(4) Lit., ‘scrape’.

(5) This follows the prohibition of cleansing the hair with natron or sand.

(6) None of these three have hair on the face or body.

(7) For cleaning the face, even to one who has a beard.

(8) To be used as lotion.

(9) He permits even more than a third of aloes, but there must not be more of aloes than of the other ingredients combined, because aloes act as a depilatory.

(10) May olives be bruised on a stone, which improves their taste? (Rashi) Ri: May one rub his face with olives, using them as a detergent?

(11) He regarded it as wanton waste.

(12) On Sabbath.

(13) Which their presence causes him.

(14) Rashi: on account of, neither shall a man put on a woman's garment (Deut. XXII, 5), which he interprets as a general injunction against aping femininity. Self adornment for its own sake is a woman's prerogative!

(15) Prov. XVI, 4.

(16) Its walls collapsing.

(17) Because we thereby move the shearings.

(18) There can be no reason for prohibiting its return.

(19) If one is permitted to remove the pot without tilting the basket on one side, we fear that he might replace it even if the walls of the cavity happened to collapse.

(20) A fragrant plant used after meals in place of burnt spices (Jast.). it was removed from its pot earth, its fragrance inhaled, and then put back.

(21) Before the Sabbath, thus loosening the earth around it.

(22) To remove it from the pot and replace it on the Sabbath.

(23) Where it was inserted for safety (Rashi).

(24) Cf. n. 3.

(25) The branches spreading from a common stem (Jast.). We do not fear that in removing it he may scrape off the peel of the reeds, which is forbidden.

Talmud - Mas. Shabbath 51a

on account of kil'ayim,[1] or the seventh year,[2] or tithes,[3] and they may be removed on the Sabbath.[4] This is indeed a refutation.[5]

MISHNAH. IF IT [A POT] WAS NOT COVERED' WHILE IT WAS YET DAY, IT MAY NOT BE COVERED AFTER NIGHTFALL.[6] IF IT WAS COVERED BUT BECAME UNCOVERED, IT MAY BE RECOVERED. A CRUSE MAY BE FILLED WITH [COLD] WATER AND PLACED UNDER A PILLOW OR BOLSTER.[7]

GEMARA. Rab Judah said in Samuel's name: Cold [water, food, etc.[8] may be hidden.; Said R. Joseph, What does he inform us? We learnt: A CRUSE MAY BE FILLED WITH [COLD] WATER AND PLACED UNDER A PILLOW OR A BOLSTER. Abaye answered him: He tells us much. For if [we learnt] from the Mishnah [alone], I might argue: That applies only to an object which it is not customary to store away,[9] but not to an object which it is customary to store away.[10] Therefore he informs us [that it is not so]. R. Huna said on Rabbi's authority: Cold [water, food, etc.] may not be hidden.[11] But it was taught: Rabbi permitted cold [water, etc.] to be hidden?-There is no difficulty: the one [ruling was given] before he heard it from R. Ishmael son of R. Jose; the other after he heard it [from him]. For Rabbi sat and declared: Cold [water, etc.] may not be hidden. Said R. ishmael son of R. Jose to him, My father permitted cold [water] to be hidden. Then the Elder[12] has already given a ruling, answered he.[13] R. Papa observed: Come and see how much they loved each other! For were R. Jose alive, he would have sat submissively before Rabbi, since R. Ishmael son of R. Jose, who occupied his father's place,[14] sat submissively before Rabbi,[15] yet he [Rabbi] said, Then the Elder has already given a ruling.[16]

R. Nahman said to his slave Daru: Put away cold water for me,[17] and bring me water heated by a Gentile[18] cook[19] When R. Ammi heard thereof, he objected. Said R. Joseph: Why should be have objected? He acted in accordance with his teachers, one [act] being according to Rab, and the other according to Samuel. According to Samuel, for Rab Judah said in Samuel's name: Cold [water, etc.] may be hidden. According to Rab, for R. Samuel son of R. Isaac said in Rab's name: Whatever can be eaten in its natural state,[20] raw, is not subject to [the interdict against] the cooking of Gentiles. But he [R. Ammi] held that an important man is different.[21]

Our Rabbis taught: Though it was said, One may not store [food] after nightfall even in a substance which does not add heat, yet if one comes to add,[22] he may add. How does he do it?[23] R. Simeon b. Gamaliel said: He may remove the sheets and replace them with blankets, or remove the blankets and replace them with sheets.[24] And thus did R. Simeon b. Gamaliel say: Only the self-same boiler was forbidden;[25] but if it [the food] was emptied from that boiler into another, it is permitted: seeing that he cools it,[26] will he indeed heat it up![27] If one stored [food] in and covered [it] with a substance that may be handled on the Sabbath, or if he stored [it] in something that may not be handled on the Sabbath, but covered [it] with something that may be handled on the Sabbath, he may remove [the covering] and replace it.[28] If one stored [food] in and covered [it] with a substance that may not be handled on the Sabbath, or if he stored (it] in something that may be handled on the Sabbath, but covered it with something that may not be handled on the Sabbath, provided it was partly uncovered, he may take it [out] and replace [it];[29] but if not,

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(1) V. Glos. This does not constitute the planting of diverse seeds.

(2) If these are from the sixth year and are placed in the earth in the seventh, they are not subject to the laws of seventh year produce.

(3) Having been tithed before they were placed in the earth they are not to be retithed on removal, as though this were a new harvest.

(4) On this account the proviso is made that some of the leaves must be uncovered, for otherwise it would be necessary to remove the earth, which may not be done. But the other statements hold good even if they are entirely covered (Rashi and Tosaf.).

(5) For it is not stated that the earth must be loosened before the Sabbath. (14) I.e., put away in something to retain its heat.

(6) V. supra 34a.

(7) To prevent the sun from reaching and warming it.

(8) V. preceding note.

(9) To heat it, as for instance cold water; therefore it may be hidden in order to keep it cold.

(10) For if permission is given to hide it in order to keep it cold, the reverse too may be regarded as permitted.

(11) To keep it cool.

(12) The Sage, referring to R. Jose.

(13) And I retract.

(14) I.e., he was as great as his father (Rashi).

(15) As a disciple before his master.

(16) Thus showing deference to his views.

(17) On the Sabbath.

(18) Lit., ‘Syrian’.

(19) On weekdays. Food cooked by Gentiles is forbidden. R. Nahman showed that this interdict does not apply to boiled water.

(20) Lit., ‘as it is raw’.

(21) He should be more stringent for himself.

(22) Another covering.

(23) In which the pot is wrapped.

(24) According as he desires more or less heat.

(25) I.e., food may not be stored after nightfall in the same pot in which it was cooked.

(26) By emptying it from one pot into another.

(27) Surely there is no fear of this, which is the reason for the usual prohibition (supra 34a); hence it is permitted.

(28) Since the cover can be removed, one can take hold of the pot.

(29) Since there is something by which he can grasp it.

Talmud - Mas. Shabbath 51b

it may not be removed and replaced. R. Judah said: Thoroughly beaten flax is the same as foliage.[1] A boiler may be placed upon a boiler, and a pot upon a pot,[2] but not a pot upon a boiler,[3] or a boiler upon a pot;[4] and the mouth [thereof][5] may [also] be daubed over with dough:[6] not in order to make them[7] hotter, but that [their heat] may be retained. And just as hot [food] may not be hidden, so may cold [food] not be hidden. Rabbi permitted cold [food] to be hidden. And neither snow nor hail may be broken up on the Sabbath in order that the water should flow, but they may be placed in a goblet or dish, without fear.[8]

CHAPTER V

MISHNAH. WHEREWITH MAY AN ANIMAL GO OUT [ON THE SABBATH], AND WHEREWITH MAY IT NOT GO OUT? A CAMEL MAY GO FORTH WITH A BIT, A DROMEDARY [NE’ AKAH] WITH ITS NOSE-RING [HOTEM], A LYBIAN ASS WITH A HALTER, A HORSE WITH ITS CHAIN, AND ALL CHAINWEARING ANIMALS MAY GO OUT WITH THEIR CHAINS AND BE LED BY THEIR CHAINS, AND [WATER OF LUSTRATion] MAY BE SPRINKLED UPON THEM, AND THEY MAY BE IMMERSED IN

THEIR PLACE.[9]

GEMARA. What is meant by a NE'AKAH WITH A HOTEM? — Said Rabbah b. Bar Hanah: A white [female] camel with its iron nose-ring.

A LYBIAN ASS WITH A HALTER. R. Huna said: That means a Lybian ass with an iron halter.[10] Levi sent money to Be Hozae[11] for a Lybian ass to be bought for him. [But] they parcelled up some barley and sent it to him, to intimate to him that an ass's steps depend on barley.[12]

Rab Judah said in Samuel's name: They [the scholars] transposed them [in their questions] before Rabbi: What about one animal going forth with [the accouterment] of the other? As for a dromedary [ne'akah] with a bit, there is no question; since it is not guarded thereby, it is a burden.[13] The problem is in respect of a camel with a nose-ring. How is it: Since a bit is sufficient, this [the nose-ring] is a burden; or Perhaps an additional guard is not called a burden? Said R. Ishmael son of R. Jose before him, Thus did my father rule: Four animals may go out with a bit: a horse, mule, camel and ass. What does this exclude? Surely it excludes a camel [from being led out] with a nose-ring? — No: it excludes a dromedary [ne'akah] with a bit. In a Baraitha it was taught: A Lybian ass and a camel may go out with a bit.

This is dependent on Tannaim: A beast may not go forth with a muzzle;[14] Hananiah said: It may go forth with a muzzle and with anything whereby it is guarded. To what is the reference? Shall we say, to a large beast? is a muzzle sufficient! But if a small beast is meant, is a muzzle insufficient?[15] Hence they must surely differ in respect to a cat: the first Tanna holds: since a mere cord is sufficient, it [a muzzle] is a burden;[16] while Hananiah holds, Whatever is an additional guard is not called a burden. R. Huna b. Hiyya said in Samuel's name: The halachah, is as Hananiah.

Levi son of R. Huna b. Hiyya and Rabbah b. R. Huna were travelling on a road, when Levi's ass went ahead of Rabbah b. R. Huna's, whereupon Rabbah b. R. Huna felt aggrieved.[17] Said he [Levi], I will say something to him, so that

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(1) It adds heat, and therefore food may not be put away in it even before the Sabbath.

(2) A boiler is of copper, and a pot is of earthenware.

(3) That is the corrected text.

(4) Var. lec.: and a pot upon a boiler, but not a boiler upon a pot. [The reason for the distinction is not clear and Rashi explains because a pot being of earthenware retains more effective heat which it communicates to the boiler of copper. Tosef. Shab. VI, however reads: and a pot upon a boiler and a boiler upon a pot. V. Asheri and Alfasi].

(5) [I.e., of the lower vessel, v. R. Hananel].

(6) Kneaded before the Sabbath.

(7) [I.e,. the contents of the upper vessel].

(8) Of desecrating the Sabbath, though they may melt there.

(9) To whom the law of Sabbath rest applies. V. Ex. XX, 10; Deut. V, 14. If the chain becomes ritually unclean, the ceremony of sprinkling (v. Num. XIX, 14 seq.) and immersion (tebillah) may be performed while they are on the animal.

(10) The words used in the Mishnah had become unfamiliar to the Babylonian amoraim and needed explaining.

(11) A district on the caravan route along the Tigris and its canals. The modern Khuzistan, a province of S.W. Persia, Obermeyer, Landschaft, pp. 204ff.

(12) I.e., barley is the proper food for asses. — Rashi: they returned the money, not wishing to send an ass so far. (5) [I.e., the appurtenances mentioned in the Mishnah.

(13) And must certainly not be led out with it.

(14) Or, collar.

(15) It is a complete guard in itself, and there can be no reason for prohibiting it.

(16) Therefore it is forbidden.

(17) He thought that Levi had acted intentionally, which was disrespectful, for Rabbah b. R. Huna was a greater scholar.

his mind may be appeased. Said he: An ass of evil habits, such as this one, may it go forth wearing a halter on the Sabbath? — Thus did your father say in Samuel's name, he answered him, The halachah is as Hananiah.[1]

The School of Manasseh taught: If grooves are made between a goat's horns, it may be led out with a bit on the Sabbath.[2] R. Joseph asked: What if one fastened it through its beard:[3] since It is painful [to the goat] to tug at it,[4] it will not come to do so;[5] or perhaps it may chance to loosen and fall, and he will come to carry it four cubits in the street? The question stands over.

We learnt elsewhere: Nor with the strap between its horns.[6] R. Jeremiah b. Abba said: Rab and Samuel differ therein: One maintains: Whether as an ornament or as a guard, it is forbidden; while the other rules: As an ornament it is forbidden; as a guard it is permitted. R. Joseph observed: It may be proved that it was Samuel who maintained: As an ornament it is forbidden; as a guard it is permitted. For R. Huna b. Hiyya said in Samuel's name: The halachah is as Hananiah.[7] Said Abaye to him, On the contrary, It may be proved that it was Samuel who maintained: Whether as an ornament or as a guard it is forbidden. For Rab Judah said in Samuel's name: They transposed them [in their questions] before Rabbi: What about one animal going forth with [the accoutrement] of the other? Said R. Ishmael b. R. Jose before him, Thus did my father rule: Four animals may go out with a bit: A horse, mule, camel and ass. What does it exclude?[8] Surely it excludes a camel [from being led out] with a nose-ring?[9] Delete the latter on account of the former.[10] And what [reason] do you see to delete the latter on account of the former? Delete the former on account of the latter! — Because we find that it was Samuel who ruled: As an ornament it is forbidden; as a guard it is permitted. [For it was stated:][11] R. Hiyya b. Ashi said in Rab's name: Whether as an ornament or as a guard it is forbidden; while R. Hiyya b. Abin said in Samuel's name: As an ornament it is forbidden; as a guard it is permitted.

An objection is raised: If it [the red heifer] was tied up in a loft by a cord,[12] it is fit.[13] Now if you say that it is a burden, surely Scripture saith, Upon which never came yoke?[14] — Abaye answered: This is when it is led from one town to another.[15] Raba said: The red heifer is different, because its value is high. Rabina said: This refers to an intractable [animal].[16]

A HORSE WITH ITS CHAIN, etc. What is GO OUT and what is LED? — R. Huna said: [It means,] They may either go out [with the chain] wound round them,[17] or led [by the chain]; while Samuel maintained: [It means,] They may go out led [by the chain], but they may not go out [with the chain] wound round them. In a Baraitha it was taught: They may go out [with the chain] wound round then, [ready] to be led.[18]

R. Joseph said: I saw the calves of R. Huna's house go forth with their cords[19] wound about them, on the Sabbath. When R. Dimi came,[20] he related in R. Hanina's name: The mules of Rabbi's house went forth with their reins on the Sabbath. The scholars propounded: ‘Wound about them’, or ‘led’?- Come and hear: When R. Samuel b. Judah came, he related in R. Hanina's name: The mules of Rabbi's house went forth on the Sabbath with their reins wound about them. Said the Rabbis before R. Assi, This [dictum] of R. Samuel b. Judah is unnecessary, [because] it may be deduced from R. Dimi's [statement]. For should you think that R. Dimi meant ‘led’, it would follow from Rab Judah's [statement] in Samuel's name. For Rab Judah said in Samuel's name: They [the scholars] transposed them [in their questions] before Rabbi: What about one animal going forth with [the accoutrement] of the other? Said R. Ishmael son of R. Jose before him, Thus did my father rule: Four animals may go out with a bit: a horse, mule, camel, and ass![21] — Said R. Assi to them, This [R. Samuel b. Judah's statement] is necessary. For if it were derived from Rab Judah's [dictum], I could argue: He

[R. Ishmael Son of R. Jose] stated it before him, but he did not accept it. Hence R. Dimi's statement informs us [that he did]. And if there were R. Dimi's [alone], I could argue: It means ‘led’, but not merely ‘wound round’; hence R. Samuel b. Judah's [statement] informs us [otherwise].

AND, [WATER OF LUSTRATION] MAY BE SPRINKLED UPON THEM, AND THEY MAY BE IMMERSED IN THEIR PLACE. Are we to say that they can contract uncleanness? But we learnt: A man's ring is unclean,[22] but the rings of animals and utensils and all other rings

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(1) Hence even if it is an extra guard it is permitted.

(2) Which is fastened to the grooves. But otherwise it is forbidden, because It can easily slip off the head, which is very narrow, and its owner may carry it in the street.

(3) Making a circle of the beard and inserting the bit through it.

(4) On account of the beard.

(5) Hence we may assume that it is safe there, and is permitted.

(6) V. infra 54b.

(7) Hence he holds that an extra guard is permitted, and this includes the strap between a cow's horns.

(8) v. supra 51b.

(9) That being forbidden because it is an extra guard. Since Samuel quotes it with evident approval, it is his view too.

(10) Because these two statements of Samuel are contradictory.

(11) Other edd. omit the bracketed passage, and substitute: What is our decision on the matter? — It was stated:

(12) Or, the reins.

(13) For its purpose; v. Num. XIX, 2 Seq.

(14) Num. XIX, 2. A burden is a yoke.

(15) The cord or reins are then required as an ordinary, not an additional, guard.

(16) According to both answers, what would be an extra guard elsewhere is only an ordinary one here.

(17) Even that is permitted.

(18) I.e., either that it must be wound round it loosely, so that one can insert his hand between the animal's neck and the chain and grasp it; or that a portion of the cord must be left free, whereby the animal may be led.

(19) Lit., ‘bit’.

(20) V. p. 12, n. 9.

(21) V. supra 51b.

(22) I.e., it is liable to uncleanness.

Talmud - Mas. Shabbath 52b

are clean![1] — Said R. Isaac: It [our Mishnah] refers to such as pass from [being] men's ornaments to [become] animals’ ornaments;[2] while R. Joseph said: [They[3] become unclean] because a man leads the animal by them. [For] was it not taught: An animal's staff[4] of metal[5] is susceptible to uncleanness.’ What is the reason? Since a man beats [the animal] with it. So here too; [they are unclean,] because a man leads [the animals] by them.

AND THEY MAY BE IMMERSED IN THEIR PLACE. But there is an intervention?[6] — Said R. Ammi: It means that he beat them out.[7] Shall we say that R. Ammi holds as R. Joseph? For if as R. Isaac, who maintained that it refers to such as pass from [being] men's ornaments to [become] animals’ ornaments; since he beat them out, he has performed an act, and their uncleanness vanishes. For we learnt: All utensils enter upon their uncleanness by intention, but are relieved from their uncleanness only by a change-effecting act![8] — He holds as R. Judah, who maintained, An act to adapt [an object] is not [considered] an act.[9] For it was taught: R. Judah said: A change-effecting act was not mentioned[10] where it adapts [the object], save where it spoils it. In a Baraitha it was taught: It [our Mishnah] refers to [chains] with movable links.[11]

A certain disciple from Upper Galilee asked R. Eleazar: I have heard that a distinction is drawn between one ring and another?[12] Perhaps you heard it only in reference to the Sabbath;[13] for if in connection with uncleanness, they are all alike.[14] Now, in connection with uncleanness, are they all alike? Surely we learnt: A man's ring is unclean, but the rings of animals and utensils and all other rings are clean.[15] — He[16] too was referring to men's [rings]. And are all men's [rings] alike? Surely it was taught: A ring made to gird one's loins therewith or to fasten [the clothes about] the shoulders is clean, and only a finger [ring] was declared to be unclean! — He too was referring to finger rings. And are all finger rings alike? Surely we learnt: If the ring is of metal and its signet is of coral,[17] It Is unclean; if it is of coral while the signet is of metal, it is clean.[18] — He too referred to [rings] wholly of metal.

He asked him further: l have heard that we distinguish between one needle and another? Perhaps you heard it only in respect to the Sabbath,[19] for if in the matter of uncleanness, they are all alike. Now, in the matter of uncleanness, are they all alike? Surely we learnt: If the eyehole or the point of a needle is removed, it is clean! — He referred to a whole [needle]. And are all whole [needles] alike? Surely we learnt: If a needle gathers rust and it hinders the sewing, it is clean; if not, it is unclean. And the School of R. Jannai said: Providing that its mark is perceptible.[20] He referred to a bright [needle]. But are all bright [needles] alike? Surely it was taught; A needle, whether containing an eyehole or not, may be handled on the Sabbath;[21] while a needle with an eyehole was specified only in respect to uncleanness.[22] Surely Abaye interpreted it according to Raba as referring to unfinished utensils![23]

MISHNAH. AN ASS MAY GO OUT WITH ITS CUSHION IF IT IS TIED TO IT.[24] RAMS MAY GO OUT COUPLED [LEBUBIN]. EWES MAY GO OUT [WITH THEIR POSTERIORS] EXPOSED [SHEHUZOTH], TIED [KEBULOTH], AND COVERED [KEBUNOTH]; GOATS MAY GO OUT [WITH THEIR UDDERS] TIED UP. R. JOSE FORBIDS IN ALL THESE CASES, SAVE EWES THAT ARE COVERED. R. JUDAH SAID: GOATS MAY GO OUT [WITH THEIR UDDERS] TIED IN ORDER TO DRY UP,[25] BUT NOT TO SAVE THEIR MILK.[26] gemara.

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(1) Because they do not rank either as utensils or ornaments, v. Kel. XIII.

(2) And they had become unclean as human ornaments. But when they are animals' ornaments they cannot become unclean, though they retain the defilement contracted before.

(3) The appurtenance mentioned in our Mishnah.

(4) With which it is beaten.

(5) Flat wooden implements are not susceptible to defilement.

(6) Nothing must come between the object that is immersed and the water; but here the neck of the animal intervenes.

(7) Sc. the rings, halters, etc., were beaten thin, so that they fit loosely about the animal and leave room for the water to touch it on all sides.

(8) Utensils become unclean only from when they are quite finished for use; if they still require smoothing, scraping, etc., they are not liable to uncleanness, unless their owner declares his intention to use them as they are. On the other hand, having done so, it is not enough that he subsequently declares that he will not use them, in order to relieve them from their susceptibility to defilement, unless he actually begins smoothing them. Or, if the utensils are unclean, it is insufficient for their owner to state that he will not use them any more, so that they should lose the status of utensils and become clean, but must render them unfit for use by an act, e.g., break or make a hole in them.

(9) To annul the status of a utensil. Hence he can agree with R. Isaac in the explanation of the Mishnah.

(10) In this connection.

(11) Loosely joined and fitting roomily round the animal's neck, so that the water can enter.

(12) In respect to what is that drawn?

(13) Where a distinction is made between a signet ring and an ordinary one; v. infra 59a.

(14) Lit., ‘this and this are one’.

(15) V. supra 52b.

(16) R. Eleazar.

(17) Probably a species of cedar-tree.

(18) Only a metal ring becomes unclean, the matter being determined by the ring itself, not the signet. This shows that a distinction is drawn also in connection with uncleanness between finger ring and finger ring.
(19) For carrying a needle with an eye in it from public or private ground or vice versa one is liable to a sin-offering but not if it has no eye.
(20) I.e., providing it is recognizable as a needle — only then is it unclean. Others: providing that the mark of the rust is perceptible when one sews with it — that is regarded as hindering the sewing and makes it clean.
(21) Like any other utensil.
(22) This shows that there is a distinction in connection with defilement between needle and needle also.
(23) I.e., if it is unfinished and a hole is still to be punched therein, it is not liable to defilement. But if it is thus finished off without an eye, e.g., as a kind of bodkin, it is a utensil and liable to uncleanness, no distinction being drawn in connection with defilement between needle and needle. In connection with Sabbath, however, even the former may be handled, for one may decide to use it in its unfinished state, e.g., as a toothpick or for removing splinters from the flesh, and so it ranks as a utensil.
(24) The cushion is to protect it from the cold.
(25) To cease giving milk.
(26) A pouch is sometimes loosely tied round the udder to prevent the milk from dripping; hence it may fall off and therefore R. Judah forbids it (v. 53a). But in the second case it is tied very tightly.

Talmud - Mas. Shabbath 53a

Samuel said: Providing it was tied thereto since the eve of the Sabbath. R. Nahman observed, Our Mishnah too proves it, as it states: An ass may not go out with its cushion if it is not tied thereto.[1] How is this meant? Shall we say that it is not tied thereto at all, — then it is obvious, lest it fall off and he come to carry it? Hence It must mean that it was not tied to it since the eve of the Sabbath, whence it follows that the first clause[2] means that it was tied thereto since the eve of the Sabbath. This proves it.

It was taught likewise: An ass may go out with its cushion when it was tied thereto on the eve of the Sabbath, but not with its saddle, even if tied thereto on the eve of the Sabbath. R. Simeon b. Gamaliel said: With its saddle too, if it was tied to it since the eve of the Sabbath,[3] providing, however, that he does not tie its band thereto,[4] and providing that he does not pass the strap under its tail.[5]

R. Assi b. Nathan asked R. Hiyya b. R. Ashi: May the cushion be placed on an ass on the Sabbath?[6] It is permitted, replied he. Said he to him, Yet wherein does this differ from a saddle? He remained silent. Thereupon he refuted him:[7] One must not move by hand the saddle upon an ass, but must lead it [the ass] up and down in the courtyard until it [the saddle] falls off of its own accord. Seeing that you say that it must not [even] be moved, can there be a question about placing it [on the ass]?[8] — Said R. Zera to him, Leave him alone: he agrees with his teacher. For R. Hiyya b. Ashi said in Rab's name: A fodder-bag may be hung around [the neck of] an animal on the Sabbath, and how much more so [may] a cushion [be placed on its back): for if it is permitted there for [the animal's] pleasures how much more so here, that it is [to save the animal] suffering![9] Samuel said: A cushion is permitted, a fodder-bag is forbidden.[10] R. Hiyya b. Joseph went and related Rab's ruling before Samuel. Said he: If Abba[11] said thus, he knows nothing at all in matters pertaining to the Sabbath.

When R. Zera went up [to Palestine], he found R. Benjamin b. Jephet sitting and saying in R. Johanan's name: A cushion may be placed on an ass on the Sabbath. Said he to him, ‘Well spoken! and thus did Arioch teach it in Babylon too.’ Now, who is Arioch? Samuel![12] But Rab too ruled thus? — Rather he had heard him conclude: Yet a fodder-bag may not be hung [around the animal's neck] on the Sabbath. Thereupon he exclaimed, ‘Well spoken! And thus did Arioch teach it in Babylon.’[13]

At all events, it is generally agreed that a cushion is permitted: wherein does it differ from a saddle? — There it is different, as it may possibly fall off of its own accord.[14] R. Papa said: The former[15] is to warm it [the ass]; the latter[16] is in order to cool it.[17] Where it needs warming it suffers; but where it needs cooling it does not. And thus people say: An ass feels cold even in the summer solstice.[18]

An objection is raised: A horse must not be led out with a fox's tail,[19] nor with a crimson strap between its eyes.[20] A zab must not go out with his pouch,[21] nor goats with the pouch attached to their udders,[22] nor a cow with a muzzle on its mouth,[23] nor may foals [be led out] into the streets with fodder-bags around their mouths; nor an animal with shoes on its feet, nor with an amulet, though it is proven;[24] and this is a greater stringency in the case of an animal than in that of a human being.[25] But he may go out with a bandage on a wound or with splints on a fracture; and [an animal may be led out] with the after-birth hanging down;[26] and the bell at the neck must be stopped up,[27] and it may then amble about with it in the courtyard.[28] At all events it is stated, nor may foals [be led out] into the street with fodder-bags around their mouths': thus only into the street is it forbidden, but in a courtyard it is well [permitted]. Now, does this not refer to large [foals], its purpose being [the animals' greater] pleasure?[29] — No: it refers to small ones, the purpose being [to obviate] suffering.[30] This may be proved too, because it is taught

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(1) V. infra 54b.

(2) Sc. the present Mishnah.

(3) The saddle too affords some warmth.

(4) The band with which the saddle is fastened around the ass's belly. Rashi: lest it appear that he intends placing a burden upon it.

(5) Which is generally placed there to prevent the saddle and burden from slipping forward or backward

(6) Not to be led out with it, but to warm it.

(7) Thinking that his silence meant that no answer was necessary, the difference being too obvious.

(8) Surely not!

(9) Suffering from cold.

(10) The animal of course must be fed, but the fodder can be placed on the ground, and it is a mere luxury to hang the nose-bag around its neck.

(11) An affectionate and reverential name for Rab — 'father'. Others maintain that his name was Abba Arika, while Rab was a title — the teacher par excellence — , the equivalent of Rabbi as the title of R. Judah ha-nasi.

(12) V. Kid., Sonc. ed., p. 189 n. 11.

(13) Whereas Rab forbade it.

(14) And the owner may carry it in the street; supra.

(15) Sc. the cushion.

(16) Sc. the removing of the saddle.

(17) When it becomes overheated through its burden. But in any case an ass cools very rapidly.

(18) Tammuz is the fourth month of the Jewish year, generally corresponding to mid June-July.

(19) Rashi: it was suspended between its eyes to ward off the evil eye; cf. Sanh., Sonc. ed., _ p. 623, n. 2. Animals too were regarded as subject thereto.

(20) Suspended as an ornament.

(21) V. Supra 11b.

(22) Either to catch the milk that may ooze out, or to protect the udders from thorns, etc.

(23) It was muzzled until it came to its own fields, so that it should not browse in other peoples' land.

(24) I.e., three animals had been healed thereby. Generally speaking, Judaism is opposed to superstitious practices (v. Sanh. 65b, 66a; M. Joseph, Judaism as Creed and Life, pp. 79-81; 384); nevertheless, the Rabbis were children of their time and recognized the efficacy of such practices and took steps to regulate them.

(25) This is now assumed to refer to an amulet; a human being may wear a proven amulet; infra 61a.

(26) Not having been removed yet.

(27) With cotton, wool, etc., to prevent if from ringing, which is forbidden on the Sabbath.

(28) But not in the street, v. infra 54b.

(29) Though they can stretch their necks and eat from the ground. This contradicts Samuel.

(30) It is difficult for very young foals to eat from the ground.

Talmud - Mas. Shabbath 53b

analogous to an amulet.[1] This proves it.

The Master said: ‘Nor with an amulet, though it is proven’. But we learnt: ‘Nor with an amulet that is not proven’; hence if it is proven, it is permitted? — That means proven in respect of human beings but not in respect of animals. But can they be proven in respect of human beings yet not in respect of animals? — Yes: for it may help man, who is under planetary influence, but not animals, who are not under planetary influence.[2] If so, how is this ‘a greater stringency in the case of an animal then in the case of a human being’?[3] — Do you think that that refers to amulets? It refers to the shoe.[4]

Come and hear: One may anoint [a sore] and scrape [a scab] off for a human being, but not for an animal. Surely that means that there is [still] a sore, the purpose being [to obviate] pain? — No. It means that the sore has healed,[5] the purpose being pleasure.[6]

Come and hear: If an animal has an attack of congestion. It may not be made to stand in water to be cooled; if a human being has an attack of congestion, he may be made to stand in water to be cooled?[7] — ‘Ulla answered: It is a preventive measure, on account of the crushing of [medical] ingredients.[8] If so, the same should also apply to man? — A man may appear to be cooling himself.[9] If so, an animal too may appear to be cooling itself? — There is no [mere] cooling for an animal,[10] Now, do we enact a preventive measure in the case of animal? But it was taught: ‘If it [an animal] is standing without the tehum,[11] one calls it and it comes’,[12] and we do not forbid this lest he [thereby] come to fetch it? — Said Rabina: It means, e.g., that its tehum fell[13] within his tehum.[14] R. Nahman b. Isaac said: The crushing of ingredients itself[15] is dependent on Tannaim. For it was taught: If an animal ate [an abundance of] vetch,[16] one must not cause it to run about in the courtyard to be cured; but R. Josiah[17] permits it.[18] Raba lectured: The halachah is as R. Josiah.

The Master said: ‘A zab may not go out with his pouch, nor goats with the pouch attached to their udders.’ But it was taught: Goats may go out with the pouch attached to their udders? Said Rab Judah, There is no difficulty: Here it means that it is tightly fastened;[19] there it is not tightly fastened. R. Joseph answered: You quote Tannaim at random![20] This is a controversy of Tannaim. For we learnt: GOATS MAY BE LED OUT [WITH THEIR UDDERS] TIED UP. R. JOSE FORBIDS IN ALL THESE CASES, SAVE EWES THAT ARE COVERED. R. JUDAH SAID: GOATS MAY BE LED OUT [WITH THEIR UDDERS] TIED UP IN ORDER TO GO DRY, BUT NOT IN ORDER TO SAVE THEIR MILK.[21] Alternatively, both are according to R. Judah: in the one case it is in order that they may go dry; in the other it is for milking.[22] It was taught: R. Judah said: It once happened that goats in a household of Antioch[23] had large udders, and pouches were made for then, that their udders should not be lacerated.

Our Rabbis taught: It once happened that a man's wife died and left a child to be suckled, and he could not afford to pay a wet-nurse, whereupon a miracle was performed for him and his teats opened like the two teats of a woman and he suckled his son. R. Joseph observed, Come and see how great was this man, that such a miracle was performed on his account! Said Abaye to him, On the contrary: how lowly was this man, that the order of the Creation[24] was changed on his account![25] Rab Judah observed, Come and see how difficult are men's wants [of being satisfied]. that the order of the Creation had to be altered for him! R. Nahman said: The proof is that miracles do [frequently] occur, whereas food is [rarely] created[26] miraculously.

Our Rabbis taught: It once happened that a man married a woman with a stumped hand, yet he did not perceive it in her until the day of her death. Rabbi observed: How modest this woman must have been, that her husband did not know her! Said R. Hiyya to him, For her it was natural;[27] but how modest was this man, that he did not scrutinize his wife!

RAMS MAY GO OUT COUPLED [LEBUBIN]. What is lebubin? R. Huna said: coupled. How is it indicated that LEBUBIN implies nearness? For it is written, Thou hast drawn me near,[28] my sister, my bride.[29] ‘Ulla said: It refers to the hide which is tied over their hearts[30] that wolves should not attack them.[31] Do then wolves attack rams only but not ewes? — [Yes.] because they [the rams] travel at the head of the flock. And do wolves attack the head of the flock and not the rear? — Rather [they attack rams] because they are fat. But are there no fat ones among ewes? Moreover, can they distinguish between them? — Rather it is because their noses are elevated and they march along as though looking out [for the wolf].[32] R. Nahman b. Isaac said, It means the skin which is tied under their genitals, to restrain them from copulating with the females. Whence [is this interpretation derived]? Because the following clause states: AND EWES MAY GO OUT SHEHUZOTH. What is SHEHUZOTH? With their tails tied back[33] upwards, for the males to copulate with them: thus in the first clause it is that they should not copulate with the females, whilst in the second it is for the males to copulate with them. Where is it implied that SHEHUZOTH denotes exposed? In the verse, And behold, there met him a woman

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(1) The purpose of which is not pleasure but the avoidance of sickness.

(2) The planetary influence was regarded as in the nature of a protecting angel; v. Sanh., Sonc. ed., p. 629, n. 10.

(3) For a man too may go out only with an amulet proven for humans.

(4) With which an animal may not be led out, though that is permitted for men.

(5) Lit., ‘is finished’.

(6) To mollify the slight rawness which remains; that rawness, however, does not really cause suffering.

(7) On the Sabbath. This proves that in the case of an animal, even to obviate its sufferings. it is forbidden.

(8) This is forbidden on the Sabbath, save where life is in danger. If cooling in water is permitted. it will be thought that crushing ingredients is likewise permitted.

(9) Not for medical purposes.

(10) It is not customary to take an animal for cooling save for medical purposes.

(11) V. Glos.

(12) V. infra 151a.

(13) Lit., ‘was swallowed up’.

(14) When an animal is entrusted to a cowherd, its tehum is that of the cowherd, i.e., it may go only where the cowherd may go. Here the owner's tehum stretched beyond that of the cowherd; hence he may call the animal that strayed beyond its own tehum, for even if he forgets himself and goes for it, he is still within his own boundaries. Nevertheless he may not actually go for it, because when one (a man or a beast) goes beyond his tehum, he becomes tied to that spot and may only move within a radius of four cubits from it; hence the owner must not actually lead the animal away, but may only call it. (One can extend his tehum by placing some food at any spot within the two thousand cubits, whereupon he may then walk a further two thousand cubits from that spot. Here the owner had extended his tehum, but not the cowherd).

(15) I.e., whether any other form of healing is forbidden as a preventive measure, lest one come to crush ingredients too.

(16) Which made it constipated.

(17) v. marginal gloss cur. edd. R. Oshaia.

(18) The first Tanna forbids it as a preventive against the crushing of ingredients, while R. Josiah declares this preventive measure unnecessary.

(19) And there is no fear of its falling off, so that the owner may carry it.

(20) Aliter: have you removed Tannaim from the world, v. Rashi.

(21) Thus this is disputed in our Mishnah, and so possibly in the Baraithas too.

(22) Rashi: to preserve the milk in its pouch. Ri: both are to protect the udders from being scratched by thorns, but in the one case it is desired that the goats shall go dry; then it is permitted, since it is tied very tightly; but in the other it is desired that the goats shall remain milkers; then it is forbidden, because it is lightly tied.

(23) The capital of Syria.

(24) Lit., ‘the beginning’; i.e., nature.

(25) In Ber. 20a Abaye himself regards miracles wrought for people as testifying to their greatness and merit. Rashi observes that his lowliness lay in the fact that a means of earning money was not opened to him.

(26) So Rashi.

(27) It is natural for a woman to cover herself, particularly when it is in her own interest.

(28) Heb. libabtini (E.V. Thou hast ravished my heart).

(29) Cant. IV, 9.

(30) Heb. leb, which ‘Ulla takes to be the root of lebubin.

(31) Thus he translates: RAMS MAY GO OUT with their hides over their hearts. Wolves usually seize beasts at the heart (Rashi).

(32) Which rouses its ire, Var. lec.: ke-budin, like bears, i.e., proudly and fiercely. V. D.S.

(33) Heb. she'ohazin, lit., ‘we catch up’

Talmud - Mas. Shabbath 54a

exposed[1] and wily of heart.[2]

EWES MAY GO OUT TIED [KEBULOTH]. What is KEBULOTH? — With their tails tied downwards, to restrain the males from copulating with them. How is it implied that kabul[3] denotes non-productively? — Because it is written, What cities are these which thou hast given me, my brother? And he called them the land of Cabul, unto this day.[4] What is ‘the land of Cabul’? — Said R. Huna: It contained inhabitants who were smothered [mekubbolin] with silver and gold. Said Raba to him, If so, is that why it is written, and they pleased him not?[5] because they were smothered with silver and gold they pleased him not! — Even so, he replied; being wealthy and soft-living, they would do no work. R. Nahman b. Isaac said, It was a sandy region.[6] and why was it called Cabul? Because the leg sinks into it up to the ankle, and people designate it an ankle-bound land which produces no fruit.

[AND COVERED] KEBUNOTH. What is KEBUNOTH? — It means that they [the sheep] are covered for the sake of the fine wool.[7] As we learnt: [The hue of] a rising is like white wool.[8] What is white wool? — Said R. Bibi b. Abaye: Like pure wool [from a sheep] which is covered from birth[9] in order to produce fine wool.

AND GOATS MAY BE LED OUT [WITH THEIR UDDERS] TIED UP. It was stated: Rab said: The halachah is as R. Judah; while Samuel said: The halachah is as R. Jose. Others learn this controversy independently. Rab said: If it is in order to go dry, it is permitted. but if it is for milking it is forbidden; while Samuel said: Both are forbidden. Others learn it in reference to the following: Goats may go out [with their udders] tied up in order to go dry, but not for milking. On the authority of R. Judah b. Bathyra it was said: That is the halachah; but who can vouch[10] which is for going dry and which is for milking? And since we cannot distinguish [between them], both are forbidden. Said Samuel, — others say. Rab Judah said in Samuel's name: The halachah is as R. Judah b. Bathyra. When Rabin came,[11] he said in the name of R. Johanan: The halachah is as the first Tanna.[12]

MISHNAH. AND WHEREWITH MAY IT NOT GO OUT? A CAMEL MAY NOT GO OUT WITH A PAD [TIED TO ITS TAIL] OR ‘AKUD OR RAGUL,;[13] AND SIMILARLY OTHER ANIMALS. ONE MUST NOT TIE CAMELS TOGETHER AND PULL [ONE OF THEM]. BUT HE MAY TAKE[14] THE CORDS IN HIS HAND AND PULL [THEM]. PROVIDING HE DOES NOT TWINE THEM TOGETHER.

GEMARA. It was taught: A camel must not go out with a pad tied to its tail, but it may go out with a pad tied to its tail and its hump.[15] Rabbah son of R. Huna said: A camel may be led out with a pad tied to its after-birth.[16]

OR ‘AKUD OR RAGUL. Rab Judah said: ‘AKUD means the tying of hand and foot[17] together, like Isaac the son of Abraham; RAGUL means that the forefoot must not be bent back on to the shoulder and tied. An objection is raised: ‘Akud refers to the two forefeet or the two hindfeet [tied together]; ragul means that the forefoot must not be bent back on to the shoulder and tied? — He interprets as the following Tanna. For it was taught: ‘Akud means the tying together of the forefoot and the hindfoot, or of the two forefeet or the two hindfeet; ragul means that the forefoot must not be bent back on to the shoulder and tied. Yet it is still not the same: as for the first and the last clauses, it is well; but the middle one is difficult?[18] — Rather [he maintains] as the following Tanna. For it was taught: ‘Akud means the tying of hand and foot, like Isaac the son of Abraham; ragul means that the forefoot must not be bent back on to the shoulder and tied.

ONE MUST NOT TIE CAMELS TOGETHER. What is the reason? — Said R. Ashi: Because it looks as if he is going to the fair.

BUT HE MAY TAKE [etc.]. R. Ashi said: This was taught only in respect to Kil'ayim.[19] Kil'ayim of what? Shall we say, kil'ayim of man?[20] Surely we learnt: A man is permitted to plough and pull with all of them .[21] But if it means kil'ayim of the cords,[22] — surely we learnt: If one fastens [two pieces together] with one fastening,[23] it is not a connection?[24] — After all, it means kil'ayim of the cords, but this is its teaching: providing that he does not twine and knot [them together].[25]

Samuel said: Providing that a handbreadth of a cord does not hang out of his hand.[26] But the School of R. Ishmael taught, Two handbreadths? — Said Abaye, Now that Samuel said one handbreadth, while the School of R. Ishmael taught two handbreadths, Samuel comes to inform us the halachah in actual practice.[27]

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(1) Heb. Shith zonah, which is regarded as connected with SHEHUZOTH. E.V.: With the attire of a harlot.

(2) Prov. VII, 10.

(3) Sing. masc. of kebuloth.

(4) I Kings IX, 13.

(5) Ibid. 12.

(6) Jast.: the land of Humton, a district of northern Palestine.

(7) That the wool should be of a fine, silky texture.

(8) The reference is to Lev. XIII, 2.

(9) Lit., ‘its first day’.

(10) Lit., ‘cast lots’.

(11) V. p. 12, n. 9

(12) In our Mishnah that both are permitted.

(13) This is explained in the Gemara.

(14) Lit., ‘insert’.

(15) In the first case it can slide off (v. supra 53a top). but not in the second.

(16) The camel refrains from pulling at it, because it is painful; hence it will not fall off.

(17) In the case of an animal, the forefoot and the hindfoot.

(18) For this Tanna includes the tying together of the two forefeet or the two hindfeet in the term ‘akud, whereas according to Rab Judah, who> gives the analogy of Isaac, only the tying of the forefoot to the hindfoot is thus designated.

(19) V. Glos. The prohibition of twining them together cannot refer to the Sabbath.

(20) When he winds the cords round his hand, he may pull at something simultaneously with the camels; thus they act in unison, and this may be regarded as two different species working together, which is forbidden, v. Deut. XXII, 10. On this supposition the Mishnah must be translated: providing he does not wind them (round his hand).

(21) Sc. various animals, and this does not constitute kil'ayim.

(22) In case some are of wool, while others are of flax; when twined together they become kil'ayim, and as he holds them, they warm his hands, which is the equivalent of ‘wearing’ (v. Deut. XII, 11).

(23) I.e., if he joins two pieces of cloth, one of wool and the other of linen, with a single stitch or knot.

(24) Hence when he twines the cords together they are not kil'ayim.

(25) This is a double fastening, which renders the combination kil'ayim.

(26) For then it looks like a separate cord which he is carrying.

(27) I.e., to be on the safe side we rule one handbreadth, yet no prohibition is violated for less than two.

Talmud - Mas. Shabbath 54b

But it was taught: Providing that he lifts it a handbreadth from the ground?[1] — That was taught of the cord between.[2]

MISHNAH. AN ASS MAY NOT GO OUT WITH A CUSHION, WHEN IT IS NOT TIED TO IT, OR WITH A BELL, EVEN IF IT IS PLUGGED, OR WITH A LADDER[-SHAPED YOKE] AROUND ITS NECK, OR WITH A THONG AROUND ITS FOOT. FOWLS MAY NOT GO OUT WITH RIBBONS, OR WITH A STRAP ON THEIR LEGS; RAMS MAY NOT GO OUT WITH A WAGGONETTE UNDER THEIR TAILS,[3] EWES MAY NOT GO OUT PROTECTED [HANUNOTH].[4] OR A CALF WITH A GIMON,[5] OR A COW WITH THE SKIN OF A HEDGEHOG,[6] OR WITH THE STRAP BETWEEN ITS HORNS. R. ELEAZAR B. ‘AZARIAH'S COW USED TO GO OUT WITH A THONG BETWEEN ITS HORNS, [BUT] NOT WITH THE CONSENT OF THE RABBIS.

GEMARA. What is the reason?[7] — As we have said.[8]

OR WITH A BELL., EVEN IF IT IS PLUGGED UP. Because it looks like going to the fair.

OR WITH A LADDER [-SHAPED YOKE] AROUND ITS NECK. R. Huna said: That is a jaw bar.[9] For what purpose is it made? For where it has a bruise, lest it chafe it afresh.[10]

OR WITH A STRAP ON THEIR LEGS. It is put on him [the ass] as a guard.[11] FOWLS MAY NOT GO OUT WITH RIBBONS. Which are put on them, for a sign, that they should not be exchanged.

OR WITH A STRAP. Which is fastened on them to restrain them from breaking utensils.[12]

RAMS MAY NOT GO OUT WITH A WAGGONETTE. [Its purpose is] that their tails may not knock [against rocks, etc.].

EWES MAY NOT GO OUT PROTECTED [HANUNOTH]. R. Aha b. ‘Ulla sat before R. Hisda, and he sat and said: When it is sheared, a compress is saturated[13] in oil and placed on its forehead that it should not catch cold. Said R. Hisda to him: If so, you treat it like Mar ‘Ukba![14] But R. Papa b. Samuel sat before R. Hisda,[15] and he sat and said: When she kneels for lambing two oily compresses are made for her, and one is placed on her forehead and the other on her womb, that she may be warmed. Said R. Nahman to him, If so, you would treat her like Yaltha![16] But said R. Huna, there is a certain wood in the sea towns called hanun, whereof a chip is brought and placed in her nostril to make her sneeze, so that the worms in her head should fall out. If so, the same [is required] for males? — Since the males butt each other, they fall out in any case. Simeon the Nazirite said: A chip of the juniper tree [is placed in its nostril]. As for R. Huna, it is well: hence HANUNOTH is mentioned. But according to the Rabbis, what is the meaning of HANUNOTH? — That an act of kindness is done for it.[17]

NOR MAY A CALF GO OUT WITH A GIMON. What is the meaning of A CALF WITH A GIMON? — Said R. Huna: A little yoke.[18] Where is it implied that ‘GIMON’ connotes bending?[19] In the verse, Is it to bow down his head as a rush [ke-agmon]?[20]

NOR A COW WITH THE SKIN OF A HEDGEHOG. It is placed upon it to prevent hedgehogs[21] from sucking it. NOR WITH THE STRAP BETWEEN ITS HORNS. On Rab's view, whether as an ornament or as a protection, it is forbidden; on Samuel's view, as an ornament it is forbidden, as a protection it is permitted.[22]

R. ELEAZAR B. ‘AZARIAH'S COW. Did he have [but] one cow? Surely Rab-others state, Rab Judah in Rab's name — said: The tithe of R. Eleazar b. ‘Azariah's flocks amounted to thirteen thousand calves annually? — It was taught: This was not his,[23] but a female neighbour of his; yet since he did not protest thereat, it was designated his.[24]

Rab and R. Hanina, R. Johanan and R. Habiba taught [the following] (In the whole of the Order Mo'ed[25] whenever this pair[26] occur some substitute R. Jonathan for R. Johanan)[27] Whoever can forbid his household [to commit a sin] but does not, is seized[28] for [the sins of] his household; [if he can forbid] his fellow citizens, he is seized for [the sins of] his fellow citizens; if the whole world, he is seized for [the sins of] the whole world. R. Papa observed, And the members of the Resh Galutha's [household][29] are seized for the whole world. Even as R. Hanina said, Why is it written, The Lord will enter into judgement with the elders of his people, and the princes thereof:[30] if the Princes sinned,

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(1) Implying that there is no limit to the length that may hang out of his hand.

(2) Between the man and the camel. If it trails nearer to the ground, it looks as though he is carrying a cord.

(3) This refers to a species of ram whose tail was very fat, to preserve which it was yoked to a waggonette.

(4) v. Gemara.

(5) Discussed in the Gemara.

(6) Tied round its udder.

(7) For the prohibition relating to the cushion.

(8) Supra 53a.

(9) Jast.: a bandage or bar under the jaw.

(10) I.e., it should let it heal.

(11) To prevent the legs from knocking each other.

(12) The two legs were tied together; hence it could not run about and cause damage.

(13) Lit., ‘hid’

(14) The head of the Beth din. — A sheep will not be treated with such care.

(15) Rashal reads: R. Nahman.

(16) His wife.

(17) Deriving HANUNOTH from hanan, to be gracious, kind.

(18) To accustom it to bend its head under the yoke when it grows up.

(19) V. preceding note.

(20) Isa. LVIII,5.

(21) ‘Believed to suck and injure the udders of cattle’ (Jast).

(22) V. supra 52a.

(23) Sc. the cow referred to in the Mishnah.

(24) Lit., ‘it was called by his name’.

(25) V. Introduction to this Order, in this volume.

(26) I.e., these four names.

(27) This is a parenthetic observation by the Talmud (Tosaf.).

(28) Just as a pledge is seized for non-payment of debt. I.e., he is punished.

(29) V. p. 217. n. 7.
(30) Is'. Ill, 14.

Talmud - Mas. Shabbath 55a

how did the elders sin? But say, [He will bring punishment] upon the elders because they do not forbid the princes.

Rab Judah was sitting before Samuel. [when] a woman came and cried before him,[1] but he ignored her. Said he to him, Does not the Master agree [that] 'whoso stoppeth his ears at the cry of the poor, he also shall cry, but shall not be heard'?[2] 'O keen scholar!'[3] he replied. 'Your superior [will be punished] with cold [water]. but your superior's superior [will be punished] with hot.[4] Surely Mar 'Ukba, the Ab-Beth din[5] is sitting!' For it is written, O house of David, thus saith the Lord. Execute judgement in the morning, and deliver the spoiled out of the hand of the oppressor, lest my fury go forth like fire, and burn that none can quench it, because of the evil of your doing, etc.[6]

R. Zera said to R. Simeon, Let the Master rebuke the members of the Resh Galutha's suite. They will not accept it from me, was his reply. Though they will not accept its returned he, yet you should rebuke them. For R. Aha b. R. Hanina said: Never did a favourable word[7] go forth from the mouth of the Holy One, blessed be He, of which He retracted for evil, save the following, where it is written, And the Lord said unto him, Go through the midst of the city, through the midst of Jerusalem, and set a mark [taw] upon the foreheads of the men that sigh and that cry for all the abominations that be done in the midst thereof, etc.[8] The Holy One, blessed be He, said to Gabriel,[9] Go and set a taw[10] of ink upon the foreheads of the righteous, that the destroying angels may have no power over them; and a taw of blood upon the foreheads of the wicked, that the destroying angels may have power over them. Said the Attribute of Justice[11] before the Holy One, blessed be He, 'Sovereign of the Universe! Wherein are these different from those?' 'Those are completely righteous men, while these are completely wicked,' replied He. 'Sovereign of the Universe!' it continued, 'they had the power to protest but did not.' 'It was fully known[12] to them that had they protested they would not have heeded them.'[13] 'Sovereign of the Universe!' said he, 'If it was revealed to Thee, was it revealed to them?' Hence it is written, [Slay utterly] the old man, the young and the maiden, and little children and women; but come not near any man upon whom is the mark; and begin at my Sanctuary [mikdashi]. Then they began at the elders which were before the house.[14] R. Joseph recited: Read not mikdashi but mekuddashay [my sanctified ones]: this refers to the people who fulfilled the Torah from alef to taw.[15] And straightway, And behold, six men came from the way of the upper gate, which lieth toward the north, every man with his slaughter weapon in his hand; and one man in the midst of them clothed in linen, with a writer's inkhorn by his side. And they went in, and stood beside the brazen altar.[16] Was then the brazen altar [still] in existence?[17] — The Holy One, blessed be He, spake thus to them; Commence [destruction] from the place where song is uttered before Me.[18] And who were the six men? — Said R. Hisda: Indignation [Kezef], Anger [Af], Wrath [Hemah], Destroyer [Mashhith] Breaker [Meshabber] and Annihilator [Mekaleh]. And why taw? — Said Rab: Taw [stands for] tihyeh [thou shalt live], taw [stands for] tamuth [thou shalt die]. Samuel said: The taw denotes, the merit of the Patriarchs is exhausted [tamah].[19] R. Johanan said: The merit of the Patriarchs will confer grace [tahon].[20] While Resh Lakish said: Taw is the end of the seal of the Holy One, blessed be He. For R. Hanina said: The seal of the Holy One, blessed be He, is emeth [truth]. R. Samuel b. Nahmani said: It denotes the people who fulfilled the Torah from alef to taw.[21]

And since when has the merit of the Patriarchs been exhausted? — Rab said, Since the days of Hosea the son of Beeri, for it is written, [And now] will I discover her lewdness in the sight of her lovers, and none shall deliver her out of mine hand.[22] Samuel said. Since the days of Hazael, for it is said, And Hazael king of Syria oppressed Israel all the days of Jehoahaz;[23] and it is written, But the

Lord was gracious unto them, and had compassion upon them, and had respect unto them, because of the covenant with Abraham, Isaac, and Jacob, and would not destroy them, neither cast he them from his presence until now.[24] R. Joshua b. Levi said: Since the days of Elijah, for it is said, And it came to pass at the time of the offering of the evening oblation, that Elijah the prophet came near, and said, O Lord, the God of Abraham, of Isaac, and of Israel, let it be known this day that thou art God in Israel, and that I am thy servant, and that I have done all these things at thy word.[25] R. Johanan said: Since the days of Hezekiah, for it is said, Of the increase of his government and of peace there shall be no end, upon the throne of David, and upon his kingdom, to establish it, and to uphold it with judgement and with righteousness for henceforth even for ever. The zeal of the Lord of hosts shall perform this.[26]

R. Ammi said: There is no death without sin,[27] and there is no suffering without iniquity. There is no death without sin, for it is written, The soul that sinneth, it shall die: the son shall not bear the iniquity of the father, neither shall the father bear the iniquity of the son, the righteousness of the righteous shall be upon him, and the wickedness of the wicked shall be upon him, etc.,[28] There is no suffering without iniquity, for it is written, Then will I visit their transgression with the rod, and their iniquity with stripes.[29]

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(1) About a wrong done to her.

(2) Prov. XXI, 13.

(3) Or, man of long teeth.

(4) I.e., I, your superior, will go unscathed, because there is a higher court than mine, viz., Mar ‘Ukba's. which should really take the matter up.

(5) The father, i.e., the head of the Beth din.

(6) Jer. XXI, 12. From this Samuel deduced that only the head, with whom lay the real power, would be punished.

(7) Lit., ‘a good attribute’.

(8) Ezek. IX, 4.

(9) Gabriel, ‘man of God’, is mentioned in the Book of Daniel VIII, 16-26; IX, 21-27. He was regarded as God's messenger, who executes His will on earth.

(10) The last letter of the Hebrew alphabet.

(11) Justice was often hypostasized as an independent being.

(12) Lit., ‘it was revealed and known’.

(13) Lit., ‘accepted (it) from them’.

(14) Ezek. IX, 6.

(15) The first and the last letters of the alphabet — as we say from Alpha to Omega’. Nevertheless they were included, because they had failed to protest. Thus the Almighty retracted from His original intention, the change being for evil.

(16) Ibid. 2.

(17) According to tradition Solomon hid it and substituted an earthen altar for it; v. I Kings VIII, 64 and Zeb. 59b.

(18) I.e., start with the Levites, who utter song to the accompaniment of musical instruments of brass.

(19) The merit of the Patriarchs, which acted as a shield for the wicked, is at an end.

(20) Samuel explains the taw on the wicked; R. Johanan that on the righteous.

(21) V. n. 2.

(22) Hos. II, 12; ‘and none’, i.e., their merit

(23) II Kings XIII, 22.

(24) Ibid. 23. ‘Until now’ implies, but no longer.

(25) I Kings XVIII, 36. Here too this day implies a limitation.

(26) Isa. IX, 6. ‘The zeal, etc.’ implies, but not the merit of the Patriarchs, this being exhausted by now.

(27) One's sins cause his death.

(28) Ezek. XVIII, 20.

(29) Ps. LXXXIX, 33.

Talmud - Mas. Shabbath 55b

Talmud - Mas. Shabbath 55b

An objection is raised: The ministering angels asked the Holy One, blessed be He: ‘Sovereign of the Universe! Why didst Thou impose the penalty of death upon Adam?’ Said He to them, I gave him an easy command, yet he violated it.’ ‘But Moses and Aaron fulfilled the whole Torah,’ they pursued — ‘yet they died’. ‘There is one event to the righteous and to the wicked; to the good, etc.,[1] He replied .[2] — He maintains as the following Tanna. For it was taught: R. Simeon b. Eleazar said: Moses and Aaron too died through their sin, for it is said, Because ye believed not in me[...therefore ye shall not bring this assembly into the land which I have given them]:[3] hence, had ye believed in Me, your time had not yet come to depart from the world.[4]

An objection is raised: Four died through the serpent's machinations,[5] viz., Benjamin the son of Jacob, Amram the father of Moses, Jesse the father of David, and Caleb the son of David. Now, all are known by tradition, save Jesse the father of David, in whose case the Writ gives an explicit intimation. For it is written, And Absalom set Amasa over the host instead of Joab. Now Amasa was the son of a man whose name was Ithra the Israelite, that went in to Abigail the daughter of Nahash, sister to Zeruiah Joab's mother.[6] Now, was she the daughter of Nahash? Surely she was the daughter of Jesse, for it is written, and their sisters were Zeruiah and Abigail?[7] Hence it must mean, the daughter of one who died through the machinations of the nahash [serpent].[8] Who is [the author of this]? Shall we say, the Tanna [who taught] about the ministering angels? — Surely there were Moses and Aaron too! Hence it must surely be R. Simeon b. Eleazar, which proves that there is death without sin and suffering without iniquity. Thus the refutation of R. Ammi is [indeed] a refutation.

R. Samuel b. Nahman said in R. Jonathan's name: Whoever maintains that Reuben sinned is merely making an error, for it is said, Now the sons of Jacob were twelve,[9] teaching that they were all equal.[10] Then how do I interpret, and he lay with Bilhah his father's concubine?[11] This teaches that he transposed his father's couch,[12] and the Writ imputes [blame] to him as though he had lain with her. It was taught, R. Simeon b. Eleazar said: That righteous man was saved from that sin and that deed did not come to his hand.[13] Is it possible that his seed was destined to stand on Mount Ebal and proclaim, Cursed be he that lieth with his father's wife,[14] yet this sin should come to his hand? But how do I interpret, and he lay with Bilhah his father's concubine’? He resented his mother's humiliation. Said he, If my mother's sister was a rival to my mother, shall the bondmaid of my mother's sister be a rival to my mother? [Thereupon] he arose and transposed her couch. Others say, He transposed two couches, one of the Shechinah and the other of his father.[15] Thus it is written, Then thou defiledst, my couch on which [the Shechinah] went up.[16]

This is dependent on Tannaim. Unstable [Pahaz] as water, thou shalt not excel.[17] R. Eliezer interpreted: Thou wast hasty [Paztah], thou wast guilty [Habtah] thou didst disgrace [Zaltah]. R. Joshua interpreted: Thou didst overstep [Pasatah] the law, thou didst sin [Hatatha], thou didst fornicate [Zanitha]. R. Gamaliel interpreted: Thou didst meditate [Pillaltah],[18] thou didst supplicate [Haltah], thy prayer shone forth [Zarhah]. Said R. Gamaliel, We still need [the interpretation of] the Modiite. R. Eleazar the Modiite[19] said, Reverse the word and interpret it: Thou didst tremble [Zi'az'atha], thou didst recoil [Halitha], thy sin fled [Parhah] from thee.[20] Raba — others state, R. Jeremiah b. Abba interpreted: Thou didst remember [Zakarta] the penalty of the crime, thou wast [grievously] sick [Halitha],[21] thou heldest aloof [Pirashta] from sinning.

(Mnemonic: Reuben, the sons of Eli, the sons of Samuel, David, Solomon, and Josiah.)[22] R. Samuel b. Nahmani said in R. Jonathan's name: Whoever maintains that the sons of Eli sinned is merely making an error, for it is said, And the two sons of Eli, Hophni and Phinehas, priests unto the Lord, were there.[23] Now he agrees with Rab, who said, Phinehas did not sin. [Hence] Hophni is likened to Phinehas: just as Phinehas did not sin, so did Hophni not sin. Then how do I interpret, and how that they [sc. Eli's sons] lay with the women?[24] Because they delayed their bird-offerings[25] so that they did not go to their husbands,[26] the Writ stigmatizes them as though they had lain with them.

It was stated above, ‘Rab said, Phinehas did not sin,’ for it is said, and Ahijah, the son of Ahitub, Ichabod's brother, the son of Phinehas, the son of Eli, the priest of the Lord, etc.[27] Now, is it possible that sin had come to his hand, yet the Writ states his descent? Surely It is said, The Lord will cut off to the man that doeth this, him that waketh [‘er] and him that answereth, out of the tents of Jacob, and him that offereth an offering unto the Lord of hosts:[28] [this means:] if an Israelite,[29] he shall have none awakening [i.e., teaching] among the Sages and none responding among the disciples; if a priest, he shall have no son to offer an offering? Hence it follows that Phinehas did not sin. But it is written, ‘how that they lay [etc.’]? — ‘He lay’ is written.[30] But it is written, Nay, my sons; for it is no good report that I hear?[31] — Said R. Nahman b. Isaac: My son is written.[32] But it is written, ye make [the Lord's people] to transgress?[33] — Said R. Huna son of R. Joshua, It is written, he causes them to transgess.[34] But it is written, sons of Belial?[35] — Because Phinehas should have protested to Hophni but did not, the Writ regards him as though he [too] sinned.

R. Samuel b. Nahmani said in R. Jonathan's name: Whoever maintains

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(1) Eccl. IX, 2.

(2) Showing that death may come without sin.

(3) Num. XX, 12.

(4) On the view that they died sinless, this deduction is made: but had ye believed, you would have led the assembly into the land, etc. The punishment therefore was that they would not lead, not that they should die, which would have been disproportionate to their fault (Maharsha).

(5) I.e., because the serpent caused Adam and Eve to sin, but not on account of their own sin. — This is not to be confused with the doctrine of Original sin, which is rejected by Judaism, v. B.B., Sonc. ed., p. 86, n. 11.

(6) II Sam. XVII, 25.

(7) I Chron. II, 16. ‘Their sisters’ refers to the sons of Jesse; v. preceding verse.

(8) It may be observed that the Talmud calls this an explicit intimation.

(9) Gen. XXXV, 22.

(10) Lit., ‘balanced as one’ — they were all equal in righteousness.

(11) Ibid.

(12) Placing it in Leah's tent; v. infra.

(13) He did not even have the opportunity.

(14) Deut. XXVII; 20; v. 13.

(15) Rashi: Jacob set a couch for the Shechinah in the tents of each of his wives, and where the Shechinah came to rest, there he spent the night.

(16) Gen. XLIX, 4. This translation is based on the change of person from second (defiledst) to third (went), which implies a different subject for ‘went’.

(17) Ibid.

(18) To be saved from sin.

(19) Of Modim, some fifteen miles north of Jerusalem.

(20) All treat the word Pahaz (E.V. unstable) as a mnemonic, each letter indicating a word. Thus R. Eliezer and R. Joshua maintain that he sinned, while the others hold that his nobler feelings triumphed.

(21) Through defying his lust.

(22) V. p. 149, n. 6.

(23) I Sam. I, 3.

(24) lbid. II, 22.

(25) After childbirth; v. Lev. XII, 6-8.

(26) They had to wait in Shiloh until their birds were sacrificed.

(27) lbid. XIV, 3.

(28) Mal. II, 12.

(29) I.e., not a priest.

(30) ישכבן, defectively, and to be treated as 3rd. person singular; cf. Arabic ending in an].

(31) I Sam. II, 24.

(32) The sing. and the plural are the same in Heb. He must mean that the earlier traditional reading was my son.

(33) Ibid.

(34) [מעבירם: M.T. has מעבירים, but in a number of places the Talmud version differs from ours. V. Tosaf and Marginal Gloss].

(35) Ibid. 12.

Talmud - Mas. Shabbath 56a

that Samuel's sons sinned is merely erring. For it is said, And it came to pass when Samuel was old... that his sons walked not in his ways:[1] thus, they [merely] walked not in his ways, yet they did not sin either. Then how do I fulfil, ‘they turned aside for lucre’?[2] That means that they did not act like their father. For Samuel the righteous used to travel to all the places of Israel and judge them in their towns, as it is said, And he went from year to year in circuit to Beth-el, and Gilgal, and Mizpah; and he judged Israel.[3] But they did not act thus, but sat in their own towns, in order to increase the fees of their beadles[4] and scribes.[5]

This is a controversy of Tannaim: ‘They turned aside for lucre’: R. Meir said, [That means,] They openly demanded their portions.[6] R. Judah said: They forced[7] goods on private people. R. Akiba said: They took an extra basket of tithes by force. R. Jose said: They took the gifts by force.[8]

R. Samuel b. Nahmani said in R. Jonathan's name: Whoever says that David sinned is merely erring, for it is said, And David behaved himself wisely in all his ways: and the Lord was with him.[9] Is it possible that sin came to his hand, yet the Divine Presence was with him? Then how do I interpret, Wherefore hast thou despised the word of the Lord, to do that which is evil in his sight?[10] He wished to do [evil], but did not. Rab observed: Rabbi, who is descended from David, seeks to defend him, and expounds [the verse] in David's favour. [Thus:] The ‘evil’ [mentioned] here is unlike every other ‘evil’ [mentioned] elsewhere in the Torah. For of every other evil [mentioned] in the Torah it is written, ‘and he did,’ whereas here it is written, .’to do’: [this means] that he desired to do, but did not. Thou hast smitten Uriah the Hittite with the sword:[11] thou shouldst have had him tried by the Sanhedrin,[12] but didst not. And hast taken his wife to be thy wife: thou hast marriage rights in her.[13] For R. Samuel b. Nahmani said in R. Jonathan's name: Every one who went out in the wars of the house of David wrote a bill of divorcement for his wife, for it is said, and bring these ten cheeses unto the captain of their thousand, and look how thy brethren fare, and take their pledge [‘arubatham].[14] What is meant by ‘arubatham? R. Joseph learned: The things which pledge man and woman [to one another].[15] And thou hast slain him with the sword of the children of Ammon:[11] just as thou art not [to be] punished for the sword of the Ammonites, so art thou not [to be] punished for [the death of] Uriah the Hittite. What is the reason? He was rebellious against royal authority, saying to him, and my lord Joab, and the servants of my lord, are encamped in the open field [etc].[16]

Rab said: When you examine [the life of] David, you find nought but ‘save only in the matter of Uriah the Hittite.’[17] Abaye the Elder pointed out a contradiction in Rab[‘s dicta]: Did Rab say thus? Surely Rab said, David paid heed to slander? The difficulty remains.

[To revert to] the main text: ‘Rab said, David paid heed to slander,’ for it is written, And the king said unto him, where is he? And Ziba said unto the king, Behold, he is in the house of Machir the son of Ammiel, belo da bar [in Lo-debar].[18] And it is written, Then David sent, and fetched him out of the house of Machir the son of Ammiel, millo dabar [from Lo-debar].[19] Now consider: he [David] saw that he [Ziba] was a liar; then when he slandered him a second time, why did he pay heed thereto? For it is written, And the king said, And where is thy master's son? And Ziba said unto the king, Behold, he abideth at Jerusalem [: for he said, To-day shall the house of Israel restore me the kingdom of my father].[20] And how do we know that he accepted it [the slander] from, him? Because it is written, Then said the king to Ziba, Behold, thine is all that pertaineth unto Mephibosheth. And Ziba said, I do obeisance; let me find favour in thy sight, my lord, O king.[21]

But Samuel maintained: David did not pay heed to slander, [for] he saw self-evident things in him,[22] For it is written, And Mephibosheth the son of Saul came down to meet the king; and he had neither dressed his feet, nor trimmed his beard, nor washed his clothes, etc.[23] While it is written, And it came to pass, when he was come to Jerusalem to meet the king, that the king said unto him, Wherefore wentest thou not with me, Mephibosheth? And he answered, My Lord, O king, my servant deceived me: for thy servant said, I will saddle me an ass, that I may ride thereon, and go with the king, because thy servant is lame,

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(1) I Sam. VIII, 1, 3.
(2) Ibid.
(3) Ibid. VII, 16.
(4) Who are sent to summon the litigants. On hazzan v. p. 41, n. 7.
(5) Who record the pleas, arguments, verdicts, etc.
(6) They were Levites, and personally demanded the tithes. Owing to their exalted position their demands were acceded to, while the humbler Levites might starve. But they did not actually pervert judgment. — R. Meir's interpretation may have been called forth by the troublous times before the overthrow of the Jewish state, when many High Priests abused their positions by such extortion; v. Halevi, Doroth I, 5, pp. 4 seq.
(7) They compelled people to be their business agents.
(8) Either the priestly dues, viz., the shoulder, cheeks, and maw of animals, though they were not priests; or the Levitical dues, sc. the first tithes, their sin being that they used force.
(9) Ibid. XVIII, 14.
(10) II Sam. XII, 9.
(11) II Sam. Xli, 9.
(12) The great court; v. Sanh. 2a.
(13) Lakah, the verb employed here, denotes marriage; cf. Deut. XXIV, 1.
(14) I Sam. XVII, 18.
(15) Lit., ‘him and her’, sc. the marriage. I.e., take away their marriage — cancel it by means of a divorce. — The divorce was conditional, in the sense that it became retrospectively valid if the husband died. Thus, since Uriah died, she was a free woman from the time he went out, and was not married when David took her.
(16) II Sam. XI, 11. Thus he disobeyed David's order to go home.
(17) I Kings XV, 5. Rashi: his only sin lay in encompassing Uriah's death, but not in taking Bathsheba (as explained above). From the context, however, it appears that Rab does not exculpate him from adultery with Bathsheba, but means that David was guilty of no other sin save that in connection with Uriah, which naturally includes his behaviour with Bathsheba. On that view Rab rejects Rabbi's exegesis (That too appears from Rab's prefacing remark: ‘Rabbi who is descended, etc.’).
(18) II Sam. IX, 4.
(19) Ibid. 5. Maharsha: belo dabar is translated: He (Mephibosheth son of Jonathan and grandson of Saul) has words, i.e., makes unloyal accusations against you. But David found that he was millo dabar, i.e. , he had not made such accusations. Thus Ziba's charges were unfounded. This explains the Gemara that follows.
(20) Ibid. XVI, 3.
(21) Ibid. 4.
(22) Which substantiated Ziba's charges. Thus it was not a mere acceptance of slander.
(23) Ibid. XIX, 24.

Talmud - Mas. Shabbath 56b

And he hath slandered thy servant unto my lord the king; but my lord the king is as an angel of God: do therefore what is good in thine eyes. For all my father's house were but dead men before my lord the king: yet didst thou set thy servant among them that did eat at thine own table. What right therefore have I yet that I should cry and more unto the king? And the king said unto him, Why speakest thou any more of thy matters? I say, Thou and Ziba divide the land. And Mephibosheth said unto the king, Yea, let him take all, forasmuch as my lord the king is come in peace unto his own house.[1] He said [thus] to him: I prayed,[2] when wilt thou return In peace? Yet thou treatest me so. Not against thee have I resentment, but against Him who restored thee in peace![3] Hence it is written, And the son of Jonathan was Meribbaal:[4] was then his name Merib-baal? Surely it was Mephibosheth? But because he raised a quarrel [meribah] with his Master,[5] a Heavenly Echo went forth and rebuked him, Thou man of strife, [and] the son of a man of strife! Man of strife, as we have stated. Son of a man of strife, for it is written, And Saul came to the city of Amalek, and strove in the valley.[6] R. Manni said: [That means,] concerning the matter of the valley.[7]

Rab Judah said in Rab's name: When David said to Mephibosheth, ‘Thou and Ziba divide the land,’ a Heavenly Echo came forth and declared to him, Rehoboam and Jeroboam shall divide the kingdom.[8] Rab Judah said in Rab's name: Had not David paid heed to slander, the kingdom of the House of David would not have been divided, Israel had not engaged in idolatry,[9] and we would not have been exiled from our country.[10]

R. Samuel b. Nahmani said in R. Jonathan's name: Whoever maintains that Solomon sinned is merely making an error, for it is said, and his heart was not perfect with the Lord his God, as was the heart of David his father:[11] it was [merely] not as the heart of David his father, but neither did he sin. Then how do I interpret, For it came to pass, when Solomon was old, that his wives turned away his heart?[12] That is [to be explained] as R. Nathan. For R. Nathan opposed [two verses]: It is written, For it came to pass, when Solomon was old, that his wives turned away his heart,’ whereas it is [also] written, and his heart was not perfect with the Lord his God, as was the heart of David his father, [implying that] it was [merely] not as the heart of David his father, but neither did he sin? This is its meaning: his wives turned away his heart to go after other gods, but he did not go.[13] But it is written, Then would[14] Solomon build a high place for Chemosh the abomination of Moab?[15] — That means, he desired to build, but did not.[16] If so, Then Joshua built [yibneh] an altar unto the Lord,[17] [does this too mean,] he desired to build but did not! Hence it [surely means] that he [actually] built; so here too it means that he built? — Rather it[18] is as was taught: R. Jose said, and the high places that were before Jerusalem, which were on the right hand of the mount of corruption, which Solomon the king of Israel had builded for Ashtoreth the abomination of Moab.[19] Now, is it possible that Assa came and did not destroy them, then Jehoshaphat, and he did not destroy them, until Josiah came and destroyed them! But surely Assa and Jehoshaphat destroyed all the idolatrous cults in Palestine? Hence [the explanation is that] the earlier are assimilated to the later: just as the later did not do, yet it was ascribed to them, to their glory, so the earlier ones too did not do, yet it was ascribed to them, to their shame.[20] But it is written, And Solomon did that which was evil in the sight of the Lord?[21] — But because he should have restrained his wives, but did not, the Writ regards him as though he sinned.

Rab Judah said in Samuel's name: Better had it been for that righteous man to be an acolyte to the unmentionable,[22] only that it should not be written of him, ‘and he did that which was evil in the sight of the Lord’.

Rab Judah said in Samuel's name: When Solomon married Pharaoh's daughter, she brought him a thousand musical instruments and said to him, Thus we play[23] in honour of that idol, thus in honour of that idol, yet he did not forbid her.

Rab Judah said in Samuel's name: When Solomon married Pharaoh's daughter, Gabriel descended and planted a reed in the sea, and it gathered a bank around it, on which the great city of Rome was built.[24] In a Baraitha it was taught: On the day that Jeroboam brought the two golden calves, one into Bethel and the other into Dan, a hut was built,[25] and this developed into Greek Italy.[26]

R. Samuel b. Nahmani said in R. Jonathan's name: Whoever maintains that Josiah sinned is merely making an error, for it is said, And he did that which was right in the eyes of the Lord, and walked in all the ways of David his father.[27] Then how do I interpret, and like unto him there was no king before him, that returned [shab] to the Lord with all his heart etc.?[28] [This teaches] that he revised every judgment which he had pronounced between the ages of eight and eighteen.[29] You might say that he took from one and gave to another:[30] therefore it is taught, ‘with all me'odo [his might]’, [teaching] that he gave of his own.[31] Now, he disagrees with Rab. For Rab said: There was no greater penitent than Josiah in his generation and a certain person in ours; and who is that? Abba the father of R. Jeremiah b. Abba, and some say Aha the brother of Abba the father of Jeremiah b. Abba. (For a Master said: R. Abba and Aha were brothers). R. Joseph said: And there is yet another in our generation. And who is he? ‘Ukban b. Nehemiah the Resh Galutha.[32] And he is ‘Nathan with the ray of light.’[33] R. Joseph said: I was sitting at the session and dozing, and saw in a dream how one [an angel] stretched out his hand and received him. [

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(1) II Sam. XIX, 25-30.

(2) Lit., ‘said’.

(3) Thus he confirmed Ziba's accusation. For David regarded Mephibosheth's unkempt appearance too as a sign that he grieved over his return.

(4) I Chron. VIII, 34; IX, 40.

(5) Be'alaw fr. ba'al.

(6) I Sam. XV, 5.

(7) Saul argued: If the Torah decreed that a heifer should have its neck broken in the valley on account of a single murdered man (Deut. XXI, 1-9), how much greater is the sin of slaying all these Amalekites! (v. Yoma 22b). Thus he strove against God's command.

(8) This agrees with Rab's view (supra a) that David paid heed to slander and acted unjustly. Hence this punishment.

(9) The first step to idolatry was Jeroboam's setting up of the golden calves in order to maintain the independence of his kingdom (v. I Kings XII, 26 seq.).

(10) As a punishment for idolatry.

(11) I Kings XI, 4.

(12) Ibid.

(13) His wives attempted to seduce him, but failed.

(14) E.V. ‘did’.

(15) I Kings XI, 7.

(16) Yibneh is imperfect, denoting uncompleted action; v. Driver's Hebrew Tenses, ch. III, 21 seq.

(17) Josh. VIII, 30.

(18) The statement that Solomon did not sin.

(19) II Kings XXIII, 13. This refers to the religious reformations of Josiah.

(20) Josiah merely removed the idols that were reintroduced after the deaths of the former two kings, but not all idols, since they had already been destroyed, yet it is all attributed to him. So Solomon too was not responsible for the building of the idolatrous high places; nevertheless, since he did not veto them, they are ascribed to him.

(21) I Kings XI, 6.

(22) Lit., ‘something else’ — i.e., to an idol, receiving pay for drawing water and hewing wood in its service, etc., though not believing in it.

(23) Lit., ‘do’.

(24) This, of course, is an allegory. Solomon's unfaithfulness laid the seeds for the dissolution of the Jewish State.

(25) On the site of Rome.

(26) This term was particularly applied to the southern portion of Italy, called Magna Graecia, Cf. Meg. 6b in the ed. Ven. (omitted in later ed.): Greek Italy, that means the great city of Rome, v. Meg., Sonc. ed., p. 31, nn. 5-6.

(27) II Kings XXII. 2.

(28) Ibid. XXIII, 25. Shab really means that he repented, and thus implies that he first sinned.

(29) I.e., from his accession until the finding of the Book of the Law, i.e. , the Torah (v. XXII, 1-8). He revised his judgments in the light of the Torah, and shab is translated accordingly.

(30) In the course of this revision.

(31) Me'odo <me'od is translated money, wealth, in the Talmud. Cf. Sanh. 74a on Deut. VI, 5 (Sonc. ed., p. 502).

(32) V. p. 217, n. 7.

(33) Jast.: a repentant sinner with a halo; others: whom an angel seized by his forelock (accepting his repentance and bringing him to God).

Talmud - Mas. Shabbath 57a

CHAPTER VI

MISHNAH. WHEREWITH MAY A WOMAN GO OUT, AND WHEREWITH MAY SHE NOT GO OUT?[1] A WOMAN MAY NOT GO OUT WITH RIBBONS OF WOOL, LINEN RIBBONS, OR FILLETS ROUND HER HEAD;[2] NOR MAY SHE PERFORM RITUAL IMMERSION WHILST WEARING THEM, UNLESS SHE LOOSENS THEM. [SHE MAY NOT GO OUT] WITH FRONTLETS,[3] GARLANDS [SARBITIN], IF THEY ARE NOT SEWN,[4] OR WITH A HAIR-NET [KABUL][5] INTO THE STREET,[6] OR WITH A GOLDEN CITY,[7] OR WITH A NECKLACE [KATLA]. OR WITH EAR-RINGS, OR WITH A FINGER — RING WHICH HAS NO SIGNET, OR WITH A NEEDLE WHICH IS UNPIERCED. YET IF SHE GOES OUT WITH THESE], SHE IS NOT LIABLE TO A SIN-OFFERING.[8]

GEMARA. Who mentioned anything about ritual immersion?[9] — Said R. Nahman b. Isaac in Rabbah b. Abbuha's name: He [the Tanna] states what is the reason. [Thus:] what is the reason that A WOMAN MAY NOT GO OUT WITH WOOL RIBBONS OR LINEN RIBBONS? Because the Sages ruled, SHE MAY NOT PERFORM RITUAL IMMERSION WHILST WEARING THEM, UNLESS SHE LOOSENS THEM. And since she may not perform ritual immersion on weekdays while wearing them, she may not go out [with them] on the Sabbath, lest she happen to need immersion by ritual law[10] and she untie them, and so come to carry them four cubits in the street.

R. Kahana asked Rab: What of openwork bands?[11] — Said he to him, You speak of something woven:[12] whatever is woven, no prohibition was enacted [in respect thereof].[13] It was stated likewise: R. Huna son of R. Joshua said: Whatever is woven, no prohibition was enacted [in respect thereof]. Others state, R. Huna son of R. Joshua said: I saw that my sisters are not particular about them,[14] What is the difference between the latter version and the former? — There is a difference where they are soiled. On the version that no prohibition was enacted for anything that is woven, these too are woven. But according to the version which bases it on [not] being particular; since they are soiled, one does indeed object to them.[15]

We learnt elsewhere: And the following constitute interpositions in the case of human beings: Wool ribbons, linen ribbons, and the fillet round maidens' heads.[16] R. Judah said: [Ribbons] of wool or of hair do not interpose. because the water enters through them.[17] R. Huna observed: And we learnt all with reference to maidens' heads.[18] R. Joseph demurred: What does this exclude? Shall we say it excludes [ribbons] of the neck, — and of what [material]? Shall we say, it excludes wool: [The question can be raised] if soft [material] on hard[19] forms an interposition, is there a question of soft upon soft?[20] Again. if it excludes linen ribbons, [one might ask] if hard upon hard constitutes an interposition, is there a question of hard upon soft?[21] Rather, said R. Joseph. this is R. Huna's reason, because a woman does not strangle herself.[22]

Abaye refuted him: Maidens may go out with the threads through their ears,[23] but not with fillets round their necks. Now if you say that a woman will not strangle herself, why not with fillets round their necks?[24] — Said Rabina:

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(1) On the Sabbath. The general rule is that a woman may wear superfluous garments which are ornamental, save some which the Rabbis prohibited for fear that she might remove them for a friend's inspection and admiration, carrying them meanwhile in the street. Those which are not considered ornamental constitute a burden, and are always forbidden.

(2) ‘Her head’ applies to all three. These are for tying the hair.

(3) Ornaments worn on the forehead.

(4) To the wig which was generally worn.

(5) The Gemara discusses these. V. also T.A. I, 188 and note a.l.

(6) But she may wear it in a courtyard, whereas all the others are forbidden even in a courtyard, lest she forget herself and go out into the street; v. infra 64b.

(7) An ornament which contained a picture of Jerusalem.

(8) Because all these are ornaments, hence only Rabbinically prohibited; v. n. I .

(9) The reference to immersion is apparently irrelevant.

(10) I.e., if the first evening, when she is permitted to take a ritual bath after menstruation to enable her to cohabit with her husband, falls on the Sabbath.

(11) Chains or cords formed in network fashion. These cannot be tied very tightly; hence the question is whether they need be loosened before a ritual bath and by corollary, must not be worn on the Sabbath, or not.

(12) I.e., a network.

(13) In connection with Sabbath, since they need not be removed for immersion.

(14) To remove them before bathing. This shows that they know that the water enters through the network. Consequently it is unnecessary to remove them before a ritual bath, and they may be worn on the Sabbath.

(15) And is particular to remove them.

(16) When one takes a ritual bath, nothing must interpose between the water and his body. If one of these is worn it does interpose, rendering the bath invalid.

(17) And reaches the skin.

(18) I.e., the wool and linen ribbons also mean those that are used for tying the hair.

(19) Sc. the hair, which is hard in comparison with the skin of the neck.

(20) Surely not, for it is more clinging, making it more difficult for the water to enter.

(21) Linen ribbon is regarded as hard in comparison with wool.

(22) Though ribbons cling more closely to flesh than to hair when tied with equal strength, they are always worn more loosely around the neck, for the reason stated.

(23) They are inserted there after the ear is pierced for ear-rings to prevent the hole from closing up.

(24) For they need not be removed before a ritual bath, being loose; v. p. 267. n. 5.

Talmud - Mas. Shabbath 57b

The reference here is to a broad band[1] which a woman ties very tightly,[2] as she is pleased to have a fleshy appearance.[3]

‘R. Judah said: [Ribbons] of wool or of hair do not interpose, because the water enters through them.’ R. Joseph said in the name of Rab Judah in Samuel's name: The halachah is as R. Judah in respect of ribbons of hair. Said Abaye to him: ‘The halachah [is thus]’ implies that they differ thereon?[4] And should you say, Had he not known the first Tanna to treat of ribbons of hair [too], he would not have treated thereof either: but perhaps he argued with them from analogy:[5] just as you agree with me in the matter of ribbons of hair, so should you agree with me in respect of wool ribbons? It was stated: R. Nahman said in Samuel's name: The Sages agree with R. Judah in respect to ribbons of hair. It was taught likewise: Ribbons of wool interpose; ribbons of hair do not interpose. R. Judah maintained: [Ribbons] of wool or of hair do not interpose. R. Nahman b. Isaac said: Our Mishnah too proves this. For it teaches: A woman may go out with ribbons of hair, whether of her own [hair] or of her companion's.[6] Who is the authority [for this]? Shall we say. R. Judah — even ribbons of wool too [are permitted]? Hence it must surely be the Rabbis, which proves that they do not disagree in respect of ribbons of hair. This proves it.

[SHE MAY] NOT [GO OUT] WITH FRONTLETS [TOTEFETH]. What is TOTEFETH? — Said R. Joseph: A charm containing balsam.[7] Said Abaye to him: Let it be [regarded] as an approved amulet, and hence permitted? Rather said Rab Judah on Abaye's authority: It is an ornament of beads.[8] It was taught likewise: A woman may go out with a gilded hair-net,[9] a totefeth, and with sarbitin that are fastened to her. What is totefeth and what is sarbitin? — Said R. Abbahu: A totefeth encompasses her [head] from ear to ear; sarbitin reach to her cheeks. R. Huna said: poor women make them of various dyed materials; wealthy women make them of gold and silver.

NOR WITH A HAIR-NET [KABUL]. R. Jannai said: I do not know what is this [kabul]: whether we learnt of a slave's chain, but a wool hair-net[10] is permitted; or perhaps we learnt of a wool hair-net and how much more so a slave's neckchain?[11] Said R. Abbahu: Reason supports the view that we learnt of a wool hair-net. And it was taught likewise: A woman may go out into a courtyard with a kabul and a clasp [istema].[12] R. Simeon b. Eleazar said: [She may go out] with a kabul into the street too. R. Simeon b. Eleazar stated a general rule: Whatever is [worn] beneath the net, one may go out therewith: whatever is [worn] above the net, one may not go out with it.[13]

What is istema? — Said R. Abbahu: Bizyune. What is bizyune? Said Abaye in Rab's name: That which imprisons the flying [locks].[14] Our Rabbis taught: Three things were said of an istema: It is not subject to [the interdict of] kil'ayim.[15] it is not defiled by leprosy,[16] and one may not go out with it into the street. On the authority of R. Simeon it was said: It is also not subject to [the interdict against]

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(1) Rashi.

(2) Lit., ‘chokes or strangles herself’.

(3) In eastern countries that constitutes beauty. Being broad, the band does not injure her.

(4) But the first Tanna says nothing about this!

(5) Lit., ‘he said to them, "just as".’

(6) V. infra 64b.

(7) Rashi: to ward off the evil eye.

(8) Jast.: obsidian beads.

(9) For if she removes it, her hair is uncovered; hence she is unlikely to remove it.

(10) Or wig.

(11) The term Kabul bears both meanings.

(12) To keep the hair in order under the net or wig.

(13) Thus he refers to the kabul as something above the hair band. Hence it can only mean the hair-net.

(14) I.e., a clasp or buckle.

(15) V. Glos. This may contain diverse materials. Rashi: because it is not spun; Riba: because it is hard, in which case the Rabbis did not impose a prohibition.

(16) I.e., if leprosy breaks out in the istema. The reason is that it is not technically a garment.

Talmud - Mas. Shabbath 58a

bridal crowns.[1]

But Samuel maintained: We learnt of a slave's neck-chain. Now, did Samuel say thus? Surely Samuel said: A slave may go out with a seal round his neck,[2] but not with a seal on his garments? There is no difficulty: in the one case [the reference is] where his master set it upon him; in the other where he set it upon himself.[3] How have you explained this latter [dictum] of Samuel? that his master set it upon him! Then why [may he] not [go out] with the seal on his garment? — Lest it break off, and he be afraid and fold it [the garment] and put it over his shoulder.[4] This is as R. Isaac b. Joseph, who said in R. Johanan's name: If one goes out on the Sabbath with a folded garment slung over his shoulder, he incurs a sin-offering. And [this is] as Samuel said to R. Hinena b. Shila:

No scholar of the house of the Resh Galutha[5] may go out with a cloak bearing a seal, except you, because the house of the Resh Galutha is not particular about you.[6]

It was stated above: ‘Samuel said: A slave may go out with a seal around his neck, but not with the seal on his garments.’ It was taught likewise: A slave may go out with a seal around his neck, but not with the seal on his garments. But the following contradicts this: A slave may not go out with the seal around his neck, nor with the seal on his garments; and neither are susceptible to defilement.[7] [He may] not [go out] with the bell around his neck, but he may go out with the bell on his garments, and both are susceptible to defilement.[8] An animal may not go out with a seal around its neck nor with a seal on its covering, nor with the bell on its covering nor with the bell around its neck,[9] and none of these are susceptible to defilement.[10] Shall we say that in the one case his master had set it upon him, while in the other he had set it upon himself?[11] — No. In both cases his master had set it upon him, but one refers to a metal [seal] while the other refers to a clay [seal].[12] And [this is] as R. Nahman said in Rabbah b. Abbuha's name: That about which the master is particular,[13] one [a slave] may not go out with it; that about which the master is not particular, one may go out with it. Reason too supports this, since it is stated: ‘none of these are susceptible to defilement’. Now, if you say [that the reference is to] metal [seals], it is well; [hence] only these are not susceptible to defilement, but their utensils[14] are. But if you say that we learnt of clay [seals], [it might be asked] are only these not susceptible to defilement, whereas their utensils[15] are? Surely it was taught: Utensils of stone, dung, or earth do not contract uncleanness either by Biblical or by Rabbinical law.[16] Hence it follows that the reference is to metal [seals]. This proves it.

The Master said: ‘[He may] not [go out] with the bell around his neck, but he may go out with the bell on his garment.’ Why not with the bell around his neck; [presumably] ‘lest it snap off and he come to carry it: then also in the case of the bell on his garment let us fear that it may snap off and he come to carry it? — The reference here is to one that was woven [sewn] into it. And [this is] in agreement with R. Huna the son of R. Joshua, who said: Concerning whatever is woven they enacted no prohibition.[17]

The Master said: ‘An animal may not go out with a seal around its neck, with a seal on its covering, nor with a bell around its neck nor with a bell on its coat, and none of these are susceptible to defilement.’ Now, does not an animal's bell contract uncleanness? But the following contradicts it: An animal's bell is unclean,[18]

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(1) The wearing of bridal crowns was forbidden as a sign of mourning for the destruction of the Temple; v. Sot. 49a.

(2) This is the slave's neck-chain.

(3) In the former case he fears to remove it; hence he may wear it. But he is not afraid to remove it in the latter case, and possibly will.

(4) He may fold the garment to hide the absence of the signet, fearing that his master may accuse him of having purposely removed it in order to pass as a free man.

(5) V. p. 217. n. 7.

(6) From this it appears that some scholars wore a badge to indicate that they belonged to the retinue of the exilarch, and were possibly in the position of his clients. He was also evidently very particular about this, so that if the seal fell off one might fold up the garment to hide its absence.

(7) Because they are neither ornaments nor useful utensils, but merely badges of shame.

(8) These are ornamental.

(9) v. supra 54b for the reason.

(10) They are not ornamental for the animal.

(11) V. p. 270, n. 6.

(12) It is shown below that this must refer to a metal seal; hence even if his master set it upon him he may not go out with it, for should it accidentally snap off the slave would be afraid to leave it in the street on account of its value, but would bring it home, which is forbidden. But the value of a clay seal is negligible, whilst if his master set it upon him he is certainly afraid to remove it; hence he may go out with it. Consequently, the prohibition in the Mishnah, which treats of a clay seal, must refer to one that he set upon himself.

(13) On account of its value.

(14) I.e., the general appointments of an animal, its accoutrement and equipment, which rank as utensils.

(15) Of clay.

(16) Lit., ‘the words of the scribes; v. Kid., Sonc. ed., p. 79, n. 7. These clay seals were not glazed or

(17) I.e., if something is woven into a garment, it may be worn on the Sabbath without fear of its falling off. V. supra 57b.

(18) I.e., liable to uncleanness.

Talmud - Mas. Shabbath 58b

but a door bell is clean.[1] A door [bell] appointed for an animal[‘s use] is unclean; an animal [bell] appointed for [fixing] to a door, even if attached to the door and fastened with nails, is unclean; for all utensils enter upon their uncleanness by intention, but are relieved from their uncleanness only by a change-effecting act?[2] — There is no difficulty: in the one case [the reference is] where it has a clapper: in the other where it has no clapper.[3] What will you: if it is a utensil, then even if it has no clapper [it is unclean]; if it is not a utensil, does the clapper make it one? Yes, as R. Samuel b. Nahmani said in R. Johanan's name, Viz.: How do we know that a metal object which causes sound is unclean?[4] Because it is said, Everything [dabar] that may abide the

burnt in a kiln, to be regarded as pottery, which can be defiled. Thus there is no point in teaching that they are free thereof, for no utensil of similar make is susceptible. fire, ye shall make go through the fire:[5] even speech [dibbur — i.e., sound] must pass through the fire.[6]

How have you interpreted it? as referring to [a bell] without a clapper! Then consider the middle clause: ‘Nor with a bell around his neck, but he may go out with a bell on his garments, and both can contract uncleanness.’ But if it has no clapper, can it become defiled? Surely the following contradicts this: If one makes bells for the mortar,[7] for a cradle,[8] for the mantles of Scrolls,[9] or for children's mantles, then if they have a clapper, they are unclean; if they have no clapper,[10] they are clean. If their clappers are removed,[11] they still retain their uncleanness.[12] — That is only in the case of a child, where its purpose is [to produce] sound.[13] But in the case of an adult, it is an ornament for him even without a clapper.

The Master said: ‘If their clappers are removed, they still retain their uncleanness.’ What are they fit for?[14] Said Abaye: [They are still utensils,] because an unskilled person can put it back. Raba objected: A bell and its clapper are [counted as] connected.[15] And should you answer, This is its meaning: Even when they are not connected, they are [counted as] connected,[16] — surely it was taught: A shears of separate blades[17] and the cutter of a [carpenter's] plane are [counted as] connected in respect of uncleanness, but not in respect of sprinkling. Now we objected, What will you: if they are [counted as] connected, [they should be so] even in respect of sprinkling too; [if they count] not as connected, they should not [be so] even in respect of defilement either? And Rabbah answered: By Scriptural law, when in use they are [counted as] connected in respect of both defilement and sprinkling; when not in use, they are [counted as] connected in respect of neither defilement nor sprinkling. But they [the Rabbis] enacted a preventive measure in respect of defilement when they are not in use on account of defilement when they are in use; and in respect of sprinkling, when they are in use, on account of when they are not in use![18] Rather said Raba,

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(1) The door being part of the house, it is not a utensil, and hence cannot become unclean; the bell, in turn, is part of the door.

(2) V. p. 238, n. 9. Here too the bells were left unchanged.

(3) If it has a clapper it is susceptible to defilement as a utensil.

(4) I.e., it ranks as a utensil.

(5) Num. XXXI, 23.

(6) In order to cleanse it, which shows that it is liable to defilement. This connects dabar (E.V. thing) with dibbur, speech, i.e., a sound-producing object is a utensil.

(7) In which the spices are pounded for use as frankincense in the Temple. Sound was thought to add to the efficacy of crushing; v. Ker. 6b.

(8) To amuse the baby or lull it to sleep.

(9) Of the Torah. It was customary to adorn these with bells.

(10) From the very outset.

(11) After the bells were defiled.

(12) Because they do not lose the status of utensils and become as broken utensils through the removal of the clapper.

(13) Hence without a clapper its purpose is not fulfilled, and it is not a utensil.

(14) That they are not regarded as broken utensils.

(15) And rank as a single utensil, so that if once becomes unclean the other is too. (This is, of course, when they are together.) Similarly, if one is besprinkled (v. Num. XIX, 18f), the other becomes clean. This shows that when they are separated, each is but a fragment of a utensil, though an unskilled person can replace it, and should therefore be clean.

(16) Exactly as the sense in Abaye's explanation.

(17) Lit., ‘joints’.

(18) For notes v. supra 48b and 49a. Now, obviously this must all refer to where the parts are joined, since we compare these utensils when not in use to same when in use. Hence it is implied that when not actually together they do not become defiled even by Rabbinical law, because each is regarded as a fragment, though all unskilled person can join them.

Talmud - Mas. Shabbath 59a

[The reason is] because they[1] are fit for beating on an earthen utensil.[2] It was stated likewise: R. Jose son of R. Hanina said: [The reason is] because they are fit for beating on an earthen utensil. R. Johanan said: Because they are fit for giving a child a drink of water therein.

Now, does not R. Johanan require [that it shall be fit for] a usage of its original nature?[3] Surely it was taught: And everything whereon he sitteth [shall be unclean];[4] I might think that if he [the zab] overturns a se'ah[5] and sits upon it, or a tarkab[6] and sits upon it, it is unclean: hence it is stated, ‘whereon he sitteth’, teaching, [only] that which is appointed for sitting, excluding this, where we say to him, ‘Get up, that we may do our business!’[7] R. Eleazar said: In cases of midras[8] we say. ‘Get up, that we may do our business’; but we do not say in the case of the defilement of the dead, ‘Get up, that we may do our business!’[9] But R. Johanan maintained: In the case of defilement through the dead too we say. ‘Get up, that we may do our business!’[10] — Reverse the former.[11] But what [reason] do you see to reverse the former; reverse the latter?[12] — Because we know R. Johanan to require [fitness for] usage of its original nature For we learnt an animal's shoe, [if] of metal, is unclean.[13] For what is it fit? — Rab said: It is fit for drinking water therein in battle.[14] R. Hanina said: It is fit for anointing oneself with oil from, it in battle.[15] R. Johanan said: When one is fleeing from the field of battle, he places this [shoe] on his [own] feet and runs over briars and thorns.[16] Wherein do Rab and R. Johanan differ? — Where it is repulsive.[17] R. Johanan and R. Hanina differ where it is [too] heavy.[18] NOR WITH A GOLDEN CITY, what is meant by, WITH A GOLDEN CITY? — Rabbah b. Bar Hanah said in R. Johanan's name: A golden Jerusalem.[19]

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(1) The bells that had their clappers removed.

(2) Then they produce a bell-like sound just as when they have a clapper. Hence It is a utensil like before, and so remains unclean. But when the parts of a shears or of a plane are separated, they cannot be used at all.

(3) Where a utensil is damaged or divided, does not R. Johanan hold that in order to remain unclean or susceptible to defilement it must still be fit for the same usage as before, it being insufficient that it shall merely be fit for some purpose?

(4) Lev. XV, 6. The reference is to a zab, q.v. Glos.

(5) A measure of capacity. V. Glos.

(6) Half a se'ah.

(7) I.e., the zab would be told that the measure is needed for its main purpose; hence it is not unclean. This shows that as a general principle every article is regarded from the point of view of its original and primary function.

(8) Lit., ‘treading’. The uncleanness caused by a zab's treading, leaning against, or weighing down upon an article, even if he does not actually touch it with his body. This includes sitting.

(9) I.e., in respect of an article's defilement through a corpse, or by a person who was himself defiled by a corpse, we do not say that in order to become unclean or remain unclean it shall be fit for its main purpose, but even if one has to say to the person using it, ‘Get up, that we may do our business’ it is still subject to the laws of uncleanness.

(10) Thus he insists that it shall be fit for its original function. Rashi maintains that this can refer only to a utensil which is broken or divided after becoming defiled; it does not remain unclean unless fit for a usage of its original nature. R. Han. holds that it refers to its defilement from the very outset.

(11) Transpose the reasons given by R. Jose b. Hanina and R. Johanan.

(12) Transpose the views of R. Johanan and R. Eleazar.

(13) I.e., liable to become unclean.

(14) On a field of battle where no other utensils may be available, one can take up water in the cavity of the shoe into which the animal's foot fits.

(15) This is a necessary part of one's toilet in the hot eastern countries; v. T.A., I, 229-233. The shoe might serve as an improvised oil pot.

(16) Thus R. Johanan justifies its uncleanness only because it is still fit for a usage of the original nature.

(17) For drinking. Hence, on Rab's view it is not subject to defilement, but on R. Hanina's it is. Rab disregards its possible use as an oil container, holding that soldiers dispense with oil on a field of battle.

(18) For running. According to R. Hanina it is nevertheless susceptible to defilement, but not according to R. Johanan.

(19) An ornament with the picture or the engraving of Jerusalem; v. T.A., I, p. 662, n. 961.

Talmud - Mas. Shabbath 59b

such as R. Akiba made for his wife.[1]

Our Rabbis taught: A woman must not go out with a golden city, and if she does, she incurs a sin-offering: this is R. Meir's view. The Sages maintain: She may not go out [therewith], but if she does, she is not liable. R. Eliezer ruled: A woman may go out with a golden city at the very outset. Wherein do they differ? — R. Meir holds that it is a burden; while the Rabbis hold that it is an ornament, [and it is forbidden only] lest she remove it to show [to a friend], and thus come to carry it [in the street];[2] but R. Eliezer reasons: Whose practice is it to go out with a golden city? [That of] a woman of rank; and such will not remove it for display.

As for a coronet,[3] Rab forbids it;[4] Samuel permits it. Where it is made of cast metal, all agree that it is forbidden;[5] they differ about an embroidered stuff:[6] one Master holds that the cast metal [sewn on to it] is the chief part;[7] while the other Master holds that the embroidered stuff is the chief part.[8] R. Ashi learnt it in the direction of leniency. As for an embroidered stuff, all agree that it is permitted. They differ only about what is made of cast metal: one Master holds [that it is forbidden] lest she remove it in order to show, and [thus] come to carry it; while the other Master holds: Whose practice is it to go out with a coronet? That of a woman of rank; and such will not remove it for display.

R. Samuel b. Bar Hanah said to R. Joseph: You explicitly told us in Rab's name that a coronet is permitted.[9]

Rab was told: A great, tall, and lame man has come to Nehardea, and has lectured: A coronet is permitted. Said he: Who is a great tall man who is lame? Levi. This proves that R. Afes is dead[10] and

R. Hanina [now] sits at the head [of the Academy], so that Levi has none for a companion,[11] and therefore he has come hither.[12] But perhaps R. Hanina had died, R. Afes remaining as before, and since Levi [now] had no companion he had come hither? — Had R. Hanina died, Levi would indeed have subordinated himself to R. Afes.[13] Moreover, it could not be that R. Hanina should not rule.[14] For when Rabbi was dying he ordered, ‘Let Hanina son of R. Hama sit at the head.’ And of the righteous men it is written, Thou shalt also decree a thing, and it shall be established unto thee.[15]

Levi lectured in Nehardea: A coronet is permitted; [whereupon] there went forth twenty-four coronets from the whole of Nehardea. Rabbah b. Abbuha lectured in Mahoza:[16] A coronet is permitted: [whereupon] there went forth eighteen coronets from a single alley.[17] Rab Judah said in the name of R. Samuel:[18] A girdle [kamra] is permitted.[19] Some say, That means of embroidered stuff,[20] and R. Safra said: It may be compared to a robe shot through with gold.[21] Others say, It means of cast metal; whereon R. Safra observed: It may be compared to a royal girdle.[22] Rabina asked R. Ashi: What about wearing a kamra over a [plain] girdle [HEMYANA]? — You ask about two girdles! he replied.[23] R. Ashi said: As for a piece of a garment, if it has fringes, it is permitted;[24] if not, it is forbidden.

NOR WITH A KATLA. What is a KATLA? — A trinket holder.[25]

NEZAMIM. [That is] ear-rings.

NOR WITH A FINGER-RING THAT HAS NO SIGNET. This [implies that] if it has a signet, she is liable;[26] hence it proves that it is not an ornament. But the following contradicts this: Women's ornaments are unclean.[27] And these are women's ornaments: Necklaces, ear-rings and finger-rings, and a finger-ring, whether it has a signet or has no signet, and nose-rings? — Said R. Zera, There is no difficulty: one agrees with R. Nehemiah; the other with the Rabbis. For it was taught: If it [the ring] is of metal and its signet is of coral, it is unclean; if it is of coral while the signet is of metal, it is clean.[28] But R. Nehemiah declares it unclean. For R. Nehemiah maintained: In the case of a ring, follow its signet; in the case of a yoke, go by its carved ends;[29] [

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(1) V. Ned. 50a.

(2) Thus it is only Rabbinically forbidden, and involves no sacrifice.

(3) A wreath or chaplet worn on the forehead. Some were entirely of gold or silver; others of silk shot through with gold or silver.

(4) To be worn by a woman in the street on the Sabbath.

(5) This being very costly, a woman is more likely to remove it to show to her friends.

(6) I.e., where the chaplet or coronet is of a stuff with gold or silver embroidery, which would contain pieces of cast metal too.

(7) And therefore a woman may be tempted to remove and show it.

(8) And that is not worth showing. The translation follows what seems to be Rashi's interpretation. Jast.: they differ in respect of what is made of beaten, wrought metal, opp. to cast metal. One Master holds that what is made of cast metal is original (or perhaps, reading מיקר, v. MS.M., more precious), while the other holds the reverse.

(9) Hence R. Ashi's version must be correct, for on the other version there is no case where Rab permits it.

(10) Lit., ‘his soul has gone to rest’.

(11) Lit., ‘to be by his side’. On R. Afes’ accession as head of the Academy R. Hanina, who would not recognize him as his superior, pursued his studies outside, where he was joined by Levi; v. Keth. 103b.

(12) Levi being in no way inferior to R. Hanina, he could not accept him as a head, and so he has come hither. Zuri, I. S. Toledoth, First Series, Bk. 2 pp. 137-139 observes that Levi was probably born in Babylon, whither he was now returning to resettle.

(13) Who was his senior.

(14) As head of the academy. Lit., ‘there is no way or path that R. Hanina’ etc.: i.e., it is impossible.

(15) Job XXII, 28.

(16) The famous town on the Tigris where Raba had his great academy; v. Obermeyer, pp. 161-186,

(17) V. I. S. Zuri, op. cit., Part I, Bk. 3, pp. 19-27 on the significance of numbers. He maintains that eighteen is often used symbolically to denote a large number. — Mahoza was a very wealthy town, owing to its central position and the great caravan and shipping trade that passed through it; this is reflected in the present statement. Obermeyer, p. 173.

(18) Var. lec.: Mar Judah in the name of R. Shesheth, v. D.S.

(19) Kamra was a costly girdle, made either of solid gold or of cloth adorned with gold and precious stones (Rashi).

(20) V. p. 276, n. 7.

(21) There is no fear of either being removed.

(22) Which was likewise made of beaten gold. Rashi: all Israel are princes, and worthy to wear such belts.

(23) Rashi: That is certainly forbidden, for one is superfluous and a burden. Rashi quotes another interpretation to the effect that it is permitted, but prefers the first.

(24) For by their means it can be firmly tied to the wearer, so that it will not fall off and necessitate its being carried in the street.

(25) A band or necklace on which beads, trinkets, etc., are suspended.

(26) The deduction is from the end of the Mishnah.

(27) I.e., susceptible to defilement.

(28) V. supra 52b for notes.

(29) Jast. Rashi: Two rods fitted into the yoke the breadth of an ox's shoulder apart. Jast.: if they are broken off, the yoke ceases to be susceptible to defilement. Rashi: if they are of metal, the yoke is susceptible to defilement. The yoke itself is a straight piece of wood, and wood utensils are not subject to uncleanness unless they possess a cavity which, e.g., can hold water.

Talmud - Mas. Shabbath 60a

in the case of a rack,[1] go after its nails;[2] in the case of a ladder, go after its rungs; in the case of a weighing machine, go after its chains.[3] But the Sages maintain: Everything depends on the support.[4]

Raba said: It is taught disjunctively:[5] if it has a signet, it is a man's ornament; if it has no signet, it is a woman's ornament. R. Nahman b. Isaac answered: Do you oppose uncleanness to the Sabbath![6] [In respect to] uncleanness, the Divine Law said, utensils [fit] for work,[7] and this [a signet ring] is a utensil. But the Sabbath [interdiction] was imposed by the Divine Law on account of the burden: if it has no signet, it is an ornament; if it has a signet, it is a burden.

NOR WITH A NEEDLE WHICH IS UNPIERCED. What is it fit for?[8] — Said R. Joseph: Since a woman tidies[9] her hair with it [it is therefore ornamental]. Said Abaye objected: Let it be as a garter, which is clean, and hence permitted?[10] But R. Adda of Naresh[11] interpreted it before R. Joseph: Since a woman parts her hair with it, [it is ornamental]. What is it fit for on the Sabbath?[12] — Said Raba: It has a golden plaque at the end thereof:[13] on weekdays she parts her hair therewith, [while] on the Sabbath she lets it lie against her forehead.[14]

MISHNAH. A MAN MAY NOT GO OUT WITH A NAIL-STUDDED SANDAL, NOR WITH A SINGLE [SANDAL]. IF HE HAS NO WOUND ON HIS FOOT;[15] NOR WITH TEFILLIN, NOR WITH AN AMULET, IF IT IS NOT FROM AN EXPERT, NOR WITH A COAT OF MAIL [SHIRYON], NOR WITH A CASQUE [KASDA], NOR WITH GREAVES [MEGAFAYYIM]. YET IF HE GOES OUT, HE DOES NOT INCUR A SIN-OFFERING.[16]

GEMARA. A NAIL-STUDDED SANDAL: What is the reason? — Said Samuel: It was at the end of the period of persecution.[17] and they [some fugitives] were hiding in a cave. They proclaimed, ‘He who would enter, let him enter,[18] but he who would go out, let him not go out.’[19] Now, the sandal of one of them became reversed, so that they thought that one of them had gone out and been seen by the enemies, who would now fall upon them. Thereupon they pressed against each other,[20] and they killed of each other more than their enemies slew of them. R. Ila'i b. Eleazar said: They were stationed in a cave when they heard a sound [proceeding] from above the cave. Thinking that the enemy was coming upon them, they pressed against each other and slew amongst themselves more than the enemy had slain of them. Rami b. Ezekiel said: They were stationed in a Synagogue, when they heard a sound from behind the synagogue. Thinking that the enemy was coming upon them, they pressed against each other and slew amongst themselves more than the enemy had slain of them. In that hour it was enacted: A man must not go out with a nail-studded sandal.[21] If so, it should be forbidden on weekdays too? — The incident happened on the Sabbath.[22] Then let it be permitted on Festivals! Why did we learn:

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(1) Placed outside a shop and fitted with nails and hooks for exhibiting goods.

(2) If they are of metal, the whole is susceptible to uncleanness.

(3) The machine itself was of wood.

(4) E.g., the ladder depends on its frame, not on the rungs, etc. — Hence, according to R. Nehemiah the signet is the chief part of the ring, and since a signet is not ornamental, a sin-offering is incurred. But the Rabbis hold that the ring itself is the chief part, and that is an ornament.

(5) Lit., ‘to (separate) sides’. The clause ‘and a ring whether it has a signet etc.’ is not included in the definition of ‘women's ornaments’.

(6) He likewise treats the clause ‘and a ring etc.’ as independent of the preceding but as referring to the general laws of uncleanness.

(7) Num. XXXI. 51; i.e., which have a definite function.

(8) How can it be regarded as an ornament? V. p. 266, n. 1.

(9) Lit., ‘gathers up’: if some wisps of hair stray out from under her wig, they are wound about this needle or bodkin and pushed back (Rashi). Tosaf.: the needle is thrust through the wig to keep the hair in order and prevent it from straying out. ‘Aruch reads: ogedeth, she fastens.

(10) V. infra 63a. So here too, since the bodkin is required to keep the hair in order, and uncovered hair is considered disgraceful (v. Sanh. 58b), a woman will certainly not remove it for display.

(11) Identical with Nahras or Nahr-sar, on the canal of the same name, which was a tributary falling into the Euphrates on its eastern bank; Obermeyer, pp. 307 seq.

(12) When parting the hair is forbidden.

(13) One end was needle-like while the other was flattened and broadened into a plaque.

(14) She thrusts the needle end into her wig, letting the other end come over her forehead as an ornament.

(15) Either because he may be suspected of carrying the other sandal under his garments (T.J.), or because he may evoke ridicule, which will cause him to remove and carry it. But when one foot is wounded, there is no fear of this. V. Rashi.

(16) Because these are garments in war, hence do not rank as burdens.

(17) So Jast. Rashi: There were fugitives from persecution. [The reference is generally held to be to the Syrian persecutions under Antiochus Epiphanes; v. Berliner, Hoffmann Magazin XX, p. 123].

(18) As he could see beforehand whether the enemies’ spies were on the watch.

(19) For fear of spies, lest their whereabouts be disclosed.

(20) Panic stricken, in order to flee.

(21) According to Samuel, because this had led them astray. According to R. Ila'i b. Eleazar and Rami b. Ezekiel, because the carnage had been wrought by their nail-studded sandals.

(22) The interdict was felt to be in memory of the disaster rather than through actual fear of its repetition, and therefore confined to the Sabbath.

Talmud - Mas. Shabbath 60b

But one may not [send] a nail-studded sandal or an unsewn shoe [on Festivals]?[1] — What is the reason of the Sabbath?[2] Because there is a gathering [of people]. So on Festivals too there is a gathering. But there is a gathering on a public fast day:[3] let it be forbidden [then too]? — The incident happened on a day of assembly when there is an interdict [against work]; but here it is [a day of] assembly when it is permitted [to work]. And even according to R. Hanina b. Akiba who maintained, They enacted a prohibition only in respect of the Jordan and a ship, just as the incident that occurred:[4] that applies only to the Jordan, which differs from other rivers;[5] but Festivals and the Sabbath are alike, for we learnt: There is no difference between Festivals and the Sabbath save in respect of food consumption.[6] Rab Judah said in Samuel's name: They learnt this only [where the nails are] to strengthen [the sandal], but where they are ornamental, it is permitted.[7] And how many [nails] constitute an ornament? — R. Johanan said: Five on each; R. Hanina maintained: Seven on each[8] and one on [each of] the straps; according to R. Hanina, there are three on each side[9] and one in the strapping.

An objection is raised: For an inclining sandal[10] one inserts seven [nails]; this is R. Nathan's view. But Rabbi permits thirteen.[11] As for R. Hanina, It Is well: he rules as R. Nathan. But whose view does R. Johanan state? — He rules as R. Nehorai. For it was taught, R. Nehorai said: Five are permitted, but seven are forbidden. Efah said to Rabbah b. Bar Hanah: You, as disciples of R. Johanan, should act as R. Johanan; but we will act as R. Hanina.

R. Huna asked R. Ashi: What of five [nails]? — Even seven are permitted, he answered him. What of nine? Even eight are forbidden, was his reply. A certain shoe-maker asked R. Ammi: What if it is sewn from within?[12] It is permitted, replied he, but I do not know what is the reason.[13] Said R. Ashi, And does not the Master know what is the reason?[14] Since it was sewn from within, it becomes a shoe:[15] the Rabbis enacted a decree in respect to a sandal, but in respect of a shoe they did not enact any decree.

R. Abba b. Zabda asked R. Abba b. Abina: What if he arranged them [the nails] zigzag-shape?[16] — It is permitted, he answered him. It was stated likewise: R. Jose b. R. Hanina said: If they are arranged zigzag-shape, it is permitted.

R. Shesheth said: If the whole of it [the sole] is covered with nails [underneath] so that the ground should not wear it away. it is permitted. It was taught in accordance with R. Shesheth, A man may not go out wearing a nail-studded sandal, nor may he stroll [in it] from house to house,[17] and even from bed to bed. But it may be handled in order to cover a utensil or support the legs of a bed therewith;[18] but R. Eleazar b. R. Simeon forbids this.[19] If most of its nails are fallen out, but four or five are left, it is permitted; while Rabbi permits it up to seven. If one covers it with leather underneath and drives nails into it on top, it is permitted.[20] If one arranges them [the nails] zigzag-fashion,[21] or flattens [them] out, or points [them],[22] or covers the whole of it with nails so that the ground should not wear it out, it is permitted. Now, this is self-contradictory: You say, if most of the nails are fallen out, [implying], even if many are left [it may be worn]; then it is taught, only four or five, but not more? — Said R. Shesheth, There is no difficulty: in the one case they are scooped out; in the other they are pulled out.[23]

‘[If] four or five [are left], it is permitted.’ Seeing that it is permitted [with] five, need four be stated? — Said R. Hisda: [It means] four in a small sandal and five in a large sandal.

‘While Rabbi permits it up to seven.’ But it was taught: Rabbi permits it up to thirteen? An inclining [sandal] is different.[24] Now that you have arrived at this [distinction], on R. Johanan's view too there is no difficulty: an inclining [sandal] is different.[25]

R. Mattenah — others state, R. Ahadboi b. Mattenah in R. Mattenah's name — said: The halachah is not as R. Eleazar son of R. Simeon. But that is obvious: [where] one disagrees with many, the halachah is as the majority? — You might argue, R. Eleazar son of R. Simeon's view is logical here;[26] hence we are informed [that we do not follow him].

R. Hiyya said: But that I would be dubbed a Babylonian who permits forbidden things,[27] I would permit more. And how many, — In Pumbeditha they say, Twenty-four; in Sura, twenty-two. R.

Nahman b. Isaac said: And your sign [to remember this is]: by the time he [R. Hiyya] travelled from Pumbeditha to Sura[28] two [nails] were missing [from his sandals].

NOR WITH A SINGLE [SANDAL]. IF HE HAS NO WOUND [or, BRUISE] ON HIS FOOT.

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(1) V. Bez. 14b. These may not be sent because they cannot be used for the Festival. — A sandal (סנדל) consists only of a sole and straps, while a shoe (מנעל) has uppers in addition, Levi, Worterbuch, s.v. סנדל.
(2) Why was it forbidden then?
(3) V. Ta'an. 15a.
(4) V. Hag. 23a. It once happened that the purification water (v. Num. XIX, 9 Seq.) was carried in a boat over the Jordan, when a portion of a corpse was found in the bottom of the boat, whereby the water itself was defiled. The Rabbis maintain that it was then enacted that the water of lustration must not be carried over any river, whether in a boat or over a bridge. But R. Hanina disputes this, as quoted. It might therefore be thought that in the matter under discussion he maintains that there was no prohibition in respect to Festivals.
(5) In breadth, depth, current, etc.
(6) Lit., ‘food for a person’, which may be prepared on Festivals (Ex. XII, 16) but not on the Sabbath.
(7) To go out wearing the sandal on the Sabbath. Nails are normally put in to strengthen the sandal, and such must have been worn on the occasion of the tragedy; hence the decree was only in respect of same.
(8) But if there are more, their purpose is to strengthen, not ornamental.
(9) Of the sandal, one at the heel and the other at the toe.
(10) The sole of which is thicker at one side than at the other. It is leveled by nails inserted at the thin end.
(11) These too are ornamental, not for strength. But if there are more, the sandal may not be worn on the Sabbath, as above.
(12) Rashi. i.e., a leather shoe was placed inside a sandal and sewn thereto.
(13) He had heard this ruling, but did not know why.
(14) [MS.M. omits ‘but I do not know’ and ‘does not the Master ... reason’. This reading is preferable as R. Ashi and R. Ammi were not contemporaries].
(15) A sandal (סנדל) is merely a sole, while a shoe (מנעוך) has uppers too.
(16) Kalbus is a tongs or pinchers, which presumably opened X-wise.
(17) Probably from room to room in the same house, where each room has a separate occupant.
(18) Because it ranks as a utensil; v. Supra 46a, p. 211.
(19) Lest he put it on.
(20) Because the sandal is not exactly similar to that which caused the disaster.
(21) Bah deletes this.
(22) These refer to the tops of the nails (Rashi).
(23) If they are levelled down, leaving marks of nails on the sole, then even if more than four or five are left it is permissible, since the sandal was obviously not made like this originally. But if they are clean pulled out, leaving no mark on the wood of the sole, the sandal may appear to have been originally manufactured thus, and therefore not more than five are permitted. Others reverse the translation, but the sense remains the same.
(24) All are necessary to level it up, and none are for strength.
(25) V. supra.
(26) V. p. 283, n. 4.
(27) He was a Babylonian who went to study in Palestine; Suk. 20a. This may indicate that the Palestinians on the whole were stricter.
(28) On his way to Palestine.

Talmud - Mas. Shabbath 61a

Hence if he has a wound on his foot, he may go out. With which of them does he go out?[1] — R. Huna said: With that [worn on the foot] which has the wound. This proves that he holds that the purpose of the sandal is [to save him] pain. Hiyya b. Rab said: With that [worn] where there is no wound. This proves that he holds that it is employed as a luxury, while this [foot] that has a wound, its wound is evidence for it.[2] Now, R. Johanan too holds as R. Huna. For R. Johanan said to R. Shamen b. Abba: Give me my sandals. When he gave him the right one, he [R. Johanan] observed, You treat it as though it had a wound.[3] [No]. Perhaps he agrees with Hiyya b. Rab, and he meant thus: You treat the left [foot] as through it had a wound? Now, R. Johanan [here] follows his general view. For R. Johanan said: Like tefillin, so are shoes: just as tefillin [are donned] on the left [hand], so are shoes [put on] the left [foot first]. An objection is raised: When one puts on his shoes, he must put on the right first and then the left? — Said R. Joseph: Now that it was taught thus, while R. Johanan said the reverse, he who acts in either way acts [well].[4] Said Abaye to him: But perhaps R. Johanan did not hear this Baraitha, but if he had heard it, he would have retracted? Or perhaps he heard it and held that the halachah is not as that Mishnah?[5] R. Nahman b. Isaac said: A God-fearing person satisfies both views. And who is that? Mar, the son of Rabina. What did he do? He put on the right foot [sandal] but did not tie it. Then he put on the left, tied it, and then tied the right [sandal]. R. Ashi said: I saw that R. Kahana was not particular.

Our Rabbis taught: When one puts on his shoes, he must put on the right first and then the left; when he removes [them], he must remove the left [first] and then the right.[6] When one washes, he must [first] wash the right [hand, foot] and then the left. When one anoints [himself] with oil,[7] he must anoint the right and then the left. But one who desires to anoint his whole body must anoint his head first, because it is the king of all the limbs.[8]

NOR WITH TEFILLIN. R. Safra said: Do not think that this is [only] according to the view that the Sabbath is not a time for tefillin; but even on the view that the Sabbath is a time for tefillin,[9] one must not go out [with them], lest he come to carry them [four cubits] in the street.[10] Others learn this in reference to the last clause: YET IF HE GOES OUT, HE DOES NOT INCUR A SIN OFFERING: Said R. Safra: Do not think that this is [only] according to the view that the Sabbath is a time for tefillin; but even on the view that the Sabbath is not a time for tefillin, he is [nevertheless] not liable to a sin-offering. What is the reason? He treats it as a garment.[11]

NOR WITH AN AMULET, IF IT IS NOT FROM AN EXPERT. R. Papa said: Do not think that both the man [issuing it] and the amulet must be approved; but as long as the man is approved, even if the amulet is not approved.[12] This may be proved too for it is stated, NOR WITH AN AMULET, IF IT IS NOT FROM AN EXPERT; but it is not stated, if it is not approved.[13] This proves it.

Our Rabbis taught: What is an approved amulet? One that has healed [once], a second time and a third time; whether it is an amulet in writing or an amulet of roots, whether it is for an invalid whose life is endangered or for an invalid whose life is not endangered. [It is permitted] not [only] for a person who has [already] had an epileptic fit, but even [merely] to ward it off.[14] And one may tie and untie it even in the street, providing that he does not secure it

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(1) Wearing the sandal on which foot?

(2) For the sandal is obviously being worn merely as a luxury, and no one will suspect him of carrying the other (v. p. 280, n. 4) which he is not wearing, because he cannot put it on on account of the wound.

(3) R. Johanan holds that the left sandal must be put on first (infra). Hence if he put on the right, the other foot would have to be left unshod, and people would think that his right foot was wounded. Thus he holds with R. Huna that the sandal is donned on the wounded foot as a protection.

(4) [It is left to each individual to decide for himself whether to assign pride of place to the right or left side each enjoys in some respects distinction over the other. V. Tosaf.].

(5) It is really a Baraitha, not a Mishnah.

(6) The right half of the body being stronger, more honour must be shown to it. Removing the left first is likewise a mark of honour to the right, for the right shoe remains longer on the foot.

(7) V. p. 275, n. 8.

(8) I.e., the most important.

(9) V. ‘Er. 95b.
(10) In his hand, in case of need.
(11) By donning it in the usual manner.
(12) It may be worn on the Sabbath.
(13) Heb. mumheh describes both the practitioner who issues it and the charm itself. The Mishnah, however, refers only to the former.
(14) Even if the wearer has not actually suffered but fears an attack of epilepsy.

Talmud - Mas. Shabbath 61b

with a ring or a bracelet and go out therewith into the street, for appearances sake.[1] But it was taught: What is an approved amulet? One that has healed three men simultaneously?[2] — There is no difficulty: the one is to approve the man; the other is to approve the amulet.[3] R. Papa said: It is obvious to me that if three amulets[4] [are successful for] three people, each [being efficacious] three times,[5] both the practitioner[6] and the amulets are [henceforth] approved. If three amulets [are successful for] three people, each [being efficacious] once, the practitioner is [henceforth] approved, but not the amulets. If one amulet [is efficacious] for three men, the amulet is approved but not the practitioner. [But] R. Papa propounded: What if three amulets [are efficacious] for one person?[7] The amulets are certainly not rendered approved: but does the practitioner become approved or not? Do we say, Surely. he has healed him! Or perhaps, it is this man's fate[8] to be susceptible to writings?[9] The question stands over.

The scholars propounded: Have amulets sanctity or not? In respect of what law? Shall we say, in respect of saving them from a fire?[10] Then come and hear: Benedictions[11] and amulets, though they contain the [divine] letters and many passages from the Torah, may not be saved from a fire, but are burnt where they are. Again, if in respect to hiding,[12] — Come and hear: If it [the Divine Name] was written on the handles of utensils or on the legs of a bed,[13] it must be cut out and hidden.[14] Rather [the problem is] what about entering a privy with them? Have they sanctity, and it is forbidden; or perhaps they have no sanctity, and it is permitted? — Come and hear: NOR WITH AN AMULET, IF IT IS NOT FROM AN EXPERT. This [implies that] if it is from an expert, one may go out [with it]; now if you say that amulets possess sanctity, it may happen that one needs a privy, and so come to carry it four cubits in the street?[15] The reference here is to an amulet of roots.[16] But it was taught. Both a written amulet and an amulet of roots? — The reference here is to an invalid whose life is endangered.[17] But it was taught: ‘Both an invalid whose life is endangered and one whose life is not endangered’? — Rather [this is the reply]: since it heals even when he holds it in his hand, it is well.[18]

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(1) If secured with a ring or a bracelet it looks like being worn as an ornament, which it is not, and it would be forbidden to wear it as such.
(2) ‘Simultaneously’ is absent from Rashi's version, but present in cur. edd. and Tosaf., which explains that it refers to three amulets (presumably of exactly the same pattern) worn by three men. Whereas by the previous definition it is sufficient if it has healed three times, even the same person.
(3) In order that the practitioner may rank as an expert, he must have healed three different men with three different amulets; these three men would be suffering from three diverse maladies, and the amulets likewise would be different, i.e., contain different charms. Whatever amulet he subsequently issues is approved. The second Baraitha must now accordingly be translated thus: What is an amulet of an approved person? (An amulet issued by) one who has healed three persons. But the first Baraitha refers to the approving of the amulet itself; once it has healed three times, whether the same person or three different persons suffering from the same complaint, it is now approved for all men. Or, the same charm can now be written by any man, and it is approved.
(4) Each with a different charm and all written or prepared by the same man.
(5) Even for the same person.
(6) Who prepared them.

(7) V. p. 286, n. 7.
(8) Lit., ‘planetary destiny’, v. infra 156a, h.
(9) Sc. written amulets. But the practitioner might not be successful for another.
(10) That if a fire breaks out in a house, it shall be permitted to carry these into a courtyard which is not formally joined to the house by means of an ‘erub (v. Glos.). Nothing may be taken out of a house into this courtyard, except sacred writings, to save them from fire; infra 115a.
(11) In writing.
(12) When sacred writings are worn out and not fit for use, they may not be thrown away or burnt, but must be ‘hidden’, i.e., buried; Meg. 26b.
(13) For magical purposes; v. A. Marmorstein in MGWJ. (1928), pp. 391 seq.
(14) Thus whatever contains the Divine Name must be treated as sacred in this respect.
(15) He may have to remove it in order to deposit it somewhere and carry it thither.
(16) This certainly does not possess sanctity, since the Divine Name is not there.
(17) If the amulet is removed. He may take it into a privy even if it possesses sanctity.
(18) Permitted as a kind of cure. For even if one does carry it in the street in his hands, it is not a culpable act.

Talmud - Mas. Shabbath 62a

But it was taught: R. Oshaia said: Providing one does not hold it in his hand and carry it four cubits in the street? But the reference here is to [an amulet that is] covered with leather.[1] But tefillin are leather-covered,[2] yet it was taught: When one enters a privy, he must remove his tefillin at a distance of four cubits and then enter? There it is on account of the [letter] shin, for Abaye said: The shin of tefillin is a halachah of Moses at Sinai.[3] Abaye also said: The daleth of tefillin is a halachah of Moses at Sinai. Abaye also said: The yod of tefillin is a halachah of Moses at Sinai.[4]

NOR WITH A SHIRYON, NOR WITH A KASDA, NOR WITH MEGAFAYYIM. SHIRYON is a coat of mail. KASDA, — Rab said: It is a polished metal helmet.[5] MEGAFAYYIM, — Rab said: These are greaves. MISHNAH. A WOMAN MAY NOT GO OUT WITH A NEEDLE THAT IS PIERCED, NOR WITH A RING BEARING A SIGNET, NOR WITH A KOKLIAR,[6] NOR WITH A KOBELETH,[7] NOR WITH A BALSAM PHIAL; AND IF SHE DOES GO OUT, SHE IS LIABLE TO A SIN-OFFERING; THIS IS R. MEIR'S VIEW.[8] BUT THE SAGES RULE THAT SHE IS NOT CULPABLE IN THE CASE OF A KOBELETH AND A BALSAM PHIAL.

GEMARA. ‘Ulla said: And it is the reverse in the case of a man.[9] Thus we see that ‘Ulla holds that whatever is fit for a man is not fit for a woman, and whatever is fit for a woman is not fit for a man.[10] R. Joseph objected: Shepherds may go out [on the Sabbath] with sackcloths;[11] and not only of shepherds did they [the Sages] say [thus], but of all men, but that it is the practice of shepherds to go out with sacks.[12] Rather said R. Joseph. ‘Ulla holds that women are a separate [independent] people.

Abaye put an objection to him: If one finds tefillin,[13] he must bring them in[14] pair by pair;[15] [this applies to] both a man and a woman. Now if you say that women are a separate people, surely it is[16] a positive command limited in time, and from all such women are exempt?[17] — There R. Meir holds that night is a time for tefillin, and the Sabbath [too] is a time for tefillin: thus it is a positive precept not limited by time, and all such are incumbent upon women. But it is carrying out in a ‘backhanded’ manner?[18] — Said R. Jeremiah: The reference is to a woman who is a charity overseer.[19] Raba said [to him]: You have answered the case of a woman; but what can be said of a man?[20] Said Raba, [This is the answer:] Sometimes a man gives a signet-ring to his wife to take it to a chest, and she places it on her hand[21] until she comes to the chest. And sometimes a woman gives a non-signet ring to her husband to take it to an artisan to be repaired, and he places it on his hand until he comes to the artisan.[22]

NOR WITH A KOKLIAR, NOR WITH A KOBELETH. What is a KOKLIAR? — Said Rab: A brooch.[23] KOBELETH? — Said Rab: A charm [bead] containing phyllon; and thus did R. Assi explain it : A charm containing phyllon.

Our Rabbis taught: She may not go out with a kobeleth, and if she does, she incurs a sin-offering, this is R. Meir's view; while the Sages maintain: She may not go out, but if she does, she is not culpable. R. Eliezer ruled: A woman may go out with a kobeleth at the very outset. Wherein do they differ? R. Meir holds that it is a burden. Whereas the Rabbis hold that it is an ornament, and [she hence may not wear it at the outset] lest she remove it for display, and so come to carry it. But R. Eliezer argues: Whose practice is it to wear this? A woman with an unpleasant odour;[24] and such a woman will not remove it for display, and so will not come to carry it four cubits in the street. But it was taught: R. Eliezer declares [her] non culpable on account of a kobeleth and a flask of spikenard oil?[25] — There is no difficulty: the one [ruling] is in reference to R. Meir; the other, in reference to the Rabbis. [Thus:] when referring to R. Meir, who maintained that she is liable to a sin-offering, he [R. Eliezer] said to him that she is not culpable. When treating of the Rabbis who maintained that there is no culpability, yet it is forbidden, he ruled that it is permitted at the outset.

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(1) Or, skin. This may be taken into a privy.
(2) I.e., the strips of parchment bearing the Biblical passages are encased in leather capsules.
(3) V. supra 28b, p. 123. n. 7. Thus part of the Divine Name itself is uncovered; therefore one may not enter a privy with it.
(4) The strap of the head-phylactery is knotted at the back of the head in the shape of a daleth (ד); that of the hand-phylactery forms a noose and is knotted near the capsule in the shape of a yod (י). Cf. Heilprin. Seder ha-Doroth, I, p. 208 ed. Maskileison. Warsaw, 1897. Thus the three together make up the word שדי Almighty. Tosaf., however, s.v. שין, deletes Abaye's last two statements on the daleth and yod.
(5) Jast. Rashi: a leather helmet worn under the metal helmet.
(6) A pin of the shape of a cochlea, which is a part of the inner ear.
(7) ‘Aruch reads: kokeleth, a perfume charm.
(8) He regards these as burdens, not ornaments.
(9) This refers to a ring. If it bears a signet he is not culpable; if not, he is.
(10) So that what is an ornament for one is a burden for the other.
(11) As a protection from the rain.
(12) This shows that even when people are not in the habit of wearing it, yet since it is an ornament for one it is the same for the other.
(13) In the street on the Sabbath.
(14) To a safe place, where they will not be exposed to misuse.
(15) I.e., he dons one pair on the hand and the head as they are usually worn, and walks with them as with an ordinary article of attire to his destination; then he returns and does the same with the second pair, and so on. This is R. Meir's view: Erub. 96b.
(16) The precept of donning tefillin.
(17) V. Kid. 29a. The difficulty is based on the assumption that tefillin are not to be worn on the Sabbath, nor at night. Since women are exempt, and at the same time they rank as a separate people, tefillin can surely not be accounted for them an article of attire?
(18) V. p. 188, n. 2. This raises a difficulty on the Mishnah. Why is a woman culpable for going out wearing a signet ring, seeing that this is not the usual manner of carrying out an object? [Liability is incurred only when the work done is performed in the usual manner.]
(19) Lit., ‘treasurer’. She impresses the seal of her signet ring upon her orders for charity disbursements. Thus she usually wears the ring on her finger, and that is her way of carrying it out into the street. Yet since women do not generally wear such rings, this cannot be regarded as an ornament. — It is interesting to observe a woman occupying this position.
(20) ‘Ulla states that a man is culpable for wearing a non-signet ring; but that too is a backhanded manner?
(21) I.e., on her finger.
(22) Thus in both cases this becomes the usual manner of carriage. Hence the reference in the Mishnah is to any woman, not particularly a treasurer.
(23) V. note on Mishnah.
(24) Which the kobeleth counteracts.
(25) This implies that they may nevertheless not be worn.

Talmud - Mas. Shabbath 62b

And what is [this reference to] R. Meir?[1] - As it was taught: A woman may not go out with a key in her hand, and if she does, she incurs a sin-offering; this is R. Meir's view. R. Eliezer holds her non-culpable in the case of a kobeleth and a flask of spikenard oil. Who mentioned a kobeleth?[2] — There is a lacuna, and it was thus taught: And she may likewise not go out with a kobeleth or a flask of spikenard oil; and if she does, she incurs a sin-offering: this is R. Meir's view. R. Eliezer holds her non-culpable in the case of a kobeleth and a flask of spikenard oil. When is that said? When they contain perfume;[3] but if they do not contain perfume, she is culpable.[4] R. Adda b. Ahabah said: This implies that if one carries out less than the statutory quantity of food in a utensil, he is culpable. For when it [the flask] does not contain perfume, it is analogous to less than the statutory quantity [of food carried out] in a utensil, and yet it is taught that she is culpable.[5] R. Ashi said: In general I may hold that there is no liability, but here it is different, because there is nothing concrete at all.[6] And anoint themselves with the chief ointments:[7] Rab Judah said in Samuel's name: This refers to spikenard oil. R. Joseph objected: R. Judah b. Baba forbade spikenard oil too, but they [the Sages] did not agree with him.[8] Now if you say [that the prophet's objection] is on account of its being a luxury,[9] why did they not agree with him? Said Abaye to him, Then on your view, when it is written, that drink in bowls of [mizreke] wine,[10] [which] R. Ammi and R. Assi — one interpreted it [as meaning] kenishkanim,[11] while the other said, It means that they threw [mezarkim] their goblets to each other[12] — is that too forbidden? Surely Rabbah son of R. Huna visited the house of the Resh Galutha,[13] who drank from a kenishkanim, yet he said nothing to him![14] But whatever provides both enjoyment and rejoicings, the Rabbis forbade; but that which is a luxury but not associated with rejoicing, the Rabbis did not forbid.

That lie upon beds of ivory, and stretch themselves [seruhim] upon their couches.[15] R. Jose son of R. Hanina said: This refers to people who urinate before their beds naked.[16] R. Abbahu derided this: If so, is that why it is written: Therefore shall they now go captive with the first that go captive:[17] because they urinate before their beds naked they shall go captive with the first that go captive! Rather said R. Abbahu: This refers to people who eat and drink together, join their couches, exchange their wives, and make their couches foul [maserihim] with semen that is not theirs.

R. Abbahu[7] said — others say, In a Baraitha it was taught: Three things bring man to poverty. viz., urinating in front of one's bed naked, treating the washing of the hands with disrespect,[18] and being cursed by one's wife in his presence. ‘Urinating in front of one's bed naked’: Raba said, This was said only when his face is turned to the bed: but if it is turned in the opposite direction, we have nought against it. And even when his face is turned to the bed, this was said only when it is on to the ground;[19] but if it is into a vessel, we have nought against it. ‘And the treating of the washing of the hands with disrespect’: Raba said, This was said only when one does not wash his hands at all; but if he washes them inadequately,[20] we have nought against it. (But this is not so, for R. Hisda said: I washed with full handfuls of water and was granted full handfuls of prosperity).[21] ‘And being cursed by one's wife in his presence’: Said Raba: [That is when she curses him] on account of her adornments.[22] But that is only when he has the means but does not provide them.[23]

Raba son of R. Ilai lectured: What is meant by, Moreover the Lord said, Because the daughters of Zion are haughty?[24] That means that they walked with haughty bearing.[25] And walk with outstretched necks[26] — they walked heel by toe.[27] And wanton [mesakrothh] eyes:[28] they filled their eyes with stibium and beckoned.[29] Walking and mincing: they walked, a tall woman by the side of a short one. And making a tinkling [te'akasnah] with their feet: R. Isaac of the School of R. Ammi said: This teaches that they placed myrrh and balsam in their shoes and walked through the market-places of Jerusalem , and on coming near to the young men of Israel, they kicked their feet and spurted it on them, thus instilling them with passionate desire like with serpent's poison.[30]

And what is their punishment? — As Rabbah b. ‘Ulla lectured: And it shall come to pass, that instead of sweet spices [bosem] there shall be rottenness:[31] the place where they perfumed themselves [mithbasmoth] shall be decaying sores. And instead of a girdle a rope [nikpeh]: the place where they were girded with a girdle shall become full of bruises [nekafim]. And instead of well-set hair baldness: the place where they adorned themselves shall be filled with bald patches. And instead of a stomacher [pethigil] a girding of sackcloth: the openings that lead to [sensual] joy[32] shall be for a girding of sackcloth. Branding [ki] instead of beauty: Said Raba, Thus men say, Ulcers instead of beauty.

Therefore the Lord will smite with a scab [wesipah] the crown of the head of the daughters of

Zion.[33] R. Jose son of R. Hanina said: This teaches that leprosy broke out in them: here is written wesipah; whilst elsewhere it is written, [This is the law for all manner of plagues of leprosy ...] and for a rising and for a scab [sapahath].[34] And the Lord will lay bare [ye'areh] their secret parts:[35] Rab and Samuel — one maintained: This means that they were poured out like a cruse;[36] while the other said: Their openings became like a forest.

Rab Judah said in Rab's name: The men of Jerusalem were vulgar. One would say to his neighbour, On what did you dine to-day: on well-kneaded bread or on bread that is not well kneaded;[37] on white wine[38] or

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(1) Where is R. Meir's view found without that of the Rabbis that R. Eliezer should refer exclusively to his ruling?

(2) R. Eliezer's ruling does not bear upon R. Meir's statement.

(3) Then they are ornaments.

(4) Because they are burdens.

(5) V. 76b; also 93b for an opposing view. Liability is incurred for carrying out any quantity of perfume, no matter how little. Now even a flask without any perfume at all contains its fragrance: this fragrance may be regarded as less than the minimum quantity of food which imposes liability, and R. Eliezer rules that when it is together with the utensil it does involve culpability. — The opposing view on 93b is that the utensil is merely subordinate in purpose to the food, and since the food does not impose liability, the utensil does not either.

(6) Mere fragrance is not a concrete object; hence the utensil cannot be subordinate to it, but is an independent article, for which liability is incurred. But even a very small quantity of food may render the utensil subordinate to it.

(7) Amos VI, 6.

(8) This was during the Hadrianic persecutions, when luxuries were proscribed.

(9) The people, by setting their minds on such things, disregarded the essentials, viz., the teachings of the prophets.

(10) Ibid.

(11) A cup with spouts, enabling several persons to drink from it; v. T.A. II, pp. 280 and 64 1 (n. 237).

(12) Both derive mizreke from zarak, to throw, the first holds that the wine was ‘thrown’, i.e., passed from one spout to the other. — Thus the prophet criticizes this too as an unnecessary luxury.

(13) V. p. 217. n. 7.

(14) In reproof.

(15) Ibid. 4.

(16) Translating seruhim that act indecently.

(17) Ibid. 7.

(18) Eating without washing the hands.

(19) Their floors were of earth.

(20) Lit., ‘he washes and does not wash’, — i.e., he uses the barest minimum.

(21) Lit., ‘goodness’. This shows that water must be used generously.

(22) Because he refuses them.

(23) Cf. this with Raba's statement supra 32b, 33a.

(24) Isa. III, 16.

(25) Lit., ‘erect stature’.

(26) Ibid.

(27) I.e., with short mincing steps. One who walks with outstretched neck must take short steps, because he cannot see his feet (Rashi).

(28) Ibid.

(29) To the men.

(30) Reading ‘akus (serpent) and connecting te'akasnah with it by a play on words.

(31) lbid. 24.

(32) Reading pethigil as an abbreviation for pethahim (openings) of gilah (joy).

(33) Isa. Ill, 17.

(34) Lev. XIV, 56.

(35) Isa. Ill, 17.

(36) I.e., they discharged an abundance of matter. Ye'areh (E. V. lay bare) is translated, will empty; cf. Gen. XXIV, 20: and She emptied (wate'ar) her pitcher.
(37) The whole is a vulgar metaphor for the satisfaction of one's lust.
(38) Gurdeli fr. garad, to scrape, means scraper, a nickname for an inferior white wine.

Talmud - Mas. Shabbath 63a

on dark [i.e., mustard-coloured] wine; on a broad couch or on a narrow couch; with a good companion or with a poor companion? R. Hisda observed: And all these are in reference to immorality.

Rahabah said in R. Judah's name: The [fuel] logs of Jerusalem were of the cinnamon tree, and when lit their fragrance pervaded the whole of Eretz Israel. But when Jerusalem was destroyed they were hidden, only as much as a barley grain being left, which is to be found in the queen's collections of rarities.[1] MISHNAH. A MAN MUST NOT GO OUT WITH A SWORD, BOW, SHIELD, LANCE [ALLAH], OR SPEAR; AND IF HE DOES GO OUT, HE INCURS A SIN-OFFERING. R. ELIEZER SAID: THEY ARE ORNAMENTS FOR HIM. BUT THE SAGES MAINTAIN, THEY ARE MERELY SHAMEFUL, FOR IT IS SAID, AND THEY SHALL BEAT THEIR SWORDS INTO PLOWSHARES, AND THEIR SPEARS INTO PRUNING HOOKS: NATION SHALL NOT LIFT UP SWORD AGAINST NATION, NEITHER SHALL THEY LEARN WAR ANY MORE.[2] A KNEE-BAND [BERITH] IS CLEAN, AND ONE MAY GO OUT WITH IT ON THE SABBATH; ANKLE-CHAINS [KEBALIM] ARE UNCLEAN,[3] AND ONE MAY NOT GO OUT WITH THEM ON THE SABBATH.

GEMARA. What is, WITH AN ALLAH? — A lance.

R. ELIEZER SAID: THEY ARE ORNAMENTS FOR HIM. It was taught: Said they [the Sages] to R. Eliezer: Since they are ornaments for him, why should they cease in the days of the Messiah? Because they will not be required, he answered, as it is said, nation shall not lift up sword against nation. Yet let them exist merely as ornaments? — Said Abaye. It may be compared to a candle at noon.[4]

Now this disagrees with Samuel.[5] For Samuel said, This world differs from the Messianic era only in respect to servitude of the exiled, for it is said, For the poor shall never cease out of the land.[6] This supports R. Hiyya b. Abba,[7] who said, All the prophets prophesied only for the Messianic age, but as for the world to come, the eye hath not seen, O Lord, beside thee [what he hath prepared for him that waiteth for him].[8] Some there are who state: Said they [the Sages] to R. Eliezer:

Since they are Ornaments for him, why should they cease in the days of the Messiah? In the days of the Messiah too they shall not cease, he answered. This is Samuel's view, and it disagrees with R. Hiyya b. Abba's.

Abaye asked R. Dimi — others state, R. Awia, — others again state, R. Joseph [asked] R. Dimi — and others state, R. Awia whilst others state, Abaye [asked] R. Joseph: What is R. Eliezer's reason for maintaining that they are ornaments for him? — Because it is written, Gird thy sword upon thy thigh, O mighty one, Thy glory and thy majesty.[9] R. Kahana objected to Mar son of R. Huna: But this refers to the words of the Torah?[10] — A verse cannot depart from its plain meaning, he replied.[11] R. Kahana said: By the time I was eighteen years old I had studied the whole Shas,[12] yet I did not know that a verse cannot depart from its plain meaning.[13] until to-day. What does he inform us? — That a man should study and subsequently understand.[14]

(Mnemonic: Zaruth.)[15] R. Jeremiah said in R. Eleazer's name: When two scholars sharpen each other in halachah,[16] the Holy One, blessed be He, gives them success, for it is said, and in thy majesty [wa-hadareka] be successful:[17] read not wa-hadareka but wa-hadadeka [thy sharpening]. Moreover, they ascend to greatness, as it is said, ‘ride on prosperously’ [successfully]. One might think [that this is so] even if it is not for its own sake, therefore it is taught, ‘In behalf of truth’. I might think [that this is so] even if he becomes conceited; therefore it is taught, ‘and meekness of righteousness’. But if they do thus, they are privileged to acquire[18] the Torah, which was given by the right Hand,[19] as it is said, and thy right hand shall teach thee awe-inspiring things.[20] R. Nahman b. Isaac said: They will obtain the things which were promised at the right hand of the Torah. For Raba b. R. Shila said — others state, R. Joseph b. Hama — said in R. Shesheth's name: What is meant by the verse, Length of days is in her right hand, In her left hand are riches and honour:[21] is there in her right hand length of days only, but not riches and honour? But to those who go to the right hand thereof there is length of days, and riches and honour a fortiori; but for those that go to the left hand thereof there is riches and honour, but not length of days.[22]

R. Jeremiah said in the name of R. Simeon b. Lakish:[23] When two scholars are amiable to each other in [their discussions in] halachah, the Holy One, blessed be He, gives heed to them, for it is said, Then they that feared the Lord spake [nidberu] one with another: and the Lord hearkened, and heard;[24] now speech [dibbur] can ‘only mean [with] gentleness, for it is said, He shall subdue [yadber] the peoples under us.[25] What is meant by, and that thought upon his name?[26] — Said R. Ammi: Even if one thinks of doing a good deed but is forcibly prevented and does not do it, the Writ ascribes it to him as though he did it.

R. Hinena b. Idi said: Whoever fulfils a precept as it is commanded,[27] no evil tidings are told to him, for it is said, Whoso keepeth the commandment shall know no evil thing.[28] R. Assi — others state, R. Hanina — said: Even if the Holy One, blessed be He, makes a decree, He annuls it,[29] for it is said, Because the king's word hath power; and who may say unto him, what doest thou;[30] in proximity to which [is written,] Whoso keepeth the commandment shall know no evil thing.[31]

R. Abba said in the name of R. Simeon b. Lakish: When two scholars pay heed to each other in halachah, the Holy One, blessed be He, listens to their voice, as it is said, Thou that dwellest in the gardens, The companions hearken to thy voice: Cause me to hear it.[32] But if they do not do thus, they cause the Shechinah to depart from Israel, as it is said, Flee, my beloved, and be thou like, etc.[33]

R. Abba said in the name of R. Simeon b. Lakish: When two disciples form an assembly[34] in halachah,[35] the Holy One, blessed be He, loves them, as it is said, and his banner over me was love.[36] Said Raba: Providing they know the features of a subject;[37] providing also that there is no greater [scholar] in the town from whom to learn.

R. Abba also said in the name of R. Simeon b. Lakish: He who lends [money] is greater than he who performs charity;[38] and he who forms a partnership[39] is greater than all. R. Abba also said in the name of R. Simeon b. Lakish: [Even] if a scholar is vengeful and bears malice like a serpent.[40] gird him on thy loins;[41] [whereas even] if an ‘am ha-arez is pious, do not dwell in his vicinity.[42]

R. Kahana said in the name of R. Simeon b. Lakish — others state, R. Assi said in the name of R. Simeon b. Lakish — others state, R. Abba said in the name of R. Simeon b. Lakish: He who breeds a wild dog in his house keeps loving kindness away from his house,[43] as it is said, To him that is ready to faint [lamos]

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(1) Jast. Rashi: of Queen Zimzemai.

(2) Isa. II, 4.

(3) ‘Clean’ and ‘unclean’ mean not susceptible and susceptible to uncleanness respectively.

(4) Being unnecessary then, it is not beautiful either. Thus, when war will be abolished, the instruments of war will not be adornments. Now, however, that they may be needed, they are also ornamental.

(5) Sc. the view that they will cease to be in the days of the Messiah.

(6) Deut. XV, 11 . This implies that poverty will continue in the Messianic era. Hence the prophets' tidings of a new state of affairs cannot refer to the Messianic era, which will be the same as the present, save in this matter.

(7) Sc. the Baraitha which states that weapons of war will cease to exist in the Messianic age.

(8) Isa. LXIV, 3. — The conception of the future world is rather vague in the Talmud. In general, it is the opposite of עולם הזה, this world. In Ber, I, 5, 'this world' is opposed to the days of the Messiah, and this in turn is differentiated here from the future world. The following quotation from G. Moore, 'Judaism' (Vol. 2, p. 389) is apposite: 'Any attempt to systematize the Jewish notions of the hereafter imposes upon them an order and consistency which does not exist in them'.

(9) Ps. XLV, 4.

(10) 'Thy sword' is metaphorical for learning, which is Israel's weapon. It is indicative of the peace-loving spirit of the Rabbis and their exaltation of Torah that they regarded it as axiomatic that such a verse could not be taken literally.

(11) Granted that it is metaphorical, yet the Torah would not have been likened to the sword, unless the latter were ornamental.

(12) An abbreviation of shishah sedarim, the six orders into which the Talmud is divided: v. supra 31a. [MS.M. Talmud, Shas being a correction by the censor].

(13) [In the narrative and poetical passages v. Chayyes. Z. H. Glosses].

(14) Even when one does not understand all he learns he should nevertheless study, and understanding will come eventually.

(15) V. p. 110, n. 1 . For the explanation of this Mnemonic v. Hyman, Toledoth, p. 18.

(16) By means of debating, etc.

(17) Ibid. 5.

(18) Zakah implies to acquire through one's merit.

(19) V. Deut. XXXIII, 2.

(20) Ps. XLV, 5.

(21) Prov. III, 16.

(22) Rashi:'... to the right hand' means that they study the Torah profoundly and intensively, just as the right hand is the stronger for work; alternatively, it refers to those who study the Torah for its own sake. '... to the left hand' implies the opposite of these.

(23) Otherwise known as Resh Lakish.

(24) Mal. III, 16.

(25) Ps. XLVII, 3. Subdue implies lowliness, which in turn implies gentleness.

(26) Mal. III, 16.

(27) In the proper spirit.

(28) Eccl. VIII, 5.

(29) 'He' may refer either to God or to the observer of the precept, who is given power to annul God's decree — a daring thought. The former interpretation is indicated in the parallel passage in B.M. 85a (Sonc. ed., p. 488); the latter in M.K. 16b; but v. Weiss, Dor, I, p. 145.

(30) Ibid. 4.

(31) I.e., in spite of the king's word, viz., God's decree, whoso keepeth, etc.

(32) Cant. VIII, 13. The Song of Songs was allegorically interpreted as a dialogue between God and Israel. 'In the gardens' thus means in the academies, and when one scholar hearkens to another's voice, God says. 'Cause me to hear it'.

(33) Ibid. 14.

(34) Rashi, deriving the word from degel, a flag, i.e., who come under one flag. Tosaf. in A.Z. 22b, s.v. רגלא, interprets: even when two students outwit each other by sophistries, without seeking the real truth, yet God loves them.

(35) In the absence of a teacher.

(36) Ibid. II, 4.

(37) I.e., they have a general understanding of the subjects to be studied, so that a teacher is not indispensable.

(38) Rashi: because the poor man is not ashamed to borrow. Also perhaps because one generally lends a larger sum than he would give as charity, and that may suffice to make the poor man independent.

(39) With a poor man, providing the capital for him to trade with on agreed terms. Lit., 'who throws (money) into a (common) purse'.

(40) The serpent was probably given that character on account of its part in the sin of Adam and Eve; cf. also Ta'an., Sonc. ed., 8a, Yoma 23a.

(41) Cleave to him, for you will benefit by his scholarship.

(42) His piety is tainted by his ignorance, which may influence his neighbour too. Cf. Ab. II, 6 (Sonc. ed., p. 15, n. 5).

(43) The poor are afraid to call. Thus he can show no lovingkindness to them, nor can he earn the love of God.

Talmud - Mas. Shabbath 63b

kindness should be shewed from his friend;[1] and in Greek a dog is called lamos.[2] R. Nahman b. Isaac said: He also casts off the fear of Heaven from himself, as it is said, and he forsaketh the fear of the Almighty.[3]

A certain woman entered a house to bake. The dog barked at her, [whereupon] her child[4] moved [from its place]. Said the householder to her, 'Fear not: his fangs and claws have been extracted.' 'Take your favours and throw them on the thorns,' she retorted, 'the child has already moved.'

R. Huna said: What is meant by the verse, Rejoice, O young man, In thy youth; and let thy heart cheer thee in the days of thy youth, and walk in the ways of thine heart, and in the sight of thine eyes: but know thou, that for all these things God will bring thee into judgement?[5] Thus far are the words of Evil Desire; thereafter are the words of Good Desire.[6] Resh Lakish said: Thus far the reference is to study;[7] thereafter, to good deeds.[8] A BERITH IS CLEAN. Rab Judah said: A berith is a bracelet.[9] R. Joseph objected: A BERITH IS CLEAN, AND ONE MAY GO OUT WITH IT ON THE SABBATH; but a bracelet is [liable to become] unclean? — He meant this: A berith stands in the place of a bracelet.[10]

Rabin and R. Huna were sitting before R. Jeremiah, and R. Jeremiah was dozing. Now Rabin sat and said: A berith is on one [leg]; whilst kebalim [ankle-chain] is on two.[11] Said R. Huna to him, Both are on two, but a chain is placed between them and they become kebalim [anklets]. Does then the chain turn it into a utensil?[12] And should you answer, This is in accordance with R. Samuel b. Nahmani, for R. Samuel b. Nahmani said in R. Jonathan's name: How do we know that a metal object which causes sound is unclean? Because it is said: Everything [dabar] that may abide the fire, ye shall make go through the fire:[13] even speech [dibbur — i.e., sound] is implied.[14] — As for there, it is well: it [the utensil] is needed for sound[15] and it performs an action;[16] but here, what action does it perform?[17] — Here too it performs an action, for Rabbah b. Bar Hanah said in R. Johanan's name: There was a certain family in Jerusalem that had large steps, whereby their virginity was destroyed. So they made them leg-suspenders and placed a chain between them, that their steps should not be large, and then their virginity was not destroyed. R. Jeremiah awoke at that and exclaimed to them, Well spoken![18] and thus did R. Johanan say [too].

When R. Dimi came,[19] he said in the name of R. Johanan: How do we know that woven [material] of whatever size is [liable to become] unclean? From the ziz.[20] Said Abaye to him, Was then the ziz woven? But it was taught: The ziz was a kind of golden plate two fingerbreadths broad, and it stretched round [the forehead] from ear to ear, and upon it was written in two lines 'yod he' above and 'Holy lamed' below.[21] But R. Eliezer son of R. Jose said: I saw it in the city of Rome,[22] and 'Holy unto the Lord' was written in one line.[23] When R. Dimi went up to Nehardea, he sent word: The things that I told you were erroneous. But in truth it was thus said on R. Johanan's authority: How do we know that an ornament of whatever size is [liable to become] unclean? From the headplate. And how do we know that woven material of whatever size is unclean? From [the phrase] or raiment.[24]

Our Rabbis taught: Woven stuff of whatever size is unclean, and an ornament of whatever size is unclean. [An object partly] woven and [partly] an ornament of whatever size is unclean.[25] A sack goes beyond a garment, in that it is unclean as woven material.[26] Raba said: Woven stuff of whatever size is unclean: this is [deduced] from, ‘or raiment’. An ornament of whatever size is unclean: [this is learnt] from the headplate. [An object partly] woven and [partly] an ornament of whatever size is unclean: this is [deduced] from, every serviceable utensil.[27] Said one of the Rabbis to Raba, But that is written in reference to Midian?[28] We learn

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(1) Job. VI, 14.

(2) Perhaps from the Gk. **. Thus he translates: on account of a (wild) dog, love is kept back from one's neighbour.

(3) Ibid.

(4) She was pregnant.

(5) Eccl. XI, 9.

(6) From ‘Rejoice’ to ‘thine eyes’ is spoken by the Tempter (sin personified), urging man to sin; ‘but know thou, etc.’ is the warning of Good Desire, man's better nature (Rashi). Maharsha explains it differently.

(7) Lit., ‘the words of the Torah’.

(8) Rejoice in your youth, when you can study, and apply your heart and eyes. i.e. , your full understanding, to same. But know that you will be judged for non-fulfilment of the precepts learned by you in your studies.

(9) For the hand.

(10) It corresponds to a bracelet, i.e., the bracelet encircles the arm while the berith encircles the foot.

(11) V. Krauss, T.A. I, pp. 205 and 665 (n. 977) on these terms.

(12) That it is susceptible to uncleanness, as taught in the Mishnah. Surely not!

(13) Num. XXXI, 23.

(14) V. supra 58b for notes.

(15) E.g., a bell.

(16) Viz., it makes a sound.

(17) Though, of course, it holds up the stockings, that does not make it a utensil, which must serve an independent function, whereas this is merely an adjunct, as it were, to the stockings.

(18) Lit., (with כח understood) ‘thy strength be well’.

(19) V. p. 12, n. 9.

(20) The headplate worn by the High Priest, v. Ex. XXVIII, 36ff. Though quite small, it was counted among the High Priest's adornments, and was therefore susceptible to uncleanness.

(21) I.e., the Divine Name on the upper line and ‘Holy unto’ on the lower line.

(22) Whither it was taken after the destruction of the Temple.

(23) From this Baraitha we see that the ziz was not of woven material.

(24) Lev. XI, 32. ‘Or’ is an extension.

(25) Tosaf. observes that this implies that nevertheless some minimum is required in the size of woven material and ornaments.

(26) This is explained below.

(27) Num. XXXI, 51 (E. V.: all wrought jewels).

(28) Which treats of defilement through the dead. Such is graver than uncleanness through dead reptiles (sherazim), which it is sought to prove here.

Talmud - Mas. Shabbath 64a

the meaning of utensil’ [here] from [the employment of] ‘utensil’ there, answered he.[1] ‘A sack goes beyond a garment, in that it is unclean as woven material.’ Is then a garment not woven material? — This is its meaning: A sack goes beyond a garment, for though it is not of woven material, yet it is unclean.[2] For what is it fit? — Said R. Johanan: A poor man plaits three threads [of goats’ hair][3] and suspends it from his daughter's neck.

Our Rabbis taught: [And upon whatsoever any of them . . . doth fall, it shall be unclean; whether it be any vessel of wood ... or] sack:[4] I know it only of a sack:[5] how do we know to include a horse cover and the saddle band?[6] Therefore it is said, ‘or sack’.[7] I might think that I can include ropes and cords;[8] therefore ‘sack’ is stated: just as a sack is spun and woven, so must everything be spun and woven.[9] Now, concerning the dead it is stated, and all that is made of skin, and all work of goats’ hair ... ye shall purify yourselves:[10] this is to include a horse cover and the saddle band.[11] I might think that I can include ropes and cords. (But it [the reverse] is logical:[12] [the Divine Law] teaches defilement by a dead reptile, and it teaches defilement by the dead: just as when it teaches defilement by a reptile, it declares unclean only that which is spun and woven; so when it teaches defilement by the dead, it declares unclean only that which is spun and woven. How so! If it is lenient in respect to defilement through a reptile, which is lighter, shall we be lenient[13] in respect to defilement by the dead, which is graver?)[14] Therefore ‘raiment and skin’ is stated twice, to provide a gezerah shawah.[15] Thus: raiment and skin are mentioned in connection with reptiles,[16] and also in connection with the dead:[17] just as the ‘raiment and skin’ which are mentioned in connection with reptiles, it [Scripture] declares unclean only that which is spun and woven, so the ‘raiment and skin’ which are stated in connection with the dead, it declares unclean only that which is spun and woven;[18] and just as ‘raiment and skin’ which are stated in connection with the dead, anything made of goats’ hair is unclean, so ‘raiment and skin’ which are stated in connection with reptiles, anything made of goats’ hair is unclean.[19] Now, I know it only of that which comes from goats: how do I know to include what is produced from the tail of a horse or a cow? Therefore it is stated, ‘or sack’.[20] (But you have utilized it in respect of a horse cover and saddle bands? — That was only before the gezerah shawah was adduced; but now that we have the gezerah shawah, it [sc. the ‘or’] is superfluous.)[21] And I know this only in the case of a reptile: how do we know it in respect to defilement by the dead? But it is logical:[22] [Scripture] declares uncleanness through the dead, and also declares uncleanness through reptiles: just as when it declares uncleanness through the dead, it treats that which is produced from the tail of a horse or cow as that which is made of goats’ hair, so when it declares uncleanness through the dead, it treats that which is produced from the tail of a horse or a cow as that which is made of goats’ hair. How so! If it [Scripture] includes [this] in defilement until evening, which is extensive, shall we include [it] in seven days’ defilement, which is limited?[23] Therefore ‘raiment and skin’ are stated twice, to provide a gezerah shawah. ‘Raiment and skin’ are stated in connection with reptiles, and ‘raiment and skin’ are stated also in connection with the dead; just as raiment and skin,’ which are stated in connection with reptiles, that which comes from the tail of a horse or cow is treated as that which is made of goats’ hair, so ‘raiment and skin’ which are stated in connection with the dead, that which is produced from the tail of a horse or cow is treated as that which is made of goats’ hair. And this must be redundant.[24] For if it is not redundant, one can refute [the deduction]: as for a reptile, that is because it defiles by the size of a lentil.[25] In truth, it is redundant. For consider: a reptile is likened to semen, for it is written, a man whose seed goeth from him,[26] in proximity to which it is written, or whosoever toucheth any creeping thing;[27] while in respect to semen it is written, and every garment and every skin, whereon is the seed of copulation;[28] then what is the purpose of ‘raiment and skin’ written by the Divine Law in connection with reptiles? Infer from this that its purpose is to leave it redundant.[29] Yet it is still redundant [only] on one side:[30] this is well on the view that where it is redundant on one side we can learn [identity of law] and cannot refute [the deduction]; but on the view that we can learn, but also refute,[31] what can be said? — That [stated] in connection with the dead is also redundant. For consider: the dead is likened to semen, for it is written, ‘and whoso toucheth anything that is unclean by the dead, or a man whose seed goeth from him’; while in respect to semen it is written, ‘and every garment and every skin, whereon shall be the seed of copulation. What then is the purpose of ‘raiment and skin’ written by the Divine Law in connection with the dead? Infer from this that its purpose is to leave it redundant.

And we have brought the Lord's oblation, what every man hath gotten, of jewels of gold, ankle chains, and bracelets, signet-rings, ear-rings, and armlets.[32] R. Eleazar said: ‘Agil is a cast of female breasts; kumaz is a cast of the womb. R. Joseph observed: Thus it is that we translate it[33] mahok, [meaning] the place that leads to obscenity [gihuk]. Said Rabbah to him, It is implied in the very

Writ itself: Kumaz=here [Ka-an] is the place [Mekom] of unchastity [Zimmah].[34]

And Moses was wroth with the officers of the host.[35] R. Nahman said in Rabbah b. Abbuha's name: Moses said to Israel: ‘Maybe ye have returned to your first lapse [sin]?’[36] ‘There lacketh not one man of us,[37] they replied. ‘If so,’ he queried, ‘Why an atonement?’ ‘Though we escaped from sin,’ said they. ‘yet we did not escape from meditating upon sin.’ Straightway, ‘and we have brought the Lord's offering’[38] The School of R. Ishmael taught: Why were the Israelites of that generation in need of atonement? Because

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(1) Concerning defilement by dead reptiles it is written, every utensil wherewith any work is done (Lev. XI, 32), and the meaning of ‘utensil’ is learnt from ‘utensil’ mentioned in connection with the dead, where ornaments are referred to. Tosaf explains the passage differently: But that ... Midian, i.e., it treats of the spoil of Midian and has no bearing upon uncleanness at all? To which Raba replied that as ‘utensil’ in Lev. XI, 32 refers to uncleanness, so ‘utensil’ in Num. XXXI. 51 provides a teaching on uncleanness, notwithstanding that this does not appear so from the context.

(2) The words are explained: ... it is unclean as woven material though it is not woven. — By ‘sack’ a few plaited strands of goats’ hair is meant.

(3) Which are first spun.

(4) Lev. XI, 32. — The reference is to defilement by dead reptiles (sherazim).

(5) Which is usually worn by shepherds.

(6) The band with which the saddle or housing of a horse is fastened to its belly. Others: the housing itself. It was made of goats’ hair spun and woven.

(7) ‘Or’ is an extension.

(8) Used for measuring. These were of unspun plaited goats’ hair.

(9) Before it is susceptible to uncleanness.

(10) Num. XXXI, 20. These become unclean through contact with the dead.

(11) ‘All’ is an extension.

(12) This is a parenthesis. A verse will be quoted to show that they are not included, but before that it is parenthetically argued that it is logical not to include them, so that no verse for their exclusion is required. But it is shown that logic does not suffice to exclude them, so that a verse is required.

(13) I.e., shall we deduce a lenient ruling by analogy?

(14) Surely not! Hence logic does not prove the exclusion of cords and ropes, and therefore a verse is necessary.

(15) V. Glos.

(16) Lev. XI, 32.

(17) Num. XXXI, 51. E.V. garment.

(18) Though an analogy between the two cannot be drawn, as shown, because the uncleanness of one is graver than that of the other, yet one can deduce equality of law through the gezerah shawah.

(19) Providing it is spun and woven.

(20) ‘Or’ being an extension.

(21) For the susceptibility of a horse cover and a saddle band to uncleanness follows from the gezerah shawah, on the same lines as before.

(22) V. p. 302, n. 11; the same applies here.

(23) Uncleanness through a reptile ceases on the evening after the defiled object is subjected to ritual immersion, but uncleanness caused by the dead lasts seven days (v. Lev. XI, 32; Num. XIX, 11 seq.). Now, defilement until evening is extensive, in that it can be caused by many agencies, e.g., reptiles, the carcase of all animal (nebelah), semen, the touch of a zab and the touch of one who is himself unclean through the dead. Therefore it is logical that many objects too shall be susceptible to such uncleanness. But seven days’ defilement is limited to the direct action of a corpse; hence it is probable that it does not extend to many objects either. Therefore the fact that what is made from the tail of a horse or cow is subject to defilement by reptiles is no warrant that it is also liable to defilement through the dead.

(24) In a gezerah shawah the word used as a basis of deduction must be redundant (mufneh). Otherwise the deduction may be refuted if a point of known dissimilarity is found between the two subjects which are linked by the gezerah shawah. On this redundancy there are two views: (i) the redundancy is required in one passage only; (ii) the redundancy is necessary in both subjects. — There is a third view, that of R. Akiba, that no redundancy at all is required in order to make the deduction conclusive and incapable of being refuted.

(25) Whereas the smallest portion of corpse to defile must be the size of an olive. In this matter defilement by a reptile is more stringent, and thus it may also be more stringent in the matter under discussion.

(26) Lev. XXII, 4.

(27) (Ibid. 5. Proximity indicates likeness in law.

(28) Lev. XV, 17. Thus raiment and skin are defiled by semen, and therefore by reptiles too.

(29) For the gezerah shawah.

(30) I.e.,in one of the two passages.

(31) V. p. 656, n. 2.

(32) Num. XXXI, 50.

(33) Metargeminan, i.e., in the Targum, the Aramaic version of the Scriptures. The citation given here by R. Joseph is from the Targum ascribed to Onkelos the proselyte.

(34) Treating Kumaz as an abbreviation.

(35) Ibid. 14.

(36) When they sinned with the daughters of Moab; v. Num. XXV.

(37) Ibid. 49.

(38) V. 50, to make atonement for their impure thoughts.

Talmud - Mas. Shabbath 64b

they gratified their eyes with lewdness. R. Shesheth said: Why does the Writ enumerate the outward ornaments with the inner?[1] To teach you: Whoever looks upon a woman's little finger is as though he gazed upon the pudenda.[2]

MISHNAH. A WOMAN MAY GO OUT WITH RIBBONS MADE OF HAIR,[3] WHETHER THEY ARE OF HER OWN [HAIR] OR OF HER COMPANIONS, OR OF AN ANIMAL, AND WITH FRONTLETS AND WITH SARBITIN[4] THAT ARE FASTENED TO HER. [SHE MAY GO OUT] WITH A HAIR-NET [KABUL] AND WITH A WIG[5] INTO A COURTYARD; WITH WADDING IN HER EAR, WITH WADDING IN HER SANDALS,[6] AND WITH THE CLOTH PREPARED FOR HER MENSTRUATION; WITH A PEPPERCORN, WITH A GLOBULE OF SALT AND ANYTHING THAT IS PLACED IN HER MOUTH,[7] PROVIDING THAT SHE DOES NOT PUT IT IN HER MOUTH IN THE FIRST PLACE ON THE SABBATH, AND IF IT FAILS OUT,[8] SHE MAY NOT PUT IT BACK. AS FOR AN ARTIFICIAL TOOTH, [OR] A GOLD TOOTH,[9] — RABBI PERMITS BUT THE SAGES FORBID IT.

GEMARA. And it is necessary [to state all the cases].[10] For if we were told about her own [hair], that might be because it is not ugly; but as for her companions’, which is unbecoming.[11] I might say [that it is] not [permitted].[12] While if we were informed about her companions’, that might be because she is of her own kind; but an animal's, that is not of her own kind, I might say [that it is] not [permitted].[13] Thus they are necessary.

It was taught: Providing that a young woman does not go out with an old woman's [hair], or an old woman with a young woman's.[14] As for an old woman [not going out] with a young woman's hair, that is well, because it is an improvement for her; but [that] a young woman [may not go out] with an old woman's [hair]. why [state it], seeing that it is unsuitable for her?][15] — Because he teaches of an old woman's [going out] with a young woman's [hair], he also teaches of a young woman's [going out] with an old woman's hair.

WITH A HAIR-NET AND A WIG INTO A COURTYARD. Rab said: Whatever the Sages forbade to go out therewith into the street, one may not go out therewith into a courtyard,[16] except a hair-net and a wig. R. ‘Anani b. Sason said on the authority of R. Ishmael son of R. Jose: It is all like a hair-net. We learnt: WITH A HAIR-NET AND A WIG INTO A COURTYARD. As for Rab, it is well; but according to R. ‘Anani b. Sason it is a difficulty? — On whose authority does R. ‘Anani b. Sason say this? On that of R. Ishmael son of R. Jose! R. Ishmael son of R. Jose is a Tanna, and can disagree.[17]

Now, according to Rab, why do these differ? — Said ‘Ulla, [They are permitted] lest she become repulsive to her husband.[18] As it was taught: And she that is sick shall be in her impurity:[19] the early Sages[20] ruled: That means that she must not rouge nor paint nor adorn herself in dyed garments; until R. Akiba came and taught: If so, you make her repulsive to her husband, with the result that he will divorce her! But what [then] is taught by, ‘and she that is sick shall be it, her impurity’? She shall remain in her impurity until she enters Into water.[21]

Rab Judah said in Rab's name: Wherever the Sages forbade [aught] for appearances’ sake, it is forbidden even In one's innermost chambers.[22]

We learnt: Nor with a bell, even if it is plugged.[23] And it was elsewhere taught.[24] One may plug the bell around its [the animal's] neck and saunter with it in the courtyard?[25] — It is [a controversy of] Tannaim. For it was taught:

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(1) In this verse, according to the translation given above of ‘agil and kumaz.

(2) The first is where the finger-ring is worn, and since it is enumerated, it follows that even for looking upon that they needed atonement.

(3) With which she dresses her hair.

(4) V. supra 57b.

(5) Lit., ‘strange (false) curls’.

(6) I.e., any soft substance to ease the foot.

(7) Before the commencement of the Sabbath.

(8) On the Sabbath.

(9) Rashi regards these as one: an artificial tooth of gold.

(10) Referring to ribbons of hair.

(11) I.e, ribbons made of another woman's hair may not match her own.

(12) She may be ridiculed and thereby tempted to remove it, and thus carry it in the street.

(13) For there the disharmony is even more striking.

(14) Young hair on old — e.g. black on grey — or vice versa is ugly, and so the wearer might remove it in the street.

(15) No young woman would dream of wearing ribbons made from an old woman's hair. — The translation follows one interpretation given in Tosaf. Tosaf. offers another, which is based on a reversed order of the text.

(16) Lest she forget herself and go out into the street too.

(17) It is axiomatic that an amora cannot disagree with a Tanna, but another Tanna of course can. The Mishnah certainly disagrees with R. ‘Anani b. Sason, but it does not matter, as he is supported by another Tanna.

(18) Hence some ornaments must be permitted.

(19) Lev. XV, 33. The reference is to a menstruant.

(20) Lit., ‘elders’.

(21) I.e., until she has a ritual bath.

(22) E.g., one must not lead on Sabbath a number of animals tied together, lest he be suspected of going to market with them (supra 54a). Accordingly he may not do so even in the utmost privacy.

(23) V. supra 54b Mishnah.

(24) Var. lec.: and it was taught thereon.

(25) This refutes Rab, for though it may not be done publicly in the street, it may be done privately in one's courtyard.

Talmud - Mas. Shabbath 65a

He may spread them out in the sun, but not in the sight of people; R. Eleazar and R. Simeon forbid it.[1]

AND WITH THE WADDING IN HER EAR. Rami b. Ezekiel learnt: Providing it is tied to her ear.

AND WITH THE WADDING IN HER SANDALS. Rami b. Ezekiel learnt: Providing it is tied to her sandal.

AND WITH THE CLOTH SHE PREPARED FOR HER MENSTRUATION. Rami b. Ezekiel thought to say, Providing it is fastened between her thighs. Said Raba, Even if it is not tied to her: since it is repulsive, she will not come to carry it.[2] R. Jeremiah asked R. Abba: What if she made a handle for it?[3] — It is permitted, replied he.[4] It was stated likewise: R. Nahman b. Oshaia said in R. Johanan's name: [Even] if she made a handle for it, it is permitted.

R. Johanan used to go out with them[5] to the Beth Hamidrash, but his companions disagreed with him.[6] R. Jannai would go out with it into a karmelith[7] but all his contemporaries disagreed with him. But Rami b. Ezekiel learnt: Providing it is tied to her ear?[8] — There is no difficulty: in the one case it is firmly placed;[9] in the other it was not.[10]

WITH A PEPPERCORN, AND WITH A GLOBULE OF SAlt. A peppercorn is for [counteracting] the [evil] breath of the mouth; a globule of salt is for the gum.[11]

AND WITH ANYTHING THAT SHE PLACES[12] IN HER MOUTH. [Sc.] ginger, or cinnamon.

AN ARTIFICIAL TOOTH, [OR] A GOLD TOOTH, — RABBI PERMITS BUT THE SAGES FORBID IT. R. Zera said: They taught this only of a gold [tooth], but as for a silver one, all agree that it is permitted.[13]

Abaye said: Rabbi, R. Eliezer, and R. Simeon b. Eleazar all hold that whatever detracts from a person[‘s appearance], one will not come to display it. Rabbi, as stated.[14] R. Eliezer, for it was taught: R. Eliezer declares [her] non-culpable on account of a kobeleth and a flask of spikenard oil.[15] R. Simeon b. Eleazar, for it was taught: R. Simeon b. Eleazar stated a general rule: Whatever is [worn] beneath the net, one may go out therewith; whatever is [worn] above the net, one may not go out with it.[16]

MISHNAH. SHE MAY GO FORTH WITH THE SELA’[17] ON A ZINITH [CALLUS]. YOUNG GIRLS[18] MAY GO OUT WITH THREADS, AND EVEN WITH CHIPS IN THEIR EARS.[19] ARABIAN WOMEN MAY GO FORTH VEILED, AND MEDIAN WOMEN MAY GO FORTH WITH THEIR CLOAKS THROWN OVER THEIR SHOULDERS.[20] INDEED, ALL PEOPLE [MAY DO LIKEWISE]. BUT THAT THE SAGES SPOKE OF NORMAL USAGE.[21] A WOMAN MAY WEIGHT [HER CLOAK] WITH A STONE, NUT, OR COIN, PROVIDING THAT SHE DOES NOT ATTACH THE WEIGHT IN THE FIRST PLACE ON THE SABBATH.

GEMARA. What is ZINITH? A growth caused by the soil.[22] And why particularly a sela’? Shall we say that anything hard is beneficial thereto? Then let a shard be prepared for it? Again, if it is on account of the corrosion,[23] let a metal foil be used? But if it is on account of the figure,[24] let him use any circular plate?[25] Said Abaye: This proves that all [these things] are beneficial for it.[26]

YOUNG GIRLS MAY GO OUT WITH THREADS. Samuel's father did not permit his daughters to go out with threads, nor to sleep together; and he made mikwa'oth[27] for them in the days of Nisan, and had mats placed in the days of Tishri.[28] ‘He did not permit them to go out with threads’. But we learnt, YOUNG GIRLS MAY GO OUT WITH THREADS! — The daughters of Samuel's father had coloured ones.[29] ‘He did not permit them to sleep together’. Shall we say that this supports R. Huna?

For R. Huna said: Women that commit lewdness with one another are unfit for the priesthood.[30] -

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(1) This refers to one whose garments are accidentally wetted on the Sabbath. The first Tanna forbids them to be spread out in the sight of the people, lest they suspect him of having washed them on the Sabbath, yet he permits it to be done privately, thus agreeing with the Baraitha just quoted. While R. Eleazar and R. Simeon forbid it even in private, which agrees with Rab.
(2) If it drops out.
(3) Sewing on to it a piece that she could hold in her hand. This is not repulsive, and so she may carry it.
(4) It is repulsive none the less.
(5) Sc. the wadding in his ear, because he had a copious discharge of pus, and with wadding in his sandals. This must be the explanation according to cur. edd. which reads ‘with them’; this appears to be Alfasi's version too (v. Korban Nethanel on Asheri a.l.). Rashi reads: with it, and refers it to the first mentioned.
(6) Rashi: because he did not have it tied to his ear.
(7) V. Glos. and supra 6a.
(8) Whereas R. Johanan did not have it tied to his ear.
(9) [In which case tying to the ear is not necessary. Hence the practice of R. Johanan.
(10) Rami b. Ezekiel refers to the latter case.
(11) Jast. Rashi: toothache.
(12) Sic. The reading in the Mishnah is slightly different.
(13) Rashi: a gold tooth being valuable, the woman may take it out of her mouth for display, and meanwhile carry it in the street; but this does not apply to a silver tooth.
(14) This being the reason that he permits a gold tooth, in spite of its being valuable.
(15) V. supra 62a.
(16) V. supra 57b.
(17) A coin.
(18) Lit., ‘daughters’.
(19) To prevent the hole pierced for ear-rings from closing up.
(20) Parap, p.p. parup. f.p. perupoth, means to fasten a garment over the shoulder by attaching a weight to its overhanging corner (Jast.).
(21) Arabian and Median women affect these fashions.
(22) The pressure or chafing of the ground on the foot causing a wound or a bunion.
(23) Of the metal, which softens the callus.
(24) Stamped on the coin, which may protect the growth.
(25) Rashi: of wood, upon which a figure is impressed.
(26) Viz., the hardness, corrosion, and the figure, and only a coin possesses all three.
(27) Mikweh, pl. mikwa'oth, ritual bath.
(28) A mikweh made of collected rain water is efficacious only if its water is still, not running or flowing. But ‘a well or spring, with its waters gushing forth from its source, is efficacious even when they flow onward. Now, during the whole year the river may contain more rain water or melted snow (which is the same) than its own natural waters; consequently it is all considered as rain water, which does not cleanse when in a running state. But in Tishri when the rains have ceased, nor is there any melted snow in the river, it is like a well or spring, and even though running its waters are efficacious. — According to this the river's rise is caused mainly by rain. — Hence in Nisan he did not permit them to take their ritual bath in the river, but made special enclosed baths for them. But in Tishri they could perform their ablutions in the river. Yet since the bed of the river is miry, and should the feet sink into it, the water cannot reach the soles, thus rendering the immersion invalid, he placed mats on the river bed for them to stand on (Rashi). R. Tam a.l. and Rab in Ned. 40b explain: he hung up mats on the shore, to serve as a screen.
(29) Which they might remove and show.
(30) Sc. to marry a High Priest, who must marry none but a virgin (Lev. XXI, 13), for their lewdness destroys their virginity. Though there were no High Priests in his days, he nevertheless objected to this on grounds of decency, and therefore may have taken steps to prevent it. — V. Weiss, Dor, II, 23.

Talmud - Mas. Shabbath 65b

Talmud - Mas. Shabbath 65b

No: it was in order that they should not become accustomed to a foreign body. 'And he made a mikweh for them in the days of Nisan'. This supports Rab, for Rab said: Rain in the West [Palestine] is strongly testified to by the Euphrates;[1] and he [Samuel's father] feared that the rainwater might exceed the running water.[2] Now, he differs from Samuel, who said: A river increases in volume from its beds.[3] But this conflicts with another [statement] of his. For Samuel said: No water purifies when flowing, save the Euphrates in the days of Tishri alone.[4]

A WOMAN MAY WEIGHT [HER CLOAK] WITH A STONE, etc. But you say in the first clause, that she may weight it?[5] — Said Abaye: The second clause refers to a coin.[6] Abaye asked: May a woman evade [the Sabbath prohibition] by weighting [her cloak] with a nut in order to carry it out to her infant child on the Sabbath? This is a problem on the view of both him who maintains that an artifice may be used and him who holds that an artifice may not be used.[7] It is a problem on the view that all artifice may be used in the case of a conflagration: that is only there, because if you do not permit it to him, he will come to extinguish it; but here, if you do not permit it, one will not come to carry it [sc. the nut] out.[8] Or perhaps, even on the view that all artifice may not be used; there that is a normal way of carrying [clothes] out;[9] but here this is not a usual way of carrying it, and therefore I might say that it is well.[10] The question stands over.

MISHNAH. A STUMP-LEGGED PERSON MAY GO FORTH WITH HIS WOODEN STUMP:[11] THIS IS R. MEIR'S VIEW;

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(1) Rashi: for when it rains in Palestine the water flows down to Babylon and causes the swelling of the Euphrates. Obermeyer, p 45 and n. 2 rejects this on hydrographical grounds, and explains that in most cases the rains in northern Mesopotamia in the Taurus range, where the Euphrates has its source, are the precursors of rain in Palestine. — Thus Rab too holds that the swelling of a river is caused chiefly through rain.

(2) I.e., the added rain water might exceed the normal volume of the river, in which case it is all regarded as rain water; v. p. 310, n. 11.

(3) Lit., 'rock'. Though it seems to swell through the rains, actually more water gushes upward from the river bed than is added by the rain.

(4) Which is in accordance with his father and with Rab.

(5) Which certainly means that she may do so in the first place on the Sabbath, since the preceding clause has already taught that she may wear a weighted cloak.

(6) Which may not be handled on the Sabbath.

(7) V. infra 120a.

(8) Hence it is possibly forbidden.

(9) E.g., clothes; merchants wear the clothes they have to sell (Rashi).

(10) Since the first is the normal way of carrying, when one puts on more than he requires the excess is a mere burden, carried out in the normal manner; hence it is forbidden. But in the case under discussion, even if a person intentionally carries a nut out thus, without any subterfuge, he does not transgress by Biblical law and is not liable to a sin-offering, which is incurred only for doing a thing in its normal fashion. Hence a subterfuge may be permitted even by Rabbinical law (R. Jacob Emden, Novellae).

(11) A log of wood hollowed out to receive the stump.

Talmud - Mas. Shabbath 66a

WHILE R. JOSE FORBIDS IT. AND IF IT HAS A RECEPTACLE FOR PADS,[1] IT IS UNCLEAN.[2] HIS SUPPORTS[3] ARE UNCLEAN THROUGH Mldras,[4] AND ONE MAY GO OUT THEREWITH ON THE SABBATH,[5] AND ENTER THE TEMPLE COURT WHILST WEARING THEM.[6] HIS STOOL AND SUPPORTS[7] ARE UNCLEAN AS MIDRAS, AND ONE MAY NOT GO OUT WITH THEM ON THE SABBATH,[8] AND ONE MAY NOT ENTER THE TEMPLE COURT WITH THEM.[9] AN ARTIFICIAL ARM [LUKITMIN][10] IS CLEAN, BUT ONE MAY

NOT GO OUT THEREWITH.[11]

GEMARA. Raba asked R. Nahman, How do we learn [this]?[12] I do not know, replied he. What is the law? I do not know, was his answer. It was stated: Samuel said: A stump-legged person may not, [etc.]; and R. Huna said likewise: A stump-legged person may not, [etc.].[13] R. Joseph observed: Since Samuel said: A stump-legged person may not [etc.], and R. Huna [also] said: A stump-legged person may not [etc.], then we too should learn, A stump-legged person may not. Rabbah b. Shila demurred: Did they not hear what R. Hanan b. Raba recited to Hiyya b. Rab before Rab in a little room of Rab's academy: A stump-legged person may not go out with his wooden stump: this is R. Meir's view; but R. Jose permits it; whereupon Rab signalled to them that it was the reverse? R. Nahman b. Isaac observed: And your token is samek samek.[14]

Now, Samuel too retracted.[15] For we learnt: If she performs halizah[16] with a shoe that is not his,[17] with a wooden shoe, or with a left-footed [shoe] placed on the right foot, the halizah is valid. Now we observed, Which Tanna [rules thus]?[18] Said Samuel, R. Meir: For we learnt: A STUMP-LEGGED PERSON MAY GO OUT WITH HIS WOODEN STUMP: THIS IS R. MEIR'S VIEW; WHILE R. JOSE FORBIDS IT.[19]

Now, R. Huna too retracted. For it was taught: A lime burner's shoe[20] is unclean as midras, a woman may perform halizah therewith, and one may not go out with it on the Sabbath: this is R. Akiba's view; but they [the Sages] did not agree with him. But it was taught:[21] They agree with him? — Said R. Huna, Who agreed with him? R. Meir.[22] And who did not agree with him? R. Jose.[23] R. Joseph said: Who did not agree with him? R. Johanan b. Nuri. For we learnt: A hive of straw and a tube of canes:[24] . R. Akiba declares it unclean; while R. Johanan b. Nuri declares it clean.[25]

The Master said: ‘A lime-burner's shoe is unclean as midras’. But it is not made for walking?[26] — Said R. Aha son of R. ‘Ulla: That is because the lime-burner walks in it until he comes home.

AND IF IT HAS A RECEPTACle FOR PADS, IT IS UNCLEAN. Abaye said: It has the uncleanness of a corpse, but not midras; Raba said: It is unclean even as midras.[27] Said Raba: Whence do I know it? For we learnt: A child's waggonette[28] is unclean as midras. But Abaye said: There he [the child] leans upon it, but here he [the stump-legged person] does not lean upon it. Abaye said: How do I know it? Because it was taught: A staff of old men is completely clean.[29] And Raba?[30] — There

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(1) Upon which the stump rests.

(2) ‘Unclean’ and ‘clean’ in this and similar passages means susceptible and not susceptible to uncleanness respectively. A wooden article is unclean only when it has a receptacle for objects to be carried therein. If the log is merely hollowed out for the stump, it is not a receptacle in this sense.

(3) Leather supports for one who is stumped in both legs.

(4) If he is a zab, q.v. Glos. Midras, lit., ‘treading’ is the technical term for the uncleanness occasioned by a zab through bringing his weight to bear upon an object, e.g., by treading, sitting, or leaning, even if he does not actually touch it with his body. The degree of defilement imposed thereby is called ‘the principal degree of uncleanness’ (Heb. ab, father), and is only one grade less than that of a corpse: cf. p. 55, n. 6.

(5) They rank as ornaments.

(6) Though one may not enter wearing his shoes (Ber. 54a), these are not accounted as such.

(7) This refers to one who is unable to walk upon supports alone, the muscles of his foreleg being atrophied or paralysed. A stool is made for him, and also supports for his stumps, and he propels himself along with his hands and just a little with his feet too. R. Israel Lipshitz in his commentary זרע ישראל on Mishnah seems to translate סמוכות here as referring to the hand supports used by the cripple in propelling himself along, and not to the foot supports, which meaning it bears in the earlier clause.

(8) Rashi: as he does not actually walk upon them, they dangle in the air and may fall off, which will cause him to carry them in the street.

(9) There seems no adequate reason for this, and most commentators are silent upon the matter. Tosaf. Yom Tob states that ‘ONE MAY NOT ... SABBATH’ refers only to the ‘SUPPORTS’ mentioned in the first clause, not to the ‘STOOL AND ITS SUPPORTS’ (he appears to agree with R. Israel Lipshitz in his interpretation), which are mentioned only to teach that they are unclean as midras.

(10) Jast. s.v. אנקטמיו: for carrying burdens. Rashi: a kind of mask for frightening children. The actual meaning of the word is discussed in the Gemara.

(11) Jast.: because it is intended for carrying burdens. Rashi: because it is neither useful nor ornamental.

(12) The text seems to have been doubtful, and it was not clear whether R. Meir gave a lenient ruling and R. Jose a stringent one or the reverse. V. Weiss, Dor, II, 213 seqq. on doubtful and corrupt readings in the Mishnah.

(13) This was their text in the Mishnah; thus it differed from ours.

(14) Samek (ס) is a letter of the Hebrew alphabet. Thus R. Jose (יוסי) forbids (אוסר), the samek occurring in the name and in the ruling.

(15) ‘Too’ in the sense that he too subsequently held as Rab.

(16) V. Glos.

(17) Sc. her brother-in-law's.

(18) That a wooden shoe comes within the term and she shall loose his shoe’ (Deut. XXV, 9).

(19) R. Meir regards even a hollowed-out log as a shoe, though it is unusual, and the same applies here, though wood is an unusual material for a shoe. Thus Samuel quotes Rab's version of the Mishnah.

(20) Rashi states two views: (i) that it was of wood; (ii) that it was of straw. Rashi and Tosaf. incline to the latter view.

(21) Wilna Gaon emends: but we learnt, since the citation is from a Mishnah.

(22) V. n. 6; the same argument applies here.

(23) Thus he accepts our version of the Mishnah.

(24) Or reeds, Wilna Gaon emends: A straw mat and a tube of straw.

(25) The former holds that straw is the same as wood, which is susceptible to uncleanness, while the latter regards it as a different material.

(26) It was put on over the ordinary leather shoe to protect the latter from the burning action of the lime. In order to be subject to midras uncleanness an object must be used for walking, sitting, or lying upon.

(27) ‘The uncleanness of a corpse’ is mentioned merely as an example of any ordinary defilement, where the uncleanness of the object defiled is one degree less than that of the object which defiles it, and which requires either actual contact or that the object be under the same covering as the corpse. Thus Abaye holds that it attains even a primary degree of uncleanness (ab hatum'ah) through a corpse, which itself possesses a supra-primary degree of uncleanness, but not through the midras of a zab. Abaye holds that the wooden stump is not made primarily for leaning upon.

(28) Rashi: on which it is carried, thus a perambulator. Tosaf. with which a child learns to walk, by holding on to it.

(29) I.e., it is susceptible neither to midras nor to any other form of defilement. It is not susceptible to midras because it is not made for leaning, since one walks on his feet. This shows that though one does lean on it occasionally, yet since that is not its main purpose, it is not defiled as midras, and the same applies here. — It is not susceptible to other forms of defilement because it is a wooden utensil without a cavity (p. 238, n. 6).

(30) How does he rebut this proof?

Talmud - Mas. Shabbath 66b

it is made to facilitate his steps;[1] whereas here it is made to lean on, and he does so.[2]

HIS STOOL AND SUPPORTS ARE UNCLEAN AS MIDRAS, AND ONE MAY NOT GO OUT WITH THEM ON THE SABBATH, AND ONE MAY NOT ENTER THE TEMPLE COURT WITH THEM. A tanna recited before R. Johanan: One may enter the Temple court with them. Said he to him, I learn, A woman can perform halizah therewith,[3] yet you say [that] they may enter! Learn, One may not enter the Temple court with them. AN ARTIFICIAl, ARM [LUKITMIN] IS CLEAN. What is lukitmin? — Said R. Abbahu: A pulley for loads.[4] Raba b. Papa said: Stilts. Raba son of R. Huna said: A mask.

MISHNAH. BOYS MAY GO OUT WITH GARLANDS [KESHARIM], AND ROYAL, CHILDREN MAY GO OUT WITH BELLS, AND ALL PEOPLE [MAY DO LIKEWISE], BUT THAT THE SAGES SPOKE OF THE USUAL PRACTICE.

GEMARA. What is kesharim? — Said Adda Mari in the name of R. Nahman b. Baruch in the name of R. Ashi b. Abin in Rab Judah's name: Garlands of pu'ah.[5] (Abaye said, Mother[6] told me: Three[7] arrest [illness], five cure [it], seven are efficacious even against witchcraft. R. Aha b. Jacob observed: Providing that neither the sun nor the moon see it, and that it does not see rain nor hear the sound of iron, or the cry of a fowl or the sound of steps. R. Nahman b. Isaac said: The pu'ah has fallen into a pit!)[8] Why [then] particularly BOYS; even girls too [may go out therewith]? And why particularly children; even adults too?[9] — But [then] what is meant by KESHARIM? As Abin b. Huna said in the name of It. Hama b. Guria: If a son yearns for his father [the father] takes a strap from his right shoe and ties it to his left [hand].[10] R. Nahman b. Isaac said: And your token is phylacteries.[11] But if the reverse there is danger.[12]

Abin b. Huna said in the name of R. Hama b. Guria: The placing of a [hot] cup upon the navel on Sabbath[13] is permitted. Abin b. Huna also said in the name of R. Hama b. Guria: One may rub in oil and salt on the Sabbath.[14] Like R. Huna at Rab's college, and Rab at R. Hiyya's, and R. Hiyya at Rabbi's,[15] when they felt the effect of the wine they would bring oil and salt and rub into the palms of their hands and the instep of their feet and say, ‘Just as this oil is becoming clear,[16] so let So-and-so's wine become clear.’[17] And if [this was] not [possible], they would bring the sealing clay of a wine vessel and soak it in water and say, ‘Just as this clay becomes clear, so let So-and-so's wine become clear.’[18]

Abin b. Huna also said in the name of R. Hama b. Guria: One may reset [a laryngeal muscle][19] on the Sabbath. Abin b. Huna also said in the name of R. Hama b. Guria: To swaddle a babe on the Sabbath is in order.[20] R. Papa recited [two dicta about] children, [while] R. Zebid recited [one dictum] about a child.[21] R. Papa recited [the two dicta about] children,[22] and both in the name of Abin b. Huna. While R. Zebid recited a dictum about a child [in his name]; for the first he recited in the name of Abin b. Huna, but this [latter one] he recited in the name of Rabbah b. Bar Hanah, for Rabbah b. Bar Hanah said: To swaddle a babe on the Sabbath is in order.

Abaye said: Mother told me, All incantations which are repeated several times must contain the name of the patient's mother, and all knots[23] must be on the left [hand?]. Abaye also said: Mother told me, of all incantations, the number of times they are to be repeated, is as stated; and where the number is not stated, it is forty-one times.

Our Rabbis taught: One may go out with a preserving stone[24] on the Sabbath. On the authority of R. Meir it was said: Even with the counterweight of a preserving stone.[25] And not only when one has miscarried,[26] but even [for fear] lest she miscarry; and not only when she is [already] pregnant, but even lest she become pregnant and miscarry. R. Yemar b. Shalmia said on Abaye's authority: Provided that it was found to be its natural counterweight.[27] Abaye asked: What about the counterweight of the counterweight? The question stands over.

Abaye also said: Mother told me, For a daily fever[28] one must take a white zuz,[29] go to a salt deposit,[30] take its weight in salt, and tie it up in the nape of the neck with a white twisted cord. But if this is not [possible], let one sit at the cross-roads, and when he sees a large ant carrying something, let him take and throw it into a brass tube and close it with lead, and seal it with sixty seals.[31] Let him shake it, lift it up and say to it, ‘Thy burden be upon me and my burden be upon thee.’ Said R. Aha son of R. Huna to R. Ashi: But perhaps [another] man had [previously] found it and cast [his illness] upon it?[32] Rather let him say to it, ‘My burden and thy burden be upon thee.’ But if this is impossible, let him take a new pitcher, go to the river and say to it, ‘O river, O river, lend me a pitcher of water for a journey that had chanced to me.’ Let him then turn it seven times about his head, throw it behind his back, and say to it, ‘O river, O river, take back the water thou gavest me, for the journey that chanced to me came in its day and departed in its day!’

R. Huna said:

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(1) But not that his whole body should lean upon it.
(2) I.e., its purpose is to bear the weight of his whole body.
(3) Which shows that they count as shoes, in which one may not enter the Temple court.
(4) So Jast. Rashi: a wooden donkey's head worn by mummers.
(5) A vegetable; dyer's madder; a prophylactic.
(6) She was really his foster-mother, v. Kid. 31a.
(7) Garlands; or, plants.
(8) It is useless as a remedy to-day, as none take all these precautions — probably a sarcastic remark showing his disbelief in these remedies.
(9) This is an objection to Rab Judah's explanation. If the Mishnah means garlands used as prophylactics, they are surely not confined to young boys!
(10) This cures him so that he is able to bear his father's absence.
(11) The right hand winds the strap on the left hand.
(12) If the strap of his left is tied to the son's right.
(13) To alleviate stomach ache.
(14) Into the skin.
(15) I.e., when they were at these colleges.
(16) The heat of the flesh would clarify it.
(17) Let the fumes depart!
(18) This is an instance of sympathetic magic.
(19) Lit., ‘strangle’. An operation performed in cases of abdominal affection by squeezing the jugular veins. Rashi and ‘Aruk reads: one may have the laryngeal muscle reset.
(20) In order to set its limbs.
(21) I.e., R. Papa recited two separate dicta about children, both in the name of Abin b. Huna, as explained below, while R. Zebid recited a single law about children in his name.
(22) The one referring to the child that yearns for his father and the other relating to swaddling.
(23) For magical purposes of healing.
(24) As a safeguard against abortion. [The aetit (or Eagle stone). For the belief in the efficacy of this stone against abortion among the ancients v. Preuss, Medizin, p. 446].
(25) Anything that was weighed against it.
(26) To protect her from a repetition.
(27) Without anything having been added or taken away.
(28) A quotidian whose paroxysms recur every day.
(29) I.e., new and clean.
(30) In a cavity in which sea-water was allowed to evaporate.
(31) The number is not exact, but simply means many e.g., sealing wax over the lead, then pitch above that, then clay, etc. (Rashi).
(32) And the second would now take it over.

Talmud - Mas. Shabbath 67a

[As a remedy] for a tertian fever one should procure seven prickles from seven palm trees, seven chips from seven beams, seven pegs from seven bridges, seven [heaps of] ashes from seven ovens, seven [mounds of] earth from under seven door-sockets, seven specimens of pitch from seven ships, seven handfuls of cummin, and seven hairs from the beard of an old dog, and tie them, in the nape of the neck with a white twisted thread.[1]

R. Johanan said: For an inflammatory fever let one take an all-iron knife, go whither thorn-hedges[2] are to be found, and tie a white twisted thread thereto.[3] On the first day he must slightly notch it, and say, ‘and the angel of the Lord appeared unto him, etc.’[4] On the following day he [again] makes a small notch and says, ‘And Moses said, I will turn aside now, and see, etc.’ The next day he makes [another] small notch and says, ‘And when the Lord saw that he turned aside [sar] to see.’[5] R. Aha son of Raba said to R. Ashi, Then let him say, ‘Draw not nigh hither?’[6] Rather on the first day he should say. ‘And the angel of the Lord appeared unto him, etc. ... And Moses said, I will, etc.’; the next day he says, ‘And when, the Lord saw that he turned aside to see’; on the third, ‘And he said, Draw not nigh.’ And when he has recited his verses he pulls it down [sc. the bush] and says thus: ‘O thorn, O thorn, not because thou art higher than all other trees did the Holy One, blessed be He, cause His Shechinah to rest upon thee, but because thou art lower than all other trees did He cause His Shechinah to rest upon thee. And even as thou sawest the fire [kindled] for Hananiah, Mishael and Azariah and didst flee from before them, so look upon the fire [i.e., fever.] of So-and-so[7] and flee from him.’ For an abscess one should say thus: ‘Let it indeed be cut down, let it indeed be healed, let it indeed be overthrown; Sharlai and Amarlai are those angels who were sent from the land of Sodom[8] to heal boils and aches: bazak, bazik, bizbazik, mismasik, kamun kamik,[9] thy colour [be confined] within thee, thy colour [be confined] within thee,[10] thy seat be within thee,[11] thy seed be like a kalut[12] and like a mule that is not fruitful and does not increase; so be thou not fruitful nor increase in the body of So-and-so.’[13] Against ulcers[14] one should say thus: ‘A drawn sword and a prepared sling, its name is not Joheb, sickness and pains.’ Against a demon one should say thus: ‘Thou wast closed up; closed up wast thou. Cursed, broken, and destroyed be Bar Tit, Bar Tame, Bar Tina[15] as Shamgez, Mezigaz and Istamai.’ For a demon of the privy one should say thus: ‘On the head of a lion and on the snout of a lioness did we find the demon Bar Shirika Panda; with a bed of leeks I hurled him down, [and] with the jawbone of an ass I smote him.’

AND ROYAL CHILDREN MAY GO OUT WITH BELLS. Who is the authority [for this ruling]? — Said R. Oshaia: It is R. Simeon, who maintained: All Israel are royal children. Raba said: It means that it is woven [sewn] into his garment; thus it agrees with all.

MISHNAH. ONE MAY GO OUT WITH A HARGOL'S EGG,[16] A FOX'S TOOTH, AND A NAIL FROM [THE GALLOWS OF] AN IMPALED CONVICT AS A PROPHYLACTIC: THIS IS R. MEIR'S VIEW; BUT THE SAGES FORBID THIS EVEN ON WEEKDAYS ON ACCOUNT OF ‘THE WAYS OF THE AMORITE.’[17] GEMARA. ONE MAY GO OUT WITH A HARGOL'S EGG, which is carried for ear-ache; AND WITH A FOX'S TOOTH, which is worn on account of sleep: a living [fox's] for one who sleeps [too much], a dead [fox's] for him who cannot sleep.

AND A NAIL FROM [THE GALLOWS OF] AN IMPALED CONVICT. It is applied to an inflammation,

AS A PROPHYLACTIC: THIS IS R. MEIR'S VIEW. Abaye and Raba both maintain: Whatever is used as a remedy is not [forbidden] on account of the ways of the Amorite.[18] Then if it is not an [obvious] remedy, is it forbidden on account of the ways of the Amorite? But surely it was taught: If a tree casts its fruit, one paints it with sikra[19] and loads it with stones. Now, as for loading it with stones, that is in order to lessen its strength.[20] But when he paints it with sikra, what remedy does he effect?[21] — That is in order that people may see and pray for it. Even as it was taught: And he [the leper] shall cry, ‘Unclean, unclean’:[22] he must make his grief publicly known, so that the public may pray for him. Rabina observed: In accordance with whom do we suspend a cluster of dates on a [sterile] date tree? In accordance with this Tanna.

A tanna recited the chapter of Amorite practices[23] before R. Hiyya b. Abin. Said he to him: All these are forbidden as Amorite practices, save the following: If one has a bone in his throat, he may bring of that kind, place it on his head, and say thus: ‘One by one go down, swallow, go down one by one’: this is not considered the ways of the Amorite. For a fish bone he should say thus: ‘Thou art stuck in like a pin, thou art locked up as [within] a cuirass; go down, go down.’

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(1) Magical properties were ascribed to the number seven, which was regarded as the most sacred number. Various factors were responsible for this: it is a combination of three and four, themselves held to be sacred; there are seven days in the week; the seventh day is holy. — The Rabbis, though opposed to superstitions practices in general (v. p. 243, n. 3), were nevertheless children of their age, and recognized their efficacy.

(2) Or, wild rose bushes.

(3) The knife, or the thorn bush?

(4) Ex. III, 2.

(5) Ibid. 4. Sar also means to depart, and it is applied magically to the fever. The belief in the efficacy of sacred books or verses to effect cures, etc., was widespread in ancient times both among pagans and believers in God. V. J.E. art. Bibliomancy.

(6) Ibid. 5; this may appropriately be referred to the illness.

(7) Mentioning the mother's name.

(8) Rashi: this is the incantation formula, but they were not actually sent thence.

(9) Unintelligible words forming part of the incantation.

(10) Let it not change to a deeper red.

(11) Let it not spread.

(12) An animal with uncloven hoofs (the sign of uncleanness) born of a clean animal. Rashi: one whose semen is locked up, so that he cannot reproduce.

(13) Mentioning the mother's name.

(14) Others: epilepsy.

(15) Lit., ‘the son of clay, son of defilement, son of filth’ — names for the demon.

(16) Hargal is a species of locust.

(17) These are forms of heathen magic, forbidden in neither shall ye walk in their statutes, Lev. XVIII, 3.

(18) I.e., where its remedial character is obvious, in contrast to magic.

(19) A red paint.

(20) It casts its fruit because they grow too heavy, owing to the tree's super-vitality.

(21) Surely it is only magic?

(22) Lev. XIII, 45.

(23) Chapters seven and eight of the Tosefta on Shabbath, which deals with these.

Talmud - Mas. Shabbath 67b

He who says, ‘Be lucky, my luck [gad gedi] and tire not by day or night,’[1] is guilty of Amorite practices. R. Judah said: Gad is none other but an idolatrous term, for it is said, ye that prepare a table for Gad.[2] If husband and wife exchange their names,[3] they are guilty of Amorite practices. [To say], ‘Be strong, o ye Barrels’! is [forbidden] as the ways of the Amorite. R. Judah said: Dan [Barrel] is none other but the designation of an idol, for it is said, They that swear by the sin, of Samaria, and say, As thy god Dan liveth.[4] He who says to a raven, ‘Scream,’ and to a she-raven, ‘Screech, and return me thy tuft for [my] good,’ is guilty of Amorite practices. He who says, ‘Kill this cock, because it crowed in the evening,’[5] or, ‘this fowl, because it crowed like a cock,’ is guilty of Amorite practices. He who says. ‘I will drink and leave over, I will drink and leave over,’[6] is guilty of the ways of the Amorite. He who breaks eggs on a wall in front of fledglings, is guilty of Amorite practices. He who stirs [eggs?] before fledglings is guilty of Amorite practices. He who dances and counts seventy-one fledglings in order that they should not die, is guilty of Amorite practices. He who dances for kutah,[7] or imposes silence for lentils, or cries for beans,[8] is guilty of Amorite practices. She who urinates before her pot in order that it should be quickly cooked is guilty of Amorite practices. Yet one may place a chip of a mulberry tree and broken pieces of glass in a pot in order that it should boil quickly.[9] But the Sages forbade broken pieces of glass [to be employed thus] on account of danger.

Our Rabbis taught: A lump of salt may be placed in a lamp in order that it should burn brightly;[10] and mud and clay may be placed under a lamp in order that it should burn slowly.[11]

R. Zutra said: He who covers an oil lamp or uncovers a naphtha [lamp] infringes the prohibition of wasteful destruction.[12] 'Wine and health to the mouth of our teachers!'[13] is not considered the ways of the Amorite. It once happened that R. Akiba made a banquet for his son and over every glass [of liquor] that he brought he exclaimed, 'Wine and health to the mouth of our teachers; health and wine to the mouths of our teachers and their disciples!'

CHAPTER VII

MISHNAH. A GREAT PRINCIPLE WAS STATED IN RESPECT TO THE SABBATH: HE WHO FORGETS THE FUNDAMENTAL LAW OF THE SABBATH[14] AND PERFORMS MANY LABOURS ON MANY SABBATHS, INCURS ONE SIN-OFFERING ONLY. HE WHO KNOWS THE FUNDAMENTAL LAW OF THE SABBATH AND PERFORMS MANY LABOURS ON MANY SABBATHS,[15] INCURS A SIN-OFFERING ON ACCOUNT OF EACH SABBATH. HE WHO KNOWS THAT IT IS THE SABBATH AND PERFORMS MANY LABOURS ON MANY SABBATHS, IS LIABLE FOR EVERY

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(1) This is the conjectured translation.

(2) lsa. LXV, II. Hence this statement is an invocation to an idol.

(3) Lit., 'he by her name and she by his name — probably done to ward off evil.

(4) Amos. VIII, 14. This translation differs from that of the E.V. q.v.

(5) Later than usual. Others: it crowed like a raven.

(6) That the rest may be blessed.

(7) V. Glos.

(8) That they should be well prepared. — Sound (or silence in some cases) was thought to benefit certain food preparations; cf. Ker. 6b.

(9) This is not enchantment.

(10) The salt clarifies the oil.

(11) These cool the oil and retard its flow.

(12) Derived from Deut. XX, 19, q.v. Because these cause the lamp to burn with unnecessary speed.

(13) A drinking toast.

(14) Not knowing at all that there exists a law of the Sabbath.

(15) Forgetting on each occasion that it was the Sabbath.

Talmud - Mas. Shabbath 68a

PRIMARY LABOUR.[1] HE WHO PERFORMS MANY LABOURS BELONGING TO THE SAME CATEGORY OF WORK[2] IS LIABLE TO ONE SIN-OFFERING ONLY.

GEMARA. Why does he [the Tanna] state, A GREAT PRINCIPLE? Shall we say that because he wishes to teach 'another principle',[3] he [therefore] states here, A GREAT PRINCIPLE?[4] And in respect to shebi'ith[5] too, because he wishes to teach another principle, he states, This is a great principle?[6] But what of tithes, though 'another principle' is taught, he nevertheless does not teach [elsewhere] 'a great principle'?[7] — Said R. Jose b. Abin: As for the Sabbath and shebi'ith, since they possess both primaries and derivatives,[8] he teaches GREAT; but in respect to tithes, since there are no primaries and derivatives, he does not teach great'. Then according to Bar Kappara, who did learn 'A great principle' in respect to tithes,[9] what primaries and what derivatives are there? But surely this must be the reason:[10] The penal scope of the Sabbath is ‘greater’ than that of shebi'ith, for whereas [the restriction of] the Sabbath is found in respect of both detached and growing [produce], [the prohibitions of] shebi'ith do not operate in respect of detached, but only in respect of growing [produce].[11] Again, the penal scope of the seventh year is ‘greater’ than that of tithes: for whereas [the law of] shebi'ith applies to both human food and animal fodder, [the law of] tithes operates in the case of human food, but not of animal fodder.[12] And according to Bar Kappara who learned ‘a great principle’ in connection with tithes, — the penal scope of tithes is greater than that of pe'ah:[13] for whereas [the law of] tithes operates in figs and vegetables [too], pe'ah does not operate in figs and vegetables.[14] For we learnt: A general principle was stated in respect to pe'ah: whatever is a foodstuff, is guarded, grows from the earth, is [all] gathered simultaneously,[15] and is collected for storage,[16] is liable to pe'ah. ‘Foodstuff’ excludes the aftergrowth of woad[17] and madder;[18] ‘is guarded’ excludes hefker;[19] ‘grows from the earth’ excludes mushrooms and truffles;[20] ‘is [all] gathered simultaneously’ excludes the fig-tree;[21] ‘and is taken in to be stored’ excludes vegetables.[22] Whereas in respect to tithes we learnt: A general principle was stated in respect to tithes: Whatever is a foodstuff, is guarded, and grows from the earth is subject to tithes; but we did not learn, ‘is gathered simultaneously and is collected for storage.

Rab and Samuel both maintain: Our Mishnah treats of a child who was taken captive among Gentiles, or a proselyte who became converted in the midst of Gentiles.[23] But if one knew and subsequently forgot, he is liable [to a sin-offering] for every Sabbath.[24] We learnt: HE WHO FORGETS THE ESSENTIAL LAW OF THE SABBATH: surely that implies that he knew [it] originally? — No: what is meant by HE WHO FORGETS THE ESSENTIAL LAW OF THE SABBATH? That the very existence of the Sabbath was unknown[25] to him. But what if he knew and subsequently forgot; he is liable for every Sabbath? Then instead of teaching, HE WHO KNOWS THE ESSENTIAL LAW OF THE SABBATH AND PERFORMS MANY LABOURS ON MANY SABBATHS, INCURS A SIN-OFFERING ON ACCOUNT OF EACH SABBATH: let him teach, He who knew and subsequently forgot, and how much more so this one? — What is meant by, HE WHO KNOWS THE ESSENTIAL LAW OF THE SABBATH? That he who knew the essential law of the Sabbath and forgot it.

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(1) The general principle is this: a sin-offering in connection with the Sabbath is incurred for every unwitting transgression. The number of transgressions is determined by the number of unknown facts. Thus, when one is ignorant of the Sabbath law altogether, he is unaware of a single fact, and incurs one sin-offering only. If he forgets a number of Sabbaths, each is a separate fact; hence he is liable for each. If he knows that it is the Sabbath but forgets that certain labours are forbidden, each labour is a separate fact, and he is liable for each separately. — For primary (Heb. ab, lit., ‘father’) labours v. p. 3, n. 2.

(2) I.e., all derivatives (toledoth) of the same primary labour (ab).

(3) Infra 75b.

(4) By contrast, this being wider in scope.

(5) V. Glos. It is also the name of a Tractate dealing with the laws thereof.

(6) V. Sheb. v, 5 and VII, 1.

(7) V. Ma'as. I, 1, and II,7.

(8) V. infra 73a seq. Agricultural labour forbidden during the seventh year is likewise divided into primaries and derivatives: sowing, harvesting, reaping and fruit gathering, are primaries, other forms of labour in a field or vineyard are derivatives; v. M.K. 3a.

(9) In his collection of Baraithas. These are collections of Tannaitic teachings not incorporated by R. Judah ha-Nasi in the Mishnah; there were several such collections, the most authoritative being those of R. Hiyya and R. Oshaia.

(10) Why GREAT is stated in connection with Sabbath.

(11) Thus: one must do no work on growing (lit., attached’) produce on the Sabbath, e.g., sow, reap, etc., nor on detached produce, e.g., grind corn. But only the former is forbidden in the seventh year, not the latter.

(12) Thus the scope of both the Sabbath and shebi'ith is greater than that of tithes, and for that reason ‘great’ is employed in connection with the first two.

(13) V. Glos.
(14) ‘Penal scope’, Heb. ‘onesh, is employed here in the sense that the violation of these laws is punishable.
(15) I.e., the whole of the crop ripens about the same time.
(16) Lit., ‘is brought in to be kept’. This applies to cereals in general, which are stored in granaries over long periods.
(17) Gr. **, isatis tinctoria, a plant producing a deep blue dye.
(18) Both being used as dyes.
(19) V. Glos.
(20) Though these grow in the earth, they were held to draw their sustenance mainly from the air.
(21) Whose fruits do not all ripen at the same time. The same holds good of many other trees, which are likewise excluded.
(22) Which must be consumed whilst fresh.
(23) So that they never knew the laws of the Sabbath.
(24) He is regarded as knowing the sanctity of the Sabbath but forgetting on each occasion that it is the Sabbath.
(25) Lit., ‘forgotten’.

Talmud - Mas. Shabbath 68b

What if he did not forget it?[1] He is liable for each labour? Then instead of teaching, HE WHO KNOWS THAT IT IS THE SABBATH AND PERFORMS MANY LABOURS ON MANY SABBATHS, IS LIABLE FOR EVERY LABOUR, let him teach, He who knows the essential law of the Sabbath, and how much more so this case? Rather our Mishnah refers to one who knew but subsequently forgot, and Rab and Samuel's [ruling] too is similar to the case of one who knew but subsequently forgot, and it was thus stated: Rab and Samuel both maintain: Even a child who was taken captive among Gentiles or a proselyte who became converted in the midst of Gentiles is as one who knew but subsequently forgot, and so he is liable. But R. Johanan and Resh Lakish maintain: Only one who knew but subsequently forgot [is liable], but a child who was taken captive among Gentiles, or a proselyte who became converted in the midst of Gentiles, is not culpable.

An objection is raised: A great principle is stated in respect to Sabbath: He who forgets the essential law of Sabbath and performs many labours on many Sabbaths, incurs one sin-offering only. E.g., if a child is taken captive among Gentiles or a proselyte is converted in the midst of Gentiles and performs many labours on many Sabbaths, he is liable to one sin-offering only. And he is liable to one [sin-offering] on account of blood, one on account of heleb,[2] and one on account of idolatry.[3] But Monabaz exempts him. And thus did Monabaz argue before R. Akiba: Since a wilful transgressor is designated a sinner, and an unwitting transgressor [too] is designated a sinner;[4] then just as wilful transgression implied that he had knowledge,[5] so when unwittingly transgressing he must have had the knowledge.[6] Said R. Akiba to him, Behold, I will add to your words. If so, just as wilful transgression involves that he shall have had knowledge at the time of his deed, so in unwitting transgression he must have had knowledge at the time of his deed.[7] Even so, he replied, and all the more so since you have added [this argument]. As you define it,[8] such is not designated unwitting, but wilful transgression, he retorted. Now after all it is stated, ‘E.g., if a child’ [etc.]: as for Rab and Samuel, it is well.[9] But according to R. Johanan and Resh Lakish it presents a difficulty? — R. Johanan and Resh Lakish can answer you: Is there not Monabaz who declares him non-culpable? We rule as Monabaz.

What is Monabaz's reason?[10] Because it is written, Ye shall have one law for him that doeth unwittingly;[11] and in proximity thereto [it is written], And the soul that doeth aught with a high hand:[12] hence unwitting is assimilated to wilful transgression:[13] just as wilful transgression involves that he shall have had knowledge, so unwitting transgression implies that he shall have had knowledge.[14] And the Rabbis: how do they employ this [verse], Ye shall have one law, [etc.]? — They employ it even as R. Joshua b. Levi taught his son: Ye shall have one law for him that doeth unwittingly; and it is written,

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(1) Sc. the essential law of the Sabbath, but merely that that particular day was the Sabbath.

(2) V. Glos.

(3) I.e., for the violation of each law, which if deliberately infringed, carries with it the penalty of kareth, he incurs one sin-offering only, no matter how many times he actually infringes it. The consumption of blood and heleb and the worshipping of idols are given as examples.

(4) For a wilful trangressor v. Lev. V, 1: And if any one sin, etc. That refers to wilful transgression, since Scripture does not maintain that his sin be hidden from him', i.e., committed in ignorance. For unwitting transgression v. Lev. IV, 2 et passim.

(5) of the forbidden nature of his action.

(6) Formerly, though at the time of sinning he had forgotten it.

(7) Which is absurd!

(8) Lit., 'according to your words'.

(9) For they too maintain that he is liable. Now, they can argue that the same holds good even if one originally knew the law but subsequently forgot it, just as they explain the Mishnah, while the particular illustration is given because of Monabaz's dissent in this case.

(10) The analogy on mere grounds of logic is insufficient, since wilful and unwitting transgression are obviously dissimilar.

(11) Num. XV, 29.

(12) Ibid. 30; this obviously applies to deliberate transgression.

(13) I.e., Scripture itself intimates by this proximity that the two are similar.

(14) Before a sin-offering is incurred.

Talmud - Mas. Shabbath 69a

and when ye shall err, and not observe all these commandments;[1] and it is written, And the soul that doeth aught with a high hand . . . [that soul shall be cut off]: thus they are all assimilated to idolatry: just as there it is something for the wilful transgression of which kareth[2] is incurred, and for the unwitting transgression a sin-offering is incurred,[3] so for everything the wilful transgression of which involves kareth, its unwitting transgression involves a sin-offering.[4] But according to Monabaz, wherein lies his non-wilfulness?[5] E.g., if he was ignorant in respect of the sacrifice.[6] But the Rabbis hold that ignorance in respect of the sacrifice does not constitute ignorance.

Now according to the Rabbis, in respect to what is ignorance [required]? R. Johanan said: As long as one errs in respect to kareth, even if he wilfully sins in respect of the negative command;[7] while Resh Lakish maintained: He must offend unwittingly in respect of the negative injunction and kareth. Raba said, What is R. Simeon b. Lakish's reason? Scripture saith, [And if any one of the common people sin unwittingly, in doing any of the things which the Lord hath commanded] not to be done, and be guilty:[8] hence he must err both as to the negative injunction and its attendant kareth.[9] And R. Johanan: how does he employ this verse adduced by R. Simeon b. Lakish? — He utilizes it for what was taught: [And if any one] of the common people: this excludes a mumar.[10] R. Simeon b. Eleazar said on the authority of R. Simeon:[11] [. . . sin unwittingly in doing any of the things which the Lord hath commanded] not to be done, and be guilty: he who would refrain[12] on account of his knowledge, brings a sacrifice for his unwitting offence; but he who would not refrain on account of his knowledge cannot bring a sacrifice for his unwitting offence.[13]

We learnt: The primary forms of labour are forty less one.[14] Now we pondered thereon, Why state the number?[15] And R. Johanan replied: [To teach] that if one performs all of them in a single state of unawareness,[16] he is liable [to a sin-offering] for each. Now, how is this possible? [Surely only] where he is aware of the Sabbath but unconscious of [the forbidden nature of] his labours.[17] As for R. Johanan, who maintained that since he is ignorant in respect of kareth, though fully aware of the negative injunction, [his offence is unwitting], it is well: it is conceivable e.g., where he knew [that labour is forbidden on] the Sabbath by a negative injunction. But according to R. Simeon b. Lakish, who maintained that he must be unaware of the negative injunction and of kareth, wherein did he know of the Sabbath?[18] — He knew of [the law of] boundaries,[19] this being in accordance with R. Akiba.[20]

Who is the authority for the following which was taught by the Rabbis: If one is unaware of both,[21] he is the erring sinner mentioned in the Torah;[22] if one wilfully transgresses in respect of both, he is the presumptuous offender mentioned in the Torah. If one is unaware of the Sabbath but conscious of [the forbidden character of] his labours or the reverse, or if he declares, ‘I knew that this labour is forbidden, but not whether it entails a sacrifice or not, he is culpable? With whom does this agree? With Monabaz.[23]

Abaye said: All agree in respect to an ‘oath of utterance’[24] that a sacrifice is not incurred on account thereof unless one is unaware of its interdict.[25] ‘All agree’: who is that? R. Johanan?[26] But that is obvious! When did R. Johanan say [otherwise], where there is [the penalty of] kareth; but here [in the case of an ‘oath of utterance’] that there is no [penalty of] kareth, he did not state [his ruling]? — One might argue: Since liability to a sacrifice [here] is an anomaly,[27] for we do not find in the whole Torah that for a [mere] negative injunction[28] one must bring a sacrifice, whilst here it is brought; hence even if he is unaware of the [liability to a] sacrifice, he is culpable:[29]

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(1) Ibid. 22; in Hor. 8a it is deduced that this refers to idolatry.

(2) I.e., cutting off.

(3) V. v. 27.

(4) But where wilful transgression involves a lesser penalty than kareth, an unwitting offence does not involve a sin-offering.

(5) When the offender has knowledge at the time of his action.

(6) He knew that the wilful offence involved kareth, but not that the unwitting transgression involved a sin-offering.

(7) I.e., he knows that it is forbidden by a negative injunction but not that its penalty is kareth. This constitutes sinning in ignorance, and involves a sin-offering.

(8) Lev. IV, 27.

(9) Not to be done after ‘sin unwittingly’ implies that he is ignorant that it is forbidden at all.

(10) One who is professedly antagonistic to Jewish law. If he sins unwittingly, he cannot offer a sacrifice, even if he desires. This is deduced from the partitive of the common people, expressed in the original by the letter mem (מ), which is regarded as a limitation.

(11) I.e., R. Simeon b. Yohai.

(12) Lit., ‘turn back’.

(13) For the verse implies that he acted solely through his ignorance; only then can he atone with a sacrifice. R. Simeon too teaches the exclusion of a mumar, but deduces it differently.

(14) Infra 73a.

(15) Since they are enumerated by name.

(16) Of their forbidden nature.

(17) For in the reverse case he incurs only one sin-offering (v. Mishnah 67b). Now awareness of the Sabbath implies that he knows at least one of the labours forbidden, for otherwise the Sabbath is the same to him as any other day, and he cannot be said to be aware thereof. But in the present passage he appears to have known none at all: how then can we regard him as being aware of the Sabbath? This the Talmud proceeds to discuss.

(18) Seeing that he was ignorant of all the forbidden labours.

(19) That one may not go on the Sabbath more than a certain distance beyond the town limits. Infringement of this law does not entail a sacrifice.

(20) Who maintains that the limitation of boundaries is Biblical. The Rabbis dispute this.

(21) I.e., of the Sabbath and that this labour is forbidden on the Sabbath.

(22) He certainly falls within this category.

(23) Supra.

(24) E.g., ‘I swear that I will eat’, or, ‘I swear that I will not eat’, and then broken, cf. Lev. V, 4.

(25) I.e., the offender must have forgotten his oath at the time of breaking it, so that he is unaware that his action is interdicted by his oath. A sacrifice for a broken oath is decreed in Lev. V, 4 seq.

(26) For Abaye cannot mean by ‘all’ that even Monabaz agrees that it is insufficient that he shall merely be ignorant that a vain oath entails a sacrifice. For how can this be maintained? On the contrary, the reverse follows a fortiori: if Monabaz regards unawareness of the liability to a sin-offering elsewhere as true unawareness, though such liability is in accordance with the general principle that where kareth is incurred for a wilful offence a sin-offering is incurred for an unwitting transgression, how much more so here, seeing that the very liability to a sacrifice is an anomaly unexpected, for the deliberate breaking of an oath does not entail kareth. Hence Abaye must refer to R. Johanan's view on the ruling of the Rabbis.

(27) Lit., ‘a new thing’ — something outside the general rule.

(28) Which does not entail kareth.

(29) Even on the views of the Rabbis.

Talmud - Mas. Shabbath 69b

hence he [Abaye] informs us [otherwise].

An objection is raised: What is an unwitting offence in respect of an ‘oath of utterance’ relating to the past?[1] Where one says, ‘I know that this oath is forbidden,[2] but I do not know whether it entails a sacrifice or not,’ he is culpable?[3] — This agrees with Monabaz. (Another version: Who is the authority for this? Shall we say, Monabaz? But then it is obvious! seeing that in the whole Torah, where it [liability to a sacrifice] is not an anomaly, Monabaz rules that unawareness of the sacrifice constitutes unawareness, how much more so here that it is an anomaly![4] Hence it must surely be the Rabbis, and this refutation of Abaye is indeed a refutation.)[5] Abaye also said: All agree in respect to terumah that one is not liable to [the addition of] a fifth unless he is unaware of its interdict.[6] ‘All agree’: who is that? R. Johanan: But that is obvious: when did R. Johanan say [otherwise], where there is the penalty of kareth, but here that there is no penalty of kareth, he did not state [his ruling]? — You might argue: death stands in the place of kareth,[7] and therefore if one is ignorant of [this penalty of] death, he is culpable; hence he informs us [otherwise]. Raba said: Death stands in the place of kareth, and the fifth stands in the place of a sacrifice.[8]

R. Huna said: If one is travelling on a road or[9] in the wilderness and does not know when it is the Sabbath, he must count six days and observe one.[10] Hiyya b. Rab said: He must observe one[11] and count six [weekdays]. Wherein do they differ? One Master holds that it is as the world's Creation;[12] the other Master holds that it is like [the case of] Adam.[13]

An objection is raised: If one is travelling on a road and does not know when it is the Sabbath , he must observe one day for six. — Surely that means that he counts six days and observes one? No: he keeps one day and counts six. If so, [instead of] ‘he must observe one day for six,’ he should state, ‘he must observe one day and count six’? Moreover, it was taught: If one is travelling on a road or in a wilderness and does not know when it is the Sabbath, he must count six and observe one day.’ This refutation of Hiyya b. Rab is indeed a refutation.

Raba said: Every day he does sufficient for his requirements [only],[14] except on that day. And on that day he is to die? — He prepared double his requirements on the previous day. But perhaps the previous day was the Sabbath? But every day he does sufficient for his requirements, and even on that day. Then wherein may that day be recognized? By kiddush and habdalah.[15]

Raba said: If he recognizes the relationship to the day of his departure,[16] he may do work the whole of that day.[17] But that is obvious? — You might say, Since he did not set out on the Sabbath, he did not set out on the eve of the Sabbath either;[18] hence this man, even if he set out on Thursday.

it shall be permitted him to do work on two days. Hence he informs us that sometimes one may come across a company and chance to set out [on a Friday].

HE WHO KNOWS THE ESSENTIAL LAW OF THE SABBATH. How do we know it? — Said R. Nahman in the name of Rabbah b. Abbuha, Two texts are written: Wherefore the children of Israel shall keep the Sabbath;[19] and it is written, and ye shall keep my Sabbaths.[20] How is this to be explained?[21] 'Wherefore the children of Israel shall keep the Sabbath' [implies] one observance for many Sabbaths;[22] [whereas] 'and ye shall keep my Sabbaths' [implies] one observance for each separate Sabbath.[23] R. Nahman b. Isaac demurred: On the contrary, the logic is the reverse: Wherefore the children of Israel shall keep the Sabbath [implies] one observance for each separate Sabbath; [whereas] 'and ye shall keep my Sabbaths' [implies] one observance for many Sabbaths.[24]

HE WHO KNOWS THAT IT IS THE SABBATH.

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(1) I.e., where one falsely swears that he has eaten.

(2) Knowing that he is swearing to an untruth.

(3) This contradicts Abaye.

(4) V. n. 2.

(5) The passage 'Another. . . refutation' is bracketed in the edd., and Rashi deletes it. For in fact the ruling is necessary according to Monabaz too. For whereas elsewhere ignorance is constituted by unawareness either of the forbidden nature of the act or of the sacrifice it entails, here the former does not constitute ignorance, and there must be unawareness of the liability to a sacrifice. This does not follow from Monabaz's other ruling and so must be stated.

(6) If a non-priest eats terumah unwittingly. he must indemnify the priest for its value and add a fifth (Lev. XXII, 14). Abaye states that he must have been unaware of its forbidden nature, i.e., thinking it to be ordinary food.

(7) If terumah is knowingly eaten by a non-priest, he is liable to death inflicted by Heaven.

(8) Death and the addition of a fifth for the conscious and unconscious eating of terumah respectively are the equivalent of kareth and a sacrifice in the case of other transgressions. Hence according to R. Johanan on the basis of the ruling of the Rabbis one is liable to the addition of a fifth if he eats terumah in ignorance that the conscious offence is punishable by death at the hands of Heaven.

(9) Alfasi, Asheri, Maim., Tur and J.D. omit 'on a road or'.

(10) From the day that he discovers that he has forgotten when it is the Sabbath.

(11) The first after his discovery.

(12) Where the Sabbath followed six working days.

(13) He was created on the sixth day; thus his first complete day was the Sabbath.

(14) But no unnecessary work, since each day may be the Sabbath.

(15) Kiddush =sanctification; habdalah=distinction. The former is a prayer recited at the beginning of the Sabbath; the latter is recited at the end thereof, and thanks God for making a distinction between the sanctity of the Sabbath and the secular nature of the other days of the week.

(16) On the day that he discovers that he has forgotten when it is the Sabbath, he nevertheless remembers how many days it is since he set out. The passage may also possibly be translated: if he recognizes a part, viz., the day on which he set out.

(17) Viz., on the seventh after he set out, without any restrictions, since he certainly did not commence his journey on the Sabbath.

(18) As it is unusual.

(19) Ex. XXXI, 16.

(20) Lev. XIX, 3.

(21) Sc. the employment of the sing. in one verse and the plural in the other.

(22) In the sense that if one desecrates many Sabbaths he fails in a single observance and is liable to one sin-offering only.

(23) Viz., that the desecration of each Sabbath entails a separate sacrifice. It then rests with the Rabbis to decide where each shall apply.

(24) R. Nahman b. Isaac agrees that the distinctions of the Mishnah follow from these texts, but he reverses their significance.

Talmud - Mas. Shabbath 70a

Wherein does the first clause differ from the second? — Said R. Safra: Here he would refrain on account of the knowledge that it is the Sabbath: whilst there he would refrain through the knowledge of the [forbidden] labor[s]. Said R. Nahman to him: Does one refrain from [action on] the Sabbath [for any other reason] save that the labours [are forbidden]; and does one refrain from labours for aught save because of the Sabbath?[1] But said R. Nahman: for what does the Divine Law impose a sacrifice? For ignorance. There there is one fact of ignorance; here there are many facts of ignorance.[2]

HE IS LIABLE FOR EVERY SEPARATE LABOUR. Whence do we know the division of labors?[3] — Said Samuel: Scripture saith, every one that profaneth it shall surely be put to death:[4] the Torah decreed many deaths for one desecration. But this refers to wilful [desecration]? — Seeing that it is irrelevant in connection with wilful transgression, for it is written, whosoever doeth any work therein shall be put to death,[5] apply it to an unwitting offender;[6] then what is meant by, shall be put to death? He shall be amerced[7] in money.[8]

But let the division of labours be deduced whence R. Nathan derives it? For it was taught, R. Nathan said: Ye shall kindle ‘no fire throughout your habitations on the Sabbath day:[9] why is this stated?[10] Because it is said, And Moses assembled all the congregation of the children of Israel, and said unto them, These are the words which the Lord hath commanded . . . Six days shall work be done:[11] ‘words’ [debarim], ‘the words’ [ha-debarim], ‘these [eleh] are the words’: this indicates the thirty-nine labours taught to Moses at Sinai.[12] I might think that if one performs all of them in a single state of unawareness,[13] he incurs only one [sin-offering]: therefore it is stated, from ploughing and from harvesting thou shalt rest.[14] Yet I might still argue, For ploughing and for harvesting one incurs two sacrifices, but for all others [together] there is but a single liability: therefore it is stated, ‘Ye shall kindle no fire’ — Now kindling is included in the general law: why is it singled out? That analogy therewith may be drawn, teaching: just as kindling is a principal labour and it entails a separate liability,[15] so for every principal labour a separate liability is incurred.[16] — Samuel holds as R. Jose, who maintained: Kindling is singled out to teach that it is [merely the object of] a negative precept.[17] For it was taught: Kindling is singled out to teach that it is [merely the object of] a negative precept: this is R. Jose's view. R. Nathan said: It is particularly specified to indicate division.[18]

Now, let division of labours be derived, whence it is learnt by R. Jose? For it was taught: R. Jose said: [If a soul shall sin through ignorance against any one of the commandments of the Lord, concerning things which ought not to be done,] and shall do of one of them:[19] sometimes one sacrifice is incurred for all of them, whilst at others one is liable for each separately. Said R. Jose son of R. Hanina, What is R. Jose's reason?[20] [Of one of them teaches that liability is incurred for] one [complete act]; [for one which is but part] of one; for performing labours forbidden in themselves [i.e. ‘them’], and [for labours whose prohibition is derived] from others [i.e., ‘of them’]; [further,] ‘one transgression may involve liability for a number of sacrifices [i.e., ‘one’=’them’,] while many offences may involve but one sacrifice [i.e., ‘them’=’one’],[21] [Thus:] one [complete act]: [the writing of] Simeon; [one which is but part] of one, —

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(1) If the matter is determined by what one would refrain from, the Sabbath and its forbidden labours are tantamount to the same thing, and there would be one law for both forms of ignorance.

(2) V. notes on the Mishnah 67b.

(3) That a sacrifice is incurred for every separate labour, though they are all performed in one state of unawareness.

(4) Ex. XXXI, 14. ‘Surely’ is expressed in Hebrew by the doubling of the verb, which according to Talmudic exegesis signifies extension.

(5) Ex. XXXV, 2. Here the verb is not doubled.

(6) This is one of the methods of Talmudic exegesis: a text or its deduction which is irrelevant or incorrect in reference to its own case is applied to another case.

(7) Lit., 'put to death'.

(8) I.e., a sacrifice. Hence the verse teaches that many sacrifices may be incurred for the desecration of one Sabbath.

(9) Ex. XXXV, 3.

(10) It is apparently superfluous, being included in the general prohibition of labour.

(11) Ibid. 1f.

(12) 'Words' implies at least two; 'the' (Heb. ה) is regarded as an extension, whereby two is extended to three; 'these' (Heb. אלה) is given its numerical value, which is thirty-six, thus totalling thirty-nine in all. (Hebrew letters are also numbers.) — The existence of a large body of oral law, stated verbally to Moses or generally known, was assumed. V. Weiss, Dor, I, and supra p. 123, n. 7.

(13) Without being informed in between that some of these labours are forbidden, but remaining in ignorance from the first labour to the last.

(14) Ibid. XXXIV, 21. Since these are specified individually, it follows that each entails a separate sacrifice.

(15) Since it is stated separately.

(16) Hence the difficulty, why does Samuel quote different verses to learn this?

(17) Whereas other labours, wilfully performed, are punishable by death or kareth, this is punished by flagellation, like the violation of any negative precept.

(18) As above.

(19) Lev. IV, 2.

(20) How does he deduce this from the verse?

(21) 'Of one of them', Heb. מאחת מהנה is a peculiar construction. Scripture should have written, 'and shall do one' (not of one) 'of them', or, 'and do of them' (one being understood), or, 'and shall do one' (of them being understood). Instead of which a partitive preposition is used before each. Hence each part of the pronoun is to be interpreted separately, teaching that he is liable for the transgression of 'one' precept, and for part of one (i.e., 'of one'); for 'them' (explained as referring to the primary labours); and for the derivatives 'of them' (toledoth — labours forbidden because they partake of the same nature as the fundamentally prohibited labours). Also, each pronoun reacts upon the other, as explained in the text.

Talmud - Mas. Shabbath 70b

[the writing of] Shem as part of Simeon.[1] Labours forbidden in themselves' [i.e., 'them']-the primary labours,' [labours whose prohibition is derived] from others' [i.e., 'of them'] — derivatives; 'one transgression may involve liability for a number of sacrifices [i.e., 'one' = 'them'] — awareness of the Sabbath coupled with unawareness of [the forbidden nature of his] labours.[2] Many offences may involve but one sacrifice [i.e., 'them' = 'one'] — unawareness of the Sabbath coupled with awareness of [the forbidden nature of his] labours.[3] — Samuel does not accept the interpretation that 'one' [transgression] may involve liability for a number of sacrifices, while many offences may involve but one sacrifice.[4]

Raba asked R. Nahman: What if one forgot both?[5] — Said he, Surely he is unaware of the Sabbath; hence he incurs only one [sacrifice].[6] On the contrary, he has forgotten the labours; hence he is liable for each?[7] But said R. Ashi: We see: if he would desist [from these labours] on account of the Sabbath,[8] his unawareness is of the Sabbath, and he incurs only one sacrifice. While if he would desist on account of the labours,[9] his unawareness is [chiefly] of the labours, and he is liable for each. Said Rabina to R. Ashi: Would he then desist on account of the Sabbath save because of the [forbidden nature of his] labours; and would he desist on account of [the forbidden nature of his] labours save because of the Sabbath?[10] Hence there is no difference.[11]

We learnt: The primary labours are forty less one. Now we pondered thereon, Why state the number? And R. Johanan answered: [It is to teach] that if one performs all of them in one state of unawareness he is liable for each separately. Now, it is well if you say that if one is unaware of both he is liable for each separately; then it is correct.[12] But if you maintain that this is [mainly] an unawareness of the Sabbath [and] entails only one sacrifice, then how is this possible?[13] [Presumably] by awareness of the Sabbath and ignorance of the [forbidden] labours. Now, that is well if he[14] agrees with R. Johanan, who ruled: As long as one is unaware of kareth, even if he deliberately offends in respect of the negative command:[15] then it is conceivable where he knows that the Sabbath is the object of a negative injunction. But if he agrees with R. Simeon b. Lakish, who maintained: He must offend unwittingly in respect of both the negative injunction and kareth, then wherein does he know that it is the Sabbath?[16] — He knew of boundaries, this being in accordance with R. Akiba.[17]

Raba said: If one reaped and ground [corn] of the size of a dried fig[18] in unawareness of the Sabbath but awareness in respect of the labours,[19] and then he again reaped and ground [corn] of the size of a dried fig in awareness of the Sabbath but unawareness in respect of the labours,[20] and then he was apprised of the reaping and/or grinding [performed] in unawareness of the Sabbath but awareness of the labours,[21] then he was apprised of the reaping and/or grinding [performed] in awareness of the Sabbath but unawareness in respect of the labours:

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(1) A sin-offering is incurred only when a complete action is performed. The writing of a complete word — Simeon — is given as an example. Now, if one commences the word Simeon, שמעון SHimeon in Hebrew, but writes only the first two letters thereof, viz., SHem שם, he is also liable, though his intention is only partly fulfilled, because SHem is a complete word in itself. This is called one labour which is part of another (i.e., ‘of them’). If, however, the part he writes is not complete in itself, e.g., the first two letters of Reuben, in Hebrew, there is no liability.

(2) Hence though he violates only one injunction, viz. the sacredness of the Sabbath, yet since he is ignorant of each of these acts, he is regarded as having committed a number of separate inadvertent transgressions, for each of which a sacrifice is due.

(3) Since all his actions are the result of being unaware of one single fact, viz., that it is the Sabbath, only one sacrifice is due. — Hence the same difficulty, why does Samuel not learn from these verses? (The notes on this passage follow Rashi's explanation in Sanh. 62a; v. Sonc. ed., pp. 421 ff.)

(4) He does not agree to their implication of the verse, holding that it is all required in respect of primary and derivative labours.

(5) Lit., ‘if there is the forgetfulness of both in his hand’. — I.e., he was unaware that it was the Sabbath and that his acts are forbidden on the Sabbath.

(6) As in n. 2.

(7) As in n. 1 .

(8) I.e. , on being informed that it is the Sabbath.

(9) When informed that these labours are forbidden on the Sabbath.

(10) When he is reminded of one, he naturally understands that the other is meant too, and desists on account of both.

(11) Hence the problem remains in both cases; therefore only one sacrifice is brought, since a sin-offering may not be offered unless one is definitely liable thereto (Rashi as elaborated by Maharsha).

(12) For if he is ignorant of all the forbidden labours of the Sabbath, the Sabbath is exactly the same as any other day to him, and he may be regarded as unaware of both.

(13) That he should be liable for every single labour.

(14) R. Nahman. Rashi reads.: That is well in the view of R. Johanan etc., v. supra 69a.

(15) V. p. 329, n. 3.

(16) Seeing that he does not know of a single forbidden labour: v. n. 1.

(17) V. supra 69a for notes.

(18) That is the minimum for which one is culpable.

(19) So that he is liable to one sacrifice only.

(20) Having been apprised of the Sabbath, whilst he forgot that these are prohibited labours. In this case he is separately culpable on account of each. In the interval between his first labours and his second he did not learn of his offence.

(21) Whereupon he set aside one sacrifice on account of both labours — this being before he learnt of his second series of offences.

Talmud - Mas. Shabbath 71a

then [atonement for] the [first] reaping involves [atonement for] the [second] reaping and [atonement for] the [first] grinding involves [atonement for] the [second] grinding.[1] But if he was [first] apprised of his reaping [performed] in awareness of the Sabbath but unawareness in respect of labours: then [atonement for] this [second] reaping involves [atonement for] the [first] reaping and its accompanying grinding;[2] but the corresponding [second] grinding remains in its place.[3] Abaye maintained: [Atonement for the first] grinding involves atonement for the second grinding too: the designation of grinding is the same.[4]

Now, does then Raba hold the theory of involvement?[5] But it was stated: If one eats two olive-sized pieces of heleb[6] in one state of unawareness,[7] is apprised of one of them, and then eats another olive-sized piece whilst still unaware of the second — Raba said: If he offers a sacrifice for the first, the first and second are expiated,[8] but the third is not. If he brings a sacrifice for the third, the third and second are expiated, but not the first. If he offers a sacrifice for the middle one, all are atoned for.[9] Abaye maintained: Even if he offers a sacrifice for the first, all are expiated! — After hearing from Abaye he adopted it. If so, let grinding too be carried along with grinding?[10] — He accepts the theory of [direct], but not that of indirect involvement.[11] The matter that is clear to Abaye and Raba[12] was a problem to R. Zera: For R. Zera asked R. Assi — others state, R. Jeremiah asked R. Zera: What if one reaped or[13] ground [corn] of the quantity of half a dried fig in unawareness of the Sabbath but awareness in respect of the labours, then he again reaped or ground [corn] of the quantity of half a dried fig in awareness of the Sabbath but unawareness in respect of the labours; can they be combined?[14] — Said he to him: They are distinct in respect of sin-offerings,[15] therefore they do not combine.[16]

Now, wherever [acts] are distinct in respect of sin-offerings, do they not combine? Surely we learnt: If one eats heleb and [then again] heleb in one state of unawareness, he is culpable for only one [sin-offering]. If one eats heleb, blood, nothar, and piggul[17] in one state of unawareness, he is culpable for each separately: in this many kinds [of forbidden food] are more stringent then one kind. — But in the following one kind is more stringent than many kinds: viz., if one eats half the size of an olive and then eats half the size of an olive of the same kind of [commodity],[18] he is culpable; of two different commodities, he is not culpable. Now we questioned this: ‘of the same commodity, he is culpable’: need this be stated?[19] And Resh Lakish said on the authority of Bar Tutani: The reference here is to one e.g., who ate [them] from two tureens,[20] this being according to R. Joshua, who ruled: Tureens divide.[21] You might say that R. Joshua rules [thus] whether it leads to leniency or to stringency: hence we are informed that he did not rule thus leniently, but only stringently.[22] Thus here, though distinct in respect of sin-offerings, yet they combine? — Said he to him: You learn this in reference to the first clause: hence it presents a difficulty to you.[23] But we learn it in reference to the second clause, and it presents no difficulty to us. [Thus:] ‘Of two kinds of [commodities], he is not culpable’: need this be said? And Resh Lakish answered on the authority of Bar Tutani: After all, it means of the same kind of [commodity]. Yet why is it designated two kinds of [commodities]? Because he ate them out of two tureens, this agreeing with R. Joshua, who maintained: Tureens divide, and we are informed this: that R. Joshua ruled [thus] both leniently and stringently. Now, since the second clause refers to one kind of [commodity] and two tureens,

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(1) In respect to expiation. The sacrifice for his first two acts of reaping and grinding is an atonement for his second two acts, since all were performed in one state of unawareness, without any appraisement in the interval, notwithstanding that his first unawareness differed in kind from his second unawareness.

(2) When he makes atonement for his second reaping he automatically makes atonement for the first too, and since his first reaping and grinding only necessitate one sacrifice, his first grinding too is atoned for thereby.

(3) Unatoned for, until another sacrifice is brought.

(4) I.e., all acts of grinding made in one state of unawareness are covered by this sacrifice, though it is not primarily offered on account of grinding at all.

(5) That atonement for one involves atonement for the other, as above.

(6) This is the minimum quantity of forbidden food the eating of which entails a sacrifice.

(7) Not being apprised in between that he had eaten heleb.

(8) Since they were eaten in one state of unawareness.

(9) Since both the first and the third were eaten in the state of unawareness of the second. — The first two rulings show that he rejects the theory of involvement.

(10) As Abaye rules above.

(11) Lit., 'involvement of involvement'. Thus the first act of grinding is atoned for only because it is involved in the atonement for reaping; hence this in turn cannot involve the second act of grinding.

(12) Viz., that awareness of the Sabbath and ignorance of the forbidden nature of one's labours followed by the reverse constitute a single state of unawareness, though the first differs in kind from the second, and the two states or periods are not separate in respect to sacrifice, but sacrifice for one makes atonement for the other.

(13) The context shows that the waw is disjunctive here, and it is thus translated by Rashi.

(14) Viz., the two reapings or the two acts of grinding. Is it all regarded as a single state of unawareness, so that they do combine, or as two states of unawareness, since they differ in kind and they do not combine? Thus he was doubtful of what was clear to Abaye and Raba.

(15) Had each reaping been sufficient to entail a sin-offering, a sacrifice for one would not make atonement for the other. He thus differs from Abaye and Raba.

(16) Hence there is no liability.

(17) V. Glos.

(18) The overall time being less than is required for the eating of half an average meal. It is then regarded as one act of eating.

(19) It is obvious.

(20) I.e., the two pieces of heleb were differently prepared.

(21) If one eats two pieces, each the size of an olive, out of different tureens, in one state of unawareness, they are treated as two separate acts, and he must make atonement on account of each.

(22) Therefore the two half-olive sized pieces combine, though they are of two tureens.

(23) Since it must be explained as treating of two tureen.

Talmud - Mas. Shabbath 71b

it follows that the first clause treats of one kind of [commodity] and one tureen. But if it is one kind of [commodity] and one tureen, need it be stated?[1] — Said R. Huna: The circumstances here dealt with are e.g., that he was aware in between,[2] this agreeing with Rabban[3] Gamaliel, who maintained: Knowledge of half the standard quantity is of no consequence.[4]

It was stated: If one eats two olive-sized pieces of heleb in one state of unawareness, is apprised of the first and subsequently of the second, — R. Johanan maintains: He is liable to two [sin-offerings]; while Resh Lakish rules: He is liable to one only. R. Johanan maintains: He is liable [for the second], [deducing] for his sin . . . he shall bring [a sacrifice].[5] While Resh Lakish rules, He is not liable [for the second], [interpreting,] of his sin . . . and he shall be forgiven.[6] But according to Resh Lakish too, surely it is written, 'for his sin . . . he shall bring?' — That holds good after atonement.[7] But according to R. Johanan too, surely it is written, 'of his sin . . . and he shall be forgiven'? — That refers to one e.g., who ate an olive and a half [of heleb],[8] was apprised concerning the size of an olive,[9] and then ate again as much as half an olive in the unawareness of the second [half].[10] Now you might say, let these combine; therefore it[11] informs us [otherwise].[12]

Rabina asked R. Ashi: Do they disagree where it [the eating of the second piece] became known to him before setting apart [a sacrifice] for the first, and they differ in this: one Master holds, Appraisements divide,[13] whilst the other Master holds, [Only] separations [of sacrifices] divide;[14] but if [he learnt of the second piece] after setting apart [a sacrifice for the first], Resh Lakish concedes to R. Johanan that he is liable to two. Or perhaps they disagree where it became known to him after the act of setting apart, and they differ in this: One Master holds, Separations [of sacrifices] divide, while the other Master holds, [Only] acts of atonement divide;[15] but if [he learnt of the second piece] before setting apart [a sacrifice for the first], R. Johanan concedes to Resh Lakish that he is liable only to one [sacrifice]. Or perhaps they differ in both cases? — Said he to him: It is logical that they differ in both cases. For should you think that they differ before the setting apart of a sacrifice, whereas after ‘setting apart’ Resh Lakish concedes to R. Johanan that he is liable to two sacrifices, — then instead of interpreting the verse as referring to after atonement, let him interpret it as referring to after ‘setting apart’.[16] Whilst if they differ after ‘setting apart’, whereas before separation R. Johanan agrees with Resh Lakish that he is liable only to one [sacrifice]; — instead of interpreting the verse as referring to [one who ate] as much as an olive and a half, let him relate it to [apprisement of the second] before ‘setting apart’? But perhaps that itself is in doubt, and it is hypothetically stated.[17] [Thus:] if you assume that they differ before ‘setting apart’, how can R. Johanan interpret the verse? As referring to [one who ate] the quantity of an olive and a half. And if you assume that they differ after separation, how can Resh Lakish interpret the verse? As referring to after atonement.

‘Ulla said: On the view that a certain guilt-offering does not require previous knowledge:[18]

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(1) Surely his culpability is obvious!

(2) That he had eaten heleb.

(3) A higher title than ‘Rabbi’.

(4) I.e., it does not separate two acts of eating, when in each case only half the standard quantity to create liability is consumed.

(5) Lev. IV, 28, q.v. I.e., for each sin a separate sacrifice is required.

(6) Ibid. 35. ‘Of’ (Heb. מ) is interpreted partitively: i.e., even if he offers a sacrifice for part of his sin only, he is forgiven for the whole.

(7) If he offends a second time after having atoned for the first, he must make atonement again.

(8) At once, though the heleb was not in one piece.

(9) That that amount of the fat was heleb.

(10) Which was eaten the first time.

(11) The verse quoted by Resh Lakish.

(12) As in n. 2.

(13) I.e. , the knowledge first obtained concerning one piece separates this piece from the second, and necessitates a sacrifice for each.

(14) And since a sacrifice was not set apart — i.e., separated — until he learnt of the second piece, it atones for both.

(15) V. n. 3.

(16) Even before it was actually sacrificed.

(17) Lit., ‘and he says, "should you say".’

(18) There are two classes of guilt-offerings (Heb. asham, pl. ashamoth): (i) A guilt-offering of doubt. This is due when one is doubtful if he has committed a sin which, when certainly committed, entails a sin-offering. (ii) A certain guilt-offering. This is due for the undoubted commission of certain offences, viz., (a) robbery (after restoration is made, v. Lev. V, 25); (b) misappropriation of sacred property to secular uses (Lev. V, 16); (c) coition with a bondmaid betrothed to another (Lev. XIX, 21); (d) a nazirite's interrupting of the days of his purity by permitting himself to be ritually defiled (Num. VI, 12); and (e) a leper's guilt-offering (Lev. XIV, 12). Now with respect to b, the Rabbis hold that no guilt-offering is incurred for doubtful misappropriation, whilst R. Akiba and R. Tarfon hold that one can bring a guilt-offering conditionally, stating: ‘If I learn at some future date that I was definitely guilty, let this be accounted now as a certain guilt-offering. But if I am destined to remain in doubt, let this be a guilt-offering of doubt’. Thus on the first hypothesis a certain guilt-offering is brought, though at the time one has no knowledge whether he has actually sinned.

— This follows Tosaf. Rashi holds that R. Akiba and R. Tarfon differ in this very question.

Talmud - Mas. Shabbath 72a

if one cohabits five times with a betrothed bondmaid,[1] he is liable to one [guilt-offering] only.[2] R. Hamnuna objected: If so, if one cohabits, sets aside a sacrifice, and states, ‘Wait for me until I cohabit again,’[3] is he then liable to only one?[4] — Said he to him, You speak of an act after separation [of the sacrifice]: in such a case I did not state [my ruling].[5]

When R. Dimi came,[6] he said: On the view that a certain guilt-offering requires previous knowledge: If one cohabits five times with a betrothed maiden, he is liable for each [act]. Said Abaye to him, But in the case of a sin-offering [definite] knowledge is required beforehand,[7] yet R. Johanan and Resh Lakish differ [therein]?[8] He remained silent. Said he to him, Perhaps you refer to an act after separation [of the sacrifice], and as R. Hamnuna?[9] Even so, he replied.

When Rabin came,[6] he said: All agree about a betrothed bondmaid [in one respect], and ali agree about a betrothed bondmaid [in another respect], and there is disagreement about a betrothed bondmaid [in a third respect].[10] [Thus:] All agree in the case of [coition with] a betrothed bondmaid, that one is liable only to one [sacrifice], as Ulla. All agree in the case of [coition with] a betrothed bondmaid, that one is liable for each, as R. Hamnuna. And there is disagreement about a betrothed bondmaid: on the view that a certain guilt-offering requires previous knowledge, there is disagreement between R. Johanan and Resh Lakish.[11] It was stated:

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(1) Unwittingly. Between each act of coition he learnt of his previous offence.

(2) Since knowledge of guilt is not required, the knowledge that he does possess is insufficient to separate his actions and necessitate a sacrifice for each. But on the view that previous knowledge is essential for a guilt-offering, this matter will be disputed by R. Johanan and Resh Lakish, as on 71b. — Though we do not find a doubtful guilt-offering for doubtful coition, and so it would appear that here at least knowledge is essential, for otherwise how does he know that he sinned at all, a sacrifice is nevertheless conceivable without previous knowledge. Thus: when in doubt one might bring a conditional sacrifice and stipulate: ‘If I have sinned, let this be a certain guilt-offering; if not, let this be a peace-offering’ (Tosaf.).

(3) So that this sacrifice may atone for both. — Even conscious coition with a betrothed bondmaid necessitates a sacrifice, though in all other cases only an unwitting offence entails an offering.

(4) Surely not!

(5) For this certainly divides the offences, and a sacrifice is required for each.

(6) V. p. 12, n. 9.

(7) That an offence was committed. If one brings a sin-offering before he knows that he has sinned, and then learns that he has sinned, the sacrifice is invalid for atonement.

(8) And the same principle applies here. How then can you make a general statement?

(9) Whereas R. Johanan and Resh Lakish differ where all his actions were committed before the separation of an animal for a sacrifice.

(10) ‘All’ and ‘there is disagreement’ refer to the views of R. Johanan and Resh Lakish.

(11) V. p. 343. n. 5.

Talmud - Mas. Shabbath 72b

If one intended to lift up something detached, but cut off something attached [to the soil],[1] he is not culpable. [If he intended] to cut something detached, but cut something attached [instead],[2] Raba ruled: He is not culpable; Abaye maintained: He is culpable.[3] Raba ruled, He is not culpable, since he had no intention of a prohibited cutting.[4] Abaye maintained: He is culpable, since he had the intention of cutting in general.[5]

Raba said, How do I know it? Because it was taught: [In one respect] the Sabbath is more stringent than other precepts; [in another respect] other precepts are more stringent than the Sabbath. The Sabbath is more stringent than other precepts in that if one performs two [labours] in one state of unawareness, he is culpable on account of each separately; this is not so in the case of other precepts. Other precepts are more stringent than the Sabbath, for in their case if an injunction is unwittingly and unintentionally violated, atonement must be made: this is not so with respect to the Sabbath.

The Master said: ‘The Sabbath is more stringent than other precepts in that if one performs two [labours] in one state of unawareness, he is culpable on account of each separately: this is not so in the case of other precepts.’ How is this meant? Shall we say, that he performed reaping and grinding? Then an analogous violation of other precepts would be the partaking of heleb and blood — then in both cases two [penalties] are incurred! But how is it possible in the case of other precepts that only one liability is incurred? If one ate heleb twice;[6] then by analogy, with respect to the Sabbath [it means] that he performed reaping twice — then in each case only one liability is incurred? — After all, it means that he performed reaping and grinding, and what is meant by ‘this is not so in the case of other precepts’? This refers to idolatry, and is in accordance with R. Ammi, who said: If one sacrificed, burnt incense, and made libations [to an idol] in one state of unawareness, he is only liable to one [sacrifice].[7] How have you explained it: as referring to idolatry? Then consider the second clause: Other precepts are more stringent [than the Sabbath], for in their case if an injunction is unwittingly and unintentionally violated, atonement must be made: this is not so with respect to the Sabbath. Now, how is an unwitting and unintentional transgression of idolatry possible? Shall we say that one thought it [sc. an idolatrous shrine] to be a synagogue and bowed down to it — then his heart was to Heaven! But if he saw a royal statue and bowed down to it — what are the circumstances? If he accepted it as a god, he is a wilful sinner; while if he did not accept it as a god, he has not committed idolatry at all![8] Hence it must mean [that he worshipped it idolatrously] through love or fear:[9] now this agrees with Abaye's view that a penalty is incurred;[10] but on Raba's view that there is no culpability, what can you say? Rather it must refer to one who thinks that it [sc. idolatry] is permitted.[11] Then ‘this is not so in the case of the Sabbath’ means that there is no liability at all! Yet when Raba questioned R. Nahman,[12] it was only whether one is liable to one [sacrifice] or to two, but certainly not to exempt him completely!

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(1) The latter is a forbidden act on the Sabbath. Rashi: e.g., if a knife fell down amidst growing corn, and whilst intending to lift it up one cut the corn.

(2) R. Tam: e.g., he thought it was a detached bundle of corn, but after cutting it he discovered that it had been attached.

(3) Throughout the Talmud Abaye's view is always quoted before Raba's. Hence it is suggested that either the order should be reversed here, or Rabbah (Abaye's teacher) should be read instead of Raba, v. Marginal Gloss.

(4) Whereas in order to be culpable he must have intended to do what he did, save that his offence was unintentional either because he did not know that it was the Sabbath or that that action is forbidden on the Sabbath.

(5) Whereas to avoid culpability he must have had no intention of cutting at all.

(6) In one state of unawareness, not being reminded in between that heleb is forbidden.

(7) Though he performed a number of services.

(8) Lit. , ‘it is nothing’.

(9) And this is called unwitting and unintentional, for it was unwitting in so far as he thought this permissible.

(10) V. Sanh. 61b.

(11) E.g., if he was brought up among heathens. Since he has never known of any prohibition, it is regarded not only as unwitting but as unintentional too.

(12) About such a case. v. supra 70b. Where one forgets both the Sabbath and the forbidden labours it is tantamount to ignorance of the Sabbath altogether, and is thus analogous to the belief that idolatry is permitted.

Talmud - Mas. Shabbath 73a

Surely then the first clause [dealing with the greater severity of the Sabbath] refers to idolatry, whilst the second treats of other precepts; and how is unwitting and unintentional transgression possible? When one thought that it [heleb] was permitted fat, and ate it.[1] [While] 'this is not so with respect to the Sabbath,' viz., that he is not culpable, for if [by analogy] one intended cutting something detached but cut something attached [instead], he is not culpable.[2] But Abaye [maintains:] how is an unwitting and unintentional offence meant? When one thinks that it [heleb] is spittle and swallows it.[3] [While] 'which is not so in the case of the Sabbath,' where he is exempt, for if [by analogy] one intends lifting something detached but cuts something attached [to the soil], he is not culpable. But if he intends to cut something detached and cuts something attached, he is liable.

It was stated: If one intends to throw [an object] two [cubits], but throws it four,[4] Raba said: He is not culpable; Abaye ruled: He is culpable.[5] Raba said: He is not culpable, since he had no intention of a four [cubits'] throw. Abaye ruled, He is culpable, since he intended throwing in general. If he thinks it private ground but it is learnt to be public ground, Raba ruled: He is not culpable; Abaye said: He is culpable. Raba ruled, He is not culpable, since he had no intention of a forbidden throw. While Abaye ruled that he is culpable, since he intended throwing in general.

Now, it is necessary.[6] For if we were informed of the first, [it might be argued] there [only] does Raba rule thus, since he did not intend [to perform] a forbidden eating, but if he intended throwing [an object] two [cubits] but throws it four, since four cannot be thrown without two,[7] I would say that he agrees with Abaye. And if we were informed of this, [it might be argued] here [only] does Raba rule thus, since he did not intend a four [cubits'] throw; but if he thought it private ground but it was discovered to be public ground, seeing that he intended a four [cubits'] throw, I would say that he agrees with Abaye. Thus they are [all] necessary.

We learnt: The primary labours are forty less one. Now we questioned this, Why state the number? And R. Johanan answered: [To teach] that if one performs all of them in one state of unawareness, he is liable [to a sacrifice] on account of each separately. Now, as for Abaye who ruled that in such a case one is liable, this is well: for this is conceivable where one knows the interdict of the Sabbath and the interdicts of labours, but errs in respect of the standards.[8] But according to Raba who maintained that one is not culpable [for this], how is this conceivable? [Presumably] [only] where he was conscious of the Sabbath but unaware of [the forbidden character of his] labors. Now that is well if he agrees with R. Johanan who ruled, Since he was ignorant of kareth, even if he was conscious of the negative injunction, [he is liable]:[9] then it is possible where he knew [that his labors are prohibited on] Sabbath by a negative injunction. But if he holds with R. Simeon b. Lakish, who maintained, He must offend unwittingly in respect of both the negative injunction and kareth, then wherein did he know of the Sabbath?[10] — He knew it by the law of boundaries, this being in accordance with R. Akiba.[11]

MISHNAH. THE PRIMARY LABOURS ARE FORTY LESS ONE, [VIZ.:] SOWING,[12] PLOUGHING, REAPING, BINDING SHEAVES, THRESHING, WINNOWING, SELECTING,[13] GRINDING, SIFTING, KNEADING, BAKING, SHEARING WOOL, BLEACHING, HACKLING, DYEING, SPINNING, STRETCHING THE THREADS,[14] THE MAKING OF TWO MESHES, WEAVING TWO THREADS, DIVIDING TWO THREADS,[15] TYING [KNOTTING] AND UNTYING, SEWING TWO STITCHES, TEARING IN ORDER TO SEW TWO STITCHES,[16] CAPTURING A DEER, SLAUGHTERING, OR FLAYING, OR SALTING IT,[17] CURING ITS HIDE, SCRAPING IT [OF ITS HAIR], CUTTING IT UP, WRITING TWO LETTERS, ERASING IN ORDER TO WRITE TWO LETTERS [OVER THE ERASURE], BUILDING, PULLING DOWN, EXTINGUISHING, KINDLING, STRIKING WITH A HAMMER,[18] [AND] CARRYING OUT FROM ONE DOMAIN TO ANOTHER: THESE ARE THE FORTY PRIMARY LABOURS LESS ONE.

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(1) Thus it was unwitting, because he thought it permitted fat, and unintentional, since he had no intention of eating heleb. On the present hypothesis it is regarded as unwitting but intentional only when he knows that it is heleb and eats it as such, thinking, however, that heleb is permitted.

(2) Thus on this interpretation the Baraitha supports Raba.

(3) It is unwitting, because he thinks it spittle, and unintentional, because he has no intention of eating at all, swallowing not being eating. But the case posited by Raba is not unintentional in Abaye's view, since he did intend to eat.

(4) Four cubits in the street is the minimum distance for culpability.

(5) On Raba and Abaye v. supra 72b, p. 345. n. 3.

(6) For the three controversies — i.e., these two and that on 72b top — to be stated, though apparently two are superfluous, since the same principle underlies all.

(7) I.e. , in throwing it four cubits he did fulfil his intention.

(8) In each case he intended performing less than the standard for which liability is incurred, but actually performed the full standard.

(9) V. p. 329, n. 2.

(10) V. p. 330, n. 3.

(11) V. p. 330, nn. 5-6.

(12) Lit., ‘he who sows’, and similarly with the others that follow.

(13) By hand, the unfit food from the fit.

(14) On the loom.

(15) I.e., dividing the ends of the web.

(16) Where it is inconvenient to sew unless one tears the cloth first, that tearing is a primary labour.

(17) Sc. its skin.

(18) I.e., giving the finishing blow with the hammer.

Talmud - Mas. Shabbath 73b

GEMARA. Why state the number? — Said R. Johanan: [To teach] that if one performs them all in one state of unawareness, he is liable on account of each separately.

SOWING AND PLOUGHING. Let us see: ploughing is done first, then let him [the Tanna] state PLOUGHING first and then SOWING? — The Tanna treats of[1] Palestine, where they first sow and then plough.[2]

A Tanna taught: Sowing, pruning, planting, bending,[3] and grafting are all one labour. What does this inform us? — This: that if one performs many labours of the same nature, he is liable only to one [sacrifice]. R. Abba[4] said in the name of R. Hiyya b. Ashi in R. Ammi's name: He who prunes is culpable on account of planting, while he who plants, bends [the vine], or grafts is culpable on account of sowing. On account of sowing only but not on account of planting?[5] — Say: on account of planting too.[6]

R. Kahana said: If one prunes and needs the wood [too], he is liable to two [penalties],[7] one on account of reaping[8] and one on account of planting.[9] R. Joseph said: He who cuts hay is liable to two [penalties], one on account of reaping and the other on account of planting.[10] Abaye said: He who trims beets [in the ground] is liable to two [penalties], one on account of reaping[11] and one on account of planting.[12]

PLOUGHING. A Tanna taught: Ploughing, digging, and trenching are a]l one [form of] work.[13] R. Shesheth said: If one has a mound [of earth] and removes it, in the house, he is liable on the score of building;[14] if in the field, he is liable on the score of ploughing. Raba said: If one has a depression and fills it up: if in the house, he is liable on account of building; if in the field, he is liable on account of ploughing.[15]

R. Abba said: If one digs a pit on the Sabbath, needing only the earth thereof,[16] he is not culpable on its account. And even according to R. Judah, who ruled: One is liable on account of a labour which is not required on its own account:[17] that is only when he effects an improvement, but this man causes damage.[18]

REAPING: A Tanna taught: Reaping, vintaging, gathering [dates], collecting [olives], and gathering [figs] are all one [form of] labour. R. Papa said: He who throws a clod of earth at a palm tree and dislodges dates is liable to two [penalties], one on account of detaching[19] and one on account of stripping.[20] R. Ashi said: This is not the mode of detaching, nor is it the mode of stripping.[21]

BINDING SHEAVES. Raba[22] said: He who collects salt out of a salina[23] is liable on the score of binding sheaves.[24] Abaye said: Binding sheaves applies only to products of the soil.

THRESHING. It was taught: Threshing, beating [flax in their stalks], and beating [cotton] are all the same form of work.

WINNOWING, SELECTING, GRINDING AND SIFTING. But winnowing, selecting, and sifting are identical?[25] — Abaye and Raba both said: Whatever was performed in [connection with the erection of] the Tabernacle,

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(1) Lit., ‘stands in’ — all the Tannaim, of course, were Palestinians.
(2) Involving only one liability if performed at the same time.
(3) Bending a vine for drawing it into the ground and making it grow as an independent plant (Jast.).
(4) So text as amended.
(5) Surely bending and grafting are forms of planting? — Planting and sowing are identical, the former applying to trees and the latter to cereals.
(6) Hence if he grafts and sows, he is only liable to one penalty.
(7) I.e., sin-offering, if done unwittingly.
(8) Cutting wood from a tree for its use is a derivative of reaping.
(9) Pruning is done to enable what is left to grow more freely, and thus it is a derivative of planting.
(10) The hay is cut so that new grass can grow, and thus it is a derivative of planting (i.e., sowing) too.
(11) Because the beets he cuts constitute a harvest.
(12) As in n. 5.
(13) Involving only one liability if performed at the same time.
(14) For he thereby levels the floor, which is part of building.
(15) For he thereby prepares the ground for sowing.
(16) But not the pit itself.
(17) V. supra 12a, 31b.
(18) He spoils the ground by the pit.
(19) That which is attached to the soil, the clod being taken up from the soil.
(20) Rashi: the tree of a burden, sc. the dates. Ri: the dates of their outer skin. In both cases this is a derivative of threshing, which separates the grain from the chaff.
(21) Hence he is not liable on either score.
(22) Maim. and Asheri read: Rabbah.
(23) A salt deposit, formed by causing sea water to flow into a trench; the water evaporates through the heat of the sun, leaving the salt. Raba refers to this action of directing the water into the trench.
(24) It partakes of the same nature, and ranks as a derivative thereof.
(25) All consist of separating fit from unfit food.

Talmud - Mas. Shabbath 74a

even if there are [labours] similar thereto, is counted [separately].[1] Then let him also enumerate pounding [wheat]?[2] — Said Abaye: Because a poor man eats his bread without pounding.[3] Raba said: This agrees with Rabbi, who said: The primary labours are forty less one; but if pounding were enumerated, there would be forty.[4] Then let one of these be omitted and pounding be inserted? Hence it is clear [that it must be explained] as Abaye [does].

Our Rabbis taught: If various kinds of food lie before one, he may select and eat, select and put aside; but he must not select, and if he does, he incurs a sin-offering. What does this mean? — Said ‘Ulla, This is its meaning: He may select to eat on the same day, and he may select and put aside for the same day; but he must not select for [use on] the morrow, and if he does, he incurs a sin-offering. R. Hisda demurred: Is it then permitted to bake for [use on] the same day, or is it permitted to cook for the same day?[5] Rather said R. Hisda: He may select and eat less than the standard quantity, and he may select and put aside less than the standard quantity;[6] but he must not select as much as the standard quantity, and if he does, he incurs a sin-offering. R. Joseph demurred : Is it then permitted to bake less than the standard quantity?[7] Rather said R. Joseph: He may select by hand and eat, or select by hand and put aside; but he may not select with a reed-basket or a dish; and if he does, he is not culpable, nevertheless it is forbidden.[8] He may not select with a sieve or a basket-sieve, and if he does he incurs a sin-offering.[9] R. Hamnuna demurred: Are then a reed-basket and a dish mentioned? — Rather said R. Hamnuna: He may select and eat, [taking the] eatable from the non-eatable, and he may select and put aside, [taking] the eatable from the non-eatable. But he must not select the non-eatable out of the eatable, and if he does, he incurs a sin-offering.[10] Abaye demurred : Is it then taught, ‘the eatable from the non-eatable’? Rather said Abaye: He may select and eat immediately, and he may select and put aside for immediate use;[11] but he may not select for [later consumption on] the same day, and if he does, it is regarded as though he were selecting for [making] a store, and he incurs a sin-offering.[12] The Rabbis reported this to Raba. Said he to them, Nahmani[13] has said well.

If two kinds of food lie before a person, and he selects and eats or selects and puts aside,[14] — R. Ashi learnt: He is not culpable: R. Jeremiah of Difti[15] learnt: He is culpable, ‘R. Ashi learnt: He is not culpable’! but it was taught:[16] ‘He is culpable’? — There is no difficulty: the one treats of a reed-basket and a plate;[17] the other refers to a sieve and a basket-sieve.

When R. Dimi came,[18] he related: It was R. Bibi's Sabbath,[19] and R. Ammi and R. Assi chanced to be there. He cast a basket of fruit before them,[20] and I do not know whether it was because he held that it is forbidden to pick out the eatable from the noneatable, or whether he wished to be generous.[21]

Hezekiah said: One who picks lupines [after boiling] out of their husks[22] is culpable. Shall we say that Hezekiah holds that it is forbidden to select the eatable from the non-eatable? [No.] Lupines are different,

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(1) What constitutes primary labours is learnt from the Tabernacle (v. 49b). All these labours were needed for the Tabernacle in the wilderness; hence they are counted separately.

(2) In a mortar, to remove the husk. Drugs were pounded in connection with the Tabernacle for dyes.

(3) Hence it is omitted, for the Tanna evidently follows the general order of making bread, and bread for the poor is prepared with the husk of the wheat. But it is certainly a primary labour forbidden on the Sabbath.

(4) Rabbi deduces even the number of labours from Scripture (v. infra 97b).

(5) Surely not! And since you say that selecting for use on the next day entails a sin-offering, it is a forbidden labour in the full sense of the term, and hence prohibited even if required for the same day.

(6) For which a penalty is incurred, viz., as much as a dried fig.

(7) Granted that there is no penalty, it is nevertheless forbidden, and the same applies here.

(8) There is no liability, because this is not the proper mode of selecting; nevertheless it is forbidden, because it is somewhat similar to selecting by means of a sieve.

(9) Because this is the usual mode of sifting, and it is therefore a primary labour, as stated in the Mishnah. For a description of the nafah v. Aboth, Sonc. ed., p. 69, n. 10.
(10) The former is not the ordinary mode of sifting, while the latter is.
(11) I.e., immediately he finishes putting aside he will consume what is eatable.
(12) But the former does not constitute sifting and is entirely permissible.
(13) A familiar name of Abaye, because he was brought up in the house of Rabbah b. Nahmani. V. however, Git., Sonc. ed., p. 140, n. 6.
(14) For another to eat. The two kinds were mixed up, and he selected the kind he desired.
(15) v. p. 35, n. 5.
(16) Supra.
(17) When the selecting is done by these, he is not culpable.
(18) V. p. 12, n. 9.
(19) It was his turn that Sabbath to wait on the scholars.
(20) שדא denotes to put down with some violence. He did this instead of first separating the leaves from the fruit, as they would fall away automatically through the force of his setting it down.
(21) Hence placed a large quantity before them.
(22) Lit., ‘refuse’.

Talmud - Mas. Shabbath 74b

because they are boiled seven times, and if one does not remove it [the edible portion], it goes rancid, hence it is like [picking] the non-edible out of the edible.[1]

GRINDING. R. Papa said: He who cuts up beets very fine is liable on account of grinding. R. Manasseh said: He who cuts chips [for fuel] is liable on account of grinding. Said R. Ashi: If he is particular about their size, he is liable on account of cutting.[2]

KNEADING AND BAKING. R. Papa said: Our Tanna omits the boiling of ingredients [for dyes],[3] which took place in [connection with] the Tabernacle, and treats of baking![4] — Our Tanna takes the order of [making] bread.[5]

R. Aha son of R. Awira said: He who throws a tent peg into a stove[6] is liable on account of cooking. But that is obvious? — You might say, His intention is to strengthen [harden] the article,[7] therefore we are informed that it [first] softens and then hardens.[8]

Rabbah son of R. Huna said: He who boils pitch is liable on account of cooking. But that is obvious? — You might argue, Since it hardens again, I might say [that he is] not [liable]. Hence he informs us [otherwise].

Raba said: He who makes an [earthenware] barrel is culpable on account of seven sin-offerings.[9] [He who makes] an oven is liable on account of eight sin-offerings.[10] Abaye said: He who makes a wicker work is liable to eleven sin-offerings,[11] and if he sews round the mouth thereof, he is liable to thirteen sin-offerings.[12]

SHEARING WOOL AND BLEACHING. Rabbah b. Bar Hanah said in R. Johanan's name: He who spins wool from off the animal's back on the Sabbath incurs three sin-offerings, one on account of shearing, another on account of hackling, and the third on account of spinning.[13] R. Kahana said: Neither shearing, hackling, nor spinning is [done] in this manner.[14] But is it not so? Surely it was taught in the name of R. Nehemiah: It was washed [direct] on the goats and spun on the goats:[15] which proves that spinning direct from the animal is designated spinning? — Superior skill is different.[16]

Our Rabbis taught: He who plucks the wing [of a bird], trims it [the feather], and plucks it [the down], is liable to three sin offerings. Said R. Simeon b. Lakish: For plucking [the wing] one is liable on account of shearing; for trimming [the feather] he is liable on the score of cutting; and for plucking [the down] he is liable under the head of smoothing.

TYING AND UNTYING. Where was there tying in the Tabernacle?[17] — Said Raba: The tent-pegs were tied. But that was tying with the intention of [subsequent] untying?[18] But said Abaye: The weavers of the curtains, when a thread broke, tied it up. Said Raba to him: You have explained tying; but what can be said about untying? And should you answer that when two knots [in the material] chanced to come together, one untied one and left the other knotted:[19] [it may be asked], seeing that one would not do thus before a king of flesh and blood, how much more so before the Supreme King of kings, the Holy One, blessed be He?[20] Rather said Raba — others state, R. Elai: Those who caught the hillazon[21] tied and untied.[22]

SEWING TWO STITCHES. But it cannot endure?[23] — Said Rabbah b. Bar Hanah in R. Johanan's name: Providing that he knots them.[24]

TEARING IN ORDER TO SEW TWO STITCHES. Was there any tearing in the Tabernacle? — Rabbah and R. Zera both say:

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(1) Which is forbidden.

(2) Sc. Hides to measure; v. Mishnah on erection.

(3) E.g., for the hangings and curtains, v. Rashi 73a, s.v. האופה.

(4) Which has nothing to do with the Tabernacle (Rashi).

(5) I.e., he takes bread as an example and enumerates the various principal labours connected with it.

(6) To dry it.

(7) Whereas cooking softens.

(8) The fire heats the moisture in the wood, which softens it, and it is only after it evaporates that the wood hardens. This prior softening partakes of the nature of cooking.

(9) So MS.M., deleting ‘on account of’ in cur. edd. (i) The clods of earth are first crushed and powdered — this constitutes grinding; (ii) the thicker balls which do not powder well are removed — selecting (iii) it is then sifted; (iv) the powder is mixed with water — kneading; (v) the resultant clay is smoothed when the cast of the vessel is made — smoothing; (vi) the fire is lit in the kiln; and (vii) the vessel is hardened in the kiln — boiling.

(10) The seven foregoing, which are also needed here, and an additional one. For after it is hardened in the kiln, a layer of loam or plaster is daubed on the inside, to enable it to preserve heat. This completes it, and it is stated infra 75b that every special act needed to complete an article falls within the term ‘striking with the hammer’ (v. Mishnah, 73a). But a barrel needs no special labour to complete it.

(11) It entails this number of labours: (i and ii) cutting the reeds is a two-fold labour: (a) reaping, (b) planting, since it leaves more room for the others to grow (v. supra 73b); (iii) collecting them — binding sheaves, (iv) selecting the best; (v) smoothing them; (vi) splitting them lengthwise into thinner rods — grinding; (vii) cutting them — to measure; (viii) stretching the lengthwise rods; (ix) drawing one cane through these, threading it above and below the lengthwise rods — this is the equivalent of ‘the making of two meshes’; (x) plaiting the canes — weaving; and finally (xi) cutting it round after plaiting in order to finish it off, — ‘striking with a hammer’ (v. n. 7).

(12) The additional two are sewing and then tying up (presumably the unattached lengths of the thread or twine used for same).

(13) Spinning direct from the animal embraces these three labours.

(14) Hence he is not liable at all, for one is liable only when he performs a labour in the usual manner.

(15) The reference is to Ex. XXXV, 26, q.v., which R. Nehemiah translates literally, without adding ‘hair’ as in E.V., and so he deduces that it was spun directly from the animal.

(16) Scripture emphasizes there the skill that this demanded (v. 25), which shows that normal spinning is different.

(17) V. p. 224, n. 4.

(18) When they struck camp. Such is not Biblically forbidden and is not the tying referred to in the Mishnah.

(19) The two knots together would spoil the evenness of the fabric.

(20) The untying of a knot in the fabric would leave an ugly gap, particularly as the threads were six-stranded. Hence the utmost care would be taken to prevent the thread from knotting in the first place.

(21) A kind of snail or purple-fish whose blood was used for dyeing the tents of the Tabernacle.

(22) The nets.

(23) Two stitches alone will slip out of the cloth. Thus the work is not permanent and entails no punishment.

(24) After sewing, so that they will remain.

Talmud - Mas. Shabbath 75a

A curtain which was attacked by a moth was torn [round the moth hole] and resewn.

R. Zutra b. Tobiah said in Rab's name: He who pulls the thread of a seam[1] on the Sabbath is liable to a sin-offering; and he who learns a single thing from a Magian[2] is worthy of death;[3] and he who is able to calculate the cycles[4] and planetary courses but does not, one may hold no conversation with him.[5]

As to magianism, Rab and Samuel [differ thereon]: one maintains that it is sorcery; the other, blasphemy. It may be proved that it is Rab who maintains that it is blasphemy. For R. Zutra b. Tobiah said in Rab's name: He who learns a single thing from a magian is worthy of death. Now should you think that it is a sorcerer, surely it is written, thou shalt not learn to do [after the abomination of those nations],[6] [implying], but you may learn in order to understand and instruct! This proves it. R. Simeon b. Pazzi said in the name of R. Joshua b. Levi on the authority of Bar Kappara: He who knows how to calculate the cycles and planetary courses, but does not, of him Scripture saith, but they regard not the work of the Lord, neither have they considered the operation of his hands.[7] R. Samuel b. Nahmani said in R. Johanan's name: How do we know that it is one's duty to calculate the cycles and planetary courses? Because it is written, for this is your wisdom and understanding in the sight of the peoples:[8] what wisdom and understanding is in the sight of the peoples?[9] Say, that it is the science of cycles and planets.

CAPTURING A DEER, etc. Our Rabbis taught: He who captures a purple-fish[10] and crushes it is liable to one [sin-offering];[11] R. Judah said: He is liable to two, for R. Judah maintained: Crushing comes under the head of threshing. Said they to him: Crushing does not come under the head of threshing. Raba observed: What is the Rabbis' reason? They hold that threshing is applicable only to produce from the soil. But let him be culpable too on the score of taking life? — Said R. Johanan: This means that he crushed it when [already] dead.[12] Raba said: You may even explain that he crushed it whilst alive: in respect to the taking of life he is but incidentally occupied.[13] But Abaye and Raba both maintain: R. Simeon admits in a case of 'cut off his head but let him not die!'[14] Here it is different, because he is more pleased that it should be alive, so that the dye should be clearer.[15]

AND SLAUGHTERING IT. As for him who slaughters, on what score is he culpable? — Rab said: On the score of dyeing;[16] while Samuel said: On the score of taking life.

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(1) If the seam gapes, and he pulls the thread to draw the pieces together. This constitutes sewing.

(2) One of the priestcraft of Ancient Persia.

(3) This is an idiom expressing strong abhorrence, cf. similar expressions in Sanh. 58b and 59a. The Magi were hostile to Jews, and caused them much suffering in various ways; cf. Sanh., Sonc. ed., p. 504, n. 6 and 98a: Yeb. 63b; Git. 17a. This evoked the present remark.

(4) Sc. of the seasons.

(5) The science of astronomy was necessary for the fixing of the calendar, upon which Jewish Festivals depended. In early times this was done by observation, but gradually calculation took its place. Hence Rab's indignation at one who fails to employ such knowledge.

(6) Deut. XVIII,9.
(7) Isa. V, 12.
(8) Deut. IV, 6.
(9) I.e., which testifies to itself.
(10) Hillazon, v. p. 356, n. 2
(11) Crushing not being a culpable offence.
(12) In order to make the blood exude.
(13) I.e., the taking of life is not his main purpose, but merely follows incidentally; such does not entail culpability.
(14) R. Simeon holds that a labour performed unintentionally in the course of doing something that is permitted is itself permitted, unless it follows inevitably from the latter, when it is the same as any other forbidden labour. Here too it must inevitably die when crushed.
(15) Hence its death is more than unintentional, but actually contrary to his desire.
(16) The blood that gushes forth from its cut throat stains and dyes the flesh.

Talmud - Mas. Shabbath 75b

On the score of dyeing but not on the score of taking life![1] Say, on the score of dyeing too. Rab said: As to this dictum of mine, I will make an observation thereon so that later generations should not come and deride me. Wherein is one pleased with the dyeing? One is pleased that the throat should be stained with blood, so that people may see it[2] and come and buy from him.

SALTING AND CURING IT. But salting and tanning are identical?[3] — R. Johanan and Resh Lakish both said: Omit one of these and insert the tracing of lines.[4] Rabbah son of R. Huna said: He who salts meat is liable on account of tanning [dressing]. Raba said: Curing does not apply to foodstuffs. R. Ashi observed: And even Rabbah son of R. Huna ruled thus only when he requires it for a journey;[5] but [when he needs it] for his house, one does not turn his food into wood.

SCRAPING AND CUTTING IT UP. R. Aha b. Hanina said: He who rubs [smooths skins] between columns[6] on the Sabbath is liable on the score of scraping. R. Hiyya b. Abba said, R. Ammi told me three things in the name of R. Joshua b. Levi: He who planes the tops of beams[7] on the Sabbath is culpable on account of cutting.[8] He who spreads a poultice [evenly over a sore] on the Sabbath is culpable on the grounds of scraping. And he who chisels round a stone on the Sabbath[9] is liable on the score of striking with the hammer.[10] R. Simeon b. Bisna said in the name of R. Simeon b. Lakish: He who describes a figure on a utensil, and he who blows in glassware,[11] is liable on the score of striking with a hammer. Rab Judah said: He who removes threads[12] from garments on the Sabbath is liable on the score of striking with the hammer;[13] but that is only when he objects to them.[14] WRITING TWO LETTERS. Our Rabbis taught: If one writes one large letter in the place of which there is room for writing two, he is not culpable. If he erases one large letter and there is room in its place for writing two, he is culpable. Said R. Menahem son of R. Jose: And this is the greater stringency of erasing over writing.

BUILDING, PULLING DOWN, EXTINGUISHING, KINDLING, AND STRIKING WITH A HAMMER. Rabbah and R. Zera both say: Whatever comprises the finishing of the work imposes liability on the score of striking with a hammer.[15]

THESE ARE THE PRIMARY LABOURS. THESE is to reject R. Eleazar's view, who imposes liability on account of a derivative labour [when performed concurrently] with a primary labour.[16]

LESS ONE. This is to reject R. Judah's view. For it was taught: R. Judah adds the closing up of the web and the beating of the woof.[17] Said they to him: Closing up of the web is included in stretching the threads, and beating [the woof] is included in weaving.

MISHNAH. THEY ALSO STATED ANOTHER GENERAL PRINCIPLE: WHATEVER IS FIT TO PUT AWAY[18] AND SUCH IS [GENERALLY] PUT AWAY,[19] AND ONE CARRIES IT OUT ON THE SABBATH, HE IS LIABLE TO A SIN-OFFERING ON ITS ACCOUNT. BUT WHATEVER IS NOT FIT TO PUT AWAY AND SUCH IS NOT [GENERALLY] PUT AWAY, AND ONE CARRIES IT OUT ON THE SABBATH, ONLY HE THAT PUT IT AWAY IS LIABLE.[20]

GEMARA. 'WHATEVER IS FIT TO PUT AWAY': What does this exclude? — R. Papa said: It excludes the blood of menstruation. Mar 'Ukba said: It excludes the wood of an Asherah.[21] He who says the blood of menstruation, certainly [excludes] the wood of an Asherah. But he who says the wood of an Asherah; the blood of menstruation, however, is put away for a cat. But the other [argues]: since she would sicken,[22] one would not put it away [for that purpose].

R. Jose b. Hanina said: This does not agree with R. Simeon. For if it were as R. Simeon, surely he maintained: All these standards were stated only in respect of those who put away.[23]

AND THAT WHICH IS NOT FIT TO PUT AWAY.

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(1) Surely not!
(2) That it is freshly killed.
(3) Salting the hide being the first step in the tanning process.
(4) Before cutting.
(5) It is then salted very much and is thus akin to tanning.
(6) Tosaf. and Jast. Rashi: he who smooths the ground between the columns.
(7) To make them all of the same level.
(8) To measure.
(9) Giving it its final touches.
(10) V. infra.
(11) Where the blowing shapes it.
(12) I.e., anything sticking out of the web, as thread, knots, splinters, etc., which was accidentally woven into the material.
(13) As this completes their labour.
(14) And would not wear the garments otherwise.
(15) Cf. p. 354 n. 7.
(16) Hence it is possible to incur more than thirty-nine sin-offerings, whereas the number stated is to exclude this possibility.
(17) In order to even it.
(18) For later use.
(19) It is large enough to be put away for later use.
(20) If he carries it out, since by putting it away he showed that he attaches a value to it. But for others it is of no account; hence if they carry it out there is no liability.
(21) A tree, or perhaps a post, devoted to idolatry; V. Deut. XVI, 21. It is forbidden to benefit thereof.
(22) It was thought that if an animal consumed blood drawn from any person, that person would lose strength.
(23) v. infra Mishnah VIII, 1. Thus a wealthy man is not liable for carrying out something which he personally would not put away, though most people would. But according to our Mishnah general practice is the decisive factor for all, and the exceptions are ignored.

Talmud - Mas. Shabbath 76a

R. Eleazar said: This does not agree with R. Simeon b. Eleazar. For it was taught: R. Simeon b. Eleazar stated a general rule: That which is not fit to put away, and such is not [generally] put away, yet it did become fit to a certain person[1] and he did put it away; then another came and carried it out, the latter is rendered liable through the former's intention.

MISHNAH. HE WHO CARRIES OUT A COW'S MOUTHFUL OF STRAW, A CAMEL'S MOUTHFUL OF PEA-STALKS [‘EZAH], A LAMB'S MOUTHFUL OF EARS OF CORN, A GOAT'S MOUTHFUL OF HERBS, MOIST GARLIC OR ONION LEAVES TO THE SIZE OF A DRIED FIG, [OR] A GOAT'S MOUTHFUL OF DRY [LEAVES], [IS CULPABLE].[2] AND THEY DO NOT COMBINE WITH EACH OTHER,[3] BECAUSE THEY ARE NOT ALIKE IN THEIR STANDARDS.

GEMARA. What is ‘EZAH? — Said Rab Judah: The stalks of certain kinds of peas. When R. Dimi came,[4] he stated: If one carries out a cow's mouthful of straw for a camel, — R. Johanan maintained: He is culpable: R. Simeon b. Lakish said: He is not culpable. In the evening R. Johanan ruled thus, [but] in the morning he retracted. R. Joseph observed: He did well to retract, since it is not sufficient[5] for a camel. Said Abaye to him: On the contrary, logic supports his original view, since it is sufficient for a cow.[6] But when Rabin came,[7] he said: If one carries out a cow's mouthful of straw for a camel, all agree that he is culpable. Where do they differ: if one carries out a cow's mouthful of pea-stalks for a cow,[8] and the reverse was stated: R. Johanan maintained: He is not culpable; Resh Lakish maintained: He is culpable. R. Johanan maintained; He is not culpable: eating through pressing need is not designated eating. Resh Lakish maintained, He is culpable: eating through pressing need is designated eating.

A LAMB'S MOUTHFUL OF EARS OF CORN. But it was taught: As much as a dried fig? — Both standards are identical.

MOIST GARLIC OR ONION LEAVES TO THE SIZE OF A DRIED FIG, [OR] A GOAT'S MOUTHFUL OF DRY LEAVES. AND THEY DO NOT COMBINE WITH EACH OTHER, BECAUSE THEY ARE NOT ALIKE IN THEIR STANDARDS. R. Jose b. Hanina said: They do not combine for the more stringent, but they do combine for the more lenient [standard].[9] Yet can anything combine when their standards are not alike?[10] But surely we learnt: A garment[11] three [handbreadths] square, a sack[12] four square, a hide five square, and [reed] matting six square [are susceptible to uncleanness as midras].[13] Now it was taught thereon: A garment, sacking, a hide, and matting combine with each other.[14] And R. Simeon observed: What is the reason? Because they are liable to the uncleanness of sitting.[15] Thus the reason is that they are liable to the uncleanness of sitting;[16] but whatever is not liable to the uncleanness of sitting is not so? — Said Raba:

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(1) He found a use for it.

(2) These are the respective minima to which value is assigned, and for which a penalty is incurred. Each is the minimum which will satisfy the animal whose food it is. Moist garlic or onion leaves are fit for human consumption, hence the standard of a dried fig, which is the minimum for all human food.

(3) To make up the minimum.

(4) V. p. 12, n. 9.

(5) Lit., ‘fit’.

(6) And since it is cow's fodder, that is the determining factor, notwithstanding that he carries it out for a camel.

(7) V. p. 12, n. 9.

(8) This is not a cow's usual food, and it eats it only when nothing else is obtainable.

(9) The commodity whose standard is greater does not combine with that whose standard is lesser to make up that lesser quantity, but the latter does combine with the former to make up the greater quantity. That which requires a lesser quantity is naturally more stringent.

(10) Even for the more lenient?

(11) I.e., a piece of cloth.

(12) A rough material, as of goats hair.

(13) v. p. 312, n. 9.

(14) When joined to make up the requisite minimum, they are susceptible to midras.

(15) I.e., the uncleanness caused by a zab's (q.v. Glos.) sitting upon them when pieced together. That is because one may employ them thus for patching up a saddle.

(16) And having that in common, they can naturally combine.

Talmud - Mas. Shabbath 76b

Here too they are fit for patterns.[1]

MISHNAH. HE WHO CARRIES OUT [HUMAN] FOODSTUFFS TO THE SIZE OF A DRIED FIG IS LIABLE, AND THEY COMBINE WITH EACH OTHER, BECAUSE THEY ARE EQUAL IN THEIR STANDARDS, EXCEPT THEIR SHELLS, KERNELS, STALKS, HUSKS[2] AND COARSE BRAN.[3] R. JUDAH SAID: EXCLUDING THE SHELLS OF LENTILS, BECAUSE THEY ARE BOILED TOGETHER WITH THEM.[4]

GEMARA. Now, do not husks and coarse bran combine [with the grain or flour]? But we learnt: Just over five quarters of flour are liable to hallah,[5] [including] that itself [sc. the flour], the husks and the bran?[6] — Said Abaye: That is because a poor man eats his bread [baked] of unsifted dough.[7]

R. JUDAH SAID: EXCLUDING THE SHELLS OF LENTILS, BECAUSE THEY ARE BOILED TOGETHER WITH THEM. Only lentils, but not beans? But it was taught, R. Judah said: Excluding the shells of beans and lentils. — There is no difficulty: The one refers to new [beans],[8] the other to old. Why not old ones? Said R. Abbahti: Because they look like flies in the dish.[9]

CHAPTER VIII

MISHNAH. HE WHO CARRIES OUT [RAW] WINE, [THE STANDARD IS THAT IT BE] ENOUGH FOR THE MIXING OF A CUP;[10] MILK, AS MUCH AS IS QUAFFED AT A TIME; HONEY, SUFFICIENT TO PLACE ON A SCAB;[11] OIL, AS MUCH AS IS REQUIRED TO RUB IN A SMALL LIMB; WATER, ENOUGH FOR RUBBING COLLYRIUM;[12] AND ALL OTHER LIQUIDS, [THE STANDARD IS] A REBI'ITH;[13] AND ALL WASTE WATER,[14] A REBI'ITH. R. SIMEON SAID: [THE STANDARD FOR] ALL THESE IS A REBI'ITH, ALL THESE MEASURES HAVING BEEN STATED ONLY IN RESPECT OF THOSE WHO PUT THEM AWAY.[15]

GEMARA. A Tanna taught: Enough for the mixing of a full-measured[16] cup. And what is a full-measured cup? The cup of benediction.[17] R. Nahman said in Rabbah b. Abbuha's name: The cup of benediction must contain a quarter of a rebi'ith [of raw wine], so that it may be mixed and amount to a rebi'ith. Said Raba, We too

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(1) These can be pieced together to serve as a commercial pattern or sample of one's ware.

(2) Or, thin bran (Levy, Worterbuch).

(3) These are not eaten, and consequently do not combine with the edible foodstuffs.

(4) Hence they count as foodstuffs too, and are excluded from the exception.

(5) v. supra 15a for notes.

(6) Thus they do combine.

(7) But with respect to the Sabbath bread of better quality is required before liability is incurred.

(8) Their shells combine.

(9) The peel of old beans goes black and when in the dish looks like flies.

(10) Wine had to be mixed with water before it could be drunk.

(11) Rashi offers two interpretations: (i) the sore spot on the backs of horses or camels, caused by the chafing of the saddle; (ii) a bruise on the hand or foot.

(12) An eye-salve. Rashi: to rub it over and cause it to dissolve. — So that it can be applied to the eye in liquid form.
(13) v. Glos.
(14) Any dirty liquid that must be poured out.
(15) v. supra 75b, p. 359, n. 6. Here Rashi explains: These measures are less than a rebi'ith, and only one who actually put away that quantity and then carries it out is liable to a sin-offering. Tosaf. on 75b s.v. הא accepts Rashi's explanation a.l. and rejects the present one.
(16) Lit., 'fair'.
(17) Grace after meals. It is sometimes recited over a cup of wine, which must be a full-measured rebi'ith, i.e., full to the very brim.

Talmud - Mas. Shabbath 77a

learnt likewise: HE WHO CARRIES OUT [RAW] WINE, [THE STANDARD IS THAT THERE BE] ENOUGH FOR THE MIXING OF A CUP, whereon it was taught, Enough for the mixing of a full-measured cup; while the subsequent clause states; AND ALL OTHER LIQUIDS, [THE STANDARD IS] A REBI'ITH.[1] Now Raba is consistent with his view [expressed elsewhere]. For Raba said: Wine which does not carry three parts of water to one [of itself] is not wine. Abaye observed: There are two refutations to this. Firstly, because we learnt, And as for mixed [wine], that means two parts of water and one of wine, [namely] of Sharon wine.[2] Secondly, the water is in the jug and it is to combine![3] Said Raba to him, As to what you quote, 'and as for mixed [wine], that means two parts of water and one of wine, [namely] of Sharon wine' — Sharon wine stands apart, being [exceptionally] weak. Alternatively, there it is on account of appearance,[4] but for taste more [water] is required. Whilst as for your objection, The water is in the jug and it is to combine! in the matter of the Sabbath we require something that is of account, and this too is of account.[5]

A Tanna taught: As for congealed[6] [wine], the standard is the size of an olive:[7] this is R. Nathan's view. R. Joseph said: R. Nathan and R. Jose son of R. Judah both said the same thing. R. Nathan, as stated. R. Jose son of R. Judah, for it was taught: R. Judah said: Six things [were stated as being] of the lenient rulings of Beth Shammai and the stricter rulings of Beth Hillel.[8] The blood of a nebelah,[9] Beth Shammai declare it clean;[10] while Beth Hillel rule it unclean. Said R. Jose son of R. Judah: Even when Beth Hillel declared it unclean, they did so only in respect of a rebi'ith of blood in measure, since it can congeal to the size of an olive.[11] Said Abaye. Perhaps that is not so. R. Nathan states that it [sc. a congealed piece the size of an olive] requires a rebi'ith [of liquid] only here in the case of wine, which is thin; but in the case of blood, which is thick, the size of an olive [when congealed] does not require a rebi'ith [in liquid form]. Alternatively. R. Jose b. R. Judah states that for the size of an olive [when congealed] a rebi'ith [in liquid form] is sufficient only there in the case of blood, which is thick; but as for wine, which is thin, the size of an olive represents more than a rebi'ith, so that if one carries out [even] less than the size of an olive, he is liable.

MILK, AS MUCH AS IS QUAFFED AT A TIME. The scholars asked: As much as GEM'IAH or GEM'IAH?[12] R. Nahman b. Isaac cited, Give me to drink [hagmi'ini], I pray thee, a little water of thy pitcher.[13] The scholars asked:

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(1) This shows that the lowest standard of potable liquids is a rebi'ith; hence the first clause must mean as much as is required for mixing to produce a cup of a rebi'ith.

(2) Sharon is the plain along the Mediterranean coast from Japho to Carmel. Thus a proportion of two to one is stated here.

(3) If the reason of our Mishnah is because with the addition of water it amounts to a rebi'ith, which is the average drink, but that by itself it is insufficient, are we to assume the addition of water that is elsewhere, as though he had carried it all out! Surely not.

(4) The reference there is to the colours of blood which are unclean. If it is of the colour of a two to one mixture, it is unclean; but a three to one mixture is paler, and blood of that colour is clean.

(5) Though it does not contain the water yet, since it can bear the addition of so much water.

(6) Lit., 'dry'.

(7) Because that represents a rebi'ith of liquid wine.

(8) In the many controversies between these two schools Beth Shammai generally adopt the stricter attitude. Hence particular attention is drawn to the cases where it is the reverse.

(9) V. Glos.

(10) It does not defile food by its contact.

(11) Which is the minimum quantity of flesh of nebelah which defiles.

(12) The question is about the spelling, whether it is with an alef or an 'ayin. The following questions are the same.

(13) Gen. XXIV, 17; the word there is spelled with an alef.

Talmud - Mas. Shabbath 77b

Gar'inin or gar'inin?[1] — Raba b. ‘Ulla cited: and an abatement shall be made [we-nigra’] from thy estimation.[2] The scholars asked: Ommemoth or ‘ommemoth?[3] — R. Isaac b. Adbimi cited: The cedars in the garden of God could not obscure him.[4] The scholars asked: Did we learn me'amzin or me'amzin?[5] R. Hiyya b. Abba cited: and shutteth [‘ozem] his eyes from looking upon evil.[6]

Our Rabbis taught: When one carries out cow's milk, [the standard is] as much as one quaffs at a time; woman's milk or the white of an egg, as much as is required for putting in an embrocation; collyrium, as much as is dissolved in water.[7] R. Ashi asked: [Does that mean] as much as is required for dissolving. or as much as is required for holding and dissolving?[8] The question stands over.

HONEY, SUFFICIENT TO PLACE ON A SCAR. A Tanna taught: As much as is required for putting on the opening of a scab. R. Ashi asked: ‘On a scab’: [does that mean] on the whole opening of the scab,[9] or perhaps [it means] on the top of the scab,[10] thus excluding [sufficient for] going all round the sore, which is not required?[11] The question stands over.

Rab Judah said in Rab's name: Of all that the Holy One, blessed be He, created in His world, He did not create a single thing without purpose. [Thus] He created the snail as a remedy for a scab; the fly as an antidote to the hornet[‘s sting];[12] the mosquito [crushed] for a serpent[‘s bite]; a serpent as a remedy for an eruption. and a [crushed] spider as a remedy for a scorpion[‘s bite]. ‘A serpent as a remedy for an eruption’:[13] what is the treatment? One black and one white [serpent] are brought, boiled [to a pulp] and rubbed in.

Our Rabbis taught: There are five instances of fear [cast] by the weak over the strong: the fear of the mafgia’[14] over the lion; the fear of the mosquito upon the elephant;[15] the fear of the spider upon the scorpion;[16] the fear of the swallow upon the eagle;[17] the fear of the kilbith[18] over the Leviathan.[19] Rab Judah said in Rab's name: What verse [alludes to these]? That strengtheneth the despoiled [i.e., weak] over the strong.[20]

R. Zera met Rab Judah standing by the door of his father-in-law's house and saw that he was in a cheerful mood, and if he would ask him all the secrets of the universe he would disclose [them] to him. He [accordingly] asked him: Why do goats march at the head [of the flock], and then sheep? — Said he to him: It is as the world's creation, darkness preceding and then light.[21] Why are the latter covered, while the former are uncovered?[22] — Those with whose [material] we cover ourselves are themselves covered, whilst those wherewith we do not cover ourselves are uncovered. Why is a camel's tail short? — Because it eats thorns.[23] Why is an ox's tail long? — Because it grazes in meadows and must beat off the gnats [with its tail]. Why is the proboscis of a locust soft [flexible]? Because it dwells among willows, and if it were hard [non-flexible] it [the proboscis] would be dislocated and it [the locust] would go blind. For Samuel said: If one wishes to blind a locust, let him extract its proboscis. Why is a fowl's [lower] eyelid bent upwards?[24] — Because it dwells among the rafters, and if dust entered [its eyes] it would go blind.[25]

[The word] Dashsha [entrance] [implies] Derek SHam [there is the way];[26] Darga [stairs, ladder]; Derek Gag [a way to the roof]; mathkulithat [a relish]; mathay thikleh da [when will this end]?[27] Betha [a house] [implies] Bo we-ethib [come and sit therein]; Biketha [a small house]: Be aketha [a confined narrow house].[28] Kuftha [an inverted vessel, a low seat]: Kof we-THab [invert it and sit down]; libne [bricks]: libene bene [unto children's children];[29] huza [prickly shrubbery, hedge]: haziza [barrier]. Hazba [pitcher] [is so called] because hozeb [it draws][30] water from the river; kuzah [small jug]: kazeh [like this];[31] shotitha [myrtle branch]: shetutha [folly];[32] meshikla [wash basin]: mashe kulah [washing everybody]; mashkiltha: [wash-basin][33] mashya kalatha [washing brides];[34]

asitha [mortar]: hasirtha [missing];[35] bukana [a club used as a pestle]: bo we-akkenah [‘come, and I will strike it’]; lebushah [upper garment]: lo bushah [no shame]. Gelima [a cloak] [is so called] because one looks in it like a shapeless mass [golem].[36] Golitha [a long woollen cloak] [implies] Galle wethib [roll it up and sit down]; puria [bed] is so called because it leads to procreation [parin we-rabin]; Bur Zinka [a leaping well][37] Bor Zeh naki [this well is empty;[38] sudra [turban]: sod adonai lire'aw [the secret of the Lord is revealed to those that fear him];[39] Apadna [palace] Apithha Din [at the door is judgment].[40]

Our Rabbis taught: Three wax stronger as they grow older, viz., a fish, a serpent, and a swine.

OIL, AS MUCH AS IS REQUIRED TO RUB IN A SMALL LIMB. The School of R. Jannai said: Oil, as much as is required to rub in a small limb of an infant one day old. An objection is raised: Oil, as much as is required to rub in a small limb[41] and [a limb of] a day-old infant. Surely this means, a small limb of an adult, and a large limb of a day-old infant? — The School of R. Jannai can reply: No. This is its meaning: Oil, as much as is required to rub in a small limb of a day-old infant.[42]

Shall we say that this is dependent on Tannaim? Oil, as much as is required to rub in a small limb and [a limb of] a day-old infant: this is the view of R. Simeon b. Eleazar. R. Nathan said: As much as is required to rub in a small limb. Now surely they differ in this, R. Simeon b. Eleazar holding a small limb of an infant, while R. Nathan holds a small limb of an adult or a large limb of an infant, but a small limb of a day-old infant [does] not [impose liability]? No. All agree that the small limb of a day-old infant is not [sufficient],

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(1) Kernels: with an alef or ‘ayin? (The word occurs in the Mishnah supra 76b.)

(2) Lev. XXVII, 18. We-nigra’ is with an ‘ayin, and Raba b. ‘Ulla connects gar'inin with this, as the kernels are thrown away and so are an abatement of the edible portion.

(3) Dim, i.e., dying. coals.

(4) Ezek. XXXI, 8; ‘ammamuhu, with an ‘ayin — lit., ‘keep him dim’.

(5) In the Mishnah infra 151b. Me'amzin, we close (the eyes).

(6) Isa. XXXI, 15; ‘ozem, with an ‘ayin.

(7) To paint both eyes.

(8) It is dissolved by being crushed in the water. Part remains on the fingers, and R. Ashi asked whether that must be allowed for or not.

(9) The entire surface being referred to as the opening.

(10) Lit., ‘the first projecting point’.

(11) Before a penalty is incurred.

(12) A crushed fly applied to the affected part is a remedy.

(13) This phrase is added in the text by Bah.

(14) Lit., ‘plague’. The Ethiopian gnat (Lewysohn. Zool. d. Talmud, p. 316). Rashi: a small animal that terrifies the lion with its loud cry.

(15) Caused by entering its trunk.

(16) In whose ear it lodges.

(17) Rashi: it creeps under its wings and hinders it from spreading them.

(18) A small fish, supposed to be the stickleback.

(19) Likewise caused by entering its ear.

(20) Amos V, 9 (E.V. ‘that bringeth sudden destruction upon the strong’).

(21) Goats are dark coloured, while sheep are white!

(22) Sheep have thick tails, which cover their hind parts; but goats have a thin tail.

(23) A long tail would become entangled in the thorns.

(24) Rashi: When its eyes are closed the lower eyelid turns upwards and lies upon the upper.

(25) Hence this arrangement affords it the most protection.

(26) Reading Dashsha as an abbreviation. The following words are similarly treated. These may be regarded either as examples of popular etymology or merely as jeux d'esprit, not being meant seriously.
(27) Relishes being used sparingly and lasting a long time.
(28) Rashi. Jast. s.v. בקתא q.v. translates rather differently.
(29) I.e., lasting many generations.
(30) Lit., ‘hews out’.
(31) ‘Give us a glass of this size to drink’.
(32) People danced therewith at weddings, and looked fools in doing so!
(33) V. next note.
(34) A fancy-shaped, probably expensive basin, used by distinguished persons only.
(35) I.e., carved out.
(36) The cut of the arms being covered up.
(37) A well which springs forth periodically only to disappear again (Jast.).
(38) Lit., ‘clean’.
(39) The turban being worn by Rabbinical scholars; cf. Kid. 8a; Pes. 111b.
(40) I.e., all come — for justice to the King's palace.
(41) Eber Katan. This phrase, used both there and in the Mishnah, may mean either a small limb or a limb of a child (or, infant).
(42) ‘And a day-old infant’ is thus taken in the explanative sense, ‘even a limb of a day-old infant’.

Talmud - Mas. Shabbath 78a

R. Jannai's dictum being incorrect. But here they differ in this: R. Simeon b. Eleazar holds: an adult's small limb and a day-old infant's large limb are identical [in size]. While R. Nathan holds: Only an adult's small limb [creates culpability], but not the large limb of a day-old infant.[1] What is our decision thereon? — Come and hear: For it was taught, R. Simeon b. Eleazar said: Oil, as much as is required to rub in a small limb of a day-old infant.[2]

WATER, ENOUGH FOR RUBBING COLLYRIUM. Abaye said, Consider: Whatever has a common use and an uncommon use, the Rabbis followed the common use, [even] in the direction of leniency; where it has two common uses, the Rabbis followed the common use [which leads to] stringency. [Thus,] in the case of wine the drinking thereof is common, whilst its employment as a remedy is uncommon; hence the Rabbis followed its drinking use in the direction of leniency.[3] In the case of milk, the drinking[4] thereof is common, whilst its employment as a remedy[5] is uncommon: hence the Rabbis followed its drinking use in the direction of leniency. As for honey, both the eating thereof and its use as a remedy are common, [so] the Rabbis followed its use as a remedy in the direction of stringency.[6] But in the case of water — consider: its drinking is common, whereas its use for healing is uncommon: why then did the Rabbis follow its use for healing in the direction of stringency? — Said Abaye: They learnt this with reference to Galilee.[7] Raba said: You may even say that this refers to other places, thus agreeing with Samuel. For Samuel said: All liquids[8] heal [eye sickness] but dim [the eyesight], save water, which heals without dimming.[9]

AND ALL OTHER LIQUIDS, A REBI'ITH. Our Rabbis taught; As for blood, and all [other] kinds of liquids, [the standard is] a rebi'ith. R. Simeon b. Eleazar said: Blood, as much as is required for painting one eye, because a cataract [of the eye] is painted [with blood]. And which [blood] is that? The blood of a wildfowl. R. Simeon b. Gamaliel said: Blood, as much as is required for painting one eye, because a white spot in the eye is painted [with blood]. And with what is that? with the blood of bats.[10] And your token is: within for within, without for without.[11] Now this applies only to him who carries it out; but if one puts it away, no matter how little, he is liable.[12] R. Simeon said: This applies only to one who puts it away, but he who carries it out is culpable only when there is a rebi'ith. And the Sages agree with R. Simeon that if one carries out waste water into the street, the standard thereof is a rebi'ith.

The Master said: ‘Now this applies only to him who carries it out; but if one puts it away, no matter how little, [he is liable].’ And he who puts it away. does he not carry it out?[13] Said Abaye: The reference here is to an apprentice to whom his master said, ‘Go, and clear me a place for a meal.’ Now, if he goes and clears out [into the street] something that is valued by all, he is guilty on its account; something that is not valued by all: if his master had put it away,[14] he is guilty on its account; if not, he is not guilty.[15]

The Master said: ‘And the Sages agree with R. Simeon that if one carries out waste water into the street, the standard thereof is a rebi'ith.’ For what is waste water fit?[16] Said R. Jeremiah: To knead clay therewith. But it was taught: Clay, [the standard is] as much as is required for making the hole of a smelting pot?[17] There is no difficulty: in the latter case it is kneaded, but in the former it is not [already] kneaded, because no man troubles to knead clay [only] for making the hole of a smelting pot.

MISHNAH. HE WHO CARRIES OUT CORD, [THE STANDARD IS] AS MUCH AS IS REQUIRED FOR MAKING A HANDLE FOR A BASKET; A REED CORD, AS MUCH AS IS REQUIRED FOR MAKING A HANGER FOR A SIEVE OR A BASKET-SIEVE. R. JUDAH SAID: AS MUCH AS IS REQUIRED FOR TAKING THE MEASURE OF A CHILD'S SHOE. PAPER, LARGE ENOUGH TO WRITE A TAX-COLLECTOR'S RECEIPT ON IT.[18] (AND HE WHO CARRIES OUT A TAX-COLLECTOR'S RECEIPT IS LIABLE.)

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(1) And the phrasing of the controversy must be interpreted accordingly.

(2) Hence this must be his meaning in the controversy quoted, while R. Nathan disagrees, as suggested in the first explanation.

(3) Teaching that the minimum which creates liability for carrying out is the average drink, though a lesser quantity is used for remedial purposes. — The others are explained similarly.

(4) Lit., ‘eating’.

(5) By external application.

(6) As in the Mishnah, though for consumption the size of a dried fig — a greater standard — would be required.

(7) Rashi: whose inhabitants are poor. They would never use wine or milk for dissolving collyriuin, but only water, and so this use for water is as common as its drinking use.

(8) Used for dissolving collyrium.

(9) Hence this use too is common.

(10) The word denotes with large eyeballs — a species of bats.

(11) The white spot is within the eye, and the bat is generally found within human settlements; whereas a cataract protrudes on the outside of the eye, and the wildfowl too dwells without human settlements.

(12) This is explained below.

(13) Surely this alone is his sin.

(14) For use, thus showing that he did value it.

(15) This is consistent with R. Simeon's view (supra 76a) that one is guilty through another's intention.

(16) No penalty is incurred for carrying out something that is entirely useless.

(17) The hole through which the bellows are inserted. This requires less clay than is made with a rebi'ith of water, and since the waste water is regarded as being for the purpose of making clay, the standard should be only as much as is required for kneading this smaller quantity.

(18) Lit., ‘knot’. Rashi: the receipt was indicated by two letters above normal size.

Talmud - Mas. Shabbath 78b

ERASED PAPER,[1] AS MUCH AS IS REQUIRED TO WRAP ROUND A SMALL PHIAL OF SPIKENARD OIL; SKIN, FOR MAKING AN AMULET; PARCHMENT, FOR WRITING THEREON THE SHORTEST PASSAGE OF THE TEFILLIN, WHICH IS ‘HEAR O ISRAEL,’:[2]

INK, FOR WRITING TWO LETTERS; STIBIUM,[3] FOR PAINTING ONE EYE; PASTE, FOR PUTTING ON THE TOP OF A LIME BOARD [SHAFSHAF];[4] PITCH AND SULPHUR, FOR MAKING A PERFORATION [THEREIN];[5] WAX, FOR PUTTING OVER A SMALL HOLE;[6] CLAY, FOR MAKING A HOLE IN A GOLD REFINER'S POT.[7] R. JUDAH SAID: FOR MAKING A [TRIPOD'S] PEG.[8] BRAN, FOR PUTTING ON THE MOUTH OF A GOLD REFINER'S POT; LIME,[9] FOR SMEARING THE SMALLEST OF GIRLS.[10] R. JUDAH SAID: ENOUGH TO PRODUCE A HAIR-CROWN [KALKAL].[11] R. NEHEMIAH SAID: ENOUGH FOR MAKING SIDE-CURLS [ONDAFE].[12]

GEMARA. For a cord too, let one be culpable on account of as much as is required to make a hanger for a sieve or a basketsieve? — Since it chafes the utensil, people do not make it [thus].[13]

Our Rabbis taught: As for palm leaves, the standard is as much as is required for making a handle for a basket, an Egyptian basket. As for bast; Others say:[14] as much as is required for putting on the opening of a small funnel for straining wine. Fat; as much as is required for greasing under a small cake. And what size is that? — As [large as] a sela’. But it was taught, As [large as] a dried fig? Both are the same standard. Soft rags, as much as is required for making a small ball. Anti what size is that? As [large as] a nut.

PAPER, LARGE ENOUGH TO WRITE A TAX-COLLECTOR'S RECEIPT ON IT. It was taught: How much is a tax-collector's receipt? Two letters.[15] But the following contradicts this: If one carries out smooth [blank] paper. if large enough for writing two letters thereon, he is culpable; if not, he is not culpable?[16] — Said R. Shesheth: What is meant by ‘two letters’? Two letters of a tax-collector's receipt. Raba said: [It means] two letters of ours, together with a margin for holding which is the equivalent of a tax-collector's receipt.

An objection is raised: If one carries out erased paper or a receipted note; if its blank portion is large enough for two letters to be written thereon, or if the whole is sufficient for wrapping round the mouth of a small phial of spikenard oil, he is culpable; but if not, he is not culpable. As for R. Shesheth, who explained, What is meant by ‘two letters’? two letters of a tax-collector's receipt, it is well.[17] But according to Raba, who said that it means two letters of ours together with a margin for holding, which is the equivalent of a tax-collector's receipt — surely here no margin for holding is required?[18] This is a difficulty.

Our Rabbis taught: If one carries out a tax-collector's receipt before having shown it to the collector, he is culpable;[19] after having shewn it to the collector, he is not culpable.[20] R. Judah said: Even after showing it to the collector, he is culpable, because he still needs it. Wherein do they differ? Abaye said: They differ in respect to collectors’ runners.[21] Raba said: They differ in respect to the higher and the lesser collectors.[22] R. Ashi said: They [even] differ in respect of one tax-collector, because he needs it [the document] for showing to the second, so that he can say to him, ‘See, I am a man [exempted] by the collector.’[23]

Our Rabbis taught: If one carries out a note of debt, if before it has been settled, he is culpable; if after it has been settled, he is not culpable. R. Judah said: Even after settlement he is culpable, because he needs it. Wherein do they differ? R. Joseph said: They differ as to whether it is forbidden to keep a settled note. The Rabbis maintain: It is forbidden to keep a settled note;[24] while R. Judah holds: One may keep a settled note.[25] Abaye said: All hold that a settled note may not be kept; but here they differ as to whether a note requires confirmation [even] when he [the debtor] admits that it was [validly] written. The first Tanna holds: Even when [the debtor] admits that a note [was validly] written, it must be confirmed.[26] R. Judah holds: When [the debtor] admits that a note was [validly] written, it need not be confirmed. And what is the meaning of ‘if before it has been settled’ and ‘if after it has been settled’?

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(1) Palimpsest paper from which writing has been erased, and which cannot be written upon again.

(2) Deut. VI, 4-9. The Tefillin (v. Glos.) contain four Biblical passages.

(3) Used for painting the eyes.

(4) For catching birds; v. infra 80a.

(5) Rashi: The phial in which mercury is kept is closed with a perforated stopper of pitch or sulphur.

(6) As a plug.

(7) Through which he inserts his bellows.

(8) A leg of the tripod which supports the refiner's pot.

(9) Used as a depilatory.

(10) V. Gemara.

(11) Formed by the depilation of the undergrowth of hair.

(12) Var. lec. Andife, v. Gemara.

(13) Culpability is incurred only when the article transported can be used in its normal manner.

(14) ‘Others’ frequently refers to R. Meir, Hor. 13a.

(15) ‘Aruk reads: two Greek letters — which are larger than Hebrew letters.

(16) ‘Two letters’ implies of normal size, which is smaller than tax-collector's letters; v. also preceding note.

(17) The same explanation holds good here too.

(18) It can be held by the erased or the written portion.

(19) Since he still needs it.

(20) The receipt of tax-exemption was issued by a higher authority and then shown to the actual collector. Once shown, he has no further use for it, and is therefore not liable for carrying it out.

(21) The police, who stop people and demand toll. R. Judah argues that the receipt must he shown to these; while the Rabbis hold that the person stopped could refer him to the collector or superintendent.

(22) Cf. n. 4. R. Judah maintains that for this reason the document is always required, while the Rabbis hold that a secret password was used as a proof of exemption.

(23) E.g., if the exemption is in respect of a toll-bridge. Even if there is always one man only on duty at one end, the document may be required for the man at the other end. V. T.A. II, p. 375.

(24) Therefore it is of no value either to the creditor or to the debtor; consequently no culpability is entailed in carrying it out. — The reason of the prohibition is that one may demand payment afresh.

(25) Hence the paper itself is of value.

(26) By its signatories attesting their signatures (Rashi in Keth. 19a, B.M. 7a and 72b). Otherwise the debtor can plead that it has been settled. For without the confirmation of the signatories he could successfully plead that it is a forgery, hence he is also believed in his plea of repayment, since the validity of the note rests on his word. Consequently if the debtor pleads that he has repaid the loan — this is now the meaning of ‘if after it has been settled’ — the note is valueless.

Talmud - Mas. Shabbath 79a

If the debtor pleads that it has been settled or not settled [respectively].[1] Raba said: All agree that [even] when [the debtor] admits that a note was [validly] written, it must [still] be confirmed. But here they differ as to whether we write a quittance.[2] The first Tanna holds: We write a quittance;[3] while R. Judah holds: A quittance[4] is not written. R. Ashi said: [R. Judah's reason is] because he [the debtor] needs it to show to a second creditor, as he can say to him, ‘See, l am a man who repays.’

SKIN, FOR MAKING AN AMULET. Raba asked R. Nahman: If one carries out skin, what is the standard [to involve a penalty]. Even as we learnt, he replied: SKIN, FOR MAKING AN AMULET. If one dresses it, what is the standard? — There is no difference, he replied. When it needs dressing,[5] what is the standard? — There is no difference, replied he. And whence do you say thus? — As we learnt: if one bleaches [wool]. hatchels, dyes, or spins it, the standard is a full double span.[6] And if one weaves two threads together, the standard is a full span.[7] This shows that since it stands to be spun,[8] the standard is as though it were spun. So here too, since it [the skin] stands to be dressed, its standard is as though it were [already] dressed. And if it is not to be dressed [at all]. what is the standard? There is no difference, said he to him.

But, is there no difference between dressed and undressed [hide]? He raised an objection to him: If one carries out dissolved dyes.[9] [the standard is] as much as is required for dyeing a sample of wool.[10] Whereas of undissolved dyes we learnt: [In the case of] nutshells,[11] pomegranate shells, woad, and madder,[12] [the standard is] as much as is required for dyeing the small piece of cloth at the opening [top] of a network?[13] — Surely it was stated thereon, R. Nahman observed in Rabbah b. Abbuha's name: That is because one does not trouble to steep dyes [merely] for dyeing a sample of wool. Yet what of the seeds of a vegetable garden, whereof, before they are sown, we learnt: [If one carries out] garden seeds, [the standard is] less than the size of a dried fig; R. Judah b. Bathyra ruled: ‘Five’, yet after they are sown we learnt: As for manure, or thin sand, [the standard is] as much as is required for fertilizing a cabbage stalk; this is R. Akiba's view. But the Sages maintain: For fertilizing one leek plant?’[14] Surely it was stated thereon, R. Papa said: In the one case it refers to where it is sown, in the other where it is not sown, because one does not trouble to carry out a single seed for sowing.[15]

Yet what of clay. whereof, before it is kneaded, it was taught: ‘The Sages agree with R. Simeon, that if one carries out waste water into the street, the standard is a rebi'ith’. And we debated thereon. For what is waste water fit? And R. Jeremiah said: For kneading clay therewith. And yet after it is mixed, it was taught: As for clay, [the standard is] as much as is required for making the hole of a smelting pot?[16] — There too it is as we stated, because no man troubles to knead clay [only] for making the hole of a smelting pot.

Come and hear: For R. Hiyya b. Ammi said on ‘Ulla's authority: There are three [kinds of] hide: mazzah, hippa, and diftera. Mazzah[17] is as its name implies, neither salted nor treated with flour or gall-nut. And what is its standard? R. Samuel b. Rab Judah recited: As much as is required for wrapping a small weight therein. And how much is that? Said Abaye: A quarter of a Pumbedithan quarter.[18] Hippa is a skin that is salted but not treated with flour and gall-nut. And what is its standard? Even as we learnt: SKIN, AS MUCH AS IS REQUIRED FOR MAKING AN AMULET. Diftera is skin that has been dressed with salt and flour but not treated with gall-nut. And what is its standard? As much as is required for writing a divorce.[19] Now incidentally it is stated, As much as is required for wrapping a weight therein, which Abaye explained [as meaning] a quarter of a Pumbedithan quarter?[20] — There it treats of a steaming hide.[21] But we learnt: A garment three [handbreadths] square is susceptible to midras,[22] sacking four square, a hide five square and reed matting six square[23] are susceptible to [the uncleanness of] both midras and the dead. Now it was taught thereon: As for a garment, sacking and hide, as their standard is for uncleanness, so it is for carrying out![24] — That refers to a leather spread.[25] [

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(1) V. preceding note.

(2) V. B.B. 170b.

(3) Therefore the debtor does not require the original note, since he holds a receipt, and so if he carries it out he is not culpable (R. Han. Rashi explains differently, referring this to the creditor).

(4) But the creditor has to return the note to the debtor, who in turn must take care not to lose it, lest it fall into the hands of the creditor, enabling him to claim payment a second time.

(5) And one carries it out — at this stage it cannot be used for an amulet.

(6) Of the thumb and the forefinger.

(7) The text adds ‘double’, but it is bracketed and is absent from the Mishnah infra 105b.

(8) Bleaching. etc., are antecedent to spinning.

(9) Ready for use.

(10) Jast. V. also supra 11b.

(11) These were quite commonly used in ancient days for dyes; v. T.A. I, p. 552, n. 222.

(12) All these, including the two former, used as dyes.

(13) Or, hair-net. V. also T.A. I, pp. 187 and 636, n. 776. This is a larger standard than the preceding and a similar distinction should be made between undressed and dressed hides.

(14) Thus here too there is a different standard after sowing.

(15) V. infra 90b.

(16) V. notes supra 75a.

(17) Lit., ‘unleavened’.

(18) Of a litra. V.J.E. XII, p. 48b s.v. Litra, though it is not clear whether what is stated there applies to a Pumbedithan litra too — probably not. Weights were wrapped in hide to prevent their being rubbed away; hence this standard.

(19) V. Git. 22a.

(20) Which is a larger standard than the others.

(21) I.e., immediately after it is flayed and before it has had time to dry. It is not yet fit for tanning, and hence a different standard is applied to it (Rashi).

(22) V. p. 275, n. 1.

(23) V. notes supra 76a.

(24) That size carried out on the Sabbath involves a penalty. Hence the standard for hide is five square, which is not the same as that given in the Mishnah. Presumably the difficulty must be answered by drawing a distinction between tanned and untanned hide, and this contradicts R. Nahman.

(25) The hide being so treated that it can only be used as a leather cover on couches, etc., but not for writing thereon. Hence there is a different standard.

Talmud - Mas. Shabbath 79b

PARCHMENT, AS MUCH AS IS REQUIRED FOR WRITING THE SHORTEST PASSAGE, [etc.]. But the following contradicts this: Parchment [kelaf] and duksustos,[1] as much as is required for the writing of a mezuzah?[2] — What is meant by mezuzah? A parchment slip of the tefillin.[3] Are then tefillin designated mezuzah? Yes, and it was taught [likewise]: tefillin straps, when together with the tefillin, defile the hands;[4] when apart, they do not defile the hands. R. Simeon b. Judah said on the authority of R. Simeon,[5] He who touches the strap is clean, unless he touches the capsule [of the tefillin]. R. Zakkai said in his name: He is clean, unless he touches the mezuzah itself.[6] But since the second clause teaches, PARCHMENT, AS MUCH AS IS REQUIRED FOR WRITING THE SHORTEST PASSAGE OF THE TEFILLIN, WHICH IS ‘HEAR O ISRAEL,’ it follows that the first clause refers to the mezuzah itself? — This is its meaning: Parchment and duksustos, what are their standards? Duksustos, as much as is required for writing a mezuzah;[7] parchment, for writing the shortest passage of the tefillin, which is ‘Hear O Israel’.

Rab said: Duksustos is as parchment: just as tefillin may be written upon parchment, so may they be written upon duksustos. We learnt: PARCHMENT, FOR WRITING THEREON THE SHORTEST PASSAGE OF THE TEFILLIN, WHICH IS HEAR O ISRAEL. [Thus, only parchment, but not duksustos?][8] — That is for the [most preferable observance of the] precept.[9] Come and hear: It is a halachah of Moses from Sinai[10] that tefillin [should be written] upon parchment, and a mezuzah upon duksustos; parchment is [the skin] on the side[11] of the flesh, and duksustos is [that] on the side of the hair?[12] — That is for the [most preferable observance of the] precept. But it was taught: If one does otherwise, it is unfit? — That refers to the mezuzah. But it was taught: If one does otherwise, in either it is unfit? — Both refer to mezuzah, one meaning that he wrote it on parchment [kelaf] facing the hair; the other, on duksustos facing the flesh.[13] An alternative answer is: [The ruling]. If one does otherwise in either, it is unfit, is dependent on Tannaim. For it was taught: If one does otherwise, it is unfit. R. Aha declares it fit on the authority of R. Ahi b. Hanina — others state, on the authority of R. Jacob b. R. Hanina. R. Papa said: Rab's ruling is as the teaching of the School of Manasseh. For the School of Manasseh taught: If one writes it on paper[14] or on a cloth strip, it is unfit; on parchment, gewil,[15] or duksustos, it is fit. ‘If one writes it’ — what? Shall we say, a mezuzah; can then a mezuzah be written upon kelaf?’ Hence it Surely means tefillin. Yet [even] on your reasoning, can tefillin be written upon gewil?[16] But that was taught of a Torah Scroll.[17]

Shall we say that the following supports him: When tefillin or a Torah Scroll wear out, a mezuzah may not be made of them,[18] because we may not debase [anything] from a higher[19] sanctity to a lower sanctity. Thus there is the reason that we may not debase, but if we might debase, we could make [a mezuzah]: now, whereon is it written? Surely it means that it is written on duksutos?[20] — No: It Is written upon parchment [kelaf]. — But may a mezuzah be written upon kelaf?- Yes. And it was taught [likewise]: If one writes it on kelaf, on paper, or on a cloth strip, it is unfit. R. Simeon b. Eleazar said: R. Meir used to write it[21] upon kelaf, because it keeps [better]. Now that you have arrived at this [conclusion],[22] according to Rab too, do not say. Duksustos is as kelaf but say, kelaf is as duksustos: just as a mezuzah may be written upon duksustos, so may it be written upon kelaf.

INK, FOR WRITING [TWO LETTERS].

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(1) An inferior kind of parchment, v. infra.

(2) v. Glos. This contains two passages. viz., Deut. VI, 4-9. and XI, 13-21.

(3) In the head tefillin each of the four passages is written on a separate slip. Since the particular slip is unspecified, it is assumed that it is the one required for the shortest passage.

(4) In respect of terumah; v. supra 14a.

(5) I.e., R. Simeon b. Yohai.

(6) Thus mezuzah is used of the parchment slip containing the writing.

(7) Literally; that is because it is not fit for tefillin.

(8) This passage is bracketed in the edd. It was present in Rashi's text, but absent from other versions. — But if tefillin might be written upon duksustos, the same standard would apply to that too.

(9) Kelaf being superior, phylacteries are normally written thereon, and not upon duksustos, though it is permissible. Hence one would not keep duksustos for that purpose and consequently it does not involve a penalty; cf. supra 75b Mishnah.

(10) V. p. 123. n. 7.

(11) Lit., ‘place’.

(12) When the hide is split in two, the portion facing the flesh is called kelaf (parchment), whilst that toward the hair is called duksustos. Tosaf. s.v. קְלָף reverses the reading.

(13) I.e., the parchment and the duksustos were manufactured from the wrong portions of the hide.

(14) נייר, papyrus.

(15) A certain kind of parchment. Rashi: that which has been dressed with gall-nut. Tosaf.: the undivided skin (v. n. 3) with the hair removed. V. also T.A. II. p. 263 and notes a.l.

(16) Surely not!

(17) Thus it has no bearing on Rab's dictum.

(18) E.g., if the margin is in good condition and fit for use.

(19) Lit., ‘from a graver . . . . lighter’.

(20) Which supports Rab.

(21) R. Meir was an expert calligraphist — a much esteemed talent before the invention of printing.

(22) That a mezuzah may be written upon kelaf.

Talmud - Mas. Shabbath 80a

It was taught: Two letters in ink, two letters on a pen, or two letters in an inkstand [involve culpability].[1] Raba asked: What [if one carries out sufficient for] one letter [in the form of] dry ink, one letter on the pen, and one letter in an inkstand?[2] The question stands over.

Raba said: If one carries out [ink sufficient for writing] two letters, and writes them whilst walking, he is culpable: the writing is tantamount to depositing.[3] Raba also said: If one carries out [ink sufficient for writing] one letter [only] and writes it down. and then again carries out [sufficient for] one letter, and writes it down,[4] he is not culpable. What is the reason? By the time he carries out the second, the standard of the first is defective.[5]

Raba also said: If one carries out half a dried fig and deposits it,[6] and then carries out another half of a dried fig and deposits it,[7] the first is regarded as though caught by a dog or burnt, and he is not culpable. But why so: surely it is lying there! — He means this: But if one anticipates and takes up the first before the depositing of the second, the first is regarded as though caught up by a dog or burnt,[8] and he is not culpable. Raba also said: If one carries out half of a dried fig and deposits it and then carries out another half of a dried fig over the same route as the first,[9] he is liable. But why: surely it does not rest [in the street]? E.g., if he carries it within three [handbreadths].[10] But Raba said: [An article brought] within three [handbreadths] must, according to the Rabbis, be deposited upon something of small size [at]east]?[11] — There is no difficulty. The latter reference is to throwing;[12] the former is to carrying.[13]

Our Rabbis taught: If one carries out half a dried fig, and then carries out another half of a dried fig in one state of unawareness, he is culpable; in two states of unawareness, he is not culpable. R. Jose said: In one state of unawareness [and] into the same ground he is culpable; into two [different] grounds,[14] he is not culpable. Rabbah said: Providing that there lies between them a domain involving liability to a sin-offering;[15] but a karmelith[16] does not [effect a separation].[17] Abaye said: Even a karmelith [separates them], but not a board.[18] But Raba maintained: Even a board [separates them]. Now Raba is consistent with his ruling [elsewhere]; for Raba said: [The law of] domains in respect to the Sabbath is the same as domains in respect to divorces.[19]

STIBIUM, FOR PAINTING ONE EYE: But one eye [alone] is not painted? — Said R. Huna: Because modest women paint [only] one eye.[20] An objection is raised: As for stibium, if [carried out] for medicinal use, [the standard is] as much as is required for painting one eye;[21] if for adornment, [the standard is] two eyes? — Hillel son of R. Samuel b. Nahmani explained it: That was taught in reference to small-towners.[22]

PASTE, FOR PUTTING ON THE TOP OF A LIME BOARD. A Tanna taught: As much as is required for putting on the top of a lime board of a hunter's rod.[23]

WAX, FOR PUTTING OVER A SMALL HOLE. It was taught: As much as is required for putting over a small wine hole.[24]

CLAY, FOR MAKING A HOLE IN A GOLD-REFINER'S POT, etc.[25] Shall we say that R. Judah's standard is larger? But we know the Rabbis' standard to be larger, for we learnt: R. JUDAH SAID: AS MUCH AS IS REQUIRED FOR TAKING THE MEASURE OF A CHILD'S SHOE?[26] — Say, as much as is required for plastering [the splits in] the tripod leg of a small stove.[27]

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(1) Ink, Heb. dyo, is the solid pigment which was dissolved before use (cf. supra 17b and note a.I.). The Baraitha teaches that whether one carries out dry pigment in his hand or the liquid on a pen or in an inkstand, in each case sufficient for writing two letters, he is culpable.

(2) Do they combine to involve liability or not? The pen and inkstand do not cause culpability, since they are subsidiary to their contents, which in themselves do not separately cause liability; v. infra 93b.

(3) Culpability for carrying from one domain to another is incurred only when the article transported is actually deposited in the second domain; v. supra 2a.

(4) Both in the same state of unawareness, so that normally they should rank as one act.

(5) The first ink has dried and is now insufficient for the writing of one letter.

(6) One fig is the minimum involving liability.

(7) V. n. 6.

(8) Since the whole fig does not lie in the street.
(9) The second actually passing above the first.
(10) Of the ground. It is then regarded as actually lying thereon; cf. supra 5a.
(11) Though not necessarily upon a place four handbreadths square; v. infra 100a for the general explanation of the passage.
(12) Then it must actually come to rest.
(13) In the hand. The article itself is then at rest, and if the hand moreover comes within three handbreadths of the ground, it is as though deposited thereon.
(14) Both public, but separated from each other.
(15) I.e., private ground. Transport between private and public ground imposes liability; hence the private ground here completely separates the two public grounds. and they do not rank as one.
(16) V. Glos. and supra 6a.
(17) Since by Biblical law one may carry between a karmelith and public (or private) ground, it is insufficient to separate the two.
(18) Placed right across the street and thus dividing it.
(19) And there a board is sufficient to create separate domains; v. Git. 77b.
(20) They go veiled, leaving only one eye visible.
(21) Since only one eye may need it.
(22) Or, villagers. Temptation not being so great there, it is safe even for modest women to paint both eyes.
(23) The paste being to entrap the birds that alight thereon.
(24) I.e., a hole through which wine is poured; this is smaller than one made for oil or honey.
(25) The translation of these three passages, from PASTE, etc., follows the text as emended by Bah.
(26) Which is less than the standard of the Rabbis which precedes it; v. Mishnah supra 75a.
(27) This is a smaller standard.

Talmud - Mas. Shabbath 80b

Our Rabbis taught: If one carries out hair, [the standard is] as much as is required for the kneading of clay;[1] [if one carries out] clay, [the standard is] for making a hole in a gold-refiner's pot.

LIME, TO SMEAR THE SMALLEST OF GIRLS. A Tanna taught: As much as is required to smear the little finger of girls.[2] Rab Judah said in Rab's name: When maidens of Israel attain puberty before the proper age:[3] poor maidens plaster it [the unwanted hair] with lime; rich maidens plaster it with fine flour; whilst royal princesses plaster it with oil of myrrh, as it is said, six months with oil of myrrh.[4] What is oil of myrrh? — R. Huna b. Hiyya said: Satkath.[5] R. Jeremiah b. Abba said: Oil of olives less than a third grown.

It was taught: R. Judah said: Anpakkinon is oil of olives less than a third grown, and why does one anoint herself therewith? Because it removes the hair and smoothes the skin.

R. Bibi had a daughter. He treated her limb by limb [with a depilatory] and took four hundred zuz for her.[6] Now, a certain heathen lived in the vicinity. He [too] had a daughter, and he plastered her [whole body] all at once, whereupon she died. ‘R. Bibi has killed my daughter!’ he exclaimed. R. Nahman observed: As for R. Bibi who drank strong liquor, his daughter required pasting over; [but] as for us, who do not drink strong liquor, our daughters do not require such treatment.[7]

R. JUDAH SAID: ENOUGH TO PLASTER[8] A KILKUL.[9] What is KILKUL and what is ANDIFE? Rab said: The [upper] temple and the lower temple. Shall we say that R. Judah's standard is larger? But we know the standard of the Rabbis to be larger![10] It is smaller than the Rabbis’, but larger than R. Nehemiah's.

An objection is raised: Rabbi said: I approve R. Judah's view in respect of loosely dissolved lime, and R. Nehemiah's view in respect of chalky lime.[11] But if you maintain that they mean the [upper] temple and the lower temple, — [surely] both require loose lime?[12] Rather, said R. Isaac, The School of R. Ammi recited andifa [in the Mishnah].[13] R. Kahana demurred: Does one destroy [break up] his wealth?[14] Rather, said R. Kahana: It means the teeth-like marks [of a vessel];[15] even as we learnt: The hin-measure had teethlike marks, [to indicate] so far [must it be filled with wine] for a bullock, so far for a ram, so far for a sheep.[16] Alternatively, what is andifa? The lock on the forehead.[17] Even as a certain Galilean chanced to visit Babylon and was requested to lecture on the chariot passage;[18] Said he to them, 'I will lecture to you as R. Nehemiah lectured to his companions.' Thereupon a wasp came out of the wall and stung him on the andifa [forehead] and he died. Said they. 'This [befell] him through his own [fault].'[19]

MISHNAH. [IF ONE CARRIES OUT] EARTH [A KIND OF CLAY], [THE STANDARD IS] AS MUCH AS IS REQUIRED FOR A SEAL ON PACKING BAGS;[20] THIS IS R. AKIBA'S VIEW. BUT THE SAGES SAY; AS MUCH AS IS REQUIRED FOR THE SEAL ON LETTERS.[21] [FOR] MANURE, OR THIN SAND, [THE STANDARD IS] AS MUCH AS IS REQUIRED FOR FERTILIZING A CABBAGE STALK; THIS IS R. AKIBA'S VIEW. BUT THE SAGES MAINTAIN: FOR FERTILIZING ONE LEEK PLANT. THICK SAND, AS MUCH AS IS REQUIRED FOR PUTTING ON A FULL PLASTER TROWEL. A REED, AS MUCH AS IS REQUIRED FOR MAKING A PEN. BUT IF IT IS THICK OR CRUSHED,[22] [THE STANDARD IS] AS MUCH AS IS REQUIRED FOR BOILING THE LIGHTEST OF EGGS BEATEN UP AND PLACED IN A STEW POT. GEMARA. ON A FULL PLASTER TROWEL. A Tanna taught: As much as is required for putting on the top of a plasterer's trowel. Which Tanna holds that sand improves plaster? — Said R. Hisda: R. Judah. For it was taught: One must not plaster his house with lime unless he mixed it with straw or sand.[23] R. Judah said: Straw is permitted, but sand is forbidden, because it becomes cement.[24] Raba said, You may say that it agrees even the Rabbis: The spoiling thereof makes it fit.[25]

A REED, AS MUCH AS IS REQUIRED FOR MAKING A PEN. It was taught: A pen which reaches one's finger joints. R. Ashi asked: The upper joint or the lower? The question stands over.

BUT IF IT IS THICK, etc. A Tanna taught: Beaten up with oil and placed in a stew pot. Mar, son of Rabina, said to his son: Have you heard what a light egg is? — He replied: An egg of a turtle dove. What is the reason? Because it is small! Then say [the egg of a zipparta?[26] He was silent. Have you then heard anything on this? he[27] asked him. Said he to him, Thus did R. Shesheth say: It is a fowl's egg, and why is it called a light egg? The Sages estimated, You have no egg quicker [lighter] to boil than a fowl's egg. And wherefore [he[27] asked] are all the [food-]standards of the Sabbath the size of a dried fig, whereas here it is an egg? Said he to him, Thus did R. Nahman say: [It means] as much as [is required to boil the size of] a dried fig of a light egg.

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(1) Sc. as much clay as is made with a quarter log of waste water (Tosaf.). Hair too was used in the kneading.

(2) To redden it (Rashi). קטנה שבבנות may be rendered either the smallest of girls, or the little (finger) of girls.

(3) Lit., 'and do not attain their years' — i.e., they have the hairy growth. which is the evidence of puberty. before time, and wish to remove it.

(4) Esth. II, 12 q.v.

(5) Jast.: oil of myrrh or cinnamon (a corruption of Gr. **

(6) As a dowry. This would appear to be a reversion to the very ancient practice of giving a dowry for a bride. Cf. Jacob giving his labour as a dowry for Rachel, and Shechem offering a dowry for Dinah (Gen. XXIX, 18; XXXIV, 12).

(7) Their skin being white and smooth in any case — a strong argument in favour of teetotalism!

(8) Sic. The reading in the Mishnah is, produce, make.

(9) Mishnah: KALKAL.

(10) V. Mishnah 78a.

(11) I.e.. thick lime.

(12) Then why this distinction?

(13) Instead of andife. Rashi: andifa is an earthen vessel with two spouts, one above and one below. When one wishes to fill it with wine he closes the lower spout with lime, and it is to this that R. Nehemiah refers in the Mishnah. Jast. translates quite differently.

(14) By keeping wine in such a vessel. The wine will gradually dissolve the lime and then run out.

(15) A vessel for measuring. Notches were made to indicate the measure, e.g., log. hin, etc., and these were plastered over with lime. To this R. Nehemiah refers.

(16) Sacrifices were accompanied by libations wine, the measure of which depended upon the animal sacrificed, v. Num. XXVIII, 14.

(17) Jast. Rashi: The forehead where hair does not grow. This was reddened with lime.

(18) Ezek. ch. 1, which treats of the Heavenly Chariot.

(19) Through wishing to lecture publicly on the Chariot. This was regarded as esoteric learning, and was to be confined to the initiated only; cf. Hag. 11b, 13a and 14b.

(20) Large bags in which ships' cargoes were carried.

(21) This is a smaller standard.

(22) And unfit for a pen.

(23) To darken it as a sign of mourning. This was after the destruction of the Temple. v. B.B. 60b.

(24) And is an improvement.

(25) Rashi: since it may not be used without darkening, this spoiling makes it fit for use, and hence is adopted as a standard. Others (with whom Rashi disagrees): the spoiling of the colour is nevertheless an improvement, for the sand strengthens it.

(26) Jast.: a small bird, supposed to be the humming bird.

(27) The son.

Talmud - Mas. Shabbath 81a

MISHNAH. [IF ONE CARRIES OUT] BONE, [THE STANDARD IS AS MUCH AS IS REQUIRED FOR MAKING A SPOON;[1] R. JUDAH MAINTAINED: FOR MAKING THEREOF[2] A HAF; GLASS, LARGE ENOUGH FOR SCRAPING THE TOP OF THE WHORL [OF A SPINDLE]; A CHIP OR A STONE, LARGE ENOUGH TO THROW AT A BIRD; R. ELEAZAR B. JACOB SAID: LARGE ENOUGH TO THROW AT AN ANIMAL.[3]

GEMARA. Shall we say that R. Judah's standard is larger: but we know the standard of the Rabbis to be larger?[4] — Said ‘Ulla: [It means] the wards of a lock.[5]

Our Rabbis taught: The wards of a lock are clean;[6] [but] when one fits them into the lock, they are [liable to become] unclean.[7] But if it [the lock] is of a revolving door,[8] even when it is fixed on the door and nailed on with nails, they [the wards] are clean, because whatever is joined to the soil is as the soil.[9]

GLASS, LARGE ENOUGH FOR SCRAPING [etc.]. A Tanna taught: Glass,[10] large enough to break across two threads simultaneously.

A CHIP, OR A STONE, LARGE ENOUGH TO THROW AT A BIRD: R. ELEAZAR [etc.]. R. Jacob said in R. Johanan's name: Providing that it can feel it. And what size is that? It was taught, R. Eleazar b. Jacob said: Ten zuz in weight.[11]

Zonin entered the Beth Hamidrash [and] said to them [the students]: My masters, what is the standard of the stones of a privy?[12] Said they to him: [One] the size of an olive, [a second] the size of a nut, and [a third] the size of an egg.[13] Shall one take [them] in a [gold] balance! he objected.[14] [Thereupon] they voted and decided: A handful.[15] It was taught; R. Jose said: [One] the size of an olive, [another] the size of a nut, and [a third] the size of an egg: R. Simeon b. Jose said on his father's authority: A handful.

Our Rabbis taught: One may carry three smoothly rounded stones[16] into a privy. And what is their size? R. Meir said: As [large as] a nut; R. Judah maintained: As [large as] an egg. Rafram b. Papa observed in R. Hisda's name: Even as they differ here, so do they differ in respect to an ethrog.[17] But there it is a Mishnah, whereas here it is [only] a Baraitha?[18] Rather [say:] Just as they differ in respect to an ethrog, so do they differ here.

Rab Judah said: But not brittle stone [payas].[19] What is payas? — Said R. Zera: Babylonian pebbles.[20]

Raba said: One may not use a chip on the Sabbath [as a suppository] in the same way as one uses it on weekdays. Mar Zutra demurred: Shall one then endanger [his health]? — [It may be done] in a back-handed manner.[21]

R. Jannai said: If there is a fixed place for the privy,[22] [one may carry in] a handful [of stones];[23] if not, [only] the size of the leg of a small spice mortar [is permitted].[24] R. Shesheth said: If there is evidence upon it,[25] it is permitted.[26] An objection is raised: Ten things lead to hemorrhoids in a man, and these are they: [i] eating the leaves of reeds; [ii] the leaves of vines; [iii] sprouts of grapevine; [iv] the rough flesh[27] of an animal without salt; [v] the spine of a fish; [vi] a salted fish insufficiently cooked; [vii] drinking the lees of wine; [viii] wiping oneself with lime, [ix] with clay. [x] [and] with a chip which one's neighbour has [already] used thus.[28] And some say, Suspending oneself in a privy too.[29] — There is no difficulty; the one refers to a damp [stone];[30] the other to a dry one. Alternatively, here the reference is to the same side [of the stone];[31] there, to the other side. Another alternative: the one refers to his own;[32] the other, to his neighbour's. Abaye asked R. Joseph: What if rain fell on it and it [the stain] was washed away? If the mark thereof is perceptible, he replied, it is permitted.

Rabbah son of R. Shila asked R. Hisda:

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(1) Jast.: pointed on top and curved at the end.

(2) This is first assumed in the Gemara to mean a lock, which gives a greater standard than that of the Rabbis, but is subsequently translated ward of a lock.

(3) But one does not trouble to throw anything at a bird, which is frightened away with the voice.

(4) v. supra 80a, p. 381. n. 7.

(5) V. note on Mishnah

(6) I.e., they are not susceptible to uncleanness, being unfit for use by themselves (Rashi). Rashi also maintains that the reference is to wards made of bones; Tosaf., to wards made of metal.

(7) For they are now parts of utensils.

(8) It is not the lock of a box or chest, but of something fixed to soil, e.g., the door of a house.

(9) Which cannot become unclean.

(10) Sekukith is a rarer form of the more usual zekukith.

(11) One zuz = 3.585 grammes (J.E., ‘Weights and Measures’, vol. XII, p. 489 Table 1).

(12) Used for cleansing.

(13) These three together constitute the standard, as they are all required.

(14) For weighing them accurately.

(15) Of stones, no matter what their number.

(16) Jast. Rashi (as emended by Rashal): sharpened stones.

(17) A citron, which is one of the fruits to be taken on the Feast of Tabernacles (v. Lev. XXIII. 40). R. Meir holds that its minimum size must be that of a nut, while R. Judah holds that it must be at least as large as an egg.

(18) And the Mishnah being better known, he surely should have taken that as the point of comparison.

(19) This being unsuited for this purpose. it may not be handled on the Sabbath.

(20) Which are cloddy and brittle.

(21) V. p. 188, n. 2.

(22) Their privies were in the fields. Some were permanent, others were not.

(23) I.e., over a distance of less than four cubits. V., however, R. Han. For those that are left over in the evening may be used in the morning.

(24) This translation follows R. Han and Tosaf.

(25) I.e., a stain of excrements.

(26) To handle it, even if larger than the standard size normally allowed on the Sabbath, since it has already been used for that purpose before.

(27) Rashi. Jast.: the palate.

(28) This contradicts R. Shesheth.

(29) Instead of sitting.

(30) From former use; that is unfit.

(31) That is injurious.

(32) I.e., a stone which he himself has used before; that is permitted.

Talmud - Mas. Shabbath 81b

Is it permissible to carry them up [the stones] after one to the roof?[1] Human dignity is very important, he replied, and it supersedes a negative injunction of the Torah.[2] Now, Meremar sat and reported this discussion, [whereupon] Rabina raised an objection to Meremar: R. Eliezer said: One may take a chip [lying] before him to pick his teeth therewith;[3] but the Sages maintain: He may take only from an animal's trough?[4] How compare! There, one appoints a place for his meal;[5] but here, does one appoint a place for a privy?[6]

R. Huna said: One may not obey the call of nature on a ploughed field on the Sabbath. What is the reason? Shall we say, because of treading down?[7] Then the same holds good even on weekdays? Again, if it is on account of the grasses,[8] — surely Resh Lakish said: One may cleanse himself with a pebble whereon grass has sprouted, but if one detaches [the grass] thereof on the Sabbath, he incurs a sin-offering? Rather [the reason is] lest he take [a clod] from an upper level[9] and throw it below,[10] and he is then liable on account of Rabbah's [dictum], for Rabbah said: If one has a depression and fills it up, — if in the house, he is culpable on account of building; if in the field, he is culpable on account of ploughing.

[To revert to] the main text: Resh Lakish said: One may cleanse himself with a pebble whereon ‘grass has sprouted; but if one detaches [the grass] thereof on the Sabbath, he incurs a sin-offering. R. Pappi said: From Resh Lakish you may infer that one may take up a parpisa.[11] R. Kahana demurred: If they said [that it is permitted] in case of need,[12] shall they say [thus] where there is no need![13]

Abaye said: As for parpisa, since it has come to hand, we will state something about it. If it is lying on the ground and one places it upon pegs, he is culpable on the score of detaching; if it is lying on pegs and one places it on the ground, he is liable on the score of planting.[14]

R. Johanan said: One must not cleanse oneself with a shard on the Sabbath. What is the reason? Shall we say on account of danger?[15] Then on weekdays too [let it be forbidden]? Again if it is on account of witchcraft:[16] it may not [be done] even on weekdays too? Again, if it is on account of the tearing out of hair, — but surely that is unintentional? — Said R. Nathan b. Oshaia to them: [Since] a great man has stated this dictum, let us give a reason for it. [Thus:] it is unnecessary [to state] that it is forbidden on weekdays;[17] but on the Sabbath, since it bears the rank of a utensil, [I might think that] it is permitted:[18] therefore he informs us [otherwise].

Raba recited it on account of the tearing out of hair, and found R. Johanan to be self-contradictory. [Thus:] did then R. Johanan say, One must not cleanse oneself with a shard on the Sabbath, which shows that what is unintentional is forbidden? Surely R. Johanan said: The halachah is as [every] anonymous Mishnah, and we learnt: A nazirite may cleanse [his hair] and part it, but he must not comb it.[19] But it is clear that it is as R. Nathan b. Oshaia.

What is [the reference to] witchcraft? — R. Hisda and Rabbah son of R. Huna were travelling in a boat, when a certain [non-Jewish] matron said to them, 'Seat me near you,' but they did not seat her. Thereupon she uttered something [a charm] and bound the boat;[20] they uttered something, and freed it. Said she to them, 'What shall I do to you,

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(1) Since he could have carried them up there on the eve of Sabbath, Tosaf.

(2) I.e., it is permitted. v. infra 94b.

(3) Though not designated for this purpose beforehand, it is not regarded as mukzeh (q.v. Glos.).

(4) There it is regarded as standing ready for use, but otherwise it is mukzeh, and human dignity, viz., the necessity to clean one's teeth, does not negative this prohibition.

(5) Beforehand, and at the same time he could have prepared his toothpicks too. Hence the prohibition retains its force.

(6) Surely not! (Cf. p. 386. n. 7).

(7) The loose ploughed soil, thus spoiling it, the reference being to a neighbour's field.

(8) Which sprout on the loose, moist earth, and in picking up a clod for cleansing one may involuntarily detach the grass.

(9) E.g.. a mound or any other protuberance.

(10) Into a depression; he thus levels them.

(11) Rashi: a perforated pot. Though the earth in it might be regarded as attached to the ground in virtue of the perforation which permits the sap or moisture to mount from the one to the other, yet just as Resh Lakish rules that the pebble is treated as detached in spite of the grass which has grown on it, which is only possible through its lying on the soil, so is this pot too regarded thus. Jast.: a lump of earth in a bag of palm-leaves (v. Rashi in name of תשובת הגאוינם).

(12) Sc. for cleansing, which is necessary.

(13) Surely not!

(14) Cf. n. 3. 'Culpable' here merely denotes that the action is forbidden, but does not imply liability to a sin-offering, as usual (Rashi and Tosaf.).

(15) He may cut himself.

(16) As below.

(17) Since one can just as easily take a chip or a pebble, to which no suspicion of danger or witchcraft attaches.

(18) Being preferable to a chip or a pebble, which are not utensils, and in general it is permitted to handle a utensil sooner than that which is not a utensil.

(19) v. supra 50b for notes.

(20) So that it could not proceed further.

Talmud - Mas. Shabbath 82a

seeing that you do not cleanse yourselves with a shard,[1] nor kill vermin on your garments, and you do not pull out and eat a vegetable from a bunch which the gardener has tied together'?[2]

R. Huna said to his son Rabbah, 'Why are you not to be found before R. Hisda, whose dicta are [so] keen?' 'What should I go to him for,' answered he, 'seeing that when I go to him he treats me to secular discourses!'[3] [Thus] he tells me, when one enters a privy, he must not sit down abruptly, nor force himself overmuch, because the rectum rests on three teeth-like glands, [and] these teeth-like glands of the rectum, might become dislocated and he [his health] is endangered. 'He treats of health matters,'[4] he exclaimed, 'and you call them secular discourses! All the more reason for going to him!'

If a pebble and a shard lie before one, — R. Huna said: He must cleanse himself with the pebble, but not with the shard;[5] but R. Hisda ruled: He must cleanse himself with the shard, and not with the pebble.[6] An objection is raised: If a pebble and a shard lie before one, he must cleanse himself with the shard, not with the pebble this refutes R. Huna? — Rafram b. Papa interpreted it before R. Hisda on R. Huna's view as referring to the rims of utensils.[7]

If a pebble and grass lie before one, — R. Hisda and R. Hamnuna [differ therein]: one maintains: He must cleanse himself with the pebble, but not with the grass;[8] whilst the other ruled: He must cleanse himself with the grass, not with the pebble.[9] An objection is raised: If one cleanses himself with inflammable material,[10] his lower teeth[11] will be torn away? — There is no difficulty: the one refers to wet [grass];[12] the other to dry [grass].

If one has a call of nature but does not obey it — R. Hisda and Rabina — one said: He has an attack of offensive odour;[13] the other said: He is infected by an offensive smell.[14] It was taught in accordance with the view that he is infected by an offensive smell. For it was taught: One who has a call of nature yet eats, is like an oven which is heated up on top of its ashes, and that is the beginning of perspiration odour.[15]

If one has a call of nature but cannot obey it, — R. Hisda said: He should repeatedly stand up and sit down; R. Hanan of Nehardea said: Let him move to [different] sides; R. Hamnuna said: Let him work about that place with a pebble; while the Rabbis advise: Let him not think: Said R. Aha son of Raba to R. Ashi: If he does not think [of it], he is all the more likely not to be moved? Let him not think of other things, replied he.[16] R. Jeremiah of Difti observed: I myself saw a certain Arab repeatedly arise and sit down until he poured forth like a cruse.

Our Rabbis taught: If one enters [a house] to [partake of] a complete meal,[17] he should [first] walk ten four-cubit lengths others say, four ten-cubit lengths — be moved, then enter and take his seat.

MISHNAH. [IF ONE CARRIES OUT] A SHARD, [THE STANDARD IS] AS MUCH AS IS NEEDED FOR PLACING BETWEEN ONE BOARD AND ANOTHER:[18] THIS IS R. JUDAH'S VIEW. R. MEIR SAID: LARGE ENOUGH TO SCRAPE OUT THE FIRE THEREWITH; R. JOSE SAID: LARGE ENOUGH TO CONTAIN A REBI'ITH. R. MEIR OBSERVED: THOUGH THERE IS NO PROOF OF THE MATTER, YET THERE IS A HINT: SO THAT THERE SHALL NOT BE FOUND AMONG THE PIECES THEREOF A SHARD TO TAKE FIRE FROM THE HEARTH.[19] SAID R. JOSE TO HIM, THENCE IS PROOF [OF MY VIEW, VIZ.]: OR TO TAKE WATER WITHAL OUT OF THE CISTERN.[20]

GEMARA. (The Scholars asked: Is R. Meir's standard greater or R. Jose's standard greater?)[21] Logically, R. Jose's standard is greater, whereas the verse [quoted indicates that] R. Meir's standard is greater, for should you think that R. Jose's standard is greater, does he [the prophet] [first] curse in respect to a small vessel, and then curse in respect to a large one![22] — Said Abaye: Our Mishnah too [means] to scrape out a fire from a large hearth.[23]

SAID R. JOSE TO HIM, THENCE IS PROOF. But R. Jose says well to R. Meir! — R. Meir maintains that he proceeds to a climax: Not only will nothing that is of value to people be found therein, but even that which is of no value to people shall not be found therein.

CHAPTER IX

MISHNAH. R. AKIBA SAID: WHENCE DO WE KNOW THAT AN IDOL DEFILES BY CARRIAGE LIKE A NIDDAH?[24] BECAUSE IT IS SAID, THOU SHALT CAST THEM [SC. THE IDOLS] AWAY AS A MENSTRUOUS THING; THOU SHALT SAY UNTO IT, GET THEE

HENCE:[25] JUST AS A NIDDAH DEFILES BY CARRIAGE, SO DOES AN IDOL DEFILE BY CARRIAGE.[26]

GEMARA. We learnt elsewhere:[27] If one's house adjoins an idol,[28] and it collapses, he must not rebuild it.[29] What shall he do? He must retreat four cubits within his own [ground] and rebuild.

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(1) And are thus not exposed to witchcraft — this remark gives the point of the story.

(2) But you first untie the bunch.

(3) I.e., not on Torah.

(4) Lit., ‘the life (health) of the creatures.

(5) Though the first is not a utensil (v. p. 389. n. 1), because the latter is dangerous.

(6) Because the former is technically a utensil.

(7) Which are rounded and smooth; hence they are not dangerous.

(8) Because it injures the flesh (Rashi). Or the reference is to attached (growing) grass, and one must not make use on the Sabbath of that which is attached to the soil.

(9) He ignores the prohibition mentioned in the last note, and holds grass to be preferable, because a pebble is not a utensil and may normally not be handled on the Sabbath.

(10) Lit., ‘over which the fire rules’.

(11) I.e., the teeth-like glands supporting the rectum.

(12) This is permissible.

(13) From his mouth.

(14) From the whole body.

(15) Which affects the whole body.

(16) But concentrate on this.

(17) Lit., ‘a fixed meal’ as opposed to a mere snack, so that he will have to sit some time there.

(18) When they are piled up. Rashi: the boards are not allowed to touch, but are separated by shards to prevent them from warping. ‘Aruk: to enable the air to enter and dry them.

(19) Isa. XXX. 14.

(20) Ibid. The least quantity of water to be counted is a rebi'ith; v. first Mishnah of this chapter.

(21) Rashal and Bah delete this bracketed passage.

(22) This is raised as a difficulty. Generally speaking, only a very small shard is required for scraping out a fire from a stove, certainly not one large enough to contain a rebi'ith. On the other hand, the prophet would not curse by first observing that not even a small shard will remain, and then add that a large shard will not remain either.

(23) Which requires a larger shard.

(24) If one carries a niddah (q.v. Glos.), even without actually touching her, he becomes unclean, and R. Akiba teaches that the same applies to an idol.

(25) Isa. XXX, 22.

(26) Rashi: This Mishnah is quoted here because of its similarity in style to a later Mishnah concerning circumcision on the Sabbath (infra 86a). R. Han. and Tosaf.: Since the last Mishnah of the preceding chapter quotes a law which is supported by, though not actually deduced from, a Biblical verse, this chapter commences similarly. Both verses quoted are from Isa. XXX.

(27) V. A.Z. 47b.

(28) So that its wall is also the wall of the heathen temple, though actually it belongs entirely to him.

(29) Since he thereby builds a wall for the temple too.

Talmud - Mas. Shabbath 82b

If it belongs to him and to the idol, it is judged as half and half.[1] The stones, timber and earth thereof defile like a [dead] creeping thing [sherez], for it is said, Thou shalt treat a creeping thing.[2] R. Akiba said: [They defile] like a niddah, because it is said, ‘Thou shalt cast them away [tizrem] as a menstruous thing’: just as a niddah defiles by carriage, so does an idol defile by carriage. Rabbah observed, Tizrem, mentioned in the verse, means ‘thou shalt alienate them from thee as a zar [stranger].’ ‘Thou shalt say unto it, Get thee hence’, but thou shalt not say unto it, Enter hither.[3]

Rabbah also observed: As for carriage, all agree that it defiles thereby, since it is assimilated to niddah. They differ in respect to a stone that closes a cavity:[4] R. Akiba holds, It is like a niddah: just as a niddah defiles through a cavity-closing stone, so does an idol defile through a cavity-closing stone; while the Rabbis maintain, It is like a creeping thing [sherez]: just as a sherez does not defile through a cavity-closing stone, so does an idol not defile through a cavity-closing stone.

Now, according to R. Akiba, in respect of which law is it likened to a sherez?[5] -In respect of its service utensils.[6] And according to the Rabbis, in respect of which law is it likened to niddah?-In respect of carriage. Then let it be likened to nebelah?[7] That indeed is so, but [the analogy with niddah teaches:] just as a niddah is not [a source of contamination] through her [separate] limbs,[8] So is an idol not [a source of contamination] through its limbs. Then when R. Hama b. Guria asked: ‘Does the law of an idol operate in respect of its limbs or not?’-solve it for him from this that according to the Rabbis it does not operate in respect of its limbs?-R. Hama b. Guria asked it on R. Akiba's view.

But R. Eleazar maintained: In respect of a cavity-closing stone all agree that it does not defile thereby, since it is likened to a sherez,[9] they differ only in respect of carriage. R. Akiba holds, It is like a niddah: just as a niddah defiles through carriage, so does an idol defile through carriage. While the Rabbis argue. It is like a sherez: just as a sherez does not defile through carriage, so does an idol not defile through carriage. Now, according to R. Akiba, in respect of what law is it likened to a sherez?-In respect of its service utensils. And according to the Rabbis’, in respect of what law is it likened to a niddah?-Just as a niddah is not [a source of contamination] through her [separate] limbs, so is an idol not [a source of contamination] through its limbs.

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(1) E.g., if the wall is two cubits thick, one cubit only is accounted as his portion, and be must retreat another three cubits.

(2) Deut. VIII, 26. Shakkez teshakkezenu fr. shekez, something loathsome, which is connected with sherez (E.V.: thou shalt utterly detest it). A sherez defiles by its touch, but not when it is merely carried; but v. discussion infra.

(3) I.e., one must absolutely reject it (Tosaf. s.v. אמר).

(4) Rashi: a stone resting upon laths, and under it lie utensils. Tosaf.: a stone so heavy that when a niddah sits upon it her additional weight makes no difference to the utensils upon which it rests. According to both definitions, the question is whether these utensils are defiled when an idol is placed upon the stone.

(5) As it is in the verse, v.p. 393, n. 8.

(6) The utensils used in an idol's service do not defile through carriage or through a cavity-closing stone.

(7) V. Glos. This analogy would give the exact law, whereas the analogy with niddah has to be qualified by a further analogy with sherez.

(8) If a limb e.g., an arm, is cut off from a niddah, it defiles as the severed limb of a living human being in general, but not as niddah. The practical difference is that it does not defile through a cavity-closing stone.

(9) This is the text as emended by Rashal.

Talmud - Mas. Shabbath 83a

Now according to R. Akiba, in respect of what law is it likened to a niddah? [only] in respect of carriage! Then let it be likened to nebelah?-That indeed is so, but [the analogy with niddah, rather, teaches: just as niddah is not a source of contamination] through her [separate] limbs, so is an idol not [a source of contamination] through its limbs. Then when R. Hama b. Guria asked: ‘Does the law of an idol operate in respect of its limbs or not?’solve it for him from this, according to both the Rabbis and R. Akiba, that it does not operate in respect of its limbs? — R. Hama b. Guria learns this as Rabbah, and asked it on R. Akiba's view. An objection is raised: An idol is like a [creeping thing] sherez and its service utensils are like a sherez; R. Akiba maintained: An idol is like a niddah, and its service utensils are like a sherez. Now, according to R. Eleazar, it is well; but on Rabbah's view, it is a difficulty?-Rabbah answers you: Is it stronger than the Mishnah, which states, ‘The stones, timber and earth thereof defile like a sherez,’ and we explained, What is meant by ‘like a sherez?’ That it does not defile through a cavity-closing stone: here too it means that it does not defile through a cavity-closing stone.

An objection is raised: A heathen man or woman, an idol and its service utensils, they themselves [defile] but not their motion [hesset];[1] R. Akiba maintained: They and their hesset. Now, as for R. Eleazar, it is well;[2] but on Rabbah's view it is a difficulty? — Rabbah answers you: And [even] on your view, [can you say of] a heathen man and woman too, they but not their motion [hesset],-surely it was taught: Speak unto the children of Israel [... when any man hath an issue out of his flesh, etc.]:[3] the children of Israel defile through gonorrhoea, but heathens do not defile through gonorrhoea, but they [the Rabbis] decreed concerning them that they rank as zabin in all respects.[4] But Rabbah answers [the difficulty] according to his view, [Thus:] A heathen man or woman: they themselves, their motion [hesset], and their cavity-closing stone [all defile]; an idol: it and its motion [hesset], but not its cavity-closing stone; R. Akiba maintains: An idol: it, its hesset and its cavity-closing stone [defile]. Whilst R. Eleazar interprets it in accordance with his view: A heathen man or woman: they themselves, their motion [hesset], and their cavity-closing stone [defile]; an idol: it, but not its motion [hesset]. Whilst R. Akiba maintains: An idol: it and its motion [defile].[5]

R. Ashi objected thereto: [If so,] what is [the meaning of] they themselves’?[6] -Rather said R. Ashi: This is the meaning: In the case of a heathen man or woman, whether they move others[7] or others move them,[8] [these others] are unclean.[9] If idol moves others, they are clean;[10] if others move it,[11] they are unclean. [As for] its service utensils, whether they move others or others move them, [these others] are clean. R. Akiba maintained: In the case of a heathen man or woman and an idol, whether they move others or others move them, [these others’, are unclean; as for its service utensils, whether they move others or others move them, they are clean.

[In the case of] an idol, as for others moving it, that is well, [for] it is possible; but how is it conceivable for it to move others?Said Rami son of R. Yeba, Even as we learnt: If a zab is on one pan of the scales, and foodstuffs or drinks are in the other pan and the zab outweighs them, they are unclean[12] ,

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(1) Hesset is the technical term for uncleanness induced by the motion or shaking caused by a gonorrhoeist (zab). E.g., if he moves a bench upon which a clean person is sitting, even without actually touching it, the latter becomes unclean. The Rabbis enacted that heathens defile in the same way as a zab. But it is now assumed that hesset is used here in the sense that the heathen, etc. are moved by the clean person, which is another expression for their being carried, and it is taught that these do not defile by carriage.

(2) That the first view which is that of the Rabbis, is that they do not defile through carriage.

(3) Lev. XV, 2. This introduces the laws of a zab.

(4) Which includes defilement through carriage.

(5) On both interpretations the Baraitha must be emended.

(6) If ‘hesset’ means ‘carriage’ (v. p. 395, n. 1), what is meant by ‘they’? For it cannot mean that they are unclean in themselves, since that is obvious from the fact that we debate whether even their carriage defiles.

(7) E.g., by moving or weighing down the bench upon which they are sitting.

(8) Which is tantamount to carrying them.

(9) Thus he translates: ‘they themselves’-i.e., when they are moved by others, and their ‘hesset’- i. e., when they move others. This gives hesset its usual connotation.

(10) This agrees with Rabbah in accordance with whom R. Ashi explains this Baraitha. It can be explained on similar lines according to R. Eleazar too.

(11) I.e., carriage.

(12) Since he thereby moves the foodstuffs or drinks, which is hesset. In this way an idol may move others, sc. by outweighing them on a pair of scales.

Talmud - Mas. Shabbath 83b

if they out weigh [him], they are clean.[1]

With whom does that which was taught agree, [viz.,]: [As for] all unclean things which move [others], they [the things moved] are clean, save [in the case of] moving by a zab, for which no analogy[2] is found in the whole Torah. Shall we say that this is not according to R. Akiba, for if according to R. Akiba, there is an idol too? — You may even say that it agrees with R. Akiba: He states zab and all that is like thereto.[3]

R. Hama b. Guria asked: Does the law of an idol operate in respect to its limbs or not?[4] Now, where an unskilled person can replace it [the limb in the idol], there is no question, for it is as though [already] joined [thereto]. When does the question arise? If an unskilled person cannot replace it, what [then]? Since an unskilled person cannot replace it, it is as broken;[5] or perhaps it is actually not defective?[6] Some there are who put the question in the reverse direction: Where an unskilled person cannot replace it, there is no question, for it is as broken. When does the question is if an unskilled person can replace it: what [then]? Since an unskilled person can replace it, it is as though [already] joined [thereto]; or perhaps now it is nevertheless disjoined and loose [separate]? — The question stands over.

R. Ahedbuy b. Ammi asked: What of an idol less than an olive in size? R. Joseph demurred to this: In respect of what [does he ask]? Shall we say, in respect of the interdict?[7] — let it be no more than the fly [zebub] of Baal Ekron,[8] for it was taught: And they made Baal-berith their God:[9] this refers to the fly-god of Baal Ekron. It teaches that everyone made a likeness of his idol[10] and put it in his bag: whenever he thought of it he took it out of his bag and embraced and kissed it![11] But [the question is] in respect of uncleanness: what [is the law]? since it is assimilated to sherez[12] then just as sherez [defiles] by the size of a lentil,[13] so an idol too [defiles] by the size of a lentil; or perhaps it is [also] likened to a corpse:[10] just as a corpse [defiles] by the size of an olive,[14] so does an idol [defile] by the size of an olive? — Said R. Awia — others state, Rabbah b. ‘Ulla-Come and hear: For it was taught: An idol less than an olive in size has no uncleanness at all, for it is said, And he cast the powder thereof [sc. of the idol] upon the graves of the children of the people:[15] just as a corpse [defiles] by the size of an olive, so does an idol [defile] by the size of an olive.

Now, according to the Rabbis, in respect of what law is it [an idol] likened to sherez?-that it does not defile by carriage; to a niddah?-that it is not [a source of contamination] through its [separate] limbs; [and] to a corpse?-that it does not defile by the size of a lentil![16] [Why?] Interpret it rather stringently: In respect of what law does the Divine Law liken it to a sherez? that it defiles by the size of a lentil; to a niddah? that it defiles through a cavity-closing stone; [while] the Divine Law assimilates it to a corpse, [teaching] that it defiles under the law of a covering?[17] The uncleanness of an idol is [only] by Rabbinical law: [consequently,] where there are lenient and stringent [analogies], we draw a lenient analogy, but do not draw a stringent analogy.[18]

MISHNAH. How DO WE KNOW THAT A SHIP IS CLEAN?[19] BECAUSE IT IS SAID, THE WAY OF A SHIP IN THE MIDST OF THE SEA.[20]

GEMARA. Now, it is obvious that a ship is in the midst of the sea, but we are informed this: just as the sea is clean, so is a ship clean. It was taught: Hananiah said: We learn it from a sack:[21] just as a sack can be carried both full and empty, so must everything [which is to be susceptible to defilement] be possible to be carried both full and empty, thus excluding a ship, seeing that it cannot be carried full and empty.[22] Wherein do they differ?-They differ in respect to an earthen ship: he who quotes, ‘a ship in the midst of the sea’, [holds that] this too is in the midst of the sea. But as for him who maintains that it must be like a sack: only those [vessels] that are mentioned in conjunction with a sack[23] if they can be carried full and empty, are [susceptible to uncleanness], if not, they are not [susceptible]; but an earthen ship, even if it cannot be carried full and empty, [is still susceptible to defilement]. Alternatively, [they differ in respect to] a boat of the Jordan:[24] he who quotes, ‘a ship in the midst of the sea’, [holds that] this too is a ship in the midst of the sea;[25] but as for him who requires that it be carried full and empty, this too is carried full and empty, for R. Hanina b. Akiba said: Why was it ruled that a Jordan boat is unclean? Because it is loaded on dry land and [then] lowered into the water. Rab Judah said in Rab's name: One should never abstain from [attendance at] the Beth Hamidrash even for a single hour, for lo! how many years was this Mishnah learnt in the Beth Hamidrash without its reason being revealed, until R. Hanina b. Akiba came and elucidated it. R. Jonathan said: One should never abstain from the Beth Hamidrash and from Torah, even in the hour of death, for it is said, This is the Torah, when a man dieth in a tent:[26] even in the hour of death one should be engaged in [the study of] the Torah.[27] Resh Lakish said: The words of the Torah can endure only with him who sacrifices[28] himself for it, as it is said, This is the Torah, when a man dieth in a tent.[29]

Raba said:

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(1) For they bear the zab, and only articles which are fit for lying or sitting upon, or human beings, are unclean in such a case.

(2) Lit., ‘companion’.

(3) Which includes an idol, since R. Akiba deduces an idol's power to contaminate from a niddah, who is akin to a zab.

(4) V. supra 82b.

(5) And therefore does not defile.

(6) All the parts are there, even if not assembled; hence each part should defile.

(7) One may not benefit in any way from an idol.

(8) A Phoenician idol; cf. II Kings I, 2.

(9) Judg. VIII, 34.

(10) Lit., ‘fear’.

(11) This shows that it is the same as any other idol, and benefit thereof is certainly forbidden.

(12) V. supra 82b.

(13) Less than the size of an olive.

(14) That is the least portion of a corpse which defiles.

(15) II Kings XXIII, 6.

(16) V. supra 82zb.

(17) Cf. p. 69, n. 7.

(18) All the verses quoted above as intimating the uncleanness of an idol are only supports (asmakta), but not the actual source of the law. Cf. Halevy, Doroth, 1, 5, ch. 8, pp. 470 seqq.

(19) I.e., it cannot become unclean.

(20) Prov. XXX, 19.

(21) A ship is a wooden vessel, and only those wooden vessels which are like a sack can become unclean, since they are assimilated to a sack in Lev. XI, 32.

(22) By ‘carried’ is meant actually as one carries a sack.

(23) V. Lev. XI, 32.

(24) Owing to the rapid course of the Jordan the boats that plied on it were of canoe-like structure, which could be taken up and carried over the unnavigable stretches.

(25) For all rivers are the same, not susceptible to defilement.

(26) Num. XIX, 14.

(27) In the face of the boundless love for the Torah displayed by this dictum, the criticism of Rabbinism as a dry, legalistic system is seen to be shallow and superficial. No system which does not appeal to the warm-hearted emotions could call forth such love.

(28) Lit., 'kills'.

(29) I.e., this Torah can live only when a man is prepared to die for it-an interpretation that has been historically justified.

Talmud - Mas. Shabbath 84a

Now according to Hananiah, carrying by means of oxen is regarded as carrying.[1] For we learnt: There are three waggons: That which is built like a cathedra[2] is liable to uncleanness as midras;[3] that which is like a bed[4] is liable to uncleanness through the defilement caused by a corpse;[5] that of stones[6] is completely clean. Now R. Johanan observed thereon: But if it has a receptacle for pomegranates, it is liable to uncleanness through the defilement of a corpse.[7] There are three chests: a chest with an opening at the side is liable to uncleanness as midras;[8] at the top, is liable to uncleanness through the defilement of a corpse;[9] but an extremely large one[10] is completely clean.[11]

Our Rabbis taught: The midras of an earthen vessel is clean;[12] R. Jose said: A ship too. What does he mean?[13] — Said R. Zebid. He means this: The midras of an earthen vessel is clean, but contact there with renders it unclean,[14] while an earthen ship is unclean, in accordance with Hananiah;[15] R. Jose ruled: An [earthen] ship too is clean, in agreement with our Tanna. R. Papa demurred: [if so,] why say, A ship too?[16] Rather said R. Papa, This is its meaning: The midras of an earthen vessel is clean, whilst contact therewith defiles it; but [in the case of a vessel] of wood, both its midras and its touch are unclean; while a boat of the Jordan is clean, in agreement with our Tanna; R. Jose said: A ship too is unclean, in accordance with Hananiah.

Now, how do we know that the midras of an earthen vessel is clean?-Said Hezekiah, Because Scripture saith, and whosoever toucheth his bed.[17] this assimilates 'his bed' to himself [the zab]: just as he can be cleansed in a mikweh,[18] so can 'his bed' be cleansed in a mikweh. The School of R. Ishmael taught : It shall be unto her as the bed of her impurity [niddah]:[19] this assimilates her bed to herself: just as she can be cleansed in a mikweh, so can 'her bed' be cleansed in a mikweh, thus excluding earthen vessels, which cannot be cleansed in a mikweh.[20] R. Ela raised an objection: How do we know that a [reed] mat [is susceptible to defilement] through the dead?

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(1) For the boats of the Jordan are too large to be loaded and carried overland otherwise than by oxen.

(2) Short and three sided, like an armchair.

(3) Since such are made specifically for sitting; v. supra 59a.

(4) Long, its purpose being the carriage of goods.

(5) I.e., it is susceptible to every form of defilement save midras, because it ranks as a utensil, in that it can become unclean, but it is not made for sitting thereon.

(6) A cart made for carrying large stones. Its bottom was perforated with large holes, and therefore could not be used to carry articles as small as a pomegranate or less, and for a vessel to be susceptible to defilement it must be able to hold pomegranates.

(7) Though the same waggon cannot be moved when full except by oxen. Thus though it is a wooden vessel, and therefore must be capable of being moved full or empty (supra 83b), the fact that it can be moved by oxen is sufficient.

(8) Because a zab can sit on its top without being told 'get up and let us do our work' (v. supra 59a). as things can be put in or taken out from the side.

(9) I.e., it is susceptible to all forms of uncleanness save that of midras, because a zab if sitting on it would be told to get off it, v; supra p. 312, n. 9

(10) Lit., 'one that comes in measurement'.

(11) it is unfit for lying or sitting upon on account of the opening at the top, and therefore it is not susceptible to midras, while since it cannot be moved about owing to its size, it is free from other defilement (v. supra 83b).

(12) I.e., if- a zab sits upon it , it without actually infringing upon the air space within it.

(13) A ship is not susceptible to any form of defilement.

(14) Viz., if a zab touches it on the inside.

(15) Supra 83 b.

(16) He certainly must mean that it is clean even from defilement, it through contact; then how explain ‘too’, which intimates that the first Tanna has stated that a certain article cannot be defiled by contact and R. Jose adds this?

(17) Lev. XV, 5. ‘His bed’ denotes anything upon which the zab has lain, and this passage teaches the law of midras.

(18) V. Glos.

(19) Ibid. 26, q.v.

(20) This is deduced from Lev. XI, 33, q.v. Since they cannot be cleansed, they cannot become unclean in the first place through the midras of a zab.

Talmud - Mas. Shabbath 84b

This follows a fortiori: if small [earthen] pitchers which cannot be defiled by a zab[1] can be defiled through the dead,[2] then a mat, which is defiled by a zab,[3] is surely defiled through the dead? But why so [it may be asked], seeing that it cannot be cleansed in a mikweh?[4] Said R. Hanina to him: There it is different, since some of its kind [of the same material] are [capable of being cleansed in a mikweh].[5] The All Merciful save us from this view! he exclaimed.[6] On the contrary, he retorted, The All Merciful save us from your view! And what is the reason?[7] Two verses are written: [i] and whosoever touches his bed; and [ii] every bed whereon he that hath the issue lieth [shall be unclean].[8] How are these [to be reconciled]? If something of its kind [can be cleansed in a mikweh], even if that itself cannot be cleansed in a mikweh [it is susceptible to midras]; but if nothing of its kind [can be cleansed in a mikweh], his bed is assimilated to himself.

Raba said: [That] the midras of an earthen vessel is clean [is deduced] from the following: and every open vessel, which hath no covering bound upon it[, is unclean]:[9] hence, if it has a covering bound upon it, it is clean.[10] Now, does this not hold good [even] if he had appointed it [as a seat] for his wife, when a niddah, yet the Divine Law states that it is clean.[11]

MISHNAH. HOW DO WE KNOW THAT IF A SEED-BED IS SIX HANDBREADTHS SQUARE, WE MAY SOW THEREIN FIVE KINDS OF SEEDS, FOUR ON THE FOUR SIDES, AND ONE IN THE MIDDLE?[12] BECAUSE IT IS SAID, FOR AS THE EARTH BRINGETH FORTH HER BUD, AND AS THE GARDEN CAUSETH ITS SEEDS TO SPRING FORTH:[13] NOT ITS SEED, BUT ITS SEEDS IS STATED.[14]

GEMARA. How is this implied? — Said Rab judah: For as the earth bringeth forth her bud: ‘bringeth forth’ [denotes] one, [and] ‘her bud’ [denotes] one, which gives two; ‘her seeds’ [denotes] two,[15] making four; ‘causeth to spring forth’ denotes one, making five [in all],

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(1) They are not susceptible to midras, as he cannot sit upon them. Again, an earthen vessel can be defiled only through the contaminating thing coming into contact with its inner air space, which is here impossible, as the neck of a small pitcher is too narrow to permit a zab to insert his finger. Furthermore, they cannot become unclean through hesset, as hesset and contact are interdependent, and only that which is susceptible to the latter is susceptible to the former.

(2) They become unclean when under the same roof as a corpse, v. Num. XIX, 15.

(3) With the uncleanness of midras, since it is fit for lying upon.

(4) This is R. Ela's objection: how can the Baraitha state axiomatically that a mat can be defiled by a zab?

(5) E.g., when they are provided with a receptacle.

(6) That a mat should be susceptible to midras merely because something else of the same material can be cleansed in a mikweh.

(7) On what grounds does R. Hanina base his thesis?

(8) Lev. XV, 4. The first verse implies that the bed must be like himself, on account of the suffix ‘his’, but not the second, since the suffix is absent there.

(9) Num. XIX, 15.

(10) The contamination must, as it were, penetrate into the inner air space of the vessel, which it is unable to do on account of the covering which interposes a barrier. — This shows that the reference is to an earthen vessel, where the defilement must enter its atmosphere (cf. Ps. 402, n. 1).

(11) Now in such a case it is regarded as a seat, and if it were susceptible to midras the cover would not save the vessel from becoming unclean, because whatever is itself liable to defilement cannot constitute a barrier to save something else from same. Hence it follows that an earthen vessel is not subject to midras at all.

(12) Without infringing the prohibition of sowing diverse seeds (kil'ayim) together (Deut. XX, 9).

(13) Isa. LXI, 11.

(14) Rashi: almost the whole of each side is sown with one species, and one seed is sown in the middle, as in Fig. 1. The shaded part is sown. Though the corners come very near each other, and their roots certainly intermingle, that does not matter, as their very position makes it clear that each side has been sown as a separate strip. But with respect to the middle seed there is nothing to show that it was not sown indiscriminately together with the rest, and therefore a substantial space (three handbreadths) between it and the sides is required. Maim. explains it as in Fig. 2.

(15) The minimum number of the plural.

Talmud - Mas. Shabbath 85a

and the Rabbis ascertained that five [species sown] in six [handbreadths square] do not draw [sustenance] from each other.[1] And how do we know that that which the Rabbis ascertain is of consequence?[2] For R. Hiyya b. Abba said in R. Johanan's name: What is meant by, Thou shalt not remove thy neighbour's landmark, which they of old have set?[3] The landmark which they of old have set thou shalt not encroach upon.[4] What landmarks did they of old set? R. Samuel b. Nahmani said in R. Johanan's name, [Even] as it is written, These are the sons of Seir the Horite, the inhabitants of the earth:[5] are then the whole world inhabitants of heaven? But it means that they were thoroughly versed in the cultivation of the earth. For they used to say, This complete [measuring] rod [of land is fit] for olives, this complete [measuring] rod [is fit] for vines, this complete [measuring] rod for figs.[6] And Horite [hori] implies that they smelled [merikin] the earth. And Hivite [hiwi]? Said R. Papa: [It teaches] that they tasted the earth like a serpent [hiwya].[7] R. Aha b. Jacob said: Horite [hori] implies that they become free [horin] from [the cares of] their property.[8]

R. Assi said: The internal area of the seed-bed must be six [handbreadths square], apart from its borders.[9] It was taught likewise: The internal area of the seed-bed must be six [handbreadths square]. How much must its borders be?[10] — As we learnt, R. Judah said: Its breadth must be the full breadth of [the sole of] a foot, R. Zera — others say, R. Hanina b. Papa — said: What is R. Judah's reason? Because it is written, and wateredst it with thy foot:[11] just as the [sole of] the foot is a handbreadth, so must the border too be a handbreadth.

Rab said: We learnt of a seed bed in a waste plot.[12] But there is the corner space?[13] — The School of Rab[14] answered in Rab's name: It refers to one who fills up the corners. Yet let one sow on the outside,[15] and not fill up the inside?

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(1) Hence the implications of the verse are referred to a plot of this size.

(2) To base a law thereon.

(3) Deut. XIX, 14.

(4) By planting so near to your neighbour's border that the roots must draw sustenance from his land, thus impoverishing it.

(5) Gen. XXXVI, 20.

(6) They know how to divide up the land for cultivation, and as a corollary they must have known how much earth each species required for its sustenance. It was from them that the Rabbis acquired this knowledge, whose correctness is vouched for by this verse.

(7) In both cases for agricultural purposes.

(8) Being dispossessed thereof, v. Deut. II, 12.

(9) Fallow borders were left around seed-beds for the convenience of threshing; the area stated in the Mishnah does not include the borders.

(10) That the whole may be technically regarded as a seed-bed, and the laws appertaining thereto (v. infra) apply to it.

(11) Ibid. XI, 10.

(12) I.e., the Mishnah refers to sucb. But if it is surrounded by other beds sown with different seeds, there is only the two handbreadths space occupied by the borders of the two contiguous beds between them, whereas three handbreadths space is required between two rows of different plants.

(13) Which can be left unsown. It is then possible to have the bed surrounded by others.

(14) The term Be Rab may mean either the School founded by Rab or scholars in general; Weiss Dor, III, 158.

(15) Of the seed-bed, i.e., it need not be in the middle of an unsown plot.

Talmud - Mas. Shabbath 85b

— It is a preventive measure, lest he fill up the corners. Yet let it not be other than a triangular plot[1] of vegetables? Did we not learn, If a triangular plot of vegetables enters another field,[2] this is permitted, because it is evidently the end of a field?[3] — [The permissibility of] a triangular plot does not apply to a seed-bed.[4]

But Samuel maintained: We learnt of a seed-bed in the midst of [other] seed-beds. But they intermingle? — He inclines one strip in one direction and one strip in another direction,

‘Ulla said: They asked in the West [Palestine]: What if a person draws one furrow across the whole?[5] R. Shesheth maintained: The intermingling comes and annuls the strips.[6] R. Assi said: The intermingling does not annul the strips. Rabina raised an objection to R. Ashi: If one plants two rows of cucumbers, two rows of gourds, and two rows of Egyptian beans, they are permitted;[7] one row of cucumbers, one row of gourds and one of Egyptian beans, they are forbidden?[8] — Here it is different, because there is entanglement.[9]

R. Kahana said in R. Johanan's name: If one desires to fill his whole garden with vegetables,[10] he can divide it into[11] bed[s] six [handbreadths] square, describe in each a circle five [handbreadths in diameter], and fill its corners with whatever he pleases.[12] But there is the [space] between [the beds]?[13] — Said the School of R. Jannai: He leaves the interspaces waste.[14] R. Ashi said: If they [the beds] are sown in the length, he sows them [the interspaces] in the breadth, and vice versa.[15] Rabina objected to R. Ashi: The planting[16] of one vegetable with another [requires] six handbreadths [square],[17] and they are regarded

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(1) Lit., ‘an ox-head’.

(2) Sown with other crops. Fields were generally ended off in a triangular shape.

(3) Though it comes right up to the other crops, one can see that there has been no indiscriminate sowing (cf. note on our Mishnah, p. 403, n. 5); the same should apply here.

(4) Because in the proposed case there is nothing to show that the different strips are distinct.

(5) Rashi: From north to south, crossing the middle seeds, this furrow being either of one of the five seeds or of a sixth. Tosaf: The furrow is drawn right round the four sides of the plot but deepened (by a handbreadth) and the question is whether this deepening constitutes a distinguishing mark, so that it shall be permitted.

(6) I.e., it is not a distinguishing mark, but on the contrary breaks up the separateness of the other strips, and so is forbidden.

(7) Two rows constitute a field, and therefore each plant is regarded as in a separate field, though they are in proximity to each other.

(8) This proves that a single row effects a prohibited intermingling.

(9) Their leaves become entangled above as they grow high. On this account they are forbidden.

(10) Of different kinds.

(11) Lit., ‘make’.

(12) Thus (see drawing): planting in this way shows that there has been no indiscriminate intermingling.

(13) Viz., the borders which are to be left fallow, v. supra a.

(14) R. Johanan's phrase ‘his whole garden’ is not meant literally, but merely applies to the seed-beds into which it is divided.

(15) in this way literally the whole garden can be filled.

(16) Lit., ‘working’.

(17) I.e., within a bed of this area it is possible to plant a number of different kinds of vegetables, as stated in our Mishnah.

Talmud - Mas. Shabbath 86a

as a square board. Thus it is only permitted as a [square] board, but otherwise it is forbidden?[1] — There [it desires to] teach another leniency in respect thereof, [viz.,] to permit a triangular wedge that issues thence [into another plot or field].[2]

MISHNAH. HOW DO WE KNOW THAT IF ONE [A WOMAN] DISCHARGES SEMEN ON THE THIRD DAY SHE IS UNCLEAN? BECAUSE IT IS SAID, BE READY AGAINST THE THIRD DAY.[3] HOW DO WE KNOW THAT A CIRCUMCISED CHILD[4] MAY BE BATHED [EVEN] ON THE THIRD DAY [AFTER CIRCUMCISION] WHICH FALLS ON THE SABBATH? BECAUSE IT IS SAID, AND IT CAME TO PASS ON THE THIRD DAY, WHEN THEY WERE SORE.[5] HOW DO WE KNOW THAT A CRIMSON-COLOURED STRAP IS TIED TO THE HEAD OF THE GOAT THAT IS SENT [TO ‘AZAZ'EL]?[6] BECAUSE IT IS SAID, IF YOUR SINS BE AS SCARLET, THEY SHALL BE AS WHITE AS SNOW.[7] HOW DO WE KNOW THAT ANOINTING IS THE SAME AS DRINKING ON THE DAY OF ATONEMENT?[8] THOUGH THERE IS NO PROOF OF THIS, YET THERE IS A SUGGESTION THEREOF, FOR IT IS SAID, AND IT CAME INTO HIS INWARD PARTS LIKE WATER, AND LIKE OIL INTO HIS BONES.[9]

GEMARA. The first clause does not agree with R. Eleazar b. ‘Azariah, whilst the second clause does agree with R. Eleazar b. ‘Azariah, for if it [the first clause] were according to R. Eleazar b. ‘Azariah, we have heard from him that she is clean?[10] — He who does not [wish to] explain [a Mishnah] as [reflecting the views of two] Tannaim learns ‘she is clean’ in the first clause, and [thus] establishes the whole of it in accordance with R. Eleazar b. ‘Azariah. Whilst he who does explain it as [the opinions of two] Tannaim[11] [holds that] the first clause agrees with the Rabbis, while the second is according to R. Eleazar b. ‘Azariah. Our Rabbis taught: if one [a woman] discharges semen on the third day, she is clean; this is the view of R. Eleazar b. ‘Azariah.[12] R. Ishmael said: This [interval] sometimes comprises four periods,[13] sometimes five, and sometimes six periods.[14] R. Akiba maintained: It [the interval for uncleanness] is always [up to] five periods. And if part of the first period has gone,[15] a part of the sixth period is given her.[16] Now the Rabbis stated this [the following difficulty] before R. Papa-others say, R. Papa said to Raba: As for R. Eleazar b. ‘Azariah, it is well: he holds with the Rabbis, who maintain, Abstention [from intimacy] was effected on Thursday.[17] Again, R. Ishmael holds with R. Jose that abstention was effected on Wednesday. But with whom does R. Akiba agree?[18] — After all, R. Akiba holds as R. Jose, [but it is] as R. Adda b. Ahabah said: Moses ascended early in the morning and descended early in the morning. ‘He ascended early in the morning,’ for it is written, and Moses rose up early in the morning, and went up unto mount Sinai;[19] ‘he descended early in the morning’, for it is written, Go, get thee down; and thou shalt come up, thou, and Aaron with thee:[20] this likens descent to the ascent: just as ascent was early in the morning, so was descent early in the morning.[21] But why did he [Moses] have to tell them [in the morning]? Surely R. Huna said: The Israelites are holy, and do not cohabit by day![22] — But Raba said: If the house is in darkness, it is permitted. Raba also said others state, R. Papa: A scholar may cause darkness with his garment, and it is [then] permitted.

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(1) This excludes planting in a circle.

(2) I.e., when it is planted in this shape the triangular wedge too is permitted. But the plot itself may contain a circle. (14) After cohabitation.

(3) Ex. XIX, 15. Lit., ‘three days’. The verse continues, ‘come not near a woman’. The Tanna understands this to mean that intercourse was debarred to them for three whole days, including the first day of abstention, before the Giving of the Law, which took place on the fourth day. This proves that a discharge within this period would render her unclean for the day of the discharge, whereas all had to be clean at the Revelation.

(4) Lit., ‘the circumcised’.

(5) Gen. XXXIV, 24. This shows that one is in danger until three days have elapsed, and therefore the Sabbath may be desecrated on its account by bathing the child.

(6) V. Lev. XVI, 22-26.

(7) Isa. I, 18. By a miracle this crimson coloured strap turned white, thus showing the people that they were forgiven of their sins; V. Buchler, Sin and Atonement, p. 327.

(8) That the former is interdicted equally with the latter?

(9) Ps. CIX, 19. The former is a simile from drinking, the latter from anointing, and the two similes are treated as parallel.

(10) V. infra.

(11) V. B.M. 41a.

(12) Thus, if she cohabits on Thursday and discharges on the Sabbath, she is clean, no matter at which part of the two days intimacy and discharge took place.

(13) ‘Onah, pl, ‘onoth, is the technical term of a day or a night when these are equal.

(14) He holds that she is unclean. Now, if cohabitation took place at the very beginning of Thursday evening whilst the discharge occurred at the end of the Sabbath, we have six periods; if at the end of Thursday night, five; and if at the end of Thursday, four. In all cases she is unclean.

(15) When intimacy takes place.

(16) A discharge up to then defiles her.

(17) Whilst the giving of the Law took place on the Sabbath, at the very beginning of which they performed their ritual ablutions to purify themselves, if they had discharged semen on the Friday. Now some may have cohabited at the end of Thursday, and yet they were fit for the Revelation on the Sabbath, which shows that a discharge of semen on the third day does not defile.

(18) For the Torah speaks of days, which implies that whether intimacy took place at the beginning or at the end of the day, she would be clean on the third (or, the fourth, according to R. Jose) day, irrespective of the numbers of ‘periods’ that elapsed.

(19) Ex. XXXIV, 4. Though this refers to his second ascent after the breaking of the first tables, it is held to show that he always went up early in the morning.

(20) Ibid. XIX, 24.

(21) Hence Moses’ order to the Israelites to abstain from intimacy was given early Wednesday morning; this allows five full ‘periods’ until the beginning of the Sabbath, when they purified themselves.

(22) So Moses could have waited for the end of the day.

Talmud - Mas. Shabbath 86b

But they were tebul yom?[1] — Abaye b. Rabin and R. Hanina b. Abin both say: The Torah was given to tebul yom. Now Meremar sat and reported this discussion. Said Rabina to him: Do you say that it was given, or that it was fitting [that it should be given]? I mean that it was fitting, he replied.[2] Yet they should have bathed at twilight and received the Torah at twilight?[3] — R. Isaac quoted [as an answer], from the beginning I have not spoken in secret.[4] Yet they could have bathed on the Sabbath morning and received the Torah on the Sabbath morning?[5] — Said R. Isaac. It was unfitting that some should go to receive the Torah whilst others went to Tebillah.[6]

R. Hiyya son of R. Abba said in R. Johanan's name: These are the views of R. Ishmael and R. Akiba; but the Sages maintain: We require six[7] full periods.[8] R. Hisda said: This controversy is [only] where it [the semen] issues from the woman; but if it issues from a man,[9] it is unclean as long as it is moist. R. Shesheth objected: And every garment, and every skin, whereon is the seed of copulation, [shall be washed with water and be unclean until the even]:[10] this excludes semen that is foul.[11] Surely this refers [even] to that which issues from a man? — No: [only] to that which issues from a woman.

R. Papa asked: What of an Israelite's semen within a Cuthean woman?[12] [Do we say,] Because Israelites are anxious about [the observance of] precepts, their bodies are heated,[13] but not so Gentiles, who are not anxious about precepts; or perhaps, as they eat creeping crawling things, their bodies [too] are heated? Now should you say, as they eat creeping crawling things their bodies are heated, what of [semen] within an animal?[14] [Do we say.] A woman, who has a fore-uterus, causes it to become foul, but not so an animal, who s no fore-uterus; or perhaps there is no difference? The questions stands over.

Our Rabbis taught: On the sixth day of the month [Siwan] were the Ten Commandments given to Israel. R. Jose maintained: On the seventh thereof. Said Raba: All agree that they arrived in the Wilderness of Sinai on the first of the month. [For] here it is written, on this day they came into the wilderness of Sinai;[15] whilst elsewhere it is written, This month shall be unto you the beginning of months:[16] just as there the first of the month,[17] so here [too] the first of the month [is meant]. Again, all agree that the Torah was given to Israel on the Sabbath. [For] here it is written, Remember the Sabbath day, to keep it holy;[18] whilst elsewhere it is written, And Moses said unto the people, Remember this day:[19] just as there, [he spoke] on that very day,[20] so here too it was on that very day.[21] [Where] they differ is on the fixing of the New Moon. R. Jose holds that New Moon was fixed on the first day of the week [Sunday], and on that day he [Moses] said nothing to them on account of their exhaustion from the Journey. On Monday he said to them, and ye shall be unto me a kingdom of priests;[22]

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(1) V. Glos. tebul yom, pl. tebul yom. If they had their ritual bath on Friday evening, they would not be thoroughly clean until the following evening, as a tebul yom does not become clean until the evening after his ablutions. Hence we must assume that they cleansed themselves at the end of Friday, in which case there is one ‘period’ short on all views.

(2) But actually none discharged semen on the Friday, so that they were completely clean.

(3) Rashi: According to R. Akiba, if God desired exactly five periods to elapse, why did he postpone Revelation until the morning, which suggests that six periods are necessary? Tosaf. maintains that the difficulty arises on all views.

(4) Isa. XLVIII, 16 — i.e., the Torah had to be given in broad daylight.

(5) If discharge after five ‘periods’ leaves the woman clean, cohabitation could have been permitted until the very end of Wednesday, and ritual ablution performed on the Sabbath morning, for a subsequent discharge would not matter.

(6) V. Glos.

(7) Wilna Gaon quotes a reading ‘three’.

(8) To elapse before discharge shall have no effect.

(9) E.g., on to a garment.

(10) Lev. XV, 27.

(11) Being unfit then to engender, it does not defile.

(12) For Cuthean v. supra p. 69, n. 4. Here, however, ‘Cuthean’ is the censor's substitute for ‘gentile’, which word appears in this passage in Nid. 34b, and also in the present discussion.

(13) Which makes the semen foul and unfit to engender in three days.

(14) This is merely a theoretical question. Bestiality was forbidden on pain of death (Ex. XXII, 18), and Jews were not suspected of this crime (Sanh. 27b).

(15) Ex. XIX, 1.

(16) Ibid. XII, 2.

(17) V. Pes. 6b and Tosaf. ibid. s.v. ממאי

(18) Ex. XX, 8.

(19) Ibid. XIII, 3.

(20) Of their exodus — implied by ‘this’.

(21) I.e., the command to keep the Sabbath, and hence all the Ten Commandments were promulgated on the Sabbath itself.

(22) Ex. XIX, 6.

Talmud - Mas. Shabbath 87a

on Tuesday he informed them of the order to set boundaries,[1] and on Wednesday they separated themselves [from their wives].[2] But the Rabbis hold: New Moon was fixed on Monday, and on that day he said nothing to them on account of their exhaustion from the journey. On Tuesday he said to them, and ye shall be unto me a kingdom of priests; on Wednesday he informed them of the order to set boundaries, and on Thursday they separated themselves. An objection is raised: And sanctify them to-day and to-morrow:[3] this is difficult in the view of R. Jose?[4] — R. Jose can answer you: Moses added one day of his own understanding.[5] For it was taught, Three things did Moses do of his own understanding, and the Holy One, blessed be He, gave His approval:[6] he added one day of his own understanding, he separated himself from his wife,[7] and he broke the Tables. ‘He added one day of his own understanding’: what [verse] did he interpret? To-day and to-morrow: ‘to-day’ [must be] like ‘tomorrow: just as to-morrow includes the [previous] night, so ‘to-day’ [must] include the [previous] night, but the night of to-day has already passed! Hence it must be two days exclusive of to-day. And how do we know that the Holy One, blessed be He, gave his approval? — Since the Shechinah did not rest [upon Mount Sinal] until the morning of the Sabbath.[8] And ‘he separated himself from his wife’: What did he interpret? He applied an a minori . argument to himself, reasoning: If the Israelites, with whom the Shechinah spoke only on one occasion and He appointed them a time [thereof], yet the Torah said, Be ready against the third day: come not near a woman: I, with whom the Shechinah speaks at all times and does not appoint me a [definite] time, how much more so! And how do we know that the Holy One, blessed be He, gave his approval? Because it is written, Go say to them, Return to your tents,[9] which is followed by, But as for thee, stand thou here by me. Some there are who quote, with him [sc. Moses] will I speak mouth to mouth.[10] ‘He broke the Tables’: how did he learn [this]? He argued: If the Passover sacrifice, which is but one of the six hundred and thirteen precepts, yet the Torah said, there shall no alien eat thereof:[11] here is the whole Torah, and the Israelites are apostates, how much more so![12] And how do we know that the Holy One, blessed be He, gave His approval? Because it is said, which thou brakest,[13] and Resh Lakish interpreted this: All strength to thee[14] that thou brakest it.

Come and hear: And be ready against the third day: this is a difficulty according to R. Jose?[15] — Surely we have said that Moses added one day of his own understanding!

Come and hear: The third, the third day of the month and the third day of the week:[16] this is a difficulty according to the Rabbis?[17] — The Rabbis answer you: with whom does this agree? with R. Jose.

In respect of what is [the first] ‘the third’ [mentioned]? — [In respect] of that which was taught: And Moses reported the words of the people unto the Lord;[18] and it is written, And Moses told the words of the people unto the Lord.[19] Now, what did the Holy One, Blessed be He, say unto Moses, what did Moses say unto Israel, what did Israel say to Moses, and what did Moses report before the Omnipotent?[20] This is the order of setting boundaries:[21] that is the view of R. Jose son of R. Judah. Rabbi said: At first he explained the penalties [for non-observance], for it is written, ‘And Moses reported [wa-yasheb]’, [which implies] things which repel [meshabbebin] one's mind.[22] But subsequently he explained its reward, for it is said, ‘And Moses told [wa-yagged]’, [which means,] words which draw one's heart like a narrative [aggadah]. Some there are who maintain, At first he explained the reward it confers, for it is written, ‘And Moses reported [wa-yasheb]’, [which means,] words which appease [meshibin] one's mind. Whilst subsequently he explained its penalties, for it is written, ‘and Moses told [wa-yagged’], [meaning], words as hard [unpleasant] to man as worm-wood [giddin].

Come and hear: The sixth, the sixth day of the month and the sixth day of the week [Friday]: this is a difficulty according to the Rabbis?[23] — This too agrees with R. Jose. In respect of what is [the first] ‘the sixth’ [mentioned]? — Raba said:

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(1) V. ibid. 12.

(2) Though the reference to this precedes the command to set boundaries, it is nevertheless assumed that events were in this order; v. infra.

(3) Ibid. 10.

(4) For it implies Thursday and Friday, Revelation taking place on the Sabbath. The sanctification consisted in their separation from their wives (v. 14f).

(5) The command ‘sanctify them’ was given him on Wednesday, and he interpreted it as implying three days.

(6) Lit., ‘agreed with him’.

(7) Entirely, after the Revelation.

(8) Had Moses’ interpretation been incorrect, the Shechinah should have alighted Friday morning.

(9) Deut, V, 30. This was permission to resume marital relations.

(10) Num. XII, 8 — the same conclusion may be drawn from this.

(11) Ex. XII, 43. ‘Alien’ is interpreted, one whose actions have alienated him from God, v. Targum Onkelos a.l.

(12) They are surely unfit to receive the Torah!

(13) Ibid. XXXIV, 1.

(14) Lit., ‘thy strength be well’, an expression of approval. For further notes V. Yeb., Sonc. ed., pp. 412ff.

(15) Cf. P. 411, n. 7.

(16) The meaning of the first ‘the third’ is discussed infra.

(17) Since they hold that New Moon was on Monday, the third was on Wednesday, not Tuesday.

(18) Ibid. 8.

(19) Ex. XXXIV, 9.

(20) Lit., ‘the strength’- one of the names of God. The difficulty is this: what conversations took place between v.v. 8 and 9, necessitating a second statement by Moses?

(21) Though this is mentioned only in v. 12, it is assumed to have been given between Moses’ two statements, the second of which signified the people's willingness to set boundaries.

(22) Threats of punishment would naturally make the people reluctant to accept the Torah in the first place (Rashi). jast.: words which chasten, etc.

(23) Since they held that New Moon was on Monday, Friday was not the sixth day of the month.

Talmud - Mas. Shabbath 87b

[In respect] of their encamping.[1] R. Aha b. Jacob said: [In respect] of their journeying.[2] Now, they disagree about [the precept of] the Sabbath [as communicated to them at at Marah, for it is written, [Observe the Sabbath day ...] as the Lord my God commanded thee,[3] whereon Rab Judah commented in Rab's name: As he commanded thee at Marah.[4] One Master holds: They were commanded concerning the Sabbath [in general], but not concerning tehumin.[5] Whilst the other Master holds: They were commanded concerning tehumin too.[6]

Come and hear: As to the Nisan in which the Israelites departed from Egypt, on the fourteenth day they slaughtered their Passover sacrifices, on the fifteenth they went forth, and in the evening the first-borns were smitten. ‘In the evening’: can you think so![7] Rather say, The first-borns having been smitten the [previous] evening, and that day was a Thursday. Now, since the fifteenth of Nisan was on a Thursday, the first of Iyar was on the Sabbath,[8] and the first of Siwan was on a Sunday,[9] which is a difficulty according to the Rabbis?-The Rabbis answer you: Iyar in that year was indeed made full.[10]

Come and hear that they did not make it full! As to the Nisan in which the Israelites departed from Egypt, on the fourteenth they killed their Passover sacrifices, on the fifteenth they went forth, and in the evening the first-borns were smitten. ‘In the evening’ can you think so! Rather, say, The first-borns having been smitten since the [previous] evening, and that day was a Thursday. Nisan was a full month, so that [the first of] Iyar fell on the Sabbath. Iyar was defective, so that [the first of] Siwan fell on a Sunday. This is a difficulty according to the Rabbis? — That agrees with R. Jose. R. Papa observed, Come and hear: And they took their journey from Elim, and all the congregation of the children of Israel came unto the wilderness of Sin . . . on the fifteenth day of the second month.[11] Now that day was the Sabbath, for it is written, and in the morning, then ye shall see the glory of the Lord,[12] and it is written, six days ye shall gather it.[13] Now, since the fifteenth of Iyar was on the Sabbath, the first of Siwan was on a Sunday, which is a difficulty according to the Rabbis? — The Rabbis can answer you: Iyar of that year was made full.

R. Assi[14] of Hozna'ah[15] said to R. Ashi, Come and hear: And it came to pass in the first month of the second year, on the first day of the month, that the tabernacle was reared up;[16] [and with reference to this] a Tanna taught: That day took ten crowns.[17] It was the first of the Creation,[18] the first for the princes,[19] the first for the priesthood,[20] the first for [public] sacrifice, the first for the fall of fire [from Heaven],[21] the first for the eating of sacred food,[22] the first for the dwelling of the Shechinah in Israel, the first for the [priestly] blessing of Israel,[23] the first for the interdict of the high places,[24] [and] the first of months. Now, since the first of Nisan of that year was on a Sunday, that of the previous year must have been on a Wednesday. For it was taught: Others say, Between one ‘Azereth[25] and another, and between one New Year[‘s day] and another, there can be a difference of only four days,[26] and in a leap year, five [days].[27] Hence the first of Iyar must have fallen on the eve of the Sabbath [Friday], and the first of Siwan on the Sabbath, which is a difficulty according to both R. Jose and the Rabbis? — In R. Jose's view, seven months were declared defective;[28]

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(1) The Baraitha states that the sixth day from when they pitched their tents, which was on New Moon, was also the sixth of the month and the sixth day of the week.

(2) From Rephidim (v. Ex. XIX, 2). He holds that they left Rephidim and came to the wilderness of Sinai on the same day.

(3) Deut. V, 12. This occurs in the second Decalogue, which is a repetition of the first Decalogue. Hence these words, ‘as ... commanded thee’, must have been spoken on the first occasion at Sinai too, and they imply that the Israelites had already been commanded to keep the Sabbath.

(4) V. Ex. XV, 25.

(5) Tehum pl. tehumin, q.v. Glos.

(6) Raba maintains that it was the sixth day from their encamping only, whilst they departed from Rephidim on the previous day, which was the Sabbath, since the law of tehumin was as yet non-existent. But R. Aha b. Jacob holds that they must have set out from Rephidim on Sunday too, not on the Sabbath, this law already being in existence.

(7) For this implies that the death of the first-borns took place after their departure.

(8) Nisan containing thirty days.

(9) Iyar containing twenty-nine days.

(10) Before the calendar was fixed by calculation months might be made full (thirty days) or defective (twenty-nine days) according to the exigencies of the moment.

(11) Ex. XVI, 1.

(12) Ibid. 7.

(13) Ibid. 26. Now, the manna first fell on the day after they arrived at Sin, for Moses says ‘and in the morning’, i.e., tomorrow, ‘ye shall see the glory’, etc., which refers to the manna. Since Moses permitted them to gather it for six days, the first must have been Sunday, and the previous day was the Sabbath.

(14) So the text as emended by Bah.

(15) (Be-) Hozae, Khuzistan.

(16) Ex. XL, 17.

(17) I.e., it was pre-eminent in ten things.

(18) I.e., it was a Sunday.
(19) To make their offerings for the dedication of the Tabernacle, v. Num. VII.
(20) When Aaron began to officiate as a priest, v. Lev. IX; before that Divine Service was performed by first-borns.
(21) V. ibid. 24.
(22) I.e., flesh of sacrifices, which had henceforth to be eaten within a fixed locale, whereas hitherto it might be consumed anywhere.
(23) By Aaron, v. ibid. 22.
(24) Upon which sacrifices were offered before the erection of the Tabernacle.
(25) Lit., ‘solemn assembly’ — the Feast of Weeks.
(26) I.e., one falls four days later in the week than the previous year's, since the Jewish year, which is lunar, consists of three hundred and fifty-four days.
(27) An extra month of twenty-nine days being intercalated.
(28) So there was a difference of three days, not four, that year consisting of three hundred and fifty-three days, which makes the first of Siwan fall on a Sunday.

Talmud - Mas. Shabbath 88a

in that of the Rabbis’, eight months were declared defective.[1]

Come and hear: For it was taught in the Seder ‘Olam:[2] As to the Nisan in which the Israelites departed from Egypt, on the fourteenth they slaughtered their Passover sacrifices, on the fifteenth they went out, and that day was the Sabbath eve. Now, since the first of Nisan was the Sabbath eve, the first of Iyar was on a Sunday, and [the first of] Siwan on a Monday. This is a difficulty according to R. Jose? — R. Jose answers you: This agrees with the Rabbis. Come and hear: R. Jose said: On the second day Moses ascended and descended;[3] on the third he ascended and descended;[4] on the fourth he descended and ascended no more.[5] But since he did not go up,[6] whence did he descend? — Rather [say,] on the fourth he ascended and descended; on the fifth he built an altar and offered a sacrifice thereon; [but] on the sixth he had no time. Surely that was on account of [the giving of] the Torah?[7] — No: it was on account of the preparations for[8] the Sabbath.[9]

A certain Galilean lectured before R. Hisda: "Blessed be the Merciful One who gave a three-fold Torah[10] to a three-fold people[11] through a third[-born][12] on the third day[13] in the third month. With whom does this agree? With the Rabbis.[14]

And they stood under the mount:[15] R. Abdimi b. Hama b. Hasa said: This teaches that the Holy One, blessed be He, overturned the mountain upon them like an [inverted] cask, and said to them,’If ye accept the Torah, ‘tis well; if not, there shall be your burial.’ R. Aha b. Jacob observed: This furnishes a strong protest against the Torah.[16] Said Raba, Yet even so, they re-accepted it in the days of Ahasuerus, for it is written, [the Jews] confirmed, and took upon them [etc.]:[17] [i.e.,] they confirmed what they had accepted long before. Hezekiah said: What is meant by, Thou didst cause sentence to be heard from Heaven; The earth feared, and was tranquil:[18] if it feared, why was it tranquil, and if it was tranquil, why did it fear? But at first it feared, yet subsequently it was tranquil,[19] And why did it fear? — Even in accordance with Resh Lakish. For Resh Lakish said: Why is it written, And there was evening and there was morning, the sixth day;[20] What is the purpose of the additional ‘the’?[21] This teaches that the Holy One, blessed be He, stipulated with the Works of Creation and said thereto. ‘If Israel accepts the Torah, ye shall exist; but if not, I will turn you back into emptiness and formlessness.’[22]

R. Simla lectured: When the Israelites gave precedence to ‘we will do’ over ‘we will hearken,’[23] six hundred thousand ministering angels came and set two crowns upon each man of Israel, one as a reward for[24] ‘we will do,’ and the other as a reward for ‘we will hearken’. But as soon as Israel sinned,[25] one million two hundred thousand destroying angels descended and removed them, as it is said, And the children of Israel stripped themselves of their ornaments from mount Horeb.[26] R. Hama son of R. Hanina said: At Horeb they put them on and at Horeb they put them off. At Horeb the put them on, as we have stated. At Horeb they put them off, for it is written, And [the children of Israel] stripped themselves, etc. R. Johanan observed: And Moses was privileged and received them all, for in proximity thereto it is stated, And Moses took the tent.[27] Resh Lakish said: [Yet] the Holy One, blessed be He, will return them to us in the future, for it is said, and the ransomed of the Lord shall return, and come with singing unto Zion; and everlasting joy shall be upon their heads;[28] the joy from of old[29] shall be upon their heads.

R. Eleazar said: When the Israelites gave precedence to ‘we will do’ over ‘we will hearken,’ a Heavenly Voice went forth and exclaimed to them, Who revealed to My children this secret, which is employed by the Ministering Angels, as it is written, Bless the Lord, ye angels of his. Ye mighty in strength, that fulfil his word, That hearken unto the voice of his word:[30] first they fulfil and then they hearken?

R. Hama son of R. Hanina said: What is meant by, As the apple tree among the trees of the wood, [So is my beloved among the sons]:[31] why were the Israelites compared to an apple tree? To teach you: just as the fruit of the apple tree precedes its leaves,[32] so did the Israelites give precedence to ‘we will do’ over ‘we will hearken’. There was a certain Sadducee who saw Raba[33] engrossed in his studies while the finger[s] of his hand were under his feet, and he ground them down, so that his fingers spurted blood. ‘Ye rash people,’ he exclaimed, ‘who gave precedence to your mouth over your ears: ye still persist in your rashness. first ye should have listened, if within your powers, accept; if not, ye should not have accepted.’ Said he to him, ‘We

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(1) Hence the year consisted of three hundred and fifty-two days, And the first of Siwan fell on a Monday.

(2) The Seder ‘Olam is the earliest extant post-exilic chronicle in Hebrew, and is a chronological record extending from Adam to Bar Kochba's revolt during the reign of Hadrian. Most scholars are agreed in assigning its authorship to R. Halafta, a Tanna of the first century, on the strength of a statement by R. Johanan in Yeb. 82b. V. J.E., art. Seder ‘Olam Rabbah.

(3) Hearing, ‘and ye shall be ... a kingdom of priests’ and telling it to the people.

(4) Being given the order to set boundaries.

(5) Until the Revelation.

(6) On the fourth.

(7) Which supports the Rabbis that the Torah wis given on the sixth of the month.

(8) Lit., ‘trouble of’.

(9) The sixth of the month being Friday, the eve of the Sabbath. (12) In the public lectures or sermons the scholar sat and whispered his statements to a speaker, who conveyed them to the people; this Galilean was probably R. Hisda's speaker (generally referred to as ‘meturgeman’).

(10) I.e., the Torah (Pentateuch), Prophets and Hagiographa.

(11) Israel consisting of Priests, Levites, and Israelites.

(12) Sc. Moses, born third after Miriam and Aaron.

(13) Of their separation from their wives.

(14) For according to R. Jose it was on the fourth day of their separation, Moses having added a day (supra 87a).

(15) Ex. XIX. 17. The translation is literal. E.V. nether part.

(16) It provides an excuse for non-observance, since it was forcibly imposed in the first place.

(17) Esth. IX, 27.

(18) Ps. LXXVI, 9.

(19) It feared lest Israel would reject the Torah, and became tranquil when israel accepted it.

(20) Gen. I, 31.

(21) In the case of the other days it is simply stated, a second day, a third day, etc., ‘a’ being altogether unexpressed in Hebrew.

(22) He thus translates homiletically: and the continuance of morning and evening was depended on the sixth day, sc. of

Siwan, when israel was offered the Torah. The general idea is: Without law and order as exemplified by the Torah the world must lapse into chaos and anarchy.

(23) V. Ex. XXIV, 7. Thus they promised to obey God's commands even before hearing them.

(24) Lit., ‘corresponding to’.

(25) Through the Golden Calf

(26) I.e., which they had received at Mount Horeb. Ibid. XXXIII, 6. E.V. from mount onwards’.

(27) Ibid. 7 — The reference is not clear. V. Rashi.

(28) Isa. XXXV, 10.

(29) The verse may be translated thus.

(30) Ps. CIII, 20.

(31) Cant. II, 3. The two lovers in this poem were regarded as God and Israel.

(32) Tosaf. observes this is untrue of the apple tree, which grows like all other trees; consequently refer this to the citron tree. As the citron remains on the tree from one year to the next, at which time the tree sheds its’ leaves of the previous year, the fruit may be said to precede the leaves.

(33) There were no Sadducces in Raba's time, and the word is probably a censor's substitute for Gentile. In J.E. X, 633 bottom it is suggested that he was probably a Manichean. [MS.M: Min (v. Glos.)].

Talmud - Mas. Shabbath 88b

who walked in integrity, of us it is written, The integrity of the upright shall guide them.[1] But of others, who walked in perversity, it is written, but the perverseness of the treacherous shall destroy them.

R. Samuel b. Nahmani said in R. Jonathan's name. What is meant by, Thou hast ravished my heart, my sister, my bride: Thou hast ravished my heart with one of thine eyes?[2] In the beginning with one of thine eyes; when thou fulfillest, with both thine eyes.[3]

‘Ulla said: Shameless is the bride that plays the harlot within her bridal canopy![4] Said R. Mari the son of Samuel's daughter, What verse [refers to this]? While the king sat at his table, [my spikenard gave up its fragrance].[5] Said Rab, Yet [His] love was still with us, for ‘gave’ is written, not ‘made noisome’.

Our Rabbis taught: Those who are insulted but do not insult, hear themselves reviled without answering, act through love and rejoice in suffering, of them the Writ saith, But they who love Him are as the sun when he goeth forth in his might.[6]

R. Johanan said: What is meant by the verse, The Lord giveth the word: They that publish the tidings are a great host?[7] — Every single word that went forth from the Omnipotent was split up into seventy languages.[8] The School of R. Ishmael taught: And like a hammer that breaketh the rock in pieces.,[9] just as a hammer is divided into many sparks,[10] so every single word that went forth from the Holy One, blessed be He, split up into seventy languages.[11]

R. Hananel b. Papa said: What is meant by, Hear, for I will speak princely things:[12] why are the words of the Torah compared to a prince? To tell you: just as a prince has power of life and death, so have the words of the Torah [potentialities] of life and death. Thus Raba said; To those who go to the right hand thereof it is a medicine of life; to those who go to the left hand thereof[13] it is a deadly poison. Another interpretation: princely’ [denotes] that on every word which went forth from the mouth of the Holy One, blessed be He, two crowns were set.[14]

R. Joshua b. Levi said: What is meant by, My beloved is unto me as a bundle of myrrh [zeror ha-mor], That lieth betwixt my breasts?[15] The congregation of Israel spake before the Holy One, blessed be He, ‘Sovereign of the Universe! Though my life be distressed [mezar] and embittered [memar], yet my love lieth betwixt my breasts.'[16] My beloved is unto me as a cluster [eshkol] of henna-flowers [kofer] in the vineyards of [karme] En-gedi:[17] He to Whom everything belongs [she-ha-kol shelo] shall make atonement [mekapper] for me for the sin of the kid[18] which I stored up [karamti] for myself.[19] Where is it implied that this word 'karme' connotes gathering? — Said Mar Zutra the son of R. Nahman: Even as we learnt: A fuller's stool on which linen is heaped up [kormin].[20]

R. Joshua b. Levi also said: What is meant by, His cheeks are as a bed of spices?[21] With every single word that went forth from the mouth of the Holy One, blessed be He, the whole world was filled with spices [fragrance]. But since it was filled from the first word, whither did the [fragrance of the] second word go? The Holy One, blessed be He, brought forth the wind from His store-chambers and caused each to pass on in order,[22] as it is said, His lips are as lilies [shoshannim], dropping myrrh that passess on:[23] read not shoshannim but sheshonim.[24]

R. Joshua b. Levi also said: At every word which went forth from the mouth of the Holy One, blessed be He, the souls of Israel departed, for it is said, My soul went forth when he spake.[25] But since their souls departed at the first word, how could they receive the second word? — He brought down the dew with which He will resurrect the dead and revived them, as it is said, Thou, O God, didst send a plentiful rain, Thou didst confirm thine inheritance, when it was weary.[26]

R. Joshua b. Levi also said: At every single word which went forth from the mouth of the Holy One, blessed be He, the Israelites retreated twelve mil, but the ministering angels led them back [medaddin],[27] as it is said, The hosts of angels[28] march, they march [yiddodun yiddodun]:[29] read not yiddodun but yedaddun [they lead]. R. Joshua b. Levi also said: When Moses ascended on high, the ministering angels spake before the Holy One, blessed be He, 'Sovereign of the Universe! What business has one born of woman amongst us?' 'He has come to receive the Torah,' answered He to them. Said they to Him, 'That secret treasure, which has been hidden by Thee for nine hundred and seventy-four generations before the world was created.[30] Thou desirest to give to flesh and blood! What is man, that thou art mindful of him, And the son of man, that thou visitest him? O Lord our God, How excellent is thy name in all the earth! Who hast set thy glory [the Torah] upon the Heavens!'[31] 'Return them an answer,' bade the Holy One, blessed be He, to Moses. 'Sovereign of the Universe' replied he, 'I fear lest they consume me with the [fiery] breath of their mouths.' 'Hold on to the Throne of Glory,' said He to him, 'and return them an answer,' as it is said, He maketh him to hold on to the face of his throne, And spreadeth [Parshez] his cloud over him,[32] whereon R. Nahman[33] observed: This teaches that the Almighty [SHaddai] spread [Pirash] the lustre [Ziw] of His Shechinah[34] and cast it as a protection[35] over him. He [then] spake before Him: Sovereign of the Universe! The Torah which Thou givest me, what is written therein? I am the Lord thy God, which brought thee out of the Land of Egypt.[36] Said he to them [the angels], 'Did ye go down to Egypt; were ye enslaved to Pharaoh: why then should the Torah be yours? Again, What is written therein? Thou shalt have none other gods:[37] do ye dwell among peoples that engage in

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(1) Prov. XI, 3.

(2) Cant. IV, 9.

(3) Maharsha: A thing may be perceived spiritually and materially. When the Israelites first accepted the Torah they perceived its greatness in spirit only, i.e., in theory (one eye). Having observed it, they saw materially too, i.e., in actual practice (both eyes).

(4) Thus did Israel make the Golden Calf at Mount Sinai itself.

(5) Ibid. I, 12. i.e., while the King, viz., God, was at Sinai, the Israelites lost their fragrance through sin.

(6) Judg. V, 31.

(7) Ps. LXVIII, 12.

(8) The traditional number of the languages of man, i.e., the Torah was given to all humanity. Cf. M. Joseph, Judaism as Creed and Life, pp. 157 seq.

(9) Jer. XXIII, ag.
(10) Perhaps referring to the sparks that fly off when it beats the anvil.
(11) Commentators differ as to the exact point of the comparison; v. Sanh., Sonc. ed., p. 214, n. 9.
(12) Prov. VIII, 6.
(13) These phrases probably mean, to those who employ it rightly ... wrongly, cf. supra P. 197, n. 5. which seems, however, inapplicable here.
(14) The words themselves having substance: cf. the Greek doctrine of the logos.
(15) Cant. I, 13.
(16) I.e., God is with Israel in all his sorrows. This translation follows Maharsha; Rashi interprets differently-Zeror and ka-mor are connected here with mezar and memar.
(17) Ibid. 14.
(18) Gedi, kid standing for small cattle in general, and here referring to the Golden Calf.
(19) For future punishment. Thus eshkol is connected with shehakol shelo, kopher with mekapper, karme with karamti, and En-gedi with gedi, a kid.
(20) V. Kel. XXIII, 4.
(21) Cant. V, 13.
(22) The fragrance of each word was carried of to the Garden of Eden, leaving room for the next.
(23) Ibid. E. V.: liquid myrrh.
(24) That study, i.e.. His words spread fragrance.
(25) Ibid. 6.
(26) Ps. LXVIII, 10.
(27) The word denotes to lead step by step, like one leads a child who can hardly walk.
(28) Our texts read: Kings.
(29) Ibid. 13.
(30) Cf. Weber, Judische Theologie, p. 15 for parallels.
(31) Ps. VIII, 5, 2.
(32) lob XXVI, 9.
(33) In Suk. 5a the reading is Tanhum.
(34) Thus Parshez is treated as an abbreviation; in Hebrew the words follow the same order as these letters.
(35) Lit., ‘cloud’.
(36) Ex. XX, 2.
(37) Ibid. 3.

Talmud - Mas. Shabbath 89a

idol worship? Again what is written therein? Remember the Sabbath day, to keep it holy:[1] do ye then perform work, that ye need to rest? Again what is written therein? Thou shalt not take [tissa] [the name ... in vain]:[2] is there any business [massa] dealings among you?[3] Again what is written therein, Honour thy father and thy mother;[4] have ye fathers and mothers? Again what is written therein? Thou shall not murder. Thou shalt not commit adultery. Thou Shall not steal;[5] is there jealousy among you; is the Evil Tempter among you? Straightway they conceded [right] to the Holy One, blessed be He, for it is said, O Lord, our Lord, How excellent is thy name, etc.[6] whereas ‘Who has set thy glory upon the heavens is not written.[7] Immediately each one was moved to love him [Moses] and transmitted something to him, for it is said, Thou hast ascended on high, thou hast taken spoils [the Torah]; Thou hast received gifts on account of man:[8] as a recompense for their calling thee man [adam][9] thou didst receive gifts. The Angel of Death too confided his secret to him, for it is said, and he put on the incense, and made atonement for the people;[10] and it is said. and he stood between the dead and the living, etc.[11] Had he not told it to him, whence had he known it?

R. Joshua b. Levi also said: When Moses descended from before the Holy One, blessed be He. Satan came and asked Him, ‘Sovereign of the Universe! Where is the Torah? ‘I have given it to the earth.’ answered He to him. He went to the earth and said to her, ‘Where is the Torah?’ ‘God understandeth the way thereof, etc.'[12] she replied. He went to the sea and it told him, 'It is not with me.' He went to the deep and it said to him, 'It is not in me,' for it is said. The deep saith, It is not in me: And the sea saith, It is not with me. Destruction and Death say, We have heard a rumour thereof with our ears.[13] He went back and declared before Him, 'Sovereign of the Universe! I have searched throughout all the earth but have not found it!' 'Go thee to the son of Amram. answered He. [So] he went to Moses and asked him, 'Where is the Torah which the Holy One, blessed be He, gave unto thee?' 'Who am I then,' he retorted, 'that the Holy One, blessed be He, should give me the Torah?' Said the Holy One, blessed be He, to Moses, 'Moses, art thou a liar!' 'Sovereign of the Universe!' he replied, 'Thou hast a stored-up treasure in which Thou takest delight every day: shall I keep the benefit for myself?'[14] 'Said the Holy One, blessed be He, to Moses, 'Moses, since thou hast [humbly] disparaged thyself, it shall be called by thy name, as it is said, Remember ye the law of Moses my servant.[15] R. Joshua b. Levi also said: When Moses ascended on high, he found the Holy One. blessed be He, tying crowns on the letters [of the Torah].[16] Said He to him, 'Moses, is there no [greeting of] Peace in thy town?'[17] 'Shall a servant extend [a greeting of] Peace to his Master!' replied he: 'Yet thou shouldst have assisted Me,'[18] said He. immediately[19] he cried out to Him, And now, I pray thee, let the power of the Lord be great, according as thou hast spoken.[20]

R. Joshua b. Levi also said: Why is it written; And when the people, saw that Moses delayed [boshesh] [to come down from the mount]?[21] 'Read not boshesh' [delayed] but ba'u shesh [the sixth hour had come]. When Moses ascended on high, he said to Israel, I will return at the end of forty days, at the beginning of the sixth hour.[22] At the end of forty days Satan came and confounded the world. Said he to them: 'Where is your teacher Moses?' 'He has ascended on high,' they answered him. 'The sixth [hour] has come,' said he to them, but they disregarded him. 'He is dead' — but they disregarded him. [Thereupon] he showed them a vision of his bier, and this is what they said to Aaron, for this Moses, the man, etc.,[23]

One of the Rabbis asked R. Kahana: Hast thou heard what the mountain of Sinai [connotes]? The mountain whereon miracles [nissim] were performed for Israel, he replied. Then it should be called Mount Nisal? But [it means] the mountain whereon a happy augury [siman] took place for Israel. Then it should be called, Mount Simanai? Said he to him, Why dost thou not frequent [the academy of] R. Papa and R. Huna the son of R. Joshua, who make a study of aggadah. For R. Hisda and Rabbah the son of R. Huna both said, What is [the meaning of] Mount Sinai? The mountain whereon there descended hostility [sin'ah] toward idolaters.[24] And thus R. Jose son of R. Hanina said: It has five names: The Wilderness of Zin, [meaning] that Israel were given commandments there;[25] the Wilderness of Kadesh, where the Israelites were sanctified [kadosh], the Wilderness of Kedemoth, because a priority [kedumah] was conferred there;[26] the Wilderness of Paran,

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(1) Ibid. 8.

(2) Ibid. 7.

(3) This connects tissa with massa. [Or, to involve you in a false oath.]

(4) Ibid. 12.

(5) Ibid. 13-15.

(6) Ps. VIII, 10.

(7) Showing that they no longer demanded that the Torah be kept in Heaven.

(8) Ps. LXVIII, 19.

(9) I.e.. for their disparaging reference to thee as a mere mortal created from the dust (adamah); cf. Gen. II, 7, where the Hebrew for 'Man' and 'ground' are adam and adamah respectively.

(10) Num. XVI, 47.

(11) Ibid. 48.

(12) Job. XXVIII, 23.

(13) Ibid. 14, 22.

(14) Surely it was not given to me alone!

(15) Mal. III, 22.

(16) The ‘crowns’ or ‘Taggin’, as they are generally designated, are three small strokes (ziyyunim =daggers) which are written on the top of the letters ש ע ט נ ז גץ. For a discussion of their origin and purpose v. J.E. art. Taggin.

(17) Shalom (peace) is the usual greeting in Hebrew.

(18) By wishing Me success in My labours.

(19) At a later ascent (Rashi).

(20) Num. XIV, 17.

(21) Ex. XXXII, 1.

(22) I.e., at midday.

(23) Ibid.

(24) They showed their unworthiness by rejecting the Torah.

(25) Zin being connected with ziwah, ‘he commanded’.

(26) I.e., Israel was made pre-eminent by his acceptance of the Torah. [Or, the Torah which preceded Creation, v. Pes. 54a.]

Talmud - Mas. Shabbath 89b

because Israel was fruitful [paru] and multiplied there; and the Wilderness of Sinai, because hostility toward idolaters descended thereon. Whilst what was its [real] name? its name was Horeb. Now they disagree with R. Abbahu, For R. Abbahu said: its name was Mount Sinai, and why was it called Mount Horeb? Because desolation [hurbah] to idolaters descended thereon.

HOW DO WE KNOW THAT A CRIMSON-COLOURED STRAP IS TIED, etc., [Instead of] ka-shanim [like scarlet threads], kashani [like a scarlet thread] is required?[1] Said R. Isaac, The Holy One, blessed be He, said to Israel: [Even] if your sins be like these years [ka-shanim] which have continued in ordered fashion from the six days of the Creation until now,[2] yet they shall be as white as snow.[3] Raba lectured: What is meant by, Go now, and let us reason together, shall say the Lord.[4] [Instead of] ‘Go now’, Come now, is required: [instead of] ‘shall say the Lord’, saith the Lord, is required?[5] in the time to come the Holy One, blessed be He, shall say unto Israel, ‘Go now to your forefathers, and they will reprove you.’[6] And they shall say before Him, ‘Sovereign of the Universe! To whom shall we go? To Abraham, to whom Thou didst say, Know of a surety [that thy seed shall be a stranger ... and they shall afflict them ...],[7] yet he did not entreat mercy for us? To Isaac, who blessed Esau, And it shall come to pass, when thou shalt have dominion,[8] and yet he did not entreat mercy for us? To Jacob, to whom Thou didst say, I will go down with thee into Egypt, and yet he did not entreat mercy for us? To whom then shall we go now? [Rather] let the Lord state [our wrongs]!’[9] The Holy One, shall answer them, Since ye have made yourselves dependent upon Me, ‘though your sins be as scarlet, they shall be as white as snow’.

R. Samuel b. Nahmani also said in R. Jonathan's name: What is meant by, For thou art our father, though Abraham knoweth is not, and Israel doth not acknowledge us: thou, O Lord, art our father; our redeemer from everlasting is thy name?[10] In the future to come the Holy One, blessed be He, will say to Abraham. ‘Thy children have sinned against Me.’ He shall answer Him, ‘Sovereign of the Universe! Let them be wiped out for the sanctification of Thy Name.’ Then shall He say, ‘I will say this to Jacob, who experienced the pain of bringing up children: peradventure he will supplicate mercy for them. ‘So He will say to him, ‘Thy children have sinned.’ He [too] shall answer Him, ‘Sovereign of the Universe! Let them be wiped out for the sanctification of Thy Name.’ He shall retort, ‘There is no reason in old men, and no counsel in children!’ Then shall he say to Isaac, ‘Thy children have sinned against me.’ But he shall answer Him, ‘Sovereign of the Universe! Are they my children and not Thy children. When they gave precedence to "we will do" over "we will hearken" before Thee, Thou calledst them, Israel my son, my firstborn:[11] now they are my sons, not Thy sons! Moreover, how much have they sinned? How many are the years of man? Seventy. Subtract twenty, for which Thou dost not punish,[12] [and] there remain fifty. Subtract twenty-five which comprise the nights,[13] [and] there remain twenty-five. Subtract twelve and a half of prayer, eating, and Nature's calls, [and] there remain twelve and a half. If Thou wilt bear all, ‘tis well; if not, half be upon me and half upon Thee. And shouldst Thou say, they must all be upon me, lo! I offered myself up before Thee [as a sacrifice]!’ [Thereupon] they shall commence and say, ‘For thou [i.e., Isaac] art our father.’ Then shall Isaac say to them, ‘Instead of praising me, praise the Holy One, blessed be He,’ and Isaac shall show them the Holy One, blessed be He, with their own eyes. Immediately they shall lift up their eyes on high and exclaim, ‘Thou, O Lord, art our father; our redeemer from everlasting is thy name.’

R. Hiyya b. Abba said in R. Johanan's name: it was fitting for our father Jacob to go down into Egypt in iron chains, but that his merit saved him,[14] for it is written, I drew them with the cords of a man, with bands of love; and I was to them as they that take off the yoke on their jaws, and I laid meat before them.[15]

MISHNAH. IF ONE CARRIES OUT WOOD, [THE STANDARD FOR CULPABILITY IS] AS MUCH AS IS REQUIRED FOR BOILING A LIGHT EGG; [SEASONING] SPICES, AS MUCH AS IS REQUIRED FOR SEASONING A LIGHT EGG; AND THEY COMBINE WITH EACH OTHER.[16] NUTSHELLS, POMEGRANATE SHELLS, WOAD AND MADDER, [THE STANDARD IS] AS MUCH AS IS REQUIRED FOR DYEING THE SMALL PIECE OF CLOTH AT THE OPENING [TOP] OF A NETWORK. URINE, NATRON.[17] LYE,[18] CIMOLIAN EARTH,[19] AND ASHLEG,[20] AS MUCH AS IS REQUIRED FOR WASHING THE SMALL PIECE OF CLOTH AT THE OPENING [TOP] OF A NETWORK; R. JUDAH SAID: AS MUCH AS IS REQUIRED FOR REMOVING THE STAIN.[21]

GEMARA. [But] we have [already] learnt it once: A reed, (the standard is] as much as is required for making a pen. But if it is thick or crushed, as much as is required for boiling the lightest of eggs beaten up and placed in a stew pot?[22] — You might say, [That is only] there, because it is unfit for anything [else], but since wood is fit for the tooth of a key, for no matter how little involved [culpability is]; hence we are informed [otherwise]. [SEASONING] SPICES, AS MUCH AS IS REQUIRED FOR SEASONING A LIGHT EGG. But the following contradicts this: Spices of two or three designations[23] belonging to the same species or three [different] species are forbidden,[24] and they combine with each other.[25] And Hezekiah observed;

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(1) Isaiah should employ the singular, parallel to ‘snow’ in the other half of the sentence.

(2) I.e., no matter how deeply sin has eaten into you.

(3) Isa. I, 18.

(4) lbid.

(5) E.V. is ‘come’ and ‘saith’, but these translations are inexact.

(6) Or, convince you — of your wrong-doing.

(7) Gen. XV, 13.

(8) Ibid. XXVII, 40. (11) Ibid. XLVI, 4.

(9) Do Thou rebuke us, not they, for they did not show themselves merciful.

(10) Isa. LXIII, 16.

(11) Ex. IV. 22.

(12) Rashi: As we find God did not punish those up to twenty years of age who accepted the report of the spies; v. Num. XIV, 29.

(13) When one sleeps and does not sin.

(14) Lit., ‘caused it for him’ — that he went down as Joseph's honoured guest.

(15) Hos. XI, 4.

(16) To make up the standard.

(17) V. Sanh., Sonc. ed., p. 330, n. 5.

(18) A sort of soap.

(19) A clay used for cleansing.
(20) A kind of alkali or mineral used as soap.
(21) Caused by a menstruous woman, v. Sanh. 49b.
(22) And obviously the same applies to wood.
(23) Rashi: e.g., black pepper, white pepper, etc. Tosaf.: spices forbidden under various headings, e.g., ‘orlah, kil'ayim, etc.
(24) If used for seasoning food, the food is interdicted.
(25) If there is not sufficient in one to impart a flavour but only in combination with each other.

Talmud - Mas. Shabbath 90a

They learnt this of sweetening condiments,[1] Since they are fit for sweetening a dish. Thus it is only because they are fit for sweetening a dish, but otherwise it is not so? — Here too [in our Mishnah] they are fit for sweetening.

NUTSHELLS, POMEGRANATE SHELLS, WOAD AND MADDER, [THE STANDARD IS] AS MUCH AS IS REQUIRED FOR DYEING THE SMALL PIECE OF CLOTH, [etc.]. But this contradicts it: If one carries out dissolved dyes,[2] [the standard is] as much as is required for dyeing a sample colour for wool?[3] — Said R. Nahman in the name of Rabbah b. Abbuha: That is because no man troubles to steep dyes in order to dye therewith a sample colour for wool.

URINE. A Tanna taught: Urine, until forty days.[4]

NATRON. it was taught: Alexandrian natron, but not natron of Antipatris.[5]

LYE [BORITH]. Rab Judah said: That is sand. But it was taught: Borith and sand? Rather what is Borith? Sulphur. An objection is raised: To these were added halbezin[6] and le'enn[7] and borith and ahol.[8] But if you maintain that it is sulphur, is then sulphur subject to shebi'ith? Surely it was taught: This is the general rule: Whatever as a root is subject to shebi'ith, but that which has no root is not subject to shebi'ith? But what is borith? Ahala.[9] But it was taught: And borith and ahala?[10] — There are two kinds of ahala.

CIMOLIAN EARTH. Rab Judah said: That is ‘pull out stick in.’[11]

ASHLEG. Samuel said: I asked all seafarers and they told me that it is called shunana; it is found in the cavity wherein the pearl lies and it is scraped out with an iron nail.

MISHNAH. [IF ONE CARRIES OUT] LONG PEPPER, OF WHATEVER QUANTITY, ITRAN,[12] OF WHATEVER QUANTITY, VARIOUS KINDS OF PERFUME, OF WHATEVER QUANTITY, VARIOUS KINDS OF METAL, OF WHATEVER QUANTITY, [PIECES] OF THE ALTAR STONES OR THE ALTAR EARTH, MOTH-EATEN SCROLLS OR THEIR MOTH-EATEN MANTLES, OF WHATEVER QUANTITY, [HE IS CULPABLE]. BECAUSE THEY ARE STORED AWAY IN ORDER TO BE HIDDEN.[13] R. JUDAH SAID: ALSO HE WHO CARRIES OUT THE SERVICE VESSELS OF IDOLS, OF WHATEVER SIZE, [IS CULPABLE], FOR IT IS SAID, AND THERE SHALL NOT CLEAVE AUGHT OF THE ACCURSED THING TO THINE HAND.[14]

GEMARA. Of what use is any [small] quantity of long pepper? For [dispelling] the [evil] odour of one's mouth.

ITRAN, OF WHATEVER QUANTITY. What is this good for? For megrim.

VARIOUS KINDS OF PERFUME, OF WHATEVER QUANTITY. Our Rabbis taught: If one carries out a malodorous [perfume], [the standard is] however little: good oil, however little: crimson [dye],[15] however little; and a closed rose,[16] [the standard is] one. VARIOUS KINDS OF METAL, OF WHATEVER QUANTITY. What is it fit for? — It was taught; R. Simeon b. Eleazar said: Because one can make a small goad out of it.

Our Rabbis taught: If one says, 'Behold, I vow[17] iron,'[18] — others rule:[19] He must not give less than a square cubit [of sheet iron]. What is it fit for? — Said R. Joseph: To ward off the ravens.[20] Some state, Others rule: He must not give less than a raven barrier. And how much is that? — Said R. Joseph: A square cubit. [If he vows] brass, he must not give less than a silver ma'ah['s worth]. it was taught, R. Eleazar said: He must not give less than a small brass hook. What is it fit for?[21] — Said Abaye, The wicks were scraped out and the branches [of the candelabrum] were cleansed therewith.

MOTH-EATEN SCROLLS AND MOTH-EATEN MANTLES. Rab Judah said: The worm [mekak] that attacks scrolls, the worm [tekak] of silk, the mite [ela] of grapes, the worm [pah] of figs, and the worm [heh] of pomegranates are all dangerous.[22] A certain disciple was sitting before R. Johanan eating figs. 'My Master,' he exclaimed, there are thorns in the figs. 'The pah [worm] has killed this person,' answered he.[23]

MISHNAH. IF ONE CARRIES OUT A PEDLAR'S BASKET, THOUGH IT CONTAINS MANY COMMODITIES, HE INCURS ONLY ONE SIN-OFFERING. [FOR] GARDEN-SEEDS, [THE STANDARD IS] LESS THAN THE SIZE OF A DRIED FIG; R. JUDAH B. BATHYRA RULED: FIVE.

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(1) I.e., where the different kinds of spices are all for sweetening.

(2) Ready for use.

(3) Given to the dyer.

(4) After that it loses its efficacy as a cleansing agent, and the standard of the Mishnah does not apply.

(5) A city founded by Herod the Great c. 10 B.C.E. in the plain of Kefar Saba. it was the most northerly limit of Judea (Tosaf. Git. VII. 9; Yoma 69a), and about twenty-six miles south of Caesarea.

(6) Jast.: bulb of ornithogalum.

(7) Jast.: garden-orache.

(8) Jast.: an alcalic plant used as soap. — These were added to the list of plants subject to the laws of the seventh year (shebi'ith).

(9) Jast.: a mineral substance used for cleansing. Maim. Nid. IX, 6. states that it is a vegetable.

(10) This is not the same Baraitha as cited before; v. Maharsha.

(11) A popular nickname for Cimolian carth.

(12) A kind of resin used for lighting: cf. supra 24b.

(13) When a sacred thing ceases to be fit for use, it must be 'hidden', i.e., buried or otherwise disposed of in accordance with the regulations stated in Meg. 26b, but not thrown away.

(14) Deut. XIII, 17.

(15) V. p. 218, n. 11.

(16) Lit., 'the virgin of a rose'.

(17) Lit.. 'I (take) upon myself'.

(18) To the Temple.

(19) 'Others' frequently refers to R. Meir, Hor. 13b.

(20) Rashi: spiked sheets of metal were placed on the Temple roof to prevent birds from alighting thereon; v. M.K. 9a.

(21) In the Temple.

(22) To him who eats them.

(23) They are dangerous worms, not thorns.

Talmud - Mas. Shabbath 90b

[FOR] CUCUMBER SEED, [THE STANDARD IS] TWO; SEED OF GOURDS, TWO; SEED OF EGYPTIAN BEANS, TWO. IF ONE CARRIES OUT A LIVE CLEAN[1] LOCUST, WHATEVER ITS SIZE; DEAD, [ITS STANDARD IS] THE SIZE OF A DRIED FIG. THE BIRD OF THE VINEYARDS,[2] WHETHER LIVE OR DEAD, WHATEVER ITS SIZE, BECAUSE IT IS STORED AWAY FOR A MEDICINE.[3] R. JUDAH SAID: ALSO HE WHO CARRIES OUT A LIVE UNCLEAN LOCUST, WHATEVER ITS SIZE, [IS CULPABLE], BECAUSE IT IS PUT AWAY FOR A CHILD TO PLAY WITH.

GEMARA. But this contradicts it: Manure, or thin sand, [the standard is] as much as is required for fertillizing a cabbage stalk: this is R. Akiba's view. But the Sages maintain: For fertilizing one leek-plant?[4] — Said R. Papa: In the one case it is sown, and in the other it is not, because one does not trouble to carry out a single seed for sowing.

CUCUMBER SEED. Our Rabbis taught: if one carries out kernels [of dates], — If for planting, [the standard for culpability is] two; if for eating, as much as fills the mouth of a swine. And how much fills the mouth of a swine? One. If for fuel, as much as is required for boiling a light egg; if for calculating,[5] two — others say, five. Our Rabbis taught: if one carries out two hairs of a horse's tall or a cow's tall, he is culpable, because these are laid aside for [bird] snares. Of the stiff bristles of a swine, one [involves liability]; of palm bands,[6] two; of palm fillets,[7] one.

THE BIRD OF THE VINEYARDS, WHETHER LIVE OR DEAD, WHATEVER ITS SIZE. What is the bird of the vineyards? — Said Rab: Palya be'ari.[8] Abaye observed: And it is found in a palm tree of [only] one covering, and it is prepared [as food] for [acquiring] wisdom; one eats half of its right [side] and half of its left, places it [the rest] in a brass tube and seals it with sixty [i.e., many] seals and suspends it around his left arm; and the token thereof is. A wise man's heart is at his right hand; but a fool's heart is at his left.[9] He acquires as much wisdom as he desires, studies as much as he desires, and [then] eats the other half, for if [he does] not, his learning will vanish.[10]

R. JUDAH SAID: ALSO HE WHO CARRIES OUT, etc. But the first Tanna holds, Not so.[11] What is the reason? Lest he [the child] eat it. If so, a clean [locust] is the same, for R. Kahana was standing before Rab and passing a shoshiba[12] in front of his mouth. ‘Take it away,’ said he to him, ‘that people should not say that you are eating it and thereby violating [the injunction], ye shall not make yourselves abominable.’[13] Rather [the reason is] lest it dies and he [the child] eat it. But R. Judah [holds], if it dies the child will indeed weep for it.[14]

CHAPTER X

MISHNAH. IF ONE LAYS [AUGHT] ASIDE FOR SOWING, FOR A SAMPLE, OR FOR A MEDICINE, AND [THEN] CARRIES IT OUT ON THE SABBATH, HE IS CULPABLE WHATEVER ITS SIZE.[15] BUT ALL OTHERS ARE NOT CULPABLE THEREFOR SAVE IN ACCORDANCE WITH ITS STANDARD.[16] IF HE CARRIES IT BACK AGAIN,[17] HE IS LIABle ONLY IN ACCORDANCE WITH ITS STANDARD.[18]

GEMARA. Why must he teach, IF ONE LAYS ASIDE; let him teach, If one carries out [aught] for sowing, for a sample, or for a medicine, he is culpable, whatever its size?[19] — Said Abaye: We discuss here a case e.g., where one laid it aside and [then] forgot why he laid it aside, and now he carries it out without specifying the purpose:

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(1) I.e., that may be eaten.

(2) A species of locust; it is discussed in the Gemara.

(3) in accordance with the general rule of the Mishnah supra 75b.
(4) Which shows that the seed for a single plant entails culpability.
(5) E.g., each to denote a certain sum.
(6) I.e., made of palm bark.
(7) Rashi: made of the bast of palm trees. These are finer than palm bands.
(8) Perhaps, ‘searcher in forests’ (Jast.) — the name of a locust.
(9) Eccl. X, a fool who has to acquire wisdom has to tie this on his left arm.
(10) Lit., ‘be eradicated’.
(11) An unclean locust is not laid aside, etc.
(12) A species of long-headed locust,which is eatable.
(13) Lev. XI, 43. The abomination consists in eating it alive.
(14) But not eat it.
(15) Since by laying it aside he shows that he values it.
(16) As stated in the previous chapter.
(17) Having carried it out he decides not to sow it, etc., after all, and takes it back into the house.
(18) For by changing his mind he removes the artificial value which he first attached to it, and it is the same as any other of its kind.
(19) For a definite standard is required only when one carries it out without any specified purpose. But if he states his purpose, he ipso fucto attaches a value to it.

Talmud - Mas. Shabbath 91a

you might say, His intention has been cancelled;[1] hence we are informed that whenever one does anything, he does it with his original purpose.

Rab Judah said in Samuel's name: R. Meir maintained that one is culpable even if he carries out a single [grain of] wheat for sowing. But that is obvious, [for] we learnt, WHATEVER ITS SIZE?-You might say, WHATEVER ITS SIZE Is to exclude [the standard of] the quantity of a dried fig, yet even so [one is not guilty unless there is as much as an olive: hence we are informed [otherwise]. R. Isaac son of Rab Judah demurred: If so,[2] if one declares his intention of carrying out his whole house, is he really not culpable unless he carries out his whole house?-There his intention is null vis a vis that of all men.

BUT ALL OTHERS ARE NOT CULPABLE THEREFOR SAVE IN ACCORDANCE WITH ITS STANDARD. Our Mishnah does not agree with R. Simeon b. Eleazar. For it was taught: R. Simeon b. Eleazar stated a general rule: That which is not fit to put away, and such is not [generally] put away, yet it did become fit to a certain person,[3] and he did put it away, and then another came and carried it out, the latter is rendered liable through the former's intention.

Raba said in R. Nahman's name: If one carries out as much as a dried fig for food, and then decides to [use it] for sowing, or the reverse, he is liable. But that is obvious: consider it from this point of view[4] [and] there is the standard, and consider it from that point of view, [and] there is the standard? — You might say, [Both] removal and depositing[5] must be done with the same intention, which is absent [here]: hence he informs us [otherwise].

Raba asked: What if one carries out half as much as a dried fig for sowing, but it swells[6] and he decides [to use it] for food? Can you argue, only there[7] is he culpable, because consider it from this point of view [and] there is the standard, and consider it from that point of view and there is the standard: whereas here, since it did not contain the standard of food when he carried it out, he is not culpable. Or perhaps, since he would be culpable for his intention of sowing if he were silent and did not intend it [for another purpose],[8] he is still culpable now? Now, should you rule that since he would be culpable for his intention of sowing if he were silent and did not intend it for another purpose, he is still culpable now: what if one carries out as much as a dried fig for food and it shrivels up and he decides [to keep it] for sowing?[9] Here it is certain that if he remained silent he would not be culpable on account of his original intention; or perhaps we regard[10] the present [only]; hence he is culpable? Should you rule that we regard the present, hence he is culpable: what if one carries out as much as a dried fig for food, and it shrivels and then swells up again? Does [the principle of] disqualification operate with respect to the Sabbath or not?[11] The question stands over.

Raba asked R. Nahman: What if one throws terumah[12] of the size of an olive into an unclean house? In respect of what [is the question]? If in respect of the Sabbath,[13] we require the size of a dried fig? If in respect of defilement,[14] we require food as much as an egg?- After all, it is in respect of the Sabbath, [the circumstances being] e.g., that there is food less than an egg in quantity[15] and this makes it up to an egg in quantity.[16] What then: since it combines in respect of defilement he is also culpable in respect to the Sabbath; or perhaps in all matters relating to the Sabbath we require the size of a dried fig?-Said he to him, We have learnt it: Abba Saul said: As for the two loaves of bread,[17] and the shewbread,[18] their standard is the size of a dried fig.[19] But why so: let us say, since in respect of

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(1) Since he forgot it.

(2) That according to the Mishnah culpability depends on one's intentions.

(3) He found a use for it.

(4) Lit., ‘go here’.

(5) v. p. I, n. 5.

(6) To the size of a dried fig-i.e., before he deposited it, and he changes his mind likewise before depositing it.

(7) In the preceding case.

(8) Intention must be verbally expressed, and is not merely mental.

(9) V. n. 4.

(10) Lit., ‘go after’.

(11) The principle of disqualification (lit., ‘rejection’) is that once a thing or a person has been rendered unfit in respect to a certain matter, it or he remains so, even if circumstances change. Thus here, when it shrivels, it becomes unfit to cause liability, being less than the standard: does it remain so or not? (Of course, if one carries it out thus and deposits it on another occasion, he is certainly culpable. But here it became unfit in the course of one act, and the question is whether it can become fit again for the completion of this same act.)

(12) v. Glos.

(13) Whether his throwing is a culpable act.

(14) Whether it becomes unclean.

(15) Already in the house.

(16) And it alights near the first, touching it, and so both become unclean.

(17) V. Lev. XXIII, 17.

(18) v. Ex. XXV, 30.

(19) I.e., if one carries them out on the Sabbath, this is the minimum quantity involving culpability.

Talmud - Mas. Shabbath 91b

its going out,[1] [the standard is] the size of an olive, in respect of the Sabbath too it is the size of an olive?[2] How compare! There, immediately one takes it without the wall of the Temple Court it becomes unfit as that which has gone out, whereas there is no culpability for the [violation of the] Sabbath until he carries it into public ground. But here the Sabbath and defilement come simultaneously.[3]

IF HE CARRIES IT BACK AGAIN, HE IS LIABle ONLY IN ACCORDANCE WITH ITS STANDARD. But that is obvious?Said Abaye: What case do we discuss here? E.g.,if he throws it on to a store, but its place is [distinctly] recognizable.[4] You, might argue, since Its place is recognizable, it stands in its original condition;[5] he [the Tanna] therefore teaches us that by throwing it on to a store he indeed nullifies it[6]

MISHNAH. IF ONE CARRIES OUT FOOD AND PLACES IT ON THE THRESHOLD, WHETHER HE [HIMSELF] SUBSEQUENTLY CARRIES IT OUT [INTO THE STREET] OR ANOTHER DOES SO, HE IS NOT CULPABLE, BECAUSE THE [WHOLE] ACT WAS NOT PERFORMED AT ONCE. [IF ONE CARRIES OUT] A BASKET WHICH IS FUll OF PRODUCE AND PLACES IT ON THE OUTER THRESHOLD, THOUGH MOST OF THE PRODUCE IS WITHOUT,[7] HE IS NOT CULPABle UNLESS HE CARRIES OUT THE WHOLE BASKET.

GEMARA. What is this threshold? Shall we say, a threshold that is public ground? [How state then] ‘HE IS NOT CULPABLE’! Surely he has carried out from private into public ground? Again, if it is a threshold that is private ground, [how state then] WHETHER HE [HIMSELF] SUBSEQUENTLY CARRIES IT OUT [INTO THE STREET] OR ANOTHER DOES SO, HE IS NOT CULPABLE’? Surely he carries out from private into public ground? Rather the threshold is a karmelith,[8] and he [the Tanna] informs us this: The reason [that he is not culpable] is because it rested in the karmelith; but if it did not rest in the karmelith he would be liable,[9] our Mishnah not agreeing with Ben ‘Azzai. For it was taught: If one carries [an article] from a shop to an open place via a colonnade, he is liable; but Ben ‘Azzai holds him not liable.[10]

A BASKET WHICH IS FULl OF PRODUCE. Hezekiah said: They learnt this only of a basket full of cucumbers and gourds;[11] but if it is full of mustard, he is culpable.[12] This proves that the tie of the vessel is not regarded as a tie.[13] But R. Johanan maintained: Even if it is full of mustard he is not culpable, which proves that he holds that the tie of the vessel is regarded as a tie. R. Zera observed: Our Mishnah implies that it is neither as Hezekiah nor as R. Johanan. ‘It implies that it is not as Hezekiah’, for it states: UNLESS HE CARRIES OUT THE WHOLE BASKET. Thus only the whole basket; but if all the produce [is without] he is not culpable, which shows that he holds that the tie of the vessel is regarded as a tie. ‘It implies that it is not as R. Johanan’, for it states: THOUGH MOST OF THE PRODUCE IS WITHOUT: thus only most of the produce, but if all the produce [is without], though the tie of the basket is within, he is liable, which shows that he holds that the tie of a vessel is not regarded as a tie. But in that case there is a difficulty?[14] -Hezekiah reconciles it in accordance with his view, while R. Johanan reconciles it in accordance with his view. Hezekiah reconciles it in accordance with his view: UNLESS HE CARRIES OUT THE WHOLE BASKET. When is that? in the case of a basket full of cucumbers and gourds. But if it is full of mustard, it is treated as though HE CARRIED OUT THE WHOLE BASKET, and he is culpable’ — While R. Johanan reconciles it according to his view. THOUGH MOST OF THE PRODUCE IS WITHOUT, and not only most of the produce, but even if all the produce [is without] he is not culpable, UNLESS HE CARRIES OUT THE WHOLE BASKET.

An objection is raised: If one carries out a spice pedlar's basket and places it on the outer threshold, though most of the kinds [of the spices] are without he is not culpable, unless he carries out the whole basket. Now this was assumed to refer to grains [of spices],[15] which is a difficulty according to Hezekiah?Hezekiah answers you: The reference here is to prickly shrubs.[16]

R. Bibi b. Abaye raised an objection: If one steals a purse on the Sabbath, he is bound to make restitution, since his liability for theft arises before his desecrating of the Sabbath. But if he drags it out of the house he is exempt, since the interdict of theft and the interdict of the Sabbath come simultaneously.[17] But if you think that the tie of a vessel is regarded as a tie,[18] the interdict of theft precedes that of the Sabbath?[19] — If he carries it out by way of its opening,[20] that indeed is so. Here we discuss the case where he carries it out by way of its bottom.[21] But there is the place of its seams,

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(1) Beyond the walls of the Temple Court. — These must be consumed within the Temple precincts; if they are taken beyond that they become unfit for food, and the priest who eats then, violates a negative injunction.

(2) And since we do not reason thus, we see that there is no connection between the standard of culpability for carrying out on the Sabbath and that required for other purposes.

(3) As it comes to rest the action of throwing is completed. and simultaneously the standard for defilement is reached.

(4) He did not actually state that he had changed his mind, but let it be inferred from the fact that he threw it on to a store of other grain.

(5) As being destined for separate sowing.

(6) I.e., it loses its separate identity. and becomes merely part of the store.

(7) In the street.

(8) Supra 6a.

(9) Though it was carried out by way of a karmelith.

(10) V. supra 5b.

(11) These are long, and are still partly within.

(12) Since some of it is entirely in the street.

(13) We do not regard all the mustard as one because it is tied together, as it were, by the basket, and treat it the same as cucumbers and gourds. [The ‘tie of a vessel’ in connect on with Sabbath is a technical phrase denoting that side of the vessel in the direction of the domain whence it is carried out (Rashi)].

(14) The Mishnah being self-contradictory.

(15) E.g.,it contained ground spices, which makes it similar to a basket of mustard.

(16) Gr. **, a kind of prickly shrub used for medicinal purposes and carried in long bundles (Jast.).

(17) v. Sanh., Sonc. ed., p. 491, n. 1.

(18) So that the vessel is still regarded as being within.

(19) I.e., he violates the former before the latter. For as soon as part of the purse is outside, all the money within that part is regarded as stolen, since he can take it out through the mouth of the purse as it lies thus.

(20) The mouth or opening preceding.

(21) Through which he cannot remove the coins; hence he has not stolen them yet.

which he can rip open[1] if he desires and extract [the coins]? — The reference is to a bar of metal.[2] But since it has straps,[3] he [the thief] can take it out up to its opening, untie [the straps] and take out the bar,[4] whilst the straps [still] unite it to within?[5] — It refers to one that has no straps. Alternatively, it has straps, but they are wound round about it [the purse].[6] And Raba said likewise: They learnt this only of a basket full of cucumbers and gourds, but if it is full of mustard he is culpable. This proves that he holds that the tie of a vessel is not regarded as a tie. Abaye ruled: Even if it is full of mustard he is not culpable, [which] proves that he holds that the tie of a vessel is regarded as a tie. Abaye [subsequently] adopted Raba's view, while Raba adopted Abaye's view. Now Abaye is self-contradictory, and Raba likewise. For it was taught: If one carries out produce into the street, — Abaye said: If in his hand, he is culpable;[7] if in a vessel, he is not culpable.[8] But Raba ruled: If in his hand, he is not culpable;[9] if in a vessel, he is culpable?[10] -Reverse it. 'If in his hand, he is culpable'? But we learnt: If the master stretches his hand without and the poor man takes [an object] from it, or places [an article] therein and he carries it inside, both are exempt? — There it is above three [handbreadths],[11] but here it is below three.[12]

MISHNAH. IF ONE CARRIES OUT [AN ARTICLE], WHETHER WITH HIS RIGHT OR WITH HIS LEFT [HAND], IN HIS LAP OR ON HIS SHOULDER, HE IS CULPABLE, BECAUSE THUS WAS THE CARRYING OF THE CHILDREN OF KOHATH.[13] IN A BACKHANDED MANNER,[14] [E.G.,] WITH HIS FOOT, IN HIS MOUTH, WITH HIS ELBOW, IN HIS EAR, IN HIS HAIR, IN HIS BELT WITH ITS OPENING DOWNWARDS,[15] BETWEEN HIS BELT AND HIS SHIRT, IN THE HEM OF HIS SHIRT, IN HIS SHOES OR SANDALS, HE IS NOT CULPABLE, BECAUSE HE HAS NOT CARRIED [IT] OUT AS PEOPLE [GENERALLY] CARRY OUT.

GEMARA. R. Eleazar said: If one carries out a burden above ten handbreadths [from the street level], he is culpable,[16] for thus was the carrying of the children of Kohath. And how do we know that the carrying of the children of Kohath [was thus]? Because it is written, by the tabernacle, and by the altar round about:[17] the altar is likened to the Tabernacle: just as the Tabernacle was ten cubits [high], so was the altar ten cubits high. And how do we know this of the Tabernacle itself? — Because it is written, Ten cubits shall be the length of a board,[18] and it is [also] said, and he spread the tent over the Tabernacle,[19] whereon Rab commented: Moses our Teacher spread it. Hence you may learn that the Levites were ten cubits tall.[20] Now it is well known that any burden that is carried on staves, a third is above [the porter's height] and two thirds are below: thus it is found that it was very much raised.[21] Alternatively, [it is deduced] from the Ark. For a Master said: The Ark was nine [handbreadths high], and the mercy-seat was one handbreadth; hence we have ten. And it is well known that any burden that is carried on staves, a third is above and two thirds are below: thus it is found that it was very much raised.[22] But deduce it from Moses? — Perhaps Moses was different, because a Master said: The Shechinah rests only on a wise man, a strong man, a wealthy man and a tall man.'[23]

Rab said on R. Hiyya's authority: If one carries out a burden on his head[24] on the Sabbath, he is liable to a sin-offering. because the people of Huzal[25] do thus. Are then the people of Huzal the world's majority![26] Rather if stated, it was thus stated: Rab said on R. Hiyya's authority: if a Huzalite carries out a burden on his head on the Sabbath, he is liable to a sin-offering, because his fellow-citizens do thus. But let his practice[27] be null by comparison with that of all men?[28] Rather if stated, it was thus stated: If one carries out a burden on his head, he is not culpable.

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[1] **(1)** [The seams of their purses were loosely sewn (Tosaf.)].

[2] **(2)** And as long as part of it is within he has committed no theft.

[3] **(3)** To close it.

(4) Whereby he has already committed the theft.
(5) In respect of the Sabbath; hence he has not yet desecrated the Sabbath.
(6) So that when he takes it out as far as its opening, the whole bag and straps are outside too.
(7) Even if his body is in the house, because the tie of his body is not a tie in this respect.
(8) If part of the utensil is within, as R. Johanan supra 91b; this contradicts Abaye's subsequent view.
(9) The tie of the body is a tie.
(10) [It was known to the retractors of the Talmud that this controversy took place after Abaye and Raba had retracted (Tosaf.)];
(11) And the exemption is because the same person did not effect both the removal and the depositing, not because of the tie of the body.
(12) So that it is technically at rest; Cf. p. 12, n. 6.
(13) In connection with the Tabernacle in the wilderness, v. Num. VII, 9. The definition of forbidden labour on the Sabbath which involves culpability is learnt from the Tabernacle; v. supra 49b.
(14) This is the idiom for anything done in an unusual way.
(15) Of course, if the opening is on top such carrying would be quite usual.
(16) Though the space there ranks as a place of non-culpability v. supra 6a.
(17) Num. III,26.
(18) Ex. XXVI, 16.
(19) Ibid. XL, 19.
(20) It is now assumed that all Levites were as tall as Moses.
(21) The Kohathites carried the altar on staves on their shoulders. Allowing for two thirds of the altar to swing below the top of their heads, the bottom of the altar would still be a third of ten cubits-i.e., three and one third cubits-from the ground, which is considerably more than ten handbreadths.
(22) For allowing for Levites of the usual height, viz., three cubits eighteen handbreadths, and two thirds of the Ark, i.e., six and two thirds handbreadths swinging below the level of their heads, its bottom would still be eleven and one third handbreadths above the ground. — This alternative rejects the deduction from Moses.
(23) Hence Moses' height may have been exceptional. V. Ned., Sonc. ed., p. 119 n. 4; also Gorfinkle, 'The Eight chapters of Maimonides', p. 80, for an interesting though fanciful explanation of this passage.
(24) Not holding it with his hands at all.
(25) V. Sanh., p. 98, n. 3.
(26) To set the standard for all others
(27) Lit, 'mind'.
(28) For since most people do not carry it thus, it is an unusual form of carriage

Talmud - Mas. Shabbath 92b

And should you object, But the people of Huzal do thus,their practice is null by comparison with that of all men.

MISHNAH. IF ONE INTENDS TO CARRY OUT [AN OBJECT] IN FRONT OF HIM, BUT IT WORKS ROUND[1] BEHIND HIM, HE IS NOT CULPABLE; BEHIND HIM, BUT IT WORKS ROUND BEFORE HIM, HE IS CULPABLE. [YET] IN TRUTH IT WAS SAID: A WOMAN, WHO WRAPS HERSELF ROUND WITH AN APRON WHETHER [THE ARTICLE IS CARRIED] BEFORE OR BEHIND HER,[2] IS CULPABLE, BECAUSE IT IS NATURAL[3] FOR IT TO REVERSE ITSELF.[4] R. JUDAH SAID: ALSO THOSE WHO RECEIVE NOTES.[5]

GEMARA. What is the difference in [intending to carry it] BEFORE HIM, BUT IT WORKS ROUND BEHIND HIM, that HE IS NOT CULPABle? [Presumably] because his intention was not fulfilled! But then [if he intended to carry it] BEHIND HIM, BUT IT WORKS ROUND BEFORE HIM, [there] too his intention was not fulfilled! Said R. Eleazar: There is a contradiction:[6] he who learnt the one did not learn the other. Raba said: But what is the difficulty: Perhaps [where he intended to carry it] BEFORE HIM, BUT IT WORKS ROUND BEHIND HIM, this is the reason that HE IS NOT CULPABLE, because he intended a strong vigilance whereas he succeeded [in giving it only] a weak vigilance;[7] but [if he intended to carry it] BEHIND HIM, BUT IT WORKED ROUND BEFORE HIM, this is the reason that HE IS CULPABLE, because he intended [only] a weak vigilance whereas he succeeded [in giving it] a strong vigilance.[8] But then what is R. Eleazar's difficulty? The implications of the Mishnah are a difficulty:[9] IF ONE INTENDS TO CARRY OUT [AN OBJECT] IN FRONT OF HIM, BUT IT WORKS ROUND BEFORE HIM, HE IS NOT CULPABLE: hence [if he intends to carry it] behind him and it comes behind him, he is culpable. Then consider the second clause: BEHIND HIM, BUT IT WORKS ROUND BEFORE HIM, only then is he CULPABLE: hence [if he intends to carry it] behind him and it comes behind him, he is not culpable?[10] — Said R. Eleazar: There is a contradiction: he who learnt the one did not learn the other. R. Ashi observed: But what is the difficulty: Perhaps he leads to a climax:[11] it is unnecessary [to rule that if he intended to carry it] behind him and it came behind him, he is culpable, since his intention was fulfilled. But even [if he intends to carry it] BEHIND HIM, BUT IT WORKS ROUND BEFORE HIM, it must be [stated]. [For] you might think that I will rule, since his intention was unfulfilled, he is not culpable; therefore he informs us that he intended [only] a weak vigilance whereas he succeeded [in giving it] a strong vigilance, So that he is culpable. [Shall we say that where he intends to carry it] behind him, and it comes behind him, there is a controversy of Tannaim? For it was taught: If one intends carrying out [an object] in his belt with its opening above, but he carries [it] out in, his belt with its opening below, [or] if one intends to carry out in his belt with its opening below,[12] -R. Judah rules that he is culpable, but the Sages hold him not culpable. Said R. Judah to them: Do you not admit that [if one intends to carry out an object] behind him and it comes behind him,, he is culpable?[13] Whilst they said to him: Do you not admit that [if one carries out an object] as with the back of his hand or with his foot, he is not culpable? Said R. Judah: I stated one argument, and they stated one argument. I found no answer to their argument, and they found no answer to mine. Now, since he says to them, ‘Do you not admit,’ does it not surely follow that the Rabbis hold that he is not culpable?[14] Then on your reasoning, when they say to him, ‘Do you not admit,’ does it follow that R. Judah holds him, culpable! But surely it was taught: With the back of his hand or his foot, all agree that he is not culpable! Rather [conclude thus: if one intends to carry out an object] behind him and it comes behind him, all agree that he is culpable; with the back of his hand or foot, all agree that he is not culpable. They differ when [he carries it out] in his belt with its opening below: one Master likens it to [intending to carry it out] behind him and it comes behind him, while the other Master likens it [to carrying] with the back of one's hand or foot.

IN TRUTH IT WAS SAID: A WOMAN, etc. It was taught: Every [statement of] ‘In truth [etc.]’ is the halachah.[15]

R. JUDAH SAID: ALSO THOSE WHO RECEIVE NOTES. A Tanna taught: Because clerks of the State do thus.[16] MISHNAH. IF ONE CARRIES OUT A LOAF INTO THE STREET, HE IS CULPABLE; IF TWO CARRY IT OUT, THEY ARE NOT CULPABLE. IF ONE COULD NOT CARRY IT OUT AND TWO CARRY IT OUT, THEY ARE CULPABLE; BUT R. SIMEON EXEMPTS [THEM].[17]

GEMARA. Rab Judah said in Rab's name-others state, Abaye said — others again state, it was taught in a Baraitha: If each alone is able,[18] -R. Meir holds [them] culpable, while R. Judah and R. Simeon hold [them] not culpable. If each alone is unable, R. Judah and R. Meir hold [them] culpable, while R. Simeon exempts [them]. If one is able but the other is not, all agree that he is culpable.[19] It was taught likewise: if one carries out a loaf into the street, he is culpable. If two carry it out: R. Meir declares him culpable; R. Judah rules: If one could not carry it out and both carry it out, they are culpable, otherwise they are not culpable; while R. Simeon exempts [them].

Whence do we know this?-For our Rabbis taught: [And if any one ... sin...] in his doing [etc.]:[20] [only] he who does the whole of it [is culpable], but not he who does part of it. How so? If two hold a pitchfork and sweep [corn together];[21] [or] the shuttle, and press;[22] or a quill. and write; or a cane, and carry it out into the street,[23] -I might think that they are culpable: hence it is stated, ‘in his doing’: [only] he who does the whole of it, but not he who does part of it.

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(1) Lit., ‘it comes’.

(2) I.e., if she hangs anything on it to carry it out, either before or behind her, but it becomes reversed.

(3) Lit_, ‘fit’.

(4) Hence she knows of this, and such must be considered her intention.

(5) Tosaf.: officials who go out with documents for taking a census, inventories of the State treasury, etc. They carried these in pouches hanging from their belts, which sometimes turned round back to front. R. Judah rules that these too are culpable in such a case.

(6) Jast. R. Han .: (I take) an oath! (quoted in Tosaf. Keth. 75b s.v. תברא).

(7) Hence his intention is unfulfilled.

(8) Hence his intention was more than fulfilled.

(9) [MS.M.: Rather if there is a difficulty the following is the difficulty.]

(10) Presumably because such carriage is unnatural, as one cannot exercise a proper vigilance.

(11) Lit., ‘he states’, ‘it is unnecessary’.

(12) This is the reading in the Tosef. Shab. and is thus emended here by Wilna Gaon. Cur. edd.: If one carries out money in his belt with its opening above he is culpable; if its opening is below, R. Judah rules that he is culpable etc.

(13) So here too, though carrying an object in a belt with its opening below is unusual.

(14) Thus it is dependent on Tannaim.

(15) V. B.M. 60a.

(16) ‘Aruk: they carry their documents in an apron around their loins, and sometimes these are at the front and sometimes at the back.

(17) From a sin-offering.

(18) To carry it out alone.

(19) This is discussed infra.

(20) Lev. lv, 27.

(21) Which is forbidden on the ground of binding sheaves, supra 73a.

(22) Which is weaving.

(23) All these actions can be done by one man.

Talmud - Mas. Shabbath 93a

[If they hold] a round cake of pressed figs and carry it out into the street, or a beam, and carry it out into the street, — R. Judah said: If one cannot carry it out and both carry it out, they are culpable; if not, they are not culpable. R. Simeon ruled: Even if one cannot carry it out and both carry it out, they are not culpable: for this [reason] it is stated, ‘in his doing’, [to teach that] if a single person does it, he is liable; whereas if two do it, they are exempt.

Wherein do they differ? In this verse: And if one person of the common people shall sin unwittingly, in his doing, [etc.]. R. Simeon holds: Three limitations are written: ‘a person’ shall sin, ‘one’ shall sin,’ in his doing’ he shall sin.[1] One excludes [the case where] one [person] removes an article [from one domain] and another deposits [it in the other domain]; a second is to exclude [the case of] each being able [separately to perform the action]; and the third is to exclude where neither is able [alone]. R. Judah [holds]: one excludes [the case where] one [person] removes and another deposits; the second is to exclude [the case of] each being able; and the third is to exclude [the case of] an individual who acts on the ruling of Beth din.[2] But R. Simeon is consistent with his view, for he maintains: An individual who acts on the ruling of Beth din is liable.[3] While R. Meir [argues]: Is it then written, ‘a person shall sin’, ‘one shall sin’, ‘in his doing he shall sin’! [Only] two limitations are written:[4] one excludes [the case where] one removes and another deposits, and the other excludes [the case of] an individual who acts on the ruling of Beth din.

The Master said. ‘If one is able but the other is not, all agree that he is culpable.’ Which one is culpable? — Said R. Hisda: He who is able. For if the one who is unable, — what does he do then?[5] Said R. Hamnuna to him: Surely he helps him? Helping is no concrete [act], replied he. R. Zebid said on Raba's authority: We learnt likewise: If he [a zab] is sitting on a bed and four cloths are under the feet of the bed,[6] they are unclean, because it cannot stand on three;[7] but R. Simeon declares it clean.[8] If he is riding on an animal and four cloths are under its feet, they are clean, because it can stand on three. But why so? surely each helps the other? Hence it must be because we maintain that helping is not a concrete [act]. Said Rab Judah of Diskarta:[9] After all I may tell you that helping is a concrete [act]; but here it is different because it [the animal] removes it [the foot] entirely [from the ground].[10] But since it alternatively removes one foot and then another, let it be as a zab who turns about.[11] Did we not learn, If a zab is lying on five benches or five hollow belts:[12] if along their length, they are unclean;[13] but if along their breadth, they are clean. [But] if he is sleeping, [and] there is a doubt that he may have turned [about upon them],[14] they are unclean? Hence[15] it must surely be because we say, helping is no concrete [act].

R. Papi said in Raba's name, We too learnt thus.

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(1) I.e., each of these expressions limits the law to the action of a single individual.

(2) And thereby sins; he is not liable to a sin.offering.

(3) v. Hor. 2b.

(4) v., ‘one soul’ and ‘in his doing’.

(5) He himself can effect nothing.

(6) I.e., one cloth under each foot.

(7) So that each one is regarded as affording complete support. since the bed cannot stand without it, and therefore the cloth under it is unclean as midras (v. p. 312, n. 9). — For a thing to become unclean as midras the greater weight of the zab must rest on it.

(8) Consistently with his view here that where neither can do the work alone, each is regarded merely as a help.

(9) Deskarah, sixteen parasangs N.E. of Bagdad, Obermeyer, p. 146.

(10) Hence it is not even regarded as helping.

(11) Shifting from one support to another, as in the Mishnah quoted.

(12) Probably like long straps. but hollow, and can be used as money pouches.

(13) Because he may have shifted from one to another, so that each received the greater part of his weight.

(14) And come to be along their length.

(15) In the case of the animal.

Talmud - Mas. Shabbath 93b

R. Jose said: A horse defiles through its forefeet, an ass through its hindfeet, because a horse rests its weight[1] on its forefeet, while an ass rests its upon its hindfeet.[2] But why so, seeing that they [the feet] help each other [to bear the animal's weight]? Hence it must surely be because we say, helping is no concrete [act].

R. Ashi said, We too learnt this: R. Eliezer said: If one foot is on the utensil and the other on the pavement, one foot on the stone and the other on the pavement, we consider: wherever if the utensil or the stone be removed, he can stand on the other foot, his service is valid; if not, his service is invalid.[3] Yet why so, seeing that they [the feet] help each other? Hence it must surely be because we say, helping is no concrete [act].

Rabina said, We too learnt this: If he [the priest] catches [the blood] with his right hand, while his left helps him,[4] his service is valid. But why so, Seeing that they [the hands] help each other? But it must surely be because we say, helping is no concrete [act]. This proves it.

The Master said: ‘If each alone is able: R. Meir holds [them] culpable.’ The scholars asked: Is the standard quantity required for each, or perhaps one standard [is sufficient] for all?[5] R. Hisda and R. Hamnuna [differ therein]: one maintains, The standard [is required] for each; while the other rules: One standard [is sufficient] for all. R. Papa observed in Raba's name, We too learnt thus: If he [a zab] is sitting on a bed and four cloths are under the feet of the bed, they are unclean, because it cannot stand on three.[6] But why so: let the standard of gonorrhoea be necessary for each?[7] Hence it must surely be because we say, One standard [suffices] for all.

R. Nahman b. Isaac said, We too learnt thus: If a deer enters a house and one person locks [it] before him,[8] he is culpable; if two lock it, they are exempt.[9] If one could not lock it, and both lock it, they are culpable. But why so? let the standard of trapping be necessary for each?[10] Hence it must surely be because we say, One standard [suffices] for all.

Rabina said, We too learnt thus: If partners steal [an ox or a sheep] and slaughter it, they are liable.[11] But why so? let the standard of slaughtering be necessary for each? Hence it must surely be because we say, One standard [suffices] for all. And R. Ashi [also] said, We too learnt thus: If two carry out a weaver's cane [quill], they are culpable. But why so? let the standard of carrying out be necessary for each? Hence it must surely be because we say, One standard [suffices] for all. Said R. Aha son of Raba to R. Ashi: Perhaps that is where it contains sufficient [fuel] to boil a light egg for each?[12] -If so, he [the Tanna] should inform us about a cane in general?[13] why particularly a weaver's?[14] Yet perhaps it is large enough for each to weave a cloth therewith?[15] Hence nothing can be inferred from this.

A tanna[16] recited before R. Nahman: If two carry out a weaver's cane, they are not culpable; but R. Simeon declares them culpable. Whither does this tend![17] — Rather say, They are culpable, while R. Simeon exempts [them].

MISHNAH. IF ONE CARRIES OUT LESS THAN THE STANDARD QUANTITY OF FOOD IN A UTENSIL, HE IS NOT CULPABLE EVEN IN RESPECT OF THE UTENSIL, BECAUSE THE UTENSIL IS SUBSIDIARY THERETO. [IF ONE CARRIES OUT] A LIVING PERSON IN A BED, HE IS NOT CULPABLE EVEN IN RESPECT OF THE BED, BECAUSE THE BED IS SUBSIDIARY TO HIM;[18] A CORPSE IN A BED, HE IS CULPABLE. AND LIKEWISE [IF ONE CARRIES OUT] THE SIZE OF AN OLIVE OF A CORPSE, THE SIZE OF AN OLIVE OF A NEBELAH, OR THE SIZE OF A LENTIL OF A [DEAD] CREEPING THING [SHEREZ], HE IS CULPABLE.[19] BUT R. SIMEON DECLARES HIM EXEMPT.[20]

GEMARA. Our Rabbis taught: If one carries out foodstuffs of the standard quantity, if in a utensil, he is liable in respect of the foodstuffs and exempt in respect of the utensil! but if he needs the utensil, he is liable in respect of the utensil too.[21] Then this proves that if one eats two olive-sized pieces of heleb in one state of unawareness, he is liable to two [sacrifices]?[22] Said R. Shesheth: What are we discussing here? E.g.,

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(1) Lit., ‘the leaning of a horse’.

(2) The reference is to a cloth placed under the feet of these animals when a zab rides upon them.

(3) A priest performed the service in the Temple barefooted, and nothing might interpose between his feet and the pavement.

(4) Catching the blood of a sacrifice for its subsequent sprinkling on the altar is part of the sacrificial service, and like all other parts thereof must be performed with the right hand.

(5) When two people carry out an article of food which each could carry out alone, must it be as large as two dried figs, so that there is the standard for each, Or is one sufficient to render them both culpable?

(6) V. supra a for notes.

(7) ‘The standard of gonorrhoea’ is that a whole zab rests on an article-then it is unclean. Then here too four zabim should be lying on the bed for the four cloths to be defiled.

(8) So that it cannot escape. This constitutes trapping, which is a culpable labour; v. Mishnah supra 73a.

(9) Cf. supra 92b.

(10) Viz., two deers should be required.

(11) v. Ex. XXI, 37.

(12) Mishnah supra 89b.

(13) The standard of which is boil a light egg.

(14) The standard of which is different; v. next note.

(15) This is the standard of a weaver's cane.

(16) V. s.v. (b).

(17) I.e.. surely R. Simeon rules in the opposite direction, that if two perform an action, even if each is unable to do it separately, they are exempt. Jast. translates: towards the tail! i.e., reverse it.

(18) Carrying a living person is not a culpable offense, v. infra 94a.

(19) These are the respective minima which defile. Hence carrying them out of the house ranks as a labour of importance, since a source of contamination is thereby removed.

(20) For carrying out a corpse, etc. For its purpose is merely negative, i.e., he does not wish to have the corpse in his house, but does not actually want it in the street; hence it is a labour unessential in itself, and which R. Simeon holds is not a culpable offence, though it is forbidden.

(21) Thus he is liable to two sacrifices.

(22) Surely that is not so, yet the cases are analogous.

Talmud - Mas. Shabbath 94a

where he sinned unwittingly in respect of the food, but deliberately in respect of the utensil.[1] R. Ashi demurred: But it is stated, ‘in respect of the utensil too’?[2] Rather said R. Ashi: E.g.. where he sinned unwittingly in respect of both, then [one offence] became known to him, and subsequently the other became known to him, this being dependent on the controversy of R. Johanan and Resh Lakish.[3]

[IF ONE CARRIES OUT] A LIVING PERSON IN A BED, HE IS NOT CULPABLE EVEN IN RESPECT OF THE BED. Shall we say that our Mishnah is [according to] R. Nathan, but not the Rabbis? For it was taught: If one carries out an animal, beast,[4] or bird into the street, whether alive or [ritually] killed, he is liable [to a sacrifice]; R. Nathan said: For killed ones he is liable, but for live ones he is exempt, because the living [creature] carries itself! Said Raba, You may even say [that it agrees with] the Rabbis: the Rabbis differ from R. Nathan only in respect of an animal, beast, and bird, which stiffen themselves,[5] but as for a living person, who carries himself,[6] even the Rabbis agree. R. Adda b. Ahabah observed to Raba, But as to what we learnt: Ben Bathyra permits [it] in the case of a horse.[7] And it was taught: Ben Bathyra permits [it] in the case of a horse, because it is employed for work which does not entail liability to a sin-offering[8] . And R. Johanan observed, Ben Bathyra and R. Nathan said the same thing.[9] Now if you say that the Rabbis disagree with R. Nathan only in respect of an animal, beast, or bird, because they stiffen themselves, why particularly Ben Bathyra and R. Nathan: Surely you have said that even the Rabbis agree?-When R. Johanan said [thus] it was in respect of a horse that is set apart for [carrying] birds. But are there horses set apart for birds? Yes, there are the falconers’ [horses].[10] R. Johanan said: Yet R. Nathan agrees in the case of a tied [living being].[11] R. Adda b. Mattenah said to Abaye: But these Persians are like bound [men],[12] yet R. Johanan said, Ben Bathyra and R. Nathan said the same thing?[13] There they suffer from haughtiness,[14] for a certain officer with whom the king was angry ran three parasangs on foot.

A CORPSE IN A BED, HE IS CULPABLE.[15] AND LIKEWISE [IF ONE CARRIES OUT] THE SIZE OF AN OLIVE OR A CORPSE, etc. Rabbah b. Bar Hanah said in R. Johanan's name, and R. Joseph said in the name of Resh Lakish: R. Simeon declared exempt

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(1) And ‘liable’- means to death, for the wilful desecration of the Sabbath.
(2) Which implies the same liability.
(3) v. supra 71b. Thus according to R. Johanan he is liable to two sin-offerings if he is apprised of each in succession, and then comes to make atonement for both. But in the view of Resh Lakish he is liable to two sacrifices only if he is apprised of one, makes atonement, and is then apprised of the other (Tosaf.).
(4) Behemah means a domestic animal; hayyah, a non-domestic animal.
(5) Making themselves a dead weight, and thus they are a real burden.
(6) He has natural buoyancy.
(7) One may not sell his cattle to a Gentile, because they are used for ploughing, and thereby lose the Sabbath rest to which they are entitled (v. Ex. XX, (10). Horses, however, were not used for ploughing in Mishnaic times, but merely for riding.
(8) Riding being only Rabbinically prohibited.
(9) Sc. that it is not a labour to carry a living being, because it carries itself.
(10) The falcons which they carry are free and do not stiffen themselves; yet in the view of the Rabbis, who make an exception only in respect of a human being, one would be culpable carrying out a falcon. Hence R. Johanan specified R. Nathan.
(11) Whether human or animal, because these certainly do not carry themselves.
(12) Rashi: they ride swathed in their garments and could not walk if they wished to.
(13) I.e., Ben Bathyra permits the sale of a horse even to a Persian, showing that even a bound person is not a burden.
(14) Their haughty bearing makes them look as if they cannot walk, but actually they are able to quite well.
(15) [Tosaf. identifies R. Judah as the authority for this ruling, he being of the opinion that there is liability for a labour not essential in itself cf. supra p. 448, n. 8.]

Talmud - Mas. Shabbath 94b

even him who carries out a corpse for burial.[1] Raba observed: Yet R. Simeon admits in the case of [one who carries out] a spade for digging therewith or the Scroll of the Torah to read it, that he is culpable.[2] That is obvious, for if this too should be regarded as a labour unrequired per se, how would a labour necessary per se be conceivably according to R. Simeon?-You might say, it must be [carried out] both for his requirements and for its own purpose, e.g., a spade in order to make it into a [metal] plate[3] and for digging, a Scroll of the Law for correcting and reading: [therefore] he informs us [that it is not so].

A dead body was lying in Darukra,[4] which R. Nahman b. Isaac allowed to be carried out into a karmelith. Said R. Nahman the brother of Mar son of Rabbana to R. Nahman b. Isaac: On whose authority? R. Simeon's! But Perhaps R. Simeon merely exempts [such] from liability to a sin-offering, yet there is a Rabbinical interdict. By God! said he to him, you yourself may bring it in. For [this is permitted] even according to R. Judah:[5] did I then say [that it may be carried out] into the street? I [merely] said, into a karmelith: the dignity of human beings is a great thing, for it supersedes [even] a negative injunction of the Torah.[6]

We learnt elsewhere: If one plucks out the symptoms of uncleanness[7] or burns out the raw flesh,[8] he transgresses a negative injunction.[9] It was stated: [If he plucks out] one of two [hairs]. he is culpable;[10] one of three: R. Nahman maintained, He is culpable; R. Shesheth said, He is not culpable. R. Nahman maintained, He is culpable: his action is effective in so far that if another is removed the uncleanness departs. R. Shesheth said, He is not culpable: now at all events the uncleanness is present. R. Shesheth observed: Whence do I know it? Because we learnt: AND LIKEWISE [IF ONE CARRIES OUT] THE SIZE OF AN OLIVE OF A CORPSE, THE SIZE OF AN OLIVE OF A NEBELAH,... HE IS CULPABLE. This implies, [for] half the size of an olive he is exempt; but it was taught: [For] half the size of an olive he is culpable? Surely [then], where it was taught that he is culpable, [it means] that he carries out half the size of an olive from [a piece as large as] an olive; while where we learnt [by implication] that he is exempt, [it means] that he carries out half the size of an olive from an olive and a half.[11] But R. Nahman maintains: In both these cases he is culpable;[12] but as to what we learnt that he is exempt, that is where he carries out half the size of an olive of a large corpse.[13]

MISHNAH. IF ONE PARES HIS NAILS WITH EACH OTHER OR WITH HIS TEETH, LIKEWISE [IF ONE PLUCKS] HIS HAIR, LIKEWISE HIS MOUSTACHE, LIKEWISE HIS BEARD; AND LIKEWISE IF [A WOMAN] PLAITS [HER HAIR], LIKEWISE IF SHE PAINTS [HER EYELIDS] LIKEWISE IF SHE ROUGES [HER FACE],[14] — R. ELIEZER DECLARES [THEM] CULPABLE, WHILE THE RABBIS FORBID [THESE ACTIONS] AS A SHEBUTH.[15]

GEMARA. R. Eleazar said: They differ only [where it is done] by hand; but if with an implement, all agree that he is culpable. That is obvious, [for] we learnt, WITH EACH OTHER?-You might say, the Rabbis hold [him] exempt even [if he does it] with an implement, while as to what is stated, WITH EACH OTHER, that is to teach you the extent[16] of R. Eliezer[‘s ruling]:[17] [hence] he informs us [otherwise].

R. Eleazar also said: They differ only [where one does it] for himself; but [if he does it] for his neighbour, all agree that he is not culpable. That is obvious, [for] we learnt, HIS NAILS?You might say. R. Eliezer holds [him] culpable even [if he does it] for his neighbour, while as to what is stated — HIS NAILS, that is to teach you the extent of the Rabbis[‘ ruling]:[18] [hence] he informs us [otherwise].

LIKEWISE HIS HAIR, etc. It was taught: If one plucks out a full scissors’ edge [of hair], he is culpable. And how much is a full scissors’ edge? Said Rab Judah: Two [hairs]. But it was taught: But in respect of baldness [the standard is] two?[19] -Say, and likewise in respect of baldness, [the standard is] two. It was taught likewise: If one plucks out a full scissors’ edge [of hair] on the Sabbath, he is culpable. And how much is a full scissors’ edge? Two. R. Eliezer said: One. But the Sages agree with R. Eliezer in the case of one who picks out white hairs from black ones, that he is culpable even for one;[20] and this is interdicted even on weekdays, for it is said, neither shall a man put on a woman's garment.[21]

It was taught: R. Simeon b. Eleazar said: As for a nail the greater part of which is severed,[22] and shreds [of skin] the largest portions of which are severed [from the body], — by hand it is permitted [wholly to remove them]; (if one severs them] with a utensil, he is liable to a sin-offering. Is there anything which [if done] with a utensil renders one liable to a sin-offering, yet is permitted by hand at the very outset?[23] -This is its meaning: If the greater portions thereof are severed by hand, it is permitted [to remove them wholly]; if done with a utensil one is not culpable, yet it is prohibited. If the greater portions thereof are not severed, [if wholly removed] by hand one is not culpable. yet it is prohibited: with a utensil, one is liable to a sin-offering. Rab Judah said: The halachah is as R. Simeon b. Eleazar. Said Rabbah b. Bar Hanah in R. Johanan's name: Providing they are severed towards the top.[24] so that they pain him.

LIKEWISE IF [A WOMAN] PLAITS, etc. She who plaits, paints or rouges, on what score is she culpable?-R. Abin said in the name of R. Jose son of R. Hanina: She who plaits on the score of weaving; she who paints on the score of writing; she who rouges on account of spinning.[25] Said the Rabbis before R. Abbahu: Are then weaving, writing, and spinning done in this way? Rather said R. Abbahu: R. Jose son of R. Hanina's [statement] was explained to me [thus]:

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(1) Though that is for the requirements of the dead, he is exempt, since it is not for the requirements of the living.

(2) Since it is for his own requirements.

(3) [Aliter: to fix upon it (if blunted) a plate. v. Rash.]

(4) Or, Drukerith, Darkerith, a Babylonian town near Wasit on the lower Tigris; Obermeyer, p. 197.

(5) Who holds a labour not required per se to be a culpable offence.

(6) Hence this is permitted. [Not exactly a Biblical prohibition but an interdict of the Rabbis whose enactments have Biblical force (Rashi). V. Ber. 19b.]

(7) v., the two whitened hairs which are a proof of leprosy; v. Lev. XIII, 3 (the minimum is two hairs).

(8) Also a symptom of leprosy, ibid. 10.

(9) Deut. XXI, 8: Take heed in the plague of leprosy this is interpreted as a command not to remove the evidences thereof.

(10) Since he thereby effectively removes the symptom of leprosy, the remaining one being insufficient to prove him unclean.

(11) He is culpable in the first case because his action is effective, but in the second it does not effect anything, and the same applies here.

(12) His reasoning is the same as in the case of leprosy.

(13) For even if another half is carried out, it makes no difference to the contaminating efficacy of the corpse.

(14) One of the explanations of Rashi. V. also Krauss, T.A. I p. 692 n. 293.

(15) V. Glos.

(16) Lit., ‘power’.

(17) Viz., that even then he is culpable.

(18) Viz., that he is not culpable even when he pares his own nails.

(19) V. Deut. XIV, 1: the prohibition is infringed by the plucking of two hairs. The conjunction waw may mean, either ‘and’ or ‘but’; it is understood in the latter sense here, and thus implies that there is a different standard for the Sabbath, since both statements are part of the same Baraitha.

(20) For its removal makes him look younger; hence it is regarded as a labour.

(21) Ibid. XXII, 5. This is interpreted as a general prohibition of effeminacy. which includes the attempt to make oneself look young by such methods.

(22) I.e, it is hanging and nearly torn off.

(23) Surely not!

(24) Near the nail.

(25) The rouge was drawn out in thread-like lengths, and thus it resembled spinning; v. Tosaf. M.K. 9b s.v. פוקסת.

Talmud - Mas. Shabbath 95a

She who paints [is culpable] on the score of dyeing; she who plaits and rouges, on the score of building. Is this then the manner of building?-Even so, as R. Simeon b. Menassia expounded: And the Lord God builded the rib [. . . into a woman]:[1] this teaches that the Holy One, blessed be He, plaited Eve[‘s hair] and brought her to Adam, for in the sea-towns plaiting is called ‘building’.

It was taught, R. Simeon b. Eleazar said: If [a woman] plaits [hair], paints [the eyes], or rouges [the face], — if [she does this] to herself, she is not culpable; [if to] her companion, she is culpable. And thus did R. Simeon b. Eleazar [say on R. Eliezer's authority: A woman must not apply paint to her face, because she dyes.

Our Rabbis taught: One who milks, sets milk [for curdling],[2] and makes cheese, [the standard is] the size of a dried fig. If one sweeps [the floor], lays the dust [by sprinkling water], and removes loaves of honey, if he does this unwittingly on the Sabbath, he is liable to a sin.offering; if he does it deliberately on a Festival, he is flagellated with forty[3] [lashes]: this is R. Eliezer's view. But the Sages say: In both cases it is [forbidden] only as a shebuth.[4] R. Nahman b. Guria visited Nehardea. He was asked. If one milks, on what score is he culpable? On the score of milking, He replied. If one sets milk, or what score is he culpable? On the score of setting milk, he replied. If one makes cheese, on what score is he liable? On account of making cheese, he replied. Your teacher must have been a reed-cutter in a marsh, they jeered at him. [So] he went and asked in the Beth Hamidrash. Said they to him, He who milks is liable on account of unloading.[5] He who sets milk is liable on account of selecting.[6] He who makes cheese is liable on account of building.[7]

‘If one sweeps, lays the dust, and removes loaves of honey, if he does this unwittingly on the Sabbath, he is liable to a sin-offering; if he does it deliberately on a Festival, he is flagellated with forty [lashes]: this is R. Eliezer's view.’ R. Eleazar observed, ‘What is R. Eliezer's reason? Because it is written, and he dipped if in the forest of honey:[8] now, what is the connection between a forest and honey.?[9] But it is to teach you: just as a forest, he who detaches [aught] from it on the Sabbath is liable to a sin-offering, so are loaves of honey, he who removes [honey] therefrom is liable to a sin-offering.

Amemar permitted sprinkling [the floors] in Mahoza.[10] He argued: What is the reason that the Rabbis said [that it is forbidden]? [It is] lest one come to level up depressions [in the earthen floor]. Here there are no depressions.[11] Rabbah Tosfa'ah[12] found Rabina suffering discomfort on account of the heat — others state, Mar Kashisha son of Raba found R. Ashi suffering discomfort on account of the heat. Said he to him — Does not my Master agree with what was taught: If one wishes to sprinkle his house on the Sabbath, he can bring a basin full of water, wash his face in one corner, his hands in another, and his feet in another, and thus the house is sprinkled automatically? I did not think of it,[13] he replied. It was taught: A wise woman can sprinkle her house on the Sabbath.[14] But now that we hold as R. Simeon,[15] it is permitted even at the very outset.[16]

MISHNAH. IF ONE DETACHES [AUGHT] FROM A PERFORATED POT, HE IS CULPABLE;[17] IF IT IS UNPERFORATED, HE IS EXEMPT. BUT R. SIMEON DECLARES [HIM] EXEMPT IN BOTH CASES.

GEMARA. Abaye pointed out a contradiction to Raba — others state, R. Hiyya b. Rab to Rab: We learnt, R. SIMEON DECLARES [HIM] EXEMPT IN BOTH CASES, which proves that according to R. Simeon a perforated [pot] is treated the same as an unperforated [one]. But the following contradicts it. R. Simeon said: The only difference between a perforated and an unperforated [pot]

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(1) Gen. II, 22.

(2) Rashi: Jast.: who beats milk into a pulp. Levy, Worterbuch, s.v. חבץ: if one curdles milk in order to press butter out of it; v. also T.A. II,135.

(3) Strictly speaking, thirty-nine.

(4) v. Glos. This being a Rabbinical interdict, there is neither a sin-offering nor flagellation.

(5) It is similar thereto, the milk being unloaded from whence it is collected in the cow. As such it is a secondary form of threshing, where the chaff is separated and unloaded, as it were, from the grain.

(6) For the whey is thereby selected and separated from the rest of the milk which is to curdle.

(7) The solidifying of the liquid is regarded as similar to the act of putting together an edifice.

(8) I Sam. XIV, 27, lit. translation. E.V.: honeycomb.

(9) Surely none at all!

(10) V. p. 150, n. 11.

(11) All the houses had stone floors.

(12) Perhaps of Thospia. Neub. Geogr. p. 332: capital of the Armenian district Thospitis.

(13) Others: do not agree with it.

(14) By the foregoing or a similar device.

(15) That what is unintentional is permitted. When one sprinkles it is not his intention that the water should knead together bits of earth and thus smooth out the depressions.

(16) Without resort to any expedient.

(17) Cf. p. 388, n.3.

Talmud - Mas. Shabbath 95b

is in respect of making [its] plants fit [to become unclean]?[1] — In all respects, answered he, R. Simeon treats it as detached, but in the matter of uncleanness it is different, because the Torah extended [the scope of] cleanness in the case of plants [seeds], for it is said, [And if aught of their carcase fall] upon any sowing seed which is to be sown, [it is clean].[2]

A certain old man asked R. Zera: If the root is over against the hole, what is R. Simeon's ruling then?[3] He was silent and answered him nought. On a [subsequent] occasion he found him sitting and teaching: Yet R. Simeon admits that if it is perforated to the extent of making it clean, [there is culpability].[4] Said he to him, Seeing that I asked you about a root that is over against the perforation and you gave me no reply. can there be a doubt concerning [a pot that is] perforated to the extent of making it clean?[5] Abaye observed: If this [dictum] of R. Zera was stated, it was stated thus: Yet R. Simeon agrees that if it is perforated below [the capacity of] a rebi'ith, [there is culpability].[6]

Raba said: There are five principles in the case of an earthen utensil: [i] If it has a perforation sufficient [only] for a liquid to run out, it is clean in that it cannot be defiled when already a mutilated vessel,[7] yet it is still a utensil in respect of sanctifying the water of lustration therein.[8] [ii] If it has a perforation sufficient for a liquid to run in,[9] it is ‘clean’ in respect of sanctifying the water of lustration therein,[10] yet it is still a utensil to render its plants fit [to become unclean].[11] [iii] If it has a perforation as large as a small root, it is ‘clean’ in respect of making its plants fit [to become defiled], yet it is still a utensil in that it can hold olives.[12] [iv] If it has a perforation large enough to allow olives to fall out, it is clean in that it cannot hold olives, yet it is still a utensil to contain pomegranates.[13] [v] If t has a perforation large enough to allow pomegranates to fall through, it is clean in respect of all things.[14] But if it is closed with an airtight lid — [it ranks as a utensil] unless the greater portion thereof is broken.[15]

R. Assi said: I have heard that the standard of an earthen vessel is [a hole] large enough to allow a pomegranate to fall out.[16] Said Raba to him: Perhaps you heard [this] Only of [a vessel] closed with a tight-fitting lid![17] But it was Raba himself who said: If it is closed with a tight-fitting lid, [it ranks as a utensil] unless the greater portion thereof is broken? — There is no difficulty:

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(1) Edibles, e.g., grain, vegetables, etc-, can be defiled only if moisture has fallen upon them after they were detached from the soil. Now, a perforated pot is regarded as attached to the soil, and therefore its plants cannot become susceptible to uncleanness; whereas an unperforated pot is detached, and so if moisture falls upon its plant, when grown it is henceforth fit to become unclean — This shows that R. Simeon too recognizes this difference.

(2) Lev. XI, 37, i.e.,if it is in any way attached to the soil it is clean, and this includes a perforated pot.

(3) If one tears out that root on the Sabbath (Rashi). Here the root draws sustenance directly from the ground.

(4) If a utensil becomes unclean and then a hole is made in it large enough for an olive to fall through. It technically ceases to be a utensil and becomes clean. Thus here too, if the perforation is if that size, R. Simeon admits that the pot and its contents, even such as are not over against the perforation. are regarded as attached to the soil.

(5) It is certain that such a case is doubtful and one cannot positively state R. Simeon's views thereon.

(6) I.e., if the perforation is so low in the sides of the pot that the portion of the pot beneath it cannot hold a revi'ith. Then it is certainly not regarded as a utensil, and its plants are held to grow direct from the ground. Accordingly the perforations spoken of hitherto, and in the Mishnah, are high up in the sides of the pot, and certainly not in the bottom, as is the case with our pots.

(7) If the vessel is sound, such a small hole does not deprive it of its character as a utensil and it is still susceptible to uncleanness. But if it was already mutilated, e.g..cracked, this added perforation renders it incapable of becoming unclean.

(8) If otherwise sound, v. Num. XIX, 17: putting the water in a utensil is designated sanctification.

(9) That is naturally somewhat larger than the preceding.

(10) ‘Clean’ is employed idiomatically to imply that it is not a utensil in respect of what follows; thus one cannot sanctify, etc.

(11) V. p. 456. n. 6. Even the Rabbis admit that if the perforation is not larger the pot and is contents are treated as detached.

(12) And hence susceptible to defilement. If a utensil is not designated for any particular purpose, it must be able to hold olives in order to be susceptible to defilement.

(13) I.e., if it was explicitly designated for holding pomegranates, it is still a utensil and susceptible to defilement.

(14) It is no longer susceptible, or, if it was defiled before it was perforated, it becomes clean. Henceforth it is susceptible to defilement only if its owner puts it aside to use as a mutilated vessel (Rashi).

(15) The reference is to Num. XIX, 15, q v. If the vessel is closed with a tight-fitting lid, its contents too remain clean, unless the greater portion is broken, in which case it does not rank as a vessel and cannot protect its contents from the contamination spread by the corpse.

(16) I.e. — unless it has such a large hole it ranks as a utensil.

(17) I.e. — that it affords no protection if it has such a large hole.

Talmud - Mas. Shabbath 96a

the one refers to large ones, the other to small ones.[1]

R. Assi said, They [the Tannaim] learnt. As for an earthen vessel, its standard is [a hole] large enough to admit a liquid, while [one merely] sufficient to allow a liquid to run out was mentioned only in connection with a mutilated vessel.[2] What is the reason? — Said Mar Zutra son of R. Nahman: Because people do not say, ‘Let us bring one fragment for another.’[3] ‘Ulla said, Two amoraim in Palestine differ on this matter, [viz.,] R. Jose son of R. Abin and R. Jose son of Zabda: One maintains: [the standard is a hole] large enough to allow a pomegranate to fall out; while the other rules: As large as a small root.[4] And your sign is, ‘whether one increases or whether one diminishes.[5]

R. Hinena b. Kahana said in R. Eliezer's name: As for an earthen vessel, its standard is [a hole] large enough to allow olives to fall out;[6] and Mar Kashisha son of Rabbah completes [this statement] in R. Eliezer's name: And then they rank as vessels of dung, stone, or clay,[7] which do not contract uncleanness either by Biblical or by Rabbinical law;[8] but in respect to [the law of] a tight. fitting lid [it ranks as a vessel] unless the greater portion thereof is broken through.

CHAPTER XI

MISHNAH. IF ONE THROWS [AN ARTICLE] FROM PRIVATE INTO PUBLIC GROUND [OR] FROM PUBLIC INTO PRIVATE GROUND, HE IS CULPABLE. FROM ONE PRIVATE DOMAIN TO ANOTHER, AND PUBLIC GROUND LIES BETWEEN, R. AKIBA HOLDS HIM LIABLE, BUT THE SAGES DECLARE HIM EXEMPT. HOW SO?[9] IF THERE ARE TWO BALCONIES FACING EACH OTHER IN THE STREET, HE WHO REACHES OVER OR THROWS [AN ARTICLE] FROM ONE TO THE OTHER IS NOT CULPABLE. IF BOTH ARE ON THE SAME STOREY,[10] HE WHO REACHES OVER IS CULPABLE, WHILE HE WHO THROWS IS NOT, FOR THUS WAS THE SERVICE OF THE LEVITES:[11] TWO WAGGONS [STOOD] BEHIND EACH OTHER IN PUBLIC GROUND, [AND] THEY REACHED OVER THE BOARDS FROM ONE TO ANOTHER, BUT DID NOT THROW.

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(1) Rashi: in the case of large ones the greater portion must be broken, but for small ones a hole large enough for a pomegranate to fall out is sufficient. Ri: In the case of large ones a hole large enough etc., is required, but in the case of small ones, where this may be considerably more than half if the greater portion thereof is broken it is no longer a utensil.

(2) v. p. 457, n. 4.

(3) I.e., when a mutilated vessel springs a leak of this size, people throw it away without troubling to bring another such vessel or a shard to catch its drippings, therefore it is no longer a vessel.

(4) Rashi: the question is how large the hole of a perforated pot must be in order to render its plants susceptible to defilement (v. p. 456, n. 6). R. Tam: they differ in reference to a vessel closed with a tight-fitting lid (cf. p. 458, n. 5).

(5) I.e., part of a Talmudic dictum, v. Men. 110a', the two extremes (v. Raba's enumeration of the five principles, supra 95b) are taken, and neither of these amoraim takes one of the intermediate standards.

(6) A hole of that size renders it clean.

(7) I.e., neither glazed nor baked in a kiln.

(8) Lit., 'the words of the Scribes'; v. Kid. p. 79, n.7. (6) v. p. 458, n. 3.

(9) This explains the view of the Rabbis.

(10) I.e. on the same side of the street, which interposes lengthwise.

(11) In connection with the Tabernacle in the Wilderness.

Talmud - Mas. Shabbath 96b

GEMARA. Consider: throwing is a derivative of carrying out:[1] where is carrying out itself written? — Said R. Johanan, Scripture saith, And Moses gave commandment, and they caused a proclamation to pass throughout the camp, [etc.]:[2] now, where was Moses stationed? in the camp of the Levites, which was public ground,[3] and he said to the Israelites, Do not carry out and fetch from your private dwellings into public ground. But how do you know that this was on the Sabbath: perhaps this happened[4] during the week, the reason being that the material was complete[ly adequate], as it is written, For the stuff they had was sufficient, etc.[5] — The meaning of 'passing through' is learnt from [its employment in connection with] the Day of Atonement, Here it is written, and they caused a proclamation to pass throughout the camp; whilst there it is written, Then shalt thou cause a loud trumpet to pass through [sc. the land]:[6] just as there the reference is to the day of the interdict, so here too the day of the interdict [is meant].[7] We have thus found [an interdict for] carrying out: whence do we know [that] carrying in [is forbidden]? — That is common sense: consider: it is [transference] from one domain to another: what does it matter whether one carries out or carries in? Nevertheless. carrying out is a primary [labour], [whereas] carrying in is a derivative.

Yet let us consider: one is culpable for both: why is one designated a principal and the other a derivative [labour]?-The practical difference is that if one performs two principal or two derivative [labours] together he is liable to two [sacrifices], whereas if he performs a principal [labour] and its derivative he is liable only to one. But according to R. Eliezer, who imposes liability for a derivative [when performed] conjointly with[8] the principal, why is one called a principal and the other a derivative? — That which was of account in the Tabernacle is designated a principal, whereas that which was not of account in the Tabernacle is designated a derivative.[9] Alternatively, that which is written is designated a principal, whereas that which is not written is designated a derivative.

Again, as to what we learnt, 'If one throws [an article] four cubits on to a wall above ten handbreadths, it is as though he throws it into the air;[10] if below ten, it is as though he throws it on to the ground;[11] and he who throws [an article] four cubits along the ground is culpable',[12] - how do we know that he who throws [an article] four cubits in the street is culpable? — Said R. Josiah: Because the curtain weavers threw their needles to each other.[13] Of what use are needles to weavers? — Rather [say:] Because the sewers threw their needles to each other. But perhaps they sat close together? — Then they would reach each other with their needles.[14] Yet perhaps they sat within four [cubits] of each other? Rather said R. Hisda: Because the curtain weavers threw the clue into the curtain. But the other [worker] still has the distaff in his hand?-He refers to the last manipulation.[15] But it passed through a place of non-liability?[16] — Rather [say:] Because the curtain weavers threw the clue to those who would borrow it from them.[17] Yet perhaps they sat near each other? Then they would touch each other on making the border. Yet perhaps they sat in irregular lines?[18] Moreover, did they borrow from each other? Surely Luda[19] taught: every man from his work which they wrouqht:[20] he wrought of his own work [stuff], but not of his neighbour's.[21] Again, how do we know that if one carries [an article] four cubits in the street, he is culpable? Rather the whole [law of transporting] four cubits in the street is known by tradition.

Rab Judah said in Samuel's name: [The offence of] the gatherer [of sticks][22] was that he carried [them] four cubits over public ground. In a Baraitha it was taught: He cut [them] off.[23] R. Aha b. Jacob said: He tied [them] together.[24] In respect of what is the practical difference?-In respect of Rab's [dictum]. For Rab said, I found a secret scroll of the School of R. Hiyya, wherein It is written, Issi b. Judah said: There are thirty-nine principal labours, but one is liable only [for] one. One and no more? Surely we learnt, The principal labours are forty less one. And we pondered thereon: why state the number? And R. Johanan answered: [To teach] that if one performs all of then, in one state of unawareness, he is liable for each separately? Say: for one of these he is not culpable.[25] Now, Rab Judah is certain that he who carries [in the street] is culpable; the Baraitha is certain that he who cuts off is culpable; while R. Aha b. Jacob is certain that lie who binds is culpable. [Thus] one Master holds, This at least is not in doubt, while the other Master holds, That at least is not in doubt.[26]

Our Rabbis taught: The gatherer was Zelophehad. And thus it is said, and while the children of Israel were in the wilderness, they found a man [gathering sticks, etc.];[27] whilst elsewhere it is said, our father died in the wilderness;[28] just as there Zelophehad [is meant], so here too Zelophehad [is meant]: this is R. Akiba's view. Said R. Judah b. Bathyra to him, ‘Akiba! in either case you will have to give an account [for your statement]: if you are right,[29] the Torah shielded[30] him, while you reveal him; and if not, you cast a stigma upon a righteous man.’

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(1) On principal and derivative labours v. p. 3. n. 2. Throwing is certainly a derivative only, since it is not enumerated in the principal labours supra 73a: also it must be a derivative of carrying out, for it is not similar to any of the other principal labours,

(2) Ex. XXXVI, 6.

(3) As everyone had to pass through to gain access to Moses.

(4) Lit,, ‘he stood’.

(5) Ex. XXXVI, 7.

(6) Lev. XXV, 9.

(7) Sc. the Sabbath. This method of exegesis is called gezerah shawah, q.v. Glos.

(8) Lit., ‘in the place of’.

(9) V. infra 100a.

(10) And he is not liable.

(11) And since it traverses four cubits, he is culpable.

(12) V. supra 75a.

(13) Through public ground.

(14) When stretching their arms to thread the needles they would strike each other.

(15) When the weaver throws the clue through the web for the last time.

(16) V. supra 6a; i.e., it passed between the portions of the curtain, which is certainly not public ground.

(17) ‘Aruch reads: their apprentices. On both readings the reference is to people working on other curtains, and the clue had to traverse public ground.

(18) Crosswise, or in zigzag rows, so that they could work close together without touching each other.

(19) An amora: Yalkut reads: Levi.

(20) Ex. XXXVI, 4.

(21) Having sufficient material of his own.

(22) V. Num. XV 32 seq.

(23) He cut off twigs or branches from a tree, which is the equivalent of detaching produce from the soil.

(24) They were already lying on the ground. Tying them together is the same as binding sheaves.

(25) V. supra 6b for notes.

(26) As being referred to in Issi's dictum.

(27) Num. XV, 32.

(28) Ibid. XXVII, 3.

(29) Lit., ‘if it is as your words’.

(30) Lit., ‘covered’.

Talmud - Mas. Shabbath 97a

But surely he learns a gezerah shawah?[1] -He did not learn the gezerah shawah.[2] Then of which [sinners] was he?[3] -Of those who ‘presumed [to go up to the top of the mountain].’[4]

Similarly you read, and the anger of the Lord was kindled against them; and he departed:[5] this teaches that Aaron too became leprous: this is R. Akiba's view. Said R. Judah b. Bathyra to him, ‘Akiba! in either case you will have to give an account: if you are right, the Torah shielded him, while you disclose him; and if not, you cast a stigma upon a righteous man.’ But it is written, ‘against them’?[6] That was merely with a rebuke. It was taught in accordance with the view that Aaron too became leprous. For it is written, And Aaron turned [wa-yifen] to Miriam, and behold, she was leprous:[7] [and] it was taught: [That means] that he became free [panah] from his leprosy.[8]

Resh Lakish said: He who entertains a suspicion against innocent[9] men is bodily afflicted, for it is written, [And Moses . . . said,] But, behold, they will not believe me;[10] but it was known[11] to the Holy One, blessed be he, that Israel would believe. Said He to him: They are believers, [and] the descendants of believers, whereas thou wilt ultimately disbelieve. They are believers, as it is written, and the people believed;[12] the descendants of believers: and he [Abraham] believed in the Lord.[13] Thou wilt ultimately disbelieve, as it is said, [And the Lord said unto Moses and Aaron,] Because ye believed not in me.[14] Whence [is it learnt] that he was smitten? — Because it is written, And the Lord said furthermore unto him, Put now thine hand into thy bosom, etc.[15]

Raba-others state, R. Jose b. R. Hanina-said: The dispensation of good comes more quickly than that of punishment [evil]. For in reference to the dispensation of punishment it is written, until he took it out, and behold, his hand was leprous, as white as snow;[16] whereas in reference to the dispensation of good it is written, and he took it out of his bosom, and behold, it was turned again as his other flesh:[17] from his very bosom,[18] it had turned again as his other flesh.

But Aaron's rod swallowed up their rods:[19] R. Eleazar observed, It was a double miracle.[20] FROM ONE PRIVATE DOMAIN TO ANOTHER, etc. Rabbah asked: Do they disagree when it is below ten, and they differ in this: R. Akiba holds, An object caught up is at rest; while the Rabbis hold that it is not as at rest; but above ten all agree that he is not liable, for we do not learn throwing from reaching across. Or perhaps they disagree when it is above ten, and they differ in this: R. Akiba holds, We learn throwing from reaching across; while the Rabbis hold, We do not learn throwing from reaching across; but below ten, all agree that he is culpable. What is the reason? An object caught up is as at rest?[21] Said R. Joseph: This question was asked by R. Hisda, and R. Hamnuna solved it for him from this: [If one removes an object] from one private domain, to another and it passes through the street itself, R. Akiba declares [him] liable, while the Sages exempt [him]. Now, since it states, through the street itself, it is obvious that they differ where it is below ten. Now, in which [case]? Shall we say. in the case of one who carries [it] across: is he culpable only when it is below ten, but not when it is above ten? Surely R. Eleazar said: If one carries out a burden above ten [handbreadths from the street level]. he is culpable, for thus was the carrying of the children of Kohath, Hence it must surely refer to throwing. and one is culpable only when it is below ten, but not when it is above ten; this proves that they differ in whether an object caught up is as at rest. This proves it.

Now, he [R. Hamnuna] differs from A. Eleazar. For R. Eleazar said: R. Akiba declared [him] culpable even when it is above ten; but as to what is stated, through the street itself,[22] that is to teach you the extent[23] of the Rabbis’[‘ ruling].[24] Now he [R. Eliezer] differs from R. Hilkiah b. Tobi, for R. Hilkiah b. Tobi said: Within three [handbreadths from the ground], all agree that he is culpable;[25]

above ten, all agree that he is not culpable; between three and ten, we come to the controversy of R. Akiba and the Rabbis. It was taught likewise: Within three, all agree that he is liable; above ten, It is [prohibited] only as a shebuth,[26] and if they are [both] his own grounds, it is permitted [at the very outset]; between three and ten, R. Akiba ruled [him] culpable, while the sages exempt him.

The Master said: ‘And if they are [both] his own grounds, it is permitted.’ Shall we say that this is a refutation of Rab? For it was stated: If there are two houses on the two [opposite] sides of a street, Rabbah son of R. Huna said in Rab's name: One may not throw [an object] from one to another; while Samuel ruled: It is permitted to throw from one to another![27] — But did we not establish that law [as referring] e.g., to [the case] where one [house] is higher and one is lower, so that it [the object] may fall [into the street][28] and he come to fetch it?

R. Hisda asked R. Hamnuna-others state, R. Hamnuna asked R. Hisda-How do we know this principle which the Rabbis stated, viz.: Whatever is [separated by] less than three [handbreadths] is as joined?[29] Said he to him, Because it is impossible for the street to be trimmed with a plane and shears.[30] If so, the same should apply to three also? Moreover, when we learnt: If one lets down walls from above to below,[31] if they are three handbreadths high above the ground, it [the sukkah] is unfit,[32] Hence if [they are] less than three it is fit:[33] what can be said?[34] -There the reason is that it is a partition through which goats can enter.[35] That is well [for] below; what can be said [for] above?[36] — Rather [the fact is] that whatever is [separated by] less than three [handbreadths] is regarded as joined is a law received on tradition. Our Rabbis taught: [If one throws[37] an article] from public to public ground, and private ground lies between: Rabbi holds him liable, but the sages exempt him — Rab and Samuel both assert: Rabbi imposed liability only in the case of covered-in private ground, when we say that the house is as though it were full, but not if it is uncovered,[38] R. Hana[39] said in Rab Judah's name in Samuel's name: Rabbi held him liable to two [sacrifices], one on account of carrying out and another on account of carrying in,[40] Now R. Hana sat [studying] and this presented a difficulty to him:[41]

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(1) v. Glos. That which is so derived is regarded as explicitly stated.

(2) Rashi: R. Judah b. Bathyra did not receive this gezerah shawah on tradition from his teachers, and no analogy by gezerah shawah can be employed unless sanctioned by tradition. ‘Aruch: R. Akiba did not learn it from his teachers, but inferred it himself.

(3) On the view of R. Judah b. Bathyra. For it is stated, but he died in his own sin, ibid.

(4) Ibid. XIV, 44.

(5) Ibid. Xli, 9 q.v.

(6) The plural definitely includes Aaron.

(7) Num. XXVII. 10.

(8) ‘he turned’ is understood to mean, he turned away from, i.e., he was freed.

(9) Lit., worthy’.

(10) Ex. IV, 1.

(11) Lit., ‘revealed’.

(12) Ibid. 31.

(13) Gen. XV, 6.

(14) Num. XX, 12.

(15) Ex. IV, 6; he was smitten with leprosy, Ibid.

(16) It became leprous only when he took it out.

(17) Ibid. 7.

(18) I.e., before It was fully withdrawn.

(19) Ibid. VII, 12.

(20) Lit., ‘a miracle within a miracle’. It first became a rod again, and as a rod it swallowed up their serpents.

(21) v, supra 4b for notes.

(22) Which implies below ten.

(23) Lit., ‘power’.

(24) Even then they hold that he is not culpable.

(25) because that is regarded as on the ground itself, and therefore at rest.

(26) v. Glos. — The shebuth here is that he carries from his domain to his neighbour's, both being private ground.

(27) Both houses must belong to the same person. for otherwise Samuel would certainly not permit it, V. ‘Er., Sonc. ed.. p, 593 notes.

(28) For the houses not being on the same level, more skill is required to throw from one to the other.

(29) Labud, v, Glos,

(30) The ground cannot be perfectly levelled, and it must contain bumps of that height. Therefore everything within three handbreadths is regarded as joined to the ground.

(31) The reference is to the walls of a sukkah (booth, v. Lev, XXIII. 42). He takes a wall, e.g.. of boards, lowers it, but not right down to the ground, and fastens it to something on top.

(32) As the walls are incomplete.

(33) For they are then regarded as touching the ground.

(34) The sukkah not being in a public ground, the reason stated is inapplicable here.

(35) Lit,, ‘cleave’. But they cannot squeeze through a gap less than three.

(36) This principle of labud operates also where the gap is above; v. e.g.. ‘Er, 16b, Suk. 7a; obviously these reasons do not hold good in that case.

(37) so supra 4b.

(38) V. notes on this passage supra 4b and 5,

(39) Var. lec.: R. Hisda.

(40) For during its journey it passes out of private into public ground, and enters from public into private ground.

(41) In connection with what he had heard from Rab Judah,

Talmud - Mas. Shabbath 97b

shall we say that Rabbi holds one liable for a derivative [when performed] conjointly with its principal?[1] But surely it was taught. Rabbi said: Words [debarim], the words [ha-debarim], these [eleh] are the words: this indicates the thirty-nine labours stated to Moses at Sinai.[2] Said R. Joseph to him: You learn it[3] in reference to this, and so find Rabbi self-contradictory; We learn it in reference to R. Judah[‘s ruling]. and find no difficulty.[4] For it was taught: [If one throws an article] from private to public ground, and it traverses four cubits over the public ground: R. Judah holds [him] liable, whereas the sages exempt [him]. [Whereon] Rab Judah said in Samuel's name: R. Judah holds [him] liable to two [sacrifices], one on account of transporting [from private ground] and a second on account of carrying over [public ground). For if you think that he holds him liable to one [only]. it follows that the Rabbis exempt [him] completely: but surely he has carried it out from private to public ground? [But] how so? Perhaps I may tell you after all that R. Judah holds him liable to one [only]. and the Rabbis exempt [him] completely: yet [as to the question] how is that possible? it is where e.g.. he declared, ‘Immediately on issuing into the street, let it come to rest ; and they differ in this: R. Judah holds: ‘We say. An object caught up [in the air] is as at rest, and his intention is fulfilled; while the Rabbis hold, We do not say. An object caught up is as at rest, and his intention is not fulfilled;[5] but for a derivative [performed] simultaneously with its principal R. Judah does not impose liability? You cannot think so, for it was taught: R. Judah adds the closing up of the web and the evening of the woof. Said they to him: Closing the web is included in stretching the threads, and evening [the woof] is included in weaving.[6] Does that not mean that one performs both of them together. which proves that R. Judah imposed liability for a derivative [performed] simultaneously with its principal — Why so? perhaps it really means that each was performed separately. R. Judah not imposing liability for a derivative [performed] simultaneously with its principal, and they differ in this: R. Judah holds.These are principal labours; while the Rabbis hold, These are derivatives. The proof [of this assumption] is that it is stated, ‘R. Judah adds etc.’: now. it is well if you agree that they are principal labours [on his view, for then] what does he add? he adds principals; but if you say that they are derivatives, what does he add?[7] It was stated likewise, Rabbah and R. Joseph both maintain: R. Judah imposed liability only for one [sacrifice].

Rabina observed to R. Ashi: But on our original assumption that R. Judah held [him] liable to two, — if he desires it [to alight] here. he does not desire it [to alight] there, and vice versa?[8] -Said he to him, It means that he declared, 'Wherever it pleases, let it come to rest.'[9]

It is obvious that if one intends throwing [an object] eight [cubits] but throws [it] four, it is as though he wrote SHem [as part of] SHimeon.[10] [But] what if one intends throwing [an object] four [cubits] but throws [it] eight: do we say, Surely he has carried it out[11] or perhaps it has surely not alighted where he desired? But is this not what Rabina observed to R. Ashi, and he answered him, It means that he said, 'Wherever it pleases. let it come to rest'![12] And as to what you say. It is the same as writing SHem [as part] of SHimeon: how compare? There, without writing SHem, SHimeon cannot be written;[13] but here, without [intentionally] throwing [it] four, cannot one throw it eight?[14]

Our Rabbis taught: If one throws [an object] from public to public ground, and private ground lies between them: [if it traverses] four cubits [over public ground]. he is culpable.[15]

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(1) V. supra 96b.

(2) V. supra 70a. Now the only purpose of deducing the number is to show that his is the maximum number of sacrifices to which one can be liable; but if one is liable for derivatives in addition to the principal labours there can be far more.

(3) What you heard from Rab Judah.

(4) For we find nowhere that R. Judah exempts for a derivative performed conjointly with the principal.

(5) Hence he is not liable on its account.

(6) V. supra 75a.

(7) For only principals are enumerated there.

(8) In order to be liable to two it would be necessary that he should carry it out and deposit it in the street, then lift it up and carry it four cubits. and deposit it again. Now it may be argued that an object caught up in the air is as at rest, and therefore immediately it enters the street atmosphere it is as though it alights on the ground, and when it travels further it is as though it is taken up and carried again. But the thrower's intention is that it should come to rest at one place only, either as soon as it emerges into the street or after four cubits; in either case it cannot be regarded as though he deposited it, picked it up and deposited it again. Hence he can be liable for carrying it out only, but not for its passage in the street (v. Rashi and R. Han.).

(9) Then it is regarded as though it rested at both places in accordance with this intention,

(10) V. infra 103a and p. 336. n. 5. Hence here too he is liable.

(11) of its original spot and it has traversed the four cubits he desired, though it has gone further too,

(12) But otherwise he is not liable; so here too he should not be liable in either case unless he made such a declaration.

(13) Hence when one writes SHem he does so intentionally, though he also intends to add to it,

(14) Surely not! I.e., one need have no intention to throw it exactly four cubits in order to be able to throw it eight. (The difference is that when one writes SHem he has performed a labour, whereas when one throws an article, his action is incomplete until it comes to rest.)

(15) I.e., over the two public grounds combined.

Talmud - Mas. Shabbath 98a

less than four cubits, he is not culpable. What does this inform us? — This is what he informs us, that [similar] domains combine,[1] and we do not say, An object caught up [in the air] is as at rest.[2]

R. Samuel b. Judah said in R. Abba's name in R. Huna's name in the name of Rab: If one carries [an article] four cubits in covered public ground, he is liable, because it is not like the banners of the wilderness.[3] But that is not so? for the waggons surely were covered,[4] and yet Rab said in R. Hiyya's name: As for the waggons, beneath them, between them, and at their sides it was public ground?[5] -Rab referred to the interspaces[6] — Consider: what was the length of the waggons? Five cubits. What was the breadth of the board? A cubit and a half. Then how many [rows] could be placed: three: thus leaving half a cubit, and when you divide it among them [the spaces] they are as joined![7] -Do you think that the boards lay on their width? they were laid on their thickness. Yet even so, what was the thickness of the board? One cubit. How many [rows] were [then] laid? Four, thus leaving a cubit, and when you divide it among them [the spaces] they are as joined![8] Now, on the view that the boards were one cubit thick at the bottom, but tapered to a fingerbreadth, it is well:[9] but on the view that just as they were a cubit thick at the bottom, so at the top too, what can be said?-Said R. Kahana: (They were arranged] in clasped formation.[10] Now, where were they placed: on the top of the waggon. But the waggon itself was covered?[11]

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(1) If it travels part of the ground; this does not agree with R. Jose supra 80a.

(2) For if we did, he would be culpable on account of carrying in from public to private ground, even if it does not travel four cubits over the latter.

(3) V. supra 5a.

(4) With the boards of the Tabernacle placed crosswise on top along their length.

(5) V. supra 99a. The width of the waggons was five cubits, and five cubits' space was allowed between them in the breadth, whilst the boards were ten cubits in length. Hence when placed crosswise on top of the waggons they projected two and a half cubits on both sides; thus the space between them was completely covered over, and yet he states that it was public ground.

(6) Between the rows of boards, which were not arranged close to each other.

(7) For there was only a quarter cubit one and a half handbreadths between the rows of boards, whereas a space less then three cubits is disregarded (v. supra 97a).

(8) For there are three spaces which give two handbreadths for each.

(9) As there would be more at the ends than three handbreadths' space between each.

(10) I.e., the four rows were not equidistant. but in two rows (as though clasped) at the head and at the tail of the waggon respectively, this leaving a cubit between them. This was necessary because each row contained three boards, which would give a height of four and a half cubits, and as the thickness was only one cubit they might otherwise topple over.

(11) It is assumed that the floor of the waggon was completely closed, like the floor, e.g., of a cement-carrying lorry. How then did Rab state that the space underneath the waggon too was public ground? [The translation follows Rashi's reading and interpretation. R. Han and Tosaf, adopt different readings both here and supra. 'Rab referred to the interspaces', and explain accordingly.]

Talmud - Mas. Shabbath 98b

— Said Samuel: [The bottom consisted] of laths. Our Rabbis taught: The boards were one cubit thick at the bottom, but tapered to a fingerbreadth at the top, for it is said, they shall be entire [thammim] unto the top thereof[1] whilst elsewhere it is said, [the waters . . .] ended [tammu] and were cut off;[2] this is R. Judah's view. R. Nehemiah said: Just as their thickness at the bottom, was a cubit, so at the top was their thickness a cubit, for it is said, 'and in like manner [they shall be entire]'. But surely 'thammim' is written? That [teaches] that they were to come whole,[3] and not divided.[4] And the other too, surely is written 'in like manner'?-That [teaches] that they were not to erect them irregularly.[5] Now, on the view that just as they were a cubit thick at the bottom, so were they at the top, it is well: thus it is written, And from the hinder part of the tabernacle westward thou shalt make six boards, and two boards shalt thou make for the corners of the tabernacle:[6] thus the breadth of these comes and fills in the thickness of those.[7] But on the view that they were a cubit thick at the bottom, while they tapered at the top to a fingerbreadth, one receded and the other protruded?[8] They were planed mountain-fashion.[9] And the middle bar in the midst of the boards [shall pass through from end to end].[10] A Tanna taught: It lay[11] there by a miracle.[12]

Moreover thou shalt make the tabernacle with ten curtains. The length of each curtain shall be eight and twenty cubits.[13] Throw their length over the breadth of the Tabernacle; how much was it? twenty-eight cubits. Subtract ten for the roof, and this leaves nine cubits on each side. According to

R. Judah. the cubit of the sockets was left uncovered; according to R. Nehemiah, a cubit of the boards was uncovered [too].[14] Cast their breadth over the length of the Tabernacle: how much was it? forty cubits.[15] Subtract thirty for the roof,[16] leaves ten. According to R. Judah the cubit of the sockets was covered; according to R. Nehemiah the cubit of the sockets was uncovered.

And thou shalt make curtains of goats' hair for a tent over the tabernacle: [eleven curtains shalt thou make them]. The length of each curtain Shall be be thirty cubits. [and the breadth of each curtain four cubits].[17] Cast their length over the breadth of the Tabernacle; how much was it? Thirty. Subtract ten for the roof, which leaves ten [cubits] on each side. According to R. Judah the cubit of the sockets was covered; according to R. Nehemiah the cubit of the sockets was uncovered. It was taught likewise: And the cubit on one side, and the cubit of the other side of that which remaineth [in the length of the curtains of the tent]:[18] this was to cover the cubit of the sockets: that is R. Judah's view. R. Nehemiah said: It was to cover the cubit of the boards.[19] Cast their breadth over the length of the Tabernacle: how much was it? Forty-four [cubits]. Subtract thirty for the roof leaves fourteen. Subtract two for the doubling over, as it is written, and thou shalt double over the sixth curtain in the forefront of the tent,[20] leaves twelve. Now, according to R. Judah, it is well; thus it is written, the half curtain that remaineth shall hang;[21] but according to R. Nehemiah, what is meant by [the half curtain . . .] shall hang?[22] -It shall hang over its companions.[23] The School of R. Ishmael taught: What did the Tabernacle resemble? A woman who goes in the street and her skirts trail after her.[24]

Our Rabbis taught: The boards were cut out and the sockets were grooved;[25]

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(1) Ex, XXVI. 24.

(2) Josh. III, 17.

(3) Translating thammim as in E.V.

(4) Each board was to be of one piece. not of two joined together (Rashi). Jast. translates: the boards were to be solid, not veneered.

(5) Lit.. 'they were not to remove them one from another'; but they were all to stand in the same row.

(6) Ex, XXVI, 22f.

(7) Since the Tabernacle was ten cubits in breadth, and these six boards accounted for nine only, the additional two boards, one at each side made up the deficiency, whilst the extra cubit left in each fitted exactly over the thickness of the board ranged along the length of the Tabernacle,

(8) Obviously these two side boards protruded at the top beyond the attenuated thickness of the boards ranged lengthwise. — 'one receded' refers to the latter.

(9) These two boards were wider at the bottom and narrower at the top so that their outward line resembled a mountain slope. 'Aruch reads: like a gusset (ki tariz).

(10) Ex. XXVI, 28.

(11) Lit.. 'stood'.

(12) It was one long straight bar which passed along the three walls; the necessary bending between the angles of the walls was miraculously done by itself.

(13) Ibid. If.

(14) The boards were fitted into sockets (v. 19) one cubit in height. Consequently if the thickness of the top was only one fingerbreadth, practically the whole length of the boards up to the socket was covered by the curtain; (the fingerbreadth and the slightly larger length of the hypotenuse being disregarded). But if the top too was one cubit in thickness. only eight cubits of the boards were covered.

(15) I.e., ten curtains each of four cubits in breadth. Ibid. 2.

(16) Which was the length of the Tabernacle, twenty boards each one and a half cubits broad,

(17) Ibid. 7f.

(18) Ibid. 13.

(19) Left uncovered by the first covering. v. supra.

(20) Ex. XXVI, 9.

(21) Since R. Judah requires only a fingerbreadth for the top thickness of the board, practically two cubits-i.e., half a curtain hung, i.e., trailed on the floor.

(22) only one cubit was left over, the other being required for the thickness.

(23) Sc. the lower covering, beyond which the upper fell two cubits.

(24) On the ground. So did the Tabernacle's covering trail too.

(25) So that the former fitted into the latter.

Talmud - Mas. Shabbath 99a

also, the clasps in the loops[1] looked like stars [set] in the sky.

Our Rabbis taught: The lower curtains [were made] of blue [wool], purple [wool]. crimson thread and fine linen,[2] whilst the upper ones were of goats' [hair] manufacture; and greater wisdom [skill] is mentioned in connection with the upper than in connection with the lower. For whereas of the lower ones it is written, And all the women that were wise-hearted did spin with their hands;[3] in reference to the upper ones it is written, And all the women whose heart stirred them up in wisdom spun the goats;[4] and it was taught in R. Nehemiah's name: It was washed [direct] on the goats and spun on the goats.[5]

IF THERE ARE TWO BALCONIES, etc. Rab said in R. Hiyya's name: As for the waggons, beneath them, between them, and at their sides it was public ground. Abaye said: Between one waggon and another [as its side] there was [the space of] a full waggon. length. And how much was a waggon-length? five cubits. Why was it [this length] necessary: four and a half would have sufficed?[6] — So that the boards should not press [against each other].[7]

Raba said: The sides of the waggon[8] equalled the fit [internal] breadth of the waggon, and how much was the [internal] breadth of the waggon? Two cubits and a half.[9] Why was this necessary: a cubit and a half would have sufficed?[10] — In order that the boards should not jump about.[11] Then as to what we have as an established fact that the path [width] of public ground must be sixteen cubits: since we learn it from the Tabernacle,[12] surely [the public ground] of the Tabernacle was [only] fifteen?[13] -There was an additional cubit where a Levite stood, so that if the boards slipped he would support them.

MISHNAH. AS FOR THE BANK OF A CISTERN,[14] AND A ROCK, WHICH ARE TEN [HANDBREADTHS] HIGH AND FOUR IN BREATH,[15] IF ONE REMOVES [AUGHT] FROM THEM OR PLACES [AUGHT] UPON THEM, HIS IS CULPABLE;[16] IF LESS THAN THIS, HE IS NOT CULPABLE.

GEMARA. Why state, THE BANK OF A CISTERN, AND A ROCK: let him [the Tanna] state, 'A cistern and a rock'?[17] [Hence] this supports R. Johanan, who said: A cistern together with the bank thereof combine to [give a height of] ten [handbreadths].[18] It was taught likewise: As for a cistern In public ground ten [handbreadths] deep and four broad [square]. We may not draw [water] from it on the Sabbath,[19]

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(1) V. ibid. 10f,

(2) V. ibid. 1.

(3) Ibid. XXXV. 25.

(4) Ibid. 26.

(5) V. p. 355, n. 4.

(6) Either for three rows of boards lying on their breadth, which gives exactly four and a half cubits, or for four rows lying on their thickness, thus allowing an additional half cubit to cover the extra space needed for the bars.

(7) Rashi: if laid on their breadth. Tosaf: if laid on their thickness, the half cubit being insufficient both for the bars and for freedom of movement of the boards.

(8) Which includes the thickness of the sides, the wheels which reached up alongside of them, and the space between the wheels and the sides.
(9) So that the sides, as defined in n. 3, were one and a quarter each.
(10) To permit the boards to be placed on their thickness inside the waggon down its length if necessary.
(11) When placed on top, more than one and a quarter cubits should be necessary to support their length firmly.
(12) All definitions in connection with work on the Sabbath are learnt thence.
(13) Two waggons side by side, each five cubits in width and five cubits' space between them, the whole constituting a public pathway.
(14) Formed by the earth dug of it.
(15) I.e., four square on top.
(16) Because the bank or stone is private ground (v. supra 6a), whilst the remover stands in public ground.
(17) This would teach that anything either ten high or ten deep and four square is a private domain.
(18) So that the cistern is counted as private ground.
(19) Because the well is private ground whilst the drawer stands in the street.

Talmud - Mas. Shabbath 99b

unless a wall ten handbreadths high is made around it;[1] and one may not drink from it on the Sabbath unless he brings his head and the greater part of his body into it,[2] and a cistern and its bank combine to [give a height of] ten.

R. Mordecai asked Rabbah: What of a pillar in the street, ten high and four broad, and one throws [an article] and it alights upon it? Do We say, Surely the removal is [effected] in transgression and the depositing is [effected] in transgression;[3] or perhaps since it comes from a place of non-liability[4] it is not [a culpable action]? — Said he to him, This is [treated in] our Mishnah. He [then] went and asked it of R. Joseph: Said he to him, This is [treated in] our Mishnah. He went and asked it of Abaye, Said he to him, This is [treated in] our Mishnah. 'You all spit with each other's spittle,'[5] cried he to them: Do you not hold thus, they replied. Surely we learnt, IF ONE REMOVES [AUGHT] FROM THEM OR PLACES [AUGHT] UPON THEM, HE IS CULPABLE.[6] But perhaps our Mishnah treats of a needle? he suggested to them! — It is impossible even for a needle not to be slightly raised. — It [the rock] may have a projecting point,[7] or it [the needle] may lie in a cleft.[8] R. Misha said, R. Johanan propounded: What of a wall in a street, ten high but not four broad, surrounding a karmelith[9] and converting it [thereby] into private ground,[10] and one throws [an article] and it alights on the top of it? Do we say, Since it is not four broad it is a place of non-liability; or perhaps, since it converts it into private ground it is as though it were [all] filled up?[11] Said 'Ulla, [This may be solved] a fortiori: if it [the wall] serves as a partition for something else,[12] how much more so for itself![13] This was stated too: R. Hiyya b. Ashi said in Rab's name, and thus said R. Isaac in R. Johanan's name: In the case of a wall in the street ten high and not four broad, surrounding a karmelith and converting it into private ground, he who throws [an article] which alights thereon is culpable: if it serves as a partition for something- else, how much more so for itself. R. Johanan propounded: What of a pit nine [handbreadths deep] and one removes one segment from it and makes it up to ten;[14] [do we say] the taking up of the object and the making of the partition come simultaneously, hence he is culpable; or is he not culpable? Now should you say, since the partition was not ten originally he is not liable: what of a pit ten [deep] and one lays the segment therein and [thus] diminishes it['s depth]? [Here] the depositing of the article and the removal of the partition come simultaneously: is he culpable or not? — You may solve it for him by his own [dictum]. For we learnt: if one throws [an article] four cubits on to a wall,-if above ten handbreadths, it is as though he throws it into the air; if below, it is as though lie throws it on to the ground; and he who throws [an article] four cubits along the ground is culpable. Now we discussed this: surely it does not stay there? And R. Johanan answered: This refers to a juicy cake of figs.[15] Yet why so? Surely it diminishes the four cubits?[16] — There he does not render it as nought;[17] here he does render it as nought.[18]

Raba propounded: What if one throws a board and it alights upon poles?[19] What does he ask? [The law where] the depositing of the article and the constituting of the partition come simultaneously? [but] that is R. Johanan's [problem]!-When does Raba ask? e.g.. if he throws a board with an article on top of it: what [then]? [Do we say], Since they come simultaneously, it is like the depositing of the article and the making of a partition [at the same time];[20] or perhaps, since it is impossible for it [the article] not to be slightly raised and then alight,[21] it is like the making of a partition and the [subsequent] depositing of an article?[22] The question stands over.

Raba said: I am certain, water [lying] upon water, that is its [natural] rest; a nut upon water,

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(1) For the drawer to stand in private ground.

(2) Cf. supra 11a bottom.

(3) I.e., the article is removed from public and deposited in private ground.

(4) v. supra 6a. The object must sail through the air above ten handbreadths in order for it to alight on the top of column of that height.

(5) Your opinions are all traceable to the same source.

(6) And in so doing he must lift the object to a height above ten.

(7) Part of the top may slope downward and thence project upward, and there the needle lies. In that case it is below ten, and even when picked up does not go above ten.

(8) Or groove, likewise below ten. — Thus in R. Mordecai's view the Mishnah does not solve his problem.

(9) v. Glos.

(10) V. infra 7a,

(11) Reaching to the top of the wall, so that the wall and the karmelith are one, the whole, including the wall, being private ground.

(12) Converting the karmelith into private ground.

(13) It is certainly private ground, just as the karmelith which it converts.

(14) [The segment was one handbreadth in thickness and by removing it the pit reaches the depth of ten handbreaths, which constitutes the legal height for the partition of a private domain.]

(15) V. supra 7b.

(16) For the thickness of the figs must be deducted. Nevertheless he is culpable, and the same reasoning applies to R. Johanan's second problem.

(17) When he throws the cake of figs on the wall, he does not mean it to become part thereof and cease to exist separately, as it were.

(18) For it becomes part of the wall. Hence the two cases are dissimilar.

(19) The poles are ten handbreadths high, but not four square, whilst the board is; thus as it rests on these poles it constitutes a private domain.

(20) Hence he is not liable. assuming this to be the solution of R. Johanan's problem.

(21) For it does not stick to the board; hence the board alights first and then this article.

(22) Therefore he is culpable.

Talmud - Mas. Shabbath 100a

that is not its [natural] rest. Raba propounded: If a nut [lies] in a vessel, and the vessel floats on water, what [is the law]? Do we regard the nut, and behold it is at rest; or do we regard the vessel, and behold it is not at rest? The question stands over. [In respect to] oil [floating] upon wine, R. Johanan b. Nuri and the Rabbis differ. For we learnt: If oil is floating upon wine, and a tebul yom touches the oil, he disqualifies the oil only. R. Johanan b. Nuri said: Both are attached to each other.[1]

Abaye said: If a pit in the street [is] ten deep and eight broad, and[2] one throws a mat into it, he is culpable; but if he divides it with the mat,[3] he is not culpable.[4] Now according to Abaye. who is certain that the mat annuls the partition,[5] a segment certainly annuls the partition;[6] but according to

R. Johanan to whom a segment is a problem, a mat certainly does not annul the partition.[7]

Abaye also said: If a pit in the street, ten deep and four broad, [is] full of water and one throws [an object] therein, he is culpable; [but if it is] full of produce and one throws [an object] therein, he is not culpable. What is the reason? Water does not annul the partition,[8] [whereas] produce does annul the partition. It was taught likewise: If one throws [an object] from the sea into a street, or from a street into the sea, he is not liable,[9] R. Simeon said: If there is in the place where he throws [it a separate cavity] ten deep and four broad, he is liable.[10]

MISHNAH. IF ONE THROWS [AN ARTICLE] FOUR CUBITS ON TO A WALL ABOVE TEN HANDBREADTHS, IT IS AS THOUGH HE THROWS IT INTO THE AIR; IF BELOW, IT IS AS THOUGH IT THROWS IT ON TO THE GROUND, AND HE WHO THROWS [AN ARTICLE] FOUR CUBITS ALONG THE GROUND[11] IS CULPABLE.

GEMARA. But it does not stay there?-Said R. Johanan: We learnt of a juicy cake of figs.[12] Rab Judah said in Rab's name in the name of R. Hiyya: If one throws [an article] above ten [handbreadths] and it goes and alights in a cavity of any size, we come to a controversy of R. Meir and the Rabbis. According to R. Meir. who holds: We [imaginarily] hollow out to complete it, he is liable; according to the Rabbis who ‘maintain, We do not hollow out to complete it, he is not liable.[13] It was taught likewise: If one throws [an article] above ten and it goes and alights in a cavity of any size, R. Meir declares [him] culpable. whereas the Rabbis exempt [him].

Rab Judah said in Rab's name: If a [sloping] mound attains [a height of] ten [handbreadths] within [a distance of] four,[14] and one throws [an object] and it alights on top of it, he is culpable. It was taught likewise: If an alley[15] is level with within but becomes a slope towards the [main] street,[16] or is level with the [main] street, but becomes a slope within,[17] that alley requires neither a lath nor a beam.[18] R. Hanina b. Gamaliel said: If a [sloping] mound attains [a height of] ten [handbreadths] within [a distance of] four, and one throws [an object] and it alights on top of it, he is culpable.

MISHNAH. IF ONE THROWS[[AN OBJECT] WITHIN FOUR CUBITS BUT IT ROLLS BEYOND FOUR CUBITS, HE IS NOT CULPABLE; BEYOND FOUR CUBITS BUT IT ROLLS WITHIN FOUR CUBITS, HE IS CULPABLE.[19]

GEMARA. But it did not rest [beyond four cubits]?[20] -Said R. Johanan: Providing it rests [beyond four cubits] on something, whatever its size.[21] It was taught likewise: If one throws [an article] beyond four cubits, but the wind drives it within, even if it carries it out again, he is not liable; if the wind holds it for a moment,[22] even if it carries it in again, he is liable.

Raba said: [An article brought] within three [handbreadths] must, according to the Rabbis, rest upon something, however small.[23] Meremar sat and reported this statement. Said Rabina to Meremar:

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(1) V. supra 5b for notes on the whole passage.

(2) I.e., eight by four-the pit of course is private ground.

(3) E.g., a stiff cane mat, which stands up vertically across the middle of the pit,

(4) The thickness of the mat leaves less than four square handbreadths on either side, so that neither is now private ground.

(5) As in the previous note.

(6) V. question asked by R. Johanan, supra 99b.

(7) For the mat does not become part of the pit; v. p. 477. n. 3.

(8) Hence the pit is private ground in spite of the water,

(9) The sea is a karmelith, supra 6a.

(10) Since it stands apart from the rest of the sea. This cavity too is naturally filled with water; hence we see that water does not annul the partition.

(11) Or, over the ground, within the height of ten handbreadths.

(12) V. supra 7b for notes on this and the Mishnah.

(13) v. supra 7b for notes.

(14) This renders it too steep to be negotiated in one's ordinary stride, and the top is therefore counted as private ground.

(15) This ranks as a karmelith, supra 6a.

(16) Into which it debouches.

(17) The ground on the inner side of the entrance is of the same level as the main street for a short distance, but then falls away.

(18) To convert it into private ground (v. supra 9a), the slope itself being an effective partition.

(19) In both cases it did not properly rest before the wind drove it back or forward.

(20) Why is he culpable in the latter case?

(21) Even not on the ground itself, and stays there momentarily. Rashi: The same holds good if the wind keeps it stationary for a moment within three handbreadths of the ground ‘in the principle of labud (v. Glos.). [Wilna Gaon reads: Provided it rests for a little while.]

(22) Beyond the four cubits.

(23) The reference is to the Rabbis’ view that an object caught up in the air is not regarded as at rest, in contrast to R. Akiba's ruling that it is as at rest (supra 97a). Raba states that the Rabbis hold thus even if the object comes within three handbreadths of the ground: it must actually alight upon something, otherwise it is not regarded as having been deposited.

Talmud - Mas. Shabbath 100b

Is this not [to be deduced from] our Mishnah, whereon R. Johanan commented. Providing it rests on something, whatever its size?[1] You speak of [a] rolling [object]. replied he; [a] rolling [object] is not destined to rest; but this, since it is destined to rest,[2] [I might argue that] though it did not come to rest, it is as though it had rested:[3] therefore he informs us [that it is not so].

MISHNAH. IF ONE THROWS [AN OBJECT OVER A DISTANCE OF] FOUR CUBITS IN THE SEA, HE IS NOT LIABLE. IF THERE IS A WATER POOL. AND A PUBLIC ROAD TRAVERSES IT, AND ONE THROWS [AN OBJECT] FOUR CUBITS THEREIN. HE IS LIABLE. AND WHAT DEPTH CONSTITUTES A POOL? LESS THAN TEN HANDBREADTH[3]. IF THERE IS A POOL OF WATER AND A PUBLIC ROAD TRAVERSES IT, AND ONE THROWS [AN OBJECT] FOUR CUBITS THEREln,[4] HE IS LIABLE.

GEMARA. One of the Rabbis said to Raba, As for ‘traversing [mentioned] twice, that is well, [as] it informs us this: [i] traversing with difficulty is designated traversing;[5] [ii] use with difficulty is not designated use.[6] But why [state] POOL twice? — One refers to summer, and the other to winter, and both are necessary. For if only one were stated, I would say: That is only in summer, when it is the practice of people to walk therein to cool themselves; but in winter [it is] not [so]. And if we were informed [this] of winter, [I would say that] because they are mudstained they do not object;[7] but in summer [it is] not [so]. Abaye said, They are necessary: I might argue, That is only where it [the pool] is not four cubits [across]; but where it is four cubits [across], one goes round it.[8] R. Ashi said; They are necessary: I might argue, That is only where it [the pool] is four [across];[9] but where it is not four, one steps over it.[10] Now, R. Ashi is consistent with his opinion. For R. Ashi said: If one throws [an object] and it alights on the junction of a landing bridge.[11] he is culpable, since many pass across it.[12]

MISHNAH. IF ONE THROWS [AN OBJECT] FROM THE SEA TO DRY LAND,[13] OR FROM DRY LAND TO THE SEA, FROM THE SEA TO A SHIP[14] OR FROM A SHIP TO THE SEA OR FROM ONE SHIP TO ANOTHER, HE IS NOT CULPABLE. IF SHIPS ARE TIED TOGETHER, ONE MAY CARRY FROM ONE TO ANOTHER. IF THEY ARE NOT TIED TOGETHER, THOUGH LYING CLOSE [TO EACH OTHER], ONE MAY NOT CARRY FROM ONE TO ANOTHER.

GEMARA. It was stated: As for a ship. R. Huna said, A projection, whatever its size, is stuck out [over the side of the ship]. and [water] may then be drawn [from the sea]; R. Hisda and Rabbah son of R. Huna both maintain: One rigs up an enclosure[15] four [handbreadths square] and draws [water].[16] [Now], R. Huna said: A projection, whatever its size, is stuck out, and [water] may then be drawn; he holds that the karmelith is measured from the [sea-]bed. so that the air space is a place of non-liability'.[17] Hence logically not even a projection is required.[18] but [it is placed there] to serve as a distinguishing mark.[19] R. Hisda and Rabbah son of R. Huna both maintain: One rigs up an enclosure four square and draws [water]': they hold that the karmelith is measured from the surface of the water, the water being [as] solid ground.[20] [Hence] if a place of four [square] is not set up. one transports [the water] from a karmelith to private ground.[21]

R. Nahman said to Rabbah b. Abbuha: But according to R. Huna, who said, 'A projection, whatever its size, is stuck out and [water] may then be drawn', — but sometimes these are not ten,[22] and so one carries from a karmelith to private ground? — Said he to him: It is well known that a ship cannot travel in less than ten [handbreadths of water].[23] But it has a projecting point?[24] — Said R. Safra: Sounders precede it.[25]

R. Nahman b. Isaac said to R. Hiyya b. Abin: But according to R. Hisda and Rabbah son of R. Huna, who maintain, 'One rigs up an enclosure four [square] and draws [water]'. — how could he throw out his waste water?[26] And should you answer that he throws it [likewise] through that same enclosure, — it is [surely] repulsive to him![27] — He throws it against the sides of the ship.[28] But there is his force [behind it]?[29] They [the Sages] did not prohibit one's force in connection with a karmelith. And whence do you say this? Because it was taught: As for a ship. one may not carry [e.g.. water] from it into the sea or from the sea into it.

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(1) Since he does not explain that the object came within three, it follows that even then it must alight on something.

(2) It is actually falling when intercepted within three handbreadths from the ground.

(3) Hence the thrower is culpable.

(4) I.e., it travels four cubits before it rests. That is also the meaning in the previous case.

(5) Hence the public road that passes through a pool counts as public ground, though one can only traverse it with difficulty.

(6) E.g., a pit in the street nine handbreadths deep. Though one can put objects therein, it is inconvenient, and therefore is not the same as a pillar of that height in the street upon which people temporarily place their burdens whilst pausing to rest, and which ranks as public ground (supra 8a). The deduction that such use is not designated use follows from the repetition of traversing, which intimates that only traversing with difficulty is regarded as such, but nothing else.

(7) To wade through a pool.

(8) Instead of wading through it; hence it is not public ground. Therefore it is stated twice, to show that this case too is included.

(9) Rashi adds cubits; but the masc. form ארבעה must refer to handbreadths. This reading is also more likely, as otherwise he would not say that if less than four one might step across it. — S. Strashun.

(10) And thus avoids it.

(11) Perhaps where the bridge joins the quay.

(12) Though many, on the other hand, step over it, it does not on that account cease to be ground publicly used, and the same applies above.

(13) Which is from a karmelith to public ground.

(14) I.e., from a karmelith to private ground.

(15) Lit., 'place'.

(16) I.e., an enclosure above the water is made, which renders the water immediately below technically private ground.

and through this the water is drawn.

(17) Only ten handbreadths above the ground rank as a karmelith, whilst the space above that is a place of non-liability (supra 7a). Hence everything above the surface of the sea, and even the sea itself above ten handbreadths from its bed, fall within the latter category.

(18) For one may certainly carry from a place of non-liability.

(19) That one may not carry from a real karmelith.

(20) The sea-bed and the sea count as one, as though the ground of the karmelith rose very high.

(21) Viz., the ship.

(22) Handbreadths from the sea-bed to its surface, so that the whole of the sea is a karmelith.

(23) By sefina a large ship is meant, not a small boat.

(24) Rashi: the ship has a projecting point (sc. a helm), and as that rises out of the water it is possible for it to sail into a draught of even less than ten handbreadths, and should water be drawn at this point one transports from a karmelith to private ground. Tosaf. and R. Han. (on the reading preserved in MS. M.): perhaps it (the sea-bed) has a projecting eminence just where the water is drawn, from the top of which there are less than ten handbreadths to the sea surface?

(25) Men who sound the depth of the water with long poles, and they take care to avoid such shallows.

(26) For it is forbidden to throw from a private ground (the ship) to a karmelith (the sea).

(27) To draw water subsequently through the same place.

(28) Whence it descends into the sea.

(29) Even if he does not throw it directly into the sea, he does so indirectly through the exercise of his force.

Talmud - Mas. Shabbath 101a

R. Judah said: If it is ten [handbreadths] deep [internally] but not ten high,[1] one may transport from it into the sea, but not from the sea into it. Why not from the sea into it: because we [thus] transport from a karmelith into private ground? Then from it into the sea, one also transports from private ground to a karmelith? Hence it must surely mean on its edge.[2] which proves that they do not forbid one's force in connection with a karmelith: this proves it.

R. Huna said: As for the canal boats of Mesene,[3] we may carry in them only within [a distance of] four cubits.[4] But we say this only if they lack [a breadth of] four [handbreadths] at less than three [from the bottom edge]; but if they have [a breadth of] four at less than three, we have no objection; or if they are filled with canes and bullrushes,[5] we have no objection.[6] R. Nahman demurred to this: But let us say, Stretch and bring the partitions down.[7] Was it not taught, R. Jose son of R. Judah said: If one plants a rod in the street, at the top of which is a basket, and throws [an article] and it comes to rest upon it, he is liable: this proves that we say. Stretch and bring the partitions down,[8] so here too let us say, Stretch and bring the partition down? R.Joseph demurred to this, Yet did they not hear what was said by Rab Judah in Rab's name, which some trace to R. Hiyya: And it was taught thereon, But the Sages exempt [him]?[9] Said Abaye to him: And do you not hold thus? But it was taught: If a pillar in the street [is] ten [handbreadths] high and four broad, but its base is not four, and this narrow portion is three [in height],[10] and one throws [an article] and it alights upon it, he is liable: this proves that we say, Stretch and bring the partitions down;[11] so here too, stretch and bring the partition down. Hence [Abaye continues].[12] this is surely [not] an argument; there[13] it is partition through which goats can pass;[14] but here[15] they are partitions through which goats cannot pass.[16] R. Aha son of R. Aha said to R. Ashi: But in the case of a ship too, there is the passing through of fish? The passing through of fish is not designated passing through, he replied. And whence do you say this? For R. Tabla asked Rab: Can a suspended partition make a ruin permissible [for carrying therein]?[17] And he answered him: A suspended partition makes [something] permissible only

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(1) From the edge of the water.

(2) In the latter case the water is not poured directly into the sea but on to the ship's edge. whence it descends into the sea.

(3) V. p, 174. n. 8.

(4) So MS.M. These boats are very narrow and taper to a knife edge in the water. Being thus less than four handbreadths wide at the bottom they do not count as private ground (v. supra 6a), and therefore one may not carry in them.
(5) Up to the height where they have a breadth of four.
(6) Providing in both cases that they are ten high above the level which gives the breadth of four.
(7) I.e., adopt the legal fiction that the sides of the boat drop vertically down to the water, which gives the necessary breadth to make it rank as private ground.
(8) For only if we assume imaginary partitions descending from the sides of the basket, which is not ten handbreadths deep itself have we the necessary conditions for culpability.
(9) Which proves that the majority reject this legal fiction.
(10) So that the principle of being accounted as joined to the ground from the level which gives a breadth of four does not operate.
(11) Otherwise the base would be disregarded, and the sides above would count as partitions suspended in the air, which cannot form a private domain.
(12) R. Joseph's question.
(13) In the case of the basket set on top of a rod.
(14) I.e., even if one adopts that fiction, such imaginary partitions cannot keep goats out! and that is the legal test of a barrier; therefore the Rabbis exempt him.
(15) In the case of the boat.
(16) Being in the water.
(17) E.g. the ruins of a hut which has part of a a wall hanging from the roof: does this wall make it as though enclosed, so that it ranks as a private domain?

Talmud - Mas. Shabbath 101b

in water, this being a leniency which the Rabbis permitted in connection with water. But why so: surely there is the passing through of fish? Hence infer from this that the passing through of fish is not designated passing through.

IF SHIPS ARE TIED TOGETHER, etc. This is obvious?-Said Raba. This is necessary only to permit [carrying via] a small boat [lying] between them.[1] Said R. Safra to him, By Moses![2] do you say right? We learnt, ONE MAY CARRY FROM ONE TO ANOTHER![3] -Rather said R. Safra. It is necessary only to [teach that one may] combine them[4] and carry from one to another, and as it was taught: If ships are tied to each other, one may combine them and carry from one to another. If they are separated, they become prohibited. If they are rejoined. whether in ignorance[5] or wilfully. accidentally or erroneously,[6] they revert to their original permitted condition. Likewise, if mats are spread [i.e.. hung up].[7] one may combine them and carry from one to another. If they are rolled up, they become prohibited. If they are respread,[8] whether in ignorance or wilfully, accidentally or erroneously, they revert to their original permitted condition. For every partition that is made on the Sabbath, whether ignorantly or wilfully. is designated a partition, But that is not so? For did not R. Nahman say: They learnt this only in respect of throwing,[9] yet it is forbidden to carry [therein]?[10] — R. Nahman's [dictum] was stated in reference to wilful [erection].[11]

Samuel said: Even if they are tied by a cloak ribbon. How is that: if it can hold them together, it is obvious? If it cannot hold them together, why [does it suffice]? — In truth, it is one that can hold them together, but Samuel comes to discount his own [dictum]. For we learnt: If one ties it [a ship][12] with something that holds it still, it brings defilement to it; with something that does not hold it still, it does not bring defilement to it. Whereon Samuel observed: Providing that it is fastened with iron chains.[13] Now, it is only with respect to defilement where it is written, one that it slain with a sword,[14] [teaching.] the sword is like the slain,[15] that that [Samuel's dictum] is so. But with respect to the Sabbath, since it can hold it still, even [if it be] with the ribbon of a cloak, [it is sufficient].

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(1) The larger ships being fastened to the opposite sides of the boat,

(2) Or, Scholar, great as Moses!

(3) Not via a third.

(4) By means of an ‘erub (q.v. Glos.), if they belong to different owners.

(5) Either of the fact that it is the Sabbath, or that this is interdicted on the Sabbath.

(6) While engaged in fastening something else one tied the boats instead.

(7) Forming tents, all belonging to separate owners.

(8) On the Sabbath.

(9) The space enclosed by partitions erected on the Sabbath is private ground only in so far that throwing an object therein from public ground is a culpable offence.

(10) By Rabbinical law.

(11) In which case the Rabbis have imposed the interdict as penalty.

(12) If it is a ship that can be defiled (v. supra 83b).

(13) Rashi: If a ship is moored by a chain to a wharf where a corpse is lying and touching the chain. Tosaf. explains the passage quite differently but with emendation of the text.

(14) Num. XIX, 16.

(15) I.e.. metal that touches a corpse has the same degree of uncleanness as the corpse itself (v. Pes. 14b). and therefore the chain defiles the ship.

Talmud - Mas. Shabbath 102a

MISHNAH. IF ONE THROWS [AN ARTICLE] AND RECALLS [THAT IT IS THE SABBATH] AFTER IT LEAVES HIS HAND, AND ANOTHER CATCHES IT,[1] OR A DOG CATCHES IT. OR IT IS BURNT, HE IS NOT LIABLE.[2] IF ONE THROWS [AN ARTICLE] IN ORDER TO INFLICT A WOUND. WHETHER IN MAN OR IN BEAST, AND HE RECALLS [THAT IT IS THE SABBATH] BEFORE THE WOUND IS INFLICTED. HE IS NOT LIABLE THIS IS THE GENERAL PRINCIPLE: ALL WHO ARE LIABLE TO SIN-OFFERINGS ARE LIABLE ONLY IF THE BEGINNING AND THE END [OF THE FORBIDDEN ACTION] ARE UNWITTING. IF THEIR BEGINNING IS UNWITTING WHILE THEIR END IS WILFUL, IF THEIR BEGINNING IS WILFUL WHILE THEIR END IS UNWITTING. THEY ARE NOT LIABLE, UNLESS THEIR BEGINNING AND END ARE UNWITTING.

GEMARA. Hence if it alighted. he is liable:[3] But surely he did not remind himself, and we learnt, ALL WHO ARE LIABLE TO SIN-OFFERINGS ARE LIABLE ONly IF THE BEGINNING AND THE END [OF THE FORBIDDEN ACTION] ARE UNWITTING? Said R. Kahana: The last clause is applicable to a bolt and a cord.[4] [You say.] ‘A bolt and a cord’! But is not its tie in his hand?[5] -It means, e.g., that he intended to inflict a wound. But this too we learnt:[6] IF ONE THROWS [AN ARTICLE] IN ORDER TO INFLICT A WOUND, WHETHER IN MAN OR IN BEAST, AND HE RECALLS [THAT IT IS THE SABBATH] BEFORE THE WOUND IS INFLICTED, HE IS NOT LIABLE?-Rather said Raba: It refers to one who carries.[7] But the statement, THIS IS THE GENERAL PRINCIPLE, is stated with reference to throwing? Rather said Raba: Two [contingencies] are taught. [Thus:] IF ONE THROWS [AN ARTICLE] AND RECALLS [that it is the Sabbath] after it leaves his hand, or even if he does not recall [it], but ANOTHER CATCHES IT, OR A DOG CATCHES IT, OR IT IS BURNT, HE IS NOT LIABLE’- R. Ashi said: It [the Mishnah] is defective, and teaches this: ‘IF ONE THROWS [AN ARTICLE] AND RECALLS [THAT IT IS THE SABBATH] AFTER IT LEAVES HIS HAND, AND ANOTHER CATCHES IT, OR A DOG CATCHES IT, OR IT IS BURNT, HE IS NOT LIABLE.[8] But if it alights, he is liable. That, however, is said only if he forgot again;[9] but if he did not forget again, he is not liable, because ALL WHO ARE LIABLE TO SIN-OFFERINGS ARE LIABLE ONLY IF THE BEGINNING AND THE END [OF THE FORBIDDEN ACTION] ARE UNWITTING’.

THIS IS THE GENERAL PRINCIPLE: ALL WHO ARE LIABLE TO SIN-OFFERINGS. etc. It was stated: [If the object travels] two cubits unwittingly, two cubits deliberately, and two cubits unwittingly.[10] — Rabbah ruled, He [the thrower] is not liable; Raba said: He is liable. ‘Rabbah ruled, He is not liable’: even according to R. Gamaliel. who maintained. Knowledge in respect of half the standard is of no consequence,[11] that is [only] there, because when he completes the standard, he completes it unwittingly, but here that [he completes it] wilfully, it is not so. But to what [does this refer]? If to one who throws, [surely] he is an unwitting offender?[12] -Rather it must refer to one who carries. ‘Raba said, He is liable’: even according to the Rabbis, who maintained, Knowledge in respect of half the standard is of consequence: that is [only] there, because it is in his power,[13] but here that it is not in his power, it is not so. But to what [does this refer]? If to one who carries, surely it is in his power? Rather it must refer to one who throws.[14]

Raba said: If one throws [an article] and it falls into the mouth of a dog or a furnace, he is culpable. But we learnt, AND ANOTHER CATCHES IT, OR A DOG CATCHES IT, OR IT IS BURNT, HE IS NOT LIABLE? — There that is not his intention; here this is his intention. R. Bibi b. Abaye said, We too have learnt [thus]: A person may eat once, and be liable to four sin-offerings and one guilt-offering on account thereof, [viz.:] All unclean person who eats heleb, which is nothar[15] of sacred food [sacrifices] on the Day of Atonement.[16] R. Meir said: If in addition it is the Sabbath, and he carries it out in his mouth, he is liable.[17] Said they to him, That does not fall under this designation.[18] Yet why so? Surely this is not the normal way of carrying out?[19] But [what you must say is.] since he intends it this, his design renders it [his mouth) the [right] place;[20] so here too, since he intends [it this].[21] his design renders it [the mouth of the dog or of the furnace] a place [for depositing] [

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(1) Before it falls to the ground.

(2) The exact meaning is discussed infra.

(3) This assumes that the Mishnah means, AND RECALLS, and, ANOTHER CATCHES, etc.

(4) Tied together. I.e., the second clause can refer only to one who throws a bolt whilst retaining the cord in his hand. If he recollects before it reaches the ground, he can pull it back; hence if he does not pull it back the end (sc. its alighting) is deliberate. But if the article has left his hand entirely and he cannot prevent its falling, the end too is regarded as unwitting. whether he recollects or not.

(5) That is not throwing at all.

(6) Rashi reads: But we learnt this explicitly why then intimate it in the general principle?

(7) Sc. the last clause: if he recollects, he can stop before he has traversed four cubits.

(8) This is all one, not as Raba interprets it.

(9) Before it alighted.

(10) The thrower or carrier (v. infra to which this actually refers) was unaware of the Sabbath (or that throwing is prohibited) during the first two cubits of its passage, recollected for the next two, and forgot again for the last two. — Of course, this is a most unlikely hypothesis almost impossible in fact. Many similar unlikely contingencies are discussed in the Talmud, and their purpose is to establish the principles by which they are governed and which may then be applied to normal possibilities.

(11) Cf. p. 341. n. 8. Here too’ two cubits is half the standard.

(12) Even if he recollects, since it has left his hand and he cannot bring it back.

(13) Not to complete the action.

(14) Thus there is no controversy, each referring to a different case.

(15) For heleb and nothar v, Glos.

(16) He is liable to separate sin-offering because he has violated the interdicts of heleb, nothar, eating on the Day of Atonement, and the prohibition against an unclean person's consumption of sacred food. Again. since the heleb of a sacrifice belongs to the altar, he is liable to a guilt-offering for trespass.

(17) On account of carrying.

(18) Sc. eating, for this liability is on account of carrying, not of eating; v. Ker. 13b.

(19) One is not liable for performing an action in an abnormal manner.

(20) For holding the food in to carry it out. R. Han.: his design renders his mouth the equivalent of a place four handbreadths square, whence and whither removal and depositing can take place.

(21) Sc. that the dog should catch it, etc.

Talmud - Mas. Shabbath 102b

C H A P T E R X I I

MISHNAH. IF ONE BUILDS HOW MUCH MUST HE BUILD TO BE CULPABLE? he WHO BUILDS HOWEVER LITTLE, AND HE WHO CHISELS, AND HE WHO STRIKES WITH A HAMMER OR WITH AN ADZE, AND HE WHO BORES [A HOLE], HOWEVER LITTLE,[1] IS CULPABLE. THIS IS THE GENERAL PRINCIPLE: WHOEVER DOES WORK ON THE SABBATH AND HIS WORK ENDURES,[2] IS CULPABLE. R. SIMEON B. GAMALIEL SAID: HE TOO IS CULPABLE WHO BEATS WITH THE SLEDGE HAMMER ON THE ANVIL AT THE TIME OF HIS WORK, BECAUSE HE IS AS ONE WHO IMPROVES HIS WORK.[3]

GEMARA. ‘HOWEVER LITTLE’-what is that fit for?-Said R. Jeremiah: Because a poor man digs a hole to hide his perutoth therein.[4] Similarly in connection with the Tabernacle such a labour was performed because those who sewed the curtain dug holes to put away their needles therein. Said Abaye. Since they would rust, they would not do so! Rather [say]: because a poor man makes the feet of a small stove to place a pot upon it. Similarly in connection with the Tabernacle, [such a labor was performed] because those who boiled the dyes for dyeing the curtains, when their materials [the finished dyes] were insufficient, they made the feet of a small stove to place a small kettle upon it. Said R. Aha b. Jacob: There is no poverty in the place of wealth.[5] Rather [say] because a householder who finds a hole in his dwelling closes it up. Similarly in connection with the Tabernacle, [such a labour was performed] because when a board was attacked by wood-worms, one dropped molten lead into it and closed it.[6]

Samuel said: He who arranges a building stone[7] is culpable.[8] An objection is raised: If one places the stone and another the mortar, he who places the mortar is culpable?[9] — But according to your view, consider the second clause: R. Jose said:[10] Even if one lifts up [the stone] and sets [it] on the row of stones, he is liable? Rather [the fact is that] there are three modes of building, [viz., in connection with] the lower, the middle, and the upper [rows]. The lower requires arranging in place and [filling] earth [around it];[11] the middle[12] requires mortar too; whilst the top merely [requires] placing.[13]

AND HE WHO CHISELS. On what score is a chiseller culpable? — Rab said: On the score of building: while Samuel said: On the score of beating with a hammer.[14] If one makes a hole in a hencoop,[15] — Rab said: [He is culpable] on account of building; while Samuel said: On account of beating with a hammer. If one inserts a pin through the eyelet of a spade,[16] -Rab said: [He is liable] on account of building; while Samuel said: On account of beating with a hammer. Now, these are [all] necessary. For if we were informed of the first, [I would argue]: in that case Rab rules [so], because such is a mode of building;[17] but if one makes a hole in a hen-coop, seeing that this is not a mode of building, I would maintain that he agrees with Samuel. And if we were informed of this [latter one only],-here does Rab rule [thus], because it is similar to a building, since it is made for ventilation; but [as for inserting] a pin through the eyelet of a spade, which is not a mode of building, I would say that he agrees with Samuel. And if we were told of this [latter one], only here does Samuel rule [thus], but in the former two I would maintain that he agrees with Samuel:[18] [hence] they are necessary.

R. Nathan b. Oshaia asked R. Johanan: On what grounds is a chiseller culpable? He intimated to him with his hand, On account of beating with a hammer. But we learnt, HE WHO CHISELS AND HE WHO BEATS WITH A HAMMER?- Say,’ HE WHO CHISELS, WHO BEATS WITH A HAMMER’[19] Come and hear:

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(1) ‘However little’ applies to all the foregoing labours.

(2) I.e., it is not necessary to add thereto, which on occasion may be complete in itself

(3) This is explained in the Gemara.

(4) Perutah. pl. perutoth, a very small coin. Thus we find an instance of very little building, and therefore this sets the standard. Money was hidden in the earth. Cf. B.M. 42a: ‘Money can only be guarded by placing it in the earth’; Josephus. Wars, V. 7. 2: ‘which the owners have treasured up underground against the uncertain fortunes of war’. (5) The labors performed there being the basis for the principal Sabbath labours, v. supra 73a.

(5) This would never be necessary there, for everything was prepared in large quantities.

(6) All these are instances of building.

(7) Shifting the stone about on the ground until it is in the right spot.

(8) For building, even if no mortar is used.

(9) But not the former, which contradicts Samuel.

(10) Tosaf. omits ‘R. Jose said’, and Wilna Gaon makes a somewhat similar emendation.

(11) But no mortar, and Samuel refers to this.

(12) This means all the rows between the bottom and the top rows.

(13) Without the meticulous care needed for the bottom row, since nothing was to go upon it.

(14) This being the completion of the work, v. supra 75b.

(15) For ventilation, etc.

(16) Rashi: the pin passed through the handle and made it fast to the blade.

(17) Chiselling a stone to smooth it is an essential part of building.

(18) By reversing the former argument.

(19) The latter being explanatory of the former.

Talmud - Mas. Shabbath 103a

HE WHO BORES A HOLE, HOWEVER LITTLE, IS CULPABLE. As for Rab, it is well: it looks like boring a hole for a building. But according to Samuel,[1] [surely] this is not a completion of work?[2] — The meaning here is that he pierces it with an iron pick and leaves it therein, so that that is the completion of its work. THIS IS THE GENERAL PRINCIPLE. What does THIS IS THE GENERAL PRINCIPLE add?[3] -It adds the case of hollowing out a kapiza in a kab measure.[4]

R. SIMEON B. GAMALIEL SAID: HE TOO IS CULPABLE WHO BEATS WITH THE SLEDGE-HAMMER ON THE ANVIL, etc. What does he do?[5] -Rabbah and R. Joseph both say: Because he trains his hand. The sons of Rahabah found this difficult: if so, if one sees a labour [being performed] on the Sabbath he really culpable?[6] — But Abaye and Raba both say: Because those who beat out the [metal] plates of the Tabernacle[7] did thus.[8] It was taught likewise: R. Simeon b. Gamaliel said: Also he who beats with the sledge-hammer on the anvil at the time of his work is culpable, because those who beat out the [metal] plates of the Tabernacle did thus.

MISHNAH. HE WHO PLOUGHS, HOWEVER LITTLE, HE WHO WEEDS AND HE WHO TRIMS [TREES],[9] AND HE WHO CUTS OFF YOUNG SHOOTS, HOWEVER LITTLE, IS CULPABLE. HE WHO GATHERS TIMBER: IF IN ORDER TO EFFECT AN IMPROVEMENT,[10] [THE STANDARD OF CULPABILITY IS] HOWEVER LITTLE; IF FOR FUEL, AS MUCH AS IS REQUIRED FOR BOILING A LIGHT EGG. IF ONE COLLECTS GRASS, IF TO EFFECT AN IMPROVEMENT, [THE STANDARD OF CULPABILITY IS] HOWEVER LITTLE; IF FOR AN ANIMAL[‘S FODDER], A KID'S MOUTHFUL.

GEMARA. What is it fit for?[11] -It is fit for [planting] the seeds of a pumpkin.[12] Similarly in respect to the Tabernacle, [such a labour was performed] because it is fit for one stalk of [vegetable] dyes.

HE WHO WEEDS AND HE WHO TRIMS [TREES] AND HE WHO CUTS OFF YOUNG SHOOTS. Our Rabbis taught: He who plucks endives and he who cuts greens [shoots],[13] if for [human] consumption, [the standard of culpability is] the size of a dried fig; is for animal [food], a kid's mouthful; if for fuel, as much as is required for boiling a light egg; if in order to improve the soil,[14] however little. Are not all in order to improve the soil?[15] Rabbah and R. Joseph both say: They [the Sages] learnt this of an uncleared field.[16] Abaye said: You may even say [that they spoke] of a field that is not uncleared, but in a case where he has no intention.[17] But surely Abaye and Raba both said, R. Simeon admits in a case of, ‘cut off his head but let him not die’?[18] This holds good only when he works in his neighbour's field.[19]

MISHNAH. HE WHO WRITES TWO LETTERS, WHETHER WITH HIS RIGHT OR WITH HIS LEFT HAND, OF THE SAME DESIGNATION OR OF TWO DESIGNATIONS[20] OR IN TWO PIGMENTS,[21] IN ANY LANGUAGE, IS CULPABLE. SAID R. JOSE: THEY DECLARED ONE CULPABLE [FOR WRITING] TWO LETTERS ONLY BECAUSE [HE MAKES] A MARK, BECAUSE THUS DID THEY WRITE ON EACH BOARD OF THE TABERNACLE, TO KNOW WHICH WAS ITS COMPANION.[22] R. JUDAH SAID: WE FIND A SHORT NAME [FORMING PART] OF A LONG NAME: SHEM AS PART OF SHime'on OR SHemuel, Noah AS PART OF Nahor, Dan AS PART OF Daniel, Gad AS PART OF Gaddi'el.[23]

GEMARA. As for his being culpable on account of his right hand, that is well, since that is the [usual] way of writing; but why on account of his left hand, seeing that it is not the [usual] way of writing?-Said R. Jeremiah, They learnt this of a left-handed person. Then let his left hand be as the right hand of all [other] people, and so let him be liable on account of his left, but not his right hand? — Rather said Abaye: [They learned this] of one who can use both hands. R. Jacob the son of Jacob's daughter[24] said: The author of this is R. Jose, who said: THEY DECLARED ONE CULPABLE [FOR WRITING] TWO LETTERS ONLY BECAUSE [HE MAKES] A MARK.[25] But since the second clause is R. Jose[‘s], the first clause is not R. Jose? — The whole is R. Jose.

R. JUDAH SAID: WE FIND, [etc.] Then according to R. Judah, one is culpable only on account of two letters of two designations,[26] but not two letters of the same designation? But surely it was taught: [If a soul shall sin unwittingly against any of the commandments of the Lord concerning things which ought not to be done,] and shall do of one [of them]:[27] I might think that one must write the whole noun or weave a whole garment or make a whole sieve [before he is guilty]; hence ‘of one’ is stated. If ‘of one’, I might think that even if one writes only one letter or weaves a single thread or makes only one mesh of a sieve, [he is culpable];

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(1) Who holds that boring a hole is not building.

(2) For the hole must be filled up subsequently.

(3) It is a rule that this phrase always adds something not explicitly mentioned.

(4) The kapiza was a small measure, less than a kab. If one hollows out a kapiza in a block of wood that is large enough for a kab, one might think that this labour is incomplete for he will probably enlarge it subsequently to a kab. Therefore the general principle is stated to teach that this is a complete labour. On the size of a kapiza v. J.E. XII, 488 I; and 489 Table.

(5) How does this constitute a labour? (8) Merely by watching.

(6) Surely not.

(7) For covering the altar.

(8) They beat the anvil occasionally, that it might present a smooth surface for the metal plates.

(9) By lopping off dead branches, etc.

(10) E.g., he cuts off branches or twigs to allow of a more vigorous growth.

(11) Sc. ploughing very little.

(12) ‘Ar. and MS.M.: as a cavity for a pumpkin.

(13) When very young these are fit for human consumption; a little later they are only fit for animals, and still later, when more hardened, they are used as fuel.

(14) To leave room for expansion for the other plants.

(15) That is their effect, whatever the intention.

(16) Where the improvement is unnecessary.

(17) Of improving the soil.

(18) v. 75a. This too is inevitable.

(19) Since he has no interest in his neighbour's field, the inevitable improvement is disregarded.

(20) I.e., the same letter twice or two different letters.

(21) E.g., one letter in black and one in red.

(22) So that when the Tabernacle was dismantled and subsequently re-erected. the boards should remain in the same order as before. Therefore if one makes any two marks, not particularly letters, he is guilty in R. Jose's view.

(23) If one commences writing long names, but writes only part thereof, which forms a complete name in itself, he is liable. The actual transliteration is employed here and in the Gemara below, to show the exact letters referred to.

(24) Rashi in ‘Er. 8 states that the father was an unworthy person, and so he is not mentioned.

(25) Even a right-handed person can do that quite easily with his left.

(26) I.e., two different letters, since he does not give an example of two identical letters, e.g., SHesh as part of SHishak.

(27) Lev. IV, 2; lit. translation. In a way, ‘of’ and ‘one’ are contradictory. since ‘of’ denotes a portion of an act, whereas ‘one’ implies a complete act. This is discussed here, the various views put forward really being attempts to harmonize the two.

Talmud - Mas. Shabbath 103b

therefore ‘one’ is stated. How is this [to be reconciled]? One is liable only if he writes a short noun [as part] of a long noun: SHem as part of SHime'on or SHemu'el, Noah as part of Nahor, Dan as part of Dani'el, Gad as part of Gaddi'el.[1] R. Judah said: Even if one writes two letters of the same designation, he is liable: e.g., SHesh, Teth, Rar, Gag, Hah.[2] Said R. Jose: Is he then guilty on account of writing? Surely he is guilty only on account of [making] a mark, because marks were made on [each of] the boards of the Tabernacle to know which was its companion Therefore if one draws one line across two boards, or two lines on one board, he is culpable. R. Simeon said: ‘And shall do one’: I might think that one must write the whole noun or weave a complete garment or make a whole sieve [before he is liable]; therefore it is written, ‘of one’. If of one, I might think that even if one writes one letter only, or weaves one thread only, or makes one mesh only in a sieve, [he is guilty]: therefore ‘one’ is stated. How is this [to be reconciled]? One is liable only when he performs an action the like of which stands [on its own].[3] R. Jose said: ‘And shall do one, and shall to them’: sometimes one sacrifice is incurred for all of them, at others one is liable for each separately.[4] Now it is incidentally taught, R. Judah said: Even if one only writes two letters of the same designation, he is liable?-There is no difficulty: one is his own [view], the other is his teacher's. For it was taught: R. Judah said in R. Gamaliel's name: Even if one only writes two letters of the sanie designation, he is liable, e.g., SHesh, Teth, Rar, Gag, Hah.

Now R. Simeon, is he not identical with the first Tanna? And should you answer, they differ in respect of the a'a of a'azzereka:[5] the first Tanna holding, [for writing] the a'a of a'azzereka one is not liable:[6] while R. Simeon holds, Since it is contained in charms in general,[7] he is culpable, — shall we then say that R. Simeon is more stringent? Surely it was taught: He who bores, however little,[8] he who scrapes,[9] however little, he who tans, however little, he who draws a figure on a vessel, however little, [is culpable]. R. Simeon said: [He is not culpable] unless he bores right through or scrapes the whole of it [the skin] or tans the whole of it or draws the whole of it![10] Rather R. Simeon comes to teach us this: [one is not guilty] unless he writes the whole word. But can you say so? Surely it was taught, R. Simeon said: ‘And shall do one’: you might think that one must write the whole word; therefore ‘of one’ is stated?-Answer and say thus: You might think that one must write a complete sentence, therefore ‘of one’ is stated.

R. Jose said: ‘And shall do one, and shall do them’: sometimes one sacrifice is incurred for all of them, at others one is liable for each separately. Said R. Jose son of R. Hanina, What is R. Jose's reason? ‘One’, ‘of one’, ‘them’, ‘of them’: [this implies] one may be the equivalent of many, and many may equal one. ‘one’, [i.e.,] SHime'on; ‘of one , [i.e.,] SHem [as part] of SHime'on; ‘them’ [i.e.,] the principal labours; ‘of them:’, the derivative labours. ‘One is the equivalent of many’ — awareness of the Sabbath coupled with unawareness of [the forbidden nature of his] labours. ‘Many may equal one’ unawareness of the Sabbath coupled with awareness [of the forbidden nature of his] labours.[11]

R. JUDAH SAID: WE FIND A SHORT NAME [FORMING PART] OF A LONG NAME. Are they then similar: the mem of SHem is closed, whereas that of SHime'on is open?[12] -Said R. Hisda: This proves that if a closed [mem] is written open,[13] it is valid.[14] An objection is raised: U-kethabtam:[15] it must be kethibah tammah [perfect writing];[16] thus one must not write the alef as an ‘ayyin, the ‘ayyin as an alef, the beth as a kaf, or the kaf as a beth, the gimmel as a zadde or the zadde as a gimmel,[17] the daleth as a resh or the resh as a daleth, the heh as a heth or the heth as a heh, the waw as a yod or the yod as a waw, the zayyin as a nun or the nun as a zayyin, the teth as a pe or the pe as a teth, bent letters straight or straight letters bent,[18] the mem as a samek or the samek as a mem, closed [letters] open or open letters closed.[19] An open section [parashah] may not be written closed, nor a closed section open.[20] If one writes it as the ‘Song’, or if one writes the ‘Song’ as the general text,[21] or if one writes it without ink, or if one writes the ‘Names’[22] in gold, they [the Scrolls thus written] must be ‘hidden’.[23] -He [R. Hisda] holds with the following Tanna. For it was taught, R. Judah b. Bathyra said: In reference to the second [day] ‘We-niskehem [and their drink-offerings]’ is stated; in reference to the sixth, ‘u-nesakehah [and the drink-offerings thereof]’; in reference to the seventh, ‘ke-mishpatam [after the ordinance]’:[24] this gives mem, yod,mem[25] [i.e.,] mayim [water], whence we have a Biblical intimation of the water libation.[26] Now since if an open letter is written closed, it is valid,[27] a closed [letter] is the same, [viz.,] if a closed letter is written open, it is fit. But how compare! If an open [letter] is written closed,

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(1) Though examples of proper nouns are given, there is no reason for not assuming that the same does not apply to common nouns too, both here and in the Mishnah.

(2) These are complete words in themselves, and also the beginnings of longer words. SHesh == linen; Teth == giving; Rar == flowing; Gag == roof; Hah == hook.

(3) V. p. 490, n.2 on Mishnah supra 102b.

(4) This is explained below.

(5) Isa. XLV, 5, E.V.: I will gird thee. The word commences with a double alef (אאזרך), and a double alef does not form an independent word.

(6) Since it is not a word.

(7) Rashi. Tosaf., and R. Han. Jast.: since it has merely the value of a vowel letter.

(8) Even if the wood is not pierced right through.

(9) E.g., hair off skin.

(10) I.e., the entire figure which he intended to draw. This proves that he is more lenient.

(11) V. supra 70a and b for notes.

(12) Mem at the end of a word is written ם (closed); in the middle it is written מ (open).

(13) In a Scroll of the law, or in a mezuzah or phylacteries.

(14) Hence when one writes שם with a closed mem it is still possible to add thereto as it stands.

(15) Deut. VI, 9: E.V.: and thou shalt write them.

(16) This is a play on u-kethabtam by dividing it into two words.

(17) The original reads, the gamma, this being the ancient name of the letter. In the translation the modern name is used.

(18) The medial forms of kaf, pe, zadde and nun are bent, thus:כ נ פ צ the final forms are straight, thus: ךןףץ .

(19) This refers to the open and closed mem.-Thus this contradicts R. Hisda.

(20) The parashiot (chapters or sections) are either open or closed, the nature of each parashoh being fixed by tradition. Maimonides and Asheri differ on the definition of ‘open’ and ‘closed’, but the present practice is this: Both an open and a closed parashah end in the middle of the line, but in an open one the next parashah commences on the following line, whereas in a closed parashah the next one commences on the same line after a short blank space. V.J.E. art. Scroll of the Law, XI, 192’f.

(21) The ‘Song’ refers to the two songs of Moses, Ex. XV, 1-18 and Deut. XXXII, 1-43. The first is written in the form of half bricks set over whole bricks, ____ ____ _____ _______________ thus: ____ ____ _____ The second is written in seventy double half-columns, thus: ________ ________ ________ ________ ________ ________

(22) Lit., ‘the mentions’ (of the Divine Name).

(23) This is the technical term to indicate that a Scroll is unfit for public use and must be ‘hidden’, i.e., buried; v. Meg. 26b.

(24) V. Num. XXIX, 19, 31, 33. The reference is to the Feast of Tabernacles.

(25) Taking one letter out of each of these three words.

(26) Which took place on that Feast, v. Ta'an. 2b. For a description of the ceremony v. Suk. 48a and b. The sanctity of this ceremony was disputed by the Sadducees, as stated in the Mishnah a.l.; cf. also Josephus, Ant. XIII, 13, 5 and Halevy, Doroth, 1, 3, 480 seq. This may be the reason why R. Judah b. Bathyra sought a hint for it in the Bible.

(27) The mem of we-niskehem, coming as it does at the end, is closed; but it is taken as the first letter of mayim, i.e., open; hence it follows that if an open letter is written closed the Scroll is fit.

Talmud - Mas. Shabbath 104a

it[‘s sanctity] is enhanced, for R. Hisda said: The mem and the samek which were in the Tables stood [there] by a miracle.[1] But as for a closed letter which is written open, it[‘s sanctity] is diminished, for R. Jeremiah-others state, R. Hiyya b. Abba-said [The double form of] manzapak[2] was declared by the Watchmen [prophets].[3] (But, is that reasonable: surely is is written, These are the commandments,[4] [teaching] that a prophet may henceforth [i.e., after Moses] make no innovations! — Rather they were in existence, but it was not known which were [to be used] medially and which finally, and the Watchmen came and fixed [the mode of their employment]). But still, ‘these are the commandments’ [teaches] that a prophet may henceforth make no innovations?[5] — Rather they had forgotten them, and they [the Watchmen] reinstituted them.[6]

It was stated above, R. Hisda said: The mem and the samek which were in the Tables stood [there] by a miracle. R. Hisda also said: The writing of the Tables could be read from within and without,[7] e.g., nebub [hollow] would be read buban;-behar [in the mountain] [as] rahab; saru [they departed] [as] waras.[8] The Rabbis told R. Joshua b. Levi: Children have come to the Beth Hamidrash and said things the like of which was not said even in the days of Joshua the son of Nun. [Thus:] alef Beth [means] ‘learn wisdom [alef Binah];[9] Gimmel Daleth, show kindness to the Poor [Gemol Dallim]. Why is the foot of the Gimmel stretched toward the Daleth? Because it is fitting for[10] the benevolent to run after [seek out] the poor. And why is the roof[11] of the Daleth stretched out toward the Gimmel? Because he [the poor] must make himself available to him.[12] And why is the face of the Daleth turned away from the Gimmel? Because he must give him [help] in secret,[13] lest he be ashamed of him. He, Waw, that is the Name of the Holy One, blessed be He;[14] Zayyin, Heth, Teth, Yod, Kaf, Lamed: [this sequence teaches,] and if thou doest thus, the Holy One, blessed be He, will sustain [Zan] thee, be gracious [Hen] unto thee, show goodness [metib] to thee, give thee a heritage [Yerushah], and bind a crown [Kether] on thee in the world to come. The open Mem and the closed Mem [denote] open teaching [Ma'amar] and closed [esoteric] teaching.[15] The bent Nun and the straight Nun: the faithful [Ne'eman] if bent [humble], [will ultimately be] the faithful, straightened.[16] Samek, ‘ayyin: support [Semak] the poor [‘aniyyim]. Another interpretation: devise [‘aseh] mnemonics [Simanin] in the Torah and [thus] acquire [memorize] it.[17] The bent pe and the straight pe [intimate] an open mouth [peh], a closed mouth.[18] A bent zadde and a straight zadde: the righteous [zaddik] is bent [in this world]; the righteous is straightened [in the next world].[19] But that is identical with the faithful bent [and] the faithful straightened?-The Writ added humility[20] to his humility;[21] hence [we learn that] the Torah was given under great submissiveness.[22] Kuf [stands for] Kadosh [holy]; Resh [for] Rasha’ [wicked]: why is the face of the Kuf averted from, the Resh? The

Holy One, blessed be He, said: I cannot look at the wicked. And why is the crown of the Kuf[23] turned toward the Resh? The Holy One, blessed be He, saith: If he repents, I will bind a crown on him like Mine. And why is the foot of the Kuf suspended?[24] [To show] that if he repents, he can enter and be brought in [to God's favour] through this [opening]. This supports Resh Lakish, for Resh Lakish said: What is meant by, Surely he scorneth the scorners, But he giveth grace unto the lowly?[25] If one comes to defile himself, he is given an opening;[26] if one comes to cleanse himself, he is helped. SHin [stands for] SHeker [falsehood]; Taw [for] emeth [truth]: why are the letters of Sheker close together, whilst those of ‘emeth are far apart?[27] Falsehood is frequent, truth is rare.[28] And why does falsehood [stand] on one foot, whilst truth has a brick-like foundation?[29] Truth can stand, falsehood cannot stand. AT Bash.’[30] he that rejects Me [othi Ti'ew], shall I desire [eth'aweh] him? Bash: he that delighteth not in Me [Bi lo hashak], shall My Name [SHemi] rest upon him? Gar: he has defiled his body [Gufo] — shall I have mercy [arahem] upon him? Dak he has closed My doors [Dalthothay] shall I not cut off his horns [Karnaw]?[31] Thus far is the exegesis for the wicked, but the interpretation for the righteous is: AT Bash: If thou are ashamed [to sin] [attah Bosh], then Gar Dak [i.e.,] dwell [Gur] in heaven [Dok]. Haz Waf there will be a barrier [Hazizah] between thee and wrath [af] — Za’ Has Tan nor wilt thou tremble [mizda'aze'a] before Satan [Satan]. Yam Kol: the prince of Gehenna said to the Holy One, blessed be He, Sovereign of the Universe! To the sea [Yam] let all [Kol] be consigned.[32] But the Holy One, blessed be He, replieth, AHas, Beta, Gif.[33] I [ani] spare [Has] them, because they have spurned [Ba'atu] sensual pleasures [Gif]. Dakaz: they are contrite [Dakkim]; they are true [Kenim]; they are righteous [Zaddikim]. Halak: thou hast [Lak] no portion [Helek] in them. UMarzan SHeth: the Gehenna cried out before Him, Sovereign of the Universe! My Lord [Mari]! Satiate me [Zenini] with the seed of SHeth.[34] [But] He retorted, al Bam [thou hast nought in them]; Gan Das: Whither shall I lead them? to the Garden [Gan] of myrtles [hadas].[35] Ha! Waf: the Gehenna cried out before the Holy One, blessed be He, Sovereign of the Universe! I am faint [‘ayef] [with hunger]. [To which He relied.] Zaz Hak: these are the seed [Zar'o] of Isaac [Yizhak]. Tar Yesh Kat: Wait [Tar]! I have [Yesh] whole companies [Kitoth] of heathens whom I will give thee.

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(1) The engraving of the Tables went right through from side to side. Consequently the completely closed letters, viz., the mem and the samek, should have fallen out, and the fact that they did not was a miracle. This assumes that only the closed mem was then in use, for it is now assumed that the employment of distinct medial forms was a later innovation. Hence if one writes a closed mem instead of an open one, he enhances its sanctity, since that is the older form. This is historically correct: the present medial forms were probably introduced in order to make it possible to join them to the next letter, and since this was unnecessary in the case of final letters, they were left in their original state. V. J.E., art. Alphabet, Vol. 1,443

(2) I.e., mem, nun, zadde, pe, and kaf(מ נ צ פ כ). V. Meg., Sonc. ed., p. 8, n. 5.

(3) Hence the open letters, dating from a later period, are less sacred.

(4) Lev. XXVII, 34.

(5) Even such definitive fixing, where none existed before, is held to be an innovation. Weiss, Dor, II, p. 8 maintains that this exegesis was directed against Paul's claim to abrogate the Torah.

(6) Hence both forms are of equal sanctity.

(7) I.e., from both sides.

(8) These words do not actually occur in the Ten Commandments written on the Tables, but are given as examples of what words might be legible backwards. For the writing would naturally appear backwards as seen from without and the letters of the words given as examples are fairly easy to read thus. Maharsha assumes that R. Hisda found some meaning in these reversed readings.

(9) Here follows an homiletic interpretation of the names of the Hebrew letters in alphabetical order.

(10) Lit., ‘the way of’.

(11) Lit.,’foot’.

(12) And not trouble his benefactor too much, to find him.

(13) As though with averted face.

(14) These letters form part of the Tetragrammaton.

(15) Such which men are forbidden to seek.
(16) I.e. , upright in the world to come. (Rashi): Jast. (s.v. כפף faithful when bent, faithful when straightened.
(17) Cf. ‘Er. 54b.
(18) The medial (bent) pe is almost closed (פ). — ‘A time to keep silence, and a time to speak’ (Eccl. III, 7).
(19) Or, righteous when bent, righteous when straight: cf. n. 8.
(20) Lit., ‘bending’.
(21) I.e., particularly emphasized the virtue of humility.
(22) Lit., ‘with bent head’
(23) The upward turn of the ‘tittle’ or ‘dagger’ on the upper line of the Kuf.
(24) Not joined to the rest of the letter.
(25) Prov. III, 34.
(26) I.e., he is permitted, but not actively helped.
(27) The three letters of Sheker, שקר occur together; whereas the three of emeth,אמת are far apart, א being the first, מ the middle, and ת the last letters of the alphabet.
(28) I.e., Instances of truth are found only at distant intervals.
(29) I.e., each of the letters of שקר is insecurely poised on one leg (ש was anciently written with a narrow pointed bottom) whereas those of אמת are firmly set, each resting on two ends, the מ too resting on a horizontal bar.
(30) Here follows an interpretation of the letters coupled, the first with the last, the second with the last but one, and so on.
(31) Or the passages may be understood affirmatively: though he has rejected Me, yet shall I desire him; etc.
(32) Rashi: ‘all’-i.e., including Israel; the sea, i.e., Gehenna.
(33) A combination of letters wherein the first, eighth. and fifteenth are grouped together; similarly the second, ninth and sixteenth, and so on.
(34) I.e., with all, both Jews and non-Jews.
(35) I.e., of Eden, probably so called here on account of its fragrance: cf. B.B. 75a.

Talmud - Mas. Shabbath 104b

MISHNAH. IF ONE WRITES TWO LETTERS IN ONE STATE OF UNAWARENESS,[1] HE IS CULPABLE. IF ONE WRITES WITH INK, CHEMICALS, SIKRA,[2] KUMOS,[3] KANKANTUM,[4] OR WITH ANYTHING THAT LEAVES A MARK ON THE ANGLE OF TWO WALLS OR ON THE TWO LEAVES [TABLES] OF A LEDGER, AND THEY [THE TWO LETTERS] ARE READ[5] TOGETHER, HE IS CULPABLE. IF ONE WRITES ON HIS FLESH, HE IS CULPABLE: HE WHO SCRATCHES A MARK ON HIS FLESH, R. ELIEZER DECLARES HIM LIABLE TO A SIN-OFFERING; BUT THE SAGES EXEMPT HIM. IF ONE WRITES WITH A FLUID, WITH FRUIT JUICE, WITH ROAD DUST,[6] OR WITH WRITER'S POWDER,[7] OR Wlth[8] ANYTHING THAT CANNOT ENDURE, HE IS NOT CULPABle. [IF ONE WRITES] WITH THE BACK OF HIS HAND, WITH HIS FOOT, WITH HIS MOUTH, OR WITH HIS ELBOW; IF ONE WRITES ONE LETTER NEAR [OTHER] WRITING,[9] OR IF ONE WRITES UPON WRITING;[10] IF ONE INTENDS WRITING A HETH BUT WRITES TWO ZAYYININ; ONE [LETTER] ON THE GROUND AND ANOTHER ON A BEAM; IF ONE WRITES ON TWO WALLS OF THE HOUSE, OR ON TWO LEAVES OF A LEDGER WHICH ARE NOT TO BE READ[11] TOGETHER, HE IS NOT CULPABLE. IF ONE WRITES ONE LETTER AS AN ABBREVIATION,[12] R. JOSHUA B. BATHYRA HOLDS HIM LIABLE, WHILST THE SAGES EXEMPT HIM.

GEMARA. DYo [ink] is deyutha,- Sam [chemical] is samma [orpiment]; SIKRA: Rabbah b. Bar Hanah said, Its name is sekarta. Kumos is Kumma. Kankantum: Rabbah b. Bar Hanah said in Samuel's name, The blacking used by shoemakers.[13]

OR WITH ANYTHING THAT LEAVES A MARK. What does this add?[14] -It adds what was taught by R. Hanina: If he writes it [a divorce] with the fluid of taria,[15] or gall-nut [juice], it is valid.[16] R. Hiyya taught: If he writes it with dust,[17] with a black pigment, or with coal, it is valid. HE WHO SCRATCHES A MARK ON HIS FLESH, [etc.] It was taught. R. Eliezer said to the Sages: But did not Ben Stada bring forth witchcraft from Egypt by means of scratches[18] [in the form of charms] upon his flesh?[19] He was a fool, answered they. and proof cannot be adduced from fools.[20]

IF ONE WRITES ONE LETTER NEAR [OTHER] WRITING. Who teaches this? — Said Rabbah son of R. Huna, It does not agree with R. ELiezer. For if [it agreed with] R. Eliezer, — surely he maintained, [for] one [thread] added to woven stuff, he is culpable.[21]

IF ONE WRITES UPON WRITING. Who teaches this? Said R. Hisda, It does not agree with R. Judah. For it was taught: If one had to write the [Divine] Name,[22] but [erroneously] intended to write Judah [YHWDH][23] but omitted the daleth,[24] he can trace his reed [writing pen] over it and sanctify it: this is R. Judah's view;[25] but the Sages maintain: The [Divine] Name [thus written] is not of the most preferable.

It was taught: If one writes one letter and completes a book[26] therewith, [or] weaves one thread and completes a garment therewith, he is culpable. Who is the authority? — Said Rabbah son of R. Huna, It is R. Eliezer, who maintained: [For] one [thread] added to woven stuff, he is culpable. R. Ashi said, You may even say that it is the Rabbis: completing is different.

R. Ammi said: If one writes one letter in Tiberias and another In Sepphoris,[27] he is culpable: it is one [act of] writing but that it lacks being brought together. But we learnt: IF ONE WRITES ON TWO WALLS OF A HOUSE, OR ON TWO LEAVES OF A LEDGER WHICH CANNOT BE READ TOGETHER, HE IS NOT CULPABLE? — There the act of being brought together is lacking;[28] but here the act of bringing together is not lacking.[29]

A Tanna taught: If one corrects one letter, he is culpable. Now, seeing that if one writes one letter he is not culpable. if he [merely] corrects one letter he is culpable?[30] -Said R. Shesheth: The circumstances here are e.g., that he removes the roof [i.e.. the upper bar] of a heth and makes two zayyin thereof. Raba said: E.g.. he removes the projection of a daleth and makes a resh thereof.[31]

A Tanna taught: If one intended writing one letter,

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(1) V. supra 67b.

(2) A kind of red paint.

(3) Ink prepared with gum.

(4) Vitriol used as an ingredient of ink.

(5) Lit., — lead'.

(6) Mixed with water to produce a weak ink. — Others: in the dust of the roads, i.e., one traces writing therein with his finger.

(7) The refuse of writing material, or the coloured sand strewn over the writing (Rashi and Jast.). Others: in writer's powder.

(8) Or 'in'.

(9) I.e., near a letter already written, so as to complete the word.

(10) To make it clearer.

(11) Lit., 'lead'.

(12) I.e., a letter followed by a short stroke or point to indicate that it is an abbreviation, e.g. ר for רבי .

(13) In the above the Hebrew of the Mishnah is translated into the more familiar Aramaic used by the amoraim. V. Git., Sonc. ed., p. 71, n. 2.

(14) V. p. 492. n. 5.

(15) A sort of ink. Rashi: either fruit juice or rain water. V. Low. Graph. Requisiten, pp. 158, 161. v. Meg.. Sonc. ed., p. 103.

(16) Hence it must be regarded as durable and therefore involves culpability in connection with the Sabbath.
(17) So cur. edd. Rashi reads: with lead.
(18) Incisions.
(19) Which proves that scratches are important. and so one should be liable therefore. In the uncensored text this passage follows: Was he then the son of Stada: surely he was the son of Pandira?-Said R. Hisda: The husband was Stada, the paramour was Pandira. But the husband was Pappos b. Judah? — His mother was Stada. But his mother was Miriam the hairdresser? — It is as we say in Pumbeditha: This one has been unfaithful to (lit., 'turned away from' — satath da) her husband. — On the identity of Ben Stada v. Sanh., Sonc. ed., p. 456, n. 5.
(20) His action was too unusual to furnish a criterion.
(21) V. infra 105a. The same principle applies here too.
(22) The Tetragrammaton; the reference is to a Scroll of the Law, in which the Tetragrammaton must be written with sacred intention.
(23) In this word the waw (W) is a vowel.
(24) Thus writing YHWH-the Tetragrammaton-after all, but without sacred intention.
(25) Thus he counts retracing as writing.
(26) Rashi: of one of the Hebrew Scriptures.
(27) Two towns of Galilee.
(28) Before the two letters can be read as one the paper must be cut away. so that they can be put together.
(29) E.g.. if the letters are written on the edges of two boards.
(30) Surely not.
(31) In a Scroll of one of the Biblical books. This constitutes a complete labour, because one may not permit a Scroll of Scripture to remain with an error.

Talmud - Mas. Shabbath 105a

but chanced to write two, he is culpable. But we learnt: HE IS NOT CULPABLE?[1] -There is no difficulty: in the one case it requires crownlets; in the other, it does not require crownlets.[2]

IF ONE WRITES ONE LETTER AS AN ABBREVIATION, R. JOSHUA B. BATHYRA HOLDS HIM LIABLE, WHILST THE SAGES EXEMPT HIM. R. Johanan said in R. Jose b. Zimra's name; How do we know [that] abbreviated forms [are recognized] by the Torah? Because it is written, for' AB [the father of] Hamwn [a multitude of][3] nations have I made thee:[4] a father [Ab] of nations have I made thee; a chosen one [Bahur] among nations have I made thee. Hamwn beloved [Habib][5] have I made thee among nations; a king [Melek] have I appointed thee for the nations; distinguished [Wathik] have I made thee among the nations; faithful [Ne'eman] have I made thee to the nations.[6] R. Johanan on his own authority quoted. anoky [I — am the Lord thy God, etc.].[7] I [ana] Myself [Nafshi] have written the Script [Kethibah Yehabith]. The Rabbis interpreted: Sweet speech [amirah Ne'imah], a writing, a gift [Kethibah Yehibah]. Others state, anoky [interpreted] reversed is: Scripture was given [to man] [Yahibah Kethibah]. faithful are its words [Ne'emanin amarehah]. The School of R. Nathan quoted, Because thy way is perverse [Yarat] before me:[8] She [the ass] feared [Yare'ah], saw [Ra'athah], [and] turned aside [natethah]. The School of R. Ishmael taught: Karmel [fresh ears]:[9] rounded [Kar] and full [Male]. R. Aha b. Jacob quoted, and he cursed me with a curse that is grievous [Nimrezeth].[10] This is an abbreviation: he is an adulterer [No'ef], a Moabite, a murderer [Rozeah], an adversary [Zorer], an abomination [To'ebah]. R. Nahman b. Isaac quoted, What shall we speak[7] or how shall we clear ourselves [Niztadak]:[11] We are honest [Nekonim], we are righteous [Zaddikim], we are pure [Tehorim], we are submissive [Dakkim], we are holy [Kedoshim].

MISHNAH. IF ONE WRITES TWO LETTERS IN TWO STATES OF UNAWARENESS, ONE IN THE MORNING AND ONE IN THE EVENING, R. GAMALIEL HOLDS HIM LIABLE, WHILST THE SAGES EXEMPT HIM.

GEMARA. Wherein do they differ?-R. Gamaliel holds: Awareness in respect of half the standard is of no account; whilst the Rabbis hold: Awareness in respect of half the standard is of account.[12]

CHAPTER XIII

MISHNAH. R. ELIEZER SAID: HE WHO WEAVES THREE THREADS AT THE BEGINNING[13] OR ONE [THREAD] ADDED TO[14] WOVEN STUFF, IS CULPABLE; BUT THE SAGES MAINTAIN: WHETHER AT THE BEGINNING OR AT THE END, THE STANDARD [FOR CULPABLE] IS TWO THREADS. HE WHO MAKES TWO MESHES, ATTACHING THEM EITHER TO THE CROSS-PIECES [NIRIM] OR TO THE SLIPS [KEROS], OR IN A WINNOW, SIEVE, OR BASKET, IS CULPABLE. AND HE WHO SEWS TWO STITCHES, AND HE WHO TEARS IN ORDER TO SEW TWO STITCHES [IS LIKEWISE CULPABLE].

GEMARA. When R. Isaac came,[15] he recited: Two. But we learnt THREE?- There is no difficulty: the one refers to thick [threads], the other to thin [ones]. Some explain it in one way, others explain it the reverse. Some explain it in one way: [of] thick threads, three will not break, but two will break;[16] [of] thin threads, even two will not break. Others explain it the reverse: [of] thin [threads], three are noticeable[17] whereas two are not:[18] [of] thick threads, even two are noticeable.

It was taught: He who weaves three threads at the beginning or one thread added to woven stuff, is culpable; but the Sages maintain: Whether at the beginning or at the end, the standard is two threads, and at the selvedge, two threads over the breadth of three meshes. To what is this like? To weaving a small belt two threads over the breadth of three meshes [in size].[19] [Now,] 'He who weaves three threads at the beginning or one thread added to woven stuff, is culpable': this anonymous [teaching] is in' agreement with R. Eliezer. Another [Baraitha] taught: He who weaves two threads added to[20] the border of the web[21] or to the hem,[22] is culpable. R. Eliezer said: Even one. And at the selvedge, two threads over the breadth of three meshes. To what is this like? To weaving a small belt two or three threads over the breadth of three meshes [in size]. 'He who weaves two threads added to the border of the web or to the hem, is culpable': this anonymous [teaching is] in agreement with the Rabbis. HE WHO MAKES TWO MESHES, ATTACHING THEM EITHER To THE CROSS-PIECES [NIRIM]. What does, 'To THE NIRIM mean? — Said Abaye: Two in a mesh and one in the cross-piece. OR TO THE SLIPS [KEROS]. What is KEROS?-Said Rab:The slips.[23]

AND HE WHO SEWS TWO STITCHES. But we have [already] learnt it in [the list of] principal labours: 'and he who sews two stitches?[24] - Because he wishes to teach the second clause: AND HE WHO TEARS IN ORDER TO SEW TWO STITCHES, he also teaches, AND HE WHO SEWS, [etc.]. But we learnt about tearing too in [the list of] principal labours? Rather because he wishes to teach in a subsequent clause, 'He who tears in his anger or for his dead',[25] he therefore teaches [here], HE WHO SEWS TWO STITCHES. AND HE WHO TEARS IN ORDER TO SEW TWO STITCHES. How is that possible?

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(1) If he intends writing a heth and writes two zayyinin.

(2) The references to a Scroll of the Law, where certain letters, including the ז , are embellished with 'tittles', 'daggers'. If one writes זז instead of a ח (in a Scroll of the law ח is written as a double זז, thus: זז) but without the daggers, he is not culpable; with the daggers, he is culpable.

(3) Here too the waw is used vocally, but is interpreted consonantally.

(4) Gen. XVII, 5.

(5) Heh and Het interchange.

(6) Thus AB Hamwn is interpreted as an abbreviation.

(7) Ex. XX, 1.

(8) Num. XXII, 32.

(9) Lev. XXIII, 14.

(10) 1 Kings II 8.
(11) Gen. XLIV, 16.
(12) V. supra 71b; 102a.
(13) Of a garment or a piece of cloth. V. Halevy, Doroth, l, 3, pp. 261 seq.
(14) Lit., ‘upon’.
(15) From Palestine to Babylon; cf. p. 12, n. 9.
(16) Under their own weight. Or, the thickness of the thread prevents them from being closely woven; hence if there are only two they may split.
(17) Lit., ‘known’.
(18) One cannot see that anything substantial has been made; therefore he is not culpable.
(19) Therefore weaving this amount on the selvedge is a culpable offence.
(20) Lit,, upon’.
(21) Or, thickly woven material.
(22) Rashi: made at the beginning of the cloth.
(23) Jast.: the thrums or slips to which the threads of the warp are attached.
(24) Supra 73a.
(25) Infra b.

Talmud - Mas. Shabbath 105b

— If he made it [the garment] like a pocket.[1]

MISHNAH. HE WHO TEARS IN HIS ANGER OR [IN MOURNING] FOR HIS DEAD,[2] AND All WHO EFFECT DAMAGE ARE EXEMPT; BUT HE WHO DAMAGES IN ORDER TO REPAIR,[3] HIS STANDARD [FOR CULPABILITY] IS AS FOR REPAIRING. THE STANDARD OF BLEACHING [WOOL], HATCHELLING, DYEING OR SPINNING IT, IS A FULL DOUBLE SIT.[4] AND HE WHO WEAVES TWO THREADS TOGETHER, HIS STANDARD IS A FULL SIT.

GEMARA. But the following contradicts this: He who rends [his garment] in his anger, in his mourning or for his dead, is guilty, and though he desecrates the Sabbath, he has fulfilled his duty of rending?[5] — There is no difficulty: the one refers to his dead,[6] the other to the dead in general.[7] But he [our Tanna] states, HIS DEAD? — After all, it does refer to his dead,[8] but those for whom there is no duty of mourning?[9] Now, if he [the dead] was a Sage, he is indeed bound [to rend his garments]? For it was taught: If a Sage dies, all are his kinsmen. All are his kinsmen! can you think so? Rather say, all are as his kinsmen, [i.e.,] all must rend [their garments] for him; all must bare [their shoulders] for him,[10] and all partake of the [mourner's] meal for him in a public square![11] -This holds good only if he was not a Sage. But [even] if he was [merely] a worthy man, one is indeed bound [to rend his garments]? For it was taught: Why do a man's sons and daughters die in childhood? So that he may weep and mourn for a worthy man? ‘So that he may weep’ — is a pledge taken![12] But because he did not weep and mourn for a worthy man, for whoever weeps for a worthy man is forgiven all his iniquities on account of the honour which he showed him! — This holds good only if he was not a worthy man. But if he stood [there] at the parting of the soul[13] he is indeed bound? For it was taught, R. Simeon b. Eleazar said: He who stands by the dead at the parting of the soul is bound to rend [his garments]: [for] what does this resemble? A scroll of the Law that is burnt![14] -This holds good only if he was not standing there at the moment of death. Now, that is well in respect to his dead. But [the two statements concerning tearing] in one's anger are contradictory? — These too cause no difficulty: one agrees with R. Judah, the other with R. Simeon. One agrees with R. Judah, who maintained: One is liable in respect of a labour which is not required per se, the other with R. Simeon, who maintained: One is exempt in respect of a labour which is not required per se.[15] But you know R. Judah [to rule thus] in the case of one who repairs? do you know him [to rule thus] in the case of one who causes damage?-Said R. Abin: This man too effects an improvement, because he appeases his wrath. But is it permitted [to effect this] in such a manner? Surely it was taught, R. Simeon b. Eleazar said in the name of Halfa b. Agra in R. Johanan b. Nuri's name: He who rends his garments in his anger, he who breaks his vessels in his anger, and he who scatters his money in his anger, regard him as an idolater, because such are the wiles of the Tempter: To-day he says to him, 'Do this'; to-morrow he tells him, 'Do that,' until he bids him, 'Go and serve idols,' and he goes and serves [them].[16] R. Abin observed: What verse [intimates this]? There shall be no strange god in thee; neither shalt thou worship any strange god;[17] who is the strange god that resides in man himself? Say, that is the Tempter![18] -This holds good only where he does it in order to instil fear in his household, even as Rab Judah pulled the thrums [of his garment;][19] R. Aha b. Jacob broke broken vessels; R. Shesheth threw brine on his maidservant's head; R. Abba broke a lid.

R. Simeon b. Pazzi said in the name of R. Joshua b. Levi in Bar Kappara's name: If one sheds tears for a worthy man, the Holy One, blessed be He, counts them and lays them up in His treasure house, for it is said, Thou countest my grievings: Put thou my tear into thy bottle; Are they not in thy book?[20] Rab Judah said in Rab's name: He who is slothful to lament a Sage deserves to be buried alive, because it is said, And they buried him in the border of his inheritance in Timnath-serah, which is in the hill country of Ephraim; on the north of the mountain of Gaash:[21] this teaches that the mountain raged against them to slay them.[22] R. Hiyya b. Abba said in R. Johanan's name: He who is slothful to lament a Sage will not prolong his days, [this being] measure for measure, as it is said, In measure, when thou sendest her away, thou dost contend with her.[23] R. Hiyya b. Abba objected to R. Johanan: And Israel served the Lord all the days of Joshua and all the days of the elders who prolonged their days after Joshua?[24] — O Babylonian! answered he, they prolonged 'their days',[25] but not years. If so, that your days may be multiplied, and the days of your children.'[26] [does that mean] days but not years! — A blessing is different.[27]

R. Hiyya b. Abba also said in R. Johanan's name]: When one of brothers dies,

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(1) Rashi: bulging and creasing, so that part has to be torn open in order for it to be resewn.

(2) At the death of one's parents, brothers, sisters, children, wife or husband the garments are rent.

(3) As in the example mentioned immediately preceding the Mishnah.

(4) Rashi: the distance between the tips of the index finger and middle finger when held wide apart, v. Gemara.

(5) Sc. for the dead.

(6) Sc. those enumerated in p. 508. n. 9. Since rending is a duty there, it is an act of positive value, and he is liable.

(7) Though he rends his garment in grief, it is not actually necessary.

(8) I.e., one whom through certain circumstances it is his duty to bury.

(9) I.e., other than those enumerated in p. 508, n. 9.

(10) This was a mourning rite in former times, but is no longer practised.

(11) The first meal after the funeral is called the meal of comfort (se'udath habra'ah), and is supplied by friends of the mourner. In the case of a Sage all must partake of such a meal.

(12) For the future surely not!

(13) I.e., at the moment of death.

(14) If one sees this he must rend his garments, and even the most ignorant and the most worthless Jew has some knowledge thereof and has fulfilled some of its precepts.

(15) V. supra 30a.

(16) Since then this is forbidden, he cannot be held to effect an improvement.

(17) Ps. LXXXI, 10.

(18) This shows that no real separate identity was ascribed to the source of evil, of which the Tempter is merely a personification; cf. Joseph, M., 'Judaism as Creed and Life', pp. 65-68.

(19) To show his anger.

(20) Ps. LVI, 9.

(21) Josh. XXIV, 30. 'Gaash' is derived from a root meaning to tremble or rage.

(22) Because they did not fittingly lament him.

(23) Isa. XXVII, 8.
(24) Josh. ibid. 31. Thus they lived long in spite of their failure to mourn for Joshua.
(25) (Maharsha: Their days seemed prolonged on account of the difficult times they experienced, v. however Rashi.]
(26) Deut. XI, 21.
(27) [The length of days in the case of a blessing can be only another expression for length of years, cf. n. 6.]

Talmud - Mas. Shabbath 106a

all the other brothers should fear. When one of a company dies, the whole company should fear. Some say that this means where the eldest [or chief] dies; others say, where the youngest[1] dies.

AND ALL WHO EFFECT DAMAGE ARE EXEMPT. R. Abbahu recited before R. Johanan: All who cause damage are exempt, except he who wounds and he who sets fire [to a stack of corn]. Said he to him, Go and recite it outside:[2] wounding and setting fire is not a Mishnah;[3] and should you say that it is a Mishnah, wounding refers to one who needs [the blood] for his dog, and setting fire, to one who needs the ashes.[4] But we learnt, ALL WHO EFFECT DAMAGE ARE EXEMPT?[5] -Our Mishnah is [in accordance with] R. Judah, while the Baraitha[6] [agrees with] R. Simeon. What is R. Simeon's reason? — Since a verse is required to permit circumcision [on the Sabbath],[7] it follows that for wounding elsewhere one is liable. And since the Divine Law forbade burning in respect of a priest's [adulterous] daughter,[8] it follows that for kindling a fire in general one is liable. And R. Judah?[9] -There he effects an improvement, even as R. Ashi [said]. For R. Ashi said: What is the difference whether one repairs [the foreskin by] circumcision or one repairs a utensil: what is the difference whether one boils [melts] the lead bar[10] or one boils dyes?

THE STANDARD OF BLEACHING, etc. R. Joseph indicated the double [measure]; R. Hiyya b. Ammi showed the single [measure].[11]

MISHNAH. R. JUDAH SAID: HE WHO HUNTS A BIRD [AND DRIVES IT] INTO A TURRET, OR A DEER INTO A HOUSE, IS GUILTY; BUT THE SAGES MAINTAIN: [HE WHO HUNTS] A BIRD INTO A TURRET,

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(1) Or, least important.
(2) It is not an authenticated teaching to be admitted to the school.
(3) I.e., no Mishnah states that these are exceptions.
(4) For medical purposes. Then the wounding and setting fire is beneficial, not a damage-effecting labour.
(5) Which refutes n. Abbahu.
(6) Cited by R. Abbahu.
(7) V. infra 132a.
(8) Who may not be thus executed on the Sabbath, Sanh. 35b.
(9) How does he refute these arguments?
(10) Death by fire was carried out by pouring molten lead down the condemned person's throat, Sanh. 52a.
(11) [Rashi: The distance between the tips of the index and middle fingers held widely apart, which is the measure of a single sit, is half the distance between the tips of the outstretched thumb and index finger. Thus, whereas R. Joseph using the smaller unit indicated by gesture a double measure to explain the meaning of DOUBLE SIT’, R. Hiyya b. Ammi, using the larger unit, indicated a single measure. For other interpretations v. Jast. s.v. סיט.]

Talmud - Mas. Shabbath 106b

AND A DEER INTO A GARDEN,[1] COURTYARD OR VIVARIUM, IS LIABLE. R. SIMEON B. GAMALIEL SAID: NOT ALL VIVARIA ARE ALIKE. THIS IS THE GENERAL PRINCIPLE: IF IT [STILL] NEEDS TO BE CAUGHT, HE IS EXEMPT IF IT DOES NOT STILL NEED TO BE CAUGHT,[2] HE IS LIABLE.

GEMARA. We learnt elsewhere: Fish may not be caught out of aquaria on a Festival, nor may food be placed before them; but beasts and birds may be caught out of vivaria, and food may be placed before them. But the following contradicts it: As for vivaria of beasts, birds and fish, one may not catch [the animals, etc.] out of them on a Festival, and we may not place food before them: [thus the rulings on] beasts are contradictory, and [the rulings on] birds are contradictory. As for [the rulings on] beasts, it is well: there is no difficulty, one agreeing with R. Judah,[3] the other with the Rabbis.[4] But [the rulings on] birds are contradictory? And should you say, [The rulings on] birds too are not contradictory: one refers to a covered vivarium,[5] whereas the other refers to an uncovered vivarium — [It might be asked]: But a house is covered, yet both R. Judah and the Rabbis hold, Only [if one hunts a bird] into a turret [is he culpable], but not [if he hunts it] into a house?-Said Rabbah b. R. Huna: Here we treat of a free bird,[6] [the reason being] because it does not submit to domestication.[7] For the School of R. Ishmael taught: Why is it called a free bird? Because it dwells in a house [free] just as in the field. Now that you have arrived at this [answer], [the rulings on] beasts too are not contradictory: one refers to a large vivarium, the other to a small vivarium. What is a large vivarium and what is a small vivarium? Said R. Ashi: Where one can run after and catch it with a single lunge, that is a small vivarium; any other is a large vivarium. Alternatively, if the shadows of the walls fall upon each other, it is a small vivarium; otherwise it is a large vivarium. Alternatively, if there are not many recesses,[8] it is a small vivarium; otherwise it is a large vivarium.[9]

R. SIMEON B. GAMALIEL SAID, etc. R. Joseph said in Rab Judah's name in Samuel's name: The halachah is as R. Simeon b. Gamaliel. Said Abaye to him, [You say,] The halachah [etc.]: hence it follows that they [the Rabbis] disagree?[10] And what difference does that make? he replied.[11] Shall one learn a tradition as it were [merely] a song? he retorted.[12]

Our Rabbis taught: If one catches a deer that is blind or asleep, he is culpable; a deer that is lame, aged or sick, he is exempt. Abaye asked R. Joseph: What is the difference between them?-The former try to escape;[13] the latter do not try to escape. But it was taught: [If one catches] a sick [deer] he is culpable?-Said R. Shesheth, There is no difficulty: one refers to [an animal] sick with fever;[14] the other to [an animal] sick through exhaustion.

Our Rabbis taught: He who catches locusts, gazin,[15] hornets, or gnats on the Sabbath is culpable: that is the view of R. Meir. But the Sages rule: If that species is hunted, one is liable; if that species is not hunted, one is not liable.[16] Another [Baraitha] taught: He who catches locusts at the time of dew is not liable;[17] at the time of dry heat [midday], is liable. Eleazar b. Mahabai said: If they advance in thick swarms, he is not culpable.[18] The scholars asked: Does Eleazar b. Mahabai refer to the first clause or to the last?- Come and hear: He who catches locusts at the time of dew is not liable; at the time of dry heat, is liable. Eleazar b. Mahabai said: Even at the time of dry heat, if they advance in thick swarms he is not culpable.

MISHNAH. IF A DEER ENTERS A HOUSE AND ONE PERSON SHUTS [THE DOOR] BEFORE IT, HE IS CULPABLE; IF TWO SHUT IT, THEY ARE EXEMPT. IF ONE COULD NOT SHUT IT, AND BOTH SHUT IT, THEY ARE CULPABLE. R. SIMEON DECLARES [THEM] EXEMPT.[19]

GEMARA. R. Jeremiah b. Abba said in Samuel's name: If one catches a lion on the Sabbath he is not culpable unless he entices it into its cage.

MISHNAH. IF ONE SITS DOWN IN THE DOORWAY BUT DOES NOT FILL IT, AND A SECOND SITS DOWN AND FILLS IT,[20] THE SECOND IS CULPABLE. IF THE FIRST SITS DOWN IN THE DOORWAY AND FIlls IT, AND A SECOND COMES AND SITS DOWN AT HIS SIDE, EVEN IF THE FIRST [THEN] RISES AND DEPARTS, THE FIRST IS CULPABLE

WHILE THE SECOND IS EXEMPT. WHAT DOES THIS RESEMBLE? ONE WHO SHUTS HIS HOUSE TO GUARD IT,[21] AND A DEER IS [THEREBY] FOUND TO BE GUARDED THEREIN.[22]

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(1) Bah reads: into a house, garden, etc. V. Halevy, Doroth, I, 3, pp. 233-234 and n. 38 a.l.

(2) The animal having been driven into a place where it is easy to seize it.

(3) In our Mishnah, Since he holds that only when an animal is in a house is it regarded as trapped, it follows that it is not trapped in a vivarium, and therefore if one catches a beast out of a vivarium he is guilty, in accordance with the general principle of the Mishnah.

(4) That it is trapped even in a vivarium.

(5) In which a bird is regarded as already trapped, and so one may catch a bird out of it on a Festival.

(6) Swallow(?). It lives in]a house just as in the open and it is difficult to catch it there. But other birds are trapped when driven into a house.

(7) Lit., ‘authority’.

(8) Into which the animals may run when chased.

(9) On the whole passage v. Bez. 23b.

(10) But it has just been stated that they too differentiate between large and small vivaria.

(11) If the Rabbis do not disagree, the halachah is certainly so.

(12) I.e., why use words superfluously?

(13) Their senses are on the alert and they feel the attempt to take them. Hence they need hunting and catching.

(14) That animal tries to escape.

(15) Rashi: hagazin; a species of wild bees, or locusts, Jast.

(16) Nobody hunts gnats or hornets, as they are of no use.

(17) Rashi: they are blind then and need no catching.

(18) They are easily taken and need no catching.

(19) In accordance with his view supra 92b.

(20) Thereby effectively trapping an animal that has entered the house.

(21) But not to trap an animal.

(22) I.e., a deer which had previously been caught; so here too the first, by filling up the doorway, traps the deer, and the second only guards all animal already caught.

GEMARA. R. Abba said in R. Hiyya b. Ashi's name in Rab's name: If a bird creeps under the skirts [of one's garments], he may sit and guard it[1] until evening. R. Nahman b. Isaac objected: IF THE FIRST SITS DOWN IN THE DOORWAY AND FILLS IT, AND A SECOND COMES AND SITS DOWN AT HIS SIDE, EVEN IF THE FIRST [THEN] RISES AND DEPARTS, THE FIRST IS CULPABLE WHILE THE SECOND IS EXEMPT. Surely that means, he IS EXEMPT, yet it is forbidden?- No: he is exempt, bind it is permitted. Reason too supports this: since the second clause teaches, WHAT DOES THIS RESEMBLE? ONE WHO SHUTS HIS HOUSE TO GUARD IT, AND A DEER IS [THEREBY] FOUND TO BE GUARDED THEREIN, it follows that it means, he is EXEMPT, and it is permitted.[2] Others state, R. Nahman b. Isaac said: We too learnt thus: EVEN IF THE FIRST [THEN] RISES AND DEPARTS, THE FIRST IS CULPABLE, WHILE THE SECOND IS EXEMPT: surely that means, he IS EXEMPT, and it is permitted? No: he is EXEMPT, yet it is forbidden. But since the second clause states, WHAT DOES THIS RESEMBLE? ONE WHO SHUTS HIS HOUSE TO GUARD IT, AND A DEER IS [THEREBY] FOUND TO BE GUARDED THEREIN, it follows that he is EXEMPT, and it is permitted. This proves it.

Samuel said: Everything [taught as] involving no liability on the Sabbath involves [indeed] no liability, yet is forbidden, save these three, which involve no liability and are permitted. This [sc. the capture of a deer] is one. And how do you know that he is exempt and it is permitted? Because the second clause teaches: WHAT DOES THIS RESEMBLE? ONE WHO SHUTS HIS HOUSE TO GUARD IT, AND A DEER IS THEREBY FOUND TO BE GUARDED THEREIN. A second [is this]: If one manipulates an abscess on the Sabbath, if in order to make an opening for it, he is liable;[3] if in order to draw the matter out of it, he is exempt. And how do you know that he is exempt and it is permitted? Because we learnt: A small needle[4] [may be moved on the Sabbath] for the purpose of extracting a thorn.[5] And the third: If one catches a snake on the Sabbath: if he is engaged therewith [sc. in catching it] so that it should not bite him,[6] he is exempt; if for a remedy,[7] he is liable. And how do you know that he is exempt and it is permitted? — Because we learnt: A dish may be inverted over a lamp, that the beams should not catch [fire], or over an infant's excrements, or over a scorpion, that it should not bite.[8]

CHAPTER XIV

MISHNAH. AS FOR THE EIGHT REPTILES [SHERAZIM] WHICH ARE MENTIONED IN THE TORAH,[9] HE WHO CATCHES OR WOUNDS THEM [ON THE SABBATH] IS CULPABLE;[10] BUT [AS FOR] OTHER ABOMINATIONS AND CREEPING THINGS,[11] HE WHO WOUNDS THEM IS EXEMPT; HE WHO CATCHES THEM, BECAUSE HE NEEDS THEM, HE IS LIABle; IF HE DOES NOT NEED THEM, HE IS EXEMPT, AS FOR A BEAST OR BIRD IN ONE'S PRIVATE DOMAIN, HE WHO CATCHES IT IS EXEMPT; HE WHO WOUNDS IT IS CULPABLE.

GEMARA. Since he [the Tanna] teaches, HE WHO WOUNDS THEM IS CULPABLE, it follows that they have skin.[12] Which Tanna [maintains this]? — Said Samuel, It is R. Johanan b. Nuri. For we learnt, R. Johanan b. Nuri said: The eight reptiles have skins.[13] Rabbah son of R. Huna said in Rab's name, You may even say [that this agrees with] the Rabbis: the Rabbis disagree with R. Johanan b. Nuri only in respect of defilement, because it is written, And these are they which are unclean unto you,[14] extending [the law to teach] that their skins are as their flesh; but in respect to the Sabbath even the Rabbis agree. But do they not differ in respect of the Sabbath? Surely it was taught: He who catches one of the eight reptiles mentioned in the Torah, [or] he who wounds them, is culpable: this is R. Johanan b. Nuri's view. But the Sages maintain: Only those which the Sages enumerated[15] have skin.

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(1) To prevent it from flying away.
(2) For obviously one may lock his house in order to guard it.
(3) Rashi: either on account of building an opening, or because of mending, for there is no difference between mending a utensil and mending (i.e., healing) a wound.
(4) Lit., ‘hand.needle’.
(5) Because it pains him, and matter which causes pain is similar.
(6) ‘Mith'assek’ may be understood in the sense of performing indirect labour, i.e., he catches it only incidentally, as he does not need the snake but merely desires to prevent it from dong harm.
(7) The snake's poison can be used medicinally.
(8) Though it is thereby caught.
(9) As unclean, i.e., non-edible; Lev. XI, 29f.
(10) These have a skin distinct from the flesh (v. infra), and a wound does not completely heal but leaves a scar; this is regarded as a minor degree of killing, i.e., part of the animal's life is taken away.
(11) E.g., worms, insects, snakes, etc.
(12) V. n. 2.
(13) V. Hul. 122a. The Rabbis rule that the skins of four of these defile by the same standard as their flesh, viz., the size of a lentil. Thus they hold that their skin is not distinct from their flesh, and R. Johanan b. Nuri disputes it.
(14) Ibid.
(15) As those whose skins are the same as their flesh.

Talmud - Mas. Shabbath 107b

[Whereon it was asked]: On the contrary, Those which the Sages enumerated have no skin?[1] And ‘Abaye said, This is what he [the Tanna] states: Only those not enumerated by the Sages have a skin distinct from the flesh.[2] Said Raba to him: But he states, which the Sages enumerated? Rather said Raba, This is the meaning: the skin of those [reptiles] only which the Sages enumerated defiles like the flesh.[3] Hence it follows that R. Johanan b. Nuri holds that even those which the Sages did not enumerate defile [in this way]? But it is stated, R. Johanan b. Nuri said: The eight reptiles have skins and do not defile?-Rather Said R. Adda b. Mattenah, Reconcile it thus: But the Sages maintain: In respect of defilement those which the Sages enumerated have skin.

Still, however, do they not differ in respect of the Sabbath? But it was taught: He who catches one of the eight reptiles mentioned in the Torah, [or] he who wounds them, is culpable, [viz.,] in the case of the reptiles which have skins.[4] And what is a wound that does not heal?[5] If the blood becomes clotted, even if it does not issue. R. Johanan b. Nuri said: The eight reptiles have skins![6] — Said R. Ashi, Who is the first Tanna? R. Judah, who maintains that touch is the criterion.[7] For we learnt, R. Judah said: The halta'ah[8] is like the weasel. But the Rabbis who disagree with R. Johanan b. Nuri in respect of defilement agree with him in respect of the Sabbath.[9] If so, instead of ‘this is the view of R. Johanan b. Nuri,’ ‘this is the view of R. Johanan b. Nuri and his opponents’ is required?[10] — Learn: ‘this is the view of R. Johanan b. Nuri and his opponents.’[11]

Levi asked Rabbi: How do we know that a wound[12] is such as is permanent?[13] — Because it is written, Can the Ethiopian change his skin, or the leopard his spots [habarbarothaw]?[14] What does ‘habarbarothaw’ mean: shall we say, that it is covered with spots? Then instead of ‘and a leopard habarbarothaw,’it should read, ‘a leopard gawwanaw [its colours]’? Rather it is parallel to Ethiopian, — just as the skin of an Ethiopian cannot turn, so is a [real] wound one that does not turn [i.e., heal].[15]

BUT OTHER ABOMINATIONS, etc. But if one kills them, he is culpable: which Tanna [holds thus]? Said R. Jeremiah, It is R. Eliezer. For it was taught, R. Eliezer said: He who kills vermin on the Sabbath is as though he killed a camel on the Sabbath. R. Joseph demurred to this: The Rabbis disagree with R. Eliezer only in respect to vermin, which does not multiply and increase, but as for other abominations and creeping things, which multiply and increase, they do not differ [therein]. And both learn it from none but the rams.[16] R. Eliezer holds, It is as the rams: just as there was the taking of life in the case of the rams, so whatever constitutes the taking of life [is a culpable offence]. While the Rabbis argue, It is as the rams: just as rams multiply and increase, so are all which multiply and increase [of account].[17] Said Abaye to him, Do not vermin multiply and increase? But a Master said: 'The Holy One, blessed be He, sits and sustains [all creatures], from the horns of wild oxen to the eggs of vermin'?[18] — It is a species called 'eggs of vermin'. But it was taught: Tippuyyi[19] and the eggs of vermin? — The species is called 'eggs of vermin'. But there is the flea, which multiplies and increases, yet it was taught, If one catches a flea on the Sabbath: R. Eliezer declares him liable, while R. Joshua exempts [him]?-Said R. Ashi: You oppose catching to killing! R. Eliezer and R. Joshua disagree only in that one Master holds: If the species is not hunted, one is liable; whilst the other Master holds: He is exempt. But in respect to killing even R. Joshua agrees.

HE WHO CATCHES THEM BECAUSE HE NEEDS THEM, HE IS LIABLE, etc. Which Tanna [rules thus]?-Said Rab Judah in Rab's name: It is R. Simeon, who maintains, One is not culpable on account of a labour unrequired per se.[20] Others learn it in reference to this: If one manipulates an abscess on the Sabbath, — if in order to make an opening for it, he is liable; if in order to draw the matter out of it, he is exempt. Which Tanna [rules thus]? Said Rab Judah in Rab's name: It is R. Simeon, who maintains: One is not culpable on account of a labour unrequired per se. Others again learn it in reference to this: If one catches a snake on the Sabbath: if he is engaged therewith [in catching it] so that it should not bite him, he is exempt; if for a remedy, he is liable.[21] Which Tanna [rules thus]? Said Rab Judah in Rab's name, It is R. Simeon, who maintains: One is not culpable on account of a labour unrequired per se. Samuel said: If one removes a fish from the sea,[22] as soon as the size of a sela' thereof becomes dry, he is liable.[23] R. Jose b. Abin observed: provided it is between the fins.[24] R. Ashi said: Do not think literally dry, but even if it forms slimy threads.[25]

Mar Bar Hamduri said in Samuel's name: If one inserts his hand in an animal's bowels and detaches an embryo that is inside her, he is culpable. What is the reason? Said Raba: Bar Hamduri explained it to me: Did not R. Shesheth say: If one plucks cuscuta from shrubs and thorns, he is culpable on account of uprooting something from the place of its growth;[26] so here too he is culpable on account of uprooting something [sc. the embryo] from the place of its growth. Abaye said: He who plucks

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(1) Since their skin is the same as their flesh.

(2) But those enumerated by them have no skin distinct from the flesh, and consequently wounding them involves no liability. On this interpretation the Rabbis differ even in respect of the Sabbath, which contradicts Rab. But on the following explanations there is no difficulty.

(3) V. p. 518, n. 5.

(4) I.e., the four not enumerated by the Sages. This shows that they differ even in respect of the Sabbath.

(5) I.e., which leaves a permanent discolouring only such entails liability.

(6) All involve culpability on the Sabbath.

(7) Lit., 'who goes after touch'.

(8) A species of lizard.

(9) R. Judah holds that the question whether the skin of reptiles is like their flesh or not in the matter of defilement is not settled by deduction from the verse, 'and these are they which are unclean, etc.' (quoted supra a), but is dependent on touch. I.e., if the skin, is thick and perceptibly distinct from the flesh, it is not the same as the flesh; otherwise it is. By this criterion the halta'ah is like the weasel, since both have thick skins; though if the matter were decided by Scriptural exegesis these two would be dissimilar, as is shown in Hul. 142a. Hence he holds that in respect of the Sabbath, too, three of these eight have no skin, i.e., if one wounds them he is not guilty, for the skin is thin and not distinct from the flesh. But the Rabbis in Hul. count the halta'ah as one of the reptiles whose skin is the same as their flesh, in spite of its thickness. This shows that they settle the matter solely by reference to the verse, and therefore their view, which disagrees with R. Johanan b. Nuri's, applies only to defilement, since the verse is written in that connection, but not to the Sabbath.

(10) Since the Rabbis agree with him.

(11) This is probably not an emendation, but merely implies that it is to be understood thus.

(12) For it to involve culpability on the Sabbath.

(13) Lit., ‘return’.

(14) Jer. XIII, 23.

(15) On this interpretation namer (E.V. leopard) is derived from mur, to change, and the verse is translated: Can the Ethiopian change his skin, or turn (i.e., heal) his wounds? habarbarothaw (E.V. spots) being derived from haburah, a wound.

(16) Which were killed for the sake of their skins, which were dyed red and used in the Tabernacle. Thus killing was a labour of importance in the Tabernacle, and hence ranks as a principal labour; v. supra 49b.

(17) In that killing them renders one liable.

(18) ‘Eggs of vermin is assumed to mean its progeny.

(19) Name of certain small insects.

(20) V. supra 105b.

(21) V. end of last chapter for notes.

(22) Rashi and Tosaf. both explain that this refers to a fish that was already caught before the Sabbath, In that case ‘from the sea’ is un- intelligible. Maim. in Hilchoth Shabbath beginning of ch. XI reads ‘from a bowl’, which is preferable. V. Marginal Gloss, [Rashi, however, did not seem to read ‘from the sea’].

(23) For taking life, as it cannot live after that. — There is no culpability for catching, since it was caught before the Sabbath.

(24) But a dryness in any other part does not mean that the fish can no longer live.

(25) I.e., it becomes partially dry only, so that the moisture adheres to one's finger in slimy threads.

(26) But not for detaching from the soil, as cuscuta was not held to be attached to the soil; v. ‘Er. 28b,

Talmud - Mas. Shabbath 108a

fungus from the handle of a pitcher is liable on account of uprooting something from the place of its growth. R. Oshaia objected: If one detaches [aught] from a perforated pot, he is culpable; if it is unperforated, he is exempt?-There, that is not its [normal place for] growing; but here this is its [normal place for] growing.[1] AN ANIMAL OR A BIRD, etc. R. Huna said: Tefillin may be written upon the skin of a clean bird. R. Joseph demurred: What does he inform us? That it has a skin![2] [But] we have [already] learnt it: HE WHO WOUNDS IT IS CULPABle?[3] Said Abaye to him, He informs us much. For if we [deduced] from our Mishnah, I might object, Since it is perforated all over,[4] it may not [be thus used]; hence he informs us as they say in the West [Palestine]: Any hole over which the ink can pass is not a hole.

R. Zera objected: [And he shall rend it] by the wings thereof:[5] this is to teach that the skin is fit.[6] Now if you think that it is [a separate] skin, how can Scripture include it?[7] -Said Abaye to him, it is [indeed a separate] skin, but the Divine Law includes it.[8] Others state, R. Zera said: We too learnt thus: ‘By the wings thereof’;- this is to include the skin. Now, if you say that it is [a separate] skin, it is well: hence a verse is required for including it. But if you say that it is not skin, why is a verse required for including it? Said Abaye to him, in truth I may tell you that it is not [a separate] skin, yet it is necessary. I might argue, Since it is covered with splits [holes], it is repulsive. [Hence] we are informed [otherwise].

Mar son of Rabina asked R. Nahman b. Isaac: May tefillin be written upon the skin of a clean fish? If Elijah will come and declare, he replied. What does ‘if Elijah will come and declare’ mean. Shall we say, whether it has a [separate] skin or not, — but we see that it has a skin? Moreover we learnt: The bones of a fish and its skin afford protection in the tent wherein is a corpse![9] Rather [he meant]: If Elijah comes and tells [us] whether its foul smell[10] evaporates or not.

Samuel and Karna were sitting by the bank of the Nehar Malka,[11] and saw the water rising and becoming discoloured. Said Samuel to Karna, A great man is arriving from the West who suffers from stomach trouble, and the water is rising to give him a welcome, Go and smell his bottle![12] So he went and met Rab. He asked him, How do we know that tefillin maybe written only on the skin of a clean [edible] animal? Because it is written, that the Law of the Lord may be in thy mouth,[13] [meaning] of that which is permitted in thy mouth, he replied. How do we know that blood is red? he asked.[14] — Because it is said, and the Moabites saw the water over against them as red as blood.[15] How do we know that circumcision [must be performed] in that [particular] place? — 'His 'orlah'[16] is stated here, and 'its 'orlah'[17] is stated elsewhere: just as there something that produces fruit [is meant], so here too something [the limb] that produces fruit [is meant]. Perhaps it means the heart, for it is written, Circumcise therefore the foreskin of your heart?[18] Perhaps it means the ear, for it is written, behold, their ear is uncircumcised?[19] — We learn the complete [word] 'orlatho from the complete [word] 'orlatho, but we do not learn the complete 'orlatho from 'orlath, which is incomplete.[20] 'What is your name?' he asked. Karna. 'May it be [His] will that a horn [karna] shall sprout out from between his eyes!' he retorted.[21] Subsequently Samuel took him into his house, gave him barley bread and a fish pie to eat, and strong liquor to drink,[22] but did not show him the privy, that he might be eased.[23] Rab cursed, saying, He who causes me pain, may no sons arise from him — And thus it was.

This is a controversy of Tannaim. How do we know that circumcision [must be performed] in that place? 'Orlatho is stated here, and 'orlatho is stated elsewhere: just as there something that produces fruit [is meant], so here too something that produces fruit [is meant]: that is R. Josiah's view. R. Nathan said: It is unnecessary: surely it is said, And the uncircumcised male who is not circumcised in the flesh of his foreskin:- [that indicates] the place where the male sex is differentiated from the female sex.

Our Rabbis taught: Tefillin can be written upon the skin of clean animals and upon the skin of clean beasts, and[24] upon the skin of their nebeloth or terefoth,[25] and they are tied round with their hair,[26] and sewn with their tendons. And it is a halachah from Moses at Sinai[27] that tefillin are tied round with their hair and sewn with their tendons. But we may not write [them] upon the skin of unclean animals or upon the skin of unclean beasts, and the skin of their nebeloth and terefoth need not be stated;[28] nor may they be tied round with their hair or sewn with their tendons. And this question a certain Boethusian[29] asked R. Joshua the grits dealer: How do we know that tefillin may not be written upon the skin of an unclean animal? Because it is written, 'that the law of thy Lord may be in thy mouth' [implying] of that which is permitted in thy mouth. If so, they should not be written on the skin of nebeloth and terefoth.? Said he to him, I will give you a comparison. What does this resemble? Two men who were condemned to death by the State, one being executed by the king and the other by the executioner. Who stands higher? Surely he who was slain by the king![30] If so, let them be eaten? The Torah saith, Ye shall not eat any nebelah,[31] he retorted, yet you say, let them be eaten! Well spoken![32] admitted he. MISHNAH. ONE MAY NOT PREPARE [PICKLING] BRINE ON THE SABBATH,[33]

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(1) The reference being to a moss or fungus which sprouts up in such places.

(2) Distinct from its flesh.

(3) Which shows that it has a distinct skin, v. p. 518, n. 2.

(4) Lit., 'it has holes (and) holes'- where the feathers are set.

(5) Lev. I, 17. The reference is to a fowl burnt-offering, whose wings were burnt upon the altar.

(6) To be burnt on the altar, it being unnecessary to skin the bird first.

(7) It should be the same as the skin of all animal, which must be first removed, v. 6.

(8) This verse shows that the skin of a bird is not the same as that of an animal.

(9) If food is in a vessel which is covered by the bones or the skin of a fish, or if the whole vessel, which is closed, is made from these materials, the food is protected from contamination; v. Num. XIX, 15. — Thus the skin is mentioned as a separate entity.

(10) Lit., ‘filth’.

(11) The Royal Canal. The Canal connecting the Euphrates and the Tigris at Nehardea and Mahoza respectively; Obermeyer, 244f.

(12) Examine his knowledge-a humorous allusion to Karna's ability to judge whether wine was good or not merely by smelling the bottle, Keth. 105a. V. Obermeyer. op. cit., p. 247 and notes.

(13) Ex. XIII, 9.

(14) Only blood that is red or of colours akin to redness defiles a woman as a menstruant (Nid. 19a), and this was the point of his question.

(15) II Kings III, 22.

(16) Gen. XVII, 14, in connection with circumcision (E.V. foreskin).

(17) Lev. XIX, 23, in reference to the fruit of a tree within the first three years of its planting, which may not be eaten (E.V. uncircumcision).

(18) Deut. X, 16. This question of course was not mentioned seriously, but was put merely to point out that ‘circumcision’ is mentioned in connection with other organs too.

(19) Jer. VI, 10.

(20) ‘Orlatho’ is written in both verses quoted by Rab, whereas ‘orlah and ‘orlath are written in the verses proposed by Karna.

(21) He was probably annoyed at Karna's temerity in thus examining him.

(22) All this he gave him to act as a laxative.

(23) This, too, was part of the treatment. Samuel was a doctor.

(24) Behemah denotes a domestic animal; hayyah, a wild animal.

(25) V. Glos.

(26) The slips of parchment are rolled up and tied round with hair of these animals.

(27) V. p. 123, n. 7.

(28) As unfit.

(29) The Boethusians were a sect similar to the Sadducees, and disagreed with the Pharisees on certain religious beliefs, such as immortality and its concomitant, reward and punishment in the hereafter, and resurrection, which they rejected; and in certain practices, viz,, the date of Pentecost and the method of preparing incense on the Day of Atonement (Men. X, 3; Tosaf. Yoma I, 8-the parallel passage in Yoma 39a has ‘Sadducees’). The opinion most generally held is that the Boethusians were a variety of the Sadducees.

(30) Similarly, nebeloth and terefoth may be regarded as slain by God.

(31) Deut, XIV, 21. (E.V.: ‘of anything that dieth of itself’).

(32) The same law applies to both — either both are forbidden or both are permitted.

(33) Before the salt is put into it.

Talmud - Mas. Shabbath 108b

BUT ONE MAY PREPARE SALT WATER AND DIP HIS BREAD INTO IT OR PUT IT INTO A STEW. SAID R. JOSE, BUT THAT IS BRINE, WHETHER [ONE PREPARES] MUCH OR LITTLE?[1] RATHER THIS IS THE SALT WATER THAT IS PERMITTED: OIL IS FIRST PUT INTO THE WATER[2] OR INTO THE SALT.[3]

GEMARA. What does he [the first Tanna] mean?[4] Said Rab Judah in Samuel's name, He means this: One may not prepare a large quantity of salt water, but one may prepare a small quantity of salt water.

SAID R. JOSE, BUT THAT IS BRINE, WHETHER [ONE PREPARES] MUCH OR LITTLE? The scholars asked: Does R. Jose [mean] to forbid [both] or to permit [both]?- Said Rab Judah: He [means] to permit [both], since it is not stated, R. Jose forbids. Said Rabbah to him: But since the final clause states, RATHER THIS IS THE SAlt WATER THAT IS PERMITTED, it follows that R. Jose [means] to forbid [in the first clause]! Rather said Rabbah: He [means] to forbid; and thus did

R. Johanan say: He [means] to forbid. It was taught likewise: One may not prepare a large quantity of salt water for putting into preserved vegetables in a mutilated vessel;[5] but one may prepare a little salt water and eat his bread therewith or put it into a stew. Said R. Jose: Is it just because this is in large quantity and this is in small, that the one is forbidden and the other is permitted? then it will be said, Much work is forbidden but a little work is permitted! Rather both are forbidden, and this is the salt water that is permitted: one puts oil and salt [mixed into water] or oil and water [over salt], but provided that water and salt are not mixed at the outset. [Mnemonic: Strong radish and citron.][6] R. Judah b. Habiba recited: We may not prepare strong salt water. What is strong salt water? — Rabbah and R. Joseph b. Abba both say: Such that an egg floats in it. And how much is that?-Said Abaye: Two parts of salt and one part of water. For what is it made? Said R. Abbahu: For muries.[7]

R. Judah b. Habiba recited: One may not salt a radish or an egg on the Sabbath.[8] R. Hezekiah said in Abaye's name: Radish is forbidden, but an egg is permitted. R. Nahman said: Originally I used to salt radish, arguing, I do indeed spoil it, for Samuel said, Sharp radish is [more] beneficial. But when I heard what ‘Ulla said when he came,[9] viz., In the West [Palestine] they salt them slice by slice,[10] I no longer salt them,[11] but I certainly do drop them [in salt].[12]

R. Judah b. Habiba recited: A citron, radish, and egg, but for their outer shell,[13] would never leave the stomach.[14]

When R. Dimi came,[15] he said: No man ever sank in the Lake of Sodom.[16] R. Joseph observed: Sodom was overturned and the statement about it is topsy-turvy:[17] No man sank [in it], but a plank did?[18] Said Abaye to him, He states the more surprising thing.[19] It is unnecessary [to mention] a plank, seeing that it does not sink in any water; but not even a man, who sinks in all [other] waters of the world, [ever] sank in the Lake of Sodom. What difference does that make? — Even as it once happened that Rabin was walking behind R. Jeremiah by the bank of the Lake of Sodom, [and] he asked him, May one wash with this water on the Sabbath?[20] — It is well, he replied.[21] Is it permissible to shut and open [one's eyes]?[22] I have not heard this, he answered, [but] I have heard something similar; for R. Zera said, at times in R. Mattenah's name, at others in Mar ‘Ukba's name, and both [R. Mattenah and Mar ‘Ukba] said it in the names of Samuel's father and Levi: one said: [To put] wine into one's eye[23] is forbidden; [to put it] on the eye, is permitted.[24] Whilst the other said: [To put] tasteless saliva,[25] even on the eye, is forbidden. It may be proved that it was Samuel's father who ruled, ‘[To put] wine into one's eye is forbidden; on the eye, is permitted’: for Samuel said: One may soak bread in wine and place it on his eye on the Sabbath. Now, from whom, did he hear this, surely he heard it from his father? — But then on your reasoning, when Samuel said: [To apply] tasteless saliva even on the eye is forbidden; from whom did he hear it? Shall we say that he heard it from his father, — then Levi did not state any one [of these laws]! Hence he [must have] heard one from his father and one from Levi, but we do not know which from his father and which from Levi.

Mar ‘Ukba said in Samuel's name: One may steep collyrium [an eye salve] on the eve of the Sabbath and place it upon his eyes on the Sabbath without fear.[26] Bar Lewai was standing before Mar ‘Ukba, and saw him opening and shutting [his eyes].[27] To this extent Mar Samuel certainly did not give permission, he observed to him.[28] R. Jannai sent [word] to Mar ‘Ukba, Send us some of Mar Samuel's eye-salves.[29] He sent back [word], I do indeed send [them] to you, lest you accuse me of meanness; but thus did Samuel say: A drop of cold water in the morning, and bathing the hands and feet in hot water in the evening, is better than all the eye-salves in the world. It was taught likewise: R. Muna said in R. Judah's name: A drop of cold water in the morning and bathing the hands and feet [in hot water][30] in the evening is better than all the eye-salves in the world. He [R. Muna] used to say: If the hand [be put] to the eye, let it be cut off;[31] the hand to the nose, let it be cut off: the hand to the mouth, let it be cut off; the hand to the ear, let it be cut off; the hand to the vein [opened for blood letting], let it be cut off; the hand to the membrum, let it be cut off; the hand to the anus, let it be cut off; the hand

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(1) Gr. **
(2) This is forbidden under ‘salting’, v. supra 73a.
(3) Before the salt is put into the water. The oil weakens the salt in both cases.
(4) Surely brine and salt water are identical.
(5) Which is specially set aside for pickling.
(6) A mnemonic is a string of words to aid the memory.
(7) A pickle containing fish hash and sometimes wine (Jast.).
(8) A number of slices at the same time (Rashi).
(9) Cf p. 12, n. 9,
(10) Eating the one before the next is salted.
(11) More than one slice. Two slices at once (Rashi).
(12) Each radish as I eat it.
(13) This refers to the white of the egg, not what is generally called the shell.
(14) They are very constipating.
(15) V. p. 12, n. 9.
(16) Owing to its high specific gravity due to its large proportion of salt.
(17) Lit., ‘overturned’.
(18) Surely a plank is even lighter.
(19) Lit., ‘he says, it is unnecessary (to state)’.
(20) Its saltiness conferred healing properties upon it; hence the question, since one may not heal on the Sabbath.
(21) For it is not evident that one washes himself for that reason. [Healing is forbidden only for fear lest one crushes the necessary ingredients, but it is not labour in itself: consequently the Rabbis did not impose this interdict unless one is obviously performing a cure.]
(22) Several times in succession, for the salt to enter and heal them. The purpose is more obvious here.
(23) By opening and shutting it. This is similar to Rabin's question, Thus the saltiness of the Lake of Sodom has a practical bearing in law.
(24) For it looks as though he is merely washing himself.
(25) I.e., saliva of a person who has tasted nothing a(er sleeping.
(26) Of transgression.
(27) For the salve to enter right in.
(28) Surely one was reported in his name!
(29) Samuel was a doctor.
(30) So the text is emended in ‘Aruch.
(31) R causes it injury, and so the rest. In nearly all cases it means before washing in the morning.

Talmud - Mas. Shabbath 109a

to the vat,[1] let it be cut off: [because] the [unwashed] hand leads to blindness, the hand leads to deafness, the hand causes a polypus.[2]

It was taught, R. Nathan said: It[3] is a free agent, and insists [on remaining on the hands] until one washes his hands three times. R. Johanan said: Stibium removes [cures] the Princess,[4] stops the tears, and promotes the growth of the eye-lashes. It was taught likewise, R. Jose said: Stibium removes the Princess, stops the tears, and promotes the growth of the eye-lashes.

Mar ‘Ukba also said in Samuel's name: Leaves[5] have no healing properties.[6] R. Joseph said: Coriander has no healing properties. R. Shesheth said: Cuscuta has no healing properties. R. Joseph observed: Coriander is injurious even to me.[7] R. Shesheth observed: Eruca is beneficial even to me.[8]

Mar ‘Ukba said in Samuel's name: All kinds of cuscuta are permitted, except teruza.[9] R. Hisda said: To glair roast meat[10] is permitted; to make hashed eggs[11] is forbidden.

Ze'iri's wife made [it] for Hiyya b. Ashi,[12] but he did not eat it. Said she, ‘I have made this for your teacher [Ze'iri] and he ate, yet do you not eat’!-Ze'iri follows his view. For Ze'iri said: One may pour clear wine and clear water through a strainer on the Sabbath, and he need have no fear.[13] This proves that since it can be drunk as it is,[14] he does nothing;[15] so here too, since it can be eaten as it is,[16] he does nothing.

Mar ‘Ukba also said: If one knocks his hand or foot, he may reduce the swelling with wine, and need have no fear. The scholars asked: What about vinegar? Said R. Hillel to R. Ashi, When I attended R. Kahana's academy they said, Not vinegar.[17] Raba observed: But the people of Mahoza,[18] since they are delicate, even wine heals them.[19]

Rabina visited R. Ashi: He saw that an ass had trodden on his foot, and he was sitting and reducing the swelling in vinegar.[20] Said he to him, Do you not accept R. Hillel's statement, Not vinegar? [A swelling on] the back of the hand or on the foot is different, he replied.[21] Others state, He saw him reducing the swelling in wine. Said he to him, Do you not agree with what Raba said, The people of Mahoza, since they are delicate, even wine heals them, and you too are delicate? [A swelling on] the hand or on the foot is different, he replied, for R. Adda b. Mattenah said in Rab's name, [A blow on] the hand or on the foot is like an internal wound, and the Sabbath may be desecrated on its account.

Our Rabbis taught: One may bathe in the water of Gerar,[22] in the water of Hammethan,[23] in the water of Essa,[24] and in the water of Tiberias,[25] but not in the Great Sea [the Mediterranean], or in the water of steeping,[26] or in the Lake of Sodom. But this contradicts it: One may bathe in the water of Tiberias and in the Great Sea, but not in the water of steeping or in the Lake of Sodom. Thus [the rulings on] the Great Sea are contradictory. — Said R. Johanan, There is no difficulty: one agrees with R. Meir, the other with R. Judah. For we learnt: All seas are like a mikweh,[27] for it is said, and the gathering of [mikweh] the waters called he Seas:[28] this is R. Meir's view. R. Judah said: The Great Sea [alone] is like a mikweh, ‘seas’ being stated only because it contains many kinds of waters.[29] R. Jose maintained: All seas [including the Great Sea] purify when running,[30] but they are unfit for zabim, lepers, and to be sanctified as the water of lustration.[31] R. Nahman b. Isaac demurred:

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(1) Which is to be filled with wine.

(2) A morbid growth in the nose.

(3) The evil spirit that rests on the hands during the night. The belief in same is held to have been borrowed from the Persians, and many regulations were based thereon; v. Weiss, Dor, II, p. 13.

(4) The name of a demon afflicting the eye, also a certain disorder of the eye. Var. lec.: בת חורין the Nobleman's daughter, likewise with the same meaning.

(5) ‘Alin. Rashi: the name of a certain herb.

(6) Therefore they may be applied to the eye on the Sabbath (Ri).

(7) Who am blind.

(8) Though I possess good eyesight already.

(9) A kind of cucumber or melon possessing medicinal properties. These are used for no other purpose; hence they are forbidden (cf. p. 527, n. 16).

(10) Rashi; R. Han.: to strain off the juice of melon, which is taken as a laxative. V. Tosaf. a.l.

(11) I.e., a hash of roasted eggs beaten up.

(12) Rashi: roast meat glared.

(13) Of transgression.

(14) Without straining.

(15) Though one may not filter muddy wine on the Sabbath.

(16) Without the covering of eggs.
(17) Its purpose is too obviously medicinal.
(18) V. p. 150, n. 11.
(19) Their skin is so delicate that even wine acts like vinegar upon it. Hence they would only use it medicinally, and therefore it is forbidden.
(20) It was the Sabbath.
(21) A bruise there is dangerous.
(22) Gerar was the seat of a Philistine prince (Gen. X, 19; XX, 1 et seq; I Chron. IV, 39) whose site has not been identified with certainty. Some think it was southwest of Kadesh; others, that it vas south of Gaza.
(23) The word means 'hot Springs'. It was a town a mile away from Tiberias.
(24) Supposed to be east of the lake of Tiberias, v. Neub. Geogr. p. 38; Jast. s.v.
(25) Though all these are salty, it is permitted, as it does not look that one is bathing particularly for medicinal purposes (v. p. 527, n. 16).
(26) In which flax was steeped.
(27) v. Glos. They are like a mikweh in all respects, and not like a spring. The difference between these two are: (i) a zab can have his ritual bath in a spring, but not in a mikweh; (ii) the water of a spring, but not of a mikweh, is fit for sprinkling upon a leper (Lev. XIV, 5) and for mixing with the ashes of the red heifer (Num. XIX, 17); (iii) the water of a spring purifies when running, whereas a mikweh purifies only when its water is still (v. supra 65a bottom and b top and notes a.l.). — Since R. Meir maintains that all seas are alike, he draws no distinction in respect to bathing either, and permits it in the Great Sea too.
(28) Gen. I, 10.
(29) Many different rivers flow into the sea, hence the plural; but actually the verse refers to the Great Sea only. Thus he draws a distinction between the Great Sea and other seas, and so he also forbids bathing therein on the Sabbath.
(30) Since that is the nature of seas.
(31) I.e., to be mixed with the ashes of the red heifer.

Talmud - Mas. Shabbath 109b

Say that they differ in respect to uncleanness and purity; but do you know them [to differ] in respect of the Sabbath?[1] Rather said R. Nahman b. Isaac: There is no difficulty: in the one case he tarries [there];[2] in the other he does not tarry [there]. To what have you referred the second [Baraitha]? Where he does not tarry! If he does not tarry, [it is permitted] even in the water of steeping too. For it was taught: One may bathe in the waters of Tiberias and in the water of steeping and in the Lake of Sodom, even if he has scabs on his head. When is that? If he does not tarry [there]; but if he tarries [there], it is forbidden! — Rather [reply thus]: [The rulings on] the Great Sea are not contradictory: one refers to its wholesome [water]; the other to its malodorous [water].[3] [The rulings on] the water of steeping too are not contradictory: in the one case he tarries; in the other he does not tarry.

MISHNAH. WE MAY NOT EAT GREEK HYSSOP ON THE SABBATH, BECAUSE IT IS NOT THE FOOD OF HEALTHY PEOPLE;[4] BUT WE MAY EAT YO'EZER[5] AND DRINK ABUB RO'EH.[6] A MAN MAY EAT ANY KIND OF FOOD AS A REMEDY, AND DRINK ANY LIQUID,[7] EXCEPT WATER OF PALM TREES[8] AND A POTION[9] OF ROOTS, BECAUSE THEY ARE [A REMEDY] FOR JAUNDICE; BUT ONE MAY DRINK WATER OF PALM TREES FOR HIS THIRST AND RUB HIMSELF WITH OIL. OF ROOTS WITHOUT MEDICAL PURPOSE.

GEMARA. R. Joseph said: Hyssop[10] is abratha bar hemag;[11] Greek hyssop is abratha bar henag.[12] 'Ulla said: [Hyssop is] white marwa [sage]. 'Ulla visited R. Samuel b. Judah [and] they set white marwa before him. Said he to them, That is the hyssop prescribed in Scripture. R. Pappi said, It is shumshuk. [marjoram]. R. Jeremiah of Difti[13] said: Reason Supports R. Pappi. For we learnt: 'The law of hyssop [requires] three stalks [each] containing three calyxes'; and shumshuk, is found to have that shape. For what is it eaten?- [As a remedy] for worms. With what is it eaten? With seven black dates. By what is it [the disease of worms] caused? — Through [eating] barley-flour forty days old.

BUT ONE MAY EAT YO'EZER. What is YO'EZER?-Pennyroyal.[14] For what is it eaten? [As a remedy] for worms in the bowels[15] With what is it eaten? With seven white dates. Through what is it caused? Through [eating] raw meat[16] and [drinking] water on an empty stomach; through meat on an empty stomach or ox meat on an empty stomach; through nuts on an empty stomach; shoots of fenugreek on an empty stomach and drinking water after it.[17] But if not,[18] let him swallow white cress. If not, let him fast, then bring fat meat and cast it on the coals, suck out a thick piece and drink vinegar. But others say, not vinegar, because it affects the liver. If not, let him procure the scrapings of a thorn bush which was scraped from top to bottom but not from below and upward, lest [the worms] issue through his mouth, and boil them in strong liquor[19] at twilight.[20] On the morrow let him stop up his orifices[21] and drink it: And when he eases himself, he must do so on the stripped parts of a palm tree.

AND DRINK ABUB RO'EH. What is ABUB RO'EH? Humtarya [eupatorium]. What is humtarya?; The lonely staff.[22] What is it prepared for? [As a remedy for] one who drank uncovered water.[23] If not,[24] let him bring five roses and five glasses of strong liquor, boil them together until they amount to an anpak,[25] and drink it. The mother of R. Ahadbuy b. Ammi prepared [a potion of] one rose and one glass of strong liquor for a certain man. She boiled them up, made him drink it, lit the stove and swept it out, placed bricks in it,[26] and it [the poison of the snake] issued like a green palm-leaf. R. Awia said: A quarter [log] of milk from a white goat.[27] R. Huna b. Judah said: Let him obtain a sweet citron, scoop it out, fill it with honey, set it on burning embers [to boil], and then eat it. R. Hanina said: [One drinks] urine forty days old[28] [as a remedy]; a barzina[29] for [the sting of] a wasp; a quarter [log] for a scorpion [bite]; an eighth [of a log] for uncovered water; a quarter is efficacious even against witchcraft. R. Johanan said: Elaiogaron,[30] kangad,[31] and theriac are efficacious against both uncovered water and witchcraft. If one swallows a snake, he should be made to eat cuscuta with salt and run three mils. R. Shimi b. Ashi saw a man swallow a snake; thereupon he appeared to him in the guise of a horseman,[32] made him eat cuscuta with salt and run three mils before him, [and] it issued from him in strips.[33] Others say: R. Shimi b. Ashi swallowed a snake, thereupon Elijah came,[34] appeared to him in the guise of a horseman, made him eat cuscuta with salt and run three mils before him, [and] it issued from him in strips.

If one is bitten by a snake, he should procure an embryo of a white ass, tear it open, and be made to sit upon it; providing. however, that it was not Found to be terefah. A certain

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(1) Which is totally different.

(2) Then it is obvious that his purpose is to effect a cure.

(3) The latter is forbidden, since no one would bathe therein for cleanliness.

(4) But obviously a medicine.

(5) A certain plant.

(6) Lit., 'shepherd's flute' — name of a plant (Eupatorium) used for medicinal purposes (Jast.).

(7) Provided that they are eaten and drunk without healing intentions too.

(8) Explained infra 110a.

(9) Lit., 'clip'.

(10) Prescribed in the Torah for purification, e.g.. Lev. Xlv, 4.

(11) So they called it.

(12) Abratha is probably Artemisia abrotanum, and with the designations bar hemag (of the bush) and bar hemag (of the shrub) the names of two sub-species of hyssop were meant.

(13) V p. 35, n. 5.

(14) Mentha pelegium; Jast.

(15) Fluke worms(?).

(16) Umza is meat roasted directly on coals or pickled in a strong acid.
(17) That probably applies to all the foregoing.
(18) If pennyroyal is unobtainable or has failed to cure.
(19) Mead, or beer.
(20) Or the text may mean, ‘in a neighbour's house’, so that the sufferer himself should not smell it, lest the smell affect him.
(21) Either his nostrils, so as not to smell it, lest the smell nostrils and ears, that the strength of the potion should not pass out of his body.
(22) Name of a drink made of liver-wort (Jast.).
(23) Water left uncovered over night might not be drunk, lest a snake had drunk of it — a necessary precaution in Eastern countries.
(24) V. n. 6.
(25) A quarter of a log. B.B. 58b.
(26) For the sufferer to sit on.
(27) Is a good remedy for this.
(28) Or, of a babe forty days old.
(29) A small measure, one thirty-second of log.
(30) A sauce of oil and garum, to which wine is sometimes added (Jast.).
(31) A kind of chervil.
(32) Rashi: in order to frighten him, which would help to kill the snake.
(33) The snake was broken up within him.
(34) Elijah was thought to appear quite frequently to favoured persons: cf. B.M. 59b; Sanh. 113a; Keth. 61a, passim.

Talmud - Mas. Shabbath 110a

officer of Pumbeditha was bitten by a snake. Now there were thirteen white asses in Pumbeditha; they were all torn open and found to be terefah. There was another on the other side of Pumbeditha, [but] before they could go and bring it a lion devoured it. [Thereupon] Abaye observed to them. ‘Perhaps he was bitten by a snake of the Rabbis,[1] for which there is no cure, as it is written, and whoso breaketh through a fence,[2] a serpent shall bite him?’[3] ‘Indeed so, Rabbi,’ answered they. For when Rab died, R. Isaac b. Bisna decreed that none should bring myrtles and palm-branches to a wedding feast to the’ sound of a tabla,[4] yet he went and brought myrtle and palm-branches at a wedding to the sound of the tabla; [so] a snake bit him and he died.

If a snake winds itself around a person, let him go down into water, put a basket over its head and force it [the snake] away from himself, and when it goes on to it [the basket], he should throw it into the water, ascend and make off.

If a man is scented by a snake,[5] if his companion is with him, he should make him ride four cubits.[6] If not, let him jump a ditch.[7] If not, let him cross a river; and at night place his bed on four barrels and sleep under the stars,[8] and bring four cats and tie them to the four legs of the bed. Then he should fetch rubbish[9] and throw it there, so that when they hear a sound they [the cats] will devour it.

If a man is chased by one [a snake], he should flee into sandy places.[10]

If a woman sees a snake and does not know whether it has turned its attention to her or not, let her remove her garments and throw them in front of it; if it winds itself around them, its mind is upon her; if not, its mind is not upon her. What can she do? She should cohabit [with her husband] in front of it. Others say, That will even strengthen its instincts. Rather she should take some of her hair and nails and throw them at it and say, ‘I am menstruous’.

If a snake enters a woman, let her spread her legs and place them on two barrels; fat meat must be brought and cast on the burning coals; a basket of cress must be brought together with fragrant wine and placed there, and be well beaten together.[11] They should take a pair of tongs in their hand, for when it smells the fragrance it will come out, so that it can be seized and burnt in the fire, as otherwise it will re-enter.

EXCEPT WATER OF PALM TREES. It was taught: Except water that pierces. He who teaches, water that pierces, [calls it thus] because it pierces the gall.[12] And he who says WATER OF PALM TREES, that is because it comes forth from [between] two palm trees. What is water of palm trees?[13] — Rabbah b. Beruna said: There are two tali[14] in the west [Palestine] and a spring of water issues from between them. The first cup [thereof] loosens, the second causes motion, and the third passes out just as it enters. 'Ulla said: I myself drank Babylonian beer and it is more efficacious than these [waters];[15] provided, however, that one had discontinued [drinking] it for forty days.[16]

R. Joseph said: Egyptian beer consists of one part barley, one part safflower, and one part salt. R. Papa said: One part wheat, one part safflower, and one part salt. And the token is sisane.[17] And it is drunk between Passover[18] and Pentecost; upon him who is constipated it acts as a laxative, while him who suffers with diarrhoea it binds.

AND A POTION OF ROOTS. What is a POTION OF ROOTS? Said R. Johanan: The weight of a zuz[19] of Alexandrian gum is brought, a zuz weight of liquid alum and a zuz weight of garden crocus, and they are powdered together. For a zabah, a third thereof [mixed] with wine [is efficacious] that she shall not become barren. For jaundice two thirds thereof [mixed] with beer [is drunk], and he [the sufferer] then becomes impotent.[20] 'For a zabah, a third thereof [mixed] with win [is efficacious] that she shall not become barren': but if not,[21] let them procure three

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(1) I.e., as a punishment for disobeying the Rabbis.

(2) Rabbinical laws were often so called; cf. Aboth, I, 13.

(3) Eccl. X, 8.

(4) A bell or a collection of bells forming an instrument specially used at public processions, weddings, etc.

(5) Which pursues him.

(6) To break the track of the scent.

(7) The water breaks the scent.

(8) So that the snake cannot attack him either from below or above.

(9) Rashi: branches, twigs, etc., which rustle and make a noise when anything passes over them. 'Ar: refuse of reeds.

(10) Where the snake cannot follow.

(11) To cause their fragrance to ascend.

(12) I.e., makes it function.

(13) Bah deletes this question.

(14) A species of palms.

(15) Sc. of the well just mentioned.

(16) Otherwise the system does not react to it.

(17) A basket made of twigs. Sisane contains two sameks; thus R. Joseph (יוסף) mentioned barley (שעורים) — the samek and sin being interchangeable.

(18) Lit., 'the sacrifice'.

(19) Three and five hundred eighty-five thousand grammes; v. J.E. Weights and Measures, XII, p. 486: Other Weights and Table on p. 489.

(20) Though cured of his illness.

(21) If it is unavailable or fails to cure.

Talmud - Mas. Shabbath 110b

kapiza[1] of Persian onions, boil them in wine, make her drink it, and say to her, ‘Cease your discharge.’ But if not, she should be made to sit at cross-roads, hold a cup of wine in her hand, and a man comes up from behind, frightens her and exclaims, ‘Cease your discharge!’ But if not, a handful of cummin, a handful of saffron, and a handful of fenugreek are brought and boiled in wine, she is made to drink it, and they say to her, ‘Cease your discharge’. But if not, let sixty pieces of sealing clay of a [wine] vessel be brought, and let them smear her[2] [therewith] and say to her, ‘Cease your discharge’. But if not, let one take a fern,[3] boil it in wine, smear her with it and say to her, ‘Cease your discharge’. But if not, let one take a thistle growing among Roman thorns,[4] burn it, and gather it up in linen rags in summer and in cotton rags in winter. If not, let one dig seven holes and burn therein a young shoot of ‘orlah,[5] put a cup of wine into her hand, then make her rise from one [hole] and seat her on the next, make her rise from that and seat her on the following [and so on], and at each one he should say to her, ‘Cease your discharge’. But if not, let one take the flour, rub her from the lower half downwards and say to her, ‘Cease your discharge’. If not; let him take an ostrich egg, burn it, and wrap it in linen rags in summer and in cotton rags in winter. If not, let him broach a barrel of wine specially for her sake. If not, let him fetch barley grain which is found in the dung of a white mule: if she holds it one day, it [her discharge] will cease (or two days; if she holds it two days, it will cease for three days; but if she holds it three days, it will cease for ever.

‘For jaundice two thirds thereof with beer [is drunk], and he [the sufferer] then becomes impotent.’ But if not, let him take the head of a salted shibuta,[6] boil it in beer and drink it. If not, let him take brine of locusts. If brine of locusts is not available, let him take brine of small birds,[7] carry it into the baths and rub himself [therewith]. If there are no baths, he should be placed between the stove and the wall.[8]

R. Johanan said: If one wishes to make him [the sufferer from jaundice] warm, he should wrap him well[9] in his sheet. R. Aha b. Jacob suffered therewith, so R. Kahana treated him thus and he recovered. But if not, let him take three kapiza of Persian dates, three kapiza of dripping wax,[10] and three kapiza of purple aloes, boil them in beer and drink it. If not, let him take a young ass; then he [the invalid] shaves half his head, draws blood from its forehead and applies it to his [own] head, but he must take care of his eyes, lest it [the blood] blind him. If not, let him take a buck's head which has lain in preserves [vinegar], boil it in beer and drink it. If not, let him take a speckled swine, tear it open and apply it to his heart: If not, let him take porret [leeks] from the wastes of the valley.[11] A certain Arab suffered with it. Said he to a gardener, Take my robe and give me some leeks from the wastes of the valley.[12] He gave them to him [and] he ate them. Then he requested, Lend me your robe and I will sleep in it. He singed it, wrapped himself therein and slept. As he became heated through and got up, it fell away from him bit by bit.[13]

‘For jaundice two [thirds thereof] with beer, and he becomes impotent.’ But is this permitted? Surely it was taught: How do we know that the castration of a man is forbidden? From the verse, neither shall ye do thus in your land:[14] [this means], ye shall not do [thus] to yourselves: the words of R. Hanina! — That is only if he intends [it so], but here it is automatic. For R. Johanan said: If one wishes to castrate a cock, let him cut off its crest, and it is automatically castrated.[15] But R. Ashi said: There it suffers from conceit?[16] Rather [the reference here is to] one who is [already] a castrate.[17] But R. Hiyya b. Abba said in R. Johanan's name:

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(1) v. p. 492, n. 6.

(2) Rashi: after soaking it in water.

(3) Pastina. The word means a low, spreading plant.

(4) Jast.: probably corduelis spinosa.

(5) v. Glos.

(6) Name of a fish, probably mullet (Jast.).

(7) ‘Aruch: clear fish brine.

(8) To make him perspire.
(9) Or, rub him.
(10) That drips down from an overful honeycomb.
(11) Jast., who also suggests an alternative: of the after-crops of valleys. Rash: from the middle of the furrow, where the leeks are sharp.
(12) Or, as Rash. V. preceding note.
(13) From the feverish heat of the sleeper.
(14) Lev. XXII, 24 v. preceding part of the verse.
(15) Thus direct castration only is prohibited, but not indirect, and the same applies here.
(16) It grieves that its crest is removed add refuses to copulate, but actually it is not castrated.
(17) Who suffers from jaundice.

Talmud - Mas. Shabbath 111a

All agree that if one prepares it [a meal-offering] as leaven after another has prepared it as leaven,[1] he is culpable; because it is said, It shall not be baked leaven,[2] it shall not be made leaven,[3] If one castrates after another has castrated, he is culpable, for it is said, That which hath its stones bruised, or crushed, or broken, or cut away,[4] [ye shall not offer unto the Lord; neither shall ye do thus in your land]:[5] now, if one is guilty for cutting [them] away, how much more so for breaking them![6] But it is to teach[7] that if one castrates after another, he is culpable![8] -Rather it refers to an old man.[9] But R. Johanan said: It was those very [remedies][10] which restored me to my youth?[11] — Rather the reference [here] is to a woman.[12] But according to R. Johanan b. Beroka, who said: Concerning both [man and woman] it is said, And God blessed them: and God said unto them, Be fruitful and multiply,[13] what can be said?- The reference [here] is to an old woman[14] or to a barren woman.

MISHNAH. IF ONE'S TEETH PAIN HIM, HE MUST NOT SIP VINEGAR THROUGH THEM,[15] BUT MAY DIP [HIS BREAD IN VINEGAR] IN THE USUAL MANNER,[16] AND IF HE IS CURED, HE IS CURED. IF ONE'S LOINS PAIN HIM, HE MUST NOT RUB THEM WITH WINE OR VINEGAR, BUT HE MAY ANOINT THEM WITH OIL,[17] YET NOT ROSE OIL.[18] ROYAL CHILDREN MAY ANOINT THEIR WOUNDS WITH ROSE OIL, SINCE IT IS THEIR PRACTICE TO ANOINT THEMSELVES THUS ON WEEKDAYS. R. SIMEON SAID: ALL ISRAEL ARE ROYAL CHILDREN.

GEMARA. R. Aha the Long, i.e., R. Ahab. Papa, pointed out a contradiction to R. Abbahu. We learnt: IF ONE HAS TOOTHACHE, HE MUST NOT SIP VINEGAR ON THEM. Shall we say that vinegar is beneficial to the teeth,-but it is written, As vinegar to the teeth, and as smoke to the eyes?[19] -There is no difficulty: the one refers to vinegar of fruit;[20] the other to acid. Alternatively, both refer to acid: one means where there is a wound; the other, where there is no wound.[21] If there is a wound it heals; if there is no wound it loosens [the teeth in the gums].

HE MUST NOT SIP VINEGAR THROUGH THEM. But it was taught, He must not sip and eject, yet he may sip and swallow? — Said Abaye, When we learnt our Mishnah we too learnt of sipping and ejecting. Raba said, You may even say [that it refers to] sipping and swallowing: the one holds good before the dipping, the other after the dipping.[22] But let us say, Since it is permitted before the dipping, it is permitted after the dipping too,[23] for we know that Raba accepts this argument.[24] For Raba said: There is nothing which is permitted on the Sabbath and forbidden on the Day of Atonement:[25] since it is permitted on the Sabbath, it is permitted on the Day of Atonement too? He retracted from the present statement.[26] How do you know that he retracted from, this statement: perhaps he retracted from the other?- You cannot think so, For it was taught: All who are obliged to perform tebillah may do so in the normal way, both on the ninth of Ab and on the Day of Atonement.[27]

IF ONES LOINS PAIN HIM, etc. R. Abba b. Zabda said in Rab's name: The halachah is as R. Simeon. Shall we say that Rab holds with R. Simeon?[28] Surely R. Simeon son of R. Hiyya said in Rab's name: The stopper of the brewing vat[29]

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(1) I.e., the first kneads the dough after it was leaven, a second shapes it, and a third bakes it.

(2) Lev. VI, 10.

(3) Ibid. II, 11. The repeated prohibition shows that every separate act of preparation entails guilt.

(4) E. V. cut,' from the present discussion it appears, however, that the Talmud translates the word 'cut away'.

(5) Ibid. XXII, 24.

(6) Then why mention it?

(7) Lit., 'bring'.

(8) Hence even a castrate may not drink this potion.

(9) Who is in any case unable to beget children.

(10) The reference is to the remedies mentioned in Git. 70a.

(11) And made me potent again.

(12) Who is not commanded to procreate: hence she may sterilize herself.

(13) Gen. I, 28. This is understood as a positive command.

(14) 'Who certainly can not regain her youth in this respect.

(15) This is healing which is forbidden on the Sabbath.

(16) And eat the vinegar-soaked bread.

(17) Since this is done even without intention of healing.

(18) Which ordinary people use only as a remedy.

(19) Prov. X, 26.

(20) Rashi: Wine not fully matured in the grapes — that is injurious.

(21) Or, swelling.

(22) Bread dipped in vinegar was eaten before meals. Before one has done this he may sip vinegar for his tooth, as it merely looks like a substitute for soaked bread. But if he has already eaten, he is obviously sipping it now as a remedy only.

(23) For a thing cannot be permitted during one portion of the Sabbath and forbidden during the other.

(24) Lit., 'he accepts "Since"'.

(25) In the matter of labour.

(26) Sc. that which differentiates between before and after dipping.

(27) It was in reference to this that Raba stated that what is permitted on the Sabbath is permitted on the Day of Atonement, and he is supported by a Baraitha.

(28) I.e., with his lenient rulings relating to the Sabbath.

(29) In which beer is kept during the process of brewing. The stopper was made of soft materials, such as rags, wound round the bung.

Talmud - Mas. Shabbath 111b

may not be forced into [the bung-hole] on a Festival![1] — There even R. Simeon agrees, For Abaye and Raba both maintain: R. Simeon agrees in the case of 'cut off his head but let him not die'.[2] But R. Hiyya b. Ashi said in Rab's name: The halachah is as R. Judah,[3] while R. Hanan b. Ammi said in Samuel's name: The halachah is as R. Simeon. Further, R. Hiyya b. Abin recited it without [intermediary] scholars:[4] Rab said: The halachah is as R. Judah; while Samuel ruled: The halachah is as R. Simeon?-Rather said Raba, I and a lion of the company,[5] viz., R. Hiyya b. Abin, explained it: [Rab said:] The halachah is as R. Simeon, but not on account of his view. What is meant by 'The halachah is as R. Simeon, but not on account of his view?' Shall we say, 'The halachah is as R. Simeon', that it is permitted; 'but not through his reason for R. Simeon holds [that] it heals,[6] whereas Rab holds that it does not heal? Does then Rab hold that it does not heal? But surely, since he [the Tanna] states, ROYAL CHILDREN MAY ANOINT THEIR WOUNDS WITH ROSE OIL, it follows that [all agree] that it does heal? But 'the halachah is as R. Simeon', that it is permitted; 'but not through his reason’: for whereas R. Simeon holds that in spite of its being rare it is permitted, Rab holds: Only if it is common [is it permitted], but not if it is rare,[7] and in Rab's place rose oil was common.

CHAPTER XV

MISHNAH. Now, THESE ARE THE KNOTS WHICH ENTAIL CULPABILITY[8]: CAMEL-DRIVERS’ KNOTS AND SAILORS’ KNOTS. AND JUST AS ONE IS GUILTY FOR TYING THEM, SO IS HE GUILTY FOR UNTYING THEM. R. MEIR SAID: ANY KNOT WHICH ONE CAN UNTIE WITH ONE HAND ENTAILS NO GUILT.

GEMARA. What are CAMEL-DRIVERS’ KNOTS AND SAILORS’ KNOTS? Shall we say, the knot which is tied through the nose ring[9] and the knot which is tied through the ship's ring,[10] but these are non-permanent knots?[11] Rather it means the knot of the nose ring itself and of the ship's ring itself.[12]

R. MEIR SAID: ANY KNOT, etc. R. Ahadbuy the brother of Mar Aha asked: What of a slip-knot[13] on R. Meir's view: is R. Meir's reason because it can be untied with one hand, and this too can be untied;[14] or perhaps R. Meir's reason is that it is not well-fastened,[15] whereas this is well-fastened? The question stands over.

MISHNAH. YOU HAVE SOME KNOTS WHICH DO NOT ENTAIL GUILT LIKE FOR CAMEL-DRIVERS’ KNOTS AND SAILORS’ KNOTS.[16] A WOMAN MAY TIE UP THE OPENING OF HER CHEMISE, THE RIBBONS OF HER HAIR-NET AND OF HER GIRDLE,[17] THE LACES OF HER SHOES OR SANDALS, PITCHERS OF WINE AND OIL, AND THE MEAT POT.[18] R. ELEAZAR B. JACOB SAID: ONE MAY TIE [A ROPE] IN FRONT OF AN ANIMAL,[19] THAT IT SHOULD NOT GO OUT.

GEMARA. This is self-contradictory: you say, YOU HAVE SOME KNOTS WHICH DO NOT ENTAIL GUILT LIKE FOR CAMEL-DRIVERS’ KNOTS AND SAILORS’ KNOTS; thus there is indeed no guilt, but there is a prohibition. Then he [the Tanna] teaches: A WOMAN MAY TIE UP THE OPENING OF HER CHEMISE, [which means] even at the very outset? — This is what he says: YOU HAVE SOME KNOTS WHICH DO NOT ENTAIL GUILT LIKE FOR CAMEL-DRIVERS’ KNOTS AND SAILORS’ KNOTS, and which are they?

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(1) For thereby the moisture which it previously absorbed is wrung out, and this is forbidden. But it is unintentional, whereas R. Simeon holds that such is permitted, v. supra 75a.

(2) V. p. 357, II. 8.

(3) Viz., that whatever is unintentional is forbidden.

(4) Lit., ‘men’.

(5) I.e., one of our great scholars.

(6) Yet it is permitted to all because a thing cannot be permitted to one and forbidden to another.

(7) Where it is evident that it is applied as a remedy.

(8) Tying knots is a principal labour, supra 73a.

(9) Rash: a ring was inserted through the camel's nose (this ring was of cord, and had to be knotted after passing through the nose — R. Han., and the same appears from the Gemara) and when it was to be tethered a long rope was tied thereto. The reference is to the knot that is made in tying this long rope.

(10) Rashi: a ring at the head of the ship, through which a rope was passed and tied when the ship was moored. Jast. translates: the loop which they made when attaching the sail to the rigging.

(11) Only a permanent knot entails guilt, and these are naturally untied when the camel or the ship moves on.

(12) Which are permanent.

(13) Or, loop, which, however, is strongly fastened.

(14) Hence it does not involve guilt.
(15) An ordinary knot must be quite loose if it can be untied with one hand.
(16) Nevertheless they are forbidden. The Gemara explains which are meant.
(17) Rashi. Jast.: the cords of the breast bandage.
(18) All these are tied and untied daily, and therefore are not permanent.
(19) I.e., across the stable entrance.

Talmud - Mas. Shabbath 112a

The knot which is tied through the nose ring and the knot which is tied through the ship's ring: [for these] there is indeed no guilt, nevertheless there is a prohibition.[1] But some are permitted at the outset. And which are they? [A WOMAN] MAY TIE UP THE OPENING OF HER CHEMISE.

THE OPENING OF HER CHEMISE. But that is obvious? — This is necessary only where it has two pairs of bands:[2] you might say, One of these is disregarded:[3] hence he informs us [that we do not fear this].

AND THE RIBBONS OF HER HAIR-NET. But that is obvious? — This is necessary [to teach] only where it is roomy:[4] you might say, She will remove it [thus]:[5] hence he informs us that a woman is careful over[6] her hair and will [first] untie it.

AND THE LACES OF HER SHOES OR SANDALS. It was stated: If one unties the laces of his shoes or sandals, — one [Baraitha] taught: He is liable to a sin-offering; another taught: He is not liable, yet it is forbidden; while a third taught: It is permitted in the first place. Thus [the rulings on] shoes are contradictory, and [those on] sandals are contradictory? [The rulings on] shoes are not contradictory: when it teaches, ‘he is liable to a sin-offering’, it refers to cobblers’ [knots];[7] ‘he is not liable, but it is forbidden’ — that refers to [a knot] of the Rabbis;[8] ‘it is permitted in the first place’, refers to [the knots] of the townspeople of Mahoza.[9] [The rulings on] sandals too are not contradictory: when it states that ‘one is liable to a sin-offering’, it refers to [sandals] of travellers[10] tied by cobblers; one is not liable yet it is forbidden’, refers to amateur knots[11] tied by [the wearers] themselves; ‘it is permitted at the outset’, refers to sandals in which two go out,[12] as was the case with Rab Judah. For Rab Judah, brother of R. Salla the Pious, had a pair of sandals, at times he went out in them, at others his child. He went to Abaye and asked him, How is it in such a case?-One is liable to a sin-offering [for tying them], he replied. I do not even understand[13] why [though] one is not liable for this yet it is forbidden, and you tell me that one is liable to a sin-offering. What is the reason?[14] — Because on weekdays too, he replied, at times I go out in them, at others the child. In that case, said he, it is permitted at the outset.

R. Jeremiah was walking behind R. Abbahu in a karmelith, when the lace of his sandal snapped.[15] What shall I do with it? enquired he. — Take a moist reed that is fit for an animal's food and wind it about it, he replied. Abaye was standing in front of[16] R. Joseph,[17] when the lace of his sandal snapped. What shall I do with it? asked he. — Let it be, he replied.[18] Wherein does it differ from R. Jeremiah's [case]? — There it was not guarded;[19] here it is guarded. But it is still a utensil,[20] seeing that I could change it from the right [foot] to the left?[21] -Said he to him: Since R. Johanan explained [the law] on R. Judah's view, it follows that the halachah is as R. Judah.[22] To what does this refer? — For it was taught: If the two ears of the sandal[23] or its two strappings are broken, or if the entire sole is removed, it is clean.[24] If one of its ears or strappings [is broken], or if the greater part of the sole is removed, it is unclean. R. Judah said: If the inner one is broken, it is unclean;[25] if the outer, it is clean. Whereon ‘Ulla-others State, Rabbah b. Bar Hanah said in R. Johanan's name: Just as the controversy in respect to uncleanness, so is there a controversy in respect to the Sabbath,[26] but not in respect to halizah.[27] Now we discussed this: To whose [view] does R. Johanan refer? Shall we say, To that of the Rabbis, [and he states], since it is a utensil in respect to uncleanness, it is also so in respect to the Sabbath, but not in respect to halizah, where it is not a utensil? Surely we learnt: If she removes the left[-foot shoe] from the right foot,[28] the halizah is valid?[29] [Shall we] on the other hand [say that he refers] to R. Judah's [ruling]: [and means], since it is not a ‘utensil’ in respect to defilement, it is not a ‘utensil’ in respect to the Sabbath either, but that is not so in respect to halizah, where it is a ‘utensil’: [it may be asked against this]: Perhaps we rule, If she removes the left[-foot shoe] from the right foot the halizah is valid, only where it is a ‘utensil’ for its own function;[30] but here it is not a ‘utensil’ for its own function, seeing that R. Judah said: If the outer is broken, it is clean, which proves that it is not a ‘utensil?’[31] In truth, [R. Johanan referred] to R. Judah's view: say, And it is likewise so in respect to halizah, and he informs us this: When do we say, If she removes the left [-foot shoe] from the right foot the halizah is valid, [only] where

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(1) For though temporary only, as stated supra 111b, they are frequently left there a long time, and so are forbidden.

(2) Lit., ‘entrances’. The chemise ties up by two pairs of bands or strings. It can be put on and removed even when one set is actually tied, thought of course with difficulty.

(3) I.e., when she removes it she may leave one pair tied, which makes it permanent knot; since we do not know which may be left, both should be forbidden.

(4) Not closely fitting, so that it can be removed from the head even when tied.

(5) Without untying the ribbons.

(6) Lit., ‘spares’.

(7) Rashi: when the cobbler inserts the lace in the shoe, he ties it there permanently. — Perhaps the shoes and its laces were so arranged that part of the lace was permanently fastened.

(8) Sometimes they tied it very loosely, so that the shoe could be removed and put on without untying. Thus whilst not actually permanent to involve a sin-offering, it is semi-permanent, hence forbidden.

(9) Who were particular that all their garments should fit exactly. Hence their shoes too were tightly fastened and had to be untied every time they were put on or off. perhaps they are mentioned in particular because being well-to-do they thought more of dress; cf. Obermeyer, p. 173.

(10) Taya'a, specially Arabian caravan merchants.

(11) Lit., ‘balls’.

(12) They are worn by two different people on occasion. Hence they must be tied exactly each time, and therefore the knot is temporary. — In the other two the differences are the same as in the case of shoes.

(13) Lit., ‘it presents a difficulty to me’.

(14) Abaye asked this: why do you think that it ought to be permitted?

(15) With the result that the sandal fell off his foot.

(16) Tosaf. in Hag. 23a s.v. ונפסקה reads: was walking behind.

(17) Rashi: in a courtyard.

(18) Do not pick it (the sandal) up to put away.

(19) In a karmelith others might take it.

(20) Why should it not be allowed to handle the sandal?

(21) A sandal had two strappings, perhaps like loops, through which the laces were inserted, one on the outside and the other on the inside of the foot. Now, if the inner one is broken, it can be mended, and though it is not very seemly to walk in sandals with the strappings or laces merely knotted together, nevertheless it does not matter, as it is not very noticeable on the inner part of the foot. But if the outer one is broken, one would not walk out in it until a new one is inserted; consequently it ceases to be a ‘utensil’, and may not be handled on the Sabbath (cf. p. 125, n. 3). In Abaye's case the outer strap was broken, hence R. Joseph's ruling. But Abaye argued that by changing the sandal to the other foot this would become the inner strapping, hence it should be permitted. Presumably their sandals were not shaped exactly to the foot, and were interchangeable.

(22) That it ceases to be a ‘utensil’ if the outer is broken.

(23) At the back, by means of which the sandal is held when it is tied up.

(24) For here too it ceases to be a ‘utensil’.

(25) For it is still a ‘utensil’.

(26) If it is a utensil in respect of the former, it is likewise so in respect of the latter, and may be handled on the Sabbath.

(27) V. Glos.

(28) In the ceremony of halizah the shoe must be removed from the right foot.

(29) Because they are interchangeable. But then it should also be regarded as a shoe in respect to halizah even if the outer strapping is broken.

(30) I.e., it is at least fully fit for the left foot.

(31) Even in respect of its own foot.

Talmud - Mas. Shabbath 112b

it is a 'utensil' for its own function, but here it is not a 'utensil' for its own function.[1]

Now, did R. Johanan say thus?[2] Surely R. Johanan said, The halachah is as an anonymous Mishnah,[3] and we learnt: If one of the ears of a sandal is broken and he repairs it, it [the sandal] is unclean as midras.[4] (If the second is broken [too] and he repairs it, it is clean in that it is not defiled as midras,[5] but it is unclean as that touched by midras.)[6] Does not [this mean that] there is no difference whether it is the inner or the outer?[7] — No, [it refers] only [to] the inner. Then what if the outer [is broken]? [Would it be] clean! If so, instead of teaching, If the second is broken [too] and he repairs it, it is clean in that it is not defiled as midras, but it is unclean as that touched by midras, let him [the Tanna] draw a distinction in that very matter and teach: When is that? if the inner is broken; but [if] the outer [is broken] it is clean?-Said R. Isaac b. Joseph: Let our Mishnah[8] treat of a sandal which has four ears and four strappings, so as not to overthrow[9] the words of R. Johanan.

When Rabin came,[10] he said: R. Hanan b. Abba said in Rab's name: The halachah is as R. Judah; while R. Johanan said: The halachah is not as R. Judah. But did R. Johanan say thus: surely since R. Johanan explained [the law] on the basis of R. Judah's view, it follows that he agrees with R. Judah? — There is [a controversy of] amoraim as to R. Johanan' s opinion.

We learnt elsewhere: As for all utensils belonging to private people, their standards are [holes as large] as pomegranates.[11] Hezekiah asked: What if it [a utensil] receives a hole [large enough] for an olive to fall through, and he [the owner] closes it, then it receives another hole[12] [large enough] for an olive to fall through, and he closes it,[and so on] until it is made large enough for a pomegranate to fall through? Said R. Johanan to him, You have taught us: If one of the ears of a sandal is broken and he repairs it, it [the sandal] is unclean as midras; if the second is broken and he repairs it, it is clean in that it is not defiled as midras, but it is unclean as that touched by midras. Now we asked you: Why is it different [when] the first [is broken], — because the second is sound? But [when] the second [too] is broken, the first is [already] repaired? And you answered us: A new entity[13] has arrived hither;[14] here too, a new entity has arrived hither! [Thereupon] he [Hezekiah] exclaimed concerning him, This one is not the son of man![15] Others say, Such a one is indeed the son of man![16] R. Zera said in Raba b. Zimuna's name: If the earlier [scholars] were sons of angels, we are sons of men; and if the earlier [scholars] were sons of men, we are like asses, and not [even] like asses of R. Hanina b. Dosa and R. Phinehas b. Jair,[17] but like other asses.

PITCHERS OF WINE OR OIL. But that is obvious?-This is necessary only where they have two spouts;[18] you might say, He [the owner] may completely disregard one:[19] therefore he [the Tanna] informs us [that we do not fear this].

THE MEAT POT. But that is obvious?-This is necessary only where it has a [screwed-in] stopper: you might say, He [the owner] may completely abandon [it]:[20] hence he informs us [that we do not fear this].

R. ELIEZER B. JACOB SAID: ONE MAY TIE, etc. But that is obvious? This is necessary only where there are two cords: you might say,

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(1) And this is the statement referred to above that R. Johanan explained the law on the view of R. Judah.
(2) That the halachah is according to R. Judah.
(3) I.e., one not taught in the name of any Rabbi.
(4) If it belonged to a zab. V. p. 312, n.9.
(5) I,e., it loses the midras defilement which it contracted previously.
(6) I.e., it is unclean in the first degree, which is one degree below midras itself. It retains this lesser degree of defilement, because we regard it as having touched itself, as it were, when it was unclean as midras. — Rashal deletes the bracketed passage here.
(7) Which is against R. Judah.
(8) The cited anonymous Mishnah (Kel. XXVI, 4).
(9) Lit., 'break'.
(10) V. P. 12, n. 9.
(11) If they are unclean, and then broken, the holes being large enough to allow a pomegranate to fall through, they cease to be utensils and become clean; cf. supra 95b.
(12) At the side of the first.
(13) Lit., 'face'.
(14) I.e., subsequent to the shoe being defiled as midras, the breaking of both loops and their mending so change the shoe as to make it virtually a different utensil, not the one which was defiled.
(15) He is superhuman.
(16) He is a man in the full sense of the word.
(17) The allusions are explained in Hul. 7a and Ta'an. 24a.
(18) And the Mishnah refers to tying them up.
(19) Lit., 'make it as nought', and use the other only; cf. p. 544, n.7.
(20) Sc. the cloth which he ties on top, as he can unscrew the stopper and take the food out that way.

Talmud - Mas. Shabbath 113a

He [the owner] may completely disregard one;[1] hence he [the Tanna] informs us (that we do not fear this].

R. Joseph said in Rab Judah's name in Samuel's name: The halachah is as R. Eliezer b. Jacob. Said Abaye to him, [You say,] The halachah [etc.]: hence it follows that they [the Rabbis] disagree?[2] And what difference does that make? he replied. Shall the accepted tradition be [merely] like a song? he retorted.[3] MISHNAH. A BUCKET [OVER A WELL] MAY BE TIED WITH A FASCIA[4] BUT NOT WITH A CORD;[5] BUT R. JUDAH PERMITS IT. R. JUDAH STATED A GENERAL RULE: ANY KNOT THAT IS NOT PERMANENT ENTAILS NO CULPABILITY.

GEMARA. What CORD is meant. Shall we say an ordinary [bucket] cord? [How then state] R. JUDAH PERMITS IT?- [Surely] it is a permanent knot? Rather it refers to a weaver's rope.[6] Shall we say that the Rabbis hold, We preventively forbid a weaver's cord on account of an ordinary one,[7] while R. Judah holds, We do not preventively forbid? But the following contradicts it: If the cord of a bucket is broken, one must not tie it [together] but merely make a loop [slip-knot]; whereas R. Judah maintains: One may wind a hollow belt or a fascia around it, providing that he does not tie it with a slip-knot. [Thus] R. Judah's [views] are self-contradictory and [similarly] the Rabbis'?- The Rabbis' [views] are not self-contradictory: one rope may be mistaken for[8] another,[9] [whereas] looping cannot be mistaken for knotting.[10] R. Judah's [views] are not self-contradictory: there it is not because looping may be mistaken for knotting, but [because] looping itself is [a form of] knotting.[11]

R. Abba said in the name of R. Hiyya b. Ashi in Rab's name: A man may bring a cord from his house and tie it to a cow and [its] trough.[12] R. Aha the Long, that is R. Aha b.Papa, refuted R. Abba: If a cord [is attached] to a trough, one may tie it to [his] cow; and if [attached] to a cow, one may tie it to a trough, provided however, that he does not bring a cord from his house and tie it to the cow and the trough? — There [the reference is to] an ordinary cord; here [we treat of] a weaver's cord.

Rab Judah said in Samuel's name: A weaver's implements may be handled on the Sabbath.[13] Rab Judah was asked: What of the upper beam and the lower beam?[14] — Yes and No, and he was uncertain about it.[15] It was stated: R. Nahman said in Samuel's name: A weaver's implements may be handled on the Sabbath, even the upper beam and the lower beam, but not the [vertical] rollers.[16] Raba asked R. Nahman: Why are rollers different, that it is not [permitted]? Shall we say, because one makes holes?[17] But the holes are made automatically![18] For we learnt: If one stores turnips or radishes under a vine, provided some of their leaves are uncovered, he need have no fear on account of kil'ayim, the seventh year, or tithes, and they may be removed on the Sabbath?[19] — In a field one will not come to level [fill up] the holes; [whereas] here in the house one will come to level the holes.[20]

R. Johanan asked R. Judah b. Lewai: As for a weaver's implements, e.g., the upper beam and the lower beam, may they be handled on the Sabbath? They may not be handled, answered he. What is the reason? Because they cannot be taken up [moved].[21]

MISHNAH. ONE MAY FOLD UP GARMENTS EVEN FOUR OR FIVE TIMES,[22] AND SPREAD THE SHEETS ON THE BEDS ON THE NIGHT OF THE SABBATH[23] FOR [USE ON] THE SABBATH, BUT NOT ON THE SABBATH FOR [USE ON] THE CONCLUSION OF THE SABBATH. R. ISHMAEL SAID: ONE MAY FOLD UP GARMENTS AND SPREAD THE SHEETS ON THE BEDS ON THE DAY OF ATONEMENT FOR [USE ON] THE SABBATH;[24] AND THE FATS OF THE SABBATH[25] MAY BE OFFERED [BURNT ON THE ALTAR] ON THE DAY OF ATONEMENT,[26] BUT NOT THOSE OF THE DAY OF ATONEMENT ON THE SABBATH. R. AKIBA SAID: NEither MAY THOSE OF THE SABBATH BE OFFERED ON THE DAY OF ATONEMENT, NOR MAY THOSE OF THE DAY OF ATONEMENT BE OFFERED ON THE SABBATH.

GEMARA. The School of R. Jannai said: They learnt this only of one man, but [it may] not [be done] by two men.[27] And even of one man, we said [this] only of new [garments],[28] but not of old [ones]. And even of old [garments], we said this only of white, but not of coloured [ones].[29] And we said this only if he has no others to change, but if he has others to change it is not permitted. It was taught: [The members] of the household of R. Gamaliel did not fold up their white garments, because they had [others] for changing.

R. Huna said: If one has a change [of garments],[30] he should change [them], but if he has nothing to change into, he should lower his garments.[31] R. Safra demurred: But this looks like ostentation?-Since he does not do this every day, but [only] now [on the Sabbath], it does not look like ostentation.

And thou shalt honour it, not doing thine own ways:[32] ‘and thou shalt honour it’, that thy Sabbath garments should not be like thy weekday garments, and even as R. Johanan called his garments ‘My honourers’.[33] ‘Not doing thine own ways’, that thy walking on the Sabbath shall not be like thy walking on weekdays.[34] ‘Nor finding thine own affairs’:[35] thine affairs are forbidden, the affairs of Heaven [religious matters] are permitted. ‘Nor speaking thine own words:’

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(1) He will untie only the lower one, and the animal can leave the stable by stooping.

(2) Surely not, seeing that this is exactly similar to the other cases.

(3) V. supra 57b, 106b.

(4) A band or fillet.

(5) The first is certainly not permanent, but the second may be left there, and thus a permanent knot will have been tied on the Sabbath.

(6) He needs this and will not abandon it there.

(7) The former ought to be permitted, since the knot is only temporary (v. preceding note), and the only reason for prohibiting it is that we fear that otherwise one may fasten an ordinary rope too.

(8) Lit., ‘interchanged with’.

(9) As in n. 4.

(10) No one will think that if the former is permitted the latter is too.

(11) In his view.

(12) Without fear of subsequently leaving one end tied, in which case it becomes a permanent knot.

(13) For a permissible use, though of course their normal use is forbidden on the Sabbath.

(14) Jast.: the upper beam on which the warp depends; the lower beam, the roller on which the web is wound as it advances. — Do we say that since these are costly the weaver is careful not to use them for any purpose but their own, and hence they may not be handled even for a legitimate use?

(15) Lit., ‘it was weak in his hand’.

(16) Perforated rollers used by women in weaving.

(17) The roller is set in the ground, and in pulling it out one naturally dislodges the earth around it and thus makes a hole.

(18) I.e., they cannot be regarded as made by him.

(19) v. supra 50b bottom et seq. for notes. Thus we do not say that in removing them from the ground he makes holes.

(20) And for fear of this it is forbidden.

(21) Even on weekdays, owing to their heaviness. Hence they are utensils whose exclusive purpose is a labour forbidden on the Sabbath (cf. p. 167, n. 8.)

(22) Every time one takes them off, if they are to be worn again on the Sabbath.

(23) I.e., Friday night.

(24) Rashi: e.g.,if the former falls on Friday. — Nowadays this can never happen, but it was possible in the age of the Mishnah, when the beginning of each month was fixed by direct observation.

(25) I.e., the fats of sacrifices offered on the Sabbath.

(26) If it follows the Sabbath. The fats were burnt during the night following the day in which the sacrifice was offered up.

(27) When two men fold up garments they naturally smooth out the creases, and thus repair them, as it were.

(28) They have less creases, and also the cloth is harder, and so the folding does not smooth them out

(29) Their creases are more easily smoothed out. — Perhaps their method of dyeing had that effect on the cloth.

(30) For the Sabbath.

(31) Wear them lower down, to make them look longer. — Wealthy men who did not work in the field generally wore longer garments than workers.

(32) Isa. LVIII, 13. The reference is to the Sabbath.

(33) The garments dignify the person.

(34) This is explained infra.

(35) Ibid. E.V.: pleasure.

Talmud - Mas. Shabbath 113b

that thy speech [conversation] on the Sabbath should not be like thy speech on weekdays.[1] ‘Speaking’: speech is forbidden, but thought [about mundane matters] is permitted. Now, as for all [the rest], they are intelligible; but what is meant by, ‘that thy walking on the Sabbath shall not be like thy walking on weekdays’? — As R. Huna said in Rab's name-others state, R. Abba said in R. Huna's name: If one is walking on the Sabbath and comes to a stream of water, if he can put down his first foot[2] before lifting the second,[3] it is permitted;[4] otherwise it is forbidden.[5] Raba demurred: What shall he do? Shall he go round it? Then he increases the walking [distance]![6] Shall he cross it [walking through]? His garments may be soaked in water and he is led to wringing [them] out![7] Rather [in such a case], since it is impossible [otherwise], it is permitted [to jump across]. But [what is meant][8] is as Rabbi asked R. Ishmael son of R. Jose: Is it permitted to take great strides on the

Sabbath?[9] — Who then permitted it on weekdays? he replied; for I maintain that a long stride takes away a five hundredth part of a man's eyesight,[10] and it is restored to him by the evening Kiddush.[11] Rabbi asked R. Ishmael son of R. Jose: May one eat earth on the Sabbath?[12] — Who then permitted it on weekdays? he replied. For I maintain, It is forbidden even on weekdays, because it causes illness.

R. Ammi said: He who eats earth of Babylon is as though he ate the flesh of his ancestors;[13] some say, It is as though he ate of abominations and creeping things, because it is written, And he dissolved every living thing, etc.[14] Resh Lakish said, Why is it [Babylon] called Shinar? Because all the dead of the Deluge were shaken out [deposited] thither [nin'aru lesham]. R. Johanan said: Why was it called Mezulah [depth]? Because all the dead[15] of the Deluge were dumped[16] there.

‘Some say, It is as though he ate of abominations and creeping things.’ But these were certainly completely dissolved?[17] Rather because they cause illness the Rabbis forbade them. For a certain man ate ‘gargishta[18] and [then] ate cress, and the cress sprouted up into his heart[19] and he died.

Wash thyself therefore, and anoint thee, and put they raiment upon thee.[20] R. Eleazar said: This refers to the Sabbath garments. Give instructions to a wise man, and he will be yet wiser.[21] R. Eleazar said: This alludes to Ruth the Moabitess and Samuel of Ramah.[22] ‘Ruth’ — for whereas Naomi said to her, Wash thyself therefore, and anoint thee, and put thy raiment upon thee, and get thee down to the threshing floor, yet of her it is written, And she went down unto the threshing-floor, and [only] subsequently, and did according to all that her mother-in-law bade her.[23] ‘Samuel’: for whereas Eli said to him, Lie down: and it shall be, if he call thee, that thou shalt say, Speak, Lord, for thy servant heareth;[24] yet of him it is written, And the Lord came, and stood, and called as at other times, Samuel, Samuel. Then Samuel said, Speak; for thy servant heareth,[25] but he did not say, Speak, Lord.[26]

And she went and came and gleaned in the field.[27] R. Eleazar said: She repeatedly went and came until she found decent men whom to accompany. Then said Boaz unto his servant that was set over [he reapers, whose damsel is this?[28] Was it then Boaz's practice to enquire about damsels?[29] — Said R. Eleazar: He perceived a wise dealing[30] in her behaviour, two ears of corn[31] she gleaned; three ears of corn she did not glean.[32] It was taught: He perceived modest behaviour in her, the standing ears[33] [she gleaned] standing; the fallen [she gleaned] sitting. And cleave here by my maidens:[34] was it then Boaz's practice to cleave[35] to the women?[36] — Said R. Eleazar, As soon as he saw that, ‘and Orpah kissed her mother-in-law, but Ruth cleaved unto her,’[37] he said, It is permitted to cleave unto her. And at meal-time Boaz said unto her, Come hither:[38] Said R. Eleazar, He intimated to her,[39] The royal house of David is destined to come forth from thee, [the house] whereof ‘hither’ is written, as it is said, Then David the king went in, and sat before the Lord, — and he said, Who am I, O Lord God, and what is my house, that thou hast brought me hither?[40]

And dip thy morsel in vinegar.[41] R. Eleazar said: Hence [it may be deduced] that vinegar is beneficial in hot weather. R. Samuel b. Nahmani said: He intimated to her, A son is destined to come forth from thee whose actions shall be as sharp[42] as vinegar; and who was it, Manasseh — And she sat beside the reapers.[43] R — Eleazar observed: At the side of the reapers, but not in the midst of the reapers: he [Boaz] intimated to her[44] that the Kingdom of the House of David was destined to be divided.[45] And he reached her parched corn, and she did eat [and was sufficed, and left thereof]:[46] Said R. Eleazar: ‘She ate’ in the days of David, ‘she was sufficed’ in the days of Solomon, ‘and she left over’ in the days of Hezekiah.[47] Some there are who interpret, ‘She ate’ in the days of David and Solomon, and ‘she was sufficed’ in the days of Hezekiah, ‘and she left over’ in the days of Rabbi.[48] For a Master said, Rabbi's house steward was wealthier than King Shapur.[49] In a Baraitha it was taught: ‘And she ate’, in this world; ‘and she was sufficed’, in the days of the Messiah: ‘and she left over’, in the future that is to come.[50]

And beneath his glory shall he kindle a burning like the burning of a fire.[51] R. Johanan said: That which is ‘beneath’ his glory [shall be burnt], but ‘glory’ is not literal.[52] R. Johanan is consistent with his opinion, for R. Johanan called his garments ‘my honourers’. R. Eleazar said, ‘and beneath his glory’ means literally instead of his glory.[53] R. Samuel b. Nahmani interpreted: ‘And beneath his glory’ [must be understood] like the burning of the sons of Aaron; just as there the burning of the soul [is meant], while the body remained intact,[54] so here too, the burning of the soul, while the body remains intact.[55]

R. Aha b. Abba said in R. Johanan's name:

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(1) E.g., business talk is forbidden.
(2) On the other side of the stream.
(3) From this side of the stream — i.e., he can negotiate the stream in a single stride.
(4) Even to jump across.
(5) To jump across.
(6) Which is more tiring and certainly not preferable on the Sabbath.
(7) Which is forbidden.
(8) By ‘that thy walking on the Sabbath, etc.’
(9) Or does it not seem in keeping with the restfulness that should characterize the Sabbath.
(10) Lit., ‘the light of a man's eyes’.
(11) By drinking the wine of Kiddush, q.v. GIos.
(12) Rashi: ‘day’. Perhaps as a cure.
(13) Who died there.
(14) Gen. VII, 23. It is now assumed that they became earth.
(15) Var. lec.: waters.
(16) Or, sunk-niztallelu.
(17) They did not become earth.
(18) A certain reddish clay.
(19) It took root and grew in the gargishta.
(20) Ruth III, 3.
(21) Prov. IX, 9.
(22) I.e., the prophet.
(23) Ruth III, 6. — She reversed the order, lest she be met on the way thus adorned, and suspected of being a harlot.
(24) I Sam. III, 9.
(25) I Sam. III, 10.
(26) Being uncertain whether it was God's voice.
(27) Ruth II, 3.
(28) Ibid. 5.
(29) Surely he did not ask about every maiden gleaning in the field!
(30) Lit., ‘a matter of wisdom’. Bah, quoting Nid. 69b, translates: a knowledge (lit., ‘matter of halachah’).
(31) That fell from the reapers.
(32) In accordance with the law stated in Pe'ah VI, 5 — This fact attracted his attention.
(33) Which the reapers forgot to cut down; these belong to the poor.
(34) Ibid. 8.
(35) var. lec.: speak.
(36) The question as based on the verse is not clear, v. Maharsha.
(37) Ibid. I, 14.
(38) Ibid. II, 14.
(39) Under the action of the Holy Spirit.
(40) II Sam. VII, 18. E.V.: ‘thus far’; Heb. in both verses, halom.
(41) Ruth II, 14.

(42) Lit., ‘hard’, ‘grievous’.
(43) Ibid.
(44) By seating her thus.
(45) Just as the reapers made a division between her and him.
(46) Ruth II, 14.
(47) This metaphorically indicates the progressive stages of prosperity during the reigns of these three monarchs.
(48) R. Judah the Prince, who was a descendant of the House of David.
(49) Shapur I, King of Persia and a contemporary of Samuel (third century).
(50) Cf. Sanh., Sonc. ed., p. 601, n. 3.
(51) Isa. X, 16.
(52) For the literal meaning of ‘glory’ in reference to a man is his body, the flesh which gives him his beauty; hence beneath his ‘glory’ would have to mean his soul, which R. Johanan regards as unsuited to the context. Therefore ‘glory,’ must refer to his garments, which dignify him, whilst ‘beneath his ‘glory’ denotes the body.
(53) Tahath means both ‘beneath’ and ‘instead’. He too maintains that the body shall be burnt and translates, instead of his glory — sc. his body there shall be the ashes to which it is reduced.
(54) v. Sanh. 52a.
(55) He translates tahath ‘beneath’, like R. Johanan, and ‘glory’ his body, like R. Eleazar, and hence arrives at this conclusion. — In Sanh. 94a R. Eleazar's view and R. Samuel b. Nahmani's are combined; v. ibid., Sonc. ed., p. 634.

Talmud - Mas. Shabbath 114a

Whence do we learn change of garments[1] in the Torah? Because it is said, And he shall put off his garments, and put on other garments,[2] and the School of R. Ishmael taught: The Torah teaches you manners: In the garments in which one cooked a dish for his master, one should not mix a cup [of wine] for his master.[3]

R. Hiyya b. Abba said in R. Johanan's name: It is a disgrace for a scholar to go out with patched shoes into the market place. But R. Aha b. Hanina did go out [thus]? — Said R. Aha son of R. Nahman: The reference is to patches upon patches. R. Hiyya b. Abba also said in R. Johanan's name: Any scholar upon whose garment a [grease] stain is found is worthy of death,[4] for it is said, All they that hate me [mesanne'ai] love [merit] death:[5] read not mesanne'ai but masni'ai [that make me hated, i.e., despised].[6] Rabina said: This was stated about a thick patch.[7] Yet they do not differ: one refers to the upper garment [coat], the other to a shirt.

R. Hiyya b. Abba also said in R. Johanan's name: What is meant by the verse, Like as my servant Isaiah hath walked naked and barefoot?[8] ‘Naked’ means in worn-out garments; ‘barefoot’ in patched shoes.

We learnt elsewhere: A grease stain upon a saddle constitutes an interposition.[9] R. Simeon b. Gamaliel said: [The inferior limit is] as much as an Italian issar.[10] On garments: [if the stain is] on one side, it does not interpose; [if] on both sides,[11] it interposes. R. Judah said in R. Ishmael's name: Even on one side it interposes.[12]

R. Simeon b. Lakish asked R. Hanina: In the case of a saddle, [can the stain be] on one side, or [must it be] on both sides?[13] I have not heard this, he replied, but have heard something similar. For we learnt, R. Jose said: [The garments] of banna'im: [a stain even] on one side [interposes]; of uncultured persons, [only a stain] on both sides [interposes].[14] And surely a saddle does not stand higher than the garment of an ignoramus![15] What are banna'im — Said R. Johanan: These are scholars, who are engaged all their days in the upbuilding of the world.[16]

R. Johanan also said: Who is the scholar to whom a lost article is returned on his recognition thereof?[17] That [scholar] who is particular to turn his shirt.[18] R. Johanan also said: Who is the scholar that is appointed a leader of the community? He who when asked a matter of halachah in any place can answer it, even in the Tractate Kallah.[19] R. Johanan also said: Who is the scholar whose work it is the duty of his townspeople to perform?[20] He who abandons his own interest and engages in religious affairs; yet that is only to provide[21] his bread.[22]

R. Johanan also said: Who is a scholar? He who is asked a halachah in any place and can state it, In respect of what practical matter?-To appoint him a Ieader of the community: if [he is well versed only] in one Tractate, [he can be appointed] in his own town; if in the whole [field of] learning,[23] [he can be appointed] as the head of an academy.[24]

R. Simeon b Lakish said: This means[25] the court robes [olaryin][26] that come from overseas, Shall we say that they are white? But R. Jannai said to his sons, ‘My sons, bury me neither in white shrouds nor in black shrouds, White, lest I do not merit,[27] and am like a bridegroom among mourners: black, in case I have merit, and am like a mourner among bridegrooms. But [bury me] in court garments [olaryin] that come from overseas. This proves that they are coloured. — There is no difficulty: one refers to robes,[28] the other to shirts.[29]

R. ISHMAEL SAID: ONE MAY FOLD UP, etc. Our Rabbis taught: The burnt-offering of the Sabbath, on the Sabbath thereof:[30] this teaches concerning the fats of the Sabbath, that they may be offered [burnt] on the Day of Atonement. One might think. Those of the Day of Atonement [can] also [be burnt] on the Sabbath, therefore it s stated, ‘on the Sabbath thereof’: this is R. Ishmael's opinion. R. Akiba said: ‘The burnt-offering of the Sabbath on the Sabbath thereof’: this teaches concerning the fats of the sabbath, that they can be offered on a Festival.[31] One might think, On the Day of Atonement too, therefore it is stated, ‘on the Sabbath thereof.’ When you examine the matter,[32] according to R. Ishmael's opinion, vows[33] and freewill-offerinqs[34] may be sacrificed on a Festival, hence the verse is required in respect of the Day of Atonement.[35] [But] on the view of R. Akiba, vows and freewill-offerings cannot be sacrificed on a Festival; hence the verse is required to permit [the burning of the fats on] Festivals.

R. Zera said:

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(1) As an act of honour.

(2) Lev. VI, 4.

(3) In Talmudic times liquor was diluted with water.

(4) This expression merely denotes strong indignation a scholar should set a high standard of cleanliness.

(5) Prov. VIII, 36. The speaker is learning personified.

(6) For a scholar who has no pride in his personal appearance brings contempt upon his learning.

(7) Jast.; v. however, Rashi.

(8) Isa. XX, 3.

(9) When an article is unclean and requires tebillah (v. Glos.), nothing may interpose between it and the water; otherwise the tebillah is invalid. With respect to stains, etc., if one generally objects to them, they are an interposition; if not, they are not an interposition. A grease stain belongs to the former category.

(10) A certain coin. The stain must be at least that size for it to interpose.

(11) The greasiness having soaked through.

(12) V. Kel. IX, 5, 6.

(13) In R. Ishmael's view.

(14) The former are more fastidious than the latter. R. Jose disagrees with R. Judah and maintains that according to R. Ishmael a stain on the garments of banna'im (explained below as meaning scholars) interposes even if it is on one side only. — This passage is cited to show that scholars must be particular.

(15) I.e., an uncultured person. On ‘am ha-arez v. p 51, n. 1 .

(16) Banna'im lit. means builders. Frankel, Zeitschrift fur die Religiosen Interessen des Judentums’, 1846 p. 455 maintains that the term banna'im was originally applied to the Essenes. — Ignorance is the greatest enemy of stability, but it should be noted that the phrase (disciple of the wise) (talmid hakam) always denoted scholarship plus piety.

(17) Lit., ‘on impression of the eye’. The ordinary person in claiming a lost article must state identification marks, but a scholar is believed if he simply states that he recognizes it; B.M. 23b.

(18) For the seams and rough edges to be on the inside. It appears that not all were particular about this.

(19) A short tractate of that name. Rashi: Though this is not generally studied. Others: the laws of Festivals (Kallah was the name given to the general assemblies in Elul and Adar, when the laws of the Festivals were popularly expounded). v. Kid., Sonc. ed., p. 247, nn 3-4.

(20) V. Yoma 72b; cf. Aboth III, and note a.l. in Sonc. ed. The present passage supports the thirteenth century interpretation quoted there, and suggests that is was similarly interpreted in Talmudic ages too.

(21) Lit., ‘take trouble over’.

(22) I.e., he can only demand the necessities of existence.

(23) Jast. the Mishnah, [Kaplan, J. op. cit. p. 250 understands this as a technical term denoting the summary embodying conclusions arrived at in schools as a result of the discussions based on the Mishnah]

(24) It may be observed that it is automatically assumed that the leader of a community must be a scholar for Jewry sought to promote an aristocracy of learning, not of birth. Cf. Halevi, Doroth, I, 3, pp. 640 seq.

(25) Resh Lakish gives his definition of the garments of ‘banna'im’.

(26) Jast. Rashi reads: olyarim (from Gr. **): costly wraps used by wealthy persons at the baths.

(27) To be amongst the righteous.

(28) Upper garments, which were coloured,

(29) Or, chemises. These were white.

(30) Num. XXXVIII, 10. This is interpreted with and without the ‘thereof’ (the suffix ו). Thus: (i) The burnt-offering of one Sabbath may be completed (i.e., its fat burnt on the altar) on another Sabbath; (ii) The burnt-offering of one Sabbath must be completed on that self-same Sabbath. In this connection it must be observed that the Day of Atonement too is designated Sabbath in Lev. XXIII, 32

(31) Following the Sabbath.

(32) Lit,, ‘when you find to say’,

(33) I.e. vowed sacrifices,

(34) For the difference v, R. H. 6a. Both, of course, are voluntary sacrifices,

(35) For if even voluntary offerings. which can be brought on weekdays, may be sacrificed on a Festival, it goes without saying that fats left over from the obligatory public sacrifices of the Sabbath can be burnt in the evening, even if it is a Festival, and no verse is necessary to teach this. Consequently the verse must be referred to the Day of Atonement,

Talmud - Mas. Shabbath 114b

When I was in Babylon[1] I thought,[2] That which was taught, If the Day of Atonement fell on the eve of the sabbath [Friday], it [the Shofar] was not sounded,[3] while [if it fell] at the termination of the Sabbath, habdalah was not recited,[4] is a unanimous opinion. But when I emigrated thither [to Palestine]. I found Judah the son of R. Simeon b. Pazzi sitting and saying, This is according to Akiba [only];[5] for if [it agrees with] R. Ishmael, — since he maintains, The fats of the Sabbath may be offered on the Day of Atonement, let it [the Shofar] be sounded, so that it may be known that the fats of the Sabbath can be offered on the Day of Atonement,[6] Whereupon I said to him, The priests[7] are zealous.[8]

Mar Kashisha son of R. Hisda said to R. Ashi: Do we then say, Priests are zealous? Surely we learnt: Three [blasts were blown] to cause the people to cease work; three, to distinguish between the holy [day] and weekdays?[9] — As Abaye answered,[10] it was for the rest of the people in Jerusalem; so here too it was for the rest of the people in Jerusalem.

Yet let it [the Shofar] be blown, so that they might know that the trimming of vegetables is permitted [on the Day of Atonement] from the [time of] minhah[11] and onwards?[12] Said R. Joseph: Because a shebuth[13] is not superseded in order to give permission.[14] While R. Shisha son of R. Idi answered: A shehuth [of] immediate[15] [importance] was permitted; a shebuth [of] distant [importance] was not permitted[16] But did they permit a shebuth [of] immediate [importance]? Surely we learnt: If a Festival falls on Friday, we sound [the shofar] but do not recite habdalah;[17] [if it falls] at the termination of the Sabbath, we recite habdalah[18] but do not sound [the shofar].[19] But why so: let it be sounded so that it may be known that killing [animals for food] is permitted immediately [the Sabbath ends]?[20] Rather it is clear that it is as R. Joseph [answered]. R. Zera said in R. Huna's name — others state, R. Abba said in R. Huna's name: If the Day of Atonement falls on the Sabbath, the trimming of vegetables is forbidden. R. Mana said, It was taught likewise: How do we know that if the Day of Atonement falls on the Sabbath, the trimming of vegetables[21] is forbidden? Because it is said, Shabbathon; it is a shebuth.[22] Now, in respect of what [is it stated]: shall we say. In respect of labour[23] — surely it is written, thou shalt not do any work?[24] Hence it must surely refer to the trimming of vegetables;[25] this proves it.

A. Hiyya b. Abba said in R. Johanan's name: If the Day of Atonement falls on the Sabbath, the trimming of vegetables is permitted. An objection is raised: How do we know that if the Day of Atonement falls on the Sabbath, the trimming of vegetables is forbidden? Because shabbathon is stated: it is a shebuth. In respect of what: shall we say in respect of labour, — surely it is written, ‘thou shalt not do any work’? Hence it must surely refer to the trimming of vegetables! — No: in truth it refers to actual work, but [it is stated] to [show that] one violates an affirmative and a negative injunction on account thereof.[26] It was taught in accordance with R. Johanan: If the Day of Atonement falls on the Sabbath,

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(1) R. Zera was a Babylonian who studied at home first and then emigrated to Palestine,

(2) Lit,, ‘said’,

(3) As on ordinary Fridays, supra 35b.

(4) In the evening prayer, V. Glos. When a Festival falls on Sunday, habdalah is recited in the evening to signify that there is a distinction between the holiness of the Sabbath and that of Festivals.

(5) Since he maintains that the fats of the Sabbath may not be burnt on the Day of Atonement and vice versa, he evidently holds that they each enjoy equal sanctity. Therefore neither habdalah nor the sounding of the shofar is required, for these are necessary only to mark a difference in the degree of sanctity.

(6) For the sounding of the shofar would teach that the Day of Atonement possessed a lower degree of holiness.

(7) Who burn the fats.

(8) They take care to know the law and need no reminder.

(9) This was done in the Temple, and he assumed that it was in order to remind the priests,

(10) In reference to another matter; v, Yoma 37b,

(11) V. Glos.

(12) In this it differs from the Sabbath, when it is forbidden, V. infra.

(13) V. Glos.; the blowing of the shofar is a shebuth.

(14) But only where it is necessary to emphasize prohibitions, e.g., if Friday is a Festival, so that many things permitted thereon are forbidden on the Sabbath,

(15) Lit,, ‘near’,

(16) If it were of immediate importance, the shebuth would have been permitted. But in any case when the day of Atonement falls on Friday, the vegetables, even if trimmed, cannot be cooked on the Sabbath. So that the sounding of the shofar would only be of importance for subsequent Days of Atonement, and in such a case the shebuth is not superseded.

(17) On Friday evening, because habdalah is recited only when a more stringent holiness is left behind.

(18) On Saturday evening.

(19) Saturday afternoon.

(20) For the preparation of food is permitted on Festivals, Ex, XII. 6.

(21) I.e., cutting away those parts of vegetables which are not edible. The reference is of course to unattached vegetables.

(22) Ex. XVI, 23: E.V. (solemn) rest. Here it is translated as shebuth, and thus intimates such labour as trimming vegetables.

(23) I.e., the word forbids actual labour, e.g. the trimming of vegetables that are still attached to the soil, supra 73b. — The discussion here treats of vegetables already cut off from the ground.

(24) Ex, XX, 9, hence shabbathon is superfluous.

(25) The verse is merely a support (asmakta), the prohibition being a Rabbinical one only (Ri).

(26) Shabbathon is an affirmative command, bidding one to rest,

Talmud - Mas. Shabbath 115a

the trimming of vegetables is permitted. Nuts may be cracked and pomegranates scraped from the [time of] minhah and onwards, on account of one's vexation.[1] The household of Rab Judah trimmed cabbage. Rabbah's household scraped pumpkins. Seeing that they were doing this [too] early,[2] he said to them, A letter has come from the west in R. Johanan's name [to the elect] that this is forbidden.[3]

CHAPTER XVI

MISHNAH. ALL SACRED WRITINGS[4] MAY[5] BE SAVED FROM A FIRE,[6] WHETHER WE READ THEM OR NOT;[7] AND EVEN IF THEY ARE WRITTEN IN ANY LANGUAGE, THEY MUST BE HIDDEN.[8] AND WHY DO WE NOT READ [CERTAIN OF THE SACRED WRITINGS]? BECAUSE OF THE NEGLECT OF THE BETH HAMIDRASH.[9]

GEMARA. It was stated: If they are written in Targum[10] or in any [other] language, — R. Huna said: They must not be saved from a fire; while R. Hisda ruled: They may be saved from a fire. On the view that it is permissible to read them,[11] all agree that they must be saved. They differ only according to the view that they may not be read. R. Huna says: We may not save [them], since they may not be read. R. Hisda says: We must save [them], because of the disgrace to Holy Writings.[12] We learnt: ALL SACRED WRITINGS MAY BE SAVED FROM THE FIRE, WHETHER WE READ THEM OR NOT, and even if they are written in any language. Surely WHETHER WE READ THEM refers to the Prophets, whilst OR NOT refers to the Writings, AND EVEN IF THEY ARE WRITTEN IN ANY LANGUAGE, though they may not be read [publicly], yet he [the Tanna] teaches that they MAY BE SAVED, which refutes R. Huna? — R. Huna can answer you: Is that logical? Consider the second clause: THEY MUST BE HIDDEN: seeing that they must be saved,[13] need hiding be mentioned?[14] But R. Huna explains it in accordance with his view, while R. Hisda explains it according to his. R. Huna explains it in accordance with his view. WHETHER WE READ THEM, [i.e.] the Prophets; OR NOT, [i.e.,] the Writings. That is only if they are written in the Holy Tongue [Hebrew], but if they are written in any [other] language, we may not save them, yet even so they must be hidden. R. Hisda explains it according to his view: WHETHER WE READ THEM, [i.e.,] the Prophets, OR NOT, [i.e.,] the Writings; EVEN IF THEY ARE WRITTEN IN ANY LANGUAGE, we must still save them. And this is what he states: And [even] their worm-eaten [material] MUST BE HIDDEN.

An objection is raised: If they are written in Targum or in any [other] language, they may be saved from the fire: this refutes R. Huna? — R. Huna answers you: This Tanna holds, They may be read. Come and hear: If they are written in Egyptian,[15] Median, a trans[-Euphratean][16] Aramaic, Elamitic,[17] or Greek, though they may not be read, they may be saved from a fire: this refutes R. Huna? — R. Huna can answer you: It is [a controversy of] Tannaim. For it was taught: If they are written in Targum or in any language, they may be saved from a fire. R. Jose said: They may not be saved from a fire. Said R. Jose: It once happened that my father Halafta visited R. Gamaliel Berabbi[18] at Tiberias and found him sitting at the table of Johanan b. Nizuf with the Targum of the Book of Job in his hand[19] which he was reading. Said he to him, ‘I remember that R. Gamaliel, your grandfather, was standing on a high eminence on the Temple Mount, when the Book of Job in a Targumic version was brought before him, whereupon he said to the builder, "Bury it under the bricks."[20] He [R. Gamaliel II] too gave orders, and they hid it.'[21] R. Jose son of R. Judah said: They overturned a tub of mortar upon it. Said Rabbi: There are two objections to this: Firstly, how came mortar on the Temple Mount?[22] Moreover, is it then permitted to destroy them with one's own hands? For they must be put in a neglected place to decay of their own accord.[23] Which Tannaim [differ on this question]?[24]

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(1) Lit., 'grief of the soul'. It would be very vexing if the breaking of the Fast had to be delayed whilst these are prepared (Baal Ha-Ma'or V. Marginal Gloss,; Rashi explains it differently)

(2) Before the time of minhah.

(3) Such letters afford examples of early Rabbinic Responsa.

(4) E.g., the Torah, Prophets, and Writings.

(5) In this connection 'may' is the equivalent of 'must', and similarly in the Gemara.

(6) By being moved from one domain to another on the Sabbath. V. next Mishnah.

(7) The reference is to public readings. There was (and is) public reading from the Prophets but not from the Writings (Hagiographa). Rashi quotes another explanation: even private individuals did not read the Writings (on the Sabbath), because public lectures were given on that day, which left no time for private reading.

(8) If they become unfit for use. V. p. 429, n. 5.

(9) The public lectures would be neglected. For a general discussion on the manner, etc. of these lectures v. Zunz, G. V. Ch. 20.

(10) The Aramaic translation of the Pentateuch and other portions of the Bible are called Targum — the translation par excellence. But v. Kaplan, op. cit. pp. 283 seq.

(11) publicly; v. Meg. 8b.

(12) It disgraces them if they are allowed to be burnt like something worthless.

(13) On your hypothesis.

(14) Obviously if they have sufficient sanctity to be saved on the Sabbath they must not be simply thrown away when no longer fit for use.

(15) Or, Coptic.

(16) עברית so Jast.: perhaps the reference is to Hebrew in transliteration.

(17) Of Elam, south of Assyria.

(18) A title of scholars most frequently applied to disciples of R. Judah ha-Nasi and his contemporaries, but also to some of his predecessors (as here), and sometimes to the first Amoraim (Jast.). V. Naz., Sonc. ed., p. 64, n. 1.

(19) This shows that a Targum of Job existed already in the middle of the first century C.E. This is not identical with the extant Targum, which on internal evidence must have been composed later; v. J.E. art. Targum, Vol. XII, p. 62; Zunz, G. V. 64 seq.

(20) Lit., 'the course (of stones)'.

(21) The spread of words inimical to Judaism, both through the rise of Christianity and false claimants to the Messiahship, caused the Rabbis to frown upon books other than those admitted to the Holy Scriptures, even such as were not actually inimical thereto. — Weiss, Dor, I, 212, 236.

(22) A mixture of lime and sand was used, but not mortar, which is made of earth and water.

(23) The objection to writing down the Targum was probably due to the fear that it might in time be regarded as sacred. V. also Kaplan, op. cit., p. 285.

(24) Sc. whether they may be rescued from a fire.

Talmud - Mas. Shabbath 115b

Shall we say the first Tanna and R. Jose, — but perhaps they differ in this: one Master holds, It is permitted to read them; while the other holds, It is not permitted to read them?[1] Rather [they are] R. Jose and the Tanna [who taught the law] about the Egyptian [script].

Our Rabbis taught: Benedictions and amulets, though they contain letters of the [Divine] Name and many passages of the Torah, must not be rescued from a fire but must be burnt where they lie,[2] they together with their Names. Hence it was said, They who write down Benedictions are as though they burnt a Torah.[3] It happened that one was once writing in Sidon. R. Ishmael was informed thereof, and he went to question him [about it]. As he was ascending the ladder, he [the writer] became aware of him, [so] he took a sheaf of benedictions and plunged them into a bowl of water. In these words[4] did R. Ishmael speak to him: The punishment for the latter [deed] is greater than for the former.

The Resh Galutha[5] asked Rabbah son of R. Huna: If they are written with paint [dye], sikra,[6] gum ink, or calcanthum,[7] in Hebrew, may they be rescued from a fire or not? This is asked whether on the view that we may save[8] or that we may not save. It is asked on the view that we may not save: that may be only if they are written in Targum or any [other] language; but here that they are written in Hebrew, we may rescue [them]. Or perhaps even on the view that we may save [them], that is only when they are written in ink, which is lasting; but here, since it [the writing] is not permanent, [we may] not [rescue them]? — We may not save [them], answered he. But R. Hamnuna recited, We may save [them]? — If it was taught, it was taught, replied he.[9] Where was it taught? — Said R. Ashi, Even as it was taught: The only difference between the [other] Books[10] and the Megillah[11] is that the Books can be written in any language, whereas a Megillah must be written in Assyrian,[12] on a Scroll, and in ink.[13]

R. Huna b. Halub asked R. Nahman: A Scroll of the Law in which eighty-five letters cannot be gathered,[14] such as the section, And it came to pass when the Ark set forward [etc.],[15] may it be saved from a fire or not? — Said he, Then ask about the section, ‘and it came to pass, etc.,’itself![16] — If the section, ‘And it came to pass, etc.,’ is defective [through effacing], I have no problem, for since it contains the Divine Name, even if it does not contain eighty-five letters we must rescue it. My only problem is about a Scroll of the Law wherein [this number] cannot be gathered: what then? We may not save it, he answered.

He refuted him: If Targum is written as Mikra,[17] or Mikra is written in Targum or in Hebrew characters,[18] they must be saved from a fire, and the Targum in Ezra, Daniel and the Torah [the Pentateuch] go without saying. Now, what is the Targum in the Torah? [The words], Yegar sahadutha;[19] and though it does not contain eighty-five letters [it must be saved]? — That was taught in respect of completing [the number].[20]

The scholars asked: These eighty-five letters, [must they be] together or [even] scattered? R. Huna said: [They must be] together; R. Hisda said: Even scattered. An objection is raised: If a Scroll of the Law is decayed, if eighty-five letters can be gathered therein, such as the section, ‘and it came to pass when the ark set forward etc.,’ we must save it; if not, we may not save it. This refutes R. Huna?[21] — R. Hisda expounded it on the basis of R. Huna's [ruling as referring] to words.[22]

Our Rabbis taught: ‘And it came to pass when the ark set forward that Moses said, [etc.]’: for this section the Holy One, blessed be He, provided signs above and below,[23] to teach

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(1) And the question whether they may be saved depends on whether they may be read.

(2) Lit., ‘in their place’.

(3) Since should fire break out they may not be saved (Rashi).

(4) Lit., ‘this language’.

(5) V. p. 217, n. 7.

(6) A red paint.

(7) Vitriol used as an ingredient of shoe-black and of ink (Jast.).

(8) Holy writings written in other languages.

(9) Then I am wrong.

(10) Comprising the Bible — i.e., the Torah, Prophets and Hagiographa.

(11) The Book of Esther.

(12) The modern square Hebrew characters, which superseded the older Hebrew, viz., Syriac or Samaritan form. V. Meg., Sonc. ed., p. 47 n. 4 and Sanh., Sonc., ed. p. 120, n. 4.

(13) Ri: this is only in respect of saving them from a fire. Other books even if not written on a scroll and in ink must be saved, whereas for a Megillah these conditions are necessary.

(14) I.e., the whole Scroll is effaced and eighty-five clear letters cannot be found in it. This is the minimum for a Scroll to retain its sanctity.

(15) Num. X, 35-36. That contains eighty-five letters, and as stated infra it is designated a separate ‘Book’.

(16) If it is written separately upon a piece of parchment, and one or more of its letters are effaced.

(17) I.e., if the Biblical passages which are in Aramaic in the original are written in Hebrew, as practically the whole of the Pentateuch (mikra — lit., ‘reading’) is.

(18) Samaritan script. V. p. 66, n. 9.

(19) Gen. XXXI, 47 q.v.

(20) I.e., if the Scroll contains eighty-five uneffaced letters including yegar sahadutha, it must be saved.

(21) Because ‘can be gathered’ implies that they are scattered.

(22) It contains complete words scattered about which total to eighty-five letters. They differ where all the eighty-five letters are scattered, the Scroll containing no complete words at all.

(23) I.e., at the beginning and at the end. — In the Scrolls the section is preceded and followed by a reversed nun, which distinguishes and divorces it from the adjoining passages.

Talmud - Mas. Shabbath 116a

that this is not its place. Rabbi said: It is not on that account,[1] but because it ranks as a separate Book. With whom does the following dictum of R. Samuel b. Nahmani in R. Jonathan's name agree: She [Wisdom] hath hewn out her seven pillars:[2] this refers to the seven Books of the Law? With whom? With Rabbi.[3] Who is the Tanna that disagrees with Rabbi? It is R. Simeon b. Gamaliel. For it was taught, R. Simeon b. Gamaliel said: This section is destined to be removed from here and written in its [right place].[4] And why is it written here? In order to provide a break between the first [account of] punishment and the second [account of] punishment.[5] What is the second [account of] punishment? — And the people were as murmurers, [etc.].[6] The first [account of] punishment? — And they ‘moved away from the mount of the Lord,[7] which R. Hama b. R. Hanina expounded [as meaning] that they turned away from following the Lord. And where is its [rightful] place? — In [the chapter on] the banners.[8]

The scholars asked: The blank spaces of a Scroll of the Law, may we rescue them from fire or not? — Come and hear: If a Scroll of the Law is decayed, if eighty-five letters can be gathered therein, such as the section ‘and it came to pass when the ark set forward,’ we must save it; if not, we may not save it. But why so? conclude [that it may be saved] on account of its blank space?[9] That which is decayed is different.[10] Come and hear: If a Scroll of the Law is effaced, if eighty-five letters can be gathered therein, such as the section, ‘and it came to pass when the ark set forward,’ we must save it; if not, we may not save it. But why so: conclude [that we must save it] on account of its blank space?[11] — As for the place of the writing, I have no doubt, for when it was sanctified it was on account of the writing, [and] when its writing goes its sanctity goes (too]. My problem is only in respect of [the blank spaces] above and below, between the sections, between the columns, [and] at the beginning and the end of the Scroll. Yet conclude [that it must be saved] on that account?[12] — It may mean [there] that one had cut off [the blank spaces] and thrown them away.

Come and hear: The blank spaces above and below, between the sections, between the columns, at the beginning and at the end of the Scroll, defile one's hands.[13] — It may be that [when they are] together with the Scroll of the Law they are different.[14] Come and hear: The blank spaces[15] and the Books of the Minim[16] may not be saved from a fire, but they must be burnt in their place, they and the Divine Names occurring in them. Now surely it means the blank portions of a Scroll of the Law? No: the blank spaces in the Books of Minim. Seeing that we may not save the Books of Minim themselves, need their blank spaces be stated? — This is its meaning: And the Books of Minim are like blank spaces.

It was stated in the text: The blank spaces and the Books of the Minim, we may not save them from a fire. R. Jose said: On weekdays one must cut out the Divine Names which they contain, hide them,[17] and burn the rest. R. Tarfon said: May I bury my son if I would not burn them together with their Divine Names if they came to my hand. For even if one pursued me[18] to slay me, or a snake pursued me to bite me, I would enter a heathen Temple [for refuge], but not the houses of these [people], for the latter know (of God] yet deny [Him], whereas the former are ignorant and deny [Him], and of them the Writ saith, and behind the doors and the posts hast thou set up thy memorial.[19] R. Ishmael said: [One can reason] a minori: If in order to make peace between man and wife the Torah decreed, Let my Name, written in sanctity, be blotted out in water,[20] these, who stir up jealousy, enmity, and wrath between Israel and their Father in Heaven, how much more so;[21] and of them David said, Do not I hate them, O Lord, that hate thee? And am I not grieved with those that rise up against thee? I hate then with perfect hatred: I count them mine enemies.[22] And just as we may not rescue them from a fire, so may we not rescue them from a collapse [of debris] or from water or from anything that may destroy them.

R. Joseph b. Hanin asked R. Abbahu: As for the Books of Be Abedan,[23] may we save them from a fire or not? — Yes and No, and he was uncertain about the matter.[24] Rab would not enter a Be Abedan, and certainly not a Be Nizrefe;[25] Samuel would not enter a Be Nizrefe, yet he would enter a Be Abedan. Raba was asked: Why did you not attend at the Be Abedan? A certain palm-tree stands in the way, replied he, and it is difficult for me [to pass it].[26] Then we will remove it? — Its spot will present difficulties to me.[27] Mar b. Joseph said: I am one of them[28] and do not fear them. On one occasion he went there, [and] they wanted to harm him.[29]

Imma Shalom, R. Eliezer's wife, was R. Gamaliel's sister. Now, a certain philosopher[30] lived in his vicinity,

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(1) Lit., ‘designation’.

(2) Prov. IX, 1.

(3) Since that section is a separate Book, the portions of Numbers preceding and following it are also separate Books; hence there are seven in all.

(4) Viz., in the section dealing with the disposition of the Israelites according to their banners and their travelling arrangements,Num. II.

(5) So as to relieve the gloomy effect that would otherwise be produced.

(6) Num. XI, 1 seq.

(7) Ibid. X, 33.

(8) But in the future , when all evil and its consequent retribution has ceased, this section will be inserted in its right place.

(9) And since we do not reason thus, it follows that the margin may not be saved.

(10) For the parchment of the margins too is perished. The question is where the parchment is quite sound, but the writing is effaced.

(11) Which is now the entire Scroll.

(12) Even if the place of the writing is no longer sacred, if the margins must be saved, the entire Scroll must be saved ipso facto.

(13) Cf. supra 14a. This proves that they have the same sacred character as the rest of the Scroll.

(14) The writing there being sound.

(15) Jast. s.v. גליון translates, the gospels, though observing that here it is understood as blanks. V. Herford, R.T., ‘Christianity in the Talmud’, p. 155 n.

(16) Sectarians. The term denotes various kinds of Jewish sectarians, such as the Sadducces, Samaritans, Judeo-Christians, etc., according to the date of the passage in which the term is used. The reference here is probably to the last-named. V. J.E., art. Min; Bacher in REJ. XXXVIII, 38. Rashi translates: Hebrew Bibles written by men in the service of idolatry.

(17) v. p. 429, n. 5.

(18) Lit., ‘him’ — he meant himself but used the third person owing to a reluctance to speak even hypothetically of evil befalling himself.

(19) Isa. LVII, 8; they know of the true God, but have rejected Him, thrusting Him out of sight, as it were.

(20) The reference is to the trial of a wife accused of adultery; v. Num. V, 23f.

(21) Not only do they themselves go astray from God, but lead many others astray from Him.

(22) Ps. CXXXIX, 21f.

(23) The meeting place of early Christians where religious controversies were held (Jast.). Rashi: the books written for the purpose of these controversies; v. also Weiss, Dor, III, p. 166 and n. 13. [The meaning of Be Abedan is still obscure in spite of the many and varied explanations suggested; e.g., (a) House of the Ebionites; (b) Abadan (Pers.) ‘forum’; (c) Beth Mebedhan (Pers.) ‘House of the chief Magi’; v. Krauss's Synagogale Altertumer, p. 31].

(24) V. supra 113a.

(25) בי נצרפי; a meeting place of the Nazarenes, Jewish Christians, where local matters were discussed and religious debates were held. (Levy). [Ginzberg, MGWJ LXXVIII, p. 23 regards it as the name of a Persian house of worship meaning the Asylum of Helplessness].

(26) This of course was merely an evasion.

(27) It will leave a hole and render the road impassable.

(28) I am well acquainted with them.

(29) Uncensored text adds: R. Meir called it (the Gospel) ‘Awen Gilyon, the falsehood of blank Paper; R. Johanan called it ‘Awon Gilyon, the sin of etc. On the whole passage v. Herford, op. cit., pp. 161-171.

(30) Rashi: min (i.e., sectarian).

Talmud - Mas. Shabbath 116b

and he bore a reputation that he did not accept bribes.[1] They wished to expose him,[2] so she brought him a golden lamp, went before him, [and] said to him, ‘I desire that a share be given me in my [deceased] father's estate.’ ‘Divide,’ ordered he. Said he [R. Gamaliel] to him, ‘It is decreed for us, Where there is a son, a daughter does not inherit.’ [He replied], ‘Since the day that you were exiled from your land the Law of Moses has been superseded[3] and another book[4] given, wherein it is written, ‘A son and a daughter inherit equally.’[5] The next day, he [R. Gamaliel] brought him a Lybian ass. Said he to them, ‘Look[6] at the end of the book, wherein it is written, I came not to destroy the Law of Moses nor[7] to add to the Law of Moses,[8] and it is written therein, A daughter does not inherit where there is a son. Said she to him, ‘Let thy light shine forth like a lamp.’[9] Said R. Gamaliel to him, ‘An ass came and knocked the lamp over!’[10]

AND WHY DO WE NOT READ [THEM], etc. Rab said: They learnt this only for the time of the Beth Hamidrash, but we may read [them] when it is not the time of the Beth Hamidrash. But Samuel said: We may not read them [on the Sabbath] even when it is not the time of the Beth Hamidrash. But that is not so, for Nehardea was Samuel's town, and in Nehardea they closed the prescribed lesson [of the Pentateuch] with [a reading from] the Hagiographa at minhah on the Sabbath?[11] Rather if stated it was thus stated: Rab said, They learnt this only in the place of the Beth Hamidrash; but we may read [them] elsewhere than in the Beth Hamidrash. While Samuel said: Whether in the place of the Beth Hamidrash or elsewhere, at the time of the Beth Hamidrash[12] we may not read [them]; when it is not the time of the Beth Hamidrash we may read them. And Samuel is consistent with his view, for in Nehardea they closed the prescribed lesson [of the Pentateuch] with[13] [a reading from] the Hagiographa. R. Ashi said, In truth, it is as we first stated, Samuel [ruling] according to R. Nehemiah.[14] For it was taught: Though they [the Sages] said, Holy writings may not be read, yet they may be studied, and lectures thereon may be given. If one needs a verse, he may bring [a Scroll] and see [it] therein. R. Nehemiah said: Why did they rule, Holy Writings may not be read? So that people may say, If Holy Writings may not be read, how much more so secular documents![15]

MISHNAH. ONE MAY SAVE THE SHEATH OF A SCROLL TOGETHER WITH THE SCROLL, AND THE CONTAINER OF TEFILLIN[16] TOGETHER WITH THE TEFILLIN, EVEN IF IT [ALSO] CONTAINS MONEY. AND WHITHER MAY WE RESCUE THEM? INTO A CLOSED ALLEY; BEN BATHYRA RULED: EVEN INTO AN OPEN ONE.[17]

GEMARA. Our Rabbis taught: If the fourteenth [of Nisan] falls on the Sabbath, the Passover sacrifice is flayed as far as the breast:[18] this is the view of R. Ishmael son of R. Johanan b. Berokah. But the Sages maintain: We flay the whole of it. As for R. Ishmael son of R. Johanan b. Berokah, it is well, [the reason being] that the requirements for the Sanctuary[19] have been fulfilled;[20] but what is the reason of the Rabbis? — Said Rabbah b. Bar Hanah in R. Johanan's name: Because Scripture saith, The Lord hath made every thing for his own purpose.[21] But what is there here ‘for his own purpose?’ R. Joseph said: So that it should not putrefy.[22] Raba said: So that Divine sacrifices should not lie like a nebelah. Wherein do they differ? — They differ where it is lying on a gold table,[23] or if it is a day of the north wind.[24] Now R. Ishmael son of R. Johanan b. Berokah, how does he dispose of this [verse], ‘The Lord hath made every thing for his own purpose’?- [That teaches] that one must not draw out the emurim[25] before the stripping of the skin.[26] What is the reason?-Said R. Huna son of R. Nathan: On account of the threads.[27]

R. Hisda observed in Mar ‘Ukba's name: What did his companions answer to R. Ishmael son of R. Johanan b. Berokah? They argued thus with him: If the sheath of a Scroll may be rescued together with the Scroll, shall we then not flay the Passover sacrifice of its skin?[28] How compare! There it is [mere] handling, whereas here it is work.[29] — Said R. Ashi, They differ in two things, viz., in respect of both handling and labour, and they argue thus with him: If the sheath of a Scroll may be saved together with the Scroll, shall we not handle the skin on account of the flesh.[30]

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(1) He was a judge.

(2) Lit., ‘make sport of him’.

(3) Lit., ‘taken away’.

(4) The reading in Cod. Oxford is: and the law of the Evangelium has been given.

(5) There is no passage in any known Gospel that a son and daughter inherit alike.

(6) Lit., ‘descend to’.

(7) Var. lec.: but; v. Weiss, Dor, I, p. 233, n. 1.

(8) Cf. Matt. V, 17 seq.

(9) Alluding to the lamp which she presented him on the preceding day.

(10) This story is discussed in Bacher, Ag. d. Pal. Am. 11, p. 424 n. V. also R.T. Herford, op. cit., pp. 146-154, though his conjecture that the story ends with a covert gibe at Christianity is hardly substantiated.

(11) As a Haftarah (q.v. Glos.) after the Reading of the Law: so Jast. V. Rashi; cf. supra 24a. [Aliter: They expounded a part of Scripture from the Hagiographa etc. V. Bacher, Terminologie s.v. סדרא

(12) I.e., when the public lectures are given.

(13) The text should read בכתובים as above, not דכתובים.

(14) But he does not state his own view there.

(15) E.g., bills, documents relating to business transactions, etc.

(16) I.e., the bag or box in which they are kept.

(17) This is discussed infra.

(18) Starting from the hind legs. One can then remove the fats which ‘are to be burnt on the altar (these are called emurim, lit., ‘devoted objects’), the burning being permitted on the Sabbath. Since the rest of the skin must be flayed only in order to reach the portion which he himself will eat in the evening, this is regarded as having a secular purpose, and therefore must be left for the evening.

(19) Lit., ‘the Most High’.

(20) When it is flayed thus far, as explained supra note 1.

(21) I.e., His honour. Prov. XVI, 4.

(22) One may still fear putrefaction, but it is certainly not lying like a nebelah. Hence according to R. Joseph it must be completely stripped even so, but not according to Raba.

(23) It is not in keeping with the honour due to God that the meat of the sacrifices offered to Him should turn putrid.

(24) Which keeps the meat fresh.

(25) V. n. 1.

(26) As far as the breast.

(27) Of wool, which would otherwise adhere to the fats, etc.

(28) Surely the two are identical, for the sheath too is not sacred, just as the flaying of the skin after the breast has been reached serves a secular purpose only.

(29) Flaying being a principal labour, v. supra 73a.

(30) Rashi: R. Ishmael holding that once the emurim have been drawn out the animal may not be handled because of the skin, while the Rabbis argue that on the contrary since the flesh itself might be handled the skin may be likewise in virtue thereof. According to this they differ where the animal has only been partially flayed. Tosaf. interprets the passage differently.

Talmud - Mas. Shabbath 117a

How compare! There it [the sheath] had become as a stand to that which is permitted,[1] whereas here it [the skin] had become a stand to a thing that is forbidden![2] Rather they say thus to him, If we may save the sheath of a Scroll together with the Scroll, though it also contains money,[3] shall we not handle the skin on account of the flesh? How compare! There it [the sheath] became a stand for something that is forbidden (the money] and something that is permitted [the Scroll]; whereas here the whole has become a stand for that which is forbidden? — Rather they say thus to him: If a sheath containing money may be brought from elsewhere to save a Scroll of the Law with it, shall we not handle the skin in virtue of the flesh? And how do we know that itself? Shall we say, since one need not throw them [the coins] out when it contains them,[4] he may bring it [the sheath] too? How compare! There, in the meanwhile the fire may alight [upon the Scroll];[5] but here, let them be thrown out in the meantime?[6] Rather said Mar son of R. Ashi: In truth it is as we originally explained it; and as to your objection, There it is (mere] handling, whereas here it is work, — [that is answered] e.g., that he does not require the skin.[7] But Abaye and Raba both say: R. Simeon agrees in a case of ‘cut off its head but let it not die?’[8] — He removes it [the skin] in strips.[9]

AND WHITHER MAY WE RESCUE THEM, etc. What is an open [alley] and what is a closed [one]? — R. Hisda said: [[fit contains] three walls and two stakes,[10] it is a closed alley; three walls and one stake, it is an open alley. And both of them[11] are based on R. Eliezer[‘s opinion]. For we learnt: To make an alley eligible,[12] Beth Shammai maintain: [It requires] a stake and a beam;[13] Beth Hillel say: Either a stake or a beam; R. Eliezer said: Two stakes.[14] Said Rabbah to him, If there are three walls and one stake, do you call it open![15] Moreover, according to the Rabbis, let us save thither even foodstuffs and liquids?[16] Rather said Rabbah, [it is to be explained thus]: [If it contains] two walls and two stakes,[17] it is a closed alley; two walls and one stake, it is an open alley, and both[18] are based on [the view of] R. Judah. For it was taught: Even more than this did R. Judah say: If one owns two houses on the opposite sides of the street, lie can place a stake or a beam at each side and carry between them. Said they to him: A street cannot be made fit for carrying by an ‘erub in this way.[19] Said Abaye to him, But according to you too, on [the view of] the Rabbis let us save thither even foodstuffs and liquids?[20] [

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(1) Sc. the Scroll, which may be handled in any case, even if there is no fire.

(2) Sc. the flesh, which may not be handled until the evening before which it is not required (Rashi). Tosaf.: the flesh may be handled now, but before the sacrifice was killed the whole animal was mukzeh.

(3) Which by itself may not be handled.

(4) V. Mishnah.

(5) If one should first have to empty the sheath of its money.

(6) Whilst carrying the sheath to the Scroll it can be emptied of its money without loss of time.
(7) Hence the flaying is unintentional, as far as the skin is concerned.-On this explanation they differ only in respect of skinning the animal, as was first suggested.
(8) v. p. 357, n. 8.
(9) Not as one piece. It is not even real flaying them and only counts as a shebuth (Rashi).
(10) I.e., it is a cul-de-sac leading off a street, and stakes are planted in the ground at either side of the opening. These stakes legally count as a fourth wall, and thus the alley is regarded as entirely enclosed.
(11) The Rabbis and Ben Bathyra.
(12) To rank technically as an ‘alley’ wherein carrying on the Sabbath is permitted under certain conditions.
(13) A stake at the side of the entrance and a beam across it.
(14) Ben Bathyra however holds that in order to save holy writings R. Eliezer too is more lenient.
(15) Surely not, even if it be conceded that two stakes are required to make it fit.
(16) I.e., where it is closed with two stakes carrying should be entirely permitted therein, and not restricted to holy writings. [The Rabbis state infra 120a that foodstuffs may be saved by carrying them into a courtyard furnished with an ‘erub, but not into an alley.]
(17) I.e.,it is open at each end, and a stake is placed at both entrances.
(18) V. n. 4.
(19) V. supra 6a bottom for notes. Ben Bathyra holds that where the saving of holy writings is in question R. Judah is more lenient.
(20) Seeing that in your opinion the Rabbis hold with R. Judah that two partitions and two stakes render the space fit for carrying.

Talmud - Mas. Shabbath 117b

Rather said R. Ashi: Three walls and one stake, that is a closed alley; three walls without a stake, that is an open alley. And even according to R. Eliezer who maintains [that] we require two stakes, that is only in respect of foodstuffs and liquids, but for a Scroll of the Law one stake is sufficient.

MISHNAH. FOOD FOR THREE MEALS MAY BE SAVED, THAT WHICH IS FIT FOR MAN, FOR MAN, THAT WHICH IS FIT FOR ANIMALS, FOR ANIMALS.[1] HOW SO? IF A FIRE BREAKS OUT SABBATH NIGHT,[2] FOOD FOR THREE MEALS MAY BE SAVED; [IF] IN THE MORNING, FOOD FOR TWO MEALS MAY BE SAVED; AT [THE TIME OF] MINHAH, FOOD FOR ONE MEAL.[3] R. JOSE SAID: AT ALL TIMES WE MAY SAVE FOOD FOR THREE MEALS.[4]

GEMARA. Consider: He labours[5] in that which is permissible;[6] then let us save more? — Said Raba: Since a man is excited over his property, if you permit him [to save more], he may come to extinguish [the fire]. Said Abaye to him, Then as to what was taught: If one's barrel [of wine] is broken on the top of his roof he may bring a vessel and place (it] underneath, provided that he does not bring another vessel and catch (the dripping liquid][7] or another vessel and join it (to the roof][8] what preventive measure is required there? — Here too it is a preventive measure lest he bring a utensil through the street.

[To turn to] the main text: If one's barrel is broken on the top of his roof, he may bring a vessel and place it underneath, provided that he does not bring another vessel and catch (the dripping liquid] or another vessel and join it [to the roof]. If guests happen to visit him, he may bring another vessel and catch [the dripping liquid], or another vessel and join it [to the roof]. He must not catch [the liquid] and then invite [the guests], but must first invite [them] and then catch [the liquid]; and one must not evade the law in this matter.[9] In R. Jose son of R. Judah's name it was said: We may evade [the law]. Shall we say that they disagree in the [same] controversy [as that] of R. Eliezer and R. Joshua? For it was taught: If an animal[10] and its young[11] fall into a pit,[12] R. Eliezer said: One may haul up the first in order to slaughter it, and for the second he makes provision where it lies, so that it should not die. R. Joshua said: One may haul up the first in order to kill it, but he does not kill it, then he practises an evasion and hauls up the second, and kills whichever he desires![13] — How so? perhaps R. Eliezer rules thus only there, because provisions can be made, but not here, seeing that that is impossible. And perhaps R. Joshua rules thus only there because suffering of dumb animals is involved; but not here that there is no suffering of dumb animals?[14]

Our Rabbis taught: If he saved bread [made] of fine flour, he must not save coarse bread; (if he saved] coarse bread, he may [still] save a fine [flour] bread.[15] And one may save on the Day of Atonement for the Sabbath,[16] but not on the Sabbath for the Day of Atonement,[17] and it goes without saying (that one must not rescue food] on the Sabbath for a Festival, or on a Sabbath for the following Sabbath. Our Rabbis taught: If one forgets a loaf in an oven, and the day becomes holy upon him,[18] food for three meals may be saved,[19] and he may say to others, ‘Come and save for yourselves.’ And when he removes [the bread], he must not remove it with a mardeh[20] but with a knife.[21] But that is not so, for the School of R. Ishmael taught: Thou shalt not do any work:[22] the blowing of the shofar and the removal of bread (from the oven] are excluded as being an art, not work?- As much as is possible to vary (it][23] we do so.

R. Hisda said: One should always make early [preparations][24] against the termination of the Sabbath, for it is said, And it shall come to pass on the sixth day, that they shall prepare that which they bring in[25] — [i.e.,] immediately.

R. Abba said: On the Sabbath it is one's duty to break bread[26] over two loaves, for it is written, twice as much bread.[27] R. Ashi said: I saw that R. Kahana held two [loaves] but broke bread over one, observing, ‘they gathered’ is written,[28] R. Zera broke enough bread for the whole meal.[29] Said Rabina to R. Ashi: But that looks like greed? — Since he does not do this every day, he replied, but only now [the Sabbath], it does not look like greed, he replied.[30] R. Ammi and R. Assi, when they came across the bread of an ‘erub, would commence (their meal] therewith,[31] observing, ‘Since one precept has been performed with it,[32] let another precept be performed with it.’

HOW SO? IF A FIRE BREAKS OUT, etc. Our Rabbis taught: How many meals must one eat on the Sabbath? Three. R. Hidka said: Four. R. Johanan observed, Both expound the same verse: And Moses said, Eat that to-day; for to-day is a Sabbath unto the Lord: to-day ye shall not find it in the field.[33] R. Hidka holds: These three ‘to-days’ are [reckoned] apart from the evening;[34] whereas the Rabbis hold, They include [that of] the evening. We learnt, IF A FIRE BREAKS OUT SABBATH NIGHT,

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(1) I.e., three meals per person and per animal, taking into account what is fit for man and what is fit for beast.

(2) Before the first meal has been eaten.

(3) In each case food may be saved for as many meals as will yet be required for that Sabbath,

(4) Whenever the fire breaks out.

(5) Lit., ‘troubles’.

(6) Food may be handled on the Sabbath, and he carries it out into a courtyard provided with an ‘erub (infra 120a), whither carrying is permitted in any case.

(7) As it falls through the air.

(8) I.e., set it near the roof, so that the liquid may flow along the roof and into the vessel. These are forbidden because it is manifest that the vessels are brought in order to save the wine or oil.

(9) I.e., he may not invite guests merely as a pretence, and when the wine is saved they will not drink it after all, but only guests who have not yet dined will drink it.

(10) Lit., ‘it’.

(11) The reference is to animals that may be eaten. These may not be slaughtered together with their young on the same day. V. Lev. XXII, 28.

(12) On a Festival.

(13) V. Bez. 37a.
(14) It is noteworthy that to save animals from suffering is regarded as a stronger reason for desecrating the Festival than to save one from personal loss.
(15) There is no evasion in saying that he prefers the latter, hence it is still a Sabbath need.
(16) This is permitted, as the food is required immediately the Sabbath commences.
(17) Which falls on Sunday. This is forbidden, as he can procure food on the termination of the Fast.
(18) I.e., the Sabbath commenced.
(19) Before the bread is burnt.
(20) A bakers shovel; the oven tool generally used for removing bread.
(21) To emphasize that it is the Sabbath.
(22) Ex. XX, 10.
(23) Viz., the usual procedure, so that the Sabbath may not be treated like a weekday.
(24) On Friday.
(25) Ibid. XVI, 5.
(26) I.e., to recite the benediction.
(27) Ibid, 22.
(28) Ibid. One merely requires two loaves before him, thus ‘gathering’ double the usual portion, but recites the benediction over one loaf.
(29) I.e., he cut off so much bread, reciting the blessing over it.
(30) But is manifestly in honour of the Sabbath.
(31) I.e., they said the blessing over it.
(32) Sc. that of ‘erub.
(33) Ibid. 25.
(34) Each ‘to-day’ denotes one meal, and a fourth is the meal on Friday night.

Talmud - Mas. Shabbath 118a

FOOD FOR THREE MEALS MAY BE SAVED: surely that is where one has not [yet] eaten?[1] -No: it is where he has [already eaten]. [IF] IN THE MORNING, FOOD FOR TWO MEALS MAY BE SAVED: surely that is where one has not yet eaten? — No: [where] he has eaten. AT [THE TIME OF] MINHAH, FOOD FOR ONE MEAL: surely that is where one has not eaten?- No: [where] he has eaten. But since the final section states, R. JOSE SAID: AT ALL TIMES WE MAY SAVE FOOD FOR THREE MEALS, it follows that the first Tanna holds [that] three [are required]. Hence it is clear that our Mishnah does not agree with R. Hisda.

Now, as to what we learnt: He who has food for two meals must not accept [relief] from the tamhuy: food for fourteen meals, must not accept from the kuppah,[2] — who [is the authority for this], [for] it is neither the Rabbis nor R. Hidka? If the Rabbis, there are fifteen meals; if R. Hidka, there are sixteen?[3] — In truth, it is the Rabbis, for we say to him [the recipient], ‘What you require to eat at the conclusion of the Sabbath, eat it on the Sabbath.[4] Shall we say then that it agrees [only] with the Rabbis and not with R. Hidka? — You may even say [that it agrees with] R. Hidka: we say to him, ‘What you require to eat on the eve of the Sabbath [before nightfall], eat it on the Sabbath.’[5] And the whole day of Sabbath eve [Friday] we make him spend in fasting?[6] Rather the author of this is R. Akiba, who said: Treat thy Sabbath like a weekday rather than be dependent on men.[7] Now, as to what we learnt: ‘A poor man travelling from place to place must be given not less than a loaf [valued] at a pundion when four se'ahs cost one sela’;[8] if he stays overnight, he must be given the requirements for spending the night; while if he spends the Sabbath there, he must be given food for three meals’[9] — shall we say that this is [according to] the Rabbis [only], not R. Hidka? — In truth, it may [agree with] R. Hidkah, [the circumstances being] e.g., where he [already] has one meal with him, so we say to him, ‘Eat that which you have with you.’ And when he departs, shall he depart empty-handed![10] — We provide him with a meal to accompany him. ‘What is meant by ‘the requirements of spending the night?’ — Said R. Papa: A bed and a bolster.

Our Rabbis taught: The plates in which one eats in the evening [Friday night] may be washed for eating in them in the morning; [those which are used] in the morning may be washed to eat in them at midday; [those used] at midday are washed to eat in them at minhah; but from minhah and onwards they may no longer he washed;[11] but goblets, [drink-]ladles and flasks, one may go on washing [them] all day, because there is no fixed time for drinking.

R. Simeon b. Pazzi said in the name of R. Joshua b. Levi in Bar Kappara's name: He who observes [the practice of] three meals on the Sabbath is saved from three evils: the travails of the Messiah,[12] the retribution of Gehinnom,[13] and the wars of Gog and Magog.[14] ‘The travails of the Messiah’: ‘day’ is written here;[15] whilst there it is written, Behold, I will send you Elijah the prophet before the great and terrible day of the Lord comes.[16] The retribution of Gehinnom’: ‘day’ is written here; whilst there it is written, That day is a day of wrath.[17] ‘The wars of Gog and Magog’: ‘day’ is written here; whilst there it is written, in that day when Gog shall come.[18]

R. Johanan said in R. Jose's name: He who delights in the Sabbath is given an unbounded heritage, for it is written, Then shalt thou delight thyself in the Lord, and I will make thee to ride upon the high places of the earth; and I will feed thee

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(1) Thus proving that our Mishnah disagrees with R Hidka.

(2) Tamhuy is the charity plate, the food collected from contributors and distributed daily; kuppah (lit., ‘heap’, ‘pile’), the communal charity, from which weekly grants were made every Friday for food. With two meals one has enough for the day; with fourteen he has enough for the week, hence he must not accept relief from either respectively; v. Pe'ah VIII, 7.

(3) In the week.

(4) Just before its termination.

(5) I.e., after nightfall.

(6) It is virtually a fast if he must postpone his second meal to the night.

(7) Hence if he has fourteen meals he can eat two on the Sabbath rather than receive charity. — This saying of R. Akiba is sometimes quoted nowadays to show that one may even desecrate the Sabbath rather than descend to charity. It is quite obvious that R. Akiba had no such thing in mind but merely meant that one should not seek to obtain the extra luxuries of the Sabbath through charity.

(8) A pundion = one-twelfth of a denar= one forty-eighth of a sela’. A loaf of that size is sufficient for the average two meals.

(9) V. Pe'ah ibid.

(10) Surely not.

(11) Since they are not required for the Sabbath any more.

(12) The advent of the Messiah was pictured as being preceded by years of great distress.

(13) Purgatory.

(14) Also a time of intense suffering.

(15) V. supra 117b bottom.

(16) Mal. III, 2. (E.V. IV, 5). This is understood to refer to the advent of the Messiah.

(17) Zeph. I, 15.

(18) Ezek. XXXVIII, 18. Since ‘day’ is mentioned three times in connection with the Sabbath meals (supra 117b), their observance will save one from the bitter experiences of these three ‘days’.

Talmud - Mas. Shabbath 118b

with the heritage of Jacob thy father, etc.[1] Not like Abraham, of whom it is written, Arise, walk through the land in the length of it, etc.;[2] nor like Isaac of whom it is written, for unto thee, and unto thy seed, I will give all these lands, etc.;[3] but like Jacob, of whom it is written, and thou shalt spread abroad to the west, and to the east, and to the north, and to the south.[4] R. Nahman b. Isaac said, He is saved from the servitude of the Diaspora: here it is written, and I will make thee to ride upon the high places of the earth; whilst there it is written, and thou shalt tread upon their high places.[5]

Rab Judah said in Rab's name: He who delights in the Sabbath is granted his heart's desires, for it is said, Delight thyself also in the Lord; And he shall give thee the desires of thine heart.[6] Now, I do not know what this ‘delight’ refers to; but when it is said, and thou shalt call the Sabbath a delight,[7] you must say that it refers to the delight of the Sabbath.[8]

Wherewith does one show his delight therein? — Rab Judah son of R. Samuel b. Shilath said in Rab's name: With a dish of beets, large fish, and heads of garlic. R. Hiyya b. Ashi said in Rab's name: Even a trifle, if it is prepared in honor of the Sabbath, is delight. What is it [the trifle]?-Said R. Papa: A pie of fish-hash.

R. Hiyya b. Abba said in R. Johanan's name: He who observes the Sabbath according to its laws, even if he practises idolatry like the generation of Enosh,[9] is forgiven, for it is said, Blessed is Enosh[10] that doeth this ... [that keepeth the Sabbath mehallelo from profaning it]:[11] read not mehallelo but mahul lo [he is forgiven].

Rab Judah said in Rab's name: Had Israel kept the first Sabbath, no nation or tongue would have enjoyed dominion over them, for it is said, And it came to pass on the seventh day, that there went out some of the people for to gather;[12] which is followed by, Then came Amalek.[13] R. Johanan said in the name of R. Simeon b. Yohai: If Israel were to keep two Sabbaths according to the laws thereof, they would be redeemed immediately, for it is said, Thus saith the Lord of the eunuch that keep my Sabbaths,[14] which is followed by, even them will I bring to my holy mountain, etc.[15]

R. Jose said: May my portion be of those who eat three meals on the Sabbath. R. Jose [also] said: May my portion be of those who recite the entire Hallel[16] every day. But that is not so, for a Master said: He who reads Hallel every day blasphemes and reproaches [the Divine Name]?[17] — We refer to the ‘Verses of Song’.[18]

R. Jose said: May my portion be of those who pray with the red glow of the sun.[19] R. Hiyya b. Abba said in R. Johanan's name: It is virtuous to pray with the red glow of the sun. R. Zera observed: What verse [intimates this]? They shall revere thee with [i.e., at the time of the sun [rise], and before the moon [shines],[20] throughout all generations.[21] observes R. Jose also said: May my lot be of those who die with bowel trouble,[22] for a Master said, The majority of the righteous die of trouble in the bowels. R. Jose also said: May my portion be of those who die on the way to the performance of a religious duty.[23] R. Jose also said: May my lot be of those who welcome the Sabbath in Tiberias and who let it depart in Sepphoris.[24] R. Jose also said: May my lot be of those who seat [pupils] in the Beth Hamidrash,[25] and not of those who order [them] to rise [depart] from the Beth Hamidrash.[26] R. Jose also said: May my lot be of those who collect charity, but not of those who distribute charity.[27] R. Jose also said: May my lot be of those who are suspected whilst innocent.[28] R. Papa said: I was suspected [of something] of which I was free.[29]

R. Jose said: I cohabited five times and planted five cedars in Israel. Who are they? R. Ishmael son of R. Jose, R. Eleazar[30] son of R. Jose, R. Halafta son of R. Jose, R. Abtilos son of R. Jose, and R. Menahem son of R. Jose. But there was Wardimos?- Wardimos and Menahem are identical, and why was he called Wardimos? Because his face was like a rose [werad]. Shall we say that R. Jose did not fulfil his marital duties?[31] — Rather say, I cohabited five times and repeated.[32]

R. Jose said: I have never called my wife ‘my wife’ or my ox my ox’, but my wife [I called] ‘my home,’ and my ox ‘my field’.

R. Jose said: I have never looked at my circumcised membrum. But that is not so, for Rabbi was asked, Why were you called ‘Our holy Teacher?’ Said he to them, I have never looked at my observes membrum?[33] — In Rabbi's case there was another thing to his credit, viz., he did not insert his hand beneath his girdle. R. Jose also said: The beams of my house have never seen the seams of my shirt.[34]

R. Jose also said: I have never disregarded the words of my neighbours. I know of myself that I am not a priest, [yet] if my neighbours were to tell me to ascend the dais,[35] I would ascend [it].[36] R. Jose also said: I have never in my life said anything from which I retracted.[37]

R. Nahman said: May I be rewarded[38] for observing three meals on the Sabbath. Rab Judah said: May I be rewarded for observing devotion in prayers.[39] R. Huna son of R. Joshua said: May I be rewarded for never walking four cubits bareheaded.[40] r. Shesheth said: May I be rewarded for fulfilling the precept of tefillin.[41] R. Nahman also said: May I be rewarded for fulfilling the precept of fringes.

R. Joseph asked R. Joseph son of Rabbah: Of what is thy father most observant? Of fringes, he replied. One day he was ascending a ladder[42] when a thread [of his fringes] broke, and he would not descend until [another] was inserted.

Abaye said: May I be rewarded for that when I saw that a disciple had completed his tractate,

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(1) Isa. LVIII, 14.

(2) Gen. XIII, 17,

(3) Ibid. XXVI, 3.

(4) Ibid. XXVIII, 14.

(5) Deut. XXXIII, 29. The underlying idea is probably the same as that of Heine's ‘Princess Sabbath’.

(6) Ps. XXXVII, 3.

(7) Isa. ibid, 13.

(8) The emphasis on the importance of observing the Sabbath with those meals and as a day of delight was meant according to Weiss (Dor I, 122) to counteract the ascetic tendencies of the Essenes.

(9) Gen. IV, 26. According to tradition idolatry commenced in his days.

(10) E.V. ‘the man’.

(11) Isa. LVI, 2.

(12) Ex. XVI, 27. This refers to the manna, in connection with which the Sabbath is mentioned for the first time explicitly.

(13) Ibid. XVII, 8.

(14) Isa.LVI,4.

(15) Ibid. 7.

(16) Lit.’praise’ Ps.CXIII-CXVIII which was inserted in the service on Festivals, Hanukkah, and New Moon — on the latter occasion, as well as from the third day of Passover, chs. CXV, 1-11 and CXVI, 1-11 are omitted.

(17) Because its recital was instituted for special occasions only, and by reading it every day he treats it as a mere song.

(18) The name given to Ps. CXLV-CL which are designated here as Hallel on account of the term ‘praise’ recurring in them; v. Elbogen, Der Judische Gottesdienst, p. 83,2.

(19) Rashi Jast.: The time in the morning and the evening when the sun appears to stand still or be silent, viz., dawn and sunset.

(20) I.e., at sunset.

(21) Ps. LXXII, 5. Cf. R. Johanan's statement in Ber. 9b on the wathikin (R. Zera quotes this verse there too, which makes it probable that the same time is referred to there and here); Elbogen, op. cit. p. 246.

(22) The suffering involved effects atonement (Rashi).

(23) I.e., while engaged in the performance of a good deed (Maharsha).

(24) In Tiberias, which was situated in a valley, the Sabbath commenced rather earlier, whilst in Sepphoris, which was on a mountain, it terminated rather later than elsewhere.

(25) Rashi: the ushers who collect the pupils.

(26) To adjourn for meals.

(27) It is very difficult to perform the latter with absolute impartiality, as personal predilections are apt to intervene.

(28) Lit., ‘and it is not in him’.

(29) V. Ber. 8b.

(30) Var. lec.: Eliezer.

(31) Except on five occasions.

(32) Cf. ‘Er. 100b.

(33) Which shows that this modesty was peculiar to him.

(34) I.e., he did not turn his shirt inside out when he undressed but pulled it over his head whilst sitting up in bed, so that he remained covered as much as possible out of modesty.

(35) When the priests recite the priestly blessing; v. Num. VI, 22-27.

(36) Though he certainly would not recite the blessing with the other priests, which is forbidden, but merely stand there (Maharsha).

(37) Rashi refers this] to his opinions on other people: even if unfavourable he did not retract even in the owner's presence, because he did not state them in the first place without being perfectly sure of their truth.

(38) Lit., ‘may it (sc. reward) come to me

(39) I did not pray mechanically. — The same phrase is used in a derogatory and possibly opposite sense elsewhere, v. Ber. 55a, B.B. 164b.

(40) Cf. infra 156b.

(41) V. Glos. Rashi: he never walked four cubits without wearing his tefillin; similarly with respect to fringes.

(42) Or, stairs.

Talmud - Mas. Shabbath 119a

I made it a festive day for the scholars. Raba said: May I be rewarded for that when a disciple came before me in a lawsuit, I did not lay my head upon my pillow before I had sought [points in] his favour.[1] Mar son of R. Ashi said: I am unfit to judge in a scholar's lawsuit. What is the reason? He is as dear to me as myself, and a man cannot see [anything] to his own disadvantage.

R. Hanina robed himself and stood at sunset of Sabbath eve [and] exclaimed, ‘Come and let us go forth to welcome the queen Sabbath.’[2] R. Jannai donned his robes, on Sabbath eve and exclaimed, ‘Come, O bride, Come, O bride!’

Rabbah son of R. Huna visited the home of Rabbah son of R. Nahman, [and] was offered three se'ahs of oiled cakes. ‘Did you know that I was coming?’ asked he. ‘Are you then more important[3] to us than it [the Sabbath]?’ replied he.[4]

R. Abba bought meat for thirteen istira peshita[5] from thirteen butchers[6] and handed it over to them [his servants][7] as soon as the door was turned[8] and urged them, ‘Make haste, Quick Make haste, Quick!’[9]

R. Abbabu used to sit on an ivory stool and fan the fire. R. ‘Anan used to wear an overall;[10] for the School of R. Ishmael taught: The clothes in which one cooks a dish for his master, let him not pour out[11] a cup [of wine] for his master in them. R. Safra would singe the head [of an animal]. Raba salted shibuta.[12] . R. Huna lit the lamp. R. Papa plaited the wicks. R. Hisda cut up the beetroots. Rabbah and R. Joseph chopped wood. R. Zera kindled the fire. R. Nahman b. Isaac carried[13] in and out,[14] saying,’If R. Ammi and R. Assi visited me, would I not carry for them?’[15]

Others state: R. Ammi and R. Assi carried in and out, saying, ‘If R. Johanan visited us, would we not carry before him?’[16] Joseph-who-honours-the-Sabbaths had in his victory a certain gentile who owned much property. Soothsayers[17] told him, ‘Joseph-who-honours-the-Sabbaths will consume all your property.[18] — [So] he went, sold all his property, and bought a precious stone with the proceeds, which he set in his turban. As he was crossing a bridge the wind blew it off and cast it into the water, [and] a fish swallowed it. [Subsequently] it [the fish] was hauled up and brought [to market] on the Sabbath eve towards sunset. ‘Who will buy now?’ cried they. ‘Go and take them to Joseph-who-honours-the-Sabbaths,’ they were told, ‘as he is accustomed to buy.’ So they took it to him. He bought it, opened it, found the jewel therein, and sold it for thirteen roomfuls[19] of gold denarii.[20] A certain old man met him [and] said, ‘He who lends to the Sabbath,[21] the Sabbath repays him.’

Rabbi asked R. Ishmael son of R. Jose, The wealthy in Palestine, whereby do they merit [wealth]?[22] — Because they give tithes, he replied, as it is written, ‘Asser te'asser[23] [which means], give tithes [‘asser] so that thou mayest become wealthy [tith'asser].[24] Those in Babylon, wherewith do they merit [it]? — Because they honour the Torah, replied he. And those in other countries, whereby do they merit it? — Because they honour the Sabbath, answered he. For R. Hiyya b. Abba related: I was once a guest of a man in Laodicea,[25] and a golden table was brought before him, which had to be carried by sixteen men; sixteen silver chains were fixed in it, and plates, goblets, pitchers and flasks were set thereon, thereon,[26] and upon it were all kinds of food, dainties and spices. When they set it down they recited, The earth is the Lord's, and the fulness thereof;[27] and when they removed it [after the meal] they recited, The heavens are the heavens of the Lord, But the earth hath he given to the children of men.[28] Said I to him, ‘My son! whereby hast thou merited this?’ ‘I was a butcher,’ replied he, ‘and of every fine beast I used to say, "’This shall be for the Sabbath"’. Said I to him, ‘Happy art thou that thou hast [so] merited, and praised be the Omnipresent who has permitted thee to enjoy [all] this.’

The emperor said to R. Joshua b. Hanania,[29] ‘Why has the Sabbath dish such a fragrant odour?’ ‘We have a certain seasoning,’ replied he, ‘called the Sabbath, which we put into it, and that gives it a fragrant odour.’ ‘Give us some of it,’ asked he. ‘To him who keeps the Sabbath,’ retorted he, ‘it is efficacious; but to him who does not keep the Sabbath it is of no use.’

The Resh Galutha[30] asked R. Hamnuna: What is meant by the verse, [and thou shalt call ...] the holy of the Lord honourable?[31] — This[32] refers to the Day of Atonement, replied he, in which there is neither eating nor drinking, [hence] the Torah instructed, Honour it with clean [festive] garments. And thou shalt honour it:[33] Rab said: By fixing [it] earlier;[34] Samuel maintained: By postponing [it].[35] The sons of R. Papa b. Abba asked R. Papa: We, for instance, who have meat and wine every day, how shall we mark a change? If you are accustomed to [dine] early,[36] postpone it, if you are accustomed to [dine] late, have it earlier, answered he.

R. Shesheth used to place his scholars in a place exposed to the sun in summer, and in a shady place in winter, so that they should arise quickly.[37] R. Zera

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(1) Certainly not in a spirit of partiality, but because he had such a high opinion of scholars that he felt that they would not engage in a lawsuit unless they know right to be on their side (Maharsha).

(2) Cf. Elbogen, op. cit., p.108

(3) Lit., ‘better’.

(4) We prepared them in honour of the Sabbath.

(5) An istira peshita=a half zuz.

(6) To make sure that some of it at least would be the best obtainable. ‘Thirteen’ is not meant literally, but merely denotes many; cf. P. 586, n. 4.

(7) Or, paid them.

(8) Lit., by the pivot of the door’.’

(9) All in honour of the Sabbath.

(10) Whilst attending to the cooking etc.
(11) Lit., mix'.
(12) A kind of fish, probably mullet.
(13) Lit., 'carried'.
(14) Whatever was necessary for the Sabbath.
(15) E.g., place a seat for them.
(16) The point of all these statements is that the Rabbis did not think it beneath their dignity to engage in menial labour in honour of the Sabbath.
(17) Lit., 'Chaldeans'.
(18) It will eventually pass into his possession.
(19) R. Tam translates: vessels.
(20) This, of course is an exaggeration, and merely implies much money, 'thirteen' often being used figuratively in that sense, cf. supra p. 585, n. 6; Hul. 95b (Rashi).
(21) I.e., expends money in its honour.
(22) The verb denotes to obtain through merit.
(23) E. V. 'Thou shalt surely tithe', Deut. XIV, 22.
(24) A play on words.
(25) Several towns bore this name.
(26) Kebu'oth denotes that they were fastened thereto — probably by the chains.
(27) Ps. XXIV, 1.
(28) Ps. CXV, 16.
(29) The emperor referred to is Hadrian, his contemporary, with whom he had much intercourse; cf. Gen. Rab. X, 3; Hul. 59b, 60a; Ber. 56a.
(30) V. P. 217, n. 7.
(31) Isa. LVIII, 13.
(32) 'The holy of the Lord'.
(33) Ibid. With reference to the Sabbath.
(34) One honours the Sabbath by dining at an earlier hour than usual.
(35) To a later hour, as one eats then with a better appetite — this view would naturally commend itself to Samuel on medical grounds.
(36) Rashi: with reference to the midday meal.
(37) This was on the Sabbath. He himself was blind, and he did not wish them to stay too long in the Beth Hamidrash.

Talmud - Mas. Shabbath 119b

used to seek out pairs of scholars[1] and say to them, 'I beg of you, do not profane it.'[2]

Raba-others state, R. Joshua b. Levi said: Even if an individual prays on the eve of the Sabbath, he must recite, And [the heaven and the earth] were finished [etc.];[3] for R. Hamnuna said: He who prays on the eve of the Sabbath and recites 'and [the heaven and the earth] were finished,' the Writ treats of him as though he had become a partner with the Holy One, blessed be He, in the Creation, for it is said, Wa-yekullu [and they were finished]; read not wa-yekullu but wa-yekallu [and they finished].[4] R. Eleazar said: How do we know that speech is like action? Because it is said, By the word of the Lord were the heavens made.[5] R. Hisda said in Mar 'Ukba's name: He who prays on the eve of the Sabbath and recites and [the heaven and the earth] were finished, the two ministering angels who accompany man place their hands on his head and say to him, and thine iniquity is taken away, and thy sin purged.[6]

It was taught, R. Jose son of R. Judah said: Two ministering angels accompany man on the eve of the Sabbath from the synagogue to his home, one a good [angel] and one an evil [one]. And when he arrives home and finds the lamp burning, the table laid and the couch [bed] covered with a spread, the good angel exclaims, 'May it be even thus on another Sabbath [too],' and the evil angel unwillingly responds ‘amen’. But if not,[7] the evil angel exclaims, ‘May it be even thus on another Sabbath [tool,’ and the good angel unwillingly responds, ‘amen’.

R. Eleazar said: One should always set his table on the eve of the Sabbath, even if he needs only the size of an olive. While R. Hanina said: One should always set his table on the termination of the Sabbath, even if he merely requires as much as an olive.[8] Hot water after the termination of the Sabbath is soothing; fresh. [warm] bread after the termination of the Sabbath is soothing.[9]

A three-year old[10] calf used to be prepared for R. Abbahu on the termination of the Sabbath, of which he ate a kidney. When his son Abimi grew up he said to him, Why should you waste so much? let us leave over a kidney from Sabbath eve. So he left it over, and a lion came and devoured it.[11]

R. Joshua b. Levi said: He who responds, ‘Amen, May His great Name be blessed,’ with all his might, his decreed sentence[12] is torn up, as it is said, When retribution was annulled[13] in Israel, For that the people offered themselves willingly, Bless ye the Lord:[14] why when retribution was annulled’? Because they blessed the Lord. R. Hiyya b. Abba said in R. Johanan's name: Even if he has a taint of idolatry, he is forgiven: it is written here, ‘when retribution was annulled [bifroa’ pera'oth]’; whilst elsewhere it is written, And Moses saw that the people were broken loose [parua’]; for Aaron had let them loose.[15]

Resh Lakish said: He who responds ‘Amen’ with all his might, has the gates of Paradise opened for him, as it is written, Open ye the gates, that the righteous nation which keepeth truth [shomer emunim] may enter in:[16] read not ‘shomer emunim’ but ‘she'omrim amen’ [that say, amen]. What does ‘amen’ mean? — Said R. Hanina: God, faithful King.[17]

Rab Judah son of R. Samuel said in Rab's name: An [outbreak of] fire occurs only in a place where there is desecration of the Sabbath, for it is said, But if ye will not hearken unto me to hallow the Sabbath day and not to bear a burden ... then will I kindle a fire in the gates thereof, and it shall devour the palaces of Jerusalem, and it shall not be quenched.[18] What does ‘and it shall not be quenched’ mean? — Said R. Nahman b. Isaac: At the time when no people are available to quench it.

Abaye said: Jerusalem was destroyed only because the Sabbath was desecrated therein, as it is said, and they have hid their eyes from My sabbaths, therefore I am profaned among them.[19]

R. Abbahu said: Jerusalem was destroyed only because the reading of the shema’[20] morning and evening was neglected [therein], for it is said, Woe unto them that rise up early in the morning, that they may follow strong drink [etc.]; and it is written, And the harp and the lute, the tabret and the pipe, and wine, are in their feasts: but they regard not the work of the Lord; and it is written, Therefore my people are gone into captivity, for lack of knowledge.[21]

R. Hamnuna said: Jerusalem was destroyed only because they neglected [the education of] school children; for it is said, pour it out [sc. God's wrath] because of the children in the street:[22] why pour it out? Because the child is in the street.[23]

‘Ulla said: Jerusalem was destroyed only because they [its inhabitants] were not ashamed of each other, for it is written, Were they ashamed when they committed abomination? nay, they were not at all ashamed [... therefore they shall fall].[24]

R. Isaac said: Jerusalem was destroyed only because the small and the great were made equal, for it is said, And it shall be, like people like priest; which is followed by, The earth shall be utterly emptied.[25] [25]

R. Amram son of R. Simeon b. Abba said in R. Simeon b. Abba's name in R. Hanina's name: Jerusalem was destroyed only because they did not rebuke each other: for it is said, Her princes are become like harts that find no pasture:[26] Just as the hart, the head of one is at the side of the others's tail, so Israel of that generation hid their faces in the earth,[27] and did not rebuke each other.

Rab Judah said: Jerusalem was destroyed only because scholars were despised therein: for it is said, but they mocked the messengers of God, and despised his words, and scoffed at his prophets, until the wrath of the Lord arose against his people, till there was no remedy.[28] What does ‘till there was no remedy’ intimate? Said Rab Judah in Rab's name: He who despises a scholar, has no remedy for his wounds.

Rab Judah said in Rab's name: What is meant by. Touch not mine anointed, and do my prophets no harm?[29] Touch not mine anointed’ refers to school children;[30] ‘and do my prophets no harm’, to disciples of the Sages. Resh Lakish said in the name of R. Judah the Prince:[31] The world endures only for the sake of the breath of school children. Said R. Papa to Abaye, What about mine and yours? Breath in which there is sin is not like breath in which there is no sin, replied he. Resh Lakish also said in the name of R. Judah the Prince: School children may not be made to neglect [their studies] even for the building of the Temple. Resh Lakish also said to R. Judah the Prince: I have this tradition from my fathers — others state, from your fathers: Every town in which there are no school children shall be destroyed. Rabina said: It shall be laid desolate.[32]

Raba said: Jerusalem was destroyed only because men of faith[33] ceased therein: for it is said, Run ye to and fro in the streets of Jerusalem, and see now, and know, and seek in the broad places thereof, if ye can find a man, if there be any that doeth justly, that seeketh faithfulness; and I will pardon her.[34] But that is not so? For R. Kattina said: Even at the time of Jerusalem's downfall men of faith did not cease therein, for it is said, When a man shall take hold of his brother in the house of his father, saying, Thou hast clothing, be thou our ruler:[35] [this means,] things wherewith men cover themselves as [with] a garment[36] are in thy hand. And let this stumbling[37] be under thy hand:[38]

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(1) Engaged in halachic discussions.

(2) The Sabbath, by neglecting its delights and good cheer.

(3) Gen. II, 1.

(4) ‘They’ referring to God and to him who praises God for the Creation.

(5) Ps. XXXIII, 6.

(6) Isa. VI, 7.

(7) If everything is in disorder and gloomy.

(8) That too honours the Sabbath, just as a royal visitor is not allowed to depart without a retinue accompanying him.

(9) That would not be difficult to obtain, as bread is baked very quickly in the East.

(10) Or, a third grown; or, third born.

(11) The calf that would have been killed.

(12) If Heaven has decreed evil for him.

(13) Sic. E. V.: ‘For that the leaders took the lead’.

(14) Judg. V, 2.

(15) Ex. XXXII, 25; the reference is to the idolatrous worship of the Golden Calf.

(16) Isa. XXVI, 2.

(17) Interpreting it as an abbreviation: el melek ne'eman.

(18) Jer. XVII, 27.

(19) Ezek. XXII, 26. God's name is profane when the holy city lies in ruins.

(20) V. Glos.

(21) Isa. V. 11-13.

(22) Jer. VI, 11.

(23) Instead of having schools provided for him.
(24) Ibid. 15.
(25) Isa. XXIV, 2f. ‘People’ is understood as a synonym for the humble masses; ‘priest’ symbolizes the great.
(26) Lam. I, 6.
(27) A metaphor for deliberately shutting their eyes to evil.
(28) II Chron. XXXVI, 16.
(29) I Chron. XVI, 22.
(30) Whom it was customary to anoint with oil, cf. supra 10b.
(31) Nesi'ah, Judah II.
(32) This is more thorough-going than the former.
(33) I.e., men completely truthful and trustworthy.
(34) Jer. V, 1.
(35) Or, judge, Isa. III, 6.
(36) Rashi: when questioned on learning they hide themselves, pretending not to hear, because they cannot answer.
(37) E.V. ‘ruin’.
(38) Ibid.

Talmud - Mas. Shabbath 120a

things of which people are not sure[1] unless they [first] stumble over them[2] are in thy hands; [therefore] be thou our judge. In that day [yissa] shall he lift up [his voice] saying, I will not be an healer:[3] ‘yissa’ denotes nought but swearing, and thus it is said, Thou shalt not take [tissa] the name of the Lord [thy God in vain].[4] I will not be a binder up [hobesh]: I will not be of those who shut themselves up [hobeshe] in the Beth Hamidrash. And in my house in neither bread nor clothing: I possess no mikra,[5] mishnah, or gemara[6] — How does that follow: perhaps it is different there, for had he said to them, ‘I have studied them’ [the reasons of the Law], they would have retorted, ‘Then tell [them] to us’? — Then let him say that he had learnt and forgotten: why [state], ‘I will not be a binder up’ at all?[7] — There is no difficulty: here it is in connection with learning;[8] there in connection with worldly affairs.

MISHNAH. ONE MAY SAVE A BASKET FULL OF LOAVES, EVEN IF IT CONTAINS [SUFFICIENT FOR] A HUNDRED MEALS, AND A ROUND CAKE OF PRESSED FIGS,[9] AND A BARREL OF WINE, AND HE [THE OWNER] MAY SAY TO OTHERS, ‘COME AND SAVE FOR YOURSELVES’; AND IF THEY ARE WISE, THEY MAKE A RECKONING WITH HIM AFTER THE SABBATH.[10] WHITHER MAY THEY BE SAVED? INTO A COURTYARD PROVIDED WITH AN ‘ERUB. BEN BATHYRA SAID: EVEN INTO A COURTYARD UNPROVIDED WITH AN ‘ERUB. AND THITHER HE MAY CARRY OUT ALL. THE UTENSILS [HE REQUIRES] FOR HIS USE;[11] AND HE PUTS ON ALL THAT HE CAN PUT ON AND WRAPS HIMSELF IN ALL WHEREWITH HE CAN WRAP HIMSELF;[12] R. JOSE SAID: [ONLY] EIGHTEEN GARMENTS.[13] THEN HE MAY PUT ON [GARMENTS] AFRESH[14] AND CARRY THEM OUT, AND SAY TO OTHERS, ‘COME AND RESCUE WITH ME.’[15] GEMARA. But he [the Tanna] teaches in the first clause,[16] three meals, but no more? — Said R. Huna, There is no difficulty: here it means that he comes to save [the whole basket simultaneously]; there he comes to collect [food]: if he comes to save, he may save all;[17] if he comes to collect, he may collect only for three meals. R. Abba b. Zabda said in R. Idi's name: Both are where one comes to collect, yet there is no difficulty: here it is into the same courtyard;[18] there it is into another courtyard.

R. Huna the son of R. Joshua asked: What if one spreads out his garments, collects and places [therein], collects and places [therein]?[19] Is it like one who comes to save,[20] or like one who comes to collect? — [Come and hear]:[21] Since Raba said, R. Shizbi misled R. Hisda by teaching, ‘Provided that he does not procure a vessel which holds more than three meals’, it follows that it is like one who comes to save,[22] and it is permitted. R. Nahman b. Isaac observed to Raba: Why is it an error?

— He replied: Because it is stated, ‘provided that he does not bring another vessel and catch [the dripping liquid] or another vessel and join it [to the roof]’: [thus] only another vessel may not [be brought], but he may save as much as he desires in the same vessel.

AND A ROUND CAKE OF PRESSED FIGS, etc. What have we to do with a reckoning? Surely they acquire it from hefker?[23] — Said R. Hisda: They spoke here of pious conduct.[24] Will pious men take payment for the Sabbath? objected Raba.[25] Rather said Raba, We refer here to a God-fearing person, who does not wish to benefit from others, yet is unwilling to trouble for nothing, and this is its meaning: AND IF THEY ARE WISE, that they know that in such a case it is not payment for the Sabbath,[26] THEY MAKE A RECKONING WITH HIM AFTER THE SABBATH.

WHITHER MAY THEY BE SAVED, etc. Why does he state here [SAVE] FOR YOURSELVES, whilst there he states, RESCUE WITH ME? — I will tell you: in connection with food he states. FOR YOURSELVES, because food for three meals only is fit for himself; but in connection with garments he states, RESCUE WITH ME, because they are fit for him all day.[27]

Our Rabbis taught: He may put on, carry out, and take off, then again put on, carry out, and take off, even all day: this is R. Meir's view. R. Jose said: [Only] eighteen garments. And these are the eighteen garments: a cloak, undertunic,[28] hollow belt,[29] linen [sleeveless] tunic, shirt, felt cap, apron, a pair[30] of trousers, a pair of shoes, a pair of socks, a pair of breeches, the girdle round his loins, the hat on his head and the scarf round his neck.[31]

MISHNAH. R. SIMEON B. NANNOS SAID: ONE MAY SPREAD A GOAT SKIN[32] OVER A BOX, CHEST, OR TRUNK[33] WHICH HAS CAUGHT FIRE, BECAUSE HE SINGES;[34] AND ONE MAY MAKE A BARRIER WITH ALL VESSELS, WHETHER FULL [OF WATER] OR EMPTY, THAT THE FIRE SHOULD NOT TRAVEL ONWARD. R. JOSE FORBIDS IN THE CASE OF NEW EARTHEN VESSELS FILLED WITH WATER, BECAUSE SINCE THEY CANNOT STAND THE HEAT, THEY WILL BURST AND EXTINGUISH THE FIRE.[35]

GEMARA. Rab Judah said in Rab's name: If a garment catches fire on one side, water may be poured on to it on the other, and if it is [thereby] extinguished, it is extinguished. An objection is raised: If a garment catches fire on one side, one may take it off and cover himself with it, and if it is extinguished, if it extinguished; and likewise if a Scroll of the Law catches fire, one may spread it out and read it, and if it is extinguished, it is extinguished?[36]

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(1) Lit., ‘do not stand by them’.

(2) They must first make mistakes before they arrive at certainty.

(3) Or, a binder up.

(4) Ex. XX, 7. This is an injunction against false swearing.

(5) Scriptural knowledge.

(6) Gemara, which was often substituted by the censors for Talmud, is generally understood to mean the discussion on the Mishnah; v. however Kaplan, Redaction of the Talmud pp. 195-7, where he maintains that gemara does not mean discussions but the final decisions arising out of the discussions. — Returning to our text, we see that there were ‘faithful’, i.e., truthful men in Jerusalem who confessed their ignorance and refused office on that account.

(7) This proves that he was animated by a desire for truth, and thus contradicts Raba.

(8) In this respect they were truthful.

(9) Although it is very large.

(10) They may demand payment for their labour.

(11) On that day e.g., plates, glasses, etc.

(12) And thus saves them from the fire.

(13) Which are normally worn; v. Gemara infra.

(14) Having taken off the first; this is the first Tanna's view, not R. Jose's.

(15) In the same manner.
(16) Sc. the Mishnah supra 117b.
(17) In the basket, no matter how much it contains.
(18) Sc. that of the house which is on fire.
(19) More than three meals.
(20) The whole simultaneously, since it is all to be carried out together.
(21) V.
(22) For Raba evidently holds that one may bring a vessel and collect more than for three meals — the reference is to the Baraitha supra 117b: ‘if one's barrel burst on the top of his roof’ etc.
(23) V. Glos. Seeing that he tells them to save it for themselves, it is theirs altogether.
(24) A pious man will not take advantage of the fire to keep the food for himself.
(25) Surely not. (11) Hasiduth (piety) however is a higher stage than God-fearingness.
(26) Since it is actually hefker and they do not stipulate for payment beforehand.
(27) He may wish to change many times during the day, so that he needs all for himself.
(28) Jast.: an easy dress worn in the house and, under the cloak, in the street, but in which it was unbecoming to appear in public.
(29) A money bag.
(30) Lit., ‘two’.
(31) Some of these translations are only approximate: Felt-cap and hat, as well as ‘trousers’ and ‘breeches’ were obviously garments both worn at the time.
(32) Rashi: which is damp.
(33) Lit., ‘turret’. — Three kinds of boxes or chests are meant.
(34) But does not burn it and at the same time it protects the boxes.
(35) Which is forbidden as a principal labour, v. supra 73a.
(36) In each case probably the motion extinguishes it if the flame is very small. But the Tanna does not permit water.

Talmud - Mas. Shabbath 120b

— He rules as R. Simeon b. Nannos.[1] Yet perhaps R. Simeon b. Nannos said [merely], BECAUSE HE SINGES: but did he rule [thus] of indirect extinguishing?[2] — Yet, since the final clause teaches, R. JOSE FORBIDS IN THE CASE OF NEW EARTHEN VESSELS FILLED WITH WATER, BECAUSE SINCE THEY CANNOT STAND THE HEAT THEY WILL BURST AND EXTINGUISH THE FIRE, it follows that the first Tanna permits it.

Our Rabbis taught: If a lamp is on a board, one may shake [tip up] the board and it [the lamp] falls off, and if it is extinguished, it is extinguished. The School of R. Jannai said: They learnt this only if one forgot [it there]; but if he placed [it there], it [the board] became a stand for a forbidden article.[3] A Tanna taught: If a lamp is behind a door, one may open and close [it] naturally, and if it is extinguished[4] it is extinguished. Rab cursed this [ruling]. Said Rabina to R. Aha the son of Raba — others state, R. Aha the son of Raba to R. Ashi — why did Rab curse this? Shall we say because Rab holds with R. Judah,[5] whereas the Tanna teaches as R. Simeon? Because Rab holds with R. Judah, if one teaches as R. Simeon, shall he curse him! — Here, he replied, even R. Simeon agrees, for Abaye and Raba both said: R. Simeon agrees in a case of ‘cut off his head and let him not die.’[6]

Rab Judah said: One may open a door opposite a fire on the Sabbath.[7] Abaye cursed this. What are the circumstances? If there is a normal wind [blowing], what is the reason of the one who forbids?[8] — If there is an abnormal wind, what is the reason of the one who permits?[9] — In truth, it refers to a normal wind: one Master holds, we prohibit preventively;[10] whilst the other Master holds, We do not prohibit preventively.

ONE MAY MAKE A BARRIER, etc. Shall we say that the Rabbis hold, Indirect extinguishing[11] is permitted, while R. Jose holds that it is forbidden? But we know them [to maintain] the reverse.

For it was taught: One may make a barrier of empty vessels and of full vessels which are not liable to burst; metal vessels. R. Jose said: The vessels of Kefar Shihin and Kefar Hananiah[12] too are not likely to burst![13] And should you answer, Reverse our Mishnah while R. Jose of the Baraitha argues on the view of the Rabbis;[14] [it may be asked], But can you reverse them? Surely Rabbah b. Tahlifa said in Rab's name: ‘Which Tanna holds that indirect extinguishing is forbidden? R. Jose’! Hence in truth you must not reverse it, the whole of the Baraitha being [the view] of R. Jose but there is a lacuna, and it was thus taught: One may make a barrier with empty vessels and with full vessels that are not likely to burst, and these are the vessels which are not likely to burst: metal vessels, and the vessels of Kefar Shihin and Kefar Hananiah too are not likely to burst. For R. Jose maintains: The vessels of Kefar Shihin and Kefar Hananiah too are not likely to burst.

Now, the Rabbis are self-contradictory and R. Jose is selfcontradictory. For it was taught: If one has the [Divine] Name written on his skin, he must not bathe nor anoint [himself] nor stand in an unclean place. If he must perform an obligatory tebillah, he must wind a reed[15] about it and descend and perform tebillah. R. Jose said: He may at all times descend and perform tebillah in the ordinary way, provided that he does not rub [it]?[16] — There it is different, because Scripture saith, And ye shall destroy their name out of that place. Ye shall not do so unto the Lord your God:[17] only [direct] action is forbidden, but indirect action is permitted. If so, here too it is written, thou shalt not do any work:[18] only [direct] action is forbidden, but indirect action is permitted? — Since a man is excited over his property if you permit him [indirect action], he may come to extinguish it. If so, the Rabbis are self-contradictory: if there, though a man is excited over his property, it is permitted, how much more so here? — Now, is that logical:[19] this reed, how is it meant? If it is wound tightly, it is an interposition;[20] [while] if it is not wound tightly the water enters. ([You speak of] ‘an interposition’ that follows from the ink?[21] — The reference is to wet [ink for it was taught: Blood, ink, honey, and milk, if dry [on the skin] constitute an interposition; if moist, they do not constitute an interposition.) Yet still there is the difficulty?[22] — Rather said Raba b. Shila, This is the reason of the Rabbis: because they hold one must not stand nude in the presence of the Divine Name. Hence it follows that R. Jose holds that one may stand nude in the presence of the Divine Name?[23] — He places his hand upon it. Then according to the Rabbis too, let him place his hand upon it? He may chance to forget and remove it. Then according to R. Jose too, he may forget and remove it? — Rather [reply thus]. If a reed is available that is indeed so.[24] The discussion is about going to seek a reed:[25] the Rabbis hold,

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(1) Just as the fire may be arrested by a goatskin, so may it be arrested by water, seeing that it is not poured directly on the flame.

(2) Such as water.

(3) Sc. the lamp, which may not be handled on the Sabbath, and then the same applies to the board too; cf. supra 117a and note a.l.

(4) By the draught.

(5) That even an unintentional action is forbidden.

(6) V. p. 357, n. 8.

(7) Medurah is a fire for heating, e.g., in the fire place, and the door is opened for the draught to fan it.

(8) It is generally insufficient to fan it into a blaze, hence it is not a case of ‘cut off his head’ etc.

(9) It will certainly make it burn up.

(10) Because if that is permitted, one will think that the door may be opened even if an abnormal wind is blowing.

(11) Lit., ‘a cause of extinguishing’.

(12) Kefar means a village or country town. The former was probably near Shihin in the vicinity of Sepphoris; the latter was a town in Galilee. The earthen vessels made there were fire proof.

(13) This shows that he too permits only such. The Baraitha is thus not actually the reverse of the Mishnah, but generally speaking we see that R. Jose is more lenient in the former, whereas in the Mishnah he is more stringent (Tosaf.).

(14) Thus R. Jose himself holds that even if they are likely to burst they are permitted, but he argues that even on the more stringent view of the Rabbis the vessels of Kefar Shihin etc. should be permitted too.

(15) As assumed at present in order to prevent effacement of the Name.

(16) Intentionally with his hands. — Thus the Rabbis forbid even an indirect action, whereas R. Jose forbids only a direct action.

(17) Deut. XII, 3f.

(18) Ex. XX, 9.

(19) That the need of a reed according to the Rabbis is to prevent effacement.

(20) Between the water and the flesh, which invalidates tebillah.

(21) With which the Name is written. This interrupts the thread of argument: if you object to the reed because it is an interposition, what of the ink itself?

(22) About the reed. Why do the Rabbis insist on a reed? — This difficulty is raised to show that the Rabbis' view has nothing to do with the question whether indirect action is permitted or not.

(23) Surely not,

(24) All agree that it must be used — even R. Jose, the reason being that one may not stand nude in the presence of the Name.

(25) I.e., whether one must postpone the tebillah until he obtains it.

Talmud - Mas. Shabbath 121a

Tebillah in its [due] time is not obligatory,[1] hence we seek [it]; whereas R. Jose holds, Tebillah in its [duel time is obligatory, hence we do not seek [it].

Now, does then R. Jose hold, Tebillah in its [due] time is obligatory? Surely it was taught: A zab and a zabah, a male leper and a female leper, he who cohabits with a niddah,[2] and he who is defiled through a corpse, [perform] their tebillah by day.[3] A niddah and woman in confinement [perform] their tebillah at night.[4] A ba'al keri[5] must proceed with tebillah at any time of the day.[6] R. Jose said: [If the mishap happened] from minhah and beyond he need not[7] perform tebillah.[8] — [The author of] that is R. Jose son of R. Judah who maintained: [One] tebillah at the end suffices for her.[9] MISHNAH. IF A GENTILE COMES TO EXTINGUISH, WE DO NOT SAY TO HIM, 'EXTINGUISH IT' OR 'DO NOT EXTINGUISH,' BECAUSE HIS RESTING IS NOT OUR OBLIGATION.[10] BUT IF A MINOR COMES TO EXTINGUISH, WE MUST NOT PERMIT HIM,[11] BECAUSE HIS RESTING IS OUR OBLIGATION.

GEMARA. R. Ammi said: In the case of a conflagration they [the Rabbis] permitted one to announce, 'Whoever extinguishes [it] will not lose [thereby].' Shall we say that this supports him: IF A GENTILE COMES TO EXTINGUISH, WE DO NOT SAY TO HIM, EXTINGUISH OR DO NOT EXTINGUISH, BECAUSE HIS RESTING IS NOT OUR OBLIGATION: thus we [merely] may not say to him, Extinguish [it],' but we may say, 'Whoever extinguishes [it] will not lose [thereby].' Then consider the second clause: WE DO NOT SAY TO HIM.... DO NOT EXTINGUISH but neither may we say to him, 'Whoever extinguishes [it] will not lose [thereby]?'[12] Rather no deduction can be made from this.[13]

Our Rabbis taught: It once happened that a fire broke out in the courtyard of Joseph b. Simai in Shihin, and the men of the garrison at Sepphoris[14] came to extinguish it, because he was a steward of the king.[15] But he did not permit them, in honour of the Sabbath, and a miracle happened on his behalf, rain descended and extinguished [it]. In the evening he sent two sela' to each of them, and fifty to their captain. But when the Sages heard of it they said, He did not need this, for we learnt: IF A GENTILE COMES TO EXTINGUISH, WE DO NOT SAY TO HIM, 'EXTINGUISH' OR 'DO NOT EXTINGUISH'.

BUT IF A MINOR COMES TO EXTINGUISH, WE DO NOT PERMIT HIM, BECAUSE HIS RESTING IS OUR OBLIGATION. You may infer from this [that] if a minor eats nebeloth,[16] it is the duty of Beth din to restrain him?[17] — Said R. Johanan: This refers to a minor acting at his father's desire.[18] Then by analogy, in respect to the Gentile, he [too] acts at the Jew's desire: is this permitted? — A Gentile acts at his own desire.[19]

MISHNAH. A DISH MAY BE INVERTED OVER A LAMP, THAT THE BEAMS SHOULD NOT CATCH [FIRE], AND OVER AN INFANT'S EXCREMENT, AND OVER A SCORPION, THAT IT SHOULD NOT BITE. R. JUDAH SAID: AN INCIDENT CAME BEFORE R. JOHANAN B. ZAKKAI IN ARAB,[20] AND HE SAID, I FEAR ON HIS ACCOUNT [THAT HE MAY BE LIABLE TO] A SIN-OFFERING.[21]

GEMARA. Rab Judah and R. Jeremiah b. Abba and R. Hanan b. Raba visited the home of Abin of Neshikya.[22] For Rab Judah and R. Jeremiah b. Abba

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(1) Even an obligatory tebillah need not be performed just when it is due.

(2) Which defiles him — such coition is strictly forbidden.

(3) The seventh day from their defilement. They can perform tebillah any time after dawn, even if it is not yet seven full days of twenty-four hours each from the time of defilement, and even if this falls on the Day of Atonement.

(4) The evening following the day which completes their period of uncleanness, the full period being required in their case. This holds good even if the evening belongs to the Day of Atonement.

(5) Lit., ‘one whom a mishap has befallen’ — a euphemism for one who discharged semen. By Rabbinical law he requires tebillah before he can engage in the study of Torah.

(6) Lit., ‘the whole day’. Even if he discharged semen in the late afternoon of the Day of Atonement, he may perform tebillah on the same day and need not wait for the evening, because tebillah in its right time is obligatory. [A non-obligatory bath is prohibited on the Day of Atonement.]

(7) [Var. lec. he may not, v. Tosaf. a.l.]

(8) Because tebillah at its right time is not obligatory, which is the point of the objection. The circumstances here are that be has already recited all the prayers of the day (Tosaf.), or at least minhah, while the ne'ilah (concluding) service may be recited at night.

(9) The reference is to a woman who gave birth without knowing exactly when, what, and whether it was with or without a gonorrhoeic discharge. The first view is that all possibilities must be taken into account and she must perform tebillah at the due times posited by these. R. Jose b. R. Judah, however, rules that a single tebillah, performed at the end of the whole period that is in doubt, is sufficient, though actually the right time may have been earlier, for in any case tebillah at the time when it becomes due is not obligatory.

(10) Lit., ‘their obligation’. It is not the duty of Israelites to see that he rests on the Sabbath, hence we need not forbid him. On the other hand by Rabbinical law one must not instruct a Gentile to work — hence we may not tell him to extinguish the fire.

(11) Lit., ‘we do not hearken to him’.

(12) For the second clause merely states that it is unnecessary to stop him, which implies, however, that one must not give him a hint to extinguish.

(13) For one clause of the Mishnah must be exact, even in respect of its implication, whereas the other clause is not to be stressed so far, and it is not known which is exact.

(14) [The Acropolis mentioned in Josephus, Vita 67].

(15) [Agrippa II, v. Klein, S., Beitrage p. 66, n. 1 and Graetz, MGWJ, 1881, p. 484].

(16) V. Glos.; i.e., any forbidden food.

(17) Lit., ‘to keep him away’. — In Yeb. 114a this is in doubt.

(18) But where he acts entirely of his own accord it may not be so.

(19) Though he knows that the Jew too desires it, be may nevertheless act on his own accord. But a minor is more likely to be directly influenced by what he understands to be his father's wish.

(20) [Near Sepphoris, v. Klein Beitrage P. 75].

(21) Since the snake was not pursuing him, his action may constitute trapping, which involves a sin-offering.

(22) A town in Babylonia.

Talmud - Mas. Shabbath 121b

couches were brought; for R. Hanan b. Raba none was brought.[1] Now, he found him reciting to his son, AND OVER AN INFANT'S EXCREMENT, on account of the infant.[2] Said he to him, ‘Abin! a fool recites nonsense to his son:[3] surely that itself is fit for dogs! And should you say that it was not fit for him from yesterday,[4] surely it was taught: Flowing rivers and gushing springs are as the feet of all men?[5] Then how shall I recite it? — Say: Over the excrement of fowls, on account of an infant.[6] But deduce it[7] because it is [as] a vessel for excrements.[8] And should you answer, The vessel of excrements is only [permitted] in virtue of the utensil,[9] yet that itself may not [be carried out], — but a mouse was found in R. Ashi's spices, and he said to them [his servants], ‘Take it by the tail and throw it out?’[10] — This refers to a dung heap.[11] But what business has an infant with a dung heap?[12] — It is in the courtyard.[13] But in a courtyard too it is a vessel of excrements? — It refers to a dung heap in the courtyard.

AND OVER A SCORPION, THAT IT SHOULD NOT BITE. R. Joshua b. Levi said: All [animals, etc.] that cause injury[14] may be killed on the Sabbath. R. Joseph objected: Five may be killed on the Sabbath, and these are they: the Egyptian fly, the hornet of Nineweh, the scorpion of Adiabene,[15] the snake in Palestine, and a mad dog anywhere. Now, who [is the authority?] Shall we say, R. Judah? Surely he maintains, One is guilty on account of a labour not required for itself?[16] Hence it must be R. Simeon, and only these are permitted, but not others? — Said R. Jeremiah, And who tells us that this is correct: perhaps it is corrupt? Said R. Joseph: I recited it and I raised the objection, and I can answer it: This is where they are pursuing him, and is unanimous.[17]

A tanna recited before Rabbah son of R. Huna: If one kills snakes or scorpions on the Sabbath, the spirit of the pious[18] is displeased with him. He retorted, And as to those pious men, the spirit of the Sages is displeased with them. Now, he disagrees with R. Huna, for R. Huna saw a man kill a wasp. Said he to him, ‘Have you wiped them all out?’[19]

Our Rabbis taught: If one chances upon snakes and scorpions, and he kills them, it is manifest that he had chanced upon them in order to kill them; if he does not kill them, it is manifest that he had chanced upon them that they should kill him, but that a miracle was performed by Heaven on his behalf. ‘Ulla said: — others state, Rabbah b. Bar Hanah said in R. Johanan's name — That is when they hiss at him.[20]

R. Abba b. Kahana said: One [of them] once fell in the Beth Hamidrash, and a Nabatean[21] arose and killed it.[22] Said Rabbi: A similar one must have attacked him. The scholars asked: ‘A similar one must have attacked him’ [means] that he had done well, or not?[23] — Come and hear: For R. Abba, son of R. Hiyya b. Abba, and R. Zera were sitting in the anteroom of R. Jannai's academy, [when] something issued from between them.[24] [So] they asked R. Jannai: May one kill snakes and scorpions on the Sabbath? Said he to them: I kill a hornet, how much more so snakes and scorpions! But perhaps that is (only) incidentally,[25] for Rab Judah said: One can tread down saliva incidentally:[26] and R. Shesheth said, One can tread down a snake incidentally, and R. Kattina said, One may tread down a scorpion incidentally.[27]

Abba b. Martha, who is Abba b. Minyomi, owed money to the house of the Resh Galutha. [So] they brought him [before the Resh Galutha]; he distressed him [and] he[28] spat out saliva,[29] [whereupon] the Resh Galutha ordered, ‘Bring a vessel and cover it . Said he to them, ‘You do not need this, [for] thus did Rab Judah say: One can tread down saliva incidentally.’ ‘He is a scholar,’ remarked he [the Resh Galutha]; ‘let him go’.

R. Abba b. Kahana also said in R. Hanina's name: The candlesticks[30] of Rabbi's household may be handled on the Sabbath.

R. Zera asked him: [Does that mean] where they can be taken up with one hand, or [even] with two hands?

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(1) He had to sit on the ground.

(2) To prevent him from dabbling with it.

(3) This rude remark was made in spleen at his host's discourtesy. (11) Mukeneth, Lit., ‘stands prepared’. Hence it may be handled and therefore one can carry it out altogether; why then overturn a dish upon it?

(4) Sc. Friday; thus it is newly-created, as it were, on the Sabbath (technically called nolad v. Glos.), and as such may not be handled.

(5) On the Sabbath or Festival an article may be carried, where carrying is permitted through an ‘erub, only where its owner may go, i.e., it is ‘as the feet of its owner’. But this does not apply to the water of a flowing river, and every man may carry it whither he himself may go, though not all may go to the same place (v. Bez. 39a). Now, that which comes on the Sabbath from without the tehum (v. Glos.) may not be taken anywhere within the tehum. But although the water of a flowing river does come from without, it may be carried within. This shows that though that particular water was not there on the Friday, it is regarded as fit on the Sabbath, because it was naturally expected. Hence the same applies to the excrement: though it did not exist before the Sabbath, it was expected, and therefore may be handled, seeing that it can be put to a legitimate use.

(6) V. p. 600, n. 9. But this may not be handled itself, because it is not fit for dogs. — He interprets the Mishnah thus.

(7) That one may carry it out.

(8) Which may be cleared away on account of its repulsiveness.

(9) Which contains the excrements.

(10) And a mouse is the same as excrement.

(11) Which stands apart.

(12) Which was usually in the street.

(13) It is now assumed that this refers to the excrement, not the dung heap.

(14) Rashi: that kill.

(15) A district of Assyria between the rivers Lycus and Caprus.

(16) Supra 12a, 31b; the present killing falls within the same category.

(17) I.e., R. Joshua's statement refers to this case. But in the Baraitha they are not pursuing him, and it is taught on R. Simeon's view.

(18) Heb. hasidim. Here probably no particular sect is meant. Weiss, Dor, I. 109, maintains that the early hasidim are probably referred to.

(19) Sarcastically. I.e., you have achieved nothing, and should not have done it on the Sabbath.

(20) Otherwise it is not to be assumed that they were meant to kill him.

(21) Rashi, a Jew from Nabatea.

(22) This was on a Sabbath.

(23) Did Rabbi speak seriously or sarcastically?

(24) Or, the question came up (for discussion) between them.

(25) Lit., ‘in one's simplicity’ — i.e., not intentionally, but in the course of his walking.

(26) I.e., on Sabbath, despite the possibility of levelling thereby some grooves in the soil.

(27) Thus the question remains unanswered.

(28) Abba.

(29) There happened to be saliva spat out. V. Rashi.

(30) Rashi: a one-piece lamp; v. p. 202., n. 6.

Talmud - Mas. Shabbath 122a

Such as those of your father's house, he replied.[1]

R. Abba b. Kahana also said in R. Hanina's name: The litters[2] of Rabbi's household may be handled on the Sabbath. R. Zera asked him: [Does that mean] those that can be moved with one hand, or [even] with two hands? Such as those of your father's house, replied he.

R. Abba b. Kahana also said: R. Hanina permitted Rabbis household to drink wine [carried][3] in gentile coaches[4] [sealed] with one seal,[5] and I do not know whether it is because he agrees with R. Eliezer[6] or because of the [Gentile's] fear of the Nasi's household.[7] MISHNAH. IF A GENTILE LIGHTS A LAMP, AN ISRAELITE MAY MAKE USE OF ITS LIGHT; BUT IF [HE DOES IT] FOR THE SAKE OF THE ISRAELITE, IT IS FORBIDDEN. IF HE DRAWS WATER[8] TO GIVE HIS OWN ANIMAL, TO DRINK, AN ISRAELITE MAY WATER [HIS] AFTER HIM; BUT IF [HE DRAWS IT] FOR THE ISRAELITES SAKE, IT IS FORBIDDEN. IF A GENTILE MAKES A STAIRWAY TO DESCEND BY IT,[9] AN ISRAELITE MAY DESCEND AFTER HIM; BUT IF ON THE ISRAELITES ACCOUNT, IT IS FORBIDDEN. IT ONCE HAPPENED THAT R. GAMALIEL AND THE ELDERS WERE TRAVELING IN A SHIP, WHEN A GENTILE MADE A STAIRWAY FOR GOING DOWN, AND R. GAMALIEL, AND THE ELDERS DESCENDED BY IT.

GEMARA. Now these are [all] necessary. For if we were informed [about] a lamp, that is because a lamp for one is a lamp for a hundred; but as for water, [I might say] let us forbid it,[10] lest he come to increase [the quantity drawn] on the Israelite's account.[11] What is the need of [the ruling about] a stairway?[12] He tells us the story of R. Gamaliel and the elders.

Our Rabbis taught: if a Gentile gathers herbs,[13] an Israelite may feed [his cattle therewith] after him, but if [he gathers] on the Israelite's account, it is forbidden. If he draws water to give his cattle to drink, an Israelite may water [his] after him, but if on the Israelite's account, it is forbidden. When is that? If he does not know him; but if he knows him it is forbidden. But that is not so? For R. Huna said in R. Hanina's name: A man may stand his cattle on grass on the Sabbath,[14] but not on mukzeh[15] on the Sabbath![16] — It means that he stands in front of it [the animal], and so it goes [there] and eats. The Master said: ‘When is that? If he does not know him; but if he knows him, it is forbidden.’ But R. Gamaliel [is a case where] he knew him?[17] — Said Abaye: It was not [made] in his presence.[18] Raba said: You may even say that it was in his presence: ‘a lamp for one is a lamp for a hundred.’[19] An objection is raised: R. Gamaliel said to them, ‘Since he did not make it in our presence, let us go down by it?’ — Say: ‘Since he made it, let us go down by it.’ Come and hear: If a city inhabited by Israelites and Gentiles contains baths where there is bathing on the Sabbath, if the majority are Gentiles, one [an Israelite] may bathe therein immediately;[20] if the majority are Israelites, one must walt until hot water could be heated.[21] — There, when they heat, they do so with a view to the majority.[22]

Come and hear: If a lamp is burning at a banqueting party:[23] if the majority are Gentiles, one may make use of its light; if the majority are Israelites, it is forbidden; if half and half, it is forbidden?[24] — There too, when they light it,

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(1) Small ones. But heavy ones generally have an appointed place and may not be moved.

(2) For carrying people.

(3) V. MS.M.

(4) Left in the charge of Gentiles.

(5) To prevent the Gentiles from tampering with it. Normally two seals are required.

(6) In A.Z. 31a, that for wine only one seal is required.

(7) Which would prevent the Gentile from tampering with the wine.

(8) From a pit in the street.

(9) Rashi: a gangway from a large ship to dry land.

(10) Even when the Gentile draws it for his own use.

(11) Whilst ostensibly drawing it for himself.

(12) That is analogous to a lamp — the same stairway suffices for many as for one.

(13) As animal fodder.

(14) I.e., on grass attached to the soil, and we do not fear that he may thereby come to cut grass for his animal.

(15) Fodder stored away for later use; this may not be handled on the Sabbath as mukzeh (v. Glos.); hence its designation.

(16) Lest he take it and feed the animal. But grass cut on the Sabbath is also mukzeh and may not be handled, since it was not fit for handling detached before the Sabbath. (10) Barring its way to elsewhere and so making it go on to the detached grass; but he does not actually lead the animal himself; then it is permitted.

(17) Since he travelled with R. Gamaliel in the boat.

(18) Then the Gentile certainly did not make it for him.

(19) He needed the gangway for himself, and there is no extra work even if he had R. Gamaliel in mind. But one may cut more grass on the Jew's account.

(20) After the Sabbath, because it was heated primarily for Gentiles.

(21) After the Sabbath, so as not to benefit from the heating of the water on the Sabbath. Now, the water had to be heated for the Gentiles in any case, and there is no real difference between heating for one or for many; further, it was not heated in the Jews’ presence, yet one must not benefit from it. This contradicts both Abaye and Raba.

(22) Hence it is regarded as specifically for Jews.

(23) Having been lit on the Sabbath.

(24) This contradicts Raba.

Talmud - Mas. Shabbath 122b

they do so with a view to the majority.

Samuel visited the house of Abin of Toran.[1] A Gentile came and lit a lamp, [whereupon] Samuel turned his face away.[2] — On seeing that he [the Gentile] had brought a document and was reading it, he observed, ‘He has lit it for himself’; [sol he [too] [Samuel] turned his face to the lamp.

CHAPTER XVII

MISHNAH. ALL UTENSILS MAY[3] BE HANDLED ON THE SABBATH AND THEIR DOORS[4] WITH THEM, EVEN IF THEY ARE DETACHED, FOR THEY ARE NOT LIKE THE DOORS OF A HOUSE, WHICH ARE NOT OF MUKAN.[5] A MAN MAY TAKE A HAMMER TO SPLIT NUTS, A CHOPPER TO CUT [A ROUND OF] PRESSED FIGS, A SAW FOR SAWING CHEESE, A SPADE TO SCOOP DRIED FIGS,[6] A WINNOWING SHOVEL AND A PITCHFORK TO PLACE [FOOD] UPON IT FOR A CHILD, A REED OR A WHORL TO STICK [FOOD], A SMALL NEEDLE[7] TO REMOVE A THORN, AND A SACK [NEEDLE] TO OPEN A DOOR THEREWITH.[8]

GEMARA. ALL UTENSILS MAY BE HANDLED, ... EVEN IF THEY ARE DETACHED on the Sabbath,[9] while it goes without saying [if detached] on a weekday;[9] on the contrary, on the Sabbath they stand ‘prepared’ in virtue of their origin;[10] [whereas if detached] on a weekday, they do not stand ‘prepared’ in virtue of their origin?[11] Said Abaye, This is its meaning: ALL UTENSILS MAY BE HANDLED ON THE SABBATH, THEIR DOORS WITH THEM, EVEN IF THEY ARE DETACHED on a weekday, they may be handled on the Sabbath. Our Rabbis taught: The door of a box, chest, or coffer[12] may be removed, but not replaced; that of a hen-roost may neither be removed nor replaced. As for that of a hen-roost, it is well! he holds that since they [the hen-roosts] are attached to the ground, [the interdict of] building applies to the ground and that of demolishing applies to the ground;[13] but as for that of a box, chest, or coffer, what is his opinion? If he holds, [The interdict of] building applies to utensils, then that of demolishing [too] applies to utensils; whilst if there is no [prohibition of] building in respect to utensils, there is no [prohibition of] demolishing in respect to utensils [either]?[14] — Said Abaye: In truth he holds: There is [the prohibition of] building in the case of utensils, and there is [that of] demolishing in respect of utensils, but he means, Those that were removed [may not be replaced].[15] Said Raba to him, There are two objections to this: one, since he teaches that they may be removed; and two, how [explain] ‘but not replaced?’ — Rather said Raba: He holds, [The interdict of] building does not apply to utensils, and the interdict of demolishing does not ‘apply to utensils, yet it is a preventive measure, lest he fix it firmly.[16]

A MAN MAY TAKE A HAMMER, etc. Rab Judah said: [This means,] a nut hammer to split nuts therewith, but not a smith's [hammer]: he holds, An article whose function is a forbidden labour is forbidden [even] when required for itself.[17] Said Rabbah to him: If so, when the second clause teaches, A WINNOWING SHOVEL AND A PITCH-FORK, TO PLACE [FOOD] UPON IT FOR

A CHILD, are a winnowing shovel and a pitch-fork set aside specially for a child?[18] Rather said Rabbah: [it means] a smith's hammer to split nuts therewith; he holds,

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(1) MS.M. To Abitoran.

(2) So as not to benefit from it.

(3) Tosaf. reads: ALL UTENSILS WHICH MAY, etc., for in fact there are many that may not be handled.

(4) Those that have doors or lids, e.g., a chest or coffer.

(5) v. Glos. The doors of a house, if detached, may not be handled on the Sabbath, because they are not parts of utensils which stand ‘prepared’ for handling. But the doors of utensils are like the utensils themselves.

(6) Out of the barrel.

(7) Lit., ‘hand-needle’.

(8) If the key is lost.

(9) This is now the assumed meaning and implication of the Mishnah.

(10) Lit., ‘father’. If they became detached on the Sabbath since they were fit to handle at the beginning of the Sabbath, when they were part of the whole, they remain so for the whole Sabbath.

(11) For when the Sabbath commenced they were not part of the utensil.

(12) Lit., ‘tower’ or ‘turret’ — a large box or chest.

(13) I.e., it is like fitting or removing a house door, which constitutes building and demolishing; v. supra 73a.

(14) Thus removing and refitting should be the same.

(15) Thus only one law is stated; the doors of a chest, box, and coffer, if detached (before the Sabbath), may not be refitted.

(16) Nailing or screwing it on, which is certainly labour; hence he must not put it back at all.

(17) For a permitted labour. I.e., since the normal function of a smith's hammer is to perform labour forbidden on the Sabbath, it may not be handled even for a permitted purpose.

(18) Surely not!

Talmud - Mas. Shabbath 123a

An article whose function is a forbidden labour is permitted when required for itself.

Abaye raised an objection to Rabbah: A mortar,[1] if containing garlic, may be moved;[2] if not, it may not be moved?[3] — The author of this is R. Nehemiah, he replied, who maintains, A utensil may be handled only for the purpose of its [normal] use.[4] He objected to him: Yet both hold alike that if he has [already] cut meat upon it, it may not be handled?[5] — He thought of answering him that this agrees with R. Nehemiah, but when he heard R. Hinena b. Shalmia's dictum in Rab's name: All agree in respect of the dyer's pins, tubs, and beams:[6] since one is particular about them he appoints a [special] place for them; so here too one appoints a special place for it [the pestle].[7]

It was stated, R. Hiyya b. Abba said in R. Johanan's name: We learnt [in our Mishnah] of a goldsmith's hammer; R. Shaman b. Abba said: We learnt of a spice hammer. He who says a spice [hammer], all the more so a goldsmith's [hammer].[8] He who says a goldsmith's, — but one is particular about a spice [hammer].[9]

A REED OR A WHORL, etc. Our Rabbis taught: If an unripe fig was hidden in straw,[10] or a cake which was hidden in live coals,[11] and part thereof is uncovered, it may be handled;[12] but if not, it may not be handled. R. Eleazar b. Taddai said: One impales them on a reed or a whorl, and they [the straw or coals] are shaken off of their own accord. R. Nahman said: The halachah is as R. Eleazar b. Taddai. Shall we say that R. Nahman holds, Indirect[13] handling is not designated handling?[14] Surely R. Nahman said: ‘A radish, if it is the right way up, is permitted; if it is reversed,[15] it is forbidden.[16] — R. Nahman retracted from that [ruling].

A SMALL NEEDLE TO REMOVE A THORN, etc. Raba son of Rabbah sent to R. Joseph: Let our Master teach us, What of a needle from which the eye or the point has been removed?[17] We have learnt it, he replied: A SMALL NEEDLE TO REMOVE A THORN: now, what does it matter to the thorn whether it has an eye or not? He [thereupon] put an objection to him: If the eye or the point of a needle is removed, it is clean?[18] — Said Abaye: You oppose defilement to the Sabbath! [For] defilement we require a working utensil,[19] [whereas] in respect to the Sabbath we require anything that is fit, and this too is fit for removing a splinter. Raba observed, He who raises the objection does so rightly: since it is not a utensil in respect to defilement, it is not a utensil in respect to the Sabbath.

An objection is raised: A needle, whether with or without an eye, may be handled on the Sabbath, while one with an eye was specified only in respect to defilement?[20] — Abaye interpreted it on the view of Raba as referring to unfinished utensils, for sometimes he may decide to use it thus and make it rank as a utensil; but if the eye or point is removed one throws it away among the rubbish.[21]

Causing a new-born babe to vomit,[22] R. Nahman forbids, while R. Shesheth permits. R. Nahman said: Whence do I rule thus? Because we learnt: One must not use an emetic[23]

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(1) For pounding garlic.

(2) On account of the garlic, to which the mortar is merely subsidiary.

(3) Since its essential function is forbidden, it may not be moved even for a permitted purpose, which refutes Rabbah.

(4) V. supra 36a. Whereas our Mishnah disagrees with R. Nehemiah.

(5) The reference is to a pestle: Beth Shammai rule that it must not be handled on a Festival for cutting meat thereon, because its normal use, sc. pounding, is forbidden on a Festival; Beth Hillel permit it, so as not to hinder the joy of the Festival. But if the meat has already been cut upon it, so that the permissive reason no longer holds good, Beth Hillel admits that it may not be handled.

(6) Rashi and Jast.

(7) Whence it is not to be moved for any other purpose but its own. This lays a stronger prohibition upon it; hence it may not be handled.

(8) That it may be used, and the more so is an ordinary smith's hammer — in agreement with Rabbah.

(9) Not to use it for anything else, lest it become too soiled for subsequent use on spices.

(10) For it to ripen. Straw is mukzeh for making bricks.

(11) Before the Sabbath.

(12) Since the straw or the coals themselves need not be handled.

(13) Lit., ‘from the side’.

(14) V. supra 43b.

(15) Lit., ‘from top to bottom ... from bottom to top’.

(16) The reference is to a detached radish stored in loose earth in the ground: if it is the right side up, one may pull it out, because since the top of the radish is broader than the bottom he does not dislodge any earth; but if reversed, the loose soil will naturally cave in, hence it is tantamount to handling the soil and is forbidden, though it is only indirect handling.
(17) Does it still rank as a utensil and permitted to be handled on the Sabbath?
(18) Which shows that it is not a utensil.
(19) But if the eye or point is removed the needle is no longer a utensil.
(20) V. supra 52b. This refutes Raba.
(21) Not regarding it as a utensil at all.
(22) By inserting the finger in its mouth in order to relieve it of its phlegm (Jast.). Rashi: To manipulate and ease a child's limbs.
(23) In order to leave room for mere food.

Talmud - Mas. Shabbath 123b

on the Sabbath.[1] And R. Shesheth?[2] — There it is unnatural, whereas here it is natural[3] R. Shesheth said, Whence do I rule thus? Because we learnt: A SMALL NEEDLE TO REMOVE A THORN.[4] And R. Nahman? — There it is [externally] deposited,[5] whereas here it is not [externally] deposited.[6]

MISHNAH. A CANE FOR OLIVES,[7] IF IT HAS A BULB ON TOP,[8] IS SUSCEPTIBLE TO DEFILEMENT; IF NOT, IT IS NOT SUSCEPTIBLE TO DEFILEMENT. IN BOTH CASES IT MAY BE HANDLED ON THE SABBATH.

GEMARA. Why so? It is a flat wooden utensil, and these are not susceptible to uncleanness; what is the reason? We require [something] similar to a ‘sack’?[9] — It was taught in R. Nehemiah's name: When he turns the olives he reverses it and looks at it.[10]

MISHNAH. R. JOSE SAID: ALL UTENSIls MAY BE HANDLED, EXCEPT A LARGE SAW AND THE PIN OF A PLOUGH.[11]

GEMARA. R. Nahman said: A fuller's trough[12] is like the pin of a plough. Abaye said: A cobbler's knife and a butcher's chopper and a carpenter's adze are like the pin of a plough.[13]

Our Rabbis taught: At first they [the Sages] ruled, Three utensils may be handled on the Sabbath: A fig-cake knife,[14] a pot soup ladle,[15] and a small table-knife. Then[16] they permitted [other articles], and they permitted again [still more], and they permitted still further, until they ruled: All utensils may be handled on the Sabbath except a large saw and the pin of a plough. What is meant by ‘then they permitted [other articles], and they permitted again [still more], and they permitted still further’? — Said Abaye: [First] they permitted an article whose function is for a permitted purpose, provided it was required for itself;[17] then they further permitted an article whose function is for a permitted purpose, even when its place is required; then they further permitted an article whose function is for a forbidden purpose, provided it was required for itself,[18] but not when its place is required. Yet still [these might be handled] with one hand only, but not with two hands,[19] until they [finally] ruled, All utensils may be handled on the Sabbath even with both hands. Raba observed to him, Consider: he [the Tanna] teaches, they permitted [other things], what difference is it whether they are required for themselves or their place is needed?[20] Rather said Raba: [First] they permitted an article whose function is for a permitted purpose, both when required itself or when its place is required; then they further permitted [it to be moved] from the sun to the shade;[21] then they further permitted an article whose function is for a forbidden purpose [to be moved] only when it is required for itself or when its place is required, but not from the sun to the shade. Yet [it might] still [be moved] by one person only, but not by two,[22] until thy ruled: All utensils may be handled on the Sabbath, even by two persons.

Abaye put an objection to him: A mortar containing garlic may be handled; if not, it may not be handled?[23] — We treat here of [moving it] from the sun to the shade. He refuted him: And both hold alike that if he had cut meat upon it it may not be handled?[24] Here too it means from the sun to the shade.

R. Hanina said: This Mishnah[25] was taught in the days of Nehemiah the son of Hacaliah, for it is written, In those days I saw in Judah some treading winepresses on the Sabbath, and bringing in sheaves.[26]

R. Eleazar said: [The laws about] canes, staves, fastenings, and mortar[27] were all learnt before the permission re [the handling of] utensils. ‘Canes’, for we learnt: Neither the placing of the canes nor their removal supersedes the Sabbath.[28] ‘Staves ,as we learnt: There were thin smooth staves there, which one placed on his shoulder and his fellow's shoulder, then he suspended [the sacrifice upon them] and skinned it.[29] R. Eleazar said: If the fourteenth [of Nisan] fell on a Sabbath, one placed

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(1) v. infra 147a.

(2) How does he explain that?

(3) Hence it is the same as feeding an infant.

(4) And this is similar.

(5) The thorn is laid in the flesh, as it were, but has not entered the system.

(6) But is within the system, and to bring it out by causing vomiting is like mending a person, which is similar to repairing a utensil (cf. supra 106a).

(7) Used for stirring a mass of maturing olives to see whether they are fit for pressing.

(8) Closing one end of the reed.

(9) Which has a receptacle. The reference is to Lev. XI, 32.

(10) Viz., at the oil which penetrates the hollow reed; for this a bulbous (closed) top is required. which turns the cane into a utensil technically containing a receptacle.

(11) One is very particular not to use these for any purpose but their own, and this makes them mukzeh.

(12) Rashi: (i) A sieve-like perforated tub placed above the linen; water is poured over it, whereby the linen is sprinkled through the holes. Or (ii) the same, the linen being placed inside and incense is burnt underneath, so that the fragrance ascends and perfumes the garments.

(13) They may not be handled.

(14) I.e., for cutting a cake of pressed figs.

(15) זוהמא ליסטרן (v. infra p. 612, n. 5). Rashi: for removing the scum of the soup.

(16) When they saw that the people became more strict in Sabbath observance.

(17) I.e., when it was required for use, but not when its place was required.

(18) To use it in a permitted labour.

(19) I.e., if too heavy for one hand they might not be handled.

(20) When they permitted the one they would certainly simultaneously permit the other.

(21) To avoid scorching; though here neither the article itself is required For use, nor the place where it lies.

(22) Cf. p. 611, n. 7.

(23) Abaye can explain that it may not be handled when its place only is required, since its normal function is forbidden; but how can Raba explain it?

(24) V. supra a for notes.

(25) Sc. the first ruling which permitted only three utensils to be handled but forbade all others.

(26) Neh. XIII, 15. To counteract this laxity the Rabbis had to be particularly severe. — v. Halevy: Doroth, I, 3, pp. 310-345 for the dates of the Rabbinical enactments, and particularly pp. 344 seqq. for the present passage. Weiss, Dor, I, p. 57, n. 2 argues that the Greek form of the word זומליסטרון (this is the form given in Kel. XIII, 2, though it is variously corrupted elsewhere Gr. ** = **) proves that this ruling must be much later, certainly not before the Greeks spread in Palestine and the Jews became acquainted with them. This is not conclusive: the original enactment may have employed a Hebrew word which was changed later in the academies, when the Greek form became more familiar.

(27) The Gemara proceeds to state these laws.

(28) Canes were placed between the loaves of showbread, to permit the air to circulate about them, so that they should not become mouldy. The loaves were set from one Sabbath to the next. Since the canes might not be handled then, they would have to be removed on Friday and rearranged at the conclusion of the Sabbath. Thus for a short while the loaves would be without them.

(29) These staves were placed in the Temple court and used for the Passover sacrifice in the manner stated.

Talmud - Mas. Shabbath 124a

his hand upon his fellow's shoulder, and his fellow's hand [rested] upon his shoulder, and so [the animal] was suspended and skinned.[1] 'A fastening', as we learnt: If a door-bolt has on its top a fastening contrivance,[2] R. Joshua said: One may shift it from one door and hang it on another on the Sabbath;[3] R. Tarfon said: It is like all utensils, and may be moved about in a courtyard. 'A mortar': that which we have stated.[4] Said Rabbah, Whence [does that follow]: perhaps in truth I may argue that they were learnt after the permission re utensils. [Thus:] what was the reason of [placing] canes? On account of mouldiness; but in that short while[5] they would not become mouldy. As for the staves, it was possible [to act] as R. Eleazar [stated]. The fastening may be as R. Jannai, who said: We treat here of a courtyard not provided with an 'erub:[6] [now,] R. Joshua holds, The inside of the door[7] is as within, so one carries a utensil of the house through the courtyard;[8] whereas R. Tarfon holds that the inside of the door is as without, so one carries a utensil of the courtyard in the courtyard. As for a mortar, that agrees with R. Nehemiah.[9] MISHNAH. ALL UTENSILS MAY BE HANDLED WHETHER REQUIRED OR NOT REQUIRED. R. NEHEMIAH SAID: THEY MAY BE HANDLED ONLY WHEN REQUIRED.

GEMARA. What does REQUIRED AND NOT REQUIRED mean? — Rabbah[10] said: REQUIRED: an article whose function is for a permitted purpose [may be moved] when required itself; NOT REQUIRED: an article whose function is for a permitted purpose [may be moved] when its place is required;[11] but an article whose function is for a forbidden purpose may [be handled] only when required itself,[12] but not when its place is required. Whereupon R. Nehemiah comes to say that even an article whose function is for a permitted purpose [may be handled] only when required itself, but not when its place [alone] is required. Said Raba to him: If its place is required — do you call it: NOT REQUIRED! Rather said Raba: REQUIRED: an article whose function is for a permitted purpose [may be handled] whether required itself or its place is required: NOT REQUIRED [means] even from the sun to the shade; whilst an article whose function is for a forbidden purpose [may be moved] only when required itself or its place is required but not from the sun to the shade. Whereupon R. Nehemiah comes to say that even an article whose function is for a permitted purpose [may be moved] only when required itself or its place is required — but not from the sun to the shade. Now, R. Safra, R. Aha b. Huna, and R. Huna b. Hanina sat and reasoned: According to Rabbah on R. Nehemiah's view, how may we move plates?[13] Said R. Safra to them, By analogy with a pot of excrement.[14] Abaye asked Rabbah: According to you on R. Nehemiah's view, how may we move plates? — R. Safra our colleague has answered it, By analogy with a pot of excrement, he replied.

Abaye objected to Raba: A mortar, if containing garlic, may be handled; if not, it may not be handled? — We treat here of [moving it] from the sun to the shade. He [further] objected to him: And both hold alike that if he had already cut meat upon it, it may not be moved?[15] — Here too it means from the sun to the shade. Now, as to what we learnt: 'One may not support a pot with a leg, and the same applies to a door',[16] — but surely a log on a Festival is an article whose function is for a permitted purpose,[17] which shows that an article whose function is for a permitted purpose 'may not [be handled] whether required itself or its place is needed?[18] — There this is the reason: since on the Sabbath it is an article whose function is for a forbidden purpose, is it preventively forbidden on Festivals on account of the Sabbath.[19] And should you say, Let the Sabbath itself be permitted, since an article whose function is for a forbidden purpose may be [handled] when required itself or its place is required, — that is only where it comes within the category of a utensil, but not where it does not come within the category of a utensil.[20]

Yet do we enact a preventive measure? Surely we learnt: Produce[21] may be dropped down through a skylight[22] on Festivals, but not on the Sabbath?[23] — Do we then not preventively prohibit? Surely we learnt: The only difference between Festivals and the Sabbath is in respect of food for consumption?[24] — Said R. Joseph, There is no difficulty: the one is [according to] R. Eliezer; the other, R. Joshua. For it was taught: If an animal[25] and its young fall into a pit, — R. Eliezer said: One may haul up the first in order to kill it, and for the second provisions are made where it lies that it should not die. R. Joshua said: One hauls up the first in order to kill it, but he does not kill it, then he practises an evasion and hauls up the second, and kills whichever he desires.[26] How so? Perhaps R. Eliezer rules [thus] only there, because provisions can be made, but not where provisions can not be made. Or perhaps R. Joshua rules thus only there, since an evasion is possible; but not where an evasion is impossible? Rather said R. Papa: There is no difficulty: one is [according to] Beth Shammai; the other, Beth Hillel. For we learnt, Beth Shammai say:

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(1) But the staves might not be used then.

(2) This had a thick head and could be used as a pestle.

(3) Shometah implies that it may be pushed from one to the other, but not picked up in the usual way.

(4) Supra 123b. Now R. Eleazar maintains that all these prohibitions held good only before the extended permission in respect to utensils, by which they were abolished.

(5) V. p. 612, n. 7.

(6) Many houses open into the courtyard. Utensils may not be carried from the houses into the yard, but those already in the yard from before the Sabbath may be moved about therein.

(7) Where the fastening contrivance is to be found.

(8) Which if done in the normal way is forbidden; therefore it may only be shifted' (v. n. 4).

(9) Who maintains that no utensil may be moved for any but its normal use. Hence all four may have been taught after the extended permission was given: the first two remain forbidden because there was no need for handling them at all, the third is connected with the interdict of carrying from one domain to another, whilst the fourth represents an individual view.

(10) Alfasi and Asheri read: Abaye.

(11) Though the article itself is not.

(12) For a permitted labour.

(13) After eating the last Sabbath meal, seeing that they are not required for further use on the Sabbath.

(14) Which may be removed because it is repulsive, and the same applies to dirty plates.

(15) V. supra 123a notes.

(16) On Festivals. V. Bez. 32b

(17) Sc. it is used for fuel.

(18) For even the first is forbidden here, and the second all the more so.

(19) If the former is permitted, it may be thought that the latter too is permitted.

(20) A log does not rank as a utensil.

(21) Spread out on the roof to dry.

(22) When it is about to rain.

(23) v. Bez. 35b. Thus we do not argue as in n. 5.

(24) Which may be prepared on Festivals, e.g., by baking, cooking, etc., but not on the Sabbaths. Thus on all matters they are alike.

(25) Lit., 'it'.

(26) V. supra 117b for notes. Just as R. Joshua permits both animals to be brought up so he permits one to lower the produce on a Festival to avoid financial loss.

Talmud - Mas. Shabbath 124b

One may not carry out an infant, a lulab,[1] or a Scroll of the Law into the street;[2] but Beth Hillel permit it.[3] But perhaps you know[4] Beth Shammai [to rule thus only in respect of] carrying out; do you know them [to rule likewise in respect of] handling? — Is then handling itself not [forbidden on account of] carrying out?[5]

Now, Rab too holds this [view] of Raba. For Rab said: [Moving] a hoe lest it be stolen is unnecessary handling, and is forbidden.[6] Thus only when it is in order that it should not be stolen, but if it is required for itself or its place is required, it is permitted. But that is not so? For R. Kahana visited Rab's house, whereupon he ordered, Bring a log of wood[7] for Kahana to sit. [Now] surely that was to imply that a thing whose function is for a forbidden purpose[8] [may be handled] only when required itself,[9] but not [merely] when its place is required? — This is what he said to them: Remove the log from Kahana's presence.[10] Alternatively, there it was [moved] from the sun to the shade.[11]

R. Mari b. Rachel[12] had some pillows[13] lying in the sun. He went to Raba and asked him, May these be moved? — It is permitted replied he.[14] [But] I have others?[15] — They are of use for guests. I have [some] for guests too? — You have revealed your opinion that you agree with Rabbah,[16] observed he: to all others it is permitted, but to you it is forbidden.

R. Abba said in the name of R. Hiyya b. Ashi in Rab's name: Table brushes[17] [made] of cloth may be handled on the Sabbath, but not [those made] of palm[-twigs];[18] R. Eleazar maintained: Even [those made] of palm[-twigs]. What are we discussing: Shall we say [where they are handled] when required in themselves or their place is required, shall Rab rule here ‘but not [those made] of palm[-twigs]’? Surely Rab agrees with Raba?[19] Again, if it means from the sun to the shade, shall R. Eleazar rule here ‘even [those made] of palms’?[20] — In truth [it means] from the sun to the shade: say, And thus did R. Eleazar rule.[21]

MISHNAH. ALL UTENSILS WHICH MAY BE HANDLED ON THE SABBATH, THEIR FRAGMENTS MAY BE HANDLED TOO,[22] PROVIDED, HOWEVER, THAT THEY CAN PERFORM SOMETHING IN THE NATURE OF WORK. [THUS]: THE FRAGMENTS OF A KNEADING TROUGH [THAT CAN BE USED] TO COVER THE MOUTH OF A BARREL THEREWITH, [AND] THE FRAGMENTS OF A GLASS, TO COVER THEREWITH THE MOUTH OF A CRUSE. R. JUDAH MAINTAINED: PROVIDED THAT THEY CAN PERFORM SOMETHING IN THE NATURE OF THEIR OWN [FORMER] WORK;[23] [THUS:] THE FRAGMENTS OF A KNEADING TROUGH, TO POUR A THICK MASS THEREIN;[24] OR OF A GLASS, TO POUR OIL THEREIN.

GEMARA. Rab Judah said in Samuel's name: The controversy is only if they were broken from the eve of the Sabbath, one Master holding: Only [provided they are fit for] something in the nature of their own [former] work, but not for something in the nature of a different work; whereas the other Master holds: Even [if fit] for something in the nature of a different work. But if they are broken on the Sabbath, all agree that they are permitted,[25] since they are mukan[26] in virtue of their origin.[27]

R. Zutra objected: ‘We may heat [an oven] with utensils, but not with fragments of utensils’[28] Now when were these broken? Shall we say that they were broken from the eve of the Festival, then they are simply pieces of wood.[29] Hence it must surely be on the Festival, yet he teaches, ‘We may heat with utensils, but not with fragments of utensils’?[30] — Rather if stated, it was thus stated: Rab Judah said in Samuel's name: The controversy is only if they are broken on the Sabbath, one Master holding that they are mukan, whilst the other Master holds that they are nolad.[31] But [if broken] on Sabbath eve, all hold that they are permitted, since they were mukan for work from the day time.[32]

One [Baraitha] taught: We may heat with utensils, but not with fragments of utensils; another was taught: Just as we may heat with utensils, so may we heat with fragments of utensils: whilst a third taught: We may heat neither with utensils nor with fragments of utensils. One agrees with R. Judah, one with R. Simeon, and the last with R. Nehemiah.[33]

R. Nahman said: The bricks that are left over from a building may be handled, since they are fit to sit on.[34] [But] if he places them in rows, then he has certainly set them apart.[35]

R. Nahman said in Samuel's name: A small shard may be moved about in a courtyard, but not in a karmelith.[36] But R. Nahman [giving] his own [view] maintained: Even In a karmelith,[37] but not in the street; whereas Raba said: Even in the street.[38] Now, Raba is consistent with his view. For Raba was walking in the manor of Mahoza,[39] when his shoes become soiled with clay; [so] his attendant came, took a shard, and wiped it off. The Rabbis (his disciples] rebuked him.[40] Said he, It is not enough that they have not learnt — they would even teach! If it were in a courtyard, would it not be fit for covering a utensil? Here too I have a use for it.

Rab Judah said in Samuel's name: The bung of a barrel which is broken in pieces may be handled on the Sabbath. It was taught likewise: If a bung is broken in pieces [both] it and the fragments thereof may be handled on the Sabbath. But one must not trim a fragment thereof to cover a vessel or support the legs of a bed[41] therewith; but if one throws it away on the dung heap, it is forbidden.[42] R. Papa demurred: If so, if one throws away his robe, is that too prohibited?[43] Rather said R. Papa:

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(1) The palm branch; v. Lev. XXIII, 40.

(2) On Festivals, for only the preparation of food is permitted. Hence the Mishnah stating that this is the only difference, etc., agrees with Beth Shammai.

(3) Therefore the law that produce may be dropped, etc., agrees with Beth Hillel.

(4) Lit., ‘hear’.

(5) Carrying out naturally involves handling, and the latter was forbidden on account of the former. — So Rashi in Bez. 37a. which seems the correct interpretation on the present reading. But the reading there, as well as a variant here, is: ‘is not handling a (pre)requisite of carrying out’? (v. Rashi and Marginal Gloss.). Hence handling is forbidden because it partakes of the nature of carrying out. Thus when Beth Shammai prohibit carrying out they also prohibit handling.

(6) Just as moving it from the sun to the shade.

(7) Bah. Rashi and Jast. translate: a trap.

(8) A log is used as fuel, which, of course, is forbidden on the Sabbath. Trapping too (according to Rashi's translation) is forbidden.

(9) And therefore he emphasized that it was wanted for a seat.

(10) That he may sit in its place.

(11) Therefore he emphasized the true purpose, so that they might not think that it was moved for that reason alone.

(12) His father at the time of his conception was not a Jew; hence he is called by his mother's name.

(13) Or, bolsters.

(14) In accordance with his view supra a, q.v.

(15) So I do not need these for themselves.

(16) Or, Abaye, supra a.

(17) For clearing the crumbs off the table, which is permitted.

(18) I.e., brooms used for sweeping the floor, which is forbidden.

(19) Permitting this.

(20) None permit this.

(21) Like Rab, the former version of R. Eleazar's view being incorrect.

(22) Lit., ‘with them’. (The words are, however, rightly omitted in MS.M.]

(23) I.e., similar to that performed by the whole utensil.

(24) Like the dough kneaded in the trough.

(25) Whatever their present use.

(26) V. Glos.

(27) v. p. 214, n. 5.
(28) On Festivals.
(29) Which may certainly be used.
(30) Which refutes Samuel's view reported by Rab Judah.
(31) Newly created (v. Glos.). As a fragment it has only just come into existence, and therefore must not be used on the Sabbath.
(32) I.e., from before the commencement of the Sabbath they stood to be used as fuel, and so they are regarded as ready for their new function.
(33) (i) R. Judah: both mukzeh and nolad are forbidden, hence the prohibition of fragments. (ii) R. Simeon: mukzeh and nolad are permitted, hence both fragments and vessel are permissible; (iii) R. Nehemiah: a utensil may be handled on the Sabbath or Festival only for its normal function, hence the prohibition of both.
(34) And the last few may possibly be kept for that purpose.
(35) For another building; hence they are mukzeh and must not be handled.
(36) In the former vessels may generally be found for which the shard can be used as a cover, but not in the latter.
(37) Where people sometimes sit down; one can cover saliva with this.
(38) Since it is a utensil in a courtyard, it remains so elsewhere.
(39) V. p. 277, n. 8. and B. B., Sonc. ed., p. 60, n. 4.
(40) Lit., ‘lifted their voice against him’.
(41) V. p. 199, n. 2. Here, however, it is probably meant literally.
(42) Because the owner has shown that it has ceased to be a utensil in his eyes.
(43) Surely not!

Talmud - Mas. Shabbath 125a

If he threw it away whilst yet day[1] it is forbidden.

Bar Hamduri said in Samuel's name: Shreds of reeds detached from a mat may be handled on the Sabbath. What is the reason? — Said Raba, Bar Hamduri explained it to me: What is the [reed-] mat itself fit for? For covering the earth. These too are fit for covering dirt.

R. Zera said in Rab's name: Pieces of silk of aprons may not be handled on the Sabbath. Said Abaye: This refers to rags less than three [fingerbreadths] square, which are of no use to rich or poor.[2]

Our Rabbis taught: The fragments of an old oven[3] are like all utensils which may be handled in a courtyard: this is R. Meir's view. R. Judah said: They may not be handled. R. Jose testified in the name of R. Eleazar b. Jacob concerning the fragments of an old oven that they may be handled on the Sabbath, and concerning its lid [of the oven] that it does not require a handle.[4] Wherein do they differ? — Said Abaye: where they perform something in the nature of work;' but not in the nature of their own [former] work,[5] R. Judah being consistent with his view, and R. Meir with his.[6] Raba demurred: If so, instead of disputing about the fragments of an oven, let them dispute about the fragments of utensils in general? Rather said Raba: They dispute about the fragments of the following oven. For we learnt: If he sets it [the oven] over the mouth of a pit or a cellar and places a stone there, — R. Judah said: If one can heat it from underneath and it is [thereby] heated above, it is unclean; if not, it is clean. But the Sages maintain: Since it can in any wise be heated, it is unclean.[7] And wherein do they differ? In this verse; Whether oven, or range of pots, it shall be torn down: they are unclean, shall be unclean unto you.[8] R. Judah holds: Where tearing down is wanting it is unclean, whilst where tearing down is not wanting it is not unclean.[9] Whereas the Rabbis hold: ‘They shall be unclean unto you’ [implies] in all cases.[10] But the Rabbis too, surely it is written, ‘it shall be torn down’? — That is [intended] in the opposite direction:[11] for one might argue, Since it is attached to the ground, it is like the very ground itself;[12] therefore it informs us [otherwise].[13] And the other [R. Judah] too, surely ‘they shall be unclean unto you’ is written? — That [is explained] as Rab Judah's dictum in Samuel's name. For Rab Judah said in Samuel's name: They differ only in respect of the first firing,[14] but at the second firing,[15] even if it is suspended to a camel's neck.[16] ‘Ulla observed: And as for the first firing, according to the Rabbis, even if it is suspended from a camel's neck![17] R. Ashi demurred: If so, instead of disputing about the fragments of the oven, let them dispute about the oven itself;[18] [for] seeing that the oven itself, according to R. Judah, is not a utensil, need the fragments [be mentioned]? Rather said R. Ashi: In truth it is as we originally stated, and (the controversy is] where it [the fragment] can serve as a [baking] tile,[19] whilst R. Meir argues on R.Judah's opinion. [Thus:] according to my view, even if they [the fragments] can perform something in the nature of [any] work;[20] but even on your view, you must at least agree with me [here] that in such a case, it is its own work. But R. Judah [argues]: It is dissimilar. There it is heated from within, here it is heated from without; there it stands, here it does not stand.

‘R. Jose testified in the name of R. Eleazar b. Jacob concerning the fragments of an old oven, that they may be handled on the Sabbath, and concerning its lid, that it does not require a handle.’ Rabina said: In accordance with whom do we handle nowadays the oven lids of the town Mehasia[21] which have no handle? In accordance with whom? R. Eleazar b. Jacob.

MISHNAH. IF A STONE [IS PLACED] IN A PUMPKIN SHELL,[22] AND ONE CAN DRAW [WATER] IN IT AND IT [THE STONE] DOES NOT FALL OUT,[23] ONE MAY DRAW [WATER] IN IT; IF NOT, ONE MAY NOT DRAW WATER IN IT.[24]

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(1) I.e, on Friday before the commencement of the Sabbath.

(2) Cf. supra 26b.

(3) I.e., one that has already been fired, so that the clay whereof it is made is hardened and fit for its work.

(4) In order that it shall be permissible to handle it on the Sabbath. There is also an opposing view, v. infra 126b.

(5) E.g.. they are fit for covering a barrel, but one cannot bake in them.

(6) As expressed in the Mishnah supra 124b.

(7) The reference is to an oven. In ancient days this consisted merely of walls, without a separate bottom, and was set upon the ground and plastered thereto. Now, here the oven is set over the walls of a pit, not actually on the ground, and a stone is placed between the oven and the pit as a wedge. R. Judah maintains that if the oven is so placed, e.g., its walls almost correspond to those of the pit, that if a fire is made beneath the oven, in the pit's atmosphere, the oven itself is heated (sufficiently for its work), it is an ‘oven’ in the technical sense (as stated below) and is susceptible to defilement. But if the fire must be placed in the atmosphere of the oven, it is not an ‘oven’ and cannot be defiled. (Rashi).

(8) Lev. XI, 35.

(9) Yuttaz, fr. nathaz, is generally applicable to the tearing down or demolishing of anything attached to the soil, e.g., a house. Now, since the Bible orders that if an oven is defiled it shall be torn down, it follows that it must be so closely joined to the soil that one can speak of tearing it down. Otherwise the Scriptural law does not apply to it, because technically it is ‘torn down’ from the very time that it is fixed. Hence in the present case if it is not so closely joined to the ground that one can make a fire in the pit on which it stands and thereby heat the oven, it is likewise ‘torn down’ ab initio, and therefore is not an ‘oven’ which can be defiled. By ‘unclean’ and ‘not unclean’ susceptibility and non-susceptibility to uncleanness is meant.

(10) For the repetition is emphatic.

(11) Sc. it teaches not leniency but greater stringency, as explained.

(12) Which of course, cannot be defiled.

(13) Viz., that even where it shall be ‘torn down’, as defined in n. 2, is applicable, it is still liable to defilement, and all the more so where it is inapplicable.

(14) I.e., it had never yet been fired when it was set over the pit. The first firing hardens the clay and technically completes the manufacture of the oven, and R. Judah holds that in this case it cannot be completed at all, for the reasons stated, and so it never becomes an oven.

(15) I.e., it was originally set upon the ground in the usual manner, fired, and then removed to the pit.

(16) It is unclean, since

(17) Wherever it is, it is unclean. — It is in reference to the fragments of this oven that R. Meir and R. Judah dispute, seeing that in the first place it was not absolutely completed.

(18) Whether it may be handled on the Sabbath.

(19) Tiles which were heated to bake something placed upon them. Thus it can still be used in a manner akin to its original function, but not altogether so, for originally one baked inside the oven, whereas now the food to be baked must be placed on top.

(20) They may be handled.

(21) V. p. 39, n. 6.

(22) Used for drawing water. As the pumpkin was too light to sink, a stone was used to weigh it.

(23) Being securely fastened.

(24) The stone is then like any other stone, which may not be handled, and the pumpkin too may not be handled, because it serves as a stand for a forbidden article (cf. supra 117a top).

Talmud - Mas. Shabbath 125b

IF A [VINE-]BRANCH[1]

it is already an ‘oven’ from the first firing. This extended possibility of defilement is taught by the emphatic repetition, ‘and it shall be unclean unto you.’ IS TIED TO A PITCHER,[2] ONE MAY DRAW [WATER] WITH IT ON THE SABBATH. AS FOR THE STOPPER OF A SKYLIGHT, R. ELIEZER SAID: WHEN IT IS FASTENED[3] AND SUSPENDED,[4] ONE MAY CLOSE [THE SKYLIGHT] WITH IT; IF NOT, ONE MAY NOT CLOSE (THE SKYLIGHT] WITH IT.[5] BUT THE SAGES MAINTAIN: IN BOTH CASES WE MAY CLOSE [THE SKYLIGHT] WITH IT.

GEMARA. We learnt elsewhere: If a stone is on the mouth of a cask (e.g., of wine], one tilts it on a side and it falls off.[6] Rabbah said in R. Ammi's name in R. Johanan's name: They learnt this only if one forgets (it there]; but if he places [it there],[7] it [the barrel] becomes a stand for a forbidden article.[8] Whereas it. Joseph said in R. Assi's name in R. Johanan's name: They learnt this only if one forgets [it there]; but if he places [it there], it (the stone] becomes a covering of the barrel.[9] Rabbah said: An objection is raised against my teaching: IF A STONE [IS PLACED] IN A PUMPKIN SHELL, AND ONE CAN DRAW WATER IN IT AND IT DOES NOT FAIL OUT, ONE MAY DRAW WATER IN IT?[10] But it is not [analogous]: there, since it is firmly fastened, it is made as a wall [of the vessel]. R. Joseph said: An objection is also raised against my teaching: IF NOT, ONE MAY NOT DRAW WATER IN IT?[11] But it is not [analogous]: there, since he did not fasten it firmly, he really made it as nought.[12]

Wherein do they differ? One Master (R. Ammi] holds: An act of labour is required;[13] while the other Master [R. Assi] holds: An act of labour is not required. Now, they are consistent with their views. For when R. Dimi came,[14] he said in R. Hanina's name-others state, R. Zera said in R. Hanina's name: Rabbi once went to a certain place and found a course of stones,[15] whereupon he said to his disciples, Go out and intend [them,][16] so that we can sit upon them to-morrow; but Rabbi did not require them [to perform] an act of labour. But R. Johanan said, Rabbi did require them [to perform] an act of labour. What did he say to them?[17] — R. Ammi said: He said to them, Go out and arrange them in order.[18] R. Assi said: He said to them, ‘Go out and scrape them’ [free of mortar, etc.].[19] It was stated: R. Jose b. Saul said: It was a pile of beams;[20] R. Johanan b. Saul said: It was a ship's sounding pole.[21] Now he who says [that it was] a sounding pole, all the more so a pile [of beams];[22] but he who says that [it was] a pile, but one is particular about a sounding pole.[23]

IF A VINE-BRANCH IS TIED, etc. Only if it is tied, but not otherwise? Must we say that our Mishnah does not agree with R. Simeon b. Gamaliel? For it was taught: As for the dried branches of a palm tree which one cut down for fuel, and then he changed his mind, [intending them] for sitting [thereon], he must tie them together.[24] R. Simeon b. Gamaliel said: He need not tie them together. — Said R. Shesheth, You may even say [that it agrees with] R. Simeon b. Gamaliel: we treat here of one [a branch] that is attached to its parent stock.[25] If so, he makes use of what is attached to the soil?[26] — It is below three.[27] R. Ashi said: You may even say that it refers to a detached [branch]: it is a preventive measure, lest he cut (i.e., shorten] it.[28]

AS FOR THE STOPPER OF A SKYLIGHT, etc. Rabbah b. Bar Hanah said in R. Johanan's name: All agree that we may not make for the first time a temporary building on a Festival, whilst on the Sabbath it goes without saying. They differ only in respect of adding [to a building]: R. Eleazar maintaining. We may not add on a Festival, whilst on the Sabbath it goes without saying; whereas the Sages rule: We may add on the Sabbath, whilst it is superfluous to speak of a Festival.

BUT THE SAGES MAINTAIN: IN BOTH CASES WE MAY CLOSE (THE SKYLIGHT] WITH IT. What does 'IN BOTH CASES' mean? — R. Abba said in R. Kahana's name:

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(1) Or,rod.

(2) To let it down into the well.

(3) By a cord to the wall.

(4) In the air, the cord being too short to allow it to reach the ground.

(5) For it looks like adding to the building.

(6) If he wishes to draw wine, v. infra 142b.

(7) Before the Sabbath.

(8) Sc. the stone, which may not be handled.

(9) Hence the stone itself may be handled and removed, and it is unnecessary to tilt the barrel.

(10) Which shows that the stone is now part of the vessel.

(11) Which shows that it is not part of the vessel.

(12) Since the pumpkin is not fit for drawing water, as the stone will fall out. But here it is enough for his purpose to place the stone upon the barrel, therefore the stone becomes part of the barrel in virtue of that act.

(13) For the stone to count as part of the barrel, and mere placing is not an act of labour.

(14) V. p. 12, n. 9.

(15) Arranged in order, and waiting to be used in building. This renders them mukzeh.

(16) Express your intention of sitting on them to-morrow (the Sabbath), so that they may not be mukzeh.

(17) In R. Johanan's view.

(18) That they may be ready for sitting upon without further handling, R. Ammi holding. as above, that mere disposition does not make them a utensil.

(19) But they can be arranged for sitting on the Sabbath itself. Thus these views are consistent with those expressed above.

(20) Not stones.

(21) With which the depth of the water is sounded.

(22) They certainly could have sat upon the latter.

(23) Not to use it for anything else, lest it be bent or warped. Therefore it is mukzeh and must not be handled.

(24) V. supra 50a.

(25) Sc. the vine. Hence if it is not tied to the pitcher before the Sabbath, it remains part of the wine and must not be handled.

(26) Even if tied before the Sabbath it is still that and is forbidden.

(27) Handbreadths from the ground. Such may be used, v 'Erub. 99b.

(28) On the Sabbath, if it is not fastened to the pitcher before. Hence even R. Simeon b. Gamaliel agrees.

Talmud - Mas. Shabbath 126a

Whether it is fastened or not, providing that it was prepared.[1] Said R. Jeremiah to him, But let the Master say, Whether it is suspended or not, providing that it is fastened;[2] for Rabbah b. Bar Hanah said in R. Johanan's name: Just as there is a controversy here, so is there a controversy in respect of a dragging bolt.[3] For we learnt: With a dragging bolt, one may lock [the door] in the Temple, but not in the country;[4] but one that is laid apart [on the ground][5] is forbidden in both places. R. Judah said: That which is laid apart [is permitted] in the Temple; and that which is dragged, in the country. Now it was taught: Which is a dragging bolt wherewith we may close (a door] in the Temple but not in the country? That which is fastened (to the door] and suspended — one end reaching the ground. R. Judah said: Such is permitted even in the country. But which is forbidden in the country? That which is neither fastened nor suspended — but which one removes and places in a corner. Further, R. Joshua b. Abba said in ‘Ulla's name: Who is the Tanna of ‘a dragging bolt?’[6] It is R. Eleazar![7] Said he to him, I hold with the following Tanna. For it was taught: If a private individual prepares[8] a cane for opening and shutting [a door] therewith: if it is tied and suspended to the door, he may open and shut [it] therewith; if it is not tied and suspended may not open and shut [it] therewith. R. Simeon b. Gamaliel ruled: If it is prepared[9] even if it is not fastened.[10]

R. Judah b. Shilath said in R. Assi's name in R. Johanan's name: The halachah is as R. Simeon b. Gamaliel. Now, did R. Johanan say thus? Surely we learnt: All lids of vessels

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(1) For this purpose before the Sabbath.

(2) Before the Sabbath, i.e., explain the Mishnah stringently, instead of leniently.

(3) Lit., ‘a bolt that is dragged’. I.e., a door-bolt, fastened to the door, but one end thereof drags on the floor.

(4) ‘Country’ is employed technically to denote all places except the Temple. — Since it is fastened to the door, it is as though built thereto, and therefore the prohibition of handling it is only a Rabbinical one, which was imposed in the country but not in the Temple.

(5) It is not fastened at all, but when removed from the sockets it is simply placed on the ground.

(6) Requiring both that it be fastened and suspended.

(7) Whereas R. Judah will agree with the Rabbis. From this passage we see that all agree that it must be tied.

(8) I.e., sets aside.

(9) I.e., since it has been devoted to this purpose.

(10) It may be used for opening and shutting. R. Abba rules in accordance with this.

Talmud - Mas. Shabbath 126b

which have a handle on the Sabbath. Whereon R. Judah b. Shila said in R. Assi's name in R. Johanan's name: Providing that they have the character of utensils.[1] And should you answer, Here too [it means] where it ranks as a utensil,[2] — does then R. Simeon b. Gamaliel require it to have the character of a utensil? Surely it was taught: As for the dried branches of a palm tree which one cut down for fuel and then changed his mind, [intending them for sitting thereon], he must tie them together.[3] R. Simeon b. Gamaliel said: He need not tie them together![4] — R. Johanan agrees with him in one[5] and disagrees with him in the other.[6] R. Isaac the smith[7] lectured at the entrance of the Resh Galutha:[8] The halachah is as R. Eliezer. R. Amram objected: And from their words we learn that we may close (a skylight], measure [a mikweh], and tie [a temporary knot] on the Sabbath![9] — Said Abaye to him, What is your view: because it is taught anonymously?[10] [But the Mishnah concerning] a dragging bolt is also anonymous![11] — Yet even so an actual incident is weightier.[12]

MISHNAH. ALL LIDS OF UTENSILS WHICH HAVE A HANDLE MAY BE HANDLED ON THE SABBATH. SAID R. JOSE, WHEN IS THAT SAID? IN THE CASE OF LIDS OF GROUND [BUILDINGS],[13] BUT THE LIDS OF UTENSILS MAY IN ANY CASE BE HANDLED ON THE SABBATH.

GEMARA. R. Judah b. Shila said in R. Assi's name in R. Johanan's name: Provided that they have the character of a utensil. All agree: Covers of ground [buildings may be handled] only if they have a handle but not otherwise; covers of utensils, even if they have no handle. Where do they differ? In respect of utensils joined to the ground: one Master holds: We forbid (them] preventively,[14] while the other Master holds, We do not forbid preventively. Another version: Where do they differ? In respect of an oven cover:[15] one Master likens it to the cover of a ground [building], while the other Master likens it to the cover of utensils.

CHAPTER XVIII

MISHNAH. ONE MAY CLEAR AWAY EVEN FOUR OR FIVE BASKETS OF STRAW OR PRODUCE [GRAIN] TO MAKE ROOM FOR GUESTS OR ON ACCOUNT OF THE NEGLECT OF THE BETH HAMIDRASH,[16] BUT NOT THE STORE.[17] ONE MAY CLEAR AWAY CLEAN TERUMAH, DEM'AI,[18] THE FIRST TITHE WHOSE TERUMAH HAS BEEN SEPARATED,[19] REDEEMED SECOND TITHE AND HEKDESH,[20] AND DRY LUPINES, BECAUSE IT IS FOOD FOR GOATS.[21] BUT [ONE MAY] NOT [CLEAR AWAY] TEBEL,[18] THE FIRST TITHE WHEREOF TERUMAH HAS NOT BEEN TAKEN, UNREDEEMED SECOND TITHE OR HEKDESH, LOF[22] OR MUSTARD. R. SIMEON B. GAMALIEL PERMITS [IT] IN THE CASE OF LOF, BECAUSE IT IS FOOD FOR RAVENS.[23] AS FOR BUNDLES OF STRAW,[24] TWIGS, OR YOUNG SHOOTS, IF THEY WERE PREPARED AS ANIMAL FODDER, THEY MAY BE MOVED; IF NOT, THEY MAY NOT BE MOVED.[25]

GEMARA. Seeing that five may be cleared away, need four be stated? — Said R. Hisda: [It means] four out of five.[26] Some there are who state, Four of a small store,[27] and five of a large store. And what does BUT NOT THE STORE mean?[28] That one must not commence [dealing] with a store for the first time;[29] and which [Tanna] rules [thus]? It is R. Judah, who accepts [the interdict of] mukzeh. But Samuel said: [It means] four or five

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(1) I.e.,the lids themselves must be fit for use as vessels. But how can a cane rank as a utensil?

(2) E.g., if the cane may be used for stirring olives in the vat.

(3) V. p. 226, n. 1.

(4) They may be handled without tying, though they are certainly not utensils.

(5) That if it is prepared it need not be tied.

(6) Holding that they must have the character of a utensil.

(7) Many of the Rabbis were tradesmen or workers; e.g., R. Johanan the cobbler; R. Papa, who was a brewer; Hillel at one time a wood-cutter.

(8) V. p. 217, 11. 7.

(9) V. Mishnah infra 157a. The reference there is to a cloth that is not fastened and suspended, and yet we may close a skylight with it.

(10) You assume that that proves the halachah is so, for otherwise you could simply answer that it represents the Rabbis' view only and is not a final ruling.

(11) And there R. Eliezer's view is stated.

(12) In the Mishnah infra 157 it is not merely a theoretical ruling but bears on actual practice. Therefore one may assume that it states the final ruling, and this refutes R. Isaac.

(13) E.g., the lid or cover of a pit built in the ground. When they have a handle they are obviously not part of the pit and are meant to be put on and taken off. But otherwise they seem to be there permanently: hence placing them there is like building, and removing them is like demolishing.

(14) Lest they be confused with the lid of ground. buildings.

(15) V. p. 620, n. 8 for its construction.

(16) Caused by lack of room for the disciples.

(17) Explained infra.

(18) V. Glos.

(19) The first tithe belonged to the Levite; a tenth thereof, called terumah ('septs ration'), was given to the priest.

(20) The second tithe was to be eaten by an Israelite owner in Jerusalem. Both it and hekdesh, q.v. Glos., could be redeemed, whereby they became like ordinary produce, save in a few respects, and then consumed. (Hekdesh, if an animal dedicated as a sacrifice, might be redeemed only if it received a blemish.)

(21) Var lec.: for the poor.

(22) Jast.: a plant similar to colocasia, with edible leaves and root, and bearing beans. It is classified with onions and garlic.
(23) Which some wealthy people bred.
(24) Or, stubble.
(25) This is the reason of the others too which may not be moved, viz., because they cannot be used even as animal fodder.
(26) If the entire store consists of five, only four may be removed, but not all, lest depressions in the ground are revealed which may be levelled on the Sabbath.
(27) Var. lec. omit: ‘Some there are . . . small store’.
(28) It cannot mean that the whole store must not be cleared away, since on the present interpretation that is already implied in the first clause.
(29) If he had not already started using it for food, either for himself or for his animals, before the Sabbath, it is mukzeh and must not be touched.

Talmud - Mas. Shabbath 127a

just as people speak; yet if one desires even more may be cleared away. And what does BUT NOT THE STORE mean? That one must not complete[ly remove] the whole of it, lest he come to level up depressions;[1] but one may indeed commence therewith.[2] And who [rules thus]? It is R. Simeon, who rejects [the interdict of] mukzeh.

Our Rabbis taught: One must not commence with a store for the first time, but he may make a path through it to enter and go out. ‘He may make a path’! but surely you say, ‘One must not commence’? — This is its meaning: one may make a path through it with his feet as he enters and goes out.[3]

Our Rabbis taught: If produce is heaped together [for storage] and one commenced [using] it on the eve of the Sabbath, he may take supplies from it on the Sabbath; if not, he may not take supplies from it on the Sabbath: this is R. Simeon's view; but R. Aha permits it. Whither does this tend![4] — Rather say: this Is R. Aha's view; but R. Simeon permits it.

A Tanna taught: What is the standard quantity for produce that is heaped together? — A lethek.[5] R. Nehumi b. Zechariah asked Abaye: What is the standard quantity for produce that is heaped together? Said he to him, Surely it was said: The standard quantity for produce that is heaped together is a lethek.

The scholars asked: These four or five baskets that are stated, [does it mean] only in four or five baskets, but not more,[6] which shows that it is better to minimize one's walking; or perhaps it is better to minimize the burden?[7] Come and hear: For one [Baraitha] taught: One may clear away even four or five tubs of pitchers of wine and oil; whereas another was taught: In ten or fifteen. Surely they differ in this, viz., one Master holds: It is better to minimize the walking; while the other Master holds: It is better to reduce the burden?- No: All hold that it is better to reduce the walking: do you think that ten or fifteen refers to ‘tubs’? [No]; it refers to the pitchers, yet there is no contradiction: here [in the first the reference is] where they can be carried [only] singly in a tub;[8] whereas there, where they can be carried in twos, and there, where they can be carried in threes,[9] of the size of the jugs of Harpania.[10]

The scholars asked: These four or five that are stated, [does it mean] even if he has more guests; or perhaps it all depends on the [number of] guests? And should you say that it all depends on the number of guests, can one person clear [them] away for all of them, or perhaps each man must do so for himself? — Come and hear: For Rabbah said in R. Hiyya's name: Rabbi once went to a certain place; seeing that the place was too cramped for the disciples, he went out to a field and found it full of sheaves, whereupon Rabbi cleared the whole field of the sheaves. While R. Joseph related in R.

Oshaia's name: R. Hiyya once went to a certain place; seeing that the place was too cramped for the disciples, he went out to a field and found it full of sheaves, whereupon R. Hiyya cleared the whole field of the sheaves.[11] This proves that it all depends on the [number of] guests. But still the question remains, Can one person clear [them] away for all, or perhaps each man must do so for himself? — Come and hear: 'And Rabbi cleared the sheaves.' Then on your view, did Rabbi personally clear [them]?[12] But he gave orders that it [the field] be cleared, yet after all each [acted] for himself.[13]

TO MAKE ROOM FOR THE GUESTS, etc. R. Johanan said: Hospitality to wayfarers[14] is as 'great' as early attendance at the Beth Hamidrash, since he [the Tanna] states, TO MAKE ROOM FOR GUESTS OR ON ACCOUNT OF THE NEGLECT OF THE BETH HAMIDRASH. R. Dimi of Nehardea said: It is 'greater' than early attendance at the Beth Hamidrash, because he states, TO MAKE ROOM FOR GUESTS, and then, AND ON ACCOUNT OF THE NEGLECT OF THE BETH HAMIDRASH. Rab Judah said in Rab's name: Hospitality to wayfarers is greater than welcoming the presence of the Shechinah, for it is written, And he said, My lord, if now I have found favour in thy sight, pass not away, etc.[15] R. Eleazar said: Come and observe how the conduct of the Holy One, blessed be He, is not like that of mortals. The conduct of mortals [is such that] an inferior person cannot say to a great[er] man, Wait for me until I come to you; whereas in the case of the Holy One, blessed be He, it is written, and he said, My Lord, if now I have found, etc.

R. Judah b. Shila said in R. Assi's name in R. Johanan's name: There are six things, the fruit of which man eats in this world, while the principal remains for him for the world to come, viz.: Hospitality to wayfarers, visiting the sick, meditation in prayer, early attendance at the Beth Hamidrash, rearing one's sons to the study of the Torah, and judging one's neighbour in the scale of merit.[16] But that is not so? For we learnt: These are the things which man performs and enjoys their fruits in this world, while the principal remains for him for the world to come, viz.: honouring one's parents, the practice of loving deeds,[17] and making peace between man and his fellow, while the study of the Torah surpasses them all:[18] [this implies], these only, but none others?

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(1) V. p. 629, n. 11.

(2) I.e., the reverse of n. 3.

(3) This is not handling.

(4) Surely it should be reversed, since R. Simeon always rejects mukzeh.

(5) Half a kor=fifteen se'ahs. But less does not constitute a store, and the prohibition of mukzeh does not apply to it in any case.

(6) I.e., must they actually be carried away thus, but not broken up into smaller quantities and then removed?

(7) Hence they may certainly be broken up into smaller quantities.

(8) Being too large to be carried more than one at a time.

(9) Which gives ten or fifteen pitchers in five piles.

(10) דקורא, jugs enclosed in wicker-work. Harpania was a rich agricultural town of Mesene, south of Babylon, famous for its wicker-work manufactured from the fibre of palm leaves; v. Obermeyer, p. 200.

(11) To make room for the disciples.

(12) Surely not.

(13) Thus the question remains unanswered.

(14) The word means both guests and wayfarers.

(15) Gen. XVIII, 3; he thus left God, as it were, to attend to the wants of the three wayfarers. [On this interpretation he was speaking to God, and begged Him to remain whilst he saw to his guests v. Shebu. 35b.]

(16) I.e., seeking a favourable interpretation of his actions, even when they look suspicious.

(17) Not merely alms-giving.

(18) Not because knowledge in itself is a great virtue, but because it is the foundation and condition of real piety; cf. Ab. II, 6; also, 'Learning is great, because it leads to (good) deeds'.

Talmud - Mas. Shabbath 127b

— These too are included in the practice of loving deeds. Another version: these are included in those.[1]

Our Rabbis taught: He who judges his neighbour in the scale of merit is himself judged favourably. Thus a story is told of a certain man who descended from Upper Galilee and was engaged by an individual in the South for three years. On the eve of the Day of Atonement[2] he requested him, ‘Give me my wages that I may go and support my wife and children.’ ‘I have no money,’ answered he. ‘Give me produce,’ he demanded; ‘I have none,’ he replied. ‘Give me land.’ — ‘I have none.’ ‘Give me cattle.’ — ‘I have none. ‘Give me pillows and bedding.’ — ‘I have none.’ [So] he slung his things behind him and went home with a sorrowful heart.[3] After the Festival his employer took his wages in his hand together with three laden asses, one bearing food, another drink, and the third various sweetmeats, and went to his house. After they had eaten and drunk, he gave him his wages. Said he to him, ‘When you asked me, "Give me my wages," and I answered you, "I have no money," of what did you suspect me?’ ‘I thought, Perhaps you came across cheap merchandise and had purchased it therewith.’ ‘And when you requested me, "Give me cattle," and I answered, "I have no cattle," of what did you suspect me?’ ‘I thought, they may be hired to others.’ ‘When you asked me, "Give me land,’ and I told you, "I have no land," of what did you suspect me?’ ‘I thought, perhaps it is leased to others.’ ‘And when I told you, "I have no produce," of what did you suspect me?’ ‘I thought, Perhaps they are not tithed.’ ‘And when I told you, "I have no pillows or bedding," of what did you suspect me?’ ‘I thought, perhaps he has sanctified all his property to Heaven.’ ‘By the [Temple] service!’ exclaimed he, ‘it was even so; I vowed away all my property because of my son Hyrcanus, who would not occupy himself with the Torah, but when I went to my companions in the South they absolved me of all my vows. And as for you, just as you judged me favourably, so may the Omnipresent judge you favourably.’

Our Rabbis taught: It happened that a certain pious man[4] ransomed an Israelite maiden [from captivity]; at the inn he made her lie at his feet. On the morrow he went down, had a ritual bath, and learnt with his disciples. Said he to them, ‘When I made her lie at my feet, of what did you suspect me?’ ‘We thought, perhaps there is a disciple amongst us who[se character] is not clearly known[5] to our Master.’[6] ‘When I descended and had a ritual bath, of what did you suspect me?’ ‘We thought, perhaps through the fatigue of the journey the Master was visited by nocturnal pollution.’ ‘By the [Temple] Service!’ exclaimed he to them, ‘it was even so. And just as you judged me favourably, so may the Omnipresent judge you favourably.’

Our Rabbis taught: The scholars were once in need of something from a noblewoman where all the great men of Rome were to be found. Said they, ‘Who will go?’ ‘I will go,’ replied R. Joshua. So R. Joshua and his disciples went. When he reached the door of her house, he removed his tefillin[7] at a distance of four cubits, entered, and shut the door in front of them. After he came out he descended, had a ritual bath, and learnt with his disciples. Said he to them, ‘When I removed my tefillin, of what did you suspect me?’ ‘We thought, our Master reasons, "Let not sacred words enter a place of uncleanness".’ ‘When I shut [the door], of what did you suspect me?’ ‘We thought, perhaps he has [to discuss] an affair of State with her.’ ‘When I descended and had a ritual bath, of what did you suspect me?’ ‘We thought, perhaps some spittle spurted from her mouth upon the Rabbi's garments.’[8] ‘By the [Temple] Service!’ exclaimed he to them’, ‘it was even so; and just as you judged me favourably, so may the Omnipresent judge you favourably.’

WE MAY CLEAR AWAY CLEAN TERUMAH, etc. But that is obvious?-It is necessary [to teach it] only where it is lying in the hand of an Israelite; you might say, Since It Is of no use[9] for him, it is forbidden [to handle it]; he [the Tanna] informs us therefore [that] since it is fit for a priest it is permitted.

DEM'AI, etc. But dem'ai is not fit for him? — Since if he desired he could renounce [ownership of] his property and become a poor man, whereby it would be fit for him, it is fit for him now too. For we learnt: The poor may be fed with dem'ai and billeted soldiers may be given dem'ai. And R. Huna said, It was taught: Beth Shammai maintain: The poor may not be given dem'ai as food, nor billeted soldiers; but Beth Hillel rule: The poor may be given dem'ai as food, and [likewise] billeted soldiers[10] .

AND THE FIRST TITHE WHOSE TERUMAH HAS BEEN SEPARATED. But that is obvious? — It is necessary [to teach it] only where he anticipated [the separation of] the first tithe in the ears, and separated terumah of tithe but not the great terumah.[11] And this is as the following dictum of R. Abbahu in the name of Resh Lakish: First tithe which one anticipated in the ears is exempt from the great terumah, for it is said, then ye shall offer up an heave-offering of it for the Lord, a tithe of the tithe:[12] I ordered thee [to offer] a tithe of the tithe, but not the great terumah plus the terumah of the tithe of the tithe. R. Papa said to Abaye: If so, even if he anticipates it in the stack,[13] he should be exempt? — For your sake Scripture writes, out of all your gifts ye shall offer every heave-offering of the Lord.[14] And what [reason] do you see [to interpret thus]?[15] -The One has become corn [dagan], while the other has not become corn.[16]

AND THE SECOND TITHE, etc. But that is obvious?-It is necessary [to teach it] only where the principal has been given but not the fifth:[17] thus he informs us that the fifth is not indispensable.[18]

AND DRY LUPINES, etc. Only dry, but not moist. What is the reason? Since it is bitter, she [the goat] will not eat it.

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(1) Hospitality and visiting the sick belong to the practice of loving deeds; early attendance at the Beth Hamidrash and rearing one's children to the study of the Torah are included in the study of the Torah; while judging one's neighbour favourably enables peace to be made between a man and his fellow and between a husband and wife, as each can be persuaded to take a charitable view of the other's actions. As for meditation in prayer, Rashi includes it in the practice of loving deeds — to ones own soul — as it is written, the man of love doeth good to his own soul (Prov. XI, 17). Maharsha includes it in peacemaking between God and man.

(2) Alfasi and Asheri read: Festival.

(3) Lit., ‘with blasting of spirit’.

(4) חסיד אחא, the phrase generally designates either R. Judah b. Baba or R. Judah b. ila'i (Rashi).

(5) Lit., ‘tested’, ‘examined’.

(6) So you could not trust him.

(7) Which were then worn during the day.

(8) Which by rabbinical law affects levitical purity; cf. supra 15b, 17b.

(9) Lit., ‘not fit’.

(10) V. Dem. III, I.

(11) The great terumah is a portion of the produce, unspecified by Scriptural law, which the Israelite must give to the priests; for terumah of the tithe, v. n. on Mishnah. The great terumah was to be separated first and then first tithe. But here the order was reversed, and the Israelite separated the tithe whilst the grain was yet in the ears.

(12) Num. XVIII, 26.

(13) I.e., when it is no longer in the ears but has been piled up in stacks.

(14) Num. XVIII, 29; i.e., all is an extension, and shows that the offering is due even in such a case. ‘For your sake’ or, ‘concerning you’ — to refute this possibility.

(15) To apply the limitation of the first verse to the one case and the extension if the second to the other- perhaps it should be reversed.

(16) The priestly due, i.e., the great terumah, is ‘the first-fruits of thy corn’ (Deut. XVIII, 4). Hence once it is piled up as corn it is due, and one cannot evade his obligations by reversing the order of the gifts.

(17) When one redeemed the second tithe he had to add a fifth of its value.

(18) To the validity of the redemption, and the redeemed produce may be consumed anywhere, even though the fifth has not been added.

Talmud - Mas. Shabbath 128a

BUT NOT TEBEL, etc. That is obvious? — It is necessary [to teach it] only of tebel made so by Rabbinical law, e.g.,if it was sown in an unperforated pot.[1]

NOR THE FIRST TITHE, etc. That is obvious? — It is necessary [to teach it] only where it had been anticipated in the pile, the tithe having been separated but not the great terumah. You might argue as R. Papa proposed to Abaye:[2] hence he [the Tanna] informs us [that it is] as Abaye answered him.

NOR THE SECOND TITHE, etc. That is obvious?-It is necessary [to teach it] only where they have been redeemed, but not in accordance with their laws; [i.e.,] the [second] tithe was redeemed by uncoined metal,[3] for the Divine Law states, And thou shalt bind up [we-zarta] the money in thine hand,[4] [implying], that which bears a figure [zurah];[5] [and] hekdesh which was secularized by means of land,[6] for the Divine law states, Then he shall give the money and it shall be assured to him.[7]

NOR LOF. Our Rabbis taught: We may handle hazab,[8] because it is food for gazelles, and mustard, because it is food for doves. R. Simeon b. Gamaliel said: We may also handle fragments of glass, because it is food for ostriches. Said R. Nathan to him: If so, let bundles of twigs be handled, because they are food for elephants. And R. Simeon b. Gamaliel?[9] Ostriches are common, [whereas] elephants are rare. Amemar observed: provided he has ostriches. R. Ashi said to Amemar: Then when R. Nathan said to R. Simeon b. Gamaliel, ‘let bundles of dried branches be handled, because they are food for elephants’, — if one has elephants, why not? But [he means,] they are fit for [elephants]; so here too they are fit for [ostriches].[10]

Abaye said: R. Simeon b. Gamaliel, R. Simeon, R. Ishmael, and R. Akiba, all hold that all Israel are royal children. ‘R. Simeon R. Gamaliel’, as stated.[11] ‘R. Simeon’: for we learnt: Royal children may anoint their wounds with oil, since it is their practice to anoint themselves thus on weekdays. R. Simeon said: All Israel are royal children. ‘R. Ishmael and R. Akiba’: for it was taught: If one is a debtor for a thousand zuz, and wears a robe a hundred manehs in value, he is stripped thereof and robed with a garment that is fitting for him. It was taught in the name of R. Ishmael, and it was taught in the name of R. Akiba: All Israel are worthy of that robe.

BUNDLES OF STRAW, TWIGS, etc. Our Rabbis taught: Bundles of straw, bundles of branches, and bundles of young shoots,[12] if one prepared them as animal fodder, may be handled; if not, they may not be handled. R. Simeon b. Gamaliel said: Bundles which can be taken up with one hand may be handled; with two hands, may not be handled. As for bundles of si'ah,[13] hyssop and koranith:[14] if they were brought in for fuel, one must not draw on them [for food] on the Sabbath; [if brought in] as animal fodder, he may draw on them on the Sabbath; and he may break [it] with his hand and eat [thereof], provided that he does not break it with a utensil. And he may crush it and eat, provided that he does not crush a large quantity with a utensil: the words of R. Judah. But the Sages maintain: He may crush [it] with the tips of his fingers and eat, provided, however, that he does not crush a large quantity with his hands in the [same] way as he does on weekdays; the same applies to ammitha, the same applies to higgam [rue], and the same applies to other kinds of spices. What is ammitha? Ninya.[15] [What is] si'ah? — Said Rab Judah: Si'ah is zithre;[16] ezob is abratha [hyssop];[17] koranith is what is called koranitha. But there was a certain man who asked, ‘Who wants koranitha,’ and it transpired [that he meant] thyme? — Rather si'ah is zithre, ezob is abratha, and koranitha is hashe [thyme].

It was stated: Salted meat may be handled on the Sabbath; unsalted[18] meat, — R. Huna says: It may be handled; R. Hisda rules: It may not be handled. ‘R. Huna says: It may be handled’? But R. Huna was Rab's disciple, and Rab agrees with R. Judah who accepts [the prohibition of] mukzeh?[19] -In [the interdict of] mukzeh in respect of eating he agrees with R. Judah;[20] in [the interdict] of mukzeh as regards handling he agrees with R. Simeon.[21]

‘R. Hisda rules: It may not be handled.’ But R. Isaac b. Ammi visited R. Hisda's house and he saw a [slaughtered] duck being moved from the sun into the shade, and R. Hisda observed, I see here a financial loss.’[22] — A duck is different, because it is fit as raw meat.

Our Rabbis taught: Salted fish may be handled; unsalted fish may not be handled;[23] meat, whether unsalted or salted, may be handled; [and this is taught anonymously as R. Simeon].[24]

Our Rabbis taught: Bones may be handled because they are food for dogs;

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(1) Cf. supra 95a Mishnah. By Scriptural law it is not tebel at all, and one would think that the produce might therefore be handled.

(2) That it is exempt; supra 127b bottom.

(3) Asimon. V. B.M. 47b for the meaning of the term.

(4) Deut. XIV, 25.

(5) The image stamped on a coin. This connects zarta with zurah.

(6) I.e., land was given in order to redeem it.

(7) I.e., it can be redeemed by money, but not by land. Actually there is no such verse, but v. B.M,, Sonc. ed., 321, n. 1.

(8) Jast.: a shrubby plant, probably cistus.

(9) How does he answer this?

(10) And they may be handled even if one has no ostriches.

(11) He permits lof to be handled because it is food for ravens, which only wealthy people — who are the same as princes — kept.

(12) Bah on the basis of Tur O.H. 308, 28 omits the last-mentioned here, though retaining it in the Mishnah.

(13) Jast.: a plant classified with hyssop. Satureia Thymbra (savory).

(14) Jast.: thyme or origanum.

(15) Jast.: Bishop's weed. Rashi: mint.

(16) Satureia; v. n. 1.

(17) Used as a remedy for indigestion, v. supra 109b.

(18) Lit., ‘unsavoury’.

(19) Which applies to unsalted meat, since it is not fit for food.

(20) That which is normally unfit for food may not be eaten, even if its owner wishes.

(21) That it is permitted.

(22) If you leave it in the sun. Thus they moved it at his orders.

(23) Because it cannot be eaten, nor will it be given to dogs, as one does not give to dogs what can be made fit for man.

(24) Hence raw meat is permitted. Rashal, however. deletes the bracketed passage; v. Tosaf.

Talmud - Mas. Shabbath 128b

putrid meat, because it is food for beasts; uncovered water,[1] because it is fit for a cat. R. Simeon b. Gamaliel said: It may not be kept at all, because of the danger.[2]

MISHNAH. A BASKET MAY BE OVERTURNED BEFORE FLEDGLINGS, FOR THEM TO ASCEND OR DESCEND.[3] IF A FOWL RUNS AWAY [FROM THE HOUSE], SHE IS PUSHED [WITH THE HANDS] UNTIL SHE RE-ENTERS. CALVES AND FOALS MAY BE MADE TO WALK, AND A WOMAN MAY MAKE HER SON WALK.[4] R. JUDAH SAID: WHEN IS THAT? IF HE LIFTS ONE [FOOT] AND PLACES [ANOTHER] DOWN; BUT IF HE DRAGS THEM IT IS FORBIDDEN.[5]

GEMARA. Rab Judah said in Rab's name: If an animal falls into a dyke, one brings pillows and bedding and places [them] under it, and if it ascends it ascends. An objection is raised: If an animal falls into a dyke, provisions are made for it where it lies so that it should not perish. Thus, only provisions, but not pillows and bedding? — There is no difficulty: here it means where provisions are possible; there, where provisions are impossible. If provisions are possible, well and good;[6] but if not, one brings pillows and bedding and places them under it. But he robs a utensil of its readiness [for use]?[7] — [The avoidance of] suffering of dumb animals is a Biblical [law], so the Biblical law comes and supersedes the [interdict] of the Rabbis.[8]

IF A FOWL RUNS AWAY. We may only push [it], but not make it walk. We have here learnt what our Rabbis taught: An animal, beast, or bird may be made to walk in a courtyard, but not a fowl. Why not a fowl? — Said Abaye, Because she raises herself.[9]

One [Baraitha] taught: An animal, beast, and bird may be made to walk in a courtyard, but not in the street; a woman may lead her son in the street, and in the courtyard it goes without saying. Another taught: An animal, beast, and bird may not be carried[10] in a courtyard, but we may push them that they should enter. Now this is self-contradictory. You say, We may not carry, which implies that we may certainly make them walk; then you say, we may only push but not lead? — Said Abaye: The second clause refers to a fowl.

Abaye said: When one kills a fowl he should [either] press its legs on the ground or else lift them up,[11] lest it places its claws on the ground and tears its organs loose.[12]

MISHNAH. ONE MAY NOT DELIVER AN ANIMAL [IN GIVING BIRTH] ON A FESTIVAL, BUT ONE MAY ASSIST IT. WE MAY DELIVER A WOMAN ON THE SABBATH, SUMMON A MIDWIFE FOR HER FROM PLACE TO PLACE, DESECRATE THE SABBATH ON HER ACCOUNT, AND TIE UP THE NAVEL-STRING. R. JOSE SAID: ONE MAY CUT [IT] TOO. AND ALL THE REQUIREMENTS OF CIRCUMCISION MAY BE DONE ON THE SABBATH.

GEMARA. How may we assist? Rab Judah said: The new-born [calf, lamb, etc.] is held so that it should not fall on the earth. R. Nahman said: The flesh is compressed in order that the young should come out. It was taught in accordance with Rab Judah. How do we assist? We may hold the young so that it should not fall on the ground, blow into its nostrils,[13] and put the teat into its mouth that it should suck. R. Simeon b. Gamaliel said: We stimulate pity[14] to a clean animal[15] on a Festival. What was done? — Said Abaye: A lump of salt was brought and placed in its womb so that it [the mother] might remember its travails[16] and have pity upon it; and we sprinkle the water of the after-birth[17] upon the newly-born [animal] so that its mother might smell it and have pity upon it. Yet only [in the case of] a clean [animal], but not an unclean one. What is the reason? An unclean animal does not spurn its young, and if it does spurn it, it does not take it back.[18]

ONE MAY DELIVER A WOMAN, etc. Consider: He [the Tanna] teaches, ONE MAY DELIVER A WOMAN AND SUMMON A MIDWIFE FOR HER FROM PLACE TO PLACE, then what does AND DESECRATE THE SABBATH ON HER ACCOUNT add? — It adds the following taught by the Rabbis: If she needs a lamp, her neighbour may kindle a lamp for her. And if she needs oil, her neighbour brings her oil[19] in her hand;[20] but if that in her hand is insufficient, she brings it in her hair; and if that in her hair is insufficient, she brings it to her in a vessel.

The Master said: ‘If she needs a lamp, her neighbour may kindle a lamp for her.’ That is obvious? — This is necessary [to be taught] only in the case of a blind [woman]: you might argue, Since she cannot see it, it is forbidden; hence he informs us that we tranquillize her mind, [as] she reasons, if there is anything [required] my friend will see it and do it for me.

‘If she needs oil, etc.’ [But] deduce it on the grounds of wringing out?[21] — Rabbah and R. Joseph both answer: [The interdict of] wringing out does not apply to hair. R. Ashi said: You may even say that wringing out does apply to hair: she brings it to her in a vessel by means of her hair,[22] [because] as much as we can vary it we do so.[23]

Rab Judah said in Samuel's name: If a woman is in confinement, as long as the uterus is open, whether she states, ‘I need it,’ or ‘I do not need it,’ we must desecrate the Sabbath on her account. If the uterus is closed, whether she says,

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(1) V. p. 533, n. II.
(2) To a human being who may drink it.
(3) Into or from the hen-coop.
(4) The verb refers to the short hop-like steps made by a child when he is just learning to walk.
(5) As the mother in effect carries him. The reference is to a public domain.
(6) Lit., ‘yes’.
(7) Because once he places the bedding under the animal, he may no longer remove it on Sabbath, v. supra 43a.
(8) The prohibition of depriving a utensil on a sabbath of its readiness for use, with the result that one carries it. This is forbidden as mukzeh. The broad humaneness of this is striking, particularly when it is remembered that it antedates by many centuries any similar view elsewhere. Cf. supra 117b, p. 577, n. 6.
(9) But ducks when held by their wings actually walk.
(10) Lit., ‘you may not remove’ (their feet from the ground simultaneously).
(11) So that they cannot touch the ground at all.
(12) Viz., the windpipe and the gullet. If these are torn loose before being cut the animal or bird is unfit for food.
(13) To clear them of their mucus, etc.
(14) [I.e., arouses the maternal instinct of the animal for its young. Tosef. reads: ‘pity in’].
(15) I.e., one permitted as food.
(16) In giving birth.
(17) Water in which the placenta was soaked.
(18) Lit., ‘bring it near’ — in spite of these expedients.
(19) Through the street.
(20) But not in a vessel, if it can be avoided.
(21) I.e., if she brings it in her hair she must then wring it out, which is just as much forbidden as carrying it in a vessel. Since this is so, why not carry it ordinarily?
(22) The vessel is attached to her hair.
(23) When the Sabbath must be desecrated, we do it in as unusual a manner as possible.

Talmud - Mas. Shabbath 129a

‘I need it’ or ‘I do not need it,’ we may not desecrate the Sabbath for her:[1] that is how R. Ashi recited it. Mar Zutra recited it thus: Rab Judah said in Samuel's name: If a woman is in confinement, as long as the uterus is open, whether she says, ‘I need it’ or ‘I do not need it,’ we desecrate the Sabbath for her. If the uterus is closed, if she says, ‘I need it,’ we desecrate the Sabbath for her; if she does not say, ‘I need it,’ we do not desecrate the Sabbath for her.[2] Rabina asked Meremar: Mar Zutra recited it in the direction of leniency, [while] R. Ashi recited it in the direction of stringency; which is the law? — The law is as Mar Zutra, replied he: where [a matter of] life is in doubt we are lenient.

From when is the opening of the uterus? — Abaye said: From when she sits on the seat of travail. R. Huna son of R. Joshua said: From when the blood slowly flows down; others state, From when her friends carry her by her arms.[3] For how long is the opening of the uterus? — Abaye said: Three days: Raba said in Rab Judah's name: Seven; others maintain: Thirty. The scholars of Nehardea said:

A lying-in woman [has three periods: from] three [days after confinement], seven [days], and thirty [days]. From three [days], whether she says, ‘I need it’ or she says, ‘I do not need it,’[4] we desecrate the Sabbath for her. [From] seven [days], if she says ‘I need it,’ we desecrate the Sabbath for her; if she says, ‘I do not need it,’ we do not desecrate the Sabbath for her. [From] thirty days, even if she says, ‘I need it,’ we may not desecrate the Sabbath for her,[5] yet we may do so by means of a Gentile,[6] as R. ‘Ulla the son of R. Ilai, who said: All the requirements of an invalid may be done by means of a Gentile on the Sabbath, and as R. Hamnuna, who said: In a matter entailing no danger [to life], one bids a Gentile and he does it.

Rab Judah said in Samuel's name: For a woman in confinement [the period is] thirty days. In respect of what law? The scholars of Nehardea said: In respect of a ritual bath.[7] Raba observed: We said this only if her husband is not with her;[8] but if her husband is with her, he makes her warm. Even as R. Hisda's daughter performed tebillah within thirty days in her husband's absence,[9] caught a chill, and was carried in a bed to Raba at Pumbeditha.

Rab Judah said in Samuel's name: We may make a fire for a lying-in woman on the Sabbath [in the winter].[10] Now it was understood from him, only for a lying-in woman, but not for an invalid; only in winter, but not in summer. But that is not so: there is no difference between a lying-in woman and any [other] invalid, and summer and winter are alike. [This follows] since it was stated, R. Hiyya b. Abin said in Samuel's name: If one lets blood and catches a chill, a fire is made for him even on the Tammuz [summer] solstice.[11] A teak chair was broken up for Samuel;[12] a table [made] of juniper-wood was broken up for Rab Judah. A footstool was broken up for Rabbah, whereupon Abaye said to Rabbah, But you are infringing, thou shalt not destroy?[13] ‘Thou shalt not destroy’ in respect of my own body is more important to me, he retorted.

Rab Judah said in Rab's name: One should always sell [even] the beams of his house and buy shoes for his feet. If one has let blood and has nothing to eat, let him sell the shoes from off his feet and provide the requirements of a meal therewith. What are the requirements of a meal? — Rab said: Meat; while Samuel said: Wine. Rab said meat: life for life. While Samuel said, Wine: red [wine] to replace red [blood].

(Mnemonic: SHenimsar.)[14] For Samuel on the day he was bled[15] a dish of pieces of meat was prepared; R. Johanan drank until the smell [of the wine] issued from his ears; R. Nahman drank until his milt swam [in wine]; R. Joseph drank until it [the smell] issued from the puncture of bleeding.[16] Raba sought Wine of a [vine] that had had three [changes of] foliage.[17]

R. Nahman b. Isaac said to his disciples: I beg of you, tell your wives on the day of blood-letting, Nahman is visiting us.[18] Now, all artifices are forbidden, save the following article, which is permitted. Viz., if one is bled and cannot [buy wine],[19] let him take a bad zuz[20] and go to seven shops until he has tasted as much as a rebi'ith.[21] But if not,[22] let him eat seven black dates, rub his temples with oil, and sleep in the sun. Ablat[23] found Samuel sleeping in the sun. Said he to him, O Jewish Sage! can that which is injurious be beneficial? It is a day of bleeding, replied he.[24] Yet it is not so, but there is a day when the sun is beneficial for the whole year, [viz.,] the day of the Tammuz [summer][25] solstice, and he said to himself, I will not reveal it to him.[26]

(Mnemonic: Sparingly, wind, taste, tarry.) Rab and Samuel both Say: If one makes light of the meal after bleeding his food will be made light of by Heaven, for they Say; He has no compassion for his own life, shall I have compassion upon him! Rab and Samuel both say: He who is bled, let him, not sit where a wind can enfold [him], lest the cupper drained him [of blood] and reduced it[27] to [just] a rebi'ith,[28] and the wind come and drain him [still further], and thus he is in danger. Samuel was accustomed to be bled in a house [whose wall consisted] of seven whole bricks,[29] and a half brick [in thickness]. One day he bled and felt himself [weak]; he examined [the wall] and found a half-brick missing.

Rab and Samuel both say: He who is bled must [first] partake of something and then go out; for if he does not eat anything, if he meets a corpse his face will turn green; if he meets a homicide he will die; and if he meets

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(1) As there is no danger of life. Asheri, however, reads: If she says, ‘I need it’, we desecrate (the Sabbath); if she does not say, ‘I need it’, we do not desecrate.

(2) Asheri reads: If she says, ‘I do not need it’, we do not desecrate (the Sabbath); if she does not say. ‘I do not need it’. we do desecrate.

(3) I.e, when she cannot walk.

(4) Var. lec.: or she does not say, ‘I need it’; similarly infra.

(5) For she certainly does not need it and is in no danger.

(6) Lit., ‘Syrian’.

(7) Which she must not take until thirty days for fear of a cold.

(8) After the ritual bath, which she takes in order to eat terumah, etc.

(9) Lit., ‘not in her husband's presence’.

(10) Lit., ‘in the rainy season’. This is bracketed in the text.

(11) Tammuz is the fourth month of the year, corresponding to about July.

(12) For a fire, other wood being unavailable.

(13) Deut. XX, 19. q.v.; this is understood as a general prohibition of wasteful destruction of any sort.

(14) V. p. 110, n. 1. SH=SHemuel (Samuel); N=R. Johanan; M=R. Nahman; S=R. Joseph; R=Raba.

(15) Lit., ‘when he did the thing’.

(16) I.e., the hole made in his flesh when he was bled. Jast. s.v. כוסילתא translates: until the puncture was healed up.

(17) I.e., wine in its third year.

(18) That they may prepare substantial meals!

(19) Having no money.

(20) I.e., a worn-out one which is not accepted as current coin.

(21) A quarter of a log. Wine was tasted before buying; at each shop he would taste the wine and then proffer the coin, which, of course, would be refused.

(22) He does not even possess such a coin.

(23) A Persian sage and friend of Samuel, v. A.Z. 30a.

(24) And I require heat.

(25) Var. lec. Tebeth (winter).

(26) Samuel possessed medical knowledge and did not wish to reveal trade secrets.

(27) Lit., ‘set it’ .

(28) Which was held to be the minimum quantity of blood which can sustain life.

(29) A whole brick is three handbreadths,

Talmud - Mas. Shabbath 129b

a swine,[1] it [the meeting] is harmful in respect of something else.[2]

Rab and Samuel both say: One who is bled should tarry awhile and then rise, for a Master said: In five cases one is nearer to death than to life. And these are they: When one eats and [immediately] rises, drinks and rises, sleeps and rises, lets blood and rises, and cohabits and rises.

Samuel said: The correct interval for blood-letting is every thirty days; in middle age[3] one should decrease [the frequency];[4] at a [more] advanced age[5] he should again decrease [the frequency]. Samuel also said: The correct time for bloodletting is on a Sunday Wednesday and Friday, but not on Monday or Thursday, because a Master said: He who possesses ancestral merit may let blood on Monday and Thursday, because the Heavenly Court and the human court are alike then.[6] Why not on

Tuesday?Because the planet Mars rules at even-numbered hours of the day.[7] But on Friday too it rules at even-numbered hours? Since the multitude are accustomed to it,[8] ‘the Lord preserveth the simple.’[9] Samuel said: A Wednesday[10] which is the fourth [of the month], a Wednesday which is the fourteenth, a Wednesday which is the twenty-fourth a Wednesday which is not followed by four [days][11] — [all] are dangerous.[12] The first day of the month and the second [cause] weakness; the third is dangerous. The eve of a Festival [causes] weakness; the eve of Pentecost is dangerous, and the Rabbis laid an interdict upon the eve of every Festival on account of the Festival of Pentecost, when there issues a wind called Taboah,[13] and had not the Israelites accepted the Torah it would absolutely have killed them.[14]

Samuel said: If one eats a grain of wheat and [then] lets blood, he has bled in respect of that grain only.[15] Yet that is only as a remedy,[16] but if it is to ease one,[17] it does ease.[18] When one is bled, drinking [is permissible] immediately; eating until half a mil.[19] The scholars asked: [Does this mean], immediate drinking is beneficial, but after that it is injurious; or Perhaps [after that] it is neither harmful nor beneficial? — The question stands over. The scholars asked: Is eating beneficial only until half a mil, but before or after it is harmful; or perhaps it is [then] neither harmful nor beneficial? The question stands over.

Rab announced: A hundred gourds for one zuz, a hundred heads for one zuz, a hundred lips for nothing.[20] R. Joseph said: When we were at R. Huna's academy, on a day that the scholars took a holiday they would say, ‘This is a day of lips,’ but I did not know what they meant.

WE TIE UP THE NAVEL-STRING. Our Rabbis taught: We tie up the navel-string. R. Jose said: We cut [it] too; and we hide the after-birth, so that the infant may be kept warm. R. Simeon b. Gamaliel said: princesses hide [it] in bowls of oil, wealthy women in wool fleeces, and poor women in soft rags.

R. Nahman said in Rabbah b. Abbuha's name in Rab's name: The halachah is as R. Jose. R. Nahman also said in Rabbah b. Abbuha's name in Rab's name: The Sages agree with R. Jose in the case of the navel-string of twins, that we cut them. What is the reason? Because they pull upon each other.[21]

R. Nahman also said in Rabbah b. Abbuha's name in Rab's name: All that is mentioned in the chapter of rebuke[22] is done for a lying-in woman on the Sabbath. As it is said, And as for thy nativity, in the day thou wast born thy navel was not cut, neither wast thou washed in water to cleanse thee’ thou wast not salted at all, nor swaddled at all.[23] ‘And as for thy nativity, in the day thou wast born’: hence an infant may be delivered on the Sabbath; ‘thy navel was not cut’: hence the navel-string is cut on the Sabbath: ‘neither wast thou washed in water to cleanse thee’: hence the infant is washed on the Sabbath; ‘thou wast not salted at all’: hence the infant is salted on the Sabbath; ‘nor swaddled at all’: hence the infant is swaddled on the Sabbath.[24] [

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(1) Lit., ‘something else’.

(2) Viz., leprosy, which this may cause.

(3) Lit., "at the middle stages’, viz., from forty onwards (Rashi).

(4) The body then begins to lose heat, and frequent bleeding may be injurious.

(5) Rashi: from the age of sixty.

(6) The court used to meet on Mondays and Thursdays, v. B.K. 82a. One's transgressions are punished in a time of natural risk. Cf. supra 32a.

(7) Jast. Ma'adim lit., means the reddener. The hours as well as the months were thought to stand under the influence of planets which moulded their nature. The planet Mars represented war and pestilence and retribution, whilst the even-numbered hours of the day were regarded as particularly susceptible to disaster. This double combination was therefore very dangerous, and bloodletting might have serious results.

(8) Sc. bleeding on Friday.
(9) Ps. CXVI, 6.
(10) Lit., ‘fourth’ day of the week.
(11) In the same month (Rashi).
(12) For bleeding.
(13) Lit., ‘slaughter’.
(14) Lit., ‘their flesh and blood.’
(15) I.e., bleeding immediately after a meal serves only to lighten one of that meal, but has no wider effects.
(16) If it is done as a remedy it is ineffective.
(17) E.g., if one suffers from high blood.pressure.
(18) Even if performed immediately after a meal.
(19) I.e., as long as it takes to walk that distance-about nine minutes; v. supra 34b, 35a.
(20) Rashi: gourds and animal-heads are but slightly beneficial, and they are worth having only when a hundred can be bought for one zuz; but the lips of animals are quite worthless. Tosaf., reading with R. Han. קרני instead of קרי translates: a hundred (surgeons’) horns (i.e., bleedings) for one zuz, a hundred heads (i.e., hair cuttings) for one zuz, a hundred lips (trimmings of moustaches) for nothing, as this was free if done at the same time as the bleeding or hair cutting. Thus ‘a day of lips’ became a proverbial description of a day without profit.
(21) Which endangers their lives.
(22) Wherein Ezekiel rebukes the Jews; ch. XVI.
(23) Ezek. XVI, 4.
(24) no note.

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CHAPTER XIX

MISHNAH. R. ELIEZER SAID: IF ONE DID NOT BRING AN INSTRUMENT ON THE EVE OF THE SABBATH,[1] HE MUST BRING IT ON THE SABBATH UNCOVERED;[2] BUT IN [TIMES OF] DANGER[3] HE HIDES IT ON THE TESTIMONY OF WITNESSES. R. ELIEZER SAID FURTHER: ONE MAY CUT TIMBER TO MAKE CHARCOAL FOR MANUFACTURING IRON.[4] R. AKIBA STATED A GENERAL PRINCIPLE: ANY [MANNER OF] WORK WHICH COULD BE PERFORMED ON SABBATH EVE DOES NOT SUPERSEDE THE SABBATH; BUT THAT WHICH COUld NOT BE PERFORMED ON SABBATH EVE DOES SUPERSEDE THE SABBATH.

GEMARA. The scholars asked: Is R. Eliezer's reason[5] out of love for the precept[6] or perhaps it is because of suspicions?[7] What is the practical difference? Whether it may be brought covered on the testimony of witnesses. If you say it is out of love for the precept, it must be uncovered and not hidden. But if you say it is because of suspicions it is well even if hidden: what then? It was stated, R. Levi said: R. Eliezer ruled thus only out of love for the precept. It was taught likewise: He must bring it uncovered, and he must not bring it covered: this is R. Eliezer's opinion.[8] R. Ashi said: Our Mishnah too proves this, because it states, BUT IN TIMES OF DANGER HE HIDES IT ON THE TESTIMONY OF WITNESSES; thus in times of danger only, but not when there is no danger. This proves that it is out of love for the precept: this proves it.

Another [Baraitha] taught: He brings it uncovered, but he must not bring it covered: this is R. Eliezer's view. R. Judah said in R. Eliezer's name: In times of danger it was the practice to bring it hidden on the testimony of witnesses.[9] The scholars asked: The witnesses which he mentions, [does it mean] he and another one, or perhaps he and another two?- Come and hear: BUT IN [TIMES OF] DANGER HE HIDES IT ON THE TESTIMONY OF WITNESSES: if you agree to say he and two [others], it is well; but if you say he and another, what witnesses [are there]?[10] — Such as are eligible to testify elsewhere.[11]

R. ELIEZER SAID FURTHER [etc.]. Our Rabbis taught: In R. Eliezer's locality they used to cut timber to make charcoal for making iron on the Sabbath. In the locality of R. Jose the Galilean they used to eat flesh of fowl with milk. Levi visited the home of Joseph the fowler [and] was offered the head of a peacock in milk, [which] he did not eat. When he came before Rabbi he asked him, Why did you not place them under the ban?[12] It was the locality of R. Judah b. Bathyra, replied he, and I thought, Perhaps he has lectured to them in accordance with R. Jose the Galilean. For we learnt: R. Jose the Galilean said: It is said, Ye shall not eat any nebelah,[13] and it is said, Thou shalt not seethe a kid in its mother's milk:[14] [this teaches,] that which is forbidden on the score of nebelah may not be seethed in milk. Now since a fowl is prohibited when nebelah, you might think that one must not seethe it in milk; therefore it is stated, ‘in its mother's milk’, hence a fowl is excluded, since it has no mother's milk.

R. Isaac said: There was one town in Palestine where they followed R. Eliezer,[15] and they died there at the [proper] time,[16] Moreover, the wicked State[17] once promulgated a decree against Israel concerning circumcision,[18] yet did not decree [it] against that town.

It was taught, R. Simeon b. Gamaliel said: Every precept which they accepted with joy, e.g., circumcision, as it is written, I rejoice at thy word, as one that findeth great spoil,[19] they still observe with joy. While every precept which they accepted with displeasure,[20] e.g., the forbidden degrees of consanguinity, as it is written, And Moses heard the people weeping throughout their families,[21] [i.e.,] on account of the affairs of their families,[22] they still perform them with strife, for there is no marriage settlement which does not contain a quarrel.[23]

It was taught, R. Simeon b. Eleazar said: Every precept for which Israel submitted to death at the time of the royal decree, e.g.,idolatry and circumcision,[24] is still held firmly in their minds. Whereas every precept for which Israel did not submit to death at the time of the royal decree, e.g., tefillin, is still weak in their hands.[25] For R. Jannai said: Tefillin demand a pure body, like Elisha-the-man-of-the-wings. What does this mean? — Abaye said: That one must not pass wind while wearing them; Raba said: That one must not sleep in them. And why is he called ‘the man-of-the-wings’? Because the wicked State once proclaimed a decree against Israel that whoever donned tefillin should have his brains pierced through; yet Elisha put them on and went out into the streets. A quaestor saw him: he fled before him, and the latter gave pursuit. As he overtook him, he [Elisha] removed them from his head and held them in his hand, ‘What is that in your hand?’ he demanded, ‘The wings of a dove,’ was his reply. He stretched out his hand and the wings of a dove were found therein. Hence he is called ‘Elisha-the-man-of-the-wings.’ And why did he tell him the wings of a dove rather than that of other birds? Because the Congregation of Israel is likened to a dove, as it is said, as the wings of a dove covered with silver, and her pinions with yellow gold:[26] just as a dove is protected by its wings, so with the Israelites, their precepts protect them.[27]

R. Abba b. R. adda said in R. Isaac's name: they once forgot to bring a knife on Sabbath eve, so they brought it on the Sabbath through roofs and courtyards,[28]

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(1) A knife for circumcision.

(2) That all may see it.

(3) When circumcision is forbidden by the State, as during the reign of Antiochus Epiphanes before the Maccabean revolt; v. 1 Macc. I, 48, 60, 11, 46. It was again forbidden during the Hadrianic persecution; cf. Mek. Yithro, Ba-Hodesh, VI; Graetz, Geschichte IV, 154.

(4) For a circumcision knife. Thus R. Eliezer permits not only circumcision but even its preparatory adjuncts, though these could have been prepared before the Sabbath.

(5) For requiring the knife to be brought uncovered.

(6) One must show how precious is circumcision that he even desecrates the Sabbath on its account.

(7) That would otherwise attach to the bringer, that he was unlawfully desecrating the Sabbath.
(8) The emphatic repetition shows that it must not be hidden on any account.
(9) ‘It was the practice’ implies that this is not a mere theoretical ruling but an actual account of what happened in the past. As R. Eliezer died before the Hadrianic wars, this must refer to the days of the persecution by Antiochus. — Weiss, Dor, II, p. 131. n. I.
(10) There is only one, as obviously he cannot be counted.
(11) In truth it may be he and another, nevertheless there are two who know the purpose of his carrying. and they are referred to as witnesses, since two in general can testify. Yet two independent witnesses may not be required, since there is no actual lawsuit.
(12) For infringing the dietary laws.
(13) Deut. XIV, 21.
(14) Ibid. 22 — these laws are stated successively.
(15) In respect of circumcision.
(16) Never prematurely.
(17) Rome.
(18) Forbidding it; v. p. 649, n. 3.
(19) Ps. CXIX, 162. This is understood to refer to circumcision, which is a single ‘word’, i.e., command, which preceded the bulk of Mosaic legislation (this dating back to Abraham, Gen. XVII, 10), and which the Jew, in virtue of being circumcised, ceaselessly performs.
(20) Lit., ‘quarrelling’.
(21) Num. XI, 10.
(22) viz., because they were now interdicted in marriage.
(23) Lit., ‘in which they (the parties concerned) throw no discord’.
(24) Cf. p. 649, n. 3. Antiochus demanded idol worship too; later, Caligula made a similar demand; v. Graetz, History (Eng. trans.) Vol. II, pp. 188 seqq.; cf. also Weiss, Dor, II, p. 5.
(25) V. Weiss, op. cit., p. 134.
(26) Ps. LXVIII, 14.
(27) Cf. also supra 49a and notes a.l.
(28) For which no ‘erub (q.v. Glos) had been provided. It is normally forbidden to carry through such by Rabbinical law.

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[this being] against the will of R. Eliezer. R. Joseph demurred: [You say] ‘against the will of R. Eliezer’! on the contrary, it is R. Eliezer’ who permits it even through the street;[1] but only with the consent of the Rabbis, who forbid [it to be carried] through the street yet permit it through roofs, courtyards, and enclosures,[2] — yet is this permitted? Surely it was taught: Just as one may not bring it through the street, so may one not bring it through roofs, through enclosures, or through courtyards? — Said R. Ashi: It was not with the consent of R. Eliezer and his opponent[s], but with the consent of R. Simeon. For we learnt, R. Simeon said: Roofs, enclosures and courtyards are all one domain[3] in respect of utensils which spent the Sabbath therein,[4] but not in respect of utensils which rested in the house.[5]

R. Zera asked R. Assi: In the case of an alley in which they [its residents] have not become partners,[6] what about carrying in the whole of it?[7] do we say it is like a courtyard: just as a courtyard, even if an ‘erub has not been made, it is permitted to carry in the whole of it,[8] so this too, though they have not become partners in it,[9] it is permitted to carry in the whole of it; or perhaps it is unlike a courtyard; for a courtyard has four walls [partitions], whereas this has not four walls; alternatively, a courtyard has tenants,[10] whereas this has no tenants? He was silent and said nothing to him. On a subsequent occasion he [R. Zera] found him [R. Assi] sitting and stating: ‘R. Simeon b. Lakish said in the name of R. Judah the prince: They once forgot to bring a knife on Sabbath eve, so they brought it on the Sabbath. Now this matter was difficult for the Sages [to understand]: how could they abandon the opinion of the Sages and act as R. Eliezer: firstly, since R. Eliezer was [a follower] of Beth Shammai;[11] and further, [where an individual and many [are in dispute], the halachah is as the many? Whereupon R. Oshaia said: I asked R. Judah the circumciser, and he told me, It was an alley wherein they [its residents] had not become partners, and they brought it [the knife] from one end to the other. Said he to him: Do you then hold that in the case of an alley in which they had not become partners, it is permitted to carry in the whole of it? Yes, he replied.' Said he [R. Zera] to him [R. Assi], But I once asked [it of] you and you did not answer me: perhaps in the rapid course [of your review] your tradition sped [back] to you?[12] Yes, he replied; in the course of my review my tradition sped [back] to me.

It was stated, R. Zera said in Rab's name: In the case of an alley in which no partnership had been made, one may not carry therein save within four cubits. Abaye observed, R. Zera stated this law but did not explain it, until Rabbah b. Abbuha came and explained it. For R. Nahman said in Rabbah b. Abbuha's name in Rab's name: In the case of an alley in which no partnership has been made, if the courtyards[13] are combined with the houses,[14] one may not carry therein [the alley] save within four cubits; [but] if the courtyards are not combined with the houses, one may carry over the whole of it.[15] R. Hanina Hoza'ah[16] said to Rabbah: Why does it differ when the courtyards are combined with the houses? [presumably] because the courtyards have been transformed[17] and are become houses,[18] Rab being consistent with his view; for Rab said: An alley does not become permitted [for carrying] through a stake and a beam unless

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(1) It is a general principle (infra 133a) that where a positive command and a negative command are in question, both should be fulfilled wherever possible; hence it might be argued that R. Eliezer too agrees that it should not be carried through the street, since there is an alternative (Tosaf.). Yet it may be that since R. Eliezer's ruling is largely in order to emphasize the great esteem in which the precept is held (supra a), the Talmud felt that he would require it to be carried through the streets.

(2) Karpifoth; v. supra 7a.

(3) Carrying from one to another is permitted.

(4) I.e., which were there from the beginning of the Sabbath, v. 'Er. 91a.

(5) I.e., which were in the house at the beginning of the Sabbath. — Here the knife belonged to the former category (Tosaf.).

(6) By means of an 'erub; v. supra 23a.

(7) Sc. utensils which were there at the commencement of the Sabbath.

(8) Not from a house into the courtyard or from one courtyard into another, but in that courtyard itself.

(9) This is the technical term in respect of an alley, whereby it all ranks as a single and private domain for its residents.

(10) I.e., the residents of the houses which open into it put it to private use.

(11) So Rashi and Tosaf. on the strength of a statement in J. Sheb. IX, end; this does not mean that he actually belonged to the School of Shammai, but generally adopted their views (v. Weiss, Dor, II, p. 83, n. 2), which were always disregarded in favour of Beth Hillel's. Rashi suggests another meaning: he was under a ban (v. B.M. 59b).

(12) I.e., you recalled it. [Aliter: 'In the rapid course (of your study) your tradition escaped you', i.e., R. Oshaia's statement. V. Strashun].

(13) That open into the alley.

(14) Which give on the courtyards. I.e., all the houses served by the same courtyard are combined by means of an 'erub, so that they may carry to and fro between the houses and the courtyard belonging to same; but the courtyards themselves have not been made common partners in the alley.

(15) Sc. utensils which were in the alley at the beginning of the Sabbath.

(16) Of Be Hozae. V. p. 234, n. 3.

(17) Lit., 'torn away' from their original designation.

(18) I.e., they are now part of the houses and not courtyards at all.

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houses and courtyards[1] open into it, whereas here we have houses but not courtyards?[2] Then even if they are not combined, let us regard these houses as though closed [up],[3] so we have courtyards but not houses? — They can all renounce[4] their rights in favour of one.[5] But even so, we have a house, but not houses?[6] — It is possible that from morning until midday [they renounce their rights] in favour of one, and from midday until evening in favour of another.[7] But even so, when there is one there is not the other? — Rather said R. Ashi: What makes the courtyards interdicted [in respect of the alley]? [Of course] the houses; and these are non-existent.[8]

R. Hiyya b. Abba said in R. Johanan's name: Not in respect of everything did R. Eliezer rule that the preliminary preparations of a precept[9] supersede the Sabbath, for lo! the two loaves[10] are an obligation of the day,[11] yet R. Eliezer did not learn them[12] from aught but a gezerah shawah.[13] For it was taught, R. Eliezer said: Whence do we know that the preliminaries of the two loaves supersede the Sabbath? ‘Bringing’ is stated in connection with the ‘omer,[14] and ‘bringing’ is stated in connection with the two loaves:[15] just as with the ‘bringing’ stated in connection with the ‘omer, its preliminaries[16] supersede the Sabbath, so with the ‘bringing’ stated in connection with the two loaves their preliminaries supersede the Sabbath. These must be free,[17] for if they are not free one can refute [this analogy]: as for the ‘omer, [its preliminaries supersede the Sabbath] because if one finds it [already] cut,[18] he must cut [other sheaves]; will you [then] say [the same] in the case of the two loaves, seeing that if one finds [the wheat therefore] cut he does not cut [any more]? in truth they are indeed free. [For] consider: it is written, then ye shall bring the sheaf of the first-fruits of your harvest unto the priest:[19] what is the purpose of ‘from the day that ye brought’? Infer from it that it is in order to be free. Yet it is still free on one side only, while we know R. Eliezer to hold that where it is free on one side [only], we deduce, but refute? — ‘Ye shall bring’ is an extension.[20]

What is it to exclude?[21] Shall we say that it is to exclude the lulab,[22] surely it was taught: The lulab and all its preliminaries supersede the Sabbath: this is R. Eliezer's view! Again, if it is to exclude sukkah,[23] — surely it was taught: The sukkah and all its preliminaries supersede the Sabbath: this is R. Eliezer's view! Again, if it is to exclude unleavened bread,-surely it was taught: Unleavened bread and all its preliminaries supersede the Sabbath: this is R. Eliezer's view! If, on the other hand, it is to exclude the shofar,[24] surely it was taught: The shofar and all its preliminaries supersede the Sabbath: this is R. Eliezer's view! — Said R. Adda b. Ahabah: It is to exclude fringes for one's garment and mezuzah for one's door.[25] It was taught likewise: And they agree that if one inserts fringes in his garment or affixes a mezuzah to his door,[26] he is culpable. What is the reason? R. Joseph said: Because no [definite] time is appointed for them. Said Abaye to him, On the contrary, since no time is appointed for them,

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(1) I.e., two courtyards with two houses opening into each. V. ‘Er. 5a and 73b.

(2) And for this reason when the courtyards are combined with the houses it is not permissible to carry save within four cubits.

(3) Since one cannot carry from the houses into the alley on account of the intervening courtyards. [The courtyards were in front of the houses.]

(4) Lit., ‘annul’.

(5) The tenants of all the houses save one can renounce their rights in the courtyard in his favour; the courtyard is then his, and he may carry from his house into it.

(6) Whereas Rab needs at least two houses, v. p, 654, n.8.

(7) Thus we have houses.

(8) Rab holds (‘Er. 74a) that a roof, courtyards, enclosures, and the alley are all one domain, and carrying is permitted from one to another, provided, however, that the houses are not combined with the courtyards, so that no utensils belonging to the houses are to be found in the courtyards which might then be carried into the alley. Hence the same applies to carrying in the alley itself: for if there are no houses at all a formal partnership is unnecessary, and carrying in the alley is permitted, just as from the alley into the courtyard. Since the houses are not combined with the courtyards and no utensils may be moved from the former into the latter, for all practical purposes the houses are non-existent: therefore one may carry over the whole of the alley itself.

(9) As distinct from the precept itself.
(10) Which are offered on the Feast of Weeks, v. Lev. XXIII, 17.
(11) Sc. the Feast of Weeks, and must not be postponed for the next day.
(12) That their baking supersedes the Sabbath; not the baking, but the offering 'unto the Lord' is the actual precept, the former being merely a necessary preparation.
(13) V. Glos. But if he held that all preparations supersede the Sabbath, the would not require the gezerah shawah in this particular case.
(14) V. Glos.
(15) Ibid. vv. 15, 17.
(16) Viz., the reaping, grinding. and sifting; Men. 72a.
(17) I.e., from the day that ye brought (v. 15) and 'ye shall bring' (v. 17) must have no other purpose than this gezerah shawah. There are three views on this matter: (i) Both parts of the gezerah shawah must be free, otherwise it can be refuted if they are dissimilar in other respects; (ii) Only one part must be free; and (iii) Even if both parts are required for another teaching too, the gezerah shawah cannot be refuted.
(18) But not for the express purpose of fulfilling the precept.
(19) Lev. XXIII, 10.
(20) Since Scripture could write, and ye shall offer a new meal-offering unto the Lord out of your habitations etc. The extension embraces the preliminaries of bringing, and intimates that these supersede the Sabbath.
(21) R. Johanan's statement that R. Eliezer did not rule that the preliminaries of all precepts etc.
(22) V. Glos. and Lev. XXIII, 40.
(23) V. Glos. and ibid. v. 42.
(24) V. Glos. and ibid. v. 24.
(25) These must not be inserted or affixed on the Sabbath.
(26) On the Sabbath,

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every moment[1] is the [proper] time for them? — Rather said R. Nahman b. Isaac others state, R. Huna son of R. Joshua: Because it is in one's power to renounce their ownership.[2]

The Master said: 'The lulab and all its preliminaries supersede the Sabbath: this is R. Eliezer's view.' Whence does R. Eliezer know this? If from the 'omer and the two loaves, [that may be] because they are requirements of the Most High?[3] — Rather Scripture saith, [And ye shall take ye] on the [first] day [...branches of palm trees, etc.]:[4] 'on the day' [intimating,] even on the Sabbath.[5] Now in respect of which law?[6] Shall we say, in respect of handling?[7] Is a verse necessary to authorize handling![8] Hence it must be in respect of its preliminaries[9] . And the Rabbis?[10] That is required [to teach], by day,[11] but not by night. Then R. Eliezer: whence does he [learn] 'by day but not by night'? He deduces it from, and ye shall rejoice before the Lord your God seven days:[12] days only, not nights. And the Rabbis?[13] — It is necessary: you might argue, Let us learn [the meaning of] seven day's from the seven days of sukkah.- just as there 'days' [means] and even nights,[14] so here too 'days', and even nights: hence it teaches us [otherwise]. Then let the Divine Law state it[15] in the case of lulab, and these [others][16] could be adduced and learnt therefrom?[17] — Because one could refute [the analogy]: as for lulab, [its preliminaries supersede the Sabbath] because it requires four species.[18] 'The sukkah and all its preliminaries supersede the Sabbath: this is R. Eliezer's view.' Whence does R. Eliezer learn this? If from the 'omer and the two loaves, — [there it may be] because they are requirements of the Most High; if from lulab, — [that may be] because it requires four species! Rather [the scope of] seven days' is deduced from the 'seven days' of lulab: just as there its preliminaries supersede the Sabbath, so here too its preliminaries supersede the Sabbath.[19] Then let the Divine Law write it in connection with sukkah, and these [others] could be adduced and learnt therefrom? — Because one could refute [the analogy]: as for sukkah, that is because it [the precept] is binding by night just as by day.

‘Unleavened bread and all its preliminaries supersede the Sabbath: this is R. Eliezer's view.’ Whence does R. Eliezer know this? If from the ‘omer and the two loaves, — [there it may be] because they are requirements of the Most High? If from lulab, because it requires four species? If from sukkah, — because it is binding by night just as by day? Rather the meaning of ‘the fifteenth [day]’ is learnt from the Festival of Tabernacles:[20] just as there its preliminaries supersede the Sabbath, so here too its preliminaries supersede the Sabbath. Then let the Divine Law State it in connection with unleavened bread, and these [others] could be adduced and learnt therefrom? — Because one could refute [the analogy]: as for unleavened bread, that is because it is obligatory upon women just as upon men.[21] ‘The shofar and all its preliminaries supersede the Sabbath: this is R. Eliezer's view., Whence does R. Eliezer know this? If from the ‘omer and the two loaves, — because they are requirements of the Most-High? If from lulab, — because it requires four species? If from sukkah, — because it is binding by night just as by day? if from unleavened bread, — because it is obligatory upon women just as upon men? — Rather Scripture saith, It is in day of blowing of trumpets unto you:[22] [it must be blown] by day, even on the Sabbath. And in respect of what?[23] Shall we say in respect of blowing [the shofar], — but the School of Samuel[24] taught: Ye shall do no servile work:[25] the blowing of the shofar’ and the removal of bread [from an oven] are excluded as being an art, not work. Hence [it must be] in respect of [its] preliminaries. And the[26] Rabbis? — That is required [to teach], by day but not by night. Then R. Eliezer, whence does he learn, by day but not by night? — He deduces it from, in the day of atonement shall ye send abroad the trumpet throughout all your land,[27] and these[28] are learnt from each other.[29] Now, let the Divine Law state it in connection with shofar, and these [others] can come and be learnt therefrom?One cannot learn from the blowing of the shofar on New Year, because it brings the remembrance of Israel to their Father in Heaven.[30] One cannot learn from the blowing of the shofar on the day of atonement [either], because a Master said: When the Beth din blew the shofar, slaves departed to their homes and estates reverted to their [original] owners.[31]

Circumcision and all its preliminaries supersede the Sabbath: this is R. Eliezer's view. Whence does R. Eliezer learn this? If he learns [it] from all [the others, the objection is] as we stated.[32] Moreover, as for those,

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(1) Lit., ‘hour’.

(2) Thus, when he comes to do it on the Sabbath, he could renounce ownership of the garment or the house, in which case these precepts are no longer incumbent on him.

(3) I.e., they are a direct offering.

(4) Lev. XXIII, 40.

(5) For ‘on the first’ suffices: hence ‘day’ teaches that the ceremony must be performed whatever the day.

(6) Is this intimation necessary?

(7) Permitting the handling of the lulab on the Sabbath.

(8) Surely not, for the interdict of handling is only Rabbinical.

(9) E.g., carrying the lulab through the streets, which would otherwise be Biblically forbidden.

(10) How do they interpret the superfluous ‘day’?

(11) The lulab precept has to be performed by day.

(12) Ibid.

(13) Do they not admit that it can be deduced from this latter verse?

(14) This is deduced in Suk. 43a.

(15) This law that the preliminaries supersede the Sabbath.

(16) Sc. the ‘omer and the two loaves.

(17) That there too it is thus: why are separate verses required?

(18) Vis., those enumerated in Lev. XXIII, 40. Hence it is important that even its preliminaries supersede the Sabbath.

(19) Since this analogy is based on a gezerah shawah, it cannot be refuted as before, when the suggested analogy was based purely on logical grounds. (Rashi).

(20) Lev. XXIII, vv. 6 and 39.

(21) They too must partake thereof; v. Pes. 43b. But the precepts of lulab and sukkah are not incumbent upon women.
(22) Num. XXIX, 1.
(23) Does 'day' extend the law even to the Sabbath.
(24) This is rather unusual. Generally we have 'the School of R. Ishmael', and the present passage is so quoted supra 117b in cur. edd. R. Han. however, reads 'the School of Samuel' there too, and it is likewise so in R.H. 29b in cur. edd. Weiss, Dor, III, p. 169 maintains that the reference is to a collection of Baraithas compiled by Samuel. It may also be observed that the verse quoted here is not the same as that quoted supra in cur. edd., though Tosaf.'s reading is identical in both places. It is barely possible that two different Baraithas are referred to, both making the same deduction but from different verses.
(25) Lev. XXIII, 25.
(26) Hence no verse is required to teach that it is permitted.
(27) Ibid. XXV, 9.
(28) Sc. the blowing of the shofar on New Year and on the day of atonement.
(29) As shown in R.H. 33b.
(30) Hence it is so important that even its preliminaries supersede the Sabbath. But the same may not apply to other precepts.
(31) In accordance with Lev. XXV, 10. Hence this too was of particularly great importance.
(32) Each differs in some respect.

Talmud - Mas. Shabbath 132a

[they may supersede the Sabbath] because if their time passes they are annulled![1] Rather this is R. Eliezer s reason: Because Scripture saith, and in the eighth day the flesh of his foreskin shall be circumcised,[2] [implying] even on the Sabbath.[3] Then let the Divine Law write it in connection with circumcision, and these [others] can come to be deduced thence? Because one can refute [the analogy]: as for circumcision, that is because thirteen covenants were made in connection therewith.[4]

Now, the Rabbis disagree with R. Eliezer only in respect of the preliminaries of circumcision; but as for circumcision itself, all hold that it supersedes the Sabbath: whence do we know it?Said 'Ulla, It is a traditional law;[5] and thus did R. Isaac say, It is a traditional law.

An objection is raised: How do we know that the saving of life supersedes the Sabbath? R. Eleazar b. 'Azariah said: If circumcision, which is [performed on but] one of the limbs of man, supersedes the Sabbath, the saving of life, a minori, must supersede the Sabbath. Now if you think that it is a traditional law, can one argue a minori from a traditional law? Surely it was taught, R. Eleazar said to him: Akiba! [That] a bone [of a corpse] the size of a barley grain defiles[6] is a traditional law, whereas [that] a quarter [log] of blood [of a corpse] defies is [deduced by you] a minori,[7] and we do not argue a minori from a traditional law! — Rather said R. Eleazar: We learn 'a sign' [written in connection with circumcision from] 'a sign' [written in connection with the Sabbath].[8] If so, let Tefillin, in connection with which 'sign'[9] is written, supersede the Sabbath?[10] — Rather 'covenant' is learnt from, 'covenant'.[11] Then let [the circumcision of] an adult, in connection with whom 'covenant' is written,[12] supersede the Sabbath?[13] — Rather 'generations' is learnt from 'generations'.[14] Then let fringes, in connection with which 'generations' is written,[15] supersede the Sabbath?[16] Rather said R. Nahman b. Isaac: We learn 'sign,' 'covenant' and 'generations' from 'sign,' 'covenant' and 'generations,' thus excluding the others in connection with each of which only one is written.

R. Johanan said: Scripture saith, in the [eighth] day, 'in the day' [implying] even on the Sabbath.[17] Resh Lakish objected to R. Johanan: If so, those who lack atonement,[18] in connection with whom 'in the day' is written,[19] do they too supersede the Sabbath?[20] — That is required [for teaching], by day but not by night.[21] But this too[22] is required [for teaching], by day but not by night? That is deduced from, and he that is eight days old.[23] But this too can be derived from, in the day that he commanded [the children of Israel to offer their oblations, etc.]?[24] — Though it may be derived from, in the day that he commanded, [etc.]', yet it [the other verse] is necessary: you might argue, Since the Merciful One had compassion upon him, [permitting him] to bring [a lesser sacrifice] in poverty, he may bring [it] at night too: hence we are informed [otherwise]. Rabina demurred: If so,[25] let a zar and an onen[26] be eligible for them?[27] Surely Scripture brought him back.[28]

R. Aha b. Jacob said, Scripture saith, 'the eighth', [intimating] the eighth, even if it is the Sabbath. But this 'eighth' is required to exclude the seventh?-That follows from, 'and the that is eight days old'. Yet they are still required, one to exclude the seventh and the other to exclude the ninth, for if [we deduced] from one [verse only] I might say, only the seventh is excluded, since its time [for circumcision] has not [yet] arrived, but from the eighth onward that is the [right] time? Hence it is clear [that it must be explained] as R. Johanan.

It was taught in accordance with R. Johanan and not as R. Aha b. Jacob: '[And in] the eighth [day the flesh of his foreskin] shall be circumcised': even on the Sabbath. Then to what do I apply, every one that profaneth it shall surely be put to death?[29] To labours other than circumcision. Yet perhaps it is not so, but [it includes] even circumcision, whilst to what do I apply 'in the eighth... shall be circumcised': [To all days] except the Sabbath? Therefore 'in the day' is stated, [teaching], even on the Sabbath.

Raba observed: Why was this Tanna content at first, and what was his difficulty eventually?[30] — He argues thus: '[in] the eighth shall be circumcised': even on the Sabbath. Then to what do I apply, every one that profaneth it shall be put to death'? To labours other than circumcision, but circumcision supersedes it. What is the reason? It [follows] a minori. If leprosy, which suspends the sacrificial service,[31]

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(1) They must be performed at a certain time or not at all. But circumcision, though obligatory for the eighth day from birth, can and must be performed afterwards if not done then.

(2) Lev. XII, 3.

(3) It cannot be to teach that circumcision itself is performed on the Sabbath, because as stated infra that is already known by tradition, hence it must refer to its preliminaries.

(4) In the passage enjoining circumcision upon Abraham and his descendants (Gen. XVII) 'covenant' is mentioned thirteen times, which shows its great importance.

(5) Rashi: Received from Moses on Sinai.

(6) A nazirite by its touch, and he must commence again (cf. Num, VI, 9-12).

(7) R. Akiba deduced a minori from the former that if a nazirite is under the same covering as a quarter log of blood taken from a corpse he is defiled, just as in the first case; v. Naz. 57a.

(8) Circumcision: and it shall be a sign of a covenant betwixt me and you (Gen. XVII, 11); Sabbath: for it is a sign between me and you (Ex. XXXI, 13). Since both are so designated, it follows that the former must be performed even on the latter.

(9) Deut. VI, 8: And thou shalt bind them for a sign upon thine hand.

(10) [Probably, one should be permitted to carry them on him in the street on the Sabbath].

(11) V. n. 2 for circumcision; Sabbath: therefore the children of Israel shall keep the Sabbath...for a perpetual covenant (Ex. XXXI, 16).

(12) Gen, XVII, 14: And the uncircumcised male who is not circumcised in the flesh of his foreskin...hath broken my covenant. In Kid. 29a this is referred to an adult whom his father had omitted to circumcise, and it throws the obligation upon himself.

(13) Whereas it is stated infra that it supersedes the Sabbath only when performed on the eighth day.

(14) Sabbath: to observe the Sabbath throughout their generations (Ex. XXXI, 16); circumcision: every male throughout your generations (Gen. XVII, 12).

(15) Num. XV 38: bid them...make them fringes...throughout their generations.

(16) I.e., let it be permitted to insert them in garments on the Sabbath.

(17) This is according to the Rabbis. R. Eliezer, as stated supra, utilizes this in respect of the preliminaries. Hence he holds that circumcision itself is a traditional law, whilst he learns that life saving is permitted from a Scriptural verse (Yoma 85b).

(18) This is the technical designation of all unclean persons who must offer a sacrifice as part of their purification rites, viz., a zab and a zabah, a leper, and a woman after childbirth.

(19) E.g., this shall be the law of the leper in the day of his cleansing (Lev. XIV, 2); similarly the rest.

(20) They are surely not permitted to bring their offerings on the Sabbath, for only public sacrifices were permitted on them.

(21) Sacrifices may not be offered up at night.

(22) 'Day' written in connection with circumcision.

(23) Gen. XVII. 12.

(24) Lev. VII, 38.

(25) That the leniency shown in poverty might be regarded as permitting other things which normally invalidate the sacrifice.

(26) V. Glos. for both.

(27) Sc. to offer these sacrifices. A zar may kill the sacrifice, but cannot perform any of the other services in connection therewith.

(28) In fact we see that this leniency was not extended to permission to offer at night: thus in all other respects the poor are governed by the same rules as the rich.

(29) Ex. XXXI, 14.

(30) Why does he assume at first that the eighth naturally supersedes the Sabbath, whereas subsequently he finds a difficulty in this assumption and proposes to reverse it?

(31) It is stated infra b that one may not cut away a leprous bright spot in order to be clean, and this holds good even on Passover: individuals may not do so in order to bring the Passover sacrifice, nor may Priests to enable them to perform the sacrificial service.

Talmud - Mas. Shabbath 132b

whilst the sacrificial service supersedes the Sabbath,[1] yet circumcision supersedes it:[2] then the Sabbath, which is superseded by the sacrificial service, surely circumcision supersedes it. And what is the 'or perhaps it is not so' which he states? — He then argues [thus]: yet whence [does it follow] that leprosy Is more stringent? Perhaps the Sabbath is more stringent, since there are many penalties and injunctions in connection therewith. Further, whence [does it follow] that it[3] is because leprosy is more stringent, perhaps it is because the man is not fit;[4] whilst to what do I apply, 'in the eighth... shall be circumcised', [to all days] except the Sabbath? Therefore 'in the day' is stated, teaching, even on the Sabbath.

Our Rabbis taught: Circumcision supersedes leprosy, whether [performed] at its [proper] time[5] or not at its [proper] time; it supersedes Festivals only [when performed] at its [proper] time. How do we know this? — Because our Rabbis taught: ' The flesh of his foreskin shall be circumcised', even if a bahereth[6] is there it must be cut off. Then to what do I apply, 'Take heed in the plague of leprosy'?[7] To other places, but excluding the foreskin. Or perhaps it is not so, but [it includes] even the foreskin, while how do I apply, 'the flesh of his foreskin shall be circumcised', when it does not contain a bahereth! Therefore 'flesh' is stated, intimating even when a bahereth is there. Raba observed: This Tanna, why was he content at first, and what was his difficulty eventually? He argues thus: 'The flesh of his foreskin shall be circumcised': even if a bahereth is there. Then to what do I apply: 'Take heed in the plague of leprosy'? To other places, excluding the foreskin, yet circumcision supersedes leprosy. What is the reason? Because it is inferred a minori: if circumcision supersedes the Sabbath, which is stringent, how much more so leprosy. And what is the 'or perhaps it is not so which he states? He then argues: how do we know that the Sabbath is more stringent: perhaps leprosy is more stringent, since it supersedes the sacrificial service, while the sacrificial service supersedes the Sabbath? Therefore flesh is stated, intimating, even when a bahereth is there.

Another version: circumcision supersedes leprosy: what is the reason? Because a positive command[8] comes and supersedes a negative command.[9] Then what is the ‘or is it not so’ which he states? He then argues: Perhaps we rule that a positive command comes and supersedes a negative command [only in the case of] a negative command by itself but this is a positive command plus a negative command.[10] Then how do I apply, the flesh of his foreskin shall be circumcised? When it does not contain a bahereth. Therefore flesh is stated, intimating, even when a bahereth is there.

Now, this is well of an adult, in connection with whom ‘flesh’ is written; of an infant too ‘flesh is written; but whence do we know one of intermediate age?[11] Said Abaye, It is inferred from the other two combined:[12] it cannot be inferred from an adult [alone], Since there is the penalty of kareth[13] [in his case]; it cannot be inferred from an infant [eight days old], since [there] it is circumcision at the proper time. The feature common to both is that they must be circumcised and they supersede leprosy: so all who must be circumcised supersede leprosy.

Raba said: [That] circumcision at the proper time supersedes [leprosy] requires no verse, [for] it is inferred a minori: If it supersedes the Sabbath, which is [more] stringent, how much more so leprosy! Said R. Safra to Raba: How do you know that the Sabbath is [more] stringent, perhaps leprosy is [more] stringent, seeing that it supersedes the sacrificial service, whilst the sacrificial service supersedes the Sabbath? — There it is not because leprosy is more stringent but because the person is unfit. Why so? Let him cut off the bahereth and perform the service? — He [still] lacks tebillah. This is well of unclean eruptions! what can be said of clean eruptions?[14] — Rather R. Ashi said: Where do we rule that a positive command comes and supersedes a negative one? E.g., circumcision in [the place of] leprosy, or fringes and kil'ayim,[15] where at the very moment that the negative injunction is disregarded[16] the positive command is fulfilled;[17] but here at the moment that the negative injunction is disregarded the positive command is not fulfilled.[18]

Now, this [discussion] of Raba and R. Safra

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(1) Public sacrifices being brought thereon.

(2) The injunction not to cut away a leprous bright spot is disregarded when it is on the foreskin which is to be circumcised.

(3) Sc. the reason that the sacrificial service does not supersede leprosy.

(4) For, as stated infra, even if the bright spot is cut away he is still unfit to offer the Passover sacrifice until he performs tebillah and the sun sets.

(5) The eighth day from birth.

(6) A bright, snow-white v. Neg. I, 1 spot on the skin, which is a symptom of leprosy (Lev. Xli, 2 seq.).

(7) Deut, XXIV, 8; this is interpreted as an injunction against cutting away a leprous bright spot, etc,

(8) To circumcise

(9) Not to cut the bahereth away.

(10) Negative: Take heed in the plague of leprosy, ‘Take heed’ always being so regarded; positive: that thou observe diligently, etc.

(11) The following three passages are applied to three different cases of circumcision: (i) And the uncircumcised male who is not circumcised in the flesh of his foreskin, that soul shall be cut off from his people (Gen. XVII, 14) — this applies to an adult whom his father did not circumcise as an infant. (ii) And in the eighth day the flesh of his foreskin shall be circumcised (Lev. XII, 3) this is a command to the father of the child. (iii) Every male among you shall be circumcised (Gen. XVII, 10) — this is a general command, e.g., to the Beth din, for a child to be circumcised after his eighth day if not circumcised at the proper time. Now, ‘flesh’ is written in (i) and (ii), but not in (iii), which refers to a child of intermediate age, i.e., between eight days and thirteen years and a day, when he becomes an adult.

(12) Lit., ‘from between them’.

(13) V. Glos.

(14) E.g., where the leprosy covers the whole skin (v. Lev. XII, 12f). Even then it must not be cut away and supersedes the sacrificial service.

(15) V. Glos. and Deut. XXII, 11f: Thou shalt not wear a mingled stuff, wool and linen together. Thou shalt make thee fringes upon the four borders of thy vesture. The juxtaposition of these two laws is interpreted as showing that the former is suspended in the case of fringes, and the garment may be of linen while the fringes are of wool.
(16) Lit., 'uprooted'.
(17) I.e., the latter is fulfilled through the disregard of the former.
(18) The cutting away of the bahereth itself is not a fulfilment of the command to offer a Passover sacrifice, but merely preliminary thereto, so that the fact that leprosy supersedes the sacrificial service is no mark of the stringency of leprosy.

Talmud - Mas. Shabbath 133a

is [a controversy between] Tannaim. For it was taught: 'Flesh', and even if a bahereth is there, 'it shall be circumcised': the words of R. Josiah. R. Jonathan said: This is unnecessary: if it supersedes the Sabbath [which is more] Stringent, how much more so leprosy.[1]

The Master said: '"Flesh", and even if a bahereth is there, "it shall be circumcised": the words of R. Josiah.' Why is a verse required for this: it is an unintentional act,[2] and an unintentional act is permitted? — Said Abaye, This is only necessary according to R. Judah, who maintains: An unintentional act is forbidden. Raba said, You may even say [according to] R. Simeon: R. Simeon admits in the case of 'cut off his head but let him not die.'[3] Now, does not Abaye accept this reasoning? Surely Abaye and Raba both said, R. Simeon admits in the case of, 'cut off his head but let him not die'? — After hearing it from Raba he accepted its logic.

Others recite this [dictum] of Abaye and Raba in reference to the following: Take heed in the plague of leprosy, that thou observe diligently, to do [etc.]:[4] 'to do' thou art forbidden,[5] but thou mayest effect it by means of bast on the foot or a pole on the shoulder, and if it goes it goes.[6] But what need of a verse for this: it is an unintentional act, and an unintentional act is permitted? — Said Abaye: It is only necessary according to R. Judah, who maintained: An unintentional act is forbidden. But Raba said: You may even say [that it agrees with] R. Simeon, yet R. Simeon admits in the case of 'cut off his head but let him not die.' Now, does not Abaye accept this reasoning? Surely Abaye and Raba both said, R. Simeon admits in the case of 'cut off his head but let him not die'? After hearing it from Raba, he accepted its logic.

Now Abaye on R. Simeon's view,[7] how does he utilize this [word] 'flesh'? — Said R. Amram: As referring to one who asserts that it is his intention to cut off his bahereth.[8] That is well of an adult: what can be said of an infant?[9] Said R. Mesharsheya: It refers to the infant's father who asserts that it is his [specific] intention to cut off his son's bahereth. Then if there is another,[10] let another perform it; for R. Simeon b. Lakish said: Wherever you find a positive command and a negative command [in opposition], if you can fulfil both of them, it is preferable;[11] but if not, let the positive command come and supersede the negative command?[12] — This is where there is no stranger.

The Master said, 'It supersedes Festivals only [when performed] at its [proper] time.' Hezekiah said, and the School of Hezekiah taught likewise: And ye shall let nothing of it remain until the morning [but that which remaineth of it] until the morning [ye shall burn with fire]:[13] now [the second] until the morning need not be stated: What then is the teaching of, until the morning? Scripture comes to appoint the second morning for its burning. Abaye said: Scripture saith, the burnt-offering of the Sabbath [shall be burnt] on its Sabbath,[14] but not the burnt-offering of weekdays on the Sabbath, nor the burnt-offering of weekdays on Festivals. Raba said: Scripture saith, [no manner of work shall be done in them save that which every man must eat], that only may be done of you:[15] 'that', but not its preliminaries; 'only', but not circumcision out of its proper time, which might [otherwise] be inferred a minori. R. Ashi said: [On the seventh day is a Sabbath of] holy rest [shabbathon][16] is an affirmative precept, thus there is an affirmative and a negative precept in respect of Festivals, and an affirmative precept cannot supersede a negative plus an affirmative precept.[17]

R. AKIBA STATED A GENERAL PRINCIPLE, etc. Rab Judah said in Rab's name: The halachah is as R. Akiba. And we learnt similarly in respect to the Passover sacrifice: R. Akiba stated a general principle: Any labour which can be performed on the eve of the Sabbath does not supersede the Sabbath; slaughtering [the Passover sacrifice], which can not be done on the eve of the Sabbath,[18] supersedes the Sabbath; and Rab Judah said in Rab's name: The halachah is as R. Akiba. And these are necessary. For if he informed us [of the halachah] in connection with circumcision, — It is only there that the preparatory requirements which could be done the previous day do not supersede the Sabbath, since there is no kareth,[19] but as for the Passover sacrifice, where there is kareth,[20] you might argue, Let them [the preliminaries] supersede the Sabbath. And if he told us [the halachah] about the Passover sacrifice, — that is because thirteen covenants were not made in connection therewith; but as for circumcision, seeing that thirteen covenants were made in connection therewith[21] I would say, Let them [the preliminaries] supersede the Sabbath — Thus they are necessary.[22]

MISHNAH. WE PERFORM ALL THE REQUIREMENTS OF CIRCUMCISION ON THE SABBATH. WE CIRCUMCISE,[23] UNCOVER [THE CORONA],[24] SUCK [THE WOUND],[25] AND PLACE A COMPRESS AND CUMMIN UPON IT.[26] IF ONE DID NOT CRUSH [THE CUMMIN] ON THE EVE OF THE SABBATH, HE MUST CHEW [IT] WITH HIS TEETH AND APPLY [IT TO THE WOUND]; IF HE DID NOT BEAT UP WINE AND OIL ON THE EVE OF THE SABBATH,[27] EACH MUST BE APPLIED SEPARATELY. WE MAY NOT MAKE A HALUK[28] FOR IT IN THE FIRST PLACE, BUT MUST WRAP A RAG ABOUT IT. IF THIS WAS NOT PREPARED FROM THE EVE OF THE SABBATH, ONE WINDS IT ABOUT HIS FINGER[29] AND BRINGS IT, AND EVEN THROUGH ANOTHER COURTYARD.

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(1) Thus R. Josiah learns that circumcision at the proper time supersedes leprosy from ‘flesh’, whilst the same for circumcision after the eighth day must be inferred from the common feature (v. supra 132b), this agreeing with R. Safra's rejection of Raba's argument. Whereas R. Jonathan infers the former a minori, so that ‘flesh’ may be applied to the other case, as Raba.

(2) Sc. the cutting away of the bahereth.

(3) V. p. 357, n. 8.

(4) Deut. XXIV, 8.

(5) Lit., ‘thou mayest not do’. I.e., one may not intentionally cut off a bahereth.

(6) I.e., one need not refrain from wearing a tight shoe of bast or carrying a heavy burden on his shoulder, though these may remove the bahereth.

(7) Before he accepted Raba's dictum.

(8) In order to be rendered clean. Yet even so it is permitted for the sake of circumcision.

(9) Eight days old. He has no intention, yet ‘flesh’ is written in his case too (v. supra 132b, p. 665 n. 1).

(10) Available to perform the circumcision — the prohibition concerning the bahereth will not apply to him, since he has no interest in the child's ritual cleanness.

(11) Thus, if a stranger performs it, the positive command of circumcision is fulfilled without violating the injunction of leprosy, since the stranger has no such intention.

(12) And thus the question remains: what need is there for the word ‘flesh’ in the case of the infant?

(13) Ex. XII, 10.

(14) Num. XXVIII, 10.

(15) Ex. XII, 16.

(16) Lev. XXIII, 3.

(17) V. supra 24b and 25a for notes. From all the foregoing we see that labour which can be done on weekdays or which belongs primarily to weekdays does not supersede Festivals even in the fulfilment of a precept, and the same applies here.

(18) If the fourteenth of Nisan falls on the Sabbath.

(19) When circumcision is postponed.
(20) For not offering it.
(21) V. supra 132a top.
(22) V. Pes. 66a.
(23) Cut off the foreskin.
(24) Peri'ah. By splitting the the membrane and pulling it down.
(25) Mezizah. Nowadays the suction is accomplished by means of a glass cylinder.
(26) To make the wound heal.
(27) This too was applied to the wound.
(28) A kind of shirt-shaped bandage placed over the membrum and tied at the corona, to prevent the flesh from growing back and recovering the membrum.
(29) As though it were a garment, so that it shall not be carried just like on weekdays.

Talmud - Mas. Shabbath 133b

GEMARA. Consider: He [the Tanna] states them all [separately]: what is ALL THE REQUIREMENTS OF CIRCUMCISION to include? — It is to include that which our Rabbis taught: He who circumcises,[1] as long as he is engaged in the circumcision, he returns both for the shreds [of the corona] which invalidate the circumcision and for those which do not invalidate the circumcision.[2] Once he has withdrawn,[3] he returns on account of the shreds which invalidate the circumcision, but not for the shreds which do not invalidate the circumcision.

Who teaches: Once he has withdrawn, he must not return? Said Rabbah b. Bar Hanah in R. Johanan's name: It is R. Ishmael the son of R. Johanan b. Berokah. For it was taught: If the fourteenth [of Nisan] falls on the Sabbath, the passover sacrifice is flayed as far as the breast: this is the view of R. Ishmael the son of R. Johanan b. Berokah. But the Sages maintain: We flay the whole of it.[4] But how so? R. Johanan may rule [thus] only there, because we do not require [the application of the verse,] This is my God, and I will adorn him,[5] but here that we require, ‘This is my God, and I will adorn him’,[6] that indeed is so![7] (For it was taught: This is my God, and I will adorn him: [i.e.,] adorn thyself before Him in [the fulfilment of] precepts. [Thus:] make a beautiful sukkah in His honour,[8] a beautiful lulab, a beautiful shofar, beautiful fringes, and a beautiful Scroll of the Law, and write it with fine ink, a fine reed [-pen], and a skilled penman, and wrap it about with beautiful silks. Abba Saul interpreted, and I will be like him:[9] be thou like Him: just as He is gracious and compassionate, so be thou gracious and compassionate.) — Rather said R. Ashi, Which [Tanna] is this? It is R. Jose. For we learnt: Whether it is clearly visible or it is not clearly visible,[10] the Sabbath is desecrated on its account.[11] R. Jose ruled: If it is clearly visible, they must not desecrate the Sabbath for it.[12] But how so? Perhaps R. Jose rules [thus] only there, because the Sabbath was not given to be superseded;[13] but here that the Sabbath was given to be superseded,[14] it indeed is so?[15] — Rather said the scholars of Nehardea: It is the Rabbis who disagree with R. Jose. For we learnt: Four priests entered:[16] two held two courses [of loaves] in their hands, and two held two censers;[17] and four preceded them, two in order to remove the two courses,[18] and two to remove the two censers. Those who brought in [the new loaves and frankincense] stood in the north facing the south,[19] while those who carried [them] out stood in the south facing the north:[20] these withdrew [the old] and these laid down [the new], the handbreadth of one at the side of the handbreadth of the other,[21] because it is said, [And thou shalt set upon the table shewbread] before me alway.[22] R. Jose said: Even if these remove and the other replace [it later], that too constitutes ‘alway’.[23]

Our Rabbis taught: The membrum must be trimmed,[24] and if one does not trim it, he is punished with kareth. Who? R. Kahana said: The surgeon.[25] R. Papa demurred ‘The surgeon’! he can say to them, ‘I have performed half of the precept: do you perform half of the precept.’[26] Rather said R. Papa: An adult.[27] R. Ashi demurred: Of an adult it is explicitly stated, and the uncircumcised male who is not circumcised in the flesh of his foreskin, [that soul shall be cut off from his people]?[28]

Rather said R. Ashi: In truth it means the surgeon: e.g.,if he came at twilight on the Sabbath, and they warned him, ‘you have no time,’[29] but he insisted, ‘I have time : So he performed it but had not time [to complete it]. Thus the net result is[30] that he [merely] made a wound,[31] hence he is punished with kareth.[32]

WE SUCK OUT, etc. R. Papa said: If a surgeon does not suck [the WOUND], it is dangerous and he is dismissed. It is obvious? Since we desecrate the Sabbath for it, it is dangerous?[33] — You might say that this blood is stored up, therefore he informs us that it is the result of a wound, and it is like a bandage and cummin: just as when one does not apply a bandage and cummin there is danger, so here too if one does not do it there is danger.[34]

WE PLACE A COMPRESS UPON IT. Abaye said: Mother told me,[35] A salve [compress] for all pains [is made of] seven parts of fat and one of wax. Raba said: Wax and resin[36] Raba taught this publicly at Mahoza, [whereupon] the family of Benjamin the doctor tore up their [bandage] cloths.[37] Said he to them. Yet I have left you one [cure unrevealed]. For Samuel said: He who washes his face and does not dry it well, scabs will break out on him.

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(1) On the Sabbath.

(2) This is what the Mishnah includes.

(3) From circumcising, thinking it finished.

(4) v. Supra 116b. When one reaches the breast he temporarily ceases flaying in order to remove the fats; this cessation is analogous to withdrawing in the case of circumcision, and R. Ishmael rules that he must not return to complete the flaying.

(5) Ex. XV, 2. Or perhaps, and I will adorn myself for His sake. Once the fats are removed for sacrificial purposes there is no adornment of the precept in trimming the flesh and making it look presentable.

(6) The cutting away even of the shreds which does not invalidate circumcision is nevertheless an adornment thereof

(7) And may be permitted even by R. Ishmael.

(8) Lit., ‘before Him’.

(9) Reading אנוהו as a combination אני והוא I and He (have to act alike).

(10) Viz., the crescent of the New Moon, which had to be seen and attested by two witnesses before the Beth din could sanctify the beginning of the month, v. R.H. 21b.

(11) By the two witnesses appointed to look out for it. They must come to the Beth din to testify, even if it is the Sabbath and they are without the tehum (q.v. Glos.), though since it is clearly visible the Beth din is in any case aware of its presence.

(12) Because it is unnecessary. The same applies to the shreds which do not invalidate the circumcision.

(13) From the very outset there was no need to desecrate the Sabbath, since the new moon is clearly visible to all.

(14) On account of the circumcision.

(15) That one must cut away all shreds.

(16) The Temple on the Sabbath to set the shewbread.

(17) Of frankincense for the loaves, v. Lev. XXIV, 7.

(18) Of the previous week's loaves.

(19) Because the Table was placed east to west, and the priests stood at its side facing its breadths.

(20) I.e., opposite the other priests across the Table.

(21) I.e., the withdrawing and the replacing were almost simultaneous.

(22) Ex. XXV, 30.

(23) I.e., ‘alway’ merely indicates that a night must not pass without shewbread lying upon the table. But the Rabbis hold that an interval would mark a new placing, not a continuation of the old, and so ‘alway’ would be unfulfilled. Similarly, when one withdraws from circumcision, to return for the shreds is a new act, hence not permitted unless these invalidate circumcision.

(24) I.e., the shreds which invalidate the circumcision must be removed; this appears to be the interpretation of Rashi and R. Han. Jast.: (One may) trim the preputium by splitting and drawing it upwards so as to form a pouch around the denuded cone. v. R. Han. second interpretation.

(25) Because he violated the Sabbath without completely fulfilling the precept. On this interpretation the reference is to the Sabbath.
(26) I.e., his labour was certainly permitted as far as it went.
(27) It refers to an adult who circumcises himself on weekdays, and he is punished by kareth because he remains uncircumcised on account of these shreds.
(28) Gen. XVII, 14; v. p. 665, n. 1. Why then state it here?
(29) To perform the whole (if the circumcision before the day ends.
(30) Lit., ‘it is found’.
(31) It is not regarded as circumcision.
(32) Because he had no right even to start.
(33) Otherwise it would not be permitted, as it is not actually part of circumcision.
(34) If the blood were held to be stored up in a separate receptacle, as it were, there would be no desecration of the Sabbath in sucking it out, and therefore the fact that it is done on the Sabbath would not prove that its omission is dangerous. But since it comes out as a result of a wound, i.e.,the pressing causes a wound and thus forces out the blood, it is permitted only because its omission is dangerous.
(35) She was really his foster-mother, v. Kid. 31b.
(36) רישינא is a commentator's Gloss; v. Jast.
(37) They had not more need for them, the secret now being known to all. The phrase may also mean: they tore their garments (in despair and vexation).

Talmud - Mas. Shabbath 134a

What is his remedy? Let him wash it well in beet juice.[1]

IF ONE DID NOT CRUSH [IT] ON THE EVE OF THE SABBATH. Our Rabbis taught: The things which may not be done for circumcicision on the Sabbath may be done on Festivals: cummin may be crushed, and wine and oil may be beaten up together on its account. Abaye asked R. Joseph: Wherein does [the powdering of] cummin on Festivals differ? [presumably] because it can be used in a dish?[2] then wine and oil too are fit for an invalid on the Sabbath? For it was taught: One may not beat up wine and oil for an invalid on the Sabbath. R. Simeon b. Eleazar said in R. Meir's name: One may indeed beat up wine and oil. R. Simeon b. Eleazar related, R. Meir was once suffering internally,[3] and we wished to beat up wine and oil for him, but he would not permit us. Said we to him, Your words shall be made void in your own lifetime! Though I rule thus, he replied, yet my colleagues rule otherwise, [and] have never[4] presumed to disregard the words of my colleagues. Now he was stringent in respect to himself, but for all others it is permitted? — There it need not be well beaten, whereas here it needs to be well beaten. Then let us do likewise here too and not mix it well? — That is what he teaches, EACH MUST BE PLACED SEPARATELY.[5]

Our Rabbis taught: One may not strain mustard grain through its own strainer,[6] nor sweeten it with a glowing coal.[7] Abaye asked R. Joseph: Wherein does it differ from what we learnt: An egg may be passed through a mustard strainer?[8] There it does not look like selecting,[9] whereas here it looks like selecting,[10] he replied. ‘Nor sweeten it with a glowing coal’. But surely it was taught, One may sweeten it with a glowing coal? — There is no difficulty: one refers to a metal coal, the other to a wood coal.[11] Abaye asked R. Joseph: Wherein does it differ from [roasting] meat on coals?[12] — There it is impossible,[13] whereas here it is possible.[14] Abaye asked R. Joseph: What about cheese-making?[15] — It is forbidden, answered he. Wherein does it differ from kneading [dough]? — There it is impossible, here it is possible, replied he.[16] But the people of Nehardea say: Freshly-made[17] cheese is palatable? — They mean this: even freshly-made cheese is palatable.[18]

ONE MAY NOT MAKE A HALUK FOR IT, etc. Abaye said, Mother told me: The side-selvedge of an infant's haluk should be uppermost,[19] lest a thread thereof stick and he [the infant] may become privily mutilated.[20] Abaye's mother used to make a lining[21] for half [the haluk].[22]

Abaye said: If there is no haluk for an infant, a hemmed rag should be brought, and the hem tied round at the bottom[23] and doubled over at the top.[24]

Abaye also said: Mother told me, An infant whose anus is not visible should be rubbed with oil and stood in the sun, and where it shows transparent it should be torn crosswise with a barley grain, but not with a metal instrument, because that causes inflammation.

Abaye also said: Mother told me, If an infant cannot suck, his lips are cold. What is the remedy? A vessel of burning coals should be brought and held near his nostrils, so as to heat it; then he will suck.

Abaye also said: Mother told me, If an infant does not breathe,[25] he should be fanned with a fan, and he will breathe.

Abaye also said: Mother told me, If an infant cannot breathe easily,[26] his mother's after-birth should be brought and rubbed over him, [and] he will breathe easily.

Abaye also said: Mother told me, If an infant is too thin, his mother's after-birth should be brought and rubbed over him from its narrow end to its wide end;[27] if he is too fat, [it should be rubbed] from the wide to the narrow end.

Abaye also said: Mother told me, If an infant is too red, so that the blood is not yet absorbed in him,[28] we must wait until his blood is absorbed and then circumcise him. If he is green, so that he is deficient in blood,[29] we must wait until he is full-blooded and then circumcise him. For it was taught, R. Nathan said: I once visited the Sea-towns,[30] and a woman came before me who had circumcised her first son and he had died and her second son and he had died; the third she brought before me. Seeing that he was [too] red I said to her, Wait until his blood is absorbed. So she waited until his blood was absorbed and [then] circumcised him and he lived; and they called him Nathan the Babylonian after my name. On another occasion I visited the Province of Cappadocia,[31] and a woman came before me who had circumcised her first son and he had died and her second son and he had died; the third she brought before me. Seeing that he was green, I examined him and saw no covenant blood[32] in him. I said to her, Wait until he is full-blooded; she waited and [then] circumcised him and he lived, and they called him Nathan the Babylonian, after my name.

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(1) Or, water in which vegetables were thoroughly boiled.

(2) Hence since it is permitted for this purpose, it is permitted for circumcision too.

(3) Lit., ‘in his bowels’.

(4) Lit., ‘throughout my days’.

(5) Which means that they may be poured together but not mixed well.

(6) On Festivals.

(7) The meat made the mustard more palatable.

(8) To render the egg clear.

(9) Because all of it passes through.

(10) Because some of the inferior grains remain on top. — Nevertheless it is not actual selecting, because even they are fit for use (Tosaf.).

(11) The latter is forbidden, as it is extinguished in the process, which is prohibited on Festivals.

(12) Though this puts them out.

(13) That the meat should be roasted before the Festival and be just as tasty.

(14) The mustard grains could have been sweetened the previous day.

(15) On Festivals.

(16) V.p. 673, nn. 12,13.

(17) Lit., ‘of the (same) day’.

(18) But It is still more so when it is made the previous day.

(19) I.e., not facing the flesh.

(20) When the haluk is pulled away.

(21) Lit., ‘covering’.

(22) I.e., she left the seam or selvedge on the inner side, but lined it half way down, so that it should not touch the membrum.

(23) Of the membrum, so as not to touch the wound.

(24) Thus the edge is on the outside.

(25) I.e., gives no signs of life (Rashi and Jast.). ‘Ar.: does not urinate.

(26) Rashi. Jast.: cry.

(27) Starting with the former and continuing until the latter. — This is symbolical: even so should the infant progress (Rashi).

(28) Into his limbs, but it is still so the under-surface of the skin. This makes circumcision dangerous.

(29) Lit., the blood has not yet fallen into him’.

(30) Tyre, etc.

(31) A district of Asia Minor.

(32) The blood which circumcision causes to flow is so designated. Thus circumcision would be physically dangerous, and furthermore even if performed it would be inadequate, as covenant blood is required.

Talmud - Mas. Shabbath 134b

MISHNAH. WE MAY BATHE THE INFANT BOTH BEFORE AND AFTER THE CIRCUMCISION, AND SPRINKle [WARM WATER] OVER HIM BY HAND BUT NOT WITH A VESSEL. R. ELEAZAR B. ‘AZARIAH SAID: WE MAY BATHE AN INFANT ON THE THIRD DAY [OF CIRCUMCISION] WHICH FALLS ON THE SABBATH, BECAUSE IT IS SAID, AND IT CAME TO PASS ON THE THIRD DAY, WHEN THEY WERE SORE.[1] AS FOR ONE WHO IS DOUBTFUL,[2] AND AN HERMAPHRODITE, WE MAY NOT DESECRATE THE SABBATH ON THEIR ACCOUNT; BUT R. JUDAH PERMITS [IT] IN THE CASE OF AN HERMAPHRODITE.

GEMARA. But you say in the first clause, WE MAY BATHE?[3] — Rab Judah and Rabbah b. Abbuha both said: He [the Tanna] teaches how [it is to be done]. [Thus:] WE MAY BATHE THE INFANT BOTH BEFORE AND AFTER THE CIRCUMCISION. How? WE SPRINKLE [WARM WATER] OVER HIM BY HAND, BUT NOT WITH A VESSEL. Raba objected: But he states, WE MAY BATHE?[4] Rather said Raba, He teaches thus: WE MAY BATHE THE INFANT BOTH BEFORE AND AFTER CIRCUMCISION on the first day in the normal manner; but on the third day which falls on the Sabbath, WE SPRINKLE [WARM WATER] OVER HIM BY HAND BUT NOT WITH A VESSEL. R. ELEAZAR B. AZARIAH SAID: WE MAY BATHE AN INFANT ON THE THIRD DAY WHICH FALLS ON THE SABBATH, BECAUSE IT IS SAID, AND IT CAME TO PASS ON THE THIRD DAY, WHEN THEY WERE SORE. It was taught in accordance with Raba: We may bathe the infant before and after the circumcision on the first day in the normal manner, but on the third day which falls on the Sabbath we besprinkle him by hand. R. Eleazar b. ‘Azariah said: We may bathe an infant on the third day which falls on the Sabbath, and though there is no proof, there is an allusion thereto, for it is said, ‘And it came to pass on the third day, when they were sore’. And when they sprinkle, they sprinkle neither with a glass nor with a dish nor with a vessel, but only by hand — this agrees with the first Tanna. Why [does he say,] though there is no proof, there is an allusion thereto?[5] Because an adult's flesh does not heal quickly, whereas an infant's does.[6]

A certain [person] came before Raba, [and] he gave him a ruling in accordance with his view.[7] [Then] Raba fell ill. Said he: What business did I have with the interpretation of the older scholars?[8]

[Thereupon] the Rabbis said to Raba: But it was taught in accordance with the Master? Our Mishnah supports them, he replied. How so? Since it states, R. ELEAZAR B. ‘AZARIAH SAID: WE MAY BATHE THE INFANT ON THE THIRD DAY WHICH FALLS ON THE SABBATH. It is well if you assume that the first Tanna means [that] we may [merely] sprinkle: hence R. Eleazar b. ‘Azariah says to him, We may bathe. But if you explain that the first Tanna means, We may bathe on the first day and sprinkle on the third day, then [instead of] this [statement], R. ELEAZAR B. AZARIAH SAID: WE MAY SPRINKLE, ‘WE MAY ALSO SPRINKLE [ON THE THIRD DAY]’ is required.

When R. Dimi came,[9] he said in R. Eleazar's name: The halachah is as R. Eleazar b. ‘Azariah. In the West [Palestine] they pondered thereon: is the bathing of the whole body [permitted], or [only] the bathing of the membrum? Said one of the Rabbis, named R. Jacob, it is logical [that it means] the bathing of the whole body. For should you think, the bathing of the membrum, is this worse [less important] than hot water on a wound? For Rab said, One does not withhold hot water and oil from a wound on the Sabbath.[10] R. Joseph demurred: And do you not admit a distinction between hot water heated on the Sabbath and hot water heated on the eve of the Sabbath?[11] To this R. Dimi demurred: And whence [does it follow] that they differ here in respect of hot water heated on the Sabbath? Perhaps they differ in respect of hot water heated on the eve of the Sabbath? — Said Abaye, I wanted to answer him, but R. Joseph anticipated [me] and answered him: Because it is a danger for him.[12] It was stated likewise: When Rabin came,[13] he said in R. Abbahu's name in R. Eleazar's name — others state, R. Abbahu said in R. Johanan's name: The halachah is as R. Eleazar b. ‘Azariah in respect of both hot water heated on the Sabbath and hot water heated on the eve of the Sabbath, whether for the bathing of the whole body or for the bathing of the membrum, because it is dangerous for him.

[To turn to] the main text: ‘Rab said: One does not withhold hot water and oil from a wound on the Sabbath. But Samuel said: One must place it outside the wound, and it flows down on to the wound’. An objection is raised: One may not put oil and hot water on a rag to apply it to a wound on the Sabbath? — There it is on account of wringing out.[14] Come and hear: One may not pour hot water and oil on a rag which is on a wound on the Sabbath? — There too it is because of wringing out. It was taught in accordance with Samuel: One may not apply hot water and oil to a wound on the Sabbath, but one may put it outside the wound, and it flows down on to the wound.

Our Rabbis taught: One may apply dry wadding or a dry sponge to a wound[15] but not a dry reed or dry rags [of cloth]. [The rulings on] rags are contradictory?[16] There is no difficulty: the one treats of new [rags];[17] the other of old.[18] Abaye observed: This proves that rags heal.

ONE WHO IS DOUBTFUL, AND AN HERMAPHRODITE, etc. Our Rabbis taught, [And in the eighth day the flesh of] his foreskin [shall be circumcised]:[19] ‘his foreskin’, [the foreskin of] one who is certain[20] supersedes the Sabbath,

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(1) Gen. XXXIV, 25. This shows that the third day is a dangerous period, and therefore the infant may be bathed even on the Sabbath.

(2) One who is born prematurely, and he may be an eight months’ child. The Rabbis held that such could not possibly live, and therefore the Sabbath might not be violated for his circumcision.

(3) Which implies in the normal manner, sc. in a bath.

(4) Sprinkling is not bathing.

(5) Surely this is a proof that the third day is dangerous.

(6) The verse quoted, q.v., treats of the former.

(7) Permitting the infant to be bathed on the first day, which was a Sabbath, in the usual way.

(8) Sc. Rab Judah and Rabbah b. Abbuha. I.e., ‘why did I interfere and disregard it?’ He regarded his illness as a punishment.

(9) V.p. 12, n. 9.

(10) Whereas according to the present interpretation the first Tanna permits even sprinkling on the first day only, but not on the third.
(11) Rab refers to the latter, while R. Joseph assumed that the Mishnah refers to the former.
(12) Hence the Mishnah must certainly refer to water heated on the Sabbath.
(13) V.p. 12, n. 9.
(14) One may pour too much on the rag and then wring it out, which is forbidden.
(15) These are not intended for healing but merely as a protection.
(16) A dry rag too is a fragment, and it is permitted.
(17) These heal and are forbidden.
(18) Which do not heal (Rashi). 11. Han. reverses it.
(19) Lev. XII, 3; 'day' includes the Sabbath, supra 132a.
(20) I,e., who is certainly subject to the obligation.

Talmud - Mas. Shabbath 135a

but [of] one in doubt does not supersede the Sabbath; 'his foreskin' [of] one who is certain supersedes the Sabbath, but an hermaphrodite does not supersede the Sabbath. R. Judah maintained: An hermaphrodite supersedes the Sabbath and there is the penalty of kareth. 'His foreskin': [of] one who is certain supersedes the Sabbath, but [of] one born at twilight[1] does not supersede the Sabbath; his foreskin: one who is certain supersedes the Sabbath, but one who is born circumcised does not supersede the Sabbath, for Beth Shammai maintain: One must cause a few drops of the covenant blood to flow from him, while Beth Hillel rule: It is unnecessary. R. Simeon b. Eleazar said: Beth Shammai and Beth Hillel did not differ concerning him who is born circumcised that you must cause a few drops of the covenant blood to flow from him, because it is a suppressed foreskin:[2] about what do they differ? about a proselyte who was converted when [already] circumcised: there Beth Shammai maintain: One must cause a few drops of the covenant blood to flow from him; whereas Beth Hillel rule: One need not cause a few drops of the covenant blood to flow from him.

The Master said: 'But [of] one that is doubtful does not supersede the Sabbath.' What does this include?[3] — It includes the following which was taught by our Rabbis: For a seven-months' infant[4] one may desecrate the Sabbath, but for an eight-months' infant one may not desecrate the Sabbath.[5] For one in doubt whether the is a seven-months' or an eight-months' infant, one may not desecrate the Sabbath. An eight-months' infant is like a stone and may not be handled, but his mother bends [over] and suckles him because of the danger.[6]

It was stated: Rab said: The halachah is as the first Tanna;[7] while Samuel said: The halachah is as R. Simeon b. Eleazar. A circumcised child was born to R. Adda b. Ahabah. He took him to thirteen circumcisers,[8] until he mutilated him privily.[9] I deserve it for transgressing Rab's [ruling], said he. Said R. Nahman to him, And did you not violate Samuel's [ruling]? Samuel ruled this only of weekdays, but did he rule this of the Sabbath? — He [R. Adda b. Ahabah] held that it is definitely a suppressed foreskin.[10] For it was stated: Rabbah said: We suspect that it may be a suppressed foreskin;[11] R. Joseph said: It is certainly a suppressed foreskin.

R. Joseph said: Whence do I know it? Because it was taught, R. Eliezer ha-Kappar said: Beth Shammai and Beth Hillel do not disagree concerning him who is born circumcised, that one must cause a few drops of the covenant blood to flow from him. Concerning what do they differ? As to whether the Sabbath is desecrated on his account: Beth Shammai maintain, We desecrate the Sabbath on his account; while Beth Hillel rule: We must not desecrate the Sabbath on his account. Does it then not follow that the first Tanna holds, We desecrate the Sabbath for him?[12] But perhaps the first Tanna maintains that all agree that we may not desecrate the Sabbath for him? — If so, R. Eliezer ha-Kappar comes to teach us Beth Shammai's view![13] But perhaps he means this: Beth Shammai and Beth Hillel did not disagree in this matter![14] R. Assi said: He whose mother is defiled through confinement must be circumcised at eight [days], but he whose mother is not defiled through confinement[15] is not circumcised on the eighth day,[16] because it is said, If a woman conceive seed, and bear a man child, then she shall be unclean, etc. . . And in the eighth day the flesh of his foreskin shall be circumcised.[17] Said Abaye to him, Let the early generations[18] prove [the reverse], where the mother was not defiled through confinement,[19] yet circumcision was of the eighth day![20] — The Torah was given, replied he,

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(1) On Friday, and it is not known whether it was then Friday or the Sabbath.

(2) I.e., the foreskin which seems absent is pressed to the membrum.

(3) For the various cases of doubt are enumerated in detail.

(4) I.e., one born after seven months of pregnancy.

(5) The Rabbis held that such could not possibly live; hence there is no point in desecrating the Sabbath by circumcising him.

(6) To herself, if she is not eased of her milk.

(7) Who taught that Beth Shammai and Beth Hillel disagree about a child who is born circumcised; the halachah then naturally being as Beth Hillel.

(8) That they might cause a few drops of the covenant blood to flow. It was the Sabbath, and they all refused.

(9) Eventually he performed the operation himself unskillfully, with that result.

(10) There is no element of doubt at all, and therefore it must be done even on the Sabbath.

(11) It is only because of this doubt that some drops of blood must be made to flow.

(12) Even in Beth Hillel's opinion. Hence Beth Hillel must hold that it is certainly a suppressed foreskin.

(13) Surely that is of no interest, since the halacha is as Beth Hillel.

(14) Thus: the first Tanna maintains that Beth Shammai and Beth Hillel agree that we may not desecrate the Sabbath; hence their controversy must refer to weekdays, Beth Hillel holding that no blood-flow at all is required, whereupon R. Eleazar ha-Kappar stated that this is incorrect, there being no dispute in respect to weekdays, for even Beth Hillel necessitate a blood-flow, and they differ only in respect of the Sabbath. On this interpretation he informs us of Beth Hillel's view in respect to weekdays.

(15) E.g., if the child is not born in the usual manner but extracted through the cesarean section; or if a Gentile woman gives birth and becomes a proselyte the following day.

(16) But immediately.

(17) Lev. XII, 2f. Thus the two are interdependent.

(18) Viz., those preceding the giving of the Torah.

(19) The law of defilement being as yet non-existent.

(20) In accordance with God's command to Abraham; v. Gen. XVII, 12.

Talmud - Mas. Shabbath 135b

and then a new law was decreed.[1] But that is not so? for it was stated: If one is extracted through the cesarean section, or has two foreskins,[2] — R. Huna and R. Hiyya b. Rab [differ thereon]: one maintains, We desecrate the Sabbath for them; whilst the other holds, We do not desecrate the Sabbath for them. Thus, they differ only concerning the desecration of the Sabbath for them, but we certainly circumcise them on the eighth day? — One is dependent on the other.[3]

This is a controversy of Tannaim: [For it was taught], There is [a slave] born in his [master's] house who is circumcised on the first [day], and there is one born in his [master's] house who is circumcised on the eighth [day]; there is [a slave] bought with money who is circumcised on the first [day], and there is [a slave] bought with money who is circumcised on the eighth day. ‘There is [a slave] bought with money who is circumcised on the first [day], and there is [a slave] bought with money who is circumcised on the eighth day.’ How so? If one purchases a pregnant female slave and then she gives birth, that [the infant] is an acquired slave who is circumcised at eight days — If one purchases a female slave together with her infant child, that is a slave bought with money who is circumcised on the first day.[4] ‘And there is [a slave] born in [his] master's house who is circumcised on the eighth day' — How so? If one purchases a female slave and she conceives in his house and gives birth, that is [a slave] born in his [master's] house who is circumcised at eight days. R — Hama said:[5] If she gives birth and then has a ritual bath,[6] that is [a slave] born in his [master's] house who is circumcised on the first day; if she has a ritual bath and then gives birth, that is [a slave] born in his [master's] house who is circumcised at eight days. But the first Tanna allows no distinction between one who [first] has a ritual bath and then gives birth and one who gives birth and then has a ritual bath, so that though his mother is not defiled through her confinement he is circumcised on the eighth day.[7] Raba said:[8] As for R. Hama, it is well: we find [a slave] born in his [master's] house who is circumcised on the first day, and one who is circumcised on the eighth day; one bought with money who is circumcised on the first day, and one bought with money who is circumcised on the eighth day. [Thus:] if she gives birth and then has a ritual bath, that is [a slave] born in his [master's] house who is circumcised on the first day; if she has a ritual bath and then gives birth, that is [a slave] born in the house who is circumcised on the eighth [day].[9] 'One bought with money who is circumcised on the eighth [day]': e.g., if one purchases a pregnant female slave and she has a ritual bath and then gives birth; 'one bought with money who is circumcised on the first day': e.g., where one buys a [pregnant] female slave and another buys her unborn child.[10] But according to the first Tanna, as for all [others] it is well: they are conceivable.[11] But how can [a slave] born in the house be found who is circumcised on the first day?[12] — Said R. Jeremiah: In the case of one who buys a female slave for her unborn child.[13] This is satisfactory on the view that a title to the usufruct is not as a title to the principal; but on the view that a title to the usufruct is as a title to the principal, what can be said?[14] — Said R. Mesharsheya: [It is possible] where one buys a female slave on condition that he will not subject her to a ritual bath.[15]

It was taught, R. Simeon b. Gamaliel said: Any human being who lives[16] thirty days is not a nefel,[17] because it is said, And those that are to be redeemed of them from a month old shalt thou redeem.[18] An animal [which lives] eight days is not a nefel, for it is said, and from the eighth day and henceforth it shall be accepted for an oblation, etc.[19] This implies that if it [an infant] does not last [so long], it is doubtful;

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(1) Viz., that the two are interdependent.

(2) Two skins on top of each other. Or, two separate membra.

(3) The infant who must be circumcised on the eighth day must be circumcised even on the Sabbath, since that is deduced from (eighth) day (supra 132a) ; but where the eighth day is necessary the Sabbath may not be desecrated.

(4) Of purchase, even if he is not eight days old yet.

(5) [Probably R. Hama the father of R. Oshaia, v. Hyman, Toledoth II p. 456].

(6) By this rite she enters the Jewish household as slave, becoming liable to all duties enjoined upon a Jewish woman. V. next note.

(7) These laws centre on Gen. XVII, 12, 13: And he that is eight days old shall be circumcised among you, every male throughout your generations, he that is born in the house, or bought with money of any stranger, which is not of thy seed (v. 12). He that is born in thy house, and he that is bought with thy money, must needs be circumcised (v. 13). Whereas v. 12 specifies circumcision for the eighth day, v. 13 does not, which implies at the earliest possible moment. Now it is logical that v. 12 refers to a slave who is as like as possible to a full Jew, that being the implication of 'among you', intimating those that are similar to you. viz., one born in his master's house after he was purchased. i.e., his mother was bearing him when she was bought; whilst v. 13 applies to a slave who is unlike a full Jew, vi., he was already born before he was bought. R. Hama draws this distinction: If his mother has a ritual bath, whereby she formally becomes a Jewish-owned slave in that she is bound to observe all the laws incumbent upon Jewesses in general, so that her confinement renders her unclean just like a Jewess, and then she gives birth, the infant is circumcised on the eighth day. But otherwise the infant is not like a Jewish-born child, and is circumcised on the first day. But the first Tanna ignores this distinction: thus R. Assi's ruling is a matter of controversy between the first Tanna and R. Hama.

(8) Maharam deletes this.

(9) Both of these refer to a slave who conceived in her master's house, so that the infant is not 'bought with money'.

(10) Since the latter does not own the mother, the child is not like a Jewish-born infant, and therefore he is circumcised on the first day.

(11) As already stated supra.

(12) Since he rejects the distinction based on when the mother had her ritual bath, one born in the house is certainly similar to a Jew.

(13) Even if he buys her from a Jew, and she has already had her ritual bath and is subject to the uncleanness of confinement, the child is nevertheless unlike a Jewish child, since his owner has no share in the mother.

(14) V. B.B. 136a; the mother is the principal, while the child is the usufruct. On the latter view he is like a Jewish-born child

(15) There her child is certainly unlike a Jewish-born one.

(16) Lit., 'tarries'.

(17) A nonviable, premature birth.

(18) Num. XVIII, 16. Since he must then be redeemed, it follows that he is viable.

(19) Lev. XXII, 27.

Talmud - Mas. Shabbath 136a

how then can we circumcise him?[1] — Said R. Adda b. Ahabah: We circumcise him in either case: if he is viable, the is rightly circumcised; whilst if not, one [merely] cuts flesh.[2] Then as to what was taught, If there is doubt whether he is a seven-months' [infant] or an eight-months', we must not desecrate the Sabbath on his account:[3] why so? let us circumcise him in either case: if he is viable, he is rightly circumcised; if not, you [merely] cut flesh? — Mar the son of Rabina said: R. Nehumi b. Zechariah and I explained it: We do indeed circumcise him; this [teaching] is required only in respect of the preliminaries of circumcision, this being in accordance with R. Eliezer.[4]

Abaye said, This is dependent on Tannaim:[5] And if any beast, of which ye may eat, die: [he that toucheth the carcase thereof shall be unclean until the even];[6] this is to include an eight-months' [animal],[7] [teaching] that shechitah[8] does not render it clean.[9] R. Jose son of R. Judah and R. Eleazar son of R. Simeon maintain: It is shechitah does render it clean. Surely they differ in this: one Master holds, It is a living creature;[10] whilst the other Master holds, It is [technically] dead? — Said Raba: If so, instead of disputing on the matter of uncleanness and cleanness, let them dispute on the question of consumption.'-' Rather [say then] all hold that it is [technically] dead, but R. Jose son of R. Judah and R. Eleazar son of R. Simeon argue, it is as a terefah:[11] a terefah, though indeed it is dead, does not shechitah render it clean?[12] So here too it is not different. But the Rabbis [reason]: it is unlike a terefah, for a terefah had a period of fitness,[13] whereas this one enjoyed no period of fitness. And should you object, what can be said about a terefah from birth?[14] There shechitah is efficacious for its kind, whereas here shechitah is not efficacious for its kind.[15]

The scholars asked: Do the Rabbis disagree with R. Simeon b. Gamaliel[16] or not?[17] Should you answer [that] they differ, is the halachah as he or not? — Come and hear: If a calf is born on a festival, one may slaughter it on a festival![18] — What case do we treat of here? Where we know for certain that its months [of bearing] were complete.[19] Come and hear: And they agree that if it is born together with its blemish, it is mukan![20] Here too [it is said] where its months [of bearing] were complete. Come and hear: For Rab Judah said in Samuel's name: The halachah, is as R. Simeon b. Gamaliel. 'The halachah [is thus]' implies that they [the Rabbis] disagree.[21] This proves it.

Abaye said: If it falls from a roof or is devoured by a lion, all hold that it was viable.[22] When do they differ? if it yawns and dies.[23] One Master holds: It was viable; whilst the other Master holds: it was [technically] dead. What is the practical difference? Whether it frees the mother from Levirate marriage.[24]

'If it falls from a roof or is devoured by a lion, all hold that it was viable.' But surely R. Papa and R. Huna the son of R. Joshua visited the house of R. Iddi b. Abin's son, who prepared a third-born calf[25] for them on its seventh day [from birth], whereupon they said to him, ‘Had you waited with it until evening[26] we would have eaten thereof: now we will not eat thereof’![27] — Rather [say thus:] If it yawns and dies, all agree that it was dead [non-viable]; they differ where it falls from a roof or is devoured by a lion, one Master holding that it was viable; the other Master, that it was dead.[28]

A child was born to the son of R. Dimi b. Joseph, [and] it died within thirty days. [Thereupon] he sat and mourned for it.[29] Said his father to him, ‘Do you wish to eat dainties?’[30] ‘I know for certain that its months [of pregnancy] were complete.’ R. Ashi visited R. Kahana: a mishap befell him within the thirty days.[31] Seeing him sitting and mourning for it, he said to him, ‘Does the Master not agree with what Rab Judah said in Samuel's name: The halachah is as R. Simeon b. Gamaliel?’ — ‘I know for certain that its months were complete,’ replied he.

It was stated: If it died within thirty days,[32] and she [the mother] arose and was betrothed,[33] — Rabina said in Raba's name:

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(1) On the eighth day which falls on the Sabbath, seeing that he may be non-viable, in which case there is really no obligation to circumcise him at all,

(2) Which cannot be regarded as the inflicting of a wound (this is the form of labour to which circumcision belongs). since the infant is already as dead.

(3) V. supra 135a.

(4) Supra 130a; but here the Sabbath may not be violated for the preliminaries.

(5) Sc. whether a non-viable infant is so completely regarded as dead that the infliction of a wound on it is merely flesh cutting.

(6) Lev. XI, 39.

(7) I.e., a calf born in, the eighth month of bearing instead of in the usual ninth.

(8) V. Glos.

(9) For even if ritually slaughtered, it may not be eaten, since it was non-viable (v. p. 679, n. 5; the same applies to animals), and therefore it is the same as though it had died of itself.

(10) Therefore shechitah renders it clean, just as in the case of any other animal that is permitted as food. (12) According to the first Tanna shechitah should make it fit for food, but not according to the others.

(11) An animal suffering with some disease or illness on account of which it may not be eaten after shechitah. It too is regarded as technically dead.

(12) This is deduced by the Rabbis from the present verse.

(13) Before it contracted that disease.

(14) Lit., ‘the womb’.

(15) An animal born at nine months belongs to the species where shechitah counts, though this particular one is an exception. But no eight-months’ animal is rendered fit for food by shechitah.

(16) Supra 135b bottom,

(17) The question is whether they permit a young animal to be eaten before it is eight days old.

(18) Though it is only one day old.

(19) Then it is definitely viable.

(20) V. Glos. The reference is to a firstling born blemished on a festival. A firstling might not be eaten before it received a blemish and we are taught there that this animal is mukan and may be eaten on the day of its birth. V. Bez. 26b.

(21) Cf. supra 106b.

(22) I.e., if the infant dies through an external cause before thirty, days, we assume that it was viable. Hence if he was an only child and survived his father, no matter by how short a time, his mother is free from Levirate marriage (v. Deut. XXV, 5), since his father did have a son. Similarly in the case of an animal, if slaughtered before it is eight days old it may be eaten, because we assume that it was viable,

(23) I.e., it dies naturally within thirty days, having shown very little vitality.

(24) V.p. 685, n. 12.

(25) I.e., the third which its mother had calved. Aliter: (a) a third-grown calf; (b) a calf in its third year.

(26) When it would have been eight days old.

(27) Though it was slaughtered.

(28) Hence the attitude of R. Papa and R. Huna b. R. Joshua.

(29) I.e., he performed the ritual mourning rites which are obligatory upon a bereaved father.

(30) Lit., 'throat-ticklers'; Jast.: Which friends send to mourners — i.e., you should not mourn for him, seeing that he was non-viable.

(31) I.e., his child died within thirty days from birth.

(32) V. supra n. 13; the same case is referred to here.

(33) At a later date, thinking that the child had freed her from the levirate obligation.

Talmud - Mas. Shabbath 136b

If she is an Israelite's wife,[1] she must perform halizah;[2] but if she is a priest's wife,[3] she does not perform halizah.[4] But R. Sherabia[5] ruled in Raba's name: Both the one and the other must perform halizah. Rabina said to R. Sherabia: In the evening Raba did rule thus, but the [following] morning he retracted.[6] You would permit her,[7] he retorted: would that you permitted forbidden fat!

R. JUDAH PERMITS, etc. R. Shizbi said in R. Hisda's name: Not in respect of everything did R. Judah rule [that] an hermaphrodite is a male; for if you do say thus, in the case of vows of valuation[8] let him be subject to valuation — And how do we know that he is not subject to 'valuation'? Because it was taught: '[And thy estimation shall be of] the male [from twenty years old, etc.]:[9] but not a tumtum[10] or an hermaphrodite. You might think that he does not come within the valuation of a man, yet he does come within the valuation of a woman; therefore it is stated, . . . the male . . . and if it be a female:[11] a certain male, a certain female, but not a tumtum or a hermaphrodite'. —

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(1) I.e., if her second husband is an Israelite, i.e., not a priest, and may marry a haluzah (q.v. Glos.). — Betrothal was the first stage of marriage, and binding like marriage; v. Kid., Sonc. ed., p. 1, n. 9.

(2) V. Glos.: for the child may have been non-viable.

(3) Who may not marry a haluzah.

(4) But may assume that her child was viable, relying on the majority of births, and therefore she has no levirate obligation.

(5) In Yeb. 36b the reading is: R. Mesharsheya.

(6) Ruling that she need not perform halizah if she is a priest's wife.

(7) Without halizah, thus disregarding the view of R. Simeon b. Gamaliel.

(8) 'Arakin, — vows whereby one offers his own or another person's 'valuation,' to the Temple. The valuations were fixed and dependent on the age and sex of the person concerned, v. Lev. XXVII, 1ff

(9) Lev. XXVII, 3.

(10) One whose genitals are hidden or undeveloped, so that his sex is doubtful. In Bek. 42a the Talmud deletes 'tumtum' from this passage.

(11) Ibid. 4.

And an anonymous [statement in the] Sifra[1] is according to R. Judah.[2] R. Nahman b. Isaac said: We too learnt likewise: All are eligible to sanctify,[3] save a deaf-mute, an imbecile, and a minor. R. Judah admits a minor, but invalidates a woman and an hermaphrodite. This proves it — And why is circumcision different?[4] Because it is written, every male among you shall be circumcised.[5] MISHNAH. IF A MAN HAS TWO INFANTS, ONE FOR CIRCUMCISION AFTER THE SABBATH AND THE OTHER FOR CIRCUMCISION ON THE SABBATH, AND HE ERRS[6] AND CIRCUMCISES THE ONE BELONGING TO AFTER THE SABBATH ON THE SABBATH, HE IS CULPABLE.[7] [IF HE HAS] ONE FOR CIRCUMCISION ON THE EVE OF THE SABBATH AND ANOTHER FOR CIRCUMCISION ON THE SABBATH, AND HE ERRS AND CIRCUMCISES THE ONE BELONGING TO THE EVE OF THE SABBATH ON THE SABBATH, — R. ELIEZER HOLDS [HIM] LIABLE TO A SIN-OFFERING;[8] BUT R. JOSHUA EXEMPTS [HIM].[9]

GEMARA. R. Huna recited: He is culpable;[10] Rab Judah recited: He is not culpable. ‘R. Huna recited: He is culpable’; because it was taught, R. Simeon b. Eleazar said: R. Eliezer and R. Joshua did not differ concerning a man who has two infants, one for circumcision on the Sabbath and another for circumcision after the Sabbath, and he errs and circumcises the one belonging to after the Sabbath on the Sabbath, that he is culpable. About what do they disagree? About him, who has two infants, one for circumcision on the eve of the Sabbath and another for circumcision on the Sabbath, and he errs and circumcises the one belonging to the eve of the Sabbath on the Sabbath, R. Eliezer declaring [him] liable to a sin-offering, while R. Joshua exempts [him]. Now, both learn it from nought but idolatry:[11] R. Eliezer holds, it is like idolatry: just as idolatry, the Divine Law decreed, Do not engage [therein], and if one engages [therein] he is culpable, so here too it is not different. But R. Joshua [argues]: there there is no precept [fulfilled], whereas here there is a precept. ‘Rab Judah recited; He is not culpable.’ For it was taught, R. Meir said: R. Eliezer and R. Joshua did not differ concerning a man who has two infants, one for circumcision on the eve of the Sabbath and another for circumcision on the Sabbath, and he errs and circumcises the one belonging to the eve of the Sabbath on the Sabbath, that he is not culpable. About what do they disagree? About him who has two infants, one for circumcision after the Sabbath and another for circumcision on the Sabbath, and he errs and circumcises the one belonging to after the Sabbath on the Sabbath, R. Eliezer declaring [him] liable to a sin-offering, while R. Joshua exempts him. Now, both learn it from nought save idolatry: R. Eliezer holds, It is like idolatry: just as idolatry, the Divine Law decreed, Do not engage [therein], and if one engages [therein] he is culpable, so here too it is not different — But R. Joshua [argues:] There he is not preoccupied with a precept, whereas here he is preoccupied with a precept.[12]

R. Hiyya taught, R. Meir used to say: R. Eliezer and R. Joshua did not differ concerning him who has two infants, one for circumcision on the eve of the Sabbath and one for circumcision on the Sabbath, and he errs and circumcises the one belonging to the eve of the Sabbath on the Sabbath, that he is culpable. About what, do they disagree? About a man who has two infants, one for circumcision after the Sabbath and another for circumcision on the Sabbath, and he errs and circumcises the one belonging to after the Sabbath on the Sabbath, R. Eliezer declaring [him] liable to a sin-offering, while R. Joshua exempts him. Now if R. Joshua exempts him, in the second clause, though he does not fulfil a precept, shall he declare him culpable in the first clause, where he does fulfil a Precept![13] The School of R. Jannai said: The first clause is, e.g., where the [infant] belonging to the Sabbath was previously circumcised on the eve of the Sabbath, so that the Sabbath does not stand to be superseded;[14] but in the second clause the Sabbath stands to be superseded. Said R. Ashi to R. Kahana: [But] in the first clause too the Sabbath stands to be superseded in connection with infants in general? — Nevertheless as far as this man [is concerned] it does not stand to be superseded.

MISHNAH. AN INFANT IS TO BE CIRCUMCISED ON THE EIGHTH, NINTH, TENTH, ELEVENTH, AND TWELFTH [DAYS], NEITHER EARLIER NOR LATER. HOW SO? IN THE NORMAL COURSE, IT IS ON THE EIGHTH; IF HE IS BORN AT TWILIGHT, ON THE NINTH;[15] AT TWILIGHT ON SABBATH EVE, ON THE TENTH;[16] IF A FESTIVAL FOLLOWS THE SABBATH, ON THE ELEVENTH;[17] IF THE TWO DAYS OF NEW YEAR [FOLLOW THE SABBATH, ON THE TWELFTH.[18] AN INFANT WHO IS ILL IS NOT CIRCUMCISED UNTIL HE RECOVERS.

GEMARA. Samuel said: When his temperature subsides [to normal], we allow him full seven days for his [complete] recovery. The scholars asked: Do we require twenty-four hours' days?[19] Come and hear: For Luda taught: The day of his recovery is like the day of his birth. Surely that means, just as with the day of his birth, we do not require a twenty-four hours' day,[20] so with the day of his recovery, we do not require a twenty-four hours' day? — No: the day of his recovery is stronger than the day of his birth, for whereas with the day of his birth we do not require a twenty-four hours' day, with the day of his recovery we do require a twenty-four hours' day.

MISHNAH. THESE ARE THE SHREDS WHICH INVALIDATE CIRCUMCISION: FLESH THAT COVERS THE GREATER PART OF THE CORONA; AND HE MUST NOT PARTAKE OF TERUMAH.[21] AND IF HE IS FLESHY,[22] HE MUST REPAIR IT FOR APPEARANCES SAKE.

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(1) The halachah midrash on Leviticus, in which this passage occurs.

(2) This principle was laid down by R. Johanan; v. Sanh., Sonc. ed., p. 567, n. 1. — Thus R. Judah does not regard him as a male in this respect.

(3) The waters of lustration by placing the ashes therein; v. Num. XIX, 17.

(4) That an hermaphrodite is considered a male.

(5) Gen. X VII, 10: 'every' is an extension, and teaches the inclusion of an hermaphrodite.

(6) Lit., 'forgets'.

(7) For unwittingly desecrating the Sabbath. For since circumcision is obligatory from the eighth day only, this is not circumcision, but the mere inflicting of a wound, which entails culpability.

(8) For though he has actually fulfilled a precept, nevertheless circumcision after the proper time does not supersede the Sabbath.

(9) He erred through the fulfilment of a precept, viz., because he was occupied with the circumcision of the second, which actually was to be done that day; he also did fulfil a precept by circumcising the first, and R. Joshua holds that in such a case one is not culpable.

(10) In the first clause of the Mishnah, as our text.

(11) The obligations to all sin-offerings are learnt from the unwitting offence of idolatry, which serves as a model; v. Num. XV. 29-30 (v. 30 is understood to refer to deliberate idolatry, and shows that the preceding verses refer to all unwitting offences which are similar thereto).

(12) He is anxious to carry out the obligation which rests on him, and this preoccupation excuses his error. Rab Judah accordingly reads the Mishnah quite differently, and in accordance with the present view.

(13) Surely not, v. p. 688, n. 4.

(14) There is no infant left for whom the Sabbath must be violated. There was therefore no preoccupation with a precept and the error consequently was inexcusable, hence he is culpable.

(15) As it may have been night already, and circumcision must not take place before the eighth.

(16) Sc. the following Sunday week.

(17) The following Monday week.

(18) In Palestine all Festivals are of one day's duration, in accordance with Scripture, save New Year, which is of two days. — In the last three cases the infant cannot be circumcised on the following Friday, in case it is the seventh day, nor on the Sabbath or Festival, in case Friday was the eighth day, and circumcision after its proper time does not supersede them.

(19) Lit., ‘from time to time’. Must we wait seven whole days to the hour, or can we circumcise any time on the seventh day?

(20) E.g., we do not wait eight full days to the hour for a normal circumcision, but perform it any time on the eighth day.

(21) If he is a priest and was thus inadequately circumcised, v. Yeb. 70a.

(22) So that though the circumcision was correctly performed the foreskin nevertheless looks as though it was uncircumcised.

Talmud - Mas. Shabbath 137b

IF ONE CIRCUMCISES BUT DOES NOT UNCOVER THE CIRCUMCISION,[1] IT IS AS THOUGH HE HAS NOT CIRCUMCISED.

GEMARA. R. Abina said in the name of R. Jeremiah b. Abba in Rab's name: [This means,] the flesh that covers the greater part of the height of the corona.

AND IF HE IS FLESHY, etc. Samuel said: If an infant[‘s membrum] is overgrown with flesh, we examine him: as long as he appears circumcised when he forces himself, it is unnecessary to recircumcise him; but if not he must be recircumcised. In a Baraitha It was taught: R. Simeon b. Gamaliel said: If an infant[‘s membrum] is overgrown with flesh, we examine him: if he does not appear circumcised when he forces himself, he must be recircumcised: otherwise he need not be recircumcised. Wherein do they differ? — They differ where it is only partially visible.[2] IF ONE CIRCUMCISES BUT DOES NOT UNCOVER THE CIRCUMCISION. Our Rabbis taught: He who circumcises must recite: ‘. . . Who hast sanctified us with Thy commandments, and hast commanded us concerning circumcision.’ The father of the infant recites, ‘. . . Who hast sanctified us with Thy commandments and hast commanded us to lead him into the covenant of our father Abraham.’ The bystanders exclaim, ‘Even as he has entered the covenant, so may he enter into the Torah, the marriage canopy, and good deeds.’ And he who pronounces the benediction recites: ‘... Who hast sanctified the beloved one[3] from the womb; He set a statute in his flesh, and his offsprings he sealed with the sign of the holy covenant. Therefore as a reward for this, O living God Who art our portion, give command to save the beloved of our flesh from the pit, for the sake of Thy covenant which Thou hast set in our flesh. Blessed art Thou, O Lord, Who makest the covenant. He who circumcises proselytes says, ‘Blessed art Thou, O Lord our God, King of the universe, Who hast sanctified us with Thy commandments and hast commanded us concerning circumcision.’ He who pronounces the benediction recites, ‘...Who hast sanctified us with Thy commandments and hast commanded us to circumcise proselytes and to cause the drops of the blood of the covenant to flow from them, since but for the blood of the covenant Heaven and earth would not endure, as it is said, If not my covenant by day and by night, I had not appointed the ordinances of heaven and earth.[4] Blessed art Thou, O Lord, Who makest the covenant.’ He who circumcises slaves recites: ‘...Who hast sanctified us with Thy commandments and hast commanded us concerning circumcision. While he who pronounces the benediction recites: ‘...Who hast sanctified us with Thy commandments and hast commanded us to cause the drops of the blood of the covenant to flow from them, since but for the blood of the covenant the ordinances of heaven and earth would not endure, as it is said, If not my covenant by day and by night, I had not appointed the ordinances of heaven and earth. Blessed art Thou, O Lord, Who makest the covenant.’[5]

CHAPTER XX

MISHNAH. R. ELIEZER SAID: ONE MAY SUSPEND A STRAINER ON FESTIVALS, AND POUR [WINE] THROUGH A SUSPENDED [STRAINER] ON THE SABBATH.[6] BUT THE SAGES RULE: ONE MAY NOT SUSPEND A STRAINER ON FESTIVALS, NOR POUR [WINE] THROUGH A SUSPENDED [STRAINER] ON THE SABBATH, BUT WE MAY POUR [IT] THROUGH A SUSPENDED [STRAINER] ON FESTIVALS.

GEMARA. Seeing that R. Eliezer [holds] that we may not [even] add to a temporary tent, can it be permitted to make [one] in the first place?[7] What is this allusion? For we learnt: As for the stopper of a skylight, — R. Eliezer said: When it is fastened and suspended, one may close [the skylight] with it; if not, one may not close [the skylight] with it. But the Sages maintain: In both cases you may close [the skylight] with it. Whereon Rabbah b. Bar Hanah said in R. Johanan's name: All agree that a temporary tent may not be made on Festivals, whilst on the Sabbath it goes without saying. They differ only in respect of adding [to a tent]; R. Eliezer maintaining. One may not add on a Festival, whilst on the Sabbath it goes without saying; whereas the Sages rule: One may add on the Sabbath, whilst it is superfluous to speak of Festivals![8] — R. Eliezer agrees with R. Judah. For it was taught: The only difference between Festivals and the Sabbath is in respect of food for consumption.[9] R. Judah permits the preliminary preparations of food for consumption too.[10] But say that we know R. Judah [to rule thus] of preparations which could not be done on the eve of the Festival; do you know him [to rule thus] of preparations which could be done on the eve of the Festival?- R. Eliezer's [ruling] goes further than R. Judah's.[11]

BUT THE SAGES RULE, '[etc.]. The scholars asked: What if one does suspend [it]? — R. Joseph said: If one suspends [it] he is liable to a sin-offering. Said Abaye to him: If so, if one hangs a pitcher on a peg. is he too liable?[12]

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(1) I.e., the corona, by splitting the membrane and pulling it down. — He did not perform the peri'ah. V. supra 133a. (5) To cause his bowels to function.

(2) Lit., 'he appears and does not appear'. Samuel maintains that unless it is fully visible he must be circumcised, whereas the Baraitha teaches that only where it is quite invisible is recircumcision required.

(3) Rashi refers this to Isaac; Tosaf. to Abraham.

(4) Jer. XXXIII, 25.

(5) The emphasis on the extreme importance of circumcision was probably meant to counteract the early Christian teaching, which abrogated circumcision entirely in order to attract converts; v. Weiss, Dor, II, 9. It is perhaps noteworthy that in the present passage it is precisely in connection with proselytes and slaves that this is so much emphasized.

(6) When a strainer is 'suspended', i.e., set over the vessel which receives the liquid, a 'tent' is technically made, in that the strainer covers the vessel like the top of a tent cover and protects that which is beneath it. R. Eliezer permits this on Festivals but not on the Sabbath. Again, when the liquid, e.g., wine, is poured through the strainer, the lees are separated from the wine; nevertheless he does not regard this as 'selecting' (v. supra 73a) and permits it on the Sabbath. A cloth strainer is probably meant; v. T.A.II, p. 243.

(7) As he does permit it in the Mishnah.

(8) This means that R. Eliezer forbids even adding to a temporary tent.

(9) V. p. 281, n. 8.

(10) The suspending of a strainer falls within this category.

(11) For he permits it even in the latter case.

(12) Surely not. Here too it is not a real building and is forbidden by Rabbinical law only.

Talmud - Mas. Shabbath 138a

Rather said Abaye: It is [forbidden] by Rabbinical law, in order that one should not act in the very way he acts on weekdays.

Abaye collected some general principles of Baraithas, and he recited: One must not stretch out a leather bag,[1] a strainer, a canopy,[2] or a camp chair;[3] and if he does he is not culpable. but it is forbidden. One must not make a permanent tent, and if he does he is liable to a sin-offering. But a bed, chair, three-legged stool, and a footstool may be set up at the very outset.[4]

NOR POUR [WINE] THROUGH A SUSPENDED (STRAINER] ON THE SABBATH. The scholars asked: What if one does strain [wine]? — R. Kahana said: If one strains he incurs a sin-offering. R. Shesheth demurred: Is there aught for which the Rabbis impose a sin-offering whereas R. Eliezer permits it at the very outset? To this R. Joseph demurred: Why not? Surely there is a 'golden city',[5] where R. Meir imposes a sin-offering. while R. Eliezer gives permission at the very outset. What is this? For it was taught: A woman must not go out with a 'golden city', and if she does go out, she is liable to a sin-offering: this is R. Meir's view: but the Sages rule: She may not go out [with it]. yet if she goes out she is not culpable. R. Eliezer maintained: A woman may go out with a 'golden city' at the very outset! — Said Abaye to him, Do you think that R. Eliezer refers to R. Meir, who rules that she is liable to a sin-offering? He refers to the Rabbis, who maintain that there is no culpability. though it is forbidden; whereupon he said to then,, It is permitted at the very outset.[6]

On what grounds is he warned?[7] — Rabbah said: On the grounds of selecting;[8] R. Zera said: On the score of sifting.[9] Rabbah said, Reason supports my view: What is usual in selecting? One takes the edible matter and leaves the refuse, so here too he takes the edible [the wine] and leaves the refuse. R. Zera said, Reason supports my view: what is usual in sifting? The refuse [remains] on top whilst the edible matter [falls] below, so here too, — the refuse [remains] on top whilst the edible matter [drops] below.

Rami b. Ezekiel recited: One must not spread a doubled-over sheet;[10] yet if he does he is not culpable,[11] but it is forbidden. If a thread or a cord was wound about it,[12] it may be spread at the very outset. R. Kahana asked Rab: What about a canopy?[13] A bed too is forbidden. What about a bed? A canopy too is permitted, he replied. What about a canopy and a bed? A canopy is forbidden, replied he, while a bed is permitted. Yet there are no contradictions: when he said, A bed too is forbidden, [he meant one] like that used by the Carmanians.[14] When he said to him, A canopy too is permitted, [he referred to] one like Rami b. Ezekiel['s].[15] A canopy is forbidden while a bed is permitted refers to one like ours.[16] R. Joseph said: I saw the canopy beds of R. Huna's house stretched out at night and thrown down in the morning.[17]

Rab said in R. Hiyya's name: A [door] curtain may be hung up and taken down.[18] And Samuel said in R. Hiyya's name:

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(1) Gud is a broad leather bag into which wine or milk was poured. It was stretched out at night tent-wise for the liquid to cool in the night air.

(2) Rashi: whose top is a handbreadth in width. Alfasi and Maim.: whose top is less than a handbreadth in width.

(3) Jast. Tosaf.: a framework over which the leather seat was stretched; this is like the making of a tent.

(4) If they have fallen. The covers or tops of these are permanently spread, so no 'tent' is made.

(5) This was a kind of ornamental headdress containing a picture of Jerusalem; v. supra 59b.

(6) Abaye's reasoning is difficult to follow unless he means that R. Eliezer was altogether ignorant of R. Meir's view (Tosaf. and marginal Gloss.).

(7) A deliberate offence is not punishable unless the transgressor is previously warned that his proposed action is forbidden on such and such a score; in the case of the violation of the Sabbath he must be advised under what category of labour his action is prohibited. The selection here is in regard to the straining of wine.

(8) He is warned that straining is tantamount to selecting.

(9) V. supra 73a for these two labours.

(10) Tent-wise over a pole. the ends being fastened to the ground, so that the whole forms a tent under which he can lie (R. Han.).

(11) Because the top or roof of this improvised tent is less than a handbreadth in width.

(12) The sheet was already on the pole from before the Sabbath, and a thread or cord was attached thereto by means of which it might be pulled down. When it is pulled down one merely adds to a temporary or improvised tent, and this Baraitha permits it-.

(13) V. supra p. 695, n. 6.

(14) Inhabitants of Carmania, a province of the ancient Persian empire, with the capital Carmana. Others: a frame used by vendors of linen garments. On both translations the frameworks were such that they were taken apart and then set up; this constitutes a forbidden labour.
(15) I.e., one about which a cord was wound, and which he permits in this passage.
(16) V. p. 695, n. 8.
(17) Which shows that they may be taken apart — he was speaking of the Sabbath — and in the same way they may be set up
(18) It is not a ‘tent’, since it has no roof.

Talmud - Mas. Shabbath 138b

A bridal bed may be set up and it may be dismantled.[1] R. Shesheth son of R. Idi said: That was said only where its roof is not a handbreadth [in width],[2] but if its roof is a handbreadth, it is forbidden. And even if the roof is not a handbreadth, this was said only where there is not [the width of] a handbreadth within three [handbreadths] from the top; but if there is a handbreadth within three from the top. it is forbidden. And this is said only if its slope is less than a handbreadth, but if its slope is a hand breadth, the slopes of tents are as tents.[3] And it was said only if it does not descend a handbreadth below the bed; but if it descends a handbreadth below the bed, it is forbidden.

R. Shesheth son of R. Idi also said: A peaked cap[4] is permitted. But it was stated: a peaked cap is forbidden? — There is no difficulty: in the one case it is a handbreadth [in size];[5] in the other it is not a handbreadth. If so, if one lets his cloak protrude a handbreadth,[6] is he too culpable?;[7] — Rather [say] there is no difficulty: here it is tightly fitted [on his head]; there it is not tightly fitted.[8]

Rami b. Ezekiel sent to R. Huna: Tell us, pray. those well-favoured dicta which you told us [formerly] in Rab's name, two about the Sabbath and one about Torah. He sent [back] to him: As to what was taught, It is permitted to stretch the leather bag[9] by its thongs,[10] Rab said: They learnt this only of two men; but [if done] by one man, it is forbidden.[11] Abaye said: But a canopy. even [if stretched] by ten men, is forbidden, [for] it is impossible that it shall not be somewhat stretched.

What is the other [dictum]? If one of the shafts of a stove falls off, it [the stove] may be handled; if both [fall off], it may not be handled,[12] Rab said: Even if one [falls out] it is forbidden, lest he [re]fix it.[13]

‘[And one about] Torah’: for Rab said: The Torah is destined to be forgotten in Israel, because it is said, Then the Lord will make thy plagues wonderful:[14] now, I do not know what this wonder is, but when it is said, Therefore, behold, I will proceed to do a wonderful work among this people, even a wonderful work and a wonder [and the wisdom of their wise men shall perish],[15] it follows that this wonder refers to Torah.

Our Rabbis taught: When our Masters entered the vineyard at Yabneh,[16] they said, The Torah is destined to be forgotten in Israel, as it is said, Behold, the days come, saith the Lord God, that I will send a famine in the land, not a famine of bread, nor a thirst for water, but of hearing the words of the Lord. And it is said, And they shall wander from sea to sea, and from the north even to the east; they shall run to and fro to seek the word of the Lord, and shall not find it.[17] ‘The word of the Lord’ means halachah,’ ‘the word of the Lord’ means ‘The End’;[18] ‘the word of the Lord’ means prophecy. And what does ‘they shall run to and fro to seek the word of the Lord’ mean? Said they, A woman is destined to take a loaf of terumah and go about in the synagogues and academies to know whether it is unclean or clean, and none will know[19] whether it is clean or unclean. But that is explicitly stated, All food which may be eaten [...shall be unclean]?[20] Rather to know whether it is a first degree or a second degree [of uncleanness],[21] and none will know. But that too is a Mishnah. For we learnt: If a [dead] creeping thing[22] is found in an oven, the bread within it is a second, because the oven is a first?[23] — They will be in doubt over what R. Adda b. Ahabah asked Raba: Let us regard this oven as though it were filled with uncleanness, and let the bread be a first? He replied, We do not say. Let us regard this oven as though it were filled with uncleanness. For it was taught: You might think that all utensils become unclean in the air space of an earthen vessel: therefore it is stated, whatsoever is in it shall be unclean...all food therein which may be eaten: food and liquids become unclean in the air space of an earthen vessel.[24] It was taught. R. Simeon b. Yohai said: Heaven forfend that the Torah be forgotten in Israel, for it is said, for it shall not be forgotten out of the mouths of their seed.[25] Then how do I interpret, they shall run to and fro to seek the word of the Lord, and shall not find it? They will not find

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(1) v. p. 696. n. 6; also T.A. II, p. 457. n. 311, where it is understood as a sedan chair or litter.

(2) It being spread over a very narrow pole.

(3) Hence it is forbidden. By ‘its slope’ is meant the distance at the base from the vertical. Obviously such is unfit for use, and Rashi observes that a bridal bed was not for sleeping. This is unsatisfactory, and Tosaf. suggests other interpretations but rejects them too as equally unsatisfactory. V. ‘Er. 102a (Sonc. ed., p. 709. n. 15).

(4) Jast.: A felt cap with a shade in front.

(5) It may not be worn on the Sabbath, as it technically forms a tent.

(6) He winds it about his head so as to protrude this distance.

(7) Read with Asheri, is it too forbidden’?

(8) Rashi: In the latter case a peaked cap is forbidden, not as a ‘tent’ but lest the wind blow it off and he come to carry it.

(9) V. p. 695. n. 5.

(10) The interdict supra a is only where it is unprovided with thongs or straps.

(11) Rashi: two men do not stretch it well; but one person is forced to tie one end to a stake, stretch it, and then tie the other end to another stake, whereby it becomes a tent. Rashi however is dissatisfied with this explanation and states that he does not understand it, nor are other commentators more satisfactory.

(12) The shafts are the four feet upon which it stands.

(13) Which is labour. But the first view is that it can stand well enough with one shaft missing to make this fear unlikely.

(14) Deut. XXVIII, 59.

(15) Isa. XXIX, 14.

(16) Whither R. Johanan b. Zakkai transported or founded an academy after the destruction of the second Temple. Vineyard’ is a metaphor for the academy, because the scholars sat in rows like vines, J. Ber. IV, 1. The time referred to here is probably that of the Hadrianic persecutions.

(17) Amos VIII, 11f

(18) The designated time of redemption, when the Messiah will appear. Tosaf. finds the analogy for this interpretation in Ezra I.

(19) Lit., ‘understand’.

(20) Lev. XI, 34. Surely the Written Law will be available.

(21) V. p. 55. n. 6.

(22) Sherez, which defiles utensils and food.

(23) The sherez touches the oven, which in turn touches the bread, The Rabbis could not imagine complete forgetfulness even of the Mishnah. (9) For immediately the sherez enters the air space of the oven, even before it actually touches it, it defiles, hence one should regard the sherez as though completely filling it.

(24) But if the sherez were regarded as completely filling the oven, utensils therein too should be unclean, as though they touched the sherez, for direct contact therewith does defile them. Thus in the future it will be doubtful whose view, R. Adda b. Ahabah's or Raba's, is correct.

(25) Deut. XXXI, 21.

Talmud - Mas. Shabbath 139a

a clear halachah or a clear Mishnah[1] in any place.[2]

It was taught. R. Jose b. Elisha said: If you see a generation overwhelmed by many troubles, go forth and examine the judges of Israel, for all retribution that comes to the world comes only on account of the Judges of Israel, as it is said, Hear this, I pray you ye heads of the house of Jacob, and rulers of the house of Israel, that abhor judgment, and pervert all equity. They build up Zion with blood and Jerusalem with iniquity. The heads thereof judge for reward, and the priests thereof teach for hire, and the prophets thereof divine for money; yet will they lean upon the Lord, etc.[3] They are wicked, but they place their confidence in Him Who decreed, and the world came into existence.[4] Therefore the Holy One, blessed be He, will bring three punishments upon them answering to the three sins which they cultivate,[5] as it is said, Therefore shall Zion for your sake be ploughed as a field, and Jerusalem shall become heaps, and the mountain of the house as the high places of a forest.[6] And the Holy One, blessed be He, will not cause His Divine presence to rest upon Israel until the wicked judges and officers cease out of Israel, for it is said, And I will turn my hand upon thee, and thoroughly purge away thy dross, and will take away all thy tin. And I will restore thy judges as at the first, and thy counsellors as at the beginning, etc.[7]

‘Ulla said: Jerusalem shall be redeemed only by righteousness,[8] as it is written, Zion shall be redeemed with judgement, and her converts with righteousness.[9]

R. Papa said: When the haughty cease to exist [in Israel], the magi[10] shall cease [among the Persians]. When the judges cease to exist [in Israel], the chiliarchi[11] shall cease. ‘When the haughty cease to exist [in Israel], the magi shall cease [among the Persians]’; as it is written, And I will surely purge away thy haughty ones.[12] When the judges cease to exist [in Israel], the chiliarchi shall cease, as it is written, The Lord hath taken away thy judgements, he hath cast out thine enemy.[13]

R. Melai[14] said in the name of R. Eleazar son of R. Simeon: What is meant by the verse, The Lord hath broken the staff of the wicked, the sceptre of the rulers?[15] ‘The Lord hath broken the staff of the wicked’ refers to the judges who become a staff for their sheriffs;[16] ‘the sceptre of the rulers’ refers to the scholars in the families of the judges.[17] Mar Zutra said: This refers to the scholars who teach the laws of the public[18] to ignorant judges.[19]

R. Eleazar b. Melai said in the name of Resh Lakish: What is meant by the verse, For your hands are defiled with blood, and your fingers with iniquity; your lips have spoken lies, your tongue muttereth wickedness?[20] ‘For your hands are defiled with blood’: this refers to the judges: ‘and your fingers with iniquity’, to the judges’ scribes;[21] ‘your lips have spoken lies’ to the advocates of the judges;[22] ‘your tongue muttereth wickedness’ — to the litigants. R. Melai also said in the name of R. Isaac of Magdala: From the day that Joseph departed from his brothers he did not taste wine, for it is written, [The blessings of thy father...shall be on the head of Joseph]. And on the crown of the head of him who was a nazirite [since his departure] from his brethren.[23] R. Jose b. R. Hanina said: They too did not taste wine, for it is written, And they drank, and drank largely with him:[24] which implies [that they did] not [drink] until then. And the other?[25] — There was no extensive drinking,[26] yet there was [moderate] drinking.[27]

R. Melai also said: As a reward for, and when he seeth thee, he shall be glad in his heart,[28] he was privileged to wear the breastplate of judgment upon his heart.

The citizens of Bashkar[29] sent [a question] to Levi: What about [setting up] a canopy [on the Sabbath]; what about cuscuta in a vineyard?[30] what about a dead man on a Festival?[31] By the time he [the messenger] arrived [at Levi's home] Levi had died. Said Samuel to R. Menashia, If you are wise, send them [an answer]. [So] he sent [word] to them: ‘As for a canopy, we have examined it from all aspects and do not find any aspect by which it can be permitted’. But let him send them [a permissive ruling] in accordance with Rami b. Ezekiel?[32] [He did not do this] because they were not learned in the law.[33] ‘Cuscuta in a vineyard is a [forbidden] mixture’. But let him send them [a reply] in accordance with R. Tarfon. For it was taught: As for cuscuta, R. Tarfon maintains: It is not kil'ayim[34] in a vineyard; while the Sages rule: It is kil'ayim in a vineyard. And it is an established principle: The view of him, who is lenient in respect to Palestine,[35] is halachah without Palestine?-[Likewise] because they were not learnt in the law. Rab announced: He who wishes to sow cuscuta in a vineyard, let him sow.[36] R. Amram the pious would ban [a person] for this. R. Mesharsheya would give a perutah[37] to a Gentile child to sow it for him.[38] Then let him give it to an Israelite child? — He would come to adhere [to this practice when he grew up]. Then let him give it to an adult Gentile?-He might come to substitute an Israelite for him.

As for a corpse. he sent [word to them]: Neither Jews nor Syrians [non-Jews] may occupy themselves with a corpse, neither on the first day of a Festival nor on the second.[39] But that is not so? For R. Judah b. Shilath said in R. Assi's name: Such a case happened in the synagogue of Ma'on[40] on a Festival near the Sabbath,

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(1) I.e., an absolute and definite ruling. completely intelligible and not subject to controversy.

(2) Lit., 'in one place'. I.e., in any of the places whither they shall wander (Maharsha).

(3) Mic. III, 9-11.

(4) This phrase is now liturgical.

(5) Lit., 'which is in their hand'.

(6) Ibid. 12.

(7) Isa. I, 25f.

(8) I.e., through the exercise of righteousness.

(9) Isa. I, 27.

(10) The Guebres, who caused the Jews much suffering under the Sassanians, cf. Sanh., Sonc. ed., p 504, n. 6.

(11) [גזירפטי (Pers. Wezirpat, a ruler, Funk, Schwarz, Festschrift, p. 432) the name of a class of oppressive Persian officers.]

(12) Deriving סיגיך from סגי, great, haughty.

(13) Zeph. III, 15.

(14) MS. O.: Simlai.

(15) Isa. XIV, 5.

(16) They support their underlings in evil; or, support them in their refusal to summon the defendant to court or to enforce the court verdict unless they are well-paid for it (Rashi).

(17) I.e., unfit judges appointed by the scholars of their family.

(18) הלכות צבור. Probably laws concerning communal matters, the imposts of levies for communal and charitable purposes v. Herzog, The Main Institutions of Jewish Law. Vol. 1, XXIII.

(19) Rashi: the judges being appointed in reliance that these scholars would guide them in law, whereas they subsequently act of their own accord in many cases.

(20) Isa. LIX, 3.

(21) Who record verdicts falsely.

(22) Rashi: who instruct the litigants how to plead. V, Aboth, Sonc. ed., p. 6, n, 1.

(23) Gen. XLIX, 26. E.V.: 'of him that was separate from his brethren'. A nazirite is forbidden wine, Num. VI, 2-3.

(24) Gen. XLIII, 34.

(25) R. Melai: why does he omit the brothers?

(26) Lit., 'no drunkenness'. During the period of separation.

(27) On the part of the brothers.

(28) Ex. IV, 14 — the reference is to Aaron.

(29) Caskar, the chief town in the Mesene region. on the right bank of the old Tigris; directly opposite, on the left bank, lay Wasit, and the two are to some extent identified; v. Obermeyer. pp. 91-3.

(30) Does it infringe the prohibition against divers plants being sown together? v. Deut. XXII, 9.

(31) What arrangements are permissible for handling him, the funeral, etc.

(32) Who permits its spreading when it is furnished with cords, v. supra 138a.

(33) They would go still further.

(34) V. GIos.

(35) Lit., ‘the land’ par excellence.
(36) V. Halevy. Doroth, I, 3, p. 137 (סט).
(37) A small coin.
(38) He agreed with Rab, nevertheless he did it in an unusual manner, so as not to encourage laxity.
(39) Though the second is only a Rabbinical institution.
(40) A town near Tiberias.

Talmud - Mas. Shabbath 139b

though I do not know whether it preceded or followed it,[1] and when they went before R. Johanan, he said to them: Let Gentiles occupy themselves with him [the dead]. Raba too said: As for a corpse,[2] on the first day of Festivals Gentiles should occupy themselves with him; on the second day of Festivals Israelites may occupy themselves with him, and even on the second day of New Year, which is not so in the case of an egg?[3] [Here too] because they were not learned in the law.

R. Abin b. R. Huna said in R. Hama b. Guria's name: A man may wrap himself in a canopy sheet and [tie it] with its cords to go out into the street on the Sabbath without fear.[4] How does this differ from R. Huna's [dictum]. for R. Huna said in Rab's name: If one goes out on the Sabbath wearing a garment not provided with [proper] fringes as required by law, he is liable to a sin-offering?[5] — Fringes are important in relation to the cloak, hence they are not merged [therein]; these are not of [separate] importance, and [so] are accounted as nought.

Rabbah[6] son of R. Huna said: A man may employ an artifice in connection with a strainer on a festival, suspending it for pomegranates yet straining lees therein.[7] Said R. Ashi: Provided he does place pomegranates in it.[8] How does it differ from what was taught: One may brew beer on the [intermediate days of a] Festival[9] when it is required for the Festival, but if not required for the Festival it is forbidden: [this applies to] both barley beer and date beer. Though one has old [beer]. he may practise an evasion[10] and drink of the new? — There the matter is not evident;[11] here the matter is evident.[12]

The scholars said to R. Ashi: See, sir, a Rabbinical disciple. whose name is R. Huna b. Hiwan — others State, R. Huna b. Hilwon — who took peel of garlic,[13] placed it in the bung hole of a barrel, and asserted, ‘My intention is to put it away [here].’[14] He also went and dozed in a ferry and thus crossed to the other side and looked after his fruit, asserting, ‘My intention was to sleep.’ Said he to them, You speak of an artifice: it is an artifice [in connection with] a Rabbinical [interdict].[15] and a disciple of the Rabbis will not come to do this at the very outset.[16] MISHNAH. WATER MAY BE POURED OVER LEES IN ORDER TO CLARIFY THEM, AND WINE MAY BE STRAINED THROUGH CLOTHS AND THROUGH A BASKET MADE OF PALM TWIGS; AND AN EGG MAY BE PASSED THROUGH A MUSTARD STRAINER;[17] AND ENOMLIN[18] MAY BE PREPARED ON THE SABBATH. R. JUDAH SAID: ON THE SABBATH [IT MAY ONLY BE MADE] IN A GOBLET; ON FESTIVALS, IN A LAGIN;[19] AND ON THE INTERMEDIATE DAYS OF FESTIVALs IN A BARREL. R. ZADOK SAID: IT ALL DEPENDS ON THE [NUMBER OF] GUESTS.

GEMARA. Ze'iri said: One may pour clear wine and clear water into a strainer on the Sabbath without fear,[20] but not turbid [liquids]. An objection is raised: R. Simeon b. Gamaliel said: One may stir up a barrel of wine, [i.e..] the wine and the lees, and pour it into a strainer on the Sabbath without fear![21] — Ze'iri explained it: They learnt this of the season of the wine pressing.[22]

WINE MAY BE STRAINED THROUGH CLOTHS. R. Shimi b. Hiyya said: Provided that one does not make a hollow.[23]

AND THROUGH A BASKET MADE OF PALM TWIGS. R. Hiyya b. Ashi said in Rab's name: Provided he does not lift it [the basket] a handbreadth from the bottom of the vessel.[24]

Rab said: [Spreading] a rag over half a cask [to cover it] is permitted; over the whole cask, is forbidden.

R. Papa said: A man must not stuff chips into the mouth of a cask jug.[25] because it looks like a strainer. R. Papa's household poured wine slowly from one vessel to another.[26] R. Aha of Difti[27] objected: But there is the residue?[28] — The residue had no value in R. Papa's household.[29]

AN EGG MAY BE PASSED THROUGH A MUSTARD STRAINER. R. Jacob Karhah recited:

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(1) I.e., whether the Festival fell on Friday on which day the death occurred, so that it had to be buried on the same day, or whether it fell on Sunday and the death occurred on the Sabbath, so that the burial could not be delayed any longer.
(2) Of a person who died on a Sabbath which was followed by a Festival.
(3) An egg laid on the first day of any Festival except New Year may be eaten on the second day too. But in respect to a corpse New Year is the same as other Festivals.
(4) Of transgression.
(5) The garment has fringes. but since they are not in accordance with the law they are regarded not as part thereof but as a burden which entails a sin offering. Thus here too, since the normal function of the cords is to spread the sheet, not to tie it round a person, they constitute a burden.
(6) Var. lec.: R. Abin.
(7) Lit., to suspend pomegranates therein, but he suspends lees therein.
(8) For some time.
(9) I.e.,the intermediate days of Passover and Tabernacles, which enjoy semi-sanctity, being treated as profane in some respects and as holy in others.
(10) Of the law.
(11) The evasion is not obvious, for a person who sees him brew beer does not know that he has sufficient already for the festival.
(12) That he is evading the law, unless he actually puts pomegranates in it, since its usual function is to strain them.
(13) Jast. R. Han.: a head of garlic.
(14) But actually it was to prevent the wine from running out, and thus he repaired the barrel, as it were.
(15) For even if he did these without an artifice he would only violate a Rabbinical, not a Scriptural interdict.
(16) Without an artifice — hence he does nothing wrong.
(17) Rashi: the strainer contains mustard, and when the egg is poured upon it the yolk passes through and the white remains on top. R. Halevi (quoted by Rash): the egg is strained into a dish, not into mustard, but a mustard strainer is specified in order that the action on the Sabbath, though permitted, shall be done differently from what it is on weekdays.
(18) V. Gemara infra.
(19) Larger than a goblet (כום) but smaller than a barrel (חבית).
(20) Of transgression.
(21) Though the liquid is turbid through the stirring.
(22) All wine is turbid then and drunk thus; hence it is not made fit for drinking (which would be forbidden on the Sabbath) by being put through the strainer.
(23) The cloth must be taut and not form a hollow
(24) Which receives the wine. Otherwise it forms a ‘tent’, v. p. 694, n. 1. (9) In the latter case a ‘tent’ is made.
(25) I.e., a jug used for taking wine out of a cask; the chips act as a strainer.
(26) So as to leave the sediment behind.
(27) V. p. 35, n. 5.
(28) The last drops percolating through the dregs left behind in the first vessel, which shows that their purpose was to strain the wine.
(29) He was a beer brewer (B.M. 65b) and could afford to throw away the little wine left at the bottom together with the chips, thus leaving nothing at all there to show their real motive.

Talmud - Mas. Shabbath 140a

Because it is only done for colouring.[1]

It was stated: If mustard grain is kneaded on Sabbath eve, — on the morrow, Rab said: One must crush [dissolve] it[2] 'with a utensil, but not by hand.[3] Said Samuel to him: 'By hand'! Does one then crush it every day by hand — is it asses' food? Rather said Samuel: He must crush it by hand, but not with a utensil. It was stated, R. Eleazar said: Both the one and the other are forbidden; while R. Johanan ruled: Both the one and the other are permitted. Abaye and Raba both say: The halachah is not as R. Johanan. R. Johanan [subsequently] adopted R. Eleazar's thesis, while R. Eleazar adopted Samuel's thesis. Abaye and Raba both said [then]: The halachah is as R. Johanan.

Abaye's mother[4] prepared [it] for him, but he would not eat [it]. Ze'iri's wife prepared [some] for R. Hiyya b. Ashi, but he would not eat [it]. Said she to him, 'I prepared it for your teacher [Ze'iri] and he ate, whilst you do not eat!'

Raba b. Shaba said: I was standing before Rabina and I stirred [the mustard] for him with the smooth [inner] part of the garlic, and he ate it.

Mar Zutra said: The law is not as all these opinions. but as the following which was stated; If mustard is kneaded on the eve of the Sabbath, on the morrow one may crush [dissolve] it both by hand or with a utensil; he may pour honey in it, yet he must not beat it up but may mix them. If cress was chopped up on the eve of the Sabbath, on the morrow one may put oil and vinegar into it and add ammitha[5] thereto; and he must not beat then, up but may mix them. If garlic was crushed on the eve of the Sabbath, on the morrow one may put beans and grits therein, yet he must not pound then,, but may mix them, and one may add ammitha to it. What is ammitha? — Ninya,[6] Abaye observed: This proves that ninya is good for [seasoning] cress.

AND ENOMLIN MAY BE PREPARED ON THE SABBATH. Our Rabbis taught: Enomlin may be prepared on the Sabbath but aluntith may not be prepared on the Sabbath. What is enomlin and what is aluntith? — Enomlin is [a mixture of] wine, honey, and pepper. Aluntith is [a mixture of] old wine, clear water and balsam, which is prepared as a cooling [draught] in the baths.[7] R. Joseph said: I Once entered the baths after Mar 'Ukba; on leaving I was offered a cup of [such] wine, and I experienced [a cooling sensation] from the hair of my head [right] down to my toe nails; and had I drunk another glass I would have been afraid lest it be deducted from my merits in the future world.[8] But Mar 'Ukba drank it every day? Mar 'Ukba was different, because he was accustomed to it.

MISHNAH. HILTITH[9] MUST NOT BE DISSOLVED IN WARM WATER,[10] BUT IT MAY BE PUT INTO VINEGAR; AND ONE MUST NOT CAUSE LEEKS TO FLOAT,[11] NOR RUB THEM;[12] BUT THEY MAY BE PUT INTO A SIEVE[13] OR A BASKET.[14] STUBBLE MAY NOT BE SIFTED THROUGH A SIEVE, NOR PLACED ON AN EMINENCE, FOR THE CHAFF TO DROP DOWN; BUT ONE MAY TAKE IT UP IN A SIEVE AND PUT IT INTO THE MANGER.[15]

GEMARA. The scholars asked: What if one does dissolve [it]? R. Adda of Naresh[16] maintained before R. Joseph: If one dissolves [it] he is liable to a sin-offering. Said Abaye to him: If so,if one soaks[17] raw meat in water, is he too liable?[18] Rather said Abaye: It is a Rabbinical [prohibition], that one should not act as he does during the week. R. Johanan asked R. Jannai: May hiltith be dissolved in cold water? It is forbidden. replied he. But we learnt: HILTITH MUST NOT BE DISSOLVED IN WARM WATER, implying that it is permitted in cold water? If so,[19] what is the difference between you and me? Our Mishnah is [the opinion of] an individual. For it was taught: Hiltith may be dissolved neither in warm nor in cold water; R. Jose said: In warm water it is forbidden; in cold it is permitted.

What is it made for? [As a remedy] for asthma.[20] R. Aha b.Joseph suffered with asthma. He went to Mar ‘Ukba, [who] advised him, ‘Go and drink three [gold denar] weights of hiltith on three days.’ He went and drank it on Thursday and Friday. The following morning he went and asked [about it] in the Beth Hamidrash.[21] Said they to him, The school of R. Adda-others state, the school of Mar son of R. Adda recited: One may drink a kab or two kabs without fear.[22] About drinking, said he, I do not ask.[23] My question is, What about dissolving it?[24] R. Hiyya b. Abin observed to them: This case happened to me, and I went and consulted R. Adda b. Ahabah. but he could not inform me. [So] I went and asked R. Huna, and he answered me, Thus did Rab say: He may dissolve [it] in cold water and place it in the sun. Is this [only] according to him who permits [dissolving]? [No.] It is even according to him who forbids [it]: that is only if one had not drunk at all; but here, since he had drunk [it] on Thursday and Friday, if he would not drink it on the Sabbath he would be endangered.

R. Aha b. Joseph was walking along, leaning[25] on the shoulder of R. Nahman b. Isaac, his sister's son. When we reach R. Safra's house, lead me in, he requested.[26] When they arrived [there] he led him in. How about rubbing [the stiffness out of] linen [washing]?[27] asked he; is his intention to soften the linen, and it is permitted, or perhaps his intention is to make it whiter,[28] which is forbidden? — His intention is to soften it, replied he, and it is permitted. When he went out he [R. Nahman] enquired, What did you ask him? I asked him, What about rubbing linen on the Sabbath, replied he, and he answered me, It is permitted. But let the Master inquire about a scarf?[29] I do not ask about a scarf, because I asked it of R. Huna and he decided it’ for me. Then let the Master solve this from a scarf?- There it looks like making it whiter,[30] but here it does not look like making it whiter.

R. Hisda said: As for linen,

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(1) Sc. when the yolk is poured into a stew; but actually both the yolk and the white are fit for food, and therefore this is not an act of ‘selecting’ (v. Mishnah 73a).

(2) In water.

(3) He regards the latter as the usual way. and therefore it is forbidden on the Sabbath.

(4) v. p. 316, n. 3.

(5) A kind of cress or pepperwort (Lepidum sativum) Jast.

(6) Jast.: ammi, Bishop's weed. Rashi: mint.

(7) , Hence it partakes somewhat of the nature of a medicine, and therefore it is forbidden.

(8) A second glass would inevitably have killed me but for a miracle, which would be ultimately debited to my account.

(9) Jast. assa foetida, an umbelliferous plant used as a resin in leaves, for a spice and for medicinal purposes.

(10) To be drunk medicinally.

(11) I.e.. pour water over them to make the refuse float up so that it can be removed.

(12) By hand, likewise to remove the refuse.

(13) And the refuse may fall through.

(14) Probably an open-work basket is meant which may act somewhat as a sieve. Though sifting is forbidden, these are permitted, because even if the refuse does fall through it is only incidental.

(15) Though some chaff may fall through. this is unintentional, the Mishnah agreeing with R. Simeon that whatever is unintentional is permitted.

(16) V. p. 279. n. 11.

(17) The Hebrew is the same for dissolves and soaks.

(18) Surely not.

(19) That you do not accept me as a greater authority on the Mishnah than yourself.

(20) Lit., ‘heaviness of heart’.

(21) To ask whether he might take it on Sabbath.

(22) Of transgression.

(23) Lit., ‘it was not in his hand’.
(24) If the hiltith is dissolved before the Sabbath.
(25) Lit., ‘Supporting himself.
(26) He was an old man.
(27) When it is starched. The rubbing softens it and makes it whiter.
(28) Lit., ‘to beget whiteness’.
(29) Or, turban.
(30) One is more particular about a scarf.

Talmud - Mas. Shabbath 140b

to draw it away from the cane is permitted; to draw out the cane from it is forbidden.[1] Raba said: But if it is a weaver's implement, it is permitted.[2]

R. Hisda said: A bunch of vegetables, if fit as food for animals, may be handled; if not, it is forbidden.

R. Hiyya b. Ashi said in Rab's name: A meat hook[3] is permitted [to be handled]; a fish [hook] is forbidden.[4]

R. Kattina said: He who stands in the middle of a [marital] bed is as though he stood on a woman's stomach.[5] But this is incorrect.

R. Hisda also said: When a scholar buys vegetables, let him buy long ones, for one bunch is like another [in thickness], and so the length [comes] of itself.[6]

R. Hisda also said: When a scholar buys canes,[7] let him buy long ones; one load is like another, so the length [comes] of itself.

R. Hisda also said: When a scholar has but little bread, let him not eat vegetables, because it whets [the appetite]. R. Hisda also said: I ate vegetables neither when poor nor when rich.[8] When poor, because it whets [the appetite]; when rich, because I say, Where the vegetables are to enter, let fish and meat enter![9]

R. Hisda also said: If a scholar has but little bread he should not divide [his meal].[10] R. Hisda also said: If a scholar has but little bread he should break [bread].[11] What is the reason? Because he does not do it generously.[12] R. Hisda also said: Formerly I would not break [bread] until I had passed my hand through the whole of my wallet and found there as much as I needed.

R. Hisda also said: When one can eat barley bread but eats wheaten bread he violates, thou shalt not destroy.[13] R. Papa said: When one can drink beer but drinks wine, he violates, thou shalt not destroy.[14] But this is incorrect: Thou shalt not destroy, as applied to one's own person, stands higher.[15]

R. Hisda also said: When a scholar has no oil, let him wash with pit water.[16]

R. Hisda also said: If a scholar buys raw meat he should buy the neck, because it contains three kinds of meat.

R. Hisda also said: When a scholar buys linen [underwear], he should buy it from the Nehar Abba[17] and wash[18] it every thirty days, and I guarantee that it will relieve him [from buying another] for a full year. What does kitonitha [underwear] mean? Kitta na'ah [fine flax].[19]

R. Hisda also said: A scholar should not sit upon a new mat, because it destroys the garments.[20]

R. Hisda also said: A scholar should not send his garments to his host[21] for washing, for this is not in good taste, lest he see something[22] and he come to despise him.

R. Hisda advised his daughters: Act modestly before your husbands: do not eat bread before your husbands,[23] do not eat greens at night,[24] do not eat dates at night nor drink beer at night,[25] and do not ease yourselves where your husbands do,[26] and when someone calls at the door, do not say 'who is he' but 'who is she?'[27] He [R. Hisda] held a jewel in one hand and a [valueless] seed grain in the other; the pearl he showed them but the seed grain he did not show them until they were suffering,[28] and then he showed it to them.[29]

ONE MUST NOT CAUSE LEEKS TO FLOAT. Our Mishnah[30] does not agree with the following Tanna. For it was taught, R. Eliezer b. Jacob said: One must not look at the sieve at all.[31]

MISHNAH. ONE MAY SWEEP OUT [THE MANGER] FOR A STALL OX,[32] AND MOVE [THE REMNANTS] ASIDE FOR THE SAKE OF A GRAZING ANIMAL:[33] THIS IS R. DOSA'S VIEW, BUT THE SAGES FORBID IT. ONE MAY TAKE [FODDER] FROM ONE ANIMAL AND PLACE IT BEFORE ANOTHER ANIMAL ON THE SABBATH.[34]

GEMARA. The scholars asked: Do the Rabbis disagree with the first clause, or with the second, or with both?- Come and hear: For it was taught, But the Sages maintain: Both the one and the other[35] must not be moved on a side.[36]

R. Hisda said: They differ in respect of a ground manger,[37] but all agree that a manger which is a vessel[38] is permitted. But is there any opinion that a ground manger is permitted: surely one levels the holes? — Rather if stated, it was thus stated: R. Hisda said: They differ in respect of a vessel manger, but all hold that a ground manger is forbidden.

ONE MAY TAKE [FODDER] FROM ONE ANIMAL [etc.]. One [Baraitha] taught: One may take [fodder] from before an animal that is fastidious and place [it] before an animal that is not fastidious; while another taught: One may take [fodder] from before an animal that is not fastidious and place [it] before an animal that is fastidious. Abaye observed: Both [Baraithas hold] that one may take from an ass [to put] before an ox, but not from an ox [and place it] before an ass. Now, when it is taught, 'One may take from before an animal that is fastidious', it refers to an ass, which does not drop saliva [into its food]; 'and place [it] before an animal that is not fastidious', to a cow,

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(1) Linen was hung up on a cane passing through the sleeves to dry. A cane must not be handled on the Sabbath, being regarded as mukzeh, as it stands to be used as fuel.

(2) For it is then a utensil, which may be handled.

(3) Lit., 'a suspender of meat' — i.e., a hook. Tosaf. and Jast.

(4) The first was more like a utensil than the second.

(5) Because he is incited to impure thoughts.

(6) I.e., the additional length is extra value — presumably the price was not increased.

(7) For fuel.

(8) Or, I would eat vegetables neither when rich nor when poor.

(9) Which are more nutritious.

(10) Eat a little now and a little later, as at no time will he have enough.

(11) To distribute it among the guests at a meal.

(12) MS. M. deletes the two intervening passages.

(13) Deut. XX, 19. I.e., it is wasteful extravagance.

(14) Was his attitude influenced by the fact that he was a beer brewer?
(15) To consume better food and drink is beneficial, not wasteful.
(16) The scum thickens it into a semblance of oil.
(17) A canal in the Bagdad region; Obermeyer, p. 239.
(18) Lit., ‘whiten’.
(19) Jast. Rashi: the upper class — its wearer is fit to be a member of the upper classes — a play on words, of course.
(20) Being hard, it injures the texture.
(21) The keeper of the boarding house where he stays.
(22) A euphemism for semen.
(23) You may eat too much.
(24) Because of their odour.
(25) Because of their laxative properties.
(26) Even in their absence.
(27) I.e., ‘who is it’ but in the feminine, not the masculine form.
(28) With curiosity, to know what he was holding.
(29) To prove the folly of curiosity (Jast. s.v.בזרא, which ‘Aruch reads instead of כורא).
(30) Which continues, BUT THEY MAY BE PUT INTO A SIEVE.
(31) I.e., one must not handle it for any purpose on the Sabbath.
(32) If it contains chips, etc., they may render the straw repulsive and cause the animal to go off its feed.
(33) Which is ordinarily fed on pasture. — R. Han. and Jast. Rashi translates: one may move aside the straw, if there is much, lest the animal tread it into the dung.
(34) Because the second will eat it, and therefore it is not unnecessary handling.
(35) Sc. fodder in a manger and straw lying in front of an animal.
(36) Thus they disagree with both clauses.
(37) I.e., a small low fenced enclosure on the ground. The Rabbis forbid it lest one comes to level up holes in the ground.
(38) I.e., a real manger.

Talmud - Mas. Shabbath 141a

which drops saliva.[1] And when it is taught, ‘One may take [fodder] from before an animal that is not fastidious’, it refers to an ass, which is not particular about what it eats;[2] ‘and put [it] before an animal that is fastidious,’ to a cow, which is particular about what it eats.[3] MISHNAH. ONE MUST NOT MOVE STRAW [LYING] UPON A BED WITH HIS HAND, YET HE MAY MOVE IT WITH HIS BODY. BUT IF IT IS FODDER FOR ANIMALS, OR A PILLOW OR A SHEET WAS UPON IT BEFORE NIGHTFALL, HE MAY MOVE IT WITH HIS HAND.[4] ONE MAY UNDO A HOUSEHOLDER'S CLOTHES PRESS,[5] BUT NOT FORCE IT DOWN.[6] BUT A LAUNDERER'S [PRESS] MAY NOT BE TOUCHED.[7] R. JUDAH SAID: IF IT WAS UNDONE BEFORE THE SABBATH, ONE MAY UNFASTEN THE WHOLE AND REMOVE IT.

GEMARA. R. Nahman said: A radish, if it is the right way up, it is permitted; if it is reversed, it is forbidden.[8] R. Adda b. Abba said, The scholars[9] said, We learnt [a Mishnah] in disagreement with R. Nahman: ONE MUST NOT MOVE STRAW [LYING] UPON A BED WITH HIS HAND, YET HE MAY MOVE IT WITH HIS BODY. BUT IF IT IS FODDER FOR ANIMALS, OR A PILLOW ON A SHEET WAS UPON IT BEFORE NIGHTFALL, HE MAY MOVE IT WITH HIS HAND: this proves, indirect[10] handling is not designated handling;[11] this proves it.

Rab Judah[12] said: To crush peppergrains one by one with a knife-handle is permitted; in twos, it is forbidden.[13] Raba said: Since he does it in a different way,[14] crushing even many [is permitted] too.

Rab Judah also said: If one bathes in water, he should first dry himself[15] and then ascend, lest he come to carry[16] four cubits in a karmelith.[17] If so, when he enters[18] too, his force propels the water four cubits,[19] which is forbidden? — They did not prohibit one's force in a karmelith.

Abaye — others state, Rab Judah — said: One may scrape off the clay from his foot on to the ground, but not on to a wall. Said Raba, Why not on to a wall? because It looks like building?[20] but it is ignorant building?[21] Rather said Raba: He may scrape it off on to a wall but not on to the ground, lest he come to level holes. It was stated, Mar son of Rabina said: Both are forbidden; R. Papa said: Both are permitted. According to Mar son of Rabina, whereon shall he scrape it? He scrapes it on a plank.[22]

Raba said: A man should not sit on the top of a stake,[23] lest an article roll away from him[24] and he come to fetch it.

Raba also said: One must not bend sideways a cask [which is standing] on the ground,[25] lest he come to level hollows.

Raba also said: One must not squeeze a cloth stopper into the mouth of a jug, lest he come to wring [it] out.

R. Kahana said: As for the clay [mire] on one's garment, he may rub off from the inside but not from the outside.[26] An objection is raised: One may scrape off the clay from his shoes with the back of a knife, and that which is on one's garment he may scrape off with [even][27] his finger nail, providing that he does not rub it. Surely that means that he must not rub it at all? — No: he must not rub it from the outside but only from the inside.

R. Abbahu said in R. Eleazar's name in R. Jannai's name: A new shoe may be scraped, but not an old one.

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(1) Hence the cow will eat after the ass.

(2) It eats fodder even when it contains thorns and thistles.

(3) Spurning thorns and thistles.

(4) V. supra 50a for notes.

(5) The two boards of the press fitted on to four perforated rods: the upper board was pressed down and pegs were inserted in the holes to keep it there. The press may be undone by withdrawing these pegs, because the clothes are required for the Sabbath.

(6) As the clothes will be wanted during the week, but not on the Sabbath.

(7) This was screwed down very tightly, and undoing it would resemble taking a utensil to pieces.

(8) V. supra 123a for notes.

(9) Be rab may mean either the academy founded by Rab, or scholars in general, v. Weiss, Dor, III, 158.

(10) Lit., ‘from the side’.

(11) Cf. supra 43b, p 201, n. 1,

(12) Asheri in Bez. I, 21 reads: R. Huna.

(13) Because then it looks like grinding.

(14) From usual, which is in a mill or a mortar.

(15) I.e.,the part of his body that is not in the water.

(16) The water upon him.

(17) V. Glos.

(18) Lit., ‘goes down’.

(19) His weight makes the water spurt that distance.

(20) Sc. the addition of clay to the wall.

(21) Lit., ‘a field labourer’. I.e., surely none but the ignorant would think of building in such a manner.

(22) Lying on the ground.

(23) At the entrance to an alley. whereby carrying therein is permitted; v. p. 30, n. 2.

(24) ‘Without the entrance, where it is public ground.

(25) Text as emended by Bah.
(26) In the latter case he looks as though he desires to wash the garment, though it is not actual washing.
(27) So Wilna Gaon.

Talmud - Mas. Shabbath 141b

With what does one scrape it? — Said R. Abbahu: With the back of a knife. A certain old man said to him, Delete your [teaching] on account of what R. Hiyya taught: One must not scrape either a new shoe or all old one, nor must he rub his foot with oil while it is in the shoe or sandal;[1] but one may rub his foot with oil and place it in his shoe or sandal; he may also oil his whole body and roll himself on a leather spread without fear.[2] R. Hisda said: They learnt this only [if his intention is] to polish it;[3] but [if it is] to dress it,[4] it is forbidden. ‘To dress it’? surely that is obvious? Moreover, does any one permit it [if he desires] to polish it? — Rather if stated, It was thus stated: R. Hisda said: They learnt this only of a quantity [sufficient merely] to polish it; but [if] the quantity[5] [is sufficient] to dress it, it is forbidden. Our Rabbis taught: A small[-footed] man must not go out with the shoe of a large[-footed] man,[6] but he may go out with [too] large a shirt. A woman must not go out with a gaping shoe,[7] nor may she perform halizah therewith; yet if she does perform halizah therewith, the halizah is valid. And one must not go out with a new shoe: of what shoe did they rule this? Of a woman's shoe.[8] Bar Kappara taught: They learnt [this] only where she had not gone out therein one hour before nightfall;[9] but if she went out therein on the eve of the Sabbath, it is permitted.

One [Baraitha] taught: A shoe may be removed from its last; while another taught: It may not be removed. There is no difficulty: one is [according to] R. Eliezer, the other [according to] the Rabbis. For we learnt: If a shoe is on the last, — R. Eliezer declares it clean, while the Sages declare it is unclean.[10] This is well according to Raba, who maintained: It is permitted [to handle] an article whose function is for a forbidden purpose, whether it is required itself or for its place: then it is correct. But on Abaye's view that it may be [handled] for itself, but it is forbidden [to handle it] when its place is required,[11] what can be said?[12] — We treat here of one [a shoe] that is loose [on the last].[13] For it was taught, R. Judah said: If it is loose. it is permitted [to remove it]. The reason [then why it is permitted] is because it is loose. But if it is not loose it is not [permitted]? This is well on Abaye's view that an article whose function is for a forbidden purpose may be [handled] when required for itself, but not when its place [only] is required: then it is correct. But according to Raba, who maintains, it is permitted [to handle it] both when required for itself or when its place is required, what can be said: [for] why particularly a loose [shoe], — even if not loose too it is thus? That[14] represents R. Judah's view in R. Eliezer's name. For it was taught: R. Judah said in R. Eliezer's name: If it is loose, it is permitted.[15]

CHAPTER XXI

MISHNAH. A MAN MAY TAKE UP HIS SON WHILE HE HAS A STONE IN HIS HAND OR A BASKET WITH A STONE IN IT; AND UNCLEAN TERUMAH MAY BE HANDLED TOGETHER WITH CLEAN [TERUMAH] OR WITH HULLIN.[16] R. JUDAH SAID: ONE MAY ALSO REMOVE[17] THE ADMIXTURE [OF TERUMAH IN HULLIN] WHEN ONE [PART IS NEUTRALIZED] IN A HUNDRED [PARTS].[18]

GEMARA. Raba said: If one carries out[19] a live child with a purse hanging around its neck, he is culpable on account of the purse; a dead child with a purse hanging around its neck, he is not culpable. ‘A live child with a purse hanging around its neck, he is culpable on account of the purse. But let him be culpable on account of the child? — Raba agrees with R. Nathan, who maintained, A living [person] carries himself.[20] But let the purse be counted as nought in relation to the child? Did we not learn, [If one carries out] a living person in a bed, he is not culpable, even in respect of the bed, because the bed is subsidiary to him? — A bed is accounted as nought in relation to a living person,[21] but a purse is not accounted as nought in relation to the child.

‘A dead child with a purse hanging around its neck, he is not culpable.’ But let him be culpable on account of the child? Raba agrees with R. Simeon, who maintained: One is not culpable on account of a labour unrequired per se.[22]

We learnt: A MAN MAY TAKE UP HIS SON WHILE HE HAS A STONE IN HIS HAND?’[23] — The School of R. Jannai said: This refers to a child who pines for his father.[24] If so,

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(1) Because the oil incidentally softens the leather, which is forbidden.

(2) Of transgression.

(3) When he puts his oiled foot in the shoe or sandal his purpose is to polish the leather.

(4) To soften the leather or make it more pliable.

(5) Of oil rubbed on to the foot.

(6) Lest it fall off, and he come to carry it.

(7) Rashi. Jast.: ‘a flappy (outworn) shoe’ — either because she may be laughed at and so she will take it off’ (Rashi), or it fall off, and she come to carry it.

(8) She is particular about the fit, and if it is not exact, she may remove and carry it. ‘New’ means never worn at all.

(9) Lit., ‘while it was yet day Friday.’

(10) ‘Clean’ and ‘unclean’ mean not susceptible and susceptible to uncleanness respectively. R. Eliezer holds that as long as it is on the last it is not a completely finished article, whereas only such can become unclean. Since it is not a finished article, it may not be handled on the Sabbath. The view of the Rabbis is the reverse.

(11) V. notes supra 123b.

(12) For the function of the last is a forbidden one, and in removing the shoe one must necessarily handle the last, though he does not require the use of the last itself, and according to Abaye that is forbidden.

(13) So that the last is not handled at all.

(14) The Baraitha which makes a distinction between where it is loose or not

(15) Though R. Eliezer holds that as long as it is on the last it is not completely finished (v. supra) and therefore may not be handled, that is only if it is tightly fitted on it, so that there is some difficulty in removing it. But if it is loose and comes off easily he admits that it is finished; hence it ranks as an article, is susceptible to defilement, and may be handled on the Sabbath.

(16) Although the stone or the unclean terumah by itself may not be handled as mukzeh.

(17) Lit., ‘take up’.

(18) If one part of terumah is accidentally mixed with a hundred parts of hullin it is neutralized and the mixture is permitted to non-priests. Nevertheless, since it does contain some terumah, though it cannot be distinguished from the rest, one part must be removed, and R. Judah permits this on the Sabbath.

(19) From a private into a public domain.

(20) V. supra 94a.

(21) Since the bed is required for him.

(22) V. supra 30a; carrying out a dead child comes under this category, supra 94b.

(23) This proves that the man is not regarded as himself holding the stone, which would be forbidden. Hence by analogy he does not carry out the purse suspended around the child's neck; why then is he culpable on its account?

(24) If he does not take him up he may sicken with pining, though it will not actually endanger him: hence since the father does not actually handle the stone himself he is permitted to take him up.

Talmud - Mas. Shabbath 142a

why particularly a stone? the same applies to a denar! Why did Raba say: They learnt only a stone, but a denar is forbidden? — In the case of a stone, if it falls down the father will not come to fetch it, [but] with a denar, if it falls down the father will come to fetch it. It was taught in accordance with Raba: If one carries out his garments folded up and lying on his shoulder, or his sandals or his rings in his hands, he is liable; but if he was wearing them, he is not culpable. If one carries out a person with his garments' upon him, with his sandals on his feet and his rings on his hands,[1] he is not culpable. Hence if he carried them as they are[2] he would be culpable.[3] A BASKET WITH A STONE IN IT: yet why? let the basket be [regarded as] a stand for a forbidden article?[4] — Said Rabbah b. Bar Hanah in R. Johanan's name: We treat here of a basket full of produce.[5] Then let the produce be thrown out, and let the stone be thrown out, and then we can collect [the produce] by hand?[6] — As R. Elai said [elsewhere] in Rab's name: The reference is to fruit which becomes soiled, so here too [we treat] of fruit which becomes soiled.[7] Then let one shake it [the basket] about?[8] — Said R. Hiyya b. Ashi in Raba's name: We treat here of a broken basket, so that the stone itself becomes a wall for the basket.[9]

[UNCLEAN] TERUMAH MAY BE HANDLED, etc. R. Hisda said: They learnt [this] only where the clean [terumah] is underneath and the unclean is on top; but if the clean [terumah] is on top and the unclean underneath, one must take the clean and leave the unclean.[10] But if the clean is underneath too, let him throw off [the unclean] and take it? — Said R. Elai in Rab's name: We treat of fruit which becomes soiled. An objection is raised: One may handle unclean terumah together with clean terumah or with hullin, whether the clean is on top and the unclean is below, or the unclean is on top and the clean is underneath; this refutes R. Hisda? — R. Hisda answers you: Our Mishnah [means that] it is required for itself;[11] the Baraitha is where its place is required.[12] What compels R. Hisda to interpret our Mishnah as meaning that it is required for itself?[13] — Said Raba, Our Mishnah, by deduction, supports him. For the second clause[14] states: If money is lying on a cushion, one shakes the cushion, and it falls off. Whereon Rabbah b. Bar Hanah said in R. Johanan's name: They learnt this only if it [the cushion] is required for itself; but if its place is required, one removes it while it [the money] is upon it. And since the second clause means that it is required for itself, the first clause too means that it is required for itself.

R. JUDAH SAID: ONE MAY ALSO REMOVE, etc. Yet why? surely he makes it fit?[15] — R. Judah agrees with R. Eliezer, who maintains: The terumah lies as a [separate] entity.[16] For we learnt: If a se'ah of terumah falls into less than a hundred,[17] and thus they become a [forbidden] mixture, and then some of the mixture falls elsewhere,[18] R. Eliezer said: It creates a [forbidden] mixture as though it were certain terumah,[19] but the Sages maintain: The mixture creates a [forbidden] mixture only in proportion.[20] [But] say that you know him [to rule thus] with stringency; do you know him [to rule thus] with lenience?[21] — Rather [reply thus]: He [R. Judah] rules as R. Simeon, as we learnt: If a se'ah of terumah falls into a hundred,[22] and one has no time to remove [it] until another falls in, it is [all] forbidden;[23] but R. Simeon permits it.[24] Yet how [does this follow]? Perhaps there they differ in this: viz., the first Tanna holds: Though they fell in consecutively it is as though they fell in simultaneously, so that each falls into fifty; whereas R. Simeon holds: The first is neutralized in the hundred, and this one is neutralized in a hundred and one?[25] — Rather [reply thus]: He [R. Judah] rules as R. Simeon b. Eleazar. For it was taught, R. Simeon b. Eleazar said: One may cast his eyes at one side and eat from the other.[26] Yet does he agree with him?

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[1] I.e., the man is wearing them.

[2] If the person carried were holding, not wearing them.

[3] This is analogous to Raba's dictum, for a purse 'suspended from a child's neck is not in the position of being worn.

[4] V. p. 213, n. 4.

[5] 'So that the basket serves as a stand for a permitted thing.

[6] And replace it in the basket. Why did they permit to carry the stone?

[7] If thrown on the ground, e.g., figs and grapes.

[8] Until the stone lies at a side, when it can be thrown out without affecting the produce.

[9] By filling up the gap.

[10] And there is no reason for handling the unclean.

[11] I.e., he wishes to eat the terumah. Therefore if the clean terumah is on top he can simply take it and leave the rest.

(12) He needs the place where the utensil containing it is standing: therefore he must remove them — Sc. the clean and the unclean — together, whatever their position.
(13) So that he has to explain the Mishnah as referring to when the unclean terumah is on top.
(14) Sc. the Mishnah infra b.
(15) For use. This should be preventively forbidden out of consideration for that which is made fit by means of labour.
(16) Since one part is to be removed, it is as though the terumah therein lay separate and distinct, and therefore the whole mixture is fit for use in any case.
(17) Se'ahs of hullin.
(18) I.e., into another pile of produce.
(19) Sc. as though it were all terumah and therefore it can only be neutralized by a hundred times its quantity. Thus he regards the terumah as distinct.
(20) E.g., if a se'ah of terumah falls into nine se'ahs of hullin in the first place, and then a se'ah of the mixture falls into another heap of produce, this second se'ah is regarded as containing one tenth of a se'ah of terumah only, and if the second pile contains ten se'ahs it neutralizes it.
(21) As in our Mishnah, where this view would result in greater lenience.
(22) Hence it is neutralized, but that one se'ah of the whole must be removed.
(23) Since here are now two se'ahs of terumah in one hundred of hullin.
(24) It is now assumed that his reason is because he regards the first se'ah as lying distinct and apart, and therefore the second se'ah alone is counted, and that too is neutralized.
(25) Hence on the contrary, instead of regarding the terumah as a thing apart, he maintains that it becomes entirely one with the hullin.
(26) I.e., he may decide to remove a se'ah from one side of the pile and then, without actually removing it, eat from the other. Thus the removing is not essential.

Talmud - Mas. Shabbath 142b

surely he disagrees? For it was taught, R. Judah said: One removes the admixture [of terumah in hullin] when one part [is neutralized] in a hundred and one parts;[1] R. Simeon b. Eleazar said: One casts his eyes at one side and eats from the other?[2] — R. Judah's [ruling] goes beyond R. Simeon b. Eleazar's.[3] MISHNAH. IF A STONE IS ON THE MOUTH OF A CASK [OF WINE], ONE TILTS IT ON A SIDE AND IT FALLS OFF.[4] IF IT [THE CASK] IS [STANDING] AMONG [OTHER] CASKS,[5] HE LIFTS IT OUT, TILTS IT ON A SIDE, AND IT FALLS OFF. IF MONEY IS LYING ON A CUSHION, ONE SHAKES THE CUSHION, AND IT FALLS OFF. IF DIRT[6] IS UPON IT, ONE WIPES IT OFF WITH A RAG;[7] IF IT IS OF LEATHER,[8] WATER IS POURED OVER IT UNTIL IT DISAPPEARS.

GEMARA. R. Huna said in Rab's name: They learnt this only where one forgot [it there], but if he placed [it there]. it [the cask] becomes a stand for a forbidden article.

IF IT IS [STANDING] AMONG [OTHER] CASKS, etc. Which Tanna holds that wherever there is something permitted and something forbidden, one must occupy oneself with what is permitted, not with what is forbidden?[9] — Said Rabbah b. Bar Hanah in R. Johanan's name, It is R. Simeon b. Gamaliel. For we learnt: If one selects beans on a festival, Beth Shammai maintain: He must select the edible [beans] and eat them;[10] whereas Beth Hillel rule: He may select in the usual way[11] into his lap or into a plate. Now it was taught, R. Simeon b. Gamaliel said: When was this said? When the edible exceeds the non-edible;[12] but if the non-edible exceeds the edible, all agree that he must select the edible. But here it is analogous to where the edible exceeds the non-edible?[13] -Since he cannot take [the whole of] the wine, should he desire it, unless he lifts it up, it is analogous to where the non-edible exceeds the edible.[14] IF IT IS [STANDING] AMONG THE CASKS, HE LIFTS IT OUT. It was taught, R. Jose said: If the cask is lying among a store [of casks], or if glassware is lying under it, he lifts it out elsewhere, tilts it on a side, so that it falls off, takes thereof what he requires, and replaces it.

IF MONEY IS LYING ON A CUSHION: R. Hiyya b. Ashi said: They learnt this only where one forgot [it there]; but if he placed [it there],[15] it [the cushion] became a stand for a forbidden article. Rabbah b. Bar Hanah said: They learnt this only when it is required for itself; but if its place is required, one may remove it [the cushion] while they [the coins] are yet upon it. And thus did Hiyya b. Rab of Difti[16] recite: They learnt this only when it is required for itself; but if its place is required, one may move it while they are yet upon it.

IF MONEY IS LYING ON A CUSHION, ONE SHAKES, etc. R. Oshaia said: If one forgets a purse in a courtyard, he places a loaf or a child thereon and moves it. R. Isaac said: If one forgets a brick in a courtyard, he places a loaf or a child thereon and moves it. R. Judah b. Shila said in R. Assi's name: They once forgot a saddlebag full of money in the street, and went and consulted R. Johanan and he told them, Place a loaf or a child thereon and move it.[17] Mar Zutra said: The law is as all these rulings, where one forgets. R. Ashi said: Even if one forgets, this is still not [permitted], and they permitted [the expedient of] a loaf or a child only in connection with a corpse.[18]

Abaye placed a ladle on a pile of sheaves;[19] Raba placed a knife on a young dove[20] and handled it. Said R. Joseph: How keen are the rulings of children![21] assume that the Rabbis ruled thus when one forgets: but was it said [that it is permitted] at the very outset? Abaye retorted: But that I am a person of importance,[22] would I need a ladle on sheaves: surely they are fit for reclining thereon.[23] Raba retorted: But that I am a person of importance, would I need a knife on a young dove? surely it is fit for me as raw meat.[24] Thus the reason is because it is fit as raw meat; but if it were not fit as raw meat it might not [be handled]:[25] shall we say that Raba agrees with R. Judah?[26] But surely Raba said to his servant, Roast me a duck[27] and throw its entrails to a cat?[28]

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(1) One hundred and one is stated inclusively.

(2) Thus R. Judah insists on actual removal.

(3) He agrees with R. Simeon b. Eleazar but adds that since mere intention suffices to make the mixture fit, one can also remove the se'ah on the Sabbath.

(4) When he wishes to draw the contents.

(5) And the falling stone might cause damage.

(6) E.g., secretion, spittle, etc.

(7) But not with water, which is forbidden as washing.

(8) Which is not such as is washed with water.

(9) As here: one must not handle the stone, a forbidden article, but the whole cask, which is a permitted object, even though the stone lies upon it.

(10) Leaving the non-edible beans in the bowl.

(11) I.e., he can remove the non-edible beans, if he wishes.

(12) Then Beth Hillel permit the latter to be picked out, because it is less trouble.

(13) For there is more trouble in lifting out the whole cask than in simply removing the stone.

(14) Eventually he must lift out the cask and tilt it in order to obtain the wine at the very bottom; hence there is no more trouble in lifting it out now.

(15) Before the Sabbath.

(16) V. p. 35, n. 5.

(17) Less than four cubits at a time, since carrying in a street is forbidden; or, within a barrier formed by a chain of persons, v. ‘Er. 43b.

(18) V. supra 30b.

(19) To handle the latter in virtue of the former.

(20) Killed, raw and unsalted.

(21) Said sarcastically.

(22) Who sets an example.

(23) Hence I may hand]e them in any case, and I place the ladle there merely because I do not wish to encourage laxity of observance.

(24) Which used to be eaten in his days.

(25) Though it would still be fit for dogs; thus fitness for dogs does not permit handling by humans.

(26) Who holds the view expressed in the preceding note; v. Bez. 6b.

(27) It was a festival.

(28) Thus he permitted him to handle it, though unfit for human beings just then, entrails not being eaten on Festivals: nevertheless on the previous day, before the festival commenced, they would have been fit for human beings too.

Talmud - Mas. Shabbath 143a

There, since they would putrefy,[1] his mind was [set] upon them from the previous day.[2] Logic too indicates that Raba agrees with R. Judah. For Raba lectured: A woman must not enter a wood-shed to take thence a wood poker;[3] and if a wood poker is broken [on a Festival], it may not be used as fuel on the Festival, because we may heat with utensils but not with fragments of utensils. This proves it.[4]

MISHNAH. BETH SHAMMAI SAY: ONE MAY REMOVE BONES AND [NUT]SHELLS FROM THE TABLE;[5] BUT BETH HILLEL RULE: ONE MUST TAKE AWAY THE WHOLE BOARD AND SHAKE IT.[6] ONE MAY REMOVE FROM THE TABLE CRUMBS LESS THAN THE SIZE OF AN OLIVE AND THE PANICLES OF BEANS AND LENTILS, BECAUSE THEY ARE FOOD FOR ANIMALS. AS FOR A SPONGE, IF IT HAS A LEATHERN HANDLE, ONE MAY WIPE [THE BOARD] WITH IT; IF NOT, ONE MAY NOT WIPE [THE BOARD] WITH IT.[7] [THE SAGES MAINTAIN]:[8] IN EITHER CASE IT MAY BE HANDLED ON THE SABBATH[9] AND IS NOT SUSCEPTIBLE TO DEFILEMENT.[10]

GEMARA. R. Nahman said: As for us, we have no other [view] but that Beth Shammai agrees with R. Judah, and Beth Hillel with R. Simeon.[11]

ONE MAY REMOVE CRUMBS FROM THE TABLE.This supports R. Johanan. For R. Johanan said: Crumbs less than an olive in size may not be wantonly[12] destroyed.[13]

PANICLES OF BEANS. Who is the authority? [Apparently] R. Simeon, who rejects [the interdict of] mukzeh?[14] Then consider the final clause: AS FOR A SPONGE, IF IT HAS A LEATHERN HANDLE, ONE MAY WIPE [THE BOARD] WITH IT; IF NOT, ONE MAY NOT WIPE WITH IT: this agrees with R. Judah, who maintains, That which is unintentional is forbidden?[15] — Here even R. Simeon agrees, for Abaye and Raba both maintained: R. Simeon admits in a case of ‘cut off his head but let him not die.’[16]

The kernels of Syrian dates[17] may be handled, since they are fit [for cattle] on account of their parent source,[18] but those of Persian [dates] are forbidden.[19] Samuel handled them in virtue of [a piece of] bread.[20] (Mnemonic: SHarnas SHapaz.)[21] Samuel is consistent with his view, for Samuel said: One may carry out all his requirements with bread.[22] Rabbah handled them in virtue of a bowl [flask] of water. R. Huna the son of R. Joshua made them as a pot of excrements.[23] Said R. Ashi to Amemar: But may we make a pot of excrements at the outset?[24] R. Shesheth threw them away [spat them out] with his tongue. R. Papa threw them behind the couch.[25] It was said of R. Zechariah b. Eucolos that he would turn his face to the back of the couch and throw them away. [

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(1) If left until the evening after the Festival.

(2) Intending them for cats, and therefore they are mukan (q.v. Glos.).

(3) For wood in a shed is generally meant for fuel, not to be used as a utensil,

(4) That Raba accepts the interdict of mukzeh, in accordance with R. Judah.

(5) By hand, though they are not even fit for a dog — dry and hard bones are referred to for Beth Shammai do not accept the interdict of mukzeh.

(6) But the bones and nutshells may not be handled, Beth Hillel accepting the interdict of mukzeh.

(7) For fear of wringing out the absorbed moisture.

(8) This is omitted in some versions.

(9) When dry.

(10) Being neither a wooden utensil, a garment, a sack, nor metal, and only these can become unclean.

(11) R. Judah accepts the interdict of mukzeh; R. Simeon does not. Hence the views ascribed to Beth Shammai and Beth Hillel respectively in our Mishnah must be reversed.

(12) Lit., ‘by hand’.

(13) Rashi: since the Mishnah states, ONE MAY REMOVE, implying that they are removed by hand, and must not be thrown away. Tosaf. rejects this deduction: moreover, it appears from Ber. 52b that ‘may be destroyed’ is the correct reading. Accordingly, Tosaf. reads there: ...may be wantonly destroyed, the deduction being from the statement, BECAUSE THEY ARE FOOD FOR ANIMALS, which may be destroyed.

(14) For on Judah's view it is mukzeh, since it was together with the edible portion before the Sabbath when it was not mukan for animals.

(15) The unintentional act is that in holding it water is wrung out.

(16) V. p. 357, n. 8.

(17) These were of an inferior quality and only fit for cattle.

(18) Lit., ‘their mother’. Sc. the date itself, v. n. 8, the case here being the reverse.

(19) Because the dates themselves were fit for human beings.

(20) Similar to the cases given supra 142b.

(21) V. p. 149, n. 6. SH=SHemuel (Samuel). R=Rabbah; N=R. Huna; S=R. AShi, SH=SHesheth, P=R. Papa; Z=R. Zechariah.

(22) Supra 50b.

(23) He collected all the kernels in front of him; the quantity made them repulsive and he could treat them as a pot of excrements, which may be removed.

(24) Surely not. Thus he disagrees with R. Huna.

(25) Upon which he reclined while eating.

Talmud - Mas. Shabbath 143b

CHAPTER XXII

MISHNAH. IF A CASK [OF WINE] IS BROKEN,[1] ONE MAY SAVE THEREOF THE REQUIREMENTS[2] FOR THREE MEALS, AND HE [THE OWNER] CAN SAY TO OTHERS, ‘COME AND SAVE FOR YOURSELVES’, PROVIDED THAT HE DOES NOT SPONGE IT UP.[3] FRUIT MAY NOT BE SQUEEZED IN ORDER TO EXPRESS THEIR JUICES:[4] IF THEY EXUDE OF THEIR OWN ACCORD THEY ARE PROHIBITED. R. JUDAH SAID: IF [THEY STAND] AS EATABLES,[5] THAT WHICH EXUDES FROM THEM IS PERMITTED; BUT IF FOR LIQUIDS,[6] THAT WHICH EXUDES FROM THEM IS PROHIBITED. IF HONEYCOMBS ARE CRUSHED ON THE EVE OF THE SABBATH AND IT [THE HONEY] EXUDES SPONTANEOUSLY, IT IS FORBIDDEN; BUT R. ELEAZAR[7] PERMITS IT.

GEMARA. A Tanna taught: One must not sponge up wine nor dab up oil,[8] so that he should not act as he does during the week.

Our Rabbis taught: If one's produce is scattered in his courtyard, he may collect a little at a time and eat it,[9] but not into a basket or a tub, so that he should not act as he does during the week. FRUIT MAY NOT BE SQUEEZED, [etc.]. Rab Judah said in Samuel's name: R. Judah agreed with the Sages in respect to olives and grapes. What is the reason? Since they are [normally] for expressing, he puts his mind to them.[10] But ‘Ulla said in Rab's name: R. Judah disagreed in respect of olives and grapes too. While R. Johanan said: The halachah is as R. Judah in the case of other produce, but the halachah is not as R. Judah in the case of olives and grapes. Rabbah said in Rab Judah's name in Samuel's name: R. Judah agreed with the Sages in respect of olives and grapes, while the Sages agreed with R. Judah in respect of other produce. Said R. Jeremiah to R. Abba: Then wherein do they differ? When you find it [I will tell you,] he replied.[11] R. Nahman b. Isaac said: It is reasonable that they differ in the case of mulberries and pomegranates.[12] For it was taught: If one draws off oil from olives, or wine from grapes,[13] and [then] carries them in,[14] whether as eatables or for their liquids, that which exudes from them is forbidden. If one draws fluid out of mulberries or juice[15] out of pomegranates, and [then] carries them in, as eatables, that which exudes from them is permitted; [if he carries them in] for their liquid or without specifying [their purpose], that which exudes from them is forbidden: the words of R. Judah. But the Sages maintain: Whether for eating or for drinking, that which exudes from them is forbidden.

Now, does R. Judah hold that if it [the purpose] is unspecified, it [the exuding liquid] is forbidden? But surely we learnt: A woman's milk defiles,[16] [whether it flows] with or without [the woman's] desire; a cow's milk defiles only [when it flows] with [its owner's] desire.[17] Said R. Akiba, It [the reverse] follows a minori: if woman's milk, which is set apart for infants only, defiles [whether it flows] with or without [her] desire, then cow's milk, which is set apart for both infants and adults, surely defiles [whether it flows] with or without [the owner's] desire.[18] [Said they to him]: If a woman's milk is unclean[19] without [her] desire, that may be because the blood of her wound is unclean;[20] shall cow's milk be unclean

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(1) On the Sabbath.

(2) Lit., ‘food’.

(3) I.e., he must not absorb the spilt wine in a sponge, lest he wring it out (into a vessel), which is forbidden.

(4) This is forbidden under threshing, v. supra 73a.

(5) E.g., dates which are intended for eating.

(6) E.g., dates intended for honey.

(7) This is the reading supra 19b, R. Eleazar b. Shammua’ being the Tanna that is meant — Rashi ibid; v. Bah. Cur. edd. R. Eliezer.

(8) With his hands, which he then wipes on the edge of a vessel so that the oil runs unto it.

(9) This implies that he may collect only what he intends eating there and then. Tosaf. however, favours the deletion of ‘and eat it’.

(10) If they exude their liquid he does not mind, or is even pleased.

(11) Probably: if you think carefully about it you will find the answer yourself.

(12) Which were not usually pressed for juice.

(13) Ri. (v. Tosaf. a.l.) Rashi translates; if oil oozes out of olives, etc. — of its own accord.

(14) To the house for storing. ‘Then’ is added on the Ri's explanation. Rashi: he had (previously) carried in.

(15) Lit., ‘wine’.

(16) I.e., if it falls on a food-stuff it makes it liable to defilement, cf. p. 45, n. 1, likewise, it is defiled itself if it comes into contact with a dead sherez (q.v. Glos.)- Rashi, Maim. and Asheri in Maksh. VI, 8.

(17) Cf. p. 45, n. 1.

(18) For the power of rendering food susceptible to uncleanness depends upon whether the fluid is regarded as a liquid or not. Hence since cows milk is more widely used as a liquid than woman's milk, its power in this respect cannot be less than that of the latter.

(19) In the same sense as in p. 727, n. 7.

(20) Likewise in the same sense; Nid. 55b.

Talmud - Mas. Shabbath 144a

without [the owner's] desire, though the blood of its wound is clean? I am more stringent in the case of milk than in the case of blood, replied he, because if one milks[1] as a remedy[2] it [the milk] is unclean, whereas if one lets blood as a remedy it is clean. Said they to him: Let baskets of olives and grapes prove it, for the liquid that exudes from them with [their owner's] desire is unclean; without [their owner's] desire, is clean. Now does not ‘with desire’ mean that he [the owner] is pleased therewith;[3] whilst ‘without [his] desire’ means that it [the purpose] is unspecified?[4] Now if olives and grapes, which stand to be pressed, yet where [the juice exudes] without desire it is nothing: how much more so mulberries and pomegranates, which do not stand to be pressed?[5] — No: ‘with desire’ means that it is unexpressed, whilst ‘without desire means that he [the owner] revealed his mind, saying, ‘It does not please me An alternative answer is: baskets of olives and grapes are different, [for] since it stands to be wasted,[6] he [the owner] indeed renounces it beforehand.[7] We have [thus] found that R. Judah agrees with the Rabbis in the case of olives and grapes. How do we know that the Rabbis agree with R. Judah in the case of other fruits?[8] Because it was taught: One may express

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(1) A cow, or if one draws off a woman's milk.

(2) Not because the milk is required, but because its presence in the animal or woman may be injurious to them.

(3) I.e., from his explicit statements we understand that he is pleased therewith. — It may be observed that where fruit is kept for its juice, its exuding is regarded as in conformity with the owner's desire, whether he actually wanted it just then or not.

(4) In which case it is clean, because it is not regarded as a liquid. This must at least represent the view of R. Judah, whose range of liquids is more restricted than that of the Rabbis.

(5) And since according to R. Judah it is not a liquid in respect of defilement, when it exudes on the Sabbath it should be permitted. This is the point of the difficulty.

(6) Sc. the liquid that exudes. Thus ‘baskets’ is intentionally stated here, for the juice runs out through the holes.

(7) Hence it certainly does not exude with his desire. But if the fruit is in other

(8) Excluding mulberries and pomegranates.

Talmud - Mas. Shabbath 144b

plums, quinces and sorb-apples,[1] but not pomegranates, and [indeed] the household of Menasia b. Menahem used to express pomegranates.[2] And how do you know that this is the [ruling of] the Rabbis: perhaps it is R. Judah[‘s view]?- Even granted that it is R. Judah[‘s]: when have you heard R. Judah [to permit the juice], when it exudes of itself: have you heard him [to rule that] we may express it at the very outset?[3] But what you must answer is since they are not intended for pressing, [it is permitted] even at the outset; consequently even if it is assumed to be the ruling of the Rabbis, since they are not intended for pressing [it is permitted] at the very outset. Hence it follows that this [agrees with] the Rabbis [too].[4] This proves it.

‘The household of Menasia b. Menahem used to express pomegranates.’ R. Nahman said: The halachah is in accordance with the household of Menasia b. Menahem. Said Raba to R. Nahman: Was then Menasia b. Menahem a Tanna?[5] And should you say [that you mean], The halachah is as this Tanna[6] because he agrees with the [practice of] Menasia b. Menahem: just because he agrees with Menasia b. Menahem, the halachah is as he! Does Menasia b. Menahem represent the majority of people?[7] Yes. For we learnt: If one maintains thorns in a vineyard, — R. Eleazar said: They are forbidden;[8] but the Sages maintained: Only that the like of which is [normally] kept[9] creates an interdict. Now R.

utensils which conserve the liquid, it is regarded as exuding with his desire even where he said nothing. Hanina said: What is R. Eleazar's reason? Because in Arabia the thorns of fields are kept for the camels.[10] How compare! Arabia is a [whole] region, but here his practice[11] counts as nought in relation to that of all [other] people! — Rather this is the reason,[12] as R. Hisda. For R. Hisda said: If beets are expressed and [the juice] poured into a mikweh,[13] it renders the mikweh unfit on account of changed appearance.[14] But these are not normally expressed?[15] What you must then answer is that since he assigned value thereto,[16] it ranks as liquid;[17] so here too, since one assigns a value thereto, it ranks as a liquid.[18] R. Papa said: The reason is that it is something wherewith a mikweh may not be made in the first place, and everything wherewith a mikweh may not be made in the first place renders a mikweh unfit through changed appearance.[19] We learnt elsewhere: If wine, vinegar, or secretion [of olives][20] falls therein [a mikweh] and changes its appearance, it is unfit.[21] Which Tanna holds that secretion [of olives] is a liquid?[22] — Said Abaye, It is R. Jacob. For it was taught, R. Jacob said: The secretion is as a liquid, and why did they [the Sages] rule, The secretion which exudes at the beginning[23] is clean?[24] Because one does not desire to keep it. R. Simeon said: Secretion is not as a liquid, and why did they rule, The secretion that exudes from the bale made up for the press[25] is unclean? Because it cannot but contain particles of diluted oil. Wherein do they differ?[26] They differ in respect to what oozes after [the olives have been subject to their own] pressure. Raba said: The reason is because it is something whereof a mikweh may not be made, and such renders a mikweh unfit through change of colour.[27] Rab Judah said in Samuel's name: One may squeeze out a cluster of grapes into a pot,[28] but not into a plate.[29] R. Hisda observed: From our master's words we may learn [that] one may milk a goat into a pot [of food], but not into a plate. This proves that he holds: a liquid that unites with[30] a [solid] foodstuff is [accounted] a foodstuff. Rami b. Hama objected: If a zab milks a goat, the milk is unclean.[31] But if you say, A liquid that unites with a [solid] foodstuff is a foodstuff, whereby did it become susceptible?[32] — As R. Johanan said [elsewhere], By the drop [of milk] smeared on the nipple: so here too by the drop smeared on the nipple.[33] Rabina objected: If a person unclean through a corpse squeezes out olives or grapes

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(1) Because their juice is not normally expressed, and therefore that is not akin to threshing, which is the reason of the prohibition in the case of other fruits.

(2) On weekdays, which shows that pomegranates are intended for this.

(3) Surely not.

(4) For the same logic holds good on their view too.

(5) Of course not. The practice of this household is merely quoted, but he himself could give no ruling.

(6) Who forbids with pomegranates.

(7) That the halachah should be decided by his practice.

(8) Lit., ‘sanctified’. Viz., the grapes, on account of the mixture of plants; Deut. XXII, 9.

(9) I.e., a plant which is wanted and valuable, which excludes thorns.

(10) Thus Arabian practice decides the law, and the same is true here.

(11) Lit., ‘mind’.

(12) For R. Nahman's ruling that one may not press pomegranate..

(13) V. Glos.

(14) The water is stained red and no longer looks like water.

(15) Hence their juice should be of no account.

(16) Sc. the juices.

(17) Which can invalidate a mikweh.

(18) Viz.,the juice of pomegranates. Rashi: R. Nahman accordingly explains the Baraitha thus: — One may squeeze plums, etc., not for their juice, since this would automatically give the juice a value of its own as a liquid, which in turn prohibits squeezing, but in order to improve the taste of the fruit. But not pomegranates. even to improve the fruit, for since some, as the house of Menasia b. Menahem, squeeze it for the sake of the juice, should you permit the former the latter too may be done. This does not apply to plums etc. which no-one squeezes for the sake of their juice.

(19) Yet no value is assigned thereto and the juice is not a liquid.

(20) A fluid given off by olives before the actual oil is expressed. It is in fact a kind of diluted oil.

(21) V. Mik. VII, 4.

(22) To invalidate a mikweh.

(23) When the olives are first loaded in the press, but before they are actually pressed.

(24) It does not render food insusceptible to defilement; v. p. 45, n. 1.

(25) Jast.: a bale of loose texture containing the olive pulp to be pressed. This fluid denotes a further stage than the previous.

(26) Since both admit that the first fluid is clean, while that which oozes from the olive pulp is unclean, in respect of what do they disagree?

(27) That is why the serial fluid makes the mikweh unfit; accordingly that ruling agrees with all.
(28) Of food, for obviously the juice will not be drunk separately but is meant to season the food; as such it remains a food, i.e., a solid, itself.
(29) As it may then be drunk separately,notwithstanding that one does not generally drink from a plate.
(30) Lit., comes into'.
(31) A zab defiles everything through hesset (v. p. 395, n. 1); here too he exercises hesset on the milk.
(32) To defilement, for no foodstuff can be unclean unless a liquid has previously fallen upon it (v. p. 45, n. 1). — The law is stated generally- which implies that it is so even if he milks it into a pot of food.
(33) The milker smears the first drop around the nipple, to facilitate the flow. This drop of course counts as a liquid, and all the subsequent milk is touched thereby.

Talmud - Mas. Shabbath 145a

exactly as much as an egg [in quantity] it is clean.[1] Hence if more than an egg [in quantity] it [the juice] is unclean; but if you say, A liquid that unites with a [solid] foodstuff is a foodstuff, whereby did it become susceptible? He raised the objection and he himself answered it: It refers to squeezing out into a plate.

R. Jeremiah said, This is dependent on Tannaim: If one smooths [the surface of dough] with grapes [grape juice], it does not become susceptible [to defilement];[2] R. Judah maintained: It is made susceptible, Do they not differ in this: one Master holds, A liquid that unites with a [solid] foodstuff is a foodstuff, while the other Master holds that it is not a foodstuff? — Said R. Papa. All hold, A liquid that unites with a foodstuff is not a foodstuff,[3] but here they differ in respect of a liquid that will eventually be destroyed:[4] one Master holds, It is [accounted] a liquid; while the other Master holds, It is not a liquid. And [they differ] in the [same] controversy as that of these Tannaim. For it was taught: If one splits olives[5] with unclean hands, they are rendered susceptible;[6] if in order to salt them,[7] they are not rendered susceptible; if in order to know whether the olives are ripe[8] for gathering[9] or not, they do not become susceptible; R. Judah said: They do become susceptible. Now, surely they differ in this, viz., one Master holds: A liquid that stands to be destroyed[10] is [accounted] a liquid, while the other Master holds that it is not a liquid![11] -Said R. Huna the son of R. Joshua: These [latter] Tannaim [indeed] differ in respect of a liquid that stands to be destroyed, while the former Tannaim[12] differ in respect of liquid whose purpose is to polish [the dough].[13] R. Zera said in R. Hiyya b. Ashi's name in Rab's name: A man may squeeze a bunch of grapes into a pot [of food], but not into a plate; but [one may squeeze] a fish for its brine even into a plate.[14] Now, R. Dimi sat and stated this ruling. Said Abaye to R. Dimi, You recite it in Rab's name, hence it presents no difficulty to you; [but] we recite it in Samuel's name, so it presents a difficulty to us. Did Samuel say, '[One may squeeze] a fish for its brine even into a plate'? Surely it was stated: If one presses out [pickled] preserves,[15] — Rab said: If for their own sake,[16] it is permitted; if for their fluid,[17] he is not culpable, nevertheless it is forbidden. But with boiled preserves, whether for their own sake or for their fluid, it is permitted. While Samuel ruled: Both with [pickled] preserves and boiled preserves, if for their own sake, it is permitted; if for their fluid, he is not culpable, yet it is forbidden![18] — By God! replied he, 'Mine eyes have beheld, and not a stranger':[19] I heard it from R. Jeremiah's mouth, and R. Jeremiah from R. Zera, and R. Zera from R. Hiyya b. Ashi, and R. Hiyya b. Ashi from Rab.

To turn to [the main] text: 'If one presses out [pickled] preserves, — Rab said: If for their own sake, it is permitted; if for their fluid, he is not culpable, nevertheless it is forbidden. But with boiled preserves, whether for their own sake or for their fluid, it is permitted. While Samuel ruled: Both with [pickled] preserves and boiled preserves, if for their own sake, it is permitted; if for their fluid, he is not culpable, yet it is forbidden. R. Johanan said: Both with [pickled] and boiled preserves, if for their own sake, it is permitted; if for their fluid, he is liable to a sin-offering'. An objection is raised: One may squeeze [pickled] preserves on the Sabbath for the requirements of the Sabbath, but not against the termination of the Sabbath; but one must not express olives and grapes, and if he does, he is liable to a sin-offering: this is a difficulty according to Rab, Samuel, and R. Johanan? — Rab reconciles it with his view, Samuel with his, and R. Johanan with his. ‘Rab reconciles it with his view’: One may squeeze [pickled] preserves on the Sabbath for the requirements of the Sabbath, but not against the termination of the Sabbath. When is this said? when it is [done] for their own sake; but if for their fluid, he is not culpable, yet it is forbidden; while [as for] boiled preserves, whether [done] for their own sake or for their fluid, it is permitted. But one must not express olives and grapes, and if he does he is liable to a sin-offering. ‘Samuel explains it according to his view’: One may squeeze [pickled] preserves on the Sabbath for the requirements of the Sabbath, [and] the same applies to boiled preserves. When is this said? When it is for their own sakes; but if for their fluid, he is not culpable, yet it is forbidden. And one must not express olives and grapes, and if he does, he is liable to a sin-offering. ‘R. Johanan explains it according to his view’: One may squeeze [pickled] preserves for the requirements of the Sabbath, but not against the termination of the Sabbath. This applies to both [pickled] and boiled preserves. When is that said? When it is for their own sake; but he must not squeeze them for their fluid, and if he does, it is as though he squeezed olives and grapes, and he is liable to a sin-offering. R. Hiyya b. Ashi said in Rab's name: By the words of the Torah[20] one is culpable for the treading out of olives and grapes alone. And the School of Menasseh taught likewise: By the words of the Torah one is culpable for the treading out of olives and grapes alone. And a witness [attesting] what he heard from[21] another witness is valid

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(1) This person defiles food, and in turn the food, if not less than the size of an egg in quantity, defiles liquids. Here the man does not touch the expressed juice. Now from the very first drop that issues the residue is less than the necessary minimum, and therefore it cannot defile the liquid that follows. V. Toh. III, 3; v. Pes., Sonc. ed., p. 153, n. 2.

(2) Presumably the flour was kneaded with eggs, which do not render it susceptible, and the first Tanna teaches that the grape juice does not do so either.

(3) So cur, edd., which Rashi and Tosaf. support. Wilna Gaon states that the reading of the Geonim, as well as that of Alfasi, is: is a foodstuff.

(4) For the heat of the oven will dry it up.

(5) Rashi: to soften them.

(6) To defilement through the liquid that oozes out because he is pleased with it, since the olives are softened thereby, v. p. 45, nn. 1,4.

(7) When very hard they cannot take salt, and therefore he desires to soften them slightly, but not so much that the juice oozes out; hence he is not pleased therewith.

(8) Lit., ‘have arrived’.

(9) Whether they are soft enough for the oil to be easily expressed.

(10) The liquid which oozes out of course is lost.

(11) And similarly do the Tannaim of the former Baraitha differ on the same question.

(12) Who discuss the smoothing of dough.

(13) But the question of waste does not enter here, because this liquid serves a definite purpose. giving the dough a brighter colour.

(14) Because it is a foodstuff, not a drink, and the squeezing merely separate. its composite parts, viz., the brine from the flesh.

(15) I.e., raw vegetables, preserved or pickled in wine or vinegar.

(16) I.e., he wishes to eat them, and they bear too much moisture at present.

(17) He actually wishes to drink its fluid.

(18) Now the squeezing of boiled preserves is like that of a fish for its brine. Thus Samuel is self-contradictory.

(19) Job XIX, 27. That Rab is the authority for the reported ruling.

(20) Pentateuchal law.

(21) Lit., ‘from the mouth’.

Talmud - Mas. Shabbath 145b

in evidence concerning a woman alone.[1] The scholars asked: What about a witness [attesting] what he heard from another witness in evidence relating to a firstling?[2] — R. Ammi forbids [the admission of his testimony]; while R. Assi permits it. Said R. Ammi to R. Ashi, But the School of Menasseh taught: A witness testifying what he heard from another witness is valid in testimony concerning a woman alone? — Say: Only in testimony for which a woman is valid.[3] R. Yemar recognized as fit a witness [testifying] from the mouth of another witness in respect to a firstling, [whereupon] Meremar called him 'Yemar who permits firstlings.'[4] Yet the law is, A witness [testifying] from the mouth of another witness is valid in respect to firstlings.

HONEYCOMBS. When R. Oshaia came from Nehardea, he came and brought a Baraitha with him:[5] If one crushes olives and grapes on the eve of the Sabbath, and they [their juices] ooze out of themselves, they are forbidden; but R. Eleazar and R. Simeon permit them. R. Joseph observed. Does he come to inform us of another person?[6] — Said Abaye to him, He comes to tell us much. For if [we learnt] from our Mishnah [alone], I would argue, Only there [is it thus], since it [the honey] was a [solid] foodstuff originally and is now a foodstuff; but here that they [the grapes, etc.] were originally a foodstuff but now[7] a fluid, I would say, It is not so. Hence he informs us [otherwise].

MISHNAH. WHATEVER WAS PUT INTO HOT WATER BEFORE THE SABBATH MAY BE STEEPED [AGAIN] IN HOT WATER ON THE SABBATH; BUT WHATEVER WAS NOT PUT INTO HOT WATER BEFORE THE SABBATH MAY [ONLY] BE RINSED WITH HOT WATER ON THE SABBATH, EXCEPT OLD SALTED [PICKLED] FISH, [SMALL SALTED FISH],[8] AND THE COLIAS OF THE SPANIARDS,[9] BECAUSE THEIR RINSING COMPLETES THEIR PREPARATION.[10]

GEMARA. What, for example?[11] R. Safra said: E.g., R. Abba's fowl[s].[12] R. Safra also said: I once paid a visit there [Palestine] and ate thereof, and but for R. Abba who made me drink wine of three foliages[13] I would have been in danger.[14] R. Johanan expectorated at [the mention of] Babylonian kutah.[15] Said R. Joseph: Then we [Babylonians] should expectorate at R. Abba's fowl![16] Moreover, R. Gaza has related, I once paid a visit there [in Palestine] and prepared some Babylonian kutah, and all the invalids of the West [Palestine] asked me for it.

WHATEVER WAS NOT PUT INTO HOT WATER, etc. What if one does rinse [them]?[17] R. Joseph said: If one rinses them, he incurs a sin-offering. Mar the son of Rabina said, We too learnt thus: EXCEPT OLD SALTED [PICKLED] FISH, AND THE COLIAS OF THE SPANIARDS, BECAUSE THEIR RINSING COMPLETES THEIR PREPARATION: this proves it.[18]

R. Hiyya b. Abba and R. Assi were sitting before R. Johanan, while R. Johanan was sitting and dozing. Now, R. Hiyya b. Abba asked R. Assi, Why are the fowls in Babylonia fat?[19] Go to the wilderness of Gaza, replied he, and I will show you fatter ones. Why are the festivals in Babylon [so] joyous? Because they [its inhabitants] are poor.[20] Why are the scholars in Babylonia distinguished [in dress]? Because they are not well learned.[21] Why are idolaters lustful? Because they eat abominable and creeping things. R. Johanan awoke thereat [and] said to them, Children! did I not this teach you: Say unto wisdom, Thou art my sister:[22] if the matter is as clear to thee as that thy sister is interdicted to thee, say it; but if not do not say it? Said they to him, Then let the Master tell us some of these? Why are the fowls of Babylonia fat? Because they were not sent into exile, as it is said, Moab hath been at ease from his youth, and he hath settled on his lees...neither hath he gone into capacity: [therefore his taste remaineth in him, and his scent is not changed].[23] And how do we know that they suffered exile here [in Palestine]? Because it was taught, R. Judah said: For fifty-two years no man passed through Judea, as it is said, For the mountains will I take up a weeping and wailing, and for the pastures of the wilderness a lamentation, because they are burned up, so that none passeth through...both the fowl of the heavens and the beast [behemah] are fled, they are gone:[24] the numerical value of behemah is fifty-two.[25] R. Jacob said in R. Johanan's name: They all returned save the colias of the Spaniards. For Rab said: The water courses of Babylonia carry back the water to the fountain of Etam;[26] but these [colias], since their spine is not firm, could not go up.[27] Why are the festivals in Babylonia joyous? Because they were not subject to that curse, whereof it is written, I will also cause all her mirth to cease, her feasts, her new moons, her Sabbaths, and all her solemn assemblies,'[28] and it is written, Your new moons and your appointed feasts my soul hateth: they are a trouble unto me.[29] What does 'they are a trouble unto me' mean? — Said R. Eleazar: The Holy One, blessed be He, saith, Not enough is it for Israel that they sin before Me, but that they trouble Me to know which evil decree I am to bring upon them. R. Isaac said: There is no single festival when troops did not come to Sepphoris.[30] R. Hanina said: There is no single festival when there did not come to Tiberias a general with his suite and centurions.[31]

Why are the scholars of Babylonia distinguished [in dress]? Because they are not in their [original] homes,[32] as People say, In my own town my name [is sufficient]; away from home, my dress.[33] In days to come shall Jacob take root, Israel shall blossom [yaziz] and bud [ufarah].[34] R. Joseph recited, This refers to scholars in Babylonia who wreathe blossoms [ziziz] and flowers [perahim] around the Torah.[35]

Why are idolaters lustful? Because they did not stand at Mount Sinai. For when

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(1) He is valid to attest a man's death, so that his wife may remarry v. Yeb. 90b.

(2) A firstling of animals may not be eaten until it receives a blemish accidentally, which must be proved by witnesses.

(3) A woman is a valid witness only in certain matters, which includes a firstling's blemish, and in these hearsay too is admissible.

(4) Said in a critical spirit.

(5) Lit., 'in his hand'.

(6) What purpose does this Baraitha serve? The, same principle is expressed in our Mishnah by R. Eleazar, and he merely tells us that it is also R. Simeon's view.

(7) Lit., 'at the end'.

(8) Var. lec. omits this.

(9) A kind of tunny-fish.

(10) V. supra 39a top for notes.

(11) Is put into hot water and then steeped again.

(12) Which he boiled and kept many days in hot water until they dissolved; then he ate them as a remedy.

(13) I.e.,in the third year.

(14) I was moved to expectorate, so sickly was it.

(15) He disliked it so much.

(16) The disparagement of the Babylonian delicacy gave him offence.

(17) The old salted fish etc.

(18) Since it completes their preparation it is the equivalent of boiling.

(19) Fatter than the Palestinian ones.

(20) And live drably during the rest of the year, therefore they appreciate the festivals all the more.

(21) Lit., 'they are not sons of (i.e., they do not possess) the Torah'. — Hence they have nothing else but dress to distinguish them.

(22) Prov. VII, 4.

(23) Jer. XLVIII, 11. The verse is quoted to show the adverse physical effects of exile.

(24) Ibid. IX, 9 (E.V. 10).

(25) I.e., ב=2; ה=5 מ=40; ה=5. Thus he translates: the fowl of the heavens is fled for fifty-two (years). Of course, the fifty-two years of desolation are based on historical figures (Meg. 11b), and this verse is merely quoted as a support or hint. (Tosaf.).

(26) The highest eminence in Palestine (Zeb. 54b). According to Josephus (Ant. VIII, 7,3) it was sixty stadia south of Jerusalem, and it supplied the city with water. The mikweh used by the High Priest on the Day of Atonement, which was situated above the Water Gate, was also drawn thence (Yoma 31a). — Thus as the water flowed from Babylonia it carried along the fish which had migrated from Palestine.

(27) The whole discussion was probably a mere jeu d'espirit as a relaxation after serious study.

(28) Hos. II, 13.

(29) Isa. I, 14.

(30) V. p. 16, n. 6. They were quartered on the Jews and naturally hindered the joy of the festival.

(31) אגמון lit., ‘cane bearer’, but MS.O. reads: הגמון, a general. For קומטון Jast. suggests that קומים (= comites, members of the imperial cabinet) should be read. בעלי זמורה = rod bearers, i.e., centurions.

(32) i.e., they hail from Palestine.

(33) There I must make myself known and distinguished through dress. — This is certainly a more charitable explanation than the previous.

(34) Isa. XXVII, 6.

(35) This is in support of R. Johanan's estimate of the Babylonian scholars.

Talmud - Mas. Shabbath 146a

the serpent came upon Eve he injected a lust into her:[1] [as for] the Israelites who stood at Mount Sinai, their lustfulness departed; the idolaters, who did not stand at Mount Sinai, their lustfulness did not depart.[2] R. Aha son of Raba asked R. Ashi. What about proselytes? Though they were not present, their guiding stars[3] were present, as it is written, [Neither with you only do I make this covenant and this oath], but with him that standeth here with us this day before the Lord our God, and also with him that is not here with us this day.[4] Now he differs from R. Abba b. Kahana, for R. Abba b. Kahana said: Until three generations the lustful [strain] did not disappear from our Patriarchs: Abraham begat Ishmael, Isaac begat Esau, [but] Jacob begat the twelve tribes in whom there was no taint whatsoever.[5]

MISHNAH. ONE MAY BREAK OPEN A CASK IN ORDER TO EAT RAISINS THEREOF, PROVIDED THAT HE DOES NOT DESIGN MAKING A UTENSIL;[6] AND ONE MAY NOT PERFORATE THE BUNG OF A CASK:[7] THIS IS R. JUDAH'S RULING; BUT THE SAGES PERMIT IT. AND ONE MUST NOT PIERCE IT AT THE SIDE THEREOF,[8] WHILE IF IT IS PERFORATED[9] ONE MUST NOT PLACE WAX UPON IT, BECAUSE HE CRUSHES IT.[10] R. JUDAH SAID: [SUCH] AN INCIDENT CAME BEFORE R. JOHANAN B. ZAKKAI IN ARAB[11] AND HE SAID, I FEAR ON HIS ACCOUNT [THAT HE MAY BE LIABLE] TO A SIN-OFFERING.

GEMARA. R. Oshaia said: They learnt this only of pressed [raisins]; but not when they are loose [apart].[12] ‘But not if they are loose [apart]’? An objection is raised: R. Simeon b. Gamaliel said: One may bring a cask of wine, strike off its head with a sword, and place it before guests on the Sabbath, and he need have no fear![13] — That is [according to] the Rabbis: our Mishnah is [according to] R. Nehemiah.[14] Now, what compels R. Oshaia to establish our Mishnah as agreeing with R. Nehemiah, so that it refers to pressed [raisins]; let him explain it as referring to loose [raisins] and [in agreement with] the Rabbis? — Said Raba, Our Mishnah presents a difficulty to him: why particularly teach ‘RAISINS : let him [the Tanna] teach ‘fruit?’ Hence it follows thence that the reference is to pressed [raisins].

One [Baraitha] taught: One may untie, unravel, or cut through the wicker wrappers of raisins and dates.[15] Another was taught: One may untie, but not unravel or cut. There is no difficulty: one agrees with the Rabbis; the other with R. Nehemiah. For it was taught, R. Nehemiah said: Even a spoon, even a robe, and even a knife may be handled only when required for their [usual] function.

R. Shesheth was asked: What about piercing a cask with a spit[16] on the Sabbath? does he intend [making] an opening, so it is forbidden, or perhaps his intention is to be generous[17] and it is permitted? — He intends [making] an opening, replied he, and it is forbidden. An objection is raised: R. Simeon b. Gamaliel said: One may bring a cask of wine and strike off its head with a sword? —

There his intention is certainly to be generous: but here, if he really means to be generous — let him open it.[18]

ONE MAY NOT PERFORATE THE BUNG, etc. R. Huna said: The controversy is [in respect of a hole] at the top;[19] but all agree that it is forbidden at the side,[20] and thus he teaches, ONE MUST NOT PIERCE IT AT THE SIDE THEREOF. But R. Hisda maintained: The controversy is in [respect of a hole] at the side, but all agree that it is permitted on the top, and as to what he teaches, ONE MUST NOT PIERCE IT AT THE SIDE THEREOF, there it refers to the cask itself.[21]

Our Rabbis taught: One may not pierce a new hole[22] on the Sabbath, but if one comes to add,[23] he may add; but some say, One may not add. But they all agree that one may pierce an old hole[24] at the very outset. Now as to the first Tanna, wherein does it differ from [boring] a new hole, which may not [be done]? [Presumably] because an opening is [thereby] effected! Then in adding too an opening is improved (effected]?[25] — Said Rabbah: By the words of the Torah[26] every opening which is not made for putting in and taking out is not an opening, and it was the Rabbis who forbade it[27] on account of [the ventilation of] a hen-coop, which is made to permit the fresh air to enter and the fumes to pass out.[28] Hence ‘if one comes to add, he may add’: [for] in a hen-coop one will certainly not come to add,

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(1) Cf. II Esdras IV, 30.

(2) The idea is that the serpent infected Eve (i.e., the human race) with lust, from which, however, those who accept the moral teachings of the Torah are freed. Cf. B.B. 16a: The Holy One, blessed be He, created the evil passions, but He also created the Torah as their antidote. Thus this passage does not teach the doctrine of ‘Original Sin’, which Judaism rejects; v. Hertz, Genesis, pp. 59-60, ‘Jewish view on the "Fall of Man,’’. V. also Weiss, Dor, II, p. 9.

(3) On mazzal v. Sanh., Sonc. ed., p. 629, n. 10.

(4) Deut. XXIX, 14f. The teachings of Judaism and its spiritual ennoblement were freely meant for all mankind.

(5) Even before the Revelation at Sinai.

(6) i.e., a proper opening for the cask; this constitutes a labour.

(7) If it is tightly fitted in the cask, so that wine etc., may be poured out through the perforation, R. Han. regards the bung as the whole cover fitted into the top of the cask.

(8) This is explained in the Gemara.

(9) And one wishes to close the holes.

(10) I.e., he spreads it, which is forbidden.

(11) v. p. 600, n. 5.

(12) If the raisins are pressed together, a knife must be handled for cutting them out, and at the same time the barrel may be broken open with it. But if they are loose, so that a knife or axe is not required, it may not be handled merely for breaking the cask open.

(13) Of violating the Sabbath.

(14) That a utensil may be handled only for its normal use.

(15) Unripe dates and raisins were packed in wrappers made of plaited palm branches, to ripen. If the wrapper is tied with a cord one may untie it, unravel its strands, or cut it.

(16) I.e., by forcing it between the splices.

(17) Lit., ‘a good eye’ — i.e.,to widen the opening so that the wine may flow freely, not niggardly but he does not mean to make a permanent opening.

(18) By withdrawing the bung, when the wine would flow no less freely.

(19) There the Rabbis permit it, because it is unusual to make an opening there, but rather the whole bung is removed.

(20) As an opening is sometimes made there in preference to withdrawing the stopper from the top, lest dust etc., fall in. ‘Side’ and ‘top’ both refer to the bung or lid, viz., the side of the bung and the top of the bung, hut not to the sides of the cask itself.

(21) Not the bung.

(22) In a vessel.

(23) I.e., enlarge an existing hole.

(24) Which became stopped up.
(25) כמתקן may mean both effected and improved. — By enlarging the hole he completes its work.
(26) By Pentateuchal law.
(27) Sc. the hole under discussion, as the wine is not poured into the barrel through it.
(28) V. supra 102b.

Talmud - Mas. Shabbath 146b

on account of insects.[1] Yet 'some say, One may not add': Sometimes one may not make it [the hole] [properly] in the first place, and so come to enlarge it. R. Nahman lectured on the authority of R. Johanan: The halachah is as 'some maintain'.

But they all agree that you may pierce an old hole at the very outset! Rab Judah said in Samuel's name: They learnt this only where it was done in order to conserve [the fragrance];[2] but if in order to strengthen it [the cask], it is forbidden.[3] How is it [when it is] to conserve, and how is it [when meant] to strengthen?[4] — Said R. Hisda: If it is above the [level of the] wine, its purpose is to conserve; if below the [top of the] wine, its purpose is to strengthen.[5] Rabbah said: [If] below the [top of the] wine, that too is to conserve. Then how is it to strengthen? — E.g. if it was pierced below the lees.[6]

Abaye said to Rabbah, Something which supports you was taught: A closed house has four cubits; if one had broken open its door-frame, it does not receive four cubits.[7] A closed house [room] does not defile all around it; if he had broken through the door-frame, it defiles all around it.[8]

[The insertion of] a tube,[9] Rab forbids, while Samuel permits. As for cutting it in the first place,[10] all agree that it is forbidden; [again], all agree that replacing it[11] is permitted. They differ only where it is cut but not made to measure:[12] he who forbids [its insertion] [holds that] we preventively prohibit [it], lest he come to cut it out in the first place; while he who permits it, [holds that] we do not preventively prohibit.

This is dependent on Tannaim: One may not cut a tube on a Festival, and it is superfluous to speak of the Sabbath. If it falls out,[13] it may be replaced on the Sabbath, and it goes without saying on Festival[s]. While R. Josiah is lenient. To what does R. Josiah refer, Shall we say, to the first clause? Surely he prepares a utensil?[14] Again, if to the second clause, the first Tanna too certainly permits it? Hence they must differ where it is cut but not made to measure: one Master holds, we preventively prohibit, while the other Master holds, We do not preventively prohibit. R. Shisha son of R. Idi lectured in R. Johanan's name: The halachah is as R. Josiah. WHILE IF IT IS PERFORATED, etc. Oil [to stop up the hole], Rab forbids, while Samuel permits.[15] He who forbids [holds]: We preventively prohibit on account of wax;[16] while he who permits [holds]: We do not preventively prohibit. R. Samuel b. Bar Hanah observed to R. Joseph: You distinctly told us in Rab's name [that with] oil [it] is permitted

Tabuth the fowler[17] said in Samuel's name: [To shape] a myrtle leaf[18] is forbidden. — What is the reason? R. Yemar of Difti[19] said: It is a preventive measure on account of [the making of] a pipe. R. Ashi said: It is a preventive measure lest one pluck it [from the tree]. Wherein do they differ? They differ where it is [already] plucked and [others too] are lying about.[20]

[To wear] linen sheets,[21] Rab forbids, while Samuel permits.[22] Of soft ones all agree that it is permitted;[23] in the case of hard ones all agree that it is forbidden.[24] They differ in respect of medium ones: he who forbids [holds that] they look like a burden; while he who permits [holds that] they do not look like a burden. Now, this [view] of Rab was stated not explicitly but by inference. For Rab visited a certain place where he had no room.[25] So he went out and sat in a karmelith. Linen sheets were brought him,[26] [but] he did not sit [upon them]. He who saw this thought that it was because linen sheets are forbidden. Yet that is not so, for Rab had indeed announced [that] linen sheets are permitted, but he did not sit on them out of respect for our masters: and who are they? R. Kahana and R. Assi.[27]

MISHNAH. A DISH MAY BE PLACED IN A PIT FOR IT TO BE GUARDED, AND WHOLESOME WATER INTO NOISOME WATER FOR IT TO BE COOLED, OR COLD WATER IN THE SUN FOR IT TO BE HEATED. IF ONE'S GARMENTS FALL INTO WATER ON THE ROAD, HE MAY WALK IN THEM WITHOUT FEAR. WHEN HE REACHES THE OUTERMOST COURTYARD[28] HE MAY SPREAD THEM OUT IN THE SUN, BUT NOT IN SIGHT OF THE PEOPLE.[29]

GEMARA. [But] it is obvious?[30] — You might say, Let us preventively forbid it on account of the levelling of depressions;[31] hence he [the Tanna] informs us [otherwise].

AND WHOLESOME WATER, [etc.] It is obvious? — The second clause is required: OR COLD WATER IN THE SUN, [etc.]. That too is obvious? — You, might say, Let us preventively forbid it, lest he come to put it away in [hot] ashes;[32] therefore he teaches us [otherwise].

IF ONE'S GARMENTS DROP, [etc.] Rab Judah said in Rab's name: Wherever the Sages forbade [aught] for appearance s sake, it is forbidden even in the innermost chambers.[33] We learnt: HE MAY SPREAD THEM OUT IN THE SUN, BUT NOT IN SIGHT OF THE PEOPLE? — it is [a controversy of] Tannaim. For it was taught: He may spread them out in the sun, but not in sight of the people; R. Eleazar and R. Simeon forbid it.

R. Huna said:

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(1) One does not make the ventilation hole too large for fear of insects, worms, etc., entering.

(2) I.e., the hole was closed up for that purpose. The closing is done quite feebly, and there is no real work in reopening it.

(3) To reopen it, because it was firmly closed and its re-opening is tantamount to making a new hole.

(4) What is the general rule which determines its purpose?

(5) That the wine should not drip out.

(6) There it has to bear the weight of all the wine and so must be strengthened.

(7) If a number of houses open into a common courtyard and their owners wish to divide it, each to have his own privately, each receives four cubits along the breadth of the courtyard for every door to his house that gives upon it, and the rest is shared equally. Now, if one of the doors had been walled up, but without its frame being broken through, its owner can still claim the four cubits for it; but if the frame was first broken through and then it was closed up, it ceases to count as a door, and the four cubits are lost. V. B.B. 12a.

(8) If a room containing a corpse is closed, i.e., the door is walled up, the defilement of the corpse does not extend beyond it. But if the door-frame was first broken and then walled up, so that no aperture at all is visible, the house is regarded as a grave and defiles everything around it to a distance of four cubits. — Thus an opening must be absolutely closed before it ceases to count as such, and the same applies to the cask.

(9) I.e.,into a barrel, as a pipe.

(10) To the required size of the hole.

(11) Sc. a fitted tube which had fallen out.

(12) It had not been tested in the hole to see whether it fits exactly.

(13) From the bottle, where it serves as a pipe.

(14) Surely he does not permit the making of a tube!

(15) Rab forbids thick semi-solid oil to be spread over the hole, while Samuel permits it.

(16) The spreading of wax too may be regarded as permissible if one is allowed to spread oil.

(17) Rashi. Others: =ריש בי אבא, the head of the family (in Ta'an. 10a).

(18) One may not shape a myrtle leaf into a funnel or pipe and insert it into the mouth of a bottle or cask.
(19) V. p. 35, n. 5.
(20) There are plenty of leaves, so that there is no fear that one may pluck it, hence it is permitted (Wilna Gaon); but the first reason still holds good. R. Han. explains it thus: All agree that one may not make a funnel and insert it in the hole of a cask, but they differ where the leaf was already lying in the hole as a funnel from before the Sabbath. According to R. Yemar it is still forbidden to pour wine through it, lest he make a funnel, but according to R. Ashi it is permitted, since there is no fear of plucking a leaf from the tree.
(21) Which are folded together and used as a pillow or bolster.
(22) Rab forbids a person to wrap them about himself and walk through the streets, thus wearing them as a garment, while Samuel permits it.
(23) They give warmth and therefore may certainly be regarded as a garment.
(24) They give no warmth and are merely a burden.
(25) Rashi: for his disciples.
(26) Tosaf: of medium quality, neither hard nor soft.
(27) They were his disciple-colleagues (v. Sanh. 36b), and it was not fitting that he should enjoy a comfort which had not been provided for them.
(28) Within the town.
(29) Lest they suspect him of having washed them on the Sabbath.
(30) That a dish may be placed in a pit.
(31) He may find depressions in the floor of the pit and level them.
(32) Which is forbidden.
(33) V. Bez. 9a.

Talmud - Mas. Shabbath 147a

If one shakes out his cloak[1] on the Sabbath, he is liable to a sin-offering.[2] Now, we said this only of new ones, but in the case of old ones we have nought against it; and this is said only of black ones, but in the case of white or red ones we have nought against it; [but in any case there is no culpability] unless he is particular about them.[3]

‘Ulla visited Pumbeditha. Seeing the scholars shaking their garments he observed, ‘The scholars are desecrating the Sabbath.’ Said Rab Judah to them, ‘Shake them in his presence, [for] we are not particular at all [about the clothes].’ Abaye was standing before R. Joseph. Said he to him, ‘Give me my hat.’ Seeing some dew upon it he hesitated to give it to him. ‘Shake it and throw it off,’ he directed, ‘[for] we are not particular at all.’

R. Isaac b. Joseph said in R. Johanan's name: If one goes out on the Sabbath with a cloak folded up [and] lying on his shoulders, he is liable to a sin-offering.[4] It was taught likewise: Clothes vendors who go out on the Sabbath with cloaks folded up [and] lying on their shoulders are liable to a sin-offering. And they [the Sages] said this not of clothes vendors alone but of all men, but that it is the nature of merchants to go out thus. Again, if a shopkeeper goes out with coins bound up in his wrapper, he is liable to a sin-offering. And they said this not of a shopkeeper alone but of all men, but that it is a shopkeeper's nature to go out thus. And runners may go out with the scarfs on their shoulders;[5] and they said this not of runners alone but of all men, but that it is the nature of runners to go out thus.[6]

R. Judah said: It once happened that Hyrcanus, son of R. Eliezer b. Hyrcanus, went out on the Sabbath with the scarf on his shoulder, but that a thread [thereof] was wound round his finger.[7] But when the matter came before the Sages they said, [It is permitted] even if a thread is not wound about one's finger. R. Nahman b. R. Hisda lectured in R. Hisda's name: The halachah is [that it is permissible] even if a thread is not wound about his finger.

‘Ulla visited the academy of Assi b. Hini [and] was asked: Is it permitted to make a marzeb on the Sabbath? Said he to them, Thus did R. Ilai say: It is forbidden to make a marzeb on the Sabbath. What is a marzeb? — Said R. Zera: The capes[8] worn by Babylonian women.[9] R. Jeremiah was sitting before R. Zera [and] asked him, How is it thus? It is forbidden, replied he. And how is it thus? It is forbidden, replied he.[10] R. Papa said: Adopt this general rule: Whatever [is done] with the intention of gathering it [the skirts] up[11] is forbidden; whatever is for adornment is permitted. Just as R. Shisha son of R. Idi used to adorn himself with his cloak.[12]

When R. Dimi came,[13] he said: On one occasion Rabbi went out into the field with the two ends of his cloak lying on his shoulder. [Thereupon] Joshua b. Ziruz, the son of R. Meir's father-in-law, said to him: Did not R. Meir declare one liable to a sin-offering in such a case?[14] Was R. Meir so very particular?[15] he exclaimed.’ [So] Rabbi let his cloak fall. When Rabin came,[16] he said: It was not Joshua b. Ziruz but Joshua b. Kapusai, R. Akiba's son-in-law. Said he: Did not R. Akiba declare one liable to a sin-offering in such a case? Was R. Akiba so very particular? he exclaimed. [So] Rabbi let his cloak fall. When R. Samuel b. R. Judah came, he said: It was stated that this [question] was asked.[17]

MISHNAH. IF ONE BATHES IN THE WATER OF A PIT[18] OR IN THE WATER OF TIBERIAS[19] AND DRIES HIMSELF EVEN WITH TEN TOWELS, HE MUST NOT FETCH THEM IN HIS HAND.[20] BUT TEN MEN MAY DRY THEIR FACES, HANDS, AND FEET ON ONE TOWEL AND FETCH IT IN THEIR HANDS. ONE MAY OIL AND [LIGHTLY] MASSAGE [THE BODY]. BUT NOT KNEAD[21] OR SCRAPE.[22] YOU MUST NOT GO DOWN TO A WRESTLING GROUND,[23] OR INDUCE VOMITING,[24] OR STRAIGHTEN AN INFANT[‘S LIMBS],[25] OR SET A BROKEN BONE. IF ONE'S HAND OR FOOT IS DISLOCATED, HE MUST NOT AGITATE IT VIOLENTLY IN COLD WATER BUT MAY BATHE IT IN THE USUAL WAY, AND IF IT HEALS, IT HEALS.

GEMARA. THE WATER OF A PIT is taught analogous to THE WATER OF TIBERIAS: just as the water of Tiberias is hot, so [by] the water of a pit hot [water is meant]; [and furthermore, it states] IF ONE BATHES: only if it is done, but not at the outset.[26] Hence

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(1) Rashi: to free it from the dust. Tosaf.: he shakes off the dew.

(2) As it is tantamount to washing it.

(3) He would never put them on thus; then the dusting is tantamount to washing. But if he is not particular about the dust there is no culpability in any case.

(4) The part which is thrown over the shoulder is considered a burden.

(5) These were swift runners, e.g., for carrying express messages. In T.A. I, p. 603, n. 530b, it is conjectured that the סודר (scarf) was their only garment, apart from a loincloth.

(6) Even if they are folded up and not hanging down (Wilna Gaon and ‘Aruk) — though presumably they are wound round their necks in the first place.

(7) To prevent it from falling off.

(8) Lit., ‘pouches’.

(9) Formed by drawing up the skirts of their garments backwards and attaching it with ribbons, thus shaping it like a tube or gutter, which is the meaning of marzeb.

(10) He gathered up his skirts in various ways and asked him whether such were permissible on the Sabbath.

(11) Rashi: to remain so permanently. Wilna Gaon, citing Maim.: to prevent it from being torn or soiled. Jast. translates: with the intention of creasing.

(12) After putting it on he would smooth and straighten it out to make it more becoming. This is permitted even on the Sabbath.

(13) v. p. 12, n. 9.

(14) For it is not wearing but carrying a burden.

(15) As to call this a burden.

(16) V. p. 12, n. 9.
(17) The incident did not actually happen, but the question was asked in the academy: Rabbi thought of permitting it, but was dissuaded when told of R. Meir's (or, R. Akiba's) view.
(18) Which had been heated.
(19) Which was naturally hot-Tiberias possessed thermal springs.
(20) Even if carrying is permitted, e.g..in his house or where an ‘erub has been provided.
(21) I.e., massage strongly.
(22) With a scraper, perhaps a strigil, to invigorate the circulation.
(23) So Jast. Heb. Kordima. MS.M. and Jer. read: כלפילומא i.e., the clay ground (of the brickyard). Rashi translates: the name of a river.
(24) By means of an emetic.
(25) By manipulation.
(26) For otherwise the Mishnah should read: one may bathe.

Talmud - Mas. Shabbath 147b

sousing the whole body[1] is well [permitted] even at the very outset.[2] Who (is the authority for this]? It is R. Simeon. For it was taught: A man must not souse the whole of his body, either with hot or with cold water: this is R. Meir's view; but R. Simeon permits it. R. Judah said: It is forbidden with hot water, but permitted with cold.

AND DRIES HIMSELF EVEN WITH TEN TOWELS. The first clause informs us of the most surprising ruling. and the second clause informs us of the most surprising ruling. ‘The first clause informs us of the most surprising ruling’: even these, which do not contain much water, [are forbidden]; for since there is only one person, he will come to wring it out. ‘And the second clause informs us of the most surprising ruling’: even these, though they contain very much water [are permitted]; for since there are many, they will remind each other.[3]

Our Rabbis taught: A man may dry himself with a towel and place it on the window-sill, but he must not give it to the bath attendants, because they are suspected of that thing.[4] R. Simeon said: One may dry himself with one towel and bring it home.[5] Abaye asked R. Joseph: What is the law? Said he to him, Lo! there is R. Simeon; lo! there is Rabbi; lo! there is Samuel; lo! there is R. Johanan.[6] ‘R. Simeon’, as we have stated. ‘Rabbi’: for it was taught. Rabbi said: When we learnt Torah at R. Simeon[‘s academy] in Tekoa,[7] we used to carry up oil and towels from the courtyard to the roof and from the roof to an enclosure,[8] until we came to the fountain where we bathed. ‘Samuel’: for Rab Judah said in Samuel's name: A person may dry himself with a towel and carry it home [wrapped round] his hand.[9] ‘R. Johanan’: for R. Hiyya b. Abba said in R. Johanan's name: The halachah is: A person may dry himself with a towel and carry it home [wrapped round] his hand. Yet did R. Johanan say thus: surely R. Johanan said, The halachah is as an anonymous Mishnah, whereas we learnt: AND DRIES HIMSELF EVEN WITH TEN TOWELS, HE MUST NOT FETCH THEM IN HIS HAND? — He recited this as Ben Hakinai[‘s view].[10]

R. Hiyya b. Abba said in R. Johanan's name: The bath attendants may bring women's bathing clothes to the baths, providing that they cover their heads and the greater part of their bodies in them.[11] As for a sabnitha,[12] R. Hiyya b. Abba said in R. Johanan's name: One must tie its two bottom ends.[13] R. Hiyya b. Abba also said in R. Johanan's name: [That means] below the shoulders.[14] Raba said to the citizens of Mahoza: When you carry the apparel of the troops,[15] let them drop below your shoulders.[16]

ONE MAY OIL AND LIGHTLY MASSAGE [THE BODY]. Our Rabbis taught: One may oil and massage the bowels [of an invalid] on the Sabbath, provided this is not done as on weekdays. How then shall it be done? — R. Hama son of R. Hanina said: They must first be oiled and then massaged.[17] R. Johanan said: The oiling and massaging must be done simultaneously.

BUT [ONE MAY] NOT KNEAD. R. Hiyya b. Abba said in R. Johanan's name; One may not stand on the mud of Diomsith,[18] because it stimulates [the body] and loosens [the bowels]. Rab Judah said in Rab's name: The complete period of Diomsith is twenty-one days, and Pentecost is included.[19] The scholars asked: Does Pentecost belong to this end or to that end?[20] — Come and hear: For Samuel said: All potions [medicines] [taken] between Passover and Pentecost are beneficial.[21] Perhaps that is [only] there, where it is beneficial [only] as long as the weather is cold: but here it is on account of the heat,[22] [so] when the weather is warm it is [even] more beneficial.

R. Helbo said: The wine of Perugitha[23] and the water of Diomsith cut off the Ten Tribes from Israel.[24] R. Eleazar b. ‘Arak visited that place. He was attracted to them,[25] and [in consequence] his learning vanished. When he returned, he arose to read in the Scroll [of the Torah].[26] He wished to read, Hahodesh hazeh lakem [This month shall be unto you, etc.],[27] [instead of which] he read haharesh hayah libbam.[28] But the scholars prayed for him, and his learning returned. And it is thus that we learnt, R. Nehorai said: Be exiled to a place of Torah, and say not that it will follow thee, for thy companions will establish it in thy possession;[29] and do not rely on thine own understanding.[30] A Tanna taught: His name was not R. Nehorai but R. Nehemiah; whilst others state, his name was R. Eleazar b. ‘Arak, and why was he called R. Nehorai? Because he enlightened [manhir] the eyes of the Sages in halachah.[31]

BUT [ONE MAY] NOT SCRAPE. Our Rabbis taught: One may not scrape with a strigil on the Sabbath. R. Simeon b. Gamaliel said: If one's feet are soiled with clay and dirt he may scrape them off in the usual way, without fear. R. Samuel b. Judah's mother made him a silver strigil. YOU MAY NOT GO DOWN TO A WRESTLING GROUND. What is the reason? Because of sinking [in the clay soil].[32]

ONE MAY NOT INDUCE VOMITING ON THE SABBATH. Rabbah b. Bar Hanah said in R. Johanan's name: They learnt this only [when it Is effected] by a drug, but it may be done by hand[33] It was taught, R. Nehemiah said: It is forbidden even during the week, because of the waste of food.

OR STRAIGHTEN AN INFANT[‘S LIMBS]. Rabbah b. Bar Hanah said in R. Johanan's name: To swaddle an infant on the Sabbath is permitted. But we learnt: YOU MAY NOT STRAIGHTEN?[34] There it refers to the spinal vertebrae, which appears as building.[35]

ONE MAY NOT RESET A BROKEN BONE. R. Hana of Bagdad said in Samuel's name:

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(1) As opposed to an actual bath.

(2) Even in hot water.

(3) Should one forget himself and wish to wring it out.

(4) Sc. of wringing it out and giving it to others. V. ‘Er., Sonc. ed., p. 610 notes.

(5) Presumably wrapped about him as a garment, or where an ‘erub is provided.

(6) All these have stated their view, and surely they furnish a reliable guide.

(7) Near Bethlehem in Judea.

(8) V. supra 7a.

(9) V. n. 4.

(10) Not anonymously.

(11) So that they are brought as garments.

(12) ‘Aruch; Cur. edd. saknitha. Rashi: a large cloth covering, falling over the shoulders. Maim: a small cloth, not large enough to cover the head and the greater part of the body.

(13) So that it should not fall off.

(14) So that it looks like wearing apparel.

(15) To the baths. The troops (non-Jewish) were billeted in Jewish houses (Cf. Ta'an. 21a), and the Jews had to perform such offices as bringing their bathing outfits to the baths, carrying them through the streets.
(16) V. p. 745, n. 5.
(17) On weekdays it was reversed.
(18) Jast.: identical with Emmaus, a town in the plain of Judea renowned in Talmudic days for its warm springs and luxurious life.
(19) Only twenty-one days in the year does one derive medical benefit from Diomsith, and Pentecost is included in those twenty-one days.
(20) I.e., does the period commence with Pentecost or end with it?
(21) Hence Pentecost ends the period.
(22) I.e.,the healing properties of Diomsith reside in the heat of its springs.
(23) A place in northern Israel famous for its wine. A similar statement is made in Lev. Rab. about the wine of Pelugto. near Tiberias, and probably the two are identical.
(24) They were so much pre-occupied with these pleasures that they neglected learning and lost faith, which ultimately led to their exile and disappearance.
(25) Sc. its inhabitants and their luxurious life.
(26) In Talmudic days the weekly lesson of the Pentateuch was read by a number of the congregation, each of whom read a part.
(27) Ex. XII, 2.
(28) Their hearts were silent; or perhaps it is an unintelligible phrase. Each word differs only by one letter from the original to which in turn it bears some resemblance, and the story is quoted as an illustration of the seductive powers of Diomsith!
(29) Intellectual intercourse is essential if one is to retain his learning.
(30) V. Ab. IV, 14.
(31) If R. Nehorai was identical with R. Eleazar b. ‘Arak, his statement was thus a result of personal experience.
(32) This makes walking a labour (Jast.). Rashi: the clay of that river (v. n. on Mishnah) is slippery, and so one may fall into the water, saturate his garments, and then ring them out. R. Han.: one may easily sink into the soft mud, thus giving many people the labour of hauling him out.
(33) By thrusting the finger down the throat.
(34) And that is the purpose of swaddling.
(35) If one is dislocated it may not be reset.

Talmud - Mas. Shabbath 148a

The halachah is that one may reset a fracture.[1] Rabbah b. Bar Hanah visited Pumbeditha. He did not attend Rab Judah's session, [so] he sent Adda the waiter to him and said, ‘Go and seize him.’[2] So he went and seized him. When he [Rabbah] appeared, he found him [Rab Judah] lecturing, One may not reset a fracture. Said he to him, Thus did R. Hana of Bagdad say in Samuel's name: The halachah is that one may reset a fracture. Said he to him, Surely Hana is one of ours and Samuel is one of ours,[3] yet I have not heard this; did I then not summon you justly?[4]

IF ONE'S HAND IS DISLOCATED, etc. R. Awia was sitting before R. Joseph. when his hand became dislocated.[5] How is it thus? asked he. It is forbidden. And how is it thus?[6] It is forbidden. In the meantime his hand reset itself.[7] Said he to him, what is your question? Surely we learnt, IF ONE'S HAND OR FOOT IS DISLOCATED HE MUST NOT AGITATE IT VIOLENTLY IN COLD WATER, BUT MAY BATHE IT IN THE USUAL WAY, AND IF IT HEALS, IT HEALS. But did we not learn: ONE MAY NOT RESET A FRACTURE, he retorted, yet R. Hana of Bagdad said in Samuel's name, The halachah is that one may reset a fracture.[8] — Will you weave all in one web?[9] he replied; where it was stated it was stated, but where it was not stated it was not stated.[10]

CHAPTER XXIII

MISHNAH. A MAN MAY BORROW PITCHERS OF WINE AND PITCHERS OF OIL FROM HIS NEIGHBOUR, PROVIDED HE DOES NOT SAY TO HIM, ‘LEND [THEM] [HALWENI] TO ME’;[11] AND SIMILARLY A WOMAN [MAY BORROW] LOAVES FROM HER NEIGHBOUR. IF HE DOES NOT TRUST HIM HE LEAVES HIS CLOAK WITH HIM [AS A PLEDGE] AND MAKES A RECKONING WITH HIM AFTER THE SABBATH. IN THE SAME WAY, IF THE EVE OF PASSOVER IN JERUSALEM FALLS ON A SABBATH, ONE LEAVES HIS CLOAK WITH HIM [THE VENDOR] AND RECEIVES HIS PASCHAL LAMB[12] AND MAKES A RECKONING WITH HIM AFTER THE FESTIVAL.

GEMARA.Raba son of R. Hanan asked Abaye: Wherein does halweni differ from hash'ileni?[13] In the case of hash'ileni, he replied, he [the lender] will not come to write it down;[14] whereas [if he says] halweni he will come to write it down. But since on weekdays it sometimes happens that one wishes to say halweni but says hash'ileni, yet he is not particular[15] and comes to write it down, so on the Sabbath too he may come to write it down?[16] — On the Sabbath, he replied since the Rabbis permitted hash'ileni only, but not halweni, the matter is distinguishable and he will not come to write.

Raba son of R. Hanan said to Abaye: Consider! The Rabbis said, ‘Regarding all actions on Festivals, as far as it is possible to vary, we vary them;[17] then the women who fill their pitchers on Festivals, why do they not vary [their way of doing it]? Because it is impossible. How should they do it: shall those who [usually] draw [water] with a large pitcher [now] draw [it] with a small pitcher? then they increase the amount of walking! Shall those who [usually] draw [water] with, a small pitcher [now] draw it with a large one? then they increase the burden.

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(1) He held that this is the correct reading of the Mishnah.

(2) Rashi: take his coat until he comes.

(3) They are both of our district.

(4) Otherwise we would have remained in error.

(5) Lit., ‘his hand changed’ — from its place.

(6) He manipulated his hand in various ways and asked of each whether it was permitted on the Sabbath.

(7) Lit., ‘was healed’.

(8) Which shows that the text may be corrupt. and so the same may apply to the present quotation.

(9) Will you apply the same argument to all?

(10) You cannot assume that the text is corrupt here too.

(11) This is explained in the Gemara.

(12) If one forgot to buy an animal before the Sabbath, he leaves his cloak as a pledge with a vendor on the Sabbath, and takes an animal, but must not actually buy it then, fixing its price.

(13) Both mean ‘lend me’, the first implying for a considerable time, the second for a short period (Rashi). — The Mishnah forbids the use of the first term. [Tosaf.: in the first case the object itself passes into the possession of the borrower; in the second, the borrower enjoys only right of use in the object while the object itself remains the possession of the lender. V. Tosaf. a.l., Kid. 47b and Rappaport J. Das Darlehen pp. 29ff.]

(14) He expects to remember it in any case.

(15) He allows him to keep it for a long time, though the request was only hash'ileni.

(16) Thinking that the borrower may keep it a long time.

(17) So as not to do them in the same way as during the week, even where they are permitted.

Talmud - Mas. Shabbath 148b

Shall one spread a cloth? then he may come to wring it out. Shall one cover it with a lid? it [the string wherewith it is tied] may break and he will come to knot it.[1] Therefore it is impossible.

Raba son of R. Hanan also said to Abaye: We learnt, One must not clap [the hands], beat [the breast], or dance[2] on Festivals. Yet we see that they do it, and do not rebuke them in any way? — Then on your reasoning, when Rabbah said: A man should not sit on the top of a stake, lest an article roll away from him and he come to fetch it,[3] — yet we see [women][4] who carry pitchers and sit at the entrance of alleys, and we do not rebuke them? But leave Israel: better that they should [sin] in ignorance than deliberately. Now, he understood from this that that [principle] holds good only in respect of Rabbinical [enactments] but not Scriptural laws.[5] Yet that is not so: there is no difference between a Rabbinical and a Scriptural law. For lo! the addition to the Day of Atonement is Scriptural,[6] yet we see them [women] eat and drink until it is dark and do not rebuke them.

AND SIMILARLY A WOMAN [MAY BORROW] LOAVES FROM HER NEIGHBOUR, [etc.] Only on the Sabbath is it forbidden, but on weekdays it is well. Shall we say that our Mishnah does not agree with Hillel, for we learnt: And thus Hillel used to say: A woman must not lend a loaf to her neighbour without first valuing it, lest wheat advances and they [the lender and the borrower] come to [transgress the prohibition of] usury?[7] — You may even say [that it agrees with] Hillel: the one is in a place where its value is fixed; the other, where its value is not fixed.[8]

IF HE DOES NOT TRUST HIM. It was stated: As for a loan made on a Festival, — R. Joseph said: It cannot be claimed;[9] whilst Rabbah[10] said: It can be claimed. 'R. Joseph said: It cannot be claimed', for if you say that it can be claimed, he [the lender] will come to record it. 'Rabbah said: It can be claimed', for if you say that it cannot, he will not lend him, and so he will come to abstain from the joy of the Festival.

We learnt: IF HE DOES NOT TRUST HIM, HE LEAVES HIS CLOAK WITH HIM: now, it is well if you say that it cannot be claimed, therefore he must leave his cloak with him and make a reckoning with him after the Sabbath. But if you say that it can be claimed, why must he leave his cloak with him: let him, lend it and then [re-]claim it? — He says, I do not wish to stand at court and before judges.

R. Idi b. Abin objected: If one kills a cow and apportions it on New Year, [then] if the month was prolonged it cancels [the debt]; but if not, it does not cancel the debt.[11] But if it cannot be claimed,[12] what does it cancel! — There it is different, because it is [retrospectively] revealed that it was a weekday.[13] Come and hear [a refutation] from the second clause: 'but if not, it does not cancel the debt'. Now, it is well if you say that it can be claimed, hence he teaches [that] it does not cancel [the debt]; but if you say that it cannot be claimed, then what is meant by 'it does not cancel [the debt]'? — That if he [the debtor] pays him, he accepts it: whence it follows that the first clause means that [even] if he pays him he must not accept![14] — In the first clause he must tell him, 'l release it,' while in the second he need not say, 'l release it'. As we learnt: If one repays a debt in the seventh year he [the creditor] must tell him, 'I release it;' but if he [the debtor] replies, '[I repay] even so,' he may accept it from him, for it is said, And this is the word[15] of the release.[16]

R. Awia used to take a pledge.[17] Rabbah[18] b. 'Ulla had recourse to an artifice.[19]

IN THE SAME WAY, IF THE EVE OF PASSOVER, etc. R. Johanan said: One may sanctify his Passover sacrifice on the Sabbath[20] and his Festival sacrifice on the Festival.[21] Shall we say that we can support him: IN THE SAME WAY, IF THE EVE OF PASSOVER IN JERUSALEM FALLS ON A SABBATH, ONE LEAVES HIS CLOAK WITH HIM AND RECEIVES HIS PASCHAL LAMB, AND MAKES A RECKONING WITH HIM AFTER THE FESTIVAl?[22] — [No.] We treat here of one who assigns shares to others together with himself in his Passover sacrifice,[23] so that it stands sanctified from before. But we learnt: One may not enrol [to share] in an animal on the Festival in the first place?[24] — Here it is different: since he is a habitue of his, it is as though he had enrolled for it beforehand. But R. Oshaia taught: 'A man can go to a shepherd to whom he is accustomed to go and he gives him a sheep for his Passover sacrifice, and he sanctifies it and fulfils his obligation therewith? — There too, since he is accustomed to go to him, he [the shepherd] does indeed sanctify it beforehand.[25] But he states, ‘he sanctifies it’?[26] — This sanctification is a Rabbinical preferment.[27] But did R. Johanan say thus? Surely R. Johanan said: The halachah is [always] as an anonymous Mishnah, whereas we learnt: One may not sanctify, vow a ‘valuation’,[28] devote,[29] or separate terumoth and tithes: all these were said of Festivals, and how much more so of the Sabbath! — There is no difficulty: One refers to obligatory offerings for which there is a fixed time;[30] the other refers to obligations for which there is no fixed time.

MISHNAH. A MAN MAY COUNT HIS GUESTS AND HIS DAINTY PORTIONS BY WORD OF MOUTH, BUT NOT FROM WRITING. A MAN MAY CAST LOTS WITH HIS SONS AND THE MEMBERS OF HIS HOUSEHOLD FOR THE TABLE,[31] PROVIDED THAT HE DOES NOT INTEND TO OFFSET A LARGE PORTION AGAINST A SMALl ONE.[32] AND [PRIESTS] MAY CAST LOTS FOR SACRIFICES ON FESTIVALS, BUT NOT FOR THE PORTIONS.[33] [

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(1) With a permanent knot, which is forbidden.

(2) The former two in grief the third in joy.

(3) V. supra 141a.

(4) V. Bah.

(5) Both cases mentioned here are Rabbinical.

(6) The fast must begin before the Day of Atonement actually commences, and this is deduced from Scripture; v. Yoma 81b.

(7) V. B.M. 75a.

(8) If the price of the loaf is fixed (and our Mishnah refers to such) even Hillel agrees, because if it advances the lender will make an allowance when it is returned.

(9) In a court of Law.

(10) Alfasi and Asheri read: Raba.

(11) This refers to New Year following the seventh year, debts contracted during which are void (v. Deut. XV, 1, 2). The months consist of either thirty or twenty-nine days; in the former case the following month is celebrated with two days as New Moon, the first of which is the last day of the previous month. Now if a butcher kills a cow and divides it among his customers on credit on the first New Year's day following the seventh year: if the previous month, Elul, consisted of thirty days, this New Year's Day was really the last day of Elul, i.e., of the seventh year, and therefore the debt cannot be claimed. But if Elul consisted of twenty-nine days, this New Year's Day is the first of the eighth year, hence the debt can be claimed. — New Year, of course, is a Festival.

(12) Sc. a debt contracted on any Festival.

(13) Sc. the last day of Elul, in spite of the fact that it was celebrated as New Year.

(14) Surely not! The year of release does not actually cancel debts but merely deprives the creditor of his right to exact them.

(15) E. V. ‘manner’.

(16) Deut. XV, 2.I.e., the creditor must inform the debtor of the release.

(17) From anyone who borrowed from him on a Festival.

(18) Var. lec.: Raba.

(19) Rashi: after the Festival he would take an article from the debtor and then detain it.

(20) I.e., when the eve of Passover falls on the Sabbath.

(21) An animal must be formally sanctified before it may be offered as a sacrifice. This may not be done on Sabbaths or Festivals, but since two animals are actually offered on those days respectively they may be sanctified too, if that was not done previously.

(22) And of course he would have to sanctify it on the same day.

(23) Those who participate in the sacrifice must formally enrol themselves as members to share in that particular animal (v. Ex. Xli, 4). Thus the payment is merely for a share in an animal which is already consecrated.

(24) Because it is regarded as transacting business, v. Bez. 27b.

(25) I.e., the shepherd sanctifies it on the festival even on his behalf.

(26) l.e., when he receives it.

(27) I.e. the Rabbis held it more fitting that the owner too should sanctify the animal, but actually that has already been done.
(28) Heb. מעריכין This is the technical term for a vow to give one's own or another person's ‘valuation’ to the Temple. V. Lev. XXVII, 1ff
(29) Heb. מהרימין,i.e. renounce an object by dedicating it absolutely for priestly use; v. Lev. XXVII, 28f.
(30) E.g., the Passover sacrifice and Festive offerings. Such may be sanctified on the Sabbath and Festivals, as otherwise the obligation must remain unfulfilled.
(31) Which portion of the food shall belong to each.
(32) The portions must be alike in size, not one larger and one smaller, so that the first drawn by lot shall receive the largest, etc.
(33) This is explained in the Gemara.

Talmud - Mas. Shabbath 149a

GEMARA. What is the reason? — R. Bibi said: It is a preventive measure, lest he erase.[1] Abaye said: It is a preventive measure, lest he read.[2] Wherein do they differ? — They differ where it is written high up on the wall: according to him who says, Lest he erase, we do not fear; but according to him who says, Lest he read [secular documents], we do fear. Now, as to him who says, ‘Lest he erase’, let us fear lest he read [secular documents]? Moreover, have we no fear that he may erase?[3] Surely we learnt: One may not read by the light of a lamp; whereon Rabbah said: Even if it is as high as twice a man's stature, even if it is as high as [the measurement of] two ox-goads, or even as ten houses on top of each other, he must not read?[4] — Rather they differ where it is written on the wall and is low down: according to him who says, ‘Lest he erase’, we fear; [but] according to him who says, ‘Lest he read [secular documents]’, we do not fear, [for] one will not confuse a wall with a document.[5]

Now, according to him who says, ‘Lest he read [etc.]’, let us fear lest he erase? — Rather they differ where it is engraved on a tablet or a board: on the view that it is ‘lest he erase’, we have no fear; but on the view that it is ‘lest he read’, we do fear. But according to him who says, lest he erase, let us fear lest he read [etc.]? And should you answer, a tablet or a board cannot be confused with a document, — surely it was taught: A man may count how many shall be within and how many without[6] and how many portions he is to set before them, from writing on a wall, but not from writing on a tablet or a board. How is it meant? Shall we say that it is indeed written, wherein does one differ from the other? Hence it must surely mean that it is engraved, yet he states, ‘from writing on the wall, but not from writing on a tablet or a board’? — Rather [say thus]: In truth [they differ] where it is written high up on the wall, and as for your difficulty about Rabbah's [ruling], [the ruling] of Rabbah is dependent on Tannaim. For it was taught: A man may count his guests and his dainty portions by word of mouth, but not from writing. R. Aha permits [it] from writing on the wall. How is it meant: Shall we say that it is written low down, — then let us fear lest he erase it? Hence it must surely mean that it is written high up, which proves that Rabah's [ruling] is dependent on Tannaim.

Now these Tannaim are as the following: For it was taught: One must not look in a mirror on the Sabbath; R. Meir permits [one to look][7] in a mirror that is fixed to the wall. Why is one fixed to the wall different? — [Presumably] because in the meanwhile[8] he will recollect![9] then even if it is not fixed, he will recollect? — We treat here of a metal mirror, and [the reason is] in accordance with R. Nahman's [dictum] in Rabbah b. Abbuha's name. For R. Nahman said in Rabbah b. Abbuha's name: Why was it ruled that a metal mirror is forbidden? Because a man usually removes straggling hairs with it.[10]

Our Rabbis taught: The writing under a painting or an image[11] may not be read on the Sabbath. And as for the image itself, one must not look at it even on weekdays, because it is said, Turn ye not unto idols.[12] How is that taught? — Said R. Hanin: [Its interpretation is,] Turn not unto that conceived in your own minds.[13]

A MAN MAY CAST LOTS WITH HIS SONS, etc. Only with his sons and household, but not with strangers:[14] what is the reason? As Rab Judah said in Samuel's name. For Rab Judah said in Samuel's name: The members of a company who are particular with each other[15] transgress [the prohibitions of] measure, weight, number, borrowing and repaying on the Festival,[16]

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(1) He may find too many names on the list and erase some before instructing his servant to invite the guests.

(2) Secular documents.

(3) If the list is high up.

(4) V. supra 11a. Though he could not reach the lamp to tilt it; hence the same reasoning applies here.

(5) No one is likely to think that since he may read something written on a wall he may also read business documents.

(6) I.e., how many guests shall be placed at the top of the table — 'within' the privileged circle — and how many at the bottom — 'without'.

(7) Lest he see uneven locks of hair and trim them

(8) While he goes for a pair of scissors.

(9) That it is the Sabbath.

(10) Its edge being sharpened. Now the first Tanna forbids all mirrors, drawing no distinctions; whilst R. Meir does draw a distinction. That is similar to the matter just debated

(11) I.e., the written legend beneath a picture.

(12) Lev. XIX, 4.

(13) Tosaf.: the interdict is only against images (or perhaps statues — Jast.) made for idolatrous purposes, but others are permitted.

(14) For otherwise the Tanna would simply teach, A MAN MAY CAST LOTS.

(15) I.e., members of a company at one table, each of whom has his own provisions, and when one borrows from another, are particular to weigh, measure, or count, that the exact quantity may be returned.

(16) On Festivals one may borrow from his neighbour. but not by weight, measure or number. Likewise, he may not use the terms 'lend' and 'repay'. for these belong to monetary transactions. When members of a company are particular with each other, they are likely to be led into a transgression of these prohibitions.

Talmud - Mas. Shabbath 149b

and according to Beth[1] Hillel, usury too.[2] If so, the same applies to his sons and household? — As for his sons and household, this is the reason, as Rab Judah [said] in Rab's name. For Rab Judah said in Rab's name: One may lend to his sons and household on interest, in order to give them experience thereof.[3] If so, a large portion [set off] against a small portion [should be permitted] too? — That indeed is so, and there is a lacuna, while it is thus taught: 'A MAN MAY CAST LOTS FOR HIS SONS AND HOUSEHOLD FOR THE TABLE, even [setting] a large portion against a small portion'. What is the reason?- As Rab Judah['s dictum] in Rab's name. Yet only for his sons and household, but not for strangers. What is the reason? — As Rab Judah['s dictum] in Samuel's name. [Further, 'setting] A LARGE PORTION AGAINST A SMALL PORTION is forbidden even on weekdays in the case of strangers'. What is the reason? — On account of gambling.[4]

AND [PRIESTS] MAY CAST LOTS FOR, etc. What does BUT NOT FOR THE PORTIONS mean? — Said R. Jacob the son of the daughter of Jacob: But [one must not cast lots] for the portions of weekday [sacrifices] on the Festivals. That is obvious? You might argue, since it is written, for thy people are like the Priests that quarrel,[5] even the portions of weekdays too:[6] therefore he informs us [that it is not so].

R. Jacob son of Jacob's daughter also said: He through whom his neighbour is punished is not permitted to enter within the barrier [precincts] of the Holy One, blessed be He. How do we know this? Shall we say, because it is written, And the Lord said, Who shall persuade Ahab, that he may go up and fall at Ramoth-gilead? And one said on this manner; and another said on that manner. And there came forth a spirit and stood before the Lord, and said, I will persuade him. And he said, I will go forth and be a lying spirit in the mouth of all his Prophets. And he [the Lord] said, Thou shalt entice him, and shalt prevail also: go forth, and do so.[7] Now we discussed, What spirit is meant? And R. Johanan answered: The spirit of Naboth the Jezreelite.[8] And what does ‘go forth’ mean? Said Rab, Go forth from within My precincts![9] But perhaps there this is the reason, [viz.,] because it is written, He that speaketh falsehood shall not be established before mine eyes?[10] Again, [if] it is derived from here: Thou art filled with shame for glory: drink thou also, and be as one uncircumcised, etc.;[11] and it is maintained: ‘Thou art filled with shame for glory’ refers to Nebuchadnezzar: [whilst] ‘drink thou also and be as one uncircumcised’, refers to Zedekiah,[12] — one [objection] is that the whole verse is written in reference to Nebuchadnezzar;[13] and further, what could the righteous Zedekiah have done to him, for Rab Judah said in Rab's name: When that wicked man [Nebuchadnezzar] wished to do thus to that righteous man [Zedekiah]. etc.?[14] Rather [it follows] from this: Also to punish the righteous is not good.[15] Now, ‘is not good’ can mean nought but [that he is] evil,[16] and it is written, For thou art a God that hath no pleasure in wickedness, evil shall not sojourn with thee, [which means,] Thou art righteous, therefore evil shall not sojourn in thy habitation.[17]

How is it implied that HALASHIM[18] connotes lots? — Because it is written, How art thou fallen from heaven, O day star, son of the morning! How art thou cut down to the ground thou holesh [who didst cast lots][19] over the nations, etc.[20] Rabbah son of R. Huna said: This teaches that he [Nebuchadnezzar] cast lots over the royal chiefs[21] to ascertain whose turn[22] it was for pederasty. And it is written, All the kings of the nations, all of them, [sleep in glory. etc.].[23] R. Johanan said: That means that they rested from pederasty.[24]

R. Johanan also said: As long as that wicked man lived mirth was never heard[25] in the mouth of any living being, for it is written, the whole world is at rest, and is quiet: they break forth into singing:[26] whence it follows that hitherto[27] there was no singing.

R. Isaac also said in R. Johanan's name: One may not stand in that wicked man's palace, for it is said, and satyrs shall dance there.[28]

Rab Judah said in Rab's name: When that wicked man [Nebuchadnezzar] wished to treat that righteous one [Zedekiah] thus,[29] his membrum was extended three hundred cubits and wagged in front of the whole company [of captive kings]. for it is said, Thou art filled with shame for glory: drink thou also, and be as one uncircumcised [he'orel]: the numerical value of ‘orel’ is three hundred .

Rab Judah also said in Rab's name: When that wicked man descended to Gehenna,[30] all who had [previously] descended thither trembled, saying, Does he come to rule over us, or to be as weak as we [are], for it is said, Art thou also become weak as we? or art thou to rule over us?[31] A Heavenly Echo went forth and declared, Whom dost thou pass in beauty? go down with, and be thou laid with the uncircumcised.[32]

How hath the oppressor ceased! the golden city [madhebah] ceased.[33] Rab Judah said in Rab's name: This people hath ceased, that demanded,

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(1) Var. lec. omit ‘Beth’, v. supra 148b.

(2) When they are not particular with each other, and one borrows and returns the same amount after its price advances, there is no usury, since neither cares whether the exact amount is returned or not. But there every change in value is scrupulously noted, and therefore if it advances there is usury. This does not refer particularly to Festivals.

(3) Lit., ‘to let them know the taste of usury’, i.e., the grief and anxiety it causes.

(4) Which this resembles.

(5) Hos. IV, 4 (E. V. ‘for thy people are as they that strive with the priest)’.

(6) To save them from quarrelling.

(7) 1 Kings XXII, 20ff

(8) This is deduced from the employment of the def. art. in Hebrew: ‘and the spirit came forth’, implying a particular one, viz., that of Naboth the Jezreelite, whom Ahab had turned from a living human being into a spirit — by judicial murder; v. ibid, ch. XXI.

(9) Because he lured Ahab, to destruction, which proves the dictum of R. Jacob.

(10) Ps. CI, 7. Though God sought to lure Ahab to his doom, He nevertheless desired it to be done by arguments drawn from true facts (Maharsha in Sanh. 89a).

(11) Hab. II, 16.

(12) And the verse is interpreted in the sense that Zedekiah too is regarded as uncircumcised and not permitted to enter the precincts of the Almighty, because Nebuchadnezzar was punished on his account.

(13) I.e., it can be so interpreted.

(14) V. infra for the complete allusion.

(15) Prov. XVII, 26.

(16) Translating the verse thus: even the righteous, when made the cause or vehicle of punishment, is accounted evil.

(17) Ps. V,5 (E.V. 4).

(18) The word used in the Mishnah.

(19) Which didst lay low.

(20) Isa. XIV, 12.

(21) The kings he had captured in battle.

(22) Lit., ‘day’.

(23) Ibid. 18.

(24) The ascription of pederasty to Nebuchadnezzar may be a covert allusion to the fact that the Romans were addicted to this vice; v. Weiss, Dor, II, 21.

(25) Lit., ‘found’.

(26) Isa. XIV,7.

(27) I.e., before Nebuchadnezzar's death.

(28) Ibid. Xlii, 21.

(29) I.e., submit him to sexual abuse.

(30) V. p. 153, n.8.

(31) Isa. XIV, 10. This connects נמשלת with משל, to rule E.V..: art thou become like unto us,

(32) Ezek. XXXII, 19.

(33) Isa. XIV, 4.

Talmud - Mas. Shabbath 150a

Measure out [tribute] and bring it [to us]; others interpret: that demanded, Bring ever more and more, without measure.[1]

And excellent greatness was added to me:[2] Rab Judah said in R. Jeremiah b. Abba's name: This teaches that he rode upon a male lion to whose head he had tied a snake [for reins]. in fulfilment of what is said, and the beasts of the field also have I given him to serve him.[3]

MISHNAH. A MAN MUST NOT HIRE LABOURERS ON THE SABBATH, NOR INSTRUCT HIS NEIGHBOUR TO HIRE LABOURERS ON HIS BEHALF. ONE MUST NOT GO TO THE TEHUM TO AWAIT NIGHTFALL[4] IN ORDER TO HIRE LABOURERS OR BRING IN PRODUCE; BUT ONE MAY DO SO IN ORDER TO WATCH [HIS FIELD]. AND [THEN] HE CAN BRING [HOME] PRODUCE WITH HIM.[5] ABBA SAUL STATED A GENERAl PRINCIPLE: WHATEVER I HAVE A RIGHT TO INSTRUCT [THAT IT BE DONE], I AM PERMITTED TO GO TO AWAIT NIGHTFAll, FOR IT [AT THE TEHUM]. GEMARA. Wherein does he differ from his neighbour?[6] — Said R. Papa: A Gentile neighbour [is meant]. R. Ashi demurred: [Surely] an order to a Gentile is [forbidden as] a shebuth?[7] Rather said R. Ashi: One may even say [that] an Israelite neighbour [is meant]. [Yet] he [the Tanna] informs us this: One may not say to his neighbour, ‘Hire labourers for me,’ but one may say to his neighbour, ‘Well, we shall see[8] whether you join me[9] in the evening!’[10] And with whom does our Mishnah agree? With R. Joshua b. Karhah. For it was taught: One must not say to his neighbour, ‘Well, we shall see whether you join me in the evening’! R. Joshua b. Karhah said: One may say to his neighbour, ‘Well, we shall see whether you join me in the evening’! Rabbah b. Bar Hanah said in R. Johanan's name: The halachah is as R. Joshua b. Karhah. Rabbah b. Bar Hanah also said in R. Johanan s name: What is R. Judah b. Karhah's reason? Because it is written, nor finding thine own pleasure nor speaking thine own words:[11] [explicit] speech is forbidden, but thought is permitted.[12]

R. Aha son of R. Huna pointed out a contradiction to Raba. Did R. Johanan say: Speech is forbidden, thought is permitted, which shows that thought is not the same as speech? But surely Rabbah b. Bar Hanah said in R. Johanan's name: One may meditate [on learning] everywhere, except at the baths or in a privy? There it is different, because [the fulfilment of] and thy camp shall be holy[13] is required, which is absent.[14] But it is also written, that he see no indecent speech [dabar] in thee?[15] — That is required for Rab Judah[‘s dictum]. For Rab Judah said: One may not recite the shema’[16] in the presence of a naked heathen. Why particularly a heathen: even an Israelite too? — He proceeds to a climax:[17] it is superfluous to state that it is forbidden [in the presence of a naked] Israelite; but as for a heathen, Since it is written of him, whose flesh is the flesh of asses,[18] I might say that it is permitted therefore he tells us [otherwise]. Yet perhaps that indeed is so? Scripture saith, and they saw not their father's nakedness.[19]

Now, is speech forbidden? Surely R. Hisda and R: Hamnuna both said: Accounts in connection with religion may be calculated [discussed] on the Sabbath. And R. Eleazar said: One may determine charity [grants] to the poor on the Sabbath. Again, R. Jacob b. Idi said in R. Johanan's name: One may supervise matters of life and death and matters of communal urgency on the Sabbath, and one may go to the synagogues to attend to communal affairs on the Sabbath. Also, R. Samuel b. Nahmani said in R. Johanan's name: One may go to theatres and circuses and basilicas to attend to communal affairs on the Sabbath. Further, the School of Manasseh taught: One may make arrangements on the Sabbath for the betrothal of young girls and the elementary education[20] of a child and to teach him a trade![21] — Scripture saith, nor finding thine own affairs nor speaking thine own words: thine affairs are forbidden, the affairs of Heaven [religious matters] are permitted.

Rab Judah said in Samuel's name: Unimportant accounts[22] and past expenditure accounts[23] may be calculated on the Sabbath. It was taught likewise: One may not calculate past or future accounts,[24] [but accounts] of unimportance

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(1) These interpret madhebah either as me'od habeh (count and bring) or me'od habi (belo) middah (bring much, without measure).

(2) Dan. IV, 36. This was said by Nebuchadnezzar when he regained sanity after having lived seven years like a wild beast.

(3) Jer. XXVII, 6.

(4) Lit., ‘for nightfall’. I.e., one may not go as far as the tehum on the Sabbath in readiness to cross it immediately the Sabbath terminates.

(5) Lit., ‘in his hand’. Though he may not go to the tehum in the first place for this purpose, yet since he did so primarily in order to watch his field, he may take advantage of the fact and bring home produce too.

(6) It is obvious that if he must not engage labourers his neighbours must not either.

(7) V. Glos. This is a well-known general principle, already taught in the Mishnah supra 121a, and it need not be repeated.

(8) הנראה. The exact meaning of the expression is not established.

(9) Lit., ‘stand with me’.
(10) Though both understand it as a hint that he desires to engage him.
(11) Isa. LVIII, 13, q.v.
(12) A hint is not explicit but left to the understanding.
(13) Deut. XXIII, 15.
(14) For speech is not mentioned in that passage.
(15) Ibid. E.V.: ‘that he see no unclean thing in thee’.
(16) V. Glos.
(17) Lit., ‘he states, "it is unnecessary"’.
(18) Ezek. XXIII, 20. [I.e., nudity is common among them].
(19) Gen, IX, 23: This shows that it is indecent in all cases.
(20) Lit., ‘to teach him (the) book’.
(21) All these involve actual speech.
(22) Lit., ‘accounts of what is it to thee’. Rashi. ‘Aruch and R. Han.: accounts of guests, i.e., how many guests will be present, etc.
(23) Rashi. Lit., ‘what (cost) lies in this’, Aliter: ‘of no practical value’. Lit., ‘of what is in it’.
(24) I.e., I have expended or will have to expend so much or so much.

Talmud - Mas. Shabbath 150b

or of past expenditure may be calculated. But the following contradicts it: One may reckon up accounts that are not required, but one may not reckon up on the Sabbath accounts that are necessary. E.g., a man may say to his neighbour, ‘I hired so many labourers for this field,’ ‘I expended so many denarii for this residence.’ But he must not say to him, ‘I have expended so much and am [yet] to expend so much’! — Then according to your reasoning, that [Baraitha] itself presents a difficulty.[1] But in the one case he is [still] in possession of his employee's wages;[2] in the other he is not in possession of his employee's wages.

ONE MUST NOT GO TO THE TEHUM TO AWAIT NIGHTFALL. Our Rabbis taught: It once happened that a breach was made in the field of a pious man and he decided to fence it about, when he recalled that it was the Sabbath, so he refrained and did not repair it; thereupon a miracle was performed for him, a caper bush grew up there, whence he and his household derived their livelihood.

Rab Judah said in Samuel's name: One may say to his neighbour [on the Sabbath]. ‘I am going to that town to-morrow,’ for if there are stations [on the road] he may go [on the Sabbath itself].[3] We learnt: ONE MUST NOT GO TO THE TEHUM TO AWAIT NIGHTFALL IN ORDER TO HIRE LABOURERS OR BRING IN PRODUCE. As for hiring, labourers, it is well, since one may not hire them on the Sabbath; but to fetch produce. let us say [that it is permitted], for if there were walls [partitions] there he might bring [it even on the Sabbath]?[4] — This [ruling of our Mishnah] can refer to produce attached [to the soil].[5] But R. Oshaia taught: One must not go to the tehum to await nightfall in order to bring straw or stubble. As for stubble, it is well: this can refer to attached; but to what can straw refer?[6] — Offensive smelling straw.[7] Come and hear: One may go to the tehum to await nightfall to attend to the affairs of a bride and the business of a corpse.[8] Thus, only for the affairs of a bride or a corpse, but not for the business of any other. As for another [with a purpose] analogous to [that of] a bride, it is well:[9] this is conceivable where one desires to cut a myrtle for him.[10] But what can the purpose in connection with a corpse be? [Presumably] in order to bring a coffin and shrouds; yet he [the Tanna] specifies a corpse. but not another;[11] yet why so: let us argue that [it is permissible for another too], for if there were walls there he might bring [articles even on the Sabbath]? — In the case of a corpse too, it is conceivable where the purpose is to cut out shrouds for him.[12]

BUT ONE MAY GO TO THE TEHUM TO AWAIT NIGHTFALL, etc. Though he did not recite habdalah?[13] Surely R. Eleazar b. Antigonus said on R. Eliezer b. Jacob's authority: One is forbidden to attend to his affairs before reciting habdalah. And should you answer that he recites habdalah in the Prayer,[14] surely Rab Judah said in Samuel's name: He who recites habdalah in the Prayer must [also] recite it over a cup [of wine]?[15] And should you answer that he does recite habdalah over a cup. — [it may be asked] is a cup procurable in the fields? — R. Nathan b. Ammi explained this before Raba: They learnt this of the season of wine pressing.[16] R. Abba said to R. Ashi: In the West [Palestine] we say thus: 'He who makes a distinction between holy and profane', and then we attend to our affairs. R. Ashi related: 'When I was at R. Kahana's academy he used to recite, 'Who makest a distinction between holy and profane,' and then we chopped up logs.

ABBA SAUL STATED A GENERAL PRINCIPLE: WHATEVER I HAVE, etc. To what does Abba Saul refer? Shall we say that he refers to the first clause, [viz.,] ONE MUST NOT GO TO THE TEHUM TO AWAIT NIGHTFALL, IN ORDER TO HIRE LABOURERS OR BRING IN PRODUCE, —

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(1) The first Baraitha states in its first clause that one must not calculate past accounts, while the second clause states that past expenditure accounts are permitted.

(2) Then it is forbidden, for though incurred in the past, it has still to be paid.

(3) Burgin, pl. burganim, is an isolated residence on a road, often used as a station for travellers (Jast.). If the road to the town were dotted with these stations at intervals of less than seventy cubits the journey might be made even on the Sabbath. It is therefore permitted to mention it even in the absence of such stations.

(4) I.e.,if the road lay between walls it might technically be a private domain wherein carrying is permitted.

(5) Which may not be detached under any circumstances.

(6) Which straw can be meant which shall not be permitted by Rab Judah's logic?

(7) Which may not be handled in any case, as it is mukzeh on account of its repulsiveness (v. supra 46a).

(8) E.g. to arrange for the funeral.

(9) For the implication must be that for the same purpose where it is permitted in connection with a bride or a corpse it is forbidden in connection with another.

(10) An overhead awning of myrtles was erected for a bride. Thus it is permitted for a bride, but not for another, since the myrtles are attached to the soil and may not be cut on the Sabbath.

(11) Though bringing a coffin and shrouds is just the same as bringing any other article.

(12) By analogy, another might desire to go to the tehum in order to be ready to cut out a suit, and this is forbidden.

(13) V. Glos.. and p. 333, n. 2. The difficulty is the last clause: surely he may not cut down produce before reciting habdalah?

(14) The 'Prayer' always refers to the 'Eighteen Benedictions', in the fourth of which a habdalah passage is inserted; v. P.B. p. 94d; Elbogen, Der Judische Gottesdienst, pp. 46f; 120f.

(15) Habdalah originally was not a statutory addition to the Sabbath evening Prayer; op. cit.

(16) A cup of wine is then obtainable in the fields.

Talmud - Mas. Shabbath 151a

then instead of WHATEVER I HAVE A RIGHT TO INSTRUCT [THAT IT BE DONE], I AM PERMITTED TO AWAIT NIGHTFALL, FOR IT, he should state, 'Whatever I have no right to instruct [that it be done]. I am not permitted to await nightfall for it'.[1] Whereas if he bases himself on the second clause, BUT ONE MAY DO SO IN ORDER TO WATCH OVER HIS FIELDS, AND [THEN] HE CAN BRING [HOME] PRODUCE WITH HIM, then he should state, 'Whatever I have a right to await nightfall [at the tehum], I am permitted to instruct [that it be done]'? — In truth he refers to the second clause, but Abba Saul bases himself on the following. For Rab Judah said in Samuel's name: One may say to his neighbour, 'Watch for me over the fruit in your tehum, and I will watch for you over the fruit in my tehum.' And thus Abba Saul argues with the first Tanna: Do you not admit that one may say to his neighbour, 'Watch for me over the fruit in your tehum and I will watch for you over the fruit in my tehum?' then say, WHATEVER I HAVE A RIGHT TO INSTRUCT [THAT IT BE DONE]. I AM PERMITTED TO AWAIT NIGHTFALL FOR IT.[2]

What does the general principle add?[3] — It adds the following, which our Rabbis taught: One may not go to the tehum to await nightfall in order to bring an animal. If it is standing without the tehum, one may call it and it comes. Abba Saul stated a general principle: Whatever I have a right to say [that it shall be done],[4] I am permitted to await nightfall [at the tehum] for it. And one may go to await nightfall in order to attend to the affairs of a bride or of a corpse, to bring a coffin and shrouds for him. And one may give instructions to another, 'Go to such and such a place, and if you cannot obtain them from there, bring them from elsewhere; if you cannot obtain them for a maneh, obtain them for two manehs.' R. Jose son of R. Judah said: Provided that he does not mention the exact price to him.[5]

MISHNAH. YOU MAY GO TO THE TEHUM AGAINST NIGHTFALL IN ORDER TO ATTEND TO THE AFFAIRS OF A BRIDE OR OF A CORPSE, TO BRING A COFFIN AND SHROUDS FOR HIM. IF A GENTILE BRINGS REED-PIPES ON THE SABBATH,[6] ONE MUST NOT BEWAIL AN ISRAELITE ON THEM, UNLESS THEY CAME FROM A NEAR PLACE.[7] IF HE [A GENTILE] MADE A COFFIN FOR HIMSELF OR DUG A GRAVE FOR HIMSELF,[8] AN ISRAELITE MAY BE BURIED THEREIN. BUT IF [HE MADE IT] FOR THE SAKE OF AN ISRAELITE, HE MAY NEVER BE BURIED THEREIN.[9]

GEMARA. What does FROM A NEAR PLACE mean? Rab said: Literally from a near place.[10] While Samuel said: We conjecture that they [the reed-pipes] were [just] without the [city] wall during the night.[11] [Raba said.][12] The deduction of our Mishnah supports Samuel, for it is stated: IF HE [A GENTILE] MADE A COFFIN FOR HIMSELF OR DUG A GRAVE FOR HIMSELF, AN ISRAELITE MAY BE BURIED THEREIN. This proves that it is permitted on account of a doubt;[13] so here too, it is permitted on account of a doubt. And we learnt in accordance with Rab [too]: A city inhabited by Israelites and Gentiles which contains baths where there is bathing on the Sabbath, if the majority are Gentiles, one [an Israelite] may bathe therein immediately; if the majority are Israelites, one must wait until hot water could be heated;[14] if half and half, one must wait until hot water could be heated.[15] R. Judah said: In the case of a small bath, if there is there[16] [a man of authority],[17] he [an Israelite] may bathe therein immediately. What is '[a man of] authority?' Said Rab Judah in the name of R. Isaac son of Rab Judah: If there is there an important personage who possesses ten slaves who heat ten kettles [of water] for him simultaneously, then if it is a small bath he [the Israelite] may bathe therein immediately.[18]

IF HE [A GENTILE] MADE A COFFIN FOR HIMSELF OR DUG A GRAVE FOR HIMSELF, etc. Yet why so? here too, let him wait until it could be made?[19] — Said 'Ulla: It refers to one [a grave] that stands in an [army] camp.[20] That is well of a grave; [but] what can be said of a coffin? Said R. Abbahu: It refers to [a coffin] that is lying on his grave.[21] MISHNAH. ALL THE REQUIREMENTS OF THE DEAD MAY BE DONE; HE MAY BE ANOINTED WITH OIL AND WASHED, PROVIDED THAT NO LIMB OF HIS IS MOVED. THE PILLOW MAY BE REMOVED FROM UNDER HIM, AND HE MAY BE PLACED ON SAND, IN ORDER THAT

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(1) So that the principle is parallel to the clause upon which it is based.

(2) It is assumed that both accept Samuel's ruling, Hence the permission given by the first Tanna to go to the end of the tehum to watch over produce would be included in Abba Saul's principle, and all other permitted cases likewise, and there is no need for the first Tanna to give a specific instance.

(3) It is axiomatic that when a general principle is stated it is to add a case that is not explicitly taught.

(4) Which includes calling an animal from beyond the tehum.

(5) He may authorize him to pay a high price if he cannot buy them cheaply. but must not state the exact figures.

(6) For playing at a Jew's funeral, which formed part of the obsequies, cf. B.M. VI, 1 and note a.I. in Sonc. ed.

(7) I.e., within the tehum.

(8) Either for his own use or in order to sell. — The reference is to the Sabbath.

(9) [According to Maim. the reference is to the Israelite for whom the grave was dug. He may not, that is to say. be buried even בכדי שיעשו i.e., after sufficient time has elapsed after the termination of the Sabbath for the grave to be dug.]

(10) We must know this for certain, having seen that he had them in his house within the city.

(11) Even if they were not in his house we may assume that they were only just without the city wall, yet within the tehum, unless we know to the contrary. Lit., 'we apprehend lest', The phrase is also used with lenient implications, v. Hag. 15a (Rashi). Normally the more stringent possibility is acted upon, but here it is the reverse, for the sake of the dead.

(12) So text as emended by Bah.

(13) For he might actually have made it for a Jew. [Tosaf. a.l. deletes this passage as in this Mishnah the question of doubt does not arise as explained in the Gemara infra.]

(14) V. supra 122a, for notes.

(15) Which shows that in a case of doubt we are stringent, and this agrees with Rab.

(16) In the city.

(17) Jast.: a Roman official.

(18) As the water may have been thus prepared after the Sabbath.

(19) For the Gentile may have had a Jew in mind.

(20) Aliter: in the broad open street. It is unusual for Jews to be buried there.

(21) Sc. the Gentile's grave dug in the camp.

Talmud - Mas. Shabbath 151b

HE MAY BE ABLE TO KEEP.[1] THE JAW MAY BE TIED UP, NOT IN ORDER THAT IT SHOULD CLOSE[2] BUT THAT IT SHOULD NOT GO FURTHER [OPEN]. AND LIKEWISE, IF A BEAM IS BROKEN, IT MAY BE SUPPORTED BY A BENCH OR BED STAVES, NOT IN ORDER THAT IT [THE BREAK] SHOULD CLOSE UP, BUT THAT IT SHOULD GO NO FURTHER.

GEMARA. But Surely Rab Judah related in Samuel's name: It once happened that a disciple of R. Meir followed him into the baths and wished to swill the ground for him, [but] he said to him, One may not swill; then he wished to oil the ground for him, but he said to him, One may not oil?[3] — Ground may be confused with ground. but a corpse cannot be confused with ground.[4]

What does ALL add? It adds the following, which our Rabbis taught: Cooling vessels and metal vessels may be brought and placed on his [the corpse's] stomach, in order that he should not swell, and his apertures may be stopped up, in order that the air should not enter. And [thus] said Solomon too in his wisdom: 'Or ever the silver cord be snapped asunder' — this refers to the spinal cord; 'and the golden bowl be broken' — this alludes to the membrum; 'and the pitcher be broken at the fountain' — that means the stomach; 'and the wheel broken, at the cistern' — this refers to the excrements.[5] And thus it is said, and I will spread dung on your faces, even the dung of your feasts.[6] R. Huna — others state, R. Haga- said: This refers to people who abandon study[7] and spend all their days at feasts. R. Levi said in R. Pappi's name in R. Joshua's name: After three days [from death] the stomach bursts and it [its contents] lies cast out before his face and exclaims, 'Take what you have put in me.'

MISHNAH. ONE MAY NOT CLOSE [THE EYES OF] A CORPSE ON THE SABBATH, NOR ON WEEKDAYS WHEN HE IS ABOUT TO DIE, AND HE WHO CLOSES THE EYES [OF A DYING PERSON] AT THE POINT OF DEATH[8] IS A MURDERER.[9]

GEMARA. Our Rabbis taught: He who closes [the eyes of a dying man] at the point of death is a murderer. This may be compared to a lamp that is going out: If a man places his finger upon it, it is immediately extinguished. It was taught, R. Simeon b. Gamaliel said: If one desires that a dead man's eyes should close, let him blow wine into his nostrils and apply oil between his two eyelids and hold his two big toes; then they close of their own accord.

It was taught, R. Simeon b. Gamaliel said: For a day-old infant the Sabbath is desecrated; for David, King of Israel, dead, the Sabbath must not be desecrated. ‘For a day-old infant the Sabbath is desecrated’: the Torah ordered, Desecrate one Sabbath on his account so that he may keep many Sabbaths. ‘For David, King of Israel, dead, the Sabbath must not be desecrated’: Once man dies he is free from [all] obligations, and thus R. Johanan interpreted: Among the dead I am free:[10] once a man is dead he is free from religious duties. It was further taught, R. Simeon b. Eleazar said: A day-old infant, alive, need not be guarded from weasels or mice, but Og , king of Bashan,[11] dead, needs guarding from weasels and mice, as it is said, and the fear of you and the dread of you shall be upon every beast of the earth:[12] as long as a man is alive, his fear lies upon dumb creatures; once he dies his fear ceases. R. Papa said: We hold [as tradition] that a lion does not attack two persons [together]. But we see that it does? — That is [explained] as Rami b. Abba. For Rami b. Abba said: A beast has no power over man until it appears to it as an animal, for it is said, Man that is in honour, and understandeth not, is like the beasts that perish.[13]

R. Hanina said: One may not sleep in a house alone,[14] and whoever sleeps in a house alone is seized by Lilith.[15]

It was further taught, R. Simeon b. Eleazar said: Perform [righteousness and charity] whilst thou canst find [an object for thy charity], hast the opportunity,[16] and it is yet in thy power,[17] and Solomon in his wisdom too said: ‘Remember also thy creator in the days of thy youth, or ever the evil days come’ — this refers to the days of old age; ‘and the years draw nigh, when thou shalt say, I have no pleasure in them’[18] — this refers to the Messianic era, wherein there is neither merit nor guilt. Now he disagrees with Samuel, who said: The only difference between this world and the Messianic era is in respect of servitude to [foreign] powers, for it is said, For the poor shall never cease out of the land.[19]

It was taught, R. Eleazar ha-Kappar said: Let one always pray to be spared this fate [poverty], for if he does not descend [to poverty] his son will, and if not his son, his grandson, for it is said, because that for [bi-gelal] this thing, [etc.].[20] The School of R. Ishmael taught: It is a wheel [galal] that revolves in the world.[21] R. Joseph said: We hold [as tradition] that a Rabbinical student will not suffer poverty. But we see that he does suffer poverty? Even if he suffers poverty, he [nevertheless] does not engage in begging.[22] R. Hiyya said to his wife: When a poor man comes, be quick to offer him bread, so that others may be quick to offer it to your children. You curse them! she exclaimed. A verse is written, he replied: ‘because that for [bi-gelal] this thing’, whereon the School of R. Ishmael taught: It is a wheel that revolves in the world. It was taught R. Gamaliel Beribbi[23] said: And he shall give[24] thee mercy, and have compassion upon thee, and multiply thee:[25] he Who is merciful to others, mercy is shown to him by Heaven, while he who is not merciful to others, mercy is not shown to him by Heaven.[26]

‘Or ever the sun and the light be darkened’:[27] this refers to the forehead and the nose; ‘and the moon’ — this is the soul; ‘and the stars’ these are the cheeks; ‘and the clouds return after the rain’ — this is the light of man's eyes [his eyesight], which is lost after weeping.[28] Samuel said: For tears, until the age of forty there is a recovery, but thenceforth there is no recovery.[29] And R. Nahman said: As for kohl,[30] until the age of forty it improves [the eyesight], but thereafter, even if the paint-stick is as thick [with paint] as a weaver's pin, it may indeed stay [the ravages of time], but will certainly not improve [the eyesight]. What does he inform us? That the thicker the paint-stick the more beneficial it is.

R. Hanina's daughter died, [but] he did not weep for her. Said his wife to him, ‘Hast thou sent out a fowl from thy house?’[31] ‘[Shall I suffer] two [evils],’ he retorted, ‘bereavement and blindness?’ He held as R. Johanan said in the name of R. Jose the son of a laundress: There are six kinds of tears, three being beneficial and three harmful: those caused by smoke, weeping,[32]

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(1) Until the funeral without putrefying.
(2) Lit., ‘go up’ — to meet the top jaw.
(3) v. supra 40b. This shows that whatever may not be handled may not be oiled.
(4) The reason there is not because handling is forbidden, but lest he make ruts (v. p. 189, n. 3); and though that is impossible, since baths are provided with stone flooring. yet it is forbidden lest it be thought that it may likewise be done to an earth flooring. But no one will think that if a corpse may be oiled ground may be oiled too.
(5) Eccl. Xli, 6. He translates galgal (E.V. wheel) as galal (dung).
(6) Mal. II, 3.
(7) Lit., ‘words of the Torah’.
(8) Lit., ‘with the departure of the soul’.
(9) Lit:, ‘he sheds blood’ — because he hastens death.
(10) Ps. LXXXVIII, 6 (E.V. 5: cast off among the dead).
(11) V. Ber. 54b.
(12) Gen. IX, 2.
(13) Ps. XLIX, 14 and 21 (E.V. 20). He appears to translate:... not, he is ruled over (by wild beasts) when he appears (to them) like a beast. — This is a punishment for misdeeds.
(14) Aliter: He who sleeps in a lonely (situated) house.
(15) The night demon. V.J.E. art. Lilith,
(16) Lit., ‘it is found with thee’ — sc. the means.
(17) I.e., during thy lifetime.
(18) Eccl. XII, 1.
(19) Deut. XV, 11; v. supra 63a for notes.
(20) Ibid. 10.
(21) Coming to all people or their descendants; Gelal is thus connected with galgal.
(22) Lit., ‘going about the doors’ (of houses).
(23) V. p. 564, n. 6.
(24) E.V. show.
(25) Deut. XIII, 17.
(26) He translates the verse thus; and he shall give, i.e. Inspire thee with mercy — towards others — then he shall have mercy upon thee.
(27) Eccl. XII, 2.
(28) The weeping of old age — caused by trouble and sickness — impairs or destroys the eyesight.
(29) The eyes recover from the weakening effect of tears until one is forty years old, but not after.
(30) An eye-salve.
(31) Was she nothing more to you than that?
(32) In grief.

and the privy[1] are harmful; those caused by chemicals, laughter, or plants[2] are beneficial. In the day when the keeper of the house shall tremble; and the strong men shall bow themselves, etc.[3] In the day when the keeper of the house shall tremble' — these are the flanks [sides] and the ribs; 'and the strong men shall bow themselves' — the legs; 'and the grinders cease' — the teeth; 'and those that look out of the windows darkened' — the eyes. The emperor asked R. Joshua b. Hanania,[4] 'Why did you not attend the Be Abedan?'[5] 'The mountain is snowy, it is surrounded by ice,[6] the dog does not bark and the grinders do not grind,' he replied.[7] The School of Rab was wont to say: 'What I did not lose I seek.'[8]

It was taught, R. Jose b. Kisma said: Two are better than three,[9] and woe for the one thing that goes and does not return. What is that? Said R. Hisda: One's youth. When R. Dimi came,[10] he said: Youth is a crown of roses; old age is a crown of willowrods.[11] It was taught in R. Meir's name: Chew well with your teeth, and you will find it in your steps, as it is said, for then we had plenty of victuals, and were well, and saw no evil.[12] Samuel said to Rab Judah: O keen scholar![13] open your mouth[14] and let your food enter. Until the age of forty food is more beneficial; thenceforth drink is more beneficial.

A certain eunuch [gawzaah] said to R. Joshua b. Karhah [Baldhead]: 'How far is it from here to Karhina [Baldtown]? 'As far as from here to Gawzania [Eunuchtown],' he replied.[15] Said the Sadducee to him, 'A bald buck is worth four denarii.' 'A goat, if castrated, is worth eight,' he retorted. Now, he [the Sadducee] saw that he [R. Joshua] was not wearing shoes, [whereupon] he remarked, 'He [who rides] on a horse is a king, upon an ass, is a free man, and he who has shoes on his feet is a human being; but he who has none of these, one who is dead[16] and buried is better off.' 'O eunuch, O eunuch,' he retorted, 'you have enumerated three things to me, [and now] you will hear three things: the glory of a face is its beard; the rejoicing of one's heart is a wife; the heritage of the Lord is children;[17] blessed be the Omnipresent, Who has denied you all these!' 'O quarrelsome baldhead,' he jeered at him. 'A castrated buck and [you will] reprove!'[18] he retorted.

Rabbi asked R. Simeon b. Halafta: 'Why were we not permitted to receive you on the Festival, as my ancestors used to receive your ancestors?' 'The rocks have grown tall, the near have become distant, two have turned into three, and the peacemaker of the home has ceased, he replied.[19]

And the doors shall be shut in the streets:[20] this refers to the apertures of man; 'when the sound of the grinding is low' — on account of the stomach's failing to digest;[21] 'and one shall rise up at the voice of a bird', — even a bird will awake him from sleep; 'and all the daughters of the music shall be brought low — even the voices of male singers and female singers sound to him like a whisper. And thus too did Barzillai the Gileadite say to David: 'I am this day fourscore years old: can I discern between good and bad'? This shows that the opinions of old men are changeable [changed]; 'can thy servant taste what I eat or drink'? this shows that the lips of old men grow slack;[22] 'can I hear any more the voice of singing men and singing women'?[23] this proves that the ears of old men are heavy.[24] Rab said: Barzillai the Gileadite was a liar. For there was a servant in Rab's house, ninety-two years old, who could taste the dish[es]. Raba said: Barzillai the Gileadite was steeped in lewdness, and whoever is steeped in lewdness, old age hastens upon him. It was taught, R. Ishmael son of R. Jose said: As for scholars, the older they grow the more wisdom they acquire, for it is said, With aged men is wisdom, and in length of days understanding.[25] But the ignorant, as they wax older, become more foolish, for it is said, He removeth the speech of the trusty, and taketh away the understanding of the elders.[26]

Yea, they shall be afraid of that which is high[27] — even a small knoll looks to him like the highest of mountains; 'and terrors shall be in the way' — when he walks on a road his heart is filled with fears;[28] and the almond tree shall blossom' — that refers to the coccyx[29] 'and the grasshopper shall be a burden'[30] — the rump; 'and desire shall fail' the passions. R. Kahana was expounding a portion [of scripture][31] before Rab. When he came to this verse, he [Rab] uttered a long sigh. This shows that Rab's desires have ceased, observed he. R. Kahana said: What is meant by, 'For he decreed, and it was':[32] this refers to a woman;[33] 'he commanded; and it did stand' — this refers to children. A Tanna taught: Though a woman be as a pitcher full of filth and her mouth be full of blood, yet all speed after her.

Because man goeth to his long home.[34] R. Isaac observed: This teaches that every righteous person is given a habitation as befits his honour. This may be compared to a king who enters a town together with his servants. They all enter through the same gate, [yet] when they spend the night [there] each is given a lodging as befits his honour.

R. Isaac also said: What means the verse, For youth and the prime of life are vanity?[35] The things a man does in his youth blacken his face[36] in his old age.[37]

R. Isaac also said: Worms are as painful to the dead as a needle in the flesh of the living, for it is said, But his flesh upon him hath pain.[38] R. Hisda said: A man's soul mourns for him [after death] seven whole [days]. for it is said, And his soul mourneth for him;[39] and it is written, and he made a mourning for his father seven days.[40]

Rab Judah said: If there are none to be comforted for a dead person.[41] ten people go and sit in his place.[42] A certain man died in the neighbourhood of Rab Judah. As there were none to be comforted,

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(1) I.e., through internal disorders.

(2) E.g., onions or mustard.

(3) Eccl. XII. 2.

(4) V. p. 587. n. 2.

(5) V. supra 116a and notes a.l.

(6) Lit., 'its surroundings are ice'.

(7) My head is snowy white, my beard likewise, my voice feeble and my teeth do not function. — I am too old to attend.

(8) This was their description of old age. One goes about bent and stooping, appearing to seek an article which he has not lost.

(9) The two legs in youth are better than the three — i.e., the additional stick — of old age.

(10) V. p. 12, n. 9.

(11) Heavy to bear.

(12) Jer. XLIV, 17.

(13) Or, man of long teeth.

(14) Lit., 'thy sack'.

(15) Both fictitious places, of course, playfully formed from their names and persons.

(16) Lit., 'one for whom a grave is dug'.

(17) Ps. CXXVII, 3.

(18) Rashi. R. Han.: O castrated goat. I do but rebuke, not quarrel with thee.

(19) I.e., I have grown old, even those near are as difficult to visit as those at a distance, my two legs need an additional stick for walking, and I can no longer exercise a man's functions.

(20) Eccl. XII, 4.

(21) Lit., 'grind'.

(22) I.e., fall apart and cannot enjoy the taste of food.

(23) II Sam. XIX, 35.

(24) They are hard of hearing.

(25) Job XII. 12.

(26) Ibid. 20.

(27) Eccl. XII, 5.
(28) Yalkut Koheleth 989 reads: it (the road) becomes for him full of terrors.
(29) The lowest end of the vertebrae — the extreme weakness of old age causes it to ‘blossom’, i.e., protrude and be moved from its place.
(30) Or, shall drag itself along.
(31) פסיק סדרא, v. supra p. 572, n. 1.
(32) Ps. XXXIII, 9.
(33) It is God's decree that man shall desire woman.
(34) Eccl. XII, 5.
(35) Ibid. XI. 10.
(36) Rashi: weaken him, the reference being to sexual indulgence. The passage may also refer to actions in general for which one in old age feels himself blackened with shame.
(37) He derives shaharuth (E.V. prime of life) from shahor, black, and translates: ‘for youth and the blackening (of old age) are vanity’.
(38) Job XIV, 22.
(39) Job XIV, 22.
(40) Gen. L, 10.
(41) I.e., there are no mourners. Lit., ‘a dead person for whom there are no comforters’.
(42) Where he died, and engage in religious exercises such as prayer and study.

Talmud - Mas. Shabbath 152b

Rab Judah assembled ten men every day and they sat in his place. After seven days he [the dead man] appeared to him in a dream and said to him, ‘Thy mind be at rest, for thou hast set my mind at rest.’ R. Abbahu said: The dead man knows all that is said in his presence until the top-stone [golel] closes [the grave].[1] R. Hiyya and R. Simeon b. Rabbi differ therein: one maintains, until the top-stone closes [the grave]; whilst the other says, until the flesh rots away. He who says, until the flesh rots away. — because it is written, But his flesh upon him hath pain and his soul within him mourneth.[2] He who says, until the top-stone closes [the grave]. — because it is written, and the dust return to the earth as it was, and the spirit return unto God.[3]

Our Rabbis taught: ‘And the dust return to the earth as it was, and the spirit return unto God who gave it’: Render it back to him as He gave it to thee, [viz.,] in purity, so do thou [return it] in purity. This may be compared to a mortal king[4] who distributed royal apparel to his servants. The wise among them folded it up and laid it away in a chest, whereas the fools among them went and did their work in them. After a time the king demanded his garments: the wise among them returned them to him immaculate, [but] the fools among them returned them soiled. The king was pleased with the wise but angry with the fools. Of the wise he said, ‘Let my robes be placed in my treasury and they can go home in peace’; while of the fools he said, ‘Let my robes be given to the fuller, and let them be confined in prison.’ Thus too, with the Holy One, blessed be He: concerning the bodies of the righteous He says, He entereth into peace, they rest in their beds;[5] while concerning their souls He says, yet the soul of my Lord shall be bound up in the bundle of life with the Lord thy God.[6] But concerning the bodies of the wicked He says, There is no peace saith the Lord, unto the wicked;[7] while concerning their souls He says, and the souls of thine enemies, them shall he sling out, as from the hollow of a sling.[8]

It was taught, R. Eliezer said: The souls of the righteous are hidden under the Throne of Glory, as it is said, yet the soul of thine Lord shall be bound up in the bundle of life.[8] But those of the wicked continue to be imprisoned,[9] while one angel stands at one end of the world and a second stands at the other end, and they sling their souls to each other, for it is said, and the souls of thine enemies, them shall he sling out, as from the hollow of a sling. Rabbah asked R. Nahman: What about those who are intermediate? Had I died I could not have told you this, he replied. Thus did Samuel say: Both these and those [the wicked and the intermediate] are delivered to Dumah;[10] these enjoy rest, whereas the others have no rest. R. Mari said: [Even] the righteous are fated to be dust, for it is written, ‘and the dust return to the earth as it was’. Certain diggers were digging in R. Nahman's ground, [when] R. Ahai b. Josiah[11] snorted at them. So they went and told R. Nahman, ‘A man snorted at us.’ He went and asked him, ‘Who are you?’ ‘I am Ahai b. Josiah.’ ‘But did not R. Mari say. [Even] the righteous are fated to be dust?’ said he. ‘But who is Mari,’ he retorted ‘I do not know him.’ Yet surely a verse is written, ‘and the dust returns to the earth as it was’? he urged. ‘He who taught you Ecclesiastes did not teach you Proverbs,’ he answered, ‘for it is written, But envy is the rottenness of the bones:[12] he who has envy in his heart, his bones rot away. [but] he who has no envy in his heart, his bones do not rot away.’ He then felt him and perceived that there was substance in him. ‘Let my master arise [and come] to my house,’ he invited him. ‘You have thus disclosed that you have not even studied the prophets, for it is written, And ye shall know that I am the Lord, when l open your graves,’[13] said he to him, ‘But it is written, for dust art thou, and unto dust thou shalt return?’[14] ‘That means one hour before the resurrection of the dead’, replied he.

A certain Sadducee said to R. Abbahu:[15] You maintain that the souls of the righteous are hidden under the Throne of Glory: then how did the bone [- practising] necromancer bring up Samuel by means of his necromancy?[16] — There it was within twelve months [of death], he replied. For it was taught: For full [twelve months] the body is in existence and the soul ascends and descends; after twelve months the body ceases to exist

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(1) R. Tam. Rashi: until the coffin-lid is closed, v. Nazir, Sonc. ed., p. 302, n. 5’

(2) I.e., he suffers pain and grief — a sign of consciousness — as long as his flesh is upon him.

(3) Eccl. XII, 7. I.e., immediately the dust — sc. the body — returns to the earth, the spirit returns to God, and there is no further consciousness of earthly matters.

(4) Lit., ‘a king of flesh and blood’.

(5) Isa. LVII, 2.

(6) I Sam. XXV, 29.

(7) Isa. XLVIII, 22.

(8) Sam. ibid.

(9) Lit., ‘muzzled’. Marginal translation: are eternally pressed down — sc. in the sling of destruction.

(10) The guardian angel of the deceased. [The name is probably Silence, which is the meaning of Dumah, personified.]

(11) Who was buried there.

(12) Prov. XIV, 30.

(13) Ezek. XXXVII, 13; i.e., God alone can free men from their graves.

(14) Gen. 111,19.

(15) MS.M. min (v. Glos.). This is preferable as there were no Sadducees in the time of R. Abbahu; cf. Sanh., Sonc. ed., p, 706, n. 8.

(16) v. i Sam, XXVIII, 7. Bones were used in necromancy.

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and the soul ascends but descends nevermore.

Rab Judah son of R. Samuel b. Shila said in Rab's name: From the funeral eulogy pronounced over a man it may be known whether the future world is his or not.[1] But that is not so? for Rab said to R. Samuel b. Shilath, ‘Be fervent in my funeral eulogy. for I will be standing there’?[2] — There is no difficulty: in the one case a fervent lament is pronounced and one is deeply moved,[3] in the other a fervent lament is pronounced and one is not moved. Abaye asked Rabbah: ‘You, for instance, whom the whole of the Pumbeditheans hate,[4] who will arouse lamentation for you?’ ‘You and Rabbah b. R. Hanan will suffice,’ he replied.

R. Eleazar asked Rab: Which man has earned [enjoyment of] the future world? Said he to him, And thine ears shall hear a word behind thee, saying, This is the way, walk ye in it,’ when, ye turn to the right hand, and when ye turn to the left.[5] R. Hanina said: He with whom his teachers are pleased.[6]

And the mourners go about the streets.[7] The Galileans said: Perform actions [which shall be lamented] in front of thy bier; the Judaeans said: Perform actions [to be lamented] behind thy bier. But they do not differ: each [spoke] in accordance with [the usage in] his locality.[8]

We learnt elsewhere, R. Eliezer said: Repent one day before your death.[9] His disciples asked him, Does then one know on what day he will die? Then all the more reason that he repent to-day, he replied, lest he die to-morrow, and thus his whole life is spent in repentance. And Solomon too said in his wisdom, Let thy garments be always white; and let not thy head lack ointment.[10] R. Johanan b. Zakkai said: This may be compared to a king who summoned his servants to a banquet without appointing a time. The wise ones adorned themselves and sat at the door of the palace. [‘for,’] said they. ‘is anything lacking in a royal palace?’[11] The fools went about their work, saying, ‘can there be a banquet without preparations’?[12] Suddenly the king desired [the presence of] his servants: the wise entered adorned, while the fools entered soiled. The king rejoiced at the wise but was angry with the fools. ‘Those who adorned themselves for the banquet,’ ordered he, ‘let them sit, eat and drink. But those who did not adorn themselves for the banquet, let them stand and watch.’ R. Meir's son-in-law said in R. Meir's name: Then they too would [merely] look as being in attendance.[13] But both sit, the former eating and the latter hungering, the former drinking and the latter thirsting, for it is said, Therefore thus saith the Lord God, Behold, my servants shall eat, but ye shall be hungry: behold, my servants shall drink, but ye shall be thirsty: [behold, my servants shall rejoice, but ye shall be ashamed:] behold, my servants shall sing for joy of heart, but ye shall cry for sorrow of heart.[14] Another, interpretation: ‘Let thy garments be always white’ — this refers to fringes; ‘and let not thy head lack ointment’ — to tefillin.

CHAPTER XXIV

MISHNAH. IF DARKNESS FALLS UPON A PERSON ON A ROAD,[15] HE ENTRUSTS HIS PURSE TO A GENTILE;[16] BUT IF THERE IS NO GENTILE WITH HIM, HE PLACES IT ON THE ASS. WHEN HE REACHES THE OUTERMOST COURTYARD[17] HE REMOVES THE OBJECTS WHICH MAY BE HANDLED ON THE SABBATH, WHILST AS FOR THOSE WHICH MAY NOT BE HANDLED ON THE SABBATH, HE UNTIES THE CORDS[18] AND THE SACKS FALL OFF AUTOMATICALLY.

GEMARA. Why did the Rabbis permit him to entrust his purse to a Gentile?[19] — The Rabbis knew for certain[20] that no man will restrain himself where his money is concerned; if you do not permit it to him, he will come to carry it four cubits in public ground.

Raba said: His purse only, but not something found. That is obvious, [for] we learnt HIS PURSE? — You might say, The same law applies even to a find, and why does he mention HIS PURSE — as a natural course:[21] therefore he informs us [that it is not so]. Yet we said this only where it did not come into his possession [before the Sabbath], but if it came into his possession, it is the same as his purse. Others state, Raba asked: What about a find that came into his possession [before nightfall]? since it came into this possession, it is the same as his purse; or perhaps since he had no trouble over it, it is not the same as his purse? The question stands over.

IF THERE IS NO GENTILE WITH HIM, [etc.]. The reason is that there is no Gentile with him, but if there is a Gentile with him he must give it to him:[22] what is the reason? — As for an ass, you are under an obligation that it should rest;[23] but as for a Gentile, you are under no obligation [to ensure] that he should rest.

[If there is] an ass, and a deaf-mute, imbecile, or minor:[24] he must place it on the ass and not give it to the deaf-mute, imbecile or minor. What is the reason? The latter are human beings whereas the former is not. [In the case of] a deaf-mute and an imbecile: [he must give it] to the imbecile; [in the case of] an imbecile and a minor — to the imbecile. The scholars asked: What of a deaf-mute and a minor? On R. Eliezer's view there is no questions for it was taught: R. Isaac said in R. Eliezer's name: The terumah of a deaf-mute[25]

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(1) If it arouses widespread grief he must have been a good man who earned the enjoyment of the future world.

(2) When it is pronounced. But if he felt certain that a funeral lament for a good man is spontaneously fervent and deep, what need of exhortation?

(3) Lit., ‘warmed’.

(4) Rashi: because of his outspokenness, v. Hul. 127a.

(5) Isa. XXX, 21. I.e., if one hears a voice proclaiming thus after his death, he has earned the world to come.

(6) Var. lec. our teachers.

(7) Eccl. XII, 5.

(8) In Galilee the professional mourners walked in front of the bier, in Judah behind.

(9) A similar thought is expressed in the Book of Ben Sira, V, 8.

(10) Eccl. IX, 8.

(11) The summons to enter may come at any moment.

(12) Lit., ‘trouble’.

(13) Their punishment would not be so great.

(14) Isa. LXV, 13f.

(15) The Sabbath commences.

(16) V. supra 17b.

(17) Of the first town where he arrives.

(18) Whereby they are fastened to the saddle.

(19) Though that is tantamount to instructing the Gentile to carry it for him, which is forbidden.

(20) Lit., ‘it was established to the Rabbis’.

(21) Finds are rare.

(22) In preference.

(23) V. Ex. XX, 10

(24) These three are frequently linked together as being the same in law.

(25) I.e., separated by him.

Talmud - Mas. Shabbath 153b

does not revert to hullin, because it is doubtful.[1] The question is on the Rabbis’ view. For we learnt: Five must not separate terumah, and if they do their separation is not valid. And these are they: a deaf-mute, imbecile, minor, one who separates terumah on [produce] that is not his,[2] and a Gentile who separates terumah on an Israelite's [produce] even with [the latter's] permission, his separation is not valid. What then? must he give it to the deaf-mute, seeing that the minor will arrive at understanding;[3] or perhaps he must give it to the minor, because a deaf-mute may be confused with an intelligent adult? — Some rule: He must give it to the deaf-mute; others maintain; he must entrust it to the minor.

What if neither a Gentile, an ass, a deaf-mute, an imbecile nor a minor is there? — R. Isaac said: There was yet another [expedient], but the Sages did not wish to reveal it. What was the other [expedient]? — One may carry it in stretches of less than four cubits at a time.[4] Why were the Sages unwilling to reveal it? Because, It is the glory of God to conceal a thing: But the glory of kings is to search out a matter.[5] Yet what glory of God is there here? — Lest one come to carry it four cubits in public ground.

It was taught, R. Eliezer said: On that day[6] they overfilled the measure;[7] R. Joshua said: On that day they made the measure deficient.[8] It was taught, As an illustration, what does this resemble on R. Eliezer's view? A basket full of cucumbers and gourds: a man puts mustard [grain] therein and it holds it.[9] As an illustration, what does this resemble on R. Joshua's view? A tub full of honey: if one puts pomegranates and nuts therein, it [the tub] overflows.[10]

The Master said: ‘If there is no Gentile with him, he places it on his ass’. But he [thereby] leads a [laden] ass, whereas Scripture saith, [In it] thou shalt not do any work, [thou . . . nor thy cattle]?[11] Said R. Adda b. Ahabah: He places it upon her while she is walking.[12] But it is impossible that she shall not stop for the calls of Nature,[13] and so there is removing and depositing? — When she is walking he places it upon her, and when she stops he removes it from her. If so, [the same may be done] even [to] his neighbour too? — R. Papa answered: Where one is liable to a sin-offering in his own case, in the case of his neighbour though he is not culpable nevertheless it is forbidden;[14] and wherever in the case of one's neighbour he is not culpable though it is forbidden, in the case of one's ass it is permitted at the outset.

R. Adda b. Ahabah said: If one's bundle is lying on his shoulder, he must run with it until he arrives home. He may only run, but not walk leisurely. What is the reason? — Since he has nothing to mark a distinction, he will come to perform removing and depositing. Yet after all, when he arrives at the house it is impossible that he shall not stop for a moment, and so he carries it from public to private ground? — He throws it in a ‘back-handed manner.’[15]

Rami b. Hama said: If one leads a laden ass on the Sabbath unwittingly, he is liable to a sin-offering; if deliberately, he is liable to stoning.[16] What is the reason? Said Rabbah, because Scripture said, Thou shalt not do any work, — thou, . . — nor thy cattle: his cattle is assimilated to himself. Just as when he [himself does work], if unwittingly, he is liable to a sin-offering: if deliberately, he is liable to stoning: so [when he works with] his cattle too, if unwittingly, he is liable to a sin-offering; if deliberately, he is liable to stoning. Raba observed, There are two objections to this. Firstly, because it is written, Ye shall have one law for him that doeth aught unwittingly . . . But the soul that doeth aught with a high hand, [etc.]:[17] all laws are assimilated to idolatry: just as in the case of idolatry, he personally performs an action, so here too [one does not incur a sin-offering] unless he personally performs work. Moreover, we learnt: He who desecrates the Sabbath [is stoned], provided that it is an offence punished by stoning[18] if deliberate, and by a sin-offering if unwitting. Hence it follows that there is an offence for which if done unwittingly one does not incur a sin-offering, nor stoning if deliberate: and what is that? Surely leading a laden ass? — No: [the violation of] tehumin,[19] in accordance with R. Akiba's view,[20] or kindling, in accordance with R. Jose s view.[21] [

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(1) Whether his action is valid or not, as his mind may have been clear. On that view a minor stands lower, and the purse must certainly be given to the minor.

(2) Without having been previously authorized.

(3) Thus he is at least potentially an adult of intelligence.

(4) V. supra p. 194, n. 5.

(5) Prov. XXV, 2.

(6) When they entered the upper chambers of Hezekiah b. Garon for the eighteen enactments, v. supra 13b and p. 54, n. 1.

(7) They did well in enacting so many preventive laws, thereby safeguarding Israel from transgression.

(8) Or, they just levelled the measure. I.e., they imposed so many prohibitions as to defeat their own object, for by a reaction Israel would be more likely to sin now than hitherto. — This is mentioned here be cause the entrusting of one's purse to a Gentile was one of those eighteen laws.

(9) Though full it is still capable of receiving more.
(10) Lit., ‘it spews forth’ — some of the honey itself.
(11) Ex. XX, 10.
(12) If one places a burden on a man while he is walking he is not culpable, because there is no ‘removal’ in a technical sense; v. supra 3a. Hence it does not constitute labour, and therefore the same applies here too.
(13) And when she recommences there is ‘removal’, and when she stops again there is ‘depositing’, which together constitute ‘work’.
(14) For if a man carries an article four cubits in public ground, even if he picks it up while walking, he is culpable. Consequently one must not put a burden upon another person while walking, though there is no culpability.
(15) V. p. 188, n. 2.
(16) In theory only. In actual practice the death penalty was restricted by so many conditions as to be non-existent in all but cases of murder (cf. Herzog. Main Institutions of Jewish Law, Vol. I, Introduction, XXI).
(17) Num. XV, 29f, q.v. The latter refers to idolatry.
(18) In Sanh. 66a the reading is: kareth.
(19) Tehum, pl. tehumin, v. Glos.
(20) Who regards the prohibition as Biblical, v. Sot. 36b.
(21) V. supra 70a.

Talmud - Mas. Shabbath 154a

R. Zebid recited it thus: Rami b. Hama said: If one leads a laden ass on the Sabbath: if unwittingly, he does not incur a sin-offering: if deliberately, he is liable to stoning. Raba objected: He who desecrates the Sabbath by an offence for which, if unwitting, a sin-offering is incurred, if deliberate he is liable to stoning. Hence if one does not incur a sin-offering when it is unwitting, there is no stoning when it is deliberate? — Does he [the Tanna] then teach, ‘Hence if one does not incur a sin-offering,’ etc.? [Surely] he says thus: [Every] offence for which, if unwitting, one is liable to a sin-offering, if deliberate he is liable to stoning. Yet there is an offence for which, if unwitting, a sin-offering is not incurred, nevertheless if deliberate one is liable to stoning. And what is it? Leading a laden ass.

Raba, the brother of R. Mari b. Rachel, others state, the father of R. Mari b. Rachel — (on the second version there is the difficulty that Rab declared R. Mari b. Rachel eligible [to hold office] and appointed him one of the collectors of Babylonia?[1] — perhaps there were two men of the name of Mari b. Rachel)[2] recited this discussion in R. Johanan's name, teaching non-culpability. [Thus:] R. Johanan said: If one drives a laden animal on the Sabbath he is not culpable at all. If it is unwitting he does not incur a sin-offering, because the whole Torah is assimilated to idolatry. If deliberate he is not culpable, because we learnt: He who desecrates the Sabbath [is stoned], provided that it is an offence for which a sin-offering is incurred if it is unwitting and stoning if it is deliberate:[3] hence if the unwitting offence does not involve a sin-offering, the deliberate offence does not involve stoning. Neither is he liable for [the violation of] a negative precept,[4] because it is a negative precept for which a warning of capital punishment at the hands of Beth din may be given, and for such there is no flagellation.[5]

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(1) V. Yeb., Sonc. ed., p. 297 and notes. Such positions were only open to men of Jewish parentage, yet Rab declared him eligible because It was sufficient that his mother was a Jewess. That contradicts the present statement that his father too was a Jew.
(2) Bah deletes the bracketed passage, and the same appears from Rashi and Tosaf.
(3) This is the reading in cur. edd., and must be retained if the introductory phrase, ‘we learnt’, which always precedes a Mishnah, is correct, the Mishnah being that on Sanh. 66a (quoted supra 153b bottom). Bah however emends the text thus: if it is an offence for which a sin-offering is incurred if unwitting, stoning is incurred when deliberate. This suits the context better, this being the Baraitha quoted by Raba supra. But in that case the introductory phrase must be emended to ‘it was taught’.

(4) The penalty for which is flagellation.

(5) I.e., the offender could be formally warned against driving a laden ass on the grounds that it is punishable by death; in such a case there is no flagellation even if the death penalty is not imposed.

Talmud - Mas. Shabbath 154b

And even on the view that we do flagellate [in such a case],[1] let the Divine Law write, ‘Thou shalt not do any work nor thy cattle’: why state ‘thou’? [To teach:] only [when] he personally [works] is he liable, but [if] his animal works, he is not liable.

WHEN HE REACHES THE OUTERMOST COURTYARD, etc. R. Huna said: If his animal is laden with glassware, he brings mattresses and pillows, places [them] under it, unties the cords, and the sacks fall off. But we learnt: HE REMOVES THE OBJECTS WHICH MAY BE HANDLED ON THE SABBATH?[2] — R. Huna spoke of surgeon's horns,[3] which are not fit for him.[4] But he makes a utensil lose its readiness [for use]?[5] — The reference is to small bags.[6]

An objection is raised: If one's animal is laden with tebel or glass balls,[7] he must untie the cords and the sacks fall off, though they are broken? — There it treats of glass lumps.[8] This may be proved too, for it is taught analogous to tebel: just as tebel is of no use to him, so here too [it means something] that is of no use to him. Then why state, ‘though they are broken’?[9] — You might say that they [the Sages] were concerned even about a trifling loss: hence he informs us [otherwise].

It was taught R. Simeon b. Yohai said: If the animal is laden with a bag of corn,[10] one places his head under it and moves it to the other side, so that it falls off automatically. R. Gamaliel's ass was laden with honey, but he would not unload it until the termination of the Sabbath. On the termination of the Sabbath it died. But we learnt: HE REMOVES THE OBJECTS WHICH MAY BE HANDLED?[11] — It had gone rancid. If it had gone rancid, of what use was it?[12] — For camels’ sores.[13] Then he should have untied the cords so that the sacks would fall off? — The gourds [containers] would burst — Then he should have brought mattresses and pillows and placed them beneath them? — They would become soiled[14] and he would deprive a utensil of its readiness [for use]. But there was suffering of dumb animals? — He holds that the suffering of dumb animals is [only] Rabbinically [forbidden].[15]

Abaye found Rabbah letting his son glide down the back of an ass.[16] Said he to him, You are making use of dumb creatures [on the Sabbath]? — It is but on the sides [of the animal], he replied, and in that case the Rabbis did not impose an interdict.[17] How do you know it? — Because we learnt: HE UNTIES THE CORDS AND THE SACKS FALL OFF AUTOMATICALLY. Does that not refer to a pair of coupled haversacks?[18] No: a balanced load is meant;[19] alternatively, it means where [the sacks are fastened] by a bolt.[20]

He raised an objection: If two [walls] are [made] by man and a third is on a tree, it is valid, but one must not ascend [enter] therein on the Festival.[21] Does that not mean that one made grooves on the tree,[22] so that it is the sides [only that would be used], and thus the sides are forbidden? — No: It means that he bent over [the branches of] the tree and placed the roofing — upon it, so that he makes use of the tree. If so, consider the second clause: If three are made by man and a fourth is in a tree, it is valid, and one may ascend therein on the Festival. But if he bent over the tree, why may he ascend therein on the Festival?[23] — Then what would you: that the sides are forbidden,[24] — then still the question remains: why may one ascend therein on the Festival? But there it treats of spreading branches, and the tree itself was merely made a wall.[25] This may be proved too, for he states, This is the general rule: wherever it [the sukkah] can stand if the tree were removed, one may ascend therein on the Festival.[26] This proves it.

Shall we say that this is dependent on Tannaim? [For it was taught.] One may not ascend therein on the Festival; R. Simeon b. Eleazar said in R. Meir's name: One may ascend therein on the Festival. Is that not [to be explained] that they differ in this, viz., one Master holds: The sides are forbidden; while the other Master holds: The sides are permitted?[27] — Said Abaye, No: All hold that the sides are forbidden, but here they differ in respect of the sides of the sides:[28] one Master holds: The sides of the sides are forbidden; while the other Master holds: The sides of the sides are permitted.

Raba maintained: He who forbids the sides forbids the sides of the sides too, while he who permits the sides of the sides permits the sides too. R. Mesharsheya raised an objection to Raba: If one drives

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(1) V. Mak. 13b.

(2) Glassware may be handled.

(3) Used in bleeding.

(4) For handling on the Sabbath.

(5) V. supra 43a. These pillows, etc. may be handled, but not when the sacks fall upon them.

(6) The pillows can be pulled away from under them — which is permitted — without hurt, as they have not far to fall.

(7) The word denotes lumps of glass. lanterns, etc.

(8) Which may be broken without loss.

(9) Seeing that no loss is incurred.

(10) Of tebel.

(11) Which includes honey.

(12) Why did he trouble to bring it at all?

(13) Caused by the chafing of the saddle.

(14) If any of the honey were spilt.

(15) This may seem non-humane, but it must be borne in mind that this was held long before other peoples gave the slightest consideration to animals. Cf. p. 640, n. 2 and p. 577, n. 6.

(16) To amuse him.

(17) It is not the normal way of employing an animal.

(18) Coupled or tied together by a cord, a sack hanging down from each side of the animal. To make them fall one would have to lift them off and lean and rub against the animal in doing so which is making use of its sides. Hence this shows that it is permitted.

(19) Each sack being separately attached to a ring by a hook; a slight jerk would suffice. to unhook it, and he would not make use of the animal. V. Jast s.v. חבר.

(20) A wooden cross-bar which can easily be pulled out, letting the sacks drop.

(21) V. Suk. 22a. A sukkah (q.v. Glos.) requires three walls only. Now if two are erected in the normal fashion, whilst the third is made of a tree (this may mean either that the tree constitutes the third wall or that the third wall is fastened to the tree), the sukkah is valid. Nevertheless, one may not enter it on the Festival itself but only during the intermediate days. For the roof is attached to the tree and various utensils, etc., were hung on the roof; thus indirectly one would be using the tree itself, which is forbidden on Festivals. ‘Ascending’ is mentioned because the sukkah was often built above the ground, e.g., on a roof (Rashi).

(22) ‘Wherein he fitted the third wall. — This assumes the second of the two meanings in n. 1.

(23) He still makes use of the tree, in spite of the other three walls.

(24) You wish to adhere to your original hypothesis, whence this follows.

(25) I.e., the thick branches were allowed to form a fourth wall, the sukkah coming right up to them, but the roofing rested on the three other walls, not on the branches. The previous answer could have been retained, viz.,that he bent over the branches of the tree, but rested the roofing on the other three walls. Since however a fourth wall is not required at all, it is assumed that one would not go to this trouble unless he meant the roofing to rest upon it (Rashi).

(26) That is the reason of the second clause quoted above. Hence it must be assumed that the sukkah is so made that the roofing does not rest on the tree at all, as otherwise it could not stand if the tree were removed.

(27) Assuming that grooves were made in the tree etc., as above.

(28) The laths or canes fitted in the grooves are the sides, whilst the roofing which rests on the laths are the sides of the sides. I.e., they differ as to whether one may make indirect use of the sides.

Talmud - Mas. Shabbath 155a

a peg in a tree and hangs a basket thereon[1] above ten handbreadths [from the ground], his ‘erub is not an ‘erub;[2] below ten handbreadths, his ‘erub is an ‘erub. Thus it is only because he fixed a peg in the tree, but if he did not, even if it is below ten handbreadths his ‘erub is not an ‘erub.[3] Thus this Tanna forbids the sides yet permits the indirect use of the sides? — Said R. Papa: Here we treat of a narrow-mouthed basket, so that in taking out the ‘erub he sways the tree, and thus makes use of the tree itself. Now the law is that the sides are forbidden, but the sides of the sides are permitted. R. Ashi said: Now that you have ruled that the sides are forbidden, one must not rest the lodge-ladder[4] on the palm tree, because that is tantamount to the [use of the] sides [of the trees;][5] but he must rest it on pegs without the tree,[6] and when he ascends he should place his foot not on the pegs but on the rungs.[7] MISHNAH. BUNDLES [PEKI'IN] OF SHEAVES MAY BE UNTIED FOR CATTLE AND BUNCHES [KIPPIN] MAY BE SPREAD OUT, BUT NOT SMALL BUNDLES [ZIRIN].[8] NEITHER FODDER[9] NOR CAROBS MAY BE CHOPPED UP FOR CATTLE, WHETHER SMALL OR LARGE;[10] R. JUDAH PERMITS IN THE CASE OF CAROBS FOR SMALL CATTLE.

GEMARA. R. Huna said: PEKI'IN and KIPPIN are identical, [save that] peki'in are two [bunches tied together], while kippin are three; zirin are young shoots of cedar trees.[11] And this is what he [the Tanna] teaches: BUNDLES [PEKI'IN] OF SHEAVES MAY BE UNTIED FOR CATTle, AND THEY MAY BE SPREAD, and the same applies to KIPPIN, BUT NOT TO ZIRIN, which may neither be spread out nor untied — R. Hisda said, What is R. Huna's reason? He holds that we may indeed take trouble over [natural] foodstuffs,[12] but we may not turn something into foodstuffs.[13] Rab Judah said: Peki'in and zirin are identical, [save that] peki'in are two [bunches tied together], whilst Zirin are three; kippin are young cedar shoots. And this is what he teaches: BUNDLES [PEKI'IN] OF SHEAVES MAYBE UNTIED FOR CATTLE, but not spread out, but as for KIPPIN, [THEY] MAY [INDEED] BE SPREAD OUT; BUT NOT ZIRIN, [which it is not permitted] to spread out but [merely] to untie. Raba said, What is Rab Judah's reason? He holds that we may indeed turn something into fodder, but may not take trouble over fodder.[14]

We learnt: NEITHER FODDER NOR CAROBS MAY BE CHOPPED UP FOR CATTLE, WHETHER SMALL OR LARGE: [Surely it means] carobs like fodder: just as fodder is soft, so are soft carobs meant, thus proving that we may not take trouble over [what is] foodstuff [in any case], which refutes R. Huna? — R. Huna can answer you: No: fodder like carobs: just as carobs are hard, so hard fodder[15] is meant.[16] Where is that possible?[17] In the case of very young foals.

Come and hear: R. JUDAH PERMITS IN THE CASE OF CAROBS FOR SMALL CATTLE. Thus, only for small but not for large: now it is well if you agree that the first Tanna holds that we may not take trouble over foodstuffs, yet we may turn [something] into foodstuffs: hence R. Judah argues [that cutting up] carobs for small cattle is also [an act of] turning [it] into fodder. But if you maintain that the first Tanna holds that we may not turn [aught] into fodder, yet we may take trouble over fodder, then R. JUDAH PERMITS IN THE CASE OF CAROBS FOR SMALL CATTLE [only]? all the more so for large cattle![18] — Do you think that dakkah [small] is literally meant? [No] By dakkah large cattle is meant, yet why is it called dakkah? Because it grinds [dayyka] its food.[19] But since the first clause states, WHETHER SMALL OR LARGE, it follows that R. Judah means literally small? This is indeed a difficulty.

Come and hear: One may cut up

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(1) And places his ‘erub-an ‘erub of boundaries (v. Glos.) — in it, intending to spend the Sabbath under the tree. — An ‘erub is not valid unless it is accessible on the Sabbath.

(2) Because a basket is generally four handbreadths square, and if it is ten from the ground it is technically a private domain (cf. supra 6a), whereas the ground below is a public domain, and so one must not take the ‘erub from the basket; hence it is not accessible.

(3) I.e., if he merely tied the basket to the tree. The ‘erub is invalid because in order to get at it he must make use of the side of the tree; where it is hanging on a peg, however, he only makes indirect use of the sides.

(4) A ladder for ascending to a lodge set high up on poles near a tree.

(5) When he ascends on the Sabbath.

(6) I.e., pegs driven into the tree (Rashi). Jast.: on the branches spreading beyond the circumference of the tree.

(7) Or, on the canes protruding from the poles on which the lodge is built.

(8) The Gemara discusses the exact meaning of the terms used.

(9) Shahath is corn not fully grown as fodder.

(10) ‘Small cattle’ — sheep, goats, calves, etc.; large — cows and oxen.

(11) Cut from the tree. While yet moist they are fit for fodder, though most people leave them to dry for fuel.

(12) Such as bundles of sheaves.

(13) Such as young shoots which are normally intended for fuel.

(14) When the bundles are tied they are not fit for fodder, therefore they may be untied; but it is superfluous indulgence to spread them out, and that is forbidden. Bunches of young shoots, however, are unfit for fodder unless they are spread out; hence it is permitted.

(15) E.g., if the corn has gone dry.

(16) Without being cut up they are altogether unfit; hence they may not be cut up.

(17) That unless cut up they are unfit. — Generally animals can eat them even when hard.

(18) Since carobs are fit in any case, but are more easily eaten when cut up. ‘All the more so’ because if they are fit in their present state for small cattle, they are certainly fit for large.

(19) Chewing it until it is finely cut up.

Talmud - Mas. Shabbath 155b

gourds for cattle and a carcass for dogs — Surely fit means] gourds like a carcass: just as a carcass is soft, so are soft gourds meant, which proves that we may take trouble over foodstuffs,[1] which refutes Rab Judah? Rab Judah can answer you: No. A carcass like gourds: just as gourds are hard, so a hard carcass [is meant].[2] And where is it possible?[3] In the case of split meat[4] or in the case of very young dogs.[5] Come and hear: For R. Hanan of Nehardea recited: ‘One may break up straw and corn fodder[6] and mix them together’ . This proves that we may take trouble over fodder? — Straw means putrefying straw;[7] as for corn fodder [the reference is] to young foals.

MISHNAH. ONE MUST NOT STUFF A CAMEL. [WITH FOOD] NOR CRAM [IT]. BUT ONE MAY PUT FOOD INTO ITS MOUTH; AND ONE MUST NOT FATTEN CALVES,[8] BUT ONE MAY PUT FOOD INTO THEIR MOUTH. AND FOWLS MAY BE MADE TO TAKE UP FOOD. WATER MAY BE POURED INTO BRAN, BUT WE MAY NOT MIX IT [INTO A MASS]. AND WATER MAY NOT BE PLACED FOR BEES OR FOR DOVES IN A DOVE-COTE, BUT IT MAY BE PLACED BEFORE GEESE, FOWLS AND HARDISIAN DOVES.[9]

GEMARA. What does ONE MUST NOT STUFF [OBSIN] mean? — Said Rab Judah: One must not make a manger [ebus] in its stomach.[10] Is such possible? — Even so, and as R. Jeremiah of Difti[11] related: I myself saw a certain Arab feed it with a kor and load it with a kor.[12]

ONE MUST NOT FATTEN, [MA'AMIRIN]. What is hamra'ah and what is hal'atah?[13] — Said Rab Judah: Hamra'ah [is forcing the food] so far that it cannot return; hal'atah is [only] so far that it can return. R. Hisda said: Both mean so far that it cannot return, but hamra'ah is [done] with a utensil, [while] hal'atah is by hand.[14] R. Joseph objected: One may force fowls to take food [mehalkitin], and it is superfluous to state that we may fatten [malkitin] them; but one may not fatten [malkitin] the doves of the dove-cote or of the loft, and it is superfluous to state that we may not force them [mehalkitin]. What is mehalkitin and what is malkitin? Shall we say that mehalkitin is hand feeding, while malkitin is throwing [grain, etc.] in front of them? Whence it follows that one may not even cast [grain] before the doves of the dove-cote or of the loft![15] Hence mehalkitin is surely [forcing food] so far down that it cannot return, while malkitin is [only] so far that it can return. From this it follows that hamra'ah means [stuffing] with a utensil, which refutes Rab Judah?[16] — Rab Judah can answer you: In truth mehalkitin means feeding by hand, while malkitin means casting [the food] before them, but as to your difficulty, Is it then not even permitted to cast [food] before the doves of the dove-cote and of the loft, [that indeed is so, for] you are responsible for the food of the former [sc. fowls], but not for that of the latter.[17] Even as it was taught: Food may be placed before a dog but not before a swine. And what is the difference between them? You are responsible for the food of the one, but you are not responsible for the food of the other. R. Ashi said, Our Mishnah too implies this: WATER MAY NOT BE PLACED FOR BEES OR FOR DOVES IN A DOVECOTE, BUT IT MAY BE PLACED BEFORE GEESE, FOWLS, AND HARDISIAN DOVES. What is the reason? Is it not because you are responsible for the food of the former, but you are not responsible for the food of the latter? — But according to your reasoning, why particularly water: even wheat and barley too may not [be placed before them]? Rather [say] water is different, because it is found in pools.

R. Jonah lectured at the entrance to the Nasi's academy.[18] What is meant by the verse, The righteous knoweth the cause of the poor?[19] The Holy One, blessed be He, knoweth that a dog's food is scanty,[20] therefore He makes him retain his food in his stomach for three days. As we learnt: How long shall the food remain in its stomach and yet defile? In the case of a dog, three full days of twenty-four hours; while in the case of birds or fish, as long as it would take for it [the food] to fall into the fire and be burnt.[21] R. Hamnuna said: This proves[22] that it is the proper thing[23] to throw raw meat to a dog. And how much? Said R. Mari: Measure its ear and the stick [straight] after![24] But that is only in the fields but not in town, because it will come to follow him. R. Papa said: None are poorer than a dog and none richer than a swine.[25]

It was taught in accordance with Rab Judah: What is hamra'ah and what is hal'atah? Hamra'ah: one makes it [the animal] lie down, opens the mouth wide, and forces it to swallow vetches and water simultaneously; hal'atah: he feeds it standing and waters it standing, and puts vetches separately and water separately [into its mouth].[26]

FOWLS MAY BE MADE TO TAKE UP FOOD. Abaye said, I asked this before the Master [Rabbah]: With whom does our Mishnah agree?[27] And he answered me, With R. Jose b. Judah. For it was taught: If one pours in flour and another water, the second is liable: this is Rabbi's view. R. Jose b. Judah said: He is not liable unless he kneads [them].[28] Yet perhaps R. Jose b. Judah ruled thus only there, in respect of flour, which is used for kneading; but as for bran, which is not used for kneading, even R. Jose b. Judah may admit [that he is liable]? — You cannot think so, because it was explicitly taught: Water must not be poured into bran: this is Rabbi's view. R. Jose b. Judah ruled: Water may be poured into bran.

Our Rabbis taught: Parched corn may not be mixed,[29] but others maintain, It may be mixed. Who are the ‘others’? — Said R. Hisda:

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(1) For the gourds can be eaten even if not cut up.

(2) They are uneatable unless cut up.

(3) Cf. n. 3.

(4) Meat that has gone so hard and dry that there are splits in it.

(5) They cannot eat any flesh unless it is cut up.

(6) I.e., shahath, v. p. 792, n. 2.

(7) Though not quite putrid, for that would be unfit and mukzeh.
(8) By stuffing them with food against their will.
(9) A species of domesticated doves, probably so named from the manner of their fructification (Jast. s.v. הרדסיאות). Aliter: Herodian doves, a species of domesticated doves supposed to have been bred by Herod, v. Hul. 139b. — The Gemara discusses the various terms used in the Mishnah.
(10) By excessively stuffing it.
(11) V. p. 35, n. 5.
(12) Of fodder for the journey-this is a very great quantity indeed.
(13) Mal'itin is the term used in the Mishnah for putting food into their mouth.
(14) Hence not so forcible.
(15) Surely that is incorrect!
(16) For the Mishnah employs mehalkitin in respect of fowls and mal'itin i.e., hal'atah in respect of calves as parallel terms, and both are permissible. Hence hamra'ah, which is forbidden, must refer to feeding with a utensil.
(17) Because doves can fly about in the fields and find their own food.
(18) Or, house. It would appear that popular lectures were given there in the open.
(19) Prov. XXIX, 7.
(20) Few people trouble about dogs. — Many of the dogs in the East are semi-savage, and this ‘would account for their neglect; v. J.E. art. Dog.
(21) If an animal consumes flesh of a corpse and then dies in a house before it is completely digested, the contents of the house are unclean. The Mishnah quoted states how long we are to regard the flesh as undigested.
(22) Sc. the care that the Almighty takes over a dog's food.
(23) Lit., ‘the way of the world’.
(24) Give it a little, only as large as its ear, then immediately drive it off.
(25) Rashi: because the swine eats anything, and it is also given much food.
(26) Obviously in the former case the food can be forced down so far that it will not return, but not in the latter case.
(27) That the mere pouring in of water does not constitute kneading.
(28) V. supra 18a.
(29) With water and oil to make of it a beverage.

Talmud - Mas. Shabbath 156a

It is R. Jose son of R. Judah. But that is only if one does it in an unusual manner. How does one do it in an unusual manner? Said R. Hisda: Little by little.[1] Yet they agree that shatith[2] may be stirred round on the Sabbath, and Egyptian beer may be drunk.[3] But you said that we must not mix?[4] — There is no difficulty: the one treats of a thick mass;[5] the other of a loose [one].[6] And that is only if he does it in an unusual manner. How does one do it in an unusual manner? — Said R. Joseph: During the week the vinegar is [first] poured in and then the shatith, whereas on the Sabbath the shatith is [first] poured in and then the vinegar.

Levi son of R. Huna b. Hiyya found [on Sabbath] the mixer of his father's household[7] mashing [up bran] and feeding the oxen. Thereupon he rebuked him — Then his father came and found him [there]. Said he to him. Thus did your maternal grandfather, viz., R. Jeremiah b. Abba, say in Rab's name: One may mash [bran] but not force it [on the animal]; and if it [the animal] cannot take it [the fodder] up with its tongue one may feed it;[8] provided, however, that it is done in an unusual manner. How does one do it in an unusual manner? — Said R. Yemar b. Shalmia in Rab's name: [By stirring it] crosswise.[9] But he cannot mix it well [then]? — Said Rab Judah: He shakes up the vessel [itself]. It was recorded in Ze'iri's notebook: I asked my teacher, viz., R. Hiyya. What about kneading?[10] It is forbidden, replied he. What about emptying?[11] It is permitted, he answered. R. Menassia said: It is well [to place] one [measure of food] for one animal, and two for two; but [to place] three [measures] for two [animals] is forbidden.[12] R. Jose said: A kab and even two kabs [may be set]. ‘Ulla said: A kor and even two kor.[13]

It was recorded in Levi's notebook: I spoke to my teacher, viz., our holy Master,[14] about those who mix shatitha in Babylonia, and my teacher, viz., our holy Master, protested [vociferously] against the practice of mixing shatitha, but none heeded him, and he lacked the power to forbid it, on account of R. Jose b. Judah.[15]

It was recorded in R. Joshua b. Levi's notebook: He who [is born] on the first day of the week [Sunday] shall be a man without one [thing] in him — What does 'without one [thing] in him' mean? Shall we say, without one virtue?[16] Surely R. Ashi said: I was born on the first day of the week! Hence it must surely mean, one vice. But Surely R. Ashi said: I and Dimi b. Kakuzta were born on the first day of the week: I am a king[17] and he is the captain of thieves![18] — Rather it means either completely virtuous or completely wicked.[19] [What is the reason? Because light and darkness were created on that day.][20] He who is born on the second day of the week will be bad-tempered — What is the reason? Because the waters were divided thereon.[21] He who is born on the third day of the week will be wealthy and unchaste. What is the reason? Because herbs were created thereon.[22] He who is born on the fourth day of the week will be wise and of a retentive memory.[23] What is the reason? Because the luminaries were suspended [thereon] — He who is born on the fifth day of the week will practise benevolence. What is the reason? Because the fishes and birds were created thereon.[24] He who is born on the eve of the Sabbath will be a seeker. R. Nahman b. Isaac commented: A seeker after good deeds.[25] He who is born on the Sabbath will die on the Sabbath, because the great day of the Sabbath was desecrated on his account. Raba son of R. Shila observed: And he shall be called a great and holy man.[26]

R. Hanina said to then, [his disciples]: Go out and tell the son of Levi, Not the constellation of the day but that of the hour is the determining influence. He who is born under the constellation of the sun[27] will be a distinguished[28] man: he will eat and drink of his own and his secrets will lie uncovered; if a thief, he will have no success. He who is born under Venus will be wealthy and unchaste [immoral]. What is the reason? Because fire was created therein.[29] He who is born under Mercury will be of a retentive memory and wise. What is the reason? Because it [Mercury] is the sun's scribe. He who is born under the Moon will be a man to suffer evil, building and demolishing, demolishing and building. eating and drinking that which is not his and his secrets will remain hidden: if a thief, he will be successful.[30] He who is born under Saturn will be a man whose plans will be frustrated.[31] Others say: All [nefarious] designs against him will be frustrated. He who is born under Zedek [Jupiter] will be a right-doing man [zadkan] R. Nahman b. Isaac observed: Right-doing in good deeds. 'He who is born under Mars will be a shedder of blood. R. Ashi observed: Either a surgeon, a thief, a slaughterer, or a circumciser. Rabbah said: I was born under Mars.[32] Abaye retorted: You too inflict punishment and kill.[33]

It was stated. R. Hanina said: The planetary influence gives wisdom, the planetary influence gives wealth, and Israel stands under planetary influence. R. Johanan maintained: Israel is immune from planetary influence.[34] Now, R. Johanan is consistent with his view, for R. Johanan said: How do we know that Israel is immune from planetary influence? Because it is said, Thus saith the Lord, Learn not the way of the nations, and be not dismayed at the signs of heaven, for the nations are dismayed at them:[35] they are dismayed but not Israel.[36] Rab too holds that Israel is immune from planetary influence. For Rab Judah said in Rab's name: How do we know that Israel is immune from planetary influence? Because it is said, and he brought him forth from abroad.[37] Abraham pleaded before the Holy One, blessed be He, 'Sovereign of the Universe! one born in mine house is mine heir.'[38] 'Not so,' He replied, 'but he that shall come forth out of thine own bowels.'[39] 'Sovereign of the Universe!' cried he, 'I have looked at my constellation and find that I am not fated to beget child.' 'Go forth from [i.e., cease] thy planet [gazing], for Israel is free from planetary influence. What is thy calculation?

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(1) Lit., 'by hand, by hand'.

(2) A drink prepared of flour and honey.
(3) Though sometimes taken for medicinal purposes it is also imbibed as an ordinary beverage, and hence permitted; cf. supra 109b.
(4) Stirring shatith is the same.
(5) Such as a dough that is forbidden.
(6) Such as shatith.
(7) It was his duty to mix the fodder for his father's cattle.
(8) E.g., food may be put into the mouth of a young calf.
(9) Instead of round and round.
(10) Or, mashing — bran.
(11) A mash from one vessel into another, in order to mix it (Tosaf.). Rashi: from the vessel standing in front of one animal and pouring it out for another animal.
(12) One may set its usual quantity of food before an animal on the Sabbath, — i.e., as much as it generally consumes; similarly, a double quantity for two, if they both feed out of the same manger. But one may not set a treble quantity for two animals, since they do not eat so much during the week.
(13) There is no limit.
(14) R. Judah the prince.
(15) Who permits it supra.
(16) Lit., ‘one (thing) in (his) favour’.
(17) I.e., the head of the academy.
(18) An anticipation of gangsterdom?
(19) I.e., he shall be a man complete in his mode of life, without any opposing principle within him.
(20) Hence his nature shall be the one or the other. — Rashal, for some reason which is not clear, deletes the bracketed passage.
(21) Division or disunity is caused by bad temper. — Rashi: so will he be estranged from other people (through his temper).
(22) Herbs multiply very rapidly and also continually intermingle with other herbs.
(23) ‘Aruk. Rashi: bright, lustrous.
(24) Which are fed by God's lovingkindness.
(25) Just as on the eve of the Sabbath one seeks to complete the details necessary for the proper observance of the Sabbath.
(26) Maharsha: Not all born on the Sabbath die on the Sabbath, but only those who are very holy.
(27) I.e., when the sun, as one of the planets, wields its influence on man.
(28) Or: bright, handsome.
(29) During the hours ruled over by Mercury.
(30) Just like the moon, which waxes and wanes, has no light of its own but merely reflects the sun's light, and is in general dark.
(31) בטל (to frustrate) is the Chaldaic equivalent of שבת. (10) Rash: charitable.
(32) And am none of these.
(33) Not to be taken literally. of course. V. supra 153a.
(34) Lit., there is no mazzal (planetary influence) to Israel.
(35) Jer. X, 2.
(36) Israel being uninfluenced by ‘the signs of heaven’.
(37) Gen. XV, 5, q.v.
(38) Ibid. 3.
(39) Ibid. 4.

Talmud - Mas. Shabbath 156b

Because Zedek [Jupiter][1] stands in the West?[2] I will turn it back and place it in the East.’ And thus it is written, Who hath raised up Zedek from the east?[3] He hath summoned it for his sake.[4]

From Samuel too [we learn that] Israel is immune from planetary influence. For Samuel and Ablat were sitting, while certain people were going to a lake.[5] Said Ablat[6] to Samuel: ‘That man is going but will not return, [for] a snake will bite him and he will die.’ ‘If he is an Israelite,’ replied Samuel. ‘he will go and return.’[7] While they were sitting he went and returned. [Thereupon] Ablat arose and threw off his [the man's] knapsack, [and] found a snake therein cut up and lying in two pieces — Said Samuel to him, ‘What did you do?’[8] ‘Every day we pooled our bread and ate it; but to-day one of us had no bread, and he was ashamed. Said I to them, "I will go and collect [the bread]".[9] When I came to him, I pretended to take [bread] from him, so that he should not be ashamed.’ ‘You have done a good deed,’ said he to him. Then Samuel went out and lectured: But charity[10] delivereth from death;[11] and [this does not mean] from an unnatural death, but from death itself.

From R. Akiba too [we learn that] Israel is free from planetary influence. For R. Akiba had a daughter. Now, astrologers[12] told him, On the day she enters the bridal chamber a snake will bite her and she will die. He was very worried about this. On that day [of her marriage] she took a brooch [and] stuck it into the wall and by chance it penetrated [sank] into the eye of a serpent. The following morning, when she took it out, the snake came trailing after it. ‘What did you do?’ her father asked her. ‘A poor man came to our door in the evening.’ she replied, ‘and everybody was busy at the banquet, and there was none to attend to him. So I took the portion which was given to me and gave it to him. ‘You have done a good deed,’ said he to her. Thereupon R. Akiba went out and lectured: ‘But charity delivereth from death’: and not [merely] from an unnatural death, but from death itself.

From R. Nahman b. Isaac too [we learn that] Israel is free from planetary influence. For R. Nahman b. Isaac's mother was told by astrologers, Your son will be a thief. [So] she did not let him [be] bareheaded, saying to him, ‘Cover your head so that the fear of heaven may be upon you, and pray [for mercy]’. Now, he did not know why she spoke that to him. One day he was sitting and studying under a palm tree; temptation[13] overcame him, he climbed up and bit off a cluster [of dates] with his teeth.[14] MISHNAH. GOURDS MAY BE CUT UP FOR CATTLE,[15] AND A CARCASE FOR DOGS. R. JUDAH SAID: IF IT WAS NOT NEBELAH BY THE EVE OF THE SABBATH IT IS FORBIDDEN, BECAUSE IT IS NOT MUKAN.[16]

GEMARA. It was stated: (Mnemonic: ‘arel SHahaz).[17] ‘Ulla said; the halachah is as R. Judah. And Rab too holds [that] the halachah is as R. Judah; [this follows] from ship mattings,[18] which Rab forbids while Samuel permits. And Levi too holds [that] the halachah is as R. Judah. For when a terefah was brought before him on a Festival,[19] he would not inspect it save when he sat by a dunghill, for he said, perhaps it will not be found fit, in which case it is of no use even for dogs. But Samuel maintained: The halachah is as R. Simeon.[20] And Ze'iri too holds [that] the halachah is as R. Simeon, for we learnt: If an animal dies, it must not be moved from its place: and Ze'iri interpreted this as referring to a sacred animal,[21] but in the case of an ordinary animal it is permitted.[22] R. Johanan too said, The halachah is as R. Simeon. Yet did R. Johanan say thus: Surely R. Johanan ruled, The halachah is as an anonymous Mishnah. and we learnt:

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(1) Which is thy constellation.

(2) Which is an unpropitious combination for begetting children.

(3) E.V. ‘righteousness’.

(4) Sc. for the sake of Abraham: Isa. XLI. 2.

(5) Or, meadow.

(6) V. supra p. 644, n. 11.

(7) prayer can counteract his fate as determined by the planets (Rashi).

(8) To escape your fate.

(9) Lit., ‘throw into the basket’.

(10) E.v. righteousness. From the Jewish point of view the two are identical: One merely performs his duty (i.e., righteousness) in giving charity.

(11) Prov. X, 2.
(12) Lit., ‘Chaldeans’.
(13) Lit., ‘the evil inclination’.
(14) The tree did not belong to him. — This story shows that head-covering was not de rigeur, though regarded as conducive to piety. — From these stories we see that belief in planetary influence was not entirely rejected, but that these Rabbis held that it might be counteracted by good deeds.
(15) Though normally they are for human consumption.
(16) V. Glos.
(17) V. p. 110, n. 1. ‘=’Ulla; R = Rab; L = Levi; SH = SHemuel (Samuel); H = Johanan; Z = Ze'iri.
(18) V. supra 19b.
(19) I,e., when a doubt arose whether an animal was terefah (v. Glos.).
(20) Who permits mukzeh.
(21) I.e., one sanctified for a sacrifice. When it dies all benefit thereof is forbidden and it may not even be thrown to the dogs. Hence it is mukzeh on Festivals, with which this deals.
(22) It can be thrown to the dogs. and is therefore not mukzeh.

Talmud - Mas. Shabbath 157a

One may not chop up wood from planks,[1] nor from a plank that is broken on a Festival?[2] R. Johanan recited that as [the ruling of] R. Jose b. Judah.[3] Come and hear: One may commence with a heap of straw [for fuel supplies] but not with the timber stored in the shed?[4] — The reference there is to cedar and ashuhe[5] planks, for in the case of mukzeh on account of monetary loss even R Simeon agrees.[6]

Come and hear: Pasture animals may not be watered and killed, but home animals may be watered and killed?[7] — R. Johanan found another [opposing] anonymous [Mishnah]: Beth Shammai say: One may remove bones and nutshells from the table; but Beth Hillel rule: One must take away the whole board and shake it. Whereon R. Nahman said: As for us, we have no other [view] but that Beth Shammai agree with R. Judah, and Beth Hillel with R. Simeon.[8]

R. Aha and Rabina differ therein: One maintains: In all [discussions on] the Sabbath the halachah is as R. Simeon, save in mukzeh on account of repulsiveness: and what is that? An old lamp.[9] While the other maintains: In respect of mukzeh on account of repulsiveness too the halachah is as R. Simeon, the exception being mukzeh on account of an interdict, and what is that? A lamp wherein a light had been lit on that self-same Sabbath.[10] But in the case of mukzeh on account of monetary loss even R. Simeon agrees, for we learnt: All utensils may be handled on the Sabbath, except a large saw and the pin of a plough.[11]

MISHNAH. VOWS CAN BE ANNULLED BY A HUSBAND ON THE SABBATH, AND ABSOLUTION MAY BE GRANTED[12] FOR VOWS WHEN THESE ARE NECESSARY FOR THE SABBATH. A SKYLIGHT MAY BE CLOSED UP,[13] AND A RAG MAY BE MEASURED,[14] AND A MIKWEH MAY BE MEASURED.[15] AND IT ONCE HAPPENED IN THE DAYS OF R. ZADOK'S FATHER AND THE DAYS OF ABBA SAUL THE SON OF BOTNITH THAT THEY CLOSED UP THE WINDOW WITH A PITCHER AND TIED AN [EARTHENWARE] POT TO ASCERTAIN WHETHER THERE WAS THE OPENING OF A HANDBREADTH OR NOT IN THE BARREL.[16] AND FROM THEIR WORDS WE LEARN THAT WE MAY CLOSE [A SKYLIGHT] AND MEASURE AND TIE ON THE SABBATH.

GEMARA. The scholars asked: Is annulment [permitted] whether it is required [for the Sabbath] or not, whereas absolution [may be granted] only when it is necessary, but not otherwise, and for that reason they are divided from each other;[17] or perhaps annulment too [is permitted] only when it is necessary [for the Sabbath] but not otherwise; the reason that they are divided being that annulment does not require a Beth din, whereas absolution requires a Beth din?[18] — Come and hear: For Zuti, of the School of R. Papa, recited: Vows may be annulled on the Sabbath when they are required for the Sabbath: thus, only when required for the Sabbath, but not otherwise.

Another version: The scholars asked: Does WHEN THESE ARE NECESSARY relate to both, but not when they are unnecessary. which proves that [for] the annulment of vows a period of twenty-four hours is given; or perhaps WHEN THESE ARE NECESSARY is stated in reference to absolution only, but the annulment of vows [is permitted] even when it is unnecessary, which proves that [for] the annulment of vows the whole day [only] is given?[19] — Come and hear: For Zuti of the School of R. Papa recited: Vows may be annulled on the Sabbath when they are required for the Sabbath — Only 'when required for the Sabbath', but not otherwise, which proves that [for] the annulment of vows a period of twenty-four hours is given. Said R. Ashi, But we learnt: [The period allowed for] annulment of vows is the whole day: this may result in greater stringency or greater leniency.[20] E.g., if she vows on Sabbath eve [Friday night], he can annul on the Sabbath eve and the Sabbath day; if she vows just before nightfall, he can annul only until the night, for if darkness falls and he has not annulled it, he can no longer do so? — It is dependent on Tannaim: [The period for] the annulling of vows is all day; R. Jose son of R. Judah and R. Eleazar son of R. Simeon maintain: Twenty-four hours.

AND ABSOLUTION MAY BE GRANTED FOR VOWS, etc. The scholars asked: Is that only if one had no time [before the Sabbath to seek absolution], or perhaps it holds good even if one had time? — Come and hear: For the Rabbis gave a hearing to R. Zutra b. R. Zera and absolved him of his vow, though he did have time.

THEY CLOSED UP THE WINDOW WITH A PITCHER AND TIED A POT WITH A REED ROPE. Rab Judah said in Rab's name: There was a small passage between two houses and an unclean object lay there,

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(1) Arranged in piles for building.

(2) Because they are mukzeh, v. Bez. 31a.

(3) But not as an anonymous Mishnah.

(4) It is stored there for winter use and is mukzeh, Bez. 29b. This Mishnah is anonymous and agrees with R. Judah.'

(5) A genus of weak (female) cedar. Aliter: cypress.

(6) Cf. p. 610, n. 12.

(7) V. supra 45b. This prohibits mukzeh.

(8) V. supra 143a, p. 724, n. 5. Beth Hillel's view is the same as an anonymous Mishnah, because it is always halachah.

(9) V. supra 44a.

(10) V. p. 202, n. 9.

(11) These are delicate tools that require careful handling and are not used for any purpose but their own, v. supra 123b.

(12) Lit., 'may be sought'; sc, from a Sage or court of three laymen.

(13) Cf. supra 125b.

(14) Whether it is large enough to be defiled; v. supra 26b. E.g., if it came into contact with a sherez (q.v. Glos.) and then touched food.

(15) To see whether it has the minimum size for validity, i.e., one cubit square by three in breadth or its cubic equivalent.

(16) This is discussed infra.

(17) In the Mishnah, instead of stating. Vows may be annulled and absolution granted. etc.

(18) A husband annuls his wife's vows and a father his daughter's, while a Sage or Beth din of three laymen can grant absolution to all.

(19) A husband or a father can annul vows only on the day he hears them (Num. XXX, 5,8, q.v.); and the question is whether 'day' means a calendar day, i.e., until the evening only, no matter when the vow is made, or full twenty-four hours? Now, where he hears of her vow first on Sabbath day, if annulment is permitted on the Sabbath only when it is necessary, it follows that full twenty-four hours are allowed so that he can annul after the termination of the Sabbath; for otherwise we deprive him of the right to annul at all.

(20) By fixing a calender day, i.e., a night and a day, the period may be shorter or longer, as the case may be.

Talmud - Mas. Shabbath 157b

and a split barrel[-shaped defective roofing] rested over them, — then they closed the window with a pitcher and tied a fire pot with a reed rope to ascertain whether the barrel[-shaped roofing] had an opening of a handbreadth or not.[1] AND FROM THEIR WORDS WE LEARN THAT WE MAY STOP UP [A SKYLIGHT] AND MEASURE AND TIE ON THE SABBATH. ‘Ulla visited the home of the Resh Galutha and saw Rabbah b. R. Huna Sitting in a bath-tub of water and measuring it. Said he to him: Say that the Rabbis spoke thus of measuring in connection with a precept;[2] did they rule [thus] when it is not in connection with a precept? — I was merely occupying myself, he replied.[3]

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(1) The ‘unclean object’ was a corpse, which lay in the passage beneath the roofing under its split. Before the person died the window was closed up with the pitcher, for fear that the split was less than a handbreadth in width, in which case the corpse would be lying under a covering which contained no opening through which the uncleanness could pass out, and so it would spread to the rooms on its side through the window opening into the passage. Hence it was closed with an earthen pitcher, the back of which faced the passage; it then bars the progress of defilement. In order to know whether the split was a handbreadth in width they tied a fire-shard of that width with a reed, to see whether it could enter the split (Rashi). Tosaf, explains it differently.

(2) Sc. the measuring of a mikweh.

(3) But had no intention of actually measuring.

Talmud - Mas. Eiruvin 2a

C H A P T E R I

MISHNAH. [A CROSS-BEAM SPANNING] THE ENTRANCE[1] [TO A BLIND ALLEY][2] AT A HEIGHT OF MORE THAN TWENTY CUBITS SHOULD BE LOWERED.[3] R. JUDAH RULED: THIS IS UNNECESSARY. AND [ANY ENTRANCE] THAT IS WIDER THAN TEN CUBITS[4] SHOULD BE REDUCED [IN WIDTH]; BUT IF IT HAS THE SHAPE OF A DOORWAY[5] THERE IS NO NEED TO REDUCE IT EVEN THOUGH IT IS WIDER THAN TEN CUBITS.

GEMARA. Elsewhere we have learnt: A sukkah[6] which [in its interior] is more than twenty cubits high is unfit, but R. Judah regards it as fit.[7] Now wherein lies the difference [between the two cases that] in respect of the sukkah it was ruled: ‘unfit’, while in respect of the ENTRANCE [TO A BLIND ALLEY],[1] a remedy[8] was indicated?[9] — [In respect of a] sukkah, since it Is a Pentateuchal ordinance,[10] it [was proper categorically to] rule, ‘unfit’;[11] in respect of the ENTRANCE, however, since [the prohibition against moving objects about in the alley is only] Rabbinical,[12] a remedy could well be indicated.[13] If you prefer I might reply: A remedy may properly be indicated in the case of a Pentateuchal law also, but as the ordinances of a sukkah are many it was briefly stated: ‘unfit’,[14] [while in the case of] an ENTRANCE [To A BLIND ALLEY], since the regulations governing it are not many, a remedy could be indicated.[15]

Rab Judah stated in the name of Rab: The Sages[16] could have deduced it[17] only from the [dimensions of] the entrance to the Hekal[18] and R. Judah could only have deduced it[17] from the [dimensions of] the entrance to the Ulam.[19] For we have learnt: The entrance to the Hekal[19] was twenty cubits high and ten cubits wide,[20] and that to the Ulam was forty cubits high and twenty cubits wide.[21] And both based their expositions on the same text: And kill it at the entrance of the tent of meeting;[22] the Rabbis[23] being of the opinion that the sanctity of the Hekal is distinct[24] [from that of the Ulam][25] and that of the Ulam is distinct[24] from [that of the Hekal],[26] so that[27] the mention of[28] ‘the entrance of the tent of meeting’ must refer[29] to the Hekal only.[30] R. Judah, however, is of the opinion that the Hekal and the Ulam have the same degree of sanctity so that the mention[29] of ‘the entrance of the tent of meeting’[31] refers to both of them.[32] If you prefer I might say: According to R. Judah's view also the sanctity of the Hekal is distinct from that of the Ulam,[33] but the reason for R. Judah's ruling here is because it is written: To the entrance of the Ulam of the house.[34] And the Rabbis?[35] If it has been written: ‘To the entrance of the Ulam’ [the implication would indeed have been] as you suggested; now, however, that the text reads,I ‘To the entrance of the Ulam of the house’,[34] [the meaning is the entrance of] the house[36] that opens into the Ulam. But is not this text[37] written in connection with the Tabernacle?[38] — We find that the Tabernacle was called Sanctuary and that the Sanctuary was called Tabernacle.[39] For, should you not concede this,[40] [consider] the statement which Rab Judah made In the name of Samuel: ‘Peace-offerings that were slain prior to the opening[41] of the doors of the Hekal are disqualified because it is said in Scripture: And kill it at the entrance[42] of the tent of meeting[43] [which[42] implies only] when it[44] is open but not when it is closed’.[45] Now surely [it might be objected] is not this Scriptural text written in connection with the Tabernacle?[46] The fact, then, [must be conceded that an analogy may be drawn between the two, since] we find that the Sanctuary was called Tabernacle and that the Tabernacle was called Sanctuary.

One may well agree that the Sanctuary was called Tabernacle since it is written in Scripture: And I will set my Tabernacle among you.[47] Whence, however, do we infer that the Tabernacle was called Sanctuary? If it be suggested: From the Scriptural text: And the Kohathites the bearers of the sanctuary set forward[48] that the tabernacle might be set up against their coming,[49]

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(1) מבוי (rt. בוא ‘to come’) signifying either (a) a way of entry or (b) an alley which forms the entry or gives access to courtyards that open out into it.

(2) Having courtyards on three sides of it, the fourth side opening into a public domain (v. infra p. 2, n. 1).

(3) Lit., 'reduced', the cross-beam thereby forming a kind of gateway into the alley. In the absence of a cross-beam, or in case it is raised too high (for the reason explained in the Gemara), the alley, in accordance with Rabbinic law, cannot be regarded as a private domain and no object may be moved in it during the Sabbath.

(4) In consequence of which it cannot be regarded as a gateway but merely as a breach.

(5) צורת הפתח, the simplest form of which is all horizontal pole or rod supported at each end by a stake or vertically placed reed.

(6) סוכה or סכה, the festive booth (v. Lev. XXIII, 42f and cf. Neh. VIII, 17).

(7) Suk. 2a.

(8) 'SHOULD BE' LOWERED'.

(9) Lit., 'he taught'.

(10) Cf. supra N. 6.

(11) The suggestion of a remedy might have been misunderstood as being mere advice the neglect of which did not vitally affect the performance of the precept, and so it would be concluded that ex post facto the sukkah may be deemed fit. (So according to Tosaf. s.v. סוכה a.l. contra Rashi).

(12) Pentateuchally such a prohibition applies only to a public domain which Is sixteen cubits in width (v. Shab. 6b and 99a) ant open on at least two sides. The ALLEY spoken of in our Mishnah is less than sixteen cubits in width and is open on one side only (cf. Supra p. 1, n. 2).

(13) Cf. supra p. I, n. 9. There is no need for so much precaution in the case of a Rabbinical as in that of a Pentateuchal law.

(14) Thus presenting a succinct ruling covering all disqualifications. Were remedies for each disqualification to be indicated the ruling would have extended to undue lengths, contrary to the principle of brevity in teaching (v. Pes. 3b).

(15) Lit., 'he taught'.

(16) Sc. the first Tanna of our Mishnah.

(17) The ruling as to the proper measurements of an entrance.

(18) היכל or 'Holy', was situated between the Ulam, the hall leading to the interior of the Temple, and the Debir or the Holy of Holies, and contained the golden altar, the table for the shewbread and the candlestick.

(19) V. previous note.

(20) Mid. IV, I.

(21) Ibid. III, 7.

(22) Lev. III, 2. אהל מועד sc. the Hekal.

(23) Sc. the first Tanna of our Mishnah.

(24) Lit., 'alone'.

(25) That of the latter being of a minor degree.

(26) Cf. previous note mutatis mutandis.

(27) Since the services that may be performed within the more sacred place of the Hekal cannot be performed in the less sacred one of the Ulam.

(28) Lit., 'when it is written.'

(29) Lit., 'when it is written'.

(30) The dimensions of whose entrance were only 20 X 10 cubits.

(31) v. Supra p. 2, n. 11 mut. mut.

(32) To the Ulam also whose entrance was 40 X 20 cubits.

(33) Cf. Supra p. 2, nn. 13 and 14.

(34) No such verse has been preserved in M.T. Tosaf. (s.v. דכתיב a.l.) suggests that this quotation is a composite text based on Ezek. XL, 48, 'To the Ulam of the house and Ezek. XLVII, 1, 'The door of the house'.

(35) How, in view of the specific description of the entrance to the Ulam as 'an entrance', could they refuse to recognize similar measurements in the case of an entrance to an alley?

(36) Sc. the Hekal.

(37) 'The entrance of the tent of meeting' (v. Supra p. 2, n. 11).

(38) משכן, made by Moses in the wilderness the height of the door of which could not possibly be more than ten cubits since the height of its walls was only ten cubits (v. Ex. XXVI, 16). How then could our Mishnah allow a height of twenty cubits?

(39) Hence the permissibility of drawing an analogy between the two. Cf. Shebu. 16b.

(40) Lit., ‘say so’.

(41) In the morning.

(42) פתח, lit., ‘the opening’, emphasis on the last word.

(43) V.supra p. 2, n. 11.

(44) So MS.M. בזמן שהוא פתוח ולא בזמן שהוא נעול Cur. edd. have the plural, פתוחים and נעולים referring to the doors.

(45) Zeb. 55b, Yoma 29a, 62b.

(46) How then could it be applied to the Temple?

(47) Lev. XXVI, 11. As this was said after the Tabernacle in the wilderness has already been erected, ‘tabernacle’ in the text must obviously refer to the promised sanctuary or Hekal that would be built later in Jerusalem. For another interpretation cf. Rashi Shebu. 16b (Sonc. ed., p. 82, n. 5.)

(48) ונסעו. vilna and other edd. ונשאו is obviously a printer's error.

(49) Num. X, 21.

Talmud - Mas. Eiruvin 2b

that[1] [surely] was written in respect of the [holy] ark.[2] — Rather it is from the following text[3] [that the inference was made:] And let them make Me a sanctuary,[4] that I may dwell[5] among them.[6]

Whether [according to the ruling] of the Rabbis or [according to that] of R. Judah might not the deduction[7] be made from the entrance of the court [of the Tabernacle], since it is written in Scripture: The length of the court shall be a hundred cubits and the breadth fifty everywhere, and the height five cubits,[8] and it is also written: The hangings for the one side [of the gate] shall be fifteen cubits,[9] and again it is written: And so for the other side; on this hand and that hand by the gate of court were hangings of fifteen cubits,[10] as there [the entrance was] five [cubits in height] by twenty cubits in width so here also[11] [the dimensions allowed should be no less[12] than] five [cubits in height but as many as] twenty cubits in width?[13] [Such an entrance][14] may well be described[15] as the entrance of the gate of the court; but it cannot be regarded[15] as an ordinary ENTRANCE.[16] If you prefer I might reply: The Scriptural instruction[17] that the hangings for the one side shall be fifteen cubits[18] applies[19] to its height.[20] [You say], ‘Its height’! Is it not in fact written: And the height five cubits?[21] That [refers only to a part of their height] above the edge of the altar.[22]

As to R. Judah, [how could it be said that] he inferred [the measurements of a gateway] ‘from the door of the Ulam’[23] when in fact we have learnt: AND [ANY ENTRANCE] THAT IS WIDER THAN TEN CUBITS SHOULD BE REDUCED, and R. Judah did not dispute [the ruling]?[24] — Abaye replied: He does dispute [this ruling] in the Baraitha. For it was taught: And [any entrance] that is wider than ten cubits should be reduced, but R. Judah ruled that is was not necessary to reduce it.[25] Then why does he not express his disagreement in our Mishnah? — He expressed it[26] in respect of the height of the gateway[27] and the same disagreement applies to the width.

Can it, however, still [be maintained that] R. Judah inferred [the measurements of a gateway] ‘from the entrance of the Ulam’[28] when it was in fact taught: [A cross-beam spanning the] entrance [to a blind alley] at a height of more than twenty cubits should be lowered,[29] but R. Judah regards [the entrance] as a proper [gateway even if the beam is] as high as[30] forty or fifty[31] cubits; and Bar Kappara taught:[32] Even a hundred? [The high figure] of Bar Kappara might quite well [be regarded as] an hyperbole;[33] but in respect of [the figures] of R.[34] Judah,[35] what hyperbole [could be postulated]? [As regards that of] forty[36] one might well explain that he derives it from [the height of] the door of the Ulam;[37] whence, however, does he derive that of fifty? R. Hisda replied: The following Baraitha must have misled Rab.[38] For it was taught: [A cross-bean, spanning the] entrance [to a blind alley] at a height of more than twenty cubits, [and thus forming a gateway] higher than the doorway of the Hekal, should be lowered.[39] He consequently thought: Since the Rabbis[40] derived [their figure] from [that of the height of] the doorway of the Hekal, R. Judah must have derived [his figure] from [that of the height of] the doorway of the Ulam. [In fact,] however, this is not [the case]; R. Judah derived his figure from [that of the height of] the doorways of kings.[41] As to the Rabbis, however, if they derive their figure from [that of the height of] the doorway of the Hekal, should they not also require [a gateway[42] to have] doors like the Hekal?[43] Why then did we learn: The rendering of an alley fit [for carrying objects within it,][44] Beth Shammai ruled, requires a side-post and a beam,[45] and Beth Hillel ruled: Either a side-post or a beam?[46] The doors of the Hekal were made merely for the purpose of privacy.[47] If that is the case[48] THE SHAPE OF A DOORWAY should be of no avail,[49] since the [entrance to the] Hekal had the shape of a doorway and yet was only ten cubits wide; why then did we learn: IF IT HAS THE SHAPE OF A DOORWAY THERE IS NO NEED TO REDUCE IT EVEN THOUGH IT IS WIDER THAN TEN CUBITS? — Does not that reason[50] originate but from Rab?[51] Well, when Rab Judah taught Hiyya b. Rab in the presence of Rab, 'It is not necessary to reduce [its width]', the latter told them, 'Teach him: It is necessary to reduce it'.

[Still] if that is so[52]

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(1) 'The Sanctuary', המקדש.

(2) Which was the charge of the Kohathites and might well be described as sanctuary.

(3) Lit., 'from here'.

(4) מקדש.

(5) ושכנתי of the same rt. as משכן ('tabernacle') Cf., however, infra n. 10.

(6) Ex. XXV, 8. In Shebu. 16b the following addition occurs: 'And it is written in Scripture: According to all that I show thee, the patter, of the tabernacle' (Ex. XXV,); sanctuary' in v. 8 is thus described as tabernacle in v. 9.

(7) As to the maximum width of an entrance. The maximum height laid down above cannot be called in question by what follows, since evidence that an entrance of a lesser height is regarded as a proper doorway cannot alter the fact that one of a bigger size (as has been proved supra from that of the doors of the Hekal or Ulam) is also regarded as a proper entrance, or gateway (cf. Rashi s.v. לילפו and Tosaf. s.v. בין),

(8) Ex. XXVII, 18

(9) Ibid. v. 14.

(10) Ex. XXXVIII, 15. From the three texts it follows that the width of the court was fifty cubits (Ex. XXVII, 18) and that it had hangings of fifteen cubits in width at each end (ibid. 14 and XXXVIII, 15), thus leaving an opening of (50 — 2 X 15 =) 20 cubits for an entrance.

(11) In the case of an ENTRANCE TO A BLIND ALLEY.

(12) Cf. supra p. 4, n. 11.

(13) Cf. supra n. 1.

(14) One of twenty cubits in width.

(15) Lit., 'called'.

(16) Hence the limit of TEN CUBITS indicated in our Mishnah.

(17) Lit., 'when it is written'.

(18) Ex. XXVII, 14.

(19) Lit., 'that (it is about) which it is written.

(20) Sc. the height of all the hangings (not their width on either side of the gate) and consequently the height of each side of the court was fifteen cubits. The width of the gate cannot, therefore, be deduced from this text (cf. second interpretation; Rashi, s.v. משפט)

(21) Ex. XXVII, 18.

(22) Which was ten cubits high (cf. Zeb. 59b). By deducting this height from the height of the hangings, the figure five is obtained (15 — 10 = 5). The reading משפת קלעים ולמטה substituted by Bah for משפת מזבח ולמעלה occurs also in MS.M. but is rejected by Rashi (l.c. q.v.).

(23) Supra 2a.

(24) If the inference is made from the measurements of the door of the Ulam, a maximum width of twenty cubits should be allowed.

(25) Cf. infra 10a.

(26) Lit., ‘he differed or disputed’.

(27) Lit., ‘its height’.

(28) Supra 2a.

(29) Cf. supra p. 1, n. 3.

(30) Lit., ‘makes it fit until’.

(31) I.e., ten cubits higher than that of the Ulam.

(32) In explanation of R. Judah's ruling.

(33) But is not to be taken literally. It merely implies a figure much higher than that of twenty given by the Rabbis but not above that of forty.

(34) לרב is obviously to be read as לרבי.

(35) Who mentions the lower figures of forty and fifty only.

(36) לרב יהודה of cur. edd. is to be deleted with MS.M. and Bah.

(37) Which was forty cubits high.

(38) In whose name Rab Judah made his statement, supra 2a, as to the source of the derivation of It. Judah's measurements.

(39) Tosef. ‘Er. I.

(40) Sc. the Tanna just cited.

(41) Which are higher than twenty cubits.

(42) Such as the one spoken of in our Mishnah.

(43) Of course they should, since the comparison must be complete.

(44) On the Sabbath.

(45) At the entrance to the alley.

(46) Infra 11b; but no doors. How then could it be said that the Rabbis derived their measurements from the door of the Hekal?

(47) They were not essential to the structure of the entrance.

(48) Lit., ‘but from now’, sc. if it is still maintained that the inference is from the door of the Hekal.

(49) "Where the gateway IS WIDER THAN TEN CUBITS.

(50) That the measurements were derived from those of the door of the Hekal.

(51) Of course it does. V. Supra 2a.

(52) Cf. Supra n. 5 mut. mut.

Talmud - Mas. Eiruvin 3a

a cornice[1] should be of no avail,[2] since [the entrance to the] Hekal had a cornice and yet was only twenty cubits high? For have we not learnt: Five cornices of oak[3] were above it, one higher than the other? (What[4] an objection, however, is this? Is it not possible that the statement about the cornices was made in respect of the Ulam?[5] — And what difficulty is this! It is quite possible that the build of [the entrance to] the Hekal was like that of the Ulam). Then[6] why did R. Il'a state in the name of Rab [that if a cross-beam was] four [handbreadths] wide [it constitutes a proper gateway] even though it is not strong enough,[7] and if it had a cornice there is no need to lower it even if it was higher than twenty cubits? — R. Joseph replied: [The ruling about] the cornice is that of a Baraitha.[8] (Who learned it?[9] — Abaye replied: Hama[10] the son of Rabbah b. Abbuha learned it.) But even if [the ruling about] the cornice is a Baraitha, does it[11] not present an objection against Rab?[12] — Rab can answer you: Even if I am removed from here,[13] are not the two Baraithas[14] mutually contradictory? All you can reply,[15] [however, is that they represent the views of different] Tannas;[16] so also [the reply to the contradiction] against me may be [that our respective statements are the views of different] Tannas.

R. Nahman b. Isaac said: In the absence of [the statement of] Rab[17] there is no contradiction between the [two] Baraithas, since the reason of the Rabbis [for limiting the height of] the beam, [may be] that there should be a distinguishing mark[18] and that the use of the expression,[19] ‘higher than the doorway of the Hekal’[20] is a mere mnemonic.

As to R. Nahman b. Isaac, [his explanation may be accepted as] satisfactory if he does not adopt the view of Rabbah; but if he does adopt the view of Rabbah[21] who stated: ‘It is written in Scripture: That your generations may know that I made the children of Israel dwell in booths,[22] [if the roof of the booth is] not higher than[23] twenty cubits, one knows that one is living in a booth but if it is higher than twenty cubits one would not know it, since [the roof] does not catch the eye’,[24] from which it is clear that in respect of sukkah also they[25] differ on the question of distinction, why [it may be asked] should they[26] express the [same] difference[27] in two [rulings]?[28] — [Both are] required. For if we had been informed [of their dispute] in respect of sukkah only, it might have been assumed that only in this case does R. Judah maintain his view, [because a sukkah], since it is made for the purpose of sitting in, the eye would well observe[29] [the roof], but [that in the case of] an alley, since it is used for walking[30] he agrees with the Rabbis. And if we had been informed of the other[31] [ruling only], it might have been assumed that only in this case did the Rabbis maintain their view, but that in the other case they agree with R. Judah. [Hence the] necessity [for both rulings].

What [is the meaning of] amaltera?[32] — R. Hama son of Rabbah b. Abbuha replied: Pigeon holes.[33] When R. Dimi came[34] he stated that in the West[35] it was explained as cedar poles.[36] He who said that cedar poles[36] [constitute a proper entrance would] with even more reason [admit that] pigeon holes [constitute a proper entrance].[37] He, however, who said that pigeon holes [constitute a proper entrance recognizes only these] but not cedar poles.[38] As to him, however, who recognized[39] cedar poles, is not his reason because their length is considerable?[40] But [if so, it may be objected]: Is not the extent [of the roof] of a sukkah considerable[41] and the Rabbis nevertheless ruled that it is not [valid]![42] — The fact, however, is that since [they are] valuable people talk about them.[43]

If part of [the thickness of] the cross-beam[44] was within twenty cubits[45] and part of it above twenty cubits,[45] or if part of [the depth of] the covering[46] [of a sukkah] was within twenty cubits[45] and part of it above twenty cubits, [such an altitude] said Rabbah, is admissible[47] in the case of an entrance but inadmissible[48] in that of a sukkah. Why is this[49] admissible in the case of an entrance? Obviously because we say, [Regard the beam as] planed;[50] but, then, [why should it not] be said in respect of a sukkah also, [Regard the roof as] thinned?[50] — If you [assume the roof to be] thinned, the sunshine in the sukkah [would have to be assumed to be] more than the shade.[51] But here also,[52] if you [regard it as] planed, would not the beam be like one that can be carried away by the wind?[53] Consequently you must [assume that beams in the conditions mentioned][54] are regarded as metal spits;[55] [may it not then], here also [be said], that whatever the assumption[56] the extent of the shade is actually more than that of the sunshine?[57] — Raba of Parazika[58] replied: In the case of a sukkah, since [it is usually intended] for the use of an individual, one might not remember [the altitude of the roof].[59] In the case of an entrance however, since [it is made] for the use of many, [the people concerned] would remind one another.[60]

Rabina replied:[61] The Rabbis made the law stricter in respect of a sukkah because [the commandment is] Pentateuchal, but in respect of an entrance [to an alley the prescribed construction of] which is only Rabbinical, the Rabbis did not impose such restrictions.

R. Adda b. Mattenah taught the statement of Rabbah just cited in the reverse order: Rabbah said: It is inadmissible in the case of an entrance but admissible in that of a sukkah. Why is this[62] admissible in the case of a sukkah? Obviously because we say: [Regard the roof as] thinned out;[63] but, then, [why should it not] be said in respect of an entrance also: [Regard the beam as] planed?[63] — If you [regard it as] planed, the beam would be like one that can be carried away by a wind.[64] But here also[65] if you [regard the roof as] thinned out [would not also] the sunshine in the sukkah [have to be regarded as] larger in extent than its shade? Consequently you must maintain that whatever the assumption,[66] the actual extent of the shadow is larger than that of the sunshine, [may it not then] here also [be said] that whatever the assumption [beams in the condition mentioned] are regarded as metal spits?[67] — Raba of Parazika replied: In the case of a sukkah, since [it is usually made] for one individual, that person realizes his responsibility[68] and makes a point of remembering [the conditions of the roof].[69] In the case of an entrance, however, since [it is made] for the use of many, [the people affected might] rely upon one another and so overlook[70] [any defects in the cross-beam]; for do not people say: ‘a pot in charge of two cooks[71] is neither hot nor cold’. Rabina replied:[72] [the law of] sukkah, since it is Pentateuchal, requires no buttressing[73] but that of an entrance, since it is only Rabbinical, does require buttressing.[74]

What is the ultimate decision?[75] — Rabbah b. R. Ulla replied: The one as well as the other[76] is inadmissible. Raba replied: The one as well as the other[76] is admissible,

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(1) אמלתרא or מלתרא cf. Gr. **.

(2) Where the gateway is higher than twenty cubits.

(3) מילה cf. Gr. ** quercus infectoria.

(4) The argument is interrupted by the discussion within the brackets and is then resumed.

(5) While the entrance to the Hekal may have had no cornice at all?

(6) Supra n. 13.

(7) To carry the weight of an ariah (a small brick hall’ the size of an ordinary one), v. infra 13b.

(8) Not that of Rab himself. Hence there is no contradiction between Rab's own statements.

(9) I.e., who reported (or recited) it?

(10) Delete והא with MS.M. and Bah. Emden reads: ‘R. Hama’.

(11) This Baraitha from which it is obvious that the inference is not made from the door of the Hekal.

(12) Who stated (supra 2a) that the inference is made from the door of the Hekal; whereas from this Baraitha it is evident that such an inference is not drawn.

(13) Sc. even if his opinion had never been expressed.

(14) The one just cited and that quoted supra 2b where the inference from the door of the Hekal is specifically mentioned.

(15) Lit., ‘what have you to say’.

(16) The Tanna supra 2b infers from the Hekal and consequently limits the height of a gateway to twenty cubits irrespective of the presence or absence of a cornice, while the Tanna of the last cited Baraitha draws no such inference.

(17) Sc. if Rab had not suggested that the Rabbis in the first Baraitha derived their measurement from the door of the Hekal.

(18) Between the alley and the public domain into which it opens. At a height of more than twenty cubits the beam would not be noticed and people might mistake the alley for a public domain. As a cornice can be noticed even at a higher altitude the limit of twenty cubits, as stated in the second Baraitha, was in its case removed.

(19) Lit., ‘and that which he taught’.

(20) In the first Baraitha.

(21) V. Suk. 2a.

(22) Lev. XXIII, 43, emphasis on ‘know’.

(23) Lit., ‘until’.

(24) Lit., ‘the eye does not rule over it’. Suk. 2a’

(25) The Rabbis and R. Judah, who declare such a booth valid.

(26) For לי (sing.) read with Bah להו (plur.).

(27) The Rabbis insisting on, and R. Judah dispensing with the necessity for a distinction.

(28) Those of (a) sukkah and (b) the cross-beam of an alley.

(29) Cf. Supra n. 4.

(30) It is not usual to sit down in an open alley and in passing one would not see a beam lying too high.

(31) Lit., ‘of that’, the entrance to an alley.

(32) The Heb. for ‘cornice’, v. supra p. 7.

(33) קיני ‘nests’, sc. ornamental carvings in the shape of birds’ nests.

(34) From Palestine to Babylon.
(35) Palestine.
(36) Fixed to the walls on the sides of the entrance.
(37) Since the latter are more likely to be noticed by the public.
(38) Which are not so striking and may, in consequence, remain unnoticed.
(39) Lit., ‘said’, sc. regarded them as constituting a proper gateway even when higher than twenty cubits.
(40) In consequence of which they would be easily observed even at a considerable height.
(41) Cf. supra n. 2.
(42) If it is more than twenty cubits high.
(43) Lit., ‘it has a voice’, and the public are consequently aware of their existence, a reason which is inapplicable, of course, to a sukkah.
(44) At the entrance of an alley.
(45) From the ground.
(46) סכך, consisting of branches, twigs or straw.
(47) Lit., ‘fit’, ‘proper’, sc. the entrance to the alley is deemed to constitute a proper gateway.
(48) Lit., ‘unfit’, cf. supra n. 9 mutatis mutandis.
(49) A cross-beam of which only a portion is below the height of twenty cubits.
(50) And only that portion remained that lay within the twenty cubits. קלוש, particip. pass. of קלש ‘to weaken’, ‘to thin out’.
(51) And this would render the sukkah invalid. The roof of a proper Sukkah must be thick enough to enable the shadows in the interior to predominate over the sunshine.
(52) In the case of a cross-beam over an entrance.
(53) In consequence of which it could not be regarded as a proper beam conforming to the prescribed thickness and strength, V. Supra p. 7, n. 16.
(54) In view of their general thickness and strength.
(55) A thin one of which can carry as heavy a weight as a thicker one of wood.
(56) Lit., ‘against your will’.
(57) Why then, it may again be asked, did Rabbah rule that a Sukkah in such a condition is invalid?
(58) Farausag, a district near Bagdad (Obermeyer, p. 269), or Porsica, a town in Mesopotamia (v. Golds.).
(59) Should, therefore, the section below the altitude of twenty cubits dry up or fall down it might never occur to the individual that his Sukkah, the roof of which was now completely higher than twenty cubits, was no longer valid. He would thus unconsciously live in an invalid Sukkah and so transgress a Pentateuchal precept.
(60) Cf. Supra n. 4 mutatis mutandis.
(61) v. Supra note 2.
(62) A roof of a sukkah of which only a portion is below the height of twenty cubits.
(63) v. Supra p. 10, n. 12.
(64) v. Supra p. 10, n. 15.
(65) In the case of the roof of a sukkah.
(66) Lit., ‘against your will’.
(67) Cf. supra p. 10, n. 17. Why then did Rabbah rule that a cross-beam in such a condition is admissible?
(68) Lit., ‘throws upon himself’.
(69) V. supra p. 11, n. 2.
(70) Lit., ‘and would not remember’.
(71) Lit., ‘of partners’.
(72) V. supra p. 11, n. 2.
(73) People would in any case be careful properly to observe it.
(74) Otherwise it might be entirely disregarded.
(75) Lit., ‘what is (the decision) about it’.
(76) Lit., ‘this and this’, the roof of a sukkah and a cross-beam if either is even only partially higher than twenty cubits from the ground.

Talmud - Mas. Eiruvin 3b

for what we learned [in respect of height[1] refers to the] interior[2] of the sukkah and to the empty space[2] of the entrance.[3]

Said R. Papa to Raba: A Baraitha was taught which provides support for your view: ‘[A cross-beam over] an entrance [to a blind alley] that is higher than twenty cubits [and is thus] higher than the entrance to the Hekal[4] should be lowered’. Now in the Hekal itself[5] the [height of the] hollow space of [the entrance thereto] was twenty cubits.

R. Shimi b. Ashi raised an objection against R. Papa: ‘How does one construct [the prescribed entrance]? One places the cross-beam, below the limit of twenty [cubits of its altitude]’.[6] Read: ‘Above’.[7] But surely it is stated: ‘below’? — It was this that we are informed:[8] That the lowest[9] [permitted altitude is to be measured on the same principle] as the highest. As in the case of the highest [altitude permitted] the hollow space [of the entrance must not exceed] twenty cubits, so also in the case of the lowest [altitude permitted], the hollow space [of the entrance must not be lower than] ten cubits.[10]

Abaye stated in the name of R. Nahman: The cubit [applicable to the measurements] of a sukkah and that applicable to[11] an ‘entrance’ is one of five [handbreadths]. The cubit [applicable to the laws] of kil'ayim[12] is one of six [handbreadths].[13] In respect of what legal [restriction has it been ruled that] the cubit [applicable to the measurements] of an entrance is [only] one of five?[14] [If it be suggested] in respect of its height[15] and [of the size of] a breach in the alley,[16] surely [it could be retorted] is there [not also the law on] the depth of an alley, that[17] [must be no less than] four cubits,[18] in which case [the adoption of the smaller cubit results in] a relaxation [of the law]?[19] — [He[20] holds the same view] as does he[21] who limits the depth[22] to four handbreadths.[23] If you prefer[24] I might reply [that the depth of an alley must indeed be] four cubits, but he[25] spoke of the majority of cubit measurements.[26] In respect of what legal [restriction has R. Nahman ruled that] the cubit [applicable to the measurements] of a sukkah is one of five?[27] [If it be suggested,] in respect of its height[28] and [the permitted size of] a crooked wall,[29] surely [it might be objected is there [not also the law requiring] the area of the sukkah [to be four cubits] by four cubits, in which case [the adoption of the smaller cubit results in] a relaxation [of the law]?[30] For was it not taught: Rabbi[31] said: ‘I maintain that any sukkah which does not contain [an area of] four cubits by four cubits is legally unfit’?[32] [R. Nahman is of the same opinion] as the Rabbis who ruled [that a sukkah is valid] even if it accommodates no more than one's head, the greater part of one's body and a table.[33] And if you prefer I might reply: It[34] may, in fact, [be in agreement with the view of] Rabbi,[31] but he[35] spoke of the majority of cubit measurements.[36]

In respect of what legal [restrictions has R. Nahman ruled that] ‘the cubit [applicable to the laws] of kil'ayim is one of six’? — In respect of a patch[37] in a vineyard and the [uncultivated] border[38] of a vineyard; for we have learnt: [Each side of] a patch[39] in a vineyard, Beth Shammai ruled, must measure no less than twenty-four cubits,[40] and Beth Hillel ruled: Sixteen cubits; and [the width of] an [uncultivated] border[38] of a vineyard, Beth Shammai ruled, [must] measure no less than sixteen cubits,[40] and Beth Hillel ruled: Twelve cubits. What is meant by a patch in a vineyard? The barren portion of the interior of the vineyard.[41] [If its sides] do not measure[42] sixteen cubits, no seed may be sown[43] there, but if they do measure[44] sixteen cubits, sufficient space for the tillage of the vineyard[45] is allowed and the remaining space may be sown. And what is meant by the border of a vineyard? [The space] between the [actual] vineyard[46] and the surrounding fence. [If the width] is less than[42] twelve cubits no seed may be sown[43] there, but if it measures[44] twelve cubits, sufficient space for the tillage of the vineyard[45] is allowed and the remaining area may be sown.[47] But, surely, there is [the case of vines planted] closely within four cubits [distance from one another] where [the adoption of the higher standard[48] would result] in a relaxation [of the law]?[49] For have we not learnt:[50] A vineyard [the rows of which are] planted at [distances of] less than four cubits [from one another] is not regarded, R. Simeon ruled, as a proper vineyard,[51] and the Sages ruled, [It is regarded as] a proper vineyard, the intervening vines[52] being treated as if they were non-existent?[53] — [R. Nahman is of the same opinion] as the Rabbis who ruled that [whatever the distances the plantation] constitutes a proper vineyard.[54] If you prefer I might reply: [He[55] may,] in fact, [hold the view of] R. Simeon, but[56] he was referring to the majority of cubit measurements.[57]

Raba, however,[58] stated in the name of R. Nahman: All cubits [prescribed for legal measurements are] of[59] the size of six [handbreadths], but the latter[60] are expanded[61] while the former[62] are compact.[63]

An objection was raised: All cubits of which the Sages spoke are of the standard[64] of six [handbreadths] except

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(1) Suk. 2a and supra 2a.

(2) Lit., ‘hollow’.

(3) But does not include the roof of the former or the cross-beam of the latter.

(4) V. supra p. 2, n. 7.

(5) From which the law relating to the entrance to a blind alley is derived.

(6) Tosef. ‘Er. 1; from which it follows, contrary to the view of R. Papa, that the prescribed altitude of twenty cubits for an entrance includes also the cross-beam.

(7) Instead of ‘below’, the cross-beam being excluded from the prescribed altitude.

(8) By the mention of ‘below’.

(9) דלמטה, lit., ‘that which is below’.

(10) The expression למטה (‘below’) in the Baraitha does not at all refer to a crossbeam that lies over an entrance twenty cubits in height, but to one of ten cubits only, the entire passage being in the nature of an elliptical note.

(11) Lit., ‘and the cubit of’.

(12) V. Glos.

(13) Adopting in each case the standard which makes for the more rigorous application of the law.

(14) And not six as is the case with that of kil'ayim.

(15) Sc. that the cross-beam must not be higher than twenty cubits of the lower standard on the side of rigor.

(16) If the breach in one of the walls of the alley is wider than ten cubits, the arrangements in connection with the Sabbath are invalid on the side of rigor; v. infra 5a.

(17) In order to render the Sabbath arrangements valid.

(18) V. infra 5a.

(19) Since a depth of four cubits of the lower standard would be sufficient to render the arrangements valid.

(20) R. Nahman in whose name Abaye laid down the respective standards of the cubit.

(21) R. Joseph (v. infra 5a).

(22) Lit., ‘who said’.

(23) The question of the size of the respective cubits does not, therefore, arise.

(24) The answer just given is not very satisfactory since Abaye himself who reported R. Nahman's ruling differs from R. Joseph's view (cf. Supra n. 15).

(25) V. p. 13, n. 14.

(26) In connection with an ‘entrance’. In respect of depth, however, he may well hold the size of the cubit to be six handbreadths.

(27) And not six as is the case with that of kil'ayim.

(28) That its interior must not be higher than twenty of the smaller cubits.

(29) דופן עקומה; if a portion of the roof of a sukkah consists of materials that are legally unfit for the purpose, the sukkah may nevertheless be valid if that portion is adjacent to any of its walls and terminates within a distance of four cubits from that wall. That portion of the roof together with the wall it adjoins are regarded as one crooked wall; and the space under the remainder of the roof, consisting of suitable materials, may be used as a proper sukkah. (V. Suk. 17a). In both suggested cases, the cubit of the lower standard is on the side of rigor.

(30) Since even all area measured by the smaller cubit would render the sukkah valid.

(31) R. Judah I, the Patriarch, compiler of the Mishnah.

(32) Suk. 3a.

(33) Cf. Supra p. 13, n. 17.

(34) The ruling reported in R. Nahman's name.

(35) R. Nahman in whose name Abaye laid down the respective standards of the cubit.

(36) In connection with the sukkah, which belong to the lower standard. In the case of the area of a sukkah, however, he may well maintain, the cubit applicable is the one of the higher standard on the side of rigor.

(37) קרחת., ‘baldness’. This is further explained infra.

(38) מחול (rt. חול ‘to go round’) a circle, circumference.

(39) V. p. 14, n. 13.

(40) If it is desired to grow in it wheat or other kinds of grain which under the laws of kil'ayim are forbidden to be grown among vines.

(41) Lit., ‘a vineyard the middle of which was destroyed’.

(42) Lit., ‘there is not there’.

(43) Lit., ‘he shall not bring’.

(44) Lit., ‘they were there’.

(45) Four cubits on each side.

(46) Sc. the vines.

(47) Kil. IV, 1; infra 93a. These regulations — by adopting the cubit of the higher standard, are on the side of rigor.

(48) Six handbreadths per cubit.

(49) V. infra note 16, second clause.

(50) Kil. V, 2.

(51) And wheat or other corn may be sown there.

(52) Those planted in the space of the four cubits that should intervene between each two rows.

(53) So that the prescribed space between the remaining vines is obtained and the plantation constitutes a proper vineyard in which, in accordance with the laws of kil'ayim, no kind of grain may be sown. Now, since it is the existence of distances of four cubits between the rows of vines that determines whether a group of vines may be regarded as a vineyard in the legal sense, it follows that if the lower standard of the cubit is adopted distances of no more than (5 X 4) twenty handbreadths between the rows would subject the vineyard to the laws of kil'ayim, while if the higher standard is adopted, so that distances of (6 X 4 =) twenty-four handbreadths are required, the same plantation would constitute no proper vineyard and the plantation would thus be exempt from the laws of kil'ayim.

(54) The standard of the cubit does not consequently affect the prohibition to sow any kinds of grain between the vines.

(55) R. Nahman.

(56) In adopting the higher standard of the cubit.

(57) In connection with kil'ayim, while in respect of distances between vines he also adopts the lower standard, on the side of rigor.

(58) Contrary to Abaye's statement supra.

(59) Lit., ‘by a cubit’.

(60) Lit., ‘those (relating to kil'ayim).’

(61) שוחקות (rt. שחק ‘to laugh’). In measuring the cubit in handbreadths, the fingers are kept apart as are the lips of a laughing person (Aruk); ‘wide spread’ (Jast.).

(62) Those of sukkah and ‘entrance’.

(63) עצבות (rt. עצב ‘to be sad’), the fingers are kept close to one another as are the lips of a man in sadness (Aruk); ‘pressed together’ (Jast.).

(64) Lit., ‘in a cubit’.

Talmud - Mas. Eiruvin 4a

that [their measurements must] not be exactly alike.[1] Now according to Raba this[2] is intelligible [since the measuring must be done in such a manner] as to have [the handbreadths] in the latter case expanded and the former case compact; but according to Abaye[3] [does not this[4] present] a difficulty? — Abaye can answer you: ‘The cubit [spoken of in respect] of kil'ayim is of the length of six [handbreadths]'.[5] But since it was stated in the final clause, 'R. Simeon b. Gamaliel ruled: All cubits of which the Sages spoke in relation to kil'ayim are of the standard of six [handbreadths] except that these must not be compact', does it not follow that the first Tanna[6] referred to all cubits?[7] — Abaye can answer you: Is there not R. Simeon b. Gamaliel who maintains the same standpoint as I![8] I uphold the same ruling as R. Simeon b. Gamaliel.

According to Abaye's view [the standard of the respective cubits] is undoubtedly [a question in dispute between] Tannas;[9] must it, however, be said that according to Raba's view also [the standard of the cubit is a question in dispute between] Tannas?[10] — Raba can tell you, 'It is this that R. Simeon b. Gamaliel desired[11] to inform us: [That the handbreadths of] the cubit applicable to kil'ayim must not be compact'.[12]

[If that is the case][13] he should have said,[14] '[The handbreadths of] the cubit applicable to kil'ayim must not be compact'; what, [however, could he have meant] to exclude [by his addition,] 'of the standard of six [handbreadths]'? [Did he] not [obviously mean] to exclude the cubit of the sukkah and the cubit of the 'entrance'?[15] No; to exclude the cubit [by which the] base,[16] and the one [by which the] surrounding ledge[17] [of the altar were measured][18] for it is written in Scripture: And these are the measures of the altar by cubits — the cubit[19] is a cubit and a handbreadth,'[20] the bottom shall be a cubit, and the breadth a cubit, and the border thereof by the edge thereof round about a span,' and this shall be the base of the altar;[21] 'The bottom shall be a cubit'[21] refers to the foundation [of the altar];[21] 'And the breadth a cubit'[21] refers to its surrounding ledge;[17] 'And the border thereof by the edge thereof round about a span refers to the horns;[22] 'And this shall be the base of the altar' refers to the golden altar.[23]

R. Hiyya b. Ashi stated in the name of Rab: [The laws relating to] standards,[24] interpositions[25] and partitions[26] [are a part of] the halachic code [that was entrusted] to Moses at Sinai. Are [not the laws relating to] standards[24] Pentateuchal, since it is written in Scripture: A land of wheat and barley etc.[27] and R. Hanan stated that all this verse was said [with reference to the laws] of standards? 'Wheat'[27] [namely was mentioned] as [an allusion to what] we have learnt: 'If a man entered a leprous[28] house, [carrying] his clothes upon his shoulders and his sandals and rings in his hand[29] both he and they become levitically unclean forthwith.[30] If, however, he was wearing his clothes, had his sandals on his feet and his rings on his fingers, he becomes unclean forthwith but they[31] remain clean[32] unless he stayed there[33] [as much time] as is required for the eating[34] of half a loaf[35] of wheaten bread, but not of barley bread,[36] while in a reclining posture[37] and eating with some condiment'.[38] 'Barley'[39] [is an allusion to the following]. For we have learnt: 'A bone of the size of a barley grain causes defilement by contact and carrying, but not by cover'.[40] 'Vines'[39] [are an allusion to] the quantity of a quarter [of a log][41] of wine [the drinking of which constitutes an offence][42] of a nazirite.

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(1) מכוונות, this is explained anon.

(2) The statement that the measurements must not be 'exactly alike'.

(3) Who maintains that not all cubits consisted of six handbreadths.

(4) The ruling that 'all cubits . . . are of the standard of six (handbreadths)'.

(5) מכוונות (v. Supra note 12) need not necessarily mean 'exactly alike'. It may be rendered 'pressed together', 'compact'. שלא יהיו מכוונות 'that the handbreadths shall be expanded'.

(6) Whose ruling is quoted in the objection supra 3b ad fin.

(7) Not only, as suggested in the reply, to those relating to kil'ayim.

(8) Of course there is.

(9) R. Simeon b. Gamaliel and the Sages, since the latter who ruled that 'all cubits ... are of the standard of six (handbreadths)' obviously differ from Abaye who holds that only those of kil'ayim conformed to that standard.

(10) Sc. must R. Simeon b. Gamaliel, in his specific mention of the cubit of six handbreadths in connection with kil'ayim, (a) be assumed to exclude the cubit of sukkah and entrance which, according to his opinion, must measure no more than five handbreadths, and his view consequently differs from that of the Sages; or (b) is his statement a commentary on the vague ruling of the Sages, that ‘the measurements are not alike’, its object being to explain that the cubit of six handbreadths of which they spoke must in the case of kil'ayim measure not six compact, but six expanded handbreadths, and thereby he only implied that the cubit of sukkah and entrance must be one of six compact ones, so that his views are in every way in complete agreement with that of the Sages?

(11) Lit., ‘came’.

(12) V. Supra note 5b.

(13) That R. Simeon b. Gamaliel merely wished to explain the ruling of the Sages.

(14) Lit., ‘and let him say’.

(15) Which in his opinion must be no longer than five handbreadths. How then could Raba maintain that no dispute existed between R. Simeon b. Gamaliel and the Sages?

(16) יסוד, lit., ‘foundation’.

(17) סובב (rt. סבב, ‘to go round’).

(18) These cubits were of the standard of five handbreadths.

(19) Spoken of elsewhere, sc. the one measuring six handbreadths.

(20) Of those spoken of here.

(21) Ezek. XLIII, 13.

(22) קרנות, (cf. Ex. XXVII 2) projections of the altar.

(23) V. Ex. XXX, 1ff and Men. 97b.

(24) The minimum quantities, e.g., of forbidden foodstuffs the consumption of which constitutes the offence. V. infra for other examples.

(25) That cause, e.g., the invalidity of ritual bathing if they intervene between the body of the bather and the water of the bath.

(26) Required, e.g., in connection with the arrangements for carrying burdens on the Sabbath.

(27) Deut. VIII, 8.

(28) V. Lev. XIV, 34ff.

(29) Sc. if he did not wear them.

(30) Since the clothes, sandals and rings were only carried by the man but not worn they, like himself, come under the Pentateuchal law, of ‘he that goeth into the house . . ‘shall be unclean’ (Lev. XIV 46).

(31) Since they were worn in the usual manner.

(32) They are included in the category of ‘clothes’ which have only to be washed (cf. Lev. XIV, 47 and the definition of ‘eateth’ infra n. 4).

(33) Lit., ‘until he will delay’.

(34) This is the definition of ‘eateth’ (v. Supra n. 2).

(35) פרס, lit., ‘a half’, the whole loaf being equal to the size of eight eggs (cf. infra 82b).

(36) The former is eaten much quicker than the latter which is not so tasteful.

(37) In such a position, one eats quicker than when walking about.

(38) Neg. XIII, 9, Hul. 71b; cf. Supra n. 7 mutatis mutandis.

(39) Deut. VIII, 8.

(40) Lit., ‘in the tent’; only a backbone, a skull and the like cause the defilement of a person in the same tent or under the same roof or cover. V. Oh. II, 3.

(41) V. Glos.

(42) Punishable by flogging.

Talmud - Mas. Eiruvin 4b

‘Fig-trees’ [allude to] the size of a dried fig in respect of carrying out [from one domain into another] on the Sabbath. ‘Pomegranates’ [are an allusion] as we learned: ‘All [defiled wooden][1] utensils of householders[2] [become clean if they contain holes] of the size of pomegranates.[3] "A land of olive-trees" [is[4] an allusion to the] land all the legal standards of which are of the size of olives’. [You say], ‘All the legal standards of which [etc.]’! Is this conceivable? Surely there are those that have just been enumerated? Rather read: ‘A land, most[5] of the legal standards of which are of the size of olives'. 'Honey' [is an allusion to the eating of food of] the size of a big date[6] [that constitutes an offence][7] on the Day of Atonement![8] — Do you then imagine that the standards were actually prescribed [in the Pentateuch]? [The fact is that] they are but traditional[9] laws for which the Rabbis have found allusions in[10] Scripture. But [the laws relating to] interpositions are Pentateuchal. [For was it not taught:][11] Since it is written in Scripture: Then he shall bathe all his flesh[12] [it follows] that there must be no interposition between his flesh and the water; In water[13] implies, in water that is gathered together;[14] all his flesh[13] implies, water in which all his body can be immersed;[15] and how much is this? [A volume of the size of] a cubit by a cubit by a height of three cubits; and the Sages accordingly estimated that the waters of a ritual bath[16] must measure forty se'ah?[17] — Where a traditional law is required[18] [it is in respect of] one's hair; and [it is to be understood] in accordance with [a statement of] Rabbah son of R. Huna,[19] for Rabbah son of R. Huna said: 'One knotted hair constitutes an interposition,[20] three [hairs] constitute no interposition,[21] but I do not know [the ruling in the case of] two'.[22] [But are not the laws relating to] one's hair also Pentateuchal? For was it not taught: Then shall he bathe all his flesh[23] [implies, even] that which is attached to his flesh, and by this was meant[24] hair?[25] — Where traditional law is required[26] [it is the case of hair], and it is for [the purpose of distinguishing[27] between an interposition] on its major, and one on its minor [portion] and between one to which the bather objects and one which he does not mind; this being understood on the lines of R. Isaac who said: [According to] traditional law[28] [an interposition on] its[29] major part to which a man objects constitutes an interposition but one which he does not mind constitutes no interposition;[30] the Rabbis, however, ruled that [an interposition on] its[29] greater part [shall constitute an interposition] even when the man does not mind it, as a preventive measure [against the possibility of allowing an interposition on] its major part to which the man does object, and that [an interposition on] its[29] minor portion to which a man objects [shall constitute an interposition] on account [of the possibility of allowing an interposition over] its[29] major portion to which a man objects.[31] But [why should no prohibition be enacted] also [against an interposition over] its minor portion to which one does not object, as a preventive measure against [the possibility of allowing an interposition over] its minor portion to which one does object[32] or its major portion to which one does not object?[33] This ruling[34] itself is merely a preventive measure, — shall we go as far[35] as to institute a preventive measure against another preventive measure?[36]

But [the laws defining] partitions are Pentateuchal. For did not a Master state:[37] [The height of] the ark was nine [handbreadths][38] and [the thickness of] the ark-cover was one handbreadth, so that we have here[39] [a total height of] ten [handbreadths]?[40] — [The traditional law] is required [in respect of the views] of R. Judah who holds that the cubit used for the structure [of the Temple] was of the standard of six [handbreadths] while that for the furniture[41] was only one of five handbreadths.[42] According to R. Meir, however, who holds[43] that all cubit measurements[44] were of the medium size,[45] what can be said in reply?[46] — According to R. Meir [it may be replied] the traditional law refers[47] to [the legal fictions of] extension,[48] junction[49] and the crooked wall.[50]

[If the cross-beam][51] was higher than twenty cubits and it is desired to reduce the height,[52] how much is one to reduce it?[53] How much is one to reduce it, [you ask]? As much [obviously] as one requires![54] But [it is this that is asked]: How much [must the raised ground[55] be in] width?[56] — R. Joseph replied: A handbreadth.[57] Abaye replied: Four [handbreadths].[58] May it be suggested that they[59] differ on the following principles — he[60] who said 'a handbreadth' being of the opinion that it is permissible to make use [of the floor space] under the beam[61]

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(1) V. Tosaf. a.l. s.v. כל

(2) As opposed to those of craftsmen.

(3) Sc. through which pomegranates would fall out. No householder would continue the use of utensils broken to such an extent. Losing the status of utensils the objects become levitically clean. In the case of a craftsman's utensils, even holes as small as the size of an olive, since they render the utensils unfit for sale, are sufficient to deprive them of the legal status of utensils, and they consequently become clean. V. Kel. XVII, 1.

(4) ודבש ('and honey') in cur. edd. is enclosed within parentheses and is wanting from the parallel passages in Ber. 41b and Yalkut.

(5) E.g., those applicable to the consumption of forbidden fat, blood or levitically unclean food.

(6) Honey' in Scripture, unless otherwise stated, is assumed to be that of dates. Cf. Bik. I, 3.

(7) Since the consumption of food is forbidden.

(8) Thus it follows that the legal standards mentioned are Pentateuchal. How then could Rab maintain (supra 4a) that they formed part of the traditional code given orally to Moses at Sinai?

(9) Variant, 'Rabbinical' (cf. Suk. 6a, Ber. 41b).

(10) Lit., 'and supported them on'.

(11) This is in fact the reading of some ed. but is wanting in MS.M. and cur. edd.

(12) Lev. XV, 16. 'In water' appearing in cur. edd. in parenthesis is here omitted.

(13) Ibid.

(14) Sc. even if it is not spring water.

(15) Lit., 'goes up in them'.

(16) מקוה, lit., 'a gathering together'.

(17) V. Glos. and Pes. 109a (Sonc. ed., p. 564, n. 7.)

(18) Regarding the rule of 'interposition' in addition to the one just deduced from Scripture.

(19) Who applies the law of interposition to hair.

(20) Because it is possible to tie it so closely that no water could penetrate to all its parts.

(21) Since it is impossible to tie them so tightly as to prevent the water from penetrating.

(22) Suk. 6a, Nid. 6a.

(23) Lev. XV, 16 emphasis on 'all'.

(24) Lit., 'and this is'.

(25) Suk. 6a. Old ed. read: 'to include his hair'.

(26) So MS.M. Cur. edd., 'came'.

(27) This is explained anon.

(28) דבר תורה, lit., 'the word of the (oral) law'.

(29) One's hair.

(30) It is for the purpose of this distinction that the traditional law was required in addition to the Biblical law relating to interposition.

(31) While traditional law restricts a disqualifying interposition to (a) its extension over the major part of the hair and (b) the man's objection to it, the Rabbis regard even (a) without (b) or (b) without (a) as a disqualifying interposition.

(32) Since in both cases a 'minor portion' is involved.

(33) The clement of non objection being common to both.

(34) Lit.,'it', the ruling that an interposition (a) over a minor portion to which one objects or (b) over a major portion to which one does not object.

(35) Lit., 'shall we rise'.

(36) Of course not. Hence the permissibility of an interposition over a minor portion which one does not mind.

(37) Shab. 92a, Suk. 4a.

(38) V. Ex. XXV, 10, 'A cubit and a half the height thereof', a cubit consisting of six handbreadths.

(39) Lit., 'behold'.

(40) This height of ten handbreadths from which God spoke to Moses (cf. Ex. XXV, 22, And I will speak with thee from above the ark-cover) is, according to R. Jose who stated (Suk. 5a) that the Deity never descended to a lower level than ten handbreadths from the earth, for 'the heavens are the heavens of the Lord but the earth hath he given to the children of men' (Ps. CXV, 16), the boundary line or 'partition', so to speak, between heaven and earth. How then could it be said here that the laws defining partitions are only traditional?

(41) כלים, lit., 'vessels'.

(42) Kel. XII, 10. The total height of the ark and cover was consequently eight and a half handbreadths only, and R. Jose's boundary line between heaven and earth consequently receives no Pentateuchal support.

(43) Kel. XVII, 10.

(44) In the Temple.

(45) Six handbreadths. (V. Pes. 86a).

(46) Lit., ‘what is there to say’, in reply to the difficulty pointed out (v. supra note 3).
(47) Lit., ‘when it came’.
(48) גוד (rt. נגד ‘to stretch’), a partition that does not reach (a) the ground or (b) the ceiling may in certain conditions be regarded as virtually touching the ground and the ceiling respectively.
(49) לבוד (rt. לבד ‘to join’) a gap of less than three handbreadths between two partitions may be disregarded and the edges of the partitions are deemed to be joined into one complete partition.
(50) V. supra p. 14, n. 5.
(51) Spanning the entrance to a blind alley (v. our Mishnah).
(52) Lit., ‘and he came to reduce it’.
(53) The term ‘reducing’ implies that the ground is raised to such a level as to reduce the distance between it and the beam, otherwise ‘lowering’ (sc. the beam) would be the more appropriate term.
(54) Sc. the ground must obviously be raised to such a level as would reduce the distance between it and the beam to twenty cubits.
(55) V. previous note.
(56) I.e., the width as extending into the alley. Lit., ‘its width by how much’.
(57) Corresponding to the prescribed width of the cross-beam.
(58) This is discussed infra.
(59) Abaye and R. Joseph.
(60) R. Joseph.
(61) The outer edge of the beam being regarded as the end of the alley. Since people would consequently linger on the higher ground level the beam would well be noticed by them.

Talmud - Mas. Eiruvin 5a

while he[1] who said ‘four handbreadths’, is of the opinion that it is forbidden to make use [of the floor space] under the beam?[2] — No; all may agree[3] that it is permissible to make use [of floor space] under the cross-beam,[4] but here they[5] differ on the following principles: One Master holds the opinion that a cross-beam [is required] on account [of the necessity for] a distinguishing mark;[6] while the other Master[1] holds that a cross-beam [is required] on account [of the necessity for] a partition.[7] If you prefer I might reply that all agree[3] that a cross-beam [is required] on account [of the necessity for] a distinguishing mark; but here they[5] differ on [the question whether] the distinguishing mark below [must be of the same dimensions as] the one above. One Master is of the opinion that we say that a distinguishing mark below[8] [is provided by the same width] as the one above,[9] and the other Master[10] holds that we do not say that a distinguishing mark below [is provided by the same dimensions] as the one above.[11] And if you prefer I might reply that all agree that a distinguishing mark below [is provided by the same width] as the one above,[12] but their[13] point of difference here is [the question whether a wider space was ordered] as a preventive measure against the possibility of its being trodden down.[14]

[If an entrance to an alley] was less than ten handbreadths [in height] and it was desired to dig up the ground[15] so as to bring up the altitude[16] to ten [handbreadths] how much must one excavate? — [You ask] , ‘How much must one excavate’? As much [of course] as one requires![17] — Rather [this is the question:] To what extent in width[18] [must one excavate]? — R. Joseph replied: To[19] four [handbreadths]. Abaye replied: To four cubits. Might it be suggested that they[20] differ on the principle laid down by R. Ammi and R. Assi? For it was stated: If a breach was made in a side-wall of[21] an alley close to its entrance,[22] it was ruled in the name of R. Ammi and R. Assi, if a strip[23] of [the width of] four [handbreadths] was there[24] it is permissible[25] [to regard the alley as ritually fit],[26] provided the breach is not wider than[27] ten [cubits].[28] If, however, [there was] no [such strip[29] there] it is permissible [to regard the alley as ritually fit, if the breach was] less than three [handbreadths wide],[30] [but if it was] three [handbreadths wide][31] this is not permissible.[32] [Might it then be suggested that] R. Joseph[33] adopts the principle of R. Ammi[34] and that Abaye[35] does not hold the principle of R. Ammi?[36] Abaye can answer you: There[37] [it is a question of] destroying the ritual fitness[38] of an alley,[39] but here[40] [it is a case of] creating one.[41] [Consequently] if the excavation extends[42] [to a width of] four cubits [the entrance becomes] ritually fit,[43] but if not, it is not [fit]. Said Abaye: Whence do I derive my ruling?[44] From what was taught:[45] '[The movement of objects in] an alley cannot be permitted [on the Sabbath] by means of a sidepost[46] and a crossbeam[47] unless houses and courtyards open out into it'.[48] Now if [a strip of the width] of four [handbreadths were to constitute a proper alley wall) how could this[49] be possible?[50] And should you reply that the doors might open[51] in the middle wall,[52] the fact is [it could be retorted] that R. Nahman stated: We have a tradition that if [the movement of objects in] an alley is to be[53] permitted [on the Sabbath] by means of a side-post and a crossbeam, its length[54] must be[55] more than its width[56] and houses and courtyards must open out into it.[57] And R. Joseph?[58] — Each door might open[59] in a corner.[60] Abaye further[61] stated: Whence do I derive my ruling? From what Rami b. Hama[62] said in the name of R. Huna: If a projection from [the end of a side] wall of an alley[63] is less than four cubits [in width] it may be regarded as a side-post and no other post is required to effect the ritual fitness of the alley,[64] [but if it is] four cubits [wide] it is deemed to be [a part of the structure of the] alley, and another post is required to effect its ritual fitness.[64] And R. Joseph?[65] — To deprive [a projection] of its status as a post there must be[66] [a width of] four cubits but as regards constituting [a wall in] an alley, even [a width] of four handbreadths is also [enough] to constitute an alley.

[Reverting to] the above text, 'Rami b. Hama said in the name of R. Huna: If a projection from [the end of a side] wall of an alley

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(1) Abaye.

(2) The inner edge of the beam forming the boundary line of the alley, while all the space under the beam itself is regarded as outside the alley. Since no one would consequently use that space no one would notice the beam which, from the level of the general floor of the alley, would be higher than twenty cubits. The raised ground must, therefore, be extended into the alley to form a substantial area; and the minimum of such an area is four handbreadths.

(3) Lit., 'for all the world hold the opinion'.

(4) Cf. Supra n. 7 first clause.

(5) Abaye and R. Joseph.

(6) That people might distinguish between the alley and the public domain into which it opens out, and would thus remember that what is permitted in the former is not permitted in the latter. A level of the width of one handbreadth which the residents must pass on their way from and into the alley is, therefore, quite sufficient for the purpose.

(7) Between the alley and the public domain. No partition is valid unless it is made for a floor space of no less than four handbreadths (v. infra 86b and cf. supra n. 9 final clause).

(8) Sc. the raised ground under the cross-beam.

(9) So that a raised level of only one handbreadth in width suffices.

(10) Abaye.

(11) Below a mark of wider width is required, viz., of four handbreadths.

(12) Only one handbreadth.

(13) Abaye's and R. Joseph's.

(14) Lit., 'he or it will diminish', sc. the raised ground, if it were to be allowed to consist of the minimum width of one handbreadth only, might in the course of time be worn down to less than a handbreadth. R. Joseph holds that this possibility was not provided against while Abaye holds that it was. Hence, according to Abaye, the necessity for a width of more than a handbreadth. And since a width above the minimum was required, it was fixed at four handbreadths. (cf. supra p. 23, n. 9 final clause).

(15) Lit., 'and he engraved in it'.

(16) Lit., 'to complete it'.

(17) To raise the altitude to ten handbreadths.

(18) Lit., 'its drawing (from the entrance into the interior) by how much'.

(19) Lit., 'in', 'by'.

(20) R. Joseph and Abaye.

(21) Lit., 'from its side'.

(22) Lit., ‘toward its head or top’.
(23) Of wood, especially put up for the purpose, or a remnant of the original wall.
(24) At the original termination of the wall, adjoining the cross-beam.
(25) Lit., ‘it (sc. the strip) permits’.
(26) In respect of the movement of objects on the Sabbath. The breach is treated as an additional entrance to the alley and does not, therefore, affect its ritual fitness, while the validity of the main entrance is retained owing to the strip of wood or building structure which, complying with the prescribed size, serves the purpose of the original wall and, together with the wall opposite and the cross-beam above them, constitutes a valid alley to which the main entrance serves as doorway.
(27) Lit., ‘in the breach until’.
(28) A gap wider than ten cubits cannot be regarded as a doorway and destroys, therefore, the Sabbatic ritual validity of the alley.
(29) Sc. if it was either wanting altogether or of less than four handbreadths in width.
(30) Such a narrow breach may be regarded as non-existent (v. Glos. s.v. labud) and the wall is deemed to be virtually intact.
(31) And people are consequently likely to use the gap as a short cut thus neglecting the use of the main entrance.
(32) Lit., ‘it does not permit’, since (v. previous note) the ritual validity of the main entrance has thereby been destroyed.
(33) Who ruled supra, in the case of an excavation at the foot of an entrance, that a width of four handbreadths is sufficient.
(34) Who regards a strip of four handbreadths in width to be sufficient to constitute a wall as a support for a cross-beam. MS.M. adds: ‘and R. Assi’.
(35) Who required for the excavation a width of four cubits.
(36) MS.M. adds: ‘and of R. Assi’. This is also the reading of Rashi.
(37) The case dealt with by R. Ammi and R. Assi.
(38) Lit., ‘end’. Before the breach occurred the alley was in a condition that was ritually fit.
(39) Hence it is sufficient for a width of four handbreadths to retain its ritual fitness.
(40) In the matter of the excavation.
(41) Lit., , ‘the beginning of an alley’. Owing to the low altitude of the entrance, the alley was never before ritually fit.
(42) Lit.,’there is’.
(43) Lit., ‘yes’.
(44) Lit., ‘I say it’.
(45) Shab. 130b, infra 73b.
(46) ‘, lit., ‘cheek’, ‘jaw’.
(47) Cf. Mishnah infra 11b.
(48) Sc. the houses open out into the courtyards and the latter into the alley (Rashi).
(49) That ‘courtyards’ should open out into it’?
(50) The prescribed minimum width of a door being four handbreadths, the doorway of one courtyard alone would cover the full width of the alley wall.
(51) Lit., ‘that he opens it’.
(52) The back wall of the alley which is enclosed by the two side walls. While the latter might be as narrow as four handbreadths the former might be long enough to admit of more than one courtyard door.
(53) Lit., ‘which is an alley that is’.
(54) Sc. the length of the side walls.
(55) Lit., ‘all of which its length is’.
(56) The length of the middle, or back wall.
(57) Infra 12b (cf. Shab. 131a). If courtyards (i.e., a minimum of two) were to open out from the middle wall, its width would be (cf. supra note 8) no less than eight handbreadths exclusive of the doorposts; and it would thus be twice as big as either of the side walls.
(58) How, in view of Abaye's quotation and inference, could he maintain that four handbreadths are sufficient for the width of an alley wall?
(59) Lit., ‘that he opens it’.
(60) Though the back wall is less than four handbreadths in length it is possible, where the side walls are four

handbreadths in length, to open a door that is four handbreadths wide in each corner where the two side walls respectively meet the back wall.

(61) So MS.M. reading ואמר.

(62) Var. lec., Abba (Asheri).

(63) Into the alley.

(64) Lit., ‘to permit it’.

(65) Cf. supra p. 26, n. 16.

(66) Lit., ‘until there is’.

Talmud - Mas. Eiruvin 5b

is less than four cubits [in width] it may be regarded as a side-post[1] and no other post is required to effect the ritual fitness of the alley, [but if it is] four cubits [wide] it is deemed to be [a part of the structure of the] alley, and[2] another post is required to effect its ritual fitness’.[3] Where, however, does one put up that ‘[other] post’? If it be attached to the projection,[4] would not one be merely adding to it?[5] — R. Papa replied: One puts it upon the other side.[6] R. Huna son of R. Joshua said: It may even be maintained that it[7] is attached to the projection[4] but it is made bigger[8] or smaller.[9] R. Huna son of R. Joshua stated: This[10] has been said only in respect of [an entrance to] an alley [that was no less than] eight [cubits in width],[11] but where [the entrance to] an alley is seven [cubits wide],[12] Sabbatic ritual fitness is effected[13] because[14] the portion built-up[15] is longer than the breach. [This ruling is inferred] a minori ad majus from [the law relating to] a courtyard: If a courtyard[16] [the movement of objects in which on the Sabbath] cannot be rendered permissible[17] by means of a side-post and a cross-beam[18] is nevertheless deemed fit[13] [for such movements] where its built-up portions[15] are larger than its broken [parts],[19] how much more then should an alley, where [such movements] may be rendered permissible by means of a side-post and a crossbeam,[20] be deemed fit[13] when[21] the built-up portion[15] [across its entrance] is larger than its open [part]. But is not a courtyard, however, different[22] [from an alley][23] since a gap of ten cubits[24] [was also allowed in it]?[25] Then how can one apply[26] [the same ruling] to an alley where only a gap of four cubits[27] [was allowed]?[28] — R. Huna son of R. Joshua holds the opinion that in an alley also a gap of ten cubits is allowed.[24] But whose view has been under discussion?[29] [Obviously that] of R. Huna;[30] and R. Huna, surely, is of the opinion, [is he not,] that only a gap of four cubits [is allowed in an alley]?[31] R. Huna son of R. Joshua only stated his own view.[32]

R. Ashi said: It may be maintained that even [where the entrance to] an alley was eight [cubits wide] no side-post is required,[33] since, whatever your assumption [might be, the ritual fitness of the alley cannot be affected]. For if the built portion is bigger[34] [the movement of objects in the alley would] be permitted by [reason of the fact that] the built portion [across the entrance] is larger than the opening; and if the open section is bigger[35] [the projection][36] might be regarded as a side-post.[37] What [other possible objection can] you submit? That both[38] might be exactly alike?[39] [But such an assumption] would amount to an uncertainty in respect of a Rabbinical enactment,[40] and in any uncertainty appertaining to a Rabbinical enactment the more lenient course is followed.[41]

R. Hanin b. Raba stated in the name of Rab: As to a breach that was made in an alley

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(1) Even if originally it was put there for some other purpose.

(2) Unless that projection was especially constructed to serve as a side-post to the entrance.

(3) v. supra 5a for notes.

(4) Lit., ‘put up with it’.

(5) Thus merely extending the projection further along the width of the alley and giving it a much greater resemblance to a proper wall.

(6) The side wall opposite.

(7) The side-post.

(8) Longer or wider than the front of the projection, so that its nature cannot be mistaken and no one could regard it as an extension of the projection.
(9) Shorter or narrower (cf. previous note).
(10) The ruling of Rami b. Hama in the name of R. Huna, supra 5a ad fin.
(11) In which case a projection of the width of four cubits would cover no more than half of its width.
(12) So that a projection of the size mentioned (v. previous note) would cover its greater part.
(13) Lit., ‘is permitted’.
(14) Though the projection cannot be regarded as a side-post.
(15) Lit., ‘(which) stands’.
(16) Sc. a square enclosure into which houses open out (v. Tosaf. s.v. , and cf. Rashi).
(17) Where its wall that faced a public domain collapsed completely.
(18) Though these means are effective in the case of an alley.
(19) Even though the gaps are many and distributed among all its walls, the court remains ritually fit if the total length of the unbroken parts exceeds that of the gaps.
(20) If placed at the entrance that faced a public domain (cf. supra n. 8).
(21) In the absence of a side-post and cross-beam.
(22) Lit., ‘what of the courtyard’.
(23) Sc. some of the laws relating to the former are much less restrictive than those of the latter.
(24) Lit., ‘its breach by ten’.
(25) Of course it is; the freedom of movement in the courtyard is not affected by such a gap.
(26) Lit., ‘wilt thou say’.
(27) Lit., ‘whose breach by four’.
(28) As in the case of an alley, the law was restricted in respect of the size of a gap so it might also have been restricted as regards permissibility of movement where the built portion is larger than the gap. How then (cf. supra note 14) could a law relating to an alley be inferred from one relating to a courtyard?
(29) Lit., ‘according to whom do we say’, sc. to whose ruling was the argument, a minori ad majus, applied?
(30) A disciple of Rab and teacher of R. Huna son of R. Joshua who (supra 5a) quoted his master.
(31) Infra. How then could this view be reconciled with the inference of R. Huna son of R. Joshua?
(32) Sc. while accepting R. Huna's ruling in the case of an entrance that was no less than eight cubits in width he disagreed with it on the strength of the argument he advanced in the case of one of the width of seven.
(33) Where there was a projection of four cubits in width from one of the side walls across a part of the entrance.
(34) I.e., if the measurement of the projection was on a generous scale so that the so-called ‘four cubits’ really represented a higher figure, and the remaining space was in fact less than four cubits in width.
(35) Cf. previous note mutatis mutandis.
(36) Since it is in reality less than four cubits.
(37) And the movement of objects would again be permitted.
(38) The width of the projection and that of the opening.
(39) So that (a) the projection is four cubits wide and, therefore, unsuitable as a side-post and (b) the built section is not larger than the gap which is also four cubits wide.
(40) The prohibition to move objects in an alley on the Sabbath day is not Pentateuchal but Rabbinical.
(41) Consequently, ‘no side-post is required’.

Talmud - Mas. Eiruvin 6a

[if it was made] in a side [wall, a gap] of ten cubits is permissible,[1] [but if it was] in the front [wall,[2] only a gap] of four cubits is allowed.[3] Wherein, however, does a side wall differ [from the front wall] that [in the case of the former] a gap of ten cubits is allowed?[1] [Presumably] because one can say[4] [that the gap] is an entrance, [but then] could not one say also [when it is made] in the front wall that it is an entrance? R. Huna son of R. Joshua replied: [The ruling[5] applies to a case,] for instance, where the breach was made in a corner, since people do not make an entrance in a corner. R. Huna, however, ruled: The one as well as the other[6] [is subject to the limit] of four cubits. And so, in fact, did R. Huna say to R. Hanan b. Raba:[7] ‘Do not dispute with me, for Rab once happened to visit

Damharia[8] and actually gave a decision in accordance with my view'.[5] 'Rab', the other replied, 'found an open field and put a fence round it'.[9]

R. Nahman b. Isaac remarked: Reason is on the side of R. Huna.[10] For it was stated: 'A crooked alley,[11] Rab ruled, is subject to the same law as one that is open on both sides,[12] but Samuel ruled: 'It is subject to the law of a closed one'.[13] Now with what case are we dealing here? If it be suggested: with [one where the passage through the bend is] wider than ten cubits, would Samuel in such circumstances [it may be retorted] rule that 'it is subject to the law of a closed one'?[14] Consequently[15] [it must be conceded that the width of the communication passage is] within [the limit of] ten cubits, and yet Rab ruled that it 'is subject to the same laws as one that is open on both sides' — From which[16] it definitely follows that [the permissibility of] a breach in a side [wall] of an alley is limited to four cubits.[17] And R. Hamn[18] b. Raba?[19] — There[20] it is different,[21] since many people make their way through it.[22]

[This][23] then implies that R. Huna[24] is of the opinion that even if not many people make their way through it[25] [a breach of no more than four cubits is allowed], but why should this be different from the ruling of R. Ammi and R. Assi?[26] — There [it is a case] where ridges [of the broken wall] remained,[27] but here, [it is one] where there were no ridges.[28] Our Rabbis taught: How is a road through a public domain[29] to be provided with an 'erub?[30] The shape of a doorway is made at one end,[31] and a side-post and[32] cross-beam, [are fixed] at the other.[31] Hanania, however, stated: Beth Shammai ruled: A door is made at the one end[31] as well as at the other[31] and it must be locked as soon as one goes out or enters, and Beth Hillel ruled: A door is made at one end and a side-post and a cross-beam at the other.

May an 'erub, however, be lawfully provided for a public domain? Was it not in fact taught,[33] 'A more [lenient rule] than this[34] did R. Judah lay down:

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(1) Lit., 'from its side by ten'; if the gap is not wider, the Sabbatic ritual fitness of the alley is not affected.

(2) Sc. the wall that was built across a portion of the entrance to reduce its original width to the permitted maximum of ten cubits.

(3) Lit., 'from its top by four'. Cf. supra n. 1.

(4) Lit., 'that he said'.

(5) That no larger gap than one of four cubits was allowed.

(6) In whatever wall the breach was made.

(7) Read Hanin b. Raba; cf. infra p. 31, n. 6.

(8) In the neighbourhood of Sura; Obermeyer, p. 298.

(9) Metaph. The people of Damharia were ignorant and careless in the observance of the Sabbath laws, and, in order to keep them away from further transgression, additional restrictions were imposed upon them. Elsewhere, however, even a breach of ten cubits might be allowed.

(10) V. supra nn. 5 and 6.

(11) One in the shape of an "L" each arm of which opens out into a public domain.

(12) Sc. as if both sides of each arm opened out into a public domain. Consequently, the side of each arm that actually opens out into the public domain must be furnished with side-posts or cross-beam while the opposite side terminating in the angle where the two arms meet must be furnished with a sort of framework that would give the passage of communication the shape of a doorway. (V. Rashi and cf. Tosaf. s.v. רב).

(13) The bend or angle of contact between the arms being regarded as the termination and closure of each and the side-posts or cross-beam at the two main entrances from the public domain are sufficient to effect the Sabbatic ritual fitness of the alley.

(14) Obviously not. Such a wide passage of communication could not possibly be treated as a closing wall.

(15) Lit., 'but, not?'

(16) Since Rab regards an opening that is narrower than ten cubits as a breach that impairs the Sabbatic ritual fitness of an alley, though that opening is not in a front wall adjoining a public domain.

(17) In agreement with the view of R. Huna.

(18) So Bomb. ed. and supra 5b ad fin. Cur. edd. ‘Hanan’.

(19) Var. lec. ‘Abba’ (MS.M. and Asheri). How, it is asked, could he, in view of R. Nahman b. Isaac's submission, maintain that in a side wall, a breach of ten cubits is permitted?

(20) A communication passage between the two arms of a crooked alley.

(21) From a breach in a side wall.

(22) Hence the limit to a width of four cubits. Through a breach in a side wall, however, not many people pass and the limit of permissibility is, therefore, extended to ten cubits.

(23) The reply just given on behalf of R. Hanin b. Raba. Since it was laid down that he limits the width of the communication passage in a crooked alley to four cubits only because many people pass through it, he presumably allows a breach of ten cubits where only few people pass.

(24) Who differed from him.

(25) If the gap opened out, for instance, to broken ground or an unsanitary area.

(26) Who (supra 5a) do allow a breach of ten cubits.

(27) The wall did not collapse completely and a height of three or four handbreadths of it remained, so that it is not very easy to use the breach as an entrance.

(28) The passage through such a gap being easy, people would be likely to use it if it were wide enough. Hence the limit to four cubits.

(29) Such a road must pass from one end of the town to the other and must be sixteen cubits in width, while the town through which it passes must have no surrounding wall and be inhabited by no less than six hundred thousand people.

(30) V. Glos.

(31) Lit., , ‘from here’.

(32) Var. lec. ‘or’ (Alfasi and Asheri).

(33) Shab. 6a, 117a, infra 12a.

(34) The one mentioned earlier in the context (v. previous note) where a covered space was under consideration.

Talmud - Mas. Eiruvin 6b

If a man had two houses on the two sides [respectively] of a public domain he may[1] construct one side-post [on any of the houses] on one side and another on its other side or one cross-beam on the one side [of any of the houses] and another on its other side and then he may move things about[2] in the space between them;[3] but they[4] said to him: A public domain cannot be provided with an ‘erub in such a manner’?[5] And should you reply that it cannot be provided with an ‘erub ‘in such a manner’,[6] but that it may be provided with one by means of doors, surely, [it can be retorted,] did not Rabbah b. Bar Hana[7] state in the name of R. Johanan that Jerusalem,[8] were ‘it not that its gates were closed at night,[9] would have been subject to the restrictions[10] of a public domain; and ‘Ulla too has stated that the city gateways of Mahuza,[11] were it not for the fact that their doors were closed at night, would have been subject to the restriction of a public domain?[12] — Rab Judah replied: It is this that was meant: How is an ‘erub to be provided for alleys that open out at both ends into a public domain? The shape of a doorway is made at one end and a side-post and[13] cross-beam, at the other.

It was stated: Rab said: The halachah[14] is in agreement with the first Tanna,[15] and Samuel said: The halachah is in agreement with Hanania.[16]

The question was raised: According to Hanania's ruling in the name of Beth Hillel , is it necessary to lock [the single door of the alley] or not? — Come and hear what Rab Judah said in the name of Samuel: It is not necessary to lock it; and so also said R. Mattenah in the name of Samuel: It is not necessary to lock it.

Some there are who read: R. Mattenah stated: ‘I myself was once concerned in such a case and Samuel told me that there was no need to lock [the door]’.[17]

R. ‘Anan was asked: Is it necessary to lock [the door of an alley] or not?[18] He replied: Come and see the [alley] gateways of Nehardea[19] which are half buried in the ground[20] and Mar Samuel continually passes through[21] [these gates] and yet never raised any objection.[22] R. Kahana said: Those were [partially] closed.[23]

When R. Nahman came[24] he ordered the earth to be removed.[25] Does this then imply that R. Nahman is of the opinion that [alley doors] must be locked?[26] — No; provided they are capable of being closed [Sabbatic ritual fitness is effected] even though they are not actually closed.

There was a certain crooked alley at Nehardea upon which were imposed the restriction of Rab and the restriction of Samuel, and doors were ordered[27] [to be fixed at its bends].[28] ‘The restriction of Rab’ who ruled that [a crooked alley] ‘is subject to the same law as one that is open on both sides’; but [as] Rab in fact stated: ‘The halachah is in agreement with the first Tanna’[29] [the second restriction was applied] in agreement with Samuel who stated: ‘The halachah is in agreement with Hanania’. And [as] Samuel in fact ruled [that a crooked alley] ‘is subject to the law of a closed one’[30] [the first restriction was applied] in agreement with Rab who ruled that ‘[a crooked alley] is subject to the same law as one that is open at both ends’.

Do we, however, adopt the restrictions of two[31] [authorities who differ from one another]?[32] Was it not in fact taught:[33] The halachah is always in agreement with Beth Hillel, but he who wishes to act in agreement with the ruling of Beth Shammai may do so, and he who wishes to act according to the view of Beth Hillel may do so; [he, however, who adopts] the more lenient rulings of Beth Shammai and the more lenient rulings of Beth Hillel is a wicked man, [while of the man who adopts] the restrictions of Beth Shammai and the restrictions of Beth Hillel Scripture said: But the fool walketh in darkness.[34] A man should rather act[35] either in agreement with Beth Shammai both in their lenient and their restrictive rulings or in agreement with Beth Hillel in both their lenient and their restrictive rulings?[36]

(Now is not this[37] self-contradictory? You said: ‘The halachah is always in agreement with Beth Hillel, and then you [proceed to] say: ‘But he who wishes to act in agreement with the ruling of Beth Shammai may do so’! — This is no difficulty; the latter statement[38] [was made] before [the issue of] the bath kol[39] while the former[38] [was made] after [the issue of] the bath kol.[39] And if you prefer I might reply: Both the former and the latter statements[40] [were made] after [the issue of] the bath kol

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(1) Since the area in question is already bordered by the two walls provided by the two opposite houses.

(2) As in a private domain.

(3) Lit., , ‘in the middle’.

(4) The Rabbis.

(5) How then is this ruling of the Rabbis to be reconciled with the statement, ‘How is a road etc.’, (supra 6a ad fin.)?

(6) The one prescribed in the Baraitha just cited.

(7) Var. lec., ‘R. Huna’ (Asheri).

(8) Its public road stretched from one end of the town to the other and it had all the other characteristics of a public domain (cf. supra note 1).

(9) So that it assumed the nature of a ‘courtyard’.

(10) Lit., ‘guilty concerning it’.

(11) A Jewish trading center. One of the ‘neighbouring towns’ or ‘dependencies’ of Babylon.

(12) Cf. supra p. 32, nn. 14f. How then could this be reconciled with the ruling of Beth Hillel that no closing if doors is necessary?

(13) Var. lec. ‘or’ (Alfasi and Asheri).

(14) So MS.M. הלכה Cur. edd. הלכתא.

(15) V. supra 6a ad fin.

(16) Asheri adds: ‘In accordance (with the ruling) of Beth Hillel’ (v. supra 6a ad fin.).

(17) Of the alley. Its Sabbatic ritual fitness is not affected even if the door always remains open.

(18) Cf. previous note.

(19) Nehardea was a town on the Euphrates, situated at its junction with the Royal Canal about seventy miles north of Sura, and famous for its great academy in the days of Samuel, which was rivalled only by that of Sura. Nehardea also had the characteristics of a public domain (v. supra p. 32, n. 14).

(20) Lit., ‘hidden unto their half in earth’, and cannot possibly be moved from their open positions.

(21) Lit., ‘and goes in and goes out’. I.e., and saw that the gates were not closing, whilst the people were relying on them as providing an ‘erub.

(22) Lit., ‘and he did not tell them anything’.

(23) R. Anan's example, therefore, proves nothing.

(24) To Nehardea.

(25) Lit., ‘he said: Remove their earth’, the accumulated debris which prevented the closing of the gates.

(26) Contrary to the general opinion expressed supra?

(27) Lit., ‘and they made it require’.

(28) In addition to the side-posts or cross-beams fixed at the ends of the arms adjoining the public domain.

(29) Who required no door at all, but only a sort of frame in the shape of a doorway.

(30) Which required no contrivance.

(31) Lit., ‘do we do like two restrictions’.

(32) I.e., where one relaxes the law and the other restricts it and vice versa.

(33) Tosef. Suk. II, ‘Ed. II, R.H. 14b.

(34) Eccl. II, 14.

(35) Lit., ‘but’.

(36) Why then were the restrictions of both Rab and Samuel imposed on the crooked alley of Nehardea?

(37) The Baraitha just cited.

(38) Lit., ‘here’.

(39) V. Glos. and cf. infra 13b. The bath kol announced that the halachah was always in agreement with Beth Hillel.

(40) Lit., ‘that and that’.

Talmud - Mas. Eiruvin 7a

[but the latter] represents[1] [the view of] R. Joshua who does not recognize the authority[2] of a bath kol.[3] And if you prefer I might reply: It is this that was meant:[4] Whenever you come across[5] two Tannas and two Amoras who differ from one another in the manner of the disputes between Beth Shammai and Beth Hillel, a man should not act either in accordance with the lenient ruling of the one Master and the lenient ruling of the other Master, nor in accordance with the restriction of the one and the restriction of the other, but either in accordance with the lenient and restrictive ruling of the other or in accordance with the lenient and restrictive ruling of the other.)

At all events, [however, does not the original] difficulty[6] [remain]? — R. Nahman b. Isaac replied: All the restrictions were imposed in accordance with the views of Rab, for R. Huna stated in the name of Rab, ‘The halachah [is in agreement with the first Hillel but no such ruling is given [in actual practice]’.[7]

According to R. Adda b. Ahabah, however, who, citing Rab, stated, ‘The halachah [agrees with the first Tanna] and this is also the ruling to be followed in practice,’ what can be said [in reply to the objection raised]?[8] — R. Shezbi replied: We do not adopt the restrictions of two [authorities who differ from one another] only[9] where [their views] are mutually contradictory[10] as, for instance, in the case of the ‘backbone and skull’; for we learned,[11] ‘If the backbone or skull [of a corpse] were defective [it does not impart levitical uncleanliness by overshadowing];[12] and how much [is deemed to be] a defect in a backbone? Beth Shammai ruled: Two vertebrae, and Beth Hillel ruled: One vertebra; and in the case of a skull, Beth Shammai ruled: [A hole] as large as that made by a drill,[13] and Beth Hillel ruled: One that would cause a living person to die’;[14] and Rab Judah stated in the name of Samuel, 'And the respective rulings[15] apply also[16] in the case of trefah';[17] but where [the views] are not mutually contradictory[18] we may well adopt[19] [the restrictions or relaxations of two authorities].

[Against the contention that] where [the views of two authorities] are mutually contradictory we do not adopt [the restrictions of both], R. Mesharsheya raised [the following] objection. [Was it not taught:][20] It once happened that R. Akiba gathered [the fruit of] an ethrog[21] on the first of Shebat[22] and subjected it to two tithes,[23] one[24] in accordance with the ruling of Beth Shammai[25] and the other[26] in accordance with the ruling of Beth Hillel?[27] — R. Akiba was uncertain of his tradition,[28] not knowing whether Beth Hillel said the first of Shebat or the fifteenth of Shebat and, therefore, he subjected himself to both restrictions.[29]

R. Joseph sat before R. Huna and in the course of the session[30] he stated: Rab Judah laid down in the name of Rab that they[31] differed only where [an alley opens out] into a camp[32] on the one side and into a camp on the other,[33] or into a highway[34] on the one side and into a highway on the other,[33] but [where there was] a camp on one side and fields[35] on the other,[33] or fields on either side, the frame of a doorway is made at one end and a side-post and cross-beam at the other.[36] Now [that it has been said that 'where there was] a camp on one side and fields on the other' [it is sufficient if] 'the frame of a doorway is made at one end and a side-post and cross-beam at the other' [was it at all] necessary [to state the case of] 'fields on either side'? — It is this that was meant: If there was a camp on one side and fields on the other it is the same[37] as [if there were] fields on either side. He[38] then concluded in the name of Rab Judah:[39] If the alley[40] terminated[41] in a backyard,[42] no [construction][43] whatever is necessary.[44]

Said Abaye to R. Joseph: That statement of Rab Judah[45] represents the view of Samuel;

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(1) Lit., 'it'.

(2) Lit., 'looks', 'pays attention'.

(3) V. B.M. 59b.

(4) By the statement, 'But he who wishes to act etc.'

(5) Lit., 'you find'.

(6) Why were the restrictions of both Rab and Samuel simultaneously imposed in the case of the Nehardean alley.

(7) The rule in practice being in agreement with Hanania who ordained the construction of doors.

(8) V. p. 35, n. 13.

(9) Lit., 'when do we not do etc.'?

(10) Sc. where the reason which impelled one authority to restrict a certain law inevitably led him to relax it in another case, while the authority that by another process of reasoning relaxed the law in the first case was led by the same process to restrict it in the latter. Anyone, therefore, who adopts either both lenient rulings or both restrictions takes up an untenable position, since the very reason for restriction in the one case is also a reason for relaxation in the other.

(11) Oh. II, 3; Bek. 37b.

(12) Ohel (v. Glos.). Only a complete backbone or skull impart uncleanness in this manner.

(13) Lit., 'like the fullness of a drill'.

(14) Lit., 'as much as would be taken from the living and he would die'.

(15) Of Beth Shammai and Beth Hillel.

(16) Lit., 'and so'.

(17) V. Glos. A defect in the backbone or skull of an animal, discovered after it had been slaughtered, renders its flesh unfit for consumption. Beth Shammai's restriction in the former case (defilement unless two links are missing) results in a relaxation in the latter (fitness for human consumption) while Beth Hillel's relaxation of the law in the former case (no defilement even if one link is missing) results in a restriction (prohibition of consumption).

(18) As in the case of the restrictions of Rab and Samuel in respect of an alley, where the reason for the ruling of the one has no bearing on the reason for that of the other.

(19) Lit., 'we do'.

(20) Tosef. Sheb. III ad fin., R.H. 14a, Yeb. 15a.
(21) V. Glos.
(22) The eleventh month of the Hebrew calendar (corresponding to January / February) the first day of which is regarded by Beth Shammai as the New Year for Trees. The gathering took place at the end of the second year of the septennial cycle and the beginning of the third.
(23) The ‘second tithe’ which is due in the second year of the septennial cycle, and the ‘poor man's tithe’ which is due in the third year of the cycle.
(24) The ‘poor man's tithe’.
(25) According to whom, the first of Shebat being regarded as the beginning of the New Year for Trees, the third year of the cycle had already begun, and the tithe due was, therefore, that of the poor.
(26) The ‘second tithe’.
(27) Who, maintaining that the New Year for Trees does not begin until the fifteenth of Shebat, regard the first day of the month as still belonging to the concluding year, i.e., the second of the cycle in which the ‘second tithe’ is due.
(28) In respect of the view of Beth Hillel. He was not concerned at all with the view of Beth Shammai.
(29) Lit., ‘and he did here as a restriction and here etc.’
(30) ויתיב, wanting in MS.M.
(31) Hanania and the first Tanna who are in dispute supra on the question of alleys that are open at both ends.
(32) Or ‘public road’. סרטיא = אסטרטיא .
(33) Lit., ‘from here ... from here’.
(34) פלטיא cf. Gr. **.
(35) בקעה, lit., ‘valley’, a domain which, in respect of the Sabbath laws, is regarded as neither public nor private but as karmelith (v. Glos.).
(36) No door, even according to Hanania, being required.
(37) Lit., ‘it is made’.
(38) R. Joseph.
(39) Not indicating the latter's authority for the ruling (cf. infra note 10).
(40) That opened out into a public domain.
(41) At the opposite end.
(42) And that wall of the yard that adjoined a public domain was broken through, so that the alley was now open into a public domain on its two sides. רחבה an area at the back of a house enclosed by four walls.
(43) Either of side-post or cross-beam.
(44) At the breach, in the backyard wall. Only that end of the alley that opens out directly into the public domain requires the prescribed construction.
(45) Just quoted by R. Joseph (cf. Supra note 4).

Talmud - Mas. Eiruvin 7b

for if [it be maintained that it is] that of Rab, a twofold contradiction between Rab's statements would arise.[1] For R. Jeremiah b. Abba laid down on the authority of Rab that if an alley was broken along its full [width][2] into a courtyard, and a breach[3] was made in the courtyard [wall] over against it, the courtyard is ritually fit[4] but the alley is forbidden. But why [should this be so]? Should it not rather be [subject to the same law] as that of an alley that terminated in a backyard?[5] — The other replied: I do not know,[6] but it once happened that at Dura di-ra'awatha[7] an alley terminated in a backyard,[8] and when I came[9] to Rab Judah [to ask his opinion] he ruled that it required no contrivance whatsoever.[10] If, therefore, a contradiction [arises if Rab Judah's statement] is ascribed to Rab, let it be [conceded to have been made] in the name of Samuel[11] and no difficulty whatever would arise.

Now, however, that R. Shesheth said to R. Samuel b. Abba or, as others say, to R. Joseph b. Abba: I may explain to you — [that Rab's ruling is dependent on whether] an ‘erub has been prepared or not,[12] no contradiction between the two statements of Rab does now arise.[13] For one refers to a case[14] where the residents of the courtyard joined in an ‘erub with those of the alley while the other refers to one[14] where they did not join them in an ‘erub.[15]

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(1) Lit., ‘a difficulty of Rab upon Rab in two’.

(2) Sc. its entire back wall collapsed.

(3) Of less than ten cubits in width.

(4) Lit., ‘permitted’, as regards the movement of objects on the Sabbath. The breach is regarded as an entrance since portions of the courtyard wall remained on both sides. The ritual unfitness of the alley cannot affect the courtyard since the residents of the former have no right of passage through the latter.

(5) Rab's reason, it is now assumed, is that the alley, owing to the breach in the courtyard, is exposed on two sides to public domains. Now since Rab Judah spoke of a backyard (which, as it has no inhabitants to claim right of passage through the alley, cannot affect its ritual fitness) and not of a courtyard (which is inhabited), it follows that if an alley terminated in the latter, it becomes ritually unfit on account of the right of passage through it of the inhabitants of the courtyard. Rab, on the other hand, spoke of a courtyard and not of a backyard. And, since he does not mention the right of passage but the breach that was made, it follows that the exposure of the alley on two sides to public domains is the only reason for its unfitness, and that the right of passage of the inhabitants of the courtyard does not affect its fitness. The two principles then that were laid down by Rab Judah, viz. (a) that the opening out of an alley into a public domain through a backyard does not destroy its ritual fitness and (b) that the opening also of a courtyard into an alley does destroy its fitness, are thus opposed by those of Rab who maintains (a) that the opening out of an alley into a public domain through a courtyard or, for the same reason, through a backyard does destroy its ritual fitness and (b) that the opening of a courtyard into an alley does not destroy it.

(6) From whom Rab Judah received the ruling.

(7) Shephardville. V. Rashi and Jast. Aliter: Diridotis, a famous commercial town on the Tigris (Wiesner, Scholien).

(8) That had a breach in the wall that faced the alley.

(9) ואתאי, so MS.M. Cur. edd. ואתא.

(10) Lit., ‘and he did not cause it to require anything’, at the backyard breach. The contrivance at the other end that abutted on the public domain was sufficient.

(11) Another teacher of Rab Judah.

(12) Lit., ‘here that they mixed; there that they did not mix’. Where the residents of the courtyard joined the residents of the alley in the ‘erub (v. Glos.), the latter is ritually fit, but if they did not join, the fitness of the latter is destroyed, not on account of the breach in the courtyard which exposed the alley to a public domain (as has been assumed supra), but on account of the absence of the joint ‘erub. The fitness of the courtyard, however, is not affected since the breach between it and the alley, though extending over the full width of the latter, extends only over a portion of its own width and may, therefore, be regarded as a doorway.

(13) Lit., ‘of Rab upon that of Rab also, there is no difficulty’.

(14) Lit., ‘here’.

(15) Rab's ruling reported by R. Jeremiah b. Abba (supra 7b ab init.) would accordingly refer to a case where no joint ‘erub was made; the incident at Dura di-ra'awatha would refer to one where such an ‘erub was made; and Rab Judah's report in the name of Rab (supra 7a ad fin.) would be in agreement with Rab's view, even if no joint ‘erub was made, since a backyard has no residents whose right of passage could affect the ritual fitness of the alley.

Talmud - Mas. Eiruvin 8a

According to our previous assumption, however, that [Rab and Samuel] are in disagreement irrespective of whether a joint ‘erub was made[1] or not,[2] on what principle do they differ where a joint ‘erub was made[3] and on what principle do they differ where no such ‘erub was made?[4] — Where no joint ‘erub was made they differ [on the question whether a gap] that has the appearance [of a door] from without but is even [with the walls] within[5] [may be regarded as a door];[6] and where a joint ‘erub has been made[7] they differ on a principle that underlies a statement of R. Joseph. For R. Joseph stated: This[8] has been taught only [in respect of all alley] that terminated in the middle of the backyard[9] but if it terminated at the side of the backyard[10] [all movement of objects in the alley on the Sabbath is forbidden.

Rabbah said: The statement[11] [that termination] at the middle of a backyard is permitted, applies only [where the gaps[12] were] not facing one another, but if they were facing one another [movement of objects in the alley on the Sabbath] is forbidden.

R. Mesharsheya said: The statement[11] [that where the gaps[12] were] not facing one another [the use of the alley] is permitted, applies only to[13] a backyard that belonged to many people, but [not to] a backyard of an individual who might sometimes reconsider [his attitude] towards it and build houses in it[14] and the alley would thus be one that terminated at the sides of a backyard [in which the movement of objects on the Sabbath] is forbidden.

Whence, however, is it inferred that a distinction is made between a backyard belonging to many people and one belonging to an individual? — From what Rabin b. R. Adda stated in the name of R. Isaac: It once occurred that one side of an alley terminated in the sea and the other terminated in a rubbish heap,[15] and when the facts were submitted to Rabbi[16] he neither permitted nor forbade [the movement of objects on the Sabbath] in that alley.[17] [He did not declare it] forbidden because partitions[18] in fact existed, [and he did not declare it] permitted since the possibility had to be considered that the rubbish heap might be removed or the sea might throw up alluvium.[19] Now[20] is it necessary to take into consideration the possibility that a rubbish heap might be removed? Have we not in fact learnt:[21] 'If a rubbish heap in a public domain was ten handbreadths high,[22] objects from a window above it may be thrown on to it on the Sabbath'?[23] Thus it clearly follows that a distinction is made between a public rubbish heap and a private one,[24] and so here also a distinction may be made between a backyard that belonged to many people and one that belonged to one person. And what [was the view of] the Rabbis[25] [on the question of the alley]? R. Joseph b. Abdimi replied: A Tanna taught that the Sages forbade it. R. Nahman stated: The halachah is in agreement with the ruling of the Sages.

Some there are who say: R. Joseph b. Abdimi stated: A Tanna taught that the Sages permitted it, and R. Nahman said: The halachah is not in agreement with the ruling of the Sages.

Meremar partitioned off Sura[26] by means of nets,[27] because, he said, the possibility must be considered that the sea might throw up alluvium.[28]

A certain crooked alley[29] once existed at Sura [and the residents of one of its arms] folded up some matting and fixed it in its bend.[30] This [arrangement], said R. Hisda, is neither in agreement with the view of Rab nor with that of Samuel. According to Rab, who ruled that the law of such [an alley] is the same as that of one that is open at both ends, [a structure in] the shape of a doorway is required; and [even] according to Samuel who ruled that it is subject to the law of a closed one [it must be understood that] his ruling applied only where a proper side-post [had been fixed],[31] but such [matting], since the wind blows on it and throws it about, is useless. If a pin, however, was inserted therein and it was thus fastened [to the wall] it may be regarded as a proper partition.[32]

[Reverting to] the main text: 'R. Jeremiah b. Abba laid down on the authority of Rab that if an alley was broken along its full [width] into a courtyard, and a breach was made in the courtyard [wall] over against it, the courtyard is ritually fit but the alley is forbidden.'[33] Said Rabbah b. 'Ulla to R. Bebai b. Abaye, 'Master, is not this ruling[34] [one that already appeared in] a Mishnah of ours:[35] [If the full width of a wall of] a small courtyard was broken down [so that the yard now fully opens out] into a large courtyard, [movement of objects on the Sabbath] is permitted in the large courtyard but forbidden in the small one because the gap is regarded as an entrance to the former'?[36] — The other replied: If [our information had been derived] from there[37] it might have been assumed that the ruling applied only where not many people tread,[38] but that where many people tread[39] even the courtyard also [is forbidden].[40] But did we not learn this[41] also: A courtyard into which many people enter from one side and go out from the other [is deemed to be] a public domain in respect of levitical defilement[42] and a private domain in respect of the Sabbath?[43] — If [the ruling[44] were to be derived] from there it might have been assumed to apply only where the gaps were not facing one another[45]

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(1) Between the residents of the alley and those of the courtyard.

(2) Sc. that (a) Rab forbids the movement of objects in the alley, even if a joint ‘erub was made, on the ground of the exposure of the alley through the breach to a public domain; that (b) only the breach causes the prohibition but not the right of passage of the courtyard residents through the alley; that (c) Rab Judah's ruling (supra 7a ad fin.) represents the view of Samuel who, if a joint ‘erub was made, permits the use of the alley despite the breach (as is evident from his decision in the case of a backyard which has no residents and which in respect of the laws under discussion has the same status as a courtyard that has residents who joined those of the alley in their ‘erub) and that (d) where no joint ‘erub was made between the residents of the courtyard and the alley Samuel forbids the use of the latter even where there was no breach (as follows from the fact that in his permission he mentioned a backyard, which has no residents, and not a courtyard which has residents).

(3) And the prohibition could be due to the breach only. Why does Rab regard the alley as exposed through that breach to the public domain and why does not Samuel regard it so?

(4) Why, since no breach was made, does Samuel rule that the residents of the courtyard cause, and why does Rab rule that they do not cause the prohibition of the use of the alley?

(5) Where, for instance, the courtyard is wider than the alley. The gap occasioned by the collapse of the complete wall of the latter appears as a doorway when viewed from the former.

(6) Rab is of the opinion that, since the gap has the appearance of a door when viewed from the courtyard and since it is not wider than ten cubits, it may well be regarded as a door for the residents of the alley also; while Samuel, owing to the fact that when viewed from the alley it has the appearance of a breach, does not recognize it as a door.

(7) And the question of permissibility arises on account of the gap in the wall of the courtyard.

(8) That no provision whatever is necessary in the case of an alley that terminated in a backyard (supra 7a ad fin.).

(9) So that the shape of a door remained at least on the side facing the backyard.

(10) In which case one side of the yard appears like a continuation of the side of the alley, and no shape of a door remains even when viewed from the yard.

(11) Lit., ‘that which you said’.

(12) In (a) the wall between the alley and the yard and (b) in the yard wall that adjoined the public domain.

(13) Lit., ‘he did not say them, but’.

(14) Against that portion of the wall which formed the side-post, and thus level the side of the yard with the side of the alley and give it the appearance of one extended wall.

(15) The third side was closed and the fourth was open on a public domain and duly furnished with a side-post and cross-beam.

(16) R. Judah l, compiler of the Mishnah.

(17) Lit., ‘he did not say about it, either permission or prohibition.’

(18) The rubbish heap on the one side and the sea shore on the other, each of which was ten handbreadths high.

(19) I.e., it may recede, in consequence of which possibility either of the partitions might disappear. Infra 99b.

(20) This is the conclusion of the argument that a distinction is made between the property of several people and that of one individual.

(21) Infra 99b.

(22) And is consequently subject to the laws of a private domain.

(23) The possibility of a reduction in its height, which would turn it into a public domain, not being considered.

(24) The possibility of reduction being taken into consideration in respect of the latter (with which case Rabbi had to deal) but not in that of the former (spoken of infra 99b).

(25) Rabbi's contemporaries.

(26) From the river or canal (cf. B.B., Sonc. ed., p. 294, n. 5 and text) which ran along the backs of alleys that at their other ends opened out into a public domain.

(27) The river, or canal bank was not regarded by him as a proper partition.

(28) And people might not be aware of the difference and would continue to use the alleys on the Sabbath day as before.

(29) Cf. supra 6a.

(30) While a side-post was fixed at their entrance, the residents of the other arm providing no such post to their entrance.
(31) At the entrance to each arm (Rashi). The view of Rashi's teacher is that a third side-post also must be fixed at the bend.
(32) Lit., ‘he fastened it’.
(33) Supra 7b ab init. q.v. notes, where it was explained that this was a case where no joint ‘erub was made between the residents of the alley and those of the courtyard and that the prohibition of the use of the former was due to the right of passage through it of the residents of the latter.
(34) Cf. previous note.
(35) V. infra 92a.
(36) Since the gap, when viewed from the large court, is flanked on either side by the remaining portions of the fallen wall, which may be viewed as side-posts. It cannot be treated as an entrance of the small courtyard because the side portions of the wall cannot be seen from its interior where the opening has the appearance of a wide gap extending from wall to wall. Now, since it is obvious that the conditions of the alley and courtyard spoken of by Rab are analogous to those of the large and small courtyards dealt with in the Mishnah quoted, what need was there for Rab to issue a ruling that was a mere repetition of a Mishnah?
(37) The Mishnah quoted.
(38) As in the case dealt with in the Mishnah where the breach occurred between two courtyards and the larger one remained closed on the side of the public domain.
(39) The case spoken of by Rab, where the courtyard was broken both on the side of the alley and on that of the public domain. People in the public domain would naturally use the courtyard as a short cut and might thus turn it into a sort of public thoroughfare.
(40) Hence the necessity for Rab's ruling.
(41) That the use of a courtyard by the public does not affect its status as a private domain in respect of the Sabbath laws.
(42) Sc. any uncertainty of defilement is to be regarded as clean.
(43) Tosef. Toh. VII; cf. infra 22b.
(44) V. supra note 7.
(45) Lit., ‘these words, when this is not opposite this’.

Talmud - Mas. Eiruvin 8b

but not where they were facing each other.[1] According to Rabbah, however, who ruled [that a courtyard is] forbidden where the gaps were facing each other,[2] how would he explain Rab's ruling? [Obviously, that it referred to a case where the gaps were] not facing one another [but then the question arises again:] What need was there for[3] two [rulings[4] on the same subject]? — If [the rulings were derived] from there[5] it might have been assumed to apply only to the throwing [of objects into it],[6] but not to the moving [of them within it];[7] hence we were informed [of Rab's ruling].[8]

It was stated:[9] If an alley is constructed in the form of a centipede,[10] the shape of a doorway, said Abaye, is made [at the entrance] of the major alley and all the others are rendered ritually fit by means of a side-post and cross-beam.[11] Said Raba to him: In agreement with whose view [is your ruling]? [If it is] in agreement with that of Samuel who ruled that [a crooked alley][12] has the same law as one that is closed [at one end], why should it be necessary to have the shape of a doorway?[13] And, furthermore, was there not once a crooked alley at Nehardea[14] and [in providing for its ritual fitness] Rab's view also was taken into consideration?[15] [The fact,] however, is, said Raba, that the shape of a doorway is made [at the entrance] of each minor alley[16] on the one side[17] while the other side[18] [of each minor alley] is rendered ritually fit by means of a side-post and cross-beam.

Said R. Kahana b. Tahlifa in the name of R. Kahana b. Minyomi in the name of Rab Kahana b. Malkio who had it from R. Kahana the teacher of Rab [others say that R. Kahana b. Malkio is the same R. Kahana who was Rab's teacher]: If one side of an alley was long and the other short, [and the shortage is] less than four cubits, the cross-beam may be laid in a slanting position,[19] [but if it is] four cubits the cross-beam is laid only at right angles[20] to the shorter side. Raba said: In either case[21] the beam must be laid only at right angles[20] to the shorter side; and I can give[22] my reason and also[22] theirs.[23] My reason is:[22] [The erection of] a cross-beam was enacted[24] in order [to provide] a distinguishing mark,[25] and [a beam] in a slanting position provides no such mark.[26] Their[27] reason is:[28] [The object of] a cross-beam was to provide a partition,[29] and [a beam] in a slanting position is also a partition. R. Kahana remarked: As the ruling is reported in the name of Kahanas, I would say something about it. The rule[30] that the beam may be laid in a slanting position applies only where the slant was no longer than ten cubits, but if it was longer than ten cubits all agree that it is placed only at right angles to the shorter side.[31]

The question was asked: May the space under a cross-beam be used?[32] Rab and R. Hiyya and R. Johanan replied: It is permitted to use the space under the beam; Samuel, R. Simeon b. Rabbi and R. Simeon b. Lakish replied: It is forbidden to use the space under the beam. May it be assumed that they[33] differ on the following principle? One Master[34] is of the opinion that a cross-beam serves the purpose of a distinguishing mark,[35] while the other Master[34] holds that the cross-beam serves the purpose of a partition?[36] — No; all may agree that a beam serves the purpose of a partition, but it is this principle on which they differ here. One Master[34] holds that the distinguishing mark [is to serve as such for those who are] from within,[37] and the other Master[34] holds that it is for those who are without.[38] And if you prefer I would reply: All agree that it serves the purpose of a partition, but it is this on which they differ here: One Master[34] holds that its inner edge [is deemed to] descend and close up [the entrance][39] while the other Master[34] maintains that it is its outer edge [that is deemed to] descend and close it up.[40] R. Hisda stated: All agree that [the use of the space] between side-posts is forbidden.[41]

Rami b. Mama enquired of R. Hisda: What is the ruling where one Inserted two pins [respectively] in the two [extremities of the] walls of an alley on the outside[42] and placed a beam on them?[43] The other replied: According to him who permits [elsewhere the use of the space under the cross-beam the use of the space here] is forbidden;[44] and according to him who forbids [the use elsewhere of such space,[45] the use of it here] is permitted.[46]

Raba said: According to him also who forbids [the use of the space under the cross-beam the use of the alley here] is forbidden, since we require the beam to rest above the alley and this is not the case here.

R. Adda b. Mattena raised an objection against Raba:[47] If its[48] cross-beam

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(1) Rab, therefore, found it necessary to state that even where the gaps faced one another the courtyard is still regarded as a private domain.

(2) Supra 8a.

(3) Lit., ‘wherefore to me’.

(4) Rab's and that of the Mishnah quoted.

(5) The Mishnah.

(6) Sc. that it is Pentateuchally regarded as a private domain and that consequently it is forbidden to throw any object from the public domain into it.

(7) Such movement being forbidden by an enactment of the Rabbis who imposed upon it the restrictions of a public domain.

(8) That the moving of objects within the courtyard is permitted.

(9) By Amoras.

(10) Sc. from a major alley that opens out into a public domain minor alleys branch out in the shape of the legs of a centipede, and these have two entrances each, one from the major alley and another from a public domain (Rashi), being built, however, in such a manner as to avoid the entrances of any two opposite alleys from facing one another (R. Tam). Should the entrances of two alleys be directly opposite each other they would be regarded as one long alley that opens out at both ends into public domains and would be subject to the more stringent laws that are applicable to such all alley. (V. Tosaf. s.v. מבוי a.l.)

(11) Fixed at each of the entrances that open out into the public domains.

(12) Each of the minor alleys may be regarded as an arm of a crooked alley the other arm of which is formed by the major alley.

(13) At the entrance of the major alley. If the minor ones have the status of crooked alleys the major one also, for the same reason, should have the same status and be subject to the same laws.

(14) V. supra 6b.

(15) How then could Abaye rule that only the lenient ruling of Samuel was to be followed?

(16) Lit., ‘to all of them’.

(17) That terminates in the major alley (Rashi).

(18) Terminating in the public domain (Rashi). R. Han.: ‘on one side etc.’; i.e., the shape of the doorway and the side-post and cross-beam may respectively be set up on either side. V. Also Marginal Gloss.

(19) One end on the longer and the other on the shorter side, and the alley may be used as far as the beam, i.e., to the termination of each side.

(20) Lit., ‘opposite’, ‘corresponding’.

(21) Whether the difference between the lengths of the two walls of an alley was four cubits or less.

(22) Lit., ‘and I say’.

(23) That of the authorities just mentioned.

(24) Lit., ‘what is the reason?’

(25) Supra 5a.

(26) Lit., ‘there is no recognition’, because the space adjoining the part of the longer wall which protrudes beyond the shorter one, not being enclosed by any wall on its other side, might be mistaken for a continuation of the public domain.

(27) That of the authorities just mentioned.

(28) Lit., ‘and I say’.

(29) Between the alley and the public domain.

(30) Lit., ‘that which you said’.

(31) Since an entrance may not be wider than ten cubits.

(32) Sc. in the same manner as the interior of the alley. This is a general question relating to any alley.

(33) The two groups of authorities just mentioned.

(34) Sc. each of the group.

(35) Between the alley and public domain. As the mark is there, it is permitted to use the space under it.

(36) The space under the beam being virtually covered so to speak with the imaginary downward extension of the beam, no use can be made of it.

(37) The residents of the alley. As they see only the inner side, no use may be made of the space beyond the inner edge.

(38) I.e.,the people in the public domain; so that the whole of the space under the beam belongs to the alley and consequently may be used by the residents of the alley.

(39) The space under the beam, being in consequence outside the alley, must be regarded as belonging to the public domain and its use must, therefore, be forbidden.

(40) Cf. previous note mutatis mutandis.

(41) Where no cross-beam but only a side-post had been put up. The plural (לחיים) in the text applies to alleys in general, each single alley requiring no more than one side-post at its entrance (V. Rashi).

(42) Sc. in the thicknesses of the walls, on either side of the entrance, that face the public domain.

(43) So that the inner edge of the beam touches the walls of the alley while the rest of the beam lies outside. Is the alley, it is asked, rendered ritually fit for the Sabbath by such an arrangement?

(44) Since the very reason for the permission to use the space under the beam, viz., that the outer edge of the beam is deemed to descend to the ground, is a reason here for the prohibition of the use of the entire interior of the alley. For if the outer edge is the limit of the partition, the thickness of the beam separates it from the alley and so invalidates it as a partition of it.

(45) Because he maintains that it is the inner edge of the beam that constitutes the partition.

(46) Since the inner edge does touch the walls of the alley and so forms a valid partition between the public domain and the alley.

(47) And also against R. Hisda (ת״י).
(48) Of an alley.

Talmud - Mas. Eiruvin 9a

was drawn away[1] or suspended[2] [at a distance of] less than three handbreadths [from the walls of the alley] there is no need to provide another beam,[3] [but if the distance was] three handbreadths another beam must be provided. R. Simeon b. Gamaliel ruled: [If the distance was] less than four handbreadths there is no need to provide another beam[4] [but if it was] four handbreadths another beam must be provided.[5] Does not ‘drawn away’ [mean that the beam was altogether] outside [the alley],[6] and ‘suspended’ [that it was] within?[7] No; both[8] [refer to a beam] within the alley, but by ‘drawn away [was meant that the beam was drawn away] from one side,[9] and by ‘suspended’ [that it was drawn away] from both sides.[10] [As] it might have been assumed [that the law of] labud[11] is applied[12] [only where the beam is removed] from one side but not[13] [when it is removed] from the two sides, hence we were informed [that in the latter case also the law of labud[11] applies]. R. Ashi[14] replied: [The meaning is that the beam was] drawn away [from the walls] and also suspended. And how is this to be imagined? [That a man], for instance, inserted on the tops of the two side-walls of an alley respectively two slanting pins[15] whose height[16] is less than[17] three handbreadths[18] and whose slant also[19] is less than three handbreadths.[20] [Since] it might be assumed that we call apply either the law of labud[21] or that of habut,[21] but not that of both labud and habut, hence we were informed [that both may also be applied]. R. Zakkai recited in the presence of R. Johanan: [The space] between the side-posts and beneath the cross-beam is subject to the laws of a karmelith.[22] ‘Go out’, the other told him, ‘recite this outside’.[23] Said Abaye: It stands to reason that the view of R. Johanan[24] [applies to the space] under the beam[25] but [that] between the side-posts[26] is forbidden. Raba, however, said: [The space] between the side-posts[26] is also permitted. Said Rabbi: Why[27] do I say this? Because when R. Dimi came[28] he reported in the name of R. Johanan: In a place[29] whose area is less than[30] four by four [handbreadths][31] it is permissible[32] for both the people of the public domain and those of the private domain to rearrange their burdens,[33] provided only that they do not exchange them.[34] And Abaye?[35] — There[36] [it is a case] where [the place] was three handbreadths in height.[37] Said Abaye: Why[27] do I say this?[38] Because R. Hama b. Goria said in the name of Rab: [The space] within a gateway[39] requires[40] a special[41] side-post to render it permissible.[42] And should you suggest that [this[43] is one] where the area is four handbreadths by four,[44] surely, [it can be retorted] R. Hanin[45] b. Raba[45] stated on the authority of Rab: [The space] within a gateway, though it is less than four handbreadths by four, requires a special[46] side-post to render its use permitted. And Raba?[47] — There [it is a case where the alley] opens out into a karmelith.[48] Is this,[49] however, permitted [where the alley opens out] into a public domain? The native [then would be] in the earth and the stranger in the highest heavens?[50] Yes, the like[51] has found its like and is aroused.[52]

Said R. Huna son of R. Joshua to Raba: Do you not uphold the view that [according to R. Johanan, the space] between side-posts is forbidden? Surely, Rabbah b. Bar Hana stated in the name of R. Johanan: If [a section of one side of] an alley was lined with side-posts[53] [fixed within distances of] less[54] than four [handbreadths[55] between one another, the question of its use] is dependent[56] on the dispute between R. Simeon b. Gamaliel and the Rabbis.[57] [Now this obviously means, does it not, that] according to R. Simeon b. Gamaliel, who ruled [that in respect of such distances the law of] labud is applied,[58] one is allowed to the [the alley from the interior thereof only] up to the inner edge of the innermost post[59] and that according to the Rabbis, who ruled [that in respect of a distance of more than three handbreadths, the law of] labud is not applied,[60] one is allowed to use [the alley] up to the inner edge of the outermost post,[61] but [the use of the space] between side-posts is unanimously[62] forbidden?[63] And Raba?[64] — There also [it is a case] where [the alley] opens out into a karmelith. Would this, however, be permitted [where the alley opened out] into a public domain? The native [then would be] in the earth and the stranger in the highest heavens? — Yes, the like has found its like and is aroused.[65]

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(1) From the alley walls. If, for instance, it was resting on pins driven into the external extremities of the alley walls on either side of the entrance.

(2) On a pole erected in the center of the entrance, the ends of the beam not reaching the walls, and hanging, so to speak, in the air.

(3) The space between the beam and the walls being so small it is deemed to be non-existent (v. Glos. s.v. labud).

(4) Cf. previous note. R. Simeon b. Gamaliel regards as labud (v. Glos.) any gap that is not wider than four handbreadths.

(5) Cf. infra 14a, 16b, Suk. 22a.

(6) Cf. supra p. 48, n. 9.

(7) As explained supra p. 48, n. 10. An objection thus arises against Raba who ruled that the beam must rest within the alley walls.

(8) The expressions ‘drawn away’ and ‘suspended’.

(9) Sc. it did not reach the wall of the alley on that side but its other end was supported on the opposite wall.

(10) The beam resting on a pole fixed in the center of the entrance (cf supra p. 48, n. 10).

(11) V. Glos.

(12) Lit., ‘we say’.

(13) Lit., ‘we do not say’.

(14) Not being satisfied with the previous answer, since it was unnecessary to lay down a special law of labud for two sides when it could be easily inferred from that of one side where the very same principle is involved.

(15) Sloping towards each other above the entrance of the alley.

(16) From the top of the walls.

(17) Lit., ‘there is not in their height’.

(18) According to the first Tanna.

(19) Sc. the distance between the walls and the extremity of the pin.

(20) And the beam was placed upon these projections so that it is removed from the walls both vertically and horizontally.

(21) V. Glos. Labud (‘junction’) might apply to the horizontal, and habut (‘beating down’) to the vertical gap.

(22) V. Glos. Consequently the free movement of objects in that space is forbidden on the Sabbath.

(23) An expression of disapproval. R. Johanan holds the view that the space mentioned is regarded as a part of the alley in which the free movement of objects is permitted.

(24) Cf. previous note.

(25) Where no side-posts were erected at the entrance, his reason being that the outer edge of the beam constitutes the virtual partition between the alley and the public domain.

(26) If no beam was put up.

(27) Lit., ‘whence’.

(28) From Palestine to Babylon.

(29) Situated between a public and a private domain.

(30) Lit., ‘in which there is not’.

(31) Being so small it cannot be regarded as a separate domain and assumes, therefore, the legal status of a free area.

(32) Since it is regarded as a free spot.

(33) Lit., ‘to put on the shoulder’.

(34) And thus lead people erroneously to assume that it is permitted to carry from a public domain into a private domain or vice versa. (Shab. 8b, infra 77a). For a similar reason (v. supra n. 10) the space between the side-posts, not being of sufficient size to constitute a domain of its own, assumes the same status as the spot spoken of by R. Johanan.

(35) How can he maintain his view against this principle of R. Johanan?

(36) R. Johanan's ruling.

(37) Being a clearly defined spot it may be regarded as a ‘free area’. The space between side-posts, however, being comparatively small and level with the ground, is not in any way distinguishable from the domains adjoining it; and, if its use were permitted, people would erroneously assume that it is permitted to carry objects from a public domain into a private domain or vice versa. Hence the prohibition.

(38) His explanation of R. Johanan's ruling supra.

(39) Formed by the wide side-posts of an alley.

(40) In addition to the side-posts mentioned which effect the ritual fitness of the alley itself.

(41) Lit., ‘another’.

(42) Shab. 9a; from which it follows that where no special side-posts had been put up, the space within the gateway, formed by the side-posts, remains forbidden.

(43) The case spoken of by R. Hama b. Goria.

(44) I.e., large enough to constitute an independent domain to be Rabbinically forbidden.

(45) Var. lec., ‘R. Hama b. Goria’ (Shab. 9a).

(46) Lit., ‘another’.

(47) How can he maintain his ruling in view of Abaye's argument?

(48) V. Glos., fields for instance; so that a side-post is necessary to separate the space within the entrance, which is Rabbinically forbidden from the karmelith which adjoins it and which is also Rabbinically forbidden.

(49) To use the space within the entrance even if no side-post is provided.

(50) A proverbial paradox. The reverse surely should be expected. If an opening to a karmelith which is only a Rabbinically forbidden domain, requires a side-post how much more so one that opens into a public domain which is Pentateuchally forbidden

(51) Lit., ‘kind’.

(52) Sc. the space within the entrance is in fact a karmelith, but as it is less than the prescribed size, it loses all its independent existence if it is situated between a private and a public domain, to neither of which it is akin and to neither of which it can be joined. If, however, it adjoins a karmelith on one side it is deemed to have regained its existence as a karmelith by being regarded as a part of the larger domain.

(53) The first post being placed near the entrance, the second next to it, the third next to the second and so on.

(54) Lit., ‘less less’.

(55) But more than three handbreadths.

(56) Lit., ‘we came’.

(57) Supra.

(58) Lit., ‘we say labud’ (v. Glos.).

(59) Since all posts are deemed to be united into one single unit the space between this edge and the entrance of the alley is subject to the law of the ‘space between the side-posts’.

(60) So that each post is deemed to be a separate unit, and the alley's permissibility is consequently effected by means of the first post that is fixed nearest the entrance.

(61) Cf. previous note.

(62) Lit., ‘that all the world’, sc. R. Simeon b. Gamaliel and the Rabbis.

(63) Had this been permitted, the dispute on labud could not have had any bearing on the use of the alley mentioned.

(64) How call he still maintain his ruling in view of the objection just raised?

(65) Cf. supra p. 51, nn. 8-11 mutatis mutandis.

Talmud - Mas. Eiruvin 9b

R. Ashi replied: [This[1] may refer to a case] for instance where [one side of the alley] was lined with side-posts [placed at distances of] less than four handbreadths [from one another] along four cubits [of its length]. According to R. Simeon b. Gamaliel who ruled [that in respect of such distances the law of] labud is applied [the space bordered by the side-posts] is deemed to be [a proper] alley[2] which requires an additional side-post to render it permissible,[3] and according to the Rabbis who ruled [that the law of] labud is not applied,[4] no other side-post is required to render it permissible.[5] But even according to R. Simeon b. Gamaliel[6] [why] should [not this alley[7] be permitted][8] as [one having a side-post that may be] seen from without[9] though it appears even[10] within?[11] — Is not this explanation[12] required only in respect of a statement of R. Johanan?[13] But, surely, when Rabin came[14] he reported in the name of R. Johanan [that a post that may be] seen from without but appears even from within cannot be regarded as a valid side-post.

It was stated: [A post that] is seen from within but appears even from without[15] is regarded as a valid side-post; but if it is seen from without and appears even from within[16] [there is a difference of opinion between] R. Hiyya and R. Simeon b. Rabbi. One maintains that it is regarded as a valid side-post and the other maintains that it is not regarded as a valid side-post. You may conclude that it was R. Hiyya who maintained that ‘it is regarded as a valid side-post’; for R. Hiyya taught:[17] A wall of which one side recedes more than the other, whether [the recess can be] seen from without and appears even from within or whether it can be seen from within and appears even from without, may be regarded as [being provided with] a side-post.[18] This is conclusive.

Did not R. Johanan, however, hear this?[19] But [what you might contend is] that he did hear it and is not of the same opinion; [is it not then possible that] R. Hiyya also is not of the same opinion?[20] — What [a comparison is] this! It might well [be contended that] R. Johanan does not hold the same opinion [and that it was] for this reason that he did not teach it; but as regards R. Hiyya if it is a fact that he does not hold the same opinion, what need was there for him to teach it?[21]

Rabbah son of R. Huna said: [A post that is] seen from without though it appears even from within is regarded as a valid side-post.[22] Said Rabbah: We, however, raised an objection against this traditional ruling: [If the full width of a wall of] a small courtyard was broken down [so that the yard now fully opens out] into a large courtyard, [movement of objects on the Sabbath] is permitted in the large one but forbidden in the small one because the gap is regarded as an entrance to the former.[23] Now, if this[24] is valid, should not the movement of objects in the small courtyard also be permitted on [the principle that the entrance may be] seen without[25] though it appears even from within? — R. Zera replied: [This is a case] where the walls of the small one project into the large one.[26] But why[27] should not the principle of labud[28] be applied so that the use of the smaller courtyard also might be[29] permitted?[30] And should you reply that [the walls][31] were too far apart,[32] surely, [it may be retorted] did not R. Adda b. Abimi recite in the presence of R. Hanina:[33] [The ruling applies to a case where] the small courtyard was ten and the large one eleven cubits?[34] — Rabina replied: [This is a case] where [the projections] were removed by two handbreadths from one wall and by four from the other.[35] Then let labud be applied to one side and [thereby[36] the smaller courtyard would] be permitted?

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(1) R. Johanan's statement that the question of the use of the alley under discussion is dependent on the dispute between R. Simeon b. Gamaliel and the Rabbis.

(2) Since a wall of four cubits in length (v. supra 5a) is sufficient to constitute an alley.

(3) The permissibility of the interior of the alley between the inner edge of the innermost post and the back wall is a matter on which Rashi and others differ.

(4) Where a distance or gap is more than three handbreadths.

(5) The outermost post forming, as in their opinion it does, a separate unit, serves as side-post for the entire alley including the four cubits length of space bordered by the other side-posts.

(6) Granted that the space bordered by the side-post constitutes an alley on its own.

(7) Sc. the space bordered by the side-posts (v. previous note).

(8) Without an extra side-post for itself.

(9) Since a side-post (and in the case under discussion, the first side-post) is usually drawn slightly forward to distinguish it from the wall to which it is attached.

(10) And cannot be distinguished from the alley wall.

(11) This ruling is enunciated presently.

(12) The one advanced by R. Ashi.

(13) Of course it is.

(14) From Palestine to Babylon.

(15) I.e., the outer edge of the post is even with the outer edge of the wall of the alley so that to those viewing it from without, the post appears to form a part of the thickness of the wall, while by those within, the thickness of the inner edge that protrudes from the wall can well be seen.

(16) Where the inner edge of the post touches the outer edge of the wall, and the inner width of the post is even with the interior side of the wall, but receding from its outer side.

(17) Tosef. ‘Er. I, 10, infra 15a.

(18) That side-post being provided by the thicker projection of the wall that is formed by the receding of the remainder of the wall between it and the back of the alley or by the thinner projection formed by the receding of the wall at that point.

(19) The Baraitha just cited in the name of R. Hiyya. How then could he maintain supra that such a post cannot be regarded as a valid side-post?

(20) How then could the Baraitha cited be adduced as proof that the ruling it lays down is also the one upheld by R. Hiyya?

(21) None whatever. Since, however, he did teach it, one may well conclude that he holds the same opinion.

(22) Cf. supra for notes.

(23) Supra 8a q.v. notes, infra 92a.

(24) The ruling of Rabbah b. R. Huna.

(25) Sc. from the larger courtyard.

(26) So that the remaining sections of the common wall on either side of the breach cannot possibly be regarded as side-posts of the entrance.

(27) If the ruling of Rabbah b. R. Huna is to be upheld.

(28) V. Glos.

(29) Lit., ‘and let him say labud and it shall be’.

(30) On the ground of labud the projections of the walls of the smaller yard would be deemed joined to the walls of the larger one and thus form side-posts.

(31) Of the larger courtyard.

(32) From the projections. The principle of labud call only be applied to distances of less than three handbreadths.

(33) Var. lec. Hiyya Papi (MS.M); Hanina b. Papi (Bah). Marginal note inserts, ‘and others say before R. Hanina b. Papa’.

(34) Sc. the common wall of the two courtyards was ten cubits in length and extended on either side, in the larger courtyard only, to a length of eleven cubits, so that the joint length of the remaining sections of this wall (cf. supra note 4) cannot be more than one cubit, or six handbreadths. This allows no more than about three handbreadths for each side, from which, again, allowance must be made for the thickness of the projections, leaving a space of less than three handbreadths, to which the principle of labud may well be applied.

(35) A total of one cubit only, but, as the gap on one side is more than the allowed maximum, labud on that side cannot be applied.

(36) By the formation of some sort of doorway.

Talmud - Mas. Eiruvin 10a

— [This ruling[1] is in agreement with the view of] Rabbi[2] who laid down that two posts are required. For it was taught: A courtyard[3] may be converted into a permitted domain by means of one post,[4] but Rabbi ruled: [Only] by two posts.[5] [But] what [an interpretation is] this! If you concede [that a side-post that can be] seen from without but appears even from within cannot be regarded as a valid side-post,[6] and that Rabbi holds the same view as R. Jose,[7] and [that the replies] of R. Zera and Rabina[8] are not to be accepted, it will be quite intelligible why [the measurement of the] small courtyard [was given] as ten cubits and that of the large one as eleven, the reason being that he[9] is of the same opinion as R. Jose.[10] If, however, you contend [that a side-post that can be] seen from without though it appears even from within may be regarded as a valid side-post, and [that the replies] of R. Zera and Rabina are to be accepted,[11] and that Rabbi[12] is not of the same opinion as R. Jose,[13] what [it may be asked] was the object [of giving the measurement of the] large courtyard as eleven cubits? For whatever the explanation advanced[14] [a difficulty arises]. If [it be suggested] that the object[15] was[16] to [explain why] the large courtyard was[17] permitted, [it could well be objected that a length of] ten cubits and two handbreadths would have been enough,[18] and if the object was[16] to [provide a reason[19] for] the prohibition of the small courtyard,[20] why [it may equally be objected] did he not inform us [of a case] where [the walls] were much wider apart?[21] Hence[22] it must be concluded [that a post that can be] seen from without but appears even from within[23] cannot be regarded as a valid side-post. This is conclusive.

R. Joseph remarked: I did not hear that reported ruling[24] [from my teachers].[25] Said Abaye to him:[26] You yourself told us that ruling, and it was in connection with the following that you told it to us. For Rami b. Abba said in the name of R. Huna that 'a post which formed an extension of the wall of an alley,[27] [provided it was] less than four cubits [in length], may be regarded as a valid side-post and one may use [the alley] as far as its inner edge,[28] [but if it was] four cubits long it must be regarded as an alley and it is forbidden to make use[29] of any part of the alley';[30] and you told us in connection with this, that three rulings may be inferred from this statement: 'It may be inferred that the space between side-posts is a forbidden domain,[31] and it may be inferred [that the minimum] length of an alley is four cubits,[32] and it may also be inferred [that a post that can be] seen from without though it appears even from within may be regarded as a valid side-post'.[33] And the law is [that a post that is] visible from without though it appears even from within may be regarded as a valid side-post. A refutation and a law?[34] — Yes, because R. Hiyya taught in agreement with him.[35]

AND [ANY ENTRANCE] THAT IS WIDER THAN TEN CUBITS SHOULD BE REDUCED. Said Abaye, a Tanna taught: And [any entrance] that is wider than ten cubits should be reduced, but R. Judah ruled that it was not necessary to reduce it.[36] But up to what extent[37] [is reduction unnecessary]?[38] R. Ahi[39] [discoursing] before R. Joseph intended to reply: To the extent of thirteen cubits and a third, [this being deduced] a minori ad majus from [the law relating to] enclosures[40] round wells:[41] If [in the case of] enclosures round wells, where [the use of the wells][42] is permitted even though the broken [portions of the enclosure] exceed the standing ones, no [break] wider than thirteen cubits and a third is permitted, how much more reason is there that no [opening] wider than thirteen cubits and a third should be permitted [in the case of] an alley [the use of] which is not permitted where its broken portions exceed the standing ones. But [in fact] this [very law][43] provides [ground for all argument to the contrary]: [in the case of] enclosure of wells, where [the use of the wells] was permitted even if the broken [portions of an enclosure] exceeded the standing ones, no [gap] wider than thirteen cubits and a third could well be permitted,[44] [but in the case of] an alley, [the use of which] is not permitted where the broken portions [of its walls] exceeded their standing ones[45] [an opening] wider than thirteen cubits and a third may well be permitted. Or else, [the argument might run] in another direction: [As regards] enclosures of wells, since the law was relaxed in one respect,[46] it could also be relaxed in another,[47] [but as regards] an alley no [opening wider than ten cubits may have been allowed] at all.[48]

Levi learned: If [an entrance to] all alley was twenty cubits wide a reed may be inserted in the center of it and this is sufficient.[49] He himself has learnt it and he himself said that the halachah is not in agreement with that teaching.[50]

Some there are who read: Samuel laid down in the name of Levi that the halachah was not in agreement with that teaching.[50] How, then, does one proceed?[51] — Samuel replied in the name of Levi:

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(1) Of the Mishnah cited by Rabbah.

(2) R. Judah I, the Patriarch, compiler of the Mishnah.

(3) That had a breach not exceeding ten cubits in width in a wall that adjoined a public domain. A wider breach cannot be converted into a doorway by the means that follow.

(4) Sc. one strip of wall remaining on one side of the breach is sufficient to constitute a side-post and to convert the breach into a doorway.

(5) One on either side of the breach. Infra 12a.

(6) I.e., that this (as assumed supra by Rabbah) is the reason why the smaller courtyard in the Mishnah cited (supra 9b, ad fin.) is forbidden.

(7) That the minimum width of a side-post must be three handbreadths (infra 14b) and much more so, that of a strip of courtyard wall.

(8) Supra 9b ad fin.

(9) Rabbi.

(10) Cf. supra n. 9. The one cubit (sc. six handbreadths) by which the length of the wall of the larger courtyard exceeds that of the smaller one allows of two side-posts, each of the width of three handbreadths, one on either side of the breach, and thereby the permissibility of the use of the larger courtyard is effected. The object of the measurements given would thus be to indicate the grounds on which the permissibility of the use of the larger courtyard is based.

(11) So that the reason for the prohibition of the use of the smaller courtyard is not the one given supra (cf. note 8) but that advanced by R. Zera or Rabina.

(12) Who, in accordance with the explanation of R. Zera, permits the use of the larger courtyard even though one of the side-posts was only two handbreadths in width.

(13) Cf. supra p. 56, n. 9.

(14) Lit., ‘from what your desire or opinion’.

(15) Of mentioning the number eleven which allows for two valid side-posts, one on either side of the breach.

(16) Lit., ‘he came’.

(17) By means of these posts (cf. supra n. 3).

(18) To provide side-posts; since Rabbi does not adopt R. Jose's minimum of three handbreadths.

(19) By allowing a distance of four handbreadths on one side (v. Rabina's reply, supra 9b ad fin.).

(20) Thus indicating that, were it not for the impossibility of applying the principle of labud, the small courtyard would have been permitted on account of the side-posts (obtained by labud) which, though invisible from within, are visible from without.

(21) From which it would have been much more obvious than from the less definite case mentioned that the only reason for the prohibition was the inapplicability, owing to the wide gap, of the principle of labud. From this the conclusion, that were it not for this inapplicability, the smaller courtyard also would have been permitted (cf. previous note), would inevitably have followed.

(22) Lit., ‘but, not?’ Since a width of three handbreadths had to be allowed for each side-post on either side of the breach to enable the larger courtyard to be permitted and since the smaller one in such circumstances remains forbidden.

(23) Analogous to the case under discussion (cf. previous note).

(24) Of Rabbah b. R. Huna (supra 9b).

(25) R. Huna the father of Rabbah (Rashi).

(26) R. Joseph who, as a result of a severe illness, lost his memory. Abaye often recalled to his mind his own sayings and rulings.

(27) Its edge touching the edge of the alley wall and one of its sides being even with the interior side of the wall, while its external side recedes from the external side of the alley wall.

(28) The point (v. previous note) where the internal side of the alley wall meets the post.

(29) Sc. to move objects on the Sabbath.

(30) Lit., ‘in all of it’, since the alley is now without a valid side-post.

(31) Since the use of the alley was allowed only as far as the inner edge of the side-post.

(32) It having been laid down that if the post was four cubits long, the post itself must be regarded as an alley wall.

(33) The post spoken of by R. Huna being of such a character.

(34) Sc. is it likely that a ruling which has been conclusively proved by Rabbah to be refuted by a Mishnah (v. supra pp. 54-57) would be accepted as law?

(35) R. Huna (Tosef. ‘Er. I, supra 9b, infra 15a) in the case of an alley wall that had a recess on one side.

(36) Supra 2b.

(37) Lit., ‘and until how much’.

(38) According to R. Judah.

(39) Bomb. ed. ‘Athi’.

(40) Lit., ‘strips’, ‘boards’.

(41) V. infra 17b.

(42) on the Sabbath.

(43) Of wells’ enclosures.

(44) Had this been permitted hardly any enclosure would have remained.
(45) So that the greater part of the alley is adequately enclosed.
(46) The broken portions may exceed the standing ones.
(47) A gap up to thirteen cubits and a third was also allowed.
(48) No deduction from the law of enclosures of wells may consequently be made.
(49) To convert it into a valid entrance.
(50) Because the empty space on both sides of the reed annuls the existence of the reed.
(51) In reducing the width of an entrance.

Talmud - Mas. Eiruvin 10b

A strip of boarding of the height of ten handbreadths by four cubits may be constructed, and this is placed [in the middle of the entrance] parallel to the length of the alley.[1] Or else [one may proceed] in accordance with the advice of Rab Judah, who laid down that where [an entrance to] an alley was fifteen cubits wide a strip of boarding of three cubits [in length] may be constructed at a distance of[2] two cubits [from one of the walls of the alley].[3] But why?[4] [Could not one] put up a strip [of the width] of one cubit and a half [adjoining the wall] and at a distance of[5] two cubits [from it, another] strip [of the width] of one cubit and a half?[6] May then one infer from this[7] that standing [portions of a wall] on the two sides [of a breach in it, though jointly] exceeding [the width of] the breach,[8] are not [to be regarded as valid] standing?[9] — In fact it may be maintained [that standing portions separated by a breach] are elsewhere [regarded as] a valid wall[10] but here [the law] is different, since the space on the one side [of the intermediate strip] and the space on its other side unite[11] to destroy its legal existence. Then [why should not one] put up [adjoining one of the walls] a strip one cubit wide, and, at a distance of[12] one cubit [from that strip, another] strip one cubit wide, and at a distance of one cubit [from the second strip, a third] strip one cubit wide? May then one infer from this[13] [that where] the standing [portions of a wall are] equal [in size] to its breaches[14] [the space it enclosed is] forbidden?[15] — In fact it may be maintained that elsewhere this is permitted, but here [the law] is different, since the space on the one side [of the third strip][16] and the space on its other side[17] unite to destroy[18] its legal existence. [Why then could not] a strip of one cubit and a half in width be put up at a distance of one cubit [from one of the walls] and another strip of the width of one cubit and a half at a distance of one cubit [from the first strip]?[19] — This could indeed be done,[20] but the Rabbis did not put a man to so much trouble. But should not the possibility be taken into consideration that one might neglect the bigger opening[21] and enter by the smaller one?[22] R. Adda b. Mattenah[23] replied: There is a legal presumption that no man would forsake a big opening and enter by a small one. But wherein does this case differ from that of R. Ammi and R. Assi?[24] — There one might use [the smaller opening][25] as a short cut[26] but here[27] it cannot be used as a short cut. Elsewhere[28] it was taught:[29] The leather seat of a stool and its hole combine to [constitute the minimum of] a handbreadth.[30] What [is meant by] ‘the leather seat of a stool’? — Rabbah b. Bar Hana in the name of R. Johanan explained: The leather covering a privy stool. And how much [must the respective areas of the leather and the hole be]? — When R. Dimi came[31] he stated: [An area of] two fingers [of leather] on the one side [of the hole] and [an area of] two fingers on the other side, and a hole[32] [of the size of] two fingers in the center. When Rabin came[31] he stated: [The area of] one finger and a half on one side and of one finger and a half on the other, and a hole [of the size of one] finger in the center.

Said Abaye to R. Dimi: Are you[33] in dispute? — No, the other replied, one of us referred to[34] the thumb[35] and the other[34] to the small finger, and there is no real difference of opinion between us.[36] Indeed, retorted the former, you do differ, and your difference emerges in [the case where] the standing [portions of a wall jointly] exceed its breach on both sides [of which they stand]. According to your view the standing [portions situated] on the two sides [of the breach] do combine; but according to Rabin's view they must be on one side only[37] [but if they are] on the two sides [of the breach] they cannot combine.[38] For, if it be imagined that you have no difference of opinion [on this point], the statement of Rabin should have run thus: '[The area of] a finger and a third on one side [of the hole] and that of a finger and a third on its other side, and a hole of one finger and a third in the center'.[39] What then [do you suggest, said R. Dimi,] that we differ? [Should not in that case] my statement have run thus: '[The area of] a finger and two thirds on one side [of the hole] and that of a finger and two thirds on the other side, and a hole of the size of two fingers and two thirds in the center'?[40] If, however, it must be said[41] that we differ, our difference would apply to the case where the breach is equal to [either of] the standing [portions].[42]

BUT IF IT HAS THE SHAPE OF A DOORWAY THERE IS NO NEED TO REDUCE IT EVEN THOUGH IT IS WIDER THAN TEN CUBITS. Thus we find that the shape of a doorway is effective[43] in respect of the width [of an entrance][44] and a cornice in respect of its height.[45]

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(1) Since a length of four cubits constitutes an alley wall, the one wide entrance may be regarded as consisting of two narrower entrances, one serving a smaller alley and one serving a larger one.

(2) Lit., 'he removes'.

(3) Thus leaving an entrance of ten cubits in width between the boarding and the opposite wall of the alley. The space of two cubits between the boarding and the first mentioned wall is deemed to be closed and forming together with the boarding a virtual wall five cubits in length, the validity of such a wall being recognized on the ground that the standing portion of this wall (three cubits) is larger than its gap (two cubits). Likewise where the entrance is twenty cubits wide, a similar boarding is also set up near the other wall.

(4) Should it be necessary to have one strip of boarding of the full length of three cubits.

(5) Lit., 'and he shall remove'.

(6) Again leaving a gap no wider than two cubits on one side and reducing the width of the entrance to ten cubits.

(7) Since only one strip of the full length of three cubits was allowed.

(8) As in this case where the two boards would measure three cubits, whilst the gap between them only two.

(9) But this, surely, is hardly likely.

(10) Lit., 'standing', if they exceed the width of the breach.

(11) Lit., 'because it comes . . . and destroys'.

(12) Lit., 'and he shall remove'.

(13) Since such all arrangement is not permitted.

(14) As is the case here where each cubit width of space is flanked by a cubit width of boarding.

(15) For the movement of objects on the Sabbath. As this point is a question in dispute between R. Papa and R. Huna son of R. Joshua (infra 15b), may it be concluded that Rab Judah is of the same opinion as R. Huna?

(16) The one placed next to the entrance which is itself a gap of ten cubits.

(17) The one cubit gap.

(18) Lit., 'because it comes . . . and destroys'.

(19) In this case the gap of one cubit in width on the one side of the second strip, being smaller than the strip, cannot unite with the entrance on the other side to destroy the existence of that strip. This would be preferable to the first procedure which involves a gap of two cubits.

(20) Lit., 'yes, thus also'.

(21) Depriving it thereby of the status of an entrance.

(22) As this smaller opening is not provided with a side-post, and as the post fixed at the bigger opening which is now no longer used as an entrance (v. previous note) loses its status as a side-post, the alley would remain unprovided for by any valid side-post, and movement of objects in it on the Sabbath would be forbidden.

(23) Var. lec., Rab Judah (Asheri).

(24) Supra 5a where provision was made against the possibility of one using the smaller opening in preference to the bigger one.

(25) Since it opens out from a side wall.

(26) Lit., 'reduce walking'.

(27) As both openings are adjacent to one another and lead practically to the same spot.

(28) Tosef. Kelim. B.B. I, 4.

(29) Cur. edd. תנן is incorrect since the following does not occur in any Mishnah.

(30) As regards the laws of levitical defilement by overshadowing or ohel (v. Glos). Only where the ohel was not smaller than a handbreadth (six fingers) are utensils lying under it defiled by the prescribed minimum of a portion of a corpse lying under the same ohel (cf. Oh. III, 7; Suk. 18a).
(31) From Palestine to Babylon.
(32) Lit., 'space'.
(33) Sc. R. Dimi and Rabin.
(34) Lit., 'that'.
(35) Which equals in width that of a small finger and a half.
(36) Since four of the former, like six of the latter, constitute one handbreadth.
(37) Lit., 'from one side is a standing'.
(38) Lit., 'is not a standing', if the portion on each side is not bigger than the breach.
(39) In which case, as in that of R. Dimi, the leather would exceed the hole only if the two sides were combined. As Rabin, however, required the leather on each side singly to exceed the hole he must obviously differ from R. Dimi.
(40) From this it would have followed that, though the standing portions on either side are smaller than the breach, the two sides are combined. This law, however, cannot be derived from the actual wording used since all it implies is that only where each of the standing portions on either side is equal to the breach, the two sides may be combined, but not when either of them is smaller than the breach.
(41) Lit., 'there is to say'.
(42) Cf. supra n. 1.
(43) in converting the alley into a permitted domain.
(44) Sc. even though it is wider than ten cubits.
(45) Even if it is higher than twenty cubits, v. supra 3a.

Talmud - Mas. Eiruvin 11a

What, [however, is the law where these are] reversed?[1] — Come and hear what was taught: ['A cross-beam spanning the] entrance [to a blind alley] at a height of more than twenty cubits should be lowered but if [the entrance] had the shape of a doorway there is no need to lower it'.[2] What [about the effectiveness of] a cornice in respect of its width? — Come and hear what was taught: '[A cross-beam spanning the] entrance [to a build alley] at a height of more than twenty cubits should be lowered, and [an entrance] that is wider than ten cubits should be reduced [in width], but if it had the shape of a doorway, there is no need to reduce [the height of the beam] and if it 'has a cornice there is no need to reduce'. Does not this[3] refer to the last clause?[4] No; [it may refer] to the first clause.[5] Rab Judah taught Hiyya b. Rab in the presence of Rab: It is not necessary to reduce [its width].[6] Teach him, [Rab] said to him,[7] 'It is necessary to reduce it'. Said R. Joseph: From the words of our Master[8] we may infer that a courtyard the greatest part [of the walls] of which consists of doors and windows cannot be converted into a permitted domain[9] by [the construction] of the shape of a doorway. What is the reason? Since [an entrance] wider than ten cubits causes the prohibition of an alley and a breach [in a wall] that is larger than its standing [portions] causes the prohibition of a courtyard [the two may be compared]: As [an opening that is] wider than ten cubits, which causes the prohibition of an alley cannot be ritually rectified by means of the shape of a doorway, so also a [wall] the breach in which is larger than its standing [portions], which causes the prohibition of a courtyard, cannot be ritually rectified by means of the shape of a doorway. — [This, however, is no proper analogy, for the shape of a doorway] may well [be ineffective in the case of an opening] wider than ten cubits, which causes the prohibition of an alley, since it[10] cannot effect permissibility in the case of enclosures of wells, in accordance with the views of R. Meir;[11] but how could you apply [this restriction] to the case where a breach [in a wall] is larger than its standing portions, though it causes the prohibition of a courtyard, when this[12] was permitted in respect of enclosures of wells in accordance with the opinion of all?[13]

May it be suggested [that the following] provides support to his view?[14] [It was taught: The space enclosed by] such walls as consist mostly of doors and windows is permitted,[15] provided the standing portions exceed the gaps?[16] — [You say:] ‘As consist mostly’! Is this conceivable?[17] — Rather read: ‘[The space] in which there were many[18] doors and windows [is permitted] provided the standing portions exceed the gaps?[19] — Said R. Kahana: That[20] may have been taught in respect of Semitic[21] doors.[22] What is meant by ‘Semitic doors’? — R. Rehumi[23] and R. Joseph differ on this point. One explains: [Doors] that have no [proper] side-posts, and the other explains: Such as have no lintel.[24]

R. Johanan also holds the same view as Rab.[25] For Rabin son of R. Adda stated in the name of R. Isaac: It once happened that a man of the valley of Beth Hiwartan[26] drove four poles[27] in the four corners of his field and stretched across [each two of] them a rod,[28] and when the case was submitted to the Sages they allowed him [its use] in respect of kil'ayim.[29] And [in connection with this statement] Resh Lakish remarked: As they allowed him [its use] In respect of kil'ayim so have they allowed it to him in respect of the Sabbath,[30] but R. Johanan said: Only in respect of kil'ayim did they allow him [its use]; they did not allow it in respect of the Sabbath. Now [what is the form, of the construction] with which we are here dealing? If it be suggested [that it is one where the rods were attached] sideways,[31] surely [it could be objected] did not R. Hisda rule that the shape of a doorway that was made [with the cross-reed attached] sideways is of no validity?[32] Consequently [it must be a case where the reeds were placed] on top of the poles. Now, how[33] [far were the poles from one another]? If [it be suggested] less than ten cubits, [the difficulty arises] would R. Johanan in such a case have said that in respect of the Sabbath there is no validity [in such a door]?[34] Must it not [consequently be conceded that the distance was] greater than ten cubits?[35] — No; [the distance] in fact [might have been] within that of ten cubits, and [the reeds might have been attached] sideways, but the principle on which they[36] differ is that laid down by R. Hisda.[37]

An incongruity, however, was pointed out between two rulings of R. Johanan[38] as well as between two rulings of Resh Lakish.[39] For Resh Lakish stated in the name of R. Judah son of R. Hanina:

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(1) i.e., would the shape of a doorway be effective where the height of the entrance is above twenty cubits or a cornice where the width is more than ten cubits?

(2) The beam.

(3) ‘But if it has a cornice . . . it’.

(4) ‘An entrance that is wider than ten cubits’. The answer presumably being in the affirmative, the question raised is clearly solved.

(5) Which deals with the height of an entrance.

(6) If the entrance was provided with the shape of a doorway.

(7) Rab Judah.

(8) Rab, who ruled that the shape of a doorway is of no avail where the entrance is wider than ten cubits.

(9) Even if the openings are less than ten cubits in width.

(10) The shape of a doorway.

(11) Cf. infra 17b. It is, therefore, quite logical that as it cannot effect permissibility in the case of the enclosures, so it cannot effect it in an alley the opening of which is wider than ten cubits.

(12) Breaches each of which is not wider than ten cubits though their total width is larger than that of the standing portions of the enclosure.

(13) Even according to R. Meir who does not allow a breach that was wider than ten cubits, and much more so according to R. Judah who allows a breach of thirteen cubits and a third.

(14) That the shape of a doorway does not effect permissibility where the standing portions are smaller than the breaches.

(15) For Sabbath use, in respect of the movement of objects.

(16) Infra 16b.

(17) Of course not. If the greater part of the walls is made up of doors and windows their ‘standing portions’ could not ‘exceed the gaps’.

(18) Lit., in which he increased’. שריבה בהן is similar in sound to the previously assumed reading, שרובן.

(19) Which proves that even where an opening has the shape of a doorway (as is the case with the ‘doors and windows’ spoken of) the space enclosed cannot be regarded as a permitted domain unless the total width of the standing portions exceeds that of the breaches, in agreement with the view of Rab.

(20) The ruling just cited.

(21) Sc. Palestinian. שימאי is derived from שם the second son of Noah whose descendants lived in Palestine (R. Han. in Tosaf. s.v. פתחי a.l.). Aliter. Desolate or incomplete (Rashi).

(22) A ruling which need not necessarily apply to ordinary, or proper doors.

(23) MS.M., Nehumi.

(24) Lit., ‘ceiling’.

(25) That the shape of a doorway is of no avail where the entrance to an alley is wider than ten cubits.

(26) V. Ta'an., Sonc. ed., p. 7, n. 2.

(27) קונדיסין pl. of קונדם or קונטום Cf. Gr. **.

(28) To give them the shape of a doorway.

(29) V. Glos. They regarded the doorway shaped structures as valid partitions which enable the owner to grow vines on one side though corn was grown in close proximity on the other. In the absence of a partition it is necessary, in accordance with the laws of kil'ayim, to leave a distance of four cubits between a vineyard and a cornfield.

(30) Sc. to move objects within the space enclosed, the poles and rods being treated as valid doorways.

(31) I.e., they were not placed on the tops of the poles but were joined lower down to their sides.

(32) Lit., ‘he has done nothing’. Such a construction then could not be regarded as valid in respect of kil'ayim?

(33) Lit., ‘and in what?’

(34) Obviously not, since it is universally agreed that a maximum width of ten cubits is permitted.

(35) Apparently it must; which proves that R. Johanan, who stated: ‘They did not allow it in respect of the Sabbath’ holds the same view as Rab.

(36) R. Johanan and Resh Lakish.

(37) Resh Lakish does not adopt the principle; hence his opinion that, though the reeds were attached sideways, the shape of the doorway is a valid one in respect of the Sabbath as in that of kil'ayim. R. Johanan, however, upholds the principle in the case of the Sabbath since its sanctity is great, but not in that of kil'ayim which is of comparatively lesser importance and subject to lesser restrictions. Hence his view that the doorway under discussion is valid in respect of the latter but invalid in that of the former.

(38) Lit., ‘of R, Johanan on R. Johanan’.

(39) Cf. previous note.

Talmud - Mas. Eiruvin 11b

A plait [of rods trained on poles] is a valid partition[1] in respect of kil'ayim but not in respect of the Sabbath; and R. Johanan stated: As it has no [validity as regards] partitions in connection with the Sabbath, so it has no [validity in respect of] partitions in connection with kil'ayim. One might well concede that there is really no incongruity between the two rulings of Resh Lakish, since the former might be his own while the latter might be that of his Master;[2] but do not the two rulings of R. Johanan represent a contradiction? [Still] if you were to concede that there[3] [the rods were placed] on the tops of the poles while here [the plait was trained] on the sides [all would be] well.[4] If, however, you maintain that in both cases [the rods were attached] sideways, what can be said [in explanation]?[5] — The fact is that it may be maintained that both cases refer [to rods attached] sideways, but there[3] [the distance between the poles was] within that of ten cubits while here it exceeded that of ten cubits. But whence is it derived that we draw a distinction[6] between [distances of] ten, and more than ten cubits? — [From the following] which R. Johanan said to Resh Lakish. ‘Did it not so happen [the former said to the latter] that R. Joshua went to R. Johanan b. Nuri to study the Torah; and, though he was well versed in the laws of kil'ayim, on finding that [the Master] was sitting among the trees, he stretched a rod from one tree to another and said to him: Master, if vines were growing on one side of the rod[7] would it be permitted[8] to sow corn on the other?[9] [And the Master] told him: [If the distance between the trees[10] is] within that of ten cubits it is permitted but if it exceeds ten cubits it is forbidden?’ Now, what was the case under discussion? If it be suggested: [one where the rod was placed] on the tops of the trees, [why was it ruled, it could be objected, that] ‘if it exceeds ten cubits it is forbidden’ seeing that it was taught: If forked reeds were there and a plait was made above them it is permitted[11] even [if the distance between the reeds] exceeded that of ten cubits?[12] Must it not consequently [be one where the rod was attached] sideways?[13] And yet he[14] told him, ‘[If the distance between the trees is] within that of ten cubits it is permitted but if it exceeds ten cubits it is forbidden’ — This proves it.

[Reverting to] the [previous] text, R. Hisda ruled that the shape of a doorway that was made [with the cross-reed attached] sideways is of no validity. R. Hisda further ruled: The shape of the doorway of which they[15] spoke must be sufficiently strong to support[16] a door [made of the lightest material] even if only a door of straw.

Resh Lakish ruled in the name of R. Jannai: The shape of a doorway must have a mark for a hinge. What [is meant by] ‘a mark for a hinge’? R. Awia replied: A loop.[17] R. Aha the son of R. Awia, met the students of R. Ashi. He asked them, ‘Did the master say anything in respect of the shape of a doorway?’ ‘He,’ they replied to him, ‘said nothing at all [about it]’.

It was taught: The shape of a doorway of which they[15] spoke must have a reed on either side and one reed above. Must [the side-reeds] touch [the upper one] or not?[18] — R. Nahman replied: They need not touch it, and R. Shesheth replied: They must touch it. R. Nahman proceeded to give a practical decision[19] in the house of the Exilarch in agreement with his traditional ruling.[20] Said R. Shesheth to his attendant, R. Gadda,[21] ‘Go pull them out and throw them away’. He accordingly went there, pulled them out and threw them away. He was found, however, by the people of the Exilarch's household and they incarcerated him. R. Shesheth thereupon followed him and, standing at the door [of his place of confinement], called out to him, ‘Gadda, come out’, and he safely came out.

R. Shesheth met Rabbah b. Samuel and asked him, ‘Has the Master learnt anything about the shape of a doorway?’ — ‘Yes’, the other replied, ‘we have learnt: An arched [doorway], said R. Meir, is subject to the obligation of a mezuzah[22] but the Sages exempt it.[23] They agree, however,[24] that if its lower section[25] was ten handbreadths in height [the doorway] is subject to the obligation.[26] And Abaye[27] stated: All[28] agree that, if [an arched doorway] was ten handbreadths high but its lower section[29] was less than[30] three [handbreadths in height], or even if the lower section was three [handbreadths high] but its total height was less than ten handbreadths, the doorway is not valid at all.[31] They only differ where [the height of] its lower section was three handbreadths, its total height[32] was ten cubits and the width [of its arch] was less than four handbreadths, but [its sides are wide enough for the arch] to be cut to a width[33] of four handbreadths. R. Meir is of the opinion [that the sides are regarded as] cut for the purpose of completing [the prescribed width], while the Rabbis maintain [that they are not regarded as] cut for the purpose of completing [the prescribed width].[34] ‘If you meet the people of the Exilarch's house’, he[35] said to him, ‘tell them nothing whatever of the Baraitha about the arched doorway’.

MISHNAH. THE RENDERING OF AN ALLEY FIT [FOR THE MOVEMENT OF OBJECTS WITHIN IT ON THE SABBATH], BETH SHAMMAI RULED, REQUIRES A SIDE-POST AND A BEAM,[36] AND BETH HILLEL RULED: EITHER A SIDE-POST OR A BEAM. R. ELIEZER RULED: TWO SIDE-POSTS. A DISCIPLE IN THE NAME OF R. ISHMAEL, STATED IN THE PRESENCE OF R. AKIBA: BETH SHAMMAI AND BETH HILLEL DID NOT DIFFER ON [THE RULING THAT] AN ALLEY THAT WAS LESS THAN FOUR CUBITS [IN WIDTH][37] MAY BE CONVERTED INTO A PERMITTED DOMAIN EITHER BY MEANS OF A SIDE-POST OR BY THAT OF A BEAM. THEY ONLY[38] DIFFER IN THE CASE OF ONE THAT WAS WIDER THAN FOUR, AND NARROWER THAN[39] TEN CUBITS, IN RESPECT OF WHICH BETH SHAMMAI RULED: BOTH A SIDE-POST AND A BEAM [ARE REQUIRED] WHILE BETH

HILLEL RULED: EITHER A SIDE-POST OR A BEAM. R. AKIBA MAINTAINED THAT THEY[40] DIFFERED IN BOTH CASES.[41] GEMARA. In accordance with whose [view was our Mishnah[42] taught]? Is it in agreement neither with the view of Hanania nor with that of the first Tanna?[43] — Rab Judah replied: It is this that was meant: How is a blind[44] ALLEY RENDERED FIT [FOR THE MOVEMENT OF OBJECTS WITHIN IT ON THE SABBATH]? BETH SHAMMAI RULED: [By the construction of] A SIDE-POST AND A BEAM AND BETH HILLEL RULED: EITHER A SIDE-POST OR A BEAM.

BETH SHAMMAI RULED: A SIDE-POST AND A BEAM. Does this[45] then imply that Beth Shammai hold the opinion that Pentateuchally[46] four partitions [and no less, constitute a private domain]? — No; as regards throwing[47] [into it from a public domain] one incurs guilt even if [the former had] only three walls,[48] [but in respect] of moving [objects within it] only[49] where there are four walls [is this permitted].[50]

BETH HILLEL RULED: EITHER A SIDE-POST OR A BEAM. Does this[51] imply that Beth Hillel hold the view that Pentateuchally three partitions [are required to constitute a private domain]? No; as regards throwing [from a public domain into it] one incurs guilt even if [the former had] only two walls,[52] [but in respect] of moving [objects within it], only where there are three walls [is this permitted].[50]

R. ELIEZER RULED: TWO SIDE-POSTS. A question was raised: Does R. Eliezer mean two side-posts and a beam or is it likely that he means two side-posts without a beam? — Come and hear: It once happened that R. Eliezer went to his disciple, R. Jose b. Perida,

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(1) Lit., ‘permitted’.

(2) Lit., ‘that his own; that of his Master’, R. Judah son of R. Hanina.

(3) The first case of kil'ayim cited supra 11a.

(4) Since it is the position of the rods or plait that determines the question of the validity of the partition in respect of kil'ayim. (The distance between the poles in both cases must, of course, be assumed to exceed that of ten cubits since in the case of a lesser distance, R. Johanan would have recognized the validity of the construction even in respect of the Sabbath).

(5) Of the contradiction between the two rulings of R. Johanan.

(6) In respect of kil'ayim, where a rod was attached to the sides of the poles.

(7) Lit., ‘here’.

(8) Lit., ‘what is it’.

(9) Lit., ‘here’.

(10) On which the rod was stretched.

(11) To grow vines and corn on either side in close proximity.

(12) Tosef. Kil. IV, infra 16a.

(13) Of course it must.

(14) R. Johanan b. Nuri.

(15) The Rabbis who recognize the validity of such a construction.

(16) Lit., ‘to cause to make (to fix) in it’.

(17) In which to insert the hook of the door (Rashi). Jast. regards אבקתא as a noun pl., ‘loops’, ‘leather rings’.

(18) v. supra p. 48, n. 10.

(19) Lit., ‘did a deed’.

(20) By fixing reeds at distances of more than ten cubits from one another and suspending one reed above each pair he constructed a number of doorways round an area and declared it to be a permitted domain though the cross-reeds did not touch the side-reeds.

(21) MS.M., Gaddal.

(22) v. Glos.

(23) A doorway is not subject to the obligation of a mezuzah unless it has a minimum width of four handbreadths while an arch obviously narrows down at the top to less than that width.

(24) Lit., ‘and equal’.

(25) Lit., ‘in its feet’, sc. the section of the side-posts between the extremities of the arch and the ground.

(26) Yoma 11b; provided it was four handbreadths wide. Since the lower section alone, independent of the arch, was ten handbreadths in height by four in width, it constitutes a valid doorway. V. infra p. 70, n. 2.

(27) So according to a reading quoted by Rashi s.v. אביי a.l. Cur. edd. omit ‘and’. V. infra p. 70, n. 2.

(28) Sc. R. Meir and the Rabbis.

(29) V. supra note 4.

(30) Lit., ‘and there is not’.

(31) Lit., ‘and nothing’, and therefore, no mezuzah is required. In the former case, because (a) side-posts that are lower than three handbreadths, though four handbreadths apart, are regarded as the mere thickness of the ground beneath and (b) the remaining portion consisting of an arch is less than four handbreadths wide, so that no valid doorway exists; and in the latter case because the minimum height of a doorway must be ten cubits.

(32) Sc. its lower section together with the arch.

(33) Lit., ‘to complete it’.

(34) From this it follows that the detachment of a cross-reed from the side reeds (corresponding to the detachment of the ceiling from the side-posts by the altitude of the arch) does not affect the validity of the doorway. According to the reading of cur. edd. (v. supra p. 69, n. 6) this inference is derived from the cited Baraitha independent of Abaye's interpretation (cf. Rashi s.v. חייבת a.l.).

(35) R. Shesheth.

(36) Spanning the entrance to the alley.

(37) At its entrance.

(38) Lit., ‘concerning what’.

(39) Lit., ‘and until’.

(40) Beth Shammai and Beth Hillel.

(41) Lit., ‘concerning this and concerning this’, whether the entrance was less or more than four cubits in width.

(42) Which is now presumed to deal with an alley that opened out on two sides to a public domain.

(43) Supra 6a.

(44) Lit., ‘closed’.

(45) The requirement of a side-post as well as a cross-beam which jointly constitute a proper partition.

(46) Sc. by oral tradition from Moses, and not merely by Rabbinic law.

(47) On the Sabbath.

(48) Lit., , ‘from three’, sc. a space enclosed by three walls only is Pentateuchally regarded as a private domain.

(49) Lit., ‘until’.

(50) Rabbinically.

(51) Since no proper partition is required for the closing of the entrance.

(52) Lit., ‘from two’.

Talmud - Mas. Eiruvin 12a

at Obelin, and found him dwelling in an alley that had only one side-post. He said to him, ‘My son, put up another side-post’. ‘Is it necessary for me’, the other asked: ‘to close it up?’ — ‘Let it be closed up’, the first replied: ‘what does it matter?’ R. Simeon b. Gamaliel stated: Beth Shammai and Beth Hillel did not differ on [the ruling that] an alley that was less than four cubits [in width][1] required no provision at all. They only[2] differed in the case of one that was wider than four, but narrower than[3] ten cubits, in respect of which Beth Shammai ruled: Both a side-post and a beam, [are required) while Beth Hillel ruled: Either a side-post or a beam.[4] At all events it was stated: ‘Is it necessary for me to close it up’ — Now, if you concede that both side-posts and a beam [are required][5] it is quite intelligible why he[6] said: ‘Is it necessary for me to close it up’;[7] but if you contend that side-posts without a beam [are sufficient], what [can be the meaning of] ‘to close it up’? — It is this that he[6] meant: Is it necessary for me to close it up with side-posts?’

The Master said: ‘R. Simeon b. Gamaliel stated: Beth Shammai and Beth Hillel did not differ on [the ruling that] an alley that was less than four cubits [in width] required no provision at all’. Did we not learn, however, ‘A DISCIPLE IN THE NAME OF R. ISHMAEL STATED IN THE PRESENCE OF R. AKIBA: BETH SHAMMAI AND BETH HILLEL DID NOT DIFFER ON [THE RULING THAT] AN ALLEY THAT WAS LESS THAN FOUR CUBITS [IN WIDTH] MAY BE CONVERTED INTO A PRIVATE DOMAIN EITHER BY MEANS OF A SIDE-POST OR BY THAT OF A BEAM’? — R. Ashi replied: It is this that he[8] meant: It[9] required neither a side-post and a beam as Beth Shammai ruled[10] nor two side-posts as R. Eliezer ruled,[10] but either a side-post or a beam in agreement with the ruling of Beth Hillel.[11] And how much, [is the minimum]?[12] — R. Ahli, or it might be said R. Yehiel, replied: No less than[13] four handbreadths.[14]

R. Shesheth, in the name of R. Jeremiah b. Abba, who had it from Rab stated: The Sages agree with R. Eliezer in the case of the side-posts of a courtyard.[15] R. Nahman, however, stated:[16] The halachah is in agreement with the ruling of R. Eliezer[17] in respect of the side-posts of a courtyard.

Said R. Nahman b. Isaac: Who [are they that] ‘agree’[18] [with R. Eliezer]? Rabbi. [But since R. Nahman said,][19] ‘The halachah is’, it follows that some differ; who is it that differs from his view? — The Rabbis.[20] For it was taught: A courtyard may be converted into a permitted domain by means of one post, but Rabbi ruled: Only by two posts.[21]

R. Assi said in the name of R. Johanan: A courtyard requires two side-posts.[22] Said R. Zera to R. Assi: Did R. Johanan give such a ruling? Did not you yourself state in the name of R. Johanan that the side-posts of a courtyard must have [a width of] four handbreadths?[23] And should you suggest [that the meaning is] four [handbreadths] on one side[24] and four on the other, surely [it may be retorted], did not R.[25] Adda b. Abimi recite in the presence of R. Hanina or, as some say, in the presence of R. Hanina b. Papi: [The ruling applies to a case where] the small courtyard was ten, and the large one eleven cubits?[26] — When R. Zera[27] returned from his sea travels,[28] he explained this [contradiction]: [A side-post] on one side [of an opening must have a width] of four handbreadths, [but side-posts] on the two sides [of an opening] need be no wider than a fraction each;[29] and that which R.[30] Adda b. Abimi recited is [the view of] Rabbi who holds the same view as R. Jose.[31]

R. Joseph laid down in the name of Rab Judah who had it from Samuel that a courtyard may be converted into a permitted domain by means of one side-post.[32] Said Abaye to R. Joseph: Did Samuel lay down such a ruling? Did he not in fact say to R. Hananiah b. Shila, ‘Do not you permit the use[33] [of a courtyard][34] unless [there remained] either the greater part of the wall or two strips of it’![35] — The other replied: I[36] know only[37] of the following incident that occurred at Dura di-ra'awatha[38] where a wedge of the sea penetrated into a courtyard[39] and [when the question][40] was submitted to[41] Rab Judah, he required the gap[42] [to be provided with] one strip of board only.[43] ‘You’, [Abaye] said to him, ‘speak of a wedge of the sea; but in the case of water, the Sages have relaxed the law.[44] As [you may infer from the question] which R. Tabla asked of Rab: Does a suspended partition convert a ruin into a permitted domain? And the other replied: A suspended partition can effect permissibility of use in the case of water only, because it is only in respect of water that the Sages have relaxed the law’.[45]

Does not the difficulty[46] at any rate remain? — When R. Papa and R. Huna son of R. Joshua returned from the academy they explained it: [A side-post] on one side [of a gap] must be four [handbreadths wide but where there is one] on either side,[47] any width whatever is enough.[48]

R. Papa said: If I had to point out a difficulty it would be this.[49] For Samuel said to R. Hananiah b. Shila, ‘Do not you permit the use [of a courtyard] unless [there remained] either the greater part of the wall or two strips of it’.[50] Now what was the need for ‘the greater part of the wall’? Is not a strip of four handbreadths [in width] enough? And should you reply that[51] ‘the greater part of the wall’ referred to a wall of seven [handbreadths in width] where four handbreadths constitute the greater part of the wall, [the objection might be raised,] why should it be necessary to have four handbreadths, when three and a fraction are enough, since R. Ahli, or it might be said R. Yehiel, ruled [that no provision was necessary where a gap is] less than[52] four [handbreadths in width]? — If you wish I might reply: One ruling deals[53] with a courtyard and the other[53] with an alley.[54] And if you prefer I might reply: [The ruling] of R. Ahli himself [is a point in dispute between] Tannas.[55]

Our Rabbis taught: From a wedge of the sea that ran into a courtyard[56] no water may be drawn[57] on the Sabbath unless it was provided[58] with a partition that was ten handbreadths high. This applies only where the breach was wider than ten cubits but [if it was only] ten [cubits wide] no provision whatever is necessary.[59] 'No water may be drawn' [you say][60] but the movement of objects[61] is inferentially permitted; [but why?] Has not the courtyard a gap that opens it out in full[62] on to a forbidden domain?

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(1) At the entrance thereof

(2) Lit., 'concerning what'.

(3) Lit., 'and until'.

(4) Tosef. 'Er. I.

(5) According to R. Eliezer.

(6) His disciple R. Jose.

(7) Since side-posts and beam constitute a valid partition.

(8) R. Simeon b. Gamaliel.

(9) An entrance that was less than four cubits in width.

(10) In the first clause of our Mishnah.

(11) V. previous note. By 'no provision at all' (כלום) he only meant to exclude the provisions which were required by Beth Shammai and R. Eliezer in addition to those required by Beth Hillel.

(12) Under four cubits, that requires the provision of a side-post or a beam.

(13) Lit., 'until'.

(14) An alley with a narrower entrance requires no provision whatsoever.

(15) Sc. if the courtyard was exposed to a public domain by a gap in one of its walls, it cannot be regarded as a permitted domain unless little5 strips of the wall remained on either side of the gap forming a sort of side-post and imparting to the gap the character of a doorway.

(16) Contrary to Rab who held that the Sages and R. Eliezer are of the same opinion.

(17) Though the Sages differ from him.

(18) According to Rab. MS.M. actually reads: 'of which Rab spoke'.

(19) MS.M. 'and what (is meant by) halachah of which R. Nahman spoke?'

(20) I.e., the first Tanna who disagrees with Rabbi in the cited Baraitha that follows.

(21) Supra 10a ab init.

(22) Cf. supra n. 3.

(23) The point of this objection is explained anon.

(24) Lit., 'from here'.

(25) MS.M. omits 'R'.

(26) supra 9b q.v. for notes. Since the wall on the side of the larger courtyard exceeds that of the smaller one by (11-10=) one cubit only, which equals to six handbreadths, a side-post of four handbreadths on one side would leave for the other side no more than (6-4=) two handbreadths, which cannot be regarded as a valid side-post. It consequently follows that, according to R. Johanan, one side-post of the width of four handbreadths is enough. How then could it be said by R. Assi that R. Johanan required two side-posts?

(27) Var. lec.: R. Abba (Aruk).

(28) מימי Lit., 'went up from the seas'. Aliter: 'Jammi', a place in Galilee, v. R.H., Sonc. ed., p. 172, n. 8.

(29) Lit., 'anything towards here, and etc.'

(30) So Bah. Cur. edd. omit.

(31) Who requires the minimum width of a side-post to be three handbreadths; so that the width of a cubit or six handbreadths (cf. supra p. 73, n. 14) is sufficient to allow for the required minimum width on either side of the gap. R. Johanan, however, upholds the view of the Rabbis who require a side-post on one side of an opening to have a minimum width of four handbreadths while in the case of a side-post on either side, any width is sufficient.

(32) Erected at one side of the opening.

(33) Lit., ‘do not do a deed’.

(34) If one of its walls that was abutting on a public domain collapsed.

(35) One on either side of the gap. How then could R. Joseph attribute to Samuel the ruling that one side-post is enough?

(36) So MS.M. Cur. edd. ‘and I’.

(37) Lit., ‘do not know (but)’; or, ‘I do not know from (whom he learned this)’; for the following incident, v. supra 7b.

(38) V. supra p. 39, n. 3.

(39) And caused the collapse of an entire wall.

(40) Of using the sheet of the water within the courtyard on the Sabbath.

(41) Lit., ‘and it came before’.

(42) Lit., ‘and did not require it’.

(43) The single strip converting the water that had the status of a karmelith (v. Glos.) into a private domain.

(44) They permitted its use even where only the slightest provision was made. The admissibility of one strip in the case of the wedge of water is, therefore, no proof that a single strip is also admissible is respect of the use of the courtyard itself.

(45) Shab. 101a, infra 16b.

(46) The apparent contradiction between the two quoted rulings of Samuel.

(47) Lit., ‘from both sides’.

(48) Lit., anything towards here and etc.’ Samuel's ruling cited by R. Joseph refers to a side-post that was four handbreadths wide while Samuel's instruction to R. Hananiah b. Shila referred to narrow strips.

(49) Lit., ‘that is difficult to me

(50) Supra q.v. for notes.

(51) Lit., ‘what?’

(52) Lit., ‘until’.

(53) Lit., ‘here’.

(54) A courtyard, sc. an enclosure whose width equals or exceeds its length, cannot be regarded as a permitted domain, even though the gap is narrower than four handbreadths, unless the greater part of the broken wall remained intact. Hence Samuel's instruction to R. Hananiah b. Shila. An alley, however, sc. one whose length exceeds its width, of which R. Ahli spoke, is treated as a permitted domain wherever the width of the gap is less than four handbreadths.

(55) Infra 13b ab init. As the decision is uncertain, Samuel preferred to restrict the use of a courtyard to cases where there remained ‘either the greater part of the wall or two strips of it’.

(56) Through one of its walls that was partly broken down.

(57) Lit., ‘filled’.

(58) At one side of the gap in the wall.

(59) Since strips of wall, as will be explained infra, remained on either side of the gap.

(60) Apparently because it is forbidden to carry from a karmelith (v. Glos.) into a private domain.

(61) Within the courtyard itself.

(62) Sc. it is wider than ten cubits.

Talmud - Mas. Eiruvin 12b

— Here we are dealing [with a fallen wall] stumps of which remained.[1]

Rab Judah ruled: In the case of an alley [the residents of which] did not join together [in the provision of an ‘erub],[2] the man who throws anything into it[3] incurs guilt if its ritual fitness was effected by means of a side-post,[4] but if its fitness was effected by means of a cross-beam, no guilt is incurred by the man who throws anything into it.[5] R. Shesheth demurred against this: The reason then[6] is that [the residents of the alley] did not join together [in the provision of an ‘erub],[7] but had they joined together [for the purpose], guilt would have been incurred even if its ritual fitness had been effected by a cross-beam only.[8] Is it then this loaf[9] that determines[10] [whether it shall be] a private, or a public domain? Was it not in fact taught: In the case of common courtyards[11] and blind alleys,[12] whether the residents have joined together in the provision of an ‘erub or whether they have not joined, guilt is incurred by anyone who throws anything into them [on the Sabbath from a public domain]?[13] If the statement, however, was at all made, it must have been as follows: Rab Judah ruled: As to an alley that is unfit for a joint ‘erub,[14] guilt is incurred by the man who throws anything into it if its ritual fitness was effected by means of a side-post , but if its fitness was effected by a cross-beam no guilt is incurred by one who throws anything into it. Thus it is obvious that he is of the opinion that a side-post serves the purpose of a partition[15] and a cross-beam that of a mere distinguishing mark. And so did Rabbah say: A side-post serves the purpose of a partition and a cross-beam that of a mere distinguishing mark. Raba, however, ruled: The one as well as the other[16] only serves the purpose of a distinguishing mark.

R. Jacob b. Abba raised an objection against Raba: [Was it not taught:] A man who throws[17] into an alley incurs guilt if it was provided with a side-post but is exempt if it had no side-post?[18] — It is this that was meant: If it required only a side-post[19] then the man who throws anything into it incurs guilt,[20] but if it required a side-post and something else,[21] the man who throws anything into it is exempt.[22]

He raised against him[23] a further objection: [Was it not taught:][24] A more [lenient rule] than this did R. Judah lay down, [viz.] if a man had two houses on the two sides [respectively] of a public domain he may construct one side-post on the one side [of any of the houses] and another on the other side, or one cross-beam on the one side [of any of the houses] and another on its other side, and then he may move things about in the space between them; but they said to him: A public domain cannot be provided with an ‘erub in such a manner.[25] [The explanation][26] there is that R. Judah maintains that Pentateuchally, two partitions[27] [constitute a private domain].[28] Rab Judah said in the name of Rab: An alley whose length is equal to its width cannot be turned into a permitted domain[29] by a mere fraction of a side-post.[30] R. Hiyya b. Ashi said in the name of Rab: An alley whose length equals its width cannot be turned into a permitted domain by a cross-beam, [of the width of one] handbreadth.[31] R. Zera[32] remarked: How exact[33] are the traditions of the elders: Since an alley's length is equal to its width, it has [the status of] a courtyard which cannot be converted into a permitted domain[34] by means of a side-post or a cross-beam but only by means of a strip [of material of the width of] four handbreadths. If, however, R. Zera continued, I have any difficulty, it is this:[35] Why should not that side-post[36] be regarded as a fraction of a strip and thus convert [the alley] into a permitted domain? — He overlooked the following ruling, which R. Assi had laid down in the name of R. Johanan, that the strips of a courtyard must consist of a width of four [handbreadths].

R. Nahman stated: ‘We have a tradition that if [the movement of objects in] an alley is to be permitted [on the Sabbath] by means of a side-post and a cross-beam, its length must exceed its width and houses and courtyards must open out into it;[37] and what kind of courtyard is it that cannot be converted into a permitted domain by means of a side-post and cross-beam but only by means of a strip of the width of four handbreadths? One that is square shaped’. Only[38] ‘one that is square shaped’ but not one that is round?[39] — It is this that he[40] meant: If its length exceeds its width, it is regarded as an alley, in which case a side-post and a cross-beam is sufficient, otherwise[41] it is regarded as a courtyard.[42] And [by] how much [must its length exceed its width]?[43] — Samuel intended to rule: By no less than[44] twice its width;[45] but Rab said to him: Thus ruled my uncle[46] ‘Even by one fraction’.

A DISCIPLE, IN THE NAME OF R. ISHMAEL, STATED ETC.

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(1) Lit., ‘which has stumps’, rising to a height of ten handbreadths but covered by the sea. As the stumps are a valid partition, movement within the courtyard is permitted (v. Rashi). The interpretation not being free from difficulties, other interpretations have been suggested (cf. Tosaf. s.v. הכא, a.l.).

(2) v. Glos.

(3) On the Sabbath, from a public domain.

(4) A side-post in the opinion of Rab Judah has the legal status of a partition and consequently converts the alley into a private domain.

(5) A cross-beam in his opinion is a mere distinguishing mark; and an alley cannot be regarded as a private domain unless, in accordance with the Pentateuchal law, it had four sides, or a valid partition at the entrance in addition to its three walls.

(6) Why no guilt is incurred by the man who throws anything from a public domain into an alley the entrance of which was provided with a cross-beam only.

(7) In consequence of which the alley cannot be regarded as a private domain.

(8) Sc. it would have assumed the character of a private domain the throwing into which from a public domain involves one in guilt.

(9) Of the ‘erub. An ‘erub is effected by means of a loaf of bread towards which all the residents contribute.

(10) Lit., ‘makes it’.

(11) Lit., ‘of many people’, sc. into which a number of private houses open out. As each house is a strictly private domain while the courtyard, though also a private domain, is the common property of all the residents, it is forbidden to carry objects on the Sabbath from any of the houses into the courtyard as a preventive measure instituted by the Rabbis against the possible assumption that it is also permitted to carry from a private domain into a public domain. In the courtyard itself, however, the movement of objects is permitted. (Cf. Shab. 130b).

(12) Lit., ‘that do not open out’.

(13) Which proves that the loaf of the ‘erub alone does not determine the character of a domain.

(14) Sc. if it opened out into a public domain at either end.

(15) Hence it converts the alley into a private domain the throwing into which from a public domain involves one in guilt.

(16) Side-post as cross-beam.

(17) On the Sabbath, from a public domain.

(18) Since a side-post thus converts an alley into a private domain, it must obviously serve the purpose of a partition. How then could Raba maintain that it was merely a distinguishing mark?

(19) I.e., if it opened into a public domain on one side only.

(20) Even if not furnished with a side-post, since Pentateuchally a space enclosed by three walls is deemed to be a private domain.

(21) I.e., if it opened out into a public domain at its two ends and consequently required a side-post at one end and the shape of a doorway at the other.

(22) Though a side-post had been put up at one end, because a side-post serves merely as a distinguishing mark.

(23) R. Jacob b. Abba against Raba.

(24) V. supra 6a q.v. notes.

(25) V. loc. cit., infra 95a, Shab. 6a, 117a. Now since the Rabbis objected to the recognition of a side-post on the sole ground that a public domain cannot be so provided, it follows that in the case of an alley, even though it was open at both ends, a side-post is admissible as a valid partition. How then could Raba maintain supra that a side-post can only be regarded as a distinguishing mark, contrary to the unanimous opinion of R. Judah and the Rabbis?

(26) Why a side-post is recognized.

(27) Sc. the walls of two opposite houses, or rows of houses.

(28) So that the side-post only serves the purpose of a distinguishing mark. The Rabbis object even to such recognition of a side-post in the case of a public domain. Neither R. Judah nor the Rabbis, however, regard a side-post as a partition, in agreement with the view of Raba.

(29) As regards the movement of objects within it on the Sabbath.

(30) It must be furnished with one that is four handbreadths in width as is the case with a courtyard.

(31) Only in an alley whose length exceeds its width is such a beam admissible.

(32) In commenting on the rulings just reported in the name of Rab.

(33) Or ‘well fitting with one another’.

(34) If it had a breach not exceeding ten cubits in the wall adjoining a public domain.

(35) Lit., ‘this is difficult to me’.
(36) That was less than four handbreadths wide.
(37) Two courtyards must open into the alley and one house into each courtyard. Supra 5a q.v. notes.
(38) Lit., ‘yes’.
(39) This, surely, is unlikely, since the roundness of shape could be no reason for admitting a fraction of a side-post as a valid strip.
(40) R. Nahman.
(41) Lit., ‘and if not’, if its length does not exceed its width.
(42) And a strip of material, four handbreadths in width, is required. The expression ‘square shaped’ was not intended to exclude a round shaped structure but one whose length exceeded its width.
(43) In order to be regarded as an alley that, unlike a courtyard, may be converted into a permitted domain by a fraction of a side-post.
(44) Lit., ‘until’.
(45) Since it is in reality a courtyard, it does not lose its status with lesser dimensions.
(46) Or ‘friend’ ‘ Sc. R. Hiyya.

Talmud - Mas. Eiruvin 13a

R. AKIBA MAINTAINED THAT THEY DIFFERED IN BOTH CASES etc. Is not R. Akiba expressing the very same view as the first Tanna?[1] — The difference between them is the ruling of R. Ahli or, as some said: R. Yehiel;[2] but it was not indicated [who maintained what].[3]

It was taught: R. Akiba said,[4] ‘It was not R. Ishmael who laid down this ruling but that disciple, and the halachah is in agreement with that disciple. ‘Is not this self-contradictory? You first said: ‘It was not R. Ishmael who laid down this ruling’, from which[5] it is obvious that the law is not in agreement with his[6] view, and then you say: ‘The halachah is in agreement with that disciple’? — Rab Judah replied in the name of Samuel: R. Akiba made that statement[7] for the sole purpose of exercising the wits of the students.[8] R. Nahman b. Isaac, however, replied: What was said[9] was, ‘[His[10] words] appear [quite logical].’[11]

R. Joshua b. Levi stated: Wherever you find the expression, ‘A disciple, in the name of R. Ishmael, stated in the presence of R. Akiba’ [the reference is to] none other than R. Meir who attended[12] upon R. Ishmael and R. Akiba [successively]; for it was taught: R. Meir related, ‘When I was with R. Ishmael I used to put vitriol[13] into my ink[14] and he told me nothing [against it], but when I subsequently came to R. Akiba, the latter forbade it to me.’

Is this, however, correct?[15] Did not Rab Judah in fact state in the name of Samuel who had it from R. Meir: When I was studying under R. Akiba I used to put vitriol[13] into my ink and he told me nothing [against it], but when I subsequently came to R. Ishmael the latter said to me, ‘My son, what is your occupation?’ I told him, ‘I am a scribe’, and he said to me, ‘Be meticulous in your work, for your occupation is a sacred one;[16] should you perchance omit or add one single letter, you would thereby[17] destroy all the universe’.[18] ‘I have’, I replied,[19] ‘a certain ingredient called vitriol, which I put into my ink’. — ‘May vitriol’, he asked me, ‘be put into the ink? Has not the Torah in fact stated: "And he shall write",[20] "And he shall blot out"[20] [to indicate that] the writing [must be] such as can be blotted out?’[21] (What [relation is there between] the question of the one[22] and the reply of the other?[23] It is this that the latter meant: There is no need [for me to assure you] that I would make no mistakes in respect of words that are plene or defective, since I am familiar [with the subject], but [I have even taken precautions] against the possibility of a fly's perching on the crownlet of a daleth and, by blotting it out, turn it into a resh,[24] for I have a certain ingredient, called vitriol, which I put into the ink). Now, is there no contradiction in the sequence of the attendance[25] and in the authorship of the prohibition?[26] The contradiction in the sequence might well [be explained by the suggestion that] he first came to R. Akiba but, as he was unable to comprehend his teaching,[27] he went to R.

Ishmael where he studied the traditional teachings,[28] and then returned to R. Akiba and engaged in logical discussion and argument; but the authorship of the prohibitions, surely, presents a difficulty, does it not? — This is so indeed.

It was taught: R. Judah stated: R. Meir laid down that vitriol may be put into ink intended for any purpose[29] except [that of writing][30] the Pentateuchal section[31] dealing with a suspected wife.[32] R. Jacob, however, stated in his name: Except [that of writing] the Pentateuchal section dealing with a suspected wife in the Sanctuary.[33] What is the point of their disagreement?[34] — R. Jeremiah replied: The point of their disagreement is [whether the writing may] be blotted out for her sake from [a Scroll of] the Law.[35] And these Tannas[36] differ on the same question as the following Tannas. For it was taught: The scroll [that was written] for one suspected woman[37] is not[38] to be used for[39] another suspected woman, and R. Ahi b. Josiah ruled: The scroll is fit to be used for[39] another suspected woman.[40] R. Papa remarked: It is possible, [surely, that the question in dispute][41] is not [the same]? For the first Tanna[42] may have maintained his view there only because once [the Scroll] had been set aside[43] for Rachel[44] it cannot subsequently be set aside for Leah,[45] but in the case of a [Scroll] of the Law which is written for no particular person [the writing] may well[46] be blotted out [for any suspected wife]![47] R. Nahman b. Isaac remarked: It is possible [that the question in dispute] is not [the same]. For R. Ahi b. Josiah may have maintained his view there only because [the scroll] was written at least for one[48] suspected wife, but in the case of [a Scroll of] the Law, which is written for the purpose of study, he[49] also [might well admit] that [it may] not [be used for the purpose of] blotting out! But does not R. Ahi b. Josiah uphold the following ruling? For have we not learnt: If a man wrote a Get[50] to divorce his wife [therewith]

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(1) Of our Mishnah, according to whom also no distinction is drawn in the dispute of Beth Shammai and Beth Hillel between a wider and a narrower alley.

(2) Supra 12a, the case of an alley that was less than four handbreadths wide. Either the first Tanna or R. Akiba maintains in this case that Beth Shammai and Beth Hillel agree that no provision whatever is needed, their dispute being restricted to the case of an alley that was no less than four handbreadths wide.

(3) Cf. ‘(the ruling) of R. Ahli himself (is a point in dispute between) Tannas’ (supra 12a).

(4) In commenting on the ruling of the DISCIPLE IN THE NAME OF R. ISHMAEL.

(5) Since R. Akiba refused to attribute it to such a distinguished authority as R. Ishmael.

(6) The disciple's.

(7) That the halachah agrees with the disciple's view.

(8) Being struck by the contradiction, they would be stirred to a full and thorough discussion and investigation of the question.

(9) By R. Akiba.

(10) The disciple's.

(11) The halachah nevertheless is not in agreement with him.

(12) שמש sc. studied not only the theory, but also the practice of Judaism.

(13) So Rashb. and Aruk (v. Tosaf. s.v. קנקנתום a.l.). Var. lec.: קלקנתום or קלקנתום, Gr. ** used as an ingredient in the preparation of ink and of shoe-black. Rashi renders atramentum (cf. Jast. and Golds.).

(14) For use in the writing of sacred texts, such as Scrolls of the Law.

(15) Lit., ‘this is not’.

(16) Lit., ‘work of heaven’.

(17) Lit., ‘thou art found’.

(18) Sc. commit an act of blasphemy. By omitting e.g. , the א in אמת (truth), the word would be abbreviated to מת (dead), and by adding a ו to וידבר the verb would change from the sing. to the pl. When such terms are applied to the Deity, the scribe in the latter case is guilty of acknowledging polytheism while in the former he denies the Living God.

(19) The meaning of this reply is explained in the parenthesis infra.

(20) Num. V, 23.

(21) Sot. 20a.

(22) R. Ishmael. Lit., ‘what did he say to him?’

(23) R. Meir. Lit., ‘and what did he reply to him?’ The former spoke about plene and defective and the latter replied about the ingredients of his ink!

(24) The difference between the form of the ד and the ר is only the crownlet or small projection on the right of the former. Should the daleth of אחד (one), e.g., in the sentence ‘the Lord is one’ (Deut. VI, 4) be changed into a resh the reading אחר (another) would imply the blasphemy that the Lord is ‘another God’.

(25) Lit., ‘attendance on attendance’. According to the first version, R. Meir attended first on R. Ishmael and later on R. Akiba, while according to the second version he attended on them in the reverse order.

(26) Lit., ‘he forbade it on he forbade it’. In the first version it was R. Akiba, and in the second it was R. Ishmael who forbade the use of vitriol.

(27) Which was too deep and complicated for him. R. Akiba was famous for his dialectic powers.

(28) The Mishnahs which the Master received from his teachers.

(29) Lit., ‘for all’.

(30) Whether in the Scroll of the Law or in the special scroll that is prepared for a sotah (v. Glos.).

(31) Num. V, 11ff

(32) Sotah; for the reason, stated supra, that ‘the writing must be such as can be blotted out’. The expressions from which this ruling is derived occur in this section.

(33) I.e., the scroll specially prepared [or the trial of a sotah, in which case the writing had to be blotted out (v. Num. V, 23). Hence the prohibition against the use of vitriol in the ink. In a Scroll of the Law, however, the writing in which is not intended for blotting out, this section also may be written with indelible ink.

(34) Lit., ‘what is between them’.

(35) According to R. Judah this is permitted; hence his prohibition to use vitriol even in the writing of a Scroll of the Law. According to R. Jacob this is forbidden; hence his limitation of the restriction on the use of vitriol to the actual scroll that is written specifically for a particular wife when she is tried in the Sanctuary.

(36) R. Judah and R. Jacob.

(37) Lit., ‘her scroll’.

(38) If, e.g., it remained unused because the woman confessed her guilt before the writing was blotted out.

(39) Lit., ‘to cause to drink with it’.

(40) R. Ahi, who permits the use of a scroll that was not specifically written for the woman, permits also, like R. Judah, the use for the same purpose of a Scroll of the Law. The first Tanna, however who requires the scroll to be written specifically for the woman in question forbids also, like R. Jacob, the use of a Scroll of the Law.

(41) Between the first and the second pair of Tannas respectively.

(42) Of the Baraitha last cited.

(43) Lit., ‘torn away’.

(44) Sc. the first woman for whom it was specifically written.

(45) I.e., for any other woman.

(46) Lit., ‘thus also’.

(47) This Tanna then, contrary to the previous statement, does not necessarily hold the same view as R. Jacob.

(48) Lit., ‘in the world’.

(49) Lit., ‘thus’.

(50) v. Glos.

Talmud - Mas. Eiruvin 13b

and then he changed his mind;[1] and a fellow townsman met him and [asked for the document] saying: ‘Your name is the same as mine and your wife's name is the same as my wife's name’,[2] [the document is] invalid for the purpose of divorcing therewith [the other man's wife]?[3] — What a comparison![4] Concerning that case[5] it is written in Scripture: And he shall write for her,[6] hence it is required that the writing shall be expressly for her sake;[7] but in this case[8] it is written: And he shall execute upon her,[9] hence it is required that the execution shall be expressly for her sake,[7] and the execution in her case is the blotting out.

R. Aha b. Hanina said: It is revealed and known before Him Who spoke and the world came into existence, that in the generation of R. Meir there was none equal to him; then why was not the halachah fixed in agreement with his views? Because his colleagues could not fathom the depths[10] of his mind, for he would declare the ritually unclean to be clean and supply plausible proof,[11] and the ritually clean to be unclean and also supply plausible proof.[11]

One taught: His name was not R. Meir but R. Nehorai. Then why was he called 'R. Meir'? Because he enlightened[12] the Sages in the halachah. His name in fact was not even Nehorai but R. Nehemiah or, as others say: R. Eleazar b. Arak. Then why was he called 'Nehorai'? Because he enlightened the Sages in the halachah.[13]

Rabbi[14] declared: The only reason[15] why I am keener than my colleagues is that I saw the back of R. Meir,[16] but had I had a front view of him I would have been keener still, for it is written in Scripture: But thine eyes shall see thy teacher.[17]

R. Abbahu stated in the name of R. Johanan: R. Meir had a disciple of the name of Symmachus who, for every rule concerning ritual uncleanness, supplied forty-eight reasons in support of its uncleanness, and for every rule concerning ritual cleanness, forty-eight reasons in support of its cleanness.

One taught: There was an assiduous student at Jamnia[18] who by a hundred and fifty reasons proved that a [dead] creeping thing was clean. Said Rabina: I also could by logical argument prove it to be clean. If a snake that kills [man and beast] and thus causes much uncleanness,[19] is itself ritually clean,[20] how much more should a creeping thing, which does not kill [either man or beast] and consequently causes no uncleanness, be ritually clean. This, however, is no argument, since [the snake] is merely acting like a thorn.[21]

R. Abba stated in the name of Samuel: For three years there was a dispute between Beth Shammai and Beth Hillel, the former asserting, 'The halachah is in agreement with our views' and the latter contending, 'The halachah is in agreement with our views'. Then a bath kol[22] issued announcing, '[The utterances of] both[23] are the words of the living God, but the halachah is in agreement with the rulings of Beth Hillel'. Since, however, both are the words of the living God' what was it that entitled Beth Hillel to have the halachah fixed in agreement with their rulings? Because they were kindly and modest, they studied their own rulings and those of Beth Shammai,[24] and were even so[25] [humble] as to mention the actions[26] of Beth Shammai before theirs, (as may be seen from[27] what we have learnt: If a man had his head and the greater part of his body within the sukkah[28] but his table in the house,[29] Beth Shammai ruled [that the booth was] invalid but Beth Hillel ruled that it was valid. Said Beth Hillel to Beth Shammai, 'Did it not so happen that the elders of Beth Shammai[30] and the elders of Beth Hillel went on a visit to R. Johanan b. Hahoranith and found him sitting with his head and greater part of his body within the sukkah while his table was in the house?' Beth Shammai replied: From[31] there proof [may be adduced for our view for] they indeed told him, 'If you have always acted in this manner you have never fulfilled the commandment of sukkah'). This[32] teaches you that him who humbles himself, the Holy One, blessed be He, raises up, and him who exalts himself, the Holy One, blessed be He, humbles; from him who seeks greatness, greatness flees, but him who flees from greatness, greatness follows; he who forces time[33] is forced back by time[34] but he who yields[35] to time[36] finds time standing at his side.[37]

Our Rabbis taught: For two and a half years were Beth Shammai and Beth Hillel in dispute, the former asserting that it were better for man not to have been created than to have been created, and the latter maintaining that it is better for man to have been created than not to have been created. They finally took a vote and decided that it were better for man not to have been created than to have been created, but now that he has been created, let him investigate his past deeds[38] or, as others say, let him examine his future actions.[39]

MISHNAH. THE CROSS-BEAM OF WHICH THEY [THE RABBIS] SPOKE MUST BE WIDE ENOUGH TO HOLD AN ARIAH[40] WHICH IS HALF OF A LEBENAH[41] OF THREE HANDBREADTHS. IT IS SUFFICIENT FOR A BEAM TO BE ONE HANDBREADTH WIDE IN ORDER TO HOLD THE WIDTH OF AN ARIAH.[42] [THE BEAM MUST BE] WIDE ENOUGH TO HOLD AN ARIAH BUT ALSO STRONG ENOUGH TO SUPPORT SUCH AN ARIAH.[43] R. JUDAH RULED: [THE BEAM IS VALID IF IT IS SUFFICIENTLY] WIDE, ALTHOUGH IT IS NOT STRONG. IF[44] IT WAS MADE OF STRAW OR REEDS IT IS LOOKED [UPON AS THOUGH IT HAD BEEN MADE OF METAL; [IF IT WAS] CURVED[45] IT IS LOOKED UPON AS THOUGH IT WERE STRAIGHT; [IF IT WAS] ROUND[45] IT IS LOOKED UPON AS THOUGH IT WERE SQUARE. WHATSOEVER HAS A CIRCUMFERENCE OF THREE HANDBREADTHS IS ONE HANDBREADTH IN DIAMETER.[46]

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(1) Sc. he decided not to divorce her.

(2) And, as the town in which the parties lived was also the same, he desired to use that Get for divorcing his own wife.

(3) Sot. 20b, Git. 24a; from which it follows that a document cannot be used for a person for whom it was not originally intended. An objection against R. Ahi b. Josiah.

(4) Lit., ‘thus now’.

(5) Lit., ‘there’, that of divorce.

(6) Deut. XXIV, 1, emphasis on the last three words.

(7) Lit., ‘for her name’. The woman for whom it is to be used.

(8) Lit., ‘here’, the case of a suspected wife.

(9) Num. V, 30, emphasis on ‘execute . . . her’.

(10) Lit., ‘to stand upon the end’.

(11) Lit., ‘show it a face’.

(12) Lit., ‘he makes the eyes of the Sages shine’. מאיר rt. אור Hif., ‘to give light’, ‘to cause to shine’.

(13) Cf. previous note, נהוראי of the rt. נהר ‘to shine’.

(14) MS.M. ‘Rab’.

(15) Lit., , ‘that’.

(16) Rashi: When I studied under him my seat at the academy was in the row which had a back view of R. Meir.

(17) Isa. XXX, 20.

(18) Or Jabneh. The religious center and seat of the Sanhedrin after the destruction of Jerusalem.

(19) A corpse is unclean and imparts uncleanness to those who come in contact with it.

(20) Since it was not included among the eight unclean reptiles enumerated in Lev. XI, 29f.

(21) The uncleanness which it causes has consequently no bearing on its own status. No inference a minori can, therefore, be drawn between snake and creeping thing.

(22) v. Glos.

(23) Lit., ‘these and these’.

(24) Cf., e.g., Ber. 10b.

(25) Lit., ‘and no more but’.

(26) Lit., ‘words’, ‘things’, hence ‘actions’ (cf. infra n. 7).

(27) Lit., ‘like that’.

(28) V. Glos. ; in which every Israelite must live during the Festival of Tabernacles.

(29) Sc. the booth was so small that it could not contain more than the parts of the body mentioned.

(30) Here Beth Hillel mention the action of Beth Shammai before theirs.

(31) Cur. edd. insert in parenthesis אי ‘if’ or ‘indeed’.

(32) The privilege conferred upon Beth Hillel.

(33) Sc. is over anxious to succeed and embarks in consequence on hazardous or perilous adventures.

(34) His efforts lead him into disaster.

(35) Lit., ‘is pushed back’.

(36) Or ‘circumstances’, sc. he does not aim above his means and does not overstrain his mental or physical powers.

(37) He will succeed in due course.

(38) And, if he find them at fault, make the necessary amends.

(39) Before committing them. The underlying difference between the two versions is the interchange of pe for mem. Both פשפש and משמש imply ‘examination’ but the former is more applicable to something actually done, the latter to something intended (cf. Rashi).

(40) A half-sized brick.

(41) A brick of full size.

(42) Of one and a half handbreadths. Lit., ‘to its width’. Var. lec. ‘to its length’, sc. the length of the ariah running the length of the beam.

(43) In order that it may have the appearance of a firm structure on which it is possible to build.

(44) This is a continuation of R. Judah's ruling.

(45) So that no brick can rest upon it.

(46) Approximately. The circumference of a round cross-beam must consequently be no less than three handbreadths.

Talmud - Mas. Eiruvin 14a

GEMARA. ONE HANDBREADTH! Is not a handbreadth and a half required?[1] — Since it is wide enough to hold [an ariah of the size of] one handbreadth one may provide a foundation[2] for the remaining half of the handbreadth by plastering [the beam] with clay, a little on one side[3] and a little on the other,[3] so [that the ariah can be] kept in position.

Rabbah son of R. Huna said: The cross-beam of which [the Rabbis] spoke must be strong enough to support an ariah;[4] the supports[5] of the beam, however, need not be so strong as to be capable of bearing the beam and the ariah.[6] R. Hisda, however, ruled: They[7] must be strong enough to support both the beam and the ariah.

R. Shesheth said: If one laid a beam across [an entrance to] an alley and spread a mat over it, raising [the lower end of the mat to a height of] three handbreadths from the ground, there is here neither valid cross-beam nor valid partition. There is here no valid cross-beam, since it is covered up; and no valid partition, since it is one through which kids can push their way.[8]

Our Rabbis taught: If a cross-beam projects from one wall and does not touch the wall opposite, and so also if two cross-beams one of which projects from one wall and the other from the wall opposite, do not touch one another, it is not necessary to provide[9] another beam, [if the gap is] less than three handbreadths, [but if it was one of] three handbreadths it is necessary to provide another cross-beam. R. Simeon b. Gamaliel ruled: [if the gap was] less than four handbreadths it is not necessary to provide another cross-beam [and only where it was one of] four handbreadths it is necessary to provide another cross-beam. Similarly where there were two parallel cross-beams, neither of which was wide enough to hold an ariah, it is unnecessary to provide[10] another cross-beam if the two together can hold the width of one handbreadth of an ariah, otherwise[11] it is necessary to provide another cross-beam. R. Simeon b. Gamaliel ruled: If they can hold an ariah of the length of three handbreadths it is unnecessary to provide[10] another cross-beam, otherwise[11] it is necessary to provide another cross-beam. If they were [fixed] one higher than the other,[12] the higher one, said R. Jose son of R. Judah, is looked upon as if it lay lower[13] or the lower one, as if it lay higher,[13] provided only that the higher one was not higher than twenty cubits[14] and the lower one [was not] lower than ten cubits.[14]

Abaye remarked: R. Jose son of R. Judah holds the same view as his father in one respect and differs from him in another. He ‘holds the same view as his father in one respect’ in that he also adopts the principle of ‘IS LOOKED UPON’; ‘and differs from him in another’, for whereas R. Judah holds [that a cross-beam may be] higher than twenty cubits,[14] R. Jose son of R. Judah holds [that it is valid] only within, but not above twenty cubits.

R. JUDAH RULED: [THE BEAM IS VALID IF IT IS SUFFICIENTly] WIDE, ALTHOUGH IT IS NOT STRONG. Rab Judah taught Hiyya b. Rab in the presence of Rab, ‘WIDE, ALTHOUGH IT IS NOT STRONG’, when the latter said to him: Teach him, ‘Wide and strong enough’. Did not, however, R. Ela'i state in the name of Rab, ‘[a cross-beam that is] four [handbreadths] wide [is valid] although it is not strong,’? — One that is four [handbreadths] wide is different [from one that is less than the prescribed width].

IF IT WAS MADE OF STRAW etc. What does he thereby teach us? That we adopt the principle of ‘IS LOOKED UPON’?[15] But, then, is not this exactly the same [principle as was already enunciated]?[16] — It might have been assumed that [the principle] is applied only to one of its own kind[17] but not to one of a different kind;[18] hence we were taught [that any material is valid].

[IF IT WAS] CURVED IT IS LOOKED UPON AS THOUGH IT WERE STRAIGHT. Is not this obvious?[19] — He taught us [thereby a ruling] like that of R. Zera, for R. Zera stated: If it[20] was within an alley and its curve without the alley, or if it was below twenty cubits[21] and its curve above twenty, or if it was above ten cubits[21] but its curve was below ten, attention must be paid [to this]:[22] Whenever no [gap of] three handbreadths[23] would have remained if its curve had been removed, it is not necessary to provide another cross-beam; otherwise, another cross-beam must be provided. Is not this also obvious? — It was necessary [to enunciate the ruling in the case where the beam] was within the alley and its curve was without the alley. As it might have been presumed that the possibility must be taken into consideration that the residents might be guided by it;[24] hence we were informed [that no such possibility need be considered].

[IF IT WAS] ROUND IT IS LOOKED UPON AS THOUGH IT WERE SQUARE. What need again was there for this ruling?[25] It was necessary [on account of its] final clause: WHATSOEVER HAS A CIRCUMFERENCE OF THREE HANDBREADTHS IS ONE HANDBREADTH IN DIAMETER. Whence are these calculations[26] deduced? — R. Johanan replied: Scripture stated: And he made the ‘molten sea of ten cubits from brim to brim, round in compass, and the height thereof was five cubits; and a line of thirty cubits did compass it round about.[27] But surely there was [the thickness of] its brim?[28] — R. Papa replied: Of its brim, it is written in Scripture [that it was as thin as] the flower of a lily;[29] for it is written: And it[30] was a handbreadth thick, and the brim thereof was wrought like the brim of a cup, like the flower of a lily; it held two thousand baths.[31] But there was [still] a fraction at least?[28] — When [the measurement of the circumference][32] was computed[33] it was that of the inner circumference.[34]

R. Hiyya taught:[35] The sea that Solomon made contained one hundred and fifty ritual baths.[36] But consider: How much is [the volume of] a ritual bath? Forty se'ah,[37] as it was taught: And he shall bathe . . .

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(1) To support an ariah of that size.

(2) מלבין particip. denom. of לבנה, lit., he makes it a brick (foundation)’.

(3) To hold (a half of the half) a quarter of the handbreadth.

(4) For reason v. note in our Mishnah.

(5) Lit., ‘that cause to stand’, pegs for instance.

(6) It is sufficient if they can bear the weight of the beam alone, since in fact no ariah is ever put on the beam.

(7) Lit., ‘the one as well as the other’.

(8) A suspended partition of such a character is invalid in an alley.

(9) Lit., ‘to bring’.

(10) Lit., ‘to bring’.

(11) Lit., ‘and if not’.

(12) But are together wide enough to hold an ariah.

(13) In the same level as the other beam.

(14) From the ground (cf. Mishnah supra 2a ab init.).
(15) Cf. our Mishnah.
(16) In the previous clause: (THE BEAM IS VALID) . . . ALTHOUGH IT IS NOT STRONG. One that ‘WAS MADE OF STRAW’ is obviously not strong.
(17) Sc. a frail beam of wood may be regarded as a strong beam of the same material, since weak as well as strong beams can be made of it.
(18) As straw, for instance, is a material from which no strong beam can ever be made, it might have been deemed to be totally unfit.
(19) Since it involves the same principle as that of the previous ruling. Why then the unnecessary repetition?
(20) A cross-beam.
(21) From the ground.
(22) Lit., ‘(we) see’.
(23) Between the two parts of the beam at which the curve begins.
(24) Lit., ‘he might come to be drawn after it’; and so use a section of the public domain as if it had been a part of their alley.
(25) v. supra note 3.
(26) Lit., ‘things’. [This is the only instance where a doubt is raised in the Talmud in connection with a mathematical statement. This, as Zuckermann points out (Das Mathematische im Talmud, p. 23) proves that the Rabbis were well aware of the more exact ratio between the diameter and circumference and that the ratio of 1:3 was accepted by them simply as a workable number for religious purposes. Hence the question, ‘Whence are these calculations deduced?’ V. Feldman, Rabbinical Mathematics etc., p. 23].
(27) I Kings VII, 23. As the molten sea which had a diameter of ten cubits was approximately thirty cubits in circumference, the ratio of a diameter to a circumference must consequently be 10:30 = 1:3 approx.
(28) Which increased the diameter to more than ten cubits: so that the ratio between diameter and circumference was greater than 1:3.
(29) Its thickness, therefore, amounted to very little and might be disregarded.
(30) The lower portion of the sea.
(31) I Kings VII, 26.
(32) Of the molten sea.
(33) As thirty cubits.
(34) The diameter of which was exactly ten cubits.
(35) So Bomb. ed. Cur. edd., ‘it was taught’.
(36) Lit., ‘a gathering together for purification’.
(37) V. Glos.

Talmud - Mas. Eiruvin 14b

in water[1] implies, in water that is gathered together;[2] All his flesh[3] implies, water in which all his body can be immersed;[4] and how much is this? [A volume of water of the size of] a cubit by a cubit by a height of three cubits; and the Sages have accordingly estimated that the waters of a ritual bath must measure forty se'ah.[5] Now how many [cubic units] were there [in the molten sea]? Five hundred [cubic] cubits.[6] From three hundred [cubic cubits are obtained] a hundred [ritual baths],[7] and from a hundred and fifty [cubic cubits] fifty [ritual baths are obtained]. [Would not then a volume] of four hundred and fifty [cubic cubits] be enough?[8] — These calculations[9] [apply only] to a square [shaped tank], while the sea that Solomon made was round.

But consider: By how much does [the area of] a square exceed that of a circle? By a quarter.[10] Then of the four hundred [cubic cubits previously assumed][11] one hundred [must be deducted], and of the hundred[11] [cubic cubits] twenty-five [must be deducted]. [Would not then[12] the number of ritual baths] be Only a hundred and twenty-five?[12] — Rami b. Ezekiel learned that the sea that Solomon made was square in its lower three cubits and round in its upper three.[13]

Granted that you cannot assume the reverse,[14] since it is written in Scripture that its brim was round, [can you not] say, however, [that only] one [cubit of the height of the brim was round]?[15] — This[16] cannot be entertained at all, for it is written, it held two thousand baths;[17] now how much is a bath? Three se'ah,; for it is written in Scripture: The tenth of the bath out of the kor [which is ten baths],[18] so that the sea[19] contained six thousand griva.[20] But Surely is it not written: It[21] held three thousand baths?[22] — This[23] [includes the addition] of the heap [in a dry measure].[24]

Said Abaye: From this it may be inferred that the heap [of a measure][25] is one third [of the entire quantity].[26] And so have we also learnt: A large box or chest, a cupboard, a large straw or reed basket,[27] and the tank of an Alexandrian ship, although they have flat bottoms and are capable of holding forty se'ah of liquid, which are [equal to] two kor of dry [commodities],[28] are levitically clean.[29]

MISHNAH. THE SIDE-POSTS OF WHICH THEY [THE RABBIS] SPOKE [MUST BE NO LESS THAN] TEN HANDBREADTHS IN HEIGHT, BUT THEIR WIDTH AND THICKNESS MAY BE OF ANY SIZE WHATSOEVER. R. JOSE RULED: THEIR WIDTH [MUST BE NO LESS THAN] THREE HANDBREADTHS.

GEMARA. THE SIDE-POSTS OF WHICH THEY SPOKE etc. May it then[30] be asserted that we have here learnt an anonymous Mishnah in agreement with R. Eliezer who ruled that two side-posts are required?[31] — No; the expression of[32] SIDE-POSTS [refers to] side-posts in general.[33] If so,[34] should it not have been taught, in the case of the cross-beam also,[35] ‘cross-beams’, the plural referring to[36] cross-beams generally? — It is really this that was meant: The SIDE-POSTS concerning which R. Eliezer and the Sages are in dispute[37] [MUST BE NO LESS THAN] TEN HANDBREADTHS IN HEIGHT, BUT THEIR WIDTH AND THICKNESS MAY BE OF ANY SIZE WHATSOEVER.[38] And how much [was meant by] ‘ANY SIZE WHATSOEVER’? — R. Hiyya taught: Even [if only] as that of the thread of a cloak.[39]

A Tanna taught: If a man put up a side-post for a half of an alley[40] he may only use[41] [the inner] half of the alley.[42] Is not this[43] obvious?[44] — Rather read: He may use[45] a half of the alley.[46] Is not this,[47] however, also obvious?[48] — It might have been presumed that the possibility should be considered that[49] one might proceed to use all of it;[50] hence we were informed [that the inner half may be used].

Raba stated: If one constructed a side-post for an alley and raised it three handbreadths from the ground, or removed it three handbreadths from the wall, his act is invalid.[51] Even R.[52] Simeon b. Gamaliel, who holds [that in the case of gaps] we apply the rule of labud,[53] maintains his view[54] [only where the gap occurred] above,[55] but [where it was] below, since [the post] constitutes a partition through which kids can push their way, he did not uphold that view.

R. JOSE RULED: THEIR WIDTH [MUST BE NO LESS THAN] THREE HANDBREADTHS. R. Joseph stated in the name of Rab Judah who had it from Samuel: The halachah is not in agreement with R. Jose either in respect of ‘brine’[56] or in that of ‘SIDE-POSTS’. Said R. Huna b. Hinena to him: You told us this[57] concerning ‘brine’ but not concerning ‘side-posts’. Now wherein does brine differ? Obviously because the Rabbis disagree with him; but do not they disagree with him in respect of side-posts also? — ‘Side-posts’, the other replied: ‘are in a different category because Rabbi has taken up the same point of view.’[58]

R. Rehumi taught thus: Rab Judah son of R. Samuel b. Shilath stated in the name of Rab: The halachah does not agree with R. Jose either in respect of ‘brine’[56] or in that of ‘SIDE-POSTS’. ‘Did you say it?’ they asked him. ‘No’, he replied. ‘By God!’ Raba exclaimed, ‘he did say it, and I learned it from him,’ — Why then did he change his view? — Because R. Jose has always good reasons for his rulings.[59] Said Raba son of R. Hanan[60] to Abaye, ‘What is the law?’[61] — ‘Go’, the other told him, ‘and see what is the usage of the people’.[62]

There are some who teach this[63] in connection with the following: A man who drinks water on account of his thirst[64] must say[65] [the benediction], ‘by whose word all things exist’.[66] R. Tarfon ruled [that the following benediction[65] must be said], ‘who[66] createst many living beings with their wants, for all the means that thou has created’.[67] Said R. Hanan[68] to Abaye, ‘What is the law?’ — ‘Go’, the other told him, ‘and see what is the usage of the people’.

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(1) Lev. XV, 16. ‘His flesh’ is in cur. edd. enclosed in parenthesis. M.T. has ‘all’ before ‘flesh’.

(2) Sc. it need not be spring water.

(3) Ibid.

(4) Lit., ‘goes up in them’.

(5) V. supra 4b, notes.

(6) The calculation at the moment is based, for the sake of argument, on the imaginary assumption that the round sea like a square tank contained 10 X 10 X 5 = 500 cubic cubits.

(7) Since each bath, as stated supra, contains 1 X 1 X 3 = 3 cubic cubits.

(8) To make up a hundred and fifty ritual baths. An objection against R. Hiyya's statement.

(9) V. supra p. 91, n. 17.

(10) Since a diameter of one unit has a circumference of three units approx., and a square of one such unit has a perimeter of four such units.

(11) In the number of ‘five hundred’. 500 — 400 = 100.

(12) Since 400 — 100 = 300, and 100 — 25 = 75, the number of cubic cubits in the sea of Solomon was only 375. As each three cubic cubits produced one ritual bath, the sea could have contained no more than 375/3 = 125 ritual baths. An objection again against R. Hiyya.

(13) The lower section contained 3 X 10 X 10 = 300 cubic cubits. The upper section, being circular and by one quarter less than a square, contained 2 X 10 X 10 — 50 = 150. The two sections together consequently contained (300 + 150)/3 = 350 ritual baths.

(14) That the upper section of the sea was square shaped and its lower one round.

(15) And the sea consequently contained more than a hundred and fifty ritual baths. On what ground then could R. Hiyya maintain that it contained only a hundred and fifty ritual baths?

(16) That the sea contained more than the number given by R. Hiyya.

(17) I Kings VII, 26.

(18) Ezek. XLV, 14. A kor which is ten baths also equals thirty se'ah. Ten baths consequently equal thirty se'ah and one bath equals three se'ah.

(19) Which held two thousand baths.

(20) A griva = one se'ah. Since one bath = three se'ah, two thousand baths = 3 X 2000 = 6000 se'ah = 6000/40 = 150 ritual baths. Hence R. Hiyya's figure.

(21) Solomon's sea.

(22) II Chron. IV, 5.

(23) The higher figure.

(24) While liquids can only reach the level of the top of the measure, dry commodities can be raised to a certain height above that level. The difference between the dry and liquid commodities that the sea could contain, explains the difference between the figures in I Chron., and I Kings respectively. For an attempt to reconcile Rami b. Ezekiel's solution with the more exact value of ‘pie’ v. Zuckermann, op. cit., p. 29 and Feldman, op. cit., p. 51.

(25) Sc. the quantity above its level, if the ratio of its height to its length and width is the same as that of Solomon's sea.

(26) One thousand being a third of three thousand.

(27) Lit., ‘receptacle’, ‘container’.

(28) Two kor = 60 se'ah. The difference between the dry and the liquid is thus 60 — 40 = 20 se'ah, and twenty is one third of sixty. This Mishnah thus supports Abaye's calculation.

(29) Sc. are not susceptible to levitical uncleanness. Only vessels that are moved about both empty and full are so susceptible. Those mentioned here are large and not easily moved; hence they are not subject to the same susceptibility.

Shab. 35a; Kel. XV, 1; Oh. VIII, 1, 3.
(30) Since our Mishnah speaks of side-posts in the plural.
(31) Mishnah Supra 11b. Is it likely, however, that an anonymous Mishnah, which as a rule represents the halachah, would agree with an individual opinion contrary to that of the majority?
(32) Lit., ‘what’.
(33) Each individual alley, however, may require no more than one side-post.
(34) That the plural was used to refer to side-posts in general.
(35) In the previous Mishnah (supra 13b).
(36) Lit., ‘and what beams?’
(37) The former requiring two and the latter one.
(38) The use of the plural is consequently no proof that the halachah is in agreement with the ruling of R. Eliezer.
(39) סרבל cf. Gr. **.
(40) I.e., instead of fixing the side-post at a point facing the entrance, he put it up within the alley at a point facing the middle of it.
(41) Lit., ‘he has not but’.
(42) Tosef. ‘Er. I.
(43) That only the inner but not the outer half of the alley may be used.
(44) Of course it is, since the outer part was not provided with any side-post.
(45) Lit., ‘he has’.
(46) While it is obvious that the outer half could not be used, it is not so obvious that the inner part may be used. Hence the necessity for the Tosef cited.
(47) That the inner half may be used.
(48) Since it was well provided with a side-post.
(49) Were the use of the inner half to be permitted.
(50) In consequence of which the use of the inner half also should be forbidden.
(51) Lit., ‘he did nothing’.
(52) Lit., ‘according to R.’
(53) v. Glos.
(54) Lit., ‘these words’.
(55) As, for instance, when a cross-beam projecting from one wall does not reach the wall opposite.
(56) V. Shab. 108b.
(57) That the halachah is not in agreement with R. Jose.
(58) Supra 10a, 12a.
(59) Lit., ‘his depth (of reasoning) is with him’. V. Rashi a.l. and cf. Rashi infra 51a s.v. נימוקו.
(60) MS.M. Nahman.
(61) In respect of the size of the side-posts.
(62) They use side-posts of any size whatsoever (Rashi).
(63) The answer given by Abaye.
(64) Excluding one who drinks it, e.g., for a cure.
(65) Prior to his drinking (Rashi).
(66) The beginning of this benediction like that of all others is, ‘Blessed art thou, O Lord our God, King of the universe’ (cf. Singer's P.B., p. 290).
(67) The last eight words are wanting in MS.M. and are also absent from the Mishnah Ber. 44a.
(68) MS.M., Rabbah b. Hanin.

Talmud - Mas. Eiruvin 15a

It was stated: A side-post put up accidentally,[1] Abaye ruled, is a valid side-post, but Raba ruled: It is no valid side-post. Where [the residents] did not rely on it from the previous day,[2] no one disputes that it is no valid side-post. They differ only where [the residents] did rely upon it on the previous day.[3] Abaye ruled: ‘It is a valid side-post’, since the residents relied on it from the previous day. But Raba ruled: ‘It is no valid side-post’, because owing to the fact that originally it was not made for that purpose,[4] it cannot be regarded as a valid side-post.

It has been assumed[5] that as they[6] differed in the case of a side-post, so they differed in that of a partition.[7] Come and hear:[8] If a man made his sukkah[9] among trees and the trees serve as its walls, it is ritually fit![10] Here we are dealing [with trees] that were originally planted for the purpose.[11] If so, is this[12] not obvious? — It might have been presumed that a preventive measure should be enacted as a precaution against the possibility of using the tree [for other purposes also],[13] hence we were informed [that no such precaution was deemed necessary].

Come and hear: If there was present[14] a tree or a wall or a fence of [growing] reeds it may be treated as a corner-piece![15] — Here also we are dealing with one that was originally intended for the purpose. If so, what need was there to tell us this? — We were told that a fence of reeds [is valid if the distance between] any two reeds was less than three handbreadths, as [was explained in] the enquiry that Abaye addressed to Raba.[16]

Come and hear: Where a tree overshadows the ground,[17] it is permitted to move objects under it[18] if [the top of] its branches is not higher than three handbreadths from the ground![19] — Here also we are dealing with one that was originally planted for the purpose. If so, it should be permissible to move objects under it in all cases; why then did R. Huna the son of R. Joshua state that movement of objects under it is permissible only [where its area was no larger than] two beth se'ah?[20] — Because it is a dwelling that serves the [outside] air[21] and no movement of objects is permitted in a dwelling that serves the outside air unless [its area is no larger than] two beth se'ah.[22]

Come and hear: If a man received the Sabbath[23] on a mound that was ten handbreadths high[24] and between four cubits and two beth se'ah in area, or[25] in the cleft [of a rock] that was ten handbreadths deep[26] and between four cubits and two beth se'ah in area, or reaped corn that was surrounded by [growing] ears,[27] he may walk in all the area,[28] and outside it for two thousand cubits![29] And should you reply that there also it is a case where one had originally made them for the purpose, [your submission] might be quite agreeable as regards the corn;[30] what, however, could be said as regards the mound or the cleft?[31] — The fact, however, is that in respect of partitions, no one[32] disputes that [one put up accidentally] is a valid partition. They only differ in respect of a side-post — Abaye[33] follows his own point of view, for he has laid down that a side-post represents[34] a partition, and a partition set up accidentally is a valid partition. Raba, on the other hand, follows his own point of view, for he has laid down that a side-post serves[34] the purpose of a distinguishing mark,[35] and only where it is made for that purpose,[36] is it a distinguishing mark, otherwise[37] it is no distinguishing mark.

Come and hear: If stones[38] that project from a wall[39] are separated from each other by less than three handbreadths, no other side-post is required;[40] [if they are separated by] three handbreadths, another side-post is required![41] Here also it is a case where they were originally built for that purpose.[42] If so, is not this[43] obvious?[44] — It might have been presumed that [projections] are made solely as building connections,[45] hence we were informed [that no other side-post is required].

Come and hear what R. Hiyya taught: A wall of which one side recedes more than the other, whether [the recess can be] seen from without and appears even from within or whether it can be seen from within and appears even from without, may be regarded as [being provided with] a side-post![46] — Here also it is a case where it was originally constructed for the purpose. If so, what need was there to tell us [the obvious]? — It is this that we were informed: [If the recess can be] seen from without though it appears even from within, [the wall] may be regarded as [provided with] a side-post.

Come and hear [of the incident] where Rab was sitting in a certain alley and R. Huna sat before him when he said to his attendant, ‘Go, bring me a jar of water’. By the time the latter returned, the side-post fell down and he motioned to him with his hand to remain in his place.[47] Said R. Huna to him, ‘Is not the Master of the opinion that one may rely upon the palm-tree?’[48] ‘This young Rabbi’, he replied: ‘seems to think that people cannot explain a ruling they have heard! Did we rely upon it since yesterday?’[49] The reason then[50] is that no one had relied on it;[51] but if they had relied on it,[51] it would have been regarded as a valid side-post.[52]

Might not one suggest that Abaye and Raba differed only where [the residents] did not rely on it,[53] but that where they did rely on it, it is regarded as a valid side-post?[54] — This cannot be entertained at all; for there was a certain piazza at the house of Bar Habu,[55] about which Abaye and Raba were always[56] in dispute.[57]

MISHNAH. SIDE-POSTS MAY BE MADE OF ANYTHING, EVEN OF AN ANIMATE OBJECT, BUT R. MEIR[58] FORBIDS THIS. IT[59] ALSO CAUSES DEFILEMENT[60] AS THE COVERING OF A TOMB,[61]

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(1) Lit., ‘that stands of itself’, sc. it was not put up in connection with the Sabbath ritual.

(2) Lit., ‘from yesterday’, sc. Friday, the day before the Sabbath; if, for instance, a proper side-post provided fell down on the Sabbath day.

(3) And, in consequence, provided no other side-post.

(4) To serve as a side-post in compliance with the Sabbath laws.

(5) By the students at the schoolhouse.

(6) Abaye and Raba.

(7) Sc. if a wall was put up, not for the ritual purpose for which it was desired to use it Abaye considers it valid and Raba does not.

(8) All objection against Raba.

(9) V. Glos.

(10) Suk. 24b; which proves that a wall is valid even if it was not originally made for the purpose. V. supra note 10.

(11) To serve as walls for the sukkah.

(12) That they are ritually valid walls

(13) And people would thus even pluck its fruit on the festival when this is forbidden.

(14) In close proximity to a watering station.

(15) Infra 19b; which shows that a wall is ritually valid though it had not been specially made for the purpose, and presents an objection against Raba. דיומד = דיו עמוד ‘two pillars’; cf. Gr. **, ‘forked’. A deyomad, or corner-piece consists of two boards, or the like, meeting at their ends at right angles to one another and forming all L shaped construction. Four deyomads of the prescribed size, placed respectively at the four corners of a watering station, constitute a ritually valid partition within which it is permitted to carry on the Sabbath.

(16) Infra 19b ad fin.

(17) With its branches that grow from its trunk at a height of ten handbreadths.

(18) On the Sabbath.

(19) Infra 99b, Suk. 24b. An objection against Raba.

(20) V. Glos. Such a restriction is applicable to enclosures that are only partially valid (cf. infra 16b, 24a). Now if the tree in question had been planted for the purpose, its branches, surely, constitute a valid enclosure; why then should the restriction mentioned apply?

(21) I.e., to provide shelter for the watchmen of the surrounding fields. It is not one in which people usually live.

(22) As stated infra 22a.

(23) It is forbidden to walk on the Sabbath beyond two thousand cubits from one's home, the term being defined as the spot (four cubits by four), the house or the town where a person was at the time the Sabbath had set in. Within the four cubits, or within the house or town however big it may be, it is always permitted to walk.

(24) The minimum height of a private domain to which the rule of upward extension of its edges to form virtual walls is applied.

(25) Lit., ‘and so’.

(26) And thus provided with walls of the height required to form a private domain.
(27) That were ten handbreadths high and formed a partition of the prescribed minimum height (cf. previous note).
(28) Since all the mound, the cleft or the space enclosed by the growing ears of corn is regarded as his ‘home’.
(29) Suk. 25a; which proves that walls or partitions apparently not made for the purpose of satisfying the requirements of the Sabbath laws are nevertheless regarded as valid walls, and an objection thus again arises against Raba.
(30) It being possible that the reaping of the field was so planned as to leave an enclosure of ears of corn round the particular spot.
(31) Which are natural phenomena.
(32) Lit., ‘all the world’.
(33) In declaring it valid.
(34) Lit., ‘because of’.
(35) Supra 12b q.v. notes.
(36) Lit., ‘with the hands’.
(37) Lit., ‘and if not’.
(38) Lit., ‘stones of a wall’.
(39) One above the other in a vertical line.
(40) To convert an alley at whose entrance they are situated, into a private domain. The projecting stones alone satisfy the requirements of a side-post.
(41) Thus it follows that the projecting stones, where the distance between them is less than three handbreadths, constitute a valid side-post though, apparently, they were not put there for that purpose. All objection against Raba.
(42) To serve as a side-post for the alley.
(43) That no other side-post is required.
(44) What need then was there to state it?
(45) To dovetail any new wall with the existing one; and consequently could not be regarded as a side-post even though they were so originally intended.
(46) Supra 9b, q.v. notes. The recession being presumably accidental, does not the recognition of the validity of the side-post present an objection against Raba?
(47) So according to MS.M. and R. Han. קום אדוכתיך ‘remain in your place’. According to cur. edd., קם אדוכתיה ‘he remained in his place’, render, ‘He motioned to him with his hand and (the latter) remained in his place’.
(48) That grew at the side of the entrance to the alley.
(49) They did not. Hence they could not treat the palm-tree as a valid side-post for the alley.
(50) Why the palm-tree could not be regarded as a side-post.
(51) Before the commencement of the Sabbath.
(52) This then proves that the law is in agreement with Abaye.
(53) A side-post of accidental origin.
(54) So that Rab's ruling would be in agreement with the opinion of both Abaye and Raba.
(55) And one of its supporting poles was situated at the entrance to an alley.
(56) Lit., ‘all their years’.
(57) The former regarding it as a valid side-post and the latter denying its validity. From which it follows that the dispute between Abaye and Raba as to the validity of a side-post of accidental origin extends also to one upon which the residents had relied.
(58) Separate ed. of the Mishnah read: ‘R. Jose’.
(59) Any object, even an animate one, that was used to close up a tomb.
(60) Even after it had been removed from the grave.
(61) גולל. Such a covering is subject to the same degree of levitical uncleanness as the corpse itself (cf. Hul. 72a).

Talmud - Mas. Eiruvin 15b

BUT R. MEIR RULED THAT IT WAS NOT SUSCEPTIBLE TO DEFILEMENT.[1] WOMEN'S LETTERS OF DIVORCE TOO MAY BE WRITTEN ON IT, BUT R. JOSE THE GALILEAN DECLARED IT TO BE UNFIT.

GEMARA. It was taught: R. Meir ruled: No animate object may be used either as a wall for a sukkah,[2] or as a side-post for an alley, [or as one of the] partitions for watering stations or as a covering for a grave.[3] In the name of R. Jose the Galilean it was laid down: Women's bills [of divorce] also may not be written on it.[4] What is R. Jose the Galilean's reason? — Because it was taught: [From the Scriptural expression of] ‘letter’[5] one would only learn that[6] a letter[5] [may be used]; whence, however, [can it be deduced that] all other things are also included? [From] the explicit statement:[7] That he writeth her[8] [which implies:] On any object whatsoever.[9] If so, why was the expression of ‘letter’ used? To tell you that as a letter is an inanimate object and does not eat, so must any other object [used for the purpose be] one that is inanimate and does not eat.[10] And the Rabbis?[11] — Is it written: ‘In a letter’?[12] Surely only ‘letter’[13] is written, and this refers[14] merely to the recording[15] of the words.[16]

As to the Rabbis, however, what exposition do they make of the expression: That he writeth her?[17] — They require that text [for the deduction that a woman] may be divorced only by writing[18] but not by money.[19] For it might have been presumed that since divorce[20] was compared with betrothal,[21] as betrothal [may be effected] by means of money[22] so may divorce [also be effected] by means of money;[23] hence we were informed [that only by writing[18] can divorce be effected]. And whence does R. Jose the Galilean derive this logical conclusion?[24] — He derives it from [the expression of] ‘A letter of divorcement’[25] [which implies:][26] The letter causes her divorcement but no other thing may cause it.[27] And the Rabbis? — They require the expression of[28] ‘A letter of divorcement’[25] to [indicate that the divorce must be] one that completely separates the man from the woman;[29] as it was taught: [Should a husband say to his wife,] ‘Here is your divorce on condition that you never drink any wine’ or ‘on condition that you never go to your father's house’ [such a divorce] is no complete separation;[30] [if he said,] ‘During[31] thirty days’[32] is it regarded as a complete separation.[33] And R. Jose the Galilean?[34] — He derives it from [the use of] kerituth[35] [instead of] kareth.[35] And the Rabbis? — They base no expositions [on the distinction between] kareth and kerituth.[36]

MISHNAH. IF A CARAVAN CAMPED IN A VALLEY AND IT WAS SURROUNDED BY THE TRAPPINGS OF THE CATTLE IT IS PERMISSIBLE TO MOVE OBJECTS WITHIN IT, PROVIDED [THE TRAPPINGS] CONSTITUTE A FENCE TEN HAND BREADTHS IN HEIGHT AND THE GAPS[37] DO NOT EXCEED[38] THE BUILT-UP PARTS.[38] ANY GAP WHICH [IN ITS WIDTH DOES NOT EXCEED] TEN[39] CUBITS IS PERMITTED,[40] BECAUSE IT IS LIKE A DOORWAY.IF IT EXCEEDS THIS [MEASUREMENT] IT IS FORBIDDEN.[41] GEMARA. It was stated: If the breaches [in an enclosure] are equal [in area to its] standing parts, the [movement of objects[42] in the space within the enclosures], R. Papa ruled, is permitted, and R. Huna the son of R. Joshua ruled: It is forbidden. R. Papa ruled: ‘It is permitted’, because the All Merciful taught Moses[43] thus: ‘Thou must not allow the greater part of a fence to consist of gaps’.[44] R. Huna the son of R. Joshua ruled, ‘it is forbidden for it is this that the All Merciful taught Moses: ‘Its greater part [must be] fence’.

We learned: AND THE GAPS DO NOT EXCEED THE BUILT-UP PARTS, but, [it follows, does it not, that if they were] equal to the built-up parts [movement of objects within the enclosure] is permitted?[45] — Do not infer: ‘But [if they were] equal to the built-up parts [the movement of objects] is permitted’, but infer: ‘If the built-up parts exceed the gaps [the movement of objects] is permitted’. But [if the gaps are] equal to the built-up parts, what [is the law]? [Is the movement of objects][42] forbidden? If so, however, should not the reading have been, ‘The gaps are not equal to the built-up parts’?[46] — This is indeed a difficulty.

Come and hear: If a man covered the roof[47] of his sukkah[48] with spits or with the long [sides] of a bed[49] [the sukkah is] valid if there is as much space between them as that of their own [width]![50] Here we are dealing [with such] as can be easily moved in and out.[51] Is it, however, possible[52] to be exact?[53] — R. Ammi replied: One might supply more [of the proper roofing].[54] Raba replied: If they[55] were placed crosswise, one puts the suitable material lengthwise, [and if they were placed] lengthwise, one puts it crosswise.[56]

Come and hear: If a caravan camped in a valley and it was surrounded by camels, saddles,

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(1) For the reason, v. Suk. 24a.

(2) V. Glos.

(3) If it was used, the wall, the side-post or the partition is invalid and the covering remains insusceptible to levitical uncleanness.

(4) Suk. 23a.

(5) Deut. XXIV, 1. ספר ‘book’, ‘letter’ or ‘scroll’.

(6) Lit., ‘I have only’.

(7) Lit., ‘it is taught to say’.

(8) Deut. XXIV, 1, emphasis on writeth.

(9) Lit., ‘from any place’.

(10) Hence R. Jose's ruling that no letter of divorce may be written on an animate object.

(11) How, in view of this deduction, can they allow the use of an animate object as a writing material for a letter of divorce?

(12) בספר (with prefix) which would have implied that the noun referred to the material on which the divorce is written.

(13) ספר without any prefix.

(14) Lit.,’that it came’.

(15) ספירות, lit., ‘enumeration’.

(16) ספר and ספירות being of the same rt. The kind of material, however, on which the wording must be recorded was not prescribed. Hence the permissibility to use any writing material or any other object.

(17) From which it was deduced supra that a divorce may be written on any object. Since the expression sefer (ספר) has no bearing on the question of the writing material, it is obvious that any object is admissible for the purpose. What need then was there to use the expression of ‘writeth’ (Deut. XXIV, 1) when that of giveth (ibid.) viz., ‘That he giveth her the letter of divorcement in her hand’ etc., would have been sufficient?

(18) A written letter of divorce.

(19) By saying, on the analogy of the formula for betrothal, ‘Be thou divorced from me by this money’.

(20) Lit., ‘departing’ (ויצאה); ‘and she departeth’ (Deut. XXIV, 2).

(21) Lit., ‘becoming’ (הויה); ‘and becometh’ (ibid.).

(22) V. Kid. 2a’

(23) V. supra note 16.

(24) That a divorce cannot be effected except by means of a written document.

(25) ספר כריתות, Deut. XXIV, I.

(26) Since ספר (‘letter’) stands in close proximity to כריתות (‘divorcement’).

(27) כורתה (rt. כרת ‘to cut’), lit., ‘cuts her off (from her husband)’.

(28) Lit., ‘that’.

(29) Lit., ‘that cuts (cf. supra n. 4) between him and her’.

(30) Since the woman might at any time throughout her life break the condition and consequently annul the divorce.

(31) Lit., ‘all’.

(32) Sc. he set a limit to the period during which the woman should drink no wine or keep away from her father's house.

(33) From the moment the woman has received the document; because at the end of the specified period the divorce is free from all conditions and the separation between husband and wife is complete. Suk. 24b, Yoma 13a, Git. 21b, 83b.

(34) Whence does he derive this ruling?

(35) כריתות, in the opinion of R. Jose, is a longer or more forcible expression than כרת.

(36) Cf. previous note.

(37) Though each one is less than ten cubits.

(38) In their total area.

(39) So MS.M. Cur. edd. ‘like ten’.
(40) Provided the area of the built-up parts exceeds that of the gaps.
(41) Though all the remainder of the fence is built up.
(42) On the Sabbath.
(43) When he imparted to him the laws concerning partitions (v. supra 4a).
(44) Lit., ‘thou shalt not break its greater part’.
(45) An objection against R. Huna.
(46) From which it would have been obvious that if they were equal to, and much more so if they exceeded the built-up parts, the movement of objects would be forbidden; and all ambiguity would thus be avoided.
(47) Or ‘laid the roof-beams’.
(48) v. Glos.
(49) Such objects, since they are proper ‘instruments’, are susceptible to levitical uncleanness and consequently unfit for the roof covering of a sukkah.
(50) Suk. 15a; because the intervening spaces can be filled up with suitable and ritually fit roofing. This Mishnah then seems to show that where the measurement of the suitable and the unsuitable parts are equal, the structure is valid; and, since the same principle would obviously apply also to the validity of an enclosure, in respect of the Sabbath laws, where its built-up parts equal its gaps, does not an objection arise against R. Huna?
(51) Lit., ‘when it (freely) enters and goes out’, sc. between the parts to be covered with the suitable roofing, so that the width of each spit or bed-side is inevitably less than that of each properly covered intervening space.
(52) So R. Han. Cur. edd., ‘surely it is possible’, is a different reading (as pointed out by Tosaf. s.v. רשי גרים a.l.).
(53) Sc. is it possible that by supplying a quantity of suitable material equal in width to that of the unsuitable one, the air spaces intervening between the two materials will be duly covered? The answer obviously being in the negative, the question arises: How, in view of the fact that the space of the proper material does not even equal that of the improper one plus the intervening air spaces, could the sukkah be valid? This raises an objection against R. Huna but also against R. Papa (cf. Tosaf. l.c.).
(54) And thus cover up the intervening air spaces also.
(55) The spits etc.
(56) So that all the spaces between the improper material are fully covered with the proper one which, according to R. Papa, thus covers as much space as the improper one; and according to R. Huna, since the spits etc. can be easily moved in and out, the proper roofing covers the larger area.

Talmud - Mas. Eiruvin 16a

saddle-cushions, saddlebags, reeds or stalks [it is permitted to] move objects within it, provided there is no more than the space of one camel between any two camels, that of one saddle between any two saddles, and that of one saddle-cushion between any two saddle-cushions![1] — Here also [it is a case where each object can be easily] moved in and out.[2]

Come and hear: Thus[3] you might say that there are three categories in the case of partitions. Wherever [in a reed fence the width of each reed is] less than three handbreadths, it is necessary[4] that there shall be no [gap of] three handbreadths between any two reeds[5] so that a kid could not leap headlong [through it].[6] Wherever [the width of each reed is] three, or from three to four[7] handbreadths, it is necessary[8] that [the gap] between any two reeds[9] shall not be as wide as the full width of a reed,[10] in order that the gaps shall not be equal to the standing parts; and if the gaps exceeded the standing parts it is forbidden [to sow corn][11] even over against the standing parts. Wherever [the width of each reed is] four handbreadths, or from four handbreadths to ten cubits,[12] it is necessary[8] that [the gap] between any two reeds[9] shall not be as wide as a reed,[10] in order that the gaps shall not be equal to the standing parts; and if the gaps were equal to the standing parts it is permitted [to sow seed][11] over against the standing parts and forbidden over against the gaps.[13] If, however, the standing parts exceeded the gaps it is permitted[14] [to sow seed] over against the gaps also. If there was a gap wider than ten cubits, [sowing][15] is forbidden. If forked reeds were there and a plait was made above them, [sowing] is permitted even [if the gaps between the reeds] exceeded ten cubits.[16] In the first clause at any rate it was taught that [the fence is valid if the width of each reed was] from three to four handbreadths provided the gap between any two reeds was not as wide as a reed. Is not this[17] an objection against R. Papa?[18] — R. Papa can answer you: By the expression of ‘as wide as’ was meant[19] [the width of the space through which the reed can be easily] moved to and fro.[20] Logical deduction also leads to the same conclusion. For, since it was stated: ‘If the gaps exceeded the standing parts it is forbidden [to sow corn] even over against the standing parts’, it follows that if they were equal to the standing parts [the sowing] is permitted. This proves it.

Must it then be assumed that this[21] presents an objection against R. Huna the son of R. Joshua?[22] — He can answer you: According to your line of reasoning [how will you] explain the final clause, ‘If, however, the standing parts exceeded the gaps it is permitted [to sow seed] over against the gaps also’, from which it follows that if it was equal to the gaps, [sowing] is forbidden?[23] Now then, the final clause is a contradiction to the ruling of R. Papa and the first one to that of R. Huna son of R. Joshua? — The final clause is really no contradiction to the ruling of R. Papa for, since the Tanna used the expression, ‘If the gaps exceeded the standing parts [it is forbidden]’[24] in the first clause, he used the expression, ‘If the standing parts exceeded the gaps [it is permitted]’ in the final clause.[25] The first clause presents no contradiction against R. Huna the son of R. Joshua for, as it was desired to state in the final clause, ‘If the standing parts exceeded the gaps [it is permitted]’,[26] it was also taught in the first clause[27] ‘If the gaps exceeded the standing parts [it is forbidden]’.[28]

According to R. Papa[29] it is quite well, for this reason,[30] that the two cases[31] were not included in one statement.[32] According to R. Huna son of R. Joshua,[33] however, why should not the two cases be included in one statement thus:[34] Wherever [the width of a reed is] less than three, or [as much as] three, handbreadths it is necessary that [the gap] between any two reeds shall be less than three handbreadths? — Because the cause of the restriction[35] in the first clause is not like that in the second clause. The cause of the restriction in the first clause is that a kid shall not be able to leap headlong [through the gap]; while [the cause of] the restriction in the final clause is that the gaps shall not be equal to the standing parts.[36]

Whose [view is expressed in the principle that the gap must be] less than three handbreadths? [Is it not] that of the Rabbis who laid down that [to a gap of] less than three handbreadths the law of labud[37] is applied but that to one of three handbreadths the law of labud is not applied?[38] Read, however, the final clause: ‘Where [the width of each reed is] three, or from three to four’.

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(1) Which shows that where the gaps are equal to the built-up parts, the movement of objects is permitted. An objection against R. Huna.

(2) Cf. supra note 1 mutatis mutandis.

(3) Lit., ‘it is found’.

(4) if vines grow on one side of the fence and it is desired to sow corn in close proximity on the other side.

(5) Lit., ‘this to this’,

(6) The law of labud (v. Glos.) is applied in such a case even where the total area of the gaps exceeds that of the reeds. If a gap is wider than three handbreadths, a kid can leap headlong through it and the law of labud cannot consequently apply.

(7) But not actually four.

(8) V. p. 104, n. 10.

(9) Lit., ‘this to this’.

(10) Lit., ‘like its fullness’.

(11) If vines were planted on the other side of’ the fence in close proximity.

(12) Inclusive, but not wider.

(13) Thus we have three categories: (i) It is not necessary for each gap to be less in width than a reed where the reeds are less than three handbreadths in width; and even if a gap is as wide as or wider than a reed, provided it is not wider than three handbreadths, all the fence is valid. (ii) It is necessary for each gap to be less in width than a reed where the reeds are three, or from three to four handbreadths in width. A gap of three or more handbreadths destroys the validity of the entire fence even that of its standing parts. (iii) Where the standing parts of a fence are considerable, their validity is not affected by the gaps, though it is forbidden to sow over against one side of the gaps if vines grow on the other.

(14) In any of three cases enumerated.

(15) V. supra note 5.

(16) Tosef. Kil. IV; because a gap in the shape of a doorway, even if it is wider than ten cubits, does not impair the validity of a fence.

(17) The ruling that the fence is valid only when the gaps are less than the standing parts.

(18) Who ruled supra that even if the breaches in an enclosure were equal to its standing parts, the movement of objects within it on the Sabbath is permitted or, in other words, the fence of the enclosure is valid.

(19) Lit., ‘what its fullness?’

(20) Lit., ‘enters and goes out’, so that a gap equal to that width is really wider than the actual width of the reed. Where, however, the gaps are exactly equal to the standing parts, the fence is valid in agreement with the view of R. Papa.

(21) The Baraitha just discussed which provides support for R. Papa's ruling.

(22) Who differed from R. Papa (supra 15b).

(23) In agreement with the ruling of R. Huna son of R. Joshua and contrary to that of R. Papa.

(24) An expression which was essential for the inference that if the gaps equalled the standing parts it is permitted to sow even over against the gaps.

(25) As an antithesis; although the ruling here was really unnecessary in view of the statement, ‘The gaps shall not be equal to the standing parts’, i.e., (as explained supra) the space through which the reeds can move freely to and fro, from which it follows that if the gaps and the standing parts are equal, and much more so if the latter exceed the former, this is permitted. As the final clause is this a mere antithesis, no inference from it may be drawn.

(26) A statement necessary for the purpose of the inference: But if they were equal to the gaps this is forbidden.

(27) As a mere antithesis.

(28) Though it was superfluous in view of the ruling that this is forbidden even where they were equal to the standing parts.

(29) Who recognizes the validity of a fence where gaps and standing parts are equal.

(30) V. previous note.

(31) Reeds of (i) less than three and (ii) of three handbreadths.

(32) Lit., ‘he does not mix them and teach them’, as, for instance, ‘Wherever (the width of a reed is) three, or less than three, handbreadths it is necessary that the gap between any two reeds shall be less than three handbreadths’. Such a statement would be wrong since in the latter case (according to R. Papa) the gap may be three handbreadths wide.

(33) Who does not recognize the validity of a fence where its gaps and standing parts are equal.

(34) Lit., ‘let him mix them and teach them’.

(35) Lit., ‘disqualification’, ‘invalidity’.

(36) As the reasons are different the two rulings could not be joined into one statement.

(37) V. Glos.

(38) Apparently it is.

Talmud - Mas. Eiruvin 16b

Does not this represent the view of[1] R. Simeon b. Gamaliel who laid down that the law of labud is applied [to a gap that is] less than four handbreadths?[2] For if [it represents the view of] the Rabbis [how could it be said], ‘from three to four’ where three and four are subject to the same law?[3] Abaye replied: Since the first clause [is the view of] the Rabbis the final clause also [must be that of] the Rabbis, but[4] the Rabbis admit that wherever [it is a question of] permitting [to sow corn] over against [a standing part], if it is four handbreadths wide it is deemed [a partition],[5] but not otherwise. Raba replied: As the final clause is the view of R. Simeon b. Gamaliel the first clause also must be that of R. Simeon b. Gamaliel, but[4] it is only to [a gap] above[6] that he applied the rule of labud but in the case of one below it is like a fence which kids can break through [to which the rule of] labud is not applied.

Come and hear: [The space enclosed by] such walls as consist mostly of floors and windows is permitted, provided the standing parts exceed the gaps.[7] Now, is it possible to imagine [that the reading was] 'mostly'?[8] [The reading] then [must obviously be] '[The space enclosed by walls] in which many[9] doors and windows were made is permitted, provided the standing parts exceed the gaps'. Thus it follows [that if the standing parts] equal the gaps it is forbidden. [Is not this then] an objection against R. Papa? — This is indeed an objection. The law, however, is in agreement with R. Papa. 'An objection' and 'the law'![10] — Yes. Because the inference from our Mishnah is in agreement with his view. For we learned: THE GAPS DO NOT EXCEED THE BUILT-UP PARTS, from which it follows [that if they are] equal to the built-up parts it is permitted.

MISHNAH. [A CARAVAN IN CAMP][11] MAY[12] BE SURROUNDED BY THREE ROPES,[13] THE ONE ABOVE THE OTHER, PROVIDED [THE SPACE] BETWEEN THE ONE ROPE AND THE OTHER[14] IS LESS THAN THREE HANDBREADTHS.[15] THE SIZE OF THE ROPES [MUST BE SUCH] THAT THEIR [TOTAL] THICKNESS SHALL BE MORE[16] THAN A HANDBREADTH, SO THAT THE TOTAL HEIGHT[17] SHALL BE TEN HANDBREADTHS. [THE CAMP][18] MAY ALSO BE SURROUNDED[19] BY REEDS,[20] PROVIDED THERE IS NO [GAP OF] THREE HANDBREADTHS[21] BETWEEN ANY TWO REEDS. [IN LAYING DOWN THESE RULINGS,[22] THE RABBIS] SPOKE ONLY OF A CARAVAN.[23] THIS IS THE VIEW OF R. JUDAH; BUT THE SAGES MAINTAIN THAT THEY SPOKE OF A CARAVAN ONLY BECAUSE [IN ITS CASE THIS[24] IS] A USUAL OCCURRENCE.[25] ANY PARTITION THAT IS NOT [MADE UP OF] BOTH VERTICAL AND HORIZONTAL[26] [STAKES] IS NO VALID PARTITION;[27] SO R. JOSE SON OF R. JUDAH.[28] BUT THE SAGES RULED: ONE OF THE TWO[29] [IS ENOUGH]. GEMARA. Said R. Hamnuna in the name of Rab: Behold the Rabbis have laid down[30] that if the standing parts [of a partition made up] of vertical [stakes][31] exceed the gaps [the fence] is valid.[32] What, however, asked R. Hamnuna, is the ruling in respect of horizontally [drawn ropes]?[33] — Abaye replied: Come and hear: THE SIZE OF THE ROPES [MUST BE SUCH] THAT THEIR TOTAL THICKNESS SHALL BE MORE THAN A HANDBREADTH, SO THAT THE TOTAL HEIGHT SHALL BE TEN HANDBREADTHS. Now if [such a barrier][34] were valid[35] what need was there[36] [for the TOTAL THICKNESS to be] MORE THAN A HANDBREADTH seeing that one could leave[37] [a distance slightly] less than three handbreadths and [stretch] a rope of any [thickness, and again leave a distance slightly] less than three handbreadths, and [stretch] a rope of any [thickness, and then again leave a distance slightly] less than four handbreadths and [stretch] a rope of any thickness?[38] — But how do you understand this: Where could one leave[39] less than four [handbreadths of distance]? Were it to be left[39] below,[40] [the barrier] would be like a partition which kids can break through;[41] were it to be left[42] above,[43] the [unlimited] air space on the one side [of the rope][44] and that on the other[45] would join[46] to annul its validity; and if one were to leave it in the middle,[47] the [virtually] standing parts[48] would be exceeding the gaps [only by combining the parts][48] on its two sides;[49] or would you infer from this that where the standing parts [of a partition or barrier] exceed a gap in it [only by combining those] on its two sides they are nevertheless valid?[50] But[51] it is this that R. Hamnuna asked: [What is the ruling where one] brought for instance a mat that measured seven handbreadths and a fraction, and cut out in it [a hole of] three handbreadths leaving [untouched the remaining] four handbreadths[52] and fraction,[53] and put it up within [a distance of] less than three handbreadths [from the ground]?[54]

R. Ashi said: His[55] enquiry related to a suspended partition,[56] as did that which R. Tabla addressed to Rab: Does a suspended partition convert a ruin into a permitted domain? And the other replied: A suspended partition can effect permissibility only in the case of water[57] because only in respect of water did the Sages relax the law.

[THE CAMP] MAY ALSO BE SURROUNDED BY REEDS etc. Only in the case of A CARAVAN but not in that of all individual? But was it not taught: R. Judah stated: All [defective] partitions[58] in connection with the Sabbath [laws] were not permitted to an individual [if the space enclosed][59] exceeded two beth se'ah?[60] — As R. Nahman (or [as] some say: R. Bibi b. Abaye) replied [elsewhere that the ruling] was only required [in respect] of allowing them all [the space] they required, [so may one] here also [explain that the statement[61] referred to the permissibility] of allowing them all [the space] they required.[62]

Where was [the reply] of R. Nahman (or [as] some say, [that of] R. Bibi b. Abaye) stated?- In connection with what we learned: ANY PARTITION THAT IS NOT [MADE UP OF] BOTH VERTICAL AND HORIZONTAL [STAKES] IS NO VALID PARTITION; SO R. JOSE SON OF R. JUDAH. Now [it was objected] could R. Jose son of R. Judah have given such a ruling seeing that it was taught: ‘An individual and a caravan are subject to the same law as regards [a barrier] of ropes.[63] But [then] what is the difference [in this respect][64] between an individual and a caravan? One individual is allowed two beth se'ah, so are two individuals also allowed two beth se'ah, but three become a caravan and are allowed six both se'ah,’ so R. Jose son of R. Judah. But the Sages ruled: Both an individual and a caravan are allowed all [the space] they require provided no area of two beth se'ah remains unoccupied’?[65] [To this] R. Nahman (or some say: R. Bibi b. Abaye) replied: [This ruling][66] was only required in respect of allowing them all [the space] they required.[67] R. Nahman in the name of our Master Samuel gave the following exposition: One individual is allowed two beth se'ah, two individuals are also allowed two beth se'ah, but three become a caravan and are allowed six beth se'ah. Do you leave the Rabbis[68] [he was asked] and act in agreement with R. Jose son of R. Judah? Thereupon R. Nahman appointed an Amora on the subject[69] and gave the following exposition: The statement I made to you was an error on my part; it is this indeed that the Rabbis have said: ‘An individual is allowed two beth se'ah, two also are allowed two beth se'ah, but three become a caravan and are allowed all [the space] they require.

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(1) Lit., ‘we came to’.

(2) By making a distinction between four and less than four, in which latter case where the gap exceeds the standing part it is forbidden to sow even over against the standing part, whereas in the former it is permitted — the Mishnah presumably follows R. Simeon b. Gamaliel (Rashi).

(3) Lit., ‘is one’.

(4) As to the objection raised.

(5) Against which corn may be sown.

(6) As in the case of a cross-beam,.

(7) Supra 11a.

(8) שרובן, lit., ‘most of which’; obviously not, since the standing parts of such walls cannot possibly exceed the gaps.

(9) שריבה, lit., ‘that he made many’.

(10) Can the law be in agreement with the view of R. Papa when an objection has been raised against it?

(11) Cf. Mishnah supra 15b of which this is a continuation.

(12) In order that it may be permitted to move objects within it on the Sabbath.

(13) Attached to reeds, or any stakes.

(14) And between the lowest one and the ground.

(15) A gap of less than three handbreadths being regarded by the rule of labud (v. Glos.) as non-existent, the height of the rope barrier is thus virtually nine handbreadths minus three small fractions (v. following two notes and text).

(16) By the three fractions mentioned in the previous note ad fin.

(17) Of the rope barrier.

(18) V. supra note 1.

(19) V. supra note 2.

(20) Driven in the ground in a vertical position.

(21) So that the rule of labud can be applied.

(22) That a barrier of ropes drawn horizontally or a fence of reeds driven in the ground vertically is a valid enclosure in respect of the Sabbath laws.

(23) In whose case the Rabbis relaxed the law, but not of an individual whose barrier or fence must be provided with both horizontal and vertical (v. our Mishnah infra) stakes, reeds or ropes.

(24) The putting up of a barrier round the camp.
(25) But the same laws apply also to camps of individuals.
(26) Lit., ‘warp and woof’.
(27) Even in the case of a caravan.
(28) Who differs from his father's view supra.
(29) Either vertical or horizontal stakes or poles and the like.
(30) In the Mishnah supra 15b.
(31) And the like. The trappings of cattle (v. previous note) are usually arranged in a vertical position.
(32) Lit., ‘a standing’.
(33) Is such a barrier valid where it contains gaps wider than three handbreadths to which, unlike the rope barrier spoken of in our Mishnah, the rule of labud cannot be applied?
(34) V. previous note.
(35) Lit., ‘there is’.
(36) Lit., ‘wherefore to me’.
(37) Lit., ‘let him make’.
(38) Two of the gaps, each being less than three handbreadths, would by the law of labud be deemed closed and this would, together with the ropes, provide a ‘standing part’ of six handbreadths that exceeds the third gap of four handbreadths. As this, however, was not permitted it may be concluded that in the case of horizontally drawn ropes, the barrier is invalid even where the standing parts exceed the gaps.
(39) Lit., ‘set’, ‘place’.
(40) Between the lowest rope and the ground.
(41) Which, as a suspended partition, is invalid even if its properly standing parts are ten handbreadths high.
(42) Lit., ‘set’, ‘place’.
(43) The other gaps; i.e., between the second rope from the ground and the topmost one.
(44) Its upper side.
(45) The space between this rope and the middle one.
(46) Lit., ‘come’.
(47) Above the lowest, and under the middle rope.
(48) Sc. the spaces of three handbreadths each below it and above it to which the rule of labud is applied.
(49) Which, is not admissible.
(50) Lit., ‘is a standing’, but this is contrary to the law.
(51) The question in the present form being untenable.
(52) On one side of the gap.
(53) On its other side.
(54) With the fractional section below the gap in the mat and the four handbreadths one above it. In such a case the lowest gap (the distance between the ground and the fractional section of the mat) is regarded as labud (v. Glos.) while the three handbreadths gap in the mat is exceeded by the remaining four handbreadths of the mat all of which are on one side of the gap. The air spaces on the two sides of this section cannot annul its validity since it exceeds at least the air space on the one side below it.
(55) R. Hamnuna's.
(56) A mat measuring ten handbreadths, for instance, that was suspended at a distance of more than three, and less than ten handbreadths from the ground. Does the ‘standing part’ (the mat), R. Hamnuna asked, annul the distance between it and the ground because it exceeds it or not?
(57) I.e., as regards the permissibility of drawing water from a river or a lake on the Sabbath (cf. infra 87b).
(58) That were with difficulty allowed where a number of people were concerned.
(59) Though the enclosure was put up for the purpose of using its interior as a dwelling.
(60) V. Glos., but if it did not exceed this measurement such defective partitions were permitted to an individual also. How then is R. Judah's statement in the Baraitha to be reconciled with his statement in our Mishnah.
(61) Of R. Judah, that the Rabbis in our Mishnah SPOKE ONLY OF CARAVAN.
(62) Though it exceeded two beth se'ah. Where, however, such an area is not exceeded the same privilege is extended to an individual also.
(63) It is permissible in either case though no vertical stakes were put up.

(64) Where a barrier is defective as in this case (v. previous note).

(65) Sc. exceeded actual requirements. Now since R. Jose distinctly recognized here the validity of a barrier made of ropes without stakes how could he rule in our Mishnah to the contrary?

(66) Of R. Jose in our Mishnah, according to which a barrier of ropes is not admissible.

(67) The respective areas specified in the Baraitha however, are allowed even where the barrier was made only of horizontally drawn ropes.

(68) Who represent a majority.

(69) To expound to the public R. Nahman's discourse.

Talmud - Mas. Eiruvin 17a

Is then the first clause[1] [in agreement with] R. Jose[2] and the final clause [only in agreement with the] Rabbis?[3] — Yes, because his father[4] adopts[5] the same line.[6]

R. Giddal stated in the name of Rab: Three [persons are sometimes] forbidden[7] in five [beth se'ah, and sometimes] permitted[7] [even] in an area of seven. ‘Did Rab’, they asked him, ‘really say so?’ — ‘[By] the Law, the Prophets and the Writings, [I can answer]’, he said to them, ‘that Rab did say, so’. Said R. Ashi: But what is the difficulty?[8] It is possible that he meant this: If they required six beth se'ah and they surrounded[9] an area of seven they are permitted[10] even in all the seven;[11] and if they required only one of five[12] beth se'ah but surrounded[9] one of seven[13] they are forbidden[14] even the five beth se'ah. But then what of what was taught: ‘Provided there be no two beth se'ah unoccupied’, does not this mean: Unoccupied by human beings?[15] — No; unoccupied by objects.[16]

It was stated: [On the question of the extent of the area permitted[17] where there were][18] three persons and one of them died,[19] or two[18] and their number was increased,[19] R. Huna and R. Isaac [are in dispute]. One maintains that Sabbath is the determining factor[20] and the other maintains that the determining factor is [the number of actual] tenants.[21] You may conclude that it is R. Huna who held that the determining factor was the Sabbath. For Rabbah stated: ‘I enquired of R. Huna (and also of Rab Judah) as to what [was the law where] an ‘erub[22] was laid in reliance on[23] a certain door[24] and that door was[25] blocked up, or on a certain window[24] and that window was[25] stopped up,[26] and he replied: Since permission for the Sabbath was once granted the permissibility continues[27] [until the day is concluded]’.[28] This is conclusive.

Must it be assumed that R. Huna and R. Isaac differ on the same principle as that on which R. Jose and R. Judah differed? For we learned: If a breach was made[29] in two sides of a courtyard[30] and so also if a breach was made in two sides of a house, or if the cross-beam[31] or side-post[31] of an alley was removed[29] [the tenants] are permitted [their use] for that Sabbath[32] but forbidden on future [Sabbaths]; so R. Judah. R. Jose ruled: Whatever[33] they are permitted for that Sabbath they are permitted for future [Sabbaths], and whatever[33] they are forbidden for future [Sabbaths] they are also forbidden for that Sabbath.[34] Must it then be assumed that R. Huna is of the same opinion as R. Judah while R. Isaac is of that of R. Jose?[35] — R. Huna can tell you, ‘I can maintain my view even in accordance with that of R. Jose; for R. Jose maintained his view there only because there were no partitions, but here there are partitions’. And R. Isaac can tell you,’I can maintain my view even in agreement with R. Judah; for R. Judah upheld his view there only because the tenants were in existence, but here there was not a [sufficient number of] tenants’.

AND THE SAGES RULED: ONE OF THE TWO [IS ENOUGH]. Is not this ruling precisely the same as that of the first Tanna?[36] — The practical difference between them is the case of an individual in an inhabited area.[37] MISHNAH. [OF] FOUR OBLIGATIONS WAS EXEMPTION GRANTED [TO WARRIORS] IN A CAMP: THEY MAY BRING WOOD FROM ANYWHERE, THEY ARE EXEMPT FROM THE WASHING OF THE HANDS,[38] FROM [THE RESTRICTIONS OF] DEMAI[39] AND FROM THE DUTY OF PREPARING AN ‘ERUB.[40]

GEMARA. Our Rabbis learned: An army that goes out to an optional war[41] are permitted to commandeer dry[42] wood. R. Judah b. Tema ruled: They may also encamp in any place, and are to be buried where they are killed.[43]

‘Are permitted to commandeer dry wood’. Was not this, however, an enactment of Joshua,[44] for a Master stated that Joshua laid down ten stipulations [which included the following:] That [people] shall be allowed to feed their cattle in the woods[45] and to gather wood from their[45] fields?[46] — [The enactment] there related to thorns and shrubs [while the ruling] here refers to other kinds of wood.

Or else: There[47] [it is a case of trees] that are attached [to the ground,[48] while the ruling] here [refers to such] as were [already] detached.[49] Or else: There[47] [it is a case] of fresh, and here [it is one] of dry [wood].

‘R. Judah b. Tema ruled: They may also encamp in any place, and are to be buried where they are killed’. Is not this[50] obvious, since [a killed warrior is] a meth mizwah[39] and a meth mizwah acquires [the right to be buried on] the spot where it is found?[51] — [This ruling was] required only [for the following case:] Although

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(1) The ruling accepted by R. Nahman in his exposition.
(2) Who allows an individual no more than two beth se'ah. According to the Rabbis he should be allowed all the space he requires.
(3) Since R. Jose allows only an area of six beth se'ah. Now, would R. Nahman agree with an individual opinion when it differs from that of the majority?
(4) R. Judah.
(5) Lit., ‘stands’.
(6) He also allows an individual no more than two beth se'ah where a partition is made of vertical or horizontal stakes or ropes only.
(7) The carrying of objects on the Sabbath.
(8) That caused them to doubt that Rab had made the statement.
(9) With stakes only, i.e., with the vertical, and not with the horizontal parts of an enclosure.
(10) The carrying of objects on the Sabbath.
(11) Since the unoccupied area is less than two beth se'ah.
(12) For a variant reading, v. Elijah Wilna's glosses.
(13) So that two beth se'ah remained unoccupied, and the barrier was consequently invalid.
(14) The carrying of objects on the Sabbath.
(15) Three persons, e.g., each being entitled to an area of two beth se'ah only, would not jointly be allowed the use of (3 X 2 + 2 =) eight beth se'ah, since, after allowing the (3 X 2 =) six to which they are jointly entitled there still remain two beth se'ah without an occupier; but if the area measured only seven beth se'ah all of it is permitted to them since only (7 — 3 X 2 =) one beth se'ah remains unoccupied. How then is Rab's statement that ‘three persons are sometimes forbidden in five’, to be explained?
(16) Even several persons are not entitled to use an area of twice as many beth se'ah as their number (cf. previous note) but only as many beth se'ah as they actually require plus an area less than two beth se'ah.
(17) In the case of a defective enclosure.
(18) When the Sabbath began.
(19) On the Sabbath.
(20) The extent of the area permitted is dependent on the number of persons alive at the moment Sabbath began. If at that time the three were alive the survivors may continue to use the full area throughout the Sabbath even according to R. Judah. If, however, two persons only were present when the Sabbath began and they enclosed an area larger than two beth se'ah they are, according to R. Judah, forbidden its use even if their number had been augmented during the Sabbath.
(21) If an area larger than two beth se'ah had been enclosed its use is permitted if the number of tenants was three, though when the Sabbath began it was only two, and forbidden if the number was two though it was three when the Sabbath began.
(22) V. Glos.
(23) Lit., ‘by the way of’.
(24) That communicated between two courtyards inhabited by different tenants.
(25) Owing to the collapse of some structure on the Sabbath.
(26) Is it permissible to carry objects through any other window that, measuring less than four handbreadths (v. infra 76a), could not be used for the purpose of an ‘erub?
(27) Lit., ‘is permitted’.
(28) Infra 93b.

(29) During the Sabbath.

(30) This is explained infra 94b.

(31) Sing. So Rashi's MS. supported by Tosaf. s.v. קורותיו a.l. Cur. edd. use the pl.

(32) On which the accident occurred. Since these were permitted when the Sabbath began their permissibility continues until its conclusion.

(33) Lit., ‘if’ (v. next note).

(34) Infra 94a, i.e., (as explained infra 5a) as they are forbidden for future Sabbaths so are they forbidden for that one also though they were permitted when the Sabbath began.

(35) Is it likely, however, that Amoras would be merely repeating a dispute of Tannas?

(36) The Rabbis, who, earlier in the Mishnah, stated THEY SPOKE OF A CARAVAN ONLY BECAUSE . . . A USUAL OCCURRENCE, so that the same relaxation of the law applied also to an individual.

(37) According to the first Tanna a defective partition is permitted to an individual only where he, like a CARAVAN, finds himself underways where he cannot procure the materials for a proper one. According to the Sages, however, who objected to the ruling of R. Jose son of R. Judah, according to whom a defective partition is invalid both for a caravan and an individual, underways and in an inhabited area, such a partition is valid both for a caravan and an individual, underways and in an inhabited area.

(38) Before a meal.

(39) V. Glos.

(40) If a door communicated between two enclosures in the camp and it was desired to carry objects from one into the other.

(41) Sc. any war other than those against the peoples of Canaan in the days of Joshua.

(42) And much more so fresh.

(43) Tosef. ‘Er. II.

(44) When he entered Canaan.

(45) Of other people.

(46) B.K. 80bf.

(47) The enactment of Joshua.

(48) Such trees are permitted to all.

(49) The owner having cut them for fuel. Such wood is permitted to an army only.

(50) The second ruling of R. Judah b. Tema.

(51) Lit., ‘its place’. This is another of the ten enactments of Joshua. Sot. 45b, B.K. 81a, Sanh. 47b.

Talmud - Mas. Eiruvin 17b

he[1] has friends who would bury [him he is to be buried where he was killed]. For it was taught: Who is deemed a meth mizwah? Any person who has no one[2] to bury him. Were he, however, to call [for help] and others answer him, he is not [to be regarded as] a meth mizwah.[3]

But does a meth mizwah acquire [the right to be buried on] the spot where it is found? Was it not in fact taught: If a man found a corpse lying in the road, he may remove it to the right of the road or to the left of the road: [if on the one side there was] an uncultivated, and [on the other] a fallow field, he should remove it to the uncultivated field;[4] a fallow field and a field with seeds, he should remove it to the fallow field;[4] if both fields were fallow, sown, or uncultivated he may remove it to whichever side he wishes?[5] — R. Bibi replied: Here we are dealing with a corpse that lay across a narrow path,[6] and since permission was granted to remove it from the path[7] one may also move it to whichever side one pleases.

THEY ARE EXEMPT FROM THE WASHING OF THE HANDS. Abaye stated: This was taught only in respect of the washing before a meal,[8] but the washing after a meal[9] is obligatory. R.[10] Hiyya b. Ashi stated: Why did the Rabbis rule that washing after a meal[9] is obligatory? Because there exists a certain Sodomitic salt that causes blindness.[11] And, said Abaye, it is found in the proportion of one grain to a kor[12] [in any kind of salt]. Said R. Aha son of Raba to R. Ashi: What [is your ruling where] one has measured out any salt?[13] This,[14] the other replied, is perfectly obvious.[15]

FROM [THE RESTRICTIONS OF] DEMAI, for we learned: Poor men and billeted troops[16] may be fed with demai.[17] R. Huna stated: One taught: Beth Shammai ruled: Poor men and billeted troops may not be fed with demai, and Beth Hillel ruled: Poor men and billeted troops may be fed with demai.

AND FROM THE DUTY OF PREPARING AN ‘ERUB. It was stated at the schoolhouse of R. Jannai: [This ruling] was taught only in regard to an ‘erub[18] of courtyards but their obligation to an ‘erub of boundaries remains unaffected, since R. Hiyya taught: For [transgressing the laws of] ‘erub of boundaries flogging is incurred [in accordance with] Pentateuchal Law.[19] R. Jonathan demurred: Is flogging incurred on account of a prohibition[20] implied in Al?[21] R. Aha b. Jacob demurred:[22] Now then,[23] since it is written in Scripture: Turn ye not[24] unto them that have familiar spirits, nor unto the wizards,[25] should no flogging be incurred in that case also?[26] — It was this difficulty that R. Jonathan felt: [Is not this][27] a prohibition that was given to [authorize] a warning of death at the hands of Beth din[28] and for any prohibition given to [authorize] a warning of death no flogging is incurred?[29] — R. Ashi replied: Is it written in Scripture, ‘Let no man carry out ?[30] It is [in fact] written: Let no man go out.[31] CHAPTER II

MISHNAH. WELLS[32] MAY BE PROVIDED[33] WITH STRIPS OF WOOD[34] [BY FIXING] FOUR CORNER-PIECES[35] THAT HAVE THE APPEARANCE OF EIGHT [SINGLE STRIPS];[36] SO R. JUDAH. R. MEIR RULED: EIGHT [STRIPS THAT] HAVE THE APPEARANCE OF TWELVE [MUST BE SET UP], FOUR BEING CORNER-PIECES AND FOUR SINGLE [STRIPS].[37] THEIR HEIGHT [MUST BE] TEN HANDBREADTHS, THEIR WIDTH SIX, AND THEIR THICKNESS [MAY BE] OF ANY SIZE WHATSOEVER. BETWEEN THEM [THERE MAY BE] AS MUCH[38] [SPACE AS TO ADMIT] TWO TEAMS OF THREE OXEN EACH; SO R. MEIR; BUT R. JUDAH SAID: OF FOUR [OXEN EACH, THESE TEAMS BEING] TIED TOGETHER AND NOT APART[39] [BUT THERE MAY BE SPACE ENOUGH FOR] ONE[40] TO ENTER WHILE THE OTHER GOES OUT.[41]

IT IS PERMITTED TO BRING [THE STRIPS] CLOSE TO THE WELL, PROVIDED A COW CAN BE WITHIN [THE ENCLOSURE WITH] ITS HEAD AND THE GREATER PART OF ITS BODY WHEN DRINKING.[42] IT IS PERMITTED

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(1) The warrior.

(2) Rashi: Heirs.

(3) Yeb. 89b, Naz. 43b.

(4) In order to avoid or reduce any possible damage to the crops.

(5) B.K. 81b. Now if a meth mizwah must be buried on the spot in which it is found, why was his removal allowed in this Baraitha?

(6) Blocking it entirely so that it is impossible to pass through without stepping over the corpse.

(7) So as to enable priests and others who observe levitical purity to use the path without contracting defilement.

(8) Lit., ‘first water’.

(9) Lit., ‘last water.

(10) MS.M., ‘for R. Judah son of R. Hiyya’. Cf. also Tosaf. Hul. 105a, s.v. מים.

(11) And the washing after the meal removes it from the fingers that may have touched it (cf. Ber. 40a).

(12) V. Glos.

(13) Sc. handled it for some purpose other than that of eating it. Is the washing of the hands obligatory in such a case also?

(14) That washing is required.

(15) Lit., ‘it is not (to be) asked’. At the present time it is no longer customary to wash the hands after a meal because Sodomitic salt is uncommon or because no one now dips his fingers in salt after a meal (Tosaf. s.v. מים a.l.).

(16) Even if they are Jews.

(17) Dem. III, 1; Ber. 47a; Shab. 127b; infra 31a. The laws of demai, being only Rabbinical, have been relaxed in these cases.

(18) V. Glos,

(19) Cf. infra 51a.

(20) לאו lit., ‘not’.

(21) אל. This negative, it is now assumed, does not express emphatic prohibition as the negative particle .

(22) Against R. Jonathan's demur.

(23) If no flogging is to be incurred for a prohibition expressed by al.

(24) אל.

(25) Lev. XIX, 31.

(26) But the fact is that flogging is in that case incurred.

(27) The injunction, ‘Let no man go out’ (Ex. XVI, 29) from which the prohibitions of both (a) walking beyond the Sabbath limits and (b) carrying from one Sabbath domain into another are inferred (v. Tosaf. s.v. לאו a.l.).

(28) For the carrying of objects from one Sabbath domain into another the penalty is not flogging but death (cf. Shab. 96b).

(29) Even where the penalty of death is not inflicted as, for instance, where the witnesses gave their warning in respect of flogging. How then could it be ruled by R. Hiyya that ‘for transgressing the laws of ‘erub of boundaries’, which are derived from the same text (cf. supra p. 118 n. 15), ‘flogging is incurred’?

(30) Which would explicitly have referred to the carrying of objects. Had this been the case, and as walking beyond the Sabbath limits is inferred from the same text, as no flogging is incurred for the carrying of objects so could none be incurred for walking beyond the Sabbath limits.

(31) Ex. XVI, 29. Since the expression used is actually that of going out, flogging is rightly incurred for acting against this prohibition (cf. Tosaf. loc. cit. Rashi has a different interpretation).

(32) That are situated in a public domain and are no less than ten handbreadths deep and four handbreadths wide and, in consequence, subject to the status of a private domain.

(33) In order that water may be drawn from them on the Sabbath.

(34) No proper enclosure being necessary (v. infra).

(35) Or deyomads (cf. note supra 15a), each consisting of two upright boards of the prescribed measurements (v. infra) with their ends joined at right angles to each other.

(36) So that each of the four sides of the well is screened at each of its two ends by a strip of wood of the prescribed size, and the space around it within the enclosure is thus converted into a private domain into which water from the well may be drawn (cf. supra n. 2).

(37) One between each two corner-pieces (cf. previous note).

(38) Lit., ‘like the fullness of’.

(39) This is a restriction: The space must not be wider than that.

(40) Team (v. infra 19a ad fin.)

(41) A relaxation of the law: They need not be brought so closely together as to leave no room for them to move freely.

(42) If the space is smaller, the drawing of water is forbidden on the Sabbath, since the cow might back out of the enclosure and one might carry the bucket after her and thus be guilty of carrying from a private, into a public domain.

Talmud - Mas. Eiruvin 18a

TO REMOVE [THE STRIPS][1] TO ANY [DISTANCE][2] PROVIDED ONE INCREASES THE STRIPS.[3] R. JUDAH SAID: [THE ENCLOSURE MAY BE ONLY] AS LARGE AS[4] TWO BETH SE'AH,[5] BUT THEY[6] SAID TO HIM: [THE LIMIT OF] TWO BETH SE'AH WAS PRESCRIBED FOR A GARDEN OR A KARPAF[7] ONLY,[8] BUT IF [THE ENCLOSURE] WAS A CATTLEPEN,[9] A FOLD,[10] A BACKYARD OR A COURTYARD[11] IT MAY BE [AS BIG AS] FIVE OR TEN BETH KOR.[5] AND[12] [FOR THIS REASON] IT IS PERMITTED TO REMOVE [THE STRIPS FROM THE WELL TO] ANY DISTANCE PROVIDED ONE INCREASES THE NUMBER OF THE STRIPS.[13]

GEMARA. Must one assume that our Mishnah is not in agreement [with a ruling of] Hanania; for it was taught: Strips of wood may be put up round a cistern[14] and ropes[15] around a caravan,[16] but Hanania ruled: Ropes [may be put up] round a cistern but not strips of wood?[17] — It may be said [to agree] even [with the ruling of] Hanania for a cistern and a well belong to two different categories.[18] There are [others] who read: Since it was not stated[19] Hanania ruled: 'Ropes must be put up round a cistern and strips of board [may be put up] round a well', it may be inferred that [according] to the view] of Hanania both in the case of a cistern and in that of[20] a well, only ropes are permitted but not strips of wood; must one then assume that our Mishnah[21] is not in agreement [with the ruling of] Hanania? — It may be said [to agree] even [with the ruling of] Hanania, for he[22] only replied to that[23] of which the first Tanna had spoken.[24]

Must it be assumed that our Mishnah is at variance with [a ruling of] R. Akiba; for we learned: 'Strips of wood may be provided[25] for a public well, a public cistern as well as[26] for a private well, but for a private cistern a screen ten handbreadths high must be provided; so R. Akiba',[27] whereas here it was stated [that such strips of wood may be provided] for WELLS. [Does it not then follow:] only[28] for WELLS but not for cisterns?[29] — It may be said [to be in agreement] even with R. Akiba, for it only taught of a well of living water because [the law in its case is] definite, there being no difference whether it was public or private, but it did not teach concerning a cistern containing collected [water] since [the law in its case] is not definite.[30]

Need it be suggested that our Mishnah is at variance with a ruling of R. Judah b. Baba; for we learned, 'R. Judah b. Baba ruled: Strips of wood may be set up round a public well only',[27] whereas here it was stated [that such strips may be set up] for WELLS, implying[31] that there is no difference whether they were public or private? — It may be said to agree even with R. Judah b. Baba, for by WELLS were meant [public] wells in general.[32] What is the meaning of deyomadin?[33] R. Jeremiah b. Eleazar replied: Deyo 'amudin.[34]

(Mnemonic:[35] Two, under a ban, praise, dove, house, two,[36] was cursed, by a relationship three.)

We learned elsewhere: R. Judah ruled: All wild figs[37] are exempt [from the restrictions of demai][38] excepting those of deyufra.[39] What [is the meaning of] 'deyufra'? — Ulla replied: A tree that bears fruit twice a year.[40]

R. Jeremiah b. Eleazar said: The first man[41] had two full faces, for it is said in Scripture: Thou hast shaped me[42] behind and before.[43]

It is written: And the Lord God builded the side[44] etc.[45] Rab and Samuel [differ on the meaning of 'side']. One explains: A full face[46] and the other explains: A tail.[46] According to him who explained: 'a full face', it was quite proper for Scripture to state: Thou hast shaped me behind and before;[47] but according to him who explained: 'A tail', what [could be the meaning of] Thou hast shaped me behind and before?[47] — As R. Ammi explained, for R. Ammi said: [Adam was] behind [last] in the work of the creation[48] and before [the others] for retribution. One may well concede that he was 'behind in the work of the creation', since he was not created before the Sabbath eve;[49] what means, however, 'Before [the others] for retribution'? Shall I say [it refers] to the curse,[50] surely, [it could be objected] was not the serpent cursed first,[51] Eve afterwards[52] and Adam last?[50] — But [it refers] to the flood; for it is written in Scripture: And He blotted out every living substance which was upon the face of the ground, both man and cattle etc.[53] According to him who explained: 'a full face' it is easy to see why And He formed [wa-yizer][54] was written in Scripture[55] with two yods;[56] according to him, however, who explained: 'A tail' what [could be the significance of] 'And he formed'?[57] — [It may be explained] in agreement with R. Simeon b. Pazzi, for R. Simeon b. Pazzi said,[58] 'Woe to me on account of my evil inclination;[59] woe to me on account of my creator',[60] According to him who explained: 'A full face' it was quite correct for Scripture[61] to write: Male and female created He them;[62] but according to him who explained: ‘A tail’, what [could be the interpretation of] ‘Male and female created He them’?- [The text was required] for [an explanation] like that of R. Abbahu. For R. Abbahu pointed out an incongruity: It is written in Scripture: Male and female created He them.[62] Previously it is written: In the image of God created He him;[63] [and he explained:] At first it was the intention that two[64] should be created but ultimately only one was created.[65] According to him who explained: ‘A full face’, the expression of ‘And closed up the place with flesh instead thereof’,[66] is quite intelligible; but according to him who explained: ‘A tail’, what [could be the meaning of] ‘And closed up the place with flesh instead thereof’? — R. Zebid (or as some say: R. Nahman b. Isaac) replied: The text refers only[67] to the place of the cut.

According to him who explained: ‘A tail’ it was quite proper for Scripture to write: And He builded,[68] but according to him who explained: ‘A full face’, what [could be the significance of] ‘And He builded’?[69] — In agreement with that which has been stated by R. Simeon b. Menassia. For R. Simeon b. Menassia made the following exposition: ‘And the Lord God builded the side’[70] teaches that the Holy One, blessed be He, plaited Eve's hair[71] and then brought her to Adam,[72] for in the sea-towns a plait[73] is called ‘building’.[74] Another interpretation of ‘And the Lord God builded’:[70] R. Hisda stated [or, as others say, it was taught in a Baraitha]: This[75] teaches that the Holy One, blessed be He, built Eve in the shape[76]

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(1) From the well.

(2) And thus extend the space enclosed.

(3) So that no gap in the enclosure is wider than ten cubits according to R. Meir, or thirteen and a third cubits according to R. Judah. V. Gemara.

(4) Lit., ‘until’.

(5) V. Glos.

(6) The Rabbis.

(7) קרפף, an enclosure for the storage of wood or the like outside a settlement.

(8) Since these are not made to serve as habitations.

(9) Which is shifted from place to place in the fields, its main purpose being the collection of sufficient manure for the respective spots on which it is set up.

(10) For town cattle.

(11) Which may be regarded as an enclosure for human habitation.

(12) Since the water of a well may be used for human beings as for cattle, and the enclosure around it assumes, in consequence, the nature of a human habitation.

(13) V. supra note 2.

(14) Cf. notes on our Mishnah ab init. It is not necessary to provide a proper enclosure. (The reason is given infra).

(15) But not strips of wood (cf. previous note).

(16) Cf. supra 16b notes.

(17) Now, since a cistern and a well are equally private domains, does not our Mishnah, which allows strips of wood for the latter, obviously differ from the ruling of Hanania which does not allow them for the former?

(18) Lit., ‘a cistern alone and a well alone’. In the case of a cistern, unlike that of a well, it is possible for the water to be completely used or dried up, and for an empty pit, an enclosure of strips of wood with gaps between them is invalid.

(19) In the Baraitha just cited.

(20) Lit., ‘there is no difference’.

(21) Which allows boards for the latter.

(22) Hanania in his ruling.

(23) A cistern.

(24) The question of a well not having arisen, there was no need for him to mention it.

(25) V. supra p. 121, n. 13.

(26) Lit., ‘(it is all) one’.

(27) Infra 22b.

(28) Lit., ‘yes’.

(29) Even if they were public; contrary to R. Akiba who does permit such boards for public cisterns.
(30) There being in agreement with R. Akiba, a difference between a public, and a private one.
(31) By the use of the plural.
(32) Private ones, however, are, in agreement with R. Judah b. Baba, excluded.
(33) דיומדין rendered supra ‘CORNER-PIECES’.
(34) דיו עמודין ‘two pillars’. Cf. the Greek parallel, **, and note supra 15a.
(35) Containing striking words or phrases of each of the following sayings of R. Jeremiah b. Eleazar.
(36) The last three terms are the reading of Elijah Wilna in place of one unintelligible term in cur. edd.
(37) Since they are cheap and an ‘am ha-ares does not mind the small loss he incurs in tithing them.
(38) V. Glos.
(39) Because they are expensive (cf. prev. note). דיופרא cf. Gr. **, Dem. I, 1.
(40) A play upon the word: דיו = ‘two’, פרא = פרי ‘fruit’.
(41) Or ‘Adam (who was) the first (man)’.
(42) צרתני. צר is compared with צורה ‘shape (of the face)’. E.V., beset me; A.J.T. ‘hemmed me in’.
(43) Ps. CXXXIX, 5.
(44) E.V., rib.
(45) Gen. II, 22.
(46) From which Eve was formed.
(47) Cf. supra notes 10 and 11
(48) Lit., ‘beginning’.
(49) Lit., ‘the entering of the Sabbath’, when all else was already created (cf. Gen. I).
(50) Gen. III, 17ff
(51) Ibid. 14ff.
(52) Ibid. 16.
(53) Gen. VII, 23; in the destruction, man was mentioned before cattle.
(54) וייצר.
(55) Gen. II, 7.
(56) The two yods in the verb of the rt. צור signifying ‘formation’ or ‘shaping’ of a face (צורה) and alluding to the two faces.
(57) Cf. supra nn. 2-4.
(58) Ber. 61a.
(59) יצרי of the same rt. as וייצר.
(60) יוצרי, cf. prev. note. Hence the two yods. There is woe in either case. If he followed the one he incurred the wrath or annoyance of the other.
(61) Since, from the very beginning, one face was that of a man and the other that of a woman. The face is presumed to have been part of a complete body that formed Adam's back.
(62) Gen. V, 2.
(63) Ibid. I, 27, emphasis on him (sing.).
(64) Male and female; hence Gen. V, 2.
(65) Hence Gen. I, 27. Keth. 8a, Ber. 61a.
(66) Gen. II, 21.
(67) Lit., ‘it was only required’.
(68) Gen. II, 22. A tail well requires ‘building’ before it is converted into the shape of a woman.
(69) Cf. supra p. 124, n. 9.
(70) Gen. II, 22.
(71) ‘Dressed Eve’ (Jast.).
(72) Lit., ‘the first man’.
(73) Or ‘network’.
(74) Ber. 61a, Nid. 45b, Shab. 95a. בנייתא rt. בני ‘to build’.
(75) The expression ‘builded’.
(76) כבנין ‘like a building’.

Talmud - Mas. Eiruvin 18b

of a storehouse. As a storehouse is [made] wide below and narrow above so that it may contain the produce,[1] so was [the womb of] a woman [made] wide below and narrow above so that it may contain the embryo.

‘And brought her to Adam’ teaches that the Holy One, blessed be He, acted as groomsman[2] for the first man. From here [you may infer] that a great man should act as groomsman for a minor person and feel no regrets about it.

With reference to the view of him who explained: ‘A full face’[3] which of them[4] walked first? — R. Nahman b. Isaac replied: It is reasonable to assume that the male walked first; for it was taught: No man should walk on a road behind a woman, even if she is his own wife. If she happened [to be in front of] him on a bridge he should leave her on one side;[5] and whosoever crosses a river behind a [married][6] woman has no share in the world to come.[7]

Our Rabbis taught: A man who counts out money for a woman from his hand into hers or from her hand into his, in order that he might look at her, will not be free from the judgment of Gehenna even if he is [in other respects] like our Master Moses who received the law at Mount Sinai; and concerning him Scripture said: Hand to hand,[8] he will not be free from evil[9] [which means,] he will not be free from the judgment of Gehenna.

R. Nahman said: Manoah was an ignorant man,[10] since it is said: And Manoah arose, and went after his wife.[11] R. Nahman b. Isaac demurred: Now then, since in the case of Elkanah it is written ‘And Elkanah went after his wife’,[12] was he[13] also [an ignorant man]?[14] Or in the case of Elisha, since it is written in Scripture: And he arose, and followed her,[15] was he[13] also an ignorant man?[16] But [the meaning is] ‘after her words and her counsel’ so here also[17] [could it not be explained:] ‘After her words and her counsel’?[18]

Said R. Ashi: On R. Nahman's assumption that[19] Manoah was an ignorant man,[20] he did not attend even a school for Scripture, for it is written: And Rebekah arose, and her damsels, and they rode upon the camels, and followed the man,[21] but they did not precede the man.

R. Johanan remarked: [Let one walk] behind a lion but not behind a [married] woman; behind a [married] woman but not behind an idol,[22] behind an idol but not behind a synagogue at the time the congregation[23] is praying.[24]

R. Jeremiah b. Eleazar further stated: In all those years[25] during which Adam[26] was under the ban he begot ghosts and male demons and female demons,[27] for it is said in Scripture: And Adam lived a hundred and thirty years and begot a son in his own likeness, after his own image,[28] from which it follows that until that time he did not beget after his own image. An objection was raised: R. Meir said: Adam was a great saint. When he saw that through him death was ordained as a punishment he spent a hundred and thirty years in fasting, severed connection with his wife for a hundred and thirty years, and wore clothes of fig [leaves] on his body for a hundred and thirty years.[29] — That statement[30] was made in reference to the semen which he emitted accidentally.

R. Jeremiah b. Eleazar further stated: Only a part of a man's praise may be said in his presence, but all of it in his absence. ‘Only a part of a man's praise . . . in his presence’, for it is written in Scripture: For thee have I seen righteous before Me in this generation;[31] ‘but all of it in his absence’, for it is written in Scripture: Noah was in his generations a man righteous and wholehearted.[32]

R. Jeremiah b. Eleazar further stated: What [was signified] when it was written: And lo in her mouth an olive-leaf freshly plucked?[33] The dove said to the Holy One, blessed be He, ‘May my food be as bitter as the olive but entrusted to your hand rather than sweet as honey and dependent on a mortal’;[34] for here[33] it is written ‘freshly plucked’[35] and elsewhere it is written: Feed me[36] with mine allotted bread.[37]

R. Jeremiah b. Eleazar further stated: Any house in which the words of the Torah are heard at night[38] will never be destroyed; for it is said in Scripture: But none saith: ‘Where is God my Maker[39] who[40] giveth songs[41] in the night’.[42]

R. Jeremiah b. Eleazar further stated: Since the Sanctuary was destroyed[43] it is enough for the world[44] to use[45] only two letters[46] [of the Tetragrammaton],[47] for it is said in Scripture: Let every thing[48] that hath breath praise the Lord,[46] praise ye the Lord.[49]

R. Jeremiah b. Eleazar further stated: When Babylon was cursed, her neighbours also were cursed,[50] but when Samaria was cursed her neighbours were blessed.[50] ‘When Babylon was cursed her neighbours also were cursed’, for it is written: I will also make it a possession for the bittern, and pools of water;[51] ‘but when Samaria was cursed her neighbours were blessed’, for it is written: Therefore I will make Samaria a heap in the field,

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(1) Were its shape to be reversed the heavy weight of the stored produce would weigh down the walls.

(2) שושבינות, cf. B.B., Sonc. ed., p. 618, n. 10.

(3) Supra 18a.

(4) The male or female.

(5) And pass her (Rashi).

(6) So Rashi.

(7) He is guilty of immorality.

(8) Sc. one who counts money from his hand into a woman's hand or vice versa, even if he is as great as Moses who received the Law in his hand from God's hand.

(9) Prov. XI, 21. E.V. give different renderings.

(10) ‘Am ha-arez. (v. Glos.).

(11) Judg. XIII, 11. Had he been learned, he would have known that it was improper to walk behind a woman.

(12) This text is found nowhere in M.T. (cf. Tosaf. Ber. 61a, s.v. אלא).

(13) Lit., ‘thus’.

(14) But the fact is that he was a prophet (as stated in Seder ‘Olam) who could not possibly be an ignorant man.

(15) II Kings IV, 30.

(16) Cf. supra n. 7.

(17) The case of Manoah,

(18) Of course it could. An objection against R. Nahman.

(19) Lit., ‘and to what R. Nahman said’.

(20) Taking ‘after’ in its literal sense.

(21) Gen. XXIV, 61.

(22) The risk of idolatry is greater.

(23) So Bah. Absent from cur. edd.

(24) If at such a time a man fails to join in prayer and passes on his way behind the place of worship he publicly declares himself cut off from the congregation of Israel.

(25) Hundred and thirty years after his expulsion from the Garden of Eden (v. infra).

(26) Lit., ‘the first man’.

(27) Or ‘night demons’.

(28) Gen. V, 3.

(29) How in view of this statement could R. Jeremiah b. Eleazar maintain his?

(30) Of R. Jeremiah.

(31) Gen. VII, 1. In speaking to Noah, God describes him as ‘righteous’ only.

(32) Ibid. VI, 9. In his absence he is described as both ‘righteous and wholehearted’.

(33) Ibid. VIII, 11.

(34) Noah. Lit., ‘flesh and blood’.

(35) טרף.

(36) הטריפני, of the same rt. as טרף supra.

(37) Prov. XXX, 8.

(38) When the voice is carried far.

(39) Sc. he has no need to complain of God's neglect of him.

(40) I.e., ‘the man who’.

(41) The words of the Torah.

(42) Job XXXV, 10.

(43) And the priests discontinued the use of the Tetragrammaton (cf. Hag. 16a).

(44) MS.M., man.

(45) In extolling the Deity or in greeting a fellow-man.

(46) יה.

(47) יהוה.

(48) Emphasis on ‘everything’, sc. all the world or all man.

(49) Ps. CL, 6.

(50) As a consequence of its curse.

(51) Isa. XIV, 23; such a curse is also a bane to the neighbourhood.

Talmud - Mas. Eiruvin 19a

a place for planting of vineyards.[1]

R. Jeremiah b. Eleazar further stated: Come and see that human[2] relationship is not like that with the Holy One, blessed be He. In human[2] relationship when a man is sentenced to death for [an offence against] a government, a hook must be placed in his mouth in order that he shall not [be able to] curse the king, but in the relationship with the Holy One, blessed be He, when a man incurs [the penalty of] death for [an offence against] the Omnipresent he keeps silence, as it is said: Towards Thee silence[3] is praise;[4] and he, furthermore, offers praise, for it is stated: ‘praise’; and not only that but he also regards it[5] as if he offered a sacrifice, for it is said[6] in Scripture: And unto Thee the vow is performed.[7] This[8] is exactly in line with what R. Joshua b. Levi has said: What [is the meaning of] what is written: Passing through the valley of Baca they make it a place of springs; yea, the early rain clotheth it with blessings,[9] ‘passing’ is an allusion to[10] men who transgress[11] the will of the Holy One, blessed be He; ‘valley’ [is an allusion to these men] for whom Gehenna is made deep;[12] ‘of Baca’ [signifies] that they weep and shed tears;[13] ‘they make it a place of springs’,[14] like the constant flow[15] of the altar drains;[16] ‘Yea, the early rain clotheth it with blessings’, they acknowledge the justice[17] of their punishment and declare before Him, ‘Lord of the universe,[18] Thou hast judged well, Thou hast condemned well, and well provided Gehenna for the wicked and Paradise for the righteous’.

But this[19] is not [so]? For did not R. Simeon b. Lakish state: The wicked do not repent even at the gate of Gehenna, for it is said: And they shall go forth and look upon the carcasses of the men, that rebel[20] against me etc.;[21] it was not said: ‘that have rebelled’,[22] but ‘that rebel’[20] [implying] that they go on rebelling forever?[23] This is no contradiction, since the former[24] refer to transgressors in Israel and the latter[25] to transgressors among idol worshippers. Logical argument also leads to this conclusion, since otherwise[26] a contradiction would arise between two statements of Resh Lakish. For Resh Lakish stated: The fire of Gehenna has no power over the transgressors in Israel, as may be inferred a minori ad majus from the golden altar: If the golden altar [the layer] on which was only of the thickness of a denar lasted for many years and the fire had no power over it, how much more would that be the case with the transgressors in Israel who are as full of good deeds as a pomegranate [with seed], as it is said in Scripture: Thy temples are like a pomegranate,[27] and R. Simeon b. Lakish remarked, ‘Read not, "Thy temples"[28] but "Thy empty ones"[29] [signifying] that even the worthless[30] among you are as full of good deeds as a pomegranate [with seed]’.[31]

What, however, about what is written: Passing through the valley of Baca?[32] — That [refers to the fact] that [the wicked] are at that time under sentence to suffer in Gehenna,[33] but our father Abraham comes, brings them up, and receives them, except such an Israelite as had immoral intercourse with the daughter of an idolater, since his foreskin is drawn and so he cannot be discovered.[34] R. Kahana demurred: Now that you laid down that [the Scriptural expression,] ‘That rebel’[35] implies ‘that they go on rebelling’[35] would you also maintain[36] that where it is written in Scripture: That brings out[37] or That brings up,[38] [the meaning is] ‘that always brings up’ or ‘that always brings out’?[39] You must consequently admit[40] that [the meaning is] ‘That brought up’ or ‘That brought out’ so [may one render here] also, ‘who rebelled’.[41]

R. Jeremiah b. Eleazar further stated: Gehenna has three gates; one in the wilderness, one in the sea and one in Jerusalem. ‘In the wilderness’, since it is written in Scripture: So they, and all that appertaineth to them, went down alive into the pit.[42] ‘In the sea’, since it is written in Scripture: Out of the belly of the nether world cried I, and Thou heardest my voice.[43] ‘In Jerusalem’, since it is written in Scripture: Saith the Lord, whose fire is in Zion, and his furnace in Jerusalem,[44] and the school of R. Ishmael taught: ‘Whose fire is in Zion’ refers to Gehenna, ‘And His furnace in Jerusalem’ refers to the gate of Gehenna.

Are there, however, no more [gates]?[45] Has not R. Meryon in fact stated in the name of R. Joshua b. Levi (or, as others say: Rabbah b. Meryon learned [in a Baraitha of the compilation] of the school of R. Johanan b. Zakkai):[46] There are two palm-trees in the Valley of Ben Hinnom and between them smoke rises, and it is [in connection with] this [spot] that we have learnt: ‘The stone-palms of the iron mountain are fit’,[47] and this is the gate of Gehenna? — It is possible that [this gate] is the same as the one in Jerusalem’.[48]

R. Joshua b. Levi stated: Gehenna has seven names, and they are: Nether-world,[49] Destruction, Pit,[50] Tumultuous Pit, Miry Clay, Shadow of Death and the Underworld. ‘Nether-world’, since it is written in Scripture: Out of the belly of the nether-world cried I, and Thou heardest my voice;[51] ‘Destruction’, for it is written in Scripture: Shall Thy Mercy be declared in the grave? Or thy faithfulness in destruction;[52] ‘Pit’,[50] for it is written in Scripture: For Thou wilt not abandon thy soul to the nether-world; neither wilt Thou suffer Thy godly one to see the pit;[53] ‘Tumultuous Pit’ and ‘Miry Clay’, for it is written in Scripture: He brought me up also out of the tumultuous pit, out of the miry clay;[54] ‘Shadow of Death’, for it is written in Scripture: Such as sat in darkness and in the shadow of death;[55] and the [name of] ‘Nether-world’ is a tradition.

But are there no more [names]?[56] Is there not in fact that of Gehenna? — [This means,] a valley that is as deep as the valley of Hinnom[57] and into which all go down for gratuitous[58] acts.[59] Is there not also the name of Hearth, since it is written in Scripture: For a hearth is ordered of old?[60] — That [means] that whosoever is enticed[61] by his evil inclination will fall therein.

[As to] Paradise, Resh Lakish said: If it is in the Land of Israel its gate is Beth Shean;[62] if it is in Arabia[63] its gate is Beth Gerem,[64] and if it is between the rivers[65] its gate is Dumaskanin.[66]

In Babylon, Abaye praised the fruit of Eber Yamina[67] and Raba praised the fruit of Harpania.[68]

BETWEEN THEM [THERE MAY BE] AS MUCH [SPACE AS TO ADMIT TWO etc. Is not this[69] obvious, for, since it was stated that they are to be TIED TOGETHER, do we not know that they would not be APART? — It might have been presumed that TIED TOGETHER implies: ‘As if they were TIED TOGETHER' but not actually so, hence we were told: AND NOT APART.

ONE TO ENTER WHILE THE OTHER GOES OUT. A Tanna taught: One team[70] to enter while the other team goes out.

Our Rabbis taught: How much [is the total length of] the head and the greater part [of the body] of a cow?[71] Two cubits. And what is the extent of a cow's thickness? A cubit and two-thirds of a cubit

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(1) Micah I, 6; plantations of vineyards are a boon to neighbours.
(2) Lit., 'the measure (character) of flesh and blood'.
(3) Emphasis on 'silence'.
(4) Ps. LXV, 2. E.V. have different renderings.
(5) The affliction of the penalty.
(6) In the conclusion of the text cited.
(7) Ps. LXV, 2.
(8) The statement on the resignation of the wicked to, and their acknowledgment of the justice of the divine judgment.
(9) Ps. LXXXIV, 7.
(10) Lit., 'these are'.
(11) שעוברין of the rt. עבר 'to pass'.
(12) שמעמיקין rt. עמק the same as that of 'valley' (עמק).
(13) 'Baca' בכא is compared with בכה 'to weep' by interchange of א and ה.
(14) So MS.M. Cur. edd. omit.
(15) Lit., 'spring'.
(16) In which the libations of wine were poured all through the year (cf. Suk. 4a). שיתין 'altar drains' is of the same rt. as ישיתוהו 'they make it'.
(17) This is implied in the expression 'blessings'.
(18) מורה, ('the early rain',) is also the term for 'master'.
(19) The statement just made (v. supra p. 128, n. 17).
(20) הפושעים, pr. particip. E.V., have rebelled.
(21) Isa. LXVI, 24.
(22) שפשעו perfect.
(23) Which is contrary to the statement of R. Joshua b. Levi and R. Jeremiah b. Eleazar supra that the wicked acknowledge the justice of the divine judgment.
(24) The statements of R. Joshua b. Levi and R. Jeremiah b. Eleazar.
(25) That of Resh Lakish.
(26) Lit., 'for if so', if Resh Lakish also speaks of transgressors in Israel.
(27) Cant. VI, 7.
(28) רקתך
(29) ריקתיך (from ריק 'empty').
(30) Lit., 'empty'.
(31) Hag. 27a.
(32) Ps. LXXXIV, 7, from which it was deduced supra that the wicked in Israel do suffer in Gehenna. How is this statement to be reconciled with the last cited one of Resh Lakish?
(33) Hence the 'passing through' it, and 'the weeping'. MS.M.: 'are sentenced to be in Gehenna for one hour, but etc.'
(34) By Abraham who mistakes him for a heathen.
(35) supra q.v. notes.
(36) Lit., 'but from now'.
(37) המוציא pr. particip. Cf. Lev. XXII, 33.
(38) המעלה also pr. particip. Ibid. XI, 45.
(39) Which is absurd.
(40) Lit., 'but'.
(41) Supra q.v. notes.

(42) Num. XVI, 33, and this happened in the wilderness.
(43) Jonah II, 3, and this was said under the sea.
(44) Isa. XXXI, 9.
(45) To Gehenna.
(46) V. Rashi.
(47) For the lulab (v. Glos.).
(48) The valley of Ben Hinnom lies immediately behind the wall of Jerusalem.
(49) Or ‘Sheol’.
(50) Or, ‘pit of destruction’.
(51) Jonah II, 3.
(52) Ps. LXXXVIII, 12.
(53) Ibid. XVI, 10.
(54) Ibid. XL, 3.
(55) Ibid. CVII, 10.
(56) To Gehenna.
(57) גי הנם = גיהנם ‘Gehenna’.
(58) הנם the same rt. as חנם by interchange of ה and ח.
(59) Incest.
(60) Isa. XXX, 33.
(61) המתפתה rt. פתה, the same that of תפתה ‘hearth’.
(62) A town in an exceedingly fertile district to the south of Tiberias in the Jordan plain. V. Keth., Sonc. ed., p. 725 n. 11. ‘Its fruits are the sweetest in all Palestine’ (Rashi).
(63) Prob. Arabia Petraea on the eastern side of the Jordan (v. S. Horowitz, Palestine, p. 130).
(64) Possibly Wadi Girm Al-Moz, a richly fertile valley facing Beth Shean on the other side of the Jordan and irrigated by an enormous fountain formed by the confluence of nineteen springs flowing south of Fahl and terminating in the Jordan (v. loc. cit.).
(65) Perhaps Amanah and Pharpar (cf. II Kings V, 12).
(66) Damascus.
(67) Or ‘the right hand side’, sc. the south side of the Euphrates (v. Rashi).
(68) A rich industrial and agricultural town in the Mesene district, South Babylon.
(69) That the cows must not be apart (v. our Mishnah).
(70) The numeral referring to the teams and not to the individual cows which must be so tied together as not to admit any space between them.
(71) Referred to in our Mishnah.

Talmud - Mas. Eiruvin 19b

so that the extent[1] [of all the cows is] about ten cubits;[2] so R. Meir, but R. Judah said: About thirteen or about fourteen cubits.[3] ‘About ten’ [you say], but are they not in fact ten exactly?[4] As it was desired to state ‘about thirteen’ in the final clause ‘about ten’ was stated in the first clause also.[5] ‘About thirteen’ [you said] but are there not more? — [‘About’ was used] because it was desired to state ‘about fourteen’. But there are not really ‘about fourteen’, [are there]?[6] — R. Papa replied: [The meaning is:] More than thirteen but less than[7] fourteen.

R. Papa stated: In respect of a cistern that is eight [cubits wide][8] no one disputes the ruling[9] that no single boards are required.[10] In respect of a cistern that is twelve [cubits wide][11] no one disputes the ruling[12] that single boards also are required.[13] They only differ [in the case of a cistern that was] from eight to twelve [cubits in width]. According to R. Meir single boards are required[14] and according to R. Judah no single boards are required. What [new principle], however, does R. Papa teach us? Did we not learn [what he said] in our Mishnah?[15] R. Papa did not hear of the Baraitha[16] and he told us[17] [the same measurements] as the Baraitha.[18]

(Mnemonic:[19] Extended more in a mound fence of a courtyard that dried up)

Abaye enquired of Rabbah: What is the ruling according to R. Meir where one extended the corner-piece [so that the excess of their width[20] was] equal to the required width of the single boards?[21] — The other replied: You have learnt this: PROVIDED ONE INCREASES THE STRIPS OF WOOD, [which means,] does it not, that one extends [the width of] the corner-pieces? — No; [it might mean] that one provides more single boards. If so, instead of[22] 'Provided one increases the strips'[23] [should not the reading] have been, 'Provided[24] one increases the number of the strips'? — Read:[25] PROVIDED[26] ONE INCREASES THE NUMBER OF STRIPS.

There are others who read: The other replied: You have learnt it: PROVIDED ONE INCREASES THE STRIPS [which means,] does it not, that one must provide more single boards? — No; that one extends [the width of] the corner-pieces. By deduction also one arrives at the same conclusion, since it was stated: 'PROVIDED ONE INCREASES THE STRIPS'.[23] This is decisive.

Abaye enquired of Rabbah: What is the ruling according to R. Judah[27] where [the distance between the corner-pieces was] more than thirteen and a third cubits? [Is it necessary] to provide [additional] single boards[28] or must one rather extend [the width of] the corner-pieces?[29] — The other replied: You have learnt it: How near[30] may they[31] be? As the length of the head and the greater part of the body of a cow. And how far may they be? Even [as far as to enclose an area in which] a kor[32] and even two kors [of seed may be sown]. R. Judah ruled: [An area of] two beth se'ah[32] is permitted but one that exceeds two beth se'ah is forbidden. Do you not admit, the Rabbis said to R. Judah, that if [the enclosure] was a cattle-pen or a cattle-fold, a rearcourt or a courtyard it may be [as big as] five or even ten [beth] kor?[32] This,[33] he — replied, is [one that has a complete] partition[34] but those[35] are [isolated] boards.[36] Now, if that were so[37] should they [not have objected:] The one as well as the other[38] is a proper partition?[39] — It is this that he[40] meant: The one[41] is subject to the law of a partition, and gaps in it [must not be wider] than ten cubits,[42] but those[43] are subject to the law of strips of wood and gaps of thirteen and a third cubits between then, [are allowed].[44]

Abaye enquired of Rabbah: Is a mound that rises to a height of[45] ten [handbreadths] within an area of[46] four [cubits][47] treated as a corner-piece[48] or not? — The other replied: You have learnt it: R. Simeon b. Eleazar ruled: If a four sided stone was present[49] we must consider this: If on being cut[50] there would remain a cubit length for either side[51] it may be regarded as a valid corner-piece, otherwise it cannot be so regarded. R. Ishmael son of R. Johanan b. Beroka ruled: If a round stone was present[49] we consider this: If on being chiselled[52] and cut[50] there would remain a cubit length for either side[51] it may be regarded as a valid corner-piece, otherwise it cannot be so treated.[53] On what principle do they differ? — One Master[54] is of the opinion that one imaginary act[55] may be assumed[56] [as having been effected] but not two,[57] and the other Master[58] is of the opinion that two imaginary acts may also be assumed [to have been effected].[59]

Abaye enquired of Rabbah: Is a fence of reeds[60] [in which the distance between] any two reeds was less than three handbreadths regarded as a valid corner-piece or not? — The other replied: You have learnt this: If there was present a tree or a wall or a fence of [growing] reeds it may be treated as a corner-piece.[61] Does not [this refer to a fence in which the distance between] any two reeds was less than three handbreadths? — No; [it may refer to] a hedge of reeds.[62] If so, is it not exactly [of the same nature as] a tree?[63] — What then [would you suggest? That it referred to a fence in which the distance between] any two reeds was less than three handbreadths? Is not this [one could well retort] exactly [of the same nature as] a wall?[63] What then could you reply?[64] [That there are] two kinds of wall? [Well then] in this case also [one might reply that there are] two kinds of tree.[65] There are [others] who say that he[66] enquired concerning a hedge of reeds[67] What [he asked, is the ruling in respect of] a hedge of reeds?[68] — The other replied: You have learnt this: If there was present a tree or a wall or a fence of [growing] reeds it may be treated as a corner-piece. Does not this refer to a hedge of reeds? — No; [it may refer to a fence in which the distance between] any two reeds was less than three handbreadths. If so, is it not exactly [of the same nature as] a wall?[69] — What then [would you suggest? That it refers to] a hedge of reeds? Is not this exactly [of the same nature as] a tree?[69] What then could you say in reply

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(1) Lit., ‘which are’.

(2) The extent of the thickness of one cow being in cubits that of two teams of three cows each amounts to (1 2/3 X 2 X 3 =) ten cubits. The expression ‘about’ is discussed infra.

(3) According to R. Judah each team may consist of four cows so that the total extent of their thicknesses amounts to (1 2/3 X 2 X 4 =) thirteen and a third cubits.

(4) Cf. supra n. 10.

(5) So Bah. Cur. edd. omit ‘about ten was stated . . . also’.

(6) Obviously not. As the number thirteen and a third was said to be ‘about thirteen’ because it exceeded the latter by one third only, was it proper to describe it also in the same context, as ‘about fourteen’ which exceeds it by two thirds?

(7) Lit., ‘and they do not reach’.

(8) In which case the length of each side of the space enclosed by the corner-pieces is twelve cubits: Eight cubits (the width of the cistern) plus twice two cubits (the length of the head and the greater part of a cow's body on each side of the cistern).

(9) Lit., ‘that all the world do not differ’, sc. even R. Meir agrees.

(10) Since the gaps between the corner-pieces that screen the space of one cubit at the extremity of each side do not exceed (12 — 2 =) ten cubits, and may in consequence be regarded as doorways, even according to R. Meir.

(11) So that each side of the enclosure is sixteen cubits wide: Twelve cubits (the width of the cistern) plus twice two (as supra n. 3).

(12) Even R. Judah admits.

(13) Because the distances between the corner-pieces are (16 — 2 =) fourteen cubits and represent gaps which even R. Judah does not allow.

(14) In addition to the corner-pieces.

(15) Sc. in accordance with the measurements laid down in the Baraitha just discussed, his statement follows naturally from the respective rulings of R. Meir and R. Judah in our Mishnah. For as the former allows a space for six oxen, corresponding to a distance of (6 X 1 2/3 =) ten cubits, and the latter allows one for eight oxen, corresponding to a distance of (8 X 1 2/3 =) thirteen and a third cubits, it is obvious that R. Meir does not require single boards in the case of a cistern that is eight cubits wide where the gaps in the enclosure are not wider than ten cubits and that R. Judah does require such boards where a cistern is twelve cubits wide and the gaps in the enclosure are bigger than thirteen and a third cubits.

(16) Just discussed, which lays down the measurements of the length and thickness of a cow.

(17) Independently of the Baraitha, by his own exposition of our Mishnah.

(18) These measurements being derived from his exposition.

(19) Embodying striking words or phrases in Abaye's enquiries of Rabbah that follow.

(20) Above that of one cubit in extent at the extremities of each side of the well enclosure.

(21) Is the reduction of the gaps to ten cubits in this manner effective, or is it necessary, once a gap was wider than the permitted ten cubits, to reduce it by the fixing of two special boards on each side of the enclosure and at the same distance from each corner-piece so that the additional single boards might be distinguishable?

(22) Lit., ‘that’.

(23) This is the literal meaning of the original בפסין in our Mishnah, ‘in the strips’, sc. the corner-pieces themselves.

(24) Lit., ‘until’.

(25) As actually rendered.

(26) So with marginal note. Cur. edd. ‘until’.

(27) Who, unlike R. Meir, did not mention single boards at all.

(28) At a slight distance from the corner-pieces so as to make a proper display of the means whereby the gaps are reduced.

(29) The erection of additional single boards being inadmissible on account of the gaps on either side of them that would virtually annul their existence.

(30) To the well.

(31) The boards forming the enclosures round it.

(32) V. Glos.

(33) Any of the enclosures specified.

(34) Hence the permissibility of an unlimited area.

(35) The boards in a well enclosure.

(36) With gaps between them. Tosef. ‘Er. I.

(37) That the corner-pieces may be extended and no single boards are required.

(38) Lit., ‘this ... this’.

(39) Extended corner-pieces, surely, are as good a partition as any of the others.

(40) R. Judah in his reply to the Rabbis.

(41) V. supra n. 5.

(42) Lit., ‘within (the limit of) ten’.

(43) The boards in a well enclosure.

(44) As such a partition is obviously much inferior than the others, only a limited area of two beth se'ah was allowed.

(45) Lit., ‘that collects itself’.

(46) Lit., ‘from the midst of’.

(47) Where the area is larger, and a height of ten handbreadths is in consequence not well pronounced (v. next note), the question does not arise, because a mound of such dimensions is regarded as a piece of solid ground forming a part of the domain in which it is situated.

(48) Since such a mound, owing to its pronounced proportional height, has, in respect of the Sabbath laws, the status of a private domain (cf. Shab. 100a).

(49) At one of the corners of a well enclosure.

(50) Lit., ‘divided’, sc. shaped into a corner-piece.

(51) Lit., ‘and there is in it a cubit towards here’ etc.

(52) To alter its circular shape into a square.

(53) Tosef. ‘Er. I.

(54) R. Simeon b. Eleazar.

(55) The cutting of the stone.

(56) Lit., ‘one (assumption of) "we see" we say’.

(57) Chiselling and cutting.

(58) R. Ishmael son of R. Johanan b. Beroka.

(59) The mound under discussion being circular in shape has the same status as a round stone and its admissibility as a corner-piece depends, therefore, on the respective opinions of R. Simeon and R. Ishmael.

(60) Growing on the two sides of the corner of a well enclosure.

(61) Supra 15a q.v. notes.

(62) All growing from the same stem.

(63) Which was already mentioned in the same context.

(64) To this objection.

(65) No answer, therefore, may be derived from these rulings to Abaye's enquiry.

(66) Abaye.

(67) All growing from the same stem.

(68) Is it a valid corner-piece?

(69) V. supra p. 136, n. 15.

Talmud - Mas. Eiruvin 20a

that there are two kinds of trees? [Well then] in this case also [one might submit that there are] two kinds of wall.

Abaye enquired of Rabbah: If a courtyard opened out on one side[1] into [an area] between the strips of wood [around a well], is it [permitted] to move objects from its interior into that between the strips and from between the strips to its interior? The other replied: This is permitted.[2] ‘What if two [courtyards opened out[3] in a similar manner]?’ — ‘It is forbidden’,[4] the other replied. Said R. Huna: [In the case of] two [courtyards the movement of objects is] forbidden even [where the tenants][5] have prepared an ‘erub,[6] this being a preventive measure against the possible assumption[7] that an ‘erub is effective in the case of a space enclosed by strips of wood.[8] Raba said: If [the tenants][9] prepared[10] an ‘erub[11] [the movement of objects[12] is] permitted.[13]

Said Abaye to Raba: ‘[A ruling] was taught which provides support to your view: If a courtyard opens out on one side[14] into [an area] between the strips of wood [around a well] it is permitted to move objects from its interior into that between the strips and from between the strips to the interior, but if two [courtyards opened out in this manner the movement of objects[12] is] forbidden. This, however, applies only where [the tenants] prepared no ‘erub but where they[10] did prepare an ‘erub’ they are allowed [to move their objects]’.[12] Must it be said that this[15] presents an objection against R. Huna? — R. Huna can answer you: There[15] [it is a case] where [a breach][16] also combined them.[17]

Abaye enquired of Raba: What [is the ruling[18] where] the water dried up on the Sabbath?[19] The other replied: [The enclosure] was recognized[20] [as a valid] partition only on account of the water, [and since] no water is here available, there is here no [validity] in the partition either.

Rabin enquired: What [is the ruling[18] where] the water dried up on the Sabbath and on [the same] Sabbath [other water] appeared?[21] — Abaye replied: Where they were dried up on the Sabbath you have no need to ask, for I have already asked [this question] from the Master[22] and he made it plain to me that it[23] was forbidden. [As regards water that] appeared [on the Sabbath] you have also no need to enquire, for [the enclosure] would thus be a partition made on the Sabbath, concerning which it was taught: Any partition that was put up on the Sabbath is valid whether [this was done] unwittingly, intentionally, under compulsion or willingly.[24] But has it not been stated in connection with this ruling that R. Nahman said: This[25] applied only[26] to throwing[27] but not to moving?[28] R. Nahman's statement was made only in respect of [a partition that was put up][29] intentionally.[30]

R. Eleazar said: One who throws [any object][31] into [the area] between strips [of wood] around wells is liable.[32] [Is[33] not this] obvious, for if [the strips had] not [Pentateuchally constituted a valid] partition how could it have been permitted to draw water?[34] — [The ruling][35] was necessary only [for this purpose:] That [a man] who put up, in a public domain, [an enclosure][36] similar to that of strips of wood around wells, and threw an object into it, is liable.[32] But is not this also obvious, [for if such an imperfect enclosure] would not [have been regarded as a valid] partition elsewhere,[37] how could one be permitted to move any objects [within such an imperfect enclosure] in the case of a cistern? — [The ruling][38] was rather necessary [for this purpose:] Although many people cross the enclosure [it is regarded as a private domain].[39] What [principle,] however, does he thereby teach us? That even [the passage of] many people does not destroy [the validity of] a partition? But [this, it may be contended, was already] once said [by] R. Eleazar. For have we not learnt: R. Judah ruled: If a public road cuts through then,[40] it should be diverted to [one of the] sides,[41] and the Sages ruled: This was not necessary;[42] and both R. Johanan and R. Eleazar remarked: Here they[43] informed you of the unassailable validity[44] of partitions?[45] — If [the principle had to be derived] from there[46] it might have been presumed that only ‘Here [etc.]’;[47] but that he himself is not of the same opinion; hence we were told[48] [that not only] ‘Here [etc.],’ but he himself also is of the same opinion. Then why did he not state this ruling and there would have been no need for the other?[49] — The one was derived from the other.

IT IS PERMITTED TO BRING [THE STRIPS] CLOSE TO THE WELL etc. Elsewhere we learned: A man must not stand in a public domain and drink in a private domain, or in a private one and drink in a public one, unless he puts his head and the greater part of his body into the domain in which he drinks,

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(1) Lit., ‘whose head enters’.

(2) Since both are private domains and the enclosure around the well has no tenants who might affect the ‘erub of the tenants of the courtyard.

(3) Side by side, there being a partition between them.

(4) To move objects from these yards into the well enclosure.

(5) By relying on a door that communicated between the two yards.

(6) Whereby their domains were united into one.

(7) On the part of people who were unaware that a door communicated between the two courtyards.

(8) Into which two courtyards opened, even where there was no door between the yards. Such an ‘erub is ineffective because courtyards can be combined in this manner only where there was a door between them or where they opened out into a proper alley whose length exceeds its width. A well enclosure was not given the status of an alley because it is rectangular and open on its four sides.

(9) Of the two courtyards.

(10) V. supra p. 137, n. 9.

(11) Whereby their domains were united into one.

(12) From these yards into the well enclosure and vice versa.

(13) No preventive measure having been enacted against the possibility assumed by R. Huna.

(14) Lit., ‘whose head enters’.

(15) The Baraitha cited by Abaye.

(16) In the walls of the courtyards on the sides that were opposite those adjoining the well enclosure.

(17) The breach makes it manifest that the two yards are combined into one domain.

(18) As regards moving objects on the Sabbath within a well enclosure.

(19) Is movement permitted because the enclosure was a private domain when the Sabbath began, or is it forbidden because the permissibility of the imperfect enclosure was solely due to the existence of the water in the well which is now no longer available?

(20) Lit., ‘made’.

(21) Is the original permissibility restored?

(22) Rabbah, who was his teacher and guardian.

(23) V. p. 138, n. 9.

(24) Shab. 101b, infra 25a.

(25) That the enclosed area is a private domain.

(26) Lit., ‘they only learned’.

(27) Sc. it is forbidden to throw any object into it from a public domain, since the partition which is Pentateuchally valid causes it to become a private domain.

(28) Because the moving of objects within it is forbidden Rabbinically. How then could Abaye maintain that the partition is in all respects valid?

(29) On the Sabbath.

(30) The prohibition of the moving of objects being a penalty imposed in Rabbinic law for one's wilful transgression. As this penalty does not apply to an unwitting act it cannot obviously apply to a partition of which Abaye spoke, which came into existence automatically.

(31) From a public domain.

(32) To bring a sin-offering; because the area is regarded as a properly constituted private domain.

(33) ‘He said to him’ is In cur. edd. enclosed in parenthesis.

(34) Lit., ‘to fill’ (Sc. the cattle troughs or buckets) from the well which is a private domain. By so doing one would be guilty of carrying from a private domain into a public domain since an enclosed area that is not a private domain even Pentateuchally must assume the status of the public domain in which it is situated. MS.M. reads: ‘how could the Rabbis permit the movement (of objects)’.

(35) Of R. Eleazar.

(36) In which there was no well.

(37) Cf. previous note.
(38) Of R. Eleazar.
(39) And the man who throws any object into it on the Sabbath is liable to a sin-offering.
(40) The boards around a well.
(41) Since, otherwise, the validity of the enclosure as a private domain would be destroyed on account of the public road.
(42) Shab. 6b, infra 22a.
(43) So MS.M. and Rashi. Cur. edd. ‘he etc.’
(44) Lit., ‘their strength’.
(45) Infra 22a; which even the crossing by many people does not affect. Why then should R. Eleazar repeat the same principle?
(46) The statement attributed to R. Johanan and R. Eleazar.
(47) Sc. that R. Eleazar was merely pointing out the implication of the view of the Sages.
(48) By his ruling here.
(49) ‘Here etc.’

Talmud - Mas. Eiruvin 20b

and the same [ruling applies to one drinking from, or] in a wine-press.[1] Now in the case of a human being it has been laid down that it is necessary for his head and the greater part of his body [to be in the domain from which he drinks], is it necessary in the case of a cow also[2] that its lead and the greater part of its body [shall be in the domain from which it drinks] or not? Wherever [the keeper] holds the vessel[3] and does not hold the animal there can be no question that it is necessary for its head and the greater part of its body to be within [the private domain].[4] The question only arises where he holds the vessel and also the animal. Now what is the ruling? — The other replied: You have learnt it: PROVIDED A COW CAN BE WITHIN [THE ENCLOSURE WITH] ITS HEAD AND THE GREATER PART OF ITS BODY WHEN DRINKING. [This refers,] does it not, to a case where [the keeper] holds both the cow and the vessel? — No, [it may refer to one] who holds the vessel but not the cow. But is it at all permitted[5] [to give drink to a cow on the Sabbath] where one holds the vessel and not the animal? Was it not in fact taught: A man must not[6] fill [a vessel with] water and hold it[7] before his beast[8] on the Sabbath but he fills [his bucket] and pours it out [into a trough] and the cow drinks of its own accord?[9] — Surely, in connection with this ruling[10] it was stated: Abaye explained: Here [we are dealing] with a manger that stands in a public domain, that is ten handbreadths high and four handbreadths wide[11] and one of whose sides projects into [the area] between the strips of wood,[12] a preventive measure[13] having been enacted against the possibility that the man might observe that the manger was damaged[14] and, proceeding to repair it, would carry the bucket with him[15] and thus carry an object from a private into a public domain.[16] But does one incur guilt[17] in such circumstances?[18] Has not R. Safra in the name of R. Ammi who had it from R. Johanan in fact said: If a man was removing his things[19] from one corner into another[20] and then changed his mind and carried them out [into a public domain] he is exempt, since the lifting up [of the objects] was not originally intended for this purpose?[21] — Rather [this is the explanation:][22] Sometimes he might, after he repaired the manger, carry [the bucket] back again[23] and thus he would carry from the public into a private domain.[24]

Some there are who say:[25] In the case of a human being it had definitely been laid down that it was enough if his head and the greater part of his body [were in the domain from which he drinks]. Is it enough, however, in the case of a cow, that its head and the greater part of its body [should be in the domain from which it drinks] or not? Wherever [the keeper] holds the vessel and also the cow, there can be no question that it is enough for its head and the greater part of its body to be [within the private domain].[26] The question only arises where he holds the vessel but not the cow.[27] Now what is the ruling? — The other replied: You have learnt it: PROVIDED A COW CAN BE WITHIN [THE ENCLOSURE WITH] ITS HEAD AND THE GREATER PART OF ITS BODY WHEN DRINKING. [This refers,] does it not, to a case where [the keeper] holds the vessel but not the cow?

— No, [it may refer to one] who holds both the vessel and the cow. And this may also be justified logically; for if he held the vessel only and not the cow, would [the supply of the water have been] permitted seeing that it was in fact taught: A man must not fill [a vessel with] water to hold it before his beast [on the Sabbath],[28] but he fills [his bucket] and pours it out [into a trough] and the cow drinks of its own accord? Surely, in connection with this ruling it was stated: Abaye explained: Here [we are dealing] with a manger that stands in a public domain, that is ten handbreadths high and four handbreadths wide, and one of whose sides projects into [an area] between the strips of wood [where it is possible] that the man might sometimes observe that the manger was damaged and, proceeding to repair it, would carry the bucket with him and thus carry an object from a private into a public domain. Does one, however, incur guilt in such circumstances? Has not R. Safra in the name of R. Ammi who had it from R. Johanan in fact said: If a man was removing his things from one corner into another and then changed his mind and carried them out [into a public domain] he is exempt, since the lifting up [of the objects] was not originally intended for this purpose? — Rather, [this is the explanation:] Sometimes he might, after he had repaired the manger, carry [the bucket] back again, and would thus carry from the public into a private domain.

Come and hear: A camel whose head and the greater part of its body is within [a private domain] may be crammed within [that domain]. Now is not the act of cramming, the same as holding the bucket and the animal,[29] and yet it is required that its head and the greater part of its body [shall be within the private domain].[30] R. Aha son of R. Huna replied in the name of R. Shesheth: A camel is different since its neck is long.[31]

Come and hear: A beast whose head and the greater part of its body is within [a private domain] may be crammed within [that domain]. Is not cramming the same as holding the bucket and the animal,[29] and yet it was required that its head and the greater part of its body [shall be within the private domain].[30] [It may be objected] that by the expression of ‘beast’, also[32] a camel [was meant]. Were not, however, both camel and beast separately mentioned?[33] — Were they mentioned in juxtaposition?[34] So[35] it was also taught: R. Eleazar forbids this[36] in the case of a camel, because its neck is long.

R. Isaac b. Adda[37] stated: Strips [of wood] around wells were permitted to festival pilgrims[38] only. But was it not taught: Strips [of wood] around wells were permitted for cattle only? — By[39] cattle [was meant] the cattle of the festival pilgrims, but a human being[40]

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(1) Shab. 11a, infra 99a; where wine may be drunk before it is tithed.

(2) Where it stands in a public domain and its keeper in a private domain.

(3) From which the cow drinks.

(4) Since otherwise it might pull its head sideways or backwards and thus drag the vessel with the man into the public domain.

(5) In the case of enclosures around wells, even where the animal's head and the greater part of its body were within the enclosure.

(6) In an enclosure round a well.

(7) Lit., ‘and give’.

(8) While it drinks, even (since the Baraitha bears on our Mishnah) where its head and the greater part of its body were within the enclosure. It must also refer to a case where the animal was not held by its keeper; for, if the prohibition extended to the case where the animal was held, there could be no point in ever requiring its head and the greater part of its body to be within the enclosure when one is always forbidden to hold the vessel for it. Our Mishnah, on the other hand, which permits the drinking refers to a case where the cow is held by its keeper.

(9) Infra 21a.

(10) Of the Baraitha cited.

(11) So that it has the status of a private domain.

(12) The cow eating from it at its other end in the public domain.

(13) Not to hold the bucket of water over the top of the manger within the enclosure.
(14) In the section within the public domain.
(15) Forgetting, in his anxiety to repair the damage, that he carried it.
(16) The prohibition to hold the bucket for the cow is consequently not due to the reason previously assumed; and the ruling in our Mishnah that the cow is allowed to drink if its head and the greater part of its body were within the enclosure might, therefore, apply to a case where the man did not hold the animal. (Cf. Rashi and Tosaf s.v. וכי and והתניא a.l.).
(17) According to Pentateuchal law.
(18) Where one lifted up an object with the intention of putting it down in another part of the same private domain and forgetfully carried it out into a public domain.
(19) On the Sabbath.
(20) Within a private domain.
(21) A sin-offering is incurred only where a man intended to do a certain work but forgot that the day was Sabbath or that such work was forbidden on the Sabbath. In the case of the bucket under discussion, therefore, since the keeper when he lifted it up, had no intention of carrying it out into the public domain, no sin-offering would be incurred even if he eventually did carry it out. Why then, should a preventive measure be enacted against a possible act which even if committed would involve no Pentateuchal obligation?
(22) Why the keeper may not hold a bucket of water for the animal to drink.
(23) Into the enclosure.
(24) Which might involve him in the Pentateuchal obligation of a sin-offering, since the bucket was lifted up with the intention of carrying it from the public into the private domain.
(25) Cf. supra p. 141, n. 1 and text.
(26) Since this case must have been referred to by our Mishnah: For if he did not hold the bucket, what need was there for the head etc. of the cow to be within the enclosure?
(27) It being uncertain whether our Mishnah refers to a case where the cow was or was not held by its keeper.
(28) So MS.M.
(29) Since it is impossible to cram unless one holds the animal's neck.
(30) Would not this then provide a reply to the first enquiry in the first version?
(31) If the greater part of its body were to remain in the public domain it might, by a turn of its neck, drag its keeper after it and thus cause him to carry the bucket from the private into the public domain. In the case of any other animal, however, whose neck is not so long this need not be provided against and a keeper might well be permitted to hold its bucket though the greater part of its body remained outside the private domain.
(32) Lit., ‘what (is the meaning of) beast that was taught’.
(33) Lit., ‘but it was taught beast’ etc.
(34) They were not. The author of the one Baraitha did not teach the other, and what the one described as camel the other described by the general term of beast.
(35) That a camel is subject to a law different from that of other beasts.
(36) Holding a bucket of water to an animal's mouth in a private domain while its body remains without.
(37) Var. lec.: Ammi (Asheri).
(38) עולי רגלים, lit., ‘those who go up (to the Temple) to (celebrate) the major festivals’.
(39) Lit., ‘what’.
(40) Who desires to drink from a well on the Sabbath.

Talmud - Mas. Eiruvin 21a

must climb up[1] or climb down.[2] But this is not [so]? Did not R. Isaac[3] in the name of Rab Judah who had it from, Samuel actually state: Strips [of wood] around wells were permitted only where a well is one of spring water;[4] now if [strips of wood were permitted] for cattle only, what difference is there whether [the water was] springing or collected? — It is required that the water should be fit for human consumption.

[To turn to] the main text.[5] Strips [of wood] around wells were permitted for cattle only, but a human being must climb up or climb down. If, however, they [the wells] were wide[6] they are permitted for a human being also. No man may fill [a bucket with] water to hold it before his cattle, but one may fill [a bucket with water] and pour [it into a trough] before cattle which drink of their own accord.

R. Anan demurred: If so,[7] what was the use of strips [of wood] around wells? — ‘What was the use’ [you ask, surely] to [enable people to] draw water from the wells![8] — This rather [is the question:] Of what use is it that the head and the greater part of the body of the cow [is within the enclosure]? Abaye replied: Here we are dealing with a manger that stood in a public domain, that was ten handbreadths high and four handbreadths wide, and one of whose sides projected into [an area] between strips [of wood] etc.[9]

R. Jeremiah b. Abba laid down, in the name of Rab: [The law of] isolated huts[10] is not [applicable] to Babylon nor [that of] strips [of wood] around wells to [any country][11] outside the Land of Israel. ‘[The law of] isolated huts is not [applicable] to Babylon’ because there the bursting of dams is common;[12] ‘nor [that of] strips of wood around wells to [any country] outside the Land of Israel’ because there colleges are rare.[13] The reverse, however, is applicable.[14]

Others say that R. Jeremiah b. Abba laid this down in the name of Rab: [The laws of] isolated huts and strips [of wood] around wells are not [applicable] either to Babylon or to other countries outside the Land of Israel. [The law of] isolated huts [is inapplicable] to Babylon because the bursting of dams is of frequent occurrence. In other countries outside the Land of Israel also it is not [applicable] because there thieves[15] are common. [The law of] strips [of wood] around wells is not [applicable] to Babylon because it has water in abundance.[16] In [other countries] outside the Land of Israel also it is not [applicable] because there colleges are rare.[13]

Said R. Hisda to Mari son of R. Huna the son of R. Jeremiah b. Abba: People say that you walk on the Sabbath from Barnish to Daniel's Synagogue[17] which is [a distance of] three parasangs; what do you rely upon?[18] On the isolated huts? But did not the father of your father lay down in the name of Rab [that the law of] isolated huts is not [applicable] to Babylon? — The other, thereupon, went out [with him and] showed him certain [ruined] settlements that were contained within the radius of seventy cubits and a fraction[19] [from the town].

R. Hisda stated: Mari b. Mar made the following exposition: It is written,[20] I have seen an end to every purpose; but Thy commandment is exceeding broad.[21] This statement[22] was made by David but he did not explain it;[23] Job made a similar statement[24] and did not explain it;[23] Ezekiel also made a similar statement[24] and did not explain it,[23] [and the exact magnitude remained unknown] until Zechariah the son of Iddo came and explained it. ‘It was made by David but he did not explain it’ for it is written in Scripture: I have seen an end to every purpose; but Thy commandment is exceeding broad.[21] ‘Job made a similar statement and did not explain it,’ for it is written in Scripture: The measure thereof is longer than the earth, and broader than the sea .[25] ‘Ezekiel also made a similar statement and did not explain it’, for it is written in Scripture: And he spread it[26] before me, and it was written within and without; and there was written therein lamentations, and meditation of joy[27] and woe;[28] ‘lamentation’ refers to the retribution of the just in this world, for so[29] it is said: This is the lamentation wherewith they shall lament;[30] ‘and meditation of joy’ refers to the reward of the righteous in the hereafter for so it is said: With the joy[31] of solemn sound upon the harp;[32] ‘and woe’[33] refers to the retribution of the wicked in the hereafter for so it is said: Calamity[34] shall come upon calamity;[35] ‘until Zechariah the son of Iddo came and explained it,’ for it is written: And he said unto me: ‘What seest thou?’ And I answered: ‘I see a folded[36] roll; the length thereof is twenty cubits, and the breadth thereof ten cubits’,[37] and, when you unfolded it, [its extent] is twenty by twenty [cubits], and since it is written: ‘It was written within and without’,[38] what will be [its size] when you split it?[39] Forty by twenty cubits.[40] But, as it is written: Who hath measured the waters in the hollow of his hand, and meted out heaven with the span[41] etc., it follows[42] that the entire universe is [equal to] a three thousand and two hundredths part of the Torah.[43]

R. Hisda further stated: Mari b. Mar made this exposition: What [is the significance] of the Scriptural text: And behold two baskets of figs set before the temple of the Lord;[44] one basket had very good figs, like the figs

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(1) The walls of the well.
(2) He is not allowed, however, to draw the water in a bucket from the well to carry it into the imperfect enclosure made up of the strips of wood.
(3) MS.M., 'Joseph'. Cf. infra 23a ab init. and Bah a.l.
(4) Infra 23a.
(5) To which reference was made supra 20b q.v. notes.
(6) And one is unable to climb them (Rashi).
(7) That a bucket of water must not be held before cattle.
(8) Lit., 'to fill from them'.
(9) V. supra 20b.
(10) בורגנין, sing. בורגין Cf. Gr. **, 'isolated dwelling'. If such units are situated within a radius of seventy and two thirds cubits from a town they are regarded as its suburbs and the Sabbath limit of two thousand cubits begins from the end of the last hut (cf. infra 55b).
(11) Other than Babylon.
(12) And the hut may at any moment be swept away by the floods.
(13) And no students, therefore, pass from town to town in pursuit of their studies. As the relaxation of the laws of a private domain in respect of enclosures around wells is entirely due to considerations of the needs of festival pilgrims and other wayfarers who are similarly engaged in the performance of pious acts, it could not be extended in the interests of ordinary travellers.
(14) Lit., 'we do'; the law of isolated huts may be applied to countries other than Palestine and that of strips of wood around wells to Babylon.
(15) Who steal the huts.
(16) And there is no need, as in the case of Palestine where water is scarce, to make provision for the use of the limited number of scattered wells or cisterns.
(17) Cf. Daniel VI, 10, 11. This synagogue was situated in Sura, v. Obermeyer, p. 302.
(18) In walking a distance more than two thousand cubits from the town (the permitted Sabbath limit).
(19) Lit., 'and remnants', Sc. two thirds of a cubit (cf. infra 57a). Ruins in the neighbourhood of a town within the limit mentioned are regarded as an extension of the town (cf. infra 55b).
(20) Lit., 'what (is the significance of that) which is written'.
(21) Ps. CXIX, 96.
(22) On the magnitude of God's commandment, sc. the Torah.
(23) Sc. the exact measurements.
(24) Lit., 'said it'.
(25) Job XI, 9.
(26) A scroll of the Oral Law.
(27) So homiletically. E.V. moaning.
(28) Ezek. 11, 10.
(29) That 'lamentation' is an allusion to retribution.
(30) Ezek. XXXII, 16.
(31) Homiletical rendering.
(32) Ps. XCII, 4.
(33) והי.
(34) הוה, of the same rt. as והי.
(35) Ezek. VII, 26.
(36) So homiletically. E.V., flying.

(37) Zech. V, 2.
(38) Ezek. 11,10.
(39) And place the written surfaces face upwards side by side.
(40) Which equal 40 X 20 X 4 = 3200 quarter sq. cubits or sq. spans (v. infra n. 5).
(41) Isa. XL, 12.
(42) As a span equals half a cubit and as a sq. span consequently equals a quarter of sq. cubit, and since the size of the entire universe is only one span sq.
(43) Cf. supra n. 3.
(44) Jer. XXIV, 1.

Talmud - Mas. Eiruvin 21b

that are first-ripe, and the other basket had very bad figs, which could not be eaten, they were so bad?[1] 'Good figs' are an allusion to those who are righteous in every respect; 'bad figs' are an allusion to those who are wicked in every respect. But in case you should imagine that their hope is lost and their prospect is frustrated, it was explicitly stated: The baskets[2] give forth fragrance,[3] both[4] will in time to come give forth fragrance.

Raba made the following exposition: The Scriptural text:[5] The mandrakes give forth fragrance[3] is an allusion to the young men of Israel who never felt the taste of sin; and at our doors are all manner of precious fruits[3] is an allusion to the daughters of Israel who tell their husbands about their doors.[6] Another reading: Who close[7] their doors for their husbands.[8] New and old, which I have laid up for thee, O my beloved;[3] the congregation of Israel said to the Holy One, blessed be He, 'Lord of the universe: I have imposed upon myself more restrictions than Thou hast imposed upon me, and I have observed them.'

R. Hisda asked one of the young Rabbis who was reciting aggadoth in his presence in a certain order: 'Did you hear what [was the purport of the expression,] 'New and old'?[9] — 'The former'[10] the other replied: 'are the minor, and the latter[10] are the major commandments'. 'Was then the Torah,' the former asked: 'given on two different occasions?[11] But the latter[12] [are those derived] from the words of the Torah while the former are those derived from the words of the Scribes.'

Raba made the following exposition: What is the purport of the Scriptural text: And, furthermore my son, be admonished: Of making many books etc.?[13] My son, be more careful[14] in [the observance of] the words of the Scribes than in the words of the Torah, for in the laws of the Torah there are positive and negative precepts;[15] but, as to the laws of the Scribes, whoever transgresses any of the enactments of the Scribes incurs the penalty of death. In case you should object: If they are of real value why were they not recorded [in the Torah]? Scripture stated: 'Of making many books there is no end'.[13]

And much study is a weariness of flesh.[13] R. Papa son of R. Aha b. Adda stated in the name of R. Aha b. Ulla: This[16] teaches that he who scoffs at the words of the Sages will be condemned to boiling excrements. Raba demurred: Is it written: 'scoffing'? The expression is 'study'![17] Rather this is the exposition: He who studies them feels the taste of meat.[18]

Our Rabbis taught: R. Akiba was once confined in a prison-house and R. Joshua the grits-maker[19] was attending on him. Every day, a certain quantity of water was brought in to him. On one occasion he[20] was met by the prison keeper who said to him, 'Your water to-day is rather much; do you perhaps require it for undermining the prison?' He poured out a half of it and handed to him the other half. When he[21] came to R. Akiba the latter said to him, 'Joshua, do you not know that I am an old man and my life depends on yours?'[22] When the latter told him all that had happened [R. Akiba] said to him, 'Give me some water to wash my hands'. 'It will not suffice for drinking', the other complained, ‘will it suffice for washing your hands?’ ‘What can I do’, the former replied: ‘when for [neglecting] the words of the Rabbis[23] one deserves death? It is better that I myself should die than that I should transgress against the opinion of my colleagues’.[24] It was related that he tasted nothing until the other had brought him water wherewith to wash his hands. When the Sages heard of this incident they remarked: ‘If he was so [scrupulous] in his old age how much more must he have been so in his youth; and if he so [behaved] in a prison-house how much more [must he have behaved in such a manner] when not in a prison-house’.

Rab Judah stated in the name of Samuel: When Solomon ordained the laws of ‘erub[25] and the washing of the hands a bath kol[26] issued and proclaimed: My son, if thy heart be wise, my heart will be glad, even mine;[27] and, furthermore, it is said in Scripture: My son, be wise, and make my heart glad, that I may answer him that taunteth me.[28]

Raba made the following exposition: What [are the allusions] in the Scriptural text: Come, my beloved, let us go forth into the field; let us lodge in the villages, let its get up early to the vineyards; let us see whether the vine hath budded, whether the vine-blossom be opened and the pomegranates be in flower; there will I give thee my love?[29] ‘Come, my beloved, let its go forth in to the field’; the congregation of Israel spoke before the Holy One, blessed be He: Lord of the universe, do not judge me as [thou wouldst] those who reside in large towns who indulge in robbery, in adultery, and in vain and false oaths; ‘let us go forth into the field’, come, and I will show Thee scholars who study the Torah in poverty; ‘let us lodge in the villages’ read not, ‘in the villages’[30] but ‘among the disbelievers’,[31] come and I will show Thee those upon whom Thou hast bestowed much bounty and they disbelieve in Thee; ‘let us get up early in the vineyards’ is an allusion to the synagogues and schoolhouses; ‘let us see whether the vine hath budded’ is an allusion to the students of Scripture; ‘whether the vine-blossom be opened’ alludes to the students of the Mishnah; ‘and the pomegranates be in flower’ alludes to the students of the Gemara; ‘there will I give thee my love’, I will show Thee my glory and my greatness, the praise of my sons and my daughters.

R. Hamnuna said: What [are the allusions in what was written in Scripture: And he spoke three thousand proverbs; and his songs were a thousand and five?[32] This teaches that Solomon uttered three thousand proverbs for every single word of the Torah and one thousand and five reasons for every single word of the Scribes.

Raba made this exposition: What [are the implications of] what was written in Scripture: And besides that Koheleth was wise, he also taught the people knowledge; yea, he pondered, and sought out, and set in order many proverbs?[33] ‘He [also] taught the people knowledge implies that he taught it with notes of accentuation and illustrated it by simile;[34] ‘Yea, he pondered, and sought out, and set in order many proverbs’ [alludes to the fact], said Ulla in the name of R. Eleazar,[35] that the Torah was at first like a basket which had no handles, and when[36] Solomon came he affixed handles[37] to it.

His locks are curled.[38] This, said R. Hisda in the name of Mar ‘Ukba, teaches that it is possible to pile up mounds of expositions on every single stroke [of the letters of the Torah];[39] and black as a raven:[38] With whom do you find these? With him

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(1) Ibid. 2.

(2) הדודאים an allusion to the ‘baskets’ דודאי supra. E.V., mandrakes.

(3) Cant. VII, 14.

(4) Lit., ‘these and these’, the wicked as well as the righteous.

(5) Lit., ‘what is (the significance of) what is written’.

(6) Euphemism. They are thus enabled to abstain during the woman's menstrual periods.

(7) Lit., ‘bind’.

(8) Chastity. They are ever faithful.

(9) Cant. VII, 14.
(10) Lit., ‘these’.
(11) Lit., ‘twice, twice’, first the major (old) and then the minor (new) commandments?
(12) Lit., ‘those’, the ‘old’.
(13) Eccl. XII, 12.
(14) הזהר, the identical word used for ‘be admonished’.
(15) And the penalties vary.
(16) The expression להג (‘study’) which is similar to that of לעג (‘scoffing’).
(17) להג not לעג.
(18) יגיעת (in יגיעת בשר ‘weariness of the flesh’) contains the letters עת which, by transposition and interchange suggests טעם ‘taste’.
(19) Or ‘dealer’. Aliter: Of a place called Geres (Rashi).
(20) R. Joshua.
(21) R. Joshua.
(22) No one else was allowed, or able to bring him any food or drink.
(23) Lit., ‘them’.
(24) Who ordained the washing of the hands before meals.
(25) For courtyards.
(26) V. Glos.
(27) Prov. XXIII, 15.
(28) Ibid. XXVII, II.
(29) Cant. VII, 12f.
(30) בכפרים.
(31) בכופרים. כופרים is of the same rt. as כפרים.
(32) I Kings V, 12.
(33) Eccl. XII, 9.
(34) V. Jast.
(35) So MS.M. Cur. edd. Eliezer.
(36) Lit., ‘until’.
(37) אזנים sing. אזן, ‘ear’ or ‘handle’. The Heb. for ‘he pondered’ אזן is regarded as a denominative of אזן ‘he made handles’, i.e., added restrictions. Cf. Yeb., Sonc. ed., p. 123, n. 13.
(38) Cant. V, 11.
(39) The word for ‘his locks’, קווצותיו, is regarded as coming from the same rt. as that of ‘stroke’ קוץ (lit., ‘thorn’) and that of ‘curled’, תלתלים as being identical with that of ‘mound’ תל, and the reduplication. תלתלים is rendered, ‘many mounds or piles’.

Talmud - Mas. Eiruvin 22a

who for their sake rises early [to go] to, and remains late in the evening [before returning home from] the schoolhouse.[1] Rabbah explained: [You find these only] with him who for their sake blackens his face like a raven.[2] Raba explained: With him who can bring himself to be cruel to his children and household like a raven,[3] as was the case with[4] R. Adda b. Mattenah. He was about to go away to a schoolhouse when his wife said to him, ‘What shall I do with your children?’ — ‘Are there’, he retorted: ‘no more[5] herbs[6] in the marsh?’

And repayeth them that hate Him to His face, to destroy him.[7] R. Joshua b. Levi remarked: Were it not for the written text one could not possibly have said it. Like a man, as it were, who carries a burden on his face[8] and wants to throw it off. He will not be slack to him that hateth Him.[9] R. Il'a explained: He will not be slack to those that hate Him, but He will be slack to those who are just in all respects; and this is in line with that which R. Joshua b. Levi stated: What [is the implication of] what was written: Which I command thee this day to do them?[10] ‘This day [you are] to do them’ but you cannot postpone doing them for tomorrow;[11] ‘this day [you are in a position] to do them’ and tomorrow[11] [is reserved] for receiving reward for [doing] them.

R. Haggai[12] (or as some say: R. Samuel b. Nahmani) stated: What [was the purpose] when Scripture wrote: Long-suffering[13] [in the dual form][14] where the singular[15] might well have been used? But [this is the purport:][16] Long-suffering towards the righteous and long-suffering also towards the wicked. R. JUDAH SAID: [THE ENCLOSURE MAY BE ONLY] AS LARGE AS TWO BETH SE'AH etc. The question was raised: Does he[17] mean the [area of the] cistern together with [that between] the strips [of wood][18] or does he mean the cistern alone exclusive of the [area between] the strips?[19] Does a man regard[20] his cistern [as the permitted area][21] and, consequently,[22] it is not necessary to restrict [the permitted area] as a preventive measure against the possibility of one's moving of objects in a karpaf[23] that is larger than two both se'ah, or does a man rather regard[24] his partition and, consequently, it was necessary to restrict [the permitted area][25] as a preventive measure against the possibility of assuming[26] [that an area of] more than two beth se'ah [is permitted] in the case of a karpaf[23] also? — Come and hear: How near[27] may [the strips of wood] be? As near as [to admit] the head and the greater part of the body of a cow. And how far may they be? Even [so far as to enclose a beth] kor or even two beth kor. R. Judah ruled: [An area of] two beth se'ah is permitted but one larger than two beth se'ah is forbidden. ‘Do you not admit’, they said to R. Judah, ‘that in the case of a cattle-pen or cattle-fold, a rearcourt or a courtyard even [an area as large as] five or ten beth kor is permitted?’ He replied: This[28] is [a proper] partition but those are mere strips [of wood]. R. Simeon b. Eleazar said: A cistern [the area of which is] two beth se'ah by two beth se'ah is permitted, and [the Rabbis] permitted[29] to remove [the strips of wood from, it] only so far [as to admit] the head and the greater part of the body of a cow. Now, since R. Simeon b. Eleazar spoke of the cistern exclusive of the strips [of wood] it follows, does it not, that R. Judah spoke of the cistern together with the strips? — [In fact,] however, this is not [correct]. R. Judah spoke of the cistern exclusive of the [area between it and] the strips. If so, [is not his ruling] exactly the same as that of R. Simeon b. Eleazar? — The practical difference between them is [an enclosure that is] long and narrow.[30]

R. Simeon b. Eleazar laid down a general rule: Any [enclosed] space[31] used as a dwelling as, for instance, a cattle-pen or cattle-fold, a rearcourt or a courtyard is permitted even if it is as large as five or even ten beth kor, and any dwelling that is used for [service in] the air [outside] as, for instance, field huts[32] is permitted [only if its area is] two beth se'ah but if it is more than two beth se'ah it is forbidden.

MISHNAH. R. JUDAH RULED: IF A PUBLIC ROAD CUTS THROUGH THEM[33] IT SHOULD BE DIVERTED TO ONE SIDE;[34] BUT THE SAGES RULED: THIS IS NOT NECESSARY.

GEMARA. Both R. Johanan and R. Eleazar stated: Here they[35] informed you of the unassailable validity of partitions.[36] ‘Here [etc.]’ [seems to imply that] he[37] is of the same opinion; but did not Rabbah b. Bar Hana state in the name of R. Johanan: Jerusalem,[38] were it not that its gates were closed at night,[39] would have been subject to the restrictions of a public domain?[40] — Rather: ‘Here [etc.]’, but he himself is not of the same opinion.

An incongruity, however, was pointed out between two rulings of R. Judah and between two rulings of the Rabbis. For it was taught: A more [lenient rule] than this did R. Judah lay down: If a man had two houses on two sides [respectively] of a public domain he may[41] construct one side-post on one side [of any of the houses] and another on the other side, or one cross-beam on the one side and another on its other side and then he may move things about[42] in the space between them;[43] but they said to him: A public domain cannot be provided with an ‘erub in such a manner.[44] Now does not this present a contradiction between one ruling of R. Judah and another ruling of his[45] and between one ruling of the Rabbis and another ruling of theirs?[46] — There is really no contradiction between the two rulings of R. Judah. There[47] [it is a case] where two proper walls are available, but here[48] two proper walls are not available. There is no contradiction between the two rulings of the Rabbis either, since here[48] the name of four partitions at least is available,[49] but there[50] even the name of four partitions does not exist.

R. Isaac b. Joseph stated in the name of R. Johanan: In the Land of Israel no guilt is incurred on account of [moving objects in] a public domain. R. Dimi sitting at his studies recited this traditional ruling. Said Abaye to R. Dimi. What is the reason?

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(1) The Heb. for ‘black’ שחורות is similar to that for ‘early’ שחרית and that for ‘raven’ עורב to that for ‘evening’ ערבית.

(2) Suffers deprivation and hunger for the sake of his studies. Cf. previous note.

(3) On the raven's neglect of its brood; v. Keth. 49b and B.B. 8a.

(4) Lit., ‘like that of’.

(5) Lit., ‘are they finished’.

(6) קורמי (MS.M. קירמי). Aliter: A plant, the core of which can be ground and its flour used for the making of bread. Aliter: A water plant bearing a fruit, the kernels of which may, by first cooking them, be made fit for human consumption.

(7) Deut., VII, 10. E.V., And repayeth . . . to their face, to destroy them.

(8) ‘His (sc. the divine) face’.

(9) Deut. VII, 10.

(10) Ibid. II.

(11) After death.

(12) MS.M., Haga.

(13) Ex. XXXIV, 6.

(14) ארך אפים.

(15) ארך אף.

(16) Of the dual form אפים, lit., ‘two faces’.

(17) By limiting the permitted area to two beth se'ah.

(18) Which are two cubits distant from the cistern.

(19) So that the full area of the enclosure may be two beth se'ah in addition to the two cubits on each side of cistern.

(20) Lit., ‘puts his eye’.

(21) And ignores the space enclosed around it.

(22) Since the cistern is not wider than two both se'ah.

(23) V. Glos.

(24) Lit., ‘puts his eye’.

(25) By allowing only two beth se'ah for the full enclosure inclusive of the area of the cistern and the space around it.

(26) Lit., ‘to change’.

(27) To the well or cistern.

(28) The wall or screen round any of the last mentioned enclosures.

(29) Lit., ‘said’.

(30) According to R. Judah this is permitted while according to R. Simeon b. Eleazar the area must be square shaped.

(31) Even if it has no roof.

(32) Which watchmen use for shelter only while their services are needed in the fields around.

(33) The boards forming an enclosure round a well.

(34) Otherwise the validity of the enclosure as a private domain is impaired.

(35) THE SAGES. So Bomb. ed. This is also the reading of MS.M. in the parallel passage supra 20a. Cur. edd. הודיעך (‘he informed you’).

(36) That even a public road cannot affect it.

(37) R. Johanan.

(38) Whose public roads extended from one end of the town to the other and had all the other characteristics of a public domain.

(39) In consequence of which it assumed the status of a courtyard.
(40) Supra 6b q.v. notes. This shows that the passage of the public does invalidate a private domain.
(41) Since the two houses provide walls on two sides.
(42) Lit., 'and carries and gives', as if it had been a private domain.
(43) Lit., 'in the middle'.
(44) Shab. 6a, supra 6a.
(45) According to his ruling in our Mishnah a public road impairs the validity of a private domain, and according to his ruling in the Baraitha cited it does not.
(46) Cf. previous note mutatis mutandis.
(47) The Baraitha cited.
(48) Our Mishnah.
(49) Since the extremity of each side is screened by a board that is one cubit wide.
(50) The Baraitha cited.

Talmud - Mas. Eiruvin 22b

If it be suggested: Because the Ladder of Tyre[1] surrounds it on one side and the declivity of Geder[2] on the other side,[3] Babylon too [it could be retorted] is surrounded by the Euphrates on one side and the Tigris on the other side; the whole world, in fact, is surrounded by the ocean.[4] Perhaps you mean the ascents and descents [of Palestine].[5] 'Genius',[6] the other replied: 'I saw your chief[7] between the pillars[8] when R. Johanan discoursed on this traditional ruling'. So it was also stated: When Rabin came[9] he stated in the name of R. Johanan (others say: R. Abbahu stated in the name of R. Johanan): No guilt is incurred for [the carrying of objects in] a public domain [in the case of] the ascents and descents of the Land of Israel, because they are not [as accessible] as [the domain on which] the standards[10] in the wilderness [marched].[11]

Rehaba enquired of Raba: In the case of a mound that rises to a height of[12] ten handbreadths on a base of[13] four cubits, across which many people make their way, does one incur the guilt of [carrying in] a public domain or is no guilt incurred? This question does not arise according to the view of the Rabbis,[14] for[15] if there,[16] where the use [of the road] is quite easy, the Rabbis ruled that the public do not impair the validity of the enclosure, how much more is that the case here[17] where the use [of the road] is not easy. The question arises only according to R. Judah. Does he[18] [maintain his view only] there[16] because the use [of the road] is easy, but here, where its use is not easy, the public [he maintains] do not impair the validity of the [legal] partition,[19] or is there perhaps no difference? — The other replied: Guilt is incurred. 'Even' [the first asked,] 'if people ascend by means of a rope?' — 'Yes', the other replied. ['Is this the ruling', the first asked,] 'even in respect of the ascents of Beth Maron?'[20] — 'Yes', the other replied.

He raised an objection against him: A courtyard into which many people enter[21] from one side and go out[21] from the other [is regarded as] a public domain in respect of levitical defilement and as a private domain in respect of the Sabbath.[22] Now whose [view is here expressed]? If it be suggested: [That of the] Rabbis; it might be objected:[23] If there,[24] where the use [of the road] is easy, the Rabbis[25] ruled that the public cannot come and impair the validity of the partition, how much more is that the case here[26] where its use is not easy.[27] Consequently[28] it [must be, must it not, the view of] R. Judah?[29] — No; it may in fact [represent the view of] the Rabbis, but[30] the statement was required [on account of the ruling], 'And a public domain in respect of levitical defilement'.[31]

Come and hear: Alleys that open out in cisterns, ditches or caves [have the status of] a private domain in respect of Sabbath and that of a Public one in respect of levitical defilement.[32] Now can you imagine [a reading] 'in cisterns'?[33] [The reading must] consequently be, 'towards[34] cisterns'[35] [and about such alleys it was ruled that they have the status of] 'a private domain in respect of Sabbath and that of a public one in respect of levitical defilement'. Now, whose [view is here expressed]? If it be suggested: That of the Rabbis; it could be objected:[36] If there,[37] where the use [of the road] is easy, they ruled that the public cannot come and annul its validity, how much more should this be the case here where its use is not easy. Consequently [it must be, must it not, the view of] R. Judah?[38] — No; it may in fact [be the view of] the Rabbis,[39] but[40] the statement was required [on account of the ruling,] 'And a public domain in respect of levitical defilement'.[41]

Come and hear: The paths of Beth Gilgul[42] and such as are similar to them [have the status of] a private domain in respect of the Sabbath and that of a public domain in respect of levitical defilement. And what [paths may be described as] the 'paths of Beth Gilgul'? At the school of R. Jannai it was laid down: Any [path along] which a slave carrying a se'ah of wheat is unable to run before an officer.[43] Now, whose view [is this]? If it be suggested [that it is that of] the Rabbis, it might be objected: If there, where the use [of the road] is easy, the Rabbis ruled that the public cannot come and impair the validity of the partition, how much more would that be the case here where the use [of the paths] is not easy. Consequently [it must be, must it not, the view of] R. Judah?[38] — The other replied: You speak of the paths of Beth Gilgul [which have a status of their own, for] Joshua, being a friend of Israel, undertook the task of providing[44] for them roads and highways,[45] and those[46] that were easy of access[47] he assigned for public use and those that were not easily accessible he assigned for private use.[48] MISHNAH. STRIPS [OF WOOD] MAY BE PROVIDED FOR A PUBLIC CISTERN,[49] A PUBLIC WELL[49] AS WELL AS A PRIVATE WELL, BUT FOR A PRIVATE CISTERN[50] A PARTITION TEN HANDBREADTHS HIGH MUST BE PROVIDED; SO R. AKIBA. R. JUDAH B. BABA RULED: STRIPS [OF WOOD] MAY BE SET UP ROUND A PUBLIC WELL ONLY[51] WHILE FOR THE OTHERS[52] A [ROPE] BELT TEN HANDBREADTHS IN HEIGHT MUST BE PROVIDED.

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(1) Scala Tyriorum, on the south of Tyre in the north of Palestine.

(2) Possibly Geder of Josh. XII, 13, or Gedar of I Chron. IV, 39-41 in the south of the country. Cf. Horowitz, Palestine, s.v. גדור II and גדר n. 1.

(3) The promontory and the declivity being no less than ten handbreadths high and low respectively constituting legally valid walls.

(4) And yet is not regarded as a private domain. Why then should Palestine be so regarded?

(5) Not being easily traversed, and being infrequently used, they might well be treated as private domains.

(6) קרקפנא (from קרקף 'head'). Aliter: Distinguished man.

(7) Rabbah, who was Abaye's teacher (v. Tosaf. s.v. קרקפנא a.l.).

(8) Of R. Johanan's schoolhouse.

(9) From Palestine to Babylon.

(10) Sc. the divisions of the tribes of Israel arranged under different standards.

(11) The latter was level and suitable for public use while the ascents and descents of Palestine, as explained supra, are not easily accessible and are consequently unsuitable as public thoroughfares.

(12) Lit., 'that gathers itself'.

(13) Lit., 'from the midst of'.

(14) The SAGES.

(15) Lit., 'now'.

(16) Enclosures around the wells spoken of in our Mishnah.

(17) In the case of a mound.

(18) Lit., 'what'.

(19) Which the mound constituted.

(20) Which were very steep and the paths across them so narrow that two persons could not walk abreast. Cf. R.H. 18a.

(21) Through doors or breaches.

(22) Tosef. Toh. VII, supra 8a q.v. notes.

(23) Lit., 'now'.

(24) V. p. 156, n. 13.

(25) The SAGES.

(26) A courtyard.

(27) On account of the narrow door passages or breaches and the raised thresholds or rugged remnants of fallen walls. What need then was there to state what was so obvious?

(28) Lit., ‘but not?’

(29) Who thus admits that the passage of the public does not impair the status of a private domain where access is not easy. An objection against Raba.

(30) In reply to the objection, what need was there for them to state that which was obvious.

(31) And the other ruling was mentioned merely as an antithesis.

(32) Toh. VI, 6, where, however, ‘paths’ is substituted for ‘alleys’.

(33) Obviously not. An alley would not be made to terminate in a cistern.

(34) The difference between this reading and that of ‘in cisterns’ is represented in the original by the slight change of beth (ב) to lamed (ל).

(35) Sc. a cistern is situated at one end of the alley, access to which is gained by walking on a narrow ledge on one side of the cistern.

(36) Lit., ‘now’.

(37) Enclosures around wells spoken of in our Mishnah.

(38) V. supra p. 157, n. 10.

(39) The SAGES.

(40) V. supra p. 157, n. 11.

(41) And the other ruling was mentioned merely as an antithesis.

(42) The modern village of Gilgilyah on the left of the road between Jerusalem and Shechem, twenty-eight km. north of the former. The paths of Beth Gilgul were steep and narrow and difficult to traverse and consequently were avoided by the general public. Cf. Horowitz, op. cit. s.v. גלגל III.

(43) Toh. VI, 6. סרדיוט cf. Gr. **, a Greek or Roman officer.

(44) Lit., ‘he stood up and prepared’. After his conquests in Canaan.

(45) Aliter: Stations. Read with MS.M. the pl. אסטרטיאות. Cur. edd. סרטיא.

(46) Lit., ‘wherever’.

(47) Lit., ‘use’.

(48) Hence the status of the paths of Beth Gilgul which are among the difficult paths of Palestine and similarly with all other ascents and descents in the Land of Israel. This, therefore, provides no proof for difficult roads in other countries which did not come under Joshua's enactments.

(49) Supra 18a where the order, however, is reversed.

(50) Since the water might be used up and the fact might escape the individual's attention, who would thus continue to use the enclosure as a private domain though it had lost the status on account of the disappearance of the water. In the case of a well no provision was necessary against the remote possibility of its drying up, while in the case of a public cistern the people would remind one another of the absence of the water should it ever all be used up.

(51) Because (a) its flow is constant and (b) should it ever dry up the people would remind one another of its change of status.

(52) Where only either (a) or (b) is applicable; v. previous note.

Talmud - Mas. Eiruvin 23a

GEMARA. R. Joseph stated in the name of Rab Judah who had it from Samuel: The halachah is in agreement with R. Judah b. Baba. R. Joseph further stated in the name of R. Judah who had it from Samuel: Strips [of wood] around wells were permitted only in the case of a well of living water. And [both these statements were] required. For if we had only been told, ‘The halachah is in agreement with R. Judah b. Baba’ it might have been assumed that [in the case] of public [water he allows strips of wood] even [where the water is] collected, and that the reason why he mentioned A PUBLIC WELL was to express disagreement[1] with the view of R. Akiba,[2] hence we were told that ‘strips of wood around wells were permitted only in the case of a well of living water’.[3] And if only ‘a well of living water’ had been mentioned [it might have been assumed that] there is no difference between a public and a private one,[4] hence we were told ‘the halachah is in agreement with R. Judah b. Baba’.[5]

MISHNAH. R. JUDAH B. BABA FURTHER RULED: IT IS PERMITTED TO MOVE OBJECTS[6] IN A GARDEN OR A KARPAF[7] WHOSE [AREA DOES NOT EXCEED] SEVENTY CUBITS AND A FRACTION[8] BY SEVENTY CUBITS AND A FRACTION AND WHICH ARE SURROUNDED BY A WALL TEN HANDBREADTHS HIGH, PROVIDED THERE IS IN IT A WATCHMAN'S HUT OR A DWELLING PLACE[9] OR IT IS NEAR TO A TOWN.[10] R. JUDAH RULED: EVEN IF IT CONTAINED ONLY A CISTERN, A DITCH OR A CAVE IT IS PERMITTED TO MOVE OBJECTS[11] WITHIN IT. R. AKIBA RULED: EVEN IF IT CONTAINED NONE OF THESE IT IS PERMITTED TO MOVE OBJECTS[11] WITHIN IT, PROVIDED ITS AREA [DOES NOT EXCEED] SEVENTY CUBITS AND A FRACTION[12] BY SEVENTY CUBITS AND A FRACTION. R. ELIEZER RULED: IF ITS LENGTH EXCEEDED ITS BREADTH EVEN BY A SINGLE CUBIT IT IS NOT PERMITTED TO MOVE ANY OBJECTS WITHIN IT.[13] R. JOSE RULED: EVEN IF ITS LENGTH IS TWICE ITS BREADTH IT IS PERMITTED TO MOVE EFFECTS WITHIN IT. R. ILA'I STATED: I HEARD FROM R. ELIEZER,[14] EVEN IF IT IS AS LARGE AS A BETH KOR. I LIKEWISE HEARD FROM HIM THAT IF ONE OF THE TENANTS OF A COURTYARD FORGOT TO JOIN IN THE ‘ERUB,[15] HIS HOUSE IS FORBIDDEN TO HIM FOR THE TAKING IN OR THE TAKING OUT OF ANY OBJECT[16] BUT IS PERMITTED TO THEM.[17] I HAVE LIKEWISE HEARD FROM HIM THAT PEOPLE MAY FULFIL THEIR DUTY[18] AT PASSOVER BY EATING HART'S-TONGUE.[19] WHEN, HOWEVER, I WENT ROUND AMONG ALL HIS DISCIPLES SEEKING A FELLOW STUDENT[20] I FOUND NONE.[21]

GEMARA. What did he[22] already teach that, in consequence, he[23] used the expression of FURTHER? If it be suggested: Because he taught one restrictive ruling[24] and then he taught the other[25] he therefore used the expression of FURTHER, surely [it could be retorted] did not R. Judah[26] teach one restrictive ruling[27] and then he taught another one[28] and yet he[29] did not use the expression ‘further’? — There[30] the Rabbis interrupted him[31] but here the Rabbis did not interrupt him.[32] [Is it then suggested] that wherever the Rabbis interrupted one's statements the expression of ‘further’[33] not used? Surely, [it may be objected] was not R. Eliezer, in the case of a law about sukkah, interrupted by the Rabbis and the expression ‘further’ was nevertheless used?[34] There[35] they interrupted him with [a ruling on] his own subject but here they made the interruption with another subject.[36] R. AKIBA RULED: EVEN IF IT CONTAINED NONE OF THESE IT IS PERMITTED TO MOVE OBJECTS WITHIN IT.

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(1) Lit., ‘to bring out’.

(2) Who permitted strips of wood in the case of a PRIVATE WELL; R. Judah b. Baba being mainly concerned to lay down that the water, whether springing or collected, must not be private but public if strips of wood around it are to be permitted.

(3) But not collected water.

(4) Sc. even a private well may be permitted with strips of wood.

(5) Who lays down two restrictions viz. (a) PUBLIC, and (b) WELL.

(6) On the Sabbath.

(7) V. Glos.

(8) Lit., ‘and a remnant’, viz. two thirds of a cubit.

(9) Lit., ‘house’, so that the enclosure round the garden or karpaf may be regarded as put up for dwelling purposes.

(10) In which the owner lives. Being near to his residence he would frequently use it and consequently it may be regarded as a dwelling place.

(11) On the Sabbath.

(12) Lit., ‘and a remnant’, viz. two thirds of a cubit.

(13) Though the area does not exceed the prescribed seventy and two third cubits square. Only a square space was permitted where the enclosure around it was not made for dwelling purposes.

(14) So MS.M. Cur. edd. Eleazar.

(15) And on the Sabbath he renounced his share to the other tenants.
(16) By way of the common courtyard.
(17) They may carry their utensils to and from his house.
(18) Of eating bitter herbs (v. Ex. XII, 8).
(19) Or ‘palm-ivy’.
(20) Who might corroborate the three statements he made in the name of their master.
(21) They disagreed with him, maintaining that the master gave different rulings.
(22) R. Judah b. Baba.
(23) The Tanna of our Mishnah.
(24) In the preceding Mishnah, that only a public well may be provided with strips of wood (supra 22b).
(25) The first ruling in our Mishnah which restricts the permitted space within an enclosure, though set up for dwelling purposes, to seventy and two-thirds cubits square.
(26) Sc. R. Judah b. Il'a.
(27) That only an area of two beth se'ah is permitted (supra 18a ab init.).
(28) That a public road through an enclosure round a well must be diverted to one of the sides (supra 22a).
(29) The Tanna of the Mishnah, supra 22a.
(30) The rulings of R. Judah b. Il'a.
(31) Their statement (supra 18a ab init.) intervenes between R. Judah's two rulings.
(32) R. Judah b. Baba's rulings immediately follow one another in the Mishnah (cf. supra 22b ad fin. and the first clause of our Mishnah).
(33) Though the two statements have a logical connection.
(34) V. Suk. 27a.
(35) The rulings of R. Eliezer about sukkah.
(36) R. Judah spoke of wells’ enclosures and they spoke of a garden, a karpaf and the like. After such an interruption the expression of ‘further’ is obviously unsuitable.

Talmud - Mas. Eiruvin 23b

Is not R. Akiba [laying down] the same ruling as the first Tanna?[1] The difference between them is a small area.[2] For it was taught: R. Judah stated, [two beth se'ah] exceed seventy cubits and a fraction [square] by a very small margin but the Sages did not indicate its exact dimensions.

And what [is the area of] the size of two beth se'ah? — One like that of the courtyard of the Tabernacle.[3] Whence is this[4] deduced? — Rab Judah replied: From Scripture which said: The length of the court shall be a hundred cubits, and the breadth fifty everywhere,[5] the Torah[6] having thus ordained, ‘Take away fifty[7] and surround [with them the other] fifty’.[8] What, however, is[9] the ordinary meaning of the text?[10] — Abaye replied: Put up the Tabernacle at the edge of fifty cubits so that there might be [a space of] fifty cubits[11] in front of it and one of twenty cubits on every side.[12]

R. ELIEZER RULED: IF ITS LENGTH EXCEEDED etc. Was it not taught, however, that R. Eliezer ruled: If its length was more than twice its breadth, even if only by one cubit, it is forbidden to move objects within it? — R. Bebai b. Abaye replied: What we learned in our Mishnah we learned [in respect of an enclosure whose length] was more than twice its width. If so, is not this ruling exactly the same as that of R. Jose?[13] — The difference between them is the squared area which the Rabbis have prescribed.[14]

R. JOSE RULED etc. It was stated:[15] R. Joseph laid down in the name of Rab Judah who had it from Samuel: The halachah is in agreement with R. Jose;[16] and R. Bebai laid down in the name of Rab Judah[17] who had it from Samuel: The halachah is in agreement with R. Akiba.[18] And both [these rulings] are on the side of leniency; and [both were] required. For if we had only been told, ‘The halachah is in agreement with R. Jose’ it might have been assumed [that the permissibility was dependent] on the existence of[19] a watchman's hut or a dwelling place,[20] hence we were informed that ‘the halachah is in agreement with R. Akiba’.[21] And if we had been told, ‘The halachah is in agreement with R. Akiba’ it might have been assumed that [an enclosed area that was] long and narrow is not [permitted],[22] hence we were also informed that ‘the halachah is in agreement with R. Jose’.[23]

If a karpaf[24] bigger than two beth se'ah,[24] is fenced round for dwelling purposes, then if the greater part of it is sown [with seed] it is regarded as a garden[25] and it is forbidden [to carry any objects within it],[26] but if the greater part of it is planted [with trees][27] it is regarded as a courtyard [and the movement of objects within it] is permitted.

‘If the greater part of it is sown [etc.]’. Said R. Huna son of R. Joshua: This applies only [where the area sown was] bigger than two beth se'ah[28] but one of two beth se'ah[29] is permitted.[30] In agreement with whose view? Is it in agreement with that of R. Simeon; for we learned: R. Simeon ruled: Roofs, courtyards and karpafs[31] are equally regarded as one domain in respect of [carrying from one into another] objects that were kept within them when Sabbath began, but not in respect of objects that were in the house when the Sabbath began?[32] But [it may be objected] even according to R. Simeon, since the major part of it was sown [with seed] would not the minor part

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(1) The Rabbis, who (supra 18a ab init.) contended that it is permissible to move objects in a garden and the like (which were not enclosed for dwelling purposes) if the area is not more than two beth se'ah i.e., about seventy and two-thirds cubits square (Rashi).

(2) By which area of two beth se'ah exceeds that of seventy and two-thirds cubits square (cf. infra n. 8). According to the first Tanna the area may be as large as two beth se'ah while according to R. Akiba it must not exceed that of 70 2/3 cubits square.

(3) Which Moses made in the wilderness, sc. 100 X 50 cubits (Ex. XXVII, 18).

(4) That the dimensions of the court of the Tabernacle are to be squared to fix the area in connection with the moving of objects on Sabbath.

(5) Ex. XXVII, 18; lit., ‘fifty by fifty’.

(6) By the addition of the apparently superfluous ‘by fifty’ (cf. prev. note) to the dimensions of a hundred by fifty.

(7) The excess of the length (hundred cubits) over the breadth (fifty cubits), thus leaving a square area of fifty by fifty cubits.

(8) Sc. the square (cf. previous note). Rashi: Surrounding the square with equal strips cut from the remaining area of 50 X 50 cubits, a larger square area is the result. The area of two beth se'ah is consequently equal to 100 X 50 square cubits which (since a cubit 6 = handbreadths) equals 100 X 50 X 6 X 6 = 180,000 sq. handbreadths. An area of (70 and 2/3) squared cubits = (70 X 6 + 4) squared = 424 squared = 179,776 sq. handbreadths. The difference between the first Tanna and R. Akiba is thus the small area of 180,000 — 179,776 = 224 sq. handbreadths (or 224/36 = 6 and 2/9 sq. cubits) which if split up into small strips to surround with them the perimeter of (70 and 2/3) squared cubits would be small indeed. [For a full mathematical discussion of this passage v. Feldman, op. cit. pp. 54ff].

(9) Lit., ‘about what is it written’.

(10) Which speaks of the Tabernacle. What point was there in adding ‘by fifty’ to the dimension of length and breadth already given?

(11) Sc. fifty by fifty (v. next note).

(12) The Tabernacle was thirty cubits long and ten cubits wide. Dividing the length of the court (hundred cubits) in two sections and setting up the Tabernacle in one of these, its eastern front touching the dividing line, and its southern side removed twenty cubits from the south wall of the court there would remain (since the width of the court was fifty cubits) the following distance between the Tabernacle and the walls of the court. (100 — 50) X 50 = 50 X 50 cubits in front of it, 50 — 30 = 20 at its back, and (50 — 10)/2 = 20 cubits on its sides.

(13) Who also ruled: EVEN IF ITS LENGTH IS TWICE ITS BREADTH.

(14) Lit., ‘made square’. R. Eliezer maintains that the authorized length is twice the breadth and no longer, but a squared area is also permitted; while R. Jose holds that the authorized area is a square although one whose length equals twice its breadth is also permitted. (V. Rashi. Cf., however, R. Han. in Tosaf. s.v. איכא a.l.).

(15) By Amoras.

(16) That a non-squared area is also permitted.
(17) Var. lec. Nahman (Alfasi and Asheri).
(18) That it is not necessary for an enclosure to be put up especially for dwelling purposes.
(19) Lit., ‘until there is’, sc. in the enclosure.
(20) So that the enclosure may be regarded as put up for dwelling purposes.
(21) V. 163, n. 9.
(22) Since R. Akiba required a squared area.
(23) That a non-squared area is also permitted.
(24) V. Glos.
(25) Which people do not use as a dwelling place.
(26) Even in the part that was not sown; because its status is merged in that of the greater part.
(27) Among which people can, and do shelter.
(28) Such a large area, not having been fenced round for dwelling purposes, has the status of a karmelith (v. Glos.) while the unsown part has the status of a courtyard whose one complete side is fully open into a karmelith and both sections are consequently forbidden domains for the movement of objects on the Sabbath.
(29) Though the sown part is subject to the restrictions of a karpaf and the unsown one to those of a courtyard that fully opens out into a karpaf (cf. previous note).
(30) Since both belong to the same owner.
(31) Even if they belonged to different owners.
(32) In relation to a house, these are regarded as different domains even if they belong to one man, and any object taken out on Sabbath from the house to the courtyard must not be moved thence to the karpaf or roof (Rashi).

Talmud - Mas. Eiruvin 24a

lose its own status to the major part and [the entire area[1] would thus] become a karpaf that is bigger than two beth se'ah[2] [the movement of objects in which] is forbidden?[3] — The fact, however, is that if the statement has at all been made it must have been in the following terms: But[4] [it follows that] if its lesser part [only was sown, the movement of objects within it] is permitted. Said R. Huna son of R. Joshua, this applies only [where the sown area was] less than two beth se'ah[5] but [if it was] two beth se'ah [the movement of objects within the entire area] is forbidden.[6] In agreement with whose view?[7] — In agreement with that of the Rabbis.[8]

R. Jeremiah of Difti, however, taught it[9] on the side of leniency:[10] But[11] [it follows that] if its lesser part [only was sown the movement of objects within it] is permitted. Said R. Huna son of R. Joshua: This applies only [where the sown area was no more than] two beth se'ah but if it was more than two beth se'ah[12] [the movement of objects within it] is forbidden. In agreement with whose view?[13] — In agreement with that of R. Simeon.[14] ‘But if the greater part of it was planted [with trees] it is regarded as a courtyard and [the movement of objects within it] is permitted’. Said Rab Judah in the name of Abimi: This [is the case only] where they are arranged in colonnade formation;[15] but R. Nahman said: Even if they were not arranged as a colonnade.

Mar Judah once happened to visit R. Huna b. Judah's when he observed certain [trees] that were not arranged as a colonnade[16] and people were moving objects between them. ‘Does not the Master’, he asked: ‘uphold the view of Abimi?’[17] — ‘I’, the other replied: ‘hold the same view as R. Nahman’.

R. Nahman laid down in the name of Samuel: If a karpaf that was bigger than two beth se'ah was not originally enclosed for dwelling purposes,[18] how is one to proceed?[19] A breach wider than ten [cubits] is made in the surrounding fence,[20] and this is fenced up so as to reduce it to[21] ten cubits[22] and [then the movement of objects][23] is permitted.[24] The question was raised: What is the ruling where one cubit [width of fence] was broken down and the same cubit [of breach] was fenced up and [then the next] cubit [width of fence] was broken down and was equally fenced up [and so on] until [the breaking down and the re-fencing] of more than ten [cubits width of the fence] was completed?[25] — [This case], came the reply,[26] is[27] exactly [the same in principle as the one about] which we learned: All [levitically defiled wooden] utensils of householders [become clean if they contain holes] of the size of pomegranates;[28] and when Hezekiah asked: 'What is the ruling where one made a hole of the size of[29] an olive and stopped it up and then made another hole of the size of an olive and stopped it up [and so on] until one completed [a hole] of the size of[29] a pomegranate?'[30] R. Johanan replied: Master, you have taught us [the case of] a sandal, for we learned:[31] 'A sandal[32] one of the straps of which was torn off and repaired retains its midras[33] defilement.[34] If the second strap was torn off and repaired [the sandal] becomes free from the midras[33] defilement[35] but[36] is unclean[37] [on account of its] contact with midras'.[38] And you asked in connection with this, 'Why is it[39] [that the absence of the] first [strap does not affect the status of the sandal? Obviously] because the second strap was then available [but then the absence of the] second strap also [should not affect the status of the sandal] since the first[40] was then available?' And then you explained this to us [that 'in the latter case] the object had assumed a new appearance;[41] well, in this case[42] also [it may be explained that] the object had assumed a new appearance; [and Hezekiah] made concerning him[43] the following remark: 'This [scholar] is no [ordinary] man'[44] [or as] some say: 'Such [a scholar] is [the true type of] man'.

R. Kahana ruled: In an open area[45] that [is situated] at the back of houses[46] objects may be moved[47] within a distance of four cubits only.[48] In connection with this R. Nahman ruled: If a [house] door was opened out into it, the movement of objects is permitted throughout the entire area, [since] the door causes it to be a permitted domain.[49] This,[50] however, applies only[51] where the door was made first[52] and [the area] was enclosed subsequently, but not where it was first enclosed and the door was made afterwards. 'Where the door was made first and [the area] was enclosed subsequently', [is it not] obvious [that the movement of objects in the area is permitted]? — [This ruling was] required only in the case where it[53] contained a threshing floor.[54] As it might have been assumed that [the door] was made in order to give access[55] to the threshing floor,[56] we were therefore informed [that no such assumption is made].

Where a karpaf [whose area] exceeded two beth se'ah was originally enclosed for dwelling purposes but was subsequently filled with water, the Rabbis intended to rule [that water is subject to the same law] as seed[57] and [that movement of objects in the enclosure] is, therefore, forbidden, but R. Abba[58] the brother[59] of Rab[60] son of R. Mesharsheya said: Thus we rule in the name of Raba: Water [is subject to the same law] as plants,[61] and [the movement of objects within the enclosure] is consequently permitted.

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(1) The sown part that was less than two beth se'ah and the unsown part that may be bigger than two beth se'ah.

(2) Which is subject to the restrictions of a garden.

(3) Even where it was enclosed for dwelling purposes, and even if all of it belonged to one owner.

(4) Since the prohibition was laid down in connection with a karpaf, the greater part of which was sown.

(5) So that it was not of sufficient importance to be given a status of its own.

(6) Because the sown portion has the status of a karpaf that was not enclosed for dwelling purposes. Such a karpaf, provided it is not bigger than two beth se'ah, is a permitted domain only where it is not abutting on any other domain; but here, since it opens out into a kind of courtyard, one side of which is fully exposed to it, the two domains are a mutual cause of prohibition, and no object may be carried from the one into the other.

(7) Was R. Huna's statement made.

(8) Who hold that two domains, though they are the property of one man and though none is inhabited, may be a mutual cause of prohibition (cf. infra 8).

(9) R. Huna's statement just discussed.

(10) Sc. that even if the area of the lesser part was two beth se'ah, it is regarded as a permitted domain as if it had not opened out at all into a broken yard.

(11) V. supra note 4.

(12) Since the enclosure was not put up for dwelling purposes.
(13) Was R. Huna's statement made.
(14) Sc. even R. Simeon agrees in such a case.
(15) So that one can rest there in comfort.
(16) The area which was larger than two beth se'ah, was originally enclosed for dwelling purposes and later planted with trees.
(17) That unless the trees are arranged in colonnade formation the movement of objects between them is forbidden.
(18) And a house was subsequently built with a door opening into it.
(19) If it is desired to move objects from the karpaf to the house and vice versa.
(20) Lit.,'in it'. Thereby the validity of the fence is annulled.
(21) Lit., ‘and he makes it stand on’.
(22) Thereby turning the breach into a doorway of the permitted legal size.
(23) V. supra n. 5.
(24) Since the reconstruction of the fence took place after the house was built, the entire karpaf may be regarded as having been enclosed for dwelling purposes.
(25) Is the karpaf regarded as enclosed for dwelling purposes on account of the new section of fence that was put up after the house had been built or must the prescribed breach of more than ten cubits be made in the fence before any part of it is re-built?
(26) [Lit., ‘he said’. It is difficult to say to whom ‘he’ refers, and these words are best omitted with MS.M.]
(27) Lit., ‘not’?
(28) Kel. XVII, 1. With such big holes the object loses the status of utensil and assumes that of a broken one which is not susceptible to levitical defilement.
(29) Lit., ‘like one that brings out’.
(30) Is the utensil regarded as a broken one because the total space of the small holes was of the size required, or must a utensil contain such a hole at one and the same time before it can be regarded as a broken object that is unsusceptible to levitical defilement?
(31) So Bah. Absent from cur. edd.
(32) That was levitically defiled.
(33) מדרס (rt. דרס ‘to tread’) defilement imparted through treading on an object by any of those enumerated in Lev. XII, 2; XV, 2, 25. The object thus defiled communicates defilement to human beings and vessels.
(34) Because the sandal can still be used for its original purpose as footwear.
(35) Since it is no longer fit for its original use as a sandal.
(36) Since it may still be used for other purposes.
(37) In a minor degree, communicating defilement to foodstuffs and liquids only, but not to human beings and vessels.
(38) Sc. with the sandal as it was before the strap was torn off when it was an object of midras defilement. At the moment the strap was severed, the damaged sandal was in contact with the undamaged one.
(39) Lit., ‘what is the difference?’
(40) Having been repaired.
(41) Lit., ‘new face came here’, the present repaired straps are not the original ones. As the original ones were torn off, the former defilement ceased, and as no new midras or ‘treading’ occurred after the new ones were attached, the repaired sandal remains free from the midras defilement.
(42) Where a number of small holes that equal in their totality, the prescribed large one have been individually stopped up.
(43) R. Johanan.
(44) His genius is supernatural.
(45) That was bigger than two beth se'ah and surrounded by a fence.
(46) But no house door opened out into it.
(47) On the Sabbath.
(48) From the place where they rested.
(49) The last clause is absent from MS.M.
(50) The permissibility of movement where a house door opens out into the area mentioned.
(51) Lit., ‘and he did not say them but’.

(52) Lit., ‘when he opened’.

(53) The area in question.

(54) Between the house and the enclosure round the open area.

(55) Lit., ‘with the intention of’.

(56) And not in connection with the enclosed area at the back.

(57) Cf. supra 23b ad fin.

(58) MS.M. ‘the father of R. Mesharsheya son of Rab’.

(59) So marg. note. Cur. edd. enclose in parenthesis ‘father’.

(60) Var. lec. ‘Raba’ (Emden).

(61) Trees. Cf. supra 23b.

Talmud - Mas. Eiruvin 24b

Amemar ruled: This[1] [applies only to such water] as is fit for use[2] but not [to such as are] unfit for use. R. Ashi ruled: Even[3] where it is fit for use the ruling applies only where the layer of water[4] does not extend[5] over more than two beth se'ah but if it does extend to more than two beth se'ah [the movement of objects within it] is forbidden. But this is not correct,[6] since [water] is in the same category as a heap of fruit.[7]

There was at Pum Nahara[8] a certain open area[9] whose one side opened into [an alley in] the town and the other side opened into a path between vineyards[10] that terminated at the river bank. How, said Abaye, are we to proceed?[11] Should we put up for it[12] a [reed] fence on the river bank,[13] one partition upon another partition,[14] surely, cannot [in such a case, usefully] be put up.[15] And should the shape of a doorway be constructed for it at the entrance to the path between the vineyards,[16] the camels coming [that way][17] would throw it down. [The only procedure,] therefore,[18] said Abaye, [is this:] Let a side-post be put up at the entrance to the path of the vineyards[19] so that [this construction], since[20] it is effective in respect of the path of the vineyards,[21] is also effective in respect of the open area.[22]

Said Raba to him:[23] Would not people[24] infer that a side-post is effective in the case of any[25] path among vineyards.[26] Rather, said Raba, a side-post should be put up at the entrance to the alley,[27] and since[28] the side-post is effective in respect of the alley[29] it is also effective in respect of the open area. Hence it is permitted to move objects within the alley itself.[29] It is also permitted to move objects within the open area itself.[30] [But as regards] the moving of objects from the alley into the open space or from the open space into the alley, R. Aha and Rabina are at variance. One forbids this and the other permits it.

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(1) That water in a karpaf is subject to the same law as a plantation of trees.

(2) Sc. for drinking, so that it supplies one of the requirements of a dwelling place.

(3) Lit., ‘also’.

(4) That was ten handbreadths deep.

(5) Lit., ‘that there is not in its depth’. A depth of ten handbreadths of water is subject in this respect to the laws of seed. On the question whether the greater, or lesser part of the layer of water was ten handbreadths in depth v. Tosaf. s.v. לא אמרן a.l.

(6) Lit., ‘the thing’.

(7) Aliter: ‘A pit full of fruit’. כריא bears both meanings. A pile of fruit ten handbreadths high, however large its extent, does not deprive the enclosure in which it is kept of its status as a dwelling, and from a pit of fruit, however large or deep, it is freely permitted to take out the fruit on the Sabbath.

(8) פום נהרא lit., ‘river mouth’, a town on the Tigris.

(9) That was larger than two beth se'ah and was not enclosed for dwelling purposes.

(10) That was inhabited.

(11) To enable the tenants to carry their things on the Sabbath despite the open area (v. supra n. 10) that had the status of a karmelith in which such movement is forbidden and which affects also the permissibility of movement in the alley and the vineyard path that adjoined it.

(12) For the open area which had around it a stone wall that could not easily be broken down and rebuilt to satisfy the requirements supra where an enclosure was not originally put up for dwelling purposes.

(13) Thus treating the area and the path as one domain so that the new fence which is put up for dwelling purposes might serve as a part of the enclosure and, being of the prescribed size, effect the desired permissibility.

(14) The river bank being ten handbreadths high is itself regarded as a fence.

(15) If it is desired to render a lower fence valid. Any fence round an area that was not originally enclosed for dwelling purposes cannot be rendered valid by merely raising its height. It must first be broken down to the prescribed size and then rebuilt.

(16) Such a contrivance, since it effects permissibility of movement in a path that runs into a public domain, would obviously effect it here where the path runs only into a karmelith, and, consequently, might also serve as a sort of fence for the open area; and, as it is built for dwelling purposes, might equally effect the validity of the enclosure around the area.

(17) From the town, to drink from the river, and proceeding through the alley across the open area.

(18) Lit., ‘but’.

(19) Having its lower end fixed in the ground and consisting of the thinnest of posts, it would not be affected by the passing camels.

(20) Heb.: Miggo.

(21) Which, owing to the contrivance, is no longer regarded as having a gap opening into a karmelith and the movement of objects within it is, therefore, permitted.

(22) In accordance with the rule of miggo, the virtual fence at the entrance to the path represented by the side-post is also regarded as a fence put up for dwelling purposes in connection with the open area. If the side-post, however, had not been the cause of the permissibility of movement in the path, the rule of miggo could not apply; and, as the entrance to the path was not wider than ten cubits, the virtual fence, being smaller than the required size, could not effect the permissibility of movement in the area either.

(23) Abaye.

(24) Relying on Abaye's ruling.

(25) Lit., ‘in the world’, ‘elsewhere’.

(26) Even one that does not rundown to a river bank but to a public domain. Such an alley, however, cannot as a matter of fact be permitted by one side-post at one end.

(27) On the side that adjoins the open area. Lit., ‘town’ of which the alley forms a part.

(28) Miggo.

(29) Sc. it is permitted thereby to move objects in the alley if the shape of a doorway was put up at its other end, that is abutting on the public domain (cf. supra 7a).

(30) By the rule of miggo: Since the side-post is effective for the alley it is also effective for the open area.

Talmud - Mas. Eiruvin 25a

One[1] permits it because [in the open area] there are no tenants;[2] and the other[1] forbids this, because sometimes [it may happen] that there would be tenants in it[3] and they[4] would still be moving objects [from the one into the other].

If a karpaf was larger than two beth se'ah and was not enclosed for dwelling purposes, and it is desired to reduce the size thereof,[5] then if it was effected by means of trees[6] the reduction is invalid. If a column, ten handbreadths in height and four handbreadths in width, was built up[7] it is a valid reduction. If [the column was] less than three [handbreadths wide] it constitutes no valid reduction. [If it is] between three and four [handbreadths wide] it is, said Rabbah, a valid reduction; but Raba maintained: It is no valid reduction. Rabbah said that it was a valid reduction, since [such a size] is excluded from the law of labud.[8] Raba maintained that it was not a valid reduction, because so long as it does not cover a space of four [handbreadths in width] it is of no importance.[9] If at a distance of four handbreadths from the wall[10] a partition[11] was put up the act is legally effective,[12] [but if the distance was] less than three [handbreadths[13] the partition] is ineffective.[14] [If the distance was] between three, and four [handbreadths, the partition is], said Rabbah, effective, but Raba maintained: It is ineffective. Rabbah said that it was effective since [such a distance] is excluded from the law of labud.[15] Raba maintained that it was ineffective because so long as it does not extend over four handbreadths it is of no importance.[16]

R. Shimi taught [that the discussion[17] related] to [the more] lenient [procedure].[18]

If the fence[19] was smeared with plaster and [the layer is so thick that it] can stand by itself it constitutes a reduction; where it cannot stand by itself it [nevertheless], said Rabbah, constitutes a reduction, but Raba maintained: It does not constitute a reduction. Rabbah said that it constituted a reduction because now at any rate it stands. Raba maintained that it constituted no reduction because in view of the fact that it cannot, stand by itself[20] it possesses no validity whatsoever.[21]

If at a distance of four handbreadths from a mound[22] a partition was put up[23] it is effective.[24] [If, however, it was put up at a distance of] less than three [handbreadths] [from it] or [was actually put up] on the edge of the mound [there is a difference of opinion between] R. Hisda and R. Hamnuna. One holds that this is effective and the other maintains that it is ineffective.[25] You may conclude that it was R. Hisda who held that [the partition] is effective; for it was stated: If one partition was put up upon another, it is, R. Hisda ruled, effective as regards [the laws of] the Sabbath but no possession of the property of a proselyte[26] [may thereby] be acquired;[27] and R. Shesheth ruled it is ineffective even in [respect of the laws of] the Sabbath. This is conclusive.

R. Hisda stated: R. Shesheth, however, agrees with me that if a man put up a fence on the mound[28] it is effective.[29] What is the reason? — Because the man dwells in the space between the upper fences.[30]

Rabbah b. Bar Hana enquired:[31] What if the lower fences were sunk in the ground[32] and the upper ones remained standing? In what [respect does this matter]? If [it be suggested] in respect [of acquiring possession][33] of the estate of a proselyte,[34] [is not the principle here involved, it may be retorted,] exactly the same [as that underlying a ruling] of Jeremiah[35] Bira'ah who ruled in the name of Rab Judah: If a man threw vegetable seeds into a crevice[36] of a proselyte's[34] land and then another Israelite came and hoed a little,[37] the latter does, and the former does not acquire possession, because[38] at the time the former threw [the vegetable seed] he did not improve [the ground] and any eventual improvement[39] came automatically?[40] If, on the other hand,[41] [it be suggested that the question arises] in respect of [the laws of] the Sabbath,[42] [such a partition, surely, it could be retorted, is] one that was put up on the Sabbath[43] concerning which it was taught: Any partition that is put up on the Sabbath, whether unwittingly or presumptuously, is regarded as a valid[44] partition?[45] — Has it not, however, been stated in connection with this ruling that R. Nahman ruled: This was taught only in respect of throwing,[46] but the moving [of objects within it] is forbidden?[47] — When R. Nahman's statement was made it was in respect of one who acted presumptiously.[48]

A certain woman once put up a fence on the top of another fence in the estate of a proselyte,[49] when a man came and hoed [the ground] a little. [The latter then] appeared before R. Nahman who confirmed it in his possession. The woman thereupon came to him and cried. ‘What can I do for you’, he said to her, ‘Seeing that you did not take possession in the proper way?’[50] If a karpaf [was of the size of] three beth se'ah and one beth se'ah was provided with a roof, its covered space, ruled Rabbah,[51] causes it still to be deemed bigger [than two beth se'ah],[52] but R. Zera ruled: Its covered space does not cause it to be deemed bigger.[53] Must it be assumed that Rabbah[51] and R. Zera differ on the same principle as that on which Rab and Samuel differed? For was it not stated: If an exedra[54] was situated in a valley, it is, Rab ruled, permitted to move objects within all its interior; but Samuel ruled: Objects may be moved within four cubits only. Rab ruled that it was permitted to move objects in all its interior, because we apply [the principle:] The edge of the ceiling descends and closes up.[55] But Samuel ruled that objects may be moved within four cubits only, because we do not apply [the principle:] The edge of the ceiling descends and closes up?[56]

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(1) Lit., 'he who'.

(2) To claim a share in it. Hence it may be regarded as the domain of the tenants of the alley. The occupants of the path need not be considered in this respect since the path and the open space stand in the same relationship respectively as a small courtyard and a large one that open into one another where the movement of objects is permitted in the latter though forbidden in the former.

(3) And the movement of objects from the one into the other would consequently be forbidden.

(4) The tenants of the path as well as those of the open area being unaware of the difference of status.

(5) Lit., 'and he came to reduce it'.

(6) Since trees usually grow in a karpaf the new plantation does not produce any change in the character of the spot (cf. Rashi s.v. באילנות and Bah a.l.).

(7) Anywhere in the area.

(8) V. Glos. only to a space that is smaller than three handbreadths is the law applied. One of three is considered important and cannot, therefore, be disregarded.

(9) And is deemed to be non-existent.

(10) Of a karpaf

(11) For dwelling purposes.

(12) Sc. the partition is regarded as valid and the karpaf is deemed to have been enclosed for dwelling purposes, provided a house door was made to open into it before the partition was put up.

(13) So that it may be regarded as joined to the fence of the karpaf and forming with it one thick fence.

(14) Since a new and independent partition of the prescribed size must be put up after a house door was opened into the karpaf (cf. supra p. 171, n. 13).

(15) V. supra p. 171, n. 9.

(16) And is deemed to be nonexistent.

(17) Between Rabbah and Raba.

(18) I.e., where the width of the column or the distance of the partition from the wall was less than three handbreadths. Where, however, it was between three and four handbreadths, he maintains, both Rabbah and Raba agree that, as the rule of labud does not apply, the pillar constitutes a proper reduction and the partition is deemed valid and put up for dwelling purposes.

(19) Lit., 'on it', the fence across the karpaf under discussion.

(20) Sc. without the support of the fence to which it is attached.

(21) Lit., 'it is nothing'.

(22) That was situated in a karpaf and that was more than two beth se'ah removed from the fence around it.

(23) For dwelling purposes; and the distance between the new partition and the original fence exceeds two beth se'ah.

(24) It is regarded as a valid wall and, since it was put up for dwelling purposes, effects the permissibility of the entire karpaf.

(25) A mound has the status of a partition; and it is the view of the former that one partition on the top of another is valid while the other maintains that it is invalid.

(26) Who died, leaving no Jewish heirs, and whose estate may accordingly be seized by any member of the public.

(27) Should one person put up a fence on the top of another in the deceased proselyte's estate and a second person subsequently performs another act of valid kinyan (v. Glos.) the latter would, and the former would not gain the possession of the estate.

(28) Where the mound was bigger than two beth se'ah.

(29) As far as the mound itself is concerned. It is permitted to move objects on the mound though in the karpaf in which it is situated this is forbidden.

(30) The lower fences around the karpaf may, therefore, be completely disregarded.

(31) According to the view that one partition on the top of another is invalid.

(32) Lit., 'were swallowed'.

(33) By putting up a fence on the top of another, the latter subsequently sinking in the ground and the former remaining.

(34) V. Supra n. 2.
(35) The reading in the parallel passage in B.B. 53b and Git. 34a is 'R. Jeremiah'.
(36) Which he himself had not dug. Digging would have constituted kinyan and no further act would have been necessary.
(37) This being a form of kinyan.
(38) Lit., 'what is the reason?'
(39) When the seeds produced a crop.
(40) It is not the direct action of the man; while kinyan (v. Glos.) can be effected by a direct act only (v. B.B. 42a). Similarly in the case of the fence: Since the upper one came into the proper position through the accidental sinking of the lower one and not through any direct act of the person it cannot obviously be deemed the direct result of his act and cannot consequently be regarded as a valid kinyan.
(41) Lit., 'and but'.
(42) Whether a karpaf may be turned into a permitted domain by the upper fences (that were built for dwelling purposes) after the lower ones have sunk.
(43) When the lower ones sank. Before this happened the upper fence was legally non-existent.
(44) Lit., 'its name (is)'.
(45) Shab. 101b, supra 20a.
(46) Sc. it is forbidden to throw an object from a public domain into such an enclosure.
(47) How then could this ruling be adduced as proof that the fence under discussion is deemed valid in respect of permitting the movement of objects within the area that it encloses?
(48) The fence under discussion, however, came into position through an accident. Hence it is valid in all respects even according to R. Nahman.
(49) With the object of acquiring possession (cf. supra p. 173, n. 2).
(50) Lit., 'as men take possession'.
(51) V. marg. note. Cur. edd., 'Raba'.
(52) I.e., the covered area is still regarded as a part of the open karpaf.
(53) The edge of the roof is said to descend and close up the covered area and thus reduce the open karpaf to the permitted size.
(54) V. Glos. It is provided with a roof but is open at its sides.
(55) So that the exedra is virtually provided with walls.
(56) Infra 90a, 94b, Suk. 18b. Is Rabbah then of the same opinion as Samuel and R. Zera of the same opinion as Rab (cf. supra n. 3)?

Talmud - Mas. Eiruvin 25b

— If [the roof[1] over the beth se'ah] were made like an exedra[2] [the ruling would] indeed have been the same,[3] but here we are dealing with one that was made in the shape of a hammock.[4]

R. Zera stated: I admit, however, that where a karpaf[5] has a gap across its entire width[6] towards a courtyard [the movement of objects within it] is forbidden. What is the reason? Because the space of the courtyard increases its extent.[7] R. Joseph demurred: Does a space[8] [from] which[9] it is permitted [to move objects] into it cause its prohibition? — Said Abaye to him: In accordance with whose view [do you demur]? Apparently in accordance with that of R. Simeon;[10] but according to R. Simeon also there is in fact the space of the position of the walls.[11] For R. Hisda ruled: If a gap across the full width of a karpaf was opened towards a courtyard [movement of objects] is permitted in the latter and forbidden in the former. Now why [is this permitted in] the courtyard? [Is it on account of the fact] that it has ridges?[12] Does it not, however, sometimes happen[13] that the reverse is the case?[14] Consequently[15] [it must be admitted that] the reason is[16] that as regards the karpaf[17] the space of the walls increases its extent[18] while in that of the courtyard[17] the space of the walls does not increase it.[19]

A certain orchard adjoined the wall of a mansion.[20] When the outer wall of the mansion[21] collapsed it was R. Bibi's intention to rule that one might rely[22] upon the inner walls,[23] but R. Papi said to him, ‘Because you are yourselves frail beings you speak frail words.[24] Those walls were made for the interior [of the mansion]; they were not made for [the orchard] outside’.[25]

The exilarch had a kind of banqueting hall in his orchard.[26] ‘Will the Master’, he said to R. Huna b. Hinena, ‘make some provision whereby we might be enabled to dine there tomorrow’.[27] The latter accordingly proceeded [to construct a passage[28] by putting up a reed-fence][29] fixing each reed [within a distance of] less than three [handbreadths from the other].[30] Raba, however, went there

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(1) V. Rashi. Aliter: The walls in the covered area (v. Tosaf. s.v. אי a.l.).

(2) I.e., level and not slanting (Rashi). Aliter: Open on two sides only (v. Tosaf. l.c.).

(3) Sc. even Rabbah would adopt the ruling of Rab.

(4) Attached to the trees. Since the roof is slanting it has no edges that might be said to descend and form the virtual walls (v. Rashi). Aliter: Being open on four sides it cannot be given the status of a walled structure (v. Tosaf. s.v. הכא a.l.).

(5) That was bigger than two beth se'ah.

(6) Lit., ‘in its fullness’.

(7) Above the permitted size, the principle, ‘The edge of the ceiling etc.’ being inapplicable in this case.

(8) Sc. the courtyard.

(9) According to R. Simeon.

(10) Supra 23b (v. prev. note) where R. Simeon has laid down that it is permitted to move objects from a courtyard into a karpaf.

(11) By which the area of the karpaf that was exactly two beth se'ah is increased to more than the permitted size.

(12) The remnants of the fallen wall, which, being situated on both sides of the gap that is not wider than ten cubits, form, according to the Rabbis, a kind of doorway.

(13) When the karpaf is wider than the courtyard.

(14) That it is the karpaf that has the ridges and that the courtyard has them not. If then the view of the Rabbis is followed why this distinction between karpaf and courtyard?

(15) Since the karpaf only has been singled out for prohibition.

(16) Not as has been assumed before in agreement with the view of the Rabbis.

(17) Lit., ‘this’.

(18) In agreement with R. Simeon who, otherwise, permits the movement of objects from the courtyard into it.

(19) Hence its permissibility. As the only reason for the prohibition is the increased area of the karpaf the prohibition cannot apply to a courtyard which was originally enclosed for dwelling purposes. The question of the ridges does not arise since in the absence of ridges also R. Simeon permits the movement of objects from the courtyard to the karpaf. And should it happen that the ridges were on the side of the karpaf the courtyard would still be permitted in agreement with R. Simeon (cf. supra n. 9) while the karpaf also would be permitted since the space previously occupied by the fallen walls cannot be regarded as an increase of its area on account of the ridges. Thus, at any rate, it follows that even according to R. Simeon the space previously occupied by the fallen walls is regarded as an addition to a karpaf.

(20) The orchard was bigger than two beth se'ah and enclosed by a wall that was put up after a door from the mansion was opened to it, so that it was enclosed for dwelling purposes.

(21) The wall that divided the mansion from the orchard and which had a door that communicated between the two.

(22) In permitting the movement of objects in the orchard.

(23) Which might also be regarded as walls of the orchard.

(24) דאתו = ‘because you’. Aliter: ‘Because you are descendants of short-lived people’. Bibi who was the son of Abaye was a descendant of the house of Eli (cf. R.H. 18a) who were condemned to die young (v. I Sam. II, 32). Cf. B.B., Sonc. ed., p. 582, n. 6.

(25) The orchard, being bigger than two beth se'ah, cannot consequently be regarded as having been enclosed for dwelling purposes.

(26) That was bigger than two beth se'ah.

(27) On the Sabbath day. As the hall was built after the enclosure round the orchard had been put up, the area enclosed was subject to the restriction of a place that was first enclosed for no dwelling purpose and that was only subsequently inhabited. It was, therefore, (v. previous note) forbidden to move any objects, including the foodstuffs and utensils required for the meal, from the house to the banqueting hall trough the orchard. Hence the exilarch's request.

(28) From the house to the hall across the orchard.

(29) On either side of the passage.

(30) So that according to the rule of labud (v. Glos.) the fence was deemed to be legally compact and valid, and the passage consequently assumed the status of a domain in which it was permitted to move objects on the Sabbath.

Talmud - Mas. Eiruvin 26a

and pulled them out[1] and R. Papa and R. Huna son of R. Joshua followed him and picked them up.[2] On the following day, however, Rabina raised an objection against Raba: [The Sabbath limits of] a new town are measured from its inhabited quarter[3] and of all old one from its town wall. What is meant by a ‘new [town]’ and what by an ‘old one’? A new [town is one] that was first surrounded [by a wall] and subsequently settled, and an old [town is one that was first] settled and subsequently surrounded [by a wall]. Now is not this [orchard] also[4] like [a town that was first] surrounded [by a wall] and subsequently settled?[5] R. Papa also said to Raba: Did not R. Assi rule that the screens used by master builders[6] are not valid[7] ones, from which it is obvious that as it is put up for the sake of privacy only, it is no valid partition? Now in this case[8] also, since [the hall] was put up for the sake of privacy only,[9] [its walls] cannot be regarded as valid partitions.[10] R. Huna son of R. Joshua also said to Raba: Did not R. Huna rule that a partition that was intended to [protect objects] put [beside it] is no valid one?[11] For, as a matter of fact, Rabbah b. Abbuha provided a separate ‘erub for each row of alleys throughout all Mahuza,[12] on account of the cattle ditches[13] [that separated one row from another]. Now [have not the screens protecting] the cattle ditches the same status as a partition intended to [protect objects] put [beside it]?[14] The exilarch, thereupon, applied to them the Scriptural text: They are wise to do evil,[15] but to do good they have no knowledge.[16]

R. ILA'I STATED: I HEARD FROM R. ELIEZER, EVEN IF IT IS AS LARGE AS A BETH KOR. Our Mishnah cannot be in agreement with the view of Hanania, for it was taught: Hanania ruled: Even if it was [as large as] forty beth se'ah [as big] as a royal rearcourt.[17] And both,[18] said R. Johanan, based their expositions on the same Scriptural text, for it is said: And it came to pass, before Isaiah was gone out of the inner court;[19] [since] it was written ‘the city’[20] and we read ‘court’[21] it may be inferred[22] that royal rearcourts were [as big] as moderately sized cities. On what principle do they[18] differ? One Master is of the opinion that [the extent of] moderately sized cities is one beth kor, while the other Master holds that [their size] is that of forty se'ah.

What, however, did Isaiah want there?[23] — Rabbah b. Bar Hana replied in the name of R. Johanan: This[24] teaches that Hezekiah was stricken with illness and Isaiah proceeded to hold a college at his door.[25] From this [it may be inferred] that when a scholar falls ill a college is to be held at his door. This, however, is not [always the proper] course,[26] since Satan might thereby be provoked.

I LIKEWISE HEARD FROM HIM THAT IF ONE OF THE TENANTS OF A COURTYARD FORGOT TO JOIN IN THE ‘ERUB, HIS HOUSE IS FORBIDDEN. Did we not, however, learn: His house is forbidden both to him and to them for the taking in or for the taking out of any object?[27] — R. Huna son of R. Joshua replied in the name of R. Shesheth: This is no difficulty;

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(1) In his opinion it was not necessary at all to make any provision for the moving of objects in the orchard. He regarded the entire area on account of the banqueting hall it contained, as a courtyard that was put up for dwelling purposes.

(2) To prevent R. Huna b. Hinena from putting them up again.

(3) The area between the inhabited quarter and the town walls is regarded in this respect as being outside the town.

(4) Since the banqueting hall was built after the orchard had been enclosed.

(5) How then could Raba permit the moving of objects on the Sabbath in the orchard?

(6) To protect them from the sun.
(7) Lit., ‘its name is not partition’.
(8) The banqueting hall in the orchard.
(9) It was not intended as a dwelling place.
(10) The hall cannot consequently have the status of a dwelling and the movement of objects in the orchard around it should, therefore, be forbidden. An objection against Raba (v. supra n. 2).
(11) Lit., ‘its name is not partition’.
(12) A comparatively small town without a wall around it situated on the Tigris, south of Bagdad.
(13) These contained offal of dates on which the cattle fed, and partitions extending from one end of the town to the other were provided at the extremities of the alleys for the protection of the cattle ditches.
(14) Of course they have; and this is the reason why they were invalid though they were permanent fixtures. Similarly in the case of the hall in the orchard, since it was put up for the purpose of protecting objects deposited within it and not as a dwelling, the movement of objects in the orchard enclosure around it should consequently be forbidden. Again an objection against Raba (v. Supra p. 178, n. 2). The interpretation of the passage here adopted follows the lines of תשובת הגאונים (v. Rashi s.v. להרע 26a). Cf. Rashi's interpretation and Tosaf. s.v. ההוא 25b.
(15) Allusion to their destruction of R. Huna b. Hinena's work, which deprived the exilarch and his party from the use of the banqueting hall on that day.
(16) Jer. IV, 22.
(17) Behind the palace (v. Rashi).
(18) R. Ila'i and Hanania in arriving at their respective rulings.
(19) II Kings XX, 4.
(20) The kethib is העִיר.
(21) The kre is חצר.
(22) Lit., ‘from here’.
(23) In the king's inner court which is not a place for visitors.
(24) The mention of Isaiah's presence in the inner court.
(25) The study of the Torah banishes disease.
(26) Lit., ‘the thing’.
(27) Infra 69b, contrary to our Mishnah which restricts the prohibition ‘TO HIM’ only.

Talmud - Mas. Eiruvin 26b

one is the ruling of[1] R. Eliezer[2] and the other is that of the Rabbis. And on careful consideration of their statements you will find that, according to the view of R. Eliezer, he who renounces his rights to his courtyard[3] renounces ipso facto his rights to his house also, and that according to the Rabbis he who renounces his rights to his courtyards does not ipso facto renounce them in respect of his house. Is not this[4] obvious?[5] — Rehabah[6] replied: I and R. Huna b. Hinena explained that it[4] was necessary only in respect of five persons who lived in one courtyard and one of them forgot to join in the ‘erub.[7] According to the ruling of R. Eliezer[8] this man, when he renounces his right,[9] need not renounce it [specifically] in favour of every one of the tenants,[10] but according to the Rabbis[11] the man who renounces his rights must do so [specifically] in favour of every one of the tenants.[12]

In accordance with whose view is[13] that which was taught: If five persons live in one courtyard and one of them forgot to join in the ‘erub [with the others] he, when renouncing his right,[14] need not do it [specifically] in favour of everyone of the tenants individually?[15] — ‘In accordance with whose [view’, you ask]? In accordance, of course, with that of R. Eliezer. R. Kahana taught in the manner just stated.[16] R. Tabyomi taught as follows:[17] In accordance with whose view is[18] that which was taught: If five persons live in one courtyard and one of them forgot to join in the ‘erub [with the others] he, when renouncing his rights,[19] need not do it [specifically] in favour of every one individually?[20] In accordance with whose [view, I ask, is this ruling]? — Said R. Huna b. Judah in the name of R. Shesheth: ‘In accordance with whose [view’ you ask]? In accordance with that of R. Eliezer.

Said R. Papa to Abaye: What is the ruling according to R. Eliezer,[21] if a tenant[22] explicitly stated: ‘I do not renounce my right [in my house]’,[23] and, according to the Rabbis,[24] if he explicitly stated: ‘I renounce my right [in my house]’?[25] Is R. Eliezer's reason[26] based on the view that any tenant who renounces his right in his courtyard renounces ipso facto his right to his house [and the ruling, consequently, would not apply here] since that man [explicitly] stated: ‘I do not renounce my right’; or is it possible that R. Eliezer's reason[26] is that people do not live in a house without a courtyard[27] and, consequently, even where a man[28] states: ‘I do not renounce my right in my house’, his declaration may be disregarded,[29] so that though he said: ‘I would live [in the house alone]’, his statement is null and void?[30] And what is the ruling, according to the Rabbis, if he [explicitly] stated: ‘I renounce my right’? Is the Rabbis’ reason[31] the view that a man who renounces his right in his courtyard does not ipso facto renounce his right to his house [and their ruling consequently would not apply here] since this man [specifically] declared: ‘I renounce my right’; or is it possible that the Rabbis’ reason[31] is that it is not usual for a man to give up completely his house and his courtyard and thus become a mere stranger as far as these are concerned [and their ruling would, therefore, apply here also, because] though this man stated: ‘I renounce my right’ his declaration is to be disregarded? — The other replied: Both according to the Rabbis and according to R. Eliezer since the man declared his wishes they must be respected.[32]

I HAVE LIKEWISE HEARD FROM HIM THAT PEOPLE MAY FULFIL THEIR DUTY AT PASSOVER BY EATING ‘ARKABLIN.[33] What [is the meaning of] ‘ARKABLIN? — Resh Lakish replied: Prickly creepers.[34] CHAPTER III

MISHNAH. WITH ALL [KINDS OF FOOD] MAY ‘ERUB[35] AND SHITTUF[36] BE EFFECTED, EXCEPT WATER AND SALT,[37] AND SO ALSO MAY ALL [KINDS OF FOODSTUFFS] BE PURCHASED WITH MONEY OF THE SECOND TITHE[38] EXCEPT WATER AND SALT.[39] IF A MAN VOWED TO ABSTAIN FROM FOOD HE IS ALLOWED [TO CONSUME] BOTH WATER AND SALT.

AN ‘ERUE[40] MAY BE PREPARED FOR THE NAZIRITE WITH WINE[41] AND FOR AN ISRAELITE WITH TERUMAH,[42] BUT SYMMACHUS RULED: WITH UNCONSECRATED PRODUCE ONLY.[43]

[AN[44] ‘ERUB MAY BE PREPARED] FOR A PRIEST IN A BETH PERAS,[45] AND R. JUDAH RULED: EVEN IN A GRAVEYARD,[46] [

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(1) Lit., ‘that’, the ruling in our Mishnah.

(2) Whom R. Ila'i was reporting (v. our Mishnah).

(3) Which is a prerequisite for the validity of the ‘erub under discussion.

(4) The inference just pointed out by R. Shesheth.

(5) Of course it is. What then was the object in pointing it out?

(6) Var. lec.: Raba.

(7) Which the others prepared.

(8) That a man's renunciation of his rights in a courtyard implies also his renunciation of his rights to his house, from which it follows that R. Eliezer assumes every man to be acting generously and wholeheartedly in the interests of his neighbour.

(9) To the courtyard.

(10) His renunciation in favour of one particular neighbour is assumed to be generous and wholehearted in favour of all the neighbours.

(11) Who do not regard a man's renunciation of his rights in a courtyard as an indication of his renunciation of his rights to his house, from which it follows that they do not regard every person to be of a generous disposition.

(12) Otherwise, the ‘erub is null and void.

(13) Lit., ‘like whom goes’.
(14) To his share.
(15) A general renunciation is enough.
(16) Lit., ‘thus’, sc. that R. Shesheth drew an inference from our Mishnah and that Rehabah and R. Huna applied it to the Baraitha of the five tenants (cf. next note).
(17) Sc. that R. Shesheth himself applied the inference from our Mishnah to the Baraitha cited (cf. previous note).
(18) Lit., ‘like whom goes’.
(19) To his share.
(20) A renunciation in favour of one is enough.
(21) Who holds that a man who renounced his right in a courtyard is ipso facto assumed to have renounced his right to his house.
(22) Who forgot to join in the ‘erub with his neighbour in the courtyard.
(23) Are the other tenants permitted in these circumstances to carry objects into, or from that tenant's house or not?
(24) Who maintain that a man's renunciation of his right in a courtyard is not regarded as a renunciation of his right in his house also.
(25) Cf. supra n. 8.
(26) For his ruling.
(27) When, therefore, a man renounces his right to his courtyard he may be assumed to have renounced his right to his house also.
(28) Who renounced his right in his courtyard.
(29) As he has now no courtyard he cannot be deemed to have a house either; לאו כל כמיניה lit., ‘not as if all is from him’.
(30) Lit., ‘he said nothing’, and R. Eliezer's ruling would still apply. The last clause, ‘so that . . . void’ אע״ג ... קאמר which seems to be a repetition or an alternative to the preceding one is absent from MS.M.
(31) For their ruling.
(32) Lit., ‘since he has revealed his mind he has revealed (it)’.
(33) Rendered supra 23a hart's-tongue or palm-ivy.
(34) Aruk. adds דדיקלא, ‘of the palm-tree’ (cf. Jast. and previous note).
(35) V. Glos. The term is here applied to ‘erub of courtyards and ‘erub of Sabbath limits (Rashi). Tosaf. (s.v. בכל a.l.) points out that for an ‘erub of courtyards only bread may be used (cf. infra 71b) and restricts the term of ‘erub here to one of courtyards only.
(36) Applicable to an association of courtyard in the same alley for the purpose of enabling their residents to move objects on the Sabbath from the courtyards into the alley and vice versa. V. Glos.
(37) Since these cannot provide a satisfying meal. The essential element in an ‘erub is its food value which imparts to it the status of a dining center for all who participate in it.
(38) The tithe given in the first, second, fourth and fifth year of the septennial cycle, which is to be spent in Jerusalem’ (v. Deut. Xlv, 22ff).
(39) The reason is given in the Gemara infra.
(40) Of Sabbath limits.
(41) Though he himself is forbidden to drink it (v. Num. VI 2ff) it ‘is permitted to other people and may, therefore, be regarded as a suitable food.
(42) Since (cf. previous note) it is a suitable food for a priest.
(43) The ‘erub must consist of food which the person for whom it is prepared is himself able to eat.
(44) This is an anonymous ruling. It is not a continuation of Symmachus's statement.
(45) V. Glos., because under certain restrictions it is possible for a priest to enter such an area and so gain access to the ‘erub.
(46) So MS. M. Cur. edd., ‘between the graves’; even in such a place, whose uncleanness Is more defined than that of a beth peras, may an ‘erub for a priest be deposited.

Talmud - Mas. Eiruvin 27a

BECAUSE HE CAN PUT UP A SCREEN[1] AND THUS ENTER [THE AREA] AND EAT [HIS

‘ERUB].

GEMARA. R. Johanan ruled: No inference may be drawn from general rulings, even where an exception was actually specified.[2] Since he[3] uses the expression, ‘even where an exception was actually specified’ it follows that he did not refer to our Mishnah;[4] now what did he refer to?[5] — He referred to the following:[6] All positive precepts [the observance Of] which is dependent on the time [of the day Or the year] are incumbent upon men only, and women are free, but those which are not dependent on the time [of the day or of the year] are incumbent upon both men and women.[7] Now is it a general rule that all precepts the observance of which depends on a certain time are not incumbent upon women? Behold [the precepts of] unleavened bread,[8] rejoicing [on the festival][9] and Assembly[10] each of which is a positive precept [the observance of] which is dependent on a certain specified time and are nevertheless incumbent upon women! Furthermore, are women liable to perform every positive precept the performance of which is not dependent on a specified time? Are there not in fact [the precepts of] the study of the Torah,[11] propagation of the race[12] and redemption of the son[13] each of which is a positive precept the observance of which is not dependent on any specified time and women are nevertheless exempt [from their observance]? The fact, however, is, explained It. Johanan, that no inference may be drawn from general rulings, even where an exception was actually specified.

Abaye (or, as some say: R. Jeremiah) remarked: We also learned a Mishnah to the same effect: They, furthermore, land down another general rule [viz.,] all that is borne above a zab[14] is levitically unclean,[15] but all on which a zab is borne is clean except that which is suitable for lying, or sitting upon,[16] and a human being.[17] Now, is there no [other exception]? Is there not in fact [that which is suitable for] riding upon? (What is one to understand by that which is ‘suitable for riding upon’? If [it is that on] which [the zab] sat, then [it may be retorted] is it not exactly in the same category as a seat?[18] — It is this that we mean: Is there not the upper part of a saddle[19] concerning which it was taught A saddle[20] is levitically Unclean as a seat and its handle[21] is unclean as a riding means?). Consequently[22] it may be deduced[23] that no inference may be drawn from general rulings even where an exception has been actually specified.

Rabina (or, as some say: R. Nahman) remarked: We also learned to the same effect: WITH ALL [KINDS OF FOOD] MAY ‘ERUB OR SHITTUF BE EFFECTED EXCEPT WATER AND SALT. Now is there no [other exception]? Is there not in fact that of morels and truffles?[24] Consequently it may be deduced ‘ that no inference may be drawn from general rulings, even where an exception was actually specified.

SO ALSO MAY ALL [KINDS OF FOODSTUFFS] BE PURCHASED WITH MONEY OF THE SECOND TITHE etc. R. Elieser[25] and R. Jose b. Hanina [differ].[26] One applied [the following limitation][27] to ‘erub and the other applied it to the [second] tithe. ‘One applied [the following limitation] to ‘erub’ [thus: The ruling that] no ‘erub may be prepared [from water and salt] was taught only in respect of water by itself or salt by itself; but from water and salt [that were mingled together,] an ‘erub may well be prepared.[28] ‘And the other applied it to the [second] tithe’, [thus: The ruling that] no [water or salt] may be purchased [with money of the second tithe] was taught only in respect of water by itself or salt by itself; but water and salt [that were mingled together] may well be purchased with money of the [second] tithe.’ He who applied [the limitation][29] to tithe [applies it] with more reason to ‘erub.[30] He, however, who applied it to ‘erub does not apply it[31] to tithe. What is the reason? — Because[32] [a kind of] produce is required.[33]

When R. Isaac came[34] he applied the limitation[29] to tithe.

An objection was raised: It. Judah b. Gadish[35] testified before R. Eliezer, ‘My father's household used to buy brine with money of the [second] tithe’, when the other asked him, ‘Is it not possible that you heard this in that case only where it was mixed up with entrails of fish?'[36] And, furthermore, did not even R. Judah b. Gadish himself maintain his view in the case of brine only, since it [contains some] fat of produce[37] but not [in that of pure] water and salt?[38] — It. Joseph replied:

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(1) Between himself and the graves, by riding into the cemetery in a litter for Instance.

(2) Because there might also be other exceptions that were not specified.

(3) R. Johanan.

(4) Lit., 'that he does not stand here', since In our Mishnah exceptions were in fact enumerated.

(5) Lit., 'where does he stand?'

(6) Lit., 'there he stands'.

(7) Kid. 34a.

(8) It is an obligation upon women (as deduced by analogy in Pes. 43a) as well as men to eat unleavened bread on the first night of the Passover (v. Ex. XII, 18). During the remaining days of the festival one is forbidden to eat leavened bread but is under no obligation to eat unleavened bread. One might well live on meat or fruit.

(9) שמחה. V. Deut. XVI, II, 14, where women are specifically mentioned.

(10) הקהל, lit., 'assemble', i.e., the precept, 'assemble the people, the men and the women' (Deut. XXXI, 12) on the feast of Tabernacles in the Sabbatical year, 'that they may hear, and that they may learn and fear the Lord your God' etc. (ibid). Cf. Sot. 41a.

(11) That women are exempt is deduced from Deut. Xl, 19, 'And ye shall teach them your sons' but not your daughters.

(12) Cf. Yeb. 65b.

(13) V. Ex. XII[, 13 and Kid. 29a.

(14) V. Glos.

(15) Cf. Nid. 33a.

(16) Anything unsuitable for these purposes is clean (cf. Hag. 23b).

(17) Zab. V, 2.

(18) Which was specifically excluded.

(19) Which the rider uses as a handle.

(20) On which a zab sat.

(21) V. supra n. 6.

(22) Since we find another exception that was not enumerated among the others.

(23) Lit., 'but hear from it'.

(24) Which may not be used for an 'erub.

(25) Marginal note, 'Eleazar'.

(26) On the application of the following limitation.

(27) 'Was taught only in respect' etc.

(28) Salt water is regarded as a food.

(29) 'Was taught only in respect' etc.

(30) The restrictions on the kinds of food permitted are more stringent in respect of the second tithe than in that of 'erub; and, since salt water is permitted in the case of the former, there can be no question that it is permitted in that on the latter. V. Tosaf. s.v. מאן a.l.

(31) Lit., 'but . . . not'.

(32) In the latter case.

(33) V. infra.

(34) From Palestine to Babylon.

(35) Var. lec., Gadush, Garish, Garush.

(36) Lit., 'mixed up with them'. From which it follows that R. Eliezer does not permit the purchase of pure salt water with money of the second tithe. An objection against Rt. Isaac and one of the Rabbis who expressed a similar view supra.

(37) Of the fish.

(38) Which contain no 'produce' whatsoever. How then could R. Isaac etc. (cf. supra n. 9) maintain their view?

Talmud - Mas. Eiruvin 27b

Talmud - Mas. Eiruvin 27b

That[1] refers only to a case[2] where oil was mixed with[3] them.[4] Said Abaye to him: [In that case][5] might not the ruling[6] be obvious[7] on account of the oil?[8] The ruling[6] was necessary in that case only where one covered the cost of the water and the salt by paying an inclusive price[9] [for the oil].[10] But is this permissible by paying an inclusive price? — Yes; and so it was in fact taught: Ben Bag-Bag ruled: 'For oxen'[11] teaches[12] that an ox may be purchased[13] together with[14] its skin;[15] 'or for sheep'[11] teaches[12] that a sheep may be bought[13] together with[14] its wool;[16] 'or for wine'[11] teaches[12] that wine may be bought[13] together with[14] its jar;[17] 'or for strong drink'[11] teaches[12] that tamad[18] may be purchased[19] after its fermentation.[20]

Said R. Johanan: Should any person explain to me [the necessity for the expression of] 'for oxen'[11] in accordance with the view of Ben Bag-Bag[5] would carry his clothes after him into the bath house.[21] What is the reason? — Because all [the other expressions][11] were required with the exception of 'for oxen,' which is quite unnecessary. What [is the purpose for which the others] were required? — If[22] the All Merciful had written only 'for oxen' it might have been assumed that only[23] an ox may be purchased together with[24] its skin, because it is [a part of] its body, but not a sheep together with] its wool which is not [a part of] its body.[25] And if the All Merciful had only written: 'for sheep'[26] [to teach us that] a sheep may be bought together with its wool it might have been assumed [that this only is permitted] because [the wool] clings to its body but not [the purchase of] wine together with its cask. And had the All Merciful written 'for wine' it might have been assumed [that the purchase of its jar only is permitted] because It is in this way only that it can be preserved but not tamad after its fermentation, which is a mere [liquid] acid. And[27] if the All Merciful had written 'for strong drink,[26] Sit might have been assumed that by[28] 'strong drink' [was meant the purchase of] the pressed fig cakes of Keilah[29] which are a fruit but not wine with its jar. And if the All Merciful had written 'wine' [to indicate that it may be purchased] together with its jar it might have been assumed [that the purchase of its jar only is permitted] since in this way only it can be preserved but not a sheep together with its wool; hence did the All Merciful write 'sheep'[26] [to indicate] that [it may be bought] even together with its wool. What however, was the need for the expression of[30] 'for oxen'?[26] And should you reply that if the All Merciful had not written 'for oxen' it might have been assumed that a sheep may be bought together with its skin but not together with its wool [and that] the All Merciful has therefore written 'for oxen' to include its skin so that 'sheep' remained superfluous in order to include its wool [it could be retorted that even] if the All Merciful had not written 'oxen' no one would have suggested that a sheep may be bought only[31] together with its skin but not together with its wool, for if that were so[32] the All Merciful should have written 'oxen' so that 'sheep' would for this reason have remained superfluous; now, since the All Merciful did write 'sheep' [to indicate obviously] that [it may be purchased] even together with its wool [the question arises again:] What need was there for the expression of[33] 'for oxen,?[34] If [it may be argued] a sheep may be bought together with its wool[35] was there any need [to state that] an ox may be bought together with its skin?[36] It is this [line of reasoning that was followed] when R. Johanan sand, 'Should any person explain to me [the necessity for the expression of] 'for oxen' in accordance with the view of Ben Bagbag I would carry his clothes after him into the bath house'.

On what principle do R. Judah b. Gadish[37] and R. Eliezer[38] and the following Tannas[39] differ? — R. Judah b. Gadish and R. Eliezer base their expositions on [the hermeneutic rules of] amplification, and limitation[40] while those Tannas base their expositions on [the hermeneutic rules of] general statements and specific details .[41] 'R. Judah b. Gadish and R. Eliezer base their expositions on [the hermeneutic rules of] amplification and limitation' [thus:] 'And thou shalt bestow the money for whatsoever thy soul desireth'[34] is an amplification,[42] 'for oxen, or for sheep, or for wine, or for strong drink,'[34] is a limitation,[43] 'or for whatsoever thy soul asketh of thee'[34] is again an amplification. [Now since Scripture] has amplified, limited and amplified again it has [thereby] included all. What has it included? It included all things. And what has it excluded? According to R. Eliezer it excluded brine; according to R. Judah b. Gadish it excluded water and salt. 'While those

Tannas base their expositions [on the hermeneutic rules of] general statements and specific details' for it was taught: 'And thou, shalt bestow the money for whatsoever thy soul desireth' is a general statement, 'for oxen, or for sheep, or for wine, or for strong drink' is a specification, 'or for whatsoever thy soul asketh of thee' is again a general statement. [Now where] a general statement, a specification and a general statement [follow each other in succession] you may include[44] only such things as are similar to those in the specification; as the specification explicitly mentions [things that are] the produce of produce[45] that derive their nourishment from[46] the earth so [you may include] all [other things that are] the produce of produce that derive their nourishment from] the earth.[47] Another [Baraitha], however, taught: As the specification mentions explicitly [things that are] produce[48] of the products of the earth[49] so [you may include] all produce that was of the products of the earth. What is the practical difference between these?[50] — Abaye replied: The practical difference between them is [the question of including] fish. According to him who holds [that the things included must be] 'the produce of produce that derive their nourishment from] the earth' fish [also may be included since] they derive their nourishment from the earth. According to him, however, who maintains [that the things included must be] 'produce of the produce of the earth'[49] fish [are excluded since they] were created from the water,[51] But could Abaye maintain that fish derive their nourishment from] the earth seeing that he ruled:

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(1) R. Isaac's ruling that salt water may be purchased with money of the second tithe.

(2) Lit., 'it was not required, but'.

(3) Lit., 'that he put into'.

(4) The water and the salt. Oil is a produce.

(5) That oil was contained in the mixture.

(6) V. p. 186, n. 12.

(7) Lit., 'and let it go out to (or 'be inferred by') him'.

(8) What need then was there to state it?

(9) בהבלעה lit., 'by absorption' (rt. בלע 'to absorb').

(10) R. Isaac thus taught us that money of the second tithe, though it may not be spent on water, salt or salt-water, may well be spent on the purchase of them where they are mixed with oil and a higher and inclusive price is paid for the latter.

(11) Deut. XIV, 26.

(12) Since otherwise this detail would be superfluous after the general statement, 'And thou shalt bestow the money for whatsoever thy soul desireth'. (ibid.).

(13) With money of the second tithe.

(14) Lit., 'upon the back', 'at the side of'.

(15) Sc. though the skin is not a foodstuff it may be bought together with the animal at an inclusive price and it nevertheless remains unconsecrated. There is no need to re-sell the skin in order to buy foodstuffs with its proceeds.

(16) Though both the skin (as in the case of the ox supra) and the wool are no foodstuffs (v. previous note) and both remain unconsecrated.

(17) Cf. supra n. II mutatis mutandis.

(18) An inferior kind of wine made of the stalks of pressed grapes and husks.

(19) with money of the second tithe.

(20) Now, since the skin, the wool and the jar are not articles of food and may nevertheless be bought with second tithe money by paying an inclusive price for the animals and the wine respectively, it follows that it is permitted to buy with second tithe money any commodity provided its value is not paid for separately but is included in the price paid for the suitable article.

(21) Sc. he would be willing to act as the attendant of such a genius if such a one could be found.

(22) Lit., 'because if'.

(23) Lit., 'it'.

(24) Lit., 'upon the back', 'at the side of'.

(25) Hence it was necessary to have the expression of 'for sheep'.

(26) In Deut. XIV, 26.

(27) So MS. M. Cur. edd. insert, ‘the All Merciful wrote strong drink’.
(28) Lit., ‘what’.
(29) A town in the lowland district of Judea.
(30) Lit., ‘wherefore to me’.
(31) Lit., ‘yes’.
(32) That the expression of ‘sheep’ was not intended to include the animal with its wool.
(33) Lit., ‘wherefore to me’.
(34) In Deut. XIV, 26.
(35) Which is not a vital Part of the animal.
(36) Which is a vital part of its body.
(37) On the variant readings of the name v. supra 27a.
(38) Who agree that fish may be bought but are at variance on the question whether the purchase of brine is also permitted. (On the reading of ‘R. Eliezer’ v. marg. note supra 27a).
(39) Who forbid the purchase of fish and much more so that of brine.
(40) רבויי (rt. רבה ‘to increase’) ומעוטי (rt. מעט ‘to decrease’).
(41) כללי ופרטי. V. Sheb., Sonc. ed., p. 12, n. 3.
(42) ‘Whatsoever . . . desireth’, i.e., anything.
(43) Only these things may be bought but no others.
(44) Lit., ‘judge’.
(45) An animal is born from an animal and grapes are produced from the seed of the grape.
(46) Lit., ‘growth of’.
(47) B.K. 54b, 63a, Naz. 35b.
(48) Lit., ‘child’.
(49) At the creation (v. Gen. I, 24ff).
(50) The two cited Baraithas.
(51) V. Gen. I. 20f.

Talmud - Mas. Eiruvin 28a

‘If a man ate an eel[1] he [technically] incurs[2] flogging[3] on four counts;[4] if an ant, on five counts;[5] if a hornet, on six[6] counts.[7] Now if that statement is authentic[8] [should not one eating] an eel also be flogged on account of [the prohibition against] a creeping thing that creepeth upon the earth?[9] — Rather, replied Rabina, the practical difference between them[10] is [the question of including] birds.[11] According to him who holds [that the things included[11] must be] ‘the produce of produce that derive their nourishment from the earth’ [birds are included since] they also derive their nourishment from the earth. According to him, however, who maintains [that the things included must be] ‘produce of the produce of the earth’ birds [are excluded since they] were created from the alluvial mud.[12]

On what ground does the one include[11] birds[13] and on what ground does the other exclude them? — He who includes birds’ is of the opinion that the second[14] generalization[15] is for principal [consideration]; hence [the proposition][16] is in [the form of] ‘a specification and a generalization’ [in which case] the generalization is regarded as an addition to the specification so that all things are thereby included,[17] while the first generalization[18] has the effect[19] of excluding all things that are not similar to it[20] in two respects.[21] He, however, who excludes birds is of the opinion that a first generalization is for principal [consideration] hence [the proposition] is in the form of ‘a generalization and a specification’ [in which case] the generalization does not cover more than what was enumerated in the specification.[17] Consequently it is only these[22] that are included[23] but no other things, while the second generalization[24] has the effect of including[25] all things that are similar to it[26] in three respects.[27]

Rab Judah ruled in the name Of R. Samuel b. Shilath who had it from Rab: An ‘erub may be prepared with cress,[28] purslane and melilot[29] but not with lichen[30] Or unripe dates.[31] Is it, however, permitted to prepare an ‘erub with melilot seeing that it was taught: Those who have many children may eat melilot but those who have no children[32] must not eat it; and if it was hardened into seed even those who have many children should not eat it?[33] Explain it[34] to [refer to melilot] that was not hardened into seed and [that is used for people who] have many children. And if you prefer I might say: It[34] may in fact refer to [people who] have no children [the use of the plant nevertheless being permitted] because it is fit [for consumption] by those who have many children; for have we not learnt: ‘An ‘erub may be prepared for a nazirite with wine and for an Israelite with terumah’,[35] from which it is evident that [certain foodstuffs may be used for an ‘erub because] through they are unsuitable for one person they are suitable for another? So also here [it may be held that] though [the melilot] is not suitable for one it is suitable for another. And if you prefer I might reply: When Rab made his statement [he referred] to the Median melilot.[36]

But is it not [permitted to prepare an ‘erub] from lichen? Has not Rab Judah in fact stated in the name of Rab: An ‘erub may be prepared from cuscuta or lichen and the benediction of ‘[Blessed art Thou . . .] Who createth the fruit of the ground’ is to be Pronounced over them? _ This is no difficulty. The one ruling was made[37] before Rab came to Babylon while the other — was made after he came to Babylon.[38] Is Babylon, however, the greater part of the world?[39] Was it not in fact taught: If a man sowed beans, barley or fenugreek to [use as a] herb,[40] his wish is disregarded in view of the general practice;[41] hence it is its seed that is subject to tithe but its herb[40] is exempt. Pepperwort[42] or gardenrocket[43] that was sown [with the intention of using it] as a herb must be tithed as herb and as seed.[44] If it was sown to [be used as] seed it must be tithed as seed and as herb?[45] — Rab spoke Only

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(1) פוטיתא; ‘young eel’, v. Mak., Sonc. ed., P. 116, n. 8; it is a water insect smaller in size than an olive (Rashi a.l.).

(2) Despite its small size (v. previous note).

(3) Because it is a ‘creature’.

(4) It is (i) a water insect, (ii) without fins and scales, (iii) forbidden by Lev. XI, 10-11 and (iv) ibid. 43.

(5) It (i) creepeth upon the earth (Lev. XI 41), (ii) hath many feet (ibid. 42), (iii) is a creeping thing (ibid. 44) and (iv and v) was twice forbidden as food (ibid. 43).

(6) In addition to the above (v. previous note) there is the prohibition against ‘all winged swarming things’ (Deut. XIV, 19).

(7) Mak. 16b, Pes. 24a.

(8) Lit., ‘there is’, that, according to Abaye, fish and so also all water creatures derive their nourishment from the earth.

(9) Lev. XI, 4 i.

(10) The two cited Baraithas.

(11) Among the things that may be bought with the money of the second tithe.

(12) This concludes the argument proving that the Tannas of the cited Baraithas base their expositions on the rules of ‘general statements and specific details’ and consequently exclude fish, and much more so brine.

(13) Lit., ‘he who includes birds, what is the reason?’

(14) Lit., ‘last’.

(15) In a law that is given in the form of a generalization, specification and generalization.

(16) Of the generalization, specification and generalization.

(17) V. P.B., p. 13.

(18) Though it loses its full force on account of the priority of the second one.

(19) Owing to the specification that follows it.

(20) The specification.

(21) In (a) being produce of produce and (b) deriving their nourishment from the earth. Fish, therefore, are excluded while birds are included.

(22) Those actually specified.

(23) Lit., ‘these yes’.

(24) Cf. supra p. 191, nn. 11 and 12 mutatis mutandis.

(25) Among the things that may be bought with the money of the second tithe.

(26) The specification.

(27) Being (a) produce of produce, (b) nourished from the earth and (c) of the Products of the earth. Since birds are Similar in two respects only they are excluded.

(28) ‘Gartenkraut’, possibly Gr. ** (v. Golds.), prob. Gr. ** a kind of cress (Jast.).

(29) A species of clover.

(30) Lecantora esculenta.

(31) Berries in their early stage.

(32) Lit., ‘deprived of children’.

(33) It being injurious to health. How then could Rab rule that it may be used in the Preparation of an ‘erub for which suitable food is required.

(34) Rab's ruling.

(35) Supra 26b.

(36) Which is a wholesome food.

(37) Lit., ‘that’, that lichen may not be used in an ‘erub.

(38) Where the plant was used as food. V. Cit., Sonc. ed., p. 17, n. 3.

(39) That a general ruling should be land down on the basis of its Practice?

(40) Sc. before it has ripened, while it was still green.

(41) Lit., ‘his mind is annulled at the side of all men’. Most people do not eat any of these in their unripe state.

(42) Lepidium sativum.

(43) Eruca.

(44) Since it is used as food in either condition.

(45) Tosef Sheb. II, which shows that individuals’ eccentricities are disregarded. Why then did Rab lay down a ruling on the basis of the usage of one locality?

Talmud - Mas. Eiruvin 28b

of those that grow in house gardens.[1] What is garden-rocket suitable for? — R. Johanan replied: The ancients,[2] who had no pepper, crushed it and dipped in it their roasted meat.

R. Zera, when he felt fatigued[3] from study, used to go and sit down at the door [of the school] of R. Judah b. Ammi saying: ‘As the Rabbis go in and out I shall rise up before them and so receive reward for [honouring] them.’ [On one occasion] a young school child came out. ‘What,’ he asked him, ‘did your Master teach you?’ — ‘[That the benediction for] cuscuta’, the other replied: ‘is "[Blessed . . .] Who createst the fruit of the ground"[4] [and that for] lichen, is "[Blessed . . .] by Whose word all things were made".[4] ‘On the contrary’, he said to him, ‘logically [the benedictions] should be reversed since the latter derives its nourishment from the earth while the former derives it from the air . The law, however, is in agreement with the school child. What is the reason? — The former is the ripened fruit while the latter is not the ripened fruit. And, as to your objection that ‘the latter derives its nourishment from the earth while the former derives it from the air’ [the fact is that in reality this] is not [the case]. Cuscuta also derives its nourishment from the earth; for we may observe that when the shrub[5] is cut off the cuscuta dies.[6]

But is it not permissible to prepare an ‘erub from unripe dates? Was it not in fact taught: The white heart of a palm may be purchased with [second] tithe money[7] but is not susceptible[8] to food defilement.[9] Unripe dates, however, may be purchased with [second] tithe money and they are also susceptible to food defilement. R. Judah ruled: The white heart of a palm is treated as wood in all respects, except that it may be purchased with [second] tithe money,[10] while unripe dates are treated as fruit in all respects except that they are exempt from the [second] tithe?[11] — There[12] [the reference is] to stunted dates.[13] If so,[14] would R. Judah in this case rule, ‘they are exempt from second tithe’? Was it not in fact taught: R. Judah sand: The [stunted] figs of Bethania were mentioned only in connection with [second] tithe alone; the [stunted] figs of Bethania and the unripe dates of Tobina[15] are subject to the obligation of the second tithe?[16] — The fact, however, is [that the Baraitha cited[17] does] not refer[18] to stunted dates, but[19] [the law] in respect of food defilement is different [from other laws]. As It. Johanan explained [elsewhere], ‘Because one can make them sweet by [keeping them near] the fire’ so here also [it may be explained,][20] Because one can make them sweet by [keeping them near] the fire.[21]

And where was the statement of R. Johanan made? — In connection with the following. For it was taught: Bitter almonds when small are subject [to the second tithe,[22] and when [big are exempt ,[23] but sweet [almonds] are subject [to the second tithe when] big and exempt when small.[24] R. Simeon[25] son of R. Jose ruled in the name of his father, ‘Both[26] are exempt’[27] or, as others read: ‘Both[26] are subject [to the second tithe]’. Said R. Il'a:[28] R. Hanina gave a decision at Sepphoris in agreement with him who ruled: ‘Both are exempt’. According to him, however, who ruled: ‘Both are subject [to the second tithe]’, what [it may be asked] are they suitable for?[29] [To this] It. Johanan replied: [They may be regarded as proper food] because they can[30] be rendered sweet by [keeping then, near] the fire.

The Master said: ‘R. Judah ruled: The white heart of a palm is treated as wood in all respects, except that it may be purchased with [second] tithe money’. [Is not this ruling] exactly the same [as that of] the first Tanna?[31] — Abaye replied: The practical difference between them[32] is the case where one boiled or fried it.[33]

Raba demurred: Is there at all any authority who maintains that [such a commodity], even when boiled or fried does not [assume the character of food]? Was it not in fact taught: A skin and a placenta are not susceptible to the defilement of food, but a skin that was boiled and a placenta that one intended [to boil] are susceptible to food defilement?[34] — Rather, said Raba, the practical difference between them’ is [the form of] the benediction.[35] For it was stated,[36] [The benediction for] the white heart of the palm is, R. Judah ruled: ‘Who createst the fruit of the ground’, and Samuel ruled: ‘By Whose word all things were made’. ‘R. Judah ruled: "Who createst the fruit of the ground"’ because it is a foodstuff; ‘and Samuel ruled: "By Whose word all things were made"’ because in consideration of the fact that it would eventually be hardened the benediction of ‘Who createst the fruit of the ground’ cannot be pronounced over it.

Said Samuel to R. Judah: Shinena,[37] logical reasoning is on your side[38] for there is the case of radish which is eventually hardened and yet the benediction of, ‘Who createst the fruit of the ground’ is pronounced over it. This argument, however, is not conclusive,[39] since people plant radish with the intention of eating it while soft[40] but no palm-tree is planted with the intention [of eating its] white heart. And, consequently, although Samuel complimented R. Judah, the law is in agreement with Samuel.[41]

[To turn to the] main text: R. Judah stated in the name of Rab: An ‘erub may be prepared from cuscuta or lichen, and the benediction of ‘[Blessed art Thou . . .] Who createst the fruit of the ground’ is to be pronounced over them. With what quantity of cuscuta?[42] — As R. Yehiel said [infra], ‘a handful’[43] so is it here also a handful.[44] With what quantity of lichen?’ — Rabbah b. Tobiah replied in the name of R. Isaac who had it from Rab: As much as the contents of[45] farmers’ bundles.[46]

R. Hilkiah b. Tobiah ruled: An ‘erub may be prepared from kalia.[47] ‘From kalia’! Could [such a notion] be entertained?[48] [Say] rather with the herb from, which kalia is obtained. And what must be the quantity? — R. Yehiel replied: A handful.[49]

R. Jeremiah once went [on a tour] to the country towns[50] when he was asked whether it was permissible to prepare an ‘erub with green[51] beans, but he did not know [what the answer was].[52] When he later came to the schoolhouse he was told: Thus ruled R. Jannai: It is permitted to prepare an ‘erub from green[51] beans. And what must be its quantity? — R. Yehiel replied: A handful.[49]

R. Hamnuna ruled: An ‘erub may be prepared from raw beet.[53] But this is not so, seeing that R. Hisda in fact stated: Raw[54] beet kills a healthy[54] man?[55]

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(1) Which are in general use as food.

(2) Lit., ‘for so the first’.

(3) Lit., ‘weak’.

(4) Cf. P.B., p. 290.

(5) On which the cuscuta grows as a parasite.

(6) Which proves that its nourishment is ultimately derived from the earth.

(7) Since it is the produce of produce and draws its nourishment from the earth.

(8) Even though its owner intended to use it for food.

(9) Because it is no article of food in the proper sense.

(10) The difference between this ruling of R. Judah and that of the first Tanna is discussed infra.

(11) Since they are still in an unripe state. Tosef. M. Sh. I. Now since the Baraitha speaks of ‘food defilement’ in connection with the unripe dates it is obvious that they are regarded as a food; why then were they not allowed to be used in the preparation of an ‘erub?

(12) In the Baraitha which subjects the unripe dates to the law of defilement.

(13) ניסחני, lit., ‘given up’ (rt. נסח ‘to be removed’). Var. lec., ניסני ‘that ripen in Nisan’. Such dates, since they would grow no bigger, are regarded as the completed fruit and are consequently subject to the laws of a proper food. Rab's ruling, on the other hand, refers to dates that would in due course reach the full and final ripening stage.

(14) That the Baraitha deals with a special kind of stunted dates,

(15) Which are stunted like the dates spoken of in the previous Baraitha.

(16) Tosef. Sheb. VII, v. Pes., Sonc. ed., p. 257 notes.

(17) From M.Sh. I.

(18) As has previously been assumed.

(19) In reply to the objection why should ordinary unripened dates that are no proper food be subject to the laws of food defilement.

(20) As a reason for their susceptibility to food defilement.

(21) In the case of ‘erub, however, it is necessary that the food should be fit for immediate consumption. They are also exempt from the second tithe since they have not yet completed their ripening stage.

(22) They are regarded as ripe since at a later stage of development they would turn bitter.

(23) Being bitter they cannot be regarded as a proper food.

(24) Cf. previous notes mutatis mutandis.

(25) MS.M., ‘Ishmael’.

(26) Lit., ‘this and this’, the bitter almonds whether big or small.

(27) From the second tithe.

(28) Bah adds: ‘in the name of R. Judah’. MS.M. reads: ‘Il'a sand in the name of R. Haggai’.

(29) As they are apparently unsuitable as a foodstuff why should they be subject to the second tithe?

(30) Lit., ‘and suitable’.

(31) In the Baraitha cited supra from M.Sh. I.

(32) R. Judah and the first Tanna.

(33) The white Heart. According to the first Tanna it assumes the character of food while according to R. Judah who regards It as wood in all respects’ it always retains that character and is, therefore, never susceptible to food defilement.

(34) Hul. 77b. Now, if boiling is effective in the case of a skin which is much less of a food than the heart of a palm, how could it be maintained that the process is ineffective in the latter case?

(35) The first Tanna ordains that for the fruit of the ground while R. Judah requires, ‘by Whose word etc.’ V. infra.

(36) By Amoras.

(37) שינגא ‘keen witted’ (rt. שנן ‘to sharpen’), ‘long toothed’ (שן, ‘tooth’) or ‘man of iron’.

(38) Lit., ‘like you’.

(39) Lit., ‘and it is not’.

(40) פוגלא, the young tuber of the radish, which is soft.
(41) That the benediction is ‘By Whose word all things were made’.
(42) May In ‘erub be prepared.
(43) Lit., ‘as the fullness of the hand’.
(44) Such a quantity suffices for the prescribed two meals (v. infra 80b).
(45) Lit., ‘as the fullness’.
(46) אוזילתא (rt. אזל ‘to weave’). Bundles are kept together by the winding of some flexible substance around them.
(47) The ashes of an alkaline plant.
(48) Can ashes be regarded as food?
(49) Cf. supra n. 2.
(50) Or villages, to Inspect his fields (Rashi a.I.) Cf., however, Rashi, s.v. לקרייתי B.M. 85a.
(51) Lit., ‘moist’
(52) Lit., ‘It was not in his hand’.
(53) תרדים, ‘bletum’. Aliter: Tomatoes.
(54) חייא, ‘living’ also signifies ‘raw’ or ‘healthy’.
(55) Unwholesome food, surely, would not be allowed to be used for an ‘erub.

Talmud - Mas. Eiruvin 29a

— That[1] [refers to beet] that was only partially cooked.[2]

There are [others] who read: R. Hamnuna ruled: No "erub may be prepared from raw beet, for R. Hisda stated: ‘Raw beet kills a healthy man’.[3] Do we not see, however, that people do eat [such beet] and yet do not die? — There[4] [it is ‘case of beet] that was only partly cooked.[2] R. Hisda stated: A dish of beet is beneficial for the heart and good for the eyes and even more so for the bowels. Abaye added: This applies only [to such beet] that remained[5] on the stove until it was thoroughly cooked.[6]

Raba [once] said: ‘I am [to-day] in the condition of Ben Azzai in the markets of Tiberias’.[7] Sand one of the younger Rabbis to him, ‘With what quantity of apples [may an ‘erub be prepared]?’ — ‘Is it permissible’, the other replied: ‘to prepare an erub from apples?’ — ‘Is it not [permitted]? Have we not in fact learnt: All kinds of food[8] may be combined[9] [to make up the prescribed quantity] of half of a half loaf[10] in respect of rendering the body[11] unfit,[12] or [to make up the quantity of] food for two meals required for an ‘erub, or the size of an egg in respect of imparting food defilement?’[13] — Rut what objection is this? If it be contended: Because it was stated: ‘all kinds of food’ and these’[14] also are eatable, surely [it could be retorted] did not R. Johanan lay down that no inference may be drawn from general rulings even where an exception was been specified?[15] — [The objection] rather is because it was stated: ‘or [to make up the quantity of] food for two meals required for an ‘erub or the size of an egg in respect of imparting food defilement’,[16] and these[14] also are subject to food defilement.[17] Now with what quantity?[18] — R. Nahman replied: In the case of apples it must be a kab.[19] An objection was raised: R. Simeon b. Eliezer ruled: [The poor man's tithe[20] must be[21] of no less a quantity than] an ‘ukla[22] of spices, a pound of vegetables, ten nuts, five peaches, two pomegranates or one ethrog;[23] and Gursak b. Dari stated in the name of R. Menashia b. Shegobli who had it from Rab that [the same quantities were] also [applicable] to an ‘erub.[24] Why then should not apples[25] also be compared to peaches?[26] — The others[25] are valuable but these are not so valuable.[27]

‘May the Lord’, exclaimed R. Joseph, ‘pardon R. Menashia b. Shegobli [this oversight; for] I made that statement[28] in connection with a Mishnah and he[29] applied it to a Baraitha! For we learned: Any poor man [applying] at the threshing floor [must be given][30] no less than half a kab of wheat, a kab of barley (R. Meir said: Half a kab of barley), a kab and a half of spelt, a kab of dried figs or a maneh[31] of pressed figs (R. Akiba said: A half),[32] half a log of wine (R. Akiba said: One quarter)[33] or a quarter[33] of oil (R. Akiba said: One eighth);[33] and [in respect of] all other kinds of produce, Abba Saul ruled, [The quantities given must consist] of so much [food] as [would enable the recipient to] sell them and buy with their proceeds[34] food for two meals.[35] And [it was in connection with this Mishnah that] Rab stated that ‘[the same quantities were] also [applicable in the case] of an ‘erub’. On what ground, however, is preference given[36] to the one rather than to the other?[37] If it be suggested: Because in the Baraitha[38] spices were mentioned, and spices are not eatables,[39] [it might be retorted:] Are not wheat and barley mentioned in the Mishnah[40] though they also[41] are not eatables?[42] — [The ground][43] rather is this:[44] Because [in the Mishnah] ‘half a log of wine was mentioned and Rab has land down that an ‘erub may be prepared with two quarters [of a log] of wine’[45] it may be concluded[46] that when Rab said: ‘And the same quantities were also applicable to an ‘erub’ he must have been referring to this Mishnah. This is conclusive.

The Master said: ‘Or [to make up the quantity of] food for two meals required for an ‘erub’. R. Joseph intended to lay down that [no ‘erub may be prepared] unless there is sufficient food of each kind to provide for a complete meal,[47] but Rabbah said to him: Even [if each kind of food consisted only] of a half, a third or a quarter [of a meal].[48]

[To revert to] the main text: ‘Rab has land down that an ‘erub may be prepared with two quarters [of a log] of wine’. But do we require so much? Was it not in fact taught: R. Simeon b. Eleazar ruled: Wine [for an ‘erub must] suffice for soaking in it the bread,[49] vinegar must suffice to dip in it [the meat], and olives and onions must suffice to provide a relish for the bread for two meals?[50] — There[51] [the reference is] to boiled wine.[52]

The Master said: ‘Vinegar must suffice to dip in it [the meat]’. Sand R. Giddal in the name of Rab, [It must] suffice to dip in it the food of two meals of vegetables.[53] Others read: R. Giddal said in the name of Rab, [It must suffice to dip in it a quantity of) vegetables consumed in the course of two meals.[54]

The Master said: ‘Olives and onions must suffice to provide a relish for bread for two meals’. Is it, however, permitted to prepare all erub from onions? Was it not in fact taught: R. Simeon b. Eleazar stated: R. Meir once spent the Sabbath[55] a’ Ardaska[56] when a certain man appeared before him and said to him, ‘Master, I have prepared an ‘erub’ from onions [to enable me to walk] to Tibe'in’,[57] and R. Meir ordered him to remain within his four cubits?[58] — This is no difficulty, since one ruling deals[59] with the leaves while the other refers to the bulbs.[60] For it was taught: ‘If a man ate an onion and [was found] dead early [on the following morning] there is no need to ask what was the cause of his death’, and in connection with this Samuel stated: This was taught in respect of the leaves only but against [the eating of] the bulbs there call be no objection;[61] and even regarding the leaves this has been said only

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(1) R. Hisda's disparagement of the beet or tomatoes.

(2) Lit., ‘when cooked and not cooked’.

(3) V. supra nn. 12ff.

(4) R. Hamnuna's ruling according to the second version.

(5) Lit., ‘that sat’.

(6) Lit., ‘and makes tuk tuk’; onomatopoeia, the noise that ensues from a boiling dish.

(7) Ben Azzai was the most prominent dialectician of his day and his discourses were usually delivered in the market place of Tiberias (cf. Bek. 58a). Raba felt so elated on the day this remark was made that he was prepared to accept any dialectical challenge.

(8) That were levitically unclean.

(9) Though each one by itself is less than the prescribed quantity.

(10) חצי פרס. The peras is equal to the size of four eggs (cf. Rashi a.l.).

(11) Of a priest.

(12) To eat terumah, although, since no foodstuffs can impart uncleanness to a human being by means of touch, he does not thereby become unclean.
(13) Me'il IV, 5, Ker. 13a.
(14) Apples.
(15) Supra 27a, Kid. 34a.
(16) Since ‘erub’ and ‘food defilement’ appear in juxtaposition they are apparently to be compared to one another so that any foodstuffs that are fit for the one are also suitable for the other.
(17) And consequently (v. previous note) must also be suitable for an ‘erub.
(18) May an ‘erub of apples be prepared.
(19) A measure of capacity, v. Glos.
(20) Distributed in the threshing floor.
(21) For each applicant.
(22) A measure of capacity, v. Glos.
(23) A species of citron used on Tabernacles with the festive wreath,.
(24) Because for both ‘erub and the poor man's tithe a quantity of two meals has been prescribed.
(25) Lit., ‘these’.
(26) And five of them should be enough for an ‘erub. An objection against It. Nahman who prescribed a kab.
(27) The more valuable an article of food the less the quantity consumed in the course of a meal. The food prescribed for two meals was not meant to imply so much food as would provide two fully satisfying meals but only the quantity of any particular kind of food that is usually consumed in the course of two meals. While of peaches which are expensive no more than five would be consumed in the course of two meals, as much as a kab of apples would be consumed in the course of two such meals.
(28) In the name of Rab; that ‘the same quantities were also applicable to an ‘erub’ (supra).
(29) When teaching it to Gursak b. Dari.
(30) Of the poor man's tithe.
(31) V. Glos.
(32) Of a maneh.
(33) Of a log.
(34) Lit., ‘with them’.
(35) Pe'ah VIII, 5.
(36) Lit., ‘and what is its strength’.
(37) I.e., since the Baraitha contains no law that is contradictory to the Mishnah, is it not possible that Rab's statement applied to the former as much as to the latter?
(38) Lit., ‘in that’.
(39) Hence they arc unsuitable for an ‘erub, and the statement, ‘the same quantities were also applicable to an ‘erub’ could not, therefore, be applied to them.
(40) Lit., ‘here’.
(41) In their natural state.
(42) And since tab's statement is applicable to these, why not also to spices?
(43) For R. Joseph's assertion.
(44) Lit., ‘but’.
(45) I.e., half a log. V. Bah a.l. cur. edd. add, since we require so much’.
(46) Since no known ruling’ of Rab is embodied in the Baraitha.
(47) Lit., ‘until there is a meal from this and a meal from this’, sc. that only two kinds of food may be used so that each kind suffices for One full meal of the two meals prescribed. Were more than two kinds of food to be allowed, each would represent less than the quantity required for one full meal.
(48) May an ‘erub be prepared.
(49) V. Rashi. Lit., ‘to cat with it’.
(50) The quantity of wine prescribed here is much less than two quarters of a log. How then could Rab prescribe the latter quantity?
(51) In the Baraitha cited.
(52) In which bread is usually dipped. A smaller quantity is, therefore, sufficient. Of ordinary wine, however, which is

used as a drink only, no less than two quarters of a log are required.

(53) The entire meal consisting of vegetables only.

(54) in addition to the bread.

(55) Var. lec., ‘We were sitting before R. Meir’.

(56) MS.M., Ardaskis. Artaxata the capital ‘,1 Armenia (Wiesner), Damascus (Kohat and Jast.).

(57) Tibe'in was within two thousand cubits (the prescribed Sabbath limit) from the spot where the man's erub was laid down, and Ardaska was on the way between the ‘erub and Tibe'in.

(58) Tosef.. ‘Er. VI; from which, however, the phrase ‘to Tibe'in’ is absent. Now since R. Meir did not allow the man to move beyond his four cubits (cf. infra 41a) it is obvious that he regarded, an ‘erub of onions as ineffective. An objection against R. Simeon R. Eleazar.

(59) Lit., ‘that’, R. Meir's.

(60) ‘while the former are unfit for human consumption the latter are quite fit and consequently admissible as an ‘erub.

(61) Lit., ‘we have not (any objection) against it’,

Talmud - Mas. Eiruvin 29b

where the onion has not grown [to the length of] a span but where it has grown to that length there can be no objection.[1] R. Papa said: This has been said only where one drank no beer [with them] but where one did drink some beer[2] there can be no danger.[1]

Our Rabbis taught: No one should eat onion on account of the poisonous fluid[3] it contains; and it once happened that R. Hanina ate half an onion and half of its poisonous fluid and became so ill that he was on the point of dying. His colleagues, however, begged for heavenly mercy, and he recovered because his contemporaries needed him.[4]

R. Zera laid down in the name of Samuel: From beer an ‘erub may be prepared and [if it consists of a quantity] of three log[5] it renders a ritual bath[6] ineffectual.[7] R. Kahana demurred: Is not this[8] obvious? For what [difference is there in this respect] between it and dye-water concerning which we learned: R. Jose ruled: Dye-water of a quantity of three log renders a ritual bath ineffectual?[9] -It may be replied: There[9] [the liquid] is called dye-water[10] but here it is called beer.[11] And with what quantity [of beer] may an erub be prepared? — R. Aha son of R. Joseph proposed to say before R. Joseph: With two quarters[12] of beer, as we learned, ‘If a man carries out[13] wine [he incurs guilt if its quantity was] sufficient for mixing the cup’,[14] and in connection with this it was taught: ‘[It must be] sufficient for mixing a handsome cup . What [is meant by] ‘a handsome cup’? The cup of benediction. And R. Nahman stated in the name of Rabbah b. Abbuha, ‘The cup of benediction must contain a quarter of a quarter,[15] so that when one dilutes it[16] it consists of a quarter;’ this being in agreement with Raba who land down that ‘any wine which cannot stand [an admixture of] three [parts of] water to one [of wine] is no proper wine’. And in the final clause[17] it was stated: And in the case of any other liquids [the prescribed quantity][18] is a quarter’ and in that of any liquid refuse’ it is also a quarter’.’ Now since there[19] [the quantities prescribed are] four[20] to one[21] so here[22] also [the quantity prescribed should be] four[20] to one.[23] [The ruling,] however, is not so. There[19] the reason[24] is that less than that quantity is of no importance, but here[22] [this does] not [apply, for] it is usual for people to drink one cup[25] in the morning and another[25] in the evening and to rely upon these [as their meals].[26]

With how much dates [may an ‘erub be prepared]? — R. Joseph replied: With one kab. Sand R. Joseph: Whence do I derive this? From what was taught: ‘If a man[27] consumed [unwittingly] dried figs[28] and paid for them with dates, may a blessing come upon him.’[29] How [is this repayment to] be understood? If it be suggested [to be one] corresponding to the value[30] [of the figs, viz.,] that he ate of the priest's figs[31] the value of one zuz[32] and repays him for it [dates] for a zuz,[32] why [it may be asked] should a blessing come upon him, seeing that he consumed the value of a zuz and repays only the value of a zuz? Must it not then [be concluded that this repayment] corresponded in quantity, [viz.], that he ate a grivah[33] of the priest's[34] dried figs that was worth one zuz and repaid him a qrivah[33] of dates that was worth four zuz, and [because of this] it was stated: ‘May a blessing come upon him’. Thus it clearly follows that dates are more valuable.[35] Said Abaye to him:[36] As a matter of fact the man may have consumed the priest's[34] figs for a zuz and repaid him [dates] for a it and [in reply to your objection,] ‘why should a blessing come upon him?’ Because he consumed from the priest[34] something which is not much in demand[37] and repaid him with something for which there is a big demand.[38]

[What quantity is required[39] in the case of] shattitha?[40] — R. Aha b. Phinehas replied: Two ladlesfull. Of roasted ears?- Abaye replied: Two Pumbedithan handfuls.

Abaye stated: Nurse[41] told me that roasted ears are beneficial to the heart and they banish morbid thought.

Abaye further stated: Nurse told me: If a man suffers from weakness of the heart let him fetch the flesh of the right flank of a male beast and[42] excrements of cattle[43] [cast in the month] of Nisan, and if excrements of cattle are not available let him fetch some willow twigs, and let him roast it,[44] eat it, and after that drink some diluted wine.[45]

Rab Judah stated in the name of Samuel: Any relish[46] [must consist of a quantity that is] sufficient to eat with it [a quantity of bread for two meals] but any [foodstuff] that is no relish [must consist of a quantity] sufficient in itself for two meals.[47] Raw meat [also must consist of a quantity] sufficient for two meals.’ As to roasted meat, Rabbah ruled [that it must be] sufficient to eat with it [a quantity of bread required for two meals], and R. Joseph ruled, [It must be] sufficient in itself for two meals.[47] ‘Whence said R. Joseph, ‘do I derive this?[48] [From the practice] of the Persians who eat chunks of roasted meat without bread’. Said Abaye to him: Are the Persians a majority of the world?[49] Was it not in fact taught,[50] The webs of the poor[51] [are susceptible to uncleanness in the case] of the poor and the webs of the rich[52] [are susceptible to uncleanness even in the case] of the rich

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(1) Lit., ‘we have not (any objection) against it’

(2) שיכרא, a drink made of dates or barley.

(3) נחש lit., ‘serpent’ (v. Rashi). Aliter: The stalk in the center of the onion (R. Han., Tosaf. s.v. מפני a.l.).

(4) Lit., ‘the hour (time) required him’.

(5) V. Glos.

(6) Into which it was poured.

(7) A ritual bath must contain naturally gathered water. It may not be filled with ‘drawn’ water that was carried into it by means of a vessel, and beer of course comes under the category of ‘drawn’.

(8) That the prescribed quantity of beer renders a ritual bath ineffectual.

(9) Mik. VII, 3, Mak. 3b.

(10) It still bears the name of ‘water’ though it is dyed.

(11) Had not R. Zera land down his ruling it might well have been assumed that the law of beer is different from that of water.

(12) Of a kab. One kab = four log.

(13) On the Sabbath from a private into a public domain.

(14) Shab. VIII, I, sc. if the cup of benediction (v. infra) can be filled with the wine, after the quantity of water, that is required for its dilution before it can be drunk, has been added.

(15) Of a kab. One kab = four log.

(16) By adding to it three parts of water (v. infra).

(17) Of the Mishnah Shab. VIII, 1 cited.

(18) For which guilt is incurred by one carrying them on the Sabbath from a private into a public domain.

(19) In respect of carrying on the Sabbath.

(20) Of other liquids.

(21) Of wine; since in the case of the former a quarter of a kab was prescribed and in that of wine only a quarter of a quarter.
(22) ‘Erub.
(23) Since in the case of wine Rab prescribed two quarters of a log, in that of beer (2 X 4=) eight quarters of a log two log two quarters of a lab should be the quantity prescribed.
(24) Why two quarters of a to,] are prescribed.
(25) Containing a quarter of a log of beer.
(26) Such a quantity is consequently sufficient for the purposes of an ‘erub.
(27) A non-priest.
(28) Of terumah which is forbidden to him.
(29) Pes. 32a.
(30) Lit., ‘money’.
(31) Lit., ‘from him’.
(32) V. Glos.
(33) V. Glos.
(34) Lit., ‘from him’.
(35) Than dried figs. Now since in the case of dried figs one kab (as stated supra by Rab) is sufficient for an ‘erub how much more so in the case of dates. Hence R. Joseph's ruling.
(36) It. Joseph.
(37) Lit., ‘on which a buyer does not jump’.
(38) Dates arc cheaper but more in demand than dried figs. Hence, contrary to R. Joseph's ruling, more than a kab of the former might be required for and erub.
(39) For all ‘erub’.
(40) A dish made of the Hour of roasted cars of corn mixed with honey
(41) His mother having died in his childhood, he was brought up by , nurse Whose popular sayings, remedies and superstitions he often quoted.
(42) Lit., ‘and let him bring’.
(43) Lit., ‘of the shepherd’.
(44) The flesh on the fire of the willow twigs.
(45) Rashi; ‘clear’ (R. Han.).
(46) If it is desired to use it for an ‘erub.
(47) Lit., ‘to eat from it’.
(48) His ruling.
(49) Whom all the others must follow.
(50) והתניא, so MS.M. and marg. note. Cur. edd. והתנן.
(51) Sc. strips of cloth of the size of three fingers by three fingers.
(52) Pieces of cloth of the size of three by three handbreadths.

Talmud - Mas. Eiruvin 30a

but [it is not necessary, is it, in the case] of the poor that the webs [shall be of the size of those] of the rich?[1] And should you reply that in, both cases the more restrictive rulings were adopted,[2] was it not in fact taught, [it could be retorted], R. Simeon b. Eleazar ruled: An ‘erub may be prepared for a sick, or an old man [with a quantity] of food that is sufficient for him’[3] [for two meals][4] and for- a glutton with [food for two meals, each being] a moderate meal for the average man?[5] — This is a difficulty.

But could R. Simeon b. Eleazar have given such rulings?[6] Was it not in fact taught: R. Simeon b. Eleazar ruled: A door for[7] Og King of Bashan,[8] [must[9] be as big] as his full size?[10] And Abaye?[11] — What could one do there?[12] Should it[13] be cut to pieces and carried out that way?[14]

The question was raised: Do the Rabbis differ from R. Simeon b. Eleazar[12] or not? — Come and hear what Rabbah b. Bar Hana stated in the name of R. Johanan: The door of' Og King of Bashan,[15] is to be four [handbreadths] wide.[16] [This, however, is no conclusive proof since] there[17] [it may be a case] where there were many small doors[18] and Only one of them was four [handbreadths] wide so that it is certain that when widening[19] would take place it would be in that door.[20] R. Hiyya b. R. Ashi ruled in the name of Rab: An 'erub may be prepared from raw meat. R. Shimi b. Hiyya ruled: An 'erub may be prepared from raw eggs. With how many? — R. Nahman b. Isaac replied:[21] The well-read scholar[22] ruled [the number to be] two.

IF A MAN VOWED TO ABSTAIN FROM FOOD HE IS ALLOWED [To CONSUME] BOTH WATER etc. [Apparently][23] it is only Salt and water that are not described as proper food' but all other things [consumed] are described as proper food.[24] Must it then be assumed that this presents an objection against Rab and Samuel both of whom had ruled that the benediction of'. . . Who createst various kinds of food'[25] is to be pronounced over the five kinds of grain[26] alone?[27] — But were not their rulings already once refuted?[28] — [The question is:] Must it be said that they stand refuted from this Mishnah also? — R. Huna replied: [Our Mishnah may deal with the case of a man] who said,'All that nourishes[29] [shall be forbidden by a vow] upon me'. But is it only water and salt that do not nourish and all other foodstuffs do nourish? Did not Rabbah b. Bar Hana relate: When we[30] followed R. Johanan to partake of the fruit of Gennesar[31] we used each to take ten fruits [for him] when we were a party of a hundred and when we were a party of ten we each used to take a hundred for him, and every hundred of these fruit could[32] be contained in a basket of the capacity of three se'ah,[33] and yet after he had eaten all of them he would exclaim. '[I could take] an oath that I have not felt the taste of nourishment?'[34] — Read, 'Food'.[24] R. Huna laid down in the name of Rab: [If a man said,] 'I swear that I will not eat this loaf' an 'erub may nevertheless be prepared for him from it;[35] [but if he said,] 'This loaf [shall be forbidden] to me',[36] no 'erub from it may be prepared for him.

An objection was raised: 'If a man vowed to have no benefit from a loaf an 'erub from it may nevertheless be prepared for him'. Does not this [refer to a case] where he said: '[This loaf shall be forbidden] to me'?[37] — No, where he said: '[f swear that I would not eat] this [loaf]'.' This assumption[38] also stands to reason; for in the final clause it was stated: 'This applies[39] only when he said: [I take] an oath that I will not taste it'[40] What, [however, is the ruling where] he said: '[The loaf shall be forbidden] to me'?[36] Could[41] no 'erub for him be prepared from it? But, if so, instead of stating,[42] '[If he said,] "This loaf shall be consecrated" no 'erub from it may be prepared for him because no 'erub may be prepared from consecrated food', let a distinction be pointed out[43] in this very case[44] [thus:] 'This[45] applies only where he said: "[I swear that I will not eat] this [loaf]" but if he said: "[This loaf shall be forbidden] to me, no 'erub from it may be prepared for him'? — R. Huna can answer you: What then [would you suggest? That] whenever a man said: '[This loaf shall be forbidden] to me' an erub from it may be prepared for him?[46] — [would not then] a difficulty [arise from] the first clause?[47] — A clause is missing[42] and this is the correct reading: If a man vowed to have no benefit from a loaf an 'erub from it may be prepared for him,[48] and even if he said: '[This loaf shall be forbidden] to me' it is the same as if he had said: '[I take] an oath that I shall not taste it'.

At all events does not the contradiction, against R. Huna remain?[49] — He upholds the same view as R. Eliezer. For it was taught: R. Eliezer ruled, [If a man said: 'I take] all oath that I would not eat this]oaf' an 'erub from it may be prepared for him, [but if he said], 'This loaf [shall be forbidden] to me' no 'erub from it may be prepared for him. But could R. Eliezer have given such a ruling? Was it not in fact taught: 'This is the general rule: If a man imposed upon himself the prohibition of [a certain food] an erub from it may be prepared for him,[50] but if a certain food was forbidden to a man,[51] no 'erub from it may be prepared for him. R. Eliezer ruled: [If the man said,] "This loaf [shall be forbidden] to me", an 'erub from it may be prepared for him, but if he said: "This loaf shall be consecrated" no 'erub from it may be prepared for him, because no erub may be prepared from consecrated food’?[52] — [The two rulings represent the views of] two Tannas who differ as to what was the view[53] of R. Eliezer.

AN ‘ERUB MAY BE PREPARED FOR A NAZIRITE WITH WINE etc. Our Mishnah does not represent the view of Beth Shammai. For it was taught: Beth Shammai ruled: No ‘erub may be prepared for a nazirite with wine[54] or for an Israelite with terumah[54] and Beth Hillel ruled: An ‘erub may be prepared for a nazirite with wine or for an Israelite with terumah.[55] Sand Beth Hillel to Beth Shammai,’Do you not admit

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(1) Because the poor use smaller pieces of web. Now since the law of uncleanness for the poor is not influenced by the practice of the rich, why should the law of ‘erub for the greater part o[the world, who use roasted meat as a relish only, be influenced by the practice of the comparatively small number of Persians?

(2) Lit., ‘here for a restriction’ (bis).

(3) Lit., ‘his food’.

(4) Though an average man requires more.

(5) Though the glutton requires more than a moderate meal. From this it follows that in the case of ‘erub the less restrictive rulings are followed. Why then should the more restrictive ones be followed in the case of roasted meat?

(6) Relaxing the law in respect of the quantity of food required for an ‘erub in favour of (a) the sick and the old because they eat little, though the average person eats more than they, and (b) the glutton, though he consumes much, because the average person consumes less.

(7) Lit., ‘his door’.

(8) Sc. any big sized corpse. Og was one of the famous giants (cf. Deut. 111, II) and is synonymous in the Talmudic literature with ‘man of huge size’.

(9) If the other doors and cavities in the house in which the corpse lies are to remain levitically clean (v. next note).

(10) So that his body might be carried through it without widening it. In that case that door only is levitically unclean while all other doors through which the corpse would not be carried remain levitically clean. Where the door, however, is not wide enough for the passage of the corpse, so that it is uncertain which of the doors of the house would be widened and used for such passage, all doors and wall cavities of the size of a human fist become levitically unclean (v. Bez. 37b). R. Simeon b. Eleazar in thus declaring all doors and cavities unclean on account of the inadequacy of the door for the passage of the big corpse, though it is adequate enough for the passage of one of average size, obviously adopts the restrictive view. How then could it be said that in respect of ‘erub he adopts the lenient one?

(11) Who implied supra that the law for the minority is determined by the conditions governing the majority, how could he reconcile his principle with the ruling of R. Simeon b. Eleazar (v. previous note) just cited?

(12) In the case of a big corpse in a house of small doors.

(13) The corpse.

(14) This is obviously absurd. Hence the ruling that unless one door was wide enough for the passage of the corpse all doors are involved in levitical uncleanness.

(15) Cf. supra nn. 2ff.

(16) It need not be big enough for the passage of the corpse to protect the other doors against defilement. Their view thus apparently differs from that of R. Simeon b. Eleazar.

(17) The particular case dealt with by R. Simeon b. Eleazar.

(18) Each smaller than four handbreadths.

(19) Of a door.

(20) And the corpse would consequently be carried through that door. Hence it is that all the other doors remain levitically clean. Where, however, all doors are of equal size, whether big or small, and none of them is big enough for the passage of the corpse, all become unclean since it is uncertain which of them would eventually be widened.

(21) Cur. edd. in parenthesis, ‘one’.

(22) סיני, sc. R. Joseph (v. Hor. 14a, Sonc. ed., p. 105, n. 3).

(23) Since our Mishnah excludes only WATER AND SALT.

(24) מזון a foodstuff that both nourishes and sustains (v. Rashi s.v. באומר a.l.).

(25) מזונות pl. of מזון.

(26) Wheat, barley, rye, oats and spelt.

(27) But over no other foodstuffs, contrary to our Mishnah which regards them as mazon (v. supra n. 4).
(28) V. Ber. 35b.
(29) הזן, rt. זון 'to nourish'. He did not use the noun mazon which would have applied to the five kinds of grain only which both nourish and satisfy one's hunger (v. supra n. 4).
(30) So MS.M. Cur. edd., 'I'.
(31) גינוסר Gennesareth, Heb. כנרת, Kinnereth, a district in 'Galilee adjoining the lake of the same name.
(32) Cur. edd. in parenthesis, 'not'.
(33) V. Glos.
(34) Which proves that fruit is not even a 'nourishment'. An objection against R. Huna's reply.
(35) Since this oath was limited to eating only. An 'erub, provided somebody is able to eat it, is valid even if the person for whom it was prepared is unable to cat it.
(36) עלי, lit., 'upon me', an expression which implies the prohibition of all benefit.
(37) How then could Rab maintain, against this Baraitha, that when such an expression was used no 'erub may be prepared from the loaf.
(38) Lit., 'thus'.
(39) Lit., 'when'.
(40) Which does not imply the prohibition of all other benefits.
(41) Lit., 'thus also'.
(42) In the Baraitha cited.
(43) Lit., 'let him divide and teach'.
(44) A loaf that was not consecrated.
(45) That "rub for him may be prepared.
(46) Because it would be contended that this expression also implies the prohibition of eating only?
(47) I.e., the final clause of the first clause ('This applies only when he said: "that l will not taste it ') from which it was been inferred supra that if a man used such an expression no 'erub for him may be prepared from the forbidden loaf.
(48) As the main purpose of a loaf is the eating of it, 'benefit' in respect of it can apply to eating only.
(49) How could he, contrary to the ruling of the Baraitha, maintain that where a man 'forbade' a loaf to himself no 'erub from it may be prepared for him?
(50) The prohibition being limited to the man's action only, while the preparation of an 'erub is a mere benefit that involves no actual action on his part.
(51) So that the prohibition was not limited to the man's action but was imposed on the very object itself, including whatsoever benefit One may derive therefrom.
(52) The first clause of R. Eliezer's ruling in this Baraitha is thus in direct contradiction to his ruling in the previous Baraitha. How then could it be maintained that he land down both rulings?
(53) Lit., 'and according'.
(54) Because he is forbidden to consume it.
(55) Cf. notes on our Mishnah supra.

Talmud - Mas. Eiruvin 30b

that an 'erub may be prepared for an adult in connection with the Day of Atonement'?[1] 'Indeed [we do]', the others replied. 'As', the former said to them, 'an 'erub may be prepared for an adult in connection with the Day of Atonement, so may an 'erub be prepared for a nazirite with wine or for an Israelite with terumah'.[2] And Beth Shammai?[3] — There[4] a meal is available that is fit [for consumption] while it is yet day[5] but here[6] no meal is available that is fit [for consumption] while it is yet day.[7]

In agreement with whom?[8] — Not in agreement with Hananiah. For it was taught: Hananiah stated: Beth Shammai did not admit the very principle[9] of 'erub unless the man takes out thither'[10] his bed and all the objects he uses.

Whose view is followed by the Baraitha in[11] which it was taught: If a man prepared an 'erub[12] [while he was dressed] in black[13] he must not go out[14] in white;[13] [if he was then[15] dressed] in white he must not go out[14] in black? Whose [view, it is asked, is this]? — R. Nahman b. Isaac replied: It is [that of] Hananiah in accordance with the view of Beth Shammai.[16] According to Hananiah, however, is it only in black that he must not go out but may go out in white? Did he not in fact rule [that an ‘erub is invalid] ‘unless the man takes out thither his bed and all the objects he uses’? — It is this that was meant: If he prepared an ‘erub [while he was dressed] in white and then required black he must not go out even in white. In agreement with whom [is this ruling]? R. Nahman b. Isaac replied: It is in agreement with that of Hananiah in accordance with the view of Beth Shammai.

SYMMACHUS RULED: WITH UNCONSECRATED PRODUCE. But [against the ruling that AN ‘ERUB MAY BE PREPARED] FOR A NAZIRITE WITH WINE he does not contend. What is the reason? [Is it] because it is possible that he might ask to be released from, his naziriteship?[17] But, if so, is it not equally possible for him to ask for the release of the terumah?[18] — Were he to ask for its release it would return to its state of tebel.[19] But he could [still] set aside[20] [the priestly dues] for it[21] from some other produce?[22] — Fellows[23] are not suspected of setting aside terumah from [produce] that is not in close proximity [to the produce for which it is set aside]. But he can [still] Set aside the terumah for it from [the very ‘erub] itself?- [This is a case] where it[24] would not contain the prescribed quantity. But why this certainty?[25] This rather [is the reply:][26] Symmachus holds the same opinion as the Rabbis who had land down that every kind of Occupation that may be classed as shebuth[27] has, as a preventive measure,[28] been forbidden [on the Sabbath Eve] at twilight.[29] Whose view is followed in[30] what we learned: There are [some measures] which the Rabbis have prescribed in accordance with each individual. [E.g.,] ‘his handful’ of the meal-offering,[31] ‘his handsful’ of incense,[32] the drinking of a mouthful on the Day of Atonement,[33] and [the requirement] of food [sufficient for] two meals in the case of an ‘erub?[34] in agreement with whose view, [it is asked, is this Mishnah]?[34] — R. Zera replied: It [is in agreement with that of] Symmachus who had land down that [the food for an ‘erub] must be such as is fit for the person [for whom it is prepared].[35]

Must it be assumed [that this Mishnah][36] differs from the view of R. Simeon b. Eleazar,[37] it having been taught: R. Simeon b. Eleazar ruled: An ‘erub for a sick, or for an old man is to consist of food sufficient for him [for two meals], and for a glutton, [each of the two meals is to consist] of a moderate meal for an average man?[38] — The explanation [is that the Mishnah[36] refers] to a sick, and an old man;[39] but [not to] a glutton whose habit is disregarded in the view of the average man.[40]

[AN ‘ERUB] MAY BE PREPARED] FOR A PRIEST IN A BETH PERAS; for Rab Judah stated in the name of Samuel: A man may : blow away [the earth of] a beth peras[41] and continue on his way.[42] R. Judah b. Ammi ruled in the name of Rab Judah: A trodden beth peras is levitically clean.[43]

R. JUDAH RULED: EVEN IN A GRAVEYARD. A Tanna taught:[44] Because a man can put up a screen[45] and pass [through it] in a chest, box or portable turret. He is of the opinion that a movable[46] tent has the status of[47] a [fixed] tent.[48]

And [they[49] differ on a principle which is the subject of] dispute among the following Tannas. For it was taught: If a man enters a heathen country[50] [riding] in a chest, box or portable turret he is, Rabbi ruled, levitically unclean, but R. Jose son of R. Judah declares him to be clean. On what principle do they differ? One Master is of the opinion that a movable[46] tent has not the status of a valid tent[51] and the other Master maintains that even a movable[46] tent[52] has the status of a valid tent.[53]

It was taught:[54] ‘R. Judah ruled,

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(1) Though the adult is forbidden to consume any food on that day the ‘erub is valid because a minor who is free from the observance of the commandments, could well eat it even on that day.

(2) While the nazirite and the Israelite respectively are forbidden to consume such ‘erubs, non-nazirites and priests respectively are not forbidden and may well consume them.
(3) How can they maintain their view against this argument?
(4) All ‘erub for the Day of Atonement.
(5) The Eve of the Day of Atonement, when the ‘erub is prepared.
(6) The cases of wine for a nazirite or terumah for an Israelite.
(7) At no time is a nazirite permitted to drink wine or an Israelite to eat terumah.
(8) Is this Baraitha which attributes to Beth Shammai the view that an ‘erub of food alone is effective.
(9) Lit., ‘all themselves’.
(10) To the spot where the ‘erub is deposited.
(11) Lit., ‘like whom goes that’.
(12) Of Sabbath limits at a distance of two thousand cubits from his abode.
(13) Garments.
(14) On the Sabbath, if after he deposited the ‘erub on the Eve of the Sabbath, he returned to his permanent home.
(15) When he deposited the ‘erub.
(16) Supra.
(17) And a competent authority, provided there is valid ground for it, could release him from his vow and thus enable him again to drink wine.
(18) Which on returning to its former state of unconsecration would be permitted to an Israelite also.
(19) טבל, produce before the priestly dues have been separated from it. Such produce may not be eaten.
(20) At twilight on Friday just before Sabbath begins, after having prepared the ‘erub.
(21) The ‘erub.
(22) Lit., ‘place’; from produce which he has at home, and thus render the ‘erub fit for consumption.
(23) חבירים, ‘fellow scholars’ or members of a fraternity meticulously observing the laws of tithes and levitical uncleanness.
(24) The ‘erub after terumah would have been separated from it.
(25) That the Tanna deals only with an ‘erub that was so small in quantity. As a general ruling one would rather expect it to apply to all cases.
(26) To the question, raised supra, why Symmachus differed only in respect of UNCONSECRATED PRODUCE and not in respect of WINE.
(27) שבות (rt. שבת ‘to rest’) an act that is only Rabbinically forbidden to be performed on the Sabbath.
(28) That one might not perform the same work on the Sabbath when it is forbidden Pentateuchally.
(29) The setting aside of terumah is such an act. Hence the untenability of the suggestions supra on the methods of converting terumah into unconsecrated produce.
(30) Lit., ‘like whom goes that’.
(31) Lev. II, 2.
(32) Ibid. VI, 12.
(33) V. Yoma VIII, 2.
(34) Kel. XVII, 11.
(35) Lit., ‘for him’.
(36) From Kelim, just cited, according to which certain measurements are determined by the nature of the individual concerned (Ritba).
(37) Who, as the following Baraitha shows, determines the food required for the ‘erub of a glutton by the requirements of the average man.
(38) Tosef. ‘Er. VI, where, however, the reading ‘or for an old man’ is replaced by ‘fastidious person or minor.
(39) In agreement with the ruling of R. Simeon b. Eleazar.
(40) Lit., his mind is abolished by the side of all man’.
(41) A man walking through an area in which a grave has been ploughed, any portion of the soil of which is in consequence a possible repository of a human bone which conveys levitical uncleanness to the man who moves it with his foot, is subject to the laws of doubtful uncleanness. If the earth, however, is blown or moved away in front of him step by step he remains levitically clean since all covered bones are thus exposed and easily avoided.
(42) In this manner a priest, who is forbidden to defile himself for the dead, can make his way to his ‘erub even in such

an area.

(43) All bones in its soil are assumed to have been thoroughly crushed by the feet that have trodden on them; and bones that are smaller than the size of a barley grain convey no levitical defilement; v. Pes. 92b.

(44) A reason for R. Judah's ruling.

(45) Between his body and the graveyard.

(46) Lit., ‘thrown.

(47) Lit., ‘its name is’.

(48) And constitutes a valid screen or partition between the man and a levitically unclean object.

(49) R. Judah and the first Tanna.

(50) Which conveys levitical defilement to any man that enters it. [It is suggested that the uncleanness of the land of the Gentiles was decreed in the days of Alcimus, in order to stem the tide of emigration that had set in as a result of his persecutions, v. Weiss, Dor. I, 105.]

(51) Hence it cannot constitute a screen between the man and the unclean territory.

(52) Provided its dimensions are of the prescribed size.

(53) And constitutes a valid screen. The first Tanna is thus in agreement with Rabbi's view while R. Judah is of the same opinion as R. Jose son of R. Judah.

(54) So MS.M. and Rashal. Cur. edd., ‘but that which was taught’.

Talmud - Mas. Eiruvin 31a

An ‘erub for a levitically clean priest may be prepared from levitically clean terumah[1] [and deposited] on a grave.’ How does he[2] get there? — In a chest, box or portable turret. But since [the ‘erub] was put down [on the grave] it became levitically unclean?[3] — [This is a case] where [the ‘erub] was not rendered susceptible to levitical uncleanness[4] or one kneaded in fruit juice.[5] But how does he get it?[6] — By means of flat wooden pieces which are unsusceptible to levitical uncleanness.[7] But does not [a wooden piece] constitute a tent?[8] — One might carry it edgeways.[9] If so, what could be the reason of the Rabbis?[10] — They are of the opinion that a home[11] must not be acquired with things the benefit of which is forbidden.[12] Thus [it follows] that R. Judah is of the opinion that this is permitted; for he upholds the view that the commandments were not given [to men] to derive [personal] benefit from them.[13] With reference, however, to what Raba stated: ‘Commandments were not given [to men] to derive benefit from them’,[14] must it be said[15] that he made his traditional statement in agreement with [one of the] Tannas only? — Raba can answer you: Had they[16] been of the opinion that an ‘erub may be provided in connection with a religious duty only[17] all [would have been unanimous,[18] since] commandments were not given [to man] to derive benefit from them. Here, however, they[19] differ on the following principle. The Master is of the opinion that an ‘erub may be prepared in connection with a religious duty only and the Masters are of the opinion that an ‘erub may be prepared even in connection with a secular matter.[20]

In respect, however, of what R. Joseph ruled: ‘An ‘erub may be prepared only in connection with a religious duty’,[21] must it be said that he land down his traditional ruling in accordance with [the view of one of the] Tannas?[22] — R. Joseph call answer you: All [agree that] an ‘erub may be prepared in connection with a religious duty only, and all [may also agree that] the commandments were not given [to men] to derive benefit from them, but It is this principle on which they differ. The Master[22] is of the opinion that once a man has acquired the ‘erub[23] it is no satisfaction to him that it is preserved,[24] and the Masters[25] are of the opinion that a man does derive satisfaction if his ‘erub is preserved; for [in that case] he can eat it whenever he needs it.[26]

MISHNAH. AN ‘ERUB MAY BE PREPARED WITH DEMAI,[27] WITH FIRST TITHE FROM WHICH ITS TERUMAH[27] HAD BEEN TAKEN AND WITH SECOND TITHE AND CONSECRATED [FOOD] THAT HAVE BEEN REDEEMED; AND PRIESTS [MAY PREPARE THEIR ‘ERUB] WITH HALLAH.[28] [IT MAY] NOT [BE PREPARED], HOWEVER, WITH TEBEL,[27] NOR WITH FIRST TITHE THE TERUMAH FROM WHICH HAS NOT BEEN

TAKEN, NOR WITH SECOND TITHE OR CONSECRATED [FOOD] THAT HAVE NOT BEEN REDEEMED.

GEMARA. DEMAI, surely is not fit for him![29] — Since he[30] could, if he wished, declare his estate to be hefker,[31] and thereby become a poor man when it would be fit for him, it is now also deemed to be fit for him. For we learned: It is permitted to feed poor men

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(1) And much more so from unconsecrated food.

(2) Being forbidden to enter an unclean area.

(3) Granted the priest remains levitically clean the food is levitically unclean and is in consequence forbidden to him.

(4) One for instance that was never in contact with water.

(5) Which, unlike water, does not render foodstuffs with which it comes in contact susceptible to levitical uncleanness.

(6) The ‘erub on the grave when he wishes to cat it. An ‘erub according to R. Judah, is not effective, unless the mall for whom it is prepared is able to eat (v. Rashi s.v. היכי a.l.).

(7) Vessels which are susceptible to levitical uncleanness must not be used since such vessels would attract uncleanness from the dead body and convey it to the man who would in consequence be forbidden to consume his ‘erub which consists of levitically clean terumah.

(8) if it is a handbreadth, in circumference. Such a tent (ohel) in accordance with a Rabbinical enactment (v. Shah. 17a) conveys uncleanness to the man who carries it and he thus becomes unfit to eat clean terumah of which, his ‘erub was prepared.

(9) אחודה MS.M. and marg. note on Rashi a.l. (Cur. edd. אחוריה, ‘behind him’). Where the edges measure less than a handbreadth, and the piece of wood is carried in a vertical position, no ‘tent’ is constituted.

(10) Who do not allow the deposit of an ‘erub even on an isolated grave. Granted that a movable ‘tent’ is no valid partition in a graveyard, why should not a priest standing at the side of an isolated grave be allowed in this manner to remove his ‘erub from it and eat it?

(11) The place where an ‘erub is deposited is deemed to be the ‘home’ of the man for whom it was prepared.

(12) It is forbidden to have any benefit from a grave, a shroud or any of the requirements of a corpse (v. Sanh. 47b). Hence the Rabbis’ prohibition of the use of a grave for an ‘erub not only in the case of a priest but also in that of an Israelite. The mention of a priest merely indicates the extent of R. Judah's leniency: Not only is an Israelite permitted but also a priest.

(13) V. R.H. 28a. In his opinion no ‘erub may be prepared unless it is for the purpose of enabling a person to perform a commandment, as in the case where he desires to go to a house of mourning or to a wedding feast (v. infra).

(14) R.H. 28a.

(15) Since the Rabbis differ from R. Judah.

(16) The Rabbis.

(17) Cf. supra p. 214, n. 9.

(18) In permitting the use of a grave for an ‘erub.

(19) R. Judah and the Rabbis.

(20) From which one derives personal benefit. Hence their prohibition.

(21) Infra 82a.

(22) R. Judah.

(23) At twilight on the Sabbath eve.

(24) Since the main object for which the ‘erub was prepared has already been achieved. Its preservation of the grave is therefore of no benefit to him.

(25) The Rabbis.

(26) The preservation of the ‘erub on the grave is consequently a benefit to him and is, therefore, forbidden.

(27) V. Glos.

(28) V. Glos. MS.M. adds: ‘and terumah’.

(29) Sc. for the man for whom it is prepared. And since our Mishnah allows it nevertheless to be used for an ‘erub, does not an objection arise against Symmachus (cf. Tosaf. s.v. דמאי a.l.) who laid down that an ‘erub must consist of food which the man for whom it is prepared is able to eat?

(30) Any man for whom it is prepared.

(31) V. Glos.

Talmud - Mas. Eiruvin 31b

and billeted troops[1] with demai.[2] R. Huna stated: One taught: Beth Shammai ruled: Poor men may not be fed with demai, and Beth Hillel ruled: Poor men may be fed with demai.[3]

AND WITH FIRST TITHE FROM WHICH [ITS TERUMAH] HAD BEEN TAKEN etc. Is not this obvious?- [The ruling was] required in the case only where [the Levite][4] forestalled the priest[5] whilst [the grain was still] in the ears and from[6] [his first tithe] was taken terumah of the tithe[7] but no terumah gedolah;[8] and this[9] is in agreement with a ruling made by R. Abbahu in the name of Resh Lakish. For R. Abbahu stated in the name of Resh Lakish: First tithe that was set apart, before [the other dues, while the grain was still] in the ears, is exempt from terumah gedolah, for it is said in Scripture: Then ye shall set apart of it a gift[10] for — the Lord, even, tithe of the tithe;[11] I only told you [to set apart] 'a tithe of the tithe' but not terumah gedolah and the tithe of the tithe from the tithe. Said R. Papa to Abaye: If so, [the same rule should apply] also where [the Levite] forestalled the priest[12] [while the grain was already] in a pile?[13] — Against you, the other replied, Scripture stated: Thus ye shall set apart in gift[14] unto the lord of all your tithes.[15] And what [reason] do you see [for this distinction]?[16] — The one has become corn[17] but the other[18] has not.[19]

AND WITH SECOND TITHE AND CONSECRATED [FOOD]THAT HAVE BEEN REDEEMED. Is not this obvious? — [The ruling was] required in the case only where the principal was paid but not the fifth;[20] and this teaches us that [the omission to pay] the fifth does not invalidate the redemption.[21]

[IT MAY] NOT [BE PREPARED,] HOWEVER, WITH TEBEL. Is not this obvious? — [The ruling was] necessary in such a case only as Rabbinical tebel as, for Instance, when [produce] was sown[22] in an unperforated pot.[23]

NOR WITH FIRST TITHE THE TERUMAH FROM WHICH HAS NOT BEEN TAKEN. Is not this[24] obvious? — This[24] was necessary in such, a case only where [the Levite] forestalled the priest[25] [in taking his due[26] when the grain was already] in the pile,[27] and terumah of the tithe was taken from it,[28] while terumah gedolah was not taken from it. It might consequently have been assumed [that the ruling is] as R. Papa submitted to Abaye,[29] hence we were informed [that the ruling is] in agreement with the latter's reply.[30]

NOR WITH SECOND TITHE AND CONSECRATED [FOOD] THAT HAVE NOT BEEN REDEEMED. Is not this obvious? — [The ruling was] required in that case only where they were redeemed but their redemption was not performed in the prescribed manner;[31] where the TITHE [for instance] was redeemed with a piece of uncoined metal[32] whereas the All Merciful ordained, 'And thou shalt bind up[33] the money,'[34] [implying that] the metal must be coined;[35] and where the CONSECRATED [FOOD] was exchanged for a plot of land, whereas the All Merciful ordained, 'And he shall give the money...[36] and it should be assured for him'.[37]

MISHNAH. IF A MAN SENDS HIS 'ERUB[38] BY THE HAND OF A DEAF-MUTE,[39] AN IMBECIle OR A MINOR, OR BY THE HAND OF ONE WHO DOES NOT ADMIT [THE PRINCIPLE OF] 'ERUB,[40] THE 'ERUB IS NOT VALID. IF, HOWEVER, HE INSTRUCTED ANOTHER PERSON TO RECEIVE IT FROM HIM,[41] THE 'ERUB IS VALID.

GEMARA. IS NOT A MINOR [qualified to prepare an 'erub]? Did not R. Huna in fact rule: A minor may collect[42] [the foodstuffs for] the 'erub?[43] — This is no difficulty since the former[44] refers to an 'erub of boundaries while the latter deals with an 'erub of courtyards.[45]

OR BY THE HAND OF ONE WHO DOES NOT ADMIT [THE PRINCIPLE OF] ‘ERUB. Who? — R. Hisda replied: A Samaritan.

IF, HOWEVER, HE INSTRUCTED ANOTHER PERSON TO RECEIVE IT FROM HIM, THE ‘ERUB IS VALID. But is there no need to provide against the possibility that [the minor] might not carry it to him? — As R. Hisda explained elsewhere, ‘Where [the sender] stands and watches him’,[46] here also [it may be explained:] Where he stands and watches him.[46] But is there no need to provide against the possibility that [the agent] would not accept it from him?[47] — As R. Yehiel explained elsewhere, ‘It is a legal presumption that an agent carries out his mission, so here also [it may be explained:] It is a legal presumption that an agent carries out his mission.

Where were the Statements of R. Hisda and R. Yehiel made? — In connection with the following. For it was taught: If he gave it[48] to [a trained] elephant who carried it,[49] or to [a trained] ape who carried it,[49] the ‘erub is invalid; but if he instructed someone[50] to receive it from the animal,[51] behold the ‘erub is valid — Now is it not possible that it would not carry it?[52] — R. Hisda replied: [This is a case] where [the sender] stands and watches it.[53] But is it not possible that [the agent] would not accept it from [the animal]?[51] — R. Yehiel replied: It is a legal presumption that all agent carries out his mission. R. Nahman ruled: In [respect of a law] of the Torah, there is no legal presumption that all agent carries out his mission;

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(1) Who, being away from their homes, ire regarded as poor.

(2) Dem. III, 1, supra 17b.

(3) Cf. supra 17b where ‘and billeted troops’ follows ‘poor man’ in the rulings of Beth Shammai and Beth Hillel.

(4) Whose due, the second tithe, follows that of terumah ‘gedolah (v. Glos.) for the priest.

(5) Lit., ‘him’, i.e., received his first tithe before the priest received his terumah gedolah.

(6) Lit., ‘from it’.

(7) Which is due from the Levite to the priest —

(8) Which should have been taken from it before it was given to him, and which is now contained in it.

(9) That such first tithe is permitted to the Levite despite the terumah gedolah which it contains.

(10) תרומת const. of terumah (v. Glos.).

(11) Num. XVIII, 26.

(12) V. supra p. 216, n. 8.

(13) Sc. after it had been threshed.

(14) V. p. 216, n. 13.

(15) Num. XVIII, 28. כל before תרומת in cur. edd. is absent from M.T. and is also omitted here.

(16) Between first tithe that was set apart while the grain was in its ears and between one set apart after it had been threshold. Why should the former only be exempt from terumah gedolah?

(17) אידגן denom. of דגן ‘corn’. Only corn is subject to the priestly dues (v. Deut. XVIII, 4).

(18) Grain in the ears.

(19) So that when the Levite received his first tithe the grain was not yet subject to terumah gedolah, while at the time it was threshold it had already the status of first tithe which is exempt in accordance with Num. XVIII, 26.

(20) V. Lev. XXVII, 31.

(21) Lit., ‘prevents’, ‘hinders’.

(22) Lit., ‘when he sowed it’.

(23) only produce that grows in the ground or at least, in a perforated Pot, and thus draws its nourishment from the earth is Pentateuchally subject to the priestly and levitical clues.

(24) That first tithe produce from which terumah of the tithe had not been taken is unfit for consumption, and consequently unsuitable for ‘erub.

(25) Lit., ‘him’.

(26) First tithe.

(27) Sc. after it had been threshed.

(28) Not as has previously been assumed that it was not.
(29) Supra, that even such produce should not be subject to terumah gedolah.
(30) Lit., 'as he answered him', that, since at the time the Levite received his due, the produce was already subject to terumah gedolah, it remains unfit for use until such terumah had been set apart for it.
(31) Lit., 'according to their law'.
(32) אסימון, Gr. **
(33) וצרת v. infra n. 7.
(34) Deut. XIV, 25.
(35) Lit., 'silver which has on it a figure'. צורה 'figure' is analogous in form to וצרת (v. supra n. 5).
(36) But not land.
(37) The italicized words occur in Lev. XXVII, 19. For 'and he shall give' M.T. reads: 'then he shall add the fifth of', v. B.M., Sonc. ed., p. 321, n. 1.
(38) To the spot which he desires to establish as his abode for the Sabbath.
(39) This is the usual signification of חרש (deaf) in the Talmud.
(40) This is explained infra.
(41) And to deposit it in the prescribed manner.
(42) From the tenants of a courtyard.
(43) And prepare it for them.
(44) Lit., 'here', our Mishnah.
(45) In the latter case the mere contribution of the tenants to a common 'erub constitutes the fusion of their private domains. In the former case, however, acquisition of the abode is necessary but no minor is legally competent to effect acquisition.
(46) Thus making sure that the 'erub is 'duly carried to the competent agent.
(47) And, despite his appointment as agent, would neglect the preparation of' the 'erub.
(48) His 'erub of boundaries.
(49) Towards the required spot.
(50) Lit., 'to another'.
(51) Lit., 'from it'.
(52) To the agent.
(53) Thus making sure that the 'erub is duly carried to the competent agent.

in [respect of a law] of the Scribes there is a legal presumption that an agent carries out his mission. R. Shesheth, however, ruled: In respect of the one as in that of the other there is a legal presumption that an agent carries out his mission.

Whence, said R. Shesheth, do I derive this?'[1] From what we learned: As soon as the omer[2] had been offered the new produce[3] is forthwith permitted; and those who [live] at a distance[4] bare permitted [its use] from mid-day onwards.[5] [Now, the prohibition against the consumption of] new produce is Pentateuchal, and yet it was stated that ‘those who [live] at a distance are permitted [its use] from mid-day onwards’. Is not this due to the legal presumption that an agent carries out his mission?[6] And R. Nahman?[7] — There [the presumption is justified] for the reason stated:[8] Because it is known that Beth din would not shirk their duty.[9]

Others there are who read: R. Nahman said: Whence do I derive this?[10] since the reason stated[11] was, ‘Because it is known that Beth din would not shirk their duty’, [it follows that] it is only Beth din who do not shirk their duty but that an ordinary agent might. And R. Shesheth?[12] — He can answer you: Beth din [are presumed to have carried out their duty] by mid-day, while an ordinary agent [is presumed to have done his before] all the day [has passed]. Said R. Shesheth: Whence do I derive this?[13] From what was taught: A woman who is under the obligation[14] [of bringing an offering in connection with] a birth[15] or gonorroea[16] brings [the required sum of][17] money which she puts into the collecting box,[18] performs ritual immersion and is permitted to eat consecrated: food in the evening.[19] Now what is the reason?[20] Is it not because we hold that it is a legal presumption that an agent[21] carries out his mission?[22] And R. Nahman?[23] — There [the presumption may be justified] in agreement with the view of R. Shemaiah. For R. Shemaiah laid down: There is a legal presumption that no Beth din of priest who would rise from their session[24] before all the money in the collecting box[25] had been spent.[26]

R. Shesheth again said: Whence do I derive this?[27] From what was taught: If a man said to another, ‘Go out and gather for yourself some figs[28] from my fig tree’, the latter may make[29] of them an irregular meal[30] or[31] he must tithe them [as produce that is] known[32] [to be untithed].[33] [If however, the owner said to him,] ‘Fill yourself this basket[34] with figs from my tree’ [the latter] may eat them as an irregular meal[35] or[36] must tithe them as demai.[37] This[38] applies only to [an owner who was] an am ha-arez,[39] but if he was a Fellow[40] [the latter] may eat [the fruit][41] and need not tithe them;[42] so Rabbi: R. Simeon b. Gamaliel, however, ruled: This[43] applies only to [an owner] an am ha-arez, but if he was a Fellow[40] [the latter] must not eat [the figs][44] before he has tithed them, because Fellows are not suspected of giving terumah from [produce] that is not in close proximity [to the produce for which it is given].[45] My view, remarked Rabbi, seems [to be more acceptable] than that of my father,[46] since it is preferable that Fellows should be suspected of giving terumah from [produce] that is not in close proximity [with that for which it is given] than that they should give ‘amme ha-arez[47] to eat all sorts of tebel.[48] Now, their[49] dispute extends only so far[50] that while one Master maintains that they are not suspected,[51] but both[52] [agree[53] that there is] legal presumption that an agent[54] carries out his mission.[55] And R. Nahman?[56] — There [the presumption is justified] in agreement [with the principle] of R. Hanina Hoza'ah. For R. Hanina Hoza'ah[57] laid down: It is a legal presumption that a Fellow would not allow any unprepared thing[58] to pass out of his hand.[59]

The Master said: ‘This applies only to [an owner who was] an am ha-arez, but if he was a Fellow [the latter] may eat [the fruit] and need not tithe them; so Rabbi’. To whom could this ‘am ha-arez[60] have been speaking? If it be suggested that he was speaking to an ‘am ha-arez like himself[61] [what sense is there in the ruling,] ‘Must tithe them, as demai’? Would he obey it?[62] Consequently it in must be a case[63] where an ‘am ha-arez was speaking to a Fellow. Now, then, read the final clause: ‘My view seems [to be more acceptable] than that of my father, since it is preferable that Fellows should be suspected of giving terumah from [produce] that is not in close proximity [with that for which it is given] than that they should give ‘amme ha-arez to eat all sorts of tebel’; how[64] does the question of ‘amme ha-arez at all arise?[65] — Rabina replied: The first clause deals with an ‘am ha-arez who was speaking to a Fellow, and the final clause deals with a Fellow who was speaking to all am ha-arez while another Fellow was listening to the conversation.[66] Rabbi

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(1) That even in respect of a Pentateuchal law it may be presumed that an agent carries out his mission.

(2) עמר (lit., ‘sheaf’ or ‘a measure containing the tenth part of an ephah’) the offering of barley of the firstfruits of the harvest on the sixteenth day of Nisan (cf. Lev. XXIII, 10).

(3) The consumption of which is forbidden before the ‘omer is offered.

(4) From Jerusalem; who in consequence are unable to ascertain the time the ‘omer was offered.

(5) Men. 68a (v. next note).

(6) Obviously it is. The priests being the agents of the people are presumed to have attended to their duty and to have done it before half of the day had passed.

(7) How, in view of the ruling cited, can he maintain that in respect of a Pentateuchal law there is no legal presumption that all agent carries out his mission?

(8) Lit., ‘as it was taught’.

(9) Lit., ‘be lazy about it’. This, therefore, is no proof that legal presumption is justified in the case of an ordinary agent.

(10) That in respect of a Pentateuchal law there is no legal presumption that an agent carries out his mission.

(11) For the ruling in the Mishnah of Men. cited.

(12) How could he maintain his ruling in view of this argument?

(13) that even in respect of a Pentateuchal law may be presumed that an agent carries out his mission.

(14) Lit., there is upon her’.

(15) V. Lev. XII, 6ff.

(16) V. ibid. XV, 29.

(17) The price of two turtles (v. Lev.XII, 8, and XV,29).

(18) שופר lit., horn’, a box so shaped in which those under an obligation to bring sacrifices put in amount corresponding to the cost of their respective sacrifices which were subsequently purchased for them by the priests (cf. Shek. VI,6).

(19) Men. 27a

(20) Why the woman may eat consecrated food though she had not herself witnessed the offering of her sacrifice.

(21) In this case the priests whose duty it is to purchase the necessary sacrifices on behalf of the donors.

(22) Obviously we do, it being presumed that before the day is over the priests will have purchased the sacrifice and offered it up. This proves that even in respect of a Pentateuchal law such a presumption is justified.

(23) How could he maintain his ruling in view of this argument.

(24) Lit., from there’.

(25) V. supra n. 6.

(26) On the purchase of the necessary sacrifices. Pes. 90b. The ruling in this case is consequently no proof that a similar presumption is justified where the mission is entrusted to an ordinary agent.

(27) V. supra n. 1.

(28) Sc. take an unspecified quantity’.

(29) Lit., ‘eat’.

(30) And he is under no obligation to set apart the priestly and levitical dues. An occasional meal is exempt from such dues.

(31) If he desires to make of them a regular meal.

(32) Lit., ‘certain’.

(33) He must set apart all the prescribed dues; because the owner who does not know how much was gathered could not possibly have set aside any dues for the figs in question.

(34) Sc. ‘take a specified quantity’.

(35) V. supra p. 221, n. 18.

(36) If he desires to make of them a regular meal.

(37) V. Glos., it being doubtful whether the owner, who knew the quantity of fruit to be gathered, had, or had not set

apart for it the required dues from some other produce.
(38) That the figs must be tithed at least as demai.
(39) V. Glos.
(40) Haber, v. Glos.
(41) Even as a regular meal.
(42) Since no haber would allow his produce to be eaten by anyone before he had himself duly set apart for it all the prescribed dues.
(43) That it is sufficient to tithe the figs as demai.
(44) As a regular meal.
(45) The figs, therefor, must be regarded as produced for which none of the prescribed dues were set apart.
(46) R. Simeon b. Gamaliel.
(47) עמי הארץ pl. of am ha-arez (v. Glos.).
(48) טבלים pl. of tebel (v. Glos.). This is explained soon.
(49) Rabbi and his father.
(50) Lit., ‘until here’.
(51) Of setting apart terumah from produce that is not in close proximity with that for which it is set apart.
(52) Lit., ‘all the world’.
(53) As R. Shesheth ruled.
(54) In this case the owner of the fig tree whose duty it is to provide for the proper separation of the prescribed dues.
(55) Since, even according to R. Simeon b. Gamaliel, had it not been for the consideration that produce and dues must be in close proximity, the owner would have been presumed to have set apart all the prescribed dues.
(56) How could he maintain his ruling in view of this argument?
(57) Of Hozae (Khuzistan).
(58) I.e., produce for which the prescribed dues have not been given.
(59) Pes. 9a. This presumption, however, does not apply to an ordinary agent who might sometimes fail to carry out his mission.
(60) The owner spoken of.
(61) Lit., ‘his friend’.
(62) Certainly not. The one ‘am ha-arez would rather rely on the other.
(63) Lit., ‘but’.
(64) Since the person addressed was a Fellow.
(65) Lit., ‘what do they want there?’
(66) Lit., ‘heard him’.

Talmud - Mas. Eiruvin 32b

is of the opinion that that Fellow may eat [the fruit] and need not tithe it because it is certain that the first Fellow had duly given the tithe for it, while R. Simeon b. Gamaliel ruled that he must not eat [the fruit] before he tithed it because Fellows are not suspected of giving terumah from [produce] that is not in close proximity [to that for which it is given]. Thereupon Rabbi said to him, ‘It is preferable that Fellows should be suspected of giving terumah from [produce] that is not in close proximity [with that for which it is given] than that they should give amme ha-arez to eat all sorts of tebel’. On what principle do they[1] differ? — Rabbi holds that a Fellow is satisfied to commit a minor ritual offence[2] in order that an ‘am ha-arez should not commit a major one,[3] while R. Simeon b. Gamaliel holds that a Fellow prefers the ‘am ha-arez to commit a major ritual offence rather than that he should commit even a minor one.[4]

MISHNAH. IF HE DEPOSITED IT[5] ON A TREE ABOVE [A HEIGHT] OF TEN HANDBREADTHS,[6] HIS ‘ERUB IS INEFFECTIVE; [IF HE DEPOSITED IT AT AN ALTITUDE] BELOW TEN HANDBREADTHS HIS ‘ERUB IS EFFECTIVE. IF HE DEPOSITED IT IN A CISTERN,[6] EVEN IF IT IS A HUNDRED CUBITS DEEP, HIS ERUB IS EFFECTIVE.

GEMARA. R. Hiyya b. Abba and R. Assi and Raba b. Nathan sat at their studies while R. Nahman was sitting beside them, and in the course of their session they discussed the following. Where could that tree have been standing? If it be suggested that it stood in a private domain, what matters[7] it [it may be objected] whether it was ABOVE [A HEIGHT] OF TEN HANDBREADTHS or BELOW it, seeing that a private domain rises up to the sky? If, however, [it be suggested] that it stood in a public domain [the question arises] where did the man intend to make his Sabbath abode?[8] If it be suggested that he intended to make it on, [the tree] above, are not then he and his ‘erub in the same domain?[9] — [The fact,] however, [is that] he intended to make his Sabbath abode below.[10] But is he not[11] making use of the tree?[12] — It may still be maintained that [the tree] stood in a public domain and that the man's intention was to acquire his Sabbath abode below, but[13] [this Mishnah] represents the view of Rabbi who land down: Any act that is forbidden[14] by a Rabbinical measure[15] is not subject to that prohibition during twilight.[16] ‘Well spoken!’[17] said R. Nahman to them, ‘and so also did Samuel say’. ‘Do you[18] explain with it’, they said to him, ‘so much?’ (But did not they themselves explain [their difficulty] thereby? — In fact it was this that they said to him: ‘Did you embody it in the Gemara?)[19] — ‘Yes’, he answered them — So it was also stated:[20] R. Nahman reporting Samuel said: Here we are dealing with a tree that stood in a public domain, that was ten handbreadths high and four handbreadths wide, and the man had the intention to acquire his Sabbath abode below. This, furthermore, is the view of Rabbi who land down: Any act that is forbidden by a Rabbinical measure[15] is not subject to that prohibition during twilight.[21]

Raba stated: This[22] was taught only in respect of a tree that stood beyond the outskirts[23] of the town, but where a tree stood within the outskirts of the town[24] an ‘erub is effective even [if it was deposited] above [a height] of ten handbreadths,[25] since a town is deemed to be full.[26] If so,[27] the same [law should apply to an erub on a tree] beyond the outskirts of a town, for since Raba ruled: ‘A man who deposited his ‘erub [in any spot] acquires [an abode of] four cubits,’[28] that spot is a private domain which rises up to the sky?[29] — R. Isaac the son of R. Mesharsheya replied: Here we are dealing with a tree whose branches bent over beyond the four cubits

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(1) Rabbi and his father.

(2) Giving the dues from produce that is not in close proximity with that for which it is given.

(3) Eating tebel.

(4) V. supra n. 2.

(5) The ‘erub.

(6) This is explained in the Gemara infra.

(7) Lit., ‘what (difference is it) to me’.

(8) Lit., ‘to rest’.

(9) And the ‘erub should be effective even if it was deposited above a height of ten handbreadths.

(10) At the root of the tree in the public domain. If the ‘erub is above ten handbreadths it is ineffective because the tree on which it lay, being presumably no less than four handbreadths in width has, above a height often handbreadths, the status of a private domain, and carrying from a private domain into the public one, where the man had acquired his abode, is forbidden.

(11) When he takes down the ‘erub.

(12) Even where the height was less than ten handbreadths. Such use being forbidden on the Sabbath (cf. Bezah 36b) how could the ‘erub be deemed valid?

(13) In reply to the objection raised (v. previous note).

(14) On the Sabbath.

(15) Shebuth.

(16) Of the Sabbath Eve; because it is doubtful whether that time is regarded as Sabbath proper or as ‘the conclusion of the weekday. As the acquisition of a Sabbath abode by ‘erub must take effect at twilight, and since at that time the use of the tree was permitted, the ‘erub in the circumstances mentioned may well be deemed effective.

(17) Aliter: Perfectly correct. Alter: Thanks. The reading is ישר lit., ‘upright’ or יישר with כחך or כחכם ‘thy or your strength’ implied, ‘may thy (or your) strength be firm’.

(18) ‘Who seem so pleased with the answer —

(19) [I.e., have you included this as a fixed element in the Talmud? This is one of the few passages which throw light on the first stages of the redaction of the Talmud, v. J.E. XII, p. 15.]

(20) [A confirmatory amoraic tradition that this explanation has been included as a fixed element in the Talmud.]

(21) Supra q.v. notes.

(22) The ruling in our Mishnah.

(23) עיבורה (rt. עבר ‘to pass’), houses situated within seventy and two-thirds cubits from the town (v. infra 57a).

(24) A tree in such a locality of a town is likely to be used as a repository for an ‘erub by a person living in a neighbouring town, within two thousand cubits distance from this one, who is desirous of going two thousand cubits beyond the outskirts of the latter (Rashi).

(25) And the person intended to acquire his Sabbath abode below.

(26) Sc. with earth; even the space above the ground, since it is surrounded by houses, assumes some of the characteristics of a private domain, as if the ground itself were raised into the space above. Though movement of objects from the tree to the public domain remains forbidden the person's ‘abode’ in respect of the ‘erub is deemed to be level with it, and the ‘erub is consequently valid.

(27) If the ground, in respect of ‘erub, is deemed to be raised to the level of the ‘erub.

(28) Infra 35a.

(29) So that the ‘erub and the person are virtually in the same domain, however high the ‘erub lay (cf. supra n. 2).

Talmud - Mas. Eiruvin 33a

while the man intended to acquire his Sabbath abode at its root;[1] and what [is the explanation for the use of the expressions,] ‘above’ and ‘below’?[2] That [the branch][3] rises again into a vertical position. But could not the man,[4] if he so wished, bring [the ‘erub][5] by way of the upper part of the tree?[6] — [This is a case] where many people adjust their burdens[7] on it,[8] and [this ruling[9] is] in agreement with that of Ulla who laid down: If a column, nine handbreadths high,[10] was situated in a public domain and many people were adjusting their burdens on it, any man who throws[11] an object that comes to rest upon It is guilty.[12]

What is the source of the dispute between,[13] Rabbi and the Rabbis?[14] — It was taught: If he deposited it on a tree above [a height] of ten handbreadths, his ‘erub is ineffective;[15] [if he deposited it at an altitude] below ten handbreadths his ‘erub is effective, but he must not move it.[16] [If the ‘erub was deposited][17] within three [handbreadths from the ground] it is permitted to move it.[18] If he put it In a basket and hung it upon the tree his ‘erub is effective even if it was above [a height] of ten handbreadths;[19] Rabbi. But the Sages ruled: Wherever it is forbidden to move it the ‘erub is ineffective. Now to what [does the statement,] ‘But the cages ruled’ refer? If it be suggested: To the final clause,[20] [the difficulty would arise:] Does this imply that the Rabbis hold the opinion that [the use of the] sides[21] [is also] forbidden?[22] Consequently [it must refer] to the first clause.[23] But then, what [size of] tree is done to imagine? If [it is one] which is less than four [handbreadths in width,] then, surely, it is a spot of exemption;[24] and if it was four [handbreadths wide,][25] what is [the use, it may be asked,] that the ‘erub was put in a basket?[26] — Rabina replied: The first clause [is a case] where [the tree] had [a width] of four [handbreadths,[27] while] the final clause [deals with one] whose width was less than four [handbreadths][28] but the basket supplemented it to four

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(1) The branches outside the four cubits are obviously in the public domain. If, therefore, the ‘erub lay below the height of ten cubits it is possible to carry it in small stages of less than four cubits to the root of the tree which is a private domain only as regards ‘erub but not in respect of forbidding the movement of objects into it from the public domain. If, however, the ‘erub was deposited above the height of ten cubits (so that it rested in a private domain proper) it would not be permitted to carry it to the root of the tree (another private domain) via the public domain. Hence its invalidity.

(2) למעלה and למטה. Such terms are applicable to an ‘erub on a tree that stands upright but not to one on a branch, projecting horizontally. In the latter case the expressions, ‘high’ and ‘low’ would be expected.

(3) At first projecting horizontally at an attitude below ten handbreadths.

(4) Even where the ‘erub lay at a height of ten handbreadths, and beyond four cubits of the root where he intended to acquire the Sabbath abode.

(5) From the branch to the root of the tree.

(6) I.e., by climbing to the upper part of the tree, which, being above an attitude of ten handbreadths, is a private domain through which it is permitted to carry from the private domain in which the ‘erub lay to the root of the tree which also is a private domain.

(7) מכתפין denom. pi'el of כתף ‘to shoulder’.

(8) The branch that was beyond the four cubits was lower than ten handbreadths; which, in consequence, assumes the status of a public domain. It is impossible, therefore, to carry the ‘erub from the upright portion of the branch which is a private domain to the root of the tree which is also a private domain, since the only way possible, viz. the horizontal portion of the branch, constitutes a public domain of all the space above it, and it is forbidden to carry from one private into another private domain via a public domain (cf. Shab. 96a).

(9) That the branch has the status of a public domain.

(10) Only of that height; for if it was lower than three handbreadths it is regarded as a mere projection and as a part of the ground; from three to nine handbreadths in height, since it is too low for adjusting burdens, it is not deemed a public domain but it has the status of a karmelith (v. Glos.); and one of ten handbreadths in height is deemed to be a private domain.

(11) Across a distance of four cubits from the column

(12) Shab. 3a; of the offence of desecrating the Sabbath, because the column has the status of a public domain. Where, however, the public do not adjust their burdens upon the column it is not deemed a public domain and no guilt is incurred by the man who threw the object because, though he lifted it up in a public domain, it did not come to rest in a public domain, and no guilt for throwing a distance of four cubits in a public domain is incurred unless both the lifting and the resting of the object took place in a public domain.

(13) Lit., ‘what . . . and what’.

(14) Referred to supra 32b.

(15) If, as was explained supra, the man's intention was to make his abode at the root of the tree whose branches extended horizontally across the public domain to a distance of four cubits and then turned upwards into a vertical position.

(16) On the Sabbath, from its place on the tree to his ‘abode’ at the root of that tree; because the use of a tree is forbidden on the Sabbath. The ‘erub is nevertheless effective since at twilight on Friday, when the ‘abode’ is acquired, the use of the tree, which is only Rabbinically forbidden on the Sabbath, is then permitted and the ‘erub, therefore, could then be moved.

(17) On the tree.

(18) On the Sabbath; because a height of less than three handbreadths is regarded as the ground itself.

(19) Provided, as explained infra, the tree is less than four handbreadths in width.

(20) Rabbi having ruled that an ‘erub in a basket suspended from a tree is effective, the Sages objected that, since on the Sabbath the ‘erub’ may not be moved, on account of the Rabbinical prohibition against the use of a tree, it must not be moved, as a preventive measure, even at twilight of the Sabbath Eve when the ‘erub should come into force, and the ‘erub is consequently ineffective.

(21) As is the case here where the basket does not rest on the tree but is suspended from its sides.

(22) But this question in fact forms the subject of a dispute in Shab. 154b.

(23) Where Rabbi stated that an ‘erub on a tree below the height of ten handbreadths is effective though it may not be moved on the Sabbath. To this the Sages objected that, though the abode and the ‘erub were in the public domain, since the ‘erub may not be moved on the Sabbath, on account of the prohibition against the use of the tree, it may not be moved at twilight either, and the ‘erub is, therefore, invalid.

(24) I.e., a spot the identity of which is merged into the domain in which it is situated (v. Shab. 6a), so that it is permitted, even in Rabbinic law, to move objects from the former into the latter and vice versa. As the tree in question is situated in a public domain it is permitted to move the ‘erub from the one into the other. Why then should the ‘erub be ineffective even where it lay at a height above ten handbreadths?

(25) So that the prohibition in the first clause is due to the fact that the tree constituted a private domain from which it is forbidden to carry into the public domain.

(26) Seeing that neither the ‘erub alone nor the ‘erub with the basket may be moved from one domain into another.

(27) As the tree thus constituted a private domain the ‘erub on it could not be carried to the ‘abode’ in the public domain. Hence the invalidity of the ‘erub.

(28) In consequence of which it cannot be regarded as a private domain.

Talmud - Mas. Eiruvin 33b

and Rabbi adopts the same view as that of R. Meir and also the same as that of R. Judah. He adopts the same view as that of R. Meir who ruled: ‘Excavation may be imagined so that [the prescribed measurements] may be obtained’,[1] and he also adopts the same view as that of R. Judah who ruled: It is necessary that the ‘erub [shall rest] on a spot that is four [handbreadths wide]’, which is not the case here.[2]

What [is the source of the ruling of] R. Judah? — It was taught: R. Judah ruled: If a man inserted a pole in [the ground of] a public domain and deposited his ‘erub on it, his ‘erub is effective [if the pole was] ten [handbreadths] high and four [handbreadths] wide;[3] otherwise[4] his ‘erub is ineffective. On the contrary! Are not he and his ‘erub [in the latter case][5] in the same domain?[6] It is this rather that he[7] meant: [If the pole[8] was] ten [handbreadths] high it is necessary[9] that at its top it shall be four [handbreadths wide],[10] but if it was not tell [handbreadths] high it is not necessary for its top to be four [handbreadths wide].[11]

In agreement with whose view?[12] — [It is apparently] not in agreement with that of R. Jose son of R. Judah, seeing that it was taught: R. Jose son of R. Judah ruled: If a man inserted a reed in [the ground of] a public domain and on the top of it he fixed a basket,[13] any one who threw[14] something which came to a rest on the top of it incurs guilt?[15] — It[16] may be said [to be in agreement] even [with that of] R. Jose son of R. Judah, for there[17] the sides[18] surround [the reed],[19] but here[20] the sides[18] do not surround [the tree].[21] R. Jeremiah[22] replied:[23] A basket is different[24] since one might incline it and so[25] lower it within ten [handbreadths from the ground].[26] R. Papa sitting at his studies was discoursing on this traditional teaching,[27] when Rab b. Shaba pointed out to him the following objection: [We learned, he said]: How is one[28] to proceed?[29] He arranges [for the ‘erub’] to be carried [by a deputy[30] to the required spot] on the first day,[31] and, having remained there with it until dusk,[32] he takes it [with him][33] and goes away.[34] On the second day[35] he [again] comes [with it] and keeps it there until dusk[32] when he may consume it[36] and go away.[37]

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(1) Lit., ‘to complete’, v. supra 11b. Hence it is permissible to add the width of the basket to that of the tree to impart to the latter the status of a private domain. It is not regarded, however, as a private domain in all respects since the prescribed width does not extend below the basket where the width of the tree is less than four handbreadths.

(2) Lit., ‘and there is not’, unless the width of the basket is added.

(3) Because the area of four cubits in the public domain which he had acquired by making his abode for the Sabbath at the base of the pole, is in respect of the ‘erub regarded as a private domain which extends from the earth to the sky and in consequence of which he may move his ‘erub’ from the top of the pole, which is a private domain, to its base at the side of which he made his abode.

(4) Lit., ‘and if not’. This is now assumed to mean: If the width was less than four handbreadths or the height was less than ten handbreadths.

(5) ,Where the pole (v. previous note) was less than ten handbreadths high.

(6) Since the pole does not constitute a private domain. Why them is the ‘erub ineffective?

(7) R. Judah.

(8) On the top of which the ‘erub was placed.

(9) If the ‘erub is to be effective.

(10) Such a width constitutes a private domain and, as explained supra n. 5, the ‘erub is effective. If the width, however, is less than four handbreadths the ‘erub, resting in no ‘domain’ and being suspended, so to speak, in the air, must be ineffective.

(11) Sc. even if it is less than four handbreadths wide the ‘erub is effective, since an object suspended within ten handbreadths from the ground is deemed to be resting on the ground itself.

(12) Did Rabina (spurn 33a ad fin.) lay down that, though the width of the basket brings up a portion of a tree to the prescribed size of four handbreadths, the status of a private domain cannot be imparted to that portion unless the full height of the tree from the ground to that Spot was four handbreadths wide.

(13) Four hand breadths wide.

(14) From the public domain.

(15) Shah. 5a, 101a; because the basket has the status of a private domain though the reed below it is less than the prescribed width. Is it likely, however, that Rabina's view is in disagreement with that of R. Jose son of R. Judah?

(16) Rabina's view.

(17) The case of the basket on top of the reed.

(18) Of the basket.

(19) And the rule of ‘gud ahith’ by which the sides are assumed to descend to the ground may well be applied. The top of the reed may, therefore, be regarded as a private domain.

(20) A basket attached to the side of a tree.

(21) If the spot on which the ‘erub rested were to be regarded as a private domain two processes would have to be postulated, that (a) the tree is imagined to be cut away so as to make up with the basket the prescribed area of four handbreadths and (b) that the sides of the basket descended to the ground. The assumption of two such processes, however, is inadmissible even according to R. Jose son of R. Judah. (For another interpretation v. Rash s.v., ואית דמפרשי a.l.).

(22) Maintaining that the first as well as the second clause of the Baraitha (supra 33a) refers to a spot that was four hand breadths wide.

(23) To the objection (loc. cit. ad fin.): What is the use that the ‘erub was put in a basket?

(24) From a fixed tree or pole.

(25) Without detaching it from the tree.

(26) And so obtain his ‘erub without carrying it from one domain into another. Hence the validity of the ‘erub even if one did not actually incline the basket.

(27) Of R. Jeremiah.

(28) Who wishes to prepare an ‘erub for a festival, that occurred on a Friday, and for the Sabbath day following it.

(29) Were the ‘erub to be deposited on the festival eve only, it might sometimes be lost during the day before the Sabbath commenced and the man, though provided for during the festival at the commencement of which the ‘erub was in existence, would remain unprovided for during the Sabbath day.

(30) Cf Rashi s.v. מתיב and Tosaf. s.v. מוליכו a.l.

(31) Sc. on the festival eve.

(32) When, the ‘abode’ is acquired.

(33) For fear it gets lost.

(34) Lit., ‘and comes for himself’.

(35) Friday, which is the Sabbath eve.

(36) Since the ‘erub already served its purpose. He cannot again carry it away with him, as he did on the evening of the festival, since carrying in a public domain is forbidden on the Sabbath.

(37) Infra 3a.

Talmud - Mas. Eiruvin 34a

Now, why [should this[1] at all be necessary]? Let it rather be land down:[2] Since one could carry it[3] if one wished, [the ‘erub], though one had not actually carried it, is deemed to have been carried? — R. Zera replied: This[1] is a preventive measure against the possibility of [not carrying it[3] even when] a festival occurred on a Sunday.[4]

He pointed out to him [another] objection: If a man, intending to acquire his Sabbath abode in a public domain, deposited his ‘erub in a wall[5] lower than ten handbreadths [from the ground], his ‘erub is effective,[6] [but if he deposited it] above [a height of] ten handbreadths [from the ground][7] his ‘erub is ineffective.[8] If he intended to make his abode on the top of a dove-cote, or on the top of a turret, his ‘erub is valid [if it lay[9] at a height] above ten handbreadths [from the ground;[10] but if it lay at a level] below ten handbreadths [from the ground][11] his ‘erub is ineffective.[12] but why?[13] Could it not be said here also[14] [that the ‘erub is effective] ‘since one could incline [the dove-cote or the turret] and so lower it to a level of less than[15] ten [handbreadths from the ground]’?[16] — R. Jeremiah replied: Here we are dealing with a turret[17] that was nailed [to the wall].[18] Raba replied: It[19] may be said to refer even to a turret[17] that was not nailed [to a wall], for we might be dealing with a high turret[20] which, were one to incline it a little,[21] it would project[22] beyond [the original area of] four cubits.[23] But how is one to imagine [the circumstance]? If [the turret] had a window, and a cord [also was available, why should not the ‘erub] be taken up through the window by means of the cord?[24] — This is a case where there was neither window nor cord.

IF HE DEPOSITED IT IN A CISTERN EVEN IF IT IS A HUNDRED CUBITS DEEP etc. Where was this CISTERN situated? If it be suggested that it was situated in a private domain,

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(1) The carrying of an ‘erub to the place one wishes to acquire as his Sabbath abode.

(2) As was done in the case of the basket, that, since one might incline it etc., it is the same as if one actually did it.

(3) To the required spot.

(4) Lit., ‘(the day) after the Sabbath’. In such a case the ‘erub, if it is to be effective for the festival, must be carried to the required spot on the Sabbath eve. It cannot be taken there on the Sabbath when the carrying of objects is forbidden. Consequently, had it not been instituted that an ‘erub must always be carried to the required spot, one might erroneously have formed the opinion that even in the case postulated the carrying of the ‘erub to the required spot is unnecessary; and this would have had the result that the ‘erub could be ineffective, since in this case carrying on the Sabbath being forbidden, the principle, ‘Since it might be carried etc.’ is obviously inapplicable.

(5) That was more than four cubits distant from the ‘abode’. If it was within the four cubits the ‘erub is valid in both the following cases as explained supra in the case of a tree.

(6) Since it is possible to carry it from the wall to the ‘abode’ in small stages of less than four cubits. Such a mode of carrying is forbidden on the Sabbath proper by a Rabbinical measure only; and, as the twilight of the Sabbath eve is regarded as Sabbath proper also by a Rabbinical measure only and as one Rabbinical measure cannot he imposed upon another, the carrying in small stages has not been forbidden at twilight when the acquisition of the ‘abode’ takes place.

(7) So that the erub rested in a private domain.

(8) Since it is forbidden even at twilight to convey from a private domain (v. previous note) into a public domain (where the man would be standing when taking down the ‘erub from the wall).

(9) In the dove-cote or turret.

(10) Though the man could not carry the ‘erub from its place to his abode, on account of the public domain which intervened between his private domain and that in which the ‘erub lay (cf. Shab. 96a) he could well descend to the level where the ‘erub was deposited and consume it there, since in respect of ‘erub and ‘abode’ all space above ten handbreadths from the ground is regarded as one and the same domain.

(11) If the cote or turret, for instance, had several compartments one above the other, and the ‘erub lay in one of the lower ones.

(12) Since such a place has the status of a karmelith from which it is forbidden to carry the ‘erub to the top of the cote or turret on account of the public domain that intervened between them. Should the man descend to the level of the ‘erub to consume it there, he would be leaving the domain of his abode for another domain which is contrary to the requirement that the ‘erub must be in a positioned from which it can be taken to the abode and eaten there.

(13) Should an ‘erub below a level of ten handbreadths be ineffective.

(14) As was said by R. Jeremiah (supra 33b ad fin.) regarding the basket.

(15) Lit., ‘to bend it and bring it to within’.

(16) By lowering it to that altitude the ‘abode’ would be situated in a public domain into which, as explained supra, that two Rabbinical measures are not imposed upon one another, it is permitted at twilight of the Sabbath eve to carry from a karmelith. This Baraitha obviously represents the view of Rabbi (v. Supra 32b) since its first clause recognizes the validity of an ‘erub that was deposited in a wall below ten handbreadths from the ground though in such circumstances the man's abode is in a public domain while his ‘erub is in a karmelith.

(17) Or dove-cote.

(18) So that it cannot be moved from its position.
(19) The Baraitha under discussion.
(20) One higher than four cubits.
(21) To lower its top to an altitude of less than ten handbreadths.
(22) On account of its size.
(23) In which it was originally situated and which constituted the man's abode. An ‘erub cannot be effective unless it call be consumed within four cubits of the original position of the abode.
(24) Pulling with a cord in such circumstances is only a Rabbinical prohibition which, as explained Supra, does not apply to the twilight if Sabbath eve when the Sabbath abode is acquired. (This note follows Rashi's second, while the previous notes on the passage are based on Rashi's first explanation.)

Talmud - Mas. Eiruvin 34b

is [not this ruling, it may be objected,] obvious, seeing that a private domain rises up to the sky, and as it rises upwards so it descends downwards?[1] If, on the other hand, it be suggested that it was situated in a public domain, where [it may again be objected] did the man intend to have his Sabbath abode? If above,[2] he would be in one domain and his ‘erub in another;[3] and if below,[4] [is not the ruling again] obvious seeing that he and his ‘erub are in the same place?[1] - [This ruling was] required only in a case where [the cistern] was situated in a karmelith[5] and the man intended to make his abode above;[6] [and this ruling][7] represents the view of Rabbi who laid down: Any act that is forbidden by a Rabbinical measure[8] is not subject to that prohibition during twilight [on the Sabbath eve].[9]

MISHNAH. IF IT[10] WAS PUT ON THE TOP OF A REED OR ON THE TOP OF A POLE, PROVIDED[11] IT HAD BEEN UPROOTED AND THEN INSERTED [IN THE GROUND, EVEN THOUGH IT WAS A HUNDRED CUBITS HIGH, THE ERUB IS EFFECTIVE.[12]

GEMARA. R. Adda b. Mattena pointed out to Raba the following incongruity: [From our Mishnah it appears that] only[13] if IT HAD BEEN UPROOTED AND THEN INSERTED [IN THE GROUND is the ‘erub effective, but if it was] not first uprooted and then inserted [in the ground the ‘erub would] not [have been effective].[14] Now whose [view is this? Obviously] that of the Rabbis who ruled: Any act that is forbidden by a Rabbinical measure[15] is also forbidden at twilight [on the Sabbath eve].[16] But you also said that the first clause[17] [represents the view of] Rabbi. [Would then] the first clause [represent the view of] Rabbi and the final clause [that of the] Rabbis? — The other replied: Rami b. Hama has already pointed out this incongruity to R. Hisda who answered him that the first clause was indeed the view of Rabbi while the final one was that of the Rabbis. Rabina said: Both clauses[18] represent the view of Rabbi but [the restriction in] the final clause is a preventive measure against the possibility of nipping [the frail reed].[19]

An army once came to Nehardea[20] and R. Nahman told his disciples, ‘Go out into the marsh and prepare an embankment [from the growing reeds][21] so that to-morrow we might go there and sit on them’. Rami b. Hama raised the following objection against R. Nahman or, as others say: R. ‘Ukba b. Abba raised the objection against R. Nahman: [Have we not learnt] that only[22] if IT HAD BEEN UPROOTED AND THEN INSERTED [IN THE GROUND is the ‘erub effective, [from which it follows, if it was] not first uprooted and then inserted [in the ground the ‘erub is] not [effective]?[23] — The other replied: There[24] [it is a case] of hardened reeds.[25] And whence is it derived that we draw a distinction between hardened, and unhardened reeds? — From what was taught: Reeds, thorns and thistles belong to the species of trees and are not subject to the prohibition of kil'ayim[26] in the vineyard;[27] and another- [Baraitha] taught: Reeds, cassia and bulrushes are a species of herb and subject to the prohibition of kil'ayim in the vineyard. [Now are not the two Baraithas] contradictory to each other?[28] It must consequently be inferred that the former deals with[29] hardened reeds while the latter deals with[29] such as are not hardened. This is conclusive. But is cassia a species of herb?

Have we not in fact learnt: Rue[30] must not be grafted on white cassia because [this act would constitute the mingling of] a herb with a tree?[31] — R. Papa replied: Cassia and white cassia are two different species.[32]

MISHNAH. IF IT WAS PUT IN A CUPBOARD[33] AND THE KEY WAS LOST THE ‘ERUB IS NEVERTHELESS EFFECTIVE.[34] R. ELIEZER RULED: IF IT IS NOT KNOWN[35] THAT THE KEY IS IN ITS PROPER PLACE THE ‘ERUB IS INEFFECTIVE.

GEMARA. But why?[36] Is not this a case where he[37] is in one place and his ‘erub is in another?[38] — Both Rab and Samuel explained: We are dealing here with a CUPBOARD of bricks[39] and this ruling represents the view of R. Meir who maintains that it is permitted at the outset[40] to make a breach[41] [in a structure] in order to take [something out of it]. For we learned: If a house that was filled with fruit was closed up but a breach accidentally appeared,[42] it is permitted to take [the fruit out] through the breach;[43] and R. Meir ruled: It is permitted at the outset to make a breach[41] in order to take [the fruit out].[44] But did not R. Nahman b. Adda state in the name of Samuel [that the reference there[44] is] to a pile of bricks?[45] — Here[46] also [the reference is] to a pile of bricks. But did not R. Zera maintain that [the Rabbis][47] spoke only of a festival but not of a Sabbath?[48] — Here[49] also [the ‘erub is one that was prepared] for a festival. If that were so,[50] would it have been justified to state[51] in reference to this [Mishnah that] ‘R. Eliezer[52] ruled: If [the key] was lost in town the ‘erub is effective[53] but if it was lost in a field[54] it is not effective’ .[55] Now if it was on a festival[56] there is no difference in this respect between a town and a field?[57]

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(1) Why then should the obvious be stated?

(2) Outside the cistern in the public domain.

(3) In which case the ‘erub should be ineffective, while according to our Mishnah it is effective.

(4) In the cistern.

(5) For instance, in a stretch of fields.

(6) So that his abode was in a karmelith while his ‘erub lay in a private domain.

(7) Which assumes the permissibility of movement of objects between a karmelith and a private domain at twilight on the Sabbath eve.

(8) As is that of carrying the ‘erub from the private domain into the karmelith.

(9) When the acquisition of the abode takes place.

(10) An ‘erub.

(11) Lit., ‘at the time’.

(12) If it rested on a platform of no less than four handbreadths by four, that was attached to the top of the reed or the pole.’ Such a platform, though it conforms to the size of a private domain, cannot be regarded as a private domain proper on account of the base on which It rests which is narrower than the prescribed size of four handbreadths.

(13) Lit., ‘yes’.

(14) Obviously because the ‘erub could not be removed from its place on account of the prohibition of making use of a growing plant.

(15) Such as the use of a tree on the Sabbath.

(16) Supra 30b.

(17) The preceding Mishnah supra 32b.

(18) Lit., ‘all of it’.

(19) When removing the ‘erub from it. The nipping of a piece of reed is Pentateuchally forbidden and hence prohibited also at twilight. Such possibility need not be provided for in [the case of a tree which is hard and strong.

(20) And apparently took up the quarters that were used by R. Nahman and his disciples for their studies.

(21) I.e., by bending growing reeds over each other.

(22) Lit., ‘yes’.

(23) Obviously because it is forbidden to use a growing reed. How then could R. Nahman permit the use of an embankment made of growing reeds?

(24) The ruling in our Mishnah.

(25) Which are regarded as trees the use of which on the Sabbath is forbidden. Soft reeds, however, which come under the category of herb, may, therefore, be used.
(26) V. Glos.
(27) Tosef. Kil.III.
(28) In the former Baraitha reeds are classed as a species of tree and in the latter as a species of herb.
(29) Lit., ‘here
(30) Pigam, Gr. **.
(31) Kil. I, 8.
(32) Lit., ‘Cassia alone and white cassia alone’.
(33) Or TURRET. Var. lec. ‘and it was locked up’ (J.T. MS.M. and Asheri).
(34) The Gemara infra explains under what circumstances.
(35) So MS. M. Cur. edd., ‘if he does not know’.
(36) Is the ‘erub NEVERTHELESS EFFECTIVE.
(37) The man for whom the ‘erub was prepared.
(38) Since the man cannot get at the ‘erub without a key.
(39) Which can easily be broken into (as will be explained infra).
(40) Even on a day when mukzeh (v. Glos.) is forbidden.
(41) Lit., ‘to diminish’, ‘to hollow out’.
(42) Even if this happened on the very festival.
(43) And the fruit nevertheless is not regarded as mukzeh (v. Glos.).
(44) Bezah 31b.
(45) Loosely put together with no cement or mortar between them. What proof then is there that a breach may also be made at the outset in a cupboard, the bricks in whose walls are presumably firmly built up?
(46) In our Mishnah.
(47) In the Mishnah quoted from Bezah.
(48) Whereas the ‘erub in our Mishnah is presumably applicable to Sabbaths is well as festivals.
(49) In our Mishnah.
(50) That our Mishnah deals with an ‘erub for a festival only.
(51) Lit., ‘that is it which he taught?’
(52) var. lec. ‘Eleazar’.
(53) Because it is possible to carry the key to the cupboard by way of courtyards, roofs and similar places all of which belong to the same class of domain.
(54) From which it is forbidden to carry it to the cupboard.
(55) Tosef. ‘Er. 11.
(56) When the carrying of objects is permitted.
(57) Lit., ‘what to me etc.’ At this stage it may be explained. three different views have been recorded: (i) That of the first Tanna of our Mishnah who rules the ‘erub to be effective whether the key of the cupboard was lost in town or in a field, since in his view it is permitted to break into the cupboard to get to the ‘erub; (ii) That of R. Eliezer of our Mishnah who rules that the ‘erub is not effective irrespective of whether the key was lost in town or in a field, since in his opinion the cupboard may not be broken into (contrary to the view of R. Meir) nor may the key be carried by way of courtyards, roofs and the like because these (contrary to the view of R. Simeon) are not regarded as one domain; and (iii) that of R. Eliezer of the Baraitha who agrees with R. Simeon. Aliter: R. Eliezer of our Mishnah refers to a key lost in a field and thus upholds the view of R. Eliezer of the Baraitha (Rashi).

Talmud - Mas. Eiruvin 35a

— [Some words] indeed are missing [from the Baraitha] and this is the proper reading: If it was put In a cupboard and locked up and the key was lost the ‘erub is effective. This ruling, however, applies only to a festival but on a Sabbath[1] the ‘erub is ineffective. [Even] if the key was found,[2] whether in town or in a field, the ‘erub is ineffective.[3] R. Eliezer ruled: [If it was found] in town the ‘erub is effective; if in a field it is ineffective. ‘In town the ‘erub is effective’ in agreement with R. Simeon who laid down that roofs, courtyards as well as karpafs[4] have the status of the same domain in respect of objects that rested in them.[5] In a field it is ineffective in agreement with the Rabbis.[6]

Both Rabbah and R. Joseph explained:[7] We are dealing here with a wooden CUPBOARD, one Master[8] being of the opinion that it [has the status of] a vessel to which the prohibition of building or demolition does not apply,[9] while the other Master[10] is of the opinion that it [has the status of] a tent .[11] And do they[12] then differ on the same principle as the following Tannas? For we learned: [If a Zab][13] beat [his fist][14] upon a chest, a box or a cupboard[15] they[16] become levitically unclean,[17] but R. Nehemiah and R. Simeon declare them clean.[18] Now, do not these differ on the following principle: One Master[19] is of the opinion that it[20] [is regarded as] a vessel[21] while the other Masters[22] are of the opinion that it [is regarded as] a tent?[23] — Said Abaye: And how do you understand it?[24] Was it not in fact taught: ‘If it was a tent[25] that can be shaken[26] it is unclean; if it is a vessel[27] that cannot be shaken[28] it is clean’?[29] And, furthermore, in the final clause[30] it was taught: ‘But if they were shifted[28] they become unclean; this being the general rule: [If the object] is shifted from its place as a direct result of the zab's strength,[31] it becomes unclean, [but if it moved from its place] on account of the vibration [of an object on which it rested][32] it remains clean’ ?[33] Rather, said Abaye, all agree [that an object that] moved from its place as a direct result of the zab's strength is unclean[34] [but if it moved as] a result of the shaking [of another object on which it rested] it is clean;[35] but here[36] we are dealing [with an object], the vibration of which was the direct result of the zab's strength.[37] And it is this principle on which they differ. The Master[38] is of the opinion [that such vibration] is regarded as a shifting [of the object from its place],[39] and the Masters[40] are of the opinion that it is not so regarded.[41] How then is our Mishnah[42] to be explained?[43] — Both Abaye and Raba replied: We are dealing with a lock that[44] was tied with a cord for the cutting of which a knife is required.[45] The first Tanna holds the same view as R. Jose who laid down: All instruments may be moved on the Sabbath except a large saw[46] and the pin of a plough,[47] while R. Eliezer holds the same view as R. Nehemiah who laid down: Even a cloak and even a spoon may not be moved[48] except for the purpose for which they were made.[49]

MISHNAH. [IF THE ‘ERUB] ROLLED AWAY BEYOND THE [SABBATH] LIMIT,[50] OR IF A HEAP FELL ON IT,[51] OR IF IT WAS BURNT, [OR IF IT CONSISTED OF] TERUMAH THAT BECAME UNCLEAN,[52] [IF ANY OF THESE ACCIDENTS OCCURRED] WHILE IT WAS YET DAY,[53] IT IS INEFFECTIVE, [BUT IF IT OCCURRED] AFTER DUSK[54] THE ‘ERUB IS EFFECTIVE.[55] IF THIS IS DOUBTFUL[56] THE MAN,[57] SAID R. MEIR AND R. JUDAH, [IS IN THE POSITION OF BOTH] AN ASS-DRIVER AND A CAMEL-DRIVER.[58] R. JOSE AND R. SIMEON RULED: AN ‘ERUB [WHOSE VALIDITY IS] IN DOUBT IS EFFECTIVE. R. JOSE STATED: ABTOLEMOS TESTIFIED ON THE AUTHORITY OF FIVE ELDERS THAT AN ERUB [WHOSE VALIDITY IS] IN DOUBT IS EFFECTIVE.

GEMARA. [IF AN ‘ERUB] ROLLED AWAY BEYOND THE [SABBATH] LIMIT. Raba stated: This was taught only where it rolled away beyond [a distance] of four cubits, but [if it rested] within the four cubits [it is effective, since a person] who deposits his ‘erub [in any spot] acquires[59] [an area of] four cubits.[60]

OR IF A HEAP FELL ON IT etc. Having been presumed that, if desired, [the ‘erub] could be taken out,[61] must it be assumed[62] that our Mishnah is not in agreement with Rabbi, for if [it were suggested to be] in agreement with Rabbi [the difficulty would arise]: Did he not lay down that any work that was only Rabbinically prohibited was not forbidden as a preventive measure [on the Sabbath eve] at twilight?[63] — It[64] may be said to be in agreement even with Rabbi, since it may apply to a case[65] where a hoe or a pick-axe is required.[66] And [both rulings[67] were] required. For if [only the one relating to an ‘erub that] ‘ROLLED AWAY’ had been taught it might have been presumed [that the ‘erub was ineffective] because it was not near the man for whom it had been provided,[68] but that where a heap fell on it, since it is near that man,[68] the ‘erub is effective. And if [only the ruling] ‘IF A HEAP FELL ON IT’ had been taught it might have been presumed [that the ‘erub was ineffective] because it was covered,[69] but that where it rolled away, since a wind might sometimes rise and carry it [back to its place], the ‘erub might be said to be effective. [Hence both rulings were] required.

OR IF IT WAS BURNT, [OR IF IT CONSISTED OF] TERUMAH THAT BECAME UNCLEAN. What need[70] [was there for both these rulings]?- ‘IT WAS BURNT’ was taught

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(1) When it is forbidden to break into the cupboard and the ‘erub is consequently inaccessible.

(2) On the Sabbath.

(3) This Tanna being in disagreement with R. Simeon who (infra 89a) permits the carrying of a key by way of courtyards and roofs.

(4) Pl. of karpaf (v. Glos.).

(5) When the Sabbath began with the twilight of Friday eve. Hence it is possible for the key to be carried to the cupboard in the way described and thus to obtain the ‘erub.

(6) [Who differ from R. Simeon infra 95b and forbid the carrying of an object in relays from a field to a town (R. Han.).] The last sentence is rightly omitted by Bah,. On the difficulties it presents cf. Strashun.

(7) The difficulty supra 34b: ‘Is not he in one place etc.’

(8) The first Tanna of our Mishnah.

(9) Lit., ‘and there is no building in vessels and no demolition in vessels’. Since the cupboard, therefore, may be broken open the ‘erub is accessible and effective.

(10) R. Eliezer.

(11) To which the prohibitions mentioned do apply’. The ‘erub, therefore, is inaccessible and ineffective.

(12) R. Eliezer in our Mishnah and the first Tanna.

(13) V. Glos.

(14) That was covered, for instance, with a glove which prevented it from coming in direct contact with the object struck and from imparting uncleanness to it by ‘touch’.

(15) Or turret.

(16) If the blow caused them to move, however slightly, from their position.

(17) In accordance with the law of hesset (v. Glos.).

(18) Zab. Iv, 3.

(19) The first Tanna of the Mishnah just cited.

(20) The cupboard or any of the other mentioned objects.

(21) Which is subject to the laws of uncleanness through hesset.

(22) R. Nehemiah and R. Simeon.

(23) To which the uncleanness mentioned does not apply. It thus follows that the Tannas in the Mishnah of Zabim differ on the same principle as that on which the Tannas in our Mishnah differ.

(24) The Mishnah from Zabim just cited.

(25) Not having been firmly fixed.

(26) By the indirect touch of a zab.

(27) That was firmly fixed or exceedingly heavy.

(28) By the indirect touch of a zab.

(29) Because its shaking by the zab does not shift it from its place. This obviously proves that the determining factor in the conveyance of uncleanness by shaking is the shifting of the object from its place and that the question of ‘tent’ or ‘vessel’ does not at all arise.

(30) Of the Baraitha corresponding to the Mishnah from Zabim.

(31) As, for instance, by his beating on it with his gloved fist or a piece of wood.

(32) If the zab, for instance, stamped upon the ground and the shaking of the floor caused the object to shift from its place, so that the movement is the result of the vibration of the floor and only the indirect result of the zab's strength.

(33) Which again proves that the determining factor is the movement of the object from its place by the direct strength of the zab, and that the question of its status as a tent or a vessel does not come at all under consideration. It cannot therefore be suggested that the Tannas in the Mishnah of Zabim differ on the question of the status of the cupboard as a vessel or tent.

(34) Even though it was a tent.
(35) Though it was a vessel.
(36) In the Mishnah from Zabim under discussion.
(37) If, for instance, he struck the object with his gloved fist or a piece of wood (so that there was no direct ‘touch’) and the object only vibrated but did not move from its place.
(38) The first Tanna.
(39) Hence his ruling that the object becomes unclean.
(40) R. Nehemiah and R. Simeon.
(41) Lit., ‘it is not a shifting (from its place)’.
(42) Dealing with the ‘erub that was locked in a cupboard.
(43) If the cupboard was big, all would agree that it is subject to the law of ‘tent’; how then could the first Tanna maintain that the ‘erub is effective? If, however, it was a small one, of a capacity of less than forty se'ah of liquids, all would agree that it has the status of a ‘vessel’; how then could R. Eliezer maintain that the ‘erub is ineffective?
(44) So MS.M. Cur. edd., ‘and’.
(45) It being too strong to be broken by the bare hands. Had this been possible even R. Eliezer would have permitted the breaking if the cord (cf. Bezah 31b); and, since the cupboard could be opened, the ‘erub which would in consequence be accessible, would be effective. Though the breaking of a cord on the Sabbath was permitted in connection with ‘vessels’ only, and not with structures (such as a tent or a cupboard) that are fixed to the ground, the ‘erub here would nevertheless be effective because at the twilight of Friday when the ‘erub comes into force, the breaking of the cord, which on the Sabbath itself is forbidden as a Rabbinical measure only, is not even Rabbinically forbidden.
(46) Used for the cutting of wood.
(47) Shab. 123b. Hence he allows the use of a knife for the cutting of the cord, and this results in the accessibility and effectiveness of the ‘erub.
(48) On the Sabbath.
(49) As a knife was not originally made for the purpose of cutting cords it may not be moved on the Sabbath. The ‘erub, being in consequence inaccessible, is, therefore, ineffective. In town, however, the ‘erub is effective since it is possible to carry the key to the cupboard by way of courtyards, roofs etc. as indicated supra.
(50) So that more than the permitted distance of two thousand cubits intervened between the ‘erub and the man's home and in consequence of which the ‘erub was inaccessible to him.
(51) This is explained infra in the Gemara.
(52) And, therefore, unfit even for a priest.
(53) Sc. Friday (the Sabbath eve) before twilight; because at the time the Sabbath began the ‘erub was either non-existent or inaccessible.
(54) On Friday (cf. previous note).
(55) Because an ‘erub comes into force at twilight on the Sabbath eve and, since at that time the ‘erub in question was both in existence and accessible, its subsequent loss or inaccessibility cannot in any way affect the rights it had conferred upon the man in connection with the Sabbath in question.
(56) Sc. it is uncertain whether the accident occurred before, or after dusk.
(57) Lit., ‘behold this (man)’.
(58) Who is unable to make any progress. A camel can be led only by pulling its rein and an ass can be driven only from behind. A man who is in charge of both animals can neither lead the two on account of the ass nor can he drive the two on account of the camel. So with the man the validity of whose ‘erub is in doubt. If the ‘erub is valid he can walk from the place of its deposit two thousand cubits in all directions including two thousand cubits in the direction of his home but not beyond it. If it is invalid he can walk from his home two thousand cubits in all directions including two thousand cubits in the direction of the ‘erub but not beyond it. As the validity of the ‘erub is in doubt he can only walk two thousand cubits distance between his home and the ‘erub but is forbidden to go beyond the ‘erub in the one direction and beyond his home in the other direction.
(59) In addition to the right of walking two thousand cubits in all directions.
(60) Which is regarded as his abode. As his ‘erub did not roll beyond his acquired abode it must be regarded as effective.
(61) Without the use of implements entailing work that is Pentateuchally forbidden on the Sabbath.
(62) Since the ‘erub is deemed ineffective on account, apparently, of the Rabbinical prohibition involved in the removal of the stones that covered it.

(63) And since the validity of an ‘erub, as explained Supra, is dependent on its efficacy at twilight, when the removal of stones (being only Rabbinically forbidden on the Sabbath) is according to Rabbi permitted, the ‘erub spoken of in our Mishnah would have been effective.
(64) The ruling in our Mishnah.
(65) Lit., ‘it is not required (but)’.
(66) For the clearance of the heap before access to the ‘erub could be obtained. Such work, being Pentateuchally forbidden, may not be performed even at twilight.
(67) That of an ‘erub (a) that ROLLED AWAY and (b) on which A HEAP FELL.
(68) Lit., ‘at or with him’.
(69) And access to it is impossible without desecrating the Sabbath.
(70) Lit., ‘wherefore to me

Talmud - Mas. Eiruvin 35b

to inform you of the power of R. Jose.[1] and ‘TERUMAH THAT BECAME UNCLEAN’ was taught to inform you of the power of R. Meir.[2] But is R. Meir of the opinion that in a doubtful case[3] the more restrictive course is to be followed?[4] Have we not in fact learnt: If an unclean person went down to perform ritual immersion and it Is doubtful whether he performed the immersion or not,[5] or even if he did perform the immersion but it is doubtful whether it was done in forty se'ah[6] [of water][7] or in less;[8] and, similarly, if he performed his immersion in one of two ritual baths, one of which contained forty se'ah [of water] and the other contained less,[9] and he does not know in which one he performed his immersion he, being in a state of doubt, is unclean.[10] This applies only to a major uncleanness[11] but in the case of a minor uncleanness[12] as, for instance, where one ate unclean foods or drank unclean liquids or where a man immersed[13] his head and the greater part of his body in drawn water, or three log of drawn water were poured upon his head and the greater part of his body[14] and he then went down to perform immersion and it is doubtful whether he did or did not perform it, and even if he did perform it there is doubt whether the immersion was performed in forty se'ah [of water] or less, and, similarly, if he performed the immersion in one of two ritual baths one of which contained forty se'ah, [of water] and the other contained less, and he does not know in which of the two he performed his immersion he, being in a state of doubt, is clean; so R. Meir;[15] and R.Jose declared him to be unclean?[16] — R. Meir is of the opinion [that the laws of the Sabbath] limits[17] are Pentateuchal.[18] But does R. Meir uphold the view that [the laws of Sabbath] limits are Pentateuchal? Have we not in fact learnt: If he is unable to span it[19] — in connection with this R. Dostai b. Jannai stated in the name of R. Meir: ‘I have heard that hills are [treated as though they were] pierced’ ,[20] Now if the idea could be entertained [that the laws of the Sabbath] limits are Pentateuchal [the difficulty would arise:] Is [the method of] piercing allowed [in such a case] seeing that R. Nahman has in fact stated in the name of Rabbah b. Abbuha [that the method of] piercing must not [be adopted] in the case of [the measurements around] the cities of refuge,[21] nor in that of the broken-necked heifer[22] because they are [ordinances] of the Torah?[23] — This is no difficulty; one ruling was[24] his own while the other[25] was his master's.[26] A careful examination [of the wording] also [leads to this conclusion]. For it was taught: In connection with this R. Dostai b. Jannai stated in the name of R. Meir, ‘I have heard that hills are [treated as though they were] pierced’.[27] This proves it.

A contradiction, however, was pointed out between two rulings of R. Meir in respect of Pentateuchal laws.[28] For have we not learnt: If a man who touched a body at night was unaware whether it was alive or dead but when rising on the following morning he found it to be dead, R. Meir regards him as clean;[29] and the Sages regard him as unclean because [questions in respect of] all unclean objects [are determined] in accordance with their condition at the time they were discovered?[30] — R. Jeremiah replied: Our Mishnah [refers to terumah] on which a [dead] creeping thing lay throughout the twilight.[31] But if so, would R. Jose have ruled: AN ‘ERUB [WHOSE VALIDITY IS] IN DOUBT IS EFFECTIVE?[32] — Both Rabbah and R. Joseph replied: We are here dealing with two groups of witnesses, one of which testifies that the uncleanness occurred while it was yet day, while the other testifies [that it occurred] after dusk.[33] [

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(1) Who ruled the ‘erub to be effective even if it ceased to exist.

(2) Who does not regard the terumah, about which there was doubt whether uncleanness was conveyed to it before or after twilight, as clean. The ruling shows that though the terumah was in existence and there is also the presumption in its favour that at twilight it was clean as it was before the uncleanness had been conveyed to it, R. Meir nevertheless does not regard it as levitically clean.

(3) As is the case in our Mishnah where it is uncertain whether the terumah became unclean before or after twilight.

(4) Since he did not regard the terumah as having become unclean after twilight.

(5) Lit., ‘did not immerse himself’.

(6) V. Glos.

(7) The prescribed minimum for a ritual bath.

(8) Lit., he did not immerse himself in forty Se'ah’.

(9) Cf. previous note.

(10) Mik. II, 1.

(11) Sc. one that is Pentateuchal (Rashi).

(12) One that is only Rabbinically so.

(13) Lit., ‘and he came’.

(14) Thus rendered unclean by Rabbinic law; v. Shab. 14a.

(15) This is the reading of Bomb. ed. Cur. edd. omit the last three words, the author of every anonymous Mishnah being known to be R. Meir.

(16) Mik. II, 2; from which it follows that in a doubtful case It. Meir adopts the less restrictive ruling. How then is this to be reconciled with our Mishnah where he adopts the more restrictive one?

(17) Of which our Mishnah speaks.

(18) In a Pentateuchally doubtful prohibition the more restrictive ruling is followed. Hence R. Meir's ruling here. In the case of uncleanness, spoken of in the quoted Mishnahs, since it is only Rabbinical, the less restrictive ruling is adopted.

(19) Lit., ‘to cause it to be swallowed’. This term (v. infra 58a, f) is applied to a wall, a hill or similar elevation or depression whose horizontal distance can be measured by a rope of the length of fifty cubits held at either end by one man. If the horizontal distance is more than fifty cubits and a rope of the length mentioned cannot span it, a different method of measuring, described anon, must be adopted.

(20) Infra 8a. Sc. the measuring of a hill or any elevation or depression in the way of the surveyors (cf. previous note) is carried out by a method which produces its horizontal distance, the measuring rope, manipulated in a certain manner (described infra 58b) being regarded as piercing it in a straight line and emerging on its other side.

(21) Cf. Num. XXXV, 11ff. Not only the cities themselves but also a limited area within a prescribed distance from each city affords the privilege of protection (cf. Mak. 11b).

(22) Cf. Deut. XXI, 1ff. To ascertain which city was the nearest it was necessary to ‘measure unto the cities in which are round about him that is slain’ (ibid. 2).

(23) The method of ‘piercing’ produces longer distances than the ordinary methods, omitting as it does to take count of the extent of the slopes. While such latitude in favour of the persons concerned was allowed in the case of Rabbinical ordinances, it was not allowed in that of Pentateuchal ones in connection with which the stricter method, which takes count of the slopes also, must be adopted. Now, since R. Meir allows the method of ‘piercing’ in the case of Sabbath limits, how could it be maintained that in his view these laws are Pentateuchal?

(24) Lit., ‘that’, the ruling of R. Meir in our Mishnah which implies that in his opinion the laws of the Sabbath limits are Pentateuchal since the more restrictive course is followed in cases of doubt.

(25) That the method of ‘piercing’ may be adopted in determining the Sabbath limits.

(26) Referring to R. Meir himself.

(27) Emphasis on ‘heard’, sc. but he himself (R. Meir) does not share that view.

(28) Lit., ‘of the Law on the Law according to R. Meir’.

(29) Because, as it is obvious that the body was alive until the moment of death approached, it is also presumed to have been alive at the time it was touched.

(30) Toh. V, 7. As at the time of discovery the body was dead it must also be presumed to have been dead when it was touched. R. Meir, at any rate, adopts here, though the laws of uncleanness are Pentateuchal, the lenient view. Why then did he adopt the stricter view in our Mishnah? As the body here is presumed to have been alive at the time it was touched so should the terumah (in the Mishnah) have been presumed to have been clean at the time the Sabbath began.

(31) Of the Sabbath eve. The uncleanness of the terumah must consequently have set in prior to the commencement of the Sabbath.

(32) Obviously not, since this is not a case of doubt but one of certainty where (v. our Mishnah) all agree that the ‘erub is ineffective.

(33) In the opinion of R. Jose the two groups of witnesses cancel each other out and the terumah is, therefore, presumed to have been, at the time the Sabbath began, in its former state of presumptive cleanness. R. Meir, however, maintains that, since the presumptive cleanness of the terumah has been denied by one group of witnesses, its cleanness becomes a matter of doubt when, being a Pentateuchal law, the more restrictive course must be followed. In the case of a body (cited from Toh. V, 7) its presumptive life at the time it was touched has not been contradicted by any witnesses.

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Raba replied:[1] In that case[2] there are two presumptive grounds for a relaxation of the law[3] while here[4] there is only one.[5]

Does not then a contradiction arise between two rulings of R. Jose?[6] — R. Huna b. Hinena replied: [The laws of] uncleanness are different, since their origin is Pentateuchal.[7] [But are not the laws of] Sabbath limits also Pentateuchal? — R. Jose is of the opinion [that the laws of the Sabbath] limits are Rabbinical.[8] And if you prefer I might reply:[9] One ruling[10] was his own while the other[11] was his Master's.[12] A careful examination [of his statement] also [leads to this conclusion],for it reads,[13] R. JOSE STATED: ABTOLEMOS TESTIFIED ON THE AUTHORITY OF FIVE ELDERS THAT AN ‘ERUb[[WHOSE VALIDITY IS] IN DOUBT IS EFFECTIVE. This proves it. Raba replied:[14] The reason there[15] is that R. Jose [maintains]: ‘Take the unclean to be in his presumptive condition [of uncleanness] and suggest, therefore, that he may not have performed the ritual immersion’.[16] On the contrary! Take the ritual bath to be In its presumptive condition [of ritual fitness] and Suggest, therefore, that it was not short [of the required volume]?- [This is a case] of a ritual bath [the water in] which had not been measured.[17]

It was taught: In what circumstances did R. Jose rule that an erub [whose validity is] in doubt is effective? If a man made an erub with tertmah[18] and it is doubtful whether it contracted uncleanness when it was yet day or after dusk, and so also in the case of fruits[19] concerning which there arose a doubt whether they[20] were prepared [for use][21] while it was yet day or after dusk — in any such case[22] the ‘erub [is deemed to be one whose validity is in] doubt [and is consequently] effective;[23] but if a man prepared an erub of terumah about which there is doubt whether it was clean or unclean,[24] and so also in the case of fruit concerning which there arose a doubt whether they were prepared [for use] or not[25] — in any such case[22] the ‘erub is not [deemed to be one whose validity is in] doubt [and which is consequently] effective.[26] Wherein, however, does terumah[27] differ?[28] In that it may be said: ‘Regard the terumah as being in its presumptive condition [of cleanness] and suggest that it is still clean’. But as regards the fruit also [why should it not be said], ‘Regard the tebel[29] as being in its presumptive condition [of unfitness for use] and suggest that it was not yet prepared?[30] — Do not read: ‘There arose a doubt whether they were prepared [for use] while it was yet day’[31] but read: ‘There arose a doubt whether they were mixed up [with tebel][32] while it was yet day or after dusk.[33]

R. Samuel son of R. Isaac enquired of R. Huna: What is the legal position where a man had before him two loaves[34] one of which was clean and the other unclean and he gave instructions, ‘Prepare for me an ‘erub with the clean [loaf] wherever it may happen to be’ ?[35] This question may be asked in connection with the view of R. Meir and it may also be asked in connection with that of R. Jose. It ‘may be asked in connection with the view of R. Meir’, since [it may be argued that] it is only there[36] that R. Meir gave his restrictive ruling[37] because there was no [definite] clean [terumah][38] but here, surely, there was [at least one loaf that was] clean;[39] or is it possible that even R. Jose laid down his ruling there[36] only because if it is assumed that [the terumah] was clean the man knows [where to look for] it,[40] but here,[41] surely, he does not know [even where to look for] it?[42] — The other replied: Both according to R. Jose as well as according to R. Meir it is essential to have a meal that is suitable [for the person for whom the ‘erub is prepared] while it is yet day,[43] which is not [the case here].[44]

Raba enquired of R. Nahman: What is the ruling [where a man said],[45] ‘This loaf shall be unconsecrated to-day and consecrated to-morrow’ and then he said: ‘Prepare for me an erub with this [loaf]’?[46] — The other replied: His ‘erub is effective.[47] What, [he was asked if the man said], ‘To-day it shall be consecrated and tomorrow unconsecrated’[48] and then he said: ‘Prepare for me an ‘erub with it’?[49] — ‘His ‘erub’, he replied: ‘is ineffective’. ‘What [the former asked] is the difference [between the two cases]?’ — When’, he replied: ‘you will measure out for me a kor of salt [you will get the answer]. [Where a man said,] ‘Today it shall be unconsecrated and tomorrow consecrated’, the sanctity cannot on account of the doubt[50] descend on the object[51] [but where he said], ‘Today it shall be consecrated and tomorrow it shall be unconsecrated’ the object cannot on account of the doubt be deprived of its sanctity.[52]

We learned elsewhere: If a man filled a lagin[53] that was a tebul yom[54] [with liquids] from a cask of tebel of the [first] tithe[55] and said, Behold this[56] shall be terumah of the tithe[57] after dusk’ ‘[58] his statement is valid,[59] but if he said: ‘Prepare with this[56] an ‘erub for me’ his statement is null and void.[60] Raba remarked: This[61] proves that the validity of an ‘erub takes effect at the end of the day;[62]

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(1) In explanation of the difficulty just dealt with by Rabbah and R. Joseph.

(2) Lit., ‘there’, the case of the body that was touched.

(3) The presumptive life of the body and the presumptive cleanness of the man who touched it. Hence, even where two groups of witnesses were contradicting each other as to whether the body was dead before or after it had been touched, it. Meir would still regard the man as clean. For by allowing the contradictory evidence of the two groups to cancel each other two presumptions remain in favour of the mail's cleanness.

(4) The terumah in our Mishnah, the uncleanness of which is a matter of doubt.

(5) The presumptive cleanness of the terumah.

(6) In the Mishnah cited from Mik. II, I he adopts the restrictive rule of declaring the man unclean, even in a case of doubt, though the uncleanness spoken of is only Rabbinical, while in our Mishnah he adopted the lenient rule of declaring an ‘erub whose validity is in doubt to be effective.

(7) As certain cases of uncleanness are Pentateuchal, and consequently subject in case _ of doubt to the more restrictive rulings, a similarly restrictive course had to the adopted in the case of Rabbinical uncleanness, since otherwise the former might erroneously be mistaken for the latter and treated with similar laxity.

(8) There is no need in this case to provide against the possibility of mistaking the Pentateuchal laws relating to work on the Sabbath for the Rabbinical ones of the Sabbath limit, as was done in the case of uncleanness (cf. previous note), since unlike the forms of uncleanness which are similar to one another, work and walking are two different processes which could not possibly be mistaken for one another (Rashi).

(9) Bah inserts, ‘this is no difficulty’.

(10) Lit., ‘that’, the one in the Mishnah cited where a restrictive view is followed in the case of doubt even in respect of a Rabbinical law.

(11) The ruling in our Mishnah which follows the lenient view.

(12) Abtolemos.

(13) Lit., ‘for it taught’.

(14) In explaining the apparent contradiction between the two rulings of R. Jose.

(15) In the Mishnah cited from Mik. where the man is deemed to be unclean even in a case of doubt.

(16) Since no ground whatsoever exists for a contrary suggestion. Hence the restrictive ruling. In the case of the ‘erub in our Mishnah, however, against the presumption that the man's abode is his permanent home there is the presumptive cleanness of the terumah; and, since ‘erub is a Rabbinical institution, the less restrictive course is followed.

(17) The argument of presumptive condition of ritual fitness is consequently inapplicable.

(18) That was known to be clean.

(19) Of tebel (v. Glos.).

(20) After they have been deposited as an ‘erub in the appointed place.

(21) By setting aside for them the prescribed priestly and levitical dues.

(22) Lit., ‘this’.

(23) It being assumed that the terumah was clean and that the fruit was duly prepared during twilight which is the crucial moment for the validity of an ‘erub.

(24) So that the argument of presumptive cleanness is inapplicable.

(25) Cf. previous note mutatis mutandis.

(26) Tosef. ‘Er. II.

(27) In the first clause where R. Jose rules the ‘erub to be effective if it is doubtful whether it contracted uncleanness or was prepared for use before or after twilight.

(28) From fruit of tebel in the first clause.

(29) Cf. previous note.

(30) Why then did n. Jose rule the ‘erub of the fruit also to be effective?

(31) Sc. there was no question at all of tebel. The fruit was known to have been properly prepared by the setting aside for it of the priestly and levitical dues.

(32) So that it cannot be used even by a priest. V. Rashi (second interpretation).

(33) As the fruit was thus in the presumptive condition of fitness for use, as was the terumah, the ‘erub that had been prepared with it is equally effective.

(34) Of terumah. The question of levitical uncleanness does not apply to unconsecrated produce which may well be consumed even when it is levitically unclean. Only the very scrupulous abstain from eating such unconsecrated produce.

(35) And both loaves were used in the preparation of his ‘erub at the appointed place, and he does not know which is the clean one.

(36) In our Mishnah.

(37) Lit., ‘said’.

(38) It being possible that the uncleanness was constituted before twilight.

(39) And the ‘erub in this case is consequently effective.

(40) And is able, therefore, to eat; the question of its possible uncleanness being disregarded owing to its presumptive cleanness.

(41) Since it is not known which of the loaves was the clean one.

(42) In consequence of which he could not eat either of the loaves. The ‘erub, since it could not be eaten must, therefore, be ineffective.

(43) The doubt spoken of in our Mishnah arose only after the ‘erub had been prepared so that there was at least a certain period during which it could be properly eaten.

(44) Since, owing to the interchange of the loaves, neither could be eaten from the first moment the ‘erub was prepared. Hence the ineffectiveness of ‘erub according to both R. Meir and R. Jose.

(45) On Friday, [he Sabbath eve.

(46) And his instruction was carried out. An ‘erub prepared from consecrated food is invalid and the question arises whether at the twilight of the Sabbath eve the validity of the ‘erub or the sanctity of the food of which it consists had taken effect first.

(47) The reason is explained presently.

(48) Sc. ‘it shall be redeemed by the necessary sum of money which I have at home’. Consecrated objects may in this manner be converted for secular use.

(49) Cf. supra n. 5 mutatis mutandis.

(50) I.e., the doubt that arises at twilight, v. n. 5.

(51) Lit., ‘to it’. The ‘erub, therefore, retains its status of unconsecrated food.

(52) Cf. previous note mutatis mutandis.

(53) לגין, a small can.

(54) טבול יום, v. Glos. A vessel in such a condition imparts levitical uncleanness to terumah but not to tebel of unconsecrated produce or of tithe.

(55) The Levite to whom first tithe is due must give a portion of it to the priest as terumah gedolah. Before this is done the tithe is tebel and is forbidden to be eaten even by priests.

(56) The contents of the lagin.

(57) For all that remained in the cask.

(58) When the lagin will be levitically clean.

(59) The contents become terumah since the uncleanness of the lagin that terminated at dusk can have no effect upon it.

(60) Tebul Yom. IV, 4. Lit., ‘he did not say anything’ because at twilight when the ‘erub should assume its validity it was still tebel which (as stated supra) is unfit for ‘erub.

(61) The ruling that an ‘erub prepared with the contents of the lagin is ineffective.

(62) Of the Sabbath eve, sc. at the beginning of twilight. Lit., ‘the end of the day acquires the ‘erub’.

Talmud - Mas. Eiruvin 36b

for if you should entertain the view that the validity takes effect at the beginning of the [Sabbath] day[1] [the difficulty would arise:] Why ‘if he said: "Prepare with this an ‘erub for me" is his statement null and void’?[2] — R. Papa retorted: It may still be maintained[3] that the validity of an ‘erub takes effect at the beginning of the [Sabbath] day, yet [the contents of the lagin are unfit as an ‘erub since] it is essential to have a meal that is suitable for consumption while it is yet day,[4] which is not the case here.[5]

MISHNAH. A MAN MAY ATTACH A CONDITION TO HIS ERUB AND[6] SAY, ‘IF FOREIGNERS[7] CAME FROM THE EAST MY ‘ERUB [SHALL BE THAT] OF THE WEST;[8] [IF THEY CAME] FROM THE WEST MY ERUB [SHALL BE THAT] OF THE EAST;[9] IF THEY CAME FROM BOTH DIRECTIONS[10] I WILL GO IN WHATEVER DIRECTION I DESIRE, AND IF THEY CAME FROM NEITHER DIRECTION I WILL BE LIKE THE PEOPle OF MY TOWN’.[11] [HE MAY LIKEWISE SAY,] ‘IF THE SAGE[12] CAME FROM THE EAST LET MY ‘ERUB [BE THE ONE] OF THE EAST;[13] IF FROM THE WEST LET MY ‘ERUB [BE THE ONE] OF THE WEST; [IF A SAGE] CAME FROM EITHER DIRECTION I WILL GO IN WHATEVER DIRECTION I DESIRE, AND IF NO ONE CAME FROM EITHER DIRECTION I WILL BE LIKE THE PEOPLE OF MY TOWN’.[11] R. JUDAH RULED: IF ONE OF THEM[14] WAS HIS TEACHER HE MAY GO ONLY TO HIS TEACHER,[15] BUT IF BOTH WERE HIS TEACHERS HE MAY GO IN WHATEVER DIRECTION HE PREFERS.

GEMARA. When R. Isaac came[16] he learned all our Mishnah in the reverse order.[17] Does not then a contradiction arise between the two statements on the FOREIGNERS[18] and between the two concerning the SAGE?[19] — There is really no contradiction between the two statements on foreigners since one refers[20] to tax collectors[21] while the other refers to the landlords of the town.[22] There is also no contradiction between the two statements concerning the sage since one refers[23] to a scholar who delivers public[24] discourses[25] while the other refers to a teacher of young children.[26]

R. JUDAH RULED: IF ONE OF THEM WAS etc. And the Rabbis?[27] — Sometimes [it may happen] that a man is more pleased to meet[28] his colleague than his teacher.

Rab stated: [The ruling] of our Mishnah[29] is not [to be upheld] by reason of what Ayo learned. For Ayo learned: R. Judah ruled: ‘A man cannot make simultaneous conditions in connection with two possible events.[30] He can only[31] [make this condition:] "If the sage came [from the direction] of the east my[32] ‘erub [shall be that] of the east and if the sage came [from the direction] of the west my[32] ‘erub [shall be that] of the west,"[33] but not "[If one came] from each direction ‘[34] Why is it [that the ‘erub is] ineffective [where the condition was ‘If one came] from each direction’? Obviously because the rule of bererah is not upheld,[35] [but, then, where the condition was, ‘If the sage came from the direction] of the east’ [or ‘from that] of the west’ it should also [be said that] the rule of bererah cannot [be upheld]?[36] — R. Johanan replied: [Our Mishnah refers to a case] where the sage already arrived.[37] On the contrary, [let it be said that] Ayo's version[38] cannot [be upheld] by reason of what was taught in our Mishnah?[39] This[40] cannot be entertained at all, since we heard of R. Judah that he does not adopt the rule of bererah. For it was taught:[41] If a man buys wine from among the Cutheans[42]

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(1) I.e., at the end of twilight of Sabbath eve.

(2) At the time the Sabbath begins the lagin is no longer unclean and, since its contents are proper and clean terumah, it should provide an effective ‘erub. As the ruling, however, is that the ‘erub is ineffective it must be concluded that the validity takes effect at the conclusion of the Sabbath eve, i.e., as explained supra, at the beginning of twilight, at which time the contents of the lag in were still tebel of the first tithe and unfit for consumption and consequently unsuitable as an ‘erub.

(3) Lit., ‘you may even say’.

(4) I.e., at the beginning of twilight.

(5) Because at that time the contents of the lagin were still tebel.

(6) Depositing two ‘erubs, one at a distance of two thousand cubits from the east side of his house and another in the opposite direction at a distance of two thousand cubits from the west of his house.

(7) From whom he must flee.

(8) And he is in consequence able to go in a westerly direction a distance of four thousand cubits from his house. Though the foreigners would not come before the following day the condition has the force of determining retrospectively which ‘erub shall become effective at twilight of the Sabbath eve.

(9) Cf. previous note mutatis mutandis.

(10) Lit., ‘to here and to here’. J.T. and Mishnah ed., ‘from here and from here’.

(11) Able to go a distance of two thousand cubits from the town in any direction, both ‘erubs being null and void.

(12) Whose discourses he desires to hear.

(13) Cf. supra n. 1 mutatis mutandis.

(14) Of the two Sages that came from opposite directions.

(15) The presumption being that when making the condition he meant that ‘erub to be effective which would enable him to go to his teacher.

(16) From Palestine to Babylon.

(17) The SAGE in the first clause and FOREIGNERS In the second, so that the ‘erubs were laid for the purpose of fleeing from the sage and advancing in the direction of the foreigners.

(18) Lit., ‘foreigners on foreigners’.

(19) Cf. previous note.

(20) Lit., ‘that’, our Mishnah.

(21) From whom people try to escape.

(22) Or ‘town officers’, whom the townspeople are anxious to meet in order to submit to them their grievances or to solicit favours.

(23) Lit., ‘that’, our Mishnah.

(24) Lit., ‘causes (the public) to sit’.

(25) People are anxious to run to hear such a sage.

(26) Or ‘a teacher of the daily ritual’. Lit., ‘those who cause to read the Shema", sc. שמע ישראל ‘Hear O Israel etc.’ (cf. P.B. 40ff.). The shema’ is one of the principal elements in the daily prayers and is here synonymous with prayer in general (cf. Rashi) which even school children must be taught. The condition in the Mishnah according to R. Isaac's version may be explained as due to a desire on the part of the man to dispense with meeting the school teacher in order to be able to attend the discourses of the public speaker. If the former would come from the east and the latter from the west he would wish his ‘erub in the latter direction to be effective and vice versa. If both proved to be school teachers or public speakers he would wish to go in whatever direction he preferred (Rashi). [Aliter: those who read the shema’, a precentor, v. R. Hananel.]

(27) Why do they allow the man a choice even where one of the sages was his teacher?

(28) Lit., ‘with’.

(29) According to which R. Judah ruled that where BOTH WERE HIS TEACHERS, HE MAY GO IN WHATEVER

DIRECTION HE PREFERS, thus recognizing the effectiveness of an ‘erub though its validity which must take effect where the Sabbath begins depends on the man's choice that would he made subsequently; R. Judah thus upholding the principle of retrospective selection or bererah (v. Glos.).

(30) As is the case where the condition is made about two sages coming from different directions.

(31) Lit., ‘but if’.

(32) Lit., ‘his’.

(33) Since only one possible event is involved.

(34) Bez. 37b, Hul. 14b. As R. Judah definitely rejects here the rule of bererah the ruling attributed to him in our Mishnah (cf. supra n. 7) cannot be authentic.

(35) It being held that the choice the man made between the two sages on the following day may not have been his choice at twilight on the previous day when the validity of the ‘erub must take elect.

(36) And the ‘erub should be ineffective, since at twilight on the Sabbath eve the sage was presumably still uncertain whether he would at all come within the area permitted by that man's ‘erub, and his subsequent coming could only be regarded, as far as the validity of the ‘erub is concerned, as bererah i.e., retrospective designation or selection, a principle which R. Judah does not recognize.

(37) Sc. at twilight of the Sabbath eve he was already within the permitted Sabbath limit of that man's town though the latter was unaware of the fact. As the validity of the ‘erub was made dependent on an event that, though unknown to the speaker, had actually taken place before twilight of the Sabbath eve there can be no question as to the ‘erub's effectiveness. It is not the speaker's subsequent knowledge of the fact that renders the ‘erub valid retrospectively, but the presence of the sage at the crucial moment. The question of bererah, therefore, does not at all arise.

(38) Which is a mere Baraitha.

(39) A Baraitha, surely, is less authoritative than a Mishnah.

(40) That R. Judah upholds the rule of bererah.

(41) Cf. Tosaf. s.v. דתנן a.l. Cur. edd., ‘we learned’.

(42) Before the prohibition against their wines had been decreed. As the Cutheans (Samaritans) were suspected of neglecting the laws of terumah and tithe the buyer must himself set these aside before he can be permitted to drink any of the wine.

Talmud - Mas. Eiruvin 37a

he may[1] say: ‘Two log[2] which I am about to set aside[3] are terumah, ten[4] are first tithe and nine[4] are second tithe’, and this[5] he redeems[6] and may drink [the wine] forthwith;[7] so R. Meir,[8] but R. Judah, R. Jose and R. Simeon forbid [this procedure].[9] ‘Ulla said: Ayo's version is not to be upheld by reason of what was stated in our Mishnah.[10] What, however, about the statement, ‘R. Judah, R. Jose and R. Simeon forbid [this procedure]’?[11] — Ulla read [the names of the authors] in pairs [thus:] ‘So R. Meir and R. Judah, but R. Jose and R. Simeon forbid [this procedure]’.

But is R. Jose of the opinion that the rule of bererah is not to be upheld? Have we not in fact learnt: R. Jose ruled: If two women bought their bird sacrifices[12] jointly, or gave the price of[13] their bird sacrifices to the priest, the latter may offer whichever he wishes as a burnt-offering and whichever he wishes as a sin-offering?[14] — Rabbah replied: There[15] [it is a case] where [the women originally] made this condition.[16] But if that is the case[17] what [need was there] to state [such an obvious ruling]?- We were thereby informed [that the law is] in agreement with R. Hisda.[18] For R. Hisda ruled: Bird sacrifices[19] cannot be designated[20]

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(1) If the purchase took place on the Sabbath eve immediately before dusk (when there is no time to remove these priestly and levitical dues from the wine) and he requires the wine for the Sabbath. It is prohibited to separate priestly or levitical dues on the Sabbath, v. Bez. 36b.

(2) A log (v. Glos.) is c. 549 cubic centimeters.

(3) For the hundred log contained in the cask he bought.

(4) ‘Log which I am about to set aside’.

(5) The second tithe.

(6) With money (cf. Deut. XIV, 25) that he has at home or anywhere else.
(7) And after the Sabbath he separates the terumah and the first tithe, and the wine so separated is regarded as the very wine he originally intended for the purpose.
(8) Who upholds the rule of bererah so that the selection that takes place after the Sabbath becomes effective retrospectively as if it had taken place on the Sabbath eve.
(9) Tosef. Dem. VII, 4, Suk. 23b, B.K. 69b; because, so it is at present assumed, they do not accept the rule of bererah. As no retrospective selection is recognized, the wine throughout the Sabbath cannot in their opinion be regarded as properly prepared for use and its consumption is consequently forbidden.
(10) Cf. notes on Rab's statement (supra 36b mutatis mutandis).
(11) From which it is apparent that R. Judah does no uphold bererah.
(12) Lit., ‘nests’, sc. a pair of birds as offerings after childbirth; cf. Lev. XII, 8.
(13) דמי, so MS.M. and the ed. of the Mishnah. Cur. edd. omit the word.
(14) Kin. I, 4. Now, since a burnt-offering is unacceptable unless it is offered in the name of the person for whom it was originally intended (cf. Pes. 60b and Zeb. 2a) while a sin-offering of a certain person is completely disqualified if it is offered for a different person or as a different kind of sacrifice, and since R. Jose nevertheless allows the priest to offer up any of the birds either as a sin-offering or as a burnt-offering for either of the women, it obviously follows that he upholds the rule of bererah, so that when the priest offers up any of the four birds it is assumed that this particular bird was retrospectively selected by the particular woman for the particular sacrifice for whom and for which it is now offered. How then could it be maintained that R. Jose does not uphold bererah?
(15) In the Mishnah cited from Kin.
(16) That the choice be left to the priest. The question of bererah does not, therefore, arise.
(17) Cf. previous note.
(18) That, where a bird was not specifically designated by the buyer for any particular sacrifice at the tithe of its purchase, though he did so subsequently, the priest may offer it as any sacrifice he wishes.
(19) Of those who bring them as an atonement.
(20) As burnt, or sin-offerings.

Talmud - Mas. Eiruvin 37b

except at the time they are purchased by their owner[1] or when the priest prepares them [for the altar].[2]

Is it then still [maintained that] R. Jose is of the opinion that the rule of bererah is not to be upheld? Was It not in fact taught: If an ‘Am ha-arez[3] said to a haber,[3] ‘Buy for me a bundle of vegetables’ or ‘a loaf’,[4] [the latter][5] need not tithe it;[6] so R. Jose, but the Sages ruled: He must tithe it?[7] Reverse [the rulings].[8]

Come and hear: If a man said: ‘let the [second] tithe which I have in my house be redeemed with the sela’ that would happen to come from my purse into my hand’ it is, said R. Jose, redeemed?[9] — Reverse [the rulings and] read: ‘R. Jose said: It is not redeemed’. What reason, however, do you see for reversing two statements[10] for the sake of one,[11] [why not] reverse the one[11] for the sake of the two?[10] — The last cited Baraitha was at all events[12] taught in a reversed form; since In its final clause it was stated: R. Jose, however, admits that where a man said: ‘The [second] tithe which I have in my house shall be redeemed with the new sela’[13] that would happen to come[14] from my purse into my hand’, the tithe is redeemed.[15] Now since he[16] ruled here that it ‘is redeemed’ it follows that in the previous[17] case [his ruling was that] it is not redeemed.[18]

What, however, is to be understood [by the case of] the new sela’? If there are two or three [other new sela's in his purse] so that selection is possible[19] then this case is exactly identical with the first one.[20] If, however, there was only one, what [sense is there in the expression,] ‘That would happen to come ?[21] — As in the first clause it was taught: ‘That would happen to come’, it was taught in the final clause also, ‘That would happen to come’.[22]

Raba asked R. Nahman: Who is that Tanna who does not uphold the rule of bererah even in the case of a Rabbinical enactment? For It was taught: ‘If a man said to five persons, "Behold I am preparing an ‘erub for one of you whom I may choose[23] [in due course] so that if I wish it he would be allowed to go[24] and if I would not wish it he would not go", the ‘erub is effective if he made up his mind[25] while it was yet day,[26] [but if he did it] after dusk the ‘erub is not effective’?[27] The other remained silent and gave him no answer whatever. But why could he not tell him that the Tanna was one of the school of Ayo?[28] — He did not hear [of. Ayo's ruling].[29]

R. Joseph said:[30] Do you wish to remove Tannas from the world?[31] [The fact is that the question[32] is one] on which Tannas differ. For it was taught: [If a man[33] said,] ‘Behold I am preparing an erub for all the Sabbaths of the years so that whenever I should wish it I would go[34] and whenever I should not wish it I would not go’,[35] his ‘erub is effective if he made up his mind[36] while it was yet day;[37] [but if he decided] after dusk, R. Simeon ruled: His ‘erub is effective[38] while the Sages ruled: His ‘erub is not effective.[39] But surely, we heard of R. Simeon[40] that he does not uphold bererah, so that a contradiction arise between two rulings of R. Simeon? — The fact is [that the views[41] are to be] reversed.[42] But what difficulty [is this]? Is it not possible that R. Simeon does not uphold bererah only in a Pentateuchal law[40] but in respect of a Rabbinical law[43] he may well uphold it? — He[44] is of the opinion that he who upholds bererah does so in all cases[45] making no distinction between a Pentateuchal and a Rabbinical law, while he who does not uphold bererah does not do it In any case irrespective of whether a law is Pentateuchal or Rabbinical.

Rabbah replied: There[40] [the case is altogether] different,[46] [the reason[47] being] that it is essential [for the priestly and levitical dues] to be[48] firstfruit,[49] so that whatever remains shall be distinguishable [from it].[50] Said Abaye to him:[51] Now then,[52] if a man who had before him two pomegranates of tebel[53] said: ‘If rain will fall to-day the one shall be terumah[53] for the other and if no rain will fall to-day the other shall be terumah for the first’, would his assertion here also, whether there was rain that day or not, be will and void?[54] And should you reply [that the law is] so indeed [it can be retorted:] Have we not in fact learnt: ‘[If a man said,] "The terumah of this heap[55] and its tithes shall be in the middle thereof" or "The terumah of this [first] tithe[56] shall be In the middle thereof", R. Simeon ruled: He has thereby given it a valid name?’[57] — There[58] [the law] is different[59] because[60] [the remainder of the produce]’ is round about the dues.[61] And if you prefer I might reply[62] in accordance with the reason elsewhere indicated:[63] They said to R. Meir, ‘Do you not agree that the skin[64] might burst[65] and the man would thus have been drinking liquids of tebel?’[66] And he replied: ‘When it will have burst [there would be time for the question to be considered]’.[67]

On the previous assumption, however, that it is essential [for the priestly and levitical dues] to be ‘firstfruit’ so that whatever remains shall be distinguishable from it,[68] what could they have meant?[69] It is this that they meant: ‘According to our view [the reason for the prohibition is that] it is essential [for the priestly and levitical dues] to be "firstfruit" so that whatever remains shall be distinguishable [from it],[70] but even according to your view,

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(1) Who must then specifically declare the specific purpose for which each bird is to be used.

(2) Ker. 28a, Yoma 41a; but if when the birds were bought none of them was designated as a burnt, or as a sin-offering, the priest is at liberty (cf. supra 11. 1) to choose either bird for either sacrifice.

(3) V. Glos.

(4) גלוסקא, one made of a certain brand of white flour.

(5) Though he bought his own vegetables or loaf together with those of the ‘am ha-arez without specifying which was for himself and which was for the other and though the seller also was an ‘am ha-arez whose produce the haber tithes as demai.

(6) He need only tithe that which he bought for himself.

(7) Dem. VI ad fin. Since no mention was made at the time of purchase as to which bundle or loaf was for the haber and which for the ‘am ha-arez every part of the purchase is regarded as that of the haber, and that part of it which he subsequently gives to the ‘and ha-arez is regarded as a partial sale of his own purchase. As a haber must not sell to an ‘am ha-arez any demai he must tithe it before he gives it to him. Now since R. Jose ruled that the haber need not tithe it he is obviously of the opinion that the rule of bererah holds, so that when the ‘am ha-arez selects, or the haber selects for him his part of the purchase the selection is deemed to be retrospective. How then could it be maintained that R. Jose does not uphold bererah?

(8) That attributed to the Sages is really that of R. Jose and vice versa.

(9) Tosef. M.Sh. IV; even before the sela’ actually came into his hand. Now, since in the absence of the rule of bererah it could not be asserted that the sela’ which was taken out later was the very coin which the man originally intended for the redemption, it follows that R. Jose upholds bererah. How then could it be maintained supra that the rule of bererah is not upheld by R. Jose?

(10) Just cited: The purchase by a haber (Dem. VI) and the redemption of second tithe (M.Sh. IV).

(11) Wine bought from Cutheans (cited from Tosef. Rem. VII, 4, supra 36b ad fin.)

(12) Lit., ‘that certainly’.

(13) It being the only one in his purse.

(14) This is discussed presently.

(15) Since there was only one new sela’ there can be no doubt as to what particular coin the man had in mind.

(16) R. Jose.

(17) Lit., ‘there’.

(18) The ruling in the first clause must consequently be changed from the positive to the negative.

(19) The last five words are omitted from Bomb. ed.

(20) Where an ordinary sela’ was spoken of. As R. Jose ruled in the first case (according to the reversed version) that the tithe is not redeemed because it is impossible to ascertain which particular sela’ the man had originally in his mind, so he should have ruled in the latter case also where it is equally impossible to ascertain which of the two or three new coins the man had originally in mind.

(21) None other, surely, could possibly come.

(22) For the sake of parallelism.

(23) Lit., ‘that I shall desire.

(24) The prescribed Sabbath limit from the place of the ‘erub.

(25) Lit., ‘if he wished’.

(26) Of the Sabbath eve.

(27) Since at twilight, when the validity of an ‘erub must be determined, he may have intended his ‘erub for a different person and his subsequent selection cannot be made retrospective. Now, since ‘erub is a Rabbinical enactment, it follows that bererah is inapplicable even to Rabbinical enactments, and the question is who is that Tanna?

(28) Who ruled (supra 36b) that, according to R. Judah, bererah is not applied to ‘erub though it is only a Rabbinical enactment.

(29) While the rulings of the other Tannas quoted supra who upheld bererah refer to Pentateuchal laws only.

(30) With reference to Raba's enquiry.

(31) l.e., are you unable to find any Tannaitic authority who holds this view?

(32) Whether bererah applies to a Rabbinical enactment,

(33) Having deposited his ‘erub at a distance of two thousand cubits from his home town.

(34) The permitted distance from the ‘erub in all directions including the two thousand cubits distance away from it in the opposite direction from the town, making a total of four thousand cubits from the latter.

(35) V. previous note, but would instead enjoy the rights of the other people of the town who may go two thousand cubits in all directions from the town including the two thousand cubits distance from it in the opposite direction of the ‘erub, making a total of four thousand cubits from that ‘erub.

(36) Lit., ‘if he wished’.

(37) Of the Sabbath eve. Because by the time Sabbath begins his mind was already made up and the validity of the ‘erub is established.

(38) Though his mind was not made up when the Sabbath began, his subsequent choice on the principle of bererah, which R. Simeon upholds, is regarded as retrospective.

(39) Because (cf. previous notes) they do not uphold the principle of bererah. This we have a Tannaitic authority that does not uphold bererah even in a Rabbinic enactment.
(40) In respect of wine bought from Cutheans (supra 36b, f).
(41) In the last cited Baraitha.
(42) It is R. Simeon who ruled that the ‘erub is not effective.
(43) As is the case with ‘erub with which the last cited Baraitha deals.
(44) Who pointed out the contradiction. ‘R. Joseph’ of cur. edd. is deleted by Bah and is wanting in MS.M.
(45) Lit., ‘there is to him’.
(46) Bererah which R. Simeon well upholds having no bearing at all upon it:
(47) Why the procedure permitted there by R. Meir is forbidden by R. Simeon.
(48) Lit., ‘that we require’.
(49) Cf. Deut. XVIII, 4: The firstfruit . . . of thy wine . . . shalt thou give him (Sc. the priest).
(50) As the ‘dues’ are mixed with the ‘remainder’ they are obviously indistinguishable from one another. Hence R. Simeon's prohibition.
(51) Raba.
(52) If, as has just been suggested, it is essential that at the time the dues are named the remainder shall be distinguishable from it.
(53) V. Glos,
(54) For the same reason (v. previous note) that at the time the terumah was named the one pomegranate which was to be terumah was indistinguishable from the other which was to be the remainder?
(55) Of tebel.
(56) Which is given to the Levite who sets aside a portion of it for the priest as terumah.
(57) Ter. III, 5; and all the produce in the heap spoken of in the first case is forbidden to an Israelite as terumah; it must not, as second tithe, be eaten outside Jerusalem; and if it contracted uncleanness, the guilt of eating unclean terumah is incurred by the man who eats it. In the second case the entire heap is subject to the restrictions of terumah of the tithe. Now, the dues and the remainder of the heap are obviously indistinguishable from one another, and yet, according to R. Simeon, the nailing of the dues is valid; but if Raba's submission in the case of the pomegranates is to be accepted the difficulty would arise why is the naming valid?
(58) The case of the heap cited.
(59) From that governing the case of the pomegranates.
(60) Since the man restricted the dues to the ‘middle’ of the heap.
(61) Lit., ‘round it’, so that the dues and the remainder are to a very large extent quite distinguishable from each other.
(62) In explanation of the difficulty, if R. Simeon upholds bererah why does he forbid the procedure permitted by R. Meir in the case of the wine (supra 36b, f).
(63) Lit., ‘as he taught the reason’.
(64) In which the wine is contained.
(65) Before the priestly or levitical dues have been taken from it.
(66) Since the priest would never receive his due of terumah,
(67) Tosef. Rem. VII, Yoma 56b; but while the skill is whole and the priest is sure of his due the remainder may well be used by adopting the procedure described. Thus it follows that the question of bererah, which R. Simeon well upholds, does not arise here at all, the sole reason of the prohibition being the possible bursting of the skill.
(68) Raba's explanation supra.
(69) If R. Meir's reason was that submitted by Raba, what sense was there in speaking to him of the bursting of the skin?
(70) ‘Hence our prohibition’.

Talmud - Mas. Eiruvin 38a

do you not agree that the skin might burst and the man would thus have been drinking liquids of tebel?’ And he replied: ‘When it will have burst [there would be time for the question to be considered]’.

MISHNAH. R. ELIEZER RULED: IF A FESTIVAL DAY IMMEDIATELY PRECEDES OR

FOLLOWS[1] THE SABBATH A MAN[2] MAY PREPARE TWO ‘ERUBS[3] AND MAKE THE FOLLOWING DECLARATION: MY ‘ERUB FOR THE FIRST [DAY SHALL BE THAT] OF THE EAST[4] AND THE ONE FOR THE SECOND DAY THAT OF THE WEST’;[5] ‘THE ONE FOR THE FIRST DAY [SHALL BE THAT] OF THE WEST AND THE ONE FOR THE SECOND DAY THAT OF THE EAST; ‘MY ‘ERUB [SHALL BE EFFECTIVE] FOR THE FIRST DAY, AND FOR THE SECOND DAY [I SHALL RETAIN THE SAME RIGHTS] AS THE PEOPle OF MY TOWN’,[6] OR ‘MY ‘ERUB [SHAll BE EFFECTIVE] FOR THE SECOND DAY, AND FOR THE FIRST DAY [I SHALL RETAIN THE SAME RIGHTS] AS THE PEOPle OF MY TOWN — THE SAGES, HOWEVER, RULED: HE EITHER PREPARES AN ERUB FOR ONE DIRECTION[7] OR[8] NONE AT ALL;[9] HE EITHER PREPARES ONE ‘ERUB FOR THE TWO DAYS[10] OR NONE AT ALL. HOW IS ONE TO ACT?[11] HE ARRANGES [FOR THE ‘ERUB] TO BE CARRIED [TO THE REQUIRED SPOT] ON THE FIRST DAY [BY A DEPUTY][12] WHO, HAVING REMAINED THERE WITH IT UNTIL DUSK’,[13] TAKES IT UP AND GOES AWAY.[14] ON THE SECOND [DAY THE ‘ERUB IS AGAIN CARRIED THERE AND] KEPT UNTIL DUSK WHEN [THE DEPUTY] EATS IT[15] AND GOES AWAY. HE[16] THUS BENEFITS BOTH IN HIS MOVEMENTS[17] AND IN HIS ‘ERUB.[18] IF THE ERUB WAS EATEN UP ON THE FIRST DAY IT REMAINS EFFECTIVE FOR THE FIRST DAY[19] BUT NOT FOR THE SECOND. SAID R. ELIEZER TO THEM: YOU DO THEN AGREE WITH ME THAT THEY[20] ARE TWO DISTINCT ENTITIES OF HOLINESS.[21]

GEMARA. What is [the purport of the expression] FOR ONE DIRECTION? Obviously FOR THE TWO DAYS.[22] And what is [the purport of the expression,] FOR TWO DAYS? Obviously FOR ONE DIRECTION.[23] [Is not then the latter clause] identical with the first one?[24] — It is this that the Rabbis[25] meant to say to R. Eliezer: ‘Do you not agree that no ‘erub may be prepared for one half of a day for a northern direction and for the other half of the same day for a southern direction?’ ‘Indeed [I do]’, he replied. ‘As’, they continued, ‘no ‘erub may be prepared for one half of a day for a southern direction and for the other half of the same day for a northern direction so may no ‘erub be prepared for one of two days in an easterly direction and for the other in a westerly direction’ — And R. Eliezer?[26] — The one day[27] is a single entity of holiness, but the two days[28] are two distinct entitles of holiness. Said R. Eliezer to them:[25] ‘Do you not agree that if a man[29] prepared an ‘erub with his feet[30] for the first day he must[31] also prepare an ‘erub with his feet for the second day,[32] or that if his ‘erub[33] was eaten up on the first day[34] he may not go out[35] [in reliance] on it on the second day?’ ‘Indeed’, they replied. ‘Surely, then’,[36] [he retorted: ‘the two days must be] two entities of holiness’. And the Rabbis?[37] — They were rather uncertain[38] and have, therefore, adopted the more restrictive course in both cases.[39] ‘Do you not agree’, they again said to R. Eliezer, ‘that It is forbidden to prepare an ‘erub for the Sabbath on a festival day[40] for the first time?’[41] ‘Indeed [I do]’, he replied. ‘Surely, then’,[42] [they retorted: ‘the two days must be] one entity of holiness’. And R.Eliezer?[43] — [The restriction] there is due [to the prohibition] of preparing [for the Sabbath on a festival day].[44]

Our Rabbis taught: If a man[45] prepared an ‘erub with his feet on the first day he must also prepare an ‘erub with his feet on the second day; if his ‘erub was eaten up on the first day he may not go out [in reliance] on it on the second day; so Rabbi. R. Judah said:

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(1) Lit., ‘that is near whether before it or after it’.

(2) Who desires on the two days respectively to go in two different directions.

(3) Which he deposits at distances of two thousand cubits from the town in the two desired directions.

(4) ‘EAST’ and ‘WEST’ stand for any two opposite directions.

(5) The two days in question, in the view of R. Eliezer, are regarded is two distinct entities of holiness. One ‘erub may consequently take effect at twilight of the eve of the first day and the other at twilight of the following day, each ‘erub serving for the day for which it is prepared.

(6) Sc. instead of the right to a radius of two thousand cubits from the ‘erub, which prevents him from going outside the town in the opposite direction of that ‘erub, he would he entitled to a radius of two thousand cubits from the town in all directions.

(7) For both days.

(8) If he wishes to be entitled on one of the two days to the privileges of the townspeople.

(9) The reason is explained in the Gemara infra.

(10) This is dealt with in the Gemara anon.

(11) When a festival immediately preceded the Sabbath.

(12) If the man himself goes to the required spot no ‘erub is necessary since his presence at twilight at that spot acquires it for him as his abode for that Sabbath or festival.

(13) When the ‘erub effects [he acquisition of the spot (cf. previous note).

(14) He should not leave it there since it might be lost and the man for whom it was prepared would thus be without an ‘erub for the second day.

(15) He may not carry it away with him on account of the Sabbath on which the carrying of objects in a public domain or in a karmelith is forbidden.

(16) By taking the ‘erub with him on the first day and so preserving it from possible loss.

(17) Lit., ‘his waking’.

(18) He is able (a) to walk not only on the first, but also on the second day in the directions he desires and (b) he can also enjoy the eating of the two meals of which the ‘erub consists. Had he not preserved the ‘erub he might have lost both benefits. Should the festival be preceded by the Sabbath when the carrying of objects is forbidden (cf. supra n. 6) there is no alternative but to leave the ‘erub in its position until the termination of the Sabbath. It must be examined at twilight just before the festival begins and, if it is found intact, it must be allowed to remain in position until dusk when it may be carried away or eaten on the spot,

(19) Lit., ‘his ‘erub is for the first’.

(20) The two days.

(21) Had the two days been one entity the ‘erub that was effective at twilight on the eve If the first day should have retained its effectiveness until the conclusion of the second day. ‘Now since you concede this point’, R. Eliezer says in effect, ‘You must also concede that two ‘erubs may be prepared respectively for the two days for two different directions’.

(22) Sc. it is only permitted to prepare one ‘erub for one direction for the two days.

(23) V. p. 261, n. 13.

(24) Indeed it is. Then why should the same ruling be repeated?

(25) The Sages.

(26) How does he meet this argument.

(27) Lit., ‘there’.

(28) Lit., ‘here’.

(29) Who had no food to send to the required spot through a deputy.

(30) Sc. walked to the spot and, by his presence there at twilight, acquired it as his abode for the next twenty.four hours of the day.

(31) If he returned to his permanent home.

(32) I.e., must again walk to the required spot just before the conclusion of the first day and remain there during twilight as he did on the eve of the first day (cf. supra n. 8) since his first acquisition has no effect whatever on his movements on the second day.

(33) Where one was prepared with food.

(34) Even after it had taken effect.

(35) Beyond the limits permitted to the people of the town.

(36) לאיי MS.M. לאו not?’

(37) How can they maintain their ruling in view of this objection?

(38) Whether a Sabbath and a festival day that immediately succeed one another are to be regarded as two distinct entities of holiness or as one only.

(39) Lit., ‘here for a restriction and etc.’ They (a) forbade ‘erubs in two different directions in case the two days are one entity of holiness and also (b) required an ‘erub for each day in particular in case the two days are distinct entities of holiness.

(40) That immediately precedes it.
(41) I.e.,if no ‘erub was prepared on the festival eve,
(42) V. p. 262, n. 14.
(43) V. p. 262, n. 4.
(44) V. infra b. It provides, therefore, no proof that the two days are regarded as one entity.
(45) Cf. supra p. 262, nn. 7ff.

Talmud - Mas. Eiruvin 38b

Behold this [man represents a combination of] an ass-driver and a camel-driver.[1] R. Simeon b. Gamaliel and R. Ishmael son of R. Johanan b. Beroka said: If he prepared an ‘erub with his feet on the first day he need not prepare one with his feet for the second day[2] and if his ‘erub was eaten on the first day he may go out [in reliance] on it on the second day.[3]

Rab stated: The halachah is in agreement with the[4] four elders who follow the view of R. Eliezer who maintained [that the two days are regarded as] two entities of holiness. And these are the four elders: R. Simeon b. Gamaliel, R. Ishmael son of R. Johanan b. Beroka, R. Eleazar[5] son of R. Simeon and R. Jose b. Judah [reported] anonymously[6] or, as others say, one of these is R. Eleazar[7] while R. Jose b. Judah [reported] anonymously is to be ‘excluded. But were not R. Simeon b. Gamaliel and R. Ishmael son of R. Johanan b. Beroka heard to express the contrary view?[8] — Reverse it.[9] But if so,[10] is not their view identical with that of Rabbi?[11] — Read,’And so also ruled R. Simeon b. Gamaliel etc.’[12] But why was not Rabbi[13] also enumerated?[14] — Rabbi only learnt the ruling[15] but he himself did not adopt it. [Is it not possible that] the Rabbis[16] also only learned it but did not adopt it?[17] Rab received the statement[18] as a definite tradition.

When R. Huna's soul departed to its eternal rest R. Hisda entering [the academy] pointed out a contradiction between two statements of Rab:[19] Could Rab have said: ‘The halachah is in agreement with the four elders who follow the view of R. Eliezer who maintained [that the two days are regarded as] two entities of holiness’, seeing that it was actually[20] stated: ‘If the Sabbath and a festival day [follow one another in close succession]. Rab ruled that [an egg] that was laid on the first of these days[21] is forbidden on the other’?[22] — Rabbah replied: [The restriction] there is due to [the prohibition against] preparing [from one day for the other]; for it was taught: And it shall come to pass on the sixth day[23] that they shall prepare[24] [implies that one may] prepare [on] a weekday for the Sabbath or for a festival but that no preparations may be made [on] a festival or the Sabbath nor nay preparations be made [on] the Sabbath for a festival.[25] Said Abaye to him:[26] [What,] however, [could be your explanation of] what we learned: HOW IS ONE TO ACT? HE ARRANGES FOR THE ERUB] TO BE CARRIED [TO THE REQUIRED SPOT] ON THE FIRST DAY [BY A DEPUTY] WHO, HAVING REMAINED THERE WITH IT UNTIL DUSK, TAKES IT UP AND GOES AWAY. ON THE SECOND [DAY THE ‘ERUB IS AGAIN CARRIED THERE AND] KEPT UNTIL DUSK WHEN [THE DEPUTY] EATS IT AND GOES AWAY? Is he not thereby preparing on a festival day for the Sabbath? — Rabbah replied: Do you imagine that it is at the conclusion of the day[27] that an ‘erub acquires Its validity? It is at the beginning of the day[28] that its validity is acquired, and on the Sabbath one may well make preparations for the Sabbath itself. Now then,[29] why should not people be allowed to prepare an ‘erub with a ‘lagin’?[30] — Because It Is necessary [that an erub should consist of] a meal that is suitable [for consumption] while it is yet day,[31] which is not the case there.’[32] [What], however, [is your explanation of] what we learned: R. ELIEZER RULED: IF A FESTIVAL DAY IMMEDIATELY PRECEDES OR FOLLOWS THE SABBATH A MAN MAY PREPARE TWO ‘ERUBS?’[33] Is it not necessary [that the ‘erub should consist of] a meal suitable [for consumption] while it is yet day,[31] which is not the case here?[34] — Do you think that one ‘erub was laid at the termination of two thousand cubits in one direction[35] and [the other was laid] at the termination of two thousand cubits in the opposite direction?[36] No; one ‘erub was laid at the termination of one thousand cubits in one direction and [the other also was similarly laid at] the termination of one thousand cubits in the opposite direction.[37] [What,] however, [could be said in explanation of] that which Rab Judah ruled: If a man prepared an ‘erub for the first day with his feet he must also prepare it for the second day with his feet and if he prepared the ‘erub for the first day with bread he must also prepare it for the second day with bread? Is he not[38] preparing on a festival day for the Sabbath?[39] — The other replied: Do you think that he must go [to the required spot] and pronounce some formula? In fact he only goes there and sits down in silence. In agreement with whose view?[40] Is it in agreement only with that of R. Johanan b. Nuri who holds that objects of hefker[41] acquire[42] the spot on which they rested?[43] — It may be said to be in agreement even with the view of the Rabbis, for they differ from R. Johanan b. Nuri only in respect of a person asleep, who cannot possibly pronounce the formula, but where a person is awake and could, if he wished, pronounce it he is deemed to have pronounced it even though he has not actually done so. Said Rabbah b. R. Hanin to Abaye: If the Master[44] had heard that[45] it was taught: ‘A man shall not walk [on the Sabbath] to the end of his field to ascertain what it required.[46] Similarly

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(1) Cf. relevant note on the Mishnah supra 35a. It is uncertain whether the two days are to be regarded as one entity of holiness or two entities. In the former case the ‘erub for the first day is also effective for the second one and the man is consequently forbidden to walk the two thousand cubits from the town in the opposite direction of the ‘erub though he would be allowed four thousand cubits from the town in the direction of the ‘erub (which is his ‘abode’ for the day and from which point he is entitled to walk two thousand cubits in all directions). In the latter case the ‘erub for the first day is not effective for the second, and the man is consequently forbidden on that day to walk more than two thousand cubits from the town in the direction of the ‘erub though (since the town is his abode) he would be permitted to walk the two thousand cubits from the town in the opposite direction of the ‘erub. Owing to the uncertainty both restrictions are imposed and the man may walk only the two thousand cubits between the town and his ‘erub.

(2) Both days being regarded as one entity of holiness or as one long day.

(3) V. previous note. Tosef. ‘Er. IV.

(4) So MS.M. Cur. edd. read הללו though omitting in infra in R. Hisda's quotation.

(5) Var. lec. ‘Eliezer’.

(6) Sc. whose rulings have been anonymously recorded by the compilers of the mishnah.

(7) R. Eleazar b. Shamua.

(8) Supra.

(9) ‘The view they previously expressed; the correct version being the one in agreement with R. Eliezer given here.

(10) V. previous note.

(11) Supra 38a and fin. An identical ruling should not have been mentioned in a form which implies a divergence of opinion.

(12) And the wording of their ruling also is to be altered accordingly.

(13) Who is of the same opinion as R. Eliezer (supra 38a ad fin.).

(14) Among the other four elders,

(15) Lit., ‘it’, the ruling in agreement with R. Eliezer.

(16) R. Simeon b. Gamaliel and R. Ishmael son of R. Johanan b. Beroka.

(17) How then could Rab include them among the four elders?

(18) That the four elders held the view of R. Eliezer.

(19) Lit., ‘of Rab on Rab’.

(20) Lit., ‘and surely’.

(21) Lit., ‘on this’.

(22) Bezah 4a; apparently because he regards both days as one entity.

(23) I.e., Friday, the ‘sixth’ of the weekdays.

(24) Ex.XVI, 5.

(25) Bezah 2b.

(26) Rabbah.

(27) The festival that precedes the Sabbath for which the ‘erub is prepared.

(28) For which the ‘erub is required, i.e., [he Sabbath.

(29) If, as just stated, an ‘erub takes effect at the beginning, sc. at twilight of the eve of the day for which it is prepared.

(30) ‘That was a tebul yom’ (supra 36a). The reason for the invalidity of the ‘erub given there was that before the Sabbath begins it consisted of tebel. But if an ‘erub does not take effect (cf. previous note) before the Sabbath actually begins the ‘erub in the lagin, since the moment Sabbath begins it is no longer tebel, should be valid.

(31) Friday.

(32) Lit., ‘and there is not’, because at that time it was still tebel.

(33) It is now assumed that one ‘erub is laid at a distance of’ two thousand cubits from the town in one direction and the other at an equal distance in the opposite direction.

(34) Since the effectiveness of the ‘erub for the first day prevents the man for whom it was prepared from walking one single step in the opposite direction of the town (cf. previous note) in consequence of which he is unable, while it is yet day, to gain access to his second ‘erub.

(35) Lit., ‘towards here’.

(36) Cf. Supra p. 265, n. 9.

(37) So that either ‘erub is within two thousand cubits distance from the other, and the man is consequently able to gain access to the ‘erub he requires.

(38) When preparing the ‘erub with his feet.

(39) Granted that in the case of an ‘erub with bread, since validity takes effect at the beginning of the day for which it is prepared, there is, as has been explained supra, no preparation from the festival for the Sabbath’ in the case of an ‘erub prepared with one's feet, however, since the man cannot exactly determine the moment at which the Sabbath begins, he would obviously pronounce the formula, whereby he acquires the spot as his abode, while it is yet day and thus he would be guilty of preparing on a festival for the Sabbath.

(40) Is this ruling that no formula is necessary for acquiring a spot as one's ‘abode’ for a Sabbath or festival.

(41) V. Glos. though they are ownerless and no one acquires the place for them.

(42) Like a sleeping person (cf. infra 45a).

(43) At the moment the Sabbath or festival began.

(44) Rabbah, who tacitly assumed that a man may take a walk on a holy day though his motive is to facilitate thereby some work which is forbidden on that day’.

(45) Lit., ‘that which’.

(46) Though his intention is to attend to the work after the conclusion of the Sabbath.

Talmud - Mas. Eiruvin 39a

no man shall[1] walk about[2] the gate of a province in order that he might enter a bath house[3] as soon [as the holy day terminates],’ he would have changed his view.[4] This however is not correct. He did in fact hear of this ruling but did not change his view, since there[5] the motive is obvious[6] while here it is not at all obvious. For if the person is a scholar people would assume that he might have been absorbed[7] in his studies,[8] and if he is an ‘am ha-arez,[9] it would be said that he might have lost his ass.[10]

[To turn to] the main text: Rab Judah ruled: If a man prepared an ‘erub for the first day with his feet he must also prepare it for the second day with his feet and if he prepared the ‘erub for the first day with bread he must also prepare it for the second day with bread; if he prepared his ‘erub for the first day with bread [and it was lost] he may prepare it for the second day with his feet, but if he prepared it for the first day with his feet he may not prepare it for the second day with bread because It is not allowed [on a festival day] to prepare for the first time an ‘erub [for the Sabbath] with bread.[11]

‘If he prepared the ‘erub for the first day with bread he must also prepare it for the second day with bread’. Samuel explained: But only with the same bread. R. Ashi remarked: Logical deduction from our Mishnah also [leads to the same conclusion].[12] For it was stated: HOW DOES HE ACT? HE ARRANGES [FOR THE ‘ERUB] TO BE CARRIED [TO THE REQUIRED SPOT] ON THE FIRST DAY [BY A DEPUTY] WHO, HAVING REMAINED THERE WITH IT UNTIL, DUSK, TAKES IT UP AND GOES AWAY. ON THE SECOND [DAY THE ‘ERUB IS AGAIN CARRIED

THERE AND] KEPT UNTIL DUSK WHEN [THE DEPUTY] EATS IT AND GOES AWAY. And the Rabbis?[13] — There[14] we might merely have been given a piece of good advice.[15]

MISHNAH. R JUDAH RULED: [IF ON THE EVE OF THE] NEW YEAR A MAN[16] FEARS THAT [THE PRECEDING MONTH OF ELUL.] MIGHT BE INTERCALATED,[17] HE[18] MAY PREPARE TWO ‘ERUBS[19] AND MAKE THIS DECLARATION:[20] ‘MY ‘ERUB[21] FOR THE FIRST [DAY SHALL BE] TO THE EAST AND THE ONE FOR THE SECOND DAY TO THE WEST’; ‘THE ONE FOR THE FIRST DAY TO THE WEST AND THE ONE FOR THE SECOND DAY TO THE EAST’; ‘MY ‘ERUB [SHALL BE EFFECTIVE] FOR THE FIRST DAY, AND FOR THE SECOND [I SHALL RETAIN THE SAME RIGHTS] AS THE PEOPle OF MY TOWN’ OR ‘MY ‘ERUB [SHALL BE EFFECTIVE] FOR THE SECOND DAY, AND) FOR THE FIRST [I SHALL RETAIN THE SAME RIGHTS] AS THE PEOPLE OF MY TOWN. THE SAGES, HOWEVER, DID NOT AGREE WITH HIM.[21]

R. JUDAH FURTHER RULED: A MAN MAY CONDITIONALLY[22] [SET ASIDE TERUMAH][23] FOR A BASKET [OF PRODUCE] ON THE FIRST FESTIVAL DAY [OF NEW YEAR] AND MAY THEN EAT IT ON THE SECOND DAY, AND SO ALSO IF AN EGG WAS LAID ON THE FIRST [FESTIVAL] DAY IT MAY BE EATEN ON THE SECOND; BUT THE SAGES DID NOT AGREE WITH HIM.[24]

R. DOSA B. HARKINAS RULED: THE PERSON WHO ACTS AS CONGREGATIONAL READER[25] ON [THE FIRST DAY OF] THE FESTIVAL OF THE NEW YEAR SAYS: ‘FORTIFY US, O LORD OUR GOD, ON THIS FIRST DAY OF THE MONTH, WHETHER IT BE TODAY OR TOMORROW’; AND ON THE FOLLOWING DAY HE SAYS: ‘[FORTIFY US ETC.] WHETHER IT BE TODAY OR YESTERDAY’. THE SAGES, HOWEVER, DID NOT AGREE WITH HIM.[26]

GEMARA. Who [is it that] DID NOT AGREE WITH HIM? Rab replied: It is R. Jose; for it was taught: The Sages agree with R. Eliezer[27] that if on [the eve of] the New Year[28] a man fears that [the preceding month of Elul] might be intercalated,[29] he may prepare two ‘erubs and make this declaration: ‘My ‘erub for the first [day shall be] to the east and the one on the second day to the west’, ‘The one for the first day to the west and the one for the second day to the east’, ‘My ‘erub [shall be effective] for the first day, and for the second [I shall retain the same rights] as the people of my town’, or ‘My ‘erub [shall be effective] for the second day, and for the first [I shall retain the same rights] as the people of my town’; but R. Jose forbids this.[30] Said R. Jose to them:[31] Do you not agree that, if witnesses[32] came after the [offering of the] minhah[33] both that day and the day following are observed[34] as holy [days]?[35]

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(1) On the Sabbath or a festival.

(2) Aliter: ‘Shall take a walk to’ (cf. Rashi and Gold.).

(3) That is nearby.

(4) Because, from this Baraitha it is obvious that, on a holy day’ even a walk is forbidden if the purpose is to facilitate some forbidden act. Similarly in the case of ‘erub, if the utterance of the formula would constitute an infringement of the law of preparation the silent occupation of the required spot for the same purpose would equally constitute an infringement.

(5) The walks in the Baraitha cited.

(6) No one would ordinarily walk on a holy day to the end of his field or to the gate of a province unless he intended, in the former case, to carry’ out some work in the field or, in the latter case, to enter a bath house as soon as the day ended.

(7) Lit., ‘it drew him’.

(8) And absentmindedly walked on to the Sabbath limit.

(9) V. Glos., who does not engage in study.

(10) And he went to make enquiries about it. Such enquiries as well as the return of the animal to its stable are permitted even on a holy day.

(11) Since the ‘erub would have to be Named on the festival day the prohibition against performing an act on a festival for the Sabbath would be infringed.

(12) That only bread that was on the eve of a festival named as ‘erub may be used for the Sabbath ‘erub but no new bread that would have to be named as ‘erub on the festival day.

(13) Abaye and Rabbah b. Hanin who argued supra against Rabbah's ruling which forbids the naming of an ‘erub on a festival for the Sabbath. How could they maintain their views against the deduction from our Mishnah?

(14) In our Mishnah.

(15) Which does not preclude the naming of new bread as ‘erub if the man is inclined to do so.

(16) Living in the diaspora, too far from Jerusalem (the seat of the Sanhedrin or supreme court) to ascertain in time which day was fixed as the New Year. The day beginning [he new year, is well as the respective days beginning the months of the year, was determined and announced in Jerusalem after the authorities heard, and were satisfied with the necessary evidence on the time the new moon appeared in the respective month.

(17) I.e., declared to consist of thirty, instead of twenty-nine days. If the witnesses were in time only the day following the twenty-ninth of Elul was announced as New Year's day, but if they were late, that day’ was added to Elul and the New Year festival was announced for both that day (the thirtieth of Elul) and the day following it (the first of Tishri), though in fact the latter only was the holy day.

(18) If he wishes to go on the two days respectively in two opposite directions of the town (as in the case in the Mishnah supra 38a).

(19) Depositing them in the two opposite directions of the town respectively at distances of two thousand cubits.

(20) For further notes v. Mishnah supra 38a.

(21) They regard both days as one entity of holiness.

(22) This is explained infra 39b.

(23) Though the setting aside of the priestly dues is forbidden on a day that is definitely known to be a holy day.

(24) Cf. supra n. 3.

(25) Lit., ‘he who passes before the (reading) chest’.

(26) The point at issue between the Sages and R. Dosa is explained infra in the Gemara.

(27) Though they disagree with him where one of the two days in question was a Sabbath and the other a festival since both days are holy beyond doubt.

(28) Since only one of the day's, viz., the actual first day of the year, whichever of the two it may be, is holy while the other is definitely not holy. The two day's are kept as a festival for the sole reason that it is impossible to ascertain which of the two is actually the first day of the year.

(29) For notes on the passage cf. the notes on our Mishnah.

(30) His reason emerges from the argument he advances presently.

(31) The Sages.

(32) Who saw the appearance of the new moon.

(33) Lit., ‘from the minhah and onward’, מנחה denoting the continual daily evening sacrifice which was offered as a rule from the sixth and half hours after sunrise (the day being divided into twelve hours).

(34) Lit., ‘that they lead’, ‘behave’.

(35) Tosef. ‘Er. IV. So that the reason why the New Year festival is kept in the diaspora for two days is not only on account of doubt as to which of these days was declared to be the first day of the New Year but also on account of the possibility that both were actually kept in Jerusalem as holy days.

Talmud - Mas. Eiruvin 39b

And the Rabbis?[1] — There [the reason for the observance][2] is[3] that people shall not treat it with disrespect.[4] R. JUDAH FURTHER RULED etc. And [the mention of the three cases[5] was] necessary.[6] For if we had been informed of the NEW YEAR[7] only it might have been presumed that R. Judah maintained his view[8] only in that case because the man does nothing,[9] but that in the case of the BASKET, where it might appear that he prepares tebel,[9] R. Judah agrees with the Rabbis. And even if we had been taught both, those cases[10] it might have been presumed [that R. Judah maintained his view[11] in these only] because there is no prohibition On account of which these should be forbidden as a preventive measure, but that in the case of the EGG, where there is reason to forbid it as a preventive measure as fallen fruit[12] or as liquids that excluded,[12] he agrees with the Rabbis. [Hence it is that the three cases were] required.

It was taught: In what manner did R. Judah mean his ruling, that ‘a man may conditionally [set aside terumah] for a basket [of produce] on the first festival day [of New Year] and may then eat it on the second day’, [to be carried out]? If, for Instance, he had before him two baskets of produce of tebel he makes this declaration: ‘If today is an ordinary weekday and tomorrow will be a holy day let this [basket of produce][13] be terumah for the other, and if today is a holy day and tomorrow is a weekday let my declaration be void’. He thus names it [conditionally] and puts It away. On the following day he says:[14] ‘If today is a weekday let this [basket of produce] be terumah for the other, and if today is a holy day let my declaration be void’, and he thus names It[15] and may then eat [the other]. R. Jose forbids this. And so also did R. Jose forbid [such a procedure] on the two festival days of the diaspora.[16]

A stag that was caught[17] on the first day of a diaspora festival and slain on the second day of the festival was presented at the Exilarch's table. R. Nahman and R. Hisda ate it,[18] but R. Shesheth did not eat It.[19] ‘What’, said R. Nahman, ‘can I do with R. Shesheth who does not eat the meat of a stag?’ — ‘How could I eat it’, retorted R. Shesheth, ‘in view of what Assi[20] learned (or, as others say: Issi[21] learned): And so also did R. Jose forbid [such a procedure] on the two festival days of the diaspora’. ‘What, however’, objected Raba, ‘is the difficulty? Is it not possible that he[22] meant this: And so also did R. Jose forbid [such a procedure] on the two festival days of the New Year[23] in the diaspora?’[24] — If so [instead of the expression,] ‘of[25] the diaspora’ it should have read: ‘In the diaspora’ — ‘What difficulty, however,’ objected R. Assi, ‘is this? Is it not possible that he[22] meant this: And so also did R. Jose treat the prohibition of [such a procedure] on any of the two festival days of the diaspora[26] as did the Rabbis on the two festival days of the New Year[27] on which they permit [a similar procedure]?[28] R. Shesheth subsequently met Rabbah b. Samuel and asked him, ‘Has the Master learnt anything on the question of festival sanctities?’[29] — ‘I have learnt’, the other replied, ‘that R. Jose agreed in the case of the two festival days of the diaspora’.[30] If you happen to meet them[31] [R. Shesheth requested] mention to them nothing whatever about the matter.[32] R. Ashi stated: Amemar told me personally that the stag was not at all caught[33]

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(1) How could they maintain their view in face of R. Jose's argument (cf. previous note)?

(2) Of the first day also, where the witnesses came in the afternoon.

(3) Not because it is actually holy and forms together with the day following it one entity of holiness.

(4) It is in fact not holy; but if, where witnesses came in the afternoon, that day (the 30th of Elul) had not been treated to the end as a holy day, the public might on the next occasion come to regard the entire day with equal disrespect and would, in consequence, permit themselves to carry on their usual occupations and work all that day as if it had been one of the ordinary working days. Such laxity, however, would result in the actual desecration of a holy day where the witnesses happened to come before noon and that day (the one following the 29th of Elul) had been declared as the one and only day of the New Year festival. In order, therefore, to avoid such possible desecration It was ordained that the day following the 29th of Elul shall always be treated as a holy day irrespective of the time of day at which the witnesses appeared. Where, however, the witnesses did come in the afternoon, though that day is continued to be observed as a holy day for the reason stated, it is in fact an ordinary weekday, the second day only being actually holy and the New Year day.

(5) The ‘ERUBS, the BASKET and the EGG.

(6) For the realization of the full extent of R. Judah's view.

(7) Bah reads: the first clause. Sc. the ruling about the ‘ERUBS on the eve of the New Year.

(8) That the two days are regarded as two entities of holiness.

(9) on the festival day.

(10) Those of the ‘ERUBS and the BASKET.

(11) That the two days are regarded as two entities of holiness.

(12) On a holy day it is forbidden to eat fruit that dropped from the tree on that day, as a preventive measure against one's climbing the tree and plucking them (cf. Bezah 2b); and it is similarly forbidden to drink the juice of fruit that exuded on that day, as a preventive measure against one's squeezing of the fruit (cf. op. cit, 3a). An egg might have been assumed to come under the former or latter category.

(13) Which he points out.

(14) Pointing to the basket he had set aside for the same purpose on the previous day.

(15) The basket for terumah.

(16) ימים טובים של גליות. Name denoting the three major festivals, as distinct from the New Year festival, of which two days were sometimes observed also in Palestine. Instead of the one day festivals that were Pentateuchally ordained for the fifteenth and twenty-first of Nisan (Passover), sixth of Sivan (Pentecost) and the fifteenth and twenty-second of Tishri (Tabernacles and the Eighth Day of Solemn Assembly) the diaspora, or rather those localities that were too far from Jerusalem for the official communications of the Sanhedrin and supreme court to reach them in time before the date of the respective festival, kept two days. Those whom the communications could reach in time knew exactly the day that was declared as the new moon and could calculate therefrom the day of the respective festivals. All others could not be sure whether the new moon of the month in question followed the twenty-ninth or the thirtieth of the preceding month. As In the former case Passover, for instance, would be fifteen days after the twenty-ninth of Adar and in the latter case sixteen days after that date both the fifteenth and the sixteenth were kept as holy days. This was the case with the three major festivals mentioned. And though, unlike the New Year festival which was sometimes kept in Jerusalem itself (as explained supra 39a) on two days, one of each of these pairs of days was invariably a weekday, R. Jose imposes upon both days the same restrictions as those of the New Year day's.

(17) By non-Jews.

(18) Because the two festival days of the diaspora are in their opinion regarded as two entities, the one holy and the other not holy, so that if the first was not the holy day the stag was caught on an ordinary weekday and may well be eaten on the holy day that followed it; and if the first day was holy the stag may well be eaten after the day ended provided only that there was time enough since the conclusion of the holy day for the stag to be caught.

(19) Both days (v. previous note) are regarded by him as one entity of holiness.

(20) So MS.M. Cur. edd. ‘Issi’.

(21) The difference between this reading and the previous one, according to cur.ed. is taken to consist in the mode of its intonation: ‘Did not Issi learn?’ Cf. Rashi.

(22) Assi or Issi.

(23) But not on those of the other festivals.

(24) R. Jose's point being that, in the diaspora, the two days are always one entity as they are sometimes in Jerusalem.

(25) Which implies: Festivals that are kept on two days in the diaspora only but not in Palestine.

(26) Sc. relaxed it and permitted the procedure.

(27) Supra 39a: ‘The Sages agree with R. Eliezer that if on [the eve of] the New Year etc.

(28) This is rather a forced interpretation but is preferable to the difficulty of allowing a senseless ruling to stand in the name of R. Jose who is Invariably known for his reasoned statements and arguments.

(29) l.e., whether the two days of a diaspora festival are regarded as two entities of holiness or as one only.

(30) That they are regarded as two entities.

(31) R. Nahman and R. Hisda.

(32) Lit., ‘do not tell them and nothing’. R. Shesheth realized his mistake and desired to avoid his colleague's taunts.

(33) On the first day when it was brought to the Exilarch's house. If that had been the case R. Shesheth would undoubtedly have shared the view of his colleagues.

Talmud - Mas. Eiruvin 40a

but it arrived[1] from without the permitted festival limit. He who ate it was of the opinion that if anything arrived[2] for one Israelite it is permitted to another israelite,[3] and he who did not eat it held that all foodstuffs that arrived at the Exilarch's house were intended for all the Rabbis.[4] but did not R. Shesheth meet Rabbah b. Samuel and ask him [a question on sanctities]?[5] — That in fact never happened.[6]

A load of[7] turnips once arrived at Mahuza [on a festival day]. Raba went out and observed that they were withered. He therefore permitted the people to buy them, saying: ‘These turnips were undoubtedly pulled out from the ground yesterday. What other objection could be raised?[8] That they arrived from without the permitted festival limit? But anything that arrives for one Israelite is permitted to another Israelite to eat, and much more so are these [turnips permitted] since they were intended for gentiles’. When, however, he observed that [the gentile vendors] were bringing in additional supplies of these turnips he forbade all further buying.[9]

Certain gardeners once cut[10] myrtles on the second day of the festival and Rabina permitted people to smell their odour in the evening immediately [after the termination of the festival]. Said Raba b. Tahlifa to Rabina, ‘The Master should really forbid this to them since they are not learned men’.[11] To this R. Shemaiah demurred: ‘Is the reason then[12] that they are not learned men, but if they had been learned men this would have been permitted? But, surely, is It not necessary [to allow time] enough[13] for their preparation?’[14] They, therefore, proceeded to ask this question of Raba, and he told then; that it was necessary [to allow time] enough[13] for their preparation.[15]

R. DOSA[16] RULED: THE PERSON WHO ACTS AS CONGREGATIONAL READER etc. Rabbah stated: When we were at R. Huna's we raised the following question: ‘Is it necessary to mention the New Moon in [the prayers of] the New Year?[17] Is it necessary to mention it because different additional offerings were ordained for the two celebrations[18] or is rather one mention of "memorial"[19] sufficient for both?’[20] And he told us, ‘You have learnt It: R. DOSA RULED: THE PERSON WHO ACTS AS CONGREGATIONAL READER etc. Does not [this disagreement[21] apply] to the mention [of the New Moon]?’[22] — No; [it may refer] to the conditional form of the prayer.[23] Logical reasoning also Supports this. For in a Baraitha it was taught: ‘And so[24] did R. Dosa proceed on the New Moons[25] throughout the year but they[26] did not agree with him’. Now if you admit [that their objection was] to his conditional form of prayer one can well understand why they did not agree with him;[27] but if you maintain [that their objection was] to the mention of the New Moon why [it may be asked] did they not agree with him?[28] — What then [would you suggest? That their objection was] to his conditional form of prayer? But what purpose [it could be retorted] was served by expressing disagreement In the two cases?[29] — [Both were] necessary. For if we had been informed [of their disagreement In the case of] the New Year Only it might have been presumed that only in this case did the Rabbis maintain that no [conditional form of prayer should be introduced] because[30] people might come to regard the day with disrespect,[31] but that in the case of the New Moons throughout the year[32] they, it might have been presumed — agree with R. Dosa. And if [their disagreement with R. Dosa] had been expressed in the latter case Only,[33] it might have been presumed that R. Dosa maintained his view only in that case[32] but that in the other case he agrees with the Rabbis.[34] [Hence it is that both cases were] necessary.

An objection was raised: If the New Year festival fell on a Sabbath, Beth Shammai ruled: One shall recite ten benedictions,[35] and Beth Hillel ruled: One only recites nine.[36] Now if that were so[37] should it not have been necessary according to Beth Shammai[38] [to order] eleven benedictions?

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(1) On the second day when it was served at the Exilarch's table.

(2) On a festival day from without the permitted limit.

(3) As the stag was brought for the Exilarch it was only forbidden to him but permitted to the Rabbis.

(4) Who usually dined with him. They were, therefore, in the same position as the Exilarch himself.

(5) What possible bearing could such a question have had on that of the stag that was served as a dish on the very day on which it arrived from without the permitted limit?

(6) Lit., ‘the things never were’.

(7) Lit., ‘that’.

(8) Against eating them on the festival.

(9) Lit., ‘to them’, since it was evident that the new supplies were definitely intended for the Jewish public.

(10) Lit., ‘who cut’.

(11) And might, as a result of the permission, allow themselves further relaxations in the observance of the sanctity of the second festival day.

(12) Why they should have been forbidden the smelling of the myrtles.

(13) After the conclusion of the festival.

(14) Sc. the cutting of the myrtles. Before such a period of time has passed the smelling remains forbidden but Rabina, surely, permitted it as soon as the festival concluded.

(15) Cf. previous note.

(16) Our Mishnah (supra 39a) insert B. HARKINAS.

(17) Sc. is it necessary to say ‘this day of the New Moon’ in addition to ‘this Day of Memorial’?

(18) Lit., ‘they are divided in their additional offerings’. Besides the sacrifices that were ordered for the New Year festival (cf. Num. XXIX, 2ff) the sacrifices of the New Moon (which, of course, always coincided with the first day of the New Year) had also to be offered on that day (ibid. 6).

(19) Since both the New Year festival and the New Moon were associated in Scripture with memorial or remembrance before God (cf. Lev. XXIII, 24 and Num. X, 10).

(20) Lit., ‘goes up towards here and towards here’,

(21) Of the Rabbis with R. Dosa spoken of in our Mishnah.

(22) Cf. our Mishnah, their opinion being that the New Moon need not be mentioned in the prayer of the New Year's day.

(23) Which R. Dosa had laid down. In their opinion the expression ‘WHETHER IT BE TODAY etc.’ should be omitted, but the mention of the New Moon must be included.

(24) Sc. with a conditional form of prayer.

(25) Whenever it was uncertain whether the day following the twenty-ninth or the thirtieth of the preceding month was declared as the New Moon.

(26) The Rabbis.

(27) Since they might well object to introduce conditional forms in a prayer.

(28) The New Moon, surely, should be mentioned in the prayers for the ordinary New Moon's day.

(29) Those of the New Year and the New Moon. Their disagreement on the conditional form of prayer in the one case should, surely, be sufficient indication of their disagreement in the other.

(30) Observing that the day is specifically described in the prayers as of doubtful holiness.

(31) And thus desecrate both days of the festival.

(32) Where the question of desecration does not arise since work is permitted on the New Moon.

(33) I.e., and the case of the New Year had not been mentioned at all.

(34) In order, as explained supra, to obviate any possible desecration of the festival.

(35) The first three (cf. P.B. p. 44f) and the last three (ibid. p. 50ff) that are recited three times every day; one for the Sabbath, one dealing with the sanctity of the New Year and the divine sovereignty of the universe, and two dealing respectively with aspects of God's remembrances and the blowing of the shofar (ibid. pp. 247ff).

(36) Tosef. Ber. III and Tosef. R.H. II ad fin. The mention of the Sabbath and the sanctity of the New Year are included in one benediction which concludes with ‘Who sanctifies the Sabbath and Israel and the Day of Memorial’. (cf. P.B. p. 249).

(37) That the New Moon must also be mentioned in the New Year prayers.

(38) Who ordered specific benedictions for every subject.

Talmud - Mas. Eiruvin 40b

— R. Zera replied: The New Moon is different [from a festival] —[1] Since [its mention] is included [in the benediction on the sanctity of the day] in the morning and evening prayers[2] it is also included in that of the additional prayer.[3] But do Beth Shammai uphold [the view that the mention of the New Moon[4] is] to be included?[5] Was it not in fact taught: If a New Moon falls on a Sabbath, Beth Shammai ruled: One recites in his [additional] prayer eight benedictions and Beth Hillel ruled: Seven?[6] — [This is indeed] a difficulty.[7]

On the very question of inclusion[8] Tannas differ. For it was taught: If the Sabbath falls on a New Moon or on one of the intermediate days[9] of a festival, one reads the seven benedictions in the evening, morning and afternoon prayers in the usual way, inserting the formula appropriate for the occasion[10] in the benediction on the Temple service; R. Eliezer ruled: [The insertion is made] in the benediction of thanksgiving; and if it was not Inserted one is made to repeat [all the benedictions]. In the additional prayers one must begin and conclude with the mention of the Sabbath[11] inserting the mention of the sanctity of the day in the middle [of the benediction only].[12] R. Simeon b. Gamaliel and R. Ishmael son of R. Johanan b. Beroka ruled: Wherever one is under an obligation to recite seven benedictions[13] it is necessary to begin and conclude with the mention of the Sabbath[11] and to insert the reference to the sanctity of the day in the middle[14] [of the benediction].[15]

Now what is the result of the discussion?[16] — R. Hisda replied: [The mention of] one ‘memorial’[17] suffices for both.[18] So also ruled Rabbah: [The mention of] one ‘memorial’ is sufficient for both.[18]

Rabbah further stated: When we were at R. Huna's we raised the question whether the benediction on the season[19] is to be recited on the New Year festival and on the Day of Atonement. Must it be recited [we argued] since [these solemn days] occur only periodically or is it possible that it is not to be said since they are not described in Scripture as ‘festivals’? He was unable to give an answer.[20] When I later arrived at Rab Judah's he stated: ‘I recite the benediction on the season[21] even over a new pumpkin.[22] ‘I do not ask’, I told him, ‘whether it is permitted [to recite this benediction].[21] What I ask is whether its recital is obligatory’ ‘Both Rab and Samuel’, he replied: ‘ruled: The benediction on the season[21] is recited only on the occasion of the three major festivals.’[23]

An objection was raised: Give a portion unto seven, yea, even unto eight.[24] R. Eliezer explained: ‘Seven’ alludes to the seven days of the creation[25] and ‘eight’ alludes to the eight days of circumcision.[26] R. Joshua explained: ‘Seven’ alludes to the seven days of the Passover and ‘eight’ alludes to the eight days of the festival of Tabernacles: and since Scripture says: ‘Yea, even’, Pentecost, New Year's day and the Day of Atonement are also included. Now does not this inclusion refer to the benediction on the season?[27] — No; [the reference is] to the benediction [on the sanctity of the day].[28] This[29] may also be logically supported. For if it were to be assumed[30] [that the reference is] to the benediction on the season [the objection could be advanced:] Is [the benediction on] the season recited[31] all the seven [days of the festival]?[32] — This is really no objection, since a person who did not recite the benediction on the proper day[33] must do so on the following or any subsequent day [of the festival].[34] At all events, however, [it may be objected] is not a cup of wine[35] required?[36] May it [thus] be suggested that this[37] provides support for R. Nahman who laid down: One may recite the benediction on the season even in the market-place?[38] — This[39] is no difficulty [at all, since the benediction on the season could be said] when one happens to have a cup of wine.[40] This explanation[41] is quite satisfactory as regards Pentecost and the New Year festival; but[42] how could one proceed on the Day of Atonement?[43] If [it be suggested that] one is to recite the benediction over the wine and drink it [the objection might be advanced:] Since the man recited the benediction on the season he has thereby accepted the obligation of the day[43] and caused the wine to be forbidden to him;[44] for did not R. Jeremiah b. Abba once say to Rab,[45] ‘Have you ceased from work?’ And the latter replied: ‘Yes, I have ceased’.[46] [And if it be suggested that] one might recite the benediction over the wine and put it aside [it might be objected:] He who recites the benediction [over any food or drink] must taste it. [Should it be suggested that] one might[47] give it to a child,[48] [it could be retorted:] The law is not in agreement with R. Aha b. Jacob,[49] since [the child] possibly might get used to it.[50] Now what is [the decision] on this question?[51] — The Rabbis sent R. Yemar[52] the Elder to R. Hisda on the eve of the New Year. ‘Go,’ they said to him, ‘observe how he acts in practice and come and tell us’. When [R. Hisda] saw him he remarked: ‘He who picks up a moist log[53] desires to have a press on the spot’.[54] Thereupon a cup of wine was brought to him [over which] he recited the kiddush[55] and also the benediction on the season. And the law is that the benediction on the season is to be recited both on the New Year festival and the Day of Atonement. And the law, furthermore, is that the benediction on the season may be said even in the street.

Rabbah further stated: When we were at Huna's we raised the question whether a student who kept a fast on the eve of the Sabbath must also complete it?[56] He hath no ruling on the subject.[57] I appeared before Rab Judah and he also hath no ruling on the subject. ‘Let us’, said Rabbah,[58] ‘consider the matter ourselves. It was in fact taught: If the Ninth of Ab[59] fell on a Sabbath

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(1) A special benediction is required for the latter but not for the former, though the mention thereof is to be included in the prayers.

(2) If the New Moon falls, for instance, on a Sabbath the benediction concludes with ‘Who sanctifies the Sabbath and Israel and the New Moons’.

(3) Even on the New Year; the conclusion of the prayer being ‘Who sanctifies Israel and the Day of Memorial and the New Moons’. The total number of benedictions is, therefore, no more than ten.

(4) In the additional prayer when the New Moon and the Sabbath fall on the same day.

(5) In that of the benediction on the sanctity of the Sabbath.

(6) Now since Beth Shammai give the number as eight it is obvious that a special one was instituted for the New Moon. Does not this then present an objection against R. Zera and thus the first objection (Supra 40a ad fin.) arises again?

(7) It follows, since Beth Shammai require a special benediction for the New Moon on an ordinary Sabbath and yet do not require one for the New Year, that no mention whatsoever of the New Moon is made in the prayers for the New Year, the term ‘memorial’ in ‘the Day of Memorial’, used in reference to the New Year, covering also the New Moon which, as pointed out supra, is referred to in Scripture by a similar expression (Rashi).

(8) In the morning and evening prayers of a reference to the New Moon in the benediction on the sanctity of the Sabbath when both happen to be on the same day.

(9) Lit., ‘the week or profane (days).’

(10) Lit., ‘of the nature of the event’, sc. according to the formula suitable for the New Moon or any of the particular festivals that happens to fall in that season.

(11) Beginning ‘And Thou hast given us this day of rest’ and concluding with ‘Who sanctifies the Sabbath’.

(12) Thus only in the case of the additional prayers is the mention of the New Moon included at least in the middle of the benediction on the sanctity of the day. In the case of the morning and evening prayers, however, it is not mentioned even in the middle but, as on a weekday, the mention of the New Moon is restricted to the special New Moon prayer beginning, ‘Our God . . . may our remembrance rise’ (יעלה ויבא) which is inserted in the benediction on the Temple service (cf. P.B. p. 50).

(13) I,e., even in the evening and morning prayers when a New Moon or a festival falls on a Sabbath.

(14) Mentioning first the Sabbath, ‘This day of rest’, and adding ‘and this day of the New Moon’, ‘and this day of the festival of . . ., according to the particular occasion.

(15) Cf. Tosef. Ber. III and Bezah 17a. Thus it has been shown (cf. supra p. 277, n. 10) that one Tanna (v. supra n. 3) maintains, contrary to the view of the others, that the mention of the New Moon is not to be inserted even in the middle of the benediction on the sanctity of the day.

(16) Lit., ‘what is (the decision) about it’, i.e., is the New Moon to be mentioned in the New Year prayers?

(17) יום הזכרון, ‘the Day of Memorial’.

(18) Cf. supra p. 275, nn. 8f.

(19) ‘Blessed art Thou.. Who hast kept us in life, and hast preserved us and hast enabled us to reach this season’ (cf. P.B. p. 292).

(20) Lit., ‘it was not in his hand’.

(21) V. p. 278, n. 10.

(22) Sc. when he sees it for the first time in the season (Rashi).

(23) Passover, Pentecost and Tabernacles.

(24) Eccl. XI, 2; E.V., ‘Divide a portion into’ etc.

(25) Lit., ‘beginning’. The Sabbath day was the chosen portion from all the seven.

(26) The eighth of which was the selected one (cf. Gen. XVII, 12).

(27) If it does, an objection arises against both Rab and Samuel.

(28) Concluding with ‘Who sanctifies Israel and the season’. This benediction must be recited on all the days enumerated.
(29) That the New Year was included in respect of the benediction on the sanctity of the day and not in that on the season.
(30) Lit., ‘went up your mind’,
(31) Lit., ‘there is’.
(32) Of course not. The reference of ‘seven’, therefore, cannot be to that benediction.
(33) Lit., ‘at present’, ‘today’.
(34) Hence it was quite proper to include all the seven days in the reference to the benediction on the season.
(35) The proper occasion for the recital of the benediction on the season is the time when the festival is ushered in, when it follows that on the sanctity of the day, which is pronounced over a cup of wine after the benediction for the wine has been said.
(36) As it is not possible for everyone to have a cup of wine every day, the recital of the benediction under discussion must obviously be restricted to the first day of the festival. How then could it be maintained that the reference supra is to all the seven days?
(37) Since it was assumed that the benediction on the season may be recited on any day of the festival.
(38) Sc. no cup of wine is required for the purpose. Suk. 47b. Is it likely, however, that R. Nahman who is in the minority would receive support from an anonymous Baraitha?
(39) The dilemma between (a) supporting R. Nahman or (b) assuming that the benediction is that of the sanctity of the day.
(40) The reference to all the seven days could, therefore, well be justified even if the benediction meant was that for the season.
(41) Which deprives R. Nahman's view of the support of the Baraitha.
(42) If R. Nahman's view is not to be adopted.
(43) When both eating and drinking is forbidden.
(44) How then could he drink the wine.
(45) Who, on a cloudy day, believing the sun to have set, read the Sabbath evening prayer before Friday's actual sunset.
(46) Ber. 27b. From which it follows that the reading of the Sabbath evening prayers imposes upon one the obligations and the restrictions of the day, and similarly the recital of the benediction on the season, (cf. supra n. 11).
(47) After the recital of the benediction
(48) As the reason why the wine must be tasted is that the benediction should not appear to have been recited in vain, it could not in fact matter with tastes it.
(49) So MS.M. and Bah. Cur. edd., omit the last two words. R. Aha b. Jacob permitted a child to drink in the circumstance mentioned (cf. R. Han. a.l. and Tosaf. s.v. לית a.l.).
(50) Lit, ‘to he dragged’; and he would out of habit drink the wine even when he grows up
(51) Is the benediction on the season the said on the New Year Festival and the Day of Atonement?
(52) Var. lec. ‘Yeba’ (v. Rashi s.v. כד and She'iltoth, Berakah).
(53) Which is useless for burning.
(54) Proverb. No one acts without a motive. The man who picks up a useless log must be in need of the spot on which it rests. R. Yemar, he surmised, must have come or a purpose. Jast. (following a different reading): ‘Carry the green date, I have a press on the spot, i.e., you come to find out my opinion, you will soon have an opportunity to learn it’.
(55) V. Glos.
(56) As he must when a fast falls on all ordinary day.
(57) Lit., ‘it was not in his hand.’
(58) MS.M. Cur. edd. ‘Raba’.
(59) One of the statutory fast days.

Talmud - Mas. Eiruvin 41a

and, similarly, if the eve of the Ninth of Ab[1] fell on a Sabbath a man may eat and drink as much as he requires and lay on his table a meal as big as that of Solomon in his time. If the Ninth of Ab fell on the Sabbath eve [food] of the size of an egg must be brought and eaten [before the conclusion of the day] so that one does not approach the Sabbath in a state of affliction'.[2]

It was taught:[3] R. Judah stated: We were once sitting in the presence of R. Akiba, and the day was a Ninth of Ab that occurred on a Sabbath eve, when a lightly roasted egg was brought to him and he sipped it without any salt. And [this he did] not because he had any appetite for it but in order to show the students what the halachah was.[4] R. Jose, however, ruled: The fast must be fully concluded.[5] 'Do you not agree with the', said R. Jose to them, 'that when the Ninth of Ab falls on a Sunday one must break off[6] while it is yet day?'[7] — 'Indeed [it is so]', they replied. 'What', he said to them, 'is the difference between[8] beginning the Sabbath[9] when one is in a state of affliction[10] and between letting it out[11] when one is in such a state?'[12] 'If you allowed a person',[13] they replied: 'to let it out[11] [when in such a state] because he has eaten and drunk throughout the day, would you also allow a person[14] to begin it[9] when in a state of affliction, though he has not eaten or drunk all day?' And in connection with this Ulla ruled: The halachah agrees with R. Jose.[15]

But do we act in agreement with the view of R. Jose seeing that such action would be contradictory to the following rulings: No fast day may be imposed upon the public on New Moons, Hanukkah[16] or Purim,[16] but if they began [the period of fasting prior to these days] there is no need to interrupt it;[17] so R. Gamaliel. Said R. Meir: Although R. Gamaliel laid down that 'there is no need to interrupt it', he agrees nevertheless that [the fasts on these days] must not be concluded,[18] and the same ruling applies to the Ninth of Ab that falls on a Sabbath eve.[19] And it was further taught: After the death of R. Gamaliel,[20] R. Joshua entered [the academy] to abrogate his ruling,[21] when R. Johanan b. Nuri stood up[22] and exclaimed: 'I submit[23] that "the body must follow the head";[24] throughout the lifetime[25] of R. Gamaliel we laid down the halachah in agreement with his view and now you wish to abrogate it? Joshua, we shall not listen to you, since the halachah has once been fixed in agreement with R. Gamaliel!' And there was not a single person who raised any objection whatever to this statement.[26] — In the time[27] of R. Gamaliel the people acted in agreement with the views of R. Gamaliel but in the time[27] of R. Jose[28] they acted in agreement with the views of R. Jose. But [could it be maintained] that 'in the time of R. Gamaliel the people acted in agreement with the view of R. Gamaliel'? Was it not in fact taught: R. Eleazar son of R. Zadok[29] stated: 'I am one of the descendants of Seneab of the tribe of Benjamin. Once it happened that the Ninth of Ab fell on a Sabbath and we postponed it to the following Sunday[30] when we fasted but did not complete the fast because that day was our festival.'[31] The reason [then[32] was] that [the day had been their] festival, but on the eve of [their] festival[33] they did complete the fast, did they not?[34] Rabina replied: A festival of Rabbinic origin[35] is different [from a Sabbath]. Since it is permitted to fast for a number of hours on the former[36] it is also permitted to complete a fast on its eves;[37] [but as regards] the Sabbath, since it is forbidden to fast on it even for a few hours, it is also forbidden to complete a fast on its eves.[38]

'I have never heard', said R. Joseph, 'that tradition',[39] Said Abaye to him, 'You yourself have told it to us[40] and you said it in connection with the following: "No fast may be imposed upon the public on New Moons etc." and it was in connection with this that you told us, "Rab Judah said in the name of Rab: This is the view of R. Meir[41] who laid it down in the name of R. Gamaliel; but the Sages ruled: One must complete the fast". Now does not this[42] refer to all the days mentioned?[43] — No; only to Hanukkah and Purim. This may also be supported by a process of reasoning

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(1) The eve of the fast, if it falls on an ordinary day, is also subject to certain restrictions. At the last meal of the day it is forbidden to eat more than one cooked dish nor is it permitted to drink wine or eat meat on that day.

(2) Ta'an 29b.

(3) Wanting in MS.M. Ban reads 'and it was taught'.

(4) That a fast on the Sabbath eve must be broken before the Sabbath begins.

(5) Cf. previous note and supra p. 281, n. 10.

(6) His meal on the eve of the Fast.

(7) Though it is the Sabbath day he must cease eating before the day comes to an end.
(8) Lit., ‘what to me’.
(9) Lit., ‘to enter it’.
(10) I.e., to be fasting all the Sabbath eve until the Sabbath actually commenced.
(11) Lit., ‘to go out from it’.
(12) I.e., to begin on the Sabbath the fast that fell on a Sunday. If the latter is permitted, why not also the former?
(13) Lit., ‘you said’.
(14) Lit., ‘will you say’.
(15) A contrary ruling to the one given previously on the enquiry made at R. Huna's.
(16) V. Glos.
(17) It may be continued even on the days mentioned.
(18) But must be broken on every one of these days before they respectively draw to a close.
(19) Ta'an 15b. Cf. previous note.
(20) Reading of marg. note. Cur. edd. in parenthesis, ‘R. Simeon b. Gamaliel’.
(21) Sc. to lay down that the fast may be concluded even on a Sabbath eve in agreement with R. Jose.
(22) Lit., ‘stood on his feet’.
(23) Lit., ‘see (good reason for the statement)’.
(24) Proverb. Cf. ‘follow the leader’.
(25) Lit., ‘all his days’.
(26) A fast on the Sabbath eve accordingly must not be concluded. How then could this be reconciled with the practice in agreement with the view of R. Jose?
(27) Lit., ‘in his generation’.
(28) Who flourished after R. Gamaliel.
(29) This is the reading according to marg. glos. Cur. edd. insert ‘son of’ in parenthesis and omit the ‘R.’ before Zadok. MS.M. Eliezer’, omitting his father's name.
(30) Lit., ‘to after the Sabbath’.
(31) Ta'an. 12a. The tenth of Ab was allotted to them as the day on which they were entitled to bring the offering of wood for the Temple altar. The families that were entitled to such a privilege kept the respective days allotted to them as a family festival. (V. Rashi a.l. and cf. Ta'an. 26a, 28a).
(32) Why they did not complete the postponed fast.
(33) Sc. the usual date of the Ninth of Ab which is the proper fast day and which always occurred on the eve of their festival.
(34) Which proves, since R. Eleazar son of R. Zadok was a contemporary of R. Gamaliel (cf. Bezah 22a), that on the eve of a festival a fast was completed even in the days of R. Gamaliel,
(35) Lit., ‘their words’.
(36) As was stated supra, ‘When we fasted etc.’
(37) The completion of the fast does not involve even a full hour. If one may fast on a Rabbinic festival one should certainly be allowed on it a fast lasting only a portion of an hour.
(38) Where the fast is to be completed its termination would encroach upon the Sabbath and one would incur the guilt of fasting on a Sabbath, however short the duration of that fasting might be.
(39) Ulla's (supra) that the halachah is in agreement with R. Jose.
(40) R. Joseph lost his memory as a result of a serious illness and his students often reminded him of traditions and rulings he had imparted to them in his earlier days.
(41) Who stated supra that the fast is not to be completed, and the same applies to the fast of the Ninth of Ab that fell on a Sabbath eve.
(42) The ruling of the Sages.
(43) Lit., ‘on all of them’, i.e., that even on a Sabbath eve the fast must be completed. Now since Rab described R. Jose by the plural noun of ‘Sages’ it is obvious that he intended the halachah to be in agreement with his view.

Talmud - Mas. Eiruvin 41b

for if it could have been presumed that the reference is to all the days mentioned [the objection would arise:] Did not Rabbah ask [a question[1] on the subject] from Rab Judah and the latter did not answer him?[2] — But according to your view[3] [would not the following objection arise:] In view of[4] Mar Zutra's exposition in the name of R. Huna[5] that the halachah is that one fasting [on a Sabbath eve] must complete the fast, why, when[4] Rabbah asked [a question on the subject][1] from R. Huna did not the latter[6] answer him? But [you would no doubt reply:] That question was asked[4] before [R. Huna] heard the ruling[7] while his statement[8] was made[4] after he had heard it;[7] so also here [one might explain] that the question was asked[4] before [Rab Judah] heard it[7] while his statement[9] was made after he heard it',[7] Mar Zutra made the following exposition in the name of R. Huna: The halachah is [that those] fasting [on a Sabbath eve] must complete the fast.

CHAPTER IV

MISHNAH. HE WHOM GENTILES,[10] OR AN EVIL SPIRIT,[11] HAVE TAKEN OUT [BEYOND THE PERMITTED SABBATH LIMIT] HAS NO MORE THAN FOUR CUBITS [IN WHICH TO MOVE].[12] IF HE WAS BROUGHT BACK[13] [HE IS REGARDED] AS IF HE HAD NEVER GONE OUT.[14] IF HE WAS TAKEN TO ANOTHER TOWN,[15] OR IF HE WAS PUT IN A CATTLE-PEN OR IN A CATTLE-FOLD,[16] HE MAY, RULED R. GAMALIEL AND R. ELEAZAR B. AZARIAH, MOVE THROUGH THE WHOLE OF ITS AREA;[17] BUT R. JOSHUA AND R. AKIBA RULED: HE HAS ONLY FOUR CUBITS [IN WHICH TO MOVE].

IT ONCE HAPPENED THAT THEY[18] WERE COMING FROM BRINDISI[19] AND WHILE THEIR SHIP WAS SAILING[20] ON THE SEA,[21] R. GAMALIEL AND R. ELEAZAR. B. AZARIAH WALKED ABOUT THROUGHOUT ITS AREA,[22] BUT R. JOSHUA AND R. AKIBA DID NOT MOVE BEYOND FOUR CUBITS BECAUSE THEY DESIRED TO IMPOSE A RESTRICTION UPON THEMSELVES.[23]

ONCE [ON A SABBATH EVE] THEY DID NOT ENTER THE HARBOUR UNTIL DUSK.[24] 'MAY WE DISEMBARK?'[25] THEY ASKED R. GAMALIEL. YOU MAY', HE TOLD THEM, 'FOR I[26] HAVE CAREFULLY OBSERVED [THE DISTANCE FROM THE SHORE AND HAVE ASCERTAINED] THAT BEFORE DUSK WE WERE ALREADY WITHIN THE SABBATH LIMIT'.[27]

GEMARA. Our Rabbis learned: Three things deprive[28] a man of his senses and of a knowledge of his creator,[29] viz.,[30] idolaters, an evil spirit and oppressive poverty. In what respect could this[31] matter? — In respect of invoking heavenly mercy to be delivered from them.[32] Three kinds of person do not see the face of Gehenna, viz.,[30] [one who suffers from] oppressive poverty, one who is afflicted with bowel diseases, and [one who is in the hands of] the [Roman] government;[33] and some say: Also he who has a bad wife. And the other?[34] — It is a duty to divorce a bad wife.[35] And the other?[36] — It may sometimes happen that her kethubah[37] amounts to a large sum,[38] or else, that he has children from her and is, therefore, unable to divorce her. In what practical respect does this[39] matter? — In respect of receiving [these afflictions] lovingly.[40] Three [classes of person] die even while they are conversing,[41] viz.,[30] one who suffers from bowel diseases, a woman in confinement, and one afflicted with dropsy. In what respect can this information matter? — In that of making arrangements for their shrouds to be ready.

R. Nahman stated in the name of Samuel: If a man went out deliberately [beyond his Sabbath limit] he has only four cubits [in which to move]. Is not this obvious? If one whom gentiles have taken out[42] has only four cubits [in which to move], is there any necessity [to mention that one who] went out deliberately [is subject to the same restriction]? — Rather read: If he[43] returned deliberately[44] he has only four cubits [in which to move]. Have we not, however, learnt this also: 'IF HE WAS BROUGHT BACK by gentiles ['HE IS REGARDED] AS IF HE HAD NEVER GONE OUT'; [from which it follows] that only if he was brought back he [is regarded] as if he had never gone out, but that if gentiles took him out and he returned of his own accord he has only four cubits? — Rather, read: If he went out of his own free will and was brought back by gentiles he has only four cubits [in which to move]. But have we not learnt this also: WHOM . . . HAVE TAKEN OUT and HE WAS BROUGHT BACK [HE IS REGARDED] AS IF HE HAD NEVER GONE OUT, [from which it is evident] that only he whom gentiles have taken out and also brought back [is regarded] as if he had never gone out, but that a man who went out of his own free will is not [so regarded]?[45] — It might have been assumed that our Mishnah deals with two disconnected instances: [i] HE WHOM THE GENTILES . . . HAVE TAKEN OUT and he has returned on his own HAS NO MORE THAN FOUR CUBITS; but [ii] if he went out on his own and WAS BROUGHT BACK by gentiles [HE IS REGARDED] AS IF HE HAD NEVER GONE OUT. Hence we were informed[46] [that the second clause is the conclusion of the first]. An enquiry was addressed to Rabbah: What is the ruling where a man[47] had to attend to his needs? — Human dignity,[48] he replied, is so important that it supersedes a negative precept of the Torah.[49] The Nehardeans remarked: If he[50] is intelligent he enters into his original Sabbath limit and, once he has entered it, he may remain there.[51]

R. Papa said: Fruits that were carried[52] beyond the Sabbath limit[53] and were returned [on the same day], even if this was done intentionally, do not lose their original place.[54] What is the reason? — They were carried under compulsion.[55]

R. Joseph b. Shemaiah raised an objection against R. Papa: R. Nehemiah and R. Eliezer b. Jacob ruled, [The fruits][56] are always forbidden[57] unless they are unintentionally returned to their original place; [from which it follows, does it not, that only if they are returned] unintentionally is this law applicable,[58] but not [if they are returned] deliberately?[59] — On this question Tannas differ. For it was taught: Fruits that were carried[52] beyond the Sabbath limit unwittingly may be eaten,[60] [if they were carried] wittingly they may not be eaten;

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(1) Whether a fast on a Sabbath eve must be completed.

(2) Supra 40b ad fin. If the Sabbath eve is included among the days on which a fast must be completed Rab Judah who reported the ruling in the name of Rab (v. loc. cit.) would, surely, have been able to give Rabbah an answer.

(3) That the Sabbath eve is excluded from the ruling reported by Rab Judah in the name of Rab.

(4) Lit., ‘that’.

(5) Infra.

(6) Despite his specific ruling.

(7) From Rab.

(8) Quoted by Mar Zutra.

(9) In the name of Rab supra 41a ad fin.

(10) Who, unlike Israelites, are permitted to walk any distance on the Sabbath.

(11) An attack of insanity (cf. Rashi).

(12) During the Sabbath, from the spot where (in the first case) he was placed by the gentiles or where (in the case of the insane man) he recovered.

(13) Within his original permitted limit.

(14) He may move about throughout the town and to a distance of two thousand cubits beyond it in every direction.

(15) Which was surrounded by walls.

(16) Sc. large enclosed areas.

(17) An enclosed area, however extensive, is regarded in respect of one's movements on the Sabbath as one of four cubits.

(18) The scholars just mentioned.

(19) Cf. J.E. v. 560 and Danby's Mishnah p. 126, n. 1.

(20) On the Sabbath.

(21) And so carried its passengers beyond their permitted Sabbath limit.

(22) They regarded the ship, in respect of movement in it on the Sabbath’ as a cattle-pen or a cattle-fold within which as stated supra, one may freely move.

(23) This is explained infra in the Gemara.
(24) When the Sabbath had already set in.
(25) Lit., ‘what (about) us to go down’. Having been carried during the Sabbath beyond their original Sabbath limit they were not sure whether they may or may not move beyond four cubits.
(26) By means of a certain instrument (v. Gemara infra). (According to J. ‘Er. IV, 2, he knew the heights of certain towers along the coast, and by directing his instrument to the tops of them he was able to calculate the distance).
(27) Of the harbour.
(28) Lit., ‘cause to pass’.
(29) Lit., ‘his possessor’.
(30) Lit., ‘these are they’.
(31) The statement of the Rabbis.
(32) Lit., ‘about them’.
(33) Cf. Aboth 11, 3 and Tosaf. s.v. הרשות a.l. Aliter: (In the hands of) creditors (Rashi).
(34) Sc. why is not a bad wife mentioned in the first version?
(35) Consequently one would not be suffering very long from such a woman.
(36) The second version. Why, in view of the explanation just given, was a bad wife included?
(37) V. Glos.
(38) Which the man cannot afford to pay. He cannot divorce her unless he is in a position to meet his obligation.
(39) The information that the sufferers mentioned would not see Gehenna.
(40) The knowledge that they atone for his sins and shortcomings will tend to make him content with his lot.
(41) Death comes upon them unexpectedly while they are apparently comfortable and able to carry on a conversation.
(42) Against his will.
(43) The man who was carried beyond the Sabbath limit against his will by gentiles.
(44) To within his original Sabbath limit.
(45) And has consequently no more than four cubits in which to move. What need then was there for R. Nahman's ruling?
(46) By R. Nahman in the name of Samuel.
(47) Who, having been taken beyond his Sabbath limit, is restricted in his movements to an area of four cubits.
(48) Lit., ‘the honour of creatures’.
(49) Sc. the negative precept, ‘Thou shalt not turn aside from the sentence which they shall declare unto thee’ (Deut. XVII, 11), ‘sentence’ or ‘the word’ הדבר being applied to any enactment of the Rabbis. As the laws of the Sabbath limits which are only Rabbinical derive their force from this precept they also may be superseded wherever their absence would involve any loss of human dignity (Rashi); v. Ber. 19b.
(50) The man who in the circumstances mentioned was allowed to move beyond the four cubits.
(51) Lit., ‘he entered’, and may again move through the town and to distances of two thousand cubits away from it in all directions.
(52) Lit., ‘that went out’, on a holy day.
(53) Of their original place.
(54) And may consequently be carried throughout the town and beyond it (cf. supra n. 5) and, on the Sabbath, may be eaten on the spot where they were deposited.
(55) Inanimate objects are always in the position of a man acting under compulsion.
(56) That were carried away beyond their Sabbath limit.
(57) To be moved outside four cubits or to be eaten even if they were returned to their original place.
(58) Lit., ‘yes’, that they are permitted.
(59) How then could R. Papa maintain that fruits in such circumstances do not lose their original place even if they were carried back deliberately?
(60) On the spot where they were deposited by any person within whose Sabbath limit that spot may be.

Talmud - Mas. Eiruvin 42a

while R. Nehemiah ruled: If they are in their original place[1] they may be eaten but if they are not in their original place[2] they may not be eaten. Now what [are the circumstances under which they came to be] in their original place?[3] If it be suggested that they were in their original place through some intentional act, surely [it could be retorted] was it not specifically taught: ‘R. Nehemiah and R. Eliezer b. Jacob ruled, [the fruits] are always forbidden unless they are unintentionally returned to their original place’,[4] from which it follows, does it not, that only if they are returned] unintentionally is this law applicable but not [if they are returned] intentionally?[5] Must we not then admit that they [came to be] in their original place through some unintentional act, and that some words are missing, the correct reading being as follows: Fruits that were carried outside the Sabbath limit unwittingly may be eaten, but if they were carried wittingly they may not be eaten. This applies only where they are not in their original place but if they were in their original place they may be eaten even if they were carried intentionally. And in connection with this R. Nehemiah came to lay down that even when they are in their original place the law applies only where they were carried unwittingly but not when it was done wittingly?[6] — No; if they are in their original place through an intentional act no one[7] disputes the ruling that they are forbidden, but the difference of opinion here[8] is [one regarding fruits] that are not in their original place through an unintentional act. The first Tanna is of the opinion that if they are not in their original place through an unintentional act they are permitted while R. Nehemiah maintains that even [if they were carried] unintentionally they are permitted only[9] in their original place but not where they are not in their original place.[10] Since, however, it was stated in the final clause, ‘R. Nehemiah and R. Eliezer b. Jacob ruled, [The fruits] are always[11] forbidden unless they are unintentionally returned to their original place’ [from which it follows that only if they’ are returned [unintentionally is this law applicable[12] but not [if they are returned] intentionally, it may be concluded that the first Tanna is of the opinion that [the fruits] are permitted even [if they are returned] intentionally.[13] This is conclusive.

R. Nahman stated in the name of Samuel: If a man was walking and did not know where the Sabbath limit ended he may walk a distance of two thousand moderate paces;[14] and this constitutes for him the Sabbath limit.

R. Nahman further stated in the name of Samuel: If a man took up his Sabbath abode in a valley[15] around which gentiles put up a fence[16] on the Sabbath, he may only walk a two thousand cubits distance in all directions[17] but may move objects throughout all the valley[18] by throwing them,[19] but R. Huna ruled: He may walk the two thousand cubits but may move objects within four cubits only.[20] But why[21] should he not[22] be allowed to move objects throughout all its area by throwing them? — He[23] might be drawn after his object.[24] Then why should he not be allowed to move[25] objects in the usual way within the two thousand cubits?[26] Because the [area in which he is permitted to walk][27] is like a partition along the full width of which a breach was made towards a place[28] into which it is forbidden[29] to carry anything from it.[30]

Hiyya b. Rab ruled: He may walk the two thousand cubits and may also move objects[31] within these two thousand cubits.[32] In agreement with whose view?[33] Is it neither in agreement with that of Rab nor with that of R. Huna?[34] — Read: He may move objects within four cubits. If so, is not his ruling identical with that of R. Huna?[35] — Read: And so ruled Hiyya b. Rab. Said R. Nahman to R. Huna: Do not dispute the view of Samuel[36] since in a Baraitha it was taught in agreement with his view. For it was taught:

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(1) Sc. if they were brought back.

(2) I.e., if they remained outside their original Sabbath limit.

(3) Of which R. Nehemiah spoke.

(4) Supra 41b ad fin.

(5) Loc. cit. q.v. notes.

(6) It may thus be shown that R. Papa's ruling forms a question in dispute between R. Nehemiah and the first Tanna and that the latter who ruled that ‘if they were in their original place they may be eaten even if they were carried intentionally’ upholds the same view as R. Papa.

(7) Not even the first Tanna.

(8) Between the first Tanna and R. Nehemiah.

(9) Lit., ‘yes’, that they are permitted.

(10) If, however, this interpretation is adopted the objection would arise: How could R. Papa whose view cannot be traced to any Tanna differ from the rulings of both the Tannas mentioned?

(11) Emphasis on ‘always’.

(12) Lit., ‘yes’, that they are permitted.

(13) To their original place. Had he agreed with R. Nehemiah that intentional carriage renders the fruits forbidden even where they are thereby returned to their original place, and had he differed from him and R. Eliezer b. Jacob on one point only (that of unintentional carriage where the fruits are not in their original place), there would have been no point in the expression of ‘always’ in the latter's statement of disagreement. Hence the conclusion that the first Tanna differed from the others on two points, (a) on unintentional carriage even when the fruits are not in their original place and (b) intentional carriage where they are in their original place, his view being that the fruits are permitted even where there is only one point in favour of their permissibility, viz., either (a) unintentional carriage or (b) return to their original place. R. Nehemiah and his colleague who maintain that permissibility is invariably dependent on both (a) and (b) were, therefore, justified, when expressing their disagreement, in emphasizing that the fruits are forbidden always sc. in the absence of either (a) or (b). The objection against R. Papa whose view it has now been shown coincides with that of the first Tanna, is consequently removed.

(14) A moderate pace is equal to one cubit.

(15) A man is allowed a distance of two thousand cubits in all directions from any spot he had occupied when the Sabbath had set in.

(16) For dwelling purposes. If it was not put up for any such purpose there are additional restrictions.

(17) Cf. supra p. 291 n. 6. He may not, however, walk as far as the fence if the distance is more than two thousand cubits. An enclosure is regarded as an area of four cubits (throughout which one may move freely) only (a) where the man was within it at the time the Sabbath began or (b) where he was forcibly put into it at any time, but not where a fence was put up during the Sabbath after he had willingly taken up his Sabbath abode in the place.

(18) Even beyond two thousand cubits where he is not allowed to go.

(19) From any point to which he may walk. Within the two thousand cubits limit he may move objects in the ordinary way since the fence is valid irrespective of the time during which it was put up (cf. supra 20a).

(20) As if there were no fence around it. Beyond the four cubits he must neither carry nor throw. The distinction between throwing and carrying applies only when one is permitted to carry but not to walk. As the carrying is permitted and the walking is forbidden, throwing was allowed. When, however, carrying is forbidden throwing also is equally forbidden.

(21) According to R. Huna.

(22) Since a fence that was put up on the Sabbath (cf. supra 20a) is valid.

(23) If throwing were to be allowed.

(24) Beyond the permitted two thousand cubits limit. Hence the prohibition of throwing.

(25) And much more to throw.

(26) Within which he is permitted to walk.

(27) Sc. the distance of two thousand cubits in all directions, which is not separated from the rest of the valley by any partition whatsoever.

(28) In this case the remainder of the valley beyond the two thousand cubits.

(29) For the reason given supra that ‘he might be drawn after his object’.

(30) In the case of such a wide breach the movement of objects is forbidden even in the area where, in the absence of that breach, the movement of objects would have been permitted.

(31) Even in the usual way.

(32) But beyond these he may not even throw them.

(33) Is that of Hiyya b. Rab.

(34) But if so, on what ground could his ruling be justified? If he adopts R. Huna's reason and forbids throwing of objects on the ground that ‘he might be drawn after his object’, he should also follow R. Huna's reasoning in forbidding the movement of objects within two thousand cubits because they open out to a forbidden place; and if, like R. Nahman, he does not provide against the possibility that ‘he might be drawn after his object’, throwing beyond the two thousand cubits also should be permitted.

(35) Why then was it put down in a form which suggests something new?

(36) That there is no need to provide against the possibility that ‘he might be drawn after his object’, just reported in his name by R. Nahman.

Talmud - Mas. Eiruvin 42b

If a man was measuring [the distance from his ‘erub] and advancing [towards another town], and his measuring [of the permitted two thousand cubits] terminated in the middle of the town, he is allowed to move objects throughout the town[1] provided only that he does not pass his Sabbath limit.[2] Now, in what manner could he move the objects?[3] Obviously[4] by throwing.[5] And[6] R. Huna?[7] — He can answer you: No; by pulling.[8]

R. Huna ruled: If a man was measuring [the distance from his ‘erub] and his measuring [of the permitted two thousand cubits] terminated in the middle of a courtyard he has only a half of the courtyard [in which to move]. Is not this obvious?[9] — Read: He has a half of the courtyard [in which to move].[10] Is not this also obvious?[11] — It might have been presumed that[12] there was cause to fear that one might carry objects about all the courtyard,[13] hence we were informed [that no such possibility need be considered].

R. Nahman stated: Huna[14] agrees with me that if a man was measuring [the distance from his ‘erub] and was thus advancing [towards another town], and his measurement [of the two thousand cubits] terminated at [a line corresponding to] the edge of a roof[15] he is allowed to move objects[16] in any part of the house. What is the reason? Because [the projection of] the roof of the house would strike him.[17]

R. Huna son of R. Nathan said: [The divergence of opinion here[18] is] like that between the following Tannas: IF HE WAS TAKEN TO ANOTHER TOWN, OR IF HE WAS PUT IN A CATTLEPEN OR IN A CATTLE-FOLD, HE MAY, RULED R. GAMALIEL AND R. ELEAZAR B. AZARIAH, MOVE THROUGH THE WHOLE OF ITS AREA; BUT R. JOSHUA AND R. AKIBA RULED: HE HAS ONLY FOUR CUBITS. Now did not R. Gamaliel and R. Eleazar b. Azariah rule that the man may MOVE THROUGH THE WHOLE OF ITS AREA, because they do not forbid walking in a cattle-pen Or in a cattle-fold[19] as a preventive measure against the possibility of walking in a valley,[20] and since evidently they have not forbidden walking [in the former] as a preventive measure against walking [in the latter] they, likewise, did not forbid the moving of objects [by throwing them beyond the Sabbath limit] as a preventive measure against the possibility of walking[21] [beyond that limit]; while R. Joshua and R. Akiba ruled: HE HAS ONLY FOUR CUBITS because they forbid walking in a cattle-pen or in a cattle-fold as a preventive measure against walking in a valley; and since evidently they have forbidden walking [in the former] as a preventive measure against walking [in the latter] they also forbid the moving of objects [by throwing them beyond the Sabbath limit] as a preventive measure against the possibility of walking [beyond that limit]?[22] — Whence [could this[23] be proved]? It is in fact possible that R. Gamaliel and R. Eleazar b. Azariah did not forbid walking in a cattle-pen or in a cattle-fold as a preventive measure against the possibility of walking in a valley for the sole reason that[24] two different places are there involved,[25] but [as regards forbidding the] movement of objects [as a preventive measure] against the possibility of walking which involves one and the same place they may well have enacted a prohibition as a preventive measure against the possibility of being drawn after one's object. As to R. Joshua and R. Akiba also, whence [could it be proved that they restricted the walking[26] to four cubits] because they have enacted a preventive measure?[27] — It is in fact possible that [the reason for their restriction is] that they hold the view that all the house is regarded as four cubits only while a man occupied a place within its walls while it was yet day[28] but not where he did not occupy the place while it was yet day.[29]

Rab laid down: The law is in agreement with R. Gamaliel in respect of a cattle-pen, a cattle-fold and a ship; and Samuel laid down: The law is in agreement with R. Gamaliel in respect of a ship but not in respect of a cattle-pen or a cattle-fold. Both[30] at any rate agree that the law is in agreement with R. Gamaliel in respect of a ship; what is the reason? — Rabbah replied: Because the man has occupied a place within its walls while it was yet day.[31] R. Zera replied: Because the ship[32] continually takes him from the beginning of four cubits and puts him down at the end of the four cubits.[33] What is the practical difference between them?[34] — The practical difference between them is the case where the sides of the ship were broken down,[35] or where one leaps from one ship into another.[36] But why does not R. Zera give the same reason as Rabbah? — He can answer you: The sides[37]

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(1) On a Sabbath if the town was provided with an ‘erub (v. Glos.); or on a festival, when carrying is permitted.

(2) Sc. the distance of two thousand cubits from his ‘erub. Only for a man who has been in a town at the time the Sabbath commenced is its entire area regarded as four cubits.

(3) In that part of the town whither he is not allowed to go.

(4) Lit., ‘not?’

(5) Which confirms Samuel's view (cf. supra n. 3).

(6) MS.M. Rashi and Bah. Cur. edd., ‘Said R. Huna’.

(7) How could he differ from a Baraitha?

(8) From without the Sabbath limit into it. In such a case the possibility of being drawn after the object does not arise.

(9) A man, surely, may not walk beyond the two thousand cubits limit.

(10) The point of the ruling is not that the half of the courtyard outside the two thousand cubits may not, but that any point which lies within them may be used.

(11) Since that part lies within the permitted limit.

(12) Were half the yard within the Sabbath limit permitted.

(13) And that in order to provide against this infringement of the law the use of all the yard should be forbidden.

(14) Though he provides against the possibility that ‘he might be drawn after his object’.

(15) Of a house, that stood just outside the two thousand cubits, whose wall on that side was broken down, and that thus opened out into a courtyard in which the carrying of objects was permitted.

(16) By means of throwing.

(17) Lit., ‘(is deemed to) press down’, cf. supra 9a. One could not mistake the area of the house beyond the edge of the roof to be permitted and thus to be drawn after one's object as might be the case where no such distinguishing mark existed.

(18) On the question of whether provision was made against the possibility that a man might be drawn after his object.

(19) That are enclosed by fences and into which gentiles had carried the man against his wish.

(20) Which had no fence around it and in which, as stated in the first clause of our Mishnah, one HAS NO MORE THAN FOUR CUBITS.

(21) By being drawn after the objects.

(22) As the answer is apparently in the affirmative it follows that the Tannas in our Mishnah differ on the same question as the Amoras here (cf. supra p. 294, n. 8).

(23) Cf. previous note.

(24) Lit., ‘these words’.

(25) And a person is not likely to mistake the one for the other.

(26) In a cattle-pen or in a cattle-fold.

(27) Against the possibility of walking in a valley.

(28) Of the Sabbath eve.

(29) As the man was not in the cattle-pen or cattle-fold before the Sabbath commenced he cannot be allowed to walk beyond four cubits. Throwing, however, may well be permitted throughout the pen or the fold, since the possibility of the man's being drawn after his object is disregarded.

(30) Lit., ‘that all the world’, sc. Rab and Samuel.

(31) Of the Sabbath eve. In consequence of which, as stated supra, all the ship is regarded as four cubits.

(32) Which was in constant motion since the man was taken beyond his Sabbath limit.

(33) So that he did not rest for one moment in any particular spot. Not having acquired any four cubits as his Sabbath abode, all the ship is regarded as his home. Aliter: Whenever the man lifts up his foot the ship carries him a distance of four cubits before he can put it down, and he is, therefore, in the position of a man whom gentiles have forcibly taken out from his four cubits and put in another four cubits and who is always entitled to the last four cubits in which he finds himself (cf. Rashi s.v. נוטלתו a.l.).

(34) Rabbah and R. Zera.

(35) Rabbah's reason does not apply while R. Zera's does.

(36) On the Sabbath. Since the man did not occupy a place in the latter ship while it was yet day he is not allowed, according to Rabbah, more than four cubits. According to R. Zera he may walk all through the ship.

(37) Of a ship.

Talmud - Mas. Eiruvin 43a

are made only to keep the water out.[1] Then why does not Rabbah give the same reason as R. Zera? — He can answer you:[2] Where the ship moves no one[3] disputes [that it is permitted to walk through it];[4] they only differ in the case where it stopped.[5]

Said R. Nahman b. Isaac: From our Mishnah also it may be inferred that they[6] do not differ in the case of a ship that was on the move. Whence? From the statement: IT ONCE HAPPENED THAT THEY WERE COMING FROM BRINDISI AND, WHILE THEIR SHIP WAS SAILING IN THE SEA, R. GAMALIEL AND R. ELEAZAR B. AZARIAH WALKED ABOUT THROUGHOUT ITS AREA BUT R. JOSHUA AND R. AKIBA DID NOT MOVE BEYOND FOUR CUBITS BECAUSE THEY DESIRED TO IMPOSE A RESTRICTION UPON THEMSELVES. Now if it be granted that there is no difference of Opinion between them[7] in the case where a ship is on the move[8] it was perfectly correct to state, THEY DESIRED', since the ship might have stopped;[9] but if it be maintained that they[7] differ [even in such a case],[10] what is the sense in saying,[11] 'THEY DESIRED, TO IMPOSE A RESTRICTION' [seeing that in their view walking beyond four cubits] is a prohibition?[12] R. Ashi said: The inference from our Mishnah also proves [that the dispute between the Tannas mentioned relates to a stationary ship]. For SHIP was mentioned in the same way as A CATTLE-PEN and A CATTLE-FOLD; as a cattle-pen and a cattle-fold are stationary, so is the ship mentioned, one that was stationary.

R. Aha the son of Raba said to R. Ashi: The law is in agreement with R. Gamaliel in the case of a ship. 'The law' [you say]; does this then imply that the others differ from him?[13] — Yes;[14] and so it was also taught: Hanania[15] stated: All that day[16] they sat and discussed the question of the halachah and in the evening my father's brother[17] decided that the halachah was in agreement with R. Gamaliel in the case of a ship and the halachah was [in agreement] with R. Akiba in that of a cattle-pen and a cattle-fold.

R. Hanania enquired: Is the law of Sabbath limits applicable at a height above ten handbreadths from the ground or not? There can be no question[18] in respect of a column that was ten handbreadths high and four handbreadths wide,[19] since it is regarded as solid ground.[20] The question, however, arises in respect of a column that was ten handbreadths high but less than[21] four handbreadths in width,[22] or where one moves[23] by means of a miraculous leap (another version: In a ship).[24] Now what is the law? — R. Hoshaia replied: Come and hear: IT ONCE HAPPENED THAT THEY WERE COMING FROM BRINDISI AND, WHILE THEIR SHIP WAS SAILING IN THE SEA etc. Now, if it be granted that the law of Sabbath limits is applicable[25] one can well see the reason why they 'DESIRED?[26] but if it is contended that the law of the Sabbath limits is inapplicable,[25] why [it may be asked][27] did they desire?[26] — As Raba explained below that the reference was to a ship that sailed in shallow waters[28] so it may here also be explained that the reference is to a ship that sailed in shallow water.[29]

Come and hear: ONCE [ON A SABBATH] THEY DID NOT ENTER THE HARBOUR UNTIL DUSK etc. Now, if it be granted that the law of Sabbath limits is applicable[25] [their action][30] was perfectly correct; but if it be contended that the law of Sabbath limits is inapplicable,[25] what [it may be asked][27] could it have mattered if [they had] not [been assured:] WE WERE ALREADY WITHIN THE SABBATH LIMIT? — Raba replied: That was a case where the ship sailed in shallow waters.[31]

Come and hear: Who was it that delivered the seven traditional rulings on a Sabbath morning to R. Hisda at Sura and on the same Sabbath evening to Rabbah at Pumbeditha?[32] Was it not Elijah[33] who delivered them, which proves, does it not, that the law of Sabbath limits is inapplicable above ten handbreadths from the ground? — It is possible that the demon Joseph[34] delivered them.

Come and hear: [If a man said,] 'Let me be a nazirite on the day on which the son of David[35] comes', he may drink wine on Sabbaths and festival days,[36]

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(1) Lit., 'to cause to flee'; hence they cannot be regarded as proper walls.

(2) So MS.M. wanting in cur. edd.

(3) Not even R. Akiba.

(4) For the reason given by R. Zera.

(5) And the man consequently remained for a space of time in one spot. R. Zera allows him in consequence no more than four cubits; while Rabbah, since the ship has sides, still permits him to walk throughout the ship.

(6) The Tannas mentioned.

(7) The Tannas mentioned.

(8) I.e., that in such a case even R. Joshua and R. Akiba admit that it is permitted to walk throughout the ship.

(9) Unexpectedly; and they desired to provide against such a possibility.

(10) R. Joshua and R. Akiba holding that even when a ship is moving one is forbidden to walk in it more than four cubits.

(11) Lit., 'that'.

(12) Not merely a restriction. Consequently it may be inferred that all the Tannas in our Mishnah agree that while a ship is moving it is permitted to walk throughout all its area.

(13) But how could this be maintained in view of the statement that the others only desired to impose 'A RESTRICTION upon themselves but not an actual prohibition?

(14) Sc. the dispute applies to a stationary ship, while the statement, THEY DESIRED TO IMPOSE A RESTRICTION UPON THEMSELVES, refers to a ship that was in motion.

(15) So MS.M. and Bah. Cur. edd. in parenthesis son of the brother of R. Joshua'.

(16) The Sabbath on which they were on board the ship.

(17) R. Joshua.

(18) That the law of Sabbath limits is applicable.

(19) And one section of it was within while the other was without the Sabbath limit.

(20) It is consequently forbidden to walk from the part within the Sabbath limit to the part without.

(21) Lit., 'and not'.

(22) So that the top is not quite convenient for walking.

(23) Through the air.

(24) Sailing in a ship, which is usually raised more than ten handbreadths from the ground and in constant motion, is similar in this respect to a leap through the air.

(25) At a height above ten handbreadths from the ground.

(26) TO IMPOSE A RESTRICTION UPON THEMSELVES.

(27) Since there can be no possible infringement of the law.

(28) Aliter: Moves in diluvial water (Jast.).

(29) Within ten handbreadths from the ground.

(30) In remaining on board the ship until they had received R. Gamaliel's assurance (v. our Mishnah).

(31) Cf. supra p. 298, nn. 11f.

(32) Places that were too far from one another for a man to walk on the Sabbath from the former to the latter even by means of ‘erub.

(33) The immortal prophet who could fly through the air and thus move above ten handbreadths from the ground.

(34) Who would break the Sabbath laws with impunity, v. Pes. 110b.

(35) The Messiah.

(36) Since the Messiah would not come on such days.

Talmud - Mas. Eiruvin 43b

but is forbidden to drink wine on any of the weekdays.[1] Now, if it is granted that the law of Sabbath limits is applicable,[2] it is quite intelligible why the man is permitted [to drink wine] on Sabbaths and festival days; but if it be contended that the law of Sabbath limits is inapplicable[2] why [it may be asked][3] is it permitted [for the man to drink wine] on Sabbaths and festival days? — There[4] the case is different since Scripture said: Behold I will send you Elijah the prophet etc.[5] and Elijah,[6] surely, did not come on the previous day. If so, even in the case of weekdays, [the drinking of wine] should be permitted on any day since Elijah did not come on the previous day? But the fact is that[7] we assume that he appeared before the high court,[8] then why should we not here also assume that he appeared before the high court? — Israel has long ago been assured that Elijah would not come either on Sabbath eves or on festival eves owing to the people's pre-occupation.[9]

Assuming[10] that as Elijah would not come[11] the Messiah also would not come,[11] why should not [the drinking of wine] be permitted on a Sabbath eve? — Elijah would not, but the Messiah might come because the moment the Messiah comes all will be anxious to serve[12] Israel.[13] [But why[14] should not the drinking of wine] be permissible on a Sunday? May it then be derived from this[15] that the law of Sabbath limits is inapplicable[16] for had it been applicable[16] [the drinking of wine] should have been permissible on a Sunday since Elijah did not arrive on the preceding Sabbath?[17] — That Tanna was really in doubt as to whether the law of Sabbath limits was or was not applicable,[16] and his ruling[15] is just a restriction.[18] On what day, however, did the man make his vow?[19] If it be suggested that he did it on a weekday [the difficulty would arise:] Since the naziriteship had once taken effect[20] how could the Sabbath subsequently annul it?[21] — The fact is that the man is assumed to have made his vow on a Sabbath[22] or on a festival day, and it is on that day only that he is permitted [to drink wine].[23] Subsequently however, this is forbidden to him.[24]

ONCE [ON A SABBATH] THEY DID NOT ENTER THE HARBOUR etc. A Tanna taught: R. Gamaliel had a tube through which he could see at a distance of two thousand cubits across the land and a corresponding distance across the sea. If a man desires to ascertain the depth of a ravine let him use[25] a tube and by looking through it be in a position to ascertain the depth of the ravine,[26] and if he wishes to ascertain the height of a palm-tree let him measure his own height and the length of his shadow as well as that of the shadow of the tree,[27] and he will thus ascertain the height of the palm-tree.[28] If a man desires to prevent wild beasts from sheltering in the shadow of a grave [mound][29] let him insert a rod[30] [in the ground] during the fourth hour of the day[31] and observe in which direction its shadow inclines and then make [the mound] slope [from the ground] upwards[32] and [from its top] downwards.[33]

Nehemiah son of R. Hanilai was [once on a Sabbath day] absorbed in[34] an oral study and walked out beyond the Sabbath limit.[35] ‘Your disciple Nehemiah’, said R. Hisda to R. Nahman, ‘is in distress’. ‘Draw up for him’, the other replied: ‘a wall of human beings and let him re-enter’.[36] R. Nahman b. Isaac was sitting behind Raba while the latter sat before R. Nahman when R. Nahman b. Isaac said to Raba: What exactly was the point that R. Hisda raised?[37] If it be suggested that we are dealing [here with a case where the distance could be] fully lined with men[38] and that the point he raised was whether the halachah was in agreement with R. Gamaliel[39]

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(1) on any of which the Messiah might come.
(2) At a height above ten handbreadths from the ground.
(3) Since the Messiah could come even on these days.
(4) The coming of the Messiah.
(5) Mal. 111, 23.
(6) The precursor of Messiah.
(7) The reason why the nazirite is forbidden to drink wine on any weekday.
(8) Or the ‘supreme Beth din’ in Jerusalem. Without the man who made the vow necessarily being aware of his appearance.
(9) With their preparations for the following Sabbath or festival which must be completed before the holy day begins. His arrival and the subsequent bustle and welcome would interfere with these preparations.
(10) Lit., ‘it went up upon your mind’.
(11) On the eve of a holy day.
(12) Lit., ‘slaves’.
(13) And the preparations For the holy day could be left in the hands of these.
(14) If Elijah would not come on the Sabbath day and the Messiah could not appear before Elijah had announced his arrival.
(15) The ruling that the nazirite may not drink wine on a Sunday.
(16) To the air above ten handbreadths from the ground.
(17) Cf. supra n. 6.
(18) In case the law of Sabbath limits is not applicable (cf. supra n. 8) and Elijah should come on a Sabbath.
(19) Lit., ‘that he stands when that he vowed’,to be a nazirite.
(20) Lit., ‘rested upon him’, on account of the possibility that the Messiah appeared that day before the high court.
(21) Lit., ‘come . . . and bring it out’. The same possibility, surely, still remains.
(22) Lit., ‘that he stands on a Sabbath and vows’.
(23) Since the Messiah would not come on a Sabbath or festival day.
(24) Owing to the possibility that the Messiah might appear before the high court in Jerusalem on the preceding Friday.
(25) Lit., ‘brings’.
(26) Having ascertained beforehand the distance his tube commands he takes up a position from which he can just see the bottom of the ravine, and by subtracting the distance between the brink of the ravine and his position from the distance the tube commands he obtains the dept of the ravine (Rashi).
(27) Lit., ‘its height’.
(28) The ratio of the height of the tree to the length of its shadow is in proportion to the ratio of the man's height to the length of his shadow.
(29) For fear lest the beast, by smelling the corpse, would disturb it (Rashi).
(30) [This is probably the gnomon used by ancients to make astronomical measurements, v. Feldman W. M., op. cit., pp. 83 and 87].
(31) When it is hot in the sun and cool in the shade and beasts seek shelter from the former in the latter.
(32) Towards the sun, so that the top of the mound could cast no shadow on that side at that time of day (cf. previous note).
(33) In the opposite direction from which the sun shines, where again the mound could cast no shadow, since the entire slope on that sidle is exposed to the rays of the sun. Though the mound, at a later hour of the day, when the sun will be shining in the opposite direction, would be casting a shadow on the other side no wild beast is likely to seek shelter there at that late hour, because (a) the ground then is almost as hot in the shade as in the sun and (b) the beast who began to look for a shelter at the early fourth hour of the day would by that time have found one, so that in either case it would not return to the grave.
(34) Lit., ‘drew him’.
(35) And was in consequence unable to return to town before the exit of the Sabbath.
(36) Within the Sabbath limit. He would thus be in a position to return to town and to move about as freely as its other inhabitants.
(37) When he addressed R. Nahman on Nehemiah's embarrassment.
(38) Sc. a sufficient number of people had prepared their ‘erubs that enabled them to walk to the spot where Nehemiah

was stranded and to form two human walls, stretching from there to the Sabbath limit, between which Nehemiah could pass.

(39) That a man may (cf. our Mishnah on a CATTLE-PEN etc.) walk any distance within an enclosed area though he was not within its walls at the time the Sabbath began.

Talmud - Mas. Eiruvin 44a

or whether the halachah was not in agreement with R. Gamaliel or do we deal [here with a case where the distance could] not be fully lined with men,[1] and the point he raised was whether the halachah is in agreement with R. Eliezer[2] or not? — It is obvious that we are dealing with [a case where the distance could] not be fully lined with men, for were it to be imagined that we are dealing with one where it could be fully lined with men what was there for him[3] to ask seeing that Rab has actually laid down, ‘The halachah is in agreement with R. Gamaliel in respect of a cattle-pen, a cattle-fold and a ship’? We must consequently be dealing with [a case where the distance could] not be fully lined with men and the point he[3] raised was in connection with the ruling of R. Eliezer. This[4] is also borne out by an inference. For he[5] said to him,[6] ‘Let him re-enter’; but what [was the need for saying] ‘Let him re-enter’?[7] Does not this imply re-entry in the absence of a complete wall?[8] R. Nahman b. Isaac pointed Out the following objection to Raba: If its wall[9] collapsed it is not permitted to replace it by a human being, a beast or vessels, nor may one put up[10] the bed[11] to spread over it a sheet because even a temporary tent may not for the first time be built on a festival day, and there is no need to state [that this is forbidden] on a Sabbath day.[12] ‘You,’ the other replied: ‘quote to me from this statement; I can quote to you from the following: A man may put up his fellow as a wall[13] in order that he may thereby be enabled to eat, to drink and to sleep,[14] and he may put up the bed and spread over it a sheet to prevent the sun rays from falling upon a corpse or upon foodstuffs’.[15] Are then the two rulings[16] mutually contradictory? There is really no contradiction, since one represents the view of R. Eliezer and the other that of the Rabbis. For we learned: in the case of the stopper of a sky-light, R. Eliezer says that if it was tied and suspended one may close the sky-light with it; otherwise it may not be so used;[17] but the Sages ruled: In either case[18] one may close the sky-light with it.[19] Has it not, however, been stated in connection with this ruling: Rabbah b. Bar Hana said in the name of R. Johanan: All[20] agree that not even a temporary tent[21] may for the first time be made on a festival day, and there is no need to say that this may not be done on a Sabbath day; but they differ on the question of adding to a structure,[22] since R. Eliezer holds that no such structural addition may be made on a festival day, and there is no need to say that this may hot be done on a Sabbath day, while the Sages maintain that such structural additions’ may be made on a Sabbath, and there is no need to say that this may be done on a festival day?[23] — The fact is that there is really no contradiction, since one Baraitha represents the view of R. Meir and the other that of R. Judah. For it was taught: If a man used a beast as a wall for a sukkah, R. Meir ruled it to be invalid[24] while R. Judah ruled it to be valid.[25] Now, R. Meir who ruled the wall there to be invalid, from which it is evident that he does not regard it[26] as a proper wall, would here permit the putting up of a similar wall,[27] since[28] thereby nothing improper is done, while R. Judah who regards the wall there as valid, from which it is evident that he regards it as a proper wall, would here forbid a similar wall.[29]

Do you regard this as sound reasoning? Might it not be suggested that R. Meir was heard [to rule the wall to be invalid only in the case of] a beast,[24] was he, however, heard [to give the same ruling in respect of] a human being[30] and vessels?[31] Furthermore,[32] in agreement with whose view could that of R. Meir[33] be? If it be suggested: In agreement with that of R. Eliezer one could object that the latter forbade even the addition to a Structure.[34] Consequently it must be in agreement with that of the Rabbis; but could it not be objected: The Rabbis may only have permitted the addition to a structure,[35] did this, however, make it permissible to put up a full wall at the outset? — The fact is that both[36] are in agreement with the view of the Rabbis; yet there is no contradiction between the rulings regarding vessels,[37] since the former relates to a third wall[38] and the latter to a fourth one.[39]

The inference from the wording[40] leads to the same conclusion;[41] for it was stated: ‘If its wall collapsed’.[42] This is conclusive.

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(1) I.e.,the human walls did not reach the Sabbath limit, and a gap of two cubits intervened between them and the limit.

(2) Who (cf. Mishnah infra 52b) permits the return of a person who walked two cubits beyond the Sabbath limit.

(3) R. Hisda.

(4) That the distance was not fully covered by the human walls and that a gap of two cubits remained.

(5) R. Nahman.

(6) R. Hisda.

(7) After he had already told him to arrange for human walls, was it not obvious that Nehemiah could re-enter by passing through them?

(8) Lit., ‘without a wall’. Cf. supra n. 8. Had the walls reached as far as the Sabbath limit there would have been no need to add the last clause (cf. supra p. 302, n. 11). Its addition, therefore, must imply re-entry despite the gap of the two cubits, in agreement with R. Eliezer.

(9) One of the walls of a sukkah (v. Glos.).

(10) In place of the fallen wall.

(11) Which was already in the sukkah and the mere shifting of which from one place to another would not appear as the direct construction of a wall.

(12) How then was it permitted supra to draw up walls of human beings on a Sabbath day.

(13) For a sukkah.

(14) These are the principal purposes for which a sukkah serves.

(15) Which proves that a human being may constitute a wall.

(16) Quoted by R. Nahman b. Isaac and Raba respectively.

(17) Because the closing up of the skylight, though only of a temporary character, has the appearance of a structural alteration which is forbidden on the Sabbath. This view is in agreement with that cited by R. Nahman b. Isaac.

(18) Whether it was tied and suspended or not.

(19) Shab. 125b, 137b, Suk. 27b; in agreement with the view cited by Raba.

(20) Even the Sages.

(21) Or ‘roof’.

(22) As is the case when the stopper is inserted in the sky-light and the gap in the roof is closed up.

(23) Shab. 125b. As the Baraitha quoted by Raba permits the putting up of a complete wall, and not merely an addition to an existing one, it cannot be in agreement even with the view of the Sages. The difficulty as to the contradiction between the two quoted Baraithas arises again.

(24) Since the beast might at any moment escape (cf. Suk. 21a).

(25) Suk. 23b.

(26) Because it consisted of an animate being.

(27) A human being or a beast in agreement with the Baraitha quoted supra by R. Nahman b. Isaac.

(28) The wall being deemed to be non-existent as far as the sukkah is concerned.

(29) In agreement with the Baraitha quoted by Raba.

(30) Who has the sense to remain in his place.

(31) Which cannot even move.

(32) Though it be granted that the sukkah, despite the added wall, remains invalid.

(33) That which permits the putting up of the wall on account of its invalidity.

(34) How then could he permit the addition of the wall?

(35) As is the case with he structure of the window.

(36) The apparently contradictory Baraithas

(37) In the two cited Baraithas, the second of which does, and the first of which does not permit the putting up of a bed as a wall for a sukkah.

(38) Two walls constitute no hut and the putting up of a third one completes the structure. The Rabbis agree that not even a temporary hut may for the first time be put up on the Sabbath.

(39) As three walls constitute a hut the putting up of a fourth one is a mere addition to an already existing structure which the Rabbis permit.

(40) Of the first cited Baraitha.

(41) That the prohibition refers to a third wall.

(42) Emphasis on 'its wall', sc. the third wall whereby the sukkah becomes valid. A fourth one does not in any way affect the sukkah's validity (cf. Suk. 2a).

Talmud - Mas. Eiruvin 44b

But does not a contradiction still remain between the two rulings regarding a human being?[1] There is really no contradiction between the two rulings regarding a human being, since the former refers to a man used as a wall with his knowledge[2] while the latter refers to a man so used without his knowledge.[3] Was not, however, the arrangement for Nehemiah son of R. Hanilai, made with [the men's] knowledge? No, without their knowledge.[4] R. Hisda[5] at any rate must have known? R. Hisda was not one of the number.[6] Certain gardeners once brought water[7] through human walls[8] and Samuel had them flogged. He said: If the Rabbis permitted human walls where the men composing them were unaware of the purpose they served would they also permit such walls where the men were aware of the purpose?[9]

A number of skin bottles were once lying in the manor[10] of Mahuza and, while Raba was coming from his discourse,[11] [his attendant][12] carried[13] them in.[14] On a subsequent Sabbath he desired to carry them in again,[14] but he[15] forbade it to them because in the second case the human walls must be regarded as having been put up with the men's knowledge, which is forbidden.

For Levi straw was brought in;[16] for Ze'iri cattle fodder,[16] and for R. Shimi b. Hiyya water.[16]

MISHNAH. IF A MAN WHO WAS PERMITTED TO DO SO[17] WENT OUT BEYOND THE SABBATH LIMIT AND WAS THEN TOLD THAT THE ACT[18] HAD ALREADY BEEN PERFORMED, HE IS ENTITLED TO MOVE WITHIN TWO THOUSAND CUBITS[19] IN ANY DIRECTION. IF HE WAS WITHIN THE SABBATH LIMIT HE IS REGARDED AS IF HE HAD NOT GONE OUT.[20] ALL[21] WHO GO OUT TO SAVE LIFE MAY RETURN TO THEIR ORIGINAL PLACES.[20]

GEMARA. What [need was there for the ruling], IF HE WAS WITHIN THE SABBATH LIMIT HE IS REGARDED AS IF HE HAD NOT GONE OUT?[22] — Rabbah replied: It is this that was meant: IF HE WAS WITHIN his SABBATH LIMIT[23] HE IS REGARDED AS IF HE HAD NOT GONE OUT of his house.[24] Is not this Obvious?[25] — It might have been presumed that as he tore [himself away from his original abode][26] he has thereby detached [himself completely from it],[27] hence we were informed [that IF HE WAS WITHIN his SABBATH LIMIT HE IS REGARDED AS IF HE HAD NOT GONE OUT OF HIS HOUSE]. R. Shimi b. Hiyya replied: It is this that was meant: If the Sabbath limits which the Rabbis have allowed him[28] overlapped with his original Sabbath limit[29] HE[30] IS REGARDED AS IF HE HAD NOT GONE OUT of his original Sabbath limit. On what principle do they[31] differ? — The one Master[32] is of the opinion that the overlapping of Sabbath limits is of significance[33] while the other Master[34] maintains that it is of no consequence.[35]

Said Abaye to Rabbah: Are you not of the opinion that the overlapping of Sabbath limits is of significance? What if a man spent the Sabbath in a cavern[36] the length of the floor of whose interior was four thousand cubits[37] and that of its roof was less than four thousand cubits?[37] Would he not be able to move all along its roof and two thousand cubits beyond it?[38] — The other replied: Do you make no distinction between a case where[39] the man began to spend the Sabbath within the walls of his abode, while it was yet day[40] and one[41] where he did not begin to spend the Sabbath between the walls[42] while it was yet day?[43] — [You say] that where a man did not begin to spend the Sabbath [within the walls of an abode common to both limits overlapping of the limits is of] no consequence,

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(1) In the former Baraitha a Human being is forbidden to be used as a wall while in the latter he is permitted. The answer given in connection with vessels, that the latter deals with a fourth wall, is inapplicable since the Baraitha specifically speaks of that wall as enabling other ‘to eat, to drink and to sleep’. Only the third wall but not a fourth one does that.

(2) As he agrees to constitute a proper wall he must not be used for the purpose on Sabbaths or Festivals.

(3) This is permitted since no hut is constructed in such a manner and on no account, in consequence, can the man in such circumstances he regarded as a valid wall.

(4) They did not know for what purpose they were told to line up.

(5) Who presumably took his place in the lines arranged for Nehemiah.

(6) Of those who made up the lines.

(7) On a Sabbath day, from a public, into a private domain.

(8) The men forming them having been aware of the purpose they were to serve.

(9) Obviously not. Hence the culpability of the gardeners.

(10) Which was, of course, a public domain. [On the manor of Mahuza, Rostaka di Mahuza, v. Obermeyer, p. 172].

(11) The crowds following him.

(12) So Rashi.

(13) Through the crowds that formed so to speak human walls on either side of the carriers.

(14) Into a private domain (cf. previous note).

(15) Raba.

(16) Through human walls, on a Sabbath, from a public domain into a private one.

(17) If his journey, for instance, had for its purpose the saving of life or the tendering of evidence on the appearance of a new moon, which involves the religious observance of a festival.

(18) Which he intended to do.

(19) From the spot where the report was brought to him.

(20) This is explained in the Gemara infra.

(21) Mishnah ed., ‘because all’; MS.M., ‘and all’.

(22) Is not this obvious?

(23) When he received the report.

(24) Sc. he may move within two thousand cubits from his house in any direction, AS IF HE HAD NOT GONE OUT from it and not, as would have been the case if he had heard the report without his Sabbath limit, from the spot where he heard it.

(25) So long as a man has not gone beyond his Sabbath limit he is, of course, entitled to his original rights of movement.

(26) By deciding, under Rabbinic sanction, to go beyond his original Sabbath limit.

(27) For the rest of the Sabbath day; his new abode being the spot where the report spoken of in our Mishnah reached him, irrespective of whether this happened beyond, or within his original Sabbath limit.

(28) The man who went beyond is original Sabbath limit.

(29) Sc. if the distance between the spot where the report had reached him and his own home was less than four thousand cubits.

(30) Since the new limit to which he is entitled enables him to come within two thousand cubits distance from his home.

(31) Rabbah and R. Shimi b. Hiyya.

(32) The last mentioned.

(33) Hence it is permissible to move within the two Sabbath limits as if they had constituted one single limit.

(34) Rabbah.

(35) The man's movements are consequently restricted to one Sabbath limit even though that limit overlapped with his original one. Hence Rabbah's recourse to a different answer from that of R. Shimi. (For another interpretation v. Rashi s.v. ואית a.l.).

(36) Two of whose opposite walls were sloping upwards towards one another and thereby reducing the length of the roof in which there were two doors, one at the side of either wall.

(37) Cf. previous note.

(38) In either direction, from either door. If one door, for instance, was on the east side of the cavern and the other on its west side, the former would enable the man to move a distance of two thousand cubits from the east side of that door and another two thousand cubits from its west side, while the latter door would similarly enable him to move along equal distances from both its sides. But since the western limit of the eastern door overlaps along the roof with the eastern limit of the western door, the man is in consequence permitted to move along a distance of more than four thousand cubits, beginning in the east at a point two thousand cubits from the eastern door and extended along the roof to a point in the west two thousand cubits distant from the western door. If the two Sabbath limits, however, had not overlapped along the roof as would be the case where the roof of the cavern, like its floor, was four thousand cubits long, the man on leaving the eastern door would have been allowed to move to a limit of two thousand cubits in either direction but no further and a similar distance and no further if he left by the western door. How then could Rabbah maintain that overlapping is of no consequence?

(39) As in that of the cavern.

(40) The Sabbath eve.

(41) The case spoken of in our Mishnah.

(42) Of his second ‘abode’, the spot where the report was brought to him.

(43) Such a distinction must, of course, be drawn. In the former case the two Sabbath limits are acquired simultaneously through the man's stay at the same time within the same cavern; hence the significance and value of the overlapping of the limits. In the latter case, however, when the man was within his original home he had no right whatever to his new Sabbath limit, and when he entered his new ‘abode’ and acquired the right to the new limit he had already quitted his original home. If, therefore, he is entitled to the latter he must, despite the overlapping, lose his right to the former and Vice versa.

Talmud - Mas. Eiruvin 45a

but, surely, we learned: R. Eliezer ruled: If a man walked two cubits beyond his Sabbath limit he may re-enter,[1] and if he walked three cubits he may not re-enter;[2] [from which it is evident] is it not, that R. Eliezer follows his principle on the basis of which he ruled: ‘The man[3] is deemed to be in their center’,[4] so that the four cubits which the Rabbis have allowed him[3] are regarded as overlapping [with that man's former Sabbath limit],[5] and [it is because of this overlapping][6] that he ruled: ‘He may re-enter’. Does not this then clearly prove that the overlapping of Sabbath limits is of significance? — Said Rabbah b. Bar Hana[7] to Abaye: Do you raise an objection against the Master[8] from a ruling of R. Eliezer?[9] ‘Yes’, the other replied: ‘because I heard from the Master himself[8] that the Rabbis differed from R. Eliezer only in respect of a secular errand[10] but that in respect of a religious one they agree with him’.[11]

AND[12] ALL WHO GO OUT TO SAVE LIFE MAY RETURN TO THEIR ORIGINAL PLACES. Even apparently where the distance was more [than four thousand cubits]. But was it not stated in the first clause,[13] TWO THOUSAND CUBITS, and presumably no more? — Rab Judah replied in the name of Rab: The meaning is that they MAY RETURN TO THEIR ORIGINAL PLACES[14] with their weapons.[15] But what [indeed] was the difficulty[16] seeing that it is possible that the case of those who go to save lives[17] is different?[18] If a difficulty did at all exist it must have been the following. We learned: At first they[19] did not stir from there[20] all day[21] but R. Gamaliel the Elder enacted that they shall be entitled to move within two thousand cubits in any direction. The enactment, moreover, was not applied to these[19] only, but even a midwife who came to assist at a childbirth, or a man who came to rescue from an invading gang, from a river, from a ruin or from a fire is to be regarded as one of the people of the town[22] and is entitled to move within two thousand cubits in any direction.[23] Now [this evidently implies:] No more;[24] but has it not been said: ALL WHO GO OUT TO SAVE LIFE MAY RETURN TO THE ORIGINAL PLACES even impliedly a larger distance?[24] — Rab Judah replied in the name of Rab:[25] The meaning Is that they MAY RETURN TO THEIR ORIGINAL PLACES[26] with their weapons;[27] as it was taught: At first they[28] used to leave their weapons[29] in a house that was nearest to the town wall. Once it happened that the enemies recognized them[30] and pursued them, and as these entered the house to take up their weapons the enemies followed them. There was a stampede and the men who killed one another were more than those whom the enemies killed. At that time it was ordained that men in such circumstances shall return to their places with their weapons.[31]

R. Nahman b. Isaac replied: There is really no contradiction:[32] The latter[33] deals with a case where the Israelites overpowered the heathens[34] while the former[35] deals with one where the heathens overpowered themselves.[36]

Rab Judah stated in the name of Rab: If foreigners besieged Israelite towns it is not permitted to sally forth against them or to desecrate the Sabbath in any other way on their account. So it was also taught: If foreigners besieged etc. This, however, applies only where they came for the sake of money matters, but if they came with the intention of taking lives the people are permitted to sally forth against them with their weapons and to desecrate the Sabbath on their account. Where the attack, however, was made on a town that was close to a frontier,[37] even though they did not come with any intention of taking lives but merely to plunder straw or stubble, the people are permitted to sally forth against them with their weapons and to desecrate the Sabbath on their account.[38]

Said R. Joseph b. Manyumi in the name of R. Nahman: Babylon is regarded as a frontier town and by this[39] he meant Nehardea.[40]

R. Dostai of Biri[41] made the following exposition: What is the significance of the Scriptural text: And they told David saying: 'Behold the Philistines are fighting against Keilah, and they rob the threshing-floors'?[42] A Tanna taught: Keilah was a frontier town and they only came for the sake of plundering straw or stubble, for it is written: 'And they rob the threshingfloors' and yet it is written: Therefore David enquired of the Lord, saying: 'Shall I go and smite these Philistines?' And the Lord said unto David: 'Go and smite the Philistines, and save Keilah'.[43] What was it that he inquired about? If it be suggested: 'Whether[44] it was permitted or forbidden to repulse the attack', surely, it could be retorted, the Beth din of Samuel the Ramathite was then in existence.[45] Rather, he inquired whether he would be successful or not.[46] The inference from the wording of the text also supports this view. For it says: 'Go and smite the Philistines, and save Keilah'.[47] This is conclusive.

MISHNAH. IF A MAN SAT DOWN[48] BY THE WAY[49] AND WHEN HE ROSE UP[50] HE OBSERVER THAT HE WAS NEAR A TOWN[51] HE MAY NOT ENTER IT,[52] SINCE IT HAD NOT BEEN HIS INTENTION[53] TO DO SO;[54] SO R. MEIR. R. JUDAH RULED: HE MAY ENTER IT.[55] SAID R. JUDAH, IT ONCE ACTUALLY HAPPENED THAT R. TARFON ENTERED A TOWN[56] THOUGH[57] THIS WAS NOT HIS INTENTION [WHEN THE SABBATH HAD BEGUN].

GEMARA. It was taught: R. Judah related: It once happened that R. Tarfon was on a journey when dusk fell and he spent the night on the outskirts of a town. In the morning he was discovered by some herdsmen who said to him, 'Master, behold the town is just in front of you; come in. He, thereupon, entered and sat down in the house of study, and delivered discourses all that day. Said R. Akiba[58] to him:[59] Is that incident any proof?[60] Is it not possible that he[53] had the town in his mind[61] or that the house of study was actually[62] within his Sabbath limit?[63]

MISHNAH. IF A MAN SLEPT BY THE WAY[64] AND WAS UNAWARE THAT NIGHT HAD FALLEN,[65] HE IS ENTITLED TO MOVE WITHIN TWO THOUSAND CUBITS IN ANY DIRECTION; SO R. JOHANAN B. NURI. THE SAGES, HOWEVER, RULED: HE[66] HAS ONLY FOUR CUBITS WITHIN WHICH TO MOVE. R. ELIEZER RULED: AND THE MAN IS DEEMED TO BE IN THEIR CENTER.[67] R. JUDAH RULED: HE MAY MOVE[68] IN ANY DIRECTION HE DESIRES. R. JUDAH, HOWEVER, AGREES THAT IF HE HAS ONCE CHOSEN HIS DIRECTION HE MAY NOT GO BACK ON IT.[69]

IF THERE WERE TWO MEN AND A PART OF THE PRESCRIBED NUMBER OF CUBITS OF THE ONE OVERLAPPED WITH THAT OF THE OTHER,[70] THEY MAY BRING THEIR

MEALS AND EAT THEM IN THE MIDDLE,[71]

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(1) His original limit.
(2) Infra 52b.
(3) Who walked out of his Sabbath limit and who was allowed a distance of four cubits in which to move.
(4) I.e., he is regarded as standing in the middle point of a circle four cubits in diameter and is allowed no more than two cubits in the various directions.
(5) Since no more than two of them intervene between his new position and former limit.
(6) Since in the case of a distance of three cubits, where there is no overlapping, R. Eliezer forbids, and in that of two cubits, where there is some overlapping, he permits the man to re-enter his former limit.
(7) Var. lec. Hanin (marg. n.); Raba b. R. Hanin (MS.M.).
(8) Rabbah.
(9) Who represents an individual opinion from which the Rabbis differ (cf. Mishnah infra 52b).
(10) Only in such a case do they forbid a man to re-enter his former Sabbath limit even if he walked no further than one cubit beyond it.
(11) That overlapping is of significance, As our Mishnah deals with a man who was permitted to go beyond his Sabbath limit, that is, on a religious errand, the Rabbis, like R. Eliezer, would permit him to re-enter his former limit if his new one overlapped with it.
(12) For this reading cf. the relevant note in our Mishnah.
(13) In the case where the limits did not overlap.
(14) Only within the permitted distance. Not, as has been assumed, a distance of more then two thousand cubits.
(15) Though the carrying of weapons is forbidden on the Sabbath the law (as will be explained infra) has been relaxed in favour of those WHO GO OUT TO SAVE LIFE.
(16) In reply to which Rab Judah found it necessary to offer a radical change in the obvious meaning of our Mishnah.
(17) From an attacking gang.
(18) From that of those previously mentioned in our Mishnah. The former might refer to one who went to render evidence on the appearance of a new moon or to summon a midwife. A person in such circumstance may well be forbidden to return home if the distance was more than two thousand cubits. Those, however, who went out to save lives from the violence of an attacking gang might well, as a safeguard of their own lives against possible attack, have been permitted to return to their homes even where the distances were greater.
(19) Witnesses to the appearance of a new moon who went beyond their original Sabbath limit.
(20) The court where the witnesses assembled (cf. R.H. 23b).
(21) As any other person who had gone beyond his Sabbath limit and whose movements are in consequence restricted to four cubits.
(22) Where his rescue work was carried out.
(23) R.H. 23b.
(24) Than two thousand cubits.
(25) Var. lec., Rab replied.
(26) V. supra p. 310, n. 2.
(27) V. loc. cit. n. 3.
(28) Men who went beyond their Sabbath limits to repulse an invading gang which was threatening the destruction of life.
(29) When they returned to their homes.
(30) Later in the day when they happened to be outside the town.
(31) Tosef. ‘Er. 111,
(32) Between our Mishnah and the Mishnah cited from R.H. 23b.
(33) The Mishnah cited (v. previous note) according to which men who returned from the rescue of human lives may not go beyond two thousand cubits.
(34) As they were victorious there is no likelihood that the enemy would seek another engagement with them on the same day.
(35) Our Mishnah which allows the men's return to their homes however great the distance might be.
(36) Euphemism. Since the enemy was victorious he might attack again; and it is, therefore, safer for the men's own sake

to seek the shelter of their own town.

(37) The loss of which would constitute a strategic danger to the other parts of the country.

(38) Tosef. ‘Er. III.

(39) The term ‘Babylon’.

(40) Which was situated on the border between the Jewish and heathen settlements in Babylonia. Cf. B.K. 83a, (Sonc. ed. P 471).

(41) In Galilee.

(42) I Sam. XXIII, 1.

(43) Ibid. 2.

(44) The day having been the Sabbath.

(45) And the legal inquiry could have been addressed to that court.

(46) [I.e., whether the plundering of straw and stubble warranted the entry upon a deadly combat, v. Tosaf.]

(47) If the inquiry had been merely regarding the legal permissibility of the engagement on Sabbath there would have been no point in adding the last three words. [The encouragement which he received to wage war indicates the importance of the issue for which, consequently, the Sabbath may be desecrated, v. Tosaf.].

(48) Var. lec. ‘slept’ (She'iltoth).

(49) On the Sabbath eve before dusk.

(50) After dusk when the Sabbath had already begun.

(51) I.e., the town was within his Sabbath limit.

(52) Sc. he is not allowed to move freely about the town as the people who were in it at the hour the Sabbath had commenced.

(53) At the time the Sabbath had set in.

(54) He is in consequence entitled to move from the spot where he sit down in any direction, including that of the town, within two thousand cubits distance, measured by moderate steps; but not further, though his Sabbath limit in the direction of the town terminated in the heart of the town.

(55) Cf. supra p. 312, n. 15 mutatis mutandis.

(56) Within the Sabbath limit of which he happened to be at the hour the Sabbath had begun.

(57) Having been unaware of the fact that the town was so near.

(58) So She'iltoth, Beshalah, XLVIII; MS.M., ‘Jacob’; cur. edd., in parenthesis, ‘They said’.

(59) R. Judah.

(60) That R. Tarfon acted in agreement with R. Judah's ruling.

(61) He may have been aware of the fact that it was within his Sabbath limit and intended to enter it in the morning.

(62) Lit., ‘swallowed’.

(63) This is undoubtedly possible and the incident cannot, therefore, be adduced as proof of R. Tarfon's agreement with R. Judah.

(64) On a Sabbath eve.

(65) Sc. that the Sabbath had set in,

(66) Since in his sleep he could not intend to acquire the spot on which he lay as his Sabbath ‘abode’.

(67) I.e., he is deemed to be standing in the center of a circle four cubits in diameter and he is entitled to move within two (not four) cubits in any direction.

(68) A distance of four cubits.

(69) He may not subsequently return to his original position to walk any distance in the opposite direction.

(70) If the distance between their respective positions was, for instance, six cubits, so that the two middle cubits were common to both men.

(71) Within the two cubits common to both.

Talmud - Mas. Eiruvin 45b

PROVIDED THE ONE DOES NOT CARRY OUT ANYTHING[1] FROM HIS LIMIT INTO THAT OF THE OTHER.[2] IF THERE WERE THREE MEN AND THE PRESCRIBED LIMIT OF THE MIDDLE ONE OVERLAPPED WITH THE RESPECTIVE LIMITS OF THE OTHERS,[3] HE IS PERMITTED TO EAT WITH EITHER OF THEM[4] AND EITHER OF THEM IS PERMITTED TO

EAT WITH HIM,[4] BUT THE TWO OUTER PERSONS ARE FORBIDDEN TO EAT WITH ONE ANOTHER.[5] R. SIMEON REMARKED: TO WHAT MAY THIS CASE BE COMPARED? TO THREE COURTYARDS THAT OPEN ONE INTO THE OTHER AND ALSO INTO A PUBLIC DOMAIN,[6] WHERE, IF THE TWO OUTER ONES MADE AN ‘ERUB WITH THE MIDDLE ONE,[7] IT[8] IS PERMITTED TO HAVE ACCESS TO THEM AND THEY ARE PERMITTED ACCESS TO IT, BUT THE TWO OUTER ONES[9] ARE FORBIDDEN ACCESS TO ONE ANOTHER.

GEMARA. Raba enquired: What is R. Johanan b. Nuri's view? Does he[10] hold that ownerless objects[11] do acquire their place in respect of the Sabbath,[12] and consequently, it would have been proper that he should express his disagreement [with the Sages] in respect of inanimate objects[13] and the only reason why [he and the Sages] expressed their dispute in connection with a human being was to inform you how far the view of the Rabbis extends, viz., that although[14] it might be argued, ‘Since a man who is awake acquires his place a man asleep should also acquire his place’, hence we were informed that no [such argument is admissible];[15] or is it likely that R. Johanan b. Nuri holds that elsewhere ownerless objects do not acquire their place in respect of the Sabbath and the reason for his ruling[10] here is this: Since a man awake acquires his place so does also a man asleep? — R. Joseph replied: Come and hear: If rain fell on the eve of a festival the water[16] may be carried within a radius of two thousand cubits In any direction,[17] but if it fell on a festival day[18] the water is on a par with the feet of every man.[19] Now if you grant that R. Johanan b. Nuri is of the opinion that ownerless objects acquire their place in respect of the Sabbath this ruling,[20] you may say, represents the view of R. Johanan;[21] but if you contend that[22] ownerless objects do not acquire their place in respect of the Sabbath, whose view, [it may be asked], is here[20] represented? Is it neither that of. R. Johanan nor that of the Rabbis?

Abaye sat at his studies and discoursed on this subject[23] when R. Safra said to him: Is it not possible that we are dealing[24] here with a case where the rain fell near a town and the townspeople relied on that rain?[25] — This,[26] the other replied, cannot be entertained at all.[27] For we learned: A cistern belonging to an individual person is on a par with that individual's feet,[28] and one belonging to a town is on a par with the feet of the people of that town,[29] and one used by the Babylonian pilgrims[30] is[31] on a par with the feet of any man who draws the water.[32] Now it was also taught: ‘The water of a cistern Used by the tribes[33] may be moved within a radius of two thousand cubits in any direction’.[34] Are not [then] the two rulings mutually contradictory?[35] Consequently[36] it must be conceded that the latter represents the view of R. Johanan while the former represents that of the Rabbis.

When he[37] came to R. Joseph and told him such and such a thing said R. Safra and such and such did I reply, the other remarked: ‘Why did you not argue with him from that very statement:[38] If it could be entertained that we were dealing with a case where the rain fell near a town then, instead of ruling that the water may be moved within a distance of two thousand cubits in any direction,[39] should it not have been ruled that it was on a par with the feet of the people of that town?’[40]

The Master said: ‘If [it fell] on a festival day the water is on a par with the feet of every man’. But why? Should not the rain water acquire its place for the Sabbath in the ocean?[41] Must it then be assumed[42] that this ruling is not in agreement with the view of R. Eliezer? For if it were in agreement with R. Eliezer [the objection would arise:] Did he not state that all the world drinks from the water of the ocean? — R. Isaac replied: Here we are dealing with a case where the clouds were formed on the eve of the festival.[43] But is it not possible that those[44] moved away and these[45] are others?[46] — It is a case where one can recognize them by some identification mark. And if you prefer I might reply: This[47] is a matter of doubt in respect of a Rabbinical law and in any such doubt a lenient ruling is adopted.[48] But why should not the water acquire its place for the Sabbath in the clouds?[49] May it then be derived from this[50] that the law of the Sabbath limits does not apply to the air above a height often handbreadths, for if the law of Sabbath limits were at that height applicable the water should have acquired its place for the Sabbath in the clouds? — I may in fact maintain that the law of Sabbath limits is applicable [even at the height mentioned] but the water is absorbed in clouds.[51]

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(1) Even with his hand, though his body remains within his own limit.

(2) Sc. the parts of the respective limits which do not overlap. A person's cattle or inanimate objects may not be moved on the Sabbath beyond the limit within which he himself is permitted to move (cf. Bezah 37a).

(3) While the limits of the latter did not overlap each other; where, for instance, the distance between the positions of the two men at the extremities was eight cubits and that between either of them and the middle one was six cubits.

(4) In the overlapping spaces that are respectively common to him and to them.

(5) Since they have no ground in common.

(6) So that each is self contained. Courtyards that open into one another and have no direct exit into a public domain, being interdependent, are forbidden domains as regards movement on the Sabbath except where the residents joined in a common ‘erub.

(7) Through their communicating doors respectively.

(8) The middle courtyard.

(9) Having no direct communication with each other.

(10) In laying down in the first clause of our Mishnah that the man is ENTITLED TO MOVE WITHIN TWO THOUSAND CUBITS.

(11) Whose radius of movement cannot obviously be determined, as in the case of owned property, by the intentions of an owner.

(12) Sc. that no one even with an ‘erub may move them from that position beyond a distance of two thousand cubits.

(13) Lit., ‘vessels’, that are ownerless. A man asleep being unable to think, is, in respect of intention to spend the Sabbath in a particular spot, like ownerless objects that have no owner by whose intention their place for the Sabbath could be determined.

(14) In the case of a human being.

(15) And the Sages still maintain that a man asleep does not acquire his place for the Sabbath.

(16) Since at the time the festival began it was already on the ground.

(17) From the spot where it fell; because it acquired, so to speak, its place when the Sabbath had begun (cf. prev. note).

(18) So that it could not acquire any place on the ground at the time the festival began.

(19) I.e., it may be carried in a radius within which any man who uses it may himself move.

(20) That if rain fell on the eve of a festival the water may be carried only within a radius of two thousand cubits from the spot on which it fell.

(21) According to which rain water, like ownerless objects, acquires its place in respect of the Sabbath.

(22) In the opinion of R. Johanan.

(23) The authorship of the Baraitha just cited and discussed.

(24) Cf. supra n. 1.

(25) For their water supply. As it was the townspeople's intention to use the water the latter rightly acquires the place on which it fell. The Baraitha, therefore, could provide no proof that objects having no owner can also acquire their place for the Sabbath.

(26) R. Safra's suggestion.

(27) Because on account of the following apparently contradictory rulings one is driven to the conclusion that R. Johanan must be of the opinion that ownerless objects do acquire this place.

(28) Should another person draw the water on a Sabbath or a festival day he may not carry it beyond the radius within which the owner of the cistern may move.

(29) A radius of two thousand cubits in any direction from the town.

(30) On their way to Jerusalem.

(31) Since it was at the disposal of anyone who cared to use it and had the status of ownerless property.

(32) Because ownerless objects are acquired by the man who first lifts them up. Should the man who first drew the water subsequently give it to another person its movements would nevertheless be restricted to the radius within which the first man may move. Thus it follows that ownerless objects do not acquire their place for the Sabbath.

(33) I.e., the pilgrims on their way to the Holy City.
(34) From its place. Which proves that ownerless objects do acquire their place for the Sabbath.
(35) Cf. supra p. 316, n. 13 and prev. note.
(36) In order to remove the apparent contradiction.
(37) Abaye.
(38) Which R. Joseph cited supra.
(39) From the spot on which it fell.
(40) Of course it should. The ruling consequently proves that R. Safra's suggestion is unacceptable.
(41) Where it was at the time the festival began before it was converted into cloud. As it was carried on the festival in the form of cloud beyond its Sabbath limit its movements should be restricted to a radius of four cubits only.
(42) Since the water may be moved within a radius of two thousand cubits.
(43) So that the water had left the ocean before the festival began.
(44) The clouds that were seen on the festival eve.
(45) That released the rain on the festival.
(46) That were formed after the festival had begun from the water that was still in the ocean at the time the festival had set in (cf. supra n. 7).
(47) Whether the clouds on the festival day are identical with those that were on the horizon on the eve of the festival or not.
(48) It may in consequence be properly assumed that the clouds were the same on both days.
(49) Where it presumably was at the time the festival began. The movement of the water should consequently be restricted to a radius of four cubits.
(50) Since it was ruled that the water was on a par with the feet of every man.
(51) As it is not exposed it is regarded as non-existent and cannot consequently acquire its place for the Sabbath before it reaches the ground in the form of water.

Talmud - Mas. Eiruvin 46a

But should it not then[1] be forbidden all the more[2] because it was produced on the festival?[3] — The fact, however, is that the water in the clouds is in constant motion.[4] Now you have arrived at this explanation[5] you can raise no difficulty about the ocean either,[6] since the water in the ocean is also in constant motion, and it was taught: Running rivers and gushing springs[7] are[8] on a par with the feet of all men.[9]

R. Jacob b. Idi stated in the name of R. Joshua b. Levi: The halachah is in agreement with R. Johanan b. Nuri. Said R. Zera to R. Jacob b. Idi: 'Did you hear it explicitly[10] or did you understand it by implication?'[11] — 'I', the other replied: 'have heard it explicitly' — What was that general statement?[12] — [The one in] which R. Joshua b. Levi has laid down: The halachah is in agreement with the authority that maintains the less restrictive ruling in respect of the laws of 'erub.[13] What need then was there for the two statements?[14] — R. Zera replied: Both were required. For if we had been informed only that 'the halachah is in agreement with R. Johanan b. Nuri', it might have been assumed [that this applies in all cases] whether the halachah leads to a relaxation[15] or to a restriction;[16] hence we were informed that 'the halachah is in agreement with the authority that maintains the less restrictive ruling in respect of the laws of 'erub.'[17] Then let him state, 'The halachah is in agreement with the authority that maintains the less restrictive ruling in respect of 'erub'; for what purpose was it necessary to state also that 'the halachah is in agreement with R. Johanan b. Nuri'? — It was required because[18] it might have been presumed that the statement[19] applied only to an individual authority who differs from another[20] individual authority or to several authorities who differ from several other authorities, but not to an individual authority[21] who differed from several authorities.[22]

Said Raba to Abaye: Consider! The laws of 'erub are Rabbinical, [of course]. Why then should it matter whether an individual differs from another individual or whether an individual authority differs from several other authorities? — Said R. Papa to Raba: Is there no difference in the case of a Rabbinical law between a dispute of two individuals and one between an individual authority and several other authorities? Have we not in fact learnt: R. Eliezer[23] ruled: For any woman who had passed[24] three menstrual periods[25] [without observing any discharge of blood] it is sufficient [to regard herself as menstrually unclean from] the time when she [observed a re-appearance of such a discharge].[26] And it was taught: It once happened that Rabbi gave a practical decision in agreement with the ruling of R. Eliezer,[27] and after he had recollected[28] he remarked: R. Eliezer[23] deserves to be relied upon in a time of need.[29] Now what is meant by the expression 'after he recollected'? If it be suggested: After he recollected that the halachah was not in agreement with R. Eliezer but with the Rabbis [the difficulty would arise:] How could he act in agreement with his view[30] even in a time of need? It must consequently be conceded that the law was laid down neither in agreement with R. Eliezer nor in agreement with the Rabbis, and that it was after he had recollected that not one individual but several authorities differed from him that he remarked: 'R. Eliezer deserves to be relied upon in a time of need'.[31]

Said R. Mesharsheya to Raba (or, as others say. R. Nahman b. Isaac said to Raba): Is there no difference in the case of a Rabbinical law between a dispute of two individuals and one between an individual authority and several authorities? Was it not in fact taught: [On receiving] an early[32] report [of the death of a near relative both] the seven and the thirty days of mourning must be observed[33] [but on receiving] a belated[34] one only one day of mourning is to be observed. And what is meant by 'early' and 'belated'? [A report received] within thirty [days of the death is said to be] 'early' [and one received] after thirty [days from the death is said to be] 'belated'; so R. Akiba. The Sages, however, ruled: Whether a report is early or belated both the seven and the thirty days of mourning must be observed.[35] And in connection with this Rabbah b. Bar Hana stated in the name of R. Johanan: Wherever you come across a law which an individual authority relaxes and several authorities restrict, the halachah is in agreement with the majority who restrict it, except in this case where the halachah is in agreement with R. Akiba,[36] though he relaxes the law and the Sages restrict it. In this respect he is of the same opinion as Samuel who laid down: The halachah is in agreement with the authority that relaxes the law in the case of a mourner.[37] Thus[38] it follows that it is only in the case of mourning that the Rabbis[39] have relaxed the law but that elsewhere,[40] even in respect of a Rabbinical law[41] a difference is to be made between a dispute of two individuals and a dispute of an individual authority against a number of authorities!

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(1) Since it is regarded as non-existent while in cloud form.

(2) Even to be moved from its place.

(3) Nolad (v. Glos.) may be neither used nor moved either on a Sabbath or on a festival.

(4) An object in motion cannot acquire a place for a Sabbath or for a festival.

(5) Cf. prev. note.

(6) The difficulty pointed out supra 45b: 'Does not the rain water acquire its place . . . in the ocean?'

(7) Even if they are the property of an individual.

(8) On account of their perpetual motion.

(9) Any man that draws any of their waters is allowed to carry it in the same radius within which he himself is permitted to move.

(10) From R. Joshua b. Levi.

(11) Lit., 'from a general rule', i,e,, inferred it from a general statement that R. Joshua b. Levi had made.

(12) To which R. Zera (cf. prev. n.) referred.

(13) In which the laws of Sabbath limits are of course included.

(14) The one just cited and the one quoted by R. Jacob b. Idi. Is not the latter superfluous in view of the former?

(15) As in the case of a man asleep spoken of in the first clause of our Mishnah. By adopting the ruling of R. Johanan b. Nuri the man is enabled to move not only within his four cubits but also to a distance of two thousand cubits in all directions.

(16) In the case of ownerless objects for instance. Adopting the ruling of R. Johanan b. Nuri the movement of the objects

is restricted to a radius of two thousand cubits from their place so that the man who found them is unable to carry them to the end of his own limit.
(17) Thus indicating that only in respect of a person asleep is the ruling of R. Joshua b. Nuri adopted but not in respect of ownerless objects.
(18) In its absence.
(19) That ‘the halachah is in agreement with . . . the less restrictive ruling’.
(20) Lit., ‘in the place of’.
(21) Like R. Johanan b. Nuri.
(22) The Sages.
(23) So Rashi, Bah and MS.M. throughout the page. Cur. edd., ‘Eleazar’.
(24) Lit., ‘passed upon her’,
(25) Of thirty days each.
(26) Nid. 7b. If less than three menstrual periods have passed without a discharge the woman must be regarded as having been menstrually unclean twenty-four hours retrospectively whenever a discharge reappears (cf. Nid. 3a).
(27) In the case of a young woman, though the Rabbis differed from him in maintaining that an interval of three menstrual periods reduces the period of uncleanness only in the case of a woman approaching old age but not in that of a young woman.
(28) That his decision was based on the view of an individual (cf. infra).
(29) Nid. 6a, 9b. The incident occurred in a time of dearth when the destruction of any food on account of a restriction in the laws of levitical uncleanness would have entailed severe hardship (v. Rash Cf. however, Tosaf. s.v. לסמוך a.l.).
(30) Against the established halachah.
(31) From which it is evident that in normal times the opinion of the majority is to be followed even in the case of a Rabbinical law as is that of the twenty-four hours retrospective uncleanness in the case under discussion.
(32) Lit., ‘near’.
(33) During the former period the mourner is subjected to greater restrictions than in the latter. Bathing and washing of clothes, for instance, which are forbidden during the seven, are permitted during the thirty days.
(34) Lit., ‘distant’.
(35) M.K, 20a.
(36) An individual authority.
(37) M.K. 18a, Bek. 49a.
(38) Since the reason given for deciding the halachah in agreement with R. Akiba was not that in Rabbinical laws (such as the laws of mourning spoken of here) the opinion of a majority is of no consequence.
(39) For the reason given.
(40) Where the reason is inapplicable.
(41) Cf. supra n. 7.

Talmud - Mas. Eiruvin 46b

R.[1] Papa replied: It[2] was required:[3] Since it might have been presumed that this[4] applied Only to ‘erubs of courtyards but not to ‘erubs of Sabbath limits,[5] hence it was necessary [to make that statement[6] also]. Whence however, is it derived that a distinction is made between ‘erubs of courtyards and ‘erubs of Sabbath limits? — From what we learned: R. Judah ruled: This[7] applies Only to ‘erubs of Sabbath limits[8] but in the case of ‘erubs of courtyards[9] an ‘erub may be prepared for a person whether he is aware of it or not, since a privilege[10] may be conferred upon a man in his absence but no disadvantage[11] may be imposed upon him except in his presence.[12]

R. Ashi replied: It[13] was required:[14] Since it might have been assumed that this[15] applied only to the remnants of an ‘erub[16] but not to the beginnings of one.[17] Whence, however, is it derived that a distinction is made between the remnants of an ‘erub and the beginnings of one? — From what we learned: R. Jose ruled: This[18] applies only to the beginnings of the ‘erub but in the case of the remnants of one even the smallest quantity of food[19] is sufficient, the sole reason for the injunction to provide ‘erubs for courtyards being that the law of ‘erub shall not be forgotten by the children.[20]

R. Jacob and R. Zerika said: The halachah is always in agreement with R. Akiba when he differs from a colleague of his; with R. Jose even when he differs from several of his colleagues, and with Rabbi when he differs from a colleague of his.[21] To what [extent were these[22] meant to influence] the law in practice? — R. Assi replied: [To the extent of adopting them for] general practice,[23] R. Hiyya b. Abba replied. [To the extent of being] inclined [in their favour],[24] and R. Jose son of R. Hanina replied: [To the extent only of viewing them merely as] apparently acceptable.[25] In the same sense[26] did R. Jacob b. Idi rule in the name of R. Johanan: In a dispute between R. Meir and R. Judah the halachah is in agreement with R. Judah, in one between R. Judah and R. Jose the halachah is in agreement with R. Jose; and there is no need to state that in a dispute between R. Meir and R. Jose the halachah is in agreement with R. Jose, for, since[27] [it has been laid down that the opinion of the former is] of no consequence where it is opposed by that of[28] R. Judah,[29] can there be any question [as to its inconsequence] where it is opposed by that of[28] R. Jose?[30]

R. Assi said: I also learn that in a dispute between R. Jose and R. Simeon the halachah is in agreement with R. Jose; for R. Abba has laid down on the authority of R. Johanan that in a dispute between R. Judah and R. Simeon the halachah is in agreement with R. Judah — Now [since the latter's opinion is] of no consequence where it is opposed by[31] R. Judah[32] can there be any question [as to its inconsequence] where it is opposed by that of[31] R. Jose?[33]

The question was raised: What [is the law where a ruling is a matter of dispute between] R. Meir and R. Simeon? — This is undecided.[34]

R. Mesharsheya stated: Those rules[35] are to be disregarded.[36] Whence does R. Mesharsheya derive this view? If it be suggested: From the following where we learned, R. SIMEON REMARKED: TO WHAT MAY THIS CASE BE COMPARED? TO THREE COURTYARDS THAT OPEN ONE INTO THE OTHER AND ALSO INTO A PUBlic DOMAIN, WHERE, IF THE TWO OUTER ONES MADE AN ERUB WITH THE MIDDLE ONE, IT IS PERMITTED TO HAVE ACCESS TO THEM AND THEY ARE PERMITTED ACCESS TO IT, BUT THE TWO OUTER ONES ARE FORBIDDEN ACCESS TO ONE ANOTHER; in connection with which R. Hama b. Goria stated in the name of Rab, ‘The halachah is in agreement with R. Simeon’,[37] and who is it that differs from him?[38] Evidently R. Judah;[39] and since [this[40] cannot be reconciled with what] has been laid down that ‘In a dispute between R. Judah and R. Simeon the halachah is in agreement with R. Judah’ it must consequently follow[41] that those rules are to be disregarded?[42] But is this really a difficulty? Is it not possible that the rules[43] are disregarded only where a ruling to the contrary had been stated,[44] but that where no such ruling is stated the rules[45] remain in force?[46] — [R. Mesharsheya's view] is rather derived from the following where we learned: ‘If a town that belonged to an individual was converted into one belonging to many, one ‘erub may be provided for all the town; but if a town belonged to many and was converted into one belonging to an individual no single ‘erub may he provided for all the town unless a section of it of the size of the town of Hadashah in Judea, which contains fifty residents, is excluded; so R. Judah. R. Simeon ruled:

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(1) So MS.M. and Ban. Cur. edd. begin with ‘and’. Now in view of this established difference the question (supra p. 319) remains: Wherefore were the two statements required?

(2) The statement of R. Jacob b. Idi in the name of R. Johanan that ‘the halachah is in agreement with R. Johanan b. Nuri’ (supra 46a).

(3) Though R. Joshua b. Levi also laid down the general rule that ‘the halachah is in agreement with the authority that maintains the less restrictive ruling in respect of the laws of ‘erub’ (loc. cit.).

(4) R. Joshua b. Levi's rule (v. prev. n.).

(5) Of which R. Johanan b. Nuri spoke (v. our Mishnah).

(6) V. p. 321, n. 12.

(7) That no ‘erub may be prepared for a person except with his consent.

(8) Where an ‘erub without the man's consent might sometimes be disadvantageous to him (v. infra). If he, for instance, desired to walk in the eastern direction of the town, the ‘erub that was laid on his behalf on its western side would prevent him from moving in the former direction.

(9) Since these confer nothing but benefits and involve no possible disadvantages.

(10) Cf. prev. n.

(11) Cf. supra n. 5.

(12) Infra 81b.

(13) V. supra p. 321, n. 12.

(14) V. p. 321, n. 13.

(15) That the law is in agreement with the authority that relaxes the law in respect of ‘erubs of courtyards.

(16) Sc. if an ‘erub containing the prescribed quantity of food for two meals was duly prepared and deposited in a proper place but in the course of several weeks the quantity was gradually reduced so that less than the required minimum remained. In such a case only, it might have been presumed, was the law relaxed to permit the continuance of the validity of the remnants.

(17) I.e., where the ‘erub has never been valid, which is a case similar to that of which R. Johanan b. Nuri spoke.

(18) That an ‘erub of courtyards must consist of a quantity of food that is sufficient for (a) two meals or (b) to provide the size of a dried fig for every resident of the courtyard.

(19) In respect of each resident.

(20) Sc. the rising generation; the main institution of ‘erub being that of the Sabbath limits. Infra 80b.

(21) Cf. Keth. 21a, 51a, 84b, Pes. 27a, B.B. 124b.

(22) The rules of procedure laid down by R. Jacob and R. Zerika.

(23) הלכה sc. a court must base its decision on the rulings of R. Akiba or Rabbi respectively whenever they are opposed by no more than one contemporary, and on that of R. Jose even if several contemporaries are opposed to it.

(24) מטין (rt. נטה ‘to incline’ in Hif'il) i.e., the rulings of the authorities mentioned have not the force of an halachah or a decision for general practice but a court is nevertheless expected in individual cases to follow them rather than the rulings of the single opponents of R. Akiba or Rabbi or even the joint ruling of several of R. Jose's opponents.

(25) נראין (rt. ראה ‘to see’ in Nif'al) lit., ‘they appear’.

(26) Lit., ‘as this language’ or ‘expression’, i.e., in the sense of the interpretations offered by R. Assi, R. Hiyya b. Abba and R. Jose b. Hanina respectively on the term halachah in the ruling of R. Jacob and R. Zerika.

(27) Lit., ‘now’.

(28) Lit., ‘in the place of’.

(29) Whose view is disregarded where it is opposed by that of R. Jose.

(30) Of course not. If R. Jose's view is preferred to that of R. Judah (cf. prev. n.) it is self-evident that it is to be preferred to that of R. Meir.

(31) Lit., ‘in the place of’.

(32) Whose view is disregarded where it is opposed by that of R. Jose.

(33) Cf. p. 323, n. 11.

(34) Teku (v. Glos.).

(35) On the halachah, in the case of a dispute between the respective authorities mentioned.

(36) Lit., ‘they are not’.

(37) Infra 49b.

(38) R. Simeon.

(39) Whose view is generally recorded in anonymous opposition to his. Aliter: Since he was named earlier in our Mishnah and it is, consequently, he with whom R. Simeon argued on the question of THREE COURTYARDS (infra 48a) and who is referred to (infra 49a) as the ‘Rabbis’ who differed from R. Simeon.

(40) Rab's ruling.

(41) Lit., ‘but infer from it’.

(42) Lit., ‘they are not’.

(43) V. supra n. 5.

(44) As in the case just cited where it was explicitly indicated that the halachah was in agreement with R. Simeon.

(45) V. supra p. 324, n. 5.

(46) Lit., ‘where it was stated, (well) it was stated; where it was not stated, (well) it was not stated’.

Talmud - Mas. Eiruvin 47a

Three courtyards each of which contained two houses';[1] in connection with which R. Hama b. Goria stated in the name of Rab, 'The halachah is in agreement with R. Simeon'.[2] For who is it that differed from him?[3] R. Judah[4] of course; but has it not been laid down that 'In a dispute between R. Judah and R. Simeon the halachah is in agreement with R. Judah'?[5] — What, however, is really the difficulty? Is it not possible that here also [we may reply that] these rules are disregarded only where a ruling to the contrary had been stated, but that where no such ruling is stated the rules remain in force?[6] — [The view of R. Mesharsheya is] rather derived from the following where we learned: 'If a man left his house and went to spend the Sabbath in another town, whether he was a gentile or an Israelite, [his share][7] imposes restrictions[8] on the residents of the courtyard;[9] R. Meir. R. Judah ruled: It imposes no restrictions.[10] R. Jose ruled: [The share of] a gentile imposes restrictions,[11] but that of an Israelite does not impose any restrictions because it is not usual for an Israelite to return on a Sabbath.[12] R. Simeon ruled: Even if he left his house[13] and went to spend the Sabbath with his daughter in the same town [his share][14] imposes no restrictions since he had no intention to return';[15] in connection with which R. Hama b. Goria stated in the name of Rab, 'The halachah is in agreement with R. Simeon'.[16] For who is it that differed from him?[17] R. Judah of course;[18] but has it not been laid down that 'In a dispute between R. Judah and R. Simeon the halachah is in agreement with R. Judah'?[19] — And what difficulty really is this? Is it not possible that here also [the reply is that] these rules[20] are disregarded only where a ruling to the contrary had been stated, but that where no such ruling is stated the rules remain in force?[21] — [The view of R. Mesharsheya] then is derived from the following where we learned: 'And it is this of which the Rabbis have said: A poor man may make his 'erub with his feet.[22] R. Meir said: We can apply this law[23] to[24] a poor man only.[25] R. Judah said: [It[23] applies] to both rich and poor, the Rabbis' enactment that an 'erub is to be prepared with bread having had the only purpose of making it easier for the rich man so that[26] he shall not be compelled to go out himself to make the 'erub with his feet';[27] and when R. Hiyya b. Ashi taught Hiyya b. Rab in the presence of Rab [that the law[28] applied] to both rich and poor,[29] Rab said to him: Conclude[30] this also with the statement, 'The halachah is in agreement with R. Judah'.[31] For what need was there for a second statement[32] seeing that it had already been laid down that 'in a dispute between R. Meir and R. Judah the halachah is in agreement with R. Judah'?[33] — But what difficulty is this? Is it not possible that Rab does not accept[34] those rules?[35] — [R. Mesharsheya's statement] then was derived from the following where we learned: 'The deceased brother's wife[36] shall[37] neither perform the halizah nor contract levirate marriage before three months have passed.[38] Similarly all other women[39] shall be neither married nor betrothed before three months have passed,[40] whether they were virgins or non-virgins, whether widows or divorcees,[41] whether betrothed or married.[41] R. Judah ruled: Those who were married may be betrothed [forthwith] and those who were betrothed may even be married [forthwith], with the exception of a betrothed woman in Judea, because there the bridegroom was too intimate[42] with her. R. Jose said: All [married] women[39] may be betrothed [forthwith] excepting the widow[43] owing to her mourning';[44] and in connection with this it was related: R. Eleazar[45] did not go one day to the Beth Hamidrash. On meeting R. Assi who was standing [in his way] he asked him, 'What was discussed at the Beth Hamidrash?' The other replied: 'Thus said R. Johanan: The halachah is in agreement with R. Jose'. 'Does this then imply [it was asked] that only an individual opinion[46] is against him?'[47] [And the reply was] 'Yes; and so it was taught: A [married woman] who was always anxious[48] to spend her time[49] at her Paternal home,[50] or who had some angry quarrel with her husband,[51] or whose husband was old or infirm,[51] or one who was herself infirm,[52] barren, old, a minor, congenitally incapable of conception or in any other way incapacitated from procreation, or one whose husband was in prison,[51] or one who had miscarried after the death of her husband, [each of] these must[53] wait three months;[54] so R. Meir, but R. Jose permits immediate betrothal and marriage'.[55] Now what need was there[56] [to state this][57] seeing that it had already been laid down that 'in a dispute between R. Meir and R. Jose the halachah is in agreement with R. Jose'?[58] — But what is really the difficulty? Is it not possible [that R. Johanan[59] intended] to indicate that the law was not in agreement with R. Nahman who in the name of Samuel had laid down: ‘The halachah is in agreement with R. Meir in his restrictive measures’?[60] — [R. Mesharsheya's statement] then is derived from the following where it was taught: ‘One may attend a fair of idolaters and buy of them cattle, menservants, maidservants, houses, fields and vineyards; one may write [the necessary documents] and present them even in their courts[61] because thereby one merely wrests his property for their hands.[62] If he is a priest[63] he may incur [the risk of] defilement by going outside the Land[64] to litigate with them and to contest the claims. And just as he may risk defilement without the Land so may he defile himself by entering a graveyard. ("A graveyard"! How could this be imagined? Is not this a defilement Pentateuchally forbidden? — A grave area[65] rather which is only Rabbinically forbidden is to be understood). One may also incur the risk of defilement for the sake of taking a wife or studying the Torah. R. Judah said: This applies only where a man cannot find [in the home country] a place in which to study but when he can find there a place for study he may not risk his defilement. R. Jose said: Even when he can find there a place where to study he may also risk defilement since

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(1) Infra 59a q.v. notes.

(2) Infra 49b.

(3) R. Simeon.

(4) Who was explicitly named.

(5) Of course it has. Hence R. Mesharsheya's conclusion that the rules as to the halachah are to be disregarded.

(6) V. supra n. 3.

(7) In the courtyard, as one of the residents.

(8) In connection with the movement of objects on the Sabbath.

(9) Because in his absence the man could not join the other residents in their preparation of the required ‘erub.

(10) The share of an absent resident is in his view to be disregarded.

(11) Since he might return on the Sabbath and thus assert his rights to the use of the courtyard.

(12) As he is not likely to return before the termination of the day his house may be regarded as ownerless and the courtyard thus remains at the entire disposal of the other residents.

(13) On Friday before the Sabbath had begun.

(14) In the courtyard, as one of the residents.

(15) Infra 86a. Lit., ‘he has removed his mind’. His house may consequently be regarded as ownerless (cf. supra n. 1).

(16) Infra 86a.

(17) R. Simeon.

(18) Since R. Judah ruled that only the share of a man who is out of town imposes no restriction while R. Simeon ruled that even that of a man in town imposes no restrictions.

(19) V. supra p. 325, n. 8.

(20) V. supra p. 324, n. 5.

(21) V. supra p. 323, n. 11.

(22) Sc. he may walk to the required place, and remain there until the Sabbath begins, thereby acquiring it as his Sabbath abode though he deposited no food there.

(23) That an ‘erub may be made with one's feet and that no food is in that case necessary.

(24) Lit., ‘we have none’.

(25) Sc. a person who cannot afford, or is unable to obtain (as for instance on a desert journey) the required quantity of food. A ‘rich man’ however, i.e., one who can afford or obtain it must provide his ‘erub with food only.

(26) By being enabled to send an ‘erub of food through an agent.

(27) Infra 49b.

(28) V. supra p. 326, n. 12.

(29) I.e., he taught him R. Judah's ruling in the Mishnah just cited.

(30) Or ‘mark’. סיים may bear both meanings.

(31) Infra 51b.

(32) That ‘the halachah is in agreement with R. Judah’, that Rab desired R. Hiyya b. Ashi to add. Lit., ‘two’.

(33) Obviously there was none. But, since Rab did desire this statement to be added, it follows, as R. Mesharsheya stated, that the rules on the halachah were to be disregarded.

(34) Lit., ‘has not’.

(35) And this may have been the reason for his request to his son's teacher. This being possible, the question arises again: Whence did R. Mesharsheya infer that rues sponsored by R. Johanan (supra 46b) who was a higher authority than Rab, and whose decisions are the accepted halachah, were to be disregarded?

(36) Whose husband died without issue, and who became subject to the levirate obligations.

(37) In order to make sure that she is not pregnant.

(38) From the date of her husband's death. The reasons are fully discussed in Yeb. 41a (Sonc. ed., p. 268f)

(39) Whose husbands have died.

(40) Cf. supra n. 12 mutatis mutandis and Yeb. 42b.

(41) The distinctions between these classes are discussed in Yeb. 42a (Sonc. ed., p, 275.)

(42) Lit., ‘his heart is bold’, and cohabitation might be suspected.

(43) Who must allow a period of thirty days to pass.

(44) Yeb. 41a; which terminates on the thirtieth day.

(45) So marg. note, MS.M. and parallel passage in Yeb. Cur. edd. in parenthesis ‘Eliezer’.

(46) I.e., the view recorded anonymously in the cited teaching is that of an individual.

(47) Since otherwise the halachah would be in agreement with the view of the majority.

(48) רדופה partic. pass of רדף ‘to pursue’, ‘be anxious’.

(49) Lit., ‘to go’.

(50) And she was there at the time her husband died.

(51) At the time of his death.

(52) When her husband's death took place.

(53) Though none of these women could possibly be suspected of pregnancy.

(54) Before marriage or betrothal; as a precaution against such marriage or betrothal on the part of a woman in normal circumstances whose pregnancy might well be expected.

(55) Yeb. 42b; which shows that only an individual opinion, that of R. Meir, is opposed to that of R. Jose.

(56) For R. Johanan who himself sponsored the rules on the halachah, supra 46b.

(57) That ‘the halachah is in agreement with R. Jose’.

(58) None whatever. Since R. Johanan, however, found it necessary in this particular instance to state specifically that the halachah agreed with R. Jose it follows that the general rules on the halachah (supra 46b) are spurious and, as R. Mesharsheya stated, were to be disregarded.

(59) In his specific ruling in the case under discussion.

(60) Since in this case R. Meir upholds the restrictive ruling it might have been assumed that, despite the general rule that the halachah agrees with R. Jose, the halachah here, in accordance with R. Nahman's rule, is to be in agreement with R. Meir, hence it was necessary for R. Johanan specifically to lay down that the halachah in this else also was in agreement with R. Jose.

(61) Though this recognition of the idolaters’ courts might have the appearance of belief in, or regard for idolatry.

(62) In the absence of their court's endorsement, the seller might dispute the validity of the purchase.

(63) Though forbidden to come in contact with levitical uncleanness.

(64) Of Israel, sc. palestine. All countries outside Palestine are suspected of levitical uncleanliness (cf. Shab. 15a).

(65) Beth ha-Peras, a field in which a grave has been ploughed and every part of which becomes in consequence the possible repository of a fraction of a human bone which conveys defilement, v. supra 26b.

Talmud - Mas. Eiruvin 47b

no person is so meritorious as to be able to learn from any teacher. And R. Jose related: It once happened that Joseph the Priest went to his Master at Zidon[1] to study Torah’; and in connection with this R. Johanan said: ‘The halachah is in agreement with R. Jose’;[2] but what need was there [for this specific statement] seeing that it has already been laid down that ‘in a dispute between R. Judah and R. Jose the halachah is in agreement with R. Jose’?[3] — Abaye replied: This[4] was necessary. Since it might — have been presumed that [the general rules][5] applied only to a Mishnah but not to a Baraitha hence we were informed [here[6] of R. Johanan's statement].[7] [R. Mesharsheya],[8] however, meant this: Those rules were not unanimously approved, since Rab[9] in fact did not accept them.

Rab Judah laid down in the name of Samuel: Objects belonging to a gentile do not acquire their place for the Sabbath.[10] In accordance with whose view has this ruling been laid down? If it be suggested: According to that of the Rabbis [the objection would arise:] Is not this obvious? Since objects of hefker,[11] though they have no owner,[12] do not acquire their place for the Sabbath was it necessary to state that the same law applies to a gentile's objects, which have an owner?[13] — The fact is that the ruling[14] has been laid down in accordance with the view of R. Johanan b. Nuri, and it is this that we were informed: That R. Johanan b. Nuri's ruling that[15] objects acquire their place for the Sabbath applied only to objects of hefker, since they have no owner, but not to a gentile's objects which have an owner.

An objection was raised: R. Simeon b. Eleazar ruled: If an Israelite borrowed an object from a gentile[16] on a festival day, and so also if an Israelite lent an object to a gentile on the eve of a festival[17] and the latter returned it to him on the festival, and so also any utensils and stores[18] that were kept[19] within the Sabbath limit of the town, may be carried within a radius of two thousand cubits in every direction.[20] If a gentile has brought fruit to an Israelite front a place beyond his Sabbath limit, the latter[21] may not move them from their position.[22] Now if you grant that R. Johanan b. Nuri holds that a gentile's objects do acquire their place for the Sabbath, it might well be explained that this ruling[23] is in agreement with the view of R. Johanan b. Nuri. If, however, you contend that R. Johanan b. Nuri holds that a gentile's objects do not acquire their place for the Sabbath [the objection would arise:] Whose view does it represent seeing that it is neither that of R. Johanan b. Nuri nor that of the Rabbis?[24] — R. Johanan b. Nuri may in fact maintain that a gentile's objects do acquire their place for the Sabbath, but Samuel laid down his ruling in agreement with the Rabbis. And as to your objection,[25] ‘According to that of the Rabbis . . . is not this obvious?’ [it may be replied:] Since one might have presumed that a restriction was imposed in the case of a gentile owner as a preventive measure against an infringement of the law in the case of an Israelite owner, hence we were informed [that no such restriction was deemed necessary]. R. Hiyya b. Abin, however, laid down in the name of R. Johanan: The objects of a gentile acquire their place for the Sabbath, a restriction having been imposed upon those of a gentile owner as a preventive measure against the infringement of the law in the case of those of an Israelite owner.

Some rams once arrived at Mabrakta[26] and Raba permitted the inhabitants of Mahuza[27] to purchase them.[28] Said Rabina to Raba: What [authority is it that you have in] your mind?[29] That of Rab Judah who laid down in the name of Samuel that a gentile's objects do not acquire their place for the Sabbath?[30] Surely, in a dispute between Samuel and R. Johanan the halachah is in agreement with R. Johanan, and R. Hiyya b. Abin has laid down in the name of R. Johanan: The objects of a gentile acquire their place for the Sabbath, a restriction having been imposed upon those of a gentile owner as a preventive measure against the infringement of the law in the case of those of an Israelite owner? Raba thereupon ruled: Let them[31] be sold to the people of Mabrakta since in their case all Mabrakta is deemed to be only four cubits in extent.[32]

R. Hiyya taught: A fish-pond between two Sabbath limits[33] requires

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(1) A town on the north coast of Syria without the borders of Palestine and excluded, therefore, from the levitical cleanness of Palestine.

(2) A.Z. 13a.

(3) V. supra p. 328, n. 15.

(4) R. Johanan's specific statement in this particular case.

(5) On the halachah (supra 46b).

(6) In the case of a Baraitha.

(7) Thus indicating that the rules are general and are applicable to the Baraitha as well as to the Mishnah.

(8) Against whom the objection new remains: Whence did he derive his statement that the rules on the halachah (supra

46b) were to be disregarded.

(9) As shown supra 47a.

(10) Any person may carry them within his own Sabbath limit.

(11) V. Glos.

(12) In consequence of which it might have been presumed that they should acquire their own place.

(13) The Sabbath limit of owned objects being determined by that of their owner, the objects of a gentile, who himself does not acquire his place for the Sabbath, could not obviously acquire any such place for themselves.

(14) Of Samuel.

(15) Cf. MS.M. Cur. edd. 'And we are informed: Say, that R. Johanan b. Nuri ruled'.

(16) Who lived in the same town.

(17) And having been with the gentile in the same town at the time the festival began the object acquired its place within the Sabbath limit of the town.

(18) Of hefker.

(19) Lit., 'rested'.

(20) But no further. In the case of the object that the gentile returned on the festival, though its Israelite owner has prepared an 'erub which enables him to walk beyond two thousand cubits from the town, he may not carry with him that object beyond a distance of two thousand cubits from the town.

(21) Since the fruit have acquired their place without the Sabbath limit of the town, and having been carried into the town they are now outside their permitted limit.

(22) Beyond a distance of four cubits.

(23) Of R. Simeon b. Eleazar.

(24) Consequently it must be conceded that according to R. Johanan b. Nuri a gentile's objects do acquire their place for the Sabbath. How then could it be said supra that Samuel's ruling to the contrary was in agreement with that of R. Johanan b. Nuri?

(25) Supra p. 330.

(26) A village within four thousand cubits from Mahuza.

(27) Who by means of an 'erub were enabled to walk from their town to the village.

(28) And to take their purchases with them to Mahuza though the gentile sellers had brought them from a place beyond them from a place beyond the Sabbath limit of that town. [This occurred on a festival, when it is permissible to obtain on credit purchases of food, v. R. Hananel].

(29) In permitting the rams (cf. prev. n.) to be taken beyond their original Sabbath limit.

(30) In consequence of which the rams could be taken within the Sabbath limits of their Israelite purchasers.

(31) The rams.

(32) As laid down by R. Gamaliel (Mishnah Supra 41b in the case of a cattle-pen, a cattle-fold or a ship) whose ruling, as Rab testified (supra 42b), is the accepted halachah and applies also to a town that has walls around it.

(33) Of two towns between which it is situated.

Talmud - Mas. Eiruvin 48a

an iron wall[1] to divide it [into two independent sections].[2] R. Jose son of R. Hanina laughed at him. Why did he laugh? If it be suggested: Because the latter taught this in agreement with R. Johanan b. Nuri[3] [that the law is] to be restricted,[4] while he is of the same opinion as the Rabbis[5] [that the law is] to be relaxed,[6] [is it likely, it may be asked,] that because he is of the opinion that the law is to be relaxed he would laugh at any one[7] who learned that it was to be restricted? — Rather say: Because it was taught: Running rivers and gushing springs[8] are on a par with the feet of all men.[9] But is it not possible that he[10] spoke of collected water?[11] — Rather say: Because he[10] taught: 'Requires an iron wall to divide it'. For why should not reeds be admissible?[12] Obviously because the water would pass through them; but then, in the case of an iron wall too, the water might pass.[13] But is it not possible that he[10] meant: 'Requires . . .' hence there is no remedy?[14] — Rather say: Because the Sages have in fact relaxed the law in respect of water;[15] as R. Tabla [was informed]. For R. Tabla enquired of Rab: Does a suspended partition convert a ruin into a permitted domain? And the other replied: A suspended partition can effect permissibility of use in the case of water only, since it is only in the case of water that the Sages have relaxed the law.[16]

THE SAGES, HOWEVER, RULED: HE HAS ONLY FOUR etc. Is not R. Judah[17] repeating the very view of the first Tanna?[18] Raba replied: There is a difference between them, [for the first Tanna allows an area of] eight cubits by eight.[19] So it was also taught: He has [the right to walk within an area of] eight cubits by eight; so R. Meir.

Raba further stated: They[20] differ only on the question of walking, but regarding the movement of objects both agree that it is permitted[21] [along a distance of] four cubits but no more.

Where in Scripture are these four cubits[22] recorded? — As it was taught: Abide ye every man in his place,[23] which implies within an area equal to ‘his place’. And what is the area of ‘his place’? Three cubits for his body and one cubit for stretching out his hands and feet; so R. Meir. R. Judah said: Three cubits for his body and one cubit to enable[24] him to take up an object at his feet and put it down at his head. What is the practical difference between them?[25] The practical difference between them is [that according to R. Judah the measurements of] the four cubits are to be exact.[26]

R. Mesharsheya requested his son: When you visit R. Papa, ask him whether the four cubits of which the Rabbis have spoken[27] are measured[28] by the arm[29] of each individual concerned or by the standard cubit[30] used for sacred objects. If he tells you that the measurement is to be made by the cubit used for sacred objects, [ask him:] What should be done in the case of[31] Og the king of Bashan;[32] and if he tells you that the measurement is to be made by the arm of each individual concerned, ask him: Why was not this measurement[33] taught among those which the Rabbis have prescribed in accordance with each individual?’[34] When he came to R. Papa the latter told him: ‘If we had been so punctilious we would not have learnt anything.[35] The fact is that the measurement is calculated by the arm of each individual concerned, and as to your objection, "Why was not this measurement taught among those which the Rabbis have prescribed in accordance with each individual", [it may be explained] that the ruling could not be regarded as definite since [even a normal person] may have stumped limbs’.[36]

IF THERE WERE TWO MEN AND A PART OF THE PRESCRIBED NUMBER OF CUBITS OF THE ONE etc. What need was there for him[37] to make the remark, TO WHAT MAY THIS CASE BE COMPARED? — It is this that R. Simeon meant to say to the Rabbis: ‘Consider! TO WHAT MAY THIS CASE BE COMPARED? TO THREE COURTYARDS THAT ARE OPENING ONE INTO THE OTHER AND ALSO INTO A PUBLIC DOMAIN;[38] why then do you differ there[39] and not here?’[40] And the Rabbis?[41] There[42] the residents are many[43] but here[44] they are few.[45]

BUT THE TWO OUTER ONES etc. But why?[46] Do not the outer ones, since they have joined in an ‘erub with the middle one,[47] constitute one permitted domain?[48] — Rab Judah replied: This is a case, for instance, where the middle one deposited its one ‘erub in one courtyard and its other ‘erub in the other courtyard.[49] R. Shesheth, however, replied: It may even be assumed that they[50] deposited their erubs in the middle one, [but this is a case, for instance,] where they had deposited it

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(1) Running across the pond from one side to the other, on the boundary line between the two Sabbath limits.

(2) So that the water of the one section shall not be mingled with that of the other. The water of the pond does not acquire its own place but is deemed to be on a par with the feet of the people of that town within whose Sabbath limit it happens to be. As each section of the pond lies at the very end of the Sabbath limit of the town nearest to it the water of that section must not be carried beyond four cubits from the boundary line in the direction of the other town; and it is only an iron wall that in the opinion of R. Hiyya can prevent the water in the respective sections from mingling with one another. In the absence of such a wall the mingling of the waters of the two sections would on a Sabbath or a festival day prevent the inhabitants of either town from carrying them to their homes.

(3) Who holds that objects of hefker acquire their place for the Sabbath within the town limit.

(4) In consequence of which he ruled that the water of the pond that was hefker may not be carried beyond the Sabbath limit of the respective towns.

(5) Who maintain that objects of hefker do not acquire their place for the Sabbath but are on a par with the feet of all men.

(6) The water in consequence may be carried within the Sabbath limit of any man who wishes to use it.

(7) Lit., ‘on it’.

(8) In which class a fish-pond is included.

(9) Supra 46a (q.v. notes) and cf. supra n. 4.

(10) R. Hiyya.

(11) Which is not included in the classes of water spoken of in the Baraitha cited.

(12) As a partition between the two Sections of the pond.

(13) Beneath it.

(14) Sc. only a wall which, like solid iron could not possibly be penetrated could enable the townspeople to use the water in the pond; and since such a wall is an impossibility none of them may use it.

(15) Allowing the use of any sort of partition, that is ten handbreadths high, however frail and penetrable it might be.

(16) As a suspended partition though it cannot prevent the water from passing beneath it, is effective, so should a partition of reeds be. Thus R. Hiyya's demand for all iron wall caused R. Jose b. Hanina's laughter.

(17) Who permits a distance of four cubits in any direction.

(18) THE SAGES, who earlier in the Mishnah RULED: HE HAS ONLY FOUR CUBITS.

(19) Four cubits in every two opposite directions. R. Judah, however, allows either four cubits in one direction or two cubits in two opposite directions.

(20) R. Meir and R. Judah.

(21) Lit., ‘yes’.

(22) Within which every man is entitled to move on a Sabbath or a festival day.

(23) Ex. XVI, 29, dealing with movement on the Sabbath.

(24) Lit., ‘as is sufficient’.

(25) R. Meir and R. Judah.

(26) According to R. Meir, however, the measurements must be generous, more than one cubit being required for the stretching out of one's hands and feet.

(27) In connection with Sabbath movements (cf supra n. 7).

(28) Lit., ‘we give him’.

(29) אמה signifies both ‘cubit’ and ‘arm’, the standard cubit for the Sanctuary having been based on the length of Moses’ arm (cf. Pes. 86a).

(30) Which was equal to six handbreadths.

(31) Lit., ‘what shall be about him’.

(32) A Biblical giant (cf. Deut, 111, 11).

(33) V. supra p. 334 n. 12.

(34) Kel. XVII, 11, cf. supra 30b.

(35) All their time would have been spent in hair splitting.

(36) Lit., ‘there is a dwarf in his limbs’, that are out of proportion to his body. In such a case the standard cubit would obviously have to be applied. [The order of the argument is reversed in R. Hananel's text: Why was this measurement not taught among . . . individuals. And should you argue that it is because there may be one who has stumped limbs, then it should have stated, except one who has stumped limbs? Thereupon R. Papa replied: ‘If we had been so punctilious’ etc. This reading removes the obvious difficulty involved in our text].

(37) R. Simeon.

(38) Ct: relevant note Supra in our Mishnah.

(39) By forbidding the movement of objects from any one courtyard into any other (cf. infra 49a).

(40) In the case of three men spoken of in our Mishnah.

(41) How, in view of this argument, can they maintain their apparently contradictory views?

(42) The case of the three courtyards.

(43) Were the residents of the outer courtyards permitted to have access to the middle one and vice versa, some of them might erroneously assume that the former may also have free access to one another and would this infringe the laws of ‘erub.

(44) In the case of the three men spoken of in our Mishnah.

(45) And such an erroneous assumption (cf. prev. n.) on their part is unlikely.

(46) Are the two outer courtyards FORBIDDEN ACCESS TO ONE ANOTHER?

(47) It is now assumed that the ‘erub in which the residents of both the outer courtyards have participated had been deposited in one of the houses of the middle one.

(48) In which all are partners who may freely move their objects within it.

(49) While the residents of the two outer courtyards deposited no ‘erubs in the middle one. The residents of the latter, by virtue of their ‘erubs, are regarded as residents of the outer courtyards as well as of their own, while the residents of the outer courtyards, having no ‘erubs in the middle courtyard, cannot be regarded as its residents; and since these have in consequence no domain in common, they cannot be permitted access to one another.

(50) The residents of the two outer courtyards.

Talmud - Mas. Eiruvin 48b

in two houses.[1] In agreement with whose view?[2] Is it in agreement with that of Beth Shammai since it was taught: If five residents[3] collected their ‘erub[4] and deposited it in two receptacles,[5] their, ‘erub, Beth Shammai ruled, is invalid[6] and Beth Hillel ruled: Their ‘erub is valid?[7] — It[8] may be said to be in agreement even with the view of Beth Hillel, since Beth Hillel might have maintained their view Only there[9] where the ‘erub, though kept in two receptacles, was in one and the same house, but not here[10] where[11] it was kept in two houses.[12]

Said R. Aha son of R. Iwia to R. Ashi: A difficulty presents itself on the interpretation of Rab Judah as well as on that of R. Shesheth. On Rab Judah's interpretation the following difficulty arises: As he explained that ‘This was a case, for instance, where the middle one deposited its ‘erub in the one courtyard and its other ‘erub in the other courtyard’, and since the middle one, having first joined in an ‘erub with one of the outer ones, constituted with it one domain, does it not, when it subsequently joins in an ‘erub with the other,[13] act on behalf of the former also?[14] On the interpretation of R. Shesheth also a difficulty arises: Why should not this case[15] be subject to the same law as that of five men who resided in one courtyard and one of whom had forgotten to contribute his share to their ‘erub, where these men impose upon one another the prescribed restrictions in the use of that courtyard?[16] — R. Ashi replied: There is really no difficulty either on the view of Rab Judah or on that of R. Shesheth. On that of Rab Judah there is no difficulty because, since the residents of the middle courtyard joined in an ‘erub with those of each of the outer ones while the latter did not join one another in a common ‘erub, they have thereby intimated that they were satisfied with the former association[17] but not with the latter.[18] On the view of R. Shesheth too there is really no difficulty. For would the Rabbis who regarded [the people of the outer courtyards as] residents [of the middle one] in order to relax the law[19] also treat them as its residents[20] to impose additional restrictions?[21]

Rab Judah stated in the name of Rab: ‘This[22] is the view of R. Simeon. The Sages, however, ruled: The one domain[23] may be used by the residents of the two[24] but the two[24] domains may not be used by the residents of the one.[25] When I recited this in the presence of Samuel[26] he said to me:

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(1) So that, though the residents of each one of the outer courtyards and those of the middle one, on account of the ‘erubs in which they respectively joined, are respectively permitted access to one another, no access can be permitted between the two former who had no ‘erub in common.

(2) Is the interpretation of R. Shesheth made.

(3) Of the same courtyard.

(4) Each of them contributing his share.

(5) In the same house.

(6) An ‘erub, they maintain, must be deposited in one utensil only.
(7) Infra 49b. As Beth Hillel regard the ‘erub is valid though it was deposited in two receptacles so, it is assumed, would they regard the ‘erubs of the outer courtyards as valid though they were deposited in two houses; while Beth Shammai who rule the ‘erub to be in valid in the former case would equally do so in the latter case. Is it likely, however, that our Mishnah would agree with Beth Shammai in opposition to the generally accepted view of Beth Hillel?
(8) Our Mishnah.
(9) In the Baraitha cited.
(10) Our Mishnah.
(11) According to R. Shesheth.
(12) Our Mishnah, therefore, may, even according to R. Shesheth's interpretation, well agree with the view of Beth Hillel also.
(13) The outer courtyard on its other side.
(14) With whom it is now mingled into one domain. Why then, according to R. Judah, are the outer courtyards forbidden access to one another?
(15) That of the three courtyards in our Mishnah where the middle one, by joining in ‘erubs with each of the outer ones, has become the common domain of all the three.
(16) Though the four of them had duly joined in the preparation of all ‘erub. In the case of the three courtyards, since all their residents are now (cf. prev. n.) virtual residents in the middle courtyard, those of the outer ones who (by failing to deposit their ‘erubs in one house) are forbidden access to one another are obviously in relation to each other and to the middle one in the same position as the one man (who forgot to join in the ‘erub) to the four (who did prepare one). Consequently they should impose upon one another (like the one and the four) all the prescribed restrictions; and the use of the middle courtyard (as is the case with the courtyard of the five) should as a result be forbidden to all residents including even its own.
(17) Lit., ‘in that’, the association between the middle courtyard and either of the outer ones.
(18) Sc. an association between all the three courtyards as would render them the virtual residents of one common domain. This case, therefore, cannot be compared to that of the five men all of whom are actual residents in the same courtyard.
(19) To enable them to have access to the middle one.
(20) Despite the fact that they did not actually reside in it.
(21) That the very residents of the middle courtyard, in whose favour the law had been relaxed, should, as result of this very relaxation, be forbidden to use their own courtyard? — Of course not.
(22) That the outer courtyards are permitted access to the middle one and the latter is equally permitted access to the former.
(23) The middle courtyard.
(24) The outer ones.
(25) Irrespective of whether the middle one deposited an ‘erub in each of the outer ones or whether the latter deposited their respective ‘erubs in the former. In either case it is permitted to move objects from the outer ones into the middle one, since each of the former represents a properly united domain. It is Forbidden, however, to move objects From the middle one into either of the former since two opposing domains that have nothing in common dominate it simultaneously and the force of the one domain prevents any object from being moved from its position into the other domain. Only where the three courtyards have united in one common ‘erub can they be regarded as one domain in which the movement of objects from any one courtyard into any other is freely permitted.
(26) Whose academy he joined for some time after the death of Rab.

Talmud - Mas. Eiruvin 49a

This also[1] is the view of R. Simeon.[2] The Sages, however, ruled: The three courtyards are forbidden access to one another’.

It was taught in agreement with the view which Rab Judah had from Samuel.[3] R. Simeon remarked: To what may this[4] be compared? To three courtyards that open one into the other and also into a public domain, where, if the two outer ones made an ‘erub with the middle one, the residents of each of the two may bring food from their houses [into the middle one] and eat it there and then they may carry back any remnants to their houses;[5] but the Sages ruled: The three courtyards are forbidden access to one another.[6]

Samuel[7] in fact follows a view he expressed elsewhere.[8] For Samuel laid down: In the case of a courtyard between two alleys[9] the residents of the former, though they made an ‘erub with the residents of both alleys, are nevertheless forbidden access to either. If they made no ‘erub with either, they[10] cause[11] the movement of objects to be forbidden in both alleys.[12] If they were in the habit of using one of the alleys but were not in the habit of using the other[13] the movement of objects is forbidden in the one which they were in the habit of using[14] but[15] permitted in the one which they were not in the habit of using.[16]

Rabbah son of R. Huna ruled: If [the middle courtyard] made an erub with the alley which it was not in the habit of using, the one which it was in the habit of using[17] is permitted to make an ‘erub on its own.

Rabbah son of R. Huna further stated in the name of Samuel: If [the alley] which it[18] was in the habit of using made an ‘erub on its own while the one which it was not in the habit of using made no ‘erub on its own, and [the middle courtyard] itself made no ‘erub with either, its is referred to the one which it was not in the habit of using;[19] for in such circumstances[20] one may be compelled not to act after the manner of Sodom.[21]

Rab Judah laid down in the name of Samuel: If a man is particular about his [share in an] ‘erub,[22] his ‘erub is invalid; for what is its name? ‘Amalgamation’.[23] R. Hanina ruled: His ‘erub is valid though he himself might be called, ‘One of the men of Wardina.’[24]

Rab Judah further ruled in the name of Samuel: If one divides his ‘erub,[25] it is invalid.[26] In agreement with whose view?[27] Is it in agreement with that of Beth Shammai, since it was taught: If five residents collected their ‘erub and deposited it in two receptacles, their ‘erub, Beth Shammai ruled, is invalid and Beth Hillel ruled: Their ‘erub is valid?[28] — It[29] may be said to agree even with the view of Beth Hillel, for it is only there that Beth Hillel maintained their view,[30] where the receptacle was filled to capacity and something[31] remained without,[32] but not here where it was originally divided in two parts.[33] But what need was there for the two rulings?[34] — Both were required. For if we had been informed of the former ruling only[35] it might have been assumed [that only there is the ‘erub invalid] since the man is particular,[36] but not here.[37] And if we had been informed of the latter ruling only,[38] it might have been assumed [that only here is the ‘erub invalid] since it was intentionally divided,[39] but not there.[40] Hence both were required.

R. Abba addressed the following question to Rab Judah at the schoolhouse[41] of R. Zakkai: Could Samuel have said: ‘If a man divides his ‘erub, it is invalid’, seeing that he has laid down, ‘The house in which an ‘erub is deposited need not contribute its share to the bread’?[42] Now what is the reason [for this ruling]? Is it not because he maintains that since there is bread lying in the basket[43] it is regarded as lying in the place appointed for the ‘erub?[44] Then[45] why should it not be said in this case also, ‘So long as there is bread lying in the basket[46] it is regarded as lying in the place appointed for the ‘erub’?[47] — The other replied: There[48] the ‘erub is valid even if there was no other bread in the house.[49] What is the reason? — Because all the residents of the courtyard[50] virtually live there.[51]

Samuel stated: The efficacy of an ‘erub is due to the principle of kinyan.[52] And should you ask: ‘Why then[53] should not the kinyan be effected by means of a ma'ah?[54] [it could be replied:] Because it is not easily obtainable on Sabbath eves. But why should not a ma'ah effect acquisition at least where the residents did use it for an ‘erub? — Its use is forbidden as a preventive measure against the possibility of assuming that a ma'ah was essential, as a result of which, when sometimes a ma'ah would be unobtainable, no one would prepare an ‘erub with bread, and the institution of ‘erub would in consequence deteriorate. Rabbah stated: The efficacy of an ‘erub is due to the principle of habitation.[55] What is the practical difference between them?[56] — The difference between them is the case of an ‘erub that was prepared with an object of apparel,[57] with food that was worth less than a perutah[58]

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(1) That ‘the one domain may be used by the residents of the two but the two domains may not be used by the residents of the one’ (cf. Rashi s.v. אף a.l. second version).

(2) Though generally his ruling is more lenient than that of the Rabbis.

(3) That even R. Simeon only permitted access from the outer courtyards to the inner one and not vice versa.

(4) The case of three men where the prescribed limit of the middle one overlapped with the limits of the others (v. our Mishnah).

(5) Lit., ‘this brings from her house and eats etc. and this returns her remainder to her house’ etc.

(6) Now, since R. Simeon here only permits the residents of the outer courtyards to use the middle one and not vice versa, this Baraitha is obviously in agreement with Samuel's view.

(7) In the view submitted here in his name (cf. supra n. 4).

(8) Lit., ‘his reason’ or ‘taste’.

(9) Into each of which it his a door.

(10) If they were in the habit of using the two alleys during the weekdays.

(11) By their right of entry which disturbs any association that the residents of either alley may have formed.

(12) I.e., in either alley it is forbidden to carry any object from its courtyards into the open alley.

(13) And they made no ‘erub with either.

(14) Cf. supra p. 339, n. 12.

(15) Since they have no right of entry to it.

(16) Now since Samuel, who ruled here that ‘In the case of a courtyard between two alleys the residents of the former, though they made an ‘erub with the residents of both alleys, are nevertheless forbidden access to either’, also laid down that in respect of ‘erub the halachah is to be decided in agreement with that authority that relaxed the law, it follows that even R. Simeon upholds this ruling. For had R. Simeon relaxed it, Samuel, in accordance with his own principle, would have relaxed it too.

(17) Since by its ‘erub with the other alley the middle courtyard had intimated its intention not to use it on that Sabbath.

(18) The middle courtyard.

(19) Which, having prepared no ‘erub, loses thereby nothing; while the other alley which did prepare its ‘erub gains the advantage of being undisturbed by the middle courtyard's intrusion.

(20) Where one gains an advantage from another who loses nothing thereby.

(21) Who were traditionally known to have adopted a dog-in-the-manger attitude (cf. B.B. 12b, 59a, 16 and Aboth V, 10).

(22) Sc. he would not allow it to be eaten by any of the others who contributed to that ‘erub .

(23) Or ‘combination’ (עירוב rt. ערב ‘to mix’). All the contributors must be united in a friendly and pleasant association in which one does not mind the consumption of his share by any of the outer associates.

(24) Wardina (Barada) on the eastern bank of the Tigris, two hours distance north of Bagdad, whose inhabitants were notorious for their stinginess, v. Obermeyer p. 270.

(25) Sc. deposits it in two utensils.

(26) ‘’Erub’ implying ‘combination’ (cf. supra p. 340, n. 10), it must all be in one place.

(27) Did Samuel give this ruling.

(28) Supra 48b q.v. notes. Now, is it likely that Samuel would rule in agreement with Beth Shammai contrary to the ruling of Beth Hillel which is the accepted halachah?

(29) Samuel's ruling under discussion.

(30) That the ‘erub is invalid.

(31) Of the ‘erub .

(32) So that the ‘erub that was intended to be wholly deposited in one and the same receptacle became broken and incomplete.

(33) And its division is part of the original scheme.

(34) Of Samuel. Both being based on the signification of the term ‘’erub’, could not one be deduced from the other?
(35) Lit., ‘there’, the case of the man who is particular about his share in the ‘erub.
(36) In consequence of which the amalgamation (cf. supra p. 340, n. 10) is incomplete.
(37) Where the ‘erub was deposited in two receptacles, and the friendly association between the residents is in no way affected.
(38) Lit., ‘here’, the case of an ‘erub deposited in two receptacles.
(39) A divided ‘erub (‘combination’) being a contradiction in terms.
(40) Where (cf. supra n. 11) the reason given (cf. prev. n.) is inapplicable.
(41) ‘Aliter: Press-room.
(42) Of which the ‘erub is made up.
(43) Anywhere in the house where the ‘erub is deposited, for the consumption of the members of that household.
(44) Lit., ‘here’.
(45) The answer being apparently in the affirmative.
(46) Sc. in one of the two receptacles in the same house.
(47) I.e., as if the two parts were deposited in one and the same receptacle.
(48) In the case of the last mentioned ruling of Samuel.
(49) Though in such circumstances the principle, ‘So long as there is bread lying in the basket’ etc. is inapplicable.
(50) By virtue of their contributions to the ‘erub .
(51) And this is the reason why the people who actually live in the house where the ‘erub was deposited need not contribute any share of bread to it.
(52) V. Glos. The owner of the house in which the ‘erub is deposited transfers the possession of his house to all the contributors who thereby become joint owners of the house as they were and are the joint owners of the courtyard. The house and courtyard thus assume the status of the same domain throughout which all the residents may freely move their objects as in a private domain.
(53) Since the basis of ‘erub is kinyan or acquisition.
(54) Certain coin (v. Glos.). Instead of bread each resident could have contributed a ma'ah and thereby acquired a share in the house.
(55) A man's life being dependent on his food all the residents are deemed to live in that house where their food is deposited. As the courtyard in consequence has virtually no more than one house it belongs to that house in its entirety (cf. supra n. 10 mutatis mutandis).
(56) Samuel and Rabbah.
(57) A scarf for instance. As kinyan may be effected by means of such an object the ‘erub is valid according to Samuel. As, unlike bread, man's life is not dependent on it the house in which it is kept cannot be regarded as the common home of the residents and the ‘erub, according to Rabbah, is consequently invalid.
(58) V. Glos. As kinyan cannot be effected by means of anything whose value is less than a perutah, the ‘erub prepared with food worth less than a perutah, however much its quantity, is invalid according to Samuel. As the principle of habitation, however, not being dependent on price but on quantity, is applicable, the ‘erub is valid according to Rabbah.

Talmud - Mas. Eiruvin 49b

or by a minor.[1]

Said Abaye to Rabbah: An objection can be raised both against your view and against that of Samuel. For was it not taught: ‘If five residents who collected their ‘erub[2] desired to transfer it to another place,[3] one may take it there on behalf of all of them,’[4] [from which it follows that it is] that man alone that performs the kinyan[5] and no other, and that it is he alone who acquires the habitation and no other.[6] — The other replied: This is no objection either against my view or against that of Samuel, since the man acts on behalf of all of them.[7] Rabbah stated in the name of R. Hama b. Goria who had it from Rab: The halachah, is in agreement with R. Simeon.[8]

MISHNAH. IF A MAN WHO WAS ON A JOURNEY [HOMEWARD][9] WAS OVERTAKEN BY DUSK,[10] AND HE KNEW OF A TREE OR A WALL[11] AND SAID, ‘LET MY SABBATH

BASE BE UNDER IT',[12] HIS STATEMENT IS OF NO AVAIL.[13] IF, HOWEVER, HE SAID, LET MY SABBATH BASE BE AT ITS ROOT',[14] HE MAY WALK FROM THE PLACE WHERE HE STANDS TO ITS ROOT A DISTANCE OF TWO THOUSAND CUBITS, AND FROM ITS ROOT TO HIS HOUSE ANOTHER TWO THOUSAND CUBITS. THUS HE CAN WALK FOUR THOUSAND CUBITS AFTER DUSK.

IF HE DOES NOT KNOW OF ANY TREE OR WALL, OR IF[15] HE IS NOT FAMILIAR WITH THE HALACHAH,[16] AND SAID, LET MY PRESENT POSITION BE MY SABBATH BASE', HIS POSITION ACQUIRES FOR HIM THE RIGHT OF MOVEMENT WITHIN A RADIUS[17] OF TWO THOUSAND CUBITS IN ANY DIRECTION; SO R. HANINA B. ANTIGONUS. THE SAGES, HOWEVER, RULED: THE DISTANCES[18] ARE TO BE SQUARED IN THE SHAPE OF A SQUARE TABLET, SO THAT HE MAY GAIN THE AREA OF THE CORNERS.

THIS[19] IT IS OF WHICH [THE RABBIS] HAVE SAID: A POOR MAN MAY MAKE HIS ERUB WITH HIS FEET.[20] R. MEIR SAID: WE CAN APPLY THIS LAW[21] TO[22] A POOR MAN ONLY.[23] R. JUDAH SAID: IT[21] APPLIES TO BOTH RICH AND POOR, THE RABBIS ENACTMENT THAT AN ERUB IS TO BE PREPARED WITH BREAD HAVING THE ONLY PURPOSE OF MAKING IT EASIER FOR THE RICH MAN, SO THAT[24] HE SHALL NOT BE COMPELLED TO GO OUT HIMSELF AND MAKE THE ERUB WITH HIS FEET.

GEMARA. What exactly is the meaning of 'HIS STATEMENT IS OF NO AVAIL'? — Rab explained: HIS STATEMENT IS OF NO AVAIL whatsoever, so that he may not proceed even to the space under the tree.[25] Samuel, however, explained: HIS STATEMENT IS OF NO AVAil as regards proceeding to his house; he may, however, proceed as far as the space under the tree.[26] The space under the tree, however, is to be measured[27] [as if one were acting both as an] ass-driver and a camel-driver.[28] If, for instance, the man desired to measure[29] from the northern side of the tree[30] he is told to begin his measuring from its southern side,[31] and if he desired to measure from its southern side[32] he is told to begin his measuring from the northern side.[33]

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(1) Who collected the 'erub from the residents and deposited it in one of the houses. A minor cannot act as agent in a kinyan, hence the invalidity of the 'erub according to Samuel. As the food, however, which he collected constitutes a common habitation for the residents, that is independent of his personality and rights, the 'erub is valid according to Rabbah.

(2) In connection with the courtyard in which they resided.

(3) Sc. they wish to join in an 'erub with the residents of another courtyard.

(4) I.e., it is sufficient even that it is his bread alone that is taken by him to that other place. V. infra 72b.

(5) An objection against Samuel.

(6) Which is an objection against Rabbah.

(7) The residents who originally joined him in the 'erub.

(8) That in the case of THREE COURTYARDS THAT OPEN ONE INTO THE OTHER the middle one IS PERMITTED TO HAVE ACCESS To THEM AND THEY ARE PERMITTED ACCESS TO IT.

(9) On a Sabbath eve.

(10) J.T. and MS.M. read: 'and he feared that dusk might overtake him'.

(11) Within a Sabbath limit From his position in one direction and within a Sabbath limit from his home in the other direction.

(12) In order that he might thereby be enabled to walk to his home after the Sabbath had set in. His home being almost two Sabbath limits distant from his position he could not otherwise have reached it during the Sabbath.

(13) Lit., 'he did not say anything'. The reason is explained in the Gemara infra.

(14) I.e., he specified a particular spot of the size of four cubits under the tree.

(15) Knowing one.

(16) Which permits him to proceed in the manner just described.

(17) Lit., 'round'.

(18) OF two thousand cubits from his position in the four directions.

(19) A case like that of the man under way who, like a poor man, is unable to obtain bread For his ‘erub.

(20) Sc. food is not an essential for an ‘erub, but by standing in the required spot at the time the Sabbath begins a poor man (cf. previous n.) may acquire it as his place for the Sabbath.

(21) Cf. prev. n.

(22) Lit., ‘we have none’.

(23) V. supra n. 11.

(24) By having the choice of sending his ‘erub to the required spot through an agent.

(25) He must not move from his position until the conclusion of the Sabbath, since he has acquired no place for his Sabbath rest from which he could be enabled to walk within the permitted Sabbath limit. His right to the place on which he stood when the Sabbath had set in he expressly renounced by choosing another one, while the area under the tree could not be acquired by him since he had not specified which particular four cubits of that space he chose (cf. infra).

(26) This will be discussed infra.

(27) Lit., ‘and is made’.

(28) חמר גמל, cf. note on the Mishnah supra 35a; sc. the man concerned, as is explained anon, is forbidden to move far in either direction.

(29) The two thousand cubits distance from the tree to his house.

(30) So that he might be enabled to reach his house which was just within that required distance from that side of the tree.

(31) Since, in appointing the tree as his Sabbath base, he did not specify which particular four cubits of space under that tree he desired to acquire, any four cubits space within the circumference of the tree and its branches may be assumed to be the appointed spot. In measuring the distances, therefore, a course must be adopted which under all circumstances could not possibly lead to all infringement of any of the restrictions involved. If the diameter of the circumference of the tree and its branches measured, for instance, twenty cubits, and the distance from its northern point to the man's house was exactly two thousand cubits, the measuring must not begin from that point but from the southern point of the diameter which is two thousand and twenty cubits distant from that house. And, since it is forbidden to proceed beyond two thousand cubits, the man's Sabbath limit would terminate at a point twenty cubits away from his house which, in consequence, he would not be able to enter during the Sabbath.

(32) So as to be able to walk (cf. prev. n.) a distance of twenty cubits from the position he occupied when the Sabbath began.

(33) In consequence of which he must not move one step in the southern direction from that position.

Talmud - Mas. Eiruvin 50a

Rabbah stated: What is Rab's reason?[1] Because the man did not specify the exact spot.[2] Others read: Rabbah stated: What is Rab's reason? Because he is of the opinion that what cannot be acquired in succession[3] cannot be acquired even simultaneously.[4] What is the practical difference between them?[5] The practical difference between them is the case where[6] a man said: ‘Let me acquire an area of four cubits out of the eight’. According to him who read: ‘Because the man did not specify the exact spot’ [such a statement is invalid, for here], surely, he did not specify the exact spot; but according to him who read: ‘What cannot be acquired in succession cannot be acquired even simultaneously’ such [a statement is valid] as [if an area of] four cubits [had been indicated] for here the man spoke of acquiring [no more than] four cubits.

[Turning to] the main text: Rabbah stated: ‘What cannot be acquired in succession cannot be acquired even simultaneously’. Abaye raised all objection against Rabbah: If a man gives excessive tithes, his produce is well prepared[7] but his tithes are spoilt.[8] But[9] why?[10] Should it not be said: ‘What cannot be acquired in succession[11] cannot be acquired even simultaneously’?[12] — Tithe is different,[13] since it is applicable to fractions;[14] for if a man said: ‘Let a half of every wheat grain be consecrated’[15] it becomes consecrated.[16] But is not the tithe of cattle inapplicable to fractions[17] and ineffective in succession[18] and yet Raba[19] ruled: If[20] two abreast came out tenth, and they were both designated as tithe, the tenth and the eleventh are a mixture of holy and profane?[21] — The tithing of cattle is different, since in a case of error[22] it is applicable in succession,[23] for we have learnt: If the ninth was named tenth, and tenth ninth, and the eleventh tenth, all the three are consecrated.[24] But is not a thanksgiving offering invalid in a case of error[25] as well as in one of succession,[26] and yet it was stated: If the slaying of a sacrifice of thanksgiving[27] was accompanied by all offering of eighty loaves,[28] Hezekiah ruled: Forty out of these eighty are consecrated, and R. Johanan ruled: Forty out of eighty cannot be consecrated?[29] — Surely, in connection with this it was stated: R. Joshua b. Levi[30] explained: All[31] agree that [forty of the loaves] are consecrated where the donor said: ‘Let forty out of the eighty be consecrated’; and no one[32] disputes the ruling that none of the loaves is consecrated where he said: ‘The forty shall not be consecrated unless all the eighty are consecrated’; they only differ where the donor made no stipulation whatever, in which case one Master[33] is of the opinion that his intention[34] was to assure [the safety of the prescribed number] and that he brought the additional loaves conditionally only;[35]

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(1) Samuel's reason one can well understand as explained supra p. 345, n. 8. But why should Rab deprive the man even of approach to a tree which he expressly appointed as his Sabbath base?

(2) Cf. supra p. 345, n. 2. In appointing a Sabbath base a specified area of four cubits must be indicated.

(3) An area of four cubits on the northern side of the tree, for instance, cannot be acquired after such an area had been acquired on its southern side, and vice versa.

(4) The man's appointment of the entire area under the tree which included both its northern and southern sides, is, therefore, null and void.

(5) The two versions of Rabbah's explanation.

(6) The area under the tree being eight cubits.

(7) For general use.

(8) Tosef. Dem. VIII. Tithe must consist of a portion of the produce that is neither less nor more than a tenth of it. If, therefore, a person gives more than a tenth of his produce, say, a fifth, the portion that he named as tithe would actually contain no more than fifty per cent of tithe, while the other half, since no tithe was given for it, is tebel (v. Glos.) which may not be eaten either by priest or by layman.

(9) If Rabbah's ruling is the accepted law.

(10) Why is his produce well prepared?

(11) If, for instance, tithe had once been taken from produce none of the remainder could acquire the sanctity of tithe even if that name had been given to it.

(12) When, therefore, the proper share of tithe was given simultaneously with the improper addition, not even the former should acquire the name and Sanctity of tithe.

(13) Sc. the acquisition of the name of tithe is unlike other forms of acquisitions.

(14) Lit., ‘to halves’.

(15) As tithe.

(16) In the case of excessive tithe every grain in that quantity of produce assumed the sanctity of tithe in proportion to the percentage of actual tithe which that quantity contained, and the question of simultaneous acquisition does not arise. Such a consideration cannot apply to ‘erub, where the four cubits must be of one continuous stretch.

(17) Half a living beast cannot be consecrated as tithe.

(18) So MS.M. and Bah. Cur. edd. omit ‘and is . . . succession’. If, for instance, after the tenth beast in a line of cattle had been designated as tithe the eleventh was similarly designated, the latter acquires neither the name nor the sanctity.

(19) This is the reading of the parallel passages in Kid. and Bek. Cur. edd. in parenthesis ‘Rabbah’.

(20) When the tithing of cattle takes place. In giving such tithe the herd or flock is made to pass in single file under the rod (cf. Lev. XXVII, 32), and every tenth beast is declared to be holy (v. ibid.).

(21) Bek. 60b. Because one of them is proper tithe and the other is unconsecrated and it is impossible to ascertain which is which. Thus it follows that the tithing of cattle though inapplicable in succession is applicable simultaneously. An objection against Rabbah.

(22) Where, for instance, the tenth was counted as the ninth and the eleventh as the tenth.

(23) The tenth becoming sacred as tithe and the eleventh as a peace-offering.

(24) Bek. 60b. Cf. prev. n. mutatis mutandis.

(25) If, for instance, after setting aside the forty loaves required for the offering (cf. Men. 77a) the donor mistakenly forgot and set aside another forty loaves, the latter, since consecration in error is invalid (cf. Naz. 31a), remain unconsecrated.

(26) Should a donor for instance, after he had once brought the forty loaves for the offering and after these had become consecrated by the offering of the sacrifice, bring another forty loaves for the same offering, the second set of loaves would be regarded as ordinary unconsecrated bread.

(27) The actual consecration of the loaves is effected when the sacrifice is slain (cf. Men. 78b).

(28) Instead of the prescribed forty.

(29) Men. 78b, Kid. 51a; which shows that, according to Hezekiah, simultaneous consecration is effective. Would then Rabbah differ From Hezekiah?

(30) This is the reading in Kid. Cur. edd. in parenthesis, ‘Zera’.

(31) Even R. Johanan.

(32) Not even Hezekiah.

(33) Hezekiah.

(34) In bringing more loaves than was required.

(35) Sc. if as many as forty of the loaves should happen to be lost the remaining ones should replace them. Having brought the loaves with this intention only, the donor may be regarded as having expressly declared: ‘Let only forty out of the eighty be consecrated’, in which case his declaration is valid.

Talmud - Mas. Eiruvin 50b

while the other Master[1] holds the view that the donor's intention was to provide a generous offering.[2] Abaye stated: This[3] was learnt only in respect of a tree the diameter underneath which was [no less than] twelve cubits[4] but in the case of a tree the diameter underneath which was less than twelve cubits, behold a part at least of the man's house[5] is well marked out.[6]

R. Huna son of R. Joshua demurred: Whence is it proved that he has at all intended[7] the middle four cubits? Is it not possible that he intended either the four cubits on the one side or the four on the other side?[8] Rather, said R. Huna son of R. Joshua: This[9] was learnt only in respect of a tree the diameter underneath which was [no less than] eight cubits,[10] but in the case of a tree the diameter underneath which was only seven cubits, behold a part at least of his house is well marked out.[11]

It was taught in agreement with Rab and it was also taught in agreement with Samuel. ‘It was taught in agreement with Rab’: If a man who was on a journey [homeward] was overtaken by dusk, and he knew of a tree or a wall and said: ‘Let my Sabbath base be under it’, his statement is of no avail, but if he said: ‘Let my Sabbath base be in such and such a place’[12] he may continue his journey until he arrives at that place. Having arrived there he may walk throughout its interior and along a distance of two thousand cubits beyond it. This,[13] however, applies only to a well defined spot as, for instance, a mound[14] that was ten handbreadths high[15] and from four cubits to two beth se'ah[16] in area, or[17] a valley that was ten handbreadths deep[18] and from four cubits to two beth se'ah[16] in area, but where the place is not well defined[19] he is not allowed to move[20] more than four cubits. If two were [travelling together] and one of them knows [of a well defined place] and the other does not know of it, the latter transfers his right to choose a place[21] to the former who then declares, ‘My Sabbath base shall be in such and such a place’.[22] This[23] only applies where the man had indicated the four cubits he selected by a mark,[24] but if he did not indicate the four cubits he had selected by any mark he must not stir[25] from his place.[26]

Must it be said that this[27] presents an objection against Samuel?[28] Samuel can answer you: Here[29] we are dealing with a case where from the place on which the man stood to the root of the tree there were two thousand[30] and four[31] cubits, so that if you were to put him on the further side of the tree[32] he would be standing[33] outside his permitted limit;[34] hence, if he indicated four cubits [on the near side of the tree] he may proceed thither, otherwise he may not.[35]

‘It was taught in agreement with Samuel’: If a man made a mistake and prepared ‘erubs in two opposite directions, believing that it is permitted to provide ‘erubs in two opposite directions, or if he said to his servants, ‘Go and prepare an ‘erub for me’ and one prepared for him an ‘erub in a northerly direction and the other prepared one for him in a southerly direction, he may proceed northwards as far as the limit of his southern ‘erub and southwards as far as the limit of his northern ‘erub.[36] But if they measured each limit exactly[37] he[38] may not stir from his place.[39] Must it be said that this[40] presents an objection against Rab?[41] — No; Rab is a Tanna[42] and is privileged to differ.[43]

IF, HOWEVER, HE SAID LET MY SABBATH BASE BE AT ITS ROOT’, HE MAY WALK FROM THE PLACE WHERE HE STANDS TO ITS ROOT A DISTANCE OF TWO THOUSAND CUBITS, AND FROM ITS ROOT TO HIS HOUSE ANOTHER TWO THOUSAND CUBITS. THUS HE CAN WALK FOUR THOUSAND CUBITS AFTER DUSK.

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(1) R. Johanan.

(2) Which of course, is not permissible; hence R. Johanan's ruling that none of the loaves are consecrated. Thus it has been shown that only where the donor's expression, explicit or implicit, was ‘forty out of eighty’ does Hezekiah maintain that the prescribed forty are consecrated. This, therefore, in no way contradicts Rabbah's ruling, since in the case of ‘erub also a man may acquire his Sabbath base under a tree if he used the expression, ‘Let me acquire an area of four cubits out of the eight’ (supra 50a ab init.).

(3) The ruling in our Mishnah according to Rab's interpretation that ‘HIS STATEMENT is OF NO AVAil, whatsoever’.

(4) The length thus comprising no less than three sections of four cubits each, it is impossible to ascertain whether it was the middle section or one of the outer ones that the man desired to acquire as his Sabbath base.

(5) Sc. his base for that Sabbath under the tree in question.

(6) If the diameter, for instance, was only eleven cubits, each four cubits at either of the extremities must inevitably overlap half a cubit with the middle four cubits. If then the man chose the middle section, all his Sabbath base is obviously well defined; but even if he intended one of the outer sections to be his Sabbath base each of them is at least partially defined in that part where it overlaps with the middle sections. His base may, therefore, be regarded as located in full or in part in that section.

(7) Lit., ‘marked’.

(8) And none in the middle. As the two outer sections do not overlap at any point, how could the man's ‘house’ be said to be ‘well marked out’?

(9) V. supra n. 1.

(10) Where it is uncertain which section was intended.

(11) In the middle cubit which must inevitably form a part of any section of four cubits that the man may have intended.

(12) The limits of which (as presently explained) were properly defined.

(13) That the man is permitted to walk two thousand cubits beyond the place in addition to his freedom of movement throughout its interior.

(14) Lit., ‘that he rested (sc. appointed as his place for the Sabbath) in a mound’.

(15) The sides forming a kind of wall around it.

(16) V. Glos.

(17) Lit., ‘and so’.

(18) The sides thus forming a kind of wall around it.

(19) If, e.g.,it had no walls or was bigger than two beth se'ah.

(20) In its interior, in addition to the two thousand cubits he is allowed in all directions.

(21) Lit., ‘his (intended place of) rest’.

(22) And both are thereby entitled to free movement throughout its interior and along a distance of two thousand cubits beyond.

(23) That in an undefined place one acquires at least the right of movement within an area of four cubits and along two thousand cubits in all its directions.

(24) Such as a tree or a stone.

(25) Beyond the permitted four cubits.

(26) Because he cannot acquire the place he had selected on account of his omission to indicate any mark in it; and he cannot acquire the place on which he stands on account of his declaration that he desired to acquire another one. This ruling being in complete agreement with that of Rab (v. supra 49b and notes) the Baraitha may well be cited in his support.

(27) The Baraitha just cited in support of Rab (cf. prev. n.).

(28) Who (v. supra 49b) allows the man to walk to the tree though he did not indicate which four cubits under that tree he had selected.

(29) In ruling that 'he must not stir from his place'.

(30) The permitted Sabbath limit.

(31) The area allowed as one's resting place for the Sabbath.

(32) Sc. if the man's Sabbath base were said to be on that side, which is outside the two thousand and four cubits within which he is permitted to walk.

(33) At the time the Sabbath began.

(34) Cf. supra note 1.

(35) The tree spoken of in our Mishnah, however, proceeding to which is according to Samuel permitted, is one whose root and branches were within the two thousand and four cubits from the place where the man stood when the Sabbath had set in.

(36) If the two 'erubs, for instance, were deposited respectively at distances of a thousand cubits from the man's home, the northern one alone should have enabled him to proceed two thousand cubits in all directions including two thousand cubits in the direction of his home terminating at a distance of a thousand cubits from its southern side. The southern 'erub alone should have entitled him to similar privileges including two thousand in a northerly direction terminating at a distance of a thousand from the northern side of his house. As it is uncertain which of his 'erubs is more effective than the other the restriction resulting from both are imposed upon him and he may not move beyond a thousand cubits from his house either in a northerly or in a southerly direction.

(37) Sc. if each 'erub was deposited at the very end of the Sabbath limits in both the mentioned directions i.e., at distances of two thousand cubits from his home.

(38) Having lost his right to his home as his abode for that Sabbath, on account of the 'erubs whereby he intimated his desire to acquire other abodes for that day.

(39) Since the northern 'erub prevents him from moving even one step to the south of his house while the southern one similarly prevents him from moving a single step to the north of his house. Now this Baraitha shows that in a case of uncertainty in connection with two 'erubs the restrictions of both are imposed but the man is nevertheless free to move with, the permitted margin though he did not indicate which of the two 'erubs he preferred. This is in agreement with the view of Samuel (v. supra 49b and notes) who also imposed double restrictions but allowed the man to move within the permitted margin between the tree and his house though it was uncertain which particular four cubits under the tree he selected.

(40) The ruling that within a certain permitted margin the man may move despite the uncertainty.

(41) Who, on account of uncertainty, forbids the man to stir from his place.

(42) He was of the last generation of the Tannas and of the first of the Amoras.

(43) From a Baraitha. Only an Amora is denied this right.

Talmud - Mas. Eiruvin 51a

Raba[1] explained: This[2] applies only where by running towards the root[3] he can reach it [before the Sabbath began].[4] Said Abaye to him: Was it not in fact stated: 'WAS OVERTAKEN BY DUSK'?[5] — [The meaning is that] he was overtaken by dusk as far as his house was concerned;[6] the root of the tree, however, he could[7] well reach before dusk. Others say: Raba[1] replied: [The meaning is that] he would be overtaken by dusk if he walked slowly but by running he could well reach the root.

Rabbah and R. Joseph were once under way[8] when the former said to the latter, 'Let our Sabbath base be under the palm-tree that is supporting another tree,'[9] or, as others read: 'under the palm-tree that releases its owner[10] from the burden of taxes'.[11] 'I do not know it', the other replied. 'Rely then on me', the first said: 'for it was taught: R. Jose ruled: If two were [travelling together] one of whom knew [of a well defined place] and the other did not know of it, the latter transfers his right to a choice of place to the former who then declares, ‘Let our Sabbath base be in such and such a place’.[12] This,[13] however, was not exactly correct. He attributed the teaching to[14] R. Jose with the sole object that the latter should accept it from him since R. Jose was known to have sound reasons for his rulings.[15]

IF HE DOES NOT KNOW OF ANY TREE OR WALL, OR IF HE IS NOT FAMILIAR etc. Where in Scripture are these TWO THOUSAND CUBITS prescribed? — It was taught: Abide ye every man in its place[16] refers to the four cubits;[17] let no man go out of his place[16] refers to the two thousand cubits.[18] Whence[19] do we derive this? — R. Hisda replied: We deduce place[20] from place,[21] place[21] from flight,[22] flight[22] from flight,[23] flight[23] from border,[24] border[24] from border,[25] border[25] from without[26] and without[26] from without, since it is written: And ye shall measure without the city for the east side two thousand cubits etc.[27] But why should we not deduce it[28] from the verse: From the wall of the city and outward[29] a thousand cubits?[30] The expression, ‘without’ is deduced from ‘without’ but not from ‘outward’. What material difference, however, is there between the two expressions? Did not the School of R. Ishmael in fact teach: [With reference to the expressions,] The priest shall return[31] and The priest shall come,[32] ‘returning’ and ‘coming’ mean the same thing?[33] — Such a comparison[34] is made only[35] where no like expression[36] is available, but where one exactly like it is available deduction is made only from the one which is exactly like it.

A RADIUS OF TWO THOUSAND CUBITS. As to R. HANINA B. ANTIGONUS what possible justification is there for his view?[37] If he upholds the word analogy[38] [the objection could be raised:] Does not Scripture[39] speak of ‘sides’?[40] If, however, he does not uphold the word analogy[38] [the difficulty would arise:] Whence does he [deduce that a Sabbath limit is] two thousand cubits? — He does in fact uphold the word analogy, but[41] here[42] the case is different[43] since Scripture said: This shall be to them the open land about the cities[44] which implies: In this case only[45] sides must be allowed[46] but not in that of those who observe the Sabbath rest.[47] And the Rabbis?[48] — They uphold[49] the interpretation which R. Hanina advanced: Like this measurement[50] shall be that of all who observe the Sabbath rest.[51]

R. Aha b. Jacob ruled: A man who carries an object[52] along four cubits in a public domain incurs no guilt unless he carries It a distance equal to the diagonal of their square.[53]

R. Papa related: Raba tested us [with the following question] ‘With regard to a pillar in a public domain ten handbreadths high and four handbreadths wide, is it necessary[54] that its width shall be equal to the diagonal of four cubits square, or is this unnecessary’? And we replied: ‘Is not this case identical with that of R. Hanina who learned:[55] Like this measurement[56] shall be that of all who observe the Sabbath rest’.[57]

THIS IT IS OF WHICH THE RABBIS HAVE SAID: A POOR MAN MAY MAKE HIS ‘ERUB WITH HIS FEET. R. MEIR SAID: WE CAN APPLY THIS LAW TO A POOR MAN ONLY etc. R. Nahman said: They[58] differ only where [the expression used was] ‘In my place’,[59] since R. Meir holds that the essence of an ‘erub is bread

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(1) MS.M., Rabbah,

(2) The ruling that if the man had specified a particular spot of four cubits he acquires it as his Sabbath base and may in a leisurely walk during the Sabbath proceed thither and along another two thousand cubits beyond it to his home.

(3) Sc. the spot he appointed as his Sabbath base.

(4) If, however, he cannot reach it even by running, he cannot acquire it.

(5) Presumably at the time he appointed the place from a distance. How then could he possibly reach it before dusk?

(6) I.e., he could not reach his house before dusk, even by running.

(7) Were he to run.

(8) On the Sabbath eve near dusk.

(9) Lit., ‘her brother’.
(10) By the abundance of its fruit and the proceeds derived from their sale.
(11) Cur. edd. insert in parentheses, ‘Does the Master know it?’
(12) Tosef. ‘Er. III. Cf. supra 50b and notes.
(13) Rabbah's statement that the ruling he cited was R. Jose's.
(14) Lit., ‘he taught to him as’.
(15) Lit., ‘his depth is with him’. In the Tosef., however, as we have it, the ruling is explicitly attributed to R. Jose.
(16) Ex. XVI, 29.
(17) Which every man is allowed as his resting place for the Sabbath.
(18) Allowed in all directions from a man's resting place.
(19) Sillce the text explicitly mentions neither four, nor two thousand cubits.
(20) That was mentioned in connection with the Sabbath (Ex. XVI, 29).
(21) Mentioned in Ex. XXI, 13: I will appoint thee a place whither he may flee.
(22) ‘He may flee’ occurring in the same verse (cf. prev. n.).
(23) ‘Fleeth’ in the verse: Beyond the border of his city of refuge, whither he fleeth (Num. XXXV, 26).
(24) In the same verse just cited.
(25) Without the border (ibid. 27).
(26) The first word in the last citation (v. prev. n.).
(27) Num. XXXV, 5. As the last cited verse which explicitly mentions ‘two thousand cubits’ contains the expression ‘without’, it is compared with the expression of ‘without’ in Num. XXXV, 27 and since that ‘without’ occurs in the same verse as ‘border’ the two also are compared. ‘Border’ again is compared with ‘border’ in Num. XXXV, 26 which in turn is compared with ‘flight’ (fleeth) that occurs in the same verse. This last expression is compared with ‘fight’ (flee) in Ex. XXI, 13 which is compared with ‘place’ that occurs in the same verse. ‘Place’ having been compared with ‘place’ in the precept of the Sabbath the limit of ‘two thousand cubits’ mentioned at the other end of the chain of comparisons is applied to the first end also.
(28) The permitted distance.
(29) חוצה similar in meaning and form to חוץ (‘without’).
(30) And the permitted distance should accordingly be no more than one thousand cubits.
(31) Lev. XIV, 39.
(32) Ibid. 44.
(33) For purposes of inference, v. Hor., Sonc. ed., p. 57, n. 11. Now if a comparison may be drawn between expressions that resemble each other in their general significance alone, why should not a comparison also be drawn between expressions that differ from each other so slightly as those of חוץ and חוצה?
(34) Between a word the meaning of which is to be deduced and one from which deduction is made.
(35) Lit., ‘these words’.
(36) Exactly like the one that is to be deduced.
(37) Lit., ‘whatever is your desire’.
(38) Between the expressions in the various texts cited supra in support of the prescribed two thousand cubits for the Sabbath limit.
(39) In Num. XXXV, 5.
(40) Lit., ‘sides are written’. A ‘side’ could not apply to a circle.
(41) In reply to the objection from the expression of ‘sides’ (cf. prev. n.).
(42) In measuring a Sabbath limit.
(43) From other cases where ‘side’ is used.
(44) Num. XXXV, 5.
(45) That of the open land for the Levites.
(46) Sc. they must be given the benefit of the corners also.
(47) The latter are allowed only a radius of the prescribed distances.
(48) How, In view of this explanation, can they maintain that THE DISTANCES ARE TO BE SQUARED?
(49) Cf. the reading of MS.M. Cur. edd. ‘one learned R. Hanania said’.
(50) The one for the land of the Levites (Num. XXXV, 5).
(51) As the former had the benefit of the corners so must the latter.

(52) On the Sabbath.

(53) Lit., ‘they and their diagonal’, i.e., the man is given the benefit of the corners, in agreement with the view of the Rabbis as explained by R. Hanina.

(54) In order that it may be regarded as a private domain, v. supra 33b.

(55) So MS.M. Cur. edd. ‘Hanania, because it was taught: R. Hanania said’.

(56) The one for the land of the Levites (Num. XXXV, 5).

(57) on the various interpretations of this ruling cf. Tosaf. s.v. כזה a.l.

(58) R. Meir and R. Judah.

(59) Sc. if the man appointed as his Sabbath base the place where he stood at the time. Only in such a case does R. Judah allow a rich man the same privilege as to a poor mall.

Talmud - Mas. Eiruvin 51b

[and that, therefore, it is only for] a poor man[1] that the Rabbis have relaxed the law,[2] but not for a rich man; while R. Judah holds that the essence of an ‘erub is [the position of] one's feet, Irrespective of whether one is poor or rich; but where the expression used was ‘In such and such a place’[3] all[4] agree that[5] Only a poor man[6] is allowed such an ‘erub but not a rich man.[7] And who was it that learned, ‘THIS IT IS OF WHICH [THE RABBIS] HAVE SAID [etc.]?’[8] — R. Meir.[9] And what does he refer to? — To the case of one WHO DOES NOT KNOW OF ANY TREE OR WALL OR ONE WHO IS NOT FAMILIAR WITH THE HALACHAH.[10] And who was it that learned, ‘THE RABBIS’ ENACTMENT THAT AN ‘ERUB IS TO BE PREPARED WITH BREAD HAVING THE ONLY PURPOSE OF MAKING IT EASIER’?[11] — R. Judah.

R. Hisda, however, said: They[12] differ only where the expression used was, ‘In such and such a place’,[13] R. Meir being of the opinion that the law was relaxed for the poor only[14] but not for the rich, while R. Judah holds that it was relaxed for both poor and rich; but where the expression used was ‘In my place’ all[15] agree that the law was relaxed for both poor and rich, since the essence of ‘erub is [the position of] one's feet [at the spot appointed].[16] And who was it that learned, ‘THIS IT IS OF WHICH [THE RABBIS] HAVE SAID’?[17] — R. Meir.[18] And what does he refer to? — To the following: IF A MAN WHO WAS ON A JOURNEY HOMEWARD WAS OVERTAKEN BY DUSK.[19] And who was it that learned, ‘THE RABBIS’ ENACTMENT THAT AN ‘ERUB IS TO BE PREPARED WITH BREAD HAVING THE ONLY PURPOSE OF MAKING IT EASIER’?[20] — Both.[21]

It was taught in agreement with R. Nahman:[22] Both poor and rich must prepare their ‘erub with bread. A rich man, furthermore, must not proceed beyond the Sabbath limit[23] and make the declaration, ‘Let my Sabbath base be where I stand now because it is only for the benefit of one who was under way when it became dusk[24] that the Rabbis have enacted that an ‘erub may be prepared with one's feet; so R. Meir.[25] R. Judah ruled: Both poor and rich must prepare their ‘erub with their feet. A rich man should, therefore,[26] proceed beyond the Sabbath limit and make the declaration, ‘Let my Sabbath base be where I stand now and this is the essence of an ‘erub;[27] the Sages, however, allowed a householder to send his ‘erub by the hand of his servant or by the hand of his son or by the hand of any other agent in order to make it easier for him. R. Judah related: It once happened that the Memel and Gorion families at Aroma[28] distributed dried figs and dried grapes to the poor in a time of dearth, and the poor men of Kefar Shihin and Kefar Hinaniah[29] used to come and wait[30] at their Sabbath limit[31] until dusk[32] and on the following day[33] got up early and proceeded to their destination.[34]

R. Ashi said: An inference from the wording of a Mishnah also supports this view,[35] for it was stated: If a man left [his home][36] to proceed to a town[37] with which [his home town desired to be] connected by an ‘erub ,[38] but a friend of his induced him to return home,[39] he himself is allowed to proceed[40] to the other town[41] but all the other townspeople are forbidden;[41] so R. Judah.[42] And in discussing the point, ‘In what respect does he differ from them?’[43] R. Huna replied: We are here dealing with the case of a man who had, for instance, two houses[44] between which two Sabbath limits intervened.[45] As far as he is concerned, since he had set out on his journey,[46] he has the status of a poor man.[47] They,[48] however, have the status of rich men.[49] Thus it is perfectly dear that only a poor man but not a rich man is allowed to prepare an ‘erub by the declaration, ‘Let my Sabbath base be at such and such a place’. This is conclusive.

R. Hiyya b. Ashi taught Hiyya b. Rab in the presence of Rab [that the law[50] applied] to both poor and rich. Said Rab to him: Conclude this also with the Statement, ‘The halachah is in agreement with R. Judah’.Rabbah b. R. Hanan was in the habit of going[51] from Artibana to Pumbeditha[52]

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(1) I.e., one who was on a journey and had no bread with him.

(2) In permitting him to acquire the place on which he stood as his Sabbath base though he deposited no bread there.

(3) I.e., the man appointed as his Sabbath base some specified spot in the distance.

(4) Even R. Judah.

(5) Since the man himself’ does not occupy at the time the place he appointed.

(6) V. p. 355, n. 13.

(7) Who is able and, therefore, must use the prescribed quantity of bread.

(8) When implies that the original enactment was more rigid but that the Rabbis have relaxed it in favour of the poor.

(9) Who holds that the essence of an ‘erub is the bread.

(10) Who appointed, therefore, the spot on which he stood as his Sabbath base.

(11) Implying that the original enactment was that the man must personally occupy the spot which he appoints as his base for the Sabbath.

(12) R. Meir and R. Judah.

(13) In which case neither the man himself nor his bread was at the place appointed.

(14) Lit., ‘yes’.

(15) Even R. Meir.

(16) And the man himself, in this case, was present at the place.

(17) V. supra n. 6.

(18) Who allows the privilege to the poor only. It cannot be the statement of R. Judah since he draws no distinction between rich and poor.

(19) AND HE KNEW OF A TREE . . . AND SAID, LET MY SABBATH BASE BE AT ITS ROOT’ concerning which it was ruled that the man acquires that place though he was not at the time standing on it. According to R. Meir this applies to a poor man only, while according to R. Judah it applies to a rich man also, though an ‘erub ab initio requires the person's presence at the place he appoints.

(20) V. supra p. 356, n. 9..

(21) Lit., ‘all’, R. Meir as well as R. Judah, the former also agreeing that the essence of ‘erub is that the person concerned shall be on the spot which he appoints as is Sabbath base.

(22) That the dispute between R. Meir and R. Judah bears on that case only where the man who made the ‘erub was on the spot that he appointed as his Sabbath base; that, according to R. Meir, only to a poor man (i.e., one who has no bread) is such all ‘erub permitted, while according to R. Judah this is permitted even where bread is obtainable, and that if the person was not present at the appointed spot even R. Judah restricts the privilege to the poor or the man who has no bread.

(23) Sc. within four cubits from that limit. Beyond that distance no ‘erub can be effective at all.

(24) In consequence of which he is unable to obtain bread.

(25) Which shows, in agreement with R. Nahman, that, according to R. Meir, even where a person is on the very spot which he appointed as his Sabbath base, an ‘erub without bread is permitted to him only if he is poor.

(26) If this is not inconvenient to him.

(27) This shows, again in agreement with R. Nahman, that, according to R. Judah, a rich man is not ab initio permitted to prepare an ‘erub without bread unless he is present at the spot he appointed.

(28) [Or, Ruma, identified with Chirbet Rume south of the El-Batuff valley. West of Ruma, at about four thousand cubits distance lies Asochis (Kefar Shihin). Kefar Hananiah (Kefar ‘Anan) is situated much further north, on the boundary between Lower and Upper Galilee and hardly fits into the context, and is in fact omitted in the parallel passage in J.T., v. Klein, Beitrage pp. 67ff].

(29) Villages that were just within four thousand cubits from Aroma and that could, therefore, be joined to it by an ‘erub prepared on the boundary between the two Sabbath limits that intervened between them.

(30) On the Sabbath eve.

(31) Sc. at the boundary line where their Sabbath limit met the Sabbath limit of Aroma.

(32) Thus acquiring a Sabbath base within both limits.

(33) Which was the Sabbath.

(34) Now the poor men in question, having come from their own homes, were presumably in possession of some bread that sufficed for the two meals prescribed for an ‘erub . They were, in consequence, subject, as far as the preparation Of an ‘erub is concerned, to the same restrictions as those imposed upon a ‘rich man’. Yet it was not by a deposit of bread but by their personal attendance at the place they desired to appoint as their Sabbath base that their ‘erub was effected. Thus it follows that the ruling in practice is in agreement with R. Nahman's interpretation of R. Judah's view, viz. that a person's presence at the very spot he wishes to acquire as his Sabbath base is the essence of an ‘erub .

(35) R. Nahman's, viz. that R. Judah does not allow a rich man to acquire a Sabbath base without an ‘erub of bread if he is not personally in attendance at that base, and that his disagreement with R. Meir is restricted to such a case only where the person concerned was in attendance at the place he desired to acquire.

(36) On a Sabbath eve.

(37) That was just two Sabbath limits distant from his own home.

(38) And he was instructed to deposit one at the boundary line at which the two limits (v. prev. n.) met. Had he carried out his mission, the place where the ‘erub would have been deposited would have served as a Sabbath base for all the townspeople who would have been allowed thereby to walk distances of two thousand cubits from that base in all directions and consequently to move freely between their own town and the other.

(39) Before he deposited the ‘erub.

(40) On the Sabbath.

(41) The reason follows.

(42) Infra 52a.

(43) That he should be allowed to proceed to the other town while they are not.

(44) One in each of the two towns.

(45) And his intention when setting out was not to acquire a Sabbath base between the two limits but to proceed to his own house in the other town.

(46) Along which food was not obtainable.

(47) Who has no bread and who is privileged to acquire a Sabbath base, though he was not present at that place and though he made no explicit declaration of his desire to acquire that base.

(48) The townspeople who remained at home and who were presumably in the possession of the prescribed quantity of food for an ‘erub .

(49) Who are able to provide the required quantity of bread and who cannot, therefore, acquire a Sabbath base except by proceeding to the spot in person or by sending thither the prescribed quantity of food.

(50) That an ‘erub may be effected by proceeding in person to the spot one desired to acquire as a Sabbath base.

(51) On the Sabbath.

(52) Towns that were just two Sabbath limits distant from one another and that could in consequence be combined by an ‘erub on the boundary line between the two limits.

Talmud - Mas. Eiruvin 52a

by declaring,[1] ‘Let my Sabbath base be at Zinatha’.[2] Said Abaye to him, ‘What do you think?[3] That in a dispute between R. Meir and R. Judah the halachah is in agreement with R. Judah,[4] and that R. Hisda submitted that they[5] differed only where the expression used was, ‘In such and such a place’?[6] Surely [it may be objected: Does not] R. Nahman [differ from R. Hisda], and it was taught in agreement with him?[7] — ‘I withdraw’, the other replied.

Rami b. Hama enquired: Behold, it has been laid down that if a man acquired a Sabbath base in person[8] he is entitled to move within four cubits,[9] is one who deposits his ‘erub[10] also entitled to move within four cubits or not? — Raba replied: Come and hear: THE RABBIS’ ENACTMENT THAT AN ‘erub IS TO BE PREPARED WITH BREAD HAVING THE ONLY PURPOSE OF MAKING IT EASIER FOR THE RICH MAN SO THAT HE SHAll NOT BE COMPELLED TO GO OUT HIMSELF AND MAKE THE ERUB WITH HIS FEET. Now if you were to contend that he[11] is not entitled to the four cubits, [how can it state its purpose to be] ‘OF MAKING IT EASIER’? Surely [it results in the imposition] of a restriction![12] — One is nevertheless pleased with the enactment since thereby one avoids the trouble of going out.[13]

MISHNAH.[14] IF A MAN LEFT HIS HOME TO PROCEED TO A TOWN WITH WHICH [HIS HOME TOWN DESIRED TO BE] CONNECTED BY AN ‘ERUB, BUT A FRIEND OF HIS INDUCED HIM TO RETURN HOME, HE HIMSELF IS ALLOWED TO PROCEED TO THE OTHER TOWN BUT ALL THE OTHER TOWNSPEOPLE ARE FORBIDDEN; SO R. JUDAH. R. MEIR RULED: WHOSOEVER IS ABLE TO PREPARE AN ‘erub[15] AND NEGLECTED TO DO IT[16] IS IN THE POSITION OF AN ASS-DRIVER AND A CAMEL-DRIVER.[17]

GEMARA. In[18] what respect does he differ from them? — R. Huna replied: We are here dealing with the case of a man who had, for instance, two houses between which two Sabbath limits intervened. As far as he is concerned, since he had set out on his journey he has the status of a poor man. They, however, have the status of rich men.

So[19] it was also taught: If a man had two houses,[20] and two Sabbath limits intervened between them, he acquires his ‘erub[21] as soon as he had set out on his journey;[22] so R. Judah. Relaxing the law still more,[23] R. Jose son of R. Judah ruled: Even if[24] a friend of his met him and said: ‘Spend the night here, as the weather is rather[25] hot’ or ‘rather cold’, he may set out on his journey on the following day as early as he likes. Rabbah submitted: All agree[26] that it is necessary[27] to make[28] [the prescribed declaration],[29] the Only point at issue between them [being whether it is essential for the man] to have actually set out on his journey.[30] R. Joseph, however, submitted: That it is essential for the man to have set out on his journey is disputed by none,[31] the Only point at issue between them being whether it is necessary for him to make [the prescribed declaration].[32]

Whose view is followed in the ruling of Ulla that[33] if a man set out on a journey and a friend of his induced him to return, behold he is regarded as having returned and as having set out? (But if he is regarded as ‘having returned’[34] why is he described as ‘having set out’?[35] And if he is regarded as ‘having set out’[35] why is he described as ‘having returned’?[34] — It is this that was meant: Although he has actually returned he is regarded as one who had set out). Now in agreement with whose view has this statement[36] been made? — In agreement with that of R. Joseph according to R. Jose son of R. Judah.[37]

R. Judah b. Ishtatha once[38] brought a basket of fruit to R. Nathan b. Oshaia. When the former was departing[39] the latter allowed him to descend the stairs[40] and then called after him, ‘Spend the night here’. On the following day he got up early and departed.[41]

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(1) On the Sabbath eve while he was still in his own house.

(2) A place between the two Sabbath limits intervening between the two towns.

(3) In preparing an ‘erub like a poor man though, being able to provide the necessary food, he had the status of a rich man.

(4) That poor and rich are subject to the same law.

(5) R. Judah and R. Meir.

(6) Supra 51b q.v. notes.

(7) R. Nahman, that R. Judah allowed a rich man to make an ‘erub without bread only where he personally attended at the spot, which he desired to acquire as his Sabbath base. Now, since Rabbah b. R. Hanan made his declaration at his own house he should not be entitled to acquire Zinatha as his Sabbath base even according to R. Judah.

(8) Sc. by remaining in that spot at the time the Sabbath began.

(9) In addition to the two thousand cubits distance along which he is allowed to move in all directions.

(10) Sc. sent the prescribed quantity of food to the desired place by the hand of an agent.

(11) A rich man who deposited an ‘erub of food through an agent.

(12) Of course it does, since in the absence of the enactment he would have been entitled to the four cubits and as a result of it he forfeits that right.

(13) To the appointed place. This benefit outweighs the loss of the four cubits. Hence it was quite proper to say that the enactment had the PURPOSE or MAKING IT EASIER FOR THE RICH MAN.

(14) Cited from IF to R. JUDAH supra 51b ad fin. q.v. notes.

(15) As the man here spoken of was.

(16) Sc. omitted to make a declaration that he wished to acquire the place in question as his Sabbath base.

(17) חמר גמל (v. n. supra 35a). Since it is uncertain whether he intended to acquire his Sabbath base (a) on the boundary line between the two Sabbath limits that separate the one town from the other or (b) in his own house where he remained when the Sabbath began, he must be restricted in his movements to the two thousand cubits between the house in which he stayed and the termination of the Sabbath limit of that town. He must not proceed beyond the Sabbath limit of the town in the direction of the other town since it is possible that he acquired his Sabbath base at (b), and he must not move outside the town in the opposite direction, since it is possible that his Sabbath base had been acquired at (a).

(18) This to the end of the paragraph is cited supra 51b q.v. notes.

(19) That we are dealing here with the case of a man who had two houses between which two Sabbath limits intervened.

(20) One in each of two towns.

(21) On the boundary line between the two Sabbath limits.

(22) Though he did not make any explicit declaration that he desired to acquire a Sabbath base between the limits, and though he returned home before he reached that spot.

(23) Lit., ‘more than so’.

(24) Before he had set out on his journey.

(25) Lit., ‘a time of’.

(26) Lit., ‘all the world (sc. R. Judah and R. Jose son of R. Judah) do not differ’.

(27) The rendering and notes that follow are based on Rashi's own interpretation. The two other interpretations cited and rejected by Rashi are here disregarded.

(28) Lit.,’to say’.

(29) Viz., ‘Let my Sabbath base be at the boundary line between the two Sabbath limits’, analogous to the declaration in the Mishnah supra 49b: ‘let my Sabbath base be at its root’.

(30) Lit., ‘to take hold’; R. Judah maintaining that this is essential, since, otherwise, as a person at home who is able to obtain the required quantity of bread, he cannot be regarded as a poor man; while R. Jose holds that once a man has decided to set out on a journey, though his plan has been changed and he remains at home, he is regarded as a poor man.

(31) He cannot be regarded as a poor man if he has not left his house.

(32) In the opinion of R. Judah this is necessary as was implied in the Mishnah supra 49b (cf. supra n.); while R. Jose holds that the setting out on a journey is alone sufficient as an indication of the man's intention and no explicit declaration is therefore necessary. R. Meir's ruling restricting the man's movements as if he were ‘AN ASS-DRIVER AND A CAMEL-DRIVER’, despite his explicit declaration, may be explained as based on the principle that a man cannot be regarded as poor unless he is actually under way. A man, like the one in question who has only started on his journey is, in R. Meir's opinion, still regarded as a rich man who must use bread for his ‘erub ; and since this man did not "SC bread he cannot by his declaration alone acquire a base between the Sabbath limits, while his base at home he loses through his explicit declaration that he wished to acquire one elsewhere.

(33) Lit., ‘like whom goes that which ‘Ulla said’.

(34) Which implies that he has not acquired the Sabbath base at the desired point.

(35) Implying that he did acquire that base.

(36) Of Ulla who, as is apparent From in his ruling, recognizes the acquisition of a Sabbath base even where the man made no explicit declaration that he wished to acquire it.

(37) Who holds that the setting out alone is a sufficient indication of the man's desire and intention (cf. supra p. 362, n. 7.),

(38) On a Sabbath eve.
(39) To return to his home which was within four thousand cubits.
(40) Thus enabling him to assume the status of one who had set out on his journey.
(41) Aliter: ‘Stay here overnight and go to-morrow’, reading זיל for ואזיל (cf. Golds.).

Talmud - Mas. Eiruvin 52b

In agreement with whose view did he act?[1] Was it in agreement with that of R. Joseph according to R. Jose son of R. Judah?[2] No;[3] in agreement with Rabbah according to R.Judah.[4]

R. MEIR RULED: WHOSOEVER IS ABLE TO PREPARE AN ‘ERUB etc. Have we not already learnt this[5] once: If this is doubtful, the man, said R. Meir and R. Judah, [is in the position of both] an ass-driver and a camel-driver?[6] — R. Shesheth replied: Do not say that R. Meir's view is that only where it is doubtful whether a man had a valid ‘erub or not is he in the position of an ass-driver and a camel-driver and that where it is certain that he prepared no ‘erub he is not in such a position; but rather even where it is certain that he prepared no ‘erub he is in the position of an ass-driver and camel-driver; for here, surely, it is a case where It is certain that the man had prepared no ‘erub and yet he is put in the position of an ass-driver and a camel-driver.

MISHNAH. HE WHO WENT OUT BEYOND HIS SABBATH LIMIT[7] EVEN ONLY A DISTANCE OF ONE CUBIT MUST NOT RE-ENTER. R. ELIEZER RULED: [IF A MAN WALKED] TWO CUBITS BEYOND HIS SABBATH LIMIT HE MAY RE-ENTER,[8] [AND IF HE WALKED] THREE CUBITS HE MAY NOT RE-ENTER.[9]

GEMARA. R. Hanina ruled: If a man had one foot within his Sabbath limit and his other foot without that Sabbath limit, he may not re-enter, for it is written in Scripture: If thou turn away thy foot from the sabbath,[10] the written form being ‘thy foot’.[11] But was It not taught: If a man had one foot within his Sabbath limit and his other foot without, he may re-enter? — This represents the view of ‘Others’.[12] For it was taught: Others maintain that a man is deemed to be[13] where the greater part of his body is.[14]

Some there are who read: R. Hanina ruled: If a man had one foot within his Sabbath limit and his other foot without, he may re-enter, for it is written in Scripture: If thou turn away thy foot from Sabbath[15] which is read as ‘thy feet’.[16] But was it not taught: He may not re-enter? — He[17] maintains the same view as ‘Others’, it having been taught: A man is deemed to be where the greater part of his body is.

R. ELIEZER RULED: [IF A MAN WALKED)] TWO CUBITS BEYOND HIS SABBATH LIMIT HE MAY RE-ENTER [AND IF HE WALKED] THREE CUBITS HE MAY NOT RE-ENTER. But was it not taught: R. Eliezer ruled: If he walked one cubit beyond his Sabbath limit he may re-enter and if two cubits he may not reenter? — This is no difficulty, since the former[18] refers to a person who left the first cubit but was still within the second,[19] while the latter refers to one who left the second and was within the third.[20] But was it not taught: R — Eliezer ruled: Even if he was one cubit beyond his Sabbath limit he may not re-enter? — This was taught concerning a measurer,[21] for we have in fact learnt: And to the measurer of whom the Rabbis have spoken a distance of two thousand cubits only is allowed[22] even if the end of his permitted measure terminated within a cave.[23]

MISHNAH. IF A MAN[24] WAS OVERTAKEN BY DUSK WHEN ONLY ONE CUBIT OUTSIDE THE SABBATH LIMIT,[25] HE MAY NOT ENTER IT. R. SIMEON RULED: EVEN IF HE WAS FIFTEEN CUBITS AWAY[26] HE MAY ENTER SINCE THE SURVEYORS[27] DO NOT MEASURE EXACTLY[28] ON ACCOUNT OF THOSE WHO ERR.[29]

GEMARA. It was taught:[30] On account of those who err in their measures.[31]

C H A P T E R V

MISHNAH. HOW[32] ARE THE SABBATH BOUNDARIES TO TOWNS EXTENDED?[33] IF[34] ONE HOUSE[35] RECEDES[36] AND ANOTHER PROJECTS,[36] IF[37] ONE TURRET [OF THE WALL] RECEDES AND ANOTHER PROJECTS, IF THERE WERE[35] RUINS TEN HANDBREADTHS HIGH,[38]

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(1) When, by walking the distance of four thousand cubits to his home, he recognized the validity of the acquisition of a Sabbath base between the two Sabbath limits on the sole ground that he had set out on the journey, though he made no explicit declaration.

(2) CF. Supra n. 2; but is it likely that he would act on a ruling of R. Joseph contrary to that of Rabbah whose rulings against those of R. Joseph are (with only three exceptions) the accepted law?

(3) In addition to having started on his journey he also made an explicit declaration of his desire to acquire the Sabbath base in question.

(4) Who requires both a declaration and the setting out on the journey. This, of course, is also in agreement with R. Joseph according to R. Judah, but Rabbah is mentioned in preference (cf. prev. n.).

(5) That where an uncertainty exists as to which place had bee acquired as his Sabbath base, the man concerned is, in the opinion of R. Meir, in the position of an ass-driver and a camel-driver.

(6) Mishnah, supra 35a q.v. notes, from which it is evident that on account of an uncertainty the man, in the view of R. Meir, is to be placed in the position of an ass-driver and a camel-driver. Is not then the ruling in our Mishnah, which could have been deduced From the Mishnah, superfluous?

(7) Intentionally and on no religious errand.

(8) R. Eliezer being of the opinion (cf. supra 45a ad fill.) that the Four cubits allowed each person for his Sabbath base are to be measured with ‘him in the middle’, i.e.,two cubits only in either direction.

(9) Since (cf. prev. n.) he is cut off from his Sabbath limit by the intervening space of one cubit which he must not enter.

(10) Isa. LVIII, 13.

(11) Sing. רגלך

(12) Sc. R. Meir who is Frequently referred to by this name (cf. Hor. 13b).

(13) Lit., ‘is tossed’.

(14) As the man had only one Foot without the limit the greater part of his body would usually still be without the limit. Hence the ruling that he may re-enter.

(15) Isa. LVIII, 13.

(16) רגליך dual. The pausal form רגלך (from רגלך) may have suggested the dual idea. M.T. draws no distinction between the kere and the kethib of this word but some MSS. actually have רגליך as the kethib.

(17) R. Hanina.

(18) Our Mishnah in which R. Eliezer arrived re-entry from the second cubit.

(19) ‘TWO CUBITS’ implying that the man walked to within two cubits which he has not completely traversed.

(20) ‘Two cubits’ in the Baraitha having the meaning that the man walked across the two cubits and was thus already within the third one.

(21) Sc. a person who, having been overtaken by dusk on the Sabbath eve, declared the place where he stood to be his Sabbath base, and who in consequence is entitled to measure with his foot two thousand moderate steps in the direction he desires to proceed. Should the two thousand Steps, plus the four cubits to which every person is entitled as his Sabbath base, terminate even a single cubit distance from his town he may not enter it.

(22) In addition to the four cubits he is allowed as his Sabbath base.

(23) Which is a confined place; and much more so if it terminated in an open area.

(24) On his journey home on a Sabbath eve.

(25) Of his home town,

(26) From the Sabbath limit,

(27) Of Sabbath limits around towns.

(28) But allow a margin of some fifteen cubits within the two thousand.

(29) Sc. people who might overlook the boundary mark and, in the absence of the margin, would trespass on forbidden ground. Aliter: The surveyors themselves err in their measurements, because what they reckon as two thousand cubits is really only one thousand nine hundred and eighty-five. This is arrived at as follows: Since Sabbath limits are measured by a rope that was fifty cubits in length (cf. infra 59b) a Sabbath limit would equal in length 2000/50 = 40 ropes. As the rope was held by two men, one at either end covering in his grip a portion of the rope to the extent of one hand breadth and half a finger, each rope length actually represented 50-2 handbreadths and one finger. In 40 rope lengths the deficit amounted to 2 X 40 = 80 handbreadths plus 40 X 1 = 40 fingers. Four fingers being equal to one handbreadth and six handbreadths to one cubit, the total deficit amounted to 80 + 40/4 = 90 handbreadths 90/60 = 15 cubits (Rashi).

(30) In explanation of the statement ON ACCOUNT OF THOSE WHO ERR.

(31) Cf. supra n. 5.

(32) In computing Sabbath limits.

(33) מעברין, the term is discussed infra.

(34) In a town that had no wall around it.

(35) On the confines of the town.

(36) From the row of houses in which it is situated.

(37) Where a town is surrounded by a wall.

(38) One of a lesser height is regarded as part of the ground and is not taken into consideration.

Talmud - Mas. Eiruvin 53a

OR BRIDGES, OR SEPULCHRAL MONUMENTS THAT CONTAINED DWELLING CHAMBERS, THE BOUNDARY OF THE TOWN IS EXTENDED[1] TO INCLUDE THEM.[2] SABBATH LIMITS,[3] FURTHERMORE, ARE TO BE SHAPED[4] LIKE A SQUARE TABLET[5] IN ORDER THAT THE USE OF THE CORNERS[6] MIGHT BE GAINED.[7]

GEMARA. Rab and Samuel are at variance. One learned,[8] me'aberin[9] and the other learned, me'aberin.[10] He who learned ‘me'aberin’[10] explains it as ‘adding a wing,’[11] and he who learned, ‘me'aberin’ explains it in the same sense as that of ‘a pregnant woman’.[9]

The[12] cave of Machpelah.[13] Rab and Samuel differ as to its meaning. One holds that the cave consisted of two chambers one within the other; and the other holds that it consisted of a lower and upper chamber. According to him who holds that the chambers were one above the other the term machpelah[13] is well justified but according to him who holds that it consisted of two chambers one within the other, what could be the meaning of machpelah? That it had multiples[14] of couples.[15]

Mamreh the city of Arba.[16] R. Isaac explained: The city of the four[17] couples:[15] Adam and Eve, Abraham and Sarah, Isaac and Rebekah, Jacob and Leah.

And it came to pass in the days of Amraphel.[18] Rab and Samuel are at variance. One holds that his name was Nimrod;[19] and why was he called Amraphel? Because he ordered our father Abraham to be cast[20] into a burning furnace.[21] But the other holds that his name was Amraphel; and why was he called Nimrod? Because in his reign he led all the world in rebellion[22] against himself.[23]

Now there arose a new king over Egypt.[24] Rab and Samuel differ. One explains: Actually a new king, and the other explains: He[25] issued new decrees.[26] He who explained: ‘actually a new king’, did so because it is written ‘new’,[27] while he who explained: ‘he issued new decrees’, did so because it was not stated: ‘And the former king died and a new king reigned’. But, according to him who explained: ‘He issued new decrees’, may it not be objected that it was written: Who knew not Joseph?[28] — What is the meaning of ‘Who knew not Joseph’? Who[29] appeared as if he never knew Joseph.

(Mnemonic:[30] Eighteen, and twelve, we learned, in his generation, their heart).[31] R. Johanan stated: I spent eighteen days at R. Oshaia Beribi[32] and learned from him only one word in our Mishnah, viz., that 'HOW ARE THE SABBATH BOUNDARIES OF TOWNS EXTENDED' is to be read as me'aberin[33] with an aleph. But, surely, this is not correct. For did not R. Johanan state, 'R. Oshaia Beribi had twelve disciples and I spent eighteen days among them and gained a knowledge of every one's intellectual powers[34] and of every one's wisdom? Now, is It likely that he gained a knowledge of every one's intellectual powers and of every one's wisdom and yet did not learn any Gemara?[35] — If you like I may reply: He may have learnt much from them, but from him he did not learn [more than the one word]. And if you prefer I might reply: He meant to say that in our Mishnah he learned only one word.[36]

R. Johanan further stated: When we were studying Torah at R. Oshaia's eight of us used to sit in the space of one cubit.[37] Rabbi stated: When we were studying Torah at R. Eleazar b. Shammua a six of us used to sit in one cubit.[37] R. Johanan further stated: R. Oshaia Beribi in his generation was like R. Meir in his generation. As was the case with R. Meir in his generation that his colleagues could not fathom the depth of his knowledge[38] so was it with R. Oshaia that his colleagues could not fathom the depth of his knowledge.

R. Johanan further stated: The hearts[39] of the ancients were like the door of the Ulam,[40] but that of the last generations was like the door of the Hekal,[40] but ours is like the eye of a fine needle. R. Akiba is classed among the ancients; R. Eleazar b. Shammua among the last generations. Others say: R. Eleazar b. Shammua is classed among the ancients and R. Oshaia Beribi among the last generations — 'But ours is like the eye of a fine needle' — And we, said Abaye, are like a peg in a wall in respect of Gemara.[41] And we, said Raba, are like a finger in wax as regards logical argument.[42] We, said R. Ashi, are like a finger in a pit[43] as regards forgetfulness.[44]

Rab Judah stated in the name of Rab: The Judeans who cared for [the beauty of] their language retained their learning,[45] but the Galileans who did not care for [the beauty of] their language[46] did not retain their learning. But does this[47] depend on whether one cares [for linguistic beauty]? — Rather say: The Judeans who were exact in their language,[48] and who laid down mnemonics for their aid, retained their learning; but the Galileans who were not exact in their language,[49] and who laid down no mnemonic as an aid, did not retain their learning. The[50] Judeans who learned from one Master retained their learning, but the Galileans who did not learn from one Master did not retain their learning.

Rabina said: The Judeans who made their studies accessible to the public[51] retained their learning, but the Galileans who did not make their studies accessible to the public did not retain their learning. David made his studies accessible[52] and Saul did not make his studies accessible. Of David who made his studies accessible it is written in Scripture: They that fear Thee shall see me and be glad;[53] but of Saul who did not make his studies accessible to the public it is written: And whithersoever he turned himself

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(1) Lit., 'the measure is brought out'.

(2) Lit., 'over against them', the houses, turrets etc. that projected. If a projection, for instance, was at one point, the boundary line is drawn along the outer side of that projection in a straight perpendicular line, to both extremities of that side of the town.

(3) That are drawn at a distance of two thousand cubits from the said boundaries of the town.

(4) Lit., 'and they make them' (Rashi and Bah). Cur. edd., 'it', i.e., the area of the town.

(5) Where the boundary line of the town had the shape of a square. If it had that of a parallelogram the Sabbath limits, drawn parallel to it at the prescribed distances of two thousand cubits, assume also a similar shape. By 'SQUARE' the circular shape only is intended to be excluded (cf. following note).

(6) That would have been excluded and lost had the Sabbath limits been drawn at distances of two thousand cubits from the sides of the square or parallelogram in which the Sabbath boundaries of the town were shaped.

(7) For the movements of the people of the town.

(8) In our Mishnah.

(9) מעברין from rt. עבר in pi'el ‘to be pregnant’.

(10) מאברין from rt. אבר in pi'el, ‘to make a wing’.

(11) Sc. another projection is assumed to have been added to the one already existing so that the entire side may represent a straight and continuous boundary line.

(12) The following discussions on the interpretations of certain Biblical words are cited apropos the present and similar discussions on the interpretation of a word in our Mishnah.

(13) מכפלה (rt. כפל ‘to double’) Gen. XXIII, 9.

(14) The rt. כפל signifies multiplication as well as doubling.

(15) It was the burial place of four couples (cf. Gen. XLIX, 31 and the following paragraph).

(16) ארבע Gen. XXXV, 27.

(17) ארבע ‘four’.

(18) אמרפל Gen. XIV, 1.

(19) Cf. Gen, X, 8ff.

(20) אמרפל is read as אמר ‘he said’ פל (rt. נפל) ‘cast’.

(21) Lit., ‘furnace of fire’.

(22) Nimrod נמרוד from the rt. מרד ‘to rebel’.

(23) Euphemism for God.

(24) Ex. I, 8.

(25) The former king.

(26) חדש ‘new’, read as a verb in pi'el ‘to make new’.

(27) Ex. I, 8.

(28) Ex. I, 8. Is it possible that the former king did not know him?

(29) In his persecution of Joseph's people.

(30) An aid to the recollection of some of the following statements of R. Johanan.

(31) For the last two phrases cf. marg. n. Cur. edd., ‘in David, and he built’.

(32) בריבי, a scholar of Rabbi or R. Judah I ha-Nasi. Aliter: A great man (Rashi). V. Nazir, Sonc. ed. p. 64, n. 1.

(33) מאברין

(34) Lit., ‘heart’.

(35) Except the one word in our Mishnah. On Gemara v. Glos.

(36) In other Mishnahs and Baraithas he may have learnt many things.

(37) So anxious were the students to learn that they crowded into a small space in order to be near to the Master.

(38) Cf. supra 13b.

(39) Sc. their intellectual powers.

(40) The Ulam and the Hekal (v. supra 2a) were two of the chambers which together with the Debir constituted the Temple. The door of the Ulam was twenty cubits wide while that of the Hekal was only ten.

(41) It was as difficult for them to master their studies as it is difficult to force a peg into a wall.

(42) A finger cannot penetrate through hard wax. It only depresses it very slightly.

(43) בירא var. lec. ברזא, bung-hole].

(44) As it is easy to insert a finger into the mouth of a pit [or bung-hole], so easy was it for them to forget what they learned.

(45) Lit., ‘their Torah was confirmed in their hand’.

(46) V. infra.

(47) Lit., ‘the thing’, learning.

(48) Carefully reproducing the traditions they received from their masters.

(49) Cf. prev. n. mut. mut.

(50) Var. lec. ‘And if you prefer I might say: The’ (v. marg. n.).

(51) Lit., ‘they revealed the text (they studied)’.

(52) Cf. Ber. 4a, and M.K. 16a.

(53) Ps. CXIX, 74.

Talmud - Mas. Eiruvin 53b

he acted wrongly.[1]

R. Johanan further stated: Whence is it deduced that the Holy One, blessed be He, pardoned him[2] for that sin?[3] From [Scripture] where it says: Tomorrow shalt thou, and thy sons be with me,[4] ‘with me’[5] implies: In my [celestial] division.

R. Abba requested: ‘Is there anyone who would enquire of the Judeans who are exact in their language whether we learned[6] me'aberin or me'aberin and whether we learned[7] akuzo or ‘akuzo,[8] for they would know [the correct spelling]’. When they were asked they replied: Some authorities learn me'aberin while others learn me'aberin, some learn akuzo while others learn ‘akuzo.

‘The Judeans were exact in their language’. For instance?[9] — A Judean once announced that he had a cloak to sell. ‘What’, he was asked: ‘is the colour of your cloak?’ ‘Like that of beet[10] on the ground’, he replied.

‘The Galileans who were not exact in their language’. For instance?[9] — A[11] certain Galilean once went about enquiring, ‘who has amar?’[12] ‘Foolish Galilean’, they said to him, ‘do you mean an "ass" for riding, "wine" to drink, "wool" for clothing or a "lamb" for killing?’ A woman[13] once wished to say to her friend, ‘Come, I would give you some fat to eat’ but that what she actually said to her was, ‘My cast-away,[14] may a lioness devour you’.[15] A certain woman’ once appeared before a judge and addressed him as follows: ‘My master slave,[16] I had a child[17] and they stole you from me,[18] and it is of such a size that if they had hanged you upon it, your feet would not have reached to the ground’.[19]

When Rabbi's[20] maid indulged in enigmatic speech she used to say this: ‘The ladle strikes against the jar,[21] let the eagles fly to their nests’;[22] and when she wished them to remain at table she used to tell them, ‘The crown[23] of her friend[24] shall be removed and the ladle will float in the jar like a ship that sails in the sea’.

R. Jose b. Asiyan, when speaking enigmatically, used to say: ‘Prepare for me a bull in judgment[25] on a poor mountain’;[26] and when he enquired about an inn-keeper he spoke thus: ‘The man of this raw mouth[27] — what comforts does he provide?’[28]

R. Abbahu, when indulging in enigmatic speech, used to say this: ‘Make the coals ethrog like,[29] flatten out the golden cobbles,[30] and prepare for me two tellers in the dark’.[31] Others read: ‘And let them prepare for me on them two tellers in the dark’.

The Rabbis said to R. Abbahu: ‘Show us’ where R. Elai is hiding.[32] He replied: He amused himself with an Aaronide girl, his last keen companion, and she kept him awake’.[33] Some say that this referred to a woman[34] and others say that it referred to a tractate.[35]

They said to R. Elai: Show us[32] where R. Abbahu is hiding.[32] He replied: He consulted the crown-maker[36] and betook himself to Mephibosheth[37] in the South.[38]

R. Joshua b. Hananiah remarked: No one has ever had the better of me except a woman, a little boy and a little girl. What was the incident with the woman? I was once staying at an inn where the hostess served[39] me with beans. On the first day I ate all of them leaving nothing. On the second day too l left nothing. On the third day she over seasoned them[40] with salt, and, as soon as I tasted them, I withdrew my hand. ‘My Master’, she said to me, ‘why do you not eat?’ — ‘I have already eaten’, I replied: ‘earlier in the[41] day". ‘You should then’, she said to lie, ‘have withdrawn your hand from the bread’. ‘My Master’, she continued, ‘is it possible that you left[42] [the dish to-day] as compensation[43] for the former[42] meals, for have not the Sages laid down: Nothing[43] is to be left[44] in the pot[45] but something must be left[46] in the plate?’[47] What was the incident with the little girl? I was once on a journey and, observing[48] a path across a field, I made my way through it, when a little girl called out to me, ‘Master! Is not this part of the field?’ — ‘No’, I replied: ‘this is a trodden path’ — ‘Robbers like yourself’, she retorted: ‘have trodden it down’ — What was the incident with the little boy? I was once on a journey when I noticed a little boy sitting at a cross-road. ‘By what road’, I asked him, ‘do we go to the town?’ — ‘This one’, he replied: ‘is short but long and that one is long but short’. I proceeded along the ‘short but long’ road. When I approached the town I discovered that it was hedged in by gardens and orchards. Turning back I said to him, ‘My son, did you not tell me that this road was short?’ — ‘And’, he replied: ‘did I not also tell you: But long?’ I kissed him upon his head and said to him, ‘Happy are you, O Israel, all of you are wise, both young and old’.

R. Jose the Galilean was once on a journey when he met Beruriah.[49] ‘By what road’, he asked her, ‘do we go to Lydda?’ — ‘Foolish Galilean’, she replied: ‘did not the Sages say this: Engage not in much talk with women?[50] You should have asked: By which to Lydda?’

Beruriah once discovered a student who was learning in an undertone.

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(1) I Sam. XIV, 47. E.V. ‘put them to worse’.

(2) Saul.

(3) The execution of the priests of Nob (I Sam. XXII, 18ff).

(4) I Sam. XXVIII, 19.

(5) Sc. with Samuel who addressed this message to Saul when he consulted him through the woman of En-dor (1 Sam. XXVIII, 7ff).

(6) In our Mishnah.

(7) In the Mishnah Bek. 40a.

(8) Euphemism for the buttocks or testicles.

(9) Lit., ‘what is it’?

(10) Or ‘tomatoes’.

(11) Cur. edd. in parenthesis, ‘for it was taught’.

(12) As he spoke indistinctly it was not clear whether he meant ‘amar (עמר ‘wool’), ‘imar (אימר ‘a lamb’) hamor (חמר ‘an ass’) or hamar (חמר ‘wine)’.

(13) A Galilean whose speech was indistinct.

(14) שלובתי ‘my friend’ sounded like שלוכתי (rt. שלך) ‘my cast away’.

(15) דאוכליך חלבא ‘that I may give you some fat to eat’ sounded like תאכליך לביא ‘may a lioness etc.’

(16) כירי Gr. ** What she wanted to say was קירי Gr. ** ‘lord’.

(17) Or ‘log’, ‘beam’, תפלא. She meant טבלא ‘a board’.

(18) גנבוך מן. What she had in mind was גנבוה ממני ‘they stole it (Sc. the board) from me’.

(19) What she wished to say was that the board was so big that if it had been suspended from the judge it would have reached to the ground.

(20) So MS.M. Cur. edd. ‘of the house of Rabbi’.

(21) All the wine in the jar has been used up.

(22) The students may now leave the dining room for their lodgings.

(23) The bung. כתר (v. Maharsha). Cur. edd., בתר.

(24) The adjoining jar.

(25) תרדין ‘beet’ or ‘tomatoes’. The word is composed of תר (תור ‘bull’) and דין (judgment);

(26) With חרדל ‘mustard’. The word is made up of חר (הר ‘mountain’) and דל (‘poor’).

(27) אושפיזכנא (‘inn-keeper’) is made up of אוש (איש ‘man’), פי (פה ‘mouth’) ז (זה ‘this’) and נא (‘raw’). (V. R. Han., Tosaf. s.v. גבר a.l.).

(28) Lit., ‘what is this good that there is?’

(29) V. Glos.; red hot like the colour of the fruit.

(30) The coals that are glowing like gold (Rashi). Aliter (Jast.): ‘Make the gold (glowing coals) sky-blue (fan them so as to give blue flames)’.
(31) Cocks who crow at night.
(32) הצפיננו (from rt. צפה Hif. ‘to look’) and צפון (rt. צפן Kal ‘to hide’). A play upon the similarity of the sounds.
(33) A play upon the words, אהרונית, אחרונית, עירנית והנעירתו.
(34) He married a second wife (‘last’) who was of the tribe of Aaron (‘Aaronide’) aid of a charmingly keen disposition.
(35) He was engaged all night in the study of his ‘last’ chosen tractate dealing with priestly (‘Aaronide’) laws and bristling with ‘keen’ dialectical arguments.
(36) The nasi (v. Glos.) who ordained the Rabbis and crowned them so to speak as religious leaders.
(37) Synonymous with ‘noted scholar’ (cf. Ber. 4a).
(38) The Scholars in the South.
(39) Lit., ‘made’.
(40) קדח Hif, ‘to cause to burn’, ‘to spoil’.
(41) Lit., ‘While it was yet’.
(42) So Elijah Wilna's glosses. Cur. edd. ‘you did not leave...in the first’.
(43) Lit., ‘side’; the portion of food that must be left for the waiter.
(44) By the waiter.
(45) From which the contents is ladled into the plates.
(46) By the guest.
(47) Cf. the reading quoted by Tosaf. s.v. משיירין a.l. [According to Derek Erez. VI the reading is that one is to leave something of pastry but not of a boiled dish].
(48) Lit., ‘and there was’.
(49) The wife of R. Meir, a woman who was famous for her sagacity, learning and character.
(50) Aboth I, 5.

Talmud - Mas. Eiruvin 54a

Rebuking him[1] she exclaimed: ‘Is it not written: Ordered in all things, and sure:[2] If it[3] is ‘ordered’ in your two hundred and forty-eight limbs it will be ‘sure’, otherwise[4] it will not be sure?’

One taught: R. Eliezer[5] had a disciple who learned in a low voice. After three years he forgot his learning. One taught: R. Eliezer had a student who deserved burning [for an offence] against the Omnipresent — ‘Leave him alone’, the Rabbis pleaded, ‘he attended on a great man’.

Samuel said to Rab Judah, ‘Shinena,[6] open your mouth and read the Scriptures, open your mouth and learn the Talmud, that your studies may be retained and that you may live long, since it is said: For they[7] are life unto those that find them, and a healing to all their flesh;[8] read not ‘To those that find them’[9] but ‘To him who utters them[10] with his mouth’.

Samuel further said to Rab Judah, ‘Shinena, hurry on and eat, hurry on and drink,[11] since the world from which we must depart is like a wedding feast’.[12]

Rab said to R. Hamnuna, ‘My son, according to thy ability[13] do good to thyself, for there is no enjoyment in she'ol nor will death be long in coming. And shouldst thou say: "I would leave a portion for my children" — who will tell thee in the grave?[14] The children of man are like the grasses of the field, some blossom and some fade’.[15]

R. Joshua b. Levi stated: If a man is on a journey and has no company[16] let hin, occupy himself with the study of the Torah, since it is said in Scripture: For they[17] shall be a chaplet[18] of grace.[19] If he feels pains in his head, let him engage in the study of the Torah, since it is said: For they[17] shall be a chaplet of grace unto thy head.[19] If he feels pains in his throat let him engage in the study of the

Torah, since it is said: And chains about thy neck.[19] If he feels pains in his bowels, let him engage in the study of the Torah, since it is said: It[20] shall be a healing to thy navel.[21] If he feels pain in his bones, let him engage in the study of the Torah, since it is said: And marrow to thy bones.[21] If he feels pain in all his body, let him engage in the study of the Torah, since it is said: And healing to all his flesh.[22]

R. Judah son of R. Hiyya remarked: Come and see how the dispensation[23] of mortals[24] is not like that of the Holy One, blessed be He. In the dispensation of mortals, when a man administers a drug to a fellow it may be beneficial to one limb but injurious to another, but with the Holy One, blessed be He, it is not So. He gave a Torah to Israel and it is a drug of life for all his body, as it is said: And healing to all his flesh.[25]

R. Ammi said: What is the exposition of the Scriptural text: For it is a pleasant thing if thou keep them within thee; let them be established altogether upon thy lips?[26] When are the words of the Torah 'pleasant'? 'When thou keepest them within thee'. And when wilt thou keep them within thee? When they will 'be established altogether upon thy lips.'[27] R. Zera said, [This[28] may be derived] from the following: A man hath joy in the answer of his mouth; and a word in due season, how good is it![29] When 'hath a man joy'? When he has an 'answer in his mouth'.[28] Another version: 'When hath a man joy in the answer of his mouth'? When the 'word is in due season; O, how good is this'! R. Isaac said: This[28] may be derived from the following: But the word is very nigh unto thee, in thy mouth, and in thy heart, that thou mayest do it;[30] when 'is it very nigh unto thee'? When it is 'in thy mouth and in thy heart to do it'.[28] Raba said: It[28] may be derived from the following: Thou hast given him his heart's desire, and the utterance[31] of his lips Thou hast not withholden. Selah.[32] When 'hast Thou given him his heart's desire'? At the time when 'Thou hast not withholden the utterance of his lips.[28] Selah.'[32]

Raba pointed out an incongruity: It is written: Thou hast given him his heart's[33] desire;[34] and it is also written: And the utterance of his lips[35] Thou hast not withholden. Selah?[36] If he is worthy, 'Thou hast given him his heart's desire,'[34] but if he is unworthy, 'The utterance of his lips Thou hast not withholden. Selah'.[36]

It was taught at the school of R. Eliezer b. Jacob: Wherever [in Scripture] the expression of nezah, selah or wa'ed[37] occurs the process to which it refers never ceases — 'Nezah'? Since it is written For I will not contend for ever, neither will I be always[38] wroth.[39] 'Selah'. Since it is written: As we have heard, so have we seen in the city of the Lord of hosts, in the city of our God — God establish it for ever. Selah.[40] 'Wa'ed? Since it is written: The Lord shall reign for ever and ever.[41]

(Mnemonic:[42] Chains, his cheeks, tables graven.) R. Eleazar[43] said; What is the purport of the Scriptural text: And chains about thy neck?[44] If a man trains himself to be like a chain that hangs loosely upon the neck,[45] and is sometimes exposed and sometimes concealed,[46] his learning will be preserved by him, otherwise it will not.

R. Eleazar further stated: What is the purport of the Scriptural text: His cheeks are as a bed of slices?[47] If a man allows himself to be treated as a bed upon which everybody treads,[48] and as spices with which everybody perfumes himself,[49] his learning will be preserved, but otherwise it will not.

R. Eleazar[50] further stated: What is the purport of the Scriptural text: Tables of stone?[51] If a man regards his cheeks[52] as stone that is not easily worn away,[53] his learning will be preserved by him, but otherwise it will not.

R. Eleazar[50] further stated: What is the purport of the Scriptural text: Graven upon the tables?[54] If the first tables had not been broken the Torah would never have been forgotten in Israel.[55] R. Aha b.

Jacob said: No nation or tongue would have had any power over them;[56] for it says: ‘Graven’[54] read not ‘graven’[57] but ‘freedom’.[58]

R. Mattena expounded: What is the purport of the Scriptural text: And from the wilderness to Mattanah?[59] If a man allows himself to be treated as a wilderness on which everybody treads, his study will be retained[60] by him, otherwise it will not.

R. Joseph had a grievance against Raba son of R. Joseph b. Hama. When the eve of the Day of Atonement approached the latter thought, ‘I shall go and pacify him’ — Proceeding to R. Joseph's house he found his attendant engaged in mixing for him a cup of wine.[61] ‘Give it to me’, Raba[62] said to him, ‘and I will mix it’. He gave it to him and the latter duly mixed it. As he[63] tasted it, he remarked: ‘This mixing is like that of Raba son of R. Joseph b. Hama’.[62] ‘I am here’ the other answered. ‘Do not sit down upon your legs’,[64] R. Joseph said to him, ‘before you have explained to me these verses. What is the purport of the Scriptural text: And from the wilderness to Mattanah, and front Mattanah to Nahaliel, and from Nahaliel to Bamoth, and front Bamoth to the valley?’[65] — ‘If’, the other replied: ‘a man allows himself to be treated as the wilderness upon which everybody treads, the Torah will be given to him as a gift;[66] and so soon as it is given to him as a gift, he will be the inheritance of God[67] as it says: And from Mattanah[66] to Nahaliel;[60] and as soon as he is the inheritance of God, he rises to greatness,[68] since it says: And from Nahaliel[67] to Bamoth.[68] But if he is haughty, the Holy One, blessed be He, humbles him, as it says: And from Bamoth[68] to the valley.[69] If, however, he repents, the Holy One, blessed be He, raises him, as it says: Every valley[69] shall be lifted up.[70]

R. Huna said: What is the purport of the Scriptural text: Thy flock settled therein; Thou preparest in Thy goodness for the poor, O God?[71] If a man behaves like an animal that treads upon its prey and eats it[72] or, as others say, that drags it and eats it,[73] his learning will be preserved by him, otherwise it will not — If, however, lie does behave in this manner the Holy One, blessed be He, will himself prepare a banquet for him, as it says in Scripture. Thou, didst prepare in Thy goodness for the poor, O Lord.[74]

R. Hiyya b. Abba in the name of R. Johanan expounded: With reference to the Scriptural text: Whoso keepeth the fig tree shall eat the fruit thereof,[75] why were the words of the Torah compared to the ‘fig tree’? As with the fig tree[76]

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(1) Lit., ‘she kicked him’.

(2) II Sam. XXIII, 5.

(3) The Torah, learning.

(4) Lit., ‘and if not’, if some of the ‘limbs’, in this case the organs of speech, are not used.

(5) Var. lec. ‘E. b. Jacob’.

(6) שיננא ‘keen-witted’ (rt. שנן ‘to sharpen’), ‘man of iron endurance’, (cf. שן סלע ‘rocky crag’), or ‘long toothed’ (cf. שן ‘tooth’). V. B.B., Sonc. ed. vol. II, p. 561, n. 14.

(7) The words of the Torah which includes both the written and the oral law.

(8) Prov. IV, 22.

(9) למצאיהם (rt. מצא in Kal ‘to find’).

(10) למוציאיהם (rt. יצא in Hif. ‘to bring out’, ‘utter’).

(11) Sc. do not postpone any enjoyments or pleasures.

(12) Which comes all too soon to an abrupt end. Cf. ‘make hay while the sun shines’ (Eng. prov.).

(13) Lit., ‘if thou hast’.

(14) Whether it is being put to good use.

(15) Cf. Eccl. XIV, 11f, 15f, 18.

(16) לויה

(17) V. supra n. 1.

(18) לוית const. of לויה (v. prev. n. but one).
(19) Prov. I, 9.
(20) The Torah.
(21) Prov. III, 8.
(22) Ibid. IV, 22.
(23) Lit., ‘measure.
(24) Lit., flesh and blood’.
(25) Prov. IV, 22.
(26) Ibid. XXII, 18.
(27) By being uttered clearly and methodically.
(28) Cf. prev. n. and text.
(29) Ibid. XV, 23.
(30) Deut. XXX, 14.
(31) E.V. ‘request’.
(32) Ps. XXI, 3.
(33) Emphasis on ‘heart’.
(34) I.e., as soon as he would desire it, it would be given him.
(35) Emphasis on ‘lips’.
(36) I.e., his desire would not be granted unless he actually asked for it.
(37) נצח, סלה, ועד.
(38) לנצח.
(39) Isa. LVII, 16.
(40) סלה, Ps. XLVIII, 9.
(41) ועד, Ex. XV, 18.
(42) Containing the Biblical expressions R. Eleazar is about to expound.
(43) So MS.M. and marg. note. Cur. edd. in parenthesis ‘Eliezer’.
(44) Prov. 1, 9.
(45) Sc. he is pleasant and conciliatory.
(46) He is not always in the public eye.
(47) Cant. V, 13.
(48) Humility.
(49) Benefiting others.
(50) V. supra n. 6.
(51) Ex. XXXI, 18.
(52) לוחות ‘tables’, is Midrashically interpreted as לחיים ‘cheeks’.
(53) He incessantly aid repeatedly teaches the Torah to others and disregards the constant strain upon his facial muscles.
(54) Ex. XXXII, 16.
(55) It would have remained ‘graven’ forever.
(56) Israel.
(57) חרות.
(58) חירות. For the sake of the tables Israel would have ever been free.
(59) Num. XXI, 18.
(60) Mattanah מתנה ‘gift’ from rt. נתן ‘to give’. The Torah will be given to him as a gift and he will never forge’ it.
(61) On account of its strength their wine had to be diluted in a certain proportion of water before it could be served.
(62) Who was an expert in the art of mixing.
(63) R. Joseph who was blind and unaware of Raba's presence.
(64) The Eastern custom of sitting with legs folded under the body.
(65) Num. XXI, 18ff.
(66) V. supra n. 1.
(67) Nahaliel נחליאל is read as נחלו אל.
(68) Bamoth במות signifying ‘heights’.
(69) Symbolic of a humble position.

(70) Isa. XL, 4.
(71) Ps. LXVIII, 11.
(72) Sc. as the animal proceeds to eat its prey as soon as it has trampled it on the ground so does the student proceed to revise his lessons as soon as he has them from his master.
(73) I.e., as the animal consumes its prey despite the unpleasantness of taste that it contracts in the course of being trailed in the dust or mud, so does the student persist in his studies, despite the unpleasantness he experiences in understanding or memorizing them.
(74) Ps. LXVIII, 11.
(75) Prov. XXVII, 18.
(76) Since all its fruit does ripen at the same time.

Talmud - Mas. Eiruvin 54b

the more one[1] searches it the more figs one finds in it so it is with the words of the Torah; the more one[1] studies them the more relish he finds in them.

R. Samuel b. Nahmani expounded: With reference to the Scriptural text: Loving hind and a graceful roe etc.,[2] why were the words of the Torah compared to a 'hind'? To tell you that as the hind has a narrow womb and is loved by its mate at all times as at the first hour of their meeting, so it is with the words of the Torah — They are loved by those who study them at all times as at the hour when they first made their acquaintance. 'And in graceful roe'? Because the Torah bestows grace upon those who study it. Her breasts will satisfy thee at all times.[2] Why were the words of the Torah compared to a breast? As with a breast, however often the child sucks[3] it so often does he find milk in it, so it is with the words of the Torah. As often a man studies them so often does he find relish in them — With her love wilt thou be ravished always,[2] as was the case with R. Eleazar[4] b. Pedath, for instance. It was said of K. Eleazar[4] that he sat and studied Torah in the lower market of Sepphoris while his linen cloak lay in the upper market of the town.[5] R.[6] Isaac b. Eleazar related: A man once came to take it and found a venomous serpent in it.[7]

It was taught at the school of R. Anan: What is the exposition of the scriptural text, ye that ride on white asses, ye that sit on rich cloths, and ye that walk by the way, tell of it?[8] 'Ye that ride on asses' refers to the learned men[9] who travel from town to town and from province to province to study[10] the Torah. 'White'[11] means that they clarify it like noonday.[12] 'That sit on rich cloths'[13] means that they give true judgment for the sake of the truth.[14] 'That walk' refers to the students of Scripture; 'by the way' refers to the students of the Mishnah; 'tell of it' refers to the students of the Talmud all of whose talk consists of the words of the Torah.

R. Shezbi stated in the name of R. Eleazar b. Azariah: What is the exposition of the text: The slothful man shall not hunt his prey?[15] The cunning hunter[16] will not live long.[17] R. Shesheth expounded: The cunning hunter[18] will roast.[19] When R. Dimi came[20] he said: This[21] may be likened to a fowler who hunts birds. If he breaks he wings of each bird as he shoots it down[22] his catch is secure, otherwise it is not.

Raba[23] expounded in the name of R. Sehora who had it from R. Huna: What is the purport of the text: Wealth gotten by vanity shall be diminished, but he that gathereth little by little shall increase?[24] If a man studies much at a time[25] his learning decreases,[26] and if lie does not do so but 'gathereth little by little' he 'shall increase'.[27] Raba[23] remarked: The Rabbis are well aware of this advice[28] and yet disregard it.[29] R. Nahman b. Isaac said: I acted on this advice and my study remained with me.

Our Rabbis learned: What was the procedure of the instruction in the oral law? Moses learned from the mouth of the Omnipotent. Then Aaron entered and Moses taught him his lesson. Aaron then moved aside and sat down on Moses' left. Thereupon Aaron's sons entered and Moses taught them their lesson. His sons then moved aside, Eleazar taking his seat on Moses' right and Ithamar on Aaron's left. R. Judah stated: Aaron was always on Moses right. Thereupon the elders entered and Moses taught them their lesson, and when the elders moved aside all the people entered and Moses taught them their lesson. It thus followed that Aaron heard the lesson[30] four times, his sons heard it three times, the elders twice and all the people once. At this stage Moses departed and Aaron taught them his lesson. Then Aaron departed and his sons taught them their lesson. His sons then departed and the elders taught them their lesson. It thus followed that everybody heard the lesson four times. From here R. Eliezer inferred: It is a man's duty to teach his pupil [his lesson] four times. For this is arrived at a minori ad majus: Aaron who learned from Moses who had it from the Omnipotent had to learn his lesson four times[31] how much more so an ordinary pupil who learns from an ordinary teacher.

R. Akiba stated: Whence is it deduced that a man must go on teaching his pupil until he has mastered the subject? From Scripture where it says: And teach thou it to the children of Israel.[32] And whence is it deduced that it must be taught until the students are well versed in it?[33] From Scripture where it says. Put it in their mouths.[34] And whence is it inferred that it is also his duty to explain to him the reasons?[35] It has been said: Now these are the ordinances which thou shalt put before them.[36]

But why did they not all learn[37] direct from Moses?[38] — In order to give a share of the honour[39] to Aaron, his sons, and the elders. Then[40] [why was not this procedure[41] adopted:] Aaron might enter and learn from Moses,[42] his sons might then enter and learn from Aaron,[42] then the elders might enter and learn from his sons[42] and these finally might teach all Israel?[42] — As Moses learned from the mouth of the Omnipotent his own teaching was of greater value.[43]

The Master said: 'R. Judah stated: Aaron was always on Moses' right'. Whose view is represented in the following where it was taught: If three men were going the same way, the Master is to be in the middle, the more important of the other two[44] on his right and the less important[45] on his left?[46] Must it be held that it represents the view of R. Judah and not that of the Rabbis?[47] — It[48] may be said to agree even with the view of the Rabbis, since Aaron's trouble had to be taken into consideration.[49]

R. Pereda had a pupil whom he taught his lesson four hundred times before the latter could master it. On a certain day having been requested to attend to a religious matter he taught him as usual but the pupil could not master the subject. 'What', the Master asked: 'is the matter[50] to-day?' — 'From the moment', the other replied. 'the Master was told that there was a religious matter to be attended to I could not concentrate my thoughts,[51] for at every moment I imagined, now the Master will get up or now the Master will get up'. 'Give me your attention', the Master said, 'and I will teach you again', and so he taught him another four hundred times. A bath kol issued forth asking him,[52] 'Do you prefer that four hundred years shall be added to your life or that you and your generation shall be privileged to have a share in the world to come?' — 'That', he replied. 'I and my generation shall be privileged to have a share in the world to come'. 'Give him both', said the Holy One, blessed be He.

R. Hisda stated: The Torah can only be acquired with [the aid of] mnemonic signs, for it is said: Put it in their mouths;[53] read not, 'put it'[54] but 'its mnemonic sign'.[55] R. Tahlifa of the West[56] heard this and proceeding to R. Abbahu told it to him. 'You', the other said to him, 'deduce this[57] from that text;[53] we deduce it from this one: Set thee up waymarks, make thee' etc.;[58] devise [mnemonic] signs[59] for the Torah. What proof, however, is there that the expression of ziyyun[60] means a sign? — Since it is written, And any seeth a man's bone, then shall be set up a sign[61] by it.[62] R. Eleazar said: The deduction[63] is made from this text: Say unto wisdom, 'Thou art my sister', and call understanding they kinswoman,[64] devise [mnemonic] signs[65] for the Torah — Raba expounded:

Appoint fixed times[66] for the study of the Torah.

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(1) Lit., ‘all the time that a man’.

(2) Prov. V, 19.

(3) Lit., ‘feels’, ‘searches’.

(4) So marg. n. and Bomb. ed. Cur. edd. in parenthesis ‘Eliezer’.

(5) So absorbed was he in his studies that he forgot to take his cloak with him (cf. R. Han.) Rashi explains תשגה (here rendered ‘thou wilt be ravished’) as ‘thou wilt make a fool of thyself’ (rt. שגה ‘to err’, ‘be confused’) by neglecting one's work or trade and engaging in study. R. Eleazar presumably left his cloak with his wares in the upper market while, absorbed in his studies, he went down to the lower one oblivious of both his cloak and his wares.

(6) Cur. edd. in parenthesis. ‘It was taught’.

(7) Providential protection of the property of the just.

(8) Judg. V, 10.

(9) Lit., ‘disciples of the wise’ (v. Glos. s.v. Talmid Hakam).

(10) Cur. edd. in parenthesis insert ‘in it’.

(11) צחורות (rt. צחר).

(12) צהרים (rt. צהר) interchange of ח and ה.

(13) דין מדין (דין = judgment)..

(14) [Lit., ‘true to its own truth’; an absolutely true verdict arrived at by the judge in his endeavour to find out the truth himself without relying solely on the evidence, v. Tosaf. B.B. 8b, s.v. דין].

(15) Prov. XII, 27.

(16) רמיה (‘slothful’), is expounded by a play upon the words as ‘רמאי ‘cunning’ and צידו (‘his prey’) as ציד ‘hunter’. The reference is to one who possesses no knowledge and pretends to be a scholar.

(17) לא יחיה ולא יאריך ימים, lit., ‘shall not live nor have length of days’, a play upon the words לא יחרך (‘shall not hunt’).

(18) Cf. supra n. 12. R. Shesheth, however, gives the appellation of ‘cunning hunter’ to the fowler who proceeds in the manner R. Dimi is about to describe.

(19) The birds lie caught. יחרך (rt. חרך ‘to roast’). His exposition of the verse is as follows: ‘Shall not the cunning hunter roast his prey?’ ‘Of course he shall’ being the implied reply. ‘Cunning hunter’ thus refers to the student who learns section by section, thoroughly revising and consolidating each before proceeding to the next (cf. R. Dimi's parable that follows).

(20) From Palestine to Babylon.

(21) The manner of study just referred to (cf. supra p. 380, n. 15, final clause).

(22) Lit., ‘first, first’.

(23) So marg. n. Cur. edd. in parentheses, ‘Rabbah’.

(24) Prov. XII. 11.

(25) Lit., ‘makes his Torah bundles, bundles’, a play upon the word for ‘by vanity’ מהבל reading הבל as חבל (חבילה ‘bundle’).

(26) An overburdened memory can retain but little.

(27) His store of knowledge.

(28) Lit., ‘thing’.

(29) Lit., ‘transgress it’.

(30) Lit., ‘they were found in the hand of’.

(31) Lit., ‘thus’.

(32) Deut. XXXI, 19; emphasis on ‘teach’.

(33) Lit., ‘arranged in order in their mouth’.

(34) Deut. XXXI, 19: emphasis on ‘put . . . mouth’.

(35) Lit., ‘to show the face’. . . that it is not enough to teach dogmatically.

(36) Ex. XXI. 1, emphasis on ‘put before’ (cf. Rashi). להראות לו פנים ‘to show him the face’ may be a play upon the word לפניהם, ‘before them’.

(37) MS. M. ‘Let the elders enter and learn’. Bah, ‘Let them all enter’ etc.

(38) The four times required.

(39) Of instructing the people.
(40) If it was desired to honour Aaron, his sons and the elders.
(41) Which would have conferred greater distinction on each individual or group as compared with the group that followed.
(42) The four times required.
(43) Lit., ‘the thing is supported’.
(44) Lit., ‘and the great’.
(45) Lit., ‘and the small’.
(46) V. Yoma 37a.
(47) Who hold that Aaron took his seat on Moses’ left. Is it likely, however, that an anonymous ruling would agree with an individual contrary to the view of the majority?
(48) The Baraitha cited.
(49) As he had to sit on the left of Moses when the two were alone, he was allowed to remain in the same position, even after the others had entered, in order to save him the trouble of moving from one place to another.
(50) Lit., ‘what is the difference’.
(51) Lit., ‘I removed my mind’.
(52) R. Pereda.
(53) Deut. XXXI, 19.
(54) שימה.
(55) סימנה (cf. prev. n.) a play upon the similarity of the two expressions.
(56) Palestine which lay to the west of Babylon where the statement was made.
(57) The need for mnemotechnical aids.
(58) Jer. XXXI, 21.
(59) ציונים, the same term as that used in the text for ‘waymarks’.
(60) ציון, sing. of ציונים (v. prev. n.).
(61) V. p. 383, n. 13.
(62) Ezek. XXXIX, 15.
(63) V. p. 383, n. 10.
(64) Prov. VII, 4.
(65) מודעים, pl. of מודע, the term used in the tent for ‘kinswoman’.
(66) מועדים sing. מועד ‘an appointed time,’ obtained by transposition of the letters in מועד (cf. prev. n.).

Talmud - Mas. Eiruvin 55a

This[1] is in harmony with the following statement of R.[2] Abdimi b. Hama b. Dosa:[3] What is the significance of the text: It is not in heaven, [that thou shouldst say: ‘who shall go up for us to heaven, and bring it unto us’],[4] neither is it beyond the sea [that thou shouldst sat, ‘Who shall go over the sea for us, and bring it unto us’]?[5] ‘It is not in heaven’, for if it were in heaven you should have gone up after it; and if it were ‘beyond the sea’, you should have gone over the sea after it.

Raba[6] expounded, ‘It is not in heaven’,[4] it[7] is not to be found with him who, because he possesses some knowledge of it, towers in his pride as high[8] as the heavens, ‘[neither is it beyond the sea’] it is not found with him who, because of some knowledge of it, is as expansive in his self-esteem[9] as the sea.

R. Johanan[10] expounded: ‘It is not in heaven’, it[11] is not to be found among the arrogant;[12] ‘neither is it beyond the sea’, it is not to be found among merchants or dealers.[13]

Our Rabbis taught: How are the sabbath boundaries of towns extended? [If a town is] long the sabbath limits are measured from its normal boundaries.[14] If it is round corners are added to it.[15] If it is square no corners are added to it.[16] If it was wide on one side and narrow on the other[17] it is regarded as if both its sides were equal.[18] If one house projected[19] like a turret, or if two houses projected[20] like two turrets, they are to be treated as if a thread had been drawn beside them in a straight line, and the two thousand cubits are measured from that line outwards.[21] If the town was shaped like a bow[22] or like a gamma,[23] it is to be regarded as if it had been full of houses and courtyards, and the two thousand cubits are measured from the imaginary boundaries outwards.[24] The Master said: ‘[If a town is] long the Sabbath limits are measured from its normal boundaries’. But is this not obvious? — The ruling is required in a case where it was long but narrow. Since it might have been presumed that the width should be regarded as equal to its length.[25] we were informed [that the law was not so].

‘If it is square shaped no corners are added to it’. Is not this obvious? — This was only required in a case where it is square shaped but the sides of the square are not parallel with the four directions of the world. As it might have been presumed that it should be deemed to be enclosed in an imaginary square whose sides are parallel with the four directions of the world, we were informed [that this is not permitted].

‘If one house projected like a turret, or if two houses projected like two turrets’. Now that you said that the law applied to one house, was it also necessary to mention two houses? — The ruling was necessary in that case only where the two houses were respectively on two sides of the town. As it might have been presumed that we apply the law only where a projecting house was on one side but not when houses were projecting on two sides, we were informed [that the law is applied to the latter case also].

‘If the town was shaped like a bow or like a gamma, it is to be regarded as if it had been full of houses and courtyards, and the two thousand cubits are measured from its imaginary boundaries’. R. Huna laid down: If a town is shaped like a bow, then, if the distance between its two ends[26] is less than four thousand cubits,[27] the Sabbath limits are measured from the bow-string,[28] otherwise measuring must begin from the arch.[29] But could R. Huna have laid down such a ruling?[30] Did not R. Huna in fact rule: If a breach was made in a town wall,[31] [the houses on both sides of the breach are regarded as belonging to the same town if the distance between them is] no more than a hundred and forty-one and a third cubits?[32] — Rabbah b. ‘Ulla replied: This is no difficulty, since the former[33] deals with a case where the gap was only on one side[34] while the latter deals with one that had breaches on two sides.[35] Then what does he[36] inform us? That a karpaf[37] is allowed for each section.[38] But did not R. Huna once lay down such a ruling, as we learned:

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(1) The deduction that it is necessary to resort to special efforts, such as the device of mnemotechnical symbols and the like, in order to acquire a knowledge of the Torah.

(2) So Bah, wanting in cur. edd.

(3) MS.M. R. Dimi b. Hisda.

(4) Deut. XXX, 12.

(5) Ibid. 13.

(6) Var. lec. R. Johanan (She'iltoth, Toledoth, XIX).

(7) The Torah.

(8) Lit., ‘who lifts up his mind because of it’.

(9) Lit., ‘who widens his mind because of it’.

(10) Var. lec. Raba (She'iltoth, ibid.).

(11) The Torah.

(12) Cf. notes on previous exposition by Raba.

(13) The ‘sea’ representing maritime trade.

(14) Lit., as it is — This is further explained infra.

(15) Sc. the circumference of the town is deemed to be enclosed in an imaginary square and the Sabbath limits are measured from the sides of that square, the townspeople thus gaining the benefit of longer distances through the angles of the square:

(16) This is explained infra.
(17) If its northern side, for instance, was wider than its southern side.
(18) The southern boundary is deemed to be extended in both directions to the same length as the northern one, and the extremities of this imaginary line are deemed to be joined to the extremities of the northern boundary.
(19) From the town wall.
(20) It is now assumed that both houses were on the same side of the town.
(21) If the projecting house, for instance, was in a corner on the northern side of the town, an imaginary line, parallel to the town in wall, is drawn across the northern side of the house towards the western side of the town, and this line is deemed to represent the boundary of the town for the purpose of measuring the Sabbath limits. The respective positions of the 'two houses projected' is discussed presently.
(22) No houses having been built on the side corresponding to the bow-string.
(23) Gr. **. Cf. prev. n. mut. mut.
(24) Tosef. 'Er. IV. Every townsman man, irrespective of the position of his house, is entitled to walk two thousand cubits distance from the imaginary, as well as from the actual boundaries.
(25) I.e., as if the a town were square-shaped and its shorter sides were equal to its longer ones.
(26) I.e., the side corresponding to the bow string.
(27) So that the Sabbath limit from the one end overlaps with the Sabbath limit from the opposite end.
(28) Outwards; and the whole town, as far as its inhabitants are concerned, is regarded as no bigger than four cubits within which they may freely move on the Sabbath in addition to the two thousand cubits distance beyond the town in all directions.
(29) Every inhabitant may move no further than two thousand cubits from his own house in any direction.
(30) That two sections of a town are regarded as one where the distance between them is less than four thousand cubits.
(31) Sc. a breach that completely severed the town in two distinct sections, no houses intervening.
(32) A distance representing the length of two karpafs of seventy and two thirds cubits each (which each town is allowed in addition to the Sabbath limit of two thousand cubits). But if the distance was greater, the two sections are regarded as two different towns. How then could it be said that R. Huna permitted any distance within four thousand cubits?
(33) A bow shaped town.
(34) V. supra p. 385, n. 9.
(35) V. supra n. 6.
(36) R. Huna in the last ruling cited.
(37) Of a length of seventy and two thirds cubits.
(38) In the same manner as one is allowed for each of two adjacent towns which are thereby combined to form one town for the purposes of Sabbath movements.

Talmud - Mas. Eiruvin 55b

A karpaf is allowed for every town;[1] so R. Meir, but the Sages ruled: A karpaf was allowed only[2] between two towns,[3] and in connect ion with this it was stated: R. Huna laid down: A karpaf is allowed for each town, while R. Hiyya b. Rab held: Only one karpaf is allowed for both towns?[4] — Both rulings were required. For if we had been informed only of the ruling here,[5] it might have been presumed [to apply to this case only] because originally[6] all the town was a permitted domain,[7] but not to the case there.[8] And if we had been informed of the ruling there only, it might have been presumed [to apply to that case alone] because [one karpaf is] too cramped for the use of two towns, but not here[9] where the space of one karpaf would not be too cramped.[10] Hence both rulings were required.

And[11] what perpendicular distance is allowed between the [middle of the imaginary] bow-string and the arch?-Rabbah son of R. Huna[12] replied: One of two thousand cubits.[13] Raba the son of Rabbah son of R. Huna replied: Even one greater than two thousand cubits. Said Abaye: Logical reasoning is in agreement with Raba the son of Rabbah son of R. Huna, since[14] any person can, if he wishes, go around[15] by way of the houses.[16]

IF THERE WERE RUINS TEN HANDBREADTHS HIGH etc. What is meant by RUINS? — Rab Judah replied: Three walls without a roof on them.[17] The question was raised: What is the ruling in the case of two walls upon which there was a roof? Come and hear: The following are included in the Sabbath boundary of a town. A sepulchral monument of the size of four cubits by four,[18] a bridge or a cemetery that contains a dwelling chamber, a synagogue that has a dwelling-house for the hazan,[19] a heathen temple that contains a dwelling-house for its priests,[20] horse-stalls or storehouses In open fields, to which dwelling-chambers are attached, watchmen's huts in a field, and a house on a sea island.[21] All these are included in the Sabbath boundary of a town. The following, however, are not included in it: A sepulchral monument that was broken on two sides, the gap extending from one end to the other, a bridge or a cemetery that contains no dwelling-chamber, a synagogue that had no dwelling-house for the hazan, a heathen temple that contained no dwelling-house for its priests,[20] horse-stalls or storehouses in open fields, to which dwelling chambers are not attached, a pit, a ditch, a cave, a wall or a dove-cote in a field, and a house in a ship.[22] All these are not included in the Sabbath boundary of a town.[23] At all events It was here taught: ‘A sepulchral monument that was broken on two sides, the gap extending from one end to the other’. Does not this refer to a case where there was a roof on top?[24] — No, it may be a case where there was no roof on top.

Of what use is a ‘house on a sea island’? — R. Papa replied: The reference here is to a house into which a ship's tackle is moved.

But is not a ‘cave’ included in the Sabbath boundary of a town? Did not R. Hiyya in fact teach: A cave is included in the Sabbath boundary of a town? — Abaye replied: He referred to a cave at the entrance of which was a built structure. Might not then its inclusion be inferred solely on the ground of the structure? — The ruling[25] was required only in a case where the cave supplemented the prescribed size.[26]

R. Huna ruled: For those who dwell in huts[27] the Sabbath limits are measured from the very doors of their huts.[28] R. Hisda raised an objection: And they pitched by the Jordan, from Beth-yeshimoth,[29] in connection with which Rabbah b. Bar Hana[30] stated: ‘I myself saw the place and it measured three parasangs by three’.[31] Now was it not taught: When they attended to their needs they turned neither front nor sideways but backwards?[32] — Raba answered him: You speak of the divisions in the wilderness! Since about them it is written: At the commandment of the Lord they encamped and at the commandment of the Lord they journeyed,[33] they could well be regarded as constituting a permanent settlement.[34] R. Hinena b. R. Kahana ruled in the name of R. Ashi: If among the huts there are three courtyards of two houses[35] each, all the encampment assumes the characteristics of a permanent settlement.[36]

Rab Judah citing Rab remarked: Dwellers in huts and travelers in the desert lead a miserable life,[37] and their wives and children are not really their own. So it was also taught: Eliezer of Biria[38] remarked: Those who dwell in huts are like those who dwell in graves, and concerning their daughters Scripture says: Cursed be he that lieth with any manner of beast.[39] What is the reason? Ulla explained: Because they have no bath houses;[40] and R. Johanan explained: Because they [allow each other to] perceive the times of their ritual immersion.[41] What is the practical difference between them?[42] — The case where a river is near the house.[43]

R. Huna said: No scholar[44] should dwell in a town where vegetables are unobtainable. This then implies that vegetables are wholesome, but was it not taught: Three kinds of food increase One s excrements, bend one's stature and take away a five hundredth part of the human eyesight, viz.

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(1) Its Sabbath limit being measured from the outward boundary of that karpaf.

(2) Lit., ‘they (sc. the Rabbis who originally instituted the law of karpaf) said only’.

(3) That were adjacent to one another and that, on account of the karpafs, joined to form one town (cf. supra, p. 387, n.

13 and the discussion infra 57bf).

(4) As two sections of one town could not in this respect be subject to greater restrictions than two independent towns that are adjacent to one another, what need was there for R. Huna's ruling in respect of one town that was only severed in two on account of a breach?

(5) A town severed by a breach in two.

(6) Before the breach was made.

(7) Lit., ‘it had a side of permissibility’.

(8) That of two towns that were never before combined to form one permitted domain.

(9) A town severed by a breach in two.

(10) Since originally, when the area of the gap was occupied by houses, the inhabitants in either section did not have the use of even one karpaf.

(11) Where the distance between the two ends of the bow is less than four thousand cubits, in which case it was laid down supra that the Sabbath limit is measured from an imaginary line joining the two ends.

(12) Bomb. ed. omits ‘Rabbah b.’

(13) There must be no more than a Sabbath limit between any of the houses in the arch and the imaginary bow-string.

(14) However great the perpendicular distance between the imaginary bow-string and the arch.

(15) To the ends of the arch.

(16) Without touching the empty space between the cord and the arch. As in this manner it is possible for any townsman to pass from one end of the bow-shaped town to the other end and then to proceed also along the imaginary cord that joins these ends, the entire area enclosed by the arc and cord is deemed to be occupied by houses and courtyards.

(17) If there was a roof on them they would be regarded as a house and would in any case be included in the town boundary in accordance with a previous ruling in our Mishnah.

(18) Such a monument is usually provided with a dwelling-chamber for its watchman. It has, therefore, the status of a dwelling-house even though no one lives in it.

(19) חזן ‘beadle’, ‘sexton’, ‘superintendent’. In modern Hebrew, ‘synagogue reader’, ‘precentor’.

(20) Or ‘attendants’, כומרים.

(21) Within seventy and two thirds cubits from the town.

(22) That was not stationary, but moved sometimes within and sometimes without seventy and two thirds cubits from the town.

(23) Tosef. ‘Er. IV.

(24) Which allows that two walls with a roof on top are not regarded as a ‘ruin’ that is included in the Sabbath boundary of a town.

(25) Of R. Hiyya.

(26) Of four cubits by four. In the absence of such a ruling it might have been presumed that, as the structure was less than the minimum size prescribed, neither it nor the cave may be included in the Sabbath boundary of the town.

(27) צריפין, frail cone-shaped structures of reeds or branches of trees.

(28) Sc. even if a camp consisted of hundreds of such frail huts it does not assume the character of a town the residents of which may freely move within it (however large its area) and two thousand cubits beyond it in all directions. Each hut is regarded as a single unit.

(29) Num. XXXIII, 49, referring to the Israelites’ camp in the wilderness.

(30) Cur. edd. in parenthesis ‘in the name of R. Johanan’.

(31) Which establishes the fact that the Israelites’ camp in the wilderness occupied an area of three parasangs by three.

(32) Sc. behind the rear of the camp. An Israelite occupying a hut or a tent in the front lines of the camp had consequently to walk for the purpose a distance of three parasangs. How since this long walk, far exceeding a Sabbath limit, was permitted, it follows that an encampment consisting of huts also assumes the character of a town. An objection against R. Huna.

(33) Hum. IX, 18. The order in M.T. is reversed: At the commandment . . . journeyed . . . encamped.

(34) In consequence of which they were well entitled to the privileges of a town.

(35) Of stone or wood.

(36) Cf. infra 59b.

(37) Lit., ‘their life is no life’.

(38) [Probably identical with Bertotha in Upper Galilee, v. Aboth, Sonc. ed., p. 31 n. 4 and Horowitz, op. cit. p. 175].

(39) Deut. XXVII, 21.

(40) When the men leave their homes to bathe in a distant place the women remaining behind are exposed to the temptations of the unscrupulous.

(41) Depraved men are thus in a position to follow the women when they leave the camp for their ritual bathing.

(42) Ulla and R. Johanan.

(43) Ritual immersion can well be performed in the river and the women are under no necessity to go far from their homes. The men, however, would still be leaving their homes in quest of a warm bath. Ulla's reason is, therefore, applicable in such a case also while that of R. Johanan does not apply.

(44) Talmid hakham, v. Glos.

Talmud - Mas. Eiruvin 56a

black bread,[1] new beer and vegetables?[2] — This is no difficulty, one [statement referring] to garlic and leek while the other [refers] to other vegetables; as it was taught: Garlic is a vegetable, leek is a semi-vegetable;[3] if radish appears a life-giving drug has appeared. Was it not, however, taught: If radish appears a drug of death has appeared? — This is no contradiction, the latter might deal with the leaves while the former with the roots, or the latter might refer to the summer while the former might refer to the winter.

Rab Judah citing Rab said: In a town which abounds with ascents and descents men and beasts die in the prime of their lives.[4] ‘Die’! Can one really think so? — Rather say: They age in the prime of life.

R. Huna son of R. Joshua remarked: The crags between Be Bari and Be Narash have made me old.[5]

Our Rabbis taught: If a town is to be squared[6] the sides of the square must be made to correspond to the four directions of the world: Its northern side, [for instance,] must correspond[7] to the North, and its southern side to the South; and your guiding marks[8] are the Great Rear[9] in the North and the Scorpion in the South.

R. Jose said: If one[10] does not know how to square a town so as to make it correspond with the directions of the world, one may square it in accordance with the circuit of the sun. How? — The direction in which on a long clay the sun rises[11] and sets[12] is the northern direction.[13] The direction in which on a short day the sun rises[11] and sets[12] is the southern direction.[14] At the vernal and autumnal equinoxes[15] the sun rises in the middle point of the East and sets in the middle point of the West,[16] as it is said in Scripture: It goeth along[17] the south, and turneth about the[18] north;[19] ‘It goeth along the south’ during the day ‘and turneth about the north’[20] during the night. The wind turneth, turneth about moveth[21] refers to the eastern horizon and the western horizon along which the sun sometimes moves[22] and sometimes turns about.[20]

R. Mesharsheya stated: These rules[23] should be disregarded for it was taught: The sun has never exactly risen in the North East and set in the North West, nor has it ever risen precisely in the South East and set in the South West.

Samuel stated: Thee vernal equinox occurs only at the beginning of one of the four quarters of the day[24] viz., either at the beginning of the day or at the beginning of the night or at midday or at midnight.[25] The summer solstice only occurs either at the end of one and a half, or at the end of seven and a half hours of the day or the night.[26] The autumnal equinox only occurs at the end of three, or nine hours of the day or the night,[27] and the winter solstice only occurs at the end of four and a half, or ten and a half hours of the day or the night.[28] The duration of a season of the year[29] is no longer than ninety-one days and seven and a half hours; and the beginning of one season is removed from that of the other by no more than one half of a planetary hour.[30] Samuel further stated: The vernal equinox never begins under Jupiter[31] but it breaks the trees, nor does the winter solstice begin under Jupiter but it dries up the seed. This, however, is the case only when the new moon occurred in the moon-hour or in the Jupiter-hour.[31]

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(1) פת קיבר panis cibarius.

(2) Pes. 42a.

(3) Which proves that garlic and leek may be described as vegetables.

(4) Lit., 'in the half of their days'.

(5) [Town south of Sura situated on a mountain slope on the east bank of the Euphrates, v. Obermeyer p. 308].

(6) Sc. if for the purpose of measuring its Sabbath limits its irregular boundary lines are extended to form an imaginary square (cf. supra 55a).

(7) Lit., 'gives'.

(8) In ascertaining the directions.

(9) עֲגָלָה, lit., 'wagon'.

(10) Being unable to identify either of the two constellations.

(11) At one end.

(12) At the other end.

(13) Lit., 'face of the North'.

(14) At the summer solstice the sun appears to rise in N.E. to move along E., S., and W. and to set N.W., thus rising and setting in the North. As the days shorten and the nights lengthen the circuit of the sun appears steadily to diminish and the points of sunrise and sunset appear to move day after day from N.E. to E. and from N.W. to W. respectively (the autumnal equinox, when days and nights are equal) and then to S.E. and S.W. respectively (the winter solstice when the days are shortest and the nights longest). On the shortest day, therefore, the sun appears to rise in S.E., to move only along S., and to set in S.W., thus rising and setting in the South.

(15) Lit., 'the circuit of Nisan (v. Glos.) and the circuit of Tishri (v. Glos.).

(16) As shown supra p. 392, n. 12.

(17) E.V. 'towards'.

(18) E.V. 'unto the'.

(19) Eccl. I, 6.

(20) Sc. hidden from view as if it turned about behind the North.

(21) Ibid. E.V., 'whirleth about continually'.

(22) Sc. is seen moving in the day time.

(23) On the points of sunrise and sunset.

(24) Sc. the solar day of twenty-four hours, which includes both day and night.

(25) The year consists of three hundred and sixty-five days and six hours approx., representing fifty-two weeks and one and a quarter solar day's. The first vernal equinox which, according to tradition, occurred on the first of Nisan, which was then a Wednesday at the beginning of the first quarter of the solar day, i.e., at the 'beginning of the night' (solar days in the Heb. calendar beginning with nightfall) was consequently followed in the second year by a vernal equinox that began at the beginning of a second quarter of the solar day which was the 'midnight' of Thursday (the solar day again beginning as stated supra at nightfall). In the third year the equinox began at the beginning of a third quarter of the solar day, which was the 'beginning of the day' of Friday. In the fourth year it began at the beginning of the fourth quarter of the solar clay which was 'midday' of Saturday. The vernal equinox thus begins at a different quarter of the solar day in the course of every four years.

(26) The period intervening between an equinox and the following solstice and between a solstice and the following equinox is, as stated infra, ninety-one days and seven and a half hours approx., representing thirteen weeks and seven and a half hours. When the first vernal equinox occurred at the beginning of a Wednesday (cf. prev. n.) the following summer solstice must have occurred thirteen weeks later at the end of seven and a half hours after the beginning of the night belonging to that Wednesday. When the second vernal equinox occurred at the midnight of Thursday the summer solstice must have occurred thirteen weeks later at the end of one and a half hours after the beginning of the day also a Thursday. Since the third vernal equinox occurred on a Friday at the beginning of the day the following solstice must have occurred thirteen weeks later at the end of seven and a half hours of the day also a Friday. Finally when the fourth vernal equinox occurred at midday on Saturday, the following solstice must have occurred at the end of one and a half hours of the night of the Sunday thirteen weeks later.

(27) This is obtained by dropping the thirteen complete weeks (cf. prev. n.) which do not affect the weekday or the hour, and by adding the seven and a half hours to the respective summer solstices (cf. prev. nn.).

(28) These calculations are arrived at by dropping the weeks and adding the hours (cf. prev. n.) to the respective times of the autumnal equinoxes, the same process as in the previous cases being repeated every four years.

(29) I.e., the lapse of time between an equinox and a solstice that follows it, and between a solstice and an equinox that follows it.

(30) Every hour of the day is assumed to be governed by the sun, the moon or one of the undermentioned planets in the following order: Mercury, Moon, Saturn, Jupiter, Mars, Sun and Venus. It follows that every eighth hour is under the influence of the same heavenly body. Since, for instance, Mercury is in ascendancy in the first hour of the first day of the week, it is also in ascendancy in the eighth, the fifteenth and the twenty-second hour and so on ad infinitum. Similarly Venus who is in ascendancy in the seventh hour of the first day of the week is also in ascendancy in the fourteenth and the twenty-first hour etc. Now since the beginning of one season is removed from that of the next season (as stated supra) by thirteen weeks and seven and a half hours and since in every week (consisting of 7 X 24 hours) the same relative order and succession of the heavenly bodies is invariably repeated, the weeks may be entirely disregarded in the calculations that determine what heavenly body would exercise its influence at the beginning of a season. The seven and a half hours only having to be taken into consideration, and the number of heavenly bodies concerned being seven, it follows that the same heavenly body that was in ascendancy at the beginning of a season is again in ascendancy during the last half hour of that season and during the first half hour of the season that follows. Every season thus begins ‘one half of a planetary hour’ later than the preceding one.

(31) Sc. the hour under the influence of this planet (cf. prev. n.).

Talmud - Mas. Eiruvin 56b

Our Rabbis taught: If [a circular] town is to be [circumscribed by a] square[1] [the sides must be] drawn in the shape of a square tablet. The Sabbath limits also are then drawn in the shape of a square tablet.[2] When the measurements[1] are taken one should not measure the two thousand cubits[3] from the middle point of the town corner,[4] because, thereby, one loses the corners.[5] One should rather imagine[6] that a square tablet of the size of two thousand cubits by two thousand cubits is applied to each corner diagonally,[7] so that the town gains thereby four hundred cubits in each corner,[8] the Sabbath limits gain eight hundred cubits in each corner,[9] while the town and the Sabbath limits together gain twelve hundred cubits[10] in each corner.[11] This[12] is possible, Abaye explained. in a town of the size of two thousand by two thousand cubits.[13]

It was taught: R. Eliezer son of R. Jose stated: The limit of the allotted land beyond the confines of the levitical cities[14] was two thousand cubits.[15] Deducting from these[16] an open space of one thousand cubits,[17] such open space would represent a quarter of the entire area[18] the remainder of which consisted of fields and vineyards.[19] Whence is this[20] deduced? — Raba replied: From Scripture which says. [And the open land,..] from the wall of the city and outward a thousand cubits round about,[21] the Torah has thus enjoined, ‘Surround the city by an open space of one thousand cubits’. ‘Such an open space [it was said] would represent a quarter of the entire area’ — ‘A quarter’! Is it not in fact one [in the neighbourhood] of a half?[22] — Raba replied: The surveyor Bar Adda[23] explained this to me. Such a proportion is possible in the case of a town whose area is two thousand by two thousand cubits. For what is the area of its limits?[24] Sixteen [million square cubits].[25] What is the area of the corners?[26] Also sixteen [million square cubits].[27] Deducting [for the open spaces] eight [million square cubits][28] front the limits, and four [million square cubits][29] from the corners, to what area would this space amount? To one of twelve [million square cubits].[30] Would then ‘such an open space represent a quarter’? Is it not in fact more than a third of the entire area?[31] — Take the four [million square cubits] of the town area itself and add to them.[32] Does not this, however, still amount to a third?[33] — Do you imagine that a quadrilateral town was spoken off? No, a circular town was meant. For by how much does the area of a square exceed that of a circle?

By one quarter [approximately] — Deduct a quarter from the measurements given and there would remain nine [million square cubits];[34] and nine [million] represents one quarter of thirty six [million].[35]

Abaye said: This[36] is also possible in the case of a town that has an area of a thousand by a thousand cubits For what are its limits?[37] Eight [million square cubits].[38] What is the area of the corners? Sixteen [million square cubits].[39]

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(1) In connection with the calculations of the permitted Sabbath limits around it.

(2) This is explained infra.

(3) The permitted distance in all directions from the imaginary square round the town.

(4) I.e., extending the diagonals of the imaginary square to the length of two thousand cubits and joining them so as to form a larger square.

(5) As will be shown presently.

(6) Lit., ‘bring’.

(7) One extremity of the diagonal of the imaginary tablet touching in turn each of the four corners of the imaginary square, the diagonal of the latter forming a straight line with that of the former.

(8) Lit., ‘towards here and . . . towards here’. The town spoken of here (as stated by Abaye infra) is one that is circular in shape and the diameter of which is two thousand cubits. By enclosing it in an imaginary square the diagonal of which (on the rule that the diagonal of a square exceeds its side by two fifths approx.) the town is extended in each of its four corners by ((2000 X 2/5)/2) = 4000/10 = 400 cubits (cf. foll. n.).

(9) A line of two thousand cubits is by two fifths (cf. prev. n.), less than the diagonal of a two thousand cubits square. ‘A square tablet of the size of two thousand cubits by two thousand cubits applied to each corner diagonally’ would consequently add to each corner two thousand cubits plus (2000 x 2)/5 = 800 cubits.

(10) I.e., the total of 400 and 800 cubits in each of the inner and outer corners respectively.

(11) Tosef. ‘Er. IV.

(12) The various measurements and gains just described.

(13) Cf. preceding notes.

(14) In addition to the cities themselves the Levites were allowed stretches of land around them for use as open spaces, fields and vineyards as will be specified below.

(15) In an outward direction round each city.

(16) The 2000 cubits mentioned.

(17) Immediately behind and around each city.

(18) This will be explained presently.

(19) Tosaf. ‘Ar. ad fin., Sotah 27b.

(20) That a strip of one thousand cubits around each levitical city must be reserved as an open space.

(21) Num. XXXV, 4, dealing with the cities of the Levites.

(22) One thousand cubits of open space in every two thousand cubits allowed: 1000/2000 = 1/2. The actual area of the open space on the present assumption would, of course, be less than a half of the total area, since an inner belt of the width of a thousand cubits is smaller in area than one of equal width around it.

(23) Aliter: The son of the surveyor Adda’. Aliter: ‘Raba b. Adda replied: A surveyor.’

(24) Sc. the stretch of land two thousand cubits in width around it.

(25) 2000 by 2000 cubits on each of its four sides: 2000 X 2000 X 4 = 16,000,000 square cubits.

(26) The corner spaces between the limits just described.

(27) The area of each corner being 2000 X 2000 square cubits the total area of the four corners is 2000 X 2000 X 4 = 16,000,000 square cubits.

(28) Since the Torah enjoined to surround the whole city with a strip of one thousand cubits wide, one 1000 by 2000 cubits on each of the four sides 2,000,000 X 4 = 8,000,000 sq. cubits.

(29) One 1000 by 1000 cubits in each of the four corners = 1,000,000 X 4 = 4,000,000 sq. cubits.

(30) 8,000,000 sq. cubits and 4,000,000 sq. cubits (cf. prev. two nn.) amount to 12,000,000 sq. cubits.

(31) 12,000,000/32,000,000 being equal to 3/8.

(32) To the 32,000,000. This brings the total up to 36,000,000.

(33) 12,000,000/36,000,000 = 1/3. Why then was it described as ‘a quarter’?

(34) The city that was originally assumed to have an area of 2,000 X 2,000 = 4,000,000 sq. cubits, being circular in shape has only an area of 4,000,000 X 3/4 = 3,000,000 sq. cubits approx. The belt of open spaces around it, which was originally assumed to have an area of 12,000,000 sq. cubits would similarly amount to 4,000 (city, 2,000, and open spaces on two of its sides 2,000) by 4,000 X 3/4 (difference between area of sq. and circle) 3,000,000 approx. (area of circular city). 4,000 X 4,000 X 3/4 — 3,000,000 = 12,000,000 — 3,000,000 = 9,000.000 sq. cubits.

(35) The latter figure represents the total area in sq. cubits of the city and the entire stretch of open spaces, fields and vineyards allowed to each levitical city. The shape of the city does not affect this outer area which always extends to a perpendicular distance of 2,000 cubits from it in all directions of the city.

(36) That the open space shall represent a quarter of the area of the land allowed around each city of the Levites.

(37) The stretch of land allowed around it.

(38) Area of 1,000 by 2,000 cubits on each of its four sides equal to 2,000,000 X 4 = 8,000,000 sq. cubits.

(39) Each corner having an area of 2,000 by 2,000 sq. cubits the area of the four corners amounts to 2,000 X 2,000 X 4 = 16,000,000 sq. cubits.

Talmud - Mas. Eiruvin 57a

Deducting [for the open space] four [million square cubits][1] from the limits and four [million square cubits] from the corners,[2] to what area would this space amount? To one of eight million square cubits. But is not such an open space a third of the area?[3] — Do you think that the reference is to a square town? No, a circular town was spoken of. For by how much does the area of a square exceed that of a circle? By one quarter approximately. Deduct a quarter from the measurements given[4] and there would remain six [million square cubits];[5] and six [million] represent a quarter of twenty-four [million].[6]

Rabina explained: What is meant by ‘a quarter’? A quarter of the area of the limits.[7] R. Ashi explained: What is meant by ‘a quarter’? A quarter of the area of the corners.[8] Said Rabina to R. Ashi: Is it not written in Scripture: ‘round about’?[9] — By ‘round about’ the corners were meant — For, if you were not to admit this, would you also contend that the expression. And[10] dash the blood round about against the altar,[11] written in connection with a burnt-offering, also meant round about the very altar?[12] Consequently you must admit that by ‘round about’ was meant round about the corners; well then, here also by ‘round about’ was meant round about the corners. Said R. Habibi[13] of Hoza'ah[14] to R. Ashi: Are there not, however, the projections of the corners?[15] — The reference is to a circular city.[16] Was it not, however, made square?[17] — You might contend that it was said that we imagine it to be a square[18] but can you contend that it was actually made square?[19] Said R. Hanilai[20] of Hoza'ah to R. Ashi: Consider! By how much does the area of a square exceed that of a circle? By a quarter approximately. Are not then the so called ‘eight hundred’[21] only six hundred and sixty-seven minus a third?[22] — The other replied: This[23] applies only to a circle inscribed within a square, but in the case of the diagonal — of a square[24] more must be added; for a Master stated: Every cubit in the side of a square corresponds to one and two fifths of a cubit in its diagonal.[25]

MISHNAH. A KARPAF[26] IS ALLOWED FOR EVERY TOWN;[27] SO R. MEIR, BUT THE SAGES RULED: [THE LAW OF] KARPAF[27] WAS INSTITUTED ONLY BETWEEN TWO TOWNS[28] SO THAT BY ADDING TO EACH ONE[29] A STRETCH OF LAND OF SEVENTY AND A FRACTION[30] THE KARPAF COMBINES THE TWO TOWNS INTO ONE.[28]

SO ALSO WHERE THREE VILLAGES ARE ARRANGED IN THE SHAPE OF A TRIANGLE,[28] IF BETWEEN THE TWO OUTER ONES THERE WAS A DISTANCE OF A HUNDRED AND FORTY-ONE AND A THIRD CUBITS, THE MIDDLE ONE CAUSES ALL THE THREE OF THEM TO BE REGARDED AS ONE.[28]

GEMARA. Whence is this[31] inferred? — Raba replied: From Scripture which says: From the wall of the city and outward,[32] the Torah having thereby enjoined: Allow an outward area,[33] and then begin your measuring.[34]

BUT THE SAGES RULED . . . WAS INSTITUTED ONLY etc. It was stated: R. Huna laid down: A karpaf is allowed for each town. Hiyya b. Rab laid down: Only one karpaf is allowed for both towns.

We learned: BUT THE SAGES RULED: [THE LAW OF] KARPAF WAS INSTITUTED ONLY BETWEEN TWO TOWNS. Is not this[35] an objection against R. Huna? — R. Huna can answer you: What is meant by ‘KARPAF’?[35] The law of karpaf, but in fact a karpaf is allowed for each town. This may also be supported by reason, since in the final clause it was stated: SO THAT BY ADDING TO EACH ONE A STRETCH OF LAND OF SEVENTY AND A FRACTION CUBITS THE KARPAF COMBINES THE TWO TOWNS INTO ONE. This is conclusive.

Must it be said that this[36] presents an objection against Hiyya b. Rab?[37] — Hiyya b. Rab can answer you:

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(1) One thousand by one thousand sq. cubits on each of the four sides of the city amount to four million sq. cubits, cf. supra p. 398, n. 2.

(2) Cf. loc. cit. n. 3.

(3) Which, as has just been shown, amounted to 8,000,000 + 16,000,000 = 24,000,000 sq. cubits; 8,000,000/24,000,000 = 1/3.

(4) Sc. from the strip of open space around the town which, if square shaped, contains an area of eight million sq. cubits.

(5) The area of the city (1,000 X 1,000 sq. cubits) plus the area of the open space (a strip of a thousand cubits in width on the four sides of the town) amounts to 3,000 X 3,000 = 9,000,000 sq. cubits, when the city, and the open space around it are square shaped. When they are circular the total of their area amounts to 9,000,000 X 1/4 sq. cubits. The area of the open space alone amounts, therefore, to 9,000,000 X 3/4 — 1,000,000 X 3/4 (area of circular city) = 3/4 (9,000,000 — 1,000,000) = 3/4 x 8,000,000 = 6,000,000 sq. cubits.

(6) The latter figure representing the total area of the limits of the land and the corners (v. supra 56b ad fin) which, unlike the open space, are not affected by the shape of the city.

(7) According to Rabina the reference is, as was first assumed (cf. supra text and notes), to a city whose area was 2,000 by 2,000 sq. cubits, and the area of whose limits, (i.e., the strips of 2,000 cubits perpendicular distance from its confines) plus the area of the corners between them, is 2,000 X 2,000 X 8 = 32,000,000 sq. cubits, while the area of its open spaces along the limits, amounts to 2,000 X 1,000 X 4= 8,000,000 sq. cubits, 8,000,000/32,000,000 = 1/4 which is the ‘quarter’ spoken of. Rabina is of the opinion that no land for the purpose of open space was set aside in the corners. V. Tosaf. s.v. מאי.

(8) No open space being allowed along the limits. Cf. previous note, the Tosaf. cited and Rashi s.v. לייא a.l. The area of each corner being 4,000,000 sq. cubits and the area of the open space in each corner being 1,000,000 sq. cubits the latter area equals (1,000,000/4,000,000 =) 1/4 ‘a quarter’ of that of the former in each corner. The total area of the corners equals 4 X 4,000,000 while the total area of open spaces in these corners equals 4 X 1,000,000 the proportion of the latter to the former is, therefore, 4 X 1,000,000/4 X 4,000,000 = 1/4 which is also ‘a quarter’.

(9) Num. XXXV, 4. How then could it be maintained that the open spaces were restricted (cf. prev. n.) to the corners only?

(10) ‘The sons of Aaron’ is enclosed in cur. edd. in parenthesis.

(11) Lev. I. 5.

(12) But this, surely, is contrary to the adopted practice of sprinkling the blood round the corners of the altar only.

(13) MS.M ‘Aha’; Rashi (s.v. למאי a.l.) ‘Habiba’.

(14) The modern Khuzistan.

(15) Which reduce the area of the open spaces which, in consequence, would represent less than a quarter of the corners.

(16) A circle has no projecting corners.

(17) As stated supra.

(18) For the purpose of extending its Sabbath limits or the land around it in favour of the Levites.
(19) Obviously not. An imaginary square causes no actual reduction.
(20) MS.M., Habi; Bomb. ed. Hinai.
(21) Supra 56b; 'The Sabbath limits gain eight hundred cubits' by the application to the corners of the diagonal of the tablet of two thousand cubits in length.
(22) If the difference between a square and a circle is a quarter of the former it is also (since the proportion of the two figures is 3:4) a third of the latter. The difference consequently between a line of two thousand cubits (which may be regarded as the diameter of a circle) and the diagonal of a square whose sides measure two thousand cubits should be a third of two thousand 2000/3 = 666 2/3 or 667 — 1/3.
(23) That the approximate difference between the area of a square and that of a circle is a quarter of the former or a third of the latter.
(24) In relation to any of its sides.
(25) A side of the square spoken of being equal to 2,000 cubits, the diagonal of such a square must be equal to 2,000 X 7/5 cubits. The gain, therefore, is 2,000 X 7/5 — 2,000 = 2,000 X 2/5 = 400 X 2,000 cubits.
(26) V. Glos., a stretch of land extending to seventy and two thirds cubits away from the town.
(27) Sc. the Sabbath limits begin at such a distance from the town and not from the town boundary.
(28) This is explained in the Gemara infra.
(29) Or 'EITHER' (v. Gemara infra). Lit., 'if there is to this . . . and if etc,'
(30) I.e., two thirds of a cubit.
(31) That a karpaf is allowed for every town.
(32) Num. XXXV, 4, emphasis on 'outward' חוצה.
(33) חוצה, Sc. KARPAF.
(34) Of the Sabbath limit.
(35) The use of KARPAF in the sing.
(36) The final clause just cited, according to which a karpaf is allowed to each town.
(37) Who allows only one karpaf for both towns.

Talmud - Mas. Eiruvin 57b

This[1] is the view of[2] R. Meir.[3] But if this is the view of R. Meir [the objection arises:] Was it not already enunciated in the first clause: A KARPAF IS ALLOWED FOR EVERY TOWN; SO R. MEIR? — [Both were] required. For if [the law were to be derived] from the former only it might have been presumed that one karpaf is allowed for one town and one is also allowed for two towns,[4] hence we were informed[5] that for two towns two karpafs are allowed. And if we had been informed of the latter only it might have been assumed [that R. Meir's view[6] applied to such a case only] because [one karpaf is too] cramped for the use of two towns, but not in the former case[7] where the space is not too cramped.[8] [Hence both were] required.

We learned: SO ALSO WHERE THREE VILLAGES ARE ARRANGED IN THE SHAPE OF A TRIANGLE, IF BETWEEN THE TWO OUTER ONES THERE WAS A DISTANCE OF A HUNDRED AND FORTY-ONE AND A THIRD CUBITS, THE MIDDLE ONE CAUSES ALL THE THREE OF THEM TO BE REGARDED AS ONE. The reason then[9] is because there was one in the middle, but if there had been none in the middle the outer two villages would not have been combined. Is not this[10] an objection against R. Huna?[11] — R. Huna can answer you: Surely, in connection with this ruling it was stated: Rabbah[12] in the name of R. Idi who had it from R. Hanina explained: There is no need for the villages to be arranged in the shape of an equilateral[13] triangle[14] but that if on observation it is found that with the middle one placed between the other two they would form a triangle, and there would be between the one and the other[15] a distance of no more than a hundred and forty-one and a third cubits[16] the middle one causes all the three of then, to be regarded as one.[17]

Said Raba to Abaye: What [maximum distance] is allowed between an outer village and the middle one?[18] — ‘Two thousand cubits’,[19] the other replied. ‘But did you not say’, the former asked: ‘that logical reasoning is in agreement with Raba the son of Rabbah son of R. Huna who ruled that a perpendicular distance of more than two thousand cubits was allowed?’[20] ‘What a comparison![21] There, houses are in existence,[22] but here there are no houses’.[23]

Raba further asked Abaye: What [maximum distance] is allowed between the two outer ones? — ‘What [distance] is allowed’! What difference does this make in view of the ruling that ‘if . . . with the middle one placed between the other two’ there remains between them[24] ‘a distance of no more than a hundred and forty-one and a third cubits’ they are all regarded as one?[25] — Even if they[26] are four thousand cubits distant from one another? — ‘Yes’, the other replied. ‘But did not R. Huna lay down: If a town is shaped like a bow then if the distance between its two ends is less than four thousand cubits the Sabbath limits are measured from the bow string, otherwise measuring must begin from the arch?’[27] — ‘There’, the other replied. ‘you cannot say that the distance[28] is filled up[29] but here you can well say so’.[30]

Said R. Safra to Raba: Behold the people of Ktesifon for whom we measure the Sabbath limits from the further side of Ardashir and the people of Ardashir for whom we measure the Sabbath limit from the further side of Ktesifon;[31] does not the Tigris[32] in fact cut between them a gap wider than a hundred and forty-one and a third cubits?[33] — The other thereupon went out and showed him the flanks of a wall that projected seventy and two thirds[34] cubits across the Tigris.[35]

MISHNAH. SABBATH LIMITS MAY BE MEASURED ONLY WITH A ROPE OF THE LENGTH OF FIFTY CUBITS NEITHER LESS NOR MORE;[36] AND A MAN MAY MEASURE ONLY WHILE HOLDING THE END OF THE ROPE ON A LEVEL WITH HIS HEART.[37] IF IN THE COURSE OF MEASURING THE SURVEYOR REACHED A GLEN OR A FALLEN WALL[38] HE SPANS IT[39] AND RESUMES[40] HIS MEASURING; IF HE REACHED A HILL HE SPANS IT AND RESUMES HIS MEASURING;

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(1) The final clause just cited.

(2) Lit., ‘this according to whom?’

(3) It is not the conclusion of the ruling of the Sages, but a continuation of R. Meir's ruling with which our Mishnah began.

(4) The purpose of the ruling being that every town shall have a karpaf but not one exclusively for itself.

(5) By the final clause.

(6) That karpafs are at all allowed.

(7) One town surrounded by open country.

(8) In such a case, it might have been assumed, R. Meir allows no karpaf at all.

(9) Why the two outer villages may be regarded as one despite the distance of a hundred and forty-one and a third cubits intervening.

(10) The requirement of a third village between the other two.

(11) Who allowed a karpaf for every town (or village) and according to whom the two outer villages would have been combined into one, even in the absence of the third village, owing to the fact that no more than the space of two karpafs (2 X 70 2/3 = 141 1/3 cubits) intervened between them.

(12) Var. lec. ‘Raba’, ‘It. Adda’.

(13) Lit., ‘actually’.

(14) Sc. that ‘the distance between any two of them shall be no greater than a hundred and forty-one and a third cubits.

(15) I.e., ‘the middle village and any of the other two.

(16) A distance that is equal to that of two karpafs on either side of the middle village.

(17) Even though the distance between the two outer ones is much greater than a hundred and forty-one and a third cubits.

(18) If it is desired that the middle one shall cause ALL THE THREE OF THEM TO BE REGARDED AS ONE.

(19) A Sabbath limit. Since it is permitted to walk without an ‘erub between the middle one and either of the others it is also permitted to regard the former as placed between the latter.

(20) Between the middle point of the bow-string and the arch, in the case of a town that was built in the shape of a bow (supra 55b).

(21) Lit., ‘thus now’.

(22) Throughout the area of the arch to either end of the imaginary string, so that it is possible to reach the ‘string’ via the bow.

(23) Between the middle village and the others, and all the distance between them must be traversed across open country.

(24) I.e., , the confines on either side of the middle one and each of the others.

(25) Which shows that the distance between the outer ones subject to this reservation is of no consequence.

(26) The outer ones.

(27) Supra 55a q.v. notes.

(28) Lit., ‘there is no (reason) to say: Fill’, between the houses at the two ends of the bow.

(29) Since there is nothing wherewith to fill it.

(30) Lit., ‘there is (reason) to say: Fill’, by regarding the third village as breaking up the distance and reducing it on either side.

(31) [Two neighbouring places, the former on the eastern and the latter on the western bank of the Tigris, v. Obermeyer pp. 164ff.] Thus assuming that the two towns are combined into one.

(32) In its course between the two towns.

(33) How then could the two towns be regarded as one?

(34) Lit.,’remnants.

(35) And thus reduced the gap between the buildings of the two towns to less than a hundred and forty one and a third cubits.

(36) The reason follows in the Gemara.

(37) Sc. each of the two surveyors must hold his end of the measuring rope at a level with his heart, in order to ensure correctness and in the process of measuring. Correctness is impossible where one end of the rope is held at one level and the other end at a higher or lower level, since the distance measured would in this case be less than the full length of the rope.

(38) That collapsed in a heap and across which people pass.

(39) [I.e., he takes into consideration only the horizontal span provided it is not more than fifty cubits]. Sc. one man stands on its near side while another stands on its far side, each of them holding one end of the rope which is thus stretched across the glen or the collapsed wall. By this method of measuring one gains for the Sabbath limit the distances taken up by the slopes.

(40) This refers to a glen, for instance, that was wider then fifty cubits (cf. n. 7) in a part that faced the town and narrower than fifty cubits in another part that was removed from the town sideways. The surveyor, when reaching the edge of the glen, is in such circumstances allowed to make a detour to the narrower section of the glen, to span it there with the rope, and to continue his measuring until the rope is perpendicular to the line drawn from the point furthest from the town on the far side of the glen. He then RESUMES his measuring from that point to the end of the Sabbath limit.

Talmud - Mas. Eiruvin 58a

PROVIDED HE DOES NOT GO BEYOND THE SABBATH LIMIT. IF HE IS UNABLE TO SPAN IT — IN CONNECTION WITH THIS R. DOSTAI B. JANNAI STATED IN THE NAME OF R. MEIR, I HAVE HEARD THAT HILLS ARE TREATED AS THOUGH THEY WERE PIERCED’.[1]

GEMARA. Whence is this[2] deduced? — Rab Judah citing Rab replied: From Scripture which says. The length of the court shall be a hundred cubits, and the breadth fifty by fifty,[3] the Torah having thus[4] enjoined: Measure with a rope of the length of fifty cubits. But is not this text required for the ordinance to take away fifty and to surround with them the other fifty?[5] — If for that purpose only,[6] Scripture might have said ‘fifty, fifty’ why then did it say ‘fifty by fifty’? Hence both may be deduced.[7] NEITHER LESS NOR MORE. One taught: Neither less because the measurements are increased,[8] nor more because they are reduced.[9]

R. Assi[10] ruled: One must measure only with a rope of apeskima.[11] What is the meaning of apeskima? — R. Abba replied: Nargila. What is Nargila?- R. Jacob replied: A palm-tree which has only one bast. Others read: What is the meaning of apeskima? — R. Abba replied: Nargila; R. Jacob replied: A palm-tree which has only one bast.

It was taught: R. Joshua b. Hananiah said: 'You have nothing more suitable for measuring than iron chains, but what can we do in face of what the Torah[12] said: With a measuring line in his hand.[13] Is it not, however, written: And in the man's hand was a measuring rod?[14] — That was used for measuring the gates.

R. Joseph learned: There are three kinds of rope. Those made of megeg,[15] of wicker and of flax. The megeg rope[16] was used for the heifer;[17] for we learned: They bound it with a rope of megeg and put it on its pile.[18] The wicker rope was used in connection with the test of a faithless wife;[19] for we learned: And after that he brings a wicker rope[20] and binds it above her breasts.[21] The flax rope was used for measuring purposes.

IF IN THE COURSE OF MEASURING THE SURVEYOR REACHED. Since it was stated: RESUMES HIS MEASURING it may be inferred that if he is unable to span it[22] he proceeds to a position[23] from where[24] he is able to do so and, after spanning it, he makes the necessary observations[25] [whereby he is enabled to locate the point on the far side][26] that is in a straight line with his original line of measuring[27] and then he resumes [his measurements in a straight line] — Thus we have here learnt what the Rabbis have taught elsewhere: If in the course of measuring the measuring rope reached a glen, the surveyor may span it if he can do so with a rope of fifty cubits, but if not, he proceeds to a position[23] from where[24] he is able to span it and, having spanned it, he makes the necessary observations[25] [whereby he is enabled to locate the point on the far sides that is in a straight line with his original line of measuring] and then he resumes his measuring. If the glen was a crooked one[28] it is pierced in an upward, as well as in a downward direction.[29] If it[30] reached a wall we do not say: 'Let the wall be bored through';[31] its thickness rather is estimated and the measuring continues.[32] Have we not, however, learnt: HE SPANS IT AND RESUMES HIS MEASURING?[33] — There[34] it is a case of one that can be conveniently used[35] but here it is a case of one that cannot conveniently be used.[36]

Rab Judah citing Samuel stated: This[37] was learned only in the case where a plumb line[38] does not descend in a straight line[39]

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(1) Supra 35b q.v. notes.

(2) That in measuring Sabbath limits only A ROPE OF THE LENGTH OF FIFTY CUBITS may be used.

(3) Ex. XXVII, 18. E.V. 'everywhere'.

(4) By the phrase 'by fifty'.

(5) Supra 23b q.v. notes.

(6) Lit., 'if so'.

(7) The deduction supra (v. prev. n.) as well as the ruling in our Mishnah.

(8) A shorter rope is likely to be stretched and each unit of rope would consequently cover more cubits of ground than the standard number it represents. The Sabbath limits would in consequence be greater than the permitted distance.

(9) A longer rope cannot be so well stretched and each unit of it would cover less ground than the standard number it represents. This would result in a loss in the Sabbath limits.

(10) Aruk, 'Ammi'.

(11) One (as explained presently) made of the fibers of a particular kind of palm-tree.

(12) The term is here used in its wider signification which includes also the Prophetic writings.

(13) Zech. II. 5.

(14) Ezek. XL, 5.
(15) A certain kind of reed. Aliter: Bast.
(16) Because it is not susceptible to levitical uncleanness.
(17) The red heifer (cf. Num. XIX, 2ff) which had to be prepared under conditions of strict levitical cleanness.
(18) Parah III, 9.
(19) A sotah (v. Glos. and cf. Num. V, 12ff).
(20) Hebel ha-mizri, lit,' an Egyptian rope'. Aliter: A common cord. Aliter: A rope of rushes.
(21) Sotah 7b. Cf. Sonc. ed., p. 31, n. 1f.
(22) The GLEN, the WALL or the HILL where, for instance, the section that along the town is wider than fifty cubits.
(23) Away from the town.
(24) The width across being less than fifty cubits.
(25) Lit., , 'and looks'.
(26) Of the obstruction that could not be spanned.
(27) Cf. relevant notes on our Mishnah and first diagram ibid. Lit., 'corresponding to his measure'.
(28) I.e., its narrow section (not exceeding fifty cubits) that could be spanned was not on that side of the town from which the sabbath limit was being measured (v. Rashi).
(29) The method of piercing is described infra 58b.
(30) The measuring line.
(31) Sc. that poles towering above it shall be held up on both its sides and the rope stretched from one to the other (Tosaf. s.v. אין a.l.).
(32) Tosef. 'Er. IV.
(33) Why then is a mere estimate allowed in this case?
(34) In our Mishnah.
(35) One for instance that rises gently to a height of ten handbreadths in all area of four cubits. Hence it must either be spanned or pierced.
(36) A wall, for instance, that rose sharply in a perpendicular direction. As its sides are of no use for walking purposes they may be disregarded and only the estimated thickness of the wall need be included in the measurements.
(37) That the method of piercing is admissible.
(38) Suspended from the edge of the glen and reaching the bed.
(39) Lit., 'corresponding to it'. This is defined infra 58b.

Talmud - Mas. Eiruvin 58b

but if it does descend in a straight line[1] the bottom of the glen is measured by the ordinary method.[2]

What may be the depth of a glen?[3] — R. Joseph replied: Two thousand cubits. Abaye raised an objection against him: [If a glen was] a hundred cubits deep and fifty cubits wide one may span it, otherwise one may not! — He holds the view of 'Others',[4] it having been taught: Others rule: Even though a glen was two thousand cubits deep but only fifty cubits wide one may span it.

Some there are who read: R. Joseph replied: Even if it was deeper than two thousand cubits. In agreement with whose view is this ruling? Is it neither in agreement with that of the first Tanna[5] nor with that of the 'Others'?[6] — There[7] it is a case where the plumb line does not descend in a straight line[8] but here it is one where it does descend in a straight line.[9]

Where the plumb line does not descend in a straight line how much [deviation][10] is allowed? — Abimi replied: Up to four cubits; and so learned Rami b. Ezekiel: Up to four cubits.

IF HE REACHED A HILL HE SPANS IT AND RESUMES HIS MEASURING. Raba explained: This[11] was learnt only in respect of a hill that has a rise of ten handbreadths to a gradient of four cubits,[12] but a hill that has a rise of ten handbreadths to five cubits must be measured in the usual manner.[13] R. Huna son of R. Nathan taught this[14] in the direction of leniency: Raba explained. This[15] was learnt only in respect of a hill that has a rise often handbreadths to a gradient of five cubits,[16] but a hill that has a rise of ten handbreadths to a gradient of four cubits[17] one need only estimate its base and proceed with his measuring.

PROVIDED HE DOES NOT GO BEYOND THE SABBATH LIMIT.[18] What is the reason? — R. Kahana replied: This was ordained as a preventive measure against the possible assumption that the Sabbath limit reached to that point.[19]

IF HE IS UNABle TO SPAN IT. Our Rabbis taught: How is the method of piercing carried out? The man on the lower level holds his end of the rope on a level with his heart while the man on the higher level holds his end on a level with his feet. Abaye stated: We have it as a tradition that piercing may be effected only with a rope of the length of four cubits.

R. Nahman citing Rabbah b. Abbuha stated:[20] The method of piercing must not be employed in measurements in connection with the broken-necked heifer[21] nor in those around the cities of refuge.[21] because these are ordinances of the Torah.[22]

MISHNAH. [THE SABBATH LIMIT OF A TOWN] IS MEASURED ONLY ALONG THE BEATEN TRACK.[23] IF ONE EXTENDED THE LIMIT AT ONE POINT MORE THAN AT ANOTHER,[24] THE EXTENDED LIMIT IS OBSERVED.[25] IF THERE WAS A GREATER DISTANCE FOR ONE AND A LESSER DISTANCE FOR ANOTHER,[26] THE GREATER DISTANCE IS OBSERVED. FURTHERMORE, EVEN A BONDMAN AND EVEN A BONDWOMAN ARE BELIEVED WHEN THEY SAY, THUS FAR IS THE SABBATH LIMIT', SINCE THE SAGES DID NOT ENACT THE LAW[27] IN ORDER TO ADD RESTRICTIONS BUT IN ORDER TO RELAX THEM.

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(1) I.e., if the sides of the glen are practically perpendicular (as will be defined infra) so that they cannot be used at all for walking purposes.

(2) Lit., ‘a proper measurement’.

(3) That is spanned if it is not wider than fifty cubits.

(4) With a capital O, sc. R. Meir (cf. Hor. 13b).

(5) Who limits the depth to one hundred cubits.

(6) R. Meir who allows a depth of two thousand cubits but no more.

(7) The case in dispute between the first Tanna and others.

(8) As the slopes of the glen, to a limited extent at least, can be used for walking on, its depth was restricted.

(9) The sides of the glen being absolutely unsuitable for walking, its depth, however great, is of no consequence.

(10) At the bed of the glen in relation to the edge thereof.

(11) That the method of spanning or piercing is allowed.

(12) V. Rashi a.I.

(13) Such a gentle slope is deemed to be on a par with level ground which may not be measured either by spanning or by piercing.

(14) Raba's view just enunciated.

(15) That the method of spanning or piercing is allowed.

(16) Since it is not level ground one of the methods of spanning or piercing may be adopted.

(17) Being too steep and hardly suitable for walking.

(18) Cf. relevant notes in our Mishnah, and diagram ibid.

(19) Beyond the permitted limit. In the absence of the preventive measure people might desecrate the Sabbath by walking as far as that point, believing it to be within the Sabbath limit of their town.

(20) Cur. edd. in parenthesis, ‘we have a tradition’.

(21) Supra 35b q.v. notes.

(22) Which require exact measurements. No estimates or approximate calculations being allowed, slopes of hills or dales must be carefully measured cubit by cubit as level ground.

(23) Reading מן המומחה, the noun being derived from rt. מחה ‘to strike’ (R. Han. Cf. Tosaf. s.v. אין a.l.). Var. lec. מומחה ‘expert’, ‘skilled surveyor’ (cf. Rashi s.v. ה״ג a.l.).

(24) Lit., ‘and reduced towards another place’.

(25) Lit., ‘hear’, sc. the lesser limit is extended to the length of the greater one. As the measuring rope must be stretched to its utmost capacity so as to cover the maximum length possible it is assumed that the deficiency in the lesser limit is due to all insufficient stretching of the rope.

(26) This is explained in the Gemara infra.

(27) Of Sabbath limits.

Talmud - Mas. Eiruvin 59a

GEMARA. Is[1] THE EXTENDED LIMIT only observed[2] but not the reduced limit?[3] — Read: Even as far as the extended limit.[4]

IF THERE WAS A GREATER DISTANCE FOR ONE AND A LESSER DISTANCE FOR ANOTHER etc. What need again was there for this rule? Is it not practically identical with the previous one?[5] — It is this that was meant: If one surveyor extended the limit and another reduced it, the one whose limit is the greater is to be obeyed. Abaye added: Provided the extended limit[6] does not exceed the lesser one by more than the difference between the diagonal and a side of the town.[7]

SINCE THE SAGES DID NOT ENACT THE LAW IN ORDER TO ADD RESTRICTIONS BUT IN ORDER TO RELAX THEM. But was it not taught: The Sages did not enact the law in order to relax restrictions but in order to impose them? — Rabina replied. The meaning[8] is: Not to relax restrictions in connection with Pentateuchal laws but to add restrictions to them; the laws of the Sabbath limits, however, are only Rabbinical.[9]

MISHNAH. IF A TOWN THAT BELONGED TO AN INDIVIDUAL WAS CONVERTED INTO ONE BELONGING TO MANY,[10] ONE ‘ERUB MAY BE PROVIDED FOR ALL THE TOWN;[11] BUT IF A TOWN BELONGED TO MANY AND WAS CONVERTED INTO ONE BELONGING TO AN INDIVIDUAL, NO SINGLE ‘ERUB MAY BE PROVIDED FOR ALL THE TOWN[12] UNLESS A SECTION OF IT OF THE SIZE OF THE TOWN OF HADASHAH[13] IN JUDEA, WHICH CONTAINS FIFTY RESIDENTS, IS EXCLUDED;[14] SO R. JUDAH. R. SIMEON RULED: THREE COURTYARDS EACH OF WHICH CONTAINED TWO HOUSES.

GEMARA. How is one to imagine A TOWN THAT BELONGED TO AN INDIVIDUAL AND WAS CONVERTED INTO ONE BELONGING TO MANY?- Rab Judah replied: The residential district,[15] for instance, of the Exilarch. Said R. Nahman to him: What is your reason?[16] If it be suggested: Because many people meet at the seat of authority[17] they would remind each other,[18] are not all Israel [it may be objected] assembled together on a Sabbath morning also?[19] — Rather said R. Nahman: The private town, for instance, of Nitzwoi.[20]

Our Rabbis taught: If a town belonging to an individual was converted into one belonging to many, and a public domain[21] passed through it, how is an ‘erub to be provided for it? A side post or a cross-bean, is fixed on either side[22] and thereby one is enabled to move things about in the space between them.[23] No erub, however, may be provided for a half of it,[24] but either one erub for all of it or one ‘erub for each alley separately.[25] If a town did, and still does belong to many

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(1) Since the Mishnah ruled: ‘THE EXTENDED LIMIT IS OBSERVED’.

(2) Lit., , ‘yes’.

(3) Is this likely? If it is permitted to walk the greater distance is it possible that the lesser one should be forbidden?

(4) Sc. the lesser limit (cf. nn. on our Mishnah) is extended to that of the greater one.

(5) IF ONE EXTENDED THE LIMIT AT ONE POINT MORE THAN AT ANOTHER.

(6) Where it exceeded the difference between the measurements by a taut and a sagging rope.

(7) In such a case it is possible to assume that one surveyor erroneously measured the perpendicular from the side while the other properly measured diagonally (v. supra 58b); cf. Rashi s.v. שלא and cf. Tosaf. s.v. למקום a.l.

(8) Of the Baraitha just cited.

(9) Which may well be relaxed (cf. supra 36a. Sotah 30b). Hence the statement in our Mishnah.

(10) I.e., belonging to one individual from which all the inhabitants hold their houses in tenancy. The whole town is, therefore, treated like one huge courtyard.

(11) As was the case before it has changed its character. The entire town is treated as one large courtyard, no independent provision being required for its alleys. This, as will be explained infra, applies to a town that has no public domain sixteen cubits in width.

(12) Though before it changed its character one ‘erub served for the whole town.

(13) V. Josh. XV, 37.

(14) From the benefits of the general ‘erub, and a separate ‘erub is provided for it. This exclusion serves as a reminder of the former public character of the town and provides the necessary precaution in case the town is re-converted into one belonging to many when separate provision would have to be made for each individual alley.

(15) [Daskarta from the Persian "das’ = district, and Aramaic ‘Kartha’ = city; v. Obermeyer p. 146.]

(16) For instancing just the Exilarch's town.

(17) Harmana, metaph. for the Exilarch's office.

(18) Of the real character of the town and would not be likely, in consequence, to mistake the difference between a public town and a private one.

(19) For public worship or study.

(20) MS.M., ‘Nishwor’, a certain individual who owned a town; and the same law applies to any town in private ownership that was converted into one belonging to many.

(21) A road sixteen cubits wide.

(22) Of the public domain.

(23) This applies only to a town that had no wall round it so that the two ends of the public domain terminated in the open country. Hence It is only in the case of a town that was originally in private ownership that the contrivances mentioned are sufficient. In the case of one that always belonged to the public such contrivances are invalid, all the town's alleys being subject to restrictions similar to those of the public domain.

(24) Since originally it constituted one domain it cannot now be broken up into two independent domains. The inhabitants of the one half (like the residents in one of the courtyards of an alley who failed to participate in the ‘erub of the other courtyards that cause the entire alley to be forbidden to all) cause the entire town to be forbidden to all.

(25) The objection will be raised infra as to why (cf. prev. n.) the alleys do not cause one another to be forbidden to all.

Talmud - Mas. Eiruvin 59b

but[1] had only one gate,[2] a single ‘erub suffices for all of it. Who is it that learned that a public domain may thus be provided with an ‘erub? — R. Huna son of R. Joshua replied: It is R. Judah; for it was taught: ‘A more lenient rule than this did R. Judah lay down: If a man had two houses on the two sides respectively of a public domain he may construct one side-post on one side of any of the houses and another on the other side, or one cross-beam on the one side of any of the houses and another on its other side and then he may move things about in the space between them; but they said to him: A public domain cannot be provided with an ‘erub in such a manner’.[3]

The Master said: ‘No ‘erub, furthermore, may be provided for a half of it’. R. Papa explained: This was said only [in the case where the division was] longitudinal[4] but if it was crosswise[5] an ‘erub may be provided for each half separately. In agreement with whose view has this[6] been laid down? It is contrary to that of R. Akiba, for if it were suggested that it was in agreement with his view [the objection would arise:] Did he not rule: A man[7] who is permitted freedom of movement in his own place[8] causes the restriction of free movement on others[9] in[10] a place that is not his?[11] — It[6] may be said to be in agreement even with the view of R. Akiba, since he maintained his view only there where it was a case of two courtyards one of which was behind[12] the other so that the inner one had no other door,[13] but not here where the inhabitants in the one half could gain egress through one gate while those in the other half could gain egress through the other.

Some there are who read: R. Papa explained: It must not be assumed [that only where the division was] longitudinal[14] may no ‘erub be prepared[15] but that where it was crosswise[16] an ‘erub may be prepared.[15] The fact is that even where the division was crosswise no ‘erub may be prepared.[15] In agreement with whose view is this[17] laid down? Is it only in agreement with that of R. Akiba?[18] — It[17] may be said to be in agreement even with the view of the Rabbis, since they maintained their view[19] there only where it is a case of two courtyards one behind[20] the other so that the inner one can well lock its gate and use [its own area only].[21] but can the public domain here be shifted from its place?[22]

The Master said: ‘Either one ‘erub for all of it or one ‘erub for each alley separately’. Now why is no separate ‘erub allowed for either half? Obviously because they would cause one another to be forbidden;[23] but then would not the various alleys also[24] cause one another to be forbidden?[25] — Here we are dealing with a case where a barrier was provided,[26] and this ruling is in harmony with the following one that was laid down by R. Idi b. Abin in the name of R. Hisda: Any of the residents of an alley who had made a barrier to his courtyard entrance[27] can no longer[28] impose any restrictions on the freedom of movement of the other residents of the alley.

BUT IF A TOWN BELONGED TO MANY AND WAS CONVERTED etc. R. Zera provided an ‘erub for R. Hiyya's town[29] and left no section out [of its provision]. Said Abaye to him, ‘Why did the Master act in this manner?’[30] ‘Its elders’, the other replied: ‘told me that R. Hiyya b. Assi used to provide one ‘erub for all the town and I have, therefore, concluded that it must have been a town that once belonged to a single owner and was later converted into one belonging to many’.[31] ‘The same elders’, the first retorted, told me: "It formerly had a rubbish heap on one side";[32] but now that the rubbish heap has been removed the town must be regarded as possessing two gates in which [the preparation of a single ‘erub only] is forbidden’. ‘I’, the other admitted, ‘was not aware of this’.

R.[33] Ammi b. Adda of Harpania enquired of Rabbah,[34] ‘What is the ruling where a town had a ladder[35] on one side and a gate on the other?’[36] — ‘Thus’, the other replied, said Rab, ‘A ladder has the legal status of a door’. ‘Do not pay heed to him’, exclaimed R. Nahman, ‘thus ruled R. Adda b. Ahabah[37] in the name of Rab:[38] "A ladder has sometimes the status of a door and sometimes that of a wall". It has the status of a wall[39] as has just been laid down;[40] and it has the status of a door where a ladder[41] is put up between two courtyards[42] in which case the residents, if they wish, may[43] provide only one ‘erub,[44] and if they prefer, they may provide two separate ‘erubs’.[45]

Could R. Nahman, however, have made such a statement?[46] Did not R. Nahman in fact lay down in the name of Samuel: If the residents of a courtyard and those of a balcony[47] above it forgot

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(1) Being enclosed on all sides.

(2) Thus being short of the requirements of a public domain which must be wide open at both its ends.

(3) Supra 6af q.v. notes.

(4) Sc. if the division was made along the public domain which ran through the entire length of the town, from gate to gate, and divided it into two longitudinal halves. As the public domain is used by the inhabitants on both sides it forms a link between the two halves of the town and combines them into one inseparable unit.

(5) Sc. it cut the town into two halves across the middle of the public domain and left for either half of the town a half of the public domain with the gate at its end, so that it was possible for the inhabitants of either half to use their own gate as entrance and exit and to avoid entirely the use of the public domain in the other half of the town.

(6) R. Papa's ruling.

(7) Lit., ‘foot’, hence a man's right of passage.

(8) Sc. in his own courtyard where a valid ‘erub had been prepared.

(9) Even though they also prepared the prescribed ‘erub.

(10) Cur. edd. insert ‘even’ which is deleted by Rashi and others.

(11) Infra 75a. Sc. in an outer courtyard in which he did not reside but in which he was entitled to the right of passage by virtue of his residence in an inner courtyard whose one and only door opened out into it. Now, since according to R. Akiba the residents of the inner courtyard, on account of their right of passage through the outer one, impose restrictions on the free movement of its residents, the inhabitants of the two halves of the town under discussion should likewise, according to R. Akiba, impose upon one another the restrictions of free movement, since each of them is also entitled to a right of passage through the public domain that passed through the other half of the town in which he did not reside. As no such restrictions, however, are imposed, must R. Papa's ruling be said to be contrary to R. Akiba's view?

(12) Lit., ‘within’.

(13) But the one that opened into the outer courtyard. As no other door was available to them, the residents of the inner courtyard must perforce use the outer courtyard as their only passage to the street and, by this right of entry, must restrict the freedom of movement of its residents.

(14) V. supra p. 414, n. 2.

(15) By the inhabitants of each half town separately.

(16) V. supra p. 414, n. 3.

(17) R. Papa's ruling.

(18) Cf. prev. nn. Is it likely, however, that R. Papa would lay down a ruling that was contrary to the opinion of the majority of the Rabbis who differed from R. Akiba?

(19) That where each courtyard had prepared a separate ‘erub the residents of the inner one, despite their right of passage through the outer one, do not restrict the freedom of movement of its residents.

(20) Lit., , ‘within’.

(21) In the interests of the residents of the outer courtyard the inner ones might well be expected to forego their right of passage for that one day.

(22) Of course not. As it must remain where it is and there is no gate, fence or any other distinguishing mark to separate the one half of the town from the other, the two halves must be regarded as one unit and, therefore, no separate ‘erubs can be permitted.

(23) As was explained supra.

(24) Since originally when the town belonged to one owner they were allowed free movement between each other.

(25) Despite the side-posts or cross-beams.

(26) For the entrance to each alley, the residents thereby indicating that they desired to sever all connection between their previously united alleys.

(27) Thus indicating his desire to be dissociated from his neighbours.

(28) By failing to join them in their ‘erub.

(29) Which belonged to many.

(30) Sc. why did he not exclude at least a section OF THE SIZE OF THE TOWN OF HADASHAH?

(31) In which case ONE ‘ERUB MAY BE PROVIDED FOR ALL THE TOWN.

(32) As the heap blocked up one of the gates all the town, which was thus left with one gate only, could well be provided (as laid down supra) with a single ‘erub.

(33) Wanting in MS.M.

(34) MS.M. adds: ‘b. Abbuha’.

(35) Whereby the town wall could be scaled.

(36) Is the town to be treated as having two gates?

(37) So Bah. Cur. edd. omit the last two words.

(38) MS.M. omits, ‘in the ... Rab’.

(39) I.e., it is not regarded as a door.

(40) By R. Nahman, where the ladder was used as a means of entrance into, and exit from the town.

(41) Four handbreadths wide.

(42) Which had no door between them.

(43) As in the case of two courtyards between which a door communicated (cf. infra 76a).

(44) For both courtyards; and all the residents are, thereby, permitted to use both courtyards by way of the trip of the wall or through any holes or cracks in the wall.

(45) One for each courtyard, and the residents of the one do not in any way affect the freedom of movement of the other, each courtyard being regarded as a separate domain.

(46) That a ladder has the status of a wall where such status leads to a relaxation of the law.

(47) Marpeseth, a balcony or gallery to which the doors of the dwellings of an upper storey open and which communicates with the courtyard below by means of a ladder.

Talmud - Mas. Eiruvin 60a

to prepare an 'erub[1] the latter does not restrict freedom of movement in the former if a barrier, four handbreadths in height, intervened between them,[2] otherwise it does impose a restriction?[3] — Here we are dealing with a case where the balcony was less than ten handbreadths high.[4] But if the balcony was less than ten handbreadths high[5] what is the use of making a barrier?[6] — This is a case where it was enclosed [all along its length] up to ten cubits,[7] so that if it was provided with a barrier they may be deemed to be entirely removed from there.[8]

Rab Judah citing Samuel ruled: If a wall[9] was lined with ladders,[10] even though they extended to a greater length than ten cubits, it nevertheless retains the status of a wall.[11] R. Berona pointed out to Rab Judah the following incongruity at the schoolhouse[12] of R. Hanina:[13] Could Samuel have ruled that 'it nevertheless retains the status of a wall',[14] seeing that R. Nahman citing Samuel ruled: If the residents of a balcony and those of a courtyard[15] forgot to prepare a joint 'erub they do not impose any restrictions upon one another if there was a barrier of four handbreadths between them, otherwise they do impose restrictions upon one another?[16] — Here we are dealing with a case where the balcony was less than ten handbreadths high.[17] But if the balcony is 'less than ten handbreadths high' what is the use of making a barrier? This is a case where it was enclosed [all along its length] up to ten cubits, so that if a barrier is provided they may be deemed to be completely removed from that place.[18]

Some of the men of Kekunai[19] once came to R. Joseph and said to him, 'Send with us a man who might prepare an 'erub for our town'.[20] 'Go', he said to Abaye, 'and prepare the 'erub for them but see that there is no outcry against it at the schoolhouse'.[21] Proceeding thither he observed that certain houses opened on to the river.[22] 'These',[23] he said: 'might serve as the excluded section[24] of the town'. Changing his mind he said: 'We learned: NO SINGLE 'ERUB MAY BE PROVIDED FOR ALL THE TOWN, from which it follows that if it were desired,[25] they could all join in one 'erub'.[26] I would, however, provide for then, windows,[27] so that if desired they could be joined in the general 'erub" of the town through those windows'.[28] Then he said: 'This[29] is not necessary, since Rabbah b. Abbuha in fact provided separate erubs for each row of alleys throughout all Mahuza on account of the cattle ditches that intervened between the rows,[30] where[31] each row served as the statutory excluded section for the other[32] though these could not join one another in a common 'erub even if they had wished to do so'.[33] Then again he said: 'The two cases[34] are really' unlike, since there[35] one could if desired prepare the 'erub by way of roofs[36] while these[37] could not possibly join in one general 'erub: consequently let us provide for them windows'. Finally, however, he said: 'Windows are not necessary either, for Mar b. Pupidetha of Pumbeditha had a store of straw which[38] he set aside for Pumbeditha as the statutory section that was to be excluded'.[39] 'It is on account of this [group of houses]'. Abaye remarked: 'that the Master warned me: See that there is no outcry against it at the schoolhouse'.[40]

UNLESS A SECTION OF IT OF THE SIZE OF THE TOWN OF HADASHAH . . . IS EXCLUDED. It was taught: R. Judah related, 'There was a town in Judea whose name was Hadashah which had fifty inhabitants, men, women and children, by means of which the Sages determined [the statutory size of the sections to be excluded];[41] and this town itself served as the excluded section [of a larger town].[42]

The question was raised: What was the procedure in Hadashah itself?[43] — Since Hadashah served as the excluded section of the large town[42] the latter also obviously served as the excluded section of the smaller town; the question rather is: What is the procedure[44] in a town that is similar in size to Hadashah?[45] — R. Huna and Rab Judah differ on this point — One holds that a section of it must be excluded while the other maintains that none need be excluded.

R. SIMEON RULED: THREE COURTYARDS etc. R. Hama b. Goria citing Rab stated: The halachah is in agreement with R. Simeon. R. Isaac ruled: Even one house and one courtyard [are sufficient].[46] 'One courtyard'! Is this conceivable?[47] — Rather say: One house in one courtyard. Said Abaye to R. Joseph: 'Is that ruling of R. Isaac a tradition or a logical deduction?' — ' What', the other retorted: 'does this matter to us?' — 'Is then', the first replied. 'the study of Gemara to be a mere sing-song?'[48]

MISHNAH. IF A MAN WHO WAS[49] IN THE EAST[50] INSTRUCTED HIS SON,[51] 'PREPARE FOR ME AN 'ERUB[51] IN THE WEST',[52] OR IF HE WAS IN THE WEST[52] AND HE INSTRUCTED HIS SON[51] 'PREPARE FOR ME AN 'ERUB[51] IN THE EAST',[52] IF THE DISTANCE BETWEEN HIM AND HIS HOUSE WAS NO MORE THAN TWO THOUSAND CUBITS[53] AND THAT BETWEEN HIM AND HIS 'ERUB WAS MORE THAN THIS, HE IS PERMITTED TO PROCEED TO HIS HOUSE[54] BUT FORBIDDEN TO PROCEED TO HIS 'ERUB.[55] IF THE DISTANCE TO HIS 'ERUB WAS NO MORE THAN TWO THOUSAND CUBITS AND THAT TO HIS HOUSE MORE THAN THIS, HE IS FORBIDDEN TO PROCEED TO HIS HOUSE[56] BUT PERMITTED TO PROCEED TO HIS 'ERUB.[57] IF A MAN DEPOSITS HIS 'ERUB WITHIN THE [SABBATIC] EXTENSION OF A TOWN,[58] HIS ACT IS OF NO CONSEQUENCE.[59] IF HE DEPOSITED IT EVEN ONE CUBIT ONLY BEYOND THE Limit[60]

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(1) Jointly for the balcony and the courtyard, but each was provided with a separate 'erub.

(2) Lit., 'before them', sc. at the foot of the ladder. The door forms a partition between the two courtyards so that the residents of the one can in no way affect those of the other.

(3) As if the ladder were a proper door communicating between the balcony above and the courtyards below. From this it follows that, according to R. Nahman, a ladder has the status of a door where such status leads to a restriction of the law; how then could it be said supra that he held a ladder to have the status of a wall where the law is thereby relaxed?

(4) It is in such a case only that a ladder cannot be regarded as a wall whereby the law might be relaxed.

(5) And consequently fully open to the courtyard.

(6) Balcony and courtyard, being so close to each other, would be like two courtyards between which no wall intervened which cannot be separated from each other in their 'erub arrangements.

(7) I.e., leaving only a gap not exceeding ten cubits as a doorway.

(8) I.e., the residents of the balcony and courtyard respectively may be deemed as having withdrawn themselves from the use of each other's domain. In the absence of such a barrier, however, the balcony, owing to its close proximity to the courtyard below, and its two cubits doorway, must inevitably be regarded as forming one domain with that courtyard even though the law must be restricted as a consequence.

(9) Between two courtyards.

(10) Sc. a number of ladders were placed against the wall, one next to the other.

(11) The ladders, though they afford access from one courtyard into the other, are not necessarily regarded as a breach of more than ten cubits that causes the two courtyards to be regarded as one requiring a joint 'erub, but can also be treated, if it is so desired, as a wall separating the two domains necessitating an 'erub for each domain (Rashi).

(12) Aliter: press-room.

(13) Var. lec. 'Sata' (MS.M.) 'bar Senina' (Bomb. ed.).

(14) Sc, that the law is not restricted to deprive a wall of its status on account of a ladder that was placed against it.

(15) Situated in close proximity below the former.

(16) Since the height of the balcony was not stated the ruling presumably applies also to one that was ten handbreadths high and that had the status of a wall; which shows that a ladder (the usual means of communication between balcony and courtyard) does deprive a wall of its status and imparts to it the character of one that has a door in it.

(17) So that even in the absence of thee ladder it could not be regarded as a valid wall.

(18) V. supra p. 418, nn. 1-2.

(19) Or ‘Korkunia’; identified with Kirkesium or Circesium on the Euphrates.

(20) Which belonged originally to one man and was now the possession of many.

(21) On account of the requirement for a certain section to be excluded from the provisions of the general ‘erub of the town (cf. our Mishnah).

(22) That flowed behind the town, the houses having possessed no other doors opening towards the town.

(23) Which, owing to the position of the doors, could not in any case be included in the general ‘erub of the town.

(24) Lit., ‘remainder’.

(25) To include those that were once excluded, and to exclude instead other houses.

(26) As the houses by the river, however, could not in any case be included (cf. supra n. 6) in the town's ‘erub they could not obviously be set aside as the statutory section to be excluded.

(27) That will face the town, and the size of each of which would be four handbreadths by four.

(28) And consequently night well serve also as the statutory section to be excluded.

(29) The provision of windows.

(30) Supra, 26a q.v. diagram and notes.

(31) Since many alleys in each row were allowed to join in one erub despite the fact that the town that belonged to one man belonged once to many.

(32) For if that had not been the case each alley would have required a separate ‘erub to itself and a side-post air cross-beam.

(33) On account of intervening cattle ditches which cut off the approaches between the various rows. Similarly in the case of the houses by the river, though they could not he included in the provision of the general ‘erub of the town, they might we;; serve as the statutory section to be excluded.

(34) The houses by the river and the rows of alleys that were separated by the cattle ditches.

(35) The last mentioned (v. prev. n.).

(36) Connected by balconies with one another.

(37) In the absence of the windows mentioned.

(38) Since (as laid down infra) the halachah is in agreement with R. Simeon that it is not necessary to exclude fifty tenants.

(39) As the exclusion of this store-house satisfied the statutory requirements so should the houses by the river.

(40) [Had he insisted on the people providing this group of houses with windows unnecessarily, he would have raised an outcry; v. Tosaf. הייני].

(41) Cf. our Mishnah.

(42) In its vicinity.

(43) Sc. could all the inhabitants of Hadashah join in one ‘erub?

(44) Cf. prev. n. mut. mut.

(45) But which, unlike Hadashah, was not near to a large town.

(46) To constitute the statutory section.

(47) A courtyard without a house, surely, could not be regarded is a dwelling.

(48) A monotonous droning where no one is interested in sources or origins.

(49) At the time the Sabbath had set in.

(50) Sc. in the open country in an easterly direction from his house or HIS SON (v. Gemara infra).

(51) Prior to the commencement of the Sabbath.

(52) Cf. supra n. 5.

(53) The permitted Sabbath limit.

(54) Sc. his house, with whose Sabbath limit he was when the Sabbath had begun is regarded as the place of his Sabbath rest from where he is entitled to walk distances of two thousand cubits in all directions.

(55) Because at the time the Sabbath had begun he was more than a Sabbath limit away from it (cf. prev. n. mut. mut.). The place of an ‘erub which one is unable to reach during the Sabbath between this be regarded as one's place of Sabbath rest. (On the distinction between this else and the one supra 50b, v. Rashi a.l.).

(56) Cf. prev. n. mut. mut.

(57) Cf. supra n. 9, mut. mut.

(58) I.e., within the area of seventy and two thirds cubits around the town from which the two thousand cubits of the Sabbath limit are measured.

(59) Lit., ‘he has not done anything’, since in the absence of the ‘erub also he (cf. prev. n.) is permitted to move within that area as well as a Sabbath limit of two thousand cubits beyond it in all directions on any side of the town; while all the town itself is in this respect regarded as an area of no more than four cubits by four within which its inhabitants may freely move in addition to the limits mentioned.

(60) I.e., , (cf. Gemara infra) beyond the Sabbatic extension of seventy and two thirds cubits around the town.

Talmud - Mas. Eiruvin 60b

HE LOSES[1] WHAT HE GAINS.[2]

GEMARA. Assuming that EAST[3] means the east side of his house and that WEST[3] means the west of his house,[4] one can well understand how it is possible that THE DISTANCE BETWEEN HIM AND HIS HOUSE WAS NO MORE THAN TWO THOUSAND CUBITS AND THAT BETWEEN HIM AND HIS ERUB WAS MORE THAN THIS, since he would reach his house before he could[5] reach his ‘erub, but how is it possible that THE DISTANCE between him and HIS ‘ERUB should be NO MORE THAN TWO THOUSAND CUBITS AND THAT TO HIS HOUSE MORE THAN THIS? — R. Isaac replied: Do you think that EAST[3] means east of his house and WEST[3] the west of his house? The meaning in fact is not so; EAST denotes the east of the position of HIS SON and WEST denotes the west position of HIS SON.[6] Raba son of R. Shila[7] replied: One may even explain EAST as the east of his house and WEST as the west of his house where, for instance, his house stood in a diagonal direction.[8]

IF A MAN DEPOSITS HIS ‘ERUB WITHIN THE [SABBATIC] EXTENSION etc. How can you possibly assume that an ‘erub would be deposited BEYOND THE LIMIT?[9] — Rather read: Outside the Sabbatic extension.[10]

HE LOSES WHAT HE GAINS. Only WHAT HE GAINS and no more? Was it not in fact taught: If a man deposits his ‘erub within the [Sabbatic] extension of a town, his act is of no consequence. If he deposited it even one cubit only beyond the [Sabbatic] extension of the town, he gains that cubit[11] and loses all the town[12] because the extent of the town is included in the extent of the Sabbath limit?[13] — This is no difficulty, since the latter refers to a case where his measure[14] terminated within the town,[15] while the former deals with one where his measure terminated at the far end of the town;[16] this being in agreement with a ruling of R. Idi who laid down in the name of R. Joshua b. Levi: If a man[17] was measuring [the two thousand cubits distance from his acquired Sabbath abode] and advancing towards a town, and his measure[18] terminated in the middle of the town he is allowed to proceed no further than half the town, but if his measure terminated at the far end of the town,[19] all the town, as far as he is concerned, is regarded as four cubits and the remainder of the Sabbath limit[20] may be made up for him.[21] These,[22] exclaimed R. Idi, are nought but prophetic utterances;[23] for what is the difference whether the measure terminated in the middle of the town or at the end?[24] — Said Raba: We have learnt[25] both these cases: The people of a large town may walk through the whole of a small town,[26]

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(1) In one direction of the town.

(2) In the other direction. If the ‘erub, for instance, was deposited at a distance of one thousand cubits in an easterly direction of the town the man, since the ‘erub entitles him to walk distances of two thousand cubits from it in all directions, is entitled to walk a total distance of (1000 + 2000 =) 3000 cubits from the town in an easterly direction but only one thousand cubits in the westerly direction. The entire area of the town itself, as mentioned supra is, in this respect regarded as no bigger than four cubits by four and, in consequence, is not to be deducted from the extent of the permitted limits.

(3) So MS.M. (agreeing with the reading in our Mishnah). Cur. edd. here add lamed, ‘to the’.

(4) The house being situated between him on the one side of it and his son on the opposite side.

(5) Lit.,’and not’.

(6) The position of his house, however, may well have been much further away than that of his ‘erub.

(7) MS.M., ‘Rabbah b. Shila’.

(8) In relation to him and his ‘erub.

(9) Such an ‘erub, which is unapproachable on the Sabbath, would surely be useless.

(10) Of seventy and two thirds cubits around the town. Cf. relevant note on our Mishnah.

(11) On the side of the town where the ‘erub was deposited.

(12) When the Sabbath limit from the ‘erub across the town in the opposite direction (cf. prev. n.) is measured, [the town is included in tile extent of the Sabbath limit].

(13) And deducted from it. How then is this to be reconciled with our Mishnah?

(14) Of the two thousand cubits prescribed for a Sabbath limit.

(15) Either because the town was very big or because the ‘erub lay at a considerable distance from it. In such a case only is the town included in the extent of the Sabbath limit and the man is forbidden to move beyond the far side of the town.

(16) In this case all the town is regarded as being no bigger than four cubits by four, and the Sabbath limit is extended beyond the town to a distance of two thousand cubits minus the distance between the ‘erub and the side of the town near it.

(17) Who was overtaken by dusk underway and, being unaware of tie proximity of a town, had acquired his Sabbath abode at the spot where he happened to be at the time the Sabbath had set in (cf. supra 45a); (and the same law applies to a man who deposited an ‘erub outside his own town).

(18) V. p. 423, n. 7.

(19) Sc. the end opposite the one that was near his ‘erub.

(20) The difference between two thousand cubits and the distance of the ‘erub from the side of the town nearest to it.

(21) By extending the Sabbath limit beyond the far side of the town (cf. supra n. 3).

(22) n. Joshua b. Levi's rulings.

(23) Sheer imagination. V. however, Rash and Tosaf.

(24) Apparently none.

(25) Infra 61a.

(26) That was situated within its Sabbath limit. Now this must imply that the whole of the small town is regarded as no bigger than four cubits and that the remainder of the Sabbath limit may be made up by extending the limit beyond the far side of the small town, in agreement with R. Joshua b. Levi's second ruling.

Talmud - Mas. Eiruvin 61a

but the people of the small town may not walk through the whole of a large town.[1] Now what is the reason?[2] Obviously[3] because the measure of the latter terminated in the middle of the former town,[4] while that of the former terminated at the end of the latter town.[4] And R. Idi?[5] — He read in both cases[6] ‘The people may’[7] and expounded [the Mishnah cited] as referring to an ‘erub that one[8] deposited;[9] but of the case of one who was measuring,[10] we have there learnt nothing.[11] Have we not indeed? Did we not as a matter of fact learn: And to the measure[12] of whom the Rabbis have spoken a distance of two thousand cubits only is allowed even if the end of his permitted measure terminated within a cave?[13] — His[14] ruling was required in respect of a Sabbath limit that terminated at the far end of a town, a case of which we did not learn.[15]

R. Nahman stated: He who learns[16] ‘The people may’[17] is not in error, and he who learns ‘the people may not’[17] not in error. ‘He who learns "the people may" is not in error since he might explain it to refer to an ‘erub that one[18] had deposited;[19] while ‘he who learns "the people may not is not in error’ since he might explain that it refers to a case where the Sabbath limit was being measured,[18] and that a clause is missing [from the Mishnah] which should properly read thus: The people of a large town may walk through the whole of a small town[19] but the people of the small town may not walk through the whole of the large town.[20] This, however, applies only to a case where the Sabbath limit was being measured, but if a man stayed in a larger town and deposited his ‘erub in a smaller town[21] or if he stayed in a small town and deposited his ‘erub in a large town[21] he may walk through the whole of the town[22] and a distance of two thousand cubits beyond it.

R. Joseph citing Rami b. Abba who had it from R. Huna ruled: If a town was situated on the edge of a ravine, and[23] there was a barrier four cubits[24] in height in front of it, its Sabbath limit is measured from the edge of the ravine,[25] otherwise[26] measuring[27] must begin from the door of every inhabitant's house.[28] Said Abaye to him:[29] You told us in connection with this that the barrier must be four cubits in height; but why should this one be different from all other barriers whose prescribed height is only four handbreadths?[30] — There,[31] the other[29] replied, the use of the place involves no fear, but the use of the place here[32] does involve fear.[33]

Said R. Joseph, whence do I derive this ruling? From what was taught: Rabbi permitted the inhabitants of Gader to go down[34] to Hamethan but did not allow the inhabitants of Hamethan to go up to Gader.[35] Now what could have been the reason? Obviously, that the former[36] did put lip a barrier[37] while the latter[38] did not put up a barrier.[39]

When R. Dimi came[40] he explained: The people of Gader used to molest the people of Hamethan, and ‘permitted’[41] meant ordained’.[42] Then[43] why should Sabbath be different from other days? — Because intoxication is not uncommon on such a day. Would they[44] not molest them[45] when they come there?[46] — No; a dog in a strange town does not bark for seven years.[47] Now then,[48] might not the people of Hamethan molest those of Gader? — No; they[49] were not so submissive as all that.[50]

R. Safra explained: Gader[51] was a town that was built in the shape of a bow.[52] R. Dimi b. Hinena explained: The former[53] were the inhabitants of a large town while the latter were inhabitants of a small town.[54]

Thus[55] taught R. Kahana. R. Tabyomi, however, taught as follows: R. Safra and R. Dimi b. Hinena differ, one explaining that Gader[56] was a town built in the shape of a bow[57] while the other explains that the latter[58] were the inhabitants of a small town while the former were inhabitants of a large town.

MISHNAH. THE PEOPLE OF A LARGE TOWN MAY WALK[59] THROUGH THE WHOLE OF A SMALL TOWN,[60] AND THE PEOPLE OF A SMALL TOWN MAY[61] WALK[62] THROUGH THE WHOLE OF A LARGE TOWN.[60] HOW IS THIS [To BE UNDERSTOOD]? IF A MAN STAYED IN A LARGE TOWN AND DEPOSITED HIS ‘ERUB IN A SMALl TOWN[60] OR IF HE STAYED IN A SMALL TOWN AND DEPOSITED HIS ‘ERUB IN A LARGE TOWN,[60] HE MAY WALK THROUGH ALL THE TOWN AND TWO THOUSAND CUBITS BEYOND IT. R. AKIBA RULED: HE IS ALLOWED TO WALK NO FURTHER THAN TWO THOUSAND CUBITS FROM THE PLACE OF HIS ‘ERUB. SAID R. AKIBA TO THEM:[63] DO YOU NOT AGREE WITH ME THAT IF A MAN DEPOSITED HIS ‘ERUB IN A CAVE HE MAY WALK NO FURTHER THAN TWO THOUSAND CUBITS FROM THE PLACE OF HIS ‘ERUB? THEY[63] REPLIED: WHEN IS THIS THE CASE? ONLY WHERE NO PEOPLE DWELL THEREIN BUT WHERE PEOPLE DWELL THEREIN ONE MAY WALK THROUGH THE WHOLE OF IT AND TWO THOUSAND CUBITS BEYOND IT. THUS IT FOLLOWS THAT [WHERE AN ‘ERUB IS DEPOSITED] WITHIN IT THE LAW IS MORE LENIENT THAN [WHERE ONE IS DEPOSITED] ON THE TOP OF IT. AND TO THE MEASURER,[64] OF WHOM [THE RABBIS] HAVE SPOKEN A DISTANCE OF TWO THOUSAND CUBITS IS ALLOWED[65] EVEN IF THE END OF HIS [PERMITTED] MEASURE[66] TERMINATED WITHIN A CAVE.[67]

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(1) As if it were no bigger than four cubits. They may walk so far only as the termination of their Sabbath limit in whatever part of the town that may happen to be, in agreement with the first ruling of R. Joshua b. Levi.

(2) For the difference between the rights of the inhabitants of the large and those of the smaller town respectively.

(3) Lit., ‘not?’

(4) In agreement with the rulings of R. Joshua b. Levi (cf. supra nn. 10f).

(5) How, in view of the rulings in the Mishnah just cited, could he maintain that R. Joshua b. Levi's rulings are sheer imagination.

(6) The first and second clause of the Mishnah cited.

(7) Lit., ‘people, people’, sc. instead of reading ‘The people of the large town may . . . but the people of the small town may not’ etc. he reads: ‘The people . . . may’ in both clauses.

(8) Of the inhabitants of the large town.

(9) In the small town. As the man's ‘erub lay within the town the whole of it, as far as he is concerned, is rightly regarded as no bigger than four cubits.

(10) That spoken of by R. Joshua b. Levi.

(11) Hence R. Idi's exclamation.

(12) A man who measures the two thousand cubits distance from the place which he acquired as his Sabbath abode or in which he deposited his ‘erub.

(13) Supra 52b, Mishnah infra ad fin. The interior of a cave being presumably subject to the same law as the interior of a town, R. Joshua b. Levi's ruling in respect of the latter is obviously covered by the one relating to the former. An objection against R. Idi. Aliter: Why should R. Joshua R. Levi merely repeat a Mishnah?

(14) R. Joshua b. Levis.

(15) In the Mishnah. Hence also the justification of R. Idi's exclamation. (Cf. supra n. 8 ad fin).

(16) In the final clause of the Mishnah just discussed.

(17) Cf. supra n. 2.

(18) Sc. where no ‘erub had been deposited within either town, where in consequence the whole town cannot be regarded as four cubits in respect of the Sabbath limit, and where, as a result actual distances must be measured.

(19) Where the latter was situated entirely within the Sabbath limit of the former. If, for instance, the distance between the two towns was one thousand cubits and the smaller did not cover more than one thousand cubits the people of the larger town may walk through the whole of the smaller (which being within their Sabbath limit, is regarded as no bigger than four cubits) and another thousand cubits or more beyond it to complete their two thousand cubits Sabbath limit.

(20) Since the larger town (cf. prev. n.) is not entirely situated within their Sabbath limit. They may, therefore, walk the distance of a thousand cubits between the two towns and another thousand cubits, to complete their Sabbath limit, within the larger town itself, but no further.

(21) That was situated within the Sabbath limit of his own town.

(22) In which his ‘erub had been deposited.

(23) Lit., ‘if’.

(24) So MS.M. Cur. edd. omit ‘cubits’.

(25) Which is regarded as the boundary of the town.

(26) Lit., ‘and if not’, i.e., if no such partition was provided.

(27) Of the Sabbath limit of the town.

(28) All the town, in the absence of the partition, being regarded, for the reason to be given presently, as an occasional and irregular settlement which, in respect of Sabbath limits, cannot be treated as one unit of four cubits. Every house must be considered as a separate unit and the Sabbath limit of its tenants begins from that house.

(29) R. Joseph.

(30) V. supra 60b.

(31) In cases where a height of four handbreadths is enough.

(32) Owing to the steepness of the ravine.

(33) A higher barrier is consequently required.

(34) On the Sabbath.

(35) Tosef. ‘Er. IV.

(36) Being situated on the slope higher than Hamethan.

(37) Which connected all their houses into one town and thus enabled them to begin their Sabbath limit from the town boundary.

(38) Having been situated on a lower part of the slope.

(39) At the base of their slope, in consequence of which (cf. supra p. 426, n. 9) only the tenants of the few houses that were within the Sabbath limit of Gader could be permitted to go up to that town, but the tenants of all the other houses that were without that limit could not.

(40) From Palestine to Babylon.

(41) 'Rabbi permitted' etc. v. supra.

(42) Sc. It was an ordinance laid down by Rabbi that, while the people of Gader were allowed to visit Hamethan, the people of the latter town, for their own safety, shall not visit the former.

(43) If the ordinance had no bearing on the laws of Sabbath limits.

(44) The people of Gader.

(45) The Hamethan people.

(46) To Hamethan.

(47) Proverb. As visitors the Gaderites would not venture on a quarrel.

(48) If the Gaderites were at a disadvantage when at Hamethan.

(49) The people of Gader.

(50) Though the Gaderites, as visitors, would seek no quarrels at Hamethan, they would nevertheless defend themselves if attacked.

(51) So with R. Han., contra Rashi (cf. Tosaf. s.v. עיר a.l.).

(52) Whose ends were four thousand cubits apart. In such a case (cf. supra 55a) the Sabbath limit is measured from the imaginary chord of the bow. The limit of Gader consequently included Hamethan which was no more than two thousand cubits distant from the chord. The position of the latter town, however, whose limit terminated at the Gader chord which was more than two thousand cubits distant from the center of its arc, prevented its inhabitants from walking to Gader which thus lay beyond their Sabbath limit.

(53) The people of Gader.

(54) The Sabbath limit of Gader terminated at the far end of Hamethan (the smaller town) while the Sabbath limit of Hamethan terminated in the middle of the large town of Gader. As all Hamethan lay within the Sabbath limit of Gader the people of the latter town were permitted to traverse its whole area (as if all the town were no bigger than four cubits) and distances completing the permitted two thousand cubits beyond it. As part of Gader, on the other hand, was without the Sabbath limit of Hamethan the people of the latter town could walk only to the end of their Sabbath limit.

(55) Specifying the authorship of each of the two last mentioned explanations.

(56) V. p. 427, n. 18.

(57) V. p. 427, n. 19.

(58) The people of Hamethan.

(59) In addition to the distances of two thousand cubits in all directions.

(60) That was situated within its Sabbath limit.

(61) J.T., Alfasi and cur. edd. supra 60b read: 'but the people . . . may not'. Cf. also R. Nahman's justification of the alternative readings of our Mishnah.

(62) In addition to the distances of two thousand cubits in all directions.

(63) The Rabbis who differed from his view.

(64) Sc. a person who did not deposit his 'erub in the town in question but was measuring his way and advancing towards it from his home town or from a place where he had deposited his 'erub.

(65) But no more.

(66) Of two thousand cubits.

(67) And even if that cave was inhabited. Only in the previous case where the 'erub lay within the town or within the cave did the Rabbis regard the entire area of the town and cave respectively as no bigger than four cubits.

Talmud - Mas. Eiruvin 61b

GEMARA. Rab Judah laid down in the name of Samuel: If a man spent the Sabbath in a deserted[1] town,[2] he may, according to the Rabbis, walk through the whole of it[3] and two thousand cubits beyond it.[4] If, however, he deposited his 'erub in a deserted town[5] he is allowed no more than a distance of two thousand cubits from the place of his 'erub.[6] R. Eleazar laid down: Whether a man spent the Sabbath in a town or deposited in it his 'erub he is permitted[7] to walk through the whole of it and two thousand cubits beyond.

An objection was raised: SAID R. AKIBA TO THEM, DO YOU NOT AGREE WITH ME THAT IF A MAN DEPOSITED HIS ‘ERUB IN A CAVE HE MAY WALK NO FURTHER THAN TWO THOUSAND CUBITS FROM THE PLACE OF HIS ‘ERUB? THEY REPLIED: WHEN IS THIS THE CASE? ONLY WHEN NO PEOPLE DWELL THEREIN from which it is obvious, is it not, that where NO PEOPLE DWELL THEREIN they agree with him?[8] — By the expression.[9] NO PEOPLE DWELL THEREIN a place was meant that was unsuitable for dwelling.[10]

Come and hear: If a man spent the Sabbath in a town, even though it was as big as Antioch, [or if he spent the Sabbath] in a cave, though it was like the cave of Zedekiah the king of Judah.[11] he may walk through the whole of it and two thousand cubits beyond. Now[12] the town mentioned must be one that is in a condition similar to that of the ‘cave’, so that as the cave is one that is deserted[13] so must the town also be one that is deserted and yet[14] it was stated that only if a man spent the Sabbath in it is the law[15] applicable[16] but not where he only deposited his ‘erub in it. Now whose view could this[17] represent? If it be suggested: It is that of R. Akiba, the difficulty would arise: What was the point in speaking of a deserted town when the same ruling applies also to one that is inhabited.[18] Consequently[19] it must be said to represent the view of the Rabbis.[20] Now is not the reason for the ruling[21] that the man spent the Sabbath in it,[22] but if he had only deposited his ‘erub in it this ruling[21] would not have applied?[23] — Do not say that the ‘town’ mentioned must be one that is in a condition similar to that of the ‘cave’ but rather, the ‘cave must be one that is in a condition similar to that of the town; so that as the town is inhabited the cave also must be one that is inhabited; and this ruling[24] is that of R. Akiba who laid down: HE[25] IS ALLOWED TO WALK NO FURTHER THAN TWO THOUSAND CUBITS FROM THE PLACE OF HIS ‘ERUB, while in the case of one who had spent the Sabbath within the town he[26] agrees with the Rabbis.[27] But was it not stated: ‘Like the cave of Zedekiah’?[28] — Like the cave of Zedekiah [in one respect] but unlike the cave of Zedekiah [in another]. ‘Like the cave of Zedekiah’ in respect of its huge size,[29] ‘but unlike the cave of Zedekiah’ for whereas the latter[30] was deserted, the one referred to was[31] inhabited.

Mar Judah once came across the people of Mabrakta who were depositing their ‘erubs at the Be Agobar Synagogue.[32] ‘Penetrate’[33] he said to them, ‘further into its interior,[34] that you may be allowed to walk a greater distance’.[35] ‘Contentious man’, said Raba[36] to him, ‘in respect of the laws of ‘erub no one takes any notice of the ruling of R. Akiba’.[37]

CHAPTER VI

MISHNAH. IF A MAN LIVES IN A COURTYARD WITH A HEATHEN OR WITH ONE WHO DOES NOT ACKNOWLEDGE THE PRINCIPLE OF ERUB,[38] EITHER OF THEM[39] CAUSES HIM TO BE RESTRICTED IN THE USE OF THE COURTYARD.[40] R.[41] ELIEZER B. JACOB RULED: NEITHER[42] CAN RESTRICT HIM[43] UNLESS THERE ARE[44] TWO ISRAELITES[45] WHO[46] IMPOSE RESTRICTIONS UPON EACH OTHER.[47]

R. GAMALIEL[48] RELATED: A SADDUCEE ONCE LIVED WITH US IN THE SAME ALLEY IN JERUSALEM AND FATHER TOLD US:[49] ‘HASTEN AND CARRY OUT[50] ALL NECESSARY ARTICLES INTO THE ALLEY[51] BEFORE HE CARRIES OUT HIS[52] AND THEREBY IMPOSES RESTRICTIONS UPON YOU’.[53] R. JUDAH RELATED, [THE INSTRUCTION[54] WAS GIVEN] IN A DIFFERENT FORM:[55] HASTEN AND ATTEND[56] TO YOUR REQUIREMENTS IN THE ALLEY[57] BEFORE HE CARRIES OUT HIS ARTICLES AND THEREBY IMPOSES RESTRICTIONS UPON YOU’.[58]

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(1) Lit., ‘ruined’, ‘desolate’.

(2) No people lived in it but its wall was intact.

(3) . Since (cf. prev. n.) it was surrounded by a wall.

(4) This ruling is also applicable according to the view of R. Akiba, but the limitation ‘according to the Rabbis’, is due to the ruling that follows.

(5) But did not himself spend the Sabbath in it.

(6) Because, in the case of the deposit of an ‘erub, as explained supra, the Rabbis draw a distinction between all inhabited town and a deserted one. Only in the former case is the entire area of the town regarded as no bigger than four cubits. R. Akiba, however, (cf. supra n. 9) differs from their view and regards even an inhabited town as they do a deserted one.

(7) According to the Rabbis.

(8) That Only two thousand cubits are allowed. How then could R. Eleazar maintain that the Rabbis conferred the same rights whether an ‘erub was put in an inhabited or in a deserted place?

(9) Lit., ‘what’.

(10) Sc. one that had no walls around it.

(11) Through which he attempted his escape (cf. Jer. LII, 7) and which is said to extend from Jerusalem to the plain of Jericho.

(12) Since ‘town’ and ‘cave’ were mentioned in the same context.

(13) No people presumably living in such a huge subterranean cave. Aliter: No people would be allowed to live in a royal cave (cf. Rashi s.v. ואין a.l.).

(14) Despite its possession of walls. In the absence of walls no one would have allowed the man to walk through the whole of its area in addition to the two thousand cubits beyond it.

(15) That in addition to the permitted Sabbath limit of two thousand cubits one may also walk through the whole of its area.

(16) Lit., ‘yes’.

(17) That the privilege (cf. supra n. 9) is restricted to the case of actual Stay in the town and does not extend to that of an ‘erub deposited in it.

(18) R. Akiba having ruled that even where a man deposited his ‘erub in an inhabited town he may walk no further than two thousand cubits.

(19) Since a distinction is made between a deserted, and an inhabited town.

(20) Who accordingly agree that if an ‘erub was deposited in a deserted town the privilege (cf. supra p. 430, n. 9) does not apply.

(21) V. p. 430, n. 9.

(22) Lit., ‘yes’.

(23) How then could R. Eleazar maintain that according to the Rabbis no distinction is made between an inhabited town and a deserted one?

(24) V. Supra p. 430, n. 11.

(25) The man who deposited his ‘erub in a certain town wherein he did not spend the Sabbath.

(26) R. Akiba.

(27) V. loc. cit. n. 9.

(28) V. p. 430, n. 7.

(29) Lit., ‘big’.

(30) Lit., ‘there’.

(31) Lit., ‘and here’.

(32) A large building situated within the Sabbath limit of Mabrakta. The people of the town, relying on the ruling of the Rabbis, who allowed two thousand cubits in addition to the whole area with the walls surrounding the place of the ‘erub, put their ‘erub anywhere within the building. [On the Abe Gobar synagogue, v. Ta'an., Sonc. ed., p. 6a. It was in the neighbourhood of Mahuza.]

(33) With the ‘erubs.

(34) Sc. the ‘erubs should be placed as far away from the town as possible.

(35) As the Sabbath limit of the town. This advice was given in accordance with R. Akiba's ruling that a man IS ALLOWED TO WALK NO FURTHER THAN TWO THOUSAND CUBITS FROM THE PLACE and not from the walls surrounding the place, OF HIS ‘ERUB.

(36) A similar expression against Mar Judah was used by Rabbah (cf. Kid. 58a).

(37) Since in the case of the ‘erub laws the halachah always rests with the author adopting the more lenient view.

(38) A Samaritan. Cf. Mishnah supra 31b.
(39) Lit., ‘behold this’.
(40) As he is not the only possessor of the courtyard he is forbidden to carry objects from his house into the courtyard or vice versa unless he has, before the commencement of the Sabbath, rented from his neighbour, for the duration of the Sabbath, the right the latter has in their common courtyard.
(41) In some of the separate editions of the Mishnah this is preceded by ‘So R. Meir.’
(42) Lit., ‘for ever’.
(43) In the use of the common courtyard.
(44) Besides the heathen or the Samaritan (v. n. 1).
(45) Living in houses in the same courtyard and thus having a share in it.
(46) Unless they properly joined together in the preparation of one ‘erub.
(47) Only in such circumstances does the right of a third tenant of the type mentioned, wherever that right has not been duly rented from him, restrict their use of the common courtyard. He cannot, however, impose any restrictions upon an Israelite if the latter and he are the only tenants. The reason is explained in the Gemara infra.
(48) On the identity of the bearer of this name v. Tosaf. s.v. אמר a.l.
(49) On a certain occasion when the Sadducee renounced his right to his share in the alley.
(50) Just before the Sabbath begins.
(51) In order to acquire by that act the Sadducee's share.
(52) And thereby acquires again the right he at first renounced.
(53) A Sadducee, according to this view, is not regarded as a heathen, whose right in a courtyard or an alley must be rented, but as a heretic Israelite who may renounce his right by a mere declaration, no renting of it being necessary. Since the Sadducee in question had received no rent it was within his power to withdraw his concession at any moment provided the other tenants had not acquired possession of the alley by carrying their articles into it. Hence the instruction to HASTEN the acquisition BEFORE the Sadducee had time to change his mind.
(54) Just quoted by R. Gamaliel.
(55) Lit., ‘in another language’.
(56) Before the Sabbath begins.
(57) I.e., ‘carry out all the objects in your house that you require to have in the alley during the Sabbath’.
(58) According to R. Judah, a Sadducee who renounced his right to his share without receiving any payment for it may withdraw his concession at any time even after the other tenants had, by the performance of some act, acquired possession of his share. As he might change his mind at any moment the other tenants (cf. prev. n.) had to carry out all they needed prior to the commencement of the Sabbath.

Talmud - Mas. Eiruvin 62a

GEMARA. Abaye b. Abin and R. Hinena b. Abin sat at their studies while Abaye was sitting with them, and in the course of their session they dealt with the following argument: It is quite possible to understand the view of R. Meir[1] since he may hold the opinion that a heathen's dwelling is legally a valid dwelling[2] and that no difference is to be made between one [Israelite tenant][3] and two [Israelite tenants].[4] What, however, could be the view of R. ELIEZER B. JACOB? If he is of the opinion that a heathen's dwelling is legally a valid dwelling,[2] restrictions[5] should be imposed even In the case of one Israelite tenant; and if he holds that it is legally no valid dwelling, no restrictions should be imposed[5] even in the case of two Israelite tenants![6] — Said Abaye to them: But does R. Meir hold that a heathen's dwelling is legally a valid dwelling? Was it not in fact taught: A heathen's courtyard[7] has the same status as a cattle-pen?[8] Rather say: All agree that a heathen's dwelling is legally no valid dwelling, but the point at issue between them[9] here is the question whether a law[10] had been instituted as a preventive measure against the possibility of an Israelite's learning to imitate his[11] deeds. R. Eliezer b. Jacob holds that, since a heathen is suspected of bloodshed,[12] a preventive measure has been enacted by the Rabbis in the case of two Israelites, who quite frequently live together with a heathen, but not in that of one Israelite who as a rule does not live together with a heathen,[13] while R. Meir holds that, since it may sometimes happen that one Israelite also should live with a heathen, the Rabbis have laid down: No ‘erub is effective where a heathen lives in the same courtyard, nor is the renunciation of one's right[14] effective where a heathen is concerned[15] unless that right has been let; but a heathen would not let his right.[16] What is the reason?[17] If it be suggested: Because he considers it possible that the other might take permanent possession of his share, the explanation would be satisfactory according to him who holds that the lease must be of a sound character;[18] what, however, could be said in explanation according to him who holds that only an imperfect lease is required?[19] For it was stated: R. Hisda ruled: The lease must be of a sound character and R. Shesheth ruled: It may be of an imperfect character only. What is meant by ‘imperfect’ and what is meant by ‘sound’? If it be suggested that ‘sound’ denotes a rental of a perutah[20] and ‘imperfect’ a rental that was less than a Perutah, the objection would arise: Is there any authority who upholds the View that [acquisition] from a heathen cannot be effected with less than a Perutah? Did not, as a matter of fact, R. Isaac son of R. Jacob b. Giyori send the following message in the name of R. Johanan, ‘Be it known to you that one can lease from a heathen even with less than a perutah’, and R. Hiyya b. Abba ruled in the name of R. Johanan, ‘A Noahide[21] would rather be killed than spend so much as a perutah[22] which is not returnable’?[23] — The fact is that ‘sound’ denotes a lease confirmed by legal documents and attested by officers,[24] and ‘imperfect’ denotes one that was neither confirmed by legal documents nor attested by officers. [Now,[25] I again submit:] ‘The explanation would be satisfactory according to him who holds that the lease must be of a sound character: what, however, could be said in explanation according to hint who holds that only an imperfect lease is required’?[26] Even in such a case[27] he[28] fears witchcraft[29] and does not let his share in the courtyard.

[To revert to] the main text,[30] A heathen's courtyard has the same status as a cattle-pen’ and it is, therefore, permitted[31] to carry things in and out, both from the courtyard into the houses and from the houses into the courtyard. But if only one Israelite[32] was a tenant there, he[33] does impose restrictions;[34] so R. Meir.[35] R. Eliezer b. Jacob ruled: No restrictions are ever imposed[36] unless there are also two Israelite tenants[37] who impose restrictions upon one another.[38]

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(1) Sc. the author of the first ruling of our Mishnah.

(2) With reference to Sabbath, hence his right to a share in the courtyard.

(3) Living in the courtyard with the heathen.

(4) v. prev. n. Hence his ruling that a heathen invariably restricts the use of a common courtyard irrespective of whether he has many Israelite neighbours or only one.

(5) In the use of the common courtyard.

(6) Since in either case, as far as Sabbath laws are concerned, he has no share in the courtyard; while the Israelites' shares are merged into one common domain by means of their 'erub.
(7) In certain circumstances, as will be explained infra.
(8) Tosef. 'Er. V. I.e., the tenancy by a heathen of a house that opens into a common courtyard is like a cattle-pen, and consequently does not restrict the movement of objects on the Sabbath from the houses into the courtyard, v. infra. Now since this ruling, as will be shown infra, represents the view of R. Meir, how could a contrary view be attributed to him here.
(9) R. Meir and R. Eliezer b. Jacob.
(10) Subjecting an Israelite to the necessity of renting the heathen's share every Sabbath eve.
(11) The heathen's.
(12) Cf. A.Z. 22a.
(13) Against something unusual no enactment was deemed necessary. Hence R. Eliezer b. Jacob's ruling that the restrictions applied to a courtyard in which no less than two Israelites were the heathen's neighbours.
(14) To a share.
(15) Lit., 'in the place of', i.e., a heathen's renunciation of his right to his share in the common courtyard has no validity.
(16) As the Israelite would in consequence be subjected every Sabbath to much inconvenience he would naturally move out of that courtyard at the earliest possible opportunity and, indirectly, he would thereby be saved from the evil influence of the heathen's questionable mode of life.
(17) That a heathen refuses to let his share.
(18) This will be explained presently.
(19) What possible objection could the heathen have to such a detective lease?
(20) V. Glos.
(21) Lit., 'a son of Noah', sc. any heathen.
(22) The smallest coin (v. Glos.). Lit., 'for less than the value of a perutah.'
(23) Yeb. 47b, A.Z. 71a; which shows that in respect of a heathen a transaction involving less than a Perutah has the same validity as one involving a Perutah. How then is 'imperfect' and 'sound' to be understood?
(24) Aliter: A lease is sound if made legal by sureties and (countersigned) by officers (Jast.). Aliter: A lease of a courtyard is sound if connected with the privilege of placing in the yard chairs and seats (cf. Rashi a.l. and Jast.).
(25) Having disposed of the definition of 'sound' and 'imperfect'.
(26) What possible objection could the heathen have to such a defective lease?
(27) Where the lease was legally imperfect.
(28) The heathen, when requested to let his share.
(29) Not understanding the religious motive of the request he suspects some underhand work.
(30) Quoted by Abaye supra q.v. notes.
(31) To an Israelite who was not one of the tenants of that courtyard but happened to visit any of the houses in it.
(32) Who, by virtue of his tenancy of a house, is entitled to the use of the courtyard.
(33) Since the courtyard (cf. prev. n.) is deemed to be his domain.
(34) On the carrying of objects by other Israelites from the houses into the courtyard and vice versa.
(35) The last three words are absent from the Tosef.
(36) On account of the heathen's tenancy.
(37) Occupying two houses in that courtyard.
(38) Tosef. 'Er. V. As the heathen's share is distinct from theirs (a heathen's tenancy, as explained supra, having been given validity in such circumstances) they, by virtue of their shares in the courtyard, impose restrictions on the movements of objects from the heathen's house into the courtyard while he, by virtue of his share, despite the 'erub in which the two Israelites may have joined, imposes restrictions on the movements of objects from their houses into the courtyard.

Talmud - Mas. Eiruvin 62b

The Master said: 'A heathen's courtyard has the same status as a cattle-pen'.[1] Did we not, however, learn: IF A MAN LIVES IN A COURTYARD WITH A HEATHEN. . . EITHER OF THEM CAUSES HIM TO BE RESTRICTED?[2] — This is no difficulty, since the latter[2] deals with the case of a heathen who was at home[3] while the former[1] deals with one who was not at home.[3] But what principle does he[4] adopt? If he is of the opinion that a dwelling house without an occupier is legally a valid dwelling, should not even a heathen[5] impose restrictions;[6] and if he is of the opinion that a dwelling house without an occupier is legally no valid dwelling should not an Israelite[7] also impose no restrictions? He,[8] in fact, holds the view that a dwelling house without an occupier is legally no valid dwelling; but[9] in the case of an Israelite, who imposes restrictions when he is at home,[10] the Rabbis[11] have enacted a preventive measure where he is away; while in the case of a heathen who, even when at home, imposes restrictions merely as a preventive measure lest the Israelite learn to imitate his deeds[12] it was enacted that he imposes restrictions only when he is at home but not in his absence.

But does he[13] not impose restrictions when he is absent? Have we not in fact learnt: If a man left his house and went to spend the Sabbath in another town, whether he was a gentile or an Israelite, his share imposes restrictions;[14] so R. Meir?[15] — There[15] it is a case where he returns on the same day.[16]

Rab Judah stated in the name of Samuel: The halachah[17] is in agreement with R. Eliezer b. Jacob; R. Huna stated: The custom[18] is in agreement with the ruling of R. Eliezer b. Jacob; while R. Johanan stated: The public act[19] in agreement with the ruling of R. Eliezer b. Jacob.

Said Abaye to R. Joseph: We have a tradition, that ‘the teaching of R. Eliezer b. Jacob is small in quantity[20] but well sifted’;[21] and Rab Judah also laid down in the name of Samuel, ‘The halachah is in agreement with R. Eliezer b. Jacob;[22] is it then permitted[23] to a disciple[24] to give a ruling accordingly[25] in a district that is under the jurisdiction of his Master? — ‘Even’,the other replied, on the question of the permissibility of eating an egg[26] with kutha,[27] which I[28] have been asking him[29] throughout the lifetime of R. Huna,[30] R. Hisda gave me[31] no decision’.[32]

R. Jacob b. Abba asked Abaye: Is it permitted to a disciple in a district under his Master's jurisdiction to give a ruling that was as authoritative as those contained in the Scroll of Fast-Days,[33] which is a written and generally accepted document?[34] — Thus, the other replied, said R. Joseph: Even on the question of the permissibility of eating an egg[26] with kutha,[27] which I[28] have been asking him[29] throughout the lifetime of R. Huna,[30] R. Hisda gave me[30] no decision.

R. Hisda decided legal questions at Kafri[35] in the lifetime of R. Huna.[36]

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(1) From which it follows that a heathen can impose no restrictions upon an individual Israelite if the latter is the only other tenant in their Joint courtyard. Only an Israelite imposes restrictions on other Israelites in connection with the movement of objects from and into the heathen's house.

(2) Which shows, contrary to the ruling in the Baraitha cited (cf. prev. n.), that a heathen imposes restrictions upon an Israelite even where the latter is the only other tenant in their joint courtyard. How than are the two rulings to be reconciled?

(3) During the Sabbath in question.

(4) The author of the Baraitha.

(5) Though away from home.

(6) Of course he should, since his absence does not in any way affect the validity of his tenancy.

(7) If away from his home; since the validity of his tenancy is impaired by his absence.

(8) The author of the Baraitha.

(9) In reply to the objection raised (cf. prev. n.).

(10) On account of the legal validity of his tenancy.

(11) In order to prevent an infringement of the law when he is at home.

(12) Cf. supra 62a.

(13) A heathen tenant.

(14) On the other tenants of the courtyard.
(15) Supra 47a, infra 86a.
(16) Where, for instance, during the first part of he Sabbath he was not far away from his home. If no restrictions upon his fellow tenants had been imposed, even in his absence, they might, after his return, unconsciously have continued the unrestricted use of their courtyard which they enjoyed since the day began. Where, however, the heathen is unable to return on the same day no such precaution is necessary and consequently no restrictions were imposed.
(17) Halachah, sc. the ruling may be promulgated in a public discourse. V. following nn.
(18) Minhag, i.e., the ruling may not publicly be announced (cf. prev. n.) but is to be communicated privately to anyone seeking the information.
(19) Nahagu (cf. prev. two notes), i.e., the ruling may not be communicated even in private, but if any person acted in agreement with it no objection may be raised against him.
(20) Kab (v. Glos.), i.e., his rulings in the Mishnah are only few.
(21) Lit., ‘clear’, I.e., the halachah is always in agreement with his rulings.
(22) Supra.
(23) Since the ruling is so unquestionably authoritative.
(24) Who in ordinary cases must not venture to give a decision in a locality that is under his Master's jurisdiction.
(25) In agreement with R. Eliezer b. Jacob (v. our Mishnah).
(26) A perfectly developed egg found in a slaughtered fowl (so Tosaf. s.v. אפילו a.l.). The question whether a properly laid egg may be eaten with milk (cf. following n.) could, of course, never arise (v. however, Rashi).
(27) A preserve containing milk.
(28) So MS.M. and Bah. Cur. edd. ‘they’.
(29) To test his loyalty to his Master.
(30) Whose colleague and disciple he was (cf. Tosaf s.v. רב a.l.).
(31) Reading of MS.M. and Bah. Cur. edd. omit.
(32) Though the answer was quite simple and obvious (cf. Bezah 6b) and could be supplied by a mere tiro.
(33) Megillath Ta'anith, a scroll (the only halachic collection which the Rabbis of the Talmud had in a written form) containing a record of the days of the year on which fasting and mourning were forbidden; v. Ta'an., Sonc. ed., p. 70f.
(34) Lit., ‘that is written and lying’.
(35) A place in Babylon that was not subject to the direct jurisdiction of R. Huna (v. following note).
(36) Who resided in another part of Babylon at Pumbeditha (Rashi). [Obermeyer p. 317: Sura, south of which lay Kafri.]

Talmud - Mas. Eiruvin 63a

R. Hamnuna decided legal points at Harta[1] di Argiz[2] during the lifetime of R. Hisda.[3] Rabina examined the slaughterer's knife[4] in Babylon.[5] Said R. Ashi to him, ‘Why does the Master act in this manner?’ ‘Did not,’ the other replied: ‘R. Hamnuna decide legal points at Harta di Argiz during the lifetime of R. Hisda?’[6] — ‘It was stated’, the first retorted: ‘that he did not decide legal points’. ‘The fact is’, the other replied: ‘that one statement was made that he did decide legal points while another was that he did not do so, and the explanation is that only during the lifetime of his Master R. Huna did he decide no legal points but during the lifetime of R. Hisda, who was both his colleague and disciple, he did decide legal points, and I too am the Master's colleague as well as disciple’.

Raba said: A young scholar may examine his own knife.[7] Rabina once visited Mahuza when his host brought to him a slaughtering knife for examination. ‘Go’, he[8] said to him, ‘take it to Raba’.[9] ‘Does not the Master’, the other asked: ‘uphold the ruling laid down by Raba that a young scholar may examine his own knife?’ — ‘I’, he[8] replied, am only buying the meat’.[10] (Mnemonic:[11] Zila of[12] Hania[13] changes[14] Ika[15] and Jacob.[16])

R. Eleazar of Hagronia[17] and R. Abba b. Tahlifa once visited R. Aha son of R. Ika's house in the district that was subject to the jurisdiction of R. Aha b. Jacob. R. Aha son of R. Ika, desiring to prepare for them a third-grown[18] calf, presented to them the slaughtering knife for examination. ‘Should no consideration be shown for the old man?’[19] R. Aha b. Tahlifa asked. ‘Thus’, R. Eleazar of Hagronia replied: ‘said Raba: A young scholar may examine his own knife’. R. Eleazar of Hagronia[20] thereupon examined the knife and was providentially punished for his disrespect. But did not Raba lay down, ‘A young scholar ‘lay examine his own knife’? — There the case was different since they began to discuss the question of his[19] dignity. And if you prefer I might reply: R. Aha b. Jacob was different from other local authorities since he was a man of great distinction.

Raba ruled: When it is a question of preventing one from committing a transgression it is quite proper [for a disciple to give a legal decision] even in his Master's presence.

Rabina once sat in the presence of R. Ashi when he observed that a certain person was tying his ass to a palm-tree on the Sabbath day.[21] He called out to him but the other took no notice. ‘Let this man’ he called out, ‘be placed under the ban’. ‘Does such an act as mine’,[22] he[23] then asked [R. Ashi], ‘appear as an impertinence?’ — There is no wisdom for understanding nor counsel against the Lord,[24] wherever the divine name is being profaned no respect is to be shown to one's Master.[25]

Raba ruled: In the presence of one's Master it is forbidden [to give a legal decision][26] under the penalty of death;[27] in his absence this is forbidden but the penalty of death is not incurred. Is then no penalty of death incurred in his absence? Was it not in fact taught: R. Eliezer b. Jacob[28] stated: The sons of Aaron died[29] only because they gave a legal decision in the presence of their Master Moses. What was the exposition they made? And the sons of Aaron the priest shall put fire upon the altar;[30] although, they said, fire came down from heaven[31] it is nevertheless a religious duty to bring also some ordinary fire. R. Eliezer, furthermore, had a disciple who once gave a legal decision in his presence. ‘I wonder’, remarked R. Eliezer to his wife, Imma Shalom, ‘whether this man will live through the year’; and he actually did not live through the year. ‘Are you’, she asked him,’a prophet?’ ‘I’, he replied: ‘am neither a prophet for the son of a prophet, but I have this tradition: Whosoever gives a legal decision in the presence of his Master incurs the penalty of death’.) Now, in connection with this incident Rabbah b. Bar Hana related in the name of R. Johanan: That disciple's name was Judah b. Goria and he was three parasangs distant from his Master?[32] — He was in his presence.[33] But was it not stated that ‘he was three parasangs distant’?[34] — And according to your conception what need was there for the mention of his name and the name of his father? But the fact is that all the details were given in order that it be not said that the whole story was a fable.

R. Hiyya b. Abba stated in the name of R. Johanan: Whoever gives a legal decision in the presence of his Master deserves to be bitten by a snake, for it is said: And Elihu the son of Barachel the Buzite answered and said: I am young, etc. wherefore I held back,[35] and elsewhere[36] it is written: With the venom of crawling things[37] of the dust.[38] Ze'iri stated in the name of R. Hanina: He is called a sinner, for it is said: Thy word have I laid up in my heart,[39] that I might not sin against Thee.[40]

R. Hamnuna pointed out an incongruity: It is written: Thy word have I laid up[39] in my heart,[40] and it is also written: I preached righteousness in a great congregation.[41] — This is really no contradiction, the former relating to the time when Ira the Jairite[42] was still alive while the latter relates to the time when Ira the Jairite was no longer alive.

R. Abba b. Zabda[43] stated: Whoever gives[44] his priestly gifts to one priest [only] brings famine into the world. For it is said in Scripture: Ira the Jairite was priest to David.[45] Now was he priest to David alone and not to all the world?[46] But the meaning is that David sent to him[47] his priestly gifts; and this is followed by the text: And there was a famine in the days of David.[48]

R. Eliezer[49] said: He[50] is deprived of his greatness — For it is said: And Eleazar the priest said unto the men of war . . . This is the statute of the law which the Lord hath commanded Moses;[51] although he thus said to them, ‘He commanded my father's brother[52] and not me’[53] he was nevertheless punished,'[54] as it is written: And he[55] shall stand before Eleazar the priest[56] and yet we do not find that Joshua ever needed his guidance.

R. Levi stated: He who answers a word[57] in the presence of his Master goes down to Sheol childless; for it says in Scripture: And Joshua the son of Nun, the minister of Moses from his youth up, answered and said: 'My lord Moses, shall them in'[58]

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(1) MS.M.: Hadeta'.

(2) Harta of Argiz, the name of the person who built the town of Harta. Rashi: in the name of תשובת הגאונים.

(3) Whose colleague and disciple he was (cf. Tosaf. s.v. רב a.l.). [R. Hisda was at that time head of the School at Sura which comprised within its jurisdiction Harta di Argiz, Obermeyer, loc. cit.].

(4) Used in the ritual slaughter of clean beasts and fowls. Such a knife, in order to reduce the pain of the animal to the lowest minimum, must he carefully ground until a very fine edge is obtained, and before use must also be submitted to the highest local religious authority for examination.

(5) Though his Master, R. Ashi, was the supreme religious authority at Matha Mehasia, a place near Sura. [The town Babylon was in the neighbourhood of Sura, v. Obermeyer p. 304].

(6) As R. Hamnuna, though a disciple of R. Hisda, was allowed to give legal decisions in a Babylonian town because R. Hisda, the supreme religious chief, resided in another part of Babylon so, Rabina submitted, was he also allowed to occupy the position of local religious authority in respect of the examination of the slaughtering knife in a town in which R. Ashi himself did not reside.

(7) Cf. supra n. 1. He need not submit it for examination to the supreme local religious authority if he is using it himself-for his own beast.

(8) Rabina.

(9) Who was the religious head of the locality.

(10) From the innkeeper, sc. as the beast was not being killed exclusively for his own use the examination of the knife does not come under the ruling cited.

(11) An aid to the recollection of the names that follow.

(12) So Bah. Cur. edd. 'to Hania'.

(13) R. Eleazar of Hagronia.

(14) R. Abba b. Tahlifa (rt. חלף 'change').

(15) R. Aha son of R. Ika.

(16) R. Aha b. Jacob.

(17) Near Nehardea.

(18) Aliter: Third-born. Aliter: In its third year.

(19) R. Aha b. Jacob who was the supreme religious head of the place and whose prerogative it was to examine the instrument.

(20) Or 'he', omitting the name with MS.M.

(21) The use of a growing tree on the Sabbath is Rabbinically forbidden.

(22) Acting in the presence of the religious head of the place.

(23) Rabina.

(24) Prov. XXI, 30.

(25) Wisdom etc. of one's Master are regarded as of no consequence when an act is committed against the Lord.

(26) Except, as stated supra, where the profanation of the divine name is at stake.

(27) At the hands of Heaven.

(28) So Bah. Cur. edd. omit the last two words.

(29) Cf. Lev. X, 1f.

(30) Ibid. I, 7.

(31) V. ibid. IX, 24.

(32) When he gave the legal decision mentioned; which shows that the penalty of death is incurred even where a decision is given in the Master's absence. An objection against Raba's last cited statement.

(33) At the time he gave the legal decision. The distance of three parasangs mentioned referred only to that of the disciple's usual place of residence from the residence of his Master.

(34) If the distance had no connection with the place where the decision was given what was the point in mentioning it at all?
(35) זהלתי rt. זהל Job. XXXII, 6.
(36) Cf. Bah.
(37) זוחלי rt. זחל.
(38) I.e., snakes. Deut. XXXII, 24.
(39) He refrained from giving legal decisions in the presence of his Masters.
(40) Ps. CXIX, 11.
(41) Ibid. XL, 10.
(42) David's teacher (cf. II Sam. XX, 26).
(43) En Jacob and Asheri read: ‘R. Abba b. Kahana’; MS.M., ‘R. Kahana’.
(44) Var. lec. ‘sends’ (MS.M. Ct Jacob and Asheri).
(45) II Sam. XX, 26.
(46) Of course not. A priest obviously enjoys that dignity before all ‘Ben.
(47) And to no other priest.
(48) Ibid. XXI, 1.
(49) Var. lec. ‘Eleazar’.
(50) Who gives a legal decision in the presence of his Master.
(51) Num. XXXI, 21.
(52) Moses.
(53) Thus acknowledging that the statute he was teaching them was taught to him by his Master Moses.
(54) For promulgating it in the presence of the Master.
(55) Joshua.
(56) Num. XXVII, 21, i.e., Joshua will have to submit his doubts and difficulties to Eleazar.
(57) To a question submitted.
(58) Nun. Xl, 28. ‘Kela'em’, an answer in one word.

Talmud - Mas. Eiruvin 63b

and elsewhere it is written: Nun his son, Joshua his son.[1] This exposition, however, differs from that of R. Abba b. Papa, for R. Abba b. Papa[2] stated: Joshua was punished[3] for no other sin than that of preventing Israel or one night from the duty of propagation; for it is said in Scripture: And it came to pass, when Joshua was by Jericho, that he lifted up his eyes and looked etc.[4] and this is followed by the text: And he said: ‘Nay,[5] but I am captain of the host of the Lord,’ I am now come’.[6] ‘Last evening’,[7] he said to him [in effect]. ‘you omitted to offer up the continual evening sacrifice[8] and now you are neglecting the study of the Torah’.[9] ‘On account of which offence’, the other asked,[10] ‘did you come’? — ‘Now’,[11] he replied. ‘am I come’. Joshua, we read forthwith, went that night into the midst of the vale,[12] a text which, R. Johanan explained, teaches that he entered into the profundities of the halachah.[13] And we have a tradition that so long as the Ark and the Shechinah are not settled in their appointed place[14] connubial intercourse is forbidden.[15]

R. Samuel b. Inia[16] stated in the name of Rab: The study of the Torah is more important than the offering of the daily continual sacrifices,[17] since he said to him,[18] ‘now am I come’.[19]

R. Berona stated in the name of Rab: Concerning the man who sleeps in a room.[20] in which husband and wife rest Scripture says: The women of My people ye cast out from their pleasant houses.[21] This, R. Joseph said, applies even to the time when one's wife is menstruant. Raba said: If one's wife is menstruant may a blessing come upon him.[22] This,[23] however, is not very logical, for who watched him[24] until that time?[25]

There was a certain alley in which Lahman[26] b. Ristak[27] lived. ‘Will you let us[28] your domain?[29] said the other residents to him; but he would not let it to them. So they went to Abaye and reported the matter to him. ‘Renounce’, he advised them, ‘your respective domains[30] in favour of one resident so that he would be in the position of one individual living in the same place with a heathen, and wherever one individual lives in the same place with a heathen the latter imposes no restrictions upon the former’.[31] ‘Is not the only reason’,[32] he was asked,[33] ‘that it is not usual for one Israelite and one heathen to live together? And is it not a fact that these did live together?’ — ‘The renunciation of’ private domains in favour of one resident’, he replied: ‘is an unusual occurrence, and the Rabbis enacted no prohibitory measures against any occurrence that is unusual’.[34] R. Huna son of R. Joshua proceeded to report this ruling[35] to Raba when the latter remarked:[36]

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(1) I Chron. VII, 27, no son of Joshua being mentioned.

(2) MS.M. ‘that of R. Hanina, for R. Hanina b. Papa’.

(3) Having to die childless.

(4) Josh. V, 13.

(5) לא. Cur. edd. in Parenthesis, לו ‘to him’.

(6) Ibid. 14.

(7) The one preceding the night of the meeting.

(8) Cf. Num. XXVIII, 1ff.

(9) Joshua, engaging in incessant warfare both by day and night, was unable to allow time either for the daily evening sacrifice or for the study of the Torah which the people were expected to pursue in the evening when they were free from their labours. The critical attitude of the ‘captain’ is inferred (v. Rashi) from his appearance with his sword drawn’ (Josh. V. 13); and the emphasis he laid on ‘now’ (v. infra n. 12) implies that previously also some offence had been committed.

(10) Cf. MS.M. and Bah.

(11) For the last mentioned offence.

(12) Josh. VIII, 13.

(13) ‘Went’ (rt. הלך) and ‘vale’ (rt. עמק) are expounded as ‘entered’ and ‘profundities’ which are respectively derived from the same Heb. roots. For other readings of the passage v. Bah a.l. and Sanh., Sonc. ed., p. 289, n. 12.

(14) Which was the case when a battle was in progress.

(15) Joshua, having been the cause, suffered in consequence the disability mentioned.

(16) Var. lec. ‘Iwya’ (En Jacob).

(17) Cf. Num. XXVIII, 1f.

(18) The ‘captain’ to Joshua.

(19) Josh. V, 14. He was more concerned with the latter offence than with the former.

(20) Lit., ‘curtain’, a curtained enclosure’.

(21) Micah II, 9.

(22) The man who by his presence provides a moral safeguard.

(23) Raba's view.

(24) The husband.

(25) No one, of course, besides himself and his wife. If the husband and wife are thus trusted by the Torah to be fully competent to look after their moral Interests, there could not be much advantage in having an occasional intruder.

(26) Var. lec. ‘Haman’ (R. Han. cf. MS.M.).

(27) A heathen.

(28) For the Sabbath.

(29) His right to the use of the alley.

(30) Cf. prev. n. mut. mut.

(31) As a result of the arrangement the residents would be enabled to move (a) within the alley any objects that rested in it at the time the Sabbath had set in and (b) objects from the house of the individual, in favour of whom they had renounced their rights, into the alley and from the alley into his house. In the absence of the arrangement they would have been deprived even of these limited privileges (cf. Shah. 130b). The prohibition, however, to move objects from their own houses into the alley and vice versa would still remain in force (cf. infra 69b).

(32) Why a heathen imposes no restrictions on an individual Israelite that lives with him in the same courtyard or alley.

(33) By one of the scholars. Cur. edd., ‘they said to him’, is wanting from MS.M.

(34) Hence the effectiveness of the suggested arrangement.

(35) Of Abaye.

(36) Lit., ‘said to him’.

Talmud - Mas. Eiruvin 64a

‘If so,[1] are you not abolishing the law of ‘erub in that alley?’ — ‘They might prepare an ‘erub’.[2] ‘Would It not then be said that an ‘erub is effective even where a heathen is a resident in the place?’ — ‘An announcement might be made’.[3] ‘An announcement for the children?’[4] — ‘Rather’, said Raba, ‘let one of them[5] persuade him[6] and borrow a place from him on which he shall put down something, so that[7] he assumes the status of his hired labourer or retainer concerning whom Rab Judah laid down in the name of Samuel: Even his[8] hired labourer and even his retainer[9] may contribute his share to the ‘erub[10] and this alone is sufficient.[11]

Abaye asked R. Joseph: What is the ruling in there were[12] five hired labourers[13] or live retainers?[14] — The other replied: If the Rabbis have laid down that one's hired labourer or retainer is regarded as a householder in order that the law might be relaxed,[15] would they also maintain that a hired labourer or retainer has a similar status in order that the law might be restricted?[16]

[Reverting to] the main text: ‘Rab Judah laid down in the name of Samuel: Even his hired labourer and even his retainer may contribute his share to the ‘erub, and this alone is sufficient R. Nahman observed: How excellent a ruling is this.

Rab Judah stated in the name of Samuel: He who has drunk a quarter of a log[17] of wine must not give a legal decision. This ruling’ observed R. Nahman, ‘is not a very fine one, because in my own case, before I drink a quarter of a log of wine my mind is not clear’.

Said Raba to him:[18] Why did the Master speak in such a manner?[19] Did not R. Aha b. Hanina in fact state, ‘What is the exposition of the Scriptural text: But he that keepeth company with harlots loses his substance?[20] Whosoever says: "This ruling is a fine one[21] or "That ruling is not a fine one" loses the substance of the Torah’? — ‘I withdraw’, the other replied.

Rabbah son of R. Huna ruled: One who is under the influence of drink must not pray, but if he did pray his prayer is regarded as a proper one. An intoxicated man must not pray, and if he did pray his prayer is an abomination. How are we to understand the expression of ‘One who is under the influence of drink’, and how that of ‘an intoxicated man’? — As follows. When R.[22] Abba[23] b. Shumani[24] and R. Menashya b. Jeremiah of Difti[25] were taking leave from each other at the ford of the river Yopati they suggested, ‘Let each one of us say something that the other has never heard before, for Mari son of R. Huna[26] laid down: The best form of taking leave of a friend is to tell him[27] a point of the halachah, because he would remember him for it’. ‘What is to be understood’, one of them began, ‘by "one who is under the influence of drink" and what by "an intoxicated man"? The former is one who is able to speak in the presence of a king,[28] the latter is one who is unable to speak in the presence of a king’. ‘What’, the other began, ‘should he who took possession of the property of a proselyte[29] do that he shall be worthy of retaining it? Let him purchase with it[30] a scroll of the Law’.[31] R. Shesheth said: Even

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(1) That renunciation alone is deemed to be sufficient to enable the residents to enjoy the privileges mentioned.

(2) Although it would bring them no material benefit.

(3) That the ‘erub is ineffective, that with the exception of the one resident, in whose favour the others had renounced their rights, all are forbidden to carry any objects from their houses into the alley and vice versa, and that only within the alley, which on account of the renunciation assumed the status of a private domain, is the movement of objects permitted.

(4) Sc. what is the use of an announcement of which the rising generation would be unaware. The new generation,

ignorant of the terms of the announcement, would naturally assume that an ‘erub is effective even where a heathen is one of the residents.
(5) Of the residents.
(6) The heathen resident in the alley.
(7) By becoming a tenant to the heathen's courtyard.
(8) A heathen's.
(9) If he is an Israelite.
(10) For the alley.
(11) To enable all the residents to move objects from their houses into the alley and vice versa.
(12) In a heathen's house.
(13) Cf. MS.M.
(14) Each one of whom occupied a room or a garret in it, and one of whom had forgotten to contribute his share to the ‘erub for the alley. Since, it is asked, in respect of enabling the house in which he lives to be joined with the others in one ‘erub he is regarded as its householder, is he equally regarded as a householder the absence of whose share from an ‘erub restricts the use of the entire alley?
(15) I.e., that the ‘erub shall be effective.
(16) Of course not. As all doubtful questions in the laws of ‘erub are decided in favour of the more lenient view, a hired labourer or retainer cannot be regarded as a householder wherever he failed to contribute to the ‘erub of the alley.
(17) v. Glos.
(18) R. Nahman.
(19) Criticizing traditional rulings.
(20) Prov. XXIX, 3.
(21) זונות ‘harlots’ is read as זו נאה ‘this is fine’.
(22) Lit., ‘like that of R.’
(23) Var. lec. ‘Rabbah’ (En Jacob).
(24) Var. lec. ‘Rabbah b. Shimi (MS.M.).
(25) V. marg. glos., cur. edd., ‘Gifty’. MS.M. omits the word.
(26) Var. lec., ‘Mari son of R. Huna son of R. Jeremiah b. Abba (cf. Ber. 31a).
(27) Lit., ‘a man shall not depart from his friend except from the midst of’.
(28) Sc. is able to collect his thoughts if suddenly confronted by a high personage whom he fears or reveres.
(29) Who died without any Jewish issue and thus had no legal heirs.
(30) With the proceeds of a portion of the property.
(31) The pious act will protect him from loss.

Talmud - Mas. Eiruvin 64b

a husband [should act in a similar manner] with his wife's estate. Raba said: Even a man who engaged in trade and made a large profit should act in a similar manner. R. Papa said: Even he who has found something [should act in the same manner]. R. Nahman b. Isaac said: Even if he had only arranged for the writing of one pair of[1] tefillin.[2] In connection with this R. Hanin [or, as some say: R. Hanina] stated: What is the Scriptural proof?[3] It is written: And Israel vowed a vow etc.[4]

Rami b. Abba[5] stated: A mil's walk or a little sleep removes the effects of wine. Said R. Nahman in the name of Rabbah b. Abbuha: This applies only to one who has drunk one[6] quarter of a log, but if one has drunk more than a quarter, a walk would only cause him more fatigue, and sleep would produce more intoxication. But does a mil's walk remove the effects of wine? Was it not in fact taught: It once happened that R. Gamaliel was riding on an ass when traveling from Akko to Chezib while R. Ila'i was following behind him. Finding a gluskin[7] on the road he[8] said to him, ‘Ila'i, pick tip the gluskin from the road’. Later he met a heathen. ‘Mabgai’,[9] he said to him, ‘take away that loaf from Ila'i’. R. Ila'i thereupon approached him,[10] and asked ‘where are you from?’ ‘I am’, the other replied: ‘from the station keepers’[11] settlements’. ‘And what is your name?’ ‘My name is Mabgai’. ‘Did R. Gamaliel ever know you?’ ‘No’, the other replied. At that moment we discovered that R.

Gamaliel divined by the holy spirit and, at the same time, we learned three things: We learned that[12] eatables[13] may not be passed by,[14] that[15] the majority of travellers must be followed;[16] and that[17] it is permitted to derive benefit[18] from a heathen's leavened bread after the Passover.[19] When he[20] arrived at Chezib a man approached him and asked for his vow to be absolved. ‘Have we’, he’ asked the person who accompanied him,[21] ‘perchance drunk a quarter of a log of Italian wine?’ ‘Yes’, the other replied. ‘In that case’, he said: ‘let him walk behind us until the effect of our wine is removed’. The man walked behind them for three mils until he[20] reached the Ladder of Tyre.[22] Having arrived at the Ladder of Tyre, R. Gamaliel alighted from his ass, wrapped himself in his cloak, sat down and disallowed his vow. At that time we learned many things: We learned that a quarter of a log of Italian wine causes intoxication; that an intoxicated man may not decide legal questions; that a journey causes the effects of wine to be removed, and that absolution from vows may not be granted while riding, walking, or standing, but must be done sitting. At all events, were not ‘Three mils’ mentioned here?[23] — Italian wine is different[24] since its powers of intoxication are greater.[25] But did not R. Nahman state in the name of Rabbah b. Abbuha, ‘This applies only to one who has drunk one quarter of a log, but if one has drunk more than a quarter, a walk would only cause him more fatigue, and sleep would produce more intoxication’?[26] — A rider is in a different position.[27] Now that you have arrived at this,[28] no objection[29] can be raised against Rami b. Abba[30] either, since a rider is in a different position.[31] But [the law,][32] surely, is not so; for did not R. Nahman say: Absolution from vows may be granted while walking, standing or riding?[33] — This is a point at issue between Tannas, one[34] holding that[35] an opening for regret must be discovered[36] while the other[37] holds that no opening for regret is required;[38] for[39] Rabbah b. Bar Hana related in the name of R. Johanan: what opening did R. Gamaliel suggest to that man? There is that speaketh like the piercings of a sword, but the tongue of the wise is health,[40] he ‘that speaketh’ a vow deserves to be pierced by the sword,[41] ‘but the tongue of the wise[42] is health’.[43] The Master said that ‘eatables may not be passed by’. R. Johanan laid down in the name of R. Simeon b. Yohai: This applies only to the earlier generations when the daughters of Israel did not freely indulge[44] in witchcraft, but in the later generations when the daughters of Israel freely indulged in witchcraft one may pass them by. A Tanna taught: Whole loaves[45] may be passed by but not crumbs. Said R. Assi to R. Ashi: But do they not practise witchcraft with crumbs? Is it not in fact written in Scripture: And ye have profaned Me[46] among My People for handfuls of barley and for crumbs of bread?[47] — These[48] they received as a fee.[49]

R. Shesheth citing R. Eleazar b. Azariah observed:

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(1) Lit., ‘he wrote with them’, sc. paid for, out of the wealth or property he had acquired.

(2) V. Glos.

(3) That the performance of a pious deed has a favourable effect on one's fortunes.

(4) Num. XXI, 2, the conclusion of the text showing that as a result of the vow Israel expected to be victorious in their struggle against the Canaanites.

(5) Var. lec. R. Aha (cf. Sanh. 22b).

(6) So MS.M. omitting כדי ‘the contents’. This is also the reading in the quotation infra.

(7) An expensive loaf made of a certain kind of white flour.

(8) R. Gamaliel.

(9) A Samaritan proper name common among heathens (cf. Mak. 11a).

(10) The heathen.

(11) Burgonin, pl. of burgoni, keeper or tenant of a station for travelers.

(12) Since R. Ila'i was requested to pick up the loaf.

(13) Lying on the ground.

(14) But must be picked up.

(15) Since the loaf was given away to a heathen.

(16) The majority having been heathens the loaf must be assumed to have been dropped by one of them and, therefore, forbidden to an Israelite.

(17) This incident occurred after the Passover; and the loaf was nevertheless presented to a heathen.
(18) The recipient of the loaf would naturally be grateful for the gift and likely to repay it by some other act of kindness.
(19) Which is forbidden in the case of an Israelite's leavened bread.
(20) R. Gamaliel.
(21) R. Ila'i.
(22) Scala Tyriorum, a promontory south of Tyre.
(23) How then could Rami b. Abba maintain that a one mil's walk is enough?
(24) From other wines.
(25) Hence a longer journey is necessary.
(26) And since Italian wine is stronger than others one quarter of a log of it would have the same effect as a larger quantity of the others.
(27) From that of a pedestrian. The injurious consequences of a walk would not affect him.
(28) To the drawing of a distinction between riding and walking.
(29) From the statement that three mils are necessary to remove the influence of drink.
(30) Who spoke of one mil only.
(31) While for a pedestrian one mil is sufficient, a rider, whose exertion is less, requires three mils.
(32) With reference to the absolution of vows.
(33) Ned. 77b.
(34) With whom R. Gamaliel is in agreement.
(35) Before a Sage may absolve one from a vow.
(36) Sc. a valid ground must be found to make the man regret his vow from the very outset. In order to discover such a ground careful thinking is necessary and this is only possible when one is comfortably seated.
(37) Who allows the granting of absolution in any position.
(38) Absolution may be granted to any person who applies for it irrespective of whether he regrets ever having made the vow or not.
(39) As proof that R. Gamaliel holds the same view as the former Tanna.
(40) Prov. Xli, 18.
(41) Because he might not be able to fulfil his obligations.
(42) That of the Sage who grants absolution.
(43) He restores the sinner to a healthy moral condition. With this exposition R. Gamaliel was able to convince the man of his folly and to make his express his sincere regrets for ever having made his vow.
(44) Lit., ‘broken through’.
(45) Since witchcraft may be suspected.
(46) By the practice of witchcraft (v. Rashi).
(47) Ezek. XIII, 19.
(48) The ‘crumbs’ mentioned by Ezekiel.
(49) For their services in the art of witchcraft. With these crumbs, however, no witchcraft was performed.

Talmud - Mas. Eiruvin 65a

I could justify the exemption from judgment of all the [Israelite] world since the day of the destruction of the Temple until the present time, for it is said in Scripture: Therefore hear now this, thou afflicted and drunken but not with wine.[1]

An objection was raised: The sale or purchase of an intoxicated person is valid. If he committed a transgression involving the penalty of death he is to be executed, and if he committed one involving flogging he is to be flogged; the general rule being that he is regarded as a sober man in all respects except that he is exempt front prayer.[2] [Does not this[3] contradict the view of R. Shesheth]? By the expression,[4] ‘I could justify the exemption’ that he used he also meant exemption from judgment [for the lack] of [devotion[5] in] prayer.

R. Hanina said: This[3] applies only to one who did not reach the stage of Lot's drunkenness,[6] but one who did reach such a stage is exempt from all responsibilities.

R. Hanina observed: Against him who passes by[7] the 'Shield'[8] in the time of haughtiness[9] troubles will be closed and sealed about him, for it is said in Scripture: His scales[10] are his pride, shut up together as with a close[11] seal.[12] What proof is there that afek[13] signifies 'passing by'? — Since it is written in Scripture: My brethren have dealt deceitfully as a brook, as the channel[13] of brooks that pass by.[14] R. Johanan said: The statement[15] was 'Against him who does not utter'.[16] What is the proof that mapik[17] signifies manifestation?[18] — Since it is written in Scripture: And the channels[19] of waters appeared, and the foundations of the world were laid bare.[20] Observe! The Scriptural texts provide equal proof for the one Master as well as for the other Master; wherein then lies the difference between them?[21] — The difference between them is [the propriety of the practice] of R. Shesheth; for R. Shesheth entrusted [the task of waking him from] his sleep to his attendant. One Master[22] upholds the view of R. Shesheth while the other Master[23] does not.[24]

R. Hiyya b. Ashi citing Rab ruled: A person whose mind is not at ease must not pray, since it is said: 'He who is in distress shall give no decisions'.[25] R. Hanina did not pray on a day when he was agitated. It is written, he said: 'He who is in distress shall give no decisions'.[26]

Mar Ukba did not attend[27] court on a shutha[28] day.

R. Nahman b. Isaac observed: Legal study[29] requires as much clearness[30] as a north wind day.[31] Abaye remarked: If my [foster] mother[32] had told me: 'Bring me the kutha',[33] I would not have been able to study.[34] If, remarked Raba,[35] a louse bit me l could not study.[34]

Seven garments for the seven days of the week[36] were prepared for Mar son of Rabina by his mother.

Rab Judah observed: Night was created for naught but sleep. R. Simeon b. Lakish observed: The moon[37] was created only to facilitate study. When R. Zera was told, 'You are exceedingly well versed in your studies', he replied: 'They are the result of day work'.

A daughter[38] of R. Hisda once asked R. Hisda,[39] 'Would not the Master like to sleep a little?' 'There will soon come', he replied: 'days that are long and short[40] and we shall have time to sleep long'. R. Nahman b. Isaac remarked: 'we are day workers'. R. Aha b. Jacob borrowed[41] and repaid.[42]

R. Eliezer ruled: A man who returns from a journey[43] must not pray for three days, for it is said in Scripture: And I gathered them together to the river that turneth to Ahava;[44] and there we encamped three days, and I viewed[45] the people.[46]

On returning from a journey Samuel's father refrained from prayer for three days. Samuel did not pray in a house that contained alcoholic drink.[47] R. Papa did not pray in a house that contained fish-hash.[47]

R. Hanina observed: He who allows himself to be pacified when lie is taking wine possesses some of the characteristics of his Creator, for it is said in Scripture: And the Lord smelled the sweet savour;[48] and . . . said . . . 'I will not again curse the ground any more for man's sake'.[49]

R. Hiyya observed: He who retains a clear mind under the influence of wine possesses the characteristics of the seventy elders; for the numerical value of 'yayin'[50] is seventy[51] and so is also the numerical value of 'sod',[52] so that when wine goes in counsel departs.[53]

R. Hanin[54] observed: Wine was created for the sole purpose of comforting mourners and rewarding the wicked;[55] for it is said: Give strong drink unto him that is ready to perish,[56] and wine unto the bitter in soul.[57]

R. Hanin[58] b. Papa stated: A person in whose house wine is not poured like water has not attained the state of blessedness; for it is said: And He will bless thy bread and thy water,[59] as the ‘bread’ spoken of is a food that may be bought with the money of the Second Tithe so is the ‘water’[60] a liquid that may be bought with the money of the Second Tithe. Now such a liquid is’ of course,[61] wine,[62] and yet it is called ‘water’.

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(1) Isa. LI, 21. Having been described as ‘drunken’ prior to the destruction of the Temple, Israel, still bearing the stigma, cannot be held responsible for their actions.

(2) Tosef. Ter. III.

(3) The ruling that, with the exception of the duty of prayer, all intoxicated man is in all respects regarded as a sober man.

(4) Lit., ‘what’.

(5) Cf Rashi.

(6) A state of complete unconsciousness (cf. Gen. XIX, 30ff).

(7) מפיק rt. נפק.

(8) I.e., omits to read the ‘Amidah benedictions (cf. P.B. pp. 44ff) the first of which concludes with ‘the Shield of Abraham’.

(9) When in a state of intoxication.

(10) אפיקי מגנים rendered as ‘passing by’ (cf. supra n. 2) the benediction concluding with ‘Shield’, (מגן אברהם).

(11) צר interpreted as צרה ‘trouble’.

(12) Job XLI, 7,

(13) אפיק, rt. נפק.

(14) E.V., overflow, Job VI, 15.

(15) Reported by R. Hanina.

(16) The benedictions mentioned.

(17) מפיק rt. נפק.

(18) Sc. the utterance of the benedictions.

(19) אפיקי rt. נפק.

(20) Ps. XVIII, 16.

(21) Seeing that according to both views the law in practice is exactly the same, what matters it whether the rt. נפק is used as a positive in the sense of ‘passing by’ or as a negative, ‘dos not utter’?

(22) R. Johanan.

(23) R. Hanina who uses the expression of ‘passing by’.

(24) In his opinion a man's mind must be absolutely tranquil and clear during his prayers. A man who does not awake on his own cannot have a clear mind and is consequently unfit for prayer. (For another interpretation of the passage v. R. Han. and cf. Tosaf. s.v. מסר a.l.).

(25) M.T. has no such verse. R. Tam. (Tosaf. s.v. בצר a.l.) attempts to trace it to Job XXXVI, 19, rendering שועך as ‘thy prayer’ and בצר as here interpreted ‘in distress’.

(26) V. prev. note.

(27) Lit., ‘go out to’.

(28) ‘Severe south wind’ (Rashi), east wind’ (Ar.), ‘cloudy’ (R. Han.).

(29) Or ‘a legal decision’.

(30) Of mind. Aliter (cf. prev. n.); ‘Must be as clear’.

(31) Istana. Cf. B.B., Sonc. ed. p. 568, n. 9 and Yeb. 72a.

(32) V. Kid. 31b.

(33) A dish of bread-crusts, sour milk and salt.

(34) Sc. the slightest disturbance of his studies would have distracted his mind and prevented him from concentrating on

the work in hand.
(35) Var. lec. ‘Rabina’ (En Jacob).
(36) Thus providing for his cleanliness and comfort and facilitating his study.
(37) Or ‘moonlight’.
(38) MS.M., En Jacob and others read: ‘the daughters’.
(39) Who spent his nights in prayer and study.
(40) The days in the grave are long in quantity but short in quality. In the grave one cannot continue his studies or perform any of the other good deeds.
(41) From the day-time.
(42) In the night. Sc. if for some reason he had to curtail his studies during the day he made up the deficiency in the night.
(43) Which usually involves danger, fatigue and distraction of the mind.
(44) Cur. edd., ‘Ahava’.
(45) Lit., ‘and I understood’.
(46) Ezra VIII, 15; he was unable to ‘view’ or ‘understand’ them before on account of the fatigue and distractions caused by the journey.
(47) He could not stand its pungent odour which disturbed his devotions.
(48) Smell and taste are regarded as being on a par.
(49) Gen. VIII, 21, which shows that the Creator allowed himself to be pacified when enjoying, so to speak, a ‘sweet savour’ (cf. prev. n.).
(50) יין ‘wine’.
(51) It is composed of the letters י 10, + י 10, + ן 50, = 70. Lit., ‘wine was given in seventy letters’. MS.M. omits ‘letters’.
(52) סוד ‘counsel’, consists of the letters ס, 60 + ו, 6 + ד 4 = 70.
(53) Sc. the man who drinks wine loses the ability for clear thinking. Any man, therefore, who is able to retain the clarity of his mind in such circumstances is regarded as being on a par with the seventy elders, the Sanhedrin, the source of clear thought and counsel.
(54) MS.M. ‘Johanan’.
(55) For the little good they may do in this world.
(56) Sc. the wicked.
(57) The mourner; Prov. XXXI, 6.
(58) MS.M. ‘Hanina’.
(59) Ex. XXIII, 25.
(60) Since it was mentioned in the same context as the ‘bread’.
(61) Lit., ‘and what is it?’
(62) Since water like salt (cf. supra 26b) may not be bought with the money of the Second Tithe.

Talmud - Mas. Eiruvin 65b

If, therefore, it is poured in one's house like water that house has attained to the state of[1] blessedness, otherwise it has not.[2]

R. Ila'i[3] said: By three things may a person's character be determined: By his cup,[4] by his purse[5] and by his anger; and some say: By his laughter also.

Rab Judah stated in the name of Rab: An Israelite and a heathen once lived in the inner of two courtyards and one Israelite lived in the outer one,[6] and when the case[7] came up for discussion before Rabbi he forbade the use of the latter,[8] and when it was submitted to R. Hiyya he also forbade its use.[8] Rabbah and R. Joseph were once sitting at the end [of a discourse] of R. Shesheth's session[9] when the latter on sitting down suggested that[10] Rab explained his traditional ruling to be in agreement with the view of R. Meir;[11] and Rabbah nodded his head.[12] ‘That two great men’,[13] exclaimed R. Joseph,[14] ‘should make a mistake in such a simple thing! If the ruling is in agreement with R. Meir why was it required that all Israelite shall live in the outer courtyard?[15] And should you reply that the case just happened to be of such a mature, was not Rab asked, [it could be pointed out,] whether the inner Israelite tenant could use his own place[16] and he replied that he was permitted?'[17] — In agreement with whose view then?[18] Is it suggested to be in agreement with that of R. Eliezer b. Jacob?[19] Did he not, [it may be retorted,] rule:[20] UNLESS THERE ARE TWO ISRAELITES WHO IMPOSE RESTRICTIONS UPON EACH OTHER?[21] — Is it[22] then in agreement with R. Akiba who ruled: A man who is permitted freedom of movement in his own place[23] causes the restriction of free movement on others in a place that is not his?[24] What need was there,[25] [it may be asked,] to have a heathen,[26] seeing that even one Israelite alone would have imposed the restrictions? — R. Huna son of R. Joshua replied: The ruling[22] in fact is in agreement with R. Eliezer b. Jacob[27] and R. Akiba,[28] but[29] here we are dealing with a case where [the two Israelites] joined in an 'erub. Hence the reason of the prohibition that there was a heathen[30] who imposed the restrictions, but where there was no heathen there is none to impose restrictions upon them.

R. Eleazar[31] enquired of Rab: What is your ruling where all Israelite and a heathen lived in the outer courtyard and one Israelite lived in the inner one? [Is the enactment[32] applicable only] there,[33] for the reason that it is usual[34] [for an Israelite] to live [with a heathen] since [the former knows] that the heathen would be afraid [to use violence against him] as he expects the other Israelite[35] to come and demand,[36] 'Where is that Israelite that lived with you?'[37] but [not] here where the heathen could well reply,[38] 'He went out and disappeared';[39] or is it likely [that the enactment extended also to such a case since] here also [the heathen would be] afraid [to, use violence against his neighbour] as he imagines that the Israelite[40] might at any moment pass[41] and detect him in the act?[42] — The other replied: Give to a wise man, and he will be yet wiser.[43]

Resh Lakish and the students of R. Hanina once happened to be in a certain inn[44] while its tenant was away but its landlord was present. 'Is it proper',[45] they discussed, 'to rent from him[46] [the heathen's share in the courtyard]?[47] Wherever the landlord is not entitled to terminate the lease[48] there could be no question that we must not rent it; the question arises only where he is entitled to terminate it.[48] May we rent it because he has the power to terminate the lease or is it possible that, since at present at any rate he did not yet terminate it, we may not rent it?' — Resh Lakish said to them: 'Let us[49] rent it[50] and when we arrive at our Masters in the South we might submit the question to them'. On submitting the question[51] to R. Afes he replied: 'You have acted well in renting it'.

R. Hanina[52] b. Joseph, R. Hiyya b. Abba and K. Assi once happened to come to a certain inn whither[53] a heathen, the owner of the inn, had returned on the Sabbath.[54] 'Is it permissible',[55] they discoursed, 'to rent from him his share? Is the law of renting like that of the preparation of an 'erub,[56] so that as an 'erub must be prepared while it is yet day,[57] must renting take place while it is yet day;[57] or is the law of renting like that of the renunciation of one's domain, so that as the right to one's domain may be renounced even on the Sabbath[58] so may renting also take place on the Sabbath?'[59] R. Hanina b. Joseph said: 'Let us rent it', while R. Assi said: 'Let us not rent it'. 'Let us', said R. Hiyya b. Abba to them, 'rely on the words of the old man and rent it'. When they subsequently came to R. Johanan and submitted the question to him he told them:

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(1) Lit., 'there is'.

(2) Lit., 'and if not, not

(3) MS.M., 'Ela'.

(4) Sc. by the effect of drink on his mind, or by the amount he consumes.

(5) The sums of money he spends on charitable causes or the manner of his dealing in money matters.

(6) Through which the tenants of the former had a right of passage.

(7) Of the permissibility of the movement of objects on the Sabbath in the outer courtyard.

(8) Sc. the movement of objects in it is forbidden on the Sabbath unless in addition to a joint 'erub by the two Israelites the heathen has also let his share in it to its tenant.

(9) [שלהי פרקיה; the phrase seems to be a technical phrase denoting a special session at the end of a series of lectures devoted to the reviewing of the conclusions reached during the course, v. Kaplan J., The Redaction of the Babylonian Talmud, p. 257.].

(10) Lit., ‘like whom?’

(11) The author of the ruling in the first clause of our Mishnah which restricts the use of a courtyard in which a heathen lived even if no more than one Israelite lived in it with him.

(12) In consent.

(13) So MS.M. Cur. edd. add., ‘like our Rabbis’.

(14) MS. M. ‘Abaye’.

(15) To bring up the number of Israelites to two. According to R. Meir (cf. supra p. 455, n. 14) the heathen would have imposed the restrictions even in there had been only the one Israelite in his courtyard.

(16) In the inner courtyard, sc. may he move objects from his house into that courtyard and vice versa?

(17) Which shows that the prohibition is restricted to that courtyard alone in which no less than two Israelites have a share. How then could it be suggested that the ruling was in agreement with R. Meir.

(18) Did Rab explain his reported ruling.

(19) The author of the ruling in the second clause of our Mishnah.

(20) That a heathen causes no restrictions.

(21) As the two Israelites do not live in the same courtyard, and as the inner tenant is permitted to use his own courtyard, the latter could impose no restrictions upon the former. Why then was the use of the outer courtyard forbidden?

(22) Rab's reported ruling under discussion.

(23) As is the Israelite in the inner courtyard.

(24) Supra 59b, q.v. notes; and since the two Israelites thus impose restrictions upon each other the heathen also imposes restrictions upon them.

(25) For the imposition of restrictions,

(26) In the inner courtyard.

(27) That only where two Israelites impose restrictions upon each other does a heathen's tenancy affect their rights to the use of their courtyard. Hence it is well permitted to the only Israelite in the inner court freely to use that courtyard in which he lives.

(28) According to whose view the inner Israelite tenant, though he may freely use his own courtyard, imposes restrictions on the use of the outer courtyard.

(29) The reason why the tenancy of a heathen is required if restrictions are to be imposed.

(30) Who impairs the validity of the ‘erub of the Israelites.

(31) V. marg. glos. Cur. edd., ‘Eliezer’.

(32) That a heathen tenant imposes restrictions on his Israelite neighbours.

(33) In the previous case where an Israelite and a heathen lived in the inner courtyard and one Israelite lived in the outer one.

(34) In the circumstances described (cf. prev. n.).

(35) Who lived in the outer courtyard.

(36) Lit., ‘now the Israelite would come and say to me’.

(37) He could not shake since his way out could only he through the outer courtyard where its tenant would have seen him.

(38) Lit., ‘I would say to him’,

(39) As no Israelite would in such circumstances venture to live with a heathen in the same courtyard no enactment (cf. supra n. 3) was deemed necessary.

(40) The tenant of the inner courtyard.

(41) Through the outer courtyard on his way out.

(42) Lit., ‘come and see me’.

(43) Prov. IX, 9; Sc. the enactment applied to the latter, as well as to the former case.

(44) In the courtyard of which lived two Israelites and one heathen who rented his house from a fellow heathen.

(45) Lit., ‘what is it?’

(46) The landlord.

(47) In order that the movement of objects in it shall be permitted on the Sabbath even if the leaseholder returned before the termination of the Sabbath.

(48) Before the clay of its expiration. Lit., 'remove him'.

(49) Since doubtful points in respect of the laws of 'erub are to be decided in favour of the more lenient view.

(50) And thus be entitled to the unrestricted use of the courtyard.

(51) Lit., 'they came, asked'.

(52) MS.M. 'Rabbah'.

(53) After they had duly prepared their 'erub on the Sabbath eve.

(54) No question would have arisen if he had not returned since a heathen's right in a courtyard is disregarded in his absence in the case of 'erub. (Cf. R. Judah's ruling supra 86a).

(55) Lit., 'what is it?'

(56) Lit., 'is one who rents like one who prepares an 'erub'.

(57) Of the Sabbath eve.

(58) Cf. supra 69b.

(59) And consequently one of them at least in whose favour all the others would renounce their rights could rent the heathen's share and thus be entitled to the unrestricted use of the courtyard. [This is not treated as a commercial transaction but as the presentation of a mere gift, since its sole object is to permit the movement of objects; Tosaf. 66a, s.v. יפה].

Talmud - Mas. Eiruvin 66a

'You have acted well in renting the place'. The Nehardeans were astonished at this decision.[1] Could R. Johanan, [they argued,] have given such a decision, seeing that R. Johanan laid down that renting is subject to the same law as that of the preparation of an 'erub, which means, does it not, that as the preparation of an 'erub must take place while it is yet day so must renting also take place while it is yet day?[2] — No;[3] the meaning is that as an 'erub may be prepared even with food that is worth less than a perutah[4] so may renting also be effected even with less than a perutah,[4] and as an 'erub for a heathen's share is valid even if effected through his hired labourer or retainer[5] so may his share be rented even from his hired labourer or his retainer,[6] and as in the case of 'erub, if five tenants lived in one courtyard,[7] one of them may join in an 'erub[8] for all of them[9] so also in the case of renting, if five tenants[10] lived in one courtyard,[11] one of them may rent the heathen's share on behalf of all of them.

R. Eleazar was astonished at it.[12] 'What', R. Zera asked: 'could have been the cause of R. Eleazar's astonishment?' That such a great man as R. Zera, exclaimed R. Shesheth, should not know why R. Eleazar was astonished! His difficulty, [of course] was a ruling of his Master Samuel who laid down: Wherever tenants[13] impose restrictions upon one another but may[14] join together in an 'erub they may[15] renounce their rights to their shares in favour of one of them;[16] where they may[14] join in an 'erub but[17] do not impose restrictions upon one another, or when they do[18] impose restrictions upon one another but may not[19] join in an 'erub, they may not renounce their rights in favour of one of them. 'Wherever tenants impose restrictions upon one another but may join together in an 'erub they may renounce their rights to their shares in favour of one of them' as, for instance, in the case of two courtyards, one within the other.[20] 'Where they may join in an 'erub but do not impose restrictions upon one another . . . they may not renounce their rights in favour of one of them' as, for instance, in the case of two courtyards[21] that have a common door between them.[22] Now what case was intended to be included in the statement, 'Where they do impose restrictions upon one another but may not join in an 'erub they may not renounce their rights in favour of one of them'? Was not this meant to include the case of the heathen?[23] Now,[24] if the heathen had come home on the Sabbath eve,[25] could not his share have been hired prior to the Sabbath?[26]

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(1) Just attributed to R. Johanan.

(2) How then could it be asserted that R. Johanan approved of the renting of the heathen's share on the Sabbath?

(3) Sc. the comparison was not intended, as suggested, to restrict the laws of ‘erub, but rather, since in all questions of ‘erub the lenient course is followed, to relax them.
(4) V. Glos.
(5) If he was an Israelite (cf. supra 64a).
(6) Who was not an Israelite.
(7) Whose door opened into another courtyard.
(8) With the tenants of the other courtyard.
(9) Cf. infra 72b.
(10) Israelites.
(11) Where a heathen tenant also lived.
(12) At the decision supra to rent the heathen's share on the Sabbath and to renounce the individual Israelites’ rights in favour of one of them.
(13) In the absence of an ‘erub.
(14) If they wish.
(15) Where they have failed to prepare their ‘erub on the Sabbath eve.
(16) Thereby constituting the entire courtyard as the domain of that one tenant and they in consequence are enabled to move objects from place to place within the courtyard as well as from that tenant's house into the courtyard and vice versa; the movement of objects from their own houses into the courtyard and vice versa would, of course, remain forbidden.
(17) Even in the absence of an ‘erub.
(18) In the absence of an ‘erub.
(19) Even if they desire it.
(20) The tenants of the inner courtyard, if they do not join in an ‘erub for their courtyard, restrict the use of the outer courtyard by its tenants, on account of the former's right of passage through it. They may join in an ‘erub with the outer tenants if they desire to do so, by preparing one on the Sabbath eve. They may, therefore, should they even happen to have failed to prepare the ‘erub on the Sabbath eve, renounce their right of passage through the outer courtyard in favour of its tenants and thus remove the latter's restrictions upon its use.
(21) Each of which has a door of its own to an alley or a public domain.
(22) In addition to their other doors. The tenants of these two courtyards may join in an ‘erub if they wish but, since each courtyard is self-contained, they do not impose restrictions upon one another even in the absence of an ‘erub. As renunciation of rights in a courtyard was permitted only where the tenants impose restrictions upon one another no renunciation is here allowed.
(23) Who lived in a courtyard with two Israelites. In such a case the two Israelites would impose restrictions upon one another but could not join in an ‘erub on account of the heathen tenant.
(24) Since this case-was apparently intended.
(25) Lit., ‘and if he came since yesterday’.
(26) Lit., ‘from yesterday’. Of course it could. Why then, since all ‘erub could well be prepared after the heathen's share had been hired, is this case described as one where the tenants ‘impose restrictions’ but ‘may not join in an ‘erub’?

Talmud - Mas. Eiruvin 66b

Consequently[1] it must refer to a case where the heathen came home on the Sabbath, and in connection with this it was stated that ‘where they do impose restrictions upon one another but may not join in an ‘erub they may not renounce their rights in favour of one of them’.[2] This is conclusive.

I, observed R. Joseph, have never before heard this reported ruling.[3] Said Abaye to him: You yourself have taught it to us[4] and you said it in connection with the following. For Samuel said that ‘no domain may be renounced where two courtyards are involved[5] nor may it be renounced in the case of a ruin’,[6] and you told us in connection with it that when Samuel said that ‘no domain may be renounced where two courtyards are involved’ he meant it to apply only to two courtyards that[7] had one door in common,[8] but where one courtyard was within the other,[9] since the tenants impose restrictions upon one another,[10] they[11] may also renounce their rights.[12] Could I, the former questioned, have reported such a ruling in the name of Samuel? Did not Samuel in fact state: ‘In the laws of ‘erub we can only be guided[13] by the wording of our Mishnah’ ,[14] [viz.,] ‘the tenants of one courtyard’,[15] but not those of two courtyards?[16] — When you told us, the other explained, that ‘In the laws of ‘erub we can only be guided by the wording of our Mishnah’ you said It in connection with the following: Since an alley to its courtyards is as a courtyard to its houses.[17]

[To turn to] the main text: Samuel ruled that no domain may be renounced where two courtyards are involved nor may it be renounced in the case of a ruin.[18] R. Johanan, however, ruled: A domain may be renounced even where two courtyards are involved and it may also be renounced in the case of a ruin. And both[19] had to be mentioned. For if the two courtyards only had been mentioned it might have been assumed that only in this case did Samuel maintain his view, since the use of one is quite independent of that of the other,[20] but that in the case of a ruin, the use of which is common to the two tenants,[21] he agrees with R. Johanan.[22] And if the latter[23] only had been stated it might have been presumed that in this case only did R. Johanan[24] mention his view, but that in the former case[25] he agrees with Samuel. Hence both were required.

Abaye stated: Samuel's ruling that[26] ‘no domain may be renounced where two courtyards are involved’[27] applies only[28] to two courtyards that had one door in common but where two courtyards were one within the other, since the tenants impose restrictions upon one another, they may also renounce their rights.[29] Raba stated: Even in the case of two courtyards one of which was within the other the tenants may sometimes renounce their rights and sometimes[30] they may not renounce them. How IS this [possible]? If the tenants[31] deposited their ‘erub in the outer courtyard and one tenant, whether of the inner courtyard or of the outer courtyard, forgot to participate in the ‘erub, the use of both courtyards is restricted,[32] If they deposited their ‘erub in the inner courtyard and one tenant of the inner courtyard forgot to participate in the ‘erub, the use of both courtyards is restricted.[32] If, however, a tenant of the outer courtyard forgot to participate in the ‘erub, the use of the inner courtyard is unrestricted[33] while that of the outer one is restricted.[34] ‘If the tenants deposited their ‘erub in the outer courtyard and one tenant, whether of the inner courtyard or of the outer courtyard, forgot to participate in the ‘erub, the use of both courtyards is restricted’. For in whose favour could this tenant of the inner courtyard[35] renounce his right? Should he renounce it[36] in favour of the tenants of the inner courtyard?[37] But their ‘erub, surely, is not with them![38] Should he[39] renounce his right[40] in favour of the tenants of the outer courtyard also?[41] Surely no domain may be renounced where two courtyards are involved![42] As to the tenant of the outer courtyard[43] too in whose favour could he renounce his right? Should he renounce it[36] in favour of the tenants of the outer courtyard? There would still remain the tenants of the inner courtyard[44] who[45] would impose the restrictions upon them! Should he renounce it in favour of the tenants of the inner courtyard also?[46] Surely no domain may be renounced where two courtyards are involved![42] ‘If they deposited their ‘erub in the inner courtyard and one tenant of the inner courtyard forgot to participate in the ‘erub, the use of both courtyards is restricted’. For in whose favour could this tenant of the inner courtyard[47] renounce his right? Should he renounce it[48] in favour of the tenants of the inner courtyard? There would still remain the tenants of the outer courtyard who[49] would impose restrictions upon them! Should he[50] renounce his right[51] in favour of the tenants of the outer courtyard also?[52] Surely no domain may be renounced where two courtyards are involved![53]

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(1) Since it is a case where they may not join in an ‘erub’.

(2) Which proves that renunciation of individual shares in favour of one of the tenants is permissible only where the tenants were allowed to prepare an ‘erub on the Sabbath eve. Hence R. Eleazar's astonishment (supra 66a).

(3) Of Samuel, that in the case of two courtyards the tenants of the inner one may renounce their right of passage through the outer one in favour of the tenants of the latter.

(4) R. Joseph, as the result of a serious illness, lost his memory and Abaye who was a disciple of his often reminded him of his own teachings. Cf. supra 10a notes.

(5) Lit., ‘from courtyard to courtyard’. This is explained presently.

(6) That intervened between two houses whose doors opened into it. Only in the case of houses that opened into a courtyard, which is a recognized place for the use of tenants, was renunciation of one's right to one's share in that courtyard permitted in order to enable (a) the tenant in whose favour the renunciation was made to move objects from his house to the courtyard and vice versa, and (b) the other tenant or tenants to move objects from place to place within the courtyard. As a ruin, however, is not usually a place which tenants would use no renunciation of one's domain was permitted and no objects, therefore, may be moved either from the houses into it or from it into the houses unless a proper ‘crib has been duly prepared.

(7) In addition to the door each had towards an alley or a public domain.

(8) Lit., ‘between them’. Since each of the two groups of tenants, by closing the communicating door, is well able freely to use its own courtyard, irrespective of any action on the part of the other group, the Rabbis did not consider it necessary to relax the law in their favour and to allow renunciation.

(9) And the inner tenants cannot possibly gain access to the alley or public domain except through the outer courtyard.

(10) On account of the right of way.

(11) The inner tenants, if they prepared no ‘erub even among themselves.

(12) Of passage, to which they are entitled in the outer courtyard, and the tenants of the latter are thereby enabled to use their courtyard.

(13) Sc. no further relaxation of the law is permitted.

(14) The Mishnah infra 69b of which Samuel presumably spoke.

(15) May, if one of them forgot to join in their ‘erub, renounce their rights in their courtyard in favour of that man.

(16) How then could this be reconciled with the ruling of Samuel that the law of renunciation applies only to two courtyards?

(17) Mishnah infra 73b. Cf. the discussion infra 74a.

(18) Supra q.v. notes.

(19) Courtyards and ruin.

(20) Lit., ‘its use is alone’, the one courtyard is not used by the tenants of the other. As the tenants are independent of, and consequently impose no restrictions upon one another it was quite proper that the law of renunciation should not be extended to them.

(21) Lit., ‘one use for both of them’, the two tenants who lived on either side of the ruin, who do impose restrictions upon each other.

(22) That renunciation is permitted.

(23) A ruin.

(24) For the reason given supra n. 2.

(25) To which the reason stated supra n. 1 is applicable.

(26) Lit., ‘that which Samuel said’.

(27) Supra q.v. notes.

(28) Lit., ‘he did not say them, but’.

(29) Cf. supra p. 462, nn. 2ff.

(30) Though they impose restrictions upon one another.

(31) Of both courtyards.

(32) Sc. renunciation is of no avail; as will be explained anon.

(33) Because the tenants of the outer courtyard, whose ‘erub was deposited in it and who in consequence were regarded as its tenants, are permitted to renounce their rights in favour of the inner tenants whose use they would otherwise have restricted on account of the restrictions in their own courtyard occasioned by the outer tenant who failed to participate with them in their ‘erub.

(34) As explained in the prev. n. ad fin.

(35) Who failed to participate in the ‘erub.

(36) The right to his share in his courtyard.

(37) So that they might thereby be permitted to the unrestricted use of their courtyard though the tenants of the outer courtyard, on account of his right of way, would not be allowed the unrestricted use of their own courtyard.

(38) Since it was not deposited in their own courtyard but in the outer one; and should they be severed from it they would remain with no ‘erub at all and, in consequence, would be subject to all the restrictions that tenants impose upon one another.

(39) The inner tenant who did not participate in the ‘erub.
(40) Of way in the outer courtyard.
(41) And by eliminating himself in this manner from both courtyards enable both groups of tenants to have the unrestricted use of the courtyards.
(42) Lit., ‘from courtyard to courtyard’, sc. according to Samuel no tenant of one courtyard may renounce his right to his share in favour of a tenant of another courtyard even though, in the absence of such renunciation, he imposes restrictions upon him.
(43) Who failed to participate in the ‘erub.
(44) Whose ‘erub has been invalidated on account of this tenant's forgetfulness.
(45) Since they are restricted in the use of their own courtyard.
(46) V. supra n. 7.
(47) Who failed to participate in the ‘erub.
(48) The right to his share in his courtyard.
(49) On account of their participation in the ‘erub that was deposited in the inner courtyard, which has conferred upon them the status of tenants.
(50) The inner tenant who did not participate in the ‘erub.
(51) Of way in the outer courtyard.
(52) V. supra p. 464, n. 7.
(53) V. supra p. 464, n. 8.

Talmud - Mas. Eiruvin 67a

‘If, however, a tenant of the outer courtyard forgot to participate in the ‘erub the use of the inner courtyard[1] is’ certainly ‘unrestricted’,[2] since its tenants[3] might close its door[4] and so enjoy its use, ‘while that of the outer one is restricted’.[5]

Said R. Huna son of R. Joshua to Raba: But why should the use of both courtyards be restricted where a tenant of the inner one forgot to join in the ‘erub.? Could not the tenant of the inner courtyard renounce his right in favour of the tenants of the inner courtyard and the tenants of the outer one could then come and enjoy unrestricted use together with them? — In agreement with whose view, [retorted Raba, is this objection raised? Apparently] in agreement with that of R. Eliezer who ruled that ‘it is not necessary to renounce one's right in favour of every individual tenant’,[6] but I spoke in accordance with the view of the Rabbis who ruled[6] that ‘it is necessary to renounce ones right in favour of every individual tenant’.[7] Whenever R. Hisda and R. Shesheth met each other, the lips of the former trembled at the latter's extensive knowledge of Mishnahs,[8] while the latter trembled all over his body at the former's keen dialectics.[9] R. Hisda once asked R. Shesheth: ‘What is your ruling where two houses were situated on the two sides of a public domain and gentiles came and put up a fence before their doors[10] on the Sabbath?[11] According to him who holds that no renunciation of a domain is valid where two courtyards are involved[12] the question does not arise. For[13] if no renunciation is permitted where two courtyards are involved even where an ‘erub could, if desired, have been prepared on the previous day[14] how much less could renunciation be permitted here[15] where[16] no ‘erub could have been prepared on the previous day even if desired. The question arises only on the view of hin, who ruled,[12] "A domain may be renounced even where two courtyards are involved".[17] Do we say that only there where they could, if desired, have prepared an ‘erub on the previous[18] day is one also allowed to renounce one's domain, but here[19] where they could not prepare an ‘erub on the previous day[20] one is not allowed to renounce one's domain either; or is it possible that there is no difference between the two cases?’[21] — ‘No renunciation is permitted’, the other replied.[22] ‘What is your ruling’, the former again asked: ‘where the gentile[23] died on the Sabbath?[24] According to him who ruled that it was permitted to rent,[25] the question does not arise. For if two acts[26] are permitted is there any need to question whether one act only[27] is permitted?[28] The question, however, arises according to him who ruled that it was not permitted to rent.[29] Are only two acts[30] forbidden[31] but not one,[27] or is it possible that no difference is to be made between the two cases?' — 'I maintain', the other replied: 'that renunciation is permitted'.[32] Hamnuna, however, ruled: renunciation[33] is not permitted.[34]

Rab Judah laid down in the name of Samuel: If a gentile has a door of the minimum size of four handbreadths by four that opened[35] into a valley, even though he leads camels and wagons in and out all day through an alley,[36] he does not restrict its use for the residents of that alley. What is the reason? — That door which he keeps exclusively for himself is the one he prefers.[37] The question was asked: What is the ruling where it[38] opened into a karpaf?[39] R. Nahman[40] b. Ammi citing a tradition replied:

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(1) By its tenants.

(2) Even according to Samuel,

(3) In whose favour those of the outer one may well renounce the right in their courtyard which they have acquired solely through their 'erub (cf. Rashi).

(4) That leads to the outer courtyard.

(5) Cf. supra p. 463, n. 14, ad fin. The renunciation on the part of the outer tenants, it may be added, is necessary only in accordance with the ruling of R. Akiba. According to the view of the Rabbis no renunciation is required v. infra 75b (Rashi and Tosaf. a.l.).

(6) Cf. supra 26b.

(7) Since a tenant of one courtyard cannot renounce his right in favour of a tenant of another courtyard (as stated supra) the inner tell, [It cannot renounce his right in favour of any of the outer tenants and, consequently, his renunciation in favour of his own neighbours alone cannot in any way help towards the removal of the restrictions.

(8) Many of which appear to be contradictory to each other and so offered R. Shesheth, who could easily marshal them, an opportunity of embarrassing R. Hisda by inviting him to reconcile them.

(9) With which he could easily bewilder R. Shesheth.

(10) Lit., 'and surrounded them', sc. fences were erected on both sides of the doors of the houses across the public domain so as to form an enclosure into which both doors opened.

(11) Is one of the tenants permitted to move objects from his house into the enclosure (cf. supra 20a) if the other has renounced in his favour the share he has in it?

(12) Supra 66b, q.v. notes.

(13) Lit., 'now that'.

(14) Sc. on the Sabbath eve. From which it follows (as explained supra) that where residents impose no restrictions upon each other they are not permitted to exercise the right of renunciation even where they had the right to join in an 'erub.

(15) The case under consideration.

(16) In addition to the residents' inability to impose restrictions upon each other.

(17) From which it follows that renunciation is permitted even where the residents concerned do not impose restrictions upon each other.

(18) So that they enjoyed at least one privilege, that of the right to the preparation of an 'erub.

(19) The case under consideration.

(20) And are thus deprived even of the one privilege (cf. supra n. 11).

(21) As renunciation is permitted even where the residents impose no restrictions upon each other so is it also permitted where no 'erub could be prepared by them on the Sabbath eve.

(22) Renunciation is admissible only where the residents concerned (a) impose restrictions upon one another or (b) could, if they desired, have prepared an 'erub at the proper time.

(23) Who lived in a courtyard with two Israelites who neither rented his share in it nor prepared an 'erub on the Sabbath eve.

(24) May the Israelites renounce their rights to each other on the Sabbath?

(25) On the Sabbath, from a gentile who returned home on that day; and that renunciation is subsequently permitted (v. supra 65b).

(26) Renting and renunciation.

(27) Renunciation.

(28) Obviously not.

(29) Cf. supra n. 5, mut. mut.
(30) Renting and renunciation.
(31) Lit., 'two it is that we do not do'.
(32) Since in this case, unlike the one cited, the residents could have rented the gentile's share before the Sabbath when a valid 'erub could well have been prepared.
(33) Which is admissible only where an 'erub could have been prepared.
(34) Since in this case also no 'erub could have been prepared because the gentile's share in the courtyard had in fact not been rented.
(35) From his courtyard.
(36) In which Israelites live and into which his courtyard also has a door.
(37) He is consequently presumed to have renounced his right to his share in the alley, and if he does use it he is regarded as a mere passer-by whose passage can in no way affect the rights of the residents (cf. R. Han.).
(38) The door of the heathen's courtyard that had also a door opening towards an alley (cf. supra p. 467, n. 16).
(39) Is a karpaf in this respect regarded as a valley?
(40) Var. lec., 'Hanan' (Bomb. ed.).

Talmud - Mas. Eiruvin 67b

Even if it opened to a karpaf.[1] Both Rabbah and R. Joseph ruled: A gentile[2] causes restrictions[3] [if his karpaf was no bigger than] two beth se'ah,[4] but if it was bigger[5] he causes no restrictions;[6] an Israelite,[7] however, causes no restrictions[8] [if his karpaf was no bigger than] two beth se'ah,[9] but if it was bigger[10] he[11] does cause restrictions.[6]

Raba b. Haklai[12] asked R. Huna: What is the ruling[13] where [the door of a gentile's courtyard][14] opened into a karpaf[15] The other replied: Behold it has been said: 'Causes restrictions if [his karpaf was no bigger than] two beth se'ah, but if it was bigger he causes no restrictions'.[16]

Ulla laid down in the name of R. Johanan: If a man threw an object[17] into a karpaf that was bigger than two beth se'ah and that was not enclosed for dwelling purposes he incurs guilt[18] even if it was of the size of a kor or even as big as two kors. What is the reason?[19] — It is a proper enclosure[20] which only lacks tenants.[21]

R. Huna b. Hinena[22] raised all objection: If a rock in the sea[23] was ten handbreadths high and four handbreadths wide it is forbidden to move objects from it into the sea and from the sea into it;[24] but if it was lower[25] this is permitted.[26] To what extent?[27] To two beth se'ah.[28] Now what do these[29] refer to? If it be suggested: To the final clause,[30] the objection would arise: Seeing that one would only be moving front a karmelith to a karmelith,[31] why only two beth se'ah, and no more? Consequently it must refer[32] to the first clause, and what was implied was this: 'If a rock in the sea was ten handbreadths high and four handbreadths wide it is forbidden to move objects from it into the sea and from the sea into it', and 'To what extent?[33] To two beth se'ah', from which it follows that if it was bigger than two beth se'ah the movement of objects is permitted.[34] It is thus obvious that a rock of such dimensions has[35] the status of a karmelith. Does not this[36] then present an objection against R. Johanan?[37] — Raba retorted: only he who does not know how to explain Baraithas raises such an objection against R. Johanan. [The limitation][38] as a matter of fact refers to the first clause,[39] and it is this that was meant: Within it,[40] however,[41] it is permitted to move objects; and 'To what extent?[42] To two beth se'ah'.[43] R. Ashi replied: [The limitation[44] applies] indeed to the first clause,[45] for the Rabbis have laid down the one ruling[46] and they themselves have also laid down the other ruling:[47] They have laid down the ruling that in a karpaf that was bigger than two beth se'ah and that was not enclosed for dwelling purposes the movement of objects is permitted Only within four cubits,[48] and they themselves have also laid down the ruling that no objects may be moved from a private domain into a karmelith.[49] [In the case, therefore, of a rock that was no bigger than] two beth se'ah, throughout the area of which the movement of objects is permitted, the Rabbis have forbidden the movement of objects from the sea into it as well as from it into the sea.[50] What is the reason?[51] Because it[52] is a private domain In all respects.[53] [If, however, It was] bigger than two beth se'ah, throughout the area of which the movement of objects is forbidden,[54] the Rabbis permitted the movement of objects from it into the sea and from the sea into it.[55] What is the reason?[56] Because, otherwise,[57] people might assume it to be a private domain in all respects and, in consequence, would also move objects throughout its area.[58] But wherein does the one differ from the other?[59] — It is usual to move objects within the area of the rock itself[60] but it is unusual to move objects from it into the sea or from the sea into it.[61] There was once a child whose warm water[62] was spilled.[63] ‘Let some warm water’, said Rabbah ‘be brought for him from my house’.[64] ‘But’, observed Abaye, ‘We have prepared no ‘erub’.[65] ‘Let us then rely’, the other replied. ‘on the shittuf’.[66] ‘But’, Abaye told him, ‘we had no shittuf either’.[66] ‘Then’, the other said: ‘let a gentile be instructed to bring it for him’ — ‘l wished’, Abaye later remarked: ‘to point out an objection against the Master[67] but R. Joseph prevented me, because he told me in the name of R. Kahana, "When we were at Rab Judah's he used to tell us that in a Pentateuchal matter[68] any objection[69] must be raised before the Master's ruling is acted upon.[70] but in a Rabbinical matter[71] we must first[72] act on the ruling of the Master and then point out the objection".’[73] After that he[74] said to him,[75] ‘What objection was it that you wished to raise against the Master?’ ‘It was taught’, the other replied, ‘that "sprinkling"[76] on the Sabbath is only Rabbinically forbidden.[77] Now, instructing a gentile to do work[78] on the Sabbath[79] is also Rabbinically forbidden,

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(1) Does not the heathen in any way restrict the use of the alley for its residents.

(2) Whose courtyard had one door opening into an alley in which courtyard doors of Israelites also opened, and another door opening into a karpaf.

(3) On the use of the alley by his Israelite neighbours.

(4) Since the area of the karpaf is not big enough to induce him to give up his use of the alley.

(5) In consequence of which he prefers to use the karpaf and the door that leads to it, and dispenses entirely with his right to the use of the alley.

(6) On the use of the alley by his Israelite neighbours.

(7) V. supra n. 5.

(8) Even if he did not join in the ‘erub of the other residents.

(9) As he is permitted to use a karpaf of such a size on the Sabbath, and since its area fully suffices for all his possible Sabbath requirements and is also more convenient for his use than the comparatively smaller space of the alley, he is presumed to have dispensed with his right to the use of the alley which may, therefore, be provided by its other residents with a valid ‘erub even if he does not participate in it.

(10) So that it has the status of a karmelith (v. Glos.) into which he is forbidden to move any objects from his courtyard on the Sabbath.

(11) Being inevitably driven to the use of the alley.

(12) MS.M., ‘Hakuka’.

(13) According to Rab Judah who spoke (supra 67a ad fin.) of a door that opened into a valley.

(14) That had also a door to an alley in which Israelites resided.

(15) Sc. has a karpaf the same status as a valley?

(16) Supra q.v. notes.

(17) From a public domain, on the Sabbath when it is forbidden to move objects from a public domain into a private one and vice versa.

(18) Sc. he is liable to bring a sin-offering as if he had thrown the object into a private domain.

(19) I.e., since a karpaf of the size mentioned is subject to the law of a karmelith, within which the movement of objects beyond the distance of four cubits is forbidden, why should it here be regarded as a private domain?

(20) Hence it has Pentateuchally the same status as a private domain, and guilt is therefore incurred for throwing any objects from a public domain into it.

(21) In consequence of which it was Rabbinically subjected to the restrictions of a karmelith also.

(22) MS. M., ‘Hanina’.

(23) A sea is subject to the restrictions of a karmelith.

(24) Even within four cubits; because a rock of the dimensions given has the status of a private domain into which from a karmelith and into a karmelith from which it is forbidden to move objects on the Sabbath.
(25) Lit., ‘less than here (stated)’.
(26) Lit., ‘(they may) move (objects)’, from the sea into it and from it into the sea, within four cubits, since such a low rock has the status of a karmelith like the sea which surrounds it.
(27) In the area of the rock. It will be explained presently what the question and the following answer refer to.
(28) But not to a bigger area.
(29) The last question and answer.
(30) Which deals with a rock that was lower than ten handbreadths.
(31) Since, whatever its area, a rock that is lower than ten handbreadths has the status of a karmelith.
(32) Lit., ‘but not?’
(33) Of area of rock.
(34) Cf. supra n. 9 mut. mut.
(35) On account of its big area, despite its height.
(36) The relaxation of the law in turning a private domain into a karmelith on account of the extent of its area.
(37) Who laid down supra that though a karpaf was bigger than two beth se'ah it is still subject to the restrictions of a private domain and that a person who threw an object from a public domain into it incurs guilt.
(38) To ‘two beth se'ah’, in the Baraitha cited by R. Huna b. Hinena.
(39) Which deals with a rock that was lover than ten handbreadths.
(40) Sc. on the surface of the rock itself.
(41) Since the first clause only stated that ‘it is forbidden to move objects from it into the sea and from the sea into it’ and did not forbid the movement of objects on the surface of the rock from one part of it to another.
(42) Of area of rock is the movement of objects on the rock itself permitted.
(43) But if it is bigger it loses, on account of its wide extent and the absence of inhabitants, the status of a private domain in respect of the movement of objects within it, and assumes that of a karmelith. Had it not been subjected to these restrictions people might erroneously have treated a public domain also with the same laxity. On account of its height, however, it retains, in relation to the sea, the status of a private domain the movement of objects from which into the sea and vice versa remains forbidden.
(44) To ‘two beth se'ah’, in the Baraitha cited by R. Huna b. Hinena.
(45) But not, as Raba explained, to an inference from that clause.
(46) That relating to a karpaf as enunciated by R. Johanan.
(47) The one in the first clause of the Baraitha cited by R. Huna b. Hinena as defined by the limitation at its conclusion. Since both rulings are merely Rabbinical and not Pentateuchal the Rabbis could well abrogate one in favour of the other wherever the general requirements of the Sabbath laws demanded such a course; as will be explained anon.
(48) Sc. that it has been given the status of a karmelith as a restriction and safeguard against mistaking it for a public domain and applying its relaxation to the latter also. It is nevertheless forbidden to move airy objects from it into a public domain or vice versa since, as R. Johanan stated, it is Pentateuchally regarded as a private domain proper.
(49) As a precaution against the moving of objects from a private into a public domain.
(50) Since the prohibition only strengthens the Sabbath laws and can in no way lead, as in the case that follows, to their infringement.
(51) For the imposition of the restrictions.
(52) The rock whose area was less than two beth se'ah.
(53) And no infringement of the law (cf. infra n. 10) need be provided against.
(54) It having been given the status of a karmelith.
(55) Within four cubits.
(56) Sc. why were not the restriction had been imposed and the movement of this case also?
(57) If the restrictions had been imposed ant the movement of objects from it into the sea or vice versa had been forbidden even within four cubits.
(58) Even beyond four cubits. As this, however, "would entail an infringement of the Rabbinical law which imposed on such an area the restrictions of a karmelith, it was considered preferable to abrogate in this case the law forbidding the movement of objects between a karmelith and a private domain.
(59) I.e., why should the law against moving objects between a karmelith and a private domain be abrogated rather than

the one forbidding the movement of objects beyond four cubits in a private domain that was bigger than two beth se'ah?

(60) Hence it was necessary to enact a preventive measure.

(61) Against that which is unusual no preventive measures were enacted. Only in the case of a private domain and a karmelith on land, the movement of objects between which is not infrequent, has such a preventive measure been deemed necessary.

(62) That was prepared for him prior to the Sabbath, in connection with his circumcision due on the Sabbath day, and kept warm for the purpose.

(63) On the Sabbath.

(64) Which was in the same courtyard.

(65) Sc. an ‘erub of courtyards’ which enables the tenants of different houses in the same courtyard to move objects from house to house through the courtyard area.

(66) V. Glos. Shittuf in an alley in relation to its courtyards and the houses in their courtyards serves the same purpose as that of ‘erub in a courtyard in relation to its houses (cf. infra 73a).

(67) Rabbah

(68) Concerning which a Master gives a decision.

(69) Which a student wishes to raise against it.

(70) Since very great care must be exercised in any action that might possibly infringe a Pentateuchal law.

(71) Concerning which a Master gives a decision.

(72) out of respect for the Master, and on the assumption that he would be able to give a suitable answer to the students’ objection.

(73) As the law of ‘erub of courtyards is only Rabbinical Abaye had no alternative but to act on Rabbah's ruling.

(74) R. Joseph.

(75) Abaye.

(76) On an unclean person, of the water of purification containing the ashes of the red heifer (cf. Num. XIX, 2ff).

(77) Shebuth v. Glos.

(78) for an Israelite.

(79) If that work is forbidden on the Sabbath to an Israelite.

Talmud - Mas. Eiruvin 68a

why then should it not be said: As "sprinkling" on the Sabbath which is a Rabbinical prohibition does not supersede the Sabbath[1] so should not an instruction to a gentile to do work on the Sabbath which is also Rabbinically forbidden supersede the Sabbath?’[2] — ‘Do you’, the first retorted: ‘draw no distinction between a Rabbinical prohibition that involves a manual cat[3] and one[4] that involves no such act?’[5]

‘How is it, Rabbah son of R. Hanan) asked Abaye, ‘that in an alley in which two great men like you[6] reside there should be neither ‘erub nor shittuf?’ — ‘What’, the other replied. ‘can we do? For the Master[7] [to collect the tenants’ contribution].[8] would not be becoming,[9] l am busy with my studies, and the other tenants do not care. And were I[10] to transfer to them the possession of a share of the bread in my basket[11] the shittuf, Since If they had asked me for the bread l could not give it to them,[12] would be invalid; for it was taught: If one of the residents of an alley[13] asked for some of the wine or the oil[14] and they refused to give it to them the shittuf is thereby rendered null and void’. ‘Why then’, the first asked: ‘should not the Master transfer to them the possession of a quarter of a log of vinegar[15] a cask?’[16] — ‘It was taught: [Commodities kept] in store[17] may not be used for shittuf’.[18] ‘But was It not taught that they[19] may be used for shittuf?’ — This, R. Oshaia replied, is no contradiction, since one view is that of Beth Shammai and the other is that of Beth Hillel. For we learned: If a corpse lay in a house that had many doors[20] all the doorways[21] are unclean.[22] If one of them was opened, that doorway is unclean while all the others are clean.[23] If it was intended to take out the corpse through one of them, or through a window that measured four handbreadths by four, this protects all the doors.[24] Beth Shammai ruled: This[25] applies only where the intention was formed before the person in question was dead,[26] but Beth Hillel ruled: Even if it was formed after he was dead.[27]

There was once a certain child[28] whose warm water[29] was spilled out.[30] Said Raba: ‘Let us ask his mother [and] if she requires any, a gentile[31] might warm some for him indirectly through his mother’. ‘His mother’, R. Mesharsheya told Raba, ‘is already eating dates’.[32] ‘It is quite possible’, the other replied, ‘that it was merely a stupor that had seized her’.[33]

There was once a child[34] whose warm water[35] was spilled out.[36] ‘Remove my things’, ordered Raba,[37] ‘from the men's quarters[38] to the women's quarters[39] and I will go and sit there[40] so that[41] I may renounce in favour of the tenants of the child's courtyard[42] the right I have in this one’.[43] ‘But’, said Rabina to Raba, ‘did not Samuel lay down: No renunciation of one's right in a courtyard is permitted where two courtyards are involved?’[44] — ‘I’, the other replied, ‘hold the same view as R. Johanan who laid down: It is permitted to renounce one's right in a courtyard even where two courtyards are involved’. ‘But’, the first asked: ‘if the Master does not hold the same view as Samuel

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(1) Even where the performance of a Pentateuchal commandment, such, e.g., as that if the Paschal lamb, must in consequence be postponed (cf. Pes. 65b).

(2) Why then did Rabbah permit an instruction to be given to a gentile to bring the warm water for the child?

(3) Sprinkling, for instance.

(4) Such as a mere verbal instruction.

(5) The answer, of course, must be in the affirmative. While a manual act remains forbidden even where a commandment must thereby be superseded a verbal may well be permitted where it is essential for the observance of a commandment such as circumcision with which Rabbah had to deal. The insertion in cur. edd., ‘for the master, surely, did not tell the gentile: Go and warm (it)’, is deleted by Bah.

(6) Lit., ‘like our Rabbis’, Rabbah and Abaye.

(7) Rabbah.

(8) To the ‘erub’.

(9) Lit., ‘not his way’.

(10) Instead of making a collection.

(11) Which could be designated as ‘erub; and thus give all the tenants a share in it.

(12) He could not well afford to give away every Sabbath a portion of his bread to any of his neighbours who might care to assert his claim.

(13) Who contributed his share to the shittuf.

(14) That has been contributed.

(15) There could be no great loss in giving some vinegar to any of the tenants who might ask for it.

(16) Which might be kept in his courtyard throughout the year and thus enable all the tenants to have free intercourse between the courtyards and the houses.

(17) Sc. a store of fruit or a cask of vinegar, for instance, from which small quantities at a time are being consumed.

(18) In the case of a cask of vinegar, for instance, no portion of it may be designated for the purpose, because no one could possibly distinguish between the quantity that had been so designated and the general contents of the cask; and any quantity that one may happen to use at any time might be assumed to be the quantity that had been designated for the shittuf which in consequence would cease to exist.

(19) Commodities in store (v. previous n.).

(20) That were closed.

(21) Lit., ‘all of them’, since no decision had been made through which of the doors the corpse shall be carried out.

(22) Sc. any object that happens to be within the space enclosed by the door posts, lintel and threshold, though it was not within the room, is levitically unclean.

(23) Because it is assumed that the corpse would be taken out through the opened door.

(24) Cf. prev.n.

(25) That intention is effective.

(26) Since in that case the uncleanness has never descended on the other doors. If, however, no intention had been formed before the person was dead, and all the doors had been affected by the uncleanness, any subsequent intention cannot retrospectively, cause a differentiation between the one door and the others.

(27) Ohal. VII, 3. Intention, in their opinion, is effective retrospectively. Similarly in the case of shittuf with a non-identified quantity: According to Beth Hillel the shittuf is valid, since any quantity of the contents that remain in the cask may be retrospectively regarded as the original quantity assigned for the shittuf: while according to Beth Shammai it cannot be so regarded and the shittuf is consequently invalid.

(28) Who was to be circumcised on the Sabbath.

(29) That had been prepared before the Sabbath and kept warm for the operation.

(30) On the Sabbath.

(31) An Israelite may desecrate the Sabbath for the sake of a woman in childbirth during the first seven days only. After the first seven days (circumcision cannot take place before the eighth clay) an Israelite, though himself forbidden to do for her sake any work that is forbidden on the Sabbath, may request a gentile to do it.

(32) Sc. cold foodstuffs. As she is able to eat cold food it is obvious that her life cannot be dependent on the warm water which, consequently, must not be prepared for her on the Sabbath.

(33) I.e., she may have been unconscious that she was eating anything at all. Hence, if she expressed a desire for warm water it is permitted to request a gentile to warm some for her and so, indirectly, for the child also.

(34) Who was to be circumcised on the Sabbath.

(35) V. p.474, n. 12.

(36) On the Sabbath.

(37) Who had a supply of warm water in his own courtyard which was adjacent to that in which the child was kept. No joint ‘erub for the two courtyards had been prepared but they had a common door between them. Cur.ed., ‘to them’, is omitted with MS.M.

(38) In which he usually lived and which communicated directly with his courtyard.

(39) Which, for the sake of privacy, were behind the men's apartments and consequently inaccessible from the courtyard except by way of the men's quarters.

(40) During the Sabbath.

(41) By being deprived of direct access to the courtyard.

(42) Lit., to them’.

(43) Sc. his own courtyard. On renouncing his right in their favour they would acquire possession of his courtyard and therewith also the right to carry objects from one courtyard into the other through the common door. Thus they would be placed in a position enabling them to carry the required warm water to the child's apartment. Raba, on the other hand, who, as a result of his renunciation, would be deprived of the use of his courtyard, would be protected against the possible use of it through forgetfulness by his removal to the inner apartments from which he could gain no access to it except through the men's quarters involving a long walk and sufficient time in which to recollect his self-imposed restrictions.

(44) Supra 66b. Lit., ‘from courtyard to courtyard’. How then could Raba renounce his right in favour of the tenants of the child's courtyard?

Talmud - Mas. Eiruvin 68b

let him remain[1] in his usual quarters[2] and renounce his right in his courtyard in their[3] favour and then[4] let them renounce their right[5] in the Master's favour,[6] for did not Rab rule: Renunciaton[7] may be followed[8] by renunciation?’[9] — ‘On this point I am of the same opinion as Samuel who ruled: Renunciation[7] may not be followed[8] by renunciation’.[10] ‘But are not both rulings[11] based on the same principle, since why indeed should not renunciation[7] be allowed to follow[8] renunciation?[9] Is it not because a person, as soon as he renounces his right.[12] completely eliminates himself from that place and assumes the status of a tenant of a different courtyard and no renunciation is valid between two courtyards? How then[13] could the Master[14] renounce his right?[15] _ ‘There[16] the reason is this:[17] That a Rabbinical enactment[18] shall not assume[19] the character of a mockery and jest.

[To turn to] the main text: Rab ruled: Renunciation may be followed by renunciation, and Samuel ruled: Renunciation may not be followed by renunciation.[20] Must it be assumed that Rab and Samuel differ on the same principle as that on which the Rabbis and R. Eliezer differed,[21] Rab holding the same opinion as the Rabbis[22] while Samuel holds the same opinion as R. Eliezer?[23] Rab can answer you: I may uphold my ruling even in accordance with the view of R. Eliezer; for it was only there that R. Eliezer maintained his ruling that the man who renounces his right to his courtyard renounces ipso facto his right to his house also, because people do not live in a house that has no courtyard, but did he[24] express any opinion as regards complete elimination?[25] Samuel also can answer you: l may uphold my ruling even according to the view of the Rabbis; for it was only there that the Rabbis maintained their ruling,[26] since only that which a man actually renounced can be deemed to have been renounced while that which he did not actually renounce cannot be so regarded, but from that at least which a man does renounce he is eliminated completely.[27] R. Aha b. Hana[28] citing R. Shesheth stated: Their views[29] [differ on the same principles] as those of the following Tannas: If a tenant[30] presented[31] his shares[32] and then he carried out something,[32] whether he acted unwittingly or intentionally, he imposes restrictions;[33] so R. Meir. R. Judah ruled: If he acted[34] with intention he imposes restrictions,[33] but if unwittingly he does not.[35] Now, do they[36] not differ on the following principles: One Master[37] holding that renunciation[38] may be followed by renunciation, while the other Master[39] maintains that renunciation[40] may not be followed by renunciation?[41] — R. Aha b. Tahlifa replied in the name of Raba: No; all[42] hold the view that renunciation may not be followed by renunciation but[43] the point at Issue between them[44] is whether a penalty has been imposed in the case of one who acted unwittingly on account of one who acted intentionally. One Master[45] holds the view that in the case of one who acted unwittingly a penalty has been imposed on account of one who acted with intention,[46] while the other Master[47] holds that in the case of one who acted unwittingly no penalty has been imposed on account of one who may act with intention.[48]

R. Ashi said: Rab and Samuel differed on the same point of issue as the one between, R. Eliezer and the Rabbis.

R. GAMALIEL RELATED: A SADDUCEE ONCE LIVED WITH US. Who ever spoke of A SADDUCEE?[49] — A clause is missing, and this is the correct reading:[50] A Sadducee has the same status as a gentile,[51] but R. Gamaliel ruled: A Sadducee has not the status of a gentile. AND R. GAMALIEL RELATED: A SADDUCEE ONCE LIVED WITH US IN THE SAME ALLEY IN JERUSALEM. AND FATHER TOLD US: ‘HASTEN AND CARRY OUT[52] ALL THE NECESSARY ARTICLES INTO THE ALLEY[53] BEFORE HE CARRIES OUT HIS[54] AND THEREBY IMPOSES RESTRICTIONS UPON YOU’. And so[55] it was also taught: If a man lives [in the same alley] with a gentile, a Sadducee or a Boethusian, these impose restrictions upon him;[56] and it once happened that a Sadducee lived with R. Gamaliel in the same alley in Jerusalem, and R. Gamaliel said to his sons, ‘Hasten my sons and carry[52] Out what you desire to carry Out[57] or[58] take in[52] what you desire to take in,[57] before this abomination carries out his articles and thereby imposes restrictions upon you, since [at that moment] he renounced his share in your favour’; So R. Meir. R. Judah related, [The instruction was given] in a different form: ‘Hasten and attend to your requirements in the alley before nightfall when he would impose restrictions upon you’.[59]

The Master said, ‘Carry out what you desire to carry out or bring in what you desire to bring in, before this abomination imposes restrictions upon you’. This then implies that[60] if they carried out their objects first and then he carried out his he imposes no restrictions upon them’.

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(1) Instead of moving into the women's quarters.

(2) Lit., ‘in his place’.

(3) The tenants of the child's courtyard.

(4) After they had taken the water to the child.

(5) In Raba's courtyard.

(6) Who, in consequence, would again be allowed the free use of his courtyard.

(7) By one person in favour of another.

(8) On the same Sabbath.

(9) On the part of the latter in favour of the former. Cf.infra 69b.

(10) Cf. prev. n. and infra 79b.

(11) That (a) after a person renounced his right in a courtyard in favor of another the latter may not on the same Sabbath renounce it in favour of the former and (b) no tenant of one courtyard may renounce his right in it in favour of a tenant of another courtyard.

(12) To his share in a courtyard.

(13) Since on adopting one ruling the adoption of the other is inevitable.

(14) Lit., ‘the Master also should not’.

(15) In favour of the tenants of the child's courtyard.

(16) The ruling of Samuel that ‘renunciation may not be followed by renunciation’.

(17) Not the one suggested by the questioner.

(18) The prohibition to move objects from one courtyard into another without ‘erub.

(19) By repeated renunciations and the consequent freedom in the moving of objects between courtyards without any further legal preliminaries.

(20) Supra q.v. notes.

(21) Cf. supra 26b.

(22) Who laid down (v. Mishnah infra 69b and its explanation in the Gemara following it) that if one of the tenants forgot to contribute his share to the ‘erub of his neighbour's in a courtyard, but on the Sabbath renounced his right to share in the courtyard in their favour, it is forbidden both to him and to them to carry any objects from his house into the courtyard or from the courtyard into his house; from which it is evident that, though a man renounced his right in a courtyard, he is not ipso facto assumed to have renounced his right to his house also. Thus it follows that a tenant's renunciation is not regarded as his complete elimination; that he is still a legitimate tenant of the same courtyard; and that, in agreement with Rab, the other tenants may renounce in his favour the rights he previously renounced in their favour.

(23) Who ruled (cf. supra 26b) that he who renounces his rights to his courtyard renounces ipso facto his rights to his house also; from which it follows that a tenant's renunciation is regarded as his complete elimination from his courtyard, that he assumes in consequence the status of a tenant of a different courtyard; and that, in agreement with the view of Samuel, the other tenants may not renounce in his favour the rights he previously conceded to them.

(24) R. Eliezer.

(25) l.e., that the man in question Should be regarded as the tenant of a different courtyard in whose favour consequently his neighbours should not be allowed to renounce their rights? No such opinion having been expressed, R. Eliezer may well be assumed to share the view advanced by Rab that renunciation may be followed by renunciation’.

(26) That the renunciation of a tenant's Share in a courtyard does not imply his renunciation to his rights in his house.

(27) As the tenant in question renounced his right to the courtyard he must be regarded as a tenant of a different courtyard in whose favour no right in the former courtyard may subsequently be renounced.

(28) MS.M., ‘Rabbah b. Bar Hana’.

(29) Those of Rab and Samuel on the question of a renunciation that followed a renunciation.

(30) Who forgot to join in the ‘erub of his neighbours in a courtyard.

(31) On the Sabbath, to his neighbours.

(32) In the courtyard into which their houses opened.

(33) On the "use of the courtyard by all the tenants. His carrying of the object into the courtyard is regarded as an act of re-acquisition of the share he had previously renounced in favour of the other tenants.

(34) When carrying out an object.

(35) infra 69b.

(36) R. Meir and R. Judah.

(37) R. Meir who ruled that restrictions are imposed even where an object had been carried out unwittingly, from which it follows that the renunciation is not regarded as the tenant's complete elimination.

(38) Since elimination is incomplete (cf. prev. n.) and the tenant in question is still denied to be living in the same courtyard.

(39) R. Judah who ruled that if an object was carried out unwittingly no restrictions are imposed, from which it follows that a renunciation results in so complete an elimination that only an intentional act can revoke it.

(40) Resulting as it does in the tenant's complete elimination (et prev. n.).

(41) Apparently they do. Must it then be assumed that both Rab and Samuel differ from one or other of the Tannas mentioned?
(42) Even R. Meir.
(43) In reply to the objection: Why does R. Meir impose restrictions even where the tenant acted unwittingly?
(44) It. Meir and R. Judah.
(45) R. Meir.
(46) Had the law been relaxed in the case of the former it might erroneously have been relaxed in that of the latter also.
(47) R. Judah.
(48) In the case, however, of an intentional carrying out of all object since a renunciation cannot have the legal force of a sale, all agree that the act cancels the renunciation; provided only that the act preceded the tenants’ acquisition of the renounced share.
(49) None; the Mishnah having dealt with a heathen oily. Why then does It. Gamaliel introduce the Sadducee as if some one had given a different ruling concerning him?
(50) Of our Mishnah.
(51) He cannot renounce his right to his share in a courtyard by a mere declaration.
(52) As soon as the Sabbath begins.
(53) Thus acquiring possession of it.
(54) And re-acquires his right to his share.
(55) That, as has just been explained, the Rabbis differ from R. Gamaliel in the case of a Sadducee.
(56) In his use of the alley on the Sabbath. Cur. edd. in parenthesis, ‘R. Gamaliel ruled: A Sadducee and a Boethusian impose no restrictions’.
(57) During the Sabbath.
(58) So Tosaf. s.v. והוציאו a.l.
(59) In his opinion R. Gamaliel regards a Sadducee as a gentile and no renunciation of his is valid.
(60) According to R. Meir.

Talmud - Mas. Eiruvin 69a

But have we not learnt: If a tenant[1] presented his share[2] and then he carried out something,[3] whether he acted unwittingly or intentionally, he imposes restrictions;[4] so R. Meir?[5] — R. Joseph replied. Read:[6] He imposes no restrictions. Abaye replied: There is no contradiction,[7] the former dealing with a case[8] where the residents of the alley had taken possession of the alley[9] while the latter deals with one[8] where the residents of the alley had not taken possession of the alley; and so it was also taught: If he[10] carried out an object[11] before he had renounced his share,[12] whether he acted[13] unwittingly or intentionally, he[14] is entitled to renounce his right;[15] so R. Meir. R. Judah ruled: If he acted[13] unwittingly he is entitled to renounce his right[15] but if he acted with intention he is no longer entitled to renounce his right.[16] He who presented his share[12] and then carried out an object.[11] whether he acted[13] unwittingly or with intention, he imposes restrictions;[17] so R. Meir. R. Judah ruled: If he acted[18] with intention he imposes restrictions but if unwittingly he does not. This,[19] however, applies only where the residents of the alley did not take possession of the alley.[20] but where they did take possession of it[20] he imposes no restrictions upon them irrespective of whether he acted[18] unwittingly or intentionally.

The Master said: ‘R. Judah related, [The instruction was given] in a different form: "Hasten and attend to your requirements in the alley before nightfall when he would impose restrictions in you".’ From this[21] it is evident that he is regarded as a gentile; but have we not learnt.[22] BEFORE HE CARRIES OUT?[23] — Read: Before the conclusion of the day.[24] And if you prefer I might say: There is really no contradiction since the former[25] might refer to one who is a mumar[26] in respect of desecrating the Sabbath in privacy only, while the latter[27] might deal with one who desecrates the Sabbath in public.

Whose view is followed in what was taught: ‘A mumar[26] or a barefaced sinner is not entitled to renounce his share’? — But is a barefaced sinner on a par with a mumar?[28] — Rather read: ‘A barefaced mumar[29] is not entitled to renounce his share’. Now in agreement with whose [view has this been laid down]? — In agreement, of course, with that of R. Judah.[30]

A certain man once went out[31] with a jewelled charm[32] but when he observed R. Judah Nesi'ah he covered it up. ‘A person of this type’,[33] [the Master said.] ‘is in accordance with the view of R. Judah entitled to renounce his share’.

R. Huna stated: Who is regarded as an Israelite in mumar?[34] He who desecrates the Sabbath in public. Said R. Nahman to him: In agreement with whose view?[35] If [it be suggested that it is] in agreement with that of R. Meir who holds that a person who is suspected of disregarding one matter [of law] is held suspect in regard to all the Torah,[36] the statement should also apply to any of the other prohibitions of the Torah;[37] and if [it is suggested that it is] in agreement with the view of the Rabbis,[38] did they not rule, it may be objected, that one who is suspected of disregarding one law is not held suspected in regard to all the Torah

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(1) Who, owing to forgetfulness, failed to contribute his share to the ‘erub of his neighbours.

(2) To his neighbours, on the Sabbath.

(3) Into their alley.

(4) On the use of the alley by all its residents.

(5) Infra 69b. How then are the two rulings of R. Meir (v. supra n. 2) to be reconciled?

(6) In the Mishnah just cited.

(7) Cf. supra n. 7.

(8) lit., ‘here’.

(9) Before the man who presented them with, or renounced in their favour his share had carried out his objects.

(10) A tenant who, forgetting to join in the common ‘erub, presented his share to his neighbours.

(11) Into the alley towards which his courtyard as well as the courtyards of the others opened.

(12) In the alley, in favour of his neighbours.

(13) When he carried out the objects.

(14) Though accused of a desecration of the Sabbath.

(15) In favour of the other residents.

(16) Cf. prev. n., R. Judah holding the opinion that a person who intentionally desecrates the sabbath is denied the privilege of renunciation.

(17) On the use of the alley by its residents. His intentional use of it after he had presented his share to his neighbours is regarded as the re-acquisition of his share; and in the case of an unwitting use of it the restrictions are imposed on account of the possibility of intentional use.

(18) When he carried out the objects.

(19) That if an Israelite tenant presented his share to his neighbours and then used the alley, there is a difference of opinion between R. Meir and R. Judah, the latter holding that restrictions are imposed only where the use was intentional while the former maintains that they are imposed even where the use was unintentional (cf. Rashi s.v. במה ad fin. a.l.).

(20) Before the tenant in question had carried out his object.

(21) The statement of R. Judah according to which a Sadducee is not entitled to renounce his right to his share.

(22) In R. Judah's ruling in our Mishnah.

(23) Which shows that until that time at least his renunciation is valid. If, however, he has the status of a gentile how could his renunciation ever be valid?

(24) יצא היום (cf. Bah. Cur. edd. יוצא), an expression which conveys the same meaning as that of ‘before nightfall’ in R. Judah's statement cited in the Baraitha. Instead of יוציא (Hif. of יצא) which bears the meaning of ‘carrying’ (יוציא כליו ‘he will carry out his things’), the reading is יצא (Kal. of יצא) which bears the meaning of ‘going out’, ‘departing’.

(25) Lit., ‘here’ our Mishnah which allows a Sadducee to renounce his right.

(26) Lit., ‘changed’, ‘converted’, an apostate, a person who does not conform to the Jewish law.

(27) The Baraitha which regards the Sadducee as a gentile.

(28) Barefacedness, surely, is not so great an offence as the denial of the laws of the Sabbath.
(29) Sc. one who desecrates the Sabbath in public.
(30) As has just been explained. It cannot be in agreement with the views of R. Meir since he allows even a mumar who desecrates the Sabbath in public to renounce his share. —
(31) On the Sabbath when the carrying of objects in a public domain is forbidden.
(32) Humarta di-medusha, a ‘charm’, ‘ball’ or ‘bead’ containing a ‘jewel for sealing’; or ‘a small bundle of spices’ (cf. Rashi a.l. anti Jast.). Such an object, not being regarded as a personal ornament, may not be carried on the Sabbath in a public domain even on one's person.
(33) I.e., who is ashamed to carry the forbidden object in the presence of a noted personality.
(34) This is now assumed to mean a mumar or apostate in all respects.
(35) Is this statement made.
(36) Bek. 30b.
(37) Not only to that against the desecration of the Sabbath.
(38) Who differ from R. Meir (v. Bek. 30b).

Talmud - Mas. Eiruvin 69b

unless he is a mumar in respect of idolatry?[1] — R. Nahman b. Isaac replied: Only in respect of presenting or renouncing his right to his share,[2] this being in agreement with what was taught: An Israelite mumar who observes the Sabbath in public[3] may renounce his share, but one who does not observe the Sabbath in public may not renounce his share, because the Rabbis have laid down: An Israelite may renounce or present his share, whereas with a gentile transfer is possible only through the letting of his share. How is this[4] done? He[5] says to him,[6] ‘My share is acquired by you’ or ‘my share is renounced in your favour’, [and the latter thereby] acquires possession and there is no need for him to perform a formal act of acquisition.[7]

R. Ashi replied:[8] To this Tanna[9] the desecration of the Sabbath is an offence as grave as idol worship;[10] as it was taught: Of you[11] implies:[12] But not all of you, thus excluding a mumar;[13] ‘of you’[14] only among you did I make distinctions[15] but not among the other nations;[16] ‘of the cattle’[17] includes men who resemble cattle.[18] From here it has been inferred that sacrifices may be accepted from transgressors in Israel,[19] in order that they might return in repentance, all except from a mumar, from one who offers libations of wine to idols and from one who publicly desecrates the Sabbath.[20] Now is not this statement self contradictory: First you said: ‘Of you implies: But not all of you, thus excluding a mumar’, and then you state, ‘Sacrifices may be accepted from transgressors in Israel’?[21] This, however, is no contradiction since the first clause might deal with a person who is a mumar in respect of all the Torah, while the intervening clause might refer to one who is a mumar in respect of one precept only. But [then] read the final clause: ‘Except from a mumar and from one who offers libations of wine to idols’. What, pray, is one to understand by this type of mumar? If he is a mumar in respect of all the Torah he is obviously identical with the one in the first clause;[22] and if he is a mumar in respect of one precept only, does not a contradiction arise from the middle clause?[23] Must it not consequently be conceded that it is this that was meant:[24] Except from one who is a mumar in respect of offering libations of wine to idols or the desecration of the Sabbath in public?[25] It is thus evident that idolatry and the desecration of the Sabbath are offences of equal gravity.[26] This is conclusive.

MISHNAH. IF ONE OF THE TENANTS OF A COURTYARD FORGOT TO JOIN IN THE ‘ERUB,[27] HIS HOUSE IS FORBIDDEN BOTH TO HIM AND TO THEM FOR THE TAKING IN OR FOR THE TAKING OUT OF ANY OBJECT.[28] BUT THEIR HOUSES ARE PERMITTED BOTH TO HIM AND TO THEM.[29] IF THEY PRESENTED THEIR SHARES[30] TO HIM, HE IS PERMITTED THE UNRESTRICTED USE OF THE COURTYARD BUT THEY ARE FORBIDDEN.[31] IF THERE WERE TWO [WHO FORGOT TO JOIN IN THE ‘ERUB], THEY[32] IMPOSE RESTRICTIONS UPON ONE ANOTHER, BECAUSE ONE TENANT MAY PRESENT

HIS SHARE[33] AND ALSO ACQUIRE THE SHARES OF OTHERS[34] WHILE TWO TENANTS MAY PRESENT THEIR SHARES BUT MAY NOT ACQUIRE ANY.[35]

WHEN MUST ONE'S SHARE BE PRESENTED?[36] BETH SHAMMAI RULED: WHILE IT IS YET DAY,[37] AND BETH HILLEL RULED: AFTER DUSK. IF A TENANT PRESENTED HIS SHARE[33] AND THEN CARRIED OUT ANY OBJECT, WHETHER UNWITTINGly OR INTENTIONAlly, LIE IMPOSES RESTRICTIONS;[38] SO R. MEIR. R. JUDAH RULED: IF HE ACTED WITH INTENTION HE IMPOSES RESTRICTIONS, BUT IF UNWITTINGLY HE IMPOSES NO RESTRICTIONS.

GEMARA. Apparently it is only HIS HOUSE that IS FORBIDDEN but his share in the courtyard[39] is permitted;[40] but how is one to understand the circumstances? If he has renounced his rights,[41] why should his house[42] be forbidden? And if he has not renounced his rights why should his courtyard be permitted? Here we are dealing with the case of a tenant who renounced his right to his courtyard but not his right to his house, the Rabbis[43] being of the opinion that a tenant who renounces his right to his courtyard does not ipso facto renounce his right to his house, since a person might well live in a house that has no courtyard. BUT THEIR HOUSES ARE PERMITTED BOTH TO HIM AND TO THEM. What is the reason? — Because he[44] is regarded as their guest.

IF THEY PRESENTED THEIR SHARES TO HIM, HE IS PERMITTED THE UNRESTRICTED USE OF THE COURTYARD BUT THEY ARE FORBIDDEN. Why should not they be regarded as his guests? — One man may be regarded as the guest of five[45] men; five men cannot be regarded as the guests of one. Does this[46] then imply that renunciation[47] may be followed by renunciation?[48] — No; it is this that was meant: IF THEY originally[49] PRESENTED THEIR SHARES TO HIM, HE IS PERMITTED THE UNRESTRICTED USE OF THE COURTYARD BUT THEY ARE FORBIDDEN.

IF THERE WERE TWO WHO FORGOT TO JOIN IN THE ‘ERUB THEY IMPOSE RESTRICTIONS UPON ONE ANOTHER. Is not this obvious?[50] — This ruling was necessary only in a case where one of them has subsequently[51] renounced his share[52] in favour of the other. As it might have been assumed that the latter should be permitted [the full use of the courtyard].[53] hence we were informed that [this is not so], because the former, at the time he renounced his share, was not himself permitted the unrestricted use of that courtyard.[54] BECAUSE ONE TENANT MAY PRESENT HIS SHARE. What need again was there for this ruling? If that he MAY PRESENT, did we not learn this before?[55] If that he MAY ACQUIRE, did we not already learn this also?[56] — It was necessary on account of the final clause: TWO TENANTS MAY PRESENT THEIR SHARES. Is not this also obvious?[57] — It might have been presumed

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(1) But not in respect of the Sabbath.

(2) Is an Israelite who desecrates the Sabbath regarded as a mumar.

(3) Lit., ‘in the market place’, though he desecrates it in private.

(4) An Israelite's renunciation or presentation.

(5) The one who is renouncing or presenting.

(6) The other in whose favour the renunciation or presentation is made.

(7) Such as, for instance, symbolic acquisition. Cf. A.Z. 64b, Hul. 6a.

(8) To the objection raised by R. Nahman against R. Huna.

(9) Whose view R. Huna was presumably reporting.

(10) Sc. as one guilty of idolatry is regarded as a mumar in respect of all the Torah so also is one who is guilty of the desecration of the Sabbath.

(11) Lev. 1, 2, dealing with sacrifices.

(12) Emphasis on ‘of’.

(13) Sc. that no sacrifices may be accepted from a mumar.

(14) Emphasis on ‘you’.
(15) Between a mumar and a confessing Israelite.
(16) Sacrifices from these must be accepted without regard to the religious views they hold (cf. Hul. 13b).
(17) Lev. 1, 2, dealing with sacrifices. Emphasis on ‘cattle’.
(18) Wicked men who, like cattle, are unconscious of their duties to God and man.
(19) Who in their ignorance or carelessness might have strayed from the right path.
(20) Hul. 5a.
(21) ‘Transgressors’ presumably including the mumar also.
(22) Then why the repetition?
(23) Which does allow sacrifices to be accepted from a person who is a mumar in respect of one precept only.
(24) In the final clause.
(25) Of course it must.
(26) And this is the view held by R. Huna. Hence there is no necessity to resort to the reply of R. Nahman b. Isaac according to which a man who publicly desecrates the Sabbath is regarded as a mumar only in respect of his disability to present and renounce his share in connection with the laws of ‘erub. Such a man, as has originally been assumed, is in fact regarded as a mumar in all respects.
(27) In which his neighbours have joined.
(28) The circumstances in which this law applies are discussed in the Gemara infra.
(29) I.e., it is permitted to move objects from their houses into the courtyard and frown the courtyard into their houses, since both their houses and courtyard have been converted into one common domain.
(30) In their courtyard.
(31) The movement of objects even from is house into the courtyard; as will be explained infra.
(32) Though the other tenants renounced their shares in their favour.
(33) To his neighbours.
(34) Which they presented to him.
(35) Because, while the courtyard is their common domain, their houses are their individual property and it is forbidden to carry objects from a private house into a courtyard which belongs to another tenant as well as to its owner.
(36) To one's neighbour, so that the use of the courtyard shall be unrestricted.
(37) Of the Sabbath eve.
(38) On the use of the courtyard by his neighbours. His act is regarded as one of re-acquisition of the share he has previously presented to them.
(39) Since only HIS HOUSE was mentioned.
(40) To the other tenants who are allowed to carry objects from their houses into the courtyard and from the courtyard into their houses.
(41) In their favour.
(42) Which he renounced simultaneously with his share in the courtyard.
(43) The anonymous author of this part of our Mishnah who differs from R. Eliezer's ruling (supra 26b) that a tenant's renunciation of his share in a courtyard implies ipso facto his renunciation of his right to his house.
(44) By abstaining from taking out any object from his house into the courtyard or vice versa and by using the courtyard in connection with the other tenants’ houses only.
(45) Fictitious number, sc. any number of people more than one.
(46) The ruling that ‘IF THEY PRESENTED THEIR SHARES TO HIM, HE IS PERMITTED etc. though the first ‘renounced his right’ in their favour in consequence of which (as was explained supra) it was laid down in the first clause that ‘THEIR HOUSES ARE PERMITTED’.
(47) Spoken of in the first clause of our Mishnah (cf. prev. n.).
(48) I.e., the presentation of ‘THEIR HOUSES TO HIM’ in the clause under discussion.
(49) Not, as has been assumed, after he has renounced his right in their favour. This clause, in other words, is entirely independent of the first one.
(50) Since even in the absence of the other tenants the two would have imposed restrictions upon each other.
(51) After the other tenants had renounced the shares in favour of the two.
(52) Which now presumably included he shares that the other tenants had renounced in his favour.
(53) As in the case where all the tenants presented their shares to one of them.

(54) On account of the other tenant who was imposing restrictions upon him. Owing to these restrictions the presentation of the other tenants' shares was useless and, therefore, invalid. As he could not acquire their shares he could not obviously renounce them in favour of anyone else.

(55) 'BUT THEIR HOUSES ARE PERMITTED' because, as was explained in the Gemara supra, he 'renounced his right' in their favour.

(56) 'IF THEY PRESENTED THEIR SHARES TO HIM' etc.

(57) From a previous ruling in our Mishnah according to which any number of tenants, which obviously includes two, may present their shares to one of their number.

Talmud - Mas. Eiruvin 70a

that this[1] should be forbidden, as a preventive measure against the possible assumption that one may also renounce his share in favour of two,[2] hence we were informed that no such possibility need be considered.

BUT MAY NOT ACQUIRE ANY. What need was there for this ruling?[3] — It[4] was required only for this case: Even where they[5] said to him,[6] 'Acquire our shares on the condition that you transfer them'.[7]

Abaye enquired of Rabbah: If five tenants live in the same courtyard and one of them forgot to join in the 'erub, is it necessary, when he renounces his right to his share,[8] to renounce it in favour of every individual tenant or not? — He must, the other replied. renounce it in favour of every individual tenant.

He[9] pointed out to him[10] the following objection: A tenant who did not join in an 'erub[11] may present his share[12] to one of those who joined in the 'erub;[13] two tenants who joined in an 'erub[14] may present their shares[15] to the one who did not join in their 'erub; and two tenants who did not join in an 'erub[16] may present their shares[15] to the two of their neighbours who joined in an 'erub or to one neighbour[17] who[18] did not prepare an 'erub. One, however, who joined in an 'erub[19] may not present his share to one[20] who did not join with them[21] nor may two who joined in an 'erub present their shares to the two who did not join,[22] nor may the two who did not join in an 'erub present their shares to the other two who also did not join.[22] At all events it was stated in the first clause, 'A tenant who did not join in an 'erub may present his share to one of those who joined in an 'erub'. Now, how is one to understand the circumstances? If there was no other tenant with him,[23] with whom could he have joined in an 'erub? It is consequently obvious that there must have been another tenant with him, and yet it was stated: 'To one of those who joined in the 'erub'![24] — And Rabbah?[24] — Here[25] we are dealing with a case where there was one[26] who died.[27] But if one[26] was there and died, how will you explain the final clause: 'One, however, who joined in an 'erub may not present his share to one who did not join with them'? If one[26] was there only before and is now dead why should not this be permitted?[28] It is consequently obvious that he[26] was still there and, since the final clause is a case where he was there, must not the first clause also deal with one who was still alive?[29] — What an argument! Each clause may deal with a different case.[30] You may have proof that this is so,[31] for in the final section of the first clause it was stated, 'And two tenants who did not join in an 'erub may present their shares to the tow of their neighbours who joined in an 'erub', from which it follows: To two only[32] but not merely to one.[33]

Abaye, however, explained: What is meant by 'To two'? To one of the two. If so, why[34] was it not stated:[35] To one who joined in the 'erub[36] or to one who did not?[37] — This is a difficulty.

'A[38] tenant who did not join in an 'erub may present his share to one of those who joined in the 'erub' refers according to Abaye to a case where the other tenant[39] was also alive; and by this we are informed that it is not necessary to renounce one's share in favour of each individual tenant.

According to Rabbah this refers to a case where the other tenant[39] was first[40] alive and then[41] died; and the point in the ruling[42] is that no preventive measure had been enacted against the possibility that sometimes the one[39] may happen to be alive [and the same procedure[43] might be followed].

And[44] 'two tenants who joined in an 'erub may present their shares to the one who did not join in their 'erub'. Is not this obvious?[45] — It might have been presumed[46] that the tenant, since he did not join in the 'erub, should be penalized,[47] hence we were informed [that no such penalization had been enacted].

'And[48] two tenants who did not join in an 'erub may present their shares to the two of their neighbours who joined in an 'erub'. According to Rabbah this final clause[49] was taught in order to explain the sense of the first clause.[50] According to Abaye[51] this[52] was required on account of the ruling relating to 'two tenants who did not join In an erub'. Since it might have been presumed that renunciation on their part should be forbidden as a preventive measure against the possibility of a renunciation in their favour,[53] hence we were informed [that no such measure was deemed necessary].

'Or to one neighbour who did not prepare an 'erub'. What need was there for this ruling?[54] _ It might have been presumed that those rulings[55] applied only where some of the tenants joined in an 'erub and only some did not, but that where all the tenants failed to join in an 'erub they should be penalized[56] in order that the law of 'erub shall not be forgotten.[57] hence we were informed [that no penalization was imposed]. 'One, however, who joined in an 'erub may not present his share to one who did not join with them'. According to Abaye this final clause[58] was taught in order to indicate the meaning of the first clause.[59] According to Rabbah the final clause was taught on account of the first one.[60]

'Nor may two who joined in an 'erub present their shares to the two who did not join'. What need again was there for this ruling?[61] — It was required in that case only where one of them[62] renounced his share in favour of the other.[62] As it might have been presumed that the, latter should be permitted the unrestricted use of this courtyard.[63] hence we were informed that the law was not so, because the former, at the time he made his renunciation, was not himself permitted the unrestricted use of that courtyard.

'Nor may the two who did not join in an 'erub present their shares to the other two who also did not join'. What again was the need for this ruling?[61] —[58] t[64] was necessary only for this case: Even[65] where they[66] said to him,[67] 'acquire our shares on the condition that you transfer them'.[68]

Raba inquired of R. Nahman: May all heir[69] renounce his share?'[70] [

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(1) The presentation of their shares by two tenants to one.

(2) Lit., 'he might come to renounce for them'.

(3) Which is virtually a repetition of the previous ruling. 'TWO ... IMPOSE RESTRICTIONS UPON ONE ANOTHER'.

(4) The apparently superfluous repetition of the restriction.

(5) The tenants who presented their shares.

(6) One of the two who forgot to contribute to the 'erub.

(7) To the other tenant. Though in a case like this the one tenant might well be presumed to be acting as their agent to the other tenant, yet for the reason given (cf. supra p. 436, n. 11 and text), he MAY NOT ACQUIRE their shares.

(8) In the courtyard in favour of is neighbours.

(9) Abaye.

(10) Rabbah.

(11) With his two neighbours who prepared one between themselves.

(12) In their courtyard.

(13) And, since this one is associated in the ‘erub with the other, both of them are thereby permitted the unrestricted use of the courtyard.

(14) In a courtyard in which they lived with a third tenant.

(15) In their courtyard.

(16) With the two other tenants who lived in the same courtyard.

(17) If he is the only other neighbour.

(18) Like themselves.

(19) With one of his two neighbours.

(20) The other of his two neighbours (cf. prev. n.).

(21) His presentation is of no avail on account of the share of the neighbours who did not present his.

(22) Since TWO TENANTS MAY ... NOT ACQUIRE ANY.

(23) With the tenant who prepared the ‘erub.

(24) How then could Rabbah maintain that the renunciation must be made in favour of every individual tenant?

(25) In the Baraitha cited by Abaye.

(26) A tenant with whom an ‘erub was prepared.

(27) By the time the third tenant presented his share. As at that time only two tenants occupied the courtyard one may well renounce his share in favour of the other. On the question of the heirs of the deceased who might be expected to inherit his share and thus impose the same restrictions as he himself, v. Rash and Tosaf. a.I.

(28) Why should not the survivor be allowed to renounce his share.

(29) The objection against Rabbah thus arises again.

(30) Lit., ‘that as it is, and that’ etc.

(31) That the first clause deals with a case where one of the two tenants who joined in the ‘erub died.

(32) Lit., ‘yes’. i.e., the presentation must be made to each of the two.

(33) Of the two.

(34) Instead of ‘two’.

(35) As was the case in the first clause.

(36) Since One tenant cannot join in an ‘erub with himself it would be obvious that the reference was to one of two tenants.

(37) Cf. prev. n.

(38) The Gemara now proceeds to discuss the Baraitha cited, clause by clause.

(39) Who joined in the ‘erub with the one mentioned.

(40) When the ‘erub was prepared.

(41) When the renunciation was made.

(42) Which seems superfluous In view of the rule that even two tenants may renounce their shares in favour of one, and much more so one in favour of one.

(43) Of renouncing in favîur of one of the two only.

(44) Cf. supra n. 10.

(45) Since the latter may well renounce his share in their favour, on account of the ‘erub in which they have joined. no preventive measures against the possibility that one tenant might renounce his share in favour of two, could have been required. Now, since It was already stated in the first clause that one tenant may renounce, what need was there to mention also two?

(46) Since the first clause deals with a renunciation in favour of those who did join in an ‘erub.

(47) And no renunciation in his favour should be permissible.

(48) V. p. 489, n. 10.

(49) Which specifies that renunciation must be made in favour of each of the two tenants.

(50) Sc. that it deals with a case where one of the two tenants who joined in an ‘erub died before the renunciation was made. Had he not died the renunciation would have had to be made (cf. prev. n.) in favour of each of the two.

(51) Who explained supra that ‘to the two’ meant ‘to one of the two’.

(52) The clause under discussion which, since no difference could be made between one who makes a renunciation and two who make a renunciation, seems superfluous in view of the first clause which allows one tenant to make a renunciation in favour of one of another two tenants.

(53) Which, as stated supra, is forbidden.

(54) Which is implied in the previous ones.

(55) Enumerated previously, according to which such rWnunciation is permitted.

(56) By depriving them of the right to renunciation.

(57) Were renunciation allowed, no ‘erub would ever be prepared and the younger generation would in consequence remain ignorant of the institution of ‘erub’.

(58) Which is apparently superfluous since in view of the fact that one tenant did not renounce his share t"e renunciation of the other alone cannot be effective.

(59) Sc that it refers to a case where both tenants who had joined in the ‘erub were alive.

(60) As the first clause taught that ‘a tenant who did not join in an erub may present his share to one of those who joined’ the final clause taught that if the case was reversed presentation is forbidden. The first clause, however, deals with a case where one of the two tenants who joined in the ‘erub was dead while the final one deals with a case where both tenants were alive’.

(61) Which is implied in the preceding rulings.

(62) Of those who did not join in the ‘erub.

(63) As is the case where all tenants presented their shares to one of their own number.

(64) The superfluous repetition.

(65) Cf. Bah.

(66) The tenans who presented their shares.

(67) The one of the two who did not join in their ‘erub.

(68) To the other of the two tenants who did not join in the ‘erub (cf. supra p. 487, n. 10).

(69) Whose father, from whom he inherited his estate, had forgotten to contribute to the ‘erub of his courtyard and died on the Sabbath.

(70) Which he inherited (cf. prev. n.) on that day and which his father had not renounced in favour of his neighbours.

Talmud - Mas. Eiruvin 70b

Is it only in the case where [a tenant can], if he wishes, join in the ‘erub on the previous day[1] that he can also renounce his share,[2] but this [heir], since he could not join in the ‘erub on the previous day even if he wished,[3] may not renounce his share, or is it possible that an heir steps into his father's place?[4] — ‘I’, the other replied, ‘hold that he may renounce his share, but those [scholars] of the school of Samuel learned that he may not do so’.

He[5] thereupon pointed out the following objection against him:[6] This is the general rule: Whatever is permitted during a part of the Sabbath remains permitted throughout the Sabbath and whatever is forbidden during a part of the Sabbath remains forbidden throughout the Sabbath, the only exception being the case of the man who renounced his share.[7] ‘Whatever is permitted during a part of the Sabbath remains permitted throughout the Sabbath’, as is, for instance, the case of an ‘erub[8] that was prepared for the purpose of carrying objects through a certain door[9] and that door was closed up.[10] or one that was prepared for the purpose of carrying objects through a certain window[9] and that window was closed up.[10] ‘This is the general rule’[11] includes the case of an alley whose cross-beam[12] or side-post’[2] had been removed.[13] ‘Whatever is forbidden during a part of the Sabbath remains forbidden throughout the Sabbath’, as, for instance, in the case of two houses, that were respectively situated on the two sides of a public domain which gentiles surrounded with a wall during the Sabbath.[14] What does the expression[15] ‘This is the general rule’,[16] include? It includes the case of a gentile[17] who died on the Sabbath.[18] Now here It was stated: ‘The Only exception being the case of the man who renounced his share’,[19] from which[20] it follows, does it not, that only he[21] may do so but not his heir?[22] — Read, ‘The only exception being the law of renunciation’.[23]

He[24] raised another objection against him:[25] If one of the tenants of a courtyard[26] died, having left his share to a man in the street,[27] the latter[28] imposes restrictions,[29] if this occurred while it was yet day,[30] but if it occurred after dusk[31] he imposes no restrictions. If, however, a man in the street[32] died, having left his share to one of the tenants of the courtyard, he imposes no restrictions, if this occurred while it was yet day,[33] but if it occurred after dusk,[34] he imposes restrictions. Now why should he impose restrictions?[35] Let him renounce his share![36] — The ruling that he imposes restrictions applies only so long as he did not renounce[37] his share.

Come and hear: If an Israelite and a proselyte lived in one dwelling[38] and the proselyte died[39] while it was yet day[40]

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(1) Lit., ‘yesterday’, i.e., the Sabbath eve.

(2) On the Sabbath.

(3) Since at that time he had not yet had any share in the courtyard.

(4) Lit., ‘is his father's leg’, and is consequently entitled to all his rights.

(5) Raba.

(6) R. Nahman.

(7) This is explained presently.

(8) Between two courtyards.

(9) That communicated between the two courtyards.

(10) By some obstructions that happened to fall into it during the Sabbath. As it was permissible to carry objects from one courtyard into the other through the door (or the window) during a part of the Sabbath, the permissibility remains in force even after the door (or the window) was closed up. It is, for instance, permissible to throw objects from one courtyard into the other across the obstruction or through minor communication holes (cf. infra 76a).

(11) Which implies that there must be some other cases also but they were not here specified.

(12) So MS.M. and Rashi. Cur.ed. have the plural form.

(13) During the Sabbath. Although the use of an alley that was not provided with cross-beam or side-post is else’ where restricted. the removal of either in this case, since the alley was well provided with the one or the other during a part of the Sabbath, does not affect the tenants’ right to its continued and unrestricted use. This ruling is not covered by the one specified, since in the latter case the walls remained intact while in the former they were absent (cf. supra 17b).

(14) As in the absence of the wall no ‘erub was admissible on the Sabbath eve, it is forbidden to move objects from any of the houses into the newly enclosed area, even if one of the householders renounced his right in that area in favour of his neighbour.

(15) In the introduction to the first clause, which presumably refers also to the final clause.

(16) V. supra p. 492, n. 11.

(17) Who lived in the same courtyard with Israelites aid whose right in the courtyard Precluded his neighbours from joining in an ‘erub unless they previously hired his share from him.

(18) Since no ‘erub was allowed on the Sabbath eve and no renunciation of rights was permissible during the first part of the Sabbath while he was alive, no renunciation is permitted even after his death. This ruling also could not be inferred from the one specified, since in the latter case no erub could possibly have been provided on the Sabbath eve while in that of the former it could well have been prepared if (cf. prev. n.) the gentile's share had been hired.

(19) Sc. only in the case of such a renunciation during the Sabbath are the restrictions, which on account of the absence of ‘erub were previously in force, removed for the rest of the day.

(20) Since only ‘the man who renounced his share’, not his heir, was mentioned.

(21) The original householder.

(22) Lit., ‘he, yes; heir, not’. How then could R. Nahman maintain that an heir may also renounce his share?

(23) Either by the original owner or by his heir.

(24) Raba.

(25) R. Nahman.

(26) Who joined in ‘erub with his neighbours (cf. Tosaf. a.l.).

(27) Sc. a Stranger, one who did not live in the same courtyard.

(28) Since he did not join in the ‘erub.

(29) On the use of the courtyard by’ its tenants. As the new owner of the house he imposes restrictions though he does not himself live in it, his case being similar to that of the owner of a storehouse for straw or of a cattle-pen (cf. infra 72b).

(30) Of the Sabbath eve, when the ‘erub was not yet effective.

(31) When the ‘erub was already in force and the tenants were in consequence allowed the unrestricted use of their courtyard during a part of the Sabbath.

(32) Sc. one who did not live in that courtyard but was the owner of a house in it.

(33) Since he has sufficient time before the Sabbath to join in the ‘erub in respect of that house.

(34) When no ‘erub may any longer be prepared.

(35) In agreement with R. Nahman that an heir is entitled to renounce the share he inherited.

(36) And thus enable the tenants to enjoy the unrestricted use of their courtyard.

(37) Lit., ‘what also (is meant by) he imposes restrictions that he learned? Until he would renounce’.

(38) Or ‘barn’, the doors of their compartments or huts opening into one court.

(39) Leaving no heirs.

(40) Of the Sabbath eve.

Talmud - Mas. Eiruvin 71a

even though[1] another Israelite[2] had taken possession of his estate, [the latter] imposes restrictions;[3] [but if he died] after dusk[4] no restrictions are imposed even though no other Israelite took Possession of his estate. Now is not this statement self-contradictory? You first stated: ‘While it was yet day, even though another Israelite had taken possession [the latter] imposes restrictions’ and,[5] much more so[6] if one did not take possession of it; [but is not the law just] the reverse, viz., that where no one took possession no restrictions are imposed?[7] _ R. Papa replied. Read: ‘Although he had not taken possession’. But was it not stated: ‘Though he had taken possession’? — It is this that was meant: Though he did not take possession while it was yet day and did so only after dusk[8] he imposes restrictions, since[9] he could have taken possession while it was yet day.[10] ‘After dusk, no restrictions are imposed even though no other Israelite took possession of his estate’. You Say, ‘Even though no other Israelite took possession of his estate’ and[11] much less so[12] if one did take possession; but is not the law just the reverse, viz., that where one did take possession restrictions are imposed?[13] — R. Papa replied: Read: ‘Though he did take possession’.[14] but was it not stated: ‘Even, though he did not take possession’? — It is this that was meant: Though he took possession[15] after dusk he imposes no restrictions, since he could not take possession while it was yet day.[16] At all events it was stated in the first clause that ‘restrictions are imposed’. But why should restrictions be imposed? Let him[17] renounce his share? — The ruling that he imposes restrictions[18] applies only so long as he does not make his renunciation.

R. Johanan replied: The Baraithas[19] represent the view of Beth Shammai who ruled that no renunciation is allowed on the Sabbath.[20] For we learned: WHEN MUST ONE'S SHARE BE PRESENTED? BETH SHAMMAI RULED: WHILE IT IS YET DAY AND BETH HILLEL RULED: AFTER DUSK. Said Ulla: What is Beth Hillel's reason?[21] The case of renunciation is on a par with that of saying,[22] ‘You should have gone to the better kind’.[23] What, objected Abaye, is the comparison with the case of saying. ‘You should have gone to the better kind’, where the gentile died on the Sabbath?’[24] Rather it is this principle on which they are here at variance: Beth Shammai are of the opinion that the renunciation of a domain[25] is like conferring acquisition[26] of a domain [to another], but conferring acquisition of a domain on the Sabbath is forbidden;[27] while Beth Hillel are of the opinion that renunciation is merely the giving up of one's domain, and the giving up of a domain on the Sabbath is perfectly permissible.

MISHNAH. IF A HOUSEHOLDER WAS IN PARTNERSHIP WITH HIS NEIGHBOURS,[28] WITH THE ONE IN WINE AND WITH THE OTHER IN WINE,[29] THEY NEED NOT PREPARE AN ERUB;[30] BUT IF HIS PARTNERSHIP WAS WITH THE ONE IN WINE AND WITH THE OTHER IN OIL,[31] IT IS NECESSARY FOR THEM TO JOIN IN AN ‘ERUB.[32] R. SIMEON RULED: NEITHER IN THE ONE CASE NOR IN THE OTHER NEED THEY JOIN IN AN ERUB. GEMARA. Rab explained:[33] Only [if the wine[34] was kept] in one container.[35] Said Raba: A deduction also supports this view. For it was stated: WITH THE ONE IN WINE AND WITH THE OTHER IN OIL, IT IS NECESSARY FOR THEM TO JOIN IN AN ‘ERUB; now if you grant that the first clause deals with one container and the final clause with two containers both rulings are quite correct,[36] but if you contend that the first clause deals with two containers and the final clause deals with two containers, why. [it might be objected,] should a difference be made between wine and wine and between wine and oil?[37] — Wine and wine,[38] Abaye retorted, can properly be mixed,[39] but wine and oil cannot properly be mixed.[40]

R. SIMEON RULED: NEITHER IN THE ONE CASE NOR IN THE OTHER NEED THEY JOIN IN AN ‘ERUB. Even if the partnership was with the one in wine and with the other in oil?[41] — Rabbah replied: Here we are dealing with a courtyard that was situated between two alleys,[42] R. Simeon following his own View.[43] For we learned: R. Simeon remarked: To what may this case be compared? To three courtyards that open one into the other and also into a public domain, where, if the two outer ones made an ‘erub with the middle one, it is permitted to have access to them and they are permitted access to it, but the two other ones are forbidden access to one another.[44] Said Abaye to him:[45] Are the two cases at all alike, seeing that there[46] it was stated: ‘The two outer ones are forbidden,’ while here It was stated that THEY NEED NOT JOIN IN AN ‘ERUB at all?[47] — The ruling that[48] THEY NEED NOT JOIN IN AN ‘ERUB applies only to one between the neighbours and the householder, but the neighbours among themselves must certainly join in an ‘erub.

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(1) This will be discussed presently.

(2) The estate of a proselyte, who has no legal heirs, may be appropriated by the first person who takes possession of it.

(3) As the new owner did not join in the ‘erub he imposes restrictions on the use of the court by the surviving Israelite.

(4) V. supra n. 2.

(5) Since the clause is introduced by ‘even though’.

(6) Lit., ‘and it is not required (to state)’.

(7) There being no one to impose them.

(8) The purport of the expression being, ‘even though . . . had taken possession after dusk, so that during a part of the Sabbath the place was free from restrictions.

(9) The proselyte having died before dusk.

(10) As the proselyte's share was in a state of suspended ownership even when the Sabbath had set in the entire place could not be regarded as a permitted domain even during a part of the Sabbath.

(11) Since the clause is introduced by ‘even though’.

(12) Lit., ‘and it is not required (to state)’.

(13) On account of that persons share.

(14) He nevertheless imposes no restrictions, since during a part of the Sabbath, prior to his acquisition of the estate, the place was free from all restrictions.

(15) ‘Even though’ qualifying this implied clause.

(16) When the proselyte was still alive (cf. supra n. 7).

(17) The Israelite taking legal possession of the estate of the deceased proselyte being in a position of an heir.

(18) Lit., ‘what (is the meaning of he) imposes restrictions, that has been taught’.

(19) According to which an heir imposes restrictions and from which objection was raised against R. Nahman.

(20) Hence no means are available to an heir for the removal of the restrictions that begin with the incidence of the Sabbath. R. Nahman, however, may disagree with their view, following that of Beth Hillel.

(21) For allowing renunciation on the Sabbath.

(22) Lit., ‘it is made as (if he) says’ to a person whom he found in his field setting aside terumah from a certain kind of produce on his behalf without his previous consent.

(23) B.M. 22a. The terumah is valid if there was a better kind in the field; because the owner, by his present consent, is assumed retrospectively to have appointed the person as his agent. Similarly in the case of renunciation: The tenant's present act of renunciation is taken as an indication of his retrospective desire to join with the other tenants in their ‘erub and that his failing to do so was due to mere forgetfulness.

(24) In the latter case, surely, retrospective intention could not possibly be assumed.

(25) I.e.,one's share in a court.
(26) [Reading מקני instead of מיקני of cur. edd. v. Tosaf. s.v. מקני].
(27) Because it is on a par with a commercial transaction. Hence their prohibition of renunciation on the Sabbath.
(28) In an alley.
(29) Sc. they were all joint holders in one edible commodity that (as will be explained infra) was kept in one container.
(30) Their partnership in the commodity serves also the purpose of ‘erub.
(31) Sc. two different commodities that must be kept in separate containers.
(32) Since only a commodity in joint ownership that is kept in one container may be regarded as ‘erub.
(33) The first clause of our Mishnah.
(34) Which they possessed in common.
(35) NEED THEY NOT PREPARE AN ‘ERUB (cf. supra p. 496, n. 12).
(36) As the wine spoken of in the first clause was kept in one container no other ‘erub was consequently required, while in the case of the wine and the oil spoken of in the final clause, since they were kept in two containers, a special ‘erub was rightly required.
(37) Sc. why should an ‘erub be necessary in the latter case if it is not required in the former?
(38) Though kept in two containers.
(39) Hence it may serve as an ‘erub even if it has not yet been mixed.
(40) As they must always be kept apart they cannot be regarded as ‘erub if they have not been expressly set aside for that purpose. Hence, contrary to the submission of Raba, the first clause also may be dealing with two containers.
(41) But how could such a ruling be justified in view of the fact that the two commodities cannot properly be mixed?
(42) The tenants of which had a stock of wine in common with the residents of the one alley and a stock of oil in common with those of the other, so that the wine and the oil do not serve the purpose of one ‘erub but that of two ‘erubs, one for each alley.
(43) That the residents of one courtyard may join in two ‘erubs with the residents of two alleys respectively even though the latter, not having been joined to each other by an ‘erub, are forbidden access from one to the other.
(44) Supra 45b, q.v. notes. Similarly (cf. prev. n.) in the case of the wine and oil, though the two alleys (cf. supra p. 497, n. 10) were not joined to one another, and access between them is forbidden, the courtyard may be joined to both of them and access between it and the alleys is permitted.
(45) Rabbah.
(46) In the Mishnah cited.
(47) Implying full permissibility of access.
(48) Lit., ‘what’.

Talmud - Mas. Eiruvin 71b

R. Joseph.[1] however, replied:[2] R. Simeon and the Rabbis differ on the same principle as that on which R. Johanan b. Nuri and the Rabbis differ.[3] For we learned: If some oil[4] floated on wine[4] and a tebul yom[5] touched the oil, he[6] causes the oil only to be unfit;[7] but R. Johanan b. Nuri ruled: They both form a connection with each other.[8] The Rabbis[9] may hold the same view as the Rabbis[10] while R. Simeon[9] may hold the same view as R. Johanan b. Nuri.[11]

It was taught: R. Eleazar[12] b. Taddai ruled: In either case[13] it is necessary for them to join in an erub. Even if the partnership was with the one In wine and with the other also in wine?[14] Rabbah explained: Where this [householder] comes with his lagin[15] [of wine] and pours [it into the common cask] and the other comes with his lagin and pours it in, no one disputes the ruling that[16] this alone is a valid ‘erub.[17] They only differ where the householders bought a cask of wine in partnership.[18] R. Eleazar b. Taddai is of the opinion that there is no such rule as bererah[19] while the Rabbis maintain that the rule of bererah holds good.[20]

R. Joseph explained: R. Eleazar b. Taddai and the Rabbis differ on the question whether it is permissible to rely upon shittuf[15] where an ‘erub is required.[21] the one Master[22] holding that It is not permissible to rely on it[23] while the Masters[24] maintain that it is permissible to rely on it.[25]

Said R. Joseph: Whence do I derive this?[26] [From the following:] Since Rab Judah stated in the name of Rab, ‘The halachah is in agreement with R. Meir’[27] and R. Berona stated in the name of Rab, ‘The halachah is in agreement with R. Eleazar b. Taddai’.[28] Now what is the reason?[29] Obviously[30] because both rulings are based on the same principle.[27] Said Abaye to him: If the principle is the same what need was there to lay down the halachah, twice?[31] — It is of this that we are informed: That in matters of[32] ‘erub we [sometimes] adopt[33] two restrictive rulings.[34]

What is the ruling of R. Meir and what is that of the Rabbis?[35] [Those about which] it was taught: An ‘erub of courtyards must be prepared with bread; but wine, even if preferred. may not be Used for ‘erub,[36] Shittuf of an alley may be done even[37] with wine;[38] but bread, if preferred. may [obviously][39] be used for the shittuf. An ‘erub must be prepared for courtyards[40] even where shittuf is arranged for the alleys[41] in order that the law of ‘erub may not be forgotten by the children who might believe that their fathers[42] had been preparing no ‘erub; so R. Meir. The Sages, however, ruled: Either ‘erub or shittuf [is enough]. R. Nehumi[43] and Rabbah[44] differ on the interpretation of this statement. One maintains that in the case of bread[45] no one disputes the ruling that one[46] is enough[47] and that they only differ in the case of wine,[48]

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(1) Maintaining, contrary to the view of Rabbah, that R. Simeon in our Mishnah was referring to courtyards in the same alley.

(2) To the objection raised supra as to how could R. Simeon regard two commodities like wine and oil as one valid ‘erub.

(3) It. Simeon, as will be shown presently, holding the same view as the former.

(4) Of terumah.

(5) V. Glos.

(6) On account of his levitical uncleanness.

(7) For consumption.

(8) T.Y. II, 5; the touching of the one is, therefore, regarded as the touching of both.

(9) Of our Mishnah.

(10) In the Mishnah cited, who regard wine and oil as separate and distinct commodities.

(11) Who holds that oil and wine can be treated as the component parts of one liquid.

(12) So MS.M.

(13) This is discussed anon.

(14) But why should an ‘erub be necessary in such a case?

(15) V. Glos.

(16) Even where the wine was not originally mixed for the purpose of ‘erub.

(17) Since every householder has contributed Its individual share to the common stock.

(18) So that the individual contributions were never distinguishable from one another.

(19) V. Glos. In consequence none of the householders has any distinguishable share in the wine.

(20) So that every householder may be regarded as having contributed a definite and distinguishable share to the common contents of the cask.

(21) l.e., whether the amalgamation of the courtyards of an alley by shittuf, for the purpose of facilitating movement in it, exempts the tenants of the courtyards from ‘erub for the purpose of carrying objects from one courtyard into the other.

(22) R. Eleazar b. Taddai.

(23) Hence his ruling that ‘in either case’ an ‘erub must be prepared.

(24) The Rabbis.

(25) No ‘erub, therefore, is required. Since the residents are united by shittuf in their alley they are also deemed to be united in their courtyards; and they are consequently permitted to convey objects from one courtyard into another through doors that open from one into the other.

(26) That the point at issue between R. Eleazar b. Taddai and the Rabbis is the Question whether shittuf can also serve the purpose of ‘erub.

(27) That it is not permissible to rely upon shittuf where an ‘erub is required.

(28) That ‘in either case’ an erub must be prepared.

(29) That Rab pronounced the halachah to be in agreement with both R. Meir and R. Eleazar b. Taddai.

(30) Lit., ‘not’?

(31) It was admittedly necessary for Rab to state that the halachah is in agreement with R. Meir, since otherwise the principle underlying R. Eleazar b. Taddai's ruling would have been unascertainable, and erroneous conclusions affecting the laws of ‘erub might have been arrived at (cf. Rashi); but why, it is asked, was it also necessary for Rab to state that the halachah is in agreement with R. Eleazar b. Taddai?

(32) As in this particular case (cf. Tosaf.).

(33) This is the reading of R. Han. Cur. edd. ‘we do not adopt’ (cf. Rashi); v. Tosaf. s.v. דלא.

(34) Laid down by the same authority, though one of them is opposed by other authorities. In this case the halachah is in agreement with R. Meir that where an ‘erub is required, shittuf may not be relied upon irrespective of whether it was done with (a) wine concerning which the Rabbis agree with him or (b) bread about which the Rabbis differ.

(35) To which reference has just been made.

(36) An ‘erub essentially serves the purpose of constituting a dwelling or habitation (cf. supra 49a) and bread alone of all commodities is regarded as important enough to constitute one.

(37) Cf. Rashi. According to Tosaf. the rendering might be, ‘should preferably be done’ ‘

(38) Since the purpose of shittuf is not the association of the house but that of the courtyards which are not regarded as ‘dwellings’ (cf. supra n. 5).

(39) Cf. Rashi, or (according to Tosaf.) ‘also’.

(40) Either for each one separately, in the interests of its own tenants, or, if doors open from one courtyard into another, for several courtyards together, to enable their tenants to have access to each other through their courtyard doors.

(41) To enable the tenants to carry objects from one courtyard into another through the alley. In the absence of shittuf this is forbidden, though the right of carrying through the communicating doors remains unaffected. In the case of shittuf it is permitted to carry objects between the courtyards either through the alley or through their communicating doors even where each courtyard had prepared a separate ‘erub for its own tenants only.

(42) Lit., ‘who would say: Our fathers’.

(43) Var. lec. ‘Rehumi’ (MS.M. and Bah).

(44) Var. lec. ‘Rabbah b. Joseph’ (Bah).

(45) Since it is suitable for both ‘erub and shittuf.

(46) Either shittuf or ‘erub.

(47) Since one may also serve the purpose of the other.

(48) Where it was used for "shittuf. According to R. Meir this alone is not enough since wine is inadmissible for ‘erub; while according to the Rabbis once wine has become effective in shittuf it is ipso facto effective for ‘erub, since shittuf may be relied upon where an ‘erub is required.

Talmud - Mas. Eiruvin 72a

while the other maintains that in the case of wine[1] no one disputes the ruling that the two[2] are necessary[3] and that they only differ in the case of bread.[4]

An objection was raised: ‘The Sages, however, ruled: Either ‘erub or shittuf is enough’. Does not this mean that it is permissible to prepare an ‘erub in a courtyard with bread or arrange shittuf in an alley with wine?[5] — R. Giddal citing Rab replied: It is this that was meant: Either an ‘erub for the courtyards[6] is prepared with bread, and unrestricted movement Is permitted in both the alley and the courtyards;[7] or shittuf for the alley is made with bread, and unrestricted movement is again permitted in both.[7]

Rab Judah citing Rab stated: The halachah[8] is in agreement with R. Meir; R. Huna, however, stated: The customary practice Is In agreement with R. Meir, while R. Johanan stated: The people are in the habit of acting in agreement with R. Meir.

MISHNAH. IF FIVE COMPANIES SPENT THE SABBATH IN ONE HALL[9] EACH

COMPANY, BETH SHAMMAI RULED, MUST[10] CONTRIBUTE SEPARATELY TO THE ERUB;[11] BUT BETH HILLEL RULED: ALL OF THEM[12] CONTRIBUTE TO THE ‘ERUB ONLY ONE SHARE.[13] THEY[14] AGREE, HOWEVER, THAT WHERE SOME OF THEM OCCUPY ROOMS[15] OR UPPER CHAMBERS[16] A SEPARATE CONTRIBUTION TO THE ‘ERUB MUST BE MADE FOR EACH COMPANY.

GEMARA. R. Nahman stated: The dispute[17] relates only to partitions of stakes[18] but where the partitions[19] were ten handbreadths high all[20] agree that a separate contribution to the ‘erub must be made for each company. Others read: R. Nahman stated: The dispute[17] relates also to partitions of stakes.[21]

R. Hiyya and R. Simeon son of Rabbi differ on the interpretation of our Mishnah.[22] One holds that the dispute[23] relates only to partitions that reach to the ceiling, but where they do not reach it[24] all[25] agree that only one contribution to the ‘erub need be made for all of them; while the other holds that the dispute[23] relates Only to partitions that do not reach the ceiling but where they do reach it all[20] agree that a separate contribution to the ‘erub is necessary for each company.

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(1) Since it is unsuitable for shittuf purposes.

(2) Both Shittuf and ‘erub.

(3) Even the Rabbis agree that wine cannot become effective for ‘erub even by way of shittuf for which alone it may be used.

(4) That was used either for ‘erub or for shittuf, R. Meir maintaining that even in this case one cannot do service for the other.

(5) And either presumably suffices for both alley and courtyards. How then is this to be reconciled with the second view that ‘in the case of wine no one disputes the ruling that the two are necessary’?

(6) So MS. M. Cur. edd. have the sing. ‘courtyard’.

(7) Lit., ‘here and here’.

(8) V. supra p. 438,nn. 11-13.

(9) Traklin, triclinium, ‘dining-room’. The reference is to a large room that was subdivided by partitions into separate compartments each being occupied by one of the companies and having a separate door to the courtyard into which doors of other houses also open.

(10) Since each is deemed to occupy a separate domain.

(11) That is prepared either for all the tenants of the courtyard or for the occupants of the hall alone.

(12) Being regarded as living in one and the same domain (cf. Gemara infra).

(13) If they join the tenants of the courtyard. Among themselves (cf. prev. n.) they need no ‘erub at all.

(14) Beth Hillel.

(15) On the ground floor.

(16) All of which are completely separated from one another and from the hall, and have direct access to the courtyard.

(17) In our Mishnah.

(18) Mesifas, a low partition of stakes or pegs. Only in such a case do Beth Hillel regard the entire hall as One domain.

(19) Separating the quarters of one company from another.

(20) Even Beth Hillel.

(21) I.e.. Beth Shammai maintain their view not only where the partitions were ten handbreadths high but even where they were low.

(22) Lit., ‘on it’.

(23) Between Beth Shammai and Beth Hillel.

(24) Although they are ten handbreadths high.

(25) Even Beth Shammai.

Talmud - Mas. Eiruvin 72b

An objection was raised: R. Judah ha-Sabba[1] stated, Beth Shammai and Beth Hillel do not dispute the ruling that where partitions[2] reach the ceiling a separate contribution to the erub is required on the part of each company; they only differ[3] where the partitions do not reach the ceiling in which case Beth Shammai maintain that a separate contribution to the ‘erub must be made for each company, while Beth Hillel maintain that one contribution to the ‘erub suffices for all of them. Now, against him who stated that the dispute[4] related only to partitions that reached the ceiling this[5] presents an objection; in favour of him who stated that their dispute[4] related only to partitions that did not reach the ceiling this[6] provides support; while against that version according to which R. Nahman stated ‘the dispute relates only to partitions of stakes’[7] this[8] presents an objection. Does this,[6] however, present an objection also against that version according to which R. Nahman stated: ‘The dispute relates also to partitions of stakes’?[9] — R. Nahman can answer you: They differ in the case of partitions[10] and this applies also to partitions of stakes, and the only reason why their difference of view was expressed in the case of partitions is in order to inform you to what extent Beth Hillel venture to apply their principle.[11] But why did they not express their difference of view in the case of partitions of stakes in order to inform you of the extent to which Beth Shammai, venture to apply their principle?[12] — Information on the extent of a permitted course[13] is preferable.[14]

R. Nahman citing Rab stated: The halachah is in agreement with R. Judah ha-Sabbar.[15] Said R. Nahman b. Isaac: All inference from the wording of our Mishnah also leads to the same conclusion. For it was stated: THEY AGREE, HOWEVER, THAT WHERE SOME OF THEM OCCUPY ROOMS OR UPPER CHAMBERS A SEPARATE CONTRIBUTION TO THE FRUIT MUST BE MADE FOR EACH COMPANY; now what was meant by ROOMS and what by UPPER CHAMBERS? If it be suggested that by the term ROOMS proper[16] rooms,[17] and by the term ‘UPPER CHAMBERS’ proper[16] upper chambers[17] were meant, is not the ruling[18] obvious?[19] The terms must consequently mean[20] compartments like rooms or upper chambers, namely,[21] compartments the partitions of which reach the Ceiling. This is conclusive.

A Tanna taught: This[22] applies only where their ‘erub is carried into a place other [than the hall].[23] but if their ‘erub is remaining[24] with them[25] all[26] agree that one contribution to the ‘erub suffices for all of them.[27] Whose view is followed in what was taught:[28] If five residents who collected their ‘erub desired to transfer it to another place.[29] one ‘erub suffices for all of them?[30] — Whose view? That of Beth Hillel.[31]

Others read: This[32] applies only where the ‘erub remained[33] with them,[34] but if they carried their ‘erub to a place other [than their hall][35] all[36] agree that a separate contribution to the ‘erub is required for each company.[37] Whose view is followed in which was taught: If five residents who collected their contributions to an ‘erub desired to transfer it[38] to another place[39] one ‘erub suffices for all of them?[40] — Whose view? No one's.[41]

MISHNAH. BROTHERS[42] WHO WERE EATING AT THEIR FATHER'S TABLE BUT SLEPT IN THEIR OWN HOUSE[43] MUST EACH CONTRIBUTE A SHARE TO THE ‘ERUB.[44] HENCE, IF ANY ONE OF THEM FORGOT TO CONTRIBUTE TO THE ‘ERUB HE MUST[45] RENOUNCE HIS RIGHT TO HIS SHARE IN THE COURTYARD. WHEN DOES THIS APPLY?[46] WHEN THEY CARRY THEIR ‘ERUB INTO SOME OTHER PLACE[47] BUT IF THEIR ‘ERUB IS DEPOSITED[48] WITH THEM[49] OR IF THERE ARE NO OTHER TENANTS WITH THEM IN THE COURTYARD THEY NEED NOT PREPARE ANY ‘ERUB.

GEMARA. Does this[50] then imply that the night's lodgingplace[51] is the cause of the obligation of ‘erub?[52] — Rab Judah citing flab replied: This was learnt only in respect of such as receive a maintenance allowance.[53]

Our Rabbis taught: A man who has in his neighbour's courtyard a gate-house, an exedra[54] or a balcony imposes no restrictions upon him.[55] [One, however, who has in it] a straw-magazine, a cattle-pen, a room for wood or a storehouse does impose restrictions upon him. R. Judah ruled: Only a dwelling-house imposes restrictions. It once happened, R. Judah related, that Ben Nappaha[56] had five courtyards at Usha, and when the matter was submitted to the Sages they ruled: Only a dwelling-house imposes restrictions. 'A dwelling-house'! Is such a ruling imaginable? Rather say: A dwelling-place. What is meant by a 'dwelling-place'? — Rab explained:

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(1) 'The reasoner' or 'interpreter'. R. Han. and Alfasi read: 'ha-Sabbak', 'the net-weaver'. Others 'ha-Saddar', 'who arranges (Mishnahs) in order'.

(2) Which subdivide a large hall into small compartments.

(3) Lit., 'concerning what are they divided?'

(4) Between Beth Shammai and Beth Hillel.

(5) R. Judah's statement that they 'do not dispute . . . where partitions reach the ceiling'.

(6) The statement of R. Judah that 'they only differ where the partitions do not reach the ceiling'.

(7) But that 'where the partitions were ten handbreadths high' Beth Hillel agree that a 'separate contribution. . . must be made'.

(8) R. Judah's assertion (cf. supra n. 5) according to which Beth Hillel require no separate contributions where the partitions, though ten handbreadths high, do not reach the ceiling.

(9) I.e., that Beth Shammai require separate contributions even where the partitions were so frail and low. Does R. Judah, it is asked (cf. supra n. 5), imply that Beth Shammai maintain this view, even where the partitions are so low, in agreement with this view of R. Nahman, or, do they limit their view to partitions that are of some considerable height though not as high as to reach the ceiling?

(10) Even where they do not reach the ceiling.

(11) I.e., they require no separate contributions from each company even where the partitions are of some considerable height.

(12) That even in the case of partitions of stakes Beth Shammai require each company to make a separate contribution.

(13) Lit., 'the power of permissibility', since it indicates conviction and certainty of opinion.

(14) The prohibition of a certain course may be an easy way out of a legal difficulty and the result of mere lack of knowledge or conviction as to whether it could or could not be permitted.

(15) That 'where partitions reach the ceiling' even Beth Hillel agree that 'a separate contribution is required'.

(16) Or 'actual'.

(17) I.e., such as have never formed parts of the large hall.

(18) That for each room a separate contribution must be made.

(19) What need then was there to state the obvious?

(20) Lit., 'but, not?'

(21) Lit., 'and what are they?'

(22) That Beth Shammai require each company to make a separate contribution to the 'erub (v. our Mishnah).

(23) Sc. if it is deposited in one of the other houses of the courtyard.

(24) Lit., 'was coming'.

(25) l.e., if the other tenants brought their contributions to the hall where the 'erub is deposited.

(26) Even Beth Shammai.

(27) The point at issue between Beth Shammai and Beth Hillel being not that of the nature of the partitions but the question whether (a) one of a group who joined in an 'erub may take that 'erub with him to another group on behalf of all his associates or whether (b) each individual of the group must separately contribute his share. The hall in question, both according to Beth Shammai and Beth Hillel, combines the separate sections of each company into one domain and no 'erub among themselves alone is necessary irrespective of whether the partitions were high or low, but Beth Shammai maintain that one of them cannot represent them all in the 'erub of the courtyard and each must consequently contribute his individual share, while Beth Hillel hold that one of them may well represent all the group and, therefore, only one contrition on behalf of all of them is sufficient.

(28) Lit., 'like whom goes that which was taught'.

(29) I.e., to another courtyard, desiring to join in 'erub with the residents of that courtyard.

(30) I.e., one of the group may take their 'erub (or the prescribed quantity of bread of his own on behalf of all the group) to the place into which they desired their ‘erub to be transferred. Cf. supra 49b.

(31) Cf. supra p. 504, n. 16.

(32) That Beth Hillel hold that one contribution suffices for all the companies (v. our Mishnah).

(33) Lit., ‘was coming’.

(34) V. supra p. 504, n. 14.

(35) Sc. if it is deposited in one of the other houses of the courtyard.

(36) Even Beth Hillel.

(37) The point at issue being whether the several companies in the one hall, who are in the same position as that of a number of tenants who joined in one ‘erub, must contribute individually to the ‘erub even where it is deposited in their hall, Beth Shammai maintaining that they must while Beth Hillel hold that they need not.

(38) Lit., ‘when they carry their ‘erub’.

(39) V. supra n. 2.

(40) V. supra n. 3.

(41) Neither that of Beth Shammai nor that of Beth Hillel, since both agree that separate contributions are in this case required.

(42) The insertion in some ed., ‘who were partners’ is rejected by Rashi.

(43) Within the same courtyard as that of their father's house.

(44) If they wish to join with the other tenants in the ‘erub of that courtyard.

(45) If the movement of objects in the courtyard is to be unrestricted.

(46) Sc. that they must each contribute to the ‘erub.

(47) Sc. to a house of one of the other tenants. The reason is given in the Gemara.

(48) Lit., ‘was coming

(49) In their father's house.

(50) The ruling in our Mishnah that where the brothers SLEPT IN THEIR OWN HOUSES they are under the obligation to make separate contributions to the ‘erub, from which it is evident that if they slept in their father's house it is only he who must make a contribution to the ‘erub (if it is deposited in some other house) while they are exempt.

(51) And not the place where they have their meals.

(52) Apparently it does; how then could Rab maintain infra that one's obligation to a separate contribution to an ‘erub is dependent on one's dining-place?

(53) From their father. They did not actually have their meals at his house.

(54) V. Glos.

(55) In respect of the movement of objects in his courtyard on the Sabbath.

(56) Or ‘a locksmith’.

Talmud - Mas. Eiruvin 73a

One's dining-place.[1] and Samuel explained: One's night's lodging place. An objection was raised: Shepherds, summer fruit attendants,[2] station house-keepers and fruit watchmen have[3] the same status as the townspeople[4] if they are in the habit of taking their night's rest in the town,[5] but if they are in the habit of spending the night in the fields[6] they are only entitled to walk a distance of two thousand cubits in all directions?[7] — In that case[8] we are witnesses that they would have been more pleased if bread had been brought to them there.[9]

Said R. Joseph, ‘l have never heard this tradition’.[10] ‘You yourself’, Abaye reminded him, ‘have told it to us, and you said it in connection with the following: BROTHERS WHO WERE EATING AT THEIR FATHER'S TABLE BUT SLEPT IN THEIR OWN HOUSES MUST EACH CONTRIBUTE A SHARE TO THE ‘ERUB, concerning which we asked you: Does this then imply that the night's lodging-place is the cause of the obligation of ‘erub? And you, in reply to this question, told us: Rab Judah citing Rab replied: This was learnt only in respect of such as receive a maintenance allowance’.[11]

Our Rabbis taught: Where a man has five wives who are in receipt of a maintenance allowance from their husband[12] or five slaves who are in receipt of a maintenance allowance from their Master,[12] R. Judah b. Bathyra permits [unrestricted movement][13] in the case of the wives[14] but forbids it in the case of the slaves,[15] while R. Judah b. Baba permits this in the case of slaves but forbids it in the case of the wives. Said Rab, what is R. Judah b. Baba's reason? The fact that it is written in Scripture: But Daniel was in the gate of the king.[16]

It is obvious that a son in relation to his father is subject to the ruling here enunciated.[17] [The Status of] a wife in relation to her husband and a slave in relation to his master is a point at issue between R. Judah b. Bathyra and R. Judah b. Baba.[18] What, however, [is the status of] a student in relation to his master?[19] — Come and hear what Rab when at the school of R. Hiyya[20] stated: ‘We need not prepare an ‘erub since we virtually dine[21] at R. Hiyya's table’; and R. Hiyya, when he was at the school of Rabbi, stated: ‘We need not prepare an ‘erub since we virtually dine[21] at Rabbi's table.’

Abaye enquired of Rabbah: If five residents[22] collected their contributions to their ‘erub[23] and desired to transfer it[24] to another place,[25] does one ‘erub contribution suffice for all of them[26] or is it necessary for each one to make a separate contribution to the ‘erub?[27] — He replied: One ‘erub contribution suffices for all of them. But, surely, BROTHERS[28] are like residents who collected their contributions[29] and yet was it not stated: MUST EACH CONTRIBUTE A SHARE TO THE ‘ERUB?[30] — Here[31] we are dealing with a case where other tenants, for instance, lived with them,[32] so that [it may be said:] Since these[33] impose restrictions[34] those[35] also impose them.[36] This may also be supported by a process of reasoning. For it was stated: WHEN DOES THIS APPLY? WHEN THEY CARRY THEIR ‘ERUB INTO SOME OTHER PLACE BUT IF THEIR ‘ERUB IS DEPOSITED WITH THEM OR IF THERE ARE NO OTHER TENANTS WITH THEM IN THE COURTYARD[37] THEY NEED NOT PREPARE ANY ‘ERUB. This is conclusive.

R. Hiyya b. Abin enquired of R. Shesheth: in the case of students who have their meals[38] in the country, but come to spend their nights at the schoolhouse[39] do we measure their Sabbath limit from the Schoolhouse[40] or from their country quarters?[41] He replied: We measure it from the schoolhouse.[40] Behold, [the first objected], the case of the man who deposits his ‘erub within two thousand cubits[42] and comes to take his night's rest at his house whose Sabbath limit is measured from his ‘erub![43] — In that case,[44] [the other replied,] we are witnesses, and in this case[45] also we are witnesses. In that case[44] we are witnesses’ that if he could live there[46] he[47] would have preferred it,[48] and ‘in this case[45] also we are witnesses that if their meals[49] had been brought to them at the schoolhouse they would have much preferred it.[50]

Rami b. Hama enquired of R. Hisda: Are a father and his son or a master and his disciple regarded[51] as many[52] or as one individual?[53] Do they[54] require an ‘erub or not? Can the use of their alley[55] be permitted by means of a side-post or cross-beam[56] or not?[57] — He replied: You have learnt it: A father and his son or a master and his disciple, if no other tenants live with them,[58] are regarded as one individual,[59] they require no ‘erub, and the use of their alley[55] may be rendered permissible by means of a side-post or cross-beam.[56]

MISHNAH. IF FIVE COURTYARDS OPENED INTO EACH OTHER AND INTO AN ALLEY,[60] AND AN ‘ERUB WAS PREPARED FOR THE COURTYARDS BUT NO SHITTUF WAS MADE FOR THE ALLEY, THE TENANTS ARE PERMITTED THE UNRESTRICTED USE OF THE COURTYARDS BUT FORBIDDEN THAT OF THE ALLEY.[61]

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(1) Lit., ‘place of bread’.

(2) Or ‘fruit pickers’, ‘watchmen for drying figs’.

(3) Though they were in the field when the Sabbath began.

(4) In whose vicinity they carry on their occupations. They, like the people of the town, are allowed to move in any part of the town and along distances of two thousand cubits in any of its directions.

(5) Where they have their Sabbath meal.

(6) Though they dine in town.

(7) From their lodging-places. How then could Rab maintain that the meaning of ‘dwelling-place’ is ‘one's dining-place’?

(8) Spoken of in the Baraitha just cited.

(9) Into the field where they are spending the night. It is for this reason only that their dining-place in the town is disregarded.

(10) Of Rab. R. Joseph having lost his memory after a serious illness was often making this remark.

(11) Cf. supra p. 506, nn. 6ff.

(12) And each one lives in a separate house in his courtyard.

(13) Even if no ‘erub had been prepared.

(14) Since each one is deemed to be intimately associated with her husband's house.

(15) Who are not so intimately connected with their master.

(16) Dan. II, 49; implying that wherever Daniel (the king's servant) was he was regarded as being ‘in the gate of the king’ i.e., at the king's house; and the same applies to slaves in relation to their master,

(17) Lit., ‘as it has been said’, cf, our Mishnah.

(18) As has just been stated.

(19) Where the former is in receipt of a maintenance grant from the latter and lives with him in the same courtyard but in a separate house.

(20) From whom he was receiving a maintenance grant.

(21) Lit., ‘rely’. ‘are supported’.

(22) Of the same courtyard.

(23) For the courtyard in which they lived.

(24) Lit., ‘when they carry their ‘erub’.

(25) I.e., to another courtyard with whose residents they wish to join in ‘erub.

(26) Sc. may one of them carry that ‘erub (to which they had all contributed) or the prescribed quantity of food of his own (on behalf of all of them) to the courtyard with the tenants of which they desire to join?

(27) Abaye must never have heard of the Baraitha, supra 72b which deals with this very question; or, if he was acquainted with it, was desirous of ascertaining whether it represented the halachah, since, as was stated supra, it either agreed with none or only with Beth Hillel.

(28) Who ‘NEED NOT PREPARE ANY ‘ERUB’ where ‘THERE ARE NO OTHER TENANTS WITH THEM IN THE COURTYARD’.

(29) Who also need not prepare any other ‘erub.

(30) If they desired to join in ‘erub with other tenants. How then could Rabbah maintain that one ‘erub contribution, which only places the tenants in the same position as the brothers, is sufficient?

(31) The ruling in our Mishnah concerning the brothers.

(32) In the same courtyard.

(33) The tenants in the same courtyard.

(34) Unless an ‘erub is prepared.

(35) In the other courtyard with whom they now desire to join.

(36) Unless each brother makes an independent contribution to the new ‘erub. In the case, however, of two courtyards for each of which an independent ‘erub had been prepared by its tenants, or in that of two courtyards in one of which live a father and sons (who require no ‘erub) and in the other an ‘erub had been prepared by its tenants, so that the residents of each courtyard independently are permitted unrestricted movement within it, the principle of ‘since these impose . . . those also impose’ is obviously inapplicable (since no one imposes restrictions upon the others), and consequently one ‘erub taken by one of the tenants to the other courtyard suffices for all the tenants of his own courtyard.

(37) To impose restrictions upon them.

(38) Lit., who eat bread’.

(39) Which is in town, the distance between which and their dining quarters is not greater than two thousand cubits.

(40) Because it is the place where their nights are spent, in agreement with the view of Samuel supra.

(41) Where they have their meals, in agreement with Rab.
(42) From his town.
(43) And not from the place where his night is spent. How then could it be maintained that the students’ Sabbath limit is measured from their schoolhouse because they spend their nights there?
(44) That of the man who deposits his ‘erub outside the town and spends the night within it.
(45) Of the students under discussion.
(46) Where his ‘erub is deposited.
(47) Since it is his intention to go on the Sabbath in that direction of the town.
(48) In order that he might be nearer to his goal when he starts on his walk on the Sabbath day.
(49) Lit., ‘bread’.
(50) Hence the ruling that their Sabbath limit is measured from the schoolhouse.
(51) In the case of two courtyards one within the other where the tenants of the inner one have a right of way through the outer one.
(52) So that if they resided in the inner one they impose restrictions on the use of the outer one even though the latter had prepared an ‘erub among themselves (cf. infra 75a).
(53) Who (cf. prev. n.) imposes no restrictions on the use of the outer courtyard.
(54) If they are the only tenants.
(55) Where one of them resided in one courtyard and the other in another courtyard in the same alley.
(56) As if two courtyards opened out into it. No side-post or cross-bRam is effective in an alley unless ‘houses and courtyards’ open into it.F(57) The courtyards of a father and his son or a master and disciple being regarded as a single coêrtyard (cf.“prev. n. second clause).
(58) In the same courtyard.
(59) V. supra n. 10.
(60) I.e., each had two doors one of which led to the other courtyards and the other opened direcý into the alley.
(61) Because an ‘erub cannot serve the purposes of both ‘erub and shittuf.

Talmud - Mas. Eiruvin 73b

IF, HOWEVER, SHITTUF WAS MADE FOR THE ALLEY, THEY ARE PERMITTED THE UNRESTRICTED USE OF BOT.[1] IF AN ‘ERUB WAS PREPARED FOR THE COURTYARDS AND SHITTUF WAS MADE FOR THE ALLEY, THOUGH ONE OF THE TENANTS OF A COURTYARD FORGOT TO CONTRIBUTE TO THE ‘ER™B,[2] THEY ARE NEVERTHELESS PERMITTED THE UNRESTRICTED USE OF BOTH.[3] IF, HOWEVER, ONE OF THE RESIDENTS OF THE ALLEY FORGOT[4] TO CONTRIBUTE TO THE SHITTUF, THEY ARE PERMITTED THE UNRESTRICTED USE OF THE COURTYARDS BUT FORBIDDEN THAT OF THE ALLEY, SINCE AN ALLEY TO ITS COURTYARDS[5] IS AS A COURTYARD TO ITS HOUSES.[6]

GEMARA. Whose view is this?[7] Apparently that of R. Meir who laid down that it is necessary to have both ‘erub and shittuf Read, however, the middle clause: IF, HOWEVER, SHITTUF WAS MADE FOR THE AL¦EY, THEY ARE PERMITTED THE UNRESTRICTED USE OF BOTH, which represents, does it not, the view of the Rabbis who laid down that one of these[8] is sufficient?[9] — This is no Ýifficulty. It[10] means: IF, HOWEVER, SHITTUF also WAS MADE.[11] But read, then, the next clause: IF AN ‘ERUB WAS PREPARED FOR THE COURTYARDS AND SHITTUF WAS MADE FOR THE ALLEY, THOUGH ONE OF THE TENANTS OF A COURTYARD FORGOT TO CONTRIBUTE TO THE ‘ERUB, THEY ARE NEVERTHELESS PERMITTED THE UNRESTRICTED USE OF BOTH. Now how is one to understand this ruling? If [the tenant][12] did not renounce his share,[13] why[14] should the others be permitted?[15] It is obvious then that he did renounce it. Now read the final clause: IF, HOWEVER, ONE OF THE RESIDENTS OF THE ALLEY FORGOT TO CONTRIBUTE TO THE SHITTUF, THEY ARE PERMITTED THE UNRESTRICTED USE OF THE COURTYARDS BUT FORBIDDEN THAT OF THE ALLEY; now if this is a case where he[16] renounced his share,[17] why are they forbidden the unrestricted use of the alley? And should you reply that R. Meir is of the opinion that the law of renunciation of one's share is not applicable to an alley, surely it can be retorted, was it not taught: ‘Since . . . he[18] renounced his share[17] in your favour . . . so R. Meir’?[19] It is consequently obvious that [the tenant]’ did not renounce his share. And since the final clause deals with one who made no renunciation in the earlier clause[20] also must deal with one who made no renunciation.[21] Would then the first[22] and the last[23] clauses represent the view of R. Meir[24] and the middle one[25] that of the Rabbis?[26] — All our Mishnah[27] represents the view of R. Meir; for the only reason why[28] R. Meir ruled that both ‘erub and shittuf were required is that the law of ‘erub should not be forgotten by the children, but in this case,[29] since most of the tenants did contribute to the ‘erub,[30] it would not be forgotten.[31]

Rab Judah stated: Rab did not learn, OPENED INTO EACH OTHER;[32] and so stated R. Kahana: Rab did not learn, OPENED INTO EACH OTHER. Others say: R. Kahana himself did not learn, OPENED INTO EACH OTHER.

Abaye asked R. Joseph: What is the reason of him who does not learn, OPENED INTO EACH OTHER? — He is of the opinion that a shittuf contribution that is not carried in and out[33] through the doors that opened into the alley[34] can not be regarded as valid shittuf.[35]

He raised an objection against him: If a householder was in partnership with his neighbours, with the one in wine and with the other in wine, they need not prepare an ‘erub?[36] — There it is a case where he carried it[37] in and out.[38] He raised another objection:[39] How is shittuf in an alley effected etc.?[40] — There also It is a case where it[41] was carried in and out.[42]

Rabbah[43] b. Hanan[44] demurred: Now then,[45] would shittuf be equally invalid if one resident transferred to another the possession of some bread in his basket?[46] And should you reply that [the law] is so indeed, [it could be retorted:] Did not Rab Judah, in fact, state in the name of Rab: If numbers of a party were dining[47] when the sanctity of the Sabbath day overtook them,[48] they may rely upon the bread on the table to serve the purpose of ‘erub or, as others say, that of shittuf; and in connection with this Rabbah observed that there is really no difference of opinion between them,[49] since the former refers to a party dining[47] in a house[50] and the latter to one dining in a courtyard?[51] — The fact is that Rab's reason[52] this:[53] he is of the opinion that unrestricted movement in an alley cannot be rendered permissible by means of a side-post or cross-beam unless houses and courtyards opened into it.[54] [To turn to] the main text: Rab laid down: Unrestricted movement in an alley cannot be rendered permissible by means of a side-post or cross-beam

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(1) Lit., ‘here and here’, the courtyards as well as the alley. This is discussed in the Gemara infra.
(2) But contributed to the shittuf
(3) V. supra n. 2.
(4) Cf. MS.M. and marg. n. Wanting from cur. edd.
(5) Although both possess characteristics of a public domain.
(6) Though the latter are distinctly private domains while the former (cf. prev. n.) possess characteristics of a public domain. As it is forbidden to convey any objects from the houses to the courtyard unless an ‘erub had been prepared so it is forbidden to carry objects from the courtyards into the alley unless shittuf had been made.
(7) The first clause of our Mishnah.
(8) Either ‘erub or shittuf.
(9) Is it likely, however, that two adjacent clauses should represent two opposing views?
(10) The middle clause.
(11) In addition to ‘erub, in agreement with R. Meir.
(12) Who forgot to contribute to the ‘erub of his courtyard.
(13) In his courtyard, in favour of its other tenants.
(14) Since R. Meir does not recognize shittuf as a substitute for ‘erub.
(15) The unrestricted use of that courtyard.
(16) The occupant of a courtyard.
(17) In the alley.
(18) The Sadducee who occupied one of the courtyards in an alley in which Israelites lived.
(19) Supra 68b.
(20) Dealing with the case of a tenant who forgot to contribute to the ‘erub of his courtyard.
(21) In agreement with the Rabbis who recognize shittuf as valid for the purpose of ‘erub also.
(22) According to which an ‘erub for the courtyards is of no value for the use of the alley unless shittuf also was effected.

(23) Which forbids the unrestricted use of the alley, if one of the residents failed to contribute to the shittuf, though ‘erub had been prepared.
(24) Who requires both ‘erub and shittuf.
(25) Where the unrestricted use of both the courtyards and the alley is permitted although one of the tenants of a courtyard forgot to contribute to the ‘erub.
(26) Is it conceivable, however, that the view of the Rabbis would be inserted anonymously between the views of R. Meir?
(27) Lit., ‘all of it’.
(28) Lit., ‘and what is the reason?’
(29) V. p. 512, n. 14.
(30) Only one of them having failed to contribute his share.
(31) Hence the validity of shittuf as a substitute for ‘erub even according to R. Meir.
(32) Sc. the ‘erub spoken of in our Mishnah is not one that was prepared for the purpose of amalgamating a number of courtyards but for that of enabling tenants to have the unrestricted use of their own courtyard only.
(33) Into the alley from each of the courtyards and out of it into the courtyard where it is to be deposited.
(34) But through the other courtyards.
(35) Because the direct connection between courtyards and alley must be clearly shown. As in the case of courtyards that open into each other as well as into the alley it may happen that the shittuf contributions should be carried from a courtyard into the alley indirectly through the other courtyards, shittuf was entirely forbidden (cf. Rashi and Tosaf. a.l.). Since our Mishnah allows shittuf it must refer to courtyards that did not open into each other. Hence Rab's omission.
(36) Supra 71a. The wine in joint ownership is obviously kept in one of the courtyards and may never have passed the door of any other courtyard. How then could it be maintained that for shittuf to be valid the contributions must pass ‘in and out through the doors that opened into the alley’?
(37) The cask containing the joint stock of wine.
(38) It was duly carried from each courtyard direct into the alley and finally taken into the courtyard in which it was deposited. This is a forced explanation contrary to the accepted law (cf. Rashi) and is later superseded by a more satisfactory explanation.
(39) This is deleted by Rashal and appears in parenthesis in cur. edd.
(40) Infra 79b where it is laid down that one of the residents may assign to each of his neighbours a share in his wine, and the shittuf is as valid as if each one had actually contributed a share. Now, though this wine has never passed the door of any of the other courtyards, the shittuf is valid. How then could it be maintained that contributions to shittuf must pass ‘in and out etc.’?
(41) V. p. 513, n. 10.
(42) V. p. 513, n. 11
(43) MS.M., ‘Raba’.
(44) MS.M., ‘R. Hanan’; Bah, ‘R. Hanan’.
(45) Lit., ‘but from now’, since it is maintained that shittuf contributions must be carried ‘in and out’.
(46) For the purpose of shittuf.
(47) Lit., ‘reclining’.
(48) Sc. the Sabbath began while they were still at table and unable, therefore, to collect the necessary contributions for ‘erub or shittuf.
(49) Those who react ‘erub and those who read shittuf.
(50) An ‘erub is deposited in a house (cf. infra 85b).
(51) Where a shittuf, but no ‘erub may be deposited (infra I.e.). This shows that there is no necessity for the contributions to shittuf to pass ‘in and out through the doors etc.’ How then could it be maintained that shittuf must pass ‘in and our’ through the doors of the courtyards that opened directly into the alley?
(52) For omitting the phrase OPENED INTO EACH OTHER.
(53) Not the one previously suggested according to which shittuf must pass in and out etc.
(54) Sc. no less than two courtyards must open into the alley and no less than two houses must open into each courtyard. As a number of courtyards that opened into each other are regarded as one courtyard, the unrestricted use of the alley spoken of in our Mishnah could not have been effected if the courtyards that opened into each other.

Talmud - Mas. Eiruvin 74a

unless houses and courtyards opened into it;[1] but Samuel ruled: Even one house[2] and one courtyard[3] suffices; while R. Johanan maintained: Even a ruin[4] is sufficient.

Said Abaye to R. Joseph: Did R. Johanan maintain his view even in the case of a path between vineyards?[5] — R. Johanan, the other replied, only spoke of a ruin since it may be used as a dwelling, but not of a path between vineyards which cannot be used as a dwelling.

Said R. Huna b. Hinena: R. Johanan[6] here follows a principle of his. For we learned: R. Simeon ruled: Roofs, karpafs and courtyards[7] are equally regarded as one domain in respect of carrying from one into the other objects that were kept within them when the Sabbath began, but not in respect of objects that were in the house when the Sabbath began;[8] and Rab stated: The halachah is in agreement with R. Simeon,[9] provided no ‘erub[10] had been prepared,[11] but where an ‘erub[10] had been prepared[12] a preventive measure had been enacted against the possibility of carrying objects from the houses of one courtyard into some other courtyard; but Samuel stated: Whether and ‘erub[13] had, or had not been prepared;[14] and so also said R. Johanan: The halachah is in agreement with R. Simeon irrespective of whether all ‘erub’ bad, or had not been prepared. Thus it is evident that[15] no preventive measure had been instituted against the possibility of carrying objects from the houses of one courtyard into some other courtyard, and so also here[16] no preventive measure had been instituted against the possibility of carrying objects from the courtyard[17] into the ruin.[18]

R. Berona was sitting at his studies and reporting this ruling[19] when R. Eleazar, a student of the college, asked him: ‘Did Samuel say this?’ — ‘Yes’, the other replied. ‘Will you’, the first asked, ‘show me his lodgings?’ When the other showed it to him he approached Samuel and asked him, ‘Did the Master say this?’ — ‘Yes’, the other replied. ‘But’, he objected, ‘did not the Master state, in the laws of ‘erub we can only be guided by the wording of our Mishnah , viz., ‘that an alley to its courtyards[20] is as a courtyard to its houses?’[20] Whereupon the other remained silent.

Did he,[21] or did he not accept it front him?[22] — Come and hear of the case of a certain alley in which Eibuth b. Ihi lived and, when he furnished it with a side-post, Samuel allowed him its unrestricted use.

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(1) Cf. prev. n.

(2) Without a courtyard (cf., however, Tosaf. a.l. and Rashi supra 12b).

(3) With a house in it.

(4) On one side of the alley on the other side of which was a courtyard with one house in it.

(5) That terminated on one side of the alley which had on the other side of it (cf. prev. in.) a courtyard with a house.

(6) In allowing the use of an alley to become unrestricted by means of a side-post or cross-beam if there was a ruin in that alley instead of a second courtyard with a house.

(7) Which cannot be regarded as dwellings and, consequently, require no ‘erub.

(8) Such objects may not be moved from the houses to the courtyard or vice versa, or from one courtyard into another, unless an ‘erub had been duly prepared.

(9) That it is permitted to carry objects from one courtyard into another even where the courtyards did not join in ‘erub.

(10) For each courtyard.

(11) In such a case, since its tenants are forbidden to carry any objects from their houses into their courtyard, no objects that were in the houses which the Sabbath commenced could be found in the courtyard. Hence there is no need to provide against the possibility that the tenants might forgetfully carry any such objects into some other courtyard.

(12) So that the tenants of each courtyard were thereby allowed freely to carry objects into their courtyards from their houses.

(13) For each courtyard.

(14) The halachah is in either case in agreement with R. Simeon.

(15) In the opinion of R. Johanan.
(16) Where the alley contained a ruin.
(17) Through the alley.
(18) Though, belonging to some owner, the ruin constitutes a domain of its own into which no objects from the alley may be carried. (A ruin, since excluded from the category of dwelling-places, does not affect the use of an alley by the tenants of its courtyards and does not join in its shittuf).
(19) Of Samuel, supra, ‘even one house and one courtyard suffices’.
(20) Emphasis on the plural form of the noun. How then could Samuel rule, ‘even one . . . suffices’?
(21) Samuel.
(22) Sc. did Samuel eventually adopt Rab's view?

Talmud - Mas. Eiruvin 74b

R. Anan subsequently[1] came and threw it[2] down[3] when he[4] exclaimed: I have been living undisturbed[5] in this alley[6] on the authority[7] of Samuel, why should R. Anan b. Rab now come and throw its side-post down!’[8] May it not then be deduced from this that he[9] did not accept it from him?[10] — As a matter of fact it may still be maintained that he[9] did accept it from him,[11] but[12] in this case[13] a Synagogue superintendent who was having his meals[14] in his own home[15] came[16] to spend his nights at the Synagogue.[17] Eibuth b. Ihi [however] thought that one's dining place is the cause [of shittuf],[18] while Samuel [in reality] was merely acting on his own principle he having laid down that one's night's lodging[19] — place is the cause.[20]

Rab Judah citing Rab ruled: For an alley whose one side[21] occupied by all idolater and its other side by an Israelite no ‘erub may be prepared[22] through windows[23] render the movement of objects[24] permissible by way of the door[25] into the alley. Said Abaye to R. Joseph: Did Rab give the same ruling even in respect of a courtyard?[26] — Yes,[27] the other replied, for if he had not given it[28] I might[29] have presumed that Rab's reason for his ruling[30] was his opinion that the use of an alley cannot be rendered permissible by means of a side-post or cross-beam unless houses and courtyards opened into it;[31] and [as to the objection:] What need was there[32] for two [rulings[33] it could be replied that both were] necessary: For if all our information had to be derived from the former ruling[34]

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(1) After Samuel's death.
(2) The side-post.
(3) Because the alley, beside the Synagogue (v. infra) contained only one courtyard and one house.
(4) Eibuth b. Ihi.
(5) Lit., ‘and coming’.
(6) Sc. was permitted its unrestricted use on account of the side-post.
(7) Lit., ‘from the name’. MS.M., ‘since the time’.
(8) Lit., ‘should throw it down from’; MS.M. ‘from it’.
(9) Samuel.
(10) Apparently it may; for if he had accepted it he would not leave permitted the unrestricted use of the alley (cf. supra p. 516, n. 13).
(11) Samuel having eventually come round to the view of Rab.
(12) As to the objection why Samuel allowed the unrestricted use of the alley.
(13) Of the alley of Eibuth b. Ihi.
(14) Lit., ‘eating bread’.
(15) Which was outside the alley in question.
(16) During Samuel's lifetime.
(17) Whose door opened into that alley. He was, therefore, regarded by Samuel as a resident. After Samuel's death, however, the superintendent discontinued that practice and the Synagogue was entirely unoccupied at night. Hence R. Anan's action.

(18) As the Synagogue superintendent only spent the night in the alley but dined elsewhere he could not, in the opinion of Eibuth b. Ihi, be regarded as one of its occupants. He, therefore, gained the impression that Samuel acknowledged the validity of his side-post on the ground that one house and one courtyard suffice to constitute an alley. Hence his remonstrance with R. Anan.
(19) Not dining.
(20) Of the obligation of shittuf. The Synagogue, since its superintendent lodged in it at night, could, therefore, be regarded as an inhabited courtyard, so that together with the courtyard of Eibuth b. Ihi the alley actually had two courtyards and its use could be made to be unrestricted by means of a side-post even according to Rab.
(21) Sc. the courtyard and house on that side.
(22) By the Israelite and his neighbours whose house doors open into a public domain.
(23) Or any other forms of opening that connected his and their houses.
(24) From the Israelites' houses into the alley.
(25) Of the Israelite who lived in the alley into whose house the objects could be brought by way of the windows.
(26) The house on one side of which was occupied by an idolater and the one on the other by an Israelite whose houses was connected by some form of opening with the houses of other Israelites.
(27) I.e., Rab forbade the preparation of 'erub in the case of the courtyard as in that of the alley.
(28) In the case of a courtyard.
(29) Lit., 'what would I'.
(30) In the case of the alley.
(31) Supra 73b. While in the case under discussion (an idolater's houses not being regarded as a valid dwelling) there was only one valid courtyard in the alley.
(32) Since both are based on the same principle.
(33) The one here and the one supra 73b (cf. n. 9).
(34) Lit., 'from that' the ruling supra 73 b.

Talmud - Mas. Eiruvin 75a

I might have presumed that[1] an idolater's dwelling is regarded as a valid dwelling;[2] hence we were informed[3] that an idolater's dwelling is no valid dwelling. And if all our knowledge had to be derived front the latter ruling.[4] one would not have known the number of houses required;[5] hence we were informed[6] that there must be no less than two houses. Now, however, that Rab also stated that his ruling[7] applied even to a courtyard[8] [it follows that] Rab's reason is his opinion that one is forbidden to live alone with[9] an idolater.[10] If so,[11] observed R. Joseph, I can well understand[12] why I heard R. Tabla[13] mentioning 'idolater' twice[14] though at the time I did not understand what he meant.

MISHNAH. IF TWO COURTYARDS WERE ONE WITHIN THE OTHER[15] AND THE TENANTS OF THE INNER ONE PREPARED AN 'ERUB[16] 'WHILE THOSE OF THE OTHER ONE DID NOT PREPARE ONE, THE UNRESTRICTED USE OF THE INNER ONE IS PERMITTED[17] BUT THAT OF THE OUTER ONE IS FORBIDDEN. IF THE TENANTS OF THE OUTER ONE PREPARED AN 'ERUB BUT NOT THOSE OF THE INNER ONE, THE UNRESTRICTED USE OF BOTH COURTYARDS IS FORBIDDEN.[18] IF THE TENANTS OF EACH COURTYARD PREPARED AN 'ERUB FOR THEMSElves, THE UNRESTRICTED USE OF EACH IS PERMITTED TO ITS OWN TENANTS.[19] R. AKIBA FORBIDS THE UNRESTRICTED USE OF THE OUTER ONE BECAUSE THE RIGHT OF WAY[20] IMPOSES RESTRICTIONS.[21] THE SAGES, HOWEVER, MAINTAIN THAT THE RIGHT OF WAY[22] IMPOSES NO RESTRICTIONS UPON IT.[23]

IF ONE OF THE TENANTS OF THE OUTER COURTYARD FORGOT TO CONTRIBUTE TO THE 'ERUB.[24] THE UNRESTRICTED USE OF THE INNER COURTYARD IS PERMITTED BUT THAT OF THE OUTER ONE IS FORBIDDEN. IF A TENANT OF THE INNER COURTYARD FORGOT TO CONTRIBUTE TO THE 'ERUB, THE UNRESTRICTED USE OF BOTH COURTYARDS IS FORBIDDEN.[25]

IF THEY[26] DEPOSITED THEIR ‘ERUB IN THE SAME PLACE[27] AND ONE TENANT, WHETHER OF THE INNER COURTYARD OR OF THE OUTER COURTYARD, FORGOT TO CONTRIBUTE TO THE ERUB, THE USE OF BOTH COURTYARDS IS FORBIDDEN.[23] IF THE COURTYARDS. HOWEVER, BELONGED TO SEPARATE INDIVIDUALS THESE NEED NOT PREPARE ANY ‘ERUB.[28]

GEMARA. When R. Dimi came[29] he stated in the name of R. Jannai: This[30] is the opinion of R. Akiba who ruled: Even a foot[31] that is permitted[32] in its own place[33] imposes restrictions in a place to which it does not belong, but the Sages maintain: As a permitted foot[32] does not impose restrictions[34] so does not[34] a forbidden foot either.[35]

We learned: IF THE TENANTS OF THE OUTER ONE PREPARED AN ‘ERUB BUT NOT THOSE OF THE INNER ONE, THE UNRESTRICTED USE OF BOTH COURTYARDS IS FORBIDDEN.[36] Now whose ruling is this? If it be suggested: That of R. Akiba, the difficulty would arise: What was the point in speaking of a forbidden foot seeing that[37] the same restrictions would also apply to a permitted one? Must it not then be a ruling of the Rabbis?[38] — It[39] may in fact be the ruling of R. Akiba,[40] but[41] the arrangement, it may be explained, is in the form of a climax.[42]

We learned: IF THE TENANTS OF EACH COURTYARD PREPARED AN ‘ERUB FOR THEMSELVES, THE UNRESTRICTED USE OF EACH IS PERMITTED TO ITS OWN TENANTS. The reason then[43] is because it[44] PREPARED AN ‘ERUB,[45] but if it had not prepared one,[46] the unrestricted use of both courtyards would have been forbidden.[47] This Tanna then holds that a permitted foot[48] imposes no restrictions[49] and that only a forbidden foot imposes restrictions.[49] Now who is it? if it be suggested that it is R. Akiba, the objection could be raised, did he not lay down that even a permitted foot imposes restrictions?[50] Must it not then be the Rabbis?[51] Furthermore: Since the clause following is the ruling of R. Akiba[52] is it not obvious that the earlier clause[53] does not represent the view of R. Akiba?[54] — All the Mishnah represents the views of R. Akiba but[55] a clause is wanting[56] the correct reading being the following:[57] IF THE TENANTS OF EACH COURTYARD PREPARED AN ‘ERUB FOR THEMSELVES. THE UNRESTRICTED USE OF EACH IS PERMITTED TO ITS OWN TENANTS. This, however, applies only where it[58] made a barrier,[59] but if it made no such barrier the unrestricted use of the outer courtyard is forbidden; so R. Akiba, for R. AKIBA FORBIDS THE UNRESTRICTED USE OF THE OUTER ONE BECAUSE THE RIGHT OF WAY IMPOSES RESTRICTIONS. THE SAGES, HOWEVER,[60] MAINTAIN THAT THE RIGHT OF WAY IMPOSES NO RESTRICTIONS.

R. Bebai b. Abaye raised an objection: IF THE COURTYARDS, HOWEVER, BELONGED TO SEPARATE INDIVIDUALS THESE NEED NOT PREPARE ANY ‘ERUB; from which it follows that if they belonged to several persons an ‘erub must be prepared. Is it not thus obvious that a foot permitted in its own place imposes no restrictions and that a foot forbidden imposes restrictions?[61] Rabina, furthermore, raised the following objections: IF ONE OF THE TENANTS OF THE OUTER COURTYARD FORGOT TO CONTRIBUTE TO THE ‘ERUB THE UNRESTRICTED USE OF THE INNER COURTYARD IS PERMITTED BUT THAT OF THE OUTER ONE IS FORBIDDEN. IF A TENANT OF THE INNER COURTYARD FORGOT TO CONTRIBUTE TO THE ‘ERUB, THE UNRESTRICTED USE OF BOTH COURTYARDS IS FORBIDDEN. The reason[62] accordingly is that a tenant[63] forgot, but if he had not forgotten, the use of both courtyards would have been unrestricted. Is it not thus obvious that a foot permitted imposes no restrictions and one forbidden does?[64] — The fact is, Rabin when he came[65] stated in the name of R. Jannai that three different views have been expressed on this question: The first Tanna holds that a permitted foot imposes no restrictions and a forbidden one does; R. Akiba holds that even a permitted foot imposes restrictions; while the latter Rabbis[66] hold that as a permitted foot does not impose restrictions so does not one that is forbidden.

IF THEY DEPOSITED THEIR ‘ERUB IN THE SAME PLACE AND ONE TENANT, WHETHER OF THE INNER COURTYARD . . . FORGOT etc. What is meant by THE SAME PLACE?[67] — Rab Judah citing Rab explained: The other courtyard.[68] But why is it described as ‘THE SAME[69] PLACE?’ Because it is a place designated[70] for the use of the tenants of both courtyards.[71]

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(1) Since the house of an idolater was not at all mentioned.

(2) V. supra 62a.

(3) In the ruling here.

(4) Lit., ‘from here’, the ruling supra 74b.

(5) Lit., ‘I would have said: I do not know how many houses’ constitute a courtyard. The number of courtyards required to constitute an alley might have been inferred from the statement that no ‘erub may be prepared where one of the two courtyards in the alley was occupied by an idolater, from which it follows that if it was occupied by an Israelite, so that the alley had two valid courtyards, the alley also is valid.

(6) In Rab's first ruling (supra 73a) where ‘houses’ (in the plural) were mentioned.

(7) Concerning the alley.

(8) Thereby showing that all possible restrictions have been imposed upon an Israelite who, either in the same alley or in the same courtyard, lives alone with an idolater.

(9) Lit., ‘it is forbidden to act (carry on as) an individual in the place of’.

(10) From whom one might learn undesirable habits and beliefs.

(11) That (a) Rab's reason is the one just given, or (b) that Rab gave two rulings one concerning an alley and the other concerning a courtyard.

(12) Lit., ‘that is it’.

(13) When he was discoursing on Rab's rulings.

(14) He (cf. supra n. 4) must have been giving Rab's ruling as well as his reason: (a) ‘For an alley whose one side is occupied by an idolater . . . no ‘erub may be prepared . . . because one is forbidden to live alone with an idolater’; or (b) was referring first to an alley and then to a courtyard.

(15) The inner one opening into the outer which opened into public domain and through which the tenants of the inner one had right of way.

(16) For themselves alone, to enable them to have the unrestricted use of their own courtyard.

(17) To its tenants.

(18) The reason is discussed infra.

(19) Lit., ‘for itself’.

(20) Lit., ‘the treading of the foot’, of each of the tenants of the inner courtyard through the outer one in the ‘erub of which he had not joined.

(21) Despite the fact that each of the inner tenants is permitted the unrestricted use of his own courtyard.

(22) V. p. 519, n. 13.

(23) The reason is discussed infra.

(24) Of his courtyard.

(25) As the tenants of the inner courtyard are forbidden the unrestricted use of their own courtyard they impose restrictions on the use of the outer one on account of their right of way.

(26) The tenants of the two courtyards who joined in one ‘erub.

(27) Sc. (as will be explained infra) in the outer courtyard.

(28) Since the single owner of the inner courtyard is permitted its unrestricted use he, in agreement with the view of the Rabbis, cannot impose restrictions in the use of the outer one though he has a right of way through it.

(29) From Palestine to Babylon.

(30) The first clauses of our Mishnah.

(31) Synecdoche for ‘person’ or ‘persons’.

(32) Sc. (cf. prev. n.) who is (or are) permitted the unrestricted use.

(33) The courtyard in which the person (or persons) lives.

(34) In a courtyard in which that tenant (or tenants) does not live, though he has a right of way through it.

(35) Though it is (a) forbidden in its own courtyard and (b) has a right of way through the other courtyard.

(36) From which it follows that if the tenants of the inner one also prepared an ‘erub the unrestricted use of both courtyards is permitted; obviously because ‘a foot that is permitted in its own place’ imposes no restrictions ‘in a place to which it does not belong’.

(37) According to R. Akiba's specific ruling in our Mishnah.

(38) An objection against R. Dimi.

(39) The first clauses of our Mishnah.

(40) Who maintains that a ‘permitted foot’ also imposes restrictions, and the inference supra n. 1 cannot consequently be drawn.

(41) In answer to the objection; If no inference is to be drawn from it, what need was there to state a ruling which may be deduced from R. Akiba's specifically expressed ruling that followed it.

(42) Lit., ‘and not this but also that was taught’, i.e., R. Akiba first laid down the ruling under discussion (‘forbidden foot’) and then he added in effect: Not only does a ‘forbidden foot’ (IF THE TENANTS OF THE OUTER ONE PREPARED AN ‘ERUB BUT NOT THOSE OF THE INNER ONE) impose restrictions on the use of the outer courtyard but even a ‘permitted foot’ (IF THE TENANTS OF EACH COURTYARD PREPARED AN ‘ERUB) also imposes the same restrictions.

(43) Why THE UNRESTRICTED USE OF EACH IS PERMITTED.

(44) ‘The inner courtyard.

(45) In consequences of which its tenants have the status of a ‘permitted foot’.

(46) So that its tenants would have had the status of a ‘forbidden foot’.

(47) Apparently because a ‘forbidden foot’ imposes restrictions in the place through which it has right of way.

(48) In its own place.

(49) In a place through which it has right of way.

(50) Of course he did, as has been pointed out supra.

(51) Apparently it must.

(52) His name being expressly mentioned (v. our Mishnah).

(53) Which R. Akiba in fact opposes.

(54) Of course it does not. How then could R. Dimi maintain his view?

(55) As to the difficulties raised.

(56) From our Mishnah.

(57) Lit., ‘and thus he learned’.

(58) The inner courtyard.

(59) Which shut it off from the outer courtyard and thus deprived itself of its right of way through the outer courtyard.

(60) Differing from R. Akiba both in the case where THE TENANTS OF EACH COURTYARD PREPARED AN ‘ERUB FOR THEMSELVES as well as where THE TENANTS OF THE OTHER ONE PREPARED AN ‘ERUB BUT NOT THOSE OF THE INNER ONE.

(61) An objection against R. Dimi.

(62) Why the unrestricted use of both courtyards is forbidden.

(63) Of the inner courtyard.

(64) Of course it is. Now this cannot be a ruling of R. Akiba since he explicitly restricts the use of the outer courtyard even where both courtyards had prepared ‘erubs. It must consequently be that of the Rabbis who accordingly impose restrictions where A TENANT OF THE INNER COURTYARD FORGOT TO CONTRIBUTE TO THE ‘ERUB. How than could R. Dimi maintain that according to the Rabbis even a forbidden foot imposes no restrictions?

(65) From Palestine to Babylon.

(66) To whom R. Dimi referred.

(67) The following mnemonic is here entered in brackets: The external itself in a lonely house, Rabina who does not forget within. It embodies striking words or ideas contained in the previous discussion on our Mishnah occasioned by R. Dimi's tradition supra.

(68) The use of the inner one is in such a case forbidden (even where only one of the outer tenants failed to join in the ‘erub) since its tenants, on account of their ‘erub that lay in the outer courtyard, cannot shut up their door and separate themselves from the latter; and the use of the outer one is equally forbidden (even where only an inner tenant failed to join in ‘erub) on account of the ‘forbidden foot’ of the inner one that imposes restrictions on it. Where, however, the ‘erub was deposited in the inner courtyard it is only the forgetfulness of one of its own tenants that causes the restriction of the outer one on account of its ‘forbidden foot’. The forgetfulness of all outer tenant, however, imposes no restrictions on the tenants of the inner one since they can well shut up their door and, by separating themselves from the outer one, have the free use of their own courtyard.

(69) אחד.

(70) מיוחד rt. יחד which is analogous to that of אחד.

(71) The inner one having a right of way through it.

Talmud - Mas. Eiruvin 75b

So[1] it was also taught: If they deposited their ‘erub in the outer courtyard and one tenant, whether of the outer, or of the inner courtyard, forgot to contribute to the ‘erub, the unrestricted use of both courtyards is forbidden. If they deposited their ‘erub in the inner one and a tenant of the inner one forgot to contribute to the ‘erub, the unrestricted use of both courtyards is forbidden. If a tenant of the outer courtyard forgot to contribute to the ‘erub the unrestricted use of both courtyards is forbidden. This is the view of R. Akiba. The Sages, however, ruled: In this case[2] the unrestricted use of the inner one is permitted[3] through that of the outer one is forbidden.[1]

Said Rabbah b. Hanan to Abaye: Why did the Rabbis make a distinction[4] when they laid down that[5] the unrestricted use of the inner courtyard is permitted? Obviously because its tenants can shut its door and so use it. Why then should they not shut its door, according to R. Akiba also, and so use it? — The other replied: The ‘erub[6] causes them to be associated. Does not the ‘erub cause them to be so associated according to the Rabbis also? — The tenants[7] call say: ‘We have associated with you in order to improve our position but not to make it worse’. Why could they not, according to R. Akiba, also say: ‘We have associated with you in order to improve our position but not to make it worse’? — Because the others[8] can reply: ‘We will renounce our rights of entry[9] in your favour’.[10] And the Rabbis?[11] — The tenants of one courtyard cannot renounce their rights in favour of those of another.[12]

Must it be assumed that Samuel and R. Johanan[13] differ on the same principle[14] as that on which the Rabbis and R. Akiba differ, Samuel holding the same view as the Rabbis and R. Johanan holding that of R. Akiba?[15] — Samuel can answer you: I may maintain my view even according to R. Akiba, for it is only here,[16] where two courtyards, one within the other, impose[17] restrictions upon each other, that R. Akiba upheld his view,[18] but not there where[19] they do not[20] impose restrictions upon each other.[21] Johanan also can answer you: I may maintain my view even according to the Rabbis,[22] for it is only here that the Rabbis maintain their view, since the tenants of the inner courtyard can say to those of the outer one, ‘Until you make renunciation in our favour you are imposing restrictions upon us’[23] but not there where[19] one courtyard does note impose restrictions upon the other.[24]

IF THE COURTYARDS, HOWEVER, BELONGED, TO SEPARATE INDIVIDUALS etc. R. Joseph stated: Rabbi learned: If they[25] were three they are forbidden.[26] Said R. Bebai to them: ‘Do not listen to him.[27] It was I who first reported it,[28] and I did so in the name of R. Adda b. Ahabah,[29] giving the following as a reason: Since I might describe them[30] as many residents[31] in the outer courtyard’.[32] ‘God of Abraham’, exclaimed R. Joseph. ‘I must have mistaken[33] Rabbin[31] for Rabbi’.[34] Samuel, however, ruled: The unrestricted use of both courtyards is always permitted except where two persons occupied the inner courtyard and one person the outer one.

R. Eleazar ruled: A gentile[35] is regarded[36] as many Israelites.[37] But wherein does an Israelite,[35] who imposes no restrictions,[38] essentially differ in this respect?[39] Obviously in this: That he who knows[40] is fully aware of the circumstances,[41] and he who does not know[40] presumes that an ‘erub had been duly prepared.[42] Why then should it not be said in the case of a gentile also: He who knows[43] is fully aware of the circumstances[44] and he who does not know[43] presumes that the gentile has duly let his right of way? — The average gentile, if ever he lets his right,[45] makes a noise about it.[46]

Rab Judah citing Samuel ruled: If there were ten houses one within the other,[47] the innermost one[48] contributes the ‘erub,[49] and this is sufficient.[50] R. Johanan, however, ruled: Even the outer one must contribute to it. ‘The outer one’![51] Is it not like a gate-house?[52] — The outer house of the innermost one[53] was meant. On what principle do they[54] differ? — One Master[55] holds the view that the gate-house of one individual[56] is regarded as a proper gate-house[57] while the other Master[58] holds the view that[59] it is not regarded as a proper gate-house.[60] R. Nahman citing Rabbah b. Abbuha who had it front Rab ruled: If there were two courtyards between which there were three houses,[61] one tenant[62] may come through the one outer house[63] and deposit his ‘erub in the middle one, and another tenant[64] may come through the outer house[63] and deposit his ‘erub in the middle one.

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(1) In agreement with Rab Judah that by the ‘SAME PLACE’ the outer courtyard was meant.

(2) The last mentioned case where an outer tenant forgot to join in the ‘erub.

(3) Since, as explained supra, it can shut up its door etc.

(4) Between an ‘erub deposited in the inner, and one deposited in the outer courtyard.

(5) In the former case.

(6) In which both courtyards joined.

(7) Of the inner courtyard.

(8) The tenants of the outer courtyard.

(9) ‘Into the inner courtyard to which we are entitled by virtue of our joint ‘erub’.

(10) ‘So that our association in the ‘erub would involve you in no disadvantage’. R. Akiba's prohibition of the unrestricted use of the inner courtyard is limited to the period prior to such renunciation.

(11) If by renunciation the tenants of the inner courtyard regain their full rights, how could they object to their association with the other on the ground mentioned?

(12) Lit., ‘there is no renunciation of rights from one courtyard to another’. As those of the outer courtyard cannot consequently renounce this right in the inner one in favour of its tenants the latter might well plead against the disadvantage resulting from their join ‘erub’, ‘We have associated with you in order to improve etc.’

(13) Who offered (supra 66b, 68a) on the permissibility of renunciation by the tenants of one courtyard in favour of those of another, where a door led from one courtyard into the other.

(14) As has just been explained.

(15) But if the principle is the same, why should it be discussed twice?

(16) Lit., ‘until here’.

(17) If they joined in an ‘erub.

(18) As restrictions are imposed renunciation also was permitted.

(19) Not having joined in a common ‘erub.

(20) Lit., ‘do they’.

(21) Cf. supra n. 7. mut. mut.

(22) Who in fact do allow renunciation where two courtyards are involved.

(23) Since by accepting the advantage of the one they must also accept the disadvantage of the other they might well decline to accept either. Hence the Rabbis’ prohibition of renunciation.

(24) As in that case renunciation is purely advantageous, involving no disability whatever, the Rabbis may well have allowed it.

(25) The occupiers of the two courtyards.

(26) The unrestricted use of the courtyards, unless they prepared an ‘erub. For if two persons occupied the inner courtyard they impose restrictions upon each other and, as a ‘forbidden foot’ and on account of their right of way, on the occupiers of the other courtyard also; and if one person only occupied the inner courtyard he also imposes the same restrictions as a preventive measure against the possible relaxation of the law where two occupied it.

(27) Sc. R. Joseph's statement that the ruling he cited had the authority of a Mishnah taught by Rabbi was incorrect.

(28) The ruling cited by R. Joseph.

(29) Not in the name of Rabbi or R. Judah I.
(30) The three occupiers all of whom have a right of way through the otter courtyard.
(31) ‘Rabbim’, a word which a listener might mistake for ‘Rabbi’.
(32) Though the inner courtyard is occupied by one person only the same restrictions apply, as a preventive measure (cf. supra n. 1). The rendering and interpretation here follow partly the exposition of R. Han.
(33) Lit., ‘exchanged’.
(34) R. Joseph, as a result of a serious illness, lost his memory; and faintly recollecting the word rabbit’ (‘many’) assumed it to represent the name of ‘Rabbi .
(35) Who occupied the inner courtyards
(36) According to Samuel's ruling (cf. Rashi).
(37) Sc. he imposes the same restrictions on the occupiers of the outer courtyard unless his right of way had been rented from him.
(38) On the occupiers of the outer courtyard.
(39) From a gentile.
(40) That the Israelite is the only occupant, and that a ‘permitted foot’ imposes no restrictions.
(41) Lit., ‘knows’ why no restrictions are imposed. Hence no preventive measure was called for.
(42) By the occupants of the inner courtyard if their number was two or more.
(43) That the occupant of the inner courtyard was a gentile.
(44) v. p. 526, n. 16.
(45) In connection with Sabbath.
(46) It is possible, therefore, for a person who was unaware that the inner courtyard was occupied by one gentile only to assume that it was occupied by more than one, and that the reason why they imposed no restrictions was not because they let their right of way to the Israelite (for had they done so they would have made a noise about it) but because (a) right of way imposes no restrictions or because (b) an ‘erub prepared by the Israelite tenants of the two courtyards is effective even though the gentile tenant did not let them his right of way. Hence the necessity for R. Eleazar's preventive measure.
(47) Only the door of the outermost house opening into a courtyard into which doors of the houses of other tenants also opened.
(48) Since its tenant has the right of way through all the other nine houses each of which is in consequence regarded as his ‘gate-house’ (cf. supra 72b, infra 85b).
(49) For the other tenants (cf. supra n. 5) of the courtyard.
(50) None of the other nine tenants need make any contribution to the ‘erub.
(51) This is at present presumed to refer to the outermost house that opens directly into the courtyard.
(52) For all the nine tenants whose only way to the courtyard lies through it.
(53) Sc. the last house but one, or the ninth from the courtyard, which is used as a passage by the innermost tenant only. All the other houses, however, since they are used as thoroughfares for two or more tenants definitely assume the status of gate-houses which do not contribute to the ‘erub of the courtyard.
(54) Samuel and R. Johanan.
(55) Samuel.
(56) As is the ninth house which serves as a gate-house for the single occupier of the tenth house only.
(57) Hence his ruling that none of the nine houses need contribute to the ‘erub.
(58) R. Johanan.
(59) Since only one man uses it as his thoroughfare.
(60) Its occupier must, therefore, contribute to the ‘erub as does the occupier of the house within it.
(61) The two outer ones opening into the two courtyards respectively and the middle house having a door leading into each of the two houses.
(62) Lit., ‘this’, a tenant of the one courtyard other than those who respectively occupied the three houses.
(63) That has a door into his courtyard.
(64) Of the other courtyard, who is not one of those occupying one of the three houses.

Talmud - Mas. Eiruvin 76a

The one [outer house] thereby becomes[1] a gate-house to the one [courtyard][2] and the other [outer house] becomes[1] a gate-house to the other [courtyard][2] while the middle house, being the house in which the ‘erub is deposited, need not contribute any bread to the ‘erub.

Rehaba tested the Rabbis: If there were two courtyards and between them two houses[3] and a tenant[4] of the one [courtyard] came through the one [house] and deposited his ‘erub in the other[5] while a tenant[6] of the other [courtyard] came through the latter [house] and deposited his ‘erub in the former, do they[7] thereby acquire the privileges of ‘erub[8] or not? Do we regard each house in relation to the one [courtyard][9] as a house and in relation to the other [courtyard][10] as a gate-house?[11] — Both,[12] they replied, do not acquire the privileges of ‘erub. For, whatever you assume, [this must be the result]. If you regard either house as a gate-house, ‘an ‘erub deposited in a gate-house, exedra or balcony is not a valid ‘erub’;[13] and if you regard either as a proper house, the tenants would be carrying objects into a house which was not covered by their ‘erub.[14] But why should this ruling be different from that of Raba,[15] who laid down: If two persons said to a third party, ‘Go and prepare an ‘erub on our behalf’ and, after he had prepared an ‘erub for the one while it was yet day[16] and for the other at twilight,[16] the ‘erub of the man for whom it was prepared while it was yet day was eaten up at twilight while the ‘erub of the man for whom it was prepared at twilight was eaten up after dusk, both[17] acquire the privileges[18] of ‘erub?[19] — What a comparison![20] There[21] it is doubtful whether twilight is day-time or night-time, a point that cannot be definitely determined;[22] but, in this case, if a house is to be regarded as a proper house in relation to the former it must be so regarded in relation to the latter also, and if it is regarded in relation to the latter as a gate-house it must also be so regarded in relation to the former.[23]

CHAPTER VII

MISHNAH. IF BETWEEN TWO COURTYARDS[24] THERE WAS A WINDOW OF FOUR HANDBREADTHS BY FOUR, WITHIN TEN HANDBREADTHS FROM THE GROUND, THE TENANTS MAY PREPARE TWO ‘ERUBS[25] OR, IF THEY PREFER, THEY MAY PREPARE ONE.[26] IF [THE SIZE OF THE WINDOW WAS] LESS THAN FOUR HANDBREADTHS BY FOUR[27] OR HIGHER THAN TEN HANDBREADTHS FROM THE GROUND,[28] TWO ‘ERUBS MAY BE PREPARED[25] BUT NOT ONE.[29]

GEMARA. Must it be assumed that we have here learnt[30] an anonymous Mishnah in a agreement with R. Simeon b. Gamaliel who ruled[31] that wherever a gap is less than four handbreadths it is regarded as labud?[32] — It may be said to agree even with the Rabbis; for the Rabbis differed from R. Simeon b. Gamaliel only in regard to the laws of labud. As regards an opening, however, even they may agree that only if its size is four handbreadths by four is it regarded as a valid opening but otherwise it cannot be so regarded.

LESS THAN FOUR etc. Is not this obvious? For, since it was said that the window must be[33] FOUR HANDBREADTHS BY FOUR, WITHIN TEN HANDBREADTHS, would I not naturally understand that if it was less than four and higher than ten It is not valid opening? — It is this that we were informed:[34] The reason[35] is because all of it was higher than ten handbreadths from the ground, but if a part of it was within ten handbreadths from the ground, THE TENANTS MAY PREPARE TWO ‘ERUBS OR, IF THEY PREFER, THEY MAY PREPARE ONE.[36] Thus we have learnt in a Mishnah what the Rabbis taught elsewhere: ‘If [almost] all the window was higher than ten handbreadths from the ground but a part of it was within ten handbreadths from it, or if [almost] all of it was within ten handbreadths and a part of it was higher than ten handbreadths, the tenants may prepare two ‘erubs or, if they prefer, they may prepare one’. Now then, where ‘[almost] all the window was higher than ten handbreadths from the ground but a part of it was within ten handbreadths’ you ruled that ‘the tenants may prepare two ‘erubs or, if they prefer, they may prepare one was it also necessary to mention the case where ‘[almost] all of it was within ten handbreadths and a part of it was higher than ten handbreadths'?[37] — This is a case of anticlimax: This,[38] and there is no need to say that.[39]

R. Johanan ruled: A round window[33] must have a circumference of twenty-four handbreadths, two and a fraction of which[40] must be within ten handbreadths from the ground, so that, when it[41] is squared,[42] a fraction remains within the ten handbreadths from the ground.[43] Consider: Any object that has a circumference of three handbreadths is approximately one handbreadth in diameter: should not then twelve handbreadths[44] suffice?[45]

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(1) In relation to the middle one.

(2) Into which that house has a door. As a gate-house is exempt from 'erub neither of the outer houses need contribute to the 'erub of either courtyard.

(3) Cf. supra n. 1 mut. mut.

(4) Cf. supra n. 2 mut. mut.

(5) That opened into the other courtyard.

(6) Cf. supra n. 4.

(7) The tenants of the respective courtyards who have no desire hat their courtyards should be joined by one 'erub.

(8) Each group of tenants in its own courtyard.

(9) Into which it had no door and from which it is separated by the other house.

(10) Into which its door opens.

(11) And both 'erubs are consequently valid. If both houses had been regarded as gate-houses neither 'erub (cf. infra 85b) would have been valid, and even if both houses had been regarded as proper houses neither 'erub would have been valid since in the case of each house the other that was lot covered by the 'erub intervened between it and the courtyard for which the 'erub had been prepared.

(12) The tenants of both courtyards.

(13) Infra 85b; consequently neither 'erub is valid.

(14) Since a house cannot be regarded as both a gate-house and a proper house at the same time both 'erubs must be deemed invalid.

(15) MS.M. and Asheri, 'Rabbah'.

(16) Of the Sabbath eve.

(17) Since it is uncertain whether twilight is to be regarded as day or as night.

(18) In the former case it is assumed that twilight is night and, since the 'erub was in existence before twilight when the Sabbath commenced, the 'erub is valid. In the latter case it is assumed that twilight is still day and, since the 'erub was prepared before twilight and was still in existence when the Sabbath commenced, the 'erub is valid. Now why, it is asked, if twilight is here assumed to be day for one individual and night for another could not a house also be assumed to be a gate-house for one and a proper house for another?

(19) Shab. 34a.

(20) Lit., 'thus now'.

(21) The case dealt with by Raba.

(22) As 'erub is only a Rabbinical institution the more lenient course may be followed in favour of each individual.

(23) Were the same house at the same time to be regarded as both a gate-house and a proper house the whole law of 'erub would become a farce.

(24) In the wall that divided one from the other.

(25) One for each courtyard, to enable the respective tenants to have the unrestricted use of their courtyard. The movement of objects from one courtyard into the other, however, remains forbidden.

(26) Jointly. The tenants of one courtyard deposit their 'erub in the other and, by thus joining together, both groups of tenants are permitted the unrestricted use of both courtyards.

(27) A size that cannot be regarded as a valid opening.

(28) So that a portion of the dividing wall to a height of ten handbreadths contained no valid opening through which the tenants could gain access from one courtyard into the other.

(29) Since the wall (cf. prev. n.) constitutes a solid partition between the courtyards. It is consequently forbidden to move objects between the courtyards either over the wall or through any small apertures or cracks in it.

(30) In the ruling that if A WINDOW WAS LESS THAN FOUR HANDBREADTHS square it is deemed to be nonexistent (v. our Mishnah).
(31) Supra 9a.
(32) v. Glos. Is it likely, however, that an anonymous Mishnah, which usually represents the accepted halachah, would agree with an individual opinion against that of the majority?
(33) If it is to be regarded as a valid opening that enables the tenants of both courtyards to join in a single ‘erub.
(34) By the apparently superfluous ruling.
(35) Why the window is regarded as an invalid opening.
(36) This could not have been inferred from the first clause of our Mishnah which might have been taken to imply that the entire window must be within ten handbreadths from the ground; and since ‘HIGHER THAN TEN HANDBREADTHS’ has to be stated, it incidentally states also ‘LESS THAN FOUR, etc.’
(37) Apparently not, since the latter may be deduced from the former a minori ad majus.
(38) The first case where a window was only partly within ten handbreadths from the ground.
(39) The second case where almost all of it was within the ten handbreadths.
(40) Measured from the lowest point of the circumference along the diameter joining this point to the highest one opposite (cf. Tosaf.).
(41) The window whose diameter (being approx. a third of its circumference) is equal to (24/3 =) eight handbreadths approx.
(42) And thus reduced on each side oft he square by two handbreadths, leaving a square window of the size of 8 — (2 + 2) by 8 — (2 + 2) = 4 X 4 handbreadths. He assumed that the area of a square constructed within a circle is half the area of the circle itself, v. infra.
(43) This fraction being the only part of the square window within the prescribed distance from the ground.
(44) A third of twelve being four.
(45) For the purpose of obtaining a square of four handbreadths by four within the circumference. Why then did R. Johanan require a minimum circumference of twenty-four?

Talmud - Mas. Eiruvin 76b

— This[1] applies only to a circle, but where a square[2] is to be inscribed within it a greater circumference is required.[3] But observe: By how much does the perimeter of a square exceed that of a circle? By a quarter approximately; should not then a circumference of sixteen handbreadths[4] suffice?[5] — This[6] applies only to a circle that is inscribed within[7] the square, but where a square is to be inscribed within a circle it is necessary [for the circumference of the latter] to be much bigger.[8] What is the reason? In order [to allow[9] space for] the projections of the corners.[10] Consider, however, this: Every cubit in [the side of] a square [corresponds to], one and two fifths cubits in its diagonal; [should not then[11] a circumference] of sixteen and four fifths handbreadths[12] suffice?[13] — R. Johanan holds the same view as the judges of Caesarea or, as others say, as that of the Rabbis of Caesarea who maintain [that the area of] a circle that is inscribed within a square Is [less than the latter by] a quarter[14] [while that of] the square that is inscribed within that circle[15] [is less than the outer square by] a half.[16]

IF THE SIZE OF THE WINDOW WAS LESS THAN FOUR HANDBREADTHS BY FOUR etc. R. Nahman explained: This[17] was learnt only in respect of a window between two courtyards but in the case of a window between two houses, even though It was higher than ten handbreadths from the ground, the residents may, if they wish, prepare one ‘erub jointly. What is the reason? — A house is regarded as filled.[18] Raba raised an objection against R. Nahman: A window, irrespective of whether[19] it was between two courtyards, between two houses, between two upper rooms, between two roofs,[20] or between two rooms, must be of the size of[21] four handbreadths by four within ten handbreadths from the ground? — The interpretation is [that the limitation[22] applies] to the courtyards.[23] But was it not stated: ‘irrespective of whether’?[24] — The interpretation is that this refers to the prescribed four handbreadths by four’.

R. Abba[25] enquired of R. Nahman: If an aperture[26] led from a room to an upper room,[27] is a permanent ladder[28] necessary for the purpose of allowing the movement of objects[29] or not? Do we apply the principle, that ‘a house is regarded as filled’ only when the aperture[30] is at the side but not when it is in the middle[31] or is it possible that there is no difference? — The other replied: It is not necessary. He[32] understood him[33] to mean that only a permanent ladder is not necessary but that a temporary one is necessary. It was, however, stated: R. Joseph[34] b. Minyomi citing R. Nahman laid down: Neither a permanent, nor a temporary ladder is necessary.

MISHNAH. IF A WAIL BETWEEN TWO COURTYARDS WAS TEN HANDBREADTHS HIGH AND FOUR HANDBREADTHS THICK, TWO ‘ERUBS MAY BE PREPARED[35] BUT NOT ONE.[36] IF THERE WAS FRUIT ON THE TOP OF IT,[37] THE TENANTS ON EITHER SIDE MAY CLIMB UP AND EAT THEM PROVIDED[38] THEY DO NOT CARRY THEM DOWN. IF A BREACH TO THE EXTENT OF TEN CUBITS WAS MADE IN THE WALL, THE TENANTS MAY PREPARE TWO ‘ERUBS[35] OR, IF THEY PREFER, ONLY ONE,[39] BECAUSE IT[40] IS LIKE A DOORWAY. IF THE BREACH WAS BIGGER, ONLY ONE ‘ERUB AND NOT TWO MAY BE PREPARED.[41]

GEMARA. What is the ruling where it[42] was not FOUR HANDBREADTHS wide? — Rab replied: The air of two domains[43] prevails upon it and[44] no object on it may be moved even as far as a hair's breadth.

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(1) That a figure with a perimeter of twelve handbreadths has a diameter of four handbreadths approx.

(2) Of given dimension, as in this case one of four handbreadths by four.

(3) As the window under discussion must be four handbreadths square the diameter of the circle in which such a square can be inscribed must have, as laid down by R. Johanan, a minimum circumference of twenty-four hand breadths.

(4) Since sixteen exceeds twelve by a quarter of the former figure.

(5) For the window under discussion.

(6) That the perimeter of a square exceeds the circumference of a circle by one quarter.

(7) Lit., ‘that goes out from’.

(8) Than three quarters of the given square. Hence R. Johanan's requirement that the circumference of the window must be no less than twenty-four handbreadths.

(9) Within the circle.

(10) Of the square. A circular window with a circumference that is less than twenty-four handbreadths would not contain the area that is required.

(11) Since the diameter of the circle forms the diagonal of the inscribed square.

(12) Which has a diameter of (16 4/5)/3 = 84/(3 X 5) = 28/5 handbreadths approximately and in which a square each side of which is equal to (5/7 of its diagonal or 28/5 X 5/7 =) four handbreadths, may be inscribed.

(13) Why then did R. Johanan require a circumference of twenty-four handbreadths?

(14) Of that square.

(15) That was inscribed in the other square.

(16) Cf. Rashi, Tosaf., R. Han. and Rashal one or other of whom the interpretation here partly follows. While the rule laid down in Caesarea seems to bear on the area of the circle and the squares, R. Johanan applied it also to the circumference of the circle and thus required a much bigger circumference than is actually necessary for an inscribed square of four handbreadths by four.

(17) That the window must not be higher than TEN HANDBREADTHS from the ground.

(18) The window is consequently within the prescribed ten handbreadths.

(19) Lit., ‘one to me’.

(20) According to the Rabbis who ruled that as the residents are divided in their domains below so are they divided on their roofs above and, consequently, no movement of objects from one person's roof to that of another is permitted unless a proper ‘erub is prepared.

(21) Lit., ‘all of them’.

(22) ‘Within ten handbreadths’.

(23) Not to the houses.

(24) Which implies that houses are subject to the same restrictions as the courtyards mentioned in the same context.

(25) MS.M. ‘Raba’.

(26) In the roof of a lower room which is the floor of the upper one.

(27) Jast., ‘a small room opening (leading) from the ground floor to the upper room’, the two rooms having been occupied by two residents respectively.

(28) Leading from the lower to the upper room through the aperture.

(29) Between the two rooms.

(30) As in the case of the window spoken of by R. Nahman.

(31) Hence no ‘erub is valid unless a ladder (cf. supra 59b) joined the lower and the upper rooms.

(32) R. Abba.

(33) R. Nahman.

(34) Var. lec., ‘Rab Judah in the name of R. Joseph’ (Asheri).

(35) Separate ones for each courtyard.

(36) Sc. the two courtyards are not allowed to prepare a joint ‘erub on account of the wall that intervened between then,. The prescribed thickness of four handbreadths, which has no bearing on this restriction since it applies to all walls whatever their thickness, was mentioned on account of the ruling that follows which is applicable only where the thickness of the wall was no less than four handbreadths. A lesser thickness does not constitute a separate domain.

(37) The wall of the prescribed thickness (cf. prev. n.).

(38) Since it is forbidden to carry from one domain into another (cf. prev. two notes).

(39) Jointly.

(40) A gap that is not bigger than ten cubits.

(41) A gap so great converts the two courtyards into one; and the tenants, like those of the same courtyard, may not break up into two parties for ‘erub. If they do they impose restrictions of movement upon each other.

(42) The WALL.

(43) That of the two courtyards between which it is situated.

(44) Since it constitutes no independent domain and every fraction of its space is dominated (cf. prev. n.) by two domains.

Talmud - Mas. Eiruvin 77a

R. Johanan, however, ruled: The tenants on either side may carry up their food and eat it there.[1] We learned, THE TENANTS ON EITHER SIDE MAY CLIMB UP AND EAT THERE. Does not this imply that they may only CLIMB UP but not 'carry up'?[2] — It is this that was meant: If the top consists of an area of four handbreadths by four they MAY CLIMB UP but may not carry up, and if it consists of less than four by four they may also carry up. R. Johanan[3] follows a principle of his.[4] For when R. Dimi came[5] he stated in the name of R. Johanan: On a place[6] whose area is less than four handbreadths by four[7] it is permissible both for the people of the public domain and for those of the private domain to rearrange their burdens,[8] provided they do not exchange them.[9] Does not Rab,[10] however, uphold the tradition of R. Dimi?[11] — If it were a case of Pentateuchal domains[12] the law would have been so indeed,[13] but here we are dealing with Rabbinical domains,[14] and the Sages[15] have applied to their enactments[16] higher restrictions than to those of the Torah.[17]

Rabbah son of R. Huna[18] citing[19] R. Nahman ruled: A wall between two courtyards, one of whose sides was ten handbreadths high[20] and the other one of which was on a level with the ground,[21] is assigned to that courtyard with the floor of which it is level,[22] because the use of it is convenient to the latter but inconvenient to the former, and any place the use of which is convenient to one and inconvenient to another, is to be assigned to the one to whom its use is convenient.

R. Shezbi laid down in the name of R. Nahman: A trench between two courtyards, whose one side was ten handbreadths deep[23] and whose other side was on a level with[24] the floor,[25] is assigned to that courtyard with whose floor it is on a level,[26] because its use is convenient to the latter but inconvenient to the former etc.[27]

And [the enunciation of] both cases[28] was required. For if we had been informed only of the law of the wall[29] it might have been assumed to apply to it alone, because people make use of a raised structure, but not to a trench, since people do not make use of a depression in the ground.[30] And if we had been informed of the law of the trench only[31] it might have been assumed to apply to it alone, because its use involves no anxiety[32] but not to a wall the use of which involves anxiety.[33] Hence the enunciation of both[28] was necessary.

If the height of the wall was reduced,[34] it is permitted to use all the wall if the reduction extended[35] to four handbreadths;[36] otherwise, one may use only that part[37] that was parallel to the reduction. What, however, is your view?[38] If it is that the reduction is effective,[39] one should be permitted to have the use of all the wall, and if it is not effective,[40] even the use of the part that was parallel to the reduction should not be permitted![41] — Rabina replied: This is a case, for instance,[42] where a section of its[43] top has been pulled down.[44]

R. Yehiel ruled: If a bowl is inverted[45] a valid reduction is thereby effected.[46] But why? Is not the bowl an object that may be moved away on the Sabbath and that as such[47] causes no reduction?[48] — This[49] is was required only in a case where the bowl was attached to the ground.[50] But what matters it even if it was attached to the ground, seeing that it was taught: An unripe fruit that had been put into straw[51] or a cake that had been put among coals[52] may be taken out on the Sabbath if a part of it remained uncovered?[53] — Here[49] we are dealing with a case, for instance, where the bowl had rims.[54] But what matters it even if it had rims, seeing that we learned: If a man buried[55] turnips or radishes under a vine, leaving[56]

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(1) And similarly they may also carry it down. The top of the wall is in his opinion a 'free' domain and may, therefore, be regarded as merged with the one courtyard or the other to suit the convenience of the respective tenants.

(2) How then could R. Johanan maintain that it is also permissible to 'carry up'?

(3) In the ruling he gave here, according to which the top of the wall is regarded as a 'free' domain.

(4) Enunciated elsewhere.
(5) From Palestine into Babylon.
(6) Situated between a private and a public domain.
(7) Though it is raised three handbreadths from the ground and, had its area been no less than four handbreadths by four, would have constituted a karmelith from which it is forbidden to move objects either into a public or into a private domain.
(8) Although by so doing they are moving them from the public or the private domain into that place.
(9) And thus carry indirectly from a private domain into a public one, or vice versa, which is a form of transfer that is Rabbinically forbidden. Pentateuchally only direct transfer from one into the other of the domains mentioned is forbidden, since there must be 'lifting' from the one and direct 'putting down' in the other while in the case under discussion before the object was finally put down it was temporarily put down in, and lifted up from the free domain (v. supra go). At any rate it follows that it Johanan, by permitting the people of either domain 'to rearrange their burdens' on a place having the area he mentioned, upholds the principle of the existence of a free domain.
(10) Whose view differs from that of R. Johanan (supra 76b ad fin.).
(11) Which is in fact based on a principle in a Mishnah (Shab. 6a) which Rab could not very well oppose.
(12) Sc. a proper public or private domain.
(13) As R. Dimi reported in the name of R. Johanan.
(14) Courtyards which are Pentateuchally private domains but were Rabbinically subjected to some of the restrictions of a public domain.
(15) Sc. the Rabbis.
(16) As a safeguard against laxity.
(17) Which, being universally respected, required no such safeguards.
(18) V. Marginal gloss. Cur. edd. read in parenthesis, 'Raba said that R. Huna said',
(19) MS.M., 'Rabbah b. Bar Hana in the name of'.
(20) Above the floor level of the courtyard adjacent to it.
(21) Of the other courtyard whose floor was on a higher level than that of the former, and was within tell handbreadths from the top of the wall. By 'level with the ground' a height of less than ten handbreadths is to be understood.
(22) Sc. only the tenants of that courtyard are allowed to carry their objects up to, and down from, the top of the wall. To the tenants of the other courtyard this is forbidden.
(23) I.e., the level of the floor of the courtyard adjacent to it was ten handbreadths higher than the level of the bed of the trench.
(24) Sc. 'not lower than ten handbreadths from',
(25) Of the courtyard adjacent to it whose level was lower than that of the former.
(26) Cf. supra n. 2. mut. mut.
(27) To be concluded as in the previous discussion of the wall.
(28) Those of 'wall' and 'trench'.
(29) Permitting the use of the top of the wall.
(30) And its use is, therefore, despite its comparatively low altitude, forbidden to the tenants of both courtyards.
(31) Cf. supra n. 9 mut. mut.
(32) Since any object put into it remains safely in its position.
(33) The objects might fall off
(34) Lit., 'if he came to reduce it'. This, it is now assumed, implies the raising of the floor level of the courtyard by means of a mound or a bench close to the wall and within ten handbreadths from the top of it.
(35) Along the base of the wall.
(36) An eminence of such dimensions is regarded as a kind of doorway to the top of the wall since it facilitates approach between the top and the courtyard.
(37) Of the top.
(38) Lit., 'what is your desire', sc. whatever the assumption a difficulty arises.
(39) I.e.,that it is regarded as a valid doorway.
(40) So that it represents no doorway at all.
(41) Lit., 'also not'.
(42) Not as has been previously assumed that the floor of the courtyard had been raised.

(43) The wall's.
(44) If the gap resulting was four handbreadths wide it may well be regarded as a valid doorway through which all the top of the wall may be Freely used. if, however, it was smaller it cannot be regarded as a doorway to the wall but the space in the gap may be freely used since the wall below it is within ten handbreadths from the courtyard floor level and cannot be regarded as a separate domain.
(45) And placed at the side of a wall that intervened between two courtyards.
(46) If the wall rises to less than ten handbreadths above the back of the inverted bowl.
(47) Lit., 'and a thing that may be taken on the Sabbath'.
(48) An objection against R. Yehiel.
(49) R. Yehiel's ruling.
(50) in which case it may not be moved from its place throughout the Sabbath.
(51) To ripen. Straw that had been set aside for the manufacture of bricks or similar purpose may not be moved from its place on the Sabbath on account mukzeh v. Glos.
(52) That were aglow when the Sabbath began but were extinguished now. Such coals may not be moved on the Sabbath. Burning coals are subject to greater restrictions (cf. Ker. 20a).
(53) Shab. 123a. As a part of the bowl also remains uncovered by the ground its removal on the Sabbath is equally permitted. How then could R. Yehiel regard a bowl in such a condition as an effective reduction.
(54) That were buried in the ground. A bowl in such a condition may not be removed from its place on the Sabbath, since its removal would inevitably disturb the earth under which its rim is buried, and the person removing it would be guilty of performing an act that resembled the forbidden work of digging.
(55) For storage purposes.
(56) Lit., 'in the time'.

Talmud - Mas. Eiruvin 77b

some of the leaves uncovered,[1] he[2] need not fear the possible transgression of the laws of kil'ayim[3] or of tithe or of the Sabbatical year,[4] and they may be removed on the Sabbath?[5] — This[6] was required in that case only where a hoe or pickaxe is necessary.[7]

An Egyptian ladder[8] effects no reduction[9] but a Tyrian ladder[10] does. What is to be understood by an 'Egyptian ladder'? — At the school of R. Jannai it was explained: One that has less than four rungs.

R. Aha son of Raba asked R. Ashi: What is the reason why an Egyptian ladder[8] effects no reduction? — Did you not hear, the other replied, what R. Aha b. Adda stated in the name of R. Hamnuna who had it from Rab: Because it is an object that may be moved about on the Sabbath and which, like all such objects,[11] causes no reduction? — If so, should not the same ruling apply to a Tyrian ladder also?[12] — In the latter case[13] it is its weight that imparts to it a permanency of position.[14]

Abaye ruled: If a wall between two courtyards was ten handbreadths high, and one ladder four handbreadths wide was placed on the one side[15] and another of the same width was placed on the other side,[16] and there is less than a distance of three handbreadths between them,[17] a valid reduction is effected,[18] but if there was a distance of three handbreadths between them,[19] no valid reduction is effected. This, however, applies only where the wall was less than four handbreadths thick but if it was four handbreadths thick[20] the reduction is valid[21] even if the ladders were far removed from one another.[22]

R. Bebai b. Abaye ruled: If[23] one balcony was built[24] above another balcony a valid reduction is thereby effected if either the lower one had an area[25] of four handbreadths [by four handbreadths][26] or, where it was smaller,[27] if the upper one had an area of four handbreadths and there was no space of three handbreadths between them.[28] Similarly[29] R. Nahman citing Rabbah b. Abbuha ruled: A step-ladder[30] effects[31] a reduction if the length of the lower rung was four handbreadths or, where it was shorter, if the upper one was four handbreadths long and there was no space of three handbreadths between them.

R. Nahman further stated in the name of Rabbah b. Abbuha:

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(1) If they had been covered the vegetables would not have been allowed to be moved on the Sabbath (cf. infra).
(2) Since the vegetables did not take root in the ground.
(3) V. Glos., if they were buried in a vineyard.
(4) If this happened in the course of such a year.
(5) Kil. 1, 9: Shab. 50a. Now, as the vegetables mentioned may be removed on the Sabbath, though they were buried in the ground, so would the bowl spoken of by R. Yehiel be allowed to be removed on the Sabbath. How then could the bowl be regarded as an effective reduction.
(6) R. Yehiel's ruling.
(7) For the removal of the bowl. As removal in such circumstances would involve work that is definitely forbidden on the Sabbath the bowl would have to remain in its position throughout the Sabbath day, and consequently may also be regarded as ‘a valid reduction’.
(8) Which is very small. Aliter: ‘A ladder of rushes or twigs’.
(9) On account of the smallness of its size or the frailty of its structure which makes it easily portable.
(10) Which is heavier and not easily movable.
(11) Lit., ‘and anything that may be taken on the Sabbath’.
(12) Since the latter too may be moved on the Sabbath.
(13) Lit., ‘there’.
(14) Though it is permitted to be moved it may be expected to remain in position throughout the Sabbath on account of its weight.
(15) Of the wall, in one of the courtyards. Lit., ‘from here’.
(16) In the other courtyard.
(17) Lit., ‘and (there was) not between this and that’.
(18) Since, despite the fact that the ladders are not exactly facing each other, it is fairly easy to ascend to the top of the wall by means of the one ladder, to stride over the top and to descend into the next courtyard by means of the other ladder. The two ladders may, therefore, be regarded as a valid opening between the courtyards.
(19) Sc. that it would not be very easy to gain access from one courtyard into the other.
(20) In consequence of which it is quite convenient to walk along the top of the wall.
(21) Since it is possible to ascend to the top of the wall by means of the one ladder and to walk along the thickness of the wall to the other ladder.
(22) Lit., ‘separated more’.
(23) In order to reduce the length of a wall between two courtyards.
(24) Into the side of the wall.
(25) So according to Tosaf. Aliter: A length along the wall(Rashi).
(26) And was built within three handbreadths from the ground and within ten handbreadths from the top of the wall. In this case the upper balcony may be completely disregarded.
(27) Lit., ‘also there is lot in the lower one four’.
(28) So that the two may be regarded as supplementary to each other and as a single unit effect the required reduction. If a greater distance than three handbreadths, however, separated them from each other they cannot be regarded as one unit and the reduction is invalid.
(29) Lit., ‘and’.
(30) Lit., ‘a ladder whose rungs fly’, opposite to the steps of a staircase that are solidly built upon one another.
(31) For notes on this paragraph cf. notes on the case of balconies in the prev. one mut. mut.

Talmud - Mas. Eiruvin 78a

If on a moulding of an area of four handbreadths by four handbreadths that projected from a wall[1] a ladder of the smallest size[2] was rested[3] a valid reduction is thereby effected.[4] This, however, applies only where the ladder was resting on it,[5] but if it was placed at the side[6] of its the latter is thereby merely extended.[7]

R. Nahman further stated in the name of Rabbah b. Abbuha: A wall[8] that was nineteen handbreadths high requires only one projection[9] to enable it to be used as a means of access,[10] but a wall[8] twenty handbreadths high requires for the purpose two projections.[11] R. Hisda observed: This,[12] however, applies only where they are not situated exactly one above the other.[13] R. Huna ruled: If in a public domain there was a post ten handbreadths high and four handbreadths wide[14] and a peg of the smallest size had been inserted on it,[15] a valid reduction is thereby effected.[16] R. Adda b. Ahabah observed: Provided the peg was three handbreadths high.[17] Both Abaye and Raba, however, maintain: Even if it[18] was not three handbreadths high. What is their reason? — Because it[19] is no longer suitable for use.[20] R. Ashi ruled:[21] Even if it[18] was three handbreadths high. What is the reason?- It is possible to suspend some object from it.[22] R. Aha son of Raba asked R. Ashi, ‘What is the ruling where it[19] was completely covered with pegs?’[23] — ‘Did you not hear’, the other replied: ‘the following ruling of R. Johanan:[24] A pit and the bank around it[25] combine to constitute a depth of ten handbreadths?[26] Now seeing that [the bank] cannot be used[27] why [should it be regarded as a private domain]? What then can you say in reply? That some object[28] might be placed over it and thereby it is made available for use. Well then, here also[29] some object[30] might be placed [over them][31] and thereby it is made available for use’.[32]

Rab Judah citing Samuel ruled: A wall[33] ten handbreadths high requires a ladder of fourteen handbreadths in length[34] to render it permissible for use[35] R. Joseph ruled: Even [a ladder] of thirteen handbreadths[36] and a fraction [is sufficient].[37] Abaye ruled: Even one of eleven handbreadths[38] and a fraction suffices.[39] R. Huna son of R. Joshua ruled: Even one of seven handbreadths and a fraction suffices.[40] Rab stated: That a ladder in a vertical position effects a reduction is a tradition but I do not know the reason for it.[41] ‘Does not Abba’,[42] Samuel said to him,[43] ‘know the reason for this ruling? The case is in fact similar to that of a balcony above a balcony’.[44]

Rabbah citing R. Hiyya said: The palm-trees of Babylon[45] need not be fixed to the ground.[46] What is the reason? Their heaviness imparts permanency of position to them.[47] R. Joseph, however, citing R. Oshaia, ruled: The ladders in Babylon[48] need not be fixed in position.[46] What is the reason? Their heaviness imparts permanency of position to them. He[49] who spoke of ladders would a fortiori apply the same ruling to palm-trees.[50] He,[51] however, who spoke of palm-trees does not apply the same ruling to ladders.[52]

R. Joseph enquired of Rabbah: What is the ruling where two ladders[53] were held together by straw links between them?[54] The sole of the foot, the other replied, cannot ascend upon them.[55] What is your ruling if the ladder[56] was in the middle and the straw links were on each side?[57] — Behold, the other replied, the sole of the foot does ascend upon them.[58]

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(1) Between two courtyards.

(2) Sc. even one whose width was less than four handbreadths, but whose rungs were fixed within three handbreadths from one another, and the lowest one was within three handbreadths from tºe ground.

(3) So that the moulding formed a kind of platform which the ladder resting on it joined with the courtyard floor below.

(4) Because the platform above is of the prescribed size and, together with the ladder, constitutes a valid means of access between the courtyards.

(5) The moulding.

(6) The top of the ladder resting on the wall itself’.

(7) But as the ladder now forms no connection between it and the ground it is, on account of the distance of the latter from it, no valid reduction.

(8) Between two courtyards.

(9) In the middle of its height on which the top of a ladder may be supported.

(10) Between the courtyards. Lit., ‘to make it permitted’. A projection in the middle point of a height of nineteen handbreadths leaves a distance of less than ten handbreadths both below and above it.

(11) One below the lower ten handbreadths of the height of the wall and the other within ten handbreadths from the top.

(12) That the two projections form, valid reduction.

(13) So that it is possible to connect the two to each other by means of a second ladder.

(14) Sc. four by four. A post of such dimensions constitutes a private domain from which into the public domain and from the public domain into which the movement of objects on the Sabbath is forbidden.

(15) In its surface on the top so that uppermost area was reduced to one of less than four handbreadths.

(16) The post loses the status of a private domain.

(17) if it was smaller it is regarded as part of the surface of the top of the post.

(18) The peg.

(19) The top of the post.

(20) Since the peg, however low it may be, breaks up the top's surface.

(21) The post is still regarded as a private domain.

(22) And since the post can still be used as a private domain for this purpose, the peg cannot effect any valid reduction in the surface of its top which, consequently, remains a private domain.

(23) In consequence of which it cannot be use‘ at all. Is its size in this case deemed to be reduced and the post, therefore, loses its status as a private domain or is the law in the case of many pegs the same as in that of one peg?

(24) Lit., ‘that which . . . said’.

(25) Lit., ‘and its segment’, Sc. a segment of the earth excavated from the pit and placed around its rim.

(26) The prescribed minimum of depth constituting a private domain. The thickness of the bank similarly combines with the hole of the pit to constitute the prescribed minimum of four handbreadths by four (cf. Shab, 99a).

(27) Since a part of the prescribed minimum is the hole (cf. prev. n.).

(28) A board or a flat stone.

(29) Where the top of a post is covered with pegs.

(30) Having a surface of four handbreadths by four.

(31) Over the Pegs.

(32) The post the top of which is completely covered with pegs is, therefore, regarded as a private domain.

(33) Between two courtyards.

(34) Placed in a slanting positHon at a distance of ten handbreadths from the wall with its top resting on the top edge of the wall (v. foll. n.).

(35) Sc. to allow free movement of objects between the courtyards. As the ladder, the wall, and the part of the courtyard floor between the latter and the foot of the former represent respectively the hypotenuse and the two sides of an isosceles right-angled triangle, and since the wall is ten handbreadths high and the distance between the foot of the ladder and the wall is also (cf. prev. n.) ten handbreadths, the length, or height of the ladder must be (10 + 10 X 2/5 approx. = 10 + 4 =) 14 handbreadths approx. (cf. Tosaf. a.l.).

(36) A handbreadth less than the length required by Rab Judah.

(37) In his opinion it is either not necessary (cf. Supra n. 5) to remove the foot of the ladder as much as ten handbreadths from the wall, or it suffices if its top reaches only to within one handbreadth from the top of the wall (cf. R. Han.).

(38) Three handbreadths less than the length required by Rab Judah.

(39) Since a distance of three handbreadths may be disregarded in accordance with the principle of labud, it suffices for the ladder to reach the wall at a height of seven handbreadths and a fraction (cf. supra n. 7 mut. mut.).

(40) He maintains that a ladder in a vertical position effects the same permissibility as one in a slanting position. By putting the ladder close to the wall in a vertical position its top reaching a point within three handbreadths from the top of the wall, on the principle of labud (cf. prev. n.) this point may be regarded as the top of the wall.

(41) Sc. why should a ladder in such a position, in which one can hardly climb upon it, effect a reduction?

(42) Sc. Rab. His proper name was Abba while Rab (‘Master’) was a title of distinction he earned as the foremost Master of his time.

(43) Samuel was merely explaining the tradition. He himself, as stated supra by Rab Judah, requires a standing ladder of fourteen handbreadths.

(44) Supra 77b, where reduction is effected though the balconies are exactly one above the other and one can hardly climb from the one into the other.

(45) If their cut trunks were placed beside a wall that intervened between two courtyards.

(46) Sc. they effect reduction, though, being suitable as seats, they have the status of articles that may be moved from their places on the Sabbath.

(47) Since no one would be likely to shift them from their place during the Sabbath.

(48) Cf. Supra n. 2 mut. mut.

(49) R. Oshaia.

(50) If ladders that are not so heavy as the palm-trees effect reduction how much more so the latter.

(51) R. Hiyya.

(52) Cf. supra n. 7 mut. mut.

(53) Each less than two handbreadths wide.

(54) That formed rungs similar to those of the ladders and supplemented their width to the prescribed minimum of four handbreadths. Lit., ‘a ladder from here and a ladder from here and straws in the middle’.

(55) The straw links. Since it is the middle of the ladder, on which one's foot is usually put when ascending, and since that middle part consists of straw links that are unsuitable for the purpose, the ladder cannot effect any reduction.

(56) Whose width was less than the prescribed minimum of four handbreadths.

(57) Lit., ‘straws from here and straws from here and a ladder in the middle’.

(58) The rungs of the ladder. When ascending on these which are in the middle, one uses the straw links on either side as supports for one's hands. The entire structure may, therefore, be regarded as a unit of the prescribed size and reduction may thereby be effected.

Talmud - Mas. Eiruvin 78b

If grooves[1] to supplement the width of the ladder,[2] were cut in the wall,[3] up to what height must this be carried?[4] — To ten handbreadths,[5] the other replied. If, he again asked him, all the ladder was cut[6] in the wall,[7] up to what height must this be carried? — Up to its[8] full height, the other replied. Wherein, however, lies the difference?[9] In the former case[10] the other replied, one can easily ascend[11] [to the top of the wall], while in the latter case[12] this cannot be done.[13]

R. Joseph enquired of Rabbah: What is the ruling if a tree was set aside as a ladder?[14] The enquiry is made with reference to the view of Rabbi[15] and it is also made with reference to that of the Rabbis.[16] It is made with reference to the view of Rabbi’ since It is possible that Rabbi applied the principle that ‘any act that is forbidden as shebuth[17] is not subject to that prohibition during twilight’[18] only there[19] where the crucial moment[20] is at twilight,[21] but [not where][22] the entire day [is involved];[23] or is it possible that even according to the Rabbis the tree may have the status of a doorway,[24] except that it is one at the side of which a lion crouches?[25] What again[26] is the ruling where an Asherah[27] was set aside to serve as a ladder? The enquiry is made with reference to the view of R. Judah[28] and it is also made with reference to that of the Rabbis.[29] It ‘is made with reference to the view of R. Judah’ since it is possible that R. Judah applied the principle that a house may be bought with objects the benefit from which is forbidden, only there,[30] because after the ‘erub had enabled hint to acquire[31] the place[32] its owner derives no further satisfaction[33] from its preservation;[34] or is it possible that even according to the Rabbis an Asherah[35] has the status of a doorway,[36] except that a lion crouches at its side?[37] — A tree, the other replied, is permitted[38] but an Asherah is forbidden.[39] R. Hisda demurred: On the contrary! A tree the restriction on the use of which is due to the incidence of the Sabbath should[40] be forbidden, while an Asherah the restrictions on which are due to an external[41] cause should not be forbidden. So[42] it was also stated:[43] When Rabin came[44] he reported in the name of R. Eleazar or, as others say: R. Abbahu reported in the name of R. Johanan: Any object the restriction of the use of which is clue to the incidence of the Sabbath is forbidden, while in object the restriction on which is due to an external[41] cause is permitted.[45] R. Nahman b. Isaac taught thus: [The permissibility of] a tree is a question at issue between Rabbi and the Rabbis and that of an Asherah is a question at issue between R. Judah and the

Rabbis.

MISHNAH. IF A TRENCH[46] BETWEEN TWO COURTYARDS WAS TEN HANDBREADTHS DEEP AND FOUR HANDBREADTHS WIDE, TWO ‘ERUBS[47] MAY BE PREPARED BUT NOT ONE,[48] EVEN IF IT WAS FULL OF STUBBLE OR STRAW.[49] IF, HOWEVER, IT WAS FULL OF EARTH OR GRAVEL,[50] ONLY ONE ‘ERUB MAY BE PREPARED, BUT NOT TWO.[51]

IF A BOARD FOUR HANDBREADTHS WIDE WAS PLACED[52] ACROSS IT,[53] AND SO ALSO WHERE TWO BALCONIES[54] WERE OPPOSITE ONE ANOTHER,[55] THE TENANTS MAY PREPARE TWO ‘ERUBS[56] OR, IF THEY PREFER, ONLY ONE. IF THE BOARD WAS OF A LESSER WIDTH TWO ‘ERUBS[56] MAY BE PREPARED, BUT NOT ONE.

GEMARA. But does not straw constitute a proper filling seeing that we have learnt: If a heap of straw between two courtyards was ten handbreadths high two ‘erubs may be prepared[56] but not one?[57] — Abaye replied: As regards the formation of a partition no one disputes the ruling that straw is regarded as a valid partition;[58] with regard, however, to its serving as a valid filling[59] it is only in the case where one completely abandoned it[60] that it constitutes a valid filling, but not otherwise.

IF, HOWEVER, IT WAS FULL OF EARTH. This[61] then applies[62] even where one's intention[63] was not known. But have we not learnt: If a house was filled with straw or gravel and the owner announced his intention to abandon it,[64] it is duly abandoned,[65] from which it follows, does it not, that only if the owner expressly abandoned it is it regarded as abandoned[66]

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(1) On either side of the rungs of the ladder.

(2) To the prescribed minimum of four handbreadths.

(3) Between two court yards, on which the ladder was leaning.

(4) Lit., ‘he cut to supplement in a wall, by how much’.

(5) From the ground. Whatever the height of the wall, valid steps on a width of four handbreadths and a height often handbreadths are regarded as a valid doorway between the courtyards (Rashi). Aliter: The grooves must be cut to a height within ten handbreadths from the top of the wall (R. Tam.).

(6) Lit., ‘he cut it all’.

(7) Sc. instead of a movable ladder, grooves were cut in the wall on a width of four handbreadths.

(8) The wall's.

(9) Between the last two cases. Sc. why is a height of ten handbreadths sufficient in the former case while in the latter the grooves are required to reach to the very top of the wall?

(10) Where the ladder reached the top of the wall and the grooves were only supplementary to its width.

(11) By means of the ladder itself. As ascent is easy it is sufficient for the supplementary grooves to reach to a height of ten handbreadths only.

(12) Where there was no ladder at all.

(13) Unless grooves are cut to the full height of the wall.

(14) For a wall that intervened between two courtyards whose tenants desired to have free access to each other.

(15) Who laid down (supra 32b) that an ‘erub of Sabbath limits deposited in a tree is valid.

(16) Who regard such an ‘erub as invalid.

(17) V. Glos.

(18) So MS.M.

(19) The case of ‘erub of Sabbath limits.

(20) The time the ‘erub must take effect.

(21) Provided an ‘erub of Sabbath limits was valid and effective at that moment its subsequent consumption or loss does not in any way deprive its owner of any of the privileges the ‘erub had conferred upon him. Since the prohibition against the use of a tree is only Rabbinical, and since such a prohibition may be suspended at twilight, Rabbi may well have maintained that the ‘erub was valid.

(22) As in the case of ‘erub of courtyards under discussion.

(23) Since access through a closed door is obviously impossible the doorway between the two courtyards must remain open and be available for use throughout the day if the ‘erub is to retain its validity until the termination of the Sabbath. Now since the use of a tree is forbidden on the Sabbath the tree appointed cannot possibly serve as a virtual ‘doorway’ even according to Rabbi.
(24) And if one is appointed to serve as a ladder access between the courtyards is thereby permitted.
(25) Metaphor. The tree may be a valid ‘doorway’ that cannot be used on account of a Rabbinical prohibition as an ordinary open door that cannot be used on account of a lion that crouched beside it. As in the latter case, though debarred from the use of the doorway itself, the tenants are nevertheless permitted access to one another through any holes or crevices in the intervening wall so are they permitted in the former case even according to the Rabbis.
(26) If in the last case the ruling is that a tree may be regarded as a proper ladder and valid ‘doorway’.
(27) A tree or grove devoted to idol worship from which no benefit may be derived.
(28) Who laid down (supra 31a) that an ‘erub deposited on a grove is valid though one may derive no benefit from a grove.
(29) Who, contrary to the view of R. Judah, consider an ‘erub on a grove as invalid.
(30) In the case of ‘erub of Sabbath limits whose validity is determined at the moment the Sabbath begins.
(31) As his Sabbath abode.
(32) In which it was deposited.
(33) Throughout the Sabbath.
(34) He derives, therefore, no benefit from the grove. The benefit he may seem to derive at twilight, when the ‘erub acquires validity, is in fact no benefit in the material sense, since an erub of Sabbath limits is allowed only for the purpose of enabling one to perform a religious act the benefit from which is purely spiritual. In the case of an ‘erub of courtyards, however, which does serve the tenants’ material benefits, and a doorway between courtyards the benefit of which is enjoyed throughout the Sabbath, R. Judah may well agree that an Asherah as a ‘doorway’ is invalid.
(35) Since the tenants do not use the Sabbath itself.
(36) By means of which the tenants of both courtyards are enabled to merge their two domains into one.
(37) Cf. supra p. 546, n. 4 mut. mut.
(38) To be assigned as a ladder and to assume the status of a valid doorway.
(39) Cf. prev. n. mut. mut.
(40) Since it is desired to use it for the purpose of relaxing a Sabbath law.
(41) Lit., ‘another’, one not connected with the Sabbath but with idolatry.
(42) In agreement with R. Hisda's submission.
(43) By Amoras.
(44) From Palestine to Babylon.
(45) To be assigned as a ladder and to assume the status of a valid doorway.
(46) Separating them completely from each other.
(47) On for each courtyard.
(48) Jointly for the two courtyards. A trench of such dimensions is regarded as a complete separation between the two courtyards. One that was narrower than four handbreadths, since it is easy to step across it, is disregarded and the tenants of the two courtyards may join in one ‘erub.
(49) Since these were not intended to remain there permanently.
(50) So that there was no substantial break between the courtyards.
(51) Because, by so doing, the tenants of the one courtyard would impose restrictions on those of the other who (cf. prev. n.) ‘virtually occupied the same courtyard.
(52) To form a sort of bridge between the courtyards.
(53) The trench.
(54) Belonging to two different owners.
(55) And a board of the width mentioned connected them. [According to Rashi, the two balconies, it appears, were on the same side of the street, v. Strashun, a.l.].
(56) One for each courtyard.
(57) Infra 79a; which proves that straw, though not intended to remain permanently in its position, constitutes nevertheless a valid partition. Why then does it not equally constitute a valid filling?
(58) So long as it remains in its place; as is the case with other movable objects which (cf. supra 15b) constitute a valid

partition.

(59) Sc. to be treated as a part of the ground.

(60) By announcing his intention to leave it permanently in the trench.

(61) The ruling that ONLY ONE ‘ERUB MAY BE PREPARED because, obviously, the two courtyards are regarded as one.

(62) Since no qualifying conditions were specified.

(63) To keep the gravel permanently in the trench.

(64) The straw or the gravel,

(65) And the house is regarded as filled in respect of the laws of ohel. (Cf. Ohal. XV, 7 the contents of which is here quoted in a summarized form).

(66) Lit., ‘yes’.

Talmud - Mas. Eiruvin 79a

but not if he did not expressly do so?[1] — R. Huna replied: Who is it that taught Ohaloth? R. Jose.[2] But how could it be the view of[3] R. Jose seeing that he was heard to give a reverse ruling, for it was taught: R. Jose ruled, straw[4] that was not likely to be removed[5] is on a par with ordinary earth[6] and is deemed to be abandoned; earth[4] that is likely to be removed is on a par with ordinary stubble[6] and is not deemed to be abandoned?[7] — Rather, said R. Assi, who is it that taught ‘Erubin?[8] It is R. Jose.[9] R. Huna son of R. Joshua replied:[10] You are pointing out an incongruity between a law concerning levitical uncleanness and one concerning Sabbath; leave alone the restrictions of the Sabbath since on it a person abandons even his purse.[11]

R. Ashi replied:[10] You are pointing out an incongruity between a ruling concerning a house and one concerning a trench; a trench might well be expected to be filled up,[12] but is a house also expected[13] to be filled up?[14]

IF A BOARD FOUR HANDBREADTHS WIDE WAS PLACED ACROSS IT. Raba explained: This[15] was taught only in the case where it was laid across the width of it[16] but if it was laid lengthwise[17] even a board of the minutest width[18] also suffices,[19] since the width of the trench is thereby reduced to less than four handbreadths.[20]

AND SO ALSO WHERE TWO BALCONIES WERE OPPOSITE ONE ANOTHER. Raba explained: With reference to what we learned,[21] AND[22] SO ALSO WHERE TWO BALCONIES etc. the ruling[23] applies only to such as are[24] opposite each other but not to such as are not opposite each other or to such as are above each other: and even in the case of such as are above each other the ruling[25] applies only where there was a distance of three handbreadths between them[26] but if there was no such distance between them they may both be regarded as one crooked balcony.

MISHNAH. IF A HEAP OF STRAW BETWEEN TWO COURTYARDS YARDS WAS TEN HANDBREADTHS HIGH,[27] TWO ‘ERUBS[28] MAY BE PREPARED BUT NOT ONE.[29] THE TENANTS OF THE ONE COURTYARD MAY FEED THEIR CATTLE AT THEIR SIDE[30] AND THOSE OF THE OTHER COURTYARD MAY FEED THEIRS ON THE OTHER SIDE.[31] IF THE HEIGHT OF THE STRAW HEAP WAS REDUCED[32] TO LESS THAN TEN HANDBREADTHS, ONE ‘ERUB MAY BE PREPARED[33] BUT NOT TWO.[28]

GEMARA. R. Huna observed:[34] Provided no tenant puts any straw[35] into his basket and feeds his cattle.[36] It is then permitted to put cattle[37] there;[38] but did not R. Huna lay down in the name of R. Hanina: A man may put his beast on a stretch of grass[39] on the Sabbath day[40] but not upon mukzeh?[41] — He only stands[42] near the beast[43] which itself goes and eats.[44]

‘Provided no tenant puts any straw into his basket’. But was it not taught: If a house[45] was between two courtyards and was filled with straw, two ‘erubs may be prepared[46] but not one,[47] and each tenant may put some straw[48] into his basket and feed his cattle therewith. If the height of the straw was reduced to less than ten handbreadths, both[49] are forbidden.[50] How is one to proceed?[51] One of the tenants locks his house[52] and renounces his right to his share, and thereby he[53] remains under restrictions[54] but his friend is permitted.[55] And the same law[56] applies to a pit[57] of straw between two Sabbath limits.[58] At any rate, was it not here stated: ‘each’ tenant may put some straw into his basket and feed his cattle therewith’?[59] — I might reply: In the case of a house, since it has[60] a ceiling, the reduction in the straw is quite noticeable,[61] but here[62] the diminution is not noticeable.[63] ‘If the height of the straw was reduced to less than ten handbreadths both are forbidden’. But, it follows, if it was ten handbreadths high this is permitted even though the ceiling was much higher. May it not then be inferred that partitions that do not reach the ceiling are regarded as valid ones?[64] — Abaye replied: We are here dealing with the case of a house that was thirteen handbreadths minus a fraction in height and that of the straw was ten handbreadths in height.[65] R. Huna son of R. Joshua, however, replied: It may even refer to a house that was ten handbreadths high

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(1) How then is this to be reconciled with the implication of our Mishnah according to which even where a person's intention was lot known his gravel is deemed to be abandoned?

(2) Whose view differs from that of our Mishnah.

(3) Lit., ‘if’.

(4) With which a house was filled.

(5) concerning which it is known that its owner does not require it though he himself made no announcement to this effect.

(6) About which its owners intention is not known at all.

(7) Tosef. Ohal. XV; which shows that, according to R. Jose, earth is deemed to be abandoned even if no declaration to this effect has been made by its owner. How then could R. Huna maintain that the Mishnah of Ohal. cited represents R. Jose's view?

(8) Sc. the law of ‘erub in our Mishnah from which it follows that earth is deemed to be abandoned even where its owner did not declare his intention to leave it in its place.

(9) Whose view here is in full agreement with the view he expressed in the last Baraitha cited.

(10) To the apparent contradiction between our Mishnah and that of Ohal. (v. supra 78b ad fin.).

(11) Because he is forbidden to handle it on that day. For the same reason one is assumed to abandon earth which also may not be moved on that day. Hence the lenient view in our Mishnah in the case of earth and gravel in a trench. As straw and stubble, however, may be handled on the Sabbath, since they are used for feeding the cattle, they cannot be regarded as abandoned unless the owner had explicitly indicated his intention to do so. In the case of levitical uncleanness, however, where the prohibition against the removal of either straw or gravel does not apply, neither can be regarded as abandoned unless the owner has made a definite announcement to that effect.

(12) Any earth or gravel in it might consequently be regarded as abandoned even where the owner's intention was not known.

(13) Lit., ‘stands’.

(14) Of course not. Earth or gravel in a house cannot, therefore, be regarded as abandoned unless the owner had specifically expressed his intention to leave it there.

(15) That the board must be four handbreadths wide.

(16) The trench.

(17) He fixed the length of the board to one side of the trench in the form of a ledge so that the length of the board and of the trench run parallel to each other, the length of the former being no less than four handbreadths, the prescribed minimum for the width of a ‘doorway’.

(18) Provided it was wide enough to reduce the width of the trench on a length of four handbreadths (cf. prev. n.) to less than four handbreadths.

(19) To eliminate the trench.

(20) And only a trench that is four handbreadths wide (cf. our Mishnah) constitutes a break between two courtyards.

(21) So Bah. Cur. edd., ‘which thou saidest’.

(22) The reading that follows is an emendation by Bah. of the reading of cur. edd. Cf. also MS.M.

(23) That the tenants of the two balconies may join in a single ‘erub.

(24) Lit., ‘yes’.

(25) That the two balconies may not prepare an ‘erub jointly.

(26) The two balconies.

(27) And running all the length of the junction between the courtyards.

(28) One for each courtyard.

(29) For both courtyards, since the heap of straw forms a separation between the one courtyard and the other.

(30) Lit., ‘these may feed from here’.

(31) Though the straw is thereby diminished and night conceivably be reduced to a height of less than ten handbreadths when the two courtyards would virtually become one and, in consequence of which, the tenants of the one courtyard would impose restrictions upon those of the other. As only a reduction in height that extended along more ten cubits of the junction would cause the courtyards to be merged into one (since a lesser width might be regarded as a doorway) and as cattle are not likely to eat so much in one day, the possibility mentioned need not be provided against.

(32) Along all, or ten cubits of the junction.

(33) For both courtyards, if the reduction took place on a week-day.

(34) With reference to the ruling that THE TENANTS . . . MAY FEED THEIR CATTLE.

(35) Which, forming as it does the partition between the courtyards, is mukzeh (v. Glos.).

(36) The cattle must eat direct from the heap.

(37) Cf. prev. n.

(38) Though the straw is mukzeh and there is the possibility of forgetting and picking it lip with the hands which is forbidden.

(39) Lit., ‘grasses’.

(40) And, since a man is careful in the observance of Sabbath prohibitions, there is no need to provide against the possibility of his plucking the grass forgetfully on the Sabbath.

(41) Shab. 122a. Since the law of mukzeh, being only Rabbinical, is one of a minor character the man might lightly forget it and so pick the mukzeh up with his own hands on the Sabbath, an act which is forbidden. Now since R. Huna forbids the putting of a beast upon mukzeh, how could he, according to his interpretation of our Mishnah, allow a beast to be put immediately in front of the straw heap which is definitely mukzeh?

(42) In the case spoken of in our Mishnah.

(43) To prevent it from straying.

(44) As the man does not stand at the side of his beast no provision was deemed necessary against the possibility of his handling of the mukzeh.

(45) Into which a house from each courtyard opened.

(46) One by the tenants of each courtyard, since the straw forms a separation between them.

(47) For the two courtyards jointly.

(48) From his side of the straw.

(49) The tenants of either courtyard.

(50) To move any objects from their respective houses into their respective courtyards.

(51) If it is desired to enable at least one of the tenants to use his courtyard.

(52) That opened into the house between the courtyards.

(53) Since he renounced his right and his courtyard is no more his.

(54) He may not move any objects from his house to his courtyard and vice versa.

(55) Cf. prev. n. mut. mut.

(56) That (on a festival day) the residents on one side may use the straw from their side and those on the other side may use from the other side.

(5) Or ‘bundles’.

(58) Of two towns, where half of the pit was within the Sabbath limit of the one town and the other half was within that of the other. The people on either side may use the straw on their side, no preventive measure having been instituted against the possibility of their using the straw from the other side.

(59) How then could R. Huna maintain that no tenant may put any straw into his basket?

(60) Cur. edd. in parenthesis, ‘walls and’.

(61) Since the lower the straw the bigger the space between it and the ceiling. As its diminution to a height of less than ten handbreadths would be clearly noticeable the use of the straw would cease as soon as that height was reached. Above that height the straw does not serve the purpose of a wall and is not, therefore, subject to the restrictions of mukzeh.
(62) Where the heap is in the open.
(63) And one might erroneously continue to use the straw even after it had been reduced in height to less than ten handbreadths when the restrictions of mukzeh prevent its use. Hence R. Huna's ruling that no straw may be put into a tenant's basket for feeding his cattle.
(64) But is not this contradictory to a ruling (supra 72a) in respect of five companies who kept the Sabbath in the same room.
(65) On the principle of labud the‰walls are deemed to reach to the ceiling.

Talmud - Mas. Eiruvin 79b

but the straw was seven handbreadths and a fraction, since a distance of less than three handbreadths is regarded as labud. According to Abaye one can well understand why the expression ‘than ten’ was used;[1] according to R. Huna son of R. Joshua,[2] however, what could be the purport of ‘than ten’? — ‘Than the statutory height of ten’.[3]

‘Both are forbidden’. Does this[4] then imply that tenants who arrived on a Sabbath impose restrictions?[5] — No; since it is possible that the reduction[6] occurred on the previous day.[7]

‘How is one to proceed? One of the tenants locks his house and renounces his right to his share’. Both [acts]?[8] — It is this that was meant: He either locks his house[9] or renounces his right to his share. And if you prefer I might say: Both [acts] are in fact necessary[10] for, having been in the habit of using it, he might continue to move objects into it.[11]

‘He remains under restrictions but his friend is permitted’. Is not this obvious? — This ruling was required only in the case where the other tenant had subsequently[12] renounced his share to the former, and it is this that we were informed: That[13] a renunciation may not follow a previous renunciation.[14]

‘And the same law applies to a pit of straw between two Sabbath limits’. Is not this[15] perfectly obvious?[16] — The ruling was required only according to the view of R. Akiba who holds that the ordinance of Sabbath limits is Pentateuchal.[17] Since it might have been presumed that a preventive measure should be enacted[18] against the possibility of exchange,[19] hence we were informed that no such preventive measure was deemed necessary.

MISHNAH. HOW IS SHITTUF[20] IN AN ALLEY EFFECTED? ONE [OF THE RESIDENTS] PLACES THERE A JAR[21] AND[22] DECLARES, ‘THIS BELONGS[23] TO ALL THE RESIDENTS OF THE ALLEY’. AND HE CONFERS POSSESSION UPON THEM THROUGH HIS GROWN-UP SON OR DAUGHTER, THROUGH HIS HEBREW MANSERVANT OR MAIDSERVANT OR THROUGH HIS WIFE;[24] BUT HE MAY NOT CONFER POSSESSION EITHER THROUGH HIS SON OR DAUGHTER, IF THEY ARE MINORS, OR THROUGH HIS CANAANITE BONDMAN OR BONDWOMAN, BECAUSE THEIR HAND IS AS HIS HAND.[25]

GEMARA. Rab Judah ruled: A jar[26] for the shittuf of alleys[27] must be raised[28] from the ground to the height of a handbreadth.[29] Raba observed: These two rulings were given by the elders of Pumbeditha:[30] One is the ruling just cited. The other is the following: He who recites the kiddush[31] has performed his duty if he tastes a mouthful,[32] otherwise he does not.

R. Habiba observed: The following ruling also was given by the elders of Pumbeditha.[30] For Rab Judah[33] stated in the name of Samuel: A fire[34] for a woman in childbirth may be made on the

Sabbath. From this one might understand that a fire may be made only[35] for a woman in childbirth but not for any other sick person, only in the rainy season but not in the summer season. It was, however, stated: R. Hiyya b. Abin citing Samuel ruled: If a person has been bled and felt chilly a fire may be made for him on the Sabbath even during the hottest period of the year.[36]

Amemar observed, ‘The following ruling also was given by the elders of Pumbeditha, for it was stated: What is an Asherah by implication? Rab said: Any tree that is guarded by heathen priests

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(1) Since he explained that the heap was ten handbreadths high.

(2) Who explains that the straw was only seven handbreadths and a fraction high.

(3) Sc. seven handbreadths and a fraction which under the law of labud, are regarded as ten.

(4) The ruling that the tenants impose restrictions upon each other though, on account of the high altitude of the straw when the Sabbath begins, they were not then regarded as tenants of the same courtyard.

(5) So Bomb. ed. Cur. edd., ‘are forbidden’. But this question, surely, is a point at issue between R. Huna and R. Isaac (supra 17a) none of whom would have differed from the ruling of a Baraitha.

(6) Of the height of the straw.

(7) Friday, so that when the Sabbath began the tenants were already occupiers of the same courtyard.

(8) I.e., why should it be necessary for the tenant (a) to lock his house and also (b) to renounce his right?

(9) An act which is tantamount to a specific renunciation of his right.

(10) For his sake, though not for that of his neighbours in whose benefit one act alone would have been sufficient.

(11) But by the locking of his door he would be constantly reminded of the restrictions he imposed upon himself.

(12) After the first had renounced his share in his favour.

(13) On the Sabbath.

(14) Once a tenant has renounced his share to any other tenant the latter cannot again, on the same Sabbath, renounce his share in favour of the former.

(15) That the ruling applicable to ‘erub of courtyards should equally apply to ‘erub of Sabbath limits.

(16) Since both forms of ‘erub are Rabbinical.

(17) Cf. Sot. 27a.

(18) In the case of an ‘erub of Sabbath limits.

(19) Of the straw that lay without one's limit for that which lay within it; and a Pentateuchal law might thus be transgressed.

(20) V. Glos.

(21) Of wine or of any other foodstuffs.

(22) Irrespective of whether each resident actually contributed his share to the contents of the jar or whether he himself contributed on their behalf.

(23) Lit., ‘behold this’.

(24) By requesting any of these to receive the jar and to acquire possession of it on behalf of all the residents.

(25) Whatever they possess is his. As he cannot directly confer possession in upon the residents so cannot they.

(26) Of wine or of any other foodstuffs.

(27) If it belonged to one of the residents and he desired to confer possession upon them.

(28) By the person who acquires it on their behalf.

(29) When the formula ‘l acquire this for them is pronounced. If it is not raised to the prescribed height the jar remains in the possession of its original owner and the shittuf is consequently invalid.

(30) Rab Judah and R. ‘Aina (cf. Sanh. 17b).

(31) Lit., ‘sanctification’, a prescribed form of benedictions and Biblical verses recited at the inauguration of the Sabbath, festivals and the New Year over a cup of wine or two loaves of bread.

(32) Melo lugmaw in this case means a quantity which can be kept within one cheek (R. Tam.).

(33) One of the elders (cf. supra n. 7).

(34) Medurah, ‘a pile of wood’, ‘a large fire’.

(35) Lit., ‘yes’.

(36) Lit., ‘the cycle of Tammuz’, Tammuz being the first of the three months following the summer solstice.

Talmud - Mas. Eiruvin 80a

and of which they do not taste the fruit;[1] and Samuel said: One, for instance, concerning which the priests[2] say: "These dates are for the beer of the temple of Nizrefe"[3] since they drink it on their festival day;[4] and[5] the elders of Pumbeditha told me: The law is in agreement with Samuel'.

An objection was raised:[6] How is shittuf in an alley effected? A jar of wine, oil, dates, dried figs or any other kind of fruit is brought there. If it is his own[7] he must[8] transfer possession to all the residents;[9] and if it is theirs he must uniform them,[10] and then one[11] raises it slightly[12] from the ground![13] — By the expression 'slightly' also a handbreadth was meant.

It was stated: The food for the shittuf of alleys, Rab ruled, requires no transfer of possession, and Samuel ruled: It does require transfer of possession. As regards the food for an 'erub of Sabbath limits, Rab ruled: Transfer of possession is required and Samuel ruled: Transfer of possession is not required. Samuel's view[14] can well be justified, since we have learnt the one[15] and have not learnt the other.[16] What, however, Is the justification for Rab's view?[17] — The question of transfer is a point at issue between Tannas.[18] For Rab Judah related in the name of Rab: The daughter-in-law of R. Oshaia was once overtaken by dusk when she went[19] to a bath house[20] and her mother-in-law prepared for her an 'erub.[21] R. Hiyya to whom the incident was reported forbade her return.[22] Babylonian',[23] said R. Ishmael son of R. Jose to him, 'are you so strict about the laws of 'erub.[22] Thus said my father: Wherever you see an opportunity of relaxing the laws of 'erub seize it'.[24] And when the question was raised: 'Was the 'erub prepared out of her mother-in-law's food and the reason [for the prohibition][25] was that she[26] did not transfer possession to her[27] or was it rather that it was prepared out of her own[26] food and the reason for the prohibition[25] was that it was done without her[27] knowledge?' One of the Rabbis, whose name was R. Jacob, told them: 'It was explained to me by R. Johanan that the 'erub was prepared out of her mother-in-law's food and that the reason for the prohibition was that she did not transfer possession to her'.[28]

R. Zera requested R. Jacob son of Jacob's daughter:[29] When you arrive in Palestine[30] make a detour to visit[31] the Ladder of Tyre and ask R. Jacob b. Idi [his version of the incident].[32] 'Was the 'erub', he asked him [in due course], 'prepared out of her mother-in-law's food and the reason for the prohibition was that she did not transfer possession to her or was it rather that it was prepared out of her own food and the reason for the prohibition was that it was done without her knowledge?' 'The 'erub', the other replied: 'was prepared out of her mother-in-law's food and the reason for the prohibition was that she did not transfer possession to her'.[33]

R. Nahman stated: We have a tradition that both in the case of 'erubs of Sabbath limits and in that of[34] shittuf of alleys possession must be transferred.[35] R. Nahman, however, enquired: Is it necessary or not to confer possession in the case of an 'erub of dishes?[36] — 'Why', remarked R. Joseph, 'did he ask this question? Did he not hear the ruling laid down by R. Nahman b. K. Adda in the name of Samuel that an 'erub of dishes must be conferred [upon those who are to benefit from it]?' — 'It is obvious', Abaye retorted: 'that he did not hear it; for had he heard it what was the point of his asking?' — 'Did not Samuel rule', the first replied: 'that in the case of 'erubs of Sabbath limits possession need not be conferred and he nevertheless ruled that possession must be conferred?'[37] — 'What a comparison![38] His ruling may well be justified there,[39] since Rab and Samuel are at variance on the point and he desired to inform us that we must adopt the restrictions of the one Master as well as those of the other Master, but in this case,[40] seeing that no one disputes Samuel's ruling[41] would he, if he had heard it, have asked his question?'[42]

A certain superintendent[43] of the town armory lived in the neighbourhood of R. Zera, and when [the Israelite residents] asked him to let his share[44] to them he refused.[45] They, thereupon, came to R. Zera and asked him whether it would be permissible to rent it from his[46] wife. 'Thus', he replied:

‘said Resh Lakish In the name of a great man (and who is it? — R. Hanina): A wife may prepare all ‘erub without her husband's knowledge’.

A certain superintendent[43] of the town armory lived in the neighbourhood of R. Judah b. Oshaia. ‘Will you’, the Israelite residents asked him, ‘let your share to us?’ He refused. They proceeded to R. Judah b. Oshaia and asked him whether it was permissible to rent it from his[46] wife, but he was unable to supply the information.[47] They then proceeded to R. Mattena who also was unable to supply it.[47] When they finally came to Rab Judah he told then), ‘Thus said Samuel: A wife may prepare an ‘erub without her husband's knowledge’.

An objection was raised: If women prepared an ‘erub or arranged shittuf without their husbands’ knowledge there is no validity either in their ‘erub[48] or in their shittuf?[49] — This is no difficulty, since one[50] deals with a person who imposes restrictions, while the other[51] deals with one who does not impose restrictions.[52] This explanation[53] may also be supported by a process of reasoning, since a contradiction would otherwise arise between two rulings of Samuel.[54] For Samuel ruled: ‘If one of the residents of an alley, who usually joins the other residents in shittuf refused to join then, the residents may[55] enter his house and collect his contribution to the shittuf by force’, [from which[56] it follows that this[57] applies only to] one who usually [joins his neighbours in the shittuf][58] but not to one who did not.[59] This is conclusive.

May it be suggested that the following provides support to his view.[60] A resident may be compelled to provide a side-post and a cross-beam for an alley?

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(1) If they had not worshipped the tree as an Asherah they would not have abstained from eating of its fruit.

(2) Though they eat its fruit.

(3) A Persian house of worship, cf. A.Z., Sonc. ed., p. 239, n. 8.

(4) Though the tree itself is not worshipped it is regarded as all Asherah by implication since its produce is devoted to idolatry.

(5) Cur. edd. insert in parenthesis ‘Amemar said’.

(6) Against Rab Judah who laid down supra that the jar must be raised a handbreadth from the ground.

(7) That of the man who prepares the Shittuf.

(8) In the manner prescribed supra (v. our Mishnah and notes).

(9) So that they may all have a share in it.

(10) That their joint stock is to be used for shittuf. Since the ‘erub of a man who ‘is particular about his share in a joint ‘erub’ is invalid (supra 49a), all the residents must have an opportunity of expressing consent or disapproval. Unless they had such all opportunity the shittuf is invalid since it is possible that they would object to allow each other the full benefit of their respective shares.

(11) A qualified person (cf. our Mishnah).

(12) Emphasis on this word.

(13) Cf. supra p. 555, n. 6 mut. mut. How then is this to be reconciled with Rab Judah's ruling that the jar must be raised a full handbreadth from the ground?

(14) That transfer of possession is required in shittuf but not in all ‘erub of Sabbath limits.

(15) Lit., ‘here’, in our Mishnah where it is laid down that in the case of shittuf HE MUST CONFER POSSESSION.

(16) Where the law of ‘erub of Sabbath limits is enunciated (cf. infra 82a) no mention is made of transfer of possession.

(17) Which appears to be contrary to the rulings in the Mishnah.

(18) One of whom differs from the view in the Mishnah, and Rab follows his view.

(19) On the Sabbath eve.

(20) That was without the Sabbath limit of the town.

(21) Of Sabbath limits to enable her to return to town. (So Rashi. For a different interpretation v. Tosaf. a.l.)

(22) Cf. prev. n.

(23) R. Hiyya hailed from Babylon (cf. Suk. 20a).

(24) Lit., ‘make easy’.

(25) By R. Hiyya.
(26) The mother-in-law.
(27) Her daughter-in-law.
(28) Thus it has been shown that the question of the necessity for the transfer of possession in the case of an ‘erub of Sabbath limits is one in dispute between the Tannas R. Hiyya and R. Ishmael. Rab, by adopting the view of the former, may, therefore, maintain it though it is contrary to a Mishnah. As to his view on shittuf which is contrary to our Mishnah the explanation might be that Rab is regarded as a Tanna who may well differ from a Mishnah. V. Tosaf. a.l. for another interpretation.
(29) His father was unworthy to be named (Rashi).
(30) Lit., ‘there’. The request was made in Babylon.
(31) Lit., ‘make a circuit and go’.
(32) About the ‘erub for R. Oshaia's daughter-in-law.
(33) In agreement with Rab's view.
(34) Cur. edd. insert erubs of courtyards’. The phrase is omitted with MS.M. and Bah.
(35) To those who are to benefit from it.
(36) Tabshilin, lit., ‘cooked foodstuffs’. Such an ‘erub is prepared when a festival occurs on a Friday to enable those in whose favour it is prepared to cook, light candles and perform all other necessary services for the Sabbath on the festival day. In the absence of such an ‘erub no kind of preparatory work for the Sabbath is allowed on a festival day.
(37) Which shows that in the case of ‘erubs of Sabbath limits he heard of Samuel's view but disregarded it. Is it not then possible that he did hear his view on that of ‘erubs of dishes also but did not accept it?
(38) Lit., ‘thus, now’.
(39) ‘Erubs of Sabbath limits.
(40) That of ‘erubs of dishes.
(41) Lit., ‘is there one who differs?’
(42) Obviously not. Hence Abaye's conviction that he could not have heard it.
(43) Who was a heathen.
(44) To enable them to arrange Shittuf for their alley.
(45) Lit., ‘they said to him: Let your domain to us. He did not let to them’.
(46) The heathen's.
(47) Lit., ‘it was not in his hand’.
(48) Lit., ‘their ‘erub is no ‘erub’ etc.
(49) A contradiction to the ruling just cited by Rab Judah.
(50) The ruling that ‘a wife may prepare an ‘erub without her husband's knowledge’.
(51) That in the Baraitha.
(52) One, for instance, whose courtyard was situated between the alley under discussion and another alley and who was in the habit of using the latter and not the former. In such circumstances no restrictions are imposed on the alley in question.
(53) That Samuel agrees that a wife may not prepare an ‘erub where her husband imposes no restrictions.
(54) Lit., ‘for if so, a difficulty of Samuel (arises) on that of Samuel’.
(55) enable them to arrange a shittuf for their alley.
(56) Since the qualification ‘who usually joins’ was added.
(57) That shittuf may be arranged without a resident's knowledge or consent.
(58) Sc. one who imposed restrictions upon them.
(59) If, therefore, a distinction is drawn between a resident who imposes restrictions and one who does not, this ruling of Samuel may well be reconciled with the one cited in his name by Rab Judah. If, however, no such distinction is drawn and no emphasis is laid on ‘usually joins’, a contradiction would arise between the two rulings of Samuel himself.
(60) That coercion may be used in the matter of shittuf.

Talmud - Mas. Eiruvin 80b

— The case may be different there where no partitions are in existence.[1]

Another reading: From the side is different.[2]

It was stated: R. Hiyya b. Ashi ruled: A side-post may be made from an Asherah, but R. Simeon b. Lakish ruled: A crossbeam may be made from an Asherah. He who permitted a crossbeam[3] would, with much more reason, permit a side-post;[4] but he who permitted a side-post[4] would not permit a cross-beam, since its prescribed size[5] is virtually[6] crushed to dust.[7] MISHNAH. IF THE FOOD WAS REDUCED[8] [ONE OF THE RESIDENTS] MUST ADD TO IT[9] AND AGAIN CONFER POSSESSION [UPON THE OTHERS] BUT[10] THERE IS NO NEED TO INFORM THEM. IF THE NUMBER OF RESIDENTS HAS IN CREASED,[11] HE MUST ADD FOOD[9] AND CONFER POSSESSION [UPON THEM],[12] AND[13] THEY MUST BE INFORMED OF THE FACTS.[14] WHAT IS THE QUANTITY[15] REQUIRED?[16] WHEN THE RESIDENTS ARE MANY[17] THERE SHOULD BE FOOD SUFFICIENT FOR TWO MEALS FOR ALL OF THEM[18] AND WHEN THEY ARE FEW[17] THERE SHOULD BE FOOD OF THE SIZE OF A DRIED FIG FOR EACH ONE. R. JOSE RULED: THIS[19] APPLIES ONLY TO THE BEGINNINGS OF THE ‘ERUB[20] BUT IN THE CASE OF THE REMNANTS OF ONE[21] EVEN THE SMALLEST QUANTITY OF FOOD IS SUFFICIENT,[22] THE SOLE REASON FOR THE INJUNCTION TO PROVIDE ‘ERUBS FOR COURTYARDS[23] BEING THAT [THE LAW OF ‘ERUB] SHALL NOT BE FORGOTTEN BY THE CHILDREN.[24]

GEMARA. What are we dealing with?[25] If it be suggested: With the same kind,[26] what point was there in speaking of an ‘erub that WAS REDUCED seeing that the same law[27] applies even if nothing of it remained? If the reference, however, is to two kinds,[28] the same law[29] should apply,[30] should it not, even if the food had only been reduced, since it was taught: If nothing of the food[31] remained[32] there is no need to inform, the residents if the new ‘erub is prepared of the same kind,[33] but if it is of a different kind[34] it is necessary to inform them?[35] If you prefer I might reply: The reference[36] is to an addition of the same kind, and if you prefer I might reply: Of a different kind.[34] ‘If you prefer I might reply: The reference is to an addition of the same kind’, and as to WAS REDUCED it means[37] it was reduced to atoms.[38] ‘And if you prefer I might reply: Of a different kind’[39] since the case[40] where ‘nothing of the food remained’ is[41] different [from that where the food was only reduced].[42]

IF THE NUMBER OF RESIDENTS HAS INCREASED, HE MUST ADD FOOD AND CONFER POSSESSION [UPON THEM] etc. Said R. Shezbi in the name of R. Hisda: This[43] implies that R. Judah's colleagues[44] differ from him,[45] for we learned: R. Judah ruled: This[46] applies only to ‘erubs of Sabbath limits[47] but in the case of ‘erubs of courtyards one may be prepared for a person whether he is aware of it or not.[48] Is it not quite obvious that they differ?[49] — It might have been presumed that [our Mishnah][50] refers to the case of a courtyard between two alleys[51] but not to that of a courtyard in one alley;[52] hence we were informed[53] [that it refers to the latter case also].

WHAT IS THE QUANTITY REQUIRED? etc. What number of residents is regarded as MANY? — Rab Judah citing Samuel replied: Eighteen men. Only ‘eighteen’ and no more?[54] — Say: From eighteen and upwards. But why was just the number eighteen selected? R. Isaac son of Rab Judah replied: It was explained to me by my father that wherever the food for two meals, if divided between them,[55] would not suffice to provide[56] for each as much as the size of a dried fig,[57] the residents are regarded as[58] MANY and a quantity of food [for two meals only suffices,[59] otherwise[60] they are regarded as FEW;[61] and that we were indirectly informed[62] that food for two meals consists of a quantity that is equal to the size of eighteen dried figs. MISHNAH. WITH ALL KINDS [OF FOOD] MAY ‘ERUB OR SHITTUF BE EFFECTED EXCEPT WITH WATER OR SALT; SO R. ELIEZER. R. JOSHUA RULED: A WHOLE LOAF OF BREAD IS A VALID ‘ERUB. EVEN A BAKING OF ONE SE'AH, IF IT IS A BROKEN LOAF, MAY NOT BE USED FOR ‘ERUB WHILE A LOAF OF THE SIZE OF AN ISSAR, PROVIDED IT IS WHOLE,[63] MAY BE USED FOR ‘ERUB.

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(1) In the absence of side-post or cross-beam the alley remains exposed to the public domain and all movement of objects within it is strictly forbidden. In order to liberate the residents from such serious inconvenience it may well have been ordered that they may coerce any recalcitrant neighbour. In the case of shittuf, however, the purpose of which is merely to provide the residents with the added convenience of carrying objects into the alley from their houses and courtyards, it may well be maintained that no one may be coerced to join if he refuses to do so. MS.M. and R. Tam. read: ‘where there are partitions’. For the interpretation v. Tosaf. a.l.

(2) This is meaningless and is deleted by Bah. It is also wanting in MS.M. and several of the old ed. Some emendations have been suggested. Cf. Elijah Wilna glosses and Golds.

(3) Though its size must conform to a prescribed minimum.

(4) The size of whose width and thickness has not been prescribed.

(5) It must be a handbreadth wide and strong enough to carry the weight of an ariah or half a brick.

(6) As all object of idolatry that must be buried (cf. Deut. XII, 3).

(7) Being legally non-existent it cannot be used as a cross-beam.

(8) To less than the minimum prescribed infra.

(9) To bring it up to the required quantity.

(10) Since they once expressed their consent when they first joined in the ‘erub.

(11) Lit., ‘they were added to them’.

(12) If all the food was his.

(13) If the food belonged to all the residents where, for instance, they had a joint stock.

(14) So that they may have an opportunity of expressing approval or dissent.

(15) Of food.

(16) For the ‘erub. Cur. edd. read ‘their quantity’; MS.M. ‘its quantity’.

(17) This is defined in the Gemara infra.

(18) It is not necessary for each one to have more than a fraction of the food.

(19) The prescribed minima.

(20) I.e., when it is first prepared.

(21) Sc. if the ‘erub consisted originally of the prescribed quantity but was subsequently reduced.

(22) Contrary to the opinion of the first Tanna, R. Jose holds that the main institution of ‘erub is that of Sabbath limits.

(23) After Shittuf had been arranged.

(24) The rising generation. As this is the sole reason of its institution its regulations are in every way to be relaxed.

(25) In the ruling that IF THE FOOD . . . WAS REDUCED . . . THERE IS NO NEED TO INFORM THEM, from which it follows that if nothing of the food remained the residents must be informed if a new ‘erub is prepared on their behalf.

(26) Sc. that the addition to the ‘erub is made from the same kind of food as that of the original.

(27) THERE IS NO NEED TO INFORM THEM.

(28) Sc. that the addition is made from a food that is different from the original.

(29) The implication (cf. supra p. 561, n. 18) that ‘the residents must be informed’.

(30) Cur. edd., ‘not’ is wanting from MS.M.

(31) Of: an ‘erub.

(32) And the same, it is now presumed, applies also where the food had only been reduced.

(33) As the original.

(34) Lit., ‘from two kinds’.

(35) That the addition is made from a food that is different from the original.

(36) In our Mishnah.

(37) Lit., ‘what’.

(38) נתמעט is understood as נתמטמט

(39) Hence the ruling in our Mishnah and its implication (cf. supra p. 561, n. 18).

(40) Dealt with in the Baraitha from which the objection was raised.

(41) Contrary to what had previously been assumed (cf. supra n. 7).

(42) While in the former case, if two kinds of food are involved, the residents, as laid down in the Baraitha, must be informed, in the latter case they, as stated in our Mishnah, need not be informed.

(43) The ruling, AND THEY MUST BE INFORMED.
(44) The authors of our Mishnah.
(45) R. Judah who holds that there is no need to inform the residents.
(46) That no ‘erub may be prepared for a person except with his consent.
(47) Since the ‘erub might be deposited in a direction away from that towards which the man for whom it is prepared desired to go, it is quite proper that his desire be ascertained before a step is taken that might be disadvantageous to him.
(48) I.e., even without his consent. This it has been shown that R. Judah ad the authors of our Mishnah differ.
(49) What need then was there for R. Shezbi to point it out?
(50) In ruling, AND THEY MUST BE INFORMED.
(51) Unless the person is informed with which alley the ‘erub is being prepared for him it cannot be known whether he prefers to join with that alley or with the other. Hence the justification of the ruling.
(52) In which case, since the person has no alternative, it might have been presumed that the Rabbis of our Mishnah agree with R. Judah that the person need not be informed.
(53) By R. Shezbi's statement.
(54) But if the eighteen are ‘many’ should not a number greater than eighteen be so described?
(55) The residents.
(56) Lit., ‘reach’.
(57) Sc. if the number of the residents is eighteen or more. The food for two meals is equal in size to that of eighteen dried figs and when it is actually broken up into eighteen portions each is naturally slightly less than the size of a fig.
(58) Lit., ‘they, (even) they’.
(59) For all of them, however great’ their number might be.
(60) Lit., ‘and if not’, sc. if the number of the residents was not as much as eighteen.
(61) And it is sufficient if each one contributes food of a size of a dried fig, though the total of the contributions this amounts to less than two meals.
(62) By Rab Judah who gave the number eighteen instead of the fuller explanation.
(63) And there are as many loaves of this size as would suffice to supply bread of the size of a dried fig for each of the residents.

Talmud - Mas. Eiruvin 81a

GEMARA. Have we not once learnt: With all kinds [of food] may ‘erub and shittuf be effected, except water and salt?[1] Rabbah replied: [Our Mishnah was intended] to exclude the view of R Joshua, who ruled that only a LOAF OF BREAD IS admissible[2] but no other foodstuff; hence we were informed[3] [that ‘erub and shittuf may be effected] WITH ALL [KINDS OF FOOD].[4]

Abaye raised an objection against him: With all [kinds of bread][5] may an ‘erub of courtyards be prepared and with all [kinds of food][6] may a shittuf of ‘alleys be effected, the ruling that an ‘erub must be prepared with bread being applicable to that[7] of a courtyard alone. Now who is it that was heard to rule that only bread is admissible[8] but no other foodstuff? R. Joshua, of course; and yet was it not stated: ‘With all’?[9] Rather, said Rabbah b. Bar Hana the purpose of our Mishnah is to exclude the view of R. Joshua who ruled that only a WHOLE LOAF is admissible[10] but not A BROKEN PIECE, hence we were informed [that an ‘erub may be prepared] WITH ALL [KINDS OF FOOD].[11] But why[12] should not a slice of a loaf be admissible? — R. Jose b. Saul citing Rabbi replied: On account of possible ill-feeling.[13] Said R. Aha son of Raba to R. Ashi: What then is the law, where all the residents contributed slices [of bread to their ‘erub]? — He replied: There may be a recurrence of the trouble.[14]

R. Johanan[15] b. Saul said: If no more than[16] the prescribed quantity of the dough-offering[17] or the portion to be removed from a mixture of terumah and unconsecrated produce[18] was broken off a loaf,[19] an ‘erub may be prepared with it.[20] But was it not taught: If no more than the portion to be removed from a mixture of terumah and unconsecrated produce was broken off a loaf, all ‘erub may be prepared with it,[20] but if the prescribed quantity of dough-offering had been removed from it no ‘erub may be prepared with it? — This is no contradiction, since the former relates to the dough-offering of a baker[21] while the latter deals with the dough-offering of a private householder.[22] For we learned: The prescribed measure for the dough-offering is one twenty-fourth of the dough; and whether one prepares it for himself or for his son's wedding-feast it must always be one twenty-fourth part. If a baker prepares it for sale in the market and so also if a woman prepares it for sale in the market it need only be one forty-eighth.[23]

R. Hisda ruled: If parts of a loaf were joined together by means of a splinter, an ‘erub may be prepared with it.[24] Was it not, however, taught that no ‘erub may be prepared with it? — This is no contradiction since the latter refers to one whose joints are recognizable while the former deals with one whose joints are unnoticeable.

R. Zera citing Samuel ruled: An ‘erub may be prepared with rice bread or with millet bread. Mar Ukba observed: The Master Samuel explained to me that an ‘erub may be prepared with rice bread but not with millet bread.

R. Hiyya b. Abin citing Rab ruled: An ‘erub may be prepared with bread of lentils. But this, surely, cannot [be correct]?[25] For was not some bread of this kind prepared in the time of[26] Samuel[27] and he did not eat it but threw it to his dog? — That bread was prepared from a mixture of several[28] kinds,[29] for so[30] it is also written: Take thou also unto thee wheat, and barley, and beans, and lentils, and millet, and spelt etc.[31] R. Papa replied: That bread was baked with human dung, for it is written: And thou shalt bake it with dung that cometh out of man, in their sight.[32]

What [is the significance of ‘barley’ in the clause] And thou shalt eat it as barley cakes?[32] — R Hisda explained: In rations.[33] R. Papa explained: Its preparation[34] shall be in the manner of barley bread and not in that of wheat bread.[35] MISHNAH. A MAN MAY GIVE A MA'AH TO A SHOPKEEPER[36] OR A BAKER[37] THAT HE MIGHT THEREBY ACQUIRE A SHARE IN THE ‘ERUB;[38] SO R. ELIEZER. THE SAGES, HOWEVER, RULED: HIS MONEY ACQUIRES NO SHARE FOR HIM[39]

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(1) Mishnah supra 26b. Why then was the same statement repeated?

(2) As ‘erub. Lit., ‘yes’.

(3) By the repetition in our Mishnah.

(4) Even with wine or fruit, for instance. This could not have been deduced from the earlier Mishnah which deals with ‘erubs of Sabbath limits, where R. Joshua agrees that bread is not an essential, since his reason infra for his ruling on ‘erubs of courtyards is inapplicable to ‘erubs of Sabbath limits. For another reading and interpretation v. Rashi a.l.

(5) Cf. the interpretation infra.

(6) Even with fruit or wine.

(7) Lit., ‘and they did not say to make an ‘erub with bread but’.

(8) As ‘erub. Lit., ‘yes’.

(9) Which shows that the expression ‘with all’ might imply all kinds of bread and not necessarily all kinds of foodstuffs. Now since our Mishnah might be interpreted so as to yield the same rulings as this Baraitha, what proof is there that WITH ALL bears the latter meaning and the ruling is contrary to the view of R. Joshua seeing that it might equally bear the former meaning and be in agreement with R. Joshua?

(10) As ‘erub. Lit., ‘yes’.

(11) Even with a slice of a loaf.

(12) According to R. Joshua.

(13) Were one neighbour to be allowed to contribute a slice of bread while another contributed a whole loaf disputes might arise and ill-feeling would be engendered.

(14) Were slices to be allowed in such a case people might begin to contribute slices even where their neighbours contributed whole loaves and again ill-feeling would arise. Never, therefore, must a slice be contributed to an ‘erub.

(15) var. lec. Jonathan (MS.M. and Asheri).

(16) Cf. Tosaf. a.l.
(17) Hallah, v. Glos.
(18) One hundredth part of the mixture.
(19) Which, in the former case, was made of a dough from which the dough-offering had not been taken or which, in the latter case, consisted of a mixture of terumah and unconsecrated flour. Lit., ‘taken from it’.
(20) The broken loaf. The loss of a portion that (a) is comparatively small and (b) renders the entire loaf fit for use would create no resentment among the neighbours and no ill-feeling need be feared.
(21) Which is small, and no one would mind such a small loss.
(22) Which is much larger.
(23) Hal. II, 7.
(24) Since it has the appearance of a whole loaf.
(25) Lit., ‘I am not (of this opinion)’.
(26) Lit., ‘surely that it was in the years of’.
(27) [As an experiment in connection with the study of the Divine order to Ezekiel IV, 9ff (v. Tosaf. a.l.)].
(28) Lit., other’,
(29) Hence it could not be regarded as proper bread.
(30) That such a mixture of different kinds cannot be regarded as proper bread.
(31) Ezek. IV, 9, dealing with a time of siege and famine when people eat anything they can get. In normal times no one would look upon such bread (cf. Tosaf a.l. Rashi has a different interpretation).
(32) Ezek. IV, 12.
(33) שעורים (se'orim) ‘barley’ is read as שיעורים (shi'urim) ‘fixed quantities’, ‘rations’; Ezekiel is asked to ration his food as is done during a siege,
(34) Cf. MS.M., R. Han., Rashi and Emden.
(35) Greater care is taken in the preparation of the latter which is more expensive and more nourishing.
(36) I.e., a wine-seller, who lives with him in the same alley.
(37) In the same courtyard.
(38) When the other residents would come to buy wine for shittuf or bread for the ‘erub of their courtyard.
(39) Acquisition of an ‘erub, like that of any other object, can be effected only by means of a definite act such, for instance, as meshikah, v. Glos. Even if the shopkeeper or baker subsequently conferred possession upon all the residents as a free gift this man does not acquire his share in it, since transfer of possession in the case of ‘erub requires the consent of the beneficiary who, in this case, distinctly expressed his desire to acquire it as a purchase and not as a gift (cf. Tosaf. a.l.).

Talmud - Mas. Eiruvin 81b

(THOUGH THEY AGREE THAT IN THE CASE OF ALL OTHER MEN[1] HIS MONEY MAY ACQUIRE ONE) SINCE AN ‘ERUB MAY BE PREPARED ONLY WITH ONE'S CONSENT.[2] R. JUDAH RULED: THIS[3] APPLIES ONLY TO ‘ERUBS OF SABBATH LIMITS[4] BUT IN THE CASE OF ‘ERUBS OF COURTYARDS[5] ONE MAY BE PREPARED FOR A PERSON IRRESPECTIVE OF WHETHER HE IS AWARE OF IT OR NOT,[6] SINCE A BENEFIT MAY BE CONFERRED ON A MAN IN HIS ABSENCE BUT NO DISABILITY MAY BE IMPOSED ON HIM IN HIS ABSENCE.

GEMARA. What is R. Eliezer's reason[7] seeing that the man performed no meshikah? — R. Nahman citing Rabbah b. Abbuha replied: R. Eliezer[8] treated this case as that of the ‘four seasons of the year’.[9] For we learned: In the following four seasons[10] a butcher is made to slaughter[11] [a beast] of his own. Even though his ox was worth a thousand denars and the buyer[12] had in it a share that was worth only one denar the butcher may be compelled to slaughter. Hence if it died[13] the buyer must bear the loss.[14] ‘The buyer must bear the loss!’ But why, seeing that he performed no meshikah?- R. Huna[15] replied: This is a case where he did perform meshikah. If so, read the final clause: During the other days of the year the law is not so.[16] Hence if it died,[13] the seller must bear the loss.[17] But why, seeing that the buyer had performed meshikah? — R. Samuel b. Isaac[18] replied:

The fact is that we are here dealing with a case where the buyer performed no meshikah but the seller transferred possession[19] to him through a third party.[20] Hence it is that in these four seasons when it is beneficial to him[21] the acquisition is valid since a benefit may be conferred on a man in his absence, but during the other days of the year when it is to his disadvantage[22] the acquisition is ineffective, since a disability may be imposed on a man only in his presence; and R. Ela citing R. Johanan[23] replied: In the case of these four seasons the Sages have based their rule on the law of the Torah;[24] for R. Johanan said: According to the words of the Torah, money acquires possession for the buyer; and the Sages ruled that it is[25] meshikah that gives him possession as a precautionary measure against the possibility that[26] the seller might tell the buyer,[27] 'Your wheat was burnt in the loft'.[28] THOUGH THEY AGREE THAT IN THE CASE OF ALL OTHER MEN etc. Who is meant by ALL OTHER? — Rab replied: A householder.[29] Samuel also replied: A householder. For Samuel stated: This[30] was learnt only in respect of a baker but a householder[29] does acquire possession. Samuel further stated: This[30] was learnt only in respect of a ma'ah but all object[31] acquires possession. Samuel further stated: This[32] was learnt only in the case where the resident said to him, 'Acquire for me',[33] but where he said 'Prepare an 'erub for me'[34] he has thereby appointed him as his agent and[35] he acquires, therefore, [his share].[36]

R. JUDAH RULED: THIS APPLIES ONLY etc. Rab Judah citing Samuel stated: The halachah is in agreement with R. Judah and, furthermore, wherever R. Judah taught a law concerning 'erubs the halachah is in agreement with him. Said R. Hana of Bagdad to R. Judah: Did Samuel say this[37] even in respect of all alley whose cross-beam[38] or side-post[38] has been removed?[39] 'Concerning 'erubs',[40] the other replied, did I tell you; but not concerning partitions.[41] [Since,] said R. Aha son of Raba to R. Ashi, [it has been said,] 'The halachah [is in agreement with R. Judah]' it must be implied that [the Rabbis] are at variance on the point,[42] but did not R. Joshua b. Levi in fact lay down that whenever R. Judah stated in[43] a Mishnah, "When'[44] or 'This applies',[45] his intention[46] was only to introduce an explanation of the words of the Sages?[47] — But do they[48] not differ? Have we not in fact learnt: 'If the number of residents his increased he must add food and confer possession upon them, and they must be informed of the fact'?[49] — There it is a case of a courtyard between two alleys.[50] But did not R. Shezbi state in the name of R. Hisda: 'This implies that R. Judah's colleagues differ from him'?[51] — The other replied:[52]

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(1) This is explained in the Gemara infra.

(2) Cf. supra n. 4, second clause.

(3) That AN 'ERUB MAY BE PREPARED ONLY WITH ONES CONSENT.

(4) Which may in certain conditions prove disadvantageous to the man for whom it is prepared. If he, for instance, desired to walk a distance of two thousand cubits In an easterly direction from this town and the 'erub was deposited on its western side, though he is thereby enabled to walk a longer distance in the latter direction, he IS deprived of his right to the two thousand cubits in the easterly direction.

(5) Since these are always advantageous to the tenants.

(6) Sc. even without his consent.

(7) For his ruling in our Mishnah that the man who gave the ma'ah acquires his share in the 'erub.

(8) By ruling that possession may be acquired by means of money alone.

(9) Where a similar relaxation of the laws of acquisition was allowed.

(10) Enumerated in Hul. 83a.

(11) To provide meat.

(12) Who paid the butcher on the eve of the day in question (cf. prev. n.) one denar.

(13) Before it was ritually slain.

(14) Lit., 'it died for the buyer', sc. he cannot claim the refund of his denar.

(15) MS.M., 'Rab'.

(16) I.e., the butcher cannot be compelled to slay his beast in order to keep his contract with the buyer. He may instead return to him his denar.

(17) Sc. he must refund the denar to the buyer.

(18) MS. M., inserts ‘R’.
(19) Of a part of the ox to the value of a denar.
(20) Whom the buyer did not appoint for the purpose.
(21) The buyer in the seasons mentioned, owing to the great demand for meat, is anxious to secure his supply.
(22) The demand for meat is not great and it is more advantageous for him to have his ready denar.
(23) Var. lec. Judah (Rashal).
(24) The Pentateuch.
(25) Lit., ‘and wherefore did they say’.
(26) Were the sold goods, though still on the premises of the seller, to pass into legal possession of the buyer as soon as he paid the money.
(27) Should a fire, for instance, break out where the goods were kept.
(28) Sc. he would not take the trouble to save them from the fire or from any other accident. Hence the Rabbinic rule that it is meshikah that effects the transfer of possession. V. B.M. 47b. This it has been shown that in certain circumstances and for certain reasons the Sages adopted in practice the Pentateuchal law that money alone effects transfer of possession. Similarly in the case of ‘erub, R. Eliezer's ruling, it may be explained, is clue to similar considerations.
(29) Though he was given a ma'ah the act (since he himself deals neither in bread nor in wine) is not regarded as an order to purchase a share in the ‘erub but as a mere indication to him to act as agent; and an agent may of course acquire possession for the man who appointed him.
(30) That a ma'ah acquires no possession in all ‘erub.
(31) Given in symbolic acquisition.
(32) That a shopkeeper or a baker cannot acquire a share in an ‘erub for a resident.
(33) A form of instruction which, when addressed to a trader, is regarded as an order to purchase.
(34) Sc. in any manner he might think fit.
(35) Since an agent may be relied upon to carry out his mission in the proper manner (cf. supra 32a).
(36) In the ‘erub.
(37) That the halachah is in agreement with R. Judah. MS.M. inserts this clause in the text.
(38) Cur. edd. have the plural.
(39) On the Sabbath. R. Judah ruled (infra 94a) that the use of the alley remains permitted for that Sabbath.
(40) Sc. the laws relating to acquisition of an ‘erub.
(41) The principle underlying the permissibility of the use of an alley by means of cross-beam or side-post.
(42) Had they held the same opinion there would have been no need to state that the halachah was in agreement with R. Judah.
(43) Lit., ‘in our’,
(44) Sc. ‘when is this the case?’
(45) Lit., ‘in what’, sc. ‘in what case does this apply?’ ‘This applies only’.
(46) In thus commenting on a ruling of the Rabbis.
(47) Sanh. 25a; and, since in our Mishnah he uses the expression ‘THIS APPLIES ONLY’, he is obviously of the same opinion as the Rabbis. What need then was there for Samuel to state that the halachah was in agreement with R. Judah?
(48) R. Judah and the Rabbis.
(49) Mishnah supra 80b; while according to R. Judah an ‘erub of courtyards (cf. our Mishnah) may be prepared for a person even without his consent!
(50) Where, unless the person concerned is duly informed of the facts, it cannot be known for certain with which of the two courtyards he desires to be associated in the ‘erub.
(51) Supra 80b.
(52) Lit., ‘he said to him’ (so with marg. glos. according to some ed.). Cur. edd., ‘but’. The two readings are easily interchangeable in Heb. the former being represented by א״ל and the latter by אלא.

Talmud - Mas. Eiruvin 82a

You are pointing out a contradiction between the views of two men![1] One[2] may hold the opinion that they differ, while the other[3] may maintain that they do not differ.

[To turn to] the main text: ‘R. Joshua b. Levi laid down that wherever R. Judah stated in a Mishnah, "When" or "This applies", his intention was only to introduce an explanation of the words of the Sages’. R. Johanan, however, held that ‘When’ introduces an explanation while ‘This applies’ indicates disagreement,[4] But does ‘When’ introduce an explanation, seeing that we have learnt: ‘And these are ineligible [to act as witnesses or judges]: A gambler,[5] a usurer, a pigeon-trainer[6] and traders in produce of the Sabbatical year’,[7] and ‘R. Judah stated: When is this so? When a person has no occupation other than that,’ but if he has any other occupation he is eligible’. And in connection with this it was taught in a Baraitha, ‘And the Sages ruled: Whether he has no occupation other than that or whether he has another occupation, he is ineligible’?[8] — That[9] is a view which R. Judah quoted in the name of R. Tarfon.[10] For it was taught: R. Judah quoting R. Tarfon stated: ‘Neither of them[11] can possibly be regarded as a nazirite, since naziriteship is valid only when it is definite’.[12] It is thus obvious that when a person is in doubt as to whether he is or is not a nazirite he does not[13] submit himself to the vow. So also here,[14] since no one knows beforehand whether one would gain or lose, neither[15] fully consents to transfer possession to the other.[16]

CHAPTER VIII

MISHNAH. HOW IS SHITTUF ARRANGED IN CONNECTION WITH SABBATH LIMITS?[17] ONE SETS DOWN A JAR[18] AND SAYS, BEHOLD THIS IS FOR ALL THE INHABITANTS OF MY TOWN, FOR ANY ONE WHO MAY DESIRE TO GO TO A HOUSE OF MOURNING OR TO A HOUSE OF FEASTING’.[19] ANY ONE[20] WHO ACCEPTED [TO RELY ON THE ‘ERUB] WHILE IT WAS YET DAY[21] IS PERMITTED [TO ENJOY ITS BENEFITS] BUT IF ONE DID IT AFTER DUSK THIS IS FORBIDDEN, SINCE NO ‘ERUB MAY BE PREPARED AFTER DUSK.

GEMARA. R. Joseph ruled: All ‘erub[22] may be prepared only for the purpose of enabling one to perform a religious act.[23] What does he teach us, seeing that we learned: FOR ANY ONE WHO MAY DESIRE TO GO TO A HOUSE OF MOURNING[24] OR TO A HOUSE OF FEASTING?[24] It might have been assumed that mention was made of that which is usual,[25] hence we were informed [of R. Joseph's ruling].

ANYONE WHO ACCEPTED [TO RELY ON THE ‘ERUB] WHILE IT WAS YET DAY. May it be inferred from this ruling that no retrospective selection is valid, for if retrospective selection were valid, why should it[26] not become known retrospectively that the man was pleased to accept the ‘erub when it was yet day? — R. Ashi replied: The cases taught[27] are those where one was,[28] or was not informed.[29]

R. Assi said: A child of the age of six may go out[30] by the ‘erub of his mother.[31]

An objection was raised: A child who is dependent upon his mother goes out by his mother's ‘erub but one who is not dependent upon his mother does not go out by her ‘erub;[32] and[33] we also learned a similar ruling in respect of a sukkah:[34] ‘A child who is not dependent upon his mother is liable[35] to the obligations of sukkah’,[36] and when the point was raised as to what child may be regarded as independent of his mother it was explained at the school of R. Jannai: Any child who, when attending to his needs, does not require his mother's assistance.[37] R. Simeon b. Lakish explained: Any child who, when awaking, does not cry mother. ‘Mother!’ Is this[38] imaginable? Do not bigger children also cry mother? Rather say: Any child who, when he wakes, does not persistently cry mother.[39] And what [is the age of such a child]?[40] About four[41] or five![42]

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(1) Lit., ‘man on man’, Samuel against R. Joshua b. Levi.

(2) Samuel.

(3) R. Joshua b. Levi.

(4) Lit., ‘to divide’, ‘dispute’.

(5) Lit., ‘one who plays with dice’.

(6) Lit., ‘pigeon-fliers’.

(7) Persons who make money out of one or other of these shady or dishonorable pursuits are regarded as virtual robbers who are disqualified front occupying any position of responsibility and trust. For fuller explanation cf. Sanh., Sonc. ed., p. 142f and notes.

(8) Sanh. 25a. Now assuming that the Sages in the Baraitha last mentioned are the same as those whose view is represented in the first clause of the Mishnah cited, is it not evident that even where he differs from a view expressed R. Judah still used the introductory word ‘when’? An objection thus arises against both R. Joshua R. Levi and R. Johanan.

(9) The ruling in the last mentioned Baraitha.

(10) Not that of the Rabbis in the Mishnah cited whose view R. Judah in fact explained, and between whom and himself no difference of opinion exists.

(11) Of two men who had a bet, one of them undertaking to be a nazarite if a certain person who passed by was a nazarite and the other undertaking to be a nazirite if that person was not a nazirite.

(12) Lit., ‘distinctly uttered’. V. Sanh. 25a, Naz. 34a. As neither of the two had any knowledge as to whether the man who passed them was, or was not a nazirite, the vow of neither could be definite and neither, therefore, can be deemed valid.

(13) According to R. Tarfon.

(14) The Baraitha in which eligibility to act as witness or judge is denied to a gambler and the other, irrespective of whether they had, or had not any other occupation.

(15) Of the gamblers or partners in the game or transaction.

(16) The appropriation of such gain is, therefore, tantamount to robbery which disqualifies the recipient from occupying any position of trust.

(17) To enable a number of people to walk beyond the prescribed Sabbath limit of two thousand cubits from their town.

(18) Containing fruit or wine or similar foodstuffs.

(19) Sc. a wedding feast (v. infra n. 8).

(20) Of the townspeople.

(21) Friday, the Sabbath eve.

(22) Of Sabbath limits.

(23) No one is otherwise allowed to make use of the institution of ‘erub.

(24) It is a religious duty to comfort the mourners and to assist in the festivities and entertainment of bride and bridegroom.

(25) But that in fact the ‘erub may be prepared even for secular purposes.

(26) On the Sabbath when a townsman makes use of the ‘erub.

(27) In our Mishnah.

(28) On the Sabbath eve’

(29) That an ‘erub has been prepared. By ACCEPTED the former case was intended, the ‘erub being valid, on the principle of retrospective selection, even though the acceptance was not decided upon before dusk. By AFTER DISK the latter case was meant, the ‘erub being invalid because no retrospective selection is possible where the man was not even aware of the ‘erub's existence.

(30) Beyond the Sabbath limits.

(31) Even though she did not explicitly confer upon him the right of a share in it. A child of six is deemed to be entirely attached to, and dependent upon his mother and she is, therefore, tacitly assumed to have meant him to enjoy the same privileges of the ‘erub as she herself. Cf. Keth., Sonc. ed., p. 397, n. 7.

(32) Why then did R. Assi draw no such distinction?

(33) Were you to reply that a child of the age of six is deemed to be ‘dependent upon his mother’.

(34) V. Glos.

(35) Rabbinically, as a part of his religious training. Pentateuchally he is exempt.

(36) Suk. 28a.

(37) Lit., ‘does not clear him’.

(38) That impliedly a child that does cry mother must be regarded as dependent upon her.

(39) Lit., ‘mother, mother’.

(40) Who may be regarded as independent of his mother.

(41) If well developed.

(42) If less developed. At any rate it follows that a child of the age of five at the latest is deemed to be independent of his mother. How then could R. Assi maintain that a child of six may go out by his mother's ‘erub?

Talmud - Mas. Eiruvin 82b

— R. Joshua Son of R. Idi replied: What R. Assi spoke of was[1] a case, for instance, where the child's father prepared an ‘erub for him in the north[2] and his mother in the south,[2] since[3] even a child of the age of six prefers his mother's company.

An objection was raised: A child who is dependent upon his mother may go out by his mother's ‘erub until he is six years of age. Is not this[4] an objection against R. Joshua son of R. Idi?[5] — This is indeed an objection. Must it be admitted that this[4] also presents all objection against the view of R. Assi?[6] — R. Assi can answer you: ‘Until’[7] means that ‘until’[8] is included.[9] Must it be assumed that this[4] presents a contradiction of the views of R. Jannai and Resh Lakish?[10] This is really no contradiction since the former[11] refers to a child whose father is in town[12] while the latter[13] refers to one whose father is not in town.[14]

Our Rabbis taught: A man may prepare all ‘erub for his son or daughter, if they are minors, and for his Canaanite bondman or bondwoman, either with, or without their consent.[15] He may not, however, prepare an ‘erub for his Hebrew manservant or maidservant, nor for his grownup son or daughter, nor for his wife, except with their consent. Elsewhere it was taught: A man may not prepare an ‘erub for his grownup son or daughter, nor[16] for his Hebrew manservant or maidservant, nor for his wife, except with their consent, but he may prepare all ‘erub for his Canaanite bondman or bondwoman and for his son or daughter, if they are minors, either with, or without their consent, because their hand is as his hand. If any of these[17] prepared all ‘erub[18] and the[19] master also prepared one[20] for him[21] the limits of his[19] movements are determined[22] by that of his[23] master. A wife, however, is excluded since she is entitled to object.[24] But why should a wife be different?[25] Rabbah replied: [The meaning is] a wife and all who enjoy a similar status.

The Master said: ‘A wife, however, is excluded since she is entitled to object’. The reason then[26] is that she actually objected but if she expressed no opinion her movements are determined[27] by the ‘erub of her husband; was it not, however, taught in the first clause, ‘Except with their consent’ which means, does it not, that they must actually say: ‘Yes’?[28] — No; the meaning of[29] ‘Except with their consent’ is that they kept since, which excludes only the case where they said: ‘No.[30] But, surely, the case where ‘any of these prepared all ‘erub and the master also prepared one for him’ where ‘the limits of his movements are determined by that of his master’ is one where no opinion had been expressed, and was it not nevertheless stated: ‘A wife, however, is excluded’ so that her movements are not determined by the ‘erub of her husband?[31] — Raba replied: Since they had prepared an ‘erub there can be no more significant form of objection.

MISHNAH. WHAT MUST BE ITS[32] SIZE? FOOD FOR TWO MEALS FOR EACH, THE QUANTITY BEING THE FOOD ONE EATS ON WEEKDAYS AND NOT ON THE SABBATH; SO R. MEIR. R. JUDAH RULED: AS ON THE SABBATH AND NOT AS ON WEEKDAYS. AND BOTH INTENDED TO GIVE THE MORE LENIENT RULING.[33] R. JOHANAN B. BEROKA RULED:[34] NOT LESS THAN A LOAF THAT IS PURCHASED FOR A DUPONDIUM WHEN THE PRICE OF CHEAT IS FOUR SE'AH FOR A SELA’.[35] R. SIMEON RULED:[34] TWO THIRDS OF A LOAF, THREE OF WHICH ARE MADE FROM A KAB.[36] HALF OF THIS LOAF[37] IS THE SIZE PRESCRIBED FOR A LEPROUS HOUSE,[38] AND THE HALF OF ITS HALF[39] IS THE SIZE THAT RENDERS ONE'S BODY[40] UNFIT.[41] GEMARA. How much food[42] is required for TWO MEALS? Rab Judah citing Rab replied: Two peasants’[43] loaves. R. Adda b. Ahabah replied: Two Nehar Papa[44] loaves.

Said R. Joseph to R. Joseph son of Raba:[45] ‘With whose view[46] does your father's agree?’[47] — ‘His view is in agreement with that of R. Meir’. ‘I am also in agreement with the view of R. Meir, for if one were to agree with R. Judah there would arise the difficulty of the popular saying: There is always room for a spicy dish.’[48]

R. JOHANAN B. BEROKA RULED. One taught: Their views[49] are almost identical.[50] But are they at all alike, seeing that the view of R. Johanan is that a kab provides four meals whereas that of R. Simeon is that a kab provides nine meals?[51] R. Hisda replied: Deduct[52] a third[53] for the profit of the shopkeeper.[54] But is not the number of meals[55] still nine according to the one Master and six according to the other? — Explain rather on the lines of another statement of R. Hisda who said: Deduct a half for the profit of the shopkeeper.[56] But do not they[57] still amount[55] to nine according to the one Master and to eight according to the other?[58] This indeed is the reason why it was stated,[59] ‘Their views are almost identical’.[60] Does not a contradiction, however, arise between the two statements of R. Hisda?[61] — There is really no contradiction since one statement[62] refers to a place where the buyer[63] supplies the wood[64] while the other refers to one where the buyer does not supply the wood.

HALF OF THIS LOAF IS THE SIZE PRESCRIBED FOR A LEPROUS HOUSE, AND THE HALF OF ITS HALF IS THE SIZE THAT RENDERS ONE'S BODY UNFIT.

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(1) Not of a child for whom no ‘erub was specifically prepared. In such a case the child admittedly may not go out.

(2) Of the town.

(3) Sc. the reason why R. Assi ruled that the child ‘may go out by the ‘erub of his mother’ and not by that of his father.

(4) The ruling that a child up to the age of six may go out by his mother's ‘erub even if she did not prepare it especially for his benefit also. The previous explanation, that the ruling applied to a case where both his father and mother prepared ‘erubs on his behalf cannot be given here, since the age limit indicated, viz., ‘until he is six’, obviously includes that of a baby of the tenderest age who is undoubtedly dependent on his mother and who is unquestionably permitted to go out on account of her ‘erub.

(5) Who agreed supra that for a child of the age of five an ‘erub must specifically be prepared.

(6) Who exempts a child of six whereas here a child of the age of six seems to be excluded by the expression ‘until he is six years of age’.

(7) Cf. prev. n. ad fin.

(8) Sc. the age of six also.

(9) In the exemption.

(10) Supra 82a ad fin., according to which a child of the age of four or five is not dependent on his mother and, consequently, should not be allowed to go out by means of her ‘erub, whereas here it is laid down that even a child of six may go out by his mother's ‘erub.

(11) The ruling adopted by R. Jannai and Resh Lakish.

(12) And is looking after the child. In such a case the child is independent of his mother even before he is six years of age.

(13) The Baraitha cited which regards a child of six as dependent upon his mother.

(14) So that the child remains entirely dependent on his mother until he is much older.

(15) Bah adds, ‘because their hand is as his hand’.

(16) Cf. Bah.

(17) Lit., ‘and all of them’

(18) Depositing it in a certain direction.

(19) Lit., ‘their’.

(20) In an opposite direction.

(21) Lit., ‘them’.

(22) Lit., ‘they go out’.

(23) Lit., ‘their’.

(24) Against her husband's choice.

(25) From some of the others, one's grown-up sons or daughters, for instance, or one's Hebrew menservants or maidservants who are equally entitled to object.

(26) Why an ‘erub for a wife is invalid.

(27) Lit., ‘she goes out’.

(28) But if they kept silent their movements are not determined by the master's ‘erub. Does not thus a contradiction arise between the two clauses of the Baraitha?

(29) Lit., ‘what’.

(30) Only in that case is the master's ‘erub disregarded; but if they kept silence their movements are determined, as was implied in the final clause, by the ‘erub of the master.

(31) Lit., ‘that they do not go out’.

(32) The loaf of bread for an ‘erub of Sabbath limits.

(33) Sc. to reduce the prescribed size of the ‘erub. R. Meir used to consume at a weekday meal less bread than at a Sabbath meal at which the richness of the Sabbath dishes tempted him to eat more bread. R. Judah, however, ate more bread on weekdays, when courses are few, than on the Sabbath when several satisfying dishes are served and when it is also one's duty to eat no less than three meals.

(34) In determining the quantity of bread required for TWO MEALS.

(35) Such a loaf, it is now assumed, weighs half a kab, since four Se'ah are equal to 4 X 6 kab = 24 X 2 = half-kab; and a sela’ contains 4 denars = 4 X 6 ma'ah = 4 X 6 X 2 = 48 dupondia.

(36) Of wheat. This is a smaller size than the previous one. In the opinion of R. Simeon two ninths of a lab suffices for two meals. When three loaves are made from a kab of each loaf = 1/3 X 2/3 = 2/9 kab.

(37) That had been prescribed for ‘erub by R. Johanan and R. Simeon respectively.

(38) Cf. Lev. XIV, 33ff. If a person remains in such a house for a length of time sufficient for him to consume the quantity of bread mentioned his clothes become unclean and require ritual washing (cf. Neg. XIII, 9).

(39) If it is levitically unclean.

(40) Of a person that ate it.

(41) To eat terumah before performing ritual immersion. This, however, is only a Rabbinical prohibition (cf. Yoma 80b).

(42) According to R. MEIR AND K. JUDAH.

(43) Ikaryatha, ‘farmers’, ‘peasants ‘shepherds’ or ‘cattle-drivers’. MS.M. ibaryatha, ‘lamp-lighters’.

(44) Place name.

(45) MS.M., ‘Rab son of R. Joseph to Raba’.

(46) That of R. Meir or R. Judah in our Mishnah.

(47) Sc. since in the case of ‘erub the quantity of food required for two meals varies according to the capacity and the appetite of each individual, is one's appetite to be determined by one's weekday meals in agreement with R. Meir, or one's Sabbath meals in agreement with R. Judah?

(48) Sabbath dishes being richly spiced and seasoned tempt one to eat more bread whereas R. Judah maintains that at a Sabbath meal less bread is eaten than at a weekday meal.

(49) Those of R. Johanan b. Beroka and R. Simeon.

(50) Lit., near to be alike’.

(51) Cf. supra p. 576 nn. 4ff.

(52) According to R. Johanan.

(53) Of the half-kab that is bought for a dupondium.

(54) Though the shopkeeper buys at the rate of four se'ah for a sela’, or half a kab for a dupondium (cf. supra p. 576, n. 5), he sells at a higher price, leaving for himself a profit of one third of the purchase price. For each dupondium, therefore, he sells only two thirds of half a kab. Now, since 2/3 of half a kab, or 1/2 X 2/3 = 1/3 of a kab, provide two meals, a kab obviously provides not four, but six meals.

(55) Per kab.

(56) Cf. supra n. 13 mut. mut.

(57) The number of meals.

(58) Since according to R. Johanan the shopkeeper retains a profit of one half of his cost price, he would charge a dupondium not for half a kab (his cost price) but for a quarter of a kab (his selling price at a profit of fifty per cent); and since a quarter of a kab yields two meals a kab obviously yields 4 X 2 = 8 meals.

(59) In the Baraitha under discussion.

(60) But not exactly identical. Lit., ‘near to be alike’.

(61) In one statement he asserts that a shopkeeper makes a profit of one third and in the other he raises it to one half.

(62) The first cited.

(63) Lit., ‘householder’ as opposed to shopkeeper.

(64) For the baking of the bread. In such a case the profit of the shopkeeper is reduced to a third.

Talmud - Mas. Eiruvin 83a

One taught: And half of the half of its half[1] is the size susceptible to levitical uncleanness of food.[2] But why did not our Tanna mention[3] the levitical uncleanness of food? — Because their prescribed sizes[4] are not in exact proportions.[5] For it was taught: How much is half a peras?[6] The size of two[7] eggs minus a fraction;[8] so R. Judah. R. Jose ruled: Two large sized[9] eggs. This was calculated by Rabbi[10] to be the size of two eggs and a slight surplus.[11] How much was that surplus? — A twentieth part of an egg.[12] In respect of the levitical uncleanness of food, however, it was taught: R. Nathan and R. Dosa explained that the size of the egg of which the Rabbis have spoken[13] includes the egg itself and its shell,[14] but the Sages explained: The egg only, exclusive of its shell.[15]

Rafram b. Papa citing R. Hisda stated: This[16] is the ruling of R. Judah and R. Jose, but the Sages ruled: The size is one and a half large sized eggs. But who are the Sages? R. Johanan b. Beroka of course;[17] is not this then obvious?[18] — His purpose was[19] to inform us that the eggs must be large sized.

When R. Dimi came[20] he related that Bonios once sent to Rabbi a modius[21] of artichokes that came from Nausa,[22] and Rabbi calculated its capacity to be two hundred and Seventeen eggs. What kind of se'ah,[23] however, was it? If it was the desert se'ah[24] it should have contained a hundred and forty-four eggs,[25] and if it was the Jerusalem se'al[26] it should have contained a hundred and seventy-three eggs,[27] and if again it was the one of Sepphoris[28] It should have contained two hundred and seven eggs.[29] It was in fact a Sepphoris measure but the quantity of the dough-offering was added to them.[30] But how much is the dough-offering? Nine[31] eggs;[32] would not then the number still be less?[33] — The fact is that the surpluses spoken of by Rabbi[34] were added to them.[35] If so, would not the number be greater?[36] — As it does not amount to the size of a whole egg[37] he does not reckon it.

Our Rabbis taught: The Jerusalem se'ah exceeds that of the desert one by a sixth,[38] and that of Sepphoris exceeds that of Jerusalem by a sixth.[38] Thus it follows that the measure of Sepphoris exceeds that of the desert by a third. A third of which? Would you suggest: A third of the desert measure? Observe then: How much is a third of the desert measure? Forty-eight eggs;[39] whereas the surplus amounts to sixty-three![40] If again a third of the Jerusalem measure was meant, how much, [it could be retorted,] is a third of it? Fifty-eight minus one third;[41] whereas the surplus is sixty-three! Is then the reference to the measure of Sepphoris? How much, [it may be asked,] is a third of it? Seventy minus one;[42] whereas the surplus is sixty-three! — Rather, explained R. Jeremiah it is this that was meant: It follows that the se'ah of Sepphoris exceeds that of the desert by nearly a third of itself[43] and that a third of itself[44] is nearly equal to a half of the desert measure.[45]

Rabina demurred: Was any mention at all made of approximation?[46] — Rather, explained Rabina, it is this that was meant: It follows that a third of the Sepphoris measure together with the surpluses spoken of by Rabbi[47] exceeds the half of the desert measure[48] by a third of an egg.[49] Our Rabbis taught: Of the first of your dough[50]

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(1) Of the size of the loaf prescribed in our Mishnah by R. Johanan and R. Simeon respectively.

(2) According to R. Johanan the size is three quarters of an egg. For, since he defined the size of a whole loaf as a

quarter of a lab, or six eggs, the ‘half of the half of its half’ must be equal to 6/2 X 2 X 2 = 3/4 of an egg. According to R. Simeon, since a whole loaf is equal to 1/3 of a kab, or 24/3 = 8 eggs, the ‘half of the half of its half’ must be equal to 8/2 X 2 X 2 = 1 egg.
(3) In our Mishnah.
(4) That for (a) the defilement of one's body and (b) the defilement of food.
(5) Sc. the size of the latter (cf. prev. n.) is not exactly a half of the former.
(6) Lit., ‘a broken piece’ Sc. of bread that, if levitically unclean, renders one's body unfit to eat terumah.
(7) Small sized (cf. infra).
(8) In agreement with R. Simeon's standard in our Mishnah.
(9) Lit., ‘laughing’.
(10) On examining a Se'ah measure whose capacity is nominally that of six kab or 6 X 24 = 144 eggs, but whose actual capacity was greater than that number of eggs.
(11) Lit., ‘and more’.
(12) In respect of each egg of capacity.
(13) As being susceptible to levitical uncleanness.
(14) Lit., ‘like itself and like etc. This size obviously is not exactly a half of any of the sizes prescribed by (a) R. Judah, (b) R. Jose or (c) Rabbi for the defilement of one's body according to whom it should have been either (a) an egg minus a fraction or (b) a large sized egg and its shell, or (c) in egg and a twentieth.
(15) A size which is smaller even than half of the one prescribed by R. Judah and much more so than those prescribed by the others.
(16) The Baraitha prescribing the size of half a peras.
(17) Whose standard for ‘erub, as explained Supra by R. Hisda, is that of a loaf of a quarter of a kab or six eggs, the half of the half of which is obviously 6/2 X 2 = 1 1/2 eggs.
(18) Apparently it is. What need then was there for R. Hisda to repeat what he had once stated?
(19) Lit., ‘he came’.
(20) From Palestine to Babylon.
(21) A Roman measure of the same capacity as a Se'ah,
(22) Or ‘copied from the standard measure of Nausa’ (Jast. q.v.).
(23) Cf. supra n. 9
(24) Sc. the se'ah measure used by the Israelites in the time of Moses in the wilderness.
(25) A Se'ah equals six kab = 6 X 4 log = 6 X 4 X 6 = 144 eggs.
(26) Which exceeds that of the desert by a fifth.
(27) Since 144 + 144/5 = 144 + 28 4/5 = 172 4/5 or 173 eggs approx.
(28) Which exceeded that of Jerusalem by a fifth.
(29) 173 + 173/5 = 173 + 34 3/5 = 207 3/5 or 207 eggs approx.
(30) Lit., ‘bring . . . throw upon them’, sc. Rabbi's calculations which show a higher figure include also the quantity of the dough-offering that is due from a Se'ah or two hundred and seven eggs of dough.
(31) So with R. Han. as cited by Tosaf. a.l. Cur. edd., ‘eight’.
(32) A twenty-fourth part of the dough (cf. supra 81a). 217/24 = 9 1/24 or 9 approx.
(33) Than two hundred and seventeen (cf. prev. n.).
(34) Not the quantity of the dough-offering.
(35) Sc. Rabbi's surpluses which amount to 1/20 of an egg for each egg amount to 1/20 X 207 or 10 7/20 eggs for a se'ah of the size of 207 eggs (cf. p. 579, n. 17). 207 + 10 7/20 = 217 7/20 or 217 approx.
(36) Than the number 217, by 7/20
(37) It amounts only to seven twentieths (Cf. nn. 4 and 5).
(38) Of the latter measure, sc. a fifth of the former.
(39) 144/3 = 48.
(40) 207 144 = 63.
(41) 173/3 = 57 2/3.
(42) 207/3 = 69.
(43) Since 207 — 144 = 63 and 207/3 = 69. 63 is nearly equal to 69.
(44) 69.

(45) 144/2 = 72. This figure is quite near to 69.

(46) Lit., 'near, near he taught'. How then could it be maintained by R. Jeremiah that 'nearly' a third etc. was meant.

(47) Sc. (207 + 207 X 1/20) X 1/3 = (207 + 10 7/20) X 1/3 = 217/3 approx. = 72 1/3 approx.

(48) 144/2 = 72.

(49) Since (cf. prev. two notes) 72 1/3 — 72 = 1/3.

(50) Ye shall set apart a cake for a gift (sc. as a dough-offering); Num. XV, 20.

Talmud - Mas. Eiruvin 83b

only if it is of the size of your dough;[1] and what is the size of your dough? That of the dough of the wilderness. And what was the size of the dough of the wilderness? The one which is described: Now an omer is the tenth part of an ephah,[2] from which it has been deduced[3] [that dough made of a quantity of] flour of seven quarters [of a kab][4] and a fraction[5] is liable to the dough-offering. This [quantity] is equal to six Jerusalem kab or five of the Sepphoris kab. From this it has been inferred[6] that if a person consumes such a quantity of food[7] he is sound in body and happy in mind.[8] He who consumes a greater quantity is a glutton and he who consumes less suffers from bad digestion.

MISHNAH. IF THE TENANTS OF A COURTYARD AND THE TENANTS ON ITS GALLERY[9] FORGOT TO JOIN TOGETHER IN AN 'ERUB,[10] ANY LEVEL[11] THAT IS HIGHER THAN TEN HANDBREADTHS BELONGS TO THE GALLERY,[12] AND ANY LOWER LEVEL[13] BELONGS TO THE COURTYARD.[14] THE BANK AROUND A CISTERN, OR A ROCK, THAT IS TEN HANDBREADTHS HIGH BELONGS TO THE GALLERY[12] BUT IF IT IS LOWER IT BELONGS TO THE COURTYARD.[14] THIS, HOWEVER, APPLIES ONLY TO ONE THAT ADJOINS THE GALLERY, BUT ONE THAT IS REMOVED FROM IT, EVEN IF TEN HANDBREADTHS HIGH, BELONGS TO THE COURTYARD. AND WHAT OBJECT IS REGARDED AS ADJOINING? ONE THAT IS NOT FURTHER THAN FOUR HANDBREADTHS.

GEMARA. It is quite obvious that if an area is easily accessible to two courtyards[15] the law is exactly the same as in the case of a window between two courtyards;[16] that if it[17] is accessible to either courtyard only through thrusting the law is exactly the same as in the case of a wall between two courtyards;[18] that if it[19] is accessible to either only by means of lowering their things the law is identical with that of a trench between two courtyards;[20] that if to the one it[21] is easily accessible[22] but to the other it is accessible only by means of thrusting, the law is identical with that which Rabbah son of R. Huna cited in the name of R. Nahman;[20] that if it[23] was easily accessible[22] to the one while to the other it was accessible only by means of the lowering of objects, the law is identical with the one which R. Shezbi cited in the name of R. Nahman;[20] what, however, is the law where it[24] is accessible to one by means of lowering and to the other by means of thrusting?[25] — Rab ruled: Both[26] are forbidden [access], but Samuel ruled: Access to it is granted to the tenants[27] that can use it by means of lowering things[28] since to them its use is comparatively easy while to others its use is comparatively difficult, and any area the use of which is convenient to one and difficult to another is to be assigned to the one to whom its use is convenient.

We learned: IF THE TENANTS OF A COURTYARD AND THE TENANTS ON ITS GALLERY FORGOT TO JOIN TOGETHER IN AN 'ERUB ANY LEVEL THAT IS HIGHER THAN TEN HANDBREADTHS BELONGS TO THE GALLERY AND ANY LOWER LEVEL BELONGS TO THE COURTYARD. Assuming that by[29] GALLERY

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(1) Need the dough-offering be set apart.

(2) Ex. XVI, 36.

(3) Since an 'omer is a tenth part of an ephah which (cf. Men. 77a) equals three se'ah, an 'omer = 3/10 se'ah = 3 X 6/10 kab = 3 X 6 X 4/10 log = 36/5 = 7 1/5 log = (since a log = 6 eggs) 7 log and 1 1/5 of an egg.

(4) Corresponding to seven log.
(5) Sc. 1 1/5 of an egg (cf. n. 4).
(6) Since the quantity mentioned represents the usual size of dough consumed by a person in twenty-four hours (cf. Ex. VI, 16, 18ff).
(7) In twenty-four hours (cf. prev. n.).
(8) Lit., ‘blessed’.
(9) Above it. Tenants whose house doors opened into galleries above courtyards had no direct access to the public domain except through the courtyard into which they gained entry by means of a ladder.
(10) But separate ‘erubs were prepared for each group of tenants.
(11) Such as a mound or a pillar.
(12) The tenants of the gallery but not those of the courtyard may, therefore, use it.
(13) Lit., ‘less than here’.
(14) Whose tenants may use it, but not those of the gallery.
(15) Each of which had a separate ‘erub. Lit., ‘(accessible) to this by a door and to this by a door’.
(16) Enunciated supra 76a.
(17) Being on a higher level than the courtyard.
(18) Supra 76b, 78b.
(19) Being on a lower level.
(20) Supra 77a.
(21) Being on the same level as one courtyard but on a higher level than the other.
(22) Lit., ‘by a door’.
(23) Being on a level with one courtyard and on a lower level than the other.
(24) Being lower than the one courtyard and higher than the other.
(25) Sc. do the tenants of the two courtyards respectively impose restrictions upon each other, because neither can conveniently use that area, or is a distinction drawn between the respective degrees of inconvenience?
(26) The tenants of the two courtyards.
(27) Lit., ‘to this’.
(28) Sc. to those who occupy the higher courtyard.
(29) Lit., ‘it went up on your mind: what is’.

Talmud - Mas. Eiruvin 84a

was meant the tenants of an upper storey[1] and that the reason why they are described as the[2] GALLERY IS because they ascend to their quarters by way of the gallery, does it not clearly follow[3] that any area that is accessible to one[4] by means of lowering and to the other[5] by means of throwing up is assigned to the one who uses it by means of lowering? — As R. Huna explains [below that the reference is] to those who dwelt on the gallery so [it may] also here [be explained that the reference is] to those who dwelt on the gallery.[6] If so,[7] read the final clause: AND ANY LOWER LEVEL BELONGS TO THE COURTYARD; but why,[8] Seeing that it is easily accessible to both?[9] — The meaning of TO THE COURTYARD is to the courtyard also, and both[10] are forbidden access to it. This[11] is also borne out by a process of reasoning, since in a subsequent clause It was stated: THIS, HOWEVER, APPLIES ONLY TO ONE THAT ADJOINS THE GALLERY, BUT ONE THAT IS REMOVED FROM IT, EVEN IF TEN HANDBREADTHS HIGH, BELONGS TO THE COURTYARD. For what could be the meaning of the phrase, TO THE COURTYARD? If it be suggested that the meaning is: To the courtyard and that its use is permitted, [it could be objected:]. Why, seeing that it is a domain common to the two of them?[12] Consequently it must be admitted that[13] TO THE COURTYARD means: To the courtyard also and that both[12] are forbidden access to it, so it should here also be explained that the meaning of the phrase, TO THE COURTYARD is: To the courtyard also and that both[12] are forbidden access to it. This is conclusive.

We have learnt: THE BANK AROUND A CISTERN, OR A ROCK, THAT IS TEN HANDBREADTHS HIGH BELONGS TO THE GALLERY, BUT IF IT IS LOWER IT BELONGS

TO THE COURTYARD![14] — R. Huna replied: [The meaning[15] is], to those who dwelt on the gallery.[16] This may be a satisfactory explanation in the case of the rock;[17] what, however, can be said as regards[18] A CISTERN?[19] — R. Isaac son of Rab Judah replied: We are here dealing with the case of a cistern that was full of water.[20] But is it not[21] being diminished?[22] — Since the use of the cistern is permitted[23] when full it is also permitted when some of the water is wanting. On the contrary! Since Its use would be forbidden when it is not full should it not also be forbidden when full? Rather, explained Abaye, we are here dealing with a cistern that was full of fruit. Might not these also be diminished?[24] — [It is a case] where they are tebel.[25] A textual deduction leads to the same conclusion: Since it has been put on a par[26] with ROCK.[27] This is conclusive. But[28] why should it be necessary to mention both CISTERN and ROCK?[29] — Both are required. For if we had been informed of the law in the case of the ROCK only, the ruling might have been presumed to apply to that alone, since no preventive measure in that case could be called for,[30] but that in the case of a cistern a preventive measure[31] should be enacted, since it might sometimes be full of properly prepared fruit,[32] hence both were required.

Come and hear: If the tenants of a courtyard and the tenants of the upper storey forgot to prepare a joint ‘erub,[33] the former may use[34] the lower ten handbreadths[35] and the latter may use the upper ten handbreadths.[36] In what circumstances? If a bracket[37] projected from the wall at a lower altitude than ten handbreadths it is assigned to the courtyard, but if it was higher than ten handbreadths[38] it is assigned to the upper storey. Thus it follows, does it not, that the space intervening[39] is forbidden?[40] — R. Nahman replied: Here we are dealing with the case of a wall nineteen handbreadths high,[41] from which a bracket projected. If [it projected] at a lower altitude than ten handbreadths,[42] it is easily accessible to the one [group of tenants][43] while to the other [group it is only accessible] by means of lowering their things,[44] but [if it projected] at a higher altitude [than ten handbreadths][45] it is easily accessible to the latter[46] while to the former [it is accessible only] by means of thrusting.[47]

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(1) Whose quarters are on a higher level than the balcony and consequently are also higher than a mound of the height of ten handbreadths or any similar eminence in the courtyard.

(2) Lit., ‘and why (cf. Bah) do they call it’.

(3) Since the tenants of the upper storey may, and the tenants of the courtyard may not use the eminence.

(4) As, in this case, the tenants of the upper storey.

(5) In this case the tenants of the courtyard.

(6) An eminence of the height of ten handbreadths in the courtyard would thus be either on a level with their quarters or slightly higher or lower, but always by no more than ten handbreadths (cf. infra n. 10).

(7) That GALLERY designates the tenants who dwell on it.

(8) Should it be assigned to the courtyard.

(9) To the gallery (which is usually not higher than ten handbreadths) as well as to the courtyard. Since both groups of tenants can have easy access to it restrictions on its use should be mutually imposed.

(10) The tenants of the courtyard as well as those of the gallery.

(11) That TO THE COURTYARD means: Not only the tenants of the gallery but also those of the courtyard.

(12) V. p. 583, n. 11.

(13) Lit., ‘but what’.

(14) GALLERY is assumed to mean the tenants of the upper storey (for whom the gallery is a means of approach to their houses) who can use the RANK or the ROCK by lowering their things, while the tenants of the courtyard can use it only by thrusting their things up to it. Now since it is ruled that the former may use the BANK etc. does not an objection arise against Rab who maintained (Supra 83b) that in such circumstances the two groups of tenants impose restrictions upon each other?

(15) Of the phrase To THE GALLERY.

(16) And not in the upper storey. Cf. supra p. 583, n. 7 mut. mut.

(17) Which, being more or less on a level with the balcony and easily accessible to its tenants, may well be assigned for their use.

(18) Lit., ‘what is there to say’.

(19) Whose bottom cannot he reached even by the tenants of the gallery except by lowering their buckets while the tenants of the courtyard can use it only by means of thrusting their buckets into it across its bank. Now since in this case of thrusting by the latter and of lowering by the former the use of the bank was granted to the former, the objection again arises against Rab who in such circumstances maintained that both groups of tenants are forbidden access.
(20) The surface being more or less on a level with the gallery and therefore easily accessible to its tenants. Hence its assignment to the gallery.
(21) By the using up of the water near the surface.
(22) In consequence of which the tenants of the gallery would have to lower their buckets. Why then should the use of the cistern be permitted even in that case?
(23) To the tenants of the gallery.
(24) By the removal of some of the fruit.
(25) Such may not be moved from their place on the Sabbath.
(26) Lit., since it was taught similarly'.
(27) Which cannot be reduced on the Sabbath by mere use. Both standing in juxtaposition they must be assumed to be on a par.
(28) If it is to be assumed that the cistern was full of fruit that cannot be diminished on the Sabbath as a rock that cannot be diminished.
(29) Seeing that one could easily be inferred from the other.
(30) Lit., 'there is not (reason) to make a preventive measure
(31) Forbidding its use.
(32) Which may be handled on the Sabbath and which might, therefore, be removed during the Sabbath day.
(33) But each group prepared one for itself.
(34) Along the wall.
(35) Since these are easily accessible to them, while to the tenants of the upper storey they are inaccessible except by the lowering of their objects into that level.
(36) Cf. prev. n. mut. mut. In this case access is easy to the tenants of the upper storey while to those of the courtyard it is accessible only by thrusting.
(37) Four handbreadths in width.
(38) This is now assumed to mean that the bracket was higher than ten handbreadths measured from the upper storey downwards in the direction of the ground of the courtyard.
(39) Between the ten handbreadths from the ground and ten handbreadths from the upper storey.
(40) Because access to it is equally difficult to both groups of tenants. Those of the upper storey can use it only by lowering their things, while those of the courtyard can use it only by thrusting up their things. This ruling being in agreement with Rab's view, does not an objection arise against Samuel?
(41) So that no space intervened between the lower ten and the upper ten handbreadths.
(42) From the ground of the courtyard.
(43) Lit., 'to this (as if) by a door', Sc. the tenants of the courtyard can easily use that space that is not higher than ten handbreadths.
(44) Hence the ruling that the use of the bracket 'is assigned to the courtyard'.
(45) From the ground of the courtyard.
(46) Cf. supra n. 7 mut. mut.
(47) Its use must consequently be granted to the tenants of the upper storey.

Talmud - Mas. Eiruvin 84b

Come and hear: If two balconies were situated[1] [in positions] higher than each other[2] and a partition[3] was made[4] for the upper one[5] but not for the lower one restrictions are imposed on the use of both[6] until all their tenants have joined in one 'erub![7] — R. Adda b. Ahabah replied: This is a case where the tenants of the lower balcony come[8] to fill their buckets by way of the upper one.[9] Abaye replied: This is a case where the balconies were situated within ten handbreadths from each other,[10] but[11] the ruling is to be understood to be in the form of 'not only but':[12] Not only where a partition was made for the lower one and none for the upper one are both forbidden, since, owing to the fact that they are situated with tell handbreadths from each other, their tenants impose restrictions upon each other, but even where the partition was made for the upper, and none was made for the lower,[13] in which case it might have been assumed that, owing to the fact that its use is convenient for the former and difficult for the latter, it should be assigned to those to whom its use is convenient,[14] hence we were informed that, since they are situated within ten handbreadths from, they also impose restrictions upon each other;[15] as is the ruling in the case R. Nahman cited in the name of Samuel: If a roof[16] adjoins a public domain[17] a permanent ladder is required to render it permissible for use.[18] Thus it is only a ‘permanent ladder’ that effects permissibility[19] but not an occasional one;[20] but why?[21] Obviously[22] because on account of the fact that they[23] are situated within ten handbreadths from each other, the people in them impose restrictions upon each other.[24] R. Papa demurred: Is it not possible that this[25] applies Only to a roof on which many people[26] are in the habit of putting down their skull-caps and turbans?[27] Rab Judah citing Samuel ruled:

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(1) On the same wall at the sea-shore above the water.

(2) Being nevertheless drawn away from each other in a manner that left a space of less than four handbreadths between them and thus enabling persons on the lower balcony to draw their water by throwing a bucket into a hole (v. following n.) in the floor of the upper balcony.

(3) Round a hole, four handbreadths wide, in the floor of the balcony through which water is to be drawn from the sea.

(4) Jointly by the tenants of both balconies (cf. infra 88a).

(5) A partition round such a hole, though in relation to the sea it is a suspended one, is deemed to extend downwards and penetrating to the bed of the sea (cf. Supra 12a) and forming a private domain through which the water of the sea may be taken up in buckets to the balcony. In the absence of such a device the movement of water or any other objects from the sea which has the status of a karmelith into the balcony which has that of a private domain is forbidden on the Sabbath.

(6) Sc. neither the tenants of the upper balcony may draw water from the sea through the hole nor may those of the lower one throw their buckets into that hole to draw water through it.

(7) Infra 87b. In the absence of a joint ‘erub the hole within the partition remains a mixed domain belonging to two different groups of tenants who impose restrictions upon each other and is, therefore, forbidden to both. Now here it is a case of use by lowering on the part of the tenants of the upper balcony and by thrusting on the part of those of the lower one, and yet it was ruled that both groups are forbidden; how then could Samuel maintain (supra 83b) that access is granted to ‘the tenants that can use it by means of lowering’?

(8) By means of a ladder.

(9) So that both groups of tenants use the hole in exactly the same manner both lowering and none thrusting their buckets.

(10) Sc. the position of the upper balcony was by less than ten handbreadths higher than the lower, in consequence of which there can be no existence for a third domain between the two, the use of which should be allowed to the one or the other of these two adjacent domains. A third domain of such a character is possible only where the two adjacent domains were separated from each other by a trench, or a wall that was ten handbreadths deep or high or by a space of similar height.

(11) In reply to the possible objection: If the prohibition of the use of the hole is due to the proximity of the balconies and not to the manner in which use of it was made, why was the ruling limited to the case where ‘a partition was made for the upper one seeing that the same ruling should apply even where it was made for the lower one?

(12) Lit., ‘and he implied (the formula) it is not required’.

(13) So that the tenants of the former use it by lowering and the tenants of the latter use it by thrusting.

(14) In agreement with Samuel.

(15) Thus indicating that in such a case the manner of use is of no consequence.

(16) That was less than ten handbreadths high (cf. R. Tam in Tosaf. a.l. whose interpretation is here followed).

(17) On one of its sides, while on its other sides it adjoins a courtyard.

(18) By the tenants of the courtyard. Though a ladder cannot effect the permissibility of a karmelith (cf. Maharsha, a.l.) the roof which is a private domain within, and is consequently no proper karmelith, may well be rendered permissible by connecting it with a permanent ladder with the courtyard.

(19) Lit., ‘yes’.

(20) Though even such an occasional ladder facilitates the use of the roof by the tenants of the courtyard to whom the roof is thereby much more easily accessible than to the people in the public domain who have not the use of even an occasional ladder.

(21) Sc. in view of the fact that even an occasional ladder facilitates the use of the roof by the courtyard tenants (cf. prev. n.) why should not the use of the roof be permitted to them?

(22) Lit., ‘not?’

(23) The courtyard and the public domain.

(24) In agreement with Abaye's explanation.

(25) The ruling that an occasional ladder cannot effect permissibility.

(26) On weekdays.

(27) Sc. though they cannot conveniently put upon it any heavy loads, they can well use it for putting down light objects such as skull-caps which on a hot day people usually put down there while they rest and cool themselves. As the use of the roof is thus equally accessible to, and convenient for both the people in the public domain and those in the courtyard, a permanent ladder is justifiably required if the roof (an imperfect karmelith) is to be permanently connected with the courtyard and disconnected from the public domain. This ruling, therefore, cannot be adduced as a support for Abaye's submission. (For other interpretations of the passage cf. Rashi and Tosaf. a.l.).

Talmud - Mas. Eiruvin 85a

If a cistern[1] between two courtyards[2] was removed four handbreadths frown the one wall[3] and four handbreadths from the other wall,[4] each owner may construct some slight projection from his wall[5] and may then draw the water.[6] Rab Judah on his own, however, ruled: Even a reed suffices.[7] Said Abaye to R. Joseph, This ruling of Rab Judah[8] must be Samuel's,[9] for should it be contended that It is[10] Rab's the difficulty would arise: Did he not rule that no man could impose restrictions upon another through the air?[11] From which ruling of Samuel, however, could this[8] be derived?[12] If it be suggested: From the following which R. Nahman reported In the name of Samuel, viz., If a roof adjoins a public domain a permanent ladder is required to render it permissible for use,[13] — [could it not be retorted]: that the reason there[14] might be in agreement with the opinion of R. Papa?[15] — It is rather from this ruling:[16] ‘Each owner constructs some slight projection from his wall and he may then draw the water’.[17] The reason then[18] is that a projection was made,[19] but if no projection had been made it would have been maintained that a man imposes restrictions upon another through the air.[20] From which ruling of Rab, however, was the view[21] here attributed to him derived? If it be suggested from this: ‘If two balconies were situated in positions one higher than the other, and a partition was made for the upper one but not for the lower one restrictions are imposed on the use of both until all their tenants have joined in one ‘erub’;[22] in connection with which R. Huna stated in the name of Rab: ‘This[23] was learnt only in respect of [a balcony] that is near[24] but where it was[25] four handbreadths away,[26] the use of the upper one is permitted and that of the lower one is forbidden’,[27] could it not be retorted that the case here[28] comes under a different category[29] because, owing to the fact that access in the case of the one group[30] is by means of thrusting as well as by means of lowering[31] while in that of the other[32] it is by means of lowering only, the case is analogous to that where one gains access by means of thrusting[33] and the other by means of a door?[34] — It is rather from this ruling: which R. Nahman cited in the name of Rabbah b. Abbuha who had it from Rab:[35] If there were three ruins[36] between two houses[37] each occupier may use[38] the ruin nearest to him[39] by means of thrusting[40]

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(1) In an alley into which no courtyard or house doors opened.

(2) Between which intervened the alley (cf. prev. n.) into which a window from each courtyard opened.

(3) Of the one courtyard.

(4) Of the courtyard opposite. If the distances between the cistern and courtyards were less than four handbreadths access to the cistern through the courtyard windows (cf. supra n. 2) would have been equally easy from both courtyards and the use of the cistern would, therefore, have been forbidden to the tenants of both on account (cf. infra 86a) of the restrictions they would impose upon one another.

(5) Towards the cistern. Lit., ‘this (one) brings out a projection of any size

(6) Through his window. The two domains represented by the two courtyards, since they are four handbreadths distant from the cistern, cannot impose restrictions on its use, while the use of the alley itself cannot in any way be affected since neither house doors nor courtyard doors opened into it. The very requirement of the projection is in fact unnecessary for the purpose of bringing about the permissibility of the use of the cistern. It rather serves merely as a distinguishing mark to prevent people from the use of a domain in which more than one mall has a share, unless a joint ‘erub had been duly prepared.

(7) As a projection for the purpose mentioned.

(8) That provision for some sort of a projection is necessary.

(9) Not Rab's who also was his teacher.

(10) Lit., ‘for if’.

(11) And not even a reed should have been required in this case where the bucket has to be thrust through a spice of four handbreadths in the air. The ruling must consequently be Samuel's.

(12) It is now assumed that Abaye did not hear Rab Judah's ruling in conjunction with the one he specifically reported in the name of Samuel. Had he been assumed to have heard the two in the form recorded supra this question could never have arisen.

(13) Supra 84b q.v. notes; and in the absence of such a ladder the people in the public domain and the tenants of the courtyard impose restrictions upon one another in the use of the roof. Now since a roof is usually inaccessible from a public domain except by means of thrusting the only way by which a man in that domain could make use of the roof would be by thrusting some object or objects on it through the air. This being forbidden by Samuel it follows that in his opinion restrictions are imposed even through the air.

(14) For the prohibition in the absence of a permanent ladder.

(15) That the roof can be used from the public domain, by people who put upon it their skull-caps and turbans.

(16) That, in the opinion of Abaye, Rab Judah deduced Samuel's view on the necessity for some projection. Abaye, it is now concluded, did hear Rab Judah's ruling in the form in which it was recorded supra.

(17) Supra q.v. notes.

(18) Why the drawing of the water is permitted.

(19) Lit., ‘that he brought out’.

(20) And since Samuel required only ‘some slight projection’ Rab Judah deduced that ‘even a reed suffices’.

(21) That no man can impose restrictions upon another through the air.

(22) Supra 84b q.v. notes.

(23) That restrictions are imposed by the tenants of the lower balcony upon those of the upper one.

(24) Sc. though it was vertically ten handbreadths lower than the upper one it was horizontally within four handbreadths from it.

(25) Horizontally.

(26) So that its tenants cannot use the upper balcony except by thrusting their buckets through the air.

(27) Which shows that, according to Rab, no restrictions can be imposed through the air by the tenants of the one balcony upon those of the other.

(28) That of the two balconies.

(29) Lit., ‘perhaps it is here different’.

(30) The people on the lower balcony.

(31) Thrusting their buckets to the upper balcony and then lowering it through the hole in the floor into the water.

(32) The tenants of the upper one.

(33) Difficult and inconvenient use.

(34) Sc. easy and convenient access; and, since the tenants of the lower balcony are in the position of the former while those of the upper one are in the position of the latter, Rab justifiably ruled that ‘the use of the upper one is permitted and that of the lower one is forbidden’. What proof however, is there that Rab also maintains that no restrictions can be imposed through the air even where, as in the case of the cistern between the two courtyards, the tenants can use it in exactly the same manner?

(35) That Rab's view was deduced.

(36) Inhabited by none and their walls were broken down so that the interiors were fully exposed.

(37) Which had windows opening towards the ruins and the occupiers of which were the sole owners of the ruins.

(38) Through his windows.

(39) As he can never, even on a weekday, make proper use of that ruin into which no doors opened, and access to which can be gained only through a window, its exposure through the broken walls to the adjacent ruins does not deprive him of the right of using it.

(40) Throughout its area even far away from the window, or by lowering things immediately below it.

Talmud - Mas. Eiruvin 85b

while the use of the middle ruin is forbidden.[1]

R. Berona, sitting at his studies, was enunciating this ruling[2] when R. Eleazar,[3] a student at the college, asked him, 'Did Rab actually say this?'[4] — 'Yes', the other replied. 'Will you', the first asked: 'show me his lodgings?' When the other showed them to him he approached Rab and asked him, 'Did the Master say this?'[5] — 'Yes', the other replied. 'But', the first objected, 'did not the Master state: Where it is accessible to one by means of lowering things and to the other by means of thrusting both are forbidden access'?[6] — 'You imagine', the other replied: 'that they[7] stood in a straight line;[8] but no, they stood in a triangle'.[9]

Said R. Papa to Raba: Must it be assumed that Samuel[10] does not uphold the view of R. Dimi, seeing that when R. Dimi came[11]

posed even through the air. How, then, he wondered, could Rab allow each occupier to use the ruin adjacent to his house seeing that the occupier opposite should impose restrictions on its use through the air since he can use it by throwing his things into it? he stated in the name of R. Johanan: On a place[12] whose area is less than four handbreadths by four[13] it is permissible both for the people of the public domain and for those of the private domain[14] to re-arrange their burdens, provided they do not exchange them?[15] — There[16] it is a case of domains,[17] access between which is Pentateuchally forbidden,[18] while here[19] it is a case of domains,[20] access between which is only Rabbinically forbidden, and the Sages have applied to their enactments, heavier restrictions than to those of the Torah.[21]

Said Rabina to Raba: Did Rab say this?[22] Was it not in fact stated: If two houses[23] stood on the two sides respectively of a public domain it is forbidden, said Rabbah son of R. Huna In the name of Rab, to throw any object from one into the other,[24] and Samuel ruled: It is permitted to throw from one into the other?[25] — Have we not explained,[26] the other replied, that one[27] was higher and the other[28] lower so that[29] it may sometimes happen that the object might drop and roll away and one might in consequence be tempted to carry it.[30]

MISHNAH. IF A MAN DEPOSITED HIS 'ERUB[31] IN A GATE-HOUSE, AN EXEDRA OR A GALLERY IT IS NOT A VALID 'ERUB;[32] AND NO ONE WHO DWELLS IN IT[32] IMPOSES RESTRICTIONS.[33] AN 'ERUB[31] DEPOSITED IN A STRAW-SHED, A CATTLE-SHED, A WOOD-SHED OR STOREHOUSE IS VALID;[34] AND ANYONE[35] WHO DWELLS IN IT IMPOSES RESTRICTIONS.[36] R. JUDAH RULED: IF THE HOUSEHOLDER HAS THERE[37] ANY HOLDING[38] THE TENANT IMPOSES NO RESTRICTIONS.[39]

GEMARA. R. Judah son of R. Samuel b. Shilath stated: If concerning any place the Sages[40] ruled that 'No one who dwells in it imposes restrictions' the 'erub that is deposited [in such a place] is no valid 'erub, the only exception being the gate-house of an individual owner;[41] and if concerning any place the Sages ruled that 'no 'erub[42] may be deposited in it', shittuf[43] may nevertheless be deposited in it,[44] the only exception being the air space of an alley. But what does he[45] teach us,[46] seeing that we learned: IF A MAN DEPOSITED HIS 'ERUB IN A GATE-HOUSE, AN EXEDRA ON A GALLERY IT IS NOT A VALID 'ERUB, from which it follows only that it is NOT A VALID 'ERUB but that it is nevertheless a valid shittuf. — He[45] found it necessary to make his statement on account of the law relating to the ‘gate-house of an individual owner’[41] and to the ‘air space of an alley’ which we have not learnt In our Mishnah. So[47] it was also taught: ‘If a man deposited his ‘erub in a gate-house, an exedra, a gallery, a courtyard or an alley his ‘erub is valid’, but have we not learnt: IT IS NOT A VALID ‘ERUB?[48] Read, therefore, ‘the shittuf is valid.’[49] But can the food for shittuf be safely preserved in an alley?[50] — Read: In a courtyard that is situated in the alley.[51]

Rab Judah citing Samuel[52] ruled: If members of a party were dining when the sanctity of the Sabbath day overtook them, they may rely upon the bread on the table to serve the purpose of ‘erub or, as others say, the purpose of shittuf. Rabbah observed: There is really no divergence of opinion between them,[53] since the former refers to a party dining in a house[54] while the latter refer to one dining in a courtyard.[55] Said Abaye to Rabbah, It was taught in agreement with your view: ‘Erubs of courtyards should be deposited in a courtyard and shittufs of alleys in an alley,’[56] and when the objection was raised: How could it be said that ‘erubs of courtyards should be deposited in a courtyard’ seeing that we learned, IF A MAN DEPOSITED HIS ‘ERUB IN A GATE-HOUSE OR EXEDRA OR A GALLERY IT IS NOT A VALID ‘ERUB?[57] [It was replied,] Read: ‘Erubs of courtyards should be deposited in a house that was situated in the courtyard, and food for the shittuf of an alley should be deposited in a courtyard that was in the alley.[58]

R. JUDAH RULED: IF . . . HAS THERE ANY HOLDING etc. What is one to understand by a HOLDING? — One, for instance, like that in the courtyard of Bonyis.[59]

The son of Bonyis once visited Rabbi. ‘Make room’, the latter called out,[60] ‘for the owner of a hundred maneh’. Another person entered, when he called out,

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(1) To the occupiers of either house. The reason is discussed infra. Now since the two ruins that were adjacent to the houses may be used by the respective occupiers, despite the use that each is able on weekdays to make of the ruin adjacent to his neighbour's house by thrusting objects into it through the air, it follows that in the opinion of Rab no restrictions can be imposed by one person upon another through his use of the air.

(2) Of Rab, just cited by R. Nahman in the name of Rabbah b. Abbuha.

(3) v. marg. glosses. Cur. edd. ‘Eliezer.

(4) R. Eleazar's view was that Rab, who forbade the use of the middle ruin though neither of the occupiers of the house could use It except by throwing his things into it through the air, was of the opinion that restrictions are imposed

(5) V. p. 591, n. 15.

(6) From which it follows that if the use of a place is not as convenient to one of the parties as in the case of access through an open door, though that party's use by lowering is easier than the other party's use by thrusting, restrictions are nevertheless imposed. How then, seeing that according to Rab restrictions are imposed through the air (cf. prev. n.), could the use of a ruin be permitted to the occupier of the house nearest to it in view of the fact that his access to it is only less difficult than that of the occupier of the opposite house but not really convenient?

(7) The three ruins.

(8) So that the air space of a ruin intervened between either house and the central ruin.

(9) Lit., ‘like a tripod’. One ruin was adjacent to both houses and faced the other two that stood in a straight line and were respectively adjacent to one of the houses and separated from the other by the ruin adjacent to it. The use of the central ruin is forbidden to both occupiers, not for the reason assumed by R. Eleazar, but because both, who through their windows have equally direct, though inconvenient, access to it, impose restrictions upon each other. The use of the other two ruins too is permitted respectively to both because in the case of either ruin one of the occupiers has direct access and the other has only indirect access by means of thrusting his things into it through the air through which no restriction can be imposed.

(10) In laying down supra that a man may impose restrictions upon another through the air.

(11) From Palestine to Babylon.

(12) Situated between a public and a private domain.

(13) And is consequently too insignificant to constitute a domain of its own.

(14) Since in relation to either it loses its identity.

(15) If exchange also were permitted people might erroneously assume that it is permitted to carry objects from a private domain into a public one and vice versa. Now, a place having an area so small as the one described has no legal existence in respect of the Sabbath laws and is, therefore, analogous to mere air space and, since it was ruled that it may be freely used, and that no provision such e.g. as a projection is necessary, Samuel who did prescribe a projection in the case of use through the air cannot very well agree with it.

(16) R. Dimi's ruling.

(17) A public and a private one.

(18) As people are usually careful in the observance of Pentateuchal restrictions no special provision, such as that of a projection, was considered necessary.

(19) A cistern between two courtyards.

(20) Both Pentateuchally private.

(21) As a precaution against possible laxity in their observance.

(22) That each occupier may thrust things into the ruin nearest to his house because the occupier of the opposite house cannot impose restrictions through the air.

(23) Both belonging to the same owner.

(24) Though it passes the public domain at a higher level than ten handbreadths from the ground; the reason presumably being that the people of the public domain impose restrictions through the air of their domain through which the object must pass.

(25) Now since Rab presumably laid down here (cf. prev. n.) that restrictions may be imposed through the air, how could he have ruled supra that restrictions through the air cannot be imposed?

(26) As a reason for the prohibition.

(27) Of the two houses under discussion.

(28) Of the two houses under discussion.

(29) Where an object is thrown from the lower to the upper house.

(30) From the public into the private domain which is Pentateuchally forbidden. Samuel's ruling here that ‘it is permitted’ to throw objects from one house into the other, it may be added, presents no contradiction against his ruling supra that restrictions are imposed through the air, since the former case relates to domains access between which is Pentateuchally forbidden while the latter relates to such as are only Rabbinically forbidden. Greater safeguards, as has been explained supra, were required in the case of a Rabbinical enactment than in that of a Pentateuchal one.

(31) Of courtyards.

(32) Since none of these is a proper dwelling-house.

(33) Upon the occupier (or occupiers) of the courtyard, even if that tenant did not make a contribution to the ‘erub of the courtyard.

(34) Lit., ‘behold this is ‘erub’.

(35) To whom the householder has loaned its use.

(36) Upon the use of the courtyard, on account of its door that opened into that courtyard.

(37) In the straw-shed etc. In his courtyard, which he loaned to the tenant.

(38) Lit., ‘a holding (or grasping) of the hand (or place’), sc. if he is entitled to use a section of the place for his own storage.

(39) Because the entire courtyard with all its rooms and sheds are deemed to be the dwelling quarters of the householder while the tenant in question has no individual status but that of one of his household.

(40) Cf. Bah.

(41) Of the courtyard. Our Mishnah refers to the gate-house of a courtyard that was owned by several people.

(42) Of courtyards.

(43) Sc. the food prescribed for the purpose.

(44) The essence of an ‘erub of courtyards is the legal fusion of all the houses and rooms in a courtyard into one common dwelling, that dwelling being the place in which the ‘erub is deposited. As in its essence it must constitute a ‘dwelling’, only a place or structure that is used as a dwelling is suitable for the purpose. Shittuf however, which combines only courtyards, in which people do not actually dwell, has no connection with the principle of ‘a dwelling’ and the food for it may, therefore, be deposited even in a place that is not used for dwelling purposes.

(45) R. Judah.

(46) By the statement he cited in the name of R. Samuel b. Shilath.
(47) That the food for Shittuf may be deposited even in those structures where no ‘erub may be deposited.
(48) How then are the two rulings to be reconciled?
(49) This providing support for the ruling cited by R. Judah.
(50) Lit., ‘shittuf in an alley is not preserved’.
(51) Sc. only one whose door opened into the alley.
(52) MS.M., ‘Rab’ (cf. the parallel passage supra 73b, where cur. edd. also read ‘Rab’).
(53) Those who read ‘erub’ and those who read ‘shittuf’.
(54) Which is a suitable place for an ‘erub.
(55) In which only the food for shittuf, but not that for ‘erub, may be deposited.
(56) Suk. 3b.
(57) Because a proper dwelling house is an essential. How then could an open courtyard be used for the purpose?
(58) But neither can an ‘erub be deposited in the courtyard itself nor a shittuf in the alley itself.
(59) A rich man who allowed people to occupy various rooms in his courtyard but reserved for himself the right to a holding in each room for the purpose of storing in it some of his own goods.
(60) Lit., , ‘said to them’.

Talmud - Mas. Eiruvin 86a

‘Make room for the owner of two hundred maneh’. ‘Master’, said R. Ishmael son of R. Jose to him, ‘the father of this man[1] owns a thousand ships on the sea and a corresponding number of towns on land’. ‘When you meet[2] his father’, the other replied: ‘tell him not to[3] send him to me in such clothes’.[4]

Rabbi showed respect to rich men, and R. Akiba also showed respect to rich men, in agreement with an exposition made by Raba[5] b. Mari: May he be enthroned before God for ever, appoint mercy and truth that they may preserve him,[6] when ‘may he be enthroned before God for ever’?[7] When he ‘appoint mercy and truth[8] that they may preserve him’.

Rabbah b. Bar Hana explained:[9] The pill of the plough, for instance.[10]

R. Nahman stated: It was taught at the school of Samuel: If it[11] is an object that may be handled on the Sabbath[12] the tenant[13] imposes restrictions,[14] but if it is one that may not be handled on the Sabbath[15] the tenant imposes no restrictions.[16] So[17] it was also taught: If he[18] has tebel, bars of metal, or any other object that may not be moved on the Sabbath, the tenant[19] imposes no restrictions.

MISHNAH. IF A MAN LEFT HIS HOUSE AND WENT TO SPEND THE SABBATH IN ANOTHER TOWN, WHETHER HE WAS A GENTILE OR AN ISRAELITE, HIS SHARE[20] IMPOSES RESTRICTIONS ON THE RESIDENTS OF THE COURTYARD;[21] SO R. MEIR, R. JUDAH RULED: IT IMPOSES NO RESTRICTIONS.[22] R. JOSE[23] RULED: THE SHARE OF A GENTILE[24] IMPOSES RESTRICTIONS; BUT THAT OF AN ISRAELITE[25] DOES NOT IMPOSE ANY RESTRICTIONS BECAUSE IT IS NOT USUAL FOR AN ISRAELITE TO RETURN ON THE SABBATH. R. SIMEON RULED: EVEN IF HE LEFT HIS HOUSE AND WENT TO SPEND THE SABBATH WITH HIS DAUGHTER IN THE SAME TOWN[26] HIS SHARE IMPOSES NO RESTRICTION, SINCE[27] HE HAD NO INTENTION WHATEVER OF RETURNING.[28]

GEMARA. Rab stated: The halachah is in agreement with R. SIMEON. This, however, applies only [where the man went to spend the Sabbath with] his daughter but not [where he went to spend it with] his son; for it is a common saying: ‘If a dog barks at you, go in; if a bitch barks at you go out’.[29]

MISHNAH. FROM A CISTERN BETWEEN TWO COURTYARDS[30] NO WATER MAY BE DRAWN[31] ON THE SABBATH[32] UNLESS A PARTITION TEN HANDBREADTHS HIGH HAS BEEN MADE FOR IT[33] EITHER BELOW[34] OR WITHIN ITS RIM.[35] R. SIMEON B. GAMALIEL STATED, BETH SHAMMAI RULED: BELOW,[34] AND BETH HILLEL RULED: ABOVE.[34] R. JUDAH OBSERVED: THE PARTITION COULD NOT BE MORE EFFECTIVE[36] THAN THE INTERVENING WALL.[37] GEMARA. R. Huna explained: BELOW[38] means actually below,[39] and ABOVE[40] means actually above,[41] and in either case the partition must be[42] within the cistern.[43] Rab Judah, however, explained: BELOW[38] means below the water,[44] and ABOVE[40] means above the water.[45]

Said Rabbah son of R. Hanan to Abaye: With reference to Rab Judah's submission that[46] ‘BELOW means below the water’[47] why[48] did he not explain, ‘actually below’?[49] Apparently because the waters would be mixed;[50] but then, even if he explains, ‘below the water’,[47] is not the water mixed?[51] — The other replied: Have you not heard the statement which Rab Judah made in the name of Rab or, as others are inclined to assert, in the name of R. Hiyya: The tops of the reeds[52] must be seen projecting one handbreadth above the surface of the water!

Furthermore,[53] with reference to Rab Judah's submission that ABOVE[40] means above the water’,[54] why[48] does he not explain, actually above’?[41] Apparently because the water would be mixed;[50] but then, even if it is explained: ‘above the water’[54] is not the water mixed?[50] — The other replied: Have you not heard what Jacob of Karhina has learnt: One must insert the ends of the reeds into the water[55] to the depth of a handbreadth.[56] With reference, however, to Rab Judah's ruling that a crossbeam of the width of four handbreadths effects permissibility[57] in a ruin,[58] and to that of R. Nahman who, citing Rabbah b. Abbuha, ruled that

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(1) Bonyis.
(2) Lit., ‘when thou wilt reach at’.
(3) Lit., ‘do not’.
(4) Which belie his wealth.
(5) En Jacob, ‘Rabbah’.
(6) Ps. LXI, 8.
(7) Sc. deserve honour and respect.
(8) Being rich one is able to exercise acts of mercy and truth. According to Rashi מן (here rendered ‘appoint’) signifies ‘food’ (cf. ‘manna’ which is the equivalent of the Hebrew n), the rich deserve respect because they exercise mercy and provide food for the poor.
(9) The meaning of a HOLDING.
(10) That the householder kept in the tenant's room.
(11) The object (cf. prev. n.).
(12) So that it is possible to remove it from the room during the day.
(13) Who may thus become the sole occupier.
(14) On the use of the courtyard, unless he made his contribution to the ‘erub.
(15) In consequence of which it must remain in the tenant's room until the termination of the day.
(16) Since the householder's right to the holding in his room is secured for the whole Sabbath.
(17) That the question of restrictions is dependent on the nature of the object.
(18) The householder.
(19) Since the householder's right to the holding in his room is secured for the whole Sabbath.
(20) In the courtyard, as a householder.
(21) Lit., ‘behold this (man) forbids’. Since he did not make a contribution to the ‘erub. An empty house, in his opinion, has the same status in respect of ‘erub as one that is occupied.
(22) An empty house, he maintains, cannot in respect of ‘erub be regarded as a dwelling-house.
(23) Though, in agreement with R. Judah, he holds that an empty house is no valid dwelling-house (cf. prev. n.).
(24) Since he might return during the Sabbath to re-occupy his house.

(25) While his house remains unoccupied.
(26) So that he could return on the Sabbath if he were disposed to do so.
(27) At the time the Sabbath began.
(28) Lit., ‘because he has already removed (the thought of returning) from his heart’.
(29) A quarrelsome son-in-law is not very dangerous and there is no reason to expect that his father-in-law might have to leave his daughter's house during the Sabbath. A quarrelsome daughter-in-law might drive her father-in-law from his sons's house before the day is over.
(30) Half of it being in the one and the other half in the other.
(31) If no joint ‘erub between the courtyards has been prepared.
(32) Because each group of tenants would unlawfully be drawing water out of the other group's domain and carrying it into theirs.
(33) To divide the waters of the two domains from each other.
(34) This is explained in the Gemara infra.
(35) Though it does not touch the water. The partition is deemed to be extended downwards and to penetrate beneath the surface of the water to the ground. This is a special relaxation of the law in respect of water partitions.
(36) Lit., ‘let not the partition be greater’.
(37) Between the two courtyards, and underneath which the cistern lies.
(38) In Beth Shammai's ruling.
(39) Below the mouth of the cistern, sc. near the water, though there is no need for the edge of the partition to touch the water.
(40) In the ruling of Beth Hillel.
(41) Near the rim. There is no need to extend it to the water.
(42) Lit., ‘and this and this’.
(43) Sc. even Beth Hillel agree that the entire partition of ten handbreadths high must be within the rim and below it.
(44) Sc. the partition must be fixed in the floor of the cistern.
(45) The partition need not actually touch it but must not be removed from it as far as the rum (cf. Supra n. 2. ‘Below’ according to R. Huna, it will be noted, is identical with ‘above’ according to Rab Judah).
(46) Lit., ‘that which Rab Judah said’.
(47) Sc. the partition must be fixed in the floor of the cistern.
(48) Lit., ‘what is the difference’.
(49) Below the mouth of the cistern, sc. near the water, though there is no need for the edge of the partition to touch the water.
(50) Beneath the partition.
(51) Above the partition; since the water may be deeper than the height of the partition the prescribed size of which is only ten handbreadths.
(52) Of which the partition in the water is made.
(53) It was asked.
(54) V. supra n. 8.
(55) According to Beth Hillel.
(56) The difference between Beth Hillel and Beth Shammai being that while Beth Hillel regard the partition as a mere symbol of division, in consequence of which it is not necessary to insert it below the depth of one handbreadth of water, Beth Shammai regard it as a proper division, in consequence of which its lower end must be inserted into the bottom of the cistern so that it may completely divide between the waters of the two domains.
(57) Of the movement of objects under it.
(58) If it lay on its width and reached from one wall to the other on the opposite side.

Talmud - Mas. Eiruvin 86b

a cross-beam of the width of four handbreadths[1] effects permissibility in the case of water,[2] does not the bucket swing to the other side[3] and thus carry up the water from it? — The Rabbis have ascertained that a bucket does not swing beyond four handbreadths.[4] But are not the waters mixed under the cross-beam at least? — The fact is that[5] the Sages[6] have relaxed the law in respect of water; as R. Tabla, when he enquired of Rab whether a suspended partition can convert a ruin[7] into a permitted domain, was told: A suspended partition effects permissibility of use in the case of water alone[8] since in the case of water did the Sages relax the law.

R. JUDAH OBSERVED: THE PARTITION COULD NOT BE. Rabbah b. Bar Hana citing R. Johanan explained: R. Judah[9] made his submission on the lines of the view of R. Jose who holds: A suspended partition effects permissibility even on dry land.[10] For we learned: If its walls were suspended[11] from above in a downward direction [the sukkah] is invalid, if they were removed[12] three handbreadths from the ground;[13] but if they are raised[14] in an upward direction[15] the sukkah is valid if they were ten handbreadths high.[16] R. Jose ruled: As walls of the height of ten handbreadths are valid if they rise from the ground upwards[16] so are those that stretch from above downwards valid if their height is ten handbreadths.[17] This,[18] however, is not correct; neither does R. Judah hold the view of R. Jose nor does R. Jose hold that of R. Judah. R. Judah does not hold the view of R. Jose, since the former maintained his view only[19] in respect of ‘erubs of courtyards which are merely a Rabbinical institution[20] but not in that of sukkah which is Pentateuchal.[21] Nor does R. Jose hold the view of R. Judah, since the former maintained his view only in respect of sukkah which is merely a positive commandment[22] but not in that of Sabbath which involves a prohibition punishable by stoning.[21] And should you ask,[23] ‘In agreement with whose view was that incident[24] at Sepphoris[25] decided upon?’[26] It was not decided upon [it might be explained,] in agreement with the view of R. Jose[27] but with that of R. Ishmael son of R. Jose.[28] When[29] R. Dimi came[30] he related: The people once forgot to bring[31] a scroll of the Torah on the Sabbath eve[32] and on the following day they[33] spread a sheet upon the pillars,[34] brought the scroll of the Torah[31] and read from it.[35] ‘They spread!’ But is this permitted[36] ab initio seeing that all[37] agree that not even a temporary tent may be put tip on the Sabbath?[38] The fact is that they found sheets spread upon the pillars and so they brought the scroll of the Torah and read from it.

Rabbah observed: R. Judah and R. Hananya b. Akabya have said practically the same thing.[39] As to R. Judah there is the ruling just mentioned. As to R. Hananya b. Akabya, it was taught:[40] R. Hananya b. Akabya ruled: In a balcony[41] that has an area of four cubits by four cubits[42]

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(1) If it lay on its wide side across the mouth of a cistern between two courtyards.

(2) Sc. the water may be used by the tenants of each courtyard as if a proper division had separated the water of their domain from that of the other.

(3) Of the cross-beam, into the adjacent domain.

(4) As the beam is four handbreadths wide the bucket cannot swing from its one side beyond its opposite side.

(5) Contrary to the view of Rab Judah.

(6) Beth Hillel who, according to the view of R. Huna, maintain that the top of the partition of ten handbreadths’ height may be as far above the water as the rim of the cistern.

(7) In respect of the movement of objects within it.

(8) As in the case, for instance, of a cistern between two domains.

(9) In allowing the wall between the courtyards, which, in relation to the water, is only a suspended partition, to form a valid division between the waters of the two domains.

(10) Not only in water. Hence it is not necessary for the partition either to be within the cistern or even to be made expressly for the purpose.

(11) Lit., ‘he who lets down walls’.

(12) Lit., ‘in the time that they are high’.

(13) Since kids are able to skip under them they are regarded as suspended partitions and are, therefore; invalid.

(14) From the ground.

(15) Lit., ‘from below to above’.

(16) Even though they do not reach to the roof’.

(17) Shab. 97a, Suk. 16a. Though a space of three handbreadths intervenes between them and the ground.

(18) R. Johanan's submission cited by Rabbah b. Bar Hana.

(19) Lit., ‘until here R. Judah only said’.
(20) That need not be so meticulously observed as a Pentateuchal law.
(21) Cf. prev. n. mut. mut. In this case, therefore, he would not allow a suspended partition.
(22) The transgression of which involves no serious penalties.
(23) Since R. Jose does not recognize the validity of a suspended partition in the case of the Sabbath laws.
(24) Concerning a suspended partition recorded infra.
(25) Which was subject to the jurisdiction of R. Jose (cf. Sanh. 32b).
(26) Lit., ‘by the mouth of whom was it done’, when a suspended partition was recognized as valid.
(27) In his lifetime when no decision against his views would have been proper.
(28) After his father's death.
(29) Lit., ‘for when’, introducing the incident just discussed.
(30) From Palestine to Babylon.
(31) To the Synagogue.
(32) Lit., ‘while it was yet day’.
(33) In order to enable them to carry the scroll from the house where it was kept, through a courtyard in which no ‘erub had been prepared, into the Synagogue.
(34) That were on the way; and thus they formed a narrow passage between the house in which the scroll was kept and the Synagogue. Since no other door opened into the passage it was permissible to carry the scroll through it even in the absence of all ‘erub.
(35) Suk. 1 6b. As a sheet is a suspended partition it follows that at that time the validity of a suspended partition was duly recognized.
(36) On the Sabbath.
(37) Even those who allow a certain form of additions to an existing tent.
(38) Shab. 125b.
(39) Sc. both agree that the Sabbath laws in connection with partitions of water are invariably to be relaxed.
(40) V. marg. glos. Cur. edd. in parenthesis, ‘for we learned’.
(41) Above the sea.
(42) Which are equal to twenty-four by twenty-four handbreadths.

Talmud - Mas. Eiruvin 87a

one cuts a hole of four handbreadths by four[1] and may draw water through it.[2] Said Abaye to him:[3] Is it not possible that your observation is incorrect?[4] R. Judah may have maintained his view there only[5] because he holds the principle that a partition is deemed to extend downwards but not here where it must be deemed to be both bent and extended; and R. Hananya b. Akabya may have maintained his view there only, in the case of the sea of Tiberias,[6] because it has embankments, towns and karpafs around it[7] but not in that of other waters.

Abaye observed: According to the view of R. Hananya b. Akabya[8] if the balcony was within three handbreadths from the wall[9] it is necessary for its length to be four cubits and for its width to be eleven cubits and a fraction.[10] If it was upright[11] it is necessary that its height[12] shall be ten handbreadths[13] and its width six handbreadths and two fractions.[14] R. Huna son of R. Joshua observed: If it[15] was situated in a corner[16] it is necessary for its height to be ten handbreadths[17] and for its width to be two handbreadths and two fractions.[18] With reference, however, to what was taught: R. Hananya b. Akabya ruled: ‘In a balcony that has an area of four cubits by four he cuts a hole of four handbreadths by four and may draw water through it’, in what circumstances could this[19] be possible?[20] — Where it is constructed in the shape of a mortar.[21]

MISHNAH. FROM A WATER CHANNEL[22] THAT PASSES THROUGH A COURTYARD NO WATER MAY BE DRAWN ON THE SABBATH[23] UNLESS IT WAS FURNISHED[24] WITH A PARTITION TEN HANDBREADTHS HIGH AT ITS ENTRANCE[25] AND EXIT.[26] R. JUDAH RULED: THE WALL ABOVE IT[27] MAY BE REGARDED AS A PARTITION. R. JUDAH

OBSERVED: IT ACTUALLY HAPPENED WITH THE WATER-CHANNEL OF ABEL[28] THAT WATER WAS DRAWN FROM IT ON THE SABBATH ON THE AUTHORITY OF THE ELDERS.[29] THEY[30] REPLIED: BECAUSE IT WAS NOT OF THE PRESCRIBED SIZE.[31]

GEMARA. Our Rabbis taught: if it[32] was furnished[33] with a partition at its entrance[25] but not at its exit,[34] or if one was furnished at its exit and none at its entrance, no water may be drawn from it on the Sabbath[35] unless it was furnished with a partition ten handbreadths high both at its entrance and at its exit — R. Judah ruled: The wall above it[27] may be regarded as a partition. R. Judah observed: It actually happened with the water-channel which flowed from Abel to Sepphoris[28] that water was drawn from it on the Sabbath on the authority of the Elders.[29] They[30] replied: Is this[36] proof? [The water was used] because the channel was either less than[37] tell handbreadths deep or less than four handbreadths wide.

Elsewhere[38] It was taught: If a water-channel passed between windows,[39] it is permissible to lower a bucket to draw water from it[40] if it[41] was less than three handbreadths wide, but if it was three handbreadths wide no bucket may be lowered to draw water from it.[40] R. Simeon b. Gamaliel ruled: If it[41] was less than four handbreadths wide a bucket may be lowered into it and water may be drawn from it, but if it was four handbreadths wide no bucket may be lowered to draw water from it. Now what are we dealing with?[42] If it be suggested: With the water-channel itself,[43] consider the following which[44] R. Dimi when he came,[45] cited in the name of R. Johanan: No domain can be regarded as a karmelith if it is less than four handbreadths. Did he[46] then make his statement in agreement only with one of the Tannaitic opinions?[47] — No, we are rather dealing[48] with its[49] embankments[50] in respect of exchange.[51] But did not R. Dimi when he came[45] state in the name of R. Johanan: On a place whose area is less than four handbreadths by four both the people in the public domain and those in the private domain may rearrange their loads, provided they do not exchange them?[52] — There[53] it is a case of Pentateuchal domains[54]

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(1) Thus leaving a margin of 24 — 4/2 = 10 handbreadths around it.

(2) Even though no partition had been put up round the hole. The margin round the hole is deemed to be bent downwards so as to be forming a suspended partition of the required height of ten handbreadths and extending downwards into the water, and thus constituting a private domain through which it is permitted to take up the water from the sea into the balcony.

(3) Rabbah.

(4) Lit., ‘not it’.

(5) Lit., ‘until here R. Judah only said there’, in the case of the wall above the cistern.

(6) As is explained infra 87b.

(7) And is thus distinguished from all ordinary karmelith.

(8) Supra 86b ad fin.

(9) Lit., ‘it was near the wall by less than three handbreadths’.

(10) All air space of less than three handbreadths is disregarded (according to the law of labud) and the balcony may, therefore, be deemed to be close to the wall.’ By cutting a length of four handbreadths to a depth of one handbreadth and a fraction from the width of the balcony on the side adjacent to the wall so as to leave on either side of its length margins of ten handbreadths, the area of the hole would be four handbreadths by (three minus a fraction and one and a fraction is) four handbreadths, and it would be furrounded on three sides by a border of (eleven handbreadths and a fraction minus one handbreadth and a fraction on the side opposite the wall, and (24 — 4)/2 handbreadths on the two sides of the length of the balcony =) ten handbreadths and on the fourth side by the wall of the house. The border is regarded as bent and extended downwards and morning with the wall a private domain between the water and the balcony.

(11) Standing on its width on a projection from the wall at a distance of four handbreadths with its length rising vertically upwards.

(12) I.e., the length of the balcony (cf. prev..n.).

(13) The prescribed minimum height of a partition.

(14) So that by imagining one handbreadth and a fraction of the width on either side toxbe bent towards the wall there would still remain a width of four handbreadths facing that wall, while the air space of four handbreadths between the wall and the balcony would be reduced to (4 — 1 and a fraction =) less than three handbreadths which (by the law of labud) is disregarded, and the hole, four handbreadths by four, is now surrounded by the wall of the house on one side, a partition of four handbreadths wide on the opposite side, and two walls virtually four handbreadths wide on the other two sides. The three sides of the balcony, which are deemed to stretch downwards to the water, together with the wall of the house thus constitute a private domain through which the water from the sea may be carried up.

(15) A balcony.

(16) So that two of its sides are formed by the walls of the house.

(17) The prescribed minimum height of a partition.

(18) Placing the balcony, as in the previous case, in an upright position at a distance of four handbreadths from one of the walls with its side at a distance of less than three handbreadths from the adjacent wall it may he imagined to be bent from top to bottom in the middle towards the wall it was facing and thus closing up all air space of one handbreadth and a fraction and reducing the distance between it and the wall to less than three handbreadths. The space between either wall and the balcony now being less than three handbreadths is (by the law of labud) deemed to be non-existent and a hole of four handbreadths by four now remains surrounded on two adjacent sides by the house walls and on the opposite two sides by the imaginary corner piece which, by the law of labud, constitutes two valid partitions that stretch downwards to the water, all the four sides enclosing a private domain between the balcony and the water.

(19) That the balcony should be required to have an area of no less than twenty-four handbreadths by twenty-four.

(20) In view of the devices just described, whereby a private domain may be formed even where the balcony was smaller than the prescribed minimum (of ten handbreadths by four) for each of its four sides and (four handbreadths by four) for the hole.

(21) Sc. when it is self-contained being in the shape of a platform raised on poles above the water and having no wall near it. In such a case no private domain through which the water may be taken up to the platform can be formed unless the balcony is of the size prescribed by R. Hananya b. Akabya which allows for a hole of four handbreadths by four in the center and for four sides of ten handbreadths by four on its four sides.

(22) Not less then ten handbreadths deep and four handbreadths wide.

(23) Because it has the status of a karmelith.

(24) Within its banks.

(25) To the courtyard.

(26) From it. The walls of the courtyard under which the channel runs, since they were not originally made for the cannot serve as partitions for it.

(27) The channel, sc. the walls at either end.

(28) A channel that passed through the courtyards of the town. Abel is in the neighbourhood of Sepphoris.

(29) Which shows that courtyard walls may serve as partitions for a channel passing under them.

(30) The Rabbis who differed from his view.

(31) It was less than ten handbreadths deep or less than four handbreadths wide. Such a channel is regarded as part of the private domain through which it passes and requires no partitions at all. Where partitions, however, are required the courtyard walls cannot serve the purpose

(32) A water-channel passing through a courtyard.

(33) Within its banks.

(34) V. supra n. 2.

(35) Because it has the status of a karmelith.

(36) Lit., ‘from there’.

(37) Lit., ‘it was not’.

(38) Lit., ‘another’.

(39) Of houses on either side.

(40) Lit., ‘and fills’.

(41) This will be discussed presently.

(42) In the statements fixing the dimensions as three and four handbreadths respectively.

(43) Sc. that if its width was three handbreadths it was according to the first Tanna the status of a karmelith from which the water may not be carried into the private domain of the courtyard.

(44) Lit., ‘and (what,) however, (about) that’.

(45) From Palestine to Babylon.

(46) R. Johanan.

(47) Lit., ‘must we say: According to (one of the) Tannas he made his statement since according to the Rabbis a domain of three handbreadths may also be regarded as a karmelith. Is it likely, however, that R. Johanan would differ from the Rabbis, ‘who are in the majority, and adopt the view of an individual authority?

(48) In prescribing the dimensions. Lit., ‘but’.

(49) The water-channel's.

(50) Not the channel itself.

(51) Sc. if all embankment is sufficiently high and less than three handbreadths wide it constitutes, according to the Rabbis, a free domain into which an empty bucket may be taken from the private domain and one full of water from the karmelith and transferred respectively from it into the karmelith and into the private domain. If the embankment is three handbreadths wide it uses the status of a free domain and can no longer serve as a mere adjunct to the domains between which it is situated. This ruling is consequently quite independent of that of R. Johanan's.

(52) And thus unlawfully carry an object from the public into the private domain or vice versa. Now, since objects may be placed on it both front the public and from the private domain it must obviously have the status of a free domain, and yet it was forbidden to exchange these objects. How then can it be maintained that a bucket of water may be transferred from the private domain into the karmelith and vice versa by way of the embankments?

(53) R. Dimi's ruling.

(54) A private domain and a public one the movement of objects between which is Pentateuchally forbidden. Hence R. Dimi's restriction.

Talmud - Mas. Eiruvin 87b

while here we are dealing with Rabbinical domains.[1] But did not R. Johanan maintain his view[2] even in the case of Rabbinical domains? For we learned:[3] — If between two courtyards there was a wall ten handbreadths high and four handbreadths thick, two ‘erubs may be prepared but not one. If there was fruit on the top of it, the tenants on either side may climb up and eat there. If a breach to the extent of ten cubits was made in the wall, the tenants may prepare two ‘erubs or, if they prefer, only one, because it is like a doorway. If the breach was bigger, only one ‘erub and not two may be prepared’.[4] And when the question was raised, What is the ruling where it was not four handbreadths wide?’ Rab replied: ‘The air of two domains prevails upon it and no object on it may be moved even as far as a hair's breadth’; whereas R. Johanan replied: ‘The tenants on either side may carry up their food and eat it there’,[5] R. Johanan thus[6] following his own view; since R. Dimi, when he came,[7] stated in the name of R. Johanan: On a place whose area is less than four handbreadths by four both the people in the public domain and those in the private domain may re-arrange their loads provided they do not exchange their![8] — That[9] was reported by Ze'iri.[10] But does not this[11] present an objection against Ze'iri? — Ze'iri explains it[12] to refer to the water-channel itself,[13] while the ruling of R. Dimi[14] is one in dispute between Tannas. But why should it[15] not be regarded as the cavities of a karmelith?[16] — Both Abaye b. Abin and R. Hanina b. Abin replied: The law of cavities[17] does not apply to a karmelith.[18] R. Ashi replied: It may even be conceded that the law of cavities does apply to a karmelith, but this is the case only where the cavity is near[19] whereas here it[20] is far removed[21] Rabina replied: We are dealing[22] in with a case, for instance, where outlets were made at its[23] ends,[24] the Rabbis[25] following their view,[26] while R. Simeon b. Gamaliel[27] follows his view.[28] MISHNAH. FROM A BALCONY THAT WAS SITUATED ABOVE A STRETCH OF WATER NO WATER MAY BE DRAWN[29] ON THE SABBATH[30] UNLESS IT WAS FURNISHED WITH A PARTITION[31] TEN HANDBREADTHS HIGH EITHER ABOVE[32] OR BELOW.[33] SO ALSO WHERE TWO BALCONIES WERE SITUATED IN POSITIONS ONE HIGHER THAN[34] THE OTHER,[35] AND A PARTITION WAS MADE FOR THE UPPER ONE BUT NOT FOR THE LOWER ONE, RESTRICTIONS[36] ARE IMPOSED ON THE USE OF BOTH[37] UNTIL THEY HAVE PREPARED A JOINT ‘ERUB.[38]

GEMARA. Is our Mishnah[39] in disagreement with the view of Hananya b. Akabya, since it was taught: Hananya b. Akabya ruled: In a balcony whose area is four cubits by four a hole of four handbreadths by four is cut[40] and water may be drawn through it?[41] — R. Johanan citing R. Jose b. Zimra replied: R. Hananya b. Akabya permitted it[42] only in the case of the sea of Tiberias since it is surrounded by embankments, towns and karpafs,[43] but not in that of any other waters.[44]

Our Rabbis taught: R. Hananya b. Akabya permitted the men of Tiberias three things: To draw water from a balcony[45] on the Sabbath, to store fruit in pea-stalks[46] and to dry themselves with a towel.[46] 'To draw water from a balcony on the Sabbath' as has just been stated; what, however, was the point of the permission 'to store fruit in pea-stalks'? — That, as it was taught. If a man got up early in the morning[47] to fetch some refuse,[48] the Scriptural expression, 'if water be put upon the seed'[49] applies to it,[50] if he did so[51] because the dew was upon it,[52] but if he did so[51] in order that he might not be disturbed from his usual work, the expression. If water be put upon the seeds does not apply to it;[53] and as a rule,

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(1) Sc. the movement of objects between a karmelith and a private domain is only Rabbinically forbidden. As Pentateuchally it is permitted to transfer directly from the one into the other the Rabbis have relaxed their ruling where the transfer is effected by way of a free domain. (As to the discrepancy between R. Dimi's minimum of four handbreadths and that of three handbreadths in the Baraitha cf. Rashi a.l.)

(2) That no transfer from one domain into another is permitted even by way of a free domain.

(3) V. marg. gl. Cur. edd. in parenthesis 'for it was taught'.

(4) Supra 76b q.v. notes.

(5) But may not transfer objects from one courtyard into the other across that wall. Supra 77a.

(6) Cf. prev. n.

(7) From Palestine to Babylon.

(8) Now, since R. Johanan maintains his view even in the case of courtyards, the movement of objects between which is only Rabbinically forbidden, how could it be maintained that a distinction is drawn between Pentateuchal and Rabbinical domains?

(9) R. Johanan's ruling concerning a wall between courtyards.

(10) R. Dimi, however, maintains that R. Johanan's restriction does not apply to domains the movement of objects between which is only Rabbinically forbidden.

(11) The difficulty, raised supra 87a ad fin., on R. Dimi's report.

(12) The Baraitha (supra 87a) dealing with the dispute between R. Simeon b. Gamaliel and the first Tanna on the dimensions that do, or do not constitute a karmelith between which and the courtyard the movement of bucket and water is forbidden.

(13) According to the first Tanna a width of three handbreadths, and according to R. Simeon b. Gamaliel only one of four handbreadths imparts to it the status of a karmelith.

(14) Reported in the name of R. Johanan, according to which 'no domain can be regarded as a karmelith if less than four handbreadths'.

(15) A water-channel passing through a courtyard, whose dimensions are less than those of a karmelith.

(16) And the movement of any object, bucket or water, between it and the courtyard should be forbidden. As cavities in a wall adjoining a public domain are subject to the restrictions of the latter (v. Shab. 7b) so should the water-channel within the courtyard be subject to the restrictions of the wider channel without the town which is a karmelith and of which it forms a part.

(17) Though applicable to Pentateuchally forbidden domains.

(18) Being only a Rabbinically forbidden domain no additional restrictions were imposed upon its use.

(19) If, for instance, it was in a wall adjoining a karpaf that was bigger than two beth Se'ah.

(20) The channel within the courtyard.

(21) From the section of the channel without the town which was of the size of a karmelith.

(22) In the discussion between R. Simeon b. Gamaliel and the first Tanna.

(23) The water-channel's.

(24) Lit., 'at its mouth', Sc. the dimensions prescribed by the two opinions (cf. supra n. 11) are neither those of the channel nor those of its embankments (as has been previously suggested) but those of the outlets made in the partitions at its ends to enable the water to pass through them.

(25) Sc. the first Tanna who limits the width of the outlets to less than three handbreadths.

(26) Supra 9a, that the rule of labud is inapplicable to a gap that was three handbreadths wide.

(27) Who regards the channel as a karmelith only where the widths of the outlets was no less than four handbreadths.

(28) That the rule of labud applies to a gap that was not wider than four handbreadths.

(29) Through a hole in its floor.

(30) Since the stretch of water has the status of a karmelith while the balcony is a private domain.

(31) Round about all the balcony or at least round the hole.

(32) The balcony, in an upward direction.

(33) In a downward direction from the balcony towards the water. In either case the partition that is ten handbreadths is deemed to extend downwards and, by vertically joining balcony and water, to form a private domain through, and from which the water may be taken up.

(34) But not exactly above.

(35) Provided the one was removed from the other by less than four handbreadths.

(36) On the use of the hole in the upper balcony for the purpose of drawing water.

(37) Groups of tenants.

(38) The use of a hole in the lower balcony remains forbidden even after an ‘erub had been prepared, since it was not furnished with any partition that could convert the karmelith of the water and the passage to the balcony into a private domain.

(39) Which requires a partition to be provided before one is allowed to draw water through the hole in the balcony.

(40) Though no partition had been provided.

(41) Supra 86b ad fin. q.v. notes.

(42) The use of a balcony of the dimensions given, though it had no partitions.

(43) And is thus distinguished from any other karmelith.

(44) Where, as stated in our Mishnah, a partition is essential.

(45) Of the area of four cubits by four (as stated Supra).

(46) This is explained presently.

(47) Before the dew in the fields had dried up.

(48) Such refuse as straw, stalks and the like, in which to store fruit.

(49) Lev. XI. 38.

(50) Lit., ‘behold it is in if be put’ and it becomes susceptible to levitical uncleanness.

(51) Rose early to gather the refuse.

(52) I.e., when the refuse was still damp and good for storing. Produce cannot become susceptible to levitical uncleanness unless (a) it first came in contact with dew or other prescribed liquids and (b) the owner of the produce was pleased with that contact.

(53) Tosef. Maksh. II; and it is not susceptible to levitical uncleanness.

Talmud - Mas. Eiruvin 88a

the men of Tiberias[1] are in the same category as the man whose object was that he might not be disturbed from his usual work. And what was the point in his permitting them to ‘dry themselves with a towel’? — That, as it was taught. A man[2] may dry himself[3] with a towel[4] and put it on a window, but he may not hand it to the bathing attendants[5] because they are suspected of doing that work.[6] R. Simeon ruled: He may also carry it in his hand to his home.[4]

Rabbah son of R. Huna stated: This[7] was learnt only in respect of drawing water, but pouring it down[8] is forbidden.[9] R. Shezbi demurred: Wherein does this case[10] essentially differ from that of a trough?[11] — In the latter case the waters are absorbed [in the ground][12] while in the former they are not absorbed.[13] Others say that Rabbah son of R. Huna explained: Do not say: It is only permitted to draw water but that it is forbidden to pour water down; since in fact it is also permitted to pour it down. Is not this, R. Shezbi asked, obvious, seeing that it is essentially identical with the case of the trough?[14] — It might have been assumed that they are unlike,[15] for whereas in the latter case the waters are absorbed [in the ground],[16] they are not absorbed in the former case,[13] hence we were informed [that the same law is applicable to both cases].

SO ALSO WHEN TWO BALCONIES WERE SITUATED IN POSITIONS ONE HIGHER THAN etc. R. Huna citing Rab explained: This was learnt only [in the case where the lower balcony] was near [to the upper one],[17] but if it was removed from it,[18] [the use of] the upper one[19] is permitted, since Rab follows his principle, having laid down that no man imposes restrictions upon another through the air.[20]

Rabbah stated in the name of R. Hiyya, and R. Joseph stated in the name of R. Oshaia: A robbery is valid in respect of a Sabbath domain[21] and a ruin reverts to its owner.[22] But is not this self contradictory? You said: ‘A robbery is valid in respect of the Sabbath domain’, from which it is clear that possession is acquired;[23] and then you say: ‘and a ruin reverts to its owner , from which it is evident that no possession is acquired?[23] — It is this that was meant: The law [of the return] of a robbery is valid in respect of a Sabbath domain,[24] since[25] a ruin reverts to its owner.[24] Said Rabbah: We raised an objection against this ruling of ours:[26] SO ALSO WHEN TWO BALCONIES WERE SITUATED IN POSITIONS ONE HIGHER THAN THE OTHER etc. Now, if it is maintained that ‘the law [of the return] of a robbery is valid in respect of a Sabbath domain’ why should restrictions be imposed?[27] — R. Shesheth replied: We are here dealing with a case, for instance, where they[28] made the partition[29] jointly.[30] But if so[31] the same law[32] should also apply where a partition was made[33] on the lower balcony?[34] Since they made a partition for the lower one they have thereby intimated to the tenants of the upper one that they had no desire to be associated with them.[35] MISHNAH. IF [THE AREA OF] A COURTYARD WAS LESS THAN FOUR CUBITS NO WATER MAY BE POURED OUT INTO IT ON THE SABBATH[36] UNLESS IT WAS PROVIDED WITH A TROUGH HOLDING TWO SE'AH[36] FROM ITS EDGE[37] DOWNWARDS,[38] IRRESPECTIVE OF WHETHER IT[39] WAS WITHOUT OR WITHIN,[40] EXCEPT THAT IF IT WAS WITHOUT[41] IT IS NECESSARY TO COVER IT[42] AND IF IT WAS WITHIN[40] IT IS NOT NECESSARY TO COVER IT.

R. ELIEZER B. JACOB RULED: IF FOUR CUBITS OF A DRAIN[43] WERE COVERED OVER IN THE PUBLIC DOMAIN[42] IT IS PERMITTED TO POUR WATER[44] INTO IT ON THE SABBATH,[45] BUT THE SAGES RULED: EVEN WHERE A ROOF OR A COURTYARD WAS A HUNDRED CUBITS IN AREA,[46] NO WATER MAY BE POURED DIRECTLY OVER THE MOUTH OF THE DRAIN,[36] BUT IT MAY BE POURED UPON THE ROOF FROM WHICH THE WATER FLOWS INTO THE DRAIN. THE COURTYARD AND THE EXEDRA MAY BE COMBINED TO MAKE UP THE PRESCRIBED FOUR CUBITS.

SO ALSO IN THE CASE OF TWO UPPER STOREYS OPPOSITE EACH OTHER[47] THE TENANTS OF ONE OF WHICH[48] MADE A TROUGH[49] AND THOSE OF THE OTHER DID NOT, THOSE WHO MADE THE TROUGH ARE PERMITTED TO POUR DOWN THEIR WATER,[50] WHEREAS THOSE WHO DID NOT MAKE ANY TROUGH ARE FORBIDDEN.

GEMARA. What is the reason?[51] — Rabbah[52] replied: Because a man is in the habit of using up two se'ah of water daily, and in an area of four cubits[53] he is inclined to spray it[54]

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(1) Who were mainly workers.

(2) Who bathed in cold water.

(3) On the Sabbath or on a festival day.

(4) Sc. the act was not forbidden as a preventive measure against the possibility of his wringing it out which is forbidden.

(5) Pl. of Olyar, olearius, Gr. **, the keeper of clothes in a bath house.

(6) Wringing clothes. Lit., ‘of that thing’.

(7) That the Rabbis recognized the validity of a suspended partition on a balcony.

(8) Through the hole.

(9) Because the water is carried down the stream beyond the partitions.

(10) The pouring down of water from a balcony into a stretch of water below.

(11) In a courtyard that was smaller than four cubits (Mishnah infra) though, when the trough is full, the water runs over into the public domain.

(12) As the tenants intend the water to remain in the private domain it is permitted to pour into the trough which, like the courtyard, is a private domain even though some of the water may ultimately flow over.

(13) So that any drop of water poured into it would inevitably flow beyond the partitions.

(14) V. supra n. 1.

(15) And that in consequence it should be forbidden to pour water down the hole of the balcony into the stretch of water below.

(16) V. supra n. 2.

(17) Sc. the horizontal distance between them was less than four handbreadths.

(18) Four handbreadths or more.

(19) By those on it.

(20) Supra 85a; and, since the tenants of the lower balcony are unable to reach the hole in the upper one except through the intervening air space by thrusting their bucket into it, they cannot impose restrictions on the tenants of the upper one.

(21) This is now assumed to mean that a person is permitted to seize for the Sabbath another person's ruin which, being near his house and neglected by its owner, he uses on weekdays, and that this seizure is valid so that even on the Sabbath he may move objects from his house into it and vice versa as if it had been his own property.

(22) Sc. the restrictions of the Sabbath cause the ruin, though during the week it is deserted by its owner and used by a neighbour, to revert to the full possession of the former so that the latter may move no objects from, or into it.

(23) By the person who uses it during the week (cf. prev. two nn.).

(24) V. supra n. 12.

(25) Lit., ‘how? Because’. [The text is not clear: R. Hananel reads: The law of robbery (whereby the robber acquires possession of the robbed object) applies on Sabbath. How is this? If the robber took the robbery into his own domain; but if he left it in the ruin of the robbed person, the ruin reverts it to its owner.]

(26) The one just discussed.

(27) Upon the tenants of the upper balcony, seeing that on the Sabbath, as in the case of the ruin just mentioned, it reverts to them alone despite its use by the tenants of the lower balcony during weekdays.

(28) The tenants of both balconies.

(29) On the upper balcony.

(30) So that the tenants of the lower balcony, unlike the man who uses a ruin upon which he has no claim whatever, are well entitled to the use of the upper one.

(31) That the tenants of the lower balcony have a share in the upper one, and that this is the reason why they impose restrictions upon the tenants of the latter.

(32) That they impose restrictions.

(33) By its tenants.

(34) Since in either case the share they have in the upper one should cause them to impose the same restrictions.

(35) Lit., ‘that I am not pleased (to be associated) with you’.

(36) The reason is given in the Gemara infra.

(37) Lit., ‘the hole’.

(38) I.e., the Interior of the trough.

(39) The trough.

(40) The courtyard.

(41) In the public domain near the courtyard.

(42) With boards, so as to impart to it the status of a free domain.

(43) Which carries water from a courtyard into the public domain.

(44) From the courtyard.

(45) Because all the water that is likely to be poured into it during the Sabbath would, as a rule, be absorbed before it reached the public domain. If some of the water should, for any reason whatever, run into the public domain no transgression would be committed since the tenants’ intention was that it shall be absorbed before it reached the public

domain and no transgression is involved where one's intention was not fulfilled. Particularly is this the case here where Pentateuchally it is permitted ab initio to pour water into a private domain though one's intention was that it should ultimately find its way into the public domain.
(46) A stretch sufficient to absorb all the water that can possibly be poured out in one day.
(47) Between which there was a courtyard whose area was less than four cubits.
(48) Lit., ‘some of them’.
(49) In the courtyard.
(50) Into the courtyard below.
(51) That IF THE AREA OF A COURTYARD WAS LESS THAN FOUR CUBITS NO WATER MAY BE POURED OUT INTO IT and, inferentially, that if the area was four cubits or bigger water may be poured out into it.
(52) MS.M. Alfasi and Asheri read ‘Raba’; Bomb. ed. ‘Rab’.
(53) During the summer, the season to which this Mishnah refers (cf. infra), when courtyards are dusty.
(54) As his intention is not to have the water running into the public domain but to spray on the floor of’ the courtyard it is permitted to pour it out in that courtyard though sometimes it might eventually find its way into the public domain.

Talmud - Mas. Eiruvin 88b

but in one that is less than four cubits[1] he merely pours it out. Hence it is Only if he made a trough[2] that he is permitted to pour out the water but not otherwise.[3] R. Zera replied: In an area of four cubits the water[4] may be absorbed;[5] but n one that is less than four cubits they cannot be absorbed.[6] What is the practical difference between them?[7] — Abaye replied: The practical difference between them is a courtyard that was long and narrow.[8]

We learned: THE COURTYARD AND THE EXEDRA[9] MAY BE COMBINED TO MAKE UP THE PRESCRIBED FOUR CUBITS. According to R. Zera this is quite acceptable;[10] but, according to Rabbah,[11] does not a difficulty arise?[12] — R. Zera, on the lines of Rabbah's[11] view, explained: This refers to an exeˆra that ran along all the courtyard.[Æ3]

Come and hear: If the area of a courtyard was less than four cubits by four cubits no water may be poured out into it on the Sabbath. Now accordi¡g to Rabbah this ruling is quite satisfactory;[14] but, according to R. Zera, does not a difficulty arise?[15] — R. Zera can answer you: This ruling represents the view of[16] the Rabbis,[17] whereas our Mishnah[18] is that of R. Eliezerób. Jacob.[19] What, however, was it that urged R. Zera to attribute our Mishnah[20] to R. Eliezer b. Jacob?[21] — Raba repl™ed: Our Mishnah presânted to him a difficulty: What was the object of stating, IF THE AREA OF A COURTYARD WAS less[22] THAN FOUR CUBI²S[23] seeing that it could have been stated:[24] ‘If the area of a courtyard was less than four cubits[2õ] by four cubits’?[26] Consequently,[27] he concluded[28] it must represent the view of[29] R. Eliezer b. Jacob.[30] This is xonclusive. But since a succeeding clause[31] rep2esents the view of R. Eliezer y. Jacob[32] how could the first cÊause[33] also represent his view?[34] — All the Mishnah represents the view of[3]ó5 R. Eliezer b. Jacob, but some words are wanting in it, the correct reading being as follCws:[3]Þ6 IF [THE AREA OF] A COURTYARD WAS LESS THAN OUR CUBITS NO WATER MAY BE POURED OUT INTO IT ON THE SABBATH‘ but if the area _as four cubits water may be poured into it because R. ELIEZER B. JACOB RULED: IF FOUR CUBITS OF A DRAIN WERE COVERED OVER IN THE PUBLIC DOMAIN IT IS PERMITTED TO POUR WATER INTO IT ON THE SABBATH.

R. ELIEZER B. JACOB RULED: IF FOUR CUBITS OF A DRAIN WERE COVERED OVER. Our Mishnah[37] cannot represent the opinion of Hananya,[38] for it was taught: Hananya ruled: Even if [the area of] a roof was a hundred cubits no water may be poured upon it since a roof is not made to absorb water but to cause it to run down.

One taught: This[39] applies only to the hot season, but during the rainy season a person may pour his water again and again without any limit.[40] What is the reason? — Raba replied: A person is quite satisfied[41] that the water should be absorbed on the spot.[42] Said Abaye to him: Is there not the case of[43] waste water with the absorption of which on the spot a person is quite satisfied[41] and yet it was ruled: NO WATER MAY BE POURED?[44] — What, the other replied, is it that provision should bÍ made against in that case?[45] If it be suggested: Against the man's objection to the spoiling of his courtyard,[46] surely, [it may be retorted,] it is in any case spoilt;[47] and if against the possibility of the assumption that So-and-so's gutter was spouting water,[48] all gutters, as a rule, spout water.[49]

R. Nahman ruled: In the rainy season, if a trough[50] is capable of holding two se'ah it is permitted to pour two se'ah of water into it, and it if call hold one se'ah only one se'ah of water is permitted; in the hot season, however, if the trough can hold !wo sQ'ah one is allowed two se'ah but if it can hold one se'ah one is not allowed to pour into it any water at all. Why should it not be allowed in the hot season also to pour into it a se'ah if it can hold a se'ah? — A preventive measure has been enacted against the possibility of one's pouring two se'ah into it. If so, why should not a preventive measure be enacted for the rainy season also?What is it that provision should be made against in that case? If it be suggested: Against the man's objection to the spoiling of his courtyard,[51] surely, [it could be retorted,] it is in any case spoilt;[52] if against the assumption that So-and-so's gutter spouts water[53] all gutters, as a rule, spout water.[54] Hence,[55] said Abaye, even a kor,[56] even two kor are permitted.[57]

SO ALSO IN THE CASE OF TWO UPPER STOREYS OPPOSITE EACH OTHER. Raba ruled: Even though they prepared a joint ‘erub. What, asked Abaye,[57] is the reason? If it be suggested: On account of the large quantity of the water,[58] was it not taught, [it may be objected,] ‘The same law applies to a trough,[55] a damaged vessel,[59] a pond or a tub, viz. that, though they were filled with water on the Sabbath eve, waste water may be poured into them on the Sabbath?[60] Rather, if the statement was at all made it must have been made in the following terms:[61] Raba ruled:

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(1) Which is hardly worth the trouble of spraying.

(2) In which the water may be accumulated and gradually absorbed in the ground.

(3) Lit., ‘if not he is forbidden’, since the water would be running almost directly into the public domain and his desire to pour it out would be fulfilled. Were this to be permitted people might form the erroneous conclusion that it is also permitted to throw anything directly from a private into a public domain.

(4) Two Se'ah, which are usually used up in a day.

(5) V. supra n. 5.

(6) And, since the water inevitably flows into the public domain, his desire is fulfilled (cf. Supra n. 8 second clause).

(7) R. Zera's and Rabbah's explanations.

(8) Eight cubits by two, for instance. According to R. Zera's explanation it is permitted to pour water into it, since an area of 8 X 2 = 4 X 4, and the water would be absorbed in the courtyard itself before any of it reached the public domain. According to Rabbah, however, this is forbidden, since a narrow courtyard is an unsuitable place for spraying.

(9) It is now assumed that the exedra was situated in a corner of the courtyard so that the width of the latter was not increased by it.

(10) Since the floor of the exedra, whatever its position, would add to the area of absorption.

(11) Cf. supra p. 614, n. 3.

(12) As the exedra does not widen the courtyard the latter remains unsuitable for spraying, why then should it be permitted to pour water in it?

(13) If, for instance, the courtyard area was four cubits by two the exedra also was four by two, its length being parallel to that of the courtyard and thus extending the area of the latter to four cubits by four.

(14) Because a courtyard that was narrower than four cubits, though longer, is unsuitable for spraying.

(15) Since the capacity of a given area for absorption is not affected by the relative lengths of the sides.

(16) Lit., ‘this is whose?’

(17) Sc. the SAGES who forbade the pouring of water into a drain even when the COURTYARD WAS A HUNDRED CUBITS IN AREA, thus rejecting the principle of capacity for absorption and upholding only that of suitability for spraying.

(18) Which forbade the pouring of water only where the area WAS LESS THAN FOUR CUBITS and, inferentially, permitted it where it was four cubits or bigger irrespective of the relative lengths of its sides.

(19) Who, in his ruling on the drain in our Mishnah, recognizes the principle of capacity for absorption.

(20) Which is anonymous and presumably represents the view of a majority.

(21) An individual. Sc. why could not R. Zera adopt Rabbah's explanation which would have enabled him to escape this difficulty?

(22) Cf. MS.M. The following three words are wanting in cur. edd.
(23) Which implies that if the total area was four cubits by four it matters little whether each side was four cubits long or whether the courtyard was long and narrow, two of its sides being shorter, and two longer than four cubits.
(24) Lit., 'let him teach'.
(25) Elijah Wilna inserts the following three words in parenthesis.
(26) An expression which would have indicated that even if only one of the sides of a courtyard is less than four cubits in length (though the total area was four cubits by four) no water may be poured out into it.
(27) Since the former expression was used, from which it follows (cf. supra p. 615, n. 14) that it is not the shape but the actual area that matters or, in other words, that the determining factor is not suitability for spraying but capacity for absorption.
(28) Lit., 'but not; it may be inferred from it'.
(29) Lit., 'that it is'.
(30) Who in his ruling on the drain in our Mishnah recognizes the principle of capacity for absorption.
(31) Lit., 'the end', i.e., the second paragraph in our Mishnah.
(32) As was Specifically stated (v. our Mishnah).
(33) Which is recorded anonymously and immediately precedes the one given in his name.
(34) Lit., 'the first is not (that of) R. Eliezer b. Jacob'.
(35) Lit., 'all of it is'.
(36) Lit., 'and thus it taught'.
(37) Which attributes to the Sages the view that water MAY BE POURED UPON THE ROOF.
(38) Since he permitted this only in a courtyard but not on a roof The roofs spoken of were flat and had drains in the form of gutters into which rain water flowed and water was poured.
(39) That no water may be poured out in a small courtyard unless a trough was provided for the purpose (v. our Mishnah).
(40) Lit., 'pours and repeats and does not refrain himself'.
(41) Lit., 'willing', 'pleased'.
(42) Within the courtyard. As the place is in any case waterlogged and untidy he does not mind the addition of his waste water also.
(43) Lit., 'and behold'.
(44) EVEN WHERE A ROOF OR A COURTYARD WAS A HUNDRED CUBITS IN AREA, and fully capable of absorbing all the water before it reached the public domain.
(45) The pouring out of water during the rainy season.
(46) Sc. that the pouring out of the water should be forbidden as a preventive measure against the possibility of his desire to dispatch it without delay into the public domain for the reason given.
(47) By the rains.
(48) On the Sabbath: in consequence of which people might allow themselves to carry also directly from a private into a public domain.
(49) On a rainy day. People would assume the water to be rather the accumulated rain water than the lesser quantity of waste water. In the case of a drain in the dry season, however, people observing the flow front a private into a public domain and knowing full well that it was the result of human action, might well come to the conclusion that the carrying of objects from the one domain into the other is also permitted. Hence the preventive measure.
(50) In a courtyard, prepared for the reception of waste water.
(51) V. Supra p. 617, n. 7.
(52) By the rains.
(53) V. p. 617, n. 9.
(54) V.p.617, n. 10.
(55) Cf. Supra p. 617, n. 11.
(56) Of water.
(57) 'To him' appears in cur. edd. in parenthesis and is deleted by Rashal.
(58) Four Se'ah instead of the usual two.
(59) Gistera, a defective, mutilated, cracked or damaged object.
(60) Though it overflows into the public domain. Why then should the increased volume of water be a bar to the use of

the trough by the tenants of both upper storeys?
(61) Lit., ‘thus it was said’.

Talmud - Mas. Eiruvin 89a

This[1] was learnt only in the case where no joint ‘erub was prepared, but if a joint ‘erub was prepared they are permitted.[2] But why are they not permitted where they did not prepare a joint ‘erub? — R. Ashi replied: As a preventive measure against the possibility of their carrying out water[3] in utensils from their houses to the trough.[4]

C H A P T E R I X

MISHNAH. ALL THE ROOFS OF A TOWN[5] CONSTITUTE[6] A SINGLE DOMAIN,[7] PROVIDED NO ROOF IS TEN HANDBREADTHS HIGHER OR LOWER THAN THE NEIGHBOURING ROOF;[8] SO R. MEIR. THE SAGES, HOWEVER, RULED: EACH ONE IS A SEPARATE DOMAIN.[9] R. SIMEON RULED: ROOFS, COURTYARDS AND KARPAFS[10] ARE[11] EQUALLY REGARDED AS ONE DOMAIN[12] IN RESPECT OF CARRYING FROM ONE INTO THE OTHER OBJECTS THAT WERE KEPT WITHIN THEM WHEN THE SABBATH BEGAN, BUT NOT IN RESPECT OF OBJECTS THAT WERE IN THE HOUSE WHEN THE SABBATH BEGAN.[13]

GEMARA. Abaye b. Abin and R. Hanina[14] b. Abin sat at their studies while Abaye was sitting beside them, and in the course of the session they remarked: One can well justify the view of the Rabbis[15] since they may hold the view that as the tenants are divided below[16] so are they divided above;[17] but as to R. Meir, what could his view be? If he holds that the tenants are divided above[18] as they are divided below,[19] why should the roofs CONSTITUTE A SINGLE DOMAIN? And if he holds that they are not divided above[18] because all places above ten handbreadths[20] are regarded as a single domain, why[21] should not this[22] also apply to a roof that was TEN HAND BREADTHS HIGHER OR LOWER? ‘You have not heard’, Abaye said to them, ‘the following statement made by R. Isaac b. Abdimi: R. Meir always maintained that wherever you find two domains of the same character[23] [one within the other] as, for instance, a column ten handbreadths high and four handbreadths wide[24] in a private domain,[25] it is forbidden[26] to re-arrange loads on the former,[27] as a preventive measure against a similar act in the case of a mound[28] in a public domain.[29] Here,[30] too, it may be explained, a preventive measure was enacted against a similar act[31] in the case of a mound[28] in a public domain’. They understood him to imply that the same restriction[31] applies also to a mortar or a tank,[32] but Abaye said to them, ‘Thus said the Master: R. Meir spoke only of a column and an enclosure of millstones, since their owner assigns for them a permanent Position,[33] But is there not the case of[34] a wall between two courtyards, which is a permanent fixture, and yet Rab Judah stated: ‘A careful study would show that,[35] according to the view of It. Meir, roofs[36] are regarded as a separate domain,[37] courtyards as a separate domain,[38] and karpafs as a separate domain’[39] which[40] implies, does it not,[41] that it is permissible to move objects across a wall?[42] — R. Huna b. Judah citing R. Shesheth replied: No, the implication[43] is that it is permitted to carry objects in and to carry them out by way of the doors.[44]

THE SAGES, HOWEVER, RULED: EACH ONE IS A SEPARATE DOMAIN. It was stated: Rab ruled: Objects in it[45] may be moved only within four cubits,[46] and Samuel ruled: It is permitted to move objects throughout its area.[47] Where the partitions are distinguish able[48] there is no divergence of opinion;[49] the dispute is limited to the case of partitions that are indistinguishable.[50] Rab maintains that, ‘Objects in it may be moved only within four cubits’ because [in such circumstances][50] he does not uphold the principle of the upward extension of the walls; while Samuel ruled: ‘It is permitted to move objects throughout its area’, because [even in such circumstances] he upholds the principle of the upward extension of the walls.

We learned: THE SAGES, HOWEVER, RULED: EACH ONE [

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(1) The ruling in our Mishnah under discussion.
(2) The unrestricted use of the trough.
(3) Cf. MS.M., and Rashi a.l.
(4) Lit., ‘there’. An act which in the absence of a joint ‘erub is forbidden.
(5) Though the houses beneath are occupied by different tenants and constitute different domains.
(6) Since they are only infrequently used.
(7) And it is permitted to carry objects from one roof into another on the Sabbath.
(8) Cf. MS.M. The last four words are wanting from cur. edd. If one roof was higher or lower than the one adjoining it no objects may be moved on the Sabbath from the one into the other.
(9) Lit., ‘before itself’, so that where the tenants did not join in one ‘erub the movement of objects from one roof to the other is forbidden.
(10) If the area of the last mentioned was not bigger than two beth se'ah.
(11) Since they are only irregularly and infrequently made use of.
(12) Even though the owners did not join in one ‘erub.
(13) These, though they may be carried into the same courtyard, for instance, by virtue of an ‘erub the tenants of that courtyard had jointly prepared, they may not be carried into a neighbouring courtyard unless the two courtyards too had been joined in one ‘erub.
(14) MS. M. ‘Hanania’.
(15) The SAGES who ruled that EACH ONE IS A SEPARATE DOMAIN.
(16) In their houses.
(17) On their roofs.
(18) On their roofs.
(19) In their houses.
(20) From the ground.
(21) Since all roofs are no less than ten handbreadths higher than the ground level.
(22) R. Meir's ruling.
(23) Lit., ‘and they are one domain’.
(24) Which has the status of an independent private domain.
(25) Of larger dimensions.
(26) To the people in the private domain in which the column stood, though the former legally reaches up to the sky.
(27) Lit., ‘on it’.
(28) Tell handbreadths high which has the status of a private domain.
(29) Shah. 9a. If the use of the column in the private domain had been allowed people would also have used a similar column in a public domain for the same purpose.
(30) The prohibition of movement in the case of a roof that was ten handbreadths higher or lower than all adjoining one.
(31) Carrying objects from one domain into the other.
(32) That was turned upside down and formed an elevation of ten handbreadths.
(33) Lit., ‘and a man fixes for them a place’.
(34) Lit., ‘and behold’.
(35) Since he regards all roofs as one domain and yet forbids the movement of objects between two roofs one of which was ten handbreadths higher or lower than the other.
(36) Of the Same altitude.
(37) But not roofs and courtyards, for instance, since the former are more than ten handbreadths higher than the latter.
(38) V. p. 620, n. 20.
(39) Infra 90b; i.e., it is only permissible to move objects from place to place in the same class but it is forbidden to move objects from one of these classes into any of the other.
(40) Since no restrictions are imposed on the movement of objects between any number of courtyards.
(41) Lit., ‘what, not?’
(42) Between two courtyards. Now, since here no preventive measure was enacted against a similar act in the case of a

mound in a public domain is it likely, as Abaye maintained, that the provision against such a possibility was R. Meir's reason for his ruling in our Mishnah.

(43) That 'it is permissible to move objects' from courtyard to courtyard.

(44) But not across a wall.

(45) A roof adjoining another roof of the same level.

(46) Each roof being A SEPARATE DOMAIN, fully exposed to the adjacent roof that is of a similar status, the two, since it is forbidden to move any objects between them, impose restrictions upon each other.

(47) The walls of the houses, he maintains, are deemed to extend upwards and to form virtual partitions around the roofs.

(48) Sc. the houses are detached from each other so that their walls can be seen from the roofs.

(49) Lit., 'all the world does not dispute', that the walls are deemed to be extending upwards and to form partitions around the roofs in agreement with Samuel's view.

(50) I.e., where the roofs are joined to one another.

Talmud - Mas. Eiruvin 89b

IS A SEPARATE DOMAIN.[1] This ruling,[2] according to Samuel, is quite satisfactory, but does it not, according to Rab,[3] present a difficulty?[2] — The school of Rab explained in the name of Rab:[4] That one must not move an object along two cubits on one roof and along another two cubits on an adjacent roof.[5] But, surely, R. Eleazar related, 'when we were in Babylon we used to teach as follows:[6] The School of Rab in the name of Rab ruled: Objects on a roof[7] may be moved only within four cubits, whereas those of the school of Samuel learned,[8] Householders have only the use of their roofs'.[9] Now what could be the meaning of the expression ,'have only the use of their roofs'? Is it not that they are permitted to move objects about throughout its area?[10] — Has this[11] then more force than our Mishnah? As we have explained this[12] to mean, 'that one must not move an object along two cubits on one roof and along another two cubits on an adjacent roof', so we might also explain this:[11] Two cubits on one roof and two cubits on the other.[13]

R. Joseph[14] observed: I have not heard of this ruling.[15] Said Abaye to him, 'You yourself told it to us, and it was in connection with the following that you told it to us: If a big roof was adjacent to a smaller one,[16] the use of the bigger one[17] is[18] permitted,[19] and the use of the smaller one is forbidden.[20] And it was in connection with this that you told us: Rab Judah in the name of Samuel stated: They learned this[21] only in the case where there were dwellers on the one as well as on the other[22] so that the imaginary partition of the smaller roof[23] is one that is trodden upon,[24] but if there were no dwellers on the one as well as on the other the use of both roofs is permitted'.[25] 'I', the other replied: 'told you this: They learned this[21] only were there was a partition[26] on the one as well as on the other, since the use of the bigger roof is rendered permissible by the railings,[27] while [the use of the smaller one is forbidden since] it has a breach extending along its entire length, but if there was no partition either on the one or on the other, the use of both is forbidden'.[28] 'But did you not speak to us of dwellers?' — 'If I spoke to you of dwellers I must have said this: They learned this[21] only where there was a partition that was suitable for a dwelling-place both on the one as well as on the other,[29] since the use of the bigger roof is rendered permissible by the railings[30] while [the smaller one is forbidden, since] it has a breach along its full side, but if there was a partition suitable for a dwelling-place on the bigger roof and none that was fit for a dwelling-place on the smaller one, even the use of the smaller one is permitted to the people of the bigger. What is the reason? As they made no partition[31] they have entirely withdrawn themselves from it, [the principle here being the same] as that enunciated by R. Nahman: If a person fixed a permanent ladder to his roof, he is permitted to use all the roofs'.[32]

Abaye ruled: If a man built an upper storey on his house,[33] and constructed in front of it a small door of four handbreadths[34] he is thereby permitted to use all the roofs[35] Raba observed: The small door is sometimes a cause of restrictions[36] How is this to be imagined? When he made it to open towards his house garden,[37] since it might well be presumed

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(1) This is now assumed to mean that each householder is allowed the free movement of objects throughout the area of his roof.

(2) Cf. prev. n.

(3) Who forbids movement beyond four cubits.

(4) The meaning of the ruling of the Sages.

(5) Within the same roof, however, it is permitted to move an object within four cubits, but no further.

(6) Lit., ‘we were saying’.

(7) Lit., in it .

(8) A Baraitha.

(9) Lit., ‘they have only their roof’.

(10) How then is Rab's view to be reconciled with the implication of this Baraitha?

(11) The Baraitha cited by the school of Samuel.

(12) Our Mishnah.

(13) Within the same roof, however, it is permitted to move an object within four cubits, but no further.

(14) Who after a serious illness had lost his memory.

(15) Of Samuel, that though the walls cannot be seen from the roof the principle of upward extension is nevertheless upheld.

(16) The bigger roof projecting on both sides of the smaller.

(17) For the movement of objects by the occupiers of the house below.

(18) Even according to Rab's view.

(19) Since three of its sides (cf. Supra n. 16) are detached and defined and the principle of upward extension may well be applied to them, while, on its fourth side, the part which is joined to the smaller roof may be regarded as a doorway and the two sections projecting on either side may be deemed to be extending upwards and forming a kind of railings or side-posts to the two sides of the doorway. The two roofs thus assume the character of two courtyards with a door between them where the smaller one imposes no restrictions on the bigger.

(20) Being exposed to the extent of the entire length of one of its sides to the bigger roof that side cannot be regarded as a door but as a breach, on account of which the people of the bigger roof (as in the case of a similar breach between a bigger, and smaller courtyard) impose restrictions on its use.

(21) That the movement of objects is forbidden on the smaller roof.

(22) And these freely walked across from their own roof to that of their neighbours.

(23) The presumed upward extension of the wall supporting it.

(24) And is consequently invalid.

(25) Because the walls, though indistinguishable to one standing on the roofs, are nevertheless deemed to extend upwards which is in fact the ruling of Samuel Supra.

(26) All round the roofs except where they adjoin one another.

(27) Or ‘side-posts’, sc. the imaginary upward extensions of its projections on either side of the smaller roof (cf. Supra p. 622, n. 19).

(28) The imaginary railings or side-posts being of no avail where no partitions exist with which to form a doorway.

(29) So that both groups evidently intended to use their respective roofs as dwelling-places.

(30) Cf. supra p. 622, n. 19 mut. mut.

(31) And thus indicated that they have no intention of living on their roof.

(32) Even according to the SAGES. Since the other residents who fixed no ladders have evidently decided to make no use of their roofs the man who did fix one has all their roofs at his disposal and they are, therefore, deemed to form one single domain with his own roof.

(33) By surrounding all his roof with walls.

(34) That opened towards the other roofs (Rashi). Cf. however, Tosaf. a.l.

(35) Cf. supra n. 2 mut. mut.

(36) And the other roofs may not be used even according to R. Meir who holds that ALL THE ROOFS OF A TOWN CONSTITUTE A SINGLE DOMAIN.

(37) While the wall facing the roofs remained closed.

Talmud - Mas. Eiruvin 90a

that it was made for the purpose of facilitating the watch over his house garden.[1]

Rami b. Hama[2] enquired: Is it permitted to move an object[3] two cubits along a roof and two cubits along a column?[4] — ‘What an enquiry’, Rabbah[5] exclaimed: ‘is this? He is asking about a karmelith[6] and a private domain!’[7] And Rami b. Hama?[8] — In[9] his ingenuity he was not careful in putting the question. He, however, meant to put the question thus: Is it permitted to move an object[10] two cubits along a roof[11] and two cubits along an exedra?[12] Do we say: Since neither the one nor the other[13] is fit for a dwelling-place, both[14] are regarded[15] as a single domain;[16] or is it possible that as the movement of objects from one roof [11] to another[11] is forbidden[17] so is also that between a roof[11] and an exedra[12] forbidden.[18]

R. Bebai b. Abaye enquired: Is it permissible to move an object two cubits on a roof and two cubits in a ruin?[19] — Is not this enquiry, R. Kahana asked, identical with that of Rami b. Hama?[20] — Would I’, R. Bebai b. Abaye retorted: ‘have come with the enquiry of another man merely to create difficulties? [21] An exedra is unfit as a dwelling whereas a ruin is fit’.[22] But if it[23] is fit as a dwelling why did he[24] raise the question?[25] — His enquiry was in the nature of an alternative question:[26] If, [he said in effect,] you will find [some reason] for answering[27] that an exedra is unfit as a dwelling,[28] [will you agree that] a ruin is fit[29] for a dwelling,[30] or is it possible [that the latter is subject to the same law as the former, since] now at any rate it has no tenants? — This must remain undecided.[31]

Regarding a number of roofs on the same level, according to R. Meir,[32] or a single roof,[33] according to the Rabbis,[34] Rab ruled: It is permissible to move objects through their areas,[35] and Samuel ruled: Objects may be moved only within four cubits.[36] As ‘Rab ruled: It is permissible to move objects throughout their areas,[37] does not a contradiction arise between two rulings[38] of Rab?[39] There the walls are undistinguishable[40] but, here, the walls[41] are distinguishable.[42] But since ‘Samuel ruled: Objects may be moved only within four cubits’,[43] does not a contradiction arise between two rulings of Samuel?[44] — There[45] the area was not bigger than two beth se'ah[46] but here it[47] is bigger than two beth se'ah, and, since those walls[48] were made for dwelling purposes only below[49] but not on the roof’ area above,[50] the latter is like a karpaf bigger than two beth se'ah, that was not surrounded by walls for dwelling purposes, and in any karpaf bigger than two beth se'ah that was not surrounded by walls for dwelling purposes, no objects may be moved except within four cubits.

It was stated: As regards a ship, Rab ruled: It is permissible[51] to move objects about throughout its area, and Samuel ruled: Objects may be moved only within four cubits. ‘Rab ruled: It is permissible to move objects about throughout its area’

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(1) And that he withdrew himself entirely from the use of the roofs.

(2) Who held Rab's view that on a roof, according to the Sages, objects ‘may be moved only within four cubits’ (v. supra 89a ad fin.).

(3) Lit., ‘what (law) is it’.

(4) Ten handbreadths high and four handbreadths wide that was standing in the public domain in close proximity to the roof.

(5) MS.M. ‘Raba’.

(6) The roof.

(7) The column; Sc. it is obvious that the answer is in the negative since the movement of objects between a karmelith and a private domain is definitely forbidden.

(8) Why did he raise a question the answer to which is so obvious?

(9) Lit., ‘at the side of’.

(10) Lit., ‘what (law) is it’.

(11) Of a dwelling-house.

(12) Sc. the roof of an exedra, that did not belong to the owner of the adjoining roof and house, that was bigger than two beth se'ah, that had no partitions around it, that was in a sloping position and that had in consequence the status of a karmelith,

(13) Sc. neither the roof of the dwelling-house nor that of the exedra.

(14) Though belonging to different owners.

(15) Since, unlike the roofs of two dwelling-houses which, on account of the different tenants beneath them, are regarded by the Sages as different domains, the exedra has no tenants either within it or on its roof.

(16) Even according to the Sages.

(17) Because, presumably, they belong to different tenants.

(18) For the same reason (cf. prev. n.).

(19) That belonged to a different owner, and that had the status of a karmelith because one of its sides was completely exposed to a public domain.

(20) Who, instead of a ruin that was a karmelith (cf. prev. n.), spoke of an exedra which was also a karmelith.

(21) Lit., ‘did I come from another and quarrelled’.

(22) The position of the two, therefore, is not identical, and the one enquiry has no bearing on the other.

(23) A ruin.

(24) R. Bebai.

(25) It should have been obvious to him that the answer was, as in the case of roofs of dwelling-houses, in the negative.

(26) Lit., ‘He said: If you will find (some reason) for saying’, sc. R. Bebai was neither certain that a ruin is to be regarded as a suitable dwelling-place nor that it was subject to the same law and status as all exedra, and his enquiry depended on one of the two possible alternative answers to Rami's enquiry.

(27) Rami's question.

(28) And that the movement of objects between its roof and the roof of a dwelling-house is, therefore, permitted.

(29) With some slight adjustments.

(30) And consequently it is forbidden to move objects between it and the roof of a dwelling-house.

(31) Teku, lit., ‘let it stand’.

(32) Who ruled that ALL THE ROOFS OF A TOWN CONSTITUTE A SINGle DOMAIN.

(33) I.e., one detached from the other roofs.

(34) The SAGES, whose rule that each roof IS A SEPARATE DOMAIN that imposes restrictions on the adjoining roofs, cannot obviously apply to an isolated roof.

(35) Lit., ‘in all of it’.

(36) On the same roof according to the Rabbis or on two roofs (a portion of the four cubits on each) according to R. Meir.

(37) From which it follows that he adopts the principle of the upward extension of the walls under the roofs to form partitions around the roofs.

(38) Lit., ‘a difficulty of that of rab on that’.

(39) The one just cited and the ruling. Supra 89a, that on roofs of the same level, according to the Rabbis, objects ‘may be moved only within four cubits’, from which it is obvious that he does not recognize the principle of the upward extension of walls.

(40) One standing on any of the roofs cannot see them since they are covered by the roofs. Hence it is that the principle of upward extensions cannot be applied and the roofs, according to the Rabbis, impose restrictions upon each other.

(41) Of (a) the detached house, according to the Rabbis, and (b) those of the outermost houses according to R. Meir.

(42) They can well be seen from (a) the roof or (b) the roofs. The principle of upward extension is, therefore, applicable.

(43) From which it follows that he does not hold the principle of upward extension.

(44) Cf. Supra n. 9 mut. mut.

(45) Where Samuel was dealing with the view of the Rabbis who regard each roof as a separate domain.

(46) Since the walls of each individual roof, which is smaller than two beth se'ah, are deemed to be extended upwards.

(47) The area of all the roofs according to R. Meir and that of the single roof according to the Rabbis.

(48) Of the houses.

(49) Within the houses themselves.

(50) Lit., ‘above they are not made’.

(51) Even where it was bigger than two beth se'ah.

Talmud - Mas. Eiruvin 90b

because it has[1] walls;[2] ‘and Samuel ruled: Objects may be moved only within four cubits’, since the walls were put up for the purpose of keeping out[3] the water.[4] ‘Is the law’, R. Hiyya b. Joseph asked Samuel, ‘in agreement with your view or is it in agreement with that of Rab?’ — ‘The law, the other replied: ‘is in agreement with that of Rab’. ‘Rab’, explained R. Giddal in the name of R. Hiyya b. Joseph, ‘agrees nevertheless that if it was turned upside down[5] objects on it[6] may be moved only within four cubits. For what purpose, however, was it inverted? If it be suggested: For the purpose of dwelling under it, why, it could be objected, should its law be different from that of a single roof?[7] — It was inverted rather for the purpose of being coated with pitch.[8] R. Ashi reported[9] this[10] with reference to a ship; but R. Aha son of Raba[11] reported it with reference to an exedra. For it was stated: If an exedra was situated in a valley, it is, Rab ruled, permitted to move objects within all its interior; but Samuel ruled: Objects may be moved within four cubits only. Rab ruled that it was permitted to move objects in all its interior because we apply the principle: The edge of the ceiling descends and closes up. But Samuel ruled that objects may be moved within four cubits only because we do not apply the principle: The edge of the ceiling descends and closes up.[12]

But according to Rab's interpretation of R. Meir's view,[13] should it not[14] be permitted to move objects from a roof into a courtyard?[15] This is forbidden as a measure[16] of which R. Isaac b. Abdimi has spoken.[17] And according to Samuel's interpretation of the view of the Rabbis,[18] should it not be permissible to move objects[19] from a roof to a karpaf?[20] — Raba[21] b. Ulla replied: The prohibition is due to a preventive measure against the possibility of a reduction in the area of the roof.[22] But if so, it should also be forbidden to move an object[23] from karpaf to karpaf[24] since the area of one of them might happen to be reduced[25] and people would still be moving objects from one to the other? — If a reduction were to occur there[26] it would be noticeable[27] but if a reduction should take place here[28] it might not be noticed at all.[29]

Rab Judah stated: A careful study would show that[30] according to the view of R. Meir roofs are regarded as a Separate domain, courtyards as a separate domain

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(1) Lit., ‘there is’.

(2) That were put up for dwelling purposes.

(3) Lit., ‘to cause to flee’.

(4) Not for dwelling purposes.

(5) Lit., ‘on its mouth’,

(6) If it was higher than ten handbreadths.

(7) Concerning which Rab ruled that even according to the Rabbis it is permissible to move objects throughout its area though it was bigger than two beth Se'ah. The sides of a ship that was inverted for the purpose of dwelling under it should be subject to the same laws as those of the walls of a dwelling-house.

(8) As its sides no longer serve the purpose of walls of a dwelling place the ship's roof (or back) assumes the same character as that of the top of a mere column; and when these sides are imagined to be extended upwards they surround an area that is bigger than two beth se'ah whose walls were not put up for dwelling purposes and whose status, therefore, must be that of a karmelith where movement of objects beyond four cubits is forbidden.

(9) Lit., ‘taught’.

(10) The discussion between Rab and Samuel. V., however, Rashi.

(11) MS.M. ‘Jacob’.

(12) Supra 25a q.v. notes.

(13) Viz., that it is permissible freely to move objects from roof to roof provided all the roofs were on the same level.

(14) Since a roof (cf. prev. n.) is not subject to the restrictions of karmelith.

(15) Obviously it should. Why then did R. Meir rule (infra 90b, fiad n) that gardens, courtyards and karpafs are separate domains from any of which it is forbidden to move objects into the other?

(16) Against similar action in the case of a mound in a public domain.
(17) Supra 89a q.v. notes.
(18) That a detached roof that was bigger than two beth se'ah is subject to the restrictions of a karmelith.
(19) Within four cubits.
(20) Apparently it should. Why then did the Sages rule (infra 91a, ab init.) that, while roofs and courtyards form one domain, karpafs form a separate domain from which it is forbidden to move objects either into a courtyard or on to a roof.
(21) Var. lec. ‘Rabbah’ (marg. gl.).
(22) As well as that of the house under it to less than two beth se'ah, when it would assume the status of a private domain from which into a karpaf the movement of objects is forbidden.
(23) Even within four cubits.
(24) Each of which was bigger than two beth se'ah.
(25) And thus assume the status of a private domain.
(26) In the area of a karpaf.
(27) One could not fail to observe a reduction in all enclosed space.
(28) In a roof which is all unenclosed space since it had no walls around it.
(29) It is very difficult to recognize a small difference in an open area.
(30) Lit., ‘when you will find to say’.

Talmud - Mas. Eiruvin 91a

and karpafs as a separate domain;[1] that, according to the view of the Sages,[2] roofs and courtyards form a single domain[3] and karpaf[4] form a domain of their own;[5] and that according to the view of R. Simeon[6] all these together[7] constitute a single domain.

It was taught in agreement with Rab[8] and it was also taught in agreement with Rab Judah.[9] ‘It was taught in agreement with Rab’: All the roofs of a town constitute a single domain, and it is forbidden to carry objects up or down from the courtyards on to the roofs or from the roofs into the courtyards respectively;[10] but objects that were in a courtyard when the Sabbath began may be moved about within the courtyard, and if they were at that time on the roofs they may be so moved on the roofs, provided no roof was tell handbreadths higher or lower than all adjoining roof; so R. Meir. The Sages, however, ruled: Each one is a separate domain and no object may be moved in it except within four cubits.[11] ‘It was taught in agreement with Rab Judah’:[12] Rabbi related, When we were studying the Torah at R. Simeon's at Tekoa[13] we used to carry[14] oil[15] and a towel from roof to roof, from the roof to a courtyard, from the courtyard to another courtyard, from that courtyard to a karpaf and from that karpaf into another karpaf[16] until we arrived at the well wherein we bathed.

R. Judah related: It once happened that during a time of danger[17] we carried[14] a scroll of the Law from a courtyard into a roof, from the roof into a courtyard, and from the courtyard into a karpaf in order to read in it.[18] They,[19] however, said to him: A time of danger can supply no proof.[20]

R. SIMEON RULED: ROOFS etc. Rab ruled: The halachah is in agreement with R. Simeon. This, however, applies only where no ‘erub[21] had been prepared,[22] but not where one[23] had been prepared, since [in the latter case] a preventive measure must be enacted[24] against the possibility of carrying out objects from the houses [in one courtyard] into a [neighbouring] courtyard.[25] Samuel, however, ruled: [The same law[26] applies] whether an ‘erub had been prepared or not. So also said R. Johanan: ‘Who whispered this[27] to you? [There is in fact no difference] whether an ‘erub had been prepared or not’.[28] R. Hisda demurred: According to the view of Samuel and R. Johanan,[29] it might well be objected, ‘Two objects in the same courtyard, and one may be moved[30] while the other may not!’[31] — R. Simeon follows his own principle that in such cases no preventive measure need be enacted. For we learned: ‘R. Simeon remarked: To what may this case be compared? To three courtyards that open one into the other and also into a public domain where, if the two outer ones made an ‘erub with the middle one, It is permitted to have access to them and they are permitted access to it, but the two outer ones are forbidden access to one another'[32] and no preventive measure against the possibility of carrying objects from the one courtyard into the other had been enacted; so also here no preventive measure has been enacted against the possibility of carrying objects from the houses of one courtyard into the next courtyard.

R. Shesheth raised an objection: R. SIMEON RULED: ROOFS, COURTYARDS AND KARPAFS ARE EQUALLY REGARDED AS ONE DOMAIN IN RESPECT OF CARRYING FROM ONE INTO THE OTHER OBJECTS THAT WERE KEPT WITH THEM WHEN THE SABBATH BEGAN, BUT NOT IN RESPECT OF OBJECTS THAT WERE IN THE HOUSE WHEN THE SABBATH BEGAN. Now if you grant that the ruling[33] applies also to cases where an erub had been prepared it is quite easy to see how objects from a house call be found in a courtyard,[34] but if you maintain that the ruling; applies only to cases where no 'erub had been prepared, how[35] is it possible for objects from a house to be found in a courtyard?[36] — He raised the objection and he also supplied the solution: [The objects] referred to might be skull-caps or turbans.[37]

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(1) Supra 89a q.v., notes.

(2) Who, unlike R. Meir, did not make provision against the possibility of using a mound in a public domain.

(3) It being permissible to move objects from one courtyard into another if both belonged to more than one person, or from a private roof (since it is only infrequently used) into such a courtyard. Between private roofs this is forbidden, since in the view of' the Rabbis, the domains on the roofs are as divided as the domains of the houses below,

(4) Since they are of the same character.

(5) Though they belonged to more than one owner.

(6) V. his ruling in our Mishnah.

(7) Not only each group.

(8) Who laid down (supra 89a) that the principle of upward extension is inapplicable to indistinguishable walls, that adjoining roofs of the same level impose, therefore, restrictions upon each other, and that no object may be moved on either of them beyond four cubits.

(9) Whose view has just been cited.

(10) This, according to R. Meir, is a preventive measure against the possibility of a similar act in the case of a mound in a public domain.

(11) In agreement with Rab.

(12) In respect of his interpretation of R. Simeon's view.

(13) A place in Palestine famous for its oil.

(14) Lit., 'bring up'.

(15) For anointing their bodies after their bathing (v. infra).

(16) In agreement with Rab Judah.

(17) The religious persecutions after Bar Kochba's revolt.

(18) From this R. Judah sought to lay down the law for normal times.

(19) His colleagues at the college.

(20) As to what is permitted in normal times.

(21) By the tenants of each courtyard.

(22) For their respective courtyards. As in the absence of all 'erub they are forbidden to carry any objects from their houses into their courtyards there is no need to provide against the possibility of the carrying of an object from one of the houses into a neighbouring courtyard.

(23) Each courtyard for itself but no two courtyards jointly.

(24) Forbidding the transfer of objects from one courtyard into another, even though these were all the time in the courtyard.

(25) Which even R. Simeon forbids. Cf. Supra n. 12 mut. mut.

(26) It. Simeon's.

(27) The distinction drawn by Rab (cf. Rabbenu Samuel in Tosaf a.l.). Rashi deletes 'who . . . you'. For another interpretation (cf. R. Tam. in Tosaf. loc. cit.).

(28) In either case freedom of movement is permitted.

(29) That, though objects that were in a courtyard when the Sabbath began may be moved into another courtyard, those that were at the time mentioned in a house in that courtyard may not be moved to an adjoining courtyard, even after they had been brought into their own courtyard by means of an ‘erub.

(30) Into an adjoining courtyard (cf. prev. n.).

(31) As a result, people might take the liberty of carrying the two kinds of objects into the next courtyard. Why then was no preventive measure enacted against such a possibility?

(32) Supra 45b q.v. notes.

(33) R. Simeon's.

(34) And the limitation, ‘BUT NOT IN RESPECT OF OBJECTS THAT WERE IN THE HOUSE’ was consequently necessary.

(35) Since in the absence of all ‘erub no object may be carried from any of the houses into the courtyard.

(36) This being apparently impossible, what need was there for (cf. supra p. 631, n. 6) the limitation?

(37) Which may well have been in the house when the Sabbath began but were carried into the courtyard on one's head as articles of dress.

Talmud - Mas. Eiruvin 91b

Come and hear: if the tenants of a courtyard and the tenants on its gallery forgot to join together In an erub,[1] any level that is higher than ten handbreadths[2] belongs to the gallery,[3] and any lower level belongs also to the courtyard.[4] This[5] applies only where both the former as well as the latter were occupied by many tenants[6] and each group prepared an ‘erub for itself,[7] or where they belonged to individuals[8] who[9] need not prepare an ‘erub;[10] but if they were occupied by many tenants[11] who forgot to prepare an erub,[12] roof, courtyard, exedra and gallery constitute together[13] a single domain.[14] The reason then[15] is that no ‘erub had been prepared,[12] but if an ‘erub had been prepared this would not have been permitted, would it?[16] — This represents the view of[17] the Rabbis.[18] A deduction from the form of the expression also supports this view,[19] since karpaf and alley were not mentioned.[20] This is conclusive.

Come and hear: If five courtyards were open one into the other and also into an alley and all their tenants forgot to prepare an erub, it is forbidden to carry in or to carry out from a courtyard into the alley[21] or from the alley into a courtyard; objects, however, that were in a courtyard when the Sabbath began may be moved about within the courtyard, but in the alley this is forbidden;[22] but R. Simeon permits this[23] for he used to say: Whenever they[24] belong to many people who forgot to prepare an erub,[25] a roof a courtyard, all exedra, a gallery, a karpaf and an alley are jointly regarded as a single domain.[26] The reason then[27] is that no ‘erub had been prepared[28] but if they had prepared One[29] this would not have been the case, would it?[30] — The meaning of ‘no erub had been prepared’ is that the tenants of the courtyards did not prepare an ‘erub jointly, but the courtyard with its houses were joined by an ‘erub.[31] But was it not stated: ‘No ‘erub[32] had been prepared’? — The meaning of an ‘erub had been prepared’ is that there was no shittuf.[33] And if you prefer I might say: R. Simeon was speaking to the Rabbis in accordance with their view. ‘According to my view’, he said, in effect, ‘there is no difference between a case where an erub had been prepared and one where it had not been prepared;[34] but according to your view, would you not agree with me that at least where no ‘erub had been prepared[35] all[36] should be regarded as a single domain?’ And the Rabbis replied: No, they[37] must be regarded as two domains.[38]

The Master said: ‘But in an alley this is forbidden’. May it be suggested that this provides support to a ruling R. Zera cited in the name of Rab, for R. Zera citing Rab ruled: In an alley wherein no shittuf had been arranged no objects may be moved about except within four cubits?[39] — Read:[40] ‘But into an alley it is forbidden’.[41] But this[42] is identical, is it not, with the first clause?[43] — The superfluous Mishnah[44] was required: As it might have been presumed that the Rabbis differed from

R. Simeon only[45] where an erub had been prepared[46] but that where no ‘erub had been prepared[47] they agreed with him,[48] we were informed[49] [that they differ in both cases].[50]

Said Rabina to R. Ashi:

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(1) But each group prepared an ‘erub for its courtyard and gallery respectively.

(2) A column or a mound, fair instance.

(3) For the discussion and explanation of the ruling v. supra 84a.

(4) And since the tenants of the courtyard as well as those of the gallery have a right to it, its use is forbidden to both.

(5) The prohibition on both groups of tenants to use the same courtyard or gallery.

(6) Lit., ‘that these belonged to many and those belonged to many’.

(7) So that the tenants in each group were permitted to carry their objects from their houses into their courtyard and gallery respectively. If objects that rested in the courtyard or the gallery had been permitted to be transferred from the one into the other, people might mistakenly transfer also objects from the house of the one into the other. Hence the prohibition (cf. supra n. 7).

(8) Sc. the courtyard belonged to one, and the gallery to another individual.

(9) Since there were no other tenants either in the one or in the other to impose restrictions.

(10) And may, therefore, carry their objects from their houses into their respective domains. Hence (cf. Supra n. 9) the prohibition.

(11) I.e., the gallery had a number of tenants and the courtyard also had a number of tenants.

(12) For their respective domains, so that no object could be moved from any of the no uses into the courtyard and gallery respectively into which that house opened.

(13) In respect of objects that rested in them at the time the Sabbath commenced.

(14) And it is consequently permitted to move these objects from one into the other.

(15) Why it is permitted to move objects from one into the other (cf. prev. n.).

(16) Obviously not, since a preventive measure against the possibility of carrying objects from the houses of the one into the other would have been necessary. Now since it is R. Simeon who regards roofs, courtyards etc. as one domain this ruling which also regards them as one domain must be attributed to him, since it was Shown that if an ‘erub had been prepared the movement of all objects between courtyard and gallery is forbidden, an objection arises against Samuel and R. Johanan.

(17) Lit., ‘this is according to whom.?’

(18) Who agree that roofs and courtyards do constitute a single domain, and it is only they who did not permit the movement of objects as a preventive measure (as they did in the case supra 49a). R. Simeon, however, enacted no such preventive measures.

(19) That the ruling cited represents the view of the Rabbis.

(20) In agreement with their view. A ruling of R. Simeon would have included these also since he regards these as well as the others as one domain.

(21) The Rabbis, whose view is here represented, regarding an alley as a karpaf into which no objects may be carried.

(22) This is now assumed to mean that even objects that were in the alley itself at the time the Sabbath commenced may not be moved in it because, so long as no joint ‘erub had been prepared, it is subject to the restrictions of a karmelith.

(23) Even the movement of an object from a courtyard into the alley.

(24) Courtyards or alleys.

(25) For themselves. This is now presumed to mean that tenants of each courtyard did not prepare an ‘erub for their own courtyard.

(26) The movement of objects within which is permitted.

(27) Why according to R. Simeon it is permitted to carry objects from a courtyard into the alley.

(28) Cf. supra n. 9; so that no objects from the houses may be carried into the courtyard and no preventive measure against the possibility of carrying them into the alley is called for.

(29) In reliance on which objects from the houses could be carried into the courtyard.

(30) Since a preventive measure against the possibility of carrying objects from the houses into the alley would have been necessary. A distinction is thus drawn between a case where ‘erub has, and one where it has not been prepared. All objection against Samuel and . Johanan.

p31) R. Simeon's form of expression was not intended as a restriction but, on the contrary, as an extension of the privilege: Even though each courtyard was provYdeé with a separate ‘erub and objects from its houses were permitted to be carried into it, it is nevertheless permitted to move into the alley such objects as were in the courtyard when the Sabbath began and no preventive measure against the possibility of carrying also the objects from the houses was deemed necessary.

(32) Presumably none whatever.

(33) Between the courtyards in the alley. The question of ‘erub between the houses of each courtyard is completely disregarded since the use of the alley is permitted irrespective of whether such an ‘erub was or was not prepared in the courtyards.

(34) As Samuel and R. Johanan maintained.

(35) By each group of tenants for their own courtyard.

(36) Roof, courtyard, exedra, gallery and karpaf

(37) Karpaf and alley.

(38) Only roof, courtyard and gallery may be regarded as one domain.

(39) Shab. 130b.

(40) Instead of ‘in’.

(41) Sc. to carry objects from a courtyard. Within the alley, however, objects may well be carried about.

(42) The ruling in the form now suggested.

(43àTWhic´ rËads: ‘it is forbidden to carry . . . from a couræyard into an alley’.

(44) Sc. the repetition of the same thing.

(45) Lit., ‘when do the Rabbis differ from R. Simeon-t
ese w¬rds’.

(46) For each courtyard separately; (thetmeaning of ‘erub in the expression ‘for{ot to prepare an ‘erub’ being shittuf), and t½at the prohibition to move objec>s from a co’rtyard into the alley i¬ due to a preventive measure against the possibility ofùmovinŠ objects from the houseœ into the alley.

(47) In consequence of which no objects front a house could be carried into a courtyard.

(48) That, since no preventive mlasure is called for (cf. pÅev. n.), the movement of objects from the courtyard into the alley is permitted.

(49) By the apparently superfluous repetition of the same ruling.

(50) Since the repetition of the ruling can be ìxplained only by applying each stat¼ment to a different case: One wh¥re all ‘erub for each courtyard had been prepared and one where none had been prepaÙed.

Could R. Johanan have made such a statement,[1] seeing that R. Johanan laid down that the halachah is in agreement with an anonymous Mishnah, and weÊlearned:[2] If aïwalà between two courtyards was ten handbreadths high and four handbr‰adths thick, two ‘eru·s may be prepared but not one. If there was fruit on the top of it, the tenants on either side may cli€b up and eat there, provided they do not carrywit down?[3] — The meaning of ‘down’ is[4] ‘down into the houses’.[5] But did not R. Hiyya learn: Provided neither of the tenants[6] stands in his place[7] and eats?[8] — The other replied: Since[9] Rabbi[10] has not taught this ruling[11] whence could R. Hiyya[12] know it!

Iô was stated: If there were two courtyards with a ruin[13] between them and the tenants of the one prepared an ‘erub[14] and the tenants of the other did not prepare one,[15] [the ruin] said R. Huna, is to be assigned[16] that courtyard for which no ‘erub had been prepared,[17] but not to the one for which an ‘erub had been prepared, since the tenants of the latter might be tempted to carry objects[18] from their houses into the ruin.[19] Hiyya b. Rab, however, said:[20] It[21] is also assigned to the courtyard for which an ‘erub had been prepared, and both, therefore,[22] are[23] subject to restrictions.[24] For wereXyou to suggest that both are exempt from restrictions,[25] why [I would ask,] is not[26] a courtyard for whic— no ‘erub had been prepared assigned[27] to the courtyard for which one had been prepared?[28] — [No].[29] In that case[30] since the objects from the houses are safe[31] ÿn the courtyard one might carry [many of them) thither];[32] but here in the case of a ruin, since the objects from the houses are not safe in a ruin, no one would carry many of them thither.[33]

Others read: Hiyya b. Rab said: It[34] is also assigned to the courtyard for which an ‘erub had been prepared; and both, therefore,[35] are[36] free from restrictions. For should you insist that both are subject to restrictions[37] since[38] a courtyard for which no ‘erub had been provided is not assigned to the one for which one had been provided,[39] [it can be retorted]: In that case,[30] since the objects from the houses are safe[31] in the courtyard the Rabbis did not relax the restrictions because otherwise people might carry them out.[40] In a ruin, however, they are not safe.[41]

MISHNAH. IF A LARGE ROOF WAS CLOSE TO A SMALLER ROOF[42] THE USE[43] OF THE LARGER ONE IS PERMITTED[44] BUT THAT OF THE LESSER ONE IS FORBIDDEN.[45] IF THE FULL WIDTH OF A WALL OF A SMALL[46] COURTYARD WAS BROKEN DOWN SO THAT THE YARD FULLY OPENED INTO A LARGE[47] COURTYARD, THE USE OF THE LARGER ONE[48] IS PERMITTED,[49] BUT THAT OF THE SMALLER ONE[48] IS FORBIDDEN, BECAUSE THE GAP IS REGARDED AS A DOORWAY TO THE FORMER.[50]

GEMARA. What was the point[51] in teaching[52] the same principles twice?[53] According to Rab's view,[54] this[55] was intended to teach us that a ROOF is subject to the same limitations as a COURTYARD: As in a courtyard the walls are distinguishable[56] SO must the walls be distinguishable in the case of a roof also;[57] and according to Samuel's view[58] a no ROOF was meant to be compared to a COURTYARD: As a courtyard is a place upon which many people tread so must a roof[59] be one on which many people tread.[60]

Rabbah and R. Zera and Rabbah son of R. Hanan[61] were sitting at their studies, Abaye sitting beside them, and in the course of their session they argued as follows: From our Mishnah it may be inferred that the occupiers of the larger one influence the rights of those of the lesser but those of the latter do not influence those of the former. If, for instance,[62] vines were planted in the larger one, it is forbidden to sow in the lesser one,[63] and if it was sown, the seeds are forbidden; and

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(1) That the halachah was in agreement with R. Simeon that all courtyards are regarded as a single domain even where separate ‘erub were prepared for each.

(2) Anonymously.

(3) Supra 76b q.v. notes. Since it is forbidden to carry' the fruit down into either courtyard, it is obvious that it is forbidden to carry any object from one courtyard into another; and this ruling, since it is contained in all anonymous Mishnah, must, according to R. Johanan, represent the halachah. Now, if it is granted, as Rab maintained Supra, that a distinction is drawn between courtyards for each of which a separate ‘erub had been provided and courtyards for which none had been provided, the Mishnah cited can be explained to refer to courtyards of the former class; but if no distinction is drawn and R. Simeon, according to R. Johanan's interpretation, regards all courtyards as one domain in either case, how is this rule to be reconciled with the Mishnah?

(4) Lit., ‘what is below’?

(5) Into the courtyards, however, this is permitted.

(6) Lit., ‘that this shall not . . . and this etc.’

(7) Sc. in his own courtyard or on the top of the wall, from which it is obvious that the movement of objects is forbidden not only into the houses but also from one courtyard into the other.

(8) [MS.M. reads: provided they do not carry it down but each one stands in his place].

(9) Lit., ‘and when’.

(10) R. Judah I, the compiler of the Mishnah.

(11) He only spoke of the prohibition to carry it ‘down’, (cf. n. 4,) meaning to take it into the houses.

(12) Who was Rabbis disciple. R. Hiyya compiled Baraithas, and the authorship of the Tosefta is attributed to him.

(13) On none of whose side it was fully exposed to the public domain and that belonged either to the owners of the adjoining houses or to another person.

(14) For their courtyard alone, so that they' were allowed to move objects from their houses into it.

(15) In consequence of which they are forbidden to carry into it any objects from their houses.

(16) Irrespective of whether it belonged to one of the house owners or to a stranger.

(17) I.e., the tenants of that courtyard are permitted to carry objects from their courtyard into the ruin.

(18) Which happened to be in their courtyard (cf. supra n. 10).

(19) No such precaution is necessary in the case of the other courtyard since no objects from the houses (cf. supra n. 11) may be carried into it. R. Huna, a disciple of Rab, follows his master's principle (supra 91a).

(20) In the name of his father (v Rashi a.l.).

(21) The ruin.

(22) Since a preventive measure is necessary to prevent mistaken application of the rule for the courtyard for which no ‘erub had been prepared to the one for which an ‘erub had been prepared.

(23) In the opinion of Hiyya.

(24) Neither from the one nor from the other may objects be moved into the ruin.

(25) Sc. that Rab's (cf. supra p. 636, n. 16) ruling that the ruin ‘is also assigned etc.’ implies a relaxation of the law and that even from the courtyard in which an ‘erub had been prepared the moving of objects into the ruin is permitted.

(26) In the ruling of R. Simeon in our Mishnah which, according to Rab's interpretation (supra 91a) ‘applies only where no ‘erub had been prepared but not where one had been prepared’.

(27) As is the ruin, according to the suggestion.

(28) Sc. why should not the tenants of the latter be permitted to carry objects from their courtyard into the former.

(29) This is no argument against the suggestion that the meaning is that both are free from restrictions.

(30) Lit., ‘there’, the ruling of R. Simeon according to Rab's interpretation.

(31) Lit., ‘are watched’, ‘protected’.

(32) Sc. so manly objects are likely to he carried from the houses into the courtyard that they might easily be mixed up with those of the courtyard and carried like them to the next courtyard. Hence the restriction.

(33) Cf. prev. n. mut. mut. As objects from the houses are not likely to be mixed up with those of the courtyard no preventive measure was considered necessary. The case of the ruin, therefore, is no criterion for that spoken of by R. Simeon, and it may well be maintained, as suggested, that in the former case both are free from restrictions’.

(34) The ruin,

(35) Cf. supra n. 1.

(36) Presumably; in the opinion of Hiyya.

(37) Sc. that neither from the one nor from the other may objects be moved into the ruin.

(38) V. supra n. 2 and text.

(39) From which it is evident that a preventive measure had been enacted against the possibility of mixing up the objects from the houses with those from the courtyard and the carrying of the former like the latter into the next courtyard (cf supra p. 636, n. 18).

(40) Into the courtyard (cf. supra p. 637, n. 8).

(41) V. supra p. 637, n. 9.

(42) The former projecting on both sides of the latter and the line of contact being no longer than ten cubits.

(43) I.e., the taking up of objects from the house below.

(44) The occupiers of the adjoining house impose no restrictions on its tenants since the projecting portion of the larger roof (cf. supra n. 3), by the rule of upward extension, forms side-posts to the middle section common to both roofs which, being no bigger than ten cubits (cf. loc. cit.), is regarded as a doorway of the larger roof.

(45) Cf. supra n. 4; since it is fully exposed to the larger roof, the occupiers of the larger house impose restrictions on its use,

(46) So Asheri, and cur. edd. supra 8a, 9b. Cur. edd. a.l. and Alfasi ‘large’.

(47) Cf. prev. n.

(48) I.e., the movement of objects from its houses into it.

(49) If an ‘erub had been prepared by its tenants. For the reason cf supra n. 5; mut. mut.

(50) But not to the latter. Hence it is (cf. supra nn. 5f) that the use of the former is permitted while that of the latter is forbidden.

(51) Lit., ‘wherefore to me’.

(52) In our Mishnah.

(53) Lit., ‘two’; in case of (a) roofs and (b) courtyards.

(54) That walls must be distinguishable.

(55) The repetition of the same principle.

(56) Since it has proper walls.

(57) I.e the roof must not project beyond the walls. If it does the rule of upward extension cannot apply.

(58) That the rule of upward extension is applicable even where the walls are indistinguishable when viewed from the roof.

(59) If its use is to be forbidden.

(60) If many people do not tread upon it, the rule of upward extension is applied even where the walls are indistinguishable from above.

(61) MS.M., ‘Abin’.

(62) Lit., ‘how?’

(63) Because the latter is regarded as a part of the former in which it is forbidden to sow vines and corn together (v. Glos. s.v. kil'ayim).

Talmud - Mas. Eiruvin 92b

the vines are permitted;[1] if vines grew in the lesser one it is permitted[2] to sow in the larger one.[3] If a woman was in the larger one, and her get[4] was in the lesser one[5] she is[6] divorced thereby;[7] but if the woman was in the lesser one and her get[4] in the larger,[5] she is not divorced.[8] If a congregation was in the larger one and the Reader[9] in the lesser one, they have dully performed their duty,[10] but if the congregation was in the lesser one and the Reader in the larger one they have not performed their duty.[11] If nine men were in the larger courtyard and one was in the lesser one they may all be combined,[12] but if nine men were in the lesser one and one man in the larger one they may not be combined.[13] If excrement was in the larger one it is forbidden to read the portions of the shema’[14] in the lesser one,[15] but if it was in the lesser one it is permitted to read the shema’ in the larger one.[16] Said Abaye to them, If so, do we not find here a case where a partition[17] is a cause of prohibition, for in the absence of a partition[18] one may sow at a distance of four cubits[19] whereas now[20] this is forbidden?’[21] But, retorted R. Zera to Abaye, do we not elsewhere also find a case where a partition is a cause of prohibition? Have we not in fact learnt: IF THE FULL. WIDTH OF A WALL OF A SMALL.[22] COURTYARD WAS BROKEN DOWN SO THAT THE YARD FULLY OPENED INTO A LARGE[22] COURTYARD, THE USE OF THE LARGER ONE IS PERMITTED, BUT THAT OF THE SMALLER ONE IS FORBIDDEN, BECAUSE THE GAP IS REGARDED AS A

DOORWAY TO THE FORMER; but if its projections[23] had been straightened[24] the use of the large One also[25] would have been forbidden?[26] — There,[27] the other replied, it is a case of the removal of partitions.[28] 'Do we not', retorted Raba to Abaye, 'find a partition to be the cause of a prohibition? Has it not in fact been stated:

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(1) Since the lesser courtyard cannot influence the larger one which remains independent of it.

(2) Even ab initio.

(3) Cf. supra n. 6. The line of contact between the courtyards being regarded as a doorway to the larger one and, a doorway having the status of a partition, the corn may be sown even in close proximity to the vines (cf. B.B. 26a). In this case, since they were planed first, the vines also remain permitted (cf. Men. 15a).

(4) Which her husband threw to her.

(5) And she was the owner of both courtyards.

(6) Even according to the view (Git. 77b) that a woman cannot be divorced by the thrusting of a get into her domain unless she was herself present at the time within that domain.

(7) Since the lesser courtyard is regarded as a part of the larger one in which she was actually present,

(8) Because the larger courtyard forms no part of the lesser one, while the woman within the latter (who, as a rule, has no desire to acquire a get to be divorced) cannot be deemed to be transferred to the larger courtyard.

(9) Sheliah zibbur, lit., 'the messenger of the congregation', who reads the prayers for, and on behalf of those who are themselves unable to read them.

(10) Of prayer. The Reader in the lesser courtyard which is regarded as a part of the larger one is deemed to be in the same place as the congregation.

(11) since the Reader in the larger courtyard, which (as explained supra) is independent of the' lesser one, cannot be regarded as present with them in the lesser one, while a whole congregation cannot be deemed to be transferred from their position and shifted towards the position of an individual.

(12) To form a quorum of ten, the minimum number required for a public religious service (cf. supra p. 639, n. 15 mut. mut.)

(13) Cf. supra n. 1 mut. mut.

(14) Keri'ath shema', lit., 'the reading of the shema', the passages from Deut. VI, 4-9 XI, 13-21, and Num. XV, 37-41 the first of which begins with the words 'Shema' Yisroel' ('Hear, O Israel'). The three passages form the central part of the morning and evening services.

(15) Which is deemed to be a part of the former.

(16) Which (as explained supra) is separated from the lesser one by a virtual doorway which has the status of a partition.

(17) Sc. the virtual doorway (formed, by the projection of the sections of the larger courtyard on both sides of the smaller one) which has the status of a partition.

(18) I.e., but for the projections on both sides of the smaller one which have the status of a partition.

(19) From the vines; lit., 'removes four cubits and sows'.

(20) On account of the imaginary partition.

(21) Since the entire area of the smaller courtyard is forbidden ground.

(22) Cf. relevant note on our Mishnah.

(23) The sections of the larger courtyard that projected on both sides of the smaller one.

(24) By building partitions that cut out these projections from the larger courtyard.

(25) Which, on account of the partitions d, is now fully exposed to the smaller one as the latter is exposed to it.

(26) Which is another case where a partition is the cause of a prohibition.

(27) The case just cited.

(28) The putting up of the new partitions removes the former partitions so that one cancels out the other. In the case cited by Abaye, however, there is only one set of partitions and these very partitions are the cause of the prohibition.

Talmud - Mas. Eiruvin 93a

If an exedra[1] that had side-posts[2] was covered with boughs,[3] it[4] is valid as a sukkah;[5] but if its side-posts had been straightened,[6] it would have been invalid, would it not?'[7] 'According to my view, Abaye replied: 'it[8] is still valid,[9] while according to your view it is a case of the removal of' partitions'.[10] Said Rabbah b. R. Hanan[11] to Abaye: Do we not find elsewhere that a partition may be the cause of a prohibition? Was it not in fact taught: If a house was half covered with a roof while its other half was uncovered, it is permissible to sow[12] in the uncovered part[13] though vines grew in the covered part;[14] but if all the house had been equally covered with a roof[15] would not this have been forbidden?[16] — There, the other replied: It is a case of the removal of partitions.[17]

Raba sent to Abaye by the hand of R. Shemaiah b. Ze'ira [the following message]: 'Do we not find a partition to be the cause of a prohibition? Was it not in fact taught: partitions in a vineyard may be either the cause of a relaxation of the law[18] or one of a restriction of it. In what manner? If the plantation of a vineyard stretched to the 'very foundation of a fence one may sow from the very foundations of that[19] fence and beyond it; whereas in the absence of a partition one may sow only at a distance of four cubits;[20] and this is an example of a partition in a vineyard that is the cause of a legal relaxation. In what manner are they a cause of legal restriction? If a vineyard was removed eleven cubits from a wall no seed may be sown in the intervening space;[21] whereas in the absence of a wall one may sow at a distance of four cubits;[20] and this is an example of a partition in a vineyard that is the cause of a legal restriction?'[16] — 'According to your view, however, the other replied: 'might you not raise an objection against me from a Mishnah, since we learned: A patch in a vineyard, Beth Shammai ruled, must measure no less than twenty-four cubits, and Beth Hillel ruled: Sixteen cubits; and the width of an uncultivated border of a vineyard, Beth Shammai ruled, must measure no less than sixteen cubits, and Beth Hillel ruled: Twelve cubits. And what is meant by a patch in a vineyard? The barren portion of the interior of the vineyard.[22] If its sides do not measure sixteen cubits no seed may be sown there, but if they do measure sixteen cubits, sufficient space for the tillage of the vineyard is allowed and the remaining space may be sown. What is meant by the uncultivated border of a vineyard? The space between the actual vineyard and the surrounding fence. If the width is less than twelve cubits no seed may be sown there, but if it measures twelve cubits, sufficient space for the tillage of the vineyard is allowed and the remaining area may be sown'?[23] Consequently[24] it must be assumed that the reason there[25] is[26] that all the space to the extent of four cubits that adjoins the vineyard is allotted for the tillage of the vineyard, and a similar space that adjoins the wall, since it cannot be sown,[27] is renounced[28] so that the area intervening,[29] if it measures four cubits,[30] is deemed to be of sufficient importance, but not otherwise.[31]

Rab Judah said: If three karpafs[32] adjoined one another, and the two outer ones had projections[33] while the middle one had none[34] and one man occupied each,[35] the group[36] is treated as a caravan who are allowed as much space as they require.[37] If the middle one had projections[38] while the two outer ones had none[39] and one man occupied each, the three men together[40] are allowed no more space[41] than six [beth se'ah].[42] The question was raised: What is the ruling where one person occupied each of the outer karpafs and two occupied the middle one?[43] Is it held that if these[44] were to go[45] to the one karpaf[46] there would be in it three[47] and if they[44] were to go to the other karpaf[46] there would be in it three[47] , or is it rather held that only one of them[48] is deemed to be going to each karpaf?[49] And were you to find Some ground for the assumption that only one of them[50] is deemed to be going to each karpaf,[51] the question arises: What is the decision where two persons occupied each of the outer karpafs[52] and only one occupied the middle one? Is it certain that the view is here: If he[53] were to go to the one karpaf[54] there would be in it three[55] and if he were to go to the other karpaf[54] there would be in it three,[55] or is the view rather that it is doubtful in which direction he would go?[56] The law is that in these questions the more lenient rule is adopted.

R. Hisda said:

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(1) With two walls in the shape of an "L" (v. Tosaf. a.l. contra Rashi).

(2) Of the width of a handbreadth, attached to the end of either wall.

(3) Or similar materials suitable for a sukkah roof.

(4) Since either post nay be deemed to be extended horizontally and to form a third wall.

(5) Suk. 18a.
(6) By putting up walls that covered them (cf. diagram supra mut. mut.) so that only two walls remained.
(7) Which is another case where a partition is the cause of a prohibition,
(8) Even in the absence or concealment of the side-posts.
(9) Because the edges of the beams that span the roof of the exedra are deemed to extend downwards and to form virtual walls (cf. infra 95a) so that the added walls do not effect any prohibition.
(10) Cf. supra n. 5 mut. mut.
(11) MS. M., Raba b. R. Hanin.
(12) Immediately outside the covered section.
(13) Lit., ‘here’; because the edge of the roof is deemed to descend downwards and form a partition between the covered and uncovered sections of the house.
(14) V. p. 641, n. 18.
(15) Lit., ‘he made his roof covering equal’.
(16) Which is another case where a partition is the cause of a prohibition.
(17) The extension of the roof removes the virtual partition formed (cf. supra n. 2) by the edge of the half of the roof.
(18) Of kil'ayim.
(19) On its other side.
(20) From the vineyard. Lit., ‘causes it to be four cubits far and sows’.
(21) Lit., ‘shall not bring seed there’.
(22) Lit., ‘a vineyard whose middle was destroyed’.
(23) Kil. IV, 1; supra 3b q.v. notes. Now the ruling ‘If the width (between the vineyard and the wall) is less than twelve cubits no seed may be sown there’ proves that a partition may be the cause of a restriction,. Why then did not Raba raise his objection on the basis of this ruling that has the authority of a Mishnah and is much superior to that of a Baraitha on which his objection is based?
(24) Since Raba did not cite this Mishnah in support of his objection.
(25) Why no seed may be sown if the distance between the vineyard and the wall is less than twelve cubits.
(26) Lit., ‘but is not there this the reason’.
(27) The sowing of seed near a wall undermining its foundations (cf. B.B. 19a).
(28) By its owner, as useless for cultivation.
(29) Between the four cubits for tillage on the side of the vineyard and the four cubits waste on the side of the wall.
(30) The total distance between the vineyard and the wall would consequently be (cf. prev. n.) 4 + 4 + 4 = 12 cubits.
(31) Lit., ‘and if not they are not important’. As this Mishnah provides no basis for Raba's objection so does not the Baraitha which may be similarly explained.
(32) Whose enclosure consisted of no proper fence (plaited lengthwise and crosswise) but of ropes drawn horizontally or reeds fixed in the ground vertically.
(33) Sc. each one was wider than the middle karpaf and projected on both sides of the line of contact, so that the projections formed a sort of frame the space between which is regarded as a doorway to it.
(34) If they were situated, for instance, in the following formation.
(35) V. marg. glos.
(36) Of the three men, two of whom, on account of the bigger size of their karpafs, influence the rights of the third man in the middle one and who may, therefore, be deemed to be joint occupiers with him of that karpaf.
(37) ‘Certainly’ of cur. edd. is deleted with Bah.
(38) Cf supra p. 643, n. 11. mut. mut.
(39) The karpafs having been situated with the largest in the middle and flanked on both of its sides by a smaller one.
(40) Since the man of the middle karpaf, which is bigger than those occupied by the other two men and which has virtual doorways opening towards them, now has the influence over the others, in consequence of which the latter cannot be treated as the o~cupiers off his karpaf to form with him a joint group of three (the minimum required to constitute a caravan), while he himself, despite his influence Pn the two3 can only be regarded as the occuoier of the one or the other of the outer karpafs soòthat no more thanh,wo men (a number less than the minimum required for a caravan) ever occupy an]8one ofthe karpafs.
(41) Lit., ‘thy are only given’.
(42) Two bethse'a| for eah. Ia either ˜fâthe outer karpafs #subigger than two beth se'ah the occupier'sóFse fdit is

restrictedL but if the middle one is bigger than wo beth se'ah the use of all the three ka¾pafs is reétricted since each of the two side ones is now fu‘ly exposed on one of its sides to the restricted õomain of the middlek?rpaf

(43) Lit., ‘one in this and one in this and two in the middle one’, which was bigger than the others and whºch, owing to it& projections on either side of each, is deemed to be provided with a doorway and to have influence overã£hem.

(44) The two occupiers of the middle karpaf

(45) As they6Nre well entitled to do on account of the size and position of their karpaf

(4*f*) Lit., ‘to here’, to one of t[e side karpafs that were each occupied by one man.

(47) Occupiers, in consequence of which they constitute a caravan and are, therefore, entitled to as much space as they require.

(48) Since, in order to í™oid being in each otXer's way, the two are ot likely toŸuse the same karpaf at the same Ýime.

(49) Lit., ‘or perhaps one goes there’ (repeat); and the restriction of the size to two beth se'ah, therefore, rema ץדמ

(50) ץה ץפ 644ת 11ץ 12ץ

(51) ץכב ץהקרפ מ

(52) ץכב שרפוד ץפ 644ת ץמ 7ץ

(53 ץכשפרשל ק גגןצ קיא כם אמשפובבם קיא

(54) ץכב שרפוד ץפ 644ת ץמ 10ץ

(55) ץה וד שר ץפ 644ת ץמ 11

(56) מןד גמש ף(גקאשקפקר) קרקי דגרש,סא ם גדום, קי טשד איעןצ ן תץאןך קר דמןשצקר יאסנ כם זןד קיא קדו גדום, קי כשפרשל יבןי, מ שארקבמו דן וןן קב ץיש׳קד יאקנ ם,א סא גקאבןראד

Talmud - Mas. Eiruvin 93b

All embankment five handbreadths high and a partition on it five handbreadths high are not combined[1] since it is necessary[2] that the entire height[3] shall be contained either in the embankment or in the partition.

b An objection was raised: If there were two courtyards one higher than the other, and the upper one is ten handbreadths higher than the lower one, or has[4] an embankment fGve handbreadths high and a partition five handbreadths high, two separate ‘erubs may be prepared[5] but not one.[6] If it[7] was lower, only a single ‘erub[6] may be prepared but not two ‘erubs![8] — Raba[9] replied: R. Hisda agrees[10] in the case of the lower courtyard, since its tenants can see a frontage of ten handbreadths.[11] If so, [should not the tenants of] the lower [courtyard][12] prepare an ‘erub[13] [as in the case of] two [separated courtyards] but not a single one,[14] while those of the upper one[15] should neither prepare a single one[16] [for the two courtyards] nor[17] one for themselves alone?[18] — Rabbah[19] b. Ulla replied: [This[20] deals with a case,] for instance, where the upper courtyard had rims[21] [that left a gap][22] not wider than ten cubits.[23] If so, read the final clause: ‘If it was lower,[24] only a single ‘erub may be prepared but not two should not the tenants be allowed to prepare one ‘erub if they wished[25] or, if they preferred it, two? — Rabbah son of Raba replied: This[26] deals with a case, for instance, where the gap extended along a whole side of the lower courtyard.[27] If so should not the tenants of the lower one be allowed to prepare a single ‘erub [jointly][28] but not one for themselves alone[29] while those of the upper one should be allowed, if they wished it, to prepare an ‘erub for themselves alone[29] or, if they preferred it, a single ‘erub jointly?[30] — This is so indeed, and the ruling,[31] ‘If it was lower, only a single ‘erub may be prepared but not two’ applies to the tenants of the lower one.

Amemar made the following exposition: An embankment five handbreadths high and a partition on it five handbreadths high are combined.[32] When Rabina met R. Aha son of Raba he asked him, ‘Did the Master learn anything about a partition?’[33] the other replied: ‘No’; and the law is that an embankment five handbreadths high and a partition on it five handbreadths high are combined.[32]

R. Hoshaia[34] enquired: Do tenants who arrive[35] on the Sabbath[36] impose restrictions? — R.

Hisda[37] replied: Come and hear: IF THE FULL WIDTH OF A WALL OF A SMALL[38] COURTYARD WAS BROKEN DOWN[39] SO THAT THE YARD FULLY OPENED INTO A LARGE[38] COURTYARD, THE USE OF THE LARGER ONE IS PERMITTED, BUT THAT OF THE SMALLER ONE IS FORBIDDEN BECAUSE THE GAP IS REGARDED AS A DOORWAY TO THE FORMER.[40] Is it not possible to assume', Rabbah objected, 'that the breach occurred while it was yet day?'[41] Said Abaye to him, Do not say: Master, 'It is possible to assume' but rather, 'It is 'certain that the breach occurred while it was yet day', for, surely, it was the Master himself who stated: 'I enquired of R. Huna and also of Rab Judah as to what was the law where an 'erub was laid in reliance on a certain door and that door was blocked up, or on a certain window and that window was stopped up? And each replied: Since permission for that Sabbath was once granted the permissibility continues until the conclusion of the day'.[42] It was stated: If a wall between two courtyards[43] collapsed,[44] Rab ruled, it is permitted to move objects within four cubits only,[45] but Samuel ruled:

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(1) To constitute a single partition of the height of ten handbreadths which is the minimum height prescribed for an enclosure round a private domain.

(2) Lit., 'until'.

(3) Of ten handbreadths.

(4) On the side at which it adjoins the lower courtyard.

(5) One for each courtyard.

(6) For the two jointly,

(7) The height of the upper courtyard or the joint height of the embankment and partition.

(8) Cf. supra n. 12; which shows that an embankment and a partition are reckoned together as one unit of heights. How then could R. Hisda maintain that they are not combined?

(9) V. marg. glos. Cur. edd. in parenthesis, 'Rab'.

(10) That the heights of the embankment and the partition may be combined into one unit of ten handbreadths.

(11) The tenants of the upper courtyard, however, cannot see the full height; and it is on account of them that R. Hisda gave his ruling.

(12) Who can see a valid partition between their courtyard and the upper one.

(13) For themselves only.

(14) For the two jointly.

(15) Since the valid partition of the lower courtyard forms a division between the two courtyards.

(16) Jointly.

(17) Being exposed to the lower courtyard, having no valid partition on its side to separate it.

(18) Lit., '(one of) two'.

(19) MS. M., 'Raba'.

(20) The Baraitha cited.

(21) Rising on the embankment and forming a partition of ten handbreadths high round the upper courtyard.

(22) In the center of the partition.

(23) And it was in this gap, which may be regarded as a doorway, that the partition on the embankment was only five handbreadths high. The upper courtyard is thus separated from the lower one by both a valid partition and a doorway while the latter is separated from it completely by a valid partition. Hence the ruling that one imposes no restrictions on the other and that two separate erubs must be prepared. A joint 'erub, however, is not allowed on account of the valid partition of the lower one.

(24) This, according to the explanation of Rabbah b. 'Ulla who assumed the partition to be ten handbreadths high above the embankment, must obviously refer to the partition at the 'gap'.

(25) Since the gap represented a valid doorway between the two courtyards.

(26) The Baraitha cited.

(27) Lit., 'where the lower one was broken in its fullness into the upper one', the width of the upper one not exceeding ten cubits, so that the tenants of the latter, in the absence of a joint 'erub, impose restrictions on the tenants of the former.

(28) With those of the upper one (cf. prev. n.).

(29) Lit., '(one of) two'.

(30) With the tenants of the lower courtyard.
(31) Lit., 'and when it was taught'.
(32) To form a height of ten handbreadths, the minimum prescribed for an enclosure around a private domain.
(33) MS.M. and Bah have different readings.
(34) Var. lec., Oshaia (MS. M.).
(35) Lit., 'dwellers that come
(36) If, for instance, a wall between two courtyards collapsed and the tenants of one courtyard arrived so to speak at the other.
(37) Hanina (MS.M.), Hinena (Bah).
(38) V. relevant note on our Mishnah.
(39) This is now assumed to have occurred on the Sabbath.
(40) Which shows that restrictions are imposed.
(41) Of the Sabbath eve (cf. supra n. 10).
(42) Supra 17a q.v. notes.
(43) Which had no common door and the tenants of which did not join in a single 'erub for the two courtyards.
(44) on the Sabbath.
(45) Because the tenants of the courtyards impose restrictions upon another despite the fact that when the Sabbath began each group of tenants was allowed the use of its own courtyard.

Talmud - Mas. Eiruvin 94a

The tenants on either side[1] may move their objects[2] to the very foundation of the wall.[3] The ruling of Rab, however, was not explicitly stated but was arrived at by implication. For Rab and Samuel were once sitting in a certain courtyard when a parting wall[4] collapsed.[5] 'Take a cloak', said Samuel to the people, 'and spread it across,[6] and Rab turned away his face.[7] 'If Abba[8] objects', Samuel told them, 'take his girdle and the with it'.[9] Now according to Samuel's view, what need was there for this,[9] seeing that he ruled: 'The tenants on either side may move their objects to the very foundation of the wall'? — Samuel did that merely for the sake of privacy. If Rab, however, held that this was forbidden,[10] why did he not say so to him?[11] The place was under Samuel's jurisdiction. If so, why did he turn away his face? — In order that it might not be said that he held the same opinion as Samuel.[12] MISHNAH. IF THERE WAS A BREACH IN A WALL BETWEEN A COURTYARD[13] AND A PUBLIC DOMAIN, ANY MAN WHO BRINGS ANY OBJECT FROM THE LATTER INTO A PRIVATE DOMAIN OR FROM A PRIVATE DOMAIN INTO IT IS GUILTY OF AN OFFENCE;[14] SO R. ELIEZER. THE SAGES, HOWEVER, RULED: WHETHER A MAN CARRIED AN OBJECT FROM IT INTO THE PUBLIC DOMAIN[15] OR FROM THE PUBLIC DOMAin INTO IT HE IS EXEMPT[16] BECAUSE IT HAS THE SAME STATUS AS A KARMELITH.[17]

GEMARA. As to R. Eliezer, does it[18] become a public domain because there was a breach between it and the public domain? Yes; R. Eliezer follows his view, it having been taught: R. Judah citing R. Eliezer said: If the public chose a path for themselves,[19] that which they have chosen is theirs.[20] But this cannot be right,[21] for did not R. Giddal citing Rab explain: This applies only to a case where their path had been lost[22] in that field?[23] And Should you reply that here also[24] it is a case where their path[25] had been lost in that courtyard,[26] surely, [it could be retorted], did not R. Hanina state, 'The dispute[27] referred to [all the courtyard] as far as the position of its walls'?[28] Read: The dispute concerned only the position of the wall.[29] And if you prefer I might reply: Their dispute[27] refers to the status of the sides of a public road, R. Eliezer holding that[30] the sides of a public road are like the public road while the Rabbis[31] hold that the sides of a public road are not like the public road. Why then did they not express their difference of opinion in respect of the sides of public roads generally? — If they had expressed their difference of view in respect of the sides of public roads generally it might have been assumed that the Rabbis; differed from R. Eliezer only[32] where there were border-stones[33] but where there were no border-stones they agree with him,[34] hence we were informed[35] [that even in the latter case they also differ from him]. But did he not say: FROM IT?[36] — As the Rabbis used the expression FROM IT he also used a similar expression. As to the Rabbis however, how is it that[37] R. Eliezer speaks of the sides of a public road and they retort to him FROM IT?[36] — It is this that[38] the Rabbis said to R. Eliezer: You agree with us, do you not, that where a man moved an object from it into a public domain or from a public domain into it he is exempt because it is a karmelith, well the same law should apply to[39] the sides[40] also. And R. Eliezer?[41] There[42] not many people tread on the spot but here[43] they do. MISHNAH. IF A BREACH WAS MADE[44] IN TWO SIDES OF A COURTYARD TOWARDS A PUBlic DOMAIN, AND SO ALSO IF A BREACH WAS MADE IN TWO SIDES OF A HOUSE, OR IF THE CROSS-BEAM[45] OR SIDE-POST[45] OF AN ALLEY WAS REMOVED, THE OCCUPIERS ARE PERMITTED THEIR USE FOR THAT SABBATH BUT FORBIDDEN ON FUTURE SABBATHS; SO R. JUDAH. R. JOSE RULED: IF[46] THEY ARE PERMITTED THEIR USE ON THAT SABBATH THEY ARE ALSO PERMITTED ON FUTURE SABBATHS AND IF[46] THEY ARE FORBIDDEN (IN FUTURE SABBATHS THEY ARE ALSO FORBIDDEN ON THAT SABBATH.

GEMARA. With what kind of breach do we deal?[47] If it be suggested: With one that was not wider then ten cubits,[48] wherein, then, [it may be objected, does a breach] in one side differ [in such a case from breaches in two sides? Is it] that it[49] may be regarded as a[50] doorway, [should not breaches][49] in two sides also be regarded as doorways?[51] If, however, the breach spoken of[47] was[52] wider than ten cubits, [should not the same restrictioss[53] apply] even where it was only in one side? Rab replied: The fact is [that the breach spoken off was] not wider than ten cubits[54]

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(1) Lit., ‘this . . . and this’.

(2) Even such as were in the houses when the Sabbath began.

(3) Unlike Rab, he holds that once the movement of objects in a certain place has been permitted when the Sabbath began the permissibility remains in force until the conclusion of the day.

(4) Lit., ‘which (was) between between’.

(5) And the courtyard in which they sat was thus exposed to the adjoining courtyard.

(6) To form a partition at the gap, in order that the tenants of the adjoining courtyards shall not impose restrictions upon each other.

(7) As a mark of his displeasure. Presumably because in his opinion the collapse of the wall, which exposed the courtyards to one another, caused also the respective tenants to impose restrictions upon each other, in consequence of which it was forbidden to move the cloak from its place to the gap.

(8) This was Rab's proper name. ‘Rab’ (‘great’, ‘master’) was a title of distinction.

(9) The cloak, to secure the partition. This he said in disregard of Rab's disapproval.

(10) Cf. supra n. 10.

(11) To Samuel.

(12) Cur. edd. in parenthesis, ‘and he withdrew from his ruling’. MS.M., ‘and it was (done) with his approval’.

(13) Lit., a courtyard that was broken into’; the breach extending along the full length of the courtyard, or being no more than ten handbreadths wide.

(14) Because the breach changes the status of the courtyard from that of a private into that of a public domain. This will be further discussed in the Gemara infra.

(15) Or a private’ domain.

(16) Ex post facto; ab initio, however, this is forbidden.

(17) Which is neither a public, nor a private domain.

(18) The courtyard spoken of in our Mishnah.

(19) Even though it ran through private property and the land-owner's consent had not been obtained.

(20) B.B. 100a, lit., ‘chosen’; and the owner of the property may not close up the path. As the public here acquire the path so do they acquire the courtyard.

(21) Lit., ‘I am not’.

(22) It being impossible to ascertain its exact position.

(23) B.B. 100a. While all individual in such a case cannot make the choice without the land-owner's consent or the authorization of a court, the public are entitled to make their own choice. This, however, does not prove that they can also appropriate a courtyard in which they have lost nothing.

(24) The courtyard spoken of in our Mishnah.

(25) Lit., ‘a path to her’.

(26) Sc. the exact position of the former wall having been lost the men of the public domain claimed that their domain extended beyond the limits which the tenants of the courtyard claim as the original position of the wall, and it is this spot, not all the courtyard, that R. Eliezer regards as a public domain.

(27) Between R. Eliezer and the Sages in our Mishnah.

(28) Thus including the entire courtyard and not merely the original position of the broken wall.

(29) Instead of ‘ad (‘until’, ‘as far as’) read ‘at (‘concerning’).

(30) Though the position of the wall is known.

(31) THE SAGES.

(32) Lit., ‘when do the Rabbis differ . . . these words’.

(33) Or ‘stakes’ that formed a division between the public domain proper and the wall. This space being frequented by fewer people can only be regarded, as a karmelith.

(34) That the public domain extends to the very walls.

(35) By the form of the dispute in our Mishnah.

(36) Lit., ‘from its midst’, which obviously refers to the entire courtyard and not merely to the position of the former wall.

(37) According to the explanation here given.

(38) Lit., ‘thus’.

(39) Lit., ‘(there should be) no difference’.

(40) Of the public road.

(41) How, in view of the objection, does he justify his view?

(42) Within the courtyard.

(43) On the side of public road.

(44) On the Sabbath.

(45) Sc, MS.M. and Rashi (cf. Tosaf. supra 17a and Rashi a.l.). Cur. edd. use the plural.

(46) This is explained in the Gemara infra.

(47) In our Mishnah where the BREACH is assumed to have been made IN TWO SIDES.

(48) Lit., ‘within ten’.

(49) Being no wider than ten cubits.

(50) Lit., ‘that one says’.

(51) Why then are restrictions imposed?

(52) Lit., ‘but’.

(53) That are imposed when the breach was made in two sides.

(54) Lit., ‘within ten’.

Talmud - Mas. Eiruvin 94b

but it was one, for instance, that occurred[1] in a corner[2] where people make no doors.[3]

AND SO ALSO IF A BREACH WAS MADE IN TWO SIDES OF A HOUSE. Wherein does a breach in one side[4] differ [from breaches in two sides]?[5] Is it in that it may be assumed[6] that the edge of the ceiling is deemed to extend downward and to close the gap, why should it not be assumed in the case of breaches in two sides also that the edge of the beam extends and closes them up? — At the school of Rab it was explained on the authority of Rab: This is a case of a house whose breaches, for instance, occurred in a corner[7] and whose ceiling was lying in a slanting position so that it cannot be said that the edge of the ceiling extends downwards and closes them up.[8]

Samuel, however, replied: The breach[9] might have been even wider than ten cubits. If so, should not the same restrictions apply even where the breach was made in one side?[10] — [This[11] was not mentioned] on account of the house.[12] But does not the same difficulty arise in respect of a house: Wherein does a breach in one side differ [from breaches in two sides]? If it is in the assumption that the edge of the ceiling descends downward and closes the breach, why should not the same assumption, that the edge of the ceiling extends downwards and closes up the breaches, be made where these breaches occurred in two sides? Furthermore, it may be objected, does Samuel at all uphold the principle that the edge of a ceiling is deemed to descend downwards to close a gap,[13] seeing that it was stated: ‘if an exedra was situated in a valley it is, Rab ruled, permitted to move objects within all its interior, but Samuel ruled: Objects may be moved within four cubits only’?[14] — This is no difficulty: He does not uphold the principle[15] in respect of four walls[16] only[17] but in respect of three walls[18] he does.[19] Does not the first difficulty,[20] at any rate, remain?[21] — As at the school of Rab it was explained in the name of Rab, ‘This is a case of a house whose breaches, for instance, occurred in a corner and whose ceiling was in a slanting position’,[22] so here also[23] it may be explained: This is a case of a house whose breaches, for instance, occurred in a corner and whose ceiling presented[24] a four sided breach.[25]

Samuel does not give the same explanation as Rab[26] since it was not stated that the ceiling was slanting.[27] Rab, on the other hand, does not give the same explanation as Samuel,[28] for in that case[29] the house would in this respect have been in the same legal position as an exedra,[30] and Rab follows his view that[31] it is permitted to move objects in all the interior of an exedra, for it was stated: If an exedra, was situated in a valley, Rab ruled, it is permitted to move objects within all its interior; but Samuel ruled: Objects may be moved within four cubits only. Rab ruled that it was permitted to move objects in all its interior because we apply the principle: The edge of the ceiling descends and closes up. But Samuel ruled that objects might be moved within four cubits only because we do not apply the principle: The edge of the ceiling descends and closes up.[32]

[Where a breach was not wider than] ten cubits[33] there is no divergence of opinion between them.[34] They only[35] differ where [the breach was] wider than ten cubits. Others read: Where it was wider than ten cubits there is no divergence of opinion between them,[36] and they only differ [where it was not wider than] ten cubits. With reference, however, to Rab Judah's ruling

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(1) Not in two walls that were opposite each other.

(2) At which two adjacent walls meet.

(3) Lit., ‘because people do not make a door in a corner’. As the breach cannot in consequence be treated as a door our Mishnah imposed the restrictions mentioned.

(4) Where no restrictions have been imposed.

(5) Where our Mishnah imposes restrictions.

(6) Where only one side has a breach.

(7) Where no doors are made and where the breaches cannot be treated as doorways.

(8) Cf. supra 25b. V., however, Tosaf. a.l.

(9) In the two sides of the courtyard spoken of in our Mishnah.

(10) Why then did our Mishnah speak only of TWO SIDES.

(11) A breach in one side of a courtyard.

(12) That was dealt with in the same context. As in the latter case where a breach in one wall imposes no restrictions (on the principle of the downward extension of the beam which virtually closes up the breach) two sides had to be spoken of, two sides were spoken of in the first case also.

(13) That was wider than ten cubits, as has just been explained to be the case according to Samuel, with the breach dealt with in our Mishnah.

(14) . Supra 25a, which shows that the principle of the downward extension of a ceiling is not upheld by Samuel.

(15) Of the downward extension of a ceiling.

(16) Sc. where the ceiling has to supply the place of four walls, as is the case in an exedra that has only a roof resting on poles.

(17) Lit., ‘when does he not have? In four’.

(18) And much more so1 in that of two.
(19) Hence his view that where a house had a breach in one wall only the edge of its ceiling is deemed to close it.
(20) 'Why should not the principle of the downward extension of the ceiling be applied where a breach was made in two walls?
(21) Rab's answer given supra, that the ceiling was slanting, cannot be given by Samuel, since the latter holds that the breach dealt with in our Mishnah 'might have been even wider than ten cubits', and such a wide gap which cannot be treated as a doorway would have caused the same restrictions even if it had occurred in one wall only.
(22) I.e., as Rab explained that the ceiling was different from ordinary ones though no specific mention of this fact was made in our Mishnah.
(23) According to Samuel's view.
(24) Though this is rather unusual (cf. supra n. 5).
(25) The breach having left a ceiling of this shape.
(26) That the breach referred to in our Mishnah was not wider than ten cubits and that the ceiling was in a slanting position.
(27) And ordinary ceilings are flat. Breaches, on the other hand, may well assume any shape.
(28) That the breach in the walls of the house might be wider than ten cubits and that the ceiling presented a four sided breach.
(29) That four walls had to be supplied on the principle of the downward extension of a ceiling.
(30) Where also four walls have to be supplied on the same principle.
(31) Lit., 'who said'.
(32) Supra 25a q.v. notes.
(33) Lit., 'within ten'.
(34) Rab and Samuel. Both agree that no restrictions are to be imposed, since the gap may be treated as a doorway and the question of the principle of the downward extension of the edge of the ceiling does not arise (Rashi. Cf., however, Tosaf. a.l.).
(35) Lit., 'when do they'.
(36) Cf. supra n. 3. Both agree that restrictions are imposed.

Talmud - Mas. Eiruvin 95a

that a cross-beam[1] of the width of four handbreadths[2] effects permissibility[3] in a ruin[4] and that of R. Nahman who, citing Rabbah b. Abbuha, ruled that a cross-beam of the width of four handbreadths[5] effects permissibility[6] in the case of water,[7] whose view is represented there? According to the version which reads[8] 'where [a breach was not wider than] ten cubits there is no divergence of opinion' [these[9] would be a case where the cross-beam was no longer than] ten cubits and would represent the unanimous opinion; while according to the version which reads,[10] 'They only differ where it was not wider than ten cubits', these[11] would represent the view of Rab.

Must it be assumed that Abaye and Raba[12] differ on the same principles as those on which Rab and Samuel differed? For it was stated: If an exedra[13] that had side-posts[14] was covered with boughs,[15] it[16] is valid as a sukkah;[16] but if it had no side-posts, Abaye ruled, it is still valid while Raba ruled7 It is invalid. Abaye ruled that it was valid because the edge of the ceiling is deemed to descend and to close up,[17] while Raba ruled that it was invalid because he does not uphold the principle that the edge of the ceiling is deemed to descend and to close up.[18] Now must it be assumed that Abaye is of the same view as Rab while Raba is2of the same view as Samuel? According to the view of Samuel there is no divergence of opinion between them.[19] They differ only on the view of Rab. Abaye, of course, holds the same view as Rab, while Raba[20] maintains that Ra+ upheld his view only there[21] because the walls[22] were expressly made for the exedra, but not here where the walls[23] were not expressly made for the sukkah.[24] R. JOSE RULED: IF THEY ARE PERMITTED. The question was raised: Did R. Jose intend to add restrictions[25] or to relax them?[26] — R. Shesheth replied: To add restricëions; and so too said R. Johanan: To add restrictions. So it was also taught: R. Jose ruled: As they are forbidden on future Sabbaths so are they forbidden on that Sabbath.

It was stated: R. Hiyya b. Joseph[27] ruled: The halachah is in agreement with R. Jose, but Samuel ruled: The halachah is in agreement with R. Judah. But could Samuel have given such a ruling seeing that we have learnt: ‘R. Judah ruled: This applies only to ‘erubs of Sabbath limits but in the case of ‘erubs of courtyards one may be prepared for a person irrespective of whether he is aware of it or not, since a benefit may be conferred on a man in his absence but no disability may be imposed on him in his absence’;[28] and in connection with this Rab Judah citing Samuel stated: ‘The halachah is in agreement with R. Judah; and, furthermore, wherever R. Judah taught a law concerning ‘erub the halachah is in agreement with him’;[29] and when R. Hana of Bagdad asked Rab Judah, ‘Did Samuel say this even in respect of an alley whose cross-beam or side-post has been taken away?’ he replied: ‘Concerning ‘erubs did I tell you, but not concerning partitions’?[30] R. Anan replied: It was explained to me by Samuel that one statement[31] referred to a courtyard[32] in which a breach was made towards a karmelith[33] while the other[34] referred to one in which a breach was made towards a public domain.[35] MISHNAH. IF ONE BUILDS AN UPPER ROOM ON THE TOP OF TWO HOUSES[36] AND IN THE CASE OF VIADUCTS[37] THE MOVEMENT OF OBJECTS UNDER THESE ON THE SABBATH IS PERMITÃED;[38] SO R. JUDAH. BUT THE SAGES FORBID THIS. R. JUDAH MOREOVER RULED: AN ‘ERUB MAY BE PREPARED FOR AN ALLEY THAT IS A THOROUGHFARE;[39] BUT THE SAGES FORBID THIS.

GEMARA. Rabbah stated: Do not presume that R. Judah's reason[40] is[41] that Pentateuchally two walls[42] are sufficient but rather that[41] the edge of ceiling[43] is deemed to descend downwards and to enclose the space below.

Abaye raised an objection against him: ‘A more lenient rule than this did R. Judah lay down: If a man had two houses on the two sides respectively of a public domain he may construct one side-post on one side of any of the houses, and another on the other side, or one cross-beam on one side of any of the houses and another on the other side, and then he may move thingo about in the space between them; but they said to him: A public domain cannot be provided with an ‘erub in such a manner![44] — The other replied: Front that ruling[45] your contention is justified,[46] from this one,[47] however, you cannot derive it. R. Ashi observed: A deduction from the wording of our Mishnah also justified [Rabbah's explanation], since it was stated: R. JUDAH MOREOVER RULED: AN ‘ERUB MAY BE PREPARED FOR AN ALLEY THAT IS A THOROUGHFARE; BUT THE SAGES FORBID THIS. Now if you grant his[48] reason[49] to be that the edge of the ceiling is deemed to descend and to enclose the space below, one can well see why the expression of MOREOVER[50] was used; but if you maintain that his reason[49] is[51] that Pentateuchally two walls are sufficient, what[52] is the justification for the expression MOREOVER?[53] This is conclusive.[54]

CHAPTER X

MISHNAH. IF A MAN FINDS TEFILLIN[55] HE SHAll BRING THEM IN,[56] ONE PAIR AT A Time.[57] R. GAMALIEL RULED: TWO PAIRS AT A TIME.[58] THIS APPLIES TO OLD ONES[59] BUT IN THE CASE OF NEW ONES[60] HE IS EXEMPT.[61] IF HE FOUND THEM[62] ARRANGED IN PACKETS[63] OR TIED UP IN BUNDLES[63] HE SHALL WAIT BY THEM UNTIL. IT IS DARK AND THEN BRING THEM IN.

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(1) That was supported on two stakes, one at either end.

(2) That lay on its wide side. If the width was less, the partitions enclosing it, since the space enclosed is less than four handbreadths, would have had no validity.

(3) Of the movement of objects under it; because its four edges are deemed to descend and to form four walls.

(4) Though fully exposed to a public domain.

(5) That lay on its wide side across the mouth of a cistern between two courtyards.

(6) In the use of the water. The tenants of both courtyards may freely use the water as if a proper division had actually separated the water of the one courtyard from the water of the other.

(7) Supra 86a.

(8) Lit., 'which you stated'.

(9) The rulings of Rab Judah and R. Nahman.

(10) Lit., 'which you stated'.

(11) The rulings of Rab Judah and R. Nahman.

(12) In the dispute that follows.

(13) With only two walls that met each other in the shape of am L (v. Tosaf. supra 93a).

(14) Each attached to the end of either wall and less than three handbreadths but no less that one handbreadth wide.

(15) Or any material that was suitable for the roof of a sukkah.

(16) Since either side-post might be deemed to be extended horizontally and to form a third wall. A Sukkah that has three walls is valid.

(17) The side where there was no proper wall.

(18) Cf. supra 93a, Suk. 18b.

(19) Abaye and Raba; sc. even Abaye must admit that Samuel who did not accept, in the case of the Sabbath, the principle of the downward extension of the edges of an exedra (though these were expressly made for that structure) could not accept that principle in the case of a sukkah (where these were not originally intended to form a part of the sukkah).

(20) Whose view seems to differ from that of Rab.

(21) Lit., 'until here, Rab did not say there, but'.

(22) I.e., the beams that form the edges of the roof of the exedra and that are deemed to extend downwards to make up walls.

(23) Cf. prev. n.

(24) Although in the case of proper walls it is not necessary for them to be expressly made for the sukkah, imaginary ones whose legal existence depends on a principle which is in itself a relaxation of the law cannot be regarded as valid by allowing a further relaxation of the law.

(25) I.e., did he, by his comparison, intend to forbid the use of the courtyard on the same Sabbath as it would presumably be forbidden on future Sabbaths?

(26) To permit its use on future 'Sabbaths as it was presumably permitted on the same Sabbath?

(27) MS.M., 'Ashi. Bah inserts, 'in the name of' Rab'.

(28) Supra 46b, 81b, q.v. notes.

(29) Supra 81b.

(30) Loc. cit. q.v. notes. Now, since R. Judah in our Mishnah deals with a question concerning partitions, how, in view of the reply Rab Judah gave to R. Hana, could it be maintained that Samuel pronounced the halachah here to be in agreement with R. Judah's ruling?

(31) That the halachah agrees with12. R. Judah.

(32) Lit., 'here'.

(33) The movement of objects from a karmelith into another domain or from the latter into the former is only Rabbinically forbidden. As no Pentateuchal law would he infringed, even if an object were carried from the courtyard into the karmelith or vice versa, Samuel adopted the lenient rule of R. Judah in a case where the courtyard was a permitted domain when the Sabbath began.

(34) That in the case of partitions the halachah is in agreement with R. Judah.

(35) Where (cf. supra n. 9) a Pentateuchal law might be infringed.

(36) Situated on opposite sides of a public domain the road passing under the floor of the upper room.

(37) Lit., 'bridges that have a thoroughfare (beneath them)'.

(38) Because the edges above are deemed to descend to form walls encasing the space below.

(39) Since it has walls on two sides and two walls are Pentateuchally sufficient, v. Gemara.

(40) For his ruling in the first clause of our Mishnah.

(41) Lit., 'because he holds the opinion'.

(42) The public domain and the viaduct have at least two walls on opposite sides.

(43) Sc. the floor of the upper room or the superstructure of the viaduct.

(44) Supra 6a q.v. notes. Now this distinctly proves that Pentateuchally two walls are sufficient. How then could Rabbah maintain that this must not be presumed to be R. Judah's reason?
(45) The one just cited.
(46) Lit., ‘yes’.
(47) The ruling in the first clause of our Mishnah.
(48) R. Judah's.
(49) For his first ruling.
(50) I.e., even where there were no edges that could be deemed to descend (cf. Rashi's second interpretation).
(51) Lit., , ‘because he holds the opinion’.
(52) Seeing that the ruling that follows is based on the same reason.
(53) None whatever. Hence the support for Rabbah's explanation.
(54) Lit., ‘you hear from it’.
(55) On the Sabbath, in a held where they are exposed to dogs or to any other misuse.
(56) To town, into a safe place.
(57) One on his head and one on his arm in the same manner as they are worn on weekdays.
(58) One pair on the hand and one pair on the arm.
(59) Sc. tefillin that show marks of wear or that have a proper knot, in which case there can be no doubt that they were proper tefillin.
(60) Which may be assumed to be mere amulets.
(61) Sc. he is under no obligation to pick them up and to carry them to a place of safety.
(62) Proper tefillin.
(63) This is explained in the Gemara infra.

Talmud - Mas. Eiruvin 95b

IN A TIME OF DANGER,[1] HOWEVER, HE SHALL COVER THEM AND PROCEED ON HIS WAY. R. SIMEON RULED: HE SHALL. PASS THEM TO HIS FELLOW AND HIS FELLOW SHALL PASS THEM TO HIS FELLOW, AND SO ON,[2] UNTIL THE OUTERMOST COURTYARD[3] IS REACHED. THE SAME PROCEDURE IS TO BE FOLLOWED IN THE CASE OF A CHILD OF HIS.[4] HE PASSES HIM TO HIS FELLOW AND HIS FELLOW PASSES HIM TO HIS FELLOW, AND SO ON,[5] EVEN THOUGH THEY ARE AS MANY AS A HUNDRED MEN. R. JUDAH RULED: A MAN MAY PASS A JAR TO HIS FELLOW AND HIS FELLOW MAY PASS IT TO HIS FELLOW EVEN BEYOND THE SABBATH LIMIT.[5] THEY,[6] HOWEVER, SAID TO HIM: THIS MUST NOT BE MOVED FURTHER THAN THE FEET OF ITS OWNER.[7] GEMARA. Only ONE PAIR AT A TIME,[8] but not more. Must it then be assumed that we learned here an anonymous Mishnah that is not in agreement with R. Meir? For if it were to be maintained that it was in agreement with R. Meir [the objection would arise:] Did he not rule that a man may[9] put on all the clothes that he can put on and he may wrap himself in all things that he can wrap round himself? For we learned: And thither[10] he may carry out all the utensils he is in the habit of using, and he may put on all the clothes that he is able to put on and he may wrap himself in all things that he can wrap round himself.’ But whence the proof that that[11] anonymous Mishnah represents the view of R. Meir? — Since in connection therewith it was stated: ‘He may put on clothes and carry them out, and there[10] undress himself, and then he may again put on clothes and carry them out and undress himself, and so on, even all day long; so R. Meir’. Raba replied: It[12] may be said to be in agreement even with R. Meir, for there[13] the Rabbis have allowed a procedure[14] similar to one's habit of dressing on a weekday and here[15] also they have allowed a procedure similar to one's way of wearing tefillin on a weekday. There,[13] where on a weekday a man can wear as many clothes as he desires the Rabbis have permitted him to do so also[16] for the purpose of saving; but here,[15] where even on a weekday a man may wear only one pair but no more he was for the purpose of saving also permitted one pair only but no more.

R. GAMALIEL RULED: TWO PAIRS AT A TIME. What is the view he upholds: If he holds that

Sabbath is a time for wearing tefillin,[17] a man should be permitted[18] only one pair but no more; and if he holds that Sabbath is not a time for tefillin, but that for the purpose of saving them the Rabbis have permitted him to wear them in the manner of a raiment why[19] should he not be permitted to wear even more than one pair? — The fact is that he holds that Sabbath is not a time for the wearing of tefillin, but when the Rabbis have permitted to wear them[20] in the manner of a raiment for the purpose of saving they limited that to the spot[21] prescribed for the position of the tefillin.[22] If so,[23] should not one pair only[24] be allowed but not more?[25] — R. Samuel son of R. Isaac replied: There is room enough on the head for laying two tefillin. This is a satisfactory explanation as regards those of the head; what explanations however, can be given in respect of those of the hand?[26] — The same as that which R. Huna gave, for R. Huna explained: Sometimes a man comes from the field with his bundle on his head when[27] he removes them from his head[28] and binds them on his arm.[29] It might still be contended, that R. Huna only intended that they should not be treated with disrespect;[28] did he, however, say that it[30] was the proper [manner of wearing them] so.[31] — The explanation rather is this:[32] As R. Samuel son of R. Isaac stated: ‘There is room enough on the head for laying two tefillin’ so we may here also submit: There is room enough on the hand for laying two tefillin.

It was taught at the school of Manasseh: Upon thy hand,[33] refers to the biceps muscle: between thine eyes,[33] refers to the vertex. Where is this? — At the school of R. Jannai it was stated: on the place where a child's brain pulsates.[34] Must it be assumed that they[35] differ on the principle of R. Samuel son of R. Isaac, the first Tanna disagreeing with the view[36] of R. Samuel son of R. Isaac[37] while R. Gamaliel[38] upholds it? No, all may hold the view of R. Samuel son of R. Isaac, but the point at issue between them[39] is whether the Sabbath is a time for tefillin, the first Tanna maintaining that Sabbath is a time for tefillin[40] while R. Gamaliel maintains that Sabbath is no time for tefillin.[41]

And if you prefer I might reply that all agree that the Sabbath is a time for tefillin,[42] but here the point at issue between them[39] is whether the performance of commandments requires intention, the first Tanna holding that in order to discharge the duty of a commandment, intention is not[43] necessary[44] while R. Gamaliel holds that intention is[45] necessary.[46]

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(1) Sc. in a time of religious persecution when it is dangerous to be seen in the vicinity of ritual objects (v. infra 97a f).

(2) Each person carrying the tefillin a lesser distance than four cubits.

(3) Of the nearest town; sc. a place of safety.

(4) Who was born on the Sabbath in an open field.

(5) Cf. supra n. 11 mut. mut.

(6) The Rabbis who, disagreed with him.

(7) Sc. beyond his Sabbath limit.

(8) May be carried in.

(9) When saving from a fire on the Sabbath.

(10) The nearest courtyard beyond the reach of the fire.

(11) Shab. 120a.

(12) Our Mishnah.

(13) Where a man is engaged in saving clothes from a fire.

(14) Lit., ‘made it’.

(15) The case of tefillin.

(16) On the Sabbath.

(17) Sc. the reason why the tefillin may be carried on the Sabbath into a place of safety is that in any case they can be worn on that day as on a weekday.

(18) As the commandment of tefillin requires.

(19) Since they are not worn in fulfilment of the commandment of tefillin.

(20) On the Sabbath.

(21) On the head between the eyes above the forehead and on the arm on the biceps muscle.

(22) Many pairs of tefillin cannot obviously be accommodated thereon.

(23) That the position is limited.

(24) Lit., 'yes'. Cur. edd. 'also' is deleted by Bah.

(25) Why then did R. Gamaliel allow two pairs at a time?

(26) Not all the hand surely is a suitable place for the tefillin. Why then were two tefillin allowed?

(27) As a mark of respect for the tefillin.

(28) So that they be not crushed by the bundle.

(29) As in this manner one would on a weekday wear two tefillin on his arm, a similar number was also allowed on the Sabbath for the purposes of saving.

(30) I.e., the wearing of two tefillin on one's arm.

(31) As he did not say this, the question arises again: Why did R. Gamaliel allow two tefillin on the arm?

(32) Lit., 'but'.

(33) Deut. VI, 8.

(34) Or 'is soft'.

(35) R. Gamaliel and the first Tanna in our Mishnah.

(36) Lit., 'he has not

(37) Hence he allows only one pair at a time.

(38) Who allows two pairs.

(39) R. Gamaliel and the first Tanna in our Mishnah.

(40) Cf. Supra p. 660, n. 10. As the commandment is performed by the wearing of one pair, only one pair at a time may be worn.

(41) And the permissibility of carrying them into a place of safety is based on their suitability as ornaments. Hence his ruling that as ornaments two pairs at a time may also be worn.

(42) And also, that tefillin may be regarded as an ornament that may be worn on the Sabbath in a public domain.

(43) This is the reading according to MS.M. and Rashi's second interpretation. Cur. edd. 'is necessary'.

(44) If, therefore, a man puts on tefillin he performs the commandment ipso facto. Consequently he may wear only one pair at a time. For, should he wear more than one pair, whatever his intention, he would be transgressing the prohibition against adding to the commandments (v. infra n. 13).

(45) So with MS.M. and Rashi's second interpretation. Cur. edd., 'is not'.

(46) Hence it is possible to wear two pairs of tefillin as ornaments (cf. Supra n. 8) without transgressing the prohibition against 'adding to the commandments' (cf supra n. 10).

Talmud - Mas. Eiruvin 96a

And if you prefer I might reply that all agree that the discharge of the duty of a commandment requires no intention, but here it is the question of transgressing against the injunction of Thou shall not add,[1] that is at issue between them; the first Tanna holding that in order to commit a transgression against the injunction of Thou shall not add[1] no intention[2] is necessary while R. Gamaliel holds that in order to commit a transgression against the injunction of 'Thou shalt not add', intention is necessary.[3] And if you prefer I might reply: If the view had been adopted that Sabbath is a time for tefillin all would have agreed that intention is unnecessary either in respect of transgression[4] or in respect of discharging the duty,[5] but the point at issue between then here is with reference to the transgression[4] when a commandment is performed not at its proper time. The first Tanna holds that no intention is required[6] while R. Gamaliel holds that to commit a transgression[4] when a commandment is performed not at its proper time intention[7] is necessary.[3] But if so, should not even one pair be forbidden[8] according to R. Meir?[9] Furthermore, should not a man[10] who sleeps on the eighth day[11] be flogged?[12] It is perfectly clear, therefore,[13] that the proper explanation is the one originally given.[14]

Who is it[15] that was heard to hold that Sabbath is a time for the wearing of tefillin? — R. Akiba. For it was taught:[16] Thou shalt, therefore, keep this ordinance in its season form year to year,[17] the term 'days'[18] excludes[19] nights,[20] 'from the days'[21] implies: But not all days; thus excluding Sabbaths and festivals;[22] so R. Jose the Galilean. R. Akiba said: The expression 'This ordinance' was meant to apply to the Passover [sacrifice] only.[23] With reference, however, to[24] what we have learnt: ‘The Paschal [sacrifice] and circumcision are positive commandments’,[25] must it be assumed that this[26] is not in agreement with the view of R. Akiba, for it were to be contended that it was in agreement with R. Akiba the objection would arise: Since he applied it[27] to the Passover [sacrifice] a negative precept also should be involved as R. Akiba laid down in the name of R. Ila'i for R. Abin citing R. Ila'i laid down: Wherever the expressions ‘Take heed’,[28] ‘Lest’ or ‘Do not’ is used a negative precept is invariably intended?[29] — It[30] may be said to be in agreement even with the view of R. Akiba, for the expression ‘Take heed’ has the force of a negative precept only where it introduces a prohibitions but where it introduces a positive commandment[31] it has the force of a positive commandment.[32] But how could R. Akiba hold that the Sabbath is a time for wearing tefillin seeing that it was taught: R. Akiba stated: As it might have been presented that a man shall wear[33] tefillin on Sabbaths and festivals, it was explicitly said in Scripture: And it shall be for a sign unto thee upon thine hand,[34] which denotes: on those days only[35] that require a sign;[36] but these,[37] since they themselves are a sign,[38] are excluded?[39] — It[40] represents rather the view of the following Tanna. For it was taught: If a man keeps awake at night,[41] he may remove his tefillin if he wishes or, if he prefers, he may put them on;[42] so R. Nathan. Jonathan the Kitonite ruled: Tefillin may not be worn at night. Now, since according to the view of the first Tanna the night is a proper time for the wearing of tefillin,[43] Sabbath also must be a proper time for the wearing of tefillin. But is it not possible that he holds that the night is a proper time for tefillin[44] but that the Sabbath nevertheless is not a time for it, since we have in fact heard R. Akiba to state that the night is a time for the tefillin and that the Sabbath is not?[45] — It[40] represents rather the opinion of the following Tanna. For it was taught: Michal the daughter of the Kushite[46] wore tefillin and the Sages did not attempt to prevent her, and the wife of Jonah[47] attended[48] the festival pilgrimage and the Sages did not prevent her. Now since the Sages did not prevent her it is clearly evident that they hold the view that it[49] is a positive precept the performance of which is not limited to a particular time.[50] But is it not possible that he[51] holds the same view

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(1) All this word which I command you . . . thou shalt not add thereto (Deut. XIII, 1).

(2) To perform the commandments.

(3) V. supra p. 662, n. 12.

(4) On the injunction against adding to the commandments. Lit., ‘to transgress’.

(5) Of the commandment of tefillin. Lit., ‘and not to go out (from the obligation)’.

(6) V. supra p. 662, n. 10.

(7) To perform the commandment.

(8) Lit., ‘also not’; since by wearing tefillin on the Sabbath, which is an improper lime for that commandment, one adds the performance of the precept on the Sabbath to that of the weekdays.

(9) Sc. the first Tanna whose view, as mentioned Supra, is in agreement with that of R. Meir.

(10) Since it is maintained that the performance of a commandment at an improper time is deemed to be a transgression against the prohibition of adding to the commandments even where the act of performance was not intended to be a fulfillment of the commandment.

(11) Of the festival of Tabernacles. Pentateuchally the sukkah is to be used for seven days only.

(12) According to the submission here he should. As in fact, however, it is not only allowed to sleep in the sukkah on the eighth day but also, in accordance with a Rabbinical enactment, obligatory, how could the last reply be maintained?

(13) Lit., ‘but’.

(14) That the point at issue is the question whether Sabbath is a time for the wearing of tefillin or not. (For an explanation of the use of the Sukkah, and the manner of using it on the eighth day of Tabernacles v. Rashi a.l.).

(15) Among the Tannas, who might be presumed to be the first Tanna of our Mishnah.

(16) Men. 36b.

(17) Miyamim yamimah (Ex. XIII, 10). This verse forms a part of one of the four sections of the Pentateuch that are enclosed in the tefillin.

(18) Yamim (here rendered ‘year’).

(19) Lit., ‘and not’.

(20) Sc. that tefillin are to be worn only in the day time but not at night.
(21) Miyamim (here rendered ‘from year’), the ‘mi’ (‘from’) implying ‘some of’.
(22) On which tefillin may not be worn.
(23) Spoken of earlier in the context (Ex. XIII. 6ff): not to the tefillin. Thus it has been shown that as regards the wearing of tefillin R. Akiba, unlike R. Jose the Galilean, excludes neither nights nor Sabbaths and festivals.
(24) Lit., ‘and but that’.
(25) Ker. 2a.
(26) The ruling that the Passover Sacrifice is only a positive commandment and the transgression of it does not, therefore, involve any of the penalties associated with a negative precept.
(27) The text: ‘Thou shalt, therefore, keep’ (Ex. XIII, 10).
(28) Hishshamer, of the same root as weshamarta (‘And thou shalt, therefore, keep’) which R. Akiba applied to the Passover.
(29) Lit., ‘it is only’.
(30) The ruling that the Passover sacrifice is only a positive commandment and the transgression of it does not, therefore, involve any of the penalties associated with a negative precept.
(31) As in Ex. XIII, 10.
(32) Hence the ruling in the Mishnah of Ker. 2a. Lit., ‘take heed of a "not" is not; take heed of a "do" is do’.
(33) Lit., ‘lay’, sc. on the arm and head.
(34) Ex. XIII, 9, emphasis on ‘sign’.
(35) Are tefillin to be worn.
(36) To indicate Israel's adherence to the laws of God.
(37) Sabbaths and festivals.
(38) Cf. Ex. XXXI, 13: For it (sc. the Sabbath and so also either holy days) is a sign between me and you. The fact that Israel observes the holy days is in itself sufficient proof of their adherence to the divine commandments.
(39) Men. 36b. How then could the ruling of the first Tanna in our Mishnah (which, as has been explained supra, assumed the Sabbath to be a time for the wearing of tefillin) be attributed to R. Akiba?
(40) The first ruling in our Mishnah.
(41) So that, unlike a man asleep, he is able to take proper care of his tefillin.
(42) He is not transgressing thereby the prohibition against adding to the commandments, since Pentateuchally the night also is a time for the wearing of tefillin. The Rabbinical enactment against wearing them at night is merely a precaution against possible disrespect to them during sleep.
(43) From which it is obvious that he does not apply Ex. XIII, 10 (which excludes the nights as well as Sabbaths and festivals) to the commandment of tefillin but to that of the Passover.
(44) Since he applies Ex. XIII, 10, to the Passover and not to tefillin.
(45) As was deduced supra from Ex. XIII, 9.
(46) Sc. Saul who was so described (cf. M.K. 16b).
(47) The son of Amittai, the prophet.
(48) Lit., ‘was going up to’.
(49) Tefillin.
(50) But may be performed at all times including the nights. Sabbaths and festivals. Had its performance been limited to particular times women would have been exempt from the duty of keeping it and Michal who would be guilty of adding to the commandments would have been required by the Sages to abandon her practice.
(51) The author of this Baraitha.

Talmud - Mas. Eiruvin 96b

as R. Jose who ruled: It is optional for women to lay their hands upon an offering?[1] For were you not to say so,[2] how is it that Jonah's wife attended the festival pilgrimage and the Sages did not prevent her, seeing that there is no one who contends that the observance of[3] a festival is not a positive precept the performance of which is limited to a particular time? You must consequently admit that he holds it[4] to be optional;[2] could it not then here also[5] be said to be optional?[6] — It[7] repr^{s}ents rather the view of the following Tanna. For it was taught: If tefillin are found[8] they are to be brought in, one pair at a time, irrespective of whether the person who brings them in is a man or a woman, and irrespective of whether the tefillin were new or old; so R. Meir. R. Judah forbids this in the case of new ones[9] but permits it in that of old ones. Now since their dispute is confined to the question of[10] new and old while[11] in respect of the woman there is no divergence of opinion[12] it may be concluded that it[5] is a positive precept the performance of which is not restricted to a particular time, women being subject to the obligations of such precepts. But is it not possible that he holds the same view as R. Jose who stated: It is optional for women to lay their hands upon an offering?[13] — This cannot be entertained at all, Öince neither R. Meir holds the same view as R. Jose nor does R. Judah hold the same view as R. Jose. 'Neither R. Meir holds the same view as R. Jose', since we learned: 'Children[14] are not to be prevented from blowing[15] the shofar';[16] from which it follows that women are to be prevented;[17] and any anonymous Mishnah represents the view of R. Meir.[18] 'Nor does R. Judah hold the same view as R. Jose', since it was taught: Speak unto the children of Israel ...[19] and he shall lay,[20] only the sons of Israel 'shall lay' but not the daughters of Israel. R. Jose and R. Simeon ruled: It is optional for women to lay. Now who is the author of all anonymous statement in the Sifra?[21] R. Judah.[22]

R. Eleazar said: If a man found blue wool in the street, and it was in the shape of straps.[23] it is unfit[24] but if it was in the shape of threads it is fit. Wherein, however, do straps differ?[25] In that it may be assumed that they were dyed for the purpose of being used for the manufacture of a cloak? But then, might it not be assumed in the case of threads also that they were spun for the purpose of [weaving] a cloak [with them]? — This is a case where they were twisted.[26] But even where they were twisted might it not be assumed that they were doubled for the purpose of being inserted in the border of a cloak? — This is a case where they were cut,[27] since people would not take so much trouble[28] with them.

Raba observed:[29] Does anyone go to the trouble of making all amulet in the shape of tefillin? Yet[30] we have leant: THIS APPLIES TO OLD ONES BUT IN THE CASE OF NEW ONES[31] HE IS EXEMPT![32] R. ZERA said to his son Ahabah, go out and teach them:[33] If a man found blue wool in the street, it is unfit[34] if it was in the shape of straps,[35] but if it was in the shape of cut threads it is fit[34] because no one would take unnecessary trouble.[36] 'And', retorted Raba, 'because Ahabah the son of R. Zera taught it has he, forsooth, hung jewels[37] upon it?[38] Have we not in fact learnt: THIS APPLIES TO OLD ONES BUT IN THE CASE OF NEW ONES[39] HE IS EXEMPT?'[40] The fact, however, is, explained Raba, that the question whether one does, or does not take unnecessary trouble is a point at issue between Tannas. For it was taught: If tefillin are found[41] they are to be brought in, one pair at a time, irrespective of whether the person who brings them is a man or a woman

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(1) Cf. Lev. 1, 4; though the commandment was given to men only (cf. ibid. 2).

(2) That women may perform. If they wish, the commandments that were addressed to the men.

(3) Lit., 'is there one who says (that)'.

(4) Festival pilgrimage.

(5) Tefillin.

(6) And men too may wear them whenever they wish.

(7) The first ruling in our Mishnah.

(8) On the Sabbath.

(9) Which might be mere amulets.

(10) Lit., 'until here they only differ in'.

(11) Lit., 'but'.

(12) Both agreeing that she mad wear them on the Sabbath and so bring them in.

(13) Cf. n. 3. Being optional its performance does not involve a transgression against the prohibition of adding to the commandments, while the carrying of them on the Sabbath is permitted on the ground that they are ornaments.

(14) Though they are exempt from the obligation of the blowing of the shofar.

(15) On the New Year festival, as an exercise and training practice.
(16) R.H. 33a.
(17) In order that their act should not appear as an 'addition to the commandments'.
(18) It must be obvious, therefore, that R. Meir disagrees with R. Jose.
(19) Lev. 1, 2.
(20) Ibid. 4.
(21) The source of the teaching first cited.
(22) He too is thus in disagreement with R. Jose.
(23) Combed and dyed; since it is possible that the dyeing was not done with the intention, and for the purpose of using the wool for zizith (v. Glos.). The threads for the zizith must be spun and dyed for the purpose of using them in the fulfilment of the commandment.
(24) For zizith.
(25) From threads.
(26) Such threads are not used in the weaving of a cloak.
(27) Into short lengths, which make them suitable for zizith but quite unit for use in the border of a cloak.
(28) To tie them together and then to use them for a border instead of one long thread.
(29) An objection against the ruling under discussion.
(30) Lit., 'that'.
(31) Since they may be presumed to be mere amulets.
(32) Sc. he must not carry them on the Sabbath; Which shows that, where the infringement of a law is to be provided against, even a possibility that involves extra trouble is taken into consideration. Why then is the possibility of tying the threads together ruled out in the case of zizith?
(33) The Rabbis who objected to R. Eleazar's ruling. What follows is a Baraitha which is (a) more authoritative and (b) contains both the ruling and its reason.
(34) For zizith.
(35) V. supra p. 667, n. 10.
(36) To tie them together and then to use them instead of one long thread.
(37) Lit., ('precious) stones'.
(38) Sc. his citation is open to the same objection as the ruling of R. Eleazar.
(39) Since they may be presumed to be mere amulets.
(40) V. supra n. 2.
(41) On the Sabbath.

Talmud - Mas. Eiruvin 97a

or whether the tefillin were new[1] or old;[2] so R. Meir. R. Judah forbids this in the case of new ones but permits it in that of old ones. It is quite clear, therefore, that one Master[3] is of the opinion that a man does take unnecessary trouble,[4] while the other Master[5] holds that he does not.

(Mnemonic: Shizi 'azbi.)[6] Now, however, that the father of Samuel son of R. Isaac learned: 'Old ones are all those that have straps which are tied into a knot,[7] while new ones are such as have straps that are not tied into a knot,'[7] all might be assumed to agree[8] that no man would take unnecessary trouble.[9] But why should not one fasten them[10] with a loop?[11] — R. Hisda replied: This proves that a loop is inadmissible[12] in tefillin. Abaye replied: R. Judah follows his view, expressed elsewhere,[13] that a loop is like a proper knot.[14] The reason then[15] is that a loop is like a proper knot, but if that had not been so one would presumably have been allowed to fasten them with a loop. But, it may be objected, did not R. Judah son of R. Samuel b. Shilath rule in the name of Rab: The shape of the knot of the tefillin is a halachah that was given to Moses at Sinai, and R. Nahman explained: Their ornamentation[16] must be turned outwards?[17] — One could make the loop similar to the prescribed knot.[18]

R. Hisda citing Rab[19] ruled: If a man buys a supply of' tefillin[20] from a non-expert he must examine two tefillin of the hand and one of the head, or two of the head and one of the hand.[21] But, whatever your explanation may be, a difficulty remains:[22] If he bought them from one man,[23] why should he not examine either three of the hand or three of the head,[24] and if he bought them from two or three persons, should not each one require examination?[25] The fact is that he bought them from one man, but it is necessary that his reputation shall be established in respect of those of the hand as well as those of the head. But can this be correct? purely Rabbah b. Samuel learned, 'In the case of tefillin one examines three of the hand and of the head', which means, does it not, either three of the hand or three of the head? — No, three, some of which must be of the hand and some of the head. But did not R. Kahana learn: In the case of tefillin one examines two of the hand and of the head?[26] — This[27] represents the view of[28] Rabbi who laid down that if something has happened twice presumption is established.[29] But if this[27] represents the view of Rabbi, read the final clause: 'The same procedure is followed[25] in the case of the second packet and also in that of the third packet';[30] but if this represents the view of Rabbi, would he require the examination of a third packet?[31] — Rabbi agrees[32] in the case of packets since one usually buys them from two or three persons.[33] But if so,[34] should not even the fourth and even the fifth also require examination? — The law is so indeed,[35] and the reason why 'the third' is mentioned is merely to indicate that[36] no presumption is established.[37] In fact, however, even a fourth or a fifth must also be examined.

IF HE FOUND THEM ARRANGED IN PACKETS OR TIED UP IN BUNDLES etc. What is meant by PACKETS[38] and what by BUNDLES?[39] — Rab Judah citing Rab replied: Packets and bundles are practically the same thing but in packets the tefillin are packed In pairs while in bundles they are tied together promiscuously.[40]

HE SHALL WAIT BY THEM UNTIl IT IS DARK AND THEN BRING THEM IN. But why?[41] Might he not bring them in, one pair at a time?- R. Isaac the son of R. Judah replied: It was explained to me by my father that if by bringing them in, one pair at a time, the entire stock could be transferred[42] before sunset, he is to take them in,[43] one pair at a time; otherwise HE SHALL WAIT BY THEM UNTIL IT IS DARK AND THEN BRING THEM IN.

IN A TIME OF DANGER, HOWEVER, HE SHALL COVER THEM. AND PROCEED ON HIS WAY. But was it not taught: In a time of danger he carries them[44] in small stages each of less than four cubits?[45] — Rab replied:[46] This is no difficulty since the former[47] refers to the danger of heathens[48] while the latter[49] refers to that of highwaymen.[50]

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(1) Concerning which it might be contended that no one would take the trouble to make amulets in the shape of tefillin.

(2) Which are obviously proper tefillin duly prepared and used for the purpose.

(3) R. Meir.

(4) To make amulets in the shape of tefillin proper.

(5) R. Judah.

(6) Consisting of key letters in the statements that follow and their respective authorities. V. Hyman, Toledoth, p. 19.

(7) The knot in [he shape of a letter of the alphabet (yod or daleth) prescribed for the tefillin

(8) Since the reason why new ones may not be carried on the head and arm to a place of safety on the Sabbath is not because they might be mere amulets but because not having the prescribed knot they cannot be worn, since no permanent knot may be made on the Sabbath.

(9) Hence there is no need to provide against such a possibility in the case of zizith either.

(10) Instead of with a knot which is forbidden on the Sabbath.

(11) Which is permitted and so render them fit for wear.

(12) Or 'unfit'.

(13) Lit., 'which he said'.

(14) And like the latter, is forbidden to be made on the Sabbath (cf. Shah. 113a).

(15) Why a loop is inadmissible on the Sabbath in the straps of the tefillin

(16) Sc. the right side of the letter.

(17) Away from the person wearing them; all of which shows that the knot is all essential part of the tefillin. How then could it possibly be presumed that it could be replaced by a loop?

(18) Lit., ‘he makes a loop for them (the tefillin) similar to their knot’ in the shape of the prescribed letter.

(19) MS.M. omits the last two words.

(20) For trading purposes.

(21) If the three tefillin are found on examination to be properly written and prepared the seller is presumed to be all expert and the remainder of the supply may be regarded as valid tefillin.

(22) Lit., ‘what is your desire?’

(23) Who has himself made them or bought them from the maker.

(24) Instead of two of the one and one of the other.

(25) Of course it should, since the validity of the goods of one seller is no proof of the validity of those of any other.

(26) Why then is the number here increased to three?

(27) R. Kahana's ruling.

(28) Lit., ‘whose (view) is this’?’

(29) Cf. Yeb. 64b.

(30) This is assumed to mean that if he bought a number of packets each containing several pairs of tefillin, he need not examine more than three packets.

(31) Lit., ‘and if (this is the view of) Rabbi, has he (any need for examination of a) third?’

(32) That the examination of two is not enough to establish presumption.

(33) Cf. supra n. 1 mut. mut.

(34) Since each bundle may have been bought from a different seller.

(35) Lit., ‘yes, thus also’.

(36) In this particular case.

(37) By two that have passed the test.

(38) צבתים.

(39) כריכות.

(40) Lit., ‘when many are wrapped together’.

(41) Should he wait until dusk.

(42) Lit., ‘and they’ end’.

(43) During ‘he Sabbath.

(44) The whole stock.

(45) By resting at the end of each stage he avoids any continuous and uninterrupted carrying in the public domain along a distance of four cubits.

(46) MS.M. omits the last two words.

(47) Our Mishnah which, in a time of danger, exempts one from carrying the tefillin with him or, in the case of packets and bundles, from watching them until it gets dark.

(48) Lit., ‘stranger’, ‘foreigner sc. at a time of religious persecution when it is dangerous to be met by a heathen when in the act of wearing or protecting ritual appurtenances (cf. Rashi a.l. second interpretation).

(49) The Baraitha which in the case of packets and bundles, instead of waiting and watching until it gets dark allows one to carry then, away by walking in small stages.

(50) In which case it is dangerous to remain in the open field until it gets dark but quite safe to carry the packets or bundles to town in full daylight.

Talmud - Mas. Eiruvin 97b

Said Abaye:[1] How[2] did you explain our Mishnah? That it refers to danger from idolaters? Read them the final clause, R. SIMEON RULED: HE SHALL PASS THEM TO HIS FELLOW AND HIS FELLOW SHALL PASS THEM TO HIS FELLOW, would not this cause much greater publicity?[3] A clause is wanting in our Mishnah, the proper reading being as follows: This applies to danger from idolaters but in the case of danger from highwaymen he carries them in small stages each of less than four cubits.

R. SIMEON RULED: HE SHALL PASS THEM TO HIS FELLOW etc. On what principle do they[4] differ? — One Master[5] holds that it is preferable to carry them in stages of less than four cubits, for if you should say that he should pass them to his fellow and his fellow to his fellow, the desecration of the sabbath would be given undue publicity; while the other Master[6] holds that it is preferable to pass them to one's fellow, for should you say that he shall carry them in stages of less than four cubits it might sometimes happen that he would be absent-minded and would in consequence carry them four cubits in a public domain.

THE SAME PROCEDURE IS TO BE FOLLOWED IN THE CASE OF A SON OF HIS. How does his child come to be[7] there? — The school of Manasseh taught: This is a case where his mother bore him in the field. And what is intended by the expression. EVEN THOUGH THEY ARE AS MANY AS A HUNDRED? — That, though the movement from hand to hand is rather a hardship to him, this procedure is nevertheless to be preferred.[8]

R. Judah RULED: A MAN MAY PASS A JAR. But does not R. Judah agree with what we learned: Cattle and objects may move only as far as the feet of their owner?[9] — Resh Lakish citing levi the elder replied: Here we are dealing with a case where he[10] emptied the contents from one jar[11] into another,[12] R. Judah following his view, expressed elsewhere,[13] that water[14] is deemed to have no substance,[15] for we learned:[16] R. Judah exempts[17] water[18] because it has no substance.[15] Then[19] what could be the meaning[20] of THIS[21] MUST NOT MOVE? — That[22] which is within THIS MUST NOT BE MOVED FURTHER THAN THE FEET OF ITS OWNER. Might it not be suggested that R. Judah was heard to hold his view[23] only where it[22] was absorbed in dough;[24] was he, however, heard to hold the same view where[25] it had an independent existence? Surely.[26] if where water is mixed with the contents of a pot[27] R. Judah rules that it does not lose its existence, would it lose it where[25] it had an independent existence? For was it not taught:[28] R. Judah ruled: Water and salt lose their identity in dough but not in a pot[27] on account of its broth?[29] — Rather, explained Raba, we are here dealing with the case of a jar that had acquired[30] a place for the Sabbath and that of water that had not acquired a place.[31] so that the identity of the jar[32] is lost In the water;[33] as we have learnt: If a man carries out[34] a living person in a bed he is exempt[35] even in respect of the bed,[36] since the bed[37] is of secondary importance;[38] if a man carries out[34] in a vessel food-stuffs less than the forbidden quantity he is exempt[35] even in respect of the vessel,[39] since the vessel[40] is only of secondary importance.[41] R. Joseph raised an objection: R. Judah ruled: ‘When in a caravan a man, may pass a jar to his fellow and his fellow to his fellow’, which implies, does it not, that only when in a caravan[42] is this permitted but not otherwise?[43] — The fact rather is, explained R. Joseph, that what[44] we learned in our Mishnah referred also to a caravan.

Abaye explained:[45] When in a caravan the device[46] is permitted even when both the jar and the water had acquired a place for the Sabbath, but when one is not in a caravan the device[46] is allowed only where the jar alone had acquired a place for the Sabbath but not the water.

R. Ashi explained:[45] Here we are dealing with a jar and water both of which were ownerless,[47] And whose [view is expressed in what] THEY SAID TO HIM? — That of R. Johanan b. Nuri who holds that ownerless objects acquire their place for the Sabbath .[48] And what[49] could be the meaning of THIS MUST NOT BE MOVED FURTHER THAN THE FEET OF ITS OWNER?- they must not be moved further than vessels that have an owner.[50]

MISHNAH. IF A MAN WAS READING IN A SCROLL[51] ON A THRESHOLD AND THE SCROLL ROLLED OUT OF HIS HAND,[52] HE MAY ROLL IT BACK TO HIMSELF.[53] IF HE WAS READING IT ON THE TOP OF A ROOF AND THE SCROLL ROLLED OUT OF HIS HAND,[52] HE MAY, BEFORE IT REACHED TEN HANDBREADTHS FROM THE GROUND, ROLL IT BACK TO HIMSELF.[54] BUT AFTER IT HAD REACHED THE TEN HANDBREADTHS[55] HE MUST TURN IT OVER WITH ITS WRITING DOWNWARDS.[56] R.

JUDAH RULED: EVEN IF IT WAS REMOVED FROM THE GROUND BY NO MORE THAN A THREAD'S[57] THICKNESS HE MAY ROLL IT BACK TO HIMSELF. R. SIMEON RULED: EVEN IF IT TOUCHED THE ACTUAL GROUND HE MAY ROLL IT BACK TO HIMSELF, SINCE NO PROHIBITION THAT IS DUE TO SHEBUTH[58] RETAINS ITS FORCE[59] IN THE PRESENCE OF THE HOLY WRITINGS.[60]

GEMARA. What kind of THRESHOLD is one to imagine? If it be suggested that the threshold was a private domain,[61] and that in front of it was a public domain,[62] and that no preventive measure[63] was enacted against the possibility that the entire scroll might fall down[64] and that one might then carry it in,[65]

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(1) So MS.M. Cur. edd. add., ‘to him

(2) Lit., ‘in what’.

(3) And thus enhance the danger.

(4) R Simeon and the first Tanna.

(5) The first Tanna according to the emendation of the Mishnah just given.

(6) R. Simeon

(7) Lit., ‘what does he want’.

(8) Since the possible desecration of the Sabbath is thereby avoided.

(9) Bezah 37b, sc. even a person who borrowed them may not lead or carry them beyond the limits within which their owner may move.

(10) Every one of the men to whom the jar is passed in turn.

(11) Each person to whom the jar is passed in succession.

(12) Of his own and that could, therefore, be carried as far as he himself may go.

(13) Lit., ‘that he said’.

(14) Under certain conditions.

(15) it is not restricted, therefore, to the limits of its owner's movements.

(16) Bezah 37a.

(17) From being restricted, like spices and salt,to the limits of the movements of its original owner.

(18) That was borrowed by one woman from another for her dough.

(19) Since R. Judah agrees that the jar itself must not be moved beyond the limits allowed to its owner.

(20) In the objection of the Rabbis.

(21) Presumably the JAR.

(22) I.e., the water.

(23) That water is deemed to have no substance.

(24) Where its independent existence is completely lost.

(25) As in the case of the water in the jar under discussion.

(26) Lit., ‘now’.

(27) 1.e., where it is mixed with other food.

(28) Bezah 39a.

(29) Which, like the water, is a liquid. Much less then in a jar in which the water alone is contained.

(30) When the Sabbath began.

(31) If, for instance, it was drawn on the Sabbath from a river. Such water (cf. supra 46a) may be carried by anyone as far as his own Sabbath limits.

(32) Which is only of secondary importance serving as it does as a mere container for the water.

(33) Which is here of primary importance, and which may be carried by anyone (cf. supra n. 12) within his own limits.

(34) On the Sabbath.

(35) From the penalties for desecration of the Sabbath by carrying.

(36) i.e., not only in respect of the living person who is deemed to be carrying himself.

(37) Being used for the sake of the person in it only.

(38) To the person in it who is of primary importance. As no penalty is incurred for carrying out the man so is none incurred for carrying out the bed.

(39) Not only in respect of the foodstuffs which were less than the forbidden quantity.
(40) Whose entire use is due to the foodstuffs in it.
(41) To the food (cf. supra n. 19 mut. mut.). Similarly in the case of the jar and the water, since the latter is of primary, and the former is only of secondary importance, the former's identity is completely lost in that of the latter and may, therefore, be carried to the same limits.
(42) Sc. in abnormal conditions where water has to be carried long distances and where one has no other alternative.
(43) How then is this to be reconciled with R. Judah's ruling in our Mishnah?
(44) Lit., , ‘ when’.
(45) The difficulty raised by R. Joseph.
(46) Of passing the jar from hand to hand.
(47) Hefker so that whosoever picks them up acquires them and may, therefore, carry them to the ends of his own Sabbath limits.
(48) Supra 45b.
(49) Since the jar and the water were ownerless.
(50) Two thousand cubits in all directions.
(51) Of Scripture.
(52) Into a public domain.
(53) If one of its ends remained in his hand (v. Gemara infra).
(54) Since it was still outside the public domain which extends only to a level of ten handbreadths above the ground.
(55) And one of its ends is thus within the public domain from which it is forbidden to transfer an object into any other domain.
(56) Lit., ‘on the writing’, to protect it as much as is possible from the sun, dust or rain.
(57) So T.J., Alfasi, MS.M. and cur. edd. infra 98a. Cur. edd. here ‘needles’.
(58) A Rabbinical prohibition in connection with the Sabbath (v. Glos.), such as the rolling back of a scroll where one of its ends was still in the reader's hands. Pentateuchally this is permitted but as a preventive measure against the possibility of carrying back the scroll where it was wholly in the public domain, a Rabbinical prohibition was imposed.
(59) Lit., ‘stands’.
(60) I.e., where their preservation or honour is at stake.
(61) One, for instance, that was no less than ten handbreadths high and four handbreadths wide.
(62) Into which one end of the scroll had rolled.
(63) Forbidding to roll it back to the reader in the private domain who was still holding its other end.
(64) On the ground of the public domain.
(65) Back into the private domain, and thus incur the obligation of a sin-offering.

Talmud - Mas. Eiruvin 98a

who then, [it may be asked,] is the author?[1] Obviously R. Simeon who ruled: NO PROHIBITION THAT IS DUE TO SHEBUTH RETAINS ITS FORCE IN THE PRESENCE OF THE HOLY WRITINGS;[2] but then read the final clause: R. JUDAH RULER, EVEN IF IT WAS REMOVED FROM THE GROUND BY NO MORE THAN A THREAD'S THICKNESS HE MAY ROLL IT RACK TO HIMSELF. R. SIMEON RULED: EVEN IF IT TOUCHED THE ACTUAL. GROUND, HE MAY ROLL IT BACK TO HIMSELF. Is it likely that the first and final clauses represent the view of R. Simeon while the middle one represents that of R. Judah?-Rab Rabbah replied: Yes the first and final clauses may represent the view of R. Simeon while the middle one represents that of R. Judah: Rabbah replied: We deal here with a threshold that was trodden upon [by the public] and in order [to avert] disrespect to the holy writings[3] the Rabbis[4] have permitted [to roll it back].[5]

Abaye raised an objection against him:[6] [If it[7] rested] within four cubits[8] one may roll it back to oneself, [but if it rested] without the four cubits one must turn it over with its writing downwards. Now if you maintain that we are dealing with a threshold that was trodden upon by the public[9] what matters it whether the end of the roll rested within the four cubits or without the four cubits?[10] Rather, explained Abaye, we are dealing here with a threshold that was a karmelith[11] in front of which passed a public domain.[12] [Hence it is that if the end of the scroll rested] within four cubits where, even if [all the scroll] had fallen down and one would have carried it back,[13] no obligation of a sin-offering would be incurred,[14] the Rabbis have permitted the man to roll it back;[15] but where it rested without the four cubits in which case, if he had brought it back,[16] he would have incurred the obligation of a sin-offering, the Rabbis did not permit it to him.[17] But if so,[18] why should not a preventive measure be enacted, even [where the end of the scroll rested] within the four cubits, lest one night come to carry [the scroll][19] from the public into a private domain?[20] And should you reply: Since a karmelith[21] intervened this[22] need not be provided against,[23] did not Raba, [it may be objected,] state:[24] if a man transferred an object from the beginning of four cubits[25] to the end of the four cubits, and the transfer was made above his head,[26] he is guilty of an offence?[27] — Here we are dealing with all extensive[28] threshold[29] in crossing which[30] one is sure to recollect [to pause].[31] If you prefer I might reply: The fact is that we are dealing here with a threshold that was not extensive, but one usually looks through the holy writings before putting them away.[32] But why should not the possibility be taken into consideration that one might look through them[33] while in the public domain and then carry them[34] directly into the private domain?[35] — The author of this ruling is[36] Ben ‘Azzai who laid down[37] that walking is like standing.[38] But is it not possible that he might throw[39] them,[40] R. Johanan having stated: ‘Ben ‘Azzai agrees in the case of throwing’?[41] R. Aha[42] b. Ahabah replied: This proves that holy writings may not be thrown.[43]

IF HE WAS HEADING IT ON THE TOP OF A ROOF etc. But is this[44] permitted. seeing that it was taught: The writers of the scrolls of Scripture, tefillin or mezuzoth were not permitted to turn a skin[45] with the writing downwards,[46] but a cloth must be spread over it?[47] There[48] this[49] is possible whereas here[50] this is impossible; and if one were not to turn it over the holy writings would be exposed[51] to much greater abuse. HE MUST TURN IT OVER WITH ITS WRITING DOWNWARDS. But, surely, it has not, has it, come to a rest?[52] — Raba replied: This is a case where the wall was slanting.[53] Said Abaye to him: You have explained our Mishnah as referring[54] to a slanting wall; read them the final clause: R. JUDAH RULED, EVEN IF IT WAS REMOVED FROM THE GROUND BY NO MORE THAN A THREAD'S THICKNESS, HE MAY ROLL IT BACK TO HIMSElf, but, surely,[55] I may ask, has it not come to rest?[56] — Some words are wanting, the proper reading[57] being as follows: This[58] applies only to a slanting wall, but in the case

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(1) Of this ruling of our Mishnah according to which no preventive measure was deemed necessary. It cannot be R. Judah, since he permits the rolling back only where the end of the scroll does not touch the ground, but where it does, the rolling back is forbidden as a preventive measure against the possibility of doing so when both ends dropped from the reader's hands.

(2) V. relevant notes in our Mishnah.

(3) By leaving it in a place where it might be trodden upon.

(4) Even R. Judah.

(5) Since only a shebuth is thereby affected. The threshold, however, cannot be compared to a roof where a preventive measure could well be enacted since in that case the scroll is not exposed to so much abuse.

(6) Rabbah.

(7) One of the ends of the scroll that one was reading on a threshold.

(8) On the ground.

(9) And that, in order to protect the sacred scroll from abuse, a shebuth was dispensed with.

(10) Surely none; for just as a shebuth was dispensed with for the reason given, in the case of the threshold where one end of the scroll is transferred from a public into a private domain, so it should also be dispensed with for the same reason in the case of carrying the end of the scroll along a greater distance than four cubits in a public domain, since one of the ends is in his hand.

(11) One that was four handbreadths wide but less than ten handbreadths high.

(12) And behind which was, of course, a house which is a private domain.

(13) To the threshold.

(14) Since the prohibition to carry from a public domain Into a karmelith is only a shebuth.

(15) i.e., where an end is retained in the reader's hand, a shebuth to safeguard a shebuth was not considered necessary.
(16) Where the whole of [he scroll had fallen down and he carried it along a distance of more than four cubits in a public domain.
(17) Even where one end remained in his hand and only a shebuth is involved. To safeguard a Pentateuchal prohibition a shebuth was justifiably instituted.
(18) That according to R. Judah a preventive measure was enacted, even in the case of holy writings, against the possibility of the infringement of a Pentateuchal law.
(19) I.e., where both ends dropped from the hands of the reader into the public domain.
(20) Sc. into the house behind the threshold.
(21) The threshold.
(22) The possibility of carrying across It from the one domain into the other.
(23) Lit., ‘we have nothing against It
(24) Shah. 8b.
(25) In a public domain.
(26) Lit., ‘the way above him’, sc. he carried the object high in the air at a level above ten handbreadths from the ground, which is regarded as a free domain.
(27) Against the laws of carrying a greater distance than four cubits in a Public domain. This shows that an offence is not mitigated even though the object passed on its way through a free domain. Why then should the passing of the scroll across the threshold mitigate in any way the offence of carrying from a public into a private domain?
(28) Lit., ‘log’.
(29) The crossing of which, on one's way from the public into the private domain, would take some time.
(30) Lit., ‘in the meanwhile’.
(31) On it; and thus avoid the direct transfer from the public into the private domain. By making a pause on the karmelith the object is deemed to have been taken from the Public domain into it and from it into the private domain which is Pentateuchally permitted so that no sin-offering would be incurred even where the entire scroll had been carried in this manner.
(32) One would consequently pause for the purpose on the threshold and, by thus avoiding direct transfer from the public into the private domain, no obligation of a sin-offering would be incurred.
(33) The books of Scripture in the scroll.
(34) Even where the entire scroll had dropped into the public domain.
(35) Thus infringing a Pentateuchal prohibition.
(36) Lit., ‘whose (ruling) is this?’
(37) In respect of the laws relating to carrying on the Sabbath.
(38) Lit., ‘(he who) walks is as (he who) stands’, sc. since every step made represents a ‘lifting up’ of the foot from one spot and a ‘putting down’ of it in another spot, the very passing across the threshold constitutes a pausing on it; cf. Shab. 5b and Keth 31b (Sonc. ed., p. 172, n. 4).
(39) From the public domain directly into the house.
(40) The books of Scripture in the scroll.
(41) That it is not like standing (Shah. 6a). As in such a case a Pentateuchal law would be infringed where the entire scroll rolls out into the public domain, why was not a preventive measure enacted against this possibility even where only one end had rolled out?
(42) MS.M. and old ed. ‘Adda’.
(43) Sof. III, 12.
(44) To turn a holy scroll WITH ITS WRITING DOWNWARDS.
(45) Lit., ‘curtain’,one of the sheets of parchment of which the large scroll is made up.
(46) Lit., ‘on its face’; to protect it from dust.
(47) Sof. Ill, 14 and 16.
(48) In the scribe's house.
(49) To cover the writing with a cloth.
(50) In the open, and where the exposed part of the scroll is rather large.
(51) Lit ‘there is’.
(52) In the public domain. Why then should it be forbidden to roll it back into the private domain seeing that such an act

would not infringe even a shebuth?

(53) So that the end of the scroll inevitably comes to rest on the slope.

(54) Lit., ‘in what did you place our Mishnah?’

(55) Since the wall was slanting.

(56) It must have done. Why, then, did R. Judah permit it to be rolled back?

(57) In our Mishnah.

(58) The ruling that HE MUST TURN IT etc.

Talmud - Mas. Eiruvin 98b

of a wall that was not slanting and it came to rest above three handbreadths [from the ground], he may roll it back to himself; but if below the three handbreadths,[1] HE MUST TURN IT OVER WITH ITS WRITING DOWNWARDS.

R. JUDAH RULED: EVEN IF IT WAS REMOVED, FROM THE GROUND BY NO MORE THAN etc., because it is essential[2] that the object shall come to rest on something.[3] But then what of the statement of Raba that even if all object came within three handbreadths [from the ground] it is necessary[2] according to the Rabbis that it shall rest[3] on something,[4] must it be assumed[5] that he based his teaching on what is a dispute between Tannas? — The fact is that all this[6] represents the view of R. Judah, but some words are missing, the correct reading being as follows: This applies only to a slanting wall, but in the case of a wall that was not slanting, even if it was below three handbreadths from the ground, he may roll it back because R. JUDAH RULED: EVEN IF IT WAS REMOVED FROM THE GROUND BY NO MORE THAN A THREADS THICKNESS, HE MAY ROLL. IT BACK TO HIMSELF. What is the reason? Because it is essential[7] that the object shall come to rest on something.

MISHNAH. IF THERE WAS A LEDGE[8] IN FRONT OF A WINDOW IT IS PERMltted[9] TO PUT OBJECTS UPON IT OR TO REMOVE OBJECTS FROM IT ON THE SABBATH.

GEMARA. Whither did the LEDGE project? If it be suggested that it projected on to a public domain, why should no provision be made against the possibility[10] that an object might drop[11] and one would be tempted[12] to carry it?[13] If, on the other hand, it be projected on to a private domain, is not this[14] obvious?[15] — Abaye replied: The fact is that it projected on to a public domain, but the ruling, that IT IS PERMITTED TO PUT OBJECTS UPON IT, refers only to[16] breakable objects.[17] So it was also taught: If a ledge in front of a window projected into a public domain it is permitted to put upon it dishes, cups, ladles or bottles;[18] and [it is permitted] to use[19] all the wall[20] as far as its lowest ten handbreadths.[21] If there was a ledge below it[22] one may use it,[23] while the upper one may be used only in front of one's window. Now what kind of ledge is one to imagine?[24] If its width was less than[25] four handbreadths, is it not a free domain which[26] one must not use[27] even in front of one's window?[28] If, on the other hand, its with was four handbreadths, why[29] should not one be allowed to use it along the entire length of the wall? — Abaye replied: This is a case where the lower ledge was four handbreadths wide, while the upper one was not four handbreadths wide but the window-sill made it up to four handbreadths. [Consequently] One may use it[30] in front of the window since it is regarded as an extension[31] of the window-sill but its section on the one side or on the other[32] remains forbidden.

MISHNAH. A MAN MAY STAND[33] IN A PRIVATE DOMAIN AND MOVE OBJECTS IN A PUBLIC DOMAIN OR HE MAY STAND IN A PUBLIC DOMAIN AND[34] MOVE OBJECTS IN A PRIVATE DOMAIN, PROVIDED HE DOES NOT TAKE THEM BEYOND FOUR CUBITS.[35]

A MAN MAY NOT STAND IN A PRIVATE DOMAIN AND MAKE WATER IN A PUBLIC DOMAIN OR IN A PUBLIC DOMAIN AND MAKE WATER IN A PRIVATE DOMAIN, AND

THE SAME APPLIES TO SPITTING.[36] R. JUDAH RULED: EVEN WHERE A PERSON'S SPITTLE ACCUMULATED[37] IN HIS MOUTH, HE MUST NOT WALK FOUR CUBITS BEFORE HE SPAT OUT.[38]

GEMARA. R. Hinena[39] b. Shelemya taught Hiyya b. Rab in the presence of Rab: A man may not stand in a private domain and move objects in a public domain.[40] ‘Do you’, he[41] said to him, ‘ignore[42] the Rabbis[43] and act according to the view of R. Meir?’[44]

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(1) A level that is regarded as the actual ground.

(2) If it is to be deemed to have come to rest In a certain domain, and if the prescribed penalties are to be incurred.

(3) It is not enough that it passed through the air of the domain however low the level.

(4) Shah 80a, 100a.

(5) Since the first Tanna in our Mishnah apparently differs from R. Judah's view.

(6) All the anonymous part of our Mishnah including the ruling explicitly attributed to R. Judah.

(7) V. p. 679, n. 9.

(8) That was no less than four handbreadths wide and no less than ten handbreadths raised from the ground.

(9) To persons in the house, since (cf. prev. n.) the ledge has the status of a private domain.

(10) Lit., ‘let it be apprehended’.

(11) From the ledge into the public domain below.

(12) Lit., ‘and come’.

(13) Back to the private domain and thus transgress a Pentateuchal law.

(14) The ruling in our Mishnah.

(15) Since the ledge is a private domain within a private domain.

(16) Lit., ‘and what. . . that he learned’.

(17) If these were to drop from the ledge no one would be likely to carry the fragments back into the house. Hence no preventive measure was necessary.

(18) All of which are fragile.

(19) Lit., ‘and uses’.

(20) Sc. the holes and crevices in it (so Tosaf. a.l. contra Rashi).

(21) But not lower, since a height that is less than ten handbreadths is counted as the public domain.

(22) But above ten handbreadths from the ground.

(23) Even if it extends along the entire length of the wall.

(24) The upper one to be.

(25) Lit., ‘there is not in it’.

(26) Though its occasional use is permitted to the people of both the public and the private domain

(27) Regularly.

(28) As its area is small, objects are certain to fall off, and the placing of such objects upon it assumes the appearance of direct throwing from a private into a public domain.

(29) Since it is a private domain.

(30) The upper ledge.

(31) Lit., ‘holes’.

(32) Since it cannot be regarded as an extension of the window, and its own width is less than the minimum prescribed for a private domain.

(33) On the Sabbath.

(34) By bending forward.

(35) From the place where he picked them up.

(36) Lit., ‘and so he shall not spit’.

(37) Lit., ‘plucked’.

(38) The spittle being regarded as a burden which one must not carry beyond four cubits in a public domain.

(39) MS.M., ‘Hanania

(40) This being a preventive measure against the possibility of transferring the object from the public into the private domain.

(41) Rab.
(42) Lit., ‘leave’.
(43) Sc. the anonymous view expressed in our Mishnah.
(44) Who adopted (infra 101a) a preventive measure of a similar character.

Talmud - Mas. Eiruvin 99a

He[1] thought that since the final clause[2] represented the view of R. Meir the first clause also must represent the view of R. Meir. In fact, however, this is not so. While the final clause represents the view of R. Meir the first represents the view of the Rabbis.

PROVIDED HE DOES NOT TAKE THEM BEYOND. Thus it follows that if he did take them beyond the four cubits[3] he incurs the obligation of a sin-offering. May it then be suggested that this[4] provides support for Raba who laid down that if a man transferred an object from the beginning of four cubits to the end of the four cubits, and the transfer was made above his head, he is guilty of an offence?[5] Was it stated: ‘If he took them beyond, he incurs the obligation of a sin-offering’?[6] It is quite possible[7] that if he took them beyond [the four cubits] he is exempt,[8] but the act is [nevertheless] forbidden.[9]

Others read: Thus it follows[7] that if he did take them out he Is exempt though this is forbidden. Must it be conceded that this presents an objection against Raba who laid down that if a man transferred an object from the beginning of four cubits to the end of four cubits, and the transfer was made above his head, he is guilty of an offence?[5] Was it stated: ‘if he took them out he is exempt though this is forbidden’? It is quite possible that if he took them beyond [the four cubits] he does incur the obligation of a sin-offering?

A MAN MUST NOT STAND IN A PRIVATE DOMAIN etc. R. Joseph ruled: If a man made water or spat[10] he incurs the obligation of a sin-offering. But is it not necessary[11] that the lifting up[12] and the putting down[12] shall respectively be from, and upon a place that was four handbreadths wide, which is not the case here? — His intention[13] confers upon him the status of a proper place. For should you not concede this principle, how would you explain the following ruling of Raba:[14] ‘If a man threw some object[15] and it dropped[16] into the mouth of a dog or into the mouth of a furnace[17] he incurs the obligation of a sin-offering’, in view of the objection:[18] Is it not necessary[11] that the putting down should be upon a place that was four handbreadths wide, which is not the case here? You must consequently admit that[19] the man's intention[20] confers upon it[21] the status of a proper place, so also here, it may well be explained, it is his intention that confers upon him the status of a valid place.

Raba enquired: What is the legal position where a man stood in a private domain and the orifice of the organ projected into a public domain? Are we guided by the source[22] or by the point of exit? — This remains undecided.[23]

AND THE SAME APPLIES TO SPITTING. R. JUDAH RULED etc. Even though he did not turn it over?[24] Have we not, however, learnt: If a man was eating a pressed fig[25] with soiled hands[26] and he put his hand into his mouth to remove a small stone,[27] R. Meir declares the fig to be unclean[28] while R. Jose regards it as clean.[29] R. Judah ruled: If he turned it[30] over[31] the fig is unclean[28] but if he did not turn it over[29] the fig remains clean?[32] — R. Johanan replied: Reverse the statement ,[33] Resh Lakish said: You have no need[34] to reverse the statement,for we are dealing here with phlegm.[35] But was it not taught: R. Judah ruled: ‘If his phlegm was detached’,[36] which implies also, does it not, ‘if his spittle was detached’?[37] — No, only that if his phlegm was detached. But was it not taught: R. Judah ruled: Whether his phlegm was detached or his spittle was detached he must not walk four cubits before he spat it out?- Clearly the explanation is the one originally given.[38]

Resh Lakish stated: One who coughs up phlegm in the presence of his master deserves an untimely death, for it is said in Scripture: All that hate me love death,[39] read not ‘that hate me’ but ‘those that cause me to be hated’.[40] But does not one merely act[41] under an impulsion?[42] — The person meant is one who coughs up the phlegm and ejects it.[43]

MISHNAH. A MAN MUST NOT[44] STAND IN A PRIVATE DOMAIN AND DRINK IN THE PUBLIC DOMAIN OR STAND IN A PUBLIC DOMAIN AND DRINK IN A PRIVATE DOMAIN UNLESS HE PUT HIS HEAD AND THE GREATER PART OF HIS BODY INTO THE DOMAIN IN WHICH HE DRINKS. AND A SIMILAR LAW[45] APPLIES TO A WINEPRESS.

GEMARA. Does then the first clause[46] represent the view of the Rabbis[47] while the final clause[48] represents that of R. Meir?[49] — R. Joseph replied: The latter clause[48] deals with objects that are among one's necessities[50] and it[48] represents the general opinion.[51]

The question was raised: What is the ruling in respect of a karmelith?[52] — Abaye replied: The same law[53] applies.[54] Raba replied: The very law of karmelith[55] is but a preventive measure,[56] shall we then go as far as[57] to enact a preventive measure[58] in addition to another preventive measure![59]

Whence, observed Abaye, do I derive my view?[60] From the statement,[61]

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(1) R. Hinena.

(2) i.e., the Mishnah infra 101a.

(3) Even though his position was raised from the ground of the public domain and the objects were carried in the air above ten handbreadths from the ground which is a free domain.

(4) The prohibition to carry an object even through a free domain on account of the ‘lifting up’ and the ‘setting down’ which take place in the public domain.

(5) Supra 98a q.v. notes.

(6) If that were so, support for Raba's view would indeed have been forthcoming.

(7) Since no sin-offering was mentioned.

(8) From a sin-offering.

(9) By a Rabbinical enactment. In order to prevent one from carrying an object below the ten handbreadths level.

(10) From the one domain into the other.

(11) If a sin-offering is to be incurred.

(12) Of the object moved.

(13) To relieve himself.

(14) Lit., ‘that which Raba said’.

(15) Along a distance of four cubits in a public domain.

(16) Lit., ‘and rested’.

(17) Where it was instantly burnt out before it touched the floor of the furnace.

(18) Lit., ‘but surely’.

(19) Lit., ‘but’.

(20) [That it should drop into the fire or into the dog's mouth, v. Tosaf s.v. זרק].

(21) The dog's mouth or the flames of the furnace.

(22) Which is in the private domain.

(23) Teku.

(24) In his mouth.

(25) Of terumah.

(26) Sc. ‘unwashed’. These are subject to the second degree of levitical uncleanness and consequently carry the third degree of uncleanness to the terumah with which they came in contact.

(27) And with his wet hand touched the fig.

(28) Because the spittle is regarded as a liquid which, my moistening the fig, renders it susceptible to levitical uncleanness. Food that has never come in contact with a liquid is not susceptible to such uncleanness.

(29) Spittle, while in one's mouth is deemed to be a part of the body and cannot, therefore, the regarded as a liquid that renders food susceptible to levitical uncleanness.

(30) With the spittle in his mouth.

(31) In his mouth.

(32) Kel. VIII, 10. How then can it be maintained here that R. Judah regards spittle as detached from the body even if it was not turned over?

(33) The view given in the name of R. Judah should he attributed to one of the others. Rashi: R. Judah is at variance with his own principle.

(34) Lit., ‘forever’.

(35) Which is detached from the lungs by the time it reaches the mouth.

(36) He must not walk beyond four cubits in the public domain.

(37) The text is in disorder. Read (v. D.S.): ‘R. Judah said, (the same applies to) his phlegm or spittle’; now does this not mean if his phlegm or spittle was detached?- No, only if his phlegm was detached (but as to spittle, there is no liability unless he turned it over)].

(38) That the statement was to be reversed.

(39) Prov. VIII, 36.

(40) For the reading cf. Meg. 28a.

(41) When coughing.

(42) Of course he does; why then should he deserve death?

(43) In his master's presence.

(44) As a preventive measure against the possibility of drawing the drinking vessel towards the body from the one domain into the other.

(45) In respect of tithe (v. Gemara infra).

(46) Sc. the previous Mishnah (supra 98b) according to which ‘a man may stand in a private domain and move objects in a public domain’ etc.

(47) Who did not enact a preventive measure against the possibility of drawing the object after the body.

(48) Our Mishnah.

(49) Who (cf. Mishnah infra 101a) upholds the principle of the necessity for such a preventive measure. But is it likely that two anonymous and consecutive rulings should represent the views of different authors?

(50) Lit., ‘that he requires’, as water, for instance. Being in so much need of it, a man is most likely in a moment of absent-mindedness to draw it towards him into the domain in which he stands.

(51) Since in such a case (cf. Prev. n.) all agree that a preventive measure is required.

(52) Sc. may one standing in a karmelith drink in a public or private domain?

(53) As that relating to the domains spoken of in our Mishnah.

(54) Lit., ‘it it’.

(55) Since Pentateuchally there is no prohibition even against the actual transfer of objects from a karmelith into, private or public domain.

(56) Against the possibility of carrying objects between a public and a private domain.

(57) Lit., ‘shall we rise up’.

(58) The prohibition to drink from a public or private domain while standing in a karmelith as a preventive measure against possible transfer of the drinking vessel.

(59) The very law of karmelith. As such a double precaution is obviously unreasonable, the restrictions our Mishnah imposes in connection with the domains mentioned cannot apply to the karmelith.

(60) Lit., ‘do l say it’.

(61) Lit., ‘since he learned’.

Talmud - Mas. Eiruvin 99b

AND A SIMILAR LAW APPlies TO A WINEPRESS.[1] Raba, however, explained: The reference[2] is to[3] tithe; and so explained R. Shesheth: AND A SIMILAR LAW APPLIES TO A WINEPRESS refers to[3] tithe. For we learned: It is permitted[4] to drink wine out of a winepress irrespective of whether it was mixed with hot water or cold water, and to be exempt from the tithe;[5] so R. Meir. R. Eliezer b. Zadok declared it[6] to be liable to tithe,[7] while the Sages ruled: In the case of hot wine[8] one is liable to the tithe[9] but in that of cold wine[10] one is exempt since whatever remains[11] is poured back.[12]

MISHNAH. A MAN[13] MAY INTERCEPT[14] WATER FROM A GUTTER[15] AT A LEVEL BELOW TEN HANDBREADTHS FROM THE GROUND,[16] BUT FROM A WATER-SPOUT[17] HE MAY DRINK IN ANY MANNER.[18] GEMARA. He may only[19] INTERCEPT the water[20] but may not press his lips to the gutter.[21] What is the reason? — R. Nahman replied: We are here dealing with a gutter that was withn[22] three handbreadths from the roof, since any structure[23] that is within three handbreadths from the roof is regarded as being the same domain as the roof. So[24] it was also taught: A man standing in a private domain[25] may raise his hand above ten handbreadths[26] towards a gutter that was within less than three handbreadths from a roof[27] and intercept[20] the water,[28] provided he does not press this lips to it].

Elsewhere it was taught: A man standing in a private domain[25] may not raise his hand above ten handbreadths[26] towards a gutter ‘that was within less than three handbreadths from a roof and press it to it, but he may intercept [the water][20] and then drink.

FROM A WATER-SPOUT HE MAY DRINK IN ANY MANNER. One taught: If the spout had an area of four handbreadths by four this[29] is forbidden[30] because this would be like taking from one domain[31] into another.[32]

MISHNAH. IF A CISTERN IN A PUBLIC DOMAIN HAD AN EMBANKMENT TEN HANDBREADTHS HIGH, IT IS PERMITTED TO DRAW WATER FROM IT ON THE SABBATH THROUGH A WINDOW ABOVE IT. IF A RUBBISH-HEAP IN A PUBLIC DOMAIN WAS TEN HANDBREADTHS HIGH, IT IS PERMITTED TO POUR WATER ON IT ON THE SABBATH FROM A WINDOW ABOVE IT.

GEMARA. What[33] are we dealing with here? If it be Suggested: With one that was near,[34] what need was there,[35] [it might be objected,] for[36] an embankment that was ten handbreadths high?[37] — R. Huna replied: We are here dealing with a cistern that was removed four handbreadths from the wall. Hence it is only[38] where there was an embankment ten handbreadths high that the ruling[39] applies.[40] but where there was no embankment ten handbreadths high one would be moving an object[41] from one private domain into another by way of a public domain.[42] R. Johanan, however, replied: It[39] may even be assumed to refer to a cistern that was near,[34] but[43] it is this that we were informed: That the depth of a cistern and the height of its embankment[44] may be combined[45] to the prescribed depth of ten handbreadths.

IF A RUBBISH-HEAP IN A PUBLIC DOMAIN etc. There is no need then to provide against the possibility that the rubbish’ heap might be removed;[46] but did not Rabin son of R. Adda state in the name of R. Isaac: It once occurred that one side of an alley terminated in the sea[47] and the other terminated in a rubbish heap.[48] and when the facts were submitted to Rabbi he neither permitted nor forbade the movement of objects[49] in that alley; he did not declare it to be permitted since the possibility had to be considered that the rubbish-heap might be removed[50] or the sea might throw up alluvium,[51] and he did not declare it to be forbidden because[52] partitions[53] in fact existed?[54] — This is no difficulty, since the latter refers to one[55] that belonged to an individual[56] whereas the former[57] refers to one that belonged to the public.[58]

MISHNAH. WHERE A TREE OVERSHADOWS THE GROUND[59] IT IS PERMITTED TO MOVE OBJECTS UNDER IT IF THE TOPS OF ITS BRANCHES ARE NOT HIGHER THAN THREE HANDBREADTHS FROM THE GROUND.[60] IF ITS ROOTS ARE THREE

HANDBREADTHS HIGH ABOVE THE GROUND[61] ONE MAY NOT SIT ON THEM.[62] GEMARA. R. Huna the son of R. Joshua ruled: No objects may be moved[63] under it[64] where the area was greater than two beth se'ah.[65] What is the reason?

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(1) Which must refer to one that was lower than ten handbreadths which consequently had the status of a karmelith. It cannot refer to one that had the status of a private domain since the law relating to the latter had already been dealt with.

(2) In the mention of the winepress.

(3) Lit., ‘as regards’.

(4) To any person who stands within the winepress.

(5) Provided the wine had not been carried outside the winepress the drink is regarded as occasional and consequently not subject to tithe.

(6) Since it was mixed with water.

(7) The dilution in the water imparts to it the nature of a regular drink which is subject to the tithe.

(8) Sc. wine mixed with hot water.

(9) Once the wine is mixed with hot water it can no longer be returned to the press. If a person, therefore, has mixed it with such water his intention must have been to drink all of it and it consequently assumes the character of a regular drink which is subject to tithe.

(10) Wine mixed with cold water.

(11) Of the drink.

(12) To the winepress. The drink, therefore, is regarded as merely an occasional one that is exempt from the tithe. What our Mishnah teaches is that, according to R. Meir whose view the last clause represents, a man must not stand on the ground and drink front the winepress without first setting aside the required tithe unless, as in the case of the domains spoken of, he puts HIS HEAD AND THE GREATER PART OF HIS BODY into the winepress.

(13) Standing in a public domain.

(14) On the Sabbath.

(15) That runs along the side of a roof within three handbreadths from it (v. Gemara infra).

(16) Which is regarded as a part of the public domain; or even at a higher level which is a free domain. The intention on the level below ten is due to the ruling that follows, which cannot apply to a higher level.

(17) The mouth of which projected into the public domain at some distance from the roof and below ten handbreadth from the ground, in consequence of which it is regarded is a part of the public domain.

(18) Sc. he may even press his lips to the mouth of the spout and drink directly from it. This is not permitted in the case of a gutter which, being (as stated supra) within three handbreadths from the roof, is deemed to he part of the roof and to constitute like the roof itself a private domain from which it is forbidden to take the water into the public domain, even though it was lower than ten handbreadths from the ground.

(19) Lit., ‘yes’.

(20) In mid air.

(21) To drink directly from it.

(22) Lit., ‘less than’.

(23) Such as a gutter.

(24) That a gutter within three handbreadths from a roof is regarded as the same domain as the roof and that one drinking directly from such a gutter is deemed to be drinking from the roof itself.

(25) On a roof, for instance.

(26) From the floor of that domain.

(27) Above the one on which he stands.

(28) That flowed from that gutter upon his root

(29) To drink directly from the mouth of the spout.

(30) Even if it was within ten handbreadths from the ground.

(31) A karmelith.

(32) A public domain.

(33) CISTERN.

(34) To the wall, within four handbreadths from it.

(35) For the purpose of permitting the use of the cistern from the window.

(36) Lit., ‘wherefore to me’.

(37) Even if there were no embankment the drawing up of water through the window would have been permitted, since a cistern, ten handbreadths deep, is itself a private domain and, being within four handbreadths from the wall, no material part of the public domain intervened between it and the wall.

(38) Lit., ‘and the reason’.

(39) that IT IS PERMITTED TO DRAW WATER etc.

(40) Since the bucket never enters the public domain.

(41) The bucket or the water.

(42) The strip of four handbreadths wide or more that intervened between the wall and the cistern.

(43) In reply to the objection What need was there for an embankment’ etc.

(44) Though each is less than ten handbreadths in depth or in height.

(45) For the purpose of constituting a private domain.

(46) When its place would become a public domain and people might continue to use it from the window as if it were still a private domain.

(47) Whose embankments were ten handbreadths high.

(48) Also ten handbreadths high; while of the other two sides one adjoined a public domain and the other was closed up, houses and courtyards opening out from it.

(49) On the Sabbath.

(50) And its place would use the character of a private domain.

(51) Thus turning the place, when dried up, into a public domain, and the public would use it as a thoroughfare (cf. R. Han.).

(52) At the time at least.

(53) The side from which the doors had opened, the sea embankment and the rubbish-heap.

(54) Supra 8a. Now since provision against the possibility of the cleaning of the rubbish-heap was made in the case of the alley, why was no similar provision made in the case deal with in our Mishnah?

(55) Lit., ‘that’, the rubbish-heap at the side of the alley.

(56) Where the clearance of the comparatively small quantity of rubbish might well be expected.

(57) That referred to in our Mishnah.

(58) Which is unlikely to be removed.

(59) Sc. its branches hanging downwards all around.

(60) Their separation from the ground by less than three handbreadths is, wider the law of labud, completely disregarded and they are, therefore, deemed to be actually touching the ground; and, since at their other ends at which they are joined to the tree they are raised ten handbreadths from the ground, they constitute a partition ten handbreadths high all round that tree.

(61) And much more so if they were higher.

(62) Such a height imparts to them the character of a tree which may not be made use of on the Sabbath.

(63) Beyond four cubits.

(64) The tree dealt with in our Mishnah.

(65) Even though the tree had been originally planted for the purpose of overshadowing the ground and serving as a shelter for watchmen.

Talmud - Mas. Eiruvin 100a

— Because it is a dwelling-place that serves only the outside air,[1] and no movement of objects is permitted in a dwelling-place whose only function is that of serving the outside air, if its area was greater than two beth se'ah.

IF ITS ROOTS ARE HIGH ABOVE THE GROUND etc. It was stated: If the roots of a tree descended from a level that was above three handbreadths into one that was lower than three handbreadths,[2] Rabbah ruled: It is permitted to use them, while R. Shesheth ruled: It is forbidden to use them. ‘Rabbah ruled: It is permitted to use them’, since all levels lower than three handbreadths from the ground are regarded as the ground itself.[3] ‘R. Shesheth ruled: It is forbidden to use them’, because, owing to the fact that they derive from a forbidden source,[4] they themselves are also forbidden. If they[5] are in the shape of a rocky crag.[6] those that grow upwards[7] are forbidden,[8] those that grow downwards[9] are permitted,[10] while as to those that grow sideways[11] a difference of opinion exists between Rabbah and R. Shesheth;[12] and the same[13] applies to a dike[14] and a corner.[15]

Abaye had[16] a certain palm-tree that projected through the sky-light[17] and when he came to R. Joseph[18] the latter permitted it to him ,[19] R. Aha b. Tahlifa observed: In permitting its use to you he[20] acted in accordance with Rabbah's view.[21] Is not this obvious?- It might have been presumed that even according to the view of R. Shesheth a house[22] is regarded as full[23] and that one may, therefore, use a tree within less than three handbreadths from the roof, hence we were informed [that the decision was given only in accordance with the view of Rabbah].

We learned: IF ITS ROOTS ARE THREE HANDBREADTHS HIGH ABOVE THE GROUND ONE MAY NOT SIT ON THEM. Now how are we to imagine the circumstances? If they did not[24] subsequently bend downwards,is not this[25] obvious?[26] This must consequently be a case, must it not, where they subsequently bent downwards?[27] — No, the fact is that they did not subsequently bend downwards, but[28] it is this that we were informed: Even though [on] one of its[29] sides [they were] level with the ground.[30]

Our Rabbis taught: If the roots of a tree were three handbreadths high above the ground, or if there was a hollow space of three handbreadths beneath them, one must not sit on them even though on one side of the tree they were level with the ground, because it is not permissible[31] either to climb upon a tree or to suspend oneself from a tree or to recline on a tree; nor may one climb upon a tree while it is yet day[32] to remain there all the Sabbath day, the law being the same in the case of a tree and in that of any cattle. In the case of a cistern, a ditch, a cave or a wall one may climb up or climb down even if they were a hundred cubits [deep or high].[33]

One Baraitha teaches: If a man climbed, up[34] he may climb down. But does not another Baraitha teach that he is forbidden to climb down? — This is no difficulty since the former refers to one who climbed up[35] while it was yet day[32] while the latter refers to one who did it after dusk.[36] If you prefer I might reply: Both refer to all ascent after dusk and yet there is no difficulty, since the one refers to an unwitting act while the other refers to an intentional one.[37] If you prefer I might say: Both refer to an unwitting act, but the principle underlying their divergence of view is the question whether a penalty has been imposed in respect of an unwitting act as a precaution against the performance of an intentional act. One Master[38] is of the opinion that such a penalty has been imposed while the other Master holds that no such penalty has been imposed.

R. Huna son of R. Joshua observed: This[39] is similar in principle to the dispute between the following Tannas: If the blood of sacrifices of which one sprinkling only is necessary[40] was confused with the blood of other sacrifices of which one sprinkling is necessary,[41] each[42] is to be sprinkled once. If blood of which four sprinklings are necessary was confused with other blood of which four sprinklings were necessary[43] each[42] is to be sprinkled four times. If that which has to be sprinkled four times was confused with that which has to be sprinkled once, R. Eliezer ruled: Each[42] must be sprinkled four times,[44] and R. Joshua ruled: Each[42] must be sprinkled only once.[45] ‘Does he not’, said R. Eliezer to him, ‘thereby[46] transgress the law against diminishing from the precepts?’[47] ‘Does he not thereby’,[48] replied R. Joshua. ‘transgress the prohibition against adding to the precepts?’[49] ‘This’,[50] R. Eliezer retorted: ‘applies only[51] where it is in all isolated condition’.is ‘The prohibition against diminishing from the precepts also’ , said R. Joshua to him, ‘applies only when it is in all isolated condition’.[52] R. Joshua, furthermore, explained: If you sprinkle[53] you transgress the prohibition against adding to the precepts and you also perform the act with your own hand, but if you do not sprinkle you transgress indeed the prohibition against diminishing from the precepts but you do not perform any act with your own hand’.[54] Now, according to R. Eliezer who laid down there[54] that the performance of an uncertain precept[55] is preferable.[56] the man may here also[57] climb down,[58] while according to R. Joshua who held there[54] that the abstention from the performance of an uncertain precept[59] is preferable.[60] the man here also[57] may not climb down.[61] This argument, however, might be fallacious,[62] since R. Eliezer may have maintained his view, that the performance of an uncertain precept[55] is preferable.[56] only there where a positive precept is thereby[63] performed. but here,[57] where[64] no positive precept is performed[65] he may also agree that the man must not climb down. Or else: R. Joshua may have maintained his view, that the abstention from the performance of an uncertain precept[59] is preferable.[60] only there[57]

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(1) The watchmen use it only during the season when they are engaged in their duties in the fields and vineyards in the open air. No one uses the area tinder a tree as an ordinary habitation.

(2) Sc. they began to bend downwards after they had grown to a high above three handbreadths from the ground.

(3) As one may use the ground so may one use the roots within the three handbreadths level.

(4) Those parts of the roots that were higher than three handbreadths.

(5) The roots.

(6) Meshunitha is derived by Rashi from the came root as shen in shen sela', sc. the roots grew upwards and then bent downwards in the shape of a sloping hill, smaller roots branching out of the bigger ones.

(7) From a section of a root that was higher than three handbreadths from the ground.

(8) Even according to the view of Rabbah, since hot11 roots and source are in a forbidden level.

(9) From a root section below the level of three handbreadths.

(10) Even by R. Shesheth, since roots as well as source are below three handbreadths from the ground.

(11) Sc. they branch out from a root section that was above the three handbreadths level and bend downwards within that level.

(12) According to the former, their use is permitted since they are bent downwards and reached the low level which is regarded as the ground itself; while according to the latter they are forbidden on account of their source which is within the forbidden level.

(13) Divergence of view.

(14) Or 'ditch', in which grew a tree, two of whose sides were embedded in the sides of the dike. According to Rabbah the use of the roots that were within three handbreadths from the top of the dike is permitted while according to R. Shesheth, since they grew from a level which is above three handbreadths from the bottom of the dike, they are forbidden.

(15) Formed by two walls that enclosed the three sides of a tree whose height reached to within three handbreadths above the walls. According to Rabbah the portion of the tree above the walls may be used since its lower section on those sides is covered by the walls and the part projecting above them is within three handbreadths from their tops. According to R. Shesheth, however, since their source in the exposed side of the tree is above three handbreadths from the ground, this is forbidden. In the case of a tree one of whose sides only adjoins a wall while its other sides remained exposed even Rabbah, it may be added, agrees that its use is forbidden.

(16) Within a house.

(17) But not above three handbreadths from the roof.

(18) To enquire whether its use was permissible on the Sabbath.

(19) Because none of the sides of the tree protected above three handbreadths from the roof of the house.

(20) R. Joseph.

(21) That the source is disregarded. According to R. Shesheth, since the use of the lower section of the tree within the house, which is obviously higher than three handbreadths from the floor, is forbidden, the use of the section above the roof which grows from It is equally forbidden.

(22) As in the case of a window (supra 76b).

(23) Sc. as if it were full of earth up to the ceiling.

(24) After rising to the height of three handbreadths.

(25) THAT ONE MAY NOT SIT ON THEM.

(26) Of course it is. Why then was it stated?

(27) And yet it is forbidden to sit on them. All objection against Rabbah.

(28) As to your objection. ' Is not this obvious?'

(29) The tree's.
(30) Rabbah maintains his view only where more than one side was on a level with, or within three handbreadths front the ground.
(31) On the Sabbath.
(32) Of the Sabbath eve.
(33) The prohibition to climb up or down a tree on the Sabbath is not title to the trouble or effort involved in the process but to a preventive measure against the possibility of intentional plucking of a growing plant, which is one of the acts of work forbidden on the Sabbath.
(34) Upon a tree.
(35) Lit., ‘here’.
(36) In the former case, since his ascent involved no transgression, no penalty was imposed upon him.
(37) Cf. prev. n. mut. mut.
(38) The author of the latter Baraitha.
(39) The divergence of opinion between the authors of the Baraithas just discussed.
(40) On the altar. Lit., ‘those that are given by one giving’.
(41) If a bowl of blood of a firstling, for instance, was confused with that of the tithe of cattle. (The interpretation here follows Bertinoro in Zeb. VIII, 10).
(42) Cf. Bertinoro l.c.
(43) As, for instance, the blood of a burnt-offering with that of a peace-offering (cf. prev. n.).
(44) The superfluous sprinklings in the case of the latter being regarded as those of mere water that can in no way affect the prescribed number.
(45) Any additional sprinklings would, in the case of the latter, constitute an infringement of the Pentateuchal prohibition against adding to the precepts (cf. Deut. XIII, 1).
(46) By sprinkling, in the case of the former, less than the prescribed number of times. Lit., ‘behold he’.
(47) Cf. Deut. XIII, 1.
(48) By his sprinkling, in the case of the latter, more times than required.
(49) Cf. Supra n. 8.
(50) The prohibition to add to the precepts.
(51) Lit., ‘the only said’.
(52) Lit., ‘in itself’, but not where it is confused with another kind.
(53) More than the prescribed number of times.
(54) Zeb. 80a.
(55) Lit., ‘arise and do’.
(56) To its neglect.
(57) Where he was on the Sabbath on a tree.
(58) By doing this he escapes the prohibition against his continued use of the tree.
(59) Lit., ‘sit and do not act’.
(60) To its performance.
(61) Since by remaining on the tree he performs no new act.
(62) Lit., ‘perhaps it is not (so)’.
(63) By the sprinkling.
(64) By climbing down.
(65) One only avoids thereby the continued infringement of a negative precept against the use of a tree on the Sabbath.

Talmud - Mas. Eiruvin 100b

where no direct transgression is committed,[1] but here where a direct transgression is committed[2] he may also agree that the man may climb down!

One [Baraitha] taught, ‘The same prohibition[3] applies to a green tree and to a dry tree’; and another [Baraitha] taught: ‘This prohibition[3] applies only to a green tree whereas in the case of a dry one[4] no prohibition exists’![5] — Rab Judah replied: This is no difficulty, since the former refers to a tree whose stump grows afresh whereas the latter refers to one whose stump does not grow afresh. But if its stump 'grows afresh', would you describe it as 'dry'? — Rather say: There is no difficulty since the latter refers to the hot season[6] whereas the former refers to the rainy season.[7] [You say] in the not season? Surely the fruit[8] falls of?[9] — This is a case where it bore no fruit. But do not some chips[10] fall off?[9] — This is a case where the tree was stripped.[11] But, surely, this cannot be right? For did not Rab once visit Afsatia[12] where he forbade the use of a stripped tree? — Rab found an open field and put up a fence round it.[13]

Rami b. Hama,[14] citing R. Assi, ruled: A man is forbidden to walk on grass on the Sabbath, because it is said in Scripture: And he that hasteth with his feet sinneth.[15] One [Baraitha] taught: It is permitted to walk on grass on the Sabbath; and another [Baraitha] taught that this was forbidden! — This is no difficulty. Since the latter refers to fresh grass whereas the former refers to dry grass.[16] And if you prefer I might say: Both [Baraithas] refer to fresh grass, and yet there is no difficulty since the latter refers to the hot season[17] whereas the former refers to the rainy season. And if you prefer I might reply: Both deal with the hot season, and yet there is no difficulty, since the former deals with a person who wears his shoes whereas the latter deals with one who is barefooted.[18] And if you prefer I might reply: Both deal with a person who wears his shoes, but there is no difficulty since the latter refers to shoes that have nails[19] whereas the former refers to such as have no nails. And if you prefer I might reply: Both deal with shoes that have nails, but the latter refers to long and tangled grass[20] whereas the former refers to one that is not tangled.[21] Nowadays, however, since we have it as an established rule that the law is in agreement with R. Simeon,[22] it is permitted to walk on grass] in all the cases mentioned.[23]

Rami b. Hama citing R. Assi further ruled: A man is forbidden to compel his wife to the [marital] obligation, since it is said in Scripture: And he that hasteth with his feet[24] sinneth.[25]

R. Joshua b. Levi similarly stated: Whosoever compels his wife to the [marital] obligation will have unworthy children. Said R. Ika b. Hinena: What is the Scriptural proof? 'Also without consent[26] the soul[27] is hot good.'[25] So it was also taught: Also without consent[26] the soul is not good,[25] refers to a man who compels his wife to the [marital] obligation: And he that hasteth with his feet sinneth,[25] refers to the man who has intercourse twice in succession. But, surely, this cannot be right! For did not Raba state, 'He who desires all his children to be males should cohabit twice in succession'? — This is no difficulty, since the latter deals with the woman's] consent; whereas the former, without her consent.

R. Samuel b. Nahmani citing R. Johanan[28] stated: A woman who solicits her husband to the [marital] obligation will have children the like of whom did not exist even in the generation of Moses. For of the generation of Moses it is written: Get you from each one of your tribes, wise men and understanding, and full of knowledge,[29] and then it follows: So I took the heads of your tribes, wise men and full of knowledge.[30] while men of 'understanding' he could not find, whereas in the case of Leah it is written in Scripture, 'And Leah went out to meet him, and said: Thou must come unto me, for I have surely hired thee,'[31] and subsequently it is written, 'And of the children of Issachar,[32] men that had understanding[33] of the times, to know what Israel ought to do, the heads of them were two hundred, and all their brethren were at their commandment.'[34]

But can that be right?[35] seeing that R. Isaac b. Abdimi stated: Eve was cursed with ten curses, since it is written: Unto the woman He said, and I will greatly multiply,[36] which refers to the two drops of blood, one being that of menstruation and the other that of virginity, 'thy pain'[36] refers to the pain of bringing up children, 'and thy travail'[36] refers to the pain of conceptions 'in pain thou shalt bring forth children'[36] is to be understood in its literal meaning, 'and thy desire shall be to thy husband'[36] teaches that a woman yearns for her husband when he is about to set out on a journey, 'and he shall rule over thee'[36] teaches that while the wife solicits with her heart the husband does so with his mouth, this being a fine trait of character among women?[37] — What was meant is[38] that she ingratiates herself with him.[39] But are not these[40] only seven? When R. Dimi came[41] he explained: She is wrapped up like a mourner,[42] banished from the company of all men[43] and confined within a prison.[44] What is meant by 'banished from the company of all men'? If it be suggested: That she is forbidden to meet a man in privacy, is not the man also but could be retorted.] forbidden to meet a woman in privacy? — The meaning rather is that she is forbidden to marry two men. In a Baraitha it was taught: She grows long hair like Lilith,[45] sits when making water like a beast, and serves as a bolster for her husband. And the other?[46] — These, he holds, are rather complimentary to her, R. Hiyya having made the following statement: What is meant by the Scriptural text: Who teacheth us by[47] the beasts of the earth and maketh us wise by[48] the fowls of the heaven?[49] 'Who teacheth us by the beasts' refers to the mule which kneels when it makes water, 'and maketh us wise by the fowls of the heaven' refers to the cock which first coaxes and then mates.

R. Johanan observed: If the Torah had not been given we could have learnt modesty from the cat, honesty[50] from the ant, chastity[51] from the dove, and good manners from the cock who first coaxes and then mates. And how[52] does he coax his mate? — Rab Judah citing Rab replied. He tells her this: 'I will buy you a cloak that win reach to your feet'.[53] After the event he tells her,[54] 'May the cat[55] tear off my[56] crest if I have[57] any money and do not buy you one'.

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(1) By the man. He only abstains from the performance of the precept of sprinkling and he is only indirectly diminishing from the precepts.

(2) While the man remains on the tree he is transgressing the prohibition against its use on the Sabbath.

(3) Against the use of a tree on the Sabbath.

(4) Which no longer draws its nurture from the ground and which may, therefore, be regarded as detached from it.

(5) Lit., 'is permitted'. How then are the two Baraithas to be reconciled?

(6) When it is quite impossible to mistake a dry tree for a green one.

(7) When the one might be mistaken for the other.

(8) Of the previous year that remained on the dry tree.

(9) When one climbs upon the tree. Why then was not the use of a dry tree forbidden as a preventive measure against the possibility of actual plucking?

(10) From the dry twigs.

(11) Of all its twigs and branches.

(12) In the neighbourhood of Sura.

(13) Metaph. The people of that place were lax in their religious observance (morally exposed like an 'open field') and Rab imposed upon them additional restrictions in order to keep them away thereby from further transgressions.

(14) So Asheri. Cur. edd. 'Abba'. Cf. marg. note.

(15) Prov. XIX, 2, which proves that by mere walking a sin may be committed. Though the man does not intend to tear the grass he is forbidden to walk on it because he unintentionally tears it with his feet.

(16) Which is regarded as detached since it no longer draws any nurture from the ground.

(17) When the grass contains seeds that are dislodged by the walker's feet.

(18) Who cannot help tearing out the grass that gets entangled in one's toes.

(19) Or 'spurs'. Cf. prev. n. mut. mut.

(20) Lit., 'when it has tangled length' or 'luxuriant growth'.

(21) Cf. prev. n.

(22) That it is permitted to perform an act though, as a result, an unintended forbidden one also is thereby performed.

(23) Lit., ' 'all of them are permitted' . As the act of walking is permissible on the Sabbath it cannot be forbidden even where it results in the unintentional act of tearing up the grass which when intentional is forbidden on the Sabbath.

(24) Allusion to marital intercourse.

(25) Prov. XIX, 2.

(26) Lit., 'knowledge', sc. the acquiescence of one's wife to the performance of her marital duty. This verse is the introduction to the second part, 'And he that hasteth with the feet' etc. quoted and expounded Supra.

(27) Sc. each of the children born from such a union.

(28) MS.M., ‘Jonathan’.
(29) Deut. I, 13.
(30) Ibid. 15.
(31) Gen. XXX, 16, a case of a wife's solicitation.
(32) A son of Leah.
(33) A type that could not he found in the days of Moses.
(34) I Chron. XII, 33.
(35) Lit., ‘I am not (in agreement)’.
(36) Gen. III, 16.
(37) A.R.N., cf. Yeb. 62b; how then is this to be reconciled with the statement cited by R. Samuel b. Nahmani.
(38) Lit., ‘when we said’.
(39) Not actual solicitation.
(40) Curses enumerated.
(41) From Palestine to Babylon.
(42) A married woman is ashamed to appear in public with an uncovered head (cf. Rashi a.l.).
(43) This is explained presently.
(44) Cf. The king's daughter within (Ps. XLV, 14).
(45) A notorious female night demon.
(46) Why does he not include these curses among those he enumerated.
(47) E.V., ‘more than’.
(48) E.V., ‘wiser than’.
(49) Job XXXV, 11.
(50) Lit., ‘(objection to) robbery’.
(51) Lit., ‘forbidden intercourse’.
(52) Lit., ‘and what’.
(53) This is an interpretation of the spreading of his wings and the bending of their tips towards the ground.
(54) When he shakes his head jerking it downwards.
(55) So Bah. Wanting in cur. edd.
(56) Lit., ‘of that cock’.
(57) Lit., ‘he has’.

Talmud - Mas. Eiruvin 101a

MISHNAH. WITH THE DOOR[1] IN A REAR COURT, OR THE STOP-GAPS[2] IN A BREACH OR REED-MATS ONE MAY NOT CLOSE[3] [AN OPENING][4] UNLESS THEY ARE RAISED[5] FROM THE GROUND.[6] GEMARA. Does not the following, however, present a contradiction:[7] With a door, a reed-mat or a keg,[8] that drag along the ground,it is permitted. whenever they are fastened and suspended, to close an opening on the Sabbath and much more so[9] on a festival day?[10] — Abaye replied: The latter refers to such as have a hinge.[11] Raba replied: It refers to a case where they had a hinge.[12]

An objection was raised: With a door, a reed-mat or a keg,[8] that drag along the ground, whenever they are fastened, suspended and raised[13] from the ground even if only by a hair's breadth. It is permitted to close an opening; otherwise this is forbidden?[14] Abaye explains[15] in accordance with his view, and Raba explains[15] in accordance with his view. ‘Abaye explains in accordance with his view’: They must either have a hinge or be raised from the ground. ‘Raba explains in accordance with his view’: They must either have had a hinge or must be raised from the ground.

Our Rabbis taught: If boughs of thorn-bushes, or bundles of wood[16] were prepared to serve as a stop-gap for a breach in a courtyard, whenever they are fastened and suspended, it is permitted to close with them on the Sabbath and much more so on[9] a festival day.

R. Hiyya learned: With a widowed[17] door that is dragged upon the ground it is not permitted to close tan opening]. What are we to understand by a ‘widowed door’? — Some say: One made of a single board.[18] Others Say: One that has no frame.[19] Rab Judah ruled: A pile[20] may be laid out from the top downwards.[21] but it is forbidden to build it up from the bottom upwards,[22] and the same applies to an egg,[23] a pot,[24] a bed[25] and a cask.[26]

A certain Sadducee once said to R. Joshua b. Hananiah. ‘You are a brier, since of you it is written in Scripture: the best of them is as a brier’.[27] ‘Foolish man’, the other replied, ‘look up the conclusion[28] of the text where it is written:[27] The upright man is a better [protection] than a tabernacle’.[29] ‘What then was meant by The best of them is as a brier?’ ‘As briers protect a gap so do the best men among us protect us’. Another interpretation: The best of them is as a hedek[30] because they crush[31] the wicked men in Gehenna; as it is said in Scripture: Arise and thresh, O daughter of Zion, for I will make thy horn iron, and I will make thy hoofs brass; and thou shalt beat in pieces[32] many peoples etc.[33]

MISHNAH. A MAN MAY NOT STAND IN A PRIVATE DOMAIN AND OPEN[34] A DO ON IN THE PUBLIC DOMAIN,[35] OR IN THE PUBLIC DOMAIN AND[36] OPEN A DOOR IN A PRIVATE DOMAIN,[37] UNLESS[38] HE HAS MADE[39] A PARTITION TEN HANDBREADTHS HIGH.[40] so n. MEIR. THEY[41] SAID To HIM: IT ONCE HAPPENED AT THE BUTCHERS’[42] MARKET IN JERUSALEM THAT[43] THEY LOCKED THEIR SHOPS[44] AND LEFT THE KEY IN A WINDOW ABOVE A SHOP DOOR. R. JOSE SAID: IT WAS THE WOOL-DEALERS’ MARKET.

GEMARA. As to the Rabbis,[41] how is it that when R. Meir spoke of a PUBLIC DOMAIN[45] they retorted by citing a karmelith,[46] since Rabbah b. Bar Hana[47] stated in the name of R. Johanan: As for Jerusalem, were it not that its gates were closed at night, one would have incurred the guilt of carrying in it as a public domain?[48] R. Papa[49] replied: The latter statement[50] refers to the time before breaches were made in its wall whereas the former[51] refers to the time after the breaches had been made. Raba replied: The final clause[52] deals with[53] the gates of a garden.[54] and it is this that was implied: is A MAN MAY NOT STAND IN A PRIVATE DOMAIN AND[55] OPEN A DOOR IN A KARMELITH,[56] OR IN A KARMELITH AND[57] OPEN A DOOR[58] IN A PRIVATE DOMAIN.[59]

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(1) Which as a rule is not fixed to the wall but is movable, and leaned against the doorway only when it is desired to shut it.

(2) Or ‘(bundles of) thorns’.

(3) On the Sabbath.

(4) A doorway or breach.

(5) Lit., ‘high’.

(6) If they reach the ground this is forbidden, since their erection resembles ‘building’.

(7) To the ruling in our Mishnah.

(8) Aliter: A plough used as a bar.

(9) Lit., ‘and there Is no need to say’.

(10) How then is this Baraitha, which only insists on suspension, to be reconciled with our Mishnah which demands that THEY must be RAISED FROM THE GROUND?

(11) Which imparts to them the character of a proper door the closing of which cannot be mistaken for ‘building’. Suspension alone is, therefore, sufficient.

(12) Though they have none now. The mere mark of the hinge suffices to impart to them the character of a proper door (cf. prev. ii.)

(13) Lit., ‘high’.

(14) Lit., ‘(they) may not close with them’. How then is this Baraitha, which requires both suspension and raising from the ground, to be reconciled with the previous Baraitha and with our Mishnah?

(15) The last cited Baraitha.

(16) So R. Han.
(17) This is explained anon.
(18) By inserting into a gap such a board which has no resemblance to a door, one appears to be actually building on the Sabbath.
(19) To bind it together (cf. Rashi) or against which to shut (cf. Jast.).
(20) For making a fire on a festival day.
(21) The upper logs or chips being held up in the air while the lower ones are inserted and arranged beneath them.
(22) Placing, for instance, two chips at the bottom and another two crosswise above them; since this has the appearance of building which is forbidden on a festival day as on the Sabbath.
(23) That is to be roasted. The egg must be held up while the wood is laid out under it (cf. prev. two notes).
(24) Supported on two casks. Cf. Bezah 32b.
(25) The center cloth must be held up while the frame is pushed under it (cf. prev. notes).
(26) If it is to be placed on two other casks.
(27) Micah VII, 4'
(28) Lit., , 'lower (your eyes) to the end'.
(29) Cf. A.V. 'sharper than a thorn hedge' (R.V. and A.f.T. 'worse than').
(30) E.V., 'brier'.
(31) Mehadekin of the same rt. as hedek by interchange of (guttural) h with (aspirate) h.
(32) Or 'crush'.
(33) Micah IV, 13.
(34) With a key that he picks up in the public domain.
(35) Even though the key was picked up within four cubits from the door. This is a preventive measure against the possibility of transferring the key from the public into the private domain.
(36) By taking up a key from the roof of a shop that was no less than four handbreadths wide and above ten handbreadths from the ground.
(37) Though the key was picked up in a private domain. This is a preventive measure against the possible transfer of the key from the private into the public domain below ten handbreadths from the ground.
(38) In the latter case.
(39) Within the public domain.
(40) To separate his position from the public domain (cf. supra n. 18).
(41) The Rabbis who differed from him.
(42) Or: Crammers', or: Poulterers'.
(43) Standing in the public domain.
(44) The key being held above ten handbreadths from the ground.
(45) The movement of objects between which add a private domain is Pentateuchally forbidden.
(46) Which is subject to a Rabbinical restriction only.
(47) Var. lec.. R. Huna (Asheri).
(48) As the gates, however, were closed at night all the roads and streets of the city were only subject to the restrictions of a karmelith. Now since the preventive measure against the possibility of transferring the key from one domain into another was made by R. Meir only in the case of a public and a private domain (where a Pentateuchal law might be transgressed), what objection does the Jerusalem incident (which relates to a private domain and a karmelith where only a rabbinical law might possibly be transgressed) provide against R. Meir?
(49) Var. lec. Rabbah.
(50) Lit., 'here', that Jerusalem is subject to the restrictions of a karmelith only.
(51) Our Mishnah which regards Jerusalem as a public domain.
(52) In our Mishnah.
(53) Lit., 'comes to'.
(54) Which, being greater than two beth se'ah, and not having been enclosed for dwelling purposes, is subject to the laws of a karmelith.
(55) By pushing his hand through a hole in its walls into the garden.
(56) Sc. the garden, this being a preventive measure against the possibility of transferring the key from the karmelith into the private domain.

(57) Picking up a key from a spot four handbreadths wide and ten handbreadths high.
(58) At a height of ten handbreadths from the ground.
(59) Cf supra n. 2. mut. mut.

Talmud - Mas. Eiruvin 101b

UNLESS[1] HE HAS MADE A PARTITION TEN HANDBREADTHS HIGH;[2] SO R. MEIR. THEY SAID TO HIM: IT ONCE HAPPENED AT THE BUTCHERS'[3] MARKET IN JERUSALEM THAT THEY USED TO LOCK THEIR SHOPS AND LEFT THE KEY IN A WINDOW ABOVE A SHOP DOOR. R. JOSE SAID: IT WAS THE WOOL-DEALERS' MARKET.

Our Rabbis taught: The doors of garden[4] gateways, whenever they have a gate-house[5] on their inner side, may be opened and closed from within;[6] if they have it on their outer side;[7] they may be opened and shut from without;[8] if they have one on either side they may be opened and shut from either side;[8] if they have none on either side they may be neither opened nor shut from either side.[9] The same law applies also to shops that open into a public domain:[10] Whenever the lock is below ten handbreadths from the ground[11] the key may be brought on the Sabbath eve and placed on the threshold,[12] and on the following day the door may be opened and duly closed when the key may again be placed on the threshold;[13] and whenever the lock is above ten handbreadths from the ground.[14] the key must be brought on the Sabbath eve and inserted in the lock, and on the following day It may be opened and shut and returned to its place;[15] so R. Meir. The Sages, however, ruled: Even when the lock is above ten handbreadths from the ground the key may be brought on the Sabbath eve and placed on the threshold, and on the following day the door may be opened and shut and the key may be returned to its place[16] or it may be put on a window[17] above the door. If the window, however, had an area of four handbreadths by four this is forbidden, since the transfer of the key would constitute a transfer from one domain into another.[18]

Since it was stated: 'And the same law applies also to shops It may be concluded that we are dealing with a threshold[19] that had the status of a karmelith;[20] but, then, how are we to imagine the conditions of the lock? if it is one that was less than four handbreadths in width it would surely be a free domain;[21] and if It was four handbreadths wide, would the Rabbis in such a case[22] have ruled: 'Even when the lock is above ten handbreadths from the ground the key may be brought on the Sabbath eve and placed on the threshold and on the following day the door may be opened and shut and the key may be returned to its place[23] or it may be put on a window above the door', seeing that thereby one is moving an object iron a karmelith into a private domain?[24] — Abaye replied: The fact is that the lock was less than four handbreadths but there was sufficient space [in the door][25] in which to cut and make it up to four handbreadths; and it is this principle on which they[26] differ: R. Meir holds the opinion that the door is regarded as virtually cut for the purpose of completing the prescribed width,[27] while the Rabbis maintain that it is not regarded as cut for the purpose of completing the prescribed width.[28]

Said R. Bibi b. Abaye: From this Baraitha you may deduce three things: You may deduce that virtual cutting for the purpose of completing a prescribed width may be assumed; you may deduce that R. Meir[29] withdrew from his view on the gates of a garden;[30] and from the ruling of the Rabbis[31] you may also deduce that R. Dimi's view is tenable.[32] For when R. Dimi came[33] he reported in the name of R. Johanan: In a place whose area is less than four handbreadths by four[34] it is permissible for both the people of the public domain and those of the private domain to re-arrange their burdens, provided only that they do not exchange them.[35]

MISHNAH. IF A BOLT[36] HAD A KNOB AT ONE END,[37] R. ELIEZER FORBIDS IT[38] [TO BE MOVED][39] BUT R. JOSE PERMITS IT.[40] SAID R. ELIEZER: IN A SYNAGOGUE AT TIBERIAS THE COMMON PRACTICE, IN FACT, WAS TO TREAT IT[41] AS PERMITTED, UNTIL R. GAMALIEL AND THE ELDERS CAME AND FORBADE IT TO THEM. R. JOSE RETORTED: THEY TREATED IT AS FORBIDDEN, BUT R. GAMALIEL AND THE ELDERS CAME AND PERMITTED IT TO THEM.

GEMARA. Where it[42] can be lifted up by the cord to which It was tied,[43] no one disputes that it is permissible to move it] .[44] They only differ

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(1) In the latter case.

(2) To separate his position from the rest of the karmelith.

(3) Cf. relevant notes on our Mishnah supra.

(4) V. supra p. 701, n. 17.

(5) Such a house having the status of a private domain.

(6) Since the lock which is four handbreadths wide and ten handbreadths from the ground has the same status of a private domain as the gate house.

(7) That faces the public domain.

(8) V. supra n. 11.

(9) Even though the key was within the lock. They may not be opened from within as a preventive measure against the possibility of taking the key from the private domain (the lock) into a karmelith (the garden) add they may not be opened from without as a preventive measure against the possibility of taking the key from the private domain into the public domain.

(10) This is discussed infra.

(11) So that it has the status of a karmelith.

(12) Which is also a karmelith.

(13) This is permitted, since the man, though standing in the public domain (cf. Bah a.I.) only moves the key from one karmelith into another.

(14) In consequence of which, since it is also four handbreadths wide, it has the status of a private domain.

(15) On the top of the lock which is also a private domain. It may not be placed on the threshold Since its removal from the lock to it would be tantamount to a transfer from a private domain into a karmelith.

(16) On the threshold. The reason is discussed infra.

(17) Whose sin is less than four handbreadths wide and which is, therefore, regarded as a free domain though it is ten handbreadths high.

(18) From the threshold which is a karmelith to the window which is a’ private domain. Such transfer is forbidden despite the intervening free domain of the lock through which the key had passed on Its way between the other two domains.

(19) Belonging to the shops.

(20) If it had not been a karmelith hut a public domain it would have been forbidden to transfer the key from it into the lock.

(21) And R. Meir would not have regarded it as a private domain even where it was above ten handbreadths from the ground.

(22) The lock being a private domain.

(23) So in the original Supra. Cur. edd. a.l. ‘to the threshold’.

(24) Of course not.

(25) On a level with the top of the lock.

(26) R. Meir and the Rabbis.

(27) Lit., ‘cut to complete’; v. supra 11b and notes.

(28) The lock, therefore, has the status of a free domain.

(29) Who permitted a man standing on a threshold which was a karmelith to take a key from a level above ten handbreadths to a lock of a similar level; and did not provide against the possibility of the man's taking the key into the karmelith in which he stood.

(30) Supra 101a where, according to Raba's explanation, R. Meir forbade a man who stood in a karmelith to open a door in a private domain as a preventive measure against the possibility of his taking the key into the karmelith.

(31) According to which, if the window-sill had an area of four handbreadths by four, it is forbidden to take a key from the threshold (a karmelith) to the lock (a free domain) and from the lock to the window (a private domain) because the transfer from one domain to another is forbidden even via a free domain.

(32) Lit., ‘there is’.

(33) From Palestine to Babylon.

(34) Sc. a free domain.

(35) Because it is forbidden to transfer an object from a public domain into a private one or vice versa even via a free domain (cf. supra n. 7).

(36) Used for securing a door.

(37) Lit., ‘at whose head there was’.

(38) Though it can be used as a pestle for crushing spices.

(39) On the Sabbath; unless it was tied to a cord and suspended from the door (v. Gemara infra).

(40) Because (cf. .supra n. 1) it may be treated as a vessel which may well be moved about on the Sabbath.

(41) The movement of the bolt with the knob.

(42) The BOLT.

(43) Lit., ‘by its binding’, sc. the cord by which it is fastened to the door is strong enough to hold it even when it is lifted by it.

(44) Since it is obvious to all that the bolt formed a part of the door's equipment and its insertion into its socket constitutes no ‘building’.

Talmud - Mas. Eiruvin 102a

where it cannot be lifted up by the cord to which it was tied in which case one Master[1] holds that, since there was a knob at one end,[2] it has the status of a vessel,[3] while the other Master[4] holds that, since it cannot be lifted up by the cord to which it was tied,[5] it[6] may not [be moved].[7]

MISHNAH. WITH A BOLT[8] THAT DRAGS ALONG THE GROUND[9] IT[10] IS PERMITTED TO SHUT UP [A DOOR] IN THE TEMPLE[11] BUT NOT IN THE COUNTRY;[12] BUT WITH ONE THAT RESTS ON THE GROUND[13] THIS IS FORBIDDEN EVERYWHERE.[14] R.JUDAH RULED: WITH ONE THAT RESTS ON THE GROUND[15] THIS IS PERMITTED, IN THE TEMPLE[16] BUT WITH ONE THAT DRAGS ON THE GROUND THIS IS ALSO PERMITTED, IN THE COUNTRY.[17]

GEMARA. Our Rabbis taught: What is the definition of ‘a bolt that drags’ wherewith it is permitted to shut up [a door] in the Temple but not in the country? One[18] that is fastened[19] and suspended and whose one end touches the ground. R. Judah ruled: With such a bolt[20] it is permitted [to shut up a door] even in the country; but what kind of bolt is it wherewith it is permitted [to shut up] in the Temple and not in the country? One that is neither fastened[19] nor suspended[21] but which is removed[22] and put away in a corner.

Rab Judah citing Samuel ruled: The halachah is in agreement with R. Judah[23] in the case of a bolt that drags along the ground.[24] Raba observed: This applies only where it is fastened[25] to the door.[26] But could this be right, seeing that R. Tabla, when he visited Mahuza, saw a bolt that was suspended from the side of a doorway and yet made no remark whatsoever on the matter? — That was one that could be lifted up by the cord to which it was tied.[27]

R. Iwya once visited Nehardea and observed that a certain man was fastening a bolt[28] with a piece of reed grass. ‘This’, he remarked: ‘must not shut up’.[29]

R. Zera enquired: What is the ruling where the bolt was pressed into the ground?[30] — What question is this, retorted R. Joseph, has he not heard what was taught: ‘If it[31] was detached[32] it is forbidden[33] but if it was pressed into the ground it is permitted; and R. Judah ruled: If it was pressed into the ground, even though it was not detached, it is forbidden’, and in connection with this ‘Rab

Judah citing Samuel ruled: The halachah is in agreement with R. Judah in the case where it[31] was pressed into the ground?[34] But what is the reason?[35] — Abaye replied: Because it[36] has the appearance of building.

R. Nehumai b. Zechariah enquired of Abaye: What is the ruling where a handle was attached to the bolt?[37] — You, the other replied, speak now of a club.[38] It was stated: R. Nehumai b. Adda ruled: If a handle was attached to it the handling of the bolt] is permitted.[39]

At the house of R. Pedath they had[40] a beam which ten men had to lift to fix it in position[41] at the door, but he told them no word against this.[42] it has,[43] he observed. the character of a vessel,[44] At the house of Mar Samuel they had[40] a mortar of the capacity of an artaba,[45] and Mar Samuel allowed it to be fixed behind the door.[46] It has,[43] he observed, the character of a vessel.

Rami b. Ezekiel sent to R. Amram the following message: ‘ Win the Master tell us some of those excellent sayings that you once told us in the name of R. Assi in respect of the arches of a boat’.[47] He sent word in reply: Thus said R. Assi, ‘With reference to the arches of a boat, whenever they are a handbreadth[48] wide or, even when they are less than[49] a handbreadth in width, provided there was no space of three handbreadths intervening between the one and the other,[50] it is permissible to bring a that on the morrow[51] and to Spread it over them —[52] What is the reason? One is thereby merely adding to an occasional tent[53] which is perfectly legitimate.[54]

R. Huna possessed some rams that needed the shade in the daytime and the open air at night.[55] When he came to Rab[56] the latter told him, ‘Go and roll up the reed mat[57] but leave one handbreadth rolled,[58] and on the morrow[51] spread it all out and you will be merely adding to all occasional tent,[59] and that is perfectly legitimate.

Rab citing R. Hiyya ruled: It is permissible to draw, and to withdraw a certain on the Sabbath.[60] It is also permissible to take down or to put up a bridal[61] canopy[62] on the Sabbath.[63] Said R. Shesheth the son of R. Idi: This[64] applies only where the top was less than a handbreadth in width[65] but where the top was one handbreadth[66] wide this is forbidden;[67] and even when the top was less than one handbreadth wide this[64] is applicable only if its width[68] within[69] three handbreadths from the top[69] was less that[70] a handbreadth but if within[69] three handbreadths from the top it was one handbreadth wide this is forbidden;[67] and, even where it was less than[70] a handbreadth wide within three handbreadths from the top.[69] this applies only where

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(1) 1-. Jose.

(2) So that it can be used as a pestle.

(3) Which may be moved on the Sabbath.

(4) R. Eliezer

(5) In consequence of which it must be regarded as disconnected from the door.

(6) Like a bolt that dragged along the ground (v. following Mishnah).

(7) Since its insertion in the sockets has the appearance of ‘building’ of the Sabbath.

(8) Which had no knob.

(9) Sc. one that was not suspended from the door but was tied to a cord long enough to enable it to drag on the floor.

(10) Since the prohibition to move it is only Rabbinical. Pentateuchally, as the cord forms a connecting link with the door, it is regarded as belonging to the door's equipment.

(11) Where Rabbinical Sabbath restrictions do not apply.

(12) Anywhere outside the Temple where Rabbinical restrictions are in force. A bolt that drags on the ground seems to have no connection with the door, and its insertion in the threshold sockets would have the appearance of ‘building’ on the Sabbath.

(13) Sc. one that is completely detached from the door.

(14) Lit., ‘here and here’, since its insertion in the sockets of the threshold may be regarded as actual ‘building’.

(15) Since elsewhere, in his opinion, its insertion in the threshold socket is regarded as building according to Rabbinical law only.
(16) Where Rabbinical Sabbath restrictions do not apply.
(17) Because the cord by which it is fastened to the door provides sufficient indication that it forms part of the door's equipment and the question of building does not, therefore, arise.
(18) Lit., ‘all’.
(19) To the door, by a cord.
(20) Since it is fastened to the door, though not actually suspended from it.
(21) From the door.
(22) From the sockets.
(23) That it is permitted to shut up a door even in the country.
(24) But not in the case of one that is completely detached from the door which R. Judah permitted to use in the Temple. The insertion of a detached bolt in the sockets is regarded as actual building which, however small in extent, is Pentateuchally forbidden.
(25) By a cord.
(26) Where the connection between the door and the bolt is evident; but not where it was only tied to a door-post.
(27) Lit., ‘by its binding’, sc. the cord was a strong one and the connection between the bolt and the door was unmistakable. The question of building did not, therefore, arise.
(28) To a door.
(29) On the Sabbath. As reed grass is too frail to sustain the weight of a bolt it is regarded as non-existent, and the bolt must be deemed to be completely detached from the door.
(30) Sc. it did not merely rest in a socket in the threshold but passed through it down into the ground under it. Is the insertion of the bolt in such a manner, it is asked, regarded as building?
(31) The door bolt.
(32) From the door, sc. if the cord whereby it was fastened to it was broken and the bolt, when not in use, now rests in a corner of the room.
(33) To secure the door with it.
(34) Anyone who heard of this could not, of course, have asked R. Zera's question which is here clearly solved.
(35) For Rab Judah's ruling.
(36) The Insertion of a bolt through a socket in a threshold right into the ground.
(37) Lit., ‘he made for it a house of the hand’, at one of its ends; so that it assumed the shape of a mallet or club and, therefore, the character of a vessel. May such a bolt, it is asked, be moved on the Sabbath even where it was completely detached from the door?
(38) Which, being suitable as a pestle for crushing grain and spices, has undoubtedly the character of a vessel which may well be handled on the Sabbath.
(39) Cf. prev. n.
(40) Lit., ‘there was’.
(41) Lit., ‘and they thrust it’.
(42) For fixing it in position on Sabbath.
(43) Despite its huge size.
(44) Since it call be used as a bench.
(45) A Persian and an Egyptian dry measure (Jast.) one containing fifteen se'ah (Rashi).
(46) On Sabbath.
(47) Which serve as a framework for the canvas or other material used as a shelter against the sun or rain.
(48) Or more. Such a width constitutes an occasional tent.
(49) Lit., ‘or also, there is not in them’.
(50) So that the rule of labud may be applied.
(51) I.e., on the Sabbath.
(52) Though the canvas, or whatever the material, constitutes a tent the construction of which on the Sabbath is forbidden.
(53) The arches.
(54) Lit., ‘it is considered well or right’.

(55) On a weekday this was easily arranged by spreading a mat on the top of the shed in the morning and by rolling it up in the evening; but on the Sabbath the question of tent building arose.
(56) To consult him on the procedure to be adopted on the Sabbath.
(57) Which was unrolled during the Sabbath eve as on all other weekdays.
(58) so that an occasional tent remains.
(59) Cf. prev. n.
(60) Such an act is regarded neither as the building nor as the demolishing of a ‘tent’, since the curtain does not serve the purpose of a permanent wall but merely that of a door which may well be opened and closed On the Sabbath.
(61) Lit., ‘bridegrooms’.
(62) A sort of curtain hung up above the bed in a slanting position.
(63) The reason follows.
(64) The permissibility.
(65) In which case (cf. prev. n.) the canopy cannot be regarded as a tent.
(66) Or more.
(67) Since it is regarded as a valid tent the construction and demolition of which on the Sabbath is forbidden.
(68) Sc. the horizontal distance between the slope of the curtain and its perpendicular height at the given point.
(69) Lit., ‘within less than three near the roof.
(70) Lit., ‘there is not’.

Talmud - Mas. Eiruvin 102b

the measurement of the slope[1] was less than a handbreadth,[2] but if It was a handbreadth this is forbidden, since the slopes of tents are regarded as tents.[3]

R. Shesheth[4] son of R. Idi further stated: A felt cap[5] is permitted to be worn on the sabbath.[6] But was it not taught that this[7] was forbidden? — There is no difficulty, since the latter deals with one whose peak[8] was one handbreadth wide,[9] whereas the former deals with one whose peak[8] was less than a handbreadth wide. Now then,[10] would it also be forbidden to let one's cloak hang down[11] to the extent of a handbreadth?[12] — Rather say:[13] This is no difficulty since the former deals with one that was tight[14] whereas the latter deals with one that was not tight.[15]

MISHNAH. A LOWER PIVOT[16] MAY BE RE-INSERTED IN ITS SOCKET IN THE TEMPLE[17] BUT NOT IN THE COUNTRY.[18] THE RE-INSERTION OF THE UPPER ONE,[19] HOWEVER, IS EVERYWHERE FORBIDDEN.[20] R.JUDAH RULED: THE UPPER ONE MAY BE RE-INSERTED IN THE TEMPLE[21] AND THE LOWER ONE IN THE COUNTRY ALSO.

GEMARA. Our Rabbis taught: The pivot[22] of the door of a box, a chest or a turret may be re-inserted into its socket in the Temple,[23] while in the country it may only be adjusted;[24] but the upper one[25] may not be re-inserted in either place;[26] the former prohibition[27] being a preventive measure against the possibility of one's driving it into its socket by force; and should one drive It in, the obligation of a sin-offering is incurred. The pivot of the door of a cistern, a cellar or an annexe[28] may not be re-inserted in the socket,[29] and if one did re-insert it a sin-offering is incurred.

MISHNAH. IT IS PERMISSIBLE[30] TO REPLACE A PLASTER ON A WOUND[31] IN THE TEMPLE[32] BUT NOT IN THE COUNTRY.[33] FOR THE FIRST TIME, HOWEVER, THIS[34] IS FORBIDDEN EVERYWHERE.[35] GEMARA. Our Rabbis taught: A plaster that was detached from a wound may be replaced[36] on the Sabbath.[37] R. Judah ruled: Only if it slipped downwards may it be pushed back upwards or if it slipped upwards it may be pushed back downwards.[38] One may also uncover a part of the plaster and wipe the opening of the wound[39] and then another part of the plaster may be uncovered and the opening of the wound[39] be wiped, but the plaster itself may not be wiped off since such wiping is tantamount to spreading the salve;[40] and if one did spread the salve the obligation of a sin-offering is incurred.

Rab Judah citing Samuel ruled: The halachah is in agreement with R. Judah. This,[41] R. Hisda observed, was learnt only where it[42] slipped off on to an object,[43] but if it slipped off on to the ground all agree that it is forbidden to replace it on the wound.

Mar son of R. Ashi stated: I was once standing in the presence of my father when his plaster slipped off[44] on to his pillow and he replaced it. 'Does not the Master accept', I asked him, 'the statement of R. Hisda that they[45] differed only where it[42] slipped off on to an object[43] but that if it slipped off on to the ground all agree that replacement is forbidden; in connection with which Samuel stated: The halachah is in agreement with R. Judah'?[46] — 'I', he replied, 'did not hear of this, by which I mean:[47] I do not accept it'.

MISHNAH. A STRING[48] MAY[49] BE TIED UP IN THE TEMPLE[50] BUT NOT IN THE COUNTRY.[51] FOR THE FIRST TIME, HOWEVER,[52] THIS IS FORBIDDEN EVERYWHERE.[53]

GEMARA. Is not our Mishnah[54] in disagreement with the following: If the string of a harp was broken[55] one would not tie it up but secure it with a loop?[56] — This is no difficulty, since the latter represents the view of the Rabbis whereas the former represents that of R. Eliezer. According to R. Eliezer who holds that the preliminary requirements of a precept[57] supersede the Sabbath one may tie the string;[58] while according to the Rabbis who ruled that they did not supersede it one may only secure it with a loop. But if this[59] represents the view of R. Eliezer should not tying be permitted also for the first time?[60] — Rather say: This is no difficulty since the former[59] is the view of R. Judah[61] whereas the latter is that of the Rabbis.[62] According to whose view, however, did R. Judah[63] give his ruling?[64]

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(1) From the top to its lowest point.

(2) Sc. the slope was short and steep.

(3) As the top must be less than one handbreadth wide so must be the measurement of the slope. To obtain such a slope, since no bed can possibly be narrower than two handbreadths and a fraction, the roof of the canopy would have to be made up of a number of short curtains spread over a number of poles respectively, each of which complied with the measurements prescribed. For the sides of the canopy separate curtains hanging down vertically would have to be provided.

(4) So with MS. M. Cur. edd. 'Shisha'.

(5) Saiyana, a kind of cap made of felt with a peak projecting above the wearer's forehead.

(6) Though the peak has the shape or appearance of a 'tent'.

(7) The wearing of a saiyana on the Sabbath.

(8) Cf. supra n. 1.

(9) Which is regarded as a tent.

(10) Since the projection of a part of a cap to the extent of one handbreadth is treated as a 'tent' to cause the wearing of the cap to be forbidden.

(11) In front of one's forehead by pulling the cloak above one's head.

(12) Since the peak of the cap is regarded as a 'tent' the overhanging part of the cloak should also be so regarded. As such a ruling, however, would be absurd why should it be applied in the case of the cap?

(13) in reply to the contradiction between the Baraitha and the ruling of R. Shesheth.

(14) On one's head.

(15) The prohibition against wearing it being due, not to the reason that the peak is regarded as a 'tent', but to the possibility that the cap might be blown off and the man on recovering it would carry it along a greater distance than four cubits in the public domain. Such a possibility need not, of course, be provided against in the case of a cloak or in the case of a cap that is set tight on one's head which cannot easily be blown off.

(16) Of the door of a cupboards a window or the like that open sideways.

(17) On the Sabbath. So long as the upper one remains in its socket it is easy for the lower one to be re-inserted and the act cannot, therefore, be regarded as 'building' which is forbidden.

(18) Where (as explained infra) a preventive measure has been enacted against the possibility of driving the pivot into the socket with the aid of a hammer or axe which is, of course, forbidden on the Sabbath.
(19) Which requires great exertion after the lower one had come out and the door was practically dragging on the ground.
(20) Lit., 'here and here'. This Tanna is of the opinion that the term 'building' is also applicable to articles and, since building is an activity Pentateuchally forbidden on the Sabbath, and since a Pentateuchal prohibition retains its force in the Temple also, the re-insertion of the upper pivot (cf. prev. n.) on the Sabbath is forbidden in the Temple as well as in the country.
(21) Though not in the country.
(22) Sc. the lower one (as is evident from what follows).
(23) V. supra p. 710, n. 12.
(24) Lit., '(they) press down'. If, however, it has completely come out of the socket it may not be re-inserted.
(25) Which requires great exertion after the lower one had come out and the door was practically dragging on the ground.
(26) V. p. 710, n. 15.
(27) That against the insertion of a lower pivot into its socket in the country (cf. Rashi).
(28) Since they are within, or attached to the ground.
(29) Any addition to such a structure (cf. prev. n.) is regarded as 'building'.
(30) on the Sabbath.
(31) If a priest had to remove it owing to the performance of a duty which required that there be no interception between his hand and the ritual object he handled.
(32) For the reason cf. Bezah 11b.
(33) This being a preventive measure against the spreading of the salve on the plaster, which is forbidden under the category of 'erasing' which is one of the main classes of work forbidden on the Sabbath.
(34) The application of a new plaster to a wound.
(35) Even in the Temple. While replacing a plaster that had been removed for the purpose of performing a Temple service has been allowed in order to prevent a priest from abstaining from his Temple duties on account of a plaster on his hand, the application of a plaster for the first time, which cannot affect the Temple service, could not be allowed since such an application would infringe (cf. Supra p. 711, n. 13) a Rabbinical enactment.
(36) Even in the country.
(37) As such accidents do not frequently happen the Rabbis enacted no preventive measure against them.
(38) But if it was completely detached it may not be replaced.
(39) On the exposed part.
(40) Which, as explained supra, is forbidden as a form of 'erasing'.
(41) That the Rabbis differ from it. Judah and allow a completely detached plaster to be replaced on a wound.
(42) The plaster.
(43) A cushion, for instance.
(44) Lit., 'it fell for him'.
(45) R. Judah and the Rabbis.
(46) Viz., that even where a plaster had only slipped off upon an object it is forbidden to replace it on a wound. Now, since this is the halachah, why did he disregard it?
(47) Lit., 'as if to say'.
(48) Of the musical instruments used by Levites in the Temple service.
(49) If it was broken on the Sabbath.
(50) The reason is given in the Gemara infra.
(51) The reason is given in the Gemara infra.
(52) I.e., to Insert a new string on the Sabbath.
(53) Lit., 'here and here', in the Temple as well as in the country; since such work could have been performed on the Sabbath eve.
(54) Which permits a broken string to BE TIED UP IN THE TEMPLE.
(55) In the Temple on the Sabbath.
(56) A tie, however, was forbidden (cf. Shah. 113a).

(57) Such as the chopping of wood and the burning of charcoal for the purpose of preparing a knife for the performance of the precept of circumcision (cf. Shab. 130a).
(58) Lit., , ties it since the repair of the string of a musical instrument in the Temple is a preliminary requisite of the precept of the sacrifices which could not be offered in the absence of the Instrumental music of the Levites.
(59) Our Mishnah.
(60) As in the case of charcoal (cf. Supra n. 7).
(61) Who in respect of work on the Sabbath draws no distinction between a knot and a loop (Shab. 113a) and, since the preliminary requisites of a precept supersede the Sabbath, a knot is permitted as well as a loop.
(62) Who do not include the making of a loop among the main classes of work forbidden on the Sabbath, while a knot is included. As the string call be secured by a loop (which is a permitted act) the making of a knot (a forbidden act) was justly forbidden even in the case of the preliminary requisites of a precept.
(63) Who, as has just been explained, is the author of our Mishnah.
(64) According to which the making of a knot (which is one of the main classes of work forbidden on the Sabbath) is forbidden for the first time (even though it is a preliminary requisite of a precept) but permitted after the string had been broken.

Talmud - Mas. Eiruvin 103a

If he made It according to the view of R. Eliezer,[1] should not this be permitted also for the first time? — Rather say: There is no difficulty since the latter represents the view of R. Simeon while the former represents that of the Rabbis. For it was taught: if a Levite had a break in the string of his harp[2] he may tie it up; R. Simeon ruled: He may only make a loop; R. Simeon b. Eleazar said: Neither the one nor the other[3] would produce a tone; one[4] should rather unwind the string from the lower pin[5] and[6] wind it[7] round the upper one or unwind it from the upper pin[6] and wind it[7] round the lower one.[8] And if you prefer I might reply: The former as well as the latter represents the view of the Rabbis,[9] and yet there is no difficulty, since the former refers to a break in the middle[10] while the latter refers to one at the end.[11] And if you prefer I might reply: Both refer to a break in the middle part, but the Master[12] holds that[13] a preventive measure is enacted,[14] while the Masters[15] hold that no preventive measure is to be enacted.[16] MISHNAH. A WEN[17] MAY BE REMOVED[18] IN THE TEMPLE[19] BUT NOT IN THE COUNTRY.[20] IF [THE OPERATION, HOWEVER, MUST BE PERFORMED] WITH AN INSTRUMENT IT IS FORBIDDEN EVERYWHERE.[21]

GEMARA. Is not this[22] inconsistent with the following: Carrying it,[23] bringing it from without the permitted Sabbath limit, and removing its wen do not supersede the Sabbath, and R. Eliezer ruled: They do supersede it?[24] — R. Eleazar[25] and R. Jose son of R. Hanina[26] gave different explanations. One Master explains that both rulings refer to a soft wen[27] and yet there is no difficulty, since the former deals with removal by the hand while the latter deals with removal by means of an instrument.[28] And the other Master explains that both rulings refer to removal with the hand, and yet there is no difficulty, since the latter refers to a soft wen[29] while the former refers to a dry one.[30] But according to him who explained that the former dealt with removal by the hand while the latter dealt with removal by means of an instrument, what was his reason for not explaining that the latter dealt with a soft wen and the former with a dry one? — He can answer you: A dry one may be removed even by means of an instrument. What is the reason? Because It merely crumbles away. And according to him who explained that the latter referred to a soft wen while the former referred to a dry one, what was his reason for not explaining that the former referred to removal by hand and the litter to an operation by means of an instrument? — He can answer you: Concerning an instrument we have explicitly[31] learnt: IF [THE OPERATION, HOWEVER, MUST BE PERFORMED] WITH AN INSTRUMENT IT IS FORBIDDEN EVERYWHERE.[32] And the other?[33] — The reason why the ruling was taught there is because it was desired to indicate the divergence of opinion between R. Eliezer and the Rabbis.[34] And the other?[33] — The ruling[35] must be similar to that[36] of ‘carrying it’ or ‘bringing it from without the permitted Sabbath limit’ which is only a Rabbinical restriction.[37] And the other?[33] — As regards ‘carrying it’ he is not in agreement with R. Nathan who[38] holds that a living being carries its own self;[39] and as regards 'bringing it from without the permitted Sabbath limit', he is in agreement with R. Akiba who holds that the laws relating to Sabbath limits are Pentateuchal.[40]

R. Joseph raised an objection: R. Eliezer argued,[41] May not this[42] be inferred a minori ad majus? If slaughtering which[43] is forbidden under the category of work[44] supersedes the Sabbath, how much more so should these,[45] which come only under the category of shebuth, supersede the Sabbath?[46] — Rather, said R. Joseph, both[47] deal with removal[48] by hand[49] but[50] a shebuth[51] relating to the Temple[52] within the Temple[53] has been permitted whereas a shebuth[51] relating to the Temple in the country[54] has not been permitted.

Abaye once sat at his studies and discoursed on this statement[55] when R. Safra pointed out to him the following objection: If a man was reading in a scroll on a threshold and the scroll rolled out of his hand, he may roll it back to himself.[56] Now is it not the case here[57] one of a shebuth relating to the Temple[58] in the country[59] and yet no preventive measure has been enacted[60] against the possibility that the scroll might fall down completely[61] and the man might then carry it?[62] — Have we not explained this case as dealing with 'a threshold that was a karmelith in front of which passed a public domain',[63] so that, since its rolled up section[64] was still in his hand, even the prohibition of shebuth does not exist.[65] He[66] raised a further objection against him:[67] The paschal lamb may be lowered into the oven at dusk.[68] Now is not the case here one of a shebuth relating to the Temple[69] in the country[70] and yet no preventive measure was enacted against the possibility that the man might stir up the coals?[71] Thereupon he[72] remained silent. When he? came to R. Joseph and told him 'Thus said R. Safra to me, the latter asked him: Why did you not answer him, 'The members of a [paschal lamb] party[73] are careful'?[74] — And Abaye?[75] — We only presume that priests[76] are careful, but we do not presume that the members of a [paschal lamb] party[77] are also careful.

Raba[78] explained: This[79] represents the view of R. Eliezer who[80] ruled that the preliminary requisites of a precept supersede the Sabbath,[81] R. Eliezer however, agreeing that a change[82] should be made as far as this is possible.[83]

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(1) He could not do so according to the Rabbis who do not permit a knot in either case.

(2) On the Sabbath.

(3) Lit., 'it also', the loop like the knot.

(4) Discarding the shorter section of the broken string.

(5) Lit., 'lowers from below', sc. from the lower pin of the harp.

(6) Having obtained sufficient length.

(7) At the other end.

(8) Thus obtaining a sound length of string free from knots or loops. As the lowering of the string is no more forbidden than tying it, the former, which enables the tone to be produced, is to be preferred. Our Mishnah thus represents the view of the Rabbis of the Baraitha who, agreeing with R. Eliezer on one point, that preliminary requisites of a precept supersede the Sabbath, permit the tying up of the string on the Sabbath; but disagreeing with him that such an act is permitted for the first time, permit it only where the break occurred on the Sabbath.

(9) That preliminary requisites which could not be prepared before the Sabbath may he prepared on the Sabbath.

(10) Of the string, when a knot is essential. A loop would not be strong enough. Hence the ruling that A STRING MAY BE TIED UP.

(11) Lit., 'at the side', near the pin, where a loop suffices to hold the string in position.

(12) R. Simeon the author of the Baraitha.

(13) Though Pentateuchally permitted.

(14) Sc. were a knot to be permitted in the middle someone might make one at the ends also.

(15) The Rabbis, the authors of our Mishnah.

(16) Hence the ruling that only a loop may be made but not a knot.

(17) On an animal intended as a sacrifice. Cf. Lev. XXII, 22: . . . having a wen . . . ye shall not offer . . . unto the Lord.

(18) With the hand. Lit., ‘cut’.

(19) In order to enable the sacrifice to be offered. The removal of a wen with one's fingers on the Sabbath is only Rabbinically forbidden as a preventive measure and no such measures have been enacted in the case of the Temple.

(20) Where Its removal would not facilitate the performance of any precept.

(21) Since all operation performed with aid Instrument Is one of the main classes of work which is forbidden on the Sabbath even in the Temple.

(22) The anonymous ruling that A WEN MAY BE SCRAPED OFF IN THE TEMPLE.

(23) Lit., ‘causing it to ride’, sc. carrying the paschal lamb on one's shoulder beyond four cubits in a public domain on the Sabbath when the Passover eve falls on that day.

(24) Pes. 65b. How then is the anonymous ruling here, which forbids the scraping of a wen on the Sabbath to be reconciled with the anonymous ruling in our Mishnah which permits it?

(25) Var. lec. ‘Eliezer’.

(26) So MS.M. and marg. glos. Cur..ed. omit the ‘R.’ before Hanina and insert ‘son’ in parenthesis.

(27) Lit., ‘that and that about a moist one’.

(28) While the latter is forbidden as work the former is permitted.

(29) The removal of which is deemed to be work forbidden on the Sabbath.

(30) Which crumbles away and its removal cannot, therefore, be regarded as forbidden work.

(31) Lit., ‘if with an instrument, we have surely’.

(32) And there is, therefore, no need to repeat the same anonymous ruling in the Mishnah, cited from Pesahim.

(33) How can he maintain his explanation in view of this argument?

(34) I.e., that R. Eliezer allows the use of an instrument also.

(35) Concerning the removal of the wen in the Mishnah of Pes.

(36) Lit., ‘similar to . . . he learned’.

(37) It could not, therefore, refer to an operation by means of an instrument which is Pentateuchally forbidden on the Sabbath.

(38) In maintaining that the carrying on the Sabbath of a living creature is only Rabbinically forbidden.

(39) Shab. 94a. Disagreeing with R. Nathan he maintains that such carrying is forbidden Pentateuchally.

(40) Sot. 27b. As the two rulings of ‘carrying’ and ‘bringing’ embody Pentateuchal prohibitions the third one, that relating to the wen, must also be Pentateuchal.

(41) Against the anonymous ruling in the Mishnah of Pesahim under discussion.

(42) His statement that the acts enumerated in the anonymous ruling do supersede the Sabbath.

(43) In the case of all ordinary beast.

(44) Sc. work forbidden on the Sabbath under pentateuchal law.

(45) The acts enumerated in the anonymous Mishnah, of Pes.

(46) Which shows that the prohibitions in the anonymous ruling, including that against the removal of the wen, are merely Rabbinical. How then could anyone maintain that the removal of a wen is a Pentateuchal prohibition?

(47) Our Mishnah as well as that cited from Pes. 65b.

(48) Of a soft wen (v. next n.).

(49) Our Mishnah, therefore, cannot refer to a dry wen since such may be removed even by means of an instrument.

(50) As to the apparent condition between the two Mishnahs.

(51) Such as the removal of a soft wen with one's hand.

(52) Sc. one relating to sacrifices.

(53) If a wen, for instance, was found on a regular daily offering which is examined within the Temple.

(54) The removal of a wen from the paschal lamb which, though the animal is ultimately brought into the Temple, is first examined at its owner's home.

(55) Of R. Joseph.

(56) Supra 97b q.v. notes.

(57) Since the scroll, as explained Supra, was one containing a holy Scriptural text.

(58) The Temple is holy and so also are the Scriptures.

(59) Sc. outside the Temple.

(60) Forbidding the rolling hack of the scroll.

(61) Not even one of its ends remaining in the reader's hand.

(62) How then could R. Joseph maintain that a ‘shebuth of the Temple’ was not permitted in the country?
(63) Supra 98a.
(64) Lit., ‘its knot’, ‘bunch’.
(65) Lit., ‘even a shebuth also is not’, since no Pentateuchal law would be transgressed even if the entire scroll were to fall down and the man were to carry it back into the private domain by way of the karmelith.
(66) R. Safra.
(67) R. Joseph as cited by Abaye.
(68) On Friday eve to roast it (Shab. 19b); though, as a preventive measure or shebuth this is forbidden in the case of other foodstuffs.
(69) The paschal lamb being a sacrifice.
(70) Since the roasting is done at one,s own home.
(71) After Sabbath had set in. An objection against R. Joseph.
(72) Abaye.
(73) Who joined to participate in the paschal lamb which, like other sacred food, required careful attention.
(74) And no preventive measures in their case are needed.
(75) How is it that he overlooked this distinction?
(76) Who from their youth are trained for the Temple service.
(77) Who are mere laymen.
(78) Maintaining that both Mishnahs deal with the case of removal by hand of a soft wen. The Mishnah of Pesahim cannot refer to removal by means of an instrument, on account of the objection raised supra that such a removal would be an act Pentateuchally forbidden; and our Mishnah cannot refer to a dry wen which may be removed even by means of an instrument since, in its final clause the use of an instrument is forbidden.
(79) The ruling in our Mishnah which permits the removal of a wen by hand, which is shebuth that could have been performed prior to the Sabbath.
(80) Besides differing from the Rabbis in the Mishnah of Pes. in the case of a shebuth.
(81) Even where one of the main classes of work that are Pentateuchally forbidden has to he performed, and much more so, as is the case in our Mishnah and in that of Pes., where only a shebuth is involved.
(82) In the manner of their performance or preparation.
(83) As it is possible to remove a wen by hand he ruled in the final clause of our Mishnah that the use of an instrument is forbidden. Where, however, no change is possible, even one of the mail classes of forbidden work supersedes the Sabbath.

Talmud - Mas. Eiruvin 103b

What is the proof?[1] — Since it was taught: If f wen appeared[2] on [he body of] a priest[3] his fellow may bite it off for him with his teeth. Thus only ‘with his teeth’[4] but not with an instrument; only ‘his fellow’[5] but not he himself. Now whose view could this[6] be? if it be suggested: That of the Rabbis,[7] and [the permissibility is because it is in connection] with the Temple,[8] the objection would arise: Since the Rabbis have elsewhere[9] forbidden [such acts] Only as a shebuth, what matters it here[10] whether he or his fellow does the biting? Consequently it[6] must represent, must it not, the view of R. Eliezer who ruled elsewhere[9] that [for such acts] a sin-offering is incurred but here, though the preliminary requirements of a precept supersede the Sabbath,[11] a change must be made as far as this i# possible?[12] — No, it[13] may in fact represent the view of the Rabbis,[14] and[15] if the wen had grown on his belly[16] the law would indeed have been so,[17] but here we are dealing with one,[18] for instance, that grew on his back or his elbows where he himself cannot remove it, if this, however represents the view of the Rabbis,[19] why should he[20] not be allowed to remove it with his hand,[21] and this[22] you might[23] easily derive[24] the statement made by R. Eleazar, for R. Eleazar stated: They[25] only differ in the case of removal[26] with the hand but if it is done with an Instrument all[27] agree that guilt[28] is incurred?[29] — And according to your line of reasoning[30] why should he[31] not be permitted even in accordance with the view of R. Eliezer[32] to remove it with his hand?[33] — What an argument is this! If you grant that it represents the view of R. Eliezer[34] one can easily see why removal with the hand was forbidden as a preventive measure against the use of an instrument,[35] but if you maintain that it represents the view of the Rabbis,[36] why should he not be allowed to remove it with his hand?[37] And nothing more need be said about the matter.[38]

MISHNAH. A PRIEST WHO WAS WOUNDED IN HIS FINGER MAY[39] WRAP SOME REED-GRASS ROUND IT IN THE TEMPLE[40] BUT NOT IN THE COUNTRY.[41] BUT IF[42] IT WAS INTENDED TO FORCE OUT BLOOD IT IS FORBIDDEN IN BOTH CASES.[43]

GEMARA. R.[44] Judah, son of R. Hiyya explained: They[45] learned this[46] only in respect of reed-grass, but a bandage[47] is regarded as an addition to the priestly garments.[48] R. Johanan, however, stated: They forbade[49] an addition to the priestly garments only on a part of the body where the garments are usually worn; but on a part where no garments are usually worn[50] the wearing of one is not deemed an addition to the priestly garments.[51] But why should not these[52] be excluded[53] on the ground of interposition?[54] This[55] refers to a wound on the left hand[56] or even to one on the right hand on a part that does not come in contact with the objects of the service.[57]

This[58] is in disagreement with a ruling of Raba, for Raba, citing R. Hisda, ruled: On a part where clothes are usually worn even one thread[59] causes an interposition while on a part where clothes are not usually worn a piece of material that was three handbreadths by three[60] causes an interposition[61] but one that was less than three handbreadths by three[62] causes no interposition.[63] Now this[64] unquestionably differs from the view of R. Johanan;[65] but must it also be assumed that it[66] differs from that of R. Judah son of R. Hiyya?[67] — A bandage is different[68] since it is significant.[69]

Others have[70] a different reading: R. Judah son of R. Hiyya explained: They[71] learned this[72] only in respect of reed-grass, but a bandage[73] is regarded as an interposition.[74] R. Johanan, however, stated: They forbade[75] interposition[76] where the material was less than three handbreadths by three only if it rested on a part of the body where clothes are usually worn; but on a part where no garments are usually worn

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(1) that R. Eliezer agrees that wherever possible a change should he made.

(2) on the Sabbath so that there was no possibility of removing it on the previous day.

(3) Lit., ‘a priest on whom went up’.

(4) An act which is a mere shebuth.

(5) Who is unable to remove it completely and to perform a proper piece of work.

(6) The ruling that the priest himself should not remove his wen even with his teeth while his friend may remove it only with his teeth but not with an instrument.

(7) Who hold that the preliminary requirements of a precept may only override a Shebuth but not one of the main classes of forbidden work.

(8) Sc. preliminary requirements of the precept of performing the Temple service. As the wen could not be removed on the Sabbath eve (cf. supra n.1) and as the removal is a preliminary requisite of the precept involving a shebuth only, it is permitted.

(9) Cf. Shah. 94b (the case of the finger nails).

(10) Since removal with the teeth, whether one's own or one's friend's, is only a shebuth.

(11) Even where a Pentateuchal prohibition is involved; and the removal of the wen in any manner is in fact permitted.

(12) Hence the ruling that the priest himself must not remove his wen and that his friend should do it with his teeth only, which proves does it not, that a change must be made wherever possible?

(13) V. supra n. 5.

(14) While R. Eliezer requires no change whatever and permits the removal of the wen even with an instrument by the priest himself

(15) In explanation of the difficulty ‘what matters it here whether he or his fellow’ uses his teeth.

(16) A spot accessible to ones own teeth.

(17) that the priest himself may effect the removal.

(18) Cf. MS.M. Cur. edd. insert ‘a bite’.

(19) Whose main aim is to avoid the transgression of a Pentateuchal prohibition and to restrict the act of removal to a shebuth.
(20) The priest's fellow.
(21) Since in the removal by hand as by the teeth only a shebuth is involved.
(22) From the mention of hand instead of teeth.
(23) In addition to what may be derived even now, viz., that the preliminary requisites of a precept may override only a shebuth but not a Pentateuchal prohibition.
(24) From the fact that the use of the bare hand only (a shebuth) and not that of an instrument (a Pentateuchal prohibition) has been allowed.
(25) R. Eliezer and the Rabbis.
(26) Of one's finger nails (Shah. 94b).
(27) Not only R. Eliezer but the Rabbis also.
(28) Sc. a sin-offering.
(29) This submission, cannot be derived now that the use of the teeth only has been permitted. Should one argue that R. Eleazar's submission might be derived from the fact that the use of the teeth (a shebuth) was permitted ‘and not that of an Instrument (a Pentateuchal prohibition), it could he retorted that this was no proof since the use of the hand also was not permitted though, unlike an instrument, it also involves a shebuth only.
(30) That the ruling under discussion is R. Eliezer's.
(31) The priest's friend who removes the wen.
(32) Who, as suggested, requires a change to be made wherever possible.
(33) Which is only a shebuth and a change from the usual mode of removal.
(34) Who in the case of the preliminary requisites of a precept draws no distinction between a Pentateuchal prohibition and a shebuth and allows both to be superseded, requiring only a change from the usual procedure.
(35) As a change is made from a Pentateuchal prohibition to a shebuth (though either might be equally superseded) so must a change be made from the major shebuth (removal with the hand) to the minor one (removal with a friend's teeth which is less usual than that with the hand).
(36) The reason for whose ruling is not the desirability for a change but the view that only a Shebuth may be superseded but not a Pentateuchal prohibition.
(37) Which is no less a Shebuth than removal with the teeth.
(38) Since it is quite evident that the view represented is that of R. Eliezer.
(39) On the Sabbath, since It is unseemly to perform the service with all exposed wound.
(40) Though the grass helps indirectly to heal the wound (cf. foll. n.).
(41) Where the reed-grass serves no religious purpose, while its application as a cure is forbidden on the Sabbath.
(42) By making of the reed-grass a tight bandage.
(43) Lit., ‘here and here’, sc. even in the Temple, since the tightening serves no ritual purpose and comes, moreover, under the category of wounding which is one of the principal classes of activity that are forbidden on the Sabbath and which even the Temple service cannot supersede.
(44) ‘Rab’. Var. lec. ‘Rabbi’ throughout the passage (Emden).
(45) The Rabbis of our Mishnah.
(46) A PRIEST . . . MAY WRAP etc.
(47) Lit., ‘small belt’.
(48) Which is forbidden (cf. Zeb. 18a).
(49) Lit., ‘they did not say . . . but’.
(50) As on a finger, for instance.
(51) Hence it is permitted to put a bandage round the finger.
(52) The reed-grass as well as the bandage.
(53) From use in the Temple. Lit., ‘and let it go out for him’.
(54) Which is forbidden in the Temple services. No object may intervene between the priest's hands and the ritual object he handles.
(55) The wound spoken of in our Mishnah.
(56) With which it is forbidden to perform the Temple service and an interposition in that case does not in any way affect the service.

(57) One, for instance, on the back of the finger.
(58) R. Johanan's statement that, whatever its size, an additional garment on a part of the body where one is not usually worn constitutes no transgression.
(59) Though it cannot possibly be described as a garment.
(60) Which has the legal status of a garment.
(61) As well as a transgression against the prohibition of adding to the priestly garment (cf. Rashi a.l.).
(62) In consequence of which it cannot be regarded as a garment.
(63) Since it was located on a part of the body which does not come in contact with the objects of the service and when no garments are worn. As it has not the legal status of a garment, no transgression against the prohibition against adding to the priestly garments Is committed either.
(64) Ruling of Raba.
(65) As has just been shown.
(66) The ruling to the effect that a piece of material that was less than three handbreadths by three causes no interposition on a part of the body on which garments are not usually worn.
(67) Who stated that a bandage, even one that was less than three handbreadths by three, is legally regarded as a garment whereby a transgression against adding to the priestly garments is committed.
(68) From a piece of material of similar size.
(69) Lit., ‘important’. Hence its status as a garment which even Raba might acknowledge.
(70) Lit., ‘say it’.
(71) The Rabbis of our Mishnah.
(72) A PRIEST . . . MAY "WRAP etc.
(73) Lit., ‘small belt’.
(74) Since it does not belong to the priest's garments.
(75) Lit., ‘they did not say. . . but’.
(76) This expression is really the main point of difference between the first and second version. For an explanation why this expression was used v. Rash a.l.

Talmud - Mas. Eiruvin 104a

only a piece of material that was three handbreadths by three[1] causes an interposition[2] while one that is less than three handbreadths by three[3] causes no interposition.[4] This is in fact identical with the ruling which Raba cited in the name of R. Hisda. Must it be conceded that this[5] differs from the view of R. Judah son of R. Hiyya?[6] — A bandage is different[7] since it is significant. But according to R. Johanan.[8] instead of being informed[9] about the reed-grass,[10] why were we not informed about a bandage?[11] — We were taught[9] indirectly that reed-grass heals.[12]

MISHNAH. SALT MAY BE SCATTERED[13] ON THE ALTAR'S ASCENT[14] THAT THE PRIESTS SHALL NOT SLIP. WATER ALSO MAY BE DRAWN ON THE SABBATH BY MEANS OF A WHEEL[15] FROM THE CISTERN OF THE EXILES[16] AND FROM THE GREAT CISTERN;[17] AND ON A FESTIVAL DAY[18] FROM THE HAKER WELL ALSO.[19]

GEMARA. R.Ika of Pashronia pointed out to Raba the following inconsistency. We learned, SALT MAY BE SCATTERED ON THE ALTAR'S ASCENT THAT THE PRIESTS SHALL NOT SLIP. Thus[20] only in the Temple is this permitted[21] but not in the country. But is not this inconsistent with the following: If a courtyard floor was damaged by rainwater one may bring straw and level it?[22] — Straw is different[23] since its owner does not renounce it.[24]

Said R. Aha son of Raba to R. Ashi: How are we to understand the case of the SALT? if its owner has renounced it, would not the scattering constitute an addition to the structure?[25] And if he did not renounce it, would it not constitute an unlawful interposition?[26] — This is a case where the salt[27] was scattered when the limbs of sacrifices were carried up the ascent, an act which is not regarded as part of the Temple service.[28] But is it not indeed? Was it not in fact written in Scripture. And the priest shall offer the whole, and make it smoke upon the altar,[29] a text which, a Master explained,[30] refers to the carrying of the limbs up the ascent?[31] — Rather say: This[32] refers [to salt[33] scattered] when the wood is carried to the altar pile which is an act that is no part of the Temple service.[34]

Raba discoursed: If a courtyard floor was damaged by rainwater one may bring straw and level[35] it. Said R. Papa to Raba: Was It not taught. When he levels the ground he must not scatter the straw either with a small basket or with a large one[32] but only with the bottom broken from a basket?[36] Raba thereupon appointed an amora[37] and delivered the following discourse: The statement I made to you[38] was an error on my part.[39] But it was this indeed that was reported in the name of R. Eliezer:[40] 'And When he levels it he must not scatter the straw either with a small basket or with a large one but with the bottom broken from a basket.'

WATER ALSO MAY BE DRAWN . . . FROM THE CISTERN OF THE EXILES. Ulla once happened to visit R. Manasseh[41] when a man came and knocked on the door. 'Who', he exclaimed 'is this person? May his body be desecrated, for he[42] desecrates the Sabbath'. 'Only a musical sound',[43] said Rabbah to him, 'has been forbidden'.[44] Abaye pointed out an objection against him:[45] 'Liquids may be drawn by means of a siphon,[46] and water may be allowed to drip from the arak,[47] for a sick person on the Sabbath'. Thus only 'for a sick person' is this allowed,[48] but not for a healthy one. Now, how are we to imagine the circumstances? Would you not agree that this is a case where the sick man was asleep and it was desired[49] that he should wake up? May it not then[50] be inferred[51] that[52] the Production of any sound[53] is forbidden?[54] — No; this is a case where he was awake and it is desired that he should fall asleep, so that the sound heard is one like a tingling noise.[55]

He pointed out to him[56] a further objection: If a man guards his fruit against the birds or his gourds against wild beasts he may proceed on the Sabbath in his usual way, provided he does not clap his hand, beat his chest or stamp his feet as is usually done on weekdays. Now what could be the reason?[57] Is it not that the man produces sound and that the production of any sound[58] is forbidden?[54] — R. Aha b. Jacob replied: This[57] is a preventive measure against the Possibility of his Picking up a pebble.[59] What, however, is the reason for the statement which Rab Judah citing Rab made that women who play with nuts commit a transgression? Is it not that this[60] produces sound and that the production of any sound[58] is forbidden?[54] — No; the reason[61] is that they might proceed to level the ground.[62] For, were you not to concede this, how would you explain the ruling of Rab Judah that women who play[63] with apples commit a transgression? What sound could be produced there?[64] Consequently it must be conceded that the reason is that[65] they might proceed to level the ground.[66]

We learned: WATER MAY BE DRAWN ON THE SABBATH BY MEANS OF A WHEEL FROM THE CISTERN OF THE EXILES AND FROM THE GREAT CISTERN. Thus only in the Temple is this permitted[67] but not in the country. But what could be the reason? Is it not that the revolution of the wheel produces a sound which is forbidden?[68] — No; this is a preventive measure against the possibility of a man's drawing the water for his garden or his ruin.[69]

Amemar allowed the drawing of water by means of a wheel at Mahuza; 'for', he said, 'on what ground did the Rabbis enact a preventive measure against such drawing? Only on the ground that a person might also draw water for his garden or his ruin. But in this place there is neither garden nor ruin'. When, however, he observed that they began to

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(1) Being regarded as a garment.

(2) Since it does not belong to the priest's garments.

(3) In consequence of which it cannot be regarded as a garment.

(4) v. Supra p. 722, n. 7.

(5) Rab's ruling which does not regard a piece of material that was less than three handbreadths by three as an unlawful addition to the priest's garments.
(6) v. Supra p. 722, n. 11.
(7) From a piece of material of similar size.
(8) Who allows the use of a bandage as well as that of reed-grass.
(9) By our Mishnah.
(10) From which the permissibility of a bandage cannot be inferred.
(11) And the permissibility of reed-grass, which is of less importance, could be deduced a minori ad majus.
(12) And that, though it helps to heal the wound and its use on the Sabbath is elsewhere forbidden, it may be used in the Temple where its main purpose is to cover up a wound during the performance of the service.
(13) On the Sabbath. Lit., '(they may) crush (lumps of) salt'.
(14) Which had a smooth surface and after a rain was very slippery.
(15) Though the use of a wheel for such a purpose on the Sabbath is elsewhere forbidden (v. Gemara infra).
(16) 'Golah', collective noun. One of the cisterns in the Temple court said to have been dug by the exiles after the return from Babylon.
(17) Another cistern in the Temple court.
(18) But not on the Sabbath.
(19) Explained in the Gemara.
(20) Since the altar ascent only was mentioned.
(21) Lit., 'yes'.
(22) Or 'make a path in'. Which shows that even in the country it is permissible to scatter straw on the ground. How then is this to be reconciled with our Mishnah which allows salt to be scattered in the Temple court only?
(23) From salt.
(24) But intends to collect it later and to use it as fodder for cattle or to mix it in a mortar. The scattering of materials on the ground on the Sabbath is forbidden as 'levelling' which is a form of 'building', but since the straw is not to remain on the ground permanently the act of scattering cannot be regarded as 'building'. Salt, on the other hand, being useless after it has once been scattered on the ground, is presumed to have been renounced by its owner once it has been scattered. The act, therefore, is permitted in the Temple court only but not in the country.
(25) Of course it would (cf. prev. n.); and this is forbidden even on a weekday since nothing may be added to the Temple structures. Cur. edd. insert in parenthesis, 'All this (do 1 give thee) in writing, as the Lord hath made me wise by his hand upon me' (I Chron. XXVIII, 19) from which words it is inferred (cf. Rashi a.l.) that all parts of the Temple, internal as well as external structures, were minutely described by God and nothing was to he added to them. MS.M. omits the Scriptural quotation.
(26) Between the surface of the ascent and the priests' feet (cf. Zeb. 15b).
(27) Which in fact was not renounced, since it could be collected and used for the salting of the skins of the sacrifices.
(28) And an interposition does not matter.
(29) Lev. I, 13.
(30) Since it is the continuation of the text: But the inwards and the legs shall he wash with water (ibid.).
(31) How then could it be said that the carrying forms no part of the service?
(32) Which is the usual procedure on a weekday.
(33) V. p. 724, n. 8.
(34) And an interposition does not matter.
(35) Or 'make a path in'.
(36) An objection against Raba who permitted the scattering of straw in any manner.
(37) Sc. an assistant who stood at his side during his discourse and expounded it in a louder voice and simpler language to the people assembled.
(38) Lit., 'the words which I said before you'.
(39) Lit., 'in my hand'.
(40) Old ed., 'Eleazar'.
(41) On a Sabbath.
(42) By producing a sound with his knocking.
(43) Not a mere knocking.

(44) To be produced on the Sabbath other than with the mouth.
(45) Rabbah.
(46) ‘Deyo-fi’ lit., ‘two mouths’ (Rashi), ‘a popular perversion’ of deyobit, ** (Jast.).
(47) A perforated vessel, a sort of clepsydra used in sick rooms (Jast.).
(48) Lit., ‘yes’.
(49) By the production of the sound of the arak which is a mere noise without any musical quality whatever.
(50) As the answer is presumably in the affirmative.
(51) Since the instrument mentioned may be used for a sick man only but not for a healthy one.
(52) On a Sabbath.
(53) Even one that is unmusical.
(54) On the Sabbath; an objection against Rabbah.
(55) Which lulls the patient to sleep by its musical notes.
(56) Rabbah.
(57) Why clapping, beating and stamping are forbidden.
(58) Even one that is unmusical.
(59) To throw it at a bird, and he would thus transfer an object from a private domain into a public domain, which is forbidden.
(60) Playing with nuts.
(61) Why playing with nuts is forbidden on the Sabbath.
(62) For playing purposes. Lit., grooves’.
(63) On the Sabbath.
(64) Apparently none.
(65) Lit., ‘but’.
(66) For the game.
(67) Lit., ‘yes’.
(68) On the Sabbath; an objection against Rabbah.
(69) Sc. for secular purposes whereby no religious duty or observance is performed.

Talmud - Mas. Eiruvin 104b

soak flax in it[1] he forbade it to them.

AND FROM THE HAKER WELL. What was the ‘haker well’? — Samuel replied: A cistern concerning which arguments welled forth[2] and its use [on a Festival] was declared to be permitted.[3]

An objection was raised: Not all the haker cisterns but only this one, did they permit. Now if you explain it[4] to mean that concerning it arguments welled forth, what[5] could be the meaning of ‘only this one’? — Rather, said R. Nahman b. Isaac: A well of living water,[6] as it is said in Scripture: As a cistern welleth[7] with her water etc.[8]

[To turn to] the main text. Not all the haker cisterns, but only this one, did they permit. And when the exiles returned[9] they encamped by it, and the prophets among then, permitted them to use it [on Festivals]; and not only the prophets among them did this but it was a practice of their forefathers that they upheld.[10]

MISHNAH. IF A [DEAD] CREEPING THING WAS FOUND IN THE TEMPLE,[11] A PRIEST SHOULD CARRY IT OUT[11] IN HIS GIRDLE[12] TO AVOID[13] KEEPING THE UNCLEANNESS THERE ANY LONGER THAN IS NECESSARY; SO R.JOHANAN B. BEROKA. R. JUDAH RULED: [IT SHOULD BE REMOVED] WITH WOODEN TONGS[14] IN ORDER THAT THE UNCLEANNESS SHALL NOT INCREASE.[15] WHENCE MUST IT BE REMOVED?[16] FROM THE HEKAL,[17] FROM THE ULAM,[18] AND FROM BETWEEN THE ULAM AND THE ALTAR;[19] SO R. SIMEON B. NANUS. R. AKIBA RULED: FROM ANY PLACE WHERE

KARETH IS INCURRED FOR ENTERING[20] PRESUMPTUOUSLY AND A SIN-OFFERING FOR ENTERING[20] IT IN ERROR[21] IT MUST BE REMOVED.[22] IN ANY OTHER PLACES,[23] HOWEVER A PSYKTER[24] IS TO BE PUT OVER IT.[25] R. SIMEON SAID:[26] WHEREVER THE SAGES HAVE PERMITTED YOU ANYTHING THEY HAVE ONLY GIVEN YOU WHAT IS REALLY YOURS, SINCE THEY HAVE ONLY PERMITTED YOU[27] THAT WHICH IS FORBIDDEN AS SHEBUTH.[28]

GEMARA. R. Tobi b. Kisna citing Samuel ruled: One who brings into the Temple all object that was defiled by a creeping thing incurs guilt,[29] but if one brings in the creeping thing itself one is exempt. What is the reason? — Scripture said: Both male and female shall ye put out,[30] from which it is inferred that only that which may attain cleanness in a ritual bath[31] is subject to the prohibition,[32] a creeping thing, however, is excluded since it can never attain cleanness. May it be suggested that the following provides support for this view? Both male and female shall ye put out[30] excludes an earthen vessel;[33] so R. Jose the Galilean. Now what could be the reason?[34] Is it not because it[35] cannot attain cleanness through a ritual bath?[36] — No; only that which may become a primary source of uncleanness is subject to the prohibition,[32] an earthen vessel, however, is excluded since it can never become a primary source of uncleanness.[37]

Must it be conceded that on this question[38] there is a divergence of opinion between the following Tannas: IF A CREEPING THING WAS FOUND IN THE TEMPLE A PRIEST SHOULD CARRY IT OUT IN HIS GIRDLE TO AVOID KEEPING THE UNCLEANNESS THERE ANY LONGER THAN IS NECESSARY; SO R. JOHANAN B. BEROKA. R. JUDAH RULED: IT SHOULD BE REMOVED WITH WOODEN TONGS IN ORDER THAT THE UNCLEANNESS SHALL NOT INCREASE. Now do they not differ on this point: That he who said: TO AVOID KEEPING, holds the opinion that one who takes a creeping thing into the Temple incurs guilt,[39] while he who said: IN ORDER THAT . . . SHALL NOT INCREASE holds the opinion that one who takes a creeping thing into the Temple is exempt? — No, all may agree that guilt is incurred, but the point at Issue here is the following: One Master holds that it is preferable to keep an unclean object a little longer[40] while the other Master holds that it is preferable to increase the uncleanness.[41]

The point at issue[42] is rather the same as that between the following Tannas. We learned: WHENCE MUST IT BE REMOVED etc. Now do they not differ on this point: That he who ruled that from the Temple court it may not be removed[43] is of the opinion that one who takes a creeping thing into the Temple is exempt,[44] while he who holds that it must be removed from any part of the court is of the opinion that guilt is incurred?

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(1) The water they drew on the Sabbath by means of the wheel.

(2) Shehekeru, ‘haker’ being the Hif. of the rt. קרר

(3) V. infra.

(4) The haker well.

(5) Since no arguments ‘welled forth’ in connection with any other cistern.

(6) The same expression occurs in Gen. XXVI, 19.

(7) ‘Ke-haker’.

(8) Jer. VI, 7.

(9) Lit., ‘went up’.

(10) Lit., ‘in their hands’.

(11) On the Sabbath, when it is forbidden under the laws of shebuth to handle a dead creeping thing.

(12) But not with his bare hand, in order to avoid direct contact with the creeping thing and the latter's consequent conveyance of levitical uncleanness to the priest's body. Carrying alone, in the absence of direct contact, does not cause uncleanness and the girdle, though it contracts a certain degree of uncleanness (first grade) from the creeping thing, cannot carry any uncleanness to the priest's body since no degree lower than that of primary uncleanness can affect the levitical cleanness of a human being.

(13) This is a reason why the author of this ruling does not require its removal, as does R. Judah presently, to be effected by means of an instrument that is not susceptible to levitical uncleanness.
(14) Which are unsusceptible to levitical uncleanness.
(15) By its spread to the girdle. In R. Judah's view it is preferable to allow the offending object to remain in the Temple a little longer until wooden tongs can be obtained and thus to limit the extent of the uncleanness, rather than to remove it sooner and thereby cause the uncleanness to spread to another object.
(16) On the Sabbath.
(17) Or the ‘Holy’ which contained the candlestick, the table for the shewbread and the golden altar.
(18) The Temple porch in front of the Hekal.
(19) Sc. the brazen altar that stood in the Temple court in front of the Ulam. If the offending object was found in any other part of the Temple court it could not be removed on the Sabbath (until after nightfall) on account of the prohibition against moving objects from a private into a public domain.
(20) In a state of levitical uncleanness.
(21) Sc. the entire Temple court.
(22) Forthwith, even on the Sabbath.
(23) The side chambers (according to R. Akiba) or the part of the court beyond the space BETWEEN THE ULAM AND THE ALTAR (according to Ben Nanus).
(24) Gr. ** (wine cooler), a large brass pot.
(25) To keep it covered during the Sabbath. After dusk it is removed.
(26) The point of this statement is discussed infra.
(27) In the Temple.
(28) But nothing that is Pentateuchally forbidden.
(29) And must suffer the consequence (cf. Rashi a.l. and Elijah Wilna glosses).
(30) Num. V, 3 which is applied to the Temple precincts. Cf. In the midst whereof I dwell (ibid).
(31) As ‘a male and female’ may.
(32) Of entering the Temple.
(33) Sc. no guilt is incurred for bringing unclean earthenware into the Temple.
(34) For R. Jose's ruling.
(35) Any earthenware.
(36) Since it must he broken (cf. Lev. XI,33).
(37) The only primary source of uncleanness which a vessel can contract is that of Midras defilement (v. Glos.), to which all earthenware vessel is not susceptible, v. Shab. 84b. For bringing in a creeping thing, however, since it is a primary source of uncleanness, one does incur guilt, contrary to the view of Samuel.
(38) Whether guilt is incurred for taking a creeping thing into the Temple.
(39) Pentateuchally. Hence it is preferable to extend uncleanness to the girdle rather than to continue a transgression against a Pentateuchal prohibition.
(40) Rather than increase uncleanness by imparting it to the sacred girdle.
(41) Rather than keeping an unclean object in the Temple even only one minute longer than is absolutely necessary.
(42) Whether guilt is incurred for taking a creeping thing into the Temple.
(43) On the Sabbath.
(44) Pentateuchally. The Rabbis, therefore, enforced their Shebuth throughout the Temple, except in the case of the Hekal and Ulam and between the latter and the altar on account of their high degree of holiness.

Talmud - Mas. Eiruvin 105a

— R. Johanan retorted:[1] Both[2] expounded this same[3] text: And the priests went in unto the inner part of the house of the Lord,[4] to cleanse it, and brought out all the uncleanness that they found in the Temple of the Lord into the court of the house of the Lord. And the Levites took it[5] to carry it out abroad to the brook Kidron.[6] One Master[7] holds that since in the court there was a change over[8] to the Levites[9] there can be no prohibition against allowing uncleanness to remain for some time in the court,[10] while the other Master[11] holds that up to the point[12] where it was impossible for the Levites to attend[13] the priests had to carry the uncleanness out, but where[14] it could be done by the Levites the priests could no longer defile themselves.[15]

Our Rabbis taught: All may enter the Hekal to build, to repair or to take out uncleanness. It is a religious duty, however, that the priests should do it. If no priests are available[16] Levites may enter. If no Levites are available Israelites may enter. But in all these cases[17] only levitically clean persons may enter.[18] Those who are levitically unclean may not.

R. Huna observed: R. Kahana lends his support to the priests,[19] for R. Kahana learned: Since it was said: Only he shall not go in unto the veil,[20] it might have been assumed that priests who have a blemish must not enter between the Ulam and the altar to make the beaten plates.[21] hence it was explicitly stated: 'Only' i.e., draw a distinction:[22] Thus the commandment is that those who are without blemish are qualified, but if men without a blemish are unavailable those with blemishes may enter; the commandment is that those who are levitically clean may enter, but if no men who are levitically clean are available those who are levitically unclean may enter; but in all these cases[23] priests only may enter but no Israelites.[24]

The question was raised: In the case of one who is levitically unclean and another who has a blemish, who of these is to enter?[25] — R. Hiyya b. Ashi citing Rab replied: The levitically unclean person shall enter, since he has been declared permitted to take part in the public Temple service.[26] R. Eleazar replied: The man who has the blemish shall enter, since he has been declared permitted to eat consecrated food.[27]

R. SIMEON SAID etc. What does R. Simeon refer to?[28] — He refers to a previous statement[29] where we learned: If a man was overtaken by dusk even when only One cubit outside the Sabbath limit, he may not enter it. R. Simeon ruled: Even if he was fifteen cubits away he may enter, since the surveyors do not measure exactly on account of those who might err.[30] The first Tanna having thus ruled: 'he may not enter', R. Simeon said to him, 'He may enter'.[31]

SINCE THEY HAVE ONLY PERMITTED YOU THAT WHICH IS FORBIDDEN AS SHEBUTH. What does he refer to?[32] — He refers to another Statement[29] where the first Tanna ruled that it[33] may be tied up,[34] in connection with which R. Simeon said to him:[35] He may Only secure it with a loop; Only a loop which cannot involve one in the obligation of a sin-offering did the Rabbis permit,[36] but a knot which might involve one in the obligation of a sin-offering the Rabbis did not permit.[37]

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(1) So according to Rashi. Tosaf. (a.l.) regards R. Johanan's submission as an independent statement.

(2) R. Simeon b. Nanus and R. Akiba who, in fact, agree that one who takes a creeping thing into the Temple incurs guilt, and Only differ on the question of taking it out when it was already within the Temple (cf. Rashi).

(3) Lit., 'one'.

(4) Sc. the Hekal.

(5) From the 'court' into which the priests had carried it.

(6) II Chron. XXIX, 16.

(7) R. Simeon b. Nanus.

(8) From the priests (who brought it from the Hekal).

(9) And not to a relay of priests, though (if more helpers were required) it might have been expected that priests should complete the task their fellows had begun.

(10) Lit., 'uncleanness In court there is not'. As in this case it was only from the 'inner parts that the priests had to remove the uncleanness while the removal from the court was relegated to the Levites, because the defilement of their bodies was not so grave a matter as that of the priests, so also in the case of the Sabbath, wherever the uncleanness is in the court, the degree of transgression must be reduced to a minimum and not even a shebuth may be abrogated.

(11) R. Akiba.

(12) Lit., 'until where'.

(13) Sc. in the Hekal whither Levites are not allowed to enter.
(14) Lit., ‘now’.
(15) No proof, therefore, can be adduced from here that uncleanness may be allowed to remain in the Temple court until dusk.
(16) Lit., ‘if there are no priests there’.
(17) Lit., ‘and these and those’.
(18) Lit., ‘yes’.
(19) ‘Kahane’, a play upon the Aramaic equivalent of ‘priests’ and the name of R. ‘Kahana’. In the following exposition R. Kahana gives precedence ‘to unclean priests over clean Israelites.
(20) Lev. XXI, 23, which deals with priests who are afflicted with a blemish.
(21) Of gold; wherewith the interior of the Holy of Holies was overlaid.
(22) The expression ‘only’ (ak or rub) in a Scriptural text always signifies some exclusion, viz., it is in this case only that entry for the purposes mentioned is not invariably forbidden.
(23) Lit., ‘and these and those’.
(24) Which shows that R. Kahana gives preference to disfigured or levitically unclean priests over sound and clean Israelites.
(25) If no other person for the work is obtainable.
(26) When all the congregation is levitically unclean. As a priest who is afflicted with a blemish is not allowed to participate even then the former obviously takes precedence.
(27) While all unclean priest is not (cf.prev.n.mut.mut.).
(28) Lit., ‘where does he stand’?
(29) Lit., ‘there he stands’.
(30) Supra 52b, q.v. notes.
(31) Since even when the man is fifteen cubits away from the Sabbath limit he is already within it. The Sages have thus merely given back what they had previously taken away.
(32) He could not refer to the cited case of Sabbath limit since the question of shebuth does not come there into consideration.
(33) The string of a levitical harp that was broken in the Temple on the Sabbath.
(34) Supra 102b.
(35) In his statement in the Baraitha.
(36) Lit., ‘which does not come to the hands of. . . him’.
(37) R. Simeon says in effect, ‘Though I relaxed the law in the case of the Sabbath limit I do not allow a knot to be made in a broken harp string, since only in the former case can the argument he advanced that the Sages have merely given back what they had previously taken away’ (cf. Tosaf. and Rashi a.l.).

Talmud - Mas. Pesachim 2a

CHAPTER I

MISHNAH. ON THE EVENING [OR][1] OF THE FOURTEENTH [OF NISAN] A SEARCH IS MADE FOR LEAVEN[2] BY THE LIGHT OF A LAMP.[3] EVERY PLACE WHEREIN LEAVENED BREAD IS NOT TAKEN DOES NOT REQUIRE SEARCHING, THEN IN WHAT CASE DID THEY RULE, TWO ROWS OF THE WINE CELLAR [MUST BE SEARCHED]?[4] [CONCERNING] A PLACE WHEREIN LEAVEN MIGHT BE TAKEN,[5] BETH SHAMMAI MAINTAIN: TWO ROWS OVER THE FRONT OF THE WHOLE CELLAR;[6] BUT BETH HILLEL MAINTAIN: THE TWO OUTER ROWS, WHICH ARE THE UPPERMOST.[7]

GEMARA. What is OR? — R. Huna said: Light [naghe]; while Rab Judah said: Night [lele]. Now it was assumed [that] he who says light means literally light;[8] while he who says night means literally night.[9] An objection is raised: As soon as the morning was light [or], the men were sent away,[10] which proves that ‘or’ is day? — Is it then written, The ‘or’ was morning: [Surely] ‘the morning was or’ is written, as one says, Morning has broken forth. And [this verse is] in accordance with what Rab Judah said in Rab's name. For Rab Judah said in Rab's name: A man should always enter [a town] by day,[11] and set out by day.[12]

An objection is raised: As the light of [or] the morning, when the sun riseth,[13] which proves that ‘or’ means the daytime? — Is it then written, ‘or is morning’: surely it is written, ‘as the light of [or] the morning’, and this is its meaning: ‘and as the light of the morning’ in this world so shall the rising of the sun be unto the righteous in the world to come.[14]

An objection is raised: And God called the light [or] Day[15] which proves that or is daytime? — This is its meaning: the advancing of light[16] He called Day.[17] If so, ‘and the darkness He called Night’ means [similarly], the advancing of darkness He called Night:[18] but surely it is an established principle that it is day until the appearance of the stars?[19] Rather this is its meaning: The Merciful One summoned the light and appointed it for duty by day, and He summoned the darkness and appointed it for duty by night.[20]

An objection is raised: Praise him all ye stars of light [or],[21] which proves that ‘or’ is evening? — This is its meaning: praise him all ye stars which give light. If so, are only the stars that give light to praise [Him], while those which do not give light need not praise — yet surely It is written, Praise ye him, all his host?[22] Rather he [the Psalmist] tells us this: the light of the stars too is [designated] light. What is its practical bearing? In respect of one who vows [not to benefit] from light. For it was taught: If one vows [not to benefit] from light, he is prohibited the light of stars.

An objection is raised: The murderer riseth with the light [or], he killeth the poor and needy, and in the night he is as a thief.[23]

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(1) אור. This is the meaning finally assigned in the Gemara to OR after a considerable discussion.

(2) Heb. חמצ, hamez. Two words are employed in the Bible: (i) hamez, leavened stuff v. infra 42a and (ii) se'or, leaven, i.e., dough so greatly leavened as to act as a leavening agent for other dough. In this Tractate hamez will generally be translated ‘leaven’ except where it is necessary to distinguish it from se'or.

(3) So that there shall be none in the house during Passover, which commences on the fifteenth.

(4) Seeing that leaven is not generally taken into a wine cellar.

(5) A private cellar from which supplies are drawn for table. The servant sometimes enters it while eating bread.

(6) Must be searched.

(7) V. infra 8b.

(8) I.e., daybreak or morning.

(9) Rashi deletes this, since that is so, in fact.
(10) Gen. XLIV, 3.
(11) Lit., ‘when it is good’, the allusion being to Gen. I, 4: and God saw the light, that it was good.
(12) Thus the brethren waited for daybreak before setting out.
(13) II Sam. XXIII, 4.
(14) Though at sunrise in this world it is still rather dark, yet in the future world it shall be as light as when the morning is advanced in this world (R. Tam). Rashi's explanation is slightly different.
(15) Gen. I, 5.
(16) Lit., ‘that which proceeds to grow light’.
(17) I.e.,the moment when light begins to appear marks the commencement of day. On this translation or is not a noun but a gerund: the lighting up.
(18) The moment when darkness begins to fall marks the commencement of night.
(19) Though darkness begins to fall earlier.
(20) Thus wayikra is translated: and he summoned, not, ‘and he called (designated)’, as in E.V.
(21) Ps. CXLVIII, 3.
(22) Ibid. 2.
(23) Job. XXIV, 14.

Talmud - Mas. Pesachim 2b

Now since he states, ‘and in the night he is as a thief,’ it follows that ‘or’ is day? — The meaning there is this: if the matter is as clear as light to you that he [the thief] comes [even] to take life, he is a murderer, and he [the victim] may be saved at the cost of his [the thief's] life; but if you are doubtful about it, like [the darkness of] the night, you must regard him [only] as a thief, and he [the victim] must not be saved at the cost of his life.[1]

An objection is raised: Let the stars of the twilight thereof be dark: let him look for light [or], but have none; neither let it behold the eyelids of the morning.[2] Since he says, ‘let him look for light, but have none, it follows that ‘or’ is day? — There Job indeed curses his destiny[3] and exclaims, Heaven grant that that man [sc. himself] look for light, but have none.[4]

An objection is raised: If I say, Surely the darkness shall overwhelm me, and the light [or] about me shall be night:[5] this proves that ‘or’ is day?[6] — There David said thus: I thought, surely darkness shall overwhelm me in the future world, which resembles day; but now, even this world, which resembles night,[7] is light about me.

An objection is raised: R. Judah said: We search [for leaven] in the evening [‘or’] of the fourteenth, in the morning of the fourteenth, and at the time of removal:[8] Now since R. Judah says, ‘We search in the evening [‘or’] of the fourteenth and in the morning of the fourteenth,’ it follows that ‘or’ is evening. This proves it.

An objection is raised: From when is work forbidden on the fourteenth [of Nisan]? R. Eliezer b. Jacob said: From the time of the ‘or’;[9] R. Judah said: From the [first] sparklings of the [rising] sun. Said R. Eliezer b. Jacob to R. Judah: Where then do we find a day during part of which work is forbidden while during [the other] part it is permitted? He replied, Let that [day] itself prove [this possibility], for during part of it the eating of leaven is permitted, whereas during the other part it is forbidden.[10] Now since R. Judah maintains, From the [first] sparklings of the [rising] sun, it follows that by ‘or’ R. Eliezer b. Jacob means evening? No; what does ‘or’ mean? The morning dawn. If so, when he says to him, ‘Where then do we find a day during part of which work is forbidden while during [the other] part it is permitted,’ let him answer himself: surely there is the night, which is permitted?[11] — R. Eliezer b. Jacob argues thus: As for my view, it is well; we find that the Rabbis drew a distinction between night and day, for it was taught in respect of a public fast: Until when may one eat and drink? Until the commencement[12] of dawn: this is R. Eliezer b. Jacob's view. R. Simeon maintained: Until cockcrow.[13] But on your view: where do we find that the Rabbis drew a distinction in the day itself? [To which] he replied, Let that [day] itself prove it, for during part thereof the eating of leaven is permitted while during part thereof it is forbidden? R. Judah answers R. Eliezer rightly?[14] R. Eliezer says thus to him: I speak to you of work, which is [prohibited] by the Rabbis, while you answer me about leaven [on the fourteenth day], which is [prohibited] by Scripture; thus far[15] the Divine Law permits, and from then Scripture forbids. And the other?[16] — The [additional] hours are Rabbinical.[17] And the other? — The Rabbis [merely] erected a safeguard for a Scriptural law.[18]

An objection is raised: Bonfires are lit only for a new moon that is visible in its [due] time, in order to sanctify it.[19] And when were the bonfires lit? on the evening [‘or’] following the intercalated day.[20] This proves that ‘or’ is evening. This proves it.

An objection is raised: If he [the priest] was standing all night and offering [the fats of sacrifices] on the altar, at daybreak [orah] he must wash his hands and feet:[21] this is Rabbi's view?[22] — Orah is [a] different [word].

Mar Zutra raised an objection:

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(1) V. Ex. XXII, 1; the present verse lays down the conditions for the law stated there to be applicable.
(2) Job. III, 9.
(3) Mazzal is the constellation which controls one's destiny.
(4) But ‘light’ there is not parallel to or synonymous with morning.
(5) Ps. CXXXIX, 11.
(6) Since it is contrasted with night.
(7) By contrast, with the next; but not absolutely, Judaism being far too robust and optimistic a religion for such a view; cf. Hertz, Genesis, Additional Note A, III, p. 57.
(8) When the leaven must be destroyed.
(9) But even if it is the practice in a community to cease work earlier, this has no binding force; v. infra 50a.
(10) V. infra 11b.
(11) Though night is part of the day.
(12) Lit., ‘ascending’.
(13) The prohibition of work on the fourteenth is likewise merely Rabbinical.
(14) Surely he must have perceived the answer himself!
(15) Up to a certain hour.
(16) Does he not admit the distinction?
(17) V. infra 11b Mishnah. Thus they permit the first four hours and forbid the following two.
(18) Lest the day is cloudy and one does not know exactly when it is midday; therefore they added two hours. But when the law is entirely Rabbinical, they would not apply it to part of the day only.
(19) The Jewish month, which is lunar, consists of either twenty-nine or thirty days. During the early Talmudic age
(20) The additional day is the thirtieth, whereby the month is full; the bonfire is lit on the evening of the thirty-first.
(21) Lit., ‘he needs the sanctification of his hands and feet (from the laver)’, v. Ex. XXX, 17.
(22) Thus ‘orah’ denotes daybreak, and it is now assumed that ‘or’ and ‘orah’ are identical.

Talmud - Mas. Pesachim 3a

If a woman miscarries on the evening [or] of the eighty-first day; Beth Shammai exempt her from a sacrifice, whereas Beth Hillel declare her liable.[1] Said Beth Hillel to Beth Shammai: Wherein does the evening [‘or’] of the eighty-first differ from the day of the eighty-first; seeing that it was assimilated thereto in respect of uncleanness,[2] shall one not assimilate it thereto in respect of sacrifice? Now since Beth Hillel say to Beth Shammai, ‘Wherein does the evening [or] of the eighty-first differ from the day of the eighty-first,’ it follows that ‘or’ is evening. This proves it.

New Moon was fixed by direct observation, not calculation, and communities at a distance from Jerusalem were informed by bonfires. These were lit only if the New Moon appeared ‘in its (due) time,’ i.e.,it was fixed for the thirtieth day, the previous month thus consisting of twenty-nine days only; in that case too Beth Din formally sanctified this day. But if observation fixed it for the thirty-first day, no bonfires were lit, since the absence of bonfires on the previous day would be a sufficient signal; further, New Moon was not formally sanctified by Beth Din (Rashi). An objection is raised: one might think that it[3] may be eaten on the evening [‘or’] of the third day [from sacrifice], and it is logical: Sacrifices[4] are eaten on one day,[5] while peace-offerings are eaten on two days: just as there the night follows the day,[6] so here too the night should follow the day. Therefore it is stated, It shall be eaten the same day ye offer it, and on the morrow: and if aught remain until the third day [it shall be burnt with fire]:[7] teaching, it may be eaten only during the day, but it may not be eaten during the evening [‘or’] of the third day. One might think that it must be burnt immediately;[8] and this is logical: Sacrifices[4] may be eaten one day and one [sc. the following) night, while peace-offerings may be eaten two days and one [sc. the intermediate] night: just as there, immediately after [the time allowed for] eating there is burning, so here too immediately after [the time allowed for] eating there is burning. Therefore it is stated, But that which remaineth of the flesh of the sacrifice, on the third day it shall be burnt with fire:[9] teaching, you must burn it by day, but you must not burn it by night. Since he states, . . .it may be eaten in the evening [‘or’] of the third day,’ it follows that or is evening. This proves it.

Come and hear: on the evening [‘or’] of the Day of Atonement one recites seven [benedictions] and confesses; in the morning service he recites seven and confesses; in the additional service[10] he recites seven and confesses; at minhah[11] he recites seven and confesses; (at ne'ilah — the concluding service — he recites seven and confesses);[12] in the evening service he recites [one benediction] embodying the eighteen; R. Hanina b. Gamaliel said on the authority of his fathers: He must recite the eighteen [benedictions] in full, because he must pronounce habdalah[13] in [the benediction] ‘Thou dost graciously grant knowledge’.[14] This proves that ‘or’ is evening. This proves it.

Come and hear: For the School of Samuel[15] learned: ‘In the evening[16] of the fourteenth leaven is searched for by the light of a lamp’; thus proving that ‘or’ is evening![17] The fact is both R. Huna and Rab Judah are alike, agreeing that ‘or’ is evening, and there is no controversy: each Master [speaks] in accordance with his locality. In R. Huna's town they called it naghe,[18] while in Rab Judah's town it is called night [lele].

And our Tanna, why does he not employ lele?[19] — He employs a refined expression, and in accordance with R. Joshua b. Levi. For R. Joshua b. Levi said: one should not utter a gross expression with his mouth, for lo! the Writ employs a circumlocution of eight letters[20] rather than utter a gross expression, for it is said, of every clean beast . . . and of the beasts that are not clean.[21] R. Papa said: Nine, for it is said, If there be among you any man, that is not clean by reason of that which chanceth by night.[22] Rabina said: Ten, [including] the waw of tahor.[23] R. Aha b. Jacob said: Sixteen, for it is said, for he thought, Something hath befallen him he is not clean; surely he is not clean.[24]

The School of R. Ishmael taught: one should always discourse in decent language, for lo!, the case of a zab[25] it is called riding, while in connection with a woman it is called sitting;[26] and it is said, and thou shalt choose the tongue of the subtle;[27] and it is said, and that which my lips know they shall speak purely.[28] Why [quote] ‘and it is said [etc.]’?[29] — [For] should you object, that is only in the case of Scripture,[30] but not in the case of Rabbinical [discussions], then come and hear, ‘and it is said, and thou shalt choose the tongue of the subtle’.[31] Yet should you [still] object, that is only in reference to Rabbinical [discussions] but not secular matters, — then come and hear, ‘and it is said, and that which my lips know they shall speak purely'.

Now, is riding not written in connection with a woman, but surely it is written, And Rebekah arose, and her damsels, and they rode upon the camels?[32] — There it was natural through fear of the camels.[33] But it is written, and Moses took his wife and his sons, and made them ride upon an ass?[34] — There

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(1) A woman must bring a sacrifice eighty-one days after the birth of a daughter (v. Lev. XII, 2.6). This sacrifice suffices also for a miscarriage within the eighty days, i.e., before it was due, but not for a miscarriage (or viable birth) from the eighty-first day and onwards, since by then it was already due on account of the first birth. Now, by the evening of the eighty-first day eighty days have already passed; on the other hand, since there are no sacrifices at night, she could not offer hers until the following morning. Beth Shammai and Beth Hillel accordingly differ as to whether that miscarriage entails a sacrifice or not.

(2) A discharge of blood on the eighty-first, whether in the evening or during the day, renders her unclean, — this is agreed by all. — A discharge between the fifteenth and the eightieth inclusive does not make her unclean; v. ibid. 5.

(3) Sc. the flesh of a peace-offering.

(4) Viz. the thanksoffering.

(5) I.e., only on the day they are brought.

(6) The thanksoffering may be eaten during the night following the day in which it is sacrificed.

(7) Lev. XIX, 6.

(8) After the expiration of the time allowed for its eating, i.e., on the evening of the third day.

(9) Lev. VII, 17.

(10) There is an additional service (musaf) on all Sabbaths and Festivals, corresponding to the additional sacrifices of those days.

(11) v. Glos.

(12) The bracketed passage is absent in our text but is supplied from Yoma 87b and Nid. 8b.

(13) V. Glos.

(14) The 'Prayer' par excellence on weekdays comprises eighteen (subsequently increased to nineteen) statutory benedictions; on Sabbaths and Festivals the first three and the last three only are recited, the intermediate twelve being omitted and replaced by one bearing on the nature of the day. A feature of all the services on the Day of Atonement is the 'confession', a recital of sins committed, not necessarily by the individual but by the people as a whole, for which reason it is couched in the plural — 'we have sinned'. The evening following the Day of Atonement is of course non-holy, but the first Tanna permits one benediction comprising the eighteen to be recited. Each of the benedictions bears a name, indicating its main subject: the fourth is designated, 'Thou dost graciously grant knowledge', as it is a prayer for knowledge and understanding, and on the termination of Sabbaths and Festivals habdalah is inserted in this benediction. For a full discussion of these benedictions v. J.E. art. Shemoneh 'Esreh; v. also Elbogen, J.G., 149f.

(15) The reading infra 7b is: the School of R. Ishmael.

(16) Lele — the very term employed by Rab Judah to define 'or' in our Mishnah.

(17) In refutation of R. Huna.

(18) Jast.: 'night-break'. Margin: light employed as a euphemism for darkness in the same way that a blind person is called a man with too much light.

(19) V. n. 3.

(20) I.e., uses eight letters more than is necessary.

(21) Gen. VII, 2; a single word, 'unclean', would save eight letters in the Hebrew text.

(22) Deut. XXIII, 11. Here too a single word 'unclean' would save nine letters in the Hebrew text.

(23) Tahor (טהור) is written plene, i.e.,with a waw, and that makes a difference of ten letters.

(24) I Sam. XX, 26.

(25) V. Glos.

(26) The reference is to Lev. XV, 9 and 20: And what saddle (or, carriage) soever he that hath issue rideth upon shall be unclean. Everything also that she sitteth upon shall be unclean. Actually the conditions of defilement are the same in both cases; nevertheless, Scripture did not speak of a woman's riding, because sitting is a more modest and decent conception.

(27) Job. XV, 5.
(28) Ibid. XXXIII, 3.
(29) What is the purpose of the additional quotations, seeing that the first verse proves his statement?
(30) Owing to its great sanctity.
(31) This is regarded as a positive injunction to speak subtly, i.e., with a due sense of the proprieties.
(32) Gen. XXIV, 61.
(33) A woman would ride properly, not merely sit on the side, through fear of falling down from the camel's high back.
(34) Ex. IV, 20.

Talmud - Mas. Pesachim 3b

it was natural on account of his sons. But it is written, And it was so, as she rode on her ass?[1] — There it was natural through fear of the night. Alternatively, there was no fear of the night, but there was fear of David. Another alternative: there was no fear of David either, but there was the fear of the mountain. Yet is not 'unclean' written in Scripture?[2] Rather wherever they are equal[ly convenient], [Scripture] discourses in a refined language; but wherever more words would be required, the shorter phraseology is employed. As R. Huna said in Rab's name — others say, R. Huna said in Rab's name on R. Meir's authority: one should always teach his pupil in concise terms. And where they are equal he discourses in refined speech? Yet surely 'riding' [rokebeth] and 'sitting' [yoshebeth] are alike [in length], yet 'riding' [rokebeth] is stated? — Rakebeth is stated.[3]

Two disciples sat before Rab. one said, This discussion has made us [as tired] as an exhausted swine;[4] while the other said, This discussion has made us [as tired] as an exhausted kid; and Rab would not speak to the former.

There were two disciples who sat before Hillel, one of whom was R. Johanan b. Zakkai-others state, before Rabbi, and one of them was R. Johanan: One said, Why must we vintage [grapes] in cleanness, yet need not gather [olives] in cleanness? While the other said: Why must we vintage in cleanness, yet may gather [olives] in uncleanness?[5] I am certain that the latter will be an authorized teacher[6] in Israel, he observed; and it did not take long before[7] he was an authorized teacher in Israel.

There were three priests: one said, I received as much as a bean [of the shewbread]; the second said, I received as much as an olive; while the third said, I received as much as a halta'ah's tail.[8] They investigated his pedigree[9] and found a blemish of unfitness in him.[10] But we learned: one must not investigate from the altar and above?[11] — Do not say, a blemish of unfitness, but a baseness which made him unfit.[12] Alternatively, there it was different, because he impaired his status himself.

A certain Syrian [i.e., non-Jew] used to go up and partake of the Passover sacrifices in Jerusalem, boasting: It is written, there shall no alien eat thereof. . . no uncircumcised person shall eat thereof,[13] yet I eat of the very best. Said R. Judah b. Bathyra to him: Did they supply you with the fat-tail? No, he replied. [Then] when you journey up thither say to them, Supply me with the fat-tail. When he went up he said to them, Supply me with the fat-tail. But the fat-tail belongs[14] to the Most High![15] they replied. Who told you [to do] this? they inquired. R. Judah b. Bathyra. answered he. What is this [matter] before us? they wondered. They investigated his pedigree, and discovered that he was a Syrian, and killed him.[16] Then they sent [a message] to R. Judah b. Bathyra: 'Peace be with thee,[17] R. Judah b. Bathyra, for thou art in Nisibis[18] yet thy net is spread in Jerusalem.'

R. Kahana fell sick. [So] the Rabbis sent R. Joshua son of R. Idi, instructing him, Go and find out what is wrong with him.[19] He went and found him dead.[20] Thereupon he rent his garment and turned the rent behind him[21] and went along weeping. He has died? asked they of him. I have not said it, he answered, 'for he that uttereth evil tidings is a fool'.[22] Johanan of Hukok[23] went out to some villages.[24] on his return he was asked, ‘Has the wheat crop been successful?’[25] ‘The barley crop has been successful,’ he replied.[26] ‘Go out and tell it to horses and asses,’ they retorted, ‘for it is written, Barley also and straw for the horses and swift steeds.’[27] What then should he have said? — Last year the wheat crop was successful; or, the lentil crop is successful.

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(1) I Sam. XXV, 20.

(2) It occurs many times. The circumlocution employed in the cited instances merely serves to indicate that delicate phraseology is a matter which must also enter into consideration, v. Rashi.

(3) I.e., rokebeth is written defectively, without a waw, which makes it shorter than yoshebeth. Yoshebeth could not be written defectively, as the defective form of yoshebeth has always a special meaning (Tosaf.). R. Han. reverses it: the full form of yoshebeth is required, as a particular deduction is made from it.

(4) Lit., ‘something else’ — the unmentionable. The rendering ‘exhausted’ is Rashi's. R. Han. renders differently.

(5) V. Shab. 17a and notes a.l. The point here is that one scholar avoided the use of the word ‘uncleanness’, while the other did not.

(6) Lit., ‘he will give teaching’.

(7) Lit., ‘it was not few days until’.

(8) This is a gross expression. Halta'ah is a species of lizard (Jast.).

(9) Lit., ‘after him’.

(10) They discovered that his genealogy was impure and that he was unfit to serve in the Temple.

(11) Once a priest has officiated at the altar the purity of his descent must be assumed, as priests were not allowed to officiate without full investigation in the first place.

(12) They found his own character too vile for officiating on the altar. According to this emendation, the literal translation ‘after him’ must be retained in the text.

(13) Ex. XII, 43,48.

(14) Lit., ‘goes up’.

(15) I.e., it is burnt on the altar.

(16) For a non-Jew might not even penetrate beyond a certain point within the Temple precincts on pain of death, and a public notice gave due warning of this. Josephus An’. XV, II, GR. ** 5.

(17) This is the customary greeting in Hebrew.

(18) In the north-east corner of Mesopotamia; it contained an important Jewish community. V. Obermeyer, p. 128-130.

(19) Lit., ‘what is his sentence?’

(20) Lit., ‘his soul had repose.’

(21) So that it should not be immediately perceptible — this was to lessen the shock.

(22) Prov. X, 18. E.V. . . . uttereth slander, etc.

(23) In Northern Palestine; v. Josh. XIX, 34.

(24) To inspect the crops.

(25) Lit., ‘comely’.

(26) By which they might understand that the former was not. He was unwilling actually to state the bad news.

(27) I Kings v, 8.

Talmud - Mas. Pesachim 4a

Rab was the son of R. Hiyya's brother and the son of his sister.[1] When he went up thither[2] he [R. Hiyya] asked him, ‘Is Aibu alive?’ ‘[Ask me whether] my mother is alive,’ he replied. ‘Is your mother alive?’ asked he. ‘Is then Aibu alive?’ he replied.[3] [Thereupon] he [R. Hiyya] said to his servant, ‘Take off my shoes and carry my [bathing] things after me to the baths.’ From this three [laws] may be inferred: [i] A mourner is forbidden to wear shoes; [ii] on a delayed report [of death][4] it [sc. mourning] is observed for one day only;[5] and [iii] part of the day is as the whole of it.[6]

A certain man used to say, ‘Judge my case’.[7] Said they, This proves that he is descended from Dan, for it is written, Dan shall judge his people, as one of the tribes of Israel.[8] A certain man was wont to go about and say, ‘By the sea shore thorn-bushes are fir-trees.’[9] They investigated and found that he was descended from Zebulun, for it is written, Zebulun shall dwell at the haven of the sea.[10] And now that it is established that all agree that ‘or’ means evening, consider: according to both R. Judah and R. Meir,[11] leaven is forbidden from six hours[12] and onward only, then let us search in the sixth [hour]? And should you answer, The zealous are early [to perform] religious duties, then let us search from the morning? For it is written, and in the eighth day the flesh of his foreskin shall be circumcised,[13] and it was taught: The whole day is valid for circumcision, but that the zealous are early [to perform] their religious duties, for it is said, And Abraham rose early in the morning![14] — Said R. Nahman b. Isaac: [It was fixed] at the hour when people are found at home, while the light of a lamp is good for searching.[15] Abaye observed: Therefore a scholar must not commence his regular session in the evening of the thirteenth breaking into the fourteenth, lest his studies absorb him[16] and he come to neglect his religious duty.

R. Nahman b. Isaac was asked: If one rents a house to his neighbour from the fourteenth, upon whom [rests the duty] to make the search? [Does it rest] upon the landlord, because the leaven is his; or perhaps upon the tenant, because the forbidden matter exists in his domain? Come and hear: If one rents a house to his neighbour, the tenant must affix a mezuzah![17] - There, surely R. Mesharsheya said: The mezuzah is the inhabitant's obligation; but how is it here? — Said R. Nahman b. Isaac to them, We learned it: If one rents a house to his neighbour, if the fourteenth occurs before he delivers him the keys, the landlord must make the search; while if the fourteenth occurs after he delivers the keys, the tenant must make search.

R. Nahman b. Isaac was asked: If one rents a house to his neighbour on the fourteenth, does it stand in the presumption of having been searched or not? What difference does it make? Let us ask him! — He is not present to be asked: hence what about troubling this one [the tenant]?[18] — Said R. Nahman b. Isaac to them, We have a teaching:[19] All are believed concerning the removal of leaven, even women, even slaves, even minors.[20] Now why are they believed?

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(1) Aibu, his father, was R. Hiyya's paternal brother, while Rab's mother was R. Hiyya's sister on his mother's side.

(2) To Palestine.

(3) Thus he intimated that they were both dead (Rashi). Tosaf. explains it differently on the strength of a different reading.

(4) I.e., which one receives after thirty days.

(5) Instead of the usual seven.

(6) The latter two follow from his order to take his bathing things to the baths. Thus he intended to observe mourning for a short while only and then proceed to the baths.

(7) In every dispute he insisted on going to law.

(8) Gen. XLIX, 16. Perhaps it is here translated: Dan shall enter into judgment with his people.

(9) Even the thorn-bushes there are as valuable as fir-trees elsewhere — an exaggerated way of expressing his love for the coast. Rashi offers another explanation: By the sea-shore would I build my palaces.

(10) Ibid. 13.

(11) v. Mishnah infra 11b.

(12) The day was reckoned from sunrise to sunset, hence six hours was about noon.

(13) Lev. XII, 3.

(14) Gen. XXII, 3.

(15) Hence the evening was appointed instead of the morning.

(16) Lit., ‘draw him away’.

(17) v. Glos. Presumably the same principle applies here!

(18) Must we put him to the trouble of making a search?

(19) Lit., ‘we have learned it’.

(20) Their testimony that the owner duly made a search is accepted.

Talmud - Mas. Pesachim 4b

Is it not because it stands in the presumption of having been searched, [the Tanna] holding, All are haberim[1] in respect to the searching of leaven.[2] For it was taught: If a haber dies and leaves a store-house full of produce [crops], even if they are but one day old,[3] they stand in the presumption of having been tithed.[4] How so: perhaps it is different here[5] because they [the woman, slave or minor] state it? — Has then the statement of these any substance?[6] What then [will you assume]? It stands in the presumption of having been searched? Then it should state, ‘All houses stand on the fourteenth in the presumption of having been searched’? — What then [will you assume]? It is because of the statement of these[7] [that the house is assumed to have been searched], but if these did not say [that it had been searched], it is not so? Then solve from this [teaching] that it does not stand in the presumption of having been searched! — No. In truth I may tell you [that generally][8] it does stand in the presumption of having been searched; but what we discuss here[5] is a case where we know for certain that he [the owner] did not search, but these[7] affirm. We searched it. You might say, Let not the Rabbis believe them. Therefore it informs us [that] since the search for leaven is [required only] by Rabbinical law, for by Scriptural law mere nullificationl suffices for it, the Rabbis gave them[9] credence in [respect to] a Rabbinical [enactment].

The scholars asked: What if one rents a house to his neighbour in the presumption of its having been searched, and he [the tenant] finds that it has not been searched? Is it as an erroneous bargain[10] or not? — Come and hear! For Abaye said: It is unnecessary [to say] of a town, where payment is not made [to others] for searching that a person is pleased to fulfil a precept personally;[11] but even in a town where payment is made for searching [it is not an erroneous bargain], because [it is to be assumed that] one is pleased to fulfil a precept with his money.[12]

We learned elsewhere: R. Meir said: one may eat [leaven] the whole of the five [hours][13] and must burn [it] at the beginning of the sixth.[14] R. Judah said: one may eat until four [hours],[15] hold it in suspense the whole of the fifth,[16] and must burn it at the beginning of the sixth.[17] Thus incidentally all agree that leaven is [Scripturally] forbidden from six hours [i.e., noon] and onwards: whence do we know it? — Said Abaye, Two verses are written: Seven days shall there be no leaven found in your houses;[18] and it is written, even [ak] the first day ye shall put away leaven out of your houses:[19] how is this [to be understood]?[20] It must include the fourteenth [as the day] for removal.[21] Yet say that it includes the night of the fifteenth [as the time] for removal; for one might argue, ‘days’ is written, [implying] only days but not nights: hence it [the verse] informs us that even nights [are included in the interdict]?[22] — That is unnecessary,

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(1) Plur. of haber; lit., ‘associates’. It denotes members of an association (haburah) who undertake to be very scrupulous in their religious observance, particularly in regard to uncleanness and tithes.

(2) I.e., all men are regarded as haberim in the matter under discussion, as it was universally observed.

(3) Only that day had they arrived at the stage when tithing etc. is obligatory. The stage is reached when the harvested produce is stacked up.

(4) Lit., ‘properly prepared’ — it may be assumed that the priestly and Levitical dues have been rendered. Similarly it is to be presumed that the landlord had searched the house before renting it.

(5) In the cited teaching.

(6) Their testimony is invalid where testimony is required.

(7) I.e., the woman, slave or minor.

(8) I.e., in a case such as submitted to R. Nahman b. Isaac. (12) A declaration by the owner that all leaven in the house is null and has no value whatsoever in his eyes.

(9) I.e., the woman, slave or minor.

(10) On the strength of which the tenant can retract.

(11) There the tenant is certainly unable to retract, as it is assumed that he, like all the others, is glad of this opportunity to fulfil personally a religious obligation.

(12) And even had he known beforehand that the house was not searched he would not have refrained from renting it;

hence he cannot retract now.

(13) I.e, until 11 a.m.

(14) But may not wait until the end of the sixth, i.e., noon (by which time it is Scripturally forbidden to have leaven in the house), because one can err in the time.

(15) Until 10 a.m.

(16) I.e., in that hour it may neither be eaten, nor need it be burned, but it can be given to animals.

(17) V. infra 11b.

(18) Ex. XII, 19.

(19) Ibid. 15.

(20) If the leaven is only put away on the first day, as the latter verse implies, there are not seven full days without leaven, as is intimated by the former verse.

(21) I.e., 'first' must mean the first (immediately) preceding day before the seven; cf. infra 5a.

(22) Thus 'yet at the first day', etc., may mean that at the very beginning of the seven days, i.e., on the evening of the fifteenth, all leaven must be removed, but there is no prohibition for any part of the fourteenth.

Talmud - Mas. Pesachim 5a

for the putting away of leaven is assimilated to [the prohibition of] eating leavened bread,[1] and the eating of leavened bread to the [precept of] the eating of unleavened bread. The putting away of leaven [is assimilated] to [the prohibition of] the eating of leavened bread, for it is written, seven days shall there be no leaven in your houses,' for whosoever eateth that which is leavened, that soul shall be cut off.[2] And [the prohibition of] the eating of leavened bread [is likened] to the [precept of] eating unleavened bread, because it is written, Ye shall eat nothing leavened; in all your habitations shall ye eat unleavened bread;[3] and in respect to unleavened bread it is written, at even ye shall eat unleavened bread.[4] Yet perhaps it is to include the night of fourteenth [as the time] for removal?[5] — 'The day' is written. Then say [that it must be removed] from the morning?[6] — 'Ak' divides [it].[7]

The School of R. Ishmael taught: We find that the fourteenth is called the first, as it is said, on the first, on the fourteenth day of the month.[8] R. Nahman b. Isaac said: 'The first'[9] [rishon] means the preceding, for the Writ saith, Wast thou born, before [rishon] Adam?[10] If so, and ye shall take you out the first [rishon] day,[11] — does 'rishon' here too mean the preceding? — There it is different, because it is written, and ye shall rejoice before the Lord your God seven days:[12] just as the seventh [means] the seventh of the Festival, so the first [means] the first of the Festival. [But] here too it is written, even the first day [rishon] ye shall put away leaven out of your houses. Seven days shall ye eat unleavened bread?[13] — If so, let Scripture write 'first' ['rishon']; why 'the first [ha-rishon]'? Infer from this [that it is required] for what we have stated. If so, there too[12] what is the purpose of 'the first' ['ha-rishon']? Moreover, when it is written there, on the first day shall be a solemn rest, and on the eighth day shall be a solemn rest,[14] say that rishon implies the preceding? There it is different, because Scripture saith, 'and on the eighth day shall be a solemn rest': just as 'eighth' means the eighth of the Festival, so 'first' means [the] first of the Festival. [But still] what is the purpose of 'the first' [ha-rishon]?[12] — In order to exclude the Intermediate days of the Festival.[15] [But the exclusion of] the Intermediate days of the Festival is derived from 'first' and 'eighth'? — It is [nevertheless] required: you might argue, since the Divine Law writes, and on the eighth day, the waw ['and'] indicates conjunction with the preceding subject, so [as to include] even the Intermediate days of the Festival too;[16] hence ha-rishon informs us [otherwise]. Then let Scripture write neither the waw nor the heh?[17] Moreover, when it is written there, In the first day [ha-rishon] ye shall have an holy convocation,[18] does 'rishon' mean the preceding?[19] Rather, these three [instances of] 'rishon' ['first'] are necessary for what the School of R. Ishmael taught. For the School of R. Ishmael taught: As a reward for [the observance of] the three 'firsts'[20] they [Israel] merited three firsts:[21] to destroy[22] the seed of Esau; the building of the Temple; and the name of the Messiah. 'To destroy the seed of Esau,' of whom it is written, And the first came forth red, all over like an hairy garment;[23] and 'the building of the Temple', whereof it is written, A glorious throne, set on high from the first[24] is the place of our sanctuary;[25] ‘and the name of Messiah,’ for it is written, First unto Zion, behold, behold them.[26]

Raba said, [It[27] is deduced] from here: Thou shalt not offer the blood of my sacrifice with leavened bread:[28] [that means,] thou shalt not kill the passover sacrifice while leavened bread is still in existence.[29] Then perhaps each person [must remove his leaven] when he kills [his sacrifice]?[30] Scripture meant the time for killing.[31]

It was taught likewise: ‘[Even] the first day ye shall put away leaven out of your houses’: [this means] on the eve of the Festival. Yet perhaps that is not so, but [rather] on the Festival itself? — Therefore it is stated, ‘thou shalt not offer the blood of thy sacrifice with leavened bread,’ [i.e.,] thou shalt not kill the Passover sacrifice while leavened bread still exists [in thy, house]: that is R. Ishmael's view. R. Akiba said, That is unnecessary: lo, it is said, ‘Even the first day ye shall put away leaven out of your houses’, and it is written, no manner of work shall be done in them;[32] while we find that kindling is a principal labour.[33] R. Jose said, It is unnecessary: lo, it is said, ‘Even [ak] on the first day ye shall put away leaven out of your houses’: [that means,] from the eve of the Festival. Or perhaps it is not so, but rather on the Festival? Therefore is stated, ‘Ak’, which serves to divide;[34] hence if [it means] on the Festival itself, can [part of it] be permitted? Surely the putting away of leaven is likened to [the prohibition of] eating leavened bread, while the prohibition of eating leavened bread is likened to [the duty of] eating unleavened bread.[35]

Said Raba:

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(1) Immediately the latter comes into force the former is obligatory.

(2) Ex. XII, 19.

(3) Ibid. 20. Hence from the very moment that the latter is operative the former is too, and consequently by then the leaven must already be removed.

(4) Ibid. 18. Hence no verse would be necessary to show that as soon as evening commences the leaven must be put away; therefore the verse quoted supra can only refer to the fourteenth.

(5) Since we see that leaven is to be removed on the fourteenth, perhaps it must be done at the beginning of the fourteenth, Sc. in the evening.

(6) As soon as day commences, not from midday.

(7) It is a general principle in Talmudic exegesis that ak and rak (only) imply limitations; thus ak divides the day, showing that the putting away takes place in the middle of the day, not at the beginning.

(8) Ibid.

(9) In verse 18.

(10) Job. XV, 7 (E.V.: Art thou the first man that was born). Hence Ex. XII, 15 is translated: yet on the preceding day — i.e., the fourteenth — ye shall put away, etc.

(11) Lev. XXIII, 40.

(12) Lev. XXIII, 40.

(13) By the same argument ‘rishon’ means first, not preceding. — Actually the order is reversed in Scripture.

(14) Ibid. 39.

(15) Lit., ‘the weekday (portion) of the Festival’. It teaches that these days enjoy semi-sanctity only, and work of an urgent nature is permitted.

(16) That work thereon is forbidden.

(17) The heh is the def. art. ‘the’ (ha). According to the present argument the heh (ha) merely neutralizes the possible teaching of the waw: then both should be omitted.

(18) Ibid. 7; the reference is to Passover.

(19) Surely not.

(20) The ‘first’ of Passover, the ‘first’ of Tabernacles, and the taking of the four species (v. 40) on the ‘first’ day of Tabernacles.

(21) Three things in connection with which ‘first’ is written.

(22) Lit., ‘cut off’.
(23) Gen. XXV, 25.
(24) E.V. beginning.
(25) Jer. XVII, 12.
(26) Isa. XLI, 27.
(27) Sc. that leaven is forbidden from midday on the fourteenth.
(28) Ex. XXXIV, 25.
(29) And since the sacrificing commences immediately after noon, it follows that the leaven must already be removed by then.
(30) Thus if he kills it at 4 p.m., leaven is permitted to him until that hour.
(31) When it is time to kill the sacrifice there must be no leaven in the house, as it is inconceivable that there should be no fixed hour applicable to all.
(32) Ibid. XII, 16.
(33) Forbidden on the Sabbath, and likewise on Festivals, save when required for the preparation of food. The leaven was burnt.
(34) V. Supra p. 15, n. 8.
(35) Supra.

Talmud - Mas. Pesachim 5b

Three things may be inferred from R. Akiba: [i] There is no [other] removal of leaven save [by] burning.[1] [ii] Kindling was singled out to indicate separation.[2] [iii] We do not say, since kindling was permitted when it is necessary [for the preparation of food], it was also permitted when it is unnecessary.[3]

Our Rabbis taught: Seven days shall there be no leaven found in your house:[4] why is this stated, seeing that it is already said, and there shall no leavened bread be seen unto thee, neither shall there be leaven seen unto thee, in all thy borders?[5] Because it is said, Neither shall there be leaven seen unto thee, [implying] thine own thou must not see, yet thou mayest see that belonging to others and to the Most High.[6] One might think that one may hide [leaven] or accept bailments [of leaven] from a Gentile:[7] therefore it is stated, it shall not be found [in your houses],[8] Now, I know this only of a Gentile who is not in your power[9] or does not dwell with you in the [same] court-yard; how do I know it of a Gentile who is in your power and dwells with you in the [same] court-yard? Because it is stated, [leaven] shall not be found in your houses. I know this only of that which is your houses; how do I know it of [leaven] in pits, ditches and cavities?[10] Because it is stated, [neither shall there be leaven seen with thee,] in all thy borders.[11] Yet I might still argue, [indeed on account of leaven] ‘in houses’ one transgresses the injunction against it being seen, found, and against hiding it and receiving [it as] bailments from a Gentile; whereas in [respect to leaven in] ‘thy borders’ [we say,] thine own thou must not see, yet thou mayest see that belonging to others and to the Most High. How do we [however] know to apply that which is stated in this [verse] to the other, and vice versa?[12] Therefore leaven is stated twice[13] for a gezerah shawah.[14] [Thus:] leaven is stated in connection with houses: ‘no leaven shall be found in your houses’,’ and leaven is stated in connection with the borders; ‘neither shall there be leaven seen with thee [in all thy borders]’: just as with the leaven which is stated in connection with houses, one transgresses the injunctions, it shall not be seen, it shall not be found, it shall not be hidden nor accepted as bailments from Gentiles, so with the leaven which is stated in connection with the borders, one violates the injunctions, it shall not be seen, it shall not be found, it shall not be hidden nor accepted as bailments from a Gentile. And just as with the leaven which is stated in connection with the borders, [only] thine own thou must not see, but thou mayest see that belonging to others and to the Most High, so with the leaven which is stated in connection with the houses, [only] thine own thou mayest not see, but thou mayest see that belonging to others and to the Most High.

The Master said: ‘I know this only of a Gentile who is not in your power or does not dwell with you in the [same] court-yard; how do I know it of a Gentile who is in your power or who dwells with you in the [same] court-yard? Because it is stated, [Leaven] shall not be found [in your houses].’ Whither does this tend?[15] — Said Abaye: Reverse it. Raba said: In truth you must not reverse it, but it refers to the first clause: ‘Thine own thou mayest not see, yet thou mayest see that belonging to others and to the Most High.’ I know this only of a Gentile who is not in your power or who does not dwell with you in the [same] court-yard.[16] How do I know it of one who is in your power or who dwells with you in the [same] court-yard? Because it is stated, ‘there shall not be found’. But this Tanna seeks permission yet cites a verse intimating a prohibition?[17] — Because ‘unto thee’ ‘unto thee’ is stated twice.[18] The Master said: ‘one might think that one may hide [leaven] or accept bailments [of leaven] from a Gentile; therefore it is stated, [leaven] shall not be found [in your houses].’ But you said in the first clause, ‘thine own thou mayest not see, yet thou mayest see that belonging to others and to the Most High?’ — There is no difficulty: the one is meant where he [the Israelite] accepts responsibility [for same]; the other, where he does not accept responsibility.[19] Just as Raba said to the townspeople of Mahuza:[20] Remove the leaven belonging to the troops from your houses:

power or who lives with you in the same court-yard is more likely to be meant than he who is independent or living away from you. since the former is more like yourself. Whereas here the latter is taken for granted, while proof is sought for the former. since it stands in your possession if lost or stolen, and you must requite [the loss], it is as yours and is forbidden.[21] Now, that is well on the view that that which causes [liability] for money is as money.[22] But on the view that it is not as money, what can be said? — Here it is different, because Scripture saith, ‘There shall not be found’.[23] Others say, That is well on the view that that which causes [liability] for money is not as money:

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(1) For if it can be destroyed in any other way, his proof falls to the ground.

(2) In Ex. XX, 10 work is forbidden on the Sabbath; this is repeated in XXXV, 2 and 3, with a special prohibition against kindling a fire. Now, kindling is prohibited by the general law of Ex. XX, 10: why then is it singled out? There are two views on this: (i) In order to teach that whereas other labours are punishable by death, this is merely punishable like any other negative precept, viz., by flagellation. (ii) To teach that if one does a number of separate acts on the Sabbath, e.g., seething, reaping, and threshing, they are accounted as separate offences, just as kindling was stated as a separate offence, and a sacrifice must be offered on account of each. Now the first view postulates that kindling is not a principal labour like the rest (v. Mishnah on Shab. 73a); hence R. Akiba must agree with the second view.

(3) There is such a view in Bez. 12b; if R. Akiba held it, his argument would lose its basis.

(4) Ex. XII, 19.

(5) Ex. XIII, 7. Though this is in a further chapter, the phrase, ‘seeing that it is already said’, is employed because it is a Talmudic principle that the written order of the Torah is not necessarily chronological.

(6) I.e, the sanctuary, this being the meaning of ‘unto thee’ (E.V.: with thee).

(7) For in the former case it cannot be seen, while in the latter it is not his property.

(8) It must not be there at all.

(9) Lit., ‘whom you have not subjugated’.

(10) Different shaped pits are connoted by these three words.

(11) Ex. XIII, 7.

(12) ‘For there shall not be found’ is written only in connection with ‘your houses’, while ‘unto thee’ is mentioned only in connection with ‘borders’; how do we know that the implications of the one verse hold good in respect of the other?

(13) Lit. ‘leaven, leaven’.

(14) V. Glos.

(15) Or, towards the tail! I.e., when you say that you must not accept deposits from a Gentile, obviously he who is in your

(16) He certainly comes under the category of ‘others’.

(17) According to Raba's explanation. when the Tanna says. ‘how do I know’, etc., his purpose is to show that there too it is permitted; while ‘there shall not be found’ intimates a more extended prohibition.

(18) Rashi: ‘Unto thee’ is written twice, once in the verse already quoted, and once in Deut. XVI, 4: and there shall be no leaven seen unto (E.V. with) thee in all thy borders seven days. Here too ‘unto thee’ is linked with seeing; since, however, it is superfluous in this connection, on account of the verse first quoted, it is applied to ‘there shalt not be found’, which is made to read: there shall not be found unto thee, ‘unto thee’ being a permissive limitation, and it is this which the Tanna quotes. — It is a principle of exegesis that if a word or phrase is superfluous in its own context, it is applied elsewhere. (The fact that ‘unto thee’ is written twice in Ex. XIII, 7 is not counted, since one refers to leaven and the other to leavened bread. — V. Bez. 7b.) R. Han. interprets it differently and more simply.
(19) If the Jew accepts responsibility for the bailment and must identify the owner against loss, it is as his own and must not be found in his house.
(20) A large Jewish commercial town on the Tigris. where Raba had his academy; v. obermeyer. pp. 169ff.
(21) Gentile troops were billeted in Jewish houses together with their food stores, for which the Jews were responsible.
(22) Hence though the leaven does not belong to the Jew, yet since it throws a financial responsibility upon him it is regarded as his, i.e., as his money or property.
(23) Which implies even if it is not his own and it can be applied only to such a case, since ‘unto thee’ excludes leaven in which he has no financial interest at all.

Talmud - Mas. Pesachim 6a

hence ‘there shall not be found’ is necessary. But on the view that it is as money. what is the purpose of ‘there shall not be found’?[1] — It is necessary: you might argue, since if in existence it is returned as it is,[2] it does not stand in his possession.[3] Hence he informs us [otherwise].

Raba was asked: Is cattle liable to arnona[4] subject to the law of firstlings or not?[5] Wherever one can put him off with money.[6] we do not ask, for he is [certainly] liable.[7] our problem arises where he cannot put him off with money: what then? He replied: It is not subject [thereto]. But surely it was taught: It [the animal] is subject [thereto]?-There it is a case where he can put him off with money. others state, Raba said: Cattle liable to arnona is not subject to the law of firstlings. even when he can put him off with money.[8] A dough [made of flour] liable to arnona[9] is subject to hallah.[10] What is the reason? [The facts about] cattle are generally known;[11] [the facts about a dough] are not generally known.[12]

Our Rabbis taught: If a Gentile enters an Israelite's court-yard with [leavened] dough in his hand,[13] he [the Israelite] is not obliged to remove it[14] if he deposits it with him, he is obliged to remove it;[15] if he assigns a room to him [for the dough], he is not obliged to remove it, because it is said, ‘[Leaven] shall not be found’. What does he [the Tanna] mean?[16] — Said R. Papa: He refers to the first clause, and says thus: If he deposits it with him, he is obliged to remove it, because it is said, ‘[Leaven] shall not be found’. R. Ashi said: After all it refers to the second clause, and he says thus: If he assigned a room to him he is not obliged to remove it, because it is said, ‘[Leaven] shall not be found in your houses,’ and this is not his [house], for when the Gentile carries in [the leaven], he carries it into his own house. Shall we say that renting confers a title?[17] But surely we learned: Even in the place where they [the Sages] permitted renting [to a heathen], they did not permit [renting] for a dwelling-house, because he [the heathen] introduces [his] idols therein.[18] Now if you should think that renting confers a title, when he introduces [the idols] he introduces [them] into his own house? — Here it is different, because the Divine Law expresses it in the form of ‘there shall not be found’, [implying] that which is found in your hand [is forbidden], which excludes this [case], since it is not found in your hand.

Rab Judah said in Rab's name: If one finds leaven in his house during the Festival, he overturns a vessel upon it.[19] Raba said: If

dough partly owned by a non-Jew; nevertheless this dough is subject to hallah, as explained in the text. it is of hekdesh,[20] this is unnecessary. What is the reason? He does indeed hold aloof from it.[21]

Rab Judah also said in Rab's name: Leaven belonging to a Gentile,[22] he [the Israelite] must set up a partition of ten handbreadths around it as a distinguishing mark;[23] but if it belongs to hekdesh this is unnecessary. What is the reason? People hold aloof from it.

Rab Judah also said in Rab's name: He who sets sail, and he who sets out in a [caravan] company, before thirty days [prior to Passover], is not bound to remove [the leaven]; if within thirty days, he is bound to remove [it]. Abaye observed: When you say, if within thirty days he is bound to remove it, we said this only where his intention is to return [during Passover]; but if it is not his intention to return, he is not bound to remove [it]. Said Raba to him: But if his intention is to return, even [if he sets out] on New Year too?[24] Rather, said Raba: When you say. if before thirty days he is not bound to remove it, we said this only where it is not his intention to return; but if his intention is to return, even [if he sets out] on New Year too. Now Raba is consistent with his view. For Raba said: If one turns his house into a granary[25] before thirty days [prior to the Passover], he is not bound to remove [the leaven];[26] if within thirty days, he is bound to remove it;[27] and even before thirty days too, we said this only when it is not his intention to clear it [the store of provisions] away; but if his intention is to clear it away, even before thirty days too he is bound to remove it.

What business have these thirty days?[28] — As it was taught: Questions are asked and lectures are given on the laws of Passover for thirty days before Passover. R. Simeon b. Gamaliel said: Two weeks. What is the reason of the first Tanna?

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(1) It is obviously forbidden, since it is just like his own!

(2) I.e., not lost or stolen or destroyed.

(3) In regard to the prohibition ‘there shall not be found’.

(4) Tax from crops and cattle paid in kind.

(5) Where a non-Jew has a share in an animal it is definitely not subject thereto; the question here is as explained in the text.

(6) I.e.,the king, to whom the tax is payable, will accept money instead of the animal.

(7) The owner is bound to render it as a firstling.

(8) Because until he does pay him off the non-Jew has a claim upon it.

(9) I.e., a dough from which arnona is paid.

(10) V. Glos. and Num. XV, 20f: of the first of your dough ye shall offer up a cake for an heave-offering . . . of the first of your dough ye shall give unto the Lord an heave-offering throughout your generations. Here too ‘your’ excludes

(11) Lit., ‘an animal has a sound (voice)’ — i.e., it will be known that it belongs to a herd liable to arnona.

(12) The on-looker does not know that the dough is made of flour subject to arnona and may suspect him of violating the law.

(13) On the fourteenth of Nisan after noon, when leaven is forbidden.

(14) Since it is not his, v. supra 5b.

(15) Where he accepts responsibility for same.

(16) If anything the quotation intimates the reverse.

(17) So that the house becomes legally the non-Jew's.

(18) A.Z. 21a.

(19) It must not be handled and carried out, because it is mukzeh (v. Glos.), since it cannot be put to any use, all benefit from leaven being forbidden during Passover. He therefore covers it over with a vessel and burns it in the evening on the termination of the Festival.

(20) V. Glos.

(21) In any case, since it is hekdesh.

(22) In a Jew's house.

(23) The reference here is to the fourteenth, and the partition is needed lest he forget himself and eat it, The overturning of a vessel upon it does not suffice here lest he might remove it in the course of the seven days.

(24) He must still remove it, since he will be in the house on Passover.

(25) I.e.,he stores provisions in it, and under them lies leaven.
(26) By being buried under his provisions it is as though it were removed.
(27) Because the obligation to remove it becomes operative in this period, and one cannot remove it thus at the very outset.
(28) Why is the matter dependent on this period?

Talmud - Mas. Pesachim 6b

Because lo! Moses was standing on the First Passover and giving instructions about the Second Passover,[1] as it is said, Moreover, let the children of Israel keep the passover in its appointed season;[2] and it is written, And there were certain men, who were unclean by the dead body of a man.[3] And R. Simeon b. Gamaliel?[4] — He answers you: Because he was engaged in the laws of Passover, he instructed them[5] in all the laws of Passover. What is R. Simeon b. Gamaliel's reason? Because lo! Moses was standing at the beginning of the month and giving orders about the Passover, as it is said, This month shall be unto you the beginning of months: it shall be the first month of the year to you.[6] And it is written, Speak ye unto all the congregation of Israel, saying, In the tenth day of this month they shall take to them every man a lamb, according to their father's houses, etc.[6] But how do you know that he was standing at the beginning of the month; perhaps he was standing on the fourth or the fifth of the month? Rather, said Rabbah b. Shimi in Rabina's name, [It is deduced] from here: And the Lord spake unto Moses in the wilderness of Sinai, in the first month of the second year;[7] and it is written, Moreover let the children of Israel keep the passover in its appointed season.[8] But here too, how do you know that he was standing at the beginning of the month: perhaps he was standing on the fourth or the fifth of the month? — Said R. Nahman b. Isaac: [The implication of] ‘wilderness’ [here] is learned from ‘wilderness’ [elsewhere]. Here it is written, ‘in the wilderness of Sinai’,’ while there it is written, And the Lord spake unto Moses in the wilderness of Sinai, in the tent of meeting, on the first day of the second month:[9] just as there [it was] at the beginning of the month, so here too at the beginning of the month.

Now, let [the events of] the first month be written first, and then that of the second month?[10] — Said R. Menasia b. Tahlifa in Rab's name: This proves that there is no chronological order[11] in the Torah. R. Papa observed: This was said only of two subjects; but in the same subject what is earlier is earlier and what is later is later. For should you not say thus, [how, then, apply the principle that] when a general proposition is followed by a particular specification the general proposition comprises only what is contained in the particular specification; perhaps it is a particular specification followed by a general proposition! Moreover, [it is a principle that] when a particular specification is followed by a general proposition, the generalization becomes an addition to the specification,[12] [here too] perhaps it is a generalization followed by a particularization! But if so, the same [question] applies even to two subjects? Now, that is well on the view that [when] a generalization and a specification [are] at a distance from each other, we do not interpret[13] them as a generalization followed by a specification, then it is correct. But on the view that we do interpret [them thus], what can be said?[14] — Even on the view that we do interpret, that is only [when they occur] in the same subject; but [when] in two subjects we do not interpret [them thus].

Rab Judah said in Rab's name: He who searches [for leaven] must [also] declare it null.[15] What is the reason? Shall we say [it is] because of crumbs[16] — but they are of no value?[17] And should you answer, since they are guarded in virtue of his house,[18] they are of account, surely it was taught: [If there are in a man's field] late figs, while he guards his field on account of the grapes; or if there are late grapes, while he guards his field on account of his cucumbers and gourds,[19] when the owner is particular about them, they are forbidden [to a stranger] as theft and are subject to tithes; when the owner is not particular about them, they are not forbidden as theft and are exempt from tithe![20] — Said Raba: It is a preventive measure, lest he find a tasty loaf[21] and [set] his mind upon it.[22] Then let him annul it when he finds it? — He may find it after the interdict [commences], and then it does not stand in his ownership and [so] he cannot annul it. For R. Eleazar said: Two things are not in a man's ownership, yet the Writ regarded them as though they were in his ownership. And these are they: a pit in public ground[23] and leaven from six hours[24] and onwards.[25] Then let him annul it at the fourth or the fifth [hour]?[26] — Since it is neither the time of the prohibition nor the time of searching, he may transgress and not annul it.

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(1) I.e., the Passover celebrated on the fourteenth of the second month by those who were unable to celebrate it at the proper time.

(2) Num. IX, 2.

(3) Ibid. 6. The narrative relates how Moses gave instructions about the second Passover, vv. 9 seq.

(4) How does he refute this proof?

(5) Lit., 'completed for them'.

(6) Ex. XII, 2f.

(7) Num. IX, 1.

(8) And from the beginning of the month until Passover is two weeks.

(9) Num. I, 1.

(10) Num. I, 1ff is chronologically a month later than IX. 1ff; why is it not written in that order?

(11) Lit., 'earlier and later'.

(12) So as to include all things implied in the generalization.

(13) Lit., 'judge'.

(14) v. B.K. 85a.

(15) I.e., of no account and valueless and free to all.

(16) Which may escape his search.

(17) They are therefore null in any case.

(18) When he guards his house he ipso facto guards these crumbs.

(19) The late figs and grapes which remain after the harvest never fully ripen. Here they are in a field which is guarded from intruders not for their sake but because it contains other crops yet to be gathered.

(20) Because they are regarded as ownerless, and such are exempt from tithe. Thus though they are incidentally guarded, that does not give them any value, and the same should apply here.

(21) גלוסקא, a loaf made from a special brand of white flour.

(22) To keep it until after Passover.

(23) He who digs a pit in public ground is responsible for any damage it may cause, as though it were his property, though actually it is not.

(24) I.e., noon.

(25) One is culpable for its presence in his house then, though technically speaking it is no longer his.

(26) I.e., any time in the morning before noon, when it is still his. Why particularly the preceding evening, when he is making the search?

Talmud - Mas. Pesachim 7a

Then let him annul it in the sixth [hour]?[1] — Since the Rabbinical interdict is upon it,[2] it is like a Scriptural [interdict] and does not stand in his ownership, hence he cannot annul it. For R. Gidal said in R. Hiyya b. Joseph's name in Rab's name: He who betroths from the sixth hour and onwards, even with wheat of Cordyene,[3] we have no fear of his betrothal.[4]

But, is he unable to annul it after the prohibition [commences]? Surely it was taught: If he is sitting in the Beth Hamidrash and recollects that he has leaven at home, he annuls it in his heart, whether it is the Sabbath or the Festival. Now as for the Sabbath, it is well: this is possible where the fourteenth [of Nisan] falls on the Sabbath;[5] but the Festival is after the prohibition [commences]?[6] — Said R. Aha b. Jacob: We treat here of a disciple sitting before his master, and he recollects that he has a rolled dough[7] at home and fears that it may turn leaven; [therefore] he anticipates and annuls it before it turns leaven. This may be proved too: for it states, 'If he is sitting in the Beth Hamidrash'.[8]

This proves it.

Rabbah the son of R. Huna said in Rab's name: If a loaf went mouldy, if mazzah[9] exceeds it [in quantity], it is permitted.[10] How is it meant? Shall we say that he [the owner] knows that this [loaf] is leaven, what then matters it if the mazzah does exceed it?[11] Again if we do not know whether it is leaven or mazzah, then why particularly if the mazzah exceeds it; even if the mazzah does not exceed it too, let us go after the last?[12] Did we not learn: Money found in front of cattle dealers at all times is [accounted as] tithe; on the Temple Mount, it is hullin;[9] in [the rest of] Jerusalem, at any other part of the year. it is hullin; at the Festival season, it is tithe.[13] And R. Shemaia b. Zera observed thereon: What is the reason? Because the streets of Jerusalem[14] were swept daily. This proves that we assume: the earlier[losses] have gone. and these [coins] are different ones. So here too let us say: the earlier[bread] has gone and this is of the present?[15] — Here it is different, because its mouldiness proves its status.[16] If its mouldiness proves its status, what does it matter if the mazzah exceeds it? — Said Rabbah. Do not say, ‘if the mazzah exceeds it’, but say, ‘many days of mazzah have passed over it’.[17] If so, it is obvious? — This is necessary only where it is very mouldy; you might argue, since it is very mouldy it is clear that it is certainly true leaven; therefore he informs us that since many days of mazzah have passed over it we say: every day hot mazzah[18] was baked and thrown thereon, and that made it very mouldy.

Yet do we follow the last? Surely it was taught. R. Jose b. Judah said: If a chest was used for money of hullin and money of tithe,[19] if it was mostly hullin, it [the money found therein] is hullin; if mostly tithe, it is tithe. But why so? let us go after the last?-Said R. Nahman b. Isaac: of what do we treat here? E.g., where it was used for money of hullin and money of tithe, and one does not know which was last. R. Zebid said: E.g., where it was used for separate packages.[20] R. Papa said: E.g., if it was found in a pit.[21]

of peace-offerings; when one could not stay long enough in Jerusalem to expend all his tithe money, he would distribute it among the poor or give it to his friends in Jerusalem. Consequently, if money is found in front of cattle dealers, whatever the time of the year, it is assumed to be of the second tithe. On the other hand, if it is found on the Temple Mount, we assume it to be hullin, even at Festival time, when most of money handled is tithe, because the greater part of the year is not Festival, and then ordinary hullin is in circulation and this money might have been lost before the Festival. But if found in the streets of Jerusalem, a distinction is drawn, as stated in the text. Rab Judah said: He who searches [for leaven] must pronounce a benediction. What benediction does he pronounce? R. Pappi said in Raba's name: ‘[. . . who hast commanded us] to remove leaven’. R. Papa said in Raba's name: ‘[. . . who hast coúmanded us] concerning the removal of leaven’. As for [the phrase] ‘to remove,’ there is no disagreement at all that it certainly implies in the future.[22]

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(1) He is not likely to forget it then, since he is engaged in burning it.

(2) On all views, v. supra 4b.

(3) A district lying to the east of the river Tigris, south of Armenia. — That wheat is very hard and does not easily become leaven; nevertheless if moisture had fallen upon it after being harvested it is regarded as leaven.

(4) The betrothal is definitely invalid, because the wheat has no value because of the Rabbi ical interdict, whereas for betrothal something of value is required (v. Kid. 2a). — Thus although the interdict at that hour is only Rabbinical, the leaven is regarded as completely valueless; hence not under his ownership.

(5) And he recollects before the sixth hour.

(6) How can he annul it then?

(7) I.e., a dough kneaded but not baked. He cannot leave the Beth Hamidrash to attend to it out of respect to his Master.

(8) If it is already leaven, what does it matter where he is; even if he were at home he could do nothing else?

(9) V. Glos.

(10) This is now assumed to mean: if there is more mazzah in the bin than this mouldy loaf, the whole is permitted.

(11) Surely a loaf known to be leaven cannot be permitted on that account?

(12) I.e.,let us assume that this loaf is of the latest batch which was put there, i.e., it is mazzah, since a bread bin is cleared out every day, in order to prevent the bread from going mouldy — a necessary precaution in the hot eastern countries — and particularly so in this case, when there had been a search for leaven before the Festival.
(13) Shek. VII, 2. If money is found in Jerusalem, the question arises, what is its status — is it ordinary secular coins (hullin) or tithe money? This was because the second tithe (v. Deut. XIV, 22ff this was designated second-tithe) had to be eaten in Jerusalem or its monetary equivalent expended there, which money likewise was governed by the law of second tithe. Now, most of the flesh eaten in Jerusalem was bought with second-tithe money, and generally took the form
(14) But not the Temple Mount.
(15) I.e., unleavened.
(16) It must have been there a considerable time, hence it is leaven.
(17) I.e., several days of Passover have gone, and so this had had time to go mouldy even if baked as mazzah at the beginning of the Festival.
(18) Lit., ‘bread’.
(19) And now we find money in it and do not know which it is.
(20) Of money, some being hullin and others tithe, and both were there on the same day.
(21) We cannot assume that the earlier coins had been removed while these were of the most recent deposit, because it might have been overlooked in a pit.
(22) I.e. , it implies that the removal is still to be done. This phraseology is therefore certainly admitted, because a benediction is always recited prior to the actual performance of the precept to which it refers.

Talmud - Mas. Pesachim 7b

They differ only in respect of ‘concerning the removal’: one Master holds that it implies in the past;[1] while the other Master holds: It implies in the future.

An objection is raised: ‘Blessed [art Thou] . . . who hast sanctified us with Thy commandments and hast commanded us concerning circumcision’?[2] — How [else] should he say [it] there? Shall he say, ‘to circumcise’ — is it imperative that he should circumcise?[3] Then what can be said of the father of the infant?[4] — Then indeed it is so.[5]

An objection is raised: ‘Blessed [art Thou] . . . who hast sanctified us with Thy commandments and hast commanded us concerning shechitah’?[6] — There too, how [else] shall he say it: shall he say ‘to slaughter,’ — is it imperative that he should slaughter? Then what can be said of the Passover sacrifice and [other] sacrifices?[7] — [There] indeed it is so.[8]

An objection is raised: If one prepares a lulab[6] for himself, he recites the blessing,’. . . who hast kept us in life and hast preserved us and hast suffered us to reach this season’. When he takes it in order to fulfil his obligation therewith,[9] he recites:’ . . . who hast sanctified us with Thy commandments and hast commanded us concerning the taking of the lulab?’[10] There it is different, because in the [very] moment that he lifts it up his duty is fulfilled.[11] If so, [instead of stating] ‘in order to fulfil his obligation therewith,’ he should say. ‘having fulfilled his obligation therewith?’ — That indeed is so, but because he desires to teach ‘to sit in the sukkah’[12] in the second clause, he also states in the first clause, ‘to fulfil his obligation therewith’ — For he teaches in the second clause: He who makes a sukkah for himself recites: ‘Blessed art thou, O Lord . . . who has kept us in life and hast preserved us and hast enabled us to reach this season’. When he enters to sit therein he recites: ‘Blessed [art Thou] ... who hast sanctified us with Thy commandments and hast commanded us to sit in the sukkah.’[13] And the law is: [He recites,] ‘concerning the removal of leaven’.[14]

Now incidentally all agree that we must recite the benediction beforehand:[15] how do we know it? — Because Rab Judah said in Samuel's name: For all precepts a benediction is recited prior [‘ober] to their being performed — Where is it implied that this [word] ‘ober connotes priority? — Said R.

Nahman b. Isaac, Because Scripture saith, Then Ahimaaz ran by the way of the Plain and overran [wa-ya'abor] the Cushite.[16] Abaye said, [It follows] from this: and he himself passed over [‘abar] before them;[17] alternatively, from this: and their king is passed on [wa-ya'abor] before them, and the Lord at the head of them.[18]

The School of Rab said: Except [for] a ritual bath and shofar.[19] As for a ritual bath, it is well, because the person is not yet fit;[20] but what is the reason for the shofar? And should you say, because he may sound the blast [teki'ah] incorrectly;[21] if so, the same applies even to shechitah, and circumcision too? Rather, said R. Hisda: Except for a ritual bath alone was stated. It was taught likewise: When one has a ritual bath and ascends [from the bath], on his ascending he recites: Blessed [art Thou] . . . who hast sanctified us with Thy commandments and hast commanded us concerning tebillah’.

BY THE LIGHT OF A LAMP, etc. How do we know this? — Said R. Hisda: By deriving [the meaning of] ‘finding’ from ‘finding’ and ‘finding’ from ‘searching’, and ‘searching’ from ‘searching’, and ‘searching’ from ‘lamps’, and ‘lamps’ from ‘lamp’:[22] [Thus:] ‘finding’ from ‘finding’: here it is written, seven days shall there be no leaven found in your houses,[23] while elsewhere it is written, and he searched, and began at the eldest, and left at the youngest: and the cup was found [in Benjamin's sack].[24] ‘Finding’ [is learned] from ‘searching’ [mentioned] in its own connection.[25] And ‘searching’ from ‘lamps’, as it is written, And it shall come to pass at that time, that I will search Jerusalem with lamps.[26] And ‘lamps’ from ‘lamp’, for it is written, The soul of man is the lamp of the Lord, searching all the innermost parts of the belly.[27]

The School of R. Ishmael taught: In the evening of the fourteenth leaven is searched for by the light of a lamp. Though there is no proof of this, there is an allusion to it, because it is said, ‘seven days shall there be no leaven [in your houses]’; and it is said, ‘and he searched, and began at the eldest, and left at the youngest: and the cup was found [in Benjamin's sack]’; and it is said, ‘And it shall come to pass at that time, that I will search Jerusalem with lamps’. and it is said, ‘The soul of man is the lamp of the Lord, searching [all the innermost parts of the belly]’. What is the purpose of the additional quotations?[28] And should you answer, this ‘at that time’ is a statement of lenient treatment by the Merciful One, [viz.,] ‘I will not search Jerusalem with the light of a torch, which gives much light, but only with the light of a lamp, the light of which is much smaller, so that great wrongdoing will be found out but petty wrongdoing will not be found out,[29] — then come and hear! ‘The soul of man is the lamp of the Lord, [searching. etc.]’.[30]

Our Rabbis taught: one may not search either by the light of the sun or by the light of the moon, or by the light of a torch, save by the light of a lamp,

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(1) I.e.,the removal has already been done. Hence this formula is inadmissible.

(2) Not, ‘to circumcise’.

(3) Lit., ‘is there no way that he should not circumcise’? — i.e., the obligation does not rest primarily upon the circumciser, but upon the father, whereas if the former said ‘to circumcise’, it would imply that it is his personal duty in every case.

(4) What if the father circumcises?

(5) He must say ‘to circumcise’.

(6) V. Glos.

(7) Lit., ‘sacred (animals)’. The obligation of slaughtering a sacrifice rests primarily upon its owner.

(8) He must say ‘to slaughter’.

(9) V. Lev. XXIII, 40.

(10) But not ‘to take the lubab’.

(11) Hence he is reciting the blessing after performing the precept, and so he cannot say ‘to take’; v. Supra.

(12) V. Glos.

(13) And there the future is required because it is an obligation during the whole week of Tabernacles.

(14) That too implies the future. Consequently, this form is used by all in circumcision and shechitah.

(15) Before actually performing the precept.

(16) II Sam. XVIII, 23. I.e., he passed in front of him, and similarly ‘ober, which is derived from the same root as wa-ya'abor, means in front of, i.e., prior to’

(17) Gen. XXXIII, 3.

(18) Mic. II, 13.

(19) V. Glos. Here the benediction is recited after the fulfilment of the precept.

(20) E.g., one who is unclean through nocturnal pollution may not recite a blessing; hence he is obviously unfit to recite the blessing until after the ritual bath, and all others requiring a ritual bath were treated likewise (Rashi).

(21) In which case the obligation is not fulfilled and the benediction was unnecessarily recited, which is prohibited.

(22) As explained in the text.

(23) Ex. XII, 19.

(24) Gen. XLIV, 12.

(25) I.e., in the verse just quoted ‘finding’ and ‘searching’ are linked together.

(26) Zeph. I, 12.

(27) Prov. XX, 27. By comparing all these verses we learn that in order that leaven may not be found in the house it must be searched out by lamplight.

(28) Lit., ‘what is (the purpose of) "and it is said"?’

(29) But this verse does not prove that the searching for leaven too may be carried out merely with a lamp — perhaps a torch is required.

(30) Thus a single lamp suffices for a search.

Talmud - Mas. Pesachim 8a

because the light of a lamp is suitable for searching. And though there is no proof of the matter yet there is a hint of it, for it is said, ‘seven days shall there be no leaven found [in your houses]’; and it is said, ‘and he searched, and began at the eldest, [etc.]’; and it is said, ‘and it shall come to pass at that time, that I will search Jerusalem with lamps’; and it is said, ‘The soul of man is the lamp of the Lord, searching all the innermost parts of the belly’.

This light of the sun, where is it meant? Shall we say, in a courtyard, — but Raba said: A court-yard does not require searching, because birds frequent it.[1] While if in a hall,[2] — but Raba said: A hall is searched by its own light? — This is meant only in respect of a skylight in a room. But [then] what part of it? If [that which is] opposite the skylight, then it is the same as a hall? — Rather, it means [the part of the room] at the sides.

And not [by the light of] a torch? Surely Raba said, What is the meaning of the verse, And his brightness was as the light; he had rays coming forth from his hand: and there was hiding of his power?[3] To what are the righteous comparable in the presence of the Shechinah? To a lamp in the presence of a torch.[4] And Raba also said: [To use] a torch for habdalah[5] is the most preferable [way of performing this] duty? — Said R. Nahman b. Isaac: The one[6] can be brought into holes and chinks [in the wall], whereas the other[7] cannot be brought into holes and chinks. R. Zebid said: The one[6] [throws] its light forward, whereas the other[7] [throws] its light behind.[8] R. Papa said: Here [with a torch] one is afraid, whereas there [with a lamp] one is not afraid.[9] Rabina said: The light of the one[6] is steady. whereas that of the other[7] is fitful.[10] EVERY PLACE WHEREIN LEAVEN IS NOT TAKEN, etc. What does EVERY PLACE add? — It adds the following taught by our Rabbis: The topmost and the nethernmost holes of a room,[11] the roof of the verandah,[12] the roof of a turret,[13] a cow's stable, hen-coops, a shed for straw, and store-houses of wine and oil do not need searching.[14] R. Simeon b. Gamaliel said: A bed which makes a division in a room,[15] and leaves a space[16] needs searching. But the following contradicts it: A hole [lying] between a man and his neighbour,[17] this one searches as far as his hand reaches and that one searches as far as his hand reaches,[18] and the rest he annuls in his heart. R. Simeon b. Gamaliel said: A bed which makes a division in a room, timber and stones being arranged under it, and it leaves a space.[19] does not require searching. Thus [the rulings on] a bed are contradictory and [those on] holes are contradictory? [The rulings on] holes are not contradictory: the one refers to the topmost and the nethermost;[20] the other to [holes in] the middle [of the wall]. [The rulings on] a bed are not contradictory: here it is raised; there it is low down.[21]

But, do not store-houses of wine require searching? Surely it was taught. Store-houses of wine need searching; stores of oil do not need searching? — The case we discuss here is where one draws his [immediate] supplies [from it].[22] If so, oil too? — As for oil, there is a limit to eating; but [in respect to] wine, there is no limit to drinking.[23] R. Hiyya taught: Stores of beer in Babylonia were made the same as stores of wine in Palestine, where one draws his supplies from them.[24]

R. Hisda said: A fish pantry does not require searching. But it was taught [that] they require searching? — There is no difficulty: the one treats of large [fish]; the other of small.[25] Rabbah son of R. Huna said: Salt sheds and wax sheds[26] need searching.[27] R. Papa said: Storehouses for fuel[28] and storehouses for dates need searching. A Tanna taught: We do not oblige him to insert his hand into holes and chinks and search [there], on account of the danger. Which danger? Shall we say. the danger of a snake, — then when he used it, how could he use it? — This arises only where it [the wall] collapsed.[29] But if it collapsed, why do I need searching [at all]? Surely we learned: If ruins collapsed on leaven, it is regarded as removed? — There [the circumstances are] that a dog cannot search it out; here, that a dog can search it out. But R. Eleazar said: Those sent [to perform] a religious duty do not suffer harm? — Said R. Ashi: He may have lost a needle and come to look for it.[30] But is it not [regarded as the fulfilment of] a religious duty in such a case? Surely it was taught: If one declares, ‘This sela’[31] be for charity in order that my son may live,’ or, ‘that I may merit the future world,’[32]

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(1) And eat up all crumbs.

(2) אכסדרה is a pillared hall or a piazza, open on top, running in front of large houses.

(3) Hab. III, 4.

(4) Even as the light of a lamp pales before that of a torch, so does the light of the righteous before that of the Almighty. Thus a torch gives more light, and therefore it is even better than a lamp.

(5) V. Glos. A blessing is pronounced over fire for which a light must be kindled.

(6) A lamp.

(7) A torch.

(8) Therefore it is not suitable for searching.

(9) The great flame of a torch may set fire to the house; therefore his preoccupation with this fear will hinder a man from a proper search.

(10) A torch throws an unsteady, wavering light.

(11) I.e., those which are very high up or very low down in the wall, so that it is inconvenient to use them.

(12) A balcony with a sloping roof, which could not be used; other parts of the house had a flat roof.

(13) A kind of safe in which food and utensils were kept. The inside had to be searched but not the roof.

(14) No leaven is taken, into any of these.

(15) I.e., it stands in the centre, dividing the room into two parts used for separate purposes.

(16) There is a space between it and the floor, as it stands on legs.

(17) I.e., in a wall separating two rooms or houses tenanted by different people. the hole passing right through from one side of the wall to the other.

(18) E.g.. when the wall is very thick.

(19) Between the bottom of the bed and the timber.

(20) V. p. 33. n. 7.

(21) If the bottom of the bed is well raised from the ground the space beneath it can be used quite easily. But if it is low down, even if a space is left it is not easy to use it, hence it need not be searched.

(22) E.g., a private wine cellar. The servant may enter to take wine for the table while holding bread in his hand.

(23) How much oil is to be consumed at a meal can be gauged beforehand, and further supplies will not be required. But one cannot determine beforehand how much wine will be drunk.

(24) They must be searched.

(25) If large fish are stored there it will be unnecessary to bring more to the table during the meal; but in the case of small fish this may be necessary, and so it must be searched.

(26) I.e.,the places where these are kept.

(27) Salt and candles being sometimes unexpectedly required during the meal.

(28) Wood-chips, twigs, etc.

(29) Snakes are often found among debris, hence only the top of the ruins must be searched, but one need not investigate below the surface.

(30) While searching for the leaven. He is, not being exclusively engaged on a religious task, exposed to danger.

(31) A coin.

(32) Lit., 'that I may be a son of the future world'. On the 'future world' v. Sanh., Sonc. ed. p. 601, n. 3.

Talmud - Mas. Pesachim 8b

he is completely righteous.[1] — Perhaps after he searched [for the leaven] he will come to look for it. R. Nahman b. Isaac said: [It means] on account of the danger of Gentiles, this agreeing with Pelimo. For it was taught: [In the case of] a hole between a Jew and a Syrian [i.e., a Gentile], he must search as far as his hand reaches, and the rest he annuls in his heart. Pelimo said: He does not search it at all, on account of the danger. [Now] what is the danger? Shall we say, the danger of witchcraft,[2] — then when he used it, how did he use it? — There when he used it it was day and there was light, therefore [the Gentile] would not suspect anything;[3] but here it is night and a lamp [is used]; hence he will suspect. But R. Eleazar said: Those sent [to perform] a religious duty do not suffer harm?[4] — Where the injury is probable it is different, for it is said, And Samuel said, How can I go? if Saul hear it, he will kill me. And the Lord said, Take a heifer with thee, etc.[5]

Rab was asked: Scholars who reside out of town, can they come in the early morning or after nightfall to the academy?[6] — He replied: Let them come, [the risk be] upon myself and my neck. What about returning?[7] I do not know, he answered them. It was stated: R. Eleazar said: Those sent [to perform] a religious duty will not suffer hurt, neither in their going nor in their returning. With whom [does this agree]? — With this Tanna: for it was taught. Issi b. Judah said: Seeing that the Torah said, no man shall desire thy land [when thou goest up to appear before the Lord thy God . . .],[8] it teaches that your cow will graze in the meadow and no [wild] beast will hurt it; your fowl will go scratching in the dungheap and no weasel will injure it. Now does this not furnish an argument a minori? If these, whose nature it is to be hurt, will not be hurt; then human beings, for whom it is not natural to be hurt, how much more so![9] I know it only in respect of going: how do I know it of returning? Because it is stated, and thou shalt turn in the morning, and go [back] unto thy tents:[10] this teaches that you will go and find your tent in peace. But since [he is safe] even on [his] return, why [intimate it] in respect of going?[11] — [That is necessary] for R. Ammi's [teaching]. For R. Ammi said: Every man who owns land must make the Festival pilgrimage; but he who does not own land need not make the Festival pilgrimage.[12]

R. Abin son of R. Adda said in R. Isaac's name: Why are there no fruits of Gennesaret[13] in Jerusalem? So that the Festival pilgrims should not say. 'Had we merely ascended in order to eat the fruits of Gennesaret in Jerusalem it would have sufficed us,' with the result[14] that the pilgrimage would not be for its own sake. Similarly R. Dosethai son of R. Jannai said: Why are the thermal springs of Tiberias not [found] in Jerusalem? So that the Festival pilgrims should not say. 'Had we merely ascended in order to bathe in the thermal springs of Tiberias, it would have sufficed us,' with the result that the pilgrimage would not be for its own sake. THEN IN WHAT CASE DID THEY RULE, TWO ROWS OF THE WINE CELLAR [etc.]? Who has mentioned anything about a wine cellar? — This is what he [the Tanna] says: EVERY PLACE WHEREIN NO LEAVEN IS TAKEN DOES NOT REQUIRE SEARCHING, and stores of wine and stores of oil do not require searching either. THEN IN WHAT CASE DID THEY RULE, TWO ROWS OF THE WINE CELLAR [MUST BE SEARCHED]? [CONCERNING] A PLACE WHEREIN LEAVEN MAY BE TAKEN, which is one whence [private] supplies are drawn.

BETH SHAMMAI MAINTAIN: TWO ROWS, etc. R. Judah said: The two rows which they [Beth Shammai] specified [mean] from the ground up to the very ceiling;[15] but R. Johanan said: [It means] a single row in the shape of a right angle.[16] It was taught in accordance with Rab Judah; [and] it was taught in accordance with R. Johanan. It was taught in accordance with Rab Judah: Beth Shammai maintain: Two rows over the front [surface] of the whole cellar, and the two rows which they specified [means] from the ground up to the very ceiling. It was taught in accordance with R. Johanan: Two rows over the face of the whole cellar, [i.e.,] the outer one which looks upon the door, and the upper one which faces[17] the ceiling; but that which is within this and below this does not require searching.

BETH HILLEL MAINTAIN: THE TWO OUTER ROWS, WHICH ARE THE UPPERMOST. Rab said: [That means] the upper row and the one beneath it;[18] while Samuel said: [That means] the upper row and the one on the inside of it. What is Rab's reason? — Because he emphasizes: OUTER. But it [also] teaches: UPPERMOST?- That is to exclude those beneath the lower one.[19] While Samuel says: ‘The upper row and the one on the inside of it.’What is the reason? Because he emphasizes: UPPERMOST. But it [also] states: OUTER? — That is to exclude the inside of the inner.[20] R. Hiyya taught in accordance with Rab, while all tannaim recited as Samuel. And the law is as Samuel.[21]

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(1) In respect of his action, notwithstanding his selfish motives. Hence in the case under discussion the same holds good.

(2) Sc. the Gentile may suspect him of witchcraft when he sees him rummaging in the hole.

(3) Lit., ‘bring it up on his mind’.

(4) To be the object of these suspicions is to suffer harm.

(5) 1 Sam. XVI, 2. Thus Samuel was afraid though engaged on a Divine mission, because it was naturally dangerous.

(6) Do they run a risk in going over the fields at such times?

(7) After nightfall.

(8) Ex. XXXIV, 24.

(9) They are certainly immune from danger when going to carry out a religious duty, to which the present verse refers.

(10) Deut. XVI, 7.

(11) Surely that follows a fortiori.

(12) This follows from the fact that the Almighty assures the pilgrim that his land will be safe in his absence, which proves that the command refers only to those who possess land.

(13) A lake so named from the fertile plain lying on its western side. In the O.T., it is called Yam Kinnereth or Kinneroth; Num. XXXIV. 11; Josh. XII, 3. On its western shore lay Tiberias. — Its fruit was particularly delicious.

(14) Lit , ‘and it would be found’.

(15) I.e., the two outer rows of barrels from top to bottom, over their entire area.

(16) Gam, the shape of the Grk. Gamma **. I.e. , the front row and the whole of the upper layer.

(17) Lit., ‘sees’.

(18) In the outermost row facing the door.

(19) I.e., all rows from the third from the top and downwards.

(20) Those within the second row of the top layer.

(21) From the fact that all post-Talmudic authorities accept Rab's view, however, it would appear that this passage was absent from their texts; [v. Tosaf. Yom Tob on our Mishnah and MS.M. R. Hananel, however, has this passage and accepts Samuel's ruling.]

Talmud - Mas. Pesachim 9a

Talmud - Mas. Pesachim 9a

MISHNAH. WE HAVE NO FEAR THAT A WEASEL MAY HAVE DRAGGED [LEAVEN] FROM ONE ROOM TO ANOTHER OR FROM ONE SPOT TO ANOTHER.[1] FOR IF SO, [WE MUST ALSO FEAR] FROM COURT-YARD TO COURT-YARD AND FROM TOWN TO TOWN, [AND] THE MATTER IS ENDLESS.

GEMARA. The reason is that we did not see it take [leaven]; but if we saw it take [it] we do fear, and it requires a [re-]search. yet why so; let us assume that it ate it? Did we not learn: The dwellings of heathens are unclean,[2] and how long must he [the heathen] stay in a dwelling so that it should need searching?[3] Forty days, even if he has no wife. But in every place where a weasel or a swine can enter no searching is required![4] — Said R. Zera, There is no difficulty: one treats of flesh, the other of bread: in the case of flesh it [the weasel] leaves nothing, [whereas in the case of bread it does leave [something] — Raba said: How compare! As for there, it is well: it is [a case of mere] ‘say’: say that there was [a burial there], say that there was not.[5] And if you assume that there was, say that it [e.g., a weasel] ate it. But here that we see for certain that it has taken [leaven], who is to say that it ate it? Surely it is a doubt [on the one hand] and a certainty [on the other], and a doubt cannot negative a certainty. But cannot a doubt negative a certainty? Surely it was taught: If a haber[6] dies and leaves a store-house full of produce [crops]. even if they are but one day old, they stand in the presumption of having been tithed.[7] Now here these crops were certainly liable to tithe, and there is a doubt whether they have been tithed or not tithed, yet the doubt comes and negatives the certainty?-There it is one certainty against another certainty, as [we presume that] they have certainly been tithed, in accordance with R. Hanina of Hozae.[8] For R. Hanina of Hozae said: There is a presumption concerning a haber that he does not let anything untithed[9] pass out from under his hand. Alternatively: it is a doubt [on the one hand] and a doubt [on the other]; perhaps from the very beginning say that it was not liable to tithe, in accordance with R. Oshaia. For R. Oshaia said: one may practise an artifice with his produce and take it in its husks, so that his cattle may eat thereof and it be exempt from tithes.[10]

But cannot a doubt negative a certainty? Surely it was taught, R. Judah said: It once happened that the bondmaid of a certain oppressor[11] in Rimon[12] threw her premature-born child into a pit,

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(1) I.e., after a room has been searched and cleared of leaven a weasel may have brought leaven into it from elsewhere.

(2) Because they used to bury their premature births in their houses.

(3) For a buried body, before a Jew may live there.

(4) If a baby were thrown there these would eat it, Oh. XVIII, 7. — Thus the same should apply to leaven.

(5) I.e., the presence there of a dead child is merely conjectured as a possibility.

(6) V. Glos.

(7) V. Supra 4b.

(8) A province of S. W. Persia, now known as Khuzestan; Obermeyer. pp. 204ff.

(9) Lit., ‘unprepared’.

(10) Produce is not liable to tithes unless it is taken into the house through the front door when its work is completed, not through the roof or the backyard. If grain is brought in in its husks its work is not complete, as this is still to be separated, and it is not liable to tithe, and need not be tithed by Scriptural law; a human being may then make a light meal of it, while cattle may eat their fill. Thus there it may never have become liable to tithe at all. Though a human being may not make a meal of it, that is only a Rabbinical law and is certainly nullified here by the presumption that the haber had tithed it. But in its essence we see that it is doubt against doubt; the doubt whether it was liable to tithe at all offset by the doubt that it may have been tithed.

(11) A powerful Jew (Rashi) who wielded his power oppressively.

(12) A town originally belonging to the tribe of Zebulun, on the north-east frontier (Josh. XIX, 13). It may correspond to the present Al-Rummanah, on the southern edge of the plain of Al-Battof, about ten kilometres north of Nazareth.

Talmud - Mas. Pesachim 9b

and a priest came and looked down it to see whether it was a male or a female;[1] and when the matter came before the Sages they declared him[2] clean, because weasels and martens[3] were to be found there.[4] Now here, she had certainly thrown it in, while it is doubtful whether they had dragged it away or not by that time, yet the doubt comes and negatives the certainty? — Do not say that she threw a premature child into a pit, but say, ‘she threw something like a premature child into a pit’, so that it is a doubt against a doubt.[5] But it states: ‘In order to see whether it was a male or a female’?[6] — This is what it says: To know whether she had aborted wind[7] or a premature child; and should you say that it was a premature child, to see whether it was a male or a female. Alternatively. there it is a certainty against a certainty; since weasels and martens are to be found there they had certainly dragged it away by that time; [for] granted that they may have left over,[8] yet they certainly had dragged it away by that time.

But do we say, we leave no fear that a weasel may have dragged [leaven], etc.? Surely the second clause states:[9] What he leaves over[10] he must put away in a hidden place, so that it should not require a search after it?[11] Said Abaye. There is no difficulty: the one [refers to a search] on the fourteenth; the other, on the thirteenth. [If one searches] on the thirteenth, when bread is [yet] to be found in all houses, it [a weasel] does not hide [leaven]; on the fourteenth, when bread is not to be found in all houses, it does hide [it]. Said Raba: Is then a weasel a prophet to know that it is the fourteenth now and people will not bake until the evening, so that it should leave [some] over and hide [it]? Rather said Raba: What one leaves over he must put away in a hidden place lest a weasel seize it in his presence and it require a search after it. It was taught in accordance with Raba: If one wishes to eat leaven after the search, what shall he do? Let him put it away in a hidden place, lest a weasel come and seize it in his presence and it require a search after it. R. Mari said: It is for fear that he may leave ten[12] and [only] ‘find nine.[13]

If there are nine packages of mazzah and one of leaven, and a mouse comes and steals [a package], and we do not know whether it took mazzah or leaven,[14] that is [similar to the case of] nine shops.[15] If [one package] was separated[16] and a mouse came and stole it, that is [similar to] the second clause. For it was taught: If there are nine shops all selling meat of [ritually] slaughtered [animals], and there is one shop selling meat of nebelah,[17] and a man buys [meat] from one of them , but he does not know from which [shop] he bought the [meat in] doubt is prohibited; but in the case of [meat] found, we follow the majority.[18]

If there are two packages, one of mazzah and the other of leaven, and before them are two rooms, one searched and the other unsearched, and two mice came, one took mazzah and the other took leaven, and we do not know which [mouse] entered which [house], that is the case of two baskets. For we learned: If there are two baskets, one containing hullin[19] and the other containing terumah,[19] and in front of them are two se'ahs [of provisions], one of hullin and the other of terumah, and these fell into those, they [sc. the contents of the baskets] are permitted, for I assume: The hullin fell into hullin and the terumah fell into terumah.[20] Perhaps we say ‘I assume’

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(1) To decide the period of the slave's uncleanness (v. Lev. XII, 4, 5). A heathen slave in a Jewish house was a semi-Jew, and bound to observe all the religious obligations of a Jewess.

(2) The priest.

(3) Heb. Bardelles.

(4) They may have dragged the body into one of their holes, leaving the pit itself empty. Had it been there the priest would have been defiled through stooping over it, even though he did not touch it.

(5) For the body may not have been formed yet, in which case it does not contaminate.

(6) Which implies that the body was fully formed and the mother was unclean, as after a proper birth, save that the sex had been overlooked.

(7) I.e., an unformed body.

(8) I.e., not eaten it.
(9) Infra 10b.
(10) After the search, for the following morning's meal.
(11) For otherwise a weasel may drag it away.
(12) E.g., rolls.
(13) For then it would be certain that one had been removed, and this would necessitate a further search.
(14) V. p. 33. n. 3. If mazzah, no further search is required; if leaven, it is required.
(15) Explained infra.
(16) But we do not know whether this separated package was leaven or mazzah.
(17) V. Glos.
(18) And assume it to have come out of one of the nine. In the first instance the forbidden meat is in a fixed place; technically this is called kabu'a (fixed), and it is shown in Sanh. 79b that we must then regard the doubt as equally balanced, i.e., as though there were an equal quantity of both, and we are therefore stringent. But in the second case the forbidden meal has left its fixed place and is somewhere in the street; the ordinary rule is then followed that the majority decides.
(19) V. Glos.
(20) By a similar assumption the house already searched does not needed to be searched anew.

Talmud - Mas. Pesachim 10a

in the case of terumah [only], which is merely Rabbinical;[1] but do we say thus in the case of leaven, which is Scriptural?[2] — Is then the searching for leaven Scriptural; surely it is [only] Rabbinical, for by Scriptural law mere annulment is sufficient.[3]

If there is one package of leaven, and in front of it are two houses which have been searched, and there came a mouse and seized it, and we do not know whether it entered this [house] or that, that is [similar to] the case of two paths. For we learned: If there are two paths, one clean and the other unclean,[4] and a person went through one of them and then touched[5] clean [food], and then his neighbour came and went through the other and he touched clean [food], — R. Judah said: If they each enquire separately. they are clean;[6] if both together, they are unclean. R. Jose said: In both cases they are unclean. Raba — others say. R. Johanan — said: If they came together, all agree that they are unclean; if consecutively, all agree that they are clean. They differ only where one comes to enquire about himself and his neighbour: R. Jose compares it to [both coming] together.[7] while R. Judah likens it to each coming separately.[8]

If it is doubtful whether it [the mouse] entered or not,[9] that is [similar to] the case of a plain, and [there we are involved] in the controversy of R. Eleazar and the Rabbis.[10] For we learned: If a man enters a plain[11] in winter,[12] and there is uncleanness[13] in a particular field,[14] and he states: I walked in that place, but do not know whether I entered that field or not, — R. Eleazar declares him clean, while the Sages declare him unclean. For R. Eleazar ruled: If there is a doubt about entering, he is clean: if there is a doubt of contact with uncleanness, he is unclean.[15]

If it [the mouse] entered [with the leaven], and he [the master] searched but did not find it, [in like case] there is a controversy of R. Meir and the Rabbis. For we learned: R. Meir used to say: Everything which is in the presumption of uncleanness always [remains] in its uncleanness until it is known to you whether its uncleanness is gone; while the Sages rule: one searches until he reaches a rock or virgin soil.[16]

If it [the mouse] entered [with leaven] and he searched and found [leaven].[17] — [in like case] there is a controversy of Rabbi and R. Simeon b. Gamaliel. For it was taught: If a grave was lost in a field,[18] he who enters therein is unclean. If a grave is [subsequently] found in it, he who enters therein is clean, for I assume: the grave which was lost is the same grave which was found: this is

Rabbi's view. R. Simeon b. Gamaliel said: The whole field must be examined.[19] If a man left nine [pieces of leaven] and found ten, there is a controversy of Rabbi and the Rabbis. For it was taught: If he left a maneh[20] and found two-hundred [zuz],[21] hullin and second tithe are intermingled,[22] this is Rabbi's view. But the Sages maintain: It is all hullin.[23] If he left ten and found nine, that is [analogous to] the second clause. For it was taught: If he deposited two hundred and found one maneh, [he assumes], one maneh was left lying and one maneh was taken away:[24] this is Rabbi's view. But the Sages maintain: It is all hullin.

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(1) Nowadays.

(2) When doubt arises in a Rabbinical law we are naturally lenient; but where the law is Scriptural we are strict.

(3) Supra 4b.

(4) E.g., there is a lost grave in one of them, but we do not know in which.

(5) Lit., ‘made’.

(6) Each is given the benefit of the doubt; consequently the food remains clean.

(7) Since the question is asked on behalf of both.

(8) Since there is only one man asking. — It is a principle that if a doubt of uncleanness arises in public ground, it is clean; if in private ground, it is unclean. Here the paths are public ground; hence when they come separately each is declared clean. But we cannot rule thus when they come together. since one is certainly unclean. The same principles apply mutatis mutandis to the searched houses.

(9) A mouse was seen to take a package of leaven, but we do not know whether or not it entered a room already searched.

(10) [This clause is omitted in MS.M., cf. p 43. n. 2.]

(11) Many fields together constitute a plain.

(12) It is then private ground, because the seed has already started sprouting.

(13) I.e., a grave.

(14) The field is known.

(15) For in the first case there is really a double doubt: firstly, whether he entered the field at all, and secondly, even if he did enter, whether he passed over the grave. — In our problem, however, even the Rabbis agree that a re-search is not necessary; since the search is only Rabbinical, we make the more lenient assumption (Rashi). [Apparently Rashi did not read’, ‘and in the controversy. . . Rabbis’, cf. p. 42, n. 10.]

(16) If a pile or heap contains a portion of a corpse, so that it is unclean, while there are two other clean piles, and we do not know now which is which; if one is examined and found to be clean, that is clean, while the others are treated as unclean; if two are found to be clean, they are clean and the third is unclean; but if the three are examined and found to be clean, they are all unclean in R. Meir's opinion, unless we know definitely whither the defilement has disappeared. But the Sages maintain that he examines the ground until he reaches a rock or virgin soil which has obviously never been touched, and if it is not found we assume that a bird has flown off with it. — But in the present problem even R. Meir agrees that we are lenient, since the search is only a Rabbinical requirement (Rashi). V. however Tosaf.

(17) But he does not know whether it is the same.

(18) We do not know where it is.

(19) It may not be the same grave. Here too, presumably, even R. Simeon b. Gamaliel is lenient; cf. n. 3.

(20) Of second title.

(21) I.e., two manehs.

(22) We assume that the original match was left and an unknown person added another. It will therefore be necessary to redeem one maneh by exchanging it for another.

(23) For the original manehs may have been taken away. The Rabbis will make a similar assumption here and therefore the house must be searched for the nine pieces.

(24) Hence the present maneh is treated as second tithe.

Talmud - Mas. Pesachim 10b

If a man left [leaven] in this corner and finds [leaven] in another corner, there is a controversy of R. Simeon b. Gamaliel and the Rabbis. For it was taught: If an axe is lost in a house, the house is unclean, for I assume: An unclean person entered there and removed it. R. Simeon b. Gamaliel said: The house is clean, for I assume, He lent it to another and forgot, or he took it from one corner and placed it in another corner and forgot. Who mentioned anything about a corner?[1] The text is defective, and is thus taught: If an axe is lost in a house, the house is unclean, for I say: An unclean person entered there and took it. Or if he leaves it in one corner and finds it in another corner the house is unclean, for I assume, An unclean person entered there and took it from one corner and placed it in another corner. R. Simeon b. Gamaliel said: The house is clean, for I say. He lent it to another and forgot, or he took it from one corner and placed it in another corner and forgot.[2]

Raba said: If a mouse enters [a room] with a loaf in its mouth and he [the owner] enters after him and finds crumbs, a [fresh] search is necessary,[3] because it is not a mouse's nature to make crumbs.[4] Raba also said: If a child enters [a room] with a loaf in his hand, and he [the owner] enters after him and finds crumbs, a [fresh] search is not necessary, because it is a child's nature to make crumbs.

Raba asked: What if a mouse enters with a loaf in its mouth, and a mouse goes out with a loaf in its mouth: do we say, the same which went in went out; or perhaps it is a different one? Should you answer, the same which went in went out, — what if a white mouse entered with a loaf in its mouth, and black mouse went out with a loaf in its mouth? now this is certainly a different one; or perhaps it did indeed seize[5] it from the other? And should you say, mice do not seize from each other, — what if a mouse enters with a loaf in its mouth and a weasel goes out with a loaf in it mouth? now the weasel certainly does take from a mouse; or perhaps it is a different one, for had it snatched it from the mouse, the mouse would have [now] been found in its mouth? And should you say, had it snatched it from the mouse, the mouse would have been found in its mouth, what if a mouse enters with a loaf in its mouth, and then a weasel comes out with a loaf and a mouse in the weasel's mouth? Here it is certainly the same; or perhaps, if it were the same, the loaf should indeed have been found in the mouse's mouth; or perhaps it fell out [of the mouse's mouth] on account of [its] terror, and it [the weasel] took it? The question stands over.

Raba asked: If there is a loaf on the top rafters, need he [take] a ladder to fetch it down or not? Do we say, our Rabbis did not put him to all this trouble, [for] since it cannot descend of its own accord he will not come to eat it;[6] or perhaps it may fall down and he will come to eat it? Now should you say, it may fall down and he will come to eat it, — if there is a loaf in a pit, does he need a ladder to fetch it up or not? Here it will certainly not happen that it will ascend of its own accord; or perhaps he may happen to go down to perform his requirements and come to eat it? Should you say that he may happen to go down for his purposes and come to eat it, — if a loaf is in a snake's mouth, does he need a snake-charmer to take it out or does he not need [one]? [Do we say,] our Rabbis put him to personal trouble, but they did not put him to trouble with his money; or perhaps there is no difference? The questions stand over.

MISHNAH. R. JUDAH SAID: WE SEARCH [FOR LEAVEN] ON THE EVENING OF THE FOURTEENTH, AND[7] IN THE MORNING OF THE FOURTEENTH, AND AT THE TIME OF REMOVAL. BUT THE SAGES MAINTAIN: IF HE DID NOT SEARCH IN THE EVENING OF THE FOURTEENTH, HE MUST SEARCH ON THE FOURTEENTH; IF HE DID NOT SEARCH IN [THE MORNING OF] THE FOURTEENTH, HE MUST SEARCH AT THE APPOINTED TIME;[8] IF HE DID NOT SEARCH AT THE APPOINTED TIME, HE MUST SEARCH AFTER THE APPOINTED TIME.[9] AND WHAT HE LEAVES OVER[10] HE MUST PUT AWAY IN A HIDDEN PLACE, SO THAT HE SHOULD NOT NEED SEARCHING AFTER IT.

GEMARA. What is R. Judah's reason? — R. Hisda and Rabbah son of R. Huna both say, It [the threefold searching] corresponds to the three ‘puttings away’ mentioned in the Torah: and there shall no leavened bread be seen with thee, neither shall there be leaven seen with thee;[11] seven days shall there be no leaven found in your houses;[12] and even on the first day shall ye put away leaven out of your house.[13] R. Joseph objected: R. Judah said: He who has not searched at these three periods can no longer search, which proves that they differ only in respect of from now and henceforth![14] Mar Zutra recited it thus: R. Joseph objected: R. Judah said: He who has not searched at one of these three periods can no longer search, which proves that they differ in [whether] he can no longer search? — Rather R. Judah too means, where he has not searched,[15] and here they differ in this: one Master[16] holds, only before it is forbidden;[17] but not after it is forbidden, as a preventive measure, lest he come to eat of it; while the Rabbis hold that we do not preventively forbid. But did R. Judah preventively forbid lest he come to eat thereof, — surely we learned: As soon as the 'omer[18] has been offered, they used to go out and find the markets of Jerusalem filled with flour and parched corn,[19]

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(1) We are discussing the case where it is lost.

(2) Thus here too, according to the Rabbis we fear that mice have been about, and consequently we also fear that the leaven he now finds is not the same which he left, so that a re-search is required. But on R. Simeon b. Gamaliel's view we do not fear this.

(3) To find leaven with which the mouse was seen to enter.

(4) Therefore these are not merely the loaf crumbled up.

(5) Lit., 'throw'.

(6) Therefore he may leave it there, and merely annul it.

(7) So presumably; v. Gemara.

(8) Sc. of removal, i.e., in the sixth hour (11 a.m. — noon).

(9) From noon until nightfall (Rashi). Tosaf. explains differently: 'within the mo'ed', from noon on the fourteenth until the end of Passover, translating mo'ed as festival, which meaning it generally bears; 'after the mo'ed, after Passover, for leaven kept in the house during Passover is forbidden after Passover.

(10) 'After the search in the evening, for the following morning's meal' (R. Nissim).

(11) Ex. XIII, 7.

(12) Ibid. XII, 19.

(13) Ibid. 15. — 'Seen' 'found' and 'put away' all mean in practice that the leaven must be put away, and corresponding to each expression there must be a search.

(14) I.e., after the time of removal, R. Judah holding that there is no searching then, while the Sages maintain that there is. But before that all agree that only one search is necessary. R. Judah meaning either in the evening or in the morning etc., the waw (translated 'AND' in the Mishnah) being disjunctive, or.

(15) In the evening; then he must search in the morning.

(16) R. Judah.

(17) Must one search then.

(18) V. Glos.

(19) Of the new harvest; v. Lev. XXIII, 9-14. Of course, in order to have it ready for sale on the same day the vendors must have prepared it before, and thus they handled it while it was yet prohibited.

Talmud - Mas. Pesachim 11a

[but] not with the consent of the Sages:[1] this is R. Meir's opinion. R. Judah said: They acted with the consent of the Sages.[2] Thus R. Judah did not preventively forbid lest one come to eat thereof? — Said Raba:[3] Hadash is different: since you permit it to him only by means of plucking.[4] he remembers.[5] Said Abaye to him: That is well at the time of plucking, [but] what can be said of the grinding and sifting?[6] — That is no difficulty: grinding [is done] with a handmill; sifting [is done] on top of the sieve.[7] But as to what we learned: 'one may reap an artificially irrigated field and [the corn] in the valleys,[8] but one may not stack [the corn]',[9] and we established this as [agreeing with] R. Judah, what can be said?[10] — Rather, said Abaye: From hadash one holds aloof;[11] but one does not hold aloof front leaven.[12] Raba demurred: R. Judah is self-contradictory. while the Rabbis are not self-contradictory?[13] — Rather, said Raba: R. Judah is not self-contradictory, as we have answered. The Rabbis too are not self-contradictory: he himself is seeking it in order to burn it, shall

he then eat thereof![14] R. Ashi said: R. Judah is not self-contradictory, [for] we learned,[15] ‘flour and parched corn’,[16] But this [answer] of R. Ashi is a fiction:[17] this is well from [the time when it is] parched ears and onwards; ‘but from the beginning until it is parched corn, what can be said?[18] And should you answer, [It is gathered] by plucking,[19] as Raba [answered], then what can be said of [what we learnt that] ‘one may reap an artificially irrigated field and [the corn in] the valleys’, which we established as [agreeing with] R. Judah?[20] Hence R. Ashi's [answer] is a fiction.

But, wherever one does not [normally] hold aloof, did R. Judah preventively forbid? Surely we learned: A man may not pierce an eggshell, fill it with oil, and place it over the mouth of a [burning] lamp in order that it should drip,[21] and even if it is of earthenware; but R. Judah permits it![22] — There, on account of the strictness of the Sabbath he will indeed keep aloof. Then [one ruling] of the Sabbath can be opposed to [another ruling] of the Sabbath. For it was taught: If the cord of a bucket is broken, one must not tie[23] it [together] but merely make a loop [slip-knot]; whereas R. Judah maintains: He may wind a hollow belt or a fascia[24] around it, providing that he does not tie it with a slip-knot.[25] [Thus] R. Judah's [views] are self-contradictory. and similarly the Rabbis’? — The Rabbis’ [views] are not self-contradictory: oil [from one source] can be interchanged with oil [from another];[26] whereas looping cannot be mistaken for[27] knotting. R. Judah's [views] are not self-contradictory; R. Judah's reason is not that he forbids looping on account of knotting, but because looping itself is [a form of] knotting. Now, the Rabbis may be opposed to the Rabbis. For we learned: A bucket [over a well] may be tied with a fascia but not with a cord;[28] but R. Judah permits it.[29] Now what cord is meant: Shall we say an ordinary [bucket] cord: [how does it state] ‘R. Judah permits it’, — surely it is a permanent knot, for he will certainly come to abandon it?[30] Hence it is obvious that a weaver's [rope[31] is meant]. and [yet] the Rabbis preventively forbid a weaver's cord on account of an ordinary cord? — Even so: one rope may be mistaken for another, [whereas] looping cannot be mistaken for knotting.

But, wherever one [normally] holds aloof from it, does not R. Judah preventively forbid? Surely we learned: If a firstling is attacked with congestion, even if it should die [otherwise]. we must not bleed it: this is R. Judah's view;[32] but the Sages rule: He may bleed [it], providing that he does not inflict a [permanent] blemish upon it? — There, because one is excited

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(1) Lest they eat of it while preparing it.

(2) V. Men. 67b.

(3) Bah emends to Rabbah, which is the reading in Men. 67b.

(4) The new corn may not be reaped at all before the bringing of the ‘omer’, but must be plucked by hand.

(5) That it may not be eaten.

(6) There is nothing to remind him then of the interdict.

(7) The sieve is reversed. The unusual ways in which these are done serve as reminders.

(8) In the usual way, before the ‘omer.

(9) V. Men. 71a.

(10) There is nothing there to remind one of the prohibition.

(11) As it is forbidden at all times until the ‘omer, when it ceases to be hadash. Thus he is accustomed to abstain from it and is not likely to forget himself.

(12) During the year, and thus may possibly eat of it when the prohibition is already in force.

(13) That you seek to reconcile R. Judah's views only. Yet surely the Rabbis too need harmonizing, for whereas the Rabbis do not preventively forbid in the case of leaven, they do so here, as R. Meir states, ‘They did not act with the consent of the Sages’.

(14) Surely we need not entertain that fear.

(15) In the above cited Mishnah.

(16) Which are not fit for eating.

(17) בדותא, V. B.M., Sonc. ed. p 47. n. 1.

(18) In the intermediate stages it is fit for eating! How could it then be handled.

(19) Which serves as a reminder.
(20) Though there is nothing there to serve as a reminder, v. infra.
(21) And replenish the contents of the lamp during Sabbath.
(22) The reason of the Rabbis is lest he take the oil for eating, which, constitutes extinguishing. R. Judah permits it, though one does not normally abstain from oil, v. Shab. 29a.
(23) The tying of a permanent knot constitutes one of the thirty-nine principal classes of forbidden work on Sabbath.
(24) A band or fillet.
(25) V. Shab. 113a.
(26) Just as he consumes oil from elsewhere, so may he come to draw supplies from this eggshell, seeing no difference.
(27) Lit., 'interchanged with'.
(28) On the Sabbath. The first is certainly only temporary, but the second may be left there, and thus a permanent knot will have been tied on the Sabbath.
(29) V. Shab. 113b.
(30) I.e., leave it there as a thing having no other purpose than this.
(31) Which is not usually used for drawing water, and will not consequently be left there.
(32) One must not inflict a permanent blemish on a firstling. R. Judah rules that the animal must not be bled even without inflicting a permanent blemish upon it, lest one come to do so even by making a permanent blemish. Thus R. Judah forbids preventively, though people do hold aloof from sacred animals, to which category a firstling belongs.

Talmud - Mas. Pesachim 11b

about his property, if you permit him [to bleed it] in a place where a blemish is not inflicted, he will come to do it in a place where a blemish is inflicted. But the Rabbis [argue]: if you do not permit him at all, he is all the more likely to come to act [thus].

Yet do we say according to R. Judah. A man is excited over his property? Surely we learned: An animal may not be curried on Festivals, because it makes a bruise [wound], but you may scrape it; but the Sages maintain: It may neither be curried nor scraped. Now it was taught: What is currying and what is scraping? Currying is with a small-toothed strigil. and it makes a wound; scraping is with a large-toothed strigil and does not make a wound?[1] — There, since it will die if left alone, we say. a man is excited about his property; here, if he leaves it there is merely discomfort, we do not say, a man is excited about his money. Now as to R. Judah; wherein is the difference that he preventively prohibits in the case of leaven but does not preventively forbid in the case of scraping? — One bread can be mistaken for another bread, [but] currying cannot be mistaken for scraping.

MISHNAH. R. MEir SAID: ONE MAY EAT [LEAVEN] THE WHOLE OF THE FIVE [HOURS] AND MUST BURN [IT] AT THE BEGINNING OF THE SIXTH. R. JUDAH SAID: ONE MAY EAT THE WHOLE OF THE FOUR [HOURS]. KEEP IT IN SUSPENSE THE WHOLE OF THE FIFTH, AND MUST BURN IT AT THE BEGINNING OF THE SIXTH.[2] R. JUDAH SAID FURTHER: TWO UNFIT LOAVES OF THE THANKSOFFERING USED TO LIE ON THE ROOF[3] OF THE [TEMPLE] IZTABA:[4] AS LONG AS THEY LAY [THERE] ALL THE PEOPLE WOUld EAT [LEAVEN]; WHEN ONE WAS REMOVED, THEY WOULD KEEP IT IN SUSPENSE, NEITHER EATING NOR BURNING [IT]; WHEN BOTH WERE REMOVED, ALL THE PEOPLE COMMENCED BURNING[THEIR LEAVEN].[5] R. GAMALIEL SAID: HULLIN MAY BE EATEN THE WHOLE OF THE FOUR [HOURS] AND TERUMAH THE WHOLE OF THE FIVE [HOURS]. AND WE BURN [THEM] AT THE BEGINNING OF THE SIXTH [HOUR].[6]

GEMARA. We learned elsewhere: If one [witness] deposes [that it took place] on the second day of the month,[7] and another deposes, on the third of the month, their testimony is valid, because one knows of the intercalation of the [preceding] month[8] while the other does not know of the intercalation of the month.[9] If one deposed, on the third, while the other deposed, on the fifth, their testimony is null. If one said: During the second hour, and the other said: During the third hour, their testimony is valid.[10] If one said, during the third hour, and the other said, during the fifth, their testimony is null: this is R. Meir's view. R. Judah maintained: Their testimony stands. If one deposed, during the fifth [hour], while the other deposed, during the seventh, their testimony is null, because during the fifth [hour] the sun is in the east, whereas in the seventh it is in the west. Abaye observed: When you examine the matter, you find that on R. Meir's ruling a man does not err [in the time] at all, [while] on R. Judah's ruling a man may err in half an hour. [Thus:] on R. Meir's ruling a man does not err at all: the event [to which they testify] happened at the end of the second and the beginning of the third [hour], and when one says, during the second, [he means] at the end of the second [hour], and when the other says, during the third hour, [he means] at the beginning of the third hour.[11] On R. Judah's ruling a man may err in half an hour: the event happened in the middle of the fourth hour, and he who says in the third hour[meant] at the end of the third hour, and he errs in [being] half an hour before; while he who testified, in the fifth hour, [meant] at the beginning of the fifth hour, and he errs in half an hour behind.

Others say, Abaye observed: When you examine the matter, you find that on R. Meir's ruling a man may err in [just] a little, while on R. Judah's ruling a man may err in slightly more than an hour.[12] On R. Meir's ruling a man may err in [just] a little: the event occurred either at the end of the second or at the beginning of the third [hour], and one of them erred a little. On R. Judah's ruling a man may err in slightly more than an hour: the event happened either at the end of the third or at the beginning of the fifth,

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(1) The animal is scraped to free it of mud, mire, etc. Thus R. Judah does not argue that if you permit one the other will be used, because a man is anxious to keep his property in good condition.

(2) V. supra 4b for notes.

(3) This is the reading of MS.M. and in the printed ed. of the Mishnah.

(4) V. Gemara.

(5) Forty loaves were brought with a thanks-offering, ten of which were leaven; two leaven loaves which had become unfit (the Gemara discusses how) were publicly exposed on the portico and served as a signal.

(6) By Biblical law leaven is permitted until midday. But people often erred in the matter of time (there were, of course, no clocks or watches in those days), and the controversy here is in respect of the extent of possible or likely errors.

(7) E.g., a murder.

(8) I.e., that it consisted of thirty days. The thirtieth day is said to be intercalated.

(9) Thinking that it consisted of twenty-nine days. This holds good only when they agree on other matters, including what day of the week it was.

(10) Because one can err in an hour.

(11) Thus there is no contradiction at all. But if it is shown that there is a contradiction, even in half an hour, one is assumed to be false and their evidence is null.

(12) Lit., ‘an hour and a little’.

Talmud - Mas. Pesachim 12a

and one of them erred in just over an hour.

R. Huna the son of R. Judah went and reported this discussion before Raba. Said he: now what if we carefully examined these witnesses [and found] that the one who testified [that it took place] in the third [hour] meant at the beginning of the third hour, while he who testified [that it took place] in the fifth [meant] at the end of the fifth, so that it would be a confuted testimony and we would not execute [the accused]; shall we then arise and execute him through a doubt,[1] whereas the Merciful One has ordered, then the congregation shall judge . . . and the congregation shall deliver?[2] Rather said Raba: on R. Meir's ruling a man may err in two hours less a trifle, while on R. Judah's ruling a man may err in three hours less a trifle. On R. Meir's ruling a man may err in two hours less a trifle:

the incident happened either at the beginning of the second or at the end of the third [hour], and one of them erred in two hours less a trifle. On R. Judah's ruling a man may err in three hours less a trifle: the incident occurred either at the beginning of the third or at the end of the fifth [hour], and one of them erred in three hours less a trifle.

We learned: They[3] were examined with seven hakiroth:[4] In which septennate [was the crime committed], in which year, in which month, on what day of the month, on what day [of the week]. at which hour and in which place? And ‘ye [further] learned: What is the difference between hakiroth and bedikoth?[5] In hakiroth, if one of them [the witnesses] replied. ‘I do not know’, their testimony is null; in bedikoth, even if both declare, ‘We do not know’, their testimony is valid. Now we questioned this: Wherein this difference between hakiroth and bedikoth? And we answered: In hakiroth, if one declares, ‘I do not know’, their testimony is null, because it is a testimony which cannot be rebutted;[6] whereas with respect to bedikoth it is [still] a testimony which can be rebutted.[7] Now if you say that a man may err in so much, then the hakiroth of which hour also [leaves] testimony which cannot be rebutted, for they can assert, ‘We did indeed err’? — We allow them [the benefit of] the whole of their [possible] error: according to R. Meir we allow them from the beginning of the first hour until the end of the fifth; and logically we should give them even more at the beginning, but that people do not err between day and night. While according to R. Judah we allow them from the beginning of the first hour until the end of the sixth; and logically we should give them more at the beginning,

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(1) I.e., just because we do not examine the witnesses to find out exactly what they meant.

(2) Num. XXXV. 24, 25; i.e. , the accused must be given the benefit of doubt.

(3) The witnesses in a murder trial.

(4) Lit., ‘searching questions’. Two types of questions were asked, called hakiroth and bedikoth (examinations); v. Sanh. 40a.

(5) As stated, hakiroth dealt with time and place; bedikoth dealt with accompanying circumstances of the crime, e.g., the weapon, the clothes worn, etc.

(6) The Hebr. word הזמה used always denotes rebutting by proving that the witnesses themselves were elsewhere at the time of the alleged crime, in which case the law of retaliation applies that the witnesses are subject to the punishment which they sought to fasten upon the accused; v. Deut. XIX, 18f. This is obviously impossible unless the witnesses state the exact time and place, whereas the possibility of rebuttal is essential for the validity of testimony.

(7) Even if the witnesses are not clear on the accompanying circumstances.

Talmud - Mas. Pesachim 12b

but that people do not err between day and night; and logically we should give them more at the end,[1] but that in the fifth hour the sun is in the east while in the seventh the sun is in the west.[2]

We learned: R. MEIR SAID: ONE MAY EAT [LEAVEN] THE WHOLE OF THE FIVE [HOURS] AND MUST BURN [IT] AT THE BEGINNING OF THE SIXTH. R. JUDAH SAID: ONE MAY EAT THE WHOLE OF THE FOUR [HOURS]. KEEP [IT] IN SUSPENSE THE WHOLE OF THE FIFTH, AND MUST BURN [IT] AT THE BEGINNING OF THE SIXTH. Now according to Abaye who maintains that on R. Meir's view a man does not err at all, let us eat [leaven] for the whole of the six [hours]?[3] And even on the version which asserts [that] a man may err slightly, let us eat until the end of the sixth hour?[4] And according to Abaye on R. Judah's view, who maintains [that] a man may err in half an hour, let us eat [leaven] until half of the sixth hour; and even on the version in which you say. A man may err in an hour and a trifle, let us eat until the end of the fifth hour? — Said Abaye: Testimony is committed to careful men,[5] [whereas] leaven is committed to all.[6] Now according to Raba who maintains [that] on R. Meir's view a man may err in two hours less a trifle, let us not eat [leaven] from the beginning of the fifth [hour]? — In the fifth [hour] the sun is in the east, while in the seventh the sun is in the west.[7] If so, let us eat during the sixth [hour] too? — Said R. Adda b. Ahabah: In the sixth the sun stands in the meridian.[8] And according to Raba who maintains on R. Judah's view [that] a man may err in three hours less a trifle, let us not eat from the beginning of the fourth [hour]? — In the fifth [hour] the sun is in the east, while in the seventh it is in the west, and all the more so in the fourth. If so, let us also eat in the fifth [hour]? — Abaye answered this on Raba's view: Testimony is committed to men of care, [whereas] leaven is committed to all.[9] But Raba said: Now this is R. Judah's reason, but R. Judah follows his opinion. for he maintains, There is no removal of leaven save by burning; the Rabbis therefore gave him one hour in which to collect fuel.[10] Rabina raised an objection to Raba: R. Judah said: When is this?[11] before[12] the time of removal;[13] but at the time of removal its ‘putting away’ is with anything.[14] Rather said Raba: It is a preventive measure on account of a cloudy day.[15] If so, let us not eat even during the four hours? — Said R. Papa: The fourth [hour] is the general mealtime.[16] Our Rabbis taught: The first hour [of the day] is the mealtime for gladiators;[17] the second is the mealtime for robbers;[18] the third is the mealtime for heirs;[19] the fourth is the mealtime for labourers;[20] the fifth is the mealtime for scholars; the sixth is the general mealtime.[21] But R. Papa said: The fourth [hour] is the general mealtime? — Rather reverse it: The fourth is the general mealtime; the fifth is for labourers; and the sixth is for scholars. After that it is like throwing a stone into a barrel.[22] Abaye said: That was said only if nothing at all is eaten in the morning; but if something was eaten in the morning. we have nought against it.

R. Ashi said: As there is a controversy in respect of testimony. so is there a controversy in respect of leaven.[23] But it is obvious? That is precisely what we have said![24] This is what he informs us: the answers which we gave are [correct] answers, and you need not say that it is dependent on Tannaim.[25]

R. Simi b. Ashi said: They learned this[26] only in respect of hours;[27] but if one testified [that the crime was committed] before sunrise and the others testified, after sunrise, their testimony is void. That is obvious? — Rather [say] if one testified [that it was] during sunrise, their testimony is void. That too is obvious? You might say, Both testified to the same thing, while he who said [that it was]

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(1) Lit., ‘forward’.

(2) According to R. Meir: if A testified that the crime was committed in the second hour, and B that it took place in the third, their testimony is valid (v. Supra 11b), unless they are rebutted over the whole period in which an error is possible. Thus A, if rebutted, can plead that he erred, and that the crime actually took place either in the first hour or in the third or fourth. He should also be able to plead that it took place within the hour before sunrise, since R. Meir allows for an error of nearly two hours, but that he would never mistake night for day. Similarly B, if rebutted, can plead that he erred, and that the crime took place at any time between the first and the fifth hour. Hence they are liable to be rebutted over the whole of this time; i.e., C and D testify that they were elsewhere from the first until the fifth hour, and such rebuttal is designated a rebuttal in respect of hours, and therefore the evidence, if unrefuted, is valid. By the same reasoning, according to R. Judah, who allows for a margin of nearly three hours’ error, the period is from the first until the sixth hour, the seventh being disregarded, as explained in the Gemara. — This wide latitude is granted only in so far that the witnesses will not be subject to retaliation (v. p. 53, n. 4) otherwise, but the evidence none the less may be void. E.g., if it is necessary to assume that B erred in two hours and that he really meant the fifth hour, A's testimony cannot be reconciled with it on any reasoning, and as we are left with one witness only the accused cannot be condemned.

(3) I.e, right until midday, when it is forbidden by Scriptural law.

(4) I.e., until just before midday.

(5) A man does not come to testify without being very careful on the question of time, as he knows that he will be cross-examined.

(6) Every man uses his own judgment, and therefore a far wider margin of error is possible.

(7) And the interdict of leaven commences in the seventh only; hence there is no possibility of error.

(8) Lit., ‘between the corners’, — equidistant from the east and the west, and so an error is possible.

(9) Hence in the matter of leaven people may err between the fifth and the seventh hours, in spite of the difference in the sun's position. Nevertheless, they would not err from the fourth to the seventh.

(10) Hence the fifth hour is kept in suspense, for if one were permitted to eat then he might forget about collecting fuel.

(11) That burning is the only form of removal.

(12) Lit., ‘not at’.

(13) I.e.. during the sixth hour, before there is the Scriptural injunction to put away leaven.

(14) It can be destroyed in any fashion. — Then why keep it in suspense? if he forgets to collect fuel he can destroy it in another way.

(15) When the position of the sun cannot be clearly ascertained.

(16) Hence everybody knows it.

(17) Whose diet requires special attention (Jast.); or perhaps, circus attendants.

(18) Rashi: Both are rapacious, hence they eat so early; but robbers, being awake all night, sleep during the first hour of the day.

(19) Not having to earn their living, they have their main meal earlier than others.

(20) In the field.

(21) Lit., ‘the mealtime of all (other) men’.

(22) No benefit is derived.

(23) Just as R. Meir and R. Judah differ in the possible errors of time in respect to evidence, so in respect of the prohibition of leaven.

(24) The whole of our discussion assumes that the two subjects are completely analogous.

(25) For though the views of R. Meir and R. Judah are apparently self-contradictory, they have been reconciled. R. Ashi informs us that it is unnecessary to assume that they actually represent irreconcilable opinions. there being a controversy of Tannaim as to the views of R. Meir and R. Judah.

(26) That a margin of error, perhaps up to nearly three hours, is allowed in testimony.

(27) I.e., when the witnesses state the hour of the day.

Talmud - Mas. Pesachim 13a

during sunrise was standing in the glow [before sunrise] and what he saw was merely the glare; hence he informs us [that it is not so]. R. Nahman said in Rab's name: The halachah is as R. Judah.[1] Said Raba to R. Nahman, Yet let the Master say [that] the halachah is as R. Meir, since a Tanna taught anonymously in agreement with him. For we learned: As long as it is permitted to eat [leaven] he may feed [animals with it]?[2] That is not anonymous. because there is the difficulty of ‘it is permitted’.[3] Then let the Master say [that] the halachah is as R. Gamaliel, since he makes a compromise?[4] — R. Gamaliel does not make a compromise but states an independent view.[5] Alternatively. Rab rules as this Tanna. For it was taught: If the fourteenth falls on the Sabbath, everything [sc. leaven] must be removed before the Sabbath, and terumoth,[6] whether unclean, or in suspense.[7] or clean, are burnt, and of the clean [terumah] food for two meals is left over, so as to eat until four hours:[8] this is the ruling of R. Eleazar b. Judah of Bartotha[9] which he stated in R. Joshua's name. Said they to him: Clean [terumoth] should not be burnt, in case eaters may be found for them?[10] — He replied: They have already sought [eaters] but not found [them].[11] They may have spent the night without the [city] wall? said they to him[12] — Then on your reasoning, he retorted, even those in suspense should not be burnt, lest Elijah come and declare them clean?[13] — Said they to him, it has long been assured to Israel that Elijah will come neither on the eve of the Sabbath nor on the eve of Festivals, on account of the trouble.[14] It was said:[15] They did not stir thence until they decided the halachah in accordance with R. Eleazar b. Judah of Bartotha which he stated in R. Joshua's name. Does that not mean even in respect of eating?[16] Said R. Papa in Raba's name: No, [only] in respect of removing.[17]

Now Rabbi too holds this [view] of R. Nahman. For Rabin son of R. Adda related: It once happened that a certain man deposited a saddle-bag full of leaven with Johanan of Hukok,[18] and mice made holes in it, and the leaven was bursting out. He then went before Rabbi.[19] The first hour he said to him, ‘Wait’; the second, he said to him, ‘Wait’; the third he said to him, ‘Wait’;[20] the fourth he said to him, ‘Wait’; at the fifth he said to him, ‘Go out and sell it in the market’. — Does that not mean to Gentiles, in accordance with R. Judah?[21] — Said R. Joseph: No, to an Israelite, in accordance with R. Meir.[22] Said Abaye to him: If to an Israelite, let him take it for himself? — [He could not do this] because of suspicion.[23] For it was taught: When the charity overseers have no poor to whom to distribute [their funds], they must change the copper coins with others, not themselves.[24] The overseers of the soup kitchen,[25] when they have no poor to whom to make a distribution, must sell to others, not to themselves, because it is said, and ye shall be guiltless towards the Lord, and towards Israel.[26] R. Adda b. Mattenah said to R. Joseph:[27] You explicitly told us [that he said]. ‘Go out and sell it to Gentiles,’ in accordance with R.Judah.

R. Joseph said: With whom does this ruling of Rabbi agree?[28] With R. Simeon b. Gamaliel. For we learned: If a man deposits produce with his neighbour. even if it is suffering loss,[29] he must not touch it. R. Simeon b. Gamaliel said: He must sell it by order of the court, on account of returning lost property.[30] Said Abaye to him, Yet was it not stated thereon, Rabbah b. Bar Hanah said in R. Johanan's name: They learned this only

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(1) In our Mishnah.

(2) Conversely, when he may not eat leaven he may not feed his cattle with it. But in R. Judah's view he may not eat it during the fifth hour, and yet he may give it to his cattle. Hence this must agree with R. Meir. It is a general principle that an anonymous Mishnah states the halachah.

(3) V. infra 21a. In order to answer that difficulty the Mishnah is explained as being R. Gamaliel's view.

(4) V. Mishnah on 11b. It is a general rule that the view representing a compromise is the halachah.

(5) Lit., ‘a reason of his own . R. Gamaliel's view would be a compromise if R. Meir and R. Judah mentioned terumoth and hullin, R. Meir explicitly stating that even hullin may be eaten the whole of the five hours, and R. Judah stating that even terumah may only be eaten up to four hours. This would show that they recognize that in logic a distinction might be drawn between hullin and terumah. R. Gamaliel, in thus making the distinction, would be effecting a compromise. But they do not rule thus: hence his distinction is an entirely independent one.

(6) Plur. of terumah.

(7) I.e., when it is in doubt whether they are clean or unclean.

(8) I.e., one meal Friday evening and one Saturday morning.

(9) In Upper Galilee.

(10) E.g.. guests who are priests may arrive.

(11) I.e., it is impossible to have unexpected guests, for these cannot arrive from without the town on the Sabbath, while one knows who is in town.

(12) And thus arrive unexpectedly.

(13) One of the functions ascribed to Elijah was the clearing up of all doubts.

(14) His coming then would be inopportune.

(15) Lit. — ‘they said’.

(16) And he states that leaven may be eaten until four hours, even if it is terumah. This is the basis of Rab's ruling, the question being a rhetorical one.

(17) Viz., that even the clean terumoth must not be kept for Sabbath morning but must be burnt before the Sabbath. But it is possible that terumah may be eaten until the fifth hour.

(18) In Northern Palestine.

(19) It was Passover eve.

(20) The owner may come.

(21) Who holds that it is forbidden to Jews then.

(22) Who holds that a Jew may eat it during the fifth hour.

(23) E.g., that he had undervalued it.

(24) Copper coins were unsuitable for keeping a long time, being liable to tarnish and mould. Therefore they would be exchanged for silver ones.

(25) תמחוי; actual food was collected for this purpose, not money, and it was distributed to those in immediate need of a meal. V. B.B. 8b.

(26) Num. XXXII, 22. I.e. , one must avoid even the appearance of suspicion.

(27) R. Joseph had forgotten his learning owing to an illness, and his disciples would often have to remind him of his teachings. v. Ned. 41a.
(28) Lit., 'as whom does it go'?
(29) Through mildew or mice.
(30) I.e., it is like returning lost property to its owner.

Talmud - Mas. Pesachim 13b

when there is the normal rate of decrease; but when [the loss] exceeds the normal rate of decrease, [all agree that] he must sell it by a court order. How much more so here that it is entirely lost.[1]

R. JUDAH SAID FURTHER: TWO [UNFIT] LOAVES, etc. A Tanna recited before Rab Judah: on the top [gab] of the [Temple] iztaba.[2] Said he to him: Does he then need to hide them?[3] Learn: on the roof of the [temple] iztaba [portico]. Rehaba said in R. Judah's name:[4] The Temple Mount consisted of a double colonnade.[5] It was taught likewise: The Temple Mount consisted of a double colonnade. R. Judah said: It was called istewawnith,[6] [being] a colonnade within a colonnade.

UNFIT etc., why UNFIT? — Said R. Hanin: Since they were many they became unfit through being kept overnight. For it was taught: A thanksoffering may not be brought during the Feast of Unleavened Bread on account of the leaven therein.[7] But that is obvious? — Said R. Adda b. Ahabah: We treat here of the fourteenth. and he [the Tanna] holds: Sacred food may not be brought to unfitness.[8] Hence everybody brought it on the thirteenth, and since they were numerous they became unfit through being kept overnight. In R. Jannai's name it was said: They were fit, yet why are they called unfit? Because the sacrifice had not been slaughtered for them.[9] Then let us slaughter [it]? — The sacrifice was lost. Then let us bring another sacrifice and slaughter [it]? — It is a case where he [the owner] had declared: 'This [animal] is a thanksoffering and these are its loaves,' this being in accordance with Rabbah. For Rabbah said: If the loaves are lost, other loaves may be brought. If the thanksoffering is lost, another thanksoffering may not be brought — What is the reason? The loaves are subsidiary[10] to the thanksoffering, but the thanksoffering is not subsidiary to the loaves. Then let us redeem and free them as hullin?[11] — But in truth it is a case where the sacrifice was slaughtered for them, but the blood was poured out.[12] And with whom [does this agree]? With Rabbi, who said: The two things which permit, promote [to sanctity] without each other.[13] For it was taught: The lambs of Pentecost[14] sanctify the loaves only by shechitah.[15] How so? If he kills them for their own purpose[16] and sprinkles their blood for their own purpose, he [thereby] sanctifies the loaves. If he kills them for a purpose that is not theirs and sprinkles their blood for a purpose that is not theirs, he does not sanctify [thereby] the loaves — If he kills them for their own purpose but sprinkles their blood for a purpose that is not theirs, the bread is sanctified and not sanctified;[17] this is Rabbi's ruling. R. Eleazar b. R. Simeon said: The bread always remains unsanctified until he kills [the lambs] for their own purpose and sprinkles their blood for their own purpose.[18] — [No,] you may even say [that it agrees with] R. Eleazar son of R. Simeon; but the case we discuss here is where the blood was caught in a goblet and then spilled, while R. Eleazar son of R. Simeon holds as his father, who maintained: That which stands to be sprinkled is as though it were sprinkled.[19] A Tanna taught: In R. Eleazar's name it was said: They [the loaves] were fit. As long as they [both] lay [there], all the people ate [leaven]; when one was removed, they kept [the leaven] in suspense, neither eating nor burning [it]; when both were removed, all commenced burning [their leaven].

It was taught, Abba Saul said:

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(1) If unsold before it becomes interdicted.
(2) The word may denote a bench or a portico. The reading 'on the top' (gab) implies the former rendering. Hence the question that follows, v. Rashi.

(3) Surely they are intended to be exposed for public gaze.

(4) V. Bez., Sonc. ed. p. 54, n. 9.

(5) [GR. **. For a description of the Temple porticoes v. Josephus, Wars v, 5.3 v. also Derenbonrg, Essai p. 51.

(6) Lit., ‘a double colonnade’. [סטיו כפול == GR. ** of Josephus, Wars V. 5.2. v. Hollis, F. J. Herod's Temple p. 15.]

(7) Forty loaves accompanied the offering, ten of which were leaven.

(8) A thanksoffering may be eaten on the day that it is brought and the following night. But if it is brought on the fourteenth of Nisan the loaves of leaven may be eaten only until noon, and this Tanna holds that a sacrifice may not be brought at a time when the normal period for its consumption is lessened, so that it is likely to become unfit.

(9) I.e., we need not assume that the reference is to loaves which were in fact unfit through having been kept overnight, but even if the sacrifice had not been slaughtered they are also so designated, because the loaves may not be eaten until the thanksoffering is killed on their behalf.

(10) Lit. , ‘on account of’.

(11) For the loaves in that case can be redeemed.

(12) The loaves cannot be redeemed then.

(13) The slaughtering and the sprinkling of the blood are both required before the loaves may be eaten; on the other hand, one alone suffices to promote them to that degree of sanctity (‘intrinsic sanctity, as opposed to ‘monetary’ sanctity); from which they cannot be redeemed.

(14) Lit., ‘the solemn assembly’ — the term without further qualification always refers to Pentecost.

(15) V. Glos. It is stated in Lev. XXIII, 19f: And ye shall offer . . . two he-lambs . . . and the priest shall wave them with the bread of the first fruits (i.e., the ‘two wave loaves’ mentioned in v. 17, q.v.) for a wave offering before the Lord, with the two lambs: they shall be holy to the Lord for the priest. In Men. 46a it is shown that these loaves are sanctified only by the ritual slaughter of the sacrifice.

(16) Lit., ‘for their name — I.e., as the Pentecost sacrifices.

(17) The loaves are sanctified in that they become unfit if taken without the sacred precincts and that they cannot be redeemed, for they are now intrinsically holy. Yet they are unsancitified in the sense that they may not be eaten.

(18) Thus the statement that our Mishnah refers to a case where the offering had been slaughtered but its blood was not sprinkled and thereby the loaves were sanctified, would appear to agree with Rabbi only.

(19) In the sense that the animal is unfit as a sacred offering which has become unfit. Yet it may not be eaten unless the blood is sprinkled.

Talmud - Mas. Pesachim 14a

Two cows used to plough on the Mount of Anointing:[1] as long as both were ploughing. all the people ate; when one was removed, they kept [the leaven] in suspense, neither eating nor burning [it]; when both were removed, all the people began burning [their leaven]. MISHNAH. R. HANINA. THE SEGAN[2] OF THE PRIESTS, SAID: DURING THE DAYS OF THE PRIESTS THEY NEVER REFRAINED FROM BURNING [SACRIFICIAL] FLESH WHICH HAD BEEN DEFILED BY A DERIVATIVE UNCLEANNESS WITH FLESH WHICH HAD BEEN DEFILED BY A PRINCIPAL UNCLEANNESS, THOUGH UNCLEANNESS IS ADDED TO ITS UNCLEANNESS.[3] R. AKIBA ADDED AND SAID: DURING [ALL] THE DAYS OF THE PRIESTS THEY DID NOT REFRAIN FROM LIGHTING OIL[4] WHICH HAD BEEN RENDERED UNFIT[5] BY A TEBUL YOM[6] IN A LAMP WHICH HAD BEEN MADE UNCLEAN BY THAT WHICH [OR, ONE WHO] IS UNCLEAN THROUGH A CORPSE, THOUGH UNCLEANNESS IS ADDED TO THEIR UNCLEANNESS.[7] SAID R. MEIR: FROM THEIR WORDS WE LEARN THAT WE MAY BURN CLEAN TERUMAH TOGETHER WITH UNCLEAN TERUMAH ON PASSOVER.[8] R. JOSE SAID: THAT IS NOT AN ANALOGY.[9] AND R. ELIEZER AND R. JOSHUA ADMIT THAT EACH IS BURNT SEPARATELY; WHERE DO THEY DIFFER? IN RESPECT OF DOUBTFUL [TERUMAH][10] AND UNCLEAN [TERUMAH]. R. ELIEZER RULING, EACH MUST BE BURNT SEPARATELY, WHILE R. JOSHUA RULES, BOTH TOGETHER.

GEMARA. Consider: Flesh which was defiled by a derivative uncleanness, what is it? A second degree. When it is burnt together with flesh which was defiled by a principal defilement, what is it? A second degree:[11] [thus] it was a second degree [before] and [is] a second degree [now], then what adding of uncleanness to its uncleanness is there?-Said Rab Judah: We treat here of the derivative of a derivative, so that it[12] is a third degree, and he holds that a third may be raised to a second. But food cannot defile food, for it was taught: You might think that food should defile food, therefore it is stated, But if water be put upon the seed, and aught of their carcase fall thereon, it is unclean:[13] it is unclean, but it does not render that which is similar thereto unclean?[14] Now it is well according to Abaye who maintained: They learned this only of hullin, but in the case of terumah and sacred food they can render what is similar thereto [unclean]. And also according to R. Adda b. Ahabah in Raba's name, who maintained: They learned this only of hullin and terumah, but in the case of sacred food it does not render its like [unclean], it is correct. But according to Rabina in Raba's name, who said: The Writ states an unqualified law,[15] there is no difference whether it is hullin, terumah, or sacred food, it cannot render its like [unclean], what is there to be said? — We treat here of a case where there is liquid together with the flesh, so that it is defiled on account of the liquid.[16] If so, [instead of] this [phrase] ‘TOGETHER WITH FLESH WHICH HAD BEEN DEFILED WITH A PRINCIPAL UNCLEANNESS, he should state, TOGETHER WITH FLESH and liquid’ [etc.]? Rather, [reply] granted that food cannot defile food by Scriptural law, by Rabbinical law it can nevertheless defile [it].[17]

R. AKIBA ADDED AND SAID: DURING [ALL] THE DAYS OF THE PRIESTS THEY DID NOT REFRAIN FROM LIGHTING, etc. Consider: When oil is rendered unfit through [contact with] a tebul yom, what is it? A third degree [of defilement]; and when it is lit in a lamp which was defiled by that which [or, one who] was defiled through a corpse, what does it become? A second degree.[18] [Thus] what he does inform us is that a third degree may be raised to a second; then it is the identical [teaching]?[19] Said Rab Judah: We treat here of a metal lamp, for the Divine Law said,

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(1) I.e.. the Mount of Olives.

(2) Chief of the priests and deputy High-Priest, v. Sanh., Sonc. ed. p. 97. n. 1.

(3) The following degrees of defilement are distinguished: (i) The super principal (lit. , ‘father of fathers’ of) defilement, which is that borne by a corpse; (ii) principal (lit. , ‘the father of’) defilement, which is that of a human being or a utensil ‘defiled by a corpse; (iii) derivative (lit., ‘offspring of’) defilement, borne by a human being, utensil or food which is contaminated by a principal defilement — this is also known as the first degree or ‘beginning’ of defilement; (iv) the second degree of defilement, which is that of food contaminated by a principal defilement. In hullin there is nothing further, and if hullin comes into contact with something unclean in the second degree it remains clean. Terumah, however, is liable to (v) a third degree, but no further. Sacred food, i.e., the flesh of sacrifices, is liable to (vi) a fourth degree of defilement. Third degree terumah and fourth degree sacred flesh are called ‘unfit’ but not unclean, because they cannot communicate uncleanness to their own kind, i.e., to terumah and sacred flesh respectively.

(4) of terumah.

(5) V. n. 2.

(6) V. Glos.

(7) In all these cases something of a lower degree of uncleanness comes into contact with something else of a higher degree of uncleanness when they are burnt together, and their own uncleanness is increased, as explained in the Gemara.

(8) I.e., on the eve of Passover, when leaven must be burnt. R. Meir reasons that since a higher degree of uncleanness may be imposed upon terumah and sacred flesh when they must be burnt in any case, the same holds good for leaven, even if one is not unclean at all.

(9) You cannot deduce one from the other.

(10) Lit., ‘in suspense’.

(11) For the latter is a first degree and its contact renders this flesh a second degree.

(12) The flesh which is defiled thereby.

(13) Lev. XI, 38.

(14) Then what increase of uncleanness can there be in the Mishnah?

(15) Lit., ‘a full verse’.

(16) When the flesh was defiled there was water upon it, which is still there when it is burnt with the flesh defiled in a lower degree. The uncleanness of the latter is raised through contact with the water.

(17) Thus the Mishnah likewise treats of a Rabbinically enhanced defilement.

(18) The lamp being unclean in the first degree.

(19) of R. Hanina.

Talmud - Mas. Pesachim 14b

[And whosoever . . . toucheth] one that is slain by the sword,[1] [which intimates], the sword is as the slain;[2] hence it is a principal defilement, and he [R. Akiba] thus holds that a third may be raised to a first.[3] Yet what compels Rab Judah to relate it to a metal lamp? Let him relate it to an earthen lamp, and [as to the question], what does he [R. Akiba] add? [We can reply]. For whereas there [in the first clause] it was unclean and is [now] unclean, here it was unfit and is [now] unclean?[4] — Said Raba, Our Mishnah presents a difficulty to him: Why does it particularly state, A LAMP WHICH HAD BEEN MADE UNCLEAN BY THAT WHICH WAS UNCLEAN THROUGH A CORPSE? Let it state, which had been defiled by a sherez![5] Now what thing is there whose uncleanness is differentiated between the uncleanness of a corpse and [that of] a sherez? Say, that is metal.[6]

Raba said: This proves that R. Akiba holds, The uncleanness of liquids in respect of defiling others is Scriptural; for if you should think that it is Rabbinical [only], then consider: how does this lamp affect the oil? If by rendering that itself unfit, surely it is already unfit?[7] Whence [does this follow]: perhaps [it affected it by enabling it] to defile others by Rabbinical law?[8] — If by Rabbinical law [only], why particularly [state when it was defiled] by a principal uncleanness? Even if [it was defiled] by a first or second degree it is still a first.[9] For we learned: Whatever renders terumah unfit defiles liquids, making them a first, except a tebul yom?[10] Hence this must prove that it is Scriptural.

SAID R. MEIR: FROM THEIR WORDS WE LEARN etc. From whose words? Shall we say, from the words of R. Hanina, the Segan of the Priests, — are they alike? There it is unclean and unclean, whereas here it is clean and unclean. Again, if from the words of R. Akiba, — are they then alike? There it is unfit and unclean, whereas here it is clean and unclean? Must we [then] say[11] that R. Meir holds [that] our Mishnah treats of a principal uncleanness according to Scripture and a derivative uncleanness by Rabbinical law,[12] which by Scriptural law is completely clean;

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(1) Num. XIX, 16.

(2) In its degree of defilement. For otherwise, why specify how the person was slain? This is then understood as a general law that any metal vessel or utensil which becomes defiled through a corpse, whether at first hand or not, bears the same degree of defilement as that which contaminates it.

(3) For the oil, by contact with the lamp, is raised from a third to a first.

(4) V. p. 62, n. 2. The flesh, even in a third degree, being sacred, was definitely unclean, since there can be a fourth degree. But the oil of terumah was only unfit, without power to contaminate, whereas now by being raised to a second degree it becomes unclean. Thus this statement goes beyond R. Hanina's. — The reference must be to oil of terumah. For though there was also sacred oil, viz. ‘the oil used in meal-offerings, and there a third degree is unclean in that it defiles by contact, nevertheless when unclean it cannot be used for lighting but must be burnt, like all other sacrifices which had been, invalidated for any reason, so that by burning it together with the derivative of uncleanness and rendering it thereby second, he does not increase the power of defilement.

(5) Lit., ‘a creeping thing’. This too is a principal defilement, just like a man defiled by a corpse. Rashi omits ‘by a sherez’, the question being, what need is there for the Mishnah to define at all the source of principal defilement from which the lamp became contaminated.

(6) The rule that a metal vessel bears the same degree of defilement as that which contaminated it applies only to corpse defilement.

(7) And what does it matter whether it is of the third degree or of the first? Hence we must assume that it can now contaminate even by Scriptural law, which it could not do before.

(8) Which power it previously lacked.

(9) Lit. ‘beginning’ — another designation for a first degree.

(10) ‘What renders terumah unfit’ is anything which is unclean in the second degree. By Rabbinical law this in turn defiles liquids and actually inflicts a higher degree of uncleanness than that borne by itself, rendering them unclean in the first degree. Thus if R. Akiba were treating of Rabbinically enhanced contamination, it would be unnecessary to speak of the lamp, which bears a principal degree of uncleanness, but of anything which bears even a second degree of uncleanness.

(11) Since R. Meir derives his law from the preceding statements.

(12) E.g.. if a utensil was defiled by a liquid and in its turn defiled flesh. The second defilement is only Rabbinical, for by Scriptural law liquid cannot defile a utensil.

Talmud - Mas. Pesachim 15a

and what does FROM THEIR WORDS mean? From the words of R. Hanina, the Segan of the Priests?[1] — Said Resh Lakish in Bar Kappara's name: our Mishnah treats of a principal uncleanness according to Scripture and a derivative uncleanness according to Scripture;[2] and what does FROM THEIR WORDS mean? From the words of R. Eliezer and R. Joshua.[3] Which [teaching of] R. Joshua? Shall we say, the following [teaching of] R. Joshua? For we learned: In the case of a cask of terumah wherein a doubt of uncleanness is born,[4] — R. Eliezer said: If it is lying in an exposed place it must be laid in a hidden place, and if it was uncovered, it must be covered.[5] R. Joshua said: If it is lying in a hidden place, one may lay it in an exposed place, and if it is covered it may be uncovered![6] How compare: there it is mere indirect action, whereas here it is [defiling] with [one's own] hands? — Rather it is this [ruling of] R. Joshua. For we learned: If a cask of [wine of clean] terumah in the upper part is broken,[7] while [in] the lower part there is unclean hullin. R. Eliezer and R. Joshua agree that if a rebi'ith[8] thereof can be saved in purity, one must save it. But if not, R. Eliezer ruled: Let it descend and be defiled, yet let him not defile it with [his own] hands: R. Joshua said: He may even defile it with his own hands.[9] If so, [instead of] this [phrase] ‘FROM THEIR WORDS, he should state, ‘FROM his WORDS’? — This is what he means: From the controversy of R. Eliezer and R. Joshua we learn [etc.]’ — This may be proved too,[10] because he states [further]: R. ELIEZER AND R. JOSHUA AGREE [etc.].[11] This proves it. And thus said R. Nahman in Rabbah b. Abbuha's name [too]: our Mishnah refers to a principal uncleanness according to Scripture and a derivative uncleanness according to Scripture, and what does FROM THEIR WORDS mean? From the words of R. Eliezer and R. Joshua.

Raba raised an objection to R. Nahman: R. Jose said [to R. Meir]: The conclusion[12] is not similar to the premise. For when our Masters testified, about what did they testify? If about flesh which was defiled through a derivative uncleanness, that we burn it together with flesh which was defiled through a principal uncleanness, [then] this is unclean and that is unclean![13] If about oil which was rendered unfit by a tebul yom,[14] that it is lit in a lamp which was defiled by one unclean through the dead, one is unfit and the other is unclean. So we too admit in the case of terumah which was defiled through a derivative uncleanness, that we may burn it together with terumah which was defiled by a principal uncleanness. But how can we burn that which is in suspense together with that which is unclean? Perhaps Elijah will come and declare it [the former] clean![15]

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(1) And the analogy is thus: just as Rabbinically unclean flesh may be burnt together with Scripturally unclean flesh, though the former is Scripturally clean, so may clean terumah be burnt together with unclean terumah during the sixth hour, though the former is then only Rabbinically forbidden, since by Scriptural law the interdict of leaven does not commence until the seventh hour, while the latter is already Scripturally forbidden for use on account of its defilement.

(2) The other hypothesis being a forced one.

(3) Thus R. Meir does not refer to the Mishnah at all but to the rulings of some other Sages. Strictly speaking therefore this Mishnah is irrelevant in its present position, but it is included because the subject of burning unclean together with clean is dealt with there.

(4) E.g., if there is a doubt whether an unclean person touched it.

(5) In spite of the doubt one must still protect it from certain defilement.

(6) I.e. , since a doubt has arisen you are no longer bound to protect it and may even place it where the risk of contamination is greater than at present. Thus R. Joshua holds that since it is only fit for lighting one may cause it to become unclean, and this furnishes the basis for R. Meir's analogy.

(7) And the contents thereof are running down into the lower part of the vat.

(8) A quarter of a log.

(9) If the clean terumah runs into the hullin, it becomes unclean too, and then the mixture is forbidden to priest and lay Israelite alike, unless there is one hundred times as much hullin as terumah. In the present case only unclean vessels are ready to hand to catch the terumah, which would save the hullin below. Both agree that if there is time to go, procure clean vessels and save at least a rebi'ith of the terumah, this must be done, though in the meantime some terumah will descend and render all the hullin forbidden. But where there is no time to save even a rebi'ith, we have a controversy. R. Eliezer holds that even so it must be permitted to descend, though it will thereby be defiled in any case, rather than that we should deliberately defile it by catching it in unclean vessels. But R. Joshua maintains that since it will all be defiled in any case, we may defile it ourselves, in order to save the hullin below. R. Meir's ruling in the Mishnah is based on R. Joshua's.

(10) That R. Meir refers to R. Eliezer and R. Joshua.

(11) This would be irrelevant if he had not already referred to them.

(12) R. Meir's.

(13) Whereas R. Meir deals with unclean and clean.

(14) V. Glos.

(15) How then may we defile them with our hands by burning them together?

Talmud - Mas. Pesachim 15b

As to piggul,[1] nothar,[2] and unclean [sacrificial flesh]. — Beth Shammai maintain: They must not be burnt together;[3] while Beth Hillel rule: They may be burnt together.[4] Now if you think that R. Meir argues from the words of R. Joshua, why does R. Jose answer him from [the view] of R. Hanina, the Segan of the Priests? — Said R. Nahman to him: R. Jose did not comprehend his [R. Meir's] reasoning, for he thought [that] R. Meir was arguing from R. Hanina, the Segan of the Priests, thereupon he said to him, I state [this law by deduction] from R. Joshua — But he answered him, Even on R. Joshua's [view] this is no true analogy, for R. Eliezer and R. Joshua admit that one must burn this separately and that separately. Yet why is this not a [true] analogy. Surely it is a perfect analogy?[5] — There it is different, because there is a loss of hullin.[6] To this R. Jeremiah demurred: [Surely] in our Mishnah too there is the loss of wood?[7] — Said a certain old man to him: They cared about a substantial loss, but they did not care about a slight loss.

R. Assi said in R. Johanan's name: The controversy is [only] in respect of the sixth [hour], but in the seventh all agree[8] that we burn them [together].[9] R. Zera said to R. Assi: Shall we [then] say that R. Johanan holds that our Mishnah treats of a principal uncleanness according to Scripture and a derivative uncleanness by Rabbinical law, and that what ‘FROM THEIR WORDS’ means is from the words of R. Hanina, the Segan of the Priests?[10] — Yes, he replied. It was stated likewise: R. Johanan said: our Mishnah refers to a principal uncleanness according to Scripture and a derivative uncleanness by Rabbinical law, and what does ‘FROM THEIR WORDS’ mean? From the words of R. Hanina, the Segan of the Priests; and the controversy is [only] in respect of the sixth [hour], but in the seventh all agree that we burn them together.

Shall we say that we can support him: As to piggul, nothar and unclean sacrificial [flesh] — Beth Shammai maintain: They must not be burnt together; while Beth Hillel rule: they may be burnt together?[11] — There it is different, because they possess uncleanness by Rabbinical law. For we learned: Piggul and nothar defile the hands.[12] Shall we say that this supports him: If a loaf goes mouldy and is unfit for human consumption, yet a dog can eat it, it can be defiled with the uncleanness of eatables, if the size of an egg,[13] and it may be burnt together with an unclean [loaf] on Passover?[14] — [No]: there it is different because it is merely dust.[15] If so,[16] what does [THEY] ADMIT mean?[17] — R. Jose says thus to R. Meir: Even according to R. Joshua. who is lenient, he is lenient only in connection with doubtful and unclean [terumah],[18] but not in the case of clean and unclean.[19] If so,[20] why is it not a true analogy? Surely it is a perfect analogy?[21] — Said R. Jeremiah: Here[22] we treat of flesh which was defiled by a liquid which was defiled through a creeping thing. and R. Meir is consistent with his view, while R. Jose is consistent with his view: R. Meir [is consistent] with his view, for he maintains, The uncleanness of liquids in respect of defiling others is [only] Rabbinical; while R. Jose [is consistent] with his view, for he maintains: The uncleanness of liquids in respect of defiling others is Scriptural.[23] For it was taught:

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(1) Lit., ‘abomination’. The flesh of a sacrifice which the priest offered with the express intention of consuming it after the permitted time.

(2) ‘Left over’, flesh not consumed within the permitted period.

(3) Because the first two, though forbidden, are not unclean Biblically, and when they are burnt together they become defiled.

(4) This last portion of the Baraitha dealing with piggul, etc., is irrelevant, and is quoted merely in order to complete the Baraitha.

(5) For the wine in the cask is quite clean, yet since it is fated to be lost we may deliberately defile it.

(6) If the terumah is not deliberately defiled and allowed to flow into the lower part of the vat, v. Supra p. 67. n. 2.

(7) For fuel, if two fires must be made instead of one.

(8) Even R. Jose.

(9) Since they are then Scripturally forbidden, even the clean terumah is certainly the same as unclean.

(10) Thus: just as that which is only Rabbinically unclean may be burnt together with what is Scripturally unclean, so in the sixth hour, the terumah of leaven is then only Rabbinically forbidden, and may be burnt with unclean terumah which is Scripturally forbidden. This seems to be R. Han's interpretation. Rashi and Tosaf. on the basis of another reading explain it rather differently.

(11) This teaching was cited by R. Jose in his argument with R. Meir, he apparently agreeing with the view of Beth Hillel (v. supra and notes). Thus since piggul and nothar are Scripturally forbidden, they may be burnt together with unclean flesh, though they are thereby contaminated; and the same applies to clean terumah of leaven in the seventh hour.

(12) I.e., Rabbinically. v. infra 120a.

(13) Since it was once fit for human food, it can be defiled as food unless it becomes unfit even for a dog.

(14) I.e., even if it is terumah. Now this must certainly be R. Jose's view, for R. Meir permits them to be burnt together even if the loaf is fresh. This proves that R. Jose agrees where it is quite unfit for human consumption, and the same applies to clean terumah of leaven in the seventh hour.

(15) When it is unfit because of its mouldiness, it is worse than unclean, having no intrinsic value whatsoever.

(16) That R. Meir learns from R. Hanina.

(17) Surely R. Jose's argument that R. Eliezer and R. Joshua admit etc., is irrelevant, seeing that R. Meir is not concerned with them at all?

(18) In the two cases cited supra 15a.

(19) With which R. Meir deals.

(20) Again, that R. Meir learns from R. Hanina.

(21) For in the sixth hour the leaven is Rabbinically forbidden, and on R. Johanan's view, there is no difference according to R. Jose between what is unclean and what is forbidden for any other reason (since he maintains that in the seventh hour R. Jose agrees that they may be burnt together because both are then Scripturally forbidden) and the same principle should apply equally to R. Meir.

(22) In our Mishnah.

(23) Hence according to R. Meir this flesh is clean by Scriptural law, yet it is burnt together with flesh Scripturally unclean, and by analogy the same applies to terumah. But in R. Jose's view this flesh too was of uncleanness, and therefore it cannot be compared to terumah in the sixth hour, when it is only Rabbinically forbidden.

Talmud - Mas. Pesachim 16a

Doubtful [cases of uncleanness with] fluids,[1] in respect of becoming unclean themselves, are unclean; in respect of defiling others,[2] they are clean; this is R. Meir's view, and thus did R. Eleazar too rule as his words. R. Judah said: It is unclean in respect of everything. R. Jose and R. Simeon maintain: In respect of eatables, they are unclean; in respect of utensils they are clean.[3] But does R. Eleazar hold that liquid is at all susceptible to uncleanness,[4] surely it was taught: R. Eleazar said: Liquids have no uncleanness at all [by Scriptural law]; the proof is that Jose b. Jo'ezer of Zeredah[5] testified[6] that the stag-locust[7] is clean [fit for food], and that the fluids[8] in the [Temple] slaughter-house are clean.[9] Now, there is no difficulty according to Samuel's interpretation that they are clean [only] in so far that they cannot defile other [objects], but that nevertheless they are unclean in themselves, then it is well; but according to Rab who maintained that they are literally clean,[10] what can be said? — Said R. Nahman b. Isaac: [He refers] to one [ruling only].[11] But he states: as his words', implying that they are many; moreover, he teaches, 'and thus [etc.]'?[12] That is [indeed] a difficulty.

The [above] text [states]: 'Rab said, They are literally clean: while Samuel maintained, They are clean [only] insofar that they cannot defile other [objects], but nevertheless they are unclean in themselves'. 'Rab said: They are literally clean'. He holds that the uncleanness of liquids is Rabbinical, and when did the Rabbis decree thus? [only] in respect of liquids in general, but there was no decree in respect of the liquids of the slaughter-house.[13] 'While Samuel maintained, They are clean [only] in so far that they cannot defile other [objects], but nevertheless they are unclean in themselves'. He holds that the uncleanness of liquids themselves is Scriptural, [but] in respect of defiling others, Rabbinical; and when did the Rabbis decree? In respect of liquids in general, but in respect of the liquids of the slaughter-house there was no decree; again, when did the Rabbis refrain from decreeing [concerning the liquids of the slaughter-house]? In respect to the defiling of other [objects], but they possess uncleanness in themselves.[14]

R. Huna b. Hanina said to his son: When you come before R. Papa, point out a contradiction to him: Did then Samuel say, 'They are clean in so far that they cannot defile other [objects], but nevertheless they are unclean in themselves', — read here, and the flesh that toucheth any unclean thing shall not be eaten?[15] Said R. Shisha the son of R. Idi: Let it be compared to the fourth degree in the case of sacred [food].[16] To this R. Ashi demurred: A fourth degree in the case of sacred [food] is not designated unclean, [whereas] this is designated unclean? — This is a difficulty. Come and hear: And all drink that may be drunk in any vessel shall be unclean?[17] — What does 'it shall be unclean' mean? It makes [solid foodstuffs] fit [to become unclean].[18] [You say]. 'It makes [solids] fit'; this you know from the beginning of the verse: All food which may be eaten [that on which water cometh, shall be unclean]? — one refers to detached [liquid], and the other to attached [liquid],[19] and both are necessary: for if we were informed of detached, that is because he [the owner of the eatables] assigned importance to them;[20] but as for attached, I would say that it is not so. And if we were informed of attached, [that may be] because it [the liquid] stands in its place it has value; but as for detached, I would say that it is not so. Thus they are necessary.

Come and hear: Nevertheless a fountain or a pit wherein is a gathering of water shall be clean?[21] — What does 'shall be clean' mean? From his [or, its] uncleanness.[22]

But can detached [liquid][23] make [eatables] fit [to become unclean]; surely R. Jose b. R. Hanina said: The liquids of the [Temple] slaughter-house, not enough that they are clean, but they cannot [even] make [eatables] fit [to become unclean]?[24] Interpret this as referring to the blood,[25] for R. Hiyya b. Abin said in R. Johanan's name: How do we know that the blood of sacrifices does not make [anything] fit [to become defiled]? Because it is said, thou shalt pour it out [sc. the blood] upon the earth as water:[26] blood which is poured out as water[27] makes fit;

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(1) E.g. . if an unclean person. whose touch defiles liquids, puts his hand into a vessel, and it is not known whether he actually touched the liquid there or not.

(2) E.g., if unclean liquid fell near food and it is unknown whether it actually touched it or not.

(3) The general principle is this: when a doubt arises in a Scriptural law, we are stringent; in a Rabbinical law, we are lenient. Now liquid can become defiled by Scriptural law (Lev. XI, 34), hence in doubt it is unclean. But there is a controversy as to whether it can defile other objects by Scriptural law. R. Meir holds that it cannot defile either food or utensils; R. Judah that it defiles both; while R. Jose and R. Simeon hold that it defiles food but not utensils.

(4) Even in respect of itself.

(5) V. Cambridge Bible I Kings XI, 26.

(6) On the historic occasion when as a result of a dispute between R. Gamaliel and R. Joshua the former was deposed from the Patriarchate and R. Eliezer b. ‘Azariah appointed in his stead. An examination was then made of scholars’ traditions, and they were declared valid or otherwise; v. ‘Ed., Sonc. ed., Introduction, xi.

(7) Heb. ayil, of doubtful meaning.

(8) Sc. blood and water.

(9) Even by Rabbinical law. This postulates that the general uncleanness of liquids is Rabbinical only, and it was therefore not imposed in the Temple, so as not to defile the flesh of sacrifices. — The language of this Mishnah is Aramaic whereas all other laws in the Mishnah are couched in Hebrew. Weiss, Dor, I, 105 sees in this a proof of its extreme antiquity.

(10) Even in respect of themselves.

(11) R. Eleazar agrees with R. Meir that it is clean in respect of other objects, but not that it is unclean in respect of itself.

(12) Both imply that he fully agrees with R. Meir

(13) V. n. 5.

(14) I.e., the Rabbis could not free them from the uncleanness which they bear by Scriptural law.

(15) Lev. VII, 19. Hence if the liquid is unclean, the sacrificial flesh which touches it may not be eaten.

(16) I.e. , sacrifices. V. p. 62, n. 2. Thus there too it is unfit itself through defilement, yet cannot defile other flesh of sacrifices.

(17) Lev., XI, 34. This shows that liquids contract defilement.

(18) For solids cannot be defiled unless moisture has previously been upon them. The words, ‘it shall be unclean’ thus refer to ‘of all the food etc. ‘with which the verse begins.

(19) If rain falls upon produce it renders it susceptible to defilement only if the owner of the produce desired it to fall upon something. E.g., if he put out a basin so that the rain should wash it, and subsequently produce fell into the water, it is henceforth susceptible. We are informed here that whether the water is detached from the soil, i.e., whether the rain falls into something detached from the soil, e.g., a bath (as denoted by the words ‘in any vessel’), or into something attached, i.e., forming part of the soil, e.g., a pit,and then eatables receive moisture from that rain, they are now ready to be defiled. In the latter case the produce is rendered susceptible only if it comes into contact with the water with the owner's desire; in the former, even against the owner's desire. V. Hul. 16a and Rashi a.l. s.v. לענין הכשר.

(20) By the mere fact that he desired that the water should fall there or by pouring it into the vessel.

(21) Lev. XI, 36. This shows that only attached water is clean, but not detached.

(22) The verse refers to one who is unclean, and states that if he takes a ritual bath (tebillah) in the water of a fountain or a pit he shall be clean, but not in the water of a bath (technically called ‘drawn water’). But it does not refer to the cleanness of the water itself.

(23) Rashi: this difficulty refers to water, which can be attached too. But all other liquids are essentially detached.

(24) This proves that the power of detached liquids in this respect is only Rabbinical; for if it were Scriptural, the Rabbis have no power to make an exception in this case.

(25) But not the water.

(26) Deut. XII, 24.

(27) I.e. , the blood of non-sacrifices

Talmud - Mas. Pesachim 16b

blood which is not poured out as water[1] does not make fit. To this R. Samuel b. Ammi demurred: Behold the last-drained blood,[2] which is poured out like water,[3] yet it does not make fit? — Said R. Zera to him, Leave the last-drained blood alone, which does not make fit even in the case of hullin. R. Samuel b. Ammi received it [the reason] from him, because the Divine Law saith, Only be sure that thou eat not the blood; for the blood is the life:[4] blood wherewith life goes out is called blood; blood with which life does not go out is not called blood.[5]

Come and hear: If blood became unclean and he [the priest] sprinkled it unwittingly, it [the sacrifice] is accepted; if deliberately, it is not accepted?[6] — It was Rabbinically [unclean], this not being in accordance with R. Jose b. Jo'ezer of Zeredah.[7]

Come and hear: For what does the headplate propitiate?[8] For the blood, flesh, and the fat which were defiled, whether in ignorance or deliberately, accidentally or intentionally,[9] whether in the case of an individual or of the community.[10] [It was defiled] by Rabbinical law [only], this not being in accordance with Jose b. Jo'ezer of Zeredah.[11]

Come and hear: And Aaron shall bear the iniquity of the holy thing:[12] now what iniquity does he bear? If the iniquity of piggul,[13] surely it is already said, it shall not be accepted?[14] If the iniquity of nothar,

after the first violent rush, The life and vitality pass out with the first blood, not with the last. surely it is already said, neither shall it be imputed [unto him that offereth it]?[15] Hence he bears nought but the iniquity of defilement, which is inoperative[16] in opposition to its general rule, in the case of a community.[17] Does that not mean the defilement of the blood? — Said R. Papa: No: the defilement of the handfuls.[18]

Come and hear: If one bear unclean [kodesh] flesh in the skirt of his garment, and with his skirt do touch bread, or pottage, or wine, or oil, or any meat, shall it be defiled? And the priests answered and said, No.[19]

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(1) I.e., the blood of sacrifices, which is sprinkled on the altar.

(2) I.e., the blood which flows out slowly

(3) It is not fit for sprinkling.

(4) Deut. XII, 23.

(5) And consequently not in category of liquids (v. Rashi).

(6) Lit. ‘make acceptable’. The language is the Biblical, cf. Lev. I, 4: and it shall be accepted for him to make atonement for him i.e., the sacrifice is efficacious for its purpose. Now by Biblical law it is accepted whether the sprinkling was done deliberately or in ignorance of its uncleanness, and the flesh may be eaten by the priests, but the Rabbis penalized the priests by not permitting the flesh to be eaten in the former case, though another sacrifice is not required (v. Git. 54a). Incidentally we see that blood can become unclean, and thus liquids in general, which contradicts Rab.

(7) Who testified that the Rabbinical decree of uncleanness was not applied to the liquids of the Temple slaughter-house. This Tanna obviously holds that it was.

(8) The reference is to Ex. XXVIII, 38, q.v. ‘That they may be accepted before the Lord is understood to mean that the head plate makes sacrifices acceptable and procures atonement in spite of certain irregularities.

(9) This appears to contradict the preceding statement, but v. infra 80b on the discussion of this passage.

(10) Thus here too it is stated that the blood becomes defiled.

(11) V. n. 5.

(12) Ibid. ‘Shall bear’ means shall make atonement for.

(13) V. Glos.

(14) Lev. XIX, 7.

(15) Lev. VII, 13.

(16) Lit., ‘permitted’.

(17) Public sacrifices, or private sacrifices which the entire community had to bring. e.g., the Passover, were permitted even in defilement. For notes v. Yoma, Sonc. ed. p. 27, notes.

(18) Of meal which were burnt on the altar, v. Lev. II. 2. This burning was the equivalent of the sprinkling of the blood in the case of an animal sacrifice, atonement being dependent thereon.

(19) Hag. II, 12.

Talmud - Mas. Pesachim 17a

Whereon Rab said: The priests erred?[1] — Is this view [propounded] against any but Rab? Rab learned, ‘the liquids of the slaughter-house’; but the liquids of the altar[2] can be defiled.[3] [To turn to] the main text: ‘Rab said: The priests erred; but Samuel maintained, The priests did not err’. ‘Rab said, The priests erred’; he asked them about a fourth degree in respect of holy foodstuffs, and they answered him that it was clean. ‘But Samuel maintained, The priests did not err’; he asked them about a fifth degree in respect of holy foodstuffs, and they answered him, It is clean. As for Rab, it is well: hence four are written, ‘bread, pottage, wine, and oil’; but according to Samuel, whence does he know five? — Is it then written, ‘and his skirt[4] touch [the bread]’? Surely it is written, and touch with [that] [by] his skirt,[5] [meaning that it touched] that which was touched by his skirt.[6]

Come and hear: Then said Haggai, If one that is unclean by a dead body touch any of these, shall it be unclean? And the priests answered and said, It shall be unclean.[7] As for Samuel, it is well: since they did not err here, they did not err there [either]; but according to Rab, why did they err here yet did not err there? — Said R. Nahman in Rabbah b. Abbuha's name: They were well-versed in the uncleanness of a corpse, but not well-versed in the uncleanness of a sherez.[8] Rabina said: There it was a fourth degree; here it was a third.[9]

Come and hear: Then answered Haggai and said, So is this people, and so is this nation before me, saith the Lord: and so is every work of their hands: and that which they offer there is unclean.[10] As for Rab, it is well: hence ‘unclean’ is written.[11] But according to Samuel, why was it unclean? — He indeed wondered.[12] But it is written, and so is every work of their hands?[13] — Said Mar Zutra, others state, R. Ashi: Because they perverted their actions the Writ stigmatizes them as though they offered up [sacrifices] in uncleanness.

[To turn to] the main text: ‘Rab learned, The liquids of the slaughter-house;[14] while Levi learned: The liquids of the altar’. Now according to Levi, it is well if he holds as Samuel, who said, They are clean [only] in so far that they cannot defile other [objects]. but nevertheless they are unclean in themselves: then it is possible where they all touched the first.[15] But if he holds as Rab, who maintained [that] they are literally unclean, how is it conceivable?[16] — You are compelled [to say that] he holds as Samuel. And according to Samuel, it is well if he holds as Rab who learned, ‘The liquids of the slaughter-house’, but the liquids of the altar can even defile others: [hence] it is only a fourth degree which cannot make a fifth, but a third can make a fourth.[17] But if he holds as Levi who learned, ‘The liquids of the altar’, why particularly [ask about] a fourth, which cannot make a fifth; they cannot even make a second or a third?[18] — You are compelled [to say that] he holds as Rab.

It was taught in accordance with Rab; it was taught in accordance with Levi. It was taught in accordance with Rab: Blood, wine, oil and water, the liquids of the altar, which were defiled within[19] and carried without,[20] are clean.[21] If they were defiled without[22] and [then] brought within, they are unclean.[23] But that is not so? for R. Joshua b. Levi said: ‘They did not rule that the liquids of the altar are clean save in their place’: is that not to exclude [the case where] they were defiled within and carried without! — No: it is to exclude [where] they were defiled without and [then] taken within. But he states, ‘in their place’?[24] — This is what he states: They did not rule [that these liquids] are clean save when they were defiled in their place [sc. within].

It was taught as Rab: Blood and water, the liquids of the slaughter-house, which were defiled, whether in vessels or in the ground, are clean;

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(1) Kodesh is here translated unclean, from its root idea of ‘separation’, ‘keeping at a distance from’, and Haggai was examining the priests in the knowledge of the laws of uncleanness. The exact point of his question is disputed infra, but according to Rab it was this: the unclean flesh was a sherez (‘creeping thing’). which bears a principal degree of uncleanness; this sherez, (being held in the skirt of the garment is now designated by the term ‘skirt’, the mention of which would otherwise be pointless) touched the bread, the bread touched the pottage, the pottage touched the wine, and the wine touched the oil or any other foodstuff and the question was whether this last would be unclean, i.e. , whether there is a ‘fourth’ degree in the case of holy food, to which this refers. So Rashi. R. Tam: the sherez touched the skirt, which became a first, the skirt touched the bread or the pottage, which became a second, then one of these touched wine or oil, which became a third, and the wine or oil touched some other eatable. Actually there is a fourth degree and since the priests replied in the negative. they erred (v. p. 62, n. 2). Thus we see that wine and oil are unclean, though they are the liquids of the Temple, which contradicts Rab. Now, if the uncleanness of liquids is Rabbinical, it has been stated that the Rabbinical decree did not apply to the Temple. And even if Haggai was examining them on points of Rabbinical law, this still contradicts Rab, who states that they are literally clean. The previous answer that Rabbinical uncleanness only is discussed here, while this does not agree with R. Joseph b. Jo'ezer of Zeredah, is impossible in the present instance, for he obviously cannot disagree with Scripture.

(2) In the Aramaic, ‘slaughter-house’ and ‘altar’ differ in one letter only.

(3) Blood and water are the liquids of the slaughter-house, but wine and oil are liquids of the altar.

(4) I.e., the sherez which was in his skirt.

(5) So literally.

(6) I.e., the sherez in the skirt touched something which in turn touched the bread, which is therefore a second degree; hence the oil would be a fifth (v. Rashi).

(7) Hag. II, 13,

(8) Thinking that where the originating uncleanness is a sherez, it does not go beyond the third degree.

(9) They were quite unaware that there is a fourth degree, but his second question related to the third degree, Rabina translating thus: If the uncleanness of a dead body touch etc. Since a corpse is a super principal (father of fathers) of uncleanness, the oil would be a third, and of this they knew.

(10) Ibid. 14.

(11) In their ignorance their work would be as unclean.

(12) Seeing that they know the laws so well, can their work be unclean?

(13) This is a positive statement.

(14) In the testimony of R. Joseph b. Jo'ezer of Zeredah.

(15) Thus: in the first question Haggai asked about successive stages of defilement, and they answered that the oil is clean, since it touched the wine, which as a liquid of the altar can be defiled (i.e.. made unfit) but cannot contaminate. But in the second question each touched the first mentioned, viz., ‘one that is unclean by a dead body’, and they rightly answered that they are unclean.

(16) That the wine and the oil should be unclean. One cannot raise the objection against Rab himself, since he reads, the liquids of the slaughter-house, i.e., blood and water, but not wine and oil.

(17) And for that reason Haggai put his question as to whether the wine, a fourth, could render the oil unfit as a fifth degree of uncleanness, and they rightly gave a negative reply.

(18) Wine and oil, whatever their uncleanness, cannot defile others.

(19) The Temple Court.

(20) Through this act they are henceforth unfit for the altar.

(21) In that they cannot defile others, because when they became unclean in the first place they were true ‘liquids of the altar’, and as such could not contaminate others.

(22) Before they were ever taken within, so that they were not yet ‘liquids of the altar’, and they contracted a degree of defilement which contaminates others.

(23) I.e., they retain the power to contaminate. — Thus this Baraitha speaks of liquids of the altar.

(24) Which is within.

Talmud - Mas. Pesachim 17b

R. Simeon said: In vessels, they are unclean; in the ground, they are clean.[1]

R. Papa said: Even on the view that the uncleanness of liquids is Biblical, [the non-defilement of] the liquids of the slaughterhouse is a traditional law. Said R. Huna the son of R. Nathan to R. Papa:

Then when R. Eliezer said, ‘Liquids have no uncleanness at all; the proof is that Jose b. Jo'ezer of Zeredah testified that the fluids in the [Temple] slaughter-house are clean,’ — but if it is a traditional law, can we learn from this?[2]

Rabina said to R. Ashi: But surely R. Simeon maintained [that] the uncleanness of liquids is Biblical, for it was taught. R. Jose and R. Simeon maintain: In respect of utensils they are clean; in respect of eatables they are unclean;[3] yet here R. Simeon rules: In vessels, they are unclean; in the ground, they are clean. But if it is a traditional law, what is the difference whether they are in vessels or in the ground?- This is a difficulty.

R. Papa said: As to what you say,’In the ground, they are clean’, this was taught only of water, but not of blood. And even of water too we said this only when there is a rebi'ith, so that needles and hooks can be bathed therein;[4] but if less than a rebi'ith. it is unclean.[5]

The Master said: ‘R. Judah said: It is unclean in respect of everything.’ Shall we say [that] R. Judah holds [that] the uncleanness of liquids, in respect of defiling utensils, is Biblical?[6] Surely we learned:[7] In the case of all utensils which, have an outside[8] and an inside, e.g.. cushions, feather-beds, sacks and packing bags, if the inside is defiled, the outside is defiled [too]; if the outside is defiled, the inside is not defiled. R. Judah said: When is that said? Where they are defiled by a liquid; but if they are defiled by a sherez, if the inside is defiled the outside is defiled, [and] if the outside is defiled the inside is defiled.[9] Now if you think that the uncleanness of liquids in respect of defiling utensils is Biblical, what is the difference whether it was defiled through liquids or through a sherez? — Said Rab Judah in Samuel's name: R. Judah retracted.[10] Rabina said: In truth he did not retract: one refers to liquids which are unclean[11] through the hands,[12] the other to liquids which are unclean through a sherez. If so, instead of stating, ‘When is that, when they are defiled by liquids.’ let him draw a distinction in that itself: [thus:] when is it said? In the case of liquids unclean through the hands; but in the case of liquids defiled by a sherez, if the inside is defiled the outside is defiled, [and] if the outside is defiled the inside is defiled. Hence it is clear as we first answered: R. Judah retracted.

The scholars asked: Did he retract [only] from [his ruling on] utensils, but in [the matter of] eatables he holds as R. Jose and R. Simeon;[13] or perhaps he completely retracted, in accordance with R. Meir[‘s views]?[14] — Said R. Nahman b. Isaac, Come and hear: If a cow[15] drinks the water of lustration,[16] its flesh is unclean.[17] R. Judah said:

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(1) V. infra.

(2) Surely this does not afford proof, if these liquids stand entirely in a separate category.

(3) V. supra 16a.

(4) If they are unclean, the rebi'ith of water in the ground serving as a ritual bath, as it can do by Biblical law, through the Rabbis enacted that forty se'ahs is the minimum capacity. Still, since by Biblical law it constitutes a mikweh itself, the water cannot be defiled. A rebi'ith is the minimum which may constitute a mikweh.

(5) Hence according to R. Simeon, R. Joseph b. Jo'ezer's testimony was only in respect of water, not blood.

(6) V. p. 70. n. 11.

(7) So cur. edd., the reference being to the Mishnah in Kel. XXV, I. But the reading there is different, and R. Samson of Sens quotes the present passage as a Baraitha. R. Han. too introduces it by the phrase ‘it was taught’.

(8) Lit., ‘back’.

(9) ‘Utensils which have a back (outside) and an inside’ are those which can be used on both sides. A cushion, feather-bed, etc. had a definite side for use, nevertheless they could be turned inside out and used; similarly, sacks and packing bags could be turned inside out and used, and they are therefore treated like other vessels which require only rinsing in order to become clean (v. Hul. 25a) so that if the inner side is defiled the whole is unclean, but not the reverse. Thus the first Tanna. R. Judah, however, draws a distinction between liquids and a sherez as the contaminating object; in the first case this law holds good, because liquid defiles by Rabbinical law only, and therefore the extent of its defilement was lessened, so that it might be known that it does not defile by Biblical law. Hence, if it touches terumah the terumah must not be burnt, as it would be if it were unclean by Scriptural law. But if a sherez, which defiles by Biblical law, contaminates them, they are altogether unclean, no matter where they are touched.

(10) From the view that it is unclean in respect of everything.

(11) Lit., ‘which come’.

(12) By a Rabbinical enactment a person's hands are generally considered unclean in the second degree; further, they defile liquids and render them unclean in the first degree. It is between such liquids and a sherez that R. Judah draws a distinction.

(13) That liquids contaminate them, Biblically.

(14) That liquids do not contaminate them even Rabbinically.

(15) Whether sanctified or not.

(16) V. Num. XIX, 9 (it is there translated: water of separation).

(17) If it is slaughtered while the water is yet within it, for the water of purification defiles human beings and vessels, v. ibid. 21.

Talmud - Mas. Pesachim 18a

It [the water] is nullified in its bowels.[1] Now if you think that he retracted [only] from [his ruling on] utensils, yet in [respect to] eatables he holds as R. Jose and R. Simeon, why is it completely nullified in its bowels: granted that it cannot defile [with] the graver uncleanness,[2] yet it can at least defile [with] the lighter uncleanness?[3] — What does, ‘it is nullified in its bowels’ mean? It is indeed nullified from [imposing] grave uncleanness, but it does defile [with] light uncleanness. Hence it follows that the first Tanna holds that it is unclean even with the graver uncleanness; but surely he states, ‘Its flesh is unclean?’[4] The whole is R. Judah. but the text is defective, and it was thus taught: If a cow drinks the water of lustration, its flesh is unclean. When is that said? In respect of light uncleanness, but not in respect of grave uncleanness, for R. Judah maintained: It is nullified in its bowels. R. Ashi said: In truth it is completely nullified in its bowels, because it is [now] noisome liquid.[5]

‘R. Jose and R. Simeon maintained: In respect of eatables they are unclean; in respect of utensils they are clean.’ Rabbah b. Bar Hanah said in Resh Lakish's name: R. Jose stated this in accordance with the opinion of R. Akiba his teacher,[6] who interprets yitma [it shall be unclean] as yetamme [it shall defile] — For we learned: on that very day[7] R. Akiba lectured: And every earthen vessel, wherein any of them [sc. creeping things] falleth, whatsoever is in it shall be unclean [yitma]:[8] it does not state tame [unclean] but yitma. [intimating that] it defiles [yetamme] others, [thus] teaching that a loaf of the second degree produces a third in the case of hullin.[9] And how does he interpret [it] here?[10] — And all drink that may be drunk in every such vessel [yitma] shall be unclean:[11] it ‘shall defile’ [yetamme] in respect of defiling eatables —[12] You say. ‘In respect of defiling eatables’: yet perhaps it is not so, but rather in respect of defiling liquids? — You can answer, It was not thus. What does ‘it was not thus’ mean? — Said R. Papa: We do not find that uncleanness renders that which is similar to itself [unclean].[13] Rabina said: From the verse itself too you cannot say ‘it shall defile’ is in respect of defiling liquids. For if you should think that ‘it shall be unclean’ of the second part [of the verse] is in respect of defiling liquids, [while] ‘it shall be unclean’ of the first part is also in respect of defiling liquids,[14] then let it [the Torah] combine them and write them [together]. All food therein which may be eaten, that on which water cometh, and all drink that may be drunk in every such vessel shall be unclean: what is the purpose of ‘shall be unclean’ twice? Hence ‘shall be unclean’ of the first part is in respect of defiling liquids. [while] ‘shall be unclean’ of the second part is in respect of defiling eatables. Yet perhaps it is in respect of defiling vessels?[15] — Does it [the reverse] not follow a minori: if a utensil, which defiles liquids, cannot defile [another] utensil,[16] then how much the more should liquids which are unclean[17] through a utensil not defile utensils! Yet perhaps, they do[18] not defile [utensils] [when they are] liquids unclean through a utensil; but liquids which are unclean through a sherez, do indeed defile [utensils]? — Are then liquids which are unclean through a sherez, written [in Scripture]?

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(1) Because it is no longer fit for its purpose, and ceases to be regarded as water of purification.
(2) I.e., it cannot defile human beings and vessels.
(3) I.e., foodstuffs, sc. this flesh. For the water is at least the same as any other liquid and is therefore unclean, for it is regarded as though it touched itself while it was yet the water of purification, and in turn it should defile the flesh.
(4) But he does not maintain that the water defiles even human beings and vessels.
(5) And undrinkable, whereas only drinkable water defiles.
(6) But it is not his own view, v. Tosaf.supra 15b s.v. ר יוסי.
(7) V. p. 71. n. 3.
(8) Lev. XI. 33.
(9) For the sherez (creeping thing) is a ‘father’ of uncleanness; hence it renders the vessel a derivative or a ‘first’ degree, and that in turn makes the food in it a second, and since the verse teaches that it defiles others, without specifying terumah, it follows that this makes a third even in respect of hullin.
(10) In respect of liquids.
(11) Ibid. 34.
(12) But not liquids. Consequently they only mention eatables in their ruling, but not liquids.
(13) V. infra. Hence an unclean liquid can defile an eatable, but not another liquid.
(14) V. infra 13b.
(15) Sc. the second ‘shall be unclean’ — why then does R. Jose rule that it is clean in respect of vessels?
(16) As shown infra.
(17) Lit., ‘come’.
(18) Lit., ‘when do they not.

Talmud - Mas. Pesachim 18b

Are they not [rather] inferred a minori: if liquids which are unclean through a utensil defile, how much the more liquids which are unclean through a sherez! [Then] it is sufficient that that which is deduced by [this] argument shall be as its premise.[1]

How does he interpret ‘shall be unclean’ of the first part? — ‘All food therein which may be eaten, that on which water cometh [yitma] shall be unclean’: ‘it shall defile [yetamme]’ in respect of defiling liquids. You say, to defile liquids; yet perhaps it is not so, but rather to defile utensils? You can answer, it follows, a minori: if a liquid, which defiles an eatable, cannot defile a utensil; then an eatable, which cannot defile an eatable, surely cannot defile a utensil! Hence how do I interpret.[2] ‘shall be unclean’? That it defiles liquids, which are ready to contract uncleanness. Why particularly apply it to liquids, because they are ready to contract uncleanness? Deduce it from the fact that there is nothing else [left]?[3] — This is what he means: And should you argue, an eatable is more stringent [than liquid], since it defiles liquids.[4] [and therefore] let it defile utensils [too]; [hence we are told that] that[5] is a [greater] stringency of liquids, because liquids are ready to contract uncleanness. And what is their readiness? Because they contract uncleanness without being made fit.[6]

‘[It] shall be unclean,’ [teaching] that it cannot render something similar to itself [unclean]![7] — But is it deduced from here? Surely it is deduced from elsewhere, [viz.,] But if water be put upon the seed, and aught of their carcass fall thereon, it is unclean unto you:[8] it is unclean, but it cannot create a similar uncleanness?[9] — One treats of liquids unclean[10] through a sherez, and the other treats of liquids unclean through a utensil; and [both] are necessary. For if we were informed [this] of liquid which is unclean through a utensil, [I would say,] that is because it is not stringent; but in the case of liquid unclean through a sherez, which is stringent, I might argue that it creates uncleanness similar to its own. Then let us be told [this] about liquid defiled by a sherez, and how much the more liquid unclean through a utensil? — That which may be inferred a minori, Scripture takes the trouble of writing it [explicitly].

Rabina said to R. Ashi: But Raba said, R. Jose does not agree with R. Akiba, nor does R. Akiba agree with R. Jose?[11] — Said he to him: R. Jose stated it in accordance with the opinion of R. Akiba his teacher, but he himself does not hold thus.[12]

R. Ashi said to R. Kahana: As for R. Jose not agreeing with R. Akiba, that is well, for it was taught: R. Jose said: How do we know that a fourth degree in the case of sacred food is unfit? Now this follows a minori: if he who lacks atonement,[13] though permitted to partake of terumah, is unfit in respect of sacred food, then[14] a third, which is unfit in the case of terumah,[15] is it not logical that it makes a fourth in sacred food! And we learn a third in the case of sacred food from Scripture, and a fourth a minori.[16] ‘A third from Scripture’, for it is written, And the flesh that toucheth any unclean thing

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(1) Not stricter. Scripture does not state that water defiled by a sherez, can contaminate something else, but it is merely deduced, as shown in the text.

(2) Lit., ‘fulfil’.

(3) Everything else having been excluded.

(4) Which a liquid cannot do.

(5) The exposition of the verse to the effect that eatables defile liquid.

(6) For uncleanness, in contrast to eatables, which may become unclean only after moisture has fallen upon them.

(7) As Rabina, deduces from the verse itself.

(8) Lev. XI. 38.

(9) I.e., it cannot make something like itself unclean, which is the actual reading supra 14a.

(10) Lit., ‘which come’.

(11) Infra. Thus R. Jose holds that liquid can defile other liquid, and he must interpret Lev. XI, 33 accordingly. Now the eatable or liquid is a second (v. p. 81, n. 5), and on this interpretation it makes a third: thus there is a ‘third’ in the case of hullin.

(12) Viz., the interpretation of yitma, ‘it shall be unclean,’ as yetamme, ‘it shall defile’. Since R. Jose himself rejects this exegesis, there is nothing to teach that a second renders a third in the case of hullin.

(13) I.e., one who after performing tebillah (q.v. Glos) must bring an offering before he may partake of the flesh of sacrifices; viz., a zab and a zabah (v. Glos.). a woman after confinement and a leper.

(14) These facts are learned in Yeb. 74b from Scripture.

(15) I.e., if something unclean in the second degree touches terumah it renders it unfit, the terumah now being called a third; v. Sot. 29a.

(16) This is added in order to answer the possible objection that what is deduced a minori cannot be more stringent than its premise, and since sacred food is thus deduced from terumah, it cannot go beyond a third, just as in the case of terumah. Hence it is pointed out that a third in the case of sacred food does not require an argument a minori, for that follows directly from Scripture; hence the deduction a minori must refer to a fourth, as otherwise it teaches nothing, and it is stated in B.K. 25a that in such a case we abandon the principle that what is deduced a minori does not go beyond its premise.

Talmud - Mas. Pesachim 19a

shall not be eaten:[1] do we not treat even [of a case] where it touched a second?[2] ‘While a fourth [is learned] ‘a minori, as we have stated. Now, if you should think that he holds as R. Akiba, let him also state a fourth in the case of terumah and a fifth in the case of sacred food.[3] But how do we know that R. Akiba does not agree with R. Jose?[4] — Said he to him, Because a Tanna could not completely refrain from teaching [that there is] a fourth in the case of terumah and a fifth in the case of sacred food, and we would say that it agrees with R. Akiba.[5] And shall we arise and rely upon this?[6] [Thereupon] R. Ashi — others say, R. Kahana — went out, searched, and found the following which we learned: A utensil unites its contents in the case of sacred food,[7] but not in the case of terumah, and a fourth degree is unfit in the case of sacred food, but not in the case of terumah —

Whereon R. Hiyya b. Abba said in R. Johanan's name: This Mishnah was learned as a result of R. Akiba's testimony. For we learned, R. Akiba added[8] the fine meal, incense, frankincense, and the burning coals, that if a tebul yom touches part thereof he renders all unfit.[9] Thus there is a fourth [in sacred food], but not a fifth; a third [in the case of terumah]. but not a fourth.[10]

This proves that he holds that [the power of] uniting is Rabbinical.[11] Now he differs from R. Hanin who maintained: [The power of] uniting is Biblical, for it is said, one golden pan of ten shekels, full of incense:[12] the Writ rendered everything in the pan one.

We learned elsewhere: [He testified] concerning an [unclean] needle which is found in the flesh [of a sacrifice], that the knife[13] and the hands[14] are clean, while the flesh is unclean; if found in the excrements,[15] it is all clean — R. Akiba said: We have been favoured in that there is no uncleanness of the hands in the Temple.[16]

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(1) Lev. VII, 19.

(2) For a ‘second’ is called unclean; thus Scripture intimates that a second makes a third in sacred food.

(3) For if he holds that there is a third in the case of hullin, he can deduce these a minori. Thus: if a tebul yom (v. Glos.). though permitted to eat hullin, is unfit to eat terumah, then surely a third, which is unfit in the case of hullin, creates a fourth in the case of terumah. And we cannot defile this by the principle that it is sufficient for what is learned a minori to be like its premise, for in that case the deduction is superfluous, for a third in the case of terumah is learned direct from Scripture from the same source whence we learn a third in the case of hullin (v. supra 18a). Hence the deduction a minori must be in respect of a fourth, while a fifth would then follow on the same lines from one who lacks atonement.

(4) In the validity of this argument.

(5) For R. Akiba must hold thus if he

(6) This is merely a negative argument?

(7) If two pieces of sacred food are lying in a vessel, not touching each other, and an unclean object touches one piece, the other is defiled too, because the vessel makes them, both as one.

(8) In his testimony on ‘that day’, v. p. 71, n. 3.

(9) This must be because the vessel which contains them makes the various particles one, and not just because they touch each other, for in that case we would have to go in order to render all the particles unfit even beyond a fifth. V. ‘Ed., Sonc. ed. p. 47 notes.

(10) Thus we have a positive proof that R. Akiba does not hold that there are a fourth and a fifth in the case of terumah and sacred food respectively.

(11) Since R. Johanan states that this Mishnah was taught as a result of R. Akiba's testimony, referring as it does to frankincense and live coals, is only Rabbinical, for they are subject to defilement only by Rabbinical, not by Scriptural law (Rashi). Tosaf. offers another explanation.

(12) Num. VII, 14.

(13) Wherewith the animal was slaughtered.

(14) Of the priest who touched the animal.

(15) Inside the animal.

(16) The uncleanness of the hands in general is only Rabbinical, and R. Akiba maintains that this enactment never applied to the

Talmud - Mas. Pesachim 19b

accepts R. Jose's argument. Surely then in the whole of the Talmud this view would have found expression somewhere! Then let him say, There is no uncleanness of the hands or of utensils in the Temple?[1] — Said Rab Judah in Rab's name, — others state, R. Jose son of R. Hanina: Hands were taught before the enactment concerning utensils.[2] Raba asked: Surely both were enacted on that self-same day, for we learned: [The following render terumah unfit . . .] a Book,[3] the hands,[4] a tebul yom, and eatables or utensils which were defiled by a liquid?[5] No, said Raba: Leave the uncleanness of the knife, for even in the case of hullin it would not be unclean. [For] what did this knife touch [that it should be unclean]: shall we say that it touched the flesh, — Surely food cannot defile utensils; and if it touched the needle, — surely one utensil cannot defile another utensil.[6]

What is the condition of this needle?[7] Shall we say that it is a doubtful needle?[8] Surely it was stated, R. Eleazar and R. Jose son of R. Hanina, — one said, They did not decree [uncleanness] for doubtful saliva in Jerusalem;[9] while the other said: They did not decree [uncleanness] for doubtful utensils in Jerusalem?[10] Said Rab Judah in Rab's name: E.g., if one lost a needle [unclean through] a person defiled by the dead,[11] and he recognized it in

Temple, and this is all to the good, as sacrifices are thereby saved from defilement. the flesh. R. Jose son of R. Abin said: E.g.. if the cow was muzzled and came from without Jerusalem.[12]

The [above] text [states]: ‘R. Eleazar and R. Jose son of R. Hanina, — one said: They did not decree [uncleanness] for doubtful saliva in Jerusalem; while the other said: They did not decree [uncleanness] for doubtful utensils in Jerusalem.’ [But] we have learned [about] saliva, [and] we have learned [about] utensils?[13] We have learned [about] saliva, for we learned: All saliva found in Jerusalem is clean, save that of the upper market![14] — It is necessary only [to state] that [this is so] even though a zab was known [to have passed there].[15] ‘We have learned [about] utensils,’ for we learned: ‘All utensils which are found in Jerusalem on the way of the descent to the ritual bath-house are unclean’,[16] hence those [found] elsewhere are clean! — Then according to your reasoning, consider the second clause: — [those found] on the way of the ascent [from the bath] are clean’, hence those [found] anywhere else are unclean?[17] Rather, the first clause is exact, whereas the second is not exact,[18] and it is to exclude the narrow paths.[19] Now according to Rab who said, ‘E.g..if one lost a needle [unclean through] a person defiled by the dead, and he recognized it in the flesh? — [But] surely since a Master said, The [verse] ‘one slain by the sword’ [teaches that] the sword is as the slain,[20] let it defile human beings and utensils too?[21] — Said R. Ashi: This proves that the Temple Court ranks as public ground; so that it is a doubt of uncleanness[22] in public ground, and every doubt of uncleanness in public ground, the doubt is clean. But in private ground,[23] its doubt is clean?[24] Consider: this needle is an object which has no understanding to be questioned, and everything which has no understanding to be questioned, both in public and in private ground, its doubt is clean?[25] — Because it is a doubt of uncleanness which arises through a person,[26] and R. Johanan said: A doubt of uncleanness which arises through a person,

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(1) I.e., where the uncleanness is Rabbinical only. For we see that the knife too is clean, though if this happened without the Temple it would be unclean by Rabbinical enactment, v. infra.

(2) The enactment that hands are unclean preceded the other; and when this testimony was given, the latter was not yet in existence at all.

(3) Any of the Books of the Bible.

(4) Before washing.

(5) And all these were of the ‘eighteen measures’ enacted in the upper chambers of Hananiah b. Hezekiah of Garon, v. Shab. 13b.

(6) Unless the former is a ‘father’ of uncleanness (v. p. 62, n. 2). These hold good even by Rabbinical law, which enacted only that a liquid defiles utensils.

(7) That the flesh is unclean.

(8) I.e., we do not know whether it is clean or not.

(9) If saliva is found and we do not know whose it is, though it might be that of a zab or a zabah, which by Scriptural law is a ‘father’ of uncleanness and defiles human beings and utensils.

(10) Which includes a needle.

(11) I.e, the needle had been defiled by him.The person is a ‘father’ of uncleanness, and the needle is likewise, because metal in such a case has the same degree of uncleanness as that which defiles it; v. supra 14b top. V. however, infra.

(12) Hence it must have swallowed it outside, where a doubtfully unclean utensil is unclean, and it remains so even when it enters Jerusalem.

(13) What do they add?
(14) Which was specially frequented by the unclean, to avoid defiling others, v. Shek. VIII, 1.
(15) Where the saliva was found. Even then it is clean, and we would not have known this from the Mishnah.
(16) One went down by one road and left by another. Hence it is assumed that those found there were being taken for a ritual bath and dropped on the way. V. Shek. VIII, 2.
(17) Which is in contradiction to the inference from the first clause?
(18) I.e., not to be taken in the sense that only these are clean. And this fact follows from the statement of R. Eleazar or R. Jose b. R. Hanina, without which we might have assumed the reverse.
(19) In the vicinity of the two main roads. These were used indifferently for both descent and ascent, hence utensils found there were declared unclean, since they were certainly unclean in the first place, and our only doubt is whether they were lost on the way to the baths or on the way from the baths. But utensils found in the rest of Jerusalem, where it is not known whether they have been unclean at all, are clean.
(20) V. supra 14b top.
(21) Sc. the priest and the knife.
(22) It is doubtful whether the priest or knife have touched the needle.
(23) I.e., if the Temple Court ranked as private ground.
(24) And the priest and knife would be unclean.
(25) v. Sot. 28b.
(26) A man has been engaged about this animal, and if the knife had touched the needle it would have been through him.

Talmud - Mas. Pesachim 20a

we inquire about it,[1] even in the case of a utensil lying on the ground, just as though it were an object which has the understanding to be questioned.

‘While the flesh is unclean’ — By what was this flesh made fit?[2] Shall we say that it was made fit by the blood? — surely R. Hiyya b. Abba said in R. Johanan's name: How do we know that the blood of sacrifices does not make [anything] fit [to be defiled]? Because it is said, thou shalt pour it out [sc. the blood] upon the earth as water:[3] blood which is poured out as water renders fit; blood which is not poured out as water does not render fit.[4] Again, if it was made fit by the liquids of the slaughter-house,[5] — surely R. Jose b. R. Hanina said: The liquids of the [Temple] slaughterhouse, not enough that they are clean, but they cannot even make [eatables] fit? Again, if it was made fit through the prizing of sacred objects.[6] — say that the prizing of sacred objects is efficacious in rendering that itself unfit, is it also [sufficient] that first and second degree should be counted therein?[7] [In that case] you may solve what Resh Lakish asked: The dry portion of meal-offerings,[8] do we count first and second degrees therein or not?[9] — Said Rab Judah in Samuel's name: E.g..if it was an animal for a peace-offering and it was led through a river and then slaughtered, and the water is still dripping upon it.[10]

‘If found in the excrements, it is all clean.’ But let the excrements defile the flesh in their turn?[11] Said R. Adda b. Ahabah: It refers to thick [solid] excrements.[12] R. Ashi said: You may even say that it refers to loose [fluidlike] excrements, [its non-defilement being] because it is a noisome liquid.[13]

A tanna recited before R. Shesheth: A sherez defiles liquids, and the liquids defile a utensil, and the utensil defiles eatables, and the eatables defile liquids,[14] and [thus] we learn three [stages of] uncleanness in the case of a sherez. But there are four? — Delete liquids in the first clause, on the contrary, delete liquids in the last clause? — We find no other Tanna who maintains [that] liquids defile utensils save R. Judah, and he retracted.[15] And your sign [for remembering the order] is the brewing process.[16]

We learned elsewhere: If a creeping thing is found in an oven, the bread therein is a second, because the oven is a first.[17] R. Adda b. Ahabah said to Raba: Let us regard this oven as though it were fined with uncleanness,[18] and let the bread be a first? — Said he to him, You cannot think so,for it was taught: You might think that all utensils become unclean through the air space of an [unclean] earthen vessel:

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(1) Rashi: its owners must consult Rabbinic authority about it — I.e., It is not automatically clean.

(2) To contract defilement. A foodstuff is subject to defilement only after moisture has fallen upon it.

(3) Deut. XII, 24.

(4) V. Supra 16a and b for notes.

(5) E.g.. the water with which it was washed down.

(6) Sacred objects were prized so highly that they were fit to become unclean even without a liquid having been upon them.

(7) For 'the flesh is unclean' implies that it can defile other flesh too (v. p. 62, n. 2).

(8) That which has not been touched by oil.

(9) But if the prizing of sacred objects is so efficacious, obviously we do.

(10) That water makes it fit to contract uncleanness. — The animal was led through the water immediately prior to its slaughter in order to facilitate flaying, v. Bez. 40a.

(11) Lit., 'go back'. It is assumed that the excrements rank as a fluid, since the animal was watered immediately before slaughter (v. Bez. 40a). The needle should therefore defile the excrements, and that in turn should defile the flesh.

(12) This is not a liquid.

(13) V. Supra 18a.

(14) I.e., each in turn defiles the other.

(15) Hence if we retain liquids in the first clause, there is no authority for the second clause, 'and liquids defile a utensil'. By deleting it, however, the reading becomes: a sherez, defiles utensils.

(16) First there is the vessel; an eatable (sc. dates) is put therein, whence the liquid (sc. beer) is manufactured.

(17) The sherez touches the oven, which in turn touches the bread, Kelim VIII, 5.

(18) For immediately the sherez, enters the air space of the oven, even before it

Talmud - Mas. Pesachim 20b

therefore it is stated, whatsoever is it, it shall be unclean, and in proximity thereto, all food therein which 'may be eaten:[1] food becomes unclean through the air space of an [unclean] earthen vessel, but no utensils become unclean through the air space of an [unclean] earthen vessel.[2]

R. Hisda opposed two teachings of Passover, and reconciled [them]. Did R. Joshua say, Both of them [may be burnt] together?[3] But the following contradicts it: R. Jose said [to R. Meir]: The conclusion is not similar to the premise. For when our Masters testified, concerning what did they testify? If concerning flesh which was defiled through a derivative uncleanness, that we burn it together with flesh which was defiled through a father of uncleanness, [then] this is unclean and that is unclean. If concerning oil which was rendered unfit by a tebul yom, that it is lit in a lamp which was defiled by one unclean through a corpse, — one is unfit and the other is unclean. So too do we admit in the case of terumah which was defiled through a derivative uncleanness, that we may burn it together with terumah which was defiled through a 'father' of uncleanness. But how can we burn even that which is doubtful together with that which is unclean: perhaps Elijah will come and declare it clean![4] And he answered: one[5] agrees with R. Simeon, and in accordance with R. Joshua, while the other agrees with R. Jose, and in accordance with R. Joshua.[6] For it was taught: If the fourteenth falls on the Sabbath, everything [sc. leaven] must be removed before the Sabbath, and terumoth, unclean, doubtful, and clean are burnt [together]: this is R. Meir's view. R. Jose said: The clean [terumah must be burnt] separately, the

actually touches it, it defiles; hence one should regard the sherez as though completely filling it. doubtful [terumah] separately, and the unclean separately. Said R. Simeon: R. Eliezer and R. Joshua did not differ concerning clean and unclean, that they must not be burnt [together], and concerning doubtful [terumah] and clean [terumah] that they may be burnt [together]. Concerning what did they differ? Concerning doubtful [terumah] and unclean [terumah], R. Eliezer maintaining: This must be burnt separately, and this separately; while R. Joshua ruled: Both of then, [may be burnt] together. But our Mishnah is according to R. Jose?[7] — R. Jose says thus to R. Meir: Even R. Simeon, who in stating R. Joshua's opinion is lenient, is lenient only in respect of doubtful [terumah] and unclean [terumah]. but not in the case of clean and unclean.

R. Jose son of R. Hanina opposed terumah to Passover, and reconciled them. Did then R. Joshua say. Both together: But the following contradicts it: A cask of terumah wherein a doubt of uncleanness is born, R. Eliezer said: If lying in an exposed place, it must be laid in a hidden place; and if it was uncovered, it must be covered. R. Joshua said: If it is lying in a hidden place, one may lay it in an exposed place, and if it is covered, it may be uncovered.[8] Thus only an indirect action [is permitted], but not [defiling] with [one's own] hands?[9] — And he answered: one agrees with R. Simeon and according to R. Joshua's view, while the other agrees with R. Jose and according to R. Joshua's view.[10] R. Eleazar opposed two teachings of terumah and reconciled them. Did R. Joshua say, only an indirect action [is permitted], but not with [one's own] hands? But the following contradicts it: If a cask of [wine of clean] terumah is broken in the upper vat, while [in] the lower there is unclean hullin: R. Eliezer and R. Joshua agree that if a rebi'ith thereof can be saved in purity, one must save it. But if not, — R. Eliezer ruled: Let it descend and be defiled, yet let him not defile it with [his own] hands; R. Joshua said: He may even defile it with his own hands? — And he answer ed: There it is different, because there is the loss of hullin. To this Raba demurred: In our Mishnah too there is the loss of wood? — Said Abaye to him: They cared about a substantial loss, but not about a slight loss.[11] And whence do you know that they cared about a substantial loss but not about a slight one? Because it was taught: If a cask of oil of [clean] terumah was broken in the upper vat, while in the lower is unclean hullin: R. Eliezer concedes to R. Joshua that if a rebi'ith thereof can be saved in purity, one must save it. But if not, let it descend and be defiled, yet let him not defile it with [his own] hands.[12] Why is oil different: because it is fit for lighting? Then wine too is fit for sprinkling?[13] And should you answer, sprinkling is of no account, — surely, Samuel said in R. Hiyya's name: You drink [wine] at a sela’ per log, whereas you sprinkle [with wine] at two sela's per log?[14] — It refers to new [wine].[15] But it is fit for ageing? — one will come to a stumbling-block through it.[16] Then oil too, one will come to a stumbling-block through it? — He pours it into a dirty[17] vessel.[18] Wine too can be poured into a dirty vessel? — Seeing that it is required for sprinkling, will he pour it into a dirty vessel!

Now a stumbling-block itself is dependent on Tannaim.[19] For it was taught: A cask of wine of terumah which was defiled, — Beth Shammai maintain: It must be poured out all at once; while Beth Hillel rule: It may be used for sprinkling. R. Ishmael son of R. Jose said: I will make a compromise. [If it is] in the field, it must be poured out all at once;[20] in the house, it can be used for sprinkling. Others state: In the case of new [wine], it must be poured out all at once; in the case of old, it can be used for sprinkling. Said they to him:

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(1) Lev. XI. 33f.

(2) But if the sherez, were regarded as completely filling the oven, utensils therein too should be unclean, for direct contact therewith does defile them.

(3) Sc. unclean terumah and doubtful terumah.

(4) V. supra p. 15a for notes.

(5) Our Mishnah.

(6) I.e., R. Simeon and R. Jose differ on R. Joshua's opinion.

(7) How then can it be said to represent the view of R. Simeon?

(8) V. supra 15a for notes.

(9) Though it is doubtful.

(10) Who says, how can we burn even doubtful terumah together with unclean terumah? Thus he will certainly not permit more than indirect action.

(11) V. supra 15a and b for notes.

(12) All agree on this, because the loss of hullin is only slight, since the defiled terumah can be used for lighting.

(13) In a room, for its aroma. Hence here too there is only a slight loss.

(14) Thus it is even more important.

(15) Which lacks aroma.

(16) While it is ageing he may forget that it is unclean and drink it.

(17) Lit., ‘repulsive’.

(18) So that it will not be fit for drinking.

(19) I.e., whether we fear it or not.

(20) Because there is no sprinkling in the field, nor may he bring it home, lest it become a stumbling-block in the meanwhile.

Talmud - Mas. Pesachim 21a

The compromise of a third [view] is not a compromise.[1] R. Jose son of R. Hanina said: The controversy[2] is where it falls into less than one hundred se'ahs of unclean hullin;[3] but if it falls into one hundred [se'ahs] unclean hullin, all agree that it must descend and be defiled, and he must not defile it with [his own] hands.[4] It was taught likewise: If a cask [of clean terumah] was broken in the upper vat, and beneath it there is one hundred [times as much] unclean hullin. R. Eliezer concedes to R. Joshua that if he can save a rebi'ith thereof in purity he must save it, but if not, let it descend and be defiled, but he must not defile it with [his own] hands. [But instead of] this [phrase]. ‘R. Eliezer concedes to R. Joshua’. ‘R. Joshua concedes to R. Eliezer’ is required?[5] — Said Raba: Reverse it. R. Huna the son of R. Joshua said: After all you need not reverse it: what case do we discuss here? That of a vessel, the inside is clean while its outside[6] is unclean; you might say,Let us enact a preventive measure lest its outside touch the terumah. Therefore he informs us [otherwise].[7]

CHAPTER II

MISHNAH. THE WHOLE TIME THAT ONE IS PERMITTED TO EAT [LEAVEN], ONE MAY FEED IT TO CATTLE, BEASTS,[8] AND BIRDS, AND HE MAY SELL IT TO A GENTILE, AND BENEFIT THEREOF IS PERMITTED. WHEN ITS PERIOD HAS PASSED, BENEFIT THEREOF IS FORBIDDEN, AND HE MAY NOT FIRE AN OVEN OR A POT RANGE WITH IT. R. JUDAH SAID: THERE IS NO REMOVAL OF LEAVEN SAVE BY BURNING; BUT THE SAGES MAINTAIN: HE ALSO[9] CRUMBLES AND THROWS IT TO THE WIND OR CASTS IT INTO THE SEA.

GEMARA. THE WHOLE TIME THAT ONE IS PERMITTED TO EAT [LEAVEN] ONE MAY FEED etc. Hence the whole time that one is not permitted to eat it, he may not feed [cattle. etc., therewith]: shall we say that our Mishnah is not according to R. Judah; for if R. Judah, surely there is the fifth hour when he may not eat, yet he may feed. For we learned: R. Meir said: One may eat [leaven] the whole of the five [hours] and must burn [it] at the beginning of the sixth. R. Judah said: One may eat the whole of the four [hours], keep it in suspense the whole of the fifth, and must burn it at the beginning of the sixth![10] — What then? It is R. Meir! [Then instead of] this [Phrase]. ‘THE WHOLE TIME THAT ONE IS PERMITTED TO EAT, ONE MAY FEED,’ THE WHOLE TIME THAT ONE eats, he MAY FEED is required?[11] — Said Rabbah b. ‘Ulla: Our Mishnah agrees with R. Gamaliel, For we learned: R. Gamaliel said: Hullin may be eaten the whole of the four [hours] and terumah the whole of the five, and we burn [them] at the beginning of the sixth. And this is what he [the Tanna] states: THE WHOLE TIME THAT IT IS PERMITTED to a priest to eat terumah, a [lay] Israelite MAY FEED HIS CATTLE, BEASTS AND BIRDS with HULLIN.

For what purpose does he state, CATTLE and for what purpose does he state BEASTS? They are necessary: for if he stated CATTLE, [I might say.] that is because if they leave over it is fit for them;[12] but [as for] BEASTS, which if they leave over hide it,[13] I would say [that it is] not [so]. While if he stated BEASTS, [I might say]. that is because if they leave over they at least hide it;[14] but as for cattle, sometimes they leave over and he [the owner] may not think about it,[15] and so transgress[16] ‘it shall not be seen and ‘it shall not be found’ on its account, [and therefore] I might say [that it is] not [so]: thus they [both] are necessary. What is the purpose of BIRDS? — Because he states CATTLE and BEASTS, he also states BIRDS.

AND HE MAY SELL IT TO A GENTILE. That is obvious?[17] It is to reject [the view of] this Tanna. For it was taught: Beth Shammai maintain: A man must not sell his leaven to a Gentile, unless he knows thereof that it will be consumed before Passover; but Beth Hillel say: As long as he [the Jew] may eat it, he may sell it.

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(1) Since Beth Shammai and Beth Hillel mention nothing about a house or a field, new or old, this is not a compromise but an independent view altogether; cf. supra 13a, p. 57, n. 5.

(2) Between R. Eliezer and R. Joshua.

(3) The terumah in the upper vat being a se'ah. If terumah falls into one hundred times as much hullin it is nullified and permitted to a lay Israelite; if less, it is not nullified.

(4) Since it will still be fit for a lay Israelite.

(5) It is R. Eliezer who holds that he must never defile deliberately, while it is R. Joshua who permits deliberate defilement in other circumstances (v. supra 20b).

(6) Lit., ‘back’.

(7) Thus ‘R. Eliezer concedes to R. Joshua’ applies not to the second clause but to the first, where it is stated that if he can save a rebi'ith in purity he must do so. Thereupon we are told that even if the outside of the vessel in which it is to be saved is unclean, so that there is the slight possibility of the terumah falling thereon and becoming contaminated, yet R. Eliezer, who rules that in no circumstances is deliberate defilement permitted, admits that he may use this for saving the terumah. If unclean liquid falls on the outside of a vessel it contaminates the outside, but not the inside, since the uncleanness of a vessel through liquids is by Rabbinical law only.

(8) Behemah refers to domesticated animals; hayyah to wild or semi-wild animals.

(9) ‘Also’ is absent in Alfasi and Asheri.

(10) ‘Keeping it in suspense’ means that animals may be fed with it, but it may not be eaten.

(11) The impersonal form used in the Mishnah implies that as long as one person may eat, another may feed his cattle.

(12) Later; they leave it on the ground and eat it later.

(13) With the result that the leaven may remain in his possession during Passover.

(14) So that it is not seen.

(15) To annul it before Passover, thinking it was already eaten.

(16) Lit., stands’.

(17) Surely this is no worse than any other benefit.

Talmud - Mas. Pesachim 21b

R. Judah B. Bathyra said: Kutah[1] and all kinds of kutah![2] may not be sold thirty days before Passover.[3] AND BENEFIT THEREOF IS PERMITTED. That is obvious?[4] It is necessary [to teach it] only where he charred it [in the fire] before its time,[5] and he [the Tanna] informs us [that the law is] as Rabbah. For Rabbah said: If he charred it [in the fire] before its time, benefit [thereof] is permitted even after its time.[6]

WHEN ITS PERIOD HAS PASSED, BENEFIT THEREOF IS FORBIDDEN. That is obvious? — It is necessary [to state this] only in respect of the hours [when leaven is interdicted] by Rabbinical law.[7] For R. Gidal said in the name of R. Hiyya b. Joseph in R. Johanan's name: He who betroths from the sixth hour and onwards, even with wheat of Cordyene. We have no fear of his betrothal.[8]

AND HE MAY NOT FIRE AN OVEN OR A POT-RANGE WITH IT. That is obvious? — This is necessary only according to R. Judah, who maintained: There is no removal of leaven save by burning. You might argue, since R. Judah said, Its precept demands burning, then while he is burning it let him benefit from it. Hence we are informed [that it is not so].

Hezekiah said: How do we know that leaven during Passover is forbidden for [general] use?[9] Because it is said, there shall no leavened bread be eaten:[10] [meaning,] there shall not be in it permission [i.e.. the right] of eating.[11] [Thus] the reason is because the Divine Law wrote, ‘there shall no leavened bread be eaten’; but if ‘shall not be eaten’ were not written, I would say, prohibition of eating is implied, [but] prohibition of benefit is not implied. Now he differs from R. Abbahu, for R. Abbahu said: Wherever it is said, ‘It shall not be eaten,’ ‘that shalt not eat,’ ‘ye shalt not eat,’ the prohibitions of both eating and benefit [in general] are understood, unless the Writ expressly states [otherwise], as it does in the case of nebelah.[12] For it was taught: Ye shall not eat of [nebelah] anything that dieth of itself: thou mayest give it unto the stranger [ger] that is within thy gates, that he may eat it; or thou mayest sell it unto a foreigner:[13] know only that it may be ‘given’ to a stranger[14] or ‘sold’ to a foreigner [heathen]; how do I know [that] selling to a stranger [ger] [is permitted]? Therefore it is stated, ‘thou mayest give it unto the stranger [ger] that is within thy gates ... ‘or sell.’[15] How do we know [that] giving to a foreigner [is permitted]? Because it is stated, ‘thou mayest give it, that he may eat it, or thou mayest sell it unto a foreigner’,[16] thus the result is[17] that [to] a stranger [ger] and a foreigner [heathen] alike, both selling and giving [are permitted]: this is R. Meir's view. R. Judah said: The words are as they are written, [viz..] to a ger it must be given and to a heathen it must be sold. What is R. Judah's reason? If you should think as R. Meir says,let the Divine Law write, thou mayest give it unto the stranger [ger] that is within thy gates, that he may eat it, and thou mayest sell it: why state ‘or’? Infer from this that the words are as they are written. And R. Meir?[18] — ‘Or’ is to show that giving to a ger takes precedence over selling to a heathen. And R. Judah?- No verse is required for this: since you are commanded to maintain a ger, but you are not commanded to maintain a heathen,[19] a verse is not required, [for] it stands to reason.

On the view of R. Meir who maintained,[to] a ger and a heathen alike, both selling and giving are permitted, it is well: since a verse is required to permit benefit from a nebelah, it follows that all other things forbidden in the Torah are forbidden in respect of both eating and [general] benefit. But according to R. Judah, who maintained, it comes from [the purpose of teaching that] the words are as they are written, whence does he know that all [other] things forbidden in the Torah are forbidden in respect of benefit? He deduces it from, [ye shall not eat any flesh that is torn of beasts in the field;] ye shall cast it to the dogs:[20]

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(1) Jast.: a preserve consisting of sour milk, breadcrusts, and salt. V. Perles Et. St. 85; Fl. to Levy, Talm. Dict. II, p. 459b.

(2) In Shab. 19a the reading is: Babylonian kuta, and all kinds of kuta,. This makes better sense, and the same may be understood here.

(3) It is used as a sauce or relish, and hence lasts a long time. It was customary to give popular lectures about Festivals thirty days before, and therefore from that time one might not sell his kutah to a Gentile.

(4) For feeding cattle with it is benefit, and it is already stated that this is permitted.

(5) I.e., before it becomes forbidden. It was so charred that it neither tastes nor looks like leaven.

(6) And the Mishnah too refers to this.

(7) I.e., in the sixth hour.

(8) V. supra 7a for notes.

(9) And not merely as food.

(10) Ex. XIII, 3.

(11) Rashi: the use of the passive intimates that no benefit which may lead to eating is permitted, i.e., no benefit whatsoever, for generally the monetary value of any benefit is expended on food.

(12) V. Glos.

(13) Deut. XIV, 21.

(14) A resident-alien who is a semi-proselyte in so far that he has abjured idolatry.

(15) Treating ‘stranger’ as the indirect object of both ‘give’ and ‘sell’.

(16) Treating ‘foreigner’ as the indirect object of both ‘give’ and ‘sell’.

(17) Lit., ‘it is found saying’.

(18) How does he answer this?

(19) In a technical sense only: nevertheless Judaism teaches that the poor among heathens must be helped just as the Jewish poor, v. Git. 61a.

(20) Ex. XXII, 30.

Talmud - Mas. Pesachim 22a

‘it’ you may cast to dogs, but you may not cast to dogs all [other] things forbidden in the Torah.[1] And R. Meir?[2] — [He interprets:] ‘it’ you may cast to dogs, but you may not cast to dogs hullin killed in the Temple Court.[3] And the other?[4] — [Benefit from][5] hullin killed in the Temple Court is not [forbidden] by Scriptural law. R. Isaac of Nappaha[6] objected: But what of the nervus ischiadicus, though the Divine Law saith, Therefore the children of Israel eat not the sinew of the thigh-vein,[7] yet we learned: A man may send the thigh [of an animal] to a heathen with the nervus ischiadicus in it, because its place is distinguishable![8] — R. Abbahu holds, when nebelah was permitted [by the Torah]. it, its forbidden fat, and its thigh sinew were permitted.[9] This is well on the view that the sinews possess the power of imparting a taste.[10] But on the view that the sinews possess no power of imparting a taste,[11] what can be said? — Whom do you know to maintain [that] the sinews have no power to communicate taste? R. Simeon. For it was taught: He who eats of the thigh sinew of an unclean animal, — R. Judah declares him liable on two [accounts],[12] while R. Simeon holds him non-culpable.[13] [According to] R. Simeon, It is indeed forbidden for use too. For it was taught: The thigh sinew is permitted for use; this is R. Judah's view; but R. Simeon forbids it.

But what of blood, of which the Divine Law saith, No soul of you shall eat blood,[14] yet we learned, Both these and those[15] mingled in the duct and passed out to the brook of Kidron,[16] and they were sold to gardeners as fertilizers, and trespass is committed in respect of them?[17] — Blood is different, because it is likened to water, for it is written, Thou shalt not eat it,’ thou shalt pour it out upon the earth as water:[18] just as water is permitted, so is blood permitted. Yet say, like water poured out as libations upon the altar?[19] — Said R. Abbahu: ‘as water" [means] like most water. Is then ‘most water’ written? — Rather, said R. Ashi: ‘as water’ which is poured out,[20] but not as water offered as a libation. Yet say, like water which is poured out in idol worship?[21] — There too it is designated a libation, as it is written, They drink the wine of their drink offering [libation].[22]

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(1) I.e., you may not derive any benefit from them.

(2) What is the purpose of ‘it’, which expresses a limitation, seeing that he learns this from nebelah?

(3) This may not be eaten, and R. Meir deduces here that all benefit is forbidden, v. Kid. 57b.

(4) R. Judah: how does he know this?

(5) So Rashi, v. however Tosaf. s.v. חולין

(6) Or, the smith. Many Rabbis were workers or tradesmen.

(7) Gen. XXXII, 33.

(8) The Jew need not remove the nervus ischiadicus before sending it, for fear that another Jew, seeing that the heathen had received it from a Jew, may think that the nerve has been removed and that it is all permitted, because one can easily recognize whether the nervus ischiadicus has been removed or not. Giving anything to a heathen is regarded as benefit, and we thus see that the benefit of this sinew is permitted, which conflicts with R. Abbahu's statement supra 21b.

(9) Therefore benefit from all forbidden fat and all sinews is permitted.

(10) E.g.. if forbidden sinews are boiled together with meat, they impart a flavour to the meat, which renders that too forbidden, unless it is sixty times as much as the sinews. On that view the sinews are as flesh, and therefore when nebelah was permitted it included the sinews.

(11) Because they are not flesh, being merely like wood, and nevertheless they are prohibited: hence they cannot be included in the permission granted for nebelah.

(12) (i) Because it is of an unclean (i.e., forbidden) animal; (ii) because the thigh sinew itself is forbidden.

(13) He is not culpable on account of the unclean animal, because he holds that there is no taste in the sinew. Nor is he liable on account of the sinew, for this involves liability only when the flesh of that animal is permitted, but not when the flesh too is forbidden.

(14) Lev. XVII, 12.

(15) The residues of the blood of the 'inner' sin-offerings, which were poured out on the western base of the outer altar, and the residues of the blood of the 'outer' sin-offerings, which were poured out on the south base of the altar. These passed out through two small holes and mingled in a duct which ran through the Temple Court.

(16) Near Jerusalem.

(17) I.e., one may not benefit from them without paying. V. Yoma 58b. — Yet we see that benefit may be derived from blood in general.

(18) Deut. XII, 24.

(19) Benefit of which is forbidden.

(20) As indicated by the words 'thou shalt pour it out'.

(21) Such water too is forbidden.

(22) Ibid. XXXII, 38.

Talmud - Mas. Pesachim 22b

Now according to Hezekiah, in respect of what law is blood likened to water?[1] — For [the law of] R. Hiyya b. Abba in R. Johanan's name. For R. Hiyya b. Abba said in R. Johanan's name: How do we know that the blood of sacrifices does not make [anything] fit [to be defiled]? Because it is said, thou shalt pour it out upon the earth as water: blood which is poured out as water renders fit; blood which is not poured out as water does not render fit.

But what of the limb of a living animal, though it is written, thou shalt not eat the life with the flesh,[2] yet it was taught. R. Nathan said: How do we know that a man must not hold out a cup of wine to a nazirite or the limb of a living animal to the children of Noah?[3] Because it is stated, thou shalt not put a stumbling-block before the blind.[4] This implies that [giving] to dogs is permitted?[5] — The limb of a living animal is different, because it is assimilated to blood, as it is written, Only be steadfast in not eating the blood; for the blood is the life.[6] Then according to Hezekiah, in respect of what law is the limb from a living animal assimilated to blood?[7] — He can answer you: It is blood which is assimilated to the limb from a living animal:[8] just as a limb from a living animal is forbidden,[9] so is the blood from a living animal forbidden,[10] and which [blood] is that? The blood of arteries with which life goes out.[11]

But what of the ox that is stoned, though the Divine Law saith, its flesh shall not be eaten,[12] yet it was taught: From the implication of the verse, the ox shall be surely stoned,[13] do I not know that it is nebelah, and nebelah is forbidden as food? Why then is it stated, 'and its flesh shall not be eaten'? The Writ informs us that if it was [ritually] slaughtered after its trial was ended,[14] it is forbidden. I only know this in respect of eating; how do we know it in respect of benefit? From the verse, but the owner of the ox shall be clear. How is this implied? Simeon b. Zoma said: As a man may say to his friend, 'So-and-so has gone out clear from his property, and has no benefit whatsoever from it.' Thus the reason is that 'but the owner of the ox shall be clear' is written; for if [we deduced] from 'it shall not be eaten' [alone], that would imply a prohibition of eating, but not a prohibition of benefit?[15] — In truth 'it shall not be eaten' implies a prohibition of eating and a prohibition of benefit, and as to 'but the owner of the ox shall be clear,' that is stated[16] in respect of the use of its skin;[17] and it is necessary: you would think that I might argue, 'his flesh shall not be eaten' is written, [thus] only his flesh [is forbidden], but not his skin; therefore we are informed [otherwise]. But according to those

Tannaim who employ this verse for a different exegesis. [viz..] for half ransom and damages for children,[18] how do they know [that] the use of the hide [is forbidden]? They infer it from eth besaro [his flesh],meaning, that which is joined to its flesh.[19] And the other?[20] — He does not interpreteth.[21] As it was taught, Simeon Imsoni[22] — others state, Nehemiah Imsoni- interpreted every eth in the Torah;[23] [but] as soon as he came to, thou shalt fear [eth] the Lord thy God,[24] he desisted.[25] Said his disciples to him, ‘Master, what is to happen with all the ethin[26] which you have interpreted?’ ‘Just as I received reward for interpreting them’, he replied, ‘so will I receive reward for retracting’.[27] Subsequently[28] R. Akiba came and taught:Thou shalt fear[eth] the Lord thy God is to include scholars.[29] But there is ‘orlah,[30] whereof the Merciful One saith, Three years shall it be forbidden unto you: it shall not be eaten;[31] yet it was taught: ‘It shall be as forbidden unto you: it shall not be eaten’. [Thus] I only know the prohibition of eating; whence do we know that a man may not benefit from it, that he may not dye or light a lamp with it? From the verse, then ye shall count [the fruit thereof] as forbidden: [three years shall they be] as forbidden [unto you]: it shall not be eaten;[31] which is to include all of them.[32] Thus the reason is that Scripture wrote, ‘then ye shall count the fruit thereof as forbidden . . . they shall be as forbidden; but if it were not so,I would say, it implies a prohibition of eating, [but] it does not imply a prohibition of benefit? — In truth ‘it shall not be eaten’ implies both a prohibition of eating and a prohibition of benefit, but there it is different, because it is written, ‘unto you’, and thus it is necessary: I might argue, since it is written, ‘unto you,’ [that implies] it shall be yours;[33] hence we are informed [that it is not so]. Then now that these verses[34] are written, what is the purpose of ‘unto you’?- For what was taught: ‘unto you’: this is to include what is planted

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(1) Since he holds supra 21b that only the passive form, ‘shall not be eaten’, implies a prohibition of all benefit, but not the active ‘thou shalt not eat’, benefit from blood is permitted in any case, for the prohibition is not expressed in the passive. Then what is the purpose of assimilating blood to water?

(2) Deut. XII, 23. This is interpreted as an injunction against eating a limb torn from a living animal.

(3) The technical designation for all but Jews. A nazirite must not drink wine, nor may non-Jews eat of the limb of a living animal.

(4) Lev. XIX. 14. This is understood metaphorically: do not lead anyone to sin.

(5) Though this is benefit.

(6) Deut. XII, 23.

(7) v. p. 99 n. 10.; the same applies here.

(8) And not the reverse, as the order indicates.

(9) With the prohibition that is stated in its case, i.e., for eating only.

(10) With the prohibition relevant to blood, viz., an injunction which involves kareth (q. v. Glos.).

(11) v. Ker. 22a.

(12) Ex. XXI, 28. Thus it is expressed in the passive, which on all views intimates that general benefit is forbidden.

(13) Ibid.

(14) I.e., after sentence.

(15) Cf. p. 100, n. 11.

(16) Lit., ‘comes’.

(17) Teaching, even that is forbidden.

(18) Ransom, v. Ex. XXI, 28-30, 35f; it might be thought, by comparing these verses, that half ransom is payable in this case. (Damages for child, v. ibid. 22). I might think that the same holds good when the damage is done by a man's ox Therefore ‘but the owner of the ox shall be clear (E.V. quit)’ teaches that he is free from both.

(19) Interpreting ‘eth’, the sign of the acc., as an extending particle.

(20) What does ‘eth’ teach on this view?

(21) As indicating extensions or having any particular significance apart from its grammatical one.

(22) Jast. conjectures that it may mean from Amasia, in Pontus.

(23) As an extending particle.

(24) Deut. VI, 13.

(25) Holding it impossible that this fear should extend to another.

(26) Pl. of eth.
(27) Lit., ‘separating’ (myself from them). Since the eth in one verse does not signify extension, it cannot do so elsewhere.
(28) Lit., ‘until’.
(29) Who are the depositaries of God's word; hence the verse exhorts obedience to religious authority.
(30) v. Glos.
(31) Lev. XIX, 23.
(32) I.e., the repetition of ‘forbidden’ is an extension.
(33) viz., you may use it, though not eat it.
(34) Repeating the phrase ‘forbidden’ to extend the prohibition to general benefit.

Talmud - Mas. Pesachim 23a

for the public. R. Judah said: It is to exclude what is planted for the public. What is the reason of the first Tanna? Because it is written, ‘and ye shall have planted;’ [this] implies [a law] to the individual, but it does not imply [a law] for the public;[1] [therefore] the Merciful One wrote, ‘unto you’, to include what is planted for the public. While R. Judah [argues]: ‘and ye shall have planted’ implies [a law] both to the public and to the individual, and ‘unto you’ [too] implies both for the public and for the individual: thus it is an extension after an extension, and an extension after an extension has no [other significance] save to limit.[2]

But there is terumah, of which the Merciful One saith, There shall no common man[3] eat of the holy thing:[4] yet we learned: An ‘erub may be made for a nazirite with wine, and for a [lay] Israelite with terumah?[5] — Said R. Papa: There it is different, because Scripture saith, your heave-offering:[6] it shall be yours. And the other?;[7] It means, ‘your heave-offering,’ [viz..] that of all Israel.[8]

But what of a nazirite, though the Merciful One saith, from the kernels even to the husk, he shall not eat,[9] yet we learned: An erub may be made for a nazirite with wine? — Said Mar Zutra, There it is different, because Scripture saith, [All the days of] his naziriteship:[9] it shall be his.[10] R. Ashi said: He shall be holy, he shall let the locks of the hair of his head grow long:[11] his [hair] growth is holy,[12] but nothing else is holy. Is then ‘and nothing else’ written?[13] But it is clearly as Mar Zutra [stated].

But what of hadash,[14] where the Merciful One saith, And ye shall eat neither bread, nor parched corn, nor fresh ears, until this selfsame day;[15] yet we learned: He may cut [the corn] for fodder and feed his cattle?[16] — Said R. Shemaiah, There it is different, because Scripture saith, [ye shall bring the sheaf of the firstfruits of] your harvest.’[17] [implying,] it shall be yours[18] And the other?[19] — Your harvest’ implies that of all Israel.

But what of creeping things, where the Merciful One saith, It is a detestable thing; it shall not be eaten;[20] yet we learned: Hunters of beasts, birds, and fish, who chance upon unclean species, are permitted to sell them to Gentiles?-There it is different, because Scripture saith, [they are a detestable thing] unto you:[21] it shall be yours. If so, [it should be permitted] at the very outset too?[22] — Here it is different, because Scripture saith, and they shall be [a detestable thing]:[23] [meaning.] they shall be in their [forbidden] state. Now according to Hezekiah, for what purpose is ‘shall not be eaten’ written-so that ‘unto you’ is adduced to teach that it is permitted; let the Merciful One not write ‘shall not be eaten,’ so that ‘unto you’ will be unnecessary? — Hezekiah can answer you: My opinion[24] is indeed [deduced] from this.[25]

But what of leaven, though the Merciful One saith, there shall no leavened bread be eaten,[26] yet it was taught. R. Jose the Galilean said: Wonder at yourself! how can leaven be prohibited for [general] use the whole seven [days]? — There it is different, because Scripture saith, neither shall there be leaven seen unto thee:[27] [this implies,] it shall be thine.And the Rabbis?[28] — Thine own thou must not see, but thou mayest see that belonging to others and to the Most High. And the other?[29] ‘unto thee’ is written twice.[30] And the other? — One refers to a heathen whom you have conquered, and the other refers to a heathen whom you have not conquered.[31] And the other?[32] — ‘Unto thee’ is written three times.[33] And the other? — One refers to leaven [se'or], and one refers to leavened bread [hamez]. and they are [both] necessary.[34]

Shall we say that it[35] is dependent on Tannaim? [And the fat of that which dieth of itself, and the fat of that which is torn of beasts.] may be used for all service [: but ye shall in no wise eat of it].[36] Why is ‘for all service’ stated? For I might think, for the service of the Most High let it be permitted, but for secular service let it be forbidden;[37] therefore it is stated, ‘for all service’: this is the view of R. Jose the Galilean. R. Akiba said: For I might think, for secular service let it be clean, [but] for service of the Most High let it be unclean;[38] therefore it is stated, ‘for all service’. Now R. Jose the Galilean [holds] that in respect of uncleanness and cleanness a verse is not required, a verse being required only in respect of what is forbidden and what is permitted. While R. Akiba [maintains]: [in respect of] what is forbidden and what is permitted no verse is required, a verse being required only in respect of uncleanness and cleanness.

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(1) Since the public do not plant.

(2) This is a principle of exegesis. Cf. the inverse principle of the English language: a double negative is a positive.

(3) I.e., an Israelite who is not a priest.

(4) Lev. XXII, 10.

(5) Though these may not be eaten by each respectively. — Thus a nonpriest may benefit from terumah

(6) Num. XVIII, 27.

(7) Hezekiah: what is the purpose of ‘your heave-offering? Cf. p. 99, n. 10.

(8) I.e.. it is merely the idiomatic usage of the language.

(9) Num. VI, 4.

(10) I.e., the things which he may not eat are nevertheless available for his use in other ways’.

(11) Ibid. 5.

(12) In the sense that he must not benefit from it.

(13) There is nothing to warrant this inference.

(14) V. Glos.

(15) Lev. XXIII, 14, q.v.

(16) With this hadash, though he may not eat it himself. Thus benefit is permitted.

(17) Ibid. 10.

(18) Available for your benefit.

(19) Hezekiah,: what is the purpose of ‘your harvest’ according to him? Cf. p. 99, n. 10.

(20) Lev. XI, 41.

(21) Ibid. 10.

(22) To hunt unclean animals, whereas the Mishnah merely permits selling if they happened to trap them.

(23) Lev. XI, 11.

(24) Lit., ‘reason’.

(25) The very fact that ‘unto you’ is required shows that elsewhere ‘shall not be eaten’ includes the prohibition of benefit in general.

(26) Ex. XIII, 3.

(27) Ibid. 7.

(28) Who hold that benefit is forbidden: how do they interpret ‘unto thee’?

(29) R. Jose: how does he know this?

(30) And there shall no leavened bread be seen unto thee, neither shall there be leaven seen unto thee.

(31) I.e., whether the heathen is a Jewish subject or not, his leaven may be seen in a Jewish house.

(32) How does he know this?

(33) The third is in Deut. XVI, 4 q.v.

(34) If leaven (se'or) alone were written, I might argue that it is forbidden because its degree of leaven is very strong, but leavened bread (hamez) which is not so strong, is permitted. And if leavened bread (hamez) were written, I would say that that is forbidden because it is fit to be eaten, but not so leaven (se'or). which cannot be eaten. — Bez. 7b.

(35) Sc. R. Abbahu's ruling.

(36) Lev. VII, 24.

(37) Since we find fat (heleb) used in the service of God, the fat of a sacrifice being burnt on the altar.

(38) E.g if leather was softened with heleb, sacred food must not be placed on it, for it will thereby be defiled.

Talmud - Mas. Pesachim 23b

Surely then they differ in this, [viz..]: R. Jose the Galilean holds, ye shall not eat' connotes both a prohibition of eating and a prohibition of benefit, and when the verse comes to permit nebelah, it comes in respect of benefit. While R. Akiba holds: it connotes a prohibition of eating, [but] does not connote a prohibition of benefit, and for what [purpose] does the verse come? In respect of uncleanness and cleanness! No: all hold that ‘ye shall not eat’ connotes both a prohibition of eating and a prohibition of benefit, but here they differ in this: R. Jose the Galilean holds, when nebelah was permitted,[1] it [alone] was permitted, [whereas] its fat [heleb] and its sinew[2] were not permitted, and [therefore] for what purpose is the verse required? It is in respect of permission for use. But R. Akiba holds: when nebelah was permitted, its fat [heleb] and its sinew too were permitted; hence for what purpose is the verse necessary? It is in respect of uncleanness and cleanness.

Now as to R. Jose the Galilean, we have found that the Divine Law permits heleb for use; but as for the sinew, let us say that it is forbidden?-If you wish I can say that it is in fact forbidden. Alternatively, it is adduced a minori: if heleb, for which there is a penalty of kareth, is permitted for use, how much the more the sinew, for which there is no penalty of kareth. But R. Simeon, who forbids it, [argues]: This can be refuted. As for heleb, that is because It is freed from its general [prohibition] in the case of a beast;[3] will you say [the same] of the sinew, which was not freed from its general [prohibition] in the case of a beast?[4] And the other? — We are speaking of cattle[5] [behemah]; [and] in the case of cattle at all events it [sc. heleb] was not permitted.

Consider: we have raised objections from all these verses and answered them; [then] wherein do Hezekiah and R. Abbahu differ? — In respect of leaven during Passover, on the view of the Rabbis,[6] [and] in respect of the ox that is stoned, and this on the view of all:[7] Hezekiah deduces it[8] from ‘shall not be eaten’, while R. Abbahu learns it from nebelah.[9] Consider: according to both Masters they are forbidden for use: [then] wherein do they [practically] differ? — They differ in respect of hullin which was slaughtered in the Temple Court:[10] Hezekiah holds, ‘shall not be eaten’[11] is to exclude these,[12] while ‘it’[13] is to exclude hullin which was slaughtered in the Temple Court.[14] R. Abbahu[15] holds: ‘it’ is to exclude these, while hullin which was slaughtered in the Temple Court is not forbidden [for use] by Scriptural law.

One of the scholars sat before R. Samuel b. Nahmani, and he sat and said in R. Joshua b. Levi's name: How do we know of all prohibitions in the Torah, that just as they are forbidden for food, so are they also forbidden for use, and which are they? Leaven [hamez] during Passover and the ox that is stoned? ([You ask,] ‘How do we know’! — learn it from ‘it shall not be eaten’?-To him[16] ‘it shall not be eaten’ implies a prohibition of eating, but it does not imply a prohibition of benefit. Then let him deduce it from nebelah?[17] — He agrees with R. Judah, who maintained: The words are as they are written. If he agrees with R. Judah. let him deduce it whence R. Judah deduces it, [viz.] from ‘ye shall cast it to the dogs’?[18] _ He holds that hullin which was slaughtered in the Temple Court is [forbidden for use] by Scriptural law.[19] Whence then do we know it?) — From the verse, And no sin-offering, whereof any of the blood is brought into the tent of meeting to make atonement in the holy place, shall be eaten: it shall be burnt with fire.[20] Now, ‘it shall be burnt with fire’ need not be stated;[21] then what is the purpose of ‘it shall be burnt with fire’? If it is unnecessary in its own connection, seeing that it is written, and, behold, it was burnt,[22] apply its teaching to all [other] prohibitions of the Torah;[23]

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(1) In respect of benefit.

(2) The thigh sinew.

(3) The heleb of a hayyah (wild or semi-wild animal) is permitted.

(4) The prohibition of a thigh sinew applies also to a beast.

(5) The text under discussion speaks of the fat of an ox or lamb, v. Lev. VII, 23.

(6) Who hold that benefit thereof is forbidden.

(7) V. supra 22b.

(8) That these are forbidden for use.

(9) V. Glos.

(10) On the view of R. Judah who maintains: the words are as written, so that nebelah can serve as basis of deduction for other prohibitions, v. supra 21b-22a.

(11) Written in connection with leaven and the ox that is stoned.

(12) Sc. the two just mentioned.

(13) Written in connection with nebelah, v. supra 22a.

(14) Showing that benefit thereof is Scripturally forbidden, v. supra.

(15) Who makes no distinction between the passive and active forms in which the prohibition is expressed.

(16) R. Joshua b. Levi.

(17) As above.

(18) Ex. XXII, 30.

(19) deducing it from 'it': hence it cannot be utilized for these two.

(20) Lev. VI, 23.

(21) As shown below.

(22) Lev. X, 16, q.v. Moses upbraided the sons of Aaron for burning it, observing, 'Behold, the blood of it was not brought into the sanctuary within' (v. 18). This proves that when it is brought within, the sacrifice must be burnt; hence the present verse is superfluous.

(23) This is a principle of Talmudic exegesis: when a statement or verse is superfluous in its own connection, it is applied to other laws.

Talmud - Mas. Pesachim 24a

and if it is irrelevant in respect of eating,[1] apply the matter to the prohibition of benefit.[2] If so, just as there [it must be destroyed] by burning, so all prohibited things of the Torah [must be destroyed] by burning? _ Scripture saith, 'in the holy place . . . it shall be burnt with fire,' [that which is forbidden] in the holy place requires burning. but all the [other] forbidden things of the Torah do not require burning, But does this [phrase,] 'in the holy place . . . it shall be burnt with fire,' come for this [teaching]? Surely it is required for R. Simeon's [dictum]! For it was taught, R. Simeon said: 'In the holy place ... it shall be burnt with fire': this teaches concerning the sin-offering[3] that we burn it in the holy place.[4] Now, I only know this alone; how do we know it of the unfit of the [other] most sacred sacrifices and the emurim[5] of the lesser sacrifices?[6] Thereof it is stated, in the holy place . . . it shall be burnt with fire![7] — Said he to him,[8] R. Jonathan thy teacher deduced it[9] from this verse: And if aught of the flesh of the consecration, or of the bread, remain unto the morning, then thou shalt burn the remainder with fire; it shall not be eaten, because it is holy.[10] Now 'it shall not be eaten' need not be stated:[11] then why is 'it shall not be eaten' stated? If it is irrelevant in respect of itself, seeing that it is written, 'then thou shalt burn the remainder with fire' apply its teaching to the other interdicts of the Torah. And if it is irrelevant in respect of eating, apply its teaching to the prohibition of benefit. If so, just as here [it must be destroyed] by burning, so all the forbidden things of the Torah [must be destroyed] by burning?-Scripture saith, 'then thou shalt burn the [nothar] remainder: nothar requires burning, but all [other] forbidden things of the Torah do not require burning.

Yet does this [verse] ‘it shall not be eaten’ come for this [teaching]? Surely it is required for R. Eleazar's [dictum]! For R. Eleazar said: ‘it shall not be eaten, because it is holy’: whatever of holy [flesh. etc.] that is unfit, the Writ comes to impose a negative injunction against eating it?[12] _ Said Abaye: After all [it[13] is deduced] from the first verse,[14] but reverse [the argument]: for let Scripture write, ‘it shall be burnt with fire,’ so that ‘it shall not be eaten’ will be superfluous; why then is ‘it shall not be eaten’ written? If it is irrelevant for itself, seeing that it is deduced by R. Eleazar's [exegesis],[15] apply its teaching to all [other] interdicts of the Torah. And if it is irrelevant in respect of eating, apply its teaching to the prohibition of benefit. If so, just as here [it must be destroyed] by burning, so all the forbidden things of the Torah must be destroyed] by burning? — Scripture saith, ‘the [nothar] remainder’; ‘nothar’ requires burning, — but all [other] forbidden things of the Torah do not requires burning. R. Papa said to Abaye: Yet say that it[16] comes to assign a negative injunction [specifically] for itself? For if [we learn] from R. Eleazar [‘s dictum], we do not flagellate for an implied negative injunction![17] — Rather, said R. Papa: [It[18] is deduced] from this: And the flesh that toucheth any unclean thing shall not be eaten: it shall be burnt with fire.[19] Now,’shall not be eaten’ need not be stated: why then is ‘shall not be eaten’ stated? If it is irrelevant for itself, seeing that it may be deduced a minori from tithe, which is lighter, [thus:] if tithe, which is light, yet the Torah said, neither have I put away thereof, being unclean,[20] how much the more sacred flesh, which is more stringent! And should you say, We cannot give a warning [of flagellation] as a result of an ad majus conclusion,[21] but this is a hekkesh,[22] for it is written, Thou mayest not eat within thy gates the tithe of thy corn, or of thy wine, or of thine oil, or the firstlings of thy herd or of thy flock, nor any of thy vows which thou vowest, nor thy freewill-offerings etc.[23] Then why is ‘shall not be eaten stated? If it is irrelevant in its own case, apply its teaching to all [other] prohibitions of the Torah. And since it is irrelevant in respect of eating, apply it to benefit. If so, just as here [it must be destroyed] by burning, so all the forbidden things of the Torah require burning? — Scripture saith, ‘the [nothar] remainder’: nothar requires burning. but all [other] forbidden things of the Torah do not require burning.

Rabina said to R. Ashi: Yet perhaps [it teaches that] he transgresses two negative injunctions on its account?[24] Did not Abaye say: if he ate putitha[25] he is flagellated four times;[26] [for] an ant, he is flagellated five times;

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(1) It certainly cannot teach that, since each prohibition of eating is stated separately.

(2) For ‘it shall be burnt’ shows that all benefit is forbidden, and this has now been applied to all other prohibitions.

(3) Rendered unfit.

(4) For ‘and, behold, it was burnt’ (v. n. 6) does not teach where it must be burnt.

(5) Lit., ‘devoted objects’; those portions of the sacrifices offered on the altar.

(6) Sacrifices were divided into two categories; (i) most sacred; these included the sin-offering, meal-offering, burnt-offering and guilt-offering. (ii) Sacrifices of lesser sanctity, e.g., the peace-offering and the thanksoffering. The question is: how do we know that if these are defiled or their blood is spilled, thus rendering them unfit, they must be burnt in the Temple Court? The flesh of the lesser sacrifices is not mentioned, for this was eaten outside the Temple precincts and consequently when unfit was burnt without the Temple Court, v. infra 49a.

(7) I.e., whatever would normally be consumed or otherwise disposed of in the holy place must now be burnt there.

(8) viz.,this scholar to R. Samuel b. Nahmani.

(9) The prohibition of benefit as applied to other forbidden things in the Torah.

(10) Ex. XXIX, 34.

(11) Since we are told that it must be burnt.

(12) ‘Because it is holy’ is unnecessary, and therefore R. Eleazar utilizes it thus. Hence its transgression involves flagellation.

(13) The teaching of R. Joshua b. Levi.

(14) Viz., ‘and every sin offering’, etc.

(15) Without R. Eleazar's deduction, ‘it shall not be eaten’ would be necessary in spite of the statement ‘it shall be burnt with fire’, to show that it is subject to a negative injunction, which involves flagellation. But now that R. Eleazar has deduced a negative injunction in respect of all unfit sacrifices from, ‘it shalt not be eaten because it is holy’, this is superfluous.

(16) The verse ‘it shall not be eaten’ written here.

(17) I.e., where the action is not explicitly forbidden but only by an injunction stated in general terms, which includes a number of other actions too.

(18) V. p. 108, n. 9.

(19) Lev. VII, 19.

(20) Deut. XXVI, 14, q.v. This refers to the second tithe, which was eaten by its Israelite owner in Jerusalem, and who had to declare that he had not eaten it ‘being unclean’, which shows that this was forbidden. The sanctity of titles is of course lighter than that of sacrifices.

(21) This is a general principle. Hence this argument does not suffice to make it an offence punishable by flagellation, and so ‘shall not be eaten’ is here required.

(22) V. Glos.,an analogy between two laws which rests on a Biblical intimation (as Lev. XIV, 13) or on a principle common to both (Jast.). Flagellation is inflicted on the basis of a hekkesh.

(23) Deut. XII, 17. ‘Vows’ and freewill-offerings’ are sacrifices, and ‘Scripture, by coupling these with tithes, shows that they are the same.

(24) And is flagellated for each separately. In that case the verse is not superfluous.

(25) A small water reptile (sherez). a young eel, v. Mak., Sonc. ed. p. 116, n. 8.

(26) I.e., four flagellations of the prescribed number of lashes.

Talmud - Mas. Pesachim 24b

[for] a hornet, he is flagellated six times?[1] — Said he to him: Wherever we can interpret we do interpret,[2] and not apply it to additional injunctions.

Now what is the purpose of ‘and the flesh’ [that toucheth any unclean thing shall not be eaten][3] of the commencement of the verse?[4] — It is to include wood and frankincense.[5] What is the purpose of, ‘And as for the flesh, every one that is clean shall eat thereof’ of the end [of the verse]?[6] — It is to include emurim.[7] [But] emurim are learnt from elsewhere, for it was taught: But the soul that eateth of the flesh of the sacrifice of peace-offerings, that pertain unto the Lord [having his uncleanness upon him]:[8] this is to include the emurim?[9] — There [the reference is to] the uncleanness of the person, [which is punishable] with kareth, [whereas] here [we treat of] the uncleanness of the flesh, [which is subject to] a negative injuction.[10]

R. Abbahu said in R. Johanan's name: [With regard to] all the prohibited articles of the Torah, we do not flagellate on their account save [when they are eaten] in the normal manner of their consumption. What does this exclude? _ Said R. Shimi b. Ashi: It is to exclude [this. viz.,] that if he ate raw heleb, he is exempt [from punishment]. Others say. R. Abbahu said in R. Johanan's name: [With regard to] all the prohibited articles of the Torah, we do not flagellate on their account save [when they are used] in the normal manner of their usage. What does this exclude?Said R. Shimi b. Ashi: It is to exclude [this, viz.,] if he applied the heleb of the ox which is stoned[11] upon his wound, he is exempt;[12] and all the more so,if he eats raw meat, he is exempt. It was stated likewise: R. Ahab. R. ‘Awia said in R. Assi's name in R. Johanan's name: If he applies the heleb of the ox which is stoned upon his

verse does not bear upon its own subject at all, why specify ‘the flesh’? Scripture could say, and that which toucheth, etc. wound he is exempt, because [in the case of] all the interdicts of the Torah, we do not flagellate on their account save [when they are, used] in the normal manner of their usage.

R. Zera said, We too learned [thus]: ‘One does not receive forty [lashes][13] on account of ‘orlah,[14] save for that which issues from olives or from grapes alone’: but [for that which issues] from mulberries, figs and pomegranates [there is, as implied,] no [flagellation]. What is the reason? Is it not because he does not eat them in the normal manner of their usage?[15] Said Abaye to him: That were well if he informed us[16] of the fruit itself, where he did not eat it in the normal manner of its usage; but here [the reason[16] is] because it[17] is mere moisture.[18]

Abaye said: All agree in, respect of kil'ayim[14] of the vineyard, that we flagellate on its account even [when one does] not [enjoy it] in the normal manner of its usage. What is the reason? Because ‘eating’ is not written in connection therewith. An objection is raised: Issi b. Judah said: How do we know that meat and milk [seethed together] are forbidden?[19] It is stated here, for thou art a holy people [...thou shalt not seethe a kid in its mother's milk],[20] and it is stated elsewhere, And ye shall be holy men unto me; [therefore ye shall not eat any flesh that is torn of beasts in the field; ye shall cast it to the dogs]:[21] just as there it is forbidden,[22] so here too it is forbidden. Again, I know it only of eating; how do I know it of [general] use? I will tell you: [it follows] a minori. If ‘orlah, though no sin was committed therewith,[23] is forbidden for use, then meat and milk [seethed together], wherewith a sin was committed],is it not logical that they are forbidden for use?

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(1) In Lev. XI, 43, it is stated: Ye shall not make yourselves detestable with any swarming thing that swarmeth, neither shall ye make yourselves unclean with them. This is a twofold injunction. and since it does not specify ‘that swarmeth upon the earth’, it applies to both water reptiles and land reptiles. Further v.II, referring to unclean fish, states: and they shall be a detestable thing unto you; ye shall not eat of their flesh. This is a third injunction against water reptiles. And finally. in Deut. XIV, 10, there is a fourth injunction: and whatsoever hath not fins and scales ye shall not eat. The ant is a land reptile (‘swarming thing’); hence the two injunctions of Lev. XI, 43 apply to it. There are also the following three: (i) Lev. XI, 41: And every swarming thing that swarmeth upon the earth ... shall not be eaten; (ii) ibid. 42: even all swarming things that swarm upon the earth them ye shall not eat, for they are a detestable thing: And (iii) ibid. 44: neither shall ye defile yourselves with any manner of swarming thing that moveth upon the earth. The hornet is a ‘winged swarming thing’ and also moves upon the earth. Hence it is subject to these five injunctions and also to that of Deut. XIV, 19: And all winged swarming things are unclean unto you: they shall not be eaten. Thus eating one forbidden thing can involve more than one penalty. and the same may apply here.

(2) As applying to another subject.

(3) Lev. VII, 19.

(4) Seeing that the

(5) Used in the sacrificial service: though these are not eatables, they nevertheless become unclean.

(6) The question is only in respect of ‘and as for the flesh’, the rest of the verse being utilized in Men. 25b.

(7) V. Glos. Teaching that if they are defiled and a priest eats them he transgresses the injunction against unclean flesh. The verse accordingly is read thus: and the flesh that toucheth any unclean thing shall not be eaten... and the flesh, viz., the emurim. _ Since the emurim must be offered on the altar, the priest is a zar (stranger’) in relation thereto, and transgresses on that account also.

(8) Lev. VII, 20.

(9) Which ‘pertain unto the Lord’.

(10) The inclusion of emurim in the former would not prove its inclusion in the latter case, since the former is a graver offence, as proved by the greater penalty attaching to it.

(11) V. 22b.

(12) Because heleb is generally used for lighting and softening hides.

(13) I.e., flagellation. Actually only thirty-nine were given.

(14) V. Glos.

(15) For they are not generally pressed for their juice.

(16) That there is no flagellation.

(17) That which issues from mulberries, etc.

(18) Lit., ‘sweat’. I.e., he did not eat fruit of ‘orlah at all. Thus this does not support R. Johanan.

(19) The prohibition of seething a kid in its mother's milk (Deut. XIV, 21) is understood by the Talmud as a prohibition of seething any meat and milk together. The question here is how do we know that if seethed together they are forbidden to be eaten.

(20) Ibid.

(21) Ex. XXII. 30.

(22) I.e., 'holy man' etc. introduces a prohibition of eating.

(23) When it was planted.

Talmud - Mas. Pesachim 25a

[This can be refuted]. As for 'orlah, [that may be] because it had no period of fitness;[1] will you say [the same of] meat and milk [seethed together], seeing that they had a period of fitness? Then let leaven during Passover prove it: though it had a period of fitness, it is forbidden for use. [This again can be refuted]. As for leaven during Passover, [that may be] because he [the offender] is punished with kareth,[2] will you say [the same] of meat [seethed] in milk, where he is not punished with kareth? Then let kil'ayim of the vineyard prove it: though he [the offender] is not punished with kareth yet it is forbidden for use. Now if this is so,[3] let us refute [it thus]: as for kil'ayim of the vineyard. [that may be] because we flagellate on its account even [when he does] not [use it] in the normal manner of its usage? And Abaye?[4] — [He can answer] 'will you say' — with what?[5] 'Will you say [the same] of meat [seethed] in milk, for which we do not flagellate save [when it is eaten] in the normal manner of its use' — is then 'eating' written in connection with meat [seethed] in milk?[6] And the other who raises the objection holds: for that purpose[7] it is deduced from nebelah:[8] just as nebelah [must be enjoyed] in the normal manner of its usage,[9] so [must] meat [seethed] in milk, in the normal manner of its usage. And Abaye? — [He argues]: for that reason 'eating' is not written in its own case,[10] to teach that we flagellate on its account even [when one does] not [enjoy it] in the normal manner of its usage.

But let us refute it [thus]: as for kil'ayim, [that may be] because it had no period of fitness?[11] — Said R. Adda b. Ahabah: This[12] proves that [in] kil'ayim of the vineyard, their very stock is forbidden,[13] [and so we cannot refute it thus] since it had a time of fitness before taking root.[14]

'R. Shemaiah objected: If one sets a perforated pot in a vineyard,[15] if one two-hundredth part is added, it is [all] forbidden:[16] thus, only if there is added, but not if there is not added?[17] — Said Raba, Two verses are written: 'the fulness' is written, and 'the seed' is written.[18] How is this [to be reconciled]? That which is sown[19] from the very outset [becomes forbidden] on taking root;[20] that which was sown when [partly] grown,[21] if it increased it is [forbidden];[22] if it did not increase, it is not [forbidden]![23]

R. Jacob said in R. Johanan's name: We may cure ourselves with all things, save with the wood of the asherah.[24] How is it meant? If we say that there is danger,[25] even the wood of the asherah too [is permitted]; while if there is no danger, even all [other] forbidden things of the Torah too are not [permitted]? — After all [it means] that there is danger, yet even so the wood of the asherah [must] not be used. For it was taught, R. Eliezer said: If 'with all thy soul' is said, why is 'with all thy might' said? Or if 'with all thy might' is said, why is 'with all thy soul' said?[26] But it is to teach you: if there is a man to whom his person is dearer than his wealth, therefore, 'with all thy soul' is stated;[27] and if there is a man to whom his wealth is dearer than his person, therefore 'with all thy might' [i.e.. substance] is stated. When Rabin came,[28] he said in R. Johanan's name: We may cure [i.e., save] ourselves with all [forbidden] things, except idolatry, incest,[29]

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(1) From the time of its planting it was never fit for food.

(2) For eating it.

(3) Sc. Abaye's statement supra 24b.

(4) How will he meet this question?

(5) I.e.. how would you conclude this refutation?

(6) It is not! Hence this last assumption would be unwarranted, and could not overthrow the argument.

(7) The prohibition of meat seethed with milk.

(8) I.e., from Ex. XXII, 30; v. next note.
(9) Before a penalty is incurred. Nebelah is employed here loosely, as in fact we learn from terefah (v. Glos.), which is the subject dealt with in Ex. XXII, 30 (Rashi).
(10) I.e., in connection with milk seethed with meat.
(11) It is now assumed that when two diverse species are planted together, the interdict of kil'ayim applies only to what grows after they are planted or sown, but not to the stock itself. Thus this added growth was never at any time fit for eating.
(12) Sc. that we do not refute it thus.
(13) Sc. that which was already grown before they were planted as kil'ayim.
(14) The stock itself becomes forbidden, but only after it takes root.
(15) The pot contains cereals, and being perforated it draws its sustenance from the soil of the vineyard, which renders it (the pot) forbidden as kil'ayim.
(16) One two-hundredth part is inclusive, i.e., the addition is one two-hundredth of the present total, so that the original is only one hundred and ninety-nine times as much. If kil'ayim is mixed with permitted eatables, it is all forbidden unless the latter is two hundred times as much as the former.
(17) Though it struck root; which shows that the original stock is not forbidden.
(18) Deut. XXII, 9: lest the fulness of the seed which thou hast sown be forfeited. ‘The fulness’ implies the additional growth only, while ‘the seed’ implies the original stock.
(19) In a vineyard.
(20) Since it begins to grow under forbidden circumstances. Nevertheless, before it strikes root it is just as though it were lying in a jug.
(21) Lit., ‘sown and coming’
(22) Sc. the increase.
(23) The stock remaining unaffected.
(24) A tree or grove devoted to idolatry.
(25) In the person's illness.
(26) V. Deut. VI, 5: And thou shalt love the Lord thy God with all thy heart, and with all thy soul, and with all thy might.
(27) I.e., one should love God even to the extent of giving his soul (life) in His service.
(28) From Palestine to Babylon.
(29) Which includes adultery.

Talmud - Mas. Pesachim 25b

and murder.[1] Idolatry, as we have stated.[2] Incest and murder, as it was taught: Rabbi said: For as when a man riseth against his neighbour, and slayeth him, even so is this matter.[3] Now, what connection has a murderer with a betrothed maiden? Thus this comes to throw light, and is itself illumined.[4] The murderer is compared to a betrothed maiden: just as a betrothed maiden must be saved [from dishonour] at the cost of his [her ravisher's] life, so [in the case of] a murderer, he [the victim] must be saved at the cost of his [the attacker's] life. Conversely, a betrothed maiden [is learned] from a murderer: just as [in the case of] murder, one must be slain rather than transgress, so a betrothed maiden must be slain yet not transgress.[5] And how do we know it of murder itself?[6] It is common sense. Even as one who came before Raba and said to him: The governor of my town has ordered me, ‘Go and kill So-and-so, if not, I will kill you.’ He answered him: ‘Let him kill you rather than that you should commit murder; what [reason] do you see [for thinking] that your blood is redder? Perhaps his blood is redder.’[7]

Mar son of R. Ashi found Rabina rubbing his daughter with undeveloped olives of ‘orlah.[8] Said he to him: ‘Granted that the Rabbis ruled [thus][9] in time of danger; was it [likewise] ruled when there is no danger?’ ‘This inflammatory fever is also like a time of danger,’ he answered him. Others say, he answered him: ‘Am I then using it in the normal manner of its usage?’

It was stated: [As to forbidden] benefit that comes to a man against his will, — Abaye said: It is permitted; while Raba maintained: It is forbidden. Where it is possible [to avoid it], while he intends [to benefit], or if it is impossible [to avoid it], yet he intends [to benefit], none dispute that it is forbidden. If it is impossible [to avoid it], and he does not intend [to benefit], none dispute that it is permitted. They differ where it is possible [to avoid it] and he does not intend [to benefit]; now, on the view of R. Judah, who ruled, That which is unintended is forbidden,[10] none dispute that it is forbidden. Where do they differ? On the view of R. Simeon, who maintained: That which is unintended is permitted. Abaye rules as R. Simeon. But Raba [argues]: R. Simeon rules thus only where it is impossible [to do otherwise], but not where it is possible.[11]

Others state: If it is possible [to avoid it], and he does not intend [to benefit], that is [the case of] the controversy between R. Judah and R. Simeon.[12] If it is impossible [to avoid it], and he does not intend [to benefit], none dispute that it is permitted. When do they differ? Where it is impossible [to avoid it] and he intends [to benefit]. Now, on the view of R. Simeon, who regards the intention,[13] none dispute that it is forbidden. Where do they differ? On the view of R. Judah, who maintained: It makes no difference whether he intends or does not intend, if it is possible [to avoid it] it is forbidden. Abaye rules as R. Judah.[14]

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(1) Lit., ‘bloodshed’.

(2) Viz., the interdict of the wood of the asherah.

(3) Deut. XXII, 26. This refers to the ravishing of a betrothed maiden.

(4) I.e., the verse shows that the case of a murderer throws light upon that of a betrothed maiden, but is also itself illumined thereby.

(5) She should rather suffer death than dishonour.

(6) That one must allow oneself to be slain rather than commit murder.

(7) You have no right to murder him to save yourself; his life is no less valuable than your own.

(8) For a remedy.

(9) That anything may be used for a remedy.

(10) V. Shab. 22a.

(11) The controversy of R. Judah and R. Simeon is with respect to dragging a bench over an earthen floor on the Sabbath, because it is needed in another part of the room. The dragging may make a rut in the earth, which is forbidden. Now in Abaye's view, R. Simeon permits the unintentional even when the whole act is avoidable, e.g., the bench is light enough to be carried. But in Raba's view R. Simeon permits it only when the bench is too heavy for this, so that the dragging is unavoidable. — An action is regarded as unavoidable when its purpose — here to have the bench elsewhere — is permissible or necessary. Similarly below, lecturing to the masses is regarded as unavoidable.

(12) Raba too admits this.

(13) As the determining factor.

(14) Since R. Judah rules thus, we see that the matter always depends on whether it is avoidable or not; therefore if it is unavoidable it is permitted.

Talmud - Mas. Pesachim 26a

Raba says thus: R. Judah rules that the unintentional is the same as the intentional only in the direction of stringency, but he did not rule that the intentional is the same as the unintentional where it is in the direction of leniency.

Abaye said: Whence do I know it? Because it was taught: It was related of R. Johanan b. Zakkai that he was sitting in the shadow of the Temple and teaching all day.[1] Now here it was impossible [not to lecture], and he intended [to benefit from the shade], and it is permitted?[2] But Raba said: The Temple was different, because it was made for its inside.[3]

Raba said: Whence do I know it? Because we learned: There were passage ways opening in the upper chamber to[4] the Holy of Holies, through which the artisans were lowered in boxes,[5] so that they might not feast their eyes on the Holy of Holies. Now here it was impossible [to avoid going there], and he [the workman] intended [to gaze at the Holy of Holies], and it was forbidden. But is that logical? Surely R. Simeon b. Pazzi said in R. Joshua b. Levi's name on Bar Kappara's authority: Sound, sight, and smell do not involve trespass?[6] Rather, they set up a higher standard for the Holy of Holies.[7]

Others state, Raba said: Whence do I know it? Because it was taught, R. Simeon b. Pazzi said in R. Joshua b. Levi's name on Bar Kappara's authority: Sound, sight, and smell do not involve trespass. [Thus] they merely do not involve trespass, but there is an interdict. Is that not for those who stand inside [the Temple],[8] so that it is impossible [to avoid it], while there is, an intention [to enjoy], and it is forbidden? — No: it refers to those standing outside.[9]

[It was stated in] the text, ‘R. Simeon b. Pazzi said in R. Joshua b. Levi's name on Bar Kappara's authority: Sound, sight, and smell do not involve trespass.’ But, does not smell involve trespass? Surely it was taught: He who compounds incense in order to learn [the art thereof] or to give it over to the community[10] is exempt; [if] in order to smell it,[11] he is liable; while he who smells it[12] is exempt, but that he commits trespass![13] Rather, said R. Papa: Sound and sight do not involve trespass, because they are intangible; and smell, after its smoke column has ascended,[14] does not involve trespass, since its religious service has been performed.[15]

Shall we say that wherever the religious service has been performed no trespass is involved? But what of the separation of the ashes,[16] though its religious service has been performed, yet it involves trespass, for it is written; and he shall put them [the ashes] beside the altar,[17] [which means] that he [the priest] must not scatter nor use [them]?[18] — Because [the references to] the separation of the ashes and the priestly garments are two verses written with the same purpose,[19] and the teaching of two such verses does not illumine [other cases].[20] ‘The separation of the ashes’: that which we have stated. ‘The priestly garments,’ as it is written, and he shall leave them there:[21] this teaches that they must be hidden.[22] That is well on the view of the Rabbis who say, This teaches that they must be hidden. But according to R. Dosa who disagrees with them and maintains: But they are fit for an ordinary priest, while what does ‘and he shall leave them there’ mean? that he [the High Priest] must not use them on another Day of Atonement, what can be said? — Because the separation of ashes and the beheaded heifer[23] are two verses with the same teaching, and such two verses do not illumine [other cases]. That is well according to him who maintains, They do not illumine [other cases]; but on the view that they do illumine,[24] what can be said? — Two limitations are written: it is written, ‘and he shall put them [the ashes]’; and it is written, [over the heifer] whose neck was broken [etc.].[25]

Come and hear: If he took it [the heifer] into the team[26] and it [accidentally] did some threshing, it is fit;[27] [but if it was] in order that it should suck and thresh, it is unfit. Now here it is impossible [to do otherwise],[28] and he intends [to benefit], and he [the Tanna] teaches that it is unfit! — There it is different, because Scripture saith, ‘which hath not been wrought with,’ [implying] in all cases. If so, even in the first clause too [the same applies]?

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(1) He was lecturing on the laws of Festivals to the masses, this being within thirty days before a Festival; v. supra 6a and b. As his own school-house was too small for the large number who wished to hear him, he taught in the open, choosing this site on account of the shade afforded by the high walls of the Temple.

(2) Though one must not derive any benefit from the Temple.

(3) It was normally used inside; hence the shade was not forbidden at all.

(4) Lit., ‘the loft of’; v. Mid. IV, 5.

(5) I.e., closed lifts. When they had to pass there for making repairs.

(6) He who benefits from sacred things (hekdesh) commits trespass and is liable to a sacrifice. But no trespass is involved when he benefits by sound, sight or smell, e.g., when he hears the music in the Temple, sees the beauty of the

Temple, or smells the frankincense. Consequently, even if workmen did look upon the Holy of Holies it would not really matter.

(7) Forbidding even that which the law permitted.

(8) I.e., those engaged on some Temple service.

(9) Who can avoid enjoying these things.

(10) For use in the Temple.

(11) I.e., he intends keeping it for smelling.

(12) Sc. the incense belonging to the community and in use in the Temple.

(13) The reference is to Ex. XXX, 33: Whosoever compoundeth any like it, or whosoever putteth any of it upon a stranger, he shall be cut off from his people (kareth). In the first case he is exempt from kareth, in the second he is liable, while in the third he is exempt from kareth but liable to a trespass-offering. This contradicts R. Simeon b. Pazzi.

(14) The incense was thrown upon burning coals, which caused a cloud or a column of smoke to ascend. This constituted its sacred service.

(15) The incense then does not count as the sacred things of the Lord, and it is to this case that R. Simeon b. Pazzi refers. But before the smoke has ascended trespass is involved, because the smell, being directly caused by the spices with which the incense is compounded, is regarded as tangible.

(16) A censerful (Yoma 24a) of the ashes of the daily burnt-offering was taken every day and placed at the side of the altar, where the earth absorbed it.

(17) Lev. VI, 3.

(18) Rashal reads: (teaching) that others must not commit trespass therein, but all of it must be beside the altar. — 'All of it' refers to the censerful.

(19) Lit., 'which come as one .

(20) This is a general principle of exegesis. When a law is taught in one case it may be extended to other cases too by general analogy. But when it is taught in two cases it cannot be extended; for if it were intended to illumine others too, it would be written in one instance only, and the second, together with all others, would follow from it.

(21) Lev. XVI, 23. This refers to the additional garments worn by the High Priest on the Day of Atonement when he entered the Holy of Holies.

(22) And all use is forbidden. Here too they had fulfilled their religious purpose.

(23) V. Deut. XXI, 1-9. There too it is written, 'and shall break the heifer's neck there in the valley (v. 4). 'There' indicates that it must remain there and all benefit thereof is forbidden, though its religious purpose had already been fulfilled.

(24) R. Judah holds his view: v. Sanh. 67b.

(25) Lit., 'the one who is neckbroken'. Ibid. 6. 'The' too is a limitation and the combined effect of the two limitations is to exclude all other cases from the operation of this law, which forbids benefit even after the religious requirements have been carried out.

(26) Of three or four cows used for threshing; his purpose was that it should suck.

(27) To make atonement for a murder by an unknown person; v. Deut. ibid. The heifer was to be one 'which hath not been wrought with and which hath not drawn in

(28) It must be taken into the team to suck.

Talmud - Mas. Pesachim 26b

— This can only be compared to the following: If a bird rested upon it [the red heifer], it remains fit;[1] but if it copulated with a male, it is unfit. What is the reason? — Said R. Papa: If it were written ''abad'[2] and we read it 'abad', [I would say, it becomes unfit] only if he himself wrought with it. While if ''ubad'[3] were written and we read it ''ubad,' [it would imply] even if it were of itself.[4] Since however, it is written ''abad'' [active], whilst read ''ubad'' [passive]. 'it was wrought with' must be similar to 'he wrought [with it]':[5] just as 'he wrought [with it]' must mean that he approved of it, so also 'it was wrought with' refers only to what he approved.[6]

Come and hear: He may not spread it [viz.,] a lost [raiment][7] upon a couch or a frame for his needs, but he may spread it out upon a couch or a frame in its own interests. If he was visited by guests, he may not spread it over a bed or a frame, whether in its interests or his own![8] — There it is different, because he may

the yoke' (v.[2]). Though this heifer had threshed, it remains fit, because it had been taken into the team to feed, not to thresh. [thereby] destroy it,[9] either through an evil eye or through thieves.

Come and hear: Clothes merchants sell in their normal fashion, providing that they do[10] not intend [to gain protection] from the sun in hot weather[11] or from the rain when it is raining;[12] but the strictly religious[13] sling them on a staff behind their back.[14] Now here, though it is possible to do as the strictly religious, yet when he has no intention [of benefiting], it is permitted; this is a refutation of him who learns Raba's first version?[15] This is [indeed] a refutation.

AND ONE MAY NOT FIRE etc. Our Rabbis taught: If an oven was fired with the shells of 'orlah'[16] or with the stubble of kil'ayim of the vineyard, if new, it must be demolished; if old, it must be allowed to cool.[17] If a loaf was baked in it, — Rabbi said: The loaf is forbidden;[18] but the Sages maintain: The loaf is permitted.[19] If he baked[20] it upon the coals, all agree that it is permitted.[21] But it was taught: Whether new or old, it must be allowed to cool? — There is no difficulty: one agrees with Rabbi, the other with the Rabbis.[22] Granted that you know Rabbi [to rule thus] because the benefit[23] of the fuel lies in the loaf; do you know him [to maintain this ruling] where two things produce [the result]?[24] — Rather, [reply thus:] There is no difficulty: one is according to R. Eliezer, the other according to the Rabbis. Which [ruling of] R. Eliezer [is alluded to]? Shall we say. R. Eliezer['s ruling] On se'or'?[25] For we learned: If se'or of hullin and [se'or'] of terumah fall into dough, and neither is sufficient to make [it] leaven, but they combined and made [it] leaven, — R. Eliezer said: I regard[26] the last;[27] but the Sages maintain: whether the forbidden matter falls in first or the forbidden matter falls in last,it never renders it forbidden

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(1) It is not disqualified because it has been put to some use. The red heifer had to be one 'upon which never came yoke' (Num. XIX, 2), i.e., it had not been put to service.

(2) Active: 'with which he (the owner) had (not) wrought'.

(3) Passive: 'was (not) wrought with'.

(4) I.e., even if it were wrought with entirely without the owner's volition.

(5) I.e., though it may have been put to work without the knowledge of its master, it shall nevertheless be only such work as its master would have approved.

(6) Now, if a bird rests on it, the master does not approve, since he does not benefit; but he does benefit from its copulation. Similarly, if he takes the heifer into the team and it accidentally threshes, he does not benefit thereby, as the team itself would have sufficed. Therefore it is not made unfit, unless that was his express purpose. — Though one passage refers to the beheaded heifer, while the other deals with the red heifer, it is deduced in Sot. 46a by a gezerah shawah (v. Glos.) that they are alike in law.

(7) Which he has found, and awaiting the owner to come and claim it.

(8) Thus, though he must spread it out, yet since he intends to benefit himself, it is forbidden.

(9) Lit., 'burn it'.

(10) Lit., 'he does'. The singular taken in the distributive sense.

(11) Lit., 'in the sun'.

(12) The reference is to garments containing the forbidden mixture of wool and linen (v. Deut. XXII, 11), sold to heathens. Merchants slung their wares across their shoulders for display, and though it is like wearing them, and some protection is afforded thereby, it is permitted.

(13) Lit., 'the modest'.

(14) So that they do not actually lie upon them.

(15) V. supra 25b.

(16) I.e.,the shells of nuts of 'orlah'.

(17) 'New' means that the oven has never been used yet. Before it is fit for use it must be burnt through so as to harden it, and if this was done with the shells of 'orlah', the oven must be demolished, since it was made fit with prohibited fuel.

But if it had been used before, the only benefit is that it is now hot: hence that benefit must be forfeited by allowing the oven to cool without using its heat.

(18) He holds that the benefit of the forbidden fuel is contained directly in the loaf.

(19) In their view the benefit of the forbidden fuel is not actually contained in the loaf, for the flame of the burning shells is not identical with the shells themselves. By the same reasoning they reject the ruling that if new, the oven must be destroyed, holding it sufficient that it should be allowed to cool.

(20) Lit., ‘boiled’.

(21) When the nutshells or stubble are burnt through and a mass of coals, they are regarded as already destroyed and not in existence. Consequently, if he bakes the bread upon them, the bread is not regarded as having benefited directly from them, and even Rabbi admits that it is permitted.

(22) V. p. 121, n. 11.

(23) Lit., ‘improvement’.

(24) For when the new oven is fired, bread is not baked in it yet, and it will have to be fired a second time. Thus the bread that is baked will be the product of two things: the forbidden fuel and the permitted fuel. We do not find Rabbi holding that this too is forbidden, and if it is not, there is no need to demolish the oven.

(25) Se'or is leaven with which other dough is made leaven. Hamez is leavened bread.

(26) Lit., ‘come after’.

(27) The status of the dough is determined by which fell in last: if hullin, the dough is permitted to a lay Israelite; if terumah, it is forbidden.

Talmud - Mas. Pesachim 27a

unless it[1] contains sufficient to induce fermentation,[2] Now Abaye said: They learned this[3] only where he anticipated and removed the forbidden matter; but if he did not anticipate and remove the forbidden matter, it is forbidden:[4] this proves that the product of two causes is forbidden. Yet how do you know that R. Eliezer's reason is as Abaye [states it]: perhaps R. Eliezer's reason is because I follow the last, there being no difference whether he anticipated and removed the forbidden matter or he did not anticipate and remove the forbidden matter;[5] but [if they fell in] simultaneously, then indeed it may be permitted?[6] — Rather it is R. Eliezer’[s ruling] on the wood of the asherah [which is alluded to]. For we learned: If he took wood from it [sc. the asherah], benefit thereof is forbidden. If he fired an oven with it, if new, it must be destroyed; if old, it must be allowed to cool. If he baked bread in it, benefit thereof is forbidden; if it [the bread] became mixed up with others, and [these] others [again] with others,[7] they are all forbidden for use. R. Eliezer said: Let him carry the benefit [derived thence][8] to the Dead Sea.[9] Said they to him: You cannot redeem an idol. Granted that you hear R. Eliezer [to rule thus] in the case of idolatry, whose interdict is [very] severe; do you know him [to rule likewise] in respect of other interdicts of the Torah? — Then if so, to whom will you ascribe it?[10] Moreover, it was explicitly taught: And thus did R. Eliezer declare it forbidden in the case of all interdicts in the Torah.

Abaye said: Should you say’ that the product of two causes is forbidden, then Rabbi is identical [in view] with R. Eliezer.[11] But should you say. The product of two causes is permitted,[12] while here [Rabbi forbids the bread] because there is the improvement of the fuel in the bread, then plates, goblets, and

regards that which completes the leavening having produced the whole of it. flasks[13] are forbidden.[14] They differ only in respect of an oven and a pot.[15] On the view [that] the product of two causes is forbidden, these are forbidden; on the view [that] the product of two causes is permitted, these are permitted. Others state: Even on the view [that] the product of two causes is permitted, the pot is forbidden, for it receives the stew before the permitted fuel is placed.[16]

R. Joseph said in Rab Judah's name in Samuel's name: If an oven was fired [heated] with shells of ‘orlah’ or with stubble of kil'ayim of the vineyard, if new, it must be demolished; if old, it must be allowed to cool. If he baked bread in it, — Rabbi said: The bread is permitted; but the Sages maintain: The bread is forbidden. But the reverse was taught![17] — Samuel learned it the reverse. Alternatively, in general Samuel holds [that] the halachah is as Rabbi as against his, but not as against his colleagues, but here [he holds], even against his colleagues, and so he reasoned, I will recite it reversed, in order that the Rabbis may stand [as ruling] stringently.[18]

‘If he baked it upon the coals all agree that the bread is permitted’.[19] Rab Judah in Samuel's name, and R. Hiyya b. Ashi in R. Johanan's name [differ therein]: one says. They learned [this] only of dying coals, but live[20] coals are forbidden;[21] while the other maintains, Even live coals too are permitted. As for the view that live [coals] are forbidden, it is well, [the reason being] because there is the improvement of the fuel in the bread.[22] But on the view that even live [coals] are permitted, then how is the bread which is forbidden because there is the improvement of the fuel in the bread conceivable according to Rabbi?[23] — Said R. Papa: When the flame is opposite it.[24]

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(1) The se'or’ of terumah, v. Tosaf.

(2) If forbidden matter falls into permitted, it does not render it forbidden unless it imparts its taste to it. The se'or’ imparts its taste to the dough when it makes it leaven. — Se'or’ of terumah is designated forbidden matter, since it is forbidden to a lay Israelite.

(3) Sc. R. Eliezer's view.

(4) R. Eliezer holds that if the hullin fell in last, the dough is permitted. This is only if he removed the terumah immediately the hullin fell in, and before the dough was leavened. Though the terumah must have helped slightly in the leavening, yet since it is no longer there when the dough really becomes leaven, it is disregarded. But if the terumah was left there, the dough becomes forbidden even if the hullin fell in last.

(5) The reason being that he

(6) Because R. Eliezer permits the product of two causes.

(7) ‘And (these) others’ etc. is absent in the Mishnah in A.Z. 49b, and R. Tam deletes it here too.

(8) I.e., the value of the wood.

(9) But R. Eliezer admits that if the benefit is not thrown into the Dead Sea, the new oven must be destroyed, which proves that he holds that the product of two causes is forbidden (v. p. 122, n. 3).

(10) Lit., ‘upon whom will you cast it?’ This is the answer: there is none other to whom the Baraitha supra 26b can be ascribed. Hence it must be assumed that R. Eliezer draws no distinction between idolatry — and other interdicts.

(11) I.e.,if the Baraitha supra 26b is to be explained thus: just as Rabbi forbids the bread baked by the heat of the nutshells of ‘orlah’, so he also forbids the new oven that is fired by same, because he holds that the product of two causes is forbidden. Hence the whole Baraitha states Rabbi's ruling, his view being identical with R. Eliezer's. Consequently the problem which he proceeds to state does not arise.

(12) Hence the first clause stating that a new oven must be destroyed cannot agree with Rabbi, but only with R. Eliezer.

(13) Of earthenware, which received their final hardening in a kiln heated by forbidden fuel.

(14) On all views. For they have been made fit for use and will be used without any further improvements, and there is direct benefit from forbidden matter.

(15) Both of which must be heated again before food is cooked or baked in them.

(16) The food for stewing is placed in the pot before the heat is applied to it. The mere placing is regarded as benefit, and this was made possible solely by the forbidden fuel.

(17) Supra 26b.

(18) And so that people might accept the stringent ruling.

(19) V. supra 26b.

(20) Lit., ‘whispering’. When the coals are burning brightly they seem to be moving and whispering to each other (Rashi).

(21) I.e., the bread is forbidden in Rabbi's view.

(22) For the fuel is regarded as still in existence and directly baking the bread.

(23) For obviously the bread does not bake until the fuel burns up, and by then it is a mass of coals.

(24) Directly opposite the bread through the oven mouth.

Talmud - Mas. Pesachim 27b

Talmud - Mas. Pesachim 27b

Whence it follows that the Rabbis who disagree with him permit it even when the flame is opposite it; then how is forbidden fuel conceivable according to the Rabbis?[1] — Said R. Ammi b. Hama: In the case of a stool.[2]

Rami b. Hama asked R. Hisda: If an oven was heated with wood of hekdesh[3] and bread is baked therein, what [is the law] according to the Rabbis who permit in the first case?[4] — The bread is forbidden, he replied. And what is the difference between this and ‘orlah’? — Said Raba: How compare! ‘Orlah is annulled in two hundred [times its own quantity]; hekdesh is not annulled even in one thousand [times its quantity].[5] But said Raba, If there is a difficulty, this is the difficulty: Surely he who fires [the oven] commits trespass, and wherever he who fires [the oven] commits trespass, it [the fuel] passes out to hullin?[6] — Said R. Papa: We treat here of wood of peace-offerings,[7] and in accordance with R. Judah, who maintained: Hekdesh, if [misappropriated for secular use] unwittingly, becomes hullin; if deliberately, it does not become hullin. Now what is the reason that if deliberately it does not [become hullin]? Since it does not involve a trespass-offering,[8] it does not pass out to hullin; so peace-offerings too, since it [the misappropriation of this type of sacrifice] does not involve a trespass-offering, it does not pass out to hullin.

Yet whenever he that fires [the oven] commits trespass, it [the fuel] passes out to hullin? But it was taught: [In the case of] all which are burnt,[9] their ashes are permitted [for use], except the wood of an asherah, while the ashes of hekdesh are forbidden for ever?[10] — Said Rami b. Hama: E.g., if a fire fell of its own accord on wood of hekdesh, so that there is no man to be liable for trespass.[11] R. Shemaiah said: It[12] refers to those [ashes] which must be hidden,[13] for it was taught: And he shall put them [the ashes][14] gently; and he shall put them — the whole thereof; and he shall put them [means] that he must not scatter them.[15]

R. JUDAH SAID: THERE IS NO REMOVAL etc. It was taught, R. Judah said: There is no removal of leaven save by burning, and logic impels this: if nothar, which is not subject to ‘there shall not be seen’ and ‘there shall not be found’, requires burning, then leaven, which is subject to ‘there shall not be seen’ and ‘there shall not be found’, how much the more does it require burning! Said they to him: Every argument that you argue [which] in the first place is stringent yet in the end leads to leniency is not a [valid] argument: [for] if he did not find wood for burning, shall he sit and do nothing, whereas the Torah ordered, Ye shall put away leaven out of your houses,[16] [which means] with anything wherewith you can put it away? R. Judah argued again [with] another argument.[17] Nothar is forbidden for eating and leaven is forbidden for eating: just as nothar [is disposed of] by burning, so is leaven [destroyed] by burning. Said they to him, Let nebelah prove [it][18] for it is forbidden for eating yet does not require burning. Said he to them, There is a difference:[19] nothar is forbidden for eating and for [all] use, and leaven is forbidden for eating and for [all] use: just as nothar requires burning, so does leaven require burning. Let the ox that is stoned[20] prove it, they replied: it is forbidden for eating and for [all] use, yet it does not require burning. Said he to them, There is a difference: Nothar is forbidden for eating and for [all] use, and he [who eats it] is punished with kareth, and leaven is forbidden for eating and for [all] use, and he is punished with kareth: just as nothar [must be destroyed] by burning, so is leaven [destroyed] by burning. Said they to him, Let the heleb of the ox that is stoned prove it, which is forbidden for eating, for [all] use, and involves the penalty of kareth, yet it does not require burning.

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(1) I.e., when do they prohibit benefit from forbidden fuel?

(2) Made of forbidden wood. One must not sit upon it, because he thereby benefits from the wood while it is yet fully in existence.

(3) V. Glos.

(4) Sc. where it is heated with ‘orlah or kil'ayim.

(5) If ‘orlah is accidentally mixed with two hundred times its own quantity of permitted produce and cannot be removed, it is annulled, and the whole is permitted. But hekdesh in similar circumstances is never annulled: thus its interdict is obviously more stringent.

(6) When one misappropriates hekdesh for secular use, he commits trespass and is liable to an offering for having withdrawn it from sacred ownership. Thus by this very act he converts it into hullin, and therefore the bread should be regarded as having been baked with ordinary fuel, hence permitted. This principle holds good of all hekdesh save animals dedicated for sacrifices and the service utensils in the Temple.

(7) I.e., wood dedicated for peace-offerings, which means that it is to be sold and peace-offerings bought with the money, peace-offerings belong to the category of ‘sacrifices of lower sanctity’, and do not involve a trespass-offering; nevertheless they are forbidden for secular use.

(8) Sacrifices were brought only for unwitting transgressions.

(9) Viz., leaven on Passover, unclean terumah, ‘orlah and kil'ayim of the vineyard. Tem. 33b.

(10) V. Tem. 34a.

(11) Only then are the ashes of hekdesh for ever forbidden.

(12) The teaching cited.

(13) Viz., the censerful of ashes hidden at the base of the altar, v. supra 26a. Only these are for ever forbidden.

(14) Lev. VI, 3.

(15) V. supra 26a.

(16) Ex.XII, 15.

(17) Not on the basis of an a minori argument, but a gezerah shawah, the conclusion of which is accepted irrespective of the result.

(18) I.e., refute the argument.

(19) Between nebelah on the one hand and nothar and leaven on the other.

(20) V. Ex. XXI, 28.

Talmud - Mas. Pesachim 28a

R. Judah argued again [with] another argument: Nothar is subject to ‘ye shall let nothing of it remain,’[1] and leaven is subject to ‘ye shall let nothing of it remain’:[2] just as nothar [is disposed of] by burning, so is leaven [disposed of] by burning. Said they to him, Let the guilt-offering of suspense[3] and the sin-offering of a bird which is brought for a doubt,[4] on your view,[5] prove it: for they are subject to ‘ye shall let nothing of it remain,’[6] and we maintain that they require burning, while you say [it is disposed of] by burial.[7] [Thereupon] R. Judah was silent. Said R. Joseph: Thus people say, The ladle which the artisan hollowed out, in it [his tongue] shall be burnt with mustard.[8] Abaye said: When the maker of the stocks sits in his own stock, he is paid with the clue which his own hand wound.[9] Raba said: When the arrow maker is slain by his own arrows, he is paid with the clue which his own hand wound.

BUT THE SAGES MAINTAIN: HE CRUMBLES AND THROWS IT etc. The scholars asked: How is it meant: He crumbles and throws it to the wind, or he crumbles and throws it into the sea; or perhaps, he crumbles and throws it to the wind, but he may throw it into the sea whole [without crumbling]? And we learned similarly in connection with an idol too: R. Jose said: He crushes and throws it to the wind or casts it into the sea. And the scholars asked: How is it meant: He crushes and throws it to the wind, or he crushes and casts it into the sea; or perhaps, he crushes and throws it to the wind, but he may cast it into the sea whole [without crushing?]—Said Rabbah: It is logical that an idol, which goes into the Dead Sea, need not be crushed;[10] leaven, which goes into other streams, needs crumbling. Said R. Joseph to him, On the contrary, the logic is the reverse: An idol, which does not dissolve, needs crushing; leaven, which dissolves, does not need crumbling. It was taught in accordance with Rabbah;[11] it was taught in accordance with R. Joseph.[12] It was taught in accordance with Rabbah: If he was walking in a wilderness, he crumbles it [the leaven] and casts it to the wind; if he was travelling in a ship, he crumbles it and casts it into the sea. It was taught in accordance with R. Joseph: If he was travelling in the desert, he crushes [the idol] and throws it to the wind; if he was travelling in a ship, he crushes and casts it into the sea. [The teaching requiring] ‘crushing’ is a difficulty according to Rabbah, [while the teaching requiring] ‘crumbling’ is a difficulty according to R. Jose? ‘Crushing’ is not a difficulty according to Rabbah: one means into the Dead Sea,[13] the other means into other waters. ‘Crumbling’ is not a difficulty according to R. Joseph: One refers to wheat [grains],[14] the other refers to bread.

MISHNAH. LEAVEN BELONGING TO A GENTILE OVER WHICH PASSOVER HAS PASSED[15] IS PERMITTED FOR USE; BUT THAT OF AN ISRAELITE IS FORBIDDEN FOR USE, BECAUSE IT IS SAID, NEITHER SHALL THERE BE LEAVEN SEEN WITH THEE.[16]

GEMARA. Who is [the authority of] our Mishnah: it is neither R. Judah nor R. Simeon nor R. Jose the Galilean. What is this [allusion]? — For it was taught: [As to] leaven, both before its time and after its time, he transgresses a negative command on its account; during its time, he transgresses a negative command and [commits a sin subject to] kareth.[17]

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(1) Ex. XII, 10.

(2) Since leaven must not be seen or found in the house after midday on the fourteenth of Nisan, it may obviously not remain there until then.

(3) I.e., doubt. When a man is in doubt whether he has committed a transgression for which, if certain, a sin-offering is due, he brings a guilt-offering of suspense.

(4) E.g., when a woman miscarries, and it is not known whether the fetus was viable or not.

(5) V. Tem. 34a. The Rabbis hold that this bird sin-offering must be burnt, while R. Judah maintains that it is cast into a waterduct which carries it off.

(6) In common with all sacrifices.

(7) This refers to the guilt-offering of suspense.

(8) Or, from it he shall swallow mustard.

(9) Jast. Rashi, he is paid by the uplifting— i.e., the work —of his own hand.

(10) For the Dead Sea is unnavigable; hence none will pick it up.

(11) That leaven requires ‘crumbling’.

(12) That an idol requires ‘crushing’.

(13) The idol need not be crushed before it is thrown thither.

(14) Which had turned leaven. These must be crumbled, i.e., scattered into the sea. But they may not be tied in a sack and thrown into the sea, lest someone finds the sack.

(15) I.e., it had been kept over Passover.

(16) Ex. XIII, 7.

(17) During its (forbidden) time means during Passover. Before its time, from six hours (mid-day) on the fourteenth of Nisan until evening, when Passover commences; after its time, after Passover — i.e., leaven which was kept from before until after Passover. He transgresses by eating it.

Talmud - Mas. Pesachim 28b

R. Simeon said: [As to] leaven, before and after its time, he does not transgress anything at all on its account; during its time, he transgresses on its account [an interdict subject to] kareth and a negative command. And from the hour that it is forbidden for eating, it is forbidden for [general] use; this agrees with the first Tanna. R. Jose the Galilean said: Wonder at yourself! How can leaven be prohibited for [general] use the whole seven [days]? And how do we know of him who eats leaven from six hours and onwards that he transgresses a negative command? Because it is said, Thou shalt eat no leavened bread with it:[1] this is R. Judah's opinion. Said R. Simeon to him: Is it then possible to say thus, seeing that it is already stated, Thou shalt eat no leavened bread with it; seven days shalt thou eat unleavened bread therewith?[2] If so, what does ‘thou shalt eat no leavened bread with it’ teach? When he is subject to [the injunction], arise, eat unleavened bread,’[3] he is subject to [the prohibition], ‘do not eat leavened bread’; and when he is not subject to, ‘arise, eat unleavened bread,’ he is not subject to, ‘do not eat leavened bread.’

What is R. Judah's reason? — Three verses are written: There shall no leavened bread be eaten;[4] Ye shall eat nothing leavened;[5] and Thou shalt eat no leavened bread with it. One refers to before its time; another to after its time; and the third to during its time.[6] And R. Simeon?[7] — One refers to during its time. ‘Ye shall eat nothing leavened’ he requires for what was taught: Hamez:[8] I only know [that it is forbidden] where it turned leaven of its own accord; if [it turned leaven] through another substance, how do we know it? Therefore it is stated, Ye shall eat nothing leavened.[9] There shall no leavened bread be eaten’ he requires for what was taught: R. Jose the Galilean said: How do we know that at the Passover of Egypt its [prohibition of] leaven was in force one day only? Because it is said, ‘There shall no leavened bread be eaten’, and in proximity thereto [is written], This day ye go forth.[10] And R. Judah: how does he know [that it is prohibited when made leaven] through another substance? — Because the Divine Law expressed it in the term mahmezeth.[11] How does he know R. Jose the Galilean's [deduction]? — I can either say, because ‘this day’ is stated in proximity thereto.[12] Alternatively, he does not base interpretations on the proximity of verses.[13]

The Master said: ‘And how do we know of him who eats leaven from six hours and onwards that he transgresses a negative command? Because it is said, Thou shalt eat no leavened bread with it: this is R. Judah's opinion. Said R. Simeon to him: Is it then possible to say thus, Seeing that it is already stated, Thou shalt eat no leavened bread with it; seven days shalt thou eat unleavened bread therewith?’ Now as to R. Judah, R. Simeon says well to him?- R. Judah can answer you: [The purpose of] that [verse] is to make it a statutory obligation even for nowadays.[14] And R. Simeon? Whence does he know to make it a statutory obligation [even nowadays]! — He deduces it from, at even ye shall eat unleavened bread.[15] And R. Judah? — He requires that in respect of an unclean person or one who was on a distant journey. I might say, since he cannot eat the Passover sacrifice, he need not eat unleavened bread or bitter herbs either. Hence we are informed [that it is not so]. And R. Simeon? — For an unclean person or one who was on a distant journey no verse is required,[16] because he is no worse than an uncircumcised person and an alien,[17] for it is written, but no uncircumcised person shall eat thereof:[18] ‘thereof’ he shall not eat, but he eats of unleavened bread and bitter herbs. And R. Judah? It is written in the case of one,[19] and it is written in the case of the other.[20] Now, who is [the authority for] our Mishnah?[21] If R. Judah, he states leaven without qualification, even that of a Gentile. And if R. Simeon,

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(1) Deut. XVI, 3. ‘It’ refers to the Passover sacrifice, which was offered on the fourteenth of Nisan from mid-day and onwards; and the verse is interpreted: You are to eat no leavened bread at the time that you must offer the Passover sacrifice.

(2) Now, unleavened bread (mazzah) was not eaten before evening; hence ‘therewith’ must mean when the Passover sacrifice is eaten, viz., in the evening, and ‘with it’ must bear the same meaning in the first half of the verse.

(3) I.e., in the evening.

(4) Ex. XIII, 3.

(5) Ibid. XII, 20.

(6) On the meaning of these terms v. p. 129, n. 4.

(7) How does he interpret these verses?

(8) In Ex. XIII, 3 and Deut. XVI, 3 (E.V. leavened bread).

(9) Heb. mahmezeth. This implies even if fermentation was induced by something else.

(10) Ex. XIII. 4. He translates: There shall no leavened bread be eaten (on) this day (that) ye go forth.

(11) ‘Leavened’; v. n. 8. This implies an additional teaching, for otherwise the three verses should use the same term, viz., hamez.

(12) Thus this too conveys an additional teaching.

(13) And thus he rejects the view that at the Exodus the prohibition of leaven was for one day only.

(14) The verse does not assimilate the prohibition of leavened bread to the precept of eating unleavened bread, in the sense that the former is valid only when the latter is, but the reverse: the latter is assimilated to the former. As long as leaven is prohibited, there is an obligation to eat unleavened bread, i.e., even nowadays, after the destruction of the Temple and the cessation of sacrifices. For I might think, since it is written, they shall eat it (sc. the Passover sacrifice) with unleavened bread and bitter herbs (Num. IX, 11), the obligation to eat unleavened bread holds good only as long as the Passover sacrifice is offered. Hence this verse teaches that it is not so.

(15) Ex. XII, 18. This is otherwise superfluous, since it is stated in v. 8, and they shall eat the flesh in that night ... and unleavened bread.

(16) That he has to eat unleavened bread.

(17) V. Ex. XII, 43. According to the Talmud, Shab. 87a this means a Jew whose acts have alienated him from Heaven, i.e., a nonconformist.

(18) Ibid. 48.

(19) Sc. an uncircumcised person and an ‘alien’.

(20) Sc. an unclean person and one who was on a distant journey; v. infra 120a, p. 619, n. 6. Hence Deut. XVI, 3 is still required to show that the eating of unleavened bread is a permanent obligation.

(21) Here the Talmud reverts to its original question (supra a bottom), which was interrupted for a discussion of the various opinions quoted.

Talmud - Mas. Pesachim 29a

even that of an Israelite is indeed permitted.[1] while if [it is] R. Jose the Galilean, even during its time it is indeed permitted for [general] use? — Said R. Aha b. Jacob: In truth it is R. Judah, and he learns se'or [leaven] of ‘eating’ from se'or of seeing’:[2] just as [with] the se'or [stated in connection] with ‘seeing’, you must not see your own, but you may see that belonging to others or to the Most High’,[3] so [with] the se'or [written in connection] with ‘eating’, you must not eat your own, but you may eat that belonging to others or to the Most High;[4] and logically he [the Tanna of our Mishnah] ought to teach that it[5] is permitted even for eating, but because he teaches that that of an Israelite is forbidden for use, he also teaches that that of a Gentile is permitted for use. Again, logically he ought to teach that even during its period it[5] is permitted for use, but because he mentions after its period in connection with that of an Israelite, he also teaches about that of a heathen after its period.

Raba said: In truth it[6] is R. Simeon; but R. Simeon does indeed penalize him, since he transgresses ‘there shall not be seen’ and ‘there shall not be found’ therewith.[7] As for Raba, it is well: hence it is taught, BUT THAT OF AN ISRAELITE IS FORBIDDEN [FOR GENERAL USE], BECAUSE IT IS SAID, NEITHER SHALL THERE LEAVEN BE SEEN WITH THEE.[8] But according to R. Aha b. Jacob, he should state, because [it is said], there shall no leavened bread be eaten?[9] — Do you think that that[10] refers to the second clause? [No,] it refers to the first clause, and he states thus: LEAVEN BELONGING TO A GENTILE OVER WHICH PASSOVER HAS PASSED IS PERMITTED FOR USE, BECAUSE IT IS SAID, NEITHER SHALL THERE BE LEAVEN SEEN WITH THEE, [implying] thine own thou must not see, but thou mayest see the leaven of strangers or of the Most High; and se'or of ‘eating’ is learnt from se'or of ‘seeing’.

Now they[11] are consistent with their views. For it was stated: If one eats se'or belonging to a heathen over which Passover has passed, according to R. Judah's view, — Raba said: He is flagellated; while R. Aha b. Jacob said: He is not flagellated. Raba said, He is flagellated: R. Judah does not learn se'or of ‘eating’ from se'or of ‘seeing’. While R. Aha b. Jacob, said, He is not flagellated: he learns se'or of ‘eating’ from se'or of ‘seeing’.

But R. Aha b. Jacob retracted from that [view]. For it was taught: He who eats leaven of hekdesh[12] during the Festival [Passover] commits trespass; but some say, He does not commit trespass.[13] Who is [meant by] ‘some say’? — Said R. Johanan, It is R. Nehunia b. ha-Kanah. For it was taught: R. Nehunia b. ha-Kanah used to treat the Day of Atonement as the Sabbath in regard to payment: just as [with] the Sabbath, he forfeits his life and is exempt from (payment], so [with] the Day of Atonement, he forfeits his life and is exempt from payment.[14] R. Joseph said: They differ as to whether sacred food can be redeemed in order to feed dogs therewith. He who says [that] he commits trespass holds, One may redeem sacred food in order to feed dogs therewith; while he who rules [that] he does not commit trespass holds, One may not redeem [etc.].[15]

R. Aha b. Raba recited

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(1) For general use, after its time.

(2) I.e., he learns the prohibition of eating se'or from that of seeing se'or.

(3) V. supra 5b.

(4) I.e., when R. Judah teaches supra 28b that leaven even after its period is forbidden, this analogy shows that that applies to leaven belonging to a Jew only.

(5) The leaven of a Gentile.

(6) Our Mishnah.

(7) Thus the Mishnah states the Rabbinic law, while in the Baraitha the Scriptural law is stated.

(8) I.e., as a penalty for violating this injunction.

(9) That being the verse quoted by R. Judah supra 28b.

(10) The verse quoted in the Mishnah.

(11) Sc. Raba and R. Aha b. Jacob.

(12) V. Glos.

(13) On committing trespass V. p, 117, n. 6. The first Tanna holds that leaven belonging to hekdesh has a value even during Passover. For he agrees with R. Simeon that leaven kept during Passover is Biblically permitted after Passover, and though R. Simeon penalizes its owner, that does not apply to hekdesh, since leaven of hekdesh falls within the permissive law ‘but thou mayest see that of Heaven’. Thus this man, by eating it, has caused loss to the Temple treasury, and therefore he is liable to a trespass-offering. But the second Tanna, while admitting this, holds that since he incurs kareth for the eating of leaven, he is free from any lesser penalty, as explained in the Text.

(14) It is a principle that if a man commits an act involving the death penalty and a monetary compensation. he is exempted from the latter owing to the greater punishment; this holds good

(15) If these Tannaim held with R. Simeon that during Passover it is forbidden for general use, they would agree that he is not liable for trespass, since it was valueless when he actually ate it, notwithstanding that it would become valuable after Passover. But they hold with R. Jose the Galilean that leaven is permitted for use during Passover. Now, the only use to which leaven can be put then is to give it to dogs. This may be done with ordinary leaven, but there is a controversy in respect of sacred leaven. The first Tanna holds that it can be redeemed for that purpose: hence the leaven is valuable, and therefore the eater commits trespass. But the others (‘some say’) hold that sacred leaven may not be redeemed for dogs. Consequently it has no value, and the eater does not commit trespass.

Talmud - Mas. Pesachim 29b

this discussion in R. Joseph's name in the following version: All agree that one may not redeem sacred food in order to feed it to dogs, but here they differ in this, viz., whether that which has indirect monetary value[1] is as money. He who says [that] he commits trespass holds, That which has indirect monetary value is as money; while he who maintains [that] he does not commit trespass holds, That which has indirect monetary value is not as money.[2] R. Aha b. Jacob said: All agree that that which has indirect monetary value is as money, but here they differ in the controversy of R. Judah and R. Simeon. He who says [that] he is not liable for trespass holds as R. Judah;[3] while he who rules [that] he is liable for trespass

even if he is not actually executed. E.g.. if he sets fire to another man's property on the Sabbath, since his violation of the Sabbath involves death, he is not liable for the damage. Now R. Nehunia b. ha-Kanah holds that it is the same if his act involves kareth instead of death: e.g., if he sets fire to another man's property on the Day of Atonement, the violation of which is punishable by kareth. — Thus in the present case he need not indemnify hekdesh for the leaven, in view of the kareth involved, and where that is so, there is no trespass-offering. agrees with R. Simeon.[4] But it was R.

Aha b. Jacob himself who said that R. Judah learns se'or of ‘eating’ from se'or of ‘seeing’?[5] — Hence R. Aha b. Jacob retracted from that [statement].

R. Ashi said: All hold that we may not redeem [etc.], and that which has indirect monetary value is not as money. But here they differ in the controversy of R. Jose the Galilean and the Rabbis. He who rules [that] he is liable to trespass holds as R. Jose;[6] while he who rules [that] he is not liable for trespass agrees with the Rabbis.

Rab said: Leaven, in its time,[7] whether [mixed] with its own kind or with a different[8] kind, is forbidden; when not in its time, [if mixed] with its own kind, it is forbidden; [if with] a different kind, it is permitted. What are we discussing: Shall we say, where it imparts [its] taste [to the mixture], then [how state] when not in its time, if [mixed] with a different kind it is permitted? Surely it imparts taste![9] — Rather it refers to a minute quantity [of leaven]:[10] ‘leaven in its time, whether [mixed] with its own kind or with a different kind, is forbidden’, Rab being consistent with his view. For Rab and Samuel both said: All forbidden things of the Torah, [if mixed] with their own kind, [render forbidden the mixture even] when there is a minute quantity; [if] with a different kind, [only] when [the forbidden element] imparts its taste. Now Rab forbade leaven in its time [when mixed] with a different kind on account of [a mixture with] its own kind. When not in its period [and mixed] with its own kind, it [the mixture] is forbidden in accordance with R. Judah: but [when

leaven has no monetary value at all; nor has it any indirect monetary value, since it cannot be redeemed to feed it to dogs by selling it to a non-Jew for the purpose. mixed] with a different kind it is permitted, because [to forbid it] when not in its time and [mixed] with a different kind on account of [a mixture] with its own kind, — to that extent we do not enact a preventive measure.[11]

Samuel said: Leaven, in its time, [if mixed] with its own kind, is forbidden; if with a different kind, it is permitted. When not in its time, whether [mixed] with its own kind or with a different kind, it is permitted. ‘Leaven, in its time, [if mixed] with its own kind, is forbidden.’ Samuel is consistent with his view. For Rab and Samuel both said: All prohibited things of the Torah, [if mixed] with their own kind, [render forbidden the mixture even] when there is a minute quantity; [if mixed] with a different kind, [only] when [the forbidden element] imparts [its] flavour. Now he does not forbid [leaven mixed] with a different kind on account of [a mixture with] its own kind. ‘When not in its time, whether [mixed] with its own kind or with a different kind, it is permitted,’ — in accordance with R. Simeon.

While R. Johanan said: Leaven, in its time, whether [mixed] with its own kind or with a different kind, is forbidden when it imparts [its] taste; when not in its time, whether [mixed] with its own kind or with a different kind, it is permitted. ‘Leaven, in its time, whether [mixed] with its own kind or with a different kind, [is forbidden] when it imparts [its] taste.’ R. Johanan is consistent with his view. For R. Johanan and Resh Lakish both maintain: All forbidden things in the Torah, whether [mixed] with their own kind or with a different kind, [render forbidden the mixture only] when they impart [their] taste.’ ‘When not in its time, whether [mixed] with its own kind or with a different kind, it is permitted,’- in accordance with R. Simeon.

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(1) Lit., ‘a thing which leads to money’.

(2) On this version both Tannaim agree with R. Simeon. Thus it has no present value at all, save an indirect value, since it can be used after Passover, and they disagree as to whether this deferred value can be regarded as immediate value.

(3) That all benefit is forbidden to an Israelite even after Passover, so that the

(4) That it is permissible for general use after Passover, even to an Israelite, and that it has a monetary value.

(5) Whereby leaven of hekdesh is permitted for use during Passover even according to R. Judah.

(6) That benefit is permitted even during Passover. This leaven could be redeemed and used as fuel.

(7) V. supra p. 129, n. 4.

(8) Lit., ‘not with its kind’ — and similarly in the whole passage.

(9) It is a general principle that if something forbidden is mixed with something permitted and imparts its taste thereto, the whole mixture is prohibited.

(10) Insufficient to impart a flavour to the other.

(11) Gazar means to enact a preventive measure, i.e., to forbid one case which should be permitted because it might otherwise be thought that another case, which is actually forbidden, is permitted too.

Talmud - Mas. Pesachim 30a

Raba said: The law is: Leaven, in its time, whether [mixed] with its own kind or with a different kind, is forbidden [even] when there is a minute quantity, in accordance with Rab; when not in its time, whether [mixed] with its own kind or with a different kind, it is permitted, in accordance with R. Simeon. Yet did Raba say thus?[1] Surely Raba said, R. Simeon does indeed penalize him, since he transgressed ‘there shall not be seen’ and ‘there shall not be found’ with it?[2] — That is only in its natural state, but not when it is in a mixture.[3] Now Raba[4] is consistent with his view, For Raba said: When we were at R. Nahman's house, when the seven days of Passover were gone he would say to us, ‘Go out and buy leaven from the troops.’[5]

Rab said: Pots must be broken on Passover.[6] Why so? Let them be kept until after Passover and used with a different kind?[7] — Lest he come to use it with its own kind. But Samuel maintained: They need not be broken, but can be kept until after its period and [then] used with their own kind[8] or with a different kind. Now Samuel is consistent with his view. For Samuel said to the hardware merchants:[9] Charge all equitable price for your pots, for if not I will publicly lecture [that the law is] in accordance with R. Simeon.[10] Then let him lecture [thus] to them [in any case], seeing that Samuel holds as R. Simeon?[11] — It was Rab's town.

A certain oven was greased with fat.[12] [Thereupon] Raba b. Ahilai forbade for all time[13] the bread [baked therein] to be eaten even with salt, lest he come to eat it with kutah.[14] An objection is raised: One must not knead dough with milk, and if he does knead it, the whole loaf is forbidden, because it leads to sin.[15] Similarly,

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(1) That the leaven mixture is permitted after Passover.

(2) V. supra 29a.

(3) Even if he kept it in its natural, unmixed state during Passover and then it became mixed with other food, R. Simeon does not penalize him by disqualifying the mixture.

(4) Who accents the ruling of R. Simeon.

(5) Gentile troops quartered in the town, though they had baked it on Passover. — Their leaven was permitted after Passover since no transgression had been committed with it. — In the Diaspora Passover is kept for eight days, not seven. Raba probably mentions ‘seven’ loosely, using the Biblical phraseology, while meaning eight; v. S. Strashun R. Han. simply reads: ‘when the days of Passover etc.’. V., however, Obermeyer, p. 99.

(6) Pots in which leaven is cooked absorb and retain some of the leaven. Now Rab holds that all leaven kept over Passover is forbidden after Passover, which includes absorbed leaven. Further, when other food is cooked in it after Passover the absorbed leaven imparts a flavour, and though it has a deteriorating effect, Rab holds that even such disqualifies the food. Thus the pots cannot be used after Passover; hence they must be broken.

(7) For only a very minute quantity is absorbed, and such, even according to Rab, does not disqualify a different kind.

(8) I.e.,the same kind of leaven which was cooked in them before Passover.

(9) Lit., ‘sellers of pots’.

(10) People did break their pots before Passover, and the merchants took advantage of the increased demand after Passover to raise prices. Thereupon Samuel threatened them that he would publicly lecture that leaven kept over Passover is not forbidden, so that people need not break their pots.

(11) As stated supra.

(12) Lit., ‘grease’.

(13) Even if the oven should be fired and burnt through again.
(14) A preserve consisting of sour milk, bread-crusts and salt (Jast.). The bread of course receives the flavour of the fat, and must not be eaten with anything containing milk or a milk product.
(15) One may come to eat it with meat.

Talmud - Mas. Pesachim 30b

one must not grease an oven with fat, and if he does grease it, all the bread [baked therein] is forbidden until the oven is refired. Which [implies], if the oven is refired it is nevertheless permitted? This is a refutation of Raba b. Ahilai! — [It is indeed] a refutation.

Rabina said to R. Ashi: Now since Raba b. Ahilai was refuted, why did Rab say, Pots must be broken on Passover?[1] — There it was a metal oven, replied he, [whereas] here an earthen pot [is referred to]. Alternatively, both refer to earthenware: this [the oven] is fired from the inside;[2] while the other [the pot] is fired on the outside. And should you say, here too let him burn it [the pot] out from within, — he would spare it, lest it burst.[3] Therefore a tiled pan,[4] since it is burnt from without,[5] is forbidden; but if he filled it with coals,[6] it is permitted.

Rabina asked R. Ashi: What does one do about the knives on Passover? — I provide [make] new ones for myself, he replied. That is well for you, who can [afford] this, said he to him, [but] what about one who cannot [afford] this? I mean like new ones, he answered: [I thrust] their handles in loam, and their blades in fire, and then I place their handles in boiling water.[7] But the law is: both the one and the other[8] [need only be put] into boiling water, and in a ‘first’ vessel.[9]

R. Huna the son of R. Joshua said: A wooden pot ladle must be purified[10] in boiling water and in a ‘first’ vessel. [Thus] he holds, as it absorbs, so it exudes.[11]

Meremar was asked: Glazed vessels, may they be used on Passover? About green ones there is no problem, as they are certainly forbidden;[12] the question is, how about black ones and white ones? Again, if they have splits there is no question, as they are certainly forbidden;[13] the question is, what about smooth ones? Said he to him: We see that they exude,[14] which shows that they absorb; hence they are forbidden; and the Torah testified concerning an earthen vessel that it [the absorbed matter] never passes out from its sides.[15] And what is the difference in respect of wine of nesek,[16] that Meremar lectured: Glazed vessels,[17] whether black, white, or green, are permitted?[18] And should you answer, [the interdict of] wine of nesek is [only] Rabbinical, [whereas that of] leaven is Scriptural, — surely whatever the Rabbis enacted, they enacted similar to Scriptural law? — Said he to him: This is used with hot [matter], while the other is used with cold.[19]

Raba b. Abba said in R. Hiyya b. Ashi's name in Samuel's name: All utensils which were used with leavened matter [hamez], cold, may be used with unleavened bread [mazzah], except a container of se'or, because it is strongly leaven.[20] R. Ashi said: And a haroseth[21] container is like a container of se'or, because it is strongly leaven. Raba said: The kneading basins of Mahuza,[22] since leaven is continually kneaded in them and leaven is kept in them are like a container of se'or, which is strongly leaven. That is obvious? — You might say, since they are wide, the air acts on them and they do not absorb. Therefore he informs us [otherwise].

MISHNAH. IF A GENTILE LENT [MONEY] TO AN ISRAELITE ON HIS LEAVEN,[23] AFTER PASSOVER IT IS PERMITTED FOR USE. WHILE IF AN ISRAELITE LENT [MONEY] TO A GENTILE ON HIS LEAVEN, AFTER PASSOVER IT IS PROHIBITED FOR USE.[24]

GEMARA. It was stated: [In the case of] a creditor, — Abaye said: He collects retrospectively;[25] while Raba said: He collects from now and onwards.[26] Now, where the debtor sanctified [the pledge] or sold [it], all agree that the creditor can come and seize it,[27]

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(1) For we see that greased ovens (these were generally of earth) can be reheated and then used, the heat expelling the traces of fat. Then let the pots too be subjected to fire, which would likewise expel the absorbed leaven.
(2) Which is efficacious to expel absorbed matter.
(3) Hence if he is told to burn it from within, he will burn it from without and think that enough.
(4) A kind of plaque made of tiles upon which bread was baked.
(5) The coals being under it and the bread on top.
(6) On top.
(7) This process frees them from their absorbed leaven.
(8) Sc. the handle and the blade
(9) A ‘first’ vessel means the vessel in which the water was boiled, while it is still at boiling point; a ‘second’ vessel is that into which the water is poured from the ‘first’.
(10) Hag'alah is the technical term for ridding a utensil of the forbidden matter which it has absorbed.
(11) I.e., the same conditions are necessary to make it exude as those whereby it absorbed. Since the ladle absorbs the leaven from a ‘first’ vessel, for it is used for stirring contents of the pot on the fire, it exudes only when likewise placed in a first vessel.
(12) These were made from an earth containing alum crystals and absorbed freely.
(13) The splits permitting them to absorb.
(14) I.e.,they are porous.
(15) Hence once forbidden they remain so for all time.
(16) Nesek, lit., ‘libation’, is wine handled by a heathen. It is forbidden, because he may have dedicated it as a libation for his deity.
(17) Which had contained wine of nesek.
(18) For use, in spite of the wine which they had absorbed.
(19) And of course it has greater powers of absorption in the former case.
(20) And though the se'or placed therein was cold, yet it infects the vessel which in turn imparts a flavour of leaven to anything placed therein.
(21) A paste made of flour and vinegar, used as a sauce or relish.
(22) V. supra 5b, p. 20, n. 5.
(23) The leaven being a pledge; the loan was made before Passover.
(24) In both cases the leaven was seized for payment after Passover. V. infra Gemara.
(25) I.e., if the creditor has to exact the pledge in repayment of the loan, the pledge is regarded as having retrospectively belonged to him from the time of the loan.
(26) It is regarded as having belonged to him only from the moment he actually seized it.
(27) From the purchaser, without compensation.

Talmud - Mas. Pesachim 31a

and the creditor can come and redeem it,[1] for we learned: He adds another denar and redeems this property.[2] They differ where the creditor sold or dedicated [it].[3] Abaye said: ‘He collects retrospectively’; since the time [for payment] came and he did not repay him, the matter was retrospectively revealed that from the [very] beginning it stood in his[4] possession, and he rightly dedicated or sold [it]. But Raba ruled: ‘He collects from now and onwards’; since if he [the debtor] had money, he could have quitted him with money, it is found that he [the creditor] acquires it only now.

Yet did Raba say thus? Surely Rami b. Hama said: if Reuben sold his estate to Simeon with security,[5] and he [Simeon] set it [the money] up as a loan against himself,[6] then Reuben died, and Reuben's creditor came and seized [the estate] from Simeon, whereupon Simeon went and satisfied him with money, it is by right that the children of Reuben can go and say to Simeon, ‘As for us, we [maintain that] our father left [us] movables in your possession, and the movables of orphans are not under lien to a creditor.'[7] Now Raba said: If Simeon is wise, he lets them seize the land, and then he reclaims it from them.[8] For R. Nahman said: If orphans seize land for their father's debt,[9] a creditor [of their father] can in turn seize it from them. Now, if you agree that he [a creditor] collects retrospectively, it is right: for that reason he in turn can seize it from them, because it is just as though they had seized it in their father's lifetime. But if you say that he collects it from now and henceforth, why can he in turn seize it from them: surely it is as though the orphans had bought [immovable] property,[10] and if orphans buy [immovable] property, is it then under a lien to [their father's] creditor? — There it is different, because he can say to them, just as I was indebted[11] to your father, so I was indebted to your father's creditor. [This follows] from R. Nathan['s dictum]. For it was taught, R. Nathan said: How do we know that if one man [claims a maneh from his neighbour, and his neighbor [claims a like sum] from another neighbour, that we collect from the one [the last] and give to the other [the first]? From the verse, and he shall give it unto him to whom he is indebted.[12]

We learned: IF A GENTILE LENT [MONEY] TO AN ISRAELITE ON HIS LEAVEN, AFTER PASSOVER IT IS PERMITTED FOR USE. It is right if you say that he collects retrospectively: therefore it is permitted for use. But if you say that he collects from now and henceforth, why is it permitted for use? [Surely] it stood in the possession of the Israelite! — The circumstances here are that he deposited it with him.[13]

Shall we say that it is dependent on Tannaim: If an Israelite lent [money] to a Gentile on his leaven, after Passover he does not transgress.[14] In R. Meir's name it was said: he does transgress. Now do they not differ in this, viz., one Master holds [that] he collects retrospectively, while the other Master holds [that] he collects from now and onwards.[15] — Now is that logical! Consider the second clause: But if a Gentile lent [money] to an Israelite on his leaven, after Passover he transgresses on all views. But surely the reverse [of the rulings in the first clause] is required: according to the view there [in the first clause] that he does not transgress, here he does transgress; [while] according to the view there that he does transgress, here he does not transgress![16]

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(1) From hekdesh, at a mere trifle, not at its full value, so that some form of redemption may be observed.

(2) 'Er. 23b. If the debtor dedicates to hekdesh property worth ninety manehs, while his debt is one hundred manehs, the creditor adds (i.e., gives) just one denar as a formal redemption and seizes it. Thus in both cases they agree that the pledge belonged retrospectively to the creditor.

(3) Before he actually foreclosed.

(4) The creditor's.

(5) A guarantee to indemnify S. against loss if a creditor of R. should seize it for debt.

(6) S. could not pay for the field, so he gave him an IOU for the sum, pledging his own property as security.

(7) Although their father had given security for this transaction, yet the orphans can plead, we inherited movables from our father which were in your possession, I.e., you merely owed him money, the field actually being yours; hence you should not have given that money to the creditor, because movables inherited by orphans are not subject to any lien; nor had you the right to withhold payment. Hence you still owe us the money.

(8) I.e., he pleads that he has no money; hence they must take the field in payment. This will prove retrospectively that they had inherited land, not movables. Then he can demand its return, since their father had indemnified him against loss.

(9) I.e., for a debt owing to their father.

(10) I.e., with the money owing to them they now purchased this estate.

(11) Lit., 'pledged'.

(12) Num. V. 7, translating: and he (the third) shall give it unto him (the first) to whom he (the second) is indebted.

(13) It is now assumed that he deposited it with the Gentile as a pledge, and the Gentile acquires a title to it as such.

(14) If he takes the leaven for the debt and uses it.

(15) It being now assumed that he did not deposit his leaven with the Gentile.

(16) Since the case is reversed, the Gentile having lent money to the Jew, obviously the rulings too should be reversed, if they are dependent on whether the creditor collects retrospectively or from now and onwards.

Talmud - Mas. Pesachim 31b

Rather the circumstances here [in both clauses] are that he [the borrower] deposited it [the leaven] with him, and they differ in R. Isaac[‘s dictum]. For R. Isaac said: Whence do we know that the creditor acquires a title to the pledge?[1] Because it is said, [Thou shalt surely restore to him the pledge when the sun goeth down...] and it shall be righteousness unto thee:[2] if he has no title thereto, whence is his righteousness?[3] Hence it follows that the creditor acquires a title to the pledge. Now the first Tanna holds, That[4] applies only to an Israelite [taking a pledge] from an Israelite, since we read in his case, ‘and it shall be righteousness unto thee’; but an Israelite [taking a pledge] from a Gentile does not acquire a title.[5] While R. Meir holds, [It follows] a fortiori; if an Israelite acquires from an Israelite, how much the more an Israelite from a Gentile! But if a Gentile lent [money] to an Israelite on his leaven, after Passover all agree that he transgresses: there the Gentile certainly does not acquire a title from the Israelite.[6]

We learned: IF A GENTILE LENT [MONEY] TO AN ISRAELITE ON HIS LEAVEN, AFTER PASSOVER IT IS PERMITTED FOR USE. Now even granted that he deposited it with him, surely you said that a Gentile does not acquire a title from an Israelite? There is no difficulty: there [in the Mishnah] it means that he said to him, ‘From now’;[7] here [in the Baraitha] it means that he did not say to him, ‘From now’,[8] And whence do you assure that we draw a distinction between where he said ‘from now and where he did not say ‘from now’? — Because it was taught: If a Gentile deposited with an Israelite large loaves as a pledge,[9] he [the Israelite] does not transgress; but if he said to him, ‘I have made them yours,’[10] he transgresses. Why is the first clause different from the second? This surely proves that where he says to him, ‘from now,’ it is different from where he does not say, ‘from now.This proves it.

Our Rabbis taught: A shop belonging to an Israelite and its wares belong to an Israelite, while Gentile workers enter therein, leaven that is found there after Passover is forbidden for use, while it need not be stated for eating. A shop belonging to a Gentile and the wares belong to a Gentile, while Israelite workers go in and out, leaven that is found there after Passover may be eaten, while it is unnecessary to state [that] benefit [is permitted].[11]

MISHNAH. IF RUINS COLLAPSED ON LEAVEN, IT IS REGARDED AS REMOVED.[12] R. SIMEON B. GAMALIEL SAID: PROVIDED THAT[13] A DOG CANNOT SEARCH IT OUT.

GEMARA. R. Hisda said: Yet he must annul it in his heart.[14] A Tanna taught: How far is the searching of a dog? Three handbreadths.[15] R. Aha the son of R. Joseph said to R. Ashi: As to what Samuel said, Money can only be guarded [by placing it] in the earth[16] — do we require [it to be covered by] three handbreadths or not? — Here, he replied, we require three hand breadths on account of the smell [of the leaven];[17] but there [it is put into the earth] in order to cover it from the eye; therefore three handbreadths are not required. And how much [is necessary]? — Said Rafram of Sikkara:[18] one handbreadth.

MISHNAH. HE WHO EATS TERUMAH OF LEAVEN ON PASSOVER UNWITTINGLY, MUST REPAY [TO THE PRIEST] THE PRINCIPAL PLUS A FIFTH;[19] IF DELIBERATELY,[20] HE IS FREE FROM PAYMENT AND FROM [LIABILITY FOR] ITS VALUE AS FUEL.[21]

GEMARA. We learned elsewhere: He who eats terumah unwittingly must restore the principal plus a fifth; whether he eats, drinks,

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(1) That whilst in his possession it is his, and he is responsible for all accidents.

(2) Deut. XXIV, 13.
(3) There is no particular righteousness in returning what does not belong to one.
(4) The dictum of R. Isaac.
(5) Therefore he does not transgress in respect of the leaven.
(6) Hence the leaven stood in the ownership of the Israelite.
(7) When he deposited the leaven with him he said to him, ‘If I do not repay by the stipulated time, the leaven is yours from now’. Hence the leaven stands in the lender's ownership, whether Jew or Gentile.
(8) Therefore, where the Gentile lent to the Jew, all agree that even if the debt was not repaid, the leaven may not be used, because during Passover it was definitely in the Jew's ownership, notwithstanding that it was deposited with the Gentile, because he does not acquire a title from a Jew. But the dispute arises only where the Israelite lent to the Gentile.
(9) Purni was a large oven in which large loaves were baked. ‘Large loaves’ are mentioned as a natural thing, since only such are sufficiently valuable to be a pledge.
(10) From now, if I do not repay at the proper time.
(11) In both cases we assume that the leaven was of the stock, and did not belong to one of the workers.
(12) Since it is inaccessible.
(13) Lit., ‘whatever’.
(14) Lest the debris be removed during the festival.
(15) The leaven must be covered by not less than three handbreadths of debris; otherwise a dog can search it out, and it would therefore be necessary to remove the debris and destroy the leaven.
(16) That is the only way in which a bailee can carry out his charge; otherwise he is guilty of negligence and liable for theft. — In ancient days there was probably no other place as safe, but nowadays it suffices if the bailee puts the money in the place where he keeps his own (Asheri, B.M. 42a).
(17) If the leaven is covered by less, a dog can smell it.
(18) A town S. of Mahuza.
(19) I.e., he did not know that it was terumah, even if he knew that it was leaven. Though leaven has no value during Passover, yet here he must make the usual restoration of the principal plus a fifth (v. Lev. XXII, 14), not in money but in kind, the same as he ate, v. infra p. 147.
(20) I.e., he knew that it was terumah, even if he did not know that it was leaven.
(21) If the terumah was unclean, when it has no other value, since unclean terumah may not be eaten. The reason is this: the law of restoring the principal plus a fifth, in kind, holds good only when the terumah is misappropriated unwittingly, the restoration being for the purpose of atonement. But when one appropriates it deliberately his act constitutes larceny, and he must return its value in money, not in kind, as in all cases of larceny. Leaven during Passover, however, has no monetary value, all benefit thereof being interdicted: hence he is free from payment.

Talmud - Mas. Pesachim 31b

Rather the circumstances here [in both clauses] are that he [the borrower] deposited it [the leaven] with him, and they differ in R. Isaac['s dictum]. For R. Isaac said: Whence do we know that the creditor acquires a title to the pledge?[1] Because it is said, [Thou shalt surely restore to him the pledge when the sun goeth down...] and it shall be righteousness unto thee:[2] if he has no title thereto, whence is his righteousness?[3] Hence it follows that the creditor acquires a title to the pledge. Now the first Tanna holds, That[4] applies only to an Israelite [taking a pledge] from an Israelite, since we read in his case, 'and it shall be righteousness unto thee'; but an Israelite [taking a pledge] from a Gentile does not acquire a title.[5] While R. Meir holds, [It follows] a fortiori; if an Israelite acquires from an Israelite, how much the more an Israelite from a Gentile! But if a Gentile lent [money] to an Israelite on his leaven, after Passover all agree that he transgresses: there the Gentile certainly does not acquire a title from the Israelite.[6]

We learned: IF A GENTILE LENT [MONEY] TO AN ISRAELITE ON HIS LEAVEN, AFTER PASSOVER IT IS PERMITTED FOR USE. Now even granted that he deposited it with him, surely you said that a Gentile does not acquire a title from an Israelite? There is no difficulty: there [in the Mishnah] it means that he said to him, 'From now';[7] here [in the Baraitha] it means that he did not say to him, 'From now',[8] And whence do you assure that we draw a distinction between where he said 'from now and where he did not say 'from now'? — Because it was taught: If a Gentile deposited with an Israelite large loaves as a pledge,[9] he [the Israelite] does not transgress; but if he said to him, 'I have made them yours,'[10] he transgresses. Why is the first clause different from the second? This surely proves that where he says to him, 'from now,' it is different from where he does not say, 'from now.This proves it.

Our Rabbis taught: A shop belonging to an Israelite and its wares belong to an Israelite, while Gentile workers enter therein, leaven that is found there after Passover is forbidden for use, while it need not be stated for eating. A shop belonging to a Gentile and the wares belong to a Gentile, while Israelite workers go in and out, leaven that is found there after Passover may be eaten, while it is unnecessary to state [that] benefit [is permitted].[11]

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(3) There is no particular righteousness in returning what does not belong to one.

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(5) Therefore he does not transgress in respect of the leaven.

(6) Hence the leaven stood in the ownership of the Israelite.

(7) When he deposited the leaven with him he said to him, ‘If I do not repay by the stipulated time, the leaven is yours from now’. Hence the leaven stands in the lender's ownership, whether Jew or Gentile.

(8) Therefore, where the Gentile lent to the Jew, all agree that even if the debt was not repaid, the leaven may not be used, because during Passover it was definitely in the Jew's ownership, notwithstanding that it was deposited with the Gentile, because he does not acquire a title from a Jew. But the dispute arises only where the Israelite lent to the Gentile.

(9) Purni was a large oven in which large loaves were baked. ‘Large loaves’ are mentioned as a natural thing, since only such are sufficiently valuable to be a pledge.

(10) From now, if I do not repay at the proper time.

(11) In both cases we assume that the leaven was of the stock, and did not belong to one of the workers.

(12) Since it is inaccessible.

(13) Lit., ‘whatever’.

(14) Lest the debris be removed during the festival.

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(16) That is the only way in which a bailee can carry out his charge; otherwise he is guilty of negligence and liable for theft. — In ancient days there was probably no other place as safe, but nowadays it suffices if the bailee puts the money in the place where he keeps his own (Asheri, B.M. 42a).

(17) If the leaven is covered by less, a dog can smell it.

(18) A town S. of Mahuza.

(19) I.e., he did not know that it was terumah, even if he knew that it was leaven. Though leaven has no value during Passover, yet here he must make the usual restoration of the principal plus a fifth (v. Lev. XXII, 14), not in money but in kind, the same as he ate, v. infra p. 147.

(20) I.e., he knew that it was terumah, even if he did not know that it was leaven.

(21) If the terumah was unclean, when it has no other value, since unclean terumah may not be eaten. The reason is this: the law of restoring the principal plus a fifth, in kind, holds good only when the terumah is misappropriated unwittingly, the restoration being for the purpose of atonement. But when one appropriates it deliberately his act constitutes larceny, and he must return its value in money, not in kind, as in all cases of larceny. Leaven during Passover, however, has no monetary value, all benefit thereof being interdicted: hence he is free from payment.

Talmud - Mas. Pesachim 32a

or anoints [therewith]; whether it was defiled or undefiled terumah, he must pay a fifth and a fifth of the fifth.[1] The scholars asked: When he repays, does he repay according to quantity[2] or according to value?[3] Where it was originally worth four zuz while subsequently it was worth a zuz,[4] there is no question, for he must certainly repay on the original [price]. according to its value,[5] because it is no worse than a robber, for we learned: All robbers repay as at the time of the robbery.[6] The question arises where it was originally worth a zuz while subsequently it was worth four. What then? Must he repay according to quantity, for he [the priest] can say, He ate a griwa,[7] he must repay a griwa; or perhaps he repays according to the value: he ate [the worth of] a zuz, he repays [the worth of] a zuz? — Said R. Joseph, Come and hear: If he ate figs [of terumah] and repaid him dates, blessings be upon him! It is well if you say that he must repay according to quantity: therefore ‘blessings be upon him,’ because he ate a griwa of dried figs, which is worth a zuz, and he returns [him] a griwa of dates, which is worth four. But if you say that he pays according to its value, why should ‘blessings be upon him’: he ate for a zuz and he returns [as much as] for a zuz? — Said Abaye, Indeed he pays according to value, yet why should ‘blessings come upon him’? Because he ate something for which buyers are not eager,[8] and he pays [with] something for which buyers are eager.[9]

We learned:HE WHO EATS TERUMAH OF LEAVEN ON PASSOVER UNWITTINGLY, MUST PAY [TO THE PRIEST] THE PRINCIPAL PLUS A FIFTH. It is well if you say that he must pay according to quantity: then it is right. But if you say that he must pay according to the value, has then leaven on Passover any value? — Yes: the author of this is R. Jose the Galilean, who maintained: Leaven on Passover is permitted for use. If so, consider the second clause: IF DELIBERATELY, HE IS FREE FROM PAYMENT AND FROM [LIABILITY FOR] ITS VALUE AS FUEL. But if [the author is] R. Jose the Galilean, why is he free from payment and from [liability for] its value as fuel?[10] — He holds as R. Nehunia b. ha-Kanah. For it was taught: R. Nehunia b. ha-Kanah used to treat the Day of Atonement as the Sabbath in regard to payment, etc.[11] This[12] is dependent on Tannaim: He who eats terumah of leaven on Passover is free from payment and from [liability for] the value of the fuel: this is R. Akiba's ruling. R. Johanan b. Nuri declares him liable. Said R. Akiba to R. Johanan b. Nuri: What benefit then has he [the priest] therein?[13] R. Johanan b. Nuri retorted to R. Akiba: And what benefit has [the priest therein] that he who eats unclean terumah during the rest of the year must pay?[14] Not so, replied he: if you speak of unclean terumah during the rest of the year, [that is] because though he [the priest] does not enjoy the right to eat it, yet he enjoys the right to use it as fuel.[15] Will you say the same of this, in which he does not enjoy the right of eating or the right to use it as fuel? Hence, to what is this like: to terumah of mulberries and grapes which was defiled, in which he does not enjoy the right of eating or the right to use it as fuel.[16] When is this said?[17] When he separates terumah and it because leaven. But if he separates terumah of leaven [on Passover], all agree [that] it is not holy.[18]

Another [Baraitha] taught: [And if a man eat of the holy things unwittingly, then he shall put the fifth part thereof unto it,] and shall give unto the priest the holy thing;[19] [that implies,] something which is fit to be holy, thus excluding him who eats terumah of leaven on Passover, [teaching] that he is free from payment and from

holds good when one incurs ‘death at the hands of heaven’, which is the penalty for eating terumah deliberately. According to this, the first clause, UNWITTINGLY, must now mean that the eater knew neither that it was terumah nor that it was leaven; for if he knew that it was leaven he is liable to kareth, which frees him from payment. [liability for] its value as fuel: this is the view of R. Eliezer b. Jacob; but R. Eleazar Hisma declares him liable. Said R. Eliezer b. Jacob to R. Eleazar Hisma: Yet what benefit has he [the priest] therein? R. Eleazar Hisma replied to R. Eliezer b. Jacob: And what benefit has he [therein] that he who eats unclean terumah during the rest of the year, must pay? Not so, answered he: if you speak of unclean terumah during the rest of the year, [that is] because though he [the priest] does not enjoy the right to eat it, yet he enjoys the right to use it as fuel; will you say [the same] of this, in which he does not enjoy the right of eating or the right to use it as fuel? Said he to him, In this too he has the right to use it as fuel, for if the priest wishes, he can place it before his dog or burn it under his pot.

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(1) The first fifth becomes the same as the original terumah, and if he ate it, he must restore that fifth and a fifth thereof.

(2) Lit., ‘measure’.

(3) The question arises because since he must repay in kind it is possible that the quantity is the deciding factor, as explained in the text.

(4) ‘Originally’ and ‘subsequently’ mean when he ate it and when he makes restoration respectively.

(5) This he must return quantitively four times as much, and the fifth in addition.

(6) B.K. 93b; i.e., what its value was then.

(7) A dry measure equal to one se'ah.

(8) Sc. ‘dried figs’. Lit., ‘buyers do not leap upon it’.

(9) Sc. dates.

(10) Seeing that it has a monetary value.

(11) V. supra 29a and note a.l. The same

(12) Whether payment is to be made according to quantity or value.

(13) Seeing that it is forbidden to him for use, he suffers no loss.

(14) I.e., what benefit can a priest derive from unclean terumah, seeing that it must not be eaten. Yet if a lay Israelite eats it, all agree that he must pay. The text is in disorder, cf. Rashi and Tosef. Pes. I.

(15) Lit., 'though he has not in it a permission of eating, yet he has in it a permission of heating'. The other passages below have the same literal meanings.

(16) Strictly speaking, he enjoys the latter right, but it is unfit for fuel on account of the juice

(17) When is it conceivable that terumah of leaven should possess sanctity during Passover?

(18) Even according to R. Jose the Galilean, though he permits general benefit from leaven on Passover. The reason is given below.

(19) Lev. XXII, 14.

Talmud - Mas. Pesachim 32b

Abaye said: R. Eliezer b. Jacob, R. Akiba and R. Johanan b. Nuri all[1] hold [that] leaven during Passover is forbidden for use, and they differ in this, viz., R. Akiba[2] holds: He must pay according to value;[3] while R. Johanan b. Nuri holds: He must pay according to quantity. That is obvious? — You might say, R. Johanan b. Nuri also holds as R. Akiba [that] he must pay according to value, but the reason that he declares him liable there is this, [viz..] because he agrees with R. Jose the Galilean who maintained, Leaven is permitted for use on Passover: [therefore] he informs us [that it is not so]. Yet perhaps that indeed is so? — If so, let R. Johanan b. Nuri answer R. Akiba just as R. Eleazar Hisma answered R. Eliezer b. Jacob.

Our Rabbis taught: He who eats as much as an olive of terumah[4] must pay the principal plus a fifth. Abba Saul said: [He is not liable] unless it has the worth of a perutah.[5] What is the first Tanna's reason? — Scripture saith, And if a man eat of the holy thing unwittingly[6] and eating [requires] as much as an olive.[7] And Abba Saul: what is [his] reason? — Scripture saith, and he shall give [unto the priest the holy thing].[6] and giving is not less than the worth of a perutah. And the other too, surely 'eat' is written? That comes [to teach], excluding him who destroys [terumah].[8] And the first Tanna, surely it is written, 'and he shall give'? — He requires that [to intimate that he must return] something which is fit to be holy.[9]

Our Rabbis taught: He who eats less than an olive of terumah must pay the principal, but he does not pay the [additional] fifth. How is it meant? If it is not worth a perutah, let him not pay the principal either; while if it is worth a perutah, let him pay a fifth too? — After all it means that it is worth a perutah, yet even so, since it was less than an olive he pays the principal but does not pay the fifth. The Rabbis stated this before R. Papa: This is not according to Abba Saul, for if according to Abba Saul, surely he says, since it is worth a perutah, even if it is less than an olive [the law applies]! — Said R. Papa to them: You may even say [that it agrees with] Abba Saul. Abba Saul requires both.[10] Yet does Abba Saul require both? Surely we learned, Abba Saul said: For that which possesses the worth of a perutah he [the eater] is liable for payment; [for] that which does not possess the worth of a perutah he is not liable for payment. Said they [the Sages] to him. The worth of a perutah was stated in connection with a trespass-offering only;[11] but for terumah he is not liable unless it contains as much as an olive. Now if this is correct,[12] they should have stated, 'once it contains as much as an olive'?[13] This is a refutation.

Now, R. Papa too retracted,[14] for it was taught: [If any one commit a trespass,] and sin unwittingly:[15] this excludes deliberate[tres pass]. But does this not follow a fortiori: if other precepts, for [the transgression of] which one is liable to kareth,[16] yet [Scripture] exempts the deliberate offender in their case;[17] [with regard to] trespass, which does not involve kareth, does it not follow that the deliberate transgressor is exempt? No: if you say [thus] in the case of other precepts, that is because he is not liable to death on their account; will you say [the same] of trespass, for which death is incurred?[18] Therefore 'unwittingly' is stated, excluding deliberate [transgression]. Now R. Nahman b. Isaac said to R. Hiyya b. Abin: This Tanna, at first, regards kareth as severer, while subsequently he regards death [at the hands of Heaven] as more severe?[19] And he answered him, This is what he means: No; if you say [thus] in the case of other precepts, that is because he is not liable to death on their account for less then an olive; will you say [the same] of trespass, where death is incurred for less than an olive. Whereon he said to him, Thy mind be at rest, because thou hast set my mind at rest. Said he to him, What satisfaction [is there in this answer], seeing that Rabbah and R. Shesheth have swung an axe at it:[20] Whom do you know to maintain?

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(1) Rashi omits 'R. Eliezer b. Jacob' and 'all'.

(2) And likewise R. Eliezer b. Jacob.

(3) And since it has no value, the eater is exempt.

(4) This refers to the rest of the year.

(5) The smallest coin.

(6) Lev. XXII, 14.

(7) This is the smallest quantity to which the term 'eating' can be applied.

(8) Without eating it; this law of the extra fifth does not apply in his case.

(9) I.e., the return must be made in kind, which can itself be holy (viz, terumah), not in money, which cannot be terumah.

(10) It must be worth not less than a perutah and be not less than an olive in size.

(11) If he unwittingly converts hekdesh (q.v. Glos.) to secular use he is liable to a trespass-offering, providing the object so misappropriated is worth at least a perutah.

(12) That Abba Saul requires both.

(13) Since he too agrees to this, their view must be: once it contains the size of an olive he is liable even if it is not worth a perutah.

(14) From his view that Abba Saul requires both.

(15) Lev. V, 15: the passage deals with the trespass-offering for the misappropriation of hekdesh and the restitution of the principal plus a fifth.

(16) V. Glos. E.g., if one consumes blood or forbidden fat (heleb).

(17) From a sacrifice, which is due only for an unwitting offence.

(18) Surely not. By 'death', death at the hands of Heaven is meant.

(19) This follows from a comparison of the two halves of the argument.

(20) I.e., proved it to be incorrect.

Talmud - Mas. Pesachim 33a

If he deliberately transgressed in respect of a trespass-offering,[1] [he is punished] by death? It is Rabbi. For it was taught: If he deliberately transgressed in respect of a trespass-offering, — Rabbi said: [He is punished] by death; while the Sages maintain: By a warning.[2] What is Rabbi's reason? — Said R. Abbahu: He derives identity of law from the fact that 'sin' is written here and in the case of terumah:[3] just as terumah involves death, so trespass involves death. And from that [it also follows]: just as terumah [involves punishment] for as much as an olive, so trespass [involves punishment] for as much as an olive.[4] Now R. Papa demurred:[5] How do you know that Rabbi holds as the Rabbis;[6] perhaps he agrees with Abba Saul, who said: If it possesses the worth of a perutah, even if it does not contain as much as an olive?[7] But surely it was R. Papa who said [that] Abba Saul requires both? Hence this proves that he retracted.

Mar the son of Rabina said, This is what he[8] means: No: if you say thus of other precepts — where the unintentional is not treated as intentional, for if he intended cutting what was detached but cut what is attached, he is not culpable;[9] will you say [the same] in the case of trespass, where if he intended to warn himself with wool shearings of hullin but warmed himself with the wool shearings of a burnt-offering he is liable to a trespass-offering?

R. Nahman b. Isaac said: He means this: If you say thus in the case of other precepts, that is because he who is not engaged therein is not declared culpable like he who is engaged therein, for if he intended picking up that which was detached but he plucked[10] that which is attached [instead], he is not culpable;[11] will you say [the same] of trespass, where if he stretched out his hand to take a vessel and [incidentally] anointed his hand with holy oil,[12] he is liable for trespass?

The Master said: ‘When is this said? When he separates terumah and it became leaven. But if he separates terumah of leaven on Passover, all agree that it is not holy.’ Whence do we know this? — Said R. Nahman b. Isaac, Scripture saith, [The firstfruits of thy corn, of thy wine, and of thy oil ...] shalt thou give to him:[13] but not for its light.[14] R. Huna son of R. Joshua objected: One must not separate terumah from unclean [produce] for clean; yet if he separates [thus] unwittingly, his terumah is valid. Yet why? Let us say, ‘for him, but not for his light’? — There is no difficulty: There it enjoyed a time of fitness,[15] whereas here[16] it did not enjoy a time of fitness.[17] And how is it conceivable that it had no time of fitness? E.g. if it became leaven whilst attached [to the soil].[18] But if it became leaven when detached,[19] would it indeed be holy?[20] — Yes, he replied: ‘the sentence is by the decree of the watchers, and the matter by the word of the holy ones’;[21] and thus do they rule[22] in the academy in accordance with my view.

When R. Huna the son of R. Joshua came,[23]

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(1) I.e., he deliberately transgressed where an unwitting transgression involves a trespass-offering.

(2) I.e., flagellation. This is a technical term to denote that he has infringed an ordinary negative injunction, for which he is flagellated.

(3) Trespass: If a soul commit a trespass, and sin through ignorance in the holy things of the Lord (Lev. V, 15); Terumah: Lest they bear sin for it, and die therefor (Ibid. XXII, 9).

(4) This is the ‘axe’: according to this R. Hiyya b. Abin is obviously wrong.

(5) In objection to ‘those who swung the axe’.

(6) That as much as an olive is the minimum to involve payment or punishment in the case of terumah.

(7) Hence the same applies to trespass too, and thus R. Hiyya b. Abin's answer is correct.

(8) The Tanna of the cited teaching.

(9) This refers to the Sabbath, when one must not cut or pluck produce growing in the soil (‘attached’). In the present case he is not liable to a sin-offering, which is only due when a man sins in ignorance, i.e., where he intended to do what he did, but did not know that it was forbidden.

(10) Lit., ‘cut’.

(11) Here he was not engaged in plucking or cutting at all.

(12) There too he was not engaged in anointing at all.

(13) Deut. XVII, 4.

(14) I.e., the priest must be able to consume it himself and not have to burn it for its heat or light. Hence if it is separated in a state in which it cannot be eaten, as here, it does not become terumah.

(15) Before it became unclean it was fit to be separated as terumah.

(16) In the case of the leaven terumah.

(17) It was not fit to be terumah before Passover as it goes on explaining.

(18) Whilst before it is harvested it cannot be declared terumah.

(19) I.e., before Passover, so that it was fit to be terumah before the Festival.

(20) If separated as terumah during Passover.

(21) Dan. IV, 14; i.e., this is the view of great teachers.

(22) מורין implies to give a practical, as opposed to a mere theoretical, ruling.

(23) Var. lec. omit, ‘came’ v. Rashi.]

Talmud - Mas. Pesachim 33b

he said, Scripture saith, The firstfruits [of thy corn etc.], [implying] that its residue is distinct [in that it becomes permitted] to the Israelite,[1] [thus] this[2] is excluded, since its residue is not [so] distinct.[3]

R. Ala b. R. ‘Awia sat before R. Joshua and he sat and said in R. Johanan's name: If grapes are defiled, one may tread them out less than an egg in quantity at a time, and their wine is fit for libations.[4] This proves that he holds that the juice is indeed stored up;[5] [consequently] when is it [the juice] defiled? When he expresses it; [but] when he expresses it, its standard quantity [for defiling] is absent.[6] If so, [he can tread] as much as an egg too, for we learned: If a man unclean through a corpse squeezes out olives or grapes exactly as much as an egg in quantity, they are clean?[7] — There it is [thus] if he did it;[8] here it is in the first instance [when he must not tread as much as an egg] for fear lest he come to tread[9] more than an egg.[10] Said R. Hisda to him, Who needs you and R. Johanan your teacher: whither then has their uncleanness[11] gone? This proves that he holds that the juice is indeed absorbed,[12] and since the [solid] eatable is defiled, the juice too is defiled. And do you not hold that the juice is stored up? he replied. Surely we learned: If he who is unclean through a corpse squeezes out olives and grapes exactly as much as an egg in quantity, they are clean. Now it is well if you say that the liquid is stored up: for that reason it is clean. But if you say [that] it is absorbed, why is it clean? — Said he to him: We discuss here grapes which were not made fit;[13] when [then] do they become fit? when he squeezes them;[14] but when he squeezes them the standard quantity [for defilement] is diminished.[15] For if you should not say thus, [them] when it was taught, 'To what is this like? To terumah of mulberries and grapes which were defiled, which is not permitted to him either for eating or for burning.'[16] — but surely it may be eaten too, for if he wishes, he can tread them out less than an egg at a time?[17] — Said Raba: It is a preventive measure,[18] lest he come to a stumbling-block through them.[19] Abaye said to him, Yet do we fear a stumbling-block? Surely it was taught: One may light [a fire] with bread or oil of terumah which was defiled![20] — The bread he casts among the wood, he replied, and the oil of terumah he pours into a repulsive vessel.[21]

[It was stated in] the text: 'One may light [a fire] with bread or oil of terumah which was defiled'. Abaye said in Hezekiah's name, and Raba said, The School of R. Isaac b. Martha said in R. Huna's name: They learned this of bread only, but not of wheat, lest he come to a stumbling-block through it.[22] But R. Johanan said: Even wheat.[23] But why? Let us fear lest he come to a stumbling-block through it? — As R. Ashi said [elsewhere].

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(1) I.e., by giving the firstfruits, viz., the terumah to the priest, the residue becomes permitted to the Israelite.

(2) Leaven separated as terumah during Passover.

(3) The residue, being leaven, remains forbidden to the Israelite.

(4) On the altar. Unclean food less than an egg in quantity cannot defile other eatables. Hence when he treads out the grapes in such small quantities, there is never enough to defile the exuded juice, and the wine manufactured therefrom is clean, and consequently fit for libations on the altar, for which, of course, only undefiled wine is valid.

(5) It is not joined, as it were, to the outer skin and part of it, but like a liquid that is kept in a vessel. For if it were held to be absorbed and part of the skin, it would become unclean simultaneously with the skin.

(6) As explained on p. 152, n. 14.

(7) This person defiles food, and the food in turn, if not less than an egg in quantity, defiles liquids. Here the man does not touch the expressed juice. Now after the first drop issues the residue is less than the necessary minimum and therefore it does not defile the liquid that follows

(8) If he squeezes as much as an egg, it is clean.

(9) I.e., tread out.

(10) If he comes to ask what to do, he is told to tread it less than an egg at a time. For if he is permitted to tread out exactly as much as an egg, he may exceed it, thus rendering the whole unclean.

(11) Of the grapes.

(12) As part of the grape, and does not stand separate.

(13) To become unclean. Before an eatable can become unclean it must have had moisture upon it.

(14) I.e., the first drop which exudes and touches the outer skin makes the grapes fit to become unclean.

(15) For after the first drop has oozed out, less than an egg in quantity is left.

(16) V. supra 32a.

(17) If we assume that the liquid is merely stored up. Hence it follows that the liquid is absorbed and is unclean simultaneously with the outer skins of the mulberries and grapes.

(18) Sc. thus denying him the right to squeeze them out in such small quantities.

(19) He may eat them whilst treading them.

(20) And we do not fear that he may come to eat it.

(21) So that in both cases he is not likely to eat it.

(22) Even if wheat is thrown among wood it does not become repulsive.

(23) Is permitted.

Talmud - Mas. Pesachim 34a

It refers to boiled [grains]. so that they are repulsive; so here too it refers to boiled [grains]. which are repulsive.[1]

And where was R. Ashi's [explanation] stated? In reference to what R. Abin son of R. Aha said in R. Isaac's name: Abba Saul was the baker[2] in Rabbi's house, and they used to heat him hot water with wheat of defiled terumah, wherewith to knead dough in purity. But why? Let us fear lest he come to a stumbling-block through it?[3] — Said R. Ashi: It refers to boiled [grains], which are repulsive.

Abaye b. Abin and R. Hanania b. Abin studied Terumoth[4] at Rabbah's academy. Rabbah b. Mattenah met them [and] asked them, What have you discussed in Terumoth, at the Master's academy? — Said they to him, But what is your difficulty? He replied. We learned: Plants of terumah[5] which were defiled, and he [their owner] replanted them, are clean in that they do not defile [other eatables],[6] but they are forbidden to be eaten [as terumah].[7] But since they are clean in that they do not defile, why are they forbidden to be eaten? — Said they to him, Thus did Rabbah say: What is meant by ‘forbidden’? They are forbidden to lay Israelites. Now what does he inform us? That that which grows of terumah is [itself] terumah! [But] we have [already] learned it [elsewhere]: That which grows of terumah is terumah?[8] And should you answer: It refers to the second growth,[9] and what does he inform us? [That this law holds good] in respect of that whose seed[10] is not destroyed?[11] But surely we learned this too: [In the case of] tebel, that which grows out of it is permitted in a species whose seed is destroyed[12] but in the case of a species whose seed is not destroyed, even its second growth[13] is forbidden for eating![14] — They were silent. Said they to him, Have you heard anything about this? Thus did R. Shesheth say, he answered, what does ‘forbidden’ mean? They are forbidden to priests, since they became unfit [for eating] through [his] mental neglect.[15] That is correct on the view that mental neglect is an intrinsic disqualification,[16] then it is well. But on the view that mental neglect is a disqualification of defilement,[17] what can be said?[18] For it was stated, [As to] mental neglect: R. Johanan said, It is a disqualification of defilement; while R. Simeon b. Lakish said, It is an intrinsic disqualification.[19] ‘R. Johanan said, It is a disqualification of defilement’, for if Elijah should come and declare it clean,[20] we heed him.[21] ‘R. Simeon b. Lakish said, It is an intrinsic disqualification’, for if Elijah should come and declare it clean, we do not heed him. R. Johanan raised an objection to R. Simeon b. Lakish: R. Ishmael son of R. Johanan b. Beroka said: There was a small passage between the stairway and the altar at the west of the stairway, whither they used to throw disqualified bird sin-offerings until [the flesh] became disfigured[22] and then they passed out to the place of burning.[23] Now it is well if you say that [mental neglect] is a disqualification of uncleanness: therefore it requires disfigurement, lest Elijah may come and declare it clean.[24] But if you say that it is an intrinsic disqualification, what is the need of disfigurement? Surely it was taught, This is the general rule:

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(1) When thrown among the wood.

(2) Lit., ‘mixer’ (of dough).

(3) If the unclean wheat is kept for that purpose, as above.

(4) The Tractate on the laws of Terumah.

(5) E.g.. cabbages and leeks which were separated as terumah.

(6) Because the planting in the ground removes their uncleanness.

(7) Maharam deletes the bracketed passage. — It is now assumed that the prohibition refers to priests, and they may not be eaten because they are defiled terumah, v. Ter. IX, 7.

(8) Even in the case of a species whose original seed rots away in the earth.

(9) Lit., 'what is growth of what is grown'.

(10) I.e., the original stock.

(11) E.g., an onion, the original stock of which remains when it is planted. Now its original leaves grow larger, and this is referred to as the growth. But in addition it sends out fresh shoots altogether, which never were terumah: these are referred to as the second growth, and we are informed that even these are terumah.

(12) E.g., if tebel of wheat is sown the crop is not tebel. Before produce becomes tebel one may make a light meal of it through he has not yet rendered the tithe and terumah; but nothing whatsoever may be eaten of it when it reaches the stage of tebel. Though that which grows from terumah remains terumah even if its seed is destroyed, that is merely a Rabbinical stringency, lest the priestly dues are thus evaded. But that which grows of tebel is not tebel but ordinary produce of which a light meal may be enjoyed until it becomes tebel, which happens when it is heaped up in a stack.

(13) As explained in n. 7.

(14) Because it retains the same status as that of its parent stock. The same logically applies to terumah that is sown.

(15) And not because it is defiled terumah. The priest must always keep the terumah in mind; v. Num. XVIII, 8: behold, I have given thee the charge of mine heave offerings — 'charge' implies that

(16) I.e., sacred food, even if proved not to have been defiled, becomes unfit thereby, because this neglect is in itself a disqualification.

(17) I.e., it is not a disqualification in itself, but merely because while the priest was not thinking about it it might have become defiled.

(18) For it has now been established that even when it is certainly unclean it regains its cleanliness when replanted.

(19) [This question remains unanswered, v. R. Hananel.]

(20) Elijah was regarded as the future resolver of all doubts; cf. B.M., Sonc. ed. p. 6, n. 2.

(21) Declaring the terumah fit to be eaten.

(22) I.e., by being kept overnight and thus becoming nothar (v. Glos.)

(23) The reference is to the offerings disqualified through mental neglect.

(24) In which case it should not have been burnt. But when it is disfigured it must be burnt in any case.

Talmud - Mas. Pesachim 34b

Wherever its disqualification is in itself, it must be burnt immediately; [if it is] in the blood[1] or in its owner,[2] [the flesh] must become disfigured and [then] it goes out to the place of burning.-

he must think of it. The terumah, having once become defiled, however, the priest would dismiss it from his mind, as he would abandon the hope of using it. Said he to him: This tanna is a tanna of the School of Rabbah b. Abbuha[3] who maintained: Even piggul[4] requires disfigurement.[5]

He [R. Johanan] raised an objection to him: If the flesh became unclean or disqualified, or if it passed without the curtains,[6] R. Eliezer said: He [the priest] must sprinkle [the blood];[7] R. Joshua said: He must not sprinkle [the blood].[8] Yet R. Joshua admits that if he does sprinkle [it], [the sacrifice] is accepted.[9] Now, what does 'disqualified' mean? Is it not through mental neglect?[10] Now, it is well if you say that it is a disqualification of uncleanness, then it is conceivable that the headplate makes it accepted.[11] But if you say that it is an intrinsic disqualification why is it accepted?[12] What does 'disqualified' mean? It was disqualified by a tebul yom.[13] If so, it is identical with 'unclean?' There are two kinds of uncleanness.[14]

When Rabin went up,[15] he reported this teaching[16] with reference to the terumah plants before R. Jeremiah, whereupon he observed: The Babylonians are fools. Because they dwell in a land of darkness[17] they engage in dark [obscure] discussions.[18] Have you not heard this [dictum] of R. Simeon b. Lakish in R. Oshaia's name: If the water of the Festival was defiled[19] and he made level contact and then sanctified it, it is clean; if he sanctified it and then made level contact, it is unclean.[20] Now consider: this is ‘sowing’;[21] what does it matter whether he made level contact and then sanctified it or he sanctified it and then made level contact? This proves that ‘sowing’ has no effect upon hekdesh;[22] so here too sowing has no effect upon terumah.[23]

R. Dimi sat and reported this teaching.[24] Said Abaye to him, Does he R. Oshaia mean [that] he sanctified it in a vessel, but if [merely] verbally the Rabbis did not set a higher standard;[25] or perhaps for verbal [sanctification][26] too the Rabbis set a higher standard? — I have not heard this, he replied, [but] I have heard something similar to it. For R. Abbahu said in R. Johanan's name: If grapes were defiled and he trod them and then sanctified them,[27] they are clean;[28] if he sanctified them and then trod them, they are unclean. Now grapes are [a case of] verbal sanctification, yet even so the Rabbis set a higher standard![29] — Said R. Joseph: You speak of grapes! We treat here of grapes of terumah,[30] their verbal sanctification is being tantamount to the sanctification of a vessel.[31] But those that require a vessel [for sanctification,[32] where they are sanctified] verbally [maybe] the Rabbis did not set a higher standard.

‘If he trod them’ — [does that mean] even in great quantity? But did R. Johanan say thus? Surely R. Johanan said: if grapes are defiled, he may tread them out less than an egg in quantity at a time?[33] — If you wish I can say that here too [it means] less than an egg at a time. Alternatively, I can answer: There the case is that they [the grapes] had come into contact with a first degree [of uncleanness], so that they [the grapes] are a second. But here they come into contact with a second degree, so that they are a third.[34]

Raba said: We too learned [thus]:[35] And he shall put thereto running [living] water in a vessel:[36] [this teaches] that its running must be [directly] into a vessel.[37] ‘And he shall put’ — this proves that it is detached, but surely this is attached![38]

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(1) E.g., if the blood was spilled before it could be sprinkled.

(2) E.g.. if he became unclean before the Passover could be eaten and there were no others available to eat it, as the Passover may be eaten only by those registered for it.

(3) [R. Hananel seems to omit ‘is a ... who’. R. Simeon b. Lakish could certainly not refer to the School of Rabbah b. Abbuha, who was a disciple of Rab.]

(4) V. Glos. There the flesh itself is certainly disqualified.

(5) 73b.

(6) The partitions of the Temple corresponding to those of the Tabernacle (Jast.). Thus ‘without the curtains’ means without the enclosures of the Temple Court. This refers to sacrifices of the higher sanctity (v. p. 108, n. 2), whose flesh might not be eaten without these enclosures.

(7) He holds that the blood must be sprinkled even when there is no flesh.

(8) He holds that the blood is dependent on the flesh.

(9) This is a technical term denoting that the sacrifice fulfils its purpose.

(10) For there is no other disqualification, since defilement is stated separately. It cannot mean a disqualification through an illegitimate intention, e.g., if the officiating priest expressed his intention to eat the flesh outside the boundaries or after the time allotted for its eating, for then the blood too is disqualified and can certainly not be sprinkled.

(11) The headplate worn by the High Priest makes atonement in such a case, even if the flesh is definitely unclean; v. supra 16b. Nevertheless R. Joshua rules that the blood must not be sprinkled at the outset, for he holds that the acceptability conferred by the headplate is only if it was sprinkled, but it may not be sprinkled in the first place in reliance on the headplate.

(12) For the headplate cannot make atonement for such a disqualification.

(13) V. Glos. His touch disqualifies it, as he is not really clean until evening falls.

(14) V. Mishnah supra 14a and note a.l.

(15) From Babylonia to Palestine.

(16) Sc. of R. Shesheth.

(17) Babylonia is possibly so called on account of the Parsees (fire-worshippers). who forbade the Jews to have any light in their dwellings on their (the Parsees') festivals.
(18) I.e.. they discuss laws without knowing their true meanings.
(19) 'Festival' without a further determination always means the Feast of Tabernacles. The 'water of the Festival' is that used for libations each day which was drawn the previous evening with great ceremony and joy. Here the reference is to the water for the Sabbath libation; fresh water could not be brought on the Sabbath, and therefore this water had to be made clean.
(20) Unclean water can be purified by placing it in a vessel and immersing the vessel in a mikweh (ritual bath) until the water in the vessel is level with and just touches the water of the mikweh. This is called hashshakah (lit. 'kissing') and the unclean water thereby becomes one with the mikweh, which of course is clean. The water libation was sanctified by formal dedication, or by being poured into a sacred service vessel.
(21) The process of levelling is regarded as 'sowing', as though the water were sown in the mikweh, just as unclean produce becomes clean if it is resown in the earth.
(22) Lit., 'there is no sowing for hekdesh' — to make it clean. The reason is because a higher standard of purity is required in the case of hekdesh.
(23) Hence the plants remain unclean in so far that they are forbidden to be eaten.
(24) Of. R. Oshaia.
(25) I.e., by formal dedication, v. n. 4.
(26) And in such a case levelling is considered effective.
(27) For its wine to be used for libations.
(28) V. supra 33b, where R. Johanan holds that the expressed juice of unclean grapes is clean.
(29) In declaring the expressed juice unclean, whereas it would be clean if it were not sanctified.
(30) The sanctification referred to is not as previously assumed (cf. p. 158. n. 11) for libations but for purposes of terumah.
(31) Since terumah can only be verbally sanctified, there being no sacred vessels to sanctify them.
(32) Such as wine for libations.
(33) V. supra p. 33f notes.
(34) V. supra 14a, p. 62, n. 2. When the grapes are unclean in the second degree they render the juice unclean in the first degree, it being a general rule that whatever disqualifies terumah, i.e., eatables unclean in the second degree, defiles liquids in the first degree (supra 14b). But when they are unclean in the third degree they cannot defile liquids. Hence if he first trod them, even in great quantity, they remain clean. But if he first sanctified them, the expressed juice is unclean, because the Rabbis set a higher standard for terumah.
(35) Viz., that the Rabbis set a higher standard for sacred objects, even when they were verbally sanctified.
(36) Num. XIX, 17.
(37) In which it is sanctified with the ashes of the red heifer, but it must not be collected in another vessel and then poured over into this.
(38) The passage is rather difficult. Rashi: 'And he shall put' implies that Scripture refers to detached water, i.e., water which does not form part of a stream but has been detached and collected in a vessel, whence it is poured into a second vessel containing the ashes. But when the Mishnah states that the running must be direct into the vessel, it insists on attached water, i.e., water forming part of the stream. This must be because the Rabbis set a higher standard. Tosaf.: 'and he shall put' implies that the water is regarded as detached water, which can be defiled, though actually it is running water, as stated, and consequently this proves that by Scriptural law sacred water cannot be made clean by 'levelling' (v. p. 158, n. 4). for levelling only renders it as attached water, whereas we see here that even when attached it is regarded as detached. And just as Scripture thus sets a higher standard for sacred water, so did the Rabbis set a higher standard for terumah. — Maharsha observes (on Rashi's explanation) that he does not see how this proves that the Rabbis set a higher standard even when they were verbally sanctified.

Talmud - Mas. Pesachim 35a

but it is a higher standard; so here too it is a higher standard.[1] R. Shimi b. Ashi said, We too learned thus: When he [an unclean person] has a ritual bath, he may eat tithe; when the sun sets,[2] he may eat terumah. [Thus] only terumah, but not sacred food.[3] Yet why so? He is clean? But [you must say] it is a higher standard; so here too it is a higher standard. R. Ashi said, we too learned [thus]: And the flesh:[4] this is to include fuel and frankincense.[5] Are then fuel and frankincense capable of being defiled?[6] But [you must say] it is a higher standard;[7] so here too it is a higher standard.

MISHNAH. THESE ARE THE COMMODITIES WITH WHICH A MAN DISCHARGES HIS OBLIGATION ON PASSOVER:[8] WITH WHEAT, WITH BARLEY, WITH SPELT, WITH RYE,[9] AND WITH OATS. AND THEY DISCHARGE [IT] WITH DEMAI,[10] WITH FIRST TITHE WHOSE TERUMAH HAS BEEN SEPARATED, AND WITH SECOND TITHE OR HEKDESH WHICH HAVE BEEN REDEEMED;[11] AND PRIESTS [CAN DISCHARGE THEIR OBLIGATION] WITH HALLAH AND TERUMAH. BUT [A MAN CAN]NOT [DISCHARGE HIS OBLIGATION] WITH TEBEL, NOR WITH FIRST TITHE WHOSE TERUMAH HAS NOT BEEN SEPARATED, NOR WITH SECOND TITHE OR HEKDESH WHICH HAVE NOT BEEN REDEEMED. [AS TO] THE [UNLEAVENED] LOAVES OF THE THANKSOFFERING[12] AND THE WAFERS OF A NAZIRITE,[13] IF HE MADE THEM FOR HIMSELF,[14] HE CANNOT DISCHARGE [HIS OBLIGATION] WITH THEM; IF HE MADE THEM TO SELL IN THE MARKET, HE CAN DISCHARGE [HIS OBLIGATION] WITH THEM.

GEMARA. A Tanna taught: Kusmin [spelt] is a species of wheat; oats and rye are a species of barley; kusmin is gulba; shipon is dishra; shiboleth shu'al is foxears.[15]

Only these[16] [are fit],[17] but not rice or millet. Whence do we know it? — Said R. Simeon b. Lakish, and thus the School of R. Ishmael taught, and thus the school of R. Eliezer b. Jacob taught, Scripture saith, Thou shalt eat no leavened bread with it,’ seven days shalt thou eat unleavened bread therewith:[18] [with regard to] commodities which come to the state of leaven, a man discharges his obligation with unleavened bread [made] thereof; thus these are excluded, which do not come to the state of leaven but to the state of decay.

Our Mishnah does not agree with R. Johanan b. Nuri, who maintains: Rice is a species of corn, and kareth[19] is incurred for [eating it in] its leavened state. For it was taught: R. Johanan b. Nuri Prohibits [the use of] rice and millet, because it is near to turn leaven. The scholars asked: does ‘because it is near to turn leaven’ mean that it quickly becomes leaven,[20] or perhaps it is near to leaven, but is not completely leaven?[21] — Come and hear: For it was taught, R. Johanan b. Nuri said: Rice is a species of corn and kareth is incurred for [eating it in] its leavened state, and a man discharges his obligation with it on Passover. And thus R. Johanan b. Nuri used to say, Karmith [cow-wheat] is subject to hallah. What is karmith? — Said Abaye: Shezanitha [weed]. What is Shezanitha? Said R. Papa: A weed found among kalnitha.[22]

Rabbah b. Bar Hanah said in the name of Resh Lakish: [As to] dough which was kneaded with wine, oil or honey, kareth is not incurred for [eating it in] its leavened state.[23] Now, R. Papa and R. Huna son of R. Joshua sat before R. Idi b. Abin, while R. Idi b. Abin was sitting and dozing. Said R. Huna son of R. Joshua to R. Papa: What is Resh Lakish's reason? — He replied, Scripture saith, Thou shalt eat no leavened bread with it etc.: [In the case of] the commodities with which a man discharges his obligation in respect of unleavened bread, kareth is incurred for [eating them in] their leavened state; but [with regard to] this [dough], since a man cannot discharge his obligation therewith, because it is rich mazzah,[24] kareth is not incurred for its leaven. R. Huna son of R. Joshua objected to R. Papa: If he dissolves it[25] and swallows it, if it is leaven, he is punished with kareth; while if it is unleavened bread, he does not discharge his obligation therewith on Passover.[26] Now here, though a man does not discharge his obligation therewith as unleavened bread, yet kareth is incurred for its leaven? — [Thereupon] R. Idi b. Abin awoke [and] said to them, Children! This is the reason of Resh Lakish, because they are fruit juice,[27]

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(1) Sc. that the resowing of terumah does not permit it to be eaten (supra 34a).

(2) Lit., 'his sun makes evening'.
(3) If his uncleanness requires a sacrifice, e.g.. in the case of a zab, he may not eat sacred food until he has brought the sacrifice, though he is completely clean.
(4) Lev. VII, 19.
(5) V. supra 24b and notes a.l.
(6) Surely not, as they are not eatables!
(7) Though fuel and frankincense cannot usually be defiled, a higher standard is set when they are to be used in the sacred service.
(8) Unleavened bread is obligatory on the first night of Passover, as it is written, on the fourteenth day of the month at even ye shall eat unleavened bread (Ex. XII, 18). The Mishnah enumerates the species of corn with which this unleavened bread, eaten as an obligation, can be made.
(9) Jast.: others: oats.
(10) V. Glos.
(11) One tenth (tithe) of the produce, called the first tithe, was given to the Levite, and he in turn gave a tenth thereof, called the terumah of tithe, to the priest. Another tenth of the produce, called the second tithe, was eaten by its owners (Israelites, as opposed to Levites and priests) in Jerusalem, or redeemed and the redemption money was expended in Jerusalem. Hekdesh (q.v. Glos.) could be similarly redeemed. The second tithe reference in the Mishnah is to places outside Jerusalem.
(12) The thanksoffering was accompanied by forty loaves, thirty of which were unleavened.
(13) V. Num. VI, 15.
(14) For his own sacrifice.
(15) Ears of corn foxtailed in shape. — The other words are the Aramaic in general use.
(16) Enumerated in our Mishnah.
(17) For making unleavened bread as defined on p. 160, n. 8.
(18) Deut. XVI, 3.
(19) V. Glos.
(20) And therefore it is altogether forbidden on Passover, as it turns leaven before it can be baked.
(21) I.e., it can never become completely leaven. Hence R. Johanan b. Nuri prohibits its use on the first night for the fulfilment of one's obligations.
(22) Papaver Spinosum (Jast.).
(23) If no water at all was used in kneading it.
(24) Unleavened bread made with wine etc., is a rich confection, whereas Scripture prescribes 'bread of poverty' (E.V. affliction — Deut. XVI, 3).
(25) Sc. bread.
(26) Because swallowing soaked bread is not eating.
(27) Sc. wine, oil or honey, date-honey being meant.

Talmud - Mas. Pesachim 35b

and fruit juice does not cause fermentation.[1]

AND THEY DISCHARGE THEIR OBLIGATION WITH DEMAI AND WITH THE FIRST TITHE etc. DEMAI? But it is not fit for him?[2] — Since if he wishes he can renounce his property, become a poor man, and eat demai,[3] it is fit for him now too. For we learned: The poor may be fed with demai, and [Jewish] troops [in billets] [may be supplied] with demai.[4] And R. Huna said, It was taught: Beth Shammai maintain: The poor may not be fed with demai, nor troops in billets; but Beth Hillel rule: The poor may be fed with demai, also troops in billets.

FIRST TITHE WHOSE TERUMAH HAS BEEN SEPARATED. That is obvious? Since its terumah has been separated, it is hullin?[5] — It is necessary [to teach it] only where he anticipated it [in setting it aside[6] while the corn was still] in the ears, and terumah of the tithe was taken from it, but the great terumah was not taken from it,[7] this being in accordance with R. Abbahu. For R.

Abbahu said in the name of Resh Lakish: First tithe which he anticipated [the setting aside thereof] in the ears is exempt from the great terumah, for it is said, then ye shall offer up an heave offering of it for the Lord, a tithe of the tithe:[8] I ordered thee [to offer] ‘a tithe of the tithe’, but not the great terumah plus the terumah of the tithe ‘of the tithe’. Said R. Papa to Abaye: If so, even if he anticipated it in the stack too,[9] let it be exempt? — For your sake Scripture writes, out of all you,’ gifts ye shall offer every heave offering of the Lord,[10] he answered him. And what [reason] do you see [to interpret thus]?[11] — The one has become corn [dagan], while the other has not become corn.[12]

THE SECOND TITHE AND HEKDESH WHICH HAVE BEEN REDEEMED etc. That is obvious? — We treat here of a case where he assigned[13] the principal but did not assign the fifth:[14] and he [the Tanna] informs us that the fifth is not indispensable.[15]

AND PRIESTS [DISCHARGE THEIR OBLIGATION] WITH HALLAH AND TERUMAH etc. This is obvious? — You might say, We require unleavened bread that is equally permitted] to all men. Therefore he informs us, [the repetition] ‘unleavened bread’, ‘unleavened bread’,[16] is an extension.

BUT NOT WITH TEBEL etc. That is obvious? — It is necessary [to teach it] only of tebel made so by Rabbinical law, e.g., if it was sown in an unperforated pot.[17]

NOR WITH FIRST TITHE WHOSE TERUMAH HAS NOT BEEN SEPARATED. That is obvious? — It is necessary [to state it] only where it had been anticipated [and set aside] in the pile.[18] You might argue as R. Papa proposed to Abaye;[19] hence he [the Tanna] informs us [that it is] as Abaye answered him.

NOR WITH SECOND TITHE OR HEKDESH WHICH HAVE NOT BEEN REDEEMED etc. That is obvious? — It is necessary only where they have been redeemed; and what does they ‘HAVE NOT BEEN REDEEMED’ mean? That they have not been redeemed with their regulations.[20] [Thus:] it is second tithe which he redeemed with uncoined metal,[21] for the Divine Law states, And thou shalt bind up [we-zarta] the money in thine hand,[22] [implying], that which bears a figure [zurah].[23] [Again it is] hekdesh which was secularized[24] by means of land,[25] for the Divine Law stated, Then he shall give the money and it shall be assured to him.[26]

Our Rabbis taught: One might think that a man can discharge his obligation with tebel which was not made ready.[27] (But surely all tebel indeed has not been made ready! — Rather say, with tebel which was not made ready with all its requirements, the great terumah having been separated from it whereas the terumah of tithe was not separated from it; [or] the first tithe, but not the second tithe, or even the poor tithe).[28] Whence do we know it?[29] Because it is stated, thou shalt not eat leavened bread with it:[30] teaching, [you must eat of] that the interdict of which is on account of ‘thou shalt not eat leavened bread with it’, thus this is excluded, for its interdict is not on account of ‘thou shalt not eat leavened bread with it’ but on account of ‘thou shalt not eat tebel’.[31] Yet whither has the interdict of leaven gone?[32] — Said R. Shesheth, The author of this is R. Simeon, who maintained, A prohibition cannot fall[33] upon another prohibition.[34] For it was taught, R. Simeon said:

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(1) I.e., ‘leavening’.

(2) Demai may not be eaten until the tithe has been separated.

(3) A poor man need not separate tithe on demai.

(4) They too are regarded as poor, since they are not at home.

(5) I.e., permitted for food.

(6) Sc. the separation of the first tithe.

(7) The great terumah is a portion of the produce, unspecified by Scripture (the Rabbis prescribed from one fortieth to one sixtieth, according to the owner's generosity), which is the priest's due; for terumah of tithe v. note on Mishnah supra 35a. The great terumah must be separated first, and then the first tithe. But here the order was reversed and the Israelite separated his tithe while the grain was yet in the ears.

(8) Num. XVIII, 26.

(9) I.e.. when it is no longer in the ears but piled up in stacks.

(10) Ibid. 29; i.e. ‘all’ is an extension, and shows that the offering is due even in such a case. — ‘For your sake’ or, ‘concerning you’ — to refute this possible view.

(11) To apply the limitation of the first verse to the one case and the extension of the second to the other — perhaps it should be reversed?

(12) The priestly due, i.e., the great terumah, is ‘the firstfruits of thy corn’ (Deut. XVIII, 4). Hence once it is piled up as corn it is due, and the Israelite cannot then evade his obligations by reversing the order. But before it is piled up there is no obligation for the great terumah; therefore if the Levite receives his first tithe then he is not defrauding the priest.

(13) Lit., ‘gave’ — for redemption.

(14) When a man redeemed second tithe or hekdesh he added a fifth of its value.

(15) To the validity of the redemption, and the redeemed produce may be consumed anywhere, even though the fifth has not been added.

(16) This may refer either to Deut. XVI, 4, 8, or in general to the fact that ‘unleavened bread’ is repeated several times.

(17) According to Scriptural law such is not tebel at all, and therefore I would think that a man discharges his obligation therewith.

(18) The tithe having been separated but not the great terumah.

(19) That it is exempt, supra.

(20) Lit., ‘laws’.

(21) V. B.M. 47b for the meaning asimon.

(22) Deut. XIV, 25.

(23) The image stamped on the coin. This connects zarta with zurah.

(24) I.e., redeemed, whereby the hekdesh assumes an ordinary, non-holy character.

(25) I.e.. land was given for its redemption.

(26) I.e.,it can be redeemed by money, but not by land. Actually there is no such verse, but v. B.M., Sonc. ed. p. 321, n. 1.

(27) For eating, by separating the priestly and the Levitical dues.

(28) In the first, second, fourth, and fifth years after the ‘years of release’ (shemittah) the first and second tithes were separated. In the third and sixth years, the first and third tithes were separated, the latter being a poor tithe, i.e., it belonged to the poor.

(29) That he cannot discharge his obligation therewith.

(30) Deut. XVI, 3.

(31) I.e., the unleavened bread which one must eat must be such that, if leavened, it would be forbidden because it is leavened. But in the case of tebel, if it were leavened it would be forbidden because it is tebel.

(32) Surely it is still forbidden on account of leaven, tebel merely being an additional prohibition?

(33) I.e., become operative.

(34) I.e., when a thing is already forbidden on one score, another interdict cannot become operative at the same time. Thus here the prohibition of tebel is earlier; consequently the fact that it subsequently became leaven too is ignored, and it is regarded as prohibited on account of tebel only.

Talmud - Mas. Pesachim 36a

He who eats nebelah on the Day of Atonement is not liable [to a sin-offering].[1] Rabina said, You may even say [that it agrees with] the Rabbis: [the meaning is] that the interdict which is on account of thou shalt not eat leavened bread with it’ alone, thus this is excluded, for its interdict is not on account of ‘thou shalt not eat leavened bread with it’ alone, but also on account of ‘thou shalt not eat tebel’. Is then ‘alone’ written?[2] — Rather, it is clearly as R. Shesheth [stated].

Our Rabbis taught. You might think that a man can discharge his obligation with second tithe in

Jerusalem; therefore it is stated, the bread of affliction [‘oni],[3] teaching, [it must be] that which may be eaten in grief [aninuth].[4] thus this is excluded, which is not eaten in grief but [only] in joy:[5] this is the view of R. Jose the Galilean. R. Akiba said: [The repetition of] ‘unleavened bread’, ‘unleavened bread’, is an extension.[6] If so, what is taught by ‘bread of affliction’ [‘oni]? It excludes dough which was kneaded with wine, oil, or honey.[7] What is R. Akiba's reason? — Is then lehem [bread of] ‘oni [grief] written? Surely ‘ani [poverty] is written.[8] And R. Jose the Galilean?[9] — Do we then read it ‘ani? Surely we read it ‘oni. And R. Akiba? — The fact that we read it ‘oni [is explained] as Samuel's [dictum]. For Samuel said: Bread of ‘oni [means] bread over which many words are recited [‘onin].[10] Yet does R. Akiba hold [that] dough which was kneaded with wine, oil, or honey is not [fit]? Surely it was taught: Dough must not be kneaded on Passover with wine, oil, or honey; and if one did knead it, — R. Gamaliel said: It must be burnt immediately;[11] while the Sages say: It may be eaten. Now R. Akiba related: I was staying [one Passover] with R. Eliezer and R. Joshua, and I kneaded dough for them with wine, oil or honey, and they said nothing to me. And though one may not knead, yet one may smooth the surface with them, — this is according to the first Tanna. But the Sages maintain: With that with which one may knead, one may smooth, while with that with which one may not knead, one may not smooth. And they ail agree that dough may not be kneaded with lukewarm [water]![12] — There is no difficulty: the one refers to the first day of the Festival; the other, to the second day of the Festival.[13] As R. Joshua b. Levi said to his sons: For the first day[14] do not knead [it] for me with milk;[15] from then onwards knead it for me with milk. But it was taught: Dough must not be kneaded with milk, and if one does knead it, the whole loaf is forbidden, because it leads to sin?[16] Rather, he said this: For the first day do not knead it for me with honey; from then onwards knead [it] for me with honey. Alternatively I can say: After all it means with milk, [but] as Rabina said, [When made] like the eye of an ox, it is permitted;[17] so here too, [it was] like the eye of an ox.

‘And they all agree that dough may not be kneaded with lukewarm [water]’. Why is it different from meal-offerings: for we learned: All meal-offerings[18] are kneaded with lukewarm water, and he [the official in charge] guards them that they should not become

in connection with the eating of unleavened bread on the night of Passover. leaven? — If this was said of [very] careful men [priests], shall it [also] be said of those who are not careful?[19] If so, let it also be permitted to wash [the grain];[20] why did R. Zera say in the name of Rabbah b. Jeremiah in Samuel's name: The wheat for meal-offerings must not be washed? — The kneading was done by careful men, but the washing would not be done by careful men.[21] Yet must the kneading be done by careful men [priests]; surely it is written, and he shall bring it to Aaron's sons the priests: and he shall take thereof his handful.’[22] from the taking of the handful and onwards is the duty of the priesthood; this teaches concerning the pouring [of oil] and the mixing,[23] that it is valid [when done] by any man? — The kneading, granted that it is not [done] by careful men, yet it is [done] in the place of careful men.[24] For a Master said: The mixing is valid [if done] by a lay Israelite; [but if done] without the wall[s] of the Temple Court, it is invalid. Thus this excludes washing, which is not [done] by careful men nor in the place of careful men. And wherein do they [all other meal-offerings] differ from the meal-offering of the ‘omer,[25] for it was taught: The meal-offering of the ‘omer is washed and heaped up?[26] — A public [offering] is different.[27] Our Rabbis taught: You might think that a man discharges his duty with first fruits,[28] therefore it is stated, in all your habitations shall ye eat unleavened bread,[29] teaching, [it must be] unleavened bread which is eaten in all your habitations, thus excluding first fruits, which may not be eaten in all your habitations save in Jerusalem [alone]: this is the view of R. Jose the Galilean. R. Akiba said: Unleavened bread and bitter herbs [are assimilated]:[30] just as bitter herbs which are not first fruits [are required],[31] so unleavened bread which is not first fruits [must be eaten]. If so, just as bitter herbs of a species not subject to first fruits [are required], so unleavened bread of a species [of grain] not subject to first fruits [is meant],

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(1) Which eating on the Day of Atonement usually incurs, the reference being to eating in ignorance. The reason is that since it is forbidden on the score of nebelah, the interdict of the Day of Atonement cannot take effect. Thus the same applies here.
(2) Surely not! Scripture does not imply this at all.
(3) Deut. XVI, 3.
(4) Connecting ‘oni (עני) with anah (אנה) to mourn or grieve, though the former is spelled with an ע, while the latter is with an א,these letters often being interchangeable in Semitic languages. — Aninuth denotes the state of grief between the death of a near relative, e.g., one's father, and his burial, the bereaved person then being called an onen.
(5) An onen (v. preceding note) may not eat second tithe, cf. Deut. XXVI, 14:]I have not eaten thereof (sc. second tithe) in my mourning
(6) V. supra 35b and note a.l. Thus it includes second tithe.
(7) Which makes it into ‘rich’ mazzah. The phrase is now translated: bread of poverty. from ‘ani (עני) poor.
(8) Though the word is read ‘oni, as though spelled with a waw (עוני), it is actually written ‘ani (עני), without a waw.
(9) How does he rebut this?
(10) A long liturgical service — called the haggadah — is read
(11) R. Gamaliel holds that it ferments too quickly, and so to prevent it from becoming leaven it must be burnt immediately. But the Sages hold that it can be baked before it is leaven.
(12) This causes fermentation very quickly.
(13) On the night of the first day the mazzah must be ‘bread of poverty’, whereas this is a rich mazzah; hence it cannot be used. But on the second night any mazzah is permissible.
(14) I.e., Passover night.
(15) This too makes a ‘rich’ bread.
(16) One may come to eat it with meat. This refers to the whole year.
(17) I.e., when made very small, so that it is at once entirely eaten up, and nothing is left for later.
(18) Which were offered unleavened.
(19) This is the answer. The preparing of unleavened bread for meal-offerings was in the hands of priests, who were very careful and could be relied upon not to permit it to ferment. But unleavened bread for Passover is made in every home, and the people could not be trusted to take so much care.
(20) I.e., to soak it slightly in water and then pound it so as to remove the bran and make a fine flour.
(21) This was not the priest's duty.
(22) Lev. II, 2.
(23) Which preceded the taking of the handful; v. ibid. 1, 2.
(24) I.e., in the Temple Court, which is frequented by priests, and these would take heed that whoever kneaded it should not permit fermentation.
(25) V. Glos.
(26) For the water to drain off.
(27) This was a public offering, and everything in connection with it, right from the harvesting of the grain, was done under competent guidance and vigilance.
(28) E.g., a priest to whom an Israelite brought the first fruits of his wheat harvest.
(29) Ex. XII, 20.
(30) Num. IX, 11: they shall eat it with unleavened bread and bitter herbs.
(31) For only the seven species enumerated in Deut. VIII, 8, (‘a land of wheat and barley, and vines and fig trees and pomegranates; a land of oil olive and honey’) are subject to the law of first fruits.

Talmud - Mas. Pesachim 36b

[and] I will [thus] exclude wheat and barley, which species are subject to first fruits? Hence [the repetition,] ‘unleavened bread’, unleavened bread’,[1] is stated as an extension. If [the repetition] ‘unleavened bread, unleavened bread’ is an extension, then even first fruits too [may be included]? — R. Akiba retracted.[2] For it was taught: You might think that a man can discharge his obligation with first fruits. Therefore it is stated, ‘in all your habitations shall ye eat unleavened bread’, teaching, [it must be] unleavened bread which is eaten in all your habitations, thus excluding first

fruits, which may not be eaten in all your habitations save in Jerusalem [alone]. You might think that I exclude second tithe too,[3] but [the repetition] ‘unleavened bread’, ‘unleavened bread’,is stated as an extension. But what [reason] do you see to include second tithe and exclude first fruits? — I include second tithe because it can be permitted [to be eaten] in all habitations,[4] in accordance with R. Eleazar, and I exclude first fruits, for which there is no permission in all habitations. For R. Eleazar said: Whence do we know in the case of second tithe that became defiled, that we can redeem it even in Jerusalem? From the verse, when thou art not able se'etho [to bear it].[5] Now se'eth[6] can only refer to eating, as it is said, And he took and sent mase'oth [messes] unto them from before him.[7] Now, whom do you know to maintain that he fulfils his obligation with second tithe? R. Akiba.[8] Yet he excludes first fruits through [the phrase] ‘in all your habitations’.[9] This proves that he retracted.

And R. Jose the Galilean, let him deduce it from [the phrase] ‘the bread of affliction [‘oni]’, implying, that which can be eaten in grief, thus excluding this [sc. first fruits], which can be eaten only in rejoicing?[10] — He holds as R. Simeon, For it was taught: First fruits are forbidden to an onen;[11] but R. Simeon permits [them]. What is the reason of the Rabbis?[12] — Because it is written, Thou mayest not eat within thy gates [the tithe of thy corn ... nor the heave-offering of thy hand],[13] and a Master said: ‘The heave-offering of [terumoth] thy hand’ means first fruits. Thus first fruits are assimilated to tithe: just as tithe is forbidden to an onen,[14] so are first fruits forbidden to an onen. And R. Simeon?[15] — The Divine Law designated them ‘terumah’, [hence they are] like terumah: just as terumah is permitted to an onen, so are first fruits permitted to an onen. Now R. Simeon: granted that he does not accept the hekdesh,[16] yet ‘rejoicing’ is nevertheless written in connection therewith, for it is written, and thou shalt rejoice in all the good etc.?[17] — That comes for the time of rejoicing.[18] For we learned: From Pentecost until the Festival [of Tabernacles] he [the Israelite] brings [the first fruits] and recites [the ‘confession’];[19] between the Festival and Hanukkah[20] he brings [the first fruits] but does not recite [the ‘confession’].

Our Rabbis taught: ‘Bread of poverty’, this excludes halut[21] and ashishah [pancake].[22] You might think that a man can discharge his obligation only with coarse bread;[23] therefore [the repetition] ‘unleavened bread’, ‘unleavened bread’, is stated as an extension, [intimating] even [if it is] like the unleavened bread of Solomon.[24] If so, why is ‘bread of poverty’ stated? To exclude halut and pancakes. And where is it implied that this [word] ‘ashishah’ denotes something of value?[25] — Because it is written, And he dealt among all the people, even among the whole multitude of Israel, both to men and women, to every one a cake of bread, and a good piece of flesh [eshpar] and an ashishah,[26] whereon R. Hanan b. Abba said: ‘Eshpar’ means one sixth [ehad mishshishah] of a bullock [par];ashishah means [a cake made with] one sixth of an ephah [of flour].[27] Now he differs from Samuel, for Samuel said: Ashishah is a cask of wine, for it is written, and love casks of [ashishe] grapes.[28]

Our Rabbis taught: One may not bake a thick loaf on Passover: this is the view of Beth Shammai;

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(1) V. supra 35b and note a.l.

(2) From, the view that unleavened bread and bitter herbs are assimilated in this respect, and he accepts the deduction of R. Jose the Galilean.

(3) In Jerusalem, since it may not be eaten outside Jerusalem.

(4) When it becomes defiled as explained below.

(5) Deut. XIV, 24; the next verse states, then thou shalt turn it into money.

(6) שאת, to bear.

(7) Gen. XLIII, 34. Thus he translates the first verse: If thou are not able to eat it — being defiled — then thou shalt turn it into money — i.e., redeem it.

(8) Supra 36a.

(9) Not by assimilating unleavened bread and bitter herbs.

(10) V. supra 36a. Why then does he deduce it from, ‘in all your habitations’?
(11) V. supra p. 166, n. 4.
(12) I.e., the first view, which forbids.
(13) Deut. XII, 17.
(14) V. Deut. XXVI, 14.
(15) How does he justify his view?
(16) V. Glos. I.e., even if he rejects the comparison of first fruits and tithe.
(17) Ibid. 11; this refers to first fruits. Since rejoicing is required, an onen is automatically excluded.
(18) I.e., to teach that the first fruits must be brought to the priest, and the passage relative thereto, called the ‘confession’, recited at a time of natural rejoicing, viz., during the months of harvesting and collecting the produce from the fields.
(19) Sc. Deut. XXVI, 3-10.
(20) V. Glos. It generally falls towards the end of December.
(21) A rich bread made of dough prepared by stirring the flour with hot water.
(22) Where the dough is made compact and substantial by pressing (Jast.).
(23) Which is really ‘bread of poverty’.
(24) I.e., made of the finest flour.
(25) Viz., a rich food.
(26) II Sam. VI, 19.
(27) E.V.: a cake of raisins.
(28) Hos. III, 1; i.e., of wine. E.V.: cakes of raisins.

Talmud - Mas. Pesachim 37a

but Beth Hillel permit it. And how much is a thick loaf?[1] Said R. Huna, A handbreadth, because thus we find in the case of the shewbread [that it was] a handbreadth.[2] To this R. Joseph demurred: If they [the Sages] said [this] of men of care,[3] did they say [it] of those who are not careful?[4] If they said [this] of well-kneaded bread, did they say [it] of bread that is not well-kneaded? If they said [this] of dry logs, did they say [it] of damp logs? If they said [this] of a hot oven, did they say [it] of a cool oven? If they said [this] of a metal oven, did they say [it] of an earthen oven?[5] Said R. Jeremiah b. Abba, I asked my teacher in private, and who is it? Rab — others state, R. Jeremiah b. Abba said in Rab's name, I asked my teacher in private, and who is it? Our holy Teacher.[6] What is [meant by] a thick bread? Bread in large quantity.[7] And why is it called a thick bread? Because it is much in kneading.[8] Alternatively, in the locality of this Tanna bread in large quantity is called thick bread.

[Then] what is the reason:[9] if because he takes unnecessary trouble,[10] — why particularly on Passover: even on any [other] festival too [it is forbidden]? — That indeed is so, but this Tanna was engaged on[11] the festival of Passover. It was taught likewise:[12] Beth Shammai maintain: One may not bake thick bread on a festival,[13] while Beth Hillel permit it.

Our Rabbis taught: You discharge [your obligation] with fine bread,[14] with coarse bread,[15] and with Syrian cakes shaped in figures. although they [the Sages] said, Syrian cakes shaped in figures must not be made on Passover. Rab Judah said: This thing Boethus b. Zonin asked the Sages: Why was it said [that] Syrian cakes shaped in figures must not be made on Passover? Said they to him, Because a woman would tarry over it and cause it to turn leaven. [But], he objected, it is possible to make it in a mould, which would form it without delay.[16] Then it shall be said, replied they, [that] all Syrian cakes [shaped in figures] are forbidden, but the Syrian cakes of Boethus are permitted![17]

R. Eleazar b. Zadok said: I once followed[18] my father into the house of R. Gamaliel, and they placed[19] before him Syrian cakes shaped in figures on Passover. Said I, ‘Father, did not the Sages say thus, One may not make Syrian cakes shaped in figures on Passover?’ ‘My son’, he replied, ‘they did not speak of [the cakes of] all people, but only of those of bakers’.[20] Others say, he said thus to him: ‘They did not speak of those of bakers, but [only] of those of private people’.[21]

R. Jose said: One may make Syrian cakes like wafers, but one may not make Syrian cakes like rolls. We learned elsewhere:[22] Sponge cakes,[23] honey cakes, paste-balls,[24] cakes made in a mould, and mixed dough[25] are exempt from hallah.[26] What are cakes made in a mould? — Said R. Joshua b. Levi: That is halut[27] of private people.[28] Resh Lakish said: These are prepared in an ilpes.[29] While R. Johanan maintained: Those which are prepared in an ilpes are liable [to hallah], but these [are exempt] because they were prepared in the sun.

An objection is raised: Sponge cakes, honey cakes, and pasteballs: if prepared in an ilpes, they are liable [to hallah]; if in the sun, they are exempt. This is a refutation of R. Simeon b. Lakish? Said ‘Ulla, R. Simeon b. Lakish can answer you: The case we treat of here is where he [first] heated [the ilpes] and then placed [the dough in it].[30] But what [is the law] if he [first] placed [the dough] and then heated it? Are they indeed exempt! Then instead of teaching [in] the second clause, ‘if prepared in the sun, they are exempt’, let him draw a distinction in that itself and teach: When is that? E.g., if he heated [it] and then placed [the dough]; but if he [first] placed [the dough] and then heated it, they are exempt? There is a lacuna[in this teaching], and it was thus taught: When is that? If he heated [it] and then placed [the dough]; but if he first

for the shape to be exactly right and so may take too long over it. But private people are not so particular. placed [the dough] and then heated it, it becomes as though he prepared it in the sun, and they are exempt.

Come and hear: You discharge your duty with partially baked unleavened bread and unleavened bread which was prepared in an ilpes?[31] — Here too it means that he [first] heats it and then places [the dough]. What is partially baked unleavened bread?[32] — Said Rab Judah in Samuel's name: Whatever can be broken without threads dragging from it.[33]

Raba said: And the same [rule applies to] loaves of the thanksoffering.[34] That is obvious: ‘bread’ is written here and ‘bread’ is written there?[35] — You might say, since it is written, and he shall offer one

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(1) Which Beth Hillel permit.

(2) Though the shewbread was unleavened (Men. 27a).

(3) Sc. the priests.

(4) Unleavened bread for Passover is made by all, and many cannot exercise sufficient care to prevent the dough from fermenting when it is so thick.

(5) In the preparation of the shewbread all these conditions would be observed; but they might be absent in a private home.

(6) Viz., R. Judah ha-Nasi.

(7) Though baked in thin wafers.

(8) I.e., when sufficient dough is kneaded for many wafers.

(9) That Beth Shammai forbid it, seeing that we are actually dealing with thin wafers.

(10) In kneading so much at a time. Though food may be prepared on Festivals, unnecessary trouble is forbidden.

(11) Lit., ‘standing at’.

(12) That it is forbidden because of the unnecessary labour.

(13) Here Passover is not mentioned.

(14) Bread made of fine meal.

(15) ‘Ar.: thick bread.

(16) Lit., ‘immediately’.

(17) Which is absurd. Most bakers lack these moulds!

(18) Lit., ‘entered after’.

(19) Lit., ‘brought’.
(20) Who bake for sale. They are more particular
(21) Because professionals are more expert; also they may have moulds, and so can make them more quickly.
(22) This is the reading of Ran, and it is so emended here by Bah.
(23) Cakes made from a spongy dough.
(24) A kind of cake made of very loose dough.
(25) A dough of hullin into which there fell dough of terumah.
(26) V. Glos.
(27) V. p. 170. n. 14.
(28) I.e., home-made pancakes. They are not made like bread, and only dough made for bread is subject to hallah.
(29) Jast.: a tightly covered stew pot. I.e., it is not bread at all, Resh Lakish holding that only that which is baked in an oven is bread to be subject to hallah.
(30) When the ilpes is first heated it is similar to an oven.- Hidbik (הדביק) lit., ‘to cause to cleave’, the cake being pressed to the side of the pot, which was the ancient method of baking.
(31) Which proves that what is baked in an ilpes is bread, thus refuting R. Simeon b. Lakish.
(32) What is the minimum?
(33) It must be baked at least as much as that.
(34) The thanksoffering was accompanied by forty loaves, which were sanctified by the killing of the sacrifice. As soon as the loaves have arrived at this stage of baking as defined by Rab Judah, they become sanctified by the slaughtering of the sacrifice, and the sacrifice itself valid.
(35) Obviously then the same definition applies to both. Hallah: when ye eat of the bread of the land (Num. XV, 19); the thanksoffering: Lev. VII, 13: with cakes of leavened bread etc.

Talmud - Mas. Pesachim 37b

out of each oblation,[1] ‘one’ [intimating] that he should not take a broken-off piece, whereas here it is as broken off:[2] therefore he informs us [that it is not so].

An objection is raised: The me'isah,[3] Beth Shammai exempt it [from hallah], while Beth Hillel hold it liable [thereto]. The halitah,[4] Beth Shammai hold it liable [to hallah], while Beth Hillel exempt [it]. Which is ‘me'isah’ and which is ‘halitah’? ‘Me'isah’ is flour [poured] over boiling water; ‘halitah’ is boiling water [poured] over flour. R. Ishmael b. R. Jose ruled in his father's name [that] both are exempt — others state, that both are liable. But the Sages maintained: Both the one and the other, if prepared in an ilpes, each is exempt; in an oven, each is liable. Now according to the first Tanna, wherein does me'isah differ from halitah?[5] — Said Rab Judah in Samuel's name, and thus did R. Johanan — others state, R. Joshua b. Levi-say: Just as there is a controversy in respect of the one so is there a controversy in respect of the other, and they [the two clauses] are contradictory, he who learnt the one not having learnt the other.[6] Now it is at all events taught, ‘But the Sages maintain: Both the one and the other, if prepared in an ilpes, each is exempt; in an oven, each is liable’, which is a refutation of R. Johanan? — R. Johanan can answer you, It is dependent on Tannaim. For it was taught: You might think that me'isah and halitah are liable to hallah, therefore ‘bread’ is stated. R. Judah said: Nought is bread save that which is baked in an oven. Now R. Judah is identical with the first Tanna? Hence Surely they differ over that which is prepared in an ilpes: the first Tanna holds, That which is prepared in an ilpes is liable; while R. Judah holds, That which is prepared in an oven is exempt! — No: All (agree) that what is prepared in an ilpes is exempt, but they differ here, e.g., where he rebaked it in an oven,[7] the first Tanna holding [that] since he rebaked it in an oven, it is called ‘bread’; while R. Judah holds, Nought is bread save that which is baked in an oven from the very beginning, and since this was not baked in an oven from the very beginning, we do not call it ‘bread’. Raba said, What is R. Judah's reason? — Because it is written, ten women shall bake your bread in one oven:[8] bread which is baked in one oven is called bread, but that which is not baked in one oven is not called bread.[9]

Rabbah and R. Joseph were sitting behind R. Zera, and R. Zera was sitting in front of ‘Ulla. Said Rabbah to R Zera, Ask ‘Ulla: What if he placed [the dough] within,[10] and boiled it up[11] from without?[12] What shall I ask him, he replied, for if I ask him he will say to me, That then is the [very] preparation of an ilpes![13] — R. Joseph [then] said to R. Zera, Ask ‘Ulla: What if he placed [the dough] inside and the flame is opposite it?[14] What shall I ask him, he replied. for if I ask him he will reply. Most poor people do this.[15]

R Assi said: Dough of second tithe, according to R. Meir,[16] is exempt from hallah; according to the Rabbis,[17] it is liable to hallah.

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(1) Ibid. 14.

(2) Since it is not completely baked.

(3) A paste made of flour poured over boiling water, contrad. to halitah, where the boiling water is poured over flour, as explained in the text.

(4) V. preceding note.

(5) The Mishnah is first dismissed and explained, and then the point of the objection is stated.

(6) Me'isah and halitah are alike in law. One Tanna holds that in both Beth Hillel are more lenient, while another holds that Beth Shammai are more lenient in both.

(7) Sc. that which was prepared in an ilpes in the first place.

(8) Lev. XXVI, 26.

(9) Hence this excludes the case where it is first treated In an ilpes.

(10) Rashi: in an ilpes. Tosaf: in an oven.

(11) I.e., heated it.

(12) Rashi: He placed a bread dough in an ilpes, baking it with an outside fire: is it bread or not? Tosaf: He placed in an oven such dough as is generally prepared in an ilpes: does this render it bread or not?

(13) Which is a point of issue between R. Johanan and Resh Lakish.

(14) The flame itself bearing directly on the ilpes, which causes it to bake more quickly.

(15) They cannot afford much fuel, and so they have the flame directly opposite it. Hence this cannot change its status.

(16) Who holds in Kid. 54b that second tithe is sacred, not secular property, but that the Almighty favored the Israelite by permitting him to eat it himself.

(17) Who hold that it is secular property.

Talmud - Mas. Pesachim 38a

[As to] unleavened bread of second tithe, according to R. Meir, a man cannot discharge his obligation therewith on Passover; according to the Sages, a man can discharge his obligation therewith on Passover. [With regard to] a citron[1] of second tithe, according to R. Meir he cannot discharge his obligation therewith on the Festival; according to the Sages, a man can discharge his obligation therewith on the Festival. R. Papa demurred: as for dough, it is well, because it is written, of the first of your dough,[2] [implying] of your own.[3] The citron too [is likewise], for it is written, and ye shall take unto yourselves,[4] [implying] it shall be of your own.But as for unleavened bread, is then ‘your unleavened bread’ written?[5] — Said Raba — others state, R. Yemar b. Shalmia: [The meaning of] ‘bread’ [here] is derived from ‘bread’ [elsewhere]. Here It is written, the bread of affliction.[6] while there it is written, then it shall be, that when ye eat of the bread of the land [ye shall offer up an heave offering unto the Lord. Of the first of your dough etc.]:[7] just as there [it means] of your own, so here too [it must be] of your own.

Shall we say that [the following] supports him: Dough of second tithe is exempt from hallah: this is the view of R. Meir; but the Sages maintain, It is liable? [You say], ‘Shall we say that this Supports him’: this is the identical statement! — This is what he says: Shall we say that since they differ in the case of dough, they differ in respect to those too;[8] or perhaps it is different there, because ‘your dough’ ‘your dough’ is written twice?[9]

R. Simeon b. Lakish asked: Can a man discharge his obligation[10] with the hallah of second tithe in Jerusalem? On the view of R. Jose the Galilean[11] there is no problem; seeing that he does not fulfil his obligation with hullin,[12] can there be a question about its hallah? Your question arises on the view of R. Akiba:[11] is it only with hullin that he can discharge his obligation. because if it is defiled it is permitted in [all] ‘habitations’,[13] but with hallah, which if defiled, is not permitted in [all] the ‘habitations’ and is consigned to the fire,[14] he cannot discharge his obligation: or perhaps we say, since if he had not designated it with the name [of hallah] and it became defiled, it would be permitted in [all] the ‘habitations’, and he could discharge [his obligation therewith], then now too he can discharge [his obligation with it]?[15]

Others state, this is certainly no question. for we certainly say ‘since’.[16] Your question arises in respect of hallah which was bought with the money of second tithe.[17] Now, on the view of the Rabbis there is no question, for since they say that it[18] is to be redeemed, it is [identical with] the tithe [itself].[19] Your question arises on the view of R. Judah who said, It must be buried. For we learned: If that which was bought with second tithe money was defiled, it must be redeemed: R. Judah said, It must be buried.[20] Do we say, since if it were not purchased. and since if he had not designated it with the name [of second tithe] and it became defiled,it would be permitted in [all] ‘habitations’, and he could discharge his duty therewith, he can [therefore] discharge his duty therewith now too;[21] or perhaps we say one ‘since’,[22] but we do not say ‘since twice?[23] — said Raba: It is logical that the name of tithe is one.[24]

THE UNLEAVENED LOAVES OF THE THANKSOFFERING AND THE WAFERS OF A NAZIRITE etc. Whence do we know it? — Said Rabbah, Because Scripture saith,

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(1) One of the four species which are taken on the Feast of Tabernacles.

(2) Num. XV, 20.

(3) And whereas according to R. Meir second tithe is not ‘your own’.

(4) Lev. XXIII, 40.

(5) Surely not! Therefore even if second tithe is not ‘yours’ according to R. Meir, the law is still complied with by eating second tithe, unleavened bread.

(6) Deut. XVI, 3.

(7) Num. XV, 19.

(8) Sc. the citron and unleavened bread.

(9) Which lays particular emphasis on ‘your’, as explained above.

(10) Relating to the eating of unleavened bread.

(11) V. supra 36a.

(12) I.e., with ordinary second tithe after the hallah has been separated.

(13) This is a technical term denoting all places outside Jerusalem. I.e., when defiled it can be redeemed even after it has entered Jerusalem and then eaten anywhere. The fact that it might be eaten anywhere strengthens the reason for assuming that one can discharge his obligation with it, v. supra 36b.

(14) Hallah is like terumah. Now when the hallah of second tithe is clean it must be eaten in Jerusalem, like all second tithe, while if it is defiled it may not be eaten at all, like all unclean terumah. Thus it can never be eaten without Jerusalem.

(15) For the mere fact that it is hallah is no drawback, as stated in the Mishnah supra 36a, while its being second tithe is not a drawback either, on R. Akiba's view. Why then should it be unfit if it is hallah of second tithe?

(16) I.e., this last argument is certainly valid.

(17) I.e., second tithe was redeemed, flour was bought with the money, and now hallah was separated from the dough.

(18) I.e., that which was purchased with second tithe money and which in turn became defiled, v. infra.

(19) And the same law applies.

(20) Its sanctity is too slight to permit of redemption. while it may not be eaten on account of its uncleanness.

(21) I.e., the food that is purchased with second tithe money cannot be more stringently regarded than second tithe itself.

For the fact that it cannot be redeemed is not due to its greater sanctity but on the contrary because its sanctity is too slight to be capable of transference.

(22) I.e.,in the case of hallah set aside from the second tithe.

(23) I.e.,in the case of hallah set aside from that which has been purchased with second tithe money.

(24) Whether it is actual tithe or bought with tithe money. Hence they are alike, and therefore he can fulfil his obligations with the hallah set aside from either.

Talmud - Mas. Pesachim 38b

And ye shall guard the unleavened bread:[1] [it must be] unleavened bread which is guarded for the sake of [the precept of eating] unleavened bread, thus excluding this, which is guarded not for the sake of unleavened bread but for the sake of a sacrifice. R. Joseph said, Scripture saith, seven days shall ye eat unleavened bread:[2] [that implies] unleavened bread which may be eaten seven days. thus excluding this, which is not eaten seven days but [only] a day and a night.[3] It was taught in accordance with Rabbah; it was taught in accordance with R. Joseph. It was taught in accordance with Rabbah: You might think that he can discharge his obligation with the loaves of the thanksoffering and the wafers of a nazirite, therefore it is stated, ‘And ye shall guard the unleavened bread’, teaching [that it must be] unleavened bread which is guarded for the sake of [fulfilling the obligation of eating] unleavened bread, thus excluding this which is guarded not for the sake of unleavened bread but for the sake of a sacrifice. It was taught in accordance with R. Joseph: You might think that a man can discharge his obligation with the loaves of the thanksoffering and the wafers of a nazirite; therefore it is said, ‘seven days ye shall eat unleavened bread’, implying, unleavened bread which may be eaten seven days. thus excluding this, which may not be eaten seven days but [only] a day and a night.

Yet deduce it from [the fact that it is designated], ‘the bread of affliction’, teaching, [it must be] that which may be eaten in grief, thus excluding this, which is not eaten in grief but [only] in joy? — He holds as R. Akiba, who said, ‘ani’ is written.[4] Then let him deduce it [from the fact] that it is rich unleavened bread?[5] Said R. Samuel b. R. Isaac: There is [only] a rebi'ith [of oil], and it is divided among many loaves.[6] Yet deduce it [from the fact] that they might not be eaten in all habitations?[7] — Said Resh Lakish: This proves that the loaves of the thanksoffering and the wafers of the nazirite could be eaten in Nob and Gibeon.[8]

It was taught. R. Il'ai said: I asked R. Eleazar, How about a man discharging his obligation with the loaves of the thanksoffering and the wafers of a nazirite? I have not heard, replied he. [So] I went and asked it before R. Joshua. Said he to me, Surely they [the Sages] said: [AS TO] THE [UNLEAVENED] LOAVES OF THE THANKS OFFERING AND THE WAFERS OF A NAZIRITE, IF HE MADE THEM FOR HIMSELF, HE CANNOT DISCHARGE HIS OBLIGATION WITH THEM; IF TO SELL IN THE MARKET, HE CAN DISCHARGE HIS OBLIGATION WITH THEM. When I went and discussed the matter before R. Eleazar, he said to me, By the covenant! These are the very words which were stated to Moses at Sinai. Others state: By the covenant! Are these the very words which were stated to Moses at Sinai? And is not a reason required?[9] And what is the reason? — Said Rabbah: Whatever is for market, he may change his mind [about it]. and he says, ‘If it is sold, it is sold; if it will not be sold, I will discharge my duty with it’.

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(1) Ex. XII, 17 E.V. translates differently.

(2) Ibid. 15.

(3) V. Lev. VII, 15.

(4) v. Supra 36a for this passage.

(5) Since he follows the written text, ani, viz., poverty; for the unleavened cakes brought with a sacrifice were kneaded with oil, which makes them ‘rich’ bread (supra 36a).

(6) Only a quarter log of oil was used in the kneading of twenty large loaves: this would not make it rich mazzah.
(7) I.e., outside the walls of Jerusalem; v. supra 36a.
(8) Before the building of the Temple, Israel sacrificed at the 'high places'. altars being erected at Nob and Gibeon, amongst other places. Resh Lakish observes that since we do not deduce the present law from the fact that these loaves might not be eaten in all 'habitations', it follows that there was a time when they were eaten without Jerusalem, viz., during the period of the high places at Nob and Gibeon, v. Zeb. 112b. There is an opposing view, that of R Simeon, that the thanksoffering and the sacrifices of a nazirite could not be offered at the high places. v. Meg. 9b.
(9) Do you claim a divine origin for them that you draw this distinction without stating its grounds?

Talmud - Mas. Pesachim 39a

MISHNAH. AND THESE ARE THE HERBS WITH WHICH A MAN DISCHARGES HIS OBLIGATION ON PASSOVER:[1] WITH LETTUCE [HAZARETH]. WITH TAMKA,[2] WITH HARHABINA,[3] WITH ENDIVES ['ULSHIN] AND WITH MAROR.[4] THE LAW IS COMPLIED WITH BY [EATING THEM] BOTH MOIST [FRESH] AND DRY, BUT NOT PRESERVED [IN VINEGAR], NOR STEWED NOR BOILED.[5] AND THEY COMBINE TO THE SIZE OF AN OLIVE.[6] AND YOU CAN DISCHARGE [YOUR OBLIGATION] WITH THEIR STALK[S]. AND WITH DEMAI, AND WITH FIRST TITHE THE TERUMAH OF WHICH HAS BEEN SEPARATED, AND WITH HEKDESH AND SECOND TITHE WHICH HAVE BEEN REDEEMED.[7]

GEMARA. HAZERETH is hassa [lettuce]; 'ULSHIN is hindebi [endives]. TAMKA: Rabbah b. Bar Hanah said: It is called temakta.[8] HARHABINA: R. Simeon b. Lakish said: [It is] the creeper of the palm tree. AND WITH MAROR: merirta.[9]

Bar Kappara taught: These are the herbs with which a man discharges his obligation on Passover: with endives, with tamka, with harhallin,[10] with harhabinin,[11] and with lettuce. R. Judah said: Also with wild [field] endives and with garden endives and with lettuce. 'Garden endives and lettuce': but that is taught in the first section?[12] — This is what he says: Wild endives too are like garden endives and lettuce. R. Meir said: Also with 'aswaws, and tura and mar yero'ar.[13] Said R. Jose to him: 'Aswaws and tura are one; and mar is yero'ar.[14]

The School of Samuel taught: These are the herbs with which a man discharges his obligation on Passover: With lettuce, with endives, with tamka, with harhabinin, with harginin,[15] and with hardofannim.[16] R. Judah said: Hazereth yolin [thistles] and willow lettuce too are like them. R. Judah said in R. Eliezer's name: 'Arkablin too,[17] but I went about to all his [sc. R. Eliezer's] disciples and sought a companion[18] but did not find one, but when I came before R. Eleazar b. Jacob he agreed with my words. R Judah said: Whatever [plant which] contains an acrid [pungent] sap. R. Johanan b. Berokah said: Any [plant] the leaves of which look faded [bleached]. Others say: Every bitter herb contains an acrid sap and its leaves are faded. R. Johanan said: From the words of all of them we may learn [that every] bitter herb contains an acrid sap and its leaves are faded.[19] R. Huna said: The halachah is as the 'Others'.

Rabina found R. Aha son of Raba going in search of merirta. Said he to him, What is [in] your mind: that it is more bitter? But we learned HAZERETH; and the School of Samuel taught, Hazereth; while R. Oshaia said: The obligation is properly [fulfilled with] hazereth. And Raba said: What is hazereth? Hassa. What does hassa [symbolize]? That the Merciful One had pity [has] upon us. Further, R. Samuel b. Nahman said in R. Jonathan's name: Why were the Egyptians compared to maror?[20] To teach you: just as this maror, the beginning of which is soft while its end is hard,[21] so were the Egyptians: their beginning was soft [mild]. but their end was hard [cruel]![22] — Then I retract, he replied.

R. Rehumi said to Abaye: How do you know that this ‘maror’[23] means a kind of herb; say that it is the gall of Kufia?[24] — It is like unleavened bread:[25] just as unleavened bread is a product of the earth,so "maror’ means a product of the earth.Then say it is hirduf?[26] -It is like unleavened bread:[25] just as unleavened bread is a species of plant, so ‘maror’ means a species of plant. Then say it is harzipu?[27] — It must be like unleavened bread: just as unleavened bread is that which can be bought with second tithe money, so maror’ is that which can be bought with second tithe money.[28]

Rabbah son of R.Hanin said to Abaye: Say that maror means one [herb]?[29] — Merorim [plural] is written. Then say that merorim means two? — It is like unleavened bread: just as unleavened bread [can be of] many species.[30] so [can] maror [be of] many species.

Rabbah son of R.Huna said in Rab's name: [Regarding] the herbs whereof the Sages ruled that a man can discharge his duty with them on Passover, they all may be sown in one garden bed. Is this to say that they are not [forbidden] on account of kil'ayim?[31] Raba objected: [Lettuce] and willow lettuce, [garden] endives and wild endives, [garden] leeks and wild leeks, [garden] coriander and wild coriander, mustard and Egyptian mustard [and] the Egyptian gourd and the bitter gourd, — all these are not kil'ayim with one another.[32] [Thus] only lettuce with willow lettuce, but not lettuce with endives?[33] And should you answer, They are all taught together, surely Rab said: He teaches them in pairs? What did Rab mean by ‘they are sown’? They are sown according to their law.[34] [You say], ‘According to their law’! but we [already) learned it:

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(1) Bitter herbs are eaten on the first two (in Palestine one) nights of Passover, v. Ex. XII, 8.

(2) A kind of cheveril (Jast.).

(3) A kind of creeper.

(4) Lit., ‘bitter’ (herb). A plant, prob. Cichorium ltybus. Succory (Jast.).

(5) Shelukin means boiled to a pulp; mebushalin, boiled in the usual manner.

(6) That is the minimum quantity which must be eaten; and it can be made up of all these.

(7) v. p. 161, n. I.

(8) Rashi: marrubium, hoarhound (Jast.).

(9) The Aramaic for maror.

(10) A prickly plant, thistles.

(11) Pl. of harhabina.

(12) What does R. Judah add?

(13) Names of bitter herbs. v. next note.

(14) Jast. ferule. Rashal reads: Aswaws and tura are one, and it is bitter (mar), and that is (what is called) mar yero'ar.

(15) Jast.: garden ivy.

(16) Wall ivy.

(17) Jast.: prickly creepers on palm trees, palm ivy.

(18) To support me, that he too had heard it from R. Eliezer.

(19) I.e., all the herbs mentioned by the foregoing teachers possess these two features.

(20) In Ex. I, 14 where the Hebrew for embittered is from the same root as maror.

(21) The top is soft, while the stalk hardens like wood.

(22) At first they dealt mildly with the Israelites, but subsequently treated them with great cruelty. All this was adduced by Rabina, to show that merirta was not preferable.

(23) Prescribed in Ex. XII, 8. Merorim, pl. of maror, is the actual word used there.

(24) Name of a fish, supposed to be identical with colias.

(25) To which it is placed in juxtaposition, ibid.

(26) Jast.: a shrub or tree with bitter and stinging leaves, supposed to be rhododaphne, oleander.

(27) Name of a bitter herb, not generally eaten.

(28) This excludes harzipu, for only what is generally eaten can be bought; v. Deut. XIV, 26: all the things enumerated there are normal victuals.

(29) Viz., the most bitter of all.

(30) V. Mishnah Supra 35a.
(31) V.Glos.
(32) Kil. I, 2.
(33) I.e., these are heterogeneous.
(34) I.e., on the contrary, care must be taken not to sow them together, and when they are in one garden-bed the proper space must be left between the separate species.

Talmud - Mas. Pesachim 39b

A garden-bed which is six handbreadths square, may be sown with five species of seeds, four on the four sides of the bed and one in the middle![1] — You might say that this applies only to seeds [cereals]. but not to vegetables;[2] therefore he[3] informs us [otherwise]. Shall we [then] say that vegetables are stronger than seeds?[4] But surely we learned: All Species of seeds may not be sown in one garden-bed [together]. [yet] all species of vegetables [herbs] may be sown in one seed-bed?[5] - You might say, This maror[6] is a species of seed [cereal]; hence he informs us [that it is not so].[7] [You say]. 'Seeds'! — Can you think so! But surely we learned, HERBS; and Bar Kappara [also] taught. 'Herbs'; and the School of Samuel [also] taught 'Herbs'?[8] - He needs [to state it about] lettuce:[9] I might argue. since it is destined to harden,[10] we must allow it more space. [For] did not R. Jose b. R. Hanina say: If the cabbage stalk hardens, more room is given to it [up to] a beth roba'?[11] This proves that since it is destined to harden, we allow it more space: so here too we should give it more space. Hence he[12] informs us [otherwise].

THE LAW IS COMPLIED WITH BY [EATING THEM] BOTH MOIST [FRESH] OR DRY etc. R. Hisda said: They learned this only of the stalk; but in the case of the leaves, only moist [fresh] ones, but not dry ones. But since a later clause states, WITH THEIR STALK, it follows that the first clause [refers to] leaves? [That clause] indeed gives an explanation: when does he [the Tanna] teach, BOTH MOIST AND DRY? In reference to the stalk.

An objection is raised: One can discharge [the obligation] with them and their stalks, both moist and dry: this is R. Meir's view. But the Sages maintain: One can discharge [the obligation] with moist [fresh] ones, but one cannot discharge [the obligation] with dry ones. And they agree that one can discharge [the obligation] with them [when] withered,[13] but not [when] preserved. stewed or boiled. This is the general principle of the matter: Whatever has the taste of maror, one can discharge the obligation with it; but whatever does not possess the taste of maror, one cannot discharge the obligation with it![14] — Explain it[15] [as referring] to the stalk.

Our Rabbis taught: One cannot discharge [the obligation] with them [when] withered. In the name of R. Eleazar b. R. Zadok it was said: One can discharge [the obligation] with them [when] withered.

Rami b. Hama asked: How about a man discharging his obligation with second tithe maror in Jerusalem? On R. Akiba's view,[16] there is no question: seeing that he discharges his obligation [there with] in the case of unleavened bread, [the tithing of] which is [enjoined] by Scripture. need you ask about maror, which is [only] Rabbinical.[17] The question arises on the view of R. Jose the Galilean. What then? Is it only with unleavened bread, which is [tithed] by Scriptural law, that he cannot discharge his obligation, but with maror, which is [tithed] by Rabbinical law [only], he discharges his obligation; or perhaps whatever [measure] the Rabbis enacted, they enacted it similar to a Scriptural law?[18] Said Raba: It is logical [that] unleavened bread and maror [are assimilated].[19]

MISHNAH. ONE MAY NOT SOAK BRAN FOR FOWLS, BUT ONE MAY SCALD IT. A WOMAN MAY NOT SOAK BRAN TO TAKE WITH HER[20] TO THE BATHS,[21] BUT SHE MAY RUB IT ON HER SKIN. AND A MAN MAY NOT CHEW WHEAT AND PLACE IT ON HIS WOUND, BECAUSE IT TURNS LEAVEN.

G E M A R A. Our Rabbis taught: These are the things which cannot come to fermentation: That which is baked,[22] boiled, and that which is scalded, having been scalded in boiling water. 'That which is boiled'? But while it is being boiled it turns leaven! — Said R. Papa: He means: baked [mazzah] which was [then] boiled. It was taught. R. Jose b. R. Judah said: Flour into which there fell a dripping [of water]. even all day, does not come to fermentation.[23] Said R. Papa: Provided that it acted drop after drop.[24] The School of R. Shila said: Wattika[25] is permitted. But it was taught: Wattika is forbidden? — There is no difficulty: here it is such as is prepared with oil and salt;[26] there it is prepared with water and salt.[27] Mar Zutra said: A man must not line a pot with flour of roast grain, lest it had not been properly baked[28] and it comes to leaven.[29] R. Joseph said: A man must not scald

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(1) V. Shab. 84b (Sonc. ed.) note a.l. Then what does Rab add?

(2) Because they draw their sustenance more vigorously, hence from a wider area.

(3) Rab.

(4) In drawing from the ground.

(5) Cereal seeds must not be sown within this area, and the statement that five species of seeds may be sown in a plot six handbreadths square applies to vegetables (herbs) only.

(6) I.e., the species enumerated supra in our Mishnah and Gemara.

(7) This answer abandons the previous answer. Seeds (cereals) in fact require more space, for their drawing power is greater, and Rab informs us that maror belongs to the species of herbs, not seeds, and therefore the more lenient law applies to them.

(8) All these authorities describe maror as herbs; how then could it be assumed that maror belongs to the class of cereals?

(9) The last reply to the question, 'What does Rab add', being untenable, another answer is offered.

(10) Its stalk becomes hard and thick.

(11) A piece of ground of the capacity of one roba' (quarter of a kab) of seed.

(12) Rab.

(13) This is not the same as dry.

(14) Here too R. Meir seems to state that both the herbs themselves (i.e.. the leaves) and the stalks may be fresh or dry. And the Mishnah too evidently agrees with R. Meir, since the Rabbis maintain that dried herbs cannot be eaten.

(15) The statement permitting its use dried.

(16) v. supra 36a.

(17) By scriptural law vegetables need not be tithed at all; hence Biblically speaking this maror is not second tithe.

(18) So that maror is the same as unleavened bread.

(19) v. supra p. 182, n. 6.

(20) Lit., 'in her hand'.

(21) A bran paste was used as a depilatory or cosmetic.

(22) Once unleavened bread is baked it can never turn leaven.

(23) The incessant dripping prevents fermentation.

(24) Without an appreciable interval between them.

(25) Name of a certain pastry or tart made of flour.

(26) Oil does not cause fermentation.

(27) Then it is forbidden.

(28) Lit., 'boiled'.

(29) Though roast grain is baked, and therefore can never become leaven, yet we fear that it may not have been fully baked, and when the dish is put into the pot with the water this flour will ferment.

Talmud - Mas. Pesachim 40a

two grains of wheat together, lest one becomes wedged in the cleft of the other, so that the column of water will not surround it on all[1] sides, and [thus] it will come to fermentation. And Abaye said: A man must not singe two ears of corn together. lest sap [water] issue from one and the other absorb it, and [thus] it will come to fermentation. Said Raba to him: If so, [forbid] even one also, lest it [the sap] issues from one end and the other end absorbs it? No, said Raba: It is sap [water] of fruit,[2] and sap of fruit does not cause fermentation. Now Abaye retracted from that [view], because as long as they [the grains] absorb [liquid], they do not ferment.[3] For Abaye said: The jar for roasting [ears of corn]: if it is inverted, it is permitted;[4] if upright, it is forbidden.[5] Raba said: Even if upright it is still permitted [because] it is the sap of fruit, and the sap of fruit does not cause fermentation.

Our Rabbis taught: One may not wash[6] barley on Passover; and if one did wash [them] and they split, they are forbidden;[7] if they did not split, they are permitted. R. Jose said: He can soak them in vinegar. and the vinegar binds them.[8] Samuel said: The halachah is not as R. Jose. R. Hisda said in Mar ‘Ukba's name: It does not mean literally split, but [if they reach] such [a condition] that if placed on the mouth of a [wine] cask they will split of themselves. ([9]) But Samuel said: It means literally split. Samuel acted in the vicinity of the home of Bar Hashu [on the view that] ‘split’ is meant literally.[10]

Rabbah said: A conscientious man should not wash [corn].[11] Why particularly a conscientious man: even any other man[12] too, for surely it was taught: One may not wash barley on Passover? He says thus: He should not wash even wheat, which is hard.[13] Said R. Nahman to him: He who will heed Abba[14] will eat mouldy bread.[15] For Surely the household of R. Huna washed [it], and the household of Raba b. Abin washed [it]. But Raba said: It is forbidden to wash [wheat]. But what of what was taught: You may not wash barley on Passover, [implying] barley only may not [be washed], but wheat is permitted? — He leads to a climax![16] It is unnecessary [to teach about] wheat, for since it has splits the water enters it;[17] but barley, which is smooth, I would say that it is allowable. Therefore he informs us [otherwise]. Subsequently Raba said: It is permitted to wash [wheat]. For it was taught: One can discharge [the obligation] with fine bread and with coarse bread.[18] Now fine bread is impossible without washing [the grain].

R. Papa raised an objection against Raba: [With regard to] the flours and fine meals of Gentiles, those of villages are clean, while those of towns are unclean. What is the reason that those of villages [are clean]? Is it not because they do not wash [the grain],[19] yet he calls it ‘fine meal’?[20] — Explain [this[21] as referring to] ‘flour’. After he [Raba] departed, he [R. Papa] said [to himself]. Why did I not cite him [an objection] from what R. Zera said in R. Jeremiah's name in Samuel's name: The wheat for meal offerings must not be washed; yet he calls it fine meal?[22] Subsequently Raba said: It is obligatory to wash [the grain].[23] for it is said, And ye shall guard the unleavened bread.[24] Now, if not that it requires washing, for what purpose is the guarding?[25] If guarding for the kneading.[26] the guarding of kneading is not guarding,[27] for R. Huna said: The doughs of a heathen,[28] a man may fill his stomach with them,[29] providing that he eats as much as an olive of unleavened bread at the end. [Thus] only at the end, but not at the beginning:[30] what is the reason? Because he had not afforded it any guarding. Then let him guard it from the baking and onwards?[31] Hence this surely proves that we require guarding from the beginning. Yet whence [does this follow]: perhaps it is different there, because when guarding became necessary.[32] he did not guard it;[33] but where he did guard it when guarding became necessary. it may indeed be that the guarding at the kneading is [truly] considered ‘guarding’.

Yet even so,[34] Raba did not retract. For he said to those who handled sheaves,[35] Handle them for the purpose of the precept.[36] This proves that he holds [that] we require guarding ab initio, from beginning to end. Mar the son of Rabina,

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(1) Lit., ‘four’.

(2) I.e., produce.

(3) MS.M. reads: as long as they (the liquids) are in motion (boiling), they do not create fermentation.

(4) As the sap which is exuded runs out and is not re-absorbed by the other ears. — Therefore the same will hold good where he singes two ears of corn together, which on this view must be permitted. Thus he retracted from his former view.

(5) Because the sap is retained in the vessel.

(6) The verb connotes to moisten the grain before grinding.

(7) Because then they turn leaven very quickly.

(8) Prevents fermentation.

(9) Then they are forbidden.

(10) And since those about which he was consulted were not actually split. he ruled that they were permitted.

(11) v. p. 186, n.8.

(12) Lit., 'the whole world'.

(13) And consequently is slower to ferment than barley. Others who are not so conscientious may moisten wheat, for only barley is forbidden in the Baraitha.

(14) Lit., 'father'- a title of respect.

(15) I.e., unclean bread, since the wheat was not washed.

(16) Lit., 'he states, it is unnecessary "(to teach etc.)"'.

(17) And certainly causes it to ferment.

(18) V. supra 37a.

(19) And eatables cannot become unclean unless moisture has previously been upon them.

(20) Which shows that fine bread is possible without washing.

(21) The reference to villages.

(22) Such is prescribed in Scripture for meal-offerings, v. Lev. II, i.

(23) For preparing the unleavened bread.

(24) Ex. XII, 17.

(25) For the grain cannot ferment unless there is moisture upon it.

(26) I.e., that when it is kneaded care must be taken that it does not turn leaven.

(27) This verse implies that at a certain stage of its manufacture the unleavened bread must be guarded for the express purpose of fulfilling the law prescribing the eating of unleavened bread. Hence, if a man eats on the first night of Passover only unleavened bread which was not guarded expressly for that purpose, he does not do his duty. Now Raba states that the guarding that is given to it at the stage of kneading is not considered 'guarding' in this respect.

(28) Which one recognizes as not having turned leaven.

(29) On the first night of Passover.

(30) I.e., the law is complied with only with this unleavened bread which he eats at the end, but not with the heathen's dough which he eats at the beginning. The unleavened bread eaten in fulfilment of the precept comes at the end of the meal with the Paschal lamb, v. infra 119b.

(31) I.e., from when it is prepared for baking. viz., when it is shaped, moistened and put into the oven.

(32) Lit., 'when it entered upon (the need for) guarding'. — I.e., at the beginning of the kneading process — from the moment when water was added to the flour making fermentation possible.

(33) Though it nevertheless remained unleavened.

(34) Though Raba's proof was refuted.

(35) At harvest time, gathering and tying them. Lit., 'turned about'.

(36) Bear in mind that they may be used for that purpose.

Talmud - Mas. Pesachim 40b

his mother stored [grain] for him in a trough.[1]

A certain ship of grain foundered in Hishta,[2] [whereupon] Raba gave permission to sell [the grain][3] to Gentiles. Rabbah b. Lewai[4] raised an objection against Raba: [With regard to] a garment wherein kil'ayim[5] is lost,[6] he must not sell it to a Gentile,[7] nor may he make a saddle-cloth for an ass;[8] but it may be made into shrouds for a corpse.[9] What is the reason [that it may] not [be sold] to a Gentile? Surely it is because he might resell it to an Israelite?[10] Subsequently Raba said, Let them sell it to Israelites, a kab[11] at a time,[12] so that it should be consumed before Passover.

Our Rabbis taught: One may not mash a dish on Passover;[13] and he who wishes to mash, must put in the flour and then add the vinegar.[14] But some say. He may even put in the vinegar [first] and then add the flour.[15]

Who is ‘some say’? Said R. Hisda, It is R. Judah. For we learned: [In the case of] a stew pot or a boiling pot[16] which he removed seething [from the fire].[17] he must not put spices therein,[18] but he

R. Han. reads: for the sake of unleavened bread — i.e., take care that no water falls on them and do not store them in a damp place. may put [spices] into a dish or a tureen.[19] R. Judah said: He may put [spices] into anything except what contains vinegar or brine.[20] Yet let us establish it as R. Jose, for it was taught, R. Jose said: He can soak them in vinegar, and the vinegar binds them?[21] — We know R. Jose [to rule thus] only when it is by itself, but not when it is in a mixture. ‘Ulla said: Both the one and the other are forbidden,[22] because, ‘Go, go. thou nazirite’, say we, ‘take the most devious route, but approach not the vineyard’.[23] R. Papa permitted the stewards of the house of the Resh Galutha[24] to mash a dish with parched grains. Said Raba: Is there anyone who permits such a thing in a place where slaves are found?[25] Others say. Raba himself mashed a dish with parched grains.

MISHNAH. FLOUR MAY NOT BE PUT INTO HAROSETH[26] OR IN TO THE MUSTARD,[27] AND IF HE DID PUT [IT], IT MUST BE EATEN IMMEDIATELY;[28] BUT R. MEIR FORBIDS [IT]. ONE MAY NOT BOIL THE PASSOVER SACRIFICE, NEITHER IN LIQUIDS NOR IN FRUIT JUICE.[29] BUT ONE MAY BASTE AND DIP IT IN THEM.[30] THE WATER USED BY A BAKER MUST BE POURED OUT, BECAUSE IT PROMOTES FERMENTATION.

contents, as long as they are seething, cause any condiments put therein to boil likewise. This of course is forbidden on the Sabbath. GEMARA. R. Kahana said: The controversy is [about putting flour] into mustard; but [if it was put] into haroseth, all agree that it must be burnt immediately. And it was taught likewise: Flour must not be put into haroseth, and if he did put [it], it must be burnt immediately. [If put] into mustard, — R. Meir said: It must be burnt immediately; but the Sages rule: It must be eaten immediately.[31]

R. Huna the son of Rab Judah said in R. Nahman's name in Samuel's name: The halachah is as the words of the Sages. Said R. Nahman b. Isaac to R. Huna the son of Rab Judah:

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(1) For use on the night of Passover. This this too was guarded from the beginning.

(2) A canal in Babylonia. This happened before Passover.

(3) Which became leaven.

(4) Or, the Levite.

(5) V. Glos.

(6) I.e. , a thread of the forbidden material was woven in the cloth, and its place is not known.

(7) For the latter may resell it to a Jew who will wear it in ignorance of the fact that it contains kil'ayim.

(8) Lest he subsequently remove it and sew it into a garment.

(9) Because it can henceforth not be used for any other purpose, since the raiment of the dead is forbidden for general use. On the other hand, the corpse is not subject to any of the laws of the Torah, v. Shab. 30a.

(10) Then the same should apply here.

(11) A measure of capacity one sixth of a se'ah.

(12) I.e., not selling a large quantity to any single person.

(13) I.e., make a mash of flour and vinegar in the usual way, which is to put in the vinegar first and then add the flour. This is forbidden, because it easily ferments and becomes leaven.

(14) The vinegar prevents fermenting.

(15) Although the vinegar becomes mixed with the rest of the dish when it is put in first, it can still prevent the fermenting of the flour.
(16) The first means a tightly covered pot.
(17) At twilight on Friday.
(18) After the Sabbath commences. The pot is a ‘first vessel’, i.e., it was used directly on the fire, and its
(19) Containing a hot stew. The dish or the tureen is a ‘second vessel’, I.e., it was not used directly on the fire, and cannot make the spices boil.
(20) Being sharp. they cause them to boil, though the vinegar or brine is mixed with the rest of the dish. By causing them to boil they prevent fermentation, and the same applies here.
(21) Which prevents fermentation.
(22) Whichever is put first. This was proverbial: a man must not venture into temptation, and a nazirite, who must not eat grapes,must not even go near a vineyard. Similarly, if a man is permitted to make the mash in one way, he will make it in the other way too.
(23) Jast. s.v. אכונגר conjectures that בורדקי is a corruption of that word.
(24) Exilarch, the official title of the head of Babylonian Jewry.
(25) As in the house of the Exilarch. They are very lax in any case, and such leniency will lead to even greater laxity.
(26) A pap made of fruits and spices with wine or vinegar, used for sweetening the bitter herb on Passover night (Jast.).
(27) Lest the flour become leaven.
(28) Before it can ferment.
(29) Though Scripture only mentions water, v. Ex. XII, 9.
(30) I.e.,the flesh may be greased
(31) The greater strength of mustard retards fermentation, hence the controversy. But it ferments very quickly in haroseth.

Talmud - Mas. Pesachim 41a

Do you[1] say it in reference to haroseth.[2] or do you say it in reference to mustard? What is the practical difference? asked he. — In respect to R. Kahana's [dictum] — For R. Kahana said: The controversy is [about putting flour] into mustard; but [if it was put] into haroseth, all agree that it must be burnt immediately.[3] I have not heard it, he replied to him, as if to say, I do not agree with it. R. Ashi said: Logic supports R. Kahana, since Samuel said: The halachah is not as R. Jose.[4] Surely then, since it [vinegar] does not bind, it does indeed cause fermentation?[5] — No: perhaps it neither binds nor promotes fermentation.

ONE MAY NOT BOIL etc. Our Rabbis taught: [Eat not of it raw, nor boiled at all] with water:[6] I only know [that it may not be boiled] in water; whence do we know [it of] other liquids? You can answer, [it follows] a minor,’ if water, which does not impart its taste,[7] is forbidden; then other liquids, which impart their taste, how much

with these liquids when it is being roasted, and the roasted meat may be dipped into liquids at the time of eating. more so![8] Rabbi said: ‘With water’: I only know it of water; whence do we know [it of] other liquids? Because it is stated, ‘nor boiled at all’,[9] [implying] in all cases.[10] Wherein do they differ? — They differ in respect of [that which is] roasted in a pot.[11] And the Rabbis: how do they utilize this [phrase] ‘nor boiled at all’? — They employ it for what was taught: If he boiled it and then roasted it, or roasted it and then boiled it, he is liable.[12] As for ‘if he boiled it and then roasted it, he is liable,’ that is well, seeing that he boiled it.[13] But if he roasted it and then boiled it, surely it is ‘roast with fire’; why [then is he liable]? — Said R. Kahana: The author of this is R. Jose. For it was taught: The law[14] is complied with by [eating] an [unleavened] wafer that is soaked[15] or boiled, but not dissolved: this is the view of R. Meir. R. Jose said: The law is complied with by [eating] a wafer that is soaked, but not with one that is boiled, even if not dissolved.[16] ‘Ulla said: You may even say [that it agrees with] R. Meir;[17] here it is different, because Scripture saith, ‘nor boiled at all’, [implying] in all cases.[18]

Our Rabbis taught: You might think that if he roasted it as much as it needs,[19] he should be liable. Therefore it is stated: Eat not of it semi-roast nor boiled at all with water': semi-roast or boiled did I forbid[20] thee, but not that which is roasted as much as it needs.[21] How is that meant? — Said R. Ashi: That he rendered it charred meat. Our Rabbis taught: You might think that if he ate as much as an olive of raw meat,[22] he should be liable; therefore it is stated, Eat not of it semi-roast [na] nor boiled at all [with water]: semi-roast and boiled did I forbid thee, but not raw. You might think that it is permitted; therefore it is stated, 'but roast with fire'. How is 'na' understood? — Said Rab: as that which the Persians call abarnim.[23]

R. Hisda said: He who cooks [food] in the hot springs of Tiberias on the Sabbath is not culpable;[24] if he boiled the Passover sacrifice in the hot springs of Tiberias, he is culpable. Wherein does the Sabbath differ, that [he is] not [culpable]? Because we require the product of fire,[25] which is absent! Then [in respect to] the Passover sacrifice too it is not a product of fire? — Said Raba, What is the meaning of his statement,[26] 'he is culpable'? That he transgresses on account of '[Thou shalt not eat . . .] but roast with fire.[27] R. Hiyya son of R. Nathan recited this [dictum] of R. Hisda explicitly. [Thus:] R. Hisda said: He who cooks in the hot springs of Tiberias on the Sabbath is not culpable; but if he boiled the Passover sacrifice in the hot springs of Tiberias, he is culpable. because he transgressed on account of 'but roast with fire'.

Raba said: If he ate it semi-roast,

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(1) Lit., 'does the Master'.

(2) That the paps ferment also with haroseth.

(3) Do you too accept this, or do you maintain that there is a controversy in respect of haroseth too?

(4) Supra 40a, q.v. in reference to vinegar.

(5) Which is the reason that flour must not be put into haroseth, since it contains vinegar, and it further follows that if put into it, it is forbidden. Hence when Samuel said that the halachah is as the Sages, that it is permitted, he must have referred to mustard, but not to haroseth.

(6) Ex. XII, 9.

(7) Lit., 'which does not lose its taste' (to the substance boiled in it).

(8) Since the sacrifice now has a foreign flavour.

(9) The emphatic 'at all' is expressed in Hebrew by the doubling of the verb.

(10) In whatever it is boiled.

(11) Without any liquid, save its own juice. If we deduce the interdict of other liquids a minori, this however is permitted. But when we learn it from the emphatic doubling of the verb, even this is forbidden. — The Passover sacrifice was roasted on a spit directly over the fire.

(12) To flagellation for eating it.

(13) In the first place. It can never be subsequently regarded as 'roast with fire'.

(14) Relating to the eating of unleavened bread on Passover.

(15) In another dish.

(16) Because It is not called bread, notwithstanding that it was previously baked in an oven. Similarly, if the Passover is boiled after being roasted, it is no longer regarded as 'roast with fire'.

(17) Viz., that once baked it retains its name as bread.

(18) Even after roasting. This answers the question, 'And the Rabbis: how do they utilize this (phrase), "nor boiled at all"?'.

(19) I.e., he overroasted it, thus burning it. I might think that this is not called 'roast with fire' but 'burnt with fire', and therefore he incurs flagellation for eating it.

(20) Lit., 'tell'.

(21) No interdict is violated by eating it thus.

(22) Of the Passover sacrifices.

(23) Half-done meat. v. Jast. s.v. אברנים.

(24) For the desecration of the Sabbath, because this is not really cooking.
(25) Before it can be called cooking.
(26) Lit. , 'which he states'.
(27) He is not culpable on account of, Thou shalt not eat of it. . . boiled with water' because this is not designated boiling. But the other portion of the verse, 'but roast with fire', is an implied negative injunction, the command being that you must not eat anything which is not roast, and what is boiled in the springs of Tiberias is therefore forbidden by implication. He thus holds that a man is flagellated for an implied negative injunction, i.e., one which is not explicitly stated.

Talmud - Mas. Pesachim 41b

he is flagellated twice;[1] if he ate it boiled, he is flagellated twice;[2] [if he ate] semi-roast and boiled, he is flagellated thrice. Abaye said: We do not flagellate on account of an implied prohibition. Some maintain: He is not indeed flagellated twice,[3] but he is nevertheless flagellated once.[4] Others say. He is not even flagellated once, because [Scripture] does not particularize its interdict, like the interdict of muzzling.[5] Raba said: If he [a nazirite] ate the husk [of grapes]. he is flagellated twice; if he ate the kernel, he is flagellated twice; [for] the husk and the kernel, he is flagellated thrice.[6] Abaye maintained: We do not flagellate on account of an implied prohibition — Some say: He is indeed not flagellated twice, but he is nevertheless flagellated once.[7] Others maintain: He is not even flagellated once, because [Scripture] does not particularize its interdict, like the interdict of muzzling.

Our Rabbis taught: If he ate as much as an olive of semi-roast [paschal offering] before nightfall,[8] he is not culpable; [if he ate] as much as an olive of semi-roast flesh after dark, he is culpable. If he ate as much as an olive of roast meat before nightfall, he does not disqualify himself from [being one of] the members of the company;[9] [if he eats] as much as an olive of roast meat after dark,[10] he disqualifies himself from [being one of] the members of his company.

Another [Baraitha] taught: You might think that if he ate as much as an olive of semi-roast before nightfall he should be culpable; and it is a logical inference: if when he is subject to [the precept] 'arise and eat roast [flesh]',[11] he is subject to [the interdict] 'do not eat it semi-roast'; then when he is not subject to [the precept], 'arise and eat roast', is it not logical that he is subject to [the interdict] 'do not eat it semi-roast?' Or perhaps it is not so:[12] when he is not subject to [the precept]. 'arise and eat roast', he is subject to, 'do not eat it semi-roast', [while] when he is subject to [the precept],arise and eat roast', he is not subject to [the interdict] 'do not eat it semi-roast', and do not wonder [threat], for lo! it was freed[13] from its general interdict in respect to roast.[14] Therefore it is stated, 'Eat not of it semi-roast'; nor boiled at all [bashel mebushshal] with water, but roast with fire'. Now, 'but roast with fire' should not be stated;[15] then why is 'but roast with fire' stated? To teach you: When he is subject [to the command]. 'Arise and eat roast', he is [also] subject to 'Eat not of it semi-toast'; when he is not subject to [the command]. 'Arise and eat roast', he is not subject to, 'Eat not of it semi-roast.[16]

Rabbi said: I could read 'bashel'; why is 'mebushshal' stated [too]? For I might think, I only know it[17] where he boiled it after nightfall. Whence do we know it if he boiled it during the day?[18] Therefore it is stated, 'bashel mebushshal', [implying] in all cases. But Rabbi has utilized this 'bashel mebushshal' in respect of [flesh] roast[ed] in a pot and [flesh boiled] in other liquids?[19] — If so,[20] let Scripture say either bashel bashel or mebushshal mebushshal:[21] why 'bashel mebushshal'? Hence you infer two things from it.

Our Rabbis taught: If he ate roast [paschal offering] during the day. he is culpable; and [if he ate] as much as an olive of semi-roast after nightfall, he is culpable. [Thus] he teaches roast similar to half-roast: just as semi-roast [after nightfall] is [interdicted] by a negative injunction, so is roast [before nightfall] subject to a negative injunction. As for half-roast, it is well: it is written, 'Eat not of it semi-roast'. But whence do we know[the negative injunction for] roast? Because it is written, 'And they shall eat the flesh in that night': only at night, but not by day. But this is a negative injunction deduced by implication from an affirmative command, and every negative injunction deduced by implication from an affirmative command is [technically] an affirmative command?[22] — Said R. Hisda, The author of this

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(1) Once on account of the injunction against semi-roast, and again because of the interdict, 'Eat not . . . but roast with fire'.

(2) On account of the injunction against boiled flesh, and again as in the case of semi-roast meat.

(3) Since he is flagellated on account of the direct prohibition, 'Eat not of it semi-roast', or, 'nor boiled', he is not flagellated on account of the implied interdict too.

(4) Rashi: E.g., he who boils it in the hot springs of Tiberias. Since there is no explicit injunction, we fall back upon the implied injunction. Tosaf.: If he was merely warned against violating the injunction, 'Eat not of it . . . but roast with fire'.

(5) V. Deut. XXV, 4. This is an interdict explicitly forbidding a particular action, and this is the model of all interdicts the disregard of which involves flagellation, since it immediately follows the law of flagellation (ibid. v. 3). But the interdict of 'eat not of it . . . but roast with fire' does not particularize any method of preparation as forbidden.

(6) V. Num. VI, 4: All the days of his naziriteship he shall eat nothing that is made of the grape vine, from the kernels eaten to the husk. According to Raba, the kernels and the husk are explicitly prohibited, while they are also included in the implied prohibition of 'he shall eat nothing that is made of the grape vine', and the offender is flagellated on account of each.

(7) Rashi: E.g.. if he ate the leaves of the vine; cf.n. 2.

(8) Lit., 'while it was yet day' — on the fourteenth of Nisan.

(9) Each paschal offering had to be eaten by one company, the members of which had registered for that particular animal. It might not be eaten by two companies, while on the other hand no man might eat in two separate places. It is now taught that if he eats some roast meat before nightfall, he is not disqualified from eating elsewhere with his company after nightfall, the earlier eating not being regarded as eating of the paschal offering in this sense.

(10) Not in the company where he registered.

(11) I.e., perhaps a different argument is to be used.

(12) I.e., after nightfall.

(13) Lit., 'permitted'.

(14) For even roast paschal offering is not permitted before nightfall, as it is written, 'and they shall eat the flesh in that night, roast with fire', which implies, but not before; at night this implied prohibition is lifted. Hence we might argue: granted that the general interdict is not lifted at the outset in respect of semiroast too, yet if he ate it he is not liable to punishment.

(15) For the previous verse states: And they shall eat the flesh in that night, roast with fire.

(16) I. e., flagellation for eating semi-roast meat of the paschal offering is incurred only on the evening of the fifteenth, when one is bidden to eat the roast of the Passover sacrifice, but not on the day of the fourteenth, before the obligation commences.

(17) That boiled paschal offering flesh must not be eaten.

(18) That even then it may not be eaten at night.

(19) Supra 41a.

(20) That that is its only teaching.

(21) Granted that the repetition is necessary, the same grammatical form could be repeated.

(22) Which does not involve flagellation.

Talmud - Mas. Pesachim 42a

is Rabbi. For it was taught: Either a bullock or a lamb that hath anything superfluous or lacking in its parts, that mayest thou offer for a freewill-offering; [but for a vow it shall not be accepted]:[1] that thou mayest dedicate[2] for the Temple repair,[3] but thou mayest not dedicate unblemished [animals] for the Temple repair.[4] Hence it was said, Whoever dedicates unblemished [animals] for the Temple repair transgresses an affirmative precept — I only know [that he transgresses] an affirmative precept: whence do we know [that he transgresses also] a negative injunction? Because it is stated, And the Lord spake unto Moses, saying [lemor]:[5] this teaches concerning the whole section that it is subject to a negative injunction: this is R. Judah's view.[6] Rabbi asked Bar Kappara: How does that imply it? Said he to him, Because it is written, 'lemor': a 'not' ['lo'] was stated in [these] matters .[7] The School of Rab interpreted: Lemor, a negative injunction [law] was stated.

THE WATER USED BY A BAKER etc. One [Baraitha] taught: You must pour [it] out on a slope. but you may not pour [it] out on broken [ground].[8] While another [Baraitha] taught: You may pour [it] out on broken ground? — There is no difficulty: here it means that it [the water] is abundant, so that it collects;[9] there it means that it is not abundant, so that it does not collect.

Rab Judah said: A woman must knead [unleavened bread] only with water which was kept overnight.[10] R. Mattenah taught this [in a public lecture] at Papunia.[11] On the morrow all took their pitchers and repaired to him and demanded of him, 'Give us water'. Said he to them, 'I meant with water which has been kept overnight'.

Raba lectured: A woman may not knead in the sun, nor with water heated by the sun, nor with water collected[12] from the caldron;[13] and she must not remove her hand from the oven until she has finished all the bread;[14] and she requires two vessels, one with which she moistens [the dough], and the other wherein she cools her hands.[15]

is now being discussed, has likewise the same superscription in v. I, q.v. The scholars asked: What if she transgressed and kneaded [in warm water]? Mar Zutra said: [The bread] is permitted; R. Ashi said: It is forbidden — Mar Zutra said, Whence do I know[16] it?-Because it was taught: One may not wash barley on Passover; and if one did wash [them], if they split they are forbidden; if they did not split, they are permitted.[17] But R. Ashi says: Will you weave all these things in one web?[18] Where it was stated,[19] it was stated; and where It was not stated, it was not stated.

CHAPTER III

MISHNAH. NOW THE FOLLOWING [THINGS] MUST BE REMOVED[20] ON PASSOVER: BABYLONIAN KUTAH,[21] MEDIAN BEER, IDUMEAN VINEGAR, EGYPTIAN ZITHOM,[22] THE DYER'S BROTH,[23] COOK'S DOUGH,[24] AND THE SCRIBES' PASTE.[25] R. ELIEZER SAID: WOMEN'S ORNAMENTS TOO.[26] THIS IS THE GENERAL, RULE: WHATEVER IS OF[27] THE SPECIES OF CORN[28] MUST BE REMOVED ON PASSOVER. THESE ARE SUBJECT TO A WARNING',[29] BUT THEY DO NOT INVOLVE KARETH.

GEMARA. Our Rabbis taught: Three things were said of Babylonian kutah: it closes up the heart,[30] blinds the eyes, and emaciates the body. It closes up the heart, on account of the whey of milk; and it blinds the eyes, on account of the salt; and it emaciates the body, on account of the stale crusts.[31]

Our Rabbis taught: Three things increase one's motion, bend the stature, and take away a five hundredth part of a man's eyesight. They are these: Coarse black bread, new beer, and raw vegetables.

Our Rabbis taught: Three things decrease one's motion, straighten the stature, and give light to the eyes. These are they: White[32] bread, fat meat, and old wine. White bread,

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(1) Lev. XXII, 23.

(2) Lit., 'cause to be seized' with sanctity.

(3) I.e., it must be redeemed and the redemption money devoted to the general needs of the Temple, as apart from

sacrifices.
(4) Since they are fit for the higher sanctity of sacrifices.
(5) Ibid. I.
(6) Ex. XII, 8, which
(7) ‘Lemor’ is treated as contraction of ‘lo amur’. I.e., the laws contained in this section are subject to the admonition, ‘do not violate them’.
(8) Rashi: Broken ground contains shallows and cavities where the water will gather. Instead of soaking in, and will thereby cause fermentation. Jast.: the place where water poured out would remain stagnant.
(9) Hence it may not be poured out there.
(10) Because in Nisan the water in the wells is warm (v. infra 94b). which hastens fermentation. Therefore it must be drawn the evening before it is required, so that it can cool off.
(11) A town between Bagdad and Pumbeditha, and included in the juridical district of the latter. Obermeyer, Landschaft, p. 242. — He lectured in Hebrew, using the actual words ‘mayim shelanu’, which may also mean, water belonging to us. — This suggests that Hebrew was sufficiently well known by the masses to make public lectures in that language possible.
(12) Lit., ‘swept out’.
(13) The last-named is generally warm, and heat hastens fermentation.
(14) I.e., she must work on the dough all the time until it is baked.
(15) Her hands too, if heated, induce fermentation.
(16) Lit., ‘says’.
(17) V. Supra 40a. Thus though it may not be done in the first place, if done it is permitted as long as there are no signs of leavening, and the same applies here.
(18) You surely cannot bring all cases into one category.
(19) That it is permitted if done.
(20) I.e., they must not be used; lit., ‘they must pass away’ (R. Tam. and Jast.). Rashi: (On account of) the following things you transgress the injunctions, (leaven) ‘shall not be seen’ and (leaven) ‘shall not be found’ (in the house).
(21) V. supra p. 95, nn. 7 and 8.
(22) A kind of beer.
(23) Made of bran, to keep the dye fast.
(24) Which is placed over the pot to absorb the froth.
(25) With which they paste strips of parchment etc. together. All these are forbidden because they contain the product of cereals which turn leaven.
(26) This is explained in the Gemara.
(27) I.e., contains.
(28) As enumerated in the Mishnah supra 35a.
(29) This is a technical term, denoting a negative injunction, the violation of which is punished by flagellation.
(30) Probably, makes its action sluggish.
(31) Jast.: the decay of the flour-substance.
(32) Lit., ‘clean’.

Talmud - Mas. Pesachim 42b

of fine meal. Fat meat, of a goat which was not opened.[1] Old wine: very old.[2] Everything that is beneficial for the one is harmful for the other,[3] and what is harmful for one is beneficial for the other, save moist zangebila,[4] long peppers, white bread, fat meat and old wine, which are beneficial for the whole body.

MEDIAN BEER. Because barley water is mixed into it. IDUMEAN VINEGAR. Because barley is cast into it. R. Nahman [b. Isaac] said:[5] In former times, when they used to bring [wine] libations from Judah, the wine of Judah did not turn vinegar unless barley was put into it, and they used to call it simply vinegar.[6] But now the wine of the Idumeans does not turn vinegar until barley is put into it, and it is called ‘Idumean vinegar’, in fulfilment of what is said, [Tyre hath said against Jerusalem...]

I shall be replenished, now that she is laid waste:[7] if one is full [flourishing] the other is desolate, and if the other is full the first is desolate.[8] R. Nahman b. Isaac quoted this: and the one people shall be stronger than the other people.[9]

It was taught, R. Judah said: Originally, he who bought vinegar from an ‘am ha-arez[10] did not need to tithe it, because it was a presumption that it was produced from nought but tamad.[11] But now, he who buys vinegar from an ‘am ha-arez must tithe it.[12] Now does R. Judah hold [that] tamad is not liable to tithing, but we learned: He who makes tamad, pouring water on by measure, and [then] he finds the same quantity, is exempt [from tithing]:[13] but R. Judah declares him liable?[14] This is what he says: The ‘amme ha-arez were not under suspicion in connection with tamad.[15] Alternatively, they were under suspicion, yet there is no difficulty: the one refers to [tamad made with] the straining bag; the other refers to [tamad made of] kernels.[16]

AND EGYPTIAN ZITHOM. What is EGYPTIAN ZITHOM?-R. Joseph learned: [A concoction made of] a third part barley, a third part safflower, and a third part salt. R. Papa omitted barley and substituted wheat. And your token is ‘sisane’.[17] They soaked them [these ingredients], then roasted them, ground them and then drank them. From the [Passover] sacrifice[18] until Pentecost, they who are constipated are relieved, while they who are diarrhoeic are bound. [But] for an invalid and a pregnant woman it is dangerous.[19]

AND DYER'S BROTH. Here it is explained: Bran water, with which lacca[20] is primed.

AND COOK'S DOUGH. A loaf [i.e., dough] made of corn less than a third grown, which she places on the mouth of the pot and it absorbs the froth.

AND SCRIBES’ PASTE. Here it is explained: Shoemaker's paste.[21] R. Shimi of Hozae[22] said: It is a toilet paste used by the daughters of rich men, of which they leave [some] for the daughters of poor men.[23] But that is not so, for R. Hiyya taught: They are four commodities of general use[24] and three manufacturing commodities.[25] Now if you say that it is a toilet paste used by the daughters of rich men, what manufacturing commodities are there?[26] What then; [it is] shoemaker's paste? Then why does he call it SCRIBES’ PASTE; he should say, cobbler's PASTE? — Said R. Oshaia to him: In truth it is shoemaker's paste; yet why does he call it: SCRIBES’ PASTE? Because scribes too stick their papyruses together with it.

R. ELIEZER SAID: WOMEN'S ORNAMENTS TOO etc. WOMENS’ ORNAMENTS! can you think so![27] Rather, say, WOMEN'S cosmetics TOO. For Rab Judah said in Rab's name: [As to] the daughters of Israel

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(1) I.e., which has not given birth to young.

(2) Rashi: three years old. — But it is doubtful if this would be called very old.

(3) I.e., what is beneficial for the heart is harmful to the eyes. etc.

(4) Zingiber, an Arabian spice plant, prob. ginger (Jast.).

(5) The Yalkut omits b. Isaac; the text infra supports this omission.

(6) The wine was so good that without barley it would never turn sour.

(7) Ezek. XXVI, 2.

(8) Tyre — here represented as synonymous with Edom — and Jerusalem can neither both flourish simultaneously nor both be desolate simultaneously. — True religion and paganism are irrevocably opposed to each other, and the triumph of one must involve the defeat of the other.

(9) Gen. XXV, 23.

(10) V. Glos.

(11) An inferior wine made from the husks of grapes steeped in water. But it was definitely not from wine, for the wine was too good to turn into vinegar.

(12) Because it is probably from wine, which is nowadays of a poorer quality and readily turns vinegar. Of course, the ‘am ha-arez himself should have tithed it, but they were suspected of neglecting tithes, and therefore the purchaser had to render tithe; v. Glos. s.v. Demai.

(13) Because it is mere water, though it has slightly absorbed the appearance and taste of wine from the husks and kernels.

(14) Because its appearance and taste determine its status as wine.

(15) Because it was so cheap that even they would not grudge its tithes.

(16) When tamad is made by pouring water over the lees in the strainer, it is wine, and is subject to tithes. But tamad made with kernels is merely coloured water, and is not subject to tithes at all.

(17) ‘Twigs’. R. Joseph (יוסף) included barley (שערי). both words containing an S (ס and ש) and the two ס in ‘sisane’ serve as mnemonic for this.

(18) I.e., from Passover.

(19) Because its laxative properties are too great.

(20) So the reading in Maim. and Jast. Lacca is the juice of a plant, used for dyeing.

(21) Perura is a paste made of crumbs.

(22) The modern Khuzestan.

(23) It is a depilatory made of

(24) Lit., ‘for the Country’.

(25) Thus he sums up the seven things mentioned in the Mishnah.

(26) This is not all article used in manufacture.

(27) They have nothing to do with leaven.

Talmud - Mas. Pesachim 43a

who have attained maturity but have not attained [their] years,[1] the daughters of poor men plaster them [the unwanted hairs] with lime; the daughters of wealthy men plaster them with fine flour; while royal princesses, with oil of myrrh as it is written, six months with oil of myrrh.[2] What is oil of myrrh? R. Huna b. Jeremiah said: Sakath.[3] R. Jeremiah b. Abba said: Oil of olives which were not a third grown. It was taught, R. Judah said: Anpikanin[4] is oil of olives which were not a third grown. And why do [women] rub it in [their skin]? Because it removes the hair and rejuvenates the skin.

THIS IS THE GENERAL RULE: WHATEVER IS OF THE SPECIES OF CORN. It was taught, R. Joshua said: Now since we learned, WHATEVER IS OF THE SPECIES OF CORN MUST BE REMOVED ON PASSOVER, why did the Sages enumerate these? So that

fine flour, and wealthy women give the leavings to their poorer sisters, the daughters of scribes, who were generally poor. one should be familiar with them and with their names.[5] As it once happened that a certain Palestinian[6] visited Babylonia. He had meat with him and he said to them [his hosts], Bring me a relish.[7] He [then] heard them saying, ‘Take him kutah’. As soon as he heard kutah, he abstained.[8]

THESE ARE SUBJECT TO A WARNING’. Which Tanna [holds] that real leaven of corn in a mixture, and spoiled leaven[9] in its natural condition, is subject to a negative injunction?[10] — Said Rab Judah in Rab's name: It is R. Meir. For it was taught: Si'ur[11] must be burnt, and he may give it to his dog, and he who eats it is [punished] by forty [lashes].[12] Now this is self-contradictory. You say, ‘si'ur must be burnt’: this proves that it is forbidden for use. Then it is stated, ‘and he may give it to his dog’, which proves that it is permitted for use! This is its meaning: Si'ur’ [i.e., what is si'ur] according to R. Meir [must be burnt] in R. Meir's opinion, and [what is si'ur’] according to R. Judah [must be burnt] in R. Judah's opinion. And he may give it to his dog, [i.e., what is si'ur’] according to R. Meir [may be given to a dog] in R. Judah's opinion. And he who eats it is [punished] by forty [lashes] — this agrees with R. Meir.[13] [Thus] we learn that R. Meir holds that spoiled [leaven] in its natural state[14] is subject to a negative injunction, and all the more real leaven of corn in a mixture.[15]

R. Nahman said, It is R. Eliezer. For it was taught: For real leaven of corn there is the penalty of kareth; for a mixture of it [one is subject to] a negative injunction: this is the view of R. Eliezer. But the Sages maintain: For real leaven of corn there is the penalty of kareth; for the mixture of it there is nothing at all.[16] [Thus] we learn that R. Eliezer holds that real leaven of corn in a mixture is subject to a negative injunction, and all the more spoiled [leaven] in its natural state.[17] Now R. Nahman, what is the reason that he does not say as Rab Judah? — He can tell you: perhaps R. Meir rules [thus] only there, [in respect of] spoiled [leaven] in its natural state, but not [in the case of] real leaven of corn in a mixture. And Rab Judah: what is the reason that he does not say as R. Nahman? He can tell you: [Perhaps][18] R. Eliezer rules [thus] only there, [in respect of] real leaven of corn in a mixture, but not [in the case of] spoiled [leaven] in its natural state.

It was taught in accordance with Rab Judah:[19] Ye shall eat nothing leavened:[20] this is to include Babylonian kutah and Median beer and Idumean vinegar and Egyptian zithom. You, might think that the penalty is kareth; therefore it is stated, for whosoever eateth that which is leavened shall be cut off[21] for real leaven of corn there is the penalty of kareth, but for the mixture of it [you are subject] to a negative injunction. Now, whom do you know to maintain [that] for the mixture of it [you are subject] to a negative injunction? It is R. Eliezer. Yet he does not state[22] spoiled [leaven] in its natural state. This proves that R. Eliezer does not hold [that] spoiled [leaven is subject to a negative injunction].

Now R. Eliezer, whence does he know that the mixture of it involves a negative injunction: because it is written, ‘ye shall eat nothing leavened’? If so, let him [the offender] be liable to kareth

that real leaven in a mixture is more stringent leaven than spoiled leaven in its natural state. too, since it is written, ‘for whosoever eateth that which is leavened . shall be cut off’? — He requires that for what was taught: ([Ye shall eat nothing] leavened):[23] I only know [that it is forbidden] where it turned leaven of itself; if [it fermented] through the agency of another substance, how do we know it? Because it is stated, for whosoever eateth that which is leavened shall be cut off. If so, [the teaching] of the negative injunction too comes for this purpose?[24] Rather, R. Eliezer's reason is [that he] deduces from ‘whosoever’.[25] [But] there too[26] ‘whosoever’ is written? — He requires that to include women.[27] But women are deduced from Rab Judah's [dictum] in Rab's name. For Rab Judah said in Rab's name, and the School of R. Ishmael taught likewise: when a man or woman shall commit any sin that men commit:[28] the Writ assimilated woman to man in respect of all the penalties which are [decreed] in the Torah? It is necessary:

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(1) I.e., they have grown the hair which is the evidence of maturity before the usual age, which is twelve years and a day. They would normally be ashamed and wish to remove it. Tosaf. in Shab, 80b s.v. שהגיעו omits ‘years’ and seems to translate: ‘who have reached their time (for marriage), and yet have not attained it’, so that they wish to make themselves more beautiful.

(2) Est. II, 12 q.v.

(3) Jast.: oil of myrrh or cinnamon.

(4) It is stated in Men. 86a that anpikanin must not be brought with a meal-offering. R. Judah explains what this is.

(5) That all may know that their use is forbidden on Passover.

(6) Lit., ‘son of the West’.

(7) To go with the meat.

(8) He knew that it contains milk, whilst they did not.

(9) ‘Nuksheh’, a leavened substance unfit for food.

(10) Babylonian kutah and Median beer both contain real leaven, but mixed with other substances; while women's paste is simply flour, unmixed, but spoiled and unfit for food.

(11) This is dough which is beginning to ferment, i.e., semi-leaven. At that stage it is unfit for eating, and therefore the same as spoiled leaven; v. infra 48b.

(12) This is the punishment for violating a negative injunction.

(13) V. infra 48b for the controversy between R. Meir and R. Judah as to what constitutes si'ur', semi-leaven. Now both R. Meir and R. Judah hold that use of si'ur, as each defines it respectively, is forbidden, and hence it must be burnt. But si'ur, as defined by R. Meir, is in R. Judah's opinion mazzah (unleavened bread), but as it is not fit for eating, it must be given to a dog. The final clauses teaches this: according to R. Meir, he who eats si'ur, as defined by himself, is flagellated, though R. Judah holds that at that stage it is mazzah and may be eaten.
(14) Such as si'ur.
(15) Rab Judah being of the opinion
(16) No penalty is incurred.
(17) Thus R. Nahman holds that spoiled leaven unmixed is more stringent than real leaven in a mixture.
(18) [Added with MS.M.]
(19) That real leaven mixed is the more stringent.
(20) Ex. XII, 20.
(21) Ibid. 19.
(22) I.e., include.
(23) The bracketed passage is omitted in some edd. as well as supra 28b in the quotation of this Baraitha.
(24) That a negative injunction is involved even in respect of that which is made leaven through a foreign substance. How then do we know that even for a mixture a negative injunction is transgressed?
(25) Heb. kol. This is an extension, and so teaches even the inclusion of a mixture.
(26) In reference to kareth.
(27) That they too are subject to the penalty of kareth.
(28) Num.V, 6.

Talmud - Mas. Pesachim 43b

you might argue, since it is written, Thou shalt eat no leavened bread with it; seven days shalt thou eat unleavened bread therewith:[1] whoever is subject to ‘arise, eat unleavened bread’, is subject to ‘thou shalt eat no leavened bread’; hence these women, since they are not subject to, ‘arise, eat unleavened bread’, because it is an affirmative precept limited to time,[2] I would say that they are also not subject to, ‘thou shalt eat no leavened bread’. Hence it [the verse] informs us [otherwise].

And now that they have been included in [the injunction of] ‘thou shalt eat no leavened bread’, they are also included in respect of eating unleavened bread, in accordance with R. Eleazar. For R. Eleazar said: Women are subject to the [precept of] eating unleavened bread by the law of Scripture, for it is said, Thou shalt eat no leavened bread with it; [seven days shalt thou eat unleavened bread [therewith]: whoever is subject to ‘thou shalt eat no leavened bread’, is subject to the eating of unleavened bread; and these women, since they are subject to [the injunction of] ‘thou shalt eat no leavened bread’, are [also] subject to, ‘arise, eat unleavened bread’.

And why do you prefer[3] [to assume] that this ‘whosoever is to include women, while you exclude its mixture; say that it is to include the mixture?[4] — It is logical that when treating of eaters [Scripture] includes eaters; [but] when treating of eaters, shall it include things which are eaten?[5] To this R. Nathan the father of R. Huna demurred: Then wherever [Scripture] treats of eaters does it not include things eaten? Surely it was taught: For whosoever eateth the fat [heleb] of the beast, of which men present an offering [made by fire to the Lord, even the soul that eateth it shall be cut off from his people]:[6] I only know it of the heleb of unblemished [animals], which are fit to be offered [as sacrifices]; whence do we know it of the heleb of blemished animals? Therefore it is stated, ‘of the beast’.[7] Whence do we know it of the heleb of hullin? Because it is stated, ‘For whosoever’,[8] Thus here, though [Scripture] treats of eaters, yet it includes things eaten? — Since there are no eaters there [to be included],[9] it includes things eaten. Here, however, that there are eaters [to be included],[10] he cannot abandon eaters and include things eaten.

Now as to the Rabbis who do not accept the view [that a negative injunction is violated through] a mixture, they do not interpret ‘whosoever’ [as an extension]. But then how do they know [that] women [are liable to kareth]?[11] — They do not interpret ‘whosoever’ [as an extension], but they do interpret ‘for whosoever’ [as such].[12] Then [according to] R. Eliezer, say that ‘whosoever’ is to include women; ‘for whosoever’ is to include the mixture [of leaven]?[13] And should you answer, R. Eliezer does not interpret ‘for whosoever’ [as an additional extension] surely it was taught: For ye shall not burn any leaven...[as an offering made by fire unto the Lord]:[14] I only know it of the whole of it;[15] whence do I know [even] part of it?[16] Because ‘any’ [kol] is stated. Whence do we know [that] its mixture[17] [is forbidden]? Because it is stated for any [ki kol]. Whom do you know to interpret kol [as any extension]? R. Eliezer; and he [also] interprets ‘for any’ [ki kol]. This is [indeed] a difficulty.

R. Abbahu said in R. Johanan's name: In all the prohibitions of the Torah, a permitted [commodity] does not combine with a prohibited [commodity],[18] except in the [case of the] prohibitions of a nazirite, for lo! the Torah said, [any] infusion [of grapes].[19] While Ze'iri said: Also ‘ye shall not burn any leaven’.[20] With whom [does this agree]? With R. Eliezer, who interprets kol.[21] If so,

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(1) Deut. XVI,3.

(2) Lit., ‘caused by the time’. I.e., it is performed at certain times or seasons, and it is shown in Kid. 29a that women are exempt from such.

(3) Lit., ‘what (reason) do you see?’

(4) While the limitation excludes women.

(5) Surely not.

(6) Lev. VII, 25.

(7) Implying whether it is fit for sacrificing or not.

(8) Which is an extension.

(9) For the inclusion of women in the prohibition and penalty follows from Rab's dictum supra 43a bottom.

(10) Viz., women, as explained supra.

(11) For eating leaven. For R. Eliezer interprets ‘whosoever’ in both cases, one as including a mixture, and the other as including women. But since the Rabbis do not interpret ‘whosoever’ as an extension, there is nothing to intimate the inclusion of women.

(12) Written in connection with kareth, Ex. XXI, 15 and 19.

(13) Teaching that kareth is involved, and not merely a negative precept.

(14) Lev. II, 11. For...any (E.V. For ye shall make no...) is ki...kol, the same words which are translated for whosoever’ in the previous verses.

(15) I.e., where the whole of that which is burnt on the altar consists of leaven.

(16) Leaven must not even be used as part of the offering.

(17) I.e., anything containing a mixture of leaven.

(18) The minimum quantity to involve punishment is as much as an olive. Now, if a man eats half that quantity of heleb together with half that quantity of permitted meat simultaneously, the latter does not combine with the former, that it should be regarded as though he had eaten the full quantity of prohibited food.

(19) Num. VI, 3: neither shall he drink any infusion of grapes. By this the Talmud understands that he must not eat bread steeped in wine. Now bread itself is permitted, yet Scripture forbids the combination of bread and wine as though that also were forbidden, and if the two together amount to an olive, punishment is involved. For if Scripture refers to a case where the wine itself contains that quantity, why state it at all; obviously the wine is not less prohibited merely because it has been absorbed by the bread?

(20) Cf. Lev. I, 11. Rashi: if the priest put half an olive of leaven and half an olive of mazzah, not mixed together but each separately distinguishable, upon the altar, he incurs punishment. Tosaf. explains it differently.

(21) Supra: ‘whence do I know (even) part of it’ etc. He understands this to mean that there is half an olive of each.

Talmud - Mas. Pesachim 44a

in the matter of leaven too?[1] — That indeed is so; yet this[2] is to reject [the ruling] of Abaye, who said, There is burning [on the altar] in respect of less than an olive;[3] therefore he informs us that there is no burning for less than an olive.

R. Dimi sat and reported this discussion. Said Abaye to R. Dimi: And [in] all [other] prohibitions of the Torah, does not a permitted commodity combine with a prohibited [commodity]? Surely we learned: If the mikpeh[4] is of terumah, while the garlic and the oil are of hullin, and a tebul yom touched part of it, he disqualifies all of it.[5] If the mikpeh is of hullin, while the garlic and the oil is of terumah, and a tebul yom touches part of it, he disqualifies only the place which he touches. Now we pondered thereon: why is the place where he touches unfit? Surely the seasoning[6] is nullified in the greater quantity?[7] And Rabbah b. Bar Hanah answered: What is the reason? Because a lay Israelite is flagellated on its account for [eating] as much as an olive.[8] How is that conceivable?[9] Is it not because the permitted [commodity] combines with the forbidden [commodity]? — No: what does 'as much as an olive' mean: that there is as much as an olive within the time of eating half [a loaf].[10] Is then 'as much as an olive within the time of eating half [a loaf]' a Scriptural [standard]?[11] Yes, he answered him. If so, why do the Rabbis disagree with R. Eliezer in reference to Babylonian kutah?[12] — What then: [the reason is] because the permitted [commodity] combines with the prohibited commodity? Then after all why do the Rabbis differ from R. Eliezer in the matter of Babylonian kutah? But leave Babylonian kutah alone,[13] because it does not contain as much as an olive within the eating of half [a loaf]. [For] if [it is eaten] in its natural state,[14] so that he gulps it down and eats it, we disregard such a fancy as being exceptional.[15] While if he dips [bread] into it[16] and eats it, it does not contain as much as an olive within the time of eating half [a loaf].

He raised all objection against him: If there are two [stew] pots, one of hullin and the other of terumah, and in front of them are two mortars, one containing [condiments of] hullin and the other containing terumah, and the latter fell into the former, they are permitted,[17] for I assume: the terumah fell into the terumah, and the hullin fell into the hullin. Now if you say that as much as an olive within the [time of] eating half [a loaf] is a Biblical [standard],why do we say, 'for I assume, the terumah' etc.?[18] — Leave the terumah of condiments alone, he replied, which is [only] Rabbinical.[19]

He raised an objection against him: [If there are] two baskets, one containing hullin and the other containing terumah, and in front of them are two se'ah [of provisions], one of hullin and the other of terumah and these fell into those, they are permitted, for I assume: the hullin fell into hullin, [and] the terumah fell into the terumah. Now if you say that as much as an olive within the eating of half [a loaf] is a Scriptural [standard], why do we say, 'because I assume' [etc.]?[20] — Leave the terumah [set aside]

kutah there is as much as an olive of leaven, and for that he should be liable. at the present time[21] he answered him, which is only Rabbinical.

Now does this [law of] the infusion [of grapes] come for this purpose?[22] It is required for what was taught: 'An infusion':

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(1) There too he learns that there is a negative injunction in respect of the mixture of leaven; hence he should likewise assume that it refers to half all olive of each.

(2) Sc. the particular mention of the burning of leaven on the altar.

(3) Even if one burns less than an olive of leaven on the altar, he is culpable, since the leaven itself, whatever its quantity, involves punishment.

(4) Jast.: a stiff mass of grist, oil and onions.

(5) A tebul yom (v. Glos.) disqualifies terumah. Since the main part of the dish is terumah, even the hullin too becomes unfit, because it is subsidiary to the terumah.

(6) I.e., the garlic and oil.

(7) As explained in n. 4, it is merely subsidiary to the main dish.

(8) Hence it is not regarded as nullified, in spite of its subsidiary nature.

(9) "When a lay Israelite eats as much as an olive of that dish, he has not eaten that quantity of terumah. Why then is he flagellated?

(10) I.e., if he eats as much as half a loaf of eight average eggs in size, this half constituting an average meal, within the time that the normal eater requires for a meal, he will have eaten as much as an olive of terumah, and for that he is culpable. [According to Maim. Yad ‘Erubin,, half a loaf is equivalent to three average eggs].

(11) That flagellation is incurred. — Flagellation is only imposed for the violation of a law of Scripture.

(12) Even if flagellation is not incurred on account of the mixture, yet there too in a quantity of four eggs of

(13) I.e., do not ask a question from it.

(14) I.e., by itself, and not as a relish with something else.

(15) Lit., ‘his mind is nullified by the side of every man. It is not considered eating, and therefore does not involve punishment. — Punishment is incurred only when forbidden, food is eaten in the normal way.

(16) Rashi; Jast.: if he spreads it (on bread).

(17) The pot of hullin is permitted to a lay Israelite.

(18) For of course it might have been the reverse; how then can we make this lenient assumption when there is a doubt of a Scriptural prohibition?

(19) By Scriptural law no terumah is required for these; hence the entire prohibition in this case is only Rabbinical.

(20) V. n. 6.

(21) After the destruction of the Temple.

(22) V. Supra 43b bottom.

Talmud - Mas. Pesachim 44b

[this is] to intimate that the taste is as the substance itself, so that if he [the nazirite] steeped grapes in water and it possesses the taste of wine, he is culpable.[1] From this you may draw a conclusion for the whole Torah.[2] For if a nazirite, whose prohibition is not a permanent prohibition, and his prohibition is not a prohibition of [general] use,[3] and there is a release for his prohibition,[4] yet [Scripture] made the taste tantamount to the substance in his case; then kil'ayim, the prohibition of which is a permanent prohibition, and whose prohibition is a prohibition of [general] use, and there is no release from its prohibition, is it not logical that the taste should be treated as tantamount to the substance itself? And the same applies to ‘orlah by two [arguments]![5] — The authority for this is the Rabbis, which R. Johanan[6] stated [his ruling] in accordance with R. Akiba.

Which [ruling of] R. Akiba [is alluded to]? Shall we say, R. Akiba of our Mishnah, for we learned: ‘R. Akiba said: If a nazirite soaked his bread in wine, and it contains sufficient to combine as much as an olive, he is culpable’? But whence [do you know that he means sufficient] of the bread and the wine; perhaps [he means] of the wine alone?[7] And should you say, [if] of the wine alone, why state it? He informs us thus: [He is culpable] although it is a mixture![8] — Rather it is R. Akiba of the Baraitha. For it was taught, R. Akiba said: If a nazirite soaked his bread in wine and ate as much as an olive of the bread[9] and the wine [combined] he is culpable.

Now [according to] R. Akiba, whence do we know that the taste [of forbidden food] is like the substance itself?[10] — He learns it from [the prohibition of] meat [seethed] in milk; is it not merely a taste,[11] and it is forbidden? so here too[12] it is not different. And the Rabbis?[13] — We cannot learn from meat [seethed] in milk, because it is an anomaly.[14] Yet what is the anomaly? Shall we say because this [sc. meat] by itself is permitted, and that [sc. milk] by itself is permitted, while in conjunction they are forbidden, but [with] kil'ayim too, this [species] by itself is permitted, and that species] by itself is permitted, yet in conjunction they are forbidden? — Rather [the anomaly is] that if he soaked it all day in milk it is permitted,[15] yet if he but seethed it [in milk] it is forbidden. Then R. Akiba too? [The prohibition of] meat [seethed] in milk is certainly an anomaly?[16] — Rather he learns it from the vessels of Gentiles.[17] The vessels of Gentiles, is it not merely a flavour [which they impart]? Yet they are forbidden; so here too it is not different. And the Rabbis?[18] — The vessels of Gentiles too are an anomaly, for whatever imparts a deteriorating flavour is permitted,[19] since we learn it from nebelah,[20] yet here it is for bidden.[21] But R. Akiba [holds] as R. Hiyya the son of R. Huna, who said: The Torah prohibited [it] only in the case of a pot used on that very day, hence it is not a deteriorating flavour.[22] And the Rabbis? — A pot used on that very day too, it is impossible that it should not slightly worsen [the food cooked in it].

R. Aha son of R. ‘Awia said to R. Ashi: ‘From the Rabbis let us learn the view of R. Akiba. Did not the Rabbis say, "An infusion": [this is] to intimate that the taste is tantamount to the substance itself. From this you may draw a conclusion for the whole Torah?’ Then according to R. Akiba too [let us say]: ‘An infusion’: this is [to intimate] that the permitted commodity combines with the forbidden commodity. From this you may draw a conclusion for the whole Torah?[23] — Said he to him,

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(1) For eating it. ‘

(2) I.e., that the taste of all forbidden food is forbidden just as the substance itself. [That is provided the forbidden substance consisted originally of the size of an olive. This requirement distinguishes this principle from that of R. Johanan, in virtue of which what is permitted combines with what is forbidden, even though the latter is less in size than an olive's bulk.]

(3) Though he may not eat grapes or drink wine, etc., he may benefit from them.

(4) He can be absolved of his vow, whereupon it all becomes permitted.

(5) Rashi: ‘orlah too is forbidden for use and there is no release for its prohibition. The third argument however cannot be applied here, as ‘orlah is not permanently forbidden, since it is permitted after three years. Tosaf. explains it differently. — But incidentally we see that ‘an infusion’ is required for a different purpose.

(6) Supra 43b bottom.

(7) Viz., that the bread had soaked up that quantity of wine. Yet the term ‘combine’ is applicable, because the wine is not separate now but is spread through the bread.

(8) Of bread and wine, the wine not standing alone.

(9) The wine had not soaked through the whole olive-bulk of the bread, so that part of the bread is by itself; and the only reason for culpability must be the principle enunciated by R. Johanan.

(10) Since he utilizes ‘an infusion’ for the purpose just stated.

(11) Which the meat has received from the milk.

(12) I.e., in respect of all other forbidden food.

(13) Why cannot they learn it in the same way?

(14) Lit., ‘a new law’, i.e., it is peculiarly different from other laws, and therefore does not provide a basis for analogy.

(15) By Scriptural law, even to eat it; Scripture forbids it only when cooked in milk.

(16) How then can he derive it thence?

(17) Lit., ‘the exudings (from the vessels) of Gentiles’, i.e., vessels in which Gentiles cooked food. These must be purged with boiling water (this is called hage'alah) before they may be used, because they exude a flavour of the food which was boiled in them.

(18) V. n. 6.

(19) I.e., when the imparted flavour spoils the taste of the permitted food.

(20) Deut. XIV, 21: Ye shall not eat of

(21) They assume that the flavour exuded by the vessel has a deteriorating effect.

(22) Because it is still fresh.

(23) Then why did R. Johanan (Supra 43b bottom) limit this principle to a nazirite, seeing that his statement is in accordance with R. Akiba?

Talmud - Mas. Pesachim 45a

Because a nazirite and a sin-offering are two verses with the same teaching,[1] and they do not illumine [other cases].[2] ‘A nazirite’, that which we have stated. What is the reference to the sin-offering? — For it was taught: whatsoever shall touch in the flesh thereof shall be holy:[3] you might think, even if it did not absorb [of the flesh of the sin-offering]; therefore it is stated, ‘in the flesh thereof’.[4] Only when it absorbs in the flesh?[5] ‘Shall be holy’, to be as itself, so that if it [the sin-offering] is unfit, that [which touches it] becomes unfit; while if it is fit, that may be eaten [only] in accordance with its stringencies.[6]

any thing that dieth of itself (nebelah); thou mayest give it unto the stranger. Hence whatever is fit for a stranger is designated nebelah, but what is unfit is not designated nebelah, in the sense that if it imparts a deteriorating flavour it does not render the food forbidden. Then, according to the Rabbis too, let a nazirite and a sin-offering be two verses with the same teaching and they do not illumine [other cases]? — They can answer: these are indeed [both] necessary.[7] And R. Akiba?[8] How are they [both] necessary? It is well [to say] that if the Merciful One wrote it in respect to a sin-offering, [the case of] a nazirite could not be derived from it, because we cannot derive hullin from sacred sacrifices.[9] But let the Merciful One write it in respect to a nazirite, and then the sin-offering would come and be derived from it, seeing that all the prohibitions of the Torah are learnt from a nazirite. But the Rabbis can answer you: they [both] are indeed required; the sin-offering, to [show that] the permitted combines with the forbidden, while hullin cannot be deduced from sacred sacrifices; and ‘an infusion’, to intimate that the taste is as the substance itself, and from this you may draw a conclusion for the whole Torah. But R. Akiba maintains: both [are required] for [teaching] that the permitted combines with the forbidden, so that they are two verses with the same teaching, and all [instances of] two verses with the same teaching do not illumine [other cases].

R. Ashi said to R. Kahana: Then as to what was taught, [All the days of his Naziriteship shall he eat] nothing that is made of the grape vine, from the husks to the kernels:[10] this teaches concerning a nazirite's prohibited commodities, that they combine with each other; — seeing that according to R. Akiba [even] the forbidden with the permitted combine, is it necessary [to state] the forbidden with the forbidden?[11] — Said he to him: The forbidden with the permitted [combine only when eaten] together; the forbidden with the forbidden, [even when eaten] consecutively.[12]

which absorbs some of it. — Thus here too the permitted flesh combines with the forbidden, and all is regarded as forbidden. MISHNAH. [WITH REGARD TO] THE DOUGH IN THE CRACKS OF THE KNEADING TROUGH, IF THERE IS AS MUCH AS AN OLIVE IN ONE PLACE, HE IS BOUND TO REMOVE [IT]; BUT IF NOT, IT IS NULLIFIED THROUGH THE SMALLNESS OF ITS QUANTITY.[13] AND IT IS LIKEWISE IN THE MATTER OF UNCLEANNESS: IF HE OBJECTS TO IT, IT INTERPOSES;[14] BUT IF HE DESIRES ITS PRESERVATION,[15] IT IS LIKE A KNEADING-TROUGH.[16]

GEMARA. Rab Judah said in Samuel's name: They learned this[17] only of a place where it [the dough] does not serve[18] for reinforcing [the trough]; but where it serves for reinforcing [it], he is not bound to remove it.[19] Hence it follows that [where there is] less than an olive, even if it does serve for reinforcing [it], he is not obliged to remove it. Others recite it in reference to the second clause: BUT IF NOT, IT IS NULLIFIED THROUGH THE SMALLNESS OF ITS QUANTITY. Said Rab Judah in Samuel's name: They learned this only where it serves for reinforcing [the trough]; but where it does not serve for reinforcing [it], he is bound to remove it. Whence it follows that if there is as much as an olive, even where it serves for reinforcing [it], he is bound to remove it.

It was taught as the former version; It was taught as the latter version. It was taught as the former version: Dough in the cracks of the kneading trough, where it serves for reinforcing, it does not interpose,[20] and he [its owner] does not transgress.[21] But [if it is] in a place where it does not serve for reinforcing, it interposes, and he transgresses. When is this said? Where there is as much as an olive. But if there is less than an olive, even where it does not serve for reinforcing, it does not interpose, and he does not transgress.

Again, it was taught as the latter version: Dough in the cracks of a kneading trough, where it serves for reinforcing,

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(1) Lit., ‘which come as one’.

(2) V. Supra p. 119, n. 2.

(3) Lev. VI, 20. ‘Holy’ means ‘forbidden’, in the sense that any other flesh which touches this flesh of the sin-offering becomes subject to the same laws and limitations as those to which the sin-offering is subject.

(4) Literal translation. I.e., it is forbidden only if it absorbs some of the sin-offering within itself.

(5) [The text of cur. edd. is difficult. A better reading is preserved in the Sifra a.l. ‘till it absorbs’, omitting the words ‘in the flesh’, and the deduction being from the word ‘thereof’.]

(6) A sin-offering must be eaten within the sacred precincts, by male priests, and for one day and night only; similarly the food

(7) And where that is so, they do illuminate other cases, since neither could be deduced from the other.

(8) Does he not admit this?

(9) The latter being naturally more stringent. Hence the fact that there the permitted combines with the forbidden does not prove that it will also do so in the case of hullin, where the interdicted food is not sacred.

(10) Num. VI, 4.

(11) Surely it is obvious; why then is the verse required?

(12) For further notes on the whole discussion beginning with R. Abbahu's dictum in the name of R. Johanan on page 43b, v. Nazir, Sonc. ed. pp. 128ff.

(13) I.e., he has abandoned the normal use of the dough in flavour of the trough.

(14) V. infra n. 8; if he objects to it, it is regarded as a foreign body.

(15) I.e., he wants the dough to be there to close the crack.

(16) And it does not interpose.

(17) That if there is as much as an olive in one place it must be removed.

(18) Lit., ‘it is not made for’.

(19) E.g., if the crack is at the bottom of the trough, and the dough fills it and so prevents the water from running out. It is then regarded as part of the trough, not as dough, and therefore it need not be removed. But if the crack is high up, it does not serve this purpose and must be removed.

(20) When a utensil is ritually unclean and cleansed in a ritual bath, nothing must interpose between the utensil and the water of the bath (called a mikweh); otherwise the ablution is invalid. This dough, since it reinforces the trough, is counted as part of itself and not as a foreign body, and therefore it is not an interposition between the trough and the water; hence the ablution is valid.

(21) The law of Passover by leaving it there and not removing it.

Talmud - Mas. Pesachim 45b

it does not interpose, and he does not transgress; [if it is] in a place where it does not serve for reinforcing, it interposes, and he transgresses. When is this said? When there is less than an olive; but if there is as much as an olive, even in a place where it serves for reinforcing, it interposes, and he transgresses. Then these are contradictory? — Said R. Huna: Delete the more lenient [Baraitha] in favour of[1] the more stringent. R. Joseph said: You quote Tannaim at random![2] This is a controversy of Tannaim. For it was taught: If a loaf went mouldy, he is bound to remove it, because it is fit to crumble and leaven many other doughs with it. R. Simeon b. Eleazar said: When is this said? If it is kept for eating. But a mass[3] of se'or which he put aside for sitting, he has nullified it.[4] Now, since R. Simeon b. Eleazar said, ‘He has nullified it’, it follows that the first Tanna holds that he has not nullified it. This proves that he holds, wherever there is as much as an olive, even if he nullifies it, it is not nullified. Said Abaye to him: You have reconciled it where there is as much as an olive; [yet] have you reconciled it [where there is] less than an olive? Rather both the one and the other are [the rulings of] R. Simeon b. Eleazar, yet there is no difficulty: one [is taught where it is] in the place of kneading; the other, where it is not in the place of kneading.[5] R. Ashi said: Do not assume that ‘not in the place of kneading' means on the back of the trough [only], but [it means even] on the [upper] rim of the trough. That is obvious? — You might say, it sometimes splashes up and reaches there:[6] hence he informs us [otherwise].

R. Nahman said in Rab's name: The halachah is as R. Simeon b. Eleazar. Yet that is not so, for R. Isaac b. Ashi said in Rab's name: If he plastered its surface[7] with clay, he has nullified it. [Thus,] only if he plastered it, but not if he did not plaster it?[8] He who recited this did not recite that.[9] Others state, R. Nahman said in Rab's name: The halachah is not as R. Simeon b. Eleazar, for R. Isaac b. Ashi said in Rab's name: If he plastered its surface with clay, he has nullified it etc. R. Nahman said in Samuel's name: [If there are] two half olives[10] and a thread of dough joining[11] them, we see: wherever if the thread were taken up these would be carried with it, he is bound to remove [them];[12] but if not, he is not bound to remove [them]. Said 'Ulla: This was said only of [dough in] a kneading trough; but [if they are] in the house, he is bound to remove [them].[13] What is the reason? Because he may sometimes sweep them and they will fall together.

'Ulla said: They asked in the West [Palestine]: What of a room[14] and an upper storey; what of a room and the [entrance] hall; what of two rooms, one within the other?[15] The questions stand.

Our Rabbis taught: If a loaf went mouldy and it became unfit for human consumption, yet a dog can eat it, it can be defiled with the uncleanness of eatables, if the size of an egg, and it may be burnt together with an unclean [loaf] on Passover.[16] In R. Nathan's name it was ruled: It cannot be defiled [as an eatable]. With whom agrees the following which we learned: A general principle was stated in respect to the laws of [ritual] cleanness: Whatever is set aside for human consumption is unclean,[17] until it becomes unfit for a dog to eat? With whom [does this agree]? It is not in accordance with R. Nathan.

Our Rabbis taught: [With regard to] the trough of tanners[18] into which he put flour,[19] [if] within three days [before Passover], he is bound to remove it;[20] [if] before three days, he is not bound to remove it.[21] Said R. Nathan: When is this said? If he did not put hides into it; but if he put hides into it, even [if it is] within three days, he is not bound to remove [the flour].[22] Raba said: The halachah is as R. Nathan, even [if it is] one day, and even one hour [before Passover]. AND IT IS LIKEWISE IN RESPECT TO UNCLEANNESS: IF HE OBJECTS TO IT, IT INTERPOSES; BUT IF HE DESIRES ITS PRESERVATION, IT IS LIKE THE KNEADING-TROUGH. How compare: there the matter is dependent on the quantity [of the dough], [whereas] here the matter is dependent on [his] objecting [to it]? Said Rab Judah, Say: But in respect to uncleanness it is not so. Said Abaye to him, But he states, AND IT IS LIKEWISE IN RESPECT TO UNCLEANNESS? Rather, said Abaye, He means it thus: AND IT IS LIKEWISE

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(1) Lit., 'before'.

(2) There is no reason for assuming that both Baraithas represent the view of the same Tanna.

(3) Kopeth really means a low seat or block.

(4) I.e., he gave up the nominal use of it as se'or and hence it no longer counts as leaven.

(5) in the second Baraitha, 'where it does not serve for reinforcing', refers only to a place where no kneading is done at all, e.g at the upper edge; but dough in the cracks at the sides is regarded as reinforcing the trough, and hence it must be removed. But the first Baraitha holds that even in the latter case it does not reinforce it, though kneading is done there, while 'where it serves for reinforcing' refers to the bottom only. Hence this is what the first Tanna states: Where it serves for reinforcing, e.g., at the bottom, he does not transgress even if there is as much as an olive. Where it does not serve for reinforcing (i.e., to support the water), e.g., in the sides, which is a place for kneading yet not a place for the water, if there is as much as an olive, it interposes, and he transgresses. But if there is less than an olive, even if it is in the sides it does not interpose, for since it does help somewhat to support the dough which is kneaded there (viz., that it should not sink into the crack), it is nullified. But this Tanna does not discuss dough which is not in the place of kneading, viz., at the upper rim, and he would admit in that case that even if there is less than an olive it is not nullified.

While the second Tanna rules thus: If it is in the place where it affords support to the dough, i.e., in the sides, if there is less than an olive it does not interpose; if there is as much as an olive, it interposes, and this is the view of the first Tanna too. While where it is not made for reinforcing (or, supporting), i.e., at the upper rim, even less than an olive interposes, and this too agrees with the first Tanna.

(6) So that the rim is regarded as a place of kneading and must be removed, even if less than an olive. [MS.M. omits ‘and reaches there’. V. also Rashi.]

(7) Sc. that of the mass of se'or which he set aside for sitting.

(8) Whereas R. Simeon b. Eleazar holds that it is nullified in any case.

(9) There are two opposing views on Rab's ruling.

(10) I.e., two pieces of dough, each the size of half an olive. — The reference is to the cracks in the kneading trough.

(11) Lit., ‘between’.

(12) Because it is all one.

(13) Even if they are not thus united by a thread of dough.

(14) Bayith in the Talmud often has the meaning of a room in a house.

(15) I.e., if there is half an olive in one and half in the other: do we fear here too that they may be swept together?

(16) V. supra 15b.

(17) I.e., subject to defilement as an eatable.

(18) Into which they put hides for tanning.

(19) Which is used in the tanning process.

(20) Because it is still regarded as flour, and of course it is leaven.

(21) Because by Passover it will be so spoiled through the odour of the trough, even if there are no hides in it, that it will not be regarded as flour.

(22) Because the hides utterly spoil it.

Talmud - Mas. Pesachim 46a

IN RESPECT TO combining for UNCLEANNESS on Passover, whereas during the rest of the year there is a distinction. How is that? E.g., if there are eatables less than an egg in quantity,[1] and they were in contact with this dough: on Passover, when its prohibition renders the dough important,[2] it combines.[3] [But] during the rest of the year, when the matter is dependent on [his] objecting, IF HE OBJECTS TO IT,[4] it combines; [while] IF HE DESIRES ITS PRESERVATION, IT IS LIKE THE KNEADING-TROUGH. To this Raba demurred: Does he then teach, it combines; surely he teaches, IT INTERPOSES! Rather, said Raba: [The meaning is], AND IT IS LIKEWISE IN RESPECT TO cleaning[5] the kneading-trough. How is that? E.g., if this kneading-trough became unclean, and he wishes to immerse it. On Passover, when its interdict [renders it] important, IT INTERPOSES, and the immersion is not efficacious for it. But during the rest of the year the matter is dependent on his objecting: IF HE OBJECTS TO IT, IT INTERPOSES, WHILE IF HE DESIRES ITS PRESERVATION, IT IS LIKE THE KNEADING-TROUGH. To this R. Papa demurred: Does he teach, And it is likewise in respect to cleanness? Surely he teaches, AND IT IS LIKEWISE IN RESPECT TO UNCLEANNESS! Rather, said R. Papa: [The meaning is], AND IT IS LIKEWISE IN RESPECT TO causing UNCLEANNESS to descend upon the kneading-trough. How so? E.g., if a sherez touched this dough: on Passover, when its interdict [renders it] important, IT INTERPOSES,[6] and uncleanness does not descend upon it;[7] [but] during the rest of the year, when the matter is dependent on [his] objecting, IF HE OBJECTS TO IT, IT INTERPOSES; WHILE IF HE DESIRES ITS PRESERVATION, IT IS LIKE [i.e., identical with] THE KNEADING-TROUGH.[8]

MISHNAH. [REGARDING] ‘DEAF’ DOUGH,[9] IF THERE IS [A DOUGH] SIMILAR TO IT WHICH HAS BECOME LEAVEN,[10] IT IS FORBIDDEN.

GEMARA. What if there is no [dough] similar to it? — Said R. Abbahu in the name of R. Simeon b. Lakish: [The period for fermentation is] as long as it takes a man to walk from the Fish Tower

[Migdal Nunia] to Tiberias, which is a mil.[11] Then let him say a mil? — He informs us this, [viz.,] that the standard of a mil is as that from Migdal Nunia to Tiberias.[12]

R. Abbahu said in the name of R. Simeon b. Lakish: For kneading, for prayer, and for washing the hands, [the standard is] four mils.[13] R. Nahman b. Isaac said: Aibu stated this,[14] and he stated four [laws] about it,[15] and one of them is tanning. For we learned: And all these, if he tanned them or trod on them to the extent of tanning,[16] are clean,[17] excepting a man's skin. And how much is 'the extent of tanning'? — Said R. Aibu in R. Jannai's name: The extent of walking four mils. R. Jose son of R. Hanina said: They learned this only [about going on] ahead: but [as for going] back, he need not return even a mil.[18] Said R. Aha: And from this [we deduce]: it is only a mil that he need not go back, but less than a mil he must go back.

MISHNAH. HOW DO WE SEPARATE HALLAH ON THE FESTIVAL [FROM DOUGH WHICH IS] IN [A STATE OF] UNCLEANNESS?[19] R. ELIEZER SAID: IT MUST NOT BE DESIGNATED WITH THE NAME [OF HALLAH] UNTIL IT IS BAKED.[20] THE SON OF BATHYRA SAID: LET IT [THE DOUGH] BE CAST INTO COLD WATER.[21] SAID A. JOSHUA:

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(1) This being the minimum standard which can defile.

(2) Lit.,'its prohibition is important .

(3) With the eatables. I.e., the dough, if an olive in quantity, is important in so far as its prohibition necessitates its removal, and owing to this it combines with the eatables to the standard of an egg, whereby if unclean they can together defile other food.

(4) Which gives it an importance.

(5) Lit., 'bringing it up' — from its uncleanness.

(6) Between the Sherez, (v. Glos.) and the trough.

(7) The trough does not become unclean, for we do not regard the sherez, as having touched it.

(8) So that the trough becomes unclean through the contact of the sherez with the dough.

(9) An idiomatic expression: dough in which it is doubtful whether leavening has set in or not. Another reading: 'potsherd' dough, i.e., dough whose surface has gone hard and smooth and contains no splits, which are the usual signs of fermentation, and thus there is doubt.

(10) I.e., dough which was kneaded at the same time.

(11) Two thousand cubits. This is generally regarded as an eighteen minutes' walk. If it is eighteen minutes since the dough was kneaded (before being set in the oven), it is leaven.

(12) I.e., that they are a mil apart.

(13) A paid kneader must go four mils to immerse the kneading vessels, if they are unclean. A man on a journey, when he wishes to stop for the night, must go on another four mils if there is a synagogue within that distance, to pray there. Similarly, he must go on four mils ahead to procure water for washing his hands prior to eating; but if no synagogue or water is available within that distance, he is not bound to undertake a longer journey.

(14) In the name of R. Simeon b. Lakish, and not R. Abbahu.

(15) Not three; i.e., the three already mentioned and another.

(16) Hides were spread out to be trodden on, and this was part of the tanning process.

(17) In Hul. 122a a number of animals are enumerated whose skins are the same as their flesh in respect of defilement, as they are likewise accounted as eatables (several animals unfit for food are included in the list). But if he tanned them, etc., they are clean, i.e., they lose the status of flesh and thus become clean.

(18) E.g., to procure water, etc.

(19) The reference is to Passover. Unclean hallah may not be eaten by the priest. Now this hallah may not be baked, since it cannot be eaten, and only the preparation of food is permitted on a Festival; it cannot be kept until evening, as it may turn leaven; nor may it be burnt or given to dogs, for sacred food must not be destroyed thus on a Festival. The actual Festival days are meant, i.e., the first and the last days (outside Palestine, the first two and the last two), but not the Intermediate Days, which possess only a semi sanctity.

(20) I.e., the dough must first be baked, and then all the unleavened mazzoth are put in a basket, and one mazzah or so is declared hallah for all. Usually hallah must be separated from the dough, but when this is impossible, or if it was not done, it is separated from the baked bread.

(21) I.e., the hallah must be separated from the dough in the usual way and placed in cold water until evening, to prevent it from fermenting.

Talmud - Mas. Pesachim 46b

NOW THIS IS THE LEAVEN CONCERNING WHICH WE ARE WARNED WITH [THE INJUNCTIONS], ‘IT SHALL NOT BE SEEN , AND ‘IT SHALL NOT BE FOUND,[1] BUT HE SEPARATES IT AND LEAVES IT UNTIL THE EVENING, AND IF IT FERMENTS IT FERMENTS.[2]

GEMARA. Shall we say that they differ in respect of goodwill benefit, R. Eliezer holding, Goodwill benefit is considered money, while R. Joshua holds, Goodwill benefit is not money?[3] — No: all hold [that] goodwill benefit is not money, but here they differ in respect to ‘since’. For R. Eliezer holds: We say, since if he desires, he can have it [sc. the designation of hallah] revoked,[4] it is his property.[5] While R. Joshua holds: We do not say, since.[6]

It was stated: [With regard to] one who bakes [food] on a Festival for [consumption on] a weekday, — R. Hisda said: He is flagellated; Rabbah said: He is not flagellated. ‘R. Hisda said, He is flagellated’: We do not say, Since if guests visited him it would be fit for him [on the Festival itself].[7] Rabbah said: He is not flagellated: we say, ‘since’ Said Rabbah to R. Hisda, According to you who maintain, We do not say, ‘since’, how may we bake on a Festival for the Sabbath?[8] — On account of the ‘erub[9] of dishes, he answered him. And on account of an ‘erub of dishes we permit a Biblical prohibition! — Said he to him, By Biblical law the requirements of the Sabbath may be prepared on a Festival, and it was only the Rabbis who forbade it, lest it be said, You may bake on a Festival even for weekdays;[10] but since the Rabbis necessitated an ‘erub of dishes for it,[11] he has a distinguishing feature.[12]

He [Rabbah] raised on objection against him: [In the case of] an animal at the point of death,[13] he must not slaughter it[14] save when there is time to eat as much as an olive of it roast before night.[15] [Thus, it states when] he is able to eat [thereof], [that is] even if he does not wish to eat. Now according to me, who maintain that we say, ‘since’, it is well: since if he desires to eat, he is able to eat, for that reason he may slaughter. But according to you who maintain, we do not say, ‘since’, why may he slaughter? Said he to him, On account of the loss of his money. And on account of the loss of his money we permit a Biblical prohibition! Yes, he replied: on account of the loss of his money he determined in his heart to eat as much as an olive, and as much as an olive of flesh is impossible [to obtain] without slaughtering.

He [Rabbah] raised an objection against him: The shewbread

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(1) I.e., even if it does turn leaven it is not subject to these prohibitions. The Gemara explains the reason.

(2) It does not matter.

(3) Goodwill benefit is a man's right to dispose of property to whomever he desires, though he may not keep it, and it is disputed whether such a right is accounted as of monetary worth. Naturally, even if it is, its value is small. Thus an Israelite must separate hallah, but he can give it to any priest he desires, and a friend of a particular priest might pay him a trifle to give it to that priest. Now, it has been stated supra 5b that the interdict against leaven being seen or found in the house applies only to one's own leaven. Now if goodwill benefit ranks as money, the hallah is accounted the Israelite's property, and therefore it is subject to this interdict: hence R. Eliezer holds that the dough must first be baked. But if goodwill benefit does not rank as money, the hallah is not accounted the Israelite's property, and therefore it is separated from the dough, and it does not matter if it turns leaven.

(4) When a man declares anything sacred, as hallah, it is really the equivalent of a vow that this shall be sacred, and therefore he can be absolved of it, whereby his declaration is annulled, just as in the case of other vows.

(5) Until he gives it to the priest. Therefore it is subject to these injunctions.

(6) We disregard this possibility, since in fact he has not revoked it. Hence it is not his property. But v. infra 48a, p. 227f.

(7) Therefore his action is not culpable.

(8) But that we use this argument: since it is fit (of use) for him on that same day if he is visited by guests.

(9) V. Glos.

(10) Which is definitely forbidden.

(11) I.e., for cooking on a Festival for the Sabbath.

(12) Which makes it clear to him that cooking on Festivals is not permitted indiscriminately, but only for the Festival or the Sabbath.

(13) Lit., 'in danger' — of death. Hence the owner wishes to slaughter it before it dies, which would render its flesh nebelah (v. Glos).

(14) On a Festival.

(15) Lit., 'while it is yet day', — i.e., on the Festival itself.

Talmud - Mas. Pesachim 47a

is eaten on the ninth, the tenth, or the eleventh [day],[1] neither earlier nor later.[2] How so? Normally it is eaten on the ninth [day]: it is baked on the eve of the Sabbath [and] eaten on the Sabbath [of the following week], [which is] on the ninth. If a Festival occurred on the eve of the Sabbath, it is eaten on the Sabbath, on the tenth.[3] [If] the two Festival days of New Year[4] [occurred before the Sabbath], it is eaten on the Sabbath on the eleventh day, because it [the baking of the shewbread] does not override either the Sabbath or the Festival. Now if you say [that] the requirements of the Sabbath may be prepared on a Festival, why does it not override the Festival?[5] — Said he to him, A near shebuth they permitted; a distant shebuth they did not permit.[6] Then according to R. Simeon b. Gamaliel, who said on the authority of R. Simeon the son of the Segan:[7] It overrides the Festival, but it does not override the fast-day,[8] what is to be said?[9] — They differ in this: one Master holds, They permitted a near shebuth, [but] a distant shebuth they did not permit; while the other Master holds: a distant shebuth too they permitted.[10]

R. Mari raised an objection: The two loaves[11] are eaten neither less than two [days after baking] nor more than three [days after baking].[12] How so? They were baked on the eve of the Festival [and] eaten on the Festival, [i.e.,] on the second [day]. If the Festival fell after the Sabbath,[13] they are eaten on the Festival, on the third [day], because it [the baking] does not override either the Sabbath or the Festival.[14] But if you say [that] the requirements of the Sabbath may be prepared on the Festival, seeing that [those] of the Sabbath are permitted on the Festival, is there a question about [those] of the Festival on the Festival! There it is different, because Scripture saith, [Save that which every man must eat, that only may be done] for you:[15] 'for you', but not for the Most High.[16] Then according to R. Simeon b. Gamaliel who said on the authority of R. Simeon the son of the Segan: It overrides the Festival, what is there to be said? — He holds as Abba Saul, who interpreted: 'for you', but not for Gentiles.[17]

R. Hisda sent to Rabbah by the hand of R. Aha son of R. Huna: But do we say 'since'? Surely we learned: One may plough one furrow, and be culpable for it on account of eight negative injunctions. [Thus:] he who ploughs with an ox and an ass [together], which are sacred, [and the furrow consists of] kil'ayim in a vineyard,

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(1) After it is baked. The shewbread was generally baked on Friday, placed on the Table in the Temple on the Sabbath, and removed the following Sabbath and eaten; when it was removed it was replaced by fresh bread.

(2) Lit., 'less' . . . 'more'.

(3) For it would have to be baked on Thursday.

(4) Even in Palestine, where all festivals were kept one day only, in accordance with Scripture, New Year was sometimes kept two days v. R.H. 30b.

(5) Since baking on a Festival for the Sabbath (without an 'erub) is thus but a Rabbinical prohibition (a shebuth; v. Glos.) and as since does not apply to the Temple.

(6) I.e., they permitted the abrogation of the shebuth in the Temple when it was shortly required, viz., for that same

Sabbath, but not when it would only be required a week later.

(7) V. supra 14a, p. 62, n. 1.

(8) Sc. the baking of the shewbread. The Fast-day is the Day of Atonement.

(9) Why may it not be baked on the Festival? Tosaf.: On my view, says Rabbah, there is no difficulty, as I maintain that this is precisely the point of the controversy: the first Tanna holds that the requirements of the Sabbath may not be prepared on a Festival, while R. Simeon b. Gamaliel holds that they may be prepared. But on your view that the first Tanna too holds that the requirements of the Sabbath may be prepared on a Festival, but that here it is forbidden as a distant shebuth, R. Simeon b. Gamaliel should merely state that even a distant Shebuth is permitted.

(10) And that is what R. Simeon b. Gamaliel really means.

(11) Which were brought on Pentecost, v. Lev. XXIII, 17.

(12) The figures are inclusive of the day on which they were baked.

(13) I.e., on Sunday, so that they would be baked on the previous Friday.

(14) Hence they could not be baked on the Festival itself and eaten on the same day.

(15) Ex. XII, 16.

(16) The two loaves, as well as the shewbread, are sacred, and regarded as being ‘for the Most High’.

(17) Lit., ‘strangers’, v. Bez 20b.

Talmud - Mas. Pesachim 47b

and it is the seventh year, on a Festival, [and he is] a priest and a nazirite, [while this furrow is] in unclean ground.[1] Now if we say ‘since’, let him not be liable for ploughing [on the Festival], since it is fit for covering the blood of a bird?[2] — Said R. Papa b. Samuel: The reference is to smooth, round stones.[3] [But] they are fit for crushing?[4] — Is then crushing permitted on the Festival?[5] But they are fit for crushing in an unusual manner?[6] — The reference is to rocky ground.[7] Is then rocky ground capable of being sown? — It is rocky ground above, but powdered [loose] earth beneath. Then deduce it [that he is not culpable] because of the loose earth?[8] But said Mar the soil of R. Ashi: The reference is to clayey earth.[9] And is clayey earth capable of being sown? — It refers to swampy earth.[10]

Abaye raised an objection against him:[11] He who cooks the thigh sinew[12] on a Festival and eats it is flagellated five times. He is flagellated on account of cooking the sinew on a Festival;[13] he is flagellated on account of eating the sinew; he is flagellated for cooking meat in milk; he is flagellated for eating meat [cooked] in milk;[14] and he is flagellated on account of lighting [a fire].[15] But if we say, ‘since’, let him not be liable on account of lighting, since it is fit for him for his [legitimate] needs? — Said he to him, Omit lighting and substitute the thigh sinew of a nebelah.[16] But R. Hiyya taught: He is flagellated twice for his eating and thrice for his cooking; now if this is correct,[17] he should say, thrice for his eating? — Rather, omit lighting and substitute the wood of mukzeh.[18] And is mukzeh a Scriptural [interdict]? — Yes, he replied, for it is written, And it shall come to pass on the sixth day that they shall prepare that which they bring in;[19] and its ‘warning’ [injunction] is [learnt] from here, [viz.,] from, thou shalt not do any manner of work.[20] Said he to him, But it was you who said,I asked of R. Hisda, — others state, I asked of R. Huna: What if he brought a lamb from the meadow[21] and slaughtered it as a continual burnt-offering[22] on a Festival?[23] And you said to us: He answered me, [It is written], And a lamb,[24] [implying], but not a firstling;[25] one, but not the tithe;[26] of the flock, this is to exclude a palges;[27]

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(1) V. Mak., Sonc. ed. p. 149, n. 1-9.

(2) When a bird is slaughtered its blood must be covered, v. Lev. XVII, 13. This ploughing crushes the earth and makes it fit for that purpose, and since a bird might be slaughtered on the Festival, that too would be necessary.

(3) The ploughing breaks up the earth into smooth, round lumps; these are not fit for covering the blood, for which crushed, dust-like earth is required. Rashi, however, merely reads: stones; v. Tosaf. s.v. באבנים מקורזלות.

(4) And then be used for covering the blood.

(5) Surely not.

(6) Lit., ‘as with the back of the hand’. Such a crushing is not Scripturally forbidden but merely as a Shebuth (v. Glos.). That being so, flagellation, which is administered for the violation of a Scriptural prohibition, should not be incurred.
(7) Harder than ordinary stones; this cannot be crushed.
(8) This makes his action non-punishable.
(9) With which blood may not be covered.
(10) Which is fit for sowing, yet cannot be crushed into dust for covering blood.
(11) Against Rabbah.
(12) Which may not be eaten, v. Gen. XXXII, 32.
(13) Which is a forbidden labour, since it is not the preparation of food which may be eaten.
(14) These are two separate offences.
(15) Which is likewise prohibited on a Festival, save when required for cooking permitted food, v. Bez. 12a.
(16) I.e., it was the thigh sinew of a nebelah, and he is flagellated for eating nebelah.
(17) Sc. the proposed emendation.
(18) v. Glos. this may not be handled on Festivals. — He is thus flagellated not for lighting but for putting it to use.
(19) Ex. XVI, 5. This teaches that only what is ‘prepared’, as opposed to mukzeh, may be handled on Sabbaths and Festivals.
(20) Ex. XX, 10. Flagellation is administered only for the violation of a negative injunction, not an affirmative precept. The first verse quoted belongs to the latter category, hence the second verse must be added. Thus, since the use of mukzeh is forbidden by the first verse, making a fire with it is all ordinary labour forbidden by the second. — Though the second verse refers to the Sabbath, whereas we are here treating of the Festival, these two are alike in respect to work, save that the preparation of food is permitted on Festivals, but not on the Sabbath. Once however it is shown that a particular action is forbidden, it does not matter whether it is the Sabbath or a Festival.
(21) Outside the town. Animals that graze there are brought home (i.e., into town) only’ at intervals, not every evening, and therefore they are mukzeh, and may not be slaughtered on Festivals unless designated for that purpose on the eve of the Festivals.
(22) V. Num. XXVIII, 3.
(23) May it be offered?
(24) Ezek. XLV, 15, whence the whole verse which follows is quoted.
(25) A ‘lamb’ implies both male and female, whereas a firstling applies only to males.
(26) I.e., the tithe of animals cannot be dedicated for a daily burnt-offering. ‘One’ implies that it stands by itself, whereas the tithe is one out of ten.
(27) A sheep beyond the age of כבש (lamb) and below that of איל (ram). — Jast.; i.e., a sheep in it thirteenth month. ‘Of’ is partitive and implies limitation.

Talmud - Mas. Pesachim 48a

out of the two hundred,[i.e.,] out of the residue of the two hundred which was left in the vault, whence we learn that ‘orlah is nullified in [an excess of] two hundred;[1] from the well-watered pastures of Israel: from that which is permitted to Israel. Hence it was said, One may not bring drink-offerings from tebel.[2] You might think, he must not bring [them] from mukzeh [either], then say: Just as tebel is distinguished in that its intrinsic prohibition causes it,[3] so everything whose intrinsic prohibition causes it [may not be used], thus mukzeh is excluded, because not its intrinsic prohibition causes it, but a prohibition of something else causes it.[4] Now if you say that the prohibition of mukzeh is Scriptural, what does it matter[5] whether it is an intrinsic prohibition or a prohibition through something else? Moreover, it was you who said, There is separation of labours on the Sabbath,[6] but there is not separation of labours on a Festival![7] — Rather, delete lighting and substitute the wood of the asherah,[8] while its ‘warning’ [injunction] is [learnt] from here, [viz.,] And there shall cleave nought of the accursed thing to thy hand.[9] R. Aha son of Raba said to Abaye, Then let him be flagellated on account of, And thou shalt not bring an abomination into thy house[10] too? — Rather, delete lighting and substitute the wood of hekdesh, while the ‘warning’ is [learnt] from here, [viz.,] and ye shall burn their Asherim with fire . . . ye shall not do so unto the Lord your God.[11]

Rami b. Hama said: This [controversy] of R. Hisda and Rabbah is the controversy of R. Eliezer and R. Joshua.[12] For R. Eliezer holds, We say, ‘since’,[13] while R. Joshua holds, We do not say since’. Said R. Papa: Yet perhaps R. Eliezer rules that we say ‘since’, there only, because when they go into the oven, each one is fit for himself;[14] but here that it is fit for visitors only, but it is not fit for himself,[15] perhaps it is indeed [the fact] that we do not say ‘since’? R. Shisha son of R. Idi said: Yet perhaps it is not so:[16] R. Joshua may rule that we do not say, ‘since’, only there, where there is one [mazzah] that is not fit either for himself or for visitors; but here that it is at least fit for visitors, perhaps it is indeed [the fact] that we say ‘since’?

The Rabbis reported this [Rami b. Hama's statement] before R. Jeremiah and R. Zera. R. Jeremiah accepted it: R. Zera did not accept it. Said R. Jeremiah to R. Zera: A matter which has been a continual difficulty to us for many years, [viz.,] wherein do R. Eliezer and R. Joshua differ, now [that] it has been explained in the name of a great man, shall we then not accept it? Said he to him, How can I accept it? For it was taught, R. Joshua said to him: According to your words,[17] he transgresses on account of thou shalt not do any manner of work,[18] and he was silent before him. But if this is correct,[19] let him answer him, My reason is on account of ‘since’? — Then on your view, replied he, as to what was taught in a Baraitha, R. Eliezer said to him: According to your words, behold, he violates, ‘it shall not be seen’ and ‘it shall not be found’, and he was silent before him; could he indeed not answer him; surely he answers him in the Mishnah, for we learned: NOT THIS IS LEAVEN ABOUT WHICH WE ARE WARNED, IT SHALL NOT BE SEEN’, AND ‘IT SHALL NOT BE FOUND’. But [what we must say is that] he was silent before him in the Baraitha, yet he answered him in our Mishnah. So here too, say that he was silent before him in a teaching,[20] yet he answered him in another collection [of Baraithas].

It was taught, Rabbi said: The halachah is as R. Eliezer; while R. Isaac said: The halachah is as the Son of Bathyra.

And what[21] is the standard of dough?[22] — R. Ishmael the son of R. Johanan b. Berokah said: In the case of wheat, two kabs; in the case of barley, three kabs. R. Nathan said on R. Eleazar's authority: The rulings are [to be] reversed.[23] But it was taught, R. Ishmael son of R. Johanan b. Berokah said: In the case of wheat, three labs, and in the case of barley, four kabs? — There is no difficulty: One refers to inferior [corn]; the other to superior corn.[24] R. Papa observed: This proves, Poor wheat is more inferior to good wheat than poor barley is inferior to good barley, for whereas there [there is a difference of] a third, here [there is a difference of] a quarter.

Rab said: A kab of Meloga[25] [is the standard] for Passover,[26] and it is likewise in respect of hallah.[27] But we learned:

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(1) ‘Out of the two hundred’ is unintelligible in itself. Hence the Talmud assumes that it refers to the wine of the drink-offering (libation) which accompanied the continual burnt-offering (Num. XXVIII, 7f), and the meaning is this: if one part of forbidden wine, sc. wine of ‘orlah, as much as is required for the drink-offering, becomes mixed with two hundred times as much permitted wine, so that when the required quantity is removed from the wine-vault there still remains two hundred times as much, then it may be used, the ‘orlah having been nullified by the excess. — This is actually deduced from elsewhere (in Sifre), and this verse is merely quoted as support.

(2) V. Glos.

(3) I.e. tebel is unfit for drink-offerings because it is forbidden in itself.

(4) I.e., it is not forbidden, in itself, save that its owner has voluntarily put it out of use for the time being.

(5) Lit., ‘what is it to me?’

(6) If a man performed two labours on the Sabbath in one state of unawareness, or one labour twice, each time having been unaware of the Sabbath (though he was reminded in the interval), he is liable on account of each separately.

(7) Yet here, where we treat of a Festival, you rule that he is separately culpable for mukzeh and for boiling the sinew.

(8) V. Glos. He used that for fuel, and is flagellated on that account.
(9) Deut. XIII, 18.
(10) Ibid. VII, 26.
(11) Ibid. XII, 3f.
(12) In the Mishnah Supra 46a.
(13) Though he will eventually separate one mazzah for all, and that is not fit for eating, yet if he wishes he can take a piece from each mazzah, and so he will have baked every one for eating. Hence we say, since it would be permitted in the latter case, it is also permitted in the former.
(14) As explained in n. 11.
(15) As far as he is concerned he is definitely baking it for the week, while he has not invited visitors.
(16) This too is a criticism of Rami b. Hama's statement.
(17) I.e.,if he does as you say.
(18) Ex. XX, 10.
(19) Rami b. Hama's explanation.
(20) Mathnitha, especially collection of Mishnah not embodied in the Mishnah of R. Judah, as Baraitha, Tosaf. etc., contrad. to Mathnithin, our Mishnah (Jast.).
(21) Lit., ‘how much?’
(22) Which one can knead on Passover and keep it from fermenting.
(23) Three in the case of wheat, and two in the case of barley, for barley ferments more quickly.
(24) Two kabs of superior wheat is the equivalent of three kabs of inferior wheat; while three kabs of superior barley is the equivalent of four kabs of inferior barley.
(25) Supposed to be a place in Babylon.
(26) One must not knead more dough than that.
(27) That is the smallest quantity subject to hallah.

Talmud - Mas. Pesachim 48b

Slightly more than five quarters[1] of flour are subject to hallah?[2] — This is what he says: A kab of Meloga too is the equivalent of this quantity.

R. Joseph said: Our women are accustomed to bake a kapiza[3] at a time on Passover. Said Abaye to him, What is your intention? To be stricter![4] [But] it is strictness which leads to [unwarranted] leniency, as [the woman] exempts it from hallah?[5] — Said he: They do as R. Eliezer. For we learned, R. Eliezer said: If he removes [loaves from the oven] and places [them] in a basket, the basket combines them in respect of hallah;[6] whereon Rab Judah said in Samuel's name: The halachah is as R. Eliezer. Said he to him, But it was stated thereon, R. Joshua b. Levi said: They taught this only of Babylonian loaves, which cleave to each other,[7] but not [of] cracknels?[8] — Surely it was stated thereon, R. Hanina said: Even cracknels.

R. Jeremiah asked: What of a board which has no ledges?[9] Do we require the inside of a vessel, which is absent here; or perhaps we require the air space of a vessel, which is present? The question stands.

It was taught: R. Eliezer said: The basket [only] combines them; R. Joshua said: The oven combines them;[10] R. Simeon b. Gamaliel said: Babylonian loaves which cleave to each other combine.[11]

MISHNAH. R. GAMALIEL SAID: THREE WOMEN MAY KNEAD AT THE SAME TIME[12] AND BAKE IN ONE OVEN, ONE AFTER THE OTHER. BUT THE SAGES RULE: THREE WOMEN MAY BE ENGAGED ON DOUGH AT THE SAME TIME,[13] ONE KNEADING, ANOTHER SHAPING AND A THIRD BAKING.[14] R. AKIBA SAID: NOT ALL WOMEN AND NOT ALL KINDS OF WOOD AND NOT ALL OVENS ARE ALIKE.[15] THIS IS THE GENERAL

PRINCIPLE: IF IT [THE DOUGH] RISES, LET HER WET[16] IT WITH COLD WATER.[17]

GEMARA. Our Rabbis taught: Having kneaded [the dough] she forms it [in shape], while her companion kneads in her place; having formed [the dough] she bakes it, and her companion shapes [the dough] in her place, while the third [woman] kneads. [The first] having baked, she kneads [again], and her companion bakes in her place, while the third shapes [her dough]. And thus the round revolves.[18] As long as they are engaged [in working] on the dough, it does not come to fermentation.

R. AKIBA SAID: NOT ALL WOMEN etc. It was taught, R. Akiba said: I discussed [the matter] before R. Gamaliel: Let our Master teach us: Does this[19] refer to energetic women or to women who are not energetic; to damp wood or to dry wood; to a hot oven or to a cool oven? Said he to me, You have nought else save what the Sages learned: IF IT RISES, LET HER WET IT WITH COLD WATER.

MISHNAH. SI'UR[20] MUST BE BURNT, WHILE HE WHO EATS IT IS NOT CULPABLE; SIDDUK[21] MUST BE BURNT, WHILE HE WHO EATS IT [ON PASSOVER] IS LIABLE TO KARETH. WHAT IS SI'UR? [WHEN THERE ARE LINES ON THE SURFACE] LIKE LOCUSTS' HORNS;[22] SIDDUK IS WHEN THE CRACKS HAVE INTERMINGLED WITH EACH OTHER: THIS IS THE VIEW OF R. JUDAH. BUT THE SAGES MAINTAIN: REGARDING THE ONE AND THE OTHER,[23] HE WHO EATS IT IS LIABLE TO KARETH.[24] AND WHAT IS SI'UR? WHEN ITS SURFACE IS BLANCHED, LIKE [THE FACE OF] A MAN WHOSE HAIR IS STANDING [ON END].

GEMARA. Our Rabbis taught: What is si'ur.P Whenever its surface is blanched, like [the face of] a man whose hair is standing on end; sidduk is [when there are lines on the surface] like locusts' horns: this is R. Meir's view. But the Sages maintain: What is si'ur? [When the lines on its surface are] like locusts' horns; sidduk is when the cracks have intermingled with each other; and in both cases, he who eats it is liable to kareth. But we learned: SI'UR MUST BE BURNT, WHILE HE WHO EATS IT IS NOT CULPABLE . . THIS IS THE VIEW OF R. JUDAH? Say according to R. Meir, in both cases,[25] he who eats it incurs kareth.[26] Raba said: What is R. Meir's reason? There is not a single crack on the surface for which there are not many cracks below [the surface].[27]

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(1) Lit., 'five quarters and more'. I.e., quarters of a kab, = one and one fourth logs.

(2) v. Hal. II, 6.

(3) A measure=three-fourths of a kab; v. Obermeyer, p. 241, n. 1.

(4) For the permitted quantity is larger.

(5) If she baked a kab of Meloga at a time, she would have to separate hallah, whereas now she is exempt.

(6) I.e., they are counted as one, if together they make up the minimum quantity.

(7) Lit., 'bite of each other'. They were wide, and when set in the oven they stuck to each other, owing to lack of space; therefore they all count as one.

(8) A kind of narrow roll.

(9) Does it combine the loaves placed upon it?

(10) If they are baked together in an oven, even if they are not subsequently placed together in a basket, they are all counted as one in respect of hallah.

(11) But not cracknels.

(12) Lit., 'as one'.

(13) Not all kneading at the same time, which would necessitate too long a wait when they come to bake if after each other.

(14) V. Gemara.

(15) Hence the views of R. Gamaliel and the Sages are unacceptable.

(16) Lit., 'polish'.

(17) Which retards fermentation.
(18) This is the explanation of the Sage's ruling: THREE WOMEN MAY BE ENGAGED ON DOUGH AT THE SAME TIME.
(19) Sc. the ruling that three women may knead or may be working on dough at the same time.
(20) V. supra p. 203.
(21) Dough, the surface of which is cracked through fermentation. This is completely leaven.
(22) I.e., small lines are just beginning to appear.
(23) I.e., both stages as defined by R. Judah.
(24) Even at the earlier stage it is no longer si'ur.
(25) Sc. both si'ur and sidduk, as defined by R. Judah.
(26) Because he regards both as sidduk.
(27) Hence even when the cracks on the surface are still separate, they already cross below the surface.

Talmud - Mas. Pesachim 49a

MISHNAH. IF THE FOURTEENTH [OF NISAN] FALLS ON THE SABBATH, EVERYTHING MUST BE REMOVED[1] BEFORE THE SABBATH:[2] THIS IS R. MEIR'S VIEW; WHILE THE SAGES MAINTAIN: [IT MUST BE REMOVED] AT ITS [USUAL] TIME;[3] R. ELEAZAR B. ZADOK SAID: TERUMAH [MUST BE REMOVED] BEFORE THE SABBATH,[4] AND HULLIN AT ITS [USUAL] TIME.[5]

GEMARA. It was taught, R. Eleazar b. Zadok said: My father once spent a week in Yabneh,[6] when the fourteenth fell on the Sabbath, and there came Zonin, R. Gamaliel's deputy,[7] and announced: ‘The time has come to remove the leaven’, and I followed my father and we removed the leaven.

MISHNAH.HE WHO ON HIS WAY[8] TO SLAUGHTER HIS PASSOVER SACRIFICE OR TO CIRCUMCISE HIS SON[9] OR TO DINE AT A BETROTHAL[10] FEAST AT THE HOUSE OF HIS FATHER-IN-LAW, AND RECOLLECTS THAT HE HAS LEAVEN AT HOME, IF HE IS ABLE TO GO BACK, REMOVE [IT], AND [THEN] RETURN TO HIS RELIGIOUS DUTY,[11] HE MUST GO BACK AND REMOVE [IT]; BUT IF NOT, HE ANNULS IT IN HIS HEART. [IF HE IS ON HIS WAY] TO SAVE [PEOPLE] FROM HEATHENS[12] OR FROM A RIVER OR FROM BRIGANDS[13] OR FROM A FIRE OR FROM A COLLAPSE [OF A BUILDING], HE ANNULS IT IN HIS HEART.[14] [BUT IF] TO APPOINT A SABBATH STATION FOR A VOLUNTARY [SECULAR] PURPOSE,[15] HE MUST RETURN IMMEDIATELY. SIMILARLY, HE WHO WENT OUT OF JERUSALEM AND RECOLLECTED THAT HE HAD HOLY FLESH WITH HIM,[16] IF HE HAS PASSED SCOPUS,[17] HE BURNS IT WHERE HE IS;[18] BUT IF NOT, HE RETURNS AND BURNS IT IN FRONT OF THE TEMPLE[19] WITH THE WOOD OF THE [ALTAR] PILE.[20] AND FOR WHAT [QUANTITY] MUST THEY RETURN? R. MEIR SAID: FOR BOTH,[21] WHEN THERE IS AS MUCH AS AN EGG; R. JUDAH SAID: FOR BOTH, WHEN THERE IS AS MUCH AS AN OLIVE; BUT THE SAGES RULE: HOLY FLESH, [THE STANDARD IS] AS MUCH AS AN OLIVE; WHILE LEAVEN, [THE STANDARD IS] AS MUCH AS AN EGG.[22]

GEMARA. But the following contradicts it: He who is on his way to partake of a betrothal feast in his father-in-law's house or to appoint a Sabbath station for a voluntary purpose must return immediately? Said R. Johanan, There is no difficulty: one is [according to] R. Judah: the other is [according to] R. Jose. For it was taught: The betrothal feast is a voluntary [function]; this is R. Judah's view. R. Jose said: It is a religious [function]. But now that R. Hisda said: The controversy is in respect of the second feast,[23] but in respect to the first feast all agree that it is a religious [function], you may even say [that] both are [according to] R. Judah, yet there is no difficulty; one refers to the first feast, while the other refers to the second feast.

It was taught, R. Judah said: I have heard only of the betrothal feast,[24] but not of [the feast in connection with] espousal gifts.[25] Said R. Jose to him: I have heard of [both] the feast of betrothal and [that] of espousal gifts.

It was taught, R. Simeon said: Every feast which is not in connection with a religious deed, a scholar must derive no enjoyment thereof.[26] What, for instance? — Said R. Johanan: E.g., [the feast at the betrothal of] the daughter of a priest to an Israelite,[27] or the daughter of a scholar to an ignoramus. For R. Johanan said: If the daughter of a priest [marries] an Israelite, their union will not be auspicious. What is it?[28] Said R. Hisda: [She will be] either a widow or a divorced woman, or she will have no seed [children].[29] In a Baraitha it was taught: He will bury her or she will bury him, or she will reduce him to poverty. But that is not so, for R. Johanan said: he who desires to become wealthy, let him cleave to the seed of Aaron, [for it is all the more] that the Torah and the priesthood will enrich them? — There is no difficulty: one refers to a scholar;[30] the other refers to an ‘am ha-arez.[31]

R. Joshua married a priest's daughter. Falling sick, he said, Aaron is not pleased that I should cleave to his seed [and] possess a son-an-law like myself. R. Idi b Abin married a priest's daughter, and there came forth from him two ordained sons — R. Shesheth the son of R. Idi and R. Joshua the son of R. Idi. R. Papa said: Had I not married a priest's daughter, I would not have become wealthy.[32] R. Kahana said: Had I not married a priest's daughter, I had not gone into exile.[33] Said they to him, But you were exiled to a place of learning! — I was not exiled as people are [generally] exiled.[34]

R. Isaac said: Whoever partakes of a secular feast eventually goes into exile, for it is said, and [ye that] eat the lambs out of the flock, and the calves out of the midst of the stall; and it is written, therefore now shall they go captive at the head of them that go captive.[35]

Our Rabbis taught: Every scholar who feasts much in every place eventually destroys his home, widows his wife, orphans his young, forgets his learning,[36] and becomes involved in many quarrels;[37] his words are unheeded, and he desecrates the Name of Heaven and the name of his teacher and the name of his father, and he causes an evil name for himself, his children, and his childrens’ children until the end of time.[38] What is it?[39] Said Abaye: He is called, a heater of ovens. Raba said: A tavern dancer! R. Papa said: A plate licker. R. Sheimaiah said: A folder [of garments] and a man who lies down [to sleep].[40]

Our Rabbis taught: Let a man always sell all he has and marry the daughter of a scholar, for if he dies or goes into exile, he is assured that his children will be scholars. But let him not marry the daughter of an ‘am ha-arez, for if he dies or goes into exile, his children will be ‘amme ha-arez.

Our Rabbis taught: Let a man always sell all he has and marry the daughter of a scholar, and marry his daughter to a scholar. This may be compared to [the grafting of] grapes of a vine with grapes of a vine, [which is] a seemly and acceptable thing. But let him not marry the daughter of an ‘am ha-arez; this may be compared to [the grafting of] grapes of a vine with berries of a thorn bush, [which is] a repulsive

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(1) I.e., destroyed.

(2) Save what is required for the Sabbath itself.

(3) On the morning of the fourteenth.

(4) Because if any is left over none can eat it; neither zarim nor cattle.

(5) Because it is easy to find eaters for it.

(6) The famous town to the north-west of Jerusalem, seat of R. Johanan b. Zakkai's academy and Sanhedrin after the destruction of Jerusalem.

(7) The superintendent of the Academy.
(8) Lit., ‘is going’.
(9) In ancient days and until comparatively recently this was done in the Synagogue.
(10) Erusin denotes the first stage of marriage, v. Glos.
(11) He himself being the bridegroom. A ‘betrothal feast’ is considered a religious duty, v. Gemara.
(12) Rashi: Jews who are being pursued.
(13) Var. lec.: a robber band.
(14) If ‘robber band’ is read before, this must be deleted. Even if there is time to return, he must not go back.
(15) On the Sabbath a man must not go more than two thousand cubits beyond the town boundary; this outside limit is called the tehum. But before the Sabbath commences he can appoint any spot within the tehum as the station where he will spend the Sabbath, and then he may proceed two thousand cubits beyond that spot; he does that by taking some food to the place, which he will eat on the Sabbath.
(16) Holy flesh, if taken without Jerusalem, becomes unfit and must be burnt.
(17) An eminence northeast of Jerusalem, whence the Temple can be seen. To-day it is the site of the Hebrew University.
(18) And need not return to Jerusalem.
(19) [Birah. This is variously explained in Zeb. 104b as the Temple Mount itself’, a place in the Temple Mount, and a tower in the Temple Mount.]
(20) I.e., wood arranged in a pile for use on the altar. — V. Supra 24a.
(21) Sc. leaven and sacred flesh.
(22) These are the minima for which one must return.
(23) After the betrothal the bridegroom (arus) sent gifts to his bride, in connection with which there was a second feast at the father-in-law's house.
(24) As being a religious function.
(25) Siblonoth.
(26) I.e., must not partake of it.
(27) I.e., a non-priest. She blemishes her family by marrying beneath her.
(28) In what respect will it be unfortunate?
(29) Rashi: because it is written, And if a priest's daughter be married unto a common man, which is followed by, But if a priest's daughter be a widow, or divorced, and have no child (Lev. XXII, 12f). — Hence such a union was looked upon with disfavour, and R. Johanan maintains that the feast is not a true religious one.
(30) If a scholar marries into a priestly family he brings honour upon it.
(31) V. Glos.
(32) He was a wealthy brewer.
(33) From my home in Babylonia to Palestine; v. B.K. 117a.
(34) Voluntarily; but I had to flee.
(35) Amos VI, 4, 7.
(36) Lit., ‘his learning is forgotten from him’.
(37) Lit., ‘come upon him’.
(38) Lit., ‘until the end of all generations’. — His fondness for feasting elsewhere leads him to do the same in his own home, and to make it possible he must sell his furniture, etc. Seeing himself on the road to ruin, he wanders into exile, leaving his wife and children, widowed and orphaned, he wastes his time, so forgets his learning. This involves him in disputes on learning. Or, his poverty involves him in disputes with tradesmen because he cannot settle his bills. Again, the banqueting table itself is a fruitful source of quarrels (Rashi and Maharsha).
(39) How does he bring his name etc., into contempt?
(40) Where he is, being too drunk to go home. — Or, the son of a heater of ovens etc., with reference to his children. The translation follows Maharsha, bar (בר) being understood as ‘a man who’. The alternative is Rashi's.

Talmud - Mas. Pesachim 49b

and unacceptable thing.

Our Rabbis taught: Let a man always sell all he has and marry the daughter of a scholar. If he does not find[1] the daughter of a scholar, let him marry the daughter of [one of] the great men of the generation.[2] If he does not find the daughter of [one of] the great men of the generation, let him marry the daughter of the head of synagogues. If he does not find the daughter of the head of synagogues,[3] let him marry the daughter of a charity treasurer. If he does not find the daughter of a charity treasurer, let him marry the daughter of an elementary school-teacher, but let him not marry the daughter of an ‘am ha-arez, because they are detestable and their wives are vermin, and of their daughters it is said, Cursed be he that lieth with any manner of beast.[4]

It was taught, Rabbi said: An ‘am ha-arez may not eat the flesh of cattle, for it is said, This is the law [Torah] of the beast, and of the fowl;[5] whoever engages in [the study of] the Torah may eat the flesh of beast and fowl, but he who does not engage in [the study of] the Torah may not eat the flesh of beast and fowl.

R. Eleazar said: An ‘am ha-arez, it is permitted to stab him [even] on the Day of Atonement which falls on the Sabbath. Said his disciples to him, Master, say to slaughter him [ritually]? He replied: This [ritual slaughter] requires a benediction, whereas that [stabbing] does not require a benediction. R. Eleazar said: One must not join company with an ‘am ha-arez on the road, because it is said, for that [the Torah] is thy life, and the length of thy days:[6] [seeing that] he has no care [pity] for his own life,[7] how much the more for the life of his companions! R. Samuel b. Nahmani said in R. Johanan's name: One may tear an ‘am haarez like a fish! Said R. Samuel b. Isaac: And [this means] along his back.

It was taught, R. Akiba said: When I was an ‘am ha-arez[8] I said: I would that I had a scholar [before me], and I would maul him like an ass. Said his disciples to him, Rabbi, say like a dog! The former bites and breaks the bones, while the latter bites but does not break the bones, he answered them.

It was taught, R. Meir used to say: Whoever marries his daughter to an ‘am ha-arez, is as though he bound and laid her before a lion: just as a lion tears [his prey] and devours it and has no shame, so an ‘am ha-arez strikes and cohabits and has no shame.

It was taught, R. Eliezer said: But that we are necessary to them for trade, they would kill us. R. Hiyya taught: Whoever studies[9] the Torah in front of an ‘am ha-arez, is as though he cohabited with his betrothed in his presence,[10] for it is said, Moses commanded us a law, an inheritance [morashah] of the congregation of Jacob:[11] read not morashah but me'orasah [the betrothed].[12] Greater is the hatred wherewith the ‘amme ha-arez, hate the scholar than the hatred wherewith the heathens hate Israel, and their wives [hate even] more than they. It was taught: He who has studied and then abandoned [the Torah] [hates the scholar] more than all of them.[13] Our Rabbis taught: Six things were said of the ‘amme ha-arez’: We do not commit testimony to them; we do not accept testimony from them; we do not reveal a secret to them; we do not appoint them as guardians for orphans; we do not appoint them stewards[14] over charity funds; and we must not join their company on the road. Some say, We do not proclaim their losses too.[15] And the first Tanna?[16] — Virtuous seed may sometimes issue from him, and they will enjoy[17] it, as it is said, He will prepare it, and the just shall put it on.[18]

SIMILARLY, HE WHO WENT OUT OF etc. Shall we say that R. Meir holds, only as much as an egg is of importance, whereas R. Judah holds, Even as much as an olive too is of importance?[19] But the following contradicts it: For what [minimum] quantity[20] must they recite grace in common?[21] Until as much as an olive.[22] R. Judah said: Until as much as an egg! — Said R. Johanan: The discussion[23] must be reversed. Abaye said, After all you need not reverse [it]: there they differ in [the interpretation of Scriptural] verses, [whereas] here they differ in a matter of logic. ‘There they differ in [the interpretation of] verses':R. Meir holds: And thou shalt eat,[24] this refers to eating; and be satisfied, this means drinking, and eating is [constituted] by as much as an olive.[25] While R. Judah holds: 'And thou shalt eat and be satisfied' [implies] eating in which there is satisfaction [of one's hunger], and what is that? As much as an egg. 'Here they differ in a matter of logic', for R. Meir holds: Its return is like its defilement:[26] just as its defilement requires as much as an egg, so does its return require as much as an egg. While R. Judah holds, its return

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(1) I.e., cannot obtain.
(2) Gedole ha-dor, title probably designating the civil leaders of the community. v. Buchler, Sepphoris, p. 9.
(3) [The archi synagogos, the supreme authority over the synagogues in the town; v. Git., Sonc. ed. p. 202, n. 5.]
(4) Deut. XXVII, 21.
(5) Lev. XI, 46.
(6) Deut. XXX, 20.
(7) In that he forsakes the Torah.
(8) R. Akiba was a poor, illiterate shepherd before he became a scholar; v. Ned. 50a.
(9) Lit., 'engages in'.
(10) So great is the affront which the 'am ha-arez feels when Torah is studied in his presence, v. Rashi.
(11) Ibid. XXXIII, 4.
(12) Thus the Torah is as the bride of the whole of Israel.
(13) More than any 'am ha-arez hates the scholar.
(14) The Heb. is the same as in the previous phrase. Epitropos is a steward who looks after another person's estates, etc.
(15) He who finds lost property is bound to proclaim it; if the owner is an 'am ha-arez, he is not bound to proclaim it.
(16) Why does he omit this?
(17) Lit., 'eat'.
(18) Job XXVII, 17.
(19) I.e., worthy of being taken into account.
(20) Lit., 'how far?'
(21) When three or more people dine together they must recite grace in common, prefacing it with the statement, 'Let us say grace', and they must not separate before this is done, even if each intends reciting grace alone. Here the question is: what is the minimum meal for which this is necessary?
(22) That is the minimum. Until ('ad) is meant in a diminishing sense.
(23) I.e., the opinions,
(24) Deut. VIII, 10.
(25) This is the minimum called eating, e.g.. for eating this quantity of forbidden food liability is incurred; the command to eat unleavened bread on the first night of Passover means at least as much as an olive. The verse continues: and thou shalt bless the Lord thy God — i.e., recite grace.
(26) I.e., the same quantity of leaven which is subject to defilement as an eatable necessitates returning in order to remove it.

Talmud - Mas. Pesachim 50a

is like its prohibition: just as its prohibition is for as much as an olive,[1] so its return is for as much as an olive.

It was taught, R. Nathan said: Both[2] have the standard of two eggs; but the Sages did not agree with him.

And it shall come to pass in that day that there shall not be light, but heavy clouds [yekaroth] and thick [we-kippa'on];[3] what does yekaroth we-kippa'on mean? — Said R. Eleazar: This means, the light which is precious [yakar] in this world, is yet of little account [kapuy][4] in the next world.[5] R. Johanan said: This refers to Nega'im and Ohaloth,[6] which are difficult [heavy] in this world yet shall be light [easily understood] in the future world. While R. Joshua b. Levi said: This refers to the people who are honoured in this world, but will be lightly esteemed in the next world. As was the case of R. Joseph the son of R. Joshua b. Levi, [who] became ill and fell into a trance. When he recovered, his father asked him, 'What did you see?' 'I saw a topsy-turvy world', he replied, 'the upper [class] underneath and the lower on top'' he replied: 'My son', he observed, 'you saw a clear world.[7] And how are we [situated] there?' 'Just as we are here, so are we there. And I heard them saying, "Happy is he who comes hither with his learning in his hand". And I also heard them saying, "Those martyred by the State, no man can stand within their barrier"' .[8] Who are these [martyrs]? Shall we say, R. Akiba and his companions?[9] is that because they were martyrs of the State and nothing else?[10] Rather [he meant] the martyrs of Lydda.[11]

In that day there shall be upon the bells of the horses [meziloth ha-sus]: HOLY UNTO THE LORD.[12] What does 'meziloth ha-sus' [intimate]? — Said R. Joshua b. Levi: The Holy One, blessed be He, is destined to add to Jerusalem as far as a horse can run and cast its shadow [mazzil — under itself].[13] R. Eleazar said: All the bells which are hung on a horse between its eyes shall be holy unto the Lord.[14] While R. Johanan said: All the spoil which Israel shall take spoil [from morning] until a horse can run and cast its shadow [under itself] shall be holy unto the Lord. As for him who explains it [as referring to] all the spoil which Israel shall take spoil, it is well: hence it is written, and the pots in the Lord's house shall be like the basins before the altar.[15] But according to those who give the [other] two explanations, what is [the relevance of] 'and the pots in the Lord's house shall be' [etc.]? — [The verse] states another thing, viz., that Israel will become wealthy, make votive offerings, and bring them [to the Temple]. As for him who says [that it means] spoil, it is well: that is what is written, and in that day there shall be no more a trafficker in the house of the Lord of hosts.[16] But according to those who give the [other] two explanations, what does and there shall be no more a trafficker [kena'ani] [etc.] mean? — Said R. Jeremiah: No poor man shall be here.[17] And how do we know

interdict. A passage describing the death of great scholars, ten in number, is found in the liturgies for the Day of Atonement and the Fast of Ab. Some of the most famous of them were R. Gamaliel, R. Judah b. Baba and R. Akiba. that [kena 'ani] connotes a merchant? — Because it is written, And Judah saw there the daughter of a certain Canaanite [kena'ani]:[18] what does 'kena'ani' mean? Shall we say, literally a Canaanite: is it possible that Abraham came and admonished Isaac, Isaac came and admonished Jacob,[19] and then Judah went and married [a Canaanite]! Rather, said R. Simeon b. Lakish: [It means] the daughter of a merchant, as it is written, As for the trafficker [kena'an], the balances of deceit are in his hand,[20] Alternatively, I can quote this: Whose merchants are princes, whose traffickers [kin'anehah] are the honourable of the earth.[21]

And the Lord shall be King over all the earth; in that day shall the Lord be One, and His name one:[22] is He then not One now? — Said R. Aha b. Hanina: Not like this world is the future world. In this world, for good tidings one says, 'He is good, and He doeth good', while for evil tidings he says, 'Blessed be the true Judge';[23] [whereas] in the future world it shall be only 'He is good and He doeth good'.[24] 'And His name one': what does 'one' mean? Is then now His name not one? — Said R. Nahman b. Isaac; Not like this world is the future world. [In] this world [His name] is written with a yod he[25] and read as alef daleth;[26] but in the future world it shall all be one: it shall be written with yod he and read as yod he. Now, Raba thought of lecturing it at the session, [whereupon] a certain old man said to him, It is written, le'alem.[27] R. Abina pointed out a contradiction: It is written, this is my name, to be hidden; [and it is also written],[28] and this is my memorial unto all generations?[29] The Holy One, blessed be He, said: Not as I [i.e., My name] and written am I read: I am written with a yod he, while I am read as alef daleth.[30]

CHAPTER IV

MISHNAH. WHERE IT IS THE CUSTOM TO DO WORK ON THE EVE OF PASSOVER

UNTIL MIDDAY ONE MAY DO [WORK]; WHERE IT IS THE CUSTOM NOT TO DO [WORK], ONE MAY NOT DO [WORK]. HE WHO GOES FROM A PLACE WHERE THEY WORK TO A PLACE WHERE THEY DO NOT WORK, ON FROM A PLACE WHERE THEY DO NOT WORK TO A PLACE WHERE THEY DO WORK, WE LAY UPON HIM THE RESTRICTIONS OF THE PLACE WHENCE HE DEPARTED AND THE RESTRICTIONS OF THE PLACE WHITHER HE HAS GONE;

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(1) V. p. 238, n. 12.

(2) The leaven and the holy flesh.

(3) Zech. XIV, 6.

(4) Lit., ‘light’, ‘floating’.

(5) For the light of this world will pale into insignificance before the greater light of the next. He translates the verse: And it shall come . . . the light will not be precious but (only) of small account.

(6) The laws of leprosy and the defilement of tents through a dead body.

(7) In which people occupy the positions they merit.

(8) They occupy such an exalted position in the next world that they are unapproachable.

(9) Who were executed or martyred by the Roman State at various times for their insistence on teaching the Torah in spite of the Roman

(10) Surely they had other claims to eminence too!

(11) Two brothers, Lulianus and Papus, who took upon themselves the guilt for the death of the Emperor's daughter, so as to save the people as a whole; v. Ta'an. 18b. Lyyda was a district in Asia Minor, to which belonged the city Laodicea, which city it denotes here.

(12) Zech. XIV, 20.

(13) Rashi: i.e., as far as a horse can run from the morning until midday, when its shadow (zel) is directly beneath it.

(14) I.e., they shall be votive offerings to the Sanctuary.

(15) Ibid. Even the pots shall be of gold and silver, owing to the abundance of spoil.

(16) Ibid. 21. The Temple Treasurers will not need to buy or sell for the Temple, on account of the great wealth of the spoil.

(17) Reading kena'ani as kan ‘ani, here is a poor man.

(18) Gen. XXXVIII, 2.

(19) Not to marry a Canaanite; v. Ibid. XXIV, 3; XXVIII, 1.

(20) Hos. XII, 8.

(21) Isa. XXIII, 8.

(22) Zech. XIV, 9.

(23) V. Ber. 54a.

(24) For there will never be any evil tidings there.

(25) YHWH = yod he waw he, the letters of the Tetragrammaton.

(26) Adonay =alef daleth nun yod.

(27) To hide it. This is explained anon.

(28) The bracketed word is added in var. lec.

(29) Ex. III, 15. The actual reading is: this is my name for ever. (le'olam, לְעוֹלָם); but it is written, to be hidden (le'alem, לְעָלֵם). Thus this indicates that God's name must be kept secret; whereas ‘this is my memorial’ etc. implies that He is to be known by this name. Another version, accepting the reading le'olam (for ever) explains the difficulty thus: since God states this is my name, it is obvious that He is to be known by it: why then add, ‘and this is my memorial’ etc.?

(30) The importance attributed to the Divine Name was owing to the fact that it was not regarded simply as a designation, but was held to express the essence of the Godhead. The right way of pronouncing the Tetragrammaton was not generally known, being preserved as an esoteric teaching. Cf. Kid., Sonc. ed. p. 361, n. 6. and Sanh., Sonc. ed. p. 407, n. 2.

Talmud - Mas. Pesachim 50b

AND A MAN MUST NOT ACT DIFFERENTLY [FROM LOCAL CUSTOM] ON ACCOUNT OF THE QUARRELS [WHICH WOULD ENSUE]. SIMILARLY, HE WHO TRANSPORTS SABBATICAL YEAR PRODUCE FROM A PLACE WHERE IT HAS CEASED TO A PLACE WHERE IT HAS NOT CEASED OR FROM A PLACE WHERE IT HAS NOT CEASED TO A PLACE WHERE IT HAS CEASED,[1] IS BOUND TO REMOVE IT.[2] R. JUDAH SAID: 'DO YOU TOO GO OUT AND BRING [PRODUCE] FOR YOURSELF.[3]

GEMARA. Why particularly THE EVE OF PASSOVER? Even on the eve of Sabbaths and Festivals too? For it was taught: He who does work on the eve of Sabbaths or Festivals from minhah[4] and onwards will never see a sign of blessing?[5] — There it is forbidden only from minhah and onwards, but not near to[6] minhah; [whereas] here it is [forbidden] from midday. Alternatively, there he merely does not see a sign of blessing,[7] yet we do not place him under the ban; [whereas] here we even place him under the ban.

[To turn to] the main text: He who does work on the eve of the Sabbath and on the eve of Festivals from minhah and onwards, and at the termination of the Sabbath or at the termination of a Festival, or at the termination of the Day of Atonement, or wherever there is the [least] suspicion of sin,[8] which is to include a public fast,[9] will never see the sign of a blessing.

Our Rabbis taught: Some are industrious and profit [thereby,] while others are industrious and suffer loss; some are indolent[10] and profit [thereby], while others are indolent and suffer loss. An industrious man who profits, — he who works the whole week but does not work on the eve of the Sabbath. An industrious man who suffers loss, — he who works the whole week and works on the eve of the Sabbath. An indolent man who profits, — he who does not work the whole week and does not work on the eve of the Sabbath.[11] An indolent man who suffers loss, — he who does not work the whole week but works on the eve of the Sabbath. Raba said: As to these women of Mahuza,[12] though they do not work on the eve of the Sabbath, it is because they are used to indulgence [indolence], seeing that they do not work every day either. Yet even so, we call them, an indolent person who profits'.[13]

Raba opposed [two verses]. It is written, For thy mercy is great unto the heavens;[14] whereas it is also written, For thy mercy is great above the heavens?[15] How is this [to be explained]? Here it refers to those who perform [God's behest] for its own sake;[16] there it refers to those who perform [it] with an ulterior motive.[17] And [this is] in accordance with Rab Judah. For Rab Judah said in Rab's name: A man should always occupy himself with Torah and good deeds, though it is not for their own sake, for out of [doing good] with an ulterior motive there comes [doing good] for its own sake.

Our Rabbis taught: He who looks to the earnings of his wife or of a mill will never see a sign of blessing. 'The earnings of his wife' means [when she goes around selling wool] by weight.[18] '[The earnings of] a mill' means its hire.[19] But if she makes [e.g., woollen garments] and sells them, Scripture indeed praises her, for it is written, she maketh linen garments and selleth them.[20]

Our Rabbis taught: He who trades in cane and jars will never see a sign of blessing. What is the reason? Since their bulk is large, the [evil] eye has power over them.

Our Rabbis taught: Traders in market-stands[21] and those who breed small cattle,[22] and those who cut down beautiful trees,[23] and those who cast their eyes at the better portion,[24] will never see a sign of blessing. What is the reason? Because people gaze at them.[25]

Our Rabbis taught: Four perutoth never contain a sign of blessing:[26] the wages of clerks, the wages of interpreters,[27] the profits of orphans,[28] and money that came from oversea countries. As for the wages of interpreters, that is well, [the reason being] because it looks like wages for Sabbath [work]; orphans money too, because they are not capable of renunciation;[29] money which comes from overseas, because a miracle does not occur every day.[30] But what is the reason for the wages of writers? — Said R. Joshua b. Levi: The men of the Great Assembly[31] observed twenty-four fasts so that those who write Scrolls, tefillin and mezuzoth[32] should not become wealthy for if they became wealthy they would not write.

Our Rabbis taught: Those who write Scrolls, tefillin, and mezuzoth, they, their traders and their traders' traders,[33] and all who engage [in trade] in sacred commodities,[34] which includes the sellers of blue wool,[35] never see a sign of blessing. But if they engage [therein] for its own sake,[36] they do see [a sign of blessing]. The citizens of Beyshan[37] were accustomed not to go from Tyre to Sidon[38] on the eve of the Sabbath. Their children went to R. Johanan and said to him, For our fathers this was possible; for us it is impossible. Said he to them, Your fathers have already taken it upon themselves, as it is said, Hear my son, the instruction of thy father, and forsake not the teaching of thy mother.[39]

The inhabitants of Hozai[40] were accustomed to separate hallah on rice.[41] [When] they went and told it to R. Joseph he said to them, Let a lay Israelite eat it in their presence:[42] Abaye raised an objection against him: Things which are permitted, yet others treat them as forbidden,[43]

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(1) The law concerning produce of the Sabbatical year is this: as long as there is produce in the field available for animals, a man may keep produce at home as his private property; but when the produce in the field has ceased, — the animals having consumed it, he must carry out the produce from his home and declare it free for all. Having done this, he may then take back into the house whatever he needs for his private use (Tosaf. 52b, s.v. מתבערין).

(2) I.e., place it at everybody's disposal.

(3) This is explained in the Gemara.

(4) The afternoon service, and the time for same — beginning generally two and a half hours before nightfall.

(5) I.e., the money earned then will not be profitable.

(6) I.e., before.

(7) I.e., it is inadvisable.

(8) As he may continue work after the Sabbath or Festival has actually commenced; or begin before they have quite terminated.

(9) Proclaimed on account of rain, when work was forbidden, Ta'an. 12b. On other fast-days work is permitted.

(10) Lit., 'low'.

(11) Though his abstention then is due to indolence, not to respect for the Sabbath, he is nevertheless rewarded, since in fact he does abstain.

(12) V. p. 20, n. 5.

(13) [Var. lec. (v. Rashi); These women of Mahuza, although the reason they do no work. . . Sabbath is that they are used . . ,yet even so are called etc.]

(14) Ps. LVII, 11.

(15) Ibid. CVIII, 5.

(16) Lit., 'name'. To them, His mercy is great above the heavens.

(17) Lit., 'not for its own name'.

(18) Jast.; i.e., trading in wool, but not making it up; this realizes very little profit and is not a dignified occupation for a woman.

(19) But trading in mills, buying and selling them, is profitable.

(20) Prov. XXXI, 24. This occurs in the description of the 'woman of valour'.

(21) [Heb. Simta. Tosef. Bek. II has Shemittah, the Sabbatical year when trading with produce is forbidden.]

(22) Sheep, goats, etc.

(23) To sell for their timber.

(24) When sharing with their neighbour.

(25) Market traders are exposed to the public gaze, and so to the evil eye, which is a potent source of misfortune. The

other three incur the ill-will of people, the first because breeding small animals was generally frowned upon.
(26) Perutah was the smallest coin. I.e., the monies earned by the four things enumerated.
(27) Officials who spoke the Sabbath lectures of the Sages to the congregation; the Sage whispered his statements to the interpreter, and he explained them to the people. Also, those who publicly interpreted and translated the weekly readings of the Law on the Sabbath.
(28) Orphans' money was sometimes entrusted to people to trade with, and they kept half the profit for themselves for their labour.
(29) He may take more than his due, and a minor cannot legally renounce it in his favour.
(30) Considerable danger attended the transport of freights at sea, and one might very easily suffer loss.
(31) A body of one hundred and twenty men founded by Ezra, regarded as the bearers of Jewish teaching and tradition after the Prophets; v. Ab. I, 1.
(32) V. Glos.
(33) All who trade in these, whether directly or indirectly.
(34) Lit., 'work'.
(35) Wool dyed blue for insertion in garments as fringes; v. Num. XV, 38.
(36) To benefit the community, profit being a secondary consideration.
(37) Beyshan (Scythopolis) in Galilee (Jast.). [Beyshan was, however, far too distant from Tyre to enable its inhabitants to go there and back in one day. It must therefore be located in the neighbourhood of Tyre and it is identified with the village at Abasiya, N.E. of Tyre (Hurwitz, Palestine, p. 112).]
(38) On the coast of Palestine. Friday was market day at Sidon (Rashi).
(39) Prov. I, 8.
(40) Known to-day as Khuzistan, in S. W. Persia; Obermeyer, pp. 204ff.
(41) Which is necessary by law.
(42) Hallah may be eaten by a priest only. Thus he intimated that this was not hallah.
(43) Lit., 'practise a prohibition in connection with them'.

Talmud - Mas. Pesachim 51a

you may not permit it in their presence? Said he to him, Yet was it not stated thereon, R. Hisda said: This refers to Cutheans.[1] What is the reason in the case of Cutheans? Because they confound one thing [with another]![2] Then these people too [being ignorant] confound one thing [with another]? — Rather, said R. Ashi, we consider: if most of them eat rice [bread], a lay Israelite must not eat it [the hallah] in their presence, lest the law of hallah be [altogether] forgotten by them; but if most of them eat corn [bread], let a lay Israelite eat it in their presence, lest they come to separate [hallah] from what is liable upon what is exempt, and from what is exempt upon what is liable.[3]

[It was stated in] the text: 'Things which are permitted, yet others treat them as forbidden, you may not permit it in their presence. Said R. Hisda: This refers to Cutheans'. Yet not [to] all people? Surely it was taught: Two brothers may bathe together,[4] yet two brothers do not bathe [together] in Cabul.[5] And it once happened that Judah and Hillel, the sons of R. Gamaliel, bathed together in Cabul, and the whole region criticized them, saying, 'We have never seen such [a thing] in [all] our days;' whereupon Hillel slipped away and went to the outer chamber,[6] but he was unwilling to tell them, 'You are permitted [to do this]'. [Again,] one may go out in slippers on the Sabbath,[7] yet people do not go out in slippers in Beri.[8] And it once happened that Judah and Hillel, the sons of R. Gamaliel, went out in slippers on the Sabbath in Beri, whereupon the whole district criticized them, saying, 'We have never seen such [a thing] in [all] our days'; so they removed them and gave them to their [non-Jewish] servants, but they were unwilling to tell them, 'You are permitted [to wear these].' Again, one may sit on the stools of Gentiles on the Sabbath,[9] yet people do not sit on the stools of Gentiles on the Sabbath in Acco.[10] And it once happened that R. Simeon b. Gamaliel sat down on the stools of Gentiles on the Sabbath in Acco, and the whole district criticized him, saying, 'We have never seen such [a thing] in [all] our days'. [Accordingly] he slipped down on to the ground, but he was unwilling to tell them, 'You are permitted [to do this]'.[11] — The people of the coastal region, since Rabbis are not common among them, are like Cutheans.[12]

As for [not sitting on] Gentiles' stools, that is well, [the reason being] because it looks like [engaging] in buying and selling. [That they do not go out] in slippers too [is understandable], lest they fall off and they come to carry them four cubits in the street. But what is the reason that [brothers] do not bathe [together]? — As it was taught: A man may bathe with all, except with his father, his father-in-law, his mother's husband and his sister's husband.[13] But R. Judah permits [a man to bathe] with his father, on account of his father's honour,[14] and the same applies to his mother's husband. Then they [the people of Cabul] came and forbade [it] in the case of two brothers on account of [bathing with] his sister's husband.[15]

It was taught: A disciple must not bathe with his teacher, but if his teacher needs him, it is permitted.

When Rabbah b. Bar Hanah came,[16] he ate of the stomach fat.[17] Now, R. 'Awira[18] the Elder and Rabbah son of R. Huna visited him; as soon as he saw them, he hid[19] it [the fat] from them. When they narrated it to Abaye he said to them, 'He has treated you like Cutheans'. But does not Rabbah b. Bar Hanah agree with what we learned: WE LAY UPON HIM THE RESTRICTIONS OF THE PLACE WHENCE HE DEPARTED AND THE RESTRICTIONS OF THE PLACE WHITHER HE HAS GONE? — Said Abaye: That is only [when he goes] from [one town in] Babylonia to [another in] Babylonia, or from [a town in] Palestine to [another in] Palestine, or from [a town in] Babylonia to [another in] Palestine; but not [when he goes] from [a place in] Palestine to [another in] Babylonia, [for] since we submit to them,[20] we do as they.[21] R. Ashi said: You may even say [that this holds good when a man goes] from Palestine to Babylonia; this is, however, where it is not his intention to return; but Rabbah b. Bar Hanah had the intention of returning.

Rabbah b. Bar Hanah said to his son: My son, do not eat [this fat], whether in my presence or not in my presence. As for me who saw R. Johanan eat [it], R. Johanan is sufficient [an authority] to rely upon in his presence and not in his presence. [But] you have not seen him [eat it]; [therefore] do not eat, whether in my presence or not in my presence. Now, [one statement] of his disagrees with [another statement] of his. For Rabbah b. Bar Hanah said: R. Johanan b. Eleazar related to me: I once followed R. Simeon son of R. Jose b. Lakuna into a kitchen garden,

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(1) The people whom Shalmaneser settled in Samaria after the deportation of the Ten Tribes. They formally accepted Judaism, but as they retained many heathen practices, their religious status fluctuated, until they were finally declared heathens. In the present passage they are treated as Jews, but so lax as to require special laws.

(2) If they were treated with leniency in one case, their laxity in general would increase.

(3) Hallah can be separated from one piece of dough upon another piece, providing that both are liable; but if one is liable while the other is not, the separated piece is not hallah, while the other remains forbidden as tebel. Hence if they separate hallah from rice dough, which is really exempt, upon dough of wheat, which is liable, the latter remains tebel, and by eating it they transgress. Again, if they separate hallah from wheat dough upon itself and upon a rice dough, the former is not hallah but likewise tebel, and when it is given to the priest he eats tebel.

(4) Lit., 'as one' — without fear that this may induce a desire for pederasty.

(5) A place southeast of Acco. Though the fear of pederasty may seem far-fetched, this is not so when its prevalence in the Roman Empire is remembered; v. Weiss, Dor, 11, 21f.

(6) Of the baths.

(7) Though they are loose-fitting; we do not fear that they may fall off and the wearer will thus come to carry them in the street, which of course is forbidden.

(8) A town in Galilee.

(9) When they are engaged in business, and we do not fear that the Jew who sits down there will be suspected of doing the same.

(10) A town and harbour on the coast of Phoenicia.

(11) In all these instances Jews are referred to, yet we see that this law holds good.

(12) In that leniency may lead to laxity, where there is none to show them the difference between what is mere stringency and what is really prohibited by law.

(13) In their case this may lead to impure thoughts.

(14) He can perform some services for him and help him.

(15) Lest the latter be thought permitted too.

(16) From Palestine to Babylonia.

(17) The stomach is partly curved, like a bow, and partly straight, like the string of a bow, which is the meaning of the present word. The fat on the straight part of the stomach is really permitted, but in Babylonia it was treated as forbidden.

(18) Alfasi and Rosh read: ‘Awia.

(19) Lit., ‘covered’.

(20) We accept their jurisdiction.

(21) I.e., a Palestinian going to Babylonia may retain his home practice, for this cannot give rise to quarrels.

Talmud - Mas. Pesachim 51b

and he took the aftergrowth of the cabbage[1] and ate it, and he gave [some] to me and said to me, ‘My son, in my presence you may eat,[2] when not in my presence, you may not eat [it]. I who saw R. Simeon b. Yohai eat [it], — R. Simeon B. Yohai is [great] enough to rely upon in his presence and not in his presence; [but] you may eat in my presence, but do not eat [when] not in my presence’.[3] What is [this reference to] R. Simeon? For it was taught, R. Simeon said: All aftergrowths are forbidden,[4] except the aftergrowth of the cabbage, because there is none like them among the vegetables of the field;[5] but the Sages maintain, All aftergrowths are forbidden. Now, both [state their views] on the basis of R. Akiba. For it was taught: Behold, we may not sow, nor gather in our increase.[6] R. Akiba said: Now, since they do not sow, whence can they gather?[7] Hence it follows that the aftergrowth is forbidden.[8] Wherein do they differ? The Rabbis hold, We preventively forbid the aftergrowth of cabbage on account of other aftergrowths in general; whereas R. Simeon holds: We do not preventively forbid the aftergrowth of cabbage on account of [other] aftergrowths in general.[9]

HE WHO GOES FROM A PLACE etc. As for [teaching], HE WHO GOES FROM A PLACE WHERE THEY DO WORK TO A PLACE WHERE THEY DO NOT WORK . . . WE LAY UPON HIM THE RESTRICTIONS OF THE PLACE WHITHER HE HAS GONE, AND A MAN MUST NOT ACT DIFFERENTLY, ON ACCOUNT OF THE QUARRELS, that is well, and he must not work. But [if he goes] FROM A PLACE WHERE THEY DO NOT WORK TO A PLACE WHERE THEY DO WORK . . . A MAN MUST NOT ACT DIFFERENTLY, BECAUSE OF THE QUARRELS — [that is] he is to work? But you say, WE LAY UPON HIM THE RESTRICTION OR THE PLACE WHITHER HE HAS GONE AND THE RESTRICTIONS OF THE Place WHENCE HE HAS DEPARTED! — Said Abaye: It refers to the first clause.[10] Raba said: After all it refers to the second clause, but this is its meaning: This does not come within [the scope of] differences which cause quarrels. What will you say: He who sees will say, ‘[He regards] work as forbidden?’[11] [No:] they will indeed say, ‘How many unemployed are there in the market place!’[12]

R. Safra said to R. Abba:[13] For instance I,[14] who know [the art] of fixing the New Moon,[15]

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(1) Rashi: It was in a Sabbatical year, and after the time when provisions must be removed from the house; v. p. 243, n. 1. Tosaf. maintains that ‘and he took’ implies that he pulled it out of the earth; thus it was still available for cattle, and therefore it was before the time of removal.

(2) Because you can rely upon me.

(3) Whereas Rabbah b.Bar Hanah told his son not to rely upon him even in his presence.

(4) After the time of removal (Rashi); v. however next note.

(5) Rashi offers two explanations the first of which he rejects. The second, about which he is also doubtful, is this:

cabbages remain in the ground right through winter, whereas the aftergrowths of other vegetables are consumed earlier: hence we are more lenient with cabbages, because we can never apply to them the principle, ‘when it ceases for the beasts in the field, it must cease — (i.e., be removed from) the man in the house’. V. p. 251, n. 1, for a different interpretation.

(6) Lev. XXV, 20.

(7) Then why state ‘nor gather in our increase’?

(8) And to this they refer.

(9) R. Tam: the reference is to the time before the removal. Both R. Simeon and the Rabbis accept R. Akiba's view that the aftergrowth is Scripturally forbidden, but only that aftergrowth which is similar to sowing (seeds), for the verse, ‘we may not sow, nor gather in our increase, implies that ‘our increase,’ which refers to the aftergrowth, is similar to what ‘we may not sow’; but the cabbage plant has more affinity to trees then to seeds (v. Keth. 111b), hence it is not forbidden by Biblical law. This view is held by both, and they differ whether the cabbage aftergrowth is Rabbinically forbidden as a preventive measure or not. Another explanation is given in Tosaf. on quite different lines.

(10) I.e., HE MUST NOT ACT DIFFERENTLY if he goes FROM A PLACE WHERE THEY DO WORK TO A PLACE WHERE THEY DO NOT WORK.

(11) Though we permit it; do you fear that this will lead to strife?

(12) Raba explains the Mishnah thus: IF A MAN GOES FROM A PLACE WHERE THEY DO NOT WORK TO A PLACE WHERE THEY WORK . . . WE IMPOSE UPON HIM THE RESTRICTION OF THE PLACE WHENCE HE HAS DEPARTED. For the general principle that a man MUST NOT ACT DIFFERENTLY from the rest of the people was only ON ACCOUNT OF THE QUARRELS, whereas here we have no fear.

(13) Var. lec. Raba.

(14) [So Tosaf. and MS. M., cur. edd. ‘we’.]

(15) By Biblical law Festivals are holy on the first and the seventh days only (Pentecost one day altogether). But owing to uncertainty in early time about the exact day of New Moon, i.e., when the month began, it became a binding practice in the Diaspora to observe two days instead of one, and this remained binding even when New Moon was ascertained by mathematical calculation, which obviated all doubt.

Talmud - Mas. Pesachim 52a

in inhabited places I do not work,[1] because it is a change [which would lead to] strife. [But] how is it in the wilderness? — Said he to him, Thus did R. Ammi say: In inhabited regions it is forbidden; in the desert it is permitted. R. Nathan b. Asia went from Rab's academy [in Sura][2] to Pumbeditha on the second Festival day of Pentecost, [whereupon] R. Joseph put him under the ban. Said Abaye to him, Yet let the master punish him with lashes? — Said he to him, I have treated him more severely, for in the West [sc. Palestine] they take a vote for punishing a disciple with lashes, yet they do not take a vote on the ban.[3] Others say, R. Joseph had him lashed. Said Abaye to him, Yet let the Master ban him, for Rab and Samuel both said: We impose the ban for [the violation of] the two Festival days of the Diaspora? — Said he to him, That refers only to an ordinary person, but here it is a scholar, so I did what was better for him, for in the West they take a vote for punishing a disciple with lashes, yet they do not take a vote on the ban.

SIMILARLY, HE WHO TRANSPORTS SABBATICAL-YEAR PRODUCE etc. Does then R. Judah not accept what we learned, WE LAY ON HIM THE RESTRICTIONS OF THE PLACE WHENCE HE DEPARTED AND THE RESTRICTIONS OF THE PLACE WHITHER HE HAS GONE? — Said R. Shisha the son of R. Idi, R.Judah says[4] a different thing, and this is its meaning: or from a place where it has not ceased to a place where it has not ceased, and then he heard that it had ceased in his town, he is bound to remove it. R. Judah said: [He can say,][5] ‘Do you too go out and procure [produce] for yourself from the place whence I have obtained it’, since it has not ceased for them.[6] Shall we say that R. Judah [thus] rules leniently? But surely R. Eleazar said, R. Judah did not rule otherwise than stringently?[7] Rather, reverse it: He is not bound to remove it.[8] R. Judah said: [His townspeople can say to him], ‘Do you too go out [now] and obtain [produce] from the place whence you brought it [the produce you possess], and lo! it has ceased’.[9] Abaye said: In truth it is as taught,[10] and this is what he states: Or from a place where it has not ceased to a place where it has ceased, and [then] he brought it back to its place, and it has still not ceased [there], he is not bound to remove it. R. Judah said: [They can say to him,] ‘Go out and do you too bring [produce] from the place whence you have [now] brought it, and lo! it has ceased [there]’. To this R. Ashi demurred: According to R. Judah, has he then caught them [these restrictions] up on the back of an ass![11] Rather, said R. Ashi, [This enters] in the controversy of the following Tannaim. For we learned: If a man preserves three [kinds of] preserves In one barrel,[12] — R. Eliezer said: One may eat [in reliance] upon the first [only];[13] R. Joshua said: Even [in reliance] upon the last;[14] R. Gamaliel said: Whatever kind has ceased from the field, he must remove that kind from the barrel, and the halachah is as his ruling.[15]

Rabina said, [It enters] into the controversy of the following Tannaim. For we learned:[16] One may eat dates until the last in Zoar is finished;[17] R. Simeon b. Gamaliel said:

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(1) On the second day of Festivals. [I.e., when I happen to be in Babylon, v. infra p. 52a.]

(2) [Var. lec. ‘Biram’ on the West bank of the Euphrates. v. Asheri and MS.M. In Biram, which was the home of R. Nathan b. Asia, only a one day Festival was observed, v. R.H., Sonc. ed. p. 100, n. 2 and Obermeyer, p. 99].

(3) As the ban would damage his prestige more than corporal punishment. This proves that the ban is a severer punishment.

(4) [Var. lec. omit ‘R. Judah’ the reference being to the first Tanna, v. Rashi.]

(5) To the people of the place whence he came.

(6) Thus, he does not regard the practice of his own town, since they too can do as he.

(7) In this connection.

(8) I.e., insert the addition in the Mishnah thus: Or if he goes from a place where it has not ceased to a place where it has not ceased, and he then learns that it has ceased in his own town, he is not bound to remove it, as one cannot speak of the restrictions of the place whence he came, for when he left it there were as yet no restrictions.

(9) I.e., the fact remains that by now it has ceased in your own town, and the resultant law applies to yourself too just as to us.

(10) It refers to two dissimilar places, not to two similar places.

(11) So that he brings them back with him! The produce has neither grown in that second town nor does he consume it there: how then can he be subject to the restrictions of that place?

(12) I.e., three different vegetables. These may ‘cease from the field’ at different times — the reference is to the Sabbatical year.

(13) As soon as the first kind ‘ceases from the field’, he must declare the whole free to all, because their being preserved together makes them as one.

(14) He may go on eating of all three until the last kind has ceased from the field.

(15) Now in the Mishnah there is the same controversy. The first Tanna agrees with R. Joshua's lenient view, and this is what he means: If a man carries various kinds of produce from a place where they have not ceased to a place where all of them have ceased, he is bound to remove them. But if only some kinds have ceased, he may eat even of the kind which has ceased. R. Judah rules, One can say to him, ‘Go out and do you too bring of that kind from the field’, i.e., you will not find of that kind, and therefore you must remove it in accordance with R. Gamaliel.

(16) [The teaching that follows is not a Mishnah but a Baraitha, Tosef. Sheb. VII. Read accordingly with MS. M.: ‘It has been taught’.]

(17) Dates may be eaten in the whole of Judea until the last palm tree is finished in Zoar, a town near the Dead Sea (Gen. XIII, 10) particularly well-stocked with palm trees (v. Deut. XXXIV, 3, though ‘the city of palm trees’ mentioned there refers to Jericho, not Zoar).

Talmud - Mas. Pesachim 52b

One may eat [in reliance] on those that are among the upper [overarching] boughs but one may not eat [in reliance] on those that are among the single prickly branches.[1]

We learned elsewhere: There are three [separate] districts[2] in respect of removal: Judea, Transjordania and Galilee;[3] and there are three districts in each of them separately.[4] Then why did they say, There are [only] three districts in respect of removal?[5] Because in each one they may eat until it [the produce] has ceased in the last [region] thereof.[6] Whence do we know it? — Said R. Hama b. ‘Ukba in the name of R. Jose b. Hanina, Scripture saith, [And the sabbath-produce of the land shall be food for you...]and for thy cattle, and for the beasts that are in thy land:[7] as long as the [wild] beasts can eat in the field, feed the cattle in the house;[8] when there is no more for the beasts in the field, make an end of it for the cattle in the house;[9] and we have it on tradition that the beasts in Judea do not live on the produce of Galilee, and the beasts in Galilee do not live on the produce of Judea.[10]

Our Rabbis taught: Produce which went from the Land[11] abroad[12] must be removed wherever it is.[13] R. Simeon b. Eleazar said: They must go back to their [original] place and be removed, because it is said, ‘in thy land’. But you have utilized this?[14] — Read therein, ‘in the land’, ‘in thy land’.[15] Alternatively, [it is deduced] from, ‘that are [asher] in thy land’.[16]

R. Safra went from the Land abroad, [and] he had with him a barrel of wine of the Sabbath year. Now, R. Huna the son of R. Ika and R. Kahana accompanied him. He asked them, Is there any one who has heard from R. Abbahu[17] [whether] the halachah is as R. Simeon b. Eleazar or not? — Said R. Kahana to him: Thus did R. Abbahu say: The halachah is as R. Simeon b. Eleazar. R. Huna the son of R. Ika [however] said to him, Thus did R. Abbahu say: The halachah is not as R. Simeon b. Eleazar. Said R. Safra, Accept this ruling of R. Huna,[18] because he is meticulously careful to learn the laws from his teacher, like Rehabah of Pumbeditha. For Rehabah said in Rab Judah's name: The Temple Mount consisted of a double colonnade, [i.e.,] a colonnade within a colonnade.[19] [Thereupon] R. Joseph applied to him [R. Safra] the verse, My people ask counsel at their stock, and their staff [makkelo] declareth unto them:[20] whoever is lenient [mekal] to him, to him he concedes [right].[21]

R. Elai cut down date-berries of the Sabbatical year.[22] How might he do thus: the Merciful One said, [It . . . shall be] for food,[23] but not for destruction? And should you answer that is only where it has reached[24] [the stage of] fruit,[25] but not where it has not reached [the stage of] fruit, — surely R. Nahman said in Rabbah b. Abbuha's name: The calyxes[26] of ‘orlah are forbidden, because they became a guard for the fruits. Now, when is it a guard for the fruits? When they are unripe berries, yet he calls them fruits! — R. Nahman ruled as R. Jose. For we learned, R. Jose said: The [berries of ‘orlah] in the budding stage [semadar] are forbidden, because they count as fruit; whereas the Rabbis disagree with him. To this R. Shimi of Nehardea demurred; yet do the Rabbis disagree with R. Jose in respect to other trees,[27] — surely we learned, From when may you not cut down trees in the Sabbatical year?[28] Beth Shammai maintain: All trees [may not be cut down] from when they bring forth;[29] but Beth Hillel rule: The carob trees from when they form chains [of carobs]; the vine trees,

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(1) The lower portion of the palm tree near the roots is surrounded with single prickly, thorn-like branches. Now, when a wind blows, the falling dates are retained both among the ordinary (upper) branches as well as the prickly ones. R. Simeon b. Gamaliel rules that you may eat only as long as there are dates among the higher branches, which are accessible; but those (in the prickly branches must be disregarded, since animals cannot take them because of the prickles. In our Mishnah the first Tanna means: When they have completely ceased, even from the prickly branches, he must remove them. Whereas R. Judah maintains that unless one can go and bring them, i.e., unless they are accessible, he must remove them, which means even if there are still dates on these thorn branches.

(2) Lit., ‘countries’.

(3) In each the time of removal is when the produce has ‘ceased from the field’ in that particular district.

(4) The produce ceasing in each at a different time.

(5) Instead of nine.

(6) Rash: until it has ceased in the last subdivision. Tosaf. explains it differently v. Shebi. IX, 2-3.

(7) Lev. XXV, 6f.
(8) I.e., domestic animals.
(9) I.e., you must no longer keep the produce in the house for your private needs.
(10) I.e., they do not stray so far in search of food (Rashi).
(11) I.e., Palestine, ‘the Land’ par excellence.
(12) Lit., ‘to without the Land.’
(13) The law of sabbatical produce, being dependent on the soil, is binding in Palestine only, v. Kid. 36b; yet it is also binding upon Palestine produce, even when transplanted elsewhere. Nevertheless, he is not bound to take it back to Palestine for removal, but can do it wherever he is.
(14) To show that one district cannot rely on another.
(15) I.e., Scripture could have written ‘in the land’, which would suffice for the present exegesis. In thy land intimates both.
(16) Asher is superfluous; hence it can be used for this purpose.
(17) Who was his teacher.
(18) Lit., ‘hold . . . in your hand’.
(19) V. supra 13b and Bezah, Sonc. ed. p. 54, n. 9. The point of the quotation is not clear. In Ber. 33b Rashi explains that Rehabah was careful to use the word setaw, the exact word used by his teacher, though the passage is based on a Mishnah (v. Supra 11b), where the word iztaba is used.
(20) Hos. IV, 12.
(21) A humorous play on words, connecting makkel, a staff, with mekal, he is lenient.
(22) I.e., before they ripened and were fit for food (R. Hananel); Rashi: he cut down the palm tree before the dates had ripened.
(23) Lev. XXV, 6.
(24) Lit., ‘descended to’.
(25) I.e., when it is ripe.
(26) Which surround the date in its early stage.
(27) Apart from the vine, to which the above refers.
(28) As stated above, they must be used for food, not for destruction. Now the question is: at what stage are their fruits regarded as food, so that the tree must not be cut down, but left until its fruit ripens.
(29) Rashi explains here: the first leaves (preceding the fruits); but in Ber. 36b Rashi explains: when they bring forth the fruit; Strashun accepts the latter view.

Talmud - Mas. Pesachim 53a

from when they form kernels;[1] olive trees, from when they blossom;[2] and all other trees, from when they bring forth. Now R. Assi said thereon: Boser [half-ripe fruit], girua’ [formation of kernels], and the white bean are identical.[3] ‘The white bean can you think so![4] — Rather, say, its size is that of the white bean. Now, whom do you know to maintain that boser is fruit, but not semadar? The Rabbis.[5] Yet it is stated, ‘and all other trees, from when they bring forth?’[6] — Rather, R. Ilai cut down nishane.[7]

Our Rabbis taught: One may eat grapes [of the Sabbatical year] until the espalier branches of okel[8] are finished. If there are later ones than these, one may eat [in reliance] on them.[9] One may eat olives until the last of Tekoa[10] is finished. R. Eliezer said: Until the last of Gush-Heleb[11] is finished, so that a poor man should go out and not find a quarter[12] either on the branches or on the stem. One may eat dried figs until the unripe figs [pagge] of Beth Hini[13] are finished. Said R. Judah: The unripe figs of Beth Hini were not mentioned except in connection with tithe, for we learned,[14] The unripe figs of Beth Hini and the dates[15] of Tobanya[16] are subject to tithe.[17] ‘One may eat dates until the last in Zoar is finished; R. Simeon b. Gamaliel said: One may eat [in reliance] on those that are among the upper [overarching] branches, but you may not eat [in reliance] on those that are among the single prickly branches.’ But the following contradicts this: One may eat grapes until Passover; olives until Pentecost; dried figs until Hanukkah;[18] [and] dates until Purim.[19] Now R. Bibi said, R. Johanan transposes the last two![20] — Both are one [the same] limit. Alternatively, surely it is explicitly taught, ‘If there are later ones than these, one may eat [in reliance] on them.’[21]

It was taught, R. Simeon b. Gamaliel said: An indication of mountainous country is [the presence of] millin;[22] an indication of valleys is palm trees; an indication of streams is reeds; an indication of lowlands is the sycamore tree. And though there is no proof of the matter, there is an allusion to the matter, for it is said, And the king made silver to be in Jerusalem as stones, and cedars made he to be as the sycamore trees that are in the lowland, for abundance.[23]

‘An indication of mountainous country is [the presence of] millin; an indication of valleys is palm trees.’ The practical difference is in respect of first fruits. For we learned: First fruits are not brought of any save the seven species,[24] nor of the palm trees in the highlands nor of the fruits in the valleys.[25] ‘An indication of streams is reeds.’ The practical difference is in respect of the rough valley’ [nahal ethan].[26] ‘An indication of lowlands is the sycamore tree.’ The practical difference is in respect of buying and selling.[27] Now that you have arrived at this, all the [others] too are in respect of buying and selling.

MISHNAH. WHERE IT IS THE PRACTICE TO SELL SMALL CATTLE[28] TO HEATHENS, ONE MAY SELL; WHERE IT IS THE PRACTICE NOT TO SELL,[29] ONE MAY NOT SELL. AND IN ALL PLACES ONE MAY NOT SELL LARGE CATTLE TO THEM, [NOR] CALVES OR FOALS, WHETHER SOUND OR MAIMED.[30] R. JUDAH PERMITS IN THE CASE OF A MAIMED [ONE].[31] THE SON OF BATHYRA PERMITTED IT IN THE CASE OF A HORSE.[32] WHERE IT IS THE CUSTOM TO EAT ROAST [MEAT] ON THE NIGHT OF PASSOVER, ONE MAY EAT[IT]; WHERE IT IS THE CUSTOM NOT TO EAT [IT],[33] ONE MAY NOT EAT [IT].

GEMARA. Rab Judah said in Rab's name: A man is forbidden to say, ‘This meat shall be for Passover,’ because it looks as though he is sanctifying his animal and eating sacred flesh without [the Temple]. Said R. Papa: This applies only to meat, but not to wheat, because he means, It is to be guarded [from fermenting] for Passover. But not ‘meat’? An objection is raised: R. Jose said, Thaddeus of Rome[34] accustomed the Roman [Jews] to eat helmeted goats[35] on the nights of Passover. [Thereupon] they [the Sages] sent [a message] to him: If you were not Thaddeus, we would proclaim the ban against you, because you make Israel eat sacred flesh without [the Temple]. ‘Sacred flesh’ — can you think so?[36] — Rather say,

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(1) Or, ovules containing moisture (v. Jast. s.v. גרע II).

(2) I.e., when their blossoms, a calyx-like growth, come forth.

(3) Lit., ‘that is boser, that is’ etc. I.e., the three terms indicate the same stage. The Mishnah often speaks of these.

(4) We are discussing the vine!

(5) For R. Jose maintains that even semadar, which denotes an earlier stage, is fruit.

(6) Thus they agree with R. Jose in respect to other trees.

(7) Stunted dates of palms whose fruit never matures.

(8) Cur. ed. ‘Ar. (also quoted by Rashi) reads: Abel, i.e., the branches of Abel Cheramim (lit., ‘the palm of the vine-yards’ — v. Jud. XI, 33), situate six or seven Roman miles from Philadelphia (Rabbath-Ammon), and as its name implies, famous for its vineyards; v. J.E. s.v.

(9) I.e., as long as they are yet on the branches.

(10) A city of southern Judea often mentioned in the Bible (e.g., II Sam. XIV, 2f; Amos I, 1; II Chron. XI, 6), and famous for the abundance of its olives, v. Men. 85b.

(11) Lit., ‘fat ground’, (Gush-heleb) or Giscala in Galilee, not far from Tyre (Neub. Geogr. p. 230), was rich in oil; Josephus, Vita, 13; Men. 85b; v. J.E. s.v. Giscala.

(12) I.e., a log.

(13) Bethania, near Jerusalem; v. Neub. op. cit., 149f. Pagge are probably a species of figs that never reach full maturity, but are nevertheless fit for eating.

(14) ‘We learned’ is absent in this passage as quoted in ‘Er. 28b. [It is a Baraitha (Tosef. Sheb. VII) and not a Mishnah.]
(15) Ahina (pl. ahini) is a species of late and inferior dates.
(16) Name of a certain place.
(17) But these figs do not determine the time for the removal of figs.
(18) The Feast of Lights, commencing on the twenty-fifth of Kislev and lasting for eight days. It generally fails in the latter half of December.
(19) ‘Lots’ — the minor Festival in celebration of Haman's downfall. It is held on the fourteenth of Adar, and generally occurs in March.
(20) I.e., dried figs until Purim, and dates until Hanukkah. By then the various kinds mentioned have disappeared from the field; thus this conflicts with the previous statement.
(21) Thus even if these are different time-limits, the later one is stated in accordance with this teaching.
(22) Milla pl. millin, a species of oak from which the gall-nut is collected (quercus infectoria). Jast.
(23) I Kings X, 27.
(24) Enumerated in Deut. VIII, 8; a land of wheat and barley, and vines and fig trees and pomegranates; a land of olive trees and honey.
(25) Because these are of inferior quality. The same idea is expressed by R. Simeon b. Gamaliel when he says that palm trees are an indication of valleys, i.e., the best grow in the valleys. His other statements bear a similar meaning.
(26) V. Deut. XXI,4 . Nahal is a stream which in summer dries up and leaves a valley bed. The presence of reeds along the margin of the valley indicates that this is a fitting place for the purpose.
(27) If a man sells a lowland estate it must contain sycamores (Rashi). Or, if a man sells sycamore trees, guaranteeing them to be of the best quality, they must be from lowland country.
(28) E.g., sheep and goats.
(29) For fear that large cattle too may be sold to them; v. n. 5.
(30) Large cattle, because they are thereby deprived of the Sabbath rest (v. A.Z. 15a); calves or foals, being the young of large cattle, as a preventive measure; maimed, likewise as a preventive measure on account of whole animals.
(31) Because it is unfit for work and will immediately be killed for food. Therefore the few will not see it in the heathen's possession, and so will not come to sell him others too.
(32) The main use of a horse is for riding, and riding on the Sabbath, even by a Jew, is not regarded as Scripturally forbidden but merely as a shebuth (v. Glos.).
(33) This means after the destruction of the Temple. While the Temple stood the Passover sacrifice was eaten roast (Ex. XII, 8). Consequently, when the Temple was no more it became the practice to refrain from eating roast meat on the night of Passover, so that it should not appear that a sacrifice was brought without the Temple, which is forbidden.
(34) Lit., ‘a man of Rome’.
(35) Goats roasted whole with the entrails and the legs on the head, like a helmet (the verb kalas denotes to put on a helmet). That is how the Passover sacrifice was roasted, v. infra 74a.
(36) Surely the goats were not dedicated as sacrifices.

Talmud - Mas. Pesachim 53b

It is near to making Israel eat sacred flesh without [the Temple].[1] [Thus,] only a ‘helmeted’ goat,[2] but not if it is not ‘helmeted’? — I will tell you: if it is ‘helmeted’, there is no difference whether he stated[3] or he did not state; [but] if it is not ‘helmeted’, if he specified, it is [forbidden]; if he did not specify, it is not [forbidden].

R. Aha learned this Baraitha as [the statement of] R. Simeon.[4] To this R. Shesheth demurred: It is well according to him who learns it as [the statement of] R. Jose; then it is correct. But according to him who learns it as [the statement of] R. Simeon, is it correct?, Surely we learned, R. Simeon declares him exempt, because he did not make the offering in the way which people make [this] offering![5] Said Rabina to R. Ashi: And is it correct [even] according to him who learns it as [the statement of] R. Jose? Surely Raba said: R. Simeon stated this according to the view of R. Jose, who maintained: A man is held responsible[6] for his last words too. Surely then, since R. Simeon agrees with R. Jose, R. Jose also agrees with R. Simeon?[7] — No: R. Simeon agrees with R. Jose, but R.

Jose does not agree with R. Simeon.[8] The scholars asked: Was Thaddeus, the man of Rome, a great man or a powerful man?[9] — Come and hear: This too did Thaddeus of Rome teach: What [reason] did Hananiah, Mishael and Azariah see that they delivered themselves, for the sanctification of the [Divine] Name,[10] to the fiery furnace? They argued a minori to themselves: if frogs, which are not commanded concerning the sanctification of the [Divine] Name, yet it is written of them, and they shall come up and go into thy house . . . and into thine ovens, and into thy kneading troughs:[11] when are the kneading troughs to be found near the oven? When the oven is hot.[12] We, who are commanded concerning the sanctification of the Name, how much the more so.[13] R. Jose b. Abin said: He cast merchandise into the

Passover-sacrifice at the time of roasting, this is not the way in which people consecrate animals: therefore his words are invalid. pockets of scholars.[14] For R. Johanan said: Whoever casts merchandise into the pockets of scholars will be privileged to sit in the Heavenly Academy, for it is said, for wisdom is a defence even as money is a defence.[15]

MISHNAH. WHERE IT IS THE PRACTICE TO LIGHT A LAMP [AT HOME] ON THE NIGHT OF THE DAY OF ATONEMENT,[16] ONE MUST LIGHT [ONE]; WHERE IT IS THE PRACTICE NOT TO LIGHT [A LAMP], ONE MUST NOT LIGHT [ONE]. AND WE LIGHT [LAMPS] IN SYNAGOGUES, SCHOOL-HOUSES, AND DARK ALLEYS, AND FOR THE SAKE OF INVALIDS.

GEMARA. It was taught: Whether they maintained that we should light [lamps] or they maintained that we should not light [them], both intended [it] for the same purpose.[17] R. Joshua said, Raba lectured: Thy people also shall all be righteous, they shall inherit the land for ever: etc.[18] whether they maintained that we should light [lamps] or they maintained that we should not light [them], both intended nought but the same purpose.

Rab Judah said in Samuel's name: We do not recite a blessing over light except at the termination of the Sabbath, since it was then created for the first time.[19] Said a certain old man to him-others state, Rabbah b. Bar Hanah — ‘Well spoken! and thus [too] did R. Johanan say.

‘Ulla was going along, riding an ass, while R. Abba proceeded at his right and Rabbah b. Bar Hanah at his left. Said R. Abba to ‘Ulla: Do you indeed say in R. Johanan's name: We do not recite a blessing over light except at the termination of the Sabbath, since it was then created for the first time? ‘Ulla turned round and looked at Rabbah b. Bar Hanah with displeasure.[20] Said he to him, I said it not in reference to that but in reference to this.[21] For a tanna recited before R. Johanan, R. Simeon b. Eleazar said: When the Day of Atonement falls on the Sabbath, even where they maintain that we must not light [a lamp], we do light [it] in honour of the Sabbath; which R. Johanan followed with the remark,[22] But the Sages forbid it. Said he to him, Let it be this.[23] R. Jose applied to this the verse, Counsel in the heart of man is like deep water’;

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(1) I.e., it is similar to sacrifices,

(2) Should be forbidden.

(3) That it was for Passover.

(4) Not R. Jose.

(5) V. Men. 103a. If a man declares, ‘I vow a meal-offering of barley’, the first Tanna rules that he must bring a meal-offering of wheat. For a man's liabilities are determined by his first words only, where these contradict his last words. Thus, when he declared, ‘I vow a meal-offering’, this is a binding vow; when he adds ‘of barley’, this is impossible, since only wheat is permitted; therefore his first words are binding. But R. Simeon maintains that he must be judged by his last words too: hence he really meant a meal-offering of barley, thinking that this is permitted; consequently his entire statement is invalid, and he is exempt. Now, in this case, how could it be regarded as near to sacred flesh? He did not consecrate the animal whilst alive, and even if he designated it a

(6) Lit., ‘seized’.
(7) That a vow made in an unusual manner is not binding. Hence the same difficulty arises according to R. Jose.
(8) He maintains that even when a vow is not made in a usual manner it must be taken into account, because no man speaks without a purpose. Hence though R. Simeon bases his ruling on R. Jose's view, R. Jose himself does indeed hold that a man is held responsible for his last words too, but only when both his first words and his last can take effect (v. Tem. 25b); but where his last words would completely nullify his statement, as here, they are disregarded; hence the vower is liable to a wheat meal-offering (Maharsha). So here too, if he declared at the roasting, ‘This be for a Passover sacrifice’, though such a vow is unusual, I would say that he means that a sacrifice shall be bought with its monetary value. Thus it is ‘near to sacred flesh’ on R. Jose's view. But according to R. Simeon this is a real difficulty, which remains unanswered.
(9) Lit., ‘a man of fists’. — On what grounds did they refrain from imposing the ban?
(10) This is one of the great principles of Judaism: a man must by his actions sanctify the Divine Name, i.e., prove his deep conviction of the truth of Judaism even to the extent of suffering for it, and thereby shed lustre and glory upon it.
(11) Ex. VII, 28.
(12) And yet at God's command they entered them.
(13) This quotation shows that he was a great scholar.
(14) I.e., he gave them opportunities for trading.
(15) Eccl. VII, 12. R. Johanan translates: he will enter within the precincts (lit., ‘shadow’) of wisdom, who brings a scholar within the protection of his wealth.
(16) I.e., before it commences, so that it should burn through the night.
(17) viz., to curb their desire for sexual indulgence. The former argued that this would be the better effected by the presence of a lamp, because darkness is generally required; while the latter held that a lamp would strengthen his desire, as he could see his wife by the light.
(18) Isa. LX, 21.
(19) Lit., ‘that was the beginning of its creation’ on the evening of the first day.
(20) For misrepresenting R. Johanan's view.
(21) [MS. M.: I did not say this but that.]
(22) Lit., ‘and R. Johanan answered after him’.
(23) I admit this to be right.

Talmud - Mas. Pesachim 54a

but a man of understanding will draw it out.[1] ‘Counsel in the heart of man is like deep water’ — this applies to ‘Ulla;[2] ‘but a man of understanding will draw it out’ — this applies to Rabbah b. Bar Hanah.[3] And in accordance with whom did they hold their view?[4] — In accordance with the following which R. Benjamin b. Japheth said in R. Johanan's name: We recite a blessing over light both at the termination of the Sabbath and at the termination of the Day of Atonement, and that is the popular practice. An objection is raised: We do not recite a blessing over light except at the termination of the Sabbath, since it was then created for the first time; and as soon as he sees [it] he immediately recites a blessing. R. Judah said: He recites them[5] in order over the cup [of wine]. Now R. Johanan said thereon: The halachah is as R. Judah? — There is no difficulty: here the reference is to light that has burnt over the Sabbath;[6] there it refers to light which issues from tinder and stones.[7] One [Baraitha] taught: We can recite a blessing over light which issues from tinder and stones; [while] another taught: We cannot recite a blessing over it? — There is no difficulty: one refers to the termination of the Sabbath, [and] the other refers to the termination of the Day of Atonement.

Rabbi used to ‘scatter’ them.[8] R. Hiyya ‘collected’ them.[9] R. Isaac b. Abdimi said: Though Rabbi scattered them, he subsequently repeated them in [their] order over the cup [of wine], so as to quit his children and household [of their obligation].[10] Yet was light created at the termination of the Sabbath? Surely It was taught: Ten things were created on the eve of the Sabbath at twilight. These are they: the well,[11] the manna, the rainbow,[12] the writing[13] and the writing instrument[s], the Tables,[14] the sepulchre of Moses, the cave in which Moses and Elijah stood,[15] the opening of the ass's mouth,[16] and the opening of the earth's mouth to swallow up the wicked.[17] R. Nehemiah said in his father's name: Also fire and the mule.[18] R. Josiah said in his father's name: Also the ram[19] and the shamir.[20] R. Judah said: Tongs too. He

new thing to the person, since he did not benefit from the light during the day. used to say: Tongs are made with tongs;[21] then who made the first tongs? Hence in truth it was[22] a Heavenly creation. Said they to him, it is possible to make it in a mould and shape it simultaneously.[23] Hence in truth it is of human manufacture![24] — There is no difficulty: one refers to our fire, the other to the fire of the Gehenna.[25] Our fire [was created] at the termination of the Sabbath; the fire of the Gehenna, on the eve of the Sabbath.

Yet was the fire of the Gehenna created on the eve of the Sabbath? Surely it was taught: Seven things were created before the world was created, and these are they: The Torah, repentance, the Garden of Eden, Gehenna, the Throne of Glory, the Temple, and the name of the Messiah. The Torah, for it is written, The Lord made me [sc. the Torah] as the beginning of his way.[26] Repentance, for it is written, Before the mountains were brought forth, and it is written, Thou turnest man to contrition, and sayest, Repent, ye children of men.[27] The Garden of Eden, as it is written, And the Lord planted a garden in Eden from aforetime.[28] The Gehenna, for it is written, For Tophet [i.e., Gehenna] is ordered of old.[29] The Throne of Glory and the Temple, for it is written, Thou throne of glory, on high from the beginning, Thou place of our sanctuary.[30] The name of the Messiah, as it is written, His [sc. the Messiah's] name shall endure for ever, and has exited before the sun![31] — I will tell you: only its cavity was created before the world was created, but its fire [was created] on the eve of the Sabbath.

Yet was its fire created on the eve of the Sabbath? Surely it was taught, R. Jose said: The fire which the Holy One, blessed be He, created on the second day of the week shall never be extinguished,[32] as it is said, And they shall go forth, and look upon the carcasses of the men that have rebelled against me,’ for their worm shall not die, neither shall their fire be quenched?[33] Again, R. Bana'ah son of R. ‘Ulla said: Why was ‘it was good’ not said concerning the second day of the week?[34] Because the fire of the Gehenna was created therein. Also R. Eleazar said, Although ‘it was good’ was not said in connection with it, yet He re-included it in the sixth, as it is said, And God saw everything that He had made, and behold, it was very good.[35] — Rather, the cavity [was made] before the world was created, and its fire on the second day of the week; while as for our fire, on the eve of the Sabbath He decided[36] to create it, but it was not created until the termination of the Sabbath. For it was taught, R. Jose said: Two things He decided to create on the eve of the Sabbath, but they were not created until the termination of the Sabbath, and at the termination of the Sabbath the Holy One, blessed be He, inspired Adam with knowledge of a kind similar to Divine [knowledge],[37] and he procured two stones and rubbed them on each other, and fire issued from them; he also took two [heterogenous] animals and crossed them, and from them came forth the mule. R. Simeon b. Gamaliel said: The mule came into existence in the days of Anah, for it is said, This is the Anah who found the mules[38] in the wilderness.[39] Those who interpret symbolically[40] used to say: Anah was unfit,[41] therefore he brought unfit [animals][42] into the world, for it is said, These are the sons of Seir the Horite [. . . And Zibeon and Anah],[43] while it is written, And these are the children of Zibeon: Aiah and Anah.[44] Hence it teaches that Zibeon cohabited with his mother and begat Anah by her. But perhaps there were two Anahs? Said Raba: I say a thing which [even] King Shapur could not say, and who is that? Samuel. Others say, R. Papa said: I say a thing which even King Shapur did not say, and who is that? Raba.[45] The Writ saith, that is Anah [meaning], that is the original Anah.[46]

Our Rabbis taught: Ten things were created on the eve of the Sabbath at twilight, and these are they: The well, manna, the rainbow, writing, the writing instruments, the Tables, the sepulchre of Moses and the cave in which Moses and Elijah stood, the opening of the ass's mouth, and the opening of the earth's mouth to swallow up the wicked. While some say, Also Aaron's staff, its almonds and its blossoms.[47] Others say, The harmful spirits [demons] too. Others say, Also

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(1) Prov. XX, 5.

(2) Who understood from R. Abba the error of Rabbah b. Bar Hanah.

(3) He understood why ‘Ulla looked at him with displeasure, though he gave no reason.

(4) viz., ‘Ulla and Rabbah, who would not accept R. Abba's ruling.

(5) Various blessings which are to be recited on the termination of Sabbath.

(6) It had burnt during the day. Nevertheless it had observed the Sabbath, as it were, in that it was lit in permitted circumstances, e.g.. for an invalid or a woman about to be delivered of child. Or in the case of the Day of Atonement, it had been lit prior to its commencement. There a blessing is recited at the termination of the latter too, because it is as a

(7) I.e., which is made now. A blessing over this is recited only at the termination of the Sabbath, when light was likewise created for the first time, but not at the termination of the Day of Atonement.

(8) Immediately he saw light after the termination of the Sabbath he recited the appropriate blessing. Later, when spices were brought to him, he recited a further blessing over them. Thus the blessings were ‘scattered’.

(9) He recited both blessings together over a cup of wine, as is the present practice.

(10) I.e., he recited the blessings a second time on their behalf.

(11) The Well of Miriam which followed the Israelites in the Wilderness; v. Num. XXI, .16-18, which some relate to this.

(12) V. Gen. IX, 13f.

(13) I.e., the shape of letters.

(14) Ex. XXXII, 16.

(15) When God allowed them to see His glory; v. Ex. XXXIII, 22; I Kings XIX, 9.

(16) Num. XXII, 28.

(17) Ibid. XVI, 30. That these last two should happen when the need arose was decreed at the time of the creation.

(18) The mule is regarded as a hybrid, as stated infra. But according to R. Nehemiah, the first was created directly, and was not the result of cross-breeding.

(19) Which Abraham offered as a substitute for Isaac, Gen. XXII, 13; it was ordained at the Creation that the ram should thus be ready to hand.

(20) A legendary worm used for the building of the Temple. It was laid upon the stones and cut through them, and so obviated the need for iron tools, in conformity with Ex. XX, 22; v. I Kings VI, 7 and Git. 68a.

(21) The already manufactured tongs must hold the iron on the anvil as it is beaten out into another pair of tongs.

(22) Lit., ‘was this not etc.?’

(23) Without beating it out.

(24) For the whole passage v. Ab. V, 5 and notes a.l. in Sonc. ed. pp. 62-64. — This shows that fire was created already on Sabbath eve.

(25) Hell or purgatory.

(26) Prov. VIII, 22.

(27) Ps. XC, 2f. ‘Before’ etc. applies to ‘repent’.

(28) Gen. II, 8.

(29) Isa. XXX, 33.

(30) Jer. XVII, 12.

(31) Ps. LXXII, 17. — Thus the Gehenna was created before the world. — The general idea of this Baraitha is that these things are indispensable pre-requisites for the orderly progress of mankind upon earth. The Torah, the supreme source of instruction; the concept of repentance, in recognition that ‘to err is human’, and hence, if man falls, the opportunity to rise again; the Garden of Eden and the Gehenna, symbolizing reward and punishment; the Throne of Glory and the Temple, indicating that the goal of Creation is that the Kingdom of God (represented by the Temple) shall be established on earth, as it is in heaven; and finally, the name of the Messiah, i.e., the assurance that God's purpose will ultimately be achieved.

(32) Because it is the fire of the Gehenna.

(33) Isa. LXVI, 24.

(34) In which the world was created.

(35) Gen. I, 31.
(36) Lit., ‘it came up in (His) intention’.
(37) Lit., ‘of above’.
(38) E.V. ‘hot Springs’.
(39) Gen. XXXVI, 24.
(40) דורשי המורות Lit., ‘those who interpret (Scripture) as jewels’, i.e., as ethical teachings. Levi connects the phrase with הומר a beautiful and graceful gazelle, i.e., those who teach with charming and graceful interpretations.
(41) Pasul, i.e., the issue of an incestuous union.
(42) I.e., the offsprings of hetereogeneous breeding, i.e., one sees in this the teaching that evil begets evil.
(43) Gen. XXXVI, 20.
(44) Ibid. 24. In the first verse Anah appears as Zibeon's brother, whereas in the second he is his son.
(45) Shapur I, King of Persia, was a contemporary of Samuel, while Shapur II was a contemporary of Raba. These names are applied here to Samuel and Raba, as indicating their acknowledged authority in learning. v. MGWJ. 1936, p. 217.
(46) Identical with the first mentioned.
(47) V. Num. XVII, 23. This too was ordained at the Creation.

Talmud - Mas. Pesachim 54b

Adam's raiment.[1] Our Rabbis taught: Seven things are hidden[2] from men. These are they: the day of death, and the day of comfort,[3] the depth [extent] of judgment;[4] and a man does not know what is in his neighbour's heart; and a man does not know from what he will earn; and when the Davidic dynasty will return;[5] and when the wicked kingdom[6] will come to an end. Our Rabbis taught: Three things [God] willed to come to pass,[7] and if He had not willed them, it would be but right that He should will them. And these are they: Concerning a corpse, that it should become offensive; and concerning a dead person, that he should be forgotten from the heart; and concerning produce, that it should rot;[8] and some say, concerning coins, that they should enjoy currency.[9]

MISHNAH. WHERE IT IS THE CUSTOM TO DO WORK ON THE NINTH OF AB,[10] ONE MAY DO IT; WHERE IT IS THE CUSTOM NOT TO DO WORK, ONE MAY NOT DO IT. AND IN ALL PLACES SCHOLARS CEASE [FROM WORK ON THAT DAY]. R. SIMEON B. GAMALIEL SAID: A MAN MAY ALWAYS MAKE HIMSELF A SCHOLAR.[11]

GEMARA. Samuel said: There is no public fast in Babylonia save the Ninth of Ab alone.[12] Shall we say that Samuel holds, [with regard to] the Ninth of Ab, its twilight is forbidden;[13] but Samuel said: [with regard to] the Ninth of Ab, its twilight is permitted? And should you say, Samuel holds, The twilight of every public fast is permitted, — surely we learned: One must eat and drink while it is yet day. Now what is this to exclude is it not to exclude twilight? No: it is to exclude after nightfall. Shall we say that this supports him? [It was taught:] There is no difference between the Ninth of Ab and the Day of Atonement except that with the latter, its doubt is forbidden, while with the former, its doubt is permitted. What does ‘its doubt is permitted’ mean? Surely [that refers to] twilight? — No, [but] as R. Shisha the son of R. Idi said,[14] It is in respect of the fixing of New Moon; so here too it is in respect of the fixing of the New Moon.[15]

Raba lectured: Pregnant women and suckling women must fast and complete [the fast] on that day [the Ninth of Ab], just as they fast and complete [the fast] on the Day of Atonement; and the twilight thereof is forbidden. And they said likewise in R. Johanan's name. Yet did R. Johanan say thus? Surely R. Johanan said: The Ninth of Ab is not like a public fast. Surely that means in respect of twilight? — No: in respect of work.[16] [You say], ‘Work’! we have learned it: WHERE IT IS THE CUSTOM TO DO WORK ON THE NINTH OF AB, ONE MAY DO IT; WHERE IT IS THE CUSTOM NOT TO DO WORK, ONE MAY NOT DO IT. And even R. Simeon b. Gamaliel merely says that if he sits and does not work it does not look like conceit, yet he certainly does not forbid it?

— Rather, what does ‘is not like a public fast’ mean? In respect of the Ne'ilah service.[17] But surely R. Johanan said: Would that a man would go on praying all day![18] — There it is a [statutory] obligation, whereas here It is voluntary.[19] Another alternative [answer] is, ‘What does ‘it is not like a public fast’ mean? In respect of the twenty-four [benedictions].[20]

R. Papa said: What does ‘it is not like a public fast’ mean? It is not like the first ones but like the last [ones].[21] An objection is raised: There is no difference between the Ninth of Ab and the Day of Atonement except that with the latter, its doubt is forbidden, while with the former, its doubt is permitted. Now what does ‘its doubt is permitted’ mean? Does it not refer to its twilight? — Said R. Shisha son of R. Idi: No: [It is meant] in respect of the fixing of New Moon.

Hence in all [other] regulations they are alike. This supports R. Eleazar. For R. Eleazar said: A man is forbidden to dip his finger in water on the Ninth of Ab, just as he is forbidden to dip his finger in water on the Day of Atonement. An objection is raised: There is no difference between the Ninth of Ab and a public fast except that on one work[22] is forbidden, while on the other work is permitted, where it is customary. This [implies that] in all [other] matters they are both alike; whereas in respect to a public fast it was taught, When they [the Sages] ruled, Bathing is forbidden, they spoke only of the whole body, but not of a man's face, hands, and feet?[23] — Said R. Papa:

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(1) This probably refers to Gen. III, 21: And the Lord God made for Adam and for his wife garments of skins, and clothed them (Rashi).

(2) Lit., ‘covered’.

(3) No man knows when he will be relieved of his anxieties.

(4) Sc. Divine Judgment (Rashi).

(5) This was probably said in order to discourage those who tried to calculate the advent of the Messiah on the basis of Scripture; cf. Sanh. 97a.

(6) A covert allusion to Rome (Rashi).

(7) Lit., ‘came up in (God's) intention to be created’.

(8) If kept too long. This is necessary in order to restrain the producer from withholding supplies and thus artificially raising the prices.

(9) For the benefit of the poor who have no other means of obtaining sustenance (v. Marginal Glosses).

(10) Which is a fast-day in commemoration of the destruction of the Temple.

(11) I.e., he may abstain from work even if he is not a scholar.

(12) I.e., if a public fast is proclaimed, it does not commence on the previous evening, nor is work forbidden, even where it is the practice not to work on the Ninth of Ab. (The Day of Atonement, of course, stands in a different category entirely.) In the whole of the subsequent discussion ‘public fast’ does not mean one of the statutory fasts, but a fast proclaimed on account of drought or disaster etc.

(13) I.e., it is forbidden to eat at twilight on the eve of the fast, since he regards the twilight as possessing the full rigours of a fast-day. Twilight is a period of doubt, and it is not certain whether it is day or night.

(14) v. infra.

(15) E.g., if a man is in the wilderness and does not know what day was fixed as New Moon, he must observe two Days of Atonement (his doubt could only be whether the previous month had consisted of twenty-nine days or thirty days), but only one day as the Ninth of Ab.

(16) On the fast-day itself. On a specially proclaimed public fast work is forbidden, whereas on the Ninth of Ab it is permitted.

(17) On specially proclaimed public fast-days an extra service was added at the end of the day’, called ne'ilah, which means ‘closing’. R. Johanan states that there is no ne'ilah on the Ninth of Ab.

(18) If a man does not remember whether he has recited his statutory prayers, R. Johanan rules that he should recite them now, though there is an opposing view that a man must not pray when in this doubt. Now, since R. Johanan holds that a man must pray when in doubt, why should there not be a ne'ilah service on the Ninth of Ab, seeing that it is like a specially proclaimed public fast in many respects?

(19) On a public fast-day ne'ilah is obligatory; on the Ninth of Ab a man may recite it if he desires.

(20) On public fast-days six benedictions were added to the usual eighteen which constituted the ‘Prayer’ par excellence (Ta'an. 15a). R. Johanan teaches that these are not recited on the Ninth of Ab.

(21) In times of drought three public fasts were proclaimed, which began at daybreak. But if the drought nevertheless continued, another three were proclaimed, and these began the previous evening (v. Ta'an. Mishnah 10a and 12b). R. Johanan thus ruled that the Ninth of Ab begins on the previous evening, and eating is forbidden from twilight.

(22) Lit., ‘the doing of work’.

(23) Which shows that on the Ninth of Ab washing of face and hands and feet is permitted.

Talmud - Mas. Pesachim 55a

The Tanna teaches a series of leniences.[1] AND IN ALL PLACES SCHOLARS etc. Shall we say that R. Simeon b. Gamaliel holds that we do not fear [the appearance of] conceit, while the Rabbis hold that we do fear [the appearance of] conceit? But we know them [to hold] the reverse! For we learned: A bridegroom, if he wishes to recite the reading of the shema’[2] on the first night, he may recite it. R. Simeon b. Gamaliel said: Not everyone who wishes to assume[3] the name [reputation] may assume it.[4] — Said R. Johanan: The discussion must be reversed. R. Shisha the son of R. Idi said, Do not reverse it. The Rabbis are not self-contradictory: here, since everybody works, while he [alone] does not work, it looks like conceit; but there, since everybody recites [the shema’] and he too recites [it], it does not look like conceit. R. Simeon b. Gamaliel too is not self-contradictory: There only, since devotion Is required, while we are witnesses that he cannot devote his mind,[5] it looks like conceit. But here it does not look like conceit, [for] people will say, ‘It is work that he lacks: go out and see how many unemployed there are in the market place!’

MISHNAH. BUT THE SAGES MAINTAIN,[6] IN JUDEA THEY USED TO DO WORK ON THE EVE OF PASSOVER UNTIL MIDDAY, WHILE IN GALILEE THEY DID NOT WORK AT ALL. [AS FOR] THE NIGHT,[7] — BETH SHAMMAI FORBID [WORK], WHILE BETH HILLEL PERMIT IT UNTIL DAYBREAK.

of Ab is not more lenient than public fasts save that work is permitted on the former. But he does not refer to the reverse cases where the Ninth of Ab is more stringent; hence you cannot deduce that they are alike in all other matters. GEMARA. At first he [the Tanna] teaches custom,[8] and then he teaches a prohibition? — Said R. Johanan, There is no difficulty: one is according to R. Meir; the other, according to R. Judah. For it was taught, R. Judah said: In Judea they used to do work on the eve of Passover, until midday, while in Galilee they did not work at all. Said R. Meir to him: What proof is Judea and Galilee for the present [discussion]?[9] But where they are accustomed to do work, one may do it, [while] where they are accustomed not to do [work], one may not do it. Now, since R. Meir states [that it is merely a matter of] custom, it follows that R. Judah states [that it is] a prohibition.[10]

Yet does R. Judah hold that work on the fourteenth is permitted?[11] Surely it was taught, R. Judah said: He who weeds on the thirteenth and [an ear of corn] is uprooted in his hand, must replant it in swampy [damp] soil, but must not replant it in a dry place.[12] Thus, only on the thirteenth, but not on the fourteenth,[13] Now consider: we know that R. Judah maintains: Any grafting which does not take root within three days will never take root. Then if you think that work may be done on the fourteenth, why [state] the thirteenth; surely there is the fourteenth, the fifteenth and part of the sixteenth?[14] — Said Raba: We learned [this] of Galilee. But there is the night?[15] — Said R. Shesheth: This is according to Beth Shammai.[16] R. Ashi said: In truth it is as Beth Hillel, [yet the night of the fourteenth is not stated] because it is not the practice of people to weed at night — Rabina said: After all it refers to Judea, but in respect to taking root we do say once that part of the day is as the whole of it, but we do not say twice that part of the day is as the whole of it.[17]

MISHNAH. R. MEIR SAID: ANY WORK WHICH HE BEGAN BEFORE THE FOURTEENTH, HE MAY FINISH IT ON THE FOURTEENTH; BUT HE MAY NOT BEGIN IT AT THE OUTSET ON THE FOURTEENTH, EVEN IF HE CAN FINISH IT [ON THE SAME DAY]. BUT THE SAGES MAINTAIN: THREE CRAFTSMEN MAY WORK ON THE EVE OF PASSOVER UNTIL MIDDAY, AND THESE ARE THEY: TAILORS, HAIRDRESSERS, AND WASHERMEN. R. JOSE B. R. JUDAH SAID: SHOEMAKERS TOO.[18]

GEMARA. The scholars asked: Did we learn [that it may be finished] when required for the Festival, but when not required for the Festival he may not even finish it; or perhaps we learned [that he must not begin work] when it is not required for the Festival, but when it is required we may indeed begin it; or perhaps, whether it is needed for the Festival or it is not needed, he may finish but not start? — Come and hear: But he may not begin at the outset on the fourteenth even a small girdle, [or] even a small hair-net — What does ‘even’ imply? Surely, even these which are required for the Festival, he may only finish, but not begin; whence it follows that where it is not required [for the Festival], we may not even finish! — No: after all, even when it is not required we may indeed finish [the work], and yet what does ‘even’ connote? Even these too, which are small. For you might argue, their beginning, that is the end of their work;[19] then we should even begin them at the very outset; therefore he informs us [that it is not so]. Come and hear: R. Meir said: Any work which is required for the Festival,

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(1) The whole series of ‘there is no difference’ etc. is taught by the same Tanna, and in each he merely wishes to intimate a point of leniency. Thus he first teaches that the Ninth of Ab is not more lenient than the Day of Atonement save that the doubt of the former is permitted. Then he states that the Ninth

(2) ‘Hear’ — the passage commencing ‘Hear O Israel’ etc. (Deut. VI, 4f). This is recited every morning and evening, but a bridegroom is exempt on the evening of his marriage.

(3) Lit., ‘take’.

(4) Unless he has a reputation for great piety, as otherwise it looks like an unwarrantable assumption of piety (Rashi in Ber. 17b).

(5) His feelings are obviously such that unless he is extremely pious he cannot recite the shema’ with proper devotion.

(6) This is a continuation of the last Mishnah.

(7) Following the thirteenth day of Nisan.

(8) The preceding Mishnah regards abstention from work a mere custom and in this Mishnah it is treated as a prohibition!

(9) I.e., why cite Judea and Galilee? the matter is everywhere determined by local custom.

(10) Viz., that in Judea it is held to be permitted, while in Galilee it is held to be definitely prohibited, and not merely dependent on custom.

(11) According to the views held in Judea.

(12) It takes root in damp soil more quickly. Now the ‘omer (v. Glos. and Lev. XXIII, 10-14) is effective in permitting everything which has taken root before it is waved; hence it is desirable that this should take root before the omer is waved on the sixteenth of the month.

(13) For it is obvious that the law is so stated as to give the latest possible time.

(14) And it is a principle that part of the day counts as the whole day; thus there is time for it to take root even if it is replanted on the fourteenth.

(15) Following the thirteenth, when it is permissible even in Galilee.

(16) Who in our Mishnah forbid the night.

(17) For if he weeds some time on the fourteenth we would have to count the rest of the day as a complete day, and also the beginning of the sixteenth until the waving of the ‘omer as another complete day.

(18) These may work everywhere.

(19) I.e., they require so little time.

Talmud - Mas. Pesachim 55b

he may finish it on the fourteenth.[1] When is that? When he began it before the fourteenth; but if he did not begin it before the fourteenth, he must not begin it on the fourteenth, even a small girdle, even a small hair-net. [Thus,] only when required for the Festival, but not when it is not required! — No: the same law holds good that even when it is not required for the Festival we may also finish it, and he informs us this: that even when it is required for the Festival, we may only finish, but not begin.

Come and hear: R. Meir said: Any work which is required for the Festival, he may finish it on the fourteenth; but that which is not required for the Festival is forbidden; and one may work on the eve of Passover until midday where it is customary [to work]. [Thus,] only where it is the custom, but if it is not the custom,it is not [permitted at all]. Hence this proves that when required for the Festival it is [permitted], but when it is not required for the Festival it is not [permitted]. This proves it.

BUT THE SAGES MAINTAIN, THREE CRAFTSMEN [etc.]. A Tanna taught: Tailors, because a layman[2] may sew in the usual way on the intermediate Days;[3] hairdressers and washermen, because he who comes from overseas and he who comes out of prison may cut their hair and wash [their garments] on the Intermediate Days.[4] R. Jose son of R. Judah said: Shoemakers too, because the Festival pilgrims[5] repaired their shoes on the Intermediate Days. Wherein do they differ? — One Master holds, We learn the beginning of the work from the end of the work;[6] while the other Master holds, We do not learn the beginning of the work from the end of the work. MISHNAH. ONE MAY SET UP CHICKEN-HOUSES FOR FOWLS ON THE FOURTEENTH,[7] AND IF A [BROODING] FOWL RAN AWAY,[8] ONE MAY SET HER BACK IN HER PLACE; AND IF SHE DIED, ONE MAY SET ANOTHER IN HER PLACE. ONE MAY SWEEP AWAY FROM UNDER AN ANIMAL'S FEET ON THE FOURTEENTH,[9] BUT ON THE FESTIVAL[10] ONE MAY REMOVE [IT] ON A SIDE [ONLY].[11] ONE MAY TAKE UTENSILS [TO] AND BRING [THEM BACK] FROM AN ARTISAN'S HOUSE, EVEN IF THEY ARE NOT REQUIRED FOR THE FESTIVAL.

GEMARA. Seeing that you may [even] set [the fowls for brooding], is there a question about putting back?[12] — Said Abaye: The second clause refers to the Intermediate Days of the Festival.[13] R. Huna said: They learnt this[14] only [when it is] within three [days] of her rebellion,[15] so that her heat[16] has not yet left her, and after three days of her brooding, so that the eggs are quite spoiled.[17] But if it is after three days since her rebellion, so that her heat has left her, or within three days of her brooding, so that the eggs are still not completely spoiled,[18] we must not put [her] back.[19] R. Ammi said: We may even put her back within [the first] three days of her brooding.[20] Wherein do they differ? — One Master holds, They [the Sages] cared about a substantial loss, but they did not care about a slight loss; while the other Master holds: They cared about a slight loss too.

ONE MAY SWEEP AWAY FROM UNDER [etc.]. Our Rabbis taught: The manure which is in the court-yard may be moved aside; that which is in the stable and in the court-yard may be taken out to the dunghill. This is self-contradictory: you say, The manure which is in the court-yard may [only] be moved aside; then he [the Tanna] teaches, that which is in the stable and in the court-yard may [even] be taken out to the dunghill? — Said Abaye, There is no difficulty: one refers to the fourteenth [of Nisan]; the other, to the Intermediate Days. Raba said: Both refer to the Intermediate Days, and this is what he says: If the courtyard became like a stable,[21] it may be taken out to the dunghill.

ONE MAY TAKE UTENSILS [TO] AND BRING [THEM BACK] FROM AN ARTISAN'S HOUSE. R. Papa said: Raba examined us. We learned: ONE MAY TAKE [UTENSILS TO] AND BRING UTENSILS FROM AN ARTISAN'S HOUSE, EVEN IF THEY ARE NOT REQUIRED FOR THE FESTIVAL. But the following contradicts it: One may not bring utensils from an artisan's house, but if he fears that they may be stolen, he may remove them into another court-yard?[22] And we answered, There is no difficulty: Here it means on the fourteenth; there, on the Intermediate Days. Alternatively, both refer to the Intermediate Days, yet there is no difficulty: here it is where he trusts him;[23] there, where he does not trust him. And thus it was ‘taught: One may bring vessels from the artisan's house, e.g., a pitcher from a potter's house, and a [glass] goblet from a glass-maker's house; but [one may] not bring wool from a dyer's house nor vessels from an artisan's house.[24] Yet if he [the artisan] has nothing to eat, he must pay him his wages and leave it [the utensil] with him; but if he does not trust him, he places them in a nearby house; and if he is afraid that they may be stolen, he may bring them secretly home.[25] You have reconciled [the contradictions on] bringing; but [the contradictory statements on] taking [the utensils to the artisan's house] present a difficulty, for he teaches, ‘One must not bring [from the artisan's house]’, hence how much more that we must not take [them to his house]![26] — Rather, it is clear [that it must be reconciled] as we answered it at first.[27]

MISHNAH. SIX THINGS THE INHABITANTS OF JERICHO DID: THREE THEY [THE SAGES] FORBADE THEM,[28] AND THREE [THEY] DID NOT FORBID THEM. AND IT IS THESE WHICH THEY DID NOT FORBID THEM: THEY GRAFTED PALM TREES ALL DAY,[29] THEY ‘WRAPPED UP’ THE SHEMA,[30] AND THEY HARVESTED AND STACKED [THEIR PRODUCE] BEFORE [THE BRINGING OF] THE ‘OMER.[31] AND IT IS THESE WHICH THEY FORBADE THEM: THEY PERMITTED [FOR USE] THE BRANCHES — [OF CAROB OR SYCAMORE TREES] BELONGING TO HEKDESH,[32]

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(1) Even where it is customary not to do any work.

(2) I.e., a man who is not a craftsman in this particular trade.

(3) Lit., ‘the non-holy (portion) of the Festival’; v. p. 16, n. 4. Only professional work is forbidden, but not the work a non-professional does at home.

(4) Hence on the fourteenth, which is certainly lighter than the Intermediate Days, these may be done in general, and even by professionals.

(5) v. Deut. XVI, 16.

(6) Making shoes is the beginning; repairing them is the end. Just as repairing is permitted, so is making them permitted.

(7) I.e., you may put in eggs for brooding (Jast.). Rashi reads ‘and’ instead of ‘FOR’, and renders: One may set up dove-cots and fowls (to brood).

(8) From its eggs.

(9) Sc. the dung, and throw it away.

(10) Which of course is stricter.

(11) But not sweep it altogether away.

(12) It is obvious!

(13) A fowl may not be set to brood then, but she may be put back.

(14) That she may be put back even on the Intermediate Days of the Festival.

(15) I.e., of her running away.

(16) The desire to hatch.

(17) They can no longer be eaten, being too addled.

(18) They can still be eaten.

(19) In the Intermediate Days.

(20) Since the eggs have been slightly spoiled, and not all people would eat them. (15) After three days there is a substantial loss, as the eggs are quite unfit; but within three days the loss is only slight, since some people would eat them.

(21) It contains so much manure that it cannot be moved aside.

(22) Near the artisan's house, where it is better guarded, but he may not take them home if it is a long distance.

(23) Either that the artisan will not dispose of them, or that he will not claim payment a second time.

(24) The latter two when they are not needed for the Festival.

(25) Not publicly, as that would give a too workday appearance to these days.

(26) While the question of trusting does not arise here.

(27) viz., that our Mishnah refers to the fourteenth, while the Baraitha refers to the Intermediate Days.

(28) Lit., ‘stayed their hand’.

(29) Of the fourteenth.

(30) I.e., they recited it without the necessary pauses, v. Gemara 56a.

(31) V. Glos. and Lev. XXIII, 10-14. Rashi deletes HARVESTED, as that was quite permissible as far as Jericho was concerned, since no ‘omer could be brought from Jericho which was situated in a valley. V. Men. 71a, 8a.

(32) I. e., the branches which grew after the trees had been vowed to the Sanctuary.

Talmud - Mas. Pesachim 56a

AND THEY ATE THE FALLEN FRUIT FROM BENEATH [THE TREE] ON THE SABBATH, AND THEY GAVE PE'AH[1] FROM VEGETABLES; AND THE SAGES FORBADE THEM.

GEMARA. Our Rabbis taught: Six things King Hezekiah did; in three they [the Sages] agreed with him, and in three they did not agree with him — He dragged his father's bones [corpse] on a rope bier,[2] and they agreed with him; he crushed the brazen serpent,[3] and they agreed with him; [and] he hid the book of remedies,[4] and they agreed with him. And in three they did not agree with him: He cut [the gold off] the doors of the Temple[5] and sent them to the King of Assyria,[6] and they did not agree with him; and he closed up the waters of Upper Gihon,[7] and they did not agree with him;[8] and he intercalated [the month of] Nisan in Nisan,[9] and they did not agree with him.

THEY GRAFTED PALM TREES ALL DAY. How did they do it? — Said Rab Judah: They brought a fresh myrtle, the juice of bay-fruit and barley flour which had been kept[10] in a vessel less than forty days,[11] and boiled them together and injected [the concoction] into the heart of the palm tree; and every [tree] which stands within four cubits of this one, if that is not treated likewise immediately withers. R. Aha the son of Raba said: A male branch was grafted on to a female [palm tree].[12]

THEY ‘WRAPPED UP’ THE SHEMA’. What did they do? — Rab Judah said, They recited, Hear, O Israel: the Lord our God, the Lord is One[13] and did not make a pause.[14] Raba said: They did make a pause, but [the meaning is] that they said [And these words, which I command thee] this day shall be upon thy heart,[15] which implies, this day [shall they be] upon thy heart, but to-morrow [they shall] not [be] upon thy heart.

Our Rabbis taught: How did they ‘wrap up’ the shema’? They recited ‘Hear O Israel the Lord our God the Lord is One’ and they did not make a pause: this is R. Meir's view. R. Judah said: They did make a pause, but they did not recite, ‘Blessed be the name of His glorious Kingdom for ever and ever.’[16] And what is the reason that we do recite it? — Even as R. Simeon b. Lakish expounded. For R. Simeon b. Lakish said: And Jacob called unto his sons, and said: Gather yourselves together, that I may tell you [that which shall befall you in the end of days].[17] Jacob wished to reveal to his sons the ‘end of the days’,[18] whereupon the Shechinah departed from him. Said he, ‘Perhaps, Heaven forfend! there is one unfit among my children,[19] like Abraham, from whom there issued Ishmael, or like my father Isaac, from whom there issued Esau.’ [But] his sons answered him, ‘Hear O Israel, the Lord our God the Lord is One:[20] just as there is only One in thy heart, so is there in our heart only One.’ In that moment our father Jacob opened [his mouth] and exclaimed, ‘Blessed be the name of His glorious kingdom for ever and ever.’ Said the Rabbis, How shall we act? Shall we recite it, — but our Teacher Moses did not say it. Shall we not say it — but Jacob said it! [Hence] they enacted that it should be recited quietly.

R. Isaac said, The School of R. Ammi said: This is to be compared to a king's daughter who smelled a spicy pudding.[21] If she reveals [her desire], she suffers disgrace;[22] if she does not reveal it, she suffers pain.[23] So her servants began bringing it to her in secret. R. Abbahu said: They [the Sages] enacted that this should be recited aloud, on account of the resentment of heretics.[24] But in Nehardea, where there are no heretics so far, they recite it quietly.

Our Rabbis taught: Six things the inhabitants of Jericho did, three with the consent of the Sages, and three without the consent of the Sages. And these were with the consent of the Sages: They grafted palm trees all day [of the fourteenth], they ‘wrapped up’ the shema’, and they harvested before the ‘omer.[25] And these were without the consent of the Sages: They stacked [the corn] before the ‘omer,[26] and they made breaches in their gardens and orchards to permit the poor to eat the fallen fruit in famine years on Sabbaths and Festivals, and they permitted [for use] the branches of carob and sycamore trees belonging to hekdesh: this is R. Meir's view. Said R. Judah to him, If they did [these things] with the consent of the Sages, then all people could do so! But they did both without the consent of the Sages, [save that] three they forbade them [to do], and three they did not forbid them [to do]. And it is these which they did not forbid them: They grafted palm trees the whole day, and they ‘wrapped up’ the shema’, and they stacked [the corn] before the ‘omer. And it is these which they forbade them to do: They permitted [for use] branches of hekdesh of carob and sycamore trees, and they made breaches in their garden and orchards to permit the poor to eat the fallen fruit in famine years on Sabbaths and Festivals; they gave pe'ah from vegetables; and the Sages forbade them.

Yet does R. Judah hold that the reaping was not with the consent of the Sages? Surely we learned: The inhabitants of Jericho reaped before the ‘omer with the consent of the Sages and stacked before the ‘omer without the consent of the Sages, but the Sages did not forbid them to do it.

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(1) V. Glos. Pe'ah is exempt from tithes, and the poor, by eating the vegetables without tithing them in the belief that they were Pe'ah, ate tebel (v. Glos.).

(2) Instead of showing him the honour due to a king. He did this in order to effect atonement for him, his father (Ahaz) having been very wicked.

(3) Set up by Moses, Num. XXI, 8f; v. II Kings XVIII, 4.

(4) Because they cured so quickly that illness failed to promote a spirit of contrition and humility. V. Ber. 10b.

(5) Or, he cut down the doors etc.

(6) Sennacherib, as a bribe to leave him in peace; v. II Kings XVIII, 16.

(7) v. II Chron. XXXII, 1-4.

(8) In both cases he should have trusted in God.

(9) Ibid. XXX, 1-3. The Talmud holds that he effected this by declaring Nisan an intercalated month, calling it the second Adar, after it (Nisan) had already commenced. (Since the Jewish year which is lunar is some eleven days shorter than the solar year, it is necessary periodically to lengthen it by the intercalation of a second Adar, the last month of the civil year. In ancient times this was done not by mathematical calculation, as nowadays, but according to the exigencies of the moment, but this had to be done before Nisan actually commenced, v. Sanh. 12b and Ber. 10a).

(10) Lit., ‘cast’.

(11) Lit., ‘over which forty days had not passed’.

(12) Jast. translates: they put the male flower (scatter the pollen) over the female tree. — But he does not regard the operation described by Rab Judah as grafting.

(13) Deut. VI, 4.

(14) Before proceeding with the next verse, And thou shalt love etc.: ‘One’ (Heb. אחד) must be prolonged in utterance, which creates a pause, but they did not do thus (Rashi). Tosaf.: they did not pause between ‘Hear O Israel’ and ‘the Lord’ etc. thus read together it is a prayer that God may hearken to Israel, which of course gives a completely wrong sense in this instance.

(15) Deut. VI, 6. Reading it without a pause at ‘day’ as is indicated in the E.V.

(16) Before ‘and thou shalt love’ etc.

(17) Gen. XLIX, 1.

(18) The final universal redemption, v. Dan. XII, 13.

(19) Lit., ‘in my bed’.

(20) ‘Israel’ referring to their father.

(21) And conceived a strong desire for it.

(22) Through her lack of self-control.
(23) Through her restraint.
(24) Heb. min, sectarian. They might think that the Jews were cursing them.
(25) V. supra p. 277, n. 6.
(26) As it is quite unnecessary, for the produce will not suffer loss if it is left unstacked until after the ‘omer, and while engaged in stacking it, they might come to eat it.

Talmud - Mas. Pesachim 56b

Whom do you know to maintain [that] they forbade and did not forbid?[1] R. Judah. Yet he teaches, They reaped with the consent of the Sages? — Then according to your reasoning, [surely] these are four! Rather, delete reaping from this.

‘And they permitted the branches of carob and sycamore trees of hekdesh.’ They said: Our fathers sanctified nought but tree trunks, hence we will permit [for use] the branches of hekdesh of carob and sycamore trees. Now we discuss the growth which came after that;[2] so that while they held as he who rules, There is no trespass-offering [due] when [one benefits from] what grows, the Rabbis held, Granted that there is no trespass-offering [due], there is nevertheless a prohibition.

‘And they made breaches [etc.]’ ‘Ulla said in the name of R. Simeon b. Lakish: The controversy is in respect of [the dates of] the upper branches, for the Rabbis held, We forbid them preventively, lest he go up and cut them off, while the inhabitants of Jericho held, We do not forbid them preventively, lest he go up and cut them off. But as for the dates which are among the lower branches, all agree that it is permitted.[3] Said Rabbah to him, But they are mukzeh?[4] And should you say, [that is] because they [the dates] were fit for [his] ravens,[5] [I would rejoin], — seeing that that which is ready[6] for man is not ready for dogs, for we learned, R. Judah said, If it was not nebelah from the eve of the Sabbath, it is forbidden, because it is not of that which is ready,[7] then shall what is ready for birds be [regarded as] ready for human beings?[8] — Yes, he replied. That which is ready for human beings is not ready for dogs, for whatever is fit for a man, he does not put [it] out of his mind;[9] [but] that which is ready for birds is [also] ready for human beings,[10] [for] his mind is [set] upon it. When Rabin came,[11] he said in the name of R. Simeon b. Lakish: The controversy is in respect of [the fallen dates] among the lower branches, the Rabbis holding, That which is ready for birds is not ready for man, while the men of Jericho hold, That which is ready for birds is ready for man. But [the fallen dates] on the

place are permitted now that they have fallen to earth, for since none grow there, there was never any fear that he might go up and cut off the growing dates. — Though this explanation removes several difficulties, Tosaf. observes that it raises a practical difficulty: how is one to distinguish between those which fell down before the Festival and those which fell on the Festival itself, and those which had fallen on the upper branches in the first place and those which had first fallen on the lower branches? upper branches, all agree that they are forbidden; we forbid [them] preventively, lest he ascend and cut off [some dates].

AND THEY GAVE PE'AH FROM VEGETABLES. Yet did not the inhabitants agree with what we learned: They stated a general principle in respect to pe'ah: whatever is an eatable, and is guarded, and its growth is from the earth, and is [all] gathered simultaneously,[12] and is collected for storage,[13] is subject to pe'ah. ‘Whatever is an eatable’ excludes the aftergrowth of woad[14] and madder;[15] ‘and is guarded’ excludes hefker;[16] ‘and its growth is from the earth’ excludes mushrooms and truffles;[17] ‘and is [all] gathered simultaneously’ excludes the fig tree;[18] ‘and is collected for storage excludes vegetables![19] — Said Rab Judah in Rab's name: The reference is to turnip tops, and they differ [in respect to what] one collects for storing by means of something else:[20] one Master holds, If he takes it in for storage by means of something else it is designated storage; while the other

Master holds, What he takes in for storage by means of something else is not designated storage.[21]

Our Rabbis taught: At first they used to leave Pe'ah for turnips and cabbages. R. Jose said: Also for porret. While another [Baraitha] taught: They used to give pe'ah for turnips and porret; R. Simeon said: For cabbage too.

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(1) I.e., who makes this distinction, but not the distinction between with and without their consent.
(2) Sc. after the trees had been dedicated.
(3) Mekabedoth are the upper branches on which dates grow; kipin are the lower branches where dates do not grow. Rashi: they differ in respect of the dates which fell on the Festival and were caught on these upper branches. Since they are high up, he must climb up to get them, and the Rabbis held that we fear that this will lead him to pull off some dates still on the branches, which is forbidden; while the inhabitants of Jericho held that there was no need to fear this. But all agree that he may take those which had been caught by the lower branches, for no dates grow there in any case, that we should fear that he will pull some off. Tosaf.: the reference is to dates which fell off before the Festival commenced, being caught either by the upper or the lower branches, and then they fell to the ground on the Festival. The Rabbis held that those which had been caught on the upper branches are forbidden, for since they were there at twilight, when the Festival was about to commence, and also there are dates growing on these upper branches, we fear that he might ascend and pluck some; while the inhabitants of Jericho did not thus forbid them, preventively, since they were already detached on the eve of the Festival. But all agree that those which had fallen on the lower branches in the first
(4) v. Glos. Rashi: on the eve of the Sabbath or Festival at twilight they were mukzeh on account of the prohibition of cutting them off then from the tree, and consequently they remain so for the whole day, even after they fall. (Mukzeh is always determined by the status of an object at twilight of the Sabbath or Festival.) Tosaf.: they were mukzeh at twilight because one must not make use of a tree on the Sabbath or Festival, e.g., by climbing it, taking articles which had been suspended upon it, etc.
(5) If he has ravens at home, they could have eaten these dates on the Sabbath even while they were still on the tree; since they are fit for his birds, they are also regarded as fit for himself too.
(6) Mukan, a technical term denoting the opposite of mukzeh.
(7) If an animal dies on the Sabbath, the first Tanna holds that the carcass may be cut up for dogs. But R. Judah rules as stated. For while alive it could have been ritually killed and then permitted for human consumption; hence it was ready not for dogs but for human beings, and thus R. Judah holds that its readiness for human beings does not make it ready for dogs too.
(8) Surely not!
(9) To think of giving it to dogs.
(10) Even if it is fit for dogs.
(11) From Palestine to Babylonia.
(12) I.e., the whole of the crop ripens about the same time.
(13) Lit., ‘he brings it in to keep’. This applies to cereals in general, which are stored in granaries for long periods.
(14) GR. **, isatis tinctora, a plant producing a deep blue dye.
(15) Both are used as dyes.
(16) V. Glos.
(17) Though these grow in the earth, they were held to draw their sustenance mainly from the air.
(18) Whose fruits are likewise excluded.
(19) Which must be eaten fresh.
(20) R. Han.: i.e., by means of pickling.
(21) It must be capable of storing in its natural state.

Talmud - Mas. Pesachim 57a

Shall we say that there are three Tannaim [in dispute]? — No: there are [only] two Tannaim [in dispute], the first Tanna opposed to[1] R. Simeon being R. Jose, while the first Tanna opposed to R. Jose is R. Simeon. And what does ‘too’ mean? It refers to the first mentioned.[2] Our Rabbis taught: The son of Bohayon[3] gave pe'ah from vegetables, and his father came and found the poor laden with vegetables and standing at the entrance to the kitchen garden. Said he to them, ‘My sons, cast it from you, and I will give you twice as much of tithed [produce]; not because I begrudge it to you, but because the Sages said, You must not give pe'ah from vegetables.’ Why had he to say to them, ‘Not because I begrudge it to you?’ So that they should not say, ‘He is merely putting us off.’

Our Rabbis taught: At first they used to place the skins of sacrifices in the chamber of Beth Ha-Parwah.[4] In the evening they used to divide them among the men of the paternal division,[5] but men of violence[6] used to seize [more than their due share] by force. So they enacted that they should divide them every Sabbath eve, so that all the ‘wards’ came and received their portions together.[7] Yet the chief priests still seized [them] by force; thereupon the owners[8] arose and consecrated them to Heaven.[9] It was related: It did not take long before they covered the whole Temple with gold plaques a cubit square of the thickness of a gold denar. And on festivals they used to lay them together[10] and place them on a high eminence on the Temple Mount, so that the Festival pilgrims might see that their workmanship was beautiful,[11] and that there was no imperfection in them.

It was taught, Abba Saul said: There were sycamore treetrunks in Jericho, and the men of violence seized them by force, [whereupon] the owners arose and consecrated them to Heaven. And it was of these and of such as these that Abba Saul b. Bothnith said in the name of Abba Joseph b. Hanin: ‘Woe is me because of the house of Boethus; woe is me because of their staves![12] Woe is me because of the house of Hanin, woe is me because of their whisperings![13] Woe is me because of the house of Kathros,[14] woe is me because of their pens![15] Woe is me because of the house of Ishmael the son of Phabi,[16] woe is me because of their fists! For they are High Priests[17] and their sons are [Temple] treasurers and their sons-in-law are trustees and their servants beat the people with staves.’[18]

Our Rabbis taught: Four cries did the Temple Court cry out. The first: ‘Depart hence, ye children of Eli,’ for they defiled the Temple of the Lord. And another cry: ‘Depart hence, Issachar of Kefar Barkai, who honours himself while desecrating the sacred sacrifices of Heaven’; for he used to wrap his hands with silks and perform the [sacrificial] service.[19] The Temple Court also cried out: ‘Lift up your heads, O ye gates, and let Ishmael the son of Phabi, Phineas's disciple,[20] enter and serve in the [office of the] High Priesthood.’ The Temple Court also cried out: ‘Lift up your heads, O ye gates, and let Johanan the son of Narbai,[21] the disciple of Pinkai,[22] enter and fill his stomach with the Divine sacrifices. It was said of Johanan b. Narbai that he ate three hundred calves and drank three hundred barrels of wine and ate forty se'ah of young birds as a desert for his meal.[23] It was said: As long as Johanan the son of Narbai lived,[24] nothar[25] was never found in the Temple.

What was the fate of[26] Issachar of Kefar Barkai? It was related: The king and queen[27] were sitting: the king said, ‘Goat's [flesh] is better,’ while the queen said, ‘Lamb is better’. Said they, Who shall decide?[28] The High Priest, who offers up sacrifices every day. So he came,

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(1) Lit., ‘of’.

(2) Thus: the first Tanna states turnips and cabbages, whereupon R. Jose says, for porret too, just as for turnips, but not for cabbages; similarly R. Simeon in the second Baraitha.

(3) The name of a certain man.

(4) Name of a Persian builder and Magian, after whom a compartment in the Temple was supposed to have been named (Jast.).

(5) The priests were divided into ‘wards’, (משמר), each ‘ward’ officiating a week at a time in the Temple; these were further subdivided into paternal divisions (beth ab), of which each officiated one day in the week.

(6) Among the priests (Rashi). Lit., ‘men of (strong) arms’.

(7) Cur. edd.; Rashi's reading seems to be: so that the whole ward (sing.) i.e., all the paternal divisions etc. This is more correct, and if our reading is retained it must also be understood in the same sense. — The larger number present would act as a check.

(8) I.e., all the priests of each ward.

(9) Sc. for the Temple.

(10) The word really means ‘fold them’, but as gold plates of that thickness could hardly be folded, it must be understood as translated.

(11) For the sacrifices, with the skins of which these were brought, were mostly offered by the Festival pilgrims.

(12) With which they beat the people.

(13) Their secret conclaves to devise oppressive measures.

(14) Supposed to be identical with GR. **, Josephus, Antiquities XX, 1, 3.

(15) With which they wrote their evil decrees.

(16) He himself was religious and held in high repute, as is seen below (v. also Par. III, 5; Sot. IX, 5; Yoma 35b), but he did not restrain his sons from lawlessness; in the passage of Josephus too, already cited, reference is only made to his children.

(17) The High Priesthood by this time was a source of great political power. Once a man became a High Priest he retained much of his power, and perhaps his title too, even if he was deposed; hence there were often several High Priests at the same time; v. Halevi, Doroth, I, 3, p. 445, n. 30; pp. 633f; 718.

(18) For this passage cf. Josephus, Antiquities XX, 8,8.

(19) This disqualifies the sacrifice.

(20) In his zeal for God.

(21) [Ananias son of Nebedus. v. Josephus, Antiquities XX, 5, 2.]

(22) Perhaps this is a nickname formed by a play on words,פינכא (here פינקא) being a meat dish; i.e., the gourmand.

(23) The marginal note softens this statement by observing that this was eaten by his whole household, which was very numerous

(24) Lit., ‘(during) all the days of’ etc.

(25) V. Glos.

(26) Lit., ‘what happened to?’

(27) Hasmonean monarchs [In Ker. 28b: King Yannai and the Queen. The name Jannai appears in the Talmud as a general name for kings of the Hasmonean dynasty.]

(28) Lit., ‘(from) whom is it proved?’

Talmud - Mas. Pesachim 57b

[and] indicated with his hand,[1] ‘If the goat were better, let it be offered for the daily sacrifice’. Said the king, ‘Since he had no fear of my royal person, let his right hand be cut off.’ But he gave a bribe [and] they cut off his left hand [instead]. Then the king heard [of it] and they cut off his right hand [too]. Said R. Joseph: Praised be the Merciful One Who caused Issachar of Kefar Barkai to receive his deserts in this world.

R. Ashi said: Issachar of Kefar Barkai had not studied the Mishnah. For we learned, R. Simeon said: Lambs take precedence over goats in all places.[2] You might think that that is because they are the best of their species, therefore it is stated, And if he bring a lamb as his offering.[3] Rabina said: He had not even studied Scripture either, for it is written, If [he bring] a lamb . . . And if [his offering be] a goat:[4] if he wishes, let him bring a lamb; if he wishes, let him bring a goat.[5]

CHAPTER V

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[1] **(1)** I.e., in a contemptuous fashion.

[2] **(2)** Wherever both are mentioned together in the same verse the lamb is stated first.

[3] **(3)** Lev. IV, 32; this is given as an alternative to a goat, which is prescribed earlier in the same section in v. 28.

[4] **(4)** Lev. III, 7, 12.

[5] **(5)** And neither is preferable to the other.

Talmud - Mas. Pesachim 58a

Talmud - Mas. Pesachim 58a

MISHNAH. THE [AFTERNOON] TAMID[1] IS SLAUGHTERED AT EIGHT AND A HALF HOURS[2] AND IS OFFERED AT NINE AND A HALF HOURS.[3] ON THE EVE OF PASSOVER[4] IT IS SLAUGHTERED AT SEVEN AND A HALF HOURS AND OFFERED AT EIGHT AND A HALF HOURS, WHETHER IT IS A WEEKDAY OR THE SABBATH. IF THE EVE OF PASSOVER FELL, ON SABBATH EVE [FRIDAY], IT IS SLAUGHTERED AT SIX AND A HALF HOURS AND OFFERED AT SEVEN AND A HALF HOURS, AND THE PASSOVER OFFERING AFTER IT.[5]

GEMARA. Whence do we know it? — Said R. Joshua b. Levi, Because Scripture saith, The one lamb shalt thou offer in the morning, and the other lamb shalt thou offer between the two evenings:[6] insert[7] it between the two ‘evenings’, [which gives] two and a half hours before and two and a half hours after[8] and one hour for its preparation.[9]

Raba objected: ON THE EVE OF PASSOVER IT IS SLAUGHTERED AT SEVEN AND A HALF HOURS AND OFFERED AT EIGHT AND A HALF HOURS, WHETHER IT IS A WEEKDAY OR THE SABBATH. Now if you think that [it must be slaughtered] at eight and a half hours according to Scriptural law, how may we perform it earlier? Rather, said Raba: The duty of the tamid[10] properly [begins] from when the evening shadows begin to fall.[11] What is the reason? Because Scripture saith, ‘between the evenings’, [meaning] from the time that the sun commences to decline in the west. Therefore on other days of the year, when there are vows and freewill-offerings,[12] in connection with which the Divine Law states, [and he shall burn] upon it the fat of the peace-offerings [he-shelamim],[13] and a Master said, ‘upon it’ complete [shalem] all the sacrifices,[14] we therefore postpone it two hours and sacrifice it at eight and a half hours.[15] [But] on the eve of Passover, when there is the Passover offering after it, we advance it one hour and sacrifice[16] it at seven and a half hours. When the eve of Passover falls on the eve of the Sabbath, so that there is the roasting too [to be done], for it does not override the Sabbath,[17] we let it stand on its own law, [viz.,] at six and a half hours.

Our Rabbis taught: Just as its order during the week, so is its order on the Sabbath: these are the words of R. Ishmael. R. Akiba said: Just as its order on the eve of Passover. What does this mean? — Said Abaye, This is what it means: Just as its order on a weekday which is the eve of Passover, so is its order on the Sabbath which is the eve of Passover:[18] these are the words of R. Ishmael. R. Akiba said: Just as its order on the eve of Passover which falls on the eve of the Sabbath, so is its order on the Sabbath;[19] and our Mishnah which teaches, WHETHER ON A WEEKDAY OR THE SABBATH, agrees with R. Ishmael. Wherein do they differ? — They differ as to whether the additional sacrifices[20] take precedence over the [burning of the frankincense in the] censers:[21] R. Ishmael holds, The additional offerings take precedence over the [burning of the frankincense in the] censers: therefore he [the priest] sacrificed the additional sacrifices at six hours, [burned the incense in] the censers at seven, and sacrificed the tamid at seven and a half [hours]. R. Akiba holds: [The burning of the frankincense in] the censers takes precedence over the additional sacrifices: [hence] the [burning in the] censers took place at five [hours], the additional offering at six hours, and the tamid was sacrificed at six and a half hours.

To this Raba demurred: Does then R. Akiba teach, Just as its order on the eve of Passover which falls on the Sabbath, so is its order on the Sabbath; surely he teaches, ‘Just as its order on the eve of Passover,’ without qualification? Rather, said Raba, This is what he means: Just as its order on the weekdays in general,[22] so is its order on the Sabbath which is the eve of Passover:[23] these are the words of R. Ishmael. R. Akiba said: Just as its order on the eve of Passover;[24] hence our Mishnah which teaches, WHETHER ON WEEKDAYS OR ON THE SABBATH agrees with R. Akiba. Wherein do they differ? — They differ in the heating of the flesh.[25] R. Ishmael holds, We fear for the heating of the flesh; while R. Akiba holds: We do not fear for the heating of the flesh.

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(1) The daily burnt-offering: one was brought every morning and another every afternoon. Num. XXVIII, 4.

(2) The day being counted from sunrise to sunset, i.e., about six a.m. to six p.m.

(3) The sacrificial ceremonies took an hour.

(4) The Heb. is in the plural: on the eves of Passovers.

(5) When the eve of Passover falls on a Friday, time must be left for roasting the Passover offering before the Sabbath commences; hence the earlier hour of the tamid.

(6) Ibid. Literal translation. ‘Evening’ (ערב ‘ereb) is defined as the whole afternoon until nightfall.

(7) Lit., ‘divide’.

(8) Lit., ‘here’ . . .’there’.

(9) Thus the ‘two evenings’ are from midday (= six) until eight and a half hours, and from nine and a half hours until nightfall (= twelve).

(10) The slaughtering of it.

(11) Lit., ‘decline’. The sun reaches its zenith at midday and then begins to decline in the west, the decline being perceptible from half an hour after midday, and this is regarded as the falling of the evening shadows.

(12) These are two technical terms: a ‘vow’ is a votive sacrifice, the particular animal having been unspecified when the vow was made; in a freewill-offering a particular animal was specified at the time of the vow. The difference is that in the former case, if the animal which he subsequently dedicates dies or is rendered unfit before it is sacrificed, he must bring another; but in the latter case he has no further obligation.

(13) Lev. VI, 5.

(14) Rashi: upon it, Sc. the morning tamid, to which the verse refers, complete etc., i.e., all the sacrifices of the day are to be brought after the morning tamid, but not after the afternoon tamid, which must be the last of the day. This exegesis connects shelamim with shalem (whole, complete). Jast. translates: with it (the evening sacrifice) cease all sacrifices (none can be offered after it). This is simpler, but not in accordance with the context.

(15) To allow time for the voluntary offerings.

(16) Lit., ‘make’.

(17) Though the roasting is a precept, yet it may not be done on the Sabbath.

(18) I.e., in both cases the tamid is slaughtered at seven and a half hours.

(19) Hence in both cases it is slaughtered at six and a half hours. For since no vows are offered on the Sabbath, it is unnecessary to delay the tamid, which is therefore sacrificed as early as possible, to leave ample time for the Passover sacrifice.

(20) Offered on Sabbaths, New Moons, and Festivals; midday (six hours) was the earliest time when they could be offered. — In memory of these additional sacrifices there is now an Additional Service (Musaf) on these days.

(21) Two censers of frankincense stood by the rows of shewbread; this shewbread was set on the Table every Sabbath and removed and replaced by fresh bread the following Sabbath. At the same time the frankincense was burnt, and after that the priests ate the shewbread. The removing, replacing and burning of the incense took an hour.

(22) During the year.

(23) Viz., at eight and a half hours. For the flesh of the Passover sacrifice may not be roasted until evening, therefore it is inadvisable to slaughter it earlier, lest the flesh became overheated and putrid, and consequently the tamid is slaughtered at the usual time.

(24) Viz., at seven and a half hours, so likewise on

(25) v. p. 289. n. 5; also perhaps, the shrinking of the flesh caused by overheating; v. Jast. s.v.כמר and Rashi on Gen. XLIII. 30.

Talmud - Mas. Pesachim 58b

If we do not fear, let us sacrifice it at six and a half [hours]?[1] — He holds that the [burning of the frankincense in the] censers takes precedence over the additional sacrifices: [hence] he sacrificed the additional sacrifices at six hours, [performed the burning in] the censers at seven, and sacrificed the tamid at seven and a half. To this Rabbah b. ‘Ulla ‘demurred: Does he then teach, Just as its order on weekdays [in general], so is its order on the Sabbath which is the eve of Passover: these are the words of R. Ishmael? [Surely] he teaches, ‘so is its order on the Sabbath,’ without qualification! Rather, said Rabbah b. ‘Ulla, this is what he means: Just as its order on a weekday in general, so is its order on the Sabbath in general:[2] these are the words of R. Ishmael. R. Akiba said: Just as its order on the eve of Passover in general, so is its order on the Sabbath in general:[3] [hence] our Mishnah which teaches, WHETHER ON WEEKDAYS OR ON THE SABBATH agrees with all.[4] Wherein do they differ? — They differ as to [whether there is] a preventive measure on account of vows and freewill-offerings. R. Ishmael holds: We enact a preventive measure for the Sabbath on account of weekdays;[5] while R. Akiba holds: We do not enact a preventive measure. If we do not enact a preventive measure, let us sacrifice it at six and a half?[6] — He holds

the Sabbath. Since many are to be offered, we must start as early as possible. that the additional sacrifices take precedence over [the burning of the frankincense in] the censers: [hence] the additional sacrifices are [offered] at six hours, the [burning in the] censers at seven, and he sacrifices the tamid at seven and a half [hours].

An objection is raised: The tamid, during the whole year it is offered according to its law, [viz..] it is slaughtered at eight and a half [hours] and offered at nine and a half hours. But on the eve of Passover it is slaughtered at seven and a half and offered at eight and a half; if it [the eve of Passover] fell on the Sabbath, it is as though it fell on a Monday.[7] R. Akiba said: As its order is on the eve of Passover. As for Abaye, it is well;[8] but according to Raba it is a difficulty?[9] — Raba can answer you: Do not say, It is the same as when it falls on a Monday. but say, it is the same as a Monday in general.[10]

An objection is raised: If it falls on the Sabbath, it is as its order during the whole year: these are the words of R. Ishmael.[11] R. Akiba said: It is as its order on the eve of Passover in general.[12] Now as for Raba, it is well;[13] but according to Abaye it is difficult? — Abaye answers you: Do not say, ‘It is as its order during the whole year,’ but say, It is as its order in all [other] years:[14] these are the words of R. Ishmael. R. Akiba said: It is as the order when the eve of Passover falls on the eve of the Sabbath.[15]

Our Rabbis taught: How do we know that there must not be anything before the morning tamid?[16] Because it is said, and he shall lay the burnt-offering in order upon it.[17] What is the exegesis?[18] — Said Raba: The burnt-offering implies the first burnt-offering.[19] And how do we know that nothing may be offered after the evening tamid? Because it is stated, and he shall burn upon it the fat of the peace-offerings.[20] What is the exegesis?[21] Said Abaye: After it[22] [sc. the morning tamid] [you may sacrifice] peace-offerings, but not after its companion [sc. the evening tamid] [may you sacrifice] peace-offerings. To this Raba demurred: Say [then], it is only peace-offerings that we may not present,[23] yet we may present burnt-offerings? Rather, said Raba: Ha-shelamim implies, upon it complete all the sacrifices.[24]

Our Rabbis taught: The [evening] tamid is [sacrificed] before the Passover offering,the Passover offering is [sacrificed] before the [burning of the evening] incense, the incense before [the kindling of] the lights;

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(1) Since there are many Passover sacrifices, while there is no need to delay it on account of vows, which are not offered on the Sabbath.

(2) In both cases the tamid is slaughtered at eight and a half hours, though on the Sabbath no voluntary sacrifices are offered.

(3) Viz., in both cases the tamid is slaughtered at seven and a half hours.

(4) For their controversy does not refer to the eve of Passover at all.

(5) If we permit him to slaughter the afternoon tamid on Sabbath at seven and a half hours, he may slaughter it at the same hour during the week too, leaving no time for voluntary offerings, which are disqualified if brought after the afternoon tamid.

(6) For it is a general principle that all precepts must be performed as early as possible.

(7) Lit., ‘the second (day) of the week’ — there are no specific names for the days of the week in Hebrew, except of course, for the Sabbath. — I.e.,it is the same as when it falls during the week, Monday being mentioned as an example (Rashi and Tosaf.).

(8) For since R. Ishmael says that if it falls on the Sabbath it is the same as when it falls on a Monday, R. Akiba must mean, Just as its order on the eve of Passover which falls on the eve of the Sabbath.

(9) For Raba interprets R. Ishmael's statement thus: just as its order on weekdays in general etc. But since R. Ishmael concludes, it is the same as when it fails on a Monday, i.e., a weekday in general, it is obvious that he does not refer to a weekday in general in the first half of his statement.

(10) An ordinary weekday which is not Passover eve when the tamid is slaughtered at eight and a half hours, because we fear for the overheating of the flesh.

(11) I.e., the tamid is slaughtered at eight and a half hours, because we fear for the overheating of the flesh.

(12) It is slaughtered at seven and a half hours.

(13) For this is exactly as Raba interprets the Baraitha.

(14) I.e., just as in all other years when the eve of Passover falls on an ordinary weekday and the tamid is slaughtered at seven and a half hours, so likewise when it falls on the Sabbath.

(15) Viz., the tamid is slaughtered at six and a half hours.

(16) Rashi: nothing must be burnt upon the wood pile before the morning tamid, after the latter has been laid in order upon it. Tosaf.: no voluntary offering may be sacrificed before the morning tamid. Tosaf. accepts Rashi's interpretation as an alternative.

(17) Lev. VI, 5. This follows, ‘and the priest shall kindle wood on it every morning’ (ibid.) showing that immediately after the wood pile is kindled, the tamid is the first thing to be burnt.

(18) How is it implied that ‘the burnt-offering’ mentioned in the verse refers to the morning tamid?

(19) The def. art. points to some particular sacrifice, viz., the first burnt-offering mentioned in the chapter on sacrifices, Num. XXVIII, which is the daily morning tamid, and this verse teaches that it must be the first thing to ascend the altar every day. and nothing else may take precedence over it.

(20) Ibid.

(21) How is it implied in this verse?

(22) Taking עליה (‘upon it’) in this sense.

(23) After the evening tamid.

(24) v. supra p. 288, n. 5.

Talmud - Mas. Pesachim 59a

let that in connection with which ba-’ereb [at evening] and ben ha-’arbayim [between the evenings][1] are said be deferred after that in connection with which ba-’ereb is not said, save ben ha-’arbayim alone.[2] If so, let [the burning of] the incense [and the kindling of] the lights also take precedence over the Passover offering, [for] let that in connection with which ba-’ereb and ben ha-’arbayim are stated be deferred after that in connection with which nought save ben ha-’arbayim alone is said?[3] — There it is different, because Scripture expressed a limitation, ‘it’. For it was taught: [Aaron and his sons shall set it in order, to burn] from evening to morning:[4] furnish it with its [requisite] measure, so that it may burn from evening to morning. Another interpretation: you have no [other] service which is valid from evening to morning save this alone. What is the reason? Scripture saith, ‘Aaron and his sons shall set it in order, to burn from evening to morning’: ‘it’ [shall be] from evening to morning, but no other thing shall be from evening until morning;[5] and [the burning of] the incense is likened to [the kindling of] the lights.[6]

Now it was taught in accordance with our difficulty: The [evening] tamid is [sacrificed] before [the burning of] the incense, the incense is [burnt] before [the kindling of] the lamps, and the lamps are [kindled] before [the sacrificing of] the Passover offering: let that in connection with which ba-’ereb and ben ha'arbayim are stated be deferred after that in connection with which nought save ben ha-’arbayim alone is stated. But ‘it’ is written?[7] — That ‘it’ is required to exclude a service of the inner [Temple]; and what is it? [The burning of] the incense.[8] You might think

But in connection with the former only ben ha-’arbayim is stated, Num. XXVIII,[6] : and the other lamb shalt thou offer at dusk (ben ha'arbayim). that I would say, since it is written, And when Aaron lighteth the lamps at dusk, he shall burn it,[9] say, let us first light the lamps and then burn the incense; therefore the Merciful One expressed a limitation, ‘it’. Then what is the purpose of, ‘at dusk he shall burn it’? — This is what the Merciful One saith: When thou lightest the lamps, the incense must [already] be burning.

Our Rabbis taught: There is nothing which takes precedence over the morning tamid except [the burning of] the [morning] incense alone, in connection with which ‘in the morning, in the morning’ is stated; so let [the burning of the] incense, in connection with which ‘in the morning, in the morning,’ is stated, for it is written, And Aaron shall burn thereon incense of sweet spices, in the morning, in the morning,[10] take precedence over that in connection with which only one ‘morning’ is stated.[11] And there is nothing which may be delayed until after the evening tamid save [the burning of] the incense, [the lighting of] the lamps, [the slaughtering of] the Passover sacrifice, and he who lacks atonement[12] on the eve of Passover, who performs ritual immersion a second time[13] and eats his Passover sacrifice in the evening. R. Ishmael the son of R. Johanan b. Beroka said: He who lacks atonement at any other time of the year too, who performs ritual immersion and eats of sacred flesh in the evening.[14] According to the first Tanna, it is well: let the affirmative precept of [eating] the Passover sacrifice, which involves kareth,[15] come and override the affirmative precept of completion.[16] which does not involve kareth.[17] But according to R. Ishmael the son of R. Johanan b. Beroka, wherein is this affirmative precept stronger than the other affirmative precept? — Said Rabina in R. Hisda's name: We treat here of a sin-offering of a bird, the blood of which alone belongs to the altar.[18] R. Papa said: You may even say [that we treat of] an animal sin-offering: he takes it up and keeps it overnight on the top of the altar.[19] But there is the guilt-offering?[20] As for R. Papa. it is well: hence we keep it overnight. But according to R. Hisda, what can be said? — I will tell you: It means where he has offered up his guilt-offering.[21] But there is the burnt-offering?[22] And should you answer, The burnt-offering is not indispensable,[23] surely it was taught. R. Ishmael the son of R. Johanan b. Berokah said: Just as his sin-offering and his guilt-offering are indispensable for him, so is his burnt-offering indispensable for him. And should you answer, It means where he has offered his burnt-offering; yet can his burnt-offering be offered first before his sin-offering? Surely it was taught: And he shall offer that which is for the sin-offering first:[24] for what purpose is this stated? If to teach that it comes before the burnt-offering, surely it is already said, And he shall prepare the second for a burnt-offering, according to the ordinance?[25] But this furnishes a general rule for all sin-offerings, that they take precedence of all burnt-offerings which accompany them; and we have an established principle[26] that even a bird sin-offering takes precedence of an animal burnt-offering![27] — Said Raba, The burnt-offering of a leper is different, because the Merciful One saith,

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(1) E.V.: ‘at dusk’.

(2) This is why the evening tamid is before the Passover sacrifice. For in connection with the latter both these expressions are used: Ex. XII, 6: and the whole assembly . . . shall kill it at dusk (ben ha-’arbayim); Deut. XVI, 6: thou shalt sacrifice the passover-offering at even (ba-’ereb).

(3) For only ben ha-’arbayim is stated in connection with the former two, Ex. XXX, 7f: And Aaron shall burn thereon incense of sweet spices . . . And when Aaron lighteth the lamps at dusk (ben ha-’arbayim), he shall burn it, ‘ben ha-’arbayim’ applying to both the burning of the incense and the lighting of the lamps.

(4) Ex. XXVII, 21.

(5) Hence nothing may come after the kindling of the lights, and consequently the slaughtering of the Passover offering must take precedence.

(6) Just as no service after the former is valid, so is no service valid after the latter.

(7) Implying that nothing must be done after the kindling of the lights.

(8) For it is logical that a service similar to itself should be excluded, the kindling of the lamps likewise being a service in the inner Temple, and ‘it’ shows that no other inner service may take place after the kindling of the lamp. But the Passover offering was sacrificed in the outer Court.

(9) Ex. XXX, 7.

(10) Ibid.; E.V.: ‘every morning’. The literal translation is given in the text, and the repetition implies an earlier hour.

(11) Num. XXVIII, 4: The one lamb shalt thou offer in the morning.

(12) The technical designation, of an unclean person who may not eat holy flesh until he has brought a sacrifice after regaining his cleanliness, viz.,a zab and a zabah (v. Glos.). a leper and a woman after childbirth. If one of these forgot to bring his sacrifice before the evening tamid was sacrificed on the eve of Passover, he must bring it after the tamid, since otherwise he may not partake of the Passover offering in the evening. which is obligatory.

(13) Though he must perform ritual immersion the previous day, this being necessary before the purificatory sacrifice may be offered, he nevertheless repeats it before partaking of holy flesh.

(14) If he brought a peace-offering that day but forgot to bring his purificatory sacrifice, he must bring it even after the afternoon tamid, so that he may eat the flesh of his peace-offering in the evening. R. Ishmael regarding this too as obligatory.

(15) If unfulfilled, v. Num. IX, 13.

(16) V. supra 58b bottom: ‘after it complete all the sacrifices’.

(17) Even if a sacrifice is unlawfully brought after the evening tamid it is not punished by kareth.

(18) R. Ishmael, in speaking of one who lacks atonement during the rest of the year, refers to a poor leper, who brought a bird for his sin-offering. This was eaten by the priests, and nothing of it was burnt on the altar, whereas the affirmative precept of ‘completion’ is written in reference to burning on the altar (v. Lev. VI, 5: and he shall burn thereon the fat of the peace-offerings). and hence applies only to animal sacrifices, the fat of which was burnt on the altar.

(19) He slaughters the sacrifice after the evening tamid, but carries the animal on to the top of the altar and leaves it there overnight, postponing the burning of the fat until after the tamid of the following morning.

(20) Required by a leper; even if poor, he brought a lamb, v. Lev. XIV, 21.

(21) But had forgotten about the sin-offering.

(22) Likewise required by a leper. ibid. 19, 22. This of course was burnt on the altar (v. n. 4).

(23) To the eating of sacred flesh.

(24) Lev. V, 8, q.v.

(25) Ibid. 10.

(26) Binyan Ab, a building up of a principle (or class). i.e., a conclusion by analogy.

(27) V. Zeb. 90b.

Talmud - Mas. Pesachim 59b

And the priest shall [have] offer[ed] the burnt offering.[1] [implying], that which he has already offered.[2]

R. Shaman b. Abba said to R. Papa: According to you who maintain [that] he takes it up and keeps it overnight on the top of the altar, shall we arise and do a thing to the priests whereby they may come to a stumbling-block, for they will think it is of that day. and thus come to burn it?[3] — he priests are most careful, replied he.

R. Ashi said to R. Kahana-others state, R. Huna the son of R. Nathan [said] to R. Papa: But as long as the emurim[4] have not been burnt, the priests may not eat the flesh?[5] For it was taught: You might think that the priests should be permitted [to partake] of the breast and the thigh before the burning of the emurim: therefore it is stated, And the priest shall burn the fat upon the altar,[6] and then follows, but the breast shall be Aaron's and his sons’. And as long as the priests have not eaten [it], the owners obtain no atonement, for it was taught: And they shall eat those things wherewith atonement was made:[7] this teaches that the priests eat [it] and the owners obtain atonement! — Said he to him, Since it is impossible,[8] they [the emurim] are treated[9] as though they were defiled or lost.

For it was taught: You might think that if the emurim were defiled or lost, the priests have no right to the breast or the thigh, therefore it is stated, ‘But the breast shall be Aaron's and his sons’, in all cases.

R. Kahana opposed [two verses]: It is written, neither shall the fat of My feast remain all night until the morning:[10] [thus] it is only ‘until the morning’ that ‘it shall not remain all night,’ but it may be kept for the whole night;[11] but it is written, and he shall burn thereon the fat of the peace-offerings,[12] [implying,] after it complete all the sacrifices?[13] He raised the difficulty; and he himself answered it: That is where they were left over.[14]

R. Safra pointed out a contradiction to Raba: It is written, neither shall the sacrifice of the feast of the Passover be left unto the morning:[15] thus it is only ‘unto the morning’ that ‘it shall not be left,’ but it may be kept all night;[16] but it is written, The burnt-offering of the Sabbath [shall be burnt] on its Sabbath,[17] but not the burnt-offering of a weekday on the Sabbath, nor the burnt-offering of a weekday on a Festival? — Said he to him, R. Abba b. Hiyya has already pointed out this contradiction to R. Abbahu, and he answered him, We treat here of the case where the fourteenth falls on the Sabbath,[18] for the fats of the Sabbath may be offered on the Festival. Said he to him, Because the fats of the Sabbath may be offered on the Festival, we are to arise and assume that this verse is written [only] in respect of the fourteenth which falls on the Sabbath?[19] Leave the verse, he answered, for it is compelled to establish its own [particular] case.[20]

MISHNAH. IF A MAN SLAUGHTERED THE PASSOVER SACRIFICE FOR ANOTHER PURPOSE,[21] AND HE CAUGHT [THE BLOOD] AND WENT AND SPRINKLED IT FOR ANOTHER PURPOSE;[22] OR FOR ITS OWN PURPOSE AND FOR ANOTHER PURPOSE; OR FOR ANOTHER PURPOSE AND FOR ITS OWN PURPOSE;[23] IT IS DISQUALIFIED. HOW IS ‘FOR ITS OWN PURPOSE AND FOR ANOTHER PURPOSE’ MEANT? IN THE NAME OF THE PASSOVER SACRIFICE [FIRST] AND [THEN] IN THE NAME OF A PEACE-OFFERING. ‘FOR ANOTHER PURPOSE AND FOR ITS OWN PURPOSE’ [MEANS] IN THE NAME OF A PEACE-OFFERING [FIRST] AND [THEN] IN THE NAME OF THE PASSOVER-OFFERING.

GEMARA. R. Papa[24] asked: Did we learn [of a dual intention expressed even] in respect to one service,[25] or did we learn [only of a dual intention expressed] at two separate services? Did we learn [of a dual intention expressed even] in respect of one service, this being in accordance with R. Jose, who maintained, A man is responsible for[26] his last words too;[27] for if [it agreed with] R. Meir, surely he said, Seize [i.e., determine the matter by] the first expression;[28]

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(1) Lev. XIV, 20; the bracketed additions show the meaning which the verse is capable of bearing, by treating והעלה as a pluperfect, beside its usual and obvious meaning.

(2) Hence although the sin-offering should come before the burnt-offering, yet the possible meaning of this verse teaches that even if the order is reversed it is valid. Therefore we can explain the present Baraitha as meaning that he had already sacrificed his burnt-offering.

(3) During the night the limbs of the sacrifices of the previous day are burnt, all before the tamid of the following morning. Here, however, the animal sin-offering which was kept untouched overnight must be burnt after the morning tamid, whereas the priest may confuse it with the rest and burn it before.

(4) V. Glos.

(5) And in consequence atonement is incomplete, so that the owner may not partake of the Passover sacrifice in any case, if his sin-offering is left overnight.

(6) Lev. VII, 31.

(7) Ex. XXIX, 33.

(8) To burn the emurim after the evening tamid, on account of the affirmative precept of ‘completion’.

(9) Lit., ‘they (the Sages) treated them’.

(10) Ex. XXIII, 18.

(11) I.e.,the priest has the whole night in which to burn the fat, providing that nothing is left by the morning.
(12) Lev. VI, 5.
(13) V. supra 58b. Thus nothing may be done after the evening tamid.
(14) Of the sacrifices whose blood was sprinkled before the evening tamid. Immediately the blood is sprinkled the fat etc. is ready for burning on the altar, and therefore even if it is delayed, its ultimate burning during the night is regarded as following the tamid of the previous morning, not that of the evening.
(15) Ex. XXXIV, 25.
(16) During which the altar portions of the Passover sacrifice are burnt. Although these, strictly speaking, belong to a sacrifice which has been offered on a weekday, i.e., the fourteenth, yet they may be burnt on the night of the Festival.
(17) Num. XXVIII, 10.
(18) I.e., only then is the implication of the first verse applicable.
(19) Surely there is no warrant for this limitation.
(20) Since there is a contradiction, the verse itself proves that it can only relate to this particular instance.
(21) Lit., ‘not for its own name’, i.e., as a different sacrifice. E.g., when he killed it he stated that it was for a peace-offering, not for a Passover sacrifice.
(22) Slaughtering the sacrifice, catching the blood, going with it to the side of the altar where it is to be sprinkled, and sprinkling it, are regarded as four distinct services, any of which, if performed with an illegal intention, disqualifies the Passover sacrifice.
(23) I.e., one of the services was for its own sake and another was for a different purpose, in the order stated.
(24) Rashal reads: Raba.
(25) I.e., even if he declared at one of the services, e.g.,the slaughtering, that he was doing it for its own purpose and for another purpose.
(26) Lit., ‘seized’.
(27) v. supra 53b. Hence since his last words were illegal, the sacrifice is disqualified.
(28) Where the two parts of a man's statement are mutually exclusive, regard the first only.

Talmud - Mas. Pesachim 60a

or perhaps we learned [it only] in respect to two services, and even according to R. Meir, who said, ‘Seize the first expression.’ that applies only in the case of one service, but in the case of two services he agrees that it is disqualified?[1] — I will tell you: to which [case does this problem refer]? Shall we say, to [the case where it was] for another purpose [first] and [then] for its own purpose, then whether it was in connection with one service or in connection with two services, according to both R. Meir and R. Jose it was disqualified by the first [wrongful intention], for according to R. Jose too, he holds that a man is held responsible for his last words also?[2] — Rather, [the problem refers] to [where it was done] for its own purpose [first] and then for another purpose: what then? — Come and hear: IF A MAN SLAUGHTERED THE PASSOVER SACRIFICE FOR ANOTHER PURPOSE AND CAUGHT [THE BLOOD]. AND WENT AND SPRINKLED IT FOR ANOTHER PURPOSE: how is it meant? Shall we say, [literally] as he teaches it,[3] why must he intend all of them [for a wrong purpose]? From the first it is disqualified! Hence he must teach thus: IF A MAN SLAUGHTERED THE PASSOVER SACRIFICE FOR ANOTHER PURPOSE, or even if he slaughtered it for its own purpose, but HE CAUGHT [ITS BLOOD], AND WENT AND SPRINKLED IT FOR ANOTHER PURPOSE,[4] or even if he slaughtered it, caught [its blood], and went [with it] for its own purpose. but SPRINKLED IT FOR ANOTHER PURPOSE, so that it is [a question of] two services.[5] Then consider the second clause: FOR ITS OWN PURPOSE AND FOR ANOTHER PURPOSE: how is it meant? Shall we say. in respect of two services: then it is identical with the first clause! Hence it must surely be in respect of one service, and this agrees with R. Jose, who maintained: A man is held responsible for his last words too! — No. After all it refers to two services,[6] but the first clause [discusses] where he is standing at [engaged in] the slaughtering and intends [with due purpose] in respect of the slaughtering, or again[7] he is standing at the sprinkling and intends [for another purpose] in respect of sprinkling.[8] While the second clause means when he is standing at the slaughtering and intends in respect of the sprinkling, when he [for instance] declares, ‘Behold, I slaughter the Passover sacrifice for its own purpose, [but] to sprinkle its blood for another purpose’; and he [the Tanna] informs us that you can intend at one service for another service,[9] and that is R. Papa's question.[10]

Come and hear: OR FOR ANOTHER PURPOSE AND FOR ITS OWN PURPOSE, [IT] IS DISQUALIFIED. How is it meant? If we say, in the case of two services, [then] seeing that where [if the first is] for its own purpose and [the second is] for another purpose. you say that it is disqualified. is it necessary [to state it where it is first] for another purpose and [then] for its own purpose?[11] Hence it must surely refer to one service, and since the second clause refers to one service, the first clause too refers [also] to one service! — No, after all it refers [only] to two services, and logically indeed it is not required, but because he speaks of ‘FOR ITS OWN PURPOSE AND FOR ANOTHER PURPOSE,’ he also mentions ‘FOR ANOTHER PURPOSE AND FOR ITS OWN PURPOSE.[12]

Come and hear: If he killed it [the Passover sacrifice] for those who cannot eat it or for those who were not registered for it,[13] for uncircumcised[14] or for unclean persons,[15] it is disqualified. Now here it obviously refers to one service, and since the second clause refers to one service, the first clause too treats [also] of one service![16] — What argument is this? The one is according to its nature, while the other is according to its nature; the second clause [certainly] refers [only] to one service, while the first clause may refer either to one service or to two services.[17]

Come and hear: [If he killed it] for those who can eat it and for those who cannot eat it, it is fit. How is it meant? Shall we say, at two services:[18] and the reason [that it is fit] is because he intended it [for non-eaters] at the sprinkling, for there can be no [effective] intention of eaters at the sprinkling;[19] hence [if it were] at one service, e.g.. at the slaughtering, where an intention with reference to eaters is effective, it would be disqualified, but we have an established law that if some are eaters it is not disqualified?[20]

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(1) On the first hypothesis the Mishnah refers even to one service, and will certainly also hold good in the case of two services; while on the second hypothesis the Mishnah refers to two services only, but will not hold good in the case of one service; Rashi infra 60b. s.v. סיפא בעבודה אחת and as is evident from the context.

(2) I.e., they too must be taken into account, but his first words certainly cannot be ignored.

(3) Viz., that all four services were performed for another purpose.

(4) [The text seems to be in slight disorder, v. D.S. The general meaning is, however, clear.]

(5) I.e., this clause states the case of a legal purpose at one service and an illegal purpose at another service.

(6) And still the two clauses are not identical as it goes on explaining.

(7) [MS.M. omits: ‘or again’.]

(8) [‘Slaughtering’ and ‘sprinkling’ are taken merely as examples, the same applying to the other services. Each was performed with the due or undue intention, as the case may be, in respect of itself.]

(9) And that such intention is taken into account, so that if it is illegitimate the sacrifice is disqualified.

(10) Riba: that is why R. Papa asks his question, because the Mishnah affords no solution. Rashba: R. Papa's question as to whether the Mishnah may refer to two services is in such conditions, viz., where an illegitimate intention for one service is expressed in the course of another service.

(11) For the very first intention is illegitimate and disqualifies it; how then is it to regain its validity? The same difficulty arises if the Mishnah refers to one and the same service, but then it can be answered that the Mishnah informs us in the first clause (‘FOR ITS OWN PURPOSE AND FOR ANOTHER PURPOSE’) that we do not determine the matter purely by his first words, and in the second clause (‘FOR ANOTHER PURPOSE AND FOR ITS OWN PURPOSE’) that the matter is not determined purely by his last words, but that due weight must be given to both.

(12) For the sake of parallelism.

(13) Every Paschal lamb required its registered consumers before it was slaughtered, in accordance with Ex. XII, 4. In the present instance he enumerated those for whom he was slaughtering it, all of whom, however, were incapable of eating through old age or sickness (Rashi: none others had registered for it; Tosaf.: others who were capable had also registered for it, but he ignored them in his declaration), or had not registered for this particular animal.

(14) ‘Uncircumcised’ in this connection always means men whose brothers had died through circumcision, and they were afraid of a similar fate. These may not eat thereof, ibid. 48.

(15) Who may likewise not eat it, being forbidden all sacred flesh. Lev. XXII, 4ff.

(16) The Mishnahs printed on 59b and 61a are actually clauses of the same Mishnah.

(17) I.e., either also to one service or exclusively to two services. And the question is, to which?

(18) Thus: at the slaughtering he declared that it was for those who can eat, and at the sprinkling he declared that it was for those who cannot eat (R. Han.).

(19) I.e., an intention with respect to the eaters expressed at the sprinkling is of no account.

(20) Since even if only one desired to eat of it the whole animal must be killed, v. infra 61a.

Talmud - Mas. Pesachim 60b

Hence it surely refers [also] to one service,[1] and since the second clause refers [also] to one service, the first clause too refers [also] to one service! — What argument is this: the one is according to its nature, while the other is according to its nature: the second clause refers [also] to one service,[2] while the first clause refers either to one service or to two services.[3] The scholars asked: What is the law of a Passover sacrifice which he killed at any other time of the year for its own purpose and for another purpose?[4] Does the other purpose come and nullify[5] its own purpose, and [thus] make it fit, or not? — When R. Dimi came,[6] he said, I stated this argument before R. Jeremiah: Since [slaughtering it] for its own purpose makes it fit at its own time, while [slaughtering it] for another purpose makes it fit at a different time,[7] then just as [the slaughtering] for its own purpose, which makes it fit at its own time, does not save[8] it from [the disqualifying effect of] another purpose,[9] so also [the slaughtering] for another purpose, which makes it fit at a different time, does not save it [from the disqualifying effect] of its own purpose, and it is unfit. Whereupon he said to me, It is not so: If you say thus in respect to another purpose.[10] that is because it operates in the case of all sacrifices;[11] will you say [the same where it is slaughtered] for its own purpose, seeing that it does not operate [as a cause of disqualification] in the case of all [other] sacrifices but only in the case of the Passover sacrifice alone?

What is [our decision] thereon? — Said Raba, A Passover sacrifice which he slaughtered at any other time of the year for its own purpose and for another purpose is fit. For it tacitly stands [to be killed] for its own purpose, yet even so, when he kills it for another purpose[12] it is fit, which proves that the other purpose comes and nullifies its own purpose. Hence, when he slaughters it for its own purpose and for another purpose too, the other purpose comes and nullifies its own purpose. Said R. Adda b. Ahabah to Raba: Perhaps where he states it, it is different from where he does not state it?[13] For [if he kills it] for those who can eat it and for those who cannot eat it, it is fit, yet when he kills it for those who cannot eat it alone, it is disqualified. Yet why so? Surely it tacitly stands for those who can eat it?[14] Hence [you must admit that] where he states it, it is different from where he does not state it; so here too, where he states it, it is different from where he does not state it. Is this all argument? he rejoined. As for there, it is well: there, as long as he does not [expressly] overthrow it at the slaughtering, its tacit [destiny] is certainly to be killed for its own purpose. But here, does it tacitly stand for those who are [registered] to eat it? Perhaps these will withdraw and others will come and register for it, for we learned: They may register and withdraw their hands from it [the Paschal lamb] until he kills it.

The scholars asked: What is the law of a Paschal lamb which was slaughtered during the rest of the year with a change of its

offering, which may then not be eaten, or in part, in the sense that they may be eaten, but their owners have not discharged their obligations and must bring another. Therefore it is logical that its disqualifying power should be so strong as to render of no avail the fact that it was slaughtered for its purpose too. owners?[15] Is a change of owner like a change of sanctity,[16] and it validates it; or not? — Said R. Papa. I stated this argument before Raba: Since a change of sanctity disqualifies it at its own time, and a change of owner disqualifies it at its own time: then just as a change of sanctity, which disqualifies it at its own time, validates it at a different time,[17] so a change of owner, which disqualifies it at its own time, validates it at a different time. But he said to me, It is not so: If you say thus in the case of a change of sanctity, [that is] because its disqualification is intrinsic,[18] and it is [operative] in respect of the four services,[19]

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(1) I.e., also to one service.

(2) This will not have quite the same meaning as the same phrase used before. There it obviously meant that it treats of one service only. Here however the meaning is this: even in the case of one service the sacrifice is fit, this law holding good in the case of both one service or two services. Thus, if this intention, viz., that he was killing it for eaters and non-eaters, was expressed at the slaughtering, the sacrifice is fit, because eaters were included. While it may also refer to two services, as explained on p. 301, n. 7.

(3) V. p. 301. n. 6.

(4) E.g., if a man dedicated a lamb for the Passover sacrifice a considerable time beforehand. Now it is stated infra 70b that if he kills it as a peace-offering at any time other than the eve of Passover it is fit; if as a Passover offering, it is unfit.

(5) Lit., ‘exclude from’.

(6) From Palestine to Babylon

(7) Lit., ‘not in its own time’.

(8) Lit., ‘draw out’.

(9) So that if it is killed both for its purpose and for another purpose, it is unfit.

(10) That it disqualifies the Passover sacrifice even if it is also killed for its own purposes.

(11) All sacrifices, if slaughtered for a purpose other than their own, are disqualified, either wholly, viz., in the case of a sin-offering and the Passover

(12) Before the eve of passover.

(13) The other purpose can nullify the tacit assumption that it stands for its own purpose, but it may be unable to nullify the explicit declaration that it is slaughtered for its own purpose too.

(14) So that according to your argument it is the same as though he explicitly killed it for both.

(15) The animal was set aside for a certain person and then slaughtered for a different person, but for its own purpose (Rashi).

(16) I.e., like slaughtering it as a different sacrifice.

(17) The text must be emended thus.

(18) I.e., an illegitimate intention is expressed in respect to the sacrifice itself.

(19) V. Mishnah supra 59b and note a.l.

Talmud - Mas. Pesachim 61a

and it is [operative] after death,[1] and it is [operative] in the case of the community as in the case of an individual;[2] will you say [the same] of a change of owner, where the disqualification is not intrinsic, and it is not [operative] in respect of the four services,[3] and it is not [operative] after death,[4] and it is not [operative] in the case of the community as in the case of an individual? And though two [of these distinctions] are not exact,[5] two nevertheless are exact. For how is a change of owners different, that [you say] its disqualification is not intrinsic: because its disqualification is merely [one of] intention? Then with a change of sanctity too, its disqualification is merely one of intention. Again, as to what he says. A change of owners is not [operative as a disqualification] after death, then according to R. Phineas the son of R. Ammi who maintained, There is [a disqualification in] a change of owner after death, what is there to be said? Two [of these distinctions] are nevertheless exact! Rather, said Raba: A Paschal lamb which he slaughtered during the rest of the year with a change of owners is regarded as though it had no owners in its proper time,[6] and it is disqualified.

MISHNAH. IF HE KILLED IT FOR THOSE WHO CANNOT EAT IT OR FOR THOSE WHO ARE NOT REGISTERED FOR IT, FOR UNCIRCUMCISED PERSONS OR FOR UNCLEAN PERSONS, IT IS UNFIT. [IF HE KILLED IT] FOR THOSE WHO ARE TO EAT IT AND FOR THOSE WHO ARE NOT TO EAT IT, FOR THOSE WHO ARE REGISTERED FOR IT AND FOR THOSE WHO ARE NOT REGISTERED FOR IT, FOR CIRCUMCISED AND FOR UNCIRCUMCISED, FOR UNCLEAN AND FOR CLEAN PERSONS, IT IS FIT. IF HE KILLED IT BEFORE MIDDAY, IT IS DISQUALIFIED, BECAUSE IT IS SAID, [AND THE WHOLE ASSEMBLY . . . SHALL KILL IT] AT DUSK.[7] IF HE KILLED IT BEFORE THE [EVENING] TAMID, IT IS FIT, PROVIDING THAT ONE SHALL STIR ITS BLOOD UNTIL [THAT OF] THE TAMID IS SPRINKLED;[8] YET IF IT WAS SPRINKLED,[9] IT IS FIT.

GEMARA. Our Rabbis taught: How is ‘for those who cannot eat it’ meant? [If it was killed] in the name of an invalid or an old man. How is ‘for those who were not registered for it’ meant? If one company registered for it and he killed it in the name of a different company.

How do we know this? Because our Rabbis taught, [Then shall he and his neighbour next unto him take one] according to the number of [be-miksath] [the souls]:[10] this teaches that the Paschal lamb is not slaughtered save for those who are registered [numbered] for it. You might think that if he slaughtered it for those who were not registered for it, he should be as one who violates the precept, yet it is fit. Therefore it is stated, ‘according to the number of [be-miksath] [the souls] . . . ye shall make your count [takosu]’: the Writ reiterated it, to teach that it is indispensable. Rabbi said, This is a Syriac expression, as a man who says to his neighbour, ‘Kill [kos] me this lamb.’[11] We have thus found [it disqualified if killed] for those who are not registered for it; how do we know [the same of] those who cannot eat it? Scripture saith, according to every man's eating ye shall make your count,’ [thus] eaters are assimilated to registered [persons].

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(1) If the owner of the sacrifice died, his son must bring it, and if the latter slaughters it for a different purpose it is disqualified.

(2) A public sacrifice, just like a private sacrifice, is disqualified if offered for another purpose.

(3) In the case of sacrifices other than the Passover a change of owner is a disqualification only when it is expressed in connection with the sprinkling of the blood, i.e., he declares that he will sprinkle the blood on behalf of another person.

(4) When its owner dies the sacrifice loses his name, and therefore even if it is offered in another man's name it is fit.

(5) They are not true distinctions, as shown anon.

(6) I.e., as though it were slaughtered on Passover eve as a Passover sacrifice, but for no persons in particular.

(7) Ex. XII, 6; lit., ‘between the evenings’.

(8) To prevent it from congealing.

(9) Before the blood of the tamid.

(10) Ex. XII, 4.

(11) Thus Rabbi connects the word with slaughter. But he also admits its Hebrew connotation of counting, and he thus points out that an intention for those who cannot eat it or who are not registered for it disqualifies the sacrifice only when it is expressed at the killing, but not when it is expressed at one of the other services (Tosaf.).

Talmud - Mas. Pesachim 61b

If he slaughtered it for circumcised persons on condition that uncircumcised persons should be atoned for therewith at the sprinkling,[1] — R. Hisda said: It [the lamb] is disqualified; Rabbah ruled: It is fit. R. Hisda said, It is disqualified: There is [a disqualification in] an intention for uncircumcised at the sprinkling. Rabbah ruled, It is fit: There is no [disqualification in] an intention for uncircumcised at the sprinkling. Rabbah said, Whence do I know it? Because it was taught: You might think that he [an uncircumcised person] disqualifies the members of the company who come with him,[2] and it is logical: since uncircumcision disqualifies, and uncleanness disqualifies, [then] just as with uncleanness, part uncleanness was not made tantamount to entire uncleanness,[3] so with uncircumcision, part uncircumcision was not made tantamount to entire uncircumcision.[4] Or turn this way:[5] since uncircumcision disqualifies, and time disqualifies: then just as with time, part [in respect to] time was made tantamount to the whole [in respect of] tithe,[6] so with uncircumcision, part [in respect] to uncircumcision should be made tantamount to the whole [in respect to] uncircumcision. Let us see to what it is similar: you judge [draw an analogy between] that which does not apply to all sacrifices by that which does not apply to all sacrifices,[7] and let not time provide an argument, which operates [as a disqualification] in the case of all sacrifices. Or turn this way: you judge a thing which was not freed[8] from its general rule by a thing which was not freed from its general rule;[9] and let not uncleanness provide an argument, seeing that it was freed from its general rule.[10] Therefore it is stated. This [is the ordinance of the Passover].[11] What is [the purpose of] ‘this’?[12] If we say. [to teach] that entire uncircumcision disqualifies it [the Paschal lamb], but part thereof[13] does not disqualify it, surely that is deduced from, and all uncircumcised person[s] [shall not eat thereof]?[14] Hence he [the Tanna] must have taught thus: Therefore it is stated, ‘and all uncircumcised shall not eat thereof. Entire uncircumcision disqualifies it, [but] part thereof does not disqualify it. And should you say, the same law applies to sprinkling, viz., that entire uncircumcision at least does disqualify it:[15] therefore ‘this’ is stated, [teaching,] it is only at the slaughtering that entire uncircumcision disqualifies, but [as for] sprinkling, even entire uncircumcision too does not disqualify it.[16] And should you ask, What is the leniency of sprinkling?[17] That there is no intention of eaters in respect to sprinkling.[18]

But R. Hisda [maintains,] On the contrary, [the Baraitha is to be explained] in the opposite direction. [Thus:] therefore it is stated, and all uncircumcised person[s] [shall not eat thereof]: if the whole of it [the registered company] is [in a state of] uncircumcision, it disqualifies it, but part thereof does not disqualify it. But [as for] sprinkling, even part thereof disqualifies it.[19] And should you say, the same law applies to sprinkling, viz., that unless there is entire uncircumcision it does not disqualify it, therefore ‘this’ is stated, [teaching,] only at the slaughtering does part thereof not disqualify it, but at the sprinkling even part thereof disqualifies it. And should you ask, What is the stringency of sprinkling?[20] [It is] that [the prohibition of] piggul cannot be imposed save at the sprinkling.[21] To this R. Ashi demurred: Whence [do you know] that this [verse] ‘and all uncircumcised person[s],’ implies in its entirety; perhaps this [verse], ‘and all uncircumcised person[s]’ implies whatever there is of uncircumcision,[22] [and] therefore the Merciful One wrote ‘this’ to teach that unless there is an entire [company in a state of] uncircumcision, it does not disqualify it, there being no difference whether [it is] at the slaughtering or at the sprinkling?[23] Rather, said R. Ashi, R. Hisda and Rabbah

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(1) Whether the latter were registered for it or not. [‘To be atoned for’ here is employed in a technical sense denoting to have the blood sprinkled on behalf of (a person), as there is no question of atonement with the Paschal lamb. The words ‘at the sprinkling’ are accordingly superfluous, and in fact do not appear in MS.M.]

(2) I.e., if he registered together with duly circumcised, all are disqualified from partaking of this lamb.

(3) Only if all who register are unclean is the sacrifice disqualified. but not if merely some of them are unclean.

(4) Hence it is not disqualified.

(5) I.e., argue thus.

(6) I.e., if he expressed an intention of eating only part of the sacrifice even after the time legally permitted, the whole sacrifice is piggul (q.v. Glos.) and disqualified.

(7) Uncircumcision and uncleanness are not disqualifications in the case of other sacrifices, which may be killed on behalf of their owners even if they are uncircumcised or unclean.

(8) Lit., ‘permitted’.

(9) In no case may a sacrifice be eaten by an uncircumcised person or after its permitted time.

(10) If the whole community is unclean, the Paschal lamb is sacrificed and eaten by them. — Thus two contradictory arguments are possible.

(11) Ex. XII, 43; the passage proceeds to disqualify an uncircumcised person (v. 49), and this word is quoted as teaching that an uncircumcised person does not disqualify others who register with him. ‘This’ is a limitation, teaching that the law is exactly as stated, and is not to be extended to others.

(12) This is part of Rabbah's argument. How does ‘this’ signify that the uncircumcised does not disqualify the members of the company that come with him?

(13) I.e., when only some of the registered company are uncircumcised.

(14) Ibid. 48, which is thus interpreted: when all who have registered for a particular animal are uncircumcised, none must eat thereof. But if only a fraction are uncircumcised, the circumcised may eat thereof. (E.V. but no uncircumcised person shall eat thereof.)

(15) Viz., where he expressed an intention that the sprinkling should make atonement for uncircumcised only.

(16) ‘This’ implies that uncircumcision disqualifies at one of the four services only, which is assumed to be the slaughtering. This interpretation of the Baraitha supports Rabbah's view.

(17) What other leniency do you find in sprinkling, that you assume that the limitation of ‘this’ teaches a further leniency in respect to uncircumcision.

(18) He need not sprinkle expressly for those who are registered, as the requirement of registration and eaters is stated in connection with slaughtering, v. supra 61a note on Rabbi's exegesis.

(19) As his view supra.

(20) What other stringency do you find in sprinkling, that you assume that the limitation of ‘this’ teaches a further stringency in respect to uncircumcision.

(21) An illegitimate intention to partake of the sacrifice after the permitted time, expressed at one of the four services (v. Mishnah supra 59b) renders it piggul, and he who eats it even within the permitted time, incurs kareth, only if the subsequent services are performed without any intention at all or with a legitimate intention or with the same illegitimate intention. But if any one of the subsequent services is performed with a different illegitimate intention, e.g.. to eat it without the permitted boundaries, it ceases to be piggul and does not involve kareth, v. Zeb. 28b. Hence the only service in which it can definitely be fixed as piggul without possibility of revocation is sprinkling, because that is the last service. That is regarded as a stringency of sprinkling.

(22) I.e., on the contrary it may imply that even if a single person of those who are registered for the sacrifice is uncircumcised, it is disqualified.

(23) For on the present exegesis there is no verse to intimate a distinction.

Talmud - Mas. Pesachim 62a

differ in this verse: And it shall be accepted for him to make atonement for him:[1] ‘for him’, but not for his companion.[2] Rabbah holds, His companion must be like himself: just as he is capable of atonement, so must his companion be capable of atonement,[3] thus excluding this uncircumcised person, who is not capable of atonement.[4] But R. Hisda holds, This uncircumcised person too, since he is subject to the obligation, he is [also] subject to atonement, since if he wishes he can make himself fit.[5]

Yet does R. Hisda accept [the argument of] ‘since’?[6] Surely it was stated, If one bakes [food] on a Festival for [use on] a weekday. — R. Hisda said: He is flagellated; Rabbah said: He is not flagellated. ‘Rabbah said, He is not flagellated’: We say, Since if guests visited him, it would be fit for him, [on the Festival itself]. it is fit for him now too.[7] ‘R. Hisda said, He is flagellated’: We do not say, ‘since’.[8] As for Rabbah, it is well, [and] he is not self contradictory: here [in the case of circumcision], an action is wanting,[9] whereas there an action is not wanting.[10] But R. Hisda is self-contradictory?[11] — I will tell you: when does R. Hisda reject [the argument of] ‘since’? [where it leads] to [greater] leniency;[12] [but where it results] in stringency, he accepts it.[13]

Mar Zutra son of R. Mari said to Rabina: [The Baraitha] teaches: ‘since uncircumcision disqualifies, and uncleanness disqualifies, [then] just as uncleanness, part uncleanness was not made tantamount to entire uncleanness, so uncircumcision, part uncircumcision was not made tantamount to entire uncircumcision. How is this uncleanness meant? Shall we say, it means uncleanness of the person, and what is meant by, ‘part uncleanness was not made tantamount to entire uncleanness’? That if there are four or five unclean persons and four or five clean persons,[14] the unclean do not disqualify [the Paschal lamb] for the clean. But then in the case of uncircumcision too they do not disqualify, for we learned, FOR CIRCUMCISED AND UNCIRCUMCISED . . . IT IS FIT: how then is uncleanness different, that he is certain about it, and how is uncircumcision different, that he is doubtful?[15] Hence it must refer to uncleanness of the flesh, and what is meant by, ‘part uncleanness was not made tantamount to entire uncleanness’? For where one of the limbs becomes unclean, that which becomes unclean we burn, while the others we eat. To what have you [thus] referred it?[16] To uncleanness of the flesh! Then consider the sequel: ‘you judge that which does not apply to all sacrifices by that which does not apply to all sacrifices,[17] hence let not time [dis]prove it, since it applies to all sacrifices’. Now what does ‘uncleanness mean? Shall we say, uncleanness of the flesh, — why does it not apply to all sacrifices?[18] Hence it is obvious that it refers to uncleanness of person, and what does ‘it does not apply to all sacrifices’ mean? For whereas in the case of all [other] sacrifices an uncircumcised person and an unclean person can send their sacrifices,[19] in the case of the Passover offering an uncircumcised person and an unclean person cannot send their Passover offerings. Thus the first clause refers to uncleanness of the flesh, while the second clause refers to uncleanness of the person? — Yes, answered he to him, he argues[20] from the designation of uncleanness.[21]

Alternatively, the sequel too refers to the uncleanness of flesh. Then what is [meant by] ‘it does not apply to all sacrifices’? [It means this], for whereas in the case of all [other] sacrifices, whether the fat[22] is defiled while the flesh remains [clean], or the flesh is defiled while the fat remains [clean], he [the officiating priest] sprinkles the blood;[23] in the case of the Passover offering, if the fat[22] is defiled while the flesh remains [clean], he sprinkles the blood; but if the flesh is defiled while the fat remains [clean], he must not sprinkle the blood.[24]

To what have you referred it: to uncleanness of the flesh? Then consider the final clause: ‘you judge a thing which was not freed from its general interdict by a thing which was not freed from its general interdict, hence let not uncleanness disprove it, seeing that it was freed from its general interdict.’ In which [case]? Shall we say.

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(1) Lev. I, 4. [I.e., by sprinkling, v. supra p. 306, n. 2.]

(2) I.e., if the blood is sprinkled on behalf of a different person, the sacrifice is disqualified.

(3) Only then does this change of name disqualify the sacrifice.

(4) I.e., he is not fit to have the Paschal offering made acceptable on his behalf; cf. loc. cit. Hence the intention that the sprinkling shall be on his behalf does not disqualify it.

(5) By circumcision.

(6) I.e., does he accept the view that since a different state of affairs is possible, we take it into account as though it were already in existence?

(7) Though he has no guests. He is therefore regarded as having baked for the Festival itself.

(8) V. supra 46b.

(9) Viz., circumcision, before he is fit; hence though he is potentially circumcised, we cannot regard him as actually so.

(10) The coming of guests involves no action on his part; hence Rabbah's ruling.

(11) As in the case of baking on a Festival for a weekday.

(12) If he accepts the argument of ‘since’ even in the case of circumcision, where an action is wanting, how much the more where no action is wanting!
(13) Tosaf.: according to this, R. Hisda disqualifies the sacrifice (supra 61a top) only by Rabbinical law, for in Scriptural law this distinction is unacceptable.
(14) Registered for the same Paschal lamb.
(15) That the one must be deduced from the other.
(16) Lit., ‘in what (case) have you established it?’
(17) The reference to uncleanness. V. supra p. 307, n. 2.
(18) It certainly does.
(19) To be sacrificed on their behalf, though they cannot partake of them personally.
(20) Lit., ‘he rebuts’.
(21) I.e., from uncleanness as a cause of disqualification, without particularizing the nature of the uncleanness.
(22) Which is burnt on the altar.
(23) And the sacrifice effects its purpose.
(24) For there must be at least as much as an olive of eatable flesh before its blood may be sprinkled.

Talmud - Mas. Pesachim 62b

in the case of uncleanness of the flesh; where was it permitted? Hence it obviously refers to uncleanness of the person, and where was it permitted? In the case of a community?[1] Thus the first clause refers to uncleanness of flesh, while the second clause refers to the uncleanness of the person? — Yes: he argues from the designation of uncleanness. Alternatively, the whole refers to uncleanness of the flesh; and [as to the question,] where was it permitted? [It was] in [the case of] the uncleanness of the Paschal lamb. For we learned: The Paschal lamb which comes [if offered] in uncleanness is eaten in uncleanness, for at the very outset it did not come for [aught] except to be eaten.[2] R. Huna son of R. Joshua raised an objection: If a Paschal lamb has passed its year[3] and he [its owner] slaughtered it at its own time[4] for its own purpose;[5] and similarly, when a man kills other [sacrifices] as a Passover offering in its [own] time, — R. Eliezer disqualifies [it];[6] while R. Joshua declares it fit.[7] Thus the reason [that R. Eliezer disqualifies it] is that it is in its own time, but [if it were slaughtered] at a different time[8] it is fit; yet why so? Let us say, Since he disqualifies [it][9] in its own time, he also disqualifies it at a different time?[10] — Said R. Papa. There it is different, because Scripture saith, Then ye shall say, The sacrifice of the Lord's passover it is:[11] let it retain its own nature:[12] neither may it be [slaughtered] in the name of other [sacrifices], nor may others [be slaughtered] in its name; in its time[13] when it is disqualified [if slaughtered] in the name of others, others are disqualified [if slaughtered] in its name; at a different time, when it is fit [if slaughtered] in the name of others, others are fit [if slaughtered] in its name.

R. Simlai came before R. Johanan [and] requested him, Let the Master teach me the Book of Genealogies.[14] Said he to him, Whence are you? — He replied, From Lod.[15] And where is your dwelling? In Nehardea.[16] Said he to him, We do not discuss it[17] either with the Lodians or with the Nehardeans, and how much more so with you, who are from Lod and live in Nehardea![18] But he urged[19] him, and he consented, Let us learn it in three months, he proposed. [Thereupon] he took a clod and threw it at him, saying, If Beruriah, wife of R. Meir [and] daughter of R. Hanina b. Teradion, who studied three hundred laws from three hundred teachers in [one] day, could nevertheless not do her duty[20] in three years, yet you propose [to do it] in three months!

As he was going he said to him, Master, What is the difference between [a Passover sacrifice which is offered both] for its own purpose and for a different purpose, and [one that is offered both] for those who can eat it and for those who cannot eat it?[21] — Since you are a scholar, he answered him, come and I will tell you. [When it is killed] for its own purpose and for another purpose, its disqualification is in [respect of] itself;[22] [when he kills it] for those who can eat it and for those who cannot eat it, its disqualification is not in [respect of] itself; [when it is] for its own purpose and for another purpose, it is impossible to distinguish its prohibition;[23] [when it is] for those who can eat it and for those who cannot eat it, it is possible to distinguish its interdict.[24] [Sacrificing] for its own purpose and for another purpose applies to the four services;[25] for those who can eat it and for those who cannot eat it, does not apply to the four services.[26] [The disqualification of sacrificing] for its own purpose and for another purpose applies to the community as to an individual;[27] for those who can eat it and for those who cannot eat it, does not apply to the community as to an individual.[28] R. Ashi said: [That] its disqualification is intrinsic and [that] it is impossible to distinguish its prohibition are [one and] the same thing. For why does he say [that][29] its disqualification is intrinsic? Because it is impossible to distinguish its prohibition.

Rami the son of Rab Judah said: Since the day that the Book of Genealogies was hidden,[30] the strength of the Sages has been impaired and the light of their eyes has been dimmed.[31] Mar Zutra said, Between 'Azel' and 'Azel' they were laden with four hundred camels of exegetical interpretations![32]

It was taught: Others[33] say, If he put the circumcised before the uncircumcised,[34] it is fit; the uncircumcised before the circumcised, it is disqualified. Wherein does [the case where he put] circumcised before uncircumcised differ, that it is fit, — because we require [them to be] all uncircumcised:[35] then [where he put] the uncircumcised before the circumcised too, we require all [to be] uncircumcised, which is absent?

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(1) V. supra 61b, p. 307, n. 5.

(2) V. infra 76a.

(3) It became a year old on the first of Nisan, and was then set aside for the Passover sacrifice. Since a year is the extreme limit for such (v. Ex. XII, 5: a male of the first year), it automatically stands to be a peace-offering, being unfit for its original purpose.

(4) I.e., on the eve of Passover.

(5) Sc. as a Passover offering. Thus he killed a peace-offering as a Passover sacrifice.

(6) He infers this a minori: if an animal set aside for the Passover offering is disqualified if slaughtered in its time (on the eve of Passover) as a peace-offering, though if left until after Passover it must be offered as such; then how much the more is a peace-offering disqualified if killed on the eve of Passover as a Passover offering, seeing that if left over and not brought as a peace-offering at the time appointed for same, it cannot be brought as a Passover offering on Passover eve.

(7) For all sacrifices, except the Passover offering and the sin-offering, if sacrificed for another purpose, are fit. He too argues a minori: if during the rest of the year, when it is disqualified if slaughtered in its own' name (Sc. as a Passover sacrifice), yet if others (i.e., peace-offerings) are slaughtered in its name they are fit (in accordance with the general rule stated at the beginning of this note); then in its own time, when it is of course fit if slaughtered in its own name, how much the more are others fit if killed in its name!

(8) Lit., 'not in its time'.

(9) This is the reading in cur. edd. Tosaf.'s reading is preferable: since it is disqualified, etc.

(10) Now that R. Hisda accepts the argument of 'since' where this results in greater stringency.

(11) Ibid. 27.

(12) Lit., 'it is in its own being'. Hu ('it is') is an emphatic assertion that it must always retain its own peculiar nature, as explained in the text.

(13) Sc. the eve of Passover.

(14) A commentary on Chronicles, presumably so called because of the many genealogical lists it contains.

(15) Lydda in southern Palestine. [The original home of R. Simlai, v. Hyman, Toledoth, p. 1151.]

(16) The famous academy town on the Euphrates in Babylonia. It is fully discussed in Obermeyer, Landshaft, pp. 244ff.

(17) So. cur. edd. Var. lec.: we do not teach it.

(18) Probably he was simply putting him off.

(19) Lit., 'compelled'.

(20) I.e., study it adequately.

(21) Why is it disqualified in the first case but fit in the second?
(22) The illegitimate intention is in respect of the sacrifice itself.
(23) I.e., you cannot say this portion of the animal was sacrificed for its own purpose, and that portion for another purpose.
(24) It is possible to allocate separately the share for those who cannot eat it.
(25) V. Mishnah 58b.
(26) An intention with respect to the eaters expressed or conceived at the sprinkling has no effect, v. supra p. 306, n. 1.
(27) I.e., both to private and to public sacrifices.
(28) Intention in respect to eaters has effect only in the case of the Passover sacrifice, which is a private one, and in no others.
(29) [MS.M.: 'For why is'].
(30) This probably means either suppressed or forgotten; perhaps destroyed.
(31) Rashi: it contained the reasons for many Scriptural laws which have been forgotten.
(32) I.e., on the passage commencing with 'And Azel had six sons' (I Chron. VIII, 38) and ending with 'these were the sons of Azel' (Ibid. IX, 44) there were such an enormous number of different interpretations! This too, of course, is not to be understood literally.
(33) 'Others' frequently refers to R. Meir, v. Hor. 13b, and does refer to him here, as is evident from the text infra.
(34) I.e., if he first intended it for the former and then for the latter.
(35) In order to disqualify the sacrifice.

Talmud - Mas. Pesachim 63a

Shall we [then] say that the 'others' hold, Slaughtering does not count save at the end, and [this is] in accordance with Raba, who said, There is still the controversy. Therefore if he put the circumcised before the uncircumcised, it operates in respect of the circumcised,[1] but it does not operate in respect of the uncircumcised; while if he put the uncircumcised before the circumcised, it operates in respect of the uncircumcised, but it does not operate in respect of the circumcised?[2] — Said Rabbah, Not so: in truth the 'others' hold [that] slaughtering counts from beginning to end, but the case we discuss here is this: e.g., where he mentally determined [it] for both of them, [i.e.,] both for circumcised and for uncircumcised, and he verbally expressed[3] [his intention] for uncircumcised, but he had no time to say, 'for the circumcised' before the slaughtering was completed with [the expressed intention of] the uncircumcised [alone], and they differ in this: R. Meir holds [that] we do not require his mouth and his heart [to be] the same [in intention];[4] while the Rabbis hold, We require his mouth and his heart [to be] the same.[5]

Yet does R. Meir hold that we do not require his mouth and

at the same service or at different services, because the first statement only is regarded. But the Rabbis maintain that his last words too count, so that if both are expressed at the same service there is a mixing of intentions, and it does not become piggul, for a sacrifice becomes piggul only when the blood has otherwise been properly sprinkled. This proves that the view that the first statement only is regarded is maintained even in respect of halves, for the sacrifice is large enough to permit us to assume that each wrongful intention was expressed with respect to a different part thereof, and yet R. Judah disagrees. To this Abaye answered, Do not think that the slaughtering counts only when it is completed, so that the two intentions come together at the same moment. On the contrary, the slaughtering counts from beginning to end, and in the passage quoted he cut one organ of the animal with the intention of eating it after time, and the second organ with the intention of eating it without the permitted area, R. Meir holding that you can make an animal piggul even at one organ only. (Ritual slaughtering — shechitah — consists of cutting across the two organs of the throat, viz, the windpipe and the gullet.) This proves that Raba, who raised this objection, holds that in the views of R. Meir and R. Judah slaughtering counts only at the end. Hence the present passage too can be explained on that basis too. Thus: he must express his intention for whom he is slaughtering the

Passover sacrifice at the end of the slaughtering, and at that moment there is insufficient time to mention both, and so only the first expression is regarded, the second being entirely disregarded. Therefore if he first mentions the circumcised, it is fit; while if he first mentions the uncircumcised, it is unfit. his heart [to be] the same, but the following contradicts it: He who intended saying '[Let this be] terumah,' but he said 'tithe' [instead], [or, 'let this be] tithe,' and he said 'terumah,' or, '[I swear] that I will not enter this house,' but he said, 'that [house],' or, '[I vow] that I will not benefit from this [person],' but he said 'from that [person],' he has said nothing,[6] unless his mouth and his heart are alike?[7] — Rather, said Abaye, The first clause means where he stated, '[I cut] the first organ for the circumcised and the second organ for the uncircumcised too,' so that at the second organ also circumcised too are included.[8] [But] the second clause means where he stated '[I cut] the first organ for uncircumcised, the second organ for circumcised' so that at the first organ circumcised are not included. Now R. Meir is consistent with his opinion, for he maintained, You can render [a sacrifice] piggul at half of that which makes it permitted; while the Rabbis[9] are consistent with their view, for they maintain, You cannot render [a sacrifice] piggul at half of that which makes it permitted.[10]

MISHNAH. HE WHO SLAUGHTERS THE PASSOVER OFFERING WITH LEAVEN [IN HIS POSSESSION][11] VIOLATES A NEGATIVE COMMAND.[12] R. JUDAH SAID: [ALSO] THE [EVENING] TAMID TOO.[13] R. SIMEON SAID: [IF HE SLAUGHTERS] THE PASSOVER OFFERING [WITH LEAVEN] ON THE FOURTEENTH FOR ITS OWN PURPOSE, HE IS LIABLE [TO PUNISHMENT]; [IF] FOR A DIFFERENT PURPOSE, HE IS EXEMPT.[14] BUT [FOR] ALL OTHER SACRIFICES,[15] WHETHER SLAUGHTERED FOR THEIR OWN PURPOSE OR FOR A DIFFERENT PURPOSE, HE IS EXEMPT. [BUT IF HE SLAUGHTERS THE PASSOVER SACRIFICE WITH LEAVEN] ON THE FESTIVAL, IF FOR ITS OWN PURPOSE, HE IS EXEMPT; IF FOR A DIFFERENT PURPOSE, HE IS LIABLE;[16] BUT [FOR] ALL OTHER SACRIFICES [SLAUGHTERED ON THE FESTIVAL WITH LEAVEN], WHETHER FOR THEIR OWN PURPOSE OR FOR ANOTHER PURPOSE, HE IS LIABLE,[17] EXCEPT [IN THE CASE OR] A SIN-OFFERING WHICH HE SLAUGHTERED FOR A DIFFERENT PURPOSE.[18]

GEMARA. R. Simeon b. Lakish said: He is never liable unless there is leaven belonging to him who slaughters or to him who sprinkles [the blood]

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(1) Lit., 'the circumcised fall' (i.e., are counted). — The slaughtering counts as having been performed for the circumcised.

(2) When a man would substitute an animal for another consecrated animal, both are holy (Lev. XXVII, 33), the former bearing the same holiness as that of the latter, and it must be offered as the same sacrifice. Now if he declares, 'This animal be a substitute for a burnt-offering', 'This (the same) animal be a substitute for a peace-offering', R. Meir rules that it is a substitute for the first only, for only his first words are regarded. R. Jose holds that his last words too are regarded, and therefore it is a substitute for both; hence it must be redeemed, and the redemption money expended on two animals, one for a burnt-offering and another for a peace-offering. Now a problem is raised in Zeb. 30a: What if he declares, 'Half of this be a substitute for a burnt-offering, and half be a substitute for a peace-offering'; does R. Meir agree with R. Jose or not? Is R. Meir's reason in the former case because he regards the second statement as a change of mind, which is invalid, since by his first statement it has already become a burnt-offering? But that is obviously inapplicable to the case in question, hence R. Meir will agree. Or perhaps here too R. Meir holds that since the sanctity of the burnt-offering first takes possession of it, as it were, that of the peace-offering cannot operate? Abaye maintains that R. Meir does agree in this case, but Raba holds that there is still the controversy. Thereupon Raba raised an objection to Abaye from this: If a man slaughters a sacrifice with the intention of eating as much as an olive without the permitted area and as much as an olive after the permitted time, R. Judah disagrees with the Rabbis and rules as R. Meir, that only his first statement is counted, hence it is not piggul, which applies to the second only, and kareth is not incurred for eating it. For R. Judah states this as a general rule: If the intention of an illegitimate time is expressed before the intention of an illegitimate place, it is piggul, and kareth is incurred for eating it, whether these two intentions are both expressed

(3) Lit., 'uttered with his mouth'.

(4) I.e., we merely regard the explicit intention. Hence since he mentioned the uncircumcised only, the sacrifice is unfit.

(5) I.e., both are regarded. Therefore the Mishnah supra 61a states that if it is sacrificed for both, whatever the order, it is fit.

(6) I.e., his words are invalid.

(7) This is an anonymous Mishnah, and it is a general rule that such reflects R. Meir's view; Sanh. 86a.

(8) Hence it is fit.

(9) I.e., the view of the Mishnah supra 61a.

(10) 'That which makes it permitted' (the mattir) here is the slaughtering; half of that etc., is the cutting of one organ. R. Meir holds that the intention expressed at the cutting of the first organ determines the status of the sacrifice. Hence, if this intention was to eat it after time, it is piggul; while in the present case, since it was for the uncircumcised, it is disqualified. The Rabbis, however, hold that an illegitimate intention at the first organ cannot render it piggul, and in the same way an intention for uncircumcised at the first organ does not disqualify it.

(11) I.e., before the leaven has been destroyed. The phraseology is Biblical: Thou shalt not slaughter (E.V. 'offer') the blood of My sacrifice with leavened bread (Ex. XXXIV, 25).

(12) V. preceding note.

(13) I.e., if he kills the evening tamid of the fourteenth before the leaven is destroyed, he violates a negative command.

(14) In the former case the sacrifice is fit, hence the shechitah is duly regarded as shechitah. But in the latter the sacrifice is unfit; hence R. Simeon does not regard the shechitah as shechitah, and the verse quoted on p. 317, n. 6. does not apply to it.

(15) Offered on Passover eve with leaven in his possession.

(16) For a Passover offering killed at a time other than its own, viz., the fourteenth, is disqualified if sacrificed as a Passover offering, but fit if sacrificed as a peace-offering.

(17) Because they are fit, v. Zeb. 2a.

(18) Because it is disqualified, ibid.

Talmud - Mas. Pesachim 63b

or to one of the members of the company,[1] and providing that it [the leaven] is with him in the Temple Court. R. Johanan said: Even if it is not with him in the Temple Court.

Wherein do they differ? Shall we say that they differ in whether 'with' ['al] means 'near,'[2] R. Simeon b. Lakish holding, 'with' means near, while R. Johanan holds, We do not require 'with' [in the sense of] near,' — but surely they have differed in this once [already]?[3] For we learned: If a man slaughters the thanksoffering within [the Temple Court], while its bread is without the wall, the bread is not sanctified.[4] What does 'without the wall' mean? R. Johanan said, Without the wall of Beth Pagi;[5] but [if] without the wall of the Temple Court, it is sanctified, and we do not require 'with' [in the sense of] near. R. Simeon b. Lakish said: Even if without the wall of the Temple Court, it is not sanctified; which proves that we require 'with' [in the sense of] near! — Rather, they differ over a doubtful warning.[6] But in this too they have already differed once? For it was stated: [If a man declares, 'I take] an oath that I will eat this loaf to-day,' and the day passed and he did not eat it, — R. Johanan and R. Simeon b. Lakish both maintain, He is not flagellated. R. Johanan said, He is not flagellated, because it is a negative injunction not involving an action,[7] and every negative command not involving an action, we do not flagellate for it; but a doubtful warning counts[8] as a warning.[9] While R. Simeon b. Lakish said, He is not flagellated, because it is a doubtful warning, and a doubtful warning does not count as a warning; but as for a negative command not involving an action, we flagellate for it!

I will tell you: After all they differ in whether 'with' implies near, yet it is necessary.[10] For if they differed on the subject of leaven [alone], I would say: It is only there that R. Johanan maintains that we do not require 'with' [in the sense of] near, because it is a prohibited article, and wherever it is, it is;but in the matter of sanctifying the bread,it is not sanctified save within [the Temple Court], [hence] I would assume [that] he agrees with R. Simeon b. Lakish, that if it is inside it is sanctified, and if not, it is not sanctified, by analogy with service vessels.[11] Thus this [latter case] is necessary. And if we were informed [of this] in the matter of sanctifying the bread, I would say: in this R. Simeon b. Lakish maintains that we require ‘with’ [in the sense of] near, so that if it is inside it is sanctified, [and] if not, It is not sanctified. But in the matter of leaven [I would say that] he agrees with R. Johanan that we do not require ‘with’ [in the sense of] near, because it is a prohibited article, and wherever it is, it is. Hence they are [both] necessary.

R. Oshaia asked R. Ammi: What if he who slaughters has none, but one of the members of the company has [leaven]?[12] — Said he to him, Is it then written, ‘Thou shalt not slaughter [the blood of My sacrifice] with thy leavened bread’? ‘Thou shalt not slaughter [the blood of My sacrifice] with leavened bread’ is written.[13] If so, he countered, [he is culpable] even if a person at the end of the world [possesses leaven]! — Said he to him, Scripture saith, Thou shalt not slaughter [the blood of My sacrifice with leavened bread]; neither shall [the sacrifice of the feast of the Passover] be left overnight unto the morning: [thus,] ‘Thou shalt not slaughter . . . with leavened bread’ [applies to] those who are subject to ‘it shall not be left overnight’ on its account.[14] R. Papa said: As a corollary, the priest who burns the fat [on the altar] violates a negative command, since he is subject to the general [interdict of] leaving the emurim overnight.[15] It was taught in accordance with R. Papa. He who slaughters the Passover sacrifice with leaven violates a negative command — When is that? When it belongs to him who slaughters or to him who sprinkles [the blood] or to one of the members of the company. If it belonged to someone at the end of the world, he is not tied to him.[16] And whether he slaughters or sprinkles or burns [the fat],[17] he is liable. But he who wrings a bird's neck on the fourteenth[18] does not violate anything.[19] But the following contradicts it: He who slaughters the Passover offering with leaven violates a negative command. R. Judah said: The tamid too.[20] Said they to him, They [the Sages] said [thus] of nought except the Passover-offering alone. When is that? When either he who slaughters or he who sprinkles or one of the members of the company possesses [the leaven]. If a person at the end of the world possesses it, he is not tied to him. And whether he slaughters or he sprinkles or he wrings [a bird's neck] or he sprinkles[21] [the blood of the bird], he is liable. But he who takes the handful of the meal-offering[22] does not violate a negative command. He who burns the emurim does not violate a negative command.

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(1) Registered for this sacrifice.

(2) In Ex. XXXIV, 25, quoted on p. 317, n. 6.

(3) Why then repeat the controversy here?

(4) The thanksoffering was accompanied by forty loaves. These were verbally sanctified before the sacrifice was actually slaughtered, whereupon they acquired a monetary consecration, which means that they might not henceforth be eaten or put to use until the offering is sacrificed; while if they became defiled, they were redeemed and reverted to hullin. The slaughtering of the sacrifice conferred intrinsic (‘bodily’) sanctity upon them; they were more readily disqualified then, and if defiled they had to be burnt. In this connection too ‘with’ (על) is written: then he shall offer with the sacrifice of the thanksoffering unleavened cakes . . . with (על) cakes of leavened bread he shall present his offering (Lev. VII, 12f). — ‘Not sanctified’ means not intrinsically sanctified.

(5) A fortified suburb of Jerusalem (Jast.), which is the uttermost boundary of the town (Rashi). Its exact spot has not been identified, v. Neubauer, Geographie, pp. 247ff.

(6) ‘Flagellation, the punishment for violating a negative command, is imposed only if the offender has been duly warned before he sinned. Now, if the leaven is in the Temple Court, he can be warned with the certainty that his proposed action is forbidden. But if it is not in the Temple Court, we are doubtful, as we do not know whether he has leaven at home, and thus it is a doubtful warning. R. Simeon b. Lakish holds that such is not a valid warning, and flagellation is not thereby incurred; while R. Johanan holds that it is a warning, and when we subsequently learn that he had leaven at home, he is flagellated.

(7) I.e., he violates the injunction, ‘Thou shalt not take the name of the Lord thy God in vain (Ex. XX, 7) by remaining passive, not by a positive act, v. Shebu. 20b.

(8) Lit., ‘its name is’.

(9) For naturally until the last moment of the day only a doubtful warning can be given, as we do not know that he will permit the day to pass without eating it.
(10) For them to differ in both cases.
(11) These sanctify whatever is put into them, but only when they are in the Temple Court (Tosaf.).
(12) Resh Lakish states it (supra) as an obvious thing, but R. Oshaia was in doubt.
(13) Ex. XXXIV, 25. Hence he is culpable.
(14) And that obviously applies to its owners only.
(15) I.e., if he still has leaven when he burns the fat, even if none of the company has any.
(16) He has no connection with him, — or, he is not bound to take him into account, — is unaffected thereby.
(17) This supports R. Papa.
(18) While he still possesses leaven. The reference is to a bird offered as a sacrifice for a man lacking atonement; as stated supra 59a, it could be brought on the fourteenth after the afternoon tamid, i.e., when it is time for the Passover sacrifice to be slaughtered.
(19) This is explained anon.
(20) V. note on Mishnah.
(21) מזה, term used in connection with bird sacrifices, as distinct from רזק, which refers to animal sacrifices.
(22) V. Lev. II, 2.

Talmud - Mas. Pesachim 64a

Now [the rulings on] wringing are contradictory, [and the rulings on] burning [the fat] are contradictory? — Then according to your reasoning, let that [Baraitha] itself present a difficulty to you. For it teaches, ‘They said [this] of nought except the Passover offering alone; and then it teaches, ‘Whether he slaughters or he sprinkles or he wrings [a bird's neck] or he sprinkles [the blood of the bird]?[1] [Say] rather, both are [according to] R. Simeon; [the rulings on] wringing are not contradictory: here[2] it refers to the fourteenth,[3] while there it[4] means during the Intermediate Days, and thus both the one and the other are [according to] R. Simeon. [The rulings on] the burning [of fat] too are not contradictory: it is dependent on Tannaim. For some compare burning to slaughtering,[5] whilst others do not compare [them].

R. JUDAH SAID: THE [EVENING] TAMID TOO etc. What is R. Judah's reason? — He tells you: Scripture saith, [Thou shalt not slaughter the blood of] My sacrifice,[6] [implying] the sacrifice which is particularly assigned to Me; and which is that? the tamid.

R. SIMEON SAID: [IF HE SLAUGHTERS] THE PASSOVER SACRIFICE [WITH LEAVEN] ON THE FOURTEENTH etc. What is R. Simeon's reason? — Because ‘My sacrifice,’ ‘My sacrifice,’ is written twice:[7] read it, ‘a sacrifice,’ ‘My sacrifices’.[8] For what law did the Divine Law divide them from one another and not write ‘My sacrifices’ [in one word]? To intimate: when there is ‘a sacrifice’ [viz., the Paschal lamb], you are not liable on account of ‘My sacrifices’; when there is no ‘sacrifice,’ you are liable for ‘My sacrifices’.

[BUT IF HE KILLS THE PASSOVER OFFERING WITH LEAVEN] ON THE FESTIVAL, IF FOR ITS OWN PURPOSE, HE IS EXEMPT etc. The reason is that it is for a different purpose,[9] but if it is unspecified, he is exempt. [Yet] why? The Passover offering during the rest of the year[10] is a peace-offering![11] Can you then infer from this[12] [that] the Passover offering during the rest of the year requires cancellation?[13] — Said R. Hiyya b. Gamada: It was thrown out from the mouth of the company[14] and they said: [The circumstances are] e.g., that its owners were unclean by reason of a dead body and relegated to the second Passover,[15] so that while unspecified it [still] stands [to be sacrificed] as a Passover offering.[16]

MISHNAH. THE PASSOVER OFFERING IS SLAUGHTERED IN THREE DIVISIONS,[17] FOR IT IS SAID, AND THE WHOLE ASSEMBLY OF THE CONGREGATION OF ISRAEL SHALL

KILL IT:[18] [I.E.,] ‘ASSEMBLY,’ ‘CONGREGATION,’ AND ‘ISRAEL.’[19] THE FIRST DIVISION ENTERED, THE TEMPLE COURT WAS FILLED, THEY CLOSED THE DOORS OF THE TEMPLE COURT, THEY SOUNDED A TEKI'AH, A TERU'AH, AND A TEKI'AH.[20] THE PRIESTS STOOD IN ROWS, AND IN THEIR HANDS WERE BASINS[21] OF SILVER AND BASINS OF GOLD; A ROW WHICH WAS ENTIRELY OF SILVER WAS OF SILVER, AND A ROW WHICH WAS ENTIRELY OF GOLD WAS OF GOLD: THEY WERE NOT MIXED; AND THE BASINS HAD NO [FLAT] BOTTOMS, LEST THEY PUT THEM DOWN AND THE BLOOD BECOME CONGEALED. THE ISRAELITE KILLED [THE LAMB], AND THE PRIEST CAUGHT [THE BLOOD]; HE HANDED IT TO HIS COLLEAGUE AND HIS COLLEAGUE [PASSED IT ON] TO HIS COLLEAGUE; AND HE RECEIVED THE FULL [BASIN] AND GAVE BACK THE EMPTY ONE.[22] THE PRIEST NEAREST THE ALTAR SPRINKLED IT ONCE OVER AGAINST THE BASE [OR THE ALTAR].[23] THE FIRST DIVISION [THEN] WENT OUT AND THE SECOND ENTERED; THE SECOND WENT OUT AND THE THIRD ENTERED. AS THE MANNER OF THE FIRST [GROUP], SO WAS THE MANNER OF THE SECOND AND THE THIRD. THEY RECITED THE HALLEL;[24] IF THEY FINISHED IT[25] THEY REPEATED, AND IF THEY REPEATED [AND WERE NOT FINISHED YET], THEY RECITED IT A THIRD TIME, THOUGH THEY NEVER DID RECITE IT A THIRD TIME. R. JUDAH SAID: THE THIRD DIVISION NEVER REACHED[26] ‘I LOVE THAT THE LORD SHOULD HEAR’ [ETC.],[27] BECAUSE THE PEOPLE FOR IT WERE FEW. AS WAS DONE ON WEEK-DAYS SO WAS DONE ON THE SABBATH, SAVE THAT THE PRIESTS SWILLED THE TEMPLE COURT, [BUT] WITHOUT THE CONSENT OF THE SAGES. R. JUDAH SAID: HE [A PRIEST] USED TO FILL A GOBLET WITH THE MIXED BLOOD[28] [AND] HE SPRINKLED IT ONCE ON THE ALTAR; BUT THE SAGES DID NOT AGREE WITH HIM.

HOW DID THEY HANG UP [THE SACRIFICES] AND FLAY [THEM]? THERE WERE IRON HOOKS FIXED IN THE WALLS AND IN THE PILLARS, ON WHICH THEY SUSPENDED [THE SACRIFICES] AND FLAYED [THEM]. IF ANY ONE HAD NO PLACE TO SUSPEND AND FLAY, THERE WERE THERE THIN SMOOTH STAVES WHICH HE PLACED ON HIS SHOULDER AND ON HIS NEIGHBOUR'S SHOULDER, AND SO SUSPENDED [THE ANIMAL] AND FLAYED [IT]. R. ELIEZER SAID: WHEN THE FOURTEENTH

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(1) The last two refer to birds, hence not to the Passover offering, v. p. 321, n. 7.

(2) In the first Baraitha.

(3) As is distinctly stated. Then he is exempt, culpability being incurred on that day only for the Paschal lamb.

(4) In the second Baraitha.

(5) Actually only slaughtering which includes sprinkling is mentioned in Ex. XXXIV, 25. (Thou shalt not slaughter the blood of etc.’), but some maintain that burning is the same.

(6) Ex. XXIII, 18; XXXIV, 25.

(7) In Ex. XXIII, 18 and XXXIV, 25.

(8) I.e., by transferring the yod (י) from one זבחי to the other, we have זבח, זבחיי, a ‘sacrifice’ referring to the Paschal lamb, and זבחיי, ‘My sacrifices’, plural, referring to all others.

(9) I.e., he explicitly states thus.

(10) I.e., at any time other than the eve of Passover.

(11) Automatically. Why then is an explicit declaration required.

(12) Viz., that we do nevertheless require this explicit statement.

(13) Lit., uprooting’, ‘eradicating’. I.e., it does not become a peace-offering automatically, but its character as a Passover offering must be explicitly cancelled.

(14) I.e., all the scholars unanimously declared.

(15) V. Num. IX, 10ff.

(16) In the following month; therefore it is not a peace-offering automatically. But in other cases it is, and an explicit declaration is then unnecessary.

(17) Irrespective of the number sacrificing.

(18) Ex. XII, 6.
(19) Each denotes a separate division.
(20) Teki'ah is a long, straight blast on the shofar (ram's horn); teru'ah is a series of three short consecutive blasts.
(21) To receive the blood.
(22) After the blood had been sprinkled. Thus it was worked on the ‘endless-chain’ system.
(23) I.e., on the side which has a projecting base, viz., the north and west sides of the altar, v. Mid. III, 1.
(24) Lit., ‘praise’, a liturgical passage at present consisting of Ps. CXIII-CXVIII. This was recited by each group.
(25) Before they finished sacrificing.
(26) Lit., ‘from the days of the third party they did not reach’.
(27) Ps. CXVI, 1 seq.
(28) The blood of many sacrifices which ran together.

Talmud - Mas. Pesachim 64b

FELL ON THE SABBATH, HE PLACED HIS HAND ON HIS NEIGHBOUR'S SHOULDER AND HIS NEIGHBOUR'S HAND ON HIS SHOULDER, AND HE [THUS] SUSPENDED [THE SACRIFICE] AND FLAYED [IT].[1] THEN HE TORE IT AND TOOK OUT ITS EMURIM, PLACED THEM IN A TRAY AND BURNT THEM ON THE ALTAR.

THE FIRST DIVISION WENT OUT AND SAT DOWN ON THE TEMPLE MOUNT,[2] THE SECOND [SAT] IN THE HEL,[3] WHILE THE THIRD REMAINED IN ITS PLACE. WHEN IT GREW DARK THEY WENT OUT AND ROASTED THEIR PASCHAL LAMBS.

GEMARA. R. Isaac said: The Passover offering was not slaughtered except in three divisions each consisting of thirty men. What is the reason? ‘Assembly’ ‘congregation,’ and ‘Israel’ [are prescribed, and] we are doubtful whether [that means] at the same time or consecutively.[4] Therefore we require three divisions each consisting of thirty men, so that if [it means] at the same time, they are there; and if consecutively, they are there. Hence fifty [in all] too are sufficient, thirty entering and preparing [their sacrifices], then ten enter and ten leave, [and another] ten enter and [another] ten leave.

THE FIRST DIVISION ENTERED etc. It was stated, Abaye said: We learned, ‘They [the doors] locked themselves’;[5] Raba said, We learned: THEY LOCKED. Wherein do they differ? — They differ in respect of relying on a miracle. ‘Abaye said, We learned, They locked themselves’; as many as entered, entered, and we rely on a miracle.[6] Raba said, We learned, THEY LOCKED, and we do not rely on a miracle. And as to what we learned, R. Judah said: Heaven forfend that Akabia b. Mehalallel was banned! for the wisdom and fear of sin to Akabia b. Mehalallel,[7] — Abaye explains Temple Court was never closed upon any man in Israel equal in it according to his view, [while] Raba explains it according to his view. Abaye explains it according to his view: there was none in the Temple Court when it closed itself upon every man in Israel like Akabia b. Mehalallel in wisdom and fear of sin. Raba explains it according to his view: There was none in the Temple Court when they closed it on all Israel like Akabia b. Mehalallel in wisdom and the fear of sin.

Our Rabbis taught: No man was ever crushed in the Temple Court[8] except on one Passover in the days of Hillel, when an old man was crushed, and they called it ‘The Passover of the crushed’.

Our Rabbis taught: King Agrippa once wished to cast his eyes on the hosts of Israel.[9] Said he to the High Priest, Cast your eyes upon the Passover sacrifices. He [thereupon] took a kidney from each, and six-hundred-thousand pairs of kidneys were found there, twice as many as those who departed from Egypt, excluding those who were unclean and those who were on a distant journey; and there was not a single Paschal lamb for which more than ten people had not registered; and they called it, ‘The Passover of the dense throngs.’

‘He took a kidney’! but it required burning [on the altar]? He burned them subsequently.[10] But it is written, And [Aaron's sons] shall burn it etc.,[11] [which intimates] that he must not mix the fat [portions] of one [sacrifice] with [that of] another? — He subsequently burned them each separately. But it was taught: And [the priest] shall burn then,:[12] [this teaches] that all of it must be [burnt] simultaneously.[13] But it was a mere seizure, i.e., he took it from them until they gave him something else.[14]

THE PRIESTS STOOD IN ROWS etc. What is the reason? Shall we say, lest they take [a basin] of gold and return [a basin] of silver;[15] then here too,[16] perhaps they might take [a basin] of two hundred [measures] capacity and return one of one hundred? Rather, [the reason is] that it is more becoming thus.[17]

AND THE BASINS DID NOT HAVE [FLAT] BOTTOMS etc. Our Rabbis taught: None of the basins in the Temple had [flat] bottoms, except the basins of the frankincense for the shewbread, lest they put them down and they break up the bread.[18]

AN ISRAELITE KILLED AND THE PRIEST CAUGHT [THE BLOOD] etc. Is then an Israelite indispensable?[19] — He [the Tanna] informs us that very fact, viz., that the shechitah is valid [when done] by a lay Israelite. AND THE PRIEST CAUGHT [THE BLOOD] informs us this: from the receiving of the blood and onwards it is a priestly duty.

HE HANDED IT TO HIS COLLEAGUE. You can infer from this that carrying without moving the feet is carrying![20] [No:] perhaps he moved slightly [too]. Then [in that case] what does he inform us? — He informs us this: In the multitude of people is the king's glory.[21] HE RECEIVED THE FULL [BASIN] AND GAVE BACK THE EMPTY ONE etc. But not the reverse.[22] This supports R. Simeon b. Lakish. For R. Simeon b. Lakish said: You must not postpone the precepts.[23]

THE PRIEST NEAREST THE ALTAR etc. Which Tanna [holds] that the Passover offering requires sprinkling?[24] Said R. Hisda, it is R. Jose the Galilean. For it was taught, R. Jose the Galilean said: Thou shalt sprinkle their blood against the altar, and thou shalt burn their fat:[25] ‘its blood’ is not said, but ‘their blood’; ‘its fat’ is not said, but ‘their fat’.[26] This teaches concerning the firstling, the tithe [of animals] and the Passover offering, that they require the presenting of blood and emurim at the altar.[27] How do we know that they require [sprinkling against] the base? — Said R. Eleazar: The meaning of ‘sprinkling’ is deduced from, a burnt-offering.[28] Here it is written, thou shalt sprinkle their blood against the altar, while there it is written, And Aaron's sons, the priests, shall sprinkle its blood against the altar round about:[29] just as the burnt-offering requires [sprinkling against] the base, so does the Passover offering too require [sprinkling against] the base.

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(1) But the staves might not be used on that day.

(2) If the fourteenth fell on the Sabbath, as they could not carry their sacrifices home and had to wait for the evening.

(3) A place within the fortification of the Temple (Jast.); v. Mid. I, 5.

(4) And each expression denotes a minimum of ten.

(5) Or, were locked-miraculously, without human agency.

(6) That the doors should shut themselves when sufficient had entered.

(7) V. ‘Ed. V, 6 for the whole discussion. ‘Was never closed’ — on the eve of Passover, at the sacrificing of the Paschal lambs.

(8) In spite of the enormous crowds that thronged it.

(9) I.e., to take a census of the Jewish people. This was an unpopular proceeding, as it was regarded as of unfortunate omen; cf. I Chron. XXI. In addition, a census was looked upon with suspicion as being the possible precursor of fresh levies and taxation, and the decision of Quirinius, the governor of Syria, to take a census in Judea (c. 6-7 C.E.) nearly precipitated a revolt; v. Graetz. History of the Jews (Eng. translation) II, ch. V. pp. 129 seq. According to Graetz (op. cit.

p. 252) the present census was undertaken by Agrippa II in the year 66 C.E. as a hint to the Roman powers not to underrate the strength of the Jewish people, and therefore avoid driving them too far by the cruelty and greed of the Procurator, at that time Gessius Florus. Graetz assumes that an extra large number flocked to Jerusalem on that occasion, and it is then that the old man was suffocated. This however does not agree with the statement that the man was crushed in the days of Hillel, which is a far earlier date, Hillel having flourished or commenced his Patriarchate one hundred years before the destruction of the Temple, i.e., 30 B.C.E.

(10) After the event.

(11) Lev. III, 5.

(12) Lev. III, 16.

(13) All the parts of the sacrifice which are burnt on the altar (called emurim) must be burnt at the same time. Here, however, the kidneys would be burnt separately.

(14) The unpopularity of the census (v. p. 326, n. 2) may have necessitated this procedure.

(15) Which is ‘descending in sanctity’, and this must be avoided.

(16) I.e., even with the present arrangements.

(17) The general beauty and dignity of the proceedings are thereby enhanced.

(18) These vessels were kept near the shewbread, and if they were not provided with a base to stand on they might fall against the rows of shewbread and break up their formation.

(19) Lit., ‘is it not enough that it should not be an Israelite?’ — Surely a priest too could kill it!

(20) Carrying the blood to be sprinkled was one of the four services (v. supra 59b Mishnah), and there is a controversy in Zeb. 14b whether the priest actually had to walk a little for this or not. From the present passage we see that this was unnecessary.

(21) Prov. XIV, 28.

(22) It had to be done in this order.

(23) Lit., ‘one must not pass by precepts’, but must perform them immediately they come to hand. Thus when the full basin is held out, the next priest must accept it immediately, before returning the empty one, as the reception of the full basin on its way to the sprinkling is a religious service.

(24) From the distance, and not just pouring out; v. infra 121a.

(25) Num. XVIII, 17.

(26) Though the passage treats of one sacrifice only, viz., the firstling. The plural possessive suffix indicates that other sacrifices too are included in this law.

(27) These are the only sacrifices in connection with which it is not mentioned elsewhere, hence the plural is applied to them. Furthermore, Scripture states ‘thou shalt sprinkle’ (tizrok), not ‘thou shalt pour out’ (tishpok).

(28) Lit., ‘"sprinkling", "sprinkling" is deduced from a burnt-offering’.

(29) Lev. I, 11.

Talmud - Mas. Pesachim 65a

And how do we know it of the burnt-offering itself? — Scripture saith, at the base of the altar of the burnt-offering:[1] this proves that the burnt-offering requires [sprinkling at] the base.[2]

THE FIRST DIVISION WENT OUT etc. A Tanna taught: It [the third division] was called the slothful division.[3] But It was impossible otherwise? What should they have done! — Even so, they should have hurried themselves, as it was taught: Rabbi said: The world cannot exist without a perfume maker and without a tanner: happy is he whose craft is [that of] a perfume maker, [and] woe to him whose craft is [that of] a tanner. Nor can the world exist without males and females: happy is he whose children are males, [and] woe to him whose children are females.[4]

AS HE DID ON WEEK-DAYS etc. Without whose consent?[5] — Said R. Hisda, Without the consent of R. Eliezer; for if [the ruling of] the Rabbis [is regarded], surely they maintain that it is a shebuth,[6] and a shebuth is not [interdicted] in the Temple. What is this [allusion]? — For it was taught: Whether he milks, sets milk [for curdling],[7] or makes cheese, [the standard for culpability is] as much as a dried fig. He who sweeps [the floor], lays [the dust by sprinkling water], and removes loaves of honey, [if he does this] unwittingly on the Sabbath, he is liable to a sin-offering; if he does it deliberately on a Festival, he is flagellated with forty [lashes]: this is R. Eliezer's view. But the Sages maintain: In both cases it is [forbidden] only as a shebuth.[8] R. Ashi said: You may even say, [it means] without the consent of the Sages, this agreeing with R. Nathan. For it was taught, R. Nathan said: A shebuth that is necessary they permitted [in the Temple]; [but] a shebuth which is not necessary they did not permit.

R. JUDAH SAID: HE USED TO FILL A GOBLET etc. It was taught, R. Judah said: He used to fill goblet with the mingled blood,[9] so that should the blood of one of them be spilled, it is found that this renders it fit. Said they to R. Judah, But surely it [this mingled blood] had not been received in a basin? How do they know?[10] Rather, they said thus to him: Perhaps it was not caught in a vessel?[11] I too, he answered them, spoke only of that which was received in a vessel. How does he know?[12] The priests are careful. If they are careful, why was it spilled? — Because of the speed with which they work,[13] it is spilled.

But the draining blood[14] is mixed with it?[15] — R. Judah is consistent with his view, for he maintained, The draining blood is [considered] proper blood. For it was taught: The draining blood is subject to a ‘warning’;[16] R. Judah said: It is subject to kareth.[17] But surely R. Eleazar said, R. Judah agrees in respect to atonement, that it does not make atonement, because it is said, for it is the blood that maketh atonement by reason of life:[18]

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(1) Lev. IV, 7.

(2) For in fact the altar was not used for the burnt-offering exclusively, the very sentence quoted treating of a sin-offering. Hence the verse must mean, at the base of the altar, as is done with the burnt-offering.

(3) For remaining to the last.

(4) This was not said in a spirit of contempt for the female sex, but in the realization of the anxieties caused by daughters; v. Sanh. 100b, (Sonc. ed.) p. p. 681).

(5) I.e., on whose view is this wrong?

(6) V. Glos.

(7) Rashi, Jast.: beats milk into a pulp.

(8) Which is only a Rabbinical prohibition, and involves neither a sin-offering nor flagellation, v. Shab. 95a.

(9) Lit., ‘the blood of those which were mixed’.

(10) This is an interjection: how do the Rabbis, who raise this objection, know that it was not caught in a vessel?

(11) But poured straight from the animal's throat on to the ground. Rashi: in that case sprinkling is of no avail. Tosaf.: sprinkling, if already performed, is efficacious, but such blood must not be taken up to the altar in the first place.

(12) That it was caught in a vessel? For R. Judah prescribed this merely because the blood might have been spilled; then how can it be remedied with blood about which there is a doubt?

(13) Zariz denotes both careful and speedy; they hurried to catch the blood, present it at the altar, and sprinkle it.

(14) Tamzith denotes the last blood which slowly drains off the animal, contrad. to the lifeblood, which gushes forth in a stream.

(15) Whereas the ‘life-blood’ is required for sprinkling.

(16) This is a technical designation for a negative injunction whose violation is punished by lashes. But it involves no kareth, as does the consuming of the life-blood (v. Lev. XVII, 10f).

(17) Just like life-blood. Hence it is also the same in respect to sprinkling.

(18) Ibid.

Talmud - Mas. Pesachim 65b

blood wherewith life departs, makes atonement; and blood wherewith life does not depart, does not make atonement? — Rather [reply],[1] R. Judah is consistent with his view, for he maintained: Blood cannot nullify [other] blood.[2]

It was taught, R. Judah said to the Sages: On your view, why did they stop up [the holes in] the Temple Court?[3] Said they to him: It is praiseworthy for the sons of Aaron [the priests] to walk in blood up to their ankles. But it interposed?[4] — It is moist [liquid] and does not interpose. As it was taught: Blood, ink, honey and milk, if dry, interpose; if moist, they do not interpose.[5] But their garments become [blood-] stained, whereas It was taught: If his garments were soiled and he performed the service, his service is unfit? And should you answer that they raised their garments.[6] surely it was taught: [And the priest shall put out] his linen measure:[7] [that means] that it must not be [too] short nor too long?[8] — [They could raise them] at the carrying of the limbs to the [Altar] ascent, which was not a service. Was it not? But since it required the priesthood, it was a service! For it was taught, And the priest shall offer the whole, [and burn it] on the altar:[9] this refers to the carrying of the limbs to the [altar] ascent. — Rather [they could raise them] at the carrying of the wood to the [altar] pile, which was not a service. Nevertheless, how could they walk when carrying the limbs to the [altar] ascent and when carrying the blood? They walked on balconies.[10]

HOW DID THEY HANG UP [THE SACRIFICES] AND FLAY [THEM] etc. THEN HE TORE IT OPEN AND TOOK OUT ITS EMURIM, PLACED THEM ON A TRAY AND BURNT THEM [ON THE ALTAR]. Did he then burn them himself?[11] Say, To burn them on the altar.

THE FIRST DIVISION WENT OUT etc. A Tanna taught: Each one placed his paschal lamb in its hide and slung it behind him. Said R. ‘Ilish: In Arab-like fashion.[12]

CHAPTER VI

MISHNAH. THESE THINGS IN [CONNECTION WITH] THE PASSOVER OFFERING OVERRIDE THE SABBATH: ITS SHECHITAH AND THE SPRINKLING OF ITS BLOOD AND THE CLEANSING OF ITS BOWELS AND THE BURNING OF ITS FAT. BUT ITS ROASTING AND THE WASHING OF ITS BOWELS DO NOT OVERRIDE THE SABBATH. ITS CARRYING[13] AND BRINGING IT FROM WITHOUT THE TEHUM[14] AND THE CUTTING OFF OF ITS WART DO NOT OVERRIDE THE SABBATH. R. ELIEZER SAID: THEY DO OVERRIDE [THE SABBATH]. SAID R. ELIEZER, DOES IT NOT FOLLOW A FORTIORI: IF SHECHITAH, WHICH IS [USUALLY FORBIDDEN] AS A LABOUR, OVERRIDES THE SABBATH, SHALL NOT THESE, WHICH ARE [ONLY FORBIDDEN] AS A SHEBUTH, OVERRIDE THE SABBATH?[15] R. JOSHUA ANSWERED HIM, LET FESTIVAL[S] REBUT[16] IT, WHEREIN THEY PERMITTED LABOUR AND FORBADE A SHEBUTH.[17] SAID R. ELIEZER TO HIM, WHAT IS THIS, JOSHUA, WHAT PROOF IS A VOLUNTARY ACT IN RESPECT OF A PRECEPT! R. AKIBA ANSWERED AND SAID, LET HAZA'AH[18] PROVE IT, WHICH IS [PERFORMED] BECAUSE IT IS A PRECEPT AND IS [NORMALLY FORBIDDEN ONLY] AS A SHEBUTH, YET IT DOES NOT OVERRIDE THE SABBATH;[19] SO YOU TOO, DO NOT WONDER AT THESE, THAT THOUGH THEY ARE [REQUIRED] ON ACCOUNT OF THE PRECEPT AND ARE [ONLY FORBIDDEN] AS A SHEBUTH, YET THEY DO NOT OVERRIDE THE SABBATH. SAID R. ELIEZER TO HIM, BUT IN RESPECT OF THAT [ITSELF] I ARGUE: IF SHECHITAH, WHICH IS A LABOUR, OVERRIDES THE SABBATH, IS IT NOT LOGICAL THAT HAZA'AH, WHICH IS [ONLY] A SHEBUTH, OVERRIDES THE SABBATH!

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(1) To the question, ‘But the draining blood is mixed with it’.

(2) Therefore there must be a little of proper (i.e., life-) blood, if spilled in this goblet of mixed blood, and that is sufficient for atonement.

(3) On the eve of Passover they stopped up the holes through which the blood of the sacrifices passed out to the stream of Kidron.

(4) Between the pavement and their feet, whereas they had to stand actually on the pavement itself, Zeb. 15b.

(5) When a person takes a ritual bath (tebillah), nothing must interpose between the water and his skin; if something does interpose, it invalidates the bath.

(6) I.e., they made them short, so that they did not reach down to the blood.

(7) E.V. Garment. Lev. VI, 3.

(8) But reach exactly to the ground.

(9) Lev. I, 13.

(10) Projecting boards alongside the walls.

(11) This was not necessarily done by the same priest.

(12) In the fashion of Arab merchants, Rashi. Jast.: in the manner of travellers.

(13) Lit., 'riding' — i.e., carrying it upon one's shoulder.

(14) V. Glos.

(15) 'Labour' (מלאכה) denotes work regarded as Biblically forbidden, whereas a shebuth is only a Rabbinical interdict.

(16) Lit., 'prove'.

(17) Lit., 'they permitted (that which is forbidden on the Sabbath) on account of labour' etc. Slaughtering and cooking, for example, are permitted on Festivals, whereas bringing food from without the tehum which is only a Rabbinical prohibition, is forbidden.

(18) Haza'ah connotes the sprinkling of the waters of purification (v. Lev. XIV, 7, 16; Num. XIX, 19) upon an unclean person; zerikah, the sprinkling of the blood of the sacrifice upon the altar.

(19) If the seventh day of the unclean person (v. Num. ibid.) falls on the Sabbath, which happens to be the eve of

Talmud - Mas. Pesachim 66a

SAID R. AKIBA TO HIM, OR ON THE CONTRARY: IF HAZA'AH, WHICH IS [FORBIDDEN] AS A SHEBUTH, DOES NOT OVERRIDE THE SABBATH,[1] THEN SHECHITAH, WHICH IS [NORMALLY FORBIDDEN] ON ACCOUNT OF LABOUR, IS IT NOT LOGICAL THAT IT DOES NOT OVERRIDE THE SABBATH.[2] AKIBA! SAID R. ELIEZER TO HIM, YOU WOULD ERASE WHAT IS WRITTEN IN THE TORAH, [LET THE CHILDREN OF ISRAEL PREPARE THE PASSOVER SACRIFICE] IN ITS APPOINTED TIME,[3] [IMPLYING] BOTH ON WEEK-DAYS AND ON THE SABBATH. SAID HE TO HIM, MASTER, GIVE ME AN APPOINTED TIME FOR THESE AS THERE IS AN APPOINTED SEASON FOR SHECHITAH![4] R. AKIBA STATED A GENERAL RULE: WORK WHICH COULD BE DONE ON THE EVE OF THE SABBATH OVERRIDES[5] THE SABBATH; SHECHITAH, WHICH COULD NOT BE DONE ON THE EVE OF THE SABBATH, DOES OVERRIDE THE SABBATH.

GEMARA. Our Rabbis taught: This halachah was hidden from [i.e., forgotten by] the Bene Bathyra.[6] On one occasion the fourteenth [of Nisan] fell on the Sabbath, [and] they forgot and

Passover, R. Akiba holds that the haza'ah must not be performed, though the man is thereby prevented from joining in the Passover sacrifice. did not know whether the Passover overrides the Sabbath or not. Said they, 'Is there any man who knows whether the Passover overrides the Sabbath or not?' They were told, 'There is a certain man who has come up from Babylonia, Hillel the Babylonian by name, who served[7] the two greatest men of the time,[8] and he knows whether the Passover overrides the Sabbath or not [Thereupon] they summoned him [and] said to him, 'Do you know whether the Passover overrides the Sabbath or not?' 'Have we then [only] one Passover during the year which overrides the Sabbath?' replied he to them, 'Surely we have many more than two hundred Passovers during the year which override the Sabbath![9] Said they to him, 'How do you know it?'[10] He answered them, 'In its appointed time' is stated in connection with the Passover, and 'In its appointed time'[11] is stated in connection with the tamid; just as 'Its appointed time' which is said in connection with the tamid overrides the Sabbath, so 'Its appointed time' which is said in connection with the Passover overrides the Sabbath. Moreover, it follows a minori, if the tamid, [the omission of] which is not punished by kareth, overrides the Sabbath, then the Passover,[neglect of] which is punished by kareth,[12] is it not logical that it overrides the Sabbath! They immediately set him at their head and appointed him Nasi [Patriarch] over them,[13] and he was sitting and lecturing the whole day on the laws of Passover. He began rebuking them with words. Said he to them, ‘What caused it for you that I should come up from Babylonia to be a Nasi over you? It was your indolence, because you did not serve the two greatest men of the time, Shemaiah and Abtalyon.’ Said they to him, ‘Master, what if a man forgot and did not bring a knife on the eve of the Sabbath?’ ‘I have heard this law,’ he answered, ‘but have forgotten it. But leave it to Israel: if they are not prophets, yet they are the children of prophets!’ On the morrow, he whose Passover was a lamb stuck it [the knife] in its wool; he whose Passover was a goat stuck it between its horns. He saw the incident and recollected the halachah and said, ‘Thus have I received the tradition from the mouth[s] of Shemaiah and Abtalyon.’

The Master said: "’In its appointed season" is stated in connection with the Passover, and "in its appointed time" is stated in connection with the tamid: just as "its appointed time" which is said in connection with the tamid overrides the Sabbath, so "its appointed time" which is said in connection with the Passover overrides the Sabbath.’ And how do we know that the tamid itself overrides the Sabbath? Shall we say, because ‘in its appointed time’ is written in connection with it;[14] then the Passover too, surely ‘in its appointed time’ is written in connection with it?[15] Hence [you must say that] ‘its appointed time’ has no significance for him [Hillel]; then here too, ‘its appointed time’ should have no significance for him? — Rather Scripture saith, This is the burnt-offering of every Sabbath, beside the continual burnt-offering:[16] whence it follows that the continual burnt-offering [tamid] is offered on the Sabbath.

The Master said: ‘Moreover, it follows a minori: if the tamid, [the omission of] which is not punished by kareth, overrides the Sabbath; then the Passover, [neglect of] which is punished by kareth, is it not logical that it overrides the Sabbath!’ [But] this can be refuted: as for the tamid, that is because it is constant,[17] and entirely [burnt]?[18] — He first told them the a minori argument, but they refuted it; [so] then he told them the gezerah shawah. But since he had received the tradition of a gezerah shawah, what was the need of an a minori argument? — Rather he spoke to them on their own ground: It is well that you do not learn a gezerah shawah, because a man cannot argue [by] a gezerah shawah of his own accord.[19] But [an inference] a minori, which a man can argue of his own accord, you should have argued! — Said they to him, It is a fallacious a minori argument.

The Master said: ‘On the morrow, he whose Passover was a lamb stuck it in its wool; [he whose Passover was] a goat stuck it between its horns.’

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(1) I regard this as certain.

(2) This is a reductio ad absurdum.

(3) Num. IX, 2.

(4) Shechitah must be done on the fourteenth; have these a similar fixed time? — surely not!

(5) Lit., ‘every work. .. does not override’.

(6) ‘The children of Bathyra’ — they were the religious heads of Palestine at the time of this incident. — Bathyra is a town of Babylonia. [Their name is, however, generally held to be derived from the colony of that name in Batanea mentioned in Josephus, Antiquities, XVII, 2, 2, and established by Herod for the settlement of the Jews who had come from Babylon.]

(7) I.e., studied under.

(8) Lit., ‘generation’.

(9) I.e., during the year more than two hundred sacrifices are offered on the Sabbath, viz., the two daily burnt-offerings and the two additional sacrifices of every Sabbath, besides the extra sacrifices offered on the Sabbath which occurs in the middle of Passover and the middle of Tabernacles.

(10) A question of such importance cannot be decided by a mere argument, however strong, but must have Biblical support, as well as the support of tradition.

(11) Num. XXVIII, 2.

(12) V. Num. IX, 13.

(13) This story of Hillel's rise to eminence contains a number of difficulties particularly (i) The ignorance of Bene Bathyra, the religious heads of the people, and (ii) the fact that there was no single head, but the authority lay in the hands of a family. V. Halevi, Doroth, I, 3. pp. 37ff, where this is discussed at great length; he maintains that the Great Sanhedrin, which was the ruling authority on all religious matters, had been abolished, and there was no single religious head at the time. [Buchler Synhedrion pp. 144ff connects this story with the controversy related infra 70b which led to the retirement of Judah b. Durtai to the south.]

(14) Which implies whenever it is.

(15) Then why is it regarded as axiomatic in the case of the former, whereas the latter must be learnt from it?

(16) Num. XXVIII, 10.

(17) Every day; in comparison therewith the Passover, which is only once a year, is not constant.

(18) Each of which fact gives it a stronger claim to override the Sabbath.

(19) A man must have received a tradition from his teachers that a particular word in the Pentateuch is meant for a gezerah shawah, but he cannot assume it himself. Hence the Bene Bathyar, not having received this tradition, could not adduce this gezerah shawah.

Talmud - Mas. Pesachim 66b

But he performed work with sacred animals?[1] [They did] as Hillel. For it was taught: It was related of Hillel, As long as he lived[2] no man ever committed trespass through his burnt-offering.[3] But he brought it unconsecrated [hullin] to the Temple Court, consecrated it, layed his hand upon it,[4] and slaughtered it.

[Yet] how might a person consecrate the Passover on the Sabbath? Surely we learned: You may not consecrate, nor make a valuation vow,[5] nor make a vow of herem,[6] nor separate[7] terumah and tithes. They said all this of Festivals, how much the more of the Sabbath! — That applies only to obligations for [the discharge of] which no time is fixed; but in the case of obligations for [the discharge of] which a time is fixed, you may consecrate. For R. Johanan said: A man may consecrate his Passover on the Sabbath, and his Festival-offering [hagigah] on the Festival.

But he drives [a laden animal]?[8] — It is driving in an unusual way.[9] [But] even driving in an unusual manner, granted that there is no Scriptural prohibition, there is nevertheless a Rabbinical prohibition? — That is [precisely] what they asked him: An action which is permitted by Scripture, while a matter of a shebuth stands before it to render it impossible,[10] such as [an action performed] in an unusual manner [standing] in the way of a precept, what then? Said he to them, ‘I have heard this halachah, but have forgotten it: but leave [it] to Israel, if they are not prophets they are the sons of prophets.’

Rab Judah said in Rab's name: Whoever is boastful, if he is a Sage. his wisdom departs from him; if he is a prophet, his prophecy departs from him. If he is a Sage, his wisdom departs from him: [we learn this] from Hillel. For the Master said, ‘He began rebuking them with words,’ and [then] he said to them, ‘I have heard this halachah, but have forgotten it’.[11] If he is a prophet, his prophecy departs from him: [we learn this] from Deborah. For it is written, The rulers ceased in Israel, they ceased, until that I arose, Deborah, I arose a mother in Israel;[12] and it is written, Awake, awake, Deborah, awake, awake, utter a song.[13]

Resh Lakish said: As to every man who becomes angry, if he is a Sage, his wisdom departs from him; if he is a prophet, his prophecy departs from him. If he is a Sage, his wisdom departs from him: [we learn this] from Moses. For it is written, And Moses was wroth with the officers of the host etc.;[14] and it is written, And Eleazar the Priest said unto the men of war that went to the battle: This is the statute of the law which the Lord hath commanded Moses etc.,[15] whence it follows that it had been forgotten by Moses.[16] If he is a prophet, his prophecy departs from him: [we learn this] from

Elisha. Because it is written, ‘were it not that I regard the presence of Johoshaphat the king of Judah, I would not look toward thee, nor see thee’,[17] and it is written, ‘But now bring me a minstrel,’ And it came to pass, when the minstrel played, that the hand of the Lord [i.e., the spirit of prophecy] came upon him.[18]

R. Mani b. Pattish said: Whoever becomes angry, even if greatness has been decreed for him by Heaven, is cast down. Whence do we know it? From Eliab, for it is said, and Eliab's anger was kindled against David, and he said: ‘Why art thou come down? and with whom hast thou left those few sheep in the wilderness? I know thy presumptuousness, and the naughtiness of thy heart; for thou art come down that thou mightest see the battle.’[19] And when Samuel went to anoint him [sc. a king], of all [David's brothers] it is written, neither hath the Lord chosen this,[20] whereas of Eliab it is written, But the Lord saith unto Samuel, ‘Look not on his countenance, or on the height of his stature; because I have rejected him’:[21] hence it follows that He had favoured him until then.

We have [thus] found that the tamid and the Passover override the Sabbath; how do we know that they override uncleanness?[22] — I will tell you: just as he learns the Passover from the tamid in respect to the Sabbath, so also does he learn the tamid from the Passover in respect to uncleanness. And how do we know it of the Passover itself? — Said R. Johanan. Because the Writ saith, If any man of you shall be unclean by reason of a dead body:[23] a man [i.e.. an individual] is relegated to the second Passover,[24] but a community is not relegated to the second Passover, but they must offer it in [a state of] uncleanness. R. Simeon b. Lakish said to R. Johanan: Say, a man is relegated to the second Passover, [whereas] a community has no remedy [for its uncleanness]. neither on the first Passover not on the second Passover? Rather, said R. Simeon b. Lakish. [It is deduced] from here: [Command the children of Israel,] that they send out of the camp of every leper, and every one that hath an issue, and whosoever is unclean by the dead:[25] let [Scripture] state those who are unclean by the dead, and not state zabin[26] and lepers, and I would argue, if those who are unclean by the dead are sent out [of the camp]. how much the more zabin and lepers![27]

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(1) Which is forbidden, v. Deut. XV, 19: thou shalt do no work with the firstling of thine ox — a firstling being sacred.

(2) Lit., ‘from his days’.

(3) I.e.. through making unlawful use of the consecrated animal.

(4) v. Lev. I, 4: and he shall lay his hand upon the head of the burnt-offering.

(5) I.e.. vow your own value to the Temple; v. Lev. XXVII, 2-13.

(6) A vow dedicating an object for priestly use, ibid. 28 seq.

(7) Lit., ‘raise’, ‘lift off’.

(8) Which is likewise forbidden.

(9) Lit., ‘as in a back-handed manner’ — an idiom connoting an unusual way of doing anything. Sheep and goats are not employed as beasts of burden, hence this is unusual, whereas by Scriptural law work is forbidden on the Sabbath and Festivals only when performed in the usual way.

(10) Lit., ‘to eradicate it’.

(11) Though his rebuke was probably justified and timely, he should not have drawn attention to his own promotion.

(12) Judg. V, 7.

(13) Ibid. 12; thus after boasting that she was a mother in Israel, she had to be urged to awake and utter song. i.e., prophecy, the spirit having departed from her.

(14) Num. XXXI, 14.

(15) Num. XXXI, 21.

(16) Lit., ‘it had become hidden from Moses’.

(17) II Kings III, 14; this was an expression of anger.

(18) Ibid. 15.

(19) I Sam. XVII, 28.

(20) Ibid. XVI, 8f. passim.

(21) Ibid. 7.

(22) If the larger part of the community is unclean, these offerings are still sacrificed.
(23) Num. IX, 10.
(24) I.e., in the second month, ibid. II.
(25) Num. V, 2.
(26) Those who have an issue. Pl. of zab,q.v. Glos.
(27) Their uncleanness is more stringent, since it emanates from themselves.

Talmud - Mas. Pesachim 67a

But [it intimates,] there is a time when zabin and lepers are sent out, whereas those who are unclean by the dead are not sent out; and when is that? It is [when] the Passover comes [is sacrificed] in uncleanness.

Said Abaye, If so, let us also argue: 'Let [Scripture] state a zab and those who are unclean by the dead, and let it not state a leper, and I would argue, If a zab is sent out, how much the more a leper; but [the fact that a leper is stated intimates] there is a time when lepers are sent out, whereas zabin and those who are unclean by the dead are not sent out, and when is that? It is [when] the Passover comes in uncleanness'? And should you say. That indeed is so-surely we learned: The Passover which comes in uncleanness, zabin and zaboth, menstruant women and women in childbirth must not eat thereof, yet if they ate, they are not liable [to kareth]? Rather, said Abaye. After all, [it is derived] from the first verse;[1] [and as to the question raised,[2] the reply is]. If so,[3] let the Divine Law write, 'If any man of you shall be unclean'; what is the purpose of 'by reason of a dead body'? And should you say, this [phrase] 'by reason of a dead body' comes for this [purpose, viz..] only he who is unclean by reason of a dead body is relegated to the second Passover, but not other unclean [persons], surely' it was taught: You might think that only those who are unclean by the dead and he who was on a distant journey keep the second Passover; whence do we know [to include] zabin and lepers and those who had intercourse with menstruant women?[4] Therefore it is stated, 'any man'.[5] Then what is the purpose of [the phrase] 'by reason of a dead body' which the Divine Law wrote? But this is what [Scripture] states: A man [i.e.. an individual] is relegated to the second Passover, whereas a community is not relegated to the second Passover, but they keep [the first Passover] in uncleanness. And when do the community keep [the first Passover] in uncleanness? When [they are] unclean by reason of the dead; but in the case of other forms of uncleanness, they do not keep [it thus].

R. Hisda said: If a leper entered within his barrier,[6] he is exempt [from flagellation],[7] because it is said, he shall dwell solitary; without the camp shall his dwelling be:[8] the Writ transformed it [his prohibition] into a positive command.[9] An objection is raised: A leper who entered within his barrier [is punished] with forty lashes; zabin and zaboth who entered within their barrier [are punished] with forty lashes; while he who is unclean by the dead is permitted to enter the Levitical camp;[10] and they said this not only [of] him who is unclean by the dead but even [of] the dead himself, for it is said, And Moses took the bones of Joseph with him,[11] 'with him' [implying] within his barrier [precincts]![12] — It is [a controversy of] Tannaim. For it was taught: 'He shall dwell solitary': [that means,] he shall dwell alone so that other unclean persons[13] should not dwell with him.[14] You might think that zabin and unclean persons are sent away to one [the same] camp; therefore it is stated, that they defile 'not their camps:[15] [this is] to assign a camp for this One and a camp for that one: this is R. Judah's opinion. R. Simeon said, It is unnecessary. For lo, it is said, '[Command the children of Israel] that they send out of the camp every leper, and everyone that hath all issue, and whosoever is unclean by the dead'.[16] Now, let [Scripture] state those who are unclean by the dead and not state zab, and I would say, if those who are unclean by the dead are sent out, how much the more zabin! Why then is zab stated? To assign a second camp to him. And let [Scripture] state zab and not state leper, and I would say, if zabin are sent out, how much the more lepers! Why then is a leper stated? To assign a third camp to him. When it states, 'he shall dwell solitary', the Writ transforms it [the prohibition] into a positive command.[17]

What is the greater stringency of a zab over him who is unclean by reason of the dead?[18] — Because uncleanness issues upon him from his own body. On the contrary, he who is unclean by the dead is more stringent, since he requires sprinkling on the third and the seventh [days]?[19] — Scripture saith, [instead of] ‘the unclean,’ ‘and whosoever [kol] is unclean,’[20] to include him who is unclean through a reptile, and a zab is more stringent than he who is unclean through a reptile; and what is his greater stringency? As we have stated.[21] On the contrary, a reptile is more stringent, since it defiles [even] accidentally?[22] I will tell you:

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(1) Num. IX, 10.

(2) By Resh Lakish.

(3) That the deduction is to be made as R. Simeon b. Lakish proposes.

(4) Which act defiles them.

(5) Heb. ish ish: the doubling indicates extension, and therefore includes these.

(6) I.e., into the precincts that are forbidden to him.

(7) Though he thereby transgressed the negative injunction, that they defile not their camp. — Num. V, 3.

(8) Lev. XIII, 46.

(9) Only a negative command involves flagellation, but not a positive command. Though a negative command is stated in this connection, this verse teaches that he is regarded as having violated a positive command only.

(10) The whole of the Temple Mount outside the walls of the Temple Court is so called.

(11) Ex. XIII, 19.

(12) Moses was a Levite.

(13) E.g., zabin and those unclean through the dead.

(14) This shows that his uncleanness is greater and stricter than theirs.

(15) Num. V, 3: ‘camps’. plural.

(16) Num. V, 2.

(17) Since according to R. Simeon this can have no other purpose; thus we have a controversy of Tannaim.

(18) That the former could be deduced as stated a minori from the latter.

(19) V. Num. XIX. 19.

(20) I.e., Scripture employs the second, more-embracing phrase, where the first would suffice.

(21) That the uncleanness emanates from himself. Hence the reference to a zab is superfluous, and therefore it teaches as above.

(22) I.e., even if it touches the person by accident. But a discharge makes a man unclean as a zab only if it issues of its own accord. If, however, It is caused by an ‘accident’, e.g.. physical over-exertion or highly-seasoned food, he is not unclean.

Talmud - Mas. Pesachim 67b

To that extent[1] a zab too is certainly defiled through an accident, in accordance with R. Huna. For R. Huna said: The first discharge[2] of a zab defiles [when it is caused] by an accident.[3]

What is the greater stringency of a leper over a zab? Because he requires peri'ah[4] and rending [of garments], and he is forbidden sexual intercourse.[5] On the contrary, a zab is more stringent, because he defiles couch and seat,[6] and he defiles earthen vessels by hesset?[7] — Scripture saith, [instead of] ‘a leper’, ‘and every [kol] leper’[8] to include a ba'al keri;[9] and a leper is more stringent than a ba'al keri, and what is his greater stringency? As we have stated.[10] On the contrary, a ba'al keri is more stringent, because he defiles by the smallest quantity [of semen]?[11] — He agrees with R. Nathan. For it was taught, R. Nathan said on the authority of R. Ishmael: A zab requires [a discharge of matter] sufficient for the closing of the orifice of the membrum, but the Sages did not concede this to him. And he holds that a ba'al keri is assimilated to a zab.[12] What is the purpose of ‘and every [kol] leper’?[13] — Since ‘every one [kol] that hath an issue’ is written, ‘every [kol] leper’ too is written.[14]

Now [as for] R. Judah. [surely] R. Simeon says well?[15] — He requires that[16] for what was taught; R. Eliezer said: You might

days, but only until evening, while a reptile too defiles until evening only. think, if zabin and lepers forced their way through and entered the Temple Court at a Passover sacrifice which came in uncleanness,[17] — you might think that they are culpable; therefore it is stated, [‘Command the children of Israel,] that they send out of the camp every leper’, and every one that hath an issue [zab], and whosoever is unclean by the dead’: when those who are unclean by the dead are sent out, zabin and lepers are sent out; when those who are unclean by the dead are not sent out, zabin and lepers are not sent out.

The Master said: ‘"And every [kol] one that hath an issue" is to include a ba'al keri’. This supports R. Johanan. For R. Johanan said: The cellars [under the Temple] were not consecrated; and a ba'al keri is sent without the two camps.[18]

An objection is raised: A ba'al keri is like [a person defiled through] contact with a reptile. Surely that means in respect of their camp?[19] No: [it means] in respect of their uncleanness.[20] [You say] ‘In respect of their uncleanness!’ [Surely] uncleanness until evening is written in connection with the one, and uncleanness until evening is written in connection with the other?[21] Hence it must surely mean in respect of their camp! — No: after all [it means] in respect of their uncleanness, and he informs us this: that a ba'al keri is like [a person defiled through] the contact of the reptile: just as the contact of a reptile defiles [even] accidentally, so is a ba'al keri defiled [when the semen is discharged] accidentally.[22] An objection is raised:

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(1) Lit., ‘in such a manner’ as that defilement caused by a reptile.

(2) Lit., seeing’ — of discharge.

(3) He is not unclean as a zab, for a period of seven

(4) Letting the hair grow long and neglected, v. Lev. XIII, 45.

(5) V. M.K. 7b.

(6) This is a technical phrase. He defiles that whereon he lies or sits, imposing such a high degree of uncleanness on it that if a man touches it he in turn becomes so unclean as to defile his garments, even if they did not touch it. But a leper, though he too defiles couch and seat, the degree of uncleanness is less, and the man who touches it becomes unclean only in so far that he in turn defiles food and drink, but not his garments, nor can he defile any other utensils by touch. — Rashi. But Maim. and others omit this passage, whence it appears that they do not accept this distinction; v. also Tosaf. a.l. s.v. שכן.

(7) Lit., ‘shaking’. A zab defiles an earthen vessel when he causes it to move through his weight. e.g., if it is standing on one end of a rickety bench and he sits down on the other, causing it to move upwards, as on a see-saw.

(8) V. p. 341. n. 5.

(9) A man who has discharged semen.

(10) Rashi understands this as part of the following question: Now what is his greater stringency as stated? On the contrary etc.

(11) Whereas for leprosy there must be at least as much as a bean (geris).

(12) As it is written, This is the law of him that hath an issue (zab), and of him from whom the flow of seed goeth out (ba'al keri) — Lev. XV, 32. Thus a ba'al keri too requires a certain minimum; hence a leper is more stringent, and therefore a leper is mentioned in order to assign a third camp to him.

(13) I.e., the ‘kol’ written in connection with a leper.

(14) For the sake of parallelism.

(15) What then is the purpose of the verse quoted by R. Judah supra 67a?

(16) Sc. the verse employed by R. Simeon for this purpose.

(17) I.e., when the community as a whole was unclean.

(18) Viz., the camp of the Shechinah (the place of the Sanctuary) and the Levitical camp, just like a zab. R. Johanan heard these two teachings from his master (Rashi).

(19) I.e., just as a man who is defiled by a reptile is sent out from the camp of the Shechinah only. i.e., from the Temple, so is a ba'al keri.
(20) Neither is unclean for seven days, but only until the evening.
(21) V. Lev. XI, 24; XV, 16. Hence the comparison is pointless and unnecessary.
(22) V. supra 67a bottom and note a.l.

Talmud - Mas. Pesachim 68a

He who has intercourse with a niddah[1] is like he who is unclean by the dead.[2] In respect of what: shall we say, in respect of their uncleanness, — but uncleanness for seven [days] is written in connection with the one, and uncleanness for seven days is written in connection with the other?[3] Hence it must surely be in respect of their camp;[4] and since the second clause is in respect of their camps, the first clause too is in respect of their camps? — What argument is this! the one is as stated, and the other is as stated.[5]

An objection is raised: A leper is more stringent than a zab,[6] and a zab is more stringent than he who is unclean by the dead.[7] A ba'al keri is excepted, for he who is unclean by the dead is more stringent than he. What does ‘is excepted’ mean? Surely [it means], he is excepted from the rule of a zab and is included[8] in the rule of him who is unclean by the dead, seeing that he who is unclean by the dead is more stringent than he, and [yet] he is permitted within the Levitical camp? — No: [it means that] he is excepted from the camp of him who is unclean by the dead and is included in the camp of a zab; and though he who is unclean by the dead is more stringent than he, and [yet] he may enter the Levitical camp. [nevertheless] we compare him [the ba'al keri] to what is like himself.[9]

A tanna recited before R. Isaac b. Abdimi: Then he shall go abroad out of the camp:[10] this means the camp of the Shechinah;[11] he shall not come within the camp:[12] this means the Levitical camp. From this [we learn] that a ba'al keri must go without the two camps.[13] Said he to him, You have not yet brought him in that you should [already] expel him![14] Another version: you have not yet expelled him, and [already] you [discuss whether] he should enter![15] Rather say: ‘abroad out of the camp’ — this is the Levitical camp; ‘he shall not come within the camp’- that is the camp of the Shechinah. To this Rabina demurred: Assume that both refer to the camp of the Shechinah, [it being repeated] so that he should violate an affirmative command and a negative command on its account? If so, let Scripture say, ‘Then he shall go abroad out of the camp’ and ‘he shall not enter": what is the purpose of ‘within the camp’? Infer from it that it is to prescribe another camp for him.[16]

AND THE CLEANSING [MIHUY] OF ITS BOWELS. What is THE CLEANSING OF ITS BOWELS? — R. Huna said: [It means] that we pierce them with a knife.[17] Hiyya b. Rab said: [It means the removal of] the viscous substance of the bowels, which comes out through the pressure of the knife. R. Eleazar observed, What is Hiyya b. Rab's reason? Because it is written, and the waste places of the fat ones [mehim] shall wanderers eat.[18] How does this imply it? — As R. Joseph[19] translated: and the estates of the wicked shall the righteous inherit.[20]

Then shall the lambs feed as in their pasture [kedobram]:[21] Menassia b. Jeremiah interpreted it in Rab's name: As was spoken about them [kimedubbar bam].[22] What means ‘as was spoken about them’? — Said Abaye: ‘And the waste places of the fat ones shall wanderers eat’. Said Raba to him, If ‘the waste places’ were written, it would be well as you say;[23] since, however, ‘and the waste places’ is written, this states another thing. Rather, said Raba: [It is to be explained] as R. Hananel said in Rab's name. For R. Hananel said in Rab's name: The righteous are destined to resurrect the dead. [For] here it is written, ‘Then shall the lambs feed kedobram’, while elsewhere it is written, Then shall Bashan and Gilead feed as in the days of old.[24] [Now] Bashan means Elisha, who came from Bashan, as it is said, ‘and Janai and Shaphat in Bashan,[25] while it is written, Elisha the son of Shaphat is here, who poured water on the hands of Elijah.[26] [Again,] Gilead alludes to Elijah, for it is said, And Elijah the Tishbite, who was of the settlers of Gilead, said [unto Ahab].[27]

R. Samuel b. Nahmani said in R. Jonathan's name: The righteous are destined to resurrect the dead, for it is said, There shall yet old men and old women sit in the broad places of Jerusalem, every man with his staff in his hand for very age;[28] and it is written, and lay my staff upon the face of the child.[29]

‘Ulla opposed [two verses]. It is written, He will swallow up death for ever;[30] but it is written, For the youngest shall die a hundred years old?[31] There is no difficulty: there the reference is to Israel; here, to heathens. But what business have the heathens there? — Because it is written, And strangers shall stand and feed your flocks, and aliens shall be your plowmen and your vinedressers.[32]

R. Hisda opposed [two verses]. It is written, Then the moon shall be confounded, and the sun ashamed;[33] whereas it is written, Moreover the light of the moon shall be as the light of the sun, and the light of the sun shall be sevenfold, as the light of the seven days?[34] There is no difficulty: the former refers to the world to come;[35] the latter to the days of the Messiah.[36] But according to Samuel, who maintained, This world differs from the Messianic age only in respect of the servitude to governments,[37] what can be said? — Both refer to the world to come, yet there is no difficulty: one refers to the camp of the righteous; the other, to the camp of the Shechinah.

Raba opposed [two verses]: It is written, I kill, and I make alive;[38] whilst it is also written, I have wounded, and I heal:[39] seeing that He even resurrects, how much the more does He heal![40] But the Holy One, blessed be He, said thus: What I put to death I make alive, just as I wounded and I heal [the same person].[41]

Our Rabbis taught: ‘I kill, and I make alive’: You might say, I kill one person and give life to another, as the world goes on.[42] Therefore it is stated, ‘I have wounded, and I heal’: just as the wounding and the healing [obviously] refer to the same person, so death and life refer to the same person. This refutes those who maintain that resurrection is not intimated in the Torah.[43] Another interpretation: At first what I slay I resurrect;[44] and then, what I wounded I will heal.[45]

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(1) V. Glos.

(2) This is the conclusion of the Mishnah just quoted, Zab. V, 11.

(3) V. Lev. XV, 24; Num. XIX. 11.

(4) Both are sent out of the camp of the Shechinah only.

(5) Lit., ‘as it is’, i.e., each clause is governed by its own particular requirements.

(6) The leper being sent out of all three camps, whereas the zab is sent out of two only; supra 67a.

(7) The last-named being sent out of the camp of the Shechinah only.

(8) Lit., ‘enters’.

(9) Viz., a zab. Thus the meaning of the Baraitha is this: A leper, a zab, and he who is unclean by the dead follow the rule that the more stringent the uncleanness the further away is he sent; but a ba'al keri is excepted from this rule, and though his uncleanness is less than that of a person unclean by the dead, he is sent further away, because he must be compared to a zab, since both are unclean through bodily discharge.

(10) Deut. XXIII, 11; the reference is to a ba'al keri.

(11) The Sanctuary.

(12) Ibid.

(13) I.e., if he is in the Temple (‘the camp of the Shechinah’) when he becomes a ba'al keri, he must leave both that and the Temple mount (‘the Levitical camp’).

(14) I.e., since Scripture states that he must not enter the Levitical camp, it follows that he is without: how then say that he is inside? (Rashi).

(15) I.e., you have not yet ordered him to leave the Levitical camp, and yet you are already forbidding him to enter.

(16) From which he must depart.

(17) To allow the dung to fall out.
(18) Isa. V, 17.
(19) [V. Targum version a.l. The Targum on the Prophets is ascribed by some to R. Joseph. V. B.K., Sonc. ed. p. 9, n. 9.]
(20) Thus he translates ‘mehim’ the wicked, i.e., the repulsive; similarly ‘mihuy’ refers to the repulsive matter, viz., the viscous substance.
(21) Ibid. One part of the verse having been quoted and translated, the Gemara proceeds to discuss the other half.
(22) I.e., in accordance with the promise made: ‘lambs’ is understood as meaning Israel.
(23) The second part of the verse being explanatory of the first.
(24) Mic. VII, 14.
(25) I Chron. V, 12.
(26) II Kings III, 11.
(27) I Kings XVII, 1. Now both Elijah and Elisha resurrected the dead (v. ibid. IV; I Kings XVII, 21 seq.) ‘feed’ is therefore understood to allude to this metaphorically; hence the same meaning is assigned to ‘feed’ in the first verse too, ‘the lambs’ being the righteous.
(28) Zech. VIII, 4.
(29) II Kings IV, 29. The staff was employed to revive the child (ibid. seq.), and the same purpose is assumed for it in the first verse.
(30) Isa. XXV, 8.
(31) Ibid. LXV, 20.
(32) Ibid. LXI, 5.
(33) Ibid. XXIV, 23.
(34) Ibid. XXX, 26.
(35) Then the sun and the moon shall be ashamed — i.e., fade into insignificance because of the light radiating from the righteous (Rashi in Sanh. 91b).
(36) V. Sanh., Sonc. ed., p. 601, n. 3.
(37) I.e., delivery from oppression.
(38) Deut. XXII, 39.
(39) Ibid.
(40) Why then state it? v. Sanh. 91b and notes a.l. in the Sonc. ed.: the point of the difficulty is explained there differently.
(41) As explained in the next passage.
(42) People dying and others being born.
(43) V. Sanh., Sonc. ed., p. 601, n. 5 and p. 604, n. 12.
(44) I.e., in the same state.
(45) After their resurrection I will heal them of the blemishes they possessed in their former life.

Talmud - Mas. Pesachim 68b

AND THE BURNING OF ITS FAT. It was taught, R. Simeon said: Come and see how precious is a precept in its [proper] time.[1] For lo! the [precept of] burning the fats and limbs and the fat-pieces is valid all night, yet we do not wait for [burning] them until nightfall.[2]

ITS CARRYING AND ITS BRINGING etc. But the following contradicts it: You may cut off a wart [of an animal] in the Temple, but not in the country,[3] and if [it is done] with a utensil [a knife], it is forbidden in both cases?[4] R. Eleazar and R. Jose b. Hanina one answered, Both refer to [removing the wart] with the hand: one refers to a moist [wart]; the other, to a dry one[5] While the other maintains, Both refer to a moist [wart], yet there is no difficulty: one means by hand, and the other means with a utensil.[6]

Now according to him who explained. ‘One means by hand, and the other means with a utensil,’ why did he not say. Both mean by hand, yet there is no difficulty: one refers to a moist [wart]; the other, to a dry one? — He can answer you: a dry one [just] crumbles away.[7] And according to him who maintained, ‘Both mean by hand, yet there is no difficulty: one refers to a moist [wart]; the other to a dry one’; why did he not say: Both refer to a moist [wart], yet there is no difficulty: one means by hand, and the other means with a utensil? — He can answer you: as for a utensil, Surely he [the Tanna] teaches there, ‘if [it is done] with a utensil, it is forbidden in both cases!’[8] And the other?[9] That which he teaches [about] a utensil here, [is because] he comes to inform us of the controversy of R. Eliezer and R. Joshua. SAID R. ELIEZER . . . IF SHECHITAH etc. R. Joshua is consistent with his view, for he maintains, Rejoicing on a Festival too is a religious duty.[10] For it was taught, R. Eliezer said: A man has nought else [to do] on a Festival save either to eat and drink or to sit and study. R. Joshua said: Divide it: [devote] half of it to eating and drinking, and half of it to the Beth Hamidrash. Now R. Johanan said thereon: Both deduce it from the same verse. One verse says, a solemn assembly to the Lord thy God,[11] whereas another verse says, there shall be a solemn assembly unto you:[12] R. Eliezer holds: [That means] either entirely to God or entirely to you; while R. Joshua holds, Divide it: [Devote] half to God and half to yourselves.

(Mnemonic: ‘abam.)[13] R. Eleazar said: All agree in respect to the Feast of Weeks [‘azereth][14] that we require [it to be] ‘for you’ too. What is the reason? It is the day on which the Torah was given.[15] Rabbah said: All agree in respect to the Sabbath that we require [it to be] ‘for you’ too. What is the reason? And thou shalt call the Sabbath a delight.[16] R. Joseph said: All agree that on Purim we require ‘for you’ too. What is the reason? Days of feasting and gladness[17] is written in connection therewith.

Mar son of Rabina would fast[18] the whole year,[19] except on the Feast of Weeks, Purim, and the eve of the Day of Atonement. The Feast of Weeks, [because] it is the day on which the Torah was given: Purim, [because] ‘days of feasting and gladness’ is written in connection therewith. The eve of the Day of Atonement: for Hiyya b. Rab of Difti taught: And ye shall afflict your souls on the ninth day of the month:[20] do we then fast on the ninth? Surely we fast on the tenth! But this is to tell you: whoever eats and drinks on the ninth thereof, the Writ ascribes [merit] to him as though he had fasted on the ninth and the tenth.[21]

R. Joseph would order on the day of Pentecost: ‘Prepare me a third-born calf,’[22] saying. ‘But for the influence of this day.[23] how many Josephs are there in the market place!’[24]

R. Shesheth used to revise his studies every thirty days, and he would stand and lean at the side of the doorway and exclaim, ‘Rejoice, O my soul, Rejoice. O my soul; for thee have I read [the Bible], for thee have I studied [the Mishnah].’ But that is not so, for R. Eleazar said, But for the Torah, heaven and earth would not endure, for it is said, If not for my covenant by day and by night,I had not appointed the ordinances of heaven and earth?[25] — In the first place when a man does it [sc. studies], he does so with himself in mind.

R. Ashi said: Yet according to R. Eliezer too, who maintained that [rejoicing on] a Festival is [merely] voluntary, he can be refuted:[26] if a Festival, when labour for a voluntary [requirement] is permitted,[27] yet the shebuth which accompanies it is not permitted; then the Sabbath, whereon only labour [required for the carrying out of] a precept is permitted, is it not logical that the shebuth which accompanies it is not permitted!

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(1) I.e., as soon as it can be performed, even if it can be postponed.

(2) But do it immediately, though it is the Sabbath.

(3) Medinah, ‘province’. This is the technical designation for all places outside the Temple.

(4) ‘Er. 103a.

(5) Our Mishnah refers to a moist wart. Even when it is removed by hand, which is merely a Shebuth, it is forbidden, since it could have been removed the previous day. But in ‘Er. 103a the reference is to a dry one, the removal of which is not even regarded as a shebuth.

(6) The former is permitted, while the latter is forbidden. — This of course is a more lenient explanation.
(7) It would not be called cutting at all.
(8) Why then should it be repeated in the present Mishnah?
(9) Does he not accept the force of this argument?
(10) Not merely permitted.
(11) Deut. XVI, 8.
(12) Num. XXIX, 35.
(13) A mnemonic is a word or phrase, whose letters or words respectively each stand for a tithe or catchword of a subject, strung together as an aid to the memory. Here ‘a _ ‘azereth’ B _ Shabbath; M _ Purim.
(14) Lit., ‘the solemn assembly’ — without a further determinant this always means the Feast of Weeks.
(15) Therefore we must demonstrate our joy in it by feasting.
(16) Isa. LVIII, 13.
(17) Esth. IX, 22.
(18) Lit., ‘sat in a fast’.
(19) That is if the occasion arose.
(20) Lev. XXIII, 32. The punctuation of the E.V. has been disregarded, as is required by the context.
(21) Together.
(22) I.e., the third calved by its mother. Others translate: (i) in its third year; or (ii) third grown, i.e., one that has reached a third of its full growth. On all translations this was regarded as particularly choice.
(23) Lit., ‘if this day had not caused (it).’
(24) I.e., I owe my eminence to having studied the Torah, which was given on this day.
(25) Jer. XXXIII, 25. I.e., if not for my Torah, which is to
(26) Lit., ‘there is a refutation for him’.
(27) I.e., shechitah, though the eating of meat, which constitutes rejoicing, is voluntary.

Talmud - Mas. Pesachim 69a

And R. Eliezer?[1] — In his view the shebuth [required] for a precept is more important.[2]

It was taught. R. Eliezer said: I argue, if[3] the necessary adjuncts of the precept which [come] after shechitah,[4] when the precept has [already] been performed, override the Sabbath; shall not the necessary adjuncts of the precept which [come] before shechitah override the Sabbath! Said R. Akiba to him: If the necessary adjuncts of the precept which [come] after shechitah override the Sabbath, the reason is[5] because the shechitah has [already] overridden the Sabbath;[6] will you say that the necessary adjuncts of the precept before the shechitah shall override the Sabbath, seeing that the shechitah has not [yet] overridden the Sabbath?[7] Another argument is: the sacrifice may be found to be unfit, and thus he will be found retrospectively to have desecrated the Sabbath.[8] If so, let us not slaughter it either, lest the sacrifice be found unfit, and thus it be found that he retrospectively desecrated the Sabbath? — Rather, he first told him this [argument], and he refuted it; and then he told him this ‘the reason is etc.

be studied by day and by night, heaven and earth would not enjoy permanence. How then could R. Shesheth take such a selfish view of his studies? R. AKIBA ANSWERED AND SAID: LET HAZA'AH PROVE IT etc. It was taught, R. Eliezer said to him: ‘Akiba, you have refuted me by shechitah,’ by shechitah shall be his death!’[9] Said he to him ‘Master, do not deny me at the time of argument:[10] I have thus received [the law] from you. [vis.] haza'ah is a shebuth and does not override the Sabbath.’[11] Then since he himself had taught it to him, what is the reason that he retracted? — Said ‘Ulla: When R. Eliezer taught it to him it was concerning haza'ah for [the sake of] terumah,[12] since terumah itself does not override the Sabbath;[13] [and] R. Akiba too, when he refuted him refuted him by haza'ah for [the sake of] terumah, which is [likewise] a religious duty[14] and is [usually forbidden] as a shebuth; but he [R. Eliezer] thought that he was refuting him by haza'ah for the Passover sacrifice.[15]

Rabbah raised an objection:R.Akiba answered and said, Let the haza'ah of a person unclean through the dead prove [refute] it, — when his seventh [day] falls on the Sabbath and on the eve of Passover, so that it is a religious duty[16] and it is [only]a shebuth, yet it does not override the Sabbath.[17] Hence he [R. Eliezer] certainly taught him about haza'ah for [the sake of] the Passover sacrifice. Then since he [himself] had taught it to him what is the reason that R. Eliezer rebutted him [thus]? — R. Eliezer had forgotten his own tradition, and R. Akiba came to remind him of his tradition. Then let him tell it to him explicitly? — He thought that it would not be mannerly.[18]

Now, what is the reason that haza'ah does not override the Sabbath; consider, it is mere handling,[19] [then] let it override the Sabbath on account of the Passover sacrifice? — Said Rabbah, It is a preventive measure, lest he take it [the water of purification] and carry it four cubits in public ground.[20] But according to R. Eliezer, let us [indeed] carry it, for R. Eliezer ruled, The necessary adjuncts to a precept override the Sabbath? I will tell you: that is only when the man himself is fit [to perform the precept] and the obligation lies upon him; but here that the man himself is not fit,[21] the obligation does not lie upon him.

Rabbah said: According to the words of R. Eliezer,[22] [if there is] a healthy infant,[23] one may heat water for him to strengthen him[24] and to circumcise him on the Sabbath, since it is fit for him. [If there is] a sickly infant,[25] one may not heat hot water for him to strengthen him and to circumcise him, since it is not fit for him.[26] Said Raba: But if he is healthy, why does he need hot water to strengthen him? Rather, said Raba, all are regarded as invalids in respect to circumcision: both in the case of a strong infant or a sickly infant, one may not heat hot water for him to strengthen him and to circumcise him on the Sabbath,[27] since it is not fit for him.

Abaye raised an objection against him: An [adult] uncircumcised person who did not circumcise himself [on the eve of Passover] is punished by kareth:[28] this is the view of R. Eliezer. Now here, though the man himself is unfit, yet he states that he is punished by kareth, which proves that the obligation lies upon him.[29] — Said Rabbah: R. Eliezer holds, One may not slaughter [the Passover] and sprinkle [its blood] for him who is unclean through a reptile,

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(1) How does he rebut this argument?

(2) Hence though a shebuth is not permitted on a Festival, it nevertheless overrides the Sabbath when it is necessary for the performance of a precept.

(3) Lit., ‘and what is to me’, this being the ethic dative.

(4) I.e., the cleansing of the bowels.

(5) Lit., ‘for what is it to me’ — i.e., I need not wonder at it, for the reason that etc.

(6) Therefore it may be overridden again by a shebuth.

(7) Surely not.

(8) For no precept will have been performed.

(9) I.e., your argument is obviously a humorous one and cannot be taken seriously, since you would thereby eradicate a Scriptural law; v. Mishnah.

(10) Rashi; i.e., do not deny what you yourself have taught me — viz., that haza'ah does not override the Sabbath. Jast.: do not make me an atonement, (saying, ‘may his death be atonement’) at the time of judgment — i.e., I need no apology for my attitude; or perhaps, do not be angry with me.

(11) Consequently I am justified in using this fact to prove, by a reductio ad absurdum (since it would overthrow a Scriptural law), that your argument is fallacious.

(12) An unclean priest may not undergo haza'ah on the Sabbath in order to eat terumah in the evening.

(13) Terumah may not be separated on the Sabbath.

(14) It is the priests’ duty to eat terumah.

(15) Which he holds is permitted on the Sabbath, since otherwise the unclean person is debarred from discharging his obligation.

(16) Haza'ah will make him fit to partake of the Passover in the evening, which is a religious duty.
(17) Thus it is explicitly stated that R. Akiba argued that haza'ah, even for the sake of the Passover sacrifice, does not override the Sabbath.
(18) To tell him plainly; hence he intimated it to him indirectly.
(19) It is not a labour.
(20) Which is Scripturally forbidden.
(21) Since he is unclean.
(22) That wherever the man is unfit he has no obligation.
(23) To be circumcised on the Sabbath. ‘Healthy’ means that he is strong enough to be circumcised even without bathing.
(24) I.e., to make him even stronger.
(25) I.e., one who is too weak to be circumcised in his present state unless he is first bathed.
(26) For at present he is too weak; consequently it is not our duty to strengthen him so that he should be immediately liable. Tosaf.: this distinction can be drawn only according to R. Eliezer. But according to R. Akiba it is forbidden in all cases, just as haza'ah is forbidden.
(27) But the water must be prepared from the previous day.
(28) Because he could have circumcised himself after midday, when the Passover is obligatory; hence he incurs kareth for not partaking of the Passover sacrifice, v. Ex. XII, 48 and Num. IX, 10-13. He is not comparable to an unclean person or one who is on a distant journey, since they could not make themselves fit after midday, while before that there was as yet no obligation.
(29) Where it is possible to make the person fit. Hence haza'ah too should override the Sabbath, since a man is bound to make himself fit.

Talmud - Mas. Pesachim 69b

and wherever an individual would be relegated [to the second Passover], in the case of the community they keep [it] in uncleanness, and whatever is [obligatory] in the case of a community is [obligatory] in the case of an individual, and whatever is not [obligatory] in the case of a community is not [obligatory] in the case of an individual. [Hence as for the defect of] uncircumcision, where if the whole community are uncircumcised we say to them, ‘Arise, circumcise yourselves, and sacrifice the Passover, then an individual too, we say to him, ‘Arise, circumcise yourself, and sacrifice the Passover,’ while if he does not circumcise [himself] and [does not] sacrifice he is punished with kareth. But [in the case of] uncleanness, where if the whole community is unclean we do not sprinkle [the water of purification] upon them but they keep [it] in uncleanness, [therefore] an individual too is not culpable.[1] R. Huna son of R. Joshua said to Raba: Yet there is the second Passover, which is not [practised] in the case of a community, yet it is [practised] in the case of an individual? — There it is different, replied he, because the community has [already] sacrificed at the first [Passover].[2]

An objection is raised: You might think that there is no penalty of kareth [for neglecting to offer the Passover] except if he [the delinquent] was clean and was not on a journey afar off;[3] how do we know it of an uncircumcised person and one who was unclean through a reptile and all others who are unclean?[4] Because it is stated, and the man [that is clean etc.].[5] Now, since he seeks [a verse to teach the inclusion of] him who is unclean through a reptile, he [evidently] holds, One may not slaughter [the Passover sacrifice] and sprinkle [its blood] for him who is unclean through a reptile; for if one may slaughter and sprinkle, why seek [a verse] for him, [seeing that] he is indeed [identical with] a clean person?[6]

by the rule stated, a community in like condition is not bound to purify itself but may sacrifice in uncleanness. Again, since the community need not purify itself by sprinkling, an individual is not obliged to either, for an individual has no obligation which is not likewise binding upon the community; consequently, since an individual is not bound to purify himself, he may not do so on the Sabbath. But if the whole community are uncircumcised, it is their duty to circumcise themselves on the eve of Passover, and therefore it is the duty of an individual too, neglect of which entails kareth. Had he, however, held that we do slaughter the Passover for a man who is unclean through a reptile or through a corpse when his seventh day falls on the eve of Passover, then since the individual is not relegated, the community too might not sacrifice in uncleanness but would have to purify itself; and as a corollary, since the community would have to perform haza'ah, it would also be an individual's duty, and in consequence it would be permitted on the Sabbath. This proves that though he is not fit, the obligation is upon him [to make himself fit], and though this is not [so] in the case of a community,[7] yet it is [so] in the case of an individual? — Rather, said Raba: R. Eliezer holds, One may slaughter and sprinkle for a man who is unclean through a reptile, and the same law applies to a man who is unclean through the dead on his seventh day;[8] then for what [purpose] is the haza'ah? for the eating[9] — [yet] the eating of the Passover sacrifice Is not indispensable.[10] R. Adda b. Abba said to Raba, If so, it is found that the Passover sacrifice is slaughtered for those who cannot eat it?[11] 'For those who cannot eat it' means for the infirm and the aged, he replied, since they are [physically] unfit; but this one is indeed fit, save that he is not made ready.

R. AKIBA STATED A GENERAL RULE etc. Rab Judah said in Rab's name: The halachah is as R. Akiba. And we learned similarly in respect to circumcision. R. Akiba stated a general rule: No labour which can be performed on the eve of the Sabbath overrides the Sabbath; circumcision, which cannot be performed on the eve of the Sabbath,[12] overrides the Sabbath; and Rab Judah said in Rab's name: The halachah is as R. Akiba. Now [both] are necessary. For if he informed us [this] in connection with, the Passover, [I would say,] it is only there that the necessary adjuncts of the precept do not override the Sabbath, because thirteen covenants were not made over it; but as for circumcision, over which thirteen covenants were made,[13] I would say that they [the adjuncts] override [the Sabbath]. While if he informed us [this of] circumcision, [I would argue],it is only there that the necessary adjuncts of the precept do not override the Sabbath, since there is no kareth;[14] but as for the Passover sacrifice, where there is kareth,[15] I might argue, Let the necessary adjuncts override [the Sabbath]. Thus they are necessary.

MISHNAH. WHEN DOES HE[16] BRING A HAGIGAH[17] WITH IT [THE PASSOVER SACRIFICE]? WHEN IT COMES DURING THE WEEK, IN PURITY, AND IN SMALL [PORTIONS].[18] BUT WHEN IT COMES ON THE SABBATH, IN LARGE [PORTIONS], AND IN UNCLEANNESS, ONE DOES NOT BRING THE HAGIGAH WITH IT. THE HAGIGAH WAS BROUGHT OF FLOCKS, HERDS, LAMBS OR GOATS, OF THE MALES OR THE FEMALES, AND IT IS EATEN TWO DAYS AND ONE NIGHT.[19]

GEMARA. What has he taught [previously] that he [now] teaches [about] the hagigah?[20] — He has taught about carrying it [the paschal lamb on his shoulders] and bringing it, which do not override the Sabbath, so he also teaches about the hagigah that it [too] does not override the Sabbath, and he states thus: WHEN DOES ONE[21] BRING A HAGIGAH WITH IT? WHEN IT COMES DURING THE WEEK, IN PURITY, AND IN SMALL [PORTIONS].[22]

R. Ashi said: This proves that the hagigah of the fourteenth

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(1) This explains why a person who is unclean through a corpse need not purify himself, yet an uncircumcised person must circumcise himself.Thus: — the whole community are not bound to purify themselves by sprinkling, even if the seventh day of their uncleanness falls on the eve of Passover, so that after haza'ah they would be clean in the evening, when the Passover is to be eaten. For he holds that if an individual is unclean through a reptile and has not performed tebillah (q.v. Glos.), though he can do so and be clean in the evening, nevertheless the Passover may not be slaughtered on his behalf; the same applies to him who is unclean through the dead whose seventh day falls on the eve of Passover, though he too would be clean in the evening if he were besprinkled during the day. Thus he must postpone his sacrifice for the second Passover; and therefore

(2) Where, however, the community as a whole did not sacrifice at the first Passover for some other reason of uncleanness than that of corpse uncleanness, there is no second Passover for individuals who are unclean through a corpse.

(3) v. Num. IX, 10, 13.

(4) In the same way. viz., that they could be clean by the evening, as explained in note 5.

(5) ‘And’ is an extension, and teaches the inclusion of these.

(6) For he could have the animal sacrificed by another, and he would be clean in the evening to eat it. Hence he must hold that you cannot sacrifice for him whilst he is unclean, i.e., before he performs tebillah, yet even so he incurs kareth since he could have performed tebillah.

(7) The community is not bound to perform haza'ah, even if it could, but sacrifices in uncleanness.

(8) If he held that you may not slaughter etc., then haza'ah would certainly be permitted on the Sabbath and obligatory too, notwithstanding that it is not obligatory upon a community. Since he holds the reverse, however, the actual sacrificing is possible without haza'ah at all.

(9) He cannot eat of the Passover sacrifice, as indeed of all sacrifices, without previous haza'ah.

(10) For the fulfilment of the precept of the paschal sacrifice. Tosaf.: in such a case where he could make himself fit for eating but does not.

(11) Whereas it is stated supra 61a that such a Passover sacrifice is unfit.

(12) When the Sabbath is the eighth day from birth.

(13) In the passage enjoining circumcision upon Abraham and his descendants (Gen. XVII) ‘covenant’ is mentioned thirteen times, which shows its great importance.

(14) If circumcision is postponed.

(15) For not offering it.

(16) Var. lec. ‘ONE’.

(17) Festival sacrifice. Such was obligatory on the first day of all Festivals; hence in the case of Passover, on the fifteenth of Nisan. The obligation is deduced in Hag. 9a from, and ye shall keep it a feast (hag) unto the Lord (Lev. XXIII, 41), hag being interpreted as referring to a Festival sacrifice. In this Mishnah, however, the reference is to a hagigah brought on the fourteenth, and the Mishnah lays down the conditions when it is brought,it being in addition to the hagigah of the fifteenth. Besides the Festival hagigah there was another obligatory sacrifice, called the peace-offering of rejoicing, deduced from, and thou shalt rejoice in thy feast (Deut. XVI, 14). This is discussed anon.

(18) I.e., so many are registered for one paschal lamb that each person can receive but a small portion.

(19) The night between the two days.

(20) The sudden introduction of the hagigah is abrupt and irrelevant, unless it has some point in common with the preceding Mishnah.

(21) Cf. n. 3.

(22) While the next clause proceeds to state when the hagigah does not override the Sabbath, and that is the connection with the preceding Mishnah.

Talmud - Mas. Pesachim 70a

is not obligatory. For if you should think that it is obligatory, let it come [be sacrificed] on the Sabbath, and let it come [when the Passover sacrifice is divided] in large [portions], and in uncleanness. Nevertheless, what is the reason that it comes [when the paschal lamb is divided] in small portions? — As it was taught: The hagigah which comes with the Passover is eaten first, so that the Passover be eaten after the appetite is satisfied.

AND IT IS EATEN FOR TWO DAYS etc. Our Mishnah is not in agreement with the son of Tema. For it was taught: The son of Tema said: The hagigah which comes with the Passover is as the Passover, and it may only be eaten a day and a night, whereas the hagigah of the fifteenth[1] is eaten two days and one night; again, the hagigah of the fourteenth, a man discharges therewith [his duty] on account of rejoicing, but he does not discharge therewith [his duty] on account of hagigah.[2] What is the son of Tema's reason?[3] — As R. Hiyya taught his son, Neither shall the sacrifice of the feast [zebah hag] of the passover be left unto the morning:[4] ‘zebah hag,’ this is the hagigah; ‘the passover’ is what it implies, and the Divine Law saith, ‘it shall not be kept overnight’.[5]

The Scholars asked: According to the son of Tema, is it [the hagigah] eaten roast or is it not eaten roast?[6] [Do we say,] When the Divine Law compared it to the Passover it was in respect of keeping it overnight, but not in respect of roast; or perhaps there is no difference? — Come and hear: On this night all [must be eaten] roast;[7] and R. Hisda said: These are the words of the son of Tema. This proves it.[8]

The Scholars asked: According to the son of Tema, does it [the hagigah] come from the herd or does it not come from the herd; does it come from females or does it not come from females; does it come a two-year old, or does it not come a two-year old?[9] [Do we say,] when the Divine Law compared it to the Passover it was in the matter of eating,[10] but not in respect of all [other] things; or perhaps there is no difference? — Come and hear: The hagigah which comes with the Passover is as the Passover: it comes from the flock, but it does not come from the herd; it comes from the males but it does not come from the females; it comes a year old, but it does not come a two-year old, and it may be eaten only a day and a night, and it may be eaten only roast, and it may be eaten only by those who have registered for it. [Now,] whom do you know[11] to hold this view?[12] The son of Tema. This proves that we require everything.[13] This proves it.

The Scholars asked: According to the son of Tema, is it subject to [the prohibition of] breaking a bone, or is it not subject to [the prohibition of] breaking a bone?[14] [Do we say,] though the Divine Law assimilated it to the Passover, yet the Writ saith, '[neither shall ye break a bone] thereof,' [implying] 'thereof,' but not of the hagigah;'[15] or perhaps, this 'thereof' comes [to teach], of a fit [sacrifice], but not of an unfit one?[16] — Come and hear: If a [slaughtering] knife is found on the fourteenth, one may slaughter with it immediately;[17] [if it is found] on the thirteenth he must repeat the tebillah.[18] [If he finds] a chopper.[19] whether on the one or on the other,[20] he must repeat the tebillah.[21] Who [is the authority for this]?[22] Shall we say the Rabbis?[23] wherein does a [slaughtering] knife differ, that we assume that it had been immersed;[24] because it is fit for [slaughtering] the Passover? Then a chopper too, surely it is fit for [breaking the bones of] the hagigah[20] ?[25] Hence it must be [the view] of the son of Tema, which proves that it is subject to [the prohibition of] breaking a bone! — No: in truth [it is the view of] the Rabbis, and [this was taught] e.g., when it [the Passover] comes on the Sabbath.[26] But since the second clause teaches, If the fourteenth occurred on the Sabbath, he may slaughter with it immediately;[27] and [likewise if he finds it] on the fifteenth, he may slaughter with it immediately;[28] if a chopper is found tied to a knife, it is as the knife,[29] it follows that the first clause[30] does not treat of the Sabbath? — Rather it means that it [the Passover]

readiness for slaughtering the Passover on the fourteenth. We disregard the possibility that the owner may have lost it some time ago, for Jerusalem was thronged at Passover and it could not have lain long without being discovered. came

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(1) V. p. 356, n. 4.

(2) V. note on Mishnah on these two sacrifices. Now the hagigah of the fourteenth is a voluntary sacrifice (supra), and it is a general rule that an animal already dedicated for such cannot be used for all obligatory sacrifice, except in the case of the peace-offering of rejoicing. v. infra, 71a. Hence if the hagigah dedicated for the fourteenth is not killed on that day, it can be utilized the next day as the peace-offering of rejoicing but not as the obligatory hagigah of the fifteenth

(3) That the hagigah may be eaten only a day and a night.

(4) Ex. XXXIV, 25.

(5) Referring to the hagigah too.

(6) I.e., must it be eaten roast or not? Similarly the problems which follow.

(7) V. infra 116a.

(8) That the hagigah too must be roast.

(9) V. Ex. XII, 5: your lamb (sc. the Passover) shall be . . . a male of the first year; ye shall take it from the sheep, or from the goats. Does the same apply to the hagigah or not?

(10) I.e., in the conditions under which it must be eaten.
(11) Lit., ‘hear’.
(12) That it may be eaten only a day and a night.
(13) I.e., it must be like the passover in all respects.
(14) v. Ex. XII, 46: neither shall ye break a bone thereof (sc. the Passover).
(15) I.e., there is no interdict in its case.
(16) If the Passover is unfit its bones may be broken; v. infra 83a.
(17) Without immersing it. For if it were unclean its owner would have immersed it on the thirteenth, so that it should be clean at sunset (v. Num. XIX, 14-19; shall be clean at even applies to utensils too), in
(18) I.e., he must immerse it, though even if it was unclean its owner may already have done so.
(19) A large knife used for cutting up meat and breaking the bones, but not as a rule for slaughtering.
(20) Viz., the thirteenth or the fourteenth.
(21) For since the bones of the Passover sacrifice must not be broken, even if it was unclean its owner may not have troubled to immerse it on the thirteenth but waited for the fourteenth, to have it in readiness for the use of breaking bones on the following day, to break the bones of the hagigah of the fifteenth or of the peace-offering of rejoicing.
(22) Which implies that there is no breaking of bones on Passover eve.
(23) Who do not assimilate the hagigah of the fourteenth to the paschal sacrifice, and consequently hold that the bones of the former may be broken.
(24) On the day before by the owner so that he who finds it need not immerse it.
(25) Why then should the finder repeat the immersion?
(26) So that a hagigah cannot be brought at all. As there would be no need for the chopper, the owner, it is to be assumed, did not immerse it.
(27) Sc. even with the chopper, if he has no knife. For if it were unclean its owner would have performed tebillah on Friday, to use it on Sunday (v. n. 4). Since tebillah is forbidden on the Sabbath.
(28) For the same reason that tebillah must already have been performed.
(29) And even if found on the fourteenth on a weekday he may slaughter with it immediately, for since they are tied together they must both have received tebillah at the same time.
(30) Which requires a second immersion for either.

Talmud - Mas. Pesachim 70b

in large [portions].[1] How can we know?[2] — Rather it means that it came in uncleanness.[3] Yet after all, how could they know?[4] — The nasi had died.[5] When did the nasi die? Shall we say that he died on the thirteenth,[6] then why was it necessary for the owner to perform tebillah for the knife?[7] Again, if he died on the fourteenth, wherein does the knife differ, that [we say] he [its owner] gave it tebillah, and wherein does the chopper differ, that [we assume] he did not give it tebillah?[8] — This arises only when the nasi was in a dying condition on the thirteenth. As for the knife, [concerning] which [there is] one doubt,[9] he would give it tebillah [on the thirteenth]; the chopper, [concerning] which [there are] two doubts,[10] he would not give it tebillah.

It was taught: Judah the son of Durtai separated himself [from the Sages], he and his son Durtai, and went and dwelt in the South.[11] ‘[For,]’ said he, ‘if Elijah should come and say to Israel, "why did you not sacrifice[12] the hagigah on the Sabbath?" what can they answer him? I am astonished at the two greatest men of our generation. Shemaiah and Abtalyon, who are great Sages and great interpreters [of the Torah], yet they have not told Israel, The hagigah overrides the Sabbath.[13] Rab said, What is the reason of the son of Durtai? Because it is written, And thou shalt sacrifice the passover-offering unto the Lord thy God, of the flock and the herd:[14] yet surely the Passover offering is only from lambs or goats? But ‘flock’ refers to the Passover offering, [while] ‘herd’ refers to the hagigah, and the Divine Law saith, ‘And thou shalt sacrifice the passover-offering’.[15] Said R. Ashi: And are we to arise and explain the reason of schismatics?[16] But the verse comes for [the exegesis] of R. Nahman. For R. Nahman said in Rabbah b. Abbuha's name: How do we know that the left-over of the paschal offering is brought as a peace-offering?[17] Because it is said, ‘and thou shalt sacrifice the passover-offering unto the Lord thy God, of the flock and of the herd'. Now, does then the Passover offering come from the herd: surely the Passover offering comes only from lambs or from goats? But [it means] the left-over of the paschal offering is to be [utilized] for something which comes from the flock and from the herd.[18] Now according to the Rabbis, what is the reason that it [the hagigah] does not override the Sabbath, seeing that it is certainly a public sacrifice? — Said R. Illa'a on the authority of R. Judah b. Safra: Scripture saith, And ye shall keep it a feast [hag] unto the Lord seven days in the year.[19] 'Seven!' but there were eight?[20] Hence from here [we learn that] the hagigah does not override the Sabbath.[21] When Rabin came,[22] he said: I stated before my teachers, Sometimes you can only find six, e.g., if the first day of the Feast [of Tabernacles] fell on the Sabbath?[23] — Said Abaye: That Abin the childless should say such a thing! Eight is altogether impossible. [while] seven are found in most years.[24]

'Ulla said in R. Eleazar's name: Peace-offerings which a man slaughtered on the eve of the Festival, he does not discharge therewith [his duty] either on account of rejoicing or on account of hagigah.[25] 'On account of rejoicing.' because it is written, and thou shalt sacrifice [peace-offerings . . .] and thou shalt rejoice;[26] we require the slaughtering

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(1) In which case a hagigah does not accompany it.

(2) So MS.M. Cur. edd. 'they know' that a small number had registered for the Passover for which the unknown owner of this chopper was registered. Aliter: 'how could they (the owners) know on the thirteenth that only a small number would register for the Passover, so that it would not be necessary to have the chopper immersed in readiness?' V. Rashi.

(3) Hence a hagigah was possible.

(4) How could the owner know on the thirteenth that on the morrow the majority of the community would be unclean?

(5) And the whole community would have to take part in his funeral, which would defile them.

(6) When the vessels are generally taken for tebillah.

(7) Seeing that the Passover is brought in uncleanness. Hence the finder should not be permitted to assume that it is clean, as he might then slaughter the Festival peace-offerings with it, which is forbidden. [Even when the Passover comes in uncleanness, the Festival sacrifices on the following or subsequent days must be brought in cleanness:]

(8) He would not have known on the thirteenth, and therefore just as he assumed that a clean knife was necessary for slaughtering the Passover, so he would also assume that a clean chopper would be required for breaking the bones of the hagigah which would accompany it.

(9) Viz., whether the nasi would die on the fourteenth or not.

(10) (i) Whether the nasi would die; and (ii) whether a hagigah would be brought, for even if he did not die, only a few people might register for that particular paschal offering, in which case it would not be required.

(11) Far from Jerusalem, so that he could not be in Jerusalem on Passover and therefore avoid the obligation of bringing a hagigah. He held that it was obligatory even if only a small number registered for the paschal offering, and even on the Sabbath.

(12) Lit., 'celebrate'.

(13) [Judah b. Durtai is held to have belonged to the Sadducean party, and his son is identified with Dortos (v. Josephus, Antiquities XX, 6, 2) who had been captured by Quadratus in Lydda and executed for having incited the Jews in rebellion against the Romans, v. Derenbourg, Essai, p. 187 note.]

(14) Deut. XVI, 2.

(15) I.e., both are called by the same name, and therefore the same law applies to both.

(16) Though of course the Talmud abounds in controversies, even of one against many, and the views of the minorities too have to be explained, in actual practice the minority always fell in with the final decision of the majority. Hence R. Judah the son of Durtai was unjustified in separating himself, and we have no need to study his view; v. Halevi, Doroth I, 5, pp. 206f. — Or perhaps R. Ashi merely meant that since the interpretation of this verse is according to a minority view, it behoves us to know how the verse is interpreted on the view of the Sages. This appears to be the explanation given by R. Han., whose text differs slightly.

(17) E.g., if an animal dedicated for a Passover sacrifice was lost, whereupon its owners registered for another animal, and then it was found after the second was sacrificed. Or again, if a certain sum of money was dedicated to buy a paschal lamb, but it was not all expended; then too the surplus must be used for a peace-offering.

(18) Sc. a peace-offering.
(19) Lev. XXIII, 41. This treats of Tabernacles, which was observed for eight days, and the verse teaches that a hagigah was to be brought (v. supra p. 356, n. 4).
(20) For the hagigah, if not brought on the first day of the Festival, could be brought on any other day.
(21) And since one of the eight days must be the Sabbath, there are actually only seven days when it can be brought.
(22) From Palestine to Babylonia.
(23) Why is this too not intimated in Scripture?
(24) Therefore there is no need for Scripture to intimate that there may only be six,
(25) V. note on Mishnah.
(26) Deut. XXVII, 7.

Talmud - Mas. Pesachim 71a

at the time of rejoicing,[1] which is absent [here]. 'On account of hagigah': this is an obligatory sacrifice,[2] and every obligatory sacrifice comes from nought but hullin.[3]

Shall we say that [the following] supports him? [For it was taught]; And thou shalt be altogether [ak] joyful:[4] this is to include the night of the last day of the Festival for rejoicing.[5] You say, the night of the last day of the Festival; yet perhaps it is not so, but the night of the first day of the Festival?[6] Therefore 'ak' is stated, dividing it.[7] Now what is the reason?[8] Is it not because he has nought wherewith to rejoice![9] — No: [it is] as it states the reason: Why do you prefer[10] to include the night of the last day of the Festival and to exclude the night of the first day of the Festival? I include the night of the last day of the Festival, because there is rejoicing before it, while I exclude the night of the first day of the Festival, seeing that there is no rejoicing before it.[11]

R. Joseph raised an objection: The hagigah of the fourteenth, one discharges with it [his duty] on account of rejoicing. but one does not discharge with it [his duty] on account of hagigah.[12] [Yet] why so?[13] Surely we require slaughtering to be at the time of rejoicing, which is lacking [here]?[14] — Said R. Idi b. Abin: It is meant where he delayed and slaughtered it [on the fifteenth]. R. Ashi observed: This too is logical, for if you should not say thus, who taught this teaching? The son of Tema?[15] But [according to] the son of Tema, surely he has disqualified it through keeping it overnight![16]

Raba objected: [The reciting of] hallel[17] and rejoicing[18] are [observed] eight [days].[19] Now if you say [that] we require the slaughtering at the time of rejoicing, then there are many occasions when only seven are found, e.g.. if the first day of the Festival falls on the Sabbath?[20] Said R. Huna son of Rab Judah: He rejoices with the he-goats of the Festivals.[21] Said Raba: Of this there are two refutations: firstly, because the he-goats of the Festivals can be eaten raw [on the Sabbath], but cannot be eaten roast,[22] and there is no rejoicing in [eating] raw [meat]; moreover, the Priests eat it; and wherewith do the Israelites rejoice? Rather, said R. Papa: He rejoices with clean garments and old wine.

When Rabin came, he said in R. Eleazar's name: Peace-offerings which one slaughtered on the eve of the Festival, he discharges therewith [his duty] on account of rejoicing, but he cannot discharge therewith [his duty] on account of hagigah. 'He discharges [his duty] on account of rejoicing,' [for] we do not require the slaughtering at the time of rejoicing. 'But not on account of hagigah'; this is an obligatory [sacrifice], and every obligatory [sacrifice] comes from nought but hullin.

An objection is raised: 'And thou shalt be altogether' [ak] joyful:' this is to include the night of the last day of the Festival for rejoicing. You say, to include the light of the last day of the Festival; yet perhaps it is not so, but it is to include the night of the first day of the Festival? Therefore 'ak' is stated, dividing it. Now what is the reason? Is it not because he has no light wherewith to rejoice! — No: [it is] as it was taught. Why do you prefer to include the night of the last day of the Festival and to exclude the night of the first day of the Festival? I include the night of the last day of the Festival, because there is rejoicing before it; while I exclude the night of the first day of the Festival, because there is no rejoicing before it.

R. Kahana said: How do we know that the emurin[23] of the hagigah of the fifteenth are disqualified through being kept overnight?[24] Because it is said, neither shall the fat of My feast [haggi] remain all night until morning;[25] and in proximity thereto 'the first' [is stated],[26] to intimate that this 'morning' means the first morning.[27] To this R. Joseph demurred: [Thus] the reason is that 'first is written, but if 'first' were not written I would say, what does 'morning' mean? the second morning; [but] is there a case where the flesh is disqualified from the evening, whereas the emurim [are fit] until morning?[28] Said Abaye to him, Yet why not? Surely there is the paschal offering according to R. Eleazar b. 'Azariah, where the flesh is disqualified from midnight,[29] whereas the emurim [are fit] until morning? — Said Raba, This is R. Joseph's difficulty: is there a case where the Tanna does not require 'first' in respect of the flesh, whereas R. Kahana requires 'first' in respect of the emurim?[30] What is this [allusion]? — For it was taught: Neither shall any of the flesh which thou sacrificest the first day at even, remain all night until the morning:[31]

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(1) Viz,, on the Festival itself.

(2) Lit., 'a matter of an obligation'.

(3) V, p. 357. n. 3.

(4) Deut. XVI, 15. This is superfluous, since v. 14 states, And thou shalt rejoice in thy feast. Hence it is intended as an extension.

(5) I.e., the night of the eighth day. Rashi: It cannot mean the eighth day itself, since 'seven' is twice specified (in v. 13 and v. 15). Tosaf.: 'night' is not meant particularly. as the same applies to the day. By 'rejoicing' is meant the eating of the peace-offering of rejoicing.

(6) Perhaps one must eat of the peace-offering then? And since sacrifices cannot be slaughtered at night, it would he necessary to slaughter it on the eve of the Festival.

(7) Ak is always interpreted as a limitation; hence it excludes the first night.

(8) That you include the last night and exclude the first; why not reverse it?

(9) Since the sacrifice is not to be offered until the following morning. Thus this supports 'Ulla's statement that the peace-offering of rejoicing cannot be offered on the eve of the Festival.

(10) Lit., 'what (reason) do you see?'

(11) It is more logical to assume that a continuation of rejoicing already begun is included than that the rejoicing must commence before the time actually prescribed.

(12) V. supra 70a for notes.

(13) Why should he discharge with it his duty on account of rejoicing?

(14) He understood it to mean that it was actually slaughtered on the fourteenth.

(15) As stated supra 70a.

(16) Since he holds that the hagigah of the fourteenth may be eaten only a day and a night. I.e., not after the night of the fifteenth, like the Passover. Hence he must have slaughtered it on the fifteenth.

(17) 'Praise' — i.e., Ps. CXIII-CXVIII, which are recited on every Festival.

(18) With the peace-offerings of rejoicing.

(19) The reference is to the Feast of Tabernacles.

(20) When the peace-offering may not be slaughtered.

(21) V. Num. XXVIII, 22, 30; XXIX, 16 et seq. These were public sacrifices, and therefore slaughtered even on the Sabbath.

(22) Though they are slaughtered on the Sabbath, their roasting or cooking does not override the Sabbath.

(23) V. Glos.

(24) Though its flesh may be eaten the whole of the following day too.

(25) Ex. XXIII, 18; 'haggi' refers to the hagigah.

(26) ראשית The first (E.V. 'choicest') of the fruits etc. Here, however, it is read with 'morning', as explained in the text.

(27) I.e., the fat is not to remain until the first morning after the offering is sacrificed.

(28) Surely not, for the flesh may be eaten only on the day it is slaughtered and on the following, but not the night after it!

(29) V. infra 120b.

(30) The sanctity of emurim, which are burnt on the altar, is naturally greater than that of the flesh, which is eaten, and accordingly the former becomes unfit more easily than the latter. Yet we see anon that the Tanna assumes that morning' written in connection with the flesh must mean the first morning. without having recourse to ראשית 'first'; why then does R. Kahana require the proximity of ראשית 'first' in order to establish that 'morning' written in connection with the emurim means the first morning?

(31) Deut. XVI, 4.

Talmud - Mas. Pesachim 71b

this teaches concerning the hagigah of the fourteenth, that it may be eaten two days and one night.[1] Yet perhaps it is not so, but [only] one day and one night?[2] When it [Scripture] says, 'the first day,' the second morning[3] is meant.[4] Yet perhaps it is not so, but the first morning [is meant], and to what do I relate[5] [the case of] the hagigah which may be eaten two days and one night?[6] [To all other hagigoth] excepting this? When [Scripture] says thereof, But if [the sacrifice of his offering be] a vow, or a freewill-offering,[7] it teaches concerning the hagigah of the fourteenth that it may be eaten for two days and one night.[8]

The Master said:[9] 'Yet perhaps it is not so, but the first morning [is meant]'. But you have [already] said, 'When it [Scripture] says. "the first day" the second morning is meant'? — This is what he means: Yet perhaps it is not so, but the Writ speaks of two hagigoth, one the hagigah of the fourteenth, and one the hagigah of the fifteenth, and the former [must not remain] until its morning, while the latter [must not remain] until its morning?[10] Then he argues, as to our general ruling[11] [that there is] a hagigah which is eaten two days and one night.[12] if so, in which [case does] 'if, a vow or a freewill-offering' [hold good]? if the hagigah of the fourteenth, surely a day and a night is written in connection therewith; if the hagigah of the fifteenth, surely a day and a night is written in connection therewith?[13] But this is in respect of the hagigah of the fifteenth, while the whole of the other verse is in respect of the hagigah of the fourteenth [only,] [and thus] it teaches concerning the hagigah of the fourteenth that it may be eaten two days and one night. Thus the reason is that 'on the first day until the morning' is written, so that what does 'morning' mean? the second morning;[14] hence wherever 'morning' is written without qualification, it means the first morning, even if 'first'[15] is not written in connection with it.[16] MISHNAH. IF THE PASSOVER WAS SLAUGHTERED FOR A DIFFERENT PURPOSE[17] ON THE SABBATH, HE [THE SLAUGHTERER] IS LIABLE TO A SIN-OFFERING ON ITS ACCOUNT.[18] WHILE ALL OTHER SACRIFICES WHICH HE SLAUGHTERED AS A PASSOVER,[19] IF THEY ARE NOT ELIGIBLE,[20] HE IS CULPABLE; WHILE IF THEY ARE ELIGIBLE, — R. ELIEZER RULES HIM LIABLE TO A SIN-OFFERING, WHILE R. JOSHUA RULES HIM NOT CULPABLE,[21] SAID R. ELIEZER TO HIM: IF THE PASSOVER, WHICH IS PERMITTED FOR ITS OWN PURPOSE,YET WHEN HE CHANGES ITS PURPOSE HE IS CULPABLE; THEN [OTHER] SACRIFICES, WHICH ARE FORBIDDEN [EVEN] FOR THEIR OWN PURPOSE,[22] IF HE CHANGES THEIR PURPOSE IS IT NOT LOGICAL THAT HE IS CULPABLE! R. JOSHUA ANSWERED HIM, NOT SO. IF YOU SAY [THUS] OF THE PASSOVER, [HE IS CULPABLE] BECAUSE HE CHANGED IT FOR SOMETHING THAT IS FORBIDDEN; WILL YOU SAY [THE SAME] OF [OTHER] SACRIFICES, WHERE HE CHANGED THEM FOR SOMETHING THAT IS PERMITTED?[23] SAID R. ELIEZER TO HIM, LET THE PUBLIC SACRIFICES[24] PROVE IT, WHICH ARE PERMITTED FOR THEIR OWN SAKE,[25] YET HE WHO SLAUGHTERS [OTHER SACRIFICES] IN THEIR NAME IS CULPABLE. R. JOSHUA ANSWERED HIM: NOT SO. IF YOU SAY [THUS] OF PUBLIC SACRIFICES, [THAT IS] BECAUSE THEY HAVE A LIMIT;[26] Will YOU SAY [THE SAME] OF THE PASSOVER, WHICH HAS NO LIMIT?[27] R. MEIR SAID:

HE TOO WHO SLAUGHTERS [OTHER SACRIFICES] IN THE NAME OF PUBLIC SACRIFICE IS NOT LIABLE.

IF HE SLAUGHTERED IT[28] FOR THOSE WHO ARE NOT ITS EATERS,[29] OR FOR THOSE WHO WERE NOT REGISTERED[30] , FOR UNCIRCUMCISED OR FOR UNCLEAN [PERSONS], HE IS CULPABLE; [IF HE SLAUGHTERED IT] FOR ITS EATERS AND FOR THOSE WHO ARE NOT ITS EATERS, FOR THOSE WHO ARE REGISTERED FOR IT AND FOR THOSE WHO ARE NOT REGISTERED FOR IT, FOR CIRCUMCISED AND FOR UNCIRCUMCISED, FOR UNCLEAN AND FOR CLEAN [PERSONS], HE IS NOT LIABLE.[31] IF HE SLAUGHTERED IT, AND IT WAS FOUND TO POSSESS A BLEMISH, HE IS LIABLE. IF HE SLAUGHTERED IT AND IT WAS FOUND TEREFAH[32] INTERNALLY,[33] HE IS NOT LIABLE.[34] IF HE SLAUGHTERED IT, AND [THEN] IT BECAME KNOWN THAT ITS OWNERS HAD WITHDRAWN THEIR HANDS FROM IT,[35] OR THAT THEY HAD DIED, OR THAT THEY HAD BECOME UNCLEAN, HE IS NOT CULPABLE, BECAUSE HE SLAUGHTERED WITH PERMISSION.[36]

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(1) Understanding ‘morning’ to refer to the sixteenth of Nisan.

(2) Relating ‘morning’ to the fifteenth.

(3) After it is slaughtered, i.e., the morning of the sixteenth.

(4) Lit., ‘said’. For ‘the first day’ implies that it may be eaten the whole of the first day after it is slaughtered.

(5) Lit., ‘how do I fulfil?’

(6) That there are such hagigoth (pl. hagigah) is deduced anon.

(7) Lev. VII, 16.

(8) The verse continues: it shall be eaten on the day he offereth his sacrifice and on the morrow. Thus two days are allotted, which ‘if a vow’ is regarded as superfluous, and therefore is interpreted as an extension to include the present case.

(9) The Talmud now proceeds to elucidate this Baraitha leading up to the explanation of R. Joseph's argument.

(10) I.e.,the former must not remain until the morning of the fifteenth, while the latter must not remain until the morning of the sixteenth. Then the verse would be translated thus: ‘neither shall any of the flesh . . . which thou sacrificest . . . at even’ — sc. of the hagigah of the fourteenth — ‘remain all night’, which naturally means until the morning of the fifteenth; while that ‘which thou sacrificest the first day’, i.e., on the fifteenth, must not remain . . . until the morning’ viz., of the sixteenth.

(11) Lit., ‘what is established to us’.

(12) Rashi: but as to our principle that there is a hagigah apart from this which may be eaten etc. Thus a different meaning is now given to the phrase ‘apart from this’.

(13) On the present hypothesis.

(14) Because of ‘the first day’.

(15) אשית.

(16) This is the point of R. Joseph's objection as explained by Raba,

(17) Lit., ‘not for its name’ — e.g., as a peace-offering.

(18) For having desecrated the Sabbath unintentionally, as he thought that just as it is permitted for its own purposes3 it is permitted for another purpose.

(19) I.e., the animals had been consecrated for other sacrifices.

(20) For a Passover, e.g., if they are females or two-years old (v. Ex. XII, 5).

(21) R. Eleazar holds that even when a man performs a forbidden action while thinking that he is doing a religious deed, he is culpable. R. Joshua, however maintains that if the action actually performed is a religious deed, even a slight one, he is not liable, as he is regarded not as having unwittingly desecrated the Sabbath, but as having erred in a religious matter. This applies to the present case, for he did offer a sacrifice, and R. Joshua rules supra 62b that all sacrifices, including the Passover, even if slaughtered for a different purpose, are nevertheless fit. But in the first case he definitely did not perform a religious action, since all know that a female etc. is not eligible for a Passover, and therefore both agree that he is culpable.

(22) On the Sabbath.

(23) I.e., he slaughtered them as a Passover, which is actually permitted.
(24) Rashi: the sacrifices which are prescribed (amure fr. amur).
(25) The daily burnt-offering and the additional offerings of Sabbaths and Festivals override the Sabbath.
(26) Only a few animals are slaughtered as public sacrifices, and it is easy to avoid the mistake. Therefore when a man slaughters an animal consecrated for a different purpose as a public sacrifice, he cannot be regarded as having erred in a religious act but as one who unwittingly desecrated the Sabbath.
(27) An enormous number of animals were slaughtered (cf. supra 64b) — seemingly limitless. Hence his error is pardonable, and he is regarded as having erred in a religious duty.
(28) The Passover offering, on the Sabbath.
(29) Such who could not eat of it; e.g.. sick or old people.
(30) Lit., ‘numbered’,
(31) In the former case the offering is unfit; hence his act constitutes desecration of the Sabbath; but in the latter case the offering is valid, v. supra 61a.
(32) V. Glos.
(33) Lit., ‘in a secret part’.
(34) A sin-offering is incurred only when a person intends doing what he does, but is unaware that in the circumstances it is forbidden; he is then technically called shogeg, an unwitting offender, But if he did not intend doing it at all, he is called anus, the victim of an unforeseen accident, and is not liable. Now an external examination of the animal would have revealed its blemish; his neglect to do this renders him shogeg, as though he had known that it was blemished, but thought it permitted. But he could not have known here that it was terefah; therefore he is regarded as anus, and is not culpable.
(35) I.e. , they had re-registered for a different animal before this was slaughtered.
(36) He could not have known of this, and therefore he too is regarded as anus.

Talmud - Mas. Pesachim 72a

GEMARA. What are we discussing? Shall we say, where he erred?[1] then you may infer from this that abrogation in error constitutes abrogation?[2] Hence it means that he [intentionally] abrogates [its status].[3] Then consider the sequel: WHILE ALL OTHER SACRIFICES WHICH HE SLAUGHTERED AS A PASSOVER, IF THEY ARE NOT ELIGIBLE, HE IS CULPABLE; WHILE IF THEY ARE ELIGIBLE,- R. ELIEZER RULES HIM LIABLE To A SIN-OFFERING, WHILE R. JOSHUA RULES HIM NOT CULPABLE. But if he abrogates [their status], what does it matter whether they are eligible or they are not eligible?[4] Hence it obviously refers to a man who errs; [then] the first clause refers to a man who abrogates [its status], whereas the second clause refers to him who errs? — Said R. Abin: Yes the first clause refers to a man who abrogates, whereas the second clause refers to him who errs. R. Isaac b. Joseph found R. Abbahu standing in a large concourse of people. Said he to him, How is our Mishnah meant? — The first clause refers to a man who abrogates, whereas the second clause refers to him who errs, he answered him. He learnt it from him forty times, and it seemed to him as though it were lying in his wallet.[5]

We learned: SAID R. ELIEZER: IF THE PASSOVER, WHICH IS PERMITTED FOR ITS OWN PURPOSE, YET WHEN HE CHANGES ITS PURPOSE, HE IS CULPABLE; THEN [OTHER] SACRIFICES, WHICH ARE FORBIDDEN FOR THEIR OWN PURPOSE, IF HE CHANGES THEIR PURPOSE IS IT NOT LOGICAL THAT HE IS CULPABLE. But if this [interpretation] is so, surely they are dissimilar,[6] since the first clause refers to a man who abrogates, whereas the second clause refers to him who errs? — In R. Eliezer's view there is no difference. But according to R. Joshua, who holds that there is a difference, let him answer him thus? — He says thus to him: According to my view, they are dissimilar, [for] the first clause refers to a man who abrogates, whereas the second clause refers to him who errs. [But even] according to you, it is NOT SO. IF YOU SAY [THUS] OF THE PASSOVER, [HE IS CULPABLE] BECAUSE HE CHANGED IT FOR SOMETHING THAT IS FORBIDDEN; WILL YOU SAY [THE SAME] OF [OTHER] SACRIFICES, WHERE HE CHANGED THEM FOR SOMETHING THAT IS PERMITTED?

SAID R. ELIEZER TO HIM: LET THE PUBLIC SACRIFICES PROVE IT, WHICH ARE PERMITTED FOR THEIR OWN SAKE, YET HE WHO SLAUGHTERS [OTHER SACRIFICES] IN THEIR NAME IS CULPABLE. R. JOSHUA ANSWERED HIM: NOT SO: IF YOU SAY [THUS] OF PUBLIC SACRIFICES, [THAT IS] BECAUSE THEY HAVE A LIMIT; WILL YOU SAY [THE SAME] OF THE PASSOVER, WHICH HAS NO LIMIT? Are we to say that wherever there is a limit R. Joshua holds him culpable? Yet surely infants have a limit[7] yet we learned: He who had two infants for circumcision, one for circumcision after the Sabbath and the other for circumcision on the Sabbath,[8] and he erred[9] and circumcised the one belonging to after the Sabbath on the Sabbath, he is culpable.[10] [If he had] one for circumcision on the eve of the Sabbath and another for circumcision on the Sabbath, and he erred and circumcised the one belonging to the eve of the Sabbath on the Sabbath, — R. Eliezer holds him liable to a sin-offering.[11] but R. Joshua exempts him,[12] — Said R. Ammi: The circumstances here are e.g., that he first circumcised [the infant] of the eve of the Sabbath on the Sabbath, so that there is this [infant] of the Sabbath with whom he is pre-occupied;[13] here e.g.. it means that he first slaughtered the public sacrifices at the beginning.[14]

If so, [when] ‘R. MEIR SAID: HE TOO WHO SLAUGHTERS [OTHER SACRIFICES] IN THE NAME OF PUBLIC SACRIFICES IS NOT LIABLE’ — [he meant] even if he had first slaughtered the public sacrifices at the beginning? Surely it was taught. R. Hiyya of Ebel ‘Arab[15] said in R. Meir's name: R. Eliezer and R. Joshua did not differ concerning him who had two infants, one for circumcision on the eve of the Sabbath and one for circumcision on the Sabbath, and he erred and circumcised the one belonging to the eve of the Sabbath on the Sabbath [both agreeing] that he is culpable. About what do they disagree? About a man who had two infants, one for circumcision after the Sabbath and another for circumcision on the Sabbath, and he erred and circumcised the one belonging to after the Sabbath on the Sabbath, R. Eliezer ruling him liable to a sin-offering, while R. Joshua exempts [him].[16] Now is that logical?[17] If there [in the second clause], where he did not perform a religious duty.[18] R. Joshua exempts him; then where he did perform a religious duty, he rules him liable![19] Said the School of R. Jannai: The first clause means e.g., that he previously circumcised [the infant] belonging to the Sabbath on the eve of the Sabbath,

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(1) Thinking that it was a different sacrifice.

(2) Lit., ‘uprooting’. By slaughtering it for a different purpose he abrogates (lit., ‘uproots’) its true status; but this matter is disputed in Men. 49a.

(3) Thinking, however, that this is permitted.

(4) Since he deliberately abrogates its designation, he is certainly not erring in thinking that he is performing a religious act; why then does R. Joshua hold him not liable?

(5) I.e., he then knew it perfectly, and was certain that he would not forget it.

(6) Sc. the two cases.

(7) I.e., in the case adduced he knows definitely that he has only one infant for circumcision on the Sabbath, and therefore when he circumcises another his error is inexcusable, as explained in the note on the Mishnah.

(8) E.g.. twins, one being born on the Sabbath late in the day, and the second born after nightfall (or even during twilight).

(9) Lit., ‘forgot’.

(10) For unwittingly desecrating the Sabbath. For since circumcision is not obligatory before the eighth day, this is not circumcision but the mere infliction of a wound, which entails culpability.

(11) For though he has actually fulfilled a precept, nevertheless circumcision after its proper time does not override the Sabbath.

(12) He erred though fulfilling a precept, viz., because he was occupied with the circumcision of the second, which was actually obligatory for that day; and he also did fulfill a precept by circumcising the first, and R. Joshua holds that in such a case he is not culpable. Hence here too, if he slaughtered a private sacrifice for a public sacrifice, he was occupied with a precept, viz., slaughtering a sacrifice, and he did fulfil a precept, for the sacrifice he did actually offer is valid.

Hence he should not be liable.

(13) When he circumcised the infant whose circumcision was due on the previous day, he had not yet circumcised the other; hence his error arose because he was rightly pre-occupied with the obligation of circumcision on that day.

(14) So that his subsequent error was unjustified, since he had no pre-occupation with any obligation of offering sacrifices at all when he made that error, all permitted sacrifices on that day having been disposed of.

(15) [In the Gilead district, v. Horowitz, Palestine, p. 6.]

(16) It is now assumed that in the first clause R. Meir holds him culpable when he circumcised both, because he thought that it was already time for both, and he first circumcised the infant belonging to the Sabbath, which was due for that day, and then circumcised the other. Now though he did actually perform a religious duty, yet since there was no occasion to be further occupied with this one after having circumcised the one belonging to the Sabbath, he is not regarded as having erred in the fulfilment of a precept. Whereas in the second clause he is exempt because he was pre-occupied with the infant belonging to the Sabbath and circumcised the other by mistake; for it is assumed that he certainly did not circumcise both on that day, as he must have known that one was due for the next day. Thus we see that where he has no occasion at all to be occupied at present with a precept, R. Meir rules him liable.

(17) That the reason is as stated in the last note.

(18) The infant not yet being due for circumcision.

(19) Surely not!

Talmud - Mas. Pesachim 72b

so that the Sabbath does not stand to be overridden[1] whereas in the second clause the Sabbath stands to be overridden by him;[2] [thus] here, [too], surely the Sabbath stands to be overridden in respect of a public sacrifice.[3] R. Ashi said to R. Kahana: But here too [in the first clause] the Sabbath stands to be overidden in connection with infants in general? Nevertheless it was not given [to be overridden] in connection with this man, he answered him.

WHILE ALL OTHER SACRIFICES WHICH HE SLAUGHTERED AS A PASSOVER, IF THEY ARE NOT ELIGIBLE, HE IS CULPABLE; WHILE IF THEY ARE ELIGIBLE, — R. ELIEZER RULES HIM LIABLE TO A SIN-OFFERING, WHILE R. JOSHUA RULES HIM NOT CULPABLE. Which Tanna draws a distinction between eligible and not eligible? It is R. Simeon. For it was taught: The sacrifices which are eligible [for a Passover] and the sacrifices which are not eligible are as one; and similarly he who slaughters for the sake of public sacrifices is not liable; this is R. Meir's view. R. Simeon said: R. Eliezer and R. Joshua did not differ about those which are not eligible, [agreeing] that he is liable. About what do they differ? About those which are eligible. R. Eliezer ruling him liable to a sin-offering, while R. Joshua declares him not liable.

R. Bibi said in R. Eleazar's name: R. Meir declared him not liable even [if it was] a calf of a peace-offering sacrifice which he slaughtered in the name of a Passover-offering.[4] Said R. Zera to R. Bibi, But R. Johanan said: R. Meir admitted [that he is liable] in the case of blemished [animals]?[5] — He is not pre-occupied with blemished animals [at all],[6] whereas he is occupied with this [calf],[7] he answered him.

Raba asked R. Nahman: What is R. Meir's opinion[8] [where a man slaughters] hullin for the sake of a Passover?[9] Said he to him: R. Meir declared him not liable even [if he slaughtered] hullin for the sake of a Passover. But R. Johanan said: R. Meir admitted [that he is liable] in the case of blemished [animals]? Blemished [animals] cannot be confused [for these] these can be confused,[10] Is then R. Meir's reason because they can be confused or they cannot be confused; surely R. Bibi said in R. Eleazar's name, R. Meir declared him exempt even [if it was] a calf of a peace-offering sacrifice which he slaughtered in the name of a Passover-offering,[11] which proves that R. Meir's reason is because he is pre-occupied with the [sacrificing of an animal].[12] — Said he to him, If he is pre-occupied [he is not liable] even if it cannot be confused; if it can be confused [he is not liable] even if he is not pre-occupied [with sacrificing], which excludes blemished [animals], which can neither be confused nor is he indeed pre-occupied [with the sacrificing of them].

R. Zera and R. Samuel b. Isaac were sitting in the hall of R. Samuel b. Isaac[‘s house], and they sat and said: R. Simeon b. Lakish said: If a man mistook a spit of nothar[13] for a spit of [ordinary] roast meat[14] and he ate it, he is liable.[15] While R. Johanan said: If a man had intercourse with his wife, a niddah,[13] he is liable; if he had intercourse with his yebamah,[13] a niddah, he is not liable.[16] Some say, In the former case[17] he is all the more liable, seeing that he did not perform a religious duty [at all].[18] Others say, In the former case he would not be liable. What is the reason? It is only there[19] because he should have asked; but here, that he could not have asked,[20] [he is] not [liable].

Now [according to] R. Johanan, wherein does his yebamah differ? Because he performed a religious duty! [Then in the case of] his wife too he performed a religious duty.[21] — It refers to his wife when she is pregnant. But there is the pleasure of the periodical visit?[22] — It was not at the time of her periodical visit. But Raba said: A man is bound to please his wife with a good deed?[23] — It was near her [menstruation] date,[24] If so, the same [applies to] his yebamah?[25] — he is bashful towards his yebamah,[26] [but] he is not bashful towards his wife.

Now R. Johanan, according to whom [does he give his ruling]? Shall we say, according to R. Jose, for we learned, R. Jose said: If the first festival-day of the Feast[27] fell on the Sabbath, and one forgot [himself] and carried out the palm-branch[28] into the street,[29] he is not liable [to a sin-offering], because he carried it out with permission.[30] But perhaps it is different there, because his time is urgent?[31] Again, if [it is] in accordance with R. Joshua's [ruling] on infants,[32] there too his time is urgent? — Rather, it is in accordance with R. Joshua's [ruling] on terumah. For we learned: If he [a priest] was eating terumah and it became known that he was the son of a divorced woman or of a haluzah,[33] R. Eliezer holds him liable for the principal plus a fifth,[34] while R. Joshua exempts [him].[35] Perhaps [however] this is as R. Bibi b. Abaye. for R. Bibi b. Abaye said: This refers to terumah on Passover eve, since its time is urgent?[36] Alternatively, terumah is different, as it is designated ‘abodah,[37] and the Divine Law declared ‘abodah valid,[38] For we learned: If he was standing and offering [sacrifices] and it became known that he was the son of a divorced woman or of a haluzah, all the sacrifices which he offered on the altar are invalid; but R. Joshua declares them valid. Now we said, what is R. Joshua's reason? Because it is written, Bless, Lord, his substance [helo] and accept the work of his hands.[39] Now where is terumah designated ‘abodah? For it was taught: It once happened that R. Tarfon had not attended the Beth Hamidrash the previous evening. The [following] morning R. Gamaliel met him and said to him ‘Why did you not attend the Beth Hamidrash last night?’ ‘I performed an ‘abodah,’ replied he. ‘All your words are nought but mysteries.’[40] he retorted, ‘for whence have we ‘abodah nowadays?’[41] Said he to him, ‘Behold, it is said,

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(1) And he had not yet discovered his mistake when he came to perform circumcision on the Sabbath. Thus, though he thought that he was occupied with a religious duty, and did in fact perform one, he is nevertheless liable, because the Sabbath did not stand to be violated by him, since there was no infant left for whom the Sabbath must be violated.

(2) Hence he erred in the matter of a religious duty, and R. Meir holds that such is not liable even if he did not eventually perform a religious duty at all. Thus here too, if he slaughters a private sacrifice as a public sacrifice, the Sabbath did stand to be overridden in respect of a public sacrifice, and even if it had actually been slaughtered already the error is excusable, and he is not culpable.

(3) As explained in last note.

(4) Though I might think that it is impossible to confuse these two.

(5) And he assumes that the two cases are alike, since in both an error should be impossible.

(6) Since he never dedicated them as sacrifices.

(7) Having set them aside for an offering, his mind was pre-occupied with them and he might have erred in offering them for another purpose.

(8) Lit., ‘what (says) he’?

(9) On the Sabbath. No animal may be slaughtered as a sacrifice unless it is first consecrated.

(10) A man cannot err in respect of blemished animals, whereas he can forget that an animal has not been consecrated.

(11) Though these too cannot be confused.

(12) But he is not occupied in sacrificing hullin.

(13) V. Glos.

(14) Lit., ‘a spit of nothar was exchanged to him for a spit roast’.

(15) To a sin-offering, which the unwitting consumption of nothar involves. The roast meat was that of a sacrifice, while the eating of sacrifices is a religious duty, as it is written, and they shall eat those wherewith atonement was made (Ex. XXIX, 33). Thus he rules that he is liable even where he erred in thinking that he was fulfilling a religious duty.

(16) As explained below, the first case means immediately prior to her menstruation period, so that he did not fulfil a religious duty. But in the latter case he fulfils a religious duty (v. Deut. XXV, 5).

(17) Viz., that dealt with by R. Simeon b. Lakish.

(18) Whereas he did perform a religious duty by rendering to his wife her conjugal rights.

(19) Viz., where he cohabited with his wife, that he is liable.

(20) There was none to ask about the spit.

(21) Viz., that of procreation, which is enjoined in Gen. I, 28: be fruitful, and multiply.

(22) V. Keth. 61b,

(23) Sc. intercourse, even at other times too.

(24) When one must hold aloof from his wife.

(25) Neither in her case is there any religious obligation when her menstruation date is near?

(26) Therefore he could not ask her.

(27) ‘Feast’ (hag) without a further determinant always means the Feast of Tabernacles.

(28) V. Lev, XXIII, 40.

(29) Carrying from private into public ground constitutes a forbidden labour on the Sabbath; v. Shab.7 2a, 73a.

(30) I.e., though his action is forbidden, nevertheless it was done as a religious duty. Thus this is similar to the case dealt with by R. Johanan.

(31) He must do it within a fixed period; hence his anxiety not to miss that period excuses his forgetfulness.

(32) V. supra 72a.

(33) V. Glos. — whom a priest may not marry (Lev. XXI,7- a haluzah is forbidden by Rabbinical law only); the issue of such a union is hallal (profaned) who ranks as a zar (lay Israelite) and must not eat terumah under the same penalties as a zar.

(34) Which a zar who eats terumah unwittingly must pay. v. Lev, XXII, 14.

(35) Because he erred in thinking that he was performing a religious duty; v. p. 374, n. 3; and the same applies to terumah.

(36) I.e., it was terumah of leaven and so he was in a hurry to consume it (R. Han.).

(37) ‘Abodah, lit., ‘service’, means the sacrificial service; it is now stated that the eating of terumah is likewise ‘abodah.

(38) When performed by a hallal, though he is not eligible to do it in the first place. Hence though he may not eat terumah, he is nevertheless not liable if he does eat it.

(39) Deut, XXXIII, 11. The verse refers to priests, and helo (E.V.. substance) is derived here from hullin (non-sacred, profane); thus it is translated, Bless . . . (even) him who is profaned (hallal) and accept etc., i.e., let his service be valid.

(40) Lit., ‘words of astonishment’.

(41) After the destruction of the Temple.

Talmud - Mas. Pesachim 73a

I give you the priesthood as a service of [‘abodath] gift; and the common man that draweth nigh shall be put to death:[1] [thus] they made the eating of terumah in the borders[2] as [equivalent to] the ‘abodah in the Temple.

IF HE SLAUGHTERED IT FOR THOSE WHO ARE NOT ITS EATERS [etc,]. That is obvious: since it is [taught] there[3] [that it is] unfit, he is liable here?[4] — Because the second clause teaches, HE IS NOT LIABLE, the first clause teaches, HE IS LIABLE. But that too is obvious: Since [the sacrifice] is fit there, he is not liable here?- Rather, because he teaches, IF HE SLAUGHTERED IT FOR A DIFFERENT PURPOSE ON THE SABBATH, he also teaches [about] THOSE WHO ARE NOT ITS EATERS. And what is the purpose of that itself?[5] — [He states it] because he wishes to teach the controversy of R. Eliezer and R. Joshua.[6]

R. Huna b. Hinena said to his son, 'When you go before R. Zerika, ask him: On the view that he who causes damage through a wound is not liable,[7] [when we learned] IF HE SLAUGHTERED IT FOR THOSE WHO ARE NOT ITS EATERS, HE IS LIABLE, what [of positive value] has he effected? — He effected [this. viz.,] that if they [the emurim] ascended [the top of the altar], they do not descend.[8] IF HE SLAUGHTERED IT, AND IT WAS FOUND TO POSSESS A BLEMISH, HE IS LIABLE: what [of positive value] has he effected?[9] — He effected [something positive] in the case of cataracts in the eye,[10] this being in accordance with R. Akiba, who maintained: If they [the emurim] ascended, they do not descend,[11] IF HE SLAUGHTERED IT AND IT WAS FOUND TO BE TEREFAH INTERNALLY, HE IS NOT CULPABLE. Hence if it is in an exposed part, he is culpable; [yet] what has he effected?[12] — He effected its withdrawal from the scope of nebelah.[13] Rabina demurred: As to what was taught: He who slaughters a sin-offering on the Sabbath without [the Temple] to an idol, is liable on account thereof to three sin-offerings:[14] -what has he effected?[15] -Said R. 'Awira: Because he withdraws it from [the interdict of] a limb [cut] from a live animal.[16]

IF HE SLAUGHTERED IT AND IT BECAME KNOWN etc. R. Huna said in Rab's name: A guilt-offering which was transferred to pasture and [then] slaughtered without a specified purpose is fit for a burnt-offering.[17] This proves that he holds that it does not require [express] abrogation.[18] If so, [even] if it was not transferred too?[19] [When it is sacrificed thus immediately] after atonement it is preventively forbidden on account of [when it is sacrificed thus even] before atonement.[20] And whence do you rule [thus]? For we learned: A guilt-offering whose owner died or whose owner [otherwise] obtained atonement must graze until it becomes unfit;[21] then it is sold, and its money falls [is utilized] for a voluntary offering.[22] R. Eliezer said: It is left to die.[23] R. Joshua said: he can sell it and bring a burnt-offering for its money.[24] Thus, only for its money, but not that itself, because he preventively forbids [it when sacrificed] after atonement on account of [when it is sacrificed] before atonement. This proves it.

R. Hisda raised an objection against R. Huna: IF HE SLAUGHTERED IT AND IT BECAME KNOWN THAT THE OWNERS HAD WITHDRAWN THEIR HANDS etc.

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(1) Num. XVIII, 7. 'Service of gift' refers to the priestly dues, which includes terumah, and it is designated here 'abohah.

(2) This is a technical term denoting all places without the Temple.

(3) Supra 61a.

(4) For its unfitness renders his action a desecration of the Sabbath.

(5) For seemingly the same principles are involved here too,

(6) Lit., 'to make R. Eliezer and R. Joshua dispute'.

(7) In general, the desecration of the Sabbath involves culpability only when it has a positive, beneficial effect. For causing damage, however, a man is not liable (Shab. 105b); but in respect to damage by wounding there is a controversy ibid, 106a.

(8) If a sacrifice becomes unfit in the Temple Court and its emurim (v. Glos.) are placed on the altar for burning, they do not descend but must be burnt there.

(9) For if the emurim of a blemished animal sacrificed unwittingly are laid on the altar, they must be taken down.

(10) Which are a blemish in respect to a sacrifice.

(11) In this case, since it is a kind of blemish that does not apply to a bird-offering, v. Zeb. 85b.

(12) For here too if the emurim are taken up to the altar they must go down again.

(13) V. Glos. As nebelah it would defile, whereas now it does not defile.

(14) (i) For slaughtering on the Sabbath: (ii) for sacrificing to an idol: and (iii) for slaughtering a sacrifice without the

Temple.

(15) Seeing that the slaughtering does not withdraw it from the scope of defilement, since an idol sacrifice becomes a source of defilement!

(16) A limb cut from a live animal is forbidden even to a non-Jew. His present action renders that interdict impossible (Rashi). R. Han.: a man is culpable when he eats as much as an olive of the limb of a live animal even if it is made up of flesh, tendons and bones; now, however, it ranks as nebelah, and he is liable only when he eats as much as an olive of the flesh, by itself, excluding the tendons and bones.

(17) A sin-offering and a guilt-offering cannot be brought as votive sacrifices, but only when they are due for transgression. Now, if a man dedicates an animal for one of these, and then dies, or dedicates and sacrifices another animal in its place, then the first, if a sin-offering, must be allowed to perish; if a guilt-offering, it must be put out to pasture until it receives a blemish, when it is redeemed and reverts to hullin (v. Glos.), while the redemption money is allocated to a special fund for voluntary sacrifices, which take the form of burnt-offerings. Nov, if he slaughtered it (in the Temple Court) before it received a blemish, it is valid as a burnt-offering, since that would eventually have been brought in any case. The flesh is then burnt on the altar, while the hide belongs to the priests.

(18) Lit., ‘uprooting’. Since this is its ultimate destiny, he need not expressly abrogate its status of a guilt-offering.

(19) I.e., if it was slaughtered as a burnt-offering immediately its owner died etc., it should be fit.

(20) For the two cases may be confused. But once it is actually put out to pasture there is no fear of confusion. — From the text and Tosaf. a.l. it would appear that if he slaughters it as a burnt-offering before transferring it to pasture it is unfit, even if it was done. While even after it was transferred to pasture it is fit for a burnt-offering only if it was thus sacrificed, so that we are faced with a fait accompli. But at the outset it may not be sacrificed even after it is transferred to pasture.

(21) For a sacrifice by receiving a blemish.

(22) I.e., the money is placed in the fund for voluntary sacrifices.

(23) For he holds that a guilt-offering is the same as a sin-offering.

(24) I.e., the owner brings it as his own sacrifice, and the money does not go into the fund. Thus it is a private sacrifice, so that he himself can slaughter it, he lays his hands upon it (Lev. I, 4), and the accompanying drink-offerings are at his expense. Whereas when the money goes into the fund it is brought as a public sacrifice, and the foregoing are absent.

Talmud - Mas. Pesachim 73b

Now it ways taught thereon: During the week in such circumstances it must be burnt immediately. Now it is well if you say that it requires abrogation: this is a Passover, and since it has no owners, its disqualification is in itself, [and] for that reason it must be burnt immediately. But if you say that it does not require abrogation [then] from the beginning[1] it is a peace-offering; On account of what [then] is its disqualification? [Presumably] on account of something extraneous, viz., that he slaughtered it after the evening tamid![2] [But] then it requires disfigurement? For it was taught, This is the general rule: Wherever its disqualification is in itself, it must be burnt immediately; [if it is] in the blood or in its owner, [the flesh] must become disfigured and [then] it goes out to the place of burning[3] — Rather, do not say,[4] ‘if he slaughtered it without specifying its purpose, it is fit as a burnt-offering,’ but say, If he slaughtered it for the purpose of a burnt-offering, it is fit. This proves that it requires [express] abrogation.

Then according to R, Hiyya b. Gamada, who said: It was thrown out from the mouth of the company and they said: [The circumstances are] e.g.. that its owners were unclean through a dead body and relegated to the second Passover: [thus] only this requires abrogation, but in general abrogation is not required, what can be said?[5] — Rather, said R. Huna son of R. Joshua, what are we discussing here? E.g., if he separated it [for a Passover] before midday, and the owner died after midday, so that it was eligible and then rejected, and whatever was eligible and then rejected cannot be eligible again.[6] — Is then our reasoning [required] for any but Rab,[7] — surely Rab said: Live animals cannot be [permanently] rejected?[8] Rather, said R. Papa, the author of this[9] is R. Eliezer, who maintained: Similarly, if he slaughters other [sacrifices] for the sake of the Passover, they are unfit,][10] so that its disqualification is in itself.[11] But if it is [according to] R. Eliezer, he would rule him liable to a sin-offering, since R. Eliezer rejects [the view that] he who errs in the matter of a precept[12] is exempt![13] — R. Joseph[14] the son of R. Salla the Pious explained it before R. Papa: The author of this is R. Joseph b. Honai. For we learned, R. Joseph b. Honai said: Those [other sacrifices] which are slaughtered for the purpose of a Passover or for the purpose of a sin-offering are unfit.[15] This proves that its disqualification is in itself, and for that [reason] it must be burnt immediately; while in the matter of non-culpability[16] he agrees with R. Joshua.[17]

R. Ashi said, Rab ruled in accordance with R. Ishmael the son of R. Johanan b. Berokah. For it was taught, R. Ishmael the son of R. Johanan b. Berokah said: If there was sufficient time in the day to ascertain whether the owners had withdrawn their hands or died or become defiled, he is liable,[18] and it [the sacrifice] must become disfigured and [then] go out to the place of burning.

he slaughtered it without a specified purpose, express abrogation not being necessary. But the reason in the Baraitha is a different one, as stated. Thus: at midday the owner was still alive and therefore it was immediately eligible for a Passover offering; the owner's death disqualified it from that purpose, and he holds that it can never be eligible again in such circumstances. What is the reason? Is it not because it does not require abrogation?[19] — Whence [does this follow]: perhaps it is because he agrees with the tanna of the School of Rabbah b. Abbuha, who said: Even piggul[20] too requires disfigurement, because we learn the meaning of 'iniquity' from nothar.[21] For if you should not say thus, where the owners become defiled, what can be said, for surely that certainly requires abrogation, for R. Hiyya b. Gamada said, it was thrown out from the mouth of the company and they said: [The circumstances are] e.g.. that its owners were unclean through a dead body and relegated to the second Passover? Hence it is clear as we answered at first: this is [in accordance with] R. Joseph b. Honai. [

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(1) I.e., immediately the owners die or withdraw their hands.

(2) V. Glos.; that is when he would actually slaughter it, thinking that it was still a Passover, whereas as a peace-offering it must be slaughtered before; v. supra 59b.

(3) V. supra 34b for notes.

(4) In the statement of Rab reported by R. Huna.

(5) V. supra 64a for notes.

(6) The original version is to be retained, viz., that

(7) This explanation is given only in order to reconcile R. Huna's statement in Rab's name with the Baraitha.

(8) V. infra 98a.

(9) The Baraitha which was cited commenting on our Mishnah.

(10) V. supra 62b.

(11) I.e., it does not require abrogation, so that it is automatically a peace-offering; hence by slaughtering it expressly for a Passover he renders it intrinsically disqualified, and therefore on weekdays it must be burnt immediately.

(12) V. Mishnah 71 b and note a.l.

(13) Hence in the Mishnah he should be liable for desecrating the Sabbath.

(14) So MS.M. omitting 'But' of cur. edd.

(15) v. Zeb. 2a.

(16) When one errs in a matter of a precept.

(17) That he is not culpable.

(18) For he should have satisfied himself on these things before slaughtering. Therefore he is regarded not as having erred in the fulfilment of a precept but as an unwitting offender (shogeg); hence he is liable.

(19) As above. Thus this supports Rab, who does not accept the view of the Baraitha quoted at the beginning of the page.

(20) V. Glos.

(21) V. infra 82b; though piggul is certainly intrinsically disqualified.

Talmud - Mas. Pesachim 74a

CHAPTER VII

MISHNAH. HOW IS THE PASSOVER-OFFERING ROASTED? WE BRING A SPIT OR POMEGRANATE WOOD AND THRUST IT INTO ITS MOUTH [RIGHT DOWN] AS FAR AS ITS BUTTOCKS, AND PLACE ITS KNEES AND ITS ENTRAILS INSIDE IT: THIS IS THE VIEW OF R. JOSE THE GALILEAN. R. AKIBA SAID: THIS IS IN THE NATURE OR SEETHING;[1] BUT THEY ARE HUNG OUTSIDE IT. ONE MAY NOT ROAST THE PASSOVER-OFFERING EITHER ON A [METAL] SPIT OR ON A GRILL.[2] R. ZADOK SAID: IT ONCE HAPPENED THAT R. GAMALIEL SAID TO HIS SERVANT TABI, GO OUT AND ROAST US THE PASSOVER-OFFERING ON THE GRILL.’

GEMARA. But let us bring [a spit] of metal? — When part of it is hot the whole of it is hot,[3] and so [part of] it is roasted through the spit,[4] whereas the Divine Law saith, roast with fire,[5] and not roast through something else. But let us bring [a spit] of palm wood? — Since it has grooves it exudes water [sap], so that it would be like boiled. Then let us bring [a spit] of fig wood? — Since it is hollow,[6] it exudes water, so that it is like boiled. Then let us bring [a spit] of the oak tree, the carob tree or the sycamore tree? — Because it has knots it exudes water. [But the wood] of the pomegranate tree too has knots? — Its knots are smooth.[7] Alternatively, this refers to a shoot of this [i.e., the first] year's growth, which has no knots. But there is the point where it is cut?[8] — He causes the point where it is cut to protrude without [the animal].

Our Mishnah is not according to R. Judah. For it was taught, R. Judah said: Just as a wooden spit is not burnt,[9] so a metal spit does not boil [the flesh].[10] Said they to him: This [sc. metal], if part of it is hot, the whole of it is hot; whereas the other [wood], if part of it is hot, the whole of it is not hot.[11]

AND WE PLACE ITS KNEES, etc. It was taught: R. Ishmael called it tok tok.[12] R. Tarfon called it a helmeted goat.[13]

Our Rabbis taught: What is the helmeted goat which it is nowadays forbidden to eat on the nights of Passover?[14] Wherever the whole is roasted in one [piece]. If a lamb was cut from it, [or] if a limb of it was boiled, that is not a helmeted goat. Now that you say that if a limb was cut from it, even if he roasted it together with it, it is not [a helmeted goat], [if a limb is] boiled need it [be stated]?[15] — Said R. Shesheth: It means that he boiled it while attached [to the whole animal].

Rabbah said: A stuffed [lamb][16] is permitted. Said Abaye to him: But [the lamb] absorbs the blood?[17] As it absorbs, so it exudes, he answered him.[18] Shall we say that this supports him: AND [WE] PLACE ITS KNEES AND ITS ENTRAILS INSIDE IT: what is the reason? Is it not because we say, as it absorbs, so it exudes? — I will tell you: it is different there, [for] since there is the place of slaughtering, which is hollow,

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(1) The entrails inside the animal are like meat in a pot, which is seething, not roasting.

(2) This is explained in the Gemara.

(3) Metal-iron — being a good conductor of heat.

(4) The flesh actually in contact with it is roasted in the heat of the spit, not by the heat of the fire.

(5) Ex. XII,8.

(6) Having a marrow-like substance inside.

(7) Hence they do not exude sap.

(8) Which naturally exudes moisture.

(9) For being inside the lamb it is protected from the fire.

(10) Thus he permits the use of a metal spit.

(11) Hence there is no analogy between the two.

(12) ‘Tok’ is the sound of boiling. Thus he held that the knees etc. are placed inside it, so that it emits a sound of boiling.

MS. M. reads: R. Ishmael called it a takbera i.e., a basket, as the animal was stuffed with the loose pieces, v. Jast. s.v. תכברא.

(13) He held that the knees etc. must hang outside, so that it looked like a helmet on the head of a warrior.

(14) I.e., after the destruction of the Temple; v. supra 53a.

(15) Surely it is superfluous.

(16) I.e., the lamb being stuffed with meat salted only enough for roasting, which is less than is required by law when it is to be boiled (Rashi). Blood in flesh is forbidden, hence the prescribed, process of soaking and salting in order to draw it out.

(17) Which exudes from the pieces of meat with which it is stuffed when the whole is roasted.

(18) It exudes on the outside the same amount of blood which it first absorbs on the inside.

Talmud - Mas. Pesachim 74b

[the blood] indeed oozes out.[1]

Shall we say that this supports him: The heart must be torn and the blood withdrawn;[2] if he did not tear it [open], he must tear it after it is boiled[3] and it is permitted.[4] What is the reason? Is it not because we say, as it absorbs, so it exudes?[5] — The heart is different, because it is smooth.[6] But surely Rabin the Elder put a paste of dough over a [roasted] pigeon for Rab, and he [Rab] said to him, ‘If the paste is good [tasty], give it me and I will eat it?’[7] — That was [done] with [a paste of] fine flour, which is crumbly.[8]

But Raba visited the home of the Resh Galutha[9] and they put a paste of dough over a [roasted] duck for him. Said he, ‘Had I not seen that it was as clear as white glass, I would not eat of it.’ Now should you think, as it absorbs, so it exudes, why particularly when it is clear; [it is permitted] even if not clear? — There it was [prepared] with white flour, so that it [the paste] is compact.[10] Now the law is: [a paste] of finest flour, whether it looks red or does not look red, is permitted;[11] [a paste] of white flour: if it is as clear as white glass, it is permitted, if not, it is forbidden; [a paste] of other flours: if it looks red, it is forbidden; if it does not look red, it is permitted. [As to] a stuffed [lamb], he who forbids [does so] even if the mouth is at the bottom; while he who permits [does so] even if the mouth is on top. Now the law is: a stuffed [lamb, etc.] is permitted even if the mouth is on top.[12]

[With regard to] raw meat,[13] eggs,[14] and the jugular veins, R. Aha and Rabina differ therein. (In the whole Torah[15] R. Aha is stringent while Rabina is lenient, and the law is as Rabina [viz.,] as the lenient [view]; except in these three, where R. Aha is lenient and Rabina is stringent, and the law is as R. Aha, [viz.,] as the lenient view.) If raw meat turns reddish, if one cuts[16] and salts it, it is permitted even for a pot; if one impales it on a spit [over the fire], it is permitted,[17] [because] it [the blood] certainly oozes out. If he placed it on [burning] coals, R. Aha and Rabina differ therein; one forbids and the other permits. He who forbids [holds that] it [the fire] binds [the blood],[18] while he who permits [holds] that it draws [the blood] out. And the law is: it does indeed draw [the blood] out. Similarly with eggs: if he cut and salted them, they are permitted even for a pot. If he suspended them from a spit, they are permitted, [because] it [the blood] certainly oozes out. If he laid them on coals, Aha and Rabina differ therein: one forbids and the other permits them. He who forbids [holds]: it certainly binds [the blood]; while he who permits [maintains]: it draws it out. Similarly with the [throat portion containing the] jugular veins: if he cut and salted it, it is permitted even for a pot; if he suspended it on a spit, the place of the cut[19] being underneath,[20] it is permitted, [because] it does indeed ooze out. If he laid it on coals, R. Aha and Rabina differ therein: one forbids and the other permits. He who forbids [holds]: it does indeed bind [the blood]; while he who permits [maintains]: it draws it out. And the law is: it draws it out.

Raw meat which turns red, its serum is forbidden;[21] if it does not turn red, its serum is permitted. Rabina said: Even if it does not turn red, its serum is forbidden, [for] it cannot but contain streaks of blood. Mar b. Amemar said to R. Ashi: My father did indeed drink it.[22] Others say: R. Ashi himself drank it.

Mar b. Amemar said to R. Ashi: Vinegar which had been used once for contracting [meat],[23] my father would not use it again for contracting'.[24] How does it differ from weak vinegar, which may be used for contracting'? — There

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(1) The animal being hung throat downwards.
(2) Before it is boiled; the heart is full of blood and therefore ordinary salting, as is done with other flesh, is insufficient.
(3) Rashi: this is assumed to mean, after it is roasted over an open fire, roasting being occasionally referred to as boiling, v. II Chron. XXXV, 13: and they boiled (wa-yebashshelu) the passover with fire according to the ordinance.
(4) V. Hul. 109a.
(5) The reference is not to the heart absorbing blood from other meat, but to one part of the heart absorbing blood from another, and it is now suggested that it exudes the same blood, since it is roasted over an open fire.
(6) Hence it does not absorb, so that even if it were boiled in a pot it would be permitted, though there that it is not directly over the fire we certainly cannot say, so it exudes.
(7) Now the paste absorbs blood from the roasted pigeon; since he wanted to eat it, he must have known that it reexudes it.
(8) And so leaves room for the blood to ooze.
(9) V. Glos.
(10) Which prevents the blood from oozing.
(11) Even in the former case we assume that the blood which the paste absorbed certainly oozed out, the redness being a mere hue which it leaves.
(12) When it is suspended for roasting; though there is no opening for the blood to run out, it nevertheless oozes out through the flesh.
(13) Umza is raw meat, unsalted and unsoaked. Blood in flesh is forbidden only if it travels from one part of the flesh to another. But if it remains in its original place, e.g., when raw meat is pickled dry, it is permitted (Rashi).
(14) The eggs of a male. Rashi: the controversy infra arises when they look red. Tosaf.: these eggs are covered with a membrane which is forbidden on account of blood, hence the controversy.
(15) Where R. Aha and Rabina differ.
(16) To allow for the blood to flow out.
(17) Even if only slightly salted, as one salts ordinary meat when it is to be roasted.
(18) Though not before it has time to travel from its place.
(19) I.e., the throat.
(20) So that the blood can flow out.
(21) This is R. Aha's view; though he permits the meat itself, he agrees that the serum is forbidden.
(22) The serum.
(23) Meat was washed in vinegar in order to contract the blood vessels and bind the blood.
(24) Because after it has been used once the vinegar loses its strength to bind the blood in its place.

Talmud - Mas. Pesachim 75a

the tartness of the fruit is present in its natural state, whereas here the tartness of the fruit is not present in its natural state.

ONE MAY NOT ROAST THE PASSOVER-OFFERING etc. A story [is quoted] in contradiction? — The text is defective, and it teaches thus: But if it is a perforated grill, it is permitted, and R. ZADOK SAID [LIKEWISE]: IT ONCE HAPPENED THAT R. GAMALIEL SAID TO HIS SERVANT: GO OUT AND ROAST US THE PASSOVER-OFFERING ON THE PERFORATED GRILL'.

R. Hinena b. Idi asked R. Idi b. Ahabah: If a man fires an oven with the shells of 'orlah[1] and then sweeps it out and bakes bread in it, what is [the law] on the view that it is forbidden?[2] The bread is permitted, he answered. Said he to him, But R. Hinena the Elder said in R. Assi's name in R. Johanan's name: If a man fires an oven, sweeps it out, and roasts the Passover-offering in it, that is not ‘roast with fire,’ because ‘roast with fire,’ is stated twice.[3] [Thus] the reason is that the Divine Law revealed [it by stating] roast with fire’ twice; but if the Divine Law had not revealed it, I would say, it is ‘roast with fire’?[4] — The Divine Law revealed it there, replied he, and we learn from it [for elsewhere]. Alternatively, there the reason is that the Divine Law wrote roast with fire’ twice; but if the Divine Law had not written ‘roast with fire’ twice, I would say, the Divine Law insisted on fire, and even if he swept it out, that too is ‘roast with fire’;[5] but here the Divine Law objected to forbidden fuel, which is [now] absent.

Our Rabbis taught: If he cut it[6] and placed it on the coals,Rabbi said: I maintain that this is ‘roast with fire.’ R. Ahadeboi b. Ammi pointed out a contradiction to R. Hisda: Did then Rabbi rule [that] coals are fire? But the following contradicts it: [Or when the flesh hath in the skin thereof] a burning by fire [etc.]:[7] I know it only where it was burnt by fire; if it was burnt with coals, hot ashes, boiling lime, boiling gypsum, or anything produced by fire, which includes hot water [heated] by fire, how do we know it?[8] Therefore ‘a burning’ is stated twice, as an amplification. [Hence] it is only because the Divine Law amplified [it by writing] ‘a burning’ twice, but if the Divine Law had not amplified [it by writing] ‘a burning’ twice, [I would say that] coals are not fire? Scripture does not find it necessary to include a wood coal, he answered him;[9] a verse is necessary only in respect of a coal of metal. Then are not coals of metal fire? Surely in respect of a priest's daughter [who committed adultery], though it is written, she shall be burnt with fire,[10] R. Mattenah said: They made a lead wick for her?[11] — There it is different, because the Divine Law said, ‘she shall be burnt with fire’: ‘she shall be burnt’ is to include all burnings which come from fire, then all the more fire itself! [If so] let us surround her with bundles of faggots and burn her? — The meaning of ‘burning’ is learnt from the children of Aaron: just as there it was a burning of the soul while the body remained intact, so here burning of the soul while the body remains intact [is meant].[12] Then let us prepare for her boiling water [heated] by the fire?[13] — [That is ruled out] on account of R. Nahman’ [s dictum]. For R. Nahman said, Scripture saith, but thou shalt love thy neighbour as thyself:[14] choose an easy death for him. Now, since there is R. Nahman[‘s deduction], what is the purpose of the gezerah shawah?[15] — I will tell you: But for the gezerah shawah, I would say [that] the burning of the soul while the body remains intact is not burning,[16] while as for R. Nahman's [teaching], let us use many bundles of faggots for her, so that she should die quickly. Therefore it [the gezerah shawah] informs us [that it is not so]. Then what is the purpose of ‘[she shall be burnt] with fire’?[17] — It is to exclude [boiling] lead [drawn straight] from its source.

R. Jeremiah said to R. Zera: Then wherever ‘she shall be burnt with fire’ is written, it is to include all burnings which are produced by fire? Surely in respect to the [sacrificial] bullocks which were burnt, though it is written, and the [the priest] shall burn it on wood with fire,[18] it was nevertheless taught: ‘With fire,’ but not with boiling lime or boiling gypsum? — Said he to him, How compare! There ‘with fire’ is written [first] and ‘she shall be burnt’ after: [hence] it is to include all burnings which are produced by fire;[19] [whereas] here is written, and he shall burn it on wood with fire,’ ‘with fire’ being at the end, to intimate that fire only [is permitted], but not anything else. But there too burning is written at the end, for it is written,

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(1) V. Glos.

(2) Where it is not first swept out; V. supra 26b. Here, however, there is no improvement of the fuel in the loaf; hence the question.

(3) Ex. XII, 8, 9. The repetition emphasizes that it must be roast actually over the fire itself.

(4) Hence in the present case as there is no Biblical intimation, we should regard it as though the fire itself were present, and by corollary, as though, the oven were unswept.

(5) Since the heat was the result of fire.

(6) The Passover-offering; not actually dividing it, but making a number of deep cuts, so that it should roast more quickly.
(7) Lev. XIII, 24.
(8) That it falls within this particular category of leprosy? V. Hul. 8a.
(9) For that indeed is fire.
(10) Lev. XXI, 9.
(11) V. Sanh. 52a.
(12) V. Sanh. 52a.
(13) I.e., let us execute her by scalding.
(14) Lev. XIX, 18.
(15) V. Glos. I.e., the derivation from the sons of Aaron. it. Nahman's dictum in itself excludes also burning by faggots.
(16) So that the only alternative left is burning by faggots.
(17) Since after all the verse is taken to include all burnings which come from fire.
(18) Ibid. IV, 12.
(19) Since the addition of ‘she shall be burnt’, after ‘with fire’ has already been stated, it is superfluous.

Talmud - Mas. Pesachim 75b

where the ashes are poured out shall it be burnt?[1] I will tell you: that ‘shall it be burnt’ is required for what was taught: ‘It shall be burnt’: even if no ashes are there; ‘it shall be burnt’, even if he made the fire catch on to the greater part of it.[2] Rabina said:[3] Unite them[4] and learn: ‘A burning by fire’: I know it only if it was burnt by fire or with a coal;[5] if it was burnt with hot ashes, boiling lime, boiling gypsum or with anything produced by fire, which includes hot water [heated] by the fire, how do we know it? Therefore ‘a burning’ is stated twice as an amplification.

Raba pointed out a contradiction: did then Rabbi say [that] coals are designated fire? But the following contradicts it: [And he shall take a censer full of] coals [of fire]:[6] you might think [that] quenched [smouldering] coals are meant;[7] therefore ‘fire’ is stated. If ‘fire’, you might think [that] a flame [must be brought]; therefore ‘coals of’ is stated. How then [is it to be understood]? He must bring of the brightly-burning [coals].[8] Now this is self-contradictory: you say: "’coals," you might think [that] quenched coals [are meant],’ which proves that brightly-burning [coals] are [termed] fire. Then consider the second clause: ‘if "fire", you might think [that] a flame [must be brought]; therefore "coals of" is stated,’ which proves that even brightly-burning [coals] are not fire? Whereupon R. Shesheth answered, This is what he teaches: coals: you might think, both smouldering and brightly-burning [can be taken]; therefore ‘fire’ is stated. if ‘fire,’ you might think [that] a flame [must be brought]; therefore ‘coals of’ is stated. How then [is this to be understood]? He must bring of the brightly-burning [coals]. Yet at all events coals are not called fire, which is a difficulty according to Rabbi? — Said Abaye, Explain it thus: coals of:you might think quenched, but not brightly-burning; therefore ‘fire’ is stated; if ‘fire,’ you might think, he can bring a flame[9] or a coal, whichever he desires; therefore ‘coals of fire is stated. How then [is it meant]? He must bring of the brightly burning [coals]. Raba[10] asked: [You say] ‘He can bring a flame or a coal, as he desires.’ [But] how is a flame without a coal possible? [Only] if one smears a vessel with oil and lights a fire in it! [Then] why do I need a verse [to exclude] that? Seeing that you do not do thus before a king of flesh and blood, is it not all the more [forbidden] before the Holy One, blessed be He! Rather said Raba, Explain it thus: ‘coals of’: you might think, quenched but not brightly-burning; therefore ‘fire’ is stated; if fire, you might think, let him bring half coal and half flame,[11] so that by the time he carries it within [the Holy of Holies] it is all a coal; therefore it is stated, ‘And he shall take a censer full of coals of fire from off the altar’: at the very time of taking they must be coals.

The Scholars asked: [Is the word] omemoth or ‘omemoth?[12] -R. Isaac quoted: The cedars in the garden of God could not hide it [‘amamuhu].[13]

MISHNAH. IF IT [THE PASCHAL LAMB] TOUCHED THE EARTHEN[WARE] OF THE OVEN, HE MUST PARE ITS PLACE; IF SOME OF ITS JUICE DRIPPED ON TO THE EARTHEN[WARE] AND DRIPPED BACK ON TO IT, HE MUST REMOVE ITS PLACE.[14] IF SOME OF ITS JUICE FELL ON THE FLOUR, HE MUST TAKE A HANDFUL AWAY FROM ITS PLACE. IF HE BASTED IT [THE PASCHAL LAMB] WITH OIL OF TERUMAH[10] IF THEY WHO REGISTERED FOR IT ARE A COMPANY OF PRIESTS, THEY MAY EAT [IT]; BUT IF ISRAELITES, IF IT IS [YET] RAW, LET HIM WASH IT OFF; IF IT IS ROAST, HE MUST PARE THE OUTER PART. IF HE ANOINTED IT WITH OIL OF SECOND TITHE,[15] HE MUST NOT CHANGE ITS VALUE TO THE MEMBERS OF THE COMPANY, BECAUSE SECOND TITHE MUST NOT BE REDEEMED[16] IN JERUSALEM.[17]

GEMARA. It was stated: [If] hot matter [falls] into hot,[18] all agree

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(1) Ibid.

(2) Yet he must not leave it until the whole is burning. This is deduced because ‘it shall be burnt’ is repeated at the end of the sentence, which emphasizes that it is to be entirely burnt in all cases.

(3) In reply to the contradiction pointed out by R. Ahadeboi.

(4) Lit., ‘wrap’.

(5) Coal is included as implied by the term ‘fire’, and not derived from the repetition of ‘a burning’, as stated in the original version.

(6) Lev. XVI, 12.

(7) I.e., without a flame, for otherwise they are simply called ‘fire’.

(8) Lit., ‘whispering,’ for when coals are burning brightly they make a slight hissing noise something like a sibilant whisper.

(9) Without a coal.

(10) As emended in margin from Rabbah.

(11) E.g., a piece of wood part only of which is well alight.

(12) With an alef (א) or with an ‘ayin (ע)?

(13) Ezek. XXXI, 8; ‘amamuhu is with an ‘ayin (ע), and the root really means to dim, darken, whence E.V. ‘hide’.

(14) I.e.,the part on to which it dripped. ‘Pare’ denotes a very thin strip; ‘to remove,’ the thickness of the finger. The reason is explained in the Gemara.

(15) Second tithe was brought to Jerusalem and eaten there by its Israelite owners; if it was too burdensome, they redeemed it and expended the redemption money in Jerusalem, v. Deut. XIV, 22f.

(16) Var. lec.: sold.

(17) Even to eat it in Jerusalem as holy food. If the owner of this oil charges the other members for their share, he virtually redeems or sells it as far as he is concerned.

(18) E.g., hot milk into hot meat, or hot forbidden flesh into hot permitted flesh, or vice versa. By ‘hot’, boiling is meant.

Talmud - Mas. Pesachim 76a

that it is forbidden;[1] cold into cold, all agree that it is permitted.[2] [If] hot [falls] into cold, or cold into hot, — Rab maintained: The upper prevails;[3] while Samuel maintained: The lower prevails.

We learned: IF SOME OF ITS JUICE DRIPPED ON TO THE EARTHEN[WARE] AND DRIPPED BACK ON TO IT HE MUST REMOVE ITS PLACE. It was assumed that this refers to a cold earthenware; now it is well on Rab's view that the upper prevails: consequently he must remove its place, because the juice goes and heats the earthenware and the earthenware in turn heats the juice, and when the juice drips back on to the paschal lamb, the paschal lamb is roasted [at that spot] by the heat of the earthenware, whereas the Divine Law said, roast with fire,[4] but not roast with something else. But on Samuel's view that the lower prevails, since the earthenware is cold it actually cools the juice; why then should he remove its place? — As R. Jeremiah said[5] in Samuel's name: The reference is to hot flour; so here too the reference is to hot earthenware.

We learned: IF SOME OF ITS JUICE DRIPPED ON TO THE FLOUR, HE MUST REMOVE A HANDFUL FROM ITS PLACE. It was assumed that this refers to cold flour. It is well on Rab's view that the upper prevails: consequently he must remove a handful from its place, because it heats the flour around it and the flour in turn heats it, and the juice is roast by the heat of the flour, whereas the Divine Law said, ‘roast with fire’, but not roast with something else. But on Samuel's view that the lower prevails, since the flour is cold it actually cools it; why then must he remove a handful from its place? — Said R. Jeremiah b. Samuel: This refers to hot flour.

We learned: IF HE BASTED IT With OIL OF TERUMAH, IF THEY [WHO REGISTERED FOR IT] ARE A COMPANY OF PRIESTS, THEY MAY EAT [IT]; IF IT BELONGS TO ISRAELITES: IF IT IS [YET] RAW, LET HIM WASH IT OFF; IF IT IS ROAST, HE MUST PARE THE OUTER PART. It is well on Rab's view that the upper prevails: consequently [mere] paring is sufficient, because the upper is cold.[6] But on Samuel's view that the lower prevails, since it is hot it certainly absorbs; why then is paring sufficient: let us forbid it entirely? — Basting is different, because a mere trifle is used.

It was taught in accordance with Samuel: [If] hot matter [falls] into hot, it is forbidden; similarly, if he put cold into hot, it is forbidden; hot into cold or cold into cold, he must wash it off. [You say], ‘Hot into cold, he must wash it off’; [surely] since it is hot, until it cools it cannot but absorb a little; then it should at least require paring? Rather say: hot into cold, he must pare it; cold into cold, he must wash it off.

Another [Baraitha] taught: If hot meat fell into hot milk, and likewise if cold fell into hot, it is forbidden. Hot into cold or cold into cold, he must wash [the meat]. ‘Hot into cold, he must wash [the meat]’; [surely] since it is hot, until it cools it cannot but absorb a little, then it should at least require paring? — Rather say: hot into cold, he must pare [it]; cold into cold, he must wash [the meat].

The Master said: ‘Cold into cold, he must wash the meat.R. Huna said: They learned this only where he had not [previously] salted it; but if he had salted it, it is forbidden, for Samuel said: Salted [matter] is like hot;[7] if preserved [in vinegar], it is like boiled.[8] Raba said: As to what Samuel said, Salted [matter] is like hot, — this was said[9] only where it cannot be eaten through the salt;[10] but if it can be eaten in spite of the salt, it is not so. A young pigeon fell into a jug of kamka,[11] [and] R. Hinena the son of Raba of Pashrunia[12] permitted it. Said Raba: Who is so wise as to permit such a thing if not R. Hinena the son of Raba of Pashrunia, who is a great man. [For] he can tell you: when did Samuel say, Salted matter is like hot? — Where it cannot be eaten through the salt; whereas this could be eaten in spite of the salt. That is, however, only if it is raw; but if roast, it requires paring. Further, this was said only if it contains no splits;[13] but if it contains splits, it is [altogether] forbidden; and if it is seasoned with condiments, it is forbidden.[14]

Rab said:

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(1) Because each absorbs from the other.

(2) Because they do not absorb from each other.

(3) Thus: if hot falls into cold, the upper heats the lower, and it is tantamount to hot into hot: while if cold falls into hot, it is as cold into cold.

(4) Ex. XII, 8.

(5) V. infra.

(6) I.e., the oil is cold. Nevertheless paring at least is required, because the oil cannot but soak slightly into the flesh.

(7) ‘Salted’, this is soon defined — it is regarded as hot, and necessitates paring.

(8) And the whole of the permitted matter rendered forbidden.

(9) Lit., ‘we said’.

(10) Until the salt is washed off

(11) A relish containing milk, among other things.

(12) A town in Babylonia. Obermeyer does not identify it. Jast., however, s.v. פרשוניא identifies it with Perishna, which is mentioned infra 91a, and Obermeyer, p. 297, n. 1. thinks that the latter is identical with Barus, which was included in the district of Sura for taxation purposes.

(13) Then paring is sufficient.

(14) In both cases the flesh absorbs more freely than otherwise.

Talmud - Mas. Pesachim 76b

Fat meat of a [ritually] slaughtered [animal] which was roasted together with lean meat of nebelah[1] is forbidden. What is the reason? They fatten each other.[2] But Levi maintained: Even lean meat of a [ritually] slaughtered [animal] which was roasted together with fat meat of nebelah is permitted. What is the reason? It is a mere smell, and smell is nothing. Levi gave a practical decision[3] at the house of the Resh Galutha[4] in the case of a goat and 'something else.'[5]

An objection is raised: One may not roast two Passover offerings together, on account of the mixture. Surely that means, the mixture of [the] flavours,[6] which is a difficulty on Levi's view? No: [it means] the mixture of their carcasses.[7] This too is logical, since the second clause teaches: Even a kid and a lamb. Now it is well if you say [that it is] on account of the carcasses: hence he teaches, 'even a kid and a lamb.'[8] But if you say [that it is] on account of the mingling of [the] flavours, what does it matter whether it is a kid and a lamb or a kid and a kid? — What then? You are bound [to say] that it is forbidden only on account of the mixing of the carcasses, but the mingling of flavours is permitted; shall we say [then] that this is a refutation of Rab? — Said R. Jeremiah: The case we discuss here[9] is e.g., where he roasted them in two pots. [You say] 'In two pots — can you think so![10] — Rather say, as though [they were roasted in] two pots,[11] and this is what it teaches: One may not roast two Passover-offerings together, on account of the mixture. What mixture? The mixture of the flavours. And even [when roasted] as it were in two pots it is forbidden on account of the [possible] confusing of the carcasses, and even a kid and a lamb [must not be roasted together].

R. Mari said: This is dependent on Tannaim. If a man removes a hot loaf [from the oven] and places It on a wine barrel of terumah, — R. Meir forbids it;[12] whereas R. Judah permits it; while R. Jose permits it in the case of [a loaf of] wheat, but forbids it in the case of barley [flour], because barley absorbs. Surely then it is dependent on Tannaim, one Master holding: Smell is nothing; while the other Master holds: Smell is something [substantial]? According to Levi, it is certainly dependent on Tannaim.[13] Shall we say that it is [dependent on] Tannaim according to Rab [too]? — Rab can tell you: All agree that smell is something [substantial]; [and as to the ruling of R. Judah] was it not stated thereon, Rabbah b. Bar Hanah said in the name of Resh Lakish: In the case of a hot loaf and an open barrel, all agree that it is forbidden; in the case of a cold loaf and a closed [stoppered] barrel, all agree that it is permitted. They differ only in the case of a hot loaf and a sealed barrel, [or] a cold loaf and an open barrel;[14] and this too[15] is like a hot loaf and an open barrel.[16]

R. Kahana the son of R. Hinena the Elder recited: A loaf which was baked together with roast [meat] in an oven may not be eaten with kutah.[17] A fish was roasted [i.e., baked] together with meat, [whereupon] Raba of Parzikia[18] forbade it to be eaten with kutah. Mar b. R. Ashi said: Even with salt too it is forbidden, because it is harmful to [one's] smell and in respect of 'something else.'[19]

MISHNAH. FIVE THINGS [SACRIFICES] MAY COME IN UNCLEANNESS, YET MUST NOT BE EATEN IN UNCLEANNESS: THE 'OMER,[20] THE TWO LOAVES,[21] THE SHEWBREAD,[22] THE SACRIFICES OF THE PUBLIC PEACE-OFFERINGS,[23] AND THE HE-GOATS OF NEW MOONS.[24] THE PASCHAL LAMB WHICH COMES IN UNCLEANNESS IS EATEN IN UNCLEANNESS, FOR FROM THE VERY BEGINNING IT CAME FOR NO OTHER PURPOSE BUT TO BE EATEN.

GEMARA. What does 'FIVE' exclude?[25] — It excludes the hagigah [for example] of the fifteenth.[26] For I might argue, since it is a public sacrifice[27] and a season is fixed for it, let it override uncleanness; therefore he informs us [that] since you can make it up the whole seven [days],[28] it does not override the Sabbath,[29] and since it does not override the Sabbath, it does not override uncleanness.

Now, let him [the Tanna] state the he-goats of festivals too?[30] — He does indeed state THE SACRIFICES OF THE PUBLIC PEACE-OFFERINGS.[31] If so, let him not state the he-goats of New Moons either, seeing that he States THE SACRIFICES OF THE PUBLIC PEACE-OFFERINGS? — I will tell you:

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(1) In the same oven on separate spits and not touching.
(2) The odour of the fat meat enters the lean meat and makes it fat, and then in turn the odour of the lean meat, which is forbidden enters the permitted meat and renders it forbidden too. — Hence if the meat of nebelah itself is fat, it is certainly forbidden.
(3) As distinct from a mere theoretical ruling — in accordance with his view.
(4) V. Glos.
(5) I.e., a swine, which was generally referred to thus; cf. supra 3b. These had been roasted together.
(6) Each absorbs the flavour of the other through its smell, which would thus be enjoyed by those who have not registered for that animal.
(7) The animals themselves may be mixed up with each other.
(8) Though a mistake is less likely there.
(9) In the teaching cited.
(10) The Passover-offering may not be roasted in pots at all.
(11) A heap of coals or ashes intervening between the two sacrifices.
(12) To a lay Israelite, because it has absorbed the odour of the wine.
(13) For R. Meir's view certainly contradicts his.
(14) And it is only in such cases that R. Judah permits.
(15) Sc. the case disputed by Rab and Levi.
(16) Which even R. Judah agrees is forbidden.
(17) V. Glos. This contains milk.
(18) Obermeyer, p. 227, n. 2 thinks this identical with Perezina (Faransag), near Bagdad.
(19) Leprosy.
(20) V. Glos. and Lev. XXIII, 10f.
(21) V. ibid. 17.
(22) V. Ex. XXV, 30.
(23) The lambs offered on Pentecost, v. Num. XXVIII, 27.
(24) V. ibid. 15 — all these are brought even if the community is unclean, which of course makes them unclean too through the handling of the officiating priest; nevertheless, they may not be eaten for they are brought merely in discharge of public obligations, but their main purpose is not to be eaten.
(25) It is assumed that the number has this purpose, for otherwise the Mishnah would simply state, The ‘omer . . . come in uncleanness etc.
(26) And similarly the hagigah of any other Festival.
(27) In the sense that all Jews must bring a hagigah.
(28) If not brought on the first day it can be brought for a week afterwards, v. Hag. 9a.
(29) A public sacrifice overrides the Sabbath only when it cannot be offered on any other day.
(30) V. Num. XXVIII, 15, 22, 30; XXIX, 5, 16, 38.
(31) For the he-goats too are public sacrifices (R. Han).

Talmud - Mas. Pesachim 77a

It is necessary for him [to teach about] the he-goats of New Moons. I might argue, surely ‘appointed season’ [mo'ed] is not written in connection therewith;[1] therefore he informs us that New Moon is designated mo'ed, in accordance with Abaye's [dictum]. For Abaye said, The Tammuz[2] of that year[3] was indeed made full,[4] as it is written, He hath proclaimed an appointed time [mo'ed] against me to crush my young men.[5]

Shall we say that all of them[6] are derived from mo'ed [‘appointed time’]? How do we know it? For our Rabbis taught: And Moses declared unto the children of Israel the appointed times of the Lord.[7] For what purpose is this stated?[8] Because we have learnt only of the daily offering and the Passover-offering [that they override the Sabbath and uncleanness], since ‘in its appointed time’ is stated in connection with them,[9] ‘in its appointed time’ [implying] even on the Sabbath, ‘in its appointed time’ implying even in uncleanness. Whence do we know it of other public sacrifices? Because it is said, These shall ye offer unto the Lord in your appointed time.[10] Whence do we know to include the ‘omer — and that which is offered with it, and the two loaves and that which is offered with them? Therefore it is stated, ‘And Moses declared unto the children of Israel the appointed times of the Lord’: the Writ fixed it as one appointed season for all of them.[11]

Now, what is the purpose of all these?[12] — They are necessary. For if the Divine Law wrote it of the daily offering [alone], I would say: The daily offering [overrides the Sabbath and uncleanness] because it is constant and entirely burnt, but the Passover is not so;[13] hence we are informed [otherwise]. While if the Divine Law wrote it of the Passover-offering, [I would argue that] the Passover-offering [must be offered under all circumstances] because it involves the penalty of kareth,[14] but [as for] the continual offering, for [neglect of] which there is no penalty of kareth, I would say that it is not [so]; hence we are informed [otherwise]. Again, if the Divine Law wrote it of these two, I would say: These alone [override Sabbath and uncleanness, since they] possess a stringent feature, the continual offering being constant and entirely [burnt], the Passover-offering involving the penalty of kareth; but [as for] other public sacrifices, I would say, It is not so. [Hence] the Divine Law wrote, ‘These shall ye offer unto the Lord in your appointed times.’ While if the Divine Law [merely] wrote, ‘These shall ye offer unto the Lord in your appointed times,’ I would argue: [It refers only to] other public sacrifices, which come to make atonement,[15] but [the sacrifices accompanying] the ‘omer and the two loaves, which do not come to make atonement but are merely in order to permit [the new harvest] are not so; hence we are informed [otherwise]. Again, if the Divine Law wrote [about] the ‘omer and the two loaves alone, I would have said: On the contrary, it [applies only to] the ‘omer and the two loaves which are more important, because they come to permit; but these others are not so. Hence we are informed [otherwise].

Now it was assumed that all hold that uncleanness is overridden in the case of a community, hence the headplate is required for propitiation.[16] For there is no [other] Tanna whom you know to maintain [that] uncleanness is permitted in the case of a community[17] but R. Judah. For it was taught: The headplate, whether it is on his [the High Priest's] forehead[18] or it is not on his forehead, propitiates; this is the view of R. Simeon. R. Judah maintained: If it is still on his forehead, it propitiates; if it is not still on his forehead, it does not propitiate. Said R. Simeon to him: Let the High Priest on the Day of Atonement prove it, for it is not on his forehead, and [yet] it propitiates![19] — Leave the Day of Atonement, replied he, because uncleanness is permitted in the case of a community. Whence it follows that R. Simeon holds: Uncleanness is overridden in the case of a community. Again, [it was assumed that all hold,] the headplate does not propitiate for [the defilement of] eatables,[20] for there is no Tanna whom you know to maintain [that] the headplate propitiates for [the defilement of] eatables save R. Eleazar. For it was taught, R. Eleazar said: The headplate propitiates for [the defilement of] eatables; R. Jose said: The headplate does not propitiate for the defilement of eatables.[21] [Accordingly,] shall we say that our Mishnah[22] does not agree with R. Joshua? For it was taught, And thou shalt offer thy burnt-offerings, the flesh, and the blood.’[23] R. Joshua said: If there is no blood there is no flesh, and if there is no flesh there is no blood.[24] R. Eliezer said: The blood [is fit] even if there is no flesh, because it is said, And the blood of thy sacrifices shall be poured out [against the altar of the Lord thy God].[25] Then how do I interpret,[26] ‘and thou shalt offer thy burnt-offering, the flesh and the blood?’ [It is] to teach you: just as the blood requires throwing,[27] so does the flesh require throwing:[28] hence say, there was a small passage-way between the stairway and the altar.[29] Now [according to] R. Joshua too, surely it is written, ‘and the blood of thy sacrifices shall be poured out?’ — He can answer you: surely in connection therewith is written, and thou shalt eat the flesh.[30]

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(1) Whereas it is from this word that we deduce anon that festival public sacrifices override the Sabbath and uncleanness.

(2) The fourth month of the year, generally corresponding to June.

(3) In which the spies reconnoitered the promised Land, with disastrous results, v. Num. XIII.

(4) I.e., it consisted of 30 days. When it consists of 29 days it is called defective. Now, as they set out on the 29th of Sivan, the third month (Ta'an. 29a), the 40 days of their mission ended on the ninth of Ab, the fifth month. Thus their weeping on that night (ibid. XIV, 1) became the forerunner of subsequent lamentation on that date for many generations, for it is the anniversary of the destruction of the Temple.

(5) Lam. I, 15. Abaye appears to interpret thus: God caused New Moon (i.e., the ‘appointed time’ — mo'ed) of Tammuz in that year to be proclaimed on such a day that their return and the weeping of the people would coincide with the future anniversary of the destruction of the Temple. Hence, on this interpretation, New Moon too is designated ‘mo'ed’.

(6) I.e., those mentioned in the Mishnah that may be offered in uncleanness.

(7) Lev. XXIII, 44.

(8) Seeing that ali the Festivals are individually treated in that chapter.

(9) Num. XXVIII, 2; IX, 2. ‘In its appointed time’ implies that the sacrifice must be offered in all circumstances, as explained in the text.

(10) Ibid. XXIX, 39. This verse ends the section (chs. XXVIII-XXIX) dealing with the public additional sacrifices on New Moon, the Sabbath and Festivals, and its effect is that the whole section is to be so understood as though ‘in its appointed season’ were explicitly written in connection with each.

(11) V. previous note; the same applies here, and the ‘omer and the two loaves are prescribed in this section (vv. 10f, 17f).

(12) Scripture could have written appointed season’ in connection with one only, and the rest would follow.

(13) It is not constant by comparison.

(14) For not bringing it; v. Num. IX, 13.

(15) The additional sacrifices make atonement for the transgression of affirmative precepts, v. Yoma 36a.

(16) I.e., though uncleanness is not a bar when the whole community is unclean, Scripture does not mean that the normal interdict of uncleanness is completely abrogated, so that it is permitted, but merely that the interdict is overridden in favour of the community. Now in Ex. XXVIII, 38 it is stated: And it (the head plate) shall be upon Aaron's forehead, and Aaron shall bear (i.e., atone for) the iniquity committed in the holy things (sc. sacrifices) . . . and it shall always be upon his forehead, that they may be accepted before the Lord (i.e., that these sacrifices shall be fit). ‘The iniquity’ is understood to refer to a case where a sacrifice accidentally became unclean, and the headplate atones for it, so that it remains fit. Since we hold that even in the case of a community uncleanness is merely overridden, but not actually permitted, the head plate is required for propitiation even then.

(17) So that the propitiation of the headplate is not required at all.

(18) When the sacrifice accidentally becomes unclean.

(19) On that day he put aside all his usual vestments, which included the headplate, and wore simple linen garments (v. Lev. XVI,4). Yet if the community was unclean he still offered the sacrifices, and the headplate ‘made them acceptable’.

(20) I.e., if the flesh or the part of the meal-offering which is eaten is defiled, the sacrifice cannot be proceeded with, the headplate propitiating only if the blood or the handful which is burnt on the altar is defiled.

(21) These two assumption are the necessary premises for the question which follows.

(22) Which states that the ‘omer, the two loaves, etc., may be offered in uncleanness, although the plate does not propitiate on the eatable parts of these offerings.

(23) Deut. XII, 27.

(24) I. e., if either is defiled, the other is unfit for its purpose.

(25) Ibid.

(26) Lit., ‘fulfil’.

(27) I.e., dashing against the altar.

(28) On to the altar.

(29) Consequently a priest standing at the top of the ascent could not place the flesh on the altar but had to throw it.

(30) Deut. XII, 27. This proves that the flesh too must be fit for eating.

Talmud - Mas. Pesachim 77b

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Then what is the purpose of these two verses?[1] — One refers to the burnt-offering and one refers to a peace-offering, and both are necessary. For if the Divine Law wrote it in connection with a burnt-offering, I would say: It is [only with] the burnt-offering[2] which is stringent — because it is entirely [burnt]; but as for the peace-offering which is not stringent — I would say that it is not so. Again, if the Divine Law wrote [it of] a peace-offering I would say: on the contrary [the reason is] because it has two forms of consumption;[3] but [as for] the burnt-offering, where there are not two forms of consumption.[4] I would say that it is not so.Hence we are informed [otherwise].

Now [according to] R. Eliezer too, surely it is written, ‘and thou shalt eat the flesh?’ — He can answer you: He utilizes that [to teach] that the flesh is not permitted for eating until the blood is sprinkled. If so, say that the whole verse comes for this [purpose],then how do we know [that] the blood [is fit] even if there is no flesh? — He can answer you: If so, let the Divine Law [first] write ‘thou shalt eat the flesh,’ and then, ‘and the blood of thy sacrifices shall be poured out,’ as is written in the beginning [of the verse], ‘and thou shalt offer thy burnt-offerings, the flesh and the blood?’ Why then does [Scripture] place ‘the blood of thy sacrifices’ first? Hence infer from it [that] the blood [is fit] even if there is no flesh, and infer from it also that the flesh is not permitted for eating until the blood is sprinkled.[5] And R. Joshua?[6] — [That] the flesh is not permitted for eating until the blood is sprinkled follows a minori: if the emurim,[7] which when not available[8] are not indispensable [to the eating of the flesh] , yet when available are indispensable;[9] then the blood, which if not available is indispensable, if available how much the more is it indispensable! And R. Eliezer?[10] [Even] a law which can be inferred a minori, the Writ takes the trouble of writing it. And R. Joshua? — Wherever we can interpret, we do interpret.[11] Shall we now say that our Mishnah is not in accordance with R. Joshua, for since he says that we require both,[12] while the headplate does not propitiate for [the defilement of] eatables, how can it come in uncleanness?[13] — You may even say [that it agrees with] R. Joshua, but R. Joshua holds: The headplate propitiates for those that ascend.[14] That is well of sacrifices, where there are objects which ascend [sc. emurim]; but what can be said of the ‘omer and the two loaves, where there are no objects to ascend [the altar]? — I will tell you: R. Joshua too said that we require both only in the case of sacrifices; [but] he did not say [it] in the case of meal-offerings.

Yet did he not say [it] in the case of meal-offerings? Surely we learnt: If the remainder thereof[15] was defiled, [or] if the remainder thereof was lost:[16] according to the view of R. Eliezer[17] it [the handful] is fit;[18] according to the view of R. Joshua,[19] it is unfit![20] It is according to his view, yet not entirely so.[21] [Thus]: according to the view of R. Joshua, that we require both, yet not entirely so, for whereas R. Joshua ruled [thus] in the case of sacrifices, but he did not rule [thus] in the case of meal-offerings, this Tanna holds [that it is so] even in the case of meal-offerings.

Now who is this Tanna that agrees with him but is more stringent than he?[22] Moreover, it was taught, R. Jose said: I agree with the words of R. Eliezer[23] in respect to meal-offerings and [animal] sacrifices, and with the words of R. Joshua in respect to [animal] sacrifices and meal-offerings. ‘The words of R. Eliezer in respect to [animal] sacrifices,’ for he used to say: The blood [is fit] even if there is no flesh; ‘and the words of R. Joshua in respect to sacrifices,’ for he used to say: If there is no blood there is no flesh, and if there is no flesh there is no blood. ‘The words of R. Eliezer in respect to meal-offerings’: for he used to say: the handful [is fit] even if there is no remainder [for consumption]; ‘and the words of R. Joshua In respect to meal-offerings,’ for he used to say: if there is no handful there is no remainder, [and] if there is no remainder there is no handful?[24] — Rather R. Joshua holds: The headplate propitiates for [the defilement of] the objects which ascend [the altar] and for eatables.[25] If so, why [do you say,] ‘according to the view of R. Joshua it is unfit?’[26] [That refers] to what is lost or burnt.[27] Then according to whom does he teach, ‘[if the remainder] was defiled’? according to R. Eliezer? [But] that is obvious; seeing that you say that [even when it is] lost or burnt, where they are [now] non-existent, R. Eliezer declares [the handful] fit, need it [be stated] where it is defiled, when it is in existence! Hence it is obviously [taught] according to R. Joshua, yet he teaches [that] it is unfit?[28] Furthermore, it was taught, R. Joshua said: [In the case of] all the sacrifices of the Torah, whether the flesh was defiled while the fat has remained [clean], or the fat was defiled while the flesh has remained [clean], he [the priest] sprinkles the blood. But not if both were defiled. This proves that R. Joshua holds that the headplate does not propitiate either for [the defilement of] the objects which ascend [the altar][29] or for the eatables![30] — Rather [explain it thus:] after all our Mishnah is [the view of] R. Joshua, yet there is no difficulty: here it means in the first place; there it means if it was done [offered]. R. Joshua said [that both are required] only in the first place, but not if it was done.[31] And whence do you know[32] that R. Joshua draws a distinction between [what is required] in the first place and what was done? — Because it was taught: If the flesh was defiled, or disqualified,[33] or it passed without the curtains, — R. Eliezer said: He must sprinkle [the blood]; R. Joshua maintained: He must not sprinkle [the blood]. Yet R. Joshua admits that if he does sprinkle [it], it is accepted.[34] But surely this explanation is not acceptable: firstly, because 'it is unfit'[35] implies [even] where it was done. Moreover,[36] FIVE THINGS MAY COME [IN UNCLEANNESS] implies [even] in the first place![37]

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(1) According to R. Joshua, since both teach that the blood and the flesh are interdependent.

(2) That both are interdependent.

(3) The fat portions are consumed ('eaten') on the altar while the flesh is consumed partly by priests and partly by its owners.

(4) The whole being consumed on the altar.

(5) The reversed order intimating this additional teaching.

(6) How does he know this?

(7) V. Glos.

(8) E.g., if lost or defiled.

(9) The flesh may not be eaten until the emurim are burnt on the altar, v. supra 59b.

(10) Does he not accept this argument?

(11) The principle that Scripture writes explicitly what can be inferred a minori holds good only when the verse cannot be employed for any other purpose.

(12) The blood and the flesh.

(13) Sc. the objects enumerated in the Mishnah. For on the one hand, propitiation is required (v. p. 398, n. 2), while on the other there cannot be propitiation for eatables, and according to R. Joshua the eatables and the blood, or in the case of the meal-offering, the handful, are interdependent.

(14) The altar, sc. the emurim; i.e., providing that as much as an olive of the emurim ascends the altar, the headplate propitiates for its defilement, and the blood too can be sprinkled.

(15) Of the meal-offering, after the handful was removed (v. Lev. II, 9). In the Hebrew the word is in the plural. This remainder would normally be eaten by the priests (ibid. 10).

(16) In both cases before the handful was burnt on the altar.

(17) That the blood is fit for sprinkling even if the flesh is not available; the handful of a meal-offering is the equivalent of the blood of an animal sacrifice, while the remainder is the equivalent of the flesh.

(18) For burning on the altar, and the owner thus discharges his obligation and need not bring another meal-offering.

(19) That the blood and the flesh are interdependent.

(20) V. Men. 9a Thus R. Joshua requires both in the case of meal- offerings too.

(21) Lit., 'and not according to his view.'

(22) I.e., do we in fact find any such Tanna?

(23) Lit., 'I see (as right) the words of R. Eliezer.'

(24) This Baraitha is explained anon. From it we see that R. Joshua maintained his view even in respect to meal-offerings.

(25) Hence our Mishnah can agree with him.

(26) Surely the headplate propitiates, i.e., makes the handful fit for burning on the altar, even if the remainder is unclean?

(27) If the remainder is lost or burnt the handful is unfit for the head plate propitiates only for defilement.

(28) on his view this is necessary, as it informs us that he holds the handful unfit not only if the rest is now entirely non-existent, but even if the rest is in existence, but unclean.
(29) Sc. the fat.
(30) Sc. the flesh. For if the headplate does propitiate, why is it unfit?
(31) I.e., R. Joshua holds that in the first place both are required; nevertheless, if only the blood was clean and it was sprinkled, though it should not have been, it is fit. Our Mishnah too means where it was done.
(32) Lit., say'.
(33) By the touch of a tebul yom, q.v. Glos.; v. also supra 14a Mishnah and note a.l.
(34) V. supra 34b for the whole passage.
(35) In the ruling of R. Joshua where the remainder was defiled, v. supra.
(36) Even granted that 'it is fit' implied only in the first instance.
(37) So that our Mishnah could still not be in accordance with R. Joshua.

Talmud - Mas. Pesachim 78a

— Rather, there is no difficulty: here the reference is to an individual;[1] there [in the Mishnah] the reference is to a community.[2]

Shall we say that our Mishnah does not agree with R. Jose? For it was taught, R. Eliezer said: The headplate propitiates for [the defilement of] eatables; R. Jose said: The headplate does not propitiate for [the defilement of] eatables. Now it was assumed: since R. Jose rules, The headplate does not propitiate for [the defilement of] eatables, he agrees with R. Joshua who maintains: We require both.[3] Shall we now say [that] our Mishnah does not agree with R. Jose? — No: R. Jose agrees with R. Eliezer, who maintained: The blood [is fit] even if there is no flesh. If so, in respect of what law [does he rule]: the headplate does not propitiate for [the defilement of] eatables?[4] — Then on your reasoning, when R. Eliezer rules: The headplate does propitiate [for the defilement of eatables], — since he maintains [that] the blood [is fit] even if there is no flesh, in respect of what law [does the headplate propitiate]? — Rather they differ in respect of branding[5] it with [the unfitness of] piggul[6] and excluding it from [the law of] trespass.[7] R. Eliezer holds: The headplate propitiates for it [the defilement of the flesh] and renders it as clean, and so brands it as piggul[8] and excludes it from [the law of] trespass; while R. Jose holds: The headplate does not propitiate for it and does not render it as clean; hence it cannot be branded as piggul, nor does it exclude it from [the law of] trespass.

To this R. Mari demurred: Even granted that R. Jose agrees with R. Eliezer: as for sacrifices,[9] It is well, [since] there is blood; as for the 'omer, there is the handful; [in the case of] the shewbread too there are the censers [of frankincense].[10] But [in the case of] the two loaves, what can be said?[11] And should you answer, it is in respect of what is offered together with them,[12] then it is tantamount to the public peace-offerings, [and] if so there are [only] four, whereas we learned FIVE? — Rather, R. Jose holds: uncleanness was permitted in the case of a community.[13]

But surely it was taught: Both [in the case of] the one and the other,[14] we besprinkle them the whole seven [days][15] with [the ashes of] all the purification offerings[16] which were there:[17] this is R. Meir's view. R. Jose said: We besprinkle them on the third day and on the seventh day alone.[18] Now if you should think that R. Jose holds, Uncleanness was permitted in the case of a community, why do I need sprinkling at all?[19] Hence it is clear that our Mishnah does not agree with R. Jose.

R. Papa said to Abaye: And does R. Jose grant the [Court's] document to two![20] For it was taught, R. Jose said: I agree with the words of R. Eliezer in respect to meal-offerings and [animal] sacrifices, and with the words of R. Joshua in respect to sacrifices and meal-offering. 'The words of R. Eliezer in respect to sacrifices,' for he used to say: The blood [is fit] even if there is no flesh; 'the words of R. Joshua in respect to sacrifices,' for he used to say: If there is no blood there is no flesh, if there is no flesh there is no blood. 'The words of R. Eliezer in respect to meal-offerings, for he used to say:

the handful [is fit] even if there is no remainder [fit for consumption]; 'and the words of R. Joshua in respect to meal-offerings,' for he used to say: if there is no remainder there is no handful, [and] if there is no handful there is no remainder!

Said he to him: He states what appears logical [to him].[21] [Thus:] when he was studying [the subject of] sacrifices[22] he said: It is logical [that] just as they differ in respect to sacrifices, so do they differ in respect to meal-offerings too. [And] when he was studying [the subject of] meal-offerings he said: It is logical [that] just as they differ in respect to meal-offerings, so do they differ in respect to sacrifices too. Said he to him: It is correct [that] when he was studying [the subject of] sacrifices he said: It is logical [that] just as they differ in respect to sacrifices, so do they differ in respect to meal-offerings too, because the verses [on this matter] are written fundamentally in connection with sacrifices.[23] But when he is studying [the subject of] meal-offerings and he says, It is logical [that] just as they differ in respect to meal-offerings, so do they differ in respect to sacrifices too, — but surely, the verses are fundamentally written in connection with sacrifices! — Rather [explain it thus], there is no difficulty: I agree with the words of R. Eliezer, where it [the flesh] was defiled, and with the words of R. Joshua, where it was lost or burnt. Where it was defiled, what is the reason [that he agrees with R. Eliezer]? Because the headplate propitiates! Surely you know R. Jose to maintain [that] the headplate does not propitiate for [the defilement of] eatables! — Rather [explain it thus], there is no difficulty: I agree with the words of R. Eliezer in the case of the community; I agree with the words of R. Joshua in the case of an individual. In the case of the community, what is the reason [that he agrees with R. Eliezer]? Because uncleanness is permitted in the case of a community? But one [objection] is that you know R. Jose to maintain [that] uncleanness is overridden in the case of a community. Again, if it refers to a community, [does only] R. Eliezer declare it fit, but not R. Joshua?

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(1) Then it is unfit in the first place, but valid if done.

(2) Which is unclean; then it is permitted at the very outset.

(3) The blood and the flesh.

(4) Since you now say that the blood can be sprinkled in any case.

(5) Lit., 'appointing.'

(6) V. Glos.

(7) For piggul v. Lev. XIX, 7 (E.V. vile thing); mere intention renders it piggul, and it may then not be eaten even within the permitted precincts or within the permitted time. But a sacrifice cannot become piggul unless it is otherwise fit. Again, if one benefits from sacrifices of the higher sanctity (v. p. 108, n. 2) before their blood is sprinkled, he is liable to a trespass-offering; if after, he is exempt, for by then the flesh is permitted to priests.

(8) For now there is no other disqualification.

(9) Mentioned in our Mishnah that they may be offered in uncleanness.

(10) All these ascend the altar, and therefore the headplate makes them acceptable.

(11) For these consist entirely of eatables, for whose defilement R. Jose holds that the headplate does not propitiate. How then can they be offered in uncleanness?

(12) V. Lev. XXIII, 18f. The slaughtering of these sacrifices sanctifies the loaves, and the sprinkling of their blood permits them for eating; thus the Mishnah teaches that the headplate propitiates for the defilement of the shewbread in so far as the sacrifices can now be brought.

(13) So that propitiation is not required at all; v. supra 77a p. 398, nn. 2 and 3.

(14) Sc. the priest who burnt the red heifer (Num. XIX 4ff) and the High Priest.

(15) The former prior to his burning the red heifer; the latter, before the Day of Atonement, when he officiated in the Temple.

(16) The red heifer was designated חטאת, i.e., a sin-offering, here translated purification offering, v. ibid. 9.

(17) Some ashes were kept of every red heifer killed since Moses.

(18) V. Yoma 4a.

(19) Seeing that the sacrifices of the Day of Atonement were public offerings.

(20) In a lawsuit the court granted a document containing the verdict to the winner. Here R. Jose grants this document to both sides — i.e., he agrees with both R. Eliezer and R. Joshua.

(21) Without expressing agreement either with the one or the other.

(22) Lit., 'when he stands at sacrifices.'

(23) V. verses quoted supra 77a.

Talmud - Mas. Pesachim 78b

Surely you have said, even R. Joshua agrees in the case of a community! Rather [explain it thus:] I agree with the words of R. Eliezer where It was done [offered], and with the words of R. Joshua [where it is] at the very outset. [But] if it was done, even R. Joshua agrees, for it is taught: R. Joshua agrees that if he sprinkled [the blood] it is made acceptable? One refers to uncleanness; the other to [the case where it] is lost or burnt. [Thus:] when does he teach, R. Joshua agrees that if he sprinkled [the blood] it is made acceptable, where [the flesh] was defiled, but not if it was lost or burnt; [and] when does R. Jose say, I agree with the words of R. Eliezer if it was done, where [the flesh] was lost or burnt.

MISHNAH. IF THE FLESH WAS DEFILED WHILE THE FAT[1] HAS REMAINED [CLEAN], HE MUST NOT SPRINKLE THE BLOOD;[2] IF THE FAT WAS DEFILED WHILE THE FLESH HAS REMAINED [CLEAN], HE MUST SPRINKLE THE BLOOD. BUT IN THE CASE OF [OTHER] DEDICATED SACRIFICES IT IS NOT SO, FOR EVEN IF THE FLESH WAS DEFILED WHILE THE FAT HAS REMAINED CLEAN, HE MUST SPRINKLE THE BLOOD.[3]

GEMARA. R. Giddal said in Rab's name: If he sprinkled [the blood], it [the Passover-offering] is made acceptable.[4] But we require eating?[5] — The eating is not indispensable. But surely it is written, according to every man's eating [ye shall make your count for the lamb]?[6] — That is for preference.[7] And is [this] not [to intimate that] it is indispensable? Surely it was taught: According to the number of [bemiksath] the souls:[8] this teaches that the paschal lamb is killed for none save those who registered for it. You might think that if he killed it for those who are not registered for it, he should be regarded as violating the precept, yet it is fit. Therefore it is stated, 'according to every man's eating ... ye shall make your count [takosu]': The Writ reiterated it, to teach that it is indispensable; and eaters are assimilated to registered persons.[9] -Rather, Rab ruled as R. Nathan, who said: The eating of the Passover-offerings is not indispensable. Which [statement of] R. Nathan [is alluded to]?[10] Shall we say, the following [dictum] of R. Nathan? For it was taught, R. Nathan said: How do we know that all Israel can discharge [their obligation] with one Passover-offering? Because it is said, and the whole assembly of the congregation of Israel shall kill it at dusk:[11] does then the whole assembly kill? Surely only one kills! But it teaches that all Israel can discharge [their duty] with one Passover-offering.[12] Perhaps it is different there, because if some withdraw it is fit for the others, and if the others withdraw it is fit for these?[13] — Rather it is this [dictum of] R. Nathan. For it was taught: If one company registered for it, and then another company registered for it, the former, for whom there is as much as an olive [per person], eat it and are exempt from sacrificing a second Passover-offering; the latter, for whom there is not as much as an olive [per person], cannot eat, and they are bound to sacrifice a second Passover-offering. R. Nathan said: Both are exempt from sacrificing a second Passover-offering, because the blood has already been sprinkled.[14] Yet still perhaps it is different there, because if these withdraw it is fit for them [the others]?[13] — If so, let him teach, because it is possible for them[15] to withdraw? Why [state] 'because the blood has already been sprinkled?' That proves' that the matter depends [entirely] on [the sprinkling of] the blood, but the eating is not indispensable. Now, what compels Rab to establish our Mishnah as meaning in the first place [only] and [in accordance with] R. Nathan: let us establish it as [agreeing with] the Rabbis, and even if it was done,[16] it is not [fit]? — To Rab our Mishnah presents a difficulty: why does it state, HE MUST NOT SPRINKLE THE BLOOD: let it teach, 'It is unfit'? Hence this proves that he must not sprinkle in the first place [only], but if done it is indeed well.

But on R. Nathan's view, what is the purpose of ‘according to every man's eating?’ — [To teach] that we require men who are fit to eat [to register for it].

Who is the author of the following which our Rabbis taught: If he slaughtered it for those who can eat of it, but sprinkled its blood for those who cannot eat of it, the paschal-offering itself is fit,[17] and a man discharges his duty therewith? With whom [does this agree]? Shall we say [that] it is [according to] R. Nathan, but not the Rabbis? — You may even say [that it agrees with] the Rabbis: There is no intention of eaters at the sprinkling.[18] Who is the author of the following which our Rabbis taught: If he was ill at the time of the slaughtering but well at the time of sprinkling, [or] well at the time of slaughtering but ill at the time of sprinkling, one may not slaughter and sprinkle on his behalf, unless he is well from the time of the slaughtering until the time of the sprinkling? With whom [does this agree]? Shall we say [that] it is [according to] the Rabbis but not R. Nathan? — You may even say [that it agrees with] R. Nathan: we require a man who is capable of eating [to be registered for it].

Who is the author of the following which our Rabbis taught: If he slaughtered it in cleanness and then its owners became unclean, he must sprinkle the blood in cleanness,[19] but the flesh must not be eaten in uncleanness? With whom [does this agree]? — Said R. Eleazar: This was taught as a controversy, and it is [the view of] R. Nathan.[20] But R. Johanan said: You may even say [that] it is [the view of] the Rabbis: we treat here of the community,[21] who may even sacrifice in [a state of] uncleanness. If it refers to the community, why may the flesh not be eaten in uncleanness? — As a preventive measure, lest the owners[22] become unclean [in a subsequent year] after the sprinkling and they argue: Were we not unclean last year, and yet we ate; then now too we will eat! But they will not know that in the previous year the owners were unclean when the blood was sprinkled,[23] whereas this year the owners were clean [when the blood was sprinkled].[24]

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(1) The portions burnt on the altar.

(2) Even according to R. Eliezer, because the main purpose of the Passover-offering is that it should be eaten.

(3) Even according to R. Joshua, since the fat is clean.

(4) And the owner does not bring another.

(5) Which is impossible, since the flesh is defiled.

(6) Ex. XII, 4.

(7) Lit. , ‘for a precept’. I.e. ‘in the first place the lamb must certainly be brought for this purpose; nevertheless, even when it cannot be eaten the sacrifice is valid.

(8) Ibid.

(9) Just as registration is indispensable, so are eaters, and consequently eating, indispensable.

(10) For he does not rule thus explicitly, and it must be inferred from some other statement.

(11) Ex. XII, 6.

(12) Now in that case there is certainly not as much as an olive of flesh for each, which is the minimum to constitute eating.

(13) So that virtually it is fit for all, but in the present case it is not fit for any.

(14) Which proves that in R. Nathan's view the eating is not indispensable.

(15) Lit., ‘they are fit, eligible.’

(16) I.e., even if the blood was sprinkled.

(17) This is assumed to mean that it is fit for the sprinkling of its blood and the burning of the fat, but not for eating.

(18) V. supra, 61b.

(19) I.e., by ritually clean priests and with clean service vessels.

(20) Who maintains that the eating is not indispensable. R. Eleazar holds that he does not require those registered for it even to be fit to eat. Consequently he explains the previous Baraitha as the view of the Rabbis only

(21) I.e., the whole or the majority of the community became unclean between the killing and the sprinkling, e.g., if the nasi died just then.

(22) I.e., the community, cf. n. 1.

(23) So that it was a Passover-offering sacrificed in uncleanness, which is eaten in uncleanness too.

(24) Hence the sacrifice came in a state of cleanness, and may therefore not be eaten now that the owners are unclean.

Talmud - Mas. Pesachim 79a

Alternatively I may answer, Rab ruled as R. Joshua.[1] For it was taught, R. Joshua said: [In the case of] all the sacrifices of the Torah, whether the flesh was defiled while the fat has remained [clean] or the fat was defiled while the flesh has remained [clean], he must sprinkle the blood. [In the case of] a nazirite[2] and one who sacrifices the Passover-offering, if the fat was defiled and the flesh has remained [clean], he must sprinkle the blood; if the flesh was defiled while the fat has remained [clean], he must not sprinkle the blood. Yet if he sprinkled it, it is acceptable.[3] If the owners became unclean through a dead body, he must not sprinkle [the blood], and if he does sprinkle the blood it is not acceptable.[4]

BUT IN THE CASE OF [OTHER] DEDICATED SACRIFICES IT IS NOT SO etc. Who is [the author of] our Mishnah? — It is R. Joshua. For it was taught, R. Joshua said: [With regard to] all the sacrifices of the Torah of which as much as an olive of flesh or an olive of fat has remained [clean], he sprinkles the blood. [If there remains] as much as half an olive of flesh and half an olive of fat, he must not sprinkle the blood. But in the case of a burnt-offering, even [if there remains] as much as half an olive of flesh and half an olive of fat, he sprinkles the blood, because the whole of it is entirely [burnt].[5] While in the case of a meal-offering, even if the whole of it is in existence,[6] he must not sprinkle [the blood]. What business has a meal-offering [here]?[7] — Said R. Papa: [This refers to] the meal-offerings of libations.[8] You might have said, Since it comes in virtue of[9] the sacrifice, it is as the sacrifice:[10] hence he informs us [that it is not so].

How do we know [it of] fat?[11] Said R. Johanan on R. Ishmael's authority, while it is [ultimately] derived from R. Joshua b. Hananiah: Scripture saith, [And the priest shall sprinkle the blood . . .] and burn the fat [heleb] for a sweet savour unto the Lord:[12] the fat [authorizes the sprinkling of the blood] even if there is no flesh. We have thus found [this to hold good of] fat; how do we know it of the lobe above the liver and the two kidneys?[13] [But] where have we said that we do sprinkle?[14] Since he states, ‘while in the case of a meal-offering, even if the whole of it is in existence, we do not sprinkle [the blood],’ [that implies,] the meal-offerings alone is not [sufficient for the sprinkling of the blood], but the lobe above the liver and the two kidneys are well.[15] Whence [then] do we know it? — R. Johanan, giving his own [exegesis] said: Scripture saith, ‘for a sweet savour’: whatever you offer up for a sweet savour.[16] Now, it is necessary that both ‘heleb’ and ‘for sweet savour’ be written. For if the Divine Law wrote ‘heleb’ [alone], I would say: only ‘fat’, but not the lobe on the liver and the two kidneys; [therefore] the Divine Law wrote ‘for a sweet savour.’ While if the Divine Law wrote ‘for a sweet savour’ [alone], I would say: all that ascend for a sweet savour, and even the meal-offering [permit the sprinkling of the blood]; therefore the Divine Law wrote ‘heleb.’

MISHNAH. IF THE COMMUNITY OR THE MAJORITY THEREOF WAS DEFILED, OR IF THE PRIESTS WERE UNCLEAN AND THE COMMUNITY CLEAN, THEY MUST SACRIFICE IN UNCLEANNESS. IF A MINORITY OF THE COMMUNITY WERE DEFILED: THOSE WHO ARE CLEAN OBSERVE THE FIRST [PASSOVER], WHILE THOSE WHO ARE UNCLEAN OBSERVE THE SECOND.

GEMARA. Our Rabbis taught: Behold, if the Israelites were unclean, while the priests and the service-vessels[17] were clean, or the Israelites were clean while the priests and the service-vessels were unclean, and even if the Israelites and the priests were clean while the service-vessels were unclean, they must sacrifice in uncleanness, because a public sacrifice cannot be divided.[18] R. Hisda said: They learned this only if the [slaughtering] knife became defiled through a person unclean by the dead,[19] because the Divine Law saith, [and whosoever . . . toucheth] one that is slain by the sword,[20] [intimating,] the sword is [of the same degree of uncleanness] as the slain;[21] hence it defiles the person. Thus from the very beginning when it is sacrificed,[22] it is sacrificed in [a state of] personal uncleanness, which involves kareth. But if the knife became unclean with the uncleanness conferred by a reptile, so that it defiles the flesh alone, but does not defile the person, [only] those who are clean sacrifice, but the unclean do not sacrifice, [for] it is better eaten when the flesh is unclean, which is subject to a negative injunction, rather than that the flesh should be eaten when the person is unclean, which is subject to kareth.[23] This proves that R. Hisda holds: uncleanness is overridden in the case of a community.[24] And thus said R. Isaac [too]: uncleanness is overridden in the case of a community.

But Raba said: Even the unclean too may sacrifice. What is the reason? Because it is written, And the flesh that toucheth any unclean thing shall not be eaten; it shall be burnt with fire. And as for the flesh, every one that is clean may eat thereof.[25] Wherever we read ‘and the flesh that toucheth any unclean thing shall not be eaten,’ we [also] read, ‘and as for the flesh, every one that is clean may eat thereof;’ and wherever we do not read, ‘and the flesh that toucheth any unclean thing shall not be eaten’ we [also] do not read, ‘and as for the flesh, every one that is clean may eat thereof.’[26]

It was stated: Behold, if the Israelites were half [of them] clean and half unclean, Rab said: Half against half is as a majority; while R. Kahana said: Half against half is not as a majority. Rab said, Half against half is as a majority’; [hence] these sacrifice[27] by themselves, while those sacrifice by themselves.[28] ‘While R. Kahana said: Half against half is not as a majority’; [hence] the clean observe the first [Passover], while the unclean observe the second. Others say, R. Kahana said: Half against half is not as a majority: the clean observe the first [Passover],

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(1) Who does not consider the eating indispensable.

(2) Rashi: the peace-offering brought by a nazirite on the completion of his naziriteship (v. Num. VI, 14) is essentially intended to be eaten: hence the eating is indispensable. Tosaf. however maintains that it is not indispensable, and deletes ‘nazirite,’ adding that it is absent in the Tosef. too; Bah also deletes it.

(3) Thus the eating is not indispensable.

(4) Because though the eating is not indispensable, the people registered for it must be fit to eat, while Scripture itself relegated him to the second Passover (Num. IX, 10f).

(5) Since both the flesh and the fat are food for the altar, they combine. But this does not hold good of other sacrifices.

(6) I.e., it is clean.

(7) There is no blood to sprinkle in a meal-offering.

(8) Which accompanied the sacrifice.

(9) Lit., ‘by the strength of.’

(10) Hence if as much as an olive of the flour is clean, and certainly if all is clean, the blood is sprinkled.

(11) Sc. that the blood may be sprinkled if there is as much as an olive of clean fat?

(12) Lev. XVI, 6.

(13) That the blood is to be sprinkled if these alone are clean.

(14) If these alone are left.

(15) I.e., since they are part of the sacrifice itself, the blood is sprinkled if they alone are clean.

(16) Authorizes by itself the sprinkling of the blood.

(17) Used in connection with the sacrifice, the slaughtering knife and basins in which the blood is caught.

(18) That some should bring it in a state of cleanness and others in a state of uncleanness. Since the majority bring it in uncleanness, even the minority who are clean bring it in uncleanness too.

(19) This is the ‘service-vessel’ referred to and its degree of uncleanness.

(20) Num. XIX, 16.

(21) V. supra 14b.

(22) Lit., ‘made.’

(23) V. Mishnah supra 14a and p. 62, n. 2 a.l. Now in the first instance the knife bears a principal degree of uncleanness and defiles human beings. Hence the man who kills with it must in any case become unclean, while normally the penalty for eating sacred flesh in this state is kareth (v. Lev. VII, 20). But in the second instance the knife is unclean in the first degree only and does not defile the person who handles it, though it defiles the flesh of the animal which is killed with it. Since this is a lower stage, for eating unclean sacred flesh is merely subject to a negative injunction but does not involve kareth, we do not permit the greater uncleanness of the person too; hence those who are bodily unclean must observe the second Passover.

(24) But not permitted; v. supra 77a, p. 398, n. 2. Consequently we seek as far as possible to bring the sacrifice in cleanness or at least with the smallest possible degree of uncleanness.

(25) Lev. VII, 19.

(26) I.e., the two are interdependent. Since the flesh is now eaten unclean, unclean persons too may eat it.

(27) Lit., 'do'.

(28) They must all observe the first Passover. The clean must not show themselves to be defiled, for

Talmud - Mas. Pesachim 79b

while the unclean observe neither the first nor the second. They cannot sacrifice on the first, because they are not a majority, [while] they cannot sacrifice at the second because they are not a minority.[1]

We learned: IF THE COMMUNITY OR THE MAJORITY THEREOF WAS DEFILED, OR IF THE PRIESTS WERE UNCLEAN AND THE COMMUNITY CLEAN, THEY MUST SACRIFICE IN UNCLEANNESS. [Thus] it is only the majority that sacrifices in uncleanness, but [when it is] half and half, they do not sacrifice at the first [Passover], which is a difficulty on Rab's view? — Rab can answer you: [When] a majority [is unclean], all sacrifice in uncleanness; [whereas where there is] half and half, these observe [the Passover] by themselves, and those observe [it] by themselves. That too is logical, because the second clause states IF A MINORITY OF THE COMMUNITY WERE DEFILED: THOSE WHO ARE CLEAN OBSERVE THE FIRST [PASSOVER], WHILE THOSE WHO ARE UNCLEAN OBSERVE THE SECOND. [Thus] only a minority sacrifice at the second, but not [when it is] half against half, for then they sacrifice at the first, these sacrificing by themselves and those sacrificing by themselves.

But in that case it is a difficulty on R. Kahana's view? — R. Kahana can answer you: [It states] IF A MINORITY OF THE COMMUNITY WERE DEFILED, THOSE WHO ARE CLEAN OBSERVE THE FIRST [PASSOVER], WHILE THOSE WHO ARE UNCLEAN OBSERVE THE SECOND; hence [when it is] half against half, the clean observe the first, but the unclean observe neither the first nor the second. Now that is well according to the latter version of P. Kahana['s ruling]; but according to the version in which R. Kahana states, 'The clean observe the first and the unclean

each half ranks as a majority, and when the majority is clean they must not sacrifice in uncleanness. On the other hand, the unclean half is not relegated to the second Passover, since they too count as a majority. observe the second,' what is to be said? — R. Kahana can answer you: The same law [holds good] that even half against half, the clean observe the first while the unclean observe the second; yet as to what he [the Tanna] teaches, A MINORITY OF THE COMMUNITY: because he teaches THE MAJORITY in the first clause, he also teaches A MINORITY in the second clause.

It was taught in accordance with Rab; it was taught in accordance with R. Kahana, and as both versions [of his ruling]. It was taught in accordance with Rab: If the Israelites were half [of them] clean and half [of them] unclean, the former sacrifice by themselves and the latter sacrifice by themselves. It was taught as the first version of R. Kahana['s ruling]: Behold, if the Israelites were half [of them] clean and half [of them] unclean, the clean observe the first [Passover] while the unclean observe the second. And it was taught as the second version of R. Kahana['s ruling]:

Behold, if the Israelites were half [of them] clean and half [of them] unclean the clean observe the first, while the unclean observe neither the first nor the second.

Now according to Rab and the second version of R. Kahana[‘s ruling], when he[2] teaches, ‘The clean observe the first and the unclean [observe] the second,’ how do they reconcile it [with their views]? — E.g., if the Israelites were half [of them] clean and half [of them] unclean, with women making up [the number of] the unclean;[3] now he holds: [The observance of the Passover-offering by] women at the first [Passover] is voluntary;[4] [hence] deduct the women from the [number of] unclean, so that the unclean are a minority, and a minority are relegated to the second Passover.

According to Rab and the first version of R. Kahana, as to what was taught, ‘The clean observe the first and the unclean observe neither the first nor the second,’ how do they reconcile it [with their views]? — Rab reconciles it [thus]: e.g., if the [male] Israelites were half [of them] unclean and half of them clean, with women as an addition to the clean.[5] Now he holds: [The observance of the Passover-offering by] women at the first [Passover] is a duty, but voluntary at the second. [Hence] they [the unclean] cannot sacrifice at the first, because they are a minority,[6] and a minority do not sacrifice at the first. While they cannot sacrifice at the second, [because] deduct the women from them,[7] so there is half and half, and a half do not sacrifice at the second. While according to R. Kahana who maintained, a half too sacrifice at the second, he explains it thus: e.g., if the Israelites were half [of them] clean and half [of them] unclean, with women making up [the number of] the clean. Now he holds: [The observance of the Passover-offering by] women at the first Passover is a duty, while at the second it is voluntary. [Hence] they cannot sacrifice at the first, because they are half against half, and a half does not sacrifice at the first. At the second too they cannot sacrifice, [because] deduct the women from the clean [and] the unclean are a majority, and a majority do not sacrifice at the second. Again, according to R. Kahana, as to what was taught, ‘Behold, if the Israelites were half [of them] clean and half [of them] unclean, the former sacrifice by themselves while the latter sacrifice by themselves,’ how does he explain it? — R. Kahana can answer you: It is [a controversy of] Tannaim: there is a view [that] half against half is as a majority, and there is a view [that] half against half is not as a majority.

[To turn to] the main text:[8] ‘Behold, if the Israelites were half [of them] clean and half [of them] unclean, the former sacrifice by themselves and the latter sacrifice by themselves. If the unclean exceeded the clean even by one, they all sacrifice in uncleanness, because a public sacrifice cannot be divided.’[9] R. Eleazar b. Mathia said: A single individual cannot overbalance the community to uncleanness, because it is said,

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(1) Whereas only a minority sacrifices at the second Passover.

(2) The Tanna of the cited teaching.

(3) I.e., there were half unclean only when women are included.

(4) They need not observe it all.

(5) Bringing up the clean to a majority.

(6) Since it is obligatory for women they must he counted.

(7) Sc. the clean; for since it is only voluntary for women at the second they cannot be counted.

(8) From which the teaching cited supra, p. 415, is taken.

(9) V. supra p. 412, n. 2.

Talmud - Mas. Pesachim 80a

Thou mayest not sacrifice the passover-offering at one of thy gates.[1] R. Simeon said: Even if one tribe is unclean and all the other tribes are clean, the former sacrifice by themselves while the latter sacrifice by themselves. (What is R. Simeon's reason? — He holds: One tribe is designated a community.)[2] R. Judah said: Even if one tribe is unclean and all the other tribes are clean, let them

[all] sacrifice in uncleanness, because a public sacrifice cannot be divided. (R. Judah holds: One tribe is designated a community, so that it is half against half,[3] and [since] a public sacrifice is not divided, they all sacrifice in uncleanness.)

It was stated: If the Israelites were half [of them] clean and half [of them] unclean, — said Rab: we defile one of them with a reptile.[4] But why so: let the former sacrifice by themselves and the latter by themselves, for surely Rab said: These sacrifice by themselves and those sacrifice by themselves? — I will tell you: what do we discuss here? E.g., where the unclean exceeded the clean by one. If so, the majority are unclean, [then] let them all sacrifice in uncleanness? — He holds as R. Eleazar b. Mathia, who maintained: A single individual cannot overbalance the community to uncleanness. If so, our difficulty returns in full force:[5] let the former sacrifice by themselves and the latter by themselves? Rather this is what he means:If there is a Tanna who agrees with the first Tanna[6] who rules: [When there is] half against half they must not all sacrifice in uncleanness, and [also] he agrees with R. Judah who said: A public sacrifice cannot be divided, then we defile one of them with a reptile.

But ‘Ulla maintained: We send away one of them on a journey afar off.’[7] But let us defile him with a reptile? — He holds: We slaughter [the Passover-offering] and sprinkle [its blood] for a man who is unclean through a reptile.[8] Then let us defile him through a dead body? — Then you debar him from his hagigah.[9] But now too you debar him from his Passover-offering? — It is possible to sacrifice at the second [Passover]. Then in the case of [defilement by] a dead body too it is possible to sacrifice [the hagigah] on the seventh [day of Passover] which would be his eighth [day after defilement]? — ‘Ulla holds: They are all a compensation for the first [day]:[10] [hence] he who is eligible on the first is eligible [to sacrifice] on all of them, but wherever one is not eligible on the first, he is not eligible on any of them.

R. Nahman said to them [his disciples], Go and tell ‘Ulla: Who will obey you to pull up his tent-pegs and tent and speed away![11]

It was stated: If the majority were zabin[12] and the minority unclean though the dead, — Rab said: Those unclean through the dead cannot sacrifice either on the first or on the second. They do not observe the first [Passover], because they are a minority, and a minority do not observe [it] on the first. They cannot observe it on the second either: whenever the community observes [it] on the first, individual[s] observe [it] on the second; [but] whenever the community does not observe it on the first, individual[s] do not observe [it] on the second. Said Samuel to them [his disciples], Go out and say to Abba:[13] How do you dispose of, Let the children of Israel keep the Passover in its appointed season![14] — He [Rab] answered them: Go and say to him: [yet] how do you dispose of it [the verse] when they are all zabin?[15] But [you must say] since it is impossible [to carry it out], it is impossible; so here too it is impossible.

It was stated: If the majority were unclean through the dead and a minority were zabin, — R. Huna said: There is no compensation for a Passover-offering which comes in uncleanness;[16] while R. Adda b. Ahabah said: There is compensation for a Passover-offering which comes In uncleanness. Shall we say that they differ in this, viz., he who maintains [that] there is no compensation for a Passover-offering which comes in uncleanness holds: Uncleanness is overridden in the case of the community; while he who maintains [that] there is compensation for a Passover-offering which comes in uncleanness holds: Uncleanness is permitted in the case of a community![17] — I will tell you. It is not so, for all hold [that] uncleanness is overridden in the case of a community, and they differ in this: one Master holds:

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(1) Deut. XVI, 5. He translates: you must not sacrifice it on account of one person, i.e., one person has no power to change any of the conditions of the sacrifice.

(2) V. Hor. 5b. Hence it is not relegated to the second.

(3) Communities are not regarded numerically.

(4) So that there is a majority unclean, and all can now sacrifice in uncleanness.

(5) Lit., ‘to its place.’

(6) in the previously cited Baraitha.

(7) Which is tantamount to being unclean (v. Num. IX, 10) and effects the same result. For the definition of a journey afar off’, v. infra 93b.

(8) Since he can have a ritual bath (tebillah) and be fit to eat in the evening.

(9) V. Glos. The reference is to the hagigah brought on the fifteenth, and he would be debarred from it, since a man defiled by the dead is unclean for seven days. [But when he is sent away on a ‘journey afar off’, he might manage to be back in Jerusalem on the following day to offer the hagigah, v. Tosaf.]

(10) All the days of the Festival, though fit for the sacrificing of the hagigah, are only regarded as a compensation for the first day, this being the day when it should really be brought. This question is disputed in Hag. 9b.

(11) None will consent to depart on a distant journey! Hence Rab's expedient is preferable. [R. Nahman must have accepted R. Akiba's definition (v. loc. cit.) of a ‘journey afar off’, v. Tosaf.]

(12) Pl. of zab, q.v. Glos. They are unclean, but the law that an unclean majority sacrifice in uncleanness applies only to those who are unclean through the dead.

(13) Rab. His name was Abba Arika, but he was called Rab (the Master) in the same way that R. Judah ha-Nasi was called Rabbi.

(14) Num. IX, 2.

(15) When obviously the precept cannot be fulfilled.

(16) Hence the zabin cannot observe the second Passover.

(17) V. supra 77a; hence it is really the same as any other Passover-offering, and therefore permits of compensation.

Talmud - Mas. Pesachim 80b

Cleanness defers, [whereas] uncleanness does not defer;[1] while the other Master holds: Even uncleanness defers.

It was stated: If a third were zabin, a third clean, and a third unclean through the dead, — R. Mani b. Pattish said: Those unclean through the dead observe neither the first [Passover] nor the second. They do not sacrifice on the first, [because] the zabin swell the number of the clean[2] who do not sacrifice in uncleanness; [hence] the unclean through the dead are a minority, and a minority do not sacrifice on the first. They do not sacrifice on the second, [because] the zabin combine with those who are unclean through the dead who did not sacrifice on the first; [hence] they are a majority, and a majority is not relegated to the second Passover.

MISHNAH. IF THE BLOOD OF A PASSOVER-OFFERING IS SPRINKLED AND THEN IT BECOMES KNOWN THAT IT[3] WAS UNCLEAN, THE HEADPLATE PROPITIATES; IF THE PERSON [THE OWNER] BECAME UNCLEAN,[4] THE HEADPLATE DOES NOT PROPITIATE, BECAUSE THEY [THE SAGES] RULED: [IN THE CASE OF] A NAZIRITE, AND HE WHO SACRIFICES[5] THE PASSOVER-OFFERING, THE HEADPLATE PROPITIATES FOR THE UNCLEANNESS OF THE BLOOD, BUT THE HEADPLATE DOES NOT PROPITIATE FOR THE UNCLEANNESS OF THE PERSON. IF HE WAS DEFILED WITH THE UNCLEANNESS OF THE DEEP,’[6] THE HEADPLATE PROPITIATES.[7]

GEMARA. Thus it is only because it was [first] sprinkled and it became known afterwards [that it was unclean]; but if it [first] became known and [the blood] was sprinkled afterwards, it does not propitiate. But the following contradicts it: For what does the headplate propitiate? For the blood, flesh, and fat which were defiled, whether in ignorance or deliberately, accidentally or intentionally, whether in the case of an individual or of a community?[8] — Said Rabina: [With regard to] its defilement, whether [it occurred] in ignorance or deliberately, [the offering] is made acceptable;[9]

[but as to its] sprinkling, [if done] in ignorance [that the blood was unclean], it is acceptable; if deliberately, it is not acceptable. R. Shila said: [With regard to] its sprinkling, whether [done] in ignorance [that the blood was unclean] or deliberately, it is accepted; [but as to] its uncleanness, [if it occurred] in ignorance, it is acceptable; if [caused] deliberately, it is not acceptable. But surely he states, 'whether in ignorance or deliberately?' This is what it means: If it was defiled in ignorance, and he [the priest] sprinkled it, whether unwittingly or deliberately, it is accepted. Yet surely it is taught, IF THE BLOOD WAS SPRINKLED AND THEN IT BECAME KNOWN: thus it is only because it was sprinkled [first] and it became known afterwards; but if it became known [first] and it was sprinkled afterwards, it is not so? — The same law holds good even if it became known [first] and it was sprinkled afterwards, and the reason that he states, IF IT WAS SPRINKLED AND THEN IT BECAME KNOWN is because he wishes to teach in the second clause, IF THE PERSON BECAME UNCLEAN, THE HEADPLATE DOES NOT PROPITIATE, where even if it was sprinkled [first] and it became known afterwards [it does] not [propitiate]; therefore he teaches the first clause too, IF IT WAS SPRINKLED AND THEN IT BECAME KNOWN.

IF HE WAS DEFILED WITH 'THE UNCLEANNESS OF THE DEEP' etc. Rami b. Hama asked: The priest who propitiates with their sacrifices, is the 'uncleanness of the deep' permitted to him or not?[10] Do we say, when have we a tradition about the 'uncleanness of the deep'?[11] [It is] in the case of the owners, but we have no tradition in respect of the priest; or perhaps we have a tradition in respect of the sacrifice,[12] no matter whether the owners or the priest [are thus defiled]? — Said Raba, Come and hear: For R. Hiyya taught: They [the Sages] spoke of the 'uncleanness of the deep' in respect of a corpse alone. What does this exclude? Surely it is to exclude 'uncleanness of the deep' caused by a reptile; and to what [then] do we refer? Shall we say, to the owners [who are thus defiled]? Then in the case of whom? If we say, in the case of a nazirite? Does it [a reptile uncleanness] affect him,[13] [seeing that] the Divine Law said, and if any man die beside him [etc.].[14] Hence it must refer to him who sacrifices the Passover-offering. Now that is well on the view [that] we may not slaughter [the Passover-offering] and sprinkle [its blood] for those who are unclean through a reptile.[15] But on the view [that] we slaughter and sprinkle on behalf of those who are unclean through a reptile, what can be said? Seeing that known uncleanness was permitted to him [who sacrifices at Passover], how much the more 'uncleanness of the deep'! Hence it must surely refer to the priest, whence it is proved that 'uncleanness of the deep' was permitted to him! — Said R. Joseph, No: After all it refers to the owners and the Passover-offering, and it excludes 'uncleanness of the deep' of gonorrhoea.[16]

Yet does it [the headplate] not propitiate for the 'uncleanness of the deep' of gonorrhoea? Surely it was taught, R. Jose said: A woman who watches from day to day[17] on whose behalf they slaughtered [the Passover-offering] and sprinkled [its blood]

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(1) I.e., when the sacrifice comes in a state of cleanness, it relegates the unclean to the second Passover; but when it comes itself in a state of uncleanness, it cannot relegate those who are otherwise unclean to the second Passover.

(2) Lit., 'they make large.'

(3) Rashi: The offering — i.e., the flesh-or the blood. In the former case the head plate makes it acceptable only in the sense that the owner is not liable to another offering and the emurim are burnt on the altar; yet the flesh itself may not be eaten (Tosaf. on the basis of Rashi's interpretation). Tosaf. itself maintains that the Mishnah refers to the defilement of the blood only.

(4) Through the dead.

(5) Lit., 'does,' 'prepares.'

(6) This is a technical term denoting the hidden uncleanness of a corpse which is now discovered for the first time. E.g., if he was in a house and it is subsequently learned that a corpse had been buried therein.

(7) And he is not liable to a second offering. This is a traditional law.

(8) V. supra 16b. 'In ignorance' and 'deliberately' are assumed to mean respectively: ignorance of the uncleanness of the blood, and deliberately sprinkling it with that knowledge.

(9) The headplate propitiates.

(10) If the priest who offers the Passover sacrifice or the sacrifices of a nazirite on behalf of their owners was defiled with the ‘uncleanness of the deep,’ does the breastplate propitiate, so that the sacrifice is valid, or not?

(11) That the headplate propitiates for it.

(12) Viz., that in the case of the Passover-offering and the sacrifice of a nazirite the head plate propitiates for personal defilement caused by the ‘uncleanness of the deep.’

(13) Even if he is certainly defiled by a reptile.

(14) Num. VI,9 thus his naziriteship is affected only by uncleanness through the dead.

(15) V. supra 69a p. 353. Hence R. Hiyya can mean that when one is defiled through the ‘uncleanness of the deep’ of a reptile the Passover-offering must not be sacrificed for him.

(16) A zab (gonorrhoeist) is unclean seven days and the Passover-offering may not be offered on his behalf. Now, if the eve of Passover marks the seventh day of his uncleanness, he is in a state of a doubt; for if he does not discharge on that day he will be clean in the evening; while if he does discharge he becomes unclean for a further seven days. Thus he too is unclean with the ‘uncleanness of the deep,’ and R. Hiyya teaches that the headplate does not propitiate in his case and the offering must not be killed or its blood sprinkled on his behalf.

(17) Lit., ‘day against day.’

Talmud - Mas. Pesachim 81a

on her second day, and then she saw [a discharge], may not eat [of the sacrifice] and is exempt from observing the second Passover.[1] What is the reason? Is it not because the headplate propitiates?[2] — I will tell you: It is not so, [the reason being] because R. Jose holds: She is defiled from now and henceforth.[3] But it was taught, R. Jose said: A zab of two discharges[4] on whose behalf they slaughtered [the Passover-offering] and sprinkled [its blood] on the seventh day,[5] and then he discharged again;[6]

for the third to see whether another discharge will follow, rendering her a zabah, or not. Thus on the first or second day of her discharge within these eleven days she is called ‘a woman who watches from day to day.’ Should another discharge follow on the third day, she cannot regain cleanness until seven days have passed without any issue at all. (The foregoing is on the basis of the ancient law, but already in the period of the Talmud itself the law was adopted that a single blood issue at any time imposes all the restrictions which necessitate for cleanness a period of seven consecutive clean days.) Now in the present instance the eve of Passover occurred on the second day of her discharge; the sacrifice was offered and its blood was sprinkled on her behalf before she had a discharge on that day, so that if she had not discharged later she would have been fit to eat in the evening. Since, however, she subsequently discharged, she cannot eat of the sacrifice, as she cannot perform tebillah until the following evening. similarly, a woman who watches from day to day on whose second day they slaughtered and sprinkled on her behalf, and then she discharged again, — these defile their couch or their seat retrospectively,[7] and they are exempt from observing the second Passover.[8] — I will tell you: what does ‘retrospectively’ mean? By Rabbinical law.[9]

Now R. Oshaia too holds [that] he defiles retrospectively by Rabbinical law [only].[10] For it was taught, R. Oshaia said:[11] But a zab who saw [a discharge] on his seventh day upsets the preceding [period];[12] whereupon R. Johanan said to him: He does not upset [aught] save that day.[13] (What will you? If he holds [that] he defiles retrospectively,[14] let us upset even all of them; while if he holds that he defiles [only] from now and onwards,[15] let him not upset even that day?[16] — Rather say: He does not even upset that day.) Whereupon he [R. Oshaia] said to him [R. Johanan], R. Jose agrees with you.[17] Yet surely R. Jose said: They defile their couch and their seat retrospectively? Hence it certainly proves that they defile retrospectively by Rabbinical law [only]. This proves it.

Now according to R. Jose, seeing that he rules [that] he defiles from now and onwards [only], what does ‘[They spoke of the "uncleanness of the deep"] in respect of a corpse alone’ exclude?[18]

[Hence] let us solve from this that it refers to the priest, and [thus] the ‘uncleanness of the deep’ is permitted to him? — I will tell you: After all it refers to the owners and [treats] of the Passover-offering, but he [R. Jose] holds: One may not slaughter [the Passover-offering] and sprinkle [its blood] on behalf of those who are unclean through a reptile, and thus it is necessary to exclude it.[19] But according to R. Jose, how is a complete zabah possible?[20] — When she has a continuous discharge.[21] Alternatively, e.g., if she sees [a discharge] the whole of two [successive] twilights.[22]

R. Joseph asked: The priest who officiates at[23] the continual-offering,[24] is the ‘uncleanness of the deep’ permitted to him or not? If you should say that the ‘uncleanness of the deep’ is permitted to the priest who officiates at their sacrifices,[25] what about the gonorrhoea which has no connection with the preceding, and when a man has a single discharge he is unclean only until the evening, when he performs tebillah and becomes clean. Why then does he need another day? priest who officiates at the continual-offering? Do we say, when have we a tradition about ‘the uncleanness of the deep’, in respect of the Passover-offering, [but] we have no tradition about the ‘uncleanness of the deep’ in respect to the continual-offering; or perhaps the continual-offering is learned from the Passover-offering? — Said Rabbah: It stands to reason: if where known uncleanness was not permitted to him,[26] yet the ‘uncleanness of the deep’ was permitted to him,[27] then where known uncleanness was permitted to him,

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(1) During the eleven days following the seven days of niddah (menstruation) which are called the eleven days between the menses, a woman cannot become a niddah again, it being axiomatic that a discharge of blood in that period is not a sign of niddah, but may be symptomatic of gonorrhoea (zibah). A discharge on one or two days within the eleven renders her unclean for that day or those days only, but she cannot perform tebillah (v. Glos.) to become clean until the evening of the following day (for full details v. Nid. 71b ff), and she must wait

(2) For when the blood was sprinkled she was doubtfully unclean, since she might discharge again on that day. Thus she is assumed to be unclean with the ‘uncleanness of the deep,’ and is exempt from observing the second Passover because the headplate propitiates and makes her sacrifice valid, though she cannot partake of it.

(3) If she discharges on one day, waits part of the following and performs tebillah, she is clean, and if she subsequently discharges on the same day she becomes unclean anew, but does not continue her previous uncleanness. Hence when the sacrifice was slaughtered she was actually clean, having already performed tebillah, so that no propitiation is required.

(4) When a man suffers three gonorrhoeic discharges within three days or less (in this respect a man differs from a woman, who becomes a zabah only if the three discharges are on three consecutive days), he becomes a full zab, i.e., he does not regain his cleanness until seven consecutive days pass without a discharge, while during these seven days he is unclean as a zab; should he discharge on any of these days, he requires a further seven days, and so on. On the eighth day he brings a sacrifice, and on the evening that follows he may eat of sacred flesh (having performed tebillah the previous day). If, however, he suffers two discharges only, he is likewise unclean for seven days, but does not bring a sacrifice on the eighth; hence he can partake of sacrifices on the evening following the seventh day.

(5) So that if the day passes without a further discharge, he is fit to partake of the Passover-offering in the evening.

(6) Lit., ‘Saw.’ ‘Saw’ and ‘sight’ are technical terms denoting the gonorrhoeic discharges of a zab.

(7) Anything upon which they sit or lie, even without actually touching it, becomes unclean, its degree of defilement being that of a ‘principal uncleanness’ which in turn defiles people or utensils (v. Mishnah supra 14a and note a.l.). ‘retrospectively’ means, since the tebillah (q.v. Glos.) on the seventh day. Before the tebillah of course he would in any case be unclean.

(8) Thus they are not unclean only for the future, and yet they are exempt from a second Passover; the reason must be because it is an ‘uncleanness of the deep’ of gonorrhoea, and he holds that the headplate propitiates.

(9) But according to Biblical law she was clean during the interval between the tebillah until the third discharge.

(10) I.e., he interprets R. Jose's ruling thus.

(11) So cur. edd. But marginal note emends this to, ‘For R. Oshaia said’, omitting ‘it was taught’, as we never find his view expressed in a Baraitha, though he was the compiler of a series of Baraithas.

(12) I.e., the seven days are nullified and he must count another seven days; v. p. 423, n. 3. Rashi observes that he does not know to what R. Oshaia refers when he says ‘But’, which obviously indicates a contrast with some other law.

Possibly, however, אבל means here ‘indeed’, ‘in truth’, in which case it is an independent statement.

(13) Which is disregarded, and he requires only one more day free from discharge in order to regain his cleanness.

(14) I.e., from the beginning of the seventh day, the portion of the seventh day during which he had no discharge not being regarded as a complete day, that we should look upon him as having had seven consecutive days without an unclean discharge.

(15) Not from the beginning of the day, for the part of the day during which he was free from discharge counts as a whole day.

(16) For on that view he has enjoyed seven consecutive days of cleanness, which purifies him. The present discharge therefore is as an entirely new attack of

(17) Since he exempts her from observing the second Passover, he too holds that she is not retrospectively unclean.

(18) For, as seen above, on the present ruling there is no ‘uncleanness of the deep’ in connection with gonorrhoea. Hence it must refer to defilement by a reptile and to the priest; v. supra 80b.

(19) The steps of the argument are stated supra 80b.

(20) Since he holds that part of the day is counted as a whole day, and she is unclean only from when she discharges, each day is distinct and she can never be unclean for the three consecutive days which are necessary before she becomes a complete zabah.

(21) For the whole three days.

(22) Twilight counts as the end of one day and the beginning of the following. Hence if she discharges right through the twilights of Sunday and Monday, she is regarded as having ‘seen’ on Sunday, Monday, and Tuesday, and as this includes the beginnings of Monday and Tuesday, she is unclean the whole of these days.

(23) Lit., ‘propitiates with’.

(24) During the whole year.

(25) V. supra 80b.

(26) E.g., a nazirite and one who sacrifices his Passover-offering. The headplate does not propitiate to make the sprinkling permissible.

(27) In the case of the continual-offering, where none are clean.

Talmud - Mas. Pesachim 81b

is it not logical that the ‘uncleanness of the deep’ was permitted to him? — I will tell you: can we then argue a fortiori from a traditional law: surely it was taught, R. Eliezer said to him: Akiba! That a bone [of a corpse] the size of a barley grain defiles[1] is a traditional law, whereas [that] a quarter [log] of blood [of a corpse defiles] is [deduced by you] a fortiori,[2] and we do not deduce a fortiori from a traditional law! — Rather said Raba: We learn [the scope of] ‘its appointed time’ from the Passover-offering.[3] And where is [the law about] the ‘uncleanness of the deep’ itself written?[4] — Said R. Eleazar: Scripture saith, And if any man die beside him [‘alaw],[5] [which means] when it is quite clear beside him.[6] We have thus found [it in the case of] a nazirite; how do we know [it in the case of] one who sacrifices a Passover-offering? — Said R. Johanan: Because Scripture saith, [If any man shall be unclean by reason of a dead body or] in a distant road unto you:[7] [that means] when it is quite clear unto you. R. Simeon b. Lakish said, It is as the road: just as the road is manifest, so must the [cause of] defilement be manifest too.

An objection is raised: What is the ‘uncleanness of the deep’? Wherever not [even] a person at the end of the world had been cognizant thereof.[8] If a person at the end of the world had been cognizant thereof, it is not the ‘uncleanness of the deep.’ [But] according to R. Eleazar who interpreted — when it is quite clear beside him, then [it is ‘uncleanness of the deep’] unless he himself [the nazirite] knows of it.[9] According to R. Johanan who interpreted ‘unto you’ [as meaning] when it is quite clear unto you, then [at least] two should know thereof.[10] According to R. Simeon b. Lakish who said, It is as a road, then all should know of it? — Rather the ‘uncleanness of the deep’ is known as a traditional law, while the verse[s] are a mere support.[11]

Mar son of R. Ashi said: They learned this[12] only where it became known to him[13] after the sprinkling, so that when the blood was sprinkled it was rightly sprinkled; but if it was known to him before the sprinkling — it does not propitiate. An objection is raised: If a man finds a corpse lying across the width of a path,[14] in respect of terumah he is unclean;[15] in respect of [the laws of] a nazirite or one who sacrifices the Passover-offering, he is clean; and all [statements of] unclean and clean refer to the future.[16] Rather if stated, it was thus stated: Mar son of R. Ashi said: Do not say that only if it became known to him after sprinkling does it propitiate, whereas if it became known to him before sprinkling, it does not propitiate; for even if it became known to him before sprinkling it [still] propitiates.

[To revert to] the main text: If a man finds a corpse lying across the width of a path, in respect of terumah he is unclean; in respect of [the laws of] a nazirite or one who sacrifices a Passover-offering, he is clean. When is that said? If he has no room to pass by,[17] but if he has room to pass by, he is clean even in respect of terumah. When is that said? If he finds it whole. But if it was broken or dismembered, he is clean, as he might have passed between the pieces. But [if it lay] in a grave, even if broken and dismembered, he is unclean, because the grave unites it.[18] When is this said? If he was walking on foot. But if he was laden [with a burden] or riding, he is unclean; because he who walks on foot can avoid touching it or overshadowing it,[19] but when he is laden or riding, he cannot but touch [it] or overshadow it.[20] When is this said?[21] In the case of ‘uncleanness of the deep’; but in the case of known uncleanness, he is unclean. And what is ‘uncleanness of the deep’? Wherever not [even] one at the end of the world had been cognizant thereof. But if one [even] at the world's end was cognizant thereof, it is not ‘uncleanness of the deep.’ If he found it hidden in straw, earth, or pebbles, it is ‘uncleanness of the deep.’[22] [If he found it] in water, in darkness, or in the clefts of rocks, it is not ‘uncleanness of the deep.’[23] And they did not state [the law of] ‘uncleanness of the deep’ in respect of aught save a corpse alone.

MISHNAH. IF IT [THE PASCHAL LAMB] BECAME UNCLEAN, [EITHER] WHOLLY OR THE GREATER PART THEREOF, WE BURN IT IN FRONT OF THE BIRAH[24] WITH THE WOOD OF THE PILE.[25] IF THE LESSER PART THEREOF BECAME UNCLEAN, ALSO NOTHAR,[26] THEY [THE PEOPLE] BURN IT IN THEIR COURT-YARDS OR ON THEIR ROOFS WITH THEIR OWN WOOD. MISERS BURN IT IN FRONT OF THE BIRAH, IN ORDER TO BENEFIT FROM THE WOOD OF THE PILE.

GEMARA. What is the reason?[27] — Said R. Jose b. Hanina: In order to put them to shame.[28]

IF THE LESSER PART THEREOF BECAME UNCLEAN etc. But the following contradicts it: Similarly, he who went out of Jerusalem and reconnected that he had holy flesh with him, if he has passed Scopus he burns it where he is; but if not,

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(1) A nazirite, if he touches or carries it, and he must commence again (v. Num. VI, 9-12).

(2) R. Akiba deduced a fortiori from the former that if a nazirite is under the same covering as a quarter log of blood taken from a corpse he is defiled, just as in the first case; v. Naz. 57a.

(3) Mo'ado (its appointed time) is written in connection with both the continual-offering and the Passover-offering (v. Num. XXVIII, 2; IX, 2). Hence just as the head plate propitiates for the ‘uncleanness of the deep’ in the latter case, so in the former too.

(4) That the headplate propitiates in the case of a nazirite and one who sacrifices his Passover-offerings. At this stage it is as yet unknown that it is not intimated in Scripture at all but is a traditional law.

(5) Num. VI, 9.

(6) I.e., he becomes unclean only if the existence of the corpse is ‘beside him’, clear and known to him. But in the ‘uncleanness of the deep’ it was unknown hitherto.

(7) Ibid. IX, 10, lit. translation.

(8) Until after the nazirite or the Israelite sacrificing his Passover-offering was defiled by it. In that case the headplate propitiates.

(9) Since the verse refers to him.
(10) ‘Unto you’, Heb. lakem, is in the plural, hence must refer to two at least.
(11) But not really the source of the law.
(12) Sc. that the headplate propitiates for ‘uncleanness of the deep’ in the two cases stated.
(13) The owner of the sacrifice, that he had been thus defiled.
(14) Where he had passed, and he must either have actually touched or passed over it.
(15) He may not eat terumah.
(16) Thus though it is now known to him before the blood is sprinkled, the headplate propitiates, for this too was a case of ‘uncleanness of the deep’, since as far as is known none was aware of the corpse before.
(17) V. p. 427, n. 7.
(18) And the whole length of the grave is unclean and defiles.
(19) יאהיל < אהל means to form a tent, and is the technical term for overshadowing a corpse without touching it.
(20) Because the burden or the action of the riding makes him sway from side to side.
(21) That a nazirite etc. is clean.
(22) These completely cover a corpse and make him quite invisible; hence its presence would not be known.
(23) Because one might have seen it previously.
(24) V. supra 49a.
(25) The wood specially arranged for the altar for the burning of the burnt-offerings etc.
(26) That which remained over from a clean Passover sacrifice, v. Ex. XII, 10.
(27) That it is burnt before the Temple, publicly.
(28) For their carelessness in permitting it to become defiled.

Talmud - Mas. Pesachim 82a

he returns and burns it in front of the Temple with the wood of the [altar] pile?[1] — Said R. Hama b. ‘Ukba, There is no difficulty: One refers to a lodger;[2] the other [our Mishnah] refers to a householder. R. Papa said, Both refer to a lodger: there he had repaired to the road;[3] here he had not repaired to the road. R. Zebid said: in truth it is as was first stated, [viz.,] there it refers to a lodger, while here it refers to a householder, and even where he had not taken to the road; [in the case of] a lodger, since he has not [wood of his own] he was regarded as a miser, for we learned: MISERS BURN IT IN FRONT OF THE TEMPLE IN ORDER TO BENEFIT FROM THE WOOD OF THE [ALTAR] PILE.

Our Rabbis taught: If they come [desire] to burn it in their own court-yards and with the wood of the [altar] pile, we do not heed [permit] them; in front of the Temple and with their own wood, we do not heed them. As for not heeding them [when they wish to burn it] with the wood of the pile in their own courtyards, that is well, [the reason being] lest some of it [the wood] be left over and they come to a stumbling-block through it.[4] But what is the reason that [they may] not [burn it] in front of the Temple with their own wood? — Said R. Joseph: So as not to shame him who has none [of his own]. Raba said: On account of suspicion.[5] Wherein do they differ? — They differ where he brought cane reeds and dried branches, which are not fit for the pile.[6]

We learned elsewhere: The head of the ma'amad[7] used to place the unclean[8] by the East Gate.[9] What is the reason? Said R. Joseph: In order to put them to shame.[10] Raba said: Because of suspicion.[11] Wherein do they differ? — They differ in respect of delicate persons or ropemakers.[12]

MISHNAH. A PASSOVER-OFFERING WHICH PASSED OUT[13] OR WAS DEFILED MUST BE BURNT IMMEDIATELY.[14] IF ITS OWNERS WERE DEFILED OR THEY DIED,[15] IT MUST BECOME DISFIGURED[14] AND BE BURNT ON THE SIXTEENTH. R. JOHANAN B. BEROKAH SAID: THIS TOO MUST BE BURNT IMMEDIATELY, BECAUSE THERE ARE NONE TO EAT IT.

GEMARA. As for uncleanness, It is well, because it is written, And the flesh that toucheth any unclean thing shall not be eaten; it shall be burnt with fire.[16] But how do we know it of what goes out? Because it is written, Behold, the blood of it was not brought into the sanctuary within.[17] Moses said to Aaron: ‘Why did ye not eat the sin-offering? Perhaps its blood entered the innermost [sanctuary]’?[18] ‘No,’ he answered him. ‘Perhaps it passed without its barrier’?[19] he asked. ‘No,’ replied he, ‘it was in the sanctuary.’ Said he to him, ‘If it was in the sanctuary, and "behold, the blood of it was not brought into the sanctuary within," wherefore have ye not eaten it?’ Whence it follows that if it passed out, or if its blood entered within, it requires burning.

As for when it is defiled, it is well: the Divine Law revealed it in the case of lesser Holy sacrifices, and all the more[20] in the case of Most Holy sacrifices.[21] But as to what goes out; we have found [that it is disqualified in the case of] superior sacrifices; whence do we know [it of] inferior sacrifices? Moreover, as to what was taught: If its blood was kept overnight,[22]

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(1) V. Mishnah supra 49a for notes. — This shows that even a small portion is burnt thus.

(2) Who has no home of his own and lacks the facilities for burning it at home.

(3) Therefore it is too much trouble to return home, and so he burns it in front of the Temple.

(4) They may use it for other purposes, which is forbidden.

(5) He will take away any wood that is left over, but the onlooker will think that it is wood of the altar pile and so suspect him of theft.

(6) Raba's reason is not applicable here, and therefore it is permitted; whereas R. Joseph's reason still hold hence it is forbidden.

(7) Post, a division of popular representatives deputed to accompany the daily services in the Temple with prayers, and also a corresponding division in the country town, answering to the divisions (v. supra 57a, p. 284, n. 3) of priests and Levites. — Jast.

(8) Of the priestly division that should have officiated that day in the Temple.

(9) That all who entered might see them.

(10) For not having taken care to be clean.

(11) Lest they be suspected of neglecting the Temple service for their private affairs.

(12) Who receive little pay; no priest will neglect the Temple service for this. Raba's reason does not apply here, whereas R. Joseph's reason does.

(13) Beyond its proper boundaries.

(14) On the fourteenth.

(15) So there is none to eat it. (13) V. supra 34a, p. 156, n. 7.

(16) Lev. VII, 19.

(17) Ibid. X, 18; the previous verses relate how Moses was angry with Eleazar and Ithamar for having the sin-offering burnt instead of eating it.

(18) I.e., the Holy of Holies — in that case you had rightly burnt it; v. ibid. VI, 23.

(19) I.e., outside the Temple court.

(20) Var. lec.: the same law applies.

(21) V. supra 24a, p. 108, n. 2. The verse quoted in connection with defilement refers to a peace-offering.

(22) I.e., the blood of the sacrifice had not yet been sprinkled by sunset.

Talmud - Mas. Pesachim 82b

if its blood was poured out, or if the blood passed outside the Temple enclosures, — where it is all established law that it requires burning;[1] whence do we learn it? — We deduce it from R. Simeon[‘s teaching]. For it was taught, R. Simeon said: In the holy place . . . it shall be burnt with fire:[2] this teaches of the sin-offering that is burnt in the holy place [sanctuary]. Now, I only know this alone: how do we know it of the unfit of the [other] Most Holy sacrifices and the emurim of the lesser Holy sacrifices? Therefore it is stated, ‘in the holy place . . . it shall be burnt with fire.’[3] We have [thus] found it of the Most Holy sacrifices; whence do we know it of the lesser Holy sacrifices?[4] Rather

[that] wherever there is a disqualification in the sacred [sacrifices][5] burning is required, no matter whether it is the Most Holy sacrifices or the lesser Holy sacrifices; — this is known by tradition.[6] And as for Aaron's sin-offering, that is because the incident that happened, happened thus.[7]

Now, according to the tanna of the School of Rabbah b. Abbuhah who said, Even piggul requires disfigurement,[8] whence do we know it — [because] he learns the meaning of iniquity from nothar:[9] yet let us learn the meaning of iniquity from Aaron's sacrifice?[10] — He can answer you: [A sacrifice such as] Aaron's sin-offering too in such a case[11] would require disfigurement in [future] generations;[12] but there it was a special dispensation.[13] Now that we say, [that] 'wherever there is a disqualification in the sacred [sacrifices] burning is required, no matter whether it is the most sacred sacrifices or the lesser sacrifices, — this is known by tradition,' what is the purpose of 'in the holy place . . . it shall be burnt with fire'? — That is required [to teach] that its burning [must be] in the holy place.[14] What is the purpose of, 'and the flesh that toucheth any unclean thing shall not be eaten; it shall be burnt with fire'?-That is required for its own sake.[15] You might say, All disqualifications of the sacred [sacrifices mean] e.g.,if its blood was kept overnight, if its blood was spilled, if its blood went outside, or if it was slaughtered by night: these require burning because they do not apply to hullin.[16] But if it became unclean, which disqualifies in the case of hullin too' I would say, since it has been treated as profane [non-holy], it does not require burning, and burial should suffice for it. Hence we are informed [that it is not so].

IF ITS OWNERS WERE DEFILED OR THEY DIED, IT MUST BECOME DISFIGURED etc. R. Joseph said: The controversy is where the owners were defiled after the sprinkling, so that the flesh had become fit for eating. But if the owners were defiled before the sprinkling, so that the flesh had not become fit for eating, all agree that it must be burnt immediately. An objection is raised: This is the general rule: Wherever its disqualification is in itself, it must be burnt immediately; [if it is] in the blood or in its owner, [their flesh] must become disfigured and [then] it goes out to the place of burning?' Now [the disqualification through] the owners is taught as analogous to [that of] the blood: just as [that of] the blood is before sprinkling, so was [the defilement of] the owners before sprinkling? — Rather if stated, it was thus stated: The controversy is where the owners were defiled before the sprinkling, so that the flesh is not fit for eating, whereby it is as though its disqualification were in itself; but if the owners were defiled after the sprinkling, so that the flesh had become fit for eating, all agree that its disqualification is through something else [extraneous] and it requires disfigurement.

But R. Johanan maintained: The controversy holds good [even if the owners were defiled] after sprinkling too. Now R. Johanan is consistent with his view. For R. Johanan said: R. Johanan b. Berokah, and R. Nehemiah said the same thing. R. Johanan b. Berokah, this which we have stated. What is [the allusion to] R. Nehemiah? — For it was taught, R. Nehemiah said: This [Aaron's sin-offering] was burnt on account of bereavement, therefore it is stated, [and there have befallen me such things] as these.[17] Now surely bereavement is as [a disqualification] after sprinkling.[18] Yet when it was burnt; it was burnt immediately.[19]

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(1) In all these cases the blood is unfit for sprinkling and in turn the flesh cannot be eaten, and it must be burnt.

(2) Lev. VI, 23.

(3) V. supra 24a and notes a.l.

(4) The verse quoted refers only to the emurim of the lesser holy sacrifices.

(5) Or, whatever its disqualification (that arises) in the sanctuary.

(6) It is not intimated in the Bible.

(7) The Bible does not record this story in order to teach, as stated above, but simply because it happened so.

(8) Though the disqualification is certainly in itself; v. supra 34b.

(9) 'Iniquity' is written in connection with piggul and nothar. Piggul: and the soul that eateth of it shall bear his iniquity (Lev. VII, 18); nothar: but every one that eateth of it shall bear his iniquity (ibid. XIX, 8, — this verse is applied to nothar in Ker. 5a). Now nothar is naturally disfigured, having been kept too long, and the employment of ‘iniquity’ in both cases teaches that piggul too requires disfigurement,

(10) Lev. X, 17: and he hath given it to you to bear the iniquity of the congregation. Hence just as it was burnt there on the same day, before it could become disfigured, so should piggul be.

(11) Whatever the cause of its disqualification. On this there are two views: (i) it had been defiled; (ii) it could not be eaten because Aaron and his sons were bereaved that day by the death of Nadab and Abihu.

(12) I.e., if a sin-offering becomes thus disqualified it normally requires disfigurement.

(13) Lit., ‘the ruling of the hour’.

(14) In the Temple Court.

(15) I.e., to teach that uncleanness too is a sacred disqualification in this respect.

(16) V. Glos. Hullin remains unaffected by these. Thus in spite of these disqualifications the sacrifice has not been subjected to an indignity, as it were, which would disqualify even in the case of hullin. (2) V. supra 34b for notes.

(17) Lev. X, 19; ‘as these’ directly refers to his bereavement.

(18) For even if Nadab and Abihu died before the sprinkling, this would not be invalid, the sin-offering being dissimilar to the Passover-offering in this respect. For the latter stands primarily to be eaten, and therefore if the owners are defiled before the sprinkling, the sprinkling is invalid, while if they are defiled after the sprinkling the sprinkling is valid. The purpose of the sin-offering however, is atonement, so that even if the priests are defiled (here, bereaved) before the sprinkling and cannot eat, the sprinkling is valid. Hence this bereavement, even if it occurred before the blood was sprinkled, is the same as when the owners of the Passover-offering are defiled after the sprinkling.

(19) Hence since R. Johanan identifies R. Johanan b. Berokah's view with that of R. Nehemiah, this must be the former's opinion also, and thus they differ in our Mishnah where the owners are defiled after the sprinkling too.

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Rabbah added: R. Jose the Galilean too. For it was taught, R. Jose the Galilean said: The whole passage speaks only of the bullocks which were burnt and the he-goats which were burnt, and its purpose is to teach that when they are disqualified, they must be burnt before the Temple, and to impose a negative injunction against eating them.[1] Said they to him: A sin-offering whose blood entered the innermost [sanctuary], whence do we know [that it is disqualified]? Said he to them, [From the verse] Behold, the blood of it was not brought into the sanctuary within,[2] whence it follows that if it [the sacrifice] went outside or if its blood entered within, it requires burning.[3] But R. Johanan[4] holds: The blood and the flesh are one thing;[5] [while the defilement of] the owners is a different thing.[6]

MISHNAH. THE BONES,[7] AND THE SINEWS, AND THE NOTHAR OF THE PASCHAL LAMB ARE TO BE BURNT ON THE SIXTEENTH.[8] IF THE SIXTEENTH FALLS ON THE SABBATH, THEY ARE TO BE BURNT ON THE SEVENTEENTH, BECAUSE THEY[9] DO NOT OVERRIDE EITHER THE SABBATH OR THE FESTIVAL.

GEMARA. R. Mari b. Abbuha said in R. Isaac's name: Bones of sacrifices which served nothar[10] defile the hands,[11] since they became a stand for a forbidden article.[12] Shall we say that this supports him: THE BONES, AND THE SINEWS, AND THE NOTHAR ARE TO BE BURNT ON THE SIXTEENTH. How are these bones meant? If we say that they contain no marrow, why burn them? Let us throw them away![13] Hence it is obvious that they contain marrow. Now, it is well if you agree that the serving of nothar is a [substantial] fact:[14] then it is right that they require burning.[15] But if you say [that] the serving of nothar is not a [substantial] fact, why do they need burning? Let us break them, scoop out their marrow and burn it, and throw them [the bones] away.[16] Hence this surely proves that the serving of nothar is a [substantial] fact! — I will tell you. It is not so: in truth I may argue that the serving of nothar is not a [substantial] fact, but he[17] holds: [neither shall ye break a bone] thereof[18] [means] of a fit [bone], and even of an unfit [one]. [You say] ‘Even of an unfit [one]’ — can you think so! Surely we learned: But he who leaves anything over [even] of clean [flesh], or he who breaks [a bone] of: an unclean [Passover-offering], does not receive forty [lashes]?[19] — There is no difficulty: here it means where it enjoyed a period of fitness;[20] there it means where it never enjoyed a period of fitness;[20] And which Tanna admits a distinction between where it enjoyed a period of fitness and where it did not enjoy a period of fitness? — It is R. Jacob. For it was taught: ‘Neither shall ye break a bone thereof’: ‘thereof’ implies of a fit one, but not of an unfit one. R. Jacob said: If it enjoyed a period of fitness and became unfit, it is subject to the prohibition of breaking a bone; if it did not enjoy a period of fitness, it is not subject to the prohibition of breaking a bone. R. Simeon said: Both the one and the other are not subject to the prohibition of breaking a bone. An objection is raised: No bones of sacrifices require burning,[21] except the bones of the Passover-offering,[22] on account of the stumbling-block.[23] How are these bones meant? If we say that they contain no marrow, why do they need burning? Hence it is obvious that they contain marrow. Now if you should think [that] the serving of nothar is something substantial, why do the bones of [other] sacrifices not require burning? — Said R. Nahman b. Isaac: The circumstances here are e.g., if he found them [the bones] scooped out:[24] [in the case of] the bones of [other] sacrifices which are not subject to the prohibition of breaking a bone, [we assume that] they were scooped out before it[25] [the marrow] became nothar’, Hence they did not serve nothar and do not require burning. [But in the case of] the bones of the Passover-offering which are subject to the prohibition of breaking a bone, we assume that they were scooped out after they became nothar; hence they had served nothar and require to be burnt.

R. Zebid said: The circumstances here are e.g.,

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(1) This refers to Lev. VI, 23: And no sin-offering, whereof any of the blood is brought into the tent of meeting to make atonement in the holy place, shall be eaten; it shall be burnt with fire. The Rabbis relate this to a sin-offering which is sacrificed in the inner court, whose blood was carried into the inner court, thereby thus qualifying it. But R. Jose the Galilean relates it to a sin-offering which is sacrificed in the inner court, e.g., the bullock brought when the entire congregation sins in ignorance (v. Lev. IV, 13 f.). Hence he interprets the verse thus: And no sin-offering thereof any of the blood is rightly brought into the tent of meeting etc., shall be eaten. Now this is superfluous in respect of a valid sacrifice, since it is explicitly stated in IV, 21: and he shall carry forth the bullock without the camp, and burn it. Hence the verse must mean that if it became unfit though going outside its legitimate boundary or through defilement, it must be burnt in front of the Birah, and not be carried ‘without the camp’, i.e., beyond the Temple Mount. Further, this prohibits the eating of its flesh by a negative injunction, violation of which involves flagellation (Lev. IV, 21 merely contains an affirmative precept whose disregard is not punished by flagellation).

(2) Lev. X, 18.

(3) Now, since R. Jose the Galilean learns sacrifices for all time from Aaron's sin-offering, he evidently holds that for all time if the blood is brought within, it requires immediate burning without awaiting disfigurement, though the disqualification of the blood is like a disqualification through something else. Rabbah assumes that the same law viz., that it must be burnt without awaiting disfigurement, applies to the owner's defilement, though it is a disqualification through something else. Hence R. Jose the Galilean and R. Johanan b. Berokah say the same thing.

(4) Who does not include R. Jose he Galilean.

(5) Hence when the blood goes without its precincts, it is a disqualification in the sacrifice itself.

(6) I.e., it is a disqualification through something else, and therefore one cannot be deduced from the other.

(7) Of the paschal lamb. They may not be broken (Ex. XII, 46), and therefore their marrow becomes nothar (v. Glos.) and must be burnt (ibid. 10).

(8) Not on the fifteenth, which is a festival day, but on the sixteenth, which is the first of the Intermediate days (hol ha-mo'ed); v. p. 16, n. 4.

(9) I.e., the burning of them.

(10) I.e. , the marrow was left in them after the time permitted for the eating of the sacrifice, and thus became nothar, for which the bones served as a container.

(11) Just as nothar itself, v. infra 85a, 120b.

(12) Sc. the marrow.

(13) Nothar, which must he burnt, is applicable only to what can be eaten in the first place, viz.,the flesh and the marrow.

(14) I.e., of sufficient importance to be treated as nothar itself.

(15) I.e.,the bones themselves too.
(16) For as stated anon, only a fit bone may not be broken; here, once the marrow is nothar, the bone ceases to be fit.
(17) The Tanna of our Mishnah.
(18) Ex. XII, 46.
(19) Flagellation, the penalty for violating a negative injunction. V. infra 84a. Since he is not so punished, the prohibition evidently does not apply.
(20) E.g., if a bone is rendered unfit on account of nothar, it was fit before it became nothar. Then the prohibition remains even when it becomes unfit. (9) E.g., if the bone was defiled before the sprinkling of the blood. Then it was never fit, and the prohibition does not apply to it.
(21) Though the marrow in them, if uneaten, is nothar. The bones are broken while the marrow is scooped out and burnt.
(22) Where the bones themselves are burnt.
(23) One might Otherwise be led to violate the prohibition of breaking bones.
(24) I.e., the bones were already broken and their marrow removed.
(25) The plural in the text probably refers to the separate marrows distributed among the bones.

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that he found them piled up in heaps and some of them were scooped out:[1] [in the case of] bones of [other] sacrifices which are not subject to the prohibition of breaking a bone, [I assume] that they have all been scooped out and [the marrow] eaten; hence they do not require burning. But in the case of bones of the Passover-offering which are subject to the prohibition of breaking a bone, [I say] perhaps it is these [only] which were scooped out, while the others[2] were not scooped out; hence they require burning.

Rab Judah said in Rab's name: All sinews are flesh, except the sinews of the neck. We learned: THE BONES, THE SINEWS, AND THE NOTHAR ARE TO BE BURNT ON THE SIXTEENTH. How are these sinews meant? If they are sinews of flesh, let us eat them! While if they remained over,[3] then they are [indeed] nothar?[4] Hence it is obvious [that] the sinews of the neck [are meant]. Now it is well if you say that they are flesh:[5] therefore they require burning. But if you say that they are not flesh, why do they require burning? — Said R. Hisda: This [teaching] arises only in respect of the thigh sinew, and in accordance with R. Judah. For it was taught, R. Judah said: [The prohibition of the thigh sinew] is operative only in respect of one, and reason determines, that of the right [thigh].[6] Then in that case conclude that R. Judah is in doubt,[7] for if he is really certain, let us eat that which is permitted, and throw away that which is forbidden. Why then do they [both] need burning? — Said R. Ika b. Hinena: [This law was stated] where e.g., they were [originally] distinguished but subsequently mixed up.[8]

R. Ashi said: It is necessary [to teach it] only in respect of the fat of the sinew of the thigh. For it was taught: Its fat is permitted, but the Israelites are holy and treat it as forbidden.[9]

Rabina said: It refers to the outer [sinew of the thigh], and is in accordance with Rab Judah's dictum in Samuel's name. For Rab Judah said in Samuel's name: The inner one which is near the bone is forbidden, and a person is liable on its account [to flagellation]; the other which is near the flesh is forbidden, but a person is not liable on its account.[10] IF THE SIXTEENTH FELL etc. Yet why so? Let the affirmative command come and override the negative command?[11] — Said Hezekiah, and the School of Hezekiah taught likewise: And ye shall let nothing of it remain until the morning; but that which remaineth of it until the morning ye shall burn with fire: now [the second] ‘until the morning’ need not be stated, What then is the teaching of ‘until the morning’? [Scripture comes] to appoint a second morning for its burning.[12] Abaye said: Scripture saith, The burnt-offering of the Sabbath [shall be burnt] on its Sabbath:[13] but the burnt-offering of weekdays is not [to be burnt] on the Sabbath, nor is the burnt-offering of weekdays [to be burnt] on Festivals.[14] Raba said: Scripture saith, [no manner of work shall be done in them — sc. Festivals — , save that which every man must eat,] that only may be done by you:[15] ‘that’ but not its preparatory requisites:[16] ‘only,’

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(1) He only examined those on top and found them thus.

(2) Which he did not examine.

(3) Accidentally or through negligence.

(4) Why state it separately?

(5) In spite of their woodenness.

(6) V. Gen. XXXII, 33. Thus actually one of the thigh sinews is permitted, though we do not know which; this one therefore is really nothar and must be burnt.

(7) Which is forbidden and which is permitted.

(8) R. Judah may be certain that the prohibition applies to the right thigh only, but these sinews referred to in our Mishnah, though distinguished when drawn out, are now mixed up and we do not know which is the right and which is the left, and hence both require burning.

(9) Since therefore according to Scriptural law it can be eaten, it is nothar and must be burnt. On the other hand, since in actual practice it could not be eaten the Tanna cannot include it in the term nothar, which generally implies flesh which could have been eaten, and must mention it separately.

(10) It is forbidden by Rabbinical law only. The reasoning in the preceding note applies here too.

(11) It is a general principle that if an affirmative command and a negative command are in conflict, the former overrides the latter. Here we have all affirmative command to burn the nothar, Ex. XII, 10, and a negative command forbidding work on a festival, ibid. 16.

(12) Translating: but that which remaineth of it, (ye shall wait) until the (following) morning (sc. that of the sixteenth) (and) burn (it) with fire.

(13) Num. XXVIII, 10; this is the literal translation.

(14) E.g., the animal sacrificed before the Sabbath or Festival must not be burnt the following evening. Hence sacrifices and sacred food in general, if unfit, must not be burnt on Festivals, a fortiori.

(15) Ex. XII, 16.

(16) E.g., you may roast meat, but may not sharpen a spit for impaling the meat on it.

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but not circumcision out of its proper time, which might [otherwise] be inferred a fortiori.[1] R. Ashi said: [On the seventh day is a Sabbath of] solemn rest [Shabbathon],[2] [written] in connection with Festivals, is an affirmative precept[3] and one affirmative precept cannot override a negative precept and an affirmative precept [combined]. MISHNAH. EVERYTHING WHICH CAN BE EATEN OF A FULL-GROWN OX MAY BE EATEN OF A TENDER GOAT,[4] AND ALSO THE TOPS OF THE FORELEGS AND THE GRISTLES.[5]

GEMARA. Rabbah pointed out a contradiction. We learned: EVERYTHING WHICH CAN BE EATEN OF A FULL-GROWN OX MAY BE EATEN OF A TENDER GOAT; hence that which cannot be eaten [of the former] may not [be eaten of the latter]. Then consider the sequel: [AND ALSO] THE TOPS OF THE FORELEGS AND THE GRISTLES: yet surely these cannot be eaten in the case of a full-grown ox? — Rather it is [dependent on] Tannaim, and it is taught thus: EVERYTHING WHICH CAN BE EATEN OF A FULL-GROWN OX MAY BE EATEN OF A TENDER GOAT, while that which cannot be eaten [of the former] may not be eaten [of the latter]: but some maintain, also THE TOPS OF THE FORELEGS AND THE GRISTLES. Raba said: This [the second] is a defining clause,[6] and it teaches thus: EVERYTHING WHICH CAN BE EATEN OF A FULL-GROWN OX after [much] boning MAY BE EATEN OF A TENDER GOAT when roasted, and what is it? THE TOPS OF THE FORELEGS AND THE GRISTLES.

It was taught in accordance with Raba: Everything which can be eaten of a full-grown ox after [much] boning may be eaten of a tender goat when roasted, and what is it? The tops of the forelegs and the gristles, and the soft sinews are treated[7] as flesh.

It was stated: [With regard to] sinews which would ultimately harden,[8] — R. Johanan said: One may register for them in the Passover-offering; Resh Lakish maintained: One may not register for them in the Passover-offering. R. Johanan said, One may register for them in the Passover-offering, [because] we decide by the present. Resh Lakish maintained. One may not register for them in the Passover-offering, [because] we decide by its ultimate [condition].[9] Resh Lakish raised an objection against R. Johanan: Everything which can be eaten of a full-grown ox may be eaten of a tender goat, and what is it? The tops of the forelegs and the gristles; [thus] only these,[10] but not sinews which would ultimately harden! — Said he to him: He teaches those, and the same applies to these. [Thus] why are those [permitted]? Because they can be eaten in the case of a full-grown ox after [much] boning; [so] these too call be eaten of a full-grown ox after [much] boning.

R. Jeremiah said to R. Abin: When you go before R. Abbahu, point out a contradiction to him. Did then R. Johanan say, '[With regard to] sinews which would ultimately harden, one nay register for them in the Passover-offering', which shows that we decide by the present? Surely Resh Lakish asked R. Johanan: 'Can the skin of the head of a tender [sucking] goat be defiled'?[11] And he answered him: 'It cannot be defiled', which proves that we decide by the future? — Said he to him: he who pointed out this contradiction to you was not particular about his flour.[12] Surely R. Johanan retracted in favour of Resh Lakish['s view], and he said to him: Do not provoke me, for I learn it as the opinion of an individual.[13] MISHNAH. HE WHO BREAKS A BONE OF A CLEAN PASSOVER-OFFERING RECEIVES FORTY [LASHES]. BUT HE WHO LEAVES OVER [FLESH] OF A CLEAN [OFFERING] OR BREAKS [A BONE] OF AN UNCLEAN [ONE] IS NOT FLAGELLATED WITH FORTY [LASHES].

GEMARA. As for leaving over [flesh] of a clean [offering], it is well. For it was taught: And ye shall let nothing of it remain until the morning; and that which remaineth of it until the morning ye shall burn with fire.[14] Scripture desires to state an affirmative command after a negative command, thus teaching that one is not flagellated for it; this is R. Judah's view.[15] R. Jacob said: This is not the real reason,[16] but because It is a negative injunction involving no action,[17] for which one is not flagellated. But how do we know [that] he who breaks [a bone] of an unclean [offering is not flagellated]? — Because Scripture states, Neither shall ye break a bone thereof:[18] 'thereof' [implies] of a fit sacrifice but not of an unfit one. Our Rabbis taught: 'Neither shall ye break a bone thereof': 'thereof' implies of a fit sacrifice but not of an unfit one. Rabbi said: In one house shall it be eaten . . . neither shall ye break a bone thereof:[18] [this intimates,] whatever is fit for eating is subject to the [prohibition of] breaking a bone, while whatever is not fit for eating is not subject to the [prohibition of] breaking a bone. Wherein do they differ? Said R. Jeremiah: They differ in respect of a Passover-offering which came in a state of uncleanness:[19] on the view that [the verse refers to] a fit [sacrifice].

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(1) An infant is circumcised even on the Sabbath, if it is the eighth day after birth (Lev. XII, 3), but not otherwise. This is deduced from 'alone', which is a limitation. But for this, one could infer a fortiori that it is permissible (v. Shab. 132b). Thus we see that an act which need not be done on a particular day may not be done on the Sabbath or on Festivals, and the same applies to unfit sacred food.

(2) Lev. XXIII, 3.

(3) For it intimates: rest thereon, so that work on a festival involves the transgression of both affirmative and negative precepts.

(4) But not those portions of a full-grown ox which are too hard to be eaten (the reference, of course, is to the Passover-offering), though in the case of a young goat these are soft and edible.

(5) E.g., the cartilage of the ears, the gristly portion of the breast, and the small ribs at the end of the spine.

(6) Lit., 'he teaches what they are'.

(7) Lit., 'judged'.

(8) The sinews of the neck of a young goat fit for a Passover-offering are soft, but when it grows older they harden and are unfit for food.

(9) Thus R. Johanan interprets the 'soft sinews' of the foregoing Baraitha as meaning those which are soft now, even if they ultimately harden; while in the view of Resh Lakish it means only those which remain permanently soft.

(10) Which even in the case of a full-grown ox can be eaten after protracted boiling.

(11) At present it is edible, but not when the goat grows older. Can it be defiled as food, since it can now be eaten, or not, since it will ultimately harden.

(12) Whether he milled sound wheat or the refuse! I.e., he was careless about his data.

(13) This refers to the Mishnah in Hul. 122a which states that the skin of the head of a tender goat is as its flesh, i.e., can be defiled as an eatable, which proves that we decide by the present and thus contradicts R. Johanan's answer to Resh Lakish. He, however, countered by stating that he regarded it as an individual's ruling only. Hence when he rules in the present discussion that we decide by the present, it must be on the assumption that that Mishnah represents the opinion of the majority, an assumption, however, which he evidently abandoned.

(14) Ex. XII, 10.

(15) This is a general principle, for when an affirmative precept follows a negative one, it is implied that if the latter is violated, the remedy lies in the former.

(16) Lit., 'this is not of the same denomination'.

(17) It is violated by remaining passive, not by committing a positive act.

(18) Ibid. 46.

(19) I.e., when the majority of the community were unclean; v. Mishnah supra 79a.

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this however is unfit;[1] but on the view that whatever is fit for eating [is subject to this law], [surely] this too is fit for eating.[2] R. Joseph said: In such a case all agree that it is not subject to the [prohibition of] breaking a bone, for Rabbi comes to be [more] lenient[3] and this is surely unfit. But[4] they differ where it enjoyed a period of fitness and then became unfit:[5] on the view that [the verse refers to] a fit [sacrifice], this [indeed] was fit; but on the view that [only what is] fit for eating [is meant], surely it is not fit for eating now.

Abaye said: In such a case all hold that it is not subject to the [prohibition of] breaking a bone. What is the reason? [Because] at all events it is unfit now. But they differ in respect of breaking a bone during the daytime.[6] On the view that [the verse refers to] a fit [sacrifice], this [indeed] is fit; but on the view, that [only what is] fit for eating [is subject to this law], at present[7] it is not fit for eating.

An objection is raised: 'Rabbi said: One may register for the marrow in the head, but one may not register for the marrow in the thigh-bone'. Why [may one register for] the marrow in the head? Because one is able to scrape it and extract it. Now if you think that the breaking of the bone by daylight is permitted, then the thigh-bone too, let us break it during the day, extract the marrow, and register for it? — Abaye can answer you: Yet even according to your view,[8] let us still take a glowing coal after nightfall, place it upon it, burn it and extract the marrow and register for it? For surely it was taught: But he who burns the bones or cuts the sinew does not violate [the prohibition of] breaking a bone? Then what can you say?[9] Abaye said: Because it may split.[10] Raba said: [This is impossible] on account of the loss of sacred food, which he may destroy with [his own] hands, as the fire may destroy some of the marrow. [Hence] during the daytime too [it may not be broken] as a preventive measure on account of after nightfall.[11]

R. Papa said: In such a case all hold that it is subject to the [prohibition of] breaking a bone. What is the reason? [Because] in the evening it is fit for eating. But they differ in respect of a limb part of which went out:[12] On the view that [the verse refers to] a fit [sacrifice], this [indeed] is fit;[13] while on the view that [only what is] fit for eating [is subject to this law], this, however, is not fit for eating, as was taught: R. Ishmael the son of R. Johanan b. Berokah said: A lamb part of which went outside, and which he broke, is not subject to the [prohibition of] breaking a bone.

R. Shesheth the son of R. Idi said: In such a case all agree that it is not subject to the [prohibition of] breaking a bone, for this limb is surely unfit. But they differ in respect of breaking a bone of a half-roast [offering].[14] On the view that [the verse refers to] a fit [sacrifice], this is fit;[15] while on the view that [only what is] fit for eating [is subject to this law], now [however] it is not fit for eating.

R. Nahman b. Isaac said: In such a case all agree that it is subject to the [prohibition of] breaking a bone. What is the reason? Because it is surely fit for eating, as he can roast it [completely] and eat it. But they differ in respect of [the breaking of the bone of] the fat tail. On the view that [the verse refers to] a fit [sacrifice], this is indeed fit, but on the view that [only what is] fit for eating [is subject to this law], this [however] is not fit for eating, for the fat tail is offered to the Most High.[16]

R. Ashi said: In such a case it is certainly not subject to the [prohibition of] breaking a bone, for it is certainly unfit for eating at all. But they differ in respect of [breaking the bone of] a limb upon which there is less than an olive of flesh.[17] On the view that [the verse refers to] a fit [sacrifice], this indeed is fit; but on the view that [only what is] fit for eating [is subject to this law], we require the standard of eating, which is absent.

Rabina said: In such a case it is not subject to the [prohibition of] breaking a bone, because we require the standard of eating. But they differ in respect of a limb upon which there is less than an olive of flesh at this point,[18] but which contains as much as an olive of flesh elsewhere. On the view that [the verse refers to] a fit [sacrifice],this indeed is fit. But on the view that [only what is] fit for eating [is subject to this law], we require the standard of eating at the point where it is broken, which is absent.

It was taught as four of these.[19] For it was taught, Rabbi said: 'In one house shall it be eaten . . . neither shall ye break a bone thereof': he is culpable on account of that which is fit, but he is not culpable on account of that which is not fit. [Thus:] If it had a period of fitness but became unfit by the time of eating, it is not subject to the [prohibition of] breaking a bone. If it contains the standard of eating,[20] it is subject to the [prohibition of] breaking a bone; if it does not contain the standard of eating, it is not subject to the [prohibition of] breaking a bone. That which is intended for the altar[21] is not subject to the [prohibition of] breaking a bone. [Only] at the time of eating is it subject to the [prohibition of] breaking a bone; when not at the time of eating[22] it is not subject to the [prohibition of] breaking a bone. It was stated: If a limb does not contain as much as an olive of flesh at this point,[23] but does contain as much as an olive of flesh elsewhere, — R. Johanan maintained: It is subject to the [prohibition of] breaking a bone; R. Simeon b. Lakish said: It is not subject to the [prohibition of] breaking a bone. R. Johanan raised an objection against Resh Lakish: 'Neither shall ye break a bone thereof': both a bone upon which there is as much as an olive of flesh and a bone upon which there is not as much as an olive of flesh. Now what does 'there is not as much as an olive of flesh upon it' mean? Shall we say that there is not as much as an olive of flesh upon it at all, then why is it subject to the [prohibition of] breaking a bone?[24] Hence surely this is what it means: Both a bone upon which there is as much as an olive of flesh at this [very] point and a bone upon which there is not as much as an olive of flesh at this point, but there is as much as an olive of flesh upon it elsewhere? — Said he to him,

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(1) Normally such is unfit, for uncleanness is merely overridden in favour of a community, but not permitted, v. supra 77a, p. 398, n. 2; hence it is not subject to the prohibition of breaking a bone.

(2) Since a Passover offered in uncleanness may be eaten in uncleanness, v. supra 76b.

(3) Some versions omit this (Bah).

(4) [Var. lec. omit 'In such a case . . But'.]

(5) E.g., the paschal sacrifice became unclean after the sprinkling of the blood.

(6) Of the fourteenth, before the Festival commences on the evening of the fifteenth.

(7) I.e., when he actually breaks it.

(8) Sc. that this is forbidden.

(9) Why one may not register for the marrow.

(10) The fire may not burn it through but cause it to crack and split and this is the same as breaking it.

(11) The point of the ‘too’ (‘during the daytime too’) is this: just as it must not be burnt at night by Rabbinical law only, lest something else happen, so he must not break it during the day by Rabbinical law only’, also because he may do something else instead, viz., break it at night.

(12) Without the walls of Jerusalem. The offering had to be eaten in Jerusalem; whatever went outside became unfit. Here as only part of a limb had gone out, this part should be cut out’, but this entails cutting across the bone in the limb.

(13) Sc. the part which remained inside, and when he breaks the bone he naturally touches on that part. Consequently it is forbidden; for the remedy v. Mishnah infra 85b.

(14) Which is itself forbidden, v. Ex. XII, 9: Eat not of it half-roast (so translated supra 41a).

(15) The sacrifice itself is fit, though it may not be eaten because it was not properly prepared.

(16) I.e., it is burnt on the altar together with the emurim (v. Glos.).

(17) That is the least quantity which constitutes eating

(18) Where he actually breaks the bone.

(19) [R. Joseph, R. Nahman b. Isaac, Abaye and Rabina (or R. Ashi). V. n. 5. Var. lec., however, omits the passage.]

(20) [Either at the point where it is broken, as required by Rabina, or on the limb itself’, as required by R. Ashi.]

(21) I.e., the bone of the fat tail.

(22) I.e., before nightfall.

(23) At the point of breaking.

(24) For R. Johanan and Resh Lakish both, agree that it must contain as much as an olive of flesh before it is subject to the prohibition.

Talmud - Mas. Pesachim 85a

No: it means this: Both a bone which has as much as an olive of flesh on the outside and a bone which has not as much as an olive of flesh on it on the outside, but contains as much as an olive of flesh [marrow] inside, [yet still] at the point of breaking. And it was taught [even so]: ‘Neither shall ye break a bone thereof’: [this refers to] both a bone which contains marrow and a bone which does not contain marrow, while to what do I apply,[1] and they shall eat the flesh in that night?[2] To the meat on the bone. Yet perhaps it is not so , but [it applies] to the meat [marrow] inside the bone [too], while to what do I apply, ‘neither shall ye break a bone thereof’? To a bone which does not contain marrow; but in the case of a bone which contains marrow he breaks [it] and eats [the marrow]; and do not wonder thereat, for the affirmative command comes and overrides the negative command![3] When, [however,] ‘they shall not break a bone thereof[4] is stated in connection with the second Passover, which need not have been taught, seeing that it has already been said, according to all the statute of the Passover they shall keep it,[5] deduce from this [that it means] both a bone which, contains marrow and a bone which does not contain marrow.

An objection is raised: [With regard to] a limb part of which went outside,[6] he cuts [the flesh] as far as the bone, and pares it until he reaches the joint and then cuts it off.[7] Now if you say [that] a limb upon which there is not as much as an olive at this point but there is as much as an olive on it elsewhere is not subject to the [prohibition of] breaking a bone, why does he pare it until he reaches the joint and [then] cut it off? Let us scrape a little away and break it? — Abaye said: [This cannot be done] because of a [possible] split.[8] Rabina said: This refers to the thigh bone.[9]

We learned elsewhere: Piggul and nothar[10] defile the hands.[11] R. Huna and R. Hisda, — One maintained: It was on account of the suspects of the priesthood;[12] while the other maintained: It was on account of the lazy priests.[13] One recited [the reason] in reference to piggul, while the other recited it in reference to nothar. He who recited it in reference to piggul [gave the reason as being] on account of the suspects of the priesthood. While he who recited it in reference to nothar [stated that it was] on account of the lazy priests. One recited: As much as an olive;[14] while the other recited: As much as an egg. He who recited, as much as an olive [took the same standard] as its prohibition,[15] while he who recites, as much as an olive, [takes the same standard] as its uncleanness.[16]

The scholars asked: Did the Rabbis enact uncleanness in respect of what goes outside[17] or not? Do we say, they imposed uncleanness on nothar because they [the priests] might come to be lazy about it; but [concerning] that which goes outside, they will [certainly] not carry it out with [their own] hands, [and so] the Rabbis did not decree uncleanness in connection therewith. Or perhaps there is no difference? — Come and hear: If part of a limb went outside, he cuts [the flesh] as far as the bone and pares it until he reaches the joint and then cuts it off. Now if you say that the Rabbis imposed uncleanness upon it, what if he does cut? Surely it defiles it?[18] — It is concealed uncleanness,[19] and concealed uncleanness does not defile. But according to Rabina who maintained: The connection of foodstuffs is not a real connection, and they are as though separated,[20] what can be said: surely they[21] touch each other and it [the inner portion] is defiled? — Hence according to him who recited, as much as an olive, [we must say here] that it[22] did not contain as much as an olive; while according to him who recited, as much as an egg, [we must say] that it did not contain as much as an egg.

Come and hear: If a man carries out flesh of a Passover-offering from one company to another,[23] though he [has violated] a negative injunction, it [the flesh] is clean. Now does that not mean that it is clean yet forbidden, because that which goes out from one company to another company is like that which goes outside its boundary[24] and is disqualified [for eating], yet even so it teaches [that] it is clean, which proves that the Rabbis did not decree uncleanness! — No: it is clean and permitted, because that which goes out from company to company is not like that which goes outside its boundary, and it is not disqualified. But surely the second clause teaches: He who eats it is subject to a negative injunction? As for him who says, as much as an egg, it is well: [this may refer to] where it contains as much as an olive[25] but not as much as an egg. But according to him who says as much as an olive, what can be said? — Rather [say thus]: We do not ask in respect of what goes out in the case of a Passover-offering, for the Rabbis [certainly] did not decree uncleanness [there]. What is the reason? The members of a company[26] are most scrupulous, and so are very careful with it.[27] But we do ask in respect of what goes out in the case of sacrifices [in general]: what [is the law]? The question stands over.

Now he who carries out flesh of the Passover-offering

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(1) Lit., 'and how do I fulfil?'

(2) Ex. XII, 8.

(3) V. supra 83b, P. 439. n. 1.

(4) Num. IX, 12.

(5) Num. IX, 12.

(6) V. supra 84b, p. 444, n. 2.

(7) While the flesh which he cut on (i.e., which had not gone outside) is eaten.

(8) When he hits the bone to break it, it may split elsewhere, not just where it was scraped.

(9) Which contains marrow; hence scraping the flesh off is of no avail.

(10) V. Glos.

(11) By Rabbinic law; v. infra 120b.

(12) Who were suspected of maliciously making the sacrifice piggul to hurt its owner, who would have to bring another; therefore the priest who handles it was declared unclean, since defilement was regarded as very serious even by the wicked (Rashi, and Tosaf. quoting Yoma 23a). Another interpretation: so that he who touched it should not be suspected of intending to eat it, as it would be known that he could not do this in his unclean state.

(13) Who were too indolent to consume the flesh within the permitted period and allowed it to become nothar.

(14) Of these defiled the hands.

(15) That quantity involves punishment if it is eaten.

(16) As much as an egg is the smallest quantity which defiles by Biblical law. Hence when the Rabbis enacted that this defiles the hands, they adopted the same standard.

(17) Its appointed boundaries.

(18) The inner portion of the flesh is defiled by contact with the part which went outside.

(19) This is a technical term: the actual point of contact is not visible in the same way that the contact of two separate pieces of flesh is visible.

(20) Since foodstuffs are intended to be cut up. In his view the law of concealed uncleanness is only applicable where the object is not intended to be cut, e.g., a piece of cloth, v. Hul. 72b.

(21) The two parts.

(22) The portion which went outside.

(23) Cf. Mishnah infra 86a.

(24) Within which it much be eaten. Viz., the walls of Jerusalem.

(25) Which involves punishment.

(26) Who have registered for one paschal sacrifice.

(27) Hence there is no need for a preventive measure.

Talmud - Mas. Pesachim 85b

from one company to another company, how do we know [that he violates a negative injunction]? — Because it was taught: Thou shalt not carry forth aught of the flesh abroad out of the house:[1] I only know [that it must not be taken] from one house to another house; whence do we know [that it must not be taken] from one company to another company?[2] Because it is stated, ‘abroad’, [meaning] outside [the place of] its consumption.

R. Ammi said: He who carries out flesh of the Passover-offering from one company to another company is not culpable unless he deposits [it there]: ‘carrying out’ is written in connection with it as [in connection with] the Sabbath;[3] [hence] just as [in the case of] the Sabbath, [he is not culpable] unless he removes and deposits,[4] so here too [he is not culpable] unless he removes it [from one company] and deposits it [with the second]. R. Abba b. Mammel raised an objection: If they were carrying them on staves, the front bearers having gone outside the walls of the Temple Court while the rear ones had not [yet] gone out, those in front defile [their] garments while those behind do not defile their garments.[5] But it has not come to rest?[6] He raised the objection and he himself answered it: It refers to [carcasses] which are trailed [along the ground].[7]

MISHNAH. IF PART OF A LIMB WENT OUTSIDE, HE CUTS [THE FLESH] AS FAR AS THE BONE AND PARES IT UNTIL HE REACHES THE JOINT AND CUTS IT AWAY. BUT IN THE CASE OF [OTHER] SACRIFICES HE CUTS IT OFF WITH A CHOPPER, BECAUSE THEY ARE NOT SUBJECT TO THE [PROHIBITION OF] BREAKING A BONE. FROM THE DOOR-STOP AND WITHIN RANKS AS WITHIN [THE CITY];[8] FROM THE DOOR-STOP AND WITHOUT IS AS OUTSIDE [THE CITY]. THE WINDOWS[9] AND THE THICKNESS OF THE WALL ARE AS THE INSIDE.

GEMARA. Rab Judah said in Rab's name: And it is likewise in respect of prayer.[10] He differs from R. Joshua b. Levi. For R. Joshua b. Levi said: Even an iron partition cannot interpose between Israel and their Father in Heaven.[11] Now this is self-contradictory. You say, FROM THE DOORSTOP AND WITHIN RANKS AS WITHIN [THE CITY]; hence the [area of] the door-stop itself is as the outside. Then consider the sequel: FROM THE DOOR-STOP AND WITHOUT IS AS OUTSIDE [THE CITY]; hence the door-stop itself is as the inside? — There is no difficulty: one refers to the gates of the Temple Court;[12] the other, to the gates of Jerusalem.[13] For R. Samuel b. R. Isaac said: Why were the gates of Jerusalem not sanctified?[14] Because lepers shelter under them in summer[15] from the sun and in winter[16] from the rain. R. Samuel son of R. Isaac also said: Why was the gate of Nicanor[17] not sanctified? Because lepers stand there and insert the thumbs of their hands [into the Court].[18]

THE WINDOWS AND THE THICKNESS OF THE WALL etc. Rab said: The roofs and the upper chambers were not sanctified.[19] But that is not so, for Rab said on the authority of R. Hiyya: There was [only] as much as an olive of the Passover-offering [to eat],[20] yet the Hallel[21] split the roofs![22]

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(1) Ex. XII, 46.

(2) Even in the same house.

(3) Sc. in Ex. XVI, 29: let no man go out of his place on the seventh day (Tosaf. s.v. הוצאה).

(4) Lit., 'he uproots and lays at rest'. Removing it from private and depositing it in public ground or the reverse; v. Shab. 2a.

(5) This refers to the bullocks which were burnt outside the three camps (v. p. 343 n. 2); Jerusalem itself is the third camp but the bearers defiled their garments as soon as they left the first camp, viz., the Temple Court. This is deduced in Yoma 68a from Lev. XVI, 27: and the bullocks of the sin-offering . . . shall be carried forth without the camp.

(6) It was not put down, yet it defiles, though 'carrying out' is written there.

(7) Which constitutes depositing.

(8) The door-frame in the the city walls of Jerusalem was of considerable breadth — sufficient for the Passover-offering to be eaten there. The Mishnah states that everywhere on the inside of this door-frame is as inside the city, while that on the outside is as the outside of the city. The Gemara discusses the status of the door-frame space itself.

(9) In the city walls; these too occupied a considerable breadth.

(10) Certain portions of the service are recited only when there is a quorum of ten men (called minyan). A man standing in the inside of the door-stop is counted with those inside the room, but not he who is standing outside the door-stop.

(11) Hence even if he stands outside the door-stop, he is counted with the others.

(12) There the space of the door-stop itself is as the inside.

(13) There it is as the outside.

(14) I.e., the space occupied by the thickness of the gates.

(15) Lit., 'the sun'.

(16) Lit., 'the rain'.

(17) The east gate of the Temple Court.

(18) V. Lev. XIV, 17 and Yeb. 7b.

(19) The roofs of the houses of Jerusalem are not sanctified, in the sense that sacrifices which are eaten anywhere in Jerusalem nay not be eaten on them. Similarly, the sacrifices which had to be eaten within the Temple precincts might not be eaten on its roof or in its upper chambers.

(20) Very large companies registered for each sacrifice, so that each person could not receive more than that.

(21) V. p. 324, n. 2.

(22) It was sung with such gusto.

Talmud - Mas. Pesachim 86a

Does that not mean that they ate on the roof and recited [the Hallel] on the roof? No: they ate on the ground and recited [it] on the roof. Yet that is not so, for surely we learned: You must not conclude after the Paschal meal [by saying] 'To the aftermeal entertainment!'[1] and Rab said: [That means] that they must not remove from one company to another?[2] — There is no difficulty: there it is at the time of eating;[3] here it is not at the time of eating.[4] Come and hear: Abba Saul said: The upper chamber of the Holy of Holies was more stringent than the Holy of Holies, for the High Priest entered the Holy of Holies once a year, whereas the upper chamber of the Holy of Holies was entered only once a septennate — others say, twice a septennate — others say, once in a Jubilee — to see what it required?[5] -Said R. Joseph: Shall a man stand up and raise an objection from the Hekal![6] The Hekal is different, because it is written, Then David gave to Solomon his son the pattern of the porch [of the Temple], and of the houses thereof, and of the treasuries thereof, and of the upper rooms thereof, and of the inner chambers thereof, and of the place of the ark-cover;[7] and it is written, All this [do I give thee] in writing, as the Lord hath made me wise by His hand upon me.[8]

Come and hear: [With regard to] the chambers built in the sacred area[9] and opening into the non-sacred area,[10] their inside is non-sacred,[11] while their roofs are sacred? — R. Hisda explained this [as meaning] where their roofs were level with the ground of the Temple Court.[12] If so, consider the second clause: [As to] those built in the non-sacred [area] and opening into the sacred [area], their inside is sacred, while their roofs are non-sacred. Now if you think that it means where their roofs are level with the ground of the Temple Court, then they are cellars, whereas R. Johanan said: The cellars were not sanctified? — R. Johanan said this only in respect of those opening into the Temple Mount; [whereas] that was taught in respect of those opening into the Temple Court. But it was taught, R. Judah said: The cellars under the Hekal were non-sacred?[13] — That was taught where they opened into the non-sacred [area].

Come and hear: And its roof is sacred?[14] — Now is that logical: surely he teaches: As for these roofs, you may not eat there sacrifices of the greater sanctity, nor kill there sacrifices of the lesser sanctity.[15] But in that case 'its roof is holy' presents a difficulty? — Said R. Hama b. Guria: [That was taught] in respect of those two cubits. For we learned: There were two cubits [measures] in Shushan the Castle,[16] one on the north-east corner and one on the south-east corner. That on the north-east corner exceeded [the cubit] of Moses[17] by half a fingerbreadth, while that on the south-east corner exceeded it [sc. the first cubit] by half a fingerbreadth, so that it exceeded [the cubit] of Moses by a fingerbreadth. And why was one large and one small?[18] So that the workers might receive [contracts] by the small [measure] and deliver [the work] by the large one, to avoid liability to a trespass-offering.[19] Any why two? One was for [work in] gold and silver,[20] while the other was [or building.[21] We learned: THE WINDOWS AND THE THICKNESS OF THE WALL ARE AS THE INSIDE. As for the windows, it is well, this being possible where they were level with the ground of the Temple Court; but how is the thickness of the wall conceivable?[22] — It is possible in the case of the inner wall,[23] as it is written, But he hath made the rampart and the wall to mourn,[24] which R. Aha — others say, R. Hanina — interpreted: the wall proper and the minor wall.

MISHNAH. IF TWO COMPANIES ARE EATING IN ONE ROOM,[25] THESE MAY TURN THEIR FACES IN ONE DIRECTION AND THOSE MAY TURN THEIR FACES IN ANOTHER DIRECTION,[26] WITH THE BOILER[27] IN THE MIDDLE.[28] WHEN THE WAITER[29] RISES TO MIX [THE WINE], HE MUST SHUT HIS MOUTH AND TURN HIS FACE AWAY [FROM THE OTHER COMPANY] UNTIL HE REACHES HIS OWN COMPANY.[30] BUT A BRIDE[31] MAY TURN HER FACE AWAY AND EAT.

GEMARA. Who is [the author of] our Mishnah? — It is R. Judah. For it was taught: Upon the houses wherein they shall eat it:[32] this teaches that a Paschal lamb may be eaten in two companies. You might think that the eater may eat in two places,[33] therefore It is stated, In one house shall he eat it.[34] Whence it was said: If the waiter[35] ate as much as an olive at the side of the oven, if he is wise he eats his fill[36] of it; but if the members of the company wish to do him a favour, they come and sit at his side:[37] this is R. Judah's opinion. R. Simeon said: 'Upon the houses wherein they shall eat it:' this teaches that the eater may eat in two places.[38]

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(1) It was customary among ancient nations to conclude a banquet with bouts of drinking, revelry and music. The sanctity of the Paschal meal precluded this, as it would turn an occasion of solemnity and reverential gratitude to God into one of light-hearted frivolity.

(2) For the purpose mentioned in the preceding note. Thus the whole service must be carried out in the same place.

(3) Then a change of place is forbidden.

(4) The hallel was recited after the meal was concluded; praise to God is then permissible anywhere.

(5) E.g., repairs. Thus the upper chambers were sanctified.

(6) The Holy, the hall containing the golden altar etc. , contrad. to the Holy of Holies (Jast.). In the present passage, however, R. Joseph appears to use the word more elastically, making it embrace the Holy of Holies too.

(7) I Chron. XXVIII, 11.

(8) Ibid. 19. ‘The Lord hath made me wise’ is understood to mean that he was Divinely inspired to sanctify all those mentioned in the forgoning, which include the ‘upper room’.

(9) I.e., the Temple Court.

(10) Sc. the Temple Mount; i.e., they had no doors opening into the Temple Court.

(11) They lack the sanctity of the Temple Court, though they possess that of the Temple Mount, for their status is determined by their openings.

(12) The chambers referred to being cellars.

(13) This is now assumed to refer even to those opening into the Temple Court.

(14) Sc. the roof of the Hekal, this being the conclusion of R. Judah's statement. R. Joseph's answer that the hekal was different on account of the explicit verse is inapplicable here, for the roofs are not mentioned in that verse.

(15) V. supra p. 108, n. 2. Thus it is definitely stated that they did not enjoy the sanctity of the Temple Court.

(16) A chamber built above the eastern gate of the Temple, so called because the picture of the castle of Shushan in the capital of the Persian empire, was sculptured upon it.

(17) I.e., the standard cubit.

(18) Why not simply the standard cubit of Moses?

(19) E.g., they contracted to build a certain length in terms of the standard cubit; nevertheless they completed their contract according to the length of the larger measure. The purpose was to preclude the possibility of benefiting from the Sanctuary over and above their exact due, which would involve them in trespass.

(20) This being more difficult, they added only half a fingerbreadth to the standard measure.

(21) Where a whole fingerbreadth was added. — Now the roofs were sanctified only in so far that these measuring rods and similar utensils or vessels which were not used in the actual service of the altar might be kept in them. But they were not sanctified in respect of anything else.

(22) For by the thickness of the wall must be meant the top, which is the same as the upper chambers and the roofs, while the top of the city wall was certainly not on a level with the Temple Mount.

(23) A smaller wall on the inside of the larger wall; the top of the former was level with the greatest height of the ground of the Temple Court, which itself reached several different heights in gradient.

(24) Lam. II, 8.

(25) Of the same Paschal offering.

(26) They are not bound all to face each other, though they were originally one company for this offering.

(27) In which water was heated for diluting the wine.

(28) Though this seems further to emphasize their separateness.

(29) Who is waiting on both parties. He too had registered for this offering-a Jewish waiter, of course is meant.

(30) Lest he be suspected of eating with the other company too. This Tanna holds that one Paschal lamb may be eaten in two companies, but one person may not eat in two places.

(31) Who in her modesty does not wish to face the company.

(32) Ex. XII, 7.

(33) Of the same offering. E.g., either in two separate rooms or even in one room containing two companies, which makes it like two rooms.

(34) Ex. XII, 46. The vocalization is יאכל (passive E.V.: shall it be eaten), but it may also be read יאכל, and R. Judah holds that the traditional consonantal form of the word determines Its meaning regardless of vocalization.

(35) Engaged in roasting the offering.

(36) Lit., ‘fills his stomach’.

(37) And eat there, but he may not go and eat with them, as he would thereby be eating in two places.

(38) ‘They shall eat’ referring to each individual separately, who is thus permitted to eat in ‘the houses’.

Talmud - Mas. Pesachim 86b

You might think that it may be eaten in two companies. Therefore it is stated, ‘In one house shall it be eaten.'[1] Wherein do they differ? R. Judah holds: The traditional [non-vocalized] text is authoritative; while R. Simeon holds: The text as read [as vocalized] is authoritative.[2]

If they were sitting [in one company], and a partition was spread between then,[3] — on the view that [one] Paschal lamb may be eaten in two companies, they may eat [thus]; [but] on the view that [one] Paschal lamb may not be eaten in two companies, they may not eat [thus]. If they were sitting[4], when the partition was removed from between them:[5] on the view that the eater may eat in two places, they may [go on] eating [thus]; but on the view that the eater may not eat in two places, they may not [go on] eating. R. Kahana sat [and] stated this as a definite ruling. Said R. Ashi to R. Kahana: You should [rather] ask it as a question: Does the removing of a partition or the setting up of a partition transform it into two places or two companies [respectively] or not? The question stands over.

THE BRIDE TURNS HER FACE AWAY etc. What is the reason? — Said R. Hiyya b. Abba in R. Johanan's name: Because she is modest.[6]

R. Huna the son of R. Nathan visited the home of R. Nahman b. Isaac. They asked him, 'What is your name?' 'Rab Huna,' replied he.[7] 'Would you, Sir, sit down on the couch,' said they, and he sat down. Then they offered him a goblet, which he accepted at the first [invitation][8] but he drank it in two times, without turning his face away. They asked him, 'What is the reason that you called yourself Rab Huna?' [He replied:] 'That is my name.'[9] 'What is the reason that when they told you to sit on the couch you did sit?'[10] Said he to them: 'Whatever your host tells you, do.'[11] 'What is the reason that when a goblet was offered you you accepted it at the first invitation?' Said he to them: 'One must show reluctance to a small man, but one must not show reluctance to a great man. 'Why did you drink it in two times?' — Said he to them: 'Because it was taught: He who drinks his goblet in once is a gourmand; in two times, shows good breeding; in three times, is of the arrogant. Why did you not turn your face away?'[12] — 'We learned, A BRIDE TURNS HER FACE AWAY,' replied he.[13]

R. Ishmael Son of R. Jose visited the home of R. Simeon b. R. Jose b. Lakunia. They offered him a goblet, which he accepted at the first invitation and drank in one draught. Said they to him: 'Do you not agree that he who drinks his goblet in one draught is greedy'? Said he to them: 'This was not said when your goblet is small, your wine sweet, and my stomach broad'.[14] R. Huna said: The members of a company enter three at a time, and depart even singly.[15] Rabbah observed: But that is only if they enter at the time when people generally enter,[16] and providing that the attendant had taken notice of them.[17] Rabina said: And they must make their [full] payment;[18] and the last must pay extra.[19] But the law does not agree with him. [

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(1) Each Paschal lamb must be eaten in one company, but the person is not bound to retain the same position in the company all the time.

(2) V. n. 1; also Sanh., Sonc. ed. p. 10, n. 4.

(3) Thus transforming them into two companies.

(4) In two rooms.

(5) Thus making them into one company; furthermore, a new area is added to each, and this renders the whole as another place.

(6) And as a bride she is naturally the cynosure of all eyes.

(7) Mentioning his title of Rabbi.

(8) Lit. , 'in one time' — he did not wait to be pressed a second time.

(9) Lit., 'I am the master of the name'. Rashi: I have been called Rab Huna even as a child. Thus Rab in his case was a proper name, not only a title. [R. Hananel: an ordained Rabbi and known by this designation.]

(10) The couch was reserved for distinguished visitors, others sitting on ordinary stools. His immediate compliance therefore savoured of arrogance.

(11) Var. lec.: except ‘depart’. The text reads better without this addition, but if it is retained it was probably meant humorously — a guest should not outstay his welcome until he is told to go!
(12) Which would have been more mannerly in their opinion.
(13) But not others.
(14) R. Ishmael was very stout, v. 84a.
(15) Rashi: This does not refer particularly to the Passover-offering. The members of a company should enter for meals three at a time in order to facilitate the work of the waiter, but may depart even singly though the waiter has still to attend on the rest. R. Han.: When a company registers for a Passover-offering and three of them (but not less) enter the house at the normal time for eating, they can eat without waiting for the rest. But if they had already assembled and then left for some purpose, even if only one is left he can eat alone and need not wait for their return.
(16) I.e., not earlier, in which case they must wait for the rest.
(17) According to Rashi: They notified the waiter of their intention to depart singly. R. Hananel: The waiter had been sent to find them and failed. MS.M. too reads: the attendant has searched for them.
(18) [To the waiter for the extra trouble incurred. R. Hananel: the one who eats the Paschal lamb on his own, if he ate more than his share, v. Aruch s.v. דייל.]
(19) To the water for the extra trouble incurred. [R. Hananel omits this clause.]

Talmud - Mas. Pesachim 87a

CHAPTER VIII

MISHNAH. A WOMAN, WHEN SHE IS IN HER HUSBAND'S HOME, AND HER HUSBAND SLAUGHTERED ON HER BEHALF AND HER FATHER SLAUGHTERED ON HER BEHALF, MUST EAT OF HER HUSBAND'S. IF SHE WENT TO SPEND THE FIRST FESTIVAL IN HER FATHER'S HOME,[1] AND HER FATHER SLAUGHTERED ON HER BEHALF AND HER HUSBAND SLAUGHTERED ON HER BEHALF, SHE MAY EAT WHEREVER SHE PLEASES. AN ORPHAN ON WHOSE BEHALF HIS GUARDIANS SLAUGHTERED[2] MAY EAT WHEREVER HE PLEASES. A SLAVE OF TWO PARTNERS MAY NOT EAT OF EITHER.[3] HE WHO IS HALF SLAVE AND HALF FREE[4] MUST NOT EAT OF HIS MASTER'S.[5]

GEMARA. [Hence] you may infer from this that selection is retrospective?[6] — [No:] what does ‘SHE PLEASES’ mean? At the time of the slaughtering.[7] Now the following contradicts this: A woman, on the first Festival, eats of her father's; thereafter, if she desires she eats of her father's, [while] if she desires she eats of her husband's?[8] There is no difficulty: there it means when she is eager to go [to her father's home];[9] here [in our Mishnah] it means when she is not eager to go. For it is written, Then was I in his eyes as one that found peace [shalom],[10] which R. Johanan interpreted: Like a bride who was found perfect [shelemah] in her father-in-law's home and is eager to go and recount her merits in her father's house, as it is written,[11] And it shall be at that day, saith the Lord, that thou shalt call Me My husband [Ishi], and thou shalt call Me no more My Master [Ba'ali]:[12] R. Johanan said: [That means] like a bride in her father-in-law's house, and not like a bride in her father's house.[13]

We have a little sister, and she hath no breasts[14] R. Johanan said: This alludes to Elam, who was privileged to study but not to teach.[15]

I am a wall, and my breast like the towers thereof.[16] R. Johanail said: ‘I am a wall’ alludes to the Torah; ‘and my breasts like the towers thereof,’ to scholars. While Raba interpreted: ‘I am a wall’ symbolizes the community of Israel; ‘and my breasts like the towers thereof’ symbolizes the synagogues and the houses of study.

R. Zutra b. Tohiah said in Rab's name: What is meant by the verse, We whose sons are as plants grown up in their youth; whose daughters are as corner-pillars carved after the fashions of the

Temples?[17] ‘We whose sons are as plants’ alludes to the young men of Israel who have not experienced the taste of sin. ‘Whose daughters are as corner pillars,’ to the virgins of Israel who reserve themselves[18] for their husbands; and thus it is said, And they shall be filled like the basins, like the corners of the altar.[19] Alternatively. [a parallel is drawn] from the following. Whose garners are full, affording all manner of store.[20] ‘Carved after the fashion of the Temple:’[21] both the one and the other, the Writ ascribes [Praise] to them as though the Temple were built in their days.

The word of the Lord that came unto Hosea the son of Beeri, in the days of Uzziah, Jotham, Ahaz, and Hezekiah, kings of Judah:[22] Four prophets prophesied in one age, and the greatest of all of them was Hosea. For it is said, The Lord spoke at first with Hosea:[23] did He then speak first with Hosea; were there not many prophets from Moses until Hosea? Said R. Johanan: He was the first of four prophets who prophesied in that age. and these are they: Hosea, Isaiah, Amos and Micah. The Holy One, blessed be He, said to Hosea, ‘Thy children have sinned,’ to which he should have replied. ‘They are Thy children, they are the children of Thy favoured ones they are the children of Abraham, Isaac, and Jacob; extend[24] Thy mercy to them.’ Not enough that he did not say thus, but he said to Him: ‘Sovereign of the Universe! The whole world is Thine; exchange them for a different nation. Said the Holy One, blessed be He, ‘What shall I do with this old man? I will order him: "Go and marry[25] a harlot and beget thee children of harlotry"; and then I will order him: "Send her away from thy presence." If he will be able to send [her] away. so will I too send Israel away.’ For it is said, And the Lord said unto Hose’!: ‘Go, take unto thee a wife of harlotry and children of harlotry’;[26] and it is written, So he went and took Gomer the daughter of Diblaim.[27] ‘Gomer’: Rab said, [That intimates] that all satisfied their lust [gomerim][28] on her; ‘the daughter of

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(1) It was the custom for a woman to spend the first Festival after her marriage in her father's house.

(2) He had more than one guardian, and each kind a Passover-offering with him as one of its eaters.

(3) Even if one specifically registered him in his company, since half of the slave belongs to another man. Hence he may eat only if both agree that he should be registered with one. — A slave in a Jewish house has the status of a semi-Jew, and if circumcised he ate of the Paschal offering (v. Ex. XII, 44).

(4) E.g. ‘he had belonged to two masters, and one had manumitted him.

(5) As we assume that his master did not count in the free half.

(6) Lit., ‘there is bererah’. Bererah is a technical term denoting that a choice or selection made now has retrospective validity in a legal sense. For it is assumed that the Mishnah means that the woman may eat of whichever offering she desires now, though she had not yet made her choice when it was killed and its blood was sprinkled. But the Passover-offering may be eaten only by those who had registered for it and on whose behalf it was killed. Hence when we say that her present choice permits her to eat thereof, it proves that this choice is retrospectively valid, as though she had declared it before the offering was killed. Actually there is a controversy (B.K. 51b; Bez. 38a; GIT. 25a) in this matter.

(7) It was then that she had declared her choice.

(8) Whereas the Mishnah states that at the first Festival she makes her choice.

(9) Then she eats of her father's even if she had not expressed her desire previously, as it is taken for granted. Cf. Keth. 71b, (Sonc. ed.) pp. 445ff notes.

(10) Cant. VIII, 10.

(11) Var. lec.: it is written, this introducing a new passage.

(12) Hos. II, 18.

(13) I.e., like a bride who has already gone over to her husband completely, and is more intimate with him (viz., after nissu'in, the completion of marriage), and not like a bride in her father's house, which is after erusin (betrothal) only (Rashal).

(14) Cant. VIII, 8.

(15) V. Sanh., Sonc. ed. p. 138. n. 5.

(16) Ibid. 10.

(17) Ps. CXLIV, 12. On hekal v. infra p. 512. n. 6. E.V.: a palace.

(18) Lit., ‘seal their openings’.

(19) Zech. IX, 1.
(20) Ps. CXLIV, 13.
(21) Ibid. 12.
(22) Hos. I, 1.
(23) Ibid. 2. lit. translation. E.V.: When the Lord etc.
(24) Lit., ‘roll’.
(25) Lit., ‘take’.
(26) Ibid.
(27) Ibid. 3.
(28) Lit., ‘to complete’.

Talmud - Mas. Pesachim 87b

Diblaim’: [a woman of] in fame [dibbah] and the daughter of [a woman of] in fame [dibbah].[1] Samuel said: [It means] that she was as sweet in everyone's mouth as a cake of figs [debelah]. While R. Johanan interpreted: [It means] that all trod upon her[2] like a cake of figs [is trodden]. Another interpretation: ‘Gomer’: Rab Judah said: They desired to destroy [le-gammer] the wealth of Israel in her days. R. Johanan said: They did indeed despoil [their wealth]. for it is said, For the king of Aram [Syria] destroyed then, and made them like the dust in threshing.[3]

And she conceived, and bore him a son. And the Lord said unto him: ‘Call his name Jezreel; for yet in little while, and I will visit the blood of Jezreel upon the house of Jehu, and will cause to cease the kingdom of the house of Israel. And it shall come to pass at that day, that I will break the bow of Israel in the valley of Jezreel.’ And she conceived again, and bore a daughter. And He said unto him: ‘Call her name Lo-ruhamah [that hath not obtained compassion]; for I will no more have compassion upon the house of Israel, that I should in any wise pardon them . . . And she conceived, and bore a son. And He said: ‘Call his name Lo-ammi [not my people]; for ye are not My people, and I will not be yours.[4] After two sons and one daughter were born to him, the Holy One, blessed be He, said to Hosea: ‘Shouldst thou have not learned from thy teacher Moses, for as soon as I spoke with him he parted from his wife; so do thou too part from her.’ ‘Sovereign of the Universe!’ pleaded he: ‘I have children by her, and I can neither expel her nor divorce her.’ Said the Holy One, blessed be He, to him: ‘Then if thou, whose wife is a harlot and thy children are the children of harlotry, and thou knowest not whether they are thine or they belong to others, yet [thou] art so; then Israel who are My children, the children of My tried ones, the children of Abraham, Isaac and Jacob; one of the four possessions which I have acquired in this world — (The Torah is one possession, for it is written, The Lord acquired me as the beginning of His way.[5] Heaven and earth is one possession. as It is written, [God Most High] Who possesses heaven and earth.[6] The Temple is one possession, for it is written, This mountain [sc. the Temple Mount], which His right hand had acquired.[7] Israel is one possession, for it is written, This people that Thou hast gotten.)[8] Yet thou sayest, Exchange them for a different people!’ As soon as he perceived that he had sinned, he arose to supplicate mercy for himself. Said the Holy One, blessed be He, to him: ‘Instead of supplicating mercy for thyself, supplicate mercy for Israel, against whom I have decreed three decrees because of thee’.[9] [Thereupon] he arose and begged for mercy, and He annulled the decree[s]. Then He began to bless them, as it is said: Yet the number of the children of Israel shall be as the sand of the sea . . . and it shall come to pass that, instead of that it which was said unto them: Ye are not My people’, it shall be said unto them: Ye are the children of the living God.’ And the children of Judah and the children of Israel shall be gathered together . . . And I will sow her unto Me in the land; and I will have compassion upon her that hath not obtained compassion; and I will say to them that were not My people: ‘Thou art My people.’[10]

T. Johanan said: ‘Woe to lordship which buries [slays] its possessor, for there is not a single prophet who did not outlive[11] four kings, as it is said, The vision of Isaiah the sun of Amoz, which he saw concerning Judah and Jerusalem, in the days of Uzziah, Jotham, Ahaz, and Hezekiah, kings of Judah.[12]

R. Johanan said: How did Jeroboam the son of Joash king of Israel merit to be counted together with the kings of Judah? Because he did not heed[13] slander against Amos. Whence do we know that he was counted [with them]? Because it is written, The word of the Lord that came into Hosea the son of Beeri, in the days of Uzziah, Jotham, Ahaz, and Hezekiah, kings of Judah, and in the days of Jeroboam the son of Joash king of Israel.[14] And whence do we know that he did not heed slander? Because it is written, Then Amaziah the priest of Beth-el sent to Jeroboam king of Israel, saying. Amos hath conspired against thee [etc.];[15] and it is written, For thus Amos saith: Jeroboam shall die by the sword [etc.].[16] Said he [Jeroboam]: ‘Heaven forfend that that righteous man should have said thus! Yet if he did say, what can I do to him! The Shechinah told it to him.

R. Eleazar said: Even when the Holy One, blessed be He, is angry,[17] He remembers compassion, for it is said, for I will no more have compassion upon the house of Israel.[18] R. Jose son of R. Hanina said [i.e., deduced] it from this: that I would in any wise pardon them.[19] R. Eleazar also said: The Holy One, blessed be He, did not exile Israel among the nations save in order that proselytes might join them, for it is said: And I will sow her unto Me in the land;[20] surely a man sows a se'ah in order to harvest many kor! While R. Johanan deduced it from this: And I will have compassion upon her that hath not obtained compassion.[21]

R. Johanan said on the authority of R. Simeon b. Yohai: What is meant by the verse, Slander not a servant unto his master, lest he curse thee, and thou be found guilty?[22] And it is written, A generation that curse their father, and do not bless their mother:[23] because they curse their father and do not bless their mother, therefore do not slander?[24] But [it means:] even if they [the slaves] are a generation that curse their father and do not bless their mother, yet do not slander [etc.]. Whence do we know it? From Hosea.[25]

R. Oshaia said: What is meant by the verse, Even the righteous acts of His Ruler in Israel?[26] The Holy One, blessed be He, showed righteousness [mercy] unto Israel by scattering them among the nations. And this is what a certain sectarian[27] said to R. Hanina, ‘We are better than you. Of you it is written, For Joab and all Israel remained there six months, until he had cut off every male in Edom;[28] whereas you have been with us many years yet we have not done anything to you!’ Said he to him, ‘If you agree, a disciple will debate it with you.’ [Thereupon] R. Oshaia debated it with him, [and] he said to him,’ [The reason is] because you do not know how to act. If you would destroy all, they are not among you.[29] [Should you destroy] those who are among you, then you will be called a murderous kingdom!’ Said he to him, ‘By the Capitol of Rome![30] with this [care] we lie down and with this [care] we get up.[31]

R. Hiyya taught: What is meant by the verse, God understandeth the way thereof, and He knoweth the place thereof?[32] The Holy One, blessed be He, knoweth that Israel are unable to endure[33] the cruel decrees of Edom,[34] therefore He exiled them to Babylonia. R. Eleazar also said: The Holy One, blessed be He, exiled Israel to Babylonia only because it is as deep as she'ol, for it is said, I shall ransom them from the power of the nether-world [she'ol]; I shall redeem them from death.[35] R. Hanina said: Because their language is akin to the language of the Torah. R. Johanan said: Because He sent them back to their mother's house.[36] It may be compared to a man who becomes angry with his wife: Whither does he send her? To her mother's house. And that corresponds to [the dictum] of R. Alexandri, who said: Three returned to their original home,[37] viz., Israel, Egypt's wealth, and the writing of the Tables. Israel, as we have said. Egypt's wealth, as it is written, And it came to pass in the fifth year of King Rehoboam, that Shishak king of Egypt came up against Jerusalem; and he took away the treasurers of the house of the Lord.[38] The writing of the Tables, for it is written, and I broke them before your eyes.[39] It was taught: The Tables were broken, yet the Letters flew up.[40] ‘Ulla said:

[Their exile] was in order that they might eat

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(1) He interprets diblaim as a dual form of dibbah, ill fame.
(2) A euphemism for sexual indulgence.
(3) II Kings XIII, 7.
(4) Hos. I, 3-6; 8-9.
(5) Prov. VIII, 22.
(6) Gen. XIV, 19.
(7) Ps. LXXVIII, 54.
(8) Ex. XV, 16. V. Ab. VI, 10.
(9) Jezreel, which symbolizes exile (Jezreel zera', to sow) indicating that Cod would sow (scatter) Israel among the nations; Lo-ammi (not my people) and Lo-Ruhamah (without compassion).
(10) Hos. II, 1f, 25.
(11) Lit., 'cut clown in his days'.
(12) Isa. I, 1.
(13) Lit., 'receive', 'accept'.
(14) Hos. I, 1.
(15) Amos. VII, 10.
(16) Ibid. 11.
(17) Lit., 'at the time of his anger'.
(18) Hos. I, 6. 'Compassion' is thus mentioned even in connection with retribution.
(19) Ibid.
(20) Hos. II, 25.
(21) Ibid. R. Johanan makes this refer to the Gentiles, who in God's compassion will be given the opportunity. through Israel's exile, of coming under the wings of the Shechinah. According to Rashi, R. Johanan deduces it from the concluding part of the verse, 'And I will say to them that are not My people; thou art My people'. This passage shows these two Rabbis in favour of proselytes. For the general attitude of the Rabbis towards proselytization v. f. E. art. Proselyte.
(22) Prov. XXX, 10.
(23) Ibid. 11.
(24) What connection is there between the two verses?
(25) Who was rebuked for slandering Israel to God, though they had indeed sinned.
(26) Judg. V, 11.
(27) Min, v. Glos.
(28) I Kings XI, 16.
(29) Many live among other nations.
(30) Jast. Or perhaps: by the Roman eagle!
(31) How to destroy you without incurring odium.
(32) Job. XXVIII, 23.
(33) Lit., 'receive', accept.'
(34) I.e., Rome, for which Edom was the general disguise; v. Sanh., Sonc. ed. p. 52. n. 8.
(35) Hos. XIII, 14. I.e., its very depth compels a speedy redemption.
(36) Abraham having come to Palestine from Ur of the Chaldees.
(37) Lit., '(the place of) their planting'.
(38) I Kings XIV, 25f. The Israelites took much Egyptian wealth with them at the Exodus: v. Ex. XII, 35f.
(39) Deut. IX, 17: 'before your eyes' implies that they saw something wonderful happen, as explained in the text.
(40) Back to God. — Though physical matter may be destroyed, the spirit (symbolized by the letters) is indestructible, but waits until mankind is ready to receive it.

Talmud - Mas. Pesachim 88a

dates[1] and occupy themselves with the Torah.

‘Ulla visited Pumbeditha. On being offered a basket [tirama] of dates, he asked them, How many such [are obtainable] for a zuz? ‘Three for a zuz’, they told him. ‘A basketful [zanna][2] of honey for a zuz’, exclaimed he, ‘yet the Babylonians do not engage in [the study of] the Torah!’[3] At night they [the dates] upset him. ‘A basketful of deadly poison cost a zuz in Babylonia, exclaimed he, ‘yet the Babylonians study the Torah!’[4]

R. Eleazar also said, What is meant by the verse, And many people shall go and say: ‘Come ye, and let us go up to the mountain of the Lord, To the house of the God of Jacob’,[5] the God of Jacob, but not the God of Abraham and Isaac? But [the meaning is this: we will] not [be] like Abraham, in connection with whom ‘mountain’ is written, as it is said, As it is said to this day, ‘In the mountain where the Lord is seen.’[6] Nor like Isaac, in connection with whom ‘field’ is written, as it is said, ‘And Isaac when out to meditate in the field at eventide.’[7] But [let us be] like Jacob, who called Him ‘home’, as it is said, ‘And he called the name of that place Beth-el [God is a home].[8]

R. Johanan said: The reunion of the Exiles is as important as the day when heaven and earth were created, for it is said, And the children of Judah and the children of Israel shall be gathered together, and they shall appoint themselves one head, and shall go up out of the land; for great shall be the day of Jezreel;[9] and it is written, And there was evening and there was morning, one day.[10]

AN ORPHAN ON WHOSE BEHALF HIS GUARDIANS SLAUGHTERED etc. You may infer from this that selection is retrospective?[11] — Said R. Zera: [No:] a lamb according to their father's houses[12] [implies] in all cases.[13]

Our Rabbis taught: A lamb for a household:[14] this teaches that a man can bring [a lamb] and slaughter [it] on behalf of his son and daughter, if minors, and on behalf of his Canaanitish [non-Jewish] slave and bondmaid, whether with their consent or without their consent. But he cannot slaughter [it] on behalf of his son and daughter, if adults, or on behalf of his Hebrew slaves and bondmaids, or on behalf of his wife, save with their consent.

Another [Baraitha] taught: A man must not slaughter [the Passover-offering] on behalf of an adult, his son and daughter, and on behalf of his Hebrew slave and bondmaid, and on behalf of his wife, save with their consent. But he may slaughter [it] on behalf of his son and daughter, if minors, and on behalf of his Canaanitish slave and bondmaid, whether with their consent or without their consent. And all of these, if they [themselves] slaughtered and their master [also] slaughtered on their behalf, can discharge [their duty] with their master's, but they cannot discharge [their duty] with their own, except a woman,[15] because she is able to protest.[16] How is a woman different?[17] — Said Raba, [It means] a woman and those who are like her.[18]

This is self-contradictory. You say, ‘Except a woman, because she is able to protest.’ [Thus] the reason is because she protested, but if she did not protest, she cannot discharge [her duty] with her husband's. Yet surely the first clause teaches: ‘Nor on behalf of his wife [etc.] save with their consent’: hence if nothing is said, she cannot discharge [her obligation thus]? — What does ‘save with their consent’ mean? Not that they said ‘yes,’ but when they said nothing, which excludes [the case] where they said ‘no.’ But surely ‘and all of these, if they [themselves] killed and their master killed on their behalf, can discharge [their duty] with their master's, but they cannot discharge [their duty] with their own meal's where nothing is said, yet it teaches, ‘except a woman, because she can protest’? — Said Raba: Since they [themselves] slaughtered, you can have no greater protest than this. A SLAVE BELONGing TO TWO PARTNERS etc. R. ‘Ena Saba[19] pointed out a contradiction to R. Nahman: We learned: A SLAVE BELONGING TO TWO PARTNERS MAY NOT EAT OF EITHER’; yet it was taught: If he wishes, he can eat of this one's [and] if he wishes, he can eat of that one's? Said he to him, ‘Ena Saba![20] others say, You black pot![21] Between you and me the law will be clearly defined:[22] our Mishnah [holds good] where they are particular with each other;[23] the Baraitha [was taught] when they are not particular with each other.

HE WHO IS HALF SLAVE AND HALF FREE MUST NOT EAT OF HIS MASTER'S. It is only of his master's that he must not eat, yet he may eat of his own? But it was taught: He may not eat, either of his own or of his master's! — There is no difficulty: one is according to the earlier Mishnah, while the other is according to the later Mishnah. For we learned: He who is half slave and half free works one day for his master and one day for himself: this is the view of Beth Hillel. Beth Shammai say:

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(1) Which grow abundantly in Babylonia.

(2) [The text appears to be in slight disorder. Read with MS.M.: For how much are such obtainable? — They replied, For a zuz. A zanna denotes a large basket with a capacity of three tirama, cf. Ta'an. 9b.]

(3) With the cost of living so low, surely they have plenty of time to study.

(4) Suffering makes one charitable-minded.

(5) Isa. II, 3.

(6) Gen. XXII, 14.

(7) Ibid. XXIV, 63.

(8) Ibid. XXVIII, 19. Visits to the mountain and the held are only made at certain times, but a home is permanent. Thus this teaches that man must live permanently in God.

(9) Hos. II, 2.

(10) Gen. I, 4.

(11) V. supra 8a.

(12) Ex. XII, 3.

(13) I.e., the head of the house does not require the consent of the members of the household. For that reason the orphan may now eat whichever he desires and there is no question of retrospective validity.

(14) Ibid.

(15) She discharges her duty with her own.

(16) A married woman can renounce her right to her husband's support and refuse to work for him as she is normally obliged to do.

(17) I.e., an adult son and daughter and Hebrew slaves can also protest!

(18) I.e., his adult son and daughter and his Hebrew slaves.

(19) ‘The old man’.

(20) Probably as a pun on his name-scholarly eye!

(21) He was of unattractive appearance (Jast.), perhaps swarthy. Rashi in A.Z. 16b softens this by explaining that he was either begrimed through toil (many Rabbis in Talmudic days being workmen) or that in his preoccupation with his studies he had neglected the appearance of his garments.

(22) As a result of your question and my answer the exact conditions of the law will emerge. Jast. translates: this tradition will be named from myself and from thee.

(23) Not to benefit from one another; hence the half of the slave which belongs to one, as it were, may tot eat of the other's offering.

Talmud - Mas. Pesachim 88b

You have [thus] safeguarded his master,[1] but you have not safeguarded him! He is unable to marry a [Canaanitish] bondmaid, because he is already half free; he is unable to marry a free woman, because he is still half slave. Shall he be made as nought,[2] — but surely the world was not created for aught but procreation as it is said, He created it not a waste, He formed it to be inhabited.[3] Hence in the public interest we compel his master, and he makes him a free man, and he indites a bond for half his value.[4] Then Beth Hillel reverted to rule as Beth Shammai.[5]

MISHNAH.IF A MAN SAYS TO HIS SLAVE, ‘GO FORTH AND SLAUGHTER THE

PASSOVER-OFFERING ON MY BEHALF': IF HE SLAUGHTERED A KID, HE EATS [THEREOF]. IF HE SLAUGHTERED A LAMB, HE EATS [THEREOF]. IF HE SLAUGHTERED A KID AND A LAMB, HE MUST EAT OF THE FIRST.[6] IF HE FORGOT WHAT HIS MASTER TOLD HIM, HOW SHALL HE ACT? HE SLAUGHTERS A LAMB AND A KID AND DECLARES, 'IF MY MASTER TOLD ME [TO SLAUGHTER] A KID, THE KID IS HIS [FOR HIS PASSOVER-OFFERING] AND THE LAMB IS MINE; WHILE IF MY MASTER TOLD ME [TO SLAUGHTER] A LAMB, THE LAMB IS HIS AND THE KID IS MINE. IF HIS MASTER [ALSO] FORGOT WHAT HE TOLD HIM, BOTH GO FORTH TO THE PLACE OF BURNING,[7] YET THEY ARE EXEMPT FROM SACRIFICING THE SECOND PASSOVER.[8] GEMARA. It is obvious that if he slaughtered a kid, he [the master] may eat [thereof] even though he is accustomed to lamb;[9] if he slaughtered a lamb, he may eat [thereof] even though he is accustomed to a kid. But how is it stated, IF HE SLAUGHTERED A KID AND A LAMB, HE MUST EAT OF THE FIRST; surely it was taught, One cannot register for two Passover-offerings simultaneously?[10] — Our Mishnah refers to a king and a queen.[11] And it was taught even so: One may not register for two Passover offerings simultaneously. Yet it once happened that the king and queen instructed their servants, 'Go forth and slaughter the Passover-offering on our behalf,' but they went and killed two Passover-offerings for them. [Then] they went and asked the king [which he desired and] he answered then, 'Go and ask the queen.' [When] they went and asked the queen she said to them, 'Go and ask R. Gamaliel.' They went and asked R. Gamaliel who said to them: The king and queen, who have no particular desires,[12] must eat of the first; but we [in a similar case] might not eat either of the first or of the second. On another occasion a lizard was found in the [Temple] abattoir,[13] and they wished to declare the entire repast unclean. They went and asked the king, who answered them, 'Go and ask the queen.' When they went to ask the queen she said to them, 'Go and ask it. Gamaliel.' [So] they went and asked him. Said he to then, 'Was the abattoir hot or cold?'[14] 'It was hot,' replied they. 'Then go and pour a glass of cold water over it,' he told them. They went and poured a glass of cold water over it, and it moved,[15] whereupon R. Gamaliel declared the entire repast clean. Thus the king was dependent on the queen and the queen was dependent on R. Gamaliel: hence the whole repast was dependent on R. Gamaliel.[16] IF HE FORGOT WHAT HIS MASTER HAD TOLD HIM etc. MINE? Whatever a slave owns his master owns![17] — Said Abaye: He repairs to a shepherd with whom his master generally has dealings,[18] who is therefore pleased to make things right for his master, and he gives him possession of one of them on condition that his master shall have no rights therein.[19]

IF HIS MASTER FORGOT WHAT HE HAD TOLD HIM etc. Abaye said: They learned this only where he forgot after the sprinkling, so that when the blood was sprinkled it was fit for eating. But if he [the master] forgot before the sprinkling, so that when the blood was sprinkled it was not fit for eating, they are bound to observe the Second Passover.

Others recite this in reference to the [following] Baraitha: If the hides of five [companies'] Passover-offerings became mixed up with each other, and a wart[20] was found on one of them, they all[21] go out to the place of burning, and they [their owners] are exempt for observing the Second Passover. Said Abaye: This was taught only where they were mixed up after the sprinkling, so that at least when the blood was sprinkled it was fit for eating; but if they were mixed up before the sprinkling, they are bound to observe the Second Passover.

He who recites [this] in reference to our Mishnah, [holds that] all the more [does it apply] to the Baraitha.[22] But he who recites it in reference to the Baraitha [holds] that [it does] not [apply] to our Mishnah: since [the sacrifices themselves] are valid, for if he reminds himself [of what the Master had told him],it would be fit for eating, it is [indeed] revealed[23] before Heaven. The Master said: 'And [their owners] are exempt from observing the Second Passover.' But one has [definitely] not discharged [his duty]?[24] — [The reason is] because it is impossible [to do otherwise]. What should be done? Should each bring a [second] Passover-offering, — then they bring hullin to the Temple

Court, since four of them have [already] sacrificed.[25] If all of them bring one Passover-offering, the result is that the Passover-offering is eaten by those who have not registered for it.[26] How so? Let each of them bring his Passover-offering and stipulate and declare: ‘If mine was blemished, let this one which I am bringing now be a Passover-offering; while if mine was unblemished, let this one which I am bringing now be a peace-offering’? — That is impossible,

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(1) Lit., ‘repaired his master, — so that he should not suffer loss.

(2) Do neither and end in futility.

(3) Isa. XLV, 18.

(4) Which becomes an ordinary debt to his former master.

(5) After having ruled in actual practice on their own view for some time (v. Halevi, Doroth, I, 3, p. 576), they adopted Beth Shammai's ruling. Now the law is always as Beth Hillel. Before they retracted, he could not eat of his own, because the half in him that is free is sharply differentiated from the half that is not. But when they retracted they would regard him as entirely free, even before he is actually so, since we compel his master to free him; hence he could eat of his own.

(6) While the second is burnt.

(7) Because they do not know which belongs to whom, and a Paschal offering may be eaten only by those registered for it.

(8) For both the killing and the sprinkling of the blood were valid acts.

(9) And that is really what the Mishnah informs us.

(10) To eat subsequently whichever one chooses, because selection is not retrospective (v. supra, p. 458, n. 6). Thus the same applies here.

(11) Being surfeited with luxury they do not care what they eat, and generally leave it to their servants. Hence the question of retrospective validity does not arise.

(12) Lit., ‘their mind is light’.

(13) A dead lizard (halta'ah) defiles.

(14) I.e., was it found in hot water or in cold?

(15) They now saw that it was alive.

(16) [Derenbourg (Essai p. 211) identifies the King and Queen in these two stories with Agrippa I and his wife Kypros; Buchler (Synedrion p. 129 n. 1) with Agrippa II and his sister Berenice. On either view it is to R. Gamaliel I that reference is here made.]

(17) How then can the slave stipulate that one of these should be his?

(18) Lit., ‘where his master is accustomed’.

(19) Since this is in the master's own interests.

(20) This is a blemish which disqualifies an animal as a sacrifice.

(21) I.e., the Paschal-offerings.

(22) For in the Mishnah the sacrifices themselves are both definitely fit, but that we do not know who registered for them, and yet if the doubt arose before the sprinkling they are bound to observe the Second Passover. How much the more then in the Baraitha, where the fitness of the sacrifices themselves is in question!

(23) Hence even if the doubt arose before the sprinkling, they are exempt from observing the Second] Passover.

(24) Sc. the one whose offering was blemished.

(25) A Passover-offering can only be brought when there is an actual obligation. and if a man not under this obligation consecrates an animal as such, the consecration is invalid and the animal remains hullin (q.v. Glos.), which may not be brought into the Temple Court for slaughtering. Here four have actually discharged their duty already, though we do not know who they are, so that four of the animals must remain unconsecrated.

(26) Because the registration of those whose duty has been done is of no account.

Talmud - Mas. Pesachim 89a

because there is the breast and the shoulder [of the peace offering], which is eaten by priests [only].[1] Then let each one bring a priest with him?[2] — What is the position of this priest? If he has [already] sacrificed a Passover-offering, then perhaps this [too] is a passover-offering, with the result that the Passover offering is eaten by those who have not registered for it. While if he has not observed the

Passover,[3] perhaps this is a peace offering, and so he will not observe the Passover? Then let all the five [jointly] bring one priest who had not kept the Passover and register him for these five Passover-offerings, for on any hypothesis[4] there is one [sacrifice] with which he will discharge [his duty]![5] — Rather [the reason is] because he reduces [the time allowed for] the eating of the peace-offering, for the Passover offering [is eaten] a day and a night,[6] whereas a peace-offering [is eaten] two days and one night.[7] Then let them bring a Passover 'remainder'[8] and declare, 'If mine was blemished, let this which I bring now be a passover-offering; while if mine was unblemished, let this which I bring now be a peace-offering,' for a Passover 'remainder' is eaten one day and one night [only]?[9] — May we then set aside [animals] in the first instance to be remainders![10] Then let us take the trouble to bring a Passover-remainder?[11] Rather [the reason is] because of the laying [of hands]; for whereas the Passover-offering does not require laying [of the hands], a remainder requires laying [of the hands].[12] That is well of a mens' sacrifice, [but] what can be said of a women s sacrifice?[13] — Rather it is on account of the [blood] applications: for whereas the Passover-offering [requires] one application, the peace-offering [requires] two, which are four.[14] [But] what does that matter? Surely we learned: All [blood] which is sprinkled on the outer altar,[15] if he [the priest] applied them with one sprinkling, he has made atonement?[16] — Rather [the reason is] because whereas [the blood of] the Passover-offering must be poured out [gently],[17] [that of] the peace-offerings requires dashing [against the altar].[18] But what does that matter? Surely it was taught: All [blood] which is applied by dashing [against the altar], if he [the priest] applied [it] by pouring it out, he has discharged [his duty]?[19] — Granted that we say [thus] where he has done so; [do we say thus] as the very outset too?[20]

MISHNAH. IF A MAN SAYS TO HIS CHILDREN, 'BEHOLD, I SLAUGHTER THE PASSOVER-OFFERING ON BEHALF OF WHICHEVER OF YOU GOES UP FIRST TO JERUSALEM,' AS SOON AS THE FIRST HAS INSERTED HIS HEAD AND THE GREATER PART OF HIS BODY [IN JERUSALEM] HE HAS ACQUIRED HIS PORTION, AND HE ACQUIRES IT ON BEHALF OF HIS BRETHREN WITH HIM.

GEMARA. This proves that selection is retrospective?[21] Said R. Johanan: He [their father] said this in order to encourage them in [the performance of] precepts.[22] This may be proved too, for he [the Tanna] teaches: AND HE ACQUIRES IT ON BEHALF OF HIS BRETHREN WITH HIM; now it is well if you say that he had registered them beforehand, then it is correct. But if you say that he had not registered them beforehand, can they be registered after he has slaughtered it? Surely we learned: They may register and withdraw their hands from it until it is killed![23] This proves it. It was taught likewise: It once happened that the daughters outstripped the sons, and so it was seen that the daughters were zealous while the sons were indolent. MISHNAH. ONE MAY ALWAYS REGISTER FOR IT AS LONG AS THERE IS AS MUCH AS AN OLIVE THEREIN FOR EACH ONE [REGISTERED]. THEY MAY REGISTER AND WITHDRAW THEIR HANDS FORM IT UNTIL IT IS SLAUGHTERED; R. SIMEON SAID: UNTIL THE BLOOD IS SPRINKLED.

GEMARA. What does he inform us? — He informs us this, viz., though this company had registered for it, it can retract [entirely] and a different company register for it.[24]

THEY MAY REGISTER AND WITHDRAW THEIR HANDS FROM IT UNTIL IT IS KILLED etc. Abaye said: The controversy is in respect of withdrawing, for the Rabbis hold: [And if the household be too little] for being [me-heyoth] for a lamb[25] [implies] in the lifetime [mi-hayuth] of the lamb;[26] while R. Simeon holds [that it implies] during the existence [mi-hawayuth] of the lamb.[27] But in respect of registering all agree [that this can be done only] until it is killed, because the Writ saith, according to the number of [bemiksath] the souls, and then, ye shall make your count [takosu].[28] It was taught likewise: They may register and withdraw their hands from it until it is slaughtered. R. Simeon said: They may register until it is slaughtered and withdraw until the blood is sprinkled.

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(1) And since it may be a Passover sacrifice and no priests are registered for this, they cannot eat it.
(2) I.e., let a priest register for each sacrifice.
(3) Having been unclean or on a distant journey at the First Passover.
(4) Lit., 'whatever you will'.
(5) This is Rashi's text. Cur. edd. read: there is one who has kept the Passover and so they will discharge etc., i.e., by this device we ensure that all shall have discharged their duty. — The priest then would partake of the breast and shoulders of each sacrifice.
(6) And what is left over after that must be burnt as nothar,
(7) Since each sacrifice may be a Passover-offering, we can only permit the shorter period, whereas actually it may be a peace-offering.
(8) [The text is not clear. R. Hananel reads, let him bring (an offering) and make a stipulation for (it to become if necessary) a Passover-'remainder'.]
(9) If an animal is consecrated as a Passover-offering but not sacrificed as such, it is a Passover-'remainder', which is then brought as a peace-offering but eaten only during the shorter period. Hence here, let each consecrate the animal for a Passover-offering. If his animal was blemished, he discharges his duty with this one. But if his animal was unblemished, this is automatically a Passover-'remainder', since it cannot be sacrificed for its own purpose (Tosaf.; Rashi explains slightly differently.)
(10) Surely not.
(11) I.e., let us find an animal which was actually left over from the first Passover.
(12) V, Lev, III, 2.
(13) This does not require laying of the hands.
(14) The blood was applied to the north-east and the south-west corners of the altar, thus making it appear that the four corners were besprinkled; v. Zeb. 53b.
(15) This includes the blood of the peace-offering.
(16) I.e., the sacrifice is valid, though in the first place two applications are required.
(17) From the basin on to the wall of the altar near the base.
(18) Vigorously, from a distance.
(19) The sacrifice is valid.
(20) Surely we may not arrange at the very outset that the blood should be gently poured out where it really requires to be dashed against the altar. Hence there is no possibility of observing the Second Passover.
(21) V. supra 87a. It is now assumed that only one was registered.
(22) But actually he had registered all of them beforehand.
(23) But not after.
(24) This disagrees with R. Judah, who maintains infra 99a that one member at least of the original company must remain.
(25) Ex. XII, 4.
(26) The verse is understood to refer to withdrawal, it being translated: And if the household has become too little etc., because some of its members have withdrawn. The present interpretation of mi-heyoth teaches that this withdrawal is possible only while the animal is still alive.
(27) I.e., as long as it still exists for its sacrifice rites to be preformed, which is until the blood is sprinkled.
(28) Ibid. 'Be-miksath' and 'takosu' are connected with a root meaning to slaughter, while at the same time retaining their connotation of numbering, i.e., registering. Hence registration is permitted only until it is slaughtered; cf. supra 61a.

Talmud - Mas. Pesachim 89b

MISHNAH. IF A MAN REGISTERS ANOTHER WITH HIM [TO SHARE] IN HIS PORTION,[1] THE MEMBERS OF THE COMPANY[2] ARE AT LIBERTY TO GIVE HIM HIS [PORTION],[3] AND HE EATS HIS AND THEY EAT THEIRS.[4]

GEMARA. The scholars asked: Can the members of a company, one of whom is quickhanded,[5] say to him, 'Take your portion and go!' Do we rule that he can say to them, 'Surely you have accepted [me]'; or perhaps they can answer him, 'We accepted you for the purpose of the sacrifice,[6] but we did not accept you with the view that you should eat more than we'? — Come and hear: IF A MAN REGISTERS ANOTHER WITH HIM, THE MEMBERS OF THE COMPANY ARE AT LIBERTY TO GIVE HIM HIS [PORTION], AND HE EATS HIS AND THEY EAT THEIR. What is the reason? Is it not because it is as though one of them were quick-handed:[7] and if you should think that one who is quick-handed can say to them, 'You have accepted me,'[8] then let this one be as though he is quick-handed? — I will tell you: That is not so, [for] characters differ, for even if both of them together eat [only] as much as one member of the company, they can say to him that they are not willing to have a stranger with them.

Come and hear: If the attendant ate as much as an olive at the side of the oven, if he is wise he eats his fill of it; but if the members of the company wish to do him a favour, they come and sit at his side and eat: this is R. Judah's opinion.[9] Thus, only if they wish, but not if they do not wish. Yet why so? Let him say to them, 'Surely you have accepted [me.]'[10] — There it is different, because they can say to him, 'We accepted you with the intention of troubling you to attend on us; [but] we did not accept you that we should take the trouble of attending to you.' Come and hear: Members of a company, one of whom is quickhanded, are at liberty to say [to him], 'Take your portion and go.' And not only that, but even when five arrange for a meal in common,[11] they are at liberty to say to him, 'Take your portion and go.' This proves it.

What does 'and not only that' mean?[12] — He proceeds to a climax.[13] In the case of Passover-offerings it goes without saying, for they can say to him, 'We accepted you for the purpose of the sacrifice.' But even in the case of a meal in common, which is mere companionship, they are at liberty to say to him, 'Take your portion and go.

Others state: That is no problem to us,[14] but this is our question: Are the members of a company permitted to divide,[15] or are they not permitted to divide?[16] — Come and hear: Members of a company, one of whom was quick-handed, are at liberty to say to him, 'Take your portion and go.' Thus, only if he is quickhanded, but not if he is not quick-handed. This proves it.[17]

R. Papa and R. Huna the son of R. Joshua joined their bread together. But by the time R. Huna the son of R. Joshua ate one [piece], R. Papa ate four. Said he to him, 'Divide with me.' 'You have accepted [me as a partner],' he retorted. [Thereupon] he raised all these objections[18] to him, and he answered him as we have answered them. He then refuted him by [the teaching regarding] 'the members of a company [etc.]'. Said he to him, There the reason is because they can say to him, 'We accepted you for the purpose of the sacrifice.' He refuted him by [the teaching regarding] 'a meal in common [etc.]', so he divided with him. Then he went and joined bread with Rabina. By the time R. Huna the son of R. Joshua ate one [piece], Rabina ate eight. Said he: A hundred Papas rather than one Rabina!

Our Rabbis taught: If a man registers others with him for his Passover-offering and his hagigah,[19] the money he holds[20] is hullin. And he who sells his burnt-offering and his peace-offering[21] has effected nothing,[22] and the money, however much it is,[23] is utilized[24] for a freewill-offering. But since he has not effected anything, why should it be utilized for a freewill-offering?[25] Said Raba: As a penalty.[26] And what does 'however much it is' mean? — Even if they [the animals] were only worth four [zuz] and he paid five, the Rabbis penalized him even in respect of that additional [zuz].

'Ulla — others state, R. Oshaia — said: Perhaps our Babylonian colleagues know the reason for this ruling. [Consider:] one set aside a lamb for his Passover-offering, and another set aside money for his Passover-offering: how can sanctification fall upon sanctification, that he teaches, 'the money he holds is hullin.?[27] —

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(1) Without the knowledge of the other members of the company.
(2) Who disapprove of the new companion.
(3) Bidding him to go and eat it elsewhere with the new companion of his choice.
(4) This Tanna holds that one Paschal lamb may be eaten by two separate companies.
(5) To seize food — i.e., he is a glutton and eats more than his due share. Lit., 'who has fine hands' — a euphemism.
(6) We calculated that so many are required for this lamb.
(7) Presumably the two will eat more than the ordinary share of one.
(8) Enabling me to eat as much as I like.
(9) V. supra 86a for notes.
(10) As one of your company, and since I cannot go to you, you must come to me.
(11) Each contributing an equal share.
(12) In which way is the second ruling more noteworthy than the first?
(13) Lit., 'he states, it is unnecessary"'.
(14) That the quick-handed companion may be told to take his portion and go.
(15) Each to take his share.
(16) But must all eat together.
(17) They must eat together.
(18) From the teaching cited above.
(19) Here the Festive peace-offering which was brought on the fourteenth likewise and eaten before the Passover-offering. This was eaten by the same who had registered for the Passover-offering.
(20) Which he received from those whom he registered.
(21) I.e., animals which he consecrated for that purpose.
(22) The sacrifice must be offered on behalf of the first owner.
(23) Even if it exceeds the animal's worth.
(24) Lit., 'falls'.
(25) His action being null, the money remains hullin.
(26) He should not have bought another man's sacrifice.
(27) Money consecrated for a sacrifice can revert to hullin only if an animal of hullin is bought therewith, whereby the animal receives the sanctity of the money, which in turn loses it and becomes hullin. Here, however, the money was consecrated and given for an animal (or part of it, which is the same) which was already consecrated for a Passover-offering: how then can additional sanctity fall upon the animal, in the sense that the sanctity of the money is transferred thereto, leaving the money hullin? — It cannot be answered that this refers to unconsecrated money, for in that case it is obvious.

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Said Abaye: Had not R. Oshaia related that [Mishnah][1] to a case where he registers a harlot for his Passover-offering,[2] and in accordance with Rabbi,[3] I would have related it to sacrifices of lesser sanctity[4] and in accordance with R. Jose the Galilean who maintained: sacrifices of lesser sanctity are their owner's property. But [on Rabbi's view] a man does not leave anything over [unconsecrated] in the Passover-offering, yet he certainly does leave over in the case of money, because when he set it aside [for a Passover-offering] in the first place, he did so with this intention.[5] While this [the present Baraitha][6] is [the view of] Rabbi,[7] and for that reason the money he holds is hullin, as a man certainly leaves over [something] of money [unconsecrated]. Again, what R. Oshaia explains as the view of Rabbi, I do not explain as [the view of] Rabbi, for a man does not leave over anything [unconsecrated] of the Passover-offering.[8] But this [present Baraitha] cannot be established as agreeing with R. Jose, since it is taught therein, 'and he who sells his burnt-offering and his peace-offering has effected nothing.'[9] Now however that R. Oshaia related that [Mishnah] to the case of a man who registers a harlot in his Passover-offering and in accordance with Rabbi, it follows that he[10] holds that a man leaves [something unconsecrated] even in his Passover-offering [itself].[11] What is [this statement] of R. Oshaia [which is alluded to]? — For we learned: If he gave her [a harlot] consecrated animals as her hire, they are permitted [for the altar];[12] [if he gave her] birds of hullin, they are forbidden.[13] Though [the reverse] would have been logical: if with consecrated animals, which a blemish disqualifies, yet [the interdict of] ‘hire’ or ‘price’[14] does not fall upon them;[15] then with birds, which a blemish does not disqualify, is it not logical that [the interdict of] ‘hire’ and ‘price’ does not fall upon them? Therefore it is stated, ‘for any vow,’ which includes birds. [But] now you might argue a minori in respect of consecrated animals: if with birds, though a blemish does not disqualify them, yet ‘hire’ and ‘price’ fall upon them, then with consecrated animals, which a blemish disqualifies, is it not logical that ‘hire’ and ‘price’ fall upon them? Therefore it is stated, ‘for any vow [neder]’, which excludes that which is [already] vowed [nadar].[16] Now the reason is because the Divine Law wrote ‘vow’; but otherwise I would say: The interdict of ‘hire’ falls upon consecrated animals: but surely a man cannot prohibit that which is not his? — Said R. Oshaia: It refers to the case of a man registering a harlot for his Passover offering, this being according to Rabbi.

What is [this allusion to] Rabbi? — For it was taught, And If the household be too little from being for a lamb:[17] sustain him with [the proceeds of] the lamb in his food requirements, but not in his requirements of [general] purchases. Rabbi said: In his requirements of [general] purchases too, so that if he has nought [wherewith to purchase], he may register another in his Passover offering and his hagigah,[18] while the money he receives is hullin, for on this condition did the Israelites consecrate their Passover offerings.

Rabbah and R. Zera [disagree]. One maintains: None differ about fuel for roasting it, for since this makes the Passover offering fit [to be eaten], it is as the Passover-offering itself.[19] Their controversy is only about unleavened bread and bitter herbs: the Rabbis hold: This is a different eating;[20] while Rabbi holds: Since it is a requisite of the Passover-offering,[21] it is as the Passover-offering itself. The other maintains: None disagree about unleavened bread and bitter herbs either, for it is written, [They shall eat the flesh . . .] and unleavened bread; with bitter herbs they shall eat it;[22] hence since they are a requisite of the Passover-offering they are as the Passover-offering. Their controversy is only about buying a shirt therewith [or] buying a cloak therewith. The Rabbis hold: The Divine Law saith, from being for a lamb [mi-heyoth miseh]: devote it [hahayehu] to the lamb;[23] while Rabbi holds: Sustain [hahayeh] thyself with [the proceeds of] the lamb.

But according to Abaye, who said: ‘Had not R. Oshaia related that [Mishnah] to a case where he registers a harlot in his Passover offering, and in accordance with Rabbi, I would have related it to sacrifices of lesser sanctity, and in accordance with R. Jose the Galilean who maintained, Sacrifices of lesser sanctity are their owner's property; but [on Rabbi's view] a man does not leave anything over [unconsecrated] in the Passover-offering’; — surely it is explicitly stated, ‘for on this condition did the Israelites consecrate their Passover-offerings’?[24] — Say: ‘for on this condition did the Israelites consecrate the money for their Passover-offerings.’[25]

MISHNAH. IF A ZAB HAS SUFFERED TWO ATTACKS [OF DISCHARGE], ONE SLAUGHTERS [THE PASSOVER-OFFERING] ON HIS BEHALF ON HIS SEVENTH [DAY]; IF HE HAS HAD THREE ATTACKS, ONE SLAUGHTERs ON HIS BEHALF ON HIS EIGHTH [DAY].[26] IF A WOMAN WATCHES DAY BY DAY,[27] ONE SLAUGHTERS ON HER BEhalf ON HER SECOND DAY; IF SHE SAW [A DISCHARGE] ON TWO DAYS, ONE SLAUGHTERS ON HER BEHALF ON THE THIRD [DAY]. AND AS TO A ZABAH,[28] ONE SLAUGHTERS ON HER BEHALF ON THE EIGHTH [DAY].

GEMARA. Rab Judah said in Rab's name: One slaughters and sprinkles on behalf of a tebul yom[29] and one who lacks atonement,[30]

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(1) V. infra in reference to a man who gave a sanctified animal to a harlot, where it is implied that but for a certain verse this would disqualify the animal from being offered as a sacrifice (v. Deut. XXIII, 19). Though a mail cannot render

forbidden that which does not belong to him, we say there that he would do so, though since it is sanctified it is really not his.
(2) In return for the ‘hire’ which he owes her.
(3) Rabbi rules infra that if a man needs money e.g.. for clothes, he may register other people with him for his Passover-offering and spend his money so acquired on clothes. Thus he holds that an animal sanctified for a Passover offering is entirely his private property; consequently he could also render it forbidden (but for the verse) by making it a harlot's hire.
(4) V. supra p. 108, n. 2. Thus he gave the harlot an animal consecrated for a peace-offering.
(5) I.e., when Rabbi permits the owner to spend the money on clothes etc., it is not because he holds that when a man consecrates an animal for a Passover-offering he leaves part of it unconsecrated, as it were, so that if a man gives him consecrated money for a share in the sacrifice the sanctity of the money is transferred to that unconsecrated portion of the animal, while the money itself thereby becomes hullin and can be expended on anything. The reason is on the contrary that when a man consecrates money for the Passover-offering he leaves that money partly unconsecrated, as it were, in the sense that it automatically reverts to hullin when he gives it in payment for a share in a sacrifice, and in fact, the money is technically to be regarded as a gift, not as payment at all; Hence the vendor can use it as he pleases.
(6) Introduced by ‘our Rabbis taught’.
(7) As explained in the preceding note.
(8) Hence on Rabbi's view if he registers a harlot it does not prohibit it, since nothing at all of the animal is his in that sense.
(9) Whereas on R. Jose's view that sacrifices of lesser sanctity are the owner's personal property, the sale of the peace-offering is valid.
(10) Viz., Rabbi, in R. Oshaia's view.
(11) Not only in the money set aside for the Passover-offering.
(12) Since they were consecrated before he gave them to her, he cannot make them forbidden.
(13) To be offered henceforth as a sacrifice.
(14) V. Deut. XXIII, 19: Thou shalt not bring the hire of a harlot, or the price of a dog, into the house of the Lord thy God for any vow etc.
(15) To make them forbidden.
(16) The hire of a harlot cannot be vowed as a sacrifice; but a consecrated animal has already been vowed.
(17) Ex. XII, 4, lit. translation.
(18) Of the fourteenth.
(19) Hence one may certainly sell a share in the sacrifice for this purpose.
(20) Hence he cannot buy it with the proceeds of the sacrifice.
(21) Which must be eaten with unleavened bread and bitter herbs.
(22) Ex. XII, 8. The verse actually quoted, which is slightly different, is Num. IX, 11, but the Talmud probably means the verse stated here.
(23) Lit., ‘make it live for the lamb’ — i.e., the money realized from the lamb must be expended on what is needed for the lamb, e.g., the unleavened bread and bitter herbs which accompany it.
(24) This definitely implies a reservation in the sacrifice itself.
(25) This is not an emendation but an interpretation.
(26) V. supra p. 423, n. 3. In both these cases they are fit to eat the Passover offering in the evening; hence we kill it on their behalf
(27) V. Supra p. 422, n. 5.
(28) Who had three discharges.
(29) V. Glos.
(30) V. p. 84, n. 1; p. 294, n. 4.

Talmud - Mas. Pesachim 90b

but one may not slaughter and sprinkle for a person unclean through a reptile.[1] But ‘Ulla maintained: One slaughters and sprinkles for a person unclean through a reptile. According to Rab, wherein does a tebul yom differ? Because he is fit in the evening. But one unclean through a reptile too is fit in the evening? — He lacks tebillah. Then a tebul yom too lacks the setting of the sun?[2] The sun goes down of its own accord.[3] Then one who lacks atonement too, surely lacks forgiveness?[4] — It means where his pair [of birds] are in his hand.[5] Then a person unclean through a reptile too, surely the mikweh[6] stands before him? — He may neglect it. If so, he who lacks sacrifice too, perhaps he will neglect [to sacrifice]? — It means e.g., that he had delivered them [his birds] to the Beth din, this being in accordance with R. Shemaiah, who said: It is a presumption that the Beth din of Priests[7] do not rise from there[8] until the money in the horn-shaped receptacles is finished.[9] Now according to Rab, by Scriptural law he[10] is indeed fit, and it was the Rabbis who preventively forbade him;[11] why then did Rab say: We defile one of them with a reptile?[12] — Rather [say] according to Rab he is not fit by Biblical law either, for it is written, If any man be unclean by reason of a dead body:[13] does this not hold good [even] when his seventh day falls on the eve of Passover,[14] which case is [tantamount to] uncleanness through a reptile,[15] yet the Divine Law said, Let him be relegated [to the second Passover]? [But] how do you know that it is so?[16] — He holds as R. Isaac, who said: They[17] were unclean through an unattended corpse[18] whose seventh day fell on the eve of Passover, for it is said, and they could not keep the Passover on that day:[19] thus only on that day could they not keep it, but on the morrow they could keep it,[20] yet the Divine Law said, Let them be put off.[21]

We learned: IF A ZAB HAS SUFFERED TWO ATTACKS, ONE SLAUGHTERS ON HIS BEHALF ON HIS SEVENTH [DAY]; does that not mean where he had not performed tebillah, which proves [that] one slaughters and sprinkles for a person unclean through a reptile?[22] No; it means where he has performed tebillah. If he has performed tebillah, what does it [the Mishnah] inform us? If he informs us this, that though he lacks the setting of the sun, the sun sets automatically.[23] Reason too supports this [interpretation], since the second clause teaches: IF HE HAS HAD THREE ATTACKS, ONE SLAUGHTERS ON HIS BEHALF ON HIS EIGHTH [DAY]. Now it is well if you agree that [the clause] ‘IF A ZAB HAS SUFFERED TWO ATTACKS, ONE SLAUGHTERS ON HIS BEHALF ON HIS SEVENTH [DAY]’ means where he has performed tebillah: then [the second clause] is necessary. You might argue: Only when he has had two attacks [do we slaughter for him] on his seventh [day], because he does not lack a positive act; but [in the case of] ‘one who has had three attacks, on his eighth day,’ where an action is wanting [in that] he lacks forgiveness,[24] it is not so. Therefore [the Mishnah] informs us that though he lacks forgiveness, we slaughter and sprinkle on his behalf. But if you say that [the clause, ‘IF A ZAB] HAS SUFFERED TWO ATTACKS, [ONE SLAUGHTERS ON HIS BEHALF] ON HIS SEVENTH DAY,’ means where he has not performed tebillah, what is the purpose of [teaching about] one who has had three attacks? Seeing that you say that one slaughters and sprinkles on behalf of one who had two discharges, and is in his seventh day, but has not performed tebillah, so that he is quite unclean; then how much the more does one slaughter and sprinkle for one who had three attacks, and is in his eighth day, and has performed tebillah on the seventh, so that his uncleanness is of a lighter nature! Hence it surely follows that [the law] that we slaughter on behalf of one who has had two attacks and is in [his] seventh [day] refers to the case where he has performed tebillah! — No. In truth I may tell you that he has not performed tebillah, and [yet] it is necessary. I might argue: Only on the seventh day [do we slaughter for him], since [it lies] in his own hand to make himself fit; but on the eighth day, when it is not in his power to offer the sacrifice, I might say, the priests may neglect him. Hence we are informed [that it is] as R. Shemaiah [stated].[25]

AND AS TO A ZABAH, ONE SLAUGHTERS etc. A tanna recited before R. Adda b. Ahabah: And as to a zabah,[26] one slaughters on her behalf on her seventh day. Said he to him: Is then a zabah on her seventh day fit?[27] Even on the view that one slaughters and sprinkles for a person unclean through a reptile, that is only for a person unclean through a reptile, who is fit in the evening. But this one is not fit until the morrow when she brings her atonement. Say [instead], ‘on the eighth.’ Then it is obvious?[28] — You might say, since she lacks atonement, [one must] not slaughter [on her behalf]; hence he informs us [that it is] as R. Shemaiah [stated]. Rabina said: He [the Tanna] recited before him [about] a niddah,[29] [thus]: And as to a niddah, one slaughters for her on the seventh

[day]. Said he to him: Is then a niddah fit on the seventh [day]? Even on the view that one slaughters and sprinkles for a person unclean through a reptile [that is] because he is fit in the evening. But a niddah performs tebillah in the evening of [i.e., following] the seventh day: [hence] she is not fit for eating [the Passover offering] until the [evening after the] eighth, by when she has had the setting of the sun.[30] But say, 'on the eighth.' That is obvious: seeing that one slaughters and sprinkles for a zabah on the eighth day, though as yet she lacks atonement, need it be taught that one slaughters and sprinkles on behalf of a niddah, who does not lack atonement?[31] — He finds it necessary [to teach about] a niddah, [and] informs us this: only on the eighth, but not on the seventh, even as it was taught: All who are liable to tebillah.[32] their tebillah takes place by day;[33] a niddah and a woman in confinement, their tebillah takes place at night.[34] For it was taught: You might think that she [a niddah] performs tebillah by day;[35] therefore it is stated, she shall be in her impurity seven days:[36] let her be in her impurity full seven days.[37] And a woman in confinement is assimilated to Juddah.[38] MISHNAH. [As To] AN OMEN,[39]

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(1) Though he can perform tebillah and be fit in the evening.

(2) I.e., he too is not fit when the sacrifice is actually slaughtered.

(3) No action by himself is wanting.

(4) I.e., he is yet to bring his sacrifice, and thus he is on a par with a person unclean through a reptile, who is to perform tebillah.

(5) For sacrificing, so we need not fear that he may omit to do so and the Passover-offering will have needlessly been slaughtered for him.

(6) Ritual bath.

(7) A special court in the Temple which dealt with priestly and sacrificial matters.

(8) I.e., do not leave the Temple Court.

(9) The monies for the bird-offerings were placed daily in horn-shaped receptacles, and the priestly Beth din saw to it that these were expended on the day they were received. Hence there was no fear of neglect.

(10) The person unclean through a reptile.

(11) This must be assumed, since he gives the reason because we fear that he may neglect his tebillah.

(12) V. supra 80a; but an unclean majority means such as are unfit to partake of the Passover offering in the evening by Biblical law.

(13) Num. IX, 10.

(14) Since Scripture does not particularize, it must include all cases.

(15) Since both can be clean in the evening.

(16) Since Scripture mentions a dead body, it may refer only to such uncleanness that is not the same as that acquired from a reptile, viz., before the seventh day.

(17) The men who came to enquire of Moses and Aaron, Num. IX, 6.

(18) Lit., 'a corpse of a precept' — i.e., the corpse of a person whose relatives are unknown; its burial is obligatory upon the first person who finds it.

(19) Ibid.

(20) This is possible only if the morrow was their eighth day.

(21) Though they can make themselves fit for the evening.

(22) For they are exactly alike.

(23) As above.

(24) Is sacrifice is yet to be offered.

(25) Supra.

(26) Who had three discharges.

(27) To partake of the sacrifice in the evening.

(28) Though the same is stated in the Mishnah, it might be included there for the sake of parallelism, though unnecessary in itself. But here it is taught as an independent statement.

(29) V. Glos.

(30) She must not eat of sacrifices until the setting of the sun after her tebillah. Since she performs tebillah in the evening, when the sun has already set, she must wait until the following evening.

(31) She does not require a sacrifice.
(32) E.g., a zab and a zabah, a leper, and one defiled through a corpse (Shab. 121a).
(33) The seventh day from their defilement.
(34) The evening following the last day of their uncleanness. In this respect a niddah is more stringent than a zabah, who performs tebillah on the seventh day, and does not wait for the evening.
(35) Sc. the seventh, like a zabah.
(36) Lev. XV. 19.
(37) But if she performs tebillah on the seventh day itself, the period is diminished.
(38) For it is written, as in the days of the impurity of (niddath, const. of niddah) her sickness shall she (sc. a woman in confinement) be unclean (Lev. XII, 3).
(39) V. Glos. Here it refers to one who became an omen after midday, so that the obligation of the Passover-offering was already incumbent upon him. But if he became an omen before midday, this obligation does not fall on him at all, as stated infra 98a (Tosaf).

Talmud - Mas. Pesachim 91a

AND ONE WHO IS REMOVING A HEAP [OF DEBRIS],[1] AND LIKEWISE ONE WHO HAS RECEIVED A PROMISE TO BE RELEASED FROM PRISON, AND AN INVALID, AND AN AGED PERSON WHO CAN EAT AS MUCH AS AN OLIVE, ONE SLAUGHTERS ON THEIR BEHALF.[2] [YET IN THE CASE OF] ALL THESE, ONE MAY NOT SLAUGHTER FOR THEM ALONE, LEST THEY BRING THE PASSOVER-OFFERING TO DISQUALIFICATION.[3] THEREFORE IF A DISQUALIFICATION OCCURS TO THEM, THEY ARE EXEMPT FROM KEEPING THE SECOND PASSOVER,[4] EXCEPT ONE WHO WAS REMOVING DEBRIS, BECAUSE HE WAS UNCLEAN FROM THE BEGINNING.[5]

GEMARA. Rabbah son of R. Huna said in R. Johanan's name: They learned this only of a heathen prison; but [if he is incarcerated in] an Israelite prison, one slaughters for him separately; since he was promised, he will [definitely] be released, as it is written, The remnant of Israel shall not do iniquity, nor speak lies.[6] R. Hisda observed: As to what you say, [If he is in] a heathen prison [one may] not [kill on his behalf alone]; that was said only [when the prison is] without the walls of Beth Pagi;[7] but [if it is] within the walls of Beth Pagi,[8] one slaughters on his behalf alone. What is the reason? It is possible to convey it [the flesh] to him and he will eat it.

THEREFORE IF A DISQUALIFICATION OCCURS etc. Rabbah b. Bar Hanah said in R. Johanan's name: They learned [this] only of a round heap;[9] but [if it was] a long heap, he is exempt from keeping the Second Passover, [for] perhaps he was clean at the time of the shechitah.[10] It was also taught likewise: R. Simeon the son of R. Johanan b. Berokah said: One who is removing a heap [of debris] is sometimes exempt [from the Second Passover] and sometimes liable. How so? [It if was] a round heap and uncleanness [a corpse] was found underneath it, he is liable; a long heap, and uncleanness was found underneath it, he is exempt, [for] I assume [that] he was clean at the time of shechitah.

MISHNAH. ONE MAY NOT SLAUGHTER THE Passover offering FOR A SINGLE PERSON: THIS IS R. JUDAH'S VIEW; BUT R. JOSE PERMITS IT. AND EVEN A COMPANY OF A HUNDRED WHO CANNOT EAT AS MUCH AS AN OLIVE [JOINTLY], ONE MAY NOT KILL FOR THEM. AND ONE MAY NOT FORM A COMPANY OF WOMEN AND SLAVES AND MINORS.

GEMARA. Our Rabbis taught: How do we know that one may not slaughter the Passover-offering for a single person? Because it is said, Thou mayest not sacrifice the passover-offering for one:[11] this is R. Judah's opinion. But R. Jose maintained: A single person and he is able to eat it, one may slaughter on his behalf; ten who are unable to eat it, one must not slaughter on their behalf. Now R.

Jose, how does he employ this ‘for one’? — He requires it for R. Simeon's [deduction]. For it was taught, R. Simeon said: How do we know that one who sacrifices his Passover offering at a private bamah[12] at the time when bamoth were prohibited violates a negative command? Because it is said, ‘Thou mayest not sacrifice the passover-offering within one of thy gates’. You might think that it is also thus when bamoth were permitted:[13] therefore it is stated, ‘within one of thy gates’: They ruled [that he violates a negative injunction] only when all Israel enter through one gate.[14] And how does R. Judah know this? — You may infer two things from it.[15]

Now according to R. Jose, whence [does he know] that its purpose is for what R. Simeon said: perhaps it comes for what was stated by R. Judah? — He can tell you: you cannot think so, for surely it is written, according to every man's eating.[16]

R. ‘Ukba b. Hinena of Parishna[17] pointed out a contradiction to Raba: Did then R. Judah Say: One may not kill the Paschal lamb for a single person? But the following contradicts it: [As to] a woman; at the First [Passover] one may slaughter for her separately, but at the second one makes her an addition to others: this is the view of R. Judah. — Said he to him, Do not Say, ‘for her separately,’ but ‘for them separately.’[18] Yet may we form a company consisting entirely of women? Surely we learned, ONE MAY NOT FORM A COMPANY OF WOMEN AND SLAVES AND MINORS. Does that not mean women separately and slaves separately and minors separately? — No, he replied, [it means] women and slaves and minors [together]. Women and slaves, on account of obscenity; minors and slaves, on account of

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(1) Which had fallen upon a person, and it is unknown whether he is alive or dead.

(2) All these may be fit in the evening, including an one.

(3) The omen may defile himself through the corpse; he who is removing the debris may find the person underneath it dead, in which case he himself is unclean; the prisoner may not be freed; while the invalid and aged person may grow weaker. Therefore they must be registered with others.

(4) Since they were actually fit when the animal was slaughtered.

(5) If he finds the person underneath dead, he himself was defiled through overshadowing the dead, and thus he was unclean when the animal was sacrificed.

(6) Zeph. III, 13.

(7) V. p. 319, n. 1.

(8) Hence in Jerusalem, where the Passover-offering is eaten.

(9) I.e., one just about covering the person, so that the rescuer must have been directly over the corpse from the very beginning.

(10) He may not have been actually over the corpse then.

(11) Deut. XVI, 5 (E.v. within one [of thy gates]).

(12) ‘High place’. Before the Tabernacle was erected in Shiloh, and between its destruction and the building of the Temple, sacrifices were offered at bamoth (pl. of bamah), both private and public. During the existence of the Tabernacle at Shiloh, and since the Temple was built, even after it was destroyed, bamoth were forbidden.

(13) For even then private bamoth were permitted only for votive sacrifices but not for obligatory offerings like the Passover, which were sacrificed at the public bamoth.

(14) I.e., when there is a central sanctuary; but when bamoth were permitted there was no central sanctuary. The verse is understood thus: Thou mayest not Sacrifice the Passover-offering at a private bamah when all Israel enter through one of thy gates.

(15) Presumably by interpreting ‘one’ separately and ‘one of the gates’ separately.

(16) Ex. XII, 4. Thus the matter depends solely on ability to eat.

(17) V. supra 76a, p. 393, n. 6.

(18) This is not an emendation, but an explanation: ‘for her separately’ means that women need not necessarily join a company of men.

licentiousness.[1] [To turn to] the [main] text: [As to] a woman, at the First [Passover] one slaughters for her separately, while at the second one makes her an addition to others: this is the view of R. Judah. R. Jose said: [As to] a woman, at the Second [Passover] one slaughters for her separately, and at the First it goes without saying. R. Simeon said: [As to] a woman, at the First one makes her an addition to others; at the second one may not slaughter for her at all. Wherein do they differ? — R. Judah holds: according to the number of the souls[2] [implies] even women.[3] And should you say, if so, even at the Second too? It is [therefore] written, that man shall bear his sin:[4] only a man, but not a woman. Yet should you argue: if so, she may not even be [made] an addition at the Second, [therefore is written,] according to all the statue of the [first] passover[5] , which is effective in respect of [her being made] a mere addition.

And R. Jose? What is his reason! — Because in connection with the First [Passover] it is written, ‘according to the number of souls,’ [implying] even a woman. Again, in connection with the Second Passover it is written, that soul shall be cut off from his people,[6] ‘soul’ [implying] even women. While what does ‘that man shall bear his sin’ exclude? It excludes a minor from kareth.

While R. Simeon [argues]: In connection with the First [Passover] ‘a man is written:[7] only a man but not a woman. Yet should you say. If so, [she may] not even [be made] an addition:. [therefore is written] ‘according to the number of sous’, which is effective in respect of [her being] an addition. But should you say, then even at the Second too, — [therefore] the Divine Law excluded [her] from the second, for it is written, ‘that man shall bear his sin’: [implying] only a man, but not a woman. Now from what is she excluded? If from an obligation,[8] [this cannot be maintained]: seeing that there is no [obligation] at the first, is there a question of the second! Hence [she is surely excluded] from [participation even as] an addition.

Now, what is [this] ‘man’ which R. Simeon quotes? If we say, they shall take to them every man a lamb, according to their fathers’ houses etc.[9] Surely that is required for [the teaching] of R. Isaac. who deduced: only a ‘man’ can acquire [on behalf of others], but a minor cannot acquire [on behalf of others]![10] Rather [it is derived] from ‘a man, according to his eating’.[11] But since R. Jose agrees with R. Simeon,[12] R. Simeon too must agree with R. Jose,[13] and he needs that [verse to teach] that one slaughters the Passover-offering for a single person?[14] — He can answer you: If so,[15] let the Divine Law write ‘according to his eating’,[16] why [state] ‘a man’? Hence you infer two [laws] from it.

With whom does the following dictum of R. Eleazar agree.[17] [viz.]: ‘[The observance of the Passover-offering by] a woman at the First [Passover] is obligatory, while at the Second it is voluntary, and it overrides the Sabbath.’ If voluntary, why does it override the Sabbath? Rather say: ‘at the Second it is voluntary, while at the First it is obligatory and overrides the Sabbath.’ With whom [does it agree]? With R. Judah.

R. Jacob said in R. Johanan's name: A company must not be formed [consisting] entirely of proselytes, lest they be [too particular about it and bring it to disqualification.[18] Our Rabbis taught: The Passover-offering and unleavened bread and bitter herbs are obligatory on the first [night], but voluntary from then onwards.[19] R. Simeon said: In the case of men [it is] obligatory; in the case of women, voluntary. To what does this refer? Shall we say, to the Passover-offering is there then a Passover-offering the whole seven days![20] Hence [it must refer] to unleavened bread and bitter herbs. Then consider the sequel: R. Simeon said: In the case of men [it is] obligatory; in the case of women, voluntary. Does then R. Simeon not agree with R. Eleazar's dictum: Women are bound to eat unleavened bread by Scriptural law, for it is said, Thou shalt eat no leavened bread with it; seven days shalt thou eat unleavened bread therewith:[21] whoever is subject to, ‘thou shalt eat no leavened bread,' is subject to [the law]. 'arise, eat unleavened bread'; and these women, since they are subject to, 'thou shalt eat no leavened bread,' are also subject to [the law], 'arise, eat unleavened bread?' — Rather say: The Passover-offering, unleavened bread, and bitter herbs are obligatory on the first [night]; from then onwards [the latter two] are voluntary. R. Simeon said: As for the Passover-offering, in the case of men it is obligatory, in the case of women it is voluntary.

MISHNAH. AN ONEN PERFORMS TEBILLAH AND EATS HIS PASSOVER-OFFERING IN THE EVENING, BUT [HE MAY] NOT [PARTAKE] OF [OTHER] SACRIFICES.[22] ONE WHO HEARS ABOUT HIS DEAD [FOR THE FIRST TIME],[23]

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(1) Pederasty; cf. Weiss, Dor, II, 21 on the rifeness of pederasty among the Romans. — Heathen slaves are meant here.

(2) Ex. XII, 4.

(3) Since men are not specified.

(4) Num. IX, 13; this refers to the Second Passover.

(5) Ibid. 12.

(6) Ibid. 13.

(7) The Gemara discusses below which verse is meant.

(8) I.e., the verse teaches that she need not keep the Second Passover.

(9) Ex. XII, 3.

(10) He deduces it from the present verse. For this person took the lamb not on his behalf alone but on behalf of 'their fathers' houses', who thereby gained the right to participate therein, and Scripture specifies that a man is required for this, not a minor. Hence a minor cannot be vested with the powers of an agent.

(11) Ibid. 4.

(12) That the Passover-offering may not be sacrificed at a private bamah, and that this is deduced from, thou mayest not sacrifice the Passover-offering at one of the gates, as stated supra.

(13) That the Passover-offering may be slaughtered for a single person.

(14) For if R. Simeon does not accept this view, then he should employ the verse, 'thou mayest not sacrifice the Passover offering for one' as teaching that it may not be slaughtered for a single person, as R. Judah does supra 91a, in which case his ruling on the private bamah is without foundation.

(15) That the verse is intended for R. Jose's teaching only.

(16) Which would show that the matter depends entirely on his powers of eating.

(17) Lit., 'as who does it go.'

(18) In their ignorance of the law they may object to points which really do not matter, and thus disqualify it without cause.

(19) I.e., for the rest of Passover.

(20) That is surely not permitted even voluntarily.

(21) Deut. XVI, 3.

(22) An onen may not eat the flesh of sacrifices (v. Lev. X. 19f). By Scriptural law a man is an onen on the day of death only, but not at night; the Rabbis, however, extended these restrictions to the night too. Since, however, the Passover-offering is a Scriptural obligation, they waived their prohibition in respect of the night, and hence he may eat thereof. He is not unclean, but requires tebillah to emphasize that until the evening sacred flesh was forbidden to him, whereas now it is permitted. In respect of other sacrifices the Rabbinical law stands, and he may not partake of them.

(23) On the day when a man is informed of the death of a near relative, e.g., his father, he is an onen by Rabbinical law, even if death took place earlier.

Talmud - Mas. Pesachim 92a

AND ONE WHO COLLECTS THE BONES [OF HIS PARENTS],[1] PERFORM TEBILLAH AND EAT SACRED FLESH.[2] IF A PROSELYTE WAS CONVERTED ON THE EVE OF PASSOVER, — BETH SHAMMAI MAINTAIN: HE PERFORMS TEBILLAH AND EATS HIS PASSOVER-OFFERING IN THE EVENING; WHILE BETH HILLEL RULE: ONE WHO SEPARATES HIMSELF FROM [THE STATE OF] UNCIRCUMCISION IS LIKE ONE WHO

SEPARATED HIMSELF FROM A GRAVE.[3]

GEMARA. What is the reason? — He holds: [The law of] aninuth at night is Rabbinical [only], and where the Passover offering is concerned they did not insist on their law, since it involves[4] kareth;[5] but in respect to sacrifices [in general] they insisted on their law, Seeing that [only] an affirmative precept is involved.[6]

ONE WHO HEARS ABOUT HIS DEAD etc. ONE WHO COLLECTS BONES? — But he requires sprinkling on the third and the seventh [days]?[7] — Say: One for whom [his parent's] bones were collected.[8] A PROSELYTE WHO WAS CONVERTED etc. Rabbah b. Bar

Hanah said in R. Johanan's name: The controversy is in respect of an uncircumcised heathen, where Beth Hillel hold: [He is forbidden to eat in the evening] as a preventive measure lest he become defiled the following year [by the dead] and he argues, ‘Did I not perform tebillah last year and eat [of the Passover offering]? So now too I will perform tebillah and eat.’ But he will not understand that the previous year he was a heathen and not susceptible to uncleanness, whereas now he is an Israelite and susceptible to uncleanness. While Beth Shammai hold: We do not enact a preventive measure. But with regard to an uncircumcised Israelite[9] all agree that he performs tebillah and eats his Passover-offering in the evening, and we do not preventively forbid an uncircumcised Israelite on account of an uncircumcised heathen[10] it was taught likewise, R. Simeon b. Eleazar said: Beth Shammai and Beth Hillel did not differ about an uncircumcised Israelite, [both agreeing] that he performs tebillah and eats his Passover-offering in the evening. About what do they differ? About an uncircumcised heathen, where Beth Shammai rule: He performs tebillah and eats his Passover-offering in the evening; while Beth Hillel maintain: He who separates himself from uncircumcision is as though he separated from a grave.

Raba said: [In the case of] an uncircumcised person, sprinkling, and a knife, they [the Sages] insisted on their enactments [even] where kareth is involved;[11] [in the case of] an onen, a leper and beth ha-peras,[12] they did not insist on their enactments where kareth is involved. ‘An uncircumcised person,’ as stated.[13] ‘Sprinkling,’ for a Master said: Sprinkling is [forbidden as] a shebuth, yet it does not override the Sabbath.[14] ‘A knife,’ as it was taught: Just as one may not bring it [sc. a knife for circumcision] through the street, so may one not bring it by the way of roofs, court-yards. or enclosures.[15]

‘An onen,’ as we have stated.[16] What is this [law of] ‘a leper’? For it was taught: A leper whose eighth day fell on the eve of Passover[17] and who had a nocturnal discharge [keri] on that day.[18] performs tebillah[19] and eats [the Passover-offering in the evening].[20] [For] the Sages said: Though a tebul yom[21] may not enter [the Levitical Camp], this one does enter:[22] it is preferable that an affirmative precept which involves kareth[23] should come and override an affirmative precept which does not involve kareth.[24] Now R. Johanan said: By the law of Torah[25] there is not even an affirmative precept in connection therewith, for it is said, And Jehoshaphat stood in the congregation of Judah and Jerusalem, in the house of the Lord, before the new court.[26] What does ‘the new court’ mean? That they innovated a law there and ruled: A tebul yom must not enter the Levitical Camp.[27]

‘Beth ha-peras’: for we learned: Now Beth Shammai and Beth Hillel both agree

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(1) He too is a mourner on that day by Rabbinical law.

(2) In the evening. This applies to all sacrifices, for since even during the day he is an onen by Rabbinical law only, the Rabbis did not extend his aninuth (v. Glos.) to the evening.

(3) He must be besprinkled with the water of purification on the third and seventh days after the circumcision; hence he is not yet fit in the evening.

(4) Lit., ‘in the place of’.

(5) Since the neglect of the Passover offering involves kareth, they waived their law.
(6) It is an affirmative precept to eat of one's own sacrifice (Ex. XXIX, 33), but the violation of this law does not involve kareth.
(7) The Mishnah was understood literally as meaning that he himself gathered them; but these defile just like a corpse, and he is unclean for seven days, and must be besprinkled on the third and the seventh days (Num. XIX, 19).
(8) By others: he himself is nevertheless regarded as an onen on that day.
(9) Who was circumcised on the eve of Passover.
(10) I.e. , through fear that if the former is permitted it may be thought that the latter is permitted too.
(11) I.e., though thereby a Scriptural command, failure to observe which involves kareth, is disregarded.
(12) Peras is half the length of a hundred-cubit furrow, hence fifty cubits; beth ha-peras is the technical designation for a field a square peras in area, declared unclean on account of crushed bones carried over it from a ploughed grave (Jast.). Its uncleanness is Rabbinical only.
(13) Supra: Beth Hillel forbid him to eat of the Passover-offering as a preventive measure, which is only a Rabbinical enactment.
(14) V. Supra 65b. Thus on account of a Shebuth, which is a Rabbinical prohibition, the unclean person may not participate in the Passover-offering.
(15) Karpf, pl. karpifoth, is an enclosure not more than two se'ahs in area (this is slightly over seventy cubits square). If the eighth day of birth, when a child must be circumcised (v. Lev. XII, 3), falls on the Sabbath, the knife must be brought the previous day. If it was forgotten, however, it must not be brought on the Sabbath, even by way of roofs, etc., carrying on which is forbidden by Rabbinical law only, and circumcision must be postponed, notwithstanding that failure to circumcise involves kareth (Gen. XVII, 14). — Actually no kareth would be incurred in the present case, since it would be done another day, but Raba means that to the precept of circumcision there is attached the penalty of kareth.
(16) V. Mishnah and p. 490. n. 4.
(17) When a leper was healed from his leprosy he waited seven days, performing tebillah on the seventh, and brought his sacrifices on the eighth (v. Lev. XIV, 9f). When he brought these he was still not permitted to enter the Temple Court (‘the camp of the Shechinah) but stood at the east gate (‘the gate of Nicanor’). whose sanctity was lower (it was regarded as ‘the Levitical camp’), while the priest, standing inside the Temple Court, applied the blood and the on to the thumbs and the great toes of the leper (ibid. 14f).
(18) Before he had offered his sacrifices. A ba'al keri (v. Glos.) might not enter even the Levitical Camp (v. supra 67b).
(19) Again. Though he had performed tebillah the previous day, that was on his leprosy, whereas now he performs it on account of his discharge.
(20) Thus after the tebillah he would bring his sacrifices for leprosy.
(21) V. Glos.
(22) For his purification rites; v. n. 3.
(23) Sc. the Passover-offering.
(24) Sc. that a tebul yom must not enter the Levitical Camp. That is derived in Naz. 45a from, ‘he shall be unclean; his uncleanness is yet upon him’ (Num. XIX, 13); since that is an affirmative statement, the injunction likewise counts as an affirmative precept. Its violation does not involve kareth.
(25) The Pentateuch.
(26) II Chron. XX, 5.
(27) Since this was all innovation, it is only Rabbinical, and as seen supra it was waived for the sake of the Passover-offering. V. Yeb., Sonc. ed. pp. 31ff notes.

Talmud - Mas. Pesachim 92b

that we examine [a beth ha-peras] for the sake of those who would keep the Passover,[1] but we do not examine [it] for those who would eat terumah.[2] How is it examined? Said Rab Judah in Samuel's name: He sifts the beth ha-peras as he proceeds.[3] R. Judah b. Abaye[4] said in Rab's name: A beth ha-peras which was [thoroughly] trodden down is clean.[5]

C H A P T E R I X

MISHNAH. HE WHO WAS UNCLEAN OR IN A JOURNEY AFAR OFF'[6] AND DID NOT KEEP THE FIRST [PASSOVER] MUST KEEP THE SECOND. IF HE UNWITTINGLY ERRED OR WAS ACCIDENTALLY PREVENTED AND DID NOT KEEP THE FIRST, HE MUST KEEP THE SECOND. IF SO, WHY IS AN UNCLEAN PERSON AND ONE WHO WAS IN 'A JOURNEY AFAR OFF SPECIFIED? [TO TEACH] THAT THESE'[7] ARE NOT LIABLE TO KARETH, WHEREAS THOSE ARE LIABLE TO KARETH.[8]

GEMARA. It was stated: If he was in a journey afar off[9] and they slaughtered [the Passover-offering] and sprinkled [its blood] on his behalf, — R. Nahman said: It is accepted;[10] R. Shesheth said: It is not accepted. R. Nahman said, It is accepted: The Divine Law indeed had compassion on him,[11] but if he kept [the first], a blessing come upon him![12] While R. Shesheth said, It is not accepted: The Divine Law did in fact suspend him, like an unclean person.[13]

R. Nahman said, Whence do I know it? Because we learned, HE WHo WAS UNCLEAN OR IN A JOURNEY AFAR OFF AND DID NOT KEEP THE FIRST [Passover] MUST KEEP THE SECOND; whence it follows that if he wished, he could keep it. And R. Shesheth?[14] -He can answer you: If so, the second clause which teaches, IF HE UNWITTINGLY ERRED OR WAS ACCIDENTALLY PREVENTED AND DID NOT KEEP THE FIRST, HE MUST KEEP THE SECOND: [will you argue that] since he [the Tanna] states, AND DID NOT KEEP, it follows that had he desired he could have kept it? But surely he had unwittingly erred or been accidentally prevented! Hence [you must answer that] he teaches of deliberate neglect together with these;[15] so here too [in the first clause] he teaches about an onen together with these.'[16] R. Ashi said: Our Mishnah too implies this,[17] for it is taught, THESE ARE NOT LIABLE TO KARETH, WHILE THOSE ARE LIABLE TO KARETH: Now to what [does this refer]? Shall we say, to one who errs unwittingly or is accidentally prevented? are then he who errs unwittingly and he who is accidentally prevented subject to kareth![18] Hence it must surely [refer] to a deliberate offender and an onen. And R. Nahman?[19] -He can answer you: In truth it refers to a deliberate offender alone,[20] and logically he should have taught, he is liable [in the singular]; but the reason that he teaches, THEY ARE LIABLE is that because the first clause teaches THEY ARE NOT LIABLE, the second clause teaches THEY ARE LIABLE.

R. Shesheth said: Whence do I know it? Because It was taught, R. Akiba said: 'Unclean' is stated and 'in a journey afar off'[21] is stated:

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(1) If there is no other way to reach Jerusalem in time to sacrifice the Passover-offering save by crossing a beth ha-peras, the field is examined and they pass through it.

(2) If a priest wishes to go somewhere to eat terumah and his way lies across a beth ha-peras, he cannot examine it but must take a circuitous course, even if this delays him a day or more. — One who passes over the beth ha-peras becomes unclean, and may not partake either of the Passover-offering or of terumah.

(3) He takes up the earth en route and sifts it, to see if any small bones are hidden there, and if there are none he is clean, cf. note 7.

(4) Var. lec.: Ammi.

(5) As it is assumed that every bone which may be there has been reduced to less than the size of a wheat, which is the minimum standard for conveying uncleanness 'through contact' or treading upon it. Therefore if a man sees this he may cross it to sacrifice the Passover-offering, but not to eat terumah. Now the uncleanness of a beth ha-peras is only Rabbinical, and as we see here this law was waived somewhat in favour of the Passover-offering.

(6) V. Num. IX, 10 f.

(7) Enumerated in this Mishnah-all the four.

(8) This is explained in the Gemara.

(9) He can reach Jerusalem by nightfall in time to eat the offering, but not by day when the offering is sacrificed.

(10) The sacrifice is valid, and he does not keep the second Passover.

(11) By giving him the opportunity of a second Passover.

(12) I.e., all the better.
(13) So that he is not permitted to keep the first.
(14) How does he rebut this?
(15) I.e., though it is not specifically stated, yet the words ‘AND DID NOT KEEP can only apply to such, and he is therefore to be understood as included in the Mishnah.
(16) I.e., the Mishnah is to be read in the first clause as including onen (v. Hananel). He could have kept the First Passover had he desired, v. supra 90b, and it is to this that the words ‘AND DID NOT KEEP’ refer.
(17) That the first clause includes also onen.
(18) Surely not.
(19) Does he not admit this argument?
(20) For the first clause does not treat of an onen, and consequently R. Nahman's deduction holds good.
(21) Num. IX, 10.

Talmud - Mas. Pesachim 93a

just as an unclean [person] is one who has the means of keeping it,[1] yet must not keep it, so [a man ‘in] a journey afar off’ means one who has the means of keeping it,[2] yet he must not keep it.[3] And R. Nahman?- He can answer you: R. Akiba is consistent with his view, for he holds: One must not slaughter and sprinkle on behalf of a person unclean through a reptile;[4] whereas I agree with the view that one slaughters and sprinkles on behalf of a person unclean through a reptile.[5]

Our Rabbis taught: The following keep the second [Passover]: zabin and zaboth,[6] male lepers and female lepers, niddoth[7] and those who had intercourse with niddoth, and women after confinement, those who [do not observe the first Passover] inadvertently, and those who are forcibly prevented, and those who [neglect it] deliberately, and he who is unclean, and he who was in ‘a journey afar off’. If so, why is an unclean person mentioned? [You ask] ‘why is he mentioned’? [Surely to teach] that if he wishes to keep it at the first we do not permit him? Rather [the question is] why is [a person] on a journey afar off mentioned? — To exempt him from kareth, this being in accordance with the view that it is accepted.[8]

Is then a woman obliged [to keep] the second [Passover],[9] but surely it was taught: You might think that only a person unclean through the dead and one who was in ‘a journey afar off’ keep the second [Passover], — whence do we know [that] zabin and lepers and those who had intercourse with niddoth [must keep it]? From the verse, If any man [etc.]?[10] -There is no difficulty: one is according to R. Jose; the other, according to R. Judah and R. Simeon.[11]

Our Rabbis taught: One incurs kareth on account of the first [Passover], and one incurs kareth on account of the second:[12] this is Rabbi's view. R. Nathan said: One incurs kareth on account of the first, but does not incur it on account of the second.[13] R. Hanania b. ‘Akabia said: One does not incur kareth even on account of the first, unless he [deliberately] does not keep the second.

Now they are consistent with their views. For it was taught: A proselyte who became converted between the two Passovers, and similarly a minor who attained his majority between the two Passovers,[14] are bound to keep the second Passover:[15] that is Rabbi's view. R. Nathan said: Whoever is subject to the first is subject to the second, and whoever is not subject to the first is not subject to the second. Wherein do they differ? — Rabbi holds: The second is a separate Festival. R. Nathan holds: The second is a compensation for the second,[16] [but] it does not make amends for the first.[17] While R. Hanania b. ‘Akabia holds: The second makes amends for the first. Now the three deduce [their views] from the same verse: But the man that is clean, and is not in a journey.[18] Rabbi holds: And forbeareth to keep the Passover, that soul shall be cut off[19] - because he did not keep [it] at the first; or alternatively [if] he brought not the offering of the Lord in its appointed season[20] [i.e.,] at the second. And how do you know that that [phrase], ‘that man shall bear his sin, ‘[21] means kareth?

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(1) He is physically able to keep it.
(2) E.g., one could sacrifice on his behalf and he could reach Jerusalem in time.
(3) But must postpone it; hence if he does have it sacrificed on his behalf, it is not accepted.
(4) Though he will be fit to eat in the evening, because at the time of sacrificing he is not fit.The present case is similar.
(5) The translation and explanation follows cur. edd. Tosaf. records a different reading, which is supported by the Sifre (Be-ha alotheka): Just as an unclean person is one who cannot possibly keep it, on account of his uncleanness, and he must not keep it, so a person in ‘a journey afar off’ means one who cannot possibly reach Jerusalem in time (according to ‘Ulla, for the sacrificing; according to Rab Judah, for the eating),and he too must not keep it. R. Shesheth deduces that ‘he must not keep it’ means that even if it is sacrificed on his behalf it is not accepted, since it is completely analogous to the case of an unclean person. R. Nahman answers that because R. Akiba holds that you may not slaughter and sprinkle on behalf of a person unclean through a reptile, therefore he learns the case of ‘a journey afar off’ from that of uncleanness, since the former two are alike in that both are unfit at the time of slaughtering and fit and able at the time of eating. Hence it is true that in R. Akiba's opinion the sacrifice is not accepted’ if offered, but R. Nahman holds that you do slaughter and sprinkle for a person unclean through a reptile. Tosaf. adds that R. Shesheth too holds thus, but that in his view R. Akiba learns it from’ a person unclean through the dead, though the cases are not really alike then.
(6) Plural of zabb and zabah respectively, q.v. Glos.
(7) Pl. of niddah, q.v. Glos.
(8) Supra 92b. For if he held that it is not accepted, then this case must be stated for that very teaching.
(9) So that female lepers, menstruants and women after childbirth are included.
(10) Num. IX, 10. Heb. איש איש, the repetition denoting extension. Thus nothing is said about women.
(11) V. Supra 91b. R. Jose holds that even at the second Passover a company consisting entirely of women may be formed; hence in his view the second Passover is binding upon women. Whereas R. Judah and R. Simeon hold that it is voluntary only.
(12) Deliberate neglect to keep either when there is the obligation involves kareth. Of course, no man can actually incur kareth twice, but the point is that if a man sinned unwittingly in respect of one but deliberately in respect of the other he incurs kareth. Similarly, where a proselyte becomes converted between the two Passovers and deliberately neglects the second.
(13) Hence if he inadvertently neglected the first, he does not incur kereth even if he deliberately neglects the second.
(14) Thus both were exempt from the first Passover, but are in a condition to keep the second.
(15) He regards it as a separate obligation entirely, even for those who were not subject to the law at all at the first, as in the present instances.
(16) Hence only he who was subject to the law at the first can keep the second.
(17) Hence if a person deliberately neglects the first he incurs kareth even if he keeps the second. On the other hand, if he neglects the first unwittingly, he is not liable to kareth even if he deliberately neglects the second, since the second is not an independent obligation apart from the first.
(18) Num. IX, 13.
(19) Ibid.
(20) Ibid. because(Heb. ki) he brought not the offering etc. Ki is variously translated according to the context, v. R.H. 3a. Rabbi renders it ‘if’.
(21) Ibid.

Talmud - Mas. Pesachim 93b

He holds that megaddef is one who curses[1] the [Divine] Name,[2] while of him who curses the [Divine] Name It Is written, [Whosoever curseth his God] shall bear his sin,[3] and [the meaning of] this ‘his sin’ is learnt from ‘his sin’ there: just as there [it means] kareth, so here too, [it means] kareth.

Again, R. Nathan holds: And forbeareth to keep, the Passover, that soul shall be cut off’ for this ki denotes ‘because’[4] and this is what the Divine Law saith, Because he brought not the offering of the Lord at the first. How does he employ this [phrase] ‘that man shall bear his sin’?[5] — He holds that megaddef is not one who curses the [Divine] Name,[6] and so [the meaning of] this ‘his sin’ [written] there is learnt from ‘his sin’ [written] here; just as [it means] kareth here,[7] so there too [it means] kareth.

While R. Hanania b. ‘Akabia holds [that we translate thus]: ‘and forbeareth to keep the Passover, that soul shall be cut off’;[8] if [also] he brought not the offering of the Lord in its appointed season, [viz.,] at the second. And how does he employ this ‘shall bear his sin’? — As we have stated.[9]

Therefore if [he neglected] deliberately both [Passovers], all agree that he is culpable. If [he neglected] both unwittingly, all agree that he is not culpable. If [he neglected] the first deliberately but the second unwittingly: according to Rabbi and R. Nathan he is culpable; according to R. Hanania b. ‘Akabia, he is not culpable. If [he neglected] the first unwittingly but the second deliberately: according to Rabbi he is culpable; according to R. Nathan and R. Hanania b. ‘Akabia he is not culpable.

MISHNAH. WHAT IS ‘A JOURNEY AFAR OFF’? FROM MODI'IM[10] AND BEYOND, AND THE SAME DISTANCE ON ALL SIDES [OF JERUSALEM]: THIS IS R. AKIBA'S OPINION. R. ELIEZER SAID: FROM THE THRESHOLD OF THE TEMPLE COURT AND WITHOUT. SAID R. JOSE TO HIM: FOR THAT REASON THE HEH IS POINTED[11] IN ORDER TO TEACH: NOT BECAUSE IT IS REALLY AFAR OFF, BUT [WHEN ONE IS] FROM THE THRESHOLD OF THE TEMPLE COURT AND WITHOUT [HE IS REGARDED AS BEING ‘AFAR OFF’].

GEMARA. ‘Ulla said: From Modi'im to Jerusalem is fifteen miles.[12] He holds as Rabbah b. Bar Hanah said in R. Johanan's name: what is an [average] man's journey in a day?[13] Ten parasangs: five mils from daybreak until the first sparklings of the rising sun, [and] five mils from sunset until the stars appear. This leaves thirty: fifteen from the morning until midday, and fifteen from midday until evening [i.e., sunset]. ‘Ulla Is consistent with his view, for ‘Ulla said: What is ‘a journey afar off’? Any place whence a man is unable to enter [Jerusalem] at the time of slaughtering.[14]

The Master said: ‘Five mils from daybreak until the first sparklings of the rising sun.’ Whence do we know it? — Because It is written, And when the morning arose [i.e., at daybreak], then the angels hastened Lot, saying etc.;[15] and it is written, The sun was risen upon the earth when Lot came unto Zoar,.[16] while R. Hanina said: I myself saw that place and it is five mils [from Sodom].

The [above] text [stated]: ‘’Ulla said, what is "a journey afar off"? Any place whence a man Is unable to enter [Jerusalem] at the time of slaughtering.’ But Rab Judah maintained: Any place whence one is unable to enter [Jerusalem] at the time of eating. Rabbah said to ‘Ulla: on your view there is a difficulty, and on Rab judah's view there is a difficulty. On your view there is a difficulty, for you say, ‘Any place whence a man is unable to enter at the time of slaughtering’: yet surely a man unclean through a reptile is unable to enter[17] at the time of slaughtering, yet you say, One slaughters and sprinkles on behalf of a person unclean through a reptile? On Rab Judah's view there is a difficulty, for he says, ‘Any place whence one is unable to enter at the time of eating’: but surely he who is unclean through a reptile is able to enter at the time of eating, yet he says, One may not slaughter and sprinkle on behalf of a man unclean through a reptile?[18] Said he to him: Neither on my view nor on Rab Judah's view Is there a difficulty. On my view there is no difficulty: ‘A journey afar off’ [is stated] in reference to a clean person, but ‘a journey afar off’ is not [stated] in reference to an unclean person.[19]

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(1) Lit., ‘blesses’, a euphemism for ‘curses’

(2) V. Num. XV, 30; he blasphemeth (Heb. megaddef, R.V.: reproacheth) the Lord; and that soul shall be cut off(i.e., kareth). The meaning of megaddef is disputed in Ker. 7b.

(3) Lev. XXIV, 15. From Num. XV, 30 ‘ye know that he incurs kareth, and therefore that must be the meaning in this verse.

(4) R. Nathan renders ‘ki’ as ‘because’.

(5) According to Rabbi it is necessary, as it refers to the punishment for the neglect of the second. But since R. Nathan relates it to the first, it is superfluous, having been already stated.

(6) But one who takes part in an idolatrous service, e.g., by singing hymns in a heathen Temple, v. Ker. 7b. Consequently, Nun,. XV, 30 cannot be identified with Lev. XXIV, 15 (v. notes supra), and so there is nothing to indicate the meaning of ‘shall bear his sin’ in the latter verse, which refers to blasphemy.

(7) As explicitly stated in the first half of the verse.

(8) Translating ki like Rabbi, except that he connects it with the preceding part of the verse.

(9) In connection with R. Nathan.

(10) Generally known as Modim, a town famous in Jewish history as the residence of Mattathias and his sons, where the Maccabean revolt against Antiochus flared up; it was some fifteen miles N.W. of Jerusalem.

(11) The Heb. for ‘a journey afar off’ (Num. IX, 10) is רך רחוקה the ה (heh) being traditionally written with a dot, thus . Such a point was regarded as a weakening or limitation, as though the word were not really written.

(12) A mil=two thousand cubits, a quarter of a parasang.

(13) From daybreak to nightfall, when the day and night are of equal length, i.e., from six a.m. To six p.m.

(14) I.e., so far, that if a man started walking at midday, which is the earliest time for sacrificing the Passover-offering, he could not reach it by sunset, which is the latest. Taking this statement in conjunction with the preceding calculation, we see that Modim must be fifteen mils from Jerusalem.

(15) Gen. XIX, 15.

(16) Ibid. 23.

(17) Sc. the Temple.

(18) For this controversy v. supra 90b.

(19) V. Num. IX, 13: But the man that is clean, and is not in a journey, and forbeareth to keep (lit., ‘do’) the Passover etc. From this we see, (i) that the exemption for a man who is in a ‘journey afar off’ applies to a clean person, and (ii) that a ‘journey (afar off)’ is determined by his inability to do the Passover, i.e., to slaughter it. Hence if he is so far away that he cannot reach the Temple Court in time for the slaughtering, he is in a journey afar off’. But an unclean person is exempt because of his uncleanness, which prevents his eating, but not his sacrificing, since that can be done by another acting on his behalf. Moreover, since Scripture specifies one who is ‘unclean by reason of a dead body’ and does not state one who is unclean through a reptile, it follows that this exemption applies only to such as the former, who are unclean for a long period (seven days) and cannot be fit in the evening, but not to such as the latter, who can be fit to eat in the evening.

Talmud - Mas. Pesachim 94a

On Rab Judah's view there is no difficulty: When one is unclean through a reptile, the Divine Law relegated him [to the second Passover], for it is written, ‘If any man shall be unclean by reason of a dead body’: does this not refer [even] to one whose seventh day falls on the eve of Passover, yet even so the Divine Law said: Let him be relegated [to the second].[1]

Our Rabbis taught: If he was standing beyond Modi'im and is able to enter by horses and mules, you might think that he is culpable. Therefore it is stated: ‘and is not in a journey,’[2] whereas this man was in a journey.[3] If he was standing on the hither side of Modi'im, but could not enter on account of the camels and wagons which held him up,[4] you might think that he is not culpable. Therefore It is stated, ‘and is not in a journey,’ and lo, he was not in a journey.[5]

Raba said: The world is six thousand parasangs,[6] and the thickness of the heaven [rakia’] is one thousand parasangs the first one [of these statements] is a tradition, while the other is [based on] reason. [Thus:] he agrees with Rabbah b. Bar Hanah's dictum in R. Johanan's name: What is an average man's journey in a day? Ten parasangs: from daybreak until the first sparklings of the rising sun five mils, and from sunset until the stars appear five mils: hence the thickness of the heaven is one sixth of the day[‘s journey].[7]

An objection is raised: Rab Judah said: The thickness of the sky is one tenth of the day's journey. The proof is this: what is an [average] man's journey in a day? Ten parasangs, and from daybreak until the rising sun four mils, [and] from sunset until the stars appear four mils,: hence the thickness of the sky is one tenth of the day[‘s journey].[8] This is a refutation of Raba, and a refutation of ‘Ulla! It is a refutation.[9] Shall we say that this is [also] a refutation of R. Johanan?-He can answer you: I spoke only of [an average man's journey] in a [complete] day, and it was the Rabbis[10] who erred by calculating [the distance for] pre-dawn and after nightfall.[11] Shall we say that this is a refutation of R. Hanina?[12] — No: ‘and [the angels] hastened’[13] is different —[14]

Come and hear: Egypt was four hundred parasangs square. Now Egypt is one sixtieth of Ethiopia [Cush], Ethiopia one sixtieth of the world, the world one sixtieth of the Garden, the Garden one sixtieth of Eden, Eden one sixtieth of the Gehenna: thus the whole world is like a pot lid [in relation] to Gehenna. This is [indeed] a refutation .[15] Come and hear: Tanna debe Eliyahu[16] [taught]: R. Nathan said: The whole of the inhabited world is situate under one star. The proof is that a man looks at a star, [and] when he goes eastward it is opposites [and when he goes] to the four corners of the world it is opposite him. This proves that the whole of the inhabited world is situate under one star. This is indeed a refutation.[17]

Come and hear: The Wain [‘Waggon’][18] is in the north and Scorpio is in the south, the whole of the inhabited world lies between the Wain and Scorpio, and the whole of the inhabited world represents but one hour of the day,[19] for the sun enters [the space above] the inhabited world only for one hour in the day.[20] The proof is that at the fifth [hour] the sun is in the east while at the seventh the sun is in the west: [during] half of the sixth and half of the seventh the sun stands overhead all people.[21] This is [indeed] a refutation. Come and hear: For R. Johanan b. Zakkai said: What answer did the Bath Kol[22] give that wicked man [Nebuchadnezzar] when he asserted, ‘I will ascend above the heights of the clouds; I will be like the Most High’?[23] A Bath Kol came forth and rebuked him: ‘Thou wicked man, son of a wicked man,

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(1) V. supra 90b and notes a.l.

(2) Ibid.

(3) As defined in the Mishnah.

(4) He too being on one, and the road was blocked.

(5) He should have completed it on foot.

(6) Rashi: in diameter from east to west.

(7) The periods from daybreak until the rising sun is in the heavens, and again from sunset until the stars appear, were regarded as the time during which the sun was passing through the sky, which was conceived as a solid vault stretched out above the earth. Hence it follows from Rabbah's dictum that since five mils can be walked in each of these two periods, while thirty mils can be walked during the day excluding these periods (ten parasangs=forty mils), the thickness of the sky is one sixth of the world's diameter.

(8) The one tenth is of the inclusive figure, i.e., four in forty, whereas one sixth mentioned before was exclusive: six in thirty. But in any case they disagree.

(9) Both (for ‘Ulla v. supra 93b) hold that five mils can be walked from daybreak until the sun is in the heavens, which certainly cannot be reconciled with the present statement.

(10) I.e., ‘Ulla and R. Johanan.

(11) He had merely stated that an average man can walk ten parasangs in a day, but Raba and ‘Ulla had erred by adding that one travels five mils in the period stated; though most people do indeed walk five mils by the time the sun is in the heavens, that is because they generally start a little before dawn; similarly in the evening they continue their journey a little after nightfall.

(12) Supra 93b.

(13) Gen. XIX, 15.

(14) They would naturally cover a greater distance.

(15) For according to the present calculation the surface area of the world is 576,000,000 sq. parasangs (thus: 400 X 400 X 60 x 60) whereas according to Raba, even if the 6000 is squared, we have only 36,000,000 sq. parasangs.

(16) This is a Midrash consisting of two parts, ‘Seder Eliyahu Rabbah’ and ‘Seder Eliyahu Zuta’. According to the Talmud Keth. 106a the Prophet Elijah recited this Midrash to R. ‘Anan, a Babylonian Amora of the third century. Scholars are agreed that the work in its present form received its final redaction in the tenth century C.E., though they are not agreed as to where it was written. V. Bacher, Monatsschrift, XXIII, 267f; idem in R.E.J. XX, 144-146; Friedmann, Introduction to his edition of Seder Eliyahu; v. Keth., Sonc. ed. p. 680, n. 2.

(17) And since there are countless stars in the sky, it follows that the sky is immeasurably greater than the earth, not, as Raba says, only one sixth.

(18) The Great Bear.

(19) The sun in travelling through the sky takes one hour only to travel across the actual breadth of the world.

(20) As explained in the previous note.

(21) "Wherever they are; thus it is during this hour only that the sun is actually above the world. This too proves that the sky is infinitely larger than the earth.

(22) V. Glos.

(23) Isa. XIV, 14.

Talmud - Mas. Pesachim 94b

descendant of the wicked Nimrod, who incited the whole world to rebel [himrid][1] against Me during his reign![2] How many are the years of man? Seventy years; and if by reason of strength, eighty years, for it is said, The days of our years are threescore years and ten, or even by reason of strength fourscore years.[3] Now from earth to heaven is a five hundred years journey, the thickness of heaven Is a five hundred years’ journey, and between the first heaven and the next lies a five hundred years’ journey, and similarly between each heaven,[4] ‘Yet thou shalt be brought down to the nether-world, to the uttermost parts of the pit’ —[5] This is [indeed] a refutation.

Our Rabbis taught: The Sages of Israel maintain: The Galgal[6] is stationary [fixed], while the mazzaloth[7] revolve; while the Sages of the nations of the world maintain: The Galgal revolves and the mazzaloth are stationary.[8] Rabbi observed: This disproves their view [viz.,] we never find the Wain in the south or Scorpio in the north.[9] To this R. Aha b. Jacob demurred: Perhaps it is like the pivot[10] of a millstone,[11] or like the door socket?

The Sages of Israel maintain: The sun travels beneath the sky by day and above the sky at night; while the Sages of the nations of the world maintain: It travels beneath the sky by day and below the earth at night. Said Rabbi: And their view is preferable to ours, for the wells are cold by day but warm at night.[12]

It was taught, R. Nathan said: In summer the sun travels in the heights of the heaven,[13] therefore the whole world is hot while the wells [springs] are cold; in winter the sun travels at the lower ends of the sky,[14] therefore the whole world is cold while the wells are hot.

Our Rabbis taught: The sun travels over four courses: [during] Nisan,[15] Iyar and Sivan, it travels over the mountains, in order to melt the snows; [in] Tammuz, Ab and Elul, over the inhabited world, to ripen the fruits; [in] Tishri, Marheshwan and Kislev, over seas, to dry up the rivers; in Tebeth, Shebat and Adar, through the wilderness, so as not to dry up the seeds [in the ground]. R. ELIEZER SAID: FROM THE THRESHOLD etc. Even though he can enter, and we do not say to him, ‘Arise and enter’? but it surely was taught: An uncircumcised Jew who did not circumcise himself is punished by kareth: this is the opinion of R. Eliezer? — Said Abaye: ‘A journey afar off’ [is stated] in respect of a clean person, but ‘a journey afar off’ is not [stated] in respect of an unclean person.[16] Raba said: It is [a controversy of] Tannaim. For it was taught, R.Eliezer said: Distance of place is stated in connection with the Passover, and distance of place is stated in connection with tithe:[17] just as there [it means] without [the boundaries of] its eating,[18] so here too it means outside [the place of] its eating.[19] R. Jose son of R. Judah said on R. Eliezer's authority: [It means] outside [the place] where it is sacrificed .[20] With whom does the following dictum of R. Isaac son of R. Joseph agree. [viz.:] In respect of those who are unclean, decide by the majority who are standing in the Temple Court.[21] With whom [does it agree]? With R. Jose son of R. Judah, as he stated [the law] on R. Eliezer's authority.[22]

SAID R. JOSE TO HIM, THEREFORE etc. It was taught, R. Jose the Galilean said: [BY] ‘a journey afar off’ I may understand a distance of two or three days: but when it is said, and is not in a journey, it teaches that from the threshold of the Temple Court and without is designated a journey .[23]

MISHNAH

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(1) This is a play on the name Nimrod, deriving it from marad, to rebel.

(2) According to Talmudic tradition Nimrod instigated the building of the tower of Babel to storm heaven.

(3) Ps. XC, 10.

(4) According to the ancient tradition there were seven heavens.

(5) Isa. XIV, 15. [In Hag. 13a the distance is further extended and according to the calculation given there amounts to a total of 4,096,000 years’ journey, which at the rate of eighty rabbinic mils in 24 hours (v. supra) amounts to 119,603,200,000 say — 120,000 million mils, which shows that the Rabbis had a fair idea of stellar distance. Cf. Feldman, W. M., Rabbinical Mathematics, p. 213.]

(6) [‘Wheel sphere’ probably the celestial sphere, v. n. 7.]

(7) Here fixed stars.

(8) [This will probably represent the Ptolemaic view according to which the stars are fixed on the surface of the celestial sphere which moves round the earth carrying the stars with it, v. op. cit. p. 71.]

(9) But if the Galgal revolves, the mazzaloth too would change their position. The view of the Jewish Sages is difficult to explain.

(10) Rashi. ‘Aruch: the socket.

(11) "Which remains fixed in its place.

(12) [On this passage v. op. cit. p. 72.]

(13) Above the earth.

(14) Not above the earth but at its side.

(15) The first month of the Jewish civil year, commencing some time in March. The remaining eleven months are enumerated in order.

(16) v. supra 93b. Similarly, a man must make himself fit for the Passover, and otherwise he incurs kareth. But it is not his duty to bring himself within the area of obligation. Tosaf. points out an obvious difficulty: if he is uncircumcised or unclean and standing without the Temple court, as he must be in that case, he must make himself fit and keep the Passover on penalty of kareth; whereas if he is already circumcised or clean and standing without he is exempt! Tosaf explains it with the principle laid down by R. Zera, v. Yeb. 104b.

(17) Deut. XIV, 24 q.v.

(18) The second tithe must be eaten in Jerusalem. Anywhere outside Jerusalem is regarded as a distant place and the law of redemption applies.

(19) When Scripture states that if a man is on a journey afar off he is exempt, it means if he is anywhere outside Jerusalem, in the whole of which the Passover-offering was eaten. Hence if he is merely outside the Temple Court but in Jerusalem he is not exempt.

(20) viz., the Temple Court. Thus we have a controversy of Tannaim as to R. Eliezer's view.

(21) when the majority of those in the Temple Court are unclean, the Passover is sacrificed in uncleanness (supra 79a). But those who are not in the Temple Court are disregarded entirely. as they are on a ‘journey afar off’.

(22) For according to the first Tanna a majority of all in Jerusalem would be required.

(23) Since ‘afar off’ is not mentioned here.

Talmud - Mas. Pesachim 95a

Talmud - Mas. Pesachim 95a

WHAT IS THE DIFFERENCE BETWEEN THE FIRST PASSOVER AND THE SECOND? THE FIRST IS SUBJECT TO THE PROHIBITION OF [LEAVEN] SHALL NOT BE SEEN AND [LEAVEN] SHALL NOT BE FOUND;[1] WHILE AT THE SECOND [A MAN MAY HAVE] LEAVENED AND UNLEAVENED BREAD IN THE HOUSE WITH HIM. THE FIRST REQUIRES [THE RECITING OF] HALLEL WHEN IT [THE PASCHAL LAMB] IS EATEN, WHEN THE SECOND DOES NOT REQUIRE HALLEL WHEN IT IS EATEN. BUT BOTH REQUIRE [THE RECITING OF] HALLEL WHEN THEY ARE SACRIFICED, AND THEY ARE EATEN ROAST WITH UNLEAVENED BREAD AND BITTER HERBS, AND THEY OVERRIDE THE SABBATH.

GEMARA. Our rabbis taught: According to all the statute of the Passover they shall keep it:[2] the Writ refers to the ordinance[s] pertaining to itself.[3] How do we know the ordinance[s] indirectly connected with itself?[4] Because it is said, they shall eat it with unleavened bread and bitter herbs.[5] You might think that regulations which are not even indirectly connected with itself [are included too]; therefore it is stated, nor shall they break a bone thereof:[6] just as the breaking of a bone stands out as an ordinance pertaining to itself, so is every ordinance pertaining to itself [included].[7] Issi b. Judah said: ‘they shall keep it’ [implies that] the Writ treats of regulations pertaining to itself.[8]

The Master said: ‘You might think that regulations which are not even indirectly connected with itself [are included too]’ — But surely you have said that the Writ refers to ordinance[s] pertaining to itself?-This is what he means: now that you have quoted. ‘they shall eat it with unleavened bread and bitter herbs, which proves that ‘they shall keep it’[9] is not exact, then say that it is like a particularization and a general proposition, whereby the general proposition is accounted as adding to the particularization, so that even all regulations [are included]:[10] hence he informs us [that It is not so].

Now Issi b. Judah, how does he utilize this [law concerning a] bone?-He requires it for [teaching that] both a bone which contains marrow and a bone which does not contain marrow [are meant].[11] And the Rabbis: how do they utilize this [verse] ‘they shall keep it’?-they require it to teach that one may not kill the Passover-offering on behalf of a single person, so that as far as it is possible to procure [another unclean person] we do so.[12] Our Rabbis taught: ‘According to all the statute of the Passover they shall keep it’: you might think, just as the first is subject to the prohibition of [leaven] ‘shall not be seen’ and ‘shall not be found’, so is the second subject to the prohibition of [leaven] shall not be seen and shall not be found: therefore it is stated, they shall eat it with unleavened bread and bitter herbs.[13] Again, I know it only of positive precepts;[14] how do we know it of negative precepts? Because It is stated, They shall leave none of it unto the morning.[15] Also, I know it only of a negative precept modified to a positive precept;[16] how do we know it of an absolute negative precept? Because It is stated, ‘and they shall not break a bone thereof’: [hence] just as the particularization is explicitly stated as a positive precept, and a negative precept modified to a positive precept, and an absolute negative precept, so every positive precept, and a negative precept modified to a positive precept, and complete negative precept [are included].[17] What is included in the general proposition as applied to ‘[they shall eat it] with unleavened bread and bitter herbs’?-Roast with fire.[18] What does it exclude in its particularization?[19] -The putting away of leaven. May I [not] reverse it? — [The inclusion of] a precept pertaining to itself is preferable. What is included in the general proposition as bearing on ‘they shall leave none of it unto the morning’?- thou shall not carry forth aught [of the flesh abroad out of the house],[20] (which is similar thereto, since the one is disqualified through being nothar,[21] while the other is disqualified through going out [of its permitted boundary]).[22] What does it exclude by its particularization?-[Leaven] ‘shall not be seen and ‘shall not be found,’ (which is similar thereto, for the one does not involve flagellation, since it is a negative precept modified to a positive precept, while the other does not involve flagellation, since It is a negative precept modified to a positive precept.)[23] May I [not] reverse it?- [The inclusion of] a precept pertaining to itself is preferable.

What is included in the general proposition as bearing on 'they shall not break a bone thereof?

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(1) Ex. XII, 19; Deut. XVI, 4

(2) Num. IX, 12 with reference to the second Passover.

(3) E.g.. how the sacrifice shall be prepared, that it is to be eaten roast etc.; but regulations not directly pertaining to itself, e.g.. the removing of leaven, are not included.

(4) E.g., that it is to be eaten with unleavened bread and bitter herbs.

(5) Num. IX, 11.

(6) Ibid. 12.

(7) But not others.

(8) So that 'nor shall they break a bone thereof' is unnecessary for that purpose.

(9) 'It' might imply that only the regulations directly bearing on the sacrifice itself are meant, and therefore exclude the eating of unleavened bread and bitter herbs.

(10) This is a general principle of exegesis that if a law is first stated in a particular instance and then in a general form, the former does not limit the latter but on the contrary the latter generalizes the former, so that all instances are included. Here a particular instance of similarity between the first Passover and the second is stated in v. 11 while in v. 12 a general law is stated that the two are alike in all respects.

(11) Supra 85a.

(12) Even if we have to defile a person at the first Passover, so that there may be at least two at the second; v. supra 91a.

(13) V. p. 508. they are alike only in respect of the regulations pertaining to or connected with itself, just like the particular case which is stated.

(14) 'They shall eat it' etc. is a positive precept, and therefore teaches that all the positive precepts applicable to the first Passover are also binding upon the second, e.g., the precept to eat it roast.

(15) Num. IX, 12; hence the deduction stated in the preceding note applies to negative precepts too.

(16) A prohibition which if violated must be repaired by a positive act. Thus 'and ye shall let nothing of it remain until the morning' (Ex. XII, 10) is followed by 'but that which remaineth of it until the morning ye shall burn with fire'. Technically such an injunction is less stringent than an ordinary negative precept and does not involve flagellation.

(17) Hence the general proposition, 'according to all the statute etc., is applied separately to each of these three particular laws, teaching that all laws which partake of their nature are included.

(18) V. n . 2.

(19) For just as the general proposition includes laws unstated, so the particularization teaches that some laws are excluded, as otherwise the former alone would suffice.

(20) Ex. XII, 46

(21) V. Glos.

(22) Var. lec. omits the bracketed passage.

(23) If flesh of the Passover sacrifice is left over, it must be burnt, while if leaven is not completely removed before Passover, so that it is 'seen' or 'found', it must be destroyed whenever discovered. Hence both of these negative precepts are modified to positive precepts, and he who violates them is not flagellated.-Var. lec. omits the bracketed passage.

Talmud - Mas. Pesachim 95b

— Eat not of it half-roast.[1] By its particularization what does it exclude? Thou shall not offer the blood of My sacrifice with leavened bread.[2] May I [not] reverse it?- [The inclusion of] a precept pertaining to itself is preferable.

THE FIRST REQUIRES [THE RECITING OF] HALLEL WHEN IT IS EATEN etc. Whence do we know it?-Said R. Johanan on the authority of R. Simeon b. Jehozadak: Scripture saith, Ye shall have a song as in the night when a feast is hallowed:[3] the night that is hallowed for a feast [Festival] requires [the reciting of] Hallel ['Song'], while the night which is not hallowed for a feast does not require [the reciting of] Hallel.

BUT BOTH REQUIRE [THE RECITING OF] HALLEL WHEN THEY ARE SACRIFICED etc. What is the reason?-I can either say, [Scripture] excludes the night, but not the day; or alternatively, is it possible that Israel sacrifice their Passover-offerings or take their palm-branches[4] without reciting Hallel!

AND THEY ARE EATEN ROAST etc. Only the Sabbath [do they override], but not uncleanness:[5] our Mishnah does not agree with R. Judah,for it was taught: It [the second Passover] overrides the Sabbath, but it does not override uncleanness; R. Judah maintained: It overrides uncleanness too. What is the reason of the first Tanna?-Seeing that I have suspended him [from the first Passover] on account of uncleanness, shall he after all keep it in uncleanness?[6] And R. Judah?[7] — The Torah sought [means] for him to keep it in cleanness; yet if he was not privileged [thus], he must keep it in uncleanness. Our Rabbis taught: The first Passover overrides the Sabbath, [and] the second Passover overrides the Sabbath; the first Passover overrides uncleanness,[and] the second Passover overrides uncleanness; the first Passover requires the spending of the night [in Jerusalem], [and] the second Passover requires the spending of the night [in Jerusalem]. '[The second Passover] overrides uncleanness . With whom [does this agree]? — With R. Judah. But according to R. Judah, does it require the spending of the night [in Jerusalem]? Surely it was taught, R. Judah said: How do we know that the second Passover does not require the spending of the night [in Jerusalem]? Because it is said, and thou shalt turn in the morning, and go unto thy tents;[8] and it is written, six days thou shalt eat unleavened bread:[9] that which is eaten six [days] requires the spending of the night [in Jerusalem], but that which is not eaten six [days] does not require the spending of the night [in Jerusalem]?[10] -There is [a controversy of] two Tannaim as to R. Judah's opinion.

MISHNAH. [WITH REGARD TO] THE PASSOVER-OFFERING WHICH COMES IN UNCLEANNESS, ZABIN AND ZABOTH, MENSTRUANT WOMEN AND WOMEN AFTER CONFINEMENT MUST NOT EAT THEREOF, YET IF THEY DID EAT THEY ARE EXEMPT FROM KARETH;[11] BUT R. ELIEZER EXEMPTS [THEM] EVEN [OF THE KARETH NORMALLY INCURRED] FOR ENTERING THE SANCTUARY.

GEMARA. Our Rabbis taught: If zabin and zaboth, menstruant women and women after confinement ate of the Passover-offering which was sacrificed in uncleanness, you might think that they are culpable, therefore it is stated, Every one that is clean may eat flesh [of sacrifices]. But the soul that eateth of the flesh of the sacrifice of peace-offerings, that pertain unto the Lord, having his uncleanness upon him, that soul shall be cut off:[12] with regard to that which is eaten by clean persons, you are culpable on its account on the score of uncleanness, but as to that which is not eaten by clean persons, you are not culpable on its account on the score of 'uncleanness —[13] R. Eliezer said: If zabin and lepers[14] forced their way through and entered the Temple Court at a Passover-offering which came in uncleanness, you might think that they are culpable; therefore it is stated , [command the children of Israel,] that they send out of the camp every leper, and everyone that hath an issue [zab], and whosoever,- is unclean by the dead:[15] when those who are unclean by the dead are sent out, zabin and lepers are sent out; when those who are unclean by the dead are not sent out, zabin and lepers are not sent out.

R. Joseph asked: What if persons unclean through the dead forced their way in and entered the Temple [hekal][16] at a Passoveroffering which came in uncleanness? [Do we say,] since the uncleanness of the Temple Court was permitted, the uncleanness of the Temple [hekal] too was permitted;[17] or perhaps, what was permitted was permitted, while what was not permitted was not permitted? Said Raba: Scripture saith, 'that they send out of the camp,' [implying] even from part of the camp.[18] Others maintain. Raba said: Scripture saith, without [mi-huz] the camp shall ye send then:[19] only where[20] 'without the camp shall ye send them,' is applicable, is 'that they send out of the camp' applicable.[21]

A. Joseph asked: What if persons unclean by the dead forced their way through [to the altar] and ate the emurim: of a Passover-offering which came in uncleanness?[22]

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(1) Ex. XII, 9.
(2) Ex. XXXIV, 25.
(3) Isa. XXX, 29.
(4) On the Feast of Tabernacles, v. Lev. XXIII, 40.
(5) If the majority of those who should keep the second Passover are unclean, the sacrifice is not brought.
(6) Surely not.
(7) How does he rebut this argument?
(8) Deut. XVI, 7' 'Thy tents' is understood to refer to tents pitched without Jerusalem; but it cannot mean home, firstly because one might not travel on a Festival, and secondly because the pilgrimage burnt-offering was yet to be offered. The phrase 'in the morning' teaches that the night was to be spent in Jerusalem, even after the Passover sacrifice was consumed.
(9) Ibid. 8.
(10) I.e., only the Passover-offering which necessitates the eating of unleavened bread six days (actually seven; v. infra 120a), and prohibits leaven necessitates the spending of the night in Jerusalem; the first Passover alone fulfils this condition, but not the second. — Thus R. Judah is self-contradictory.
(11) The usual penalty for eating sacred flesh in a state of personal uncleanness. But if they actually entered the Temple too, they are liable to kareth on that account.
(12) Lev. VII, 19f.
(13) Hence when the Passover-offering comes in uncleanness, though zabin etc. may not eat of it, they nevertheless do not incur kareth.
(14) So the text as emended and Supra 67b.
(15) Num. V, 2.
(16) The hall containing the golden altar; the Temple proper, as opposed to the Temple court. Even priests might enter it only when necessary; here entry was unnecessary, since the offering was sacrificed in the Temple Court.
(17) I.e., no penalty is incurred on account of uncleanness.
(18) Even when they are not sent out of the entire camp, as here, they are sent out of the part where their presence is not necessary; hence if they enter it they incur kareth.
(19) Num. V, 3; 'mi-huz' implies right outside the whole of it.
(20) Lit., 'read in his case'.
(21) Hence, since he is not sent out of the whole camp, he is not liable.
(22) The emurim were burnt on the altar, and were therefore forbidden.

Talmud - Mas. Pesachim 96a

[Do we say,] since the uncleanness of the flesh was permitted, the uncleanness of the emurim too was permitted;[1] or perhaps, what was permitted was permitted, and what was not permitted was not permitted?Said Raba, Consider: whence is the uncleanness of emurim included?[2] From the uncleanness of the flesh, for it is written, That pertain onto the Lord,[3] which includes emurim: [hence] wherever the uncleanness of the flesh is interdicted, the uncleanness of the emurim is interdicted: while wherever [the interdict of] the uncleanness of the flesh is absent, [the interdict of] the uncleanness of the emurim is absent.

R. Zera asked: Where did they burn the emurim of the Passover offering of Egypt?[4] -Said Abaye, And who is to tell us that it was not prepared roast?[5] Moreover, surely R. Joseph learned: Three altars were there [for the sprinkling of the blood] viz., the lintel and the two doorposts.[6] Further, was there nothing else?[7]

MISHNAH. WHAT IS THE DIFFERENCE BETWEEN THE PASSOVER-OFFERING OF EGYPT AND THE PASSOVER-OFFERING OF [SUBSEQUENT] GENERATIONS?[8] THE PASSOVER-OFFERING IN EGYPT WAS TAKEN ON THE TENTH [OF NISAN],[9] [ITS BLOOD] REQUIRED SPRINKLING WITH A BUNCH OF HYSSOP ON THE LINTEL AND ON THE TWO DOOR-POSTS, AND IT WAS EATEN IN HASTE ON ONE NIGHT; WHEREAS THE PASS OVER- OFFERING OF [SUBSEQUENT] GENERATIONS IS KEPT THE WHOLE SEVEN [DAYS].[10]

GEMARA. Whence do we know it?-Because it is written, Speak ye unto all the congregation of Israel, saying: in the tenth day of this month they shall take [to them every man a lamb]:[11] the taking of this one was on the tenth , whereas the taking of the Passover-offering of [subsequent] generations is not on the tenth. If so, [when it is written,] And ye shall keep it [mishmereth] until the fourteenth day of this month,[12] does that too [intimate], this requires a four days' examination before slaughtering,[13] but no other requires examination? Surely it was taught, The son of Bag Bag[14] said: How do we know that the tamid[15] requires a four days' examination before slaughtering? Because it is said, Ye shall observe [tishmeru] to offer unto Me in its due season,[16] while elsewhere it is said, And ye shall keep it [mishmereth] until the fourteenth [etc.]:[17] just as there it requires a four days' examination before slaughtering, so here too it requires a four days examination before slaughtering? — There it is different, because tishmeru ['ye shall observe'] is written.[18] And thus [in connection with] the annual Passover-offering it is indeed written, then thou shalt keep this service in this month,[19] [which intimates] that all the services of this month [in subsequent generations] should be like this.[20] Hence that [word] 'this'[21] is to exclude the second Passover, which is like itself.[22]

But [again] if so, when it is written, and they shall eat the flesh in this night,[23] does that too [teach] that this is eaten at night, but another is not eaten at night?[24] -Scripture saith, then thou shalt keep this service [etc.].[25] Then what is the purpose of 'this'?- [It is required] for [the exegesis] of R. Eleazar b. 'Azariah and A. Akiba [respectively].[26]

But if so, when it is written, But no uncircumsized person shall eat thereof,[27] does that too [teach] that he may not eat 'thereof,' yet he may eat of the Passover-offering of [subsequent] generations?- [No, for] Scripture saith, 'Then thou shalt keep [this service etc.].' Then what is the purpose of 'thereof'?- Thereof he must not eat, but he eats unleavened bread and the bitter herbs. But if so, when it is written, There shall no alien eat thereof,[28] is it the case there too that he must not eat thereof, yet he eats of the Passover-offering of [subsequent] generations? — Scripture saith, 'Then thou shalt keep [etc.].' Then what is the purpose of 'thereof'?- In that case only ['thereof'] does apostasy disqualify, but apostasy does not disqualify in the case of terumah — Now it is necessary that an uncircumcised person should be stated, and it is necessary that an alien should be stated. For if the Divine Law stated an uncircumcised person, [I would say that he is disqualified] because he is repulsive, but an alien is not repulsive [so] I would say [that he is] not [excluded] from the Passover-offering]; hence [an alien] is necessary. And if we were informed about an alien, [I would argue that he is disqualified] because his heart is not toward Heaven, but [as for] an uncircumcised person, whose heart is toward Heaven,[29] I would say [that he is] not [excluded]. Thus both are necessary.

But if so, [when it is written,] A sojourner [toshab] and a hired servant [sakir] shall not eat thereof,[30] does that too [intimate] that he must not eat thereof, but he does eat of the annual Passover? — Scripture saith, 'Then thou shalt keep [etc.]'. Then what is the purpose of 'thereof'?- Only in this case does apostasy disqualify, but apostasy does not disqualify from terumah.[31] But if so, [when it is written, But every man's servant that is bought for money,] when thou hast circumcised him, then shall he eat thereof,[32] — does that too [intimate] that he must not eat thereof, but he does eat of the annual Passover? — Scripture saith, 'then thou shalt keep [etc.]'. Then what is the purpose of 'thereof' [bo]? Only in this case [bo] is the circumcision of his males and his slaves indispensable,[33] but the circumcision of his males and his slaves is not indispensable in the case of terumah. But if so, when it is written, Neither shall ye break a bone thereof,[34] does that too [intimate] that he may not break [a bone] thereof, but he may break [a bone] of the annual Passover?-Scripture saith, ‘then thou shalt keep [etc.]’. Then what is the purpose of ‘thereof’? ‘Thereof’ [indicates] of a fit [sacrifice], but not of an unfit [one].[35]

But if so, when it is written, Eat not of it half-roast,[36] [does that too intimate,] of it you may not eat [half-roast], but you may eat half-roast of the annual Passover-offering?-Scripture saith, ‘then thou shalt keep etc.’ Then what is the purpose of ‘of it’?- For the teaching of Rabbah in R. Isaac's name.[37]

AND WAS EATEN IN HASTE etc. How do we know it?- Because Scripture saith, and ye shall eat it in haste:[38] ‘it’ was eaten in haste, but no other was eaten in haste.

AND THE ANNUAL PASSOVER-OFFERING IS KEPT THE WHOLE SEVEN [DAYS] etc. To what does this refer? If we say, to the Passover-offering, — is there then a Passover-offering all the seven [days]?

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(1) So that liability on eating is not incurred on the grounds of their uncleanness, although there still remains the liability for the eating of emurim which are reserved for the altar.

(2) Whence do we learn that for eating emurim in an unclean state liability is incurred? — Actually only the uncleanness of the flesh is explicitly mentioned.

(3) Lev. VII, 20.

(4) No mention is made of an altar there.

(5) And eaten.

(6) I.e., there were three places for the sprinkling of the blood, corresponding to the altar in the Temple. But there was no altar for the burning of the emurim.

(7) In which the Passover-offering in Egypt differed from those offered in the Temple. Surely there were many points of difference (v. next Mishnah): why then assume that in this respect they were alike?

(8) 1.e., the annual Passover.

(9) Its owner had to take it four days beforehand, declaring, ‘This is for the Passover-offering’.

(10) This is explained in the Gemara.

(11) Ex. XII, 3.

(12) Ibid. 6.

(13) It was taken on the tenth and examined every day until the fourteenth for a blemish.

(14) V. Aboth, Sonc. ed. p. 76, n. 7

(15) V. Glos.

(16) Num. XXVIII, 2.

(17) Tishmeru and mishmereth have the same root.

(18) Hence the animal must be examined daily for four days before it is sacrificed, and the same applies to the annual Passover-offering, though the latter is not actually declared to be taken for that purpose.

(19) Ex. XIII, 5.

(20) I.e., all the regulations of the Egyptian Passover hold good for the annual Passover too, and this includes the four days’ examination. The special ‘taking’ however has been excluded by the exegesis above.

(21) In the verse, ‘and ye shall keep it until the fourteenth day of this month’.

(22) Just as the Egyptian Passover was only one day, so is the annual second Passover of one day's duration only, and it is logical that ‘this’ should exclude another Passover which is similar to itself. Hence it teaches that the animal sacrificed at the second Passover does not require a four days’ examination.

(23) Ex. XII, 8.

(24) Surely not-the annual Passover-offering was of course eaten at night.

(25) Ex. XIII, 5.

(26) According to the former, to teach that it may be eaten until midnight only; according to the latter, to show that it may not be eaten two nights; v. Ber. 9a.

(27) Ibid. XII, 48.

(28) Ibid. 43. By ‘alien’ is understood not a non-Jew but a Jewish apostate, whose actions have alienated him from God.

(29) For this is understood to refer to one whose brothers died through circumcision, so that he fears the operation, but would otherwise have it performed.

(30) Ex. XII, 45.

(31) This seems quite unintelligible; Rashi deletes the whole passage on other grounds, observing that the answer is in any case pointless. Tosaf. in Yeb. 71 s.v. בן defends the present reading.

(32) Ibid. 44.

(33) The master may not partake of the Passover-offering until the males of his household are circumcised.

(34) Ex. XII, 46.

(35) V. supra 70a and 83a.

(36) Ibid. 9.

(37) Viz., that an uncircumcised person may not eat of tithe; v. Yeb. 74a.

(38) Ibid. 11.

Talmud - Mas. Pesachim 96b

— Rather [it must refer] to leaven. Hence it follows that at the Passover of Egypt [leaven was forbidden] one night and no more; but surely it was taught, R. Jose the Galilean said: How do we know that at the Passover of Egypt the [prohibition of] leaven was in force one day only? Because it is said, There shall no leavened bread be eaten[1] and in proximity [thereto] is written, This day ye go forth![2] -Rather this is its meaning: [The Passover-offering is kept] one night, and the same law applies to the annual Passover-offering; while [the prohibition of] leaven [was in force] the whole day, whereas at the Passover-offering of [subsequent] generations [the interdict of leaven] holds good for the entire seven [days].

MISHNAH. R.JOSHUA SAID: I HAVE HEARD [FROM MY TEACHERS] THAT THE SUBSTITUTE OF A PASSOVER-OFFERING[3] IS OFFERED,[4] AND THAT THE SUBSTITUTE OF A PASSOVER-OFFERING IS NOT OFFERED,[5] AND I CANNOT EXPLAIN IT.[6] SAID R. AKIBA, I WILL EXPLAIN IT: THE PASSOVER-OFFERING WHICH WAS FOUND BEFORE THE SLAUGHTERING OF THE PASSOVER-OFFERING MUST BE LEFT TO GRAZE UNTIL IT BECOMES UNFIT,[7] BE SOLD, AND ONE BRINGS A PEACE-OFFERING FOR ITS MONEY; AND THE SAME APPLIES TO ITS SUBSTITUTE. [IF FOUND] AFTER THE SLAUGHTERING OF THE PASSOVER, IT IS OFFERED AS A PEACE-OFFERING, AND ITS SUBSTITUTE LIKEWISE.[8]

GEMARA. BUT LET HIM SAY, The Passover-offering is offered, and the Passover-offering is not offered?[9] -He informs us this, [viz.,] that there is a substitute of a Passover-offering which is not offered [as a peace-offering].[10] It was stated: Rabbah said: We learned, Before slaughtering and after slaughtering;[11] R. Zera maintained: We learned, Before midday and after midday.[12] But according to R. Zera, surely he teaches, BEFORE THE SLAUGHTERING OF THE PASSOVER-OFFERING?-SAY: BEFORE THE TIME OF THE SLAUGHTERING OF THE PASSOVER-OFFERING,[13]

This is dependent on Tannaim: The Passover which is found before slaughtering must graze [etc.]; [if found] after slaughtering, it is offered. R. Eleazar said: [If found] before midday it must graze [etc.]; after midday, it is offered.

[IF IT IS FOUND] AFTER THE SLAUGHTERING OF THE PASSOVER, HE BRINGS IT AS A PEACE-OFFERING etc. Raba[14] said:They learned this only if it was found after the slaughtering and he substituted [another] for it after the slaughtering. But if it was found before the slaughtering while he substituted [another] for it after the slaughtering, its substitute derives from the power of rejected sanctity, and it cannot be offered.[15] Abaye raised an objection against him: If [he bring] a lamb [for his offering' etc.]:[16] for what purpose is 'if [he bring] a lamb' stated? To include the substitute of a Passover-offering after Passover, [teaching] that it is offered as a peace-offering. How is it meant? If we say that it was found after the slaughtering and he substituted [another] for it after the slaughtering, then it is obvious:[17] why do I require a verse? Hence it must surely apply where it was found before slaughtering and he substituted [another] for it after slaughtering?[18] — No: in truth it applies where it was found after slaughtering and he substituted [another] for it after slaughtering, while the verse is a mere support.[19]

Then for what [purpose] does the verse come?[20] -For what was taught: '[If he bring] a lamb [etc.]': this is to include the Passover-offering, in respect of its fat tail.[21] When it is stated, 'If [he bring] a lamb,' this is to include [an animal] more than a year old [dedicated for] a Passover-offering[22] and a peace-offering which comes in virtue of a Passover-offering[23] , in respect of all the regulations of the peace-offering, [viz.,] that they require laying [of the hands],[24] libations, and the waving of the breast and shoulder. Again, when it states, and if [his offering be] a goat,[25] it breaks across the subject [and] teaches of a goat that it does not require [the burning of the] fat tail [on the altar].[26]

Others recite it [Raba's dictum] in reference to the first clause: THE PASSOVER-OFFERING WHICH WAS FOUND BEFORE THE SLAUGHTERING OF THE PASSOVER-OFFERING MUST GRAZE UNTIL IT BECOMES UNFIT, BE SOLD, AND ONE BRINGS A PEACE-OFFERING FOR ITS MONEY, AND THE SAME APPLIES TO ITS SUBSTITUTE. Said Raba, They learned [this] only where It was found before the slaughtering and he substituted [another] for it before the slaughtering. But if it was found before the slaughtering and he substituted [another] for it after the slaughtering, it is offered as a peace-offering. What is the reason? The slaughtering [of the Passover-offering] stamps [with its sanctity] only something that is eligible therefor, [but] it does not stamp [with its sanctity] that which is not eligible therefor.[27]

Abaye raised an objection against him: 'If [he bring] a lamb [etc.]': what is its purpose? To include the substitute of a Passover-offering after Passover, [teaching] that it is offered as a peace-offering.

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(1) Ibid. XIII, 3.

(2) Ibid. 4; v. supra p. 130, n. 9. Thus it was prohibited the whole day, not during the night only.

(3) When an animal is dedicated for a sacrifice, another must not be declared as a substitute for it; if it is, both animals are holy, the holiness of the second being of the same nature as that of the first. But the substitute of a Passover-offering cannot be offered as such, but must be kept until after the Festival. Normally if a Passover-offering is not sacrificed at the proper time, e.g.,if it was lost, it is subsequently sacrificed as a peace-offering.

(4) As a peace-offering, after Passover.

(5) As a peace-offering, but must graze until it becomes blemished, whereupon it is redeemed.

(6) When it is offered and when it is not.

(7) Through a blemish.

(8) The animal originally dedicated for the Passover was lost, and another was dedicated in its stead. Now if it was found again before the second was slaughtered or before the time of slaughtering the Passover in general (the exact meaning is disputed in the Gemara), the fact that it was present at the time of slaughtering stamps it as a Passover, and by not slaughtering it, one has rejected it, as it were, with his own hands. Consequently, it can no longer be offered itself, but must be sold, etc. If after finding it he substituted another animal for it, that too is governed by the same law, as stated in n. I. But if it was found after the second was killed, the time of the slaughtering has not stamped it with the name of a Passover-offering, nor has it been rejected therefrom. Consequently, it is brought itself after the Festival as a peace-offering.

(9) Why does R. Joshua speak about the substitute of a Passover: surely he could say the same about the Passover itself?

(10) For I might otherwise think that since the substitute cannot be sacrificed as a Passover-offering, it is as though he dedicated it in the first place for a peaceoffering, and therefore must itself be offered as such in all cases, irrespective of what happens to the original. Hence he informs us that where the original cannot be offered, the substitute too cannot be offered.

(11) I.e., if it was found before or after the second was actually slaughtered.

(12) The time for slaughtering the Passover is from midday until evening. R. Zera maintains that if it is still unfound by midday, it can no longer be stamped as a Passover-offering even if it is found before the second is actually slaughtered, and therefore is subsequently sacrificed itself as a peace-offering.

(13) This does not emend the Mishnah but rather explains it.

(14) Var. lec. Rabbah.

(15) I.e., since the original is rejected, as explained in n. 6 on the Mishnah, the substitute is in the same position.

(16) Lev. III, 7. This refers to a peace-offering, and it is superfluous. For v. 6 states, and if his offering... be of the flock, while v. 12 states, and if his offering be a goat: since ‘flock’ only comprises goats and lambs, v. 6 must refer to lambs, which renders v. 7 unnecessary. Hence it must be written for a particular exegesis.

(17) Since it follows from the general principle of substitution, as explained in n. 1 and 6 on the Mishnah.

(18) And we are then informed that although the original itself cannot be offered, its substitute is offered!

(19) But not the actual source of the law, which follows indeed from general principles.

(20) Since it is superfluous, as explained on p. 519, n. 6.

(21) The fat tail of all other sacrifices is explicitly stated to be part of the emurim which are burnt on the altar (v. Lev. III, 9; VII, 3). The burning of the emurim is not mentioned at all in connection with the Passover, however, but deduced from elsewhere (v. supra 64b); consequently a verse is required to teach that the fat tail too is included.

(22) Hence unfit for its purpose (v. Ex. XII, 5).

(23) E.g., the substitute for a Passover-offering, or where the owner of a Passover-offering registered for a different animal, so that the first is a Passover remainder; both are sacrificed as peace-offerings.

(24) V. Lev. III, 2.

(25) Ibid. 12.

(26) ‘And if’ is regarded as a disjunctive, teaching that the provisions that apply to a lamb do not apply to a goat, unless expressly stated. The fat tail is mentioned in connection with the former (v. 9) but not the latter.

(27) I.e., if the animal is dedicated for a Passover-offering, the act or time of slaughtering the second animal stamps it with that sanctity, and since it was not offered then, it was rejected and must graze. But the act of slaughtering cannot stamp an animal with that sanctity, that it should be regarded as rejected if it was not fit for a Passover-offering at the time, and in the latter case this substitute was indeed unfit, since at that time it was as yet unconsecrated. Consequently now that it is consecrated, it is offered itself as a peace-offering.

Talmud - Mas. Pesachim 97a

You might think that it is also thus before Passover,[1] therefore it is stated, ‘it’:[2] ‘it’ is offered [as a peace-offering], but the substitute of a Passover-offering is not offered [as such] —[3] How is it meant? If we say that it was found before slaughtering and he substituted [another] for it before slaughtering, then it is obvious![4] Why do I require a verse? Hence it must surely apply to where it was found before the slaughtering, ‘while he substituted [another] for it after the slaughtering. Thus the refutation of Raba is indeed a refutation.[5]

Samuel said: Whatever must be left to perish in the case of a sin-offering, is brought as a peace-offering in the case of a Passover,[6] and whatever must be left to graze in the case of a sin-offering,[7] must also be left to graze in the case of a Passover. While R. Johanan said: No Passover is brought as a peace-offering save that which is found after the slaughtering, but not [if it is found] before the slaughtering. To this R. Joseph demurred: Now is this a general rule? Surely there is the sin-offering more than a year old, which goes forth to pasture,[8] for R. Simeon b. Lakish said: A sin-offering more than a year old, we regard as though it stood in a cemetery,[9] and it must be left to graze; whereas a Passover in such a case is brought as a peace-offering, for it was taught: ‘[If he bring] a lamb [etc.]’: this is to include the Passover-offering, in respect of its fat tail. When it is stated, ‘If [he bring] a lamb,’ this is to include [an animal] more than a year old [dedicated for] a Passover and a peace-offering which comes In virtue of a Passover-offering in respect of all the regulations of a peace-offering,[10] [viz.,] that they require laying [of the hands], libations, and the waving of the breast and shoulder. Again, when it [Scripture] states, ‘and if [his offering be] a goat’, it breaks across the subject and teaches of a goat that it does not require [the burning of its] fat tail [on the altar]![11] — Said he to him, Samuel spoke only of lost [sacrifices],[12] but he did not say it of rejected [animals]. Yet is [this principle] possible [in the case of] a lost [sacrifice]? Surely an [animal which was] lost at the time of separating [another],[13] in the view of the Rabbis goes to pasture [until it receives a blemish], for we learned: If he set apart [an animal as] his sinoffering and it was lost, and he [then] set apart another in its stead, and [then] the first was found again, and behold! both stand [before us], [any] one of them may be sacrificed, while the other must die: this is Rabbi's ruling. But the Sages maintain: No sin-offering must die except one found after its owner has been atoned for.[14] Hence [if found again] before its owner was atoned for, it must graze. Whereas in the case of a Passover-offering, if it was lost and found again after midday [but] before the slaughtering [of the second], it is brought as a peace-offering? — Samuel agrees with Rabbi, who maintained: A lost animal goes forth to perish. But every lost [sin-offering], according to Rabbi, is left to die, whereas in the case of a Passover-offering, if it was lost before midday and found again before midday it must be left to graze?- [If found] before midday it is not [regarded as lost],[15] in accordance with Raba. For Raba said: A loss at night is not designated a loss .[16]

Then according to Rabbi, how is it possible that [a sin.offering] should be left to graze?

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(1) That the substitute of a Passover which is found before Passover is offered as a peace-offering.

(2) He seems to translate, If it (hu) is a lamb (which) he brings etc. , and treats the ‘it’ as a limitation.

(3) this does not mean that where the Passover itself is offered as a peace-offering its substitute is not, but that there is a substitute of the Passover which is not offered as a peace-offering.

(4) that it cannot be offered itself’, having been rejected as explained in n. 6 on the Mishnah.

(5) Here we cannot answer that the verse is a mere support, as above, for in that case what is the purpose of the verse?

(6) There are five cases of the former: (i) the offspring of a sin-offering; (ii) the substitute of a sin-offering; (iii) a sin-offering whose owner died; (iv) a sin-offering which was lost, and refound after its owner had made atonement with another; and (v) a sin-offering more than a year old. All these must be allowed to perish. It is now assumed that all these, in the case of a Passover (the first of course is excluded, the Passover being a male), are brought as a peace-offering.

(7) until it receives a blemish, when it can be redeemed.-It is discussed anon which these are.

(8) Until it receives a blemish.

(9) Thus inaccessible to the priest for sacrifice-i.e., it cannot be sacrificed.

(10) This is the point of the objection.

(11) V. supra 96b for notes.

(12) I.e,, iv in p. 521, n. 7.

(13) If a sin-offering was lost and another consecrated, and then the first was found again before the second was sacrificed, so that the first was a lost animal only when the second was set apart, but not when it was sacrificed.

(14) By another offering.

(15) Even if another had been separated in its place.

(16) If a sin-offering was lost at night, and another was separated in its stead, and the first was found by the morning, even on Rabbi's view It is not regarded as having been lost, since it could not have been sacrificed at night in any case, and therefore it goes forth to pasture. By the same reasoning, if the lost Passover-offering is found before midday, it is not regarded as having been lost, since it could not have been sacrificed before midday.

Talmud - Mas. Pesachim 97b

— In accordance with R. Oshaia. For R. Oshaia said: If he set apart two sin-offerings as security,[1] he is atoned for by one of them, while the second must be left to graze. Yet surely a Passover-offering in such a case is brought as a peace-offering?[2] — Rather, Samuel holds as R.

Simeon, who maintained: The five sin-offerings are left to die.[3] But surely R. Simeon does not hold at all that [any sin-offering] must be left to graze?[4] Samuel too stated one rule [only]: Whatever must be left to perish in the case of a sin-offering must be left to graze in the case of a Passover-offering. Then what does he inform us?[5] — [His purpose is] to rebut R. Johanan, who said: No Passover is brought as a peace-offering except if it is found after the slaughtering, but not [if it is found] before the slaughtering, which proves that [in his opinion] the slaughtering stamps [it as a rejected animal]; hence he [Samuel] informs us that midday stamps [it]. Another version: Whereas in the case of the Passover, where it is lost and found after midday [but] before the slaughtering [of the second], it is brought as a peace-offering?[6] — Samuel agrees with Rabbah, who maintained: The slaughtering stamps [it].[7] But surely, since R. Johanan said thereon: ‘No Passover-offering is brought as a peace-offering save when it is found after the slaughtering, but not [if it is found] before the slaughtering,’ which proves that [in his opinion] the slaughtering stamps [it], it follows that Samuel holds [that] midday stamps it?- Rather Samuel agrees with Rabbi, who ruled: A lost [sacrifice] goes forth to perish — But all lost [sacrifices] are left to perish, in Rabbi's opinion, whereas in the case of the Passover-offering, where it is lost before midday and found before midday it must be left to graze? — He holds that [if it is found] before midday it is not [regarded as] lost, and he also holds: Midday stamps [it].

MISHNAH. IF A MAN SETS ASIDE A FEMALE OR A TWO-YEAR OLD MALE FOR HIS PASSOVER-OFFERING,[8] IT MUST BE LEFT TO GRAZE UNTIL IT BECOMES UNFIT,[9] THEN BE SOLD, AND ITS MONEY IS SPENT[10] ON A VOLUNTARY SACRIFICE, ON A PEACE-OFFERING.[11]

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(1) Each as security for the other, in case the other is lost.

(2) For this is definitely a case where one is a remainder’, not a rejected sacrifice.

(3) v. supra 97a. Those die in all cases, this holding good of iv whether it was refound before atonement was made with the second or after. Similarly, if two are set aside as a security for each other, the unsacrificed one must die.

(4) How then can Samuel say’, whatever must be left to graze in the case of a sin-offering’?

(5) Since all sin-offerings must be left to die, it follows that Samuel teaches that all lost Passover-offerings are brought as peace-offerings. But this is already taught in the Mishnah, viz., IF THE PASSOVER-OFFERING IS FOUND AFTER THE SLAUGHTERING, IT IS BROUGHT AS A PEACE-OFFERING; this is explained supra as meaning after the time for slaughtering, i.e., after midday, which proves that if it is still lost at midday it is brought as a peace-offering.

(6) This is another version of the difficulty raised supra 97a: ‘But surely an animal which was lost at the time of separating another, in the view of the Rabbis goes to pasture, whereas in the case etc. (continuing as in the text).

(7) V. supra 96b. Hence if found before the second is slaughtered it goes to pasture.

(8) Both are ineligible; v. Ex. XII, 5. ‘A two-year old’ means in its second year.

(9) Through a blemish.

(10) Lit., ‘falls’.

(11) In the separate edition of the Mishnah ‘On a peace-offering’ is omitted, while Tosaf. in Zeb. 9b s.v. חד gives the reading as, ‘and he brings a peace-offering with its money’. — By separating it for a Passover-offering he has stamped it as such, and since it is unfit, it is regarded as a rejected sacrifice, which cannot be offered itself but must be redeemed and the money expended on a sacrifice. Cf. Mishnah on 96b and n. 6 a.l.

Talmud - Mas. Pesachim 98a

IF A MAN SEPARATES HIS PASSOVER-OFFERING AND DIES, HIS SON AFTER HIM MUST NOT BRING IT AS A PASSOVER-OFFERING[1] BUT AS A PEACE-OFFERING.

GEMARA. R.Huna son of R.Joshua said, This proves three things: [i] Live animals may be [permanently] rejected;[2] [ii] that which is rejected [even] ab initio is rejected;[3] and [iii] rejection is applicable to monetary sanctity.[4]

IF A MAN SEPARATES HIS PASSOVER-OFFERING etc. Our Rabbis taught: If a man separates his Passover-offering and dies, — If his son is registered with him, he must bring it as a Passover-offering; [if] his son is not registered with him, he must bring it as a peace-offering on the sixteenth [of Nisan].[5] Only on the sixteenth, but not on the fifteenth: he holds, Vows and voluntary offerings[6] may not be offered on a Festival.

Now when did the father die? Shall we say that he died before midday [then how is it stated], 'if his son is registered with him he must bring it as a peace-offering'? — But surely aninuth [bereavement] has previously fallen upon him![7] Again, if he died after midday, '[if] his son is not registered with him, he must bring it as a peace-offering'?-But midday has stamped it?[8] Said Rabbah: In truth it is meant where he died before midday, and what does 'he must bring it as a Passover-offering' mean? He must bring it for the second Passover.[9] Abaye said, It is taught disjunctively: If he died after midday, [and] his son is registered with him, he must bring it for the sake of a Passover. If he died before midday, [and] his son is not registered with him, he must bring it as a peace-offering. R. Sherabia said: In truth it means where he died after midday, the case being e.g., where his father was in a dying condition at midday.[10] R. Ashi said: In truth it means that he died after midday,[11] this being in accordance with R. Simeon, who maintained: Live animals cannot be [permanently] rejected.[12] Rabina said: [It means] e.g., where he set it aside after midday and its owner died after midday, and he holds: [only] midday establishes it .[13]

MISHNAH. IF A PASSOVER-OFFERING BECAME MIXED UP WITH OTHER SACRIFICES, ALL MUST BE LEFT TO GRAZE UNTIL THEY BECOME UNFIT [THROUGH A BLEMISH], THEN BE SOLD, AND FOR THE PRICE OF THE BEST ONE MUST PURCHASE [AN ANIMAL] OF EACH DENOMINATION, AND MAKE UP[14] THE EXCESS FROM ONE'S PRIVATE PURSE.[15] IF IT BECAME MIXED UP WITH FIRSTLINGS,[16] -R. SIMEON SAID: IF [THE PASSOVER-OFFERING BELONGED TO] A COMPANY OF PRIESTS, THEY EAT [ALL ON THAT NIGHT].[17]

GEMARA.

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(1) As now there are none registered for it.

(2) As here: the animal being rejected from its original purpose, viz., a Passover-offering, it remains ineligible even for a peace-offering, for which it is fit, but must graze. There is an opposing view in Yoma 63b, and quoted infra, that only a dead animal can be rejected permanently.

(3) This animal was not eligible for its purpose from the very outset. There is an opposing view in Suk. 33b that an animal can be permanently rejected only if it was originally eligible.

(4) Since this animal is unfit for a Passover-offering, it was sanctified from the very outset only for its value, viz., that its redemption money should be expended on a sacrifice. Nevertheless it becomes permanently ineligible for the altar.

(5) I.e., on the first of the Intermediate Days.

(6) P. 288, n. 3.

(7) Before the obligation of the Passover, which commences at midday. It is stated supra 91a that the Passover must not be sacrificed on behalf of an onen (v. Glos.) by himself, whereas the present passage implies that he brings it himself, even when he is not registered with others.

(8) As a Passover, and since it cannot be sacrificed as such it remains rejected and cannot be offered itself, as supra 96b ff.

(9) If he did not keep the first through his bereavement.

(10) Hence if his son was registered with him, he must bring it as a Passover, since that obligation preceded his bereavement. But if his son was not registered with him, he must bring it as a peace-offering, for since his father was already in a dying condition, midday did not establish it as a Passover-offering.

(11) But was not necessarily dying at midday.

(12) Save when they become actually unfit, e.g.,if they receive a blemish or are given as a harlot's hire (v. Deut. XXIII, 19).

(13) But not the rest of the time allotted for its slaughtering. Hence it has not been established and therefore it cannot be rejected. Consequently, if his son was not registered with him, he must bring it as a peace-offering.
(14) Lit., 'lose'.
(15) Lit., 'house'. Thus: if three lambs of unequal value, one dedicated for a Passover-offering, another for a guilt-offering, and the third for a burnt-offering, became mixed up, they must all be sold. Since the best may have been any of the three sacrifices, he must buy an animal for each sacrifice at the cost of the best; naturally he will need more than they realized, and he must make that up himself.-Instead of 'he must lose' there is a variant: 'and he must set aside'.
(16) Which are offered in the same way as Passover-offerings, viz., the blood of both is sprinkled in the same way, and neither require the waving of the breast and shoulder, nor laying of the hands, nor libations.
(17) Stipulating at the time of slaughtering: 'Whichever is the Passover-offering, we sacrifice it as such, and whichever is the firstling, we offer it as such'.

Talmud - Mas. Pesachim 98b

But he brings sacrifices to the place of unfitness?[1] -R. Simeon is consistent with his view, for he maintains: One may bring sacrifices to the place of unfitness.[2] For we learned: If a guilt-offering was mixed up with a peace-offering, — R. Simeon said: They must be slaughtered at the north [side of the altar][3] and eaten in accordance with [the laws of] the more stringent of them.[4] Said they to him: One may not bring sacrifices to the place of unfitness.[5]

Now according to the Rabbis, what do we do?[6] -Said Raba: We wait until they receive a blemish. Then he brings a choice animal and declares: 'Wherever the Passover-offering may be,[7] let it[s sanctity] be transferred to this one,'[8] and he eats them In accordance with the laws of a blemished firstling.[9]

MISHNAH. IF A COMPANY LOST THEIR PASCHAL SACRIFICE AND INSTRUCTED ONE [OF THEIR NUMBER], 'GO AND SEEK IT, AND SLAUGHTER IT ON OUR BEHALF'; AND HE WENT, FOUND, AND SLAUGHTERED IT, WHILE THEY [Also] TOOK AN ANIMAL AND SLAUGHTERED [IT]: IF HIS WAS SLAUGHTERED FIRST, HE EATS OF HIS AND THEY EAT WITH HIM.[10] WHILE IF THEIRS WAS FIRST SLAUGHTERED, THEY EAT OF THEIRS,[11] WHILE HE EATS OF HIS.[12] BUT IF IT IS UNKNOWN WHICH OF THEM WAS FIRST SLAUGHTERED, OR IF THEY KILLED BOTH OF THEM AT THE SAME TIME, HE EATS OF HIS, BUT THEY MAY NOT EAT WITH HIM;[13] WHILE THEIRS GOES FORTH TO THE PLACE OF BURNING,[14] AND THEY ARE EXEMPT FROM KEEPING THE SECOND PASSOVER.[15]

IF HE SAID TO THEM, IF I DELAY, GO FORTH AND SLAUGHTER ON MY BEHALF,'[16] [AND] THEN HE WENT AND FOUND AND SLAUGHTERED [IT], WHILE THEY TOOK [ANOTHER] AND SLAUGHTERED [IT], IF THEIRS WAS SLAUGHTERED FIRST, THEY EAT OF THEIRS WHILE HE EATS WITH THEM.[17] WHILE IF HIS WAS SLAUGHTERED FIRST, HE EATS OF HIS[18] AND THEY EAT OF THEIRS.[19] But IF IT IS UNKNOWN WHICH OF THEM WAS SLAUGHTERED FIRST, OR IF THEY SLAUGHTERED BOTH OF THEM AT THE SAME TIME, THEY EAT OF THEIRS, BUT HE MAY NOT EAT WITH THEM, WHILE HIS OWN GOES FORTH TO THE PLACE OF BURNING, AND HE IS EXEMPT FROM KEEPING THE SECOND PASSOVER.[20]

IF HE INSTRUCTED THEM, AND THEY INSTRUCTED HIM,[21] THEY MUST ALL EAT OF THE FIRST [TO BE SLAUGHTERED],[22] AND IF IT IS UNKNOWN WHICH OF THEM WAS SLAUGHTERED FIRST, BOTH GO FORTH TO THE PLACE OF BURNING.[23]

IF HE DID NOT INSTRUCT THEM AND THEY DID NOT INSTRUCT HIM,[24] THEY ARE NOT RESPONSIBLE FOR EACH OTHER.[25]

IF THE PASCHAL SACRIFICES OF TWO COMPANIES BECOME MIXED UP, THESE TAKE POSSESSION OF ONE [ANIMAL] AND THOSE TAKE POSSESSION OF ONE. ONE MEMBER OF THESE JOINS THOSE, AND ONE MEMBER OF THOSE JOINS THESE, AND THEY DECLARE THUS:[26] IF THIS PASCHAL SACRIFICE IS OURS, YOUR HANDS ARE WITHDRAWN FROM YOUR OWN AND YOU ARE REGISTERED FOR OURS; WHILE IF THIS PASCHAL SACRIFICE IS YOURS,[27] OUR HANDS ARE WITHDRAWN FROM OURS AND WE ARE REGISTERED FOR YOURS.[28] SIMILARLY, IF THERE ARE FIVE COMPANIES CONSISTING OF FIVE MEMBERS EACH OR OF TEN EACH, THEY DRAW ONE FROM EACH COMPANY TO THEMSELVES AND MAKE THE FOREGOING DECLARATION.[29]

IF THE PASCHAL SACRIFICES BELONGING TO TWO [SINGLE INDIVIDUALS] BECOME MIXED UP, EACH TAKES POSSESSION OF ONE [ANIMAL]; THIS ONE REGISTERS A STRANGER[30] WITH HIMSELF AND THAT ONE REGISTERS A STRANGER WITH HIMSELF.[31] THE FORMER GOES OVER TO THE LATTER SACRIFICE AND THE LATTER GOES OVER TO THE FORMER SACRIFICE, AND THEY [I.E., EACH OWNER] DECLARE THUS: IF THIS PASCHAL SACRIFICE IS MINE, YOUR HANDS ARE WITHDRAWN FROM YOUR OWN AND YOU ARE REGISTERED FOR MINE; WHILE IF THIS PASCHAL SACRIFICE IS YOURS, MY HANDS ARE WITHDRAWN FROM MINE AND I AM REGISTERED FOR YOURS.'[32]

GEMARA. Our Rabbis taught: if he instructed them and they instructed him, they must [all] eat of the first. If he did not instruct them and they did not instruct him, they are not responsible for each other.[33]

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(1) This difficulty arises on R. Simeon's ruling. A firstling may be eaten two days and the night in between, whereas the Passover-offering may be eaten only on the first night. Thus if it is not eaten by morning he must burn it as nothar (v. Glos.), whereas it is actually still fit.

(2) In such a case, rather than let them graze until they receive a blemish, which is the only alternative.

(3) The side prescribed for the slaughtering of a guilt-offering. Peace-offerings could be slaughtered on any side of the Temple Court.

(4) I.e., as guilt-offerings, viz., during one day and a night only, within the Temple precincts, and by male priests.-A peace-offering is eaten two days and one night, anywhere in Jerusalem, and by Israelites as well as priests.

(5) But they must be left to graze until blemished.

(6) When a Passover-offering is mixed up with a firstling. When it is mixed up with a burnt-offering or guilt-offering, or when a peace-offering is mixed up with a guilt-offering, the expedient stated in the Mishnah is possible. But a firstling, even when blemished, can not be redeemed in the sense that it becomes hullin but must be eaten by a priest with its blemish; while on the other hand when a Passover-offering receives a blemish, it must be redeemed and may not be eaten otherwise.

(7) I.e., whichever of these two animals is the Passover.

(8) Thus whichever is the Passover-offering is redeemed.

(9) These are: it may not be slaughtered or sold in the ordinary abattoir, nor weighed with the ordinary weights. These restrictions do not apply to a redeemed Passover-offering, and would not apply here if he knew which it was.

(10) By instructing him to slaughter it on their behalf they become registered for his and cannot register for another after the first was slaughtered. Hence their own is unfit and must be burnt.

(11) By slaughtering their own first they ipso facto cancelled their registration for the original, which is permissible, v. supra 89a.

(12) But not of theirs, since he had not registered with them.

(13) Lest their own was slaughtered first, whereby they had cancelled their registration for his.

(14) For his may have been killed first; v. n. 4.

(15) Because they were certainly registered for one animal at the first Passover, while the eating is not indispensable.

(16) But they did not instruct him to slaughter the lost animal on their behalf.

(17) While his own must be burnt, for according to his instructions he was now registered for theirs; hence his is unfit, having none registered for it.

(18) Cf. p. 528, n. 5.

(19) For they were not registered for his, since they had not instructed him to slaughter it on their behalf.

(20) Cf. p. 528, n. 9.

(21) He instructed them to slaughter on his behalf if he delayed, and they instructed him to slaughter on their behalf if he found the lost animal.

(22) For which they are all automatically registered now.

(23) Each must thus go forth lest it was slaughtered last and had none registered for it.

(24) To slaughter on each other's behalf.

(25) Each party eats of its own, whatever the order of their slaughtering.

(26) Each company declares thus to the newcomer.

(27) I.e., it belongs to your first company.

(28) One of each company must join the other, for otherwise each company would have to withdraw en masse from their own, if it had been taken by the second, thus leaving it momentarily entirely without owners, and this is forbidden.

(29) Each company consists of four new members and one original member. The latter (or all the original members, where each company consisted of more than five) makes the foregoing declaration to each new member in turn.

(30) Lit., ‘a man from the street’.

(31) Thus there are now two registered persons for each sacrifice.

(32) The general reasoning is the same as in the previous cases.

(33) Thus in the first case one animal must be destroyed, whatever happens, while in the second both are eaten.

Talmud - Mas. Pesachim 99a

Hence the Sages said: Silence is better for the wise, and how much more so for fools, as it is said, Even a fool, when he holdeth his peace, is counted wise.[1] IF THE PASCHAL SACRIFICES BELONGING TO TWO [SINGLE

PERSONS] BECOME MIXED UP etc. Shall we say that our Mishnah does not agree with R. Judah? For it was taught: And if the household be too little for a lamb:[2] this teaches that they may go on decreasing [their numbers] ,[3] providing, however, that one of them remains:[4] this is R. Judah's view. R. Jose said: Providing that they do not leave the Paschal sacrifice as it is![5] — Said R. Johanan: You may even say [that it agrees with] R. Judah. Since R. Judah said, One may not slaughter the Passover-offering for a single person, then from the outset he stood to register another with himself, and he [the newly-registered person] is accounted as one of the [original] members of the company. R. Ashi said: Our Mishnah too proves this, for it teaches, SIMILARLY, IF THERE ARE FIVE COMPANIES CONSISTING OF FIVE MEMBERS EACH: thus,only of five [each], but not [if some consist] of five and [others of] four;

is not[the reason] because one of the [original] members of the company does not remain with it?[6] This proves it.

CHAPTER X

MISHNAH.

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(1) Prov. XVII, 28.

(2) Ex. XII, 4.

(3) V. supra p.474, n. 3.

(4) For ‘if it be too few’ implies that someone at least is registered for it.

(5) Without owners. Now R. Judah must mean that one of the persons who originally registered for it, when the animal was first set aside for a Passover-offering, must remain registered for it, while in R. Jose's opinion it is sufficient that someone remains, even if he is not of those who originally registered for it. For if R. Judah's view Is not as stated, it does not differ in any way from R. Jose's. But in the Mishnah, when A, the only original owner of one of the sacrifices, declares, ‘If this animal is not mine, I withdraw from the other and register for this’, the other is left without anyone who first registered for it, since A is the only original owner.

(6) If it consisted of less than five, and one joins each other's company. For if it were unnecessary for all original member to remain, the Mishnah could teach that whatever the number of original members, each company increases itself to five and then does as stated.

Talmud - Mas. Pesachim 99b

ON THE EVE OF PASSOVER[1] CLOSE TO MINHAH[2] A MAN MUST NOT EAT UNTIL NIGHTFALL. EVEN THE POOREST MAN IN ISRAEL MUST NOT EAT [ON THE NIGHT OF PASSOVER] UNTIL HE RECLINES;[3] AND THEY[4] SHOULD GIVE HIM NOT LESS THAN FOUR CUPS [OF WINE],[5] AND EVEN [IF HE RECEIVES RELIEF] FROM THE CHARITY PLATE.[6]

GEMARA. Why particularly THE EVE OF PASSOVER? Even the eves of Sabbaths and Festivals too [are subject to this law]? For it was taught: A man must not eat on the eves of Sabbaths and Festivals from minhah and onward, so that he may enter [i.e., commence] the Sabbath with an appetite [for food]: [these are] the words of R. Judah. R. Jose said: He may go on eating until nightfall! — Said R. Huna: This [our Mishnah] is necessary only on the view of R. Jose, who said: He may go on eating until nightfall: that is only on the eves of Sabbaths and [other] Festivals; but with respect to the eve of Passover he agrees [with R. Judah], because of the duty of [eating] unleavened bread.[7] R. Papa said: You may even say [that it must be taught on] R. Judah[‘s view too]: there, on the eve of Sabbaths and Festivals, it is forbidden only from minhah and after, but close to minhah it is permitted; whereas on the eve of Passover it is forbidden even close to minhah too. Now is it permitted just before minhah on the eve of the Sabbath and Festivals? Surely it was taught: A man must not eat on the eve of the Sabbath or Festivals from nine hours[8] and onwards, in order that he may enter the Sabbath with an appetite: [these are] the words of R. Judah. R. Jose said: He may go on eating until nightfall? — Said Mar Zutra: Who is to tell us that this is authentic?

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[1] **(1)** Lit., ‘on the eve of Passovers’. Tosaf. suggests that this may mean either on the eve when Passover-offerings are sacrificed, or on the eve of the first and second Passovers. But there is a variant reading ON THE EVES OF PASSOVER, the whole being in the plural; its meaning will then be on the eve of (every) Passover, as translated in the text, Heb. often using the plural in this way.

[2] **(2)** V. Glos.; i.e., from just before minhah.

[3] **(3)** As a sign of freedom, this being the practice in ancient days.

[4] **(4)** Rashbam and Tosaf.: the charity overseers.

[5] **(5)** Which every Jew must drink on the night of Passover. These correspond to the four expressions of redemption employed in Ex. VI, 6f: I will bring you out from under the burdens of the Egyptians, and I will deliver you from their bondage, and I will redeem you with an outstretched arm, and with great judgments; and I will take you to me for a people (commentaries and Jerusalemi).

[6] **(6)** Tamhuy, daily distributed food collected from contributors, soup kitchen (Jast.). This was available only to the poorest of the poor, for he who had enough even for two meals only might not receive from the tamhuy (Pe'ah VIII, 7); even such must drink four cups of wine on the night of Passover.

[7] **(7)** For since the eating of unleavened bread on the first night of Passover is compulsory (v. Ex. XII, 18) it is unfitting that should be eaten when one is already satisfied.

[8] **(8)** I.e., about three p.m., whereas minhah time was nine and a half hours, about half past three p.m., two and a half hours before nightfall.

Talmud - Mas. Pesachim 100a

Talmud - Mas. Pesachim 100a

Perhaps it is a corrupted version.[1] Said Meremar to him — others state, R. Yemar; I visited the session of R. Phineas the son of R. Ammi, and a tanna arose and recited it[2] before him and he accepted it [as correct]. If so, there is a difficulty? Hence it is clearly [to be explained] as R. Huna.[3]

Yet is it satisfactory according to R. Huna? Surely R. Jeremiah said in R. Johanan's name-others state, R. Abbahu said in the name of R. Jose b. R. Hanina — : The halachah is as R. Judah in respect to the eve of Passover, and the halachah is as R. Jose in respect to the eve of the Sabbath. ‘The halachah is as R. Judah in respect to the eve of Passover, whence it follows that R. Jose disagrees on both?[4] - No: ‘The halachah [etc.]’ proves that they disagree in respect to interruption. For it was taught: One must interrupt [the meal] for the Sabbath:[5] this is R. Judah's ruling. R. Jose said: One need not interrupt [the meal].[6] And it once happened that R. Simeon b. Gamaliel, R. Judah and R. Jose were dining[7] at Acco, when the day became holy upon them.[8] Said R. Simeon b. Gamaliel to R. Jose: ‘Berabbi,[9] is it your wish that we interrupt [our meal] and pay heed to the words of our colleague Judah?’ Said he to him: ‘Every [other] day you prefer my words to those of R. Judah, whereas now you prefer R. Judah's words in my very presence — "will he even force the queen before me in my house"?’[10] ‘If so,’ he rejoined, ‘we will not interrupt [the meal], lest the disciples see it and establish the halachah [thus] for all time.’[11] It was related: They did not stir thence until they had established the halachah as R. Jose.

Rab Judah said in Samuel's name: The halachah is neither as R. Judah[12] nor as R. Jose,[13] but one must spread a cloth[14] and sanctify [the day].[15] But that is not so, for R. Tahlifa b. Abdimi said in Samuel's name: Just as one must interrupt [the meal] for kiddush,

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(1) This Baraitha contradicts the previous one, and there is nothing to show that this is more correct, particularly as the latter agrees with the Mishnah as explained above.

(2) The second Baraitha: from nine hours.

(3) Hence ‘from minhah’ in the first Baraitha means just before nightfall, and thus the Mishnah and both Baraithas are in agreement.

(4) Whereas in R. Huna's view R. Jose agrees in respect of Passover eve.

(5) The Heb. is in the plural: Sabbaths. I.e., if one started eating before the Sabbath, he must interrupt the meal when the Sabbath commences, remove the table and recite grace (the table was generally removed before grace, v. Ber. 42a), then recite kiddush, the prayer of sanctification, and proceed as with a new meal. According to a version infra 100b, the table was removed before kiddush, which then preceded grace (Tosaf.).

(6) But he completes the meal, recites grace, and then kiddush. Now when R. Jeremiah states that the halachah is as R. Judah in respect to Passover eve, whence it follows that R. Jose disagrees there too, this disagreement is likewise in reference to interrupting the meal, R. Jose maintaining that even on the eve of Passover he need not interrupt it once he has commenced (i.e.,if he commenced at the permitted time — Rashbam and Tosaf). But he admits that a man must not commence a meal in the first place shortly before minhah, and that is the meaning of the Mishnah too.

(7) Lit., ‘reclining’.

(8) I.e., the Sabbath or festival commenced.

(9) A title of honour, v. Naz., Sonc. ed. p. 64, n. 1.

(10) Esth. VII, 8; i.e., will you shame me in my own presence?

(11) Lit., ‘for generations

(12) Who maintains that one must interrupt the meal, which implies that the table must be removed.

(13) Who ruled that no interruption whatsoever is required.

(14) Which hides the table so that it is not there, as it were.

(15) By reciting kiddush.

Talmud - Mas. Pesachim 100b

so must one interrupt it for habdalah.[1] Now what does ‘one must interrupt’ mean: surely by removing the table?[2] — No: by [spreading] a cloth. Rabbah b. R. Huna visited the Resh Galutha.[3] When a tray [with food] was placed before him, he spread a cloth and sanctified [the day].[4] It was taught likewise: And they both agree that[5] one must not bring the table[6] unless one has recited kiddush;[7] but if it was brought, a cloth is spread [over it][8] and kiddush is recited.[9]

One [Baraitha] taught: Both[10] agree that one must not commence;[11] while another taught: And both agree that one may commence. As to what was taught, 'and both agree that one must not commence, it is well: that holds good on the eve of Passover.[12] But as to the statement, 'And both agree that one may commence,' when [is that]? If we say, on the eve of the Sabbath, — but surely they differ? — There is no difficulty: here it means before nine [hours]; there, after nine [hours].[13]

As for people who have sanctified [the day] in the synagogue,[14] Rab said: They have not done their duty in respect of wine,[15] but they have done their duty in respect of kiddush.[16] But Samuel maintained:

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(1) V. Glos.

(2) Thus the mere spreading of a cloth is insufficient.

(3) Exilarch, the official head of Babylonian Jewry.

(4) It was at the beginning of the meal, the Sabbath having commenced.

(5) Rashbam is inclined to delete this phrase. If retained, it refers to R. Judah and R. Jose (Tosaf. and one alternative in Rashbam): though' they differ as to whether the meal must be interrupted, they agree where it has not yet begun.

(6) Small tables were set for each person separately; these were brought in for the meal and removed when It was finished.

(7) So that the table is then brought in honour of the Sabbath. Nevertheless it was laid before the Sabbath.

(8) Cf. p. 534, n. 9.

(9) This expedient is adopted nowadays that large tables are used, as it would be too troublesome to bring them in after kiddush.

(10) R. Judah and R. Jose, who disagree in respect of commencing a meal on the eve of the Sabbath just before minhah and also in respect of interrupting a meal at nightfall, if it was begun well before minhah.

(11) A meal from minhah and onwards.

(12) As R. Huna Supra 99b.

(13) There is no controversy in respect to the former.

(14) I.e., who have listened to the kiddush recited by the Reader.

(15) If they wish to drink wine at home, they must recite the benediction for wine. Even if they drank wine in the synagogue, over which a benediction had been recited, that does not exempt them, at home, for the change of place breaks the continuity and renders this drinking a new act.

(16) And as far as they are concerned they need not repeat the kiddush at home.

Talmud - Mas. Pesachim 101a

They have not done their duty in respect of kiddush either. Then according to Rab, why he [the Reader] recite kiddush at home? — In order to acquit his children and his household [of their duty]. And [according to] Samuel, why must he recite kiddush in the synagogue?[1] — In order to acquit travellers of their obligation, for they eat, drink, and sleep in the synagogue.[2] Now Samuel is consistent with his view, for Samuel said: Kiddush is [valid] only where the meal is eaten. From this it was understood [by the disciples] that only [to adjourn] from one house to another [is forbidden],[3] but [to adjourn] from one place to another in the same house is not [forbidden]. Said R. 'Anan b. Tahlifa to them: On many occasions I was standing before Samuel, when he descended from the roof to the ground and then recited [again] kiddush.[4]

Now R. Huna too holds that kiddush is [valid] only where the meal is eaten. For [on one occasion] R. Huna recited kiddush and [then] his lamp was upset, whereupon he carried his utensils into the marriage chamber [baldachin] of his son Rabbah, where a lamp was [burning] recited kiddush [again], and then ate something, which proves that he holds: kiddush is [valid] only where the meal is eaten.

Now Rabbah too holds: kiddish is [valid] only where the meal is eaten. For Abaye said: When I was at the Master's [sc. Rabbah's] house,[5] and he recited kiddush, he would say to us: ‘Eat a little [here], lest by the time you reach your lodgings your lamps become upset, and you do not recite kiddush in the house where you eat, while you will not have discharged [your duty] with the kiddush of this place, because kiddush is [valid] only where the meal is eaten. But that is not so, for surely Abaye said: In all matters the Master [sc. Rabbah] acted in accordance with Rab, except these three, where he did as Samuel: [viz.,] one may light from lamp to lamp;[6] one can detach [the fringes] from one garment for [insertion in] another garment;[7] and the halachah is as R. Simeon in respect to dragging. For it was taught, R. Simeon said: A man may drag a bed, seat, or bench,[8] providing that he does not intend to make a rut![9] — He acted upon Rab's stringent rulings,[10] but he did not act upon Rab's lenient rulings.

But R. Johanan maintained: They have done their duty in respect of wine too.[11] Now R. Johanan is consistent with his view, for R. Hanin b. Abaye said in the name of R. Pedath in R. Johanan's name: Both for a change of wine

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(1) Seeing that one's duty is not fulfilled thereby in any case.

(2) Not actually in the synagogue, but in adjoining rooms (Tosaf. on the basis of Meg. 28a). Hence the synagogue is like home to them.

(3) After kiddush, since the meal must be eaten in the same place.

(4) V. R. Hananel. Proving that you must not adjourn from one place to another even in the same house.

(5) Abaye was an orphan, and brought up in Rabbah's house.

(6) One may kindle one Hanukkah lamp from another.

(7) V. Num. XV, 38.

(8) Over an earthen floor on the Sabbath or festival.

(9) Though the dragging will possibly make one. — Why then does he rule as Samuel in respect to kiddush?

(10) That was the general rule stated by Abaye, the three exceptions all being leniencies, where he acted as Samuel.

(11) This refers back to 100b bottom. Having heard the benediction for wine in the synagogue, they do not repeat the benediction at home, for in R. Johanan's view their departure from the synagogue does not break the continuity, as they are regarded as having had their mind set upon the meal and the wine from when they heard kiddush.

Talmud - Mas. Pesachim 101b

and for a change of place, he need not recite the benediction [again].[1]

An objection is raised: [For] a change of place, he must recite the benediction [again]; for a change of wine, he need not recite the benediction [again]? This refutation of R. Johanan is [indeed] a refutation.

R. Idi b. Abin sat before R. Hisda, while R. Hisda sat and said in R. Huna's name: As to what you said, [for] a change of place he must recite the benediction [again], they taught this only [of a change] from one house to another, but not from one place to another place.[2] Said R. Idi b. Abin to him: We have learnt it thus in the Baraitha of the School of R. Henak — others state, in the School of Bar Henak — in accordance with your ruling. Does then R. Huna teach us a Baraitha?[3] — R. Huna had not heard the Baraitha.[4]

Furthermore, R. Hisda sat and said in his own name: As to what you said: For a change of place he must recite the benediction [again], we said this only of things which do not require a benediction after them in the same place;[5] but for the things which demand a blessing after them in the same place, he need not recite the benediction [again]. What is the reason? He [mentally] returns to the first appointed place.[6] But R. Shesheth maintained: Both for the one and the other he must recite the benediction [again].

An objection is raised: If the members of a company were reclining to drink, and they [precipitately] arose[7] to go out to welcome a bridegroom or a bride, when they go out, they do not need [to recite] a benediction beforehand;[8] when they return, they do not need [to recite] a benediction at the beginning.[9] When is that? If they left an old man or an invalid there;[10] but if they did not leave an old man or an invalid there, when they go out they need [to recite] a benediction beforehand, [and] when they return they need a benediction at the beginning. Now since he teaches, ‘they [precipitately] arose,’ it follows that we are treating of things which require a blessing after them in the same place,[11] and it is only because they left an old man or an invalid there that when they go out they do not need a benediction beforehand, and when they return they do not need a benediction at the beginning. But if they did not leave an old man or an invalid there, when they go out they need a blessing beforehand and when they return they need a blessing at the beginning: this is a difficulty according to R. Hisda?-Said R. Nahman b. Isaac:

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(1) If a man recites a blessing for wine and drinks, and the more wine is brought from a different barrel, even if the second is of a different quality, he does not repeat the blessing; similarly, if he recites a blessing over food or drink and then continues his meal elsewhere. Hence the same applies here. — Where a man need not recite a blessing, he may not recite, as a blessing must not be recited where there is no obligation.

(2) In the same house, e.g., from one room to another.

(3) Surely it is superfluous!

(4) Rashbam deletes both the question and the answer, as it is quite usual for an amora to state what is taught in the Baraitha.

(5) Where they are eaten, Rashbam: sc. water or fruit. After everything else, however, (i.e., wine, the seven species enumerated in Deut. VIII, 8, bread, and the five species of grain enumerated in the Mishnah Supra 35a) a blessing in the nature of grace must be recited where it is consumed. Tosaf.: after everything except bread and perhaps also the five species of grain a blessing need not be recited where they are eaten.

(6) Since these things must be followed by a blessing in the place where they are consumed, even when he changes his place he keeps the first in mind, so that his eating in both places should be as one act of eating, the subsequent blessing being for what he ate in both. Consequently, he does not recite a blessing before eating in the second place either.

(7) Lit., ‘detached their feet’.

(8) I.e., the blessing after wine, since it is their Intention to return.

(9) When they drink afresh.

(10) Which assures that their departure is only an interruption.

(11) ‘They detached their feet’ implies that they hurried, on account of the bridegroom or bride, but otherwise they would have remained there, in order to recite the benediction before leaving. — According to Tosaf. (p. 538, n. 3) ‘to drink must be omitted from the Baraitha, since in their view no beverage, not even wine, is subject to this rule.

Talmud - Mas. Pesachim 102a

Which Tanna [rules thus on precipitate] rising? R. Judah. For it was taught: If companions were reclining, and they [precipitately] arose to go to the synagogue or to the Beth Hamidrash, when they go out they do not need a blessing beforehand, and when they return they do not need a blessing at the beginning. Said R. Judah: When is that said? When they left some of their companions behind. But if they did not leave some of their companions behind, when they go out they need a blessing beforehand, and when they return they need a blessing at the beginning.

Then [make an opposite deduction]: it is only because they are things which need a blessing in the same place that when they go out they do not need a blessing beforehand and when they return they do not need a blessing at the beginning. But for things which do not need a blessing in the same place, even on the view of the Rabbis, when they go out they need a blessing beforehand and when they return they need a blessing at the beginning: shall we say that this is a refutation of R. Johanan[‘s ruling]?[1] — But have we not [already] refuted him once? Shall we [then] say that from this too there is a refutation?-[No:] R. Johanan can answer you: The same law holds good that even for things which do not require a blessing after them in the same place it is unnecessary to recite a blessing [afresh], but as to why he teaches, ‘They [precipitately] arose,’ that is to inform you the extent[2] of R. Judah[‘s view], [viz.,] that even for things which require a blessing after them in the same place, it is only because they left some companions behind [that these additional blessings are not recited]; but if they did not leave some companions behind, when they go out they need a blessing beforehand, and when they return they need a blessing at the beginning.

It was taught in accordance with R. Hisda: If companions were reclining to drink wine and they arose [departed] and returned, they need not recite a blessing [anew].[3]

Our Rabbis taught: If members of a company were reclining when the day became holy upon them,[4] a cup of wine is brought to one of them and he recites over it the sanctity of the day [i.e., kiddush], and a second [cup is brought] over which he recites the Grace after meals:[5] these are the words of R. Judah. R. Jose said: he goes on eating until nightfall.[6]

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[1] **(1)** V. supra 101b top that for a change of place no fresh blessing is required under any circumstances.

[2] **(2)** Lit., ‘strength’.

[3] **(3)** V. supra p. 538, n. 3. According to Rashbam the proof is obvious. On the view of Tosaf. ‘to drink wine’ must be deleted, the reference being to bread or the five pieces of grain.

[4] **(4)** I.e., the sun set ushering in the Sabbath or Festival.

[5] **(5)** Immediately, without waiting to finish the meal. Nevertheless, since the Sabbath has commenced, he must first recite the kiddush and then Grace. Hence if he wishes to eat more after Grace, he must begin a new meal.

[6] **(6)** He need not interrupt his meal but may continue until the end.

Talmud - Mas. Pesachim 102b

When they finish [their meal], he recites the Grace after meals over the first cup and the sanctity of the day over the second. Yet why so: let us recite both over one cup?[1] — Said R. Huna in R. Shesheth's name: One may not recite two sanctities over the same cup.[2] What is the reason? Said R. Nahman b. Isaac: Because you may not perform religious duties in wholesale fashion.[3] Yet [may you] not? Surely it was taught: He who enters his house at the termination of the Sabbath, recites blessings over the wine, the light and the spices,[4] and then recites habdalah over the cup [of wine].[5] But if he has one cup only, he leaves it until after the meal[6] and he recites them all together after it?[7] — Where he has not [enough,] it is different. But on the Festival which falls after the Sabbath, though he has [wine] ,[8] yet Rab said: [The order is] Yaknah.[9] — I will tell you: Since he [Rab] did not include ‘the season’ [zeman],[10] it follows that we are discussing the seventh day of Passover,[11] by which time he has consumed all that he had and has one more. But on the first day of the Festival he has [wine], yet Abaye said: [The order is] Yakzanah; while Raba said: [The order is] Yaknehaz?[12] — But habdalah and kiddush constitute one observance],[13] [whereas] the Grace after meals and kiddush are two [distinct observances].

[To turn to] the [main] text: When a Festival falls after the Sabbath, Rab said: [The order is] Yaknah;[14] Samuel said: [The order is] Yanhak;[15]

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[1] **(1)** The difficulty is on R. Jose's view only. But on R. Judah's, since the meal must be interrupted and the table removed, it is natural that two separate cups should be required for kiddush and Grace.

[2] **(2)** Grace is here designated a ‘sanctity’: i.e., Grace and kiddush are two distinct religious duties, and therefore they

require separate cups.

(3) Lit. , ‘bundles’. I.e. , each requires separate attention.

(4) As is done at the termination of the Sabbath. Kiddush and habdalah are both recited over wine; a blessing is pronounced over light because it is then that light was created, v. Supra 54a; spices are inhaled on the termination of the Sabbath to compensate for the loss of the superior (‘additional’) soul with which man is endowed on the Sabbath, Rashbam and Tosaf. a.l. and in Bez. 33b.

(5) Habdalah, being longer, is left to the last.

(6) Or perhaps, ‘until after grace’, מזון being elliptical for ברכת המזון .

(7) Lit., ‘he chains them together after it’. Thus two religious acts are combined.

(8) This is assumed to refer to the first evening of Passover, when, as stated supra 99b, even the poorest man was provided with four cups of wine.

(9) This is a mnemonic: Y == Yayin (wine); K == kiddush; N == Ner (light, i.e., a blessing over light); and H == Habdalah thus kiddush and habdalah are both recited over the same cup.

(10) The benediction ‘who hast kept us alive and preserved us and enabled us to reach this season’. This is recited on the first night (in the Diaspora on the first two nights) of every Festival, as well is in certain other occasions.

(11) Kiddush must be recited then too, as it follows the Intermediate Days, which are only semi-sacred; v. p. 16, n. 4; again, if it follows the Sabbath, Habdalah also is recited.

(12) V.n. 6. Z == zeman (‘season’).

(13) Both being recited on account of the sanctity of the Festival,to which reference is made even in the habdalah

(14) Wine is first, in accordance with Beth Hillel's view in Ber. 51b that since wine is more constant it takes precedence. Kiddush precedes habdalah because it is regarded as more important; also, if he recited habdalah first, it might appear that the Sabbath were a burden to him, which he desired to end at the earliest possible moment. After kiddush the order is NH (‘light’ and habdalah), this being the usual order at the conclusion of the Sabbath.

(15) Samuel gives precedence to habdalah over kiddush; the reason is stated infra 103a in the illustration on the ruling of R. Joshua b. Hananiah.

Talmud - Mas. Pesachim 103a

Rabbah said: Yahnak;[1] Levi said: Kanyah;[2] the Rabbis said: Kiynah;[3] ‘ Mar the son of Rabina said: Nakyah;[4] Martha said in R. Joshua's name: Niyhak.[5]

Samuel's father sent to Rabbi: Let our Master teach us what is the order of habdaloth.[6] He sent [back] to him: Thus did R. Ishmael b. R. Jose say, speaking in the name of his father who said it on the authority of R. Joshua b. Hananiah: [The order is] Nahiyk.[7] R. Hanina said: R. Joshua b. Hananiah's [ruling] may be compared to a king who departs [from a place] and governor who enters: [first] you escort the king [out], and then you go forth to greet the governor.[8] What is our decision thereon? — Abaye said: [The order is] Yakaznah;[9] while Raba maintained: Yaknehaz.[10] And the law is as Raba.

R. Huna b. Judah visited Raba's home. Light and spices were brought before them, [whereupon] Raba recited a blessing over the spices first and then one over the light. Said he to him: But both Beth Shammai and Beth Hillel [agree that] light comes first and then spices? And to what is this [allusion]?For we learned: Beth Shammai maintain. Light and Grace [after meals], spices and habdalah;[11] while Beth Hillel rule: Light and spices, Grace and habdalah![12] Thereat Raba answered: These are the words of R. Meir; but R. Judah said: Beth Shammai and Beth Hillel did not differ about Grace, [agreeing] that it comes at the beginning and about habdalah, that it comes at the end. About what do they differ? About light and spices. Beth Shammai maintain: Light [first] and then spices; while Beth Hillel rule: Spices [first] and then light; and R. Johanan said [thereon]: The people act in accordance with Beth Hillel as interpreted by R. Judah.

R. Jacob b. Abba visited Raba's home. He saw him recite the blessings ‘who createst the fruit of the vine over the first cup, and then he recited a blessing over the cup of Grace[13] and drank it. Said he to him: ‘Why do you need all this? Surely, sir, you have [already] recited a blessing for us once?’ ‘When we were at the Resh Galutha's[14] we did thus,’ replied he. ‘It is well that we did this at the Resh Galutha's,’ said he, ‘because there was a doubt whether they would bring us [more wine] or they would not bring us [more].[15] But here, surely the [second] cup stands before us and we have it in mind?’ ‘I acted in accordance with Rab's disciples ‘ he replied. For R. Beruna and R. Hananel, disciples of Rab, were sitting at a meal,

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(1) He agrees with Rab that Ner (light) interposes between kiddush and habdalah, because it is illogical to recite them consecutively, since they are mutually contradictory, as it were, kiddush declaring that the day is sacred, whereas habdalah declares that it is not as sacred as the Sabbath. He also agrees with Samuel that habdalah comes before kiddush, and he places wine (Yayin) at the head of all, for the reason stated on p. 541, n. 10.

(2) He too puts kiddush before habdalah, but holds that if wine is put at the beginning, the interval between it and habdalah will be so great that it may appear that the habdalah is not being recited over wine, which is essential. But kiddush need not be in immediate proximity to the wine, since it may be recited over bread too. For that reason too Ner (light) precedes the wine, so that the latter may be nearer to habdalah than to kiddush. — Rashbam transposes these last two views, mainly on the basis of J.T.

(3) They too place kiddush before habdalah. Hence we commence with kiddush, and then recite habdalah in its usual order, which is yayin (wine), Ner (light) and habdalah.

(4) He too places kiddush before habdalah, and also holds that wine must come near habdalah. But just as Ner generally precedes habdalah, because he enjoys the light first, so must it precede kiddush. Again, it cannot be recited between wine and habdalah, so that the wine should precede it, in accordance with the usual practice, because that would cause an interruption between the wine and the habdalah.

(5) He places habdalah before kiddush for the reason stated anon. He then puts wine before habdalah, for since that is immediately followed by kiddush, the wine is accounted for both, which is as it should be. For both kiddush and habdalah should be recited over wine in the first place, though the former is permitted over bread where wine is not available. Again, he puts wine before habdalah and kiddush instead of between them, since wine generally precedes. Furthermore, since Ner generally precedes habdalah, for the reason stated in the last note, it must now come at the very beginning.

(6) The pl. of habdalah employed generically.

(7) V. preceding note. He however places wine between habdalah and kiddush, so that it should really be near to both.

(8) The Sabbath, whose sanctity is greater, is the king; the Festival is the governor. Hence we first bid farewell to the Sabbath with habdalah and then welcome the Festival with kiddush.

(9) Yayin (wine), Kiddush, Zeman (season), Ner (light) and Habdalah.

(10) Yayin, Kiddush, Ner, Habdalah, and Zeman.

(11) This order is followed at the conclusion of the Sabbath if there is sufficient for one cup only.

(12) V. Ber. 51b.

(13) He recited Grace after meals over a second cup, and after Grace he recited the blessing for wine over it. — This is the present practice.

(14) V. Glos.

(15) Hence when we recited a blessing over the first cup we did not think of a second, which therefore constituted a fresh act of drinking, and so the blessing had to be repeated.

Talmud - Mas. Pesachim 103b

[and] R. Yeba Saba[1] waited on them. Said they to him, ‘Give us [wine] and we will say Grace.’ Subsequently[2] they said, ‘Give us [wine] and we will drink.’[3] Said he to them, ‘Thus did Rab say: Once you have said, "Give us [wine] and we will say Grace, It is forbidden to you to drink.[4] What is the reason? Because you let it pass out of your minds.’[5]

Amemar and Mar Zutra and R. Ashi were sitting at a meal and R. Aha the son of Raba waited on them. Amemar recited a separate blessing for each cup; Mar Zutra recited a blessing over the first cup and over the last cup;[6] [but] R. Ashi recited a blessing over the first cup and no more. Said R.

Aha b. Raba to them: in accordance with whom are we to act?-Amemar replied: I made a [fresh] decision [each time] .[7] Mar Zutra replied: I acted in accordance with Rab's disciples. But R. Ashi maintained: The law is not as Rab's disciples for surely when a Festival falls after the Sabbath, Rab ruled: [The order is] Yaknah.[8] But that is not so: there[9] he had detached his mind from drinking;[10] [whereas] here he had not detached his mind from drinking.

When he came to perform habdalah,[11] his attendant arose and kindled a torch at a lamp.[12] Said he to him, ‘Why take all this trouble? Surely the lamp is standing before us!’[13] ‘My servant has acted of his own accord,’ replied he. ‘Had he not heard it thus from you,’[14] he retorted, ‘he would not have done it.’ Said he to him: ‘Do you then not hold, [To employ] a torch for habdalah is the best way of performing the precept?’

Then he commenced [habdalah] and recited: ‘He who makes a distinction between holy and non-holy, between light and darkness, between Israel and the nations, between the seventh day and the six working days.’ Said he to him: ‘Why do you need all this? Surely Rab Judah said in Rab's name: “He who makes a distinction between holy and non-holy," was the formula of habdalah as recited by R. Judah ha-Nasi?’ ‘I hold with the following,’ answered he. ‘For R. Eleazar said in R. Oshaia's name: He who would recite but few [distinctions] must recite not less than three; while he who would add, must not add beyond seven.[15] Said he to him:

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(1) The elder; or, aged.

(2) Before reciting Grace.

(3) They changed their mind and did not wish to recite Grace yet.

(4) Until after grace.

(5) This proves that Grace constitutes an interruption, and so the blessing over the wine must be repeated after Grace; and Raba acted in accordance with this ruling.

(6) I.e., after Grace, as Raba did.

(7) After each cup I intended drinking, no more. Hence when I did drink another it was a new act of drinking, and so I repeated the blessing each time. Consequently my action does not involve a general ruling.

(8) V. supra p. 541, n. 10. Thus the benediction for wine is not recited twice, one on account of kiddush and again on account of habdalah. Hence the same applies to two cups in general.

(9) Where Rab ruled that once they had declared their intention of saying Grace they might not drink again without blessing.

(10) His decision to say Grace proved that.

(11) This is a continuation of the passage narrating .R. Jacob b. Aha's visit to Raba, which had been parenthetically interrupted by the somewhat similar story about Amemar and his companions. The meal in question took place toward the end of the Sabbath, and at the termination of the Sabbath Raba performed habdalah.

(12) For the blessing over light.

(13) Then let the blessing for light be said over the lamp itself.

(14) ‘The Master’.

(15) I.e., not less than three points of distinction and not more than seven must be recited in the habdalah.

Talmud - Mas. Pesachim 104a

‘But you said neither three nor seven?’[1]

‘It is true,’ answered he, ‘"between the seventh day and the six working days" is of the nature of the conclusion,[2] and Rab Judah said Samuel's name: He who recites habdalah must say [something] in the nature of the conclusion near to its conclusion. While the Pumbeditheans maintain: [He must say something] in the nature of the commencement just before its conclusion. Wherein do they differ?[3] — They differ in respect of a Festival which falls after the Sabbath [i.e., Sunday], when we conclude with ‘[Who makest a distinction] between holy and holy.’[4] On the view that something in the nature of the commencement [must be repeated] immediately before the conclusion, it will be unnecessary to say, ‘Thou didst make a distinction between the sanctity of the Sabbath and the sanctity of the Festival’;[5] but on the view that [a formula] in the nature of the conclusion [must be said] immediately before the conclusion, it is necessary to say, ‘Thou didst make a distinction between the sanctity of the Sabbath and the sanctity of the Festival.’

The [above] text [stated]: ‘R. Eleazer said in R. Oshaia's name: He who would recite but few [distinctions] must recite not less than three; while he who would add must not add beyond seven.’ An objection is raised: Habdalah is recited at the conclusion of the Sabbath, at the conclusion of Festivals, at the conclusion of the Day of Atonement, at the conclusion of the Sabbath [giving place] to a Festival, and at the conclusion of a Festival [giving place] to the Intermediary Days,[6] but not at the conclusion of a Festival [leading] to the Sabbath.’[7] He who is well-versed recites many [points of distinction], while he who is not well-versed recites one? — It is [dependent on] Tannaim. For R. Johanan said: The son of holy men recited one, but the people are accustomed to recite three.[8] Who is the son of holy men? — R. Menahem b. Simai; and why did they call him the son of holy men? Because he did not look at the effigy of a coin.[9] R. Samuel b. Idi sent [word] to him:[10] ‘My brother Hanania recites one.’ But the law does not agree with him. R. Joshua b. Levi said: he who recites habdalah must recite [formulas] in the nature of the distinctions mentioned in the Torah.[11] An objection is raised: What is the order of the distinctions [recited in the habdalah]? He recites, ‘Who makest a distinction between holy and profane, between light and darkness, between Israel and the nations, between the seventh day and the six working days, between unclean and clean, between the sea and dry land, between the upper waters and the nether waters, between Priests, Levites and Israelites’; and the concludes with the order of Creation.[12] Others say, with ‘he who formed the Creation.’ R. Jose b. R. Judah said: He concludes, ‘Who sanctifiest Israel.’ Now if this is correct, surely no distinction is mentioned [in the Torah] between the sea and the dry land?[13] — Delete ‘between the sea and the dry land’ from this. If so, [you must] also [delete] ‘between the seventh day and the six working days’?[14] — That corresponds to the conclusion,[15] Then there is one less’ so there are not seven?[16] -I will tell you: [who made a distinction between] Priests, Levites and Israelites is two formulas. between Levites and Israelites [is one], as it is written, At that time the lord made distinct the tribe of Levi.[17] Between Priests and Levites [is another], as It is written, The sons of Amram: Aaron and Moses; and Aaron was made distinct that he should be sanctified as most holy.[18]

How does he conclude it? — Rab said: ‘Who sanctifiest Israel.’ While Samuel said: ‘Who makest a distinction, between holy and non-holy,’ Abaye, — others state, R. Joseph — denounced[19] this [ruling] of Rab. It was taught in the name of R. Joshua b. Hanania: When one concludes, ‘Who sanctifiest Israel and makest a distinction between holy and non-holy,’ his days and years are prolonged.

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(1) But four.

(2) Habdalah ends with, ‘Blessed art thou, O Lord, who makest a division between holy and non-holy’. This phrase, ‘between the seventh day’ etc. is similar in meaning, and forms a natural bridge to the conclusion, as it were; hence it is not counted. — All benedictions commence with the formula, ‘Blessed art thou, O Lord, our God, King of the universe’; if lengthy, they conclude with the formula, ‘Blessed art thou, O Lord, who ‘etc. It is this latter formula which is referred to as the conclusion.

(3) Seeing that in most blessings the’ opening and the conclusion are similar in subject. Habdalah itself commences with ‘He who maketh a distinction between holy and non.holy’, while the passage preceding the conclusion is likewise ‘who makest a division between the seventh day (i.e., holy) and the six working days (non-holy)’.

(4) Since both are holy, save that the holiness of the Sabbath is greater.

(5) Since the opening phrase is ‘Who makest a distinction between holy and non-holy’.

(6) V. p. 16, n. 4. — Most of these phrases are in the plural in the original.

(7) thus habdalah is recited only to mark the passing of a day of higher sanctity than that which follows, but not the reverse.

(8) This ‘son of holy men was a Tanna, while the common practice was likewise based on the ruling of a Tanna. Thus we have a controversy of Tannaim.

(9) V. A.Z. 50a. ‘Son’ is probably used attributively, R. Menahem himself being holy (v. M.K. 25b on the effect of his death); nevertheless this mode of expression is employed because this father too was holy. — Tosaf.

(10) [It is not clear to whom this refers.]

(11) As explained anon.

(12) I.e., ‘Blessed art thou, O Lord, who settest the Creation in order’.

(13) I.e., no phrase with the express term ‘distinction

(14) For no phrase states that God made a ‘distinction’ between the seventh day etc.

(15) And is therefore not counted.

(16) Whereas the purpose of this Baraitha is to enumerate the seven formulas of distinction referred to above.

(17) Deut. X, 8.

(18) I Chron. XXIII, 13.

(19) Lit., ‘cursed’.

Talmud - Mas. Pesachim 104b

But the law is not as he.[1] ‘Ulla visited Pumbeditha. Said Rab Judah to R. Isaac his son, ‘Go and offer him a basket of fruit, and observe how he recites habdalah.[2] He did not go, [however, but] sent Abaye. When Abaye returned, he [R. Isaac] asked him, ‘What did he say [in the habdalah]?’ ‘Blessed is He who maketh a distinction between holy and profane,’ replied he, ‘and nothing else.’ When he came before his father he asked him, ‘How did he recite it?’ ‘I did not go myself,’ replied he, ‘[but] I sent Abaye, and he told me [that he recited] " ‘ . . who makest a distinction between holy and profane".’ Said he to him, ‘Your pride and your haughtiness are the cause that you are unable to state the law from his own mouth.’

An objection is raised: In all blessings you commence with ‘blessed [art Thou’] and conclude with ‘blessed [art Thou],’ except in the blessings over precepts,[3] the blessings over fruits,[4] a blessing immediately preceding[5] another, and the last blessing of the reading of the Shema’;[6] in some of these you commence with ‘Blessed’ but do not conclude with ‘Blessed’, while in others you conclude with ‘Blessed’ but do not commence with ‘Blessed’; and [in the blessing] ‘Who is good and doeth good [unto all]’[7] you commence with ‘Blessed’ but do not conclude with ‘Blessed’.[8] [

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(1) A double ending is not employed, and the law is as Samuel.

(2) Make this an excuse for staying with him, so that you observe him reciting habdalah.

(3) A blessing is recited before the fulfilment of every precept.

(4) I.e., which are recited before eating or drinking; ‘fruits’ is employed generically and includes such items as bread, water, vegetables etc.

(5) Lit., ‘near to’.

(6) The morning Shema’ (v. Glos.) is preceded by two long benedictions and followed by one; the evening Shema’ is followed by two.

(7) This is the third blessing (if the three which constitute Grace after Meals; v. Singer's Prayer Book pp. 280-285 for the whole, and p. 283 for the blessing immediately proceeding

(8) The blessings for precepts and fruits are generally short, and therefore ‘Blessed’ is not repeated at the conclusion. Blessings immediately ‘preceding others: e.g., those of the Amidah (the ‘Eighteen Benedictions’). As each ends with the formula, ‘Blessed art Thou, O Lord, who’ etc., the following does not commence with ‘Blessed’. Similarly, the blessing immediately preceding the Shema’ concludes with ‘Blessed’ etc., and the Shema’ together with the blessing which follows it is regarded as one long blessing; hence that too does not commence with ‘Blessed’. (That benediction itself ends with ‘Blessed art Thou’, etc.; hence the fourth one recited in the evening — v. n. 5 — which follows immediately after, likewise does not commence with ‘blessed’.) The third blessing of Grace after meals, though immediately following a conclusion containing the formula, ‘Blessed art Thou, O Lord’, etc., commence with ‘Blessed’, notwithstanding the above general rule, because it was instituted in memory of the Jews slain at Bethar in 135 C.E. which marked the ‘disastrous end of the Bar Cochba revolt; hence it was regarded as quite distinct and apart from the rest. It is indeed a lengthy benediction, but as much of it consists of synonyms for God it would be unfitting to repeat ‘Blessed art Thou’ in the conclusion.

Talmud - Mas. Pesachim 105a

Now this raises a difficulty according to ‘Ulla?[1] — ‘Ulla can answer you: This too is like a blessing for precepts. [For] what is the reason in the case of a blessing over precepts?[2] Because It is [mere] praise;[3] this too is praise.[4]

R. Hanania b. Shelemia and the disciples of Rab were sitting at a meal, and R. Hamnuna Saba[5] was waiting on them. Said they to him, ‘Go and see if the day has become holy,[6] in which case we will interrupt [the meal][7] and appoint it for the Sabbath.’[8] ‘You do not need it,’ he replied; ‘the Sabbath itself makes it an appointed [meal].[9] For Rab said: Just as the Sabbath makes [it an] appointed [meal] in respect of tithe,[10] so does the Sabbath make [it an] appointed [meal] in respect of kiddush.’[11] Now they understood from him: just as it makes [it an] appointed [meal] in respect of kiddush, so does it make [it an] appointed [meal] in respect of habdalah.[12] Said R. Amram to them, thus did Rab say: It makes [it an] appointed [meal] in respect of kiddush, but it does not make [it an] appointed [meal] in respect of habdalah.[13] But that is only in respect of interrupting [the meal], viz., that we do not interrupt [it]; we may not however commence [one].;[14] And even about interrupting we said this with respect to eating only, but not with respect to drinking.[15] And with respect to drinking too we said this only of wine and beer: but as for water, it does not matter.[16]

Now he differs from R. Huna. For R. Huna saw a certain man drinking water before habdalah, [whereupon] he observed to him Are you not afraid of choking?[17] For it was taught in R. Akiba's name: He who tastes anything before reciting habdalah shall die through choking.[18] The Rabbis of R. Ashi's academy were not particular about water.

Rabina asked R. Nahman b. Isaac: He who did not recite kiddush on the eve of the Sabbath,[19] can he proceed to recite kiddush at any time of the day?[20] — Said he to him: Since the sons of R. Hiyya said, he who did not recite habdalah at the termination of the Sabbath can proceed to recite habdalah the whole week, [it follows that] there too, he who did not recite kiddush on the eve of the Sabbath can proceed to recite kiddush at any time of the day. He raised an objection to him: On the nights of the Sabbath and on the nights of a Festival there is sanctification [kiddush] over the cup [of wine] and a reference [to the Sabbath or Festival] in the Grace after meals.[21] On the Sabbath and a Festival[22] there is no sanctification over a cup [of wine], but there is a reference in the Grace after meals. Now if you should think that he who did not recite kiddush on the eve of the Sabbath can proceed to recite kiddush the whole day, then on the Sabbath and festival [during the day] too there may be sanctification over the cup, ‘or if he did not recite kiddush in the evening, he recites kiddush on the morrow?-Said he to him: He [the Tanna] does not teach a case of ‘if’.

He raised an objection to him: [If a man must choose between] the honour of the day and the honour of the night,[23] the honour of the day takes precedence; and if he has only one cup [of wine], he recites

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(1) Why did he not conclude habdalah with blessed’ etc.?

(2) That we do not conclude with ‘blessed.’

(3) It contains nothing else, and is consequently short.

(4) To God, for having made a distinction between holy and profane, and it does not treat of any other subject.

(5) The aged, or the Elder.

(6) I.e. if the Sabbath has commenced.

(7) By removing the tables; v. supra p. 533, n. 7.

(8) By removing the table and then bringing it back the meal would be specially appointed as being one account of the Sabbath. (Three meals must be eaten on the Sabbath, and probably they wished to signify that this, though started before, should count as one.)

(9) Since you must pause to recite kiddush, that itself gives it the character of an appointed meal for the Sabbath.

(10) A man may make a light meal, but not a full (‘appointed’) meal of untithed produce before it is completely ready and subject to tithe. (Produce is not subject to tithe until it has been harvested, threshed and carried in through the front of the house, v. B.M., Sonc. ed. p. 507f.) But the Sabbath, confers upon every meal, even if light, the character of a full, appointed meal, so that untithed produce is then forbidden.

(11) Nothing whatsoever may be eaten before kiddush; thus we see that the Sabbath automatically makes it a Sabbath meal.

(12) One must not eat at the conclusion of the Sabbath before habdalah. They understood that if a man commences during the day, the conclusion of the Sabbath automatically renders what follows an appointed meal, which is forbidden before habdalah, hence habdalah must be recited in the middle of the meal.

(13) For having commenced the meal on the Sabbath, he honours the Sabbath by concluding it without interruption, even if it continues beyond nightfall.

(14) Even a light meal before habdalah.

(15) Drinking must be interrupted for habdalah.

(16) Drinking water is of such slight consequence that it is permitted before habdalah. Drinking wine and beer however, occupies an intermediate position: it is sufficiently unimportant to be interrupted for habdalah, but too important to start after nightfall before habdalah.

(17) This was a rebuke.

(18) Through being unable to catch his breath.

(19) I.e., at the very commencement of the Sabbath’ immediately after nightfall. Perhaps the phrase, eve of the Sabbath’ indicates that the kiddush was slightly advanced, so as to avert the possibility of commencing the Sabbath too late; cf. O.H. 271, 1 and אברהם מגן a.l.

(20) Sc. the Sabbath.

(21) Special passages are inserted.

(22) I.e., during the daytime.

(23) The Sabbath is honoured by indulging in more drink and special dainties; here he lacks sufficient for additions at all meals, and must choose between them.

Talmud - Mas. Pesachim 105b

the kiddush of the day over it,[1] because the kiddush of the day takes precedence over the honour of the day. Now if this is correct,[2] let him leave it until the morrow and do both with it?[3] -A religious duty is [more] precious [when performed] at the proper time.

Yet do we say, A religious duty is [more] precious [when performed] at the proper time?[4] Surely it was taught: He who enters his house on the termination of the Sabbath recites blessings over the while, the light and the spices, and then he recites habdalah over the cup [of wine]. But if he has one cup only, he leaves it until after the meal and recites then all together after it.[5] Thus we do not say, A religious duty is [more] precious at the proper time? — Said he to him, ‘I am neither a self-pretended scholar[6] nor a visionary [i.e., story-teller] nor unique [in this ruling], but I am a teacher and systematizer of traditions,[7] and they rule thus in the Beth Hamidrash as I do; we draw a distinction between ushering the day in and ushering the day out: as for ushering the day in, the more we advance it the better, as we thereby show our love for it; but as for ushering the day out, we delay it, so that it may not be [appear] a burden upon us.[8]

You may infer eight things from this Baraitha: [i] He who recites habdalah during the prayer[9] must [also] recite habdalah over the cup [of wine];[10] [ii] Grace [after meals] requires a cup [of wine]; [iii] the cup [of wine] for Grace demands a [minimum] standard;[11] [iv] he who says a blessing [over anything] must partake thereof;[12] [v] if he tastes it he renders it defective;[13] [vi] even when one has tasted [food] he recites habdalah;[14]

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(1) I.e., kiddush on Friday evenings, which marks the sanctification of the whole day. But he must not leave it for drinking during the meal.

(2) Viz., R. Nahman's ruling.

(3) Kiddush, and pay honour to the day by drinking some of it during a meal.

(4) Even in such a case, where by postponing it an additional purpose is served.

(5) V. supra 102b notes.

(6) I have not said this on my own authority.

(7) The translation follows Jast. V.

(8) Hence kiddush is said as early as possible, and it may not be deferred for the morrow. But we willingly delay the habdalah.

(9) To Amidah or the Eighteen Benedictions, which constitute the Prayer par excellence; a habdalah formula is inserted in the fourth benediction.

(10) For 'he who enters his house' implies that he has seen away from home, presumably at the synagogue, where he would already have recited habdalah in the Amidah of the evening service.

(11) Viz., a quarter of log (rebi'ith). Otherwise, he could use half for habdalah and half for Grace.

(12) Either he or one of the listeners. For otherwise he could recite habdalah over the cup of wine and leave it untouched for Grace.

(13) it is now assumed that he had more than one rebi'ith, but not two. Hence he could perform habdalah, drink the excess, and leave a rebi'ith for Grace. Since this is not done, it follows that merely by drinking a little of the whole cup it becomes unfit for Grace.

(14) There is a contrary view infra 106b, q.v. Here we see that when there is insufficient wine, he has his meal and then recites habdalah.

Talmud - Mas. Pesachim 106a

[vii] you may recite two sanctities over the same cup;[1] and [viii] this is [the ruling of] Beth Shammai as interpreted by R. Judah.[2] R. Ashi said: [The deductions that] if he tastes it he renders it defective, and that the cup of Grace requires a [minimum] standard, are the same thing,[3] and this is what he Says: What is the reason that once he tastes of it he renders it defective? Because the cup of Grace requires a [minimum] standard. R. Jacob b. Idi objected to a defective pitcher. R. Idi b. Shisha objected to a defective cup. Mar b. R. Ashi objected even to a defective barrel.[4]

Our Rabbis taught: Remember the Sabbath day, to keep it holy:[5] remember it over wine.[6] I know it only of the day; whence do we know it of the night?[7] Because it is stated, 'remember the Sabbath day, to keep; it holy.' [You ask], 'Whence do we know it of the night?' — on the contrary, the principal kiddush is recited at night, for when he sanctifies, he must sanctify [from] the beginning of the day. Moreover, [you say,] 'whence do we know it of the night? Because it is stated, "remember the sabbath day to keep it holy"- the Tanna seeks [proof] for the night, while he adduces a verse relating to the day[time]? — This is what he means: 'Remember the Sabbath, day, to keep it holy': remember it over the wine at its commencement.[8] I know it only of the night: whence do we know it of the day? Because it is said, 'Remember the Sabbath day, to keep it holy.

What blessing does he recite by day?[9] -Said Rab Judah: ...who createst the fruit of the vine.[10] R. Ashi visited Mahuza.[11] Said they [the Mahuzaeans] to him, let the master recite the Great kiddush for us.' They gave him [the cup of wine]. Now he pondered, What is the Great kiddush? Let us see, he reasoned, for all blessings [of kiddush] we first say '. . . who createst the fruit of the vine'[12] [So] he recited'. . .who createst the fruit of the vine,' and tarried over it,[13] [and then] he saw an old man bend [his head] and drink. Thereupon he applied to himself [the verse], The wise man, his eyes are in his head.[14]

The sons of R. Hiyya Said: He who did not recite habdalah at the termination of the Sabbath proceeds to recite habdalah anytime during the week. And, until when?-Said R. Zera: Until the fourth day of the week.[15] Even as R. Zera sat before R. Assi — others state, R. Assi sat before R. Johanan — and he sat and stated: In respect to divorces the first day of the week, the second, and the third [are defined as] after the Sabbath; the fourth, the fifth, and the eve of the [Sabbath] day [rank as] before the Sabbath.[16] R. Jacob b. Idi said: But [he does] not [recite a blessing] over the light.[17]

R. Beruna said in Rab's name:

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(1) habdalah and Grace are two separate sanctities. i.e., religious duties.

(2) That the blessing for light precedes that of spices, for Beth Hillel reverse it (supra 103a). It cannot be the ruling of Beth Hillel as interpreted by R.Meir, for on that view the blessing for light precedes Grace, whereas this Baraitha states that the blessings are recited after Grace.

(3) I.e., tasting it renders it unfit only when less than the minimum quantity is thereby left; otherwise it would remain fit.

(4) A small barrel is meant. If kiddush or habdalah was recited over wine contained in one of these, they insisted that it should be full.

(5) Ex. XX, 8.

(6) Kiddush, whereby the Sabbath is remembered,' must be recited over wine.

(7) That kiddush must be recited Friday evening over wine.

(8) 'To keep it holy' implies that it is to be 'remembered,' i.e,, sanctified, by kiddush, when the holiness of the day commences, which is in the evening.

(9) It is stated Supra 105a that kiddush ('sanctification) is not recited by day.

(10) I.e., no special benediction apart from the usual one recited over wine.

(11) V. p. 20 ,n. 5.

(12) Hence it would be fitting for that to be called the Great kiddush, since it is recited on every occasion.

(13) He paused before drinking it in order to see whether this was deemed sufficient for the kiddush by day.

(14) Eccl. II, 14.

(15) Exclusive. From the fourth day onward the days are counted with the following Sabbath, and it would be inappropriate to recite habdalah then for the preceding Sabbath.

(16) E.g., if a man divorces his wife on condition that she performs a certain acton after a particular Sabbath, it must be done not later than the third day following; if he stipulates, before the Sabbath, Wednesday, Thursday, or Friday are meant.

(17) When he recites habdalah later in the week. Rashbam: the reason is presumably because the blessing for light can be recited only at the termination of the Sabbath (v. supra 54a), since it was then created for the first time.

Talmud - Mas. Pesachim 106b

He who washes his hands [before eating][1] must not recite kiddush.[2] Said R. Isaac b. Samuel b. Martha to them: Rab has not yet died[3] and we have [already] forgotten his ruling! I stood many times before Rab: sometimes he preferred bread [and] recited kiddush over bread; at others he preferred wine [and] recited kiddush over wine.[4]

R. Huna said in Rab's name: Once he has tasted [food] he must not recite kiddush.[5] R. Hana b. Hinena asked R. Huna: May he who has tasted [food] recite habdalah?[6] I maintain, replied he, [that] he who has tasted [food] recites habdalah. But R. Assi said: He who has tasted [food] may not recite habdalah.

R. Jeremiah b. Abba visited R. Assi. He forgot himself and ate something. [Then] they gave him a cup [of wine] and he recited habdalah. Said his [R. Assi's] wife to him [R. Assi]: But you[7] do not act thus? Leave him, replied he; he holds as his teacher.[8]

R. Joseph said in Samuel's name: He who has tasted [food] may not recite kiddush; he who has tasted [food] may not recite habdalah. But Rabbah said in R. Nahman's name in Samuel's name: He who has tasted [food] does recite kiddush; and he who has tasted [food] does recite habdalah ‘

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(1) The hands must be washed before partaking of a meal at which bread is eaten, and there must be no interruption between the washing and the eating of some bread.

(2) Before breaking bread-kiddush, of course, comes first — , as it constitutes an interruption, and he discharges his own duty thereby. If he does recite kiddush, he must wash again before eating.

(3) Lit., Rab's soul has not yet gone to rest.’ — Or perhaps: Rab has only just died.

(4) Rashi and Rashbam: if he was very hungry he would wash and recite kiddush over the bread and immediately eat it. This proves that the reciting of kiddush is not an interruption and does not necessitate washing again. R. Tam: sometimes he preferred bread (being very hungry) and recited kiddush (over wine) with the intention of eating bread immediately after it (על can bear this meaning); hence he must have washed before kiddush, and as we see, another washing is unnecessary.

(5) In the evening, but just wait for the morrow.

(6) That evening — sc. at the termination of the Sabbath — , or must he to wait for the morrow.

(7) Lit., ‘the Master.’

(8) Sc. Rab, in whose name R. Huna gave his ruling.

Talmud - Mas. Pesachim 107a

Raba said: The law is: He who has tasted [food] recites kiddush, and he who has tasted [food] recites habdalah Again, he who does not recite kiddush on the eve of the Sabbath proceeds to recite kiddush any time during the Sabbath, until the termination of the Sabbath. He who did not recite habdalah at the termination of the Sabbath proceeds to recite habdalah and time during the week.[1] Amemar commenced this ruling of a Raba in the following version: The law is: He who has tasted [food] recites kiddush, he who has tasted [food] recites habdalah; he who did not recite kiddush on the eve of the Sabbath proceeds to recite kiddush at any time of the day. He who did not recite habdalah proceeds to recite habdalah the whole day.[2] Mar Yanuka and Mar Kashisha the sons of R. Hisda[3] said to R. Ashi: Amemar once visited our town: lacking wine, we brought him beer [for habdalah], but he would not recite habdalah [over it], ‘and passed the night fasting.’[4] The next day we took trouble to procure wine for him, whereupon he recited habdalah and ate something. The following year he again visited our town, [and] we offered him beer. Said he, ‘If so, it is the wine of the country’;[5] [so] he recited habdalah and ate a little. This proves three things; [i] [Even] he who recites habdalah in the Prayer must recite habdalah over a cup [of wine];[6] [ii] a man must not eat until he has recited habdalah; and [iii] he who did not recite habdalah at the termination of the Sabbath proceeds to recite habdalah any time during the week.

R. Hisda asked R. Huna:[7] Is it permitted to recite kiddush over beer? Said he to him, Seeing that I asked Rab, and Rab asked R. Hiyya, and R. Hiyya asked Rabbi about pirzuma,[8] fig [-beverage], and asne,[9] and he could not resolve it for him, can there be a question about [barley] beer! Now it was understood from him: kiddush indeed may not be recited over it, yet we can recite habdalah over it. Said R. Hisda to them, Thus did Rab say: Just as you may not recite kiddush over it, so may you not recite habdalah over it. It was stated too' R. Tahlifa b. Abdimi said in Samuel's name: Just as you may not recite kiddush over it, so may you not recite habdalah over it. Levi sent to Rabbi beer strained thirteenfold.[10] On tasting it he found it well-flavoured. Said he: 'Over such as this it is fitting to recite kiddush and to utter all the psalms and praises in the world.' At night it caused him pains. Said he: 'Seeing that it chastises us, shall it propitiate!'[11]

R. Joseph said: I will vow in the presence of a multitude[12] not to drink beer. Raba said: I would drink flaxwater,[13] yet I would not drink beer. Raba also said: His drink shall be but beer who recites kiddush over beer.[14] Rab found R. Huna[15] reciting kiddush over beer. Said he to him: 'Abba[16] has begun to acquire istiri[17] with beer. '[18]

Our Rabbis taught: You recite kiddush over wine only, and you say a blessing over wine only. Do we then not recite the blessing, 'by whose word all things exist' over beer and water? — Said Abaye, this is what he means: You do not say, 'bring a cup of blessing to say Grace [after meals],' over aught except wine.

Our Rabbis taught: You do not recite kiddush over beer. On the authority of R. Eleazar son of R. Simeon they said: You can recite kiddush [over it]. The tasting of wine [demands] but a small quantity.[19] R. Jose b. Judah said: [At least] a mouthful. R. Huna said in Rab's name, an thus did R. Gidal of Naresh[20] learn: He who recites kiddush and drinks a mouthful [of the wine] as discharged [his duty]; if not, he has not discharged [his duty]. it. Nahman b. Isaac said: I recite this [name] neither [as] Gidal b. Menassia nor Gidal b. Manyomi, but simply Gidal. What difference does that make? — In respect of opposing [one statement] of his to [another statement] of his.[21]

CLOSE TO MINHAH. The scholars asked: Did we learn, CLOSE TO the great MINHAH, or perhaps we learned, CLOSE TO the lesser "MINHAH?[22] Did we learn, CLOSE to the great MINHAH, the reason being on account of the Passover-offering, lest he come to prolong [the meal]

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(1) V. supra 106a.

(2) Viz., Sunday, but not the whole week.

(3) Yanuka means youth; Kashisha, old age. Some accordingly translate: the younger add the elder sons of R. Hisda respectively. Others however translate: The son born to R. Hisda in his youth and the son born in his old age, i.e., the elder and the younger sons of R. Hisda respectively. Rashi and Keth. 89b s.v. מר and Tosaf. in B.B. 7b s.v. מר

(4) Dan. VI, 19. He would not eat without reciting (habdalah.

(5) Beer is evidently a popular drink and occupies the same place here that wine generally occupies elsewhere.

(6) V. Supra p. 552, n. 4.

(7) Text as emended (Bah).

(8) Jast. A beer brewed from figs,in that case it must differ from תאיני which is also a beverage made from figs, while ordinary beer is from barley. Rashi however regards pirzuma as barley beer, while ordinary beer is made from dates.

(9) Jast.: a drink made of shrubbery fruit(.?) — All these are superior to the ordinary barley beer about which R. Hisda asked.

(10) R. Han.: repeatedly strained for clarity — thirteen merely indicates many. Rashbam: beer made by pouring water on dates, then pouring the same water with its date infusion over other dates, this operation being repeated many times.

(11) Rashbam: i.e., it causes pain — is it fit to propitiate God therewith, i.e., to recite kiddush over it — surely not! Others: first it entices (by its pleasant flavour) and then it causes pain.

(12) A vow made in the presence of a multitude cannot be annulled, v. Git. 36a.

(13) I.e., water in which flax is steeped.

(14) If he grudges the money for wine, there will come a time when he can afford only beer for his general drinking.

(15) Var. lec., Rabbah b. Bar Hanah.

(16) Lit., 'father' — a title of respect.

(17) Coins.

(18) I.e., you have begun trading with beer, so it has become sufficiently valuable in your eyes to recite kiddush over it.

(19) He who says a blessing over wine must taste some of it (supra 105b bottom); the smallest quantity suffices.

(20) identical 'with Nahras or Nahr-sar, on the canal of the same name, on the east bank of the Euphrates; Obermeyer, p. 307.

(21) If a statement by one of these two is found to contradict the present one, there is no difficulty, as he is not identical with either. Or perhaps: he may be identical with one of them, so that a contrary statement by the other does not prove a self-contradiction.

(22) The time for the great minhah is six and a half hours (i.e., half an hour after midday) and onwards. This is the earliest hour for the sacrificing of the evening amid (v. supra 58a). The lesser minhah is two and a half hours before nightfall.

Talmud - Mas. Pesachim 107b

and refrain from performing the Passover [-offering]; or perhaps we learned CLOSE TO the lesser 'MINHAH, the reason being on account of the unleavened bread, lest he merely gorge himself with the unleavened bread?[1] Said Rabina, Come and hear: Even King Agrippa[2] who was accustomed to eat at nine hours, might not eat on that day until night. fall. Now it is well if you say that we learned, CLOSE TO the lesser MINHAH, Hence it is that which is noteworthy about Agrippa;[3] but if you say [that] we learned, CLOSE TO the great MINHAH, what is there noteworthy about Agrippa, seeing that the interdict has [already] fallen upon him from before?[4] What then? We learned, CLOSE TO the lesser MINHAH? Yet after all what is there remarkable about Agrippa: surely the the of the interdict has come![5] -You might say: Nine hours[6] to Agrippa is like four hours[7] to us;[8] Hence he informs us [otherwise]. R. Jose[9] Said: But he may make a meal[10] with various sweet-meats.[11] R. Isaac would make a meal with vegetables. It was taught likewise: The attendant may make a meal with the inwards,[12] and he may [also] offer them to the guests. And though there is no proof of this, yet there is a hint thereof, for it is said, Break up for you a fallow ground, and sow not among thorns.[13]

Raba used to drink wine the whole of Passover eve, so as to whet his appetite'[14] to eat more unleavened bread in the evening. Raba said: How do I know that wine whets the appetite? Because we learned:

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(1) Lit., '.a gross eating,' having eaten his fill beforehand.

(2) A king of the Hasmonean dynasty, who followed Rabbinical teaching.

(3) I.e., though he did not eat earlier, and at nine hours interdict has not yet commenced (for it commences just before nine and a half hours), he might nevertheless not start then, as he would probably prolong it.

(4) Surely we would not think him exempt from the interdict merely because he had not yet eaten.

(5) I.e. , about three p.m.

(6) I.e., about ten a.m.

(7) Before he finishes his meal. For even R Jose, who maintains that a man needs not interrupt the meal once he has commenced (supra 99b), admits that he must not commence a meal knowing that he will prolong it beyond the forbidden period.

(8) Since the latter hour is the general mealtime, while Agrippa did not breakfast until three p.m.

(9) Alfasi reads: Assi.

(10) Lit., 'dip.'

(11) Fruit or meat, without bread: these were generally dipped into a relish. — The time meant is from minhah and onwards.

(12) Of an animal which he is preparing for the festival meals.

(13) Jer. IV, 3. Rashi: i.e., do not work without profit; so if a man is engaged on preparing food and is forbidden to eat thereof it causes him mental suffering. [Rashi did not seem to read: ‘and he may offer them to the guest. Rashbam and Tosaf. explain the reference to a relish prepared for whetting the appetite and the verse is quoted in illustration that the stomach must be prepared to receive food as the ground for seeds].

(14) Lit., ‘draw his heart’.

Talmud - Mas. Pesachim 108a

Between these cups,[1] if he wishes to drink [more] he may drink; between the third and the fourth he must not drink.[2] Now if you say that it [wine] satisfies, why may he drink? Surely he will merely gorge on the unleavened bread! Hence this proves that it sharpens the appetite.

R. Shesheth used to fast[3] the whole of the eve of passover. Shall we say that R. Shesheth holds [that] we learned, Close TO the great MINHAH, the reason being on account of the Passover [sacrifice], lest he prolong [the meal] and refrain from performing the Passover [-offering]; and he [also] holds as R. Oshaia, who said: ‘The son of Bathyra used to declare valid the Passover [-offering] which one slaughtered in its own name[4] on the morning of the fourteenth’; and from the morning it is the time for the Passover, for the whole day is the time for the Passover, as he holds, [and the whole assembly . . . shall kill it] between the evenings[5] [means any time] between yesterday evening and this evening?[6] — I will tell you [that is] not [so]. R. Shesheth was different, for he was delicate, and if he ate anything in the morning his food would not benefit him in the evening.[7]

EVEN THE POOREST MAN IN ISRAEL MUST NOT EAT UNTIL HE RECLINES. It was stated: [For the eating of] the unleavened bread reclining is necessary; for the bitter herbs reclining is not necessary.[8] [As for the drinking of] the wine, — It was stated in R. Nahman's name [that] reclining is necessary, and it was stated in R. Nahman's name that reclining is not necessary. Yet they do not disagree: one [ruling] refers to the first two cups, and the other ruling refers to the last two cups. Some explain it in one direction, others explain it in the other direction. [Thus:] some explain it in one direction: for the first two cups reclining is necessary, because it is at this point that freedom commences; for the last two cups reclining is necessary, [because] what has been has been.[9] Others explain it in the contrary direction: on the contrary, the last two cups necessitate reclining, [because] it is precisely then that there is freedom; the first two cups do not necessitate reclining, [because] he is still reciting ‘we were slaves.’[10] Now that it was stated thus and it was stated thus, both [the first and the last ones][11] necessitate reclining. Lying on the back is not reclining; reclining on the right side is not reclining.[12] Moreover he may put [his food] into the windpipe before the gullet,[13] and thus endanger himself.

A woman in her husbands [house] need not recline,[14] but if she is a woman of importance she must recline.[15] A son in his father's [house] must recline.[16] The scholars asked: What about a disciple in his teacher's presence? — Come and hear, for Abaye said: When we were at the Master's [Rabbah b. Nahman's] house, we used to recline on each other's knees. When we came to R. Joseph's house he remarked to us, ‘You do not need it: the fear of your teacher is as the fear of Heaven.’

An objection is raised: A man must recline with all [people], and even a disciple in his master's presence? — That was taught of a craftsman's apprentice.

The scholars asked: What about an attendant? — Come and hear, [or R. Joshua b. Levi said: A attendant, who ate as much as an olive of unleavened bread while reclining has discharged [his duty]. Thus, only while reclining, but not if he was not reclining. This proves that he must recline. This proves it.

R. Joshua b. Levi also said: Women are subject to [the law of] these four cups

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(1) The first and second, and the second and third.

(2) The third cup is drunk in connection with grace after meals. Having died already, he has no need to drink for his appetite, and if he now drinks more he will appear to be adding to the statutory number (four) of cups. T.J. states that drink after the meal (apart from the two which are still to be drunk to make up the four) intoxicates and makes the person unfit to recite the hallel.

(3) Lit., sit in a fast'.

(4) i.e., as a Passover, and not as a different sacrifice.

(5) Ex. XII, 6 (E.V. (at dusk).

(6) I.e., the evenings commencing the fourteenth and the fifteenth. The night must be omitted, since offerings cannot be sacrifices at night. — Though of course sacrifices lead altogether ceased by the time of R. Shesheth, yet if on this view one had to fast when the temple stood, it would still be necessary, because the interdict had never formally been rescinded.

(7) I.e., he would have no appetite in the evening.

(8) the former symbolizes freedom; the latter, bondage. Bitter herbs may not be eaten while reclining.

(9) The last two cups come after the meal, by which time the whole narrative of Israel's liberation has been completed. Hence there is no need then to emphasize the theme of freedom.

(10) V. infra 116a.

(11) var. lec.: all.

(12) Since he must eat with his right hand.

(13) if he eats lying on his back may go down the wrong way.

(14) Because she stands under his authority.

(15) Isserles (O.H. 472, 4 Gloss) remarks that women nowadays are of high worth.

(16) He does not sense his father's authority so strongly.

Talmud - Mas. Pesachim 108b

because they too were included in that miracle.[1]

Rab Judah said in Samuel's name: These four cups must contain sufficient for the mixing of a generous cup.[2] if he drank them raw [undiluted], he has discharged [his duty].[3] If he drank them [all] at once,[4] he has discharged [his duty]. If he gave his sons and household to drink of them,[5] he has discharged [his duty].

‘If he drank them raw [undiluted]. he has discharged [his duty].’ Raba observed: He has discharged [his duty] of wine, but he has not discharged [his duty] of [symbolizing his] freedom.[6] If he drank them [all] at once, Rab said:[7] He has discharged [his duty of drinking] wine,[8] [but] he has not discharged [his duty of] four cups.[9] ‘If he gave his sons and household to drink of them, he has discharged [his duty]’: Said R. Nahman b. Isaac: Providing that he [himself] drank the greater part of [each] cup.

An objection is raised: These four cups must contain the standard of a rebi'ith, whether neat or diluted, whether new [wine] or old; R. Judah said: It must possess the taste and the appearance of wine. Thus it is incidentally taught.’the standard of a rebi'ith,’ whereas you say, ‘a generous cup’? — I will answer you: Both are the same standard, [for] what does he mean by ‘sufficient for the mixing of a generous cup? For each one separately [of the four cups]. which is a rebi'ith for all of them together.[10]

‘R. Judah said: It must possess the taste and appearance of wine. Said Raba, What is R. Judah's reason? Because it is written, Look not thou upon the wine when it is red.[11]

Our Rabbis taught: All are bound to [drink] the four cups, men, women, and children. Said R. Judah: Of what benefit then is wine to children? But we distribute to them

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(1) Of liberation; v. Sot. 11b, where it is stated that the Israelites were redeemed as a reward to the righteous women of that generation.

(2) Their wine was too strong to be drunk neat. ‘A generous cup’ is one of sufficient quantity for Grace, viz., a rebi'ith (quarter of a log), and Rab Judah said that each of these four cups must contain enough undiluted wine to make up to a rebi'ith of diluted wine. — The usual mixture was one Part wine to three parts water.

(3) Providing that he drank a rebi'ith on each, occasion (Rashbam).

(4) Without following the order prescribed infra 114a and 116a-b.

(5) Possibly separate cups were not set for each member of the household. as is done nowadays; v. supra 99b Tosaf. s.v. לא יפחתו לו מארבע כוסות

(6) I.e., he has discharged his duty in a poor way, since drinking undiluted wine is hardly drinking at all — This does not refer to wine nowadays, which is not so strong and does not require dilution.

(7) Alfasi and Asheri omit: Rab said.

(8) V. infra 109: a man must rejoice on a Festival by drinking wine; this duty he has now discharged.

(9) But all count as one cup. and another three are necessary.

(10) I.e. , a rebi'ith of the raw wine, which when diluted will make four rebi'ith of drinkable wine, a rebi'ith for each cup.

(11) Prov. XXIII, 31. Thus it does not merit the name wine unless it has its appearance too.

Talmud - Mas. Pesachim 109a

parched ears of corn and nuts on the eve of Passover, so that they should not fall asleep, and ask [the ‘questions’].[1] It was related of R. Akiba that he used to distribute parched ears and nuts to children on the eve of Passover, so that they might not fall asleep but ask [the ‘questions’]. It was taught, R. Eliezer said: The mazzoth are eaten hastily[2] on the night of Passover, on account of the children, so that they should not fall asleep.[3] It was taught: it was related of R. Akiba[4] [that] never did he say in the Beth Hamidrash, ‘It is time to rise [cease study]’, except on the eve of Passover and the eve of the Day of Atonement. On the eve of Passover, because of the children, so that they might not fall asleep. On the eve of the Day of Atonement,in order that they should give food to their children.

Our Rabbis taught: A man is in duty bound to make his children and his household rejoice on a Festival, for it is said, And thou shalt rejoice it, thy feast, [thou and thy son, and thy daughter, etc.][5] Wherewith does he make them rejoice? With wine. R. Judah said: Men with what is suitable for them, and women with, what is suitable for them. ‘Men with what is suitable for them’: with wine. And women with what? R. Joseph recited: in Babylonia, with coloured garments; in Eretz Yisrael, with ironed lined garments.

It was taught, R. Judah b. Bathyra said: When the temple was in existence there could be no rejoicing save with meat, as it is said, And thou shalt sacrifice peace-offerings, and shalt eat there; and thou shalt rejoice before the Lord thy God.[6] But now that the Temple is no longer in existence, there is no rejoicing save with wine, as it is said, and wine that maketh glad the heart of man.[7] R. Isaac said: The xestes[8] for muries in Sepphoris was about equal to the Temple log, and thereby we gauge the rebi'ith of [wine for] Passover.[9] R. Johanan said: The ancient tomanta which was in Tiberias exceeded this by a quarter, and thereby we gauge the rebi'ith of [wine for] Passover. R. Hisda said: The rebi'ith of the Torah[10] is [the cubic content of a vessel] two fingerbreadths square by two and seven-tenths[11] fingerbreadths in depth.[12] As it was taught: Then he shall bathe all his flesh in water:[13] [this intimates] that nothing must interpose between his flesh and the water; ‘in water’ [means] in the water of a mikweh; ‘all his flesh’ [implies sufficient] water for his whole body to be covered therein. And how much is that?

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(1) v. infra 116a Mishnah.

(2) Others: the plate containing the mazzoth is lifted, to draw the attention of the children to the unusual fare; others, the mazzoth are taken away from the children before they have eaten their fill, as a heavy meal conduces to sleep.

(3) Var. lec.: so that they should ask ‘questions’. This agrees with the first alternative translation in the preceding note. R. Han. reads both: so that they should not fall asleep but ask.

(4) In Suk. 28a this is attributed to R. Johanan b. Zakkai.

(5) Deut. XVI, 14. Presumably the proof lies in the bracketed passage, which is absent in the text. Possibly too he reads: we-Simmakta (pi'el) ‘and thou shalt cause to rejoice’ instead of we-Samakta ‘and thou shalt rejoice. Tosaf.’s reading, however, and Maharsha emends text accordingly, is: and thou shalt rejoice, thou and thy household (ib. XIV 26). This refers to the eating of the second tithe in Jerusalem, and its teaching is applied here to Festivals.

(6) Deut. XXVII, 7.

(7) Ps. CIV, 15.

(8) A measure kept as a standard; it was somewhat less than a pint.

(9) Required for the four cups.

(10) In respect to several Biblical laws a rebi'ith is specified by the Rabbis.

(11) Lit., ‘ two and a half and a fifth.’

(12) Hence the volume of a rebi'ith is 2 X 2 X 27 == 108 cubic fingerbreadths.

(13) Lev. XV, 16.

Talmud - Mas. Pesachim 109b

A square cubit by three cubits’ depth, and the Sages estimated the standard of the water of a mikweh at forty se'ahs.[1]

R. Ashi said: Rabin b. Hinena told me, The Table in the Sanctuary was jointed.[2] For if you should think that it was [permanently] fastened, how could one immerse a cubit in a cubit?[3] What difficulty is this! Perhaps it was immersed in the sea which Solomon made. For R. Hiyya taught: The sea which Solomon made held one hundred and fifty clean [i.e., regulation-sized] mikwoth.

AND THEY SHOULD GIVE HIM NOT LESS THAN FOUR [CUPS]. How could our Rabbis enact something whereby one is led into danger: Surely it was taught: A man must not eat in pairs, nor drink in pairs,[4] nor cleanse [himself] twice nor perform his requirements[5] twice? — Said R. Nahman: Scripture said, [it is] a night of guarding [unto the lord]:[6] [i.e.,] it is a night that is guarded for all time[7] from harmful spirits. Raba said: The cup of Grace [after meals] combines [with the others] for good, but does not combine for evil.[8] Rabina said: Our Rabbis instituted four cups as symbolizing liberty: each one

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(1) 1 se'ah == 6 kabs; 1 kab == 4 logs; 1 log == 4 rebi'ith; 1 cubit == 6 handbreadths; 1 handbreadth = 4 fingerbreadths. On this basis R. Hisda arrives at his estimate. Thus:1 Se'ah == 96 rebi'ith; 40 se'as == 96 X 40 == 3840 rebi'ith. Hence cubic capacity of mikweh is 3840 X 108 == 41472 fingerbreadths which is the equivalent of cubic capacity of 3 cubic cubits, 1 cubic cubit being equal to 243 (== 13824 fingerbreadths), and 3 cubic cubits being equal to 3 X 13824 == 41472].

(2) And the joints could be taken apart.

(3) The Table was a cubit square, while a mikweh, as stated here, was likewise a cubit square; hence it would be impossible to immerse the Table in the mikweh if it became unclean and needed a ritual bath.

(4) I.e., he must not eat or drink two or a multiple of two of anything, a malignant potency being ascribed to twos.

(5) A euphemism for intimacy.

(6) Ex. XII, 42.

(7) Lit., ‘that is guarded and comes on.’

(8) The third cup, which is drunk in collection with Grace after meals, combines with others to break the spell of evil which, might be caused by drinking the first two, but is not counted in the four for harm.

Talmud - Mas. Pesachim 110a

is a separate obligation.[1]

‘He must not perform his requirements twice.’ Why? Has he not [newly] decided?[2] -Said Abaye, This is what he [the Tanna] means: He must not eat in pairs and drink in pairs and he must not perform his needs even once [after eating or drinking in pairs], lest he be weakened[3] and be affected.[4]

Our Rabbis taught: He who drinks in pairs, his blood is upon his own head. Said Rab Judah: When is that? If he had not seen the street;[5] but if he has seen the street, he is at liberty [to drink a second cup]. R. Ashi said: I saw that R. Hanania b. Bibi used to go out and see the street at each cup. Now we have said [this][6] only [if he intends] to set out on a journey [after drinking]; but [if he intends to stay] at home, it is not [harmful]. R. Zera observed: And going to sleep is like setting out on a journey. R. Papa said: And going to the privy is like setting out on a journey. Now [if [he intends to stay] at home it is not [dangerous]? Yet surely Raba counted the beams,[7] while when Abaye had drunk one cup, his mother would offer him two cups in her two hands;[8] again, when R. Nahman b. Isaac had drunk two cups, his attendant would offer him one cup; [if he had drunk] one cup, he would offer him two cups in his two hands?[9] — An important person is different.[10]

‘Ulla said: Ten cups are not subject to [the danger of] pairs. ‘Ulla is consistent with his view, for ‘Ulla said, while others maintain, it was taught in a Baraitha: The Sages instituted ten cups in a mourner's house. Now if you should think that ten cups are subject to [the danger of] pairs, how could our Rabbis arise and enact a regulation whereby one is led into danger! But eight are subject to ‘pairs.’ R. Hisda and Rabbah son of R. Huna both maintained: ‘Shalom’ [peace] combines [with others] for good, but does not combine for evil;[11] but six is subject to ‘pairs’. Rabbah and R. Joseph both maintained: Wiyhuneka [‘and be gracious unto thee’] combines [with others] for good, but does not combine for evil;[12] but four is subject to ‘pairs.’ Abaye and Raba both maintained: We-yishmereka [‘and keep thee’] combines [with others] for good, but does not combine for evil.[13] Now Raba is consistent with his view, for Raba allowed the Rabbis to depart [from his house] after four cups, [and] though Raba b. Liwai[14] came to harm, he paid no heed to the matter, saying, ‘That was [his punishment] because he raises difficulties at the public session.[15]

R. Joseph said: The demon Joseph told me [that] Ashmedai the king of the demons is appointed over all pairs.’[16] and a king is not designated a harmful spirit.[17] Others explain it in the opposite sense: On the contrary, a king is quick-tempered [and] does whatever he wishes, for a king can break through a wall to make a pathway for himself and none may stay him.[18]

R. Papa said, Joseph the demon told me: For two we kill; for four we do not kill, [but] for four we harm [the drinker]. For two [we hurt] whether [they are drunk] unwittingly or deliberately; for four, only if it is deliberate, but not if it is unwitting. And if a man forgot himself and happened to go out,[19] what is his remedy? Let him take his right-hand thumb in his left hand and his left-hand thumb in his right hand and say thus: ‘Ye [two thumbs] and I, surely that is three![20] But if he hears one saying, ‘Ye and I, surely that is four!’ let him retort to him, ‘Ye and I are surely five!’ And if he hears one saying, ‘Ye and I are six,’ let him retort to him, ‘Ye and I are seven.[21] This once happened until a hundred and one , and the demon burst [with mortification].

Amemar said: The chief of the sorceresses told me: He who meets sorceresses should say thus: ‘Hot dung in perforated baskets for your mouths, o ye witches! may your heads become bald,[22] the wind carry off your crumbs,[23]

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[1] Hence they do not combine.

(2) The second is occasioned by a new desire, and does not combine with, the first.
(3) Through intimacy.
(4) Since eating or drinking in pairs has already made him more susceptible to hurt than he would otherwise have been.
(5) i.e., if he does not go out between the drinks.
(6) That pairs is harmful.
(7) At each cup he mentally counted one beam, to ensure not drinking in pairs.
(8) Likewise that he should not drink in pairs.
(9) Though in a these cases they were remaining at home.
(10) The demons are at greater pains to hurt him; hence he is endangered even when staying at home.
(11) ‘Shalom’ (peace) is the seventh word (in Heb.) of the verse The Lord lift up His countenance upon tee, and give thee peace (Num. VI, 26). Hence the seventh cup combines with others for good etc. as on p. 565, n. 5.
(12) Wiyhuneka is the fifth Hebrew word of the verse, The Lord make His face to shine upon thee, and be gracious unto thee (ibid. 25).
(13) This is the third word of the verse, The Lord bless thee, and keep thee (ibid. 24).
(14) Or, the Levite.
(15) He would raise difficulties in the course of my public lectures, thereby putting me to shame.
(16) Those who drink in pairs are at his mercy.
(17) It is beneath his dignity to cause hurt. Hence there is generally no danger in pairs (though occasionally he may disregard his dignity — Rashbam).
(18) Hence the danger is all the greater.
(19) After drinking ‘pairs.’
(20) Thus breaking the spell of pairs.
(21) And so on.
(22) Lit., ‘bald be your baldness’ — they practised witchcraft with their hair.
(23) Likewise used in the practice of witchcraft. Rashbam holds that this is an allusion to Ezek. XIII, 18f, q.v.

Talmud - Mas. Pesachim 110b

your spices be scattered, the wind carry off the new saffron which ye are holding, ye sorceresses; as long as He showed grace to me and to you, I had not come among [you]; how that I have come among you, your grace and my grace have cooled.’[1]

In the West [Palestine] they were not particular about ‘pairs. R. Dimi of Nehardea was particular even about the marks on a [wine-] barrel:[2] it once happened that a barrel burst.[3] This is the position in general: when one is particular, they [the demons] are particular about him,[4] while when one is not particular,[5] they are not particular about him. Nevertheless one should take heed. When R. Dimi came,[6] he said: Two eggs, two nuts, two cucumbers and something else — [these are] halachah from Moses at Sinai;[7] but the Rabbis were doubtful what this something else was, and so the Rabbis forbid a ‘pairs’ on account of the ‘something else.’ And as to what we have said, Ten, eight, six and four are not subject to ‘pairs,’ that was said only in respect to the harmful spirits [mazzikin], but where witchcraft is concerned we fear even many.[8] As [it once happened in] the case of a certain man who divorced his wife, [whereupon] she went and married a shopkeeper. Every day he [her first husband] used to go and drink wine, [and though] she exercised her witchcraft against him, she could avail nought, because he was heedful of ‘pairs.’ One day he drank to excess and did not know how much he drank; until sixteen [cups] he was clear-headed and on is guard; after that he was not clear-headed and took no care, [and] she turned him out at an even [number of drinks]. As he was going along an Arab met him and observed to him: A corpse is walking here![9] He went and clasped a palm tree; the palm tree cried out[10] and he burst.

R. ‘Awira said: Plates and loaves are not subject to even numbers. This is the general rule: That which is completed by man is not subject to even numbers; [but in the case of] that which is completed by Heaven, such as various kinds of eatables, we fear [even numbers]. A shop is not subject to even numbers.[11] If a man changes his mind,[12] it is not subject to even numbers. A guest is not subject to even numbers.[13] A woman is not subject to even numbers; but if she is an important woman, we take heed. R. Hinena son of R. Joshua said: Asparagus [-wine] combines [with other liquors] for good, but does not combine for harm.[14]

Rabina said in Raba's name: [A doubt concerning] even numbers [is resolved] stringently;[15] others state: [A doubt concerning] even numbers [is resolved] leniently.[16]

R. Joseph said: Two [cups] of wine and one of beer do not combine; two of beer and one of wine combine, and your token [is this]: ‘This is the general principle: Whatever is joined thereto of a material more stringent than itself is unclean; of a material more lenient than itself, is clean.’[17]

R. Nahman said in Rab's name: Two [cups] before the meal[18] and one during the meal combine; one before the meal and two during the meal do not combine. R. Mesharsheya demurred: Do we then desire to effect a remedy for the meal: we desire to effect a remedy for the person, and surely the person stands remedied![19] Yet all agree that two during the meal and one after the meal do not combine, in accordance with the story of Rabbah b. Nahmani.[20]

Rab Judah said in Samuel's name: All mixed drinks combine,[21]

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(1) I have not taken sufficient care of myself.

(2) Indicating the quantities sold. He took care that there should not be an even number of these.

(3) When an even number of marks had bee made on it.

(4) They are more anxious to injure him.

(5) Takes no great pains to save himself from demons.

(6) From Palestine to Babylonia.

(7) It is a tradition dating back from Moses that even numbers of these and of another unnamed commodity are harmful.

(8) A large multiple of two, such as six, eight, etc.

(9) He recognized that he was doomed.

(10) Probably, made a rustling noise. [Var. lec., ‘withered’]

(11) I.e., if one drinks in two shops. Others: if one drinks an even number of glasses in one shop, for these are harmful at home only. The incident related above, however, took place in a tavern.

(12) He drank one glass, not intending to drink more; then decided to drink another.

(13) He does not know how much will be offered him, therefore at each he is regarded as having decided afresh.

(14) Cf. p. 565, n. 5.

(15) If a man does not know whether he has drunk an even number or not, he Should drink another. This turns an even number into odd, not an odd into even, because in the latter case this glass represents a fresh decision (cf. p. 568, n. 8), and does not combine with the others.

(16) Thus showing that he is not particular about it and thereby removing the hostility of the demons (cf. supra).

(17) Materials, to become unclean, must be of a certain minimum size, which varies according to the value of the material: the greater the value, the more stringent it is, i.e., the smaller its minimum. If the material is less than the minimum and a piece of another material is joined to it, making it up to the minimum, the rule is as stated. Thus here too, wine, being more valuable than beer, combines with it; beer being less valuable than wine, it is disregarded.

(18) Lit., ‘tray.’

(19) Since he has drunk three.

(20) V. B.M. 86a.

(21) If a man drinks mixed (i.e., diluted) wine and then any other mixed drink (so Rashbam), they combine.

Talmud - Mas. Pesachim 111a

except water;[1] while R. Johanan maintained: Even water. R. Papa said: This was said only of hot [water] mixed with cold or cold mixed with hot; but not [if it is] hot mixed with hot or cold with cold.[2]

Resh Lakish said: There are four actions for which he who does them has his blood on his own head and forfeits his life,[3] viz.: easing oneself between a palm tree and the wall passing between two palm trees; drinking borrowed water, and passing over spilt water, even if his wife poured it out in his presence. 'Easing oneself between a palm tree and the wall': this was said only if there is not four cubits,[4] but if he leaves four cubits it does not matter. And even if he does not leave four cubits [space], it was said only where there is no other path;[5] but if there is another path, it does not matter.

'Passing between two palm-trees.' This was said only where a public thoroughfare does not cross between them; but if a public thoroughfare crosses between them, it does not matter.

'Drinking borrowed water.' That was said only if a child borrowed it; but [if] an adult, it does not matter. And even if a child borrowed it, this was said only in respect to the countryside, where it is not found [in abundance]; but in the town, where it is found in abundance, it does not matter. And even in respect to the countryside, this was said only of water, but there is no objection against [borrowed] wine and beer.

'And passing over spilt water.' This was said only if he did not interpose dust[6] or spit into it; but if he interposed dust or spit into it, it does not matter. Again, this was said only if the sun had not passed over it nor did he walk sixty steps over it; but if the sun had passed over it and he walked sixty steps over it, it does not matter. Again, this was said only if he was not riding an ass and was not wearing shoes; but if he was riding an ass and was wearing shoes, it does not matter. Yet that is only where there is nought to fear of witchcraft; but where there is aught to fear of witchcraft, even if there are all these [safeguards], we still fear, as in the case of a certain man who rode on a ass and was wearing his shoes; his shoes shrank, and his feet withered.

Our Rabbis taught: There are three who must not pass between [two men], nor may [others] pass between them, viz.: a dog, a palm tree, and a woman. Some say: a swine too; some say, a snake too. And if they pass between, what is the remedy? — Said R. Papa: Let them commence [a verse] with el [God] and end with el.[7] Others say: Let them commence [a Scriptural passage] with lo [not] and finish with lo.[8] If a Menstruant woman passes between two [men], if it is at the beginning of her menses she will slay one of them[9] and if it is at the end of her menses she will cause strife between them. What is the remedy? Let them commence [a verse] with el and end with el. When two women sit at a crossroad , one on one side of the road and one on the other side of the road, facing each other, they are certainly engaged in witchcraft. What is the remedy? If there is another road [available], let one go through it. While if there is no other road, [then] if another man is with him, let them clasp hands and pass through; while if there is no other man, let him say thus: 'Igrath Izlath, Asya, Belusia[10] have been slain with arrows.'[11]

When one meets a woman coming up from her statutory tebillah,[12] if [subsequently] he is the first to have intercourse, a spirit of immortality will infect him; while if she is the first to have intercourse, a spirit of immortality will infect her. What is the remedy? Let him say thus : 'He poureth contempt upon princess, and causeth them to wander in the waste, where there is no way.'[13]

R. Isaac said: What is meant by the verse, Yea, though I walk through the valley of the shadow of death, I will fear no evil, for Thou art with me?[14] This refers to him who sleeps in the shadow of a single palm-tree or in the shadow of the moon. Now in respect to the shadow of a single palm-tree this holds good only where the shadow of the neighbouring [tree] does not fall upon it; but if the shadow of the neighbouring tree falls upon it, it does not matter. Then when it was taught: He who sleeps in the shadow of a single palm-tree in a courtyard and he who sleeps in the shadow of the moon, has is blood on is own head, how is it meant? Shall we say that the shadow of the neighbouring tree does not fall upon it, — then even in a field too [it is dangerous]? Hence you may surely infer from this that in a courtyard [there is danger] even if the shadow of the neighbouring tree fall on it. This proves it. And in respect to the shadow of the moon too, this holds good only when [it falls] in the west,[15] but when it is in the east it does not matter.

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(1) Cold water mixed with hot water is not regarded as a mixed drink and does not combine with other mixed drinks.

(2) R. Johanan too admits that this is not a mixture, and it does not combine with other mixed drinks.

(3) I.e., whatever happens, he has only himself to blame.

(4) Between tem: this leaves no room for the evil spirits to pass comfortably and so they injure him.

(5) For the demon to pass through.

(6) I.e., he did not scatter dust upon the water before passing over it.

(7) Rashbam: Num. XXIII, 22f, which commence and finish with el in Heb.

(8) Ibid. 19.

(9) I.e., cause perjury to one of them (Rashbam).

(10) The demons by whose aid you seek to work witchcraft.

(11) The text is obscure.

(12) After her period of menstruation.

(13) Ps. CVII, 40.

(14) Ps. XXIII, 4.

(15) I.e., at the end of the month when the moon is in the east and casts its shadow in the west.

Talmud - Mas. Pesachim 111b

If one eases oneself on the stump of a palm-tree, the demon Palga[1] will seize him, and if one leans one's head on the stump of a palm-tree, the demon Zerada[2] will seize him. He who steps over a palm-tree, if it had been cut down, he will be cut down [killed]; if it had been uprooted, he will be uprooted and die. But that is only if he does not place his foot upon it; but if he places his foot upon it, it does not matter.

There are five shades:[3] the shade of a single palm-tree, the shade of a kanda-tree,[4] the shade of a caper-tree, [and] the shade of sorb bushes.[5] Some say: Also the shade of a ship and the shade of a willow. This is the general rule: Whatever has many branches, its shade is harmful, and whatever has hard prickles [or, wood], its shade is harmful, except the service-tree, whose shade is not harmful although its wood is hard, because Shida [the demon] said to her son, ‘Fly from the service-tree, because it is that which killed your father’; and, it also killed him. R. Ashi said: I saw R. Kahana avoid all shades.

[The demons] of caper-trees are [called] Ruhe [spirits]: those of sorb-bushes are [called] Shide [demons]: those which haunt roofs are [called] Rishpe [fiery-bolts]. In respect of what does it matter? In respect of amulets.[6] [The demon] of caper-trees is a creature without eyes. What does it matter? In respect of fleeing from it.[7] A scholar was once about to ease himself among the caper-trees, when he heard it advancing upon him so he fled from it. Well he had gone, it embraced a palm-tree,[8] whereupon the palm-tree cried out[9] and it [the demon] burst.

[The demons] of sorb-bushes are [called] Shide. A sorb-bush which is near a town has not less than sixty Shide [demons] [haunting it]. How does this matter? In respect of writing an amulet. A certain town-officer went and stood by a sorb-bush near a town, whereupon he was set upon by sixty demons and his life was in danger. He then went to a scholar who did not know that it was a sorb-bush haunted by sixty demons, and so he wrote a one-demon amulet for it . Then he heard how they suspended a hinga[10] on it [the tree][11] and sing thus: ‘The man's turban is like a scholar's, [yet] we have examined the man [and find] that he does not know "Blessed art Thou".’[12] Then a certain scholar came who knew that it was a sorb-bush of sixty demons and wrote a sixty-demon amulet for it. Then he heard them saying, ‘Clear away your vessels from here.’

Keteb Meriri:[13] there are two Ketebs, one before noon and one after noon; the one before noon is called Ketheb Meriri, and looks like a ladle turning in the jug of kamka.[14] That of the afternoon is called Keteb Yashud Zaharaim [‘Destruction that wasteth at noonday’];[15] it looks like a goat's horn, and wings compass it about.

Abaye was walking along, with R. Papa on his right and R. Huna, son of R. Joshua on his left. Seeing a Keteb Meriri approaching him on the left, he transferred R. Papa to his left and R. Huna son of R. Joshua to his right. Said R. Papa to him: ‘Wherein am I different that you were not afraid on my behalf?’ ‘The time is in your favour,’ replied he.[16]

From, the first of Tammuz[17] until the sixteenth they are certainly to be found; henceforth it is doubtful whether they are about or not, and they are found in the shadow of hazabe[18] which have not grown a cubit, and in the morning and evening shadows when these are less than a cubit [in length], but mainly in the shadow of a privy.

R. Joseph said: The following three things cause defective eyesight: combing one's head [when it is] dry, drinking the drip-drop [of wine], and putting on shoes while the feet are still damp.

[Eatables] suspended in a house lead[19] to poverty, as people say, ‘He who suspends a basket [of food] puts his food in suspense.’ Yet this relates only to bread, but it does not matter about meat and fish, [since] that is the usual way [of keeping them]. Bran[20] in a house leads to poverty. Crumbs in a house lead to poverty: the demons rest upon them on the nights of Sabbaths and on the nights of the fourth days.

The genius appointed over sustenance is called Neki'ah [Cleanliness]; the genius appointed over poverty is called Nabal [Folly or Filth] . Dirt on the spout of a pitcher leads to poverty. He who drinks water out of a plate is liable to a cataract. He who eats cress without [first] washing his hands will suffer fear thirty days.

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(1) Jast. conjectures paralysis. [Aruch: ‘headache on one side of the head’, megrim, connecting it with rt. meaning ‘to divide’].

(2) Perhaps vertigo; Rashi: megrim.

(3) Involving danger on account of the demons that inhabit them.

(4) MS.M.: kinura, the name of a shrubby tree, Christ's-thorn or lote (Jast.).

(5) [Var. lec.: add as fifth ‘the shade of the willow-tree].

(6) Charms to counteract them, in which their names are written.

(7) As it is sightless it cannot follow.

(8) In error. Rashi and Rashbam read נפקא אדקלא , it tripped over a palm-tree.

(9) [Or, withered v. supra p. 568, n. 5.]

(10) A musical instrument.

(11) Jast. Perhaps: they danced in chorus about it.

(12) He does not know which benediction to recite when he puts it on ridiculed his pretentions to scholarship.

(13) ‘Bitter destruction’ (v. Deut. XXXII, 24). Regarded here as the name of a demon.

(14) A kind of sauce made of milk and bread-crumbs. — The translation follows the reading of Rashi and Rashbam, which differs from cur. edd.

(15) Ps. XCI, 6.

(16) You have been blessed with good fortune, so the demon will not harm you.

(17) The fourth month of the Jewish year, roughly corresponding to July.

(18) A species of shrub.

(19) Lit., ‘are harmful.’

(20) So Rashbam.

Talmud - Mas. Pesachim 112a

He who lets blood without washing his hands will be afraid seven days. He who trims his hair and does not wash his hands will be afraid three days. He who pares his nails and does not wash his hands will be afraid one day without knowing what affrights him.

[Putting] one's hand to one's nostrils is a step to fear; [putting] one's hand to one's forehead is a step to sleep. It was taught: If food and drink [are kept] under the bed, even if they are covered in iron vessels, an evil spirit rests upon them.

Our Rabbis taught: A man must not drink water either on the nights of the fourth days [Wednesdays] or on the nights of Sabbath,[1] and if he does drink, his blood is on his own head, because of the danger. What is the danger? An evil spirit. Yet if he is thirsty what is his remedy? Let him recite the seven ‘voices’ which David uttered over the water and then drink, as it is said: The voice of the Lord is upon the waters; the God of glory thundereth, even the Lord is upon many water. The voice of the Lord is powerful; the voice of the Lord is full of majesty. The voice of the Lord breaketh the cedars; yea, the Lord breaketh in pieces the cedars of the Lebanon ... The voice of the Lord heweth out flames of fire. The voice of the Lord shaketh the wilderness; the Lord shaketh the wilderness of Kadesh. The voice of the Lord maketh the hinds to calve, and strippeth the forests bare; and in His temple all say: ‘Glory.’[2] But if [he does] not [say this], let him say thus: ‘Lul shafan anigron anirdafin,[3] I dwell among the stars, I walk among lean and fat people.’ But if [he does] not [say this], if there is a man with him he should rouse him and say to him, ‘So-and-so the son of So-and-so, I am thirsty for water,’ and then he can drink. But if not, he knocks the lid against the pitcher, and then he can drink. But if not, let him throw something into it and then drink.

Our Rabbis taught: A man should not drink water from rivers or pools at night, and if he drinks, his blood is on his own head, because of the danger. What is the danger? The danger of blindness.[4] But if he is thirsty, what is his remedy? If a man is with him he should say to him, ‘So-and-so the son of So-and-so, I am thirsty for water.’ But if not, let him say to himself, ‘O So-and-so,[5] my mother told me, "Beware of shabrire" : Shabrire, berire, rire, ire re,[6] I am thirsty for water in a white glass.’

AND EVEN [IF HE RECEIVES RELIEF] FROM THE CHARITY PLATE ETC. That is obvious? — It is necessary only even according to R. Akiba who said: Treat your Sabbath like a weekday[7] rather than be dependent on man; yet here, in order to advertise the miracle, he agrees.[8]

Tanna debe Eliyahu [taught]:[9] Though R. Akiba said, ‘Treat your Sabbath like a weekday rather than be dependent on men,’ yet one must prepare something trifling at home.[10] What is it? Said R. Papa: Fish hash. As we learned, R. Judah b. Tema said: Be strong as the leopard and swift as the eagle, fleet as the deer and valiant as a lion to do the will of thy Father in heaven.[11]

Our Rabbis taught: Seven things did R. Akiba charge his son R. Joshua: My son, do not sit and study at the highest point of the town;[12] do not dwell in a town whose leaders are scholars;[13] do not enter your own house suddenly, and a the more your neighbour's house; and do not withhold shoes from your feet.[14] Arise early and eat, in summer on account of the sun [i.e., heat] and in winter on account of the cold; treat your Sabbath like a weekday rather than be dependent on man , and strive to be on good terms with the man upon whom the hour smiles. R. Papa observed: [That does] not [mean] to buy from or to sell to him, but to enter into partnership with him. But now that R. Samuel b. Isaac said: What is meant by the verse, Thou hast blessed the work of his hands?[15] Whoever took a farthing [perutah] from Job was blessed; even to buy from and to sell to him is advisable.

Five things did R. Akiba charge R. Simeon b. Yohai when he was immured in prison.[16] He [the latter] said to him, ‘Master, teach me Torah.’ ‘I will not teach you,’ he replied.[17] ‘If thou wilt not teach me, ‘ said he, ‘I will tell my father Yohai and he will deliver thee to the state.’ ‘My son,’ answered he, ‘more than the calf wishes to suck does the cow desire to suckle.’ Said he to him, ‘Yet who is in danger: surely the calf is in danger!’[18] Said he to him: ‘If you wish to be strangled, be hanged on a large tree,[19] and when you teach your son, teach him from a corrected scroll.’ (What is that? Said Raba, — others state, R. Mesharsheya: A new one, for once an error has entered, it remains.)[20] ‘Do not cook in a pot in which your neighbour has cooked.’ (What does that mean? [Do not marry] a divorced woman during her husband's lifetime. For a Master said: When a divorced man marries a divorced woman, there are four minds in the bed. Alternatively, [it refers] even to a widow, for

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(1) Rashbam: without a light.

(2) Ps. XXIX, 3-5, 7-9.

(3) This is an incantation.

(4) Shabrire, v. Git., Sonc. ed. p. 327, n. 4.

(5) Addressing himself thus.

(6) [An incantation against the demon of blindness resembling an Abracadabra amulet, in which each succeeding line is reduced by one letter].

(7) In the matter of food and drink.

(8) That he must take from charity.

(9) V. p. 504, n. 1.

(10) In honour of the Sabbath.

(11) Thus even the poorest must make an effort to honour the Sabbath.

(12) Many pass there, and they will disturb your studies.

(13) Intent on their studies, they neglect the affairs of the town!

(14) Cf. Shab. 129a.

(15) Job I, 10.

(16) R. Akiba was kept in prison several years and then martyred for defying Hadrian's edict against practising and teaching Judaism, Ber. 61b; v. J.E. I, 3051.

(17) He did not wish to endanger him.

(18) He pleaded to be allowed to take the risk.

(19) If you must depend on an authority, see that he is a great one.

(20) A error learned in childhood is difficult to dispel.

Talmud - Mas. Pesachim 112b

not all fingers[1] are alike). Enjoying the produce without interest[2] is a good deed and profitable investment.[3] A religious deed which leaves the body pure is marrying a woman when one [already] has children.

Four things did our holy Teacher[4] command his children: Do not dwell in Shekanzib,[5] because [its inhabitants] are scoffers and will corrupt you to disbelief. And do not sit upon the bed of a Syrian woman. Some say, [that means:] do not lie down to sleep without reading the shema’; while others explain: do not marry a proselyte. But others explain ‘Syrian’ literally, [the reason being] on account of what happened to R. Papa.[6] And do not seek to evade toll tax, lest they discover you and deprive you of a that you possess. And do not stand in front of an ox when he comes up from the meadow, because Satan dances between his horns.[7] Said R. Samuel: this refers to a black ox and in the month of Nisan.[8] R. Oshaia recited: One must remove a distance of fifty cubits from an ox that is a tam[9] [and] as far as the eye can see from an ox that is a mu'ad. A Tanna taught in R. Meir's name: [Even] when the ox's head is in the feeding-bag, climb up to the roof and throw away the ladder from under you.

Rab said: The cry for an ox[10] is ‘hen, hen’; for a lion, ‘zeh zeh’; for a camel, ‘da da’; a ship's cry is ‘helani hayya hela we-hiluk hulia.’[11]

Abaye said: Skin, a fish, a cup, hot water, eggs, and the vermin in linen are all injurious to ‘something else’.[12] Skin: [that means] he who sleeps on a tanner's hide.[13] A fish: [viz.,] shibuta[14] during Nisan. A cup: the residue of fish hash. Hot water: pouring extremely hot water over oneself.[15] Eggs: [i.e.,] he who treads on [their] shells. Vermin in linen: if one launders his garment and does not wait eight days before putting it on, the vermin[16] are produced and harmful for ‘something else’.

R. Papa said: A man should not enter a house in which there is a cat, without shoes. What is the reason? Because the cat may kill a snake and eat it; now the snake has little bones, and if a bone sticks into his foot it will not come out, and will endanger him. Others say: A man should not enter a house where there is no cat, in the dark.[17] What is the reason? Lest a snake wind itself about him without his knowing, and he come to danger. Three things did R. Ishmael son of R. Jose charge Rabbi: (Mnemonic: Makash).[18] Do not inflict a blemish upon yourself. (What does that mean? Do not engage in a lawsuit with three, for one will be your opponent and the other two witnesses [against you] .) And do not feign interest in[19] a purchase when you have no money.[20] When your wife as performed tebillah, do not be intimate with her the first night. Said Rab: That refers to a niddah by Scriptural law,[21] [for] since there is the presumption of an open well,[22] she may continue with gonorrhoeic discharge.[23]

Three things did R. Jose son of R. Judah charge Rabbi. Do not go out alone at night, and do not stand naked in front of a lamp, and do not enter a new bath-house, lest it [the floor] split.[24] How long [is it regarded as new]? — Said R. Joshua b. Levi: For twelve months. ‘And do not stand naked in front of a lamp,’ for it was taught: He who stands naked in front of a lamp will be a epileptic, and he who cohabits by the light of a lamp will have epileptic children.

Our Rabbis taught: If one cohabits in a bed where an infant is sleeping, that infant [will be] an epileptic. Now that was said only if he is less than one year old; but if he is a year old, it does not matter. Again, this was said only if he is sleeping at [their] feet; but if he is sleeping at [their] head, it does not matter. Again, this was said only if he does not lay his hand upon him; but if he lays his hand upon him, it does not matter.

‘And do not go out alone at night’, for it was taught: One should not go out alone at night, i.e., on the nights of neither Wednesday nor Sabbaths, because Igrath the daughter of Mahalath,[25] she and one hundred eighty thousand destroying angels go forth, and each has permission to wreak destruction independently. Originally they were about a day. On one occasion she met R. Hanina b. Dosa [and] said to him, ‘Had they not made an announcement concerning you in Heaven, "Take heed of Hanina and his learning," I would have put you in danger.’ ‘If I am of account in Heaven,’ replied he, ‘I order you never to pass through settled regions.’ ‘I beg you,’ she pleaded, ‘leave me a little room.’ So he left her the nights of Sabbaths and the nights of Wednesdays. On another occasion she met Abaye. Said she to him, ‘Had they not made an announcement about you in Heaven, "Take heed of Nahmani[26] and his learning," I would have put you in danger.’ ‘If I am of account in Heaven,’ replied he, ‘I order you never to pass through settled regions.’ But we see that she does pass through? — I will tell you: Those are

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(1) Euphemism: The wife thinks always of her first husband.

(2) Lit., ‘hire.’

(3) Lit., ‘a large body’. The passage is a difficult one, particularly with the reading of the ed. לא , but it would seem to refer to lending money on a field and receiving some of its produce in part repayment. But as its value is probably calculated at less than market price, this is a profitable investment, yet at the same time there is no actual interest. Such a transaction is permitted (B.M. 67b). ‘Ar. and MS.M. read: ולו , and Jast. accordingly translates: An act of charity and at the same time a good investment is the act of him who helps to produce fruits, while he has the reward (e.g. , one who loans money to a husbandman on security, allowing payment in small instalments).

(4) I.e., R. Judah ha-Nasi.

(5) A town in Babylonia, on the cast side of the Tigris; v. Obermeyer, Landschaft, pp. 190f. It is there (p. 191, n. 4) pointed out, however, that R. Judah, a Palestinian, would have had no occasion to warn his children against living in a town in Babylonia, nor could he have known the character of its inhabitants well enough to justify this warning; hence it is conjectured that ‘Raba’ should be read here instead.

(6) V. Ber. 8b.

(7) Rashbam: the ox is mad, as explained infra.

(8) The first month-about April.

(9) The technical name of an ox that has not yet gored three times. When it has, it is called mu'ad.

(10) With which to chase it away or to urge it to work.

(11) Perhaps the ancient equivalent of ‘yo heave ho’. [MS.M. reads simply: ‘hayya, hayya’].

(12) Leprosy.

(13) Rashi and Rashbam. I.e., before it is completely dressed.

(14) Probably mullet (Jast.).

(15) At a bath.

(16) Which it may still contain.

(17) MS.M.: Without shoes.

(18) V. p. 348, n. 8. M == Mum (blemish); K == mekah (a purchase); SH == ishteka (your wife).

(19) Lit., ‘stand over.’

(20) V. B.M. 58b and notes a.l. in Sonc. ed.

(21) By which a woman performs tebillah seven days after the beginning of menstruation, even if menstruation lasted all the seven days. Subsequently, however, it was enacted that she must wait seven days from the end of menstruation. Rab observes that R. Ishmael's charge held good only when the more lenient Scriptural law was practised.

(22) I.e., her blood-flow has continued almost until tebillah.

(23) During intimacy.

(24) Through the heat.

(25) The queen of demons.

(26) Abaye was so called because he was brought up in the house of Rabbah b. Nahman.

Talmud - Mas. Pesachim 113a

the narrow paths [which they frequent], whence their horses bolt and come [into civilized places] bringing them along.

Rab said to R. Assi: Do not dwell in a town in which no horses neigh or dogs bark.[1] And do not dwell in a town where the leader of the community is a physician.[2] And do not marry two [women],[3] [but] if you do marry two, marry a third.[4]

Rab said to R. Kahana: Deal in carcases, but do not deal in words;[5] flay carcases in the market place and earn wages and do not say, ‘I am a priest and a great man and it is beneath my dignity.’[6] [Even] if you [merely] ascend the roof, [take] victuals with you.[7] [Even] if a hundred pumpkins cost but a zuz in town, let them, be under your skirts.[8] Rab said to his son Hiyya: Do not take drugs[9] and do not leap in great jumps;[10] do not have a tooth extracted,[11] and do not provoke serpents and do not provoke a Syrian woman.

Our Rabbis taught: Three must not be provoked, viz.: an insignificant Gentile,[12] a little snake, and a humble pupil. What is the reason? Because their kingdom stands behind their ears.[13]

Rab said to his son Aibu: I have laboured over your studies but without success, [so] come and I will teach you worldly wisdom. Sell your wares while the sand is still on your feet.[14] Everything you may sell and regret,[15] except wine, which you can sell without regrets.[16] Untie your purse and [then] open your sacks.[17] Better a kab from the ground than a kor from the roof.[18] When the dates are in your bag run to the brewery [beth sudna].[19] And to what extent? — Said Raba: Up to three se'ahs. R. Papa said: If I were not a beer manufacturer I would not have become wealthy. Others say, R. Hisda said: If I were not a beer manufacturer, I would not have become wealthy. What is [the meaning of] sudna?[20] Said R. Hisda: A pleasant secret [sod na'eh] and the exercise of charity.[21]

R. Papa said: Every bill[22] requires collecting;[23] in every credit sale it is doubtful whether it [payment] will be forthcoming or not, and when it is forthcoming it may be bad money.[24]

Three things did R. Johanan say in the name of the men of Jerusalem: when you go out to battle, do not go out among the first but among the last, So that you may return among the first; and treat your Sabbath like a weekday rather than be dependent on your fellow-beings, and strive to be on good terms with him upon whom the hour smiles.

Three things did R. Joshua b. Levi say in the name of the men of Jerusalem. Do not practise immodesty[25] on account of the incident which occurred;[26] if your daughter has attained puberty, free your slave and give [him] to her;[27] and beware of your wife with her first son-in-law. What is the reason?-R. Hisda said: On account of immorality: R . Kahana said: On account of money.[28] And [in fact] both are correct.

R. Johanan said: Three are of those who will inherit the world to come, viz.: he who dwells in Eretz Yisrael; and he who brings up his sons to the Study of the Torah; and he who recites habdalah over wine at the termination of the Sabbath. Who is that? He who leaves over [wine] from kiddush for habdalah.[29]

R. Johanan said: Concerning three does the Holy one, blessed be He, make proclamation every day:[30] a bachelor who lives in a large town without sinning, a poor man who returns lost property to its owner, and a wealthy man who tithes his produce in secret.[31] R. Safra was a bachelor living in a large town.

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(1) These guard the town: the dogs raise the alarm and the marauders are pursued on horseback.

(2) There seems to be no adequate reason for this. Possibly a doctor would be too busy to give proper attention to communal matters. R. Tam in B.B. 110a s.v. לא תימא reads אסי instead of אסיא , i.e., do not dwell in a town whose head is (R.) Assi — a playful warning against the cares of office, which leave but little time for study.

(3) Lest they devise plots against you.

(4) She will reveal their designs.

(5) Gossip or quibbling.

(6) The greatest man is not degraded by honest work.

(7) Do not undertake the least journey without provisions.

(8) Keep them in stock and do not wait to buy until you actually need them.

(9) Even as a medicine, as they are habit forming.

(10) Or: do not jump over a brook — the strain affects the eyesight.

(11) When you have toothache — it will eventually cease in any case. [R. Hananel refers it to a molar tooth, the extraction of which affects the eyesight. Preuss, Biblisch — talmudische Medizin, p. 330, quotes Celsus: majore periculo in superioribus dentibus fit (extractio), quia potest tempora oculosque concutere].

(12) Lit., ‘a little Gentile’.

(13) They will grow up and take revenge. The particular expression may have been occasioned by Diocletian's rise to be Emperor of Rome though born of slaves — according to the Rabbis he was a swineherd originally. When Emperor he tried to avenge insults offered to him in his lowly position.

(14) Immediately you return from buying, sell.

(15) If the price advances — you might have received more.
(16) Had you waited it might have turned to vinegar.
(17) Pocket the money for a purchase before delivering it.
(18) Rather earn little near home than much far away.
(19) To brew beer of them — otherwise you may eat them.
(20) That it is employed to denote a brewery.
(21) It is a pleasant secret — it is profitable and affords the means of charity.
(22) Lit., 'everything on account (of which a bill or bond must be indited).'
(23) Do not be certain of the money until you have actually collected it.
(24) If payment is made in small instalments the money may be frittered away.
(25) Do not frequent places where immodest sights are to be seen. Var. lec.: do not frequent roofs.
(26) Viz. , David's sin with Bath Sheba.
(27) Marry her at the earliest possible moment.
(28) She is likely to spend your money on him.
(29) He has only a little wine and specially reserves for habdalah that which remains over from kiddush.
(30) As having earned His special approval.
(31) I.e., without ostentation.

Talmud - Mas. Pesachim 113b

Now a tanna recited [R. Johanan's dictum] before Raba and R. Safra, [whereupon] R. Safra's face lit up. Said Raba to him: it does not mean such as you, but such as R. Hanina and R. Oshaia, who were cobblers in Eretz Yisrael and dwelt in a street of harlots and made shoes for harlots and went in to them:[1] they [the harlots] looked at them, but they [these scholars] would not lift their eyes to look at them, and their [the harlots'] oath was 'by the life of the holy Rabbis of Eretz Yisrael.'[2]

Three the Holy One, blessed be He, loves: he who does not display temper, he who does not become intoxicated, and he who does not insist on his [full] rights.[3]

Three the Holy One, blessed be He, hates: he who speaks one thing with his mouth and another thing in his heart; and he who possesses evidence concerning is neighbour and does not testify for him; and he who sees something indecent in his neighbour and testifies against him alone.[4] As it once happened that Tobias sinned and Zigud alone came and testified against him before R. Papa, [whereupon] he had Zigud punished. 'Tobias sinned and Zigud is punished!' exclaimed he, 'Even so,' said he to him, 'for it is written, one witness shall not rise up against a man,[5] whereas you have testified against him alone: you merely bring him into ill repute.'[6] R. Samuel son of R. Isaac said in Rab's name: Yet he may hate him,[7] for it is said , If thou see the ass of thine enemy lying under' its burden.[8] Now which enemy [is meant]: Shall we say, a Gentile enemy, — but it was taught: The enemy of whom they spoke is an Israelite enemy, not a Gentile enemy? Hence it obviously means an Israelite enemy. But is it permitted to hate him? Surely it is written , Thou shalt not hate thy brother in thy heart?[9] Again if there are witnesses that he had committed wrong, the all indeed hate him! why particularly this person? Hence it must surely apply to such a case where he had seen something indecent in him. R. Nahman b. Isaac said: it is a duty to hate him, as it is said, The fear of the Lord is to hate evil.[10] R. Aha son of Raba asked R. Ashi: What about telling his teacher, that he should hate him?-Said he to him: If he knows that his teacher regards him as trustworthy as two [witnesses], he should tell him; but if not, he must not tell him.

Our Rabbis taught: There are three whose life is not life; the [over.] compassionate, the hot-tempered, and the [too] fastidious; whereon R. Joseph observed: And a these [qualities] are found in me.

Our Rabbis taught: Three hate one another, viz.: dogs, fowls, and Parsee priests;[11] some say, harlots too; some say, scholars in Babylonia too.

Our Rabbis taught: Three love each other, viz.: proselytes, slaves , and ravens. Four are too impossible for words:[12] a poor man who is arrogant, the wealthy man who flatters,[13] a lecherous old man, and a leader who lords it over the community without cause. Some say: Also he who divorces his wife a first and a second time and takes her back. And the first Tanna?[14] — it may be that her kethubah[15] is large,[16] or else he has children from her and cannot divorce her.[17]

Five things did Canaan charge his sons: Love one another, love robbery, love lewdness , hate your masters and do not speak the truth . Six things were said of a horse: it loves promiscuity, it loves battle, it has a proud spirit ‘ it despises sleep, eats much and excretes little. Some say: it also seeks to slay its master in battle. Seven are banned[18] by Heaven; these are they: A Jew who has no wife; he who has a wife but no children;[19] and he who has children but does not bring them up.to the study of the Torah; and he who has no phylacteries on his head and on his arm ‘ no fringes on his garment and no mezuzah on his door, and he who denies his feet shoes. And some say: Also he who never sits in a company assembled for a religious purpose.[20] Rabbah b. Bar Hanah said in the name of R. Samuel b. Martha in Rab's name on the authority of it. Jose of Huzal: How do we know that you must not consult astrologers?[21] Because it is said: Thou shalt be whole-hearted with the lord thy God.[22] And how do we know that one who knows that his neighbour is greater than himself even in one thing must show him honour? Because it is said, because a surpassing [superior] spirit was in him, and the king thought to set him over’ the whole realm.[23] And she [a woman] who sits over clean blood is forbidden intercourse;[24] for how long? Said Rab: A ‘onah.[25]

A Tanna taught: Joseph of Huzal is identical with Joseph the Babylonian with Issi b. Gur Aryeh, with Issi b. Judah, with Issi b. Gamaliel and with Issi b. Mahallallel, and what was his [real] name? Issi b. ‘Akabia.[26] it. Isaac b. Tabla is identical with R. Isaac b. Hakla, and with R. Isaac b. Ila'a.[27]

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(1) To deliver the shoes.

(2) Thus by their chastity in face of great temptation they sanctified the Divine Name.

(3) In the sense that he does not retaliate.

(4) Being the only person who has seen it.

(5) Deut. XIX, 15.

(6) Since no action can follow your unsupported testimoy.

(7) As an evildoer-hate is morally wrong otherwise.

(8) Ex. XXIII, 5.

(9) Lev. XIX, 17.

(10) Prov. VIII,13.

(11) והחברין Guebers, [Aliter: ‘partners’ v. Strashun].

(12) Lit., ‘the mind does not tolerate them’.

(13) I.e., who denies his true feelings.

(14) Why does he not include the last?

(15) Marriage settlement, which she can claim from him on divorce.

(16) So that he must take her back, as he cannot pay it.

(17) I.e., he cannot remain constant to the divorce.

(18) Var. lec. : as banned.

(19) By his own volition.

(20) E.g., at a circumcision feast.

(21) Lit., ‘Chaldeans,’ who were we versed in astrological arts.

(22) Deut. XVIII, 13.

(23) Dan. VI, 4.

(24) This is based on the Scriptural law that for a period of thirty-three or sixty-six days beginning respectively on the eighth or the fifteenth day after childbirth a woman's blood is clean (v. Lev. XII, 1-5), i.e. ‘ it does not defile her and cohabitation is permitted. When this period is ended, she is designated ‘a woman sitting over clean blood,’ and cohabitation is forbidden, lest she have a blood discharge and think that just as her blood did not defile before, it does not defile her now either.

(25) Lit. , ‘a period’ — Rashi: one night. — Thus the law applies to the forty-first or the eighty-first night only.

(26) [Issi (a variant of Joseph) was the son of ‘Akabia b. Mahallallel, the story of whose excommunication is told in ‘Ed. V, 6, and it was in order to be spared the tragic memories associated with the name of ‘Akabia that Issi did not describe himself as the son of ‘Akabia; v. Derenbourg, Essai p. 484].

(27) In the edd. there follows ‘hu R. Isaac b. Aha’: the same is R. Isaac b. Aha; Bah however deletes hu, in which case another person is now referred to.

Talmud - Mas. Pesachim 114a

R. Isaac b. Aha mentioned in legal discussions is the same as R. Isaac b. Phineas mentioned in homilies, and the token is ‘Hear ‘me [shema'uni], — my brethren [ahay] , and my people.’[1]

Rabbah b. Bar Hanah said in R. Johanan's name in the name of R. Judah b. R. Il'ai: Eat onions [bazel] and dwell in the protection [bezel] [of your house],[2] and do not eat geese and fowls lest your heart pursue you;[3] reduce your food and drink and increase [expenditure] on your house. When ‘Ulla came, he said: In the West [Palestine] a proverb is current: he who eats the fat tail [allitha] must hide in the loft [‘alitha],[4] but he who eats cress [kakule] may lie by the dunghill [kikle][5] of the town.[6]

MISHNAH. THEY FILLED[7] THE FIRST CUP FOR HIM; BETH SHAMMAI MAINTAIN: HE RECITES A BLESSING FOR THE DAY [FIRST],[8] AND THEN RECITES A BLESSING OVER THE WINE; WHILE BETH HILLEL RULE: HE RECITES A BLESSING OVER THE WINE [FIRST], AND THEN RECITES A BLESSING FOR THE DAY.

GEMARA. Our Rabbis taught: [These are] the matters which are disputed by Beth Shammai and Beth Hillel in respect to the meal: Beth Shammai maintain: He recites a blessing for the day [first] and then recites a blessing over the wine, because the day is responsible for the presence of the wine;[9] moreover, the day has already become sanctified while the wine has not yet come.[10] But Beth Hillel maintain: He recites a blessing over the wine and then recites a blessing for the day, because the wine enables the kiddush to be recited.[11] Another reason: the blessing for wine is constant, while the blessing for the day is not constant ,[12] [and of] that which is constant and that which is not constant, that which is constant comes first. Now the law[13] is as the ruling of Beth Hillel. Why state [another reason]?[14] — [This:] for should you argue: there we have two [reasons], whereas here there is [only] one,[15] [I answer that] here also there are two, [for of] that which is constant and that which is not constant, that which is constant comes first. ‘Now the law is as the ruling of Beth Hillel’: that is obvious, since there issued a Bath Kol?[16] — If you wish I can answer that this was before the Bath Kol. Alternatively, it was after the Bath Kol, and this is [in accordance with] R. Joshua who maintained We disregard a Bath Kol.[17]

MISHNAH. THEY THEN[18] SET [IT] BEFORE HIM.[19] HE DIPS THE LETTUCE[20] BEFORE YET HE HAS REACHED THE AFTERCOURSE OF THE BREAD.[21] THEY SET BEFORE HIM MAZZAH, LETTUCE [HAZERETH], AND HAROSETH[22] AND TWO DISHES, THOUGH THE HAROSETH IS NOT COMPULSORY. R. ELEAZAR SON OF R. ZADOK SAID: IT IS COMPULSORY. AND IN THE TEMPLE THEY USED TO BRING THE BODY OF THE PASSOVER-OFFERING BEFORE HIM.

GEMARA.

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(1) I Chron. XXVIII, 2. Thus in legal discussions (shema'ta, connected with shema'uni) his name appears as b. Aha (connected with ahay).

(2) Do not spend overmuch on food, then you will be able to afford your house.
(3) Do not cultivate a greedy appetite so that you are always wanting to eat.
(4) He who squanders his money on costly dishes must hide from his creditors.
(5) [Aliter: 'place of assembly' from Grk.**,a circle].
(6) Afraid of none — not being in debt.
(7) Lit. , 'mixed. ,
(8) I.e. , the blessing on the sanctity of the Festival.
(9) If it were not a festival no wine would be required.
(10) The festival automatically commences with the appearance of the stars, even if no wine as yet been brought to the table. Thus it is first in time, and therefore first in respect to a blessing too.
(11) without wine or bread kiddush cannot be said. Bread is the equivalent of wine in this respect, and the blessing for bread precedes the blessing for the day.
(12) Whenever 'wine is drunk a blessing over it is required, whereas the blessing of sanctification is confined to festivals.
(13) [MS.M.: the halachah].
(14) Is not the first sufficient?
(15) Beth Shammai give two reasons for their view, whereas only one supports beth Hillel's
(16) Proclaiming the law always to be as Beth Hillel; v. Er. 13b.
(17) V. B.M. 59b.
(18) After having recited the kiddush over the wine.
(19) Rashi and Rashbam: vegetables. R. Han.: the table with the food, which was brought after kiddush.
(20) Tosaf.: into water or vinegar, and eats it. This is to stimulate the child's wonder, as it Is unusual to commence the meal thus.
(21) Viz., the bitter herbs, which are eaten after the unleavened bread. Bertinoro reads: before he has reached the breaking (i.e., the distribution) of the bread.
(22) V. Glos.

Talmud - Mas. Pesachim 114b

Resh Lakish said: This[1] proves that precepts require intention, [for] since he does not eat it[2] the stage when bitter herbs are compulsory, he eats it with [the blessing,] 'Who createst the fruit of the ground,' and perhaps he did not intend [to fulfil the obligation of] bitter herbs; therefore he must dip it again with the express purpose of [eating] bitter herbs. For if you should think [that] precepts do not require intention, why two dippings: surely he has [already] dipped it once?[3] But whence [does this food]? Perhaps after a precepts do not require intention, and as to what you argue, why two dippings, [the answer is,] that there may be a distinction for [the sake of] the children.[4] And should you say, if so, we should be informed about other vegetables:[5] If we were informed about other vegetables I would say: Only where other vegetables [are eaten first] do we require two dippings, but lettuce alone[6] does not require two dippings:[7] hence he informs us that even lettuce [alone] requires two dippings, so that there may be a distinction [shown] therewith for the children. Moreover, it was taught: If he ate them [the bitter herbs] while demai,[8] he has discharged [his duty]; if he ate them without intention, he has discharged [his duty]; if he ate them, in half quantities,[9] he has discharged [his duty], providing that he does not wait between one eating and the next more than is required for the eating of half [a loaf]?[10] -it is [dependent on] Tannaim. For it was taught, R. Jose said: Though he has [already] dipped the lettuce [hazereth], it is a religious requirement to bring lettuce and haroseth and two dishes before him.[11] Yet still, whence [does this food]: perhaps R. Jose holds [that] precepts do not require intention and the reason that we require two dippings is that there may be a distinction [shown] for the children?- If so, what is the 'religious requirement?'[12]

What are the two dishes?-Said R. Huna: Beet and rice.[13] Raba used to be particular for[14] beet and rice, since it had [thus] issued from the mouth of R. Huna. R. Ashi said: From R. Huna you may infer that none pay heed to the following [ruling] of R. Johanan b. Nuri. For it was taught, R. Johanan b.

Nuri said: Rice is a species of corn and kareth is incurred for [eating it in] its leavened state, and a man discharges his duty with it on Passover.[15] Hezekiah said: Even a fish and the egg on it.[16] R. Joseph said: Two kinds of meat are necessary, one in memory of the Passover-offering and the second in memory of the hagigah.[17] Rabina said: Even a bone and [its] broth.

It is obvious that where other vegetables are present, he recites[18] the blessing, 'who createst the fruit of the ground' over the other vegetables and eats, and then[19] recites the blessing, '[Who hast commanded us] concerning the eating of bitter herbs,' and eats.[20] But what if he has lettuce only? Said R. Huna: First he recites a blessing over the bitter herbs, 'Who createst the fruit of the ground,' and eats, and then [later] he recites over it 'concerning the eating of bitter herbs' and eats.

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(1) The fact that he dips lettuce twice.

(2) The first lettuce.

(3) The first lettuce is eaten before it is obligatory (v. n. 8 in Mishnah); hence the ordinary blessing for vegetables is recited, not 'who hast commanded us concerning the eating (If bitter herbs,' though later it will be eaten as an obligation. This he did not discharge his duty of eating bitter herbs with the first lettuce, because that was not his intention, which proves that one does not discharge one's duty unless it is expressly done with that intention.

(4) v.p. 587, n. 8.

(5) The Mishnah should state that a vegetable is dipped into water and eaten Why specify hazereth (lettuce), which is one of the vegetables which may be eaten as bitter herbs (v. supra 39a)?

(6) I.e., where lettuce alone is eaten.

(7) for once he has eaten it he has done his duty in respect of bitter herbs.

(8) V. Glos.

(9) I.e., as much as half an olive the first time and the same the second time, as much as an olive being the minimum quantity which must be eaten.

(10) V. supra p. 208, n. 9. — This distinctly contradicts Resh Lakish.

(11) And Resh Lakish maintains that R. Jose's reason is because precepts require intention.

(12) mizwah implies that it is an essential obligation.

(13) Even these constitute two dishes, and of course two kinds of meat all the more (Rashbam and Tosaf.)

(14) Lit., 'go in search of.'

(15) Tabshil denotes a boiled dish: hence if it were a species of corn, boiling would make it leaven.

(16) I.e.,the egg with which it is smeared before it is prepared. Though it becomes all one, yet it counts as two dishes.

(17) v. Mishnah supra 69b.

(18) At the first dipping.

(19) At the second dipping.

(20) Each blessing being over a different vegetable.

Talmud - Mas. Pesachim 115a

To this R. Hisda demurred: After filling his stomach with it he returns and recites a blessing over it! — Rather, said R. Hisda: On the first occasion he recites over it, 'Who createst the fruit of the ground,' and, 'concerning the eating of bitter herbs,' and eats, while subsequently he eats the lettuce without a blessing. In Syria they acted in accordance with R. Huna, while R. Shesheth the son of R. Joshua acted according to R. Hisda. And the law is in accordance with R. Hisda. R. Aha the son of Raba used to go in search of other vegetables, so as to avoid controversy.[1]

Rabina said, R. Mesharsheya son of R. Nathan told me: Thus did Hillel[2] say on the authority of tradition:[3] A man must not make a sandwich of mazzah and bitter herbs together and eat them, because we hold that mazzah nowadays[4] is a Biblical obligation, whereas bitter herbs are a Rabbinical requirement and thus the bitter herbs, which are Rabbinical, will come and nullify the mazzah, which is Biblical. And even on the view that precepts cannot nullify each other, that applies only to a Biblical [precept] with a Biblical [precept], or a Rabbinical [precept] with a Rabbinical [precept], but in the case of a Scriptural and a Rabbinical [precept], the Rabbinical [one] comes and nullifies the Scriptural [one]. Which Tanna do you know [to hold] that precepts do not nullify each other? — it is Hillel.[5] For it was taught, it was related of Hillel that he used to wrap them together,[6] for it is said, they shall eat it with unleavened bread and bitter herbs.[7] R. Johanan observed: Hillel's colleagues disagreed with him. For it was taught: You might think that he should wrap them together and eat them, in the manner that Hillel ate it, therefore it is stated, they shall eat it with unleavened bread and bitter herbs, [intimating] even each separately.[8] To this R. Ashi demurred: If so, what is [the meaning of] ‘even’?[9] Rather, said R. Ashi, this Tanna teaches thus: You might think that he does not discharge his duty unless he wraps them together and eats them, in the manner of Hillel therefore it is stated, they shall eat it with unleavened bread and bitter herbs, [intimating] even each separately. Now that the law was not stated either as Hillel or as the Rabbis,[10] one recites the blessing. ‘[Who hast commanded us] concerning the eating of unleavened bread’ and eats; then he recites the blessing, ‘concerning the eating of bitter herbs,’ and eats; and then he eats unleavened bread and lettuce together without a blessing. in memory of the Temple, as Hillel [did].[11]

R. Eleazar said in R. Oshaia's name: Whatever is dipped in a liquid[12] requires the washing of the hands.[13] Said R. Papa: Infer from this that the lettuce

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(1) Lit., ‘to exclude himself from a controversy’.

(2) The reference is to R. Hillel, the fourth century Babylonian amora, and not to Hillel, the great Nasi who flourished in the first century B.C.E.

(3) I.e., it came to him anonymously; Kaplan, Redaction of the Talmud, p. 227.

(4) I.e., after the destruction of the Temple and the cessation of sacrifices.

(5) Hillel 1.

(6) Place the paschal meat of bitter herbs between mazzah.

(7) Num. IX, 11.

(8) This is deduced from the sing. ‘it.’

(9) ‘Even’ shows that they may certainly be eaten together.

(10) Though the aforementioned Tanna does not disagree with Hillel, as R. Ashi has shown, it was nevertheless held that some Rabbis did disagree.

(11) This he acts on both views, by eating them first separately and then together.

(12) Vegetables, which are dipped into vinegar.

(13) Unwashed hands are, unclean in the second degree and therefore disqualify terumah (v. Mishnah supra 14a and note a.l.), and whatever disqualifies teruma defiles liquids in the first degree (supra 14b). Therefore the hands must be washed.

Talmud - Mas. Pesachim 115b

must be plunged right into the haroseth[1] to counteract the kappa.[2] For if you should think that it need not be sunk into it, why is the washing of the hands required?[3] Surely he does not touche [the haroseth]?[4] Yet perhaps I may maintain that in truth it need not be sunk [into the haroseth], the kappa dying from its smell; yet why is washing of the hands required? In case he plunges it in.

R. Papa also said: A man must not keep the bitter herbs [an appreciable time] in the haroseth, because the sweetness of its ingredients [sc. the haroseth] my neutralize its bitterness, whereas the taste of bitter herbs is essential, but it is then absent.

R. Hisda brought[5] Rabbana ‘Ukba[6] and he lectured: If he washed his hands at the first dipping- he must wash his hands at the second dipping [too]. The Rabbis discussed this before R. Papa: This was stated in general,[7] for if you should think that it was stated here [in connection with Passover], why must he wash is hands twice? Surely he has [already] washed his hands once?[8] Said R. Papa to them: On the contrary, it was stated here, for if you should think that it was stated in general, why two dippings?[9] What then? it was stated here? Then why must he wash his hands twice: surely he has [already] washed his hands once? — I will tell you: since he is to recite the Haggadah[10] and Hallel,[11] he may let his thoughts wander[12] and touch [something unclean].

Raba said: If he swallows ,unleavened bread, he discharges his duty;[13] if he swallows bitter herbs, he does not discharge his duty.[14] If he swallows unleavened bread and bitter herbs [together], he discharges his duty of unleavened bread, [but] not his duty of bitter herbs. If he wraps them in bast and swallows them, he does not discharge his duty of unleavened bread either.

R. Simi b. Ashi said: unleavened bread [must be set] before each person [of the company]. bitter herbs before each person. and haroseth before each person, but we remove the table[15] only from before him who recites the Haggadah. R. Huna said: All these too [are Set only] before him who recites the Haggadah.[16] And the law is as R. Huna.

Why do we remove the table? — The School of R. Jannai said: So that the children may perceive [the unusual proceeding] and enquire [its reasons]. Abaye was sitting before Rabbah, [when] he saw the tray taken up from before him. Said he to then: We have not yet eaten, and they have [already] come [and] removed the tray from before us! Said Rabbah to him: You have exempted us from reciting, ‘Why [is this night] different?’[17]

Samuel said: Bread of [‘oni][18] [means] bread over which we recite [‘onin] many words.[19] It was taught likewise: ‘Bread of [‘oni]’ means bread over which we recite [‘onin] many words. Another interpretation: ‘Bread of [‘oni]’: ‘ani [poverty] is written:[20] just as a beggar generally has a piece,

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(1) which is a liquid.

(2) A poisonous substance in the hazereth.

(3) For the first dipping, v. infra.

(4) With his hand, if the lettuce is only dipped lightly in it.

(5) אדבריה .

(6) ‘Rabbana’ is a Babylonian title, probably the equivalent of the Palestinian ‘Rabban’ lit., ‘our teacher,’ which is a peculiar title of honour, higher than ‘Rabbi.’

(7) When a man eats vegetables at other times of the year. Since the eating of vegetables then is not statutory, each time he eats them (after dipping) even at the same meal counts as a separate act, for when he ate the first time he did not intend eating them again; hence he must wash his hands at each.

(8) Knowing that he would eat vegetables a second time; hence once should suffice.

(9) The vegetable having been dipped once into vinegar, it need not be dipped again.

(10) The narrative of the exodus, which is an essential part of the ritual.

(11) ‘Praise,’ i.e., Ps. CXIII-CXVIII.

(12) I.e., not think about keeping is hands clean.

(13) Of eating unleavened bread, though he has not chewed it.

(14) Because he has not tasted its bitterness, which is essential. Rashi reads: if he swallows bitter herbs, he has discharged his duty because even then he cannot altogether avoid tasting its bitterness.

(15) V. p. 535, n. 7.

(16) Since the meal has not yet commenced it is sufficient to place the food before one.

(17) V. Mishnah infra 116a. By your observation you have in fact asked that question.

(18) E.V. ‘affliction’. Deut. XVI, 3.

(19) v. supra p. 166, n. 10.

(20) Defective, though it is read plene, denoting ‘reciting’.

Talmud - Mas. Pesachim 116a

so here too a piece [is taken].[1] Another interpretation: just as a poor man fires [the oven] and his wife bakes,[2] so here too, he heats and she bakes.[3]

THOUGH HAROSETH IS NOT A RELIGIOUS REQUIREMENT. Then if it is not a religious requirement, on what account does he bring it? — Said R. Ammi: On account of the kappa.[4] R. Assi said: The kappa of lettuce [is counteracted by] radishes; the kappa of radishes, [by] leeks; the kappa of leeks, [by] hot water; the kappa of a these, [by] hot water. And in the meanwhile[5] let him say thus: ‘Kappa kappa, I remember you and your seven daughters and your eight daughters.in.law.’

R. ELEAZAR SON OF R. ZADOK SAID: IT IS A RELIGIOUS REQUIREMENT. Why is it a religious requirement? R. Levi said: In memory of the apple-tree;[6] R. Johanan said: In memory of the day.[7] Abaye observed: Therefore one must make it acrid and thicken it: make it acrid, in memory of the apple-tree; and thicken it, in memory of the day. It was taught in accordance with R. Johanan: The condiments[8] are in memory of the straw;[9] [and] the haroseth [itself] is a reminder of the day. R. Eleazar son of R. Zadok said: Thus did the grocers[10] cry, ‘Come and buy ingredients for your religious requirements. MISHNAH. THEY FILLED A SECOND CUP FOR HIM. AT THIS STAGE[11] THE SON QUESTIONS HIS FATHER;[12] IF THE SON IS UNINTELLIGENT, HIS FATHER INSTRUCTS HIM [TO ASK]: ‘WHY IS THIS NIGHT DIFFERENT FROM ALL [OTHER] NIGHTS. FOR ON ALL [OTHER] NIGHTS WE EAT LEAVENED AND UNLEAVENED BREAD, WHEREAS ON THIS NIGHT [WE EAT] ONLY LEAVENED BREAD; ON ALL OTHER NIGHTS WE EAT ALL KINDS OF HERBS, ON THIS NIGHT BITTER HERBS; ON ALL OTHER NIGHTS WE EAT MEAT ROAST, STEWED OR BOILED, ON THIS NIGHT, ROAST ONLY.[13] ON ALL OTHER NIGHTS WE DIP[14] ONCE, BUT ON THIS NIGHT WE DIP TWICE.’ AND ACCORDING TO THE SON'S INTELLIGENCE HIS FATHER INSTRUCTS HIM.[15] HE COMMENCES WITH SHAME AND CONCLUDES WITH PRAISE; AND EXPOUNDS FROM ‘A WANDERING ARAMEAN WAS MY FATHER’[16] UNTIL HE COMPLETES THE WHOLE SECTION.

G E M A R A. Our Rabbis taught: If his son is intelligent asks him, while if he is not intelligent his wife asks him; but if not,[17] he asks himself. And even two scholars who know the laws of Passover ask one another.

WHY IS THIS NIGHT DIFFERENT FROM ALL OTHER NIGHTS? FOR ON ALL OTHER NIGHTS WE DIP ONCE, WHILE ON THIS NIGHT WE DIP TWICE. To this Raba demurred: Is then dipping once indispensable all other days? Rather, said Raba, It was thus taught: For on all other nights we are not obliged to dip even once, whereas on this night, twice. To this R. Safra demurred: A statutory obligation on account of children![18] Rather, said R. Safra, He teaches thus: We do not dip even once, whereas this night [we dip] twice. HE COMMENCES WITH SHAME AND CONCLUDES WITH PRAISE. What is ‘WITH SHAME’? Rab said: ‘Aforetime our fathers were idolaters’; while Samuel said: ‘We were slaves.’[19] R. Nahman asked his slave Daru: ‘When a master liberates his slave and gives him gold and silver, what should he say to him?’ ‘He should thank and praise him,’ replied he. ‘You have excused us from saying "Why [is this night] different?"’ observed he. [Thereupon] he commenced by reciting, ‘We were slaves.’

MISHNAH. R. GAMALIEL USED TO SAY: WHOEVER DOES NOT MAKE MENTION OF[20]

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(1) The blessing for the unleavened bread must be said over a piece of mazzah only, not over a whole one, to emphasize Israel's poverty in Egypt. (Hence three mazzoth are required, two because every festival and the Sabbath require two loaves, and a third which is broken, so that the blessing may be recited over the piece.)

(2) Without delay, as they’ cannot afford more fuel should the oven cool.

(3) Even wealthy people must bake the unleavened bread without unnecessary delay, lest it turn leaven.

(4) V. supra 115b.

(5) While waiting for the cure to take effect-or perhaps, until he takes these.

(6) Under which the Israelitish women in Egypt gave birth to their children; v. Sot,. 11b.
(7) Wit which they made bricks.
(8) Which are mixed in the haroseth.
(9) Just as the straw was kneaded into the clay.
(10) Lit., ‘parched.grain merchants’ — such would sell spices etc. too. Rashi and Rashbam: vendors who sat behind latticed windows.
(11) Lit. , ‘and here’.
(12) Why all this unusual procedure?
(13) I.e., in Temple times, v. supra 70a.
(14) So the text as emended, and it is thus quoted in the Gemara; v. O.H. 473. 7 and ט״ז 9 a.l.
(15) The answer must be intelligible to the child.
(16) Deut. XXVI, 5.
(17) If he has no wife.
(18) ‘Obliged’ (hayyabin) connotes a religious precept, whereas as stated supra 114b the first dipping is merely to stimulate the children's wonder.
(19) The modern liturgy combines both, commencing however with the latter.
(20) Perhaps better: ‘explain.’ as R. Gamaliel's main point is that their purpose must be explained; v. Kaplan, Redaction of the Talmud, p. 203.

Talmud - Mas. Pesachim 116b

THESE THREE THINGS ON PASSOVER DOES NOT DISCHARGE HIS DUTY, AND THESE ARE THEY: THE PASSOVER-OFFERING. UNLEAVENED BREAD, AND BITTER HERBS. THE PASSOVER-OFFERING IS [SACRIFICED] BECAUSE THE OMNIPRESENT PASSED OVER THE HOUSES OF OUR FATHERS IN EGYPT, AS IT IS SAID, THEN YE SHALL SAY: IT IS THE SACRIFICE OF THE LORD'S PASSOVER, FOR THAT HE PASSED OVER etc.[1] THE UNLEAVENED BREAD IS [EATEN] BECAUSE OUR FATHERS WERE REDEEMED FROM EGYPT, AS IT IS SAID, AND THEY BAKED UNLEAVENED CAKES OF THE DOUGH WHICH THEY BROUGHT FORTH OUT OF EGYPT etc.[2] THE BITTER HERB IS [EATEN] BECAUSE THE EGYPTIANS EMBITTERED THE LIVES OF OUR FATHERS IN EGYPT, AS IT IS SAID, AND THEY MADE THEIR LIVES BITTER etc.[3] IN EVERY GENERATION A MAN IS BOUND TO REGARD HIMSELF AS THOUGH HE PERSONALLY HAD GONE FORTH FROM EGYPT, BECAUSE IT IS SAID, AND THOU SHALT TELL THY SON IN THAT DAY, SAYING: IT IS BECAUSE OF THAT WHICH THE LORD DID FOR ME WHEN I CAME FORTH OUT OF EGYPT.[4] THEREFORE IT IS OUR DUTY TO THANK, PRAISE, LAUD, GLORIFY, EXALT, HONOUR, BLESS, EXTOL, AND ADORE HIM WHO WROUGHT ALL THESE MIRACLES FOR OUR FATHERS AND OURSELVES; HE BROUGHT US FORTH FROM BONDAGE INTO FREEDOM, FROM SORROW INTO JOY, FROM MOURNING INTO FESTIVITY, FROM DARKNESS INTO GREAT LIGHT, AND FROM SERVITUDE INTO REDEMPTION. THEREFORE LET US SAY BEFORE HIM, HALLELUJAH![5] HOW FAR DOES ONE RECITE IT? BETH SHAMMAI MAINTAIN: UNTIL ‘AS A JOYOUS MOTHER OF CHILDREN,’[6] WHILE BETH HILLEL SAY: UNTIL ‘THE FLINT INTO A FOUNTAIN OF WATERS,’[7] AND HE CONCLUDES WITH [A FORMULA OF] REDEMPTION. R. TARFON USED TO SAY WHO REDEEMED US AND REDEEMED OUR FATHERS FROM EGYPT, BUT HE DID NOT CONCLUDE [WITH A BLESSING].[8] R. AKIBA SAID: ‘SO MAY THE LORD OUR GOD AND THE GOD OF OUR FATHER SUFFER US TO REACH OTHER SEASONS AND FESTIVALS WHICH COME TOWARDS US FOR PEACE, REJOICING IN THE REBUILDING OF THY CITY AND GLAD IN THY SERVICE, AND THERE WE WILL PARTAKE OF THE SACRIFICES AND THE PASSOVER-OFFERINGS[9] etc. AS FAR AS BLESSED ART THOU, O LORD, WHO HAST REDEEMED ISRAEL.’

GEMARA. Raba said: He must say ‘and us did he bring forth from there.’

Raba said: He must lift up the unleavened bread, and he must lift up the bitter herb,[10] but he need not lift up the meat;[11] moreover, it would appear as though he ate sacrifices without [the Temple].[12] R. Aha b. Jacob said: A blind person is exempt from reciting the Haggadah. [For] here it is written, it is because of that [zeh],[13] while elsewhere it is written, This our son [zeh]:[14] just as there the blind are excluded,[15] so here to the blind are excluded. But that is not so, for Meremar said: I asked the scholars of the School of R. Joseph, who recites the Aggadah[16] at R. Joseph's? And they told me, R. Joseph; Who recites the Aggadah at R. Shesheth's? And they told me, R. Shesheth.[17] — These Rabbis held that un-leavened bread nowadays is a Rabbinical obligation.[18] Hence it follows that R. Aha b. Jacob holds that unleavened bread nowadays is a Scriptural obligation?[19] But Surely it was R. Aha b. Jacob himself who said: [The obligation of eating] unleavened bread nowadays is Rabbinical! — He holds, Whatever our Rabbis enacted, they enacted it similar to the Scriptural Jaw.[20] But according to R. Shesheth and R. Joseph too, surely it is certain that whatever our Rabbis enacted, they enacted similar to a Scriptural law? — How compare![21] As for there, it is we: since it should have been written, 'He is our son,' whereas it is written, 'This our son,'[22] you may infer that it comes to exclude blind persons. But here, if not 'for the sake of this' what should be written? Hence it comes [to intimate], 'for the sake of the unleavened bread and bitter herbs.'[23]

THEREFORE IT IS OUR DUTY.

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(1) Ex. XII, 27.

(2) Ibid. 39.

(3) Ex. I, 14.

(4) Ibid. XIII, 8.

(5) 'Praise ye the Lord,' with which Hallel commences.

(6) Ps. CXIII, 9.

(7) Ibid. CXIV, 8.

(8) Hatham is the technical term meaning to round off a liturgical passage with a blessing formula, 'Blessed art Thou, O Lord.'

(9) So the text as emended, 'sacrifices' referring to the hagigah of the fourteenth, which was eaten before the Passover-offering (v. supra 70a); hence it is mentioned before too.

(10) When saying, 'This unleavened bread' ' . . 'this bitter herb.'

(11) Which is set in memory of the Passover-offering; v. R. Joseph's dictum supra 114b.

(12) If he lifted up the meat as he said 'This Passover-offering,' it would look as if he had actually consecrated it as a sacrifice, which is forbid den, Since sacrifices may not be offered without the Temple (Raba refers to post-Temple times). Hence he must not lift up the meat.

(13) Lit., 'this'.

(14) Deut. XXI, 20.

(15) For 'this our son' implies that his parents see and point at him.

(16) Haggadah.

(17) R. Joseph and R. Shesheth were both blind.

(18) Sc. that unleavened bread must he eaten on the first night of Passover (the interdict of leavened bread of course is Biblical). Hence the reciting of the Haggadah is likewise Rabbinical, and therefore 'unaffected by R. Aha b. Jacob's deduction.

(19) For he states his law generally, and therefore meant it for post-Temple times too.

(20) On which it is based. Hence since the blind were exempt from reciting the Haggadah when it was a Scriptural obligation, they are still exempt now that it is only Rabbinical.

(21) They reject the law entirely, together with the analogy on which it is based.

(22) v. Sanh., Sonc. ed. p. 486, n. 2 and 3.

(23) I.e., it does not intimate that he who recites must see it, but simply means: it is for this reason that I eat unleavened bread and bitter herbs viz., because of what the Lord did for me etc.

Talmud - Mas. Pesachim 117a

Talmud - Mas. Pesachim 117a

R. Hisda said in R. Johanan's name: Hallelujah, Kesjah[1] and Jedidjah[2] are single words.[3] Rab said: Kesjah and merhabjah[4] are single words. Rabbah[5] said merhabjah alone [is a single word]. The scholars asked: What about merhab Jah in R. Hisda's view?[6] The question stands. The scholars asked: What about Jedidjah in Rab's view? — Come and hear: Jedidjah is divisible into two, therefore Jedid is non-sacred while Jah [the Lord] is sacred.[7] The scholars asked: What about Hallelujah in Rab's view? Come and hear, for Rab said: I saw [a copy of] the Psalms in my friend's college,[8] wherein ‘Hallalu’ was written on one line and ‘jah’ on the following.[9] Now he disagrees with R. Joshua b. Levi, for R. Joshua b. Levi said: What is the meaning of ‘Hallelujah? Praise him with many praises.[10] Further, he [R. Joshua b. Levi] is self-contradictory. For R. Joshua b. Levi said: The Book of Psalms was uttered with ten synonyms of praise, viz.: nizzuah [victory], niggun [melody], maskil,[11] mizmor [psalm], shir [song], ashre [happy], tehillah [praise], tefillah [prayer], hodayah [thanksgiving] [and] hallelujah. The greatest of all is ‘hallelujah,’ because it embraces the [Divine] Name and praise simultaneously.[12]

Rab Judah said in Samuel's name: The Song in the Torah[13] was uttered by Moses and Israel when they ascended from the [Red] Sea. And who recited this Hallel?[14] The prophets among them ordained that Israel should recite it at every important epoch and at every misfortune — may it not come upon them! and when they are redeemed they recite [in gratitude] for their redemption.

It was taught, R. Meir used to say: All the praises which are stated in the Book of psalms, David uttered all of them, for it is said, The prayers of David the son of Jesse are ended [kallu]:[15] read not kallu but kol ellu [all these].[16] Who recited this Hallel? R. Jose said: My son Eleazar maintains [that] Moses and Israel said it when they ascended from the [Red] Sea, but his college disagree with him, averring that David said it. But is view is prefer able to theirs: Is it possible that Israel slaughtered their Passover-offerings or took their palm-branches without uttering song![17] Another argument: Micah's image[18] stands at Beki[19] and Israel recites the Hallel![20]

Our Rabbis taught: As for all the songs and praises to which David gave utterance in the Book of Psalms, R. Joshua said: He spoke them in reference to himself; R. Joshua said: He spoke them with reference to the [Jewish] community; while the Sages maintain: Some of them refer to the community, while others refer to himself. [Thus:] those which are couched in the singular bear upon himself, while those which are couched in the plural allude to the community. Nizzuah and niggun[21] [introduce psalms] relating to the future; maskil [indicates that it was spoken] through a meturgeman [interpreter]; [the superscription] To David, a psalm’ intimates that the Shechinah rested upon him and then he uttered [that] song; ‘a psalm of david’ intimates that he [first] uttered [that particular] psalm and then the Shechinah rested upon him. This teaches you that the Shechinah rests [upon man] neither in indolence nor in gloom nor in frivolity nor in levity, nor in vain pursuits,[22] but only in rejoicing connected with a religious act, for it is said, ‘but now bring me a minstrel.’ And it came to pass, when the minstrel played, that he hand of the lord came upon him.[23] Rab Judah said in Rab's name: And it is likewise so in a matter of halachah.[24] R. Nahman said: And it is likewise so for a good dream.[25] But that is not so, for R. Giddal said in Rab's name: If a scholar sits before his teacher and his lips do not drip anxiety.[26] they shall be burnt, for it is said, His lips are as lilies [shoshanim], dropping with flowing myrrh [mor ‘ober]:[27] read not shoshanim but sheshonim [that study]; read not mor'ober but mar ‘ober [dropping anxiety]? — There is no difficulty: One applies to the teacher, the other to the disciple. Alternatively, both refer to the teacher, yet there is no difficulty: the one holds good before he commences; the other, after he commences. Even as Rabbah used to say something humorous to his scholars before he commenced [his discourse], in order to amuse them;[28] after that he sat in awe and commenced the lecture.

Our Rabbis taught: Who uttered this Hallel? R. Eleazar said: Moses ad Israel uttered it when they stood by the [Red] Sea. They exclaimed, ‘Not unto us, not unto us,’[29] and the Holy Spirit responded. ‘For mine own sake, for mine own sake, will I do it.’[30] R. Judah said: Joshua and Israel uttered it when the kings of Canaan attacked them. They exclaimed, ‘Not unto us [etc.]’ and the Holy Spirit responded etc. R. Eleazar the Modiite said: Deborah and Barak uttered it when Sisera attacked them. They exclaimed, ‘Not unto us [etc.].’ and the Holy Spirit responded. ‘For Mine own sake, for Mine own sake, will I do it.’ R. Eleazar b. ‘Azariah said: Hezekiah and his companions uttered it when Sennacherib attacked them. They exclaimed, ‘Not unto us [etc.]’ and the Holy Spirit responded etc. R. Akiba said: Hananiah, Mishael and Azariah uttered it when the wicked Nebuchadnezzar rose against them. They exclaimed, ‘Not unto us etc.,’ and the Holy Spirit responded etc. R. Jose the Galilean said: Mordecai and Esther uttered it when the wicked Haman rose against them. They supplicated, ‘Not unto us etc.’, and the Holy Spirit responded etc. But the Sages maintain: The prophets among them enacted that the Israelites should recite at every epoch and at every trouble — may it not come to them! — and when they are redeemed, they recite it [in thankfulness] for their delivery.

R. Hisda Said: Hallelujah marks the end of a chapter; Rabbah b. R. Huna said: Hallelujah marks the beginning of a chapter.[31] R. Hisda observed: I saw that in the copies of the Psalms used in the college of R. Hanin b. Rab, ‘Hallelujah’ was written in the middle of the chapter,[32] which proves that he was in doubt.

R. Hanin b. Raba said: A agree that in the case of, ‘My mouth shall speak the praise of the Lord, and let all flesh bless His holy name for ever and ever.’[33] ‘Hallelujah which follows it is the beginning of the [next] psalm. In the wicked shall see, and be vexed; he shall gnash with his teeth, and melt away, the desire of the wicked shall perish:[34] the ‘Hallelujah’ which follows it commences the [next] psalm. Again, in the passage. ‘that stated in the house of the lord in the night seasons,[35] the following ‘Hallelujah commences the [next] psalm.[36] Bible scholars[37] add the following: He will drink of the brook by the way, therefore will he lift up the head:[38] Hallelujah which follows it is the beginning of the next psalm. The fear of the lord is the be ginning of wisdom; a good understanding have a they that do thereafter; His praise endureth for ever.[39] ‘Hallelujah which follows it is the beginning of the [next] psalm.

Shall we say that this is dependent on Tannaim? [For we learned:] HOW FAR DOES HE RECITE IT? BETH SHAMMAI MAINTAIN: UNTIL AS A JOYOUS MOTHER OF CHILDREN, WHILE BETH HILLEL. SAY: UNTIl. THE FLINT INTO A FOUNTAIN OF WATERS.’ But another [Baraitha] taught: How far does he recite it? Beth Shammai maintain: Until ‘when Israel came forth out of Egypt.’[40] while Beth Hillel say: Until, ‘Not unto us, O Lord, not unto us.’[41]

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(1) In Ex. XVII, 16: The hand upon kesjah (E.V.: the throne of the Lord).

(2) II Sam. XII, 25: and he called his name jedidjah (E.V. Jedidiah).

(3) Though Jah means the ‘Lord,’ it combines to form a single word.

(4) Ps CXVIII, 5: He answered me ba-merhabjah (E.V.: with great enlargement]; lit., ‘with the Lord's enlargement.

(5) Rashal reads: Raba:

(6) Is it one word or two?

(7) This would affect e.g., the manner of its writing. If ‘Jedid’ is written incorrectly, it can be erased and rewritten. But Jah, being sacred (i.e., God's name), must not be erased and would have to be cut out entirely, together with its parchment.

(8) I.e., at the college of R. Hiyya.

(9) Thus he evidently regards it as two words.

(10) Since he interprets the whole word thus, he evidently regards it as one.

(11) V. e.g., superscriptions to Ps. XLII, XLIV, and XLV; perhaps lit., ‘a psalm giving instruction.’

(12) Thus he interprets ‘Jah’ separately.

(13) ‘Torah’ bears here its narrower connotation of Pentateuch. The ‘Song’ referred to is that contained in Ex. XV.

(14) Ps. CXIII-CXVIII. [MS.M. (gloss) inserts: Moses and Israel recited it].
(15) Ps. LXXII, 20.
(16) The verse thus reads: All these are prayers etc.
(17) Until the time of David — surely not.
(18) V. Judg. XVII.
(19) [Probably a variant of Bochin, v. judg. II, 1].
(20) Rashbam: Hallel, which contains a sweeping condemnation of idolatry (v. Ps. CXV, 5-8), could not have been composed in the days of David while Micah's idolatrous image was still in existence; hence it must have been composed at the Red Sea.
(21) V. supra.
(22) Lit., ‘idle words’ or chatter.
(23) II Kings III, 15. Maharsha in Shab. 30a observes that the verse is quoted to show that the Shechinah does not rest on a man who is plunged in gloom, Elisha requiring the minstrel to dissipate the gloom occasioned by Jehoram's visit.
(24) Serious study should be preceded by light-hearted conversation.
(25) Going to sleep in good spirits promotes happy dreams.
(26) Lit., ‘bitterness’. To show due reverence.
(27) Cant. V, 13.
(28) Lit., ‘and the scholars rejoiced’.
(29) Ps. CXV, 1.
(30) Isa. XLVIII, 11.
(31) Where a single ‘Hallelujah separates two psalms (e.g., Ps. CXXXIV and CXXXV), R. Hisda maintains that it ends the first, while Rabbah b. R. Huna places it at the beginning of the second.
(32) I.e., the two men were into one with ‘Hallelujah’ in the middle.
(33) Ps. CXLV, 21.
(34) Ps. CXII, 10.
(35) Ibid. CXXXIV, 1.
(36) This is somewhat difficult as ‘Hallelujah’ does not immediately follow. Possibly the phrase is quoted loosely to indicate which psalm is meant, viz., CXXXIV, ‘Hallelujah,’ the commencing the next. Tosaf. however quotes ‘Ye that stand in the house of the Lord, in the courts of the house of our God’. In our edd. this is Ps. CXXXV, 2, and does not end the psalm; but according to Tosaf. it does, while v. 3, which begins with ‘Hallelujah,’ (E.V. praise ye the lord) is the beginning of another psalm.
(37) Presumably scholars who specialized in the study of the Bible.
(38) Ps. CX, 7.
(39) Ps. CXI, 10.
(40) Ibid. CXIV, 1.
(41) Ibid. CXV, 1. In each case whereas the Mishnah quotes the ending of the chapters according to our edd., the Baraitha quotes the beginning of the following chapters.

Talmud - Mas. Pesachim 117b

Surely then they differ in this: he who says, until ‘as a joyous mother of children’, holds that [the following] ‘Hallelujah’ [praise ye lord] is the beginning of the [next] psalm; while he who says until, ‘,when Israel came forth out of Egypt’, holds that ‘Hallelujah is the end of the [previous] psalm![1] — R. Hisda reconciles it with his view. All agree that ‘Hallelujah is the end of the psalm. Hence the statement, until ‘when Israel came forth out of Egypt is well. While he who says, until ‘a joyous mother of children is meant inclusively. Then let him say, ‘up to "hallelujah”’? And should you answer, because we would not know which ‘Hallelujah,’ then let him say, ‘up to the "Hallelujah” of “as a joyous mother of children"’? This is a difficulty . Rabbah b. R. Huna reconciles it with his view. All agree that ‘Hallelujah is the beginning of the psalm. Hence the statement, until ‘as a joyous mother of children’ is well. While he who says, until ‘when Israel came forth’ does not mean it inclusively. Then let him say, ‘until the Halelujah? And should you answer, because we would not know which ‘Hallelujah is meant, then let him say, ‘until the Hallelujah of "when Israel came forth"’? This is a difficulty.

AND HE CONCLUDES WITH [A FORMULA OF] REDEMPTION. Raba said: [The ending of the benediction following] the reciting of the shema’[2] and Hallel is ‘who redeemed Israel’;[3] that of prayer[4] is ‘the redeemer of Israel’.[5] What is the reason? Because it is a petition.[6] R. Zera said: [The formula] in kiddush is ‘who did sanctify us with His commandments and did command us’; that of prayer is ‘sanctify us with Thy Commandments.’ What is the reason? Because it is supplication. R. Aha b. Jacob said: And he must refer to the Egyptian exodus in the kiddush of the day. [For] here it is written, that thou mayest remember the day [when thou camest forth out of the land of Egypt],[7] while there it is written, Remember the sabbath day, to hallow it [by reciting kiddush].[8]

Rabbah b. Shila said: [The formula] in Prayer is ‘who causest the horn of Salvation to spring forth,’[9] while that of the haftarah[10] is ‘the shield of David.’ And I will make thee a great man, like unto the name of the great ones [that are in the earth the earth].[11] R, Joseph taught: that alludes to the fact that we say ‘the shield of David.’[12]

R. Simeon b. Lakish said: And I will make thee a great nation:[13] that means that we say’, ‘the God of Abraham’; and I will bless thee — that we say, ‘the God of Isaac’; and make thy name great, — that we say, ‘the God of Jacob.’ You might think that we conclude with [a reference to] all of them: therefore it is said, and be thou a blessing: with thee do we conclude, but we do not conclude with all of them.

Raba said: I found the elders of Pumbeditha[14] sitting and stating: On the Sabbath, both in Prayer[15] and in kiddush [we conclude the benediction with] ‘who sanctifiest the Sabbath.’ On a festival, both in Prayer and in kiddush [we conclude with] ‘who sanctifiest Israel and the [festive] seasons.’ Said I to them, On the contrary, [the formula] of Prayer both on the Sabbath and on a festival is ‘who sanctifiest Israel.’ In the kiddush of the Sabbath [the formula is] ‘who sanctifiest the Sabbath’; On a festival, ‘who sanctifiest Israel and the seasons.’ Now I will state my reason and your reason. Your reason is: the Sabbath is permanently fixed, hence both in Prayer and in kiddush ‘who sanctifiest the Sabbath’ [is said].[16] On festivals, which are fixed by Israel, for they intercalate the months[17] and fix [the beginnings of] the years,[18] ‘who sanctifiest Israel and the seasons’ [is said].[19] My reason: Prayer, which is [carried on] in public, [requires] ‘who sanctifiest Israel’;[20] as for kiddush, which is [recited] privately [at home], on the Sabbath [the formula is] ‘who sanctifiest the Sabbath,’ while on festivals it is ‘who sanctifiest Israel and the seasons[21] That [argument] however is Incorrect: is not prayer [recited] privately [too], and is not kiddush recited pubiicly?-Raba however, holds: Follow the main [practice].[22]

‘Ulla b. Rab visited Raba. he recited [kiddush] in accordance with the elders of Pumbeditha, and he said nothing to him [in protest]. This proves that Raba retracted. R. Nathan the father of R. Hune the son of R. Nathan[23] visited R. Papa. He recited it in accordance with the elders of Pumbeditha, whereupon R. Papa praised him. Rabina said: I visited Meremar at Sura, when the reader[24] went down [to the reading desk][25] and recited it as the elders of Pumbeditha. Everybody made to silence him, but he said to them, ‘Leave him alone: the law is as the elders of Pumbeditha.’ Then they did not silence him.[26]

MISHNAH. THEY FILLED THE THIRD CUP FOR HIM. HE THEN RECITES GRACE AFTER MEALS. OVER THE FOURTH [CUP] HE CONCLUDES THE HALLEL, AND RECITES THE GRACE OF SONG.[27] BETWEEN THESE CUPS[28] HE MAY DRINK IF HE WISHES; BETWEEN THE THIRD AND THE FOURTH HE MAY NOT DRINK.

GEMARA. R. Hanan said to Raba: This proves that Grace after meals requires a cup [of wine]. Said he to him: Our Rabbis instituted four cups as symbolizing freedom:[29] let us perform a religious act with each.[30]

OVER THE FOURTH [CUP] HE CONCLUDES THE HALLEL, AND RECITES THE GRACE OF SONG.

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(1) This of course is on the view of Beth Shammai. The differences in the view of Beth Hillel are then stated for the sake of parallelism (Rashbam).

(2) This is followed by one benediction in the morning and two in the evening, before the ‘Prayer,’ i.e. the Eighteen benedictions.

(3) In the past tense.

(4) The Amidah on weekdays. It consists of the Eighteen Benedictions, the fifth of which is a prayer for redemption.

(5) In the present tense.

(6) For the future. Hence the past tense would be inappropriate.

(7) Deut. XVI, 3.

(8) Ex. XX, 8. ‘Remember’ in the second verse, I.e., the reciting of kiddush (and the Sabbath is an example of a holy days, including Festivals). must include the ‘remember," of the first verse, vi., the Egyptian exodus.

(9) That is the ending of the fifteenth benediction.

(10) V. Glos. It is followed by four benedictions. The reference here is to the third, whose subject-matter is the same as the fifteenth benediction mentioned in the preceding note.

(11) II Sam. VII, 9.

(12) it is a great honour to David that God is designated ‘the shield of David’ in the conclusion of a benediction.

(13) Ex. XII, 2.

(14) Rab Judah and R. ‘Ena, v. Sanh. 17b.

(15) The ‘Amidah on Sabbath and Festivals consists of seven benedictions.

(16) Because its sanctification depends entirely on God.

(17) The Jewish month consists of either 29 or 30 days, the length of each month being fixed by the Jewish authorities.

(18) Thereby fixing the dates of festivals too.

(19) Thus Israel must be mentioned, because through Israel the festivals are sanctified.

(20) I.e., a reference to the whole community.

(21) The emphasis being on the sacred nature of the day, ‘Israel’ must be mentioned in the latter case because the sanctification (If the seasons is dependant thereon (supra).

(22) Prayer is essentially intended for the community,not withstanding that private prayer too is possible. Again, kiddush is chiefly intended for the home (‘in the place of the meal’), though it is also recited in the synagogue on account of the wayfarers.

(23) ‘The son of R. Nathan’ should probably be deleted.

(24) Lit., ‘the deputy of the congregation.’ In the Talmud this is the name of the reader who leads the congregation in prayer; the modern title ‘hazzan’ dates from the post-Talmudic period.

(25) In Talmudic times this was on a lower level than the rest of the synagogue building, in accordance with Ps. CXXX, 1: out of the depths have I called Thee O Lord.

(26) Omitted in MS. M. var. lec. add: And the law is as the elders of Pumbeditha.

(27) The phrase is explained in the Gemara.

(28) Viz., first, second and third.

(29) This is omitted in Rashbam.

(30) Hence Grace is recited over the third. But on other occasions a cup may not be required for Grace after meals.

Talmud - Mas. Pesachim 118a

What is ‘THE GRACE OF SONG’? Rab Judah said: ‘They shall praise Thee, O Lord our God’; while R. Johanan said: ‘The breath of a living [etc.]’[1]

Our Rabbis taught: At the fourth he concludes the Hallel and recites the great Hallel this is the view of R. Tarfon. Others say: The Lord is my shepherd; I shall not want.’[2] What comprises the great Hallel? Rab[3] Judah said: From ‘O give thanks’ until ‘the rivers of Babylon.’[4] While R. Johanan said: From ‘A song of ascents’ until ‘the rivers of Babylon.’[5] R. Aha b. Jacob said: From ‘for the Lord hath chosen Jacob unto himself’[6] until ‘the rivers of Babylon.’ And why is it called the great Hallel? — Said R. Johanan: Because the Holy One, blessed be He, sits in the heights of the universe and distributes food to all creatures.[7]

R. Joshua b. Levi said: To what do these twenty-six [verses of] ‘Give thanks’[8] correspond? To the twenty-six generations which the Holy One, blessed be He, created in His world; though He did not give them the Torah, He sustained them by His love.[9]

R. Hisda said:[10] What is meant by the verse, O give thanks unto the Lord, for He is good?[11] Give thanks unto the Lord who exacts man's debts by means of His goodness:[12] the wealthy man through his ox and the poor man through his sheep,[13] the fatherless through his egg and the widow through her fowl.

R. Johanan said: Man's sustenance involves twice as much suffering as [that of] a woman in childbirth. For of a woman in childbirth it is written, in pain [be-’ezeb — thou shalt bring forth children],[14] whereas of sustenance it is written, in toil [be-’izzabon — shalt thou eat].[15] R. Johanan also said: Man's sustenance is more difficult [to come by] than the redemption, for of redemption it is written, the angel who hath redeemed me from all evil,[16] thus a mere angel [sufficed], whereas of sustenance it is written, the God who hath fed [shepherded] me.[17] R. Joshua b. Levi said: When the Holy One, blessed be He, said to Adam, ‘Thorns also and thistles shall it bring forth to thee,’[18] tears flowed from his eyes, and he pleaded before Him, ‘Sovereign of the Universe! Shall I and my ass eat out of the same crib!’ But as soon as He said to him, ‘In the sweat of thy face shalt thou eat bread,’[19] his mind was set at rest. R. Simeon b. Lakish said: Happy are we that we did not remain subject to the first! Abaye observed: Yet we have still not [altogether] escaped from it, for we eat herbs of the field.[20]

R. Shizbi said in the name of R. Eleazar b. ‘Azariah: A man's sustenance is as difficult [to provide] as the dividing of the Red Sea, for it is written, Who giveth food to a flesh,[21] and near it, To Him who divided the Red Sea in sunder.[22]

R. Eleazar b. ‘Azariah said: A man's excretory organs [when blocked up] are as painful as the day of death and [as difficult to overcome][23] as the dividing of the Red Sea, for it is said, The prisoner hasteneth to be loosed; [and he shall not go down dying into the pit, neither shall his bread fail];[24] and that is followed by [For I am the Lord thy God,] who stirreth tip the sea, that the waves thereof roar.[25]

Again. R. Shesheth said on the authority of R. Eleazar b. ‘Azariah: He who despises the Festivals[26] is as though he engaged in idolatry, for it is said, Thou shalt make thee no molten gods,[27] which is followed by, The feast of unleavened bread shalt thou keep.[28]

R. Shesheth also said on the authority of R. Eleazar b. ‘Azariah: Whoever relates slander, and whoever accepts slander, and whoever gives false testimony against his neighbour, deserve to be cast to dogs, for it is said, ye shall cast to the dogs,[29] which is followed by, Thou shalt not take up a false report,[30] which may be read tashshi.[31]

Now since there is the great Hallel, why do we recite this one?[32] Because it includes [a mention of] the following five things: The exodus from Egypt, the dividing of the Red Sea, the giving of the Torah [Revelation], the resurrection of the dead, and the pangs of Messiah.[33] The exodus from Egypt, as it is written, When Israel came forth out of Egypt;[34] as the dividing of the Red Sea: The sea saw it, and fled;[35] the giving of the Torah: The mountains skipped like rams;[36] resurrection of the dead: I shall walk before the Lord [in the land of the living];[37] the pangs of Messiah: Not unto us, O Lord, not unto us.[38]

R. Johanan also said: ‘Not unto us, O Lord, not unto us’ refers to the servitude to [foreign] powers. Others state, R. Johanan said: ‘Not unto us, O Lord, not unto us’ refers to the war of Gog and Magog.[39] R. Nahman b. Isaac said: [Hallel is recited] because it contains [an allusion to] the deliverance of the souls of the righteous from the Gehenna, as it is said, I beseech Thee, O Lord, deliver my soul.[40] Hezekiah said: Because it alludes to the descent of the righteous[41] into the fiery furnace and their ascent from it. ‘Their descent,’ for it is written, Not unto us, O Lord, not unto us: [this] Hananiah said; ‘But unto Thy name give glory’ was said by Mishael; For Thy mercy, a rid for Thy truth's sake, by Azariah; Wherefore should the nations say?[42] by all of them. ‘Their ascent from the fiery furnace,’ for it is written, O praise the Lord, all ye nations;[43] [this] Hananiah said; Laud Him, all ye peoples, was said by Mishael; For His mercy is great toward us,[44] by Azariah; ‘And the truth of the Lord endureth for ever,’ by all of them. Others maintain [that] it was Gabriel who said, ‘And the truth of the Lord endureth for ever.’ [For] when the wicked Nimrod cast our father Abraham into the fiery furnace, Gabriel said to the Holy One, blessed be He: ‘Sovereign of the Universe! Let me go down, cool [it], and deliver that righteous man from the fiery furnace.’ Said the Holy One, blessed be He, to him: ‘I am unique in My world, and he is unique in his world: it is fitting for Him who is unique to deliver him who is unique. But because the Holy One, blessed be He, does not withhold the [merited] reward of any creature, he said to him, ‘Thou shalt be privileged to deliver three of his descendants.’[45]

R. Simeon the Shilonite lectured: When the wicked Nebuchadnezzar cast Hananiah, Mishael, and Azariah into the fiery furnace, Yurkami, Prince of hail,[46] rose before the Holy One, blessed be He, and said to Him: ‘Sovereign of the Universe! Let me go down and cool the furnace and save these righteous men from the fiery furnace.’ Said Gabriel to him, ‘The might of the Holy One, blessed be He, is not thus [manifested], for thou art the Prince of hail, and all know that water extinguishes fire. But I, the Prince of fire, will go down and cool it within

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(1) V. P. B. p. 125.

(2) Ps. XXIII.

(3) Text as read by Asheri.

(4) I.e., Ps. CXXXVII.

(5) Ps. CXX-CXXXIV all bear the superscription ‘A song of ascents.’ Hence he probably means Ps. CXX-CXXXVI.

(6) Ps. CXXXV. 4

(7) The subject matter of Ps. CXXXVI, 25-26. Which is a great thing indeed, and for that He is praised by the reciting of the great Hallel.

(8) Ps. CXXXVI contains twenty-six verses, each of which expresses gratitude to God.

(9) There were twenty-six generations from Adam until Moses. These, lacking the Torah, could not be sustained trough their own merit but only through God's love.

(10) Var. lec.: R. Joshua b. Levi also said.

(11) Ps. CXXXVI, 1 .

(12) I.e., from what He has granted to man.

(13) When people must suffer loss in expiation of wrong, the loss is regulated according to their means.

(14) Gen. III, 16.

(15) Ibid. 17 ‘Izzabon is more emphatic than ‘ezeb (both belong to the same root), and therefore denotes greater suffering.

(16) Gen. XLVIII, 16.

(17) Ibid. 15.

(18) Gen. III, 18.

(19) Ibid. 19.

(20) Wild herbs. The translation is that of the amended text given in the margin. [Cur. edd.: ‘Happy were we had we remained subject to the first,' that is, and thus been spared the sweat of the brow in search for a livelihood. Thereupon Abaye observes — we still retain part of this advantage in that there are wild herbs which provide food without toil.]

(21) Ps. CXXXVI, 25.
(22) Ibid. 13.
(23) The Heb. קשה has both meanings.
(24) Isa. LI, 14.
(25) Ibid. 15. This is understood as an allusion to the dividing of the Red Sea.
(26) The Intermediate Days of the Festival, doing unnecessary work thereon (Rashi).
(27) Ex. XXXIV, 17.
(28) Ibid. 18.
(29) Ex. XXII, 30.
(30) Ex. XXIII, 1.
(31) [תשיא from rt. meaning 'to entice', 'induce', 'mislead', hence attempting to influence the judge to one side by bearing false testimony against another person. v. Sanh., Sonc. ed. p. 31 n. 10]. Rashbam deletes this phrase, holding that the whole follows from the verse as it stands.
(32) Viz., Ps. CXIII-CXVIII.
(33) I.e,, the suffering which must precede his coming.
(34) Ibid. CXIV, 1.
(35) Ibid. 3.
(36) Ibid. 4; cf. Judg. V. 4f.
(37) Ps. CXVI, 9.
(38) Ibid. CXV, 1. This is now interpreted as a prayer to be spared the great distress of that time; cf. Sanh. 97a.
(39) V. Ezek. XXXVIII and Sanh., Sonc, ed. p. 630. n. 7.
(40) Ps. CXVI, 4.
(41) Hananiah, Mishael and Azariah.
(42) Ps. CXV, 2.
(43) Ps. CXVII, 1.
(44) Ibid. 2.
(45) And when that promise was fulfilled, Gabriel said 'and the truth' etc.
(46) The presiding genius over hail-storms.

Talmud - Mas. Pesachim 118b

and heat it without,[1] and will thus perform a double miracle.[2] Said the Holy One, blessed be He, to him, 'Go down.' It was then that Gabriel commenced [with praise] and said, 'And the truth of the Lord endureth for ever.'

R. Nathan said: it was the fish in the sea who said, 'and the truth of the Lord endureth for ever,' this being in accordance with R. Huna. For R. Huna said: The Israelites of that generation [sc. of the Egyptian exodus] were men of little faith, and as Rabbah b. Mari expounded: What is taught by the verse, But they were rebellious at the sea, even at the Red Sea?[3] This teaches that in that moment the Israelites were rebellious and said: Just as we ascend at one side [of the sea] so do the Egyptians ascend from another. Whereupon the Holy One, blessed be He, ordered the Prince of the Sea,[4] 'Spue them forth on to the dry land.' Said he to Him, 'Sovereign of the Universe! Does a master make a gift to his servant and then take it back from him!' 'I will give you one and a half times their number,' He replied. 'Sovereign of the Universe, he pleaded, 'can a servant claim [a debt] from his Master!' 'Let the brook of Kishon be surety for Me,' He answered. Straightway he spewed them forth on to the dry land, and Israel came and saw them, as it is said, and Israel saw the Egyptians dead on the sea-shore.[5]

What is [this allusion to] 'one and a half times their number'? For in the case of Pharaoh it is written, [and he took] six hundred chosen chariots,[6] whereas in the case of Sisera it is written, [And

Sisera gathered . . .] nine hundred chariots of iron.[7] When Sisera came [to fight Israel] he advanced against them with iron staves. Thereupon the Holy One, blessed be He, brought forth the stars out of their orbits against them, as it is written, The stars in their courses fought against Sisera.[8] As soon as the stars of heaven descended upon them they heated those iron staves . So they went down to cool them and to refresh themselves in the brook of Kishon. Said the Holy One, blessed be He, to the brook of Kishon, ‘Go and deliver your pledge.’ Straightway the brook of Kishon swept them out and cast them into the sea, as it is said, The brook Kishon swept them away, that ancient brook.[9] What does ‘that ancient brook’ mean? The brook that became a surety in ancient times. In that hour the fish in the sea opened [their mouths] and exclaimed, ‘and the truth of the Lord endureth for ever.’

R. Simeon b. Lakish said, What means ‘Who maketh the barren woman [‘akereth] to dwell in her house’?[10] The congregation of Israel said before the Holy One, blessed be He, ‘Sovereign of the Universe! Thy sons have made me like a weasel that dwells in the vaults [‘ikare][11] of houses.’[12]

Raba lectured, What means, I love that the Lord should hear [my voice and my supplications]?[13] The congregation of Israel said: Sovereign of the Universe! When am I loved by Thee? When Thou hearest the voice of my supplications. I was brought low [dallothi], and He saved me.[14] The congregation of Israel spoke before the Holy One, blessed be He, Sovereign of the Universe! Though I am poor [dallah] in religious deeds, yet I am Thine, and it is fitting that I should be saved.

R. Kahana said: When R. Ishmael son of R. Jose fell sick, Rabbi sent to him: Tell us two or three things which you have said to us in your father's name. He sent back to him, Thus did my father say: What is meant by the verse, O praise the Lord, all ye nations:[15] What business have the nations of the world here?[16] This is its meaning: ‘O praise the Lord, all ye nations’ for the mighty and wondrous deeds which He wrought for them; all the more we, since ‘His mercy is great toward us.’ Furthermore [he sent word to him]: Egypt is destined to bring a gift to the Messiah. He will think not to accept it from them, but the Holy One, blessed be He, will instruct him, ‘Accept it from them: they furnished hospitality to My children in Egypt.’ Immediately, ‘Nobles shall come out of Egypt [bringing gifts].[17] Then Ethiopia shall argue with herself: If those [the Egyptians] who enslaved them are thus [treated], how much the more we, who did not enslave them! At that the Holy One, blessed be He, shall bid him: ‘Accept it from then,.’ Straightway, ‘Ethiopia shall hasten to stretch out her hands unto God.’[18] Then shall the wicked Roman State argue with herself: If those who are not their brethren are thus [accepted], how much the more we, their brethren.[19] But the Holy One, blessed be He, will say to Gabriel: Rebuke the wild beast of the reeds [kaneh]; the multitude of [‘adath] the bulls:[20] rebuke the wild beast [Rome] and take thee possession [keneh] of the congregation [‘edah].[21] Another interpretation: rebuke the wild beast of the reeds, i.e.. that dwells among the reeds, as it is written, The boar out of the wood doth ravage it, that which moveth in the field feedeth on it.[22] R. Hiyya b. Abba interpreted it in R. Johanan's name: Rebuke the wild beast all of whose actions may be recorded with the same pen.[23] ‘The multitude of the bulls [abbirim], with the calves of the people’:[24] that means that they slaughtered the valiant [abbirim] like calves which have no owners.[25] ‘Everyone opening his hand with the desire of money’:[26] they stretch out their hand to accept the money, but do not carry out its owners’ wishes. ‘He hath scattered the people that delight in approaches’: what caused Israel to be scattered among the nations? The approaches [to the nations] which they desired.[27]

He also sent to him: There are three hundred and sixty five thoroughfares in the great city of Rome, and in each there were three hundred and sixty five palaces; and in each palace there were three hundred and sixty five storeys,[28] and each storey contained sufficient to provide the whole world with food.[29] R. Simeon b. Rabbi asked Rabbi — others say, R. Ishmael son of R. Jose asked Rabbi — For whom are all these [other storeys]? — For you, your companions and acquaintances, as it is said, And her gain and her hire shall be holiness to the Lord,’ it shall not be stored nor treasured; for her gain shall be for them that dwell before the Lord.[30] What does ‘it shall not be stored’ mean?

— R. Joseph learned: ‘It shall not be stored’ refers to a storehouse [granary]; ‘nor treasured,’ to a treasure house.[31] What means ‘for them that dwell before the Lord’? — Said R. Eleazar:

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(1) To burn those who threw them into it; cf. Dan. III, 22.

(2) Lit., ‘a miracle within a miracle.’

(3) Ps. CVI, 7.

(4) According to ancient beliefs the sea, like the elements in general, were in charge of particular angels.

(5) Ex. XIV, 30.

(6) Ibid. 7.

(7) Judg. IV, 13.

(8) Ibid. V, 20.

(9) Ibid. 21.

(10) Ps. CXIII, 9.

(11) Lit., ‘root’, ‘foundations’ hence ‘vaults’.

(12) The congregation of Israel is personified here as a woman, as often, and she complains that through the sins of her less worthy children she is ashamed of the daylight but must hide like the weasels in the dark vaults of houses.

(13) Ps. CXVI, 1.

(14) Ibid. 6.

(15) Ibid. CXVII 1.

(16) Why should they praise God because ‘His mercy is great toward us’ (ibid. 2)?

(17) Ps, LXVIII, 32.

(18) Ibid.

(19) Rome was always identified with Edom, the state built by Esau's descendants; v. Gen. XXXV, 1.

(20) Ps. LXVIII, 31.

(21) I.e., Israel.

(22) Ps. LXXX, 14. Kaneh is now interpreted as the cane reeds of the forest, the boar (or, swine) being Rome. This interpretation is probably connected with the midrash that when Solomon married Pharaoh's daughter an angel planted a large reed in the sea whereon Rome was built (Midrash Rabbah on Cant. 1, 6).

(23) Kaneh is now connected with the same word meaning feather, quill. — All their activities are of the same nature — evil to Israel.

(24) Ps. LXVIII, 31.

(25) To protect them.

(26) Reading mithrapes as mattir pas — the letters are almost the same — opening the hand, and connecting raze with razon, desire; the money that is given to ensure the fulfilment of one's wishes. E.V.: Every one submitting himself with pieces of silver.

(27) Maharsha retains the natural translation ‘war’: had they submitted to Nebuchadnezzar and Titus at the first and second Temples respectively, instead of desiring war, they would not have gone into exile.

(28) מַעֲלָה means a stairway, and is probably to be understood as in the text.

(29) Maharsha: The number three hundred and sixty five is symbolic, because the Gentiles depend on the solar year of three hundred and sixty five days.

(30) Isa. XXIII, 18.

(31) I.e., of gold and silver.

Talmud - Mas. Pesachim 119a

They who recognize their colleagues’ place in the academy. Others state, R. Eleazar said: They who welcome their colleagues in the academy.[1] What does ‘and for stately clothing’ [li-mekasseh ‘athik][2] mean? That refers to him who ‘conceals’ [mekasseh] the things which the Ancient [‘athik] of days[3] concealed. And what is that? The secrets of the Torah.[4] Others explain: That refers to him who reveals the things which the Ancient of days concealed [kissah]. And what is it ? The reasons of the Torah.[5]

R. Kahana said on the authority of R. Ishmael b. R. Jose: What is meant by, 'For the leader [la-menazzeah]: a Psalm of David?[6] Sing praises to Him who rejoices when they conquer Him.[7] Come and see how the character of the Holy One, blessed be He, is not like that of mortal man. The character of mortal man is such that when he is conquered he is unhappy, but when the Holy One is conquered He rejoices,for it is said, Therefore He said that He would destroy them, had not Moses His chosen stood before Him in the breach, [to turn back His wrath].[8]

R. Kahana said on the authority of R. Ishmael son of R. Jose, and our Rabbis said in the name of R. Judah Nisi'ah:[9] What is implied by the verse, And they had the hands of a man under their wings?[10] Yado [his hand] is written:[11] this refers to the Hand of the Holy One, blessed be He, which is spread out under the wings of the Hayyoth,[12] in order to accept penitents [and shield them] from[13] the Attribute of Justice.[14] Rab Judah said in Samuel's name: All the gold and silver in the world Joseph gathered in and brought to Egypt, for it is said, And Joseph gathered up all the money that was found [in the land of Egypt, and in the land of Canaan].[15] Now I know it only about that of Egypt and Canaan; whence do we know it about that of other countries? Because it is stated, And all the countries came unto Egypt [to Joseph to buy corn].[16] And when the Israelites migrated from Egypt they carried it away with them, for it is said, and they despoiled the Egyptians.[17] R. Assi said: They made it like a trap in which there is no corn;[18] R. Simeon b. Lakish said: Like a pond without fish.[19] Thus it [the treasure] lay until Rehoboam, when Shishak king of Egypt came and seized it from Rehoboam, for it is said, And it came to pass in the fifth year of king Rehoboam, that Shishak king of Egypt came up against Jerusalem; and he took away the treasures of the house of the Lord, and the treasures of the king's house.[20] Then Zerah, king of Ethiopia, came and seized it from Shishak; then Assa came and seized it from Zerah king of Ethiopia and sent it to Hadrimon the son of Tabrimon. The Ammonites came and seized it from Hadrimon the son of Tabrimon. Jehoshaphat came and seized it from the Ammonites, and it remained so until Ahaz, when Sennacherib came and took it from Ahaz. Then Hezekiah came and took it from Sennacherib, and it remained thus until Zedekiah, when the Babylonians [Chaldeans] came and seized it from Zedekiah. The Persians came and took it from the Chaldeans; the Greeks came and took it from the Persians . the Romans came and took it from the Greeks, and it is still lying in Rome.

R. Hama son of R. Hanina said: Three treasures did Joseph hide in Egypt: one was revealed to Korah; one to Antoninus the son of Severus;[21] and the third is stored up for the righteous for the future time.

Riches kept by the owner thereof to his hurt:[22] R. Simeon b. Lakish said: This refers to Korah's wealth. And a the substance that was at their feet.[23] R. Eleazar said: This refers to a man's wealth, which puts him on his feet. R. Levi said: The keys of Korah's treasure-house were a load for three hundred white mules,[24] though all the keys and locks were of leather.[25]

(Mnemonic: Diyash, ADYish, Kashdek, me-Odeka)[26] R. Samuel b. Nahmani said in R. Jonathan's name: I will give thanks unto Thee, for Thou hast answered me[27] was said by David; The stone which the builders rejected is become the chief corner-stone;[28] by Yishai [Jesse]; This is the Lord's doing,[29] by his brothers; This is the day which the Lord hath made[30] by Samuel. We beseech 'Thee, O Lord, save now![31] was said by his brothers: We beseech Thee, O Lord, make us now to prosper! by David; Blessed be he that cometh in the name of the Lord,[32] by Jesse; We bless you out of the house of the Lord,[32] by Samuel; The Lord is God, and hath given us light,[33] by all of them; Order the festival procession with boughs, by Samuel; Thou art my God, and I will give thanks unto Thee,[34] by David; Thou art my God, I will exalt Thee, by all of them.

We learned elsewhere: Where it is the practice

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(1) I.e.. who treat them in a friendly fashion. Maharsha: who are among the earliest, so that they can greet their

colleagues who arrive latter.
(2) This completes the verse.
(3) God; v. Dan. VII, 13.
(4) Esoteric teaching, which was to be confined to the few.
(5) It is meritorious to investigate the reasons of Scriptural laws.
(6) This is the superscription of a number of psalms; ‘menazzeah is derived from nazzeah, to be victorious.
(7) I.e., prevail upon Him to rescind intended punishment. La-menazzeah is now understood in a causative sense: to Him who makes men victorious.
(8) Ps. CVI, 23.
(9) The Prince. I.e., R. Judah II, — The text is as emended in the margin.
(10) Ezek. I, 8.
(11) Instead of yede, the hands of.
(12) Lit., ‘living creatures’ — the angels that bore the Divine Chariot, as described in Ezek. I.
(13) Var. lec.: on account of.
(14) Justice, Mercy. etc., are often hypostasized.
(15) Gen. XLVII, 14.
(16) Ibid. XLI, 57.
(17) Ex. XII, 36.
(18) To attract the birds. Bird-traps were set with corn. [Aliter: Like a fortress without corn (pro. visions). Var. lec.: like a net without fish.]
(19) Var. lec. (v. D.S.): like husks without grain.
(20) I Kings XIV, 25f.
(21) On his identity v. Sanh., Sonc. ed. p. 610 n.7.
(22) Eccl. V, 12.
(23) Deut. XI, 6.
(24) This of course is not to be taken literally.
(25) Instead of metal, so as to be light in weight, yet they were such a load.
(26) D == David; Y == Yishay (Jesse); A ==Ehaw (his brothers); Sh == Shemuel (Samuel), K == kulan (all of them); me-Odeka == on the passage commencing Odeka, ‘I will give thanks unto Thee’.
(27) Ps. CXVIII, 21.
(28) Ibid. 22.
(29) Ibid. 23.
(30) Ibid. 24.
(31) Ibid. 25.
(32) Ibid. 26.
(33) Ibid. 27.
(34) Ibid. 28.

Talmud - Mas. Pesachim 119b

to repeat,[1] he must repeat; to recite it once only,[2] he must recite them once only; to pronounce a blessing after it [sc. the Hallel], he must pronounce a blessing upon it: it all depends on local custom. Abaye observed: This was taught only [about a blessing] after it, but a blessing before it is obligatory, for Rab Judah said in Samuel's name: A blessing must be recited for a religious duties before [‘ober] they are performed. How is it implied that ‘ober connotes priority? — Said R. Nahman b. Isaac: Because it is written, Then Ahimaaz ran by the way of the Plain, and overran [wa-ya'abor, i.e., ran before] the Cushite.[3] Abaye said: [It follows] from this: And he himself passed over [‘abar] before them.[4] Others quote the following: And their king is passed on [wa-ya'abor] before them, and the Lord at the head of them.[5]

It was taught: Rabbi repeated [certain] verses of it[6] [sc. Hallel]; R. Eleazar b. Perata added passages[7] to it. What did he add? Said Abaye: He added [passages] for repetition from ‘I will give thanks to thee’ and onwards.

R. ‘Awira lectured, Sometimes stating it in R. Ammi's, Sometimes in R. Assi's name: What is meant by. And the child grew, and was weaned [wa-yiggamel]?[8] The Holy One, blessed be He, will make a great banquet for the righteous on the day He manifests [yigmol] His love to the seed of Isaac.[9] After they have eaten and drunk, the cup of Grace[10] will be offered to our father Abraham, that he should recite Grace, but he will answer them, ‘I cannot say Grace, because Ishmael issued from me. Then Isaac will be asked, ‘Take it and say Grace.’ ‘I cannot say Grace,’ he will reply, ‘because Esau issued from me.’ Then Jacob will be asked: ‘Take it and say Grace.’ ‘I cannot say Grace,’ he will reply. ‘because I married two sisters during [both] their lifetimes, whereas the Torah was destined to forbid them to me. Then Moses will be asked, ‘Take it and say Grace.’ ‘I cannot say Grace, because I was not privileged to enter Eretz Yisrael either in life or in death.’ Then Joshua will be asked: ‘Take it and say Grace.’ ‘I cannot say Grace,’ he will reply, ‘because I was not privileged to have a son,’ for it is written, Joshua the son of Nun;[11] Nun his son, Joshua his son.[12] Then David will be asked: ‘Take it and say Grace.’ ‘I will say Grace, and it is fitting for me to say Grace,’ he will reply, as it is said, I will lift up the cup of salvation, and call upon the name of the Lord.[13] MISHNAH. ONE MAY NOT CONCLUDE AFTER THE PASCHAL MEAL [BY SAYING]. ‘NOW TO THE ENTERTAINMENT! [APIKOMAN].’[14]

GEMARA. What does APIKOMAN mean? Said Rab: That they must not remove from one company to another.[15] Samuel said: E.g., mushrooms for myself and pigeons for Abba.[16] R. Hanina b. Shila and R. Johanan said: E.g., dates, parched ears of corn, and nuts. It was taught as R. Johanan: You must not conclude after the Paschal meal with e.g., dates, parched ears, and nuts.

Rab Judah said: One may not conclude after the [last] unleavened bread [is eaten][17] by saying, ‘Now to the entertainment!’ We learned: YOU MAY NOT CONCLUDE AFTER THE PASCHAL, MEAL [BY SAYING], ‘NOW TO THE ENTERTAINMENT!’ Thus it is forbidden only after the Paschal meal, but you may conclude [thus] after the unleavened bread? — He proceeds to a climax:[18] After the unleavened bread it need not be stated, since its taste is not substantial;[19] but [I might think] that there is no objection after the Paschal lamb, whose taste is substantial and cannot [easily] be wiped out. Hence he [the Tanna] informs us [otherwise].

Shall we say that this supports him: [As for] sponge cakes, honey-cakes and iskeritin,[20] a man may fill his stomach with them, providing that he eats as much as an olive of unleavened bread at the end. [This implies], only at the end,

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(1) Certain verses at the end of Hallel, viz., Ps. CXVIII, 21-29. Every verse of the rest of the Psalm is repeated in the text, either actually or by parallelism, and therefore these four verses are repeated when they are recited.

(2) Lit., ‘to (say it) straight off.’

(3) II Sam. XVIII, 23.

(4) Gen. XXXIII, 3.

(5) Mic. II, 13.

(6) [Rashi(Suk. 39a): ‘from "We beseech thee, O Lord, etc." onwards.’]

(7) [I.e., to those repeated by Rabbi (Rashi loc. cit.)].

(8) Gen. XXI, 8: the verse continues: And Abraham made a great feast on the day that Isaac was weaned.

(9) I.e., when Israel is vindicated and his glories restored.

(10) The cup of wine over which Grace after meals is recited.

(11) Num. XIV, 38 et passim.

(12) I Chron. VII, 27. This occurs in the genealogical lists, and since it is not carried beyond Joshua, we must assume that he was not blessed with a son.

(13) Ps. CXVI, 13.

(14) Gr. **.

(15) V. Supra 86a for notes.

(16) I.e., Rab. Rab and Samuel used to eat pigeons and mushrooms respectively after the meal, as desert, and Samuel says that this must not be done after the Paschal meal. Thus his interpretation (and R. Johanan's which follows) is stricter than Rab's. For Rab only forbids further eating elsewhere, whereas Samuel forbids it in the same place.

(17) I. e., nowadays at the end of the meal in memory of the Paschal lamb.

(18) Lit., 'he says, it is unnecessary".'

(19) He must finish the meal with the taste of the Paschal lamb and the unleavened bread predominant in his mouth. Now the taste of the latter is not substantial and enduring, and therefore it is superfluous to teach that nothing may be eaten after it.

(20) V. Supra 37a. These are regarded as 'rich mazzah' and therefore the duty of eating mazzah, which must be 'bread of affliction (poverty)' cannot be discharged with them.

Talmud - Mas. Pesachim 120a

but not at the beginning![1] — [No:] He proceeds to a climax. [If he eats it] at the beginning it goes without saying [that his duty is discharged], since he eats it with an appetite; but at the end, [where] he may come to eat it as mere gorging, I might say that he does not [do his duty]. Hence he [the Tanna] informs us [otherwise].

Mar Zutra recited it thus: R. Joseph said in Rab Judah's name in Samuel's name: One may conclude after the unleavened bread [by saying] 'Now to the entertainment.' Shall we say that this supports him: ONE MAY NOT CONCLUDE AFTER THE PASCHAL MEAL. [BY SAYING], 'NOW TO THE ENTERTAINMENT'; hence one may not conclude thus [only] after the Paschal lamb, yet one may conclude thus after the unleavened bread? — [No:] — He proceeds to a climax. After the unleavened bread it need not be stated, seeing that its taste is not substantial; but I would say [that it is] not so after the Paschal lamb; hence [the Tanna] informs us [otherwise]. An objection is raised: [As for] sponge-cakes, honey-cakes, and iskeritin, a man may fill his stomach therewith, providing that he eats as much as an olive of unleavened bread at the end. Thus it is only at the end, but not at the beginning? He proceeds to a climax: at the beginning, when he eats with an appetite, it is unnecessary [to teach it]; but at the end, where he may merely gorge, I might say [that it is] not [permitted]; hence [the Tanna] informs us [that it is].

Raba said: [The eating of] unleavened bread nowadays is a Scriptural obligation, whereas [that of] bitter herbs is Rabbinical. Yet wherein do bitter herbs differ? Because it is written, they shall eat it [the Passover-offering] with unleavened bread and bitter herbs,[2] [which implies], when [the law of] the Passover-offering is in force, [that of] bitter herbs is in force, and when the Passover-offering is not in force, bitter herbs are not required either! Then in the case of unleavened bread too, surely it is written, 'they shall eat it with unleavened bread and bitter herbs'? — Scripture indeed repeated [the precept] in the case of unleavened bread: at even ye shall eat unleavened bread.[3] But R. Aha b. Jacob maintained: Both the one and the other are [only] Rabbinical. But surely it is written, 'at even ye shall eat unleavened bread'? — That is required in respect of an unclean person and one who was on a journey afar off.[4] For you might argue: Since they cannot eat of the Passover-offering, they need not eat unleavened bread or bitter herbs either; hence [the verse] informs us [otherwise]. And Raba?[5] — He can answer you: In respect of an unclean person and one who was on a journey afar off a verse is not required, for they are no worse than an uncircumcised person and an alien.[6] For it was taught: No uncircumcised person shall eat thereof:[7] 'thereof' he may not eat, but he must eat unleavened bread and bitter herbs. And the other?[8] — It is written in the case of the one [the uncircumcised etc.] and it is written in the case of the other [the unclean etc.], and they are both necessary.[9]

It was taught in accordance with Raba: Six days thou shalt eat unleavened bread, and on the seventh day shall be a solemn assembly to the Lord thy God:[10] just as [on] the seventh day [the eating of unleavened bread] is voluntary,[11] so [on] the six days it is voluntary. What is the reason?[12] Because it is something which was included in the general law and then excluded from the general law, in order to illumine [other cases], [which means that] it was excluded not in order to throw light upon itself, but in order to throw light upon the entire general law.[13] You might think that on the first night too it is [merely] voluntary; therefore it is stated, ‘they shall eat it with unleavened bread and bitter herbs.’ I know this only when the Temple is in existence; whence do we know it when the Temple is not in existence? From the verse, ‘at even ye shall eat unleavened bread’: thus the Writ made it a permanent obligation.

MISHNAH. IF SOME OF THEM[14] FELL ASLEEP, THEY MAY EAT [WHEN THEY AWAKE]; IF ALL OF THEM FELL ASLEEP THEY MUST NOT EAT.[15]

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(1) And the presumed reason is because nothing may be eaten after the last unleavened bread.

(2) Num. IX, 11.

(3) Ex. XII, 18. Bah (on the basis of Tosaf. in Kid. 37b) suggests that the following verse should be quoted instead: in all your habitations shall ye eat unleavened bread (ibid. 20).

(4) But who will be fit by the evening.

(5) Does he not admit this? and if he does, on what grounds does he differentiate between unleavened bread and bitter herbs?

(6) I.e., one who does not observe Jewish law; v. supra, p. 131, n. 5.

(7) Ex. XII, 48.

(8) R. Aha b. Jacob: how does he answer this?

(9) An unclean person etc. cannot be deduced from an ‘alien,’ for since the former will observe the second Passover a month hence, I would argue that he can then discharge his obligation of eating unleavened bread and bitter herbs too. But an ‘alien’ will not have that opportunity, and therefore he is naturally bound to eat the unleavened bread and the bitter herbs now. By the same reasoning, if there were only one verse, I would apply it to the latter, but not to the former.

(10) Deut. XVI, 8.

(11) But not obligatory.

(12) Why do I interpret it thus, seemingly in contradiction to the literal meaning?

(13) This is a principle of exegesis. Now the general rule is stated: seven days shall ye eat unleavened bread (Ex. XII, 15); when the seventh is excluded by the verse, ‘six days’ etc, this throws light not on the seventh alone, but upon the whole period, teaching that the eating of unleavened bread therein is voluntary.

(14) Sc. of a company at a Passover meal.

(15) In the latter case they have a ceased to think about the Paschal lamb; when they awake it is as though they would eat in two different places, sleep breaking the continuity of action and place, and thus it is forbidden.

Talmud - Mas. Pesachim 120b

R. JOSE SAID: IF THEY FELL, INTO A LIGHT SLEEP, THEY MAY EAT; IF THEY FELL FAST ASLEEP, THEY MUST NOT EAT.[1] THE PASSOVER-OFFERING DEFILES ONE'S HANDS AFTER MIDNIGHT;[2] PIGGUL AND NOTHAR DEFILE ONE'S HANDS.

GEMARA. R. JOSE SAID: IF THEY FELL INTO A LIGHT SLEEP, THEY MAY EAT; IF THEY FELL FAST ASLEEP, THEY MUST NOT EAT. What condition is meant by ‘A LIGHT SLEEP’? Said R. Ashi: A sleep which is not sleep, a wakefulness which is not wakefulness. E.g., if he answers when called, cannot make a reasoned statement, yet recollects when reminded. Abaye was sitting [at the Passover meal] before Rabbah. Seeing him dozing he remarked to him, ‘You, sir, are sleeping.’[3] ‘I was merely dozing.’ replied he, ‘and we have learnt: ‘IF THEY FELL INTO A LIGHT SLEEP, THEY MAY EAT; IF THEY FELL, FAST ASLEEP’, THEY MUST NOT EAT.’

THE PASSOVER-OFFERING DEFILES ONE'S HANDS AFTER MIDNIGHT etc. This proves that from midnight it is nothar. Which Tanna [holds thus]? — Said R. Joseph. It is R. Eleazar b.

‘Azariah. For it was taught: And they shall eat the flesh in that night.’[4] R. Eleazar b. ‘Azariah said: ‘In that night’ is stated here, while elsewhere it is stated, For I will go through the land of Egypt in that night:[5] just as there it means midnight, so here too [they may eat the Passover-offering] until midnight.[6] Said R. Akiba to him: Yet surely it is already stated, [and ye shall eat it] in haste,[7] [implying] until the time of haste.[8] If so, what is taught by ‘in [that] night?’ You might think that it can be eaten like [other] sacrifices, [viz.,] by day: therefore it is stated, ‘in [that] night’: it is eaten by night, but it may not be eaten by day. Now how does R. Akiba employ ‘that [night]’? He utilizes it as excluding a second night. For I might argue. Since the Passover-offering is a sacrifice of lesser sanctity,[9] and the peace-offering is a sacrifice of lesser sanctity, the just as the peace-offering is to be eaten two days and one night, so in the case of the Passover-offering, I will substitute nights for days,[10] and it may be eaten two nights and one day. Therefore the Divine Law wrote ‘that [night]’. And R. Eleazar b. ‘Azariah?[11] — He can answer you: That is deduced from, and ye shall let nothing of it remain until the morning.[12] And R. Akiba?[13] — He can answer you: Had not the Divine Law written ‘that [night]’. I would have said, what does ‘morning’ mean? the second morning. Then what of R. Eleazar b. ‘Azariah? — He can answer you: Wherever ‘morning’ is written, It means the first morning.[14]

Raba said: If a man eats unleavened bread after midnight nowadays, according to R. Eleazar b. ‘Azariah he does not discharge his duty.[15] That is obvious, [for] since it is assimilated to the Passover-offering, it is like the Passover-offering? — You might say, surely the Writ[16] excluded it from the analogy;[17] hence he informs us that when the Writ restores it, it restores it to its original state.[18]

PIGGUL AND NOTHAR DEFILE ONE'S HANDS. R. Huna and R. Hisda — one maintains: It is on account of suspected priests; while the other said: It is on account of the lazy priests. One maintained: As much as an olive [defiles]; while the other said: [At least] as much as an egg.

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(1) This distinction refers to the first clause, when only some of them fell asleep.

(2) Because it is then nothar, q.v. Glos.

(3) This happened while he was eating the unleavened bread at the end of the meal, and Abaye meant that he might not continue now.

(4) Ex. XII, 8.

(5) Ibid. 12.

(6) After which it is nothar.

(7) Ibid. 11.

(8) I.e., when they had to make haste to leave Egypt, which was in the morning.

(9) V. p. 108, n. 2.

(10) This is necessary, since its main eating is at night.

(11) How does he refute this argument?

(12) Ex. XII, 10.

(13) Does he not admit this?

(14) Cf. supra 71a and b.

(15) Since he holds that the Passover-offering may not be eaten after midnight, while as stated supra 120a unleavened bread is assimilated to the Passover-offering.

(16) I.e., the verse ‘at even ye shall eat unleavened bread’.

(17) In that unleavened bread is declared obligatory nowadays despite the absence of the paschal lamb, v. supra 120a.

(18) V. supra 120a. I.e., once the Writ teaches that unleavened bread nowadays is obligatory, notwithstanding the analogy, it becomes assimilated to the paschal-offering in respect of the hours during which the obligation can he discharged.

Talmud - Mas. Pesachim 121a

One taught in reference to piggul, while the other taught in reference to nothar. He who taught in reference to piggul [gave the reason as being] on account of the suspected priests. While he who taught in reference to nothar [gave the reason as being] on account of the lazy priests. One said: As much as an olive [defiles]; while the other said: [At least] as much as an egg. He who maintained, as much as an olive, [accepts the standard] as its prohibition; while he who rules, as much as an egg, [holds that the standard is the same as its uncleanness.[1]

MISHNAH. IF HE RECITED THE BLESSING FOR THE PASSOVER-OFFERING, HE THEREBY EXEMPTS THE [FESTIVAL] SACRIFICE; [BUT] IF HE RECITED THE BLESSING FOR THE SACRIFICE, HE DOES NOT EXEMPT THE PASSOVER-OFFERING: THIS IS THE VIEW OF R. ISHMAEL. R. AKIBA SAID: THE FORMER DOES NOT EXEMPT THE LATTER, NOR DOES THE LATTER EXEMPT THE FORMER.[2]

GEMARA. When you examine the matter, [you must conclude] that in R. Ishmael's opinion sprinkling [zerikah] is included in pouring [shefikah], but pouring is not included in sprinkling. Whereas in R. Akiba's opinion pouring is not included in Sprinkling, nor is sprinkling included in pouring.[3] [

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(1) V. supra 85b for notes on the whole passage.

(2) The ‘sacrifice’ referred to is the hagigah of the fourteenth (v. supra 69b). An appropriate blessing was recited before each.

(3) Rashbam: both R. Ishmael and R. Akiba hold that the blood of the Passover-offering must be poured out, i.e., the priest must stand quite close to the altar and gently pour the blood on to its base. But the blood of the hagigah requires sprinkling, i.e., from a distance and with some force’. Now R. Ishmael holds that if the blood of the hagigah is poured out instead of sprinkled, the obligation of sprinkling has nevertheless been discharged. Consequently, the blessing for the Passover-offering includes that of the hagigah, since in both the blood may be poured on to the base of the altar. But if the blood of the Passover-offering is sprinkled, the obligation has not been discharged: consequently the blessing for the hagigah, whose blood is normally sprinkled, does not exempt the Passover-offering. By the same reasoning we infer that in R. Akiba's view neither includes the other.

Talmud - Mas. Pesachim 121b

R. Simlai was present at a Redemption of the Firstborn,[1] He was asked: It is obvious that for the redemption of the firstborn it is the father who must recite the blessing, ‘who hast sanctified us with Thy commandments and hast given us command concerning the redemption of the first born.’ But as for the blessing, ‘Blessed . . . who hast kept us alive and preserved us and enabled us to reach this season,’ does the priest[2] recite it or the child's father? Does the priest recite the blessing, since the benefit redounds to him; or does the child's father recite it, since it is he who carries out a religious duty?[3] He could not answer it, so he went and asked it at the schoolhouse, and he was told: The child's father recites both blessings. And the law is that the child's father recites both blessings.[4]

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(1) V. Ex. XIII, 13; Num. XVIII, 16.

(2) Who receives the five shekels of redemption.

(3) The religious duty is primarily his, since any priest could receive the redemption money.

(4) Rashbam: this story is quoted here because the Mishnah too treats of two blessings.

Mishna - Mas. Shekalim Chapter 1

MISHNAH 1. ON THE FIRST OF ADAR[1] PUBLIC ANNOUNCEMENT IS MADE[2] CONCERNING THE PAYMENT OF THE SHEKELS[3] AND CONCERNING THE DIVERSE KINDS.[4] ON THE FIFTEENTH[5] THEREOF THE SCROLL [OF ESTHER] IS READ IN WALLED CITIES, AND THE ROADS AND THE BROADWAYS[6] AND THE RITUAL, WATER BATHS[7] ARE REPAIRED, AND ALL PUBLIC DUTIES[8] ARE PERFORMED, AND THE GRAVES ARE MARKED,[9] AND [MESSENGERS] GO FORTH ALSO CONCERNING THE DIVERSE KINDS.[10]

MISHNAH 2. R. JUDAH SAID: AFORETIME THEY USED TO PLUCK UP [THE DIVERSE KINDS], AND CAST THEM BEFORE THE OWNERS.[11] [BUT] WHEN TRANSGRESSORS[12] INCREASED IN NUMBER, THEY USED TO PLUCK THEM UP AND CAST THEM ON THE ROADS.[13] [FINALLY],[14] THEY ORDAINED THAT THE WHOLE FIELD SHOULD BE DECLARED OWNERLESS PROPERTY.

MISHNAH 3. ON THE FIFTEENTH THEREOF TABLES [OF MONEY CHANGERS][15] WERE SET UP IN THE PROVINCES.[16] ON THE TWENTY-FIFTH THEY WERE SET UP IN THE TEMPLE. WHEN [THE TABLES] WERE SET UP IN THE TEMPLE, THEY BEGAN TO DISTRAIN.[17] WHOM DID THEY DISTRAIN? LEVITES AND ISRAELITES,[18] PROSELYTES AND FREED SLAVES,[19] BUT NOT WOMEN OR SLAVES OR MINORS.[20] A MINOR ON WHOSE BEHALF HIS FATHER HAD BEGUN TO PAY THE SHEKEL, MAY NOT DISCONTINUE IT AGAIN. BUT NO DISTRAINT WAS LEVIED ON THE PRIESTS, IN ORDER TO PROMOTE PEACEFULNESS.[21]

MISHNAH 4. R. JUDAH SAID: BEN BUKRI TESTIFIED AT JABNEH THAT A PRIEST WHO PAID THE SHEKEL DID NOT COMMIT A SIN.[22] BUT RABBAN JOHANAN THE SON OF ZACCAI SAID TO HIM: NOT SO, BUT A PRIEST WHO DID NOT PAY THE SHEKEL WAS GUILTY OF A SIN. ONLY THE PRIESTS EXPOUNDED THIS VERSE [THUS] FOR THEIR OWN BENEFIT: AND EVERY MEAL-OFFERING OF THE PRIEST SHALL BE WHOLLY BURNT, IT SHALL NOT BE EATEN:[23] IF THEREFORE THE ‘OMER[24] AND THE TWO LOAVES[25] AND THE SHEWBREAD[26] ARE [BROUGHT] FROM OUR [CONTRIBUTIONS], HOW CAN THEY BE EATEN?[27]

MISHNAH 5. ALTHOUGH IT WAS SAID THAT NO DISTRAINT IS LEVIED ON WOMEN OR SLAVES OR MINORS, [YET] IF THESE PAID THE SHEKEL IT IS ACCEPTED OF THEM. IF A HEATHEN OR A CUTHEAN[28] PAID THE SHEKEL IT IS NOT ACCEPTED OF THEM. LIKEWISE BIRD-OFFERINGS OF MEN WHO HAD AN ISSUE,[29] AND BIRD-OFFERINGS OF WOMEN WHO HAD AN ISSUE,[29] AND BIRD-OFFERINGS OF WOMEN AFTER CHILDBIRTH,[29] AND SIN-OFFERINGS AND GUILT-OFFERINGS ARE NOT ACCEPTED OF THEM. BUT VOW-OFFERINGS[30] AND FREEWILL-OFFERINGS[31] ARE ACCEPTED OF THEM. THIS IS THE GENERAL RULE: ALL OFFERINGS WHICH CAN BE MADE AS A VOW-OFFERING OR A FREEWILL-OFFERING[32] ARE ACCEPTED OF THEM, BUT OFFERINGS THAT CANNOT BE MADE AS A VOW-OFFERING OR A FREEWILL-OFFERING[33] ARE NOT ACCEPTED OF THEM. AND THUS IT IS EXPLICITLY STATED IN [THE BOOK OF] EZRA, WHERE IT IS SAID: YE HAVE NOTHING TO DO WITH US TO BUILD A HOUSE UNTO OUR GOD.[34]

MISHNAH 6. THE FOLLOWING ARE LIABLE [TO PAY] A SURCHARGE;[35] LEVITES AND ISRAELITES AND PROSELYTES AND FREED SLAVES;[36] BUT NOT PRIESTS OR WOMEN OR SLAVES OR MINORS.[37] IF A MAN PAID THE SHEKEL ON BEHALF OF A PRIEST, OR ON BEHALF OF A WOMAN, OR ON BEHALF OF A SLAVE, OR ON BEHALF OF A MINOR, HE IS EXEMPT.[38] IF A MAN PAID THE SHEKEL[39] ON HIS OWN BEHALF AND ON BEHALF

OF HIS FELLOW HE IS LIABle TO PAY BUT ONE SURCHARGE, R. MEIR SAYS: TWO SURCHARGES. IF ONE GAVE A SELA’ AND RECEIVED A SHEKEL,[40] HE IS LIABLE TO PAY TWO SURCHARGES.

MISHNAH 7. IF A MAN PAID THE SHEKEL[41] ON BEHALF OF A POOR MAN OR ON BEHAlf OF HIS NEIGHBOUR OR ON BEHALF OF HIS FELLOW-TOWNSMAN, HE IS EXEMPT [FROM A SURCHARGE]. BUT IF HE DID IT AS A LOAN TO THEM HE IS LIABLE. BROTHERS, WHO ARE PARTNERS,[42] ARE EXEMPT FROM THE TITHE OF CATTLE[43] WHEN THEY ARE LIABLE TO A SURCHARGE.[44] BUT WHEN THEY ARE LIABLE TO THE TITHE OF CATTLE[45] THEY ARE EXEMPT FROM THE SURCHARGE.[46] AND HOW MUCH IS THE SURCHARGE? A SILVER MA'AH.[47] THUS R. MEIR. BUT THE SAGES SAY: HALF A MA'AH.

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(1) The twelfth month of the year.

(2) Throughout the Land of Israel and the Diaspora.

(3) The annual contribution towards the upkeep of the Temple and its services which was obligatory on every adult male Israelite. It was derived from the Mosaic Institution described in Ex. XXX, 11-16 (cf. Introduction). The contribution had to be paid before the first of Nisan, the beginning of the religious year, and all public offerings brought during the new year had to come out of the new annual contributions.

(4) Of seeds, prohibited in Lev. XIX, 19; Deut. XXII, 9. Warning was given for the removal from fields and vineyards of a portion of plants which were of a kind different from the main growth, so as to reduce these foreign plants to a quantity which did not fall under the prohibition; cf. Kil. II, 1. Warning was given on the first of Adar before the plants had had time to grow up and render the whole field forfeit.

(5) The purim of Shushan. V. Esther IX, 18-19 and cf. Meg. I, 1ff.

(6) That had been damaged by the winter rains, for the benefit of the pilgrims who went up to Jerusalem for the Passover; or, according to Maimonides, for the benefit of fugitives to the Cities of Refuge; cf. Deut. XIX, 2ff and Mak. II, 5, Sonc. ed. p. 59.

(7) For the immersion of the ritually unclean. The rains might have carried soil into the pools, and thus reduced their water to less than the prescribed quantity of forty se'ahs; cf. Mik. I, 7; ‘Ed. I, 3, Sonc. ed. p. 2, n. 7.

(8) That had not been fully performed during the rainy season. A list of these duties is given in the Palestinian Gemara and in the commentaries.

(9) Afresh with lime (cf. M.Sh. V, 1), after the old marks had become obliterated by the rains. These marks served to warn priests and Nazirites against approaching them and becoming defiled; cf. Num. XIX, 16; VI, 6; also Ezek. XXXIX, 15.

(10) To inspect the fields and do what is described in the following section.

(11) In order to shame them.

(12) Who fed their cattle on the uprooted plants.

(13) This prevented the obnoxious plants being used by the owners for cattle food.

(14) When even this failed to deter transgressors, since the uprooting saved them the labour of weeding their fields.

(15) For changing foreign coins of Jews from the Diaspora.

(16) Outside Jerusalem. According to others, outside the Temple (cf. infra and II, 1), and including also Jerusalem.

(17) The goods of those who had not yet paid their shekel.

(18) I.e., Jews who were not priests or Levites.

(19) These four classes were bound by law to pay the shekel.

(20) With these the payment of the shekel was a voluntary act.

(21) Lit., ‘because of the ways of peace’. Because the priests contested their obligation to pay the shekel, as stated in the next section. The Palestinian Gemara seems to have read: ‘Because of the respect due to them’.

(22) I.e., he may pay it, but he was not bound to pay it.

(23) Lev. VI, 16.

(24) The ‘Sheaf of Waving’, Lev. XXIII, 9ff; cf. Men. X, 1ff.

(25) Ibid. 17; cf. Men. XI, 1ff.

(26) Ex. XXV, 30; Lev. XXIV, 5ff. These three offerings were bought out of the Shekel fund (cf. infra IV, 1), but were consumed by the priests.

(27) But in reality Lev. VI, 16 applied only to private meal-offerings, and not to public offerings such as the ‘Omer, the Two Loaves and the Shewbread.

(28) A person from Cutha, i.e., a Samaritan. It is an opprobrious designation derived from II Kings XVII, 24.

(29) Lit., ‘nests’, i.e. pairs of turtle-doves or young pigeons, of which one was a sin-offering and the other a burnt-offering; cf. Lev. XV, 14f, 25f; XII, 8.

(30) An undertaking with an expression which binds the person (הרי עלי infra VI, 6) to bring an offering.

(31) An undertaking with an expression which dedicates a particular animal as an offering (הרי זו). In this case if the animal died or was lost the undertaking is considered as discharged; cf. Kin. I, 1.

(32) To the altar, such as burnt-offerings and peace-offerings, fine flour, wine, frankincense, and wood.

(33) To the altar, but only to the Repair of the Temple.

(34) Ezra IV, 3.

(35) To compensate the Temple for any loss that might be incurred in changing the Shekel (half a sela’) into sela's; v. next section.

(36) Who are bound by law to pay the Shekel.

(37) Who are not bound to pay it; cf. supra p. 2; nn. 9 and 10.

(38) Even if the payment of the Shekel was not a gift to them, but a loan which they promised to repay; cf. the next section.

(39) In one coin, viz., a sela’.

(40) As change.

(41) As a gift.

(42) In the inheritance of their father. Cf. Hul. I, 7; Bek. IX, 3.

(43) Of young born during their partnership. This tithe is a personal charge, and cattle held in partnership was exempt from it; cf. Bek. ibid.

(44) I.e., when they had become partners again after they had already shared out the inheritance.

(45) Viz., before they had shared out the inheritance, when the cattle is still considered as the property of their father.

(46) If their Shekels were paid out of the inheritance. Their Shekels are then considered as a gift from their father, and a gift Shekel is exempt from the surcharge.

(47) 1/24th of a sela’, or 1/12th of the Shekel.

Mishna - Mas. Shekalim Chapter 2

MISHNAH 1. SHEKELS MAY BE CHANGED[1] INTO DARICS[2] IN ORDER TO [LIGHTEN] THE LOAD OF THE JOURNEY.[3] JUST AS THERE WERE CHESTS[4] IN THE TEMPLE SO WERE THERE CHESTS IN THE PROVINCE.[5] IF THE PEOPLE OF A TOWN HAD SENT THEIR SHEKELS AND THEY WERE STOLEN OR LOST, THEN IF THE APPROPRIATION[6] HAD ALREADY BEEN MADE[7] [THE MESSENGERS] SWEAR THE OATH [OF ACQUITTAL][8] TO THE TREASURERS; BUT IF [THE APPROPRIATION HAD] NOT [YET BEEN MADE] THEY SWEAR TO THE TOWNSPEOPLE, AND THE TOWNSPEOPle MUST PAY [FRESH] SHEKELS IN THE PLACE OF THE [LOST] SHEKELS. [IF THE LOST SHEKELS] WERE FOUND, OR IF THE THIEVES RESTORED THEM, THEN BOTH [THE FIRST SHEKELS AND THEIR SUBSTITUTES] ARE [ACCOUNTED SACRED] SHEKELS,[9] BUT THEY CANNOT BE CREDITED [TO THE ACCOUNT] OF THE COMING YEAR.[10]

MISHNAH 2. IF A MAN GAVE HIS SHEKEL TO HIS FELLOW TO PAY IT ON HIS BEHALF, BUT [HIS FELLOW] PAID IT[11] ON BEHALF OF HIMSELF, THEN IF THE APPROPRIATION HAD ALREADY BEEN MADE[12] [HIS FELLOW] IS GUILTY OF SACRILEGE.[13] IF A MAN PAID HIS SHEKEL OUT OF MONEY BELONGING TO THE SANCTUARY, THEN IF THE APPROPRIATION HAD ALREADY BEEN MADE AND AN ANIMAL [BOUGHT OUT OF THE APPROPRIATION] HAD ALREADY BEEN OFFERED, HE IS GUILTY OF SACRILEGE.[14] [IF HE DID IT WITH MONEY WHICH WAS] THE VALUE OF SECOND TITHES[15] OR THE VALUE OF SEVENTH YEAR PRODUCE,[16] HE MUST

CONSUME [FOOD TO] THE VALUE THEREOF.[17]

MISHNAH 3. IF A MAN SAVED COINS AND SAID: LO, THESE ARE FOR MY SHEKEL, BETH SHAMMAI SAY: THE SURPLUS [OF THE COINS GOES TO THE CHESTS OF] FREEWILL-OFFERINGS.[18] BUT BETH HILLEL SAY: THE SURPLUS THEREOF IS COMMON PROPERTY.[19] [IF HE SAID: FROM THESE COINS] I SHALL OFFER MY SHEKEL, [BOTH SCHOOLS] AGREE THAT THE SURPLUS THEREOF IS COMMON PROPERTY. [IF HE SAID]: THESE [COINS] ARE FOR A SIN-OFFERING, [BOTH] AGREE[20] THAT THE SURPLUS [GOES TO THE CHESTS OF] FREEWILL-OFFERINGS. [IF HE SAID]: FROM THESE I SHALL OFFER A SIN-OFFERING, [BOTH SCHOOLS] AGREE THAT THE SURPLUS IS COMMON PROPERTY.

MISHNAH 4. R. SIMEON SAID: WHAT IS THE DIFFERENCE BETWEEN SHEKELS AND A SIN-OFFERING?[21] SHEKELS HAVE A FIXED VALUE, BUT A SIN-OFFERING HAS NO FIXED VALUE.[22] R. JUDAH SAYS: SHEKELS ALSO HAVE NO FIXED VALUE. FOR WHEN THE ISRAELITES CAME UP OUT OF THE CAPTIVITY[23] THEY USED TO PAY THE SHEKEL IN DARICS,[24] THEN THEY PAID THE SHEKEL IN SELA'S[25] THEN AGAIN THEY PAID IT IN TIB'IN,[26] AND FINALLY THEY SOUGHT TO PAY IT IN DENARS.[27] BUT R. SIMEON SAID: NEVERTHELESS THE VALUE THEREOF REMAINED THE SAME FOR EVERYBODY, WHEREAS [IN THE CASE OF] A SIN-OFFERING ONE MAN MAY BRING IT OF THE VAlue OF ONE SELA’, ANOTHER MAY BRING IT OF THE VALUE OF TWO SELA'S, AND AGAIN ANOTHER OF THREE SELA'S.

MISHNAH 5. THE SURPLUS OF [MONEY SET ASIDE FOR] SHEKELS IS COMMON PROPERTY, BUT THE SURPLUS OF [MONEY SET ASIDE FOR THE] TENTH OF THE EPHAH,[28] AND THE SURPLUS OF [MONEY SET ASIDE FOR] BIRD-OFFERINGS OF MEN WHO HAD AN ISSUE, FOR BIRD-OFFERINGS OF WOMEN WHO HAD AN ISSUE, FOR BIRD-OFFERINGS OF WOMEN AFTER CHILDBIRTH,[29] THEIR SURPLUS [GOES TO THE CHESTS OF] FREEWILL-OFFERINGS. THIS IS THE GENERAL RULE: OF ALL [MONIES SET ASIDE] FOR A SIN-OFFERING OR FOR A GUILT-OFFERING, THE SURPLUS [GOES TO THE CHESTS OF] FREEWILL-OFFERINGS. THE SURPLUS OF [MONEY SET ASIDE FOR] A BURNT-OFFERING [MUST BE USED] FOR A BURNT-OFFERING; THE SURPLUS OF [MONEY SET ASIDE FOR] A MEAL-OFFERING [MUST BE USED] FOR A MEAL-OFFERING; THE SURPLUS OF [MONEY SET ASIDE FOR] A PEACE-OFFERING [MUST BE USED] FOR A PEACE-OFFERING; THE SURPLUS OF [MONEY SET ASIDE FOR] A PASSOVER-OFFERING [MUST BE USED] FOR A PASSOVER-OFFERING; THE SURPLUS OF [MONEY RAISED FOR] THE OFFERINGS OF NAZIRITES[30] [MUST BE USED] FOR THE OFFERINGS OF OTHER NAZIRITES; THE SURPLUS OF [MONEY RAISED FOR] THE OFFERINGS OF A [PARTICULAR] NAZIRITE [MUST GO] TO THE [CHESTS OF] FREEWILL-OFFERINGS; THE SURPLUS OF [MONEY RAISED FOR] THE POOR [MUST BE USED] FOR [OTHER] POOR; THE SURPLUS OF [MONEY RAISED FOR] A [PARTICULAR] POOR PERSON[31] [MUST BE GIVEN] TO THAT [POOR PERSON];[32] THE SURPLUS OF [MONEY RAISED FOR THE RANSOM OF] CAPTIVES [MUST BE USED] FOR [THE RANSOM OF OTHER] CAPTIVES; THE SURPlus OF [MONEY RAISED FOR THE RANSOM OF] A [PARTICULAR] CAPTIVE [MUST BE GIVEN] TO THAT CAPTIVE; THE SURPLUS OF [THE MONEY RAISED FOR THE BURIAL OF] THE DEAD [MUST BE USED] FOR [THE BURIAL OF OTHER] DEAD; THE SURPLUS OF [THE MONEY RAISED FOR THE BURIAL OF] A [PARTICULAR] DEAD PERSON [MUST BE GIVEN] TO HIS HEIRS. R. MEIR SAYS: THE SURPLUS OF [MONEY RAISED FOR THE BURIAL OF] A [PARTICULAR] DEAD PERSON MUST BE LAID ASIDE UNTIL ELIJAH COMES.[33] R. NATHAN SAYS: THE SURPLUS OF [MONEY RAISED FOR THE BURIAL OF] A [PARTICULAR] DEAD PERSON [MUST BE USED] FOR BUILDING A MONUMENT FOR HIM OVER HIS GRAVE.

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(1) Lit., ‘may be combined’ (for purposes of exchange).
(2) A Persian gold coin; cf. Ezra II, 69; VIII, 27.
(3) Of the coins on the way up to the Temple
(4) Heb. ‘Shoferoth’ (שופרות), horns of blowing. The chests were shaped like the Shofar, narrow at the top where the opening was, and widening lower down. This shape was chosen to prevent the theft of the contents.
(5) Cf. p. 2 n. 6.
(6) Lit., ‘heave-offering’ (תרומה). This term is usually applied to the offering ‘heaved’ from produce and given to the priest. Here it designates the portion of the shekels taken up periodically in the store-chamber for the current needs of the Temple, as described below, III, 1ff.
(7) By making the appropriation all the shekels which are due to come to the Temple become the property of the Temple, the appropriation being made also in respect of those shekel payments which had not yet reached the Temple at the time of appropriation. V. B.M. 58a, Sonc. ed. p. 344.
(8) The oath which acquits unpaid guardians of responsibility for the loss of goods entrusted to them; cf. B.M. 33b.
(9) Both are the property of the Temple.
(10) They have to pay the shekel afresh in the next year.
(11) By error.
(12) By the appropriation the Temple had already secured possession of the shekel from the first man; cf. p. 5, n. 7.
(13) In accordance with Lev. V, 15ff; since he used Temple property to discharge a debt. The authorities are divided as to whether in this case also, as in the following case, an animal has first to be offered out of the appropriation before he becomes guilty of sacrilege.
(14) But otherwise he does not incur guilt, since he has not used Temple money for any common purpose, but only transferred it from one hallowed denomination to another.
(15) The First Tithe of produce was given to the Levites, Num. XVIII, 21. The Second Tithe had to be consumed itself, or its value in money, in Jerusalem. Cf. Deut. XIV, 24ff; ‘Ed. I, 9ff, Sonc. ed. p. 4, n. 16.
(16) Which is liable to the law of ‘Removal’ (ביעור), and must be consumed before the Passover; cf. M.Sh. V, 6.
(17) He must take money equal to the value of the shekel and declare that this money shall be in place of the Second Tithes money or of the Seventh Year produce money that had been given away as a shekel, and then he must use up this money in accordance with the rules laid down for the consumption of Second Tithes (M. Sh. II, 1-4), or of Seventh Year produce (Sheb. VIII, 1-5; IX, 8).
(18) Cf. infra VI, 6. All the coins saved have become hallowed.
(19) It may be expended by the owner at his will.
(20) For the reason stated by R. Simeon in the next section.
(21) That in the case of a shekel Beth Hillel always hold the surplus of the coins to be common property, but in the case of a sin-offering they agree with Beth Shammai, that in the condition stated in the last section, the surplus falls to the chest of freewill-offerings?
(22) Hence all the coins might have been used up for a sin-offering, therefore they are all hallowed.
(23) In the days of Cyrus.
(24) Viz., half a daric.
(25) Half a sela’.
(26) טבעין plural of טבע , minted shekel.
(27) Half of the tib'in. Some texts add: ‘But they were not accepted of them’.
(28) Lev. V, 11-13.
(29) Cf. supra p. 3, n. 7.
(30) Num. VI, 10ff, 14ff.
(31) For a definite need.
(32) For his other needs.
(33) Who will solve the problem of what to do with it; cf. B.M., Sonc. ed. p. 6, n. 2.

Mishna - Mas. Shekalim Chapter 3

MISHNAH 1. AT THREE PERIODS OF THE YEAR WAS THE APPROPRIATION MADE

[FROM THE SHEKELS] IN THE CHAMBER:[1] HALF A MONTH[2] BEFORE THE PASSOVER, HALF A MONTH BEFORE PENTECOST, AND HALF A MONTH BEFORE THE FEAST OF TABERNACLES. THESE ARE ALSO THE SEASONS[3] FOR THE TITHE OF CATTLE;[4] THUS R. AKIBA. BEN ‘AZZAI SAYS: ON THE TWENTY-NINTH OF ADAR,[5] AND ON THE FIRST OF SIVAN,[6] AND ON THE TWENTY-NINTH OF AB.[7] R. ELEAZAR AND R. SIMEON SAY: ON THE FIRST OF NISAN,[5] ON THE FIRST OF SIVAN,[6] AND ON THE TWENTY-NINTH OF ELUL. WHEREFORE DID THEY SAY, ON THE TWENTY-NINTH OF ELUL AND NOT ON THE FIRST OF TISHRI?[8] BECAUSE THE FIRST OF TISHRI IS A FESTIVAL,[9] AND IT IS NOT PERMITTED TO TITHE ON A FESTIVAL, THEREFORE THEY ADVANCE IT TO THE TWENTY-NINTH OF ELUL.

MISHNAH 2. THE APPROPRIATION IN THE CHAMBER WAS MADE WITH THREE BASKETS EACH OF [THE CAPACITY OF] THREE SE'AHS,[10] AND ON THEM WAS INSCRIBED [RESPECTIVELY][11] ALEPH, BETH, GIMEL. R. ISHMAEL SAYS: ON THEM WAS INSCRIBED IN GREEK, ALPHA, BETA, GAMLA.[12] HE WHO MADE THE APPROPRIATION DID NOT ENTER THE CHAMBER WEARING EITHER A BORDERED[13] CLOAK OR SHOES OR SANDALS OR TEFILLIN OR AN AMULET, LEST IF HE BECAME POOR PEOPLE MIGHT SAY THAT HE BECAME POOR BECAUSE OF AN INIQUITY COMMITTED IN THE CHAMBER, OR IF HE BECAME RICH PEOPLE MIGHT SAY THAT HE BECAME RICH FROM THE APPROPRIATION IN THE CHAMBER. FOR IT IS A MAN'S DUTY TO BE FREE OF BLAME[14] BEFORE MEN AS BEFORE GOD, AS IT IS SAID: AND BE GUILTLESS TOWARDS THE LORD AND TOWARDS ISRAEL,[15] AND AGAIN IT SAYS: SO SHALL THOU FIND FAVOUR AND GOOD UNDERSTANDING IN THE SIGHT OF GOD AND MAN.[16]

MISHNAH 3. [MEMBERS] OF RABBAN GAMALIEL'S HOUSEHOLD USED TO ENTER [THE CHAMBER] WITH THEIR SHEKEL BETWEEN THEIR FINGERS, AND THROW IT IN FRONT OF HIM WHO MADE THE APPROPRIATION, WHILE HE WHO MADE THE APPROPRIATION PURPOSELY PRESSED IT INTO THE BASKET.[17] HE WHO MADE THE APPROPRIATION DID NOT MAKE IT UNLESS HE FIRST SAID TO THEM:[18] SHALL I MAKE THE APPROPRIATION? AND THEY SAID TO HIM THREE TIMES:[19] MAKE THE APPROPRIATION! MAKE THE APPROPRIATION! MAKE THE APPROPRIATION!

MISHNAH 4. WHEN HE MADE THE FIRST APPROPRIATION[20] HE COVERED [WHAT WAS LEFT] WITH LEATHER SPREADS,[21] AND WHEN HE MADE THE SECOND APPROPRIATION[22] HE AGAIN COVERED [WHAT WAS LEFT] WITH LEATHER SPREADS,[21] BUT AFTER THE THIRD APPROPRIATION HE DID NOT COVER [WHAT WAS LEFT]. [HE COVERED AFTER THE FIRST TWO APPROPRIATIONS] LEST HE SHOULD FORGET AND MAKE A [FRESH] APPROPRIATION FROM SHEKELS FROM WHICH AN APPROPRIATION HAD ALREADY BEEN MADE. THE FIRST APPROPRIATION HE MADE ON BEHALF OF THE LAND OF ISRAEL, AND THE SECOND ON BEHALF OF THE CITIES NEAR THEREUNTO, AND THE THIRD ON BEHALF OF BABYLON AND ON BEHALF OF MEDIA AND ON BEHALF OF [OTHER] DISTANT COUNTRIES.

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(1) In the Temple which serves as the Treasury.

(2) Lit., breaking (into two) I.e., half the period of the preparation for the festival during which the laws of the festival are being expounded.

(3) Lit., ‘threshing floors’ (גרנות), a term borrowed from the tithe of produce which becomes due when the produce reaches the threshing-floor.

(4) Lev. XXVII, 32; cf. Bek. IX, 5-6. These dates were chosen to enable cattle dealers to sell their young animals after the tithing for the requirement of sacrifices on the three great Festivals of Pilgrimage.

(5) A more definite date than the one given by R. Akiba.

(6) The supply of young animals was smaller before Pentecost, and the longer period of half a month given by R. Akiba might cause a scarcity of animals for sacrifices on Pentecost.

(7) And not on or about the first of Tishri. Ben ‘Azzai holds that animals born during the month of Elul had to be tithed by themselves, and could not be mixed up with those born before Elul; cf. Bek. IX, 5.

(8) Like the dates which they gave for Nisan and Sivan.

(9) The Festival of the New Year.

(10) Three se'ahs equal the Biblical ephah; cf. ‘Ed., Sonc. ed. p. 2, nn. 3, 7.

(11) To ensure that the contents of each basket would be expended in the order in which they had been taken up.

(12) The J. Mishnah reads Gamma.

(13) With a border folded up at the lower end of the cloak. Aruch explains it as a cloak with sleeves. The articles of apparel enumerated may serve as a receptacle for hiding a theft from the shekels.

(14) I.e., to give no cause for suspicion.

(15) Num. XXXII, 22.

(16) Prov. III, 4.

(17) To make sure that their shekels would be used for the purchase of the offerings enumerated infra IV, 1, and not be left in the residue, ibid. 4.

(18) To those who stood outside the chamber; v. Maim. Yad. Shekalim, II, 5.

(19) Cf. Men. X, 3.

(20) The one taken before the Passover.

(21) GR. **. On which were laid the shekels that arrived later.

(22) The one taken before Pentecost.

Mishna - Mas. Shekalim Chapter 4

MISHNAH 1. WHAT WAS DONE WITH THE APPROPRIATION? THEY BROUGHT THEREWITH THE DAILY BURNT-OFFERINGS[1] AND THE ADDITIONAL[2] BURNT-OFFERINGS AND THEIR DRINK-OFFERINGS, THE ‘OMER AND THE TWO LOAVES AND THE SHEWBREAD[3] AND ALL THE OTHER PUBlic OFFERINGS.[4] THOSE WHO WATCHED THE AFTERGROWTHS[5] IN THE SEVENTH YEAR[6] RECEIVED THEIR WAGES OUT OF THE APPROPRIATION FROM THE CHAMBER. R. JOSE SAYS: [IF A MAN WISHED] HE COULD VOLUNTEER TO WATCH WITHOUT PAYMENT. BUT THEY SAID TO HIM: THOU, TOO, DOST ADMIT THAT THEY[7] CAN ONLY BE OFFERED OUT OF PUBlic FUNDS.[8]

MISHNAH 2. THE [RED] COW[9] AND THE SCAPEGOAT[10] AND THE STRIP OF SCARLET[11] CAME OUT OF THE APPROPRIATION OF THE CHAMBER. THE VIADUCT FOR THE [RED] COW[12] AND THE VIADUCT FOR THE SCAPEGOAT[13] AND THE STRIP OF SCARLET WHICH WAS BETWEEN ITS HORNS,[14] AND [THE MAINTENANCE OF] THE POOL OF WATER,[15] AND THE WALL OF THE CITY[16] AND THE TOWERS THEREOF AND ALL THE NEEDS OF THE CITY[17] CAME OUT OF THE REMAINDER[18] IN THE CHAMBER. ABBA SAUL SAYS: THE VIADUCT FOR THE [RED] COW THE HIGH PRIESTS MADE OUT OF THEIR OWN [MEANS].

MISHNAH 3. WHAT WAS DONE WITH THE SURPLUS OF THE REMAINDER IN THE CHAMBER?[19] THEREWITH WERE BOUGHT WINES, OILS AND FINE FLOURS,[20] AND THE PROFIT BELONGED TO THE SANCTUARY; THUS R. ISHMAEL. R. AKIBA SAYS: ONE MAY NOT DEAL WITH THE PROPERTY OF THE SANCTUARY,[21] NOR WITH THE PROPERTY OF THE POOR.[22]

MISHNAH 4. WHAT WAS DONE WITH THE SURPLUS OF THE APPROPRIATION?[23] [THEREOF WERE MADE] BEATEN PLATES OF GOLD FOR COVERING[24] THE INTERIOR OF THE HOLY OF HOLIES. R. ISHMAEL SAYS: THE SURPLUS [FROM THE SALE] OF THE

PRODUCE[25] WAS USED FOR THE ALTAR'S ‘DESSERT’,[26] AND THE SURPLUS OF THE APPROPRIATION WAS USED FOR THE VESSELS OF MINISTRATION. R. AKIBA SAYS: THE SURPLUS OF THE APPROPRIATION WAS USED FOR THE ALTAR'S ‘DESSERT’, AND THE SURPLUS OF THE DRINK-OFFERINGS[27] WAS USED FOR THE VESSELS OF MINISTRATION. R. HANANIAH THE CHIEF OF THE PRIESTS[28] SAYS: THE SURPLUS OF THE DRINK-OFFERINGS WAS USED FOR THE ALTAR'S ‘DESSERT’, AND THE SURPLUS OF THE APPROPRIATION WAS USED FOR THE VESSELS OF MINISTRATION. NEITHER OF THESE [TWO SAGES] ALLOWED [A PROFIT FROM THE SALE OF THE PRODUCE.[29]

MISHNAH 5. WHAT WAS DONE WITH THE SURPLUS OF THE FRANKINCENSE?[30] THEY SET APART THEREFROM[31] THE WAGES OF THE CRAFTSMEN,[32] AND WHEN THEY HAD EXCHANGED IT[33] FOR THE WAGES OF THE CRAFTSMEN, THEY GAVE IT TO THE CRAFTSMEN AS THEIR WAGES, AND THEN THEY BOUGHT IT BACK AGAIN OUT OF A NEW APPROPRIATION.[34] IF THE NEW ONE[35] HAD ARRIVED IN TIME THEY BOUGHT IT BACK AGAIN WITH THE NEW APPROPRIATION, BUT IF NOT, THEY BOUGHT IT BACK AGAIN WITH THE OLD ONE.

MISHNAH 6. IF A MAN DEDICATED HIS POSSESSIONS TO THE SANCTUARY, AND THERE WAS AMONG THEM AUGHT THAT WAS FIT FOR PUBLIC OFFERINGS,[36] IT SHOULD BE GIVEN TO THE CRAFTSMEN AS THEIR WAGES; THUS R. AKIBA. BUT BEN ‘AZZAI SAID TO HIM: THIS IS NOT IN ACCORDANCE WITH THE ESTABLISHED RULE.[37] NAY, RATHER, THEY SET APART THEREFROM[38] THE WAGES OF THE CRAFTSMEN, AND WHEN THEY HAD EXCHANGED IT FOR THE MONEY DUE TO THE CRAFTSMEN THEY GAVE IT TO THE CRAFTSMEN AS THEIR WAGES, AND THEN THEY BOUGHT IT BACK AGAIN OUT OF A NEW APPROPRIATION.

MISHNAH 7. IF A MAN DEDICATED HIS POSSESSIONS TO THE SANCTUARY AND THERE WERE AMONG THEM CATTLE FIT FOR THE ALTAR, MALES OR FEMALES, R. ELIEZER SAYS: MALES SHOULD BE SOLD[39] FOR THE USE OF BURNT-OFFERINGS AND FEMALES[40] SHOULD BE SOLD FOR THE USE OF PEACE-OFFERINGS, AND THE PRICE THEREOF TOGETHER WITH THE REST OF THE POSSESSIONS SHOULD GO TO THE REPAIR OF THE TEMPLE.[41] R. JOSHUA SAYS: THE MALES SHOULD THEMSELVES BE OFFERED UP AS BURNT-OFFERINGS[42] AND THE FEMAles SHOULD BE SOLD FOR THE USE OF PEACE-OFFERINGS, [AND FOR THE PRICE THEREOF BURNT-OFFERINGS SHOULD BE OFFERED],[43] AND THE OTHER POSSESSIONS SHOULD GO TO THE REPAIR OF THE TEMPLE. R. AKIBA SAYS: I PREFER THE OPINION OF R. ELIEZER ABOVE THE OPINION OF R. JOSHUA, FOR R. ELIEZER APPLIED A UNIFORM RULE,[44] BUT R. JOSHUA DIFFERENTIATED.[45] R. PAPIAS SAID: I HAVE HEARD A TRADITION IN ACCORDANCE WITH THE OPINIONS OF BOTH [SAGES]: THAT IF A MAN DEDICATED TO THE SANCTUARY IN DEFINITE TERMS[46] IT IS ACCORDING TO THE OPINION OF R. ELIEZER,[47] BUT IF HE DEDICATED TO THE SANCTUARY IN INDEFINITE TERMS[48] IT IS ACCORDING TO THE OPINION OF R. JOSHUA.[49]

MISHNAH 8. IF A MAN DEDICATED HIS POSSESSIONS TO THE SANCTUARY AND THERE WERE AMONG THEM THINGS FIT FOR THE ALTAR [SUCH AS] WINES, OILS,[50] AND BIRDS,[51] R. ELIEZER SAYS: THEY SHOULD BE SOLD FOR THE USE OF [OFFERINGS BELONGING TO] EACH PARTICULAR KIND, AND FOR THE PRICE THEREOF BURNT-OFFERINGS[52] SHOULD BE OFFERED, WHILE THE OTHER POSSESSIONS SHOULD GO TO THE REPAIR OF THE TEMPLE.

MISHNAH 9. ONCE IN THIRTY DAYS PRICES WERE FIXED [ON BEHALF OF] THE CHAMBER.[53] IF A MAN HAD UNDERTAKEN TO SUPPLY FINE FLOURS AT FOUR [SE'AHS

FOR A SELA’] AND THEY NOW STOOD AT THREE [SE'AHS FOR A SELA’] HE MUST [STILL] SUPPLY AT FOUR [SE'AHS]. [IF HE HAD UNDERTAKEN TO SUPPLY] AT THREE [SE'AHS FOR A SELA’] AND THEY NOW STOOD AT FOUR, HE MUST [ALSO] SUPPLY AT FOUR, FOR THE SANCTUARY HAS THE UPPER HAND.[54] IF THE FINE FLOUR BECAME WORM-EATEN THE LOSS IS HIS; IF THE WINE BECAME SOUR THE LOSS IS HIS. FOR HE IS NOT ENTITLED TO HIS MONEY[55] EXCEPT AFTER THE ALTAR HAS ACCEPTED THE OFFERING.[56]

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(1) Cf. Num. XXVIII, 1-8.

(2) The special offering for the Sabbath, the New Moon and the Festivals, enumerated in Num. XXVIII, 9-XXIX, 39.

(3) Cf. supra p. 3 nn. 2-4.

(4) E.g., frankincense and the drink-offerings ordained, infra VII, 6.

(5) Growing without human labor; cf. Lev. XXV, 5, 11.

(6) All produce of the Seventh Year was ownerless property and free to man and beast, Lev. ibid. 6-7. As the ‘Omer and the Two Loaves had to be offered out of the new produce of the year, therefore in the Seventh Year guardians were set over a special field to guard its aftergrowths for the use of the ‘Omer and the Two Loaves for that year, so that they might not he eaten by man or beast.

(7) The ‘Omer and the Two Loaves.

(8) But if the watcher is unpaid the aftergrowths become automatically his own private property and could not be offered up; v. B.M., Sonc. ed. pp. 671ff and notes.

(9) Num. XIX, 1ff.

(10) Lev. XVI, 10, 21F.

(11) Which was thrown into the burning Red Cow, including also the accompanying cedar wood and hyssop, Num. XIX, 6. According to others, the strip of scarlet tied on the neck of the goat of the sin-offering in order to distinguish it from the scapegoat, Lev. XVI, 9; v. p. 13, n. 3.

(12) Across the valley which separated the Temple Mount from the Mount of Olives, over which the Red Cow was led by the priest. The viaduct was erected in order to protect the priest against defilement from the possible unsuspected presence of a grave in the valley; cf. Parah III, 6.

(13) A private exit leading out of Jerusalem for the man who carried away the scapegoat, to prevent his being mobbed; cf. Yoma 66a.

(14) Cf. Yoma 41b.

(15) In the Temple Court.

(16) Of Jerusalem.

(17) The maintenance of the water supply, the streets and markets, etc.

(18) What is left over from the shekels after the three appropriations had been made; v. supra III, 2, 4.

(19) After the needs enumerated in the foregoing section (viaducts etc.) had been satisfied.

(20) To be re-sold to those requiring them for their offerings.

(21) (a) Such trafficking is unseemly for the Temple v. Keth. 106b. [(b) Because trafficking may involve loss as well as gain, T.J. a.l.].

(22) ‘Because a poor man might come unexpectedly and there would be nothing to give him’. Keth. ibid.; cf. however preceding note (b).

(23) After the needs enumerated in section 1 and the beginning of section 2 had been met.

(24) Cf. Num. XVII, 3; I Kings VI, 20ff.

(25) In accordance with his opinion in the last section.

(26) Lit., ‘summer-fruit’, eaten as dessert, a figurative name for the burnt-offerings which were offered after all the prescribed public and private offerings had been offered, to prevent the altar standing idle, v. Shebu., Sonc. ed. p. 50, n. 3.

(27) Sold by the officers of the Temple in accordance with infra V, 4.

(28) Segan, v. Sanh., Sonc. ed. p. 97, n. 1.

(29) Against R. Ishmael, and in agreement with R. Akiba supra section 3.

(30) In conformity with an ancient tradition, the incense was prepared for the whole year in advance in a quantity of 365 minas, corresponding to the number of days in the solar year, with an extra three minas for the Day of Atonement, of which one mina was offered daily, one half in the morning and one half in the afternoon (cf. Ex. XXX, 7-8; Ker. 6a). But as the calendar year in force was the lunar year which consists usually of 354 days (excepting the leap year which has 384 days), there was at the end of most years a surplus of eleven minas. This surplus could not he carried over for use in the next year, since all public offerings made from the first of Nisan onwards had to come out of the appropriation of the new shekels (cf. p. 12, n. 4). Hence arose the problem how to enable the surplus from the old year to be used for the new year.

(31) From the shekels in the chamber. So Maimonides and Bertinore. [Aliter: From the surplus of the frankincense (Barneth a.l.). Cf. next section, n. 5.]

(32) Who compounded the incense, made the Shewbread, and guarded the aftergrowths in the Seventh Year; cf. supra section 1, and infra V], 1.

(33) The surplus of the incense, thereby divesting it of its hallowed character and rendering it ‘common’. This roundabout method was adopted, instead of selling it straightway, out of reverence for its hallowed character.

(34) And it could be used for the new year.

(35) The contribution of the new shekel.

(36) Frankincense, wine, oil, or flour.

(37) As laid down in the last section.

(38) [מהן evidently refers to the dedicated objects fit for public offerings; cf. previous section, n. 6.]

(39) But they should not themselves be offered, as, according to the view of R. Eliezer, an ordinary dedication to the Temple belonged to the general Temple fund (‘The Repair of the Temple’).

(40) Females could not he used for burnt-offerings, but were good for peace-offerings; cf. Lev. I, 3, 10; III, 1, 6.

(41) Cf. II Kings XII, 6ff. This was equivalent to the general Temple fund.

(42) He holds that such was the intention of the dedication.

(43) But not as peace-offerings the flesh of which is eaten by the owner, it being assumed that his intention was to dedicate them exclusively to the altar.

(44) For cattle and other possessions.

(45) Between cattle and other possessions.

(46) Making special mention of the cattle among his possessions.

(47) That cattle should be treated in the same way as his other possessions.

(48) Without mentioning the cattle.

(49) That each is treated in the manner for which it is fit.

(50) For meal-offerings and drink-offerings; cf. Num. XXVIII, 5, 7, etc.

(51) Pigeons and turtle-doves.

(52) This is deduced from the wording of Lev. XXII, 18: Of all their vows and freewill-offerings . . . for a burnt-offering, v. T.J. a.l.

(53) The treasury chamber where the shekels were deposited; III, 1.

(54) Cf. Kid. 29a.

(55) Even if he had received it in advance.

(56) As a valid one.

Mishna - Mas. Shekalim Chapter 5

MISHNAH 1. THESE WERE THE OFFICERS[1] IN THE TEMPLE: JOHANAN THE SON OF PHINEAS WAS OVER THE SEALS, AHIJAH OVER THE DRINK-OFFERINGS,[2] MATTITHIAH THE SON OF SAMUEL[3] OVER THE LOTS,[4] PETHAHIAH OVER THE BIRD-OFFERINGS (THIS SAME PETHAHIAH WAS MORDECAI. WHEREFORE WAS HIS NAME CALLED PETHAHIAH? BECAUSE HE ‘OPENED’[5] MATTERS AND EXPOUNDED THEM, AND HE UNDERSTOOD THE SEVENTY TONGUES);[6] THE SON OF AHIJAH WAS OVER THE SICKNESS OF THE BOWELS,[7] NEHUNIAH WAS DIGGER OF DITCHES,[8] GEBINI WAS THE CRIER,[9] THE SON OF GEBER WAS OVER THE LOCKING OF THE GATES,[10] THE SON OF BEBAI WAS OVER THE STRIPS,[11] THE SON OF ARZA OVER THE CYMBAL,[12] HYGROS THE SON OF LEVI OVER THE SINGING,[13] THE HOUSE OF GARMU OVER THE MAKING OF THE SHEWBREAD,[14] THE HOUSE OF ABTINAS OVER THE

PREPARING OF THE FRANKINCENSE,[14] ELEAZAR OVER THE VEIL,[15] AND PHINEAS OVER THE VESTMENTS.[16]

MISHNAH 2. THE TREASURERS WERE NOT LESS THAN THREE AND THE SUPERINTENDENTS NOT LESS THAN SEVEN, NOR MAY AUTHORITY BE EXERCISED IN MATTERS OF MONEY BY LESS THAN TWO [OFFICERS], EXCEPT [IN THE CASE] OF AHIJAH[17] WHO WAS OVER THE SICKNESS OF THE BOWELS AND ELEAZAR[17] WHO WAS OVER THE VEIL, FOR THESE HAD BEEN ACCEPTED BY THE MAJORITY OF[18] THE PUBLIC.

MISHNAH 3. THERE WERE FOUR SEALS IN THE TEMPLE, AND ON THEM WAS INSCRIBED [RESPECTIVELY] ‘CALF’, ‘RAM’,[19] ‘KID’, ‘SINNER’.[20] BEN ‘AZZAI SAYS: THERE WERE FIVE AND ON THEM WAS INSCRIBED IN ARAMAIC [RESPECTIVELY] ‘CALF’, ‘RAM’, ‘KID’, ‘POOR[21] SINNER’, AND ‘RICH[22] SINNER’. [THE SEAL INSCRIBED] ‘CALF’, SERVED FOR THE DRINK-OFFERINGS[23] OF KINE, BOTH GREAT AND SMALL, MALE AND FEMALE; [THE ONE INSCRIBED] ‘KID’ SERVED FOR THE DRINK-OFFERINGS OF FLOCKS, BOTH GREAT AND SMALL, MALE AND FEMALE, WITH THE EXCEPTION OF THOSE OF RAMS; [THE ONE INSCRIBED] ‘RAM’ SERVED FOR THE DRINK-OFFERINGS OF RAMS ALONE; [THE ONE INSCRIBED] ‘SINNER’ SERVED FOR THE DRINK-OFFERINGS OF THE THREE ANIMALS [OFFERED] BY LEPERS.[24]

MISHNAH 4. IF A MAN REQUIRED DRINK-OFFERINGS HE WOULD GO TO JOHANAN WHO WAS THE OFFICER OVER THE SEALS, AND GIVE HIM MONEY AND RECEIVE FROM HIM A SEAL. THEN HE WOULD GO TO AHIJAH WHO WAS THE OFFICER OVER THE DRINK-OFFERINGS, AND GIVE HIM THE SEAL, AND RECEIVE FROM HIM DRINK-OFFERINGS. AND IN THE EVENING THESE TWO [OFFICERS] WOULD COME TOGETHER, AND AHIJAH WOULD BRING OUT THE SEALS AND RECEIVE MONEY FOR THEIR VALUE. AND IF THERE WAS MORE [THAN THEIR VALUE] THE SURPLUS BELONGED TO THE SANCTUARY,[25] BUT IF THERE WAS LESS [THAN THEIR VALUE] JOHANAN WOULD PAY [THE LOSS] OUT OF HIS OWN MEANS; FOR THE SANCTUARY HAS THE UPPER HAND.

MISHNAH 5. IF A MAN LOST HIS SEAL HIS CASE WAS DEFERRED UNTIL THE EVENING.[26] IF THEN THEY FOUND [MONEY OVER] TO THE VALUE OF HIS LOST SEAL THEY GAVE [IT] TO HIM, PUT IF NOT HE HAD NOTHING. MOREOVER, ON THE SEALS WAS INSCRIBED THE NAME OF THE DAY [IN ORDER TO GUARD] AGAINST IMPOSTORS.[27]

MISHNAH 6. THERE WERE TWO CHAMBERS IN THE TEMPLE, ONE THE CHAMBER OF SECRET GIFTS AND THE OTHER THE CHAMBER OF THE VESSELS. THE CHAMBER OF SECRET GIFTS — SIN-FEARING PERSONS[28] USED TO PUT THEIR GIFTS THEREIN IN SECRET, AND THE POOR WHO WERE DESCENDED OF THE VIRTUOUS WERE SUPPORTED THEREFROM IN SECRET. THE CHAMBER OF THE VESSELS — WHOEVER OFFERED A VESSEL AS A GIFT USED TO THROW IT THEREIN, AND ONCE IN THIRTY DAYS THE TREASURERS OPENED IT; AND ANY VESSEL THEY FOUND THEREIN THAT WAS OF USE FOR THE REPAIR OF THE TEMPLE THEY LEFT THERE; BUT THE OTHERS WERE SOLD AND THEIR PRICE WENT TO THE CHAMBER OF THE REPAIR[29] OF THE TEMPLE.

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(1) According to an explanation in the Palestinian Gemara, the functionaries here enumerated were all contemporaries in a particular generation. Another, less likely, explanation given there is that these persons were the worthiest of all the occupants of the offices during the whole existence of the Second Temple. [According to Hoffmann (Die Erste Mishnah

p. 17) the officers enumerated here date from the time of Agrippa. This is disputed by Graetz MGWJ, XXXIV, 195ff and Buchler, Die Priester, p. 134ff.]

(2) Cf. infra 4.

(3) A saying of his in connection with the Temple service is recorded in Yoma 28a.

(4) By which the various labours connected with the service of the altar were distributed among the priests; v. Yoma II, 2ff.

(5) I.e. pathah (פתח). This is an allusion to the various difficult problems in connection with bird-offerings discussed in the Tractate Kinnim; cf. also Aboth. III, 19.

(6) The number of languages into which human speech was traditionally divided, corresponding to the seventy nations enumerated in Gen. X; cf. ibid. 5, 20, 31. Of Mordecai's skill in strange languages, cf. Meg. 13b. The whole bracketed passage is probably an interpolation. The Mordecai mentioned here is identified by the commentators with Mordecai Bilshan (בלשן from לשון , language) of Ezra II, 2. According to Rashi (Men. 64b, cf. Tosaf. ibid.) and Ibn Ezra (on Ezra loc. cit) this was the Mordecai of the Book of Esther.

(7) To cure it. The Palestinian Gemara adds that the priests were specially subject to this sickness, because they went about barefooted, ate much meat, and drank much water.

(8) To supply water to pilgrims to the Temple. Cf. B.K. Sonc. ed. p. 287.

(9) Who summoned the priests to their labours every morning; cf. Tam. III, 8; Yoma 20b.

(10) To lock them in the evening and open them again in the morning.

(11) Strips of cloth of which wicks were made for the lamps and torches of the Temple. So the Palestinian Gemara. The Babylonian Gemara (Yoma 23a) explains it as the straps with which Levites were scourged when found sleeping while on night duty as watchmen. But in Mid. I, 2 the sleeping watchman is beaten with a stick.

(12) That accompanied the singing of the Levites, Tam. VII, 3.

(13) Of the Levites, Tam. VII, 4; cf. Yoma 38a. [Whether Ben Arza was a priest or a Levite, v. Buchler op. cit. pp. 126f and 142f.]

(14) V. Yoma 38a.

(15) Over its manufacture, etc.; cf. infra VIII, 5.

(16) Of the priests.

(17) Who also handled money for the purchase of medicines and of materials for the Veil.

(18) Some texts omit ‘the majority of’.

(19) Lit., ‘male’, the Aramaic name of the ram.

(20) I.e., leper. Leprosy was considered a punishment for certain serious transgressions; cf. ‘Ar. 16a.

(21) Lev. XIV, 21ff.

(22) I.e., a leper who is not poor. He has to offer the sacrifices prescribed, Lev. ibid. 10.

(23) Including meal-offerings. These had to accompany every burnt-offering and peace-offering, but differed in their quantities according as the sacrifice was of kine, or of flocks, or a ram; cf. Num. XV, 3-10.

(24) As prescribed in Lev. XIV, 10, 21 respectively.

(25) Johanan could not claim it as his own.

(26) When the two officers met together to settle the daily account.

(27) Who might use for themselves seals lost by the officers or by the buyer, or who might buy seals when produce was cheap and use them in a time when produce became dear.

(28) Pious persons who sought to avoid publicity for their deeds of charity.

(29) Cf. supra p. 15, n. 8.

Mishna - Mas. Shekalim Chapter 6

MISHNAH 1. THERE WERE IN THE TEMPLE THIRTEEN CHESTS,[1] THIRTEEN TABLES AND THIRTEEN PROSTRATIONS. [MEMBERS] OF THE HOUSEHOLD OF RABBAN GAMALIEL AND OF R. HANANIAH THE CHIEF OF THE PRIESTS, USED TO PROSTRATE THEMSELVES FOURTEEN [TIMES]. AND WHERE WAS THE ADDITIONAL [PROSTRATION]? IN FRONT OF THE STORE OF WOOD[2] , FOR THUS THEY HAD A TRADITION FROM THEIR FOREFATHERS THAT THE ARK WAS HIDDEN THERE.[3]

MISHNAH 2. ONCE IT HAPPENED THAT A CERTAIN PRIEST WHO WAS BUSY[4] [THERE] NOTICED THAT THE PAVEMENT WAS DIFFERENT [THERE] FROM THE OTHERS. HE WENT AND TOLD [IT] TO HIS FELLOW, BUT BEFORE HE HAD TIME TO FINISH HIS WORDS HIS SOUL DEPARTED. THEN IT BECAME KNOWN OF A SURETY THAT THE ARK WAS HIDDEN THERE.

MISHNAH 3. BUT WHERE DID THEY MAKE THE PROSTRATIONS? FOUR [TIMES] IN THE NORTH, FOUR [TIMES] IN THE SOUTH, THREE [TIMES] IN THE EAST, AND TWICE IN THE WEST, IN FRONT OF THE THIRTEEN GATES. THE SOUTHERN GATES CLOSE TO THE WEST[5] [SIDE WERE]: THE UPPER GATE,[6] THE GATE OF THE FUEL,[7] THE GATE OF THE FIRSTBORN [ANIMALS],[8] AND THE WATER GATE. WHEREFORE WAS ITS NAME CALLED THE WATER GATE? BECAUSE THROUGH IT WAS BROUGHT IN THE FLASK OF WATER FOR THE LIBATION ON THE FEAST OF TABERNACLES.[9] R. ELIEZER THE SON OF JACOB SAYS: THROUGH IT THE WATERS TRICKLED FORTH[10] AND IN THE HEREAFTER THEY WILL ISSUE OUT FROM UNDER THE THRESHOLD OF THE HOUSE.[10] OVER AGAINST THEM[11] IN THE NORTH CLOSE TO THE WEST WERE:[12] THE GATE OF JECHONIAH, THE GATE OF THE OFFERINGS[13] THE GATE OF THE WOMEN,[14] AND THE GATE OF SONG.[15] AND WHEREFORE WAS ITS NAME CALLED THE GATE OF JECHONIAH? BECAUSE THROUGH IT JECHONIAH WENT FORTH INTO HIS CAPTIVITY.[16] IN THE EAST WAS THE GATE OF NICANOR,[17] AND IT HAD TWO WICKETS,[18] ONE TO THE RIGHT AND ONE TO THE LEFT. THERE WERE ALSO TWO GATES IN THE WEST WHICH [HOWEVER] HAD NO NAME.[19]

MISHNAH 4. THERE WERE THIRTEEN TABLES IN THE TEMPLE, EIGHT OF MARBLE IN THE PLACE OF SLAUGHTERING ON WHICH THE ENTRAILS WERE RINSED, AND TWO TO THE WEST OF THE ASCENT[20] [TO THE ALTAR], ONE OF MARBLE AND ONE OF SILVER; ON THAT OF MARBLE WERE PLACED THE LIMBS[21] [OF THE OFFERINGS], AND ON THAT OF SILVER THE VESSELS OF MINISTRATION. THERE WERE TWO TABLES IN THE PORCH[22] WITHIN THE ENTRANCE OF THE HOUSE,[23] ONE OF MARBLE AND THE OTHER OF GOLD; ON THAT OF MARBLE[24] THE SHEWBREAD WAS PLACED WHEN IT WAS BROUGHT IN,[25] AND ON THAT OF GOLD [THE SHEWBREAD WAS PLACED] WHEN IT WAS TAKEN OUT,[26] BECAUSE THINGS SACRED MAY BE RAISED [IN HONOUR] BUT NOT LOWERED.[27] AND WITHIN THERE WAS ONE [TABLE] OF GOLD ON WHICH THE SHEWBREAD LAY CONTINUALLY.[28]

MISHNAH 5. THERE WERE THIRTEEN CHESTS[29] IN THE TEMPLE AND ON THEM WAS INSCRIBED [RESPECTIVELY] ‘NEW SHEKELS’,[30] ‘OLD SHEKELS’,[30] ‘BIRD-OFFERINGS’, ‘YOUNG PIGEONS FOR BURNT-OFFERINGS’, ‘WOOD’, ‘FRANKINCENSE’, ‘GOLD FOR THE MERCY-SEAT’;[31] AND ON SIX [WAS INSCRIBED] ‘FOR FREEWILL-OFFERINGS’.’NEW SHEKELS’ — THOSE FOR EACH YEAR; ‘OLD SHEKELS’ — WHOSOEVER HAS NOT PAID HIS SHEKEL IN THE PAST YEAR MAY PAY IT IN THE COMING YEAR; ‘BIRD-OFFERINGS’ — THESE ARE TURTLE-DOVES; ‘YOUNG PIGEONS FOR BURNT-OFFERINGS’ — THESE ARE YOUNG PIGEONS. BOTH [THESE TWO CHESTS] ARE FOR BURNT-OFFERINGS; THUS R. JUDAH. BUT THE SAGES SAY: [OF THE CHEST INSCRIBED] ‘BIRD-OFFERINGS’ ONE [HALF] IS FOR SIN-OFFERINGS AND THE OTHER [HALF] FOR BURNT-OFFERINGS,[32] BUT [OF THE CHEST INSCRIBED] ‘YOUNG PIGEONS FOR BURNT-OFFERINGS’ ALL GOES TO BURNT-OFFERINGS.[33]

MISHNAH 6. IF A MAN SAYS: ‘LO,[34] UPON ME [BE THE DUTY OF OFFERING] WOOD’, HE MAY NOT OFFER LESS THAN TWO LOGS; [IF HE SAYS: ‘LO, UPON ME BE THE DUTY OF OFFERING] FRANKINCENSE’, HE MAY NOT OFFER LESS THAN A HANDFUL [THEREOF]; [IF HE SAYS: ‘LO, UPON ME BE THE DUTY OF OFFERING] GOLD’, HE MAY

NOT OFFER LESS THAN A GOLD DENAR.

‘ON SIX [WAS INSCRIBED] "FOR FREEWILL-OFFERINGS"’ — WHAT WAS DONE WITH THE FREEWILL-OFFERINGS? THEY BOUGHT WITH THEM BURNT-OFFERINGS, THE FLESH [OF WHICH] WAS FOR THE DIVINE AND THE HIDES FOR THE PRIESTS. THE FOllowing IS THE EXPOSITION WHICH WAS EXPOUNDED BY JEHOIDA THE HIGH PRIEST: IT IS A GUILT-OFFERING; HE IS CERTAINLY GUILTY BEFORE THE LORD[35] — THIS IS THE GENERAL RULE: WITH WHAT IS [LEFT OVER OF MONEY] OFFERED FOR A SIN-OFFERING OR A GUILT-OFFERING BURNT-OFFERINGS SHOULD BE BOUGHT, [OF WHICH] THE FLESH GOES TO THE DIVINE AND THE HIDES TO THE PRIESTS. THUS THE TWO STATEMENTS OF SCRIPTURE ARE FULFILLED: HE IS CERTAINLY GUILTY UNTO THE LORD[36] AND IT IS A GUILT-OFFERING UNTO THE PRIESTS.[37] AND SO IT SAYS AGAIN:[38] THE MONEY[39] FOR THE GUILT OFFERINGS AND THE MONEY FOR THE SIN-OFFERINGS WAS NOT BROUGHT INTO THE HOUSE[40] OF THE LORD; IT WAS THE PRIESTS’.[41]

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(1) Cf. supra p. 5, n. 4.

(2) V. Mid. II, 5.

(3) According to one tradition, by King Josiah before the destruction of the First Temple, v. Yoma 53b.

(4) He was engaged in picking the sound wood from the mouldy wood, as mouldy wood was unfit for the altar, Mid. ibid. Cf. also Yoma 54a.

(5) I.e., in the direction from west to east; cf. Mid. II, 6.

(6) [The western-most gate, so called on account of its elevated position, as the Temple court was situated on an incline rising from east to west. V. Hollis F. J., The Archeology of Herod's Temple p. 297.]

(7) Through it the wood for the altar was brought in.

(8) Through it the firstlings were led in preparatory to sacrifice.

(9) Cf. Suk. IV, 9.

(10) Cf. Ezek. XLVII, 2. 1.

(11) I.e., exactly opposite them.

(12) V. p. 22, n. 5.

(13) Through it the Most Holy sacrifices were brought in.

(14) Women entered here to attend to their offerings.

(15) Through it were brought in the musical instruments.

(16) Cf. II Kings XXIV, 12ff.

(17) Named after a man who fetched its doors from Egypt; cf. Yoma 38a.

(18) [These probably gave access to the chambers situated on the north and south respectively of the Gate of Nicanor; cf. Mid. I, 4, v. Hollis op. cit. p. 302.]

(19) [V. Tosaf. Yom Tob a.l. and Hollis pp. 139-53 where the question why these two gates were not named is discussed.]

(20) The inclined plane by which the priests went up to the altar (cf. Ex. XX, 26). V. Mid. III, 3.

(21) To keep them fresh.

(22) Ulam, the hall leading to the interior of the Temple.

(23) The Temple proper.

(24) To keep them fresh.

(25) Waiting to be laid on the table of gold, cf. Ex. XXV, 30; Lev. XXIV, 6.

(26) On the Sabbath, to make room for the new Shewbread (Lev. ibid. 8; Men. XI, 8), and before it was distributed among the priests.

(27) Hence having rested for a week on a table of gold, the Shewbread could not now be laid again on any but another table of gold; cf. Men. VI, 7.

(28) Ex. XXV, 30.

(29) Which served as receptacles of money for the purposes denoted by the various inscriptions on them.

(30) These are couched in Aramaic.

(31) לכפרת , viz., for the Holy of Holies (Maimonides), as there was no Mercy-seat in the Second Temple. Others suggest the reading לכפורות , for basins; cf. Ezra I, 10; I Chron. XXVIII, 17.
(32) Therefore a man who was obliged to offer bird-offerings (which had to consist of a pair, one a sin-offering and the other a burnt-offering; cf. supra p. 3, n. 7) could throw money into this chest, and thereby discharge his obligation, since the offerings bought with the money of this chest would be in accordance with his requirements.
(33) Therefore only freewill-offerings could be thrown into this chest, but not obligatory offerings.
(34) Cf. Men. XIII, 3.
(35) Lev. V, 19. The phrase ‘It is a guilt-offering’ implies that it is like any other guilt-offering of which the priests had a share, in accordance with Lev. VII, 6; on the other hand, the following phrase ‘He is certainly guilty unto the Lord’ implies that the whole is offered unto the Lord and is consumed by the altar, without leaving a share to the priests, thus contradicting the previous phrase. This contradiction is overcome by assigning the surplus of money offered for a sin-offering or a guilt-offering to the purchase of burnt-offerings, of which part goes to the altar, the flesh, and part to the priests, the hides.
(36) Viz., the flesh of the offering brought from the surplus of the money intended for a guilt-offering.
(37) The priests take the hides.
(38) II Kings XII, 17.
(39) Viz., the surplus of money originally intended for a guilt-offering or for a sin-offering.
(40) This is interpreted as meaning ‘for the Repair of the House of the Lord’, cf. the preceding verses of the chapter.
(41) This is interpreted to mean: It should be devoted to a sacrifice, of which the priests enjoy a share — the hides.

Mishna - Mas. Shekalim Chapter 7

MISHNAH 1. IF MONEY WAS FOUND BETWEEN THE [CHEST INSCRIBED] ‘SHEKELS’[1] AND THE [CHESTS INSCRIBED] ‘FOR FREEWILL-OFFERINGS, AND IT WAS NEARER[2] TO [THE CHEST INSCRIBED] ‘SHEKELS’, IT GOES TO THE SHEKELS; [IF NEARER TO THE CHESTS INSCRIBED] ‘FOR FREEWILL-OFFERINGS’, IT GOES TO FREEWILL-OFFERINGS; IF MIDWAY, IT GOES TO FREEWILL-OFFERINGS.[3] [IF MONEY WAS FOUND] BETWEEN [THE CHEST INSCRIBED] ‘WOOD’ AND [THE CHEST INSCRIBED] ‘FRANKINCENSE’ AND IT WAS NEARER TO [THE CHEST INSCRIBED] ‘WOOD’, IT GOES TO THE WOOD; [IF NEARER TO THE CHEST INSCRIBED] ‘FRANKINCENSE’, IT GOES TO FRANKINCENSE; IF MIDWAY, IT GOES TO FRANKINCENSE.[4] [IF IT WAS FOUND] BETWEEN [THE CHEST INSCRIBED] ‘BIRD-OFFERINGS’ AND [THE CHEST INSCRIBED] ‘YOUNG PIGEONS FOR BURNT-OFFERINGS’ AND IT WAS NEARER TO [THE CHEST INSCRIBED] ‘BIRD-OFFERINGS’ IT GOES TO BIRD-OFFERINGS; [IF NEARER TO THE CHEST INSCRIBED] ‘YOUNG PIGEONS FOR BURNT-OFFERINGS’, IT GOES TO YOUNG PIGEONS FOR BURNT-OFFERINGS; IF MIDWAY, IT GOES TO YOUNG PIGEONS FOR BURNT-OFFERINGS.[5] [IF IT WAS FOUND] BETWEEN COMMON [MONEY] AND [SECOND] TITHES [MONEY][6] AND IT WAS NEARER TO THE COMMON [MONEY], IT IS CONSIDERED COMMON [MONEY]; IF NEARER TO THE [SECOND] TITHES [MONEY], IT IS CONSIDERED [SECOND] TITHES [MONEY]; IF MIDWAY, IT IS CONSIDERED [SECOND] TITHES [MONEY]. THIS IS THE GENERAL RULE: SUCH MONEY IS ASSIGNED TO THAT WHICH IS NEARER TO IT, EVEN IF IT IS THEREBY MADE LESS IMPORTANT; BUT IF MIDWAY, IT IS ASSIGNED TO THAT WHICH IS THE MORE IMPORTANT.[7]

MISHNAH 2. IF MONEY WAS FOUND[8] IN FRONT OF CATTLE DEALERS AT ANY TIME OF THE YEAR IT IS DEEMED TO BE [SECOND] TITHES [MONEY];[9] [IF IT WAS FOUND] IN THE TEMPLE MOUNT IT IS DEEMED TO BE COMMON MONEY;[10] [RUT IF IT WAS FOUND] IN JERUSALEM[11] DURING THE SEASON OF FFSTIVALS[12] IT IS DEEMED TO BE [SECOND] TITHES [MONEY]. BUT ALL THE REST OF THE YEAR IT IS DEEMED TO BE COMMON [MONEY].[13]

MISHNAH 3. IF FLESH WAS FOUND IN THE TEMPLE COURT [AND IT WAS CUT UP IN]

LIMBS,[14] [IT MUST BE TREATED AS BELONGING TO] BURNT-OFFERINGS; [BUT IF CUT UP IN ORDINARY] PIECES [IT MUST BE TREATED AS BELONGING TO] SIN-OFFERINGS.[15] [IF FLESH WAS FOUND] IN JERUSALEM[16] [IT MUST BE TREATED AS BELONGING TO] PEACE-OFFERINGS.[17] IN EITHER CASE[18] IT MUST BE LEFT TO BECOME DISFIGURED[19] AND MUST THEN BE TAKEN AWAY TO THE PLACE OF BURNING. IF FOUND WITHIN THE BORDERS[20] [AND IT WAS CUT UP IN] LIMBS, [IT MUST BE TREATED AS] CARRION;[21] [BUT IF CUT UP IN ORDINARY] PIECES, IT IS FIT FOR [FOOD].[22] BUT [IF FOUND] DURING THE SEASON OF FESTIVALS, WHEN FLESH IS ABUNDANT,[23] IT IS FIT FOR [FOOD] EVEN WHEN CUT UP IN LIMBS.

MISHNAH 4. IF CATTLE WAS FOUND IN JERUSALEM AS FAR AS MIGDAL EDER,[24] AND WITHIN A LIKE DISTANCE ON ANY SIDE [OF JERUSALEM], MALES [MUST BE CONSIDERED AS BEING] BURNT-OFFERINGS, BUT FEMAles MUST BE CONSIDERED AS] PEACE-OFFERINGS.[25] R. JUDAH SAYS: IF THEY WERE FIT FOR THE PASSOVER-OFFERING,[26] [THEY MUST BE CONSIDERED AS] PASSOVER-OFFERINGS [WHEN FOUND] WITHIN THIRTY DAYS BEFORE THE FEAST [OF PASSOVER].[27]

MISHNAH 5. AFORETIME THEY USED TO DISTRAIN[28] ANY ONE WHO HAD FOUND SUCH A [STRAY] ANIMAL, UNLESS HE ALSO OFFERED THE DRINK-OFFERINGS THEREOF. THEN MEN WOULD LEAVE THE ANIMAL AND RUN AWAY; SO THE COURT ORDAINED THAT THE DRINK-OFFERINGS THEREOF SHOULD BE OFFERED OUT OF PUBLIC FUNDS.

MISHNAH 6. R. SIMEON SAID: SEVEN THINGS THE COURT ORDAINED AND THAT WAS ONE OF THEM. [THE OTHERS WERE THE FOLLOWING:] IF A HEATHEN SENT A BURNT-OFFERING FROM THE LANDS BEYOND THE SEA AND WITH IT HE SENT THE DRINK-OFFERINGS[29] THEREOF, THEY ARE OFFERED OUT OF HIS OWN MEANS; BUT IF [HE DID] NOT [SEND THE DRINK-OFFERINGS THEREOF], THEY SHOULD BE OFFERED OUT OF PUBLIC FUNDS.[30] THUS [ALSO IN THE CASE OF] A PROSELYTE[31] WHO HAD DIED AND LEFT SACRIFICES [TO BE OFFERED], THEN IF HE HAD ALSO LEFT THE DRINK-OFFERINGS THEREOF THEY ARE OFFERED OUT OF HIS OWN; BUT IF NOT, THEY SHOULD BE OFFERED OUT OF PUBLIC FUNDS.[30] IT WAS ALSO A CONDITION LAID DOWN BY THE COURT IN THE CASE OF A HIGH PRIEST WHO HAD DIED[32] THAT HIS MEAL-OFFERINGS[33] SHOULD BE OFFERED OUT OF PUBLIC FUNDS.[30] R. JUDAH SAYS: [IT WAS OFFERED OUT] OF THE PROPERTY OF HIS HEIRS, AND HAD TO BE OFFERED OF THE WHOLE[34] [TENTH].

MISHNAH 7. [THEY FURTHER ORDAINED] CONCERNING THE SALT AND THE WOOD[35] THAT THE PRIESTS SHOULD MAKE USE THEREOF;[36] AND CONCERNING THE [RED] COW[37] THAT THE USE OF ITS ASHES SHOULD NOT INVOLVE THE GUILT OF SACRILEGE;[38] AND CONCERNING BIRD-OFFERINGS[39] WHICH HAD BECOME UNFIT [FOR SACRIFICE], THAT [OTHERS] SHOULD BE OFFERED [IN THEIR STEAD] OUT OF PUBLIC FUNDS. R. JOSE SAYS: [THE DEALER] WHO SUPPLIED THE BIRD-OFFERINGS WAS BOUND TO SUPPLY [AT HIS COST ALSO THOSE WHICH HAD TO BE OFFERED IN THE STEAD OF] THOSE WHICH HAD BECOME UNFIT.[40]

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(1) Cf. supra VI, 5 (p. 24).

(2) The presumption is that the money fell out of the chest nearest to it. This is deduced from Deut. XXI, 3; v. B.B. 23a.

(3) According to the rule laid down below, when the probabilities are evenly balanced, the money should be assigned to the holier of the two, which in this case is the chest of freewill-offerings, since its contents were spent entirely on burnt-offerings for the altar (supra VI, 6), whereas the contents of the chest of shekels were spent also on such less holy objects as the needs of the city of Jerusalem (supra IV, 2).

(4) Because frankincense, which was an offering for the altar, was holier than the wood which merely served as fuel for the altar.

(5) Which is the holier of the two, since one of the pair of bird-offerings was a sin-offering (cf. supra p. 3, n. 7), the flesh of which was eaten by the priests (Lev. VI, 19), whereas the burnt-offerings were all consumed by the fire of the altar.

(6) Cf. supra p. 6, n. 5.

(7) I.e., that which is holier.

(8) In Jerusalem.

(9) The presumption is that the money was lost by people who came to buy cattle for peace-offerings with their own second tithes money, or with the second tithes money left to them by their pilgrim friends when they returned home after the Festival. Here again the rule is followed that in case of doubt the money is to be assigned to the more hallowed object of the two.

(10) Even during the Festival season. Though most of the money at the time is of second tithe, we assume that the money was lost before the Festival when common money is in ordinary circulation, v. n. 8.

(11) Not in front of the cattle dealers.

(12) When the city is full of pilgrims bringing second tithes money.

(13) Because the streets of Jerusalem (as distinct from the Temple Mount, cf. n. 5) were swept daily, so that any second tithe money brought by the pilgrims would have been swept away. v. B.M. 26a.]

(14) As prescribed for burnt-offerings in Tam. IV, 2 f.

(15) Which were so cut up and divided among the priests.

(16) Outside the Temple Court.

(17) For these were the most frequent of the Lesser Holy offerings (קדשים קלים) which could be eaten in the Holy City outside the Temple Court; cf. Zeb. V, 7.

(18) Whether found in the Temple Court or in the city. It cannot be eaten because it may have suffered some defilement.

(19) It must be left untouched until the third day when such sacrificial flesh becomes ‘Remnant’ (נותר), and must be burnt, Lev. VII. 17. Cf. also Pes. VII, 9). It cannot, however, be burnt immediately when found, since it may never have suffered any defilement, and it is forbidden to burn sacrificial flesh which is still fit to be eaten.

(20) Of the Land of Israel, i.e., outside Jerusalem. It is of course assumed that the majority of the inhabitants are Jews.

(21) For so it was customary to dismember animals unfit for food and leave them to the dogs to tear at them; cf. Deut. XIV, 21.

(22) One would not take the cutting up an animal in small pieces for dogs.

(23) And is cut up in limbs for the Festival.

(24) Cf. Gen. XXXV, 21; Micah IV, 8. It is situated south of Jerusalem on the Hebron road.

(25) The finder must offer them as such; cf. supra p. 15, n. 7. Most cattle in Jerusalem and the vicinity were intended for sacrifices.

(26) A male of the sheep or of the goats and one year old; cf. Ex. XII, 5.

(27) For during that period such animals were mostly intended for the Passover offering.

(28) His goods to pay for the necessary drink-offerings and meal-offerings; cf. supra p. 19, n. 4.

(29) Viz. money to pay for them. The drink-offering itself which came from abroad could not be used, because it was considered unclean.

(30) Out of the Shekel appropriation cf. p. 12, n. 4.

(31) But in the case of an Israelite his heirs must pay for the drink-offerings.

(32) And a successor had not yet been appointed.

(33) The daily meal-offering, morning and evening, prescribed in Lev. VI, 12-16.

(34) Whether it happened to be the morning or the evening meal-offering, the tenth of an epha was not to be divided as prescribed in Lev. ibid. 13.

(35) That belong to the Sanctuary.

(36) In connection with their consumption of the flesh of sacrifices.

(37) Cf. Num. XIX, 1ff.

(38) Cf. Lev. V, 14-16.

(39) Bought by the Temple out of the money placed in the chest for bird-offerings by those on whom such an offering was an obligation; cf. supra p. 24, n. 9.

(40) Just as the dealer had to make good other similar losses; cf. supra IV, 9.

Mishna - Mas. Shekalim Chapter 8

MISHNAH 1. ANY SPITTLE FOUND IN JERUSALEM[1] IS CLEAN[2] EXCEPT THAT WHICH IS [FOUND] IN THE UPPER MARKET;[3] THUS R. MEIR. R. JOSE SAYS: AT OTHER TIMES OF THE YEAR[4] [SPITTLE FOUND] IN THE MIDDLE[5] [OF THE ROAD] IS UNCLEAN, WHILE [SPITTLE FOUND] AT THE SIDES[6] [OF THE ROAD] IS CLEAN; BUT IN THE SEASON OF FESTIVALS[7] [SPITTLE FOUND] IN THE MIDDLE [OF THE ROAD] IS CLEAN,[8] WHILE [THAT WHICH IS FOUND] AT THE SIDES [OF THE ROAD] IS UNCLEAN; FOR SINCE [PERSONS WHO HAVE AN ISSUE] ARE FEW IN NUMBER, THEY BETAKE THEMSELVES [IN THE SEASON OF FESTIVALS] TO THE SIDES OF THE ROAD.[9]

MISHNAH 2. ALL VESSELS FOUND IN JERUSALEM[10] IN THE WAY OF GOING DOWN TO THE PLACE OF IMMERSION[11] ARE UNCLEAN, [BUT THOSE FOUND] IN THE WAY OF GOING UP [FROM THE PLACE OF IMMERSION] ARE CLEAN; FOR THEY ARE NOT IN THE SAME CONDITION WHEN ON THE WAY GOING DOWN[12] [TO THE PLACE OF IMMERSION] AS ON THE WAY GOING UP[13] [THEREFROM]; THUS R. MEIR. R. JOSE SAYS: THEY ARE ALL CLEAN,[14] EXCEPT THE BASKET AND THE SHOVEL AND THE BONE CRUSHER[15] WHICH ARE SPECIALLY CONNECTED WITH [WORK IN] BURIAL-PLACES.

MISHNAH 3. IF A [SLAUGHTERING] KNIFE WAS FOUND ON THE FOURTEENTH[16] [OF NISAN] IT MAY BE USED FORTHWITH FOR SLAUGHTERING.[17] [IF IT WAS FOUND] ON THE THIRTEENTH [OF NISAN] IT MUST BE IMMERSED AGAIN[18] [BEFORE USE]. BUT A CHOPPER,[19] WHETHER [FOUND] ON THE FOURTEENTH OR ON THE THIRTEENTH, MUST BE IMMERSED AGAIN [BEFORE USE]. IF THE FOURTEENTH FELL ON A SABBATH IT[20] MAY BE USED FOR SLAUGHTERING FORTH WITH;[21] [IF FOUND] ON THE FIFTEENTH[22] IT MAY ALSO BE USED FOR SLAUGHTERING FORTHWITH. IF [THE CHOPPER] WAS FOUND TIED TO A [SLAUGHTERING] KNIFE IT MAY BE TREATED AS THE KNIFE.[23]

MISHNAH 4. IF THE VEIL[24] WAS DEFILED BY A DERIVED UNCLEANNESS,[25] IT IS IMMERSED WITHIN[26] [THE PRECINCTS OF THE TEMPLE] AND BROUGHT IN AGAIN FORTHWITH; BUT IF IT WAS DEFILED BY A PRINCIPAL UNCLEANNESS,[25] IT MUST BE IMMERSED OUTSIDE AND SPREAD OUT IN THE HEL.[27] IF IT WAS NEW IT WAS SPREAD OUT ON THE ROOF OF THE COLONNADE,[28] SO THAT THE PEOPLE MIGHT BEHOLD ITS FAIR WORKMANSHIP.

MISHNAH 5. RABBAN SIMEON THE SON OF GAMALIEL SAYS IN THE NAME OF R. SIMEON THE SON OF THE CHIEF [OF THE PRIESTS]:[29] THE VEIL WAS A HAND BREADTH IN THICKNESS AND WAS WOVEN ON SEVENTY-FOUR CORDS, EACH CORD MADE UP OF TWENTY-TWO THREADS. IT WAS FORTY CUBITS LONG AND TWENTY CUBITS BROAD, AND WAS MADE UP OF EIGHTY-TWO TIMES TEN THOUSAND.[30] TWO VEILS WERE MADE EVERY YEAR, AND THREE HUNDRED PRIESTS WERE NEEDED TO IMMERSE IT.[31]

MISHNAH 6. IF FLESH OF THE MOST HOLY OFFERINGS WAS DEFILED, WHETHER BY A PRINCIPAL UNCLEANNESS[32] OR BY A DERIVED UNCLEANNESS,[32] WHETHER INSIDE OR OUTSIDE [THE PRECINCTS OF THE TEMPLE]. BETH SHAMMAI SAY: IT MUST ALL BE BURNT WITHIN,[33] EXCEPT WHEN DEFILED OUTSIDE BY A PRINCIPAL UNCLEANNESS. BUT BETH HILLEL SAY: IT MUST ALL BE BURNT OUTSIDE, EXCEPT THAT WHICH WAS DEFILED BY A DERIVED UNCLEANNESS WITHIN.

MISHNAH 7. R. ELIEZER SAYS: [FLESH][34] WHICH WAS DEFILED BY AN UNCLEANNESS, WHETHER INSIDE OR OUTSIDE [THE TEMPLE PRECINCTS], MUST BE BURNT WITHIN. R. AKIBA SAYS: WHERE IT WAS DEFIED THERE [ALSO] MUST IT BE BURNT.[35]

MISHNAH 8. THE LIMBS OF THE DAILY[36] BURNT-OFFERING WERE PLACED ON THE HALF OF THE ASCENT[37] [TO THE ALTAR] DOWNWARDS ON THE WEST[38] SIDE, THOSE OF THE ADDITIONAL.[39] BURNT-OFFERING WERE PLACED ON THE HALF OF THE ASCENT DOWNWARDS ON THE EAST SIDE,[40] WHILE THOSE OF THE NEW MOON[41] OFFERINGS WERE PLACED UNDER THE RIM[42] OF THE ALTAR DOWNWARDS.

[THE LAWS OF] THE SHEKELS AND OF THE FIRST-FRUIT[43] HAVE FORCE ONLY DURING THE TIME OF THE EXISTENCE OF THE TEMPLE, BUT [THE LAWS OF] THE TITHE OF CORN[44] AND OF THE TITHE OF CATTLE[45] AND OF THE FIRSTBORN[46] ARE IN FORCE BOTH DURING THE TIME OF THE EXISTENCE OF THE TEMPLE AND WHEN THERE IS NO TEMPLE IN EXISTENCE. IF A MAN DEDICATED TO THE SANCTUARY SHEKELS AND FIRST-FRUIT WHEN THERE WAS NO TEMPle IN EXISTENCE, THEY BECOME HOLY. R. SIMEON SAYS: IF HE SAID: ‘THE FIRST-FRUIT BE HOLY,’[47] THEY ARE NOT HOLY.[48]

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(1) Where people were usually scrupulous in matters of purity. But outside Jerusalem, where people were not so scrupulous, all spittle found anywhere was declared by a preventive enactment of the Rabbis to be suspect of defilement: cf. Toh. IV, 5.

(2) It need not be suspected of being the spittle of a person who had an issue (cf. Lev. XV, 8), since persons with an issue formed an insignificant minority of the population of Jerusalem.

(3) This was frequented by heathen launderers and also by Jewish persons with an issue.

(4) When persons with a defilement were numerous.

(5) This was crowded by pedestrians.

(6) These were frequented by persons who were scrupulous about their purity and who shunned contact with the crowds in the middle of the road.

(7) When all who had a defilement sought to recover their purity, in order to be able to worship in the Temple.

(8) The crowd walking in the middle of the road may then be presumed to consist of people who had become free of defilement.

(9) So as not to cause a defilement to worshippers and pilgrims walking in the middle of the road.

(10) Outside Jerusalem all articles found anywhere were declared by a preventive enactment of the Rabbis to be suspect of defilement; cf. Toh. IV, 5; and supra n. 1.

(11) To be immersed for the purpose of purification; cf. Lev. XI, 32; XV, 17.

(12) When found on the way down they may be presumed to have been unclean vessels lost before immersion.

(13) When found on the way up they may be presumed to have been lost after immersion. So according to Maimonides. According to Rashi (Pes. 19b) the passage should be rendered as follows: ‘For their way of going down (to the place of immersion) is not the same as their way of going up (therefrom),’ i.e. things going down to immersion and things going up from immersion went by different routes.

(14) No suspicion need be entertained as to the purity of articles found in Jerusalem.

(15) (מריצה), from the root (רצץ), an instrument for reducing the size of bones in order to get them into the basket for removal to the grave. So Maimonides. Others, after the T.J., a.l., explain it as some sort of conveyance or hand cart, from the root (רוץ).

(16) The day of slaughtering of the Passover-offering; Ex. XII, 6.

(17) It may be presumed to have been purified for the slaughtering of the Passover-offering.

(18) Even though it may be presumed to have been immersed before by its previous owner. According to Maimonides it refers to the second sprinkling with the Ashes of Purification as prescribed in Num. XIX, 18-19, assuming that the previous owner had it sprinkled only once.

(19) GR. **, a large knife which can be used for slaughtering but is primarily designed for breaking bones, consequently it could not have been intended for use with the Passover-offering, of which no bones must be broken; cf Ex. XII, 46; Num. IX, 12. The probability, therefore, is that it had not been purified.

(20) The chopper.

(21) For as it is not permitted to purify vessels on the Sabbath, even a chopper may be presumed to have been purified before the fourteenth of Nisan.

(22) The Festival day, on which purification was not permitted, so it must be presumed to have been purified before the Festival.

(23) It may be used for slaughtering straightway, even if found on the fourteenth and not on a Sabbath.

(24) Of the Temple, Ex. XXVI, 13ff.

(25) Such as an unclean liquid; cf. ‘Ed., Sonc. ed. p. 9 nn. 3, 4.

(26) In the ‘Sea of Solomon’; cf. I Kings VII, 23ff.

(27) Or ‘The Rampart’, in the space between the Temple Court and the ‘Soreg’, or latticed fortifications; cf. Mid. II, 3. Some texts add: ‘Because it needs (to wait for) the setting of the sun’, before it can recover its purity; cf. Lev. XI, 3.

(28) On the Temple Mount. From the Hel it could not be seen so well.

(29) V. supra p. 14, n. 3.

(30) Threads, or according to others, denars in value. Another reading is (ריבות) ‘damsels’, instead of (ריבוא) ‘ten thousand’; i.e., it was woven by eighty-two young damsels.

(31) When new and before being hung up; cf. Hag. III, 2. The comment of T.J. a.l. on these figures is: ‘An exaggeration!’ So Maimonides.

(32) V. p. 34, n. 5.

(33) Within the Temple Court in the place of Ashes (בית הדשן), where the ashes of the altar were deposited; cf. Zeb. V, 2.

(34) Of Most Holy offerings. No other defiled flesh was permitted to be burnt within the Temple Court.

(35) Irrespective of the character if the source of defilement.

(36) Cf. Num. XXVIII, 1-8. The limbs of the daily burnt-offering were not taken up to the altar direct but were first deposited on the ascent by one party of priests, selected by lot, and then another lot was cast for a second party to take them up from the ascent to the top of the altar; v. Yoma 25a and 26a.

(37) Cf. supra p. 23, n. 13.

(38) Some texts read ‘on the east’.

(39) For the Sabbath and Festivals; cf. Num. ibid. 9-10, 16ff.

(40) Some texts read ‘on the west’.

(41) Num. ibid. 11-15.

(42) Cf. Ex. XXVII, 5. [The reference is not to the rim itself but to a line on the ascent in direct level with the rim, Var. lec. On the rim of the altar above. The ‘rim’ in this case does not denote the one running about the middle of the altar, but the space on the top of the altar on its four sides for the treading of the priests’ feet, v. Mid. III, 1.]

(43) Ex. XXIII, 19; Deut. XXVI, 1ff.

(44) Comprising First (Levite's) Tithes, Second Tithes (supra p. 6, n. 5).

(45) Cf. supra p. 9, n. 4.

(46) Cf. Num. XVIII, 15-18, etc.

(47) I.e., he dedicated them to the Sanctuary (Maimonides).

(48) [Because they are not his property to be dedicated to the Sanctuary. v. Tosaf. Yom Tob. Aliter: ‘If he declares his fruit holy as first-fruit, they are not holy’. The reference is to present days when there is no Temple in existence, and when the words, ‘thou shalt bring them to the house of the Lord’ (Ex. XXIII, 19) do not apply, Bertinoro.]

Talmud - Mas. Yoma 2a

C H A P T E R I

MISHNAH. SEVEN DAYS BEFORE THE DAY OF ATONEMENT THE HIGH PRIEST WAS REMOVED FROM HIS HOUSE TO THE CELL OF THE COUNSELLORS[1] AND ANOTHER PRIEST WAS PREPARED TO TAKE HIS PLACE IN CASE ANYTHING[2] HAPPENED TO HIM [THE HIGH PRIEST] THAT WOULD UNFIT HIM [FOR THE SERVICE]. R. JUDAH SAID: ALSO ANOTHER WIFE WAS PREPARED FOR HIM IN CASE HIS WIFE SHOULD DIE. FOR IT IS WRITTEN,[3] AND HE SHALL MAKE ATONEMENT FOR HIMSELF AND FOR HIS HOUSE. ‘HIS HOUSE THAT MEANS ‘HIS WIFE’. THEY SAID TO HIM: IF SO THERE WOULD BE NO END TO THE MATTER.[4]

GEMARA. We learned elsewhere: Seven days before the burning of the [red] heifer[5] the priest who was to burn the heifer was removed from his house to the cell in the north-eastern corner before the Birah.[6] It was called the cell of the stone chamber.[7] And why was it called the cell of the stone chamber? Because all its functions [in connection with the red heifer] had to be performed only in vessels made of either cobble-stones,[8] stone or earthenware. What was the reason [for that restriction]? Since a tebul-yom[9] was permitted to [perform the ceremony of] the heifer, as we have learnt:[10] They [deliberately] rendered the priest ritually impure to remove [a false notion] from the minds of the Sadducees, who used to say: ‘Only by those on whom the sun has set could it be performed’, the Rabbis ordained that only vessels made of cobble-stones, stone, or earthenware which are immune to impurity — should be used in connection with the heifer, lest the ceremony thereof be treated slightly.[11]

Why [was the ceremony performed] in the north-eastern corner? — Since the heifer was a sin-offering[12] and a sin-offering had to be sacrificed in the northern corner, whereas, on the other hand, it is written about the heifer,[13] Towards the front of the tent of meeting,[14] the Rabbis ordained [for the heifer] a cell in the northeastern corner, so that [the special importance of this ceremony] be clearly recognized.

What is Birah? — Rabbah b. Bar Hana in the name of R. Johanan said: There was a place on the Temple mount called Birah. Resh Lakish said: The whole sanctuary is called Birah, as it is written, And to build the Birah for which I have made provision.[15]

Whence is it proved[16] that it is necessary to remove the priest [from his house]? — R. Minyumi b. Hilkiah in the name of R. Mahsiah b. Idi, in the name of R. Johanan said: The text reads:[17] As hath been done this day, so the Lord hath commanded to do, to make atonement for you;[18] the work la'asoth [to do] refers to the matter of the [red] heifer, the words lekapper ‘alekem [to make atonement for you] refer to the work of the Day of Atonement. It is obvious that the whole of this text could not be taken as referring to the heifer, because of the words ‘to atone’ and the heifer has nothing to do with atonement. But let us assume that the whole text[19] refers to the Day of Atonement? — They said [in answer to this suggestion]: One may infer from, the fact that the identical expression ziwwah [he commanded] is used.[20] Here[21] it is written: The Lord ziwwah [commanded] to do,[22] and there[23] it is written: This is the statute of the law which the Lord ziwwah [has commanded]:[24] just as in the latter [passage ziwwah] refers to the heifer, so does it in the former refer to the heifer, and just as the removal [of the priest is enjoined] in the one, so must the removal [of the priest apply] to the other.

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(1) Parhedrin (Gr. **), assessors, counselors. V. infra 8b. [According to Abba Saul (Mid. V, 4 cf. Bertinoro a.l.) it was identical with the wood chamber on the south of the Temple Court. It has also been identified with the Chamber of Hewn Stones, the seat of the Sanhedrin. V. Buchler, Das Synedrion, p. 23ff]

(2) Impurity.
(3) Lev. XVI, 6.
(4) His second wife too might die.
(5) Num. XIX, 2.
(6) The Temple. V. I Chron. XXIX, 1. J. Pes. 35a; Zeb. 119a.
(7) [Mishnah Parah omits ‘cell’.]
(8) Or ‘vessels made of dung’.
(9) Lit., ‘one who has bathed in the daytime (but must wait for sunset to be perfectly clean)’. The Sadducees would exclude him from service at either ceremony until after sunset.
(10) Parah III, 7.
(11) Due to the feeling that since a tebul-yom was admitted, its degree of sanctity may not be too high.
(12) It is a ‘hattath’, this word meaning here purification, may also he translated as ‘sin-offering’. Num. XIX, 9
(13) lbid. XIX, 4.
(14) Lying east.
(15) I Chron. XXIX, 19.
(16) Both for the service of the Day of Atonement and the red heifer ceremony.
(17) With reference to the seven days of the consecration of the Tabernacle in the wilderness.
(18) Lev. VIII, 34.
(19) Ibid.
(20) On the Rabbinic inference from analogy, gezerah shawah, v. Glos.
(21) In connection with the consecration ceremonies.
(22) Lev. VIII, 34.
(23) In connection with the red heifer.
(24) Num. XIX, 2.

Talmud - Mas. Yoma 2b

But perhaps say that [the word] ziwwah[1] [he commanded] has reference to [the word] ziwwah which occurs in connection with the Day of Atonement,[2] since the verse reads,[3] And he did as the Lord ziwwah [commanded] Moses?[4] — One may infer from [the word] ziwwah used before conformity[5] for another case in which ziwwah is used also before conformity,[6] but one may not infer ziwwah is used before conformity[5] for ziwwah used after conformity.[7] Perhaps ziwwah[1] has reference to sacrifices,[8] for it is written, On the day when the Lord zawwotho[9] [commanded] the children of Israel?[10] — One may fitly infer ziwwah[6] from ziwwah,[5] but one may not infer zawwotho[11] from ziwwah.[12] But what does it matter? Did not the school of R. Ishmael teach that [in the verse], The priest shall return or the priest shall come in,[13] ‘returning’ and ‘coming in’ mean one and the same thing?[14] — These words [of the school of R. Ishmael] apply only when there is no identical word,[15] but where such a similar word is used, the inference may be made only on the basis of absolute identity of expression. — [We stated above that the word] ‘lekapper’ [to atone] has reference to the Day of Atonement. May it not refer [also][16] to the atonement resulting from a sacrifice?[17] — How could we know which priest would happen to perform the sacrifice so that he would have to be removed [from his house]?[18] But why should we not really have to postulate such separation for the whole priestly division?[19] — It is proper to make inference from something for which a definite time is appointed[20] for something which similarly is fixed for a definite time.[21] That excludes any inference [from the consecration of the priest, an annual event] to sacrifices which are offered up every day.[22] Perhaps [the reference is to] the [three] festivals?[23] — One may infer something which takes place but once a year[24] from something else which took place but once a year, but inference for these festivals is excluded since they do not take place but once a year. Perhaps [the reference is] to one festival.[25] And if you would answer [by saying], We would not know to which [it has reference], [it would be] either the festival of Passover, which Scripture always mentions[26] [as the first of the three], or the feast of Sukkoth, because a great number of commandments apply to it![27] -The point is, however, that you may infer the [law of the priest's] removal [from his house] for seven days before the service which he is to perform on one day[28] from [another case in which the priest is] removed also for seven days for the service of one day;[29] but one may not fitly infer that [a priest must be] removed for seven days for the service of seven[30] days from the fact that a law exists obliging [the priest's] removal for seven days for the service of one day.[29] Yet perhaps [the reference is to] the Eighth Day[31] because there would be a service of only one day? — One may infer [laws concerning] a day which is not immediately preceded by another [festival] sanctity[28] from another day,[29] which similarly is not preceded by other [festival] sanctity,[29] but one may not infer for a day preceded by [festival] Sanctity[32] from a day unpreceded by such.

But [even if the inference by analogy be unjustified] is there no legitimate conclusion a minori ad majus, viz., if a day unpreceded by another [festival] sanctity requires [for the officiating priest] a seven day removal [from his family], how much more should a day preceded by another [festival] sanctity require it![33] — R. Mesharsheya answered: Scripture expressly states this day,[34] that means on a day like this.[35] R. Ashi said:[36] Could there be any festival the major[37] part of which would require no removal [of the priest], while its attachment[38] would require it. And even according to the one who holds that the eighth day is [not a mere attachment to Sukkoth, but] an independent festival day, that applies only to

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(1) Written in connection with the consecrations.

(2) So that the whole passage of Lev. VIII, 34 refers to that day.

(3) Lev. XVI, 34.

(4) To justify inference from identity of phrase or word, there must be in the two texts a certain identity of circumstance.

(5) As in Lev. VIII, 34 where the phrase is, ‘He commanded to do’.

(6) As in the case of the red heifer where too it is, ‘He commanded to do’.

(7) As in the case with the Day of Atonement, where the text is, ‘and he did as the Lord commanded’.

(8) So that every priest should require separation before offering a public sacrifice.

(9) From the same root as ziwwah. Lit., ‘His commanding’.

(10) Ibid. VII, 38.

(11) V. nn. 14 and 15.

(12) To justify inference by gezerah shawah there must be exact identity of expression.

(13) Ibid. Xlv, 39.

(14) For the purposes of inference v. Hor., Sonc. ed., p. 57, n. 11. So that such literalness as the insistence on differentiation between ziwwah and zawwotho is not justified.

(15) From the congruity of which an analogy may be inferred.

(16) V. Tosaf. Yesh.

(17) Offered by an individual for atonement (Rashi); so that every priest would need such removal before sacrificing.

(18) The priests were assigned their service by means of a lot. V. infra 22a.

(19) Because the task may come to anyone by the allotment. And thus the question remains, perhaps the word ‘lekapper’ applies also to the atonement of a sacrifice, cf. n. 3.

(20) The consecration of the priests.

(21) The Day of Atonement.

(22) There are many sacrifices offered up by the individuals.

(23) [Since the sacrifices offered on festivals serve for atonement, v. Shebu. 2a-b.]

(24) [The consecration of the priests ‘once a year’ is not to be taken literally; it means once in that particular year in which the consecration was held.]

(25) Which is an annual event.

(26) Ex. XXIII, 15; Lev. XXIII, 5; Num. XXVIII, 16; Deut. XVI, 1.

(27) The laws touching the booths, the citron, myrtle, palm-branch and willow of the brook; the ceremony of the libation, etc.

(28) The Day of Atonement.

(29) I.e., the eighth day of the Consecration, v. Lev. IX, 1ff.

(30) Passover or Sukkoth.

(31) Shemini ‘Azereth. The Eighth Day of the Solemn Assembly celebrated after the seventh day of the Festival of Booths (Sukkoth), in which case the inference would appear legitimate.

(32) Shemini Azereth is preceded by the seven days of Sukkoth.

(33) Shemini ‘Azereth, which is preceded by the seven days of Sukkoth.

(34) Lev. VIII, 34.

(35) Confirming the earlier differentiation.

(36) Countering the suggestion that the reference is to Shemini ‘Azereth.

(37) Sukkoth has seven days preceding the one day of ‘Azereth.

(38) Shemini ‘Azereth.

Talmud - Mas. Yoma 3a

Pe'Z'R'K'Sh'B,[1] but in matters of complementing the sacrifice of the festival, the eighth day is but a continuation of the first day, as we have learned: He who failed to offer up the festival sacrifice[2] on the first day of the feast [of Sukkoth], may do so during the entire festive season including the last day of the feast.[3]

[Perhaps] say [that the reference is to] Pentecost,[4] because that would also mean removal of the priest for seven days preceding a one-day service?[5] — R. Abba said: One may fitly infer a case[6] in which one ox and one ram are offered from another[7] case in which one ox and one ram are offered, this excludes, however, Pentecost, on which two[8] rams are to be sacrificed. This would be right according to the opinion that on the Day of Atonement only one ram is being offered up,[9] but what could be said according to the view that on the Day of Atonement too, two rams were to be offered up?[10] For it has been taught: Rabbi[11] said, The ram mentioned here [in Leviticus] is the same as the one mentioned in the Book of Numbers;[12] R. Eliezer son of R. Simeon said: Two rams are here [involved], the one mentioned here and the other mentioned in the Book of Numbers![13] — It may be in accord even with the opinion of R. Eliezer son of R. Simeon. Because there[14] one [of the rams] is offered up in fulfilment of the regular sacrifices for that day, and the other as one of the additional sacrifices, whereas in the case of Pentecost both are the regular sacrifices of that day.[15] [Perhaps] say that [the reference is to] New Year[16] which should also imply the removal of the priest for seven days preceding a one-day service? — R. Abbahu said, One may infer a case in which the priest offers up an ox and a ram from his own means[17] from another case in which he offers up an ox and a ram from[18] his own means, that excludes Pentecost[19] and Rosh hashanah[20] on which both are offered up from public [congregational] funds. This would be right according to the opinion which holds that the words kah leka[21] [‘take thee’] mean ‘take from thy own means’ and

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(1) This is a mnemonical acrostic for: P (payyis allotment, by counting, of the work to be done by the priests in the sanctuary. No such counting took place during the Sukkoth festival, but it was the rule on Shemini ‘Azereth); Z (zeman — the blessing on the entrance of a festival referring to the return of the festive season. This benediction was repeated on the eve of Shemini ‘Azereth, thus constituting it an independent holy day); R (regel-festival with its own name); K (korban — having its own number of sacrifices); Sh (shir — song — Shemini ‘Azereth having its own psalm in the liturgy); B (berakah-blessing — on Shemini ‘Azereth a special prayer was offered up for the life of the king.) V. R.H. 4b. In all these respects Shemini ‘Azereth might be considered an independent festival.

(2) חג means (Jastrow): To turn, to celebrate an anniversary, to observe a festival, to make a periodical pilgrimage, to offer the pilgrim's festive sacrifice.

(3) The conclusion, i.e. , Shemini ‘Azereth, v. Hag. 17a.

(4) ‘Azereth means detention, gathering, concluding feast. ‘Azereth in general designates ‘Azereth Pesah’, i.e., Shabuoth (the Feast of Weeks, Pentecost) to be distinguished from Shemini ‘Azereth, the concluding festival of Sukkoth.

(5) The biblical Pentecost has one day only.

(6) The Day of Atonement, Lev. XVI, 5.

(7) The eighth day of the priest's consecration, Lev. IX, 2.

(8) Lev. XXIII, 18.

(9) The question being whether the ram demanded in Lev. XVI, 5 is identical with the one mentioned in Num. XXIX, 8, or whether two different sacrifices are implied.
(10) That would put the Day of Atonement into the same class as Pentecost and would thus preclude inference from the eighth day of the consecration of the priest for the former.
(11) R. Judah ha-Nasi, the Prince, redactor of the Mishnah.
(12) Lit., 'one fifth of (dealing with) Numbers'. Homesh applies to one of the five books of the Torah, as well as to one of the five books of the Psalms. 'Hamisha Homshe Torah' — the five books of the Torah.
(13) V. infra 75b.
(14) On the Day of Atonement, Lev. XVI,3 does not call the ram a' musaf' or 'additional' sacrifice, as in all other cases, where the phrase 'apart from the morning burnt-offering' occurs, to indicate that the sacrifice in question is 'apart' or 'additional' as throughout Num. XXVIII and XXIX.
(15) So that Pentecost, having different laws, may not fitly be inferred from the eighth day of the priest's consecration.
(16) Rosh ha-Shanah, the Jewish New Year, originally one day only, v. Bez. 5a.
(17) Lev. XVI, 3, Herewith shall Aaron come into the holy place, i.e., he shall bring it along from his own.
(18) At the consecration, Lev. IX, 2, Take thee, i.e, from thy own means.
(19) Lev. XXIII, 18, And ye shall present, i.e., the community.
(20) 'And ye shall present' also occurs in connection with the Rosh ha-Shanah sacrifices, ibid. XXIII, 25.
(21) Lev. IX, 2.

Talmud - Mas. Yoma 3b

'aseh leka[1] ['make thee'] mean 'make from thy own means', but what could be said [in the argument above] according to the opinion [that kah leka[2] means 'take for thyself] from the community funds', for we have been taught:[3] The expression 'kah leka' means 'mi-sheleka [from thy own] and 'aseh leka means mi-sheleka [taken from thy own funds], but we-yikehu eleka[4] means [they shall take for them] from community funds; these are the words of R. Josiah; R. Jonathan said, Both 'kah leka' and 'we-yikehu eleka' mean from community funds, and what is intimated by saying 'kah leka' [take thee]? As it were,[5] 'I prefer your own [private means expended on this work] to the community's [expenditure]'. (Abba Hanan said in the name of R. Eleazar: One verse reads, Make thee an ark of wood,[6] and another,[7] And they shall make an ark of acacia-wood,[8] how is that?[9] Here it refers to a time when Israel act in accordance with His will,[10] there it deals with a time when they do not act in accordance with His will) — They[11] are disputing only as to the general meaning [of the word 'leka'] in connection with the command to 'take' or to 'do', as e.g., Take thou also unto thee the chief spices,[12] or Make thee two trumpets of silver,[13] but in the above cases[14] it is clearly indicated in the text that it is from thine own.[15] For consider in [the portion of the Bible dealing with the] consecration of the priests, it is written: And unto the children of Israel thou shalt speak, saying: Take ye a he-goat for a sin-offering,[16] why then the passage: And he said to Aaron: Take thee a bull-calf for a sin-offering?[17] Conclude from this 'kah leka' means 'mi-sheleka', from your own. [Similarly] in connection with the Day of Atonement it reads: Herewith shall Aaron come into the holy place: with a young bullock for a sin-offering,[18] etc. Why then the passage, And he shall take of the congregation of the children of Israel[19] and And Aaron shall present the bullock of the sin-offering which is lo [for himself]?[20] Conclude from this that the word 'lo' implies it is to be brought from his own means.

R. Ashi[21] said: It is legitimate to infer a case in which an ox is offered up as sin-offering and a ram as burnt-offering[22] from another case in which an ox is offered up as sin-offering and a ram as a burnt-offering;[23] this excludes from analogy New Year[24] and Pentecost,[25] [as] in both cases both animals are offered up as burnt-offerings only.

Rabina said: One may infer a service performed by the high priest[26] from another service performed by the high priest[27] that excludes [the occasions mentioned] in all the questions [raised], because the services mentioned therein are not performed by the high priest.[28] Others have this version of Rabina's reply: One may infer [certain rules for] a service held for the first time from a service held for the first time. This excludes all the other cases [referred to above], because none of them took place for the first time. What does this ‘first time’ mean? — Does it mean that the high priest had first performed service there?[29] That would be [the argument of Rabina's in] the first version. No, it means the first service of its kind held in its place, which may fitly be inferred from another service[30] held for the first time in its place. When R. Dimi came[31] [from Palestine], he said: R. Johanan taught one thing, R. Joshua b. Levi two. R. Johanan taught one thing the words ‘la'asoth’, ‘lekapper’[32] refer to the service of the Day of Atonement. R. Joshua b. Levi taught two things: ‘la'asoth’ means the ceremony of the [red] heifer, ‘lekapper’ refers to the service of the Day of Atonement. How could [you say that] R. Johanan taught [only] one thing? Have we not learnt in our Mishnah: SEVEN DAYS BEFORE THE DAY OF ATONEMENT, and in another Seven days before the burning of the heifer?[33] — That[34] is only a special provision.[35] But did not R. Minyumi b. Hilkiah in the name of R. Mahsiah b. Idi, [and the latter] in the name of R. Johanan report the [interpretation of the text], ‘As hath been done this day, so hath the Lord commanded la'asoth [to do] lekapper ‘alekem [to make atonement for you]’. ‘La'asoth’ refers to the ceremony of the heifer and ‘lekapper’ to the service of the Day of Atonement?[36] This interpretation was that of his teacher.[37] For when Rabina came [from Palestine][38] he said: R. Johanan reported in the name of R. Ishmael that ‘la'asoth’ referred to the ceremony of the heifer, and ‘lekapper’ to the work of the Day of Atonement.

Said Resh Lakish to R. Johanan: Whence do you infer this interpretation? From the Consecration Service?[39] Hence, just as with the Consecration Service, the omission of any prescribed form would render the service invalid [would you say that] here too[40] the omission of anything prescribed [by inference from congruity of text] for that service, would render it invalid? And if you said: Yes, indeed, surely we learnt: ANOTHER PRIEST IS PREPARED TO TAKE HIS PLACE, not another priest is removed from his house![41] And if you would say MATHKININ [one prepares] and MAFRISHIN [one removes] mean the same thing, then the Mishnah ought to use in both passages either mathkinin or mafrishin![42] — [R. Johanan] said to him: And whence do you, Sir, infer it?[43] — He answered: From [the account concerning] Sinai. For the Scriptural text reads, And the glory of the Lord abode upon Mount Sinai, and the cloud covered him[44] six days, and He called unto Moses on the seventh day.[45] Now consider: Since it is written ‘and He called unto Moses on the seventh day’, what do the ‘six days’ mean? They establish a rule[46] for anyone who enters the camp of the Shechinah[47] that he must remove himself from his house for six days. But we have learnt SEVEN?[48] — Our Mishnah conforms to the opinion of R. Judah b. Bathyra who considers the possibility of the high priest's

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(1) Num. X, 2.

(2) Must not be taken literally.

(3) Men. 28b.

(4) Ex. XXVII, 20.

(5) If it were possible to assume such intimation from God.

(6) Deut. X, 1.

(7) Ex. XXV, 10.

(8) In one verse the making is demanded of Moses, in the other of the children of Israel.

(9) Contradiction to be explained.

(10) When Israel fulfil God's will, it is they who get the credit for enabling Moses to perform His will. Otherwise all the credit is given to Moses.

(11) I.e., R. Josiah and R. Jonathan. Here follows the reply to the question, how meet the above argument in the view of R. Jonathan who holds that ‘kah leka’ means ‘take for them from community funds’.

(12) Ex. XXX 34.

(13) Num. X, 2.

(14) In connection with the offerings of the high priest on the Day of Atonement and the eighth day of the Consecration.

(15) The private means of the high priest.
(16) Lev. IX, 3.
(17) Ibid. IX, 2.
(18) Lev. XVI, 3.
(19) Ibid. XVI, 5.
(20) Ibid. XVI, 6.
(21) He and Rabina deal with the questions raised as to why the analogy may not include other festivals besides the Day of Atonement.
(22) On the Day of Atonement the high priest offers up as his private sacrifice an ox for the sin-offering and a ram for a burnt-offering.
(23) On the eighth day of the consecration a young ox is offered up as sin-offering and a ram as burnt-offering.
(24) On Rosh ha-Shanah no ox is offered up as sin-offering, Num. XXIX, 1-6.
(25) On ‘Azereth (Shabuoth) no ox is offered up as sin-offering, ibid. XXVIII, 26-31.
(26) The Day of Atonement.
(27) The Consecration.
(28) That answers all the questions raised.
(29) The first service ever performed by a high priest was that on the eighth day of the Consecration, hence it would be right to infer therefrom the service on the Day of Atonement, when the high priest for the first time offered up the community's sacrifice, on the first Day of Atonement.
(30) The service of the Day of Atonement took place in the Holy of Holies, which had never been entered before the first service on the first Day of Atonement, just as the Consecration Service included the first sacrifice on the outer altar, in priestly garments.
(31) Atha ‘came’ is the technical term for the return of scholars from Babylonia to Palestine and vice versa.
(32) Lekapper being the explanation of la'asoth.
(33) The priest in question was removed from his house, v. supra 2a.
(34) The rule in connection with the burning of the red heifer.
(35) Because in some other respects there is latitude in connection with the heifer service (v. supra p. 1, n. 7), some more stringent ordinances were decided upon, not, however as a matter of traditional law, but rather as an ad hoc regulation.
(36) This tradition in the name of R.Johanan is in evident conflict with the statement reported by R. Dimi.
(37) He reported only his teacher's decision, but did not surrender his own opinion.
(38) V. p. 9, n. 10.
(39) V. supra 2a and notes.
(40) With regard to the ceremony of the red heifer.
(41) So that, if the high priest were prevented from officiating the substitute priest would perform the service without the necessary previous separation, which would render his service invalid and the ceremony unprovided with a priest.
(42) Since the Mishnah deliberately uses two terms, their meaning must be different, hence Resh Lakish's question remains.
(43) The obligation to remove the priest from his house.
(44) I.e., Moses, R.V. ‘it’ referring to the mountain; v. infra 4a.
(45) Ex. XXIV, 16.
(46) Lit., ‘build a father’, a precedent, i.e., justify the conclusion from this specifically stated law to other cases.
(47) Lit., ‘royal residence’, then Divine Presence, here the Divine Camp, the Sanctuary.
(48) The Mishnah here speaks of a removal for seven days.

Talmud - Mas. Yoma 4a

becoming ritually impure through family contact.[1] R. Johanan said to Resh Lakish: It is right according to me who infer[2] from the Consecration; for this agrees with what we are taught: ‘On both of them [the Priests][3] we sprinkle throughout the seven days[water] from all the sin-offerings[4] that were there’;[5] but according to you who infer from Sinai, was there any sprinkling done on Sinai? — But[6] according to your own reasoning, it would not be right either, for in the consecration [ceremony the sprinkling was done with] blood, whereas here with water? — That[7] is no difficulty. For R.

Hiyya taught: ‘The water takes the place of blood’, but according to you, was there any sprinkling on Sinai? — He answered: It was a mere additional provision.[8]

We have a teaching in accord with R. Johanan,[9] and we have a teaching in accord with Resh Lakish.[10] ‘In accord with R. Johanan we have a teaching’; Scripture reads: Herewith [bezoth] shall Aaron come into the holy place,[11] i.e., with that mentioned in that section, the section of the Consecration. And what is mentioned in the section about the Consecration? Aaron was removed for seven days and then officiated for one day, and Moses handed over to him[12] throughout the seven days to train him in this service. Also for the future the high priest is to be removed for seven days and to officiate for one day, and two scholars of the disciples of Moses[13] [this excludes Sadducees][14] transmitted to him throughout the seven days to train him in the service. Hence [the Rabbis] ruled that seven days before the Day of Atonement the high priest was removed from his house to the cell of the counsellors. And just as the high priest was removed, so was the priest burning the heifer removed to the cell lying in the north-eastern corner before the Temple and each of them was throughout the seven days sprinkled [with water] from all the sin-offerings that were there. And if you should ask: But during the Consecration the sprinkling was done with blood and here water, [remember] that the water takes the place of the blood. And it further says: ‘As hath been done this day so the Lord hath commanded la'asoth [to do], lekapper [to make atonement] for you’.[15] ‘La'asoth’ refers to the ceremony of the heifer, ‘lekapper’ means the service of the Day of Atonement.[16] But the word ‘be-zoth’ is required for the verse itself,[17] i.e., with a young bullock for a sin-offering and a ram for a burnt-offering? — Answer:[18] If ‘be-zoth’ were meant to refer only to the sacrifices, the text should have said ba-zeh [with this] or ba-eleh [with these], why [was] ‘be-zoth’ [chosen]? So that you may learn both things from it.[19] Why was it necessary to cite the other verse?[20] — You might have said only the first Day of Atonement requires that the high priest be removed at the Consecration, but on all future Days of Atonement no such removal is necessary; or [you might say] only the first[21] high priest needed such removal but all future high priests do not require it; come and hear:[22] ‘As hath been done this day etc.’[23]

‘We have a teaching in accord with Resh Lakish’: Moses went up in a cloud, was covered by the cloud, and was sanctified by the cloud in order that he might receive the Torah for Israel in sanctity, as it is written: And the glory of the Lord abode upon Mount Sinai,[24] this took place after the Ten Commandments, which were at the beginning of the forty days,[25] this is the view of R. Jose the Galilean. R. Akiba said [with reference to] ‘And the glory of the Lord abode’ from the beginning of the [third] month, and the cloud wa-yekasehu [covered it],[26] i.e., the mountain,[27]

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(1) Lit., ‘the uncleanness of his house’. His wife might become menstruant during congress, he as one having had congress with a menstruant would be levitically impure for seven days, thus prevented from officiating on the Day of Atonement.

(2) The obligation to remove the priest.

(3) The one officiating on the Day of Atonement and the one engaged with the red heifer.

(4) Name by which the red heifer ashes are known, v. Num. XIX, 9.

(5) V. infra 8a. A reserve of ashes was kept in the sanctuary for sprinklings. V. Parah 111, 11.

(6) This is Resh Lakish's rejoinder.

(7) This is R. Johanan's reply.

(8) To emphasize the importance of the ceremony of the heifer, and to signify the entrance upon the sanctuary on the Day of Atonement.

(9) Who inferred the removal from consecration. A Baraitha — a tradition or opinion of a Tanna not reported in the Mishnah.

(10) Who inferred it from Sinai.

(11) Lev. XVI, 3.

(12) The eighth day of the Consecration was ministered to by Aaron, Lev. IX, 2.

(13) The detailed laws for the service.

[14] Who held divergent views as to the service and changed its order from the prescribed form.
[15] Lev. VIII, 34.
[16] This cited Baraitha is thus in support of R. Johanan.
[17] It cannot be torn from the text, where it has obvious and important meaning, to be used for ad hoc interpretation.
[18] Lit., 'they say', or 'I will say'.
[19] Zoth is feminine, the words for bullock and ram are masc., hence ba-zeh or ba-eleh would have been more correct. The choice of be-zoth indicates that something else is implied.
[20] The citing of an additional verse, where the first or first ones seemed to convey sufficient information, is an indication that erroneous inference might be made, which the additional verse, through its information, prevents.
[21] Aaron, Lev. VIII.
[22] 'Come and hear', a technical term for refuting a wrong opinion or repelling an attack.
[23] 'So the Lord commanded you', i.e., for all the future.
[24] Ex. XXIV, 16.
[25] Ex. XXIV, 18. Cf. ibid. XIX, 3,9,25.
[26] Wa-yekasehu may be translated 'covered him' or 'covered it', Moses or the mountain, the Hebrew word har (mountain) being also masculine.
[27] Moses came down to speak to Israel (Ex. XIX, 3f), hence it would be wrong to say that the cloud covered him six days before the Revelation.

Talmud - Mas. Yoma 4b

then 'He called unto Moses on the seventh day'. Moses and all Israel were standing there,[1] but the purpose of Scripture was to honour Moses.[2] R. Nathan says: The purpose of Scripture was that he [Moses] might be purged of all food and drink in his bowels so as to make him equal to the ministering angels.[3] R. Mattiah b. Heresh[4] says, The purpose of Scripture here was to inspire him with awe, so that the Torah be given[5] with awe, with dread, with trembling, as it is said: Serve the Lord with fear and rejoice with trembling.[6] What is the meaning of 'And rejoice with trembling'?[7] — R. Adda b. Mattena says in the name of Rab: Where there will be joy, there shall be trembling.[8]

In what do R. Jose the Galilean and R. Akiba differ? — In the controversy of these Tannaim. For we have been taught:[9] On the sixth day of the month[10] was the Torah given to Israel. R. Jose says on the seventh. He who says that the Torah was given on the sixth day holds that on the sixth it was given and on the seventh Moses ascended the mountain;[11] he who holds that the Torah was given on the seventh assumes that on the seventh both the Torah was given and Moses ascended, as it is written, And He called unto Moses on the seventh day.[12] Now R. Jose the Galilean is of the same opinion as the first Tanna,[13] who held that the Torah was given on the sixth of the month, therefore this[14] happened after the giving of the Ten Commandments: 'The glory of the Lord abode on mount Sinai and the cloud covered him six days' 'him' meaning Moses- 'And He called unto Moses on the seventh day' to receive the remainder of the Torah.[15] For if the thought should come to you that 'And the glory of the Lord abode' from the New Moon [of Sivan], so that 'And the cloud covered him' referred to the mountain, and 'The Lord called unto Moses on the seventh day' to receive the Ten Commandments, surely they had received the Torah on the sixth day already and also the cloud had departed on the sixth day! — R. Akiba, however, held with R. Jose that the Torah was given to Israel on the seventh.[16] Quite in accord with R. Akiba's teaching is the statement[17] that the Tablets were broken on the seventeenth of Tammuz, for the twenty-four days of Sivan[18] and the sixteen of Tammuz make up the forty days he was on the mountain, and on the seventeenth of Tammuz he went down and came[19] to break the Tablets. But according to R. Jose the Galilean who holds that there were six days of the separation[20] in addition to forty days [spent] on the mountain, the Tablets could not have been broken before the twenty-third of Tammuz? — R. Jose the Galilean will answer you: The six days of the separation are included in the forty days on the mountain.

The Master said: '"And He called Moses", whilst Moses and all Israel were standing' there'. This interpretation supports the view of R. Eleazar, for R. Eleazar said: ‘And He called unto Moses’ whilst Moses and all Israel were standing there; the only purpose of Scripture is to do honour to Moses. They[21] raised the following objection: [He heard the voice speaking] elaw [unto him] not lo [to him];[22] hence we know that Moses heard, but all Israel did not hear?[23] - This is no difficulty. The one passage speaks of Sinai, the other of the tent of meeting.[24] Or, you might say, the one statement refers to the call, the other to the speech.[25] R. Zerika asked a question concerning the contradiction of scriptural passages in the presence of R. Eleazar, or, according to another version, he asked the question in the name of R. Eleazar. One passage reads: And Moses was not able to enter into the tent of meeting because the cloud abode thereon,[26] whereas another verse says: And Moses entered into the midst of the cloud?[27] It teaches us that the Holy One, blessed be He, took hold of Moses and brought him into the cloud. The school of R. Ishmael taught: Here[28] the word be-thok [in the midst] appears and it also appears elsewhere: And the children of Israel went into the midst of the sea,[29] just as there [the word be-thok] implies a path, as it is written: And the waters were a wall[30] unto them,[29] so here too there was a path, [for Moses through the cloud].

And the Lord called unto Moses, and spoke unto him;[31] why does Scripture mention the call before the speech? — The Torah teaches us good manners: a man should not address his neighbour without having first called him. This supports the view of R. Hanina, for R. Hanina said: No man shall speak to his neighbour unless he calls him first to speak to him. Rabbah said: Whence do we know that if a man had said something to his neighbour the latter must not spread the news without the informant's telling him ‘Go and say it’? From the scriptural text: The Lord spoke to him out of the tent of meeting, lemor [saying] .[32] At any rate it is to be inferred[33] that both hold that the omission of any detail mentioned in connection with the priest's Consecration renders the ceremony invalid, for it was said: With regard to the ceremony of Consecration R. Johanan and R. Hanina are disputing; one says: The omission of any form prescribed in connection with the ceremony renders it invalid, whilst the other holds only such matter as is indispensable on any future occasion is indispensable now, whereas such detail as is dispensable in future generations, is dispensable even the first time. One may conclude that it is R. Johanan who holds that the omission of any detail whatsoever that is mentioned in connection with the Consecration ceremony renders such ceremony invalid, because R. Simeon b. Lakish said to R. Johanan[34] [in the course of the argument]: ‘And just as with the ceremony of Consecration the omission of any prescribed detail renders the ceremony invalid. And R. Johanan did not retort at all’. That proof is conclusive.[35]

What is the [practical] difference between the opinions?

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(1) Moses did not ascend the mountain nor did he separate from his circle till after the Revelation.

(2) All Israel were present, why then does Scripture report that the word of God came to Moses alone? — The answer is: To show him special regard.

(3) R. Nathan is of the opinion of R. Jose the Galilean that the call to Moses referred to in the verses was for separation after the Revelation, yet this offers no basis for necessitating separation before entering into the Sanctuary, as the object of Moses’ separation was that he might be like the ministering angels.

(4) He too shares the opinion of R. Jose the Galilean.

(5) To Moses and through him to Israel.

(6) Ps. II, 11.

(7) The terms seem contradictory.

(8) The Torah is a source of joy. The precepts of the Lord are right, rejoicing the heart, Ps. XIX, 9, cited by Rashi. But there shall also be awe, reverence for the numen, the Lord, the Lawgiver. Tosaf. cites l Chron. XVI, 27 Strength and gladness are in His Place.

(9) Shah. 86b.

(10) Of Sivan, the first day of Shabuoth.

(11) Sinai.

(12) Ex. XXIV, 16.

(13) The anonymous Tanna of the Baraitha
(14) Moses' ascent on the mount.
(15) The other laws (beside the Ten Commandments) and the Oral Law.
(16) So that the 'Seventh day' refers to the seventh day on which the Torah was given.
(17) V. Ta'an. 26a.
(18) From the seventh to the thirtieth.
(19) Either 'came to the camp of Israel, saw the dances and broke' or paraphrastic for 'broke'.
(20) After the Revelation.
(21) The teachers (students) in the academy.
(22) The passage, Num. VII, 89 reads: Moses . . . heard the voice speaking elaw (to him, which is the longer form, lo being the normal one) from above the ark-cover etc. The use, in this passage, of the longer form, seemed to suggest a closer or exclusive communication. According to Hayyug, quoted Otzar ha-Geonim VI, 1, n. 4, there is a difference of meaning derivable in accord with grammatical principles, in 'lo' and 'elaw' respectively.
(23) So that all Israel, indeed, did not hear God's message. If so, then the only purpose of the statement '. . . Scripture is to honour Moses' is unjustified. For Scripture does not change the fact. It was Moses alone whom the message reached.
(24) In the tent of meeting only Moses could hear the voice. On Mount Sinai all Israel heard it, but to honour Moses, Scripture mentions him only as having done so.
(25) The call proper, the honour of the individual call, was vouchsafed to Moses alone, the speech following was heard by all.
(26) Ex. XL, 35.
(27) Ibid. XXIV, 18.
(28) The apparent contradiction is removed by the suggestion that he entered the cloud on this occasion with divine help.
(29) Ex. XIV, 22.
(30) The water being piled up like a wall, Israel walked along a path. The inference is from similarity of expression.
(31) Lev. I,1.
(32) Lemor here is taken to mean 'to say it (to others)', or else the next few words are illustratively, not logically implied: Speak (unto the children of Israel).
(33) From Resh Lakish's question to R. Johanan: '... just as with the Consecration service the omission of any prescribed form would render the service invalid' and R. Johanan's tacit acceptance of this view, supra 3b.
(34) Supra 3b.
(35) Had he held a different view, he would surely not have permitted his opponent's statement to go unchallenged.

Talmud - Mas. Yoma 5a

R. Joseph says the putting[1] of the hands [upon the head of the sacrifice] is the difference. According to the one who holds that the omission of any detail renders the ceremony invalid, [failure] to lay the hand upon the head of the sacrifice would render the ceremony invalid. According to him who holds that only the omission of what is indispensable in the future renders the ceremony invalid, [omission of] the putting of the hand on the animal's head did not render the ceremony invalid. Whence do we know that in the future [the omission of] the putting of the hands [on the animal's head] is not indispensable?- For it has been taught: And he shall lay his hand . . . and it shall be accepted for him [to make atonement for him].[2] Does the laying on of the hand make atonement for one? Does not atonement come through the blood, as it is said: For it is the blood that maketh atonement by reason of the life![3] Why, then, is it written: 'And he shall lay his hand on . . . and it shall be accepted for him to make atonement for him'? To say that if he performed the laying on of the hands as an unimportant part[4] of the commandment, Scripture would account it to him as if he had not obtained proper atonement.[5] R. Nahman b. Isaac said: The waving[6] is the difference. According to him who holds whatever detail is prescribed for the ceremony is indispensable, the waving is indispensable; according to him who holds that only what is indispensable for all the future is indispensable now, the waving is not indispensable. Whence do we know that for all time to come the waving is not indispensable? — For we have been taught:[7] To be waved, to make atonement for him.[8] Does the waving make atonement? Is it not the blood which makes atonement, as it is written, 'For it is the blood that maketh atonement by reason of the life’? Then why does Scripture say, ‘To be waved, to make atonement for him’? To say that if he treats the waving as an unimportant part of the ceremony, Scripture accounts it to him as if he had not obtained proper atonement.

R. Papa said: The separation for seven days is the [practical] difference between the two opinions. According to the opinion that whatsoever is prescribed for the ceremony is indispensable, the separation, too,is indispensable; according to him who holds that only what is indispensable for all time to come is indispensable now, the separation is not indispensable. Whence do we know that the separation is not indispensable for all time to come? Because the Mishnah reads, [another priest] IS MADE READY FOR HIM, instead of is ‘separated for him’.[9] Rabina said: The difference lies in the increase [in the number of garments][10] and of the anointments[11] necessary during the seven days. According to the opinion that whatever is prescribed in connection therewith is indispensable, the increase [in the number of garments] and anointments during the seven days, too, is indispensable. According to him who holds that only what is indispensable for all time to come, is indispensable now, these things too are not indispensable. Whence do we know that they are not indispensable for all time to come? — For it was taught: And the priest who shall be anointed and who shall be consecrated to be priest in his father's stead, shall make the atonement.[12] What does the passage come to teach?[13] From the text: Seven days shall the son that is priest in his stead put them on [etc.],[14] I would know that a priest who had put on the required larger number of garments and who had been anointed on each of the seven days[15] was permitted to [‘minister in the holy place’][16] at the Consecration. Whence would I know that if he had put on the larger number of garments for but one day, and had been anointed on each of the seven days; or, if he had been anointed but one day, but has put on the larger number of garments for seven days, [he would also be permitted]? To convey that teaching, Scripture says, ‘Who shall be anointed and who shall be consecrated’, that means anointed and consecrated in whatever way.[17] We have now found evidence that the larger number of garments is necessary in the first instance for the seven days. Whence do we know that anointment on each of the seven days is in the first instance required? You may infer that either from the fact that a special statement of the Torah was necessary to exclude it; or, if you wish, from the scriptural text itself, And the holy garments of Aaron shall be for his sons after him, to be anointed in them, and to be consecrated in them.[18] In this passage the anointing and the donning of the larger number of garments are put on the same level. Hence, just as the donning of the larger number of garments is required for the seven days, so is the anointing obligatory for the seven days.

What is the reason of the man who holds that the forms prescribed for the ceremonies are indispensable?- R. Isaac b. Bisna said: Scripture reads And kaka [thus] shalt thou do to Aaron and his sons, — ‘thus means indispensableness.[19]

You may be right with regard to any

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(1) Lev. I, 4; VIII, 18.

(2) Lev. I, 4.

(3) Lev. XVII, 11.

(4) Lit., ‘a remnant’.

(5) Lit., ‘as it did not atone for him and it did’. Technically the ceremony had achieved its purpose, because essentially it is the blood which makes atonement, but since laying the hands on the animal's head is part of the ceremony (although not essential to it) and he has been negligent about it, he has obtained atonement for himself, but has not attained re-atonement with his creator, whose command he has treated slightingly.

(6) Of part of the sacrifice, Lev. VIII, 27.

(7) Men. 93b.

(8) Lev. XIV, 21.

(9) If the separation of the priest were an indispensable part of the ceremony, the proposed substitute for the high priest would have to be separated too, so that in case of any mishap to the high priest he would enter upon the service properly prepared by separation. Since the Mishnah reads 'prepared' only, the separation obviously is not deemed indispensable.

(10) The eight garments of the high priest as against the four of the ordinary priest.

(11) Every one of the seven days the head and the eye-lids of the high priest were anointed with oil.

(12) Lev. XVI, 32.

(13) Obviously the service was to be performed by the high priest, why then this apparently superfluous passage?

(14) Ex. XXIX, 30.

(15) Of his consecration as high priest, v. infra.

(16) That is on the Day of Atonement.

(17) As long as he has been consecrated, even if some detail of the ceremony has been omitted.

(18) Ex. XXIX, 29.

(19) The emphatic expression 'thus' intimates the indispensableness of the prescribed forms, 'thus' and 'not otherwise'.

Talmud - Mas. Yoma 5b

form prescribed in this context . Whence do we know that forms not prescribed[1] here in this context are also indispensable? — R. Nahman b. Isaac said: We infer that from [the fact that in both contexts the same word] petah [is used].[2] R. Mesharsheya said: And keep the charge of the Lord[3] indicates the indispensableness [of the prescribed forms]. R. Ashi said: For so am I commanded[4] indicates indispensableness.

Our Rabbis taught:[5] For so am I commanded,[6] As I commanded,[7] As the Lord commanded.[8] [Of these passages], 'For so am I commanded' that they eat[9] it whilst in mourning; 'As I commanded' [this] he said to them at the time[10] of the occurrence;[11] 'As the Lord commanded', and not on my own authority.

R. Jose b. Hanina said: Breeches are not mentioned in the section.[12] But when it says, And this is the thing that thou shalt do unto them to hallow them, to minister,[13] it includes the breeches and the tenth part of an ephah.[14] It may rightly be said that breeches are included in the general term 'garments',[15] but whence do we know about the tenth of an ephah? — [This we know] by inferring [the meaning of the word] zeh [used here][16] from zeh [in the verse], Zeh [this] is the offering of Aaron and his sons which they shall offer unto the Lord . . . the tenth part of an ephah.[17]

R. Johanan in the name of R. Simeon b. Yohai said: Whence do we know that also the reading of the portion[18] was indispensable? To teach us that it is said, This is the dabar [thing] which the Lord has commanded to be done,[19] i.e., the speaking[20] thereof is indispensable. — In what order did he put the garments on them? — What is past, is past![21] Rather, [the question is] in what order will he put the garments on them in the future?[22] — In the future, too,[23] when Aaron and his sons will come, Moses will come with them. But [the question is] how did he put the clothes on them [if we are] to understand the scriptural account?[24] -The sons of R. Hiyya and R. Johanan held different opinions about it. One said: Aaron was first clothed and afterwards his sons; whilst the other said: Aaron and his sons were clothed simultaneously. Said Abaye: With regard to the tunic and the mitre none disputes the fact that Aaron came first and his sons afterwards,[25] for both in the [text containing] the command and [the account of the] actual performance Aaron is mentioned first. What they are disputing is [the order of] the girdle.[26] He who says Aaron [came first] and then his sons [is of this opinion] because it is written, And he girded him with the girdle,[27] and only after this is it written, And he girded them with a girdle,[28] whereas he who holds that the girding took place without any interruption, [is of this opinion] because It is written, And thou shalt gird them with girdles, Aaron and his sons.[29] According to the opinion that Aaron and his sons were girded at the same time, does not Scripture first say, 'And he girded him with a girdle' and then only later is it written, 'And he girded them with a girdle'?[30] —

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(1) In Ex. XXIX, 5, there are Instructions relative to the Consecration, such as putting on Aaron the tunic, the robe of the ephod and the ephod, the breastplate, the mitre on his head, the holy crown on the mitre. These are not mentioned in the ceremony described in Lev. VIII.

(2) Ex. XXIX, 4 and Lev. VIII, 33.

(3) Lev. VIII, 35.

(4) Ibid. VIII, 35.

(5) Zeb. 101b.

(6) Lev. X, 13.

(7) Ibid.X, 18.

(8) Lev. X, 15

(9) Lev. X, 13: Take the meal-offering and eat it, this command contradicts Deut. XXVI, 14, I have not eaten thereof in my mourning. The answer is, ‘So am I commanded’, i.e., a special decision from God.

(10) The death of Nadab and Abihu, Lev. X, 2.

(11) When he found that the goat of the sin-offering had been burnt, he said to them, You should have eaten it ‘as I commanded you’ in regard to the meal-offering.

(12) Chapters VIII and IX of Lev. which deal with the Consecration.

(13) Ex. XXIX, 1.

(14) Which the priests are obliged to offer up on the day of their Consecration. V. Men. 51b.

(15) Ex. XXIX, 5: And thou shalt take the garments and put upon Aaron.

(16) Ex. XXIX, 1.

(17) Lev. VI, 13. The inference from similarity of expression is never used ‘for the purpose of deducing a new law from Scripture, but merely as an attempt to find a scriptural support for an opinion expressed by one of the authorities in the Mishnah’. Mielziner, Intro. 148.

(18) The section on the Consecration. It was to be read as part of the ceremony.

(19) Lev. VIII, 5’ Dabar may mean both ‘word’ and ‘thing’. No further reference to the ceremony being necessary, the suggestion is made that dabar, the word, the reading of the word is commanded. Support may be found in the fact that the preceding verse speaks of The congregation assembled at the door of the tent of meeting, such ‘assembly’ for the purpose of hearing scriptural reading being expressly enjoined in Deut. XXXI, 28 and esp. at the Sukkoth festival in the year of release.

(20) The word, i.e., the section read.

(21) There is no relevance in archaeological research.

(22) I.e.,in the Messianic future.

(23) There is no need for speculation. Moses will be in charge and he knows the law.

(24) There are apparent contradictions between the command as given in Ex. XXIX and the account of the ceremony in Lev. VIII respectively. In Ex. XXIX, 9: And thou shalt gird them with a girdle, Aaron and his sons intimates that this girding of father and sons took place in close succession to one another. I.e., he girded Aaron only after he had first clothed the sons with the other garments apart from the girdle, so that the girding of Aaron and his sons were, so to speak, at the same time (v. infra); whereas in Lev. VIII, 7: And girded him with the girdle and clothed him with the robe . . . and placed the breastplate upon him and set the mitre upon his head to be followed by ibid. v. 13: And Moses brought Aaron's sons and clothed them with tunics and girded them with girdles shows the girding of Aaron took place before the clothing of the sons had even begun.

(25) [Moses clothed Aaron with the tunic and the mitre before he began to clothe the sons with these garments. These would also include the breeches, as these were always to come first, v. infra 23b.]

(26) Whether Aaron was girded before or after the sons were clothed with the tunic and mitre.

(27) Lev. VIII, 7.

(28) Ibid. 13. I.e., after having first clothed them with the other garments.

(29) Ex. XXIX, 9.

(30) Cf. n. 4.

Talmud - Mas. Yoma 6a

He will tell you: This is to teach you that the girdle of the high priest was not the same [material] as that of the average priest.[1] According to the opinion that Aaron was girded and afterwards his sons,[2] does not Scripture say, ‘And thou shalt gird them with a girdle’?- He will tell you this[3] informs us that the girdle of the high priest was of the same [material] as the average priest. Was it then necessary to state: ‘And he girded him with a girdle’ and [then] ‘And he girded them’? From that we infer that Aaron came first and then his sons. But how could it have been possible simultaneously?[4] — This only means to indicate that [Aaron] came first.[5]

THE HIGH PRIEST WAS REMOVED. Why was he removed?[You ask] why was he removed![6] [Is it not] as you have said, either according to the derivation of R. Johanan, or to that of Resh Lakish? — No, this is[7] the question: Why was he separated from his house? — It was taught: R. Judah b. Bathyra said: Let his wife be found under doubt of being a menstruant and he have congress with her.[8] Do we speak of wicked people?[9] — Rather, perhaps he will have congress with his wife and she will then be found to be doubtfully a menstruant.[10] [The Rabbis] were discussing the decision before R. Hisda: According to whom was it made?-Obviously according to R. Akiba, who said: A menstruant makes him who had congress with her impure [retrospectively].[11] For, according to the Rabbis, behold they say: A menstruant does not render impure him who had congress with her [retrospectively]. R. Hisda said to them: It may be in accord even with the Rabbis. For they conflict with R. Akiba only in the case in which [the blood stains are found] much later[12] [than the congress], but, [if they be found] very soon afterwards,[13] they agree with him. R. Zera said: Hence it is evident that to one who had congress with a menstruant do not apply the same restrictions as do to the menstruant herself and he may bathe [for purification] in day time.[14] For, if you were to say that to one who had congress with a menstruant applied the same laws that apply to her, when could he bathe? Only at night. How could he, then, officiate on the morrow,[15] since he would have to await sunset for becoming ritually pure? Hence it must be [clear] that one who had intercourse with a menstruant is not subject to the same restrictions as the menstruant herself. Said R. Shimi of Nehardea: You might even say [that the above decision is in accord with the view] that one who has intercourse with a menstruant is like the menstruant, yet [would the high priest be able to officiate at the service] for we would separate him from his house an hour before sunset.[16] An objection was raised: All those who are obliged to take the ritual bath must take the bath at night.[17] A menstruant and a woman after confinement immerse during the day. A menstruant, then, only, but not one who had intercourse with her?[18] — [No, it means], A menstruant and all whom one may include in that term.[19] Another objection was raised: One to whom pollution has happened is like one who touched an unclean [dead] reptile. One who had intercourse with a menstruating woman is like one who was made unclean through a corpse.[20] Is it not concerning the bath?[21] — No, it is concerning [the conditions of] their uncleanness.[22] But [surely] concerning their uncleanness[23] there are direct statements in Scripture! In the first case it is written that it lasts for seven days,[24] and in the second case also the seven days’ duration is prescribed.[25]

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(1) The girdle as described in Ex. XXXIX, 29 was to be made of fine twined linen, and blue and purple and scarlet, the work of the weaver in colours. The separate mention made of Aaron's girdle and that of his sons serves to indicate that they were not alike and that this description referred to the girdle of the high priest alone: the girdle of other priests was made of lesser material.

(2) From which one may infer that they are to be girded simultaneously, ‘them’, i.e., together.

(3) The answer is: The emphasis is not on the time or interval, but on the fact that father and son shall be girded with the same girdle, no distinction being allowed between the girdles worn by high priest and ordinary priest respectively.

(4) Taking the word simultaneously literally (cf. p. 21, n. 13), the question is, How could Moses have girded five men simultaneously?

(5) The Torah does not command any simultaneity. Aaron is mentioned in one passage and his sons in another, in order to emphasize that he must come first-whether in the clothing of the garments or in the girding.

(6) The first question was misunderstood. The answer implies that the source of the commandment to remove the priest was being sought.

(7) What was really intended was the practical motive of the enactment.

(8) Tosef. Yoma I.

(9) No good Jew (v. Sheb. 18b; Shulhan Aruk, Yoreh Deah 184, 2) would approach his wife unless her ritual purity were beyond doubt, how much less a high priest. Hence such contingency is unthinkable. Dealing with high priests, are we dealing with wicked men?

(10) Bloodstains may be found on the bed after congress and the doubt would arise, whether the discharge occurred before or after congress. Such a doubt would render her husband impure for seven days and ritually unfit to enter the sanctuary.

(11) [For twenty-four hours, so that should the stain be found after congress, the husband would be considered unclean for seven days, v. Nid. 14a.]

(12) Lit., ‘after after’, v. next note.

(13) [Lit., ‘one after’ this interval is defined in Nid. 12b as time enough to get down from the bed and rinse her face (euphemistically).]

(14) A menstruant is not permitted to bathe during the seventh day of her menstrual impurity, but only at night, after sunset, the beginning of the eighth day. But he who had congress with her would be permitted to bathe during the seventh day, without having to await the sunset of the seventh day. Hence he needs to be separated for but seven days. And if on the day of the separation he had congress and the doubt of her being a menstruant arose, he would count from the day of the separation until the day before the Day of Atonement, when he would take the bath during the day, await the sunset, and then be fit to enter the sanctuary on the Day of Atonement (Rashi).

(15) He would ritually be impure at the night of the Day of Atonement, hence there would have been no sunset before the Day of Atonement when he was pure and he would be unfit to officiate on the following day; thus the whole separation would be futile.

(16) That is, on the even before the eighth day before the Day of Atonement. One hour is a very short period and unimportant, hence the separation would still be called ‘one of seven days’. He could bathe on the evening before the eve of the Day of Atonement (the seventh day after having become ritually impure) and be fit to officiate on the Day of Atonement, having awaited the sunset on the day before his bath.

(17) Meg. 20a, based on Num. XIX, 19, for the law that all may bathe during the day: And on the seventh day he shall purify him and bathe himself in water and be clean at even. — That a menstruant must not bathe before the night of the seventh day is inferred from Lev. XV,19: And if a woman have an issue, she shall be in her impurity seven days. A woman after confinement is compared to a menstruant in Lev. XII, 2: If a woman be delivered . . . , then she shall be unclean for seven days; as in the days of the impurity of her sickness shall she be unclean,; v. infra 88a

(18) Here would be a Tannaitic text invalidating an Amora's inference.

(19) Since the menstruant by contact communicates her impurity, it is logical to assume that the conditions of purification would be identical. Hence the implicit statement is sufficient.

(20) Zab. V, 11.

(21) That the bath could be taken in day-time.

(22) One to whom defilement has happened is like one who touched a dead reptile in that both become clean in the evening, and are unclean in the first degree of uncleanness; and he who had intercourse with a menstruant is afflicted with uncleanness for seven days and is one of the original causes of uncleanness like him who was made unclean through a corpse.

(23) I.e., that of one who has intercourse with a menstruant.

(24) Lev. XV, 24. Her impurity be upon him, he shall be unclean seven days.

(25) Num. XIX, 11: He that toucheth the dead, even any man's dead body, shall be unclean seven days.

Talmud - Mas. Yoma 6b

Must one not hence assume that the comparison concerns their bath?[1] No, indeed it refers only to [the conditions of] their uncleanness, and it was necessary to mention that only because of the latter clause [of that Mishnah, viz.,] that one who had intercourse with a menstruant is afflicted with a graver form of impurity than he [who has become unclean through a corpse] in that he causes uncleanness of couch and seat[2] [such uncleanness being of a lighter nature] so as to affect only foods and liquids.[3]

Come and hear:[4] For R. Hiyya taught: A man or a woman afflicted with gonorrhoea or with leprosy, one who had intercourse with a menstruant, and one made unclean through a corpse, may take the bath during the day; a menstruant and a woman after confinement take their bath at night.[5] This is [indeed] a refutation.[6] Now whilst removing him from the [possible] impurity due to his house,[7] remove him from the [possibility of] uncleanness through a corpse![8] R. Tahlifa, father of R. Huna, said in the name of Raba: This teaches that in the case of a community [the law of] corpse uncleanness is inoperative.[9] Rabina said: You might also say that [the law of] corpse uncleanness is only suspended in case of a community,[10] yet uncleanness due to contact with a corpse Is infrequent,[11] whereas uncleanness due to marital life happens often. It has been said: As [to the law of] corpse-uncleanness R. Nahman said: It is inoperative in case of a community. R. Shesheth said: It is only suspended in case of an entire community. Whenever there are in the same priestly family-division[12] men, both clean and unclean ones, nobody disputes the fact that the clean ones do the service and the unclean ones forego it. The dispute concerns only the question as to whether one is obliged to make an endeavour to obtain, clean ones from another family-division. R. Nahman said: [The law of] corpse-uncleanness is inoperative In case of a community, hence we need make no such effort. R. Shesheth says: That law is only suspended in case of a community and hence we must endeavour [to find clean priests for the service].

Some hold that even in a case in which there are both clean and unclean priests in the same family-division, R. Nahman insists that even the unclean ones may officiate

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(1) Since a statement as to the duration of their uncleanness, from its express form in the Torah, seems superfluous. But such repetition is illogical and hence the interpretation that it applies to the bathing is justified which proves that he who has intercourse with the menstruant may immerse by day.

(2) [As many couches as are under him become unclean although they had not been in direct contact with him, which is not the case with one who suffers corpse-uncleanness. He defiles only those couches which his body actually touches.]

(3) All original causes of uncleanness (אבות הטומאה) render, by touch, man and vessels unclean, whereas the derived first and second and third causes affect only foods and liquids, but neither human beings nor ‘vessels’ (apparel, etc.).

(4) This phrase in our case introduces a refutation.

(5) Infra 88a.

(6) This Tannaitic tradition is beyond the argument of any Amora. The refutation is complete.

(7) l.e., his wife.

(8) Keep away from him every company, lest someone die whilst in the same room with the high priest and render him unclean for seven days.

(9) Lit., ‘permissible’.

(10) It is only suspended as by emergency and every effort is due to effect a proper service in its stead.

(11) Hence no precautionary measures, such as, so to speak, quarantining the priest, are necessary.

(12) Beth-Ab. V. Glos.

Talmud - Mas. Yoma 7a

because the Torah has rendered all levitical impurity caused through a corpse inoperative in case of a community.[1]

R. Shesheth said: Whence do I know that?[2] Because it has been taught: If the priest was standing and offering up the sheaf of the ‘Omer[3] and it became unclean in his hands[4] let him tell and another one is brought in its place. And if there be none but this, one would say to him: ‘Be clever and keep quiet’.[5] At all events he teaches, He should tell about it and another one is brought in its place![6] — R. Nahman said: I admit[7] that where there is a remnant to be eaten [one would have to make an effort to procure a substitute sacrifice].[8] Another objection was raised: If he was offering up the meal-offering of the bullocks or rams or sheep, and it became unclean in his hand, he should say so and one brings another one in its place; but if there be none [available] but the first, one tells him, ‘Be wise and keep quiet’ .[9] Does this not refer to the bullocks, rams and sheep offered up on the feast [of Sukkoth]?[10] — R. Nahman win answer you: No, the word ‘bullock’ refers to the bullock offered up in expiation of idolatry,[11] and although it is a community sacrifice, since there is no definite time fixed for it, one endeavours [to find a substitute offering]; the word ‘rams’ refers to the ram of Aaron[12] and although it is appointed to be sacrificed at a definite time, yet, since it is the offering of an individual, one endeavours [to procure a substitute]; the word ‘lambs’ refers to the lamb offered up together with the ‘Omer-sheaf, of which[13] there are remnants to be eaten. — Another objection was raised:[14] If [sacrificial] blood became unclean and one sprinkled it, if by mistake, it is accepted;[15] if wilfully, it is not accepted![16] — This teaching refers to the sacrifice of an individual. Come and hear: For what [mistake at sacrifice] does the priest's plate[17] effect pardon?[18] Concerning blood, flesh, fat, which become unclean, whether by mistake or wilfully, whether by accident or voluntarily,[19] whether [the sacrifice] was offered up by an individual or by the entire community.[20] Now if it enter your mind that the law of uncleanness is inoperative in case of a community, what need is there for [the priest's plate] to effect pardon?- R. Nahman will answer you: What has been taught about the plate's effecting pardon, refers only to the sacrifice of an individual. Or, if you like, one might say, it refers also to such community sacrifices for which no definite time has been set. — Another objection was raised:[20] [Touching on] And Aaron shall bear the iniquity committed in the holy things. Does he bear any kind of iniquity? If you mean the iniquity of piggul [— a sacrifice rejectable[21] because of the intended disposal beyond the legal limits of space], concerning this Scripture has said already, It will not be accepted.[22] If you mean the iniquity of nothar,[23] concerning that Scripture has said already, It shall not be imputed![24]

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(1) The source is Num. IX, 10: If any person . . . shall be unclean by reason of a dead body or be in a journey afar off, he could postpone the offering up of his paschal lamb until the fourteenth of the month of Iyar. From this R. Shesheth infers that a person (an individual) is suspended (postpones the celebration of Passover), but not a community. Pes. 66b.

(2) That the law is only suspended, not inoperative.

(3) V. GIos.

(4) The rendering in our text seems defective. In Men. 72a it reads: If he was standing and offering up the flour-offering of the ‘Omer and it became unclean, if there is another (available), he may say to him, — bring the other’ in its place. And if not he says to him — ‘Be clever and keep quiet’. The Tosef. reads: If he offered up the ‘Omer and it became unclean he tells it and one brings another one in its place. If there be none besides the first, one says to him, ‘Be clever and keep quiet about it’.

(5) Since no substitute is available, silence is wisdom, for the priest's frontplate procures forgiveness for such mishap. V. infra.

(6) Hence it is clear that even in the case of a community the law concerning corpse-uncleanness is but suspended, not rendered inoperative, which contradicts R. Nahman.

(7) Although a communal sacrifice may indeed be offered up also in a state of congregational impurity, it may not be eaten in a state of impurity. V. Pes. 77b.

(8) In the case of an ‘Omer offering, where the priest takes a fistful, I admit that remnants to be consumed must be consumed in cleanliness.

(9) This text is apparently taken from the Tosef. Men. II, yet in that text the word for ‘rams’ is omitted.

(10) V. Num. XXIX, 12ff. These are community sacrifices, with a definite time appointed for them, yet the law of impurity is only suspended, for ‘one brings another one in its place’.

(11) The passage in Num. XV, 22f: And when ye shall err and not observe all these commandments, then it shall be, if done in error by the congregation . . . that all the congregation shall offer up one bullock for a burnt-offering, is assumed to refer to the main and most potent error: idolatry.

(12) Offered up on the Day of Atonement.

(13) The meal-offering brought with the ‘Omer lamb, of which a fistful was taken by the priest and the remnants eaten.

(14) V. Pes. 16b.

(15) And the flesh thereof may be eaten.

(16) [In so far that the flesh may not be eaten, though pardon is effected by means of the priest's plate (v. infra). This proves that the law of uncleanness does operate in the case of a community (which is apparently included in the general terms of this teaching).]

(17) The source is Ex. XXVIII, 36-38: And thou shalt make a plate of pure gold and engrave upon it, like the engravings of a signet: HOLY OF THE LORD. And thou shalt put it on a thread of blue, and it shall be upon the mitre: upon the forefront of the mitre it shall be. And it shall be upon Aaron's forehead and Aaron shall bear the iniquity committed in the holy things which the children of Israel hallow.

(18) Lit., ‘Make (the sacrifice) acceptable.’

(19) The word רצון (free-will) after מזיד (wilfully) is tautologous, but it is a matter of Talmudic style, since אנס (accident) is mentioned, its opposite is also included, illustratively rather than logically.

(20) Men. 25b.

(21) Lev. VII, 18: And if any of the flesh of the sacrifice of his peace-offerings (which according to the preceding verse may be eaten only in the day that it is offered on and on the morrow) be at all eaten on the third day, it shall not be accepted, neither shall it be imputed unto him that offereth it: it shall be an abhorred thing (piggul) and the soul that eateth of it shall bear his iniquity. The term piggul although generally denoting the intention in the mind of the officiating priest to dispose of the sacrifice beyond the proper time (חוץ לזמנה) signifies here according to Rashi the intended disposal thereof beyond the legal limits of space, (חוץ למקומו). V. Zeb. 28a. Tosaf. explains differently.

(22) V. note 5.

(23) [Lit., ‘left over’,generally portions of sacrifice left over beyond the legal time and here with the special meaning of the intended disposal of the sacrifice beyond the legal time, so Rashi.]

(24) Lev. VII, 18.

Talmud - Mas. Yoma 7b

Is it not hence that there is no iniquity which he bears except that concerning levitical uncleanness which has been declared inoperative in its general rule whenever a community sacrifice is involved, and the difficulty remains for R. Shesheth?[1] Concerning this matter the Tannaim differ,[2] for it has been taught:[3] The front plate effects pardon[4] whether it be on the high priest's forehead or not; these are the words of R. Simeon. R. Judah said: As long as it is on his forehead it effects pardon, if it is not on his forehead, it does not effect pardon. R. Simeon said to him: The case of the high priest on the Day of Atonement proves [your contention wrong], for the plate[5] is then not on his forehead and yet it effects pardon — R. Judah answered him: Leave the case of the high priest on the Day of Atonement alone, for to him, because the community is concerned ,[6] the law of uncleanness has been rendered inoperative. Hence it is to be inferred that according to R. Simeon[7] the law of uncleanness is only suspended in case of a community.[8]

Abaye said: If the front plate was broken there is no conflicting opinion, all agreeing that it effects no pardon . The dispute concerns only the case when it is hung up on a peg, R. Judah holding, And it shall be upon the forehead [of Aaron] and he shall bear,[9] whilst R. Simeon bases his opinion on, And it shall be continually upon his forehead, that they may be accepted before the Lord.[10] Now what does ‘continually’ mean? Shall I say that it shall indeed be continually on his forehead? How is that possible? Must he not enter the privy[11] occasionally, must he not sleep at times?[11] Rather must it all imply that [the front plate] ‘continually’[12] effects pardon. According to R. Judah,[13] does not Scripture say ‘continually’?[14] — That word implies that he should never dismiss it from his mind;[15] this is in agreement with Rabbah son of Huna, for Rabbah son of Huna said: A man is obliged to touch his tefillin[16] every hour. This may be learned by inference ad majus from the front plate.

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(1) Who holds that that law is only suspended, not abrogated, where a community sacrifice is involved.

(2) So that R. Shesheth may have the benefit of the support of the Tanna whose opinion he held.

(3) Pes. 77a.

(4) For uncleanness of a sacrifice.

(5) On that day, when the high priest enters the Holy of Holies, he doffs his golden garments, including the front plate, and wears simple linen.

(6) He offers up the sacrifice to make atonement for the whole congregation.
(7) Who opposes the view of R. Judah.
(8) And it is the front plate that effects the pardon. This is the dispute of the Tannaim.
(9) Ex. XXVII, 38.
(10) Ibid., the pardon dependent upon the high priest's bearing the plate.
(11) Respect for the holy garment would necessitate its removal at that time.
(12) The evidence of the text seems to favour R. Simeon's interpretation.
(13) Not only does his own interpretation appear wrong when confronted with R. Simeon's argument.
(14) The word 'continually', which cannot be referred to the wearing of the plate, needs must be applied to its efficacy.
(15) Not the outward efficacy of the plate; the attitude of the high priest towards its function is what the Torah prescribes here.
(16) Originally the tefillin were worn all day. V. Shab. 130a.

Talmud - Mas. Yoma 8a

If touching the front plate, on which the mention [of God] is but inscribed once,[1] the Torah prescribes 'And it shall be continually upon his forehead,' i.e., he shall not dismiss it from his mind, how much more does this apply to the tefillin which contain the mention [of God] many a time![2] But according to R. Simeon who says the front plate effects pardon always, does not Scripture intimate [in the passage], 'On the forehead [of Aaron] and he shall bear' [that the effecting of pardon depends on his bearing the plate]?- No, that passage merely serves to indicate the place of the plate. Whence does R. Judah know that there is a definite place prescribed for the front plate?[3] He infers that from 'On his forehead'. Why should not R. Simeon infer it from the passage too?[4] -Indeed he does. Then how does he interpret On the forehead [of Aaron] and he shall bear'?- He will tell you: [It means to say that] whatsoever is fit to rest 'on the forehead', can effect pardon, whatsoever is not fit to rest on the forehead cannot effect it. This excludes a broken plate, which, indeed, cannot effect a pardon. Whence now does R. Judah infer the law concerning a broken plate? — He derives it from the [fact that instead of] 'the forehead' the text has 'his forehead'.[5] R.Simeon, however, does not attach any significance to [the words] 'the forehead', [and] 'his forehead'.[6]

Are the above Tannaim disputing the principle of the following Tannaim? For it has been taught: On both of them[7] throughout the seven days they would sprinkle from all the sin-offerings[8] that were there;[9] these are the words of R. Meir. R. Jose said: They sprinkled him only on the third and seventh days. R. Hanina, the deputy high priest[10] said: The priest that was to burn the red heifer they sprinkled on each of the seven days, but the high priest that was to officiate on the Day of Atonement was sprinkled only on the third and seventh day.[11] Is it not that their difference rests on this principle: R. Meir holds the law concerning ritual uncleanness to be only suspended in the case of community, whilst R. Jose considers it inoperative in that case.[12] But how can you understand the case of a community?[13] If R. Jose holds that the law concerning ritual uncleanness is inoperative in case of a community, why is any sprinkling necessary? — Rather, you must assume that all agree that these Tannaim hold that law to be only suspended in case of a community and the point of issue here between them is this: R. Meir holds that we say that it is obligatory[14] for the ritual immersion to be taken in its proper time,[15] and R. Jose holds we do not say that it is obligatory for the ritual immersion to be taken in its proper time.[15] But does R. Jose hold that we do not maintain that it is obligatory for the ritual immersion to take place in its proper time? Surely, it has been taught: One who has the name [of God] inscribed on his flesh must not bathe[16] nor anoint himself nor stand at a place of filth. If he happens to have an obligatory ritual bath, he should place reed grass on that part and thus bathe.[17] R. Jose says: He may go down to bathe as usual, provided he does not rub that part.[18] And it is established that they are disputing the question as to whether it is obligatory for a ritual immersion to take place in its proper time; the first Tanna holding we do not say that it is obligatory for a ritual immersion to be taken in its proper time, and R. Jose affirming that we do say that it is obligatory for a ritual immersion to be taken in its proper place.[19] — Rather: Everybody agrees that those two Tannaim[20] both hold we do say that it is obligatory for a ritual immersion to be taken in its proper time, and their dispute above concerns the following principle: R. Meir is of the opinion that we compare[21] the [law concerning] 'sprinkling' to [that concerning] the immersion[22] and R. Jose holds we do not compare 'sprinkling' to immersion'. What about R. Hanina, the deputy high priest? If he compares 'sprinkling' to 'immersion', the high priest on the Day of Atonement too [should be sprinkled on every day]. And if he does not compare 'sprinkling' to 'immersion' the priest who burns the heifer [should] neither [be sprinkled on every day]? — In truth he does not make that comparison, the enactment[23] touching the priest who burns the heifer being a mere special stringency.[24]

According to whose opinion is the following teaching: There is no difference between the priest who burns the heifer and the high priest on the Day of Atonement except

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(1) In the inscription 'HOLY UNTO THE LORD'.

(2) In the four excerpts from the Torah, which they contain. Hence the obligation to touch tefillin all the time, as a reminder of the lessons they convey.

(3) Since he interprets 'On the forehead and he shall bear' as indicating interdependence of pardon and plate, whence does he know the place of the plate?- Perhaps it may be worn elsewhere too.

(4) The passage is simple and direct enough and untouched by the controversy.

(5) In the phrase 'On his forehead continually', R. Judah derives the law of the broken plate from the use of the possessive.

(6) There is nothing abnormal calling for special attention in the use of the possessive.

(7) V. supra p. 12 notes.

(8) With water from the ashes.

(9) Which remained from red heifers from the time of Moses until that period (Bertinoro). V. also Parah III, 5. From the ashes of every heifer some part was kept for future use.

(10) Segan. V. Sanh., Sonc. ed. p. 91, n. 1.

(11) Cf. Num. XIX, 19.

(12) Which shows that R. Jose and R. Meir differ on the same principle as R. Judah and R. Simeon.

(13) Lit.,'Can you hold that opinion?'

(14) Mizwah may mean 'commandment', 'good deed', 'ought', 'is obligatory'.

(15) [On the day prescribed by the law, and the same applies to the sprinkling which for the reason explained infra must take place every day.]

(16) Lest he blot out the name of God.

(17) Lest he blot out 'the name of God.

(18) V. Shab. 120b.

(19) From here it would appear that R. Jose held the ritual bath should be taken as soon as it is due.

(20) R. Meir and R. Jose.

(21) Lit., 'analogy', 'comparison', usually based on the close connection of two subjects in one and the same passage of the Torah. Arguments from Hekkesh are, in general, regarded as being more conclusive than those from Gezerah Shawah, the former not admitting of refutation. Both could be applied only for the purpose of supporting a traditional law. Mielziner, l.c.

(22) Cf. supra p. 12.

(23) That he be sprinkled on the third and fifth days.

(24) As to the stringency v. p. 10, n. 2, but even so the sprinkling was not indispensable on any definite day; all that was prohibited was too long an interval between the first and the second sprinkling (Rashi).

Talmud - Mas. Yoma 8b

that the latter is removed for the purpose of sanctity,[1] and his fellow priests were permitted to touch him, whilst the former is removed for purposes of ritual and his colleagues forbidden to touch him. According to whom [is this teaching]? According to the opinion either of R. Meir or of R. Jose. For if it were in accord with the opinion of R. Hanina, deputy high priest, there would be one more point of difference.[2]

R. Jose, the son of R. Hanina demurred to this: It is quite right that we sprinkle him on the first day,[3] because that may be the third of his impurity; similarly on the second, because that may be the third day of his impurity; on the third, because that may be the third day of his impurity; on the fifth, because that may be the seventh day of his impurity; on the sixth, because that may be the seventh day of his impurity; on the seventh, because that may be the seventh day of his impurity. But on the fourth day why should there be any sprinkling at all? That day could not be in doubt as being either the third day[4] or the seventh day[5] of his impurity? — But, according to your own point of view, how can there be sprinkling throughout the seven days? For have we not an established rule that the sprinkling is forbidden as shebuth[6] and as such cannot override the Sabbath?[7] — But you must then needs say: ‘Seven days with the exception of the Sabbath’, similarly here, ‘Seven[8] with the exception of the fourth day.’ Rabah said: For that reason since the matter of the high priest on the Day of Atonement does not depend on us but on the fixing of the calendar,[9] he ought to be separated on the third of Tishri, and on whatever day the third of Tishri falls, we would remove him; but as to the priest who burns the heifer, since the matter depends on us,[10] we should remove him on the fourth of the week, so that his fourth day would fall on the Sabbath.

TO THE CELL OF THE COUNSELLORS etc. R. Judah said, Was it the ‘cell of the parhedrin [counsellors], was it not rather the ‘cell of the buleute[11] [senators]’? Originally, indeed, it was called the ‘cell of the buleute’ but because money[12] was being paid[13] for the purpose of obtaining the position of high priest and the [high priests] were changed every twelve[14] months, like those counsellors, who are changed every twelve months,[15] therefore it came to be called ‘the cell of the counsellors’.

We learnt elsewhere: upon the bakers[16] the Sages imposed only the duty of setting apart[17] enough for the heave-offering of tithe[18] and hallah.[19] Now, it is quite right [that they did not impose] the great heave-offering, because it has been taught:

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(1) As the high priest was about to enter the sanctuary, he was removed from all, in order that he may, in solitude, take upon himself the holiness of the day, shed all pride of office and concentrate on his great responsibility viz.,to obtain forgiveness of sin for Israel. As for the priest of the heifer, v. p. 2, n. 2.

(2) For according to R. Hanina, there is this additional difference that the high priest is sprinkled on the third and seventh day only, whereas the priest who is to burn the heifer is sprinkled on each of the seven days.

(3) Of the priest's separation, Num. XIX, 19: And the clean person shall sprinkle upon the unclean person on the third day, and on the seventh day; and on the seventh day shall he purify him. Ibid. 12: But if he purify himself not on the third day and on the seventh day, he shall not be clean.

(4) For, since he became separated he did not touch a corpse.

(5) For if the fourth day of his separation were the seventh day of his impurity, then the day before his separation would needs have been the third day of his impurity, and not having been sprinkled on that day, he could not be sprinkled on the seventh day of his impurity (the fourth day of his separation) for a first sprinkling on the third day of the impurity is indispensable for the second sprinkling on the seventh day.

(6) Lit., ‘rest’, work forbidden by the Rabbis on the Sabbath and festivals as being out of spirit with the ceremony of the day.

(7) I.e., the prohibition of work on the Sabbath. Pes. 65a.

(8) ‘Seven’ must be understood to mean exceptis excipiendis, with the exception of those days on which the sprinkling is not lawful or not necessary.

(9) Lit., ‘month’. His entering the sanctuary on the Day of Atonement on the tenth of Tishri depends only on the fixing of the new moon by the Sanhedrin (Cf. Sanh. 2a), from which the tenth would be counted.

(10) There is no definite time prescribed for the burning of the red heifer.

(11) [**, the members of the **, the administrative body of the city of Jerusalem. V. Buchler, Synedrion p. 232.]

(12) To the Hasmonean kings and their satellites.

(13) [So Rashi cur. ed. (lit.,) ‘they gave money for it’ etc. The phrase ‘for it’ (עליו) is obscure.]

(14) This is not to be taken literally. On an average, as the Talmud tells later on, these high priests lasted twelve months, no longer. [MS.M. reads: ‘They were changed by Heaven’. I.e., they did not survive the twelve months. Others: ‘They were removed by the king when a higher price was offered him for the priesthood.’ Rashi reads: ‘They changed it,’ ‘it’ referring to the chamber. Each new priest on his accession would set up a new chamber for himself.]

(15) Rashi: The king removed his counsellors annually.

(16) Bakers who were ‘Fellows’ of the pharisaic order. As such they had to undertake scrupulous observance especially of the laws of levitical purity. The haberim (fellows) were distinguished from the great mass of the ‘ame ha-arez, the untrained multitude, who were suspects as to levitical purity and also as to the payment of tithe. V. infra.

(17) From the doubtfully tithed fruit which they had brought of the ‘amme ha-aretz.

(18) Terumath Ma'aser. V. Glos. s.v. terumah. Terumah Gedolah. V. Glos. s.v. terumah.

(19) The priest's share of the dough. V. Demai II, 4.

Talmud - Mas. Yoma 9a

Because he[1] sent into all the districts of Israel and he found that they[2] were separating only the great heave-offering;[3] [it is also right that the Sages did not impose upon these bakers] the first tithe and the poor man's tithe,[4] because [of the principle that] the claimant must produce evidence;[5] but the second tithe, let then [the baker] separate, take it up to Jerusalem and eat it there! ‘Ulla said: Because these parhedrin[6] were beating them all the twelve months[7] and telling them ‘sell cheap, sell cheap,’ the Sages did not burden them [to set apart the second tithe and take it up to Jerusalem].[8] What does parhedrin mean? — Porase [managers].[9] Rabbah b. Bar Hana said: What is the meaning of the passage, The fear of the Lord prolongeth days,’ but the years of the wicked shall be shortened?[10] ‘The fear of the Lord prolongeth days’ refers to the first Sanctuary, which remained standing for four hundred and ten years and in which there served only eighteen[11] high priests. ‘But the years of the wicked shall be shortened’[10] refers to the second Sanctuary, which abided for four hundred and twenty years and at which more than three hundred [high] priests served . Take off therefrom the forty years which Simeon the Righteous served,[12] eighty years which Johanan the high priest served,[13] ten, which Ishmael b. Fabi[14] served, or, as some say, the eleven years of R. Eleazar b. Harsum.[15] Count [the number of high priests] from then on and you will find that none of them completed his year [in office].[16] R. Johanan b. Torta[17] said: Why was Shiloh[18] destroyed? Because of two [evil] things that prevailed there, immorality and contemptuous treatment of sanctified objects. [Proof that] immorality prevailed because it is written, Now Eli was very old, and he heard all that his sons did unto Israel, and how that they lay with the women that did service at the door of the tent of meeting. Notwithstanding R. Samuel b. Nahmani who said in the name of R. Johanan: Whosoever says, The sons of Eli sinned[19] is but mistaken; it is

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(1) Johanan, the high priest.

(2) The great mass of the people, exclusive of the Haberim. V. Glos. s.v. haber.

(3) V. Sot. 48a.

(4) The first tithe belonged to the Levite and was due annually; the second tithe was to be consumed by the owner in Jerusalem, annually; the third tithe was due every third year-it was the poor man's tithe.

(5) The heave-offering of the tithe, like the terumah (v. Glos.) itself, was, on penalty of death through divine action, forbidden to be eaten by a non-priest. With regard to the poor man's tithe, the baker could say: If you want to assert legal claim thereto, you will have to prove that the ‘am ha-arez, from whom I bought it, has failed to give tithe thereof before he sold it to me. Unless such proof was forthcoming, there was no legal claim on the part of the Levite on the non-Levite poor to its possession.

(6) Paredroi-assessors, counsellors. The Mishnah J. reads paledroi. The Tosef. paredroi. These assessors had a bad reputation from their oppressive measures at the market places, over which, as commissioners, they had jurisdiction. So that, apart from the fact that the high priests, during the second Temple, were changed as often as these officials, the fact that they were dubbed paredroi indicates that there must have been more than one point of contact between these officials and the priests.

(7) Usually their office was of twelve months' duration. As the next line shows, these officials made full use of their twelve months' opportunity for abuse of power.

(8) The Sages preferred to give the baker haberim the benefit of the doubt that the 'amme ha-arez, as a rule, do give the tithe.

(9) Cf. "**, supervisor, purser, collector, which is logical rather than etymological.

(10) Prov. X, 27.

(11) [Var. lec., eight priests. Cf. I Chron. V, 36ff. Jehozadak who was taken to exile not being counted. V. Tosaf. s.v. ולא and Rashi I Chron. V, 36.]

(12) Simeon the Just, High Priest Simon I, c. 300 b.c.e. ' v. Aboth, Sonc. ed., p. 2.

(13) John Hyrcanus, the Hasmonean high priest (Jastrow). V. Ber. He succeeded Simeon the Righteous as high priest (Bertinoro, Ma'as. Sh., 5, end). After eighty years serving as high priest he became a Sadducee (Ber. 29a). That makes it difficult to identify him with John Hyrcanus.

(14) V. Tosef. cf. Yoma 1. [High priest in the days of Agrippa II. He is not to be confused with the high priest of the same name who is reported by Josephus (Wars VI 2, 2) to have been executed in Cyrene after the destruction of the Temple. V. Buchler. op. cit. p. 98.]

(15) V. ibid. I. The Tosef. reads Harsoth. In Yoma 35b he is described as a model rich man who forsook his financial interests to devote himself to the Torah.

(16) Bah, in his marginal notes, inserts on the basis of text on parallel passages the following interpolation here: R, Johanan b. Torta said: 'And why all that? Because they bought the priestly office for money, for R. Assi reported that Martha, the daughter of Boethus, brought King Jannai two kabful of denars to nominate Joshua b. Gamala as one of the high priests. And R. Johanan b. Torta said (further). The same statement is made, infra 18a, in the name of R. Assi.

(17) An interesting account of Torta is given in the Pesik. Rab. XIV: (tortah being taken as the feminine of tora, hence cow. It occurs in this form in the Targum Num. XIX, 2.) He said: If a cow that has no speech and no mind, recognized her Creator, should I, whom my Maker created in His image, not go and acknowledge Him. He became a Jew, studied, grew efficient in the Torah and they named him Johanan b. Torta.

(18) The seat of the Tabernacle after the conquest.

(19) As the text indicates. The same apologetics are elsewhere used to defend Reuben, the sons of Samuel, David, Solomon. (Shab. 55b).

Talmud - Mas. Yoma 9b

because they delayed offering up their sacrificial[1] birds Scripture accounts it to them as if they had lain with them. The [sacred] offerings were treated contemptuously, as it is written,[2] Yea, before the fat was made to smoke, the priest's servant came and said to the man that sacrificed: ' Give flesh to roast for the priest,' for he will not have sodden flesh of thee, but raw.' And if the man said unto him: 'Let the fat be made to smoke first of all, and then take as much as thy soul desireth': then he would say: 'Nay, but thou shalt give it me now, and if not, I will take it by force. ' And the sin of the young men was very great before the Lord, — for the men dealt contemptuously with the offering of the Lord.

Why was the first Sanctuary destroyed? Because of three [evil] things which prevailed there: idolatry, immorality, bloodshed. Idolatry, as it is written: For the bed is too short for a man to stretch himself and the covering too narrow when he gathereth himself up.[3] What is the meaning of 'For the bed is too short for a man to stretch himself'? R. Jonathan said: It is: This bed[4] is too short for two neighbours to stretch themselves. And [what is the meaning of] 'the covering too narrow when he gathereth himself up'? — R. Samuel b. Nahmani said: When R. Jonathan [in his reading] came to this passage, he would cry and say: To Him , concerning Whom it is written, He gathereth the waters of the sea together like a heap,[5] the cover became too narrow! Immorality [prevailed] as it is written: Moreover the Lord said: Because the daughters of Zion are haughty, and walk with stretched-forth necks and wanton eyes, walking and mincing as they go, and make a tinkling with their feet.[6] 'Because the daughters of Zion are haughty', i.e., they used to walk with proud carriage. 'And wanton eyes' i.e., they filled their eyes with kohl.[7] 'Walking and mincing as they go', i.e. , they used to walk with the heel touching the toe. 'And make a tinkling with their feet', R. Isaac said: They would take myrrh and balsam and place it in their shoes[8] and when they came near the young men of Israel they would kick, causing the balsam to squirt at them and would thus cause the evil desire to enter them like an adder's poison.

Bloodshed [prevailed] as it is written: Moreover Manaseh shed innocent blood very much, till he had filled Jerusalem from one end to another.[9] They were wicked, but they placed their trust in the Holy One, blessed be He.[10] For it is written, The heads thereof judge for reward, and the priests thereof teach for hire, and the prophets thereof divine for money; yet will they lean upon the Lord and say 'Is not the Lord in the midst of us? No evil shall come upon us'.[11] Therefore the Holy One, blessed be He, brought them three evil decrees as against the three evils which were their own:[12] Therefore shall Zion for your sake be plowed as a field, and Jerusalem shall become heaps and the mountain of the house as the high places of a forest. But why was the second Sanctuary destroyed, seeing that in its time they were occupying themselves with Torah, [observance of] precepts, and the practice of charity? Because therein prevailed hatred without cause. That teaches you that groundless hatred is considered as of even gravity with the three sins of idolatry, immorality, and bloodshed together . And [during the time of] the first Sanctuary did no groundless hatred prevail? Surely it is written: They are thrust down to the sword with my people; smite therefore upon my thigh,[13] and R. Eleazar said: This refers to people who eat and drink together and then thrust each other through with the daggers of their tongue! — That [passage] speaks of the princes in Israel, for it is written , Cry and wail, son of man; for it is upon my people,[13] etc. [The text reads] 'Cry and wail, son of man'. One might have assumed [it is upon] all [Israel], therefore it goes on, Upon all the princes of Israel.

R. Johanan and R. Eleazar both say: The former ones whose iniquity was revealed[14] had their end[15] revealed, the latter ones whose iniquity was not revealed have their end still unrevealed.

R. Johanan said: The fingernail of the earlier generations[16] is better than the whole[17] body of the later generations. Said Resh Lakish to him: On the contrary, the latter generations are better,[18] although they are oppressed by the governments, they are occupying themselves with the Torah .- He [R. Johanan] replied: The Sanctuary will prove [my point] for it came back to the former generations, but not to the latter ones.

The question was put to R. Eleazar: Were the earlier generations better, or the later ones? — He answered: Look upon the Sanctuary! Some say he answered: The Sanctuary is your witness [in this matter].[19]

Resh Lakish was swimming in the Jordan. Thereupon Rabbah b. Bar Hana came and gave him the hand:[20] Said [Resh Lakish] to him: By God! I hate you. For it is written: If she be a wall, we will build upon her a turret of silver; if she be a door, we will enclose her with boards of cedar.[21] Had you made yourself like a wall and had all come up in the days of Ezra, you would have been compared to silver, which no rottenness can ever affect. Now that you have come up like doors,[22] you are like cedarwood, which rottenness prevails over. What is erez ['cedar']?- 'Ulla said: It is sasmagor.[23] What is 'sasmagor'?-R. Abba says it is the divine[24] voice as it has been taught: After the later prophets Haggai, Zechariah, and Malachi had died, the Holy Spirit[25] departed from Israel, but they still availed themselves of the Bath Kol.[26] — But did Resh Lakish talk with Rabbah b. Bar Hana?[27] Even with R. Eleazar, who was the master of the land of Israel, Resh Lakish did not converse[28] [for anyone with whom Resh Lakish conversed in the street could get merchandise without witnesses][29] would he engage in conversation with Rabbah b. Bar Hana?-R. Papa said: 'Throw a man between them'.[30] It was either Resh Lakish and Ze'iri or Rabbah b. Bar Hana and R. Eleazar.[31] When he [Resh Lakish] came before R. Johanan , he said to him: This is not the reason.[32] Even if they had all come up in the time of Ezra, the Divine Presence would not have rested over the second Sanctuary, for it is written:[33] God shall enlarge Japheth, and he shall dwell in the tents of Shem, [that means],

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(1) Lev. XII, 8.
(2) I Sam. li, 15-17.
(3) Isa. XXVIII, 20.
(4) Manasseh the faithless king, introduced idols into the very Sanctuary. There was no room for the God of Israel, together with an idol, in his one Sanctuary.
(5) Ps. XXXIII, 7. The ad hoc exposition here is either: ‘On his cover (the idol) became His rival,’ or ‘The cover itself, used for idolatrous purposes, thus became His rival,’ the cover here standing for the Sanctuary.
(6) Isa. III, 16.
(7) A powder used for painting the eyelids, stibium (Jastrow).
(8) Bah interpolates here: and walking around in the streets of Jerusalem and when they came near etc., v. D.S.
(9) II Kings XXI, 16.
(10) The text as it stands is in need of correction. The present rearrangement based on text in parallel passages (v. D.S.) is adopted by Bah. [Cur. edd. insert: ‘This refers to the first Sanctuary’. This, on the rearrangement of the text adopted (v. n. 5), is evidently superfluous. V. D.S.]
(11) Micah III, 11.
(12) Ibid. 12.
(13) Ezek. XXI, 17.
(14) ‘Who did not hide their misdeeds’ (Rashi).
(15) I.e., the end of their captivity. Jer. XXIX, 10: For thus saith the Lord: After seventy years are accomplished in Babylon, I will remember you and perform My good word to you, in causing you to return to this place.
(16) The earlier generations are, of course, those of the first Temple, the later ones Israel since the second destruction.
(17) Lit. , ‘the belly’.
(18) Or ‘better off’. There is a slight shift in the argument. R. Johanan had referred to their value, Resh Lakish to their political and moral condition.
(19) It came back to them after the first destruction, it has not come back to us as yet. There is only a slight difference in Hebrew between the two versions עיניכם and עידיכם.
(20) [To help Resh Lakish out of the water. V. D.S. a.l. n. 100.]
(21) Cant. VIII, 9.
(22) A wall is of one piece, a door, a gate at least of two. Had Israel come from Babylon, not in parts, but at once, Jewry in Palestine may have been found worthy of a restoration of the Sanctuary.
(23) Perhaps a comp. of sass and magor-magerah i.e. , a sawing worm. Bah reads: The worm destroys and saws it off from within.
(24) Bath Kol (v. Glos.). Just as some part of the cedar is unaffected by the worm, surviving the ruin, so was the gift of the divine voice a remnant of God's grace, even after the destruction. V., however, Cant. Rab. VIII, 11
(25) Of prophecy.
(26) V. Sot. 48b.
(27) [In the street, v. infra.]
(28) Tosaf. a.I. suggests that he would not address R. Eleazar, but would, of course, offer him the courtesy of a reply, when addressed by him; an example is cited from Zeb. 5a.
(29) One would trust the honesty of a man whom Resh Lakish honoured by engaging him in public conversation.
(30) Change the account by substituting one other man for one of the persons mentioned in the original account.
(31) ‘If Resh Lakish was the swimmer, make Ze'iri the other man; or Rabbah b. Bar Hana offered the hand and R. Eleazar was the swimmer’ (Rashi). [Aliter: Or Rabbah b. Bar Hana (who was a Palestinian) was the swimmer, and R. Eleazar (who was a Babylonian) offered the hand, v. Hyman, Toledoth, p.3 1076.]
(32) Your complaint was unjustified.
(33) Gen. IX, 27.

Talmud - Mas. Yoma 10a

although God has enlarged Japheth,[1] the Divine Presence rests only in the tents of Shem.[2] Whence do we know that the Persians are derived from Japheth? — Because It is written: The sons of Japheth: Gomer, and Magog, and Madai and Javan, and Tubal, and Meshek, and Tiras.[3] ‘ Gomer’, i.e. Germania:[4] ‘Magog’, i.e. Kandia;[5] ‘Madai’, i.e. Macedonia; ‘Javan’,[6] in its literal sense; ‘Tubal’ , i.e. Beth-Unyaki;[7] ‘Meshek’, i.e. Mysia;[8] ‘Tiras’ — its identification is a matter of dispute between R. Simai and the Rabbis, or, according to another report, between R. Simon and the Rabbis, one holding that it is to be identified with Beth Tiryaka,[9] and the other [authorities] declaring it is Persia. R. Joseph learnt: ‘Tiras’ is Persia, Sabtah and Raamah, and Sabteca.[10] R. Joseph learnt: I.e. the inner Sakistan and the outer Sakistan.[11] Between the two there is [a distance] of one hundred parasangs and its circumference one thousand parasangs .[12] And the beginning of his kingdom was Babel and Erech, and Accad, and Calneh in the land of Shinar.[13] ‘Babel’ in its usual sense; ‘Erech’ ‘ i.e. Urikath;[14] ‘Accad’, i.e. Baskar;[15] ‘Calneh’, i.e. Nupar —[16] Ninpi. Out of that land went Ashur.[17] R. Joseph learnt: ‘Ashur’, i.e. Silok.[18] And builded Nineveh and Rehoboth-ir, and Calah.[19] ‘Nineveh in its usual Sense; ‘Rehoboth-ir , i.e. Perath of Meshan.[20] ‘Calah’ i.e., Perath de Borsif.[21] And Resen between Nineveh and Calah — the same is the great city.[22] ‘Resen’, i.e., Ctesiphon.[23] ‘The same is the great city’. [From here] I do not know yet whether by ‘the great city’ Nineveh or Resen is meant. But, as Scripture says, Now Nineveh was an exceeding great city unto God, of three days’ journey,[24] say that by ‘the great city’ Nineveh is meant.

And[25] Ahiman, Sheshai, and Talmai the children of Anak, were there.[26] A Tanna taught: ‘Ahiman’, i.e., the most skilful[27] of the brethren; ‘Sheshai’,[28] ie, he made the ground [he stepped on] like pits; ‘Talmai’, i.e.,he made the ground full of ridges. Another comment:[29] Ahiman built Anath, Sheshai built Alush; Talmai built Talbush.[30] [They were called] ‘the children of Anak’, because they lorded it over the sun by reason of their height.[31]

R. Joshua b. Levi in the name of Rabbi said: Rome is designed to fall into the hand of Persia, as it was said: Therefore hear ye the counsel of the Lord, that He hath taken against Edom; and His purposes that He hath purposed against the inhabitants of Teman: surely the least of the flock shall drag them away, surely their habitation shall be appalled to them.[32] Rabbah b. ‘Ullah demurred to this: What intimation is there that ‘the last of the flock’ refers to Persia? [Presumably] because Scripture reads: The ram which thou sawest having two horns, they are the kings of Media and Persia.[33] But say [perhaps] it is Greece, for it is written, And the rough he-goat is the king of Greece?[34] — When R. Habiba b. Surmaki came up,[35] he reported this interpretation before a certain scholar. The latter said: One who does not understand the meaning of the passage asks a question against Rabbi. What does, indeed, ‘the least of the flock’ mean? The youngest of his brethren, for R. Joseph learnt that Tiras is Persia.[36]

Rabbah b. Bar Hana in the name of R. Johanan, on the authority of R. Judah b. Ila'i, said: Rome is designed to fall into the hands of Persia, that may be concluded by inference a minori ad majus: If in the case of the first Sanctuary, which the sons of Shem [Solomon] built and the Chaldeans destroyed, the Chaldeans fell into the hands of the Persians,[37] then how much more should this be so with the second Sanctuary, which the Persians built and the Romans destroyed, that the Romans should fall into the hands of the Persians.[38] Rab said: Persia will fall into the hands of Rome. Thereupon R. Kahana and R. Assi asked of Rab: [Shall] the builders fall into the hands of the destroyers? — He said to them: Yes, it is the decree of the King.[39] Others say: He replied to them: They too are guilty for they destroyed the synagogues. It has also been taught in accord with the above, Persia will fall into the hands of Rome, first because they destroyed the synagogues, and then because it is the King's decree that the builders fall into the hands of the destroyers. Rab also said: The son of David will not come until the wicked kingdom of Rome will have spread [its sway] over the whole world for nine months, as it is said: Therefore will He give them up, until the time that she who travaileth hath brought forth; then the residue of his brethren shall return with the children of Israel.[40]

Our Rabbis taught: All the cells in the Sanctuary were without a mezuzah[41] with the exception of the cell of the counsellors, for therein there was a residence for the high priest. R. Judah said: Were there not a number of cells in the Sanctuary which had a compartment for a dwelling, yet had no mezuzah? Rather, the [reason for the] mezuzah on the cell of the counsellors was due to a preventive measure, What was the reason for R. Judah's statement? — Rabbah said, R. Judah is of the opinion, any house which is not made to serve both as a summer-home and a winter-home, is not a house.[42] Abaye raised an objection: But it is written: And I will smite the winter-house with the summer-house![43] — He answered: They are called summer-house or winter-house, but not by the general name house. Abaye raised the following objection: 'The sukkah[44] used at the Feast [of Tabernacles] according to R. Judah renders [the fruit brought during the Feast] liable to tithe, whereas the Sages exempt it [from such duty]';[45] and it has been learnt in connection with it: R. Judah considers [a sukkah] liable to 'erub,[46] a mezuzah to tithe.[47] And if you should say he considers it liable to these duties only on rabbinic enactment, that could apply to 'erub and mezuzah, but as regards tithe, can one say that it is but a rabbinic enactment, [should we not fear]

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(1) Japheth here stands for Persia, as the following account endeavours to show.

(2) [I.e. , the Divine Presence rests only in the Temple built by Solomon, a descendant of Shem and not in that built by the Persians, the descendants of Japheth.]

(3) Gen. X, 2.

(4) Germania, the land of the Cimmerii. [Rieger, P. (MGWJ, 1936 p. 455) identifies it with the modern Kerman in South Persia.]

(5) Usually identified with Crete. [J. Meg. I, 11 reads: Gothia, the land of the Goths.]

(6) [J.T.loc. cit. reads, 'Madai in its literal sense, Javan is Ephesus'. Golds. accordingly reads Madai in its literal sense, Javan is Macedonia.]

(7) Bithynia in Asia Minor.

(8) Mysia, a district in Asia Minor.

(9) Thrace.

(10) Gen. X,7.

(11) Drangania, a district in Persia (Jast.). [Golds. Scythia.]

(12) Rashi: They are a district surrounded by mountains. The outer S. includes the inner S., the inner which is one hundred parasangs' distance from the outer, while the circumference of the outer one is one thousand parasangs.

(13) Gen.X, 10.

(14) Warka, S.E. of Babylon (Jast.).

(15) Jast. reads כשכר Cashkar, Cascara in Babylonia (v. Payne-Smith 1843).

(16) Ass. Nippur, modern Niffer. [Ninpi was probably an additional name by which Nippur was known and which is probably derived from the planet-god Ninib, Obermeyer p. 336.]

(17) Gen. X, 11.

(18) In Keth. 10b the reading is סליקא Selucia, on the border of Babylonia and Assyria.

(19) Gen. X, 11 .

(20) Perath, according to Jastrow seems to be the general name of certain districts, thus in connection with Meshan, Messene, the island formed by the Euphrates, the Tigris and the royal canal. Berliner, Beitr. z. Geogr. 44.

(21) A city near the site of Babel, Borsippa.

(22) Gen. X,12.

(23) A town on the eastern bank of the Tigris.

(24) Jonah III, 3.

(25) The Talmud continues with aggadic interpretation of other names.

(26) Num. XIII, 22.

(27) Root ימן (denominative of ימין 'right'). 'To endow with skill', 'distinguish'.

(28) According to Rashi the name is to be connected with the root meaning 'desolation', Lam. III, 47.

(29) Rashi omits, 'Another comment', and just adds the information as to the building activity of the giant en passent.

(30) [Identified by Obermeyer with 'Anah, Alusa and Telbeth, three fortified island-towns on the Northern Euphrates.]

(31) So Jast. Rashi: "With their height reaching up to the sun it surrounded their neck as a necklace does the neck.

(32) Jer. XLIX, 20.
(33) Dan. VIII, 20.
(34) Dan. VIII, 21.
(35) From Babylon to Palestine.
(36) Tiras is mentioned last in Gen. X, 2, hence the ‘youngest of the brethren’.
(37) The destroyers fell into the hands of their enemies. Belshazzar into the hands of Darius (Rashi).
(38) It seems logical that the destroyers fall into the hands of the builders.
(39) The Supreme King of Kings.
(40) Micah V, 2, interpreting the verse that the duration of the people's abandonment will be ‘until the time etc.’, i.e. nine months, the period of pregnancy.
(41) The inscription of Deut. VI, 4-9, XI, 13-21 on a slip of parchment.
(42) Only a ‘house’ (cf. Deut. VI, 9) requires a mezuzah, not a temporary residence.
(43) Amos III, 15.
(44) The booth covered with twigs for the seven days of Sukkoth (Tabernacles). Lev. XXIII, 33-44.
(45) V. Ma'as. VII, 3. The liability to tithes begins only from the moment the produce is brought into the house, v. Ma'as. I, 3 and the point at issue between R. Judah and the Sages is whether a sukkah is considered a house in what concerns tithes.
(46) For the purpose of regulating Sabbath limits of movement a legal community or continuity is symbolically established for the inhabitants of a city, a court etc. If the sukkah opens out into a court in which there are other dwellings too, the inhabitants of all these dwellings will contribute their share towards a dish to be deposited in one of the dwellings, by which act the dwellings are considered as common to all, and the carrying of objects across the court and from one dwelling to another will be permitted.
(47) Only a house needs ‘erub and mezuzah.

Talmud - Mas. Yoma 10b

that he may come to set aside tithe from where it is obligatory for where it is exempt and from where it is exempt for where it is obligatory?[1] -Rather, said Abaye, there is no dispute concerning the seven days [of the separation], all agreeing that [the cell] is liable [to have a mezuzah];[2] what the dispute is concerned with is the other days of the year; the Rabbis would institute it as a precautionary measure on account of the seven days, whilst R. Judah does not see the need for such a measure. Raba said to him: But the teaching [of the Mishnah][3] reads, ‘The sukkah of the Feast during the Feast’! Therefore says Raba: On all other days of the year they all agree that there is no obligation [for a mezuzah at the sukkah and cell], the dispute touches only the seven days, and there is a special ground in the case of the sukkah and there is a special reason in the case of the cell. There is a special reason in the case of the sukkah: R. Judah, holding in accordance with his own principle, that the sukkah must have the character of a permanent residence, hence considers [the sukkah] is liable to a mezuzah, whilst the Rabbis, following their own principle, hold that the sukkah must have the character of an incidental residence, and hence requires no mezuzah. There is also a special reason for the dispute in the case of the cell [of the counsellors]; the Rabbis hold that a dwelling not freely chosen is called a dwelling whilst R. Judah is of the opinion that such dwelling is not included in the term dwelling; only rabbinically it was arranged that a mezuzah be affixed at the cell lest the people say the high priest is being kept in prison.[4]

Who has taught the following which our Rabbis have taught:

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(1) He might take off the tithe from something that is liable to tithe only by rabbinic enactment for some other heap (of produce), which is liable by the law of the Torah, and vice versa, thus invalidating the former and the latter.
(2) Even as at the sukkah.
(3) V. supra p. 45, n. 5. And yet it is said: ‘The Sages exempt it from tithe’, hence even during the seven days, according to one view, there would be exemption from the duty.
(4) Since only a dwelling not freely chosen does not need a mezuzah.

Talmud - Mas. Yoma 11a

All the gates that were there[1] had no mezuzah, with the exception of the gate of Nicanor,[2] within which the cell of the counsellors was situated . Apparently this teaching is in agreement with the Rabbis[3] and not with R. Judah. For, if it were to be R. Judah's opinion [surely] he holds that [the mezuzah at the cell] itself is only a rabbinical enactment, shall we enact a preventive measure[4] to guard another preventive measure?[5] — You might even say it is in accord with R. Judah. [They are not two separate enactments, rather] the whole is but one measure.[6]

Our Rabbis taught: And upon thy gates:[7] alike upon the gates of houses, upon the gates of courts, upon the gates of provinces, upon the gates of cities rests the dutiful obligation[8] to the Omnipresent, as it is said, ‘Upon the doorposts of thy house and upon thy gates’. Said Abaye to R. Safra: Why did the Rabbis not affix a mezuzah on the city gateways of Mahoza?[9] — He answered: They serve only as supports for the Fort of Turrets [of that city].[10] But the Fort of Turrets itself should have a mezuzah, for it contains a residence-compartment for the keeper of the prison! For it has been taught: A synagogue, which contains a dwelling-place for the synagogue attendant[11] must have a mezuzah! Rather, said Abaye, it[12] is due to a fear of danger.[13] For it has been taught: The mezuzah of an individual's [house] should be examined[14] twice every seven years, and of public buildings twice every fifty years. It happened to an Artaban[15] who was examining mezuzoth in the upper market of Sepphoris[16] that a quaestor found him and took from him a thousand zuz.[17] But R. Eleazar said: Messengers engaged in a mizwah do not come to harm? — Where danger is to be expected, it is different, for it is written: And Samuel said: How can I go? If Saul hear it, he will kill me. And the Lord said: Take a heifer with thee, and say: I am come to sacrifice unto the Lord.[18] R. Kahana recited before Rab Judah: The straw-magazine, the stable, the wood-shed, and the store-house are exempt from the mezuzah, because the women make use of them.[19] What does ‘they make use [of them]’ mean? — They bathe [therein].[20] Rab Judah said to him: The reason for the exemption is that they bathe [therein], but [had they been restricted to their] ordinary use, these places are liable to a mezuzah. But has it not been taught that an ox-stable is exempt from a mezuzah? Rather we must say that ‘they make use [of them]’ means they adorn themselves therein and this is what it teaches: Although the women adorn themselves therein, they are exempt from mezuzah.[21] Said R. Kahana to him: But are the [places] wherein women adorn themselves exempt [from a mezuzah]? Surely it has been taught: An ox-stable is exempt from mezuzah, and [places] where women adorn themselves are liable to a mezuzah — What then remains now for you to say [is that] the case of [dwellings] wherein women adorn themselves is being disputed by Tannaim,[22] and so on my view too[23] concerning these places [when limited to their] ordinary use, there is a dispute of Tannaim — For it has been taught: ‘Thy house’[24] means ‘a house appointed for thee’, thus excluding the straw-magazine, the ox-stable, the wood-shed, and the store-house which are exempt from the mezuzah. Some however declare them liable [to have a mezuzah]. In truth, they said, the privy, the tannery, the bathhouse, the house for ritual immersion are exempt from a mezuzah. Now R. Kahana explains [this teaching] according to his view, and Rab Judah explains it according to his view. ‘R. Kahana explains it according to his view’ thus: ‘Thy house’ means ‘the house appointed for thee’, thus excluding a straw-magazine, ox-stable, woodshed and store-house which are exempt from a mezuzah. Some however declare them liable. In truth, they said, the privy, the tannery, the bath-house, the house for ritual immersion and the rooms which the women make use of to adorn themselves are exempt from the mezuzah. But if this is so, it is the same as merhaz? — We are informed about public and about private bath-houses. For the thought may have occurred that only public bath-houses are exempt because they are full of uncleanness, but private bathhouses, where there is less thereof, are liable to a mezuzah, therefore he lets us know [that even private bath-houses are exempt]. ‘Rab Judah explains it in accord with his view’: This is how it is taught: ‘Thy house’ means ‘a house appointed for thee’, that excludes the straw-magazine, ox-stable, wood-shed, and store-house as exempt from mezuzah, even though women adorn themselves [therein].[25] Some consider houses wherein the women adorn themselves obliged to have a mezuzah. But [when restricted to their] ordinary use, all agree that they are exempt. In truth they said: The privy, the tannery, the private or public bathhouse, even though the women adorn themselves therein, are exempt from mezuzah, because they contain a great deal of uncleanness. But would, according to Rab Judah, all agree that [these places when restricted to their] ordinary use are exempt? Surely it has been taught: ‘In your gates’,[26] that implies alike the gates of houses, of courts, of provinces, of cities, cattle-sheds, hen-roosts, shed for straw, store-house for wine, store-house for oil — they all are liable to a mezuzah — One might assume this includes also

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(1) All the gates in the eastern part of the Temple Court.
(2) Nicanor imported Corinthian bronze doors for the Temple gate called after him.
(3) I.e., the opponents of R. Judah in the Baraitha supra 10a.
(4) Making the Nicanor Gate liable to a mezuzah.
(5) V. Bez. 2b.
(6) Result of one enactment.
(7) Deut. VI, 9.
(8) Of affixing a mezuzah.
(9) A large Jewish trading town on the Tigris.
(10) [So Jast. Obermeyer p. 168: The fort of Be Koke, a fortress adjoining Mahoza.]
(11) Hazzan, v. Ta'an., Sonc. ed., p. 77, n. 2.
(12) The absence of a mezuzah at the Fort of Turrets.
(13) Rashi: Lest the king say: You are engaging in some witchcraft at the gate of my city. Perhaps because in examining the mezuzah from time to time one may find such an unpleasant quaestor as the Artaban did.
(14) It may have deteriorated by rotting or through worms, or it may have been stolen.
(15) A corruption or Judaization of ‘tribune’.
(16) In Upper Galilee.
(17) A silver coin, one fourth of a shekel, one denar.
(18) I Sam. XVI, 2.
(19) Lit., ‘are deriving benefit therein’.
(20) In the nude, hence it would be disrespectful to affix a mezuzah.
(21) [Rab Judah does not correct the Baraitha in stating that these places are exempt because the women make use of them. The Baraitha, in his view, means that although they make use of them, since, however, it is only for the purpose of adorning themselves and not as permanent dwellings, these places are exempt. Tosaf. s.v. אף]
(22) Whether they are liable to a mezuzah.
(23) Explaining the phrase as meaning ‘they bathe’.
(24) Deut. VI, 9.
(25) And which therefore might be considered dwellings.
(26) Deut. VI, 9.

Talmud - Mas. Yoma 11b

the porter's lodge,[1] a veranda[2] and a balcony, therefore the text reads, ‘house’ — [meaning] just as ‘house’ means a building appointed for a dwelling it thus excludes all other buildings not appointed for a dwelling. One might have wanted to include also the privy, the tannery, the bath-house and the house for ritual immersion, therefore the text says, ‘house’: just as a ‘house is made for dignity, so only all such are implied, which also are made for dignity, to the exclusion of these, which are not made for dignity. One might have wanted to include the mountain of the Sanctuary,[3] the cells and the courts.[4] Therefore the text says ‘house’: just as a ‘house’ is for common use so are only such [houses] as are for common use [liable] to a mezuzah — to the exclusion of these which are sacred![5] This is a refutation.

R. Samuel son of Rab Judah recited before Raba: Six gates are exempt from the mezuzah.- [the gates of] the straw-shed, the stable, the wood-house, the store-house, the Median[6] gate, a gate without beams and a gate that is not ten handbreadths high. He [Raba] said to him: You started by saying six and you ended up with seven?-He replied: There is Tannaitic division of opinion concerning the Median gate, for it has been taught: An arched doorway[7] — R. Meir declares it liable to the mezuzah, while the Sages exempt it.[8] All agree, however, that, if the posts are ten handbreadths[9] [high], it is liable to the mezuzah.[10] Said Abaye: All agree that if the [whole] doorway is ten handbreadths in height, but the post is not even three[11] it is considered nothing;[12] again, if the post is three handbreadths in height, but the [whole] doorway not even ten,it is also considered nothing.[12] They are disputing only concerning doorways the [whole] height of which is ten, with the posts three in height, but with a width less than four handbreadths, space however being left to extend it to four handbreadths.[13] R. Meir holds one may extend[14] it by digging [to the required minimum of four handbreadths], whilst the Sages hold that we do not extend it by digging it. Our Rabbis taught: The synagogue, the women's apartment, and the house belonging to partners are liable to mezuzah — Is that not self-evident? — You might have said [the scriptural] 'Thy house'[15] [means] her — but not [the woman's] house; 'thy house' but not their [partners'] house, hence we are taught [that they are included in the law of mezuzah]. But would you expound similarly: That your days may be multiplied and the days of your sons?[16] Do only their [sons] need life, not the others [women and their daughters]? What then is the significance of 'Thy house'? — It is as Raba said: For Raba said: The way thou enterest [thy house], and when a man moves, he moves with the right foot first.[17]

Another [Baraitha] taught:[18] The synagogue, the house belonging to partners, and the women's compartment are subject to uncleanness from house plagues. Is that not self-evident? You might have said: Then shall come he who has the house to him;[19] to him' [implies] but not 'to her' [woman], 'to him' but not 'to them' [partners], therefore we are told [that this is not so]. Perhaps it is really so? — Scripture says, In a house of the land of your possession,[20] [which includes both] — Why then 'to him'? [That means to say that] if one devotes his house to himself exclusively, refusing to lend his belongings by pretending he did not own them, the Holy One, blessed be He, exposes him as he removes his belongings.[21] Thus 'to him' excludes [from the infliction of the house plague] him who lends his belongings to others.[22]

But is a synagogue subject to uncleanness from house plagues? Has it not been taught: One might assume that synagogues and houses of learning are subject to uncleanness from house plagues, therefore Scripture says: 'He who has the house to him', i.e., he to whom alone the house belongs, that excludes those [houses] which do not belong to him alone? — This is no difficulty: The first teaching is in accord with R. Meir, the second with Rabba, for it has been taught: A synagogue which contains a dwelling for the synagogue attendant[23] is liable to a mezuzah, but one which has no dwelling apartment, R. Meir declares it liable but the Sages exempt it. Or, if you wish, you might say: Both teachings are in accord with the Rabbis. In the one case the synagogue referred to has a dwelling [apartment], in the other it has no dwelling apartment. Or, if you wish, you might say [in accounting for the discrepancy] that in both cases the synagogue has no dwelling apartment

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(1) Lit., 'a gate-house'.

(2) Exedra.

(3) The Temple mount.

(4) In the singular: The Temple court. In the plural the various compartments there, as the men's compartment, the women's compartment.

(5) [This proves that the places enumerated in the teaching of R. Kahana, even when restricted to their ordinary use, are also subject to a difference of opinion of Tannaim whether or not they are liable to a mezuzah, which contradicts Rab Judah.]

(6) The Median gate was usually made with an arched doorway, hence gates with such doorways came to be called Median.

(7) Which is the same as a Median gate.

(8) [Since it narrows down at the arch to less than four handbreadths, the required minimum of a gate, v. n. 10.]

(9) Before the entrance began to narrow down at the arch.

(10) ‘Er. 11b.

(11) It began to narrow down at less than three handbreadths from the ground.

(12) And requires no mezuzah, for the minimum for any doorway is ten in height for the whole doorway, four in width, three for the posts; below it is but ‘solid’ earth.

(13) Within the ten handbreadths, the minimum required height of the doorway.

(14) By legal fiction. As long as the doorway starts on a breadth of four by three, allowing space for continued dimension up to ten, we look upon it as continuing in the same size, hence as entitled to the designation ‘door’, with the implication of being subject to the law of mezuzah

(15) The possessive suffix in the Hebrew is masc. sing.

(16) Deut. XI, 21. If you press the text so hard, excluding woman because the possessive is in the masculine form, then you should consistently expound: In order that your days, may be, where the possessive suffix, too, is masculine, that God holds out no promise for the prolongation of women's life. Perhaps benekem, which literally means ‘your sons’, although it is understood to include ‘daughters’, being usually translated as ‘children’ might render the consequence of such pedantic interpretation more absurd still.

(17) Read ad hoc: instead of betheka, bi'atheka, i.e., ‘thy coming in’ instead of ‘Thy house’, to infer thence that the mezuzah should be affixed on the door-post at the right hand of him who enters. In this manner, indeed, the mezuzah is affixed, in the upper third of the post.

(18) Men. 34a.

(19) Lev. XIV, 35. So lit., E.V. ‘he that owneth the house shall come’,

(20) Ibid. 34.

(21) In accord with the priest's command, as prescribed: And the priest shall command that they empty the house before the priest go in to see the plague. Lev. XIV, 36.

(22) The plague is thus seen as a punishment for niggardliness.

(23) V. supra p. 47 n. 8.

Talmud - Mas. Yoma 12a

, the first teaching referring to big cities, the second to villages.[1] But are synagogues in big cities really not subject to uncleanness from house plagues? Has it not been taught: ‘In the house of the land of your possession,’[2] i.e., the house of the land of your possession could become defiled through leprosy, but Jerusalem[3] could not become defiled through leprosy. R. Judah said: I have heard that only the place of the Sanctuary is unaffected by the law of leprosy?[4] Now does not that imply that synagogues and houses of learning are subject to the law of leprosy even though they be in large cities? — Read R. Judah said: I have heard that only sacred places[5] are not subject to the law of leprosy. What principle are they disputing? — The first Tanna holds Jerusalem was not divided amongst the tribes[6] and R. Judah holds Jerusalem was divided among the tribes, the basis of their difference being the principle on which these Tannaim differ, for it has been taught: What lay in the lot of Judah? The Temple mount, the cells, the courts. And what lay in the lot of Benjamin? The Hall,[7] the Temple[8] and the Holy of Holies. And a strip of land went forth from Judah's lot and went into Benjamin's territory, and on this the Temple was built — Benjamin the Righteous was longing to swallow it every day as it is written: He coveteth him all day,[9] therefore he obtained the privilege of becoming the host of the Omnipotent,[10] as it is said: And He dwelleth between his shoulders[11] .

The following Tanna holds that Jerusalem was not divided amongst the tribes, for it has been taught: One does not rent houses in Jerusalem, because it [the city] does not belong to them, [the inhabitants]. R. Eleazar son of R. Zadok said: Nor any beds. Therefore the innkeepers take the skin of the sacrificial animals by force.[12] Abaye said: We may learn from this that it is usual for a man to leave to his host the empty wine pitcher and the hide.[13]

But are the synagogues of the villages subject to the laws of leprosy? Has it not been taught: As a possession,[14] i.e., until they conquer it. If they have conquered but not yet divided it among the tribes, or even divided it among the tribes but not divided it among the families, or even divided it among the families but before each man knows where his lot is, whence do we know [that the laws of leprosy do not apply yet]? To teach us that Scripture says: ‘Then he who has the house to him’ i.e., he to whom alone the house is belonging, excluding these [houses] which do not belong to him [the owner] alone.[15] — It is more correct as we have answered at first.[16]

AND ANOTHER PRIEST IS PREPARED FOR HIM: It is obvious that if any disqualifying mishap occurred to the high priest before the morning [daily] offering, that one[17] initiates the other priest with the morning burnt-offering. But if the mishap should have occurred after the morning sacrifice, how could he be initiated?[18] — R. Adda b. Ahabah said: With the girdle.[19] That will be in accord with him who holds that the girdle of the high priest is identical with that of the common priest,[20] but according to the opinion that the girdle of the high priest was not the same as that of the common priest,[21] what can be said?[22] — Abaye said: He would put on the eight garments and turn[23] with the hook, in accordance with what R. Huna said. For R. Huna said: If a non-priest turns with the hook, he incurs penalty of death.[24] R. Papa said:

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(1) In the metropolis people from many cities assemble in the synagogue, it therefore seems to belong to everybody, i.e., to nobody, whilst in the villages those who attend are known to all, being like partners in the synagogue (Rashi).

(2) Lev. XIV, 34.

(3) Jerusalem was not divided among the tribes, but was kept in trust for all Israel and could therefore not be subject to a law applying to privately owned houses only.

(4) Meg. 26a.

(5) Instead of ‘Sanctuary’. ‘Sacred places’ include synagogues and houses of learning.

(6) V. supra p. 52, n. 6.

(7) Ulam, leading to the interior of the Temple.

(8) The Hall containing the golden altar, Mid. IV, 1.

(9) Deut. XXXIII, 12. The ad hoc translation, lit., ‘to bend over’, thus to be anxious, hence (Rashi): he scratched himself in despair, was anxious to conquer it.

(10) The Ark stood in his lot.

(11) Ibid.

(12) I Tosef. Ma'as. Sh. I.

(13) Of the animal which he slaughters and consumes in the house of his host (Rashi).

(14) Lev. XIV, 34.

(15) Obviously then the synagogues in the villages are not subject to levitical uncleanness, hence the alternate answer above, ‘One speaks of’ synagogues in metropoles, the other of synagogues in villages’, is unsatisfactory.

(16) The distinction is rather between synagogues with a dwelling for the synagogue attendant and those without it.

(17) He should officiate at the morning burnt-offering in the eight garments of the high priest.

(18) The rest of the service of the Day of Atonement is performed in four garments, how will his office of high priestly function be indicated?

(19) The high priest's girdle, which on the Day of Atonement is of fine linen (Lev. XVI, 4).

(20) [I.e. the material for the girdle prescribed for the high priest in Ex. XXXIX, 29 was also intended to be used for the girdle of the common priests, so that the girding of a linen girdle by the priest on the Day of Atonement would serve to indicate his high priestly function.]

(21) [I.e., the girdle of the common priest was of linen, the material of the girdle described in Ex. XXXIX, 29 being restricted to the high priest, so that the girding by the priest of a linen girdle on the Day of Atonement would indicate no particular high priestly function.]

(22) How would it be recognizable that he is initiated into performing the high priest's service?

(23) Rashi: Before starting on the service of the day, he puts on the eight garments, and turns on the outer altar one of the limbs of the daily burnt-offering with an iron hook. By reason of such turning that limb is more speedily consumed. He has thus done the initiative work for the office of high priest which he is to assume anon.

(24) This is only preparatory work, but since a non-priest, performing it in accord with R. Huna's opinion incurs the penalty of death, it is obviously considered as of even importance with the service proper, hence serving to initiate the newcomer into the high priest's office.

Talmud - Mas. Yoma 12b

His service[1] initiates him — Has it not been taught: All the vessels which Moses made became sanctified through being anointed. From then on they become sanctified through being used at a service.[2] Similarly here his service initiates him.

When R. Dimi came [from Palestine] he reported: Concerning the girdle of the common priest there is a dispute between Rabbi and R. Eleazar b. Simeon, one said it was of kil'ayim [wool and linen in the same web],[3] the other said it was of fine linen.[4] It may be ascertained that it was Rabbi who said the girdle was made of kil'ayim, for it has been taught: There is no difference between the high priest and the common priest except in the girdle, this is the opinion of Rabbi. R. Eleazar b. R. Simeon said: Not even in the girdle is there any distinction. Of what time [does this teaching speak]? If during the rest of the year, there are many points of difference, [as e.g.] the high priest [officiates] in eight garments, the common priest in four; you must say, then, that [the time discussed is] the Day of Atonement.[5] We can tell you: In fact the discussion deals with the other days of the year, and it refers to such garments which both wear alike[6] [the only difference being the girdle].

When Rabin came [from Palestine] he reported: Everybody agrees that the girdle of the high priest on the Day of Atonement was made of fine linen, and during the rest of the year of kil'ayim. The discussion concerned only the common priest's girdle, both on the Day of Atonement and during the rest of the year; concerning that Rabbi said it was made of kil'ayim and R. Eleazar b. Simeon of fine linen. R. Nahman b. Isaac said: We also have: Upon his flesh.[7] Why the repetition of ‘he shall put on’? To include the mitre and the girdle for the removal of the ashes, this is the opinion of R. Judah. R. Dosa said: It is to include the provision that the [four] garments of the high priest on the Day of Atonement may be used by the common priest [during the rest of the year]. Rabbi says: There are two valid objections to this: First, that the girdle of the high priest on the Day of Atonement is different from that of the common priest; secondly, shall the garments worn for the service of most solemn sanctity be worn for ministration of lesser holiness? Rather ‘he shall put on’ [was repeated] to include worn-out garments.[8] R. Dosa adheres to his principle, for it has been taught: And shall leave them there,[9] that teaches that they must be hidden.[10] R. Dosa said: [It means that] he [the high priest] shall not use them on another Day of Atonement.[11] Our Rabbis have taught: If a disqualifying accident occurred to him, and another was appointed in his place then the former returns [afterwards] to his office, whilst the latter has upon himself all the obligations touching the high priesthood,[12] this is the opinion of R. Meir. R. Jose says: The first returns to his office, the second becomes unfit for the office of either high priest or common priest.[13] R. Jose said: It happened to Joseph b. Elam[14] of Sepphoris that after a disqualifying accident had happened to the high priest, he was appointed in the former's place, and the Sages said: The former returns to his office, the latter is unfit to be either common priest or high priest. He cannot be high priest for the sake of preventing ill-feeling,[15] nor can he any more be a common priest, for ‘we may promote in [a matter] of sanctity, but not degrade’.[16] Rabbah b. Bar Hana said in the name of R. Johanan:

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(1) His officiating, without other initiation, in itself is initiating.

(2) Sanh. 16b.

(3) V. Ex. XXXIX, 29, cf. supra p. 54, n. 6.

(4) Byssus.

(5) [When the high priest too has only four garments like a common priest, the difference between them being only as regards the girdle. Whereas the high priest's girdle was on that day of linen, that of the common priests was of kil'ayim, the same as during the whole year.]

(6) The tunic, the breeches, mitre and girdle, the only difference being in the girdle.

(7) Lev. VI, 3: And the priest shall put on his linen garment, and his breeches shall he put upon his flesh.

(8) These may be used for the removal of the altar ashes. V. infra 23b.

(9) Lev. XVI, 23: And Aaron shall come into the tent of meeting, and shall put off the linen garments, which he put on when he went into the holy place, and shall leave them there.

(10) To prevent their being used again, or their being used for any less sacred purpose.

(11) But they may be used by a common priest.

(12) Rashi: He must not let his hair grow long nor rend the clothes, nor contract ritual impurity because of a near relative's death; nor marry a widow; but he must officiate in eight garments.

(13) V. infra.

(14) Tosef. Yoma I, 4. The reading there is corrupt, and to be corrected in accord with the reading in Tosef. s.v. כה and in J.Yoma 38a: It happened to Joseph ben Ulam of Sepphoris (not ‘in Sepphoris’, for it could have happened only in Jerusalem) who served for an hour (or: little while) as high priest and as he went out he said to the King: My lord and King: Whose were the bullock and the goat which were offered up to-day, did they come from me or from the high priest? The King understood (the trend) of his question and he replied: What is this, ben Ulam? Are you not satisfied with having served in the high priest's place for one hour before Him Who spoke and the world was created, so that you seek to obtain the high priest's office for yourself? In that moment ben Ulam understood that he was deposed from the high priesthood. V. Hor., Sonc., ed. p. 89 notes, and Meg. p. 59, n. 2.

(15) Acc. to Tosef. ibid. the ill-feeling may also attack the King and the other priests.

(16) V. infra 20b.

Talmud - Mas. Yoma 13a

The halachah is in accord with R. Jose, but R. Jose admits that if [the substitute high priest] transgressed that injunction and officiated, his service is valid. Rab Judah said in the name of Rab: The halachah is in accord with R. Jose, but R. Jose admits that if the first [high priest] dies, the second [the substitute] returns to his service. Is that not self-evident?[1] — You might have said: This would involve for him a rivalry in his lifetime,[2] hence he informs us[3] [that this is not so].

R. JUDAH SAYS: ONE PROVIDES FOR HIM ALSO ANOTHER WIFE. But the Rabbis, too, are considering a possibility![4] — The Rabbis will tell you: Levitical impurity is frequent,[5] death is infrequent.

THEY SAID TO HIM: IF SO THERE IS NO END TO THE MATTER. They gave a good answer to R. Judah! What then about R. Judah? — He will tell you: One may consider the possibility of one death, but one would not [go so far as to] consider the possibility of two [successive wives’] deaths.And the Rabbis? — [They hold that] if enactment [on the basis of consideration of the possibility] of death is justified, such [possibility] should be considered to include also two.[6] But the Rabbis ought to apply that consideration to themselves![7] The Rabbis will answer you: The high priest is careful. If he be careful, why was another priest prepared [to take his place in case of accidental impurity]? — Since ‘ye make the latter his rival, he will be all the more careful.

But is this arrangement[8] sufficient? The Divine Law said: His house[9] and that [substitute wife] is not ‘his house’.[10] -He betroths her [unto himself]. — But [still] as long as he does not marry her,[11] she is not ‘his house’? — He marries her. — But then he has ‘two houses’ and the Divine Law said: And make atonement for himself and for his house,[12] but not for ‘two houses’? — He divorces her again. If he divorces her, our question reverts to its place?[13] — No, the provision applies to the case that he divorces her on condition; [namely], he says to her: Behold this thy letter of divorce[14] [to be valid] in case thou diest.[15] But perhaps she dies and he will have ‘two houses’? — Rather, the case is that he says to her: Behold this thy letter of divorce [to be valid] if thou diest. If she does not die, then she is divorced;[16] and if she does die, there is [still] the other one alive. But perhaps she will not die, so that her letter of divorce is valid and the other [the first] one die, and he will stay without a ‘house’? Say rather: He says to her: Behold this thy letter of divorce [to be valid] if one of you die, so that if the one dies there is [still] the other one alive, and if the other one dies there is [still] this one alive. But perhaps neither of them will die and he will have ‘two houses’? Furthermore on such a condition[17] it, [the divorce,] is really not valid; has not Raba said: If he said: Behold this thy letter of divorce to be valid if thou drinkest no wine all the days of my life and thy life, it is not valid;[18] but if he said: ‘All the days of the life of So-and-so’, then it is valid?[19] — Rather say that he said to her: Behold this thy letter of divorce [to be valid] if thy fellow [wife] does not die. If her fellow does not die, she [the second wife] is divorced, and if she does die, then there is still the other [the second wife] alive [to be his house’]. — But perhaps her fellow wife will die in the middle of the service and it will become

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(1) Since the only reason for his disqualification was the ill-will engendered in the heart of the original high priest.

(2) Lit., ‘from life’. When the substitute might be said to have awaited jealously the death of his predecessor.

(3) We do not go so far in endeavour to prevent ill-feeling.

(4) Since they agree to the provision of a substitute high priest.

(5) It may be due to pollution, to unexpected contact with the saliva of an ‘am ha-arez, (Rashi).

(6) The death of one within a day is a rather infrequent occurrence. The only reason for considering it would be a principle, according to which we must consider possibilities, even remote. On such basis the death of two successive wives may not he said to be outside the sphere of possibility, hence: ‘IF SO, THERE IS NO END.

(7) With even logic the Sages ought to admit that, since we are considering the possibility of accidental impurity disqualifying the incumbent high priest, it is perfectly within the sphere of possibility that the substitute, too, may suffer such accidental disqualification, hence, here too there is no end to it!

(8) Of preparing a substitute wife.

(9) Lev. XVI, 6.

(10) If the first wife dies, whilst the second is not yet married to him, he has no ‘house’ to obtain atonement for.

(11) Lit., ‘takes her (to his home)’.

(12) Ibid. The Mishnah interprets ‘his house’ as his wife, v. supra 2a.

(13) In its original force. V. supra.

(14) Get. v. Glos.

(15) On the Day of Atonement. If she die on that day, her letter of divorce is retroactively valid, there is one ‘house’ only: and if she does not die but her fellow die, then she remains as the ‘house’, her letter of divorce being invalid. Rashi makes this significant observation: These arguments are not valid, they are answers to hypothetical questions preparing the ground for the last, satisfactory answer.

(16) And the first woman is his only ‘house’,

(17) Where the condition attached refers to her life.

(18) The purpose of the divorce is complete divorcement, whereas by the term of this letter she would remain ‘connected’ with him all her life.

(19) Git. 83b.

Talmud - Mas. Yoma 13b

retrospectively revealed that the letter of divorce of the other one was not valid and he would then have been officiating[1] at the service with ‘two houses’? — Rather assume, then, that he says to her: Behold this thy letter of divorce [to be valid] if thy fellow dies. — But perhaps the fellow wife will die and the letter of divorce of the first wife will be valid and he will stand there without a ‘house’? — Rather [say that] we speak of the case that he divorced them both, to the one he said: Behold this thy letter of divorce [to be valid] in case thy fellow wife does not die; and to the other one he said: Behold this thy letter of divorce [to be valid] if thou dost not enter the synagogue.[2] But perhaps her fellow will not die and she will not enter the synagogue, and the letter of divorce of both will be valid and he will stand without a ‘house’? — Rather: To the one he says: Behold this thy letter of divorce [to be valid] in case thy fellow does not die; and to the other one: Behold this thy letter of divorce [to be valid] if I enter the Synagogue, so that if the one die, the second be available, and if the second die the first be available. What will you say in the case that her fellow wife dies in the midst of the service and retrospectively he will have officiated at the service with two ‘houses’? If he saw that she was about to die, he would at once enter the synagogue and would render the divorce retroactively valid. — R. Assi or, as some say, R. ‘Awira, demurred to this: Consequently, if this be so, two widows of one brother should not be married by the brother-in-law?[3] — Scripture repeats ‘his sister-in-law’ twice, to intimate [that even in the case of] two sisters-in-law the law of levirate marriage applies. But then a woman betrothed[4] should not be married to her levir?[5] — [By emphasizing] ‘abroad’[6] the betrothed woman is meant to be included.

Our Rabbis taught: The high priest may offer up a sacrifice as a mourner,[7] but may not eat thereof. R. Judah said: Throughout the day.[8] What does ‘throughout the day’ signify? — Said Raba: It means to indicate that he should be brought from his house.[9] Abaye said to him: But now, according to R. Judah we even remove him[10] [from the Sanctuary], for it has been taught: If he was standing and offering up a sacrifice on the altar, and he hears that one [of his close relatives][11] died, he should leave the service and go out. This is the opinion of R. Judah; R. Jose says: He should complete his service.[12] How can you then say that we bring him from his house?[13] — Rather, says Raba, ‘throughout the day’

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(1) I.e., the first part of the service.

(2) On the Day of Atonement.

(3) So shall it be done unto the man that doth not build up his brother's house. Deut. XXV, 9. Here also the word ‘house’ is used for ‘wife’ and since ‘house’ is taken to mean but one wife, no brother would be able to perform the levirate marriage where his dead brother had left two wives.

(4) ‘Arusah’, betrothed, engaged, but not ‘brought home’. The betrothal carries with it almost all the legal consequences of marriage. V. Glos. s.v. Erusin.

(5) If ‘house’ is to be taken to refer to wife, why should a betrothed sister-in-law be subject to levirate marriage?

(6) If brethren dwell together, and one of them die, and have no child, the wife of the dead shall not be married abroad unto one not of his kin. The word ‘abroad’ here is superfluous and is taken to indicate that even one who was ‘still outside’, not having been married properly, but only betrothed, is included in the law of the levirate marriage, v. Yeb. 13b.

(7) ‘Onen’ is a mourner before the burial of his kinsman, to be distinguished from ‘abel’, a mourner during the seven days after burial. With regard to the high priest, Lev. XXI, 11 reads: Neither shall he go into any dead body, nor defile himself for his father or for his mother; neither shall he go out of the sanctuary, nor profane the sanctuary of his God. Scripture thus permits his officiating but he is forbidden to eat of any sacred meat whilst in mourning. This is inferred ad majus from Deut. XXVI, 14 which, referring to tithe, is of lesser sanctity than the meat of sacrifices, as the Israelites say: I have not eaten thereof in my mourning.

(8) V. Hor. 12b.

(9) He should be deliberately brought to the Sanctuary from his house, so that his pre-occupation with the sacrifices may help to lessen his grief.

(10) This refers to the common priest.

(11) Father or mother or son or daughter or brother or unmarried sister. Rabbinical enactment includes the married sister.

(12) V. Hor. loc. cit.

(13) If in the case of the common priest R. Judah would have him removed if he became a mourner, would he in the case of the high priest consider it a good deed to bring him to the Sanctuary?

Talmud - Mas. Yoma 14a

means to say that he does not officiate all that day,[1] as a preventive measure lest he eat.[2] Said R. Adda b. Ahabah to Raba: But did R. Judah enact a preventive measure lest he eat? Have we not learnt, R. Judah said: WE ALSO PROVIDE ANOTHER WIFE FOR HIM, LEST HIS WIFE DIE? Now when his wife dies he may perform the service [on the same day] without R. Judah becoming apprehensive lest he eat?-He replied: Now is this so?[3] There, because it is the Day of Atonement, on which all the world does not eat, he, too, would not be likely to eat, but here [on any day] when all the world is eating, he would also be ready to eat — But under such conditions[4] what mourning would be coming upon him because of her, since she is divorced from him? — Granted that no mourning would be obligatory, but he would surely be distracted.[5] MISHNAH. THROUGHOUT THE SEVEN DAYS HE SPRINKLES THE BLOOD[6] AND BURNS THE INCENSE[7] AND TRIMS THE LAMPS[8] AND OFFERS THE HEAD AND THE HIND LEG;[9] ON ALL OTHER DAYS HE OFFERS ONLY IF HE SO DESIRES; FOR THE HIGH PRIEST IS FIRST IN OFFERING A PORTION[10] AND HAS FIRST PLACE IN TAKING A PORTION.[11]

GEMARA. Who is the authority [for our Mishnah]? — R. Hisda said: It is not in accord with R. Akiba, for if it were, R. Akiba Surely holds that if some of the sprinkling[12] fell upon a clean person, it rendered him unclean! How could he then officiate at the service?[13] — For it has been taught: And the clean person shall sprinkle upon the unclean,[14] i.e., [if sprinkled] 'upon the unclean', [he becomes] clean, [if sprinkled] upon the clean [he becomes] unclean, this is the opinion of R. Akiba. But the Sages hold that these matters [concerning sprinkling][15] apply only to such things as are susceptible to uncleanness. I What is it about? — As we have learnt: If he intended sprinkling an animal and [happened to] sprinkle a man, then, if there be sufficient water on the hyssop, he may repeat [the sprinkling].[16] If he intended sprinkling a man and he [happened to] sprinkle an animal, then,if there be enough water on the hyssop, he may not repeat [the sprinkling].[17] What is the reason for R. Akiba's view? — Let the Divine Law write 'And the clean person shall sprinkle upon him', what is the meaning of 'upon the unclean,'? Infer from this that [if sprinkled] the unclean becomes clean, and [if sprinkled] the clean becomes unclean. And [what is the reason for the view of] the Rabbis? — These words emphasize that [sprinkling is right] only upon matter susceptible to uncleanness. But this[18] case can be deduced a minori ad majus: If sprinkling upon an unclean makes clean, how much more shall sprinkling upon a clean [keep or make more] clean! And R. Akiba? — It is with reference to this that Solomon said: I said, I will get wisdom,, but it is far from me.[19] — And the Sages? [They explain] this [passage to refer] to [the fact that] he who sprinkles and he who is sprinkled are clean, whereas he who touches them [the waters of purification] is rendered unclean.[20] — But is he who sprinkles clean? Surely it is written, And he that sprinkleth the water of sprinkling shall wash his clothes?[21] — 'Sprinkleth' here means 'toucheth'. — But the text reads 'sprinkleth' and also mentions 'toucheth';[21] furthermore, he who 'sprinkleth' must wash his clothes, whereas he who 'toucheth' need not wash his clothes? — Rather 'sprinkleth' here means carrieth' — Then let the Divine Law write 'carrieth', why is 'sprinkleth' written? — That [is meant] to let us know that there must be a quantity sufficient for the sprinkling.[22] That will be right according to him who holds that a definite minimum is necessary in the sprinkling,[23] but according to him who holds there is no required minimum in the sprinkling,[23] what is there to be said? Even according to him who holds there is no required minimum [it will be right], for that refers only to the back of the man,[24] but in the vessels there must be a definite quantity, as we have learnt: How much water is necessary to be sufficient for the sprinkling? Enough for dipping

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(1) Until the evening.

(2) During the day he is forbidden by the Torah to eat, in the evening after burial the prohibition is only Rabbinical (Rashi).

(3) This analogy is incorrect.

(4) Since he would rush to the synagogue during her coma so that she would be divorced from him as soon as he entered it (v. infra), hence how could he be considered a mourner for his divorced wife. It is interesting to observe that sudden death does not enter among the many possibilities considered in this discussion. It would invalidate the suggestion of his leaving for the synagogue as soon as his wife was near death.

(5) upset by reminiscent tenderness, unable, as Rashi says, to be in the prescribed happy mood for eating sacrificial meat. [V. Hul. 132b, so that but for the fact that the apprehension lest he may eat does not arise on the Day of Atonement, he would not have been allowed to perform under such conditions the Temple service lest he eat of the sacrifices, Tosaf. Yesh.]

(6) Of the daily morning and evening sacrifices on the outer altar. Ex. XXIX, 38-42.

(7) Mornings and evenings on the golden inner altar, ibid. XXX, 1-8.

(8) Of the seven-branched candlestick, ibid. XXVII, 20-21; also XXX, 7-8. The trimming consisted of the following: Every evening the lamps were kindled by a priest, every morning cleaned, filled with oil, and provided with fresh wick. All this work during the seven days was performed by the high priest.

(9) According to Tam. IV, 2-3, the sacrificial lamb, after being slaughtered, was divided into certain parts, which, as a rule, were brought on the altar by the priests chosen by the count. Head and hind leg always were offered up first.

(10) The high priest had the prerogative to offer up at any time any portion of any sacrifice he desires, other priests could do so only during their particular week of service, v. Glos. s.v. Mishmar.

(11) Of the flesh of the sacrifice which was distributed among the priests: he could choose any part he preferred.

(12) Of the ashes of the red heifer mixed with running water. Num. XIX, 17.

(13) During the seven days of his separation, since he was to be sprinkled each day.

(14) Num. XIX, 19: And the clean person shall sprinkle upon the unclean, the words ‘upon the unclean’ seem superfluous, ‘upon him’ would have been clear enough. From this R. Akiba infers that only upon the unclean has the sprinkling a cleaning effect, with opposite effect on the clean.

(15) The Sages also consider the words superfluous, but they find in them the intimation that sprinkling has its effect only upon things susceptible to uncleanness, hence, if sprinkled upon things unsusceptible to uncleanness it has been misused, and whatever is left of the water is invalid and may no more be used for sprinkling and cleansing.

(16) (I.e., he can use the water left on the hyssop for a second sprinkling without necessarily dipping it again (Rash).]

(17) V. Par. XIII, 3. [The hyssop must be dipped anew if the priest desires to perform with it another sprinkling. In having been sprinkled on the animal the water on the hyssop became disqualified as water of purification with which work has been done, and can no longer be used for ritual sprinkling. Thus the Sages infer from the superfluous words ‘upon the unclean’ that the water of purification may be used only for such things as are susceptible to uncleanness, and by being sprinkled on things not so susceptible it becomes invalid (Rashi). R. Hananel on the basis of another reading explains differently.]

(18) The contention of the Sages that sprinkling could never have the effect of rendering unclean.

(19) Eccl. VII, 23. This matter is beyond logic, it is a law which has puzzled others already.

(20) Num. XIX, 21.

(21) Num. XIX, 21.

(22) For rendering the one who carries the water unclean; that is indicated by expressing ‘carrying’ in terms of ‘sprinkling’.

(23) V. Nid. 9a.

(24) However small the quantity of the water that reaches him from the hyssop bundle, the cleansing is achieved.

Talmud - Mas. Yoma 14b

the buds therein and for the water to be sprinkled.[1] Abaye said: [The Mishnah] may be in accord even with R. Akiba: He [the high priest] officiates all day, [and] in the evening is he sprinkled, then he takes the immersion and awaits the sunset.[2]

AND BURNS THE INCENSE AND TRIMS THE LAMPS. Hence [you may infer that] the incense came first and the lamps afterwards. A contradiction is raised against this:[3] He to whom it fell to clear the inner altar of ashes . . . he to whom it fell to clean the candlesticks . . . he to whom it fell to burn the incense?[4] R. Huna said: Who is the Tanna of [the Tractate] Tamid?[5] R. Simeon of Mizpah.[6] But surely we have learnt exactly the opposite.[7] For we have learnt:[8] As he[9] came to the north-eastern corner [of the altar], he sprinkled to the east and north;[10] then he came to the south-western corner and sprinkled it to the west and south. And with reference to this [Mishnaic statement] it was taught: Rabbi Simeon of Mizpah has this change in Tamid:[11] As he came to the north-eastern corner he sprinkled it to the east and to the north; then he came to the south-western corner, and sprinkled it to the west and afterwards to the south.[12] — Rather, said R. Johanan: Who is the authority for the order [given] in [the Tractate] Yoma? R. Simeon of Mizpah. But here is a contradiction between the order [given] in [the Tractate] Yoma and the order [given] in another passage therein: The second count decided who should slaughter, who should sprinkle [the blood], who should remove the ashes from the inner altar, who should remove the ashes from the candlestick, who should take up the limbs [of the burnt-offering] to the ramp [of the altar]. The third count: ‘Fresh ones, come and be counted for the incense!’[13] -Abaye said: This is no difficulty. The one case speaks of the trimming of the five lamps, the other of the trimming of the two lamps.[14] Shall we say that the incense interrupted the trimming of the lamps? But Abaye was recounting the order [of the daily Temple service] in the name of a tradition[15] and he has the trimming of the lamps interrupted by the blood of the regular daily offering?[16] — I will tell you: This is no difficulty, the one refers to the [order of the daily Temple service] in accord with Abba Saul, the other in accord with the Sages, for it has been taught: He should not trim the lamps and after that burn the incense, but he should offer the incense first and then trim the lamps. Abba Saul says: He should first trim and then offer [the incense] — What is the reason for Abba Saul's view? — For it is written: Every morning, when he dresseth the lamps,[17] and afterwards [it says], he shall burn it?[18] — And the Sages?[19] What the Divine Law intends here is

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(1) Par. XIII, 5.

(2) Thus he would be clean at night and able to officiate again on the morrow. Next day exactly the same procedure will follow. V. infra 19a.

(3) The quotation is from two Mishnahs, Tam. III, 9 and ibid. V, 4.

(4) Here the trimming of lamps is mentioned as coming before the incense.

(5) [Ginzberg, Journal of Jewish Lore and Philosophy l, p. 200 takes this phrase to denote that the Tractate Tamid did not go through the hands of Rabbi as Redactor, but that it has comedown to us in the original form with R. Simeon of Mizpah, a contemporary of R. Gamaliel II, as its compiler.]

(6) V. Pe'ah II. He was either of Mizpah or ‘Governor of the Watch-tower of the Temple’ (Jastrow).

(7) R. Simeon of Mizpah opposes the teaching reported in Tamid.

(8) Tam. IV, 1.

(9) The priest who sprinkled the blood.

(10) The sprinkling had to be made in such a manner that one constituted two, it was done in form of a Greek ‘gamma’, from the two corners. ‘

(11) [משנה בתמיד a difficult phrase. Rashi: ‘To change the order in connection with the Tamid, the daily regular offerings’. R. Hananel: He differs with the view laid down in Tamid. Ginzberg, op. cit., p. 285 n. 1 takes it as corresponding to תמני, ‘teaches’, used in introducing ‘variants’: R. Simeon's version of Tamid is . . .]

(12) R. Simeon insists that two separate applications had to be made from the south-western corner, one to the west and another to the south, and thus opposes the order given in Tamid, v. infra 15a, hence he could not be an authority for the Tractate.

(13) From here it is seen that incense was offered after the lamps, which contradicts our Mishnah here.

(14) There were seven lamps, the trimming of which, according to this answer, was interrupted by the offering of the incense, so that five lamps were trimmed, then the incense offered, after which the last two lamps of the seven-branched candlestick were trimmed, v. infra 33a.

(15) [משמיה דגמרא. This expression seems to mean that Abaye could not give the precise source of his authority but referred it to ‘tradition’ in general, v. Bacher HUCA, 1924, p. 31.]

(16) His account thus varies from the statement he makes here.

(17) Ex. XXX, 7.

(18) Ibid. in the same passage.

(19) How do they explain this verse?

Talmud - Mas. Yoma 15a

that at the time the lamps are being trimmed there shall — [still] be a burning of the incense. For, if you would not interpret thus, [how will you account for ‘at dusk’], as it is written: And when Aaron lighteth the lamps at dusk, he shall burn it.[1] Would you say here too that he shall first light the lamps and afterwards offer up the incense due at dusk? And if you will say, ‘Indeed, so it is,’ but has it not been taught:[2] From evening to morning,’,[3] i.e., provide a sufficient quantity [of oil] that it may burn all night from evening to morning; or, according to another interpretation: ‘From evening to morning’, i.e., there is no service which is proper [to be performed] ‘from evening to morning’ except this.[4] What then the Divine Law intends is that at the time of the lighting there shall [still] be a burning of the incense. Here also: at the time of the trimming there shall [still] be a burning of the incense. And Abba Saul?[5] It is different there, because Scripture Says: otho [it].[6] R. Papa said: This[7] is no difficulty. The one account agrees with the Sages, the other with Abba Saul[8] How do you place the matter now: Our Mishnah in accord with the Sages, and [the Mishnah of] the count in accord with Abba Saul? Then consider the second part:[9] They brought to him the daily sacrifice. He made the incision and another finished the slaughtering for him. He entered to burn the incense and to trim the lamps.[10] That is in accord with the Sages. The beginning and the end [is then] in accord with the Sages and the middle in accord with Abba Saul?[11] — R. Papa will tell you: Yes, the beginning and end are in accord with the Sages and the middle with Abba Saul.[12] It is clear why Abaye does not agree with [the interpretation of] R. Papa: because he will not explain the first and last part [of the Mishnah] as being in accord with the Sages, whilst the middle with Abba Saul. But why does not R. Papa take Abaye's point of view? He will tell you: Would he [the Tanna] teach first[13] of the trimming of two lamps and only afterwards[14] of the trimming of five lamps? And Abaye? — He will tell you: First he teaches in a general fashion [of the obligation of the high priest to be occupied during the seven days],[15] and afterwards he describes the order [of the service].[16]

The text [above states]: He came to the north-eastern corner, and sprinkled the east and the north; then [as he came to] the south-western corner, he sprinkled the west and south, and in connection with that it was taught that R. Simeon of Mizpah had this changed in Tamid. As he came to the north-eastern corner he sprinkled the east and north; then as he came to the south-western corner he sprinkled the west and afterwards the south.[17] What is the reason of R. Simeon of Mizpah? — R. Johanan in the name of one of the school of R. Jannai said: Scripture said, And one he-goat for a sin-offering unto the Lord: it shall be offered beside the continual burnt-offering, and the drink-offering thereof.[18] It[19] is a burnt-offering and the Divine Law[20] says, Deal with it as with a sin-offering — How is that to be done? He sprinkles one in such a manner as to constitute two [sprinklings], as is prescribed for a burnt-offering and he sprinkles two separate ones as is prescribed for the sin-offering. But let him make two sprinklings in such a manner as to constitute four, as is prescribed for a burnt-offering, and four full sprinklings as is prescribed for a sin-offering? — We do not find anywhere that blood brings atonement and then brings atonement again. But we do find blood, half of which is sprinkled after the manner of a sin-offering, and the other half after the manner of a burnt-offering? What you must of needs [say is] that Scripture has brought them under the same category! Here too one might say ‘of needs Scripture has brought them under one category’? — Here it is a case of merely ‘splitting’ the sprinkling.[21] But let him sprinkle one so as to constitute two below, as is prescribed for a burnt-offering and two separate sprinklings above as is prescribed for sin-offerings?[22] — We do not find that any blood is sprinkled, half above, and half below. Not indeed? Have we not learnt: He sprinkled thereof once upwards, and seven times downwards? That was done ke-mazlif’ [like the movement of swinging a whip]. What does ‘ke-mazlif’ mean? Rab Judah showed it by [imitating the movements of] a lasher.[23] But [do we] not [find any blood sprinkled half above and half below]? surely we have learnt: He sprinkled thereof upon the tohar of the altar seven times.[24] Don't you think it means upon the middle [of the front] of the altar, as people say ‘the noon-light’ shines, meaning by ‘tihara’ the middle of the day? — Rabbah b. Shila said: No, it refers

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(1) Ibid. 8.

(2) Pes. 59a.

(3) Ex. XXVII, 21.

(4) The lighting of the lamps. There is no other service that is proper from the time they have been lit in the evening till the following morning (Rashi).

(5) How does he meet this argument?

(6) Ex. XXVII, 21. Only this (‘it’) may be done from evening to morning and no other work, so that you are compelled to give this interpretation to the text, but with regard to the verse dealing with the trimming, no such necessity arises.

(7) He refers to the question from the apparent contradiction of the two Mishnahs in Yoma — our Mishnah and the one infra 25a.

(8) Where incense is mentioned as coming first, the teaching is in accord with the Sages, the other passage where the lamps are first in order is in agreement with Abba Saul.

(9) Of the Mishnah of the count, infra.

(10) V. infra 31b. [This must refer to the two lamps as there is general agreement that the trimming of the five lamps must precede the incense.]

(11) That is unlikely.

(12) This is not impossible.

(13) In our Mishnah.

(14) [In the Mishnah infra 25a. Surely the trimming of the five lamps was before that of the two!]

(15) Without being concerned as to the order.

(16) [And thus infra 25a speaks of the trimming of the five lamps and infra 31b of the trimming of the two.]

(17) V. supra p. 65 notes.

(18) Num. XXVIII, 15.

(19) [The continual burnt-offering.]

(20) [By placing it in juxtaposition to a sin-offering, v. infra.]

(21) Without any evidence that this is made after the manner of a sin-offering, since both are made in one corner.

(22) The blood of the burnt-offering was sprinkled below the red line, round the middle of the altar, that of the sin-offering above the red line. V. Mid. III, 1.

(23) Above and below is not said here with regard to some line in the middle of the thickness, but it means that of the mercy seat was upwards, the seven all downwards, as one who swings a whip will make similar movements, v. Tosaf. s.v. כמצליף.

(24) [The Aramaic tohar is taken to mean ‘shining’ like the Hebrew zohar, infra].

Talmud - Mas. Yoma 15b

to the top of the altar itself,[1] for it is written: And the like of the very heaven for clearness.[2] Why does he just sprinkle first as due with the burnt-offering, and afterwards as due with the sin-offering? Let him first sprinkle as due in case of a sin-offering and after that as due with a burnt-offering! — Because it[3] is a burnt-offering, it comes first.[4] And why does he just sprinkle north-east and south-west. Let him sprinkle south-east and then north-west? — I will tell you: The burnt-offering requires the [projecting] base[5] [of the altar], and the south-eastern corner has no [projecting] base. — Why does he sprinkle first north-east and then south-west, let him sprinkle south-west and then northeast? — Since a master said:[6] All the turns you make in the Temple must be to the right, the east, he comes first to that [north-east].[7] Whence do you know that it is with the burnt-offering that the Divine Law states that it should be offered up in the manner due to a sin-offering? May it not be that it is with regard to the sin-offering[8] that the Torah says: Offer it up after the manner of the burnt-offerings? — Let not that thought arise in you. For it is written: Beside the continual burnt-offering and the drink-offering thereof’.[9] What does the Divine Law mean by this? Apply the measures [forms] of the sin-offering to the burnt-offering.

We have learnt there: The memuneh[10] said to them: Go and bring a lamb from the Cell of the Lambs.[11] Now the Cell of the Lambs was in the north-western corner. Four cells were there: one was the Cell of the Lambs; one the Cell of the Seals;[12] one the Cell of the Fireplace,[13] and one cell, in which the shewbread was made.[14]

They raised an objection: There were four rooms in the Cell of the Fireplace, like small rooms opening into a reception room; two on holy ground, two outside of holy ground; and the ends of the flagstones [in the pavement] indicated the mark between the sacred and the secular grounds. What was their use? The south-western was the Cell of the Lambs for offerings;

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(1) The word tohar may mean 'pure', 'clear', and thus here the ashes on the top of the altar were shoved aside and the clear place in the middle sprinkled.

(2) Ex. XXIV, 10.

(3) The continual daily offering.

(4) Mid. III, 1.

(5) Zeb. 51a, based on Lev. IV, 18: the blood must be sprinkled to a place on the altar below which there is a projecting base.

(6) V. infra 45a.

(7) In the case of a sin-offering (the blood of which is applied to the corner of the altar), as he goes up to the ramp of the altar and turns right, he comes to the south-eastern corner first, but he may not sprinkle the blood there, because that corner has no projecting base. He therefore goes on to the north-eastern corner, where he sprinkles. The same order is also followed with a burnt-offering, although there is no ascent of the ramp since the blood thereof was sprinkled below the line round the middle of the altar. He approaches the front of the altar from the south, then turns to the right. [The words 'the east' do not apply here, as the first sprinkling is made, as stated, in the north-east. They are mentioned as a current phraseology arising from the context in which the phrase 'all the turns you make etc.' is first used. V. infra 58b.]

(8) [The he-goat of the New Moon.]

(9) Translate ad hoc: 'upon the burnt-offering', instead of 'beside the burnt-offering', cf. supra p. 68.

(10) Temple Superintendent, v. infra p. 97' n. 4.

(11) In which lambs were kept, which had been passed as fit for sacrifices, in accord with Lev. I, 11.

(12) Shek. V, 3, 5. There were four seals in the Temple and on them was inscribed 'Calf', 'Ram', 'Kid', 'Sinner'; 'Calf' signifying drink-offerings for (sacrifices from) the herd...'Kid' signifying drink-offerings for (sacrifices from the) flocks . . . 'Ram' signifying drink-offerings for rams, 'Sinner' signifying drink-offerings for the three beasts offered up by the lepers. Anyone who wished to obtain drink-offerings would go to Johanan who was in charge of the seals, give him money and receive from him a seal, go from him to Ahiyah who was in charge of the drink-offerings, give him the seal and receive from him the drink-offering. V. Num. XV, 1-12.

(13) In which the fire was perpetually maintained, v. Tam. I, 1.

(14) Tam. 30a.

Talmud - Mas. Yoma 16a

the south-eastern was the cell wherein they made shewbread; in the north-eastern the Hasmoneans hid the stones of the altar, which the Greek kings had defiled;[1] through the north-western they went down to the chamber of immersion![2] — R. Huna said: Who is the authority for [the anonymous Mishnahs in] Middoth? R. Eliezer b. Jacob, for we have learnt: The court of the women was one hundred and thirty-five cubits long and one hundred and thirty-five cubits wide. At its four corners there were four cells. What was their use? The south-eastern was the Cell of the Nazirites, where the Nazirites cooked their peace-offerings, and cut off their hair and cast it under the pot;[3] the north-eastern was the Cell of the Wood-shed, wherein priests afflicted with a blemish were standing to examine the wood for worms-for any wood wherein a worm was found is unfit for the altar; the north-western was the Cell of the Lepers; as to the south-western, R. Eliezer b. Jacob said: I forget what its use was, whilst Abba Saul said: There they put wine and oil and it used to be called the Cell of the House of Oils.[4] It may also be proved by reasoning that the authority for [the anonymous Mishnahs in] Middoth is R. Eliezer b. Jacob, for we have learnt: All the walls that were there [in the Temple] were high with the exception of the eastern wall, because the priest who burns the heifer stands on the Mount of Olives and looks towards the entrance of the Temple at the time the blood [of the heifer] is sprinkled.[5]

And we have learnt: All the entrances that were there; were twenty cubits high and ten cubits wide.[6] And we have learnt: Inside this[7] was the Soreg [a railing of lattice work].[8] And we have learnt: Inside this was the Hel [rampart],[9] ten cubits broad. There were twelve steps there,[10] the height of each step was half a cubit and the depth of each step was half a cubit. [Furthermore]: Fifteen steps which led from the Court of the Israelites to the Court of the Women, the height and depth of each step being half a cubit.[11] [Furthermore we learnt]: Between the Hall[12] and the altar there were twenty-two cubits, there were twelve steps, the height and depth of each half a cubit;[13] and we have learnt: R. Eliezer b. Jacob said: There[14] was a step one cubit high and the platform[15] was set thereon and on it were three steps half a cubit high each.[16] Now, if you can say that the authority for the anonymous[17] [Mishnahs in Tamid] is R. Eliezer b. Jacob then it will be quite right, because according to him the door is concealed;[18] but if you should say that it is in accord with [the other] Rabbis, there would be left half a cubit through which the door would be visible![19] — R. Adda b. Ahaba said: It is R. Judah, for it has been taught:[20] R. Judah said: The altar was placed exactly in the centre of the Temple Court, measuring thirty-two cubits;

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(1) The Hellenized Syrians under Antiochus Epiphanes, I Macc. IV, 44f.

(2) Mid. I, 6. An obvious contradiction of the first account above.

(3) Num.VI, 18: And the Nazirite shall shave his consecrated head at the door of the tent of meeting, and shall take the hair of his consecrated head, and put it on the fire which is under the sacrifice of peace-offerings.

(4) Mid. II, 5. R. Eliezer b. Jacob's statement, ‘I forget what its use was indicates that he was the authority of the anonymous Mishnah.

(5) V. Mid. II, 4. (5) The following statement should make what follows clear. All the entrances of the buildings on the Temple mount were twenty cubits high. Inside the Hel were twelve steps, each half a cubit high. From the Court of the Women to the Court of Israel led fifteen steps, and twelve from the Hall to the Temple. Together thirty-nine steps, each half a cubit high, making nineteen and one half cubits in toto. According to this Tanna one need not assume that the eastern wall was lower, for since the height of the entrance is twenty cubits, there would still remain one half cubit of the door, which the steps (being only nineteen and one half cubits high) could not hide, so that the priest burning the heifer could look directly from the top of the Mount of Olives into the entrance to the Temple through the various entrances which were all exactly one against the other. But since we learnt that the eastern wall was lower, the Mishnah must be in accord with Eliezer b. Jacob, according to whom two and one half cubits were added to the height of the steps, for we have learnt in his name: There was a step, one cubit high, on which stood the platform with three steps of half a cubit height each. If we add that to the nineteen and a half cubits of the combined heights of the steps, we get twenty-two cubits (v. Tosaf. Jesh.) and that height would hide from view the entrance which was only twenty cubits high. The high priest burning the heifer looked westwards from the Mount of Olives, i.e. towards the eastern wall of the Temple, that is why, according to R. Eliezer b. Jacob, the eastern wall had to be lower, and that is the conclusive evidence that the anonymous Mishnah of Tamid is in accord with R. Eliezer.

(6) Mid. II, 3.

(7) Inside the entrance of the Temple Mount around the inner parts containing the Court of the Women and the Court of the Temple.

(8) [Or ‘a stone wall’, Mid. II, 3. The Soreg was the barrier beyond which heathens were not permitted to approach the Temple area, cf. Josephus, Wars, v. 5, 2.]

(9) [A raised platform going around the inner precincts.]

(10) In those ten cubits of the Hel leading up to the Court of the Women.

(11) Ibid.

(12) Ulam, leading to the interior of the Temple.

(13) Mid. III, 6.

(14) Between the Court of the Israelites and the Court of the Priests.

(15) It is the platform of the Levites, on which they stood, when singing or teaching, and from which the priests pronounced the benediction, V. Mid. II, 6.

(16) Mid. II, 2.

(17) Whenever no teacher is mentioned in the Mishnah of Middoth it is R. Eliezer b. Jacob, or whenever a Tanna is mentioned as opposing the anonymous Mishnah, he opposes R. Eliezer b. Jacob.

(18) By the height of the steps.

(19) To the priest looking across from the Mount of Olives; what necessity then was there for the eastern wall to be lower?

(20) The Tanna who said that the eastern Temple wall was lower.

Talmud - Mas. Yoma 16b

ten cubits opposite the door of the Temple, eleven cubits toward the north, and eleven cubits toward the south. With the result that the altar was exactly opposite the Temple and its walls.[1] But,if you should consider that the authority for Middoth is in accord with R. Judah, how could the altar possibly have stood in the centre of the Temple? Surely we have learnt: The Temple Court in all had a length of a hundred and eighty-seven cubits and a width of a hundred and thirty-five cubits. From east to west it extended over a hundred and eighty-seven cubits; the space which [lay] Israelites trod was eleven cubits; eleven cubits was the space which the priests trod; the altar occupied thirty-two; between Hall and altar were twenty-two cubits; the Sanctuary a hundred cubits and eleven cubits behind the place of the mercy seat.[2] From north to south was a hundred and thirty-five cubits; the ramp and the altar occupying sixty-two cubits, from the altar to the rings[3] eight cubits; the place of the rings twenty-four; from the rings to the tables four; from the tables to the columns four;[4] from the columns to the walls of the Temple Court eight cubits and the remainder lay between the ramp and the wall and the place of the columns.[5] Now if you were to consider that the authority for Middoth is R. Judah, how is it possible that the altar be in the centre of the Temple, since the bigger part of the altar lies towards the south?[6]

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(1) The inside of the Temple was twenty cubits, the walls were six cubits in depth, and the height of the altar was nine cubits to which must be added the thirteen and a half cubits rise in the level of the Court of the Israelites where the altar stood making a total of twenty-two and a half cubits; thus the altar would hide the Temple door, hence the lower eastern wall. V. Zeb. 58b.

(2) [An empty space beyond the Holy of Holies, the purpose of which is not stated anywhere.]

(3) They were set in the ground in the slaughter-house, north of the altar, and the necks of the animals were placed in them. The most holy sacrifices were slain on the north side of the altar, Zeb. 47a.

(4) Low columns placed in the ground, to which iron hooks were attached, on which the animals were hung for flaying.

(5) Mid. V, 1, 2.

(6) [The figures given here as from south to north make a total of a hundred and ten cubits. To this must be added the space of four cubits occupied by the table, which is not mentioned here, then leaving a remainder of twenty-one cubits which lay equally between the ramp and the wall and the place of columns. This allows for ten and a half cubits for the space between the ramp (which was on the south of the altar) and the southern wall of the court. Deducting this from sixty-seven and a half cubits which was half the breadth of the court from south to north, we are left with fifty-seven cubits within which lay the ramp, thirty cubits in length, and twenty-seven out of the thirty-cubits of the altar proper, with the result that the larger part of the altar lay in the southern half of the court. V. Rashi.]

Talmud - Mas. Yoma 17a

Must one not rather infer that the authority [for Middoth] is R. Eliezer b. Jacob?[1] That is the right inference.

R. Adda,[2] the son of R. Isaac said: That cell[3] was removed [from both] corners;[4] to him that came from the north it appeared to be in the south and to him who came from the south it appeared to be in the north — It is to be proved by inference that it lay more in the south-west. Whence [can this be proved]? From a contradiction from [one statement about the] Cell of the Shewbread to [another statement about the] Cell of the Shewbread and the answer given by R. Huna, the son of R. Joshua: 'One teacher considers it as lying to the right, and the other as lying to the left'.[5]

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(1) [And the entrance of the Sanctuary was covered from the sight of the priest, who burnt the heifer on the Mount of Olives, by the extra step and not by the altar, for according to him the whole altar lay in the southern half of the court. V. infra 37b.]

(2) R. Adda wishes to reconcile the two contradictory Mishnahs in regard to the position of the Cell of the Lambs.

(3) The Cell of the Lambs.

(4) [Situated on the west side it extended from north to south, though removed from both extremities.]

(5) The Tanna in Tamid (supra 15b) mentions the Cell of the Lambs in the north-west, and assuming that he is counting towards the right, the Cell of the Seals would be in the south-west, the Cell of the Fireplace in the south-east, and the Cell of the Shewbread in the north-east. Against that the objection was raised, viz., the Mishnah in Middoth places the Cell of the Shewbread in the south-east. Whereupon R. Huna said: The Tanna of Middoth counts from the right, whereas the Tanna of Tamid counts from the left. Now, if we say that the Tanna of Tamid, who says that the Cell of the Lambs lay in the north-western corner, admits that it lay more to the south-west, but that it appeared (as the Gemara above has it) to the north-west, and he started in reality counting from the south-west, that will explain the contradictory statements in Tamid and Middoth; but if you say that his statement, the Cell of Lambs lay in the north-western corner, is to be taken literally, there is no sense in the answer, for even if one counted towards the left, that cell would be lying in the south-western corner.

Talmud - Mas. Yoma 17b

Now, if you say that it lay in the south-western corner, it will be right that he answers the objection raised from [one statement about] shewbread to [another statement about] shewbread; but if you say it lay in the north-western corner, what sense is there in the answer about the shewbread? Must one not hence infer that it lay in the south-western corner? That is the right inference. But the Master has said: All the turns you make must be to the right, i.e., towards the east?[1] — That [rule] applies to the Temple service, but here it is merely on account of measurement.

FOR THE HIGH PRIEST IS FIRST IN OFFERING A PORTION AND FIRST IN TAKING A PORTION [OF THE SACRIFICES]. Our Rabbis taught: How is he first in offering a portion? He can say: This burnt-offering I shall offer up, this meal-offering I shall offer up. How has he first right in taking a portion? He can say: This sin-offering I am eating, this guilt-offering I am eating. He can take one of the two loaves,[2] four or five of the shewbread loaves. Rabbi says: Always five, for it is written: And it shall be for Aaron and his sons'[3] i.e., half for Aaron and half for his sons. This [statement in] itself is difficult. You have said: 'He takes one of the two loaves'. That is in accord with Rabbi, who says: He can take one half. Now say the middle portion: 'Four or five of the shewbread loaves', that is in accord with the Sages who say that he does not take one half. Now say the last portion : Rabbi says: 'Always [he takes] five'. Does, then, the first and last part agree with Rabbi and the middle with the Sages?-Abaye said: The first and the second parts agree with the Sages, and the Sages admit that it is not a proper thing to give the high priest a piece of bread.[4]

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(1) V. supra p. 69.

(2) Of Pentecost, v. Lev. XXIII, 17.

(3) Lev. XXIV, 9.

(4) Hence he may take one of the two loaves of Pentecost.

Talmud - Mas. Yoma 18a

How is ‘four or five’ to be taken? — According to the Sages who say:[1] The incoming Mishmar[2] took six and the outgoing group took six, and there is no fee for the locking of the Temple gates,[3] the division is in respect of the twelves loaves. Deduct one from a half, that makes five. Whereas according to R. Judah who says: The incoming Mishmar takes seven, of which two are the fee for locking the Temple gates, and the outgoing division takes five; the division is in respect of ten[4] loaves, take one off the half, thus he takes four. Raba said: The whole teaching is in accord with Rabbi, but he is of the opinion of R. Judah.[5] How then does ‘four’ come in? He should take five? That is no difficulty: In the one case there is a Mishmar which[6] delayed in the Sanctuary, in the other there is no such Mishmar. If there be a Mishmar which delayed,[7] so that he would take four of them, the division is in respect of eight loaves; if there is no Mishmar which had delayed, one ought to divide ten, so that the division is in respect of ten loaves, he would take five loaves. If so, then, can Rabbi say: Always five? — That is, indeed, a difficulty. MISHNAH. THEY DELIVERED TO HIM ELDERS FROM THE ELDERS OF THE COURT AND THEY READ BEFORE HIM [THROUGHOUT THE SEVEN DAYS] OUT OF THE ORDER OF THE DAY.[8] THEY SAID TO HIM, SIR HIGH PRIEST, READ YOU YOURSELF WITH YOUR OWN MOUTH, PERCHANCE YOU HAVE FORGOTTEN OR PERCHANCE YOU HAVE NEVER LEARNT. ON THE EVE OF THE DAY OF ATONEMENT IN THE MORNING THEY PLACE HIM AT THE EASTERN GATE AND PASS BEFORE HIM OXEN, RAMS AND SHEEP, THAT HE MAY LEARN TO KNOW AND BECOME FAMILIAR WITH THE SERVICE. THROUGHOUT THE SEVEN DAYS THEY DID NOT WITHHOLD FOOD OR DRINK FROM HIM. BUT ON THE EVE OF THE DAY OF ATONEMENT NEAR NIGHTFALL THEY WOULD NOT LET HIM EAT MUCH BECAUSE FOOD BRINGS ABOUT SLEEP.

GEMARA. It is quite right that [they assume] perchance he has forgotten, but that he never learnt, do we ever appoint men of that type? Surely it has been taught: And the priest that is highest among his brethren,[9] that means he should be highest among his brethren in strength, in beauty, in wisdom, and in riches. Others[10] say: Whence do we know that if he does not possess [any wealth], his brethren, the priests, endow him?[11] To teach us that it says: ‘And the priest who is great by reason of his brethren’,[12] i.e., make him great from what his brethren have?[13] -R. Joseph said: That is no difficulty. One refers to the first Temple, the other to the second, for R. Assi said: A tarkabful[14] of denars did Martha,[15] the daughter of Boethus give to King Jannai[16] to nominate[17] Joshua ben Gamala as one of the high priests.[18]

ON THE EVE OF THE DAY OF ATONEMENT IN THE MORNING: A Tanna taught: Also the he-goats. Why has our Tanna not taught he-goats? — Since they are meant for sin[-offerings], he might feel discouraged. If it be so: does not a bullock,[19] too, come for a sin[-offering]? — Since that comes for himself and his brethren the priests, [there is this advantage] that if there be one among his brethren the priests with whom there is something the matter, he would know it and bring him back to repentance, but would he know that with all Israel? Rabina said: This is what the popular proverb means: If your sister's son has been appointed a constable, look out that you pass not before him in the street.[20]

THROUGHOUT THE SEVEN DAYS THEY DID NOT WITHHOLD etc. It has been taught: R. Judah b. Nakussa said: One fed him [cakes] of fine flour and eggs in order to produce [speedy] elimination. They answered him: Thus you will induce the more excitement.[21]

It has been taught: Symmachus said in the name of R. Meir: One does not feed him either A'B'Y,[22] and some say, neither A'B'B'Y,[22] and some say neither white wine. Neither A'B'Y, i.e., neither Ethrog [citron], nor Bezim [eggs], nor Yayin yashan [old wine]. And, according to others, no A'B'B'Y, i.e., neither Ethrog, nor Bezim, nor Bassar shamen [fat meat], nor Yayin yashan, some say neither white wine because white wine induces levitical impurity in man.[23] — Our Rabbis taught: To one afflicted with gonorrhoea one assigns food or too many kinds of food as the cause[24] of an attack of gonorrhoea. Eleazar b. Phinehas says in the name of R. Judah b. Bathyra: One does not feed him[25] either H'G'B'Y or G'B'M, or any other thing that induces impurity. Neither H'G'B'Y, i.e., neither Halab [milk], nor Gebinah [cheese], nor Bezah, nor Yayin: nor G'B'M, i.e., neither megrisen shel pul [soup of pounded beans] , nor Basar shamen,, nor Muries[26] . 'Nor any other matters [foods] that induce impurity' — What is that meant to include? — It is meant to include what our Rabbis taught: Five things induce impurity in man, they are as follows: garlic,

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(1) Suk. 56a.

(2) A division of priests, v. Glos. s.v. These divisions changed every Sabbath.

(3) [On Saturday evening, though the gates had been opened on that day by the outgoing division.]

(4) Not the half, as Rabbi would have it.

(5) That the two loaves are never divided.

(6) On festivals all priests irrespective of division came up for service in the Temple and shared in the shewbread. If the festival starts on a Sunday, the guest priests would have to arrive in Jerusalem on the Friday before, since travel on the Sabbath is forbidden. Similarly, if the festival closes on Friday, the priests would have to stay over the Sabbath in Jerusalem. Hence, in either case, they share equally in the shewbread with the priests of the division in service in that particular week. If however, the festival started on a Monday, so that the guest priests might have arrived on Sunday, but instead came on Friday already; or, if the festival closed on Thursday, so that the priests might have returned on Friday, but stayed in Jerusalem until Sunday, such 'delaying' divisions (or guest divisions) were allotted only two loaves whilst the remaining ten loaves were divided between the incoming and outgoing weekly divisions.

(7) And which obtained two loaves, Only eight remain for division — two having paid for the locking of the doors-and the high priest would receive but four.

(8) As prescribed in Lev. XVI.

(9) Lev. XXI, 10.

(10) Either: anonymous authorities, differing with the first Tanna of the Mishnah; or R. Meir, v. Hor. 13b.

(11) Raise him to independence by a collection taken up by all the priests.

(12) This is an ad hoc translation: (a) who is highest among his brethren (b) who is high because (of what) his brethren (do for him).

(13) V. Hul. 134b.

(14) [(a) ברקב = תרי קב two kabs; (b) ** = 2 1/2 kabs.]

(15) [His wife, v. Yeb. 61a.]

(16) [Jannai is often employed in the Talmud as a general patronymic for Hasmonean and Herodian rulers. Here it stands for Agrippa II, v. Josephus Ant. XX, 9, 4, and Derenbourg, Essai, 248ff.]

(17) The text has על 'because (he had nominated him)'. D.S. reads, correctly, עד 'so that'.

(18) To be, 'the elected by the electors'.

(19) Lev. XVI, 6, 11.

(20) Because he knows all your affairs and he may blackmail you.

(21) With the danger of pollution, which would unfit him for the service on the Day of Atonement, on the morrow.

(22) Mnemonic signs, explained below.

(23) Causing sex excitement and thus possible pollution.

(24) That benefit of the doubt will have this advantage for him: If it were due to his usual illness, he would have to count seven days from the day it happened before he would be pure again, but now he can continue his original count.

(25) During the time when he examines himself to make sure there has been no recurrent attack of gonorrhoea.

(26) A brine or pickle containing fish-hash and sometimes wine (Jast.).

Talmud - Mas. Yoma 18b

pepperwort, purslane, eggs, and garden-rocket.

And one went out into the field to gather oroth [herbs][1] — A Tanna taught in the name of R. Meir: That refers to garden-rocket. R. Johanan said: Why are they called ‘oroth’? because they enlighten the eyes.[2] R. Huna said: If one finds a garden-rocket he should eat it, if he can, and if not he should pass it over his eyes. R. Papa said: That refers to rocket growing on the balk. R. Giddal said in the name of Rab: A guest should not eat eggs nor sleep in the garment of his host.[3] Whenever Rab came to Darshis,[4] he would announce: Who would be mine for a day?[5] Whenever R. Nahman would come to Shekunzib[6] he would have it announced: Who will be mine for a day? But has it not been taught:[7] No man should marry a woman in one country and then go and marry a woman in another country lest they [their children][8] might marry one another with the result that a brother would marry his sister or a father his daughter, and one fill all the world with bastardy to which the scriptural passage refers: And the land become full of lewdness?[9] — I will tell you: [The affairs of] the Rabbis are well-known.[10] But did not Raba say: If one has proposed marriage to a woman and she has consented then she must await seven clean[11] days? — The Rabbis informed them before by sending their messenger earlier. Or, if you like, say: They only arranged for private meetings with them, because ‘You cannot compare one who has bread in his basket with one who has no bread in his basket’.[12]

MISHNAH. THE ELDERS OF THE COURT HANDED HIM OVER TO THE ELDERS OF THE PRIESTHOOD AND THEY TOOK HIM UP TO THE UPPER CHAMBER TO THE HOUSE OF ABTINAS.[13] THEY ADJURED HIM, TOOK THEIR LEAVE, AS THEY SAID TO HIM: SIR HIGH PRIEST, WE ARE MESSENGERS OF THE BETH DIN AND YOU ARE OUR MESSENGER AND THE MESSENGER OF THE COURT. WE ADJURE YOU BY HIM THAT MADE HIS NAME TO DWELL IN THIS HOUSE THAT YOU DO NOT CHANGE ANYTHING OF WHAT WE SAID TO YOU.[14] HE TURNED ASIDE AND WEPT AND THEY TURNED ASIDE AND WEPT.[15] IF HE WAS A SAGE HE WOULD EXPOUND, AND IF NOT, THE DISCIPLES OF THE SAGES WOULD EXPOUND BEFORE HIM. IF HE WAS FAMILIAR WITH READING [THE SCRIPTURES] HE WOULD READ. IF NOT THEY WOULD READ BEFORE HIM. FROM WHAT WOULD THEY READ BEFORE HIM? FROM JOB, EZRA AND CHRONICLES.[16] ZECHARIAH BEN KUBETAL SAID: OFTEN HAVE I READ BEFORE HIM FROM DANIEL.

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(1) II Kings, IV, 39.

(2) This is a play on ‘oroth’, as if it were derived from the root ‘or’, light, thus ‘enlightening’.

(3) Eggs might induce pollution. He might suffer pollution in the host's garment, which would be a doubly unpleasant occurrence.

(4) Be-Ardashir near Mahuza.

(5) Who would marry me for one day. ‘This strange statement, completely contradicted by the saintly character of both Rab (v. ‘Er. 100a, Hag. 5a, Keth. 48b, Sanh. 76a) and R. Nahman, has been explained through an account in Babli 76b. King Shapur entertained two guests, Bati b. Toba and Mar Judah. In accordance with Persian custom, he "honoured" them by sending to each a concubine. This gift was rejected by Mar Judah, but accepted by Bar Toba. Rab and R. Nahman, as leaders of their people would find themselves similarly embarrassed by such attention, on the occasion of their official visits to Persian cities. Some princes are known to have taken the refusal of their "gift" as a serious affront. In order to avoid complications, these Rabbis hit upon the device of declaring themselves married, i.e., provided with a wife in the city they visited, going to the length of marrying "for a day" the local wife, thus helping them to escape the royal "gift".’ For another explanation v. Yeb., Sonc. ed., p. 235 n. 7.

(6) On the eastern bank of the Tigris.

(7) Yeb. 37b

(8) ‘They’ may mean either the children of that man, son and daughter, may meet as strangers; or he might meet his own daughter. The assumption being that he divorces his wife and so loses interest in her child.

(9) Lev. XIX, 29.

(10) Their children, their wives. They would boast of their descent, or of having once been married to a Sage.

(11) The assumption being that because of the excitement involved she has become a menstruant.

(12) The craving of him who lacks the opportunity of gratifying it is much more intense than that of him who has the opportunity.

(13) There the family of Abtinas prepared the incense, there the high priest was taught the skillful manipulation that would enable him to take up the incense without spilling one grain.

(14) That he would not act in the manner of the Sadducees. V. Gemara.

(15) The elders, because they had to utter such suspicion, he, because they had done so.

(16) These books, less known, might arouse his interest and keep him awake. Sleep was to be prevented, because of the risk of pollution.

Talmud - Mas. Yoma 19a

GEMARA. A Tanna taught: To teach him[1] the manipulation of hafinah.[2] R. Papa said: The high priest had two cells. One, the Cell of the Counsellors,[3] the other, the Cell of the House of Abtinas;[4] one to the north, the other to the south. 'One to the north', as we have learnt: Six cells were in the Temple Court, three to the north, three to the south.[5] Those to the north were the Cell of the Salt, the Cell of Parwah,[6] the Rinsing Cell. Into the Cell of the Salt the salt for the sacrifice was put; 'The Cell of Parwah', there the hides of the animal-offerings were salted and on its roof was the place of immersion for the high priest on the Day of Atonement; 'The Rinsing Cell': there the inwards of the animal-offerings were rinsed and an incline led from it to the roof of the Parwah Cell. The three to the north were: The Wood-Cell, the Exile Cell,[7] and the Cell of Hewn Stone. Concerning the Wood-Cell R. Eliezer b. Jacob said: I have forgotten what it was used for, but Abba Saul said: It was the Cell of the high priest and it lay behind the two and the roof of all the three was of the same height. 'The Exile Cell'; there was the Exile cistern, and a wheel was placed above it and from there they drew water for the whole Temple Court. 'The Cell of Hewn Stone'; there the Sanhedrin of Israel was sitting and judging the priests and whosoever was found unfit would put on a black dress and wrap himself in black, go out and go his way. And one in whom no blemish was found would put on a white garment, wrap himself in white, enter the Sanctuary and officiate with his brethren. 'One cell was to the south', as we have learnt:[8] There were seven gates in the Temple Court, three to the north, three to the south and one to the east. To the south: The Gate of Kindling, next to it the Gate of the Firstlings, the third being the Gate of the Water.[9] To the east the Nicanor Gate,[10] beside which were two cells, one to the right and the other to the left; the former the Cell of Phinehas, the keeper of the garments and the latter the Cell of the Makers of the Griddle Cakes. To the north: The Gate of the Spark:[11] it was a kind of portico with an upper chamber built on top of it, and the priests kept watch above and the Levites below. It had a doorway to the Hel;[12] next to it was the Gate of the offering[13] and the third was the Gate of the Cell of the Fireplace. And it was further taught: The high priest immersed himself five times and performed ten sanctifications[14] on that day, all of them on holy ground on the roof of the Parwah house, with the exception of this one,[15] which was on profane ground, on top of the Gate[16] which latter was beside his own cell. But, [continues R. Papa], I do not know whether the Cell of the Counsellors was to the north and the Cell of the house of Abtinas to the south, or the Cell of the house of Abtinas to the north and the Cell of the Counsellors to the south. But it could be proven that the Counsellors' Cell was to the south. How? He would get up,[17] relieve nature, immerse himself,[18] turn northward to learn his hafinah practice,[19] enter the Sanctuary and officiate all day at the service; towards evening he would be sprinkled,[20] return southward, immerse himself[21] and rest. But if you were to say that the Counsellors' Cell is to the north, he would then get up, relieve nature,[22] turn to the south, immerse himself and learn the hafinah, enter the Sanctuary, perform the service all day, be sprinkled towards evening, return to the south and immerse himself, and then he would have to turn and go to the north to rest. Would we trouble him so much?[23] Why should we not put him to much trouble so that if he be a Sadducee, he will give up; or in order that he become not too overbearing; for if you do not say so, let us place the two [cells] next to each other; or, let one be enough for him.

THEY SAID TO HIM: SIR HIGH PRIEST etc. Shall we say that this[24] will be a refutation of R. Huna, the son of R. Joshua, for R. Huna, the son of R. Joshua said: These priests are messengers of the All Merciful God. For if you were to say they are our own messengers,

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(1) The high priest, in that chamber.
(2) The taking of handfuls of incense.
(3) Where he slept.
(4) Where he would learn hafinah.
(5) Mid. V, 3.
(6) Named after a Persian builder of that name.
(7) [So called because it was constructed by the returned exiles from Babylon.]
(8) Mid. I, 4.
(9) Into which a bottle of water was brought for the water libation on the Sukkoth festival, v. Shek. 9a.
(10) Named after its designer or donor.
(11) A perpetual flame was kept up in its upper chamber to rekindle the fire in the Cell of the Fire-place.
(12) V. supra p. 72, n. 4.
(13) Animals destined for most holy sacrifices were brought there, because they had to be slaughtered on the north side of the altar.
(14) Washing his hands and feet; that is the traditional interpretation of Lev. XVI, 24.
(15) The first immersion, obligatory on any day, to anyone desiring to enter the Temple, v. infra 30b.
(16) V. infra 30a. This proves R. Papa's statement that the high priest had a private cell on the south side where the Water Gate was situated.
(17) Every morning of the seven days.
(18) [Assuming that the Counsellor's Cell where he slept was in the south, all this would take place in the south. The place for the first immersion was as first stated on top of the Water Gate which was no the south.]
(19) [That is in the cell of Abtinas.]
(20) The sprinkling made the clean unclean, hence the necessity of immediate immersion so as to fit him for to-morrow's service.
(21) V. supra 4b.
(22) [This would, on this assumption, take place in the north.]
(23) Hence it seemed reasonable to assume that the Counsellors' Cell lay to the south.
(24) Our Mishnah, according to which he is addressed as 'Our Messenger'.

Talmud - Mas. Yoma 19b

is there anything that we ourselves are unable to perform[1] and our messengers can perform?[2] — Rather this is what they said to him: We adjure you according to our mind and in the mind of the Beth din.[3]

HE TURNED ASIDE AND WEPT AND THEY TURNED ASIDE AND WEPT. He turned aside and wept because they suspected him of being a Sadducee,[4] and they turned aside and wept, for R. Joshua b. Levi said: Whosoever suspects good folks will suffer [for it] on his own body.[5] Why was all this [solemn adjuration] necessary? Lest he arrange the incense outside and thus bring it in, in the manner of the Sadducees.[6]

Our Rabbis taught: There was a Sadducee who had arranged the incense without, and then brought it inside.[7] As he left he was exceedingly glad. On his coming out his father met him and said to him: My son, although we are Sadducees, we are afraid of the Pharisees. He replied: All my life was I aggrieved because of this scriptural verse: For I appear in the cloud upon the ark-cover.[8] I would say: When shall the opportunity come to my hand so that I might fulfil it.[9] Now that such opportunity has come to my hand, should I not have fulfilled it? It is reported that it took only a few days until he died and was thrown on the dungheap and worms came forth from his nose. Some say: He was smitten as he came out [of the Holy of Holies]. For R. Hiyya taught: Some sort of a noise was heard in the Temple Court, for an angel had come and struck him down on his face [to the ground] and his brethren the priests came in and they found the trace as of a calf's foot on his shoulder,[10] as it is written: And their feet were straight feet, and the sole of their feet was like the sole of a calf's foot.[11]

R. ZECHARIAH, THE SON OF KEBUTAL, SAID etc.: R. Hanan, the son of Raba, repeated to Hiyya, the son of Rab in the presence of Rab: R. Zechariah the son of Kefutal, whereupon Rab indicated to him with [a gesture of] the hand: [that it should be] Kebutal. Why did he not speak to him? — He was reading the Shema'.[12] But is such [interruption] permitted, has not R. Isaac b. Samuel b. Martha said: He who reads the Shema' may neither blink with his eyes, nor gesticulate with his lips, nor point with his fingers; and it has also been taught: R. Eleazar Hisma said concerning him who whilst reading the Shema' blinks with his eyes, gesticulates with his lips or points with his fingers, Scripture has said: Thou hast not called upon me, O Jacob?[13] — There is no difficulty; one view refers to the first portion of the Shema', the other to the second portion.[14]

Our Rabbis have taught: And thou shalt speak of them,[15] 'of them', but not during prayer;[16] of them thou mayest speak, but not of other things.[17] R. Aha said: 'And thou shalt speak of them', i.e. make them a regular programme, and not a casual topic. Raba said: One who engages in profane talk transgresses a positive command, for it is written: 'And thou shalt speak of them', 'of them', but not of other matters. R. Aha b. Jacob said: He transgresses against a prohibition, for it is said: All things toil to weariness; man cannot utter it.[18]

MISHNAH. IF HE SOUGHT TO SLUMBER, YOUNG[19] PRIESTS WOULD SNAP THEIR MIDDLE FINGER[20] BEFORE HIM AND SAY: SIR HIGH PRIEST, ARISE AND DRIVE THE SLEEP AWAY[21] THIS ONCE ON THE PAVEMENT. THEY WOULD KEEP HIM AMUSED UNTIL THE TIME FOR THE SLAUGHTERING [OF THE DAILY MORNING OFFERING] WOULD APPROACH.

GEMARA. What is 'zeredah?' — Rab Judah said: The rival of this one, which is it? the thumb.[22] R. Huna demonstrated it and its sound could be heard in the whole academy.

AND THEY WOULD SAY: SIR HIGH PRIEST, ARISE AND DRIVE THE SLEEP AWAY THIS ONCE. R. Isaac said: [Show us] something new.[23] What was that? — They said to him: Show us the kidah.[24]

AND THEY WOULD KEEP HIM AMUSED UNTIL THE TIME FOR THE SLAUGHTERING WOULD APPROACH. A Tanna taught: They kept him amused neither with the harp nor with the lyre, but with the mouth. What were they singing? Except the Lord build a house, they labour in vain that build it.[25] Some of the worthiest of Jerusalem[26] did not go to sleep all the night in order that the high priest might hear the reverberating noise,[27] so that sleep should not overcome him suddenly. It has been taught: Abba Saul said: Also in the country[28] they used to do so[29] in memory of the Temple, but they used to commit sin.[30] Abaye, or, as some say, R. Nahman b. Isaac, interpreted that to refer to Nehardea. For Elijah said to Rab Judah, the brother of R. Sila the Pious: You have said: Why has not Messiah come? Now to-day is the Day of Atonement and yet how many virgins were embraced in Nehardea! He answered: What did the Holy One, blessed be He, say? — He answered:

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(1) V. Ned. 35a. Prohibiting the making of gestures whilst reading the Shema'.

(2) Permitting the making of gestures.

(3) [He is addressed as 'Our Messenger' only in respect of this adjuration, i.e., to impress on him that he must take the oath in the sense as understood by them. (V. Ned. 24b-25a).]

(4) The Sadducees held that the high priest should prepare the incense on the fire pan before entering the Holy of Holies so that he would enter it with the pan asmoke. Many priests were suspected of adhering to that sect, hence the necessity of that solemn adjuration that the high priest would make no change.

(5) The text for this teaching is Ex. IV, I and 6. Moses had ‘suspected’ Israel of disbelieving the message of the Lord, when he would bring it to them, hence he was smitten with leprosy. But the leprosy there was neither meant as punishment, nor abiding, the verses are used illustratively rather than logically for the present purpose.

(6) V. infra 53a.

(7) Into the Holy ‘of Holies.

(8) Lev. XVI, 2.

(9) The Sadducees interpreted the passage: For I appear in the cloud, as if it said: For I am to be seen only with the cloud (of the incense) upon the ark-cover. The whole verse, according to them is to mean: Let him not come into the holy place except with the cloud (of incense), for only thus, with the cloud, am I to be seen on the ark-cover. Hence the Sadducees’ effort to enter the Holy of Holies with the fire pan asmoke, prepared and lit outside.

(10) [The high priest, in coming out of the Holy of Holies, walked backward so as not to turn his back on the Holy of Holies (v. infra 52b). When he reached the threshold and his back first emerged behind the curtain, the angel who was outside the curtain struck him on his back between the shoulders and threw him down, making him fall forward into the Holy of Holies with his face to the ground. There he lay till his brother priests came and threw him out. Cf. J. Yoma, I, 5. Lauterbach J.Z. HUCA IV, p. 193.]

(11) Ezek. I, 7. That trace is the ‘evidence’ that an angel had struck him, kicked him with his foot. The ‘four living creatures’ are identified with angels.

(12) V. Glos.

(13) Isa. XLIII, 22.

(14) In the first portion occur the words ‘And these words shall be on thy heart’, indicating that special devotion is necessary for such prayer to be properly read. Deut. VI, 6. The second portion, ibid XI, 13-22, contains no such special emphasis, hence no such restriction applies.

(15) Deut. VI, 7.

(16) Prayer should be silent.

(17) Loose talk, prattle.

(18) Eccl. I, 8. ‘Cannot’, i.e., ‘ought not’, i.e., ‘must not’,

(19) Lit., ‘flowers’ then ‘young men’ fig., in Job XXX, 12 the word is used contemptuously: Upon my right hand rises the brood.

(20) Zeredah is the middle finger, Tosef. Men, 35b as against Rashi a.l. Jastrow would derive it from zarad (be rough, in sound), thus ‘the snapping finger’. Baneth (Mo'ed, a.l.) would connect it with ‘strideo’ (Engl. a ‘strident’ note). But since ‘makkeh’ is used for playing on a musical instrument, it may be that ‘they played before him with the snapping finger’, to keep him amused: or, cf. the Roman ‘crepitus digitorum’, it may have been a sign of command: Arise!

(21) ‘Pug’ means to stop. Lam. II, 18 thus ‘remove’, thus ‘remove sleep’. The pavement was cool for his naked feet.

(22) Phonetic play: the match to this (the middle finger) or the nearest to this (the index finger), what is it? The thumb, i.e., the sound is produced with these two fingers (Jast.).

(23) על חדת lit., ‘for something new explaining אחת’this once’ in the Mishnah.

(24) Pressing both big toes against the floor, bowing and kissing the pavement, and rising without moving the feet — this difficult performance was called the kidah-the bowing to the ground.

(25) Ps. CXXVII, 1. By implication: Except your service will be motivated by reverence for God, it will be in vain.

(26) [יקירי ירושלים’the nobility of Jerusalem’ designated also נקיי-הדעת שבירושלים v. Klein מדעי היהדות I (1926) p. 74ff.]

(27) Of the people awake around him, singing and amusing him.

(28) Lit., ‘border-towns’, then: the country outside Jerusalem.

(29) Stay up all night before the Day of Atonement.

(30) Intimacy developed between men and women.

Talmud - Mas. Yoma 20a

Sin coucheth at the door.[1] — What about Satan? — He answered: Satan has no permission to act as accuser on the Day of Atonement. Whence [is that derived]? — Rama b. Hama said: Hasatan[2] in numerical value is three hundred and sixty-four, that means: on three hundred and sixty-four days he has permission to act as accuser, but on the Day of Atonement he has no permission to act as accuser.

MISHNAH. EVERY DAY ONE WOULD REMOVE[3] [THE ASHES FROM] THE ALTAR AT KERI'ATH HA-GEBER OR ABOUT THAT TIME, EITHER BEFORE OR AFTER. BUT ON THE DAY OF ATONEMENT AT MIDNIGHT,[4] AND ON THE FEASTS AT THE FIRST WATCH,[5] AND BEFORE THE COCKCROW APPROACHED THE TEMPLE COURT WAS FULL OF ISRAELITES. GEMARA. We have learnt elsewhere: If limbs [of animal offerings] burst off from upon the altar before midnight, they must be put back and the law of Me'ilah[6] applies to them; if they sprang off the altar after midnight, they need not be put back and the law of Me'ilah does not apply to them.[7] Whence do we know that?[8] — Rab said: One scriptural verse says: All night and . . . he shall make smoke[9] and another passage says: All night . . . and he shall take up [the ashes],[10] how is that? Divide [the night] half of it for smoking and the other half for taking up [of the ashes].[11]

R. Kahana raised an objection: EVERY DAY ONE WOULD REMOVE THE ASHES FROM THE ALTAR AT COCKCROW OR ABOUT THAT TIME, EITHER BEFORE OR AFTER. BUT ON THE DAY OF ATONEMENT AT MIDNIGHT AND ON THE FEASTS AT THE FIRST WATCH: Now

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(1) Gen. IV, 7. Overcoming people against their better intentions.

(2) The Satan.

(3) Lev. VI, 3: And the priest . . . shall take up the ashes whereto the fire hath consumed the burnt-offering on the altar, and he shall put them beside the altar. In reality one did not remove all the ashes, but a handful. The rest was swept together on top of the altar and formed gradually a cone or ‘apple’, (tapuah ha-mizbeah) which was considered an ornament. It was removed only when it occupied too much room: And he . . . shall carry forth the ashes without the camp unto a clean place (ibid. 4).

(4) To keep the high priest busy. This part of the work need not have been done by him, as Tosaf. Zeb. 86b proves.

(5) As to the watch, there is a diversity of opinion in Ber. 3a, some dividing the night into three, others into four such watches.

(6) Me'ilah is the law concerning the unlawful use of sacred property; ma'al means ‘commit a trespass’ and refers to the use or appropriation of anything that belongs to the altar, to the Sanctuary, to God. If me'ilah has been committed by error, there is reparation and a guilt-offering: If one commit a trespass and sin through error, then he shall bring his forfeit to the Lord, a ram without blemish . . . for a guilt-offering, and he shall make restitution for that which he hath done amiss . . . and shall add the fifth part thereto (Lev. V, 15-16).

(7) Zeb. 86a.

(8) That by midnight the limbs are considered consumed and treated as ashes.

(9) Lev. VI, 2-5. It is a loose combination of passages.

(10) In reality the smoking, mentioned at the end, might be assumed to take place at the end. The argument here is from the facts back to some support in the text.

(11) Any limb bursting off after midnight is regarded as consumed and can be removed as ashes.

Talmud - Mas. Yoma 20b

if the thought should arise in you that midnight is a time fixed by the Torah, how could it be anticipated [or postponed]?[1] — Rather said R. Johanan: By mere logical conclusion from the text ‘All the night’ would I not know that it means until the morning, why then the teaching ‘until the morning’? Add another morning to the ‘morning of the night’,[2] Hence every day one would remove the ashes at cockcrow, either before or after being ample [time]. On the Day of Atonement, when the high priest is weak, we do it about midnight and on the Feasts when many Israelites are present and many sacrifices[3] are offered we do it from the first watch, as indeed the reason therefore is indicated: BEFORE THE COCKCROW APPROACHED, THE TEMPLE COURT WAS FULL OF ISRAELITES. What does ‘keri'ath ha-geber’[4] mean? — Rab said: The call of a man,[5] R. Shila: The call of the cock. Rab came to the place of R. Shila, when there happened to be no interpreter[6] to stand next to R. Shila, so Rab took the stand next to him and interpreted ‘keriath hageber’ as ‘the call of the man’. R. Shila said to him: Would you, Sir, interpret it as: Cockcrow! Rab replied: ‘A flute is musical to nobles, but give it to weavers, they will not accept it’.[7] When I stood before R. Hiyya and interpreted ‘keriath ha-geber’ as the ‘call of the man’ he did not object to it and you say to me: Say, perhaps, the cock's crow! He said: Sir, you are Rab, would you sit down, Sir![8] He replied: People say: If you have hired yourself away [to someone] pull his wool![9] Some say: Thus did he reply to him: One may promote a man in holy things, but not demote[10] him. There is a teaching in accordance with Rab, and there is also a teaching in accord with R. Shila. There is a teaching in accord with Rab: What does Gebini the Temple crier call out: Arise, ye priests for your service, Levites for your platform, Israel for your post! And his voice was audible for three parasangs. It happened that King Agrippa who came along travelling, heard his voice from three parasangs, and as he came home, he sent gifts to him. Nevertheless, the high priest is more excellent than even he, for the Master said:[11] It has happened already that when he prayed ‘Oh Lord’ that his voice was heard in Jericho, and Rabbah b. Bar Hana said in the name of R. Johanan: From Jerusalem to Jericho is a distance of ten parasangs:[12] and although here there is weakness,[13] and there none, and here it is day and there night;[14] for R. Levi said: Why is the voice of man not heard by day as it is heard by night? Because of the revolution[15] of the sun which saws in the sky like a carpenter sawing cedars. Those sunmotes are called ‘la’,[16] and with reference to them Nebuchadnezzar said:[17] And all the inhabitants of the world are considered as ‘la’. Our Rabbis taught: Were it not for the revolution of the sun, the sound of the tumult of Rome would be heard: and were it not for the sound of the tumult of Rome, the sound of the revolution of the sun would be heard.

Our Rabbis taught : There are three voices[18] going from one end of the world to the other: The sound of the revolution of the sun; the sound of the tumult of Rome, and the sound of the soul as it leaves the body. Some say also the sound of childbirth

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(1) [Since before midnight it is not considered consumed. Rashi omits ‘or postponed’ which is bracketed in cur. edd. Tosaf. retains it explaining it on the principle that ‘the zealous perform a religious duty as early as possible’.]

(2) The morning of the night’ is the dawn. The additional morning is the margin of before and after the cockcrow.

(3) Since there were many ashes and they had all to be removed for the ‘apple’ to be imposing, they started earlier on these days.

(4) The call of ‘geber’. That word means in Hebrew both ‘man’ and ‘cock’. Hence it may mean that the work started at cockcrow or as soon as the man (officer) called them in the morning.

(5) The officer summoned all, priests, Levites, and Israelites, to their respective duties.

(6) Amora (v. Glos.). The Rabbi taught in Hebrew, which he spoke to the interpreter. The latter translated the lecture into Aramaic, the language of the people, as against Hebrew, more and more the language of the scholars (Rashi).

(7) I.e., fools would criticize, where men of taste admire.

(8) Do not continue as my interpreter. You are too big to serve me.

(9) Having undertaken the task, I will complete it, unconcerned about questions of dignity.

(10) The next interpreter may know very little and it would be a sort of disgrace for you to have to put up with an ignoramus after my service, The emphasis is on the ignoramus, not on any implied self-praise.

(11) Infra 39b.

(12) V. Glos.

(13) The weakness due to the Fast.

(14) The high priest prayed during the day, when his voice would be less audible because of the revolution of the sun.

(15) Lit., ‘the wheel’, V. Otzar ha-Geonim, a.l.: ‘There is a voice heard now in Babylon, sounding from pools, and connected trenches, a harsh voice, which is ascribed to Ridya. Thus also do the Ishmaelites (Muslim Arabs) call it. It sounds from the month of Iyar through the harvest’. V. Ginzberg, Geonica, I, 345

(16) Nothing, to which is equal a mere mote, a particle.

(17) Ran. IV, 32. And ‘in the inhabitants of the world are reputed as nothing is ad hoc translated ‘as sun-motes’.

(18) Aliter: reputation.

Talmud - Mas. Yoma 21a

and some say also the sound of Ridya.[1] The Sages prayed for the soul as it leaves the body and achieved the stopping [of that cry].

We have learnt in accord with R. Shila: If one starts out on a journey before keri'ath ha-geber, his blood comes upon his own head![2] R. Josiah says: [He should wait] until he has crowed twice, some say: Until he has crowed thrice. What kind of cock? The average type.[3]

Rab Judah said in the name of Rab: When the Israelites come up to the festivals, they stand pressed together,[4] but they prostrate themselves, with wide spaces [between them], and they extend eleven cubits behind the back wall of the Holy of Holies.[5] What does that mean? — It means that although they extended eleven cubits behind the back wall of the Holy of Holies, standing pressed together, yet when they prostrated themselves, they prostrated themselves with wide spaces [between them]. This is one of the ten miracles which were wrought in the Temple, for we have learnt: Ten miracles were wrought in the Temple:[6] no woman miscarried from the scent of the holy flesh; the holy flesh never became putrid; no fly was seen in the slaughter house; no pollution ever befell the high priest on the Day of Atonement; no rain ever quenched the fire of the wood-pile on the altar; neither did the wind overcome the column of smoke that arose therefrom; nor was there ever found any disqualifying defect in the ‘Omer[7] or in the two loaves,[8] or in the shewbread; though the people stood closely pressed together, they still found wide spaces between them to prostrate themselves; never did serpent or scorpion injure anyone in Jerusalem, nor did any man ever say to his fellow: The place is too narrow for me to stay overnight in Jerusalem.[9] — He started with [miracles in] the Temple and concludes with [those wrought] in Jerusalem! — There are two more [miracles wrought] in the Temple. For it has been taught: Never did rains quench the fire of the pile of wood on the altar; and as for the smoke arising from the pile of wood, even if all the winds of the world came blowing, they could not divert it from its wonted place. But are there no more? Has not R. Shemaya of Kalnebo[10] taught that the fragments of earthenware[11] were swallowed up in the very place [where they were broken];[12] and Abaye said: The crop, the feathers, the ashes removed from the inner altar and from the candlestick were swallowed up in the very place [where they were taken off]? — The three[13] [referring to] disqualifications were included under one head, hence take off two and add two! But then all [cases of] things swallowed up ought also to be included under one[14] head, so that the count would be one short? — There are also other [miracles], for R. Joshua b. Levi said:[15] A great miracle was wrought with the shewbread, viz., when it was removed it was as fresh as when it was put on, as it was said: To put hot bread in the day it was taken away.[16] But are there no more? Has not R. Levi said: This matter has been handed down as a tradition to us from our forefathers: The place on which the ark stands is not included in the measurement;[17] and has not Rabbanai in the name of Samuel said: The Cherubs[14] were standing by sheer miracle? — The count refers to miracles wrought outside [the Temple], miracles wrought inside are not mentioned. If that be so, what of the shewbread which is also a miracle that happened inside the Temple? — No, that miracle happened outside, for Resh Lakish said: What is the meaning of the passage: Upon the pure table before the Lord;[18] the statement that it is pure implies that it was susceptible to uncleanness.

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(1) רדיא: name of the angel of rain. In Ta'an. 25b his figure is said to be that of a calf, and according to Rashi it is from this fact that it derives its name, רדיא being the Aramaic equivalent of חורש a ploughing (ox).

(2) Which proves the phrase to mean, cockcrow.

(3) One that crows neither too early nor too late.

(4) Pressed, squeezed together in the Temple. Rashi would have it as a simile of a ‘floating mass’, immovable in a

swaying mob.
(5) Lit., 'House of the Mercy Seat', v. supra p. 73, n. 5.
(6) Another reading has 'unto our forefathers in etc.'
(7) Of new barley offered on the second day of Passover, Lev. XXIII, 10f.
(8) The first fruits of the wheat harvest offered on Pentecost, ibid. 17.
(9) V. Aboth, Sonc. ed., p. 62 notes,
(10) [Kar-nebo, the city of Nebo. Probably Borsippa, v. Funk, Monumenta I p. 299.]
(11) In which flesh of sin-offerings was boiled, and which according to Lev. had to be broken, v. Lev. VI, 21.
(12) Zeb. 96a.
(13) Of the 'Omer, the two loaves and the shewbread.
(14) Broken earthenware, crop, feathers, ashes. Broken earthenware was counted as one and all the other things swallowed up came as under one head, so that if they were all to be placed on one count, there would be one miracle short of the number.
(15) Hag. 26b.
(16) I Sam. XXI, 7
(17) The Cherubim which Solomon made stood on the floor next to the ark, on the right and left, The spread of their wings was twenty cubits, Since the whole room had no more than twenty cubits, the body of the Cherubs, as separate from the wings, was in the room by miraculous provision. The same applies to the ark.
(18) Lev. XXIV, 6.

Talmud - Mas. Yoma 21b

[But surely] it was a wooden vessel, intended for resting, and every wooden vessel intended for resting is not susceptible to uncleanness and sets up a barrier[1] against uncleanness?[2] Rather does this teach us that the table would be lifted[3] up for the gaze of those who came up to the Festivals, with the mark: Behold how beloved you are of God, for it is as fresh when it is taken off as it was when put on, as it was said: 'To put hot bread in the day it was taken away'.[4]

But were there no more [miracles]? Did not R. Oshaia say:[5] When King Solomon built the Sanctuary, he planted therein all kinds of [trees of] golden delights, which were bringing forth their fruits in their season and as the winds blew at them, they would fall off, as it is written: May his fruits rustle like Lebanon,[6] and when the foreigners entered the Temple they withered, as it is written: And the flower of Lebanon languishes;[7] and the Holy One, blessed be He, will in the future restore them, as it is said: It shall blossom abundantly and rejoice, even with joy and singing; the glory of Lebanon shall be given unto it?[8] -Permanent miracles he does not include in his count. And now that we have come to this [conclusion], the ark and the Cherubim are also permanent miracles.[9]

The Master said: 'And the [smoke arising from the] pile of wood on the altar'. But was there smoke arising from the pile of wood? Has it not been taught: Five things were reported about the fire of the pile of wood: It[10] was lying like a lion, it was as clear as sunlight, its flame was of solid substance, it devoured wet wood like dry wood, and it caused no smoke to arise from it? — What we said [about the smoke] referred to the wood from outside [of the Sanctuary].[11] For it has been taught: And the sons of Aaron the priest shall put fire upon the altar[12] — although the fire comes down from heaven, it is a proper thing to bring fire from outside too.[13]

'Lying like a lion'. But has it not been taught: R. Hanina, deputy high priest, said: I myself have seen it and it was lying like a dog? — This is no contradiction: The first statement refers to the first Temple, the second to the second Temple.[14] But was the fire present at the second Temple?-Surely R. Samuel b. Inia said: What is the meaning of the scriptural verse: And I will take pleasure in it [we-ikabed] and I will be glorified?[15] The traditional reading is 'we-ikabedah', then why is the [letter] 'he' omitted [in the text]? To indicate that in five[16] things the first Sanctuary differed from the second: in the ark, the ark-cover, the Cherubim,[17] the fire, the Shechinah, the Holy Spirit [of

Prophecy], and the Urim-we-Thummim [the Oracle Plate]? — I will tell you, They were present, but they were not as helpful [as before].

Our Rabbis taught: There are six different kinds of fire: Fire which eats but does not drink; fire which drinks but does not eat; fire which eats and drinks; fire which consumes dry matter as well as moist matter; and fire which pushes fire away; fire which eats fire. ‘Fire which eats but does not drink’: that is our fire [water quenches it]; ‘which drinks but does not eat’: the fever of the sick; ‘eats and drinks’: that of Elijah, for it is written: And licked up the water that was in the trench;[18] ‘eats both dry and moist matter’: the fire of the pile of wood; ‘fire which pushes other fire away’: that of Gabriel;[19] and ‘fire which eats fire’: that of the Shechinah, for a Master said: He put forth His finger among them and burned them.[20] [It is stated above], ‘But the smoke arising from the pile of wood, even all the winds of the world could not move it from its place’. But [did not] R. Isaac b. Abdimi Say: ‘On the night following[21] the last day of the [Sukkoth] Festival all were gazing upon the smoke arising from the pile of wood. If it inclined northward, the poor rejoiced and the people of means were sad, because the rains of the coming year would be abundant and their fruits would rot.[22] If it inclined southward, the poor were depressed and the men of means rejoiced, for there would be little rain that year and the fruit could be preserved. If it inclined eastwards, all rejoiced;[23] if westwards all were depressed’?[24] — It merely means that it swayed hither and thither like a tree, but it was not scattered. The Master said: [If it inclined] eastward all rejoiced: westward — all were depressed. There is a contradiction against it: The east wind is always good ‘ the west wind always bad, the north wind benefits wheat when it has grown to one third [of its usual height], and is bad for olives when they are budding; the south wind is bad for wheat which has grown one third [of its normal size] and good for olives when they are budding and R. Joseph or Mar Zutra said, in connection therewith, as a sign: The table was in the north, and the candlestick in the south,[25] i.e., the one [north wind] grows what is good for the table,[26] and the other [south wind] what is good for the candlestick?[27] — This is no contradiction: the former statement refers to us,[28] the latter to them.[29] [

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(1) חוצץ. The root ‘hazaz’ means to cut off, to divide, to serve as an intervening object.

(2) Wooden utensils which are not intended to be moved (as e.g., a table) are not only not susceptible to uncleanness, but they form a barrier against uncleanness, effectively preventing its spread. This is inferred from the passage: And upon whatsoever any of them, when they are dead, doth fall, it shall be unclean; whether it be any vessel of wood, or raiment, or skin, or sack (Lev. XI, 32). In this passage sack and vessel of wood are cited together, hence our Sages infer that just as a sack is movable and moved, so uncleanness can befall only such wooden vessels as are movable and moved; whereas a wooden vessel meant to rest (or have things placed thereon) is different and hence unsusceptible.

(3) The table being taken out periodically to be shown to the pilgrims was no longer considered an immovable object and became susceptible to uncleanness, and the miracle consisted in the fact that nevertheless it never actually became unclean,

(4) I Sam. XXI, 7.

(5) Infra 39b.

(6) Ps. LXXII, 16. Hence there are fruits in Lebanon. But Lebanon was identified with the Sanctuary (Git. 56b), thus the paraphrase of the trees and the winds to create the rustling.

(7) Nahum I, 4.

(8) Isa, XXXV, 2.

(9) And therefore not included.

(10) Either as the simple text suggests, the fire, majestically, quietly; or, as Rashi has it: ‘It’ refers to a great lump of coal which fell from heaven in the days of Solomon and stayed there until the time of Manasseh; that lump having the form of a lion.

(11) Lit., ‘private (man)’ — not part of the altar wood, but wood which was brought in addition and unaffected by the special property of the holy fire.

(12) Lev, I, 7.

(13) Infra 53a.

(14) The first Sanctuary was held in great reverence, itself, its priests, its influence. The second came to be held in disrespect. The above tradition may well reflect the attitude towards both, as crystallized in the Aggada. Therefore the very pile of wood 'was lying like a lion' in David's Temple, and appeared 'lying like a dog' in the second.

(15) Hag. I, 8: Go up to the hill-country and bring wood, and build the house; and I will take pleasure in it and I will be glorified, saith the Lord.

(16) The numerical value of ה is five.

(17) The first three form one unit.

(18) I Kings XVIII, 38: Then the fire of the Lord fell and consumed . . . and licked up.

(19) Pes. 118a, ref. to Dan.III, 27.

(20) The angels objecting to the creation of man. The angels are of fire, v. Sanh. 38b.

(21) V. R. H. 16a: At the Feast of Tabernacles the World is judged through water. V. Ta'an. 2a. Hence the anxiety to watch for the decision from the direction of the wind.

(22) Hence they would have to sell them fast, i.e., cheaply.

(23) Because it meant average rain, plenty of fruit, without danger of rotting so that the merchants could charge moderate prices.

(24) Because it dries up the seeds, and causes famine, v. B.B. 147a. At any rate the smoke moved, which contradicts the statement above.

(25) Sc. in the Sanctuary.

(26) Wheat for the shewbread.

(27) Oil of the olive.

(28) For Babylonia, which is always full of moisture, the east wind is good.

(29) For Palestine, which is dry, full of mountains and hills, it is bad.

Talmud - Mas. Yoma 22a

CHAPTER II

MISHNAH. ORIGINALLY WHOSOEVER[1] DESIRED TO REMOVE [THE ASHES FROM] THE ALTAR DID SO. IF THEY WERE MANY, THEY WOULD RUN AND MOUNT THE RAMP[2] [OF THE ALTAR] AND HE THAT CAME FIRST WITHIN FOUR CUBITS[3] OBTAINED THE PRIVILEGE. IF TWO WERE EVEN, THE OFFICER[4] WOULD SAY TO THEM [ALL:][5] RAISE THE FINGER![6] AND HOW MANY DID THEY PUT FORTH? ONE OR[7] TWO BUT ONE DID NOT PUT FORTH THE THUMB IN THE TEMPLE.[8] IT ONCE HAPPENED THAT TWO WERE EVEN AS THEY RAN TO MOUNT THE RAMP. ONE OF THEM PUSHED HIS FELLOW WHO FELL AND BROKE HIS LEG. WHEN THE COURT SAW THAT THEY INCURRED DANGER, THEY ORDAINED THAT THE ALTAR BE CLEARED ONLY BY COUNT. THERE WERE FOUR COUNTS. THIS IS THE FIRST COUNT.

GEMARA. But why did our Rabbis not establish the count for this service from the beginning? They thought, Since it was a night service, it would not be considered so precious and they [many priests] would not come. But when they saw that [many] were coming and incurred danger,[9] they arranged the count. But the burning on the altar of the limbs and fat-pieces is also a night service, and yet our Rabbis arranged a count for it? — It is rather the end of the service of the day.[10] But the other[11] too is the beginning of the service of the day, for R. Johanan said: If he sanctified his hands [by washing][12] for clearing the ashes off the altar he need not in the morning sanctify them again,[13] because he has sanctified them already from the beginning of the service?[14] — Say: Because he has from the beginning[15] sanctified his hands for the service. Some say:[16] First they [the Rabbis] believed that since [many of them] are overcome by sleep, they would not come [to this night service], but when they saw they were coming and incurring danger, our Rabbis arranged for the count. But with the burning of the limbs and fat-pieces, [taking also place at a time when] they are also overcome by sleep and yet our Rabbis arranged for a count? There is a difference between going to sleep and rising from sleep.[17]

But was the arrangement due to that consideration, was it not rather due to another consideration, for it has been taught:[18] He who obtained the task of clearing the altar of the ashes thereby also obtained the ordering of the pile of wood on the altar and of the two pieces of wood?[19] — R. Ashi said: There were two arrangements. First they [the Rabbis] opined that they would not come [at night], but when they saw that the priests did come and incurred danger, they arranged for the count. When the count had been arranged, they did not come, for they said: 'Who can tell whether the lot will fall on me' [therefore] they [the Rabbis] arranged that he who had obtained the task of clearing the ashes off the altar, should thereby also obtain the task of arranging the piles of wood and the two pieces of wood, in order that they might come and submit to the count.

IF THEY WERE MANY etc.: R. Papa said: It is obvious to me [that within four cubits does] not [refer to] the four cubits on the floor,[20] because we learnt: THEY WOULD RUN AND MOUNT THE RAMP; neither does it mean the first[21] [four cubits], because we learnt: THEY WOULD RUN AND MOUNT THE RAMP, and after that: HE THAT CAME FIRST WITHIN FOUR CUBITS; neither does it mean [four cubits] in the middle because this is not clearly indicated; hence it is self-evident that it means [four cubits] off the altar. But R. Papa asked: Do these four cubits, of which we have spoken, include the one cubit of the [projecting] base and the one cubit of the gallery,[22]

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(1) There were twenty-four divisions (Mishmaroth) of the priests, each division (Mishmar, v. Glos.) consisting of four to nine families (Bate Aboth). Every week another division did service in the Sanctuary, being relieved on the Sabbath. During the week they distributed the service among the families. (V. Tosef. Ta'an. II.) Any one among the family (Beth-Ab, v. Glos.) whose turn came on that day, could originally, if he so desired, remove the ashes from the altar.

(2) The ramp, at the south of the altar, led up to it. Its length was thirty-two cubits.

(3) Off the altar.

(4) Memuneh. Lit., 'the appointed one' general term for temple official of high rank. Here the officer in charge of the count; v. Shek. V, 1.

(5) Not to the two alone, but to all that were present.

(6) So that the decision would be reached by the count. The officer would place them in a (circular) queue, take the mitre off one of them, and after having named a number, would start counting from that man by the fingers put forth. The priest with whom the number was reached, secured the task.

(7) There may be some older, weaker, or sick priests for whom it was inconvenient to put one finger forth and hold it aloft until the count was over. Whenever one such handicapped priest was present, the officer would require all to put forth two fingers, which is less of an effort.

(8) A trickster foreseeing where the count would end, might place his index-finger at some distance from the thumb, so that the officer would count his two fingers as belonging to two people, with the result that the count would be wrong and designed to serve the trickster's end.

(9) By racing together, they might push one another down.

(10) And so considered important by the priests.

(11) The removal of the ashes.

(12) V. Ex. XXX, 19.

(13) Unless he should leave the Temple, when another sanctification by washing would be due.

(14) Hence it is the beginning of the service, and the argument is void.

(15) Interpret R. Johanan's word to mean: He sanctified himself from the beginning (during the night) for the service.

(16) In answer to the question: why was this count not arranged from the very first?

(17) A man will find it easier to postpone the hour of sleep than to rise from sleep early in the morning (for the purpose of clearing the altar of the ashes).

(18) Infra 28a.

(19) Two logs of wood, placed above the pile of wood on the altar. V. infra 26b. These being considered an important service would require a count.

(20) Before reaching the ramp.

(21) At the foot of the ramp.

(22) Sobeb. Lit., 'a ring', or 'hoop'; here a gallery round the altar for the priest to walk on.

Talmud - Mas. Yoma 22b

or does it mean exclusive of the one cubit base and one cubit gallery?[1] — [The question] stands.

IF TWO WERE EVEN, THE OFFICER WOULD SAY TO THEM: RAISE THE FINGER, etc.

A Tanna taught: Put forth your fingers for the count. But let him count them?[2] — That supports the statement of R. Isaac, for R. Isaac said: It is forbidden to count Israel even for [the purpose of fulfilling] a commandment, as it is written: And he numbered them be-bezek [with pebbles].[3] R. Ashi demurred to this: Whence do you know that the word 'bezek' is here used in the sense of being broken [i.e., pebbles], perhaps it is the name of a place, as it is written: And they found Adoni-Bezek in Bezek?[4] — Rather it is from here: And Saul summoned the people and numbered them with telaim[5] [sheep].

R. Eleazar said: Whosoever counts Israel, transgresses a [biblical] prohibition, as it is said: Yet the number of the children of Israel shall be as the sand of the sea, which cannot be measured.[6] R. Nahman b. Isaac said: He would transgress two prohibitions, for it is written: 'Which cannot be measured nor numbered'. R. Samuel b. Nahmani said: R. Jonathan raised an objection: It is written: 'Yet the number of the children of Israel shall be as the sand of the sea,' and it is also written: 'Which cannot be numbered?'[7] This is no contradiction: Here[8] it speaks of the time when Israel fulfils the will of the Lord, there of the time when they do not fulfil His will. Rabbi,[9] on behalf of Abba Jose son of Dosthai, said: This is no contradiction: Here it speaks of [counting done] by human beings, there of counting by Heaven.[10] R. Nehilai b. Idi said in the name of Samuel: As soon as a man is appointed administrator of a community, he becomes rich — First it was written: 'And he counted them by means of pebbles,' and, in the end, 'And he counted them by means of sheep'. But perhaps these sheep were of their own? — Then what is remarkable about it?[11]

And he strove in the valley.[12] R. Mani said: Because of what happens 'in the valley': When the Holy One, blessed be He, said to Saul: Now go and smite Amalek,[13] he said: If on account of one person the Torah said: Perform the ceremony of the heifer whose neck is to be broken,[14] how much more [ought consideration to be given] to all these persons! And if human beings sinned, what has the cattle committed; and if the adults have sinned, what have the little ones done?[15] A divine voice came forth and said: Be not righteous overmuch.[16] And when Saul said to Doeg: Turn thou and fall upon the priests,[17] a heavenly voice came forth to say: Be not overmuch wicked.[18]

R. Huna said: How little does he whom the Lord supports need to grieve or trouble himself! Saul sinned once and it brought [calamity] upon him, David sinned twice and it did not bring evil upon him — What was the one sin of Saul? The affair with Agag.[19] But there was also the matter with Nob,[20] the city of the priests? — [Still] it was because of what happened with Agag that Scripture says: It repenteth Me that I have set up Saul to be king.[21] What were the two sins of David? — The sin against Uriah[22] and that [of counting the people to which] he was enticed.[23] But there was also the matter of Bathsheba?[24] — For that he was punished, as it is written, And he shall restore the lamb fourfold:[25] the child, Amnon, Tamar and Absalom.[26] But for the other sin he was also punished as it is written: So the Lord sent a pestilence upon Israel from the morning even to the time appointed?[27] — There his own body was not punished — But in the former case, too, his own body was not punished either?[28] Not indeed? He was punished on his own body, for Rab Judah said in the name of Rab: For six months David was smitten with leprosy, the Sanhedrin removed from him, and the Shechinah departed from him, as it is written: Let those that fear Thee return unto me, and they that know Thy testimonies,[29] and it is also written: Restore unto me the joy of Thy salvation.[30] But Rab said that David also listened to evil talk?[31] — We hold like Samuel [who says] that David did not do so. And even according to Rab, who says that David listened to calumny, was he not punished for it? For Rab Judah said in the name of Rab. At the time when David said to Mephibosheth: I say: Thou and Ziba divide the land,[32] a heavenly voice came forth to say to him: Rehoboam and Jeroboam will divide the Kingdom.

Saul[33] was a year old[34] when he began to reign. R. Huna said: Like an infant of one year, who had not tasted the taste of sin. R. Nahman b. Isaac demurred to this: Say perhaps: Like an infant of one year old that is filthy with mud and excrement?[35] R. Nahman thereupon was shown a frightening vision in his dream, whereupon he said: I beg your pardon,[36] bones of Saul, son of Kish. But he saw again a frightening vision in his dream, whereupon he said: I beg your pardon, bones of Saul, son of Kish,[37] King in Israel.

Rab Judah said in the name of Samuel: Why did the kingdom of Saul not endure? Because no reproach rested on him,[38] for R. Johanan had said in the name of R. Simeon b. Jehozadak: One should not appoint any one administrator of a community, unless he carries a basket of reptiles on his back, so that if he became arrogant, one could tell him: Turn around![39]

Rab Judah said in the name of Rab: Why was Saul punished? Because he forewent the honour due to himself, as it is said: But certain base fellows said: 'How shall this man save us?' And they despised him and brought him no present. But he was as one that held his peace,[40] and it is written [immediately following that]: Then Nahash the Ammonite came up and encamped against Jabesh-gilead.[41] R. Johanan further said in the name of R. Simeon b. Jehozadak: Any scholar,

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(1) [The altar was constructed with two rebatements of two cubits, one cubit at the base and another at the Sobeb; and R. Papa's query is whether these two cubits are to be included in the four cubits distance, so that the real distance measured in a straight line from the main structure of the altar would be six cubits.]

(2) By heads.

(3) I Sam. XI, 8.

(4) Judg. I, 5.

(5) I Sam. XV, 4.

(6) Hosea II, 1. 'Cannot be numbered' is interpreted-and grammatically there is no solid objection as 'should not, must not be numbered', thus a positive statement becomes a prohibition. The assumption is justified that here again the ultimate basis of the prohibition is not this passage, but the passage is a peg on which to hang the idea. There are more obvious sources of the prohibition known to the disputants.

(7) Ibid. The sand of the sea, however tremendous the number of grains, yet could be counted. Why then the second part of the passage which cannot be numbered'? It is true this verse is divested of its simple meaning, which does not permit this dichotomy. But again the major purpose of the questioner is to drive home a moral.

(8) When Israel fulfils the Lord's commands, it will become infinite, beyond the possibility of a count: if it does not live up to His law, it may, nevertheless, be great in number, but it will be countable.

(9) Another reading: R. Assi. There is no valid objection to the text here.

(10) Maharsha: Human beings would weary of counting, because of the great number.

(11) That Scripture mentions it especially. E.V. takes 'Telaim' to be the name of a place.

(12) I Sam. XV, 5. E.V.: 'And he lay in wait'. Saul was thus 'striving because of what happens in the valley', i.e., he argued from that ceremony against the slaying of the Amalekites. V. Gruenberg, s. Exeg. Beitraege, III, index.

(13) I Sam. XV, 3.

(14) Deut. XXI, 1-9.

(15) I Sam. XV, 3:Slay both man and woman, infant and suckling, ox and sheep, camel and ass.

(16) Eccl. VII, 16.

(17) I Sam. XXII, 18.

(18) Eccl. VII, 17.

(19) I Sam. XV, 2ff

(20) Ibid. XXII, 19.

(21) Ibid. XV, 11.
(22) II Sam. XI, 2-27.
(23) Ibid. XXIV, 1.
(24) He had committed adultery in addition to having instigated murder.
(25) II Sam. XII, 6. He had unconsciously prophesied his own punishment.
(26) All of whom died during his lifetime; thus he paid four of his ‘lambs’ for the one he had unrighteously taken from its master.
(27) II Sam. XXIV, 15.
(28) Just as here the people died and not he, so was it his children, but not he, who were afflicted because of his sin.
(29) Ps. CXIX, 79.
(30) Ibid. LI, 14.
(31) The evil reports of Ziba against Mephibosheth. So that he committed a third sin.
(32) II Sam. XIX, 30.
(33) I Sam. XIII, 1.
(34) The literal interpretation being impossible because of earlier texts, the Rabbis endeavour to find therein homiletical suggestion.
(35) R. Nahman was not actuated by any animus against Saul. He objected primarily to the too ready way of moralizing in advance of textual equivocality. With even justice one could illustrate an opposite aspect of infancy, and an analogy would thus throw evil light on King Saul.
(36) His conscience smote him afterwards, for in his eagerness to demonstrate the error of hasty interpretation, he had offended the memory of Saul.
(37) His conscience was not at rest, until he had fully realized that he had offended the King of Israel. His dreams reflected his thoughts by day, and only after his second apology did he feel relieved.
(38) On Saul's descent. None could therefore prevent his arrogance by pointing to a family skeleton, saying: Turn around and your basket of reptiles (family ignominy) will stand revealed.
(39) V. preceding note.
(40) I Sam. X, 27.
(41) Ibid. XI, 1, hence, because immediately following, viewed as consequence of his too great humility.

Talmud - Mas. Yoma 23a

who does not avenge himself and retain anger like a serpent, is no [real] scholar.[1] But is it not written: Thou shalt not take vengeance nor bear any grudge?[2] — That refers to monetary affairs, for it has been taught: What is revenge and what is bearing a grudge? If one said to his fellow: ‘Lend me your sickle’, and he replied ‘No’, and to-morrow the second comes [to the first] and says: ‘Lend me your axe’! and he replies: ‘I will not lend it to you, just as you would not lend me your sickle’ — that is revenge. And what is bearing a grudge? If one says to his fellow: ‘Lend me your axe , he replies ‘No’, and on the morrow the second asks: ‘Lend me your garment’, and he answers: ‘Here it is. I am not like you who would not lend me [what I asked for]’ — that is bearing a grudge. But [does] not [this prohibition apply to] personal affliction? Has it not been taught: Concerning those who are insulted but do not insult others [in revenge], who hear themselves reproached without replying, who [perform good] work out of love of the Lord and rejoice in their sufferings,[3] Scripture says: But they that love Him be as the sun when he goeth forth in his might?[4] — [That means,] indeed, that he keeps it in his heart [though without taking action]. Rut Raba said: He who passes over his retaliations has all his transgressions passed over?[5] — [That speaks of the case] that an endeavour was made to obtain his reconciliation, and his consent is obtained.

AND HOW MANY DID THEY PUT FORTH? ONE OR TWO. If they may put forth two, why is it necessary to mention that they may put forth one? — R. Hisda said: This is no difficulty: The one speaks of healthy persons, the other of sick ones.[6] Thus has it been taught: One finger is put forth, but not two. To whom does this rule apply? To a healthy person, but a sick one may put forth even two. But the ‘Yehidim’[7] put forward two and one counts only one thereof.[8] But has it not been taught: One does not put forth either the third finger or the thumb because of tricksters, and if one had put forth the third finger, it would be counted,[9] but if one had put forth the thumb it would not be counted, and not alone that but the officer strikes him with the pekia'?[10] — What does 'it would be counted' mean? Only one. What is pekia'? — Rab said: A madra [chastising whip]. What is madra? R. Papa said: The whip of the Arabs, the head [sting] of which is taken off. — Abaye said: Originally I believed that which we have learnt: Ben Bibai was in charge of "pekia"[11] meant, in charge of the wicks, as we have learnt: From the outworn breeches and belts of the priests they used to make 'peki'in' and light them[12] Now that I hear that it was taught: Not that alone, but the officer would strike him with the 'pekia" I understand that 'pekia" means lash.[13]

IT ONCE HAPPENED THAT TWO WERE EVEN AS THEY RAN TO MOUNT THE RAMP. Our Rabbis taught: It once happened that two priests were equal as they ran to mount the ramp and when one of them came first within four cubits of the altar, the other took a knife and thrust it into his heart. R. Zadok stood on the steps of the Hall[14] and said: Our brethren of the house of Israel, hear ye! Behold it says: If one be found slain in the land... then thy elders and judges shall come forth . . .[15] On whose behalf shall we offer the heifer whose neck is to be broken, on behalf of the city or on behalf of the Temple Courts? All the people burst out weeping. The father of the young man came and found him still in convulsions. He said: 'May he be an atonement for you. My son is still in convulsions and the knife has not become unclean.' [His remark] comes to teach you that the cleanness of their vessels was of greater concern to them even than the shedding of blood. Thus is it also said: Moreover Manasseh shed innocent blood very much, till he had filled Jerusalem from one end to the other.[16]

Which event took place first?[17] Would you say that of the bloodshed took place first? Now, if in spite of the bloodshed they did not establish the count, would they have arranged it because of the [incident of the] broken leg? Rather, the [incident of the] broken leg came first — But since they had already arranged a count how was [the affair of the bloodshed] within the four cubits possible? — Rather, the incident of the bloodshed came first, but at first [the Rabbis] thought it was a mere accident; but when however they saw that even without [such unfortunate accidents] they incurred danger, they enacted the count.

'R. Zadok stood upon the steps of the Hall and called out: Our brethren of the House of Israel, hear ye! Behold it says: If one be found slain in the land.[18] On whose behalf shall we bring the heifer whose neck is to be broken, on behalf of the city or of the Temple Courts?' But does [the community of] Jerusalem bring a heifer whose neck is to be broken? Surely it has been taught: Ten things were said concerning Jerusalem and this is one of them —

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(1) Maharsha interprets this statement by reference to Gen. III, 15: And I will put enmity between thee and the woman, and between thy seed and her seed; they shall bruise thy head and thou shalt bruise their heel. The man will endeavour to crush the serpent so as to deprive it of its life: whereas the serpent retaliates by bruising only the heel, a non-vital part of the human body. Thus, 'serpent-like' the scholar should retaliate most moderately even when great wrong was done to him. — This proverb may also be a reaction to too humble a scholar, who by reason of his extreme forbearance seemingly encourages impudent and cruel people in their nefarious conduct. — Another suggested interpretation: just as great serpents swallowing their prey, moisten it with so much saliva as to be deprived of a sense of what, subjectively, they are eating, knowing only, objectively. that they are eating something, so should the scholar, against whom a wrong was committed, not endeavour to avenge himself subjectively, but to avenge objectively the wrong that was perpetrated. [Bacher (ZDMG, 1874, p. 6) relates this dictum to the one preceding: Any scholar who does not avenge himself like Nahash (which is the Hebrew for serpent) is no scholar. The reference is to a tradition preserved in a fragment of the Jerusalem Targum on Isa. XI, 2 that the condition made by Nahash for the offered covenant was that the Gileadites remove the injunction from the Torah barring the Ammonites from the congregation of Israel — an injunction which he considered an affront.]

(2) Lev. XIX, 18.

(3) Because imposed by the Lord, either to test their faith or to punish them in this world for their sins, rewarding their virtues in the world to come, cf. Git. 68b: ‘In order that he may enjoy his world here whence the theory that the wicked who prosper are rewarded here for their good deeds and punished for their evil doings in the hereafter, with the opposite method applied to the virtuous.

(4) Judg. V, 31.

(5) He who forbears to retaliate will find forbearance for his own failings.

(6) V. supra p. 97, n. 7.

(7) Certain individuals, i.e., scholars, v. Ta'an 10a. They would, out of respect for their learning, be permitted a convenience, which sick persons are granted out of consideration for their health.

(8) Tosef. Yoma I, 10.

(9) No trickiness is involved here, because the distance between these fingers is too small to mislead the officer into assuming that he saw the fingers of two different persons in the count, but with the thumb a dishonest motive seems obvious, hence both, the disregard and the punishment.

(10) Pekia’ — may mean: strip, shreds of garments, hence either wick or whip.

(11) Shek. V, 1.

(12) Suk. 51a.

(13) Abaye does not absolutely exclude two compatible meanings of the word.

(14) Ulam, the hall leading to the interior of the Temple.

(15) Deut. XXI, 1.

(16) II Kings XXI, 16.

(17) The bloodshed or the breaking of the leg.

(18) Deut. XXI, 1.

Talmud - Mas. Yoma 23b

it does not have to bring a heifer whose neck is to be broken.[1] Furthermore: And it be not known who hath smitten him but here it is known who has smitten him?-Rather [he put his question rhetorically] to increase the weeping.[2]

‘The father of the young man came and found the boy in convulsions. He said: "May he be an atonement for you.[3] My son is still in convulsions, etc." To teach you that they looked upon the purity of their vessels as a graver matter than bloodshed!’ [The Scholars in the Academy] asked this question: Was it that bloodshed became a minor matter to them, whereas the purity of their vessels remained in its original importance, or did bloodshed concern them as before but the purity of the vessels became for them of a still graver concern? Come and hear: Because the Talmud adduces ‘And also innocent blood did Manasseh shed’ that indicates that bloodshed had become a matter of smaller concern to them whilst the purity of the vessels retained its original importance.

Our Rabbis taught: And he shall put off his garments and put on other garments and carry forth the ashes[4] — from this I might learn even as on the Day of Atonement,[5] [so] that he put off his holy garments and put on profane garments.[6] To teach us [the true law] it says: ‘And he shall put off his garments and put on other garments, thus comparing the garments he put on with the garments he put off; just as the former are holy garments, so are the latter holy garments. If so, what does [the word] ‘other’ teach?[7] [They shall be] inferior to the former. R. Eliezer said: [The words] ‘other’ and ‘he shall carry forth’ indicate that priests afflicted with a blemish[8] are permitted to carry forth the ashes.

The Master said: ‘"Other garments", i.e. inferior to the former’, as the school of R. Ishmael taught: For the school of R. Ishmael taught: One should not offer a cup of wine to one's teacher while wearing the garment wherein one has cooked a dish[9] for him.

Resh Lakish said: Just as there is diversity of opinion about the carrying forth of the ashes,[10] so there is about clearing them off the altar.[11] R. Johanan said: The diversity of opinion applies only to the carrying forth, but as to clearing them off the altar, all agree that this is [regular] service.[12] What is the reason for Resh Lakish's view? He will tell you: If it should enter your mind that this [the clearing of the ashes off the altar] is considered a [regular] service — then you would have a service legitimate In two garments.[13] And R. Johanan?[14] — The Divine Law revealed the regulation for tunic and breeches, but it includes also mitre and girdle.[15] Then why are these [two specially mentioned]? — 'Middo bad' ['linen garments'] is written [here to indicate] proper measure,[16] 'miknese bad' ['linen breeches'] to teach us in accord with what has been taught:[17] Whence is it known that nothing may be put on before the breeches? Because it is said: 'And he shall have the linen breeches upon his flesh.' And Resh Lakish? — That the garment must have the proper measure [he infers] from the fact that the Divine Law employs [the word] 'middo' [garment, not tunic]; that nothing may be put on before the breeches, he infers from the words: 'on his flesh'. Shall we say that the point at issue is the same as between the following Tannaim: '[And his linen breeches shall he put] on his flesh.' Why does Scripture say: 'Shall he put on?'[18] That is meant to include the [obligation of wearing] mitre and girdle for the clearing off of the ashes — this is the opinion of R. Judah. R. Dosa says: That means to include [the rule] that the [four white] garments worn by the high priest on the Day of Atonement may be worn by the common priest [during the remainder of the year].[19] Rabbi said: There are two refutations to this matter. One: the girdle of the high priest[20] is different from that of the common priest.[21] Two: shall garments used at a service of solemn holiness be worn at a service of lesser holiness? — But what, rather, is the significance of 'yilbash'?

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(1) Sot. 45a.

(2) To make them conscious of the horrible nature of the deed perpetrated.

(3) Maharsha explains that since Jerusalem is deprived of the heifer ceremony, which would normally obtain forgiveness for them, the generous father prayed for atonement by the grace of God.

(4) Lev. VI, 4.

(5) When the high priest changed his garments with every different service, cf. infra 70a.

(6) In the case of the high priest he changes from golden garments into linen garments and vice versa. With the ordinary priest however who has no alternate holy garments, the change would be from holy garments into profane ones.

(7) The word 'other' is connected with 'and he shall carry forth' to which it is placed in juxtaposition in the Hebrew text, thus referring to the priest.

(8) And thus designated 'other', i.e., than those who are usually fit for service.

(9) Similarly there should be different garments worn for the service proper and for the removal of the ashes respectively.

(10) As to whether blemished priests may remove them.

(11) That matter depends on the answer to the question, as to whether the removal of the ashes is considered a service or not.

(12) Requiring the putting on of four garments and the ministration of unblemished priests.

(13) Scripture says: He shall put on his linen garments and his linen breeches shall he put upon his flesh. (Lev. VI, 3.) If the removal of the ashes, whereof this passage speaks, were a service, how could Scripture demand only 'the linen garment' and the 'linen breeches i.e.,two garments, when a service proper requires four? Since only two garments are required, evidently the removal of the ashes is not considered a service and hence may be performed even by blemished priests, who would not be admissible to service proper!

(14) R. Johanan who considers this a proper service, requiring unblemished priests, how will he account for the contradictory fact that Scripture insists on two garments only.

(15) He explains that in reality four garments are required here, as may be inferred from the parallel passage in Lev. XVI, 4, where as a matter of course 'mitre and girdle' are added, the one passage supplementing implicates the other.

(16) He connects 'middo' which comes from a root meaning garment, with 'madad', which means to measure, i.e., the garment must be of proper measure, for the priest's figure. Resh Lakish infers from the fact that 'middo' (garment) is used instead of the usual 'kethoneth' (tunic) that a properly fitting garment is required.

(17) Zeb. 35a.

(18) Lev. XVI, 4: The text could have stated 'He shall put on the holy tunic and the linen breeches on his flesh'. The word 'yilbash' ('he shall put on') is superfluous. The word 'yilbash' is a sort of terminus technicus for complete dress, i.e., the four garments.

(19) [He utilizes yilbash, written here, for the purpose of a gezerah shawah with yilbash mentioned in connection with the four garments put on by the high priest on the Day of Atonement. V. Lev. XVI, 4 to teach this rule.]

(20) Included in the four garments worn by the high priest on the Day of Atonement.

(21) V. supra p. 55, n. 6. So that the ordinary priests could not wear the four garments of the high priests.

Talmud - Mas. Yoma 24a

It includes worn-out garments.[1] And he shall leave them there,[2] that teaches that they must be hidden away. R. Dosa says: They are fit for use by a common priest. What does ‘And he shall leave them there’ intimate? That he [the high priest] must not use them on another Day of Atonement.[3] Now would you not say that this is the subject of their dispute: that one[4] holds it [the removal of the ashes] to be a service[5] and the other[6] does not consider it such?[7] — No. Everybody agrees it is a service; the point of dispute here is this: One says another scriptural passage is necessary[8] to include also for this service [the four garments]; the other: no such passage is necessary.[9]

R. Abin asked: How much of the ashes of the altar is to be removed? Shall we infer [the quantity] from the taking off of the tithe,[10] or from what was taken off from the [spoil of] Midian?[11] — Come and hear: For R. Hiyya taught: Here[12] the word ‘herim’ [‘he shall take up’] is used and there[13] the expression ‘we-herim’ [‘and he shall take up’] is used. Just as in the latter case it means taking a handful, so in the former case it means taking a handful.[14]

Rab said:[15] There are four services for the performance of which a non-priest [stranger] incurs penalty of death:[16] sprinkling, smoking [the fat],[17] the water libation, and the libation of wine. Levi says: also the removal of the ashes. Thus did Levi also teach us in his Baraitha: Also the removal of the ashes. What is the reason for Rab's view? It is written: And thou and thy sons with thee shall keep the priesthood in everything that pertaineth to the altar, and to that within the veil; and ye shall serve; I give you the priesthood as a service of gift; and the common man that draweth nigh shall be put to death.[18] ‘A service of gift’, but not a service of removal;[19] ‘and you shall serve, i.e., a complete service, not a service followed by another.[20] And Levi?[21] — The Divine Law included it[22] in saying: ‘In every thing that pertaineth to the altar.’ And Rab?[23] — That is meant to include the seven sprinklings within,[24] and those concerning the leper.[25]

And Levi?[26] — He infers [these] from [the fact that instead of] ‘the thing’, [is written] ‘every thing’, [that pertaineth]. And Rab?[27] — He does not infer aught from ‘every thing’.[28] But say this: ‘In everything that pertaineth to the altar’ is a general proposition; ‘service of gift’ is a specification.[29] Now: if a general proposition is followed by a specification, the scope of the proposition is limited by the specification,[30] hence the ‘service of gift’ would be included, but a service of removal would be excluded? — The scriptural text reads:

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(1) They may be worn for any service as long as they are wearable, i.e., whole.

(2) Lev. XVI, 23. With reference to the garments worn by the high priest on the Day of Atonement.

(3) This is the end of the Baraitha, 46a.

(4) R. Judah.

(5) And therefore it requires for it all the four garments.

(6) R. Dosa.

(7) And therefore holds that the linen tunic and breeches are sufficient without the mitre and girdle.

(8) Lest one assume that the verse is to be taken literally, that only two garments are required, hence that this is no service proper.

(9) Since Scripture insists on the tunic and breeches it is evidently considered a service, requiring all the four garments.

(10) Num. XVIII, 25, where about one per cent is taken off.

(11) Ibid. XXXI, 28-40, where it is but one-fifth of one per cent.

(12) Lev. VI, 3.
(13) Ibid. 8.
(14) [It is not inferred either from tithe or from the spoil of Midian, but from the handful taken by the priest. This however applies only to the minimum, which may however be exceeded at will (Rashi).]
(15) Zeb.112b .
(16) Although the common man is forbidden to perform any service in the sanctuary, he does not incur the penalty of death in any but the following cases.
(17) Or ‘the handful of the meal-offering’.
(18) Num. XVIII, 7.
(19) E.g., the removal of the ashes.
(20) The Hebrew word עבדתם is divided into עבודת תמה so as to read: perfect service, i.e., one complete, without additional functions such as the four services mentioned by Rab. This excludes a service such as slaughtering which is not complete without the rites connected with the sprinkling of the blood that follow it.
(21) Rab's inferences excluding the removal of the ashes seem to be right?
(22) The removal of the ashes for the performance of which a non-priest incurs penalty of death.
(23) Everything that pertaineth obviously includes something else. Unless some other service is intended, Levi proves his case.
(24) Lev. IV, 6: And sprinkle of the blood seven times before the Lord; ibid. 17. also ibid. XVI, 14.
(25) Lev. XIV, 51: And he shall take the cedar-wood . . . and sprinkle the house seven times, which may not be considered as part of ‘the altar’ service; the same applies to the functions referred to in the preceding note.
(26) Whence does he infer these?
(27) What does ‘everything’ suggest to him.
(28) Lit., ‘he does not expound the thing" as everything".’
(29) Already comprehended in the general proposition.
(30) This is one of the principles of hermeneutics (kelal u-ferat) according to R. Ishmael, v. Shebu., Sonc. ed., p. 12, n. 9.

Talmud - Mas. Yoma 24b

‘And to that within the veil . . . and you shall serve’,[1] [i.e.] Only within the veil is ‘the service of gift’[2] [included] but not the ‘service of removal away’,[3] but outside [the Temple] even a ‘service of removal’[4] [is included].[5] But [one could] similarly [argue with regard to the exposition of] ‘you shall serve’ only within the veil, is a complete service[6] [included] but not one service which is followed by another service,[7] but outside, even a service followed by another [is also included]?[8] — [Scripture, by saying] ‘And ye shall serve’ has reconnected them.[9]

Raba asked: What is the law regarding [a service of] removal within the Temple?[10] Do we compare it with [a service of removal] within[11] [the veil] or with [one] outside [the Temple]? Then he answered the question himself: It is to be compared to [a removal service] within [the veil]. [For Scripture instead of] ‘within’ [says:] ‘And to that within [the veil]’.[12] But then[13] should the common man who arranged the [shewbread] table be guilty? — There is the arrangement of the censer of frankincense.[14] — Then if he arranges the censers let him incur the penalty![15] — There is the removal of the censers[16] and the smoking of the incense. Let the common man who put the candlestick in order incur the penalty! — That is to be followed by the putting in of the wick. Then if he put the wick in let him incur that penalty! — There is the adding[16] of the oil. Then if he puts the oil in let him incur that penalty? There is the lighting.[16] Then if he lights it let him incur that penalty! — Lighting is not considered a service. Is it, indeed, not [considered a service]? But it has been taught:[17] And the sons of Aaron the priest shall put fire upon the altar, and lay wood in order upon the fire[18] — this teaches that the kindling of the wood of the fig-tree[19] must be performed by a priest who is fit [for service] and with garments of ministration.[20] The kindling of the fig-wood is considered service, but not the lighting of the candlestick. Then let the common man who puts the pile of wood [on the altar] in order, incur that penalty! — There is the arrangement of the two logs of wood.[21] — Then if he arranged the two logs of wood, let him incur that penalty? — It is followed by the arranging of the limbs.[22] But R. Assi had said in the name of R. Johanan: A common man who arranged the two logs of wood incurred the penalty of death? — In this indeed there is division of opinion,[23] one holding [the arrangement of the two logs of wood] is a complete service, the other holding that it is not a complete service.

There is a teaching in accord with Rab, and there is a teaching in accord with Levi. ‘There is the teaching in accord with Rab’: These are the services for the performance of which a common man incurs penalty of death: the sprinkling of the blood, both within [the Temple] and within the Holy of Holies: and he who sprinkles the blood of a bird offered as a sin-offering;[24] and he who wrings out the blood, and who smokes the bird offered up as a burnt-offering;[25] and he who makes the libation of three logs of water or of wine.[26] ‘There is a teaching in accord with Levi’: The services for the performance of which a common man incurs penalty of death are: the removal of the ashes, the seven sprinklings within [the Holy of Holies] and he who offers up on the altar a sacrifice whether fit or unfit. THERE WERE FOUR COUNTS etc.[27] Why do they decide by count? [You ask,] ‘Why?’ As we have explained. Rather: Why did they decide by count once and again?[28] — R. Johanan said: To stir up the whole Temple Court, as it is said: We took sweet counsel together, in the house of God we walked be-ragesh [with tumult].[29]

What garments do they wear when taking the count? R. Nahman said: Common garments, R. Shesheth said: Sacred garments. ‘R. Nahman said: Common garments’. For if you were to say these garments were sacred there would be violent men who would serve by force.[30] ‘R. Shesheth said: Sacred garments’. For if you were to say common garments, it would happen that, out of sheer love [of the service] they would perform it in common clothes.[31] R. Nahman said: On what ground do I hold my view? Because we have learnt: They delivered them to the Temple sextons, who stripped them of their garments and left them with their breeches only.[32]

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(1) These words separate the general proposition from the specification, and thus sever the connection with them and render any inference as from one to the other invalid.

(2) [E.g.. the sprinkling of the blood and the burning of incense in the Holy of Holies on the Day of Atonement, v. Lev. XVI, 13-14.]

(3) E.g.. the taking out of the censer on the Day of Atonement from the Holy of Holies.

(4) [E.g.. the removal of the ashes.]

(5) In the services for his performance of which a non-priest incurs the penalty of death.

(6) [E.g.. the putting of incense on the fire in the Holy of Holies.]

(7) E.g., the bringing in of the spoon and the censer in the Holy of Holies which must be followed by the burning of the incense.

(8) E.g., the removal of the ashes.

(9) [The waw of עבדתם connects the general statement and particularization as far as the deduction made from the word itself is concerned, but it does not affect the exposition based as ‘a service of gift’ which is still governed by the words ‘within the veil’.]

(10) E.g., the removal of the ashes of the golden altar and candlestick.

(11) According to Rab there is no difference between service within the veil or outside: a common man becomes guilty of death only if he performs a service of gift, not of removal. But according to Levi he becomes guilty also in case of a service of removal. Hence Raba's question addresses itself to Levi: Do we compare it to the service within the veil, so that the common man performing it would not incur penalty of death, or to service without, when he would incur it?

(12) The letter ‘waw is superfluous. It includes also the Temple, hence in case of a gift service, he would incur that penalty there too, and with a removal service he would be exempt as within the veil.

(13) If a common man who performs in the Temple a Service of gift incurs the penalty of death.

(14) After the shewbread is arranged. V. Lev. XXIV, 7. Hence the former is not a complete service, for the performance of which a commoner incurs the penalty of death.

(15) Assuming this to be a ‘complete’ service, not followed by anything else.

(16) On the following Sabbath, which forms a completion of this service. V. ibid, 8.

(17) Infra 45a.
(18) Lev. I, 7.
(19) Used as kindling wood on the altar, V. Tam. II, 4.
(20) Hence it is considered a proper service and the commoner performing it should incur the penalty.
(21) v. infra, 33a.
(22) Of the Daily continual offering.
(23) Between Rab who limits the liability to the four he enumerates and R. Johanan who includes the arrangement of the two logs of wood.
(24) V. Lev. V, 9.
(25) V. Ibid. I, 15.
(26) Suk. 48a.
(27) The text here is corrected in accordance with Bah.
(28) The Mishnah speaks of four counts.
(29) Ps. LV, 15. The word, ברגש, usually translated as ‘multitude’ is here connected with רגש, meaning ‘to stir up’, thus, ‘enthusiasm’, ‘love’.
(30) Even without having been chosen by count, his being fitly dressed encouraging such forwardness.
(31) If the lot fell on them.
(32) Tam. V, 3.

Talmud - Mas. Yoma 25a

Don't [you agree] that this refers to those who had obtained part in the day's services by the count?[1] — R. Shesheth said: No, it refers to those who had not obtained part in the day's service by the count.[2] Thus also does it appear provable by logic. For, if it were to refer to those who were allotted part in the service by count, how could it be stated that they left them the breeches only; surely it has been taught: Whence do we know that nothing may be put on before the breeches? To teach us that it says:[3] And breeches of linen shall be on his flesh.[4] — And the other?[5] — This is no difficulty: This is what it teaches: Whilst they still wore the common clothes, they put on the holy breeches, after that they removed the common clothes and left them with the [holy] breeches.

Said R. Shesheth: Whence do I hold my view? From what has been taught: The Cell of the Hewn Stone[6] was [built] in the style of a large basilica. The count took place in the eastern side, with the elder[7] sitting in the west, and the priests in the form of a spiral figure. The officer came and took the mitre from the head of one of them. One would know then that the count would start from him.[8] Now, if the thought should arise that the priests [came to the count] in common garment — is there a mitre in common dress? — Yes, there is, as Rab Judah or, as some say, R. Samuel b. Judah reported: A priest for whom his mother made a tunic, could officiate therein at an individual [not community] service.[9] Abaye said: We can infer from this the Cell of Hewn Stone was [situated] half on holy ground, half on non-holy ground; that the Cell had two doors, one opening on holy ground, the other opening on non — holy ground. For, if the thought should arise in you that the whole of it was on holy ground — how could the elder sit to the west; has not a Master[10] said: Nobody could sit in the Temple Court except the kings of the House of David.[11] Furthermore, if you could think that the whole cell was outside holy ground, how could the count take place on its eastern side, is it not required: ‘In the house of God we walked with the throng’[12] and this would not be [the house of God]! Hence [the inference is valid]: It is half on holy ground, half on non-holy ground. And if the thought should arise in you that the Cell has but one door opening on holy ground, how could the elder sit to the west, and we have learnt: If the cells are built on non-holy ground and open on holy ground the space within them is holy.[13] And if the thought should arise in you that it opened into unholy ground how could the count take place in the eastern part [of the Cell];[14] have we not learnt: If they are built on holy ground and open out on non-holy ground, their space within is non-holy, hence you must needs say: the Cell had two doors, one opening on holy ground, the other on non-holy ground.

MISHNAH. THE SECOND COUNT:[15] WHO SHOULD SLAUGHTER [THE DAILY REGULAR OFFERING],[16] WHO SHOULD SPRINKLE THE BLOOD, WHO SHOULD REMOVE THE ASHES FROM THE INNER ALTAR,[17] WHO SHOULD REMOVE THE ASHES FROM THE CANDLESTICK,[18] WHO SHOULD TAKE UP TO THE RAMP THE LIMBS [OF THE OFFERING], THE HEAD AND THE [RIGHT][19] HIND-LEG, THE TWO FORELEGS, THE TAIL AND THE [LEFT][19] HIND-LEG, THE BREAST AND THE THROAT,[20] THE TWO FLANKS,[21] THE INWARDS, FINE FLOUR,[22] THE CAKES[23] AND THE WINE.[24] ALTOGETHER THIRTEEN PRIESTS OBTAINED A TASK.[25] BEN AZZAI SAID BEFORE R. AKIBA IN THE NAME OF JOSHUA: IT [THE DAILY OFFERING] WAS OFFERED UP IN THE WAY IT WALKS.[26]

GEMARA. The question was asked: When they take the count, do they do so for one service or for each individual task? — Come and hear: Four counts were there.[27] Now if the thought should arise in you that there was a separate count for each task, there would be need of many counts! — R. Nahman b. Isaac said: This is what [the Mishnah] means: Four times they went in for counting, and on each occasion there were many counts.

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(1) And they were stripped of the common garments which they wore during the count.

(2) They were stripped of the sacred garments which they wore during the count.

(3) V. supra 23b.

(4) Lev. XVI, 4.

(5) R. Nahman.

(6) [The Hall wherein the great Sanhedrin used to sit. Schurer II, p. 264 identifies it with the chamber ‘close to the xystus’ on the western border of the Temple mount. For the refutation of this view, V. Krauss. J.E. XII, 576.]

(7) Of the Beth din supervising the count (Rashi).

(8) Tosef. Suk. IV, 6.

(9) V. infra 35b.

(10) Infra 69b.

(11) In Deut. XVIII, 5: The Lord hath chosen him out of all thy tribes to stand to minister in the name of the Lord, against which II Sam. VII, 18: Then David the king went in and sat before the Lord.

(12) And this enthusiasm, as explained before, was created by the count.

(13) Ma'as Sh. III, 8.

(14) The count had to take place on holy ground.

(15) V. Mishnah, supra 22a.

(16) The priest with whom the count ended slaughtered the daily regular sacrifice. His right hand neighbour had the next task, his neighbour's right hand neighbour the third, etc.

(17) On the inner altar, every morning and evening, the incense was offered. The glowing coals for that purpose were obtained from the outer altar. The ashes which remained were removed next day. They could be removed by a common priest even on the Day of Atonement.

(18) This too could be performed by any common priest, the high priest had but to do the lighting of the lamps.

(19) The right hindleg. V. Tamid IV, 3.

(20) Larynx with windpipe, lungs and heart.

(21) With milt and liver.

(22) For the meal-offering which accompanied the daily regular sacrifice. Num. XXVIII, 5.

(23) Made on the מחבת (pan). V. Men.96a. It was the daily sacrifice of the high priest which accompanied the daily regular sacrifice. Lev. VI, 13; Shek. VII, 6.

(24) Num. XXVIII, 7.

(25) Two, that of slaughtering and sprinkling; two, clearing the golden altar and the candlestick; six, taking up the limbs and inwards, three, taking up the flour and wine-offerings.

(26) Lit., ‘according to the manner of its gait’, i.e., in order of the parts of the body active in the movements; first head and right hind-leg, then breast and neck, then the two fore-legs, then the two flanks, the tail and the left hind-leg.

(27) Supra 22a.

Talmud - Mas. Yoma 25b

Come and hear: R. Judah said: There was no count for the coal-pan, but the priest who had obtained the task of [smoking] the incense said to his assistant: Obtain with me the privilege of serving the coal-pan.[1] — It is different with incense and coal-pan, because they form together one service. Some argue thus: This is the case only with coal-pan and incense, because they form one service, but all other tasks require individual count![2] — [No.] With regard to the coal-pan it is necessary to inform us [that no separate count is required] for the thought could have arisen that because it takes place rarely and enriches,[3] therefore a special count should be arranged for it, hence we are taught [that it is not so].

Come and hear: R. Hiyya taught: There was no count for each individual task, the priest who secured the task of [the killing of] the daily burnt-offering drew twelve priests to himself [for the tasks involved]. This proves it.

THE SECOND COUNT: The question was asked: Who receives the blood?[4] [Do we say that] he who killed? For if you were to say that the one who sprinkles the blood receives it, perhaps in his enthusiasm[5] he may not receive the whole blood; or does the sprinkler receive it, for if you were to say that he who kills the animal receives the blood, occasionally a non-priest kills [the animal]?[6] — Come and hear: Ben Katin made twelve spigots for the laver so that his twelve brethren, the priests, who are occupied with the daily regular sacrifice, may simultaneously wash their hands and feet.[7] Now, if you were to think that he who kills [the animal] also receives its blood there would be thirteen.[8] Must we not therefore infer therefrom that he who sprinkles receives the blood? This proves it.

R. Aha, the son of Raba said to R. Ashi: We have also learnt thus: He whose lot it was to slaughter it, slaughtered it; he whose lot it was to receive the blood, received it — and then he came to sprinkle it.[9] This proves it.

BEN ‘AZZAI SAID BEFORE R. AKIBA, etc.: Our Rabbis taught: What is ‘THE WAY OF ITS WALKING’? The head, right hind-leg, breast and neck, the two fore-legs, the two flanks, the tail and the left hind-leg. R. Jose says: It was offered up in the order in which it is flayed. Which is the order of its being flayed? The head, the right hind-leg, the tail, the left hind-leg, the two flanks, the two fore-legs, the breast, and the neck. R. Akiba says: It was offered up in the order in which it was dissected. Which is the order of the dissection? The head, the right hind-leg, the two forelegs, the breast and the neck, the two flanks, the tail and the left hind-leg. R. Jose the Galilean says: It was offered up in the order of its best parts. Which is the order of its best parts? The head, the [right] hind-leg, the breast and neck, the two flanks, the tail and the [left] hind-leg and the two fore-legs. But is it not written: Even every good piece, the thigh and the shoulder?[10] — That refers to a lean animal:[11] Raba said: Both our Tanna[12] and R. Jose the Galilean follow the order of quality of the meat, but one takes into consideration the size [of the limbs], the other the fatness.

Why does the head go together with the [right] hind-leg?[13] Because the head has many bones; one attaches the [meaty] hindleg to it.

All[14] agree at any rate that the head is offered up first. Whence do we derive this rule? Because it has been taught: Whence do we know that the head and the suet come before all other parts [of the animal]? To teach us that, it says: He shall lay it in order with its head and its suet.[15] And as to the other ‘suet’,[16]

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(1) The incense required two priests: one who carried the incense into the Temple and smoked it, the other who took out the coals from the outer altar, brought them into the Temple, and put them on the inner altar to smoke the incense upon them. V. infra 26a. From here it appears that not every task required a count.
(2) Which proves that every task requires a count.
(3) V. infra 26a.
(4) In a basin for sprinkling purposes.
(5) Lit., 'his love (for the service)'.
(6) As deduced from Lev. I, 5; a non-priest may kill the animal, as the priestly functions in connection with an animal-sacrifice begin with the receiving of the blood.
(7) Infra 37a.
(8) There were thirteen tasks according to the Mishnah. The slaughtering, however, since even a commoner might perform it, did not require washing of hands and feet even if performed by a priest. But if he who slaughtered it should also receive its blood, he would have to wash his hands too because of the subsequent receiving of the blood.
(9) Tamid IV, 1.
(10) Ezek. XXIV, 4. [This shows that the thigh (the hind-leg) and the shoulder (the foreleg) are among the best pieces whereas here they are mentioned last (תום ישנים); v. however p. 119, n. 2.]
(11) [The verse speaks of the wicked in Israel who plunder the poor and consume the good pieces of their animals which at best could only be lean, whereas the daily sacrifices were offered from the best, Ibid.]
(12) The Tanna of our Mishnah.
(13) [Var. lec. transfer here both the question from Ezek. XXIV, 4 and the answer that follows. In this reading these refer to 'our Tanna' who mentions 'the fore-legs' before the hind-legs whereas in Ezekiel the thigh (hind-leg) is given preference, v. Bah.]
(14) Ben 'Azzai, R Jose, R. Akiba, R. Jose the Galilean, whilst basing their order on different considerations, all have the head offered up first.
(15) Lev. I, 12. Infra 26a.
(16) Ibid. I, 8: The pieces, and the head, and the suet. It was included in the other pieces.

Talmud - Mas. Yoma 26a

what does it signify? [It has its meaning] in accordance with what has been taught: How did he do it? He placed the suet upon the open throat and offered it up thus, that being done as a sign of respect for heaven.[1]

MISHNAH. THE THIRD COUNT: NOVICES[2] COME UP AND SUBMIT TO THE COUNT FOR THE INCENSE. THE FOURTH COUNT: NOVICES AND OLD PRIESTS, WHO WILL TAKE UP THE LIMBS[3] FROM THE RAMP TO THE ALTAR.

GEMARA. A Tanna taught: Never did a man repeat that,[4] What is the reason? — Because it enriches. R. Papa said to Abaye: Why [does the incense enrich]? Would one say because Scripture says: They shall put incense before Thee,[5] and soon after: Bless, Lord, his substance?[6] If so, then a burnt-offering should also enrich, for there it is written also: And whole burnt-offering upon Thine altar?[7] He answered: The second is frequent,[8] the first not. Raba said: You will not find any rabbinical scholar giving decision who is not a descendant from the tribe of Levi or Issachar. 'Of Levi', as it is written: They shall teach Jacob Thine ordinances,[5] 'of Issachar', as it is written: And of the children of Issachar, men that had understanding of the times, to know what Israel ought to do.[9] But mention Judah too, for it is written: Judah is my law-giver?[10] — I am speaking [only] of those [who make conclusions] in accordance with the adopted practice.[11]

R. Johanan said: No count is arranged for the daily continual evening[12] sacrifice, but the priest who secured the task of offering the continual morning sacrifice also obtains the task of the evening sacrifice. An objection was raised: Just as one arranges a count for it in the morning so is a count arranged for it in the evening? — That was taught in application to the incense.[13] — But it has been taught: Just as one arranges a count for it[14] [masc.], in the morning, so does one arrange for it, a count in the evening. Read:[15] for it [fem .] — But it has been taught: Just as one arranges a count for it [masc.] in the morning, so is a count arranged for it [masc.] in the evening, and just as one arranges a count for it [fem.] in the morning, so is a count arranged for it[16] [fem.] in the evening! — R. Samuel b. Isaac said: Here we refer to the Sabbath, on which the divisions of the priests are relieved.[17] But on the original assumption[18] there was a larger number of counts? — All came in the morning [for the count]; to some it was allotted for the morning to others, for the evening.

THE FOURTH COUNT: NOVICES AND OLDER PRIESTS etc.: Our Mishnah does not agree with the view of R. Eliezer b. Jacob, for we have learnt: He who brings the limbs up to the ramp also brings them up to the altar.[19] What principle are they disputing? One holds: In the multitude of the people is the king's glory,[20] whereas the other is of the opinion that [the distribution of duties among too many] is not good form in the abode of the Shechinah.[21] Raba said: R. Eliezer b. Jacob does not agree with the view of R. Judah, nor does the latter agree with the view of the former, for, if that were the case there would be too few counts.[22] And if you find a teacher who teaches ‘five [counts]’,

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(1) Because the throat is smeared with blood, it would not look respectful enough to offer it up in such condition. Hul. 27b.

(2) Nothing was more desired than the privilege of offering up incense. Hence priests who had already enjoyed that function were excluded from repetition until all their colleagues had the same task bestowed upon them. Hence the officer calls on novices to present themselves for the count.

(3) The limbs of the sacrifice were first placed on the lower part of the ramp, after having been dissected, (Tamid IV, 1, 2) then later carried thence to the altar and burnt there.

(4) The offering up of incense.

(5) Deut. XXXIII, 10.

(6) Ibid. 11.

(7) Ibid. 10.

(8) Sacrifices may be either private or public, hence very frequent. Incense was a community offering, hence limited by law.

(9) I Chron. XII, 33.

(10) E.V. ‘sceptre’.

(11) i.e. of practical interpreters and scholars, not of law-makers.

(12) Strictly speaking ‘afternoon’.

(13) Because nobody was permitted to repeat that function until all candidates had that privilege bestowed upon them once.

(14) Ketoreth (incense) is of fem. gender, hence the question asked from a text where the word ‘lo’ (masculine ‘for him’, ‘to his’) is used.

(15) Assume that the personal pronoun may be used loosely, or that the text misreported. ‘lah’ (‘to her’, ‘to it’, fem. instead of ‘lo’, the masculine) being intended.

(16) So that there is a special text for the incense.

(17) The division (Mishmar, v. Glos.) officiating at the continual offering of morning had left by the time the continual offering of dusk was to be attended to.

(18) That there was a special count for the evening sacrifice.

(19) Tamid V, 2.

(20) Prov. XIV, 28.

(21) It might appear as if the service was considered a burden, so that its function had to be distributed among many.

(22) R. Judah omits the count for the coal-pan; according to R. Eliezer there was no special count for the service of carrying the limbs up to the altar, hence, had both accepted each other's view, there would be only three counts. He who taught there were five counts, contradicted both of these Tannaim, each of whom omitted one, though not the same count.

Talmud - Mas. Yoma 26b

he is in accord with neither R. Eliezer b. Jacob, nor with R. Judah.

MISHNAH. THE CONTlnual[1] OFFERING WAS OFFERED UP BY NINE, TEN, ELEVEN OR TWELVE [PRIESTS], NEITHER BY MORE [THAN TWELVE], NOR BY LESS [THAN NINE]. HOW THAT? [THE OFFERING] ITSELF [WAS BROUGHT] UP BY NINE;[2] AT THE FEAST [OF SUKKOTH] WHEN ONE CARRIED A BOTTLE OF WATER,[3] THERE WERE TEN. AT DUSK[4] BY ELEVEN: [THE OFFERING] ITSELF BY NINE AND TWO MEN WHO CARRIED TWO LOGS[5] OF WOOD. ON THE SABBATH BY ELEVEN: [THE OFFERING] ITSELF BY NINE WITH TWO MEN HOLDING IN THEIR HAND THE TWO CENSERS OF FRANKINCENSE FOR THE SHEWBREAD.[6] AND ON THE SABBATH WHICH FELL DURING THE FEAST OF SUKKOTH ONE MAN CARRIED IN HIS HAND A BOTTLE OF WATER.

GEMARA. R. Abba, or as some say Rami b. Hama or again as some say R. Johanan, said:[7] The water libation on the Feast of Sukkoth is offered up only at the continual sacrifice of the morning. Whence is this to be inferred? Because [the Mishnah] teaches: AND ON THE SABBATH WHICH FELL DURING THE FEAST OF SUKKOTH ONE MAN CARRIED IN HIS HAND A BOTTLE OF WATER. Now if the thought could arise in you that [also] at the continual offering at dusk is the water of libation offered up,[8] then it would also happen during the weekday.[9] R. Ashi said: We also have learned thus:[10] One said to the priest offering the libation: Hold your hands up! For it happened once that he poured it upon his feet and all the people stoned him with their citrons.[11] This proves it. It was taught: R. Simeon b. Yohai said: Whence do we know that at the continual offering of dusk two logs of wood were to be brought up by two priests? Because it is said: And [the sons of Aaron the priest shall] lay wood in order upon the fire.[12] If it has no bearing on the morning sacrifice because it is written: And the priest shall kindle wood on it every morning, and he shall lay the burnt-offering in order upon it,[13] make it bear on the dusk sacrifice! — But perhaps, say: Both refer to the morning sacrifice, the Divine Law enjoining: Do it! And do it! again.[14] — If that [were intended] the Divine Law should have said: ‘And he shall kindle wood.’ ‘And he shall kindle wood.’[15] But if the Divine Law had stated: ‘And he shall kindle [wood]’ I would have assumed it may be done by one only, not by two, therefore we are taught that both one and two shall do so?[16] — If that were intended the Divine Law should have stated: ‘He shall kindle [wood]’[17] . . . and ‘they shall kindle wood,’ or ‘He shall lay [wood] in order’ and ‘they shall lay [wood] in order.’[18] Why the words ‘He shall kindle’ and ‘They shall lay in order’?[19] That we infer from it as we have said above.

R. Hiyya taught: The [second] count at times [affects] thirteen[20] priests, at times fourteen,[21] fifteen, or sixteen. But has it not been taught: [At times] seventeen?[22] — That teaching is in accord not with R. Eliezer b. Jacob, but with R. Judah.[23] MISHNAH. A RAM WAS OFFERED BY ELEVEN: THE FLESH BY FIVE, THE INWARDS,[24] THE FINE FLOUR,[25] AND THE WINE BY TWO EACH. A BULLOCK WAS OFFERED BY TWENTY-FOUR: THE HEAD AND [RIGHT] HIND-LEG[26] — THE HEAD BY ONE AND THE [RIGHT] HIND-LEG BY TWO [PRIESTS]. THE TAIL AND [LEFT] HIND-LEG — THE TAIL BY TWO AND THE [LEFT] HIND-LEG BY TWO. THE BREAST AND NECK — THE BREAST BY ONE AND THE NECK BY THREE. THE TWO FORE-LEGS BY TWO, THE TWO FLANKS BY TWO. THE INWARDS, THE FINE FLOUR,[27] AND THE WINE[28] BY THREE EACH. THIS APPLIES ONLY TO OFFERINGS OF THE COMMUNITY. IN PRIVATE OFFERINGS, HOWEVER, IF A SINGLE PRIEST[29] WANTS TO OFFER [ALL], HE MAY DO SO. BUT AS TO THE FLAYING AND DISMEMBERING OF BOTH COMMUNAL, AND PRIVATE OFFERINGS THE SAME REGULATIONS APPLY.[30] GEMARA. A Tanna taught: The law regarding the flaying and the dismembering is alike in both [communal and private sacrifices] in that they may be done by a non-priest. Hezekiah said: Whence do we know that the law regarding flaying and dismembering is alike [with all sacrifices] in that they may be done by a non-priest? Because it is written: And the sons of Aaron the high priest shall put fire upon the altar,[31] i.e., priesthood is required for the putting of the fire upon the altar, but not for the flaying and dismembering.

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(1) Beginning with the taking up of the limbs to the ramp.

(2) In the same manner in which the parts of the sacrificial animal were brought up to the ramp, so were they thence carried to the altar, thus six priests were required to carry the lamb's parts, and three to convey the flour and wine-offerings to the altar.

(3) For the water libation, v. Suk. 48a.

(4) Strictly speaking ‘in the afternoon’.

(5) They were added to the pile of wood on the altar.

(6) Lev. XXIV, 7-8: And thou shalt put pure frankincense with each row, that it may be to the bread for a memorial-part, even all offering made by the fire unto the Lord. Every Sabbath day he shall set it before the Lord continually, it is from the children of Israel, an everlasting covenant.

(7) The report came in the name of these three, without preponderance of evidence as to the real author.

(8) The Mishnah states that only on the Sabbath of the Feast of Sukkoth was the continual offering offered up by twelve priests. But if the water libation were offered up in connection with the continual dusk offering too, twelve priests would then too be necessary: nine for the lamb itself, two for the logs of wood, one for the bottle of water.

(9) So that on a week-day too, twelve priests would be required for the offering, which contradicts the Mishnah.

(10) V. Suk. 48b.

(11) The Sadducees rejected the water libation, hence, when in charge, they would invalidate the ceremony. The people observant of such sabotage, punished the hypocrite by pelting him with their citrons (ethrog). But these citrons were used only at the morning prayer. The Mishnah in Sukkoth mentions the citrons to indicate that the libation of the water took place only at the time citrons were part of the service, i.e., in the morning. The first proof was textual, the second factual.

(12) Lev. I, 7.

(13) Ibid. VI, 5.

(14) Hence there would be no repetition and the inference as to the dusk sacrifice would be invalid.

(15) In both instances why the change of expression? That has definite significance.

(16) The double form, singular and plural, was thus necessary.

(17) For the water libation, v. Suk. 48a.

(18) In the same manner in which the parts of the sacrificial animal were brought up to the ramp, so were they thence carried to the altar, thus six priests were required to carry the lamb's parts, and three to convey the flour and wine-offerings, to the altar.

(19) But what it is meant to convey, could have been conveyed without change of phrase.

(20) V. Mishnah supra 25a.

(21) On the Sukkoth Festival; on the Sabbath; and on the Sabbath of the Sukkoth Festival, respectively.

(22) [On Sabbath of Sukkoth, cf. Rashi and MS. M. Tosaf. however refers this to ordinary days omitting the words ‘at times’. The number 17 can only be arrived at by adding to the 13 priests an additional four: (1) for removal of ashes; (2) for bringing up the limbs from the ramp to the altar; (3) for smoking the incense; (4) for bringing the coal-pan. This would not be in accordance with R. Eliezer b. Jacob; v. R. Hananel's reacting in next note.]

(23) Who as stated supra 26a requests an extra priest for carrying the limbs from the ramp to the altar. Rabbenu Hananel (v. p. 123, n. 11) reads: Neither with R. Eliezer b. Jacob, nor with R. Judah. For R. Judah holds there was no count for the coal-pan, the priest who had secured the task of the incense inviting his assistant to share the function of the coal-pan. Nor with R. Eliezer b. Jacob, who omits the count of the function of the limbs being brought to the altar from the ramp; according to him the priest who carried them up to the ramp, also brought them thence to the altar. V. Rashi, Tosaf. and סות ישנים .

(24) The lamb for the continual offering must not be older than one year. The ram could be between one and two years of age, hence its inwards were much heavier.

(25) The wine-offering with the ram was heavier by one fourth, the flour-offering was twice as heavy as that of the lamb.

(26) Lit., ‘as far as head and hind-leg are concerned’, which usually were offered by one person here etc.

(27) Num. XV, 9.

(28) Ibid. 10.

(29) Of the division ministering that week, whom the owner of the sacrifice entrusted with the task.

(30) Non-priests, too, might either flay or dissect the sacrifices. Hence there were no counts for them. The sacrifices of the community, however, although even they could be slaughtered by non-priests, were welcome to, and sought after by priests, whence the necessity of a count in connection with them.

(31) Lev. I, 7.

Talmud - Mas. Yoma 27a

But that passage is required for its own information?[1] — R. Shimi b. Ashi said: I found Abaye explaining it to his son: [It was taught]: ‘One shall kill,’[2] hence we infer that even a non-priest may kill [the sacrificial animal]. But whence are you coming?[3] — Because Scripture says: And thou and thy sons with thee shall keep your priesthood, [in everything that pertaineth to the altar].[4] I might have learned that even the killing [must be done by priests alone], therefore it is written: And he shall kill the bullock before the Lord,’ and Aaron's sons, the priests, shall present the blood,[5] i.e., the work of the priesthood is commanded only from the receiving [‘presenting’] of the blood and so on.[6] And he shall lay his hand . . . and he shall kill,[7] hence we are taught that the killing [of the sacrificial animal] is permissible even to a non-priest. Now, [Abaye went on explaining to his son] since the work obligatory on the priests starts only with the receiving of the blood, what is the purpose of: And the sons of Aaron . . . shall put the fire?[8] To exclude flaying and dismembering.[9] But still that was necessary. For one might have thought since [the putting on of the fire] is not a kind of service, the omission of which prevents atonement, it did not require priesthood, hence we are taught [from this passage] that it requires priesthood? — Rather do we infer it from here: And Aaron's sons, the priests, shall lay it, order the pieces, and the head, and the suet.[10] Now, since the work obligatory upon priests starts with the receiving of the blood, why was the passage: ‘And they shall lay in order’ [etc.] necessary? It meant to exclude the flaying and the dismemberment.[11] But say perhaps that it means to exclude the arranging of the two logs of wood? — It seems logical that the passage excludes [a service relating to the sacrifice itself] which is of the type referred to. On the contrary: [it seems logical that] it excludes the ‘putting in order’ of [wood], which is analogous [to the ‘laying in order’ of the pieces referred to].[12] This thought should not arise in your mind, for a Master taught: ‘And the priest shall offer the whole . . . upon the altar.’ This refers to the bringing up of the limbs to the ramp. Now only the bringing of the limbs to the ramp requires a priest, but not the bringing of the logs of wood, implying that the putting in order of the two logs of wood requires a priest.[13] Why, then, is it necessary to state ‘And they [the priests] shall lay [the pieces] in order’? to exclude flaying and dismembering.[14] But say, perhaps, that this text is necessary for its own meaning?[15] --[In reality so.] What then is the purpose of [the passage], ‘And the priest shall make the whole smoke upon the altar’?[16] To exclude flaying and dismembering. [So that] ‘And the priest shall offer the whole’ refers to the bringing up of the limbs to the ramp; only the bringing up of the limbs to the ramp requires a priest, but not the bringing of the two logs of wood to the ramp. Implying that the putting in order of the two logs of wood that does require the services of a priest and the words: ‘And they shall put’[17] have immediate text meaning;[18] the words ‘And they shall lay in order [the pieces]’[19] indicate it must be two; the words: ‘The sons of Aaron’[19] also indicate two; the words: ‘The priests’[19] also indicate two, together we learn from them that the [offering up of the] lamb requires the services of six priests. R. Hamnuna said: To R. Eleazar it seems difficult, for this passage[19] refers to the young bullock, the service in connection with which required twenty-four priests! But he found it right again , for Scripture says: Upon the wood that is on the fire which is upon the altar[19] ; now what thing is it in connection with which ‘wood’, ‘fire’ and ‘altar’ are mentioned?

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(1) That a priest is required for the putting on of the fire. An inference for other matter is justified only when the text itself, or part of it, appears superfluous.

(2) ‘We-shahat’ Lev. I, 5, may mean ‘and he shall kill’, the most obvious meaning in the context; or ‘one shall kill’, ‘one’ being a term general enough to include a commoner.

(3) On what are you basing your argument, that it is necessary to bring proof that a non-priest may kill the animal; what basis is there for the assumption that he may not do so?

(4) Num. XVIII, 7. The bracketed portion is interpolated by Bah. and rightly so, for upon it rests the argument.

(5) Lev. I, 5.

(6) [Since the priests are mentioned only in connection with the presenting of the blood and not with the killing.]

(7) Ibid. 4,5. ['He shall kill' has for the subject the same person as 'he shall lay his hand' — the owner of the sacrifice (a non-priest).]

(8) Since the putting on of the fire followed the presenting of the blood, the latter signifying the commencement of the priestly function, why was it necessary to mention that the 'Sons of Aaron' perform it?

(9) That these may be performed by non-priests.

(10) Lev. I, 8.

(11) I.e., flaying and dismembering.

(12) That the putting on of the two logs of wood did not require a priest.

(13) Since the fetching of the wood is especially stated to need no priest, the inference is — obvious that the putting in order of the two logs requires a priest's service.

(14) [V. supra, note 2. The passage that follows up,' . . . text meaning' is difficult and is omitted by Wilna Gaon. The interpretation attempted here involves no change in the text of cur. edd.]

(15) [To show that the arrangement of the pieces required a priest, as it might have been assumed that 'even a non-priest may perform it since it is not a service' indispensable for effecting an atonement.]

(16) Lev. I, 9.

(17) Ibid. 7.

(18) That a priest is required for putting on the fire, v. supra p. 126.

(19) Lev. I, 8.

Talmud - Mas. Yoma 27b

Say it is the lamb.[1]

R. Assi said in the name of R. Johanan: A non-priest who laid the pile of wood in order [on the altar] incurs the penalty [of death]. What should he do [post facto]? — Let him break it up and then put it in order again. What is the good of that? — Rather: Let the non-priest break it up again and let a priest put it in order afterwards. R. Ze'ira demurred to this: But is there not a service which may be performed also at night and which a non-priest would render invalid? Surely, there is the smoking of the limbs and the fat-pieces.[2] That is but the conclusion of the service of the day. But there is the removing of the ashes? That is the beginning of the work of the day, as R. Assi has reported in the name of R. Johanan: If he has sanctified his hands [by washing] in the morning for the removal of the ashes, he need not sanctify [them] on the morrow, for he has already sanctified them from the beginning of the service.[3] But the difficulty remains![4] If this statement was made, it was stated thus: R. Assi said in the name of R. Johanan: A non-priest who laid the two logs of wood in order incurs the penalty [of death] because this is a day service. Raba demurred to this: If so, a count should be required for it! — It escaped him what had been taught: He who secured the task of clearing the ashes off the altar, [thereby also] secured the task of putting in order the pile of wood and the two logs of wood.[3] Shall we, then, say that only service performed during the day requires the count but service performed during the night does not require the count? Surely there is the [smoking of the] members and the fat-pieces?[5] — That is the end of the service of the day. But there is the removal of the ashes? — That is due to a certain event.[6] Shall we say that only for service performed during the day and for participation in which a non-priest incurs the penalty of death, a count is required, but that wherever a non-priest does not incur penalty of death for performance of a service, no count is required? But then what of the killing [of the animal]?[7] — It is different with the killing because that is the beginning of the service.

Mar Zutra or R. Ashi said: But we have learned otherwise: The officer said to them: Go forth and see if the time for the killing [of the continual morning sacrifice] has arrived,[8] but he is not teaching about the laying in order of the two logs of wood?[9] It speaks only of such things as cannot be remedied[10] again, but not such for which there is a remedy.[11] Some say[12] this is what R. Ze'ira asked: Is there any service followed by another service, which would be invalidated if performed by a non-priest?[13]

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(1) The passage ‘Upon the wood that is on the fire which is upon the altar’ is superfluous, for v. 7 contains that information already, hence the inference is right that the six priests are suggested here.

(2) V. supra 24a.

(3) V. supra 22a.

(4) Where do we find a service which may be performed at night and which a non-priest renders invalid?

(5) For which a count has been arranged.

(6) Mentioned in Mishnah supra.

(7) Which may be performed by a non-priest and yet requires a count.

(8) Infra 28a.

(9) Hence it took place during the night.

(10) The continual morning offering must not be offered before daybreak; de facto it was invalid, had to be replaced by another and be burnt in a place far from the altar like any invalidated sacrifice.

(11) If the logs of wood had been put in order before daybreak, one could break them up and put them back in order again after daybreak.

(12) [The text from this point to the end of the chapter is in disorder, consisting, according to Rashi and others, of several interpolations. The interpretation that follows is that of Tosaf. on the basis of curr. edd.]

(13) [R. Ze'ira's question has reference to R. Johanan's ruling, that a non-priest who arranges the wood pile on the altar is liable to death. Against this R. Ze'ira raises the objection that since it is followed by another service, i.e.,the arranging of the two logs of wood, a non-priest should incur no penalty nor invalidate it by his performance of it. V. Tosaf. s.v. איכא.]

Talmud - Mas. Yoma 28a

Surely there is [the smoking of] the limbs and fat-pieces?[1] — That is the end of the service of the day.[2] But what of the removal of the ashes?[3] — It is the beginning of the service of the day,[4] for R. Johanan said: If he sanctified his hands by washing for the removal of the ashes,in the morning he need not sanctify [his hands] since he had already sanctified them at the beginning of the service. If so the difficulty[5] remains? — Rather if this statement was made it was made thus: R. Assi said in the name of R. Johanan: If a non-priest arranged in order two logs of wood [on the altar] he incurs the penalty of death, because it is a complete service.[6] To this Raba demurred: If this is so let it require a count. But it requires no count? Surely it was taught, He who secures the privilege in respect of the removal of the ashes, secures also the privilege in respect of the arranging of the two logs of wood? This is what he means. It should have a separate count for itself? The [reason is] as we have already stated.

Are we to say that for a service which is complete, and for the performance of which a non-priest incurs the penalty of death, a count is required, but for one, for performance of which a non-priest does not incur such penalty, no count is required — but there is the killing [of the sacrificial animal]? — It is different with that killing, because it is the beginning of the service of the day. Shall we say that only a complete service requires the count, but a service followed by another does not require it — but there is the smoking of the members and the fat-pieces? — That is the end of the service of the day. — But there is the removal of the ashes? — Here [the count is due] because of what happened.

Mar Zutra or R. Ashi said: We too have learnt thus:[7] The officer said to them: GO FORTH AND SET WHETHER THE TIME FOR THE KILLING OF THE MORNING SACRIFICE HAS ARRIVED. But he does not teach anything about the time for the laying in order of the two logs of wood?[8] — He teaches only concerning such things as cannot be remedied again, but not concerning such for which there is a remedy.[9]

CHAPTER III

MISHNAH. THE[10] OFFICER SAID TO THEM: GO FORTH AND SEE WHETHER THE TIME FOR KILLING [OF THE MORNING SACRIFICE] HAS ARRIVED. IF IT HAD ARRIVED THEN HE WHO SAW IT SAID: IT IS DAYLIGHT![11] MATHIA B. SAMUEL SAID: THE WHOLE EAST IS ALIGHT.[12] EVEN UNTO HEBRON?[13] AND HE ANSWERED ‘YES’. AND WHY WAS THAT [CONSIDERED] NECESSARY? BECAUSE ONCE WHEN THE LIGHT OF THE MOON[14] ROSE THEY THOUGHT THAT THE EAST WAS ALIGHT[15] AND SLAUGHTERED THE CONTINUAL OFFERING, WHICH AFTERWARDS THEY HAD TO TAKE AWAY INTO THE PLACE OF BURNING.[16]

THE HIGH PRIEST[17] WAS LED DOWN TO THE PLACE OF IMMERSION. THIS WAS THE RULE IN THE TEMPLE: WHOSOEVER CROSSED HIS FEET[18] REQUIRED AN IMMERSION, AND WHOSOEVER MADE WATER REQUIRED SANCTIFICATION BY WASHING[19] HIS HANDS AND FEET.

GEMARA.

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(1) [This service, it is now assumed, receives its completion only with the removal of the ashes, and yet must not be performed by a non-priest under the penalty of death (Tosaf.).]

(2) [The original assumption n. 3. is rejected. The smoking of the limbs is in itself regarded as the completion of the day service (Tosaf.).]

(3) [Which must be followed by the taking of the ashes outside the camp, v. Lev. VI, 4’ and yet is considered a complete service, v. supra 24a (Tosaf.).]

(4) [Whereas the taking of the ashes outside the camp is not performed daily (v. Tamid II, 2) and consequently it cannot be regarded as completing the removal of the ashes (Tosaf.).]

(5) Of R. Ze'ira.

(6) [V. supra 22a. For the reason that no special count has been arranged for the two logs of wood. R. Hananel.]

(7) That the laying of the two logs of wood is a complete service.

(8) [Because it is considered a night service completing the arranging of the wood pile on the altar (Rashi), v. also Tosaf.]

(9) V. supra, p. 128, nn. 8, 9.

(10) The Mishnah continues the account of the procedure, where it had been interrupted, 26a. This Mishnah refers not only to the Day of Atonement, but to the continual sacrifice on every morning of the year.

(11) The Mishnaic ברקאי ‘barkai’ may be a contraction of ‘barka hi’, i.e. there is a shining. Or: the shining one, i.e., the morning star.

(12) [Rashi (Men. 100a) regards these words not as reporting the view of Mathia b. Samuel, but as a historical narrative. The passage is consequently to be translated: Mathia b. Samuel (who was a Temple officer v. infra), used to say (in announcing the time in question) The whole east is alight, תום ישנים a.l.

(13) V. Gemara. For the choice of Hebron, which is too far from Jerusalem to permit one in Jerusalem to see its towers, the Yerushalmi has a plausible suggestion, viz., that that city was mentioned for its historical importance; because of the cave of Machpelah, in which the patriarchs and matriarchs of Israel are buried.

(14) This could not have happened on a Day of Atonement, because on that day the moon has gone down long before dawn, but on one of the last days of a month, in which the moon, to the west of the sun, rises before dawn.

(15) When the sky is clouded the light coming from the moon may be confused with that of the sun. But it never reaches as far as the latter, hence the question of the officer whether the horizon is alight even unto Hebron. The officer may have been Mathia. V. Shek. V, 1.

(16) Possibly a room in the Temple, V. Baneth, Pes. IX, note 49.

(17) The account of the service on the Day of Atonement is here continued, immediately interrupted again, and re-continued on 30a.

(18) A euphemism for: to ease oneself, to relieve nature.

(19) In the water of the holy laver. Ex. XXX, 18.

Talmud - Mas. Yoma 28b

It was taught: R. Ishmael said: The morning [star] shines. R. Akiba said the morning [star] rose.[1] Nahuma b. Afkashion said: The morning [star] is already in Hebron. Mathia b. Samuel, the officer in charge of the counts, said: The whole east even unto Hebron is alight. R. Judah b. Bathyra said: The whole east even unto Hebron is alight and all the people have gone forth, each to his work. If that were the case, it would be [too much of the day] too late! — Rather: each to hire working men.[2]

R. Safra said: The [afternoon] prayer of Abraham[3] is due when the walls begin to grow dark.[4] R. Joseph said: Shall we indeed learn [our laws] from Abraham?[5] — Raba answered: A Tanna learned from Abraham and we should not learn from him! For it has been taught: And in the eighth day the flesh of his foreskin shall be circumcised,[6] this passage teaches that the whole of the [eighth] day is proper for the circumcision, but the zealots perform their religious duty as early as possible as it is said: And Abraham rose early in the morning and saddled his ass.[7] — Rather, said Raba, is it this that appeared difficult to R. Joseph: For we have learnt: If the eve of Passover falls on the eve of Sabbath, the paschal lamb is to be slaughtered at one half after the sixth hour,[8] and offered up at one half after the seventh hour.[9] — But let it be slaughtered when the walls begin to grow dark![10] — What is the difficulty? Perhaps the walls of the Sanctuary begin to grow dark half an hour after the sixth hour because they were not exactly straight.[11] Or [one might say]: It was different with Abraham whose heart [mind] knew great astronomical speculation.[12] Or: Because he was an elder [zaken] who had a seat at the scholar's council,[12] for R. Hama b. Hanina said: Our ancestors were never left without the scholars' council. In Egypt they had the scholars' council, as it is said: Go and gather the elders of Israel together;[13] in the wilderness they had the scholars' council, as it is said: Gather unto Me seventy men of the elders of Israel;[14] our father Abraham was an elder and a member of the scholars' council, as it is said: And Abraham was [zaken] an elder well stricken in age;[15] our father Isaac was an elder and a member of the scholars' council, as it is said: And it came to pass when Isaac was an elder [zaken];[16] our father Jacob was an elder and a member of the scholars' council, as it is said: Now the eyes of Israel were dim with age [zoken];[17] [even] Eliezer, the servant of Abraham was an elder and a member of the scholars' council, as it is said: And Abraham said unto his servant, the elder of his house, that ruled over all he had,[18] which R. Eleazar explained to mean that he ruled over [knew, controlled] the Torah of his master.[19] Eliezer of Damascus': R. Eleazar said, He was so called because he drew[20] and gave drink to others of his master's teachings.

Rab said: Our father Abraham kept the whole Torah, as it is said: Because that Abraham hearkened to My voice [kept My charge, My commandments, My statutes, and My laws].[21] R. Shimi b. Hiyya said to Rab: Say, perhaps, that this refers to the seven laws?[22] — Surely there was also that of circumcision![23] Then say that it refers to the seven laws and circumcision [and not to the whole Torah]? — If that were so, why does Scripture say: 'My commandments and My laws'?

Raba or R. Ashi said: Abraham, our father, kept even the law concerning the 'erub of the dishes,'[24] as it is said: 'My Torahs':[25] one being the written Torah, the other the oral Torah.[26]

MATHIA B. SAMUEL SAID etc. . . . AND HE ANSWERED 'YES'. Who was it that said 'yes'? the man standing on the roof! Is he the dreamer and the interpreter?[27] Should it, then, be he who is standing on the ground, whence would he know?[28] — If you like say it is he who stands on the roof, and if you like say it is he who stands on the ground. If you want to say it is he who stands on the roof; he says: THE WHOLE EAST IS ALIGHT, the one standing on the ground answering: EVEN

UNTO HEBRON? whereupon the former says: ‘YES’. If you like say that it is he who stands on the ground: He says: THE WHOLE EAST IS ALIGHT? whereupon the other responds: EVEN UNTO HEBRON?[29] and the former answers: ‘YES’.[30]

AND WHY WAS THAT CONSIDERED NECESSARY etc. But can it be confused?[31] Has it not been taught: Rabbi says: The rising column of the moon is different from that of the sun. The light column of the moon rises straight like a stick, the light column of the sun [the dawn] irradiates in all directions? — The school of Ishmael taught: It was a cloudy day and the light was scattered in all directions.[32] R. Papa said: We can infer therefrom that on a cloudy day the sun is felt all over. What is the practical difference?[33] — In the spreading[34] of skins, or, as Raba expounded: A woman should not knead[35] either in the sun or in the heat of the sun. R. Nahman said: The sultry air of the sun[36] is more intense than that of direct sunlight, your analogy[37] being: a jar of vinegar;[38] the dazzling sun-light[39] is worse than the uncovered sun, your analogy being drippings [from the roof].[40]

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(1) A later time.

(2) All the people have gone forth, each to his work, refers not to the workingmen who leave for work at a later hour, but to the contractors, who early in the morning hire their men for the day's work.

(3) The afternoon prayer is by tradition ascribed to Isaac, but since he learned it from his father, Abraham receives here the credit for it. Or, as Tosaf. Ber. 26b s.v. יצחק has it, after Isaac had instituted the prayer, Abraham fixed the time for it.

(4) Are no longer shone upon by the sun, that is after the middle of the day.

(5) For Abraham lived before the Torah was given and Israelites should follow the conduct of the prophets, who knew and practised the Torah rather than that of Abraham who, whilst living in its spirit, could not have known all the laws thereof. There are, of course, also views according to which Abraham practised the oral and the written law, v. below. v. Tosaf. Moed Katon, 20a, s.v. מה חג.

(6) Lev. XII, 3.

(7) Gen. XXII, 3, the reference may also be ibid. XIX, 27, v. Meg. 20a.

(8) The day was divided into twelve hours of varying duration, in winter an hour may be as short as forty minutes, in summer as long as ninety.

(9) Pes. 58a.

(10) I.e., after the beginning of the seventh hour-after midday.

(11) It was narrower above than below and thus did not cast a shadow till later in the afternoon.

(12) And could hence foretell the exact hour; V. B.B., Sonc. ed., p. 83, n. II.

(13) Ex. III, 16.

(14) Num. XI, 16.

(15) Gen. XXIV, I. E.V. ‘was old’.

(16) Ibid. XXVII, 1.

(17) Ibid. XLVIII, 10.

(18) Ibid. XXIV, 2.

(19) Ibid. XV, 2. In all these cases the word zaken (elder) is interpreted in accord with Sifra, Kedoshim. III, 7: (חכמה) קזן זה שקנה a zaken is he who has acquired wisdom (through study).

(20) This is a play on דמשק, as if it were a compositum of דולה (one who draws) and משקה, (one who gives drink).

(21) Gen. XXVI, 5.

(22) Obligatory upon ‘The sons of Noah’, i.e., upon all civilized nations and individuals. They include the commandment to promote justice, and the prohibitions of idolatry, immorality, blasphemy, murder, cruelty to animals, and theft.

(23) Which Abraham observed.

(24) Lit., ‘mixing of dishes’. One may not prepare food on a holy day, which falls on Friday, for the Sabbath immediately following it. But one may start on the eve of the holy day to prepare such food for the Sabbath, the cooking on the holy day being but a continuation of this weekday work. This provision is not Biblical.

(25) Taking the word Torah in its sense as the sum-total of Jewish Law.

(26) The written Law, i.e., the Five Books of Moses; the Oral Law, which Moses received on Sinai, handing it down to Joshua, the latter handing it down to the elders, the latter to the prophets, these to the Men of the Great Synod (Aboth I, 1).
(27) It seems strange that one man should both ask the question and answer it.
(28) He could not observe it from where he stood.
(29) [‘Is this what you want to know’.]
(30) [‘Indeed this is just what I ask’. The mention of Hebron is to recall the memory of the patriarchs who lie buried there. T. J. Yoma III, 1. V. Rashi. Var. lec.: He (who stands on the roof) says THE WHOLE EAST IS ALIGHT AS EAR AS HEBRON, and the other (who stands on the ground) says ‘YES?’ i.e., ‘Indeed? are you sure it is so?’ V. R. Hananel and D.S. a.l.]
(31) Can the light of the moon be confused with that of the sun?
(32) On a cloudy day the rising column of the sun is invisible because of the heavy clouds and it is only where the clouds are somewhat scattered that it is visible, hence the confusion is possible.
(33) That this inference is mentioned here.
(34) To be dried.
(35) The dough on the Passover to prepare unleavened cakes. R. Papa's maxim would make the rule more stringent.
(36) Produced by the passage of the sun-rays through a cloudy atmosphere.
(37) Lit., ‘your sign’.
(38) Which emits a stronger smell through a small opening than when quite open.
(39) Coming through cracks or breaks in the clouds.
(40) It is more agreeable to enter completely (a bath or rainy place) than to get continual drippings on one's body.

Talmud - Mas. Yoma 29a

Unchaste imagination is more injurious[1] than the sin itself, your analogy being the odour of meat.[2] The end of the summer is more trying than the summer itself, your analogy being a hot oven.[3] A fever in winter is severer than in summer, your analogy being a cold oven.[4] It is harder to remember well something old than to commit to memory a fresh thing, your analogy being a cement made out of old cement.[5] R. Abbahu said: What is the reason of Rabbi's opinion?[6] — It is written:[7] For the Leader, upon Aijeleth ha-Shahar[8] — just as the antlers of the hind branch off this way and that way, so the light of the dawn is scattered in all directions. — R. Zera said: Why was Esther compared to a hind?[9] To tell you that just as a hind has a narrow womb and is desirable to her mate at all times as at the first time, so was Esther precious to King Ahasuerus at all times as at the first time. R. Assi said: Why was Esther compared to the dawn?[10] To tell you that just as the dawn is the end of the whole night, so is the story of Esther the end of all the miracles. But there is Hanukkah? — We refer to those included in Scripture. That will be right according to the opinion that Esther was meant to be written,[11] but what can be said according to him who held that it was not meant to be written? — He could bring it in accord with what R. Benjamin b. Japheth said, for R. Eleazar said in the name of R. Benjamin b. Japheth: Why is the prayer of the righteous compared to a hind? To tell you that just as with the hind, as long as it grows, its antlers form additional branches every year, so with the righteous, the longer they abide in prayer, the more will their prayer be heard.

THEY SLAUGHTERED THE CONTINUAL OFFERING: When?[12] Would you say on one of the remaining days of the year? Had it then to be offered up? Hence [you will say that it happened] on the Day of Atonement, but is there any moon-light visible then?[13] — This is what it means: On the Day of Atonement, when the observer said: It is daylight, they would take the high priest down to the place of immersion.[14] The father of R. Abin learnt:[15] Not only concerning this[16] was it said,[17] but also concerning the pinching of a bird's head and the taking of a fistful of the meal-offering, [was it said] that if it was done during the night, it had to be burnt. That is quite right with regard to the bird designated for a burnt-offering, since the fact can no more be undone, but touching the fistful of the meal offering,

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(1) To health, physical and moral.

(2) The odour of roast meat is more injurious to the digestive apparatus even than the eating thereof.

(3) It is easy to kindle a fresh fire in a hot oven, the ground being dry. By the end of summer the atmosphere is very hot so that any additional hot weather makes it well nigh intolerable.

(4) It requires a great deal of wood and effort to warm up the cold oven in the cold days of winter. Thus must a fever be very severe to afflict one on a cold day.

(5) That has been used before. It is hard to dissolve it and re-make it.

(6) Who says that the light column of the sun (dawn) is scattered.

(7) Ps. XXII, 1.

(8) Lit., ‘The Hind of the Dawn.That may have been a well-known melody, according to which the psalm was to be sung, the direction being meant for the choir-leader. V. the comm. of Delitzsch, Cheyne and Koenig.

(9) In Meg. 15b, Queen Esther is reported to have sung this psalm as she came before Ahasuerus, hence the comparison.

(10) ‘Er. 54b.

(11) Meg. 7a. To protect the books of the Bible, they were declared unclean, so that after touching them, one had to wash one's hands. The question hence, as to whether any book defiled the hands, implies the question as to whether it was included in the Canon and has inspiration ascribed to its contents. About the Book of Esther there is a dispute in Meg. 7a, one of the Rabbis ascribing inspiration to it, whence it was to be written and included in the Canon, the other denying it inspiration, hence declaring its touch did not defile the hands. V. Yadaim III, 5.

(12) Did this error happen, on the basis of which the high priest was taken down to the place of immersion. The questioner takes the second incident reported in the Mishnah as a sequel to the first.

(13) At dawn.

(14) The answer indicates that these two incidents are not to be connected. The error happened on an ordinary day. The second passage refers to the Day of Atonement and states that when the observer had said ‘It is daylight’, then, on a Day of Atonement, the high priest would be taken down, etc.

(15) Men. 100a.

(16) Not only a sacrifice that was offered up during the night (instead of in its proper time, after day-break).

(17) That it is to be burnt.

Talmud - Mas. Yoma 29b

let him put it back and take it again when it is day? — He learnt and explained it: The vessels of ministration render what is in them sacred even outside of the proper time.[1] An objection was raised: This is the rule: Whatsoever is offered[2] up during the day, becomes sanctified by day and whatsoever is offered up during the night becomes sanctified both by day and by night.[3] At any rate it is taught that whatsoever is offered up during the day becomes sanctified by day only, and not by night?[4] — It may not become sanctified [enough] to be offered up, but it may become sanctified enough to be invalidated.[5]

R. Zera raised an objection: If he put in order the shewbread and the [frankincense] clip after the Sabbath and smokes the [contents of] the cups on the [following] Sabbath it is invalid.[6] What should he do? He should leave it for the coming Sabbath, for even if it stayed for many days on the table, that does not matter. But why? It should be sanctified and invalidated?[7] — Raba said: He who raised the objection, raised a valid one, and the father of R. Abin is also quoting a Baraitha,[8] but it is of the opinion that the night is not considered a wanting[9] time, the day however is so considered. But when the night of Sabbath approaches, let it then become at once sanctified and invalidated?[10] — Rabina said: We assume that he removed it before then. Mar Zutra, or as some say, R. Ashi said: You may set the case even if he had not removed it before [Sabbath eve], since, however, he had put it in order at variance with the regulation[11] it is as if a monkey had laid it there.[12]

THIS WAS THE RULE IN THE TEMPLE etc.: It is quite right that the feet must be washed because of squirtings,[13] but why must the hands be washed? — R. Abba said: This teaches us that it is

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(1) Hence it can no more be put back. Since the vessel has sanctified it for the altar, it must not be put back among the remaining part of the meal-offering.

(2) E.g.,the meal-offerings, the incense.

(3) The text here corrected in accord with Bah. V. Tem. 14a. [Cur. ed. inserts ‘and whatsoever is offered up during the night becomes sanctified by night, and whatsoever is offered up both during the day and during the night becomes sanctified both by day and by night.’ As the former can refer only to drink-offerings (V. Ta'an. 2b) which however are offered up also during the day, this passage is omitted and the text corrected accordingly.]

(4) Which means that there is no sanctification but in the proper time.

(5) [If it tarries overnight without having been offered (V. Zeb. 87a). The fistful accordingly having been placed in the vessel of ministration at night becomes invalidated with daybreak, and can no longer be put back among the remaining part of the meal-offering.]

(6) [Because it had not been left on the table for seven days as prescribed, v. Lev. XXIV, 5ff. Var. lec. rightly omit: it is invalid, V. Rashi.]

(7) Through having been set on the table in its proper time.

(8) It is not the case of all Amoraic opinion, which can be refuted by argument. It is an authoritative Tannaitic teaching and a way must be found to bring the present argument in accord with it.

(9) The day goes after the night, hence it is part of the night, hence the fistful put into the vessel at night is regarded as having been put therein in the proper time and consequently is sanctified properly. Since, however, it is a day-offering it must be burned with the shewbread; however, where there is a whole day wanting, the bread does not become sanctified.

(10) Since the night is not considered as ‘wanting time’, whereas everything that is due during the day and was placed into the sacred vessels in the preceding night, becomes sanctified and invalidated, then, when the eve of second Sabbath comes, let the table sanctify the bread and invalidate it?

(11) When it was wanting time.

(12) Without any intention, hence the table does not sanctify it, for we consider that since it was placed there without intention, it was technically not placed there at all, hence it becomes neither sanctified nor invalidated.

(13) Of urine.

Talmud - Mas. Yoma 30a

the right thing to wipe off [squirtings]. This supports the view of R. Ammi who says: A man must not go out with squirtings on his feet, because he may appear as one that has his privy member cut off and he may thus cause evil talk against his children that they are bastards.[1]

R. Papa said: If there be excrement in its place,[2] he must not read the Shema’.[3] How shall we imagine this case? If to say that it is invisible, that is self-evident; if to say that it is not seen surely[4] ‘The Torah was not given to the ministering angels!’ This has but reference to a situation in which it is obvious when he sits and invisible when he stands. But what is the difference between this and one who has filth on his body, for it has been stated: Where one who has filth on his body, or whose hands are in a privy,[5] R. Huna permits the reading of the Shema’ and R. Hisda forbids it?[6] — In its place filth is most execrable, away from it, it is less so. Our Rabbis taught: This is the halachah with regard to meal-time:[7] If a man goes forth to make water, he washes his one[8] hand and re-enters. If he conversed with his neighbour and waited [diverting himself], he washes both his hands [again] and re-enters. When he washes his hands, he should not wash them outside and enter, because of the suspicion,[9] but he should enter, sit at his accustomed place and wash his two hands there, then pass the pitcher[10] around the guests.[11] — R. Hisda said: What we said refers to drinking,[12] but as to eating he may wash his hands outside and re-enter, people know that he is fastidious of taste.[13] R. Nahman b. Isaac said: I would do the same[14] before drinking as people know me to be fastidious.

MISHNAH. NO MAN EVEN IF HE WERE CLEAN COULD ENTER THE TEMPLE COURT WITHOUT HAVING IMMERSED HIMSELF. FIVE IMMERSIONS AND TEN SANCTIFICATIONS DID THE HIGH PRIEST UNDERGO ON THAT DAY. AND ALL ON

HOLY GROUND IN THE PARWAH[15] CELL WITH THE EXCEPTION OF THIS ONE[16] ALONE. — A LINEN SHEET WAS SPREAD BETWEEN HIM AND THE PEOPLE.

GEMARA. Ben Zoma was asked: What is the purpose of this immersion?[17] He answered: If one[18] who moves from one holy place to another and from one place [the entering of] which [in uncleanness] involves kareth[19] to another place [the entering of] which [in uncleanness] involves kareth, requires immersion, how much more shall he require immersion who moves from profane ground into holy ground, and from a place [the entering of] which [in uncleanness] does not involve kareth, to a place [the entering of] which [in uncleanness] involves kareth! R. Judah said: It is only an immersion required for the sake of uniformity,[20] so that he may remember if there is any uncleanness on him and abstain.[21] In what principle do they differ?

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(1) Men afflicted with such blemish are incapable of reproduction, hence people, mistaking him for a man thus afflicted and hearing that he has children, will spread the rumour that they are begotten in adultery.

(2) In the anus.

(3) V. Glos.

(4) Ber. 25b.

(5) He happens to have his hands still in the space of the privy, between its door and the wall which separates it from the next room.

(6) Because the whole body ought to be attuned to prayer, as the psalmist has it: All my bones shall say: Lord, who is like unto Thee, Ps. XXXV, 10.

(7) Hands have to be washed before taking a meal.

(8) The one which may have been touched by the squirtings of urine.

(9) That he failed to wash his hands outside.

(10) Which he had used for washing his hands.

(11) V. Tosef. Ber. IV.

(12) [That he does not intend eating any more, but drinking, in which case the washing of the hands a second time is but a matter of precaution in case he does partake of some bread (Rashi).]

(13) The average man is assumed to be fastidious enough not to eat without his fingers having been washed before, esp. since eating with the fingers (rather than with fork and knife) was the general custom. V.T.A. III, p. 43.

(14) And wash my hands outside.

(15) In the southern part of the Temple Court, v. Mid. V, 3.

(16) The first one (mentioned in preceding Mishnah 28a) which he performed on profane ground at the Water-Gate.

(17) For every man who wishes to enter the Temple Court.

(18) The high priest, in the course of his five services on the Day of Atonement, moved from the inner to the outer court, both being sacred and having the special restriction attached, viz., that one who entered them in uncleanness incurred divine penalty of death.

(19) V. Glos.

(20) Lit., ‘an attached immersion’. There is no Biblical obligation, but a Rabbinic ‘fence’ to assure a consciousness of any uncleanness attaching to him who entered the Temple Court.

(21) From entering the Temple Court.

Talmud - Mas. Yoma 30b

As to whether the service is profaned.[1] According to Ben Zoma[2] he profanes the service, according to R. Judah he does not. But does he, in accordance with Ben Zoma's view, profane the service? Has it not been taught: If a high priest did not immerse or sanctify himself between garment and garment or between service and service, his service remains valid.[3] But if either a high priest or a common priest has not washed his hands and feet in the morning and then had officiated at a service, that service is invalidated? — Rather does the dispute concern the question as to whether he transgresses a positive command or not,[1] Ben Zoma holding he transgresses a positive command, R. Judah that he does not. But does R. Judah hold this view? Has it not been taught: A leper[4] immerses himself and stands in the Nicanor Gate. R. Judah said: He does not need to immerse himself, for he has done so already on the evening before! This has its own reason, as it was taught: ‘Because he had immersed himself on the eve before’.[5] What does he ask who asks this?[6] — Because he wants to raise another objection, viz., [why was it called] the cell of the lepers, because lepers immerse themselves therein.[7] R. Judah says: Not only of the lepers did they say [this] but of every man [who enters the Temple Court]?[8] — That is no difficulty. One statement refers to the case that he immersed himself, the other to the case that he did not. But, if he did not immerse himself, he must await the setting of the sun? — Rather: In both cases he is presumed to have immersed himself, but in the one case he is presumed to have ceased to have his mind [on the necessity of preventing defilement],[9] in the other he is presumed to have had his mind thereon all the time. But if he ceased to have his mind on it, he would need to be sprinkled on the third and the seventh day, for R. Dosthai b. Mattun said in the name of R. Johanan: Wherever attention[10] [from the need to prevent uncleanness] is diverted, sprinkling on the third and the seventh day is required?[11] — Rather: In both cases he is presumed not to have diverted the attention, yet there is no contradiction, for in the one case he is presumed to have immersed himself for the purpose of entering the Sanctuary, in the other he is assumed to have done so without that purpose in mind.[12] Or, if you like, say: Read not of lepers did they say [this][13] but of every man. Rabina said: R. Judah makes his statement only on behalf [of the view] of the Rabbis: As far as my view is concerned, no leper needs [another] immersion. But according to your opinion, admit at least that this was said not of lepers alone but of all people. And the Rabbis?[14] — The leper is accustomed to [his] impurity, all others are unaccustomed to it.[15]

Shall we say that the Rabbis who dispute with R. Judah[16] are of the opinion of Ben Zoma,[17] notwithstanding which they make reference to the leper,[18] to inform you of the far-reaching consequences of R. Judah's opinion; or perhaps the difference in the case of the leper lies in the fact that he is accustomed to the uncleanness?[19] — He answered: It is different with the leper, because he is accustomed to his uncleanness.

Said Abaye to R. Joseph:[20] Would an intervening object

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(1) By officiating without immersing first.

(2) Who infers it from an argument a minori which has the force of Biblical law.

(3) Zeb. 19b. [Since a high priest does not profane the service by failing to take the intermediary immersions, there could be no profanation of the service in the absence of the first immersion, since on the view of Ben Zoma the latter is inferred from the former.]

(4) On the eighth day of his affliction, although he had immersed himself on the seventh, Lev. XIV, 9: And it shall be on the seventh...he shall bathe his flesh in water, and he shall be clean. Yet, when he offers up the prescribed sacrifices on the eighth day, he shall immerse himself again.

(5) R. Judah holds the purpose of the immersion of those who enter the Sanctuary in the morning is just to remind them of their former uncleanness, whereas the leper, who by reason of last night's immersion got rid of his uncleanness, is not in need of another reminder, in form of a second immersion.

(6) I.e., why ask an apparently unnecessary question? The answer is obvious. Mielziner (Introduction p. 238) cites Frankel MGWJ 1861 for a tradition according to which all passages in the Talmud introduced by this phrase belong to the additions made by the Saboraim.

(7) [Before they entered the Temple Court on the eighth day in the morning; when standing at the Nicanor Gate they thrust their thumb and toe into the Temple Court, there to receive an application of the blood of the guilt-offering and of oil; v. Lev. XIV, 14ff and supra 16a and infra p. 143, n. 10.]

(8) ‘Not only of the lepers’ implies the lepers at any rate, hence he would consider a re-immersion necessary, which contradicts his earlier statement.

(9) By consistent guarding of his body against touch by agents of ritual uncleanness.

(10) For he may have entered the tent in which a corpse lay.

(11) For entering the Temple.

(12) He therefore requires a second immersion in the morning.

(13) Requiring immersion on entering the Sanctuary.
(14) How would they meet R. Judah's argument?
(15) Hence he will no more pay attention to the dangers of defilement, whereas all others, unaccustomed to uncleanness and not reconciled to it, will be anxious to avoid such risk.
(16) And hold that a leper needs re-immersion on the eighth day.
(17) Who requires no morning immersion even in the case of a leper who is accustomed to uncleanness.
(18) Although they hold with Ben Zoma that every one entering the Sanctuary is by the law of the Torah obliged to immerse himself.
(19) That of leprosy, hence is accustomed to touch things unclean, whence the assumption that even after his immersion he may have done so; but other men require no morning immersion Biblically before entering the Sanctuary.
(20) Text in accord with Maharsha.

Talmud - Mas. Yoma 31a

render this immersion[1] invalid or not? — He replied: ‘Whatever the Rabbis ordained, they endowed with the authority of a law of the Torah’.[2]

Said Abaye to R. Joseph: Is a partial entrance of the Sanctuary considered an entrance or not? — He answered: The thumb[3] and toe will prove that, for there but a partial entrance is involved, and it was taught: A leper immerses himself and stands in the Nicanor Gate! — The question was asked: What about making for himself a long knife for slaughtering?[4] This question is asked in accord with the view of both Ben Zoma and the Rabbis who oppose R. Judah. This question is asked on the view of Ben Zoma: Perhaps Ben Zoma does not consider the immersion obligatory except in the case of one who actually enters, but not for one who stands outside; or perhaps even for the latter, because he might gradually enter. The question is also asked according to the view of the Rabbis who oppose R. Judah: Perhaps the Rabbis hold their view only there[5] because he does not perform a service,[6] but where he officiates at a service they would agree,[7] or do they make no difference? — The question remains unanswered.

FIVE IMMERSIONS AND TEN SANCTIFICATIONS: Our Rabbis taught: The high priest underwent five immersions and ten sanctifications on that day, all of them on holy ground, in the Parwah Cell, with the exception of the first, which took place on profane ground, on top of the Water Gate, lying at the side of his [private] cell.[8] Abaye said: We infer therefrom that the Etam well was [at least] twenty-three cubits above the ground of the Temple Court.[9] For we have learnt: All the doorways there were twenty cubits in height, ten cubits in breadth, with the exception of that of the Hall[10] and it was taught: And he shall bathe all his flesh in water,[11] I.e., in the waters of a mikweh,[12] in water which covers his whole body. What ‘is its quantity? One cubit square, three cubits high, and the Sages have calculated that the required quantity for [the contents of] a mikweh is forty se'ah.[13]

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(1) An immersion, to be valid, requires utterly undisturbed touch of the water on the body of the person immersing himself, any intervening object rendering the immersion invalid. This, however, in the questioner's mind applies only to such immersion as is commanded by the Torah. R. Judah, who considers it only an immersion for the sake of uniformity, might hence hold that in this case an intervening object might not be considered sufficiently disturbing to render the immersion invalid.
(2) Pes. 30b.
(3) Lev. XIV, 14: And the priest shall take the blood of the guilt-offering and... shall put it upon the thumb of his right hand, and upon the great toe of his right foot. Ibid. 17: And of the rest of the oil . . . the priest shall put . . . upon the thumb of his right hand and upon the great toe of his right foot. It is to receive of the blood and the oil that the leper stands at the Nicanor Gate and puts his hands and feet inside, v. 11 indicating that: And the priest that cleanseth him shall set the man that is to be cleansed . . . at the door of the tent of meeting.
(4) To escape the obligation of an immersion, which is due on entering. With a knife long enough he might slay the sacrificial animal from without.

(5) In the case of an ordinary man entering the Sanctuary.
(6) Hence they free him from the obligations of an immersion.
(7) That such is necessary.
(8) V. supra.
(9) From the Etam well was the water supply for the pool on top of the Water Gate, v. Zeb. 55b.
(10) V. supra 15a.
(11) [The reference is to Lev. XV, 16 and the text is to be corrected accordingly. The verse in cur. edd. is from Lev. XV, 13.]
(12) Lit., 'gathering (of water)' then the term. techn. for the pool for ritual immersion. The water therein must not be drawn, i.e,, through a vessel, but must come directly from spring, river, sea or rain.
(13) 'Er. 4b. Forty se'ah correspond roughly to two hundred and sixty-four quarts of water. [The water in the pool on top of the Water Gate had thus to rise to a height of twenty-three cubits above the level of the Temple Court twenty cubits for the height of the doorway and three cubits for the height of the pool, which would have been impossible unless the Etam well was situated on at least a corresponding height.]

Talmud - Mas. Yoma 31b

But there is also one cubit of the ceiling and one cubit of the flooring?[1] — Since the gates of the Sanctuary are made of marble these were made of a small [thickness]. But there is some [additional thickness] however small? — Since it is not even as much as a cubit, he does not count it.

A LINEN SHEET WAS SPREAD BETWEEN HIM AND THE PEOPLE. Why of linen? — As R. Kahana said [elsewhere]:[2] So that he may perceive that the service of the day is to be performed in garments of linen. Thus here too it is that he might perceive that the service of the day is to be performed in garments of linen.

MISHNAH. HE STRIPPED OFF [HIS GARMENTS],[3] WENT DOWN AND IMMERSED HIMSELF, CAME UP AND DRIED HIMSELF.[4] THEY BROUGHT HIM THE GOLDEN[5] GARMENTS, HE PUT THEM ON AND SANCTIFIED HIS HANDS AND FEET. THEY BROUGHT HIM THE CONTINUAL OFFERING, HE MADE THE REQUIRED CUT AND SOME ONE ELSE FINISHED IT FOR HIM.[6] HE RECEIVED THE BLOOD AND SPRINKLED IT. HE WENT INSIDE[7] TO SMOKE THE INCENSE OF THE MORNING[8] AND TO TRIM THE LAMPS;[9] [AFTERWARDS] TO OFFER UP THE HEAD AND THE LIMBS AND THE PANCAKES AND THE WINE-OFFERING. THE MORNING INCENSE WAS OFFERED UP BETWEEN THE BLOOD AND THE LIMBS, THE AFTERNOON [INCENSE] BETWEEN THE LIMBS AND THE DRINK-OFFERINGS. IF THE HIGH PRIEST WAS EITHER OLD OR OF DELICATE HEALTH WARM WATER WOULD BE PREPARED FOR HIM AND POURED INTO THE COLD, TO MITIGATE ITS COLDNESS.

GEMARA. The scholars said in the presence of R. Papa:[10] This [Mishnah][11] is not in accord with R. Meir, for if it were in accord with him,[12] behold he said: There must be two sanctifications for the putting on of the garments, hence there ought to be here, too,[13] two sanctifications for the putting on of the garments![14] R. Papa said unto then,: Whether on the view of the Sages or of R. Meir, one sanctification is for the stripping off of the holy garments,[15] and one for the putting on[15] and the reason of their dispute is [the interpretation of these words]: He shall put off, he shall bathe and he shall put on.[16] R. Meir holds that Scripture compares the stripping to the putting on [of the garments], i.e., just as in the case of the putting on of the garments he first puts them on and only afterwards sanctifies himself, so also with the stripping off of the garments, he first strips off and then sanctifies himself; whereas the Rabbis hold that [Scripture] compares the stripping off to the putting on, i.e., just as with the putting on he sanctifies himself whilst dressed in the garments, so with the stripping off, he sanctifies himself whilst the garments are yet on him. Said the scholars to R. Papa: How can you say so, has it not been taught: A sheet of linen was spread between him and the people, he stripped off [his garments], went down, immersed himself, came up and dried himself. One brought the golden garments before him, he put them on, and sanctified his hands and his feet. R. Meir said: He stripped off [his garments] and sanctified his hands and his feet, went down and immersed himself, came up and dried himself. One brought the golden garments before him, he put them on and sanctified his hands and feet![17] — He answered them: If there is such teaching, it is a teaching [to be recognized]. According to R. Meir it is right, because we thus account for the

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(1) [I.e.,there must have been an additional cubit for the ceiling of the doorway and one for the flooring of the pool on top?]

(2) Infra 35a.

(3) His non-holy garments.

(4) Lit., 'sponged himself'.

(5) The eight garments, which the high priest puts on for service. They are: tunic, breeches, mitre, girdle, breast-plate, ephod, robe and plate. V. Ex. XXVIII, 2ff.

(6) To enable the high priest to put the knife aside and to take hold of the holy bowl in which he receives the blood. On other days one priest would slaughter, and another receive the blood. Both functions were to be performed by the high priest on the Day of Atonement.

(7) נכנס Lit., 'entered'. The word 'entered', however, does not fit the whole of what follows, as Baneth remarks. For whereas' he entered the Sanctuary (Hekal) to smoke the incense and trim the lamps, he cannot be said to have 'entered' to offer up the head etc. which took place outside. Baneth therefore suggests with considerable justification that, as elsewhere, 'נכנס' be translated 'prepared to', 'went on to'. But this change is unnecessary as one could translate: He went in to . . . trim the lamps, (afterwards) to offer up the head . ' .

(8) Ex. XXX, 7.

(9) I.e., clean them, provide them with wick and oil, according to Maimonides, also light them.

(10) V. Rashi.

(11) [Which prescribes only one sanctification in connection with the first immersion when he changes from his non-holy garments into the garments of gold.]

(12) [Who teaches infra 34b that in connection with the second immersion, when he changes from the garments of gold into linen garments, he disrobes himself first and then sanctifies himself, in contradistinction to the Rabbis who place the sanctification before the disrobing.]

(13) [It is assumed that the reason of R. Meir for prescribing the disrobing before the sanctification is that he holds that the two sanctifications required on the change of garments are for the putting on of holy vestments. Whereas the Rabbis ascribe one for the stripping of holy garments and the other for the putting on of holy garments.]

(14) [On the other hand, in the view of' the Rabbis, there would he no need for more than one sanctification, since the garments of which he strips himself at the first immersion are non-holy.]

(15) So that our Mishnah can be also in accord with R. Meir.

(16) Lev. XVI, 23, 24.

(17) [This shows that R. Meir requires two sanctifications also in connection with the first immersion.]

ten sanctifications, but according to the Rabbis, they are only nine? — The Rabbis will answer you: The last sanctification is made when he strips off the holy garments and puts on the profane[1] ones.

Our Rabbis taught: And Aaron shall come into the tent of meeting[2] For what purpose does he enter? For no other purpose than that of taking out the censer and the coal-pan, the whole portion being reported in right order with the exception of this passage.[3] For what reason?[4] — R. Hisda said: There is a tradition: Five immersions and ten sanctifications did the high priest undergo on that day. If he had performed them in the order mentioned in the scriptures there could have been no more than three immersions and six sanctifications.[5]

It was taught: R. Judah said: Whence do we know of the five immersions and ten sanctifications which the high priest had to undergo on that day? To teach us that it is said: And Aaron shall come into the tent of meeting, and shall put off the linen garments . . . and he shall wash his flesh in water in a holy place and put on his other vestments and come forth and offer [his burnt-offering].[6] Thus you infer that whenever one changes from one service to another,[7] an immersion is required. Rabbi said: Whence do we know that the high priest had to undergo five immersions and ten sanctifications on that day? Because it is said: He shall put on the holy linen tunic, and he shall have the linen breeches upon his flesh, and shall be girded with the linen girdle, and with the linen mitre shall he be attired; they are the holy garments; and he shall bathe his flesh in water, and put them on.[8] Hence you learn that whosoever changes from service to service requires an immersion. Moreover, it says, ‘They are the holy garments’, thus putting all the garments on the same level. Now there are five services;[9] The continual offering of dawn, [performed] in the golden garments: the service of the day [the Day of Atonement], in linen garments; of his [the high priest's] and the people's ram, in the golden garments; [the taking out] of the censer and coal-pan, in white garments; the continual evening offering in the golden garments — Whence do we know that every immersion required two sanctifications? For it is written: And he shall put off . . . and he shall wash; and he shall wash and he shall put on.[10] — R. Eliezer b. Simeon said: This can be inferred a minori ad majus: If in a case where no immersion is required,[11] sanctification is yet required,[12] how much more, in a place in which immersion is required,[13] is sanctification also required — But [perhaps let us also infer] that as there only one sanctification is required, here, too, one only would be necessary? Therefore Scripture says: And Aaron shall come into the tent of meeting, and shall put off the linen garments which he put on — what is the meaning of ‘which he put on’? Does not a man put off but that which he did put on? Rather [are these superfluous words written] to put the putting off on the same level with the putting on of the garments; just as the putting on of the garments requires sanctification,[14] so does the putting off of the garments require it.

[The master said]:[15] ‘R. Judah said: Whence do we know of the five immersions and ten sanctifications which the high priest had to undergo on that Day? To teach us that Scripture says: "And Aaron shall come into the tent of meeting . . . and shall wash his flesh in water in a holy place." Thus you infer that whenever one changes from one service to another, an immersion is required.’ We found [this rule] for the change from the white garments to the golden ones.[16] Whence do we know [that it also applies] for the change from the golden to the linen ones?

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(1) At the end of the service of the Day of Atonement, as he strips off’ the holy garments to don profane ones.

(2) Lev. XVI, 23.

(3) Infra 70b.

(4) Did Aaron, have to interrupt the service, interpolating the offering up of his and the people's ram, between the incense and the bringing out of censer and coal-pan?

(5) One immersion each for the continual offering of the morning, for the service of the day, which includes censer — and coal-pan — function, and one between that and the offering up of the rams, which includes the additional, and the continual afternoon offering. Thus there would be three immersions only as against the five traditionally reported. Hence the necessity of a change in the programme, hence the interpolation of the offering of the rams between the service within (the day's service) and the bringing out of censer and coal-pan. So that the censer — and coal-pan — function now interrupts between the offerings of the rams and the continual afternoon-offering, with the result that there are now five immersions necessary; one for the morning's continual offering, in the golden garments; one for the service of the day in white garments; one for the offering of the two rams on the outer altar in the golden garments; one for the taking out of censer and coal-pan in white garments; and the fifth for the additional, and the continual afternoon offering in the golden garments. Thus tradition and text are harmonized, the five immersions implying ten sanctifications, one each, before each putting off, and before each putting on, of the garments required for each service.

(6) Lev. XVI, 23, 24.

(7) I.e., from a service performed within the Tent of Meeting to one performed outside and vice versa.

(8) Ibid. 4.

(9) Whether on the view of Rabbi or of R. Judah.

(10) [This is the continuation of Rabbi's statement and the reference is to Lev. XVI, 23, 24. The words ‘he shall wash’, being placed between ‘he shall put off’ and ‘he shall put on’, are taken by Rabbi as referring both to stripping and the robing, each requiring a separate washing (sanctification), this in contradistinction to R. Judah who derives from it supra the need of all immersion between every change of service v. infra 32b.]

(11) During the rest of the days of the year (as against the Day of Atonement) the law of the Torah does not require immersion before each service, only by Rabbinic ordinance, the purpose of which is to keep the priest conscious of risks to his cleanliness, is such immersion necessary. (V. supra 30a.)

(12) V. Ex. XL, 32.

(13) On the Day of Atonement, at every change of garment.

(14) As is inferred a minori.

(15) [To be inserted with some MSS. V. D.S.]

(16) The verses in question (Lev. XVI, 23, 24) occurring in connection with the stripping of the white garments.

Talmud - Mas. Yoma 32b

The school of R. Ishmael taught: That can be inferred a minori: If the golden garments in which the high priest does not enter the Holy of Holies require immersion, how much more do the linen garments, in which he enters the Holy of Holies, require it? But this argument can be demolished: The case of the golden garments is different, because much atonement is obtained in them.[1] Rather, he infers it from what Rabbi said.[2]

[The Master said][3] ‘Rabbi said, Whence do we know of the five immersions and the ten sanctifications which the high priest had to undergo on that day? To teach us that it is said: "He shall put on the holy linen tunic . . ." Hence you learn that whosoever changes from service to service requires an immersion.’ We have found that [required for a change] from the golden,[4] to the white garments. Whence do we know that [the same rule obtains for a change] from the white to the golden garments? The school of R. Ishmael taught: That can be inferred a minori: If the white garments, in which but little atonement is obtained, require an immersion, how much more will the golden garments, in which much atonement is obtained, require it? This argument can be demolished: The case of the white garments is different, because the high priest, dressed in them, enters the Holy of Holies? It is for this reason that he [Rabbi, in his statement] teaches: And it also says: ‘They are the holy garments, and he shall bathe his flesh in water, and put them on’.[5]

‘Now there are five services’. That of the continual afternoon offering [performed] in the golden garments; the service of the day in white garments; [the offering up of] his, and the people's ram in the golden garments; the [taking out of] the censer and coal-pan in white garments; and the continual offering at dusk, In the golden garments — And whence do we know that every immersion requires two sanctifications? To teach us that Scripture says: ‘And he shall put off . . . and he shall wash . . . and he shall wash . . . and he shall put on’. But this [passage] refers to the immersions?[6] — Since it has no reference to the immersion [the requirement of] which we infer from ‘They are the holy garments,[7] apply it to the sanctifications . Then the Divine Law should have written the term of ‘sanctification’?[8] — [Scripture chooses that term] to let us know that immersion is even as sanctification, i.e., just as immersion must take place on holy ground, so must sanctification take place on holy ground. Whence does R. Judah[9] infer [that] the sanctification [must take place on holy ground]? — He infers it from the teaching of R. Eleazar son of R. Simeon.

R. Hisda said: Rabbi's view excludes that of R. Meir and that of the Rabbis.[10] It excludes that of the Rabbis, for according to them he sanctifies himself [first] while he is still dressed, whereas Rabbi holds that he sanctifies himself after he is stripped; and it also excludes the view of R. Meir, for R. Meir holds that the second sanctification takes place when he is [already] dressed, whereas, according to Rabbi, he sanctifies himself whilst still stripped of the garments.[11] R. Aha b. Jacob said: All agree that at the second sanctification he first dons [the garments] and then sanctifies himself. What is the reason? Because Scripture said: Or when they come near to the altar,[12] i,e,, only he who lacks nothing but the approach,[13] that excludes him who lacks both dressing and approach. R. Aha, the son of Raba, said to R. Ashi: R. Hisda does not agree with R. Aha, nor does R. Aha agree with R. Hisda, for else there would be fifteen sanctifications required according to Rabbi.[14]

ONE BROUGHT HIM THE CONTINUAL OFFERING, HE MADE THE REQUIRED CUT etc. What does ‘KERAZO’[15] mean? ‘Ulla said: It is a synonym for ‘slaying’ — R. Nahman b. Isaac said: What is the scriptural evidence? Egypt is a very fair heifer. But the kerez [gadfly] out of the north is come, it is come.[16] What is the intimation?[17] — As R. Joseph interpreted it: A fair kingdom is Egypt but murderous nations from the north will come upon it.[18]

How far shall he cut? — ‘Ulla said: The bigger part of both organs.[19] Thus also said R. Johanan: The bigger part of the two organs. Resh Lakish also holds that he cuts through the bigger part of the two organs, for Resh Lakish said:[20] Since we have learned that the cutting through of the bigger part of an organ is as good as the cutting through the whole of it, why did we learn that ‘the bigger part of one organ [is required to be cut through] in case of a fowl ‘and the bigger part of the two organs [are required to be cut through] in case of an animal? Because we have learned: ONE BROUGHT HIM THE CONTINUAL OFFERING, HE MADE THE REQUIRED CUT AND SOMEONE ELSE FINISHED IT FOR HIM, HE RECEIVED THE BLOOD AND SPRINKLED IT-one might assume, if another one did not complete the killing for him, it would be invalid. — [You say that] ‘one could assume that if the other did not complete the killing for him, it would be invalid,’ then it would mean that the service is performed by someone[21] else and we have learnt: All the services of the Day of Atonement are valid only if performed by him [the high priest]?[22] — Rather: This is what he says: One might have assumed that it shall be considered invalidated by Rabbinic ordinance,[23]

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(1) They are used every day for services, whereas the white garments are used only for the service in the Holy of Holies on the Day of Atonement and obtain atonement for the Sanctuary and its sacred things, if defilement had occurred there; v. Shebu. 7b.

(2) From Lev. XVI, 4.

(3) [Inserted by one MS. cf. Rashi.]

(4) The verse in question occurring in connection with the changing from the gold garments into the linen ones.

(5) The additional passage adduced by Rabbi intimates that Scripture makes the fact that they are the holy garments the reason for the need of immersion, so that one shall infer that all changes of holy garments on the Day of Atonement require immersion, thus also the golden garments.

(6) Since it says ‘his flesh’.

(7) Cf. n. 1.

(8) [I.e., it should have been written ‘he shall wash his hands and feet’, R. Hananel.]

(9) Who interprets the above passage differently, who therefore lacks a source for this information.

(10) Mentioned supra p.146, n. 6.

(11) [Rabbi holds that both sanctifications are performed whilst he is stripped, one before the immersion and the other after the immersion.]
(12) Ex. XXX, 20.
(13) May perform the sanctification.
(14) According to R. Hisda, Rabbi requires two sanctifications between stripping and dressing; and according to R. Aha, Rabbi requires the sanctification after being dressed before the service, for if their views were not incompatible, Rabbi would be found to require fifteen sanctifications.
(15) Why a change of the usual wording? ‘Shehato’ would have been the normal way of putting it.
(16) Jer. XLVI, 20.
(17) The word ‘kerez’ here, meaning ‘gadfly’, does not suggest explanation of the incision.
(18) The question has the Hebrew text in mind, the answer the Aramaic paraphrase. Since ‘kerez’ is interpreted as ‘murderous’, ‘karaz’ may fitly be used for ‘shahat’, to kill.
(19) The windpipe and the gullet.
(20) Hul. 29b.
(21) That would render the service of the other essential, hence would mean someone else's participation in the service of the Day of Atonement, which is against the law.
(22) Infra 73a.
(23) Making a distinction between profane slaughter, where the bigger part of an organ is on the same level as the whole organ, i.e., the cutting through of the bigger part completes the slaughtering effectively, as against sacred animals, which would have their organ (or organs) completely cut through.

Talmud - Mas. Yoma 33a

therefore we have learnt: The bigger part of an organ with a fowl, the bigger part of two organs with an animal — But since, even by Rabbinic ordinance, it would be considered not invalidated,[1] why does he [the other one] have to finish it? — It is the proper thing [a command] to finish it.[2]

Abaye related the order of the [daily] priestly functions in the name of tradition and in accordance with Abba Saul:[3] The large pile comes before the second pile for the incense; the second pile for the incense comes before the laying in order of the two logs of wood; the laying in order of the two logs of wood precedes the removing of the ashes from the inner altar; the removing of the ashes from the inner altar precedes the trimming of the five lamps; the trimming of the five lamps precedes the blood[4] of the continual offering; the blood of the continual offering precedes the trimming of the two lamps; the trimming of the two lamps precedes the incense; the incense precedes the limbs;[5] the limbs come before the meal-offering; the meal-offering precedes the pancakes; the pancakes come before the drink-offerings; the drink-offerings precede the additional offerings; the additional offerings come before the [frankincense] censers, and the [frankincense] censers precede the continual afternoon-offering, as it is said: And he shall make smoke thereon the fat of the peace-offerings,[6] i.e., herewith all the offerings are completed —[7] The Master said: ‘The great pile precedes the second pile for the incense.’ Whence do we know that? Because it has been taught:[8] This is the law of the burnt-offering: it is that which goeth up on its fire-wood upon the altar all night[9] — this passage refers to the great pile. And the fire of the altar shall be kept burning thereby[10] — this refers to the second pile for the incense.[11] But perhaps I should reverse it?[12] — It seems more logical that the great pile have preference because it brings more[13] atonement — On the contrary: the second pile is of greater value, for it is introduced within [the Sanctuary].[14] — Nevertheless, the one which causes more atonement is of greater value. And,if you like, say: If there be no wood found for the second pile, would one not bring it into [the Sanctuary] from the great pile?[15]

‘The second pile for the incense precedes the laying in order of the two logs of wood.’ Whence do we know that? — Because it is written: And the priest shall kindle wood[16] upon it every morning,[17] i.e., ‘upon it’,[18] but not upon the other pile,[19] hence we can infer that the other pile is arranged already. But the word ‘upon it’ has its own text meaning? — ‘Upon it’ is written twice.[20] ‘The laying in order of the two logs of wood precedes the removing of the ashes from the inner altar.’ Although touching the one it is written: ‘In the morning, in the morning’[21] and touching the other it is also written: ‘In the morning, in the morning’[22] nevertheless that which is preparatory [to the incense burning] has preference,[23] What would be preparatory [according to their reply], are the two logs of wood, but surely you said that the two logs of wood belong to the great pile![24] — R. Jeremiah said: It is the laying in order of the wood.[25] — Rabina said:[26] Since he started with the laying in order [of the wood], he completes it also. R. Ashi said:[26] If he found no wood in the second pile, would he not bring it in from the great pile?

‘And the removal of the ashes from the inner altar precedes the trimming of the five lamps.’ Why? — Abaye said: I know it[27] by tradition, but I do not know the reason. Raba said: it is in accord with Resh Lakish, for Resh Lakish said: ‘One must not forego the occasion of performing a religious command’[28]

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(1) If the other priest did not finish the cutting of the organs.
(2) In order to obtain a proper supply of blood for the services of the day.
(3) V. supra 14b.
(4) Actually: the slaying of the animal and the receiving of the blood.
(5) Smoking of the limbs of the continual morning-offering.
(6) Lev. VI, 5.
(7) Connecting ad hoc שלמים peace-offerings’ with the root שלם meaning to be complete, thus: And he shall make smoke thereon the fat of the peace-offerings is made to mean: And he shall . . . the complete sacrifice, the conclusion of the sacrifices.
(8) Infra 45a.
(9) Lev. VI, 2.
(10) Ibid.
(11) A special pile of wood, away from the main great pile, was kindled to provide embers for the daily burning of incense on the golden altar; v. Tam. 29a.
(12) So that the pile for the incense should come first.
(13) Because every smoking, with the exception of that of the incense, smoked on the inner altar, is performed thereon.
(14) For incense burning.
(15) So that some of the great pile, too, may be introduced within the Sanctuary.
(16) This is taken to refer to the two logs of wood.
(17) Lev. VI, 5.
(18) I.e., the large pile.
(19) The second pile for incense.
(20) Ibid. In this very same verse, once it has its text meaning, the surplus word intimates the inference.
(21) Ex. XXX, 7, E. V., ‘every morning’. [With reference to the smoking of incense, which also includes the removal of the ashes from the inner altar which must precede the incense offering.]
(22) Lev. VI, 5.
(23) The embers of the wood are essential, for without them no incense can be smoked.
(24) And are thus not preparatory to the incense.
(25) Lit., ‘the name of’ is wood, and wood is essential for the incense, even though not this wood.
(26) The reason why the laying of the two logs precedes the removal of the ashes from the inner altar.
(27) That this was the order according to Abba Saul.
(28) Infra 58b.

Talmud - Mas. Yoma 33b

and as he [the priest] enters the Hekal [Sanctuary], he comes first upon the altar.[1] For it was taught: The table was to the north two and one half cubits away from the wall, the candlestick was to the south, two and one half cubits away from the wall, the altar stood in the exact middle, extending somewhat outward.[2] But let it stand with them?[3] — Since it is written: And the candlestick over against the table,[4] it is required that they[5] see each other. Said Raba: From what Resh Lakish said we infer that it is forbidden to forego the arm in favour of the forehead.[6] How shall he do it? From the arm [he shall] proceed to the forehead.[7]

'And the trimming of the five lamps is to precede the blood of the continual offering, and the blood of the continual offering is to come before the trimming of the two lamps.' What is the reason? — Abaye said: [The phrases] 'In the morning, in the morning', [written] in connection with the two logs of wood,[8] which are not necessary [there]:[9] one[10] applies to the trimming of the five lamps which shall precede the blood of the continual offering; the other applies to the blood of the continual offering which is to come before the trimming of the two lamps.[11] 'One applies to the trimming of the five lamps which should precede the blood of the continual offering', for here[12] are three[13] [words], there only two. 'And the other applies to the blood of the continual offering which should come before the trimming of the two lamps', for, although in each case there are two,[14] yet, that which obtains atonement[15] has preference.

R. Papa said to Abaye: But say, perhaps, that one is to be applied to the removing of the ashes of the inner altar, which is to precede the blood of the continual offering, for here are three words,[16] there but two; and one applies to the blood of the continual offering that should come before the trimming of the five lamps, for, although in both cases there are but two, the one that obtains atonement is to have preference? — If so, what shall he interrupt it with?[17] It would be quite right according to Resh Lakish who said: The lamps were trimmed and [after interruption] trimmed again.[18] in order to keep the whole Temple Court animated, but according to R. Johanan who interprets 'In the morning, in the morning',[19] i.e., divide it into two mornings,[20] what could be said?[21] Said Rabina to R. Ashi: Are the words 'In the morning, in the morning' in connection with the wood at all superfluous? Surely they are really necessary for their text meaning, the Divine Law saying that they should precede the second pile for the incense? He replied: Have we not explained: 'Upon it' but not upon the other pile, which indicated that the other must have been there already![22]

Why does he trim the five lamps first, let him trim the two lamps first! — Having started already, let him do the bigger part. Then let him trim six? — Scripture says: When he dresseth the lamps, he shall burn it,[19] and 'lamps' is no less than two. — 'And the trimming of the lamps is to come before the incense', for Scripture says: 'When he dresseth the lamps', and afterwards [it says]. 'He shall burn it' [the incense].[19]

'And the incense [shall precede] the limbs' — For it was taught: Let that, in connection with which it is said 'In the morning, in the morning', precede that, in connection with which Scripture said only, 'In the morning' [once].[23]

'And the limbs [come before] the meal-offering', for it was taught:[24] Whence do we know that nothing may precede[25] the continual offering of the dawn?

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(1) Before he reaches the candlestick.

(2) Men. 99a. Eastward towards the entrance into the Hekal,

(3) Between them, i.e., in the exact middle.

(4) Ex. XXVI, 35.

(5) The candlestick and table.

(6) To reverse the order of putting on the tefillin (v. Glos.).

(7) In Deut. VI, 8 it reads: And thou shalt bind them for a sign upon thy hand, and they shall be for frontlets between thy eyes. Tosaf. s.v. עבורי would have Raba's remark apply to the obligation to touch the tefillin as a preventive of diversion from a prayerful mood.

(8) Lev. VI, 5, v. supra p. 156, n. 2.

(9) For as preparatory they have preference and come every morning first; v. supra.
(10) ‘In the morning’.
(11) On the principle that if a certain expression is superfluous in its own context it is applied for hermeneutical purposes to another (אם אינו ענין).
(12) With reference to the trimming of the lamps.
(13) I.e., three times ‘in the morning’: twice in Ex. XXX, 7, and one which we apply as above, whereas the continual offering has but once ‘in the morning’, Ex. XXIX, 39, to which the one applied from the two logs of wood is to be added.
(14) Twice in Ex. XXX, 7, which apply to the two lamps equally as to the five, and twice in connection with the continual offering as explained in n. 8.
(15) V. infra 36a.
(16) The applied and the two in their own passage. Lev. VI, 5.
(17) The trimming of the lamps, which according to Abba Saul had to take place before the incense-offering. Since the order would be: the blood of the continual offering, the trimming of the lamps, the incense.
(18) First five lamps were trimmed and two after a break.
(19) Ex. XXX, 7.
(20) By interrupting it through the interpolation of another service in the midst of the original order.
(21) Hence R. Papa's supposition cannot be admitted.
(22) V. supra p. 154. nn. 13, 14.
(23) Ex. XXIX, 39. [Although it has been stated supra that one ‘in the morning’ is applied to the continual offering from elsewhere, this is only as far as the blood rituals are concerned, but does not apply to the smoking of the limbs (Rashi).]
(24) Tamid 28b.
(25) I.e., may be burnt on the main pile of the altar.

Talmud - Mas. Yoma 34a

To teach us that it said: And he shall lay the burnt-offering in order upon it,[1] and Raba said ‘the burnt-offering’ [means] this is the first burnt-offering.[2]

‘And the meal-offering [shall precede] the pancakes’ — [For Scripture reads]: Burnt-offering and meal-offering.[3]

‘And the pancakes precede the drink-offerings’, they, too, are considered a species of a meal-offering.

‘And the drink-offerings [come before] the additional offerings as is is written: A sacrifice and drink-offerings.[4]

‘And the additional sacrifices [come before] the [frankincense] censers’ — But has it not been taught: The [frankincense] censers come before the additional sacrifices? — This is a matter concerning which Tannaim are disputing.[5] Abaye said: The view that the additional offerings precede the [frankincense] censers seems more logical, for did you not say that the words ‘In the morning, in the morning’ imply that it is to receive preference before all, thus do the words ‘on the day . . . on the day’[6] indicate that it is to be [offered up] last [in the day]. What is the reason of him who holds that the [frankincense] censers come before the additional offerings? — He infers it from the identical expression ‘statute’[7] which occurs with the pancakes. If he infers it hence, let him do so complete?[8] — Here [the words] ‘on the day . . . on the day’ come in to intimate that they [the frankincense censers] are offered up last [in the day].

THE INCENSE OF THE MORNING WAS OFFERED UP BETWEEN THE LIMBS AND THE DRINK-OFFERINGS. According to whom [is this teaching]? If according to the Rabbis,[9] it should come between the blood and the lamps;[10] if according to Abba Saul, it should come between the lamps and the limbs?[11] — In truth it is in accord with the Rabbis, but he does not treat of the order here.[12]

THE INCENSE OF THE AFTERNOON WAS OFFERED UP BETWEEN THE [SMOKING OF THE] LIMBS AND THE DRINK-OFFERINGS. Whence do we know these things? — R. Johanan said: Because Scripture said: As the meal-offering of the morning, and as the drink-offering thereof, thou shalt present it,[13] i.e., just as with the meal-offering of the morning the incense precedes the drink-offerings, so also here the incense shall come before the drink-offerings. But then, just as there the incense precedes the [smoking] of the limbs, here too the incense should come before the limbs? Is it written: 'As the limbs of the morning'? It is written: 'As the meal-offering of the morning', which means: As the meal-offering of the morning, but not as the [smoking of the] limbs of the morning.

Our Rabbis taught: And the drink-offering thereof shall be the fourth part of a hin:[14] let him infer [the need of a drink-offering] for the morning sacrifice from the evening sacrifice.

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(1) Lev. VI, 5.

(2) Cf. Hor. 12a.

(3) Lev. XXIII, 37: These are the appointed seasons of the Lord, which ye shall proclaim to be holy convocations, to bring an offering made by fire unto the Lord, a burnt-offering, and a meal-offering, a sacrifice, and drink-offerings, each on its own day. This is the prescribed order, not to be interfered with.

(4) Ibid.

(5) Pes. 58a.

(6) Ibid. XXIV, 8: on the day of the Sabbath, on the day of the Sabbath, shall he set it in order before the Lord, continually. Just as In the morning, in the morning' was accepted as an intimation that it shall be early in the morning, so 'On the day, on the day' may fitly be assumed to be an indication that it is to be offered last in the day.

(7) Concerning the pancakes, the word 'statute' is used in Lev. VI, 15, as in connection with the frankincense censers, ibid. XXIV, 9. Just as pancakes take precedence over additional offerings, so do the frankincense censers.

(8) That the frankincense censers should have precedence over the the drink-offerings too.

(9) [That the incense was offered between the trimming of the five lamps and the two lamps, v. supra 15a.]

(10) [I.e., before completing the trimming of the lamps.]

(11) V. supra 33a.

(12) [He was not too particular in regard to the details of the order (Rashi). On this view it could be also in accord with Abba Saul, but it is preferable to make the Mishnah in agreement with the majority of Rabbis (Rashi).]

(13) Num. XXVIII, 8.

(14) Ibid. 7.

Talmud - Mas. Yoma 34b

Rabbi said: For the evening sacrifice from the morning sacrifice![1] It is quite right according to the Rabbis, for that is written [specifically] in connection with the continual offering of the evening,[2] but what is the ground of Rabbi's statement? — Rabbah b. 'Ulla said: Scripture said: 'For the one lamb'.[3] Now which is the lamb in connection with which the word ehad [one] is used? Say: It is the lamb of the continual offering of the morning.[4] And what do the Rabbis [reply]? — 'Ehad', i.e., the unique, the best of the flock. And [what is] Rabbi's [answer]? — He infers that[5] from: And all your choice vows.[6] And the Rabbis? — One speaks of freewill-[offerings], the other of obligatory [offerings] and both need special mention.[7]

IF THE HIGH PRIEST WAS OLD OR OF DELICATE HEALTH etc. It was taught: R. Judah said: Lumps of wrought iron were heated on the eve of the Day of Atonement and were cast into the cold water to mitigate the coldness. But was [one] not thereby hardening them?[8] — R. Bibi said: [The heat] did not reach the hardening point. Abaye said: Even assume it did reach the hardening point, [a forbidden] act[9] which was produced without intent, is permitted. But did Abaye say that? Has it not been taught:[10] The flesh of his foreskin[11] — even though a white spot[12] is there may he cut it off,[13] these are the words of R. Josiah. And we asked investigatingly concerning it: Why is a Scriptural statement necessary for that,[14] and Abaye said: This was in accord with R. Judah who said: A forbidden act produced without intent, remains forbidden![15] That applies only to forbidden things in the whole Torah,[16] but here[17] hardening is [forbidden] only by Rabbinic ordination. MISHNAH. THEY BROUGHT HIM TO THE PARWAH CELL-WHICH WAS ON HOLY GROUND.[18] THEY SPREAD A SHEET OF BYSSUS [LINEN] BETWEEN HIM AND THE PEOPLE. HE SANCTIFIED HIS HANDS AND HIS FEET AND STRIPPED. R. MEIR SAID: HE STRIPPED, SANCTIFIED HIS HANDS AND HIS FEET. HE WENT DOWN AND IMMERSED HIMSELF, CAME UP AND DRIED HIMSELF. AFTERWARDS THEY BROUGHT HIM WHITE GARMENTS.[19] HE PUT THEM ON AND SANCTIFIED HIS HANDS AND HIS FEET. IN THE MORNING HE PUT ON PELUSIUM LINEN WORTH TWELVE MINAS,[20] IN THE AFTERNOON INDIAN LINEN WORTH EIGHT HUNDRED ZUZ. THESE ARE THE WORDS OF R. MEIR. THE SAGES SAY: IN THE MORNING HE PUT ON [GARMENTS] WORTH EIGHTEEN MINAS AND IN THE AFTERNOON [GARMENTS] WORTH TWELVE MINAS, ALTOGETHER THIRTY MINAS.[21] ALL THAT AT THE CHARGE OF THE COMMUNITY[22] AND IF HE WANTED TO SPEND MORE OF HIS OWN HE COULD DO SO.

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(1) Just as the one requires drink-offering, so does the other. The practical difference: The case of a community who had enough for only one drink-offering. According to the opinion that one must infer the regulation for the afternoon-offering from the morning-offering, the latter is more important and the drink-offering would have to be allotted to the morning-offering. (Tosaf. s.v.בריי.) The basis of the discussion: To which of the two continual offerings does the phrase ‘for the one lamb’ (Num. XXVIII, 7) refer? The Sages hold it refers to the last named, the afternoon-offering, whereas Rabbi holds that it recalls the morning-offering, where the same phrase (‘one’) is used (verse 4).

(2) The last named of the two.

(3) Num. XXVIII, 7.

(4) V. Ibid. 4.

(5) That particular meaning of ‘ehad’, as applied to the continual offering.

(6) Deut. XII, 11.

(7) As arguments may be advanced in favour of each requiring to be of the best, to the exclusion of the other.

(8) Which is forbidden on any holy day, how much more on the solemn Day of Atonement.

(9) Shab. 41b.

(10) Shab. 133a.

(11) Lev. XII, 3.

(12) Of leprosy, which normally must not be removed by surgery.

(13) The word ‘flesh’ here is superfluous, hence we infer therefrom that no matter how the flesh be (even leprous) he may circumcise it.

(14) Since it was a forbidden act produced without intent, it seems self-evident that it would be permitted. Why, then, was the Scriptural intimation necessary?

(15) Abaye, who held that this intimation supported the view of R. Judah, evidently agrees with him.

(16) By the Torah proper, the Five Books of Moses, as against the Torah in general, the sum total of the Jewish law and tradition. Prohibitions of the Torah are more serious, hence even unintended transgression remains forbidden.

(17) The prohibition dealt with here.

(18) The first immersion, on top of the Water Gate, took place on profane ground; this, however, had to be performed on holy ground, as part of the service of the Day of Atonement.

(19) The four garments prescribed for the special service of the Day of Atonement: the tunic, the breeches, the girdle and the mitre, Lev. XVI, 4.

(20) One mina is worth about £ 3.

(21) As long as one spends more for the morning garments than for the evening garments, there is no regulation to enforce the exact sum mentioned in the Mishnah. V. infra. The evening garment was put on by the high priest for the sole purpose of removing spoon and coal-pan from the Holy of Holies, whereas the rest of the special service of the Day of Atonement was performed by him in the morning garment, hence it has to be the better of the two.

(22) Var. lec.: So much he received from the Temple treasury. V. Bah.

Talmud - Mas. Yoma 35a

GEMARA. What does 'Parwah' mean? — R. Joseph said: Parwah is [the name of] a [Persian] Magus.[1]

THEY SPREAD A SHEET OF BYSSUS [LINEN] BETWEEN HIM AND THE PEOPLE. Why was it of Byssus [linen]? R. Kahana said: That he may perceive that the service of the day was [to be performed] in garments of Byssus [linen].

IN THE MORNING HE PUT ON PELUSIUM LINEN WORTH EIGHTEEN MINAS: Does the Tanna wish to teach us summing up?[2] — This is what he teaches us: One should spend neither more nor less than the sum total, but it does not matter whether one spends less for the one or more for the other. Now everybody, at any rate, agrees that the garments for the morning are more important, whence do we know that? — R. Huna, the son of R. Elai said: Scripture said: Linen . . . linen . . . linen . . . linen,[3] i .e., the choicest linen.

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(1) Rabbenu Hananel reported that according to some scholars, Parwah had dug a cave under the ground of the Sanctuary, so that he might be able to watch the high priest at the service of the Day of Atonement. The Sages, noticing the digging, sought and found the cave, and hence called the cell after him.

(2) The summing up seems superfluous, it is too simple to warrant the statement by the Tanna.

(3) Lev. XVI, 4, in connection with the putting on of the garments in the morning. Four times, as if to indicate the best of all possible linen.

Talmud - Mas. Yoma 35b

An objection was raised: And they shall put on other garments and they shall not sanctify the people with their garments.[1] Would you not say that 'other' implies better garments? — No, 'other' implies inferior ones.

R. Huna b. Judah, or, as some say, R. Samuel b. Judah learnt: After the community service is over, a priest for whom his mother made a tunic, may put it on and perform therein private service,[2] provided he hands it over to the community. Is that not self-evident?[3] You might have said: Let us fear he may not hand it over properly,[4] therefore he teaches us that we have no such fear.

They told about R. Ishmael b. Phabi[5] that his mother made him a tunic worth one hundred minas which he put on to officiate at a 'private' service and then handed it over to the community. They told about R. Eleazar b. Harsom[6] that his mother made him a tunic worth twenty thousand minas and his brethren, the priests, would not suffer him to put it on because he looked like one naked. But how could it be transparent, did not a Master say the thread [of the priestly garments] was six times twisted? — Abaye said: [It was visible] even as wine shines through a [glass] cup.[7]

Our Rabbis taught: The poor, the rich, the sensual[8] come before the [heavenly] court — They say to the poor: Why have you not occupied yourself with the Torah? If he says: I was poor and worried about my sustenance, they would say to him: Were you poorer than Hillel? It was reported about Hillel the Elder that every day he used to work and earn one tropaik,[9] half of which he would give to the guard at the House of Learning, the other half being spent for his food and for that of his family. One day he found nothing to earn and the guard at the House of Learning would not permit him to enter. He climbed up and sat upon the window,[10] to hear the words of the living God from the mouth of Shemayah and Abtalion — They say, that day was the eve of Sabbath in the winter solstice and snow fell down upon him from heaven. When the dawn rose,[11] Shemayah said to Abtalion: Brother Abtalion, on every day this house is light and to-day it is dark, is it perhaps a cloudy day. They looked up and saw the figure of a man in the window. They went up and found him covered by three cubits of snow. They removed him, bathed and anointed him and placed him opposite the fire and they said: This man deserves that the Sabbath be profaned on his behalf.

To the rich man they said: Why have you not occupied yourself with the Torah? If he said: I was rich and occupied with my possessions, they would say to him: Were you perchance richer than R. Eleazar? It was reported about R. Eleazar b. Harsom that his father left him a thousand cities on the continent and over against that one thousand boats on the sea. Every day he would take a sack of flour on his shoulder and go from city to city and from province to province to study the Torah. One day his servants found him[12] and seized him for public service. He said to them: I beg of you, let me go to study the Torah. They said: By the life of R. Eleazar b. Harsom, we shall not let you go. [He gave them much money so that they let him go].[13] He had never seen them, for he was sitting all day and night, occupying himself with the Torah. To the sensual person they would say: Why have you not occupied yourself with the Torah? If he said: I was beautiful and upset by sensual passion, they would say to him: Were you perchance more beautiful than Joseph? It was told of Joseph the virtuous that the wife of Potiphar every day endeavoured to entice him with words — The garments she put on for him in the morning, she did not wear in the evening, those she had put on in the evening, she did not wear in the morning. She said to him: Yield to me! He said: No. She said: I shall have you imprisoned. He said: The Lord releases the bound.[14] She said: I shall bend thy proud stature.[15] He replied: The Lord raises those who are bowed down.[16] She said: I shall blind your eyes. He replied: The Lord opens the eyes of the blind.[16] She offered him a thousand talents of silver to make him yield to her, to lie with her, to be near her,[17] but he would not listen to her; not to 'lie with her' in this world, not 'to be with her' in the world to come. — Thus [the example of] Hillel condemns the poor, [the example of] R. Eleazar b. Harsom condemns the rich, and Joseph the virtuous condemns the sensual.

MISHNAH. HE CAME TO HIS[18] BULLOCK AND HIS BULLOCK WAS STANDING BETWEEN THE HALL[19] AND THE ALTAR,[20] ITS HEAD TO THE SOUTH AND ITS FACE TO THE WEST.[21] AND THE PRIEST STOOD IN THE EAST WITH HIS FACE TO THE WEST.[22] AND HE PRESSED BOTH HIS HANDS UPON IT[23] AND MADE Confession. AND THUS HE WOULD SAY: O LORD![24] I HAVE DONE WRONG, I HAVE TRANSGRESSED, I HAVE SINNED BEFORE THEE, I AND MY HOUSE. O LORD! FORGIVE THE WRONGDOINGS, THE TRANSGRESSIONS, THE SINS WHICH I HAVE COMMITTED AND TRANSGRESSED AND SINNED BEFORE THEE, I AND MY HOUSE, AS IT IS WRITTEN IN THE TORAH OF MOSES THY SERVANT: FOR ON THIS DAY SHALL ATONEMENT BE MADE FOR YOU [TO CLEANSE YOU; FROM ALL YOUR SINS SHALL YE BE CLEAN BEFORE THE LORD].[25] AND THEY[26] ANSWERED AFTER HIM: BLESSED BE THE NAME OF HIS GLORIOUS KINGDOM FOR EVER AND EVER!

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(1) Ezek. XLIV, 19. [The prohibition of the use of woolen garments in verse 17 shows that the reference is to the Day of Atonement, as on other days some of the priestly garments were made of wool; further, the words 'and they shall put on other garments' are taken as applying to their return in the afternoon into the inner court after they had gone forth into the outer court to put off their garments with which they ministered in the morning, and the words 'they shall not sanctify the people with their garments' are taken as a separate command forbidding the use by the priests of the garments of ministry when not in actual service (Rashi).]

(2) The removal of the spoon and coal-pan, which may be done even when the community is absent, hence is called 'individual or private service.

(3) That he may perform therein a 'private' service once he hands it over to the community.

(4) I.e., without reservation.

(5) V. supra p. 37, n. 5.
(6) V. supra p. 37, n. 5.
(7) Be it ever so thick. Thus was the flax of his garments transparent and his body visible.
(8) Lit., ‘wicked’.
(9) Corresponding to ** (Victoriatus) — Quinarius, half a denar, Jast.
(10) An aperture in the roof looking down to the ground floor.
(11) Lit., ‘the pillar of the morning’.
(12) Not knowing who he was.
(13) This is a marginal addition.
(14) Ps. CXLVI, 7.
(15) I.e., humiliate you with a slave's labour.
(16) Ibid. 8.
(17) Gen. XXXIX, 10.
(18) Two bullocks were offered up on that day, one from community funds at the additional sacrifice (Num. XXIX, 8), the other from the high priest's means; the latter, here dealt with, is therefore called ‘his’ bullock.
(19) The Ulam leading to the interior of the Temple connecting the Hekal with the Temple court.
(20) The outer altar in the Temple court.
(21) The priest turned its head in the direction of the Hekal, so that the horns, between which the priest pressed his hands on its head, faced the Hekal, v. Gemara.
(22) The priest thus stood at the side of his bullock, his back to the altar, his face towards the Holy of Holies.
(23) I.e., upon its head, between the horns.
(24) Lit., ‘O, the Name’.
(25) Lev. XVI, 30.
(26) The priests and the people who stood in the Temple court and who, on hearing him pronounce the ineffable Name of God, prostrated themselves.

Talmud - Mas. Yoma 36a

GEMARA. Whom did you hear saying that the place between Hall and altar was [considered] north?[1] R. Eleazar son of R. Simeon, for it was taught: What is [considered] north? From the northern wall of the altar up to the [northern] wall of the Temple court and opposite the whole altar on the north,[2] this is the opinion of R. Jose son of R. Judah. R. Eleazar son of R. Simeon adds also the space between the Hall and the altar.[3] Rabbi adds also the space for the treading of the priests and the place for the treading of the Israelites within,[4] and all agree that from the inside of the knives’ cell[5] it was illegitimate.[6] Shall we [then] say that the Mishnah is in accord with R. Eleazar son of R. Simeon, but not with Rabbi? — You can even say that it is in accord with Rabbi, for if he adds even[7] to what R. Jose son of R. Judah says, will he not add to [the space defined by] R. Eleazar b. R. Simeon![8] This is what we mean: If it were in accord with Rabbi, it[9] could be placed anywhere in the whole Temple court! What, then [would you maintain] that [the Mishnah] is in accord with R. Eleazar b. R. Simeon! But then it ought to be placed anywhere between altar and wall?[10] You must consequently say that the reason[11] is to avoid the high priest getting tired;[12] thus also, on the view of Rabbi, the reason[11] is to avoid the high priest getting tired.

ITS HEAD TO THE SOUTH, AND ITS FACE TO THE WEST. How is that possible?- Rab answered: The priest turns its head — But let him place it straight?[13] — Abaye said: We are afraid it might drop excrements. Our Rabbis taught:[14] How does one press [the hands on the head of the sacrifice]?[15] The sacrifice stands to the north,[16] with its face to the west, and he who presses[17] [the hands] stands to the east, with his face to the west, and lays his two hands between the two horns of the sacrifice, that nothing may intervene between him and the sacrifice[18] — and he makes confession. With a sin-offering [he makes confession] of the sin [committed]; with a guilt-offering, of the guilt incurred; with a burnt-offering, of the transgressions in connection with gleanings,[19] the forgotten sheaf,[20] the corner of the field,[19] and the poor tithe[21] — these are the words of R. Jose the

Galilean. R. Akiba said: A burnt-offering is offered up exclusively for transgression of a positive command or of a prohibition transformed into a command.[22] In what do they differ? R. Jeremiah said:

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(1) [For the purposes of slaughtering the sacrifice of the high priest, which, as belonging to the highest grade of sanctity had to be slaughtered on the north side. Such must be the view of the Mishnah which states that the bullock was placed between the Hall and the altar for confession as well as for slaughtering purposes, v. infra 41b: ‘At the place where the confession was made there it was slaughtered’.]

(2) Only the thirty-two cubits to the north and facing the altar are considered part of the north, where the slaughtering of sacrifices of the highest grade of sanctity is legitimate, but not the space east and west of the altar, although lying to the north of the Temple court, for the biblical command states: And he shall kill it on the side of the altar northward before the Lord. (Lev. I, 11), for though these parts are to the north of the Temple court, they are not to the north of the altar.

(3) [He includes the spice on the north side of the Temple court extending westwards, although not exactly facing the northern wall of the altar.]

(4) Eleven cubits each. He includes the whole north of the Temple court, even to the eastern wall.

(5) V. Mid. IV, 7, to the north and south of the Temple court. This cell, fifteen cubits to the north, fifteen to the south, ten from east to west, had twenty-four apertures where the twenty-four divisions of priests kept their knives.

(6) From the knives’ cell within it was impossible to see the wall altar, hence it was forbidden to slaughter it there, Zeb. 20a.

(7) Surely when he declares that space which, is further away is legitimate he will not declare forbidden that which is nearer!

(8) [The text is difficult. MS. M. omits ‘You can even say it is in accord with Rabbi’.]

(9) The high priest's bullock.

(10) On the north of the Temple court.

(11) For placing it between the Hall and the altar.

(12) To prevent his becoming over-tired by carrying the bowl with the blood a long distance.

(13) With its back to the altar and its face to the Hekal.

(14) Tosef. Men. X, 12.

(15) Of the highest grade of sanctity.

(16) The side on which it is to be slain.

(17) The owner of the sacrifice.

(18) Men. 93b, the text in the Tosef. differs somewhat.

(19) Lev. XIX, 9: Neither shalt thou gather the gleaning of thy harvest.

(20) Deut. XXIV, 19.

(21) Ibid. XXVI, 12.

(22) I.e.,a prohibition the transgression of which must be repaired by a succeeding act, as e.g., Ex. XII, 10: You shall let nothing of it remain until the morning (prohibition); But that which remaineth... you shall burn in fire (remedial action).

Talmud - Mas. Yoma 36b

They differ concerning the prohibition of carrion,[1] R. Akiba holding it to be a proper prohibition,[2] whilst R. Jose the Galilean does not consider it a proper prohibition.[3] Abaye said: Everybody agrees that the prohibition of carrion is a proper prohibition, what they differ in is the laws touching ‘Thou shalt leave’,[4] R. Akiba holding ‘Thou shalt leave’ means from the very beginning,[5] whilst R. Jose the Galilean holds it means ‘now’.[6] Our Rabbis taught:[7] How does he make confession: I have done wrong, I have transgressed I have sinned — Similarly, in connection with the he-goat to be sent away Scripture says: And he shall confess over him all the iniquities of the children of Israel, and all their transgressions even in their sins.[8] Similarly, with Moses, it says: Forgiving iniquity and transgression and sin[9] — these are the words of R. Meir. The Sages, however, say: ‘Wrongs’ are deliberate misdeeds, thus also does Scripture say: That soul shall be utterly cut off, his wrong shall be upon him,[10] ‘transgressions’ are rebellious deeds, as it is said: The King of Moab hath transgressed against me;[11] furthermore: Then did Libnah transgress at the same time; ‘sins’[12] are inadvertent omissions, as it is said: If any one shall sin through error.[13] — Should he then, after having confessed the deliberate misdeeds and the rebellious deeds, turn back and confess inadvertent omissions?[14] Rather, thus did he make confession: I have sinned, I have done wrong, I have transgressed before Thee, I and my house etc. Thus also does Scripture say in connection with David: We have sinned with our fathers, we have done wrong, we have dealt wickedly.[15] Thus also with Solomon: We have sinned, and have done wrong, we have dealt wickedly.[16] Thus also with Daniel: We have sinned, and have dealt wrong, and have done wickedly.[17] — What is the meaning, then, of Moses' saying: 'Forgiving iniquity and transgression and sin'?[18] Moses said before the Holy One, blessed be He: Lord of the Universe, when Israel sin before Thee and then do penance, account their premeditated sins as errors! Rabbah b. Samuel said in the name of Rab: The halachah is in accord with the Sages. But [that is] self-evident, for 'Where the opinion of one individual is opposed to the opinion of a majority, the law follows the majority'?[19] — You might have said: The reason of R. Meir appears more logical because the scriptural verse of Moses[20] supports it, therefore we are taught [as above].

Once a man went down[21] before Rabbah and arranged his prayer in accord with R. Meir's view. He said to him: Do you forsake the Sages and act like R. Meir? — He answered: I hold as R. Meir, for thus it is written in the Torah of Moses.

Our Rabbis taught:[22] And shall make atonement[23] — Scripture speaks of atonement through words.[24] You say it refers to atonement through words. But perhaps it refers to atonement [obtained] through [sacrificial] blood? I infer it thus: Here 'atonement is mentioned and there[25] 'atonement' is mentioned — Just as the atonement mentioned in connection with the he-goat is one through words, so the atonement mentioned with the bullock is one obtained through words. And if you wish to argue against it, then [learn from]: And Aaron shall present the bullock for the sin-offering, which is for himself and shall make atonement for himself and for his house,[23] yet the bullock has not been slaughtered![26] What does 'And if you wish to argue against it' imply? — This: And if you would say: Let us infer from the he-goat prepared within the Temple, the atonement of which is obtained through blood, behold [against that argument] Scripture says: 'And he shall make atonement', and the bullock has not been slaughtered yet!

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(1) Carrion-an animal that has died a natural death; also whatever has become unfit through faulty slaughtering.

(2) [For which lashes are inflicted, and for which a burnt-offering does not atone.]

(3) Because once one has eaten the carrion, it is no more possible to sell it to the stranger or give it to the sojourner as prescribed in Deut. XIV, 21, R. Akiba holding it a proper prohibition, for the transgression of which one would be punished with the prescribed thirty-nine lashes, the fact that one cannot repair the transgression notwithstanding. According to R. Jose no such punishment would here be inflicted, hence it is not a proper prohibition.

(4) Thou shalt not glean thy vineyard, neither gather the fallen fruit of thy vineyard. Thou shalt leave them for the poor and for the stranger. (Lev. XIX, 9.)

(5) V. next note.

(6) Here is another instance of a prohibition transformed into a command: Thou shalt not glean . . . thou shalt leave them. R. Akiba holds the positive commandment is enjoined from the very first, that is, thus: do not glean but leave; hence it is not a prohibition transformed into a command, but a command from the beginning; whilst R. Jose assumes that it is a de facto command: Don't glean, but having gleaned, undo your transgression by leaving it etc.

(7) Tosef. Yoma, II, 1.

(8) Lev. XVI, 21.

(9) Ex. XXXIV, 7.

(10) Num. XV, 31.

(11) II Kings III, 7.

(12) Ibid. VIII, 22.

(13) Lev. IV, 2.

(14) It is illogical to ask forgiveness for the gravest offences first and then for the lighter ones.

(15) Ps. CVI, 6.

(16) I Kings VIII, 47.

(17) Dan. IX, 5. In all these cases the logical order is maintained, forgiveness being asked, first, for the sins due to inadvertence, then for those deliberate misdeeds, at last for rebellious acts.

(18) Where the order appears reversed.

(19) Ber. 9".

(20) Which agrees, as to the order, with R. Meir.

(21) To the prayer desk.

(22) Meg. 20b.

(23) Lev. XVI, 11.

(24) I.e., confession.

(25) In connection with the he-goat that is sent away. Lev. XVI, 10.

(26) How then is atonement possible? It can be obtained through confession.

Talmud - Mas. Yoma 37a

— Whence do we know that [the confession] starts with ‘O’? — Here the expression atonement’ is used and there, in connection with Mount Horeb,[1] the expression ‘atonement’ is used, [hence the inference that] just as it started there with ‘O’’[2] so must it start here with ‘O’ Whence do we know that the Name[3] is to be pronounced here?-Here the word ‘atonement’ is used and in connection with the heifer whose neck is to be broken[4] the word ‘atonement’ is used, [hence the inference that] just as there the Name is pronounced, so is it to be pronounced here. Abaye said: It is quite right that we cannot make inference for Horeb from the heifer whose neck is to be broken,[5] because that is a past affair, but why should one not infer for the heifer whose neck is to be broken from what happened at [Mount] Horeb?[6] — And if you will say ‘indeed so’, but have we not learned:[7] ‘The priests say: Forgive Thy people Israel’,[8] but they mention nothing about ‘O!’- This is a difficulty.

AND THEY ANSWERED AFTER HIM: It was taught: Rabbi said, [commenting on]: For I will proclaim the name of the Lord; Ascribe ye greatness unto our God:[9] Moses said to Israel: When I mention the name of the Holy One, blessed be He, ascribe greatness [unto Him]; Hananyah, the son of the brother of R. Joshua said [commenting on]: The memory of the righteous shall be for a blessing:[10] The prophet said to Israel: When I make reference to the Righteous One of all the Worlds, say a blessing!

MISHNAH. HE THEN WENT BACK TO THE EAST OF THE TEMPLE COURT, To THE NORTH OF THE ALTAR, THE DEPUTY HIGH PRIEST[11] AT HIS RIGHT AND THE HEAD OF THE FAMILY[12] [MINISTERING THAT WEEK] AT HIS LEFT. THERE WERE TWO HE-GOATS[13] AND AN URN[14] CONTAINING TWO LOTS. THEY WERE OF BOX-WOOD. BEN GAMALA MADE THEM OF GOLD AND THEREFORE HE WAS PRAISED. BEN KATIN MADE TWELVE SPIGOTS FOR THE LAVER,[15] FOR THERE HAD BEEN BEFORE BUT TWO. HE ALSO MADE A MACHINE FOR THE LAVER, IN ORDER THAT ITS WATER SHOULD NOT BECOME UNFIT BY REMAINING OVERNIGHT.[16] KING MONOBAZ[17] HAD ALL THE HANDLES OF ALL THE VESSELS USED ON THE DAY OF ATONEMENT MADE OF GOLD. HIS MOTHER HELENA[18] HAD A GOLDEN CANDLESTICK MADE OVER THE DOOR OF THE HEKAL. SHE ALSO HAD A GOLDEN TABLET MADE, ON WHICH THE PORTION TOUCHING THE SUSPECTED ADULTERESS[19] WAS INSCRIBED. NICANOR[20] EXPERIENCED MIRACLES WITH HIS GATES AND HIS MONEY WAS PRAISED.

GEMARA. Since [the Mishnah] reads: TO THE NORTH OF THE ALTAR, one infers that the altar was not standing in the north.[21] Whose opinion represents our Mishnah? The opinion of R. Eliezer b. Jacob, for it was taught: Northward before the Lord,[22] i.e., the north must be fully unoccupied — this is the opinion of R. Eliezer b. Jacob.[23] But the first part of the Mishnah is in accord with R. Eleazar son of R. Simeon? — The whole of the Mishnah is in accord with R. Eliezer b. Jacob,[24] but read there: In the space between Hall and altar.

THE DEPUTY HIGH PRIEST AT HIS RIGHT AND THE HEAD OF THE FAMILY AT HIS LEFT: Rab Judah said:[25] One who walks at his master's right hand is a boor. [But] we have learnt: THE DEPUTY HIGH PRIEST AT HIS RIGHT AND THE HEAD OF THE [MINISTERING] FAMILY AT HIS LEFT; and furthermore, it was taught:[26] Of three walking along, the teacher should walk in the middle, the greater of his disciples to his right, the smaller one at his left, and thus do we find that of the three angels who came to visit Abraham, Michael went in the middle, Gabriel at his right,[27] Raphael at his left? — R. Samuel b. Papa interpreted [the first saying] before R. Adda: [It is wrong only, if] he [the teacher] be hidden by him — But has it not been taught: One who walks in front of his teacher is a boor, one who walks behind him is arrogant? — [It is assumed here] that he turns sideways.

AND THERE WAS A CASKET WHEREIN THERE WERE TWO LOTS: Our Rabbis taught: [with reference to] And Aaron shall cast lots upon the two goats[28] — ‘lots’, i.e., made of any material. One might have assumed that he should cast two lots on the head of each,[29] therefore [Scripture repeats]: One lot for the Lord and the other lot for Azazel,[28] i.e., there is but one lot ‘for the Lord’, and there is but one lot ‘for Azazel’ — One might have assumed that he shall give upon the head of each[29] a lot each ‘for the Lord’ and ‘for Azazel’, therefore Scripture says: ‘One lot for the Lord’, i.e., there is but one lot ‘for the Lord’ and but one lot ‘for Azazel’ — Why then does Scripture say: [he shall cast] ‘lots’? [That means to say] that they must be alike: he must not make one of gold and the other of silver, one large, the other small; ‘lots’ [means they may be made] of any material. But that is self-evident? — No, it is necessary [to state that], as it was taught: Since we find that the [high priest's] front-plate had the name of the Lord inscribed thereon and was made of gold, I might have assumed that this too must be made of gold, hence it says [twice] ‘lot’ . . . ‘lot’, to include [permission to make it of] olive-wood, nut-wood or box-wood.[30] BEN KATIN MADE TWELVE SPIGOTS FOR THE LAVER: A Tanna taught: In order that his twelve brethren, the priests, who were occupied with the continual offering, may be able to sanctify their hands and feet simultaneously.[31]

A Tanna taught:[32] In the morning, when the laver was full, he sanctified his hands and feet from the upper spigot; in the evening, when [the water] was low, he sanctified his hands and feet from the lower spigot.

HE ALSO MADE A MACHINE FOR THE LAVER: What machine was that? — Abaye said: A wheel which let it go down [to the pit].

KING MONOBAZ MADE ALL THE HANDLES FOR THE VESSELS etc.: He should have made [the vessels] them[selves] of gold?

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(1) Ex. XXXII, 30. The similarity of expression indicates some similarity of procedure, hence the inference is legitimate. Thus also below.

(2) Ibid. v. 31.

(3) The ineffable name of God. ‘ב’ may be ‘B essentiae’.

(4) Deut. XXI, 8.

(5) To pronounce the Name also here.

(6) To start with ‘O’.

(7) Sot. 47b.

(8) Deut. XXI, 8.

(9) Deut. XXXII, 3.

(10) Prov. X, 7.

(11) Segan. V. Glos.
(12) Beth Ab. V. Glos.
(13) Lev. XVI, 5,7.
(14) The Greek **.
(15) The priests washed (sanctified) their hands and feet with the water of that laver, before entering the Sanctuary or preparing a service. They turned the spigots and the water came over their hands and feet.
(16) The sacred vessels sanctify everything that comes in contact with them (Zeb. 86a), and whatever has thus been sanctified becomes invalid by remaining overnight. Ben Katin's machine (**) connected the laver with the well, thus retaining for it the undisturbable freshness of the well, hence, when drawn up in the morning, by means of the wheel, it remained valid for sacred use. The heavy laver, until then, had to be filled every morning afresh, after being emptied of last night's water — a laborious, time-wasting effort.
(17) He was king of Adiabene in the last years before the destruction of the second Temple.
(18) She was queen of Adiabene.
(19) Num. V, 11-31. V. Git. 60a.
(20) V. Tosef. II, 4, and with slight modifications, the account infra 38a.
(21) [I.e., that no part of the altar extended to the north half of the Temple court, so that on retracing his steps from the Temple proper to the Temple court, and reaching the altar, he was on the north of it.]
(22) Lev. I, 11.
(23) Zeb. 59a.
(24) Who said: Part of the altar extended to the north, whence he permitted the bullock to be slaughtered between Hall and altar. V. supra 36a and note. (10) In the preceding Mishnah: The bullock was standing near the place between Hall and altar, about the northern corner of the latter, not in the north exactly’.
(25) Hul. 91a.
(26) ‘Er. 54b.
(27) To the right, somewhat behind him, not next to him, because in the latter case he would cover him and that is unseemly.
(28) Lev. XVI, 8.
(29) Since Scripture says ‘lots’ instead of ‘a lot each’.
(30) [Since the repetition of ‘lot’ intimates that they can be made of any material, the word ‘lots’ must likewise mean of any material, Tosef. s.v. יכול
(31) V. supra 25b.
(32) [What follows gives the reason why formerly there had been, as stated in the Mishnah, two spigots; v. D.S. a.l.]

Talmud - Mas. Yoma 37b

— Abaye said: [Reference here is made to] the handles of the knives.

The following objection was raised: He also made of gold the base of the vessels, the rims of the vessels, the handles of the vessels and the handles of the knives [used on the Day of Atonement]? — Abaye explained: These are the helves of axes and adzes.

HIS MOTHER HELENA MADE A CANDLESTICK OF GOLD etc.: A Tanna taught:[1] When the sun was shining, sparkling rays proceeded from it and all knew then that the time had arrived for the reading of the [morning] Shema’.[2] An objection was raised: One who reads the Shema’ in the morning together with the linen of the [priestly] Mishmars or the [laymen] Ma'amad,[3] has not fulfilled his duty, because the men of the Mishmar read it early and the men of the Ma'amad read it too late.[4] — Abaye said: It was for the rest of the people of Jerusalem.

SHE ALSO MADE A TABLET: Do you not conclude from this that one may write a scroll for a child for practising purposes?[5] — Resh Lakish said in the name of R. Jannai: Alphabetically.[6] An objection was raised: Whilst writing he[7] looks unto the tablet and copies what is written on the tablet?[8] — Say: He looks and writes as it is written on the tablet.[9] He raised this objection: When he writes he looks and copies what is written on the tablet, and what is written thereon? And if some man have lain with thee . . . if no man have lain with thee; if thou hast gone aside . . . and if thou hast not gone aside![10] — There it was written

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(1) Tosef. II, 3.

(2) V. Ber. 26a.

(3) V. Glos.

(4) They postponed the reading of the Shema' until their service in connection with the continual offering had been completed. How then did the sparks inform them when this information for practical purposes was useless?

(5) In Git. 60a there is a discussion on this matter, one view permitting the writing of individual portions, the other holding only the whole Torah may be written out. Our Mishnah might settle the dispute there.

(6) What is involved here is not the real copying of a chapter of the Torah, but a kind of mnemotechnic device, with the initial letters only written out, the complete text to be supplied by memory, with the guidance of these hints.

(7) The priest who writes the scroll which the suspected adulteress must drink up.

(8) Indicating that the complete text was contained thereon.

(9) I.e., the initial letters serve him as guide.

(10) Num. V, 19, 20.

Talmud - Mas. Yoma 38a

by sections.[1]

NICANOR EXPERIENCED MIRACLES WITH HIS DOORS: Our Rabbis taught: What miracles happened to his doors? It was reported that when Nicanor had gone to fetch doors[2] from Alexandria of Egypt, on his return a gale arose in the sea to drown him. Thereupon they took one of his doors and cast it into the sea and yet the sea would not stop its rage. When, thereupon, they prepared to cast the other into the sea, he rose and clung to it, saying: ‘Cast me in with it!’ [They did so, and] the sea stopped Immediately its raging. He was deeply grieved about the other [door]. As he arrived at the harbour of Acco, it broke through and came up from under the sides of the boat. — Others say: A monster of the sea swallowed it and spat it out on the dry land Touching this, Solomon said: The beams of our houses are cedars, and our panels are berothim [cypresses].[3] Do not read ‘berothim [cypresses] but ‘brith yam’,[4] I.e., covenant of the sea’. — Therefore all the gates in the Sanctuary were changed for golden ones with the exception of the Nicanor gates because of the miracles wrought with them. But some say: Because the bronze of which they were made had a golden hue.[5] R. Eliezer b. Jacob said: It was Corinthian bronze,[6] which shone like gold.

MISHNAH. AND THESE WERE MENTIONED TO THEIR SHAME: THEY OF THE HOUSE OF GARMU WOULD NOT TEACH ANYTHING ABOUT THE PREPARATION OF THE SHEWBREAD;[7] THEY OF THE HOUSE OF ABTINAS WOULD NOT TEACH ANYTHING ABOUT THE PREPARATION OF THE INCENSE; HYGROS, SON [OF THE TRIBE] OF LEVI KNEW A CADENCE[8] IN SONG BUT WOULD NOT TEACH IT; BEN KAMZAR WOULD NOT TEACH ANYONE HIS ART OF WRITING.[9] CONCERNING THE FORMER IT IS SAID: THE MEMORY OF THE RIGHTEOUS SHALL BE FOR A BLESSING;[10] CONCERNING THE OTHERS IT IS SAID: BUT THE NAME OF THE WICKED SHALL ROT.

GEMARA. Our Rabbis taught: The house of Garmu was expert in preparing the shewbread, but would not teach it — The Sages sent for specialists from Alexandria of Egypt, who knew how to bake as well as they, but they did not know how to take [the loaves] down [from the oven] as well as the former, for they were heating the oven from without and baked from within, whereas the latter heated the oven from within and baked from within [with the result] that the bread of the latter became mouldy, whereas the bread of the former did not grow mouldy. When the Sages heard that, they quoted: Everyone that is called by My name [and whom] I have created for My glory,[11] and said: Let the house of Garmu return to their office. The Sages sent for them, but they would not come. Then they doubled their hire and they came. [Until now] they used to get twelve minas for the day, [from] that day, twenty-four minas. R. Judah said: [Until then] they received twenty-four minas per day, [from] that day they received forty-eight minas. The Sages said to them: What ground did you see for refusing to teach [your art]? They said to them: In our father's house they knew that this House will be destroyed, and perhaps an unworthy man would learn it and then proceed to serve an idol with it. — For the following was their memory honoured: Never was fine bread to be found in their children's hand, lest people say: These feed from the [preparation of][12] the shewbread — Thus [they endeavoured] to fulfil [the command]: Ye shall be clear before the Lord and before Israel.[13]

THEY OF THE HOUSE OF ABTINAS WOUld NOT TEACH ANYTHING ABOUT THE PREPARATION OF THE INCENSE. Our Rabbis taught: The house of Abtinas were expert in preparing the incense but would not teach [their art]. The Sages sent for specialists from Alexandria of Egypt, who knew how to compound incense as well as they, but did not know how to make the smoke ascend as well as they. The smoke of the former ascended [as straight] as a stick, whereas the smoke of the latter was scattered in every direction. When the Sages heard thereof, they quoted: ‘Everyone that is called by My name, I have created for My glory’,[14] as it is said: The Lord hath made everything for His own purpose,[15] and [said]: The house of Abtinas may return to their [wonted] place. The Sages sent for them, but they would not come. Then they doubled their hire and they came. Every day [thitherto] they would receive twelve minas, [from] that day twenty-four. The Sages said to them: What reason did you have for not teaching [your art]? They said: They knew in our father's house that this House is going to be destroyed and they said: Perhaps an unworthy man will learn [this art] and will serve an idol therewith. — And for the following reason was their memory kept in honour: Never did a bride of their house go forth perfumed and when they married a woman from elsewhere they expressly forbade her to do so lest people say: From [the preparation of] the incense they are perfuming themselves. [They did so] to fulfil the command: ‘Ye shall be clear before the Lord and before Israel.’[16]

It was taught: R. Ishmael said: Once I was walking on the way and I came upon one of their children's children and I said to him: Your forefathers sought to increase their glory and to reduce the glory of the Creator, now the glory of the Creator is at its wonted place, and He has reduced their glory. R. Akiba said: R. Ishmael b. Luga related to me: One day I and one of their descendants went to the field to gather herbs and I saw him crying and laughing. I said to him: ‘Why did you cry?’ He answered: ‘I recalled the glory of my ancestors’ — ‘And why did you laugh happily?’ He replied: ‘Because the Holy One, blessed be He, will restore it to us’ — ‘And what caused you to remember?’ He said: ‘There is smoke-raiser[17] before me’. ‘Show it to me!’ He said to me: ‘We are bound by oath not to show it to any person’ — R. Johanan b. Nuri said: Once I came upon an old man, who had a scroll [containing prescriptions] for frankincense in his hand. I asked him: ‘Whence are you [derived]?’ He said: ‘I come from the house of Abtinas’ — ‘What have you in your hand?’ He replied: ‘A scroll [containing prescriptions] for frankincense.’ ‘Show it to me!’ He said: ‘As long as my father's house was alive they would not surrender it to any one, but now here it is, but be very careful about it — When I came and told thereof to R. Akiba he said: ‘Henceforth it is forbidden to speak of them in dispraise’ — Referring to this[18] Ben ‘Azzai said: By your name you will be called, to your place you will be restored

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(1) Not the initial letters of the words, but the initial words of the verses: The headings of sections were written out, the rest intimated by initial letters.

(2) The doors for the great eastern gate of the Temple Court.

(3) Cant. I, 17.

(4) Without any radical change of the text, except the division of the words, which in the original was hardly noticeable. V. Blau, Einleitung in die Schrift, p. 119f. [Aliter: Do not read ‘berothim’ (ברותים) but berithim (בריתים), ‘covenants’, the doors having made a covenant with each other to be together. V. Rashi and D.S. a.l.]

(5) Mid. II, 3.

(6) Corinthian bronze was refined, hence the light weight, hence the golden hue, as against the duller tone of the heavier bronze.

(7) The twelve shewbread loaves, resting in the Hekal on the golden table from Sabbath to Sabbath (Ex. XXV, 30 and Lev. XXIV, 5-9) were very thin and fragile. Made of some four quarts of flour, they were about one half inch in thickness, some twenty-eight inches in length, some twelve inches in breadth. There were some artistic devices at the corners, which made the preparation a highly difficult art. They would be baked on Friday, often on Wednesday, to be eaten on the Sabbath of the following week, and extraordinary skill was required to keep them fresh and well-tasting. The secret of the baking and removing them, from the oven without breaking them was kept by the house of Garmu, for failure to reveal which they are branded here. The Talmud, however, adduces some mitigating reasons for this apparent niggardliness.

(8) A somewhat difficult phrase. Evidently in connection with the Temple songs. It may have been a specially composed finale, allowing for individual margins of musical ingenuity (Baneth).

(9) V. Gemara.

(10) Prov. X, 17.

(11) Isa. XLIII, 7; hence the best should be available for the Sanctuary, even if cost is involved.

(12) Profits, remainders, at any rate not from their own. One must avoid giving the appearance of unrighteous action, even when acting rightly.

(13) Num. XXXII, 22.

(14) V. p. 176, n. 1.

(15) Prov. XVI, 4; thus that skill must not be allowed to remain unused.

(16) Num. XXXII, 22.

(17) The name of a plant whose identity had to be hidden from all but the members of the house of Abtinas.

(18) Their re-instatement into the original office.

Talmud - Mas. Yoma 38b

and from what belongs[1] to you will you be given. No man can touch what is prepared for his fellow and ‘One kingdom does not interfere with the other[2] even to the extent of one hair's breadth’.[3]

HYGROS OF THE TRIBE OF LEVI etc. It was taught: When he tuned his voice to a trill, he would put his thumb into his mouth and place his finger [on the division line] between the two parts of the moustache, so that his brethren, the priests, staggered backward with a sudden movement.[4]

Our Rabbis taught: Ben Kamzar would not teach anything about [his art of] writing. It was said about him that he would take four pens between his fingers and if there was a word of four letters[5] he would write it at once. They said to him: ‘What reason have you for refusing to teach it?’ All found an answer for their matter [attitude]. Ben Kamzar could not find one. Concerning [all] former ones it is said: ‘The memory of the righteous shall be for a blessing’, with regard to Ben Kamzar and his like it is said: ‘But the name of the wicked shall rot’ — What is the meaning of ‘But the name of the wicked shall rot’? — R. Eleazar said: Rottenness enters their names, none name their children after them.

Rabina raised an objection: The story of Doeg b. Joseph whom his father left to his mother when he was a young child: Every day his mother would measure him by handbreadths[6] and would give his [extra] weight in gold to the Sanctuary. And when the enemy prevailed, she slaughtered him and ate him, and concerning her Jeremiah lamented: Shall the women eat their fruit, their children that are handled in the hands?[7] Whereupon the Holy Spirit replied: Shall the priest and the prophet be slain in the Sanctuary of the Lord?[8] — See what happened to him![9]

R. Eleazar said: The righteous man is remembered by his own [good deeds], the wicked [also] by those of his fellow. [Proof that] the righteous [is remembered] by his own [good deeds], for it is written: ‘The memory of the righteous shall be for a blessing’. The wicked [is remembered also] by his associate[‘s wickedness], for it is written: ‘But the name of the wicked [pl.] shall rot.’ — Rabina said to one of the Rabbis who expounded Aggada before him: Whence is this statement, which the Rabbis mention: The memory of the righteous shall be for a blessing? — He replied: It is a scriptural verse: ‘The memory of the righteous shall be for a blessing.’ Whence, in the Torah, may that teaching be derived? — From what is written: Shall I hide from Abraham that which I am doing?[10] And it is [there] also written: Seeing that Abraham shall surely become a great and mighty nation.[11] [He asked further]: Whence do we know this matter, which the Rabbis mention: But the name of the wicked shall rot? — He replied: It is a scriptural verse: ‘But the name of the wicked shall rot’. Whence, in the Torah, may this teaching be derived?-From what is written: And he moved his tent as far as Sodom,[12] and it is written: Now the men of Sodom were wicked and sinners against the Lord exceedingly.[13]

R. Eleazar said: A righteous man once lived between two wicked men and did not learn from their deeds, a wicked man lived between two righteous men and did not learn from their ways — The righteous who lived between two wicked men and did not learn from their wicked ways was Obadiah.[14] The wicked man living between two righteous men and not learning from their ways was Esau.

R. Eleazar [also] said: From the blessing of the righteous you can infer the curse for the wicked and from the curse of the wicked you may infer the blessing for the righteous — From the blessing of the righteous you can infer the curse for the wicked, as it is written: For I have known him, to the end that he may command,[15] and [soon] after that it is written: And the Lord said: Verily the cry of Sodom and Gomorrah is great.[16] From the curse of the wicked you can infer the blessing for the righteous,for it is written: Now the men of Sodom were wicked and sinners against the Lord exceedingly.[17] And the Lord said unto Abram, after that Lot was separated from him . . . [all the land, which thou seest, to thee will I give . . .][18]

R. Eleazar further said: Even for the sake of a single righteous man would this world have been created for it is said: And God saw the light that it was [for one who is] good,[19] and ‘good’ means but the righteous, as it is said: Say ye of the righteous that he is the good one.[20]

R. Eleazar said also: Whoever forgets [through neglect] any part of his study, causes his children to go into exile, as it is said: Seeing that thou hast forgotten the law of thy God, I also will forget thy children.[21] R. Abbahu said: Such a one is deprived of his greatness, as it is said: Because thou hast rejected knowledge, I will also reject thee, that thou shalt be no priest to me.[22]

R. Hiyya b. Abba said in the name of R. Johanan: No righteous man dies out of this world, before another, like himself, is created,[23] as it is said: The sun also ariseth, and the sun goeth down[24] , — before the sun of Eli set, the sun of Samuel of Ramathaim rose. R. Hiyya b. Abba also said in the name of R. Johanan: The Holy One, blessed be He, saw that the righteous are but few, therefore He planted them throughout all generations, as it is said: For the pillars of the earth are the Lord's, and He hath set the world upon them.[25]

R. Hiyya b. Abba said also in the name of R. Johanan: Even for the sake of a single righteous man does the world endure, as it is said: But the righteous is the foundation of the world.[26] R. Hiyya himself infers this from here: He will keep the feet of His holy ones’[27] ‘Holy ones’ means many? — R. Nahman b. Isaac said: It is written: His holy’ one.[27]

R. Hiyya b. Abba said further in the name of R. Johanan: When the majority of a man's years have passed without sin, he will no more sin, as it is said: ‘He will keep the feet of His holy ones’. In the school of Shila it was taught that if the opportunity for sin has come to a man the first and the second time and he resisted, he will never sin, as it is said: ‘He will keep the feet of His holy ones’.[28]

Resh Lakish said: What is the meaning of: If it concerneth the scorners He scorneth them, but unto the humble He giveth grace?[29] i.e., if a man comes to defile himself, the doors are opened to him, but if he comes to purify himself, he is helped. In the school of R. Ishmael it was taught: It is as when a man sells naphtha and balm

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(1) What is predestined as your lawful source of income.

(2) In either time or place.

(3) Ber. 48b.

(4) Enchanted with the beauty of the music, or startled by the power of his voice.

(5) [The Tetragrammaton. V. Rashi on the Mishnah.]

(6) With her handbreadth, on her hand, to know how much he had gained since yesterday.

(7) Lam. II, 20.

(8) The reference is to the Prophet Zechariah b. Jehoiadah, the priest. The text in Lam. may refer to that as well; its original meaning, not unknown to the answerer, lamented the destruction by the enemy, of priest and prophet alike. At any rate someone was called Doeg in spite of the first Doeg's bad reputation (I Sam. XXI, 8.)

(9) Normally, none would do that, because of a bad omen, or because one should help the name of the wicked to ‘rot’ by being forgotten. Look what this deviation from cusom brought upon the child.

(10) Gen. XVIII, 17.

(11) Ibid. XVIII, 18.

(12) Ibid. XIII, 12.

(13) Ibid. 13.

(14) Who lived between Ahab and Jezebel. V. Sanh. 12b.

(15) Gen. XVIII, 19.

(16) Ibid. 20.

(17) Ibid. XIII, 13.

(18) Ibid. 15.

(19) Ibid. I, 4.

(20) Isa. III, 10. E.V., ‘Say ye of the righteous, that it shall be well with him.’ V. Hag. 12b.

(21) Hosea IV, 6.

(22) Ibid.

(23) Kid. 72b.

(24) Eccl. I, 5.

(25) I Sam. II, 8.

(26) Prov. X, 25. E.V., ‘ Is an everlasting foundation’.

(27) I Sam. II, 9. Although the kere (the traditional reading) is in the plural the kethib (חסידיו), (the written form) חסידו is in the singular.

(28) [Taking לרגל in the sense of רגל, cf. Gen. XXX, 30, ‘at the foot of’, ‘at the guidance of’, ‘on account of’, he renders the verse, He preserves (the world) on account of His holy ones (Rashi).]

(29) Prov. III, 34.

Talmud - Mas. Yoma 39a

: If [a purchaser] comes to measure naphtha, he [the shopkeeper] says to him: Measure it out for yourself; but to one who would measure out balm he says: Wait, till I measure together with you, so that both I and you, may become perfumed.

The school of R. Ishmael taught: Sin dulls the heart of man, as it is said: Neither shall ye make yourselves unclean with them, that ye should be defiled thereby.[1] Read not we-nitmethem [that you should be defiled], but u-netamothem [that you should become dullhearted].[2] Our Rabbis taught: ‘Neither shall you make yourselves unclean that you should be defiled thereby.’ If a man defiles himself a little, he becomes much defiled: [if he defile himself] below, he becomes defiled from above; if he defile himself in this world, he becomes defiled in the world to come. Our Rabbis taught: Sanctify yourselves, therefore, and be ye holy:[3] If a man sanctify himself a little, he becomes much sanctified. [If he sanctify himself] below, he becomes sanctified from above; if he sanctify himself in this world, he becomes sanctified in the world to come.

CHAPTER IV

MISHNAH. HE SHOOK[4] THE URN AND BROUGHT UP THE TWO LOTS. ON ONE WAS INSCRIBED: ‘FOR THE LORD’, AND ON THE OTHER: ‘FOR AZAZEL’. THE DEPUTY HIGH PRIEST WAS AT HIS RIGHT HAND, THE HEAD OF THE [MINISTERING] FAMILY AT HIS LEFT. IF THE LOT [HAVING] ‘FOR THE LORD’ [INSCRIBED THEREON] CAME UP IN HIS RIGHT HAND, THE DEPUTY HIGH PRIEST WOULD SAY TO HIM: SIR HIGH PRIEST, RAISE THY RIGHT HAND! AND IF THE LOT [WITH THE INSCRIPTION] ‘FOR THE LORD’ CAME UP IN HIS LEFT HAND, THE HEAD OF THE FAMILY WOULD SAY: SIR HIGH PRIEST, RAISE THY LEFT HAND! THEN HE PLACED THEM ON THE TWO HE-GOATS AND SAID: A SIN-OFFERING ‘UNTO THE LORD!’ R. ISHMAEL SAID: HE DID NOT NEED TO SAY: A SIN-OFFERING, BUT ‘UNTO THE LORD’. AND THEY ANSWERED AFTER HIM: BLESSED BE THE NAME OF HIS GLORIOUS KINGDOM FOR EVER AND EVER![5]

GEMARA. Why was it necessary to shake the urn? — Lest he take one intentionally.[6] Raba said: The urn was of wood and profane and could hold no more than the two hands [at its mouth]. — Rabina demurred to this: It is quite right that [its mouth] could contain no more than his two hands, i.e., to prevent his taking one intentionally [through manipulation] but why should it be profane? Let it be sanctified? — That would result in our having a ministering vessel of wood, and we do not make ministering vessels of wood. Then let it be made of silver, or of gold? — ‘The Torah has consideration for the money of Israel’.[7]

Our Mishnah is not in accordance with the following Tanna, for it was taught: R. Judah said in the name of R. Eliezer: The deputy high priest and the high priest put their hand into the urn. If the lot [‘For the Lord’] comes up in the hand of the high priest, the deputy high priest said to him: Sir high priest, raise thy hand! And if it came up in the right hand of the deputy high priest, the head of the [ministering] family says to him: Say your word![8] -Let the deputy high priest address him? — Since it did not come up in his hand, he might feel discouraged.[9] In what [principle] do they[10] differ? — One holds, the right hand of the deputy high priest is better than the left hand of the high priest, the other holding, they are of even importance. Who is the Tanna disputing R. Judah? — It is R. Hanina, deputy high priest. For it was taught: R. Hanina, deputy high priest, says: Why does the deputy high priest stand at the right? In order that if an invalidating accident should happen to the high priest, the deputy high priest may enter [the Sanctuary] and officiate in his stead.[11]

Our Rabbis taught: Throughout the forty years that Simeon the Righteous ministered, the lot [‘For the Lord’] would always come up in the right hand; from that time on, it would come up now in the right hand, now in the left. And [during the same time] the crimson-coloured strap[12] would become white. From that time on it would at times become white, at others not. Also: Throughout those forty years the westernmost light[13] was shining, from that time on, it was now shining, now failing; also the fire of the pile of wood kept burning strong,[14] so that the priests did not have to bring to the pile any other wood besides the two logs,[15] in order to fulfil the command about providing the wood unintermittently; from that time on, it would occasionally keep burning strongly, at other times not, so that the priests could not do without bringing throughout the day wood for the pile [on the altar]. [During the whole period] a blessing was bestowed upon the ‘omer,[16] the two breads,[17] and the shewbread, so that every priest, who obtained a piece thereof as big as an olive, ate it and became satisfied with some eating thereof and even leaving something over. From that time on a curse was sent upon ‘omer, two breads, and shewbread, so that every priest received a piece as small as a bean: the well-bred[18] ones withdrew their hands from it, whilst voracious folk took and devoured it. Once one [of the latter] grabbed his portion as well as that of his fellow, wherefore they would call him ‘ben

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(1) Lev. XI, 43.

(2) ונטמתם for ונטמתם MS.M. cur. ed. ונטמטם.

(3) Lev. XVI, 44.

(4) Continuing the account of Mishnah (supra 37a); or ‘shook hastily’ (because of eagerness, anxiety).

(5) The J.T. states that when the high priest pronounced the Ineffable Name those near prostrated themselves, those afar responding with ‘Blessed be the name of His glorious kingdom for ever and ever’.

(6) It was considered a happy omen when it came up in the right hand, and the temptation was as great as near to improve upon chance by dexterous manipulation.

(7) V. infra 44b.

(8) Viz., ‘A sin-offering unto the Lord’.

(9) If the deputy high priest, in whose hand it came up, gave him the command, he might easily read into his words the arrogance of the successful.

(10) R. Judah and the Tanna of our Mishnah.

(11) Nazir 47b, which implies that as long as the high priest is fit for service the deputy high priest performs no priestly service whatsoever, in opposition to R. Judah.

(12) Which was tied between the horns of the bullock. If that became white, it signified that the Holy One, blessed be He, had forgiven Israel's sin. Cf. Though your sins be as scarlet, they shall be as white as snow (Isa. I, 18, Rashi).

(13) The westernmost light on the candlestick in the Temple, into which as much oil was put as into the others. Although all the other lights were extinguished, that light buried oil, in spite of the fact that it had been kindled first. This miracle was taken as a sign that the Shechinah rested over Israel. V. Shab. 22b and Men. 86b.

(14) On the altar, on which it was kindled in the morning.

(15) V. supra 26b.

(16) V. Glos.

(17) V. Lev. XXIII, 17ff

(18) Lit., ‘modest’, ‘decorous’.

Talmud - Mas. Yoma 39b

hamzan’ [grasper] until his dying day. Rabbah b. R. Shela said: What Scriptural basis [is there for this appellation]? — O my God, rescue me out of the hand of the wicked, out of the grasp of the unrighteous and homez [ruthless] man.[1] Raba said, From here [is the basis obtained]: Learn to do well, seek justice, strengthen hamoz [the oppressed][2] i.e., strengthen him hamoz [who is oppressed], but strengthen not homez [the oppressor].[3]

Our Rabbis taught: In the year in which Simeon the Righteous died, he foretold them that he would die. They said: Whence do you know that? He replied: On every Day of Atonement an old man, dressed in white, wrapped in white, would join me, entering [the Holy of Holies] and leaving [it] with me, but today I was joined by an old man, dressed in black, wrapped in black, who entered, but did not leave, with me. After the festival [of Sukkoth] he was sick for seven days and [then] died. His brethren [that year] the priests forbore to mention the Ineffable Name in pronouncing the [priestly] blessing.[4] Our Rabbis taught: During the last forty years before the destruction of the Temple the lot [‘For the Lord’] did not come up in the right hand; nor did the crimson-coloured strap become white; nor did the westernmost light shine; and the doors of the Hekal would open by themselves, until R. Johanan b. Zakkai rebuked them, saying: Hekal, Hekal, why wilt thou be the alarmer thyself?[5] I know about thee that thou wilt be destroyed, for Zechariah ben Ido has already prophesied concerning thee:[6] Open thy doors, O Lebanon, that the fire may devour thy cedars.[7]

R. Isaac b. Tablai said: Why is its[8] name called Lebanon? Because it makes white the sins of Israel. R. Zutra b. Tobiah said: Why is it called 'Forest', as it is written: The house of the forest of Lebanon?[9] To tell you that just as a forest produces sprouts, so does the Temple. For R. Hosea said:[10] When Solomon built the Sanctuary, he planted therein all sorts of precious golden trees, which brought forth fruit in their season. When the wind blew against them, their fruits would fall down, as it is said: May his fruit rustle like Lebanon.[11] They were a source of income for the priesthood. But as soon as the idolaters entered the Hekal, they dried up, as it is said: And the flower of Lebanon languisheth.[12] And the Holy One, blessed be He, will restore it to us, as it is said: It shall blossom abundantly, and rejoice, even with joy and singing, the glory of Lebanon shall be given to it.[13] Our Rabbis taught:[14] Ten times did the high priest pronounce the [Ineffable] Name on that day: Three times at the first confession, thrice at the second confession, thrice in connection with the he-goat to be sent away, and once in connection with the lots. And it already happened that when he pronounced the Name, his voice was heard even unto Jericho.[15] Rabbah b. Bar Hana said: From Jerusalem to Jericho it is a distance of ten parasangs. The turning hinges of the Temple doors were heard throughout eight Sabbath limits.[16] The goats in Jericho used to sneeze because of the odour of the incense. The women in Jericho did not have to perfume themselves, because of the odour of the incense. The bride in Jerusalem did not have to perfume herself because of the odour of the incense. R. Jose b. Diglai said: My father had goats on the mountains of Mikwar[17] and they used to sneeze because of the odour of the incense. R. Hiyya b. Abin said in the name of R. Joshua b. Karhah: An old man told me: Once I walked towards Shiloh[18] and I could smell the odour of the incense [coming] from its walls.

R. Jannai said: To bring the lot up out of the casket is indispensable,[19] but to place [it on the bullock's head] is not.[20] R. Johanan said: Even to bring up the lot is not indispensable.[21] On the opinion of R. Judah who said that services performed in the white garments outside the Holy of Holies are not indispensable there is no dispute, [all agreeing] that [the bringing up of lots] is not indispensable; they dispute only the opinion of R. Nehemiah:[22] He who says it is indispensable, holds even as R. Nehemiah [does]; whereas the other who holds it is dispensable, explains [R. Nehemiah to refer to] an actual service, whereas the casting of the lots is no service. — Others say: On the opinion of R. Nehemiah, who says it is indispensable, there is no dispute, [all agreeing that] it is indispensable; the dispute touches only the opinion of R. Judah: he who holds it is dispensable, agrees with R. Judah; whereas he who holds it is indispensable [explains] that it is different here because Scripture repeats twice: On which [the lot] fell.[23] — An objection: was raised 'It is a command to cast the lots but if he has failed to do so, [the service] is, nevertheless, valid. Now that will be quite right according to the version that none disputes that on R. Judah's view it is dispensable, so that this [teaching][24] is in accordance with R. Judah

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(1) Ps. LXXI, 4.

(2) Isa. 1, 17.

(3) V. Sanh. 35a.

(4) Men. 109b. Tosaf Sotah 38a suggests that the Ineffable Name could be pronounced only when there was some indication that the Shechinah rested on the Sanctuary. When Simeon the Righteous died, with many indications that such glory was no more enjoyed, his brethren no more dared utter the Ineffable Name.

(5) Predict thy own destruction.

(6) I.e., concerning this significant omen of the destruction of the Temple.

(7) Zech. XI, 1. Ido was his grandfather, but it occurs occasionally that a man is called 'the son after a distinguished ancestor.

(8) The Sanctuary. A play on לבנון, connected with לבן.

(9) I Kings X, 21.

(10) V. supra 21b.

(11) Ps. LXXII, 16.

(12) Nahum I, 4.

(13) Isa. XXXV, 2.

(14) Tosef. Yoma II, 2.

(15) V. supra 20b.

(16) The marked-off area around a town or place within which it is permitted to move on the Sabbath. Sabbath limits i.e., two thousand cubits in every direction. The turning hinges, then, created a sound, according to this scholar, audible beyond sixteen thousand cubits.

(17) The name varies: Mikmar, Mikwar, Makvar (a district of Peraea). One version omits reference to a place, and reads ‘on the mountains’, which may have appropriated the מ from the next word and omitted it for want of clarity. It should be reasonably near Jerusalem to suit the context. See D.S., p. 110.

(18) The place of the tent of meeting. In the mind of the narrator the odour of incense must have been well-nigh imperishable.

(19) Without the casting of the lots no choice could be made as to the destination of the two he-goats, i.e., the service could not go on.

(20) This view considers the service of the high priest dependent on the decision of the lots, the decisive factor being the lots and not the formal putting of the lot on the animal's head.

(21) R. Johanan considers the action of the high priest the determining factor, independent of his having either had lots or having placed them on the head. His declaration as to which animal is for the Lord and for Azazel resp., validates the service.

(22) Infra 60a contains the dispute between R. Judah and R. Nehemiah as to whether any change in the prescribed order renders the service invalid. It hinges on the question as to whether the word ‘hukkah’ (statute) i.e., binding order, applies to the service in the Holy of Holies only, independent as to the garments wherein they are performed (R. Judah) or whether it applies to any service in the white garments, performed either in the Holy of Holies or elsewhere (R. Nehemiah). A sub-question would be whether anything in connection with the Day of Atonement, or only a service proper is covered by R. Nehemiah's view. If e.g., the casting of the lots is not considered a service, though an action in connection with it, it may not be indispensable since it is performed outside the Holy of Holies, although in white garments.

(23) Lev. XVI, 9,10 which repetition emphasizes the indispensable nature of this service.

(24) That it is a command to cast the lots, but that failure to do so does not invalidate the service.

Talmud - Mas. Yoma 40a

. But according to the version that they are disputing on R. Judah's view it would again be quite right according to him who holds it is dispensable, for then [the authority for this teaching] would be R. Judah; but according to him who considers it indispensable [the question is asked]: Who [will be the authority] for this [teaching]? Read: It is a command to place [the lots on the bullock's head].[1]

Come and hear: It is a command to cast the lots and to make confession. But if he had not cast the lots[2] or made confession, [the service is] valid.[3] And should you reply that here, too’ [you would read] ‘to place [the lot on the bullock's head]’, say then the second part: R. Simeon said: If he has not cast the lots, the service is still valid, but if he has failed to make confession, it is invalidated. Now what does ‘If he has not cast the lots’ mean? Would you say it means, ‘He has not placed the lots’,[4] this would imply [would it not] that R. Simeon holds the casting of the lots is indispensable? But surely it was taught: If one of the two [bullocks] died, he brings the other without [new] casting of lots — these are the words of R. Simeon?[5] — R. Simeon did not know what the Sages meant [with the Phrase ‘lo higril’][6] and thus he said to them: If by ‘hagralah’ you mean casting of the lots itself, I dispute with you on one matter, but if by ‘hagralah’ you mean the placing of the lots then I disagree with you on two counts.[7]

Come and hear: With regard to the sprinkling of the blood within the veil, [the regular service of] the bullock is indispensable for the service of the he-goat [to be valid]; but the regular service of the he-goat is not indispensable for the service of the bullock to be valid.[8] Now, it is quite right that the regular service of the bullock is indispensable for the he-goat, e.g., if he performed the rites of the he-goat before those of the bullock, he has done nothing.[9] But that [the regular service of] the he-goat is not indispensable to the bullock, what does it mean? Would you say [it means] that if he sprinkled the blood of the bullock in the Hekal before the sprinkling of the he-goat within [the veil]?[10] But surely Scripture says ‘statute’![11] Rather must you say [it means that] if he sprinkled the blood of the bullock within, before the casting of the lots[12] [it is valid]. Now since the order is not indispensable [is it not to be inferred that] the casting of the lots itself is not indispensable![13] — No, [it means that] he made the sprinkling of the blood of the bullock on the altar before sprinkling the blood of the he-goat in the Hekal[14] and this [teaching] is in accord with R. Judah, who says that anything done in the white garments outside [the Holy of Holies] is dispensable. But does it not state ‘with regard to the sprinklings within’?[15] Rather: It is in accord with R. Simeon who holds the casting of the lots is dispensable. Or, if you like, say: Still I say it is in accord with R. Judah,[16] and although the order of the service is not indispensable, the casting of the lots is indispensable. And they follow their own principle.[17] For it was taught:

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(1) This ruling is generally accepted: Dejure the placing of the lots is obligatory. De facto failure to do so does not render the ceremony invalid, Scripture repeating twice ‘on which the lot fell’, thus creating a precedent for the casting of the lots, but it refers only once to the placing of the lots on the bullock's head.

(2) לא הגריל infra n. 6.

(3) Hence the casting of the lots is dispensable — a refutation of R. Jannai.

(4) Only the placing of the lots does R. Simeon consider dispensable, but the casting he considers indispensable.

(5) Infra 63b.

(6) Lit., ‘He did not perform the hagralah’ and rendered supra ‘he has not cast lots’ cf. n. 3. ‘Hagralah’, ‘acting with lots’ may mean causing lots ‘to be cast’ or ‘to be placed’, hence grammatically either application is justified: ‘lo higril’ he did not cause the lots ‘to be cast’ or ‘to be placed’ (on the head etc.). R. Simeon did not know which interpretation had been offered by the Sages. He knew however that both are possible.

(7) If you mean by ‘hagralah’ the casting of the lots, I dispute only your stand touching confession, agreeing with you that the casting of the lots is not indispensable, but if you mean by ‘hagralah’ the placing of the lots on the head etc. but the casting itself you consider indispensable, then I disagree with you on two counts: you hold casting indispensable, I do not; you hold confession not indispensable, I consider it indispensable.

(8) [The order of the service prescribed in Lev. XVI for the bullock and the he-goat which is offered within is as follows: (i) First confession over the bullock; (ii) Casting lots over the he-goats; (iii) second confession over the bullock; (iv) Slaughtering of the bullock; (v) Bringing the spoon and fire pan into the Holy of Holies; (vi) Burning of incense; (vii) Sprinkling of blood of the bullock on the mercy-seat; (viii) Confession over and slaughtering of the he-goat; (ix) Sprinkling of the he-goat's blood on the mercy-seat; (x) Sprinkling of the blood of the bullock on the Veil, separating the Holy, the Hekal, from the Holy of Holies; (xi) Sprinkling of the blood of the he-goat on the Veil; (xii) Mixing together the blood of the he-goat and the bullock and applying the mixture on the golden altar. Here the rule is laid down that if he performed any one of the rites in connection with the he-goat before such of the bullock as should have preceded it, that rite is invalid and must be performed again in its proper order. If, however, he performed any of the rites in connection with the bullock before such of the he-goat as should have preceded it, that rite is not invalid.]

(9) It has no validity.

(10) [I.e., he performed rite (x) before rite (ix), v. n. 1].

(11) Which has reference to the rites performed within the Veil, and which implies an inflexible rule invalidating the irregularity of the service.

(12) [I.e., he performed rite (vii) before (ii).]

(13) Hence there is one who holds that the casting of the lots is not indispensable. That contradicts the above statement that even R. Judah (and all the more R. Nehemiah) considers it indispensable.

(14) [I.e., he performed rite (xii) before rite (xi). The blood of the bullock here means that which he mixed with the blood of the he-goat.]

(15) Whereas this irregularity in connection with the bullock concerned a service performed outside the Holy of Holies.

(16) [And the irregularity consequently concerned rites (vii) and (ii), v. p. 190, n. 5.]

(17) This refers to the dispute of R. Judah and R. Simeon where he failed to make confession.

Talmud - Mas. Yoma 40b

Talmud - Mas. Yoma 40b

[With reference to] It shall be set alive before the Lord, to make atonement over him[1] — how long must it stay alive? Until the blood of its fellow-sacrifice is sprinkled, this is the opinion of R. Judah.[2] R. Simeon holds: Until the confession [of sin].[3] Wherein do they differ? — As it was taught: 'To make atonement over him' — Scripture speaks of atonement through blood, thus does it also say: And when he hath made an end to atoning for the holy place,[4] just as there it refers to atonement by blood, so does it refer here to atonement by blood this is the opinion of R. Judah. R. Simeon says: 'To make atonement over him' — Scripture speaks of atonement by words [confession].

Come and hear:[5] The disciples of R. Akiba asked him: If it [the lot 'for the Lord'] came up in the left hand, may he turn it to the right? He replied: Do not give all occasion for the Sadducees to rebel![6] The reason, then, [of his negative answer] is so as not to give an occasion for the Sadducees to rebel, but, without that, we would turn it, yet you said that the casting of the lots is indispensable, and since the left hand has determined its destination,[7] how can we turn it? — Raba answered: This is what they said: If the lot had come up in the left hand, may one change it and the he-goat to the right?[8] Whereupon he answered: Give no occasion to the Sadducees to rebel.

Come and hear: If [Scripture] has said: The goat, 'upon which it [the lot] is'[9] I would have said he must place it thereon. Therefore it says: '[on which it] fell', i.e., once it has fallen upon it, he no more need [place it on its head]. Now in respect of what [was this said]?[10] Would you say: In respect of a command,[11] which would imply that the placing of the lots is not even a command![12] Rather must you say it means that it is in respect of indispensability;[13] hence we learn that the casting is indispensable, and the placing of the lot [upon the head] is dispensable.[14] Raba said: This is what he means: If it had said: 'Upon which it is', I would have said: let him leave it there until the time for the slaughtering; therefore it says: [upon which it] fell, to intimate that once it had fallen upon it, it needs nothing else.[15]

Come and hear: And offer him for a sin-offering[16] i.e., the lot designates it for the sin-offering, but the naming[17] [alone] does not designate it a sin-offering. For I might have assumed, this could be inferred a minori: If in a case where the lot does not sanctify,[18] the naming does sanctify, how much more will the naming sanctify where the lot also does so sanctify? Therefore [Scripture] says: 'And offer him for a sin-offering' [to intimate] it is the lot which designates it a sin-offering, but the naming does not make it a sin-offering.

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(1) With reference to the he-goat that is to be sent away. Lev. XVI, 10.

(2) [In accordance with his view that confession is not indispensable so that if the he-goat died after the sprinkling of the blood of the bullock (rite vii) before the confession over the he-goat (rite viii) the service is valid.]

(3) Infra 65a.

(4) Ibid. 20.

(5) Tosef. III, 2, the version in the Talmud is somewhat modified.

(6) The substitution of Sadducees for 'Minim' (Judeo-Christian heretics) is undoubtedly due to the censors' dislike of any word that may appear as even an implied attack on the Church. The heretics will claim this manipulation an 'additional proof' of the Pharisees' doing with the law whatever pleased them. Thus they would be helped to rebel, arguing at once in favour of their heresy and against the Pharisees.

(7) For the Lord, even before the lot was actually placed on the he-goat.

(8) If the lot 'For the Lord' came up in the left hand so that the he-goat standing opposite the priest at his left hand was thereby designated a sin-offering for the Lord, that on the right being designated for Azazel, may he exchange the he-goats and the lots so that whereas the lot decided which is which, the manipulation will have afforded him the comfort of knowing that without formally changing the lots, the 'right one' will be designated for the Lord.

(9) Intimating that it lies there for a considerable time.

(10) That once the lots are cast nothing more is necessary.

(11) I.e., there is no longer any command to be fulfilled after the' casting of the lots.

(12) Surely this is impossible!

(13) I.e., that once the lots are cast there is nothing else deemed indispensable for determining the destination of the he-goats.

(14) A refutation of R. Johanan.

(15) The verse serves to indicate that once it ‘fell upon it’ there is not even a command to be placed there, as a sign or assurance that it will be offered up for the purpose designated.

(16) Lev. XVI, 9: And Aaron shall present the goat upon which the lot fell for the Lord, and offer it for a sin-offering.

(17) By the high priest. The above verse, in which the offering-up follows immediately ‘upon which the lot fell’ indicates that the coming up of the lot decides the matter, not the naming by the priest.

(18) As with the sacrificial couples of birds, where either owner or priest by verbal statement makes the designation, where, however, the casting of lots would be useless.

Talmud - Mas. Yoma 41a

Now whose is the anonymous opinion in the Sifra?[1] R. Judah's, and he teaches: The lot designates the sin-offering and the naming does not make it a sin-offering. Hence we see that the casting of the lots is indispensable. This will be a refutation of the opinion that it is not indispensable. It is a refutation.

R. Hisda said: The special designation of the couples[2] is made either by the owner[3] or by the priest's action.[4] R. Shimi b. Ashi said: What is the basis of R. Hisda's dictum? Because it is written: She shall take [. . . for a burnt-offering][5] and And the priest shall offer one [as a sin-offering][6] i.e., [the designation is made] either at the [owner's] taking [purchasing] or at the offering-up [by the priest].

They raised the following objection: ‘And make it a sin-offering[7] -i.e., the lot makes it a sin-offering, but the naming [alone] does not make it a sin-offering. For I might have assumed, this could be inferred a minori: If in a case where a lot does not sanctity, the naming does, how much more should the naming sanctify, where the lot does? Therefore [Scripture] says: ‘And make it for a sin-offering’ [to intimate] it is the lot which makes it a sin-offering, but the naming does not make it a sin-offering. Here it is neither the time[8] of its purchase, nor of its being offered, and yet he states that it should designate? — Raba said: This is what he said: If in a case where the lot does not sanctify even at the time of the purchase and even at the time of the offering, the naming does sanctify it at the time of either purchase or offering, how much more shall the naming, at either the time of purchase or of offering, sanctify it in a case where the lot sanctifies outside the time of either purchase or offering? Therefore [Scripture] says: ‘And make it a sin-offering’, i.e., the lot makes it a sin-offering but the naming does not make it a sin-offering.

Come and hear: If someone defiled the Sanctuary[9] whilst poor and put aside money for his bird-couple-offering, and afterwards became rich,[10] and said thereupon: This [money] be for the sin-offering and that for the burnt-offering he adds to the money for the sin-offering to bring his obligatory offering, but he may not add to his burnt[11] -offering to bring his obligatory offering. Now here[12] it is neither the time of the purchase, nor the time of the offering and yet he teaches that it is designated?[13] — R. Shesheth said: How do you reason?[14] Surely R.. Eleazar said in the name of R. Hoshaia: If someone defiled the Sanctuary whilst rich, and brought the offering of a poor person, he has not done his duty. Now, since he has not done his duty, how could he have designated[15] it? Must you not, rather, say that he had designated it when already poor? Thus here,[16] too, the case is that he said it from the time when he set [the money] aside.[17] But according to R. Hagga in the name of R. Josiah who said: He has done his duty[18] —

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(1) A Tannaitic commentary (Midrash) on Leviticus.

(2) Of sacrificial birds (Lev. XII, 8 and XV, 30), as to which is to be the burnt-offering and which the sin-offering.
(3) At the purchase the owner can decide which is to serve for either sacrifice.
(4) If not designated by the owner, the priest has the right to name each bird for the sacrifice he chooses, i.e., either sin-, or burnt-offering.
(5) Lev. XII, 8.
(6) Ibid. XV, 30.
(7) Lev. XVI, 9. So literally. E.V. 'offer it for a sin-offering'.
(8) The designation by naming, which now is assumed to take place at the time of the sanctification by the lot, i.e., neither at the time of the purchase, nor at that of the offering.
(9) By entering it in uncleanness, Lev. V, 2.
(10) With the consequence that he must offer the contingent sacrifice of a rich person: a lamb as a sin-offering, whereas a poor person had to offer up two turtledoves or two young pigeons as sin- and burnt-offering resp. (Lev. V, 6 and 11.)
(11) Ker. 28a. He may add to the original money designated for the poor man's sin-offering for his new sin-offering, but he may not use the money designated for the poor man's burnt-offering to add thereto the sum necessary for the purchase of the rich man's sin-offering (his lamb). The latter is forbidden, because once he had designated, the money for the burnt-offering, it may no more be changed for any other offering.
(12) After the designation.
(13) And that he may no more change it.
(14) Do you consider the Baraitha to be in order?
(15) The poor man's sin-offering no more applies to him, how could he have designated it a burnt-offering after becoming rich, since he does not have to bring a burnt-offering at all (only the poor man brings a burnt- and sin-offering, one pigeon each, the rich man's lamb serving as sin-offering only).
(16) In reply to the objection raised against R. Hisda.
(17) Correct the Baraitha to read: If someone defiled the Sanctuary whilst poor and put aside money for his couple and said at the time when he set the money aside 'This be etc.' and afterwards became rich.
(18) So that the Baraitha as it stands need not be corrected.

Talmud - Mas. Yoma 41b

what is there to be said?[1] — Do not read: 'And said thereupon', but 'And thereupon he bought and said'.[2]

But if 'thereupon he bought' [then it states] 'he may add and bring his obligatory sacrifice', it must mean[3] that he redeems[4] [the bird-offering]? But surely a bird-offering may not be redeemed?[5] — R. Papa said: For instance, if he bought one single pigeon. If he bought it as the burnt-offering, then he adds to the money for his sin-offering the money for his [new] obligatory sacrifice, the burnt-offering [of the bird] becoming a freewill-offering; if he bought it as the sin-offering he may not add to the money for the burnt-offering for the purchase of his [new] obligatory sacrifice and that sin-offering is left to perish.

The text [above] states: R. Eleazar said in the name of R. Hoshaia: 'If one defied the Sanctuary whilst being rich and brought the offering prescribed for a poor person, he has not done his duty, R. Hagga in the name of R. Josiah says: He did perform it.' The following objection was raised: If a poor leper brought the offering prescribed for a rich person, he has performed his duty; if a rich person brought the offering prescribed for a poor one, he has not performed his duty?[6] — There it is different because it is written: This [shall be the law of the leper].[7] If that is so, then [let it apply] in the first part [of the Mishnah] too? — Surely the Divine Law includes that case through the word Torath ['law']![8] As it was taught: the word Torath ['the law'][7] includes a poor leper, who brought a rich [leper's] sacrifice. One might have assumed that even a rich leper who brought a poor leper's sacrifice [might be included so as to have performed his duty], therefore it says: 'This'. Let us infer from it [for one who defiled the Sanctuary]? — The Divine Law [by saying]: And if he be poor,[9] excludes [all but the leper].[10]

MISHNAH. HE BOUND[11] A THREAD OF CRIMSON WOOL ON THE HEAD OF THE HE-GOAT WHICH WAS TO BE SENT AWAY,[12] AND [MEANTIME] HE PLACED IT [AT THE GATE] WHENCE IT WAS TO BE SENT AWAY; AND THE HE-GOAT THAT WAS TO BE SLAUGHTERED, AT THE PLACE OF THE SLAUGHTERING.[13] HE CAME TO HIS BULLOCK A SECOND[14] TIME, PRESSED HIS TWO HANDS UPON IT AND MADE CONFESSION. AND THUS HE WOULD SAY: O LORD, I HAVE DEALT WRONGFULLY, I HAVE TRANSGRESSED, I HAVE SINNED BEFORE THEE, I AND MY HOUSE, AND THE CHILDREN OF AARON, THY HOLY PEOPLE, O LORD, PRAY FORGIVE THE WRONGDOINGS, THE TRANSGRESSION, AND THE SINS, WHICH I HAVE COMMITTED, TRANSGRESSED, AND SINNED BEFORE THEE, I AND MY HOUSE, AND THE CHILDREN OF AARON, THY HOLY PEOPLE. AS IT IS WRITTEN IN THE TORAH OF MOSES, THY SERVANT: FOR ON THIS DAY ATONEMENT BE MADE FOR YOU, TO CLEANSE YOU; FROM ALL THE SINS SHALL YE BE CLEAN BEFORE THE LORD. AND THEY RESPONDED: BLESSED BE THE NAME OF HIS GLORIOUS KINGDOM FOR EVER AND EVER.

GEMARA. They raised the question: AND THE HE-GOAT THAT WAS TO BE SLAUGHTERED AT THE PLACE OF THE SLAUGHTERING — does this refer to the tying [of the strap][15] or to the placing [of the animal]?[16] Come and hear: For R. Joseph learned: He bound a crimson-coloured strap on the head of the he-goat which was to be sent away and placed it against the gate whence it was to be sent away; and the he-goat which was to be slaughtered at the place where it was to be slaughtered, lest they become mixed up one with the other, or with others. It will be quite right if you say it refers to the binding [of the strap], but If you say it refers to the placing [of the animal], granted that it would not be mixed up with its fellow [he-goat] because the one had a strap, whilst the other had none, but it could surely be mixed up with other he-goats?[17] Hence we learn from here that It refers to the tying [of the strap]. This proves it. R. Isaac said: I have heard of two straps, one in connection with the [red] heifer,[18] the other with the he-goat-to-be-sent-away, one requiring a definite size, the other not requiring it, but I do not know which [requires the size]. R. Joseph said: Let us see: The strap of the he-goat which required division,[19] hence also required a definite size, whereas that of the heifer which does not need to be divided, does not require a definite size, either. Rami b. Hama demurred to this: That of the heifer also requires weight?[20] — Raba said: The matter of this weight is disputed by Tannaim.[21] But does the strap of the heifer not have to be divided? [Against this] Abaye raised the following objection: How does he do it?[22] He wraps them[23] together with the remnants[24] of the strips [of scarlet wool]! Say: with the tail[25] of the strip.

R. Hanin said in the name of Rab: If the cedar-wood and the scarlet thread were [merely] caught by the flame,[26] they are usable [for the ceremony]. — They raised the following objection: If the strap caught fire, another strap is brought and the water of lustration prepared.[27] Abaye said: This is no contradiction; one speaks of a flame which blazes[28] up, the other of one which is subdued.[29]

Raba said: Concerning the weight of [the heifer's strap] there is a division of opinion among Tannaim, for it was taught: Why does he wrap them[30] together? In order that they form together one bunch — this is the opinion of Rabbi. R. Eleazar son of R. Simeon says: In order that they have [sufficient] weight to fall into the midst of the burning heifer. — When R. Dimi came [from Palestine] he said in the name of R. Johanan: I heard of: three [different] straps, one, that of the [red] heifer, the other, that of the he-goat-to-be-sent-away, the third of the leper; one having a weight of ten zuz,[31] the other a weight of two sela's,[31] the third a weight of one shekel,[31] and I do not know how to specify it. When Rabin came, he specified it in the name of R. Jonathan:

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(1) How will R. Hisda meet the objection raised against him from the Baraitha?

(2) The change implies only that one word had been omitted. Thus the question against R. Hisda is answered.

(3) Lit., ‘what is it?’
(4) Divesting it of its sacred character by changing its purpose and adding thereto the money required for the lamb.
(5) Tem. 23b.
(6) Neg. XIV, 12. An objection against R. Hagga.
(7) Lev. XIV, 2 indicating there must be no duration.
(8) Indicating that there is ultimately one Torah, one law governing all lepers.
(9) Ibid. 21.
(10) ‘If he be poor’; the ‘he’ is emphatic, indicating that this law applies only to a leper; but any other person, obliged to bring an offering of higher or lesser value, according to pecuniary condition, may bring the ‘poor man's offering’ and yet have its duty performed although he be rich himself.
(11) To prevent any confusion between the he-goats, or between them and the third he-goat, to be offered up at the additional service (Num. XXIX, 11).
(12) Destined for Azazel, in the wilderness, whence it was hurled to its death from a rock. The word Azazel has been variously interpreted, but it seems to be the name of a place (a rough rock) rather than that of a demon.
(13) To be explained in the Gemara.
(14) V. supra 35b: HE CAME TO HIS BULLOCK, that was the first time.
(15) I.e., he tied the strap about its neck, the place of the slaughtering.
(16) I.e., he placed it where it had to be slaughtered.
(17) At the place where sacrifices were slaughtered, since it had no distinguishing mark.
(18) v. Num. XIX, 1ff
(19) Infra 67a: What did he (who sent the he-goat away) do. He divided the strap of crimson wool, tying one half to the rock, the other half between his horns.
(20) To fall right into the midst of the burning heifer’ as Scripture (Num. XIX, 6) requires it.
(21) V. infra.
(22) With reference to the red heifer v. Parah III, 13.
(23) The hyssop and cedar-wood.
(24) There are, then, remnants of strips, hence there must have been division here, too.
(25) Simply the end of the strap, thinned out like a tail, hence no evidence of a division.
(26) Cf. supra n. 1.
(27) Lit., ‘and he sanctifies’.
(28) A fire which unexpectedly rises and spreads; a fire diverted from its course. Or: a fire which unexpectedly rises and spreads;
(29) In the former case another strap is to be brought since it did not come in contact with the fire itself; but not in the latter case.
(30) Cedar-wood, hyssop and scarlet, Num. XIX, 6.
(31) Zuz — the smallest silver coin corresponds to either one quarter or one half of a shekel. Sela’ — is either five or ten zuzim. The shekel weighs about twelve grams. V. Krauss, T.A. II, 404.

Talmud - Mas. Yoma 42a

That of the heifer had the weight of ten zuz, that of the he-goat-to-be-sent-away had the weight of two sela's, and that of the leper weighed one shekel. R. Johanan said: About the [strap used in connection with] the heifer R. Simeon b. Halafta and the Sages are disputing, one saying it weighed ten shekels, the other it weighed but one shekel. As a mnemotechnic [sign use]:[1] ‘Whether one gives much, or one gives little’.[2] — R. Jeremiah of Difti said to Rabina: They are not disputing in regard to [the strap of] the heifer, but in regard [to that of] the he-goat-to-be-sent-away; and on the day [of their dispute] died Rabia b. Kisi, and as a sign to remember this coincidence they uttered: [The death of the righteous], Rabia b. Kisi, obtains atonement, even as the he-goat-to-be-sent-away. — R. Isaac said: I heard of two slaughterings, one of the [red] heifer, the other of his bullock,[3] one being permissible to a lay Israelite,[4] the other being invalidated if performed by a lay Israelite, and I do not know which is which. It is reported: Concerning the slaughtering of the heifer and of his bullock [there is a dispute between] Rab and Samuel, one holding the heifer to be invalidated [if killed by a lay Israelite], but that his bullock [so slaughtered] is fit, while the other holds that his bullock is invalidated [if a commoner killed], but [so killed] the heifer is fit. It may be ascertained that it is Rab who holds that [the slaughtering of] the heifer [by a lay Israelite] renders it invalid. For R. Zei'ra[5] said: The slaughtering of the heifer by a lay Israelite is invalid and Rab said thereupon: ‘Eleazar’ and ‘Statute’[6] we learned in connection therewith. — But as for Rab, wherefore the difference between [the law] in the case of the heifer, because ‘Eleazar’ and ‘Statute’ is written in connection therewith, when also in connection with ‘his’ bullock ‘Aaron’[7] and ‘Statute’ is written? The slaughtering is not [regarded as a Temple] service.[8] Then this ought to apply to the heifer as well? — It is different with the heifer, because it is [in the category of] offerings for Temple repair.[9] — So much the more then![10] -R.Shisha son of R. Idi said: It is the same as with the [inspection of] appearances of leprosy,[11] which is not a service, yet requires a priest's service. Now according to Samuel, who holds the killing of ‘his’ bullock by a lay Israelite is invalid, wherefore the difference [in law] in the case of ‘his’ bullock, in connection with which ‘Aaron and ‘Statute’ are written, when also in connection with the heifer ‘Eleazar’ and ‘Statute’ are written? — It is different there, because it is written: And he shall slay it before him,[12] which means that a lay Israelite may slaughter and Eleazar should watch it.[13] And [how does] Rab [explain this]? — [It means] he[14] must not divert his attention from it. Whence does Samuel know that he must not divert his attention from it? — He infers that from And the heifer shall be burnt in his sight.[15] And [why the repetition according to] Rab? — One refers to the slaughtering, the other to the burning;[16] and it was necessary to mention both. For if the Divine Law had written it concerning the slaughtering [alone, I would have said]: There [attention is necessary] because it is the beginning of the service, but with the burning [one could] say: ‘No [attention is necessary]’ therefore it was necessary [for the Divine Law] to mention [it also touching burning]. And if the Divine Law had written it [only] touching the burning, one would have said [attention is necessary there], because just now the heifer is being made ready,[17] but [during] slaughtering no [attention is necessary]. Therefore it was necessary [for the Divine Law] to mention [that too]. — What does this exclude?[18] Is it to say to exclude the gathering of its ashes and the drawing of the water for the putting in of the ashes?

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(1) Ber. 5b.

(2) The usual meaning: Whether one gives much or little, the main matter is that he direct his heart to our Father who is in heaven, is irrelevant here, the accent being put, for mnemotechnic reasons, on: the one (stands for) much, the other for little, i.e., one of the disputants ascribes the maximum, the other the minimum weight.

(3) The bullock which the high priest had to bring for himself on the Day of Atonement.

(4) I.e., a non-priest.

(5) Var. lec. ‘Rab’.

(6) Num. XIX, 3: And ye shall give her to Eleazar the priest i.e., it requires a priest's service; ibid. 21: And it shall be a perpetual statute i.e., it is indispensable that the priest do so, as prescribed.

(7) Lev. XVI, 3: Herewith shall Aaron come . . . with a young bullock; and ibid. 34: And this shall be an everlasting statute unto you.

(8) Since a lay Israelite may perform it, the word ‘statute’, mentioned in connection with his bullock, does not refer to the slaughtering.

(9) The heifer is not offered up on the altar, as any other sacrifice, hence there is no distinction as to the services to be performed in connection with it, and all alike require a priest.

(10) On the contrary, how much more ought a lay Israelite to be permitted to slay the red heifer.

(11) Lev. XIII, 2.

(12) Num. XIX, 3.

(13) ‘He’ referring to a lay Israelite; ‘before him’ (lit., ‘before his face’), to Eleazar.

(14) ‘He’ refers to Eleazar i.e., he shall slaughter it and keep his mind on this important ceremony.

(15) Num. XIX, 5.

(16) That is that both rites require attention.

(17) The burning for the purposes of the ashes is the central part of the ceremony, to ‘prepare’ the heifer for her cleansing purpose.

(18) I.e., with regard to what function is no attention essential.

Talmud - Mas. Yoma 42b

Surely Scripture says: [And it shall be kept for the congregation of the children of Israel] for a water of sprinkling?[1] — Rather it excludes the casting in of cedarwood, hyssop, and scarlet, because they are not part of the heifer itself.

It was reported: If the heifer was slaughtered by a lay Israelite, R. Ammi said it is valid. R. Isaac, the Smith, said it was invalid. 'Ulla said it is valid, whilst some there are who say [that he said] it was invalid.

R. Joshua b. Abba raised an objection in support of Rab: I know only that the sprinkling of its water is not valid if performed by a woman, as [when done] by a man; and that it is valid only [if done] by day.[2] Whence do I know that the slaughtering of the heifer, the reception of its blood, the sprinkling of its blood, the burning of the heifer, and the casting into the burning heifer of cedar-wood, hyssop, and scarlet [may not be done by night]?[3] To teach us that Scripture said: [This is the statute of] the law.[4] I might have assumed that this should include also the gathering of its ashes and the drawing of the water for the putting-in of the ashes, to teach us that Scripture said: 'This'.[5] — What causes you to include those, and to exclude these? — Since Scripture both extends and limits, say, we shall infer everything from the [regulations touching] the sprinkling of its water: Just as the sprinkling of its water is not proper if done by a woman, as it is [if performed] by a man, and not valid except if done by day, thus[6] include also the slaughtering of the heifer, the reception of its blood, the sprinkling of its blood, the burning of the heifer, and the casting into the burning heifer of cedar-wood, hyssop, and scarlet. Since these [functions] may not be performed by a woman, so may they be performed only by day; but I exclude the gathering of its ashes and the drawing of the water for the putting-in of its ashes, which, since they may be performed by either man or woman, hence may also be performed by night. But how is this a refutation?[6] Will you say that because [the slaughtering is stated to be] invalid [if performed] by a woman, it must be invalid, also, if performed by a lay Israelite,[7] there would be as counterproof the sprinkling of its waters, which, whilst invalid [if performed] by a woman, yet may be done by a lay Israelite! Said Abaye: This is the refutation: Why is the woman excluded [from the slaughtering], because [Scripture said]: 'Eleazar', [implying] but not a woman; that [must be applied to] the lay Israelite also, for [the analogue inference]: 'Eleazar' [the priest], [implies] but not a lay Israelite.

'Ulla said: In that whole section [of the red heifer] there are [texts] implying an exception from a preceding implication, and [texts] independent [of preceding or following] implications: And ye shall give her unto Eleazar the priest[8] [implies] only this one to Eleazar, but not [the heifers] in later generations to Eleazar;[9] some say: In later generations [you shall give it] to the high priest, others: In later generations to a common priest. It is quite right according to him who holds that in later generations [the heifer is to be handed over] to a common priest,[10] but whence does he infer who holds that in later generations [it is to be given] to the high priest? — He infers it from [the identical word] 'Statute', 'Statute', used [also][11] in connection with the Day of Atonement.[12]

And he shall bring it forth[13] [implies] that he must not bring forth another one with her, as we have learnt:[14] If the heifer refused to go forth, one may not send a black one with her, lest people say: They slaughtered a black [heifer], nor may another red heifer be brought forth with her, lest people say: They slaughtered two. — R. Jose said: This comes not under this title,[15] but because it is written: [And he shall[16] bring it forth]; 'it', [implies] by itself. And the [anonymous] first Tanna [surely wrote] 'it'.[17] — Who is this first Tanna? It is R. Simeon who 'interprets[18] the reason of biblical law'. What is the difference between them? — There is a difference

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(1) Num. XIX,9 which implies that special watch must be kept with these till the sprinkling.
(2) Because day is stated specifically, Num. XIX, 12.
(3) No special verse is required that these may not be performed by a woman since 'Eleazar' or 'priest' is written throughout the section (Rashi).
(4) Ibid 2, 'law' implying uniform regulations for the whole ceremony.
(5) I.e., 'Do what is written here, but do not add to these regulations' (Rashi).
(6) Of Samuel, 42a, who holds that a lay Israelite may slaughter the heifer, for since the objection was raised in support of Rab, it must needs be an attack on Samuel's view.
(7) Whereas Samuel is said supra to declare it valid.
(8) Num. XIX, 3.
(9) Eleazar at that time was deputy high priest, and that heifer, by express statement of Scripture, was entrusted to him. In future, however, it would be given either to the high priest, or to a common priest (R. Hananel).
(10) For, since Scripture did not expressly state that it be handed over to the high priest, or his deputy, but merely by implication, the assumption seems justified that any priest could officiate at the ceremony.
(11) Lev. XVI, 29 and Num. XIX, 21, on which this analogy is based.
(12) Where the service is to be performed by the high priest.
(13) Num. XIX, 3.
(14) Parah III, 7.
(15) I.e., this is not the real reason, rather etc.
(16) The bracketed portion is omitted in the Talmud and supplied from the Mishnah, Parah III, 7.
(17) Which seemingly justified the excluding interpretation.
(18) Kid. 68b: Such interpretation will accordingly modify the law, extending or limiting it.

Talmud - Mas. Yoma 43a

if one should bring forth an ass with her.[1]

And he shall slay it [implies] that one must not slaughter any other [heifer] with it. Before him[1] [implies] according to Rab that he must not divert his attention from her; according to Samuel, that a lay Israelite may slaughter, and Eleazar look on.[2] And Eleazar the priest shall take of its blood with his finger[3] [is written] according to Samuel in order to refer it [the rite] back to Eleazar;[4] according to Rab:[5] this is a limitation following a limitation and a double limitation serves to widen the scope, viz., that even a common priest may do it. And the priest shall take cedar-wood, and hyssop, and scarlet,[6] [is written] according to Samuel, that even a common priest [may take and cast it] according to Rab:[7] it is necessary [to mention it], for you might have thought and said: Since these things do not belong to the heifer itself, they do not require any priest's service, therefore Scripture informs us [that they do]. Then the priest shall wash his clothes,[8] [implies] in his priestly[9] garments. And the priest shall be unclean until the even,[8] [implies] that he shall be in his priestly garments[10] even in future generations. That will be quite right according to him who holds that [the heifer ceremony] will in future generations be performed by a common priest,[11] but according to him who holds that in future generations [the heifer ceremony will be performed by] the high priest, now, since a high priest is required, is it necessary to state that he must be in his priestly garments? — Yes, Scripture does [occasionally] take the trouble to mention things which might have been inferred a minori.

And a man that is clean shall gather up the ashes of the heifer and lay them up[12] — 'a man,' [is written] to declare fit a lay Israelite;[13] 'that is clean' — to declare fit a woman; and 'lay them up' [implies] one who has understanding how to lay them up, that excludes one deaf and dumb, an idiot, and a minor, who have not the understanding of how to lay them up. We learned elsewhere:[14] All are fit to prepare [the waters of lustration][15] with the exception of the deaf and dumb, the idiot, and the minor. R. Judah declares fit a minor and disqualifies a woman and an hermaphrodite. What is the reason for the Rabbis' view? — Because it is written: And for the unclean they shall take of the ashes of the burning of the purification from sin [and put upon them running water in a vessel],[16] i.e., they[17] whom I declared unto thee unfit for the gathering [of the ashes] I also declared unto thee unfit for the preparation [of the waters of lustration], but they whom I declared fit to thee for the gathering, I have also declared unto thee fit for the preparation. And [what does] R. Judah [say]? — If that were so,[18] Scripture should have said: 'He shall take [we-lakah]';[19] what is the meaning of they shall take'? To intimate that even a minor whom I declared unto thee unfit there, is fit to act here.[20] — Whence does he know that a woman is unfit? — Because Scripture says: ['he shall put'] i.e., he, but not she, shall put. — And the Rabbis? — If the Divine Law had written 'He shall take','he shall put', one might have assumed the same man must both give and put, therefore Scripture wrote 'and they shall take'. And if the Divine Law had stated 'they shall take' and [also] 'they shall put', one might have assumed that there must be two to take and put, therefore Scripture wrote: 'they shall take' and 'he shall put', to indicate that even if [it is right] two take [the ashes] and one puts [the running water in a vessel]. — And a clean man shall take hyssop, and cup it in the water [and sprinkle],[21] according to the Rabbis:[22] 'A man' [implies] but not a woman; 'clean' is [written] to declare fit[23] even a minor; according to R. Judah:[24] 'a man' [implies] but not a minor; 'clean' to declare fit a woman.

An objection[25] was raised: 'All are qualified to sprinkle except one whose sex is unknown, an hermaphrodite and a woman; but a child that is without[26] understanding, a woman may aid in sprinkling'

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(1) According to the first Tanna that would be permitted, because the presence of the ass could not mislead people into the assumption that it was he who is sacrificed; according to Rabbi, it would be forbidden, for 'it' excludes permission for any other animal to be brought forth together with her.

(2) V. supra 42a.

(3) Ibid. 4.

(4) Since 'he shall slay' refers, according to Samuel, to the lay Israelite, it was necessary to emphasize that the sprinkling had to be done by 'Eleazar', otherwise it might have been assured that it could be performed by the lay Israelite who did the slaughtering.

(5) Who refers 'he shall slay' to the priest, the repetition of 'Eleazar' here is apparently superfluous.

(6) The repetition indicating that no limitation is intended, but only exemplification.

(7) Who permits a common priest to receive the blood, this passage being independent of the preceding implication.

(8) Lev. XIX, 7.

(9) It was superfluous to state 'the priest' again, since we are dealing but with him, the implication therefore is that he must do it in his priestly garments.

(10) When performing the red heifer ritual.

(11) Who does not draw an analogy from the identical words 'statute', occurring both in connection with the Day of Atonement and with the heifer; hence it is necessary to state that in the future, nonetheless, he must then wear his official garb.

(12) Num. XIX, 9.

(13) For gathering up the ashes.

(14) Parah V, 4.

(15) I.e., to put water over the ashes.

(16) Num. XIX, 17.

(17) 'They' referring to such as were declared fit for the immediately preceding rite of gathering the ashes mentioned in verse 9.

(18) That 'they' refers to such as are mentioned in verse 9.

(19) Just as in verse 9 the singular is used.

(20) A minor is not permitted to gather the ashes, but he may put the water in the ashes.

(21) Num. XIX, 18.

(22) Who hold that the mixing of the ashes and water may be done only by such as are fit to gather the ashes, thus excluding a minor.

(23) Had the same regulation implied in verse 9 applied also to sprinkling, the phrase 'a clean man' would have been superfluous here.

(24) Who disqualifies a woman and declares fit a minor for the mixing of the ashes with the water.

(25) Parah XII, 10.

(26) Corrected according to the Mishnah. The Talmud here reads: a child that has understanding.

Talmud - Mas. Yoma 43b

and here R. Judah does not dispute?[1] — Abaye said: Since the Master said that this chapter contains [texts] implying an exception from a preceding implication, and [texts] independent of preceding or following implications he surely disputes.

And the clean person shall sprinkle upon the unclean,[2] 'clean' implies that he was unclean before,[3] that informs us that a tebul-yom is qualified [to officiate] at the heifer [ceremony]. R. Assi said: When R. Johanan and Resh Lakish engaged in investigating questions about the heifer, they were unable to produce more than what a fox can bring up from a ploughed field, but they said this chapter contains [texts] implying an exception from a preceding implication, and [texts] independent of preceding or following implications.[4]

A tanna[5] recited before R. Johanan: All the slaughterings may be performed by a lay Israelite with the exception of that of the [red] heifer. R. Johanan said to him: Go out and teach it in the street![6] We do not find that slaughtering is disqualified [if performed] by a lay Israelite. Nor would R. Johanan not listen only to a tanna [in this matter] he would not even listen to his own master, for, whereas R. Johanan said in the name of R. Simeon b. Jehozadak: The slaughtering of the heifer by a lay Israelite is invalid [he added]: But I say, it is valid, for we do not find that slaughtering [of sacrifices] by a lay Israelite is invalid.

HE CAME TO HIS SECOND BULLOCK: Why is it that in the first confession he does not say 'And the children of Aaron, Thy holy people' and in the second confession he mentions: 'The children of Aaron, Thy holy people'? — The school of R. Ishmael taught: Common sense dictates[7] this: It is better that one innocent[8] obtain atonement for the guilty, than that one guilty obtain atonement for the guilty.

MISHNAH. HE KILLED IT [THE BULLOCK] AND RECEIVED ITS BLOOD IN A BOWL. AND HE GAVE IT TO THE ONE WHO SHOULD STIR IT UP ON THE FOURTH TERRACE WITHIN THE SANCTUARY[9] LEST IT CONGEAL.[10] HE TOOK THE COAL-PAN AND WENT UP TO THE TOP OF THE ALTAR, CLEARING THE COALS TO BOTH SIDES, TOOK A PANFUL OF THE GLOWING CINDERS FROM BELOW, CAME DOWN AND PLACED THE COAL-PAN ON THE FOURTH TERRACE IN THE TEMPLE COURT.[11] ON OTHER DAYS HE WOULD TAKE OUT [THE CINDERS] WITH A SILVER COAL-PAN, AND EMPTY IT INTO ONE OF GOLD, BUT THIS DAY HE TOOK THEM OUT WITH A GOLDEN [COAL-PAN] IN WHICH HE WAS TO BRING THEM. IN [THE INNER SANCTUARY] ON OTHER DAYS[12] HE WOULD TAKE THEM UP WITH A COAL-PAN CONTAINING FOUR KABS, AND EMPTY IT INTO ONE CONTAINING THREE KABS,[13] THIS DAY HE TOOK THEM OUT WITH ONE CONTAINING THREE KABS, IN WHICH HE BRINGS OUGHT [THE CINDERS] IN, TOO. R. JOSE SAID: ON OTHER DAYS HE WOULD TAKE THEM OUT WITH ONE CONTAINING ONE SE'AH, AND EMPTY IT INTO ONE CONTAINING THREE KABS, THIS DAY HE TOOK THEM OUT WITH ONE CONTAINING THREE KABS, IN WHICH HE ALSO BRINGS IN [THE CINDERS]. ON OTHER DAYS THE PAN WAS HEAVY, TODAY IT WAS LIGHT.[14] ON OTHER DAYS ITS HANDLE WAS SHORT, TODAY IT WAS LONG.[14] ON OTHER DAYS IT WAS OF YELLOWISH GOLD, TODAY OF RED GOLD. THIS IS THE STATEMENT OF R. MENAHEM. ON OTHER DAYS HE WOULD OFFER HALF A MINA [OF INCENSE] IN THE MORNING AND HALF A MINA IN THE AFTERNOON, TODAY HE ADDS ALSO HIS TWO

HANDS FULL.[15] EVERY DAY IT WAS FINE, BUT TODAY THE FINEST POSSIBLE.[16] ON OTHER DAYS THE PRIESTS WOULD GO UP ON THE EAST SIDE OF THE RAMP[17] AND COME DOWN ON THE WEST SIDE, TODAY THE HIGH PRIEST GOES[18] UP IN THE MIDDLE AND COMES DOWN IN THE MIDDLE. R. JUDAH SAYS: THE HIGH PRIEST ALWAYS GOES UP IN THE MIDDLE AND COMES DOWN IN THE MIDDLE. ON OTHER DAYS THE HIGH PRIEST SANCTIFIED HIS HANDS AND FEET FROM THE LAVER, THIS DAY FROM A GOLDEN LADLE. R. JUDAH SAYS: THE HIGH PRIEST ALWAYS SANCTIFIES HIS HANDS AND FEET FROM A GOLDEN LADLE. ON OTHER DAYS THERE WERE FOUR WOOD-PILES THERE,[19] TODAY FIVE, THUS SAYS R. MEIR. R. JOSE SAYS: ON OTHER DAYS THREE, TODAY FOUR. R. JUDAH SAYS: ON OTHER DAYS TWO, TODAY THREE. GEMARA. But it is written: And there shall be no man in the tent of meeting?[20] R. Judah said: Read: Of the Hekal.[21]

Our Rabbis taught: ‘And there shall be no man in the tent of meeting’[22]

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(1) Tosaf s.v. Velo expresses amazement at the fact that the questioner overlooks the Tosefta, in which R. Judah actually does dispute the anonymous Mishnah. It is to be found in Parah XII, 8, which, as Tosaf suggests, the questioner may not have known the Mishnah containing no such dispute of R. Judah's.

(2) Num. XIX, 19.

(3) The word ‘tahor’ (a clean person) is superfluous, since Scripture just speaks of him, hence it must mean one who is clean again, hence was unclean before. The inference for a tebul-yom (v. Glos.) thus appears justified.

(4) Hence it is impossible to explain them on one schema, because of the particular condition of this chapter, but for the tradition, the inferences would appear incompatible.

(5) V. Glos. s.v. (b).

(6) I.e., it is not fit for the Academy, we cannot accept your report.

(7) Lit., ‘the norm of justice’.

(8) The high priest is adjudged innocent, after having besought and obtained forgiveness for himself.

(9) V. Gemara, loc. cit.

(10) Through being kept there until the time of the smoking of the incense.

(11) Now he would take the incense with his hands and place it in the golden pan.

(12) Tamid V, 5.

(13) This list will prove’ helpful: 1 log=6 eggs; 1 kab =4 logs; 1 se'ah =6 kabs.

(14) The lighter pan and the longer handle were to assist the high priest in his heavy labour on the Day of Atonement.

(15) Both the daily incense on the golden altar in the inner Sanctuary. and the special incense for the day — the latter on a golden pan — were on the Day of Atonement, offered up by the high priest alone.

(16) I.e., ground very thin, thus of finest quality. Ex. XXX, 36.

(17) To the outer altar there were no steps, but the ramp, built ‘In the south of the altar, covering nine cubits of height. The priests went up to the right and down to the left.

(18) Var. lec., ‘Today they went up etc.’ V. Gemara.

(19) Explanation in the Gemara.

(20) Lev. XVI, 17. How then could the priest stir the blood on the fourth terrace in the Sanctuary?

(21) I.e., the fourth terrace leading from the Sanctuary to the Court. v. Mid. III, 6.

(22) Lev. XVI, 17.

Talmud - Mas. Yoma 44a

— one could assume, not even in the Temple Court, therefore it says: ‘in the tent of meeting’. I know [this prohibition] only for the tent of meeting in the wilderness. Whence do we know thereof for Shiloh and the everlasting Sanctuary? To teach us that [Scripture] says in the holy place. I know [the prohibition] only during the time of [the smoking of] the incense, whence [do I know that it applies also] during the time of the sprinkling of the blood? To teach us that, Scripture says: until he come out and have made atonement for himself. — I know it only at the [time of] his entering.

Whence do I learn at his coming forth? To teach us that it says: until he come out. And he shall have made atonement for himself, and for his household, and for all the assembly of the house of Israel, i.e., the atonement for himself precedes that for his household, and the atonement for his household precedes that for his brethren, the priests and the atonement for his brethren, the priests, precedes that for all the assembly of Israel.

The Master said: I know [of the prohibition] only for the time of [the smoking of] the incense. How is this implied? — Raba, and thus also R. Isaac b. Abdimi, and thus also R. Eleazar said: Scripture says: ‘And he shall have made atonement for himself, and for his household, and for all the assembly of the house of Israel’. What atonement is there which obtains evenly for himself, his household, his brethren, the priests, and the whole assembly of the house of Israel? It is the smoking of the incense. But does the incense obtain atonement? — Indeed, for R. Hananiah cited:[1] We learn that the incense obtains atonement for what was said: And he put on the incense and made atonement for the people.[2] And the School of R. Ishmael taught: Why does incense obtain atonement for [the sin] of the evil tongue [evil speech]? Let that which is [performed] in secret[3] come and obtain atonement for what is committed in secret!

We have learnt elsewhere:[4] People must keep away from the place between Ulam[5] and altar at the time of the smoking of the incense. R. Eleazar said: This was taught only during the time of the smoking of the incense in the Sanctuary, but during the time the incense was smoked in the Holy of Holies, people had to keep away from the Hekal, but not from the place between the Ulam and the altar.

A. Adda b. Ahabah, or as some say, Kadi,[6] raised the following objection: R. Jose says: ‘Just as they keep away from the place between Ulam and altar during the [smoking of] the incense, so do they keep away at the time of the sprinkling of the blood of the anointed priest's bullock,[7] and of the bullock offered up because of an error of the congregation,[8] and of the he-goats [offered up] because of idolatry.[9] What gradation of sanctity is there, then, between the Hekal and the space between Ulam and altar? [None] except that from the Hekal men keep away both during the time of the smoking of the incense, and outside of the time of the smoking of the incense, but from the space between Ulam and altar people keep away only in the time of the incense. At any rate, at the time of the smoking of the incense, they do keep away.[10] Would you not say [it means] during the time of the smoking [of the incense] in the Holy of Holies?[11] — No, [the reference is to the time of smoking] in the Hekal.[12] If so, [how explain] ‘what then is the gradation between the two places’ etc.? Is the above the only difference in gradation?[13] Is there not also this difference: that from the Hekal they keep away during the time both of the smoking of the incense in the Hekal itself, and of the smoking of the incense in the Holy of Holies, whereas from the place between Ulam and altar they keep away only during the time of the smoking of the incense in the Hekal itself? — This [exactly] is what he teaches: ‘Except that from the Hekal men keep away, both during the time of the smoking of incense [in the Hekal] and outside of the time of the smoking of the incense [in the Hekal],[14] but from the place between Ulam and altar they keep away

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(1) ‘Ar. 16a.

(2) Num. XVII, 12.

(3) In the Holy of Holies, hence — since none but the high priest could enter it — ‘in secret’.

(4) Kel. I, 9.

(5) The hall leading to the interior of the Temple.

(6) Either the name of an otherwise unknown Amora, or ‘As the case may be’; or an anonymous Amora; or ‘a fictitious one’, cf. B.M. 2a.

(7) V. Lev. IV, 3ff.

(8) Lev. IV, 13ff.

(9) Num. XV, 24; traditionally interpreted as the sin of idolatry.

(10) Even from the space between the [Ulam and the altar.

(11) Which refutes R. Eleazar.

(12) But at the time of the incense smoking in the Holy of Holies they separate only from the Hekal but not from the space between Ulam and the altar.

(13) Lit., 'and no more'.

(14) I.e., when incense is offered in the Holy of Holies.

Talmud - Mas. Yoma 44b

only in the time of the smoking of the incense [in the Hekal]. — But there is also this gradations that they keep away from the Hekal both during its own sanctification[1] and that of the Holy of Holies, whereas from the space between Ulam and altar they do not keep away except when the Hekal is being sanctified? — Raba said: The term 'keep away' includes it all in one.[2]

The Master said: So do they keep away at the time of the sprinkling of the blood of the anointed priest's bullock, and of the bullock offered up because of an error of the congregation, and of the he-goats offered up because of idolatry. Whence do we know that? — R. Pedath said: We infer that from the identity of the word 'atonement' [occurring also] with reference to the Day of Atonement.

R. Aha b. Ahabah said: Conclude from this that the gradations of sanctity[3] are Biblical, and thus they have learnt them by tradition, for if it should enter your mind that they are only Rabbinical enactment, then what [in law] is the difference in the space between Ulam and altar [from which they must keep away] for fear that they might enter by accident, they should [analogically] keep away from the whole Temple Court out of fear that they might accidentally enter? — The space between Ulam and altar, since it is not marked off in any fashion,is not recognizable sufficiently, whereas the Temple Court, since there is the outer altar to mark it off, is sufficiently recognizable.[4] Raba said: Conclude from this that the holiness of Ulam and Hekal is the same. For if it should enter your mind that they are of two different degrees of sanctity, then the sanctity of the Ulam itself is due only to rabbinic enactment; shall we then enact a preventive measure to prevent the violation of another preventive measure?[5] — No, the Ulam and the space between Ulam and altar are of one degree of sanctity, the Hekal and the Ulam, however, are of two degrees of sanctity.

ON OTHER DAYS HE WOULD TAKE THEM OUT WITH A SILVER COAL-PAN: What is the reason? The Torah has consideration for the money of Israel.[6]

TODAY HE TOOK THEM OUT WITH A GOLDEN PAN IN WHICH HE WAS TO BRING THEM IN: Why? [To prevent] weakness of the high priest.[7]

ON OTHER DAYS HE WOULD TAKE THEM UP WITH A COAL-PAN CONTAINING FOUR KABS: A Tanna taught:[8] One kab of the embers became scattered,[9] and he swept it into the channel.[10] One [Baraitha] teaches one kab, and another two kabs? It is quite right according to the one which teaches 'one kab', for it is in accord with what the Rabbis said, but the one that taught 'two kabs' is in accord neither with the Rabbis nor with R. Jose?[11] — R. Hisda said: It is R. Ishmael, the son of R. Johanan b. Beroka, for it was taught: R. Ishmael, son of R. Johanan b. Beroka said: He brought [the cinders] in a pan containing two kabs. — R. Ashi said: You can also say that it is in accord with R. Jose and he said it thus: On other days he would take them up with a pan containing a se'ah of the wilderness,[12] and pour it into one containing three Jerusalem kabs.

ON OTHER DAYS THE PAN WAS HEAVY, TODAY IT WAS LIGHT: A Tanna taught: On other days it was of thick size, but this day it was thin.

ON OTHER DAYS ITS HANDLE WAS SHORT, TODAY LONG: Why that? So that the arm of the high priest may support it. A Tanna taught: On other days it had no covering,[13] today it had one — this is the statement of the son of the Segan.[14]

ON OTHER DAYS ITS GOLD WAS YELLOWISH: R. Hisda said: There are seven kinds of gold:[15] gold; good gold; gold of Ophir;[16] fine[17] gold; spun[18] gold; locked[19] gold; Parwayim[20] gold. Gold and good gold, as it is written:[21] And the gold of that land is good. Ophir gold: [so called] because it derives from Ophir. Fine [mupaz] gold

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(1) I.e., which would include also the sprinkling of blood.

(2) They both come under one head, independent of the particular rite which is the cause for the keeping away.

(3) Enumerated in Mishnah Kelim 1, 6 — 9.

(4) So as to prevent their entering by mistake, or accident.

(5) In Bez. 3a.

(6) Supra 39a.

(7) That is why he did not have to pour it into another pan. Having the whole heavy programme of the Day of Atonement on his shoulders, all legitimate relief is provided.

(8) V. Tamid 33a.

(9) When he emptied the coal-pan containing four kabs into one containing only three.

(10) V. Shek. IV, 2.

(11) According to whom three kabs would be scattered.

(12) Corresponding to six ‘desert’ or five Jerusalem kabs, the difference between the two being one sixth. The desert se'ah has five Jerusalem kabs and when the priest pours out three, two remain.

(13) A difficult word, obscure in etymology: variously translated as case, covering. v. Otzar ha-Geonim, ed. B.M. Lewin VI, 21: ‘attachment’, a contrivance to prevent the handle of the coal-pan from getting too hot. J.T. נרתיק, ‘case’, ‘casket’.

(14) Perhaps the son of R. Hanina the Segan; perhaps also the last to hold this title, v. Bacher. Agada I, 55.

(15) Mentioned in the Bible.

(16) I Kings X, 11.

(17) Ibid. 18. Tosaf cites the J.T. explaining it to be gold without dross or alloy.

(18) Ibid. 16.

(19) Ibid. 21. The AJP Bible translates it ‘pure’ gold. ‘Closed’ to all dross, hence ‘solid’ would suit it as well.

(20) II Chron. III, 6, obviously the name of a place. The explanation here is homiletical.

(21) Gen. II, 12.

Talmud - Mas. Yoma 45a

, because it resembles [the shining jewel] paz. Spun gold, because it is spun like a thread. Locked [rare] gold, because when its sale is opened, all other shops are being locked up.[1] Gold of Parwayim, because it looked like the blood of a bullock [par]. R. Ashi said: There are but five [varieties], each having gold and good gold. Thus was it also taught:[2] ‘On other days the gold was yellowish, this day it was red and that was the Parwayim gold, which looks like the blood of a bullock.’

ON OTHER DAYS HE WOULD OFFER UP HALF [A MINA] ETC., ON OTHER DAYS IT WAS FINE, TODAY MOST FINE: Our Rabbis taught: Why was it necessary to state ‘beaten small’[3] since it is written already: And thou shalt beat some of it very small?[4] It is but to intimate that it must be most fine. ON OTHER DAYS THE PRIESTS WOULD COME UP ON THE EASTERN SIDE OF THE RAMP: Because a master said: Any turn you make shall be but to the right, i .e., toward the east.[5]

BUT TODAY HE COMES UP IN THE MIDDLE, AND GOES DOWN IN THE MIDDLE: Why? To honour the high priest.[6]

ON ALL DAYS THE HIGH PRIEST SANCTIFIED HIS HANDS AND FEET FROM THE LAVER etc.: Why? To honour the high priest.

ON OTHER DAYS THERE WERE FOUR WOOD-PILES THERE: Our Rabbis taught:[7] On other days there were two wood-piles, today three; one for the big wood-pile; one for the second pile for the incense, and one which is added for this day;[8] this is the opinion of R. Judah. R. Jose said: On other days three, today four: one for the big wood-pile, one for the second pile of the incense, one to keep up the fire,[9] and one which was added for this day. R. Meir said: On all days four and today five; one for the big wood-pile, one for the second pile for the incense, one to keep up the fire, and one for [the burning of] limbs and fat-pieces which had not been consumed on the eve, and one which was added on this day. At any rate all are agreed about two, whence do they know it? — Scripture says: It is that which goeth up on its firewood upon the altar all night,[10] i.e., the big pile. And the fire of the altar shall be kept burning thereby,[10] i.e., the second pile for the incense. Whence does R. Jose infer the [pile for] keeping up the fire? He infers that from: And the fire of the altar shall be kept burning thereby.[10] And R. Judah? This [verse] refers to the kindling of the [splinters of] fig-wood,[11] for it was taught: R. Judah used to say: Whence do we know that the kindling of the fig-tree splinters must take place only on the top of the altar? To teach us that, it says: ‘And the fire of the altar shall be kept burning thereby’. R. Jose said: Whence do we know that a [special] pile is made up to keep the fire burning? To teach us that it says: ‘And the fire of the altar shall be kept burning thereby.’ But whence does R. Jose infer that the fig-tree splinters must be kindled [on the top of the altar]? — He infers it from whence R. Simeon infers it. For it was taught:[12] And the sons of Aaron the priest shall put fire on the altar[13] — that teaches that the kindling of the fig-tree wood must be done by a priest and in a ministering vessel;[14] thus, R. Judah. R. Simeon said to him: How could it enter your mind that a lay Israelite could come up to the altar? Rather does [this passage] teach that the kindling of the fig-wood must take place on the top of the altar. And R. Judah? If we had to infer it from there, we might assume he may stay on the ground and kindle it with bellows, therefore he informs us [as above]. Whence does R. Meir know about limbs and fat-pieces unconsumed from the eve before [requiring a special pile]?[15] — He infers it from ‘And the fire’. And the Rabbis? — They do not interpret the ‘And’ [waw]. But, what, according to the Rabbis, does he do with the limbs and fat-pieces unconsumed from the eve before? — He returns them to the big pile, for it was taught: Whence do we know of limbs and fat-pieces unconsumed from the eve before

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(1) For as long as such gold was obtainable in one shop, none would go to buy in any other.

(2) In support of the explanation of ‘Parwayim’.

(3) Lev. XVI, 12.

(4) Ex. XXX, 36, for all days of the year, therefore a minori for the Day of Atonement.

(5) [The ramp being on the southern side of the altar, by ascending on the eastern side of the ramp, the east of the altar, towards which he has turned is immediately on his right, thus obviating unnecessary movement in the Temple.]

(6) [As a mark of distinction he has the privilege of walking about freely in the Temple without restricting his movements to the minimum. Var. lec.: ‘They’ i.e., the high priest and those who accompany him as a mark of honour].

(7) V. Tosef. Yoma III.

(8) To take thence embers for the incense to be smoked in the Holy of Holies.

(9) In case the fire of the great pile did not keep up strong, one added fire from here.

(10) Lev. VI, 2.

(11) Whereby the big pile was lit,

(12) Supra 24b.

(13) Lev. I, 7.

(14) I.e.,the priest must perform this in his priestly vestments.

(15) Since he uses the above passage for his own interpretation.

Talmud - Mas. Yoma 45b

that he lays them in order on the altar, and if the latter cannot hold them, that he lays them on the ramp, or on the gallery,[1] until the great pile is made? To teach us that, Scripture says: Whereto the fire hath consumed the burnt-offering on the altar.[2] And R. Meir?[3] — [This is to teach] you may place back [there] unconsumed parts of the 'burnt-offering', but you may not place there unconsumed parts of the incense, for R. Hanania b. Minumai, of the school of R. Eliezer b. Jacob, said [with reference to]: 'whereto the fire hath consumed the burnt-offering on the altar' — you place back unconsumed parts of the burnt-offering, but you do not place back unconsumed parts of the incense. At any rate all agree that one adds [an additional pile] on that day; whence do they infer that? — They infer that from: 'And the fire', for even he who does not expound a 'waw', expounds 'waw he' [and the].[4] What does 'Fire shall be kept burning upon the altar continually'[5] mean? — It is required as it was taught: 'Fire shall be kept burning on the altar continually'; it shall not go out — that teaches concerning the second pile for the incense that it shall be laid in order only on the outer altar.[6] Whence do we know that about fire, for the coal-pan, [on the Day of Atonement] and for the candlestick?[7] That can be inferred as follows: The word esh [fire] is mentioned in connection with the incense,[8] and the same word is mentioned in connection with coal-pan and candlestick; hence just as the former comes upon the outer altar, so do the latter come upon the outer altar. Or turn this way[9] [perhaps]: the word esh [fire] is mentioned in connection with incense and is also mentioned in connection with coal-pan and candlestick; just as for the former it comes [for the altar] 'near to it',[10] so for the latter it comes [from the altar] near to it.[11] To teach us [the right law] Scripture says: 'Fire shall be kept burning on the altar,' it shall not go out i.e., the continual fire whereof I spoke[12] to you must be nowhere else but on the top of the outer altar. We thus learned it for the fire of the candlestick, whence do we know it for the fire of the coal-pan? This can be inferred: [The word] 'esh' [fire] is stated in connection with the coal-pan, and 'esh' is used in connection with the candlestick, hence just as the former comes from the outer altar, so does the latter come from the outer altar. But, perhaps turn this way: [the word] 'esh' is mentioned in reference to the incense, and 'esh' is used in connection with the coal-pan; hence just as the former comes from [the altar] near to it, so the latter too comes from [the altar] near to it. Therefore it says: And he shall take a censer full of coals of fire from off the altar before the Lord[13] Now which altar is [only] partly before the Lord, but not wholly before the Lord? You must say it is the outer altar.[14]

Now it was necessary [for Scripture] to mention both 'from off the altar' and from 'before the Lord'. For if the Divine Law had written only 'from off the altar' I might have said: That 'altar' means the inner altar, hence the Divine Law said: 'from before the Lord.'[15] And if the Divine Law had written: 'From before the Lord' [alone], I might have said it must be exactly before the Lord,[16]

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(1) The sobeb v. Glos.

(2) Lev. VI, 3. This is superfluous in view of the preceding 'it is that which goeth up on its firewood', hence the derivation.

(3) How does he explain this verse.

(4) As in this case where it is written 'and the fire' a superfluous letter may have some intimation, two unnecessary ones must have it.

(5) Lev. VI, 6.

(6) 'The altar' in the cited verse referring to the outer altar.

(7) I.e., that they are to be fetched from the other altar.

(8) According to Rashi the word 'esh' is not really mentioned, but implied: he shall smoke it 'and there can be no smoke without fire'; but Tosaf. cites Num. XVI, 18, where the word fire is actually explicit in connection with incense.

(9) I.e., argue thus; a suggestion opposed to the preceding one is occasionally introduced by this composite word.

(10) The inner altar is in the neighbourhood of the outer altar.

(11) I.e., the inner altar which is nearest to the candlestick and the Holy of Holies.

(12) I.e., the perpetual light of the candlestick, v. Ex. XXVII, 20.

(13) Lev. XVI, 12.

(14) Since the inner altar is entirely facing the inner Sanctuary.

(15) ‘Mi-lifne’ — ‘from before’ is taken to mean ‘only part of the altar is before the Lord.’

(16) I.e., just opposite the entrance of the Sanctuary.

Talmud - Mas. Yoma 46a

but not to one side or to the other,[1] therefore it was necessary [to have both phrases].

R. Eleazar said in the name of Bar Kappara: R. Meir used to say: For any of the limbs of the [daily] burnt-offering which remained over,[2] a special pile is to be arranged, even on the Sabbath. What is he teaching us? Have we not learnt: Every day there were four piles of wood there?[3] — R. Abin said: It was necessary [to state it] for those which became [somewhat] invalidated.[4] [This however] is only when the fire has already touched them, but not when the fire has not taken hold of them. Some there are who say: Whether they were valid or invalid[4] [the same rule applies]: If the fire had touched them, a special pile is needed but if not, not. [You say] ‘Even on the Sabbath’. [Surely] we have learnt thus: AND TODAY FIVE [PILES OF WOOD]![5] — R. Aha b. Jacob said: It was necessary [to mention that]. The thought might have arisen in you that this applied only when the Day of Atonement fell [immediately] after Sabbath, because the fat-pieces of the Sabbath may be offered up on the Day of Atonement, but not [if it fell] in the middle of the week, therefore he informs us [that it applies then too].

Raba said: Who is it that does not care what flour he grinds?[6] Have we not learnt: On all other days?[7] [These were four]-This is a real difficulty. Now he [Bar Kappara] disputes with R. Huna who holds: The continual offering suspends the Sabbath only at its beginning, but not at its end.[8]

[To turn to] the main text: The continual offering suspends the Sabbath only at its beginnings not at its end. What does it not suspend? — R. Hisda says: It suspends the Sabbath, but not the law of levitical impurity. Rabbah said: It suspends the law of levitical impurity,[9] but not the Sabbath. Said Abaye to Rabbah: There is a difficulty on your view as well as on the view of R. Hisda. According to you, there is a difficulty: Why does it suspend the law of levitical impurity? Because Scripture said: In its due season[10] i.e., even in levitical uncleanness, [it should suspend also] the Sabbath, [since] ‘in its due season’ [implies] even on the Sabbath? — And according to R. Hisda there is a difficulty. Wherefore the difference [in law in the case of] Sabbath touching which it is written: ‘In its due season’ [i.e.] even on the Sabbath; the same should apply to levitical impurity, since ‘In its due season’ [implies] even in levitical uncleanness.[11] He answered: There is no difficulty according to my view, nor is there any difficulty according to R. Hisda. There is no difficulty on my view; for the beginning is like the end

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(1) Though it is on the western side of the altar.

(2) I.e., the limbs had been only partly consumed.

(3) One of which was meant for the limbs of the burnt-offering of the Temple, which remained over.

(4) I.e., Only in so far that they were not to be offered at the altar at the outset, though once they had been brought upon the altar they could be allowed to remain there to be consumed.

(5) And the same regulation governs both the Sabbath and the Day of Atonement, and it was taught that for the limbs of the continual dusk-offering a special pile was established on the Day of Atonement.

(6) I.e., does not care what argument he offers. Just as one who does not care what flour he grinds. will hurt his body through indigestible food, so will one who is not sensitive to careless thinking in his study, hurt his mind. V. Lewin, Otzar VI, 55, 170.-D.S. adduces a reading from the Aruk, ‘he does not care what comes before him’, i.e., he ignores texts in theorizing.

(7) Which includes the Sabbath.

(8) This offering is sacrificed on the Sabbath day, notwithstanding the fact that the labour involved many kinds of work expressly forbidden on that day. But only at the beginning. i.e.,if the beginning of that sacrifice has to be made on the Sabbath. Of the Friday dusk-offering, however, the limbs must be smoked before the Sabbath. Since it belongs to Friday it would be desecration to continue it on the Sabbath.

(9) Cf. supra 6b.

(10) Num. XXVIII, 2.

(11) For if no clean priest is present to sprinkle the blood, even one in the state of levitical uncleanness is permitted to do so.

Talmud - Mas. Yoma 46b

[consequently] in the case of the law of levitical impurity, since it is suspended at the beginning it is also suspended at the end, but with regard to the Sabbath, since it is not suspended at the beginning[1] it is also not suspended at the end. Nor is there any difficulty according to R. Hisda: He does not hold that the end is like the beginning: [consequently] with regard to the Sabbath, since it is inoperative when a community sacrifice is concerned, it is suspended also at the end of the sacrifice, whereas as regards the law of levitical uncleanness, since in the face of a community sacrifice it is only suspended,[2] it is suspended only at the beginning which is essential for [the obtainment of] atonement, but not at the end, which is not essential for atonement.

It was stated: If one puts out the fire of the coal-pan or of the candlestick, Abaye holds him guilty,[3] Raba holds him not guilty. If he put it out on the top of the altar, all agree that he is guilty, they dispute it only if he brought it down to the ground and put it out there. Abaye holds him guilty 'because it is fire of the altar'; whereas Raba holds him guilty, 'since he snatched it away, he has snatched it'.[4] According to whose opinion will be, then, what R. Nahman said in the name of Rabbah b. Abbuha: 'One who takes an ember down from the altar and puts it out is guilty' shall we say it will be in accord with Abaye?[5] — You may also say that it is in accord with Raba, for in the one case it was not snatched away' for its ordained use,[6] in the other case it was snatched away' from the altar for its ordained use.

Some there are who say: None disputes the case where he took it down to the floor and put it out there, [all agreeing] that he is not guilty, the dispute concerns but the case where he put it out on the top of the altar. Abaye holds he is guilty 'because it is the top of the altar', whereas Raba holds him guilty, 'since he snatched it away, he has snatched it'. According to whose opinion, then, will be the teaching of R. Nahman in the name of Rabbah b. Abbuha viz.: 'One who brings an ember down from the altar and puts it out is guilty', — will you not say it will be in accord with neither Abaye nor Raba? — [No], there it was not snatched away for its ordained use, here it was snatched away' for its ordained use. [

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(1) The Friday dusk-offering must be offered before Sabbath since the blood of the offering would become useless, invalidated, if not sprinkled before sunset.

(2) Only 'with difficulty' but never imperative, every attempt must be made to prepare the sacrifice in levitical cleanness. V. Supra 7b.

(3) Of having transgressed the prohibition: 'It shall not go out' i.e.,it must not be put out, Lev. VI, 6.

(4) And it has lost its sacred character, hence what he put out on the floor was no more a coal sanctified on the altar whence he does not become guilty of transgressing the prohibition.

(5) The adopted opinion in disputes between Abaye and Raba is in the overwhelming majority in accord with Raba, whence the question as to the meaning of his teaching an invalid opinion. V. B.M. 22b.

(6) To place it in the coal-pan.

Talmud - Mas. Yoma 47a

C H A P T E R V

MISHNAH. THEY BROUGHT OUT TO HIM THE LADLE AND THE PAN. [FROM THE LATTER] HE TOOK HIS TWO HANDS FULL [OF INCENSE] AND PUT IT INTO THE LADLE, A TALL [HIGH PRIEST] ACCORDING TO HIS SIZE, A SHORT ONE ACCORDING TO HIS SIZE AND THUS WAS ITS MEASURE. HE TOOK THE PAN[1] IN HIS RIGHT [HAND] AND THE LADLE IN HIS LEFT [HAND].

GEMARA. THE PAN? But was it not taught:[2] He took the pan and went up to the top of the altar, took out the burning coals, and went down? — There the reference is to the pan of burning coals, here to the pan of the incense. For it was taught:[3] One brought out for him the empty ladle from the Cell of Vessels, and the heaped pan of incense from the Cell of the House of Abtinas.[4]

HE TOOK HIS TWO HANDS FULL AND PUT IT INTO THE LADLE, A TALL [HIGH PRIEST] ACCORDING TO HIS SIZE, A SHORT ONE ACCORDING TO HIS SIZE AND THUS WAS ITS MEASURE: For what purpose was the ladle on the Day of Atonement necessary? Surely the Divine Law said: [And he shall take] his hands full and bring it[5] — Because [otherwise] it is impossible.[6] For how shall he do it? Shall he bring in [the pan of burning coals] and then again bring in [the incense]?[7] The Divine Law refers to one 'bringing in', not to two 'bringings in'. — Shall he take the incense in his handfuls and place the pan[8] [of burning coals] on top of it, entering thus? Then when he comes [within the veil] how shall he act? Shall he take it between his teeth and set the pan [of burning coals] down? Now, if such procedure is unseemly in the presence of a mortal king, how much less seemly is it before the Supreme King of Kings, the Holy One, blessed be He? — Thus it is impossible and since it is impossible, we do it as we find it in connection with the [offerings of the] princes.[9]

He took the pan[10] in his right hand and the censer into his left hand.[11] 'The native below and the alien in the heavens above'?This one [the ladle] is small, the other [coal-pan] large,[12] and even where both are alike, as with R. Ishmael b. Kimhith, the one is hot and the other cold. It was reported about R. Ishmael b. Kimhith that he was able to take four kabs in his two handfuls, saying: All women are valiant but the valour of my mother exceeded them all.[13] Some interpret it[14] as referring to the crumb-dough,[15] in accord with Rabbah b. Jonathan who said in the name of R. Yehiel that crumb-dough is very helpful to a sick person. Others say it refers to the [healthy] semen [she received], in accordance with what R. Abbuha asked. For he raised a contradiction: It is written: For thou hast sifted[16] me with strength unto the battle[17] but it is also written, Who has girded me with valour [for the battle][18] [to interpret the divergence thus]: David said before the Holy One, blessed be He: Lord of the Universe, Thou hast [first] 'carefully sifted' and then strengthened me. It was told of R. Ishmael b. Kimhith[19] that one day he talked in the street to an Arab, and spittle from his mouth flew on his garments,[20] whereupon his brother Jeshebab entered and ministered in his stead. Thus their mother saw[21] two high priests on one day. Furthermore, it is told of R. Ishmael b. Kimhith that he went out and talked with a certain lord[22] in the street, and spittle from his mouth squirted on his garments, whereupon Joseph his brother entered and ministered in his stead so that their mother saw two high priests[21] on one day. The Sages said unto her: What hast thou done to merit such [glory]? She said: Throughout the days of my life the beams of my house have not seen the plaits of my hair.[23] They said to her: There were many who did likewise and yet did not succeed.[24]

Our Rabbis taught: with his fists[25] , that means that he must not make a measure for his fistful.[26] The question was: How about making a measure for his handfuls? Is it only there[25] since it is written, 'With his fist',[27] whereas here[28] where it is not written 'With his handfuls' but 'his hand full of fine incense,' [it matters] not,[29] or does he derive [the meaning of] 'full' from [the word], full' [occurring in connection with] his fist?[30] — Come and hear: AND THUS WAS ITS MEASURE'. Would you not say that it means: If he wishes to make a measure he may do so?[31] — No, this is what it means: In the same manner would he take the hands full within the Holy of Holies.[32] May not you then conclude from this that he takes the handfuls [outside] and repeats it inside again! — [No], perhaps it means that if he wants to have a measure made, he may do so;[33] or, that he must take neither less nor more.[34]

Our Rabbis taught: His fistfull.[35] One might have assumed that it may come forth on both sides, therefore Scripture says: 'With his fist'.[36] From 'With his fist' I might have inferred that he should just take some with his finger-tips hence Scripture says: His fistful', i.e., in the manner in which people take a fistful. How so? He bends three of his fingers[37] up to his wrist and takes a fistful.

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(1) V. Gemara.
(2) Infra 48b.
(3) Ibid.
(4) V. supra.
(5) Lev. XVI, 12.
(6) To perform the rite without the ladle.
(7) In his handfuls.
(8) Shall he put the pan on the incense and enter.
(9) Num. VII, 14; One ladle . . . . full of incense.
(10) This refers to the pan of burning coal.
(11) This is illogical for the ladle with the incense should be in his right hand and the less important pan in the left.
(12) Hence the heavier of the two, and therefore carried in the right hand.
(13) Lit., 'has ascended to the roof'. She has taken exceedingly good care of her children. The phrase is reminiscent of Prov. XXXI, 29. גרף may be interpreted as valour (Jast.); as vine (Aruch) or bundles of green (R. Han.) i.e., children.
(14) The mother's valour or the children's power.
(15) Which she ate during her pregnancy or on which she fed her children.
(16) With reference to his inner constitution. E.V. 'girded me'.
(17) II Sam. XXII, 40.
(18) Ps. XVIII, 33. The texts of II Sam. XXII and Ps. XVIII are almost identical, hence changes or deviations must have a definite idea underlying each. 'Sifted' is an ad hoc interpretation. The words 'for the battle' are not found in Ps. XVIII, 33.
(19) Tosaf. Yoma III.
(20) It was on the nay of Atonement, he was to minister as high priest and the spittle defiled and thus prevented him from officiating.
(21) Both her sons.
(22) In the Tosaf. the reading is 'a king' and the incident reported to have occurred on the eve of the Day of Atonement.
(23) Especially a married woman would always cover her hair, as a sign of modesty. [Buchler (JQR. 1926) p. 8 identifies this high priest with Simeon (Ishmael) the son of Kamithos who was appointed by Gratus in the year 17-18.] The sight of a married woman's hair is an impropriety. Git. 90a.
(24) In obtaining such distinction. Your suggestion is insufficient.
(25) Lev. VI, 8.
(26) I.e., he must not use a measure instead of his fist.
(27) I.e., with his fist only, not with a measure.
(28) Lev. XVI, 12.
(29) Does the prohibition of using a measure not apply here.
(30) V. Lev. II, 2; the word 'full' written thus implies prohibition of an artificial measure. By inference from the identity of phrase the same may be assumed to apply here.
(31) This may be explained to refer to the ladle, to mean that one could have a measure made in accord with the high priest's size of hand.
(32) The Mishnah here means: And this was the method of measurement within; i.e., the priest would empty incense

from the ladle into his hands and then put it over the burning coals in the pan.

(33) I.e., one cannot conclude from the Mishnah either way.

(34) Thus was the measure-two exact hands full-rigidly so.

(35) Lev. II, 2.

(36) Lev. VI, 8. No more, just as much as the closed fist will contain.

(37) Grasping with them.

Talmud - Mas. Yoma 47b

In the case of the [meal-offering baked in a] griddle and the [meal-offering of the] stewing-pan[1] he makes it even with his thumb from above and with his small finger from below. And this was the most difficult service in the Sanctuary. [You say] 'this is'; and nothing else? Was there not the pinching of the bird's head[2] and was there not the taking of the fistfuls?[3] - But say, rather, this was one of the difficult priestly functions in the Sanctuary. — R. Johanan said: R. Joshua b. Uza'ah asked: How about that which is between [the fingers of the fist]?[4] -R. Papa answered: That which is inside needs no question for it surely belongs to the fistful. Concerning that which is on the outside, too, there is no doubt, it surely is considered a remainder.[5] The question attaches only to such portions as are in between [the fingers]. How about these? — Said R. Johanan: R. Joshua b. Uza'ah had subsequently solved [the question] viz., concerning [the portion] in between, uncertainty prevails.[6] How then shall he act?-R. Hanina said: He shall burn [as an offering] first the fistful and then the portions in between [the fingers]. For, if we were to burn up [the 'in between' portions] first, perhaps they are considered remainders, and it would thus be a case where the remainders became reduced between the taking of the fistful and the burning [of it on the altar], whereas the Master has said[7] that if remainders became reduced between the taking of the fistful and the burning thereof no more fistfuls may be burnt up on their account! If that be so, then even now apply thereto the rule:[8] Whatever had partly been used in fire offering must no more be burnt [as an offering]?[9] Said R. Judah, son of R. Simeon b. Pazzi: He burns them [the remainders] up as wood, in accord with R. Eliezer, for it was taught:[10] R. Eliezer said: For a sweet savour,[11] for this you must not bring them up but you may bring them up as fuel. This will be in accord with R. Eliezer, but what is there to be said in accord with the Sages?[12] R. Mari said: Fat priests[13] take the fistful. Now that you have come to this answer, according to R. Eliezer, too, [there is a procedure which may be adopted] at the outset,[14] viz., fat priests should take the fistful. R. Papa inquired: How about the middle [portions] 'in between' connection with the [two] hands full?[15] — What is he inquiring about? If he derives [the meaning of the word] 'full' from 'full' [occurring] there[16] it is the same [as the first question].[17] — This is what R. Papa asks: [Should we say that] we require that 'he shall bring it his hands full',[18] which is the case here, or is it required that he take...bring in, which is not the case here?[19] — The question remains unanswered.

R. Papa said: It is obvious to me that 'his fistful' means: In the manner in which people usually take a fistful, but R. Papa asked: If he had taken the 'fistful' with his finger-tips, what is the law then, or [if he took it] from below upward, or from the sides, what then? — The questions remain unanswered.

R. Papa said: It is obvious to me that the 'handfuls' are to be taken as men usually take them, but he asked: If he took the 'handfuls' with his finger-tips, what then? or from below upward, or from the side; or if he swept it with one hand and with the other and then brought the hands together? — The questions remain unanswered.

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(1) V. Lev. II, 5 and 7.

(2) Zeb. 64b, based on Lev. V, 8.

(3) The priest's taking of the handfuls of incense, Lev. XVI, 12, v. infra 49b.

(4) Is it considered part of the fistful to be offered on the altar, or the remnant which went to the priests?

(5) Belonging to the priests.
(6) As to where they are to belong.
(7) Men. 9a.
(8) Men. 58a.
(9) An interpretation of Lev. II, 12. And since he first burns up the fistful he should not be permitted to burn up after that the remainders as an offering.
(10) Zeb. 77b.
(11) Lev. II, 12, on which the rule cited last is based.
(12) Who extend the prohibition even against burning them as fuel (v. Zeb. 77b). What is one therefore to do with the portions ‘in between’.
(13) Whose fingers are fat without any space between them for any quantity to get in.
(14) The proposal to burn it as fuel is even according to R. Eliezer not one which is to be adopted at the outset, v. Zeb. ibid.
(15) Sc. of incense offered on the Day of Atonement.
(16) I.e., in connection with the fistful; just as with the fistful any heaping is not burnt up as offering, the same would apply to heapings of the two hands full. The analogy based on the use of the word ‘full’ in both Lev. II, 2, which refers to the first, as in ibid. XVI, 12, which deals with the two hands full.
(17) Asked supra, whether a measure may be macle for the hands full.
(18) Lit., ‘his hands full... and he shall bring’ v. Lev. XVI, 12.
(19) For he has not placed it between his fingers, it having entered there by itself, hence the required personal effort-and he shall take it-was absent.

Talmud - Mas. Yoma 48a

R. Papa asked: If he stuck the fistful on to the side of the vessel, what then? Does the law require that it be put into the middle of the vessel, which is the case here, or must it be placed inside the vessel properly, and this was not done in our case? — The question remains unanswered.

Mar, the son of R. Ashi asked: If he overturned the vessel and placed the fistful on the bottom of the vessel, how then? Does the law require placing it in the vessel, which was done here, or is it to be placed properly, which has not been done? The question remains unanswered.

R. Papa asked: With regard to the ‘handfuls’ are they to be heaped or levelled?-R. Abba said to R. Ashi: Come and hear: The ‘handfuls’ whereof they spoke are to be neither levelled, nor heaped, but liberally measured. — We learned elsewhere:[1] If the blood was poured out on the pavement[2] and he gathered it up, it is invalidated. But if it was poured out of the vessel on the pavement and he gathered it up, it is usable. Whence do we know this?[3] — For the Rabbis taught: And [the anointed priest] shall take of the blood of the bullock,[4] i.e.,from the blood of life[5] and not from the blood of the skin, nor from the last blood oozing out.[6] ‘From the blood of the bullock’ i.e., the blood from the bullock shall he receive [straight]. For if you were to interpret from the blood of the bullock’ [as meaning] ‘from the blood[7] i.e.’ even if only part of the blood, has not Rab Judah said: He who receives the blood must receive the whole of the bullock's blood, as it is said: And all the remaining blood of the bullock shall he pour out at the base of the altar,’[8] hence it is evident from here that from the blood of the bullock’ must be interpreted as ‘blood from the bullock [straight]’;[9] he[10] holding the view: One may remove [a letter] and add [one] and thus interpret.[11]

R. Papa asked: If the incense was scattered from his handfuls, how then? Is his hand to be compared to the neck of the animal[12] so that the incense would be invalidated, or is it to be compared to a ministering vessel and thus is not invalidated? — The question remains unanswered.

R. Papa asked further: If, in taking the handfuls of the incense, he had an [unlawful] intention,[13] what then? Do we say that we infer [the meaning] of ‘full’ [by analogy of] ‘full’ occurring with the meal-offering,[14] [viz.,] as in that case an [unlawful] intention effects an invalidation, so here too, an unlawful intention will effect an invalidation, or is it not so?-R. Shimi b. Ashi said to R. Papa: Come and hear: R. Akiba added [the cases of][15] the fine flour, the incense, the balm, and the embers [of the sanctuary]. that if a tebul yom[16] had touched part of them, he invalidated all of them .[17] Now the assumption is that since a tebul yom invalidates them ‘[18] so does their being kept overnight,[19] and since their being kept overnight invalidates them, so does unlawful intention.[20]

R. Papa asked:

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(1) Zeb. 25a.

(2) Before having been received into a vessel, as prescribed.

(3) That it is necessary for the blood to flow from the neck of the animal straight into a vessel.

(4) Lev. IV, 5.

(5) The blood coming forth in a jet, with which life leaves the body of the animal.

(6) Of the vein which was cut.

(7) The Hebrew words are Mi-dam ha-par, ‘From the blood of the bullock’. The ‘mi’ has partitive meaning-’from the blood’, part of it, not all of it.

(8) Lev. IV, 7.

(9) Meaning not from the skin, the vein, but that which is the bullock's life, with the jetting away of which his life too is gone.

(10) The Tanna of the cited Baraitha.

(11) In order to remove a contradiction. This interpretation involves a change in the Hebrew text. Instead of מדם הפר the ad hoc reading is: דם מהפר Involving a removal of one letter from the first word and its addition to the second word.

(12) When the blood flows from the neck of the animal to the pavement, instead of being received in a vessel, it is invalidated. Does the same law apply when the incense is scattered?

(13) An intention at the moment of slaying to eat of the flesh beyond the allotted time renders the animal in question ‘a vile thing’ (Zeb. 25a). If the priest has similar intention, i.e., to offer up the incense tomorrow instead of today, would the same consequence ensue for the incense?

(14) V. supra p. 223.

(15) V. Hag. 23b, Sonc. ed., for notes.

(16) One who has bathed in daytime but must await the sunset to be perfectly clean. V. Lev. XXII, 7.

(17) The vessel of ministry combining the various constituent parts of the flour etc., as one. V. Hag., Sonc. ed., 23b for notes.

(18) Through the union effected by the vessel of ministry.

(19) In virtue of the fact that they were contained in a vessel of ministry. V Me'il. 10a.

(20) I.e., since the incense by being placed in a vessel of ministry received a holy character in respect of contact with a tebul yom, and being kept overnight, it becomes invalidated through unlawful intention.

Talmud - Mas. Yoma 48b

If he, in removing the coals [for the incense], had an unlawful intention — what then? Are preliminary[1] means of a religious act to be considered as the act itself or not? — The question remains unsolved.

The question was asked of R. Shesheth: If the blood was carried [to the altar] in the left hand, what is the law?[2] R. Shesheth answered: You have learnt it: He took the pan of burning coals in his right hand and the ladle in his left .[3] But he could have settled that point to them from what we have learnt:[4] [He carried] the right hind-leg in the left hand with the inside of the skin outward?[5] — If the argument were based on that I might have assumed this applies only to a carrying [of such things] which are not indispensable to atonement,[5] but in the case of a carrying [of things] which are indispensable to atonement,[6] [it would] not [apply], therefore he has to bring [the above reference].[7]

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(1) So that his unlawful thought in connection with the preliminary act would have the same effect as such thought in connection with the religious act in itself and so the incense is rendered invalidated. Another interpretation would limit the effects of his unlawful intention to the preliminary act, here to the embers.

(2) All the other rites in connection with the blood sprinkling must be performed with the right. V. Zeb. 16b and 24a.

(3) Whence we may infer that even in this case he is within the law.

(4) Tam. IV, 3.

(5) I.e., the carrying of the limbs.

(6) E.g., the carrying of the blood to the place of sprinkling.

(7) Referring to the incense which is indispensable to atonement.

Talmud - Mas. Yoma 49a

They raised the following objection:[1] A lay Israelite, an onen,[2] one inebriate or one with a blemish are invalidated for the receiving, the carrying, and the sprinkling of the blood, and so is one seated, and the left hand. This is a refutation. — But R. Shesheth himself has asked this question in refutation![3] For R. Shesheth said to the Amora[4] of R. Hisda who asked of R. Hisda: May the blood be carried by a lay Israelite? He answered: It is proper and a scriptural verse supports me: And they killed the passover lamb, and the priests dashed[5] of their hand, and the Levites flayed them.[6] And R. Shesheth raised this question: A lay Israelite, a mourner, an inebriate, or one blemished are invalidated for the receiving, the carrying, or the sprinkling of the blood, and so is one seated and the left hand![7] -After having heard it, he raised it in objection [against R. Hisda]. But R. Hisda had cited a scriptural passage [in support]? — They served only the purpose of a portico.[8]

R. Papa asked: If another[9] [priest] took his hands full and put it into his [the high priest's] hands — how then? Is what we require that it be ‘his hands full’ which we have here, or is it required that he both ‘take [his hands full] and bring it in’, which was not the case here? — The question remains unsolved. R. Joshua b. Levi asked: If he had taken his hands full and then died, what about someone else entering [within the Holy of Holies] with his [the first one's] handfuls? — Said R. Hanina: This is a question of the older generation![10] Shall we say that R. Joshua b. Levi was older?[11] But R. Joshua b. Levi had said: R. Hanina permitted me to drink a cress-dish[12] on the Sabbath? [You say] to drink? That is self-evident, for we have learnt:[13] One may eat all kinds of food for a remedy, and one may drink every kind of drink as a medicine? — Rather to grind and to drink cress-dish on the Sabbath. What case do you mean? If it be a case of danger, surely it is allowed;[14] and if the case be without danger, it surely is forbidden?[15] -In truth the case referred to is one dangerous and this is how the question ran: Does it cure so that one may for this purpose desecrate the Sabbath, or does it not effect a cure so that one may not desecrate the Sabbath in connection with it? And why was it R. Hanina?[16] — Because he was familiar with medicine, for R. Hanina said:[17] Never did a man consult me concerning a wound inflicted by a white mule and recover. But we see that people recover?-Say: And it was cured.[18] -But we see them cured?-The reference here is to red mules, the end of whose feet is white. — At any rate we learn from here that R. Hanina was the older one?[19] -Rather, this is what he said: Our question is like one of the former generation.[20] But did R. Hanina express such a view?[21] Did not R. Hanina say: With a bullock,[22] i.e., but not with the blood of a bullock;[23] and, furthermore, was it not R. Hanina who said: If he took the hands full of the incense before the slaying of the of the bullock, he has done nothing?[24] — This is what he [R. Hanina] said: Since he[25] asks the question, the inference is justified that he holds ‘With a bullock’ includes also ‘with the bullock's blood’; now, according to [this] his view, his question is like the question of an older generation. — What about that?[26] — R. Papa said: If [we say that] he takes the handful first and then must take it again,[27] then his fellow may enter with his hafinah,[28] because the hafinah is still the same; but if [we say] that he takes the handfuls once but does not take them again, then your question arises. Said R. Huna son of R. Joshua to R. Papa: On the contrary! If [we say that he] performs the hafinah twice, none else should enter with his hafinah, because it is impossible that the second take not either a bit less [than the handfuls of the first][29] or a bit more; but [if we say that] he performs only one hafinah, does your question arise. For the question had been raised: Must he perform the hafinah twice?- Come and hear: AND SUCH WAS ITS MEASURE. Now does not that mean that as the measure in the outside hafinah, so was it in the hafinah within the Holy of Holies? — No, perhaps the meaning here is that if he wanted to make a measure he could do so, or, that he must not take either more or less in the one case than in the other.[30] Come and hear:

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(1) Zeb. 16a.

(2) V. Glos.

(3) Hence he obviously knew the Mishnah, how then could he have given the wrong answer!

(4) V. Glos. s.v. (b).

(5) II Chron. XXXV, 11.

(6) I.e., the blood which they received at the altar side from those who killed the passover, namely, lay Israelites who are fit for slaughtering sacrifices, v. Supra 43a.

(7) Which shows that R. Shesheth knew of the Mishnah disqualifying the carrying with the left hand, how then did he solve the question put to him contrariwise.

(8) The laymen served only the purpose of a portico, holding the bowls up to view, but not handing them to the altar.

(9) Lit., 'his fellow'.

(10) The fact that this question asked by a teacher of the older generation has been also put by myself is an implicit compliment to our learning; R. Joshua b. Levi being of the older generation.

(11) The older of the two scholars. Hence Hanina's remark about the 'older generation'.

(12) 'Drink' because usually mixed with wine or oil.

(13) Shab. 109b.

(14) And is not in need of any special argument for dispensation.

(15) And no effort to permit it would be legitimate.

(16) Of whom the question was asked.

(17) Hul. 7a.

(18) The first interpretation referred to the person injured by the mule,' the second to the wound.

(19) Since R. Joshua refers to Hanina as 'R. Hanina', one must assume that the former cannot have been older, for in that case he would have called him by his first name, Instead of saying 'R. Hanina etc.'

(20) He said to his pupils: This question of yours has been already asked by older scholars than you, viz., R. Joshua b. Levi, and it remained unsolved.

(21) Did he himself doubt as to whether the high priest may enter the Holy of Holies with the handfuls of incense that had been taken by someone else.

(22) Lev. XVI, 3.

(23) I.e., one priest must both slay the bullock and enter the Holy of Holies with its blood. This interpretation excludes the possibility of one's entering with the blood of a bullock slain by someone else.

(24) The ministration is invalid and must be repeated in proper form and order, infra 60b. As the taking of the hands full must not be performed before, but after the slaying of the bullock, the first high priest must have slain his bullock and the one who takes his place must slay another bullock, it is evident that he cannot use the handfuls taken by the first high priest, which took place before the slaying of the second bullock. Hence it seems impossible that R. Hanina could have asked the question attributed to him here.

(25) Since R. Joshua asked the question, he must hold that the second priest need not bring another bullock, for if that were his view, the taking of the handful of the incense before the slaying of the bullock would have been invalidated. Hence the apposite remark that others of an earlier generation who, in opposition to him hold that 'with a bullock' includes even 'with the blood of his bullock' have already asked the question.

(26) The original question: If a priest had taken the hands full of incense and thereupon had died, may another enter with his 'handfuls'?

(27) Within the Holy of Holies, v. infra and supra 47a.

(28) The handfuls taken by the high priest. V. Glos.

(29) As not all handfuls of people are of the same capacity.

(30) v. supra 47a and notes.

Talmud - Mas. Yoma 49b

How does he do it?[1] He takes hold of the dish[2] with his finger-tips according to some with his teeth — and pulls it with his thumb until it reaches his elbows, then he turns it over in his hands and heaps up the incense in order that its smoke may come up slowly; some say he scatters it in order that its smoke may come up fast; and this is the most difficult ministration in the Sanctuary. This alone? None other? But is there not the pinching of the bird's head? And the taking of [an exact] fistful of the incense? — Rather [say] this is one of the more difficult ministrations in the Sanctuary.[3] [At any rate] infer from here that he had to perform the hafinah twice. — The inference is right.

The question was raised: If the priest slew [the animal] and died, may someone else enter with its blood? Do we say 'With a bullock' [includes] even 'with the blood of the bullock', or 'With a bullock' only but not with its blood?[4] — R. Hanina said: 'With a bullock', but not with its blood. R. Lakish said: 'With a bullock', and even with its blood. R. Ammi said: 'With a bullock', but not with the blood of the bullock. R. Isaac the Smith said: 'With a bullock' and even with its blood. R. Ammi raised the following objection: One[5] may be counted in[6] for the paschal lamb, or one may withdraw from being counted in it until it be slaughtered. Now, if that view were correct,[7] this should read: Until he sprinkles [the blood]. — There [is a special situation], because It is written: miheyoth misseh, i.e., as long as the lamb is alive.[8]

Mar Zutra raised the following objection: One must not redeem[9] with a calf or with a beast of chase, or with what had been slaughtered or with a cross-bred, or with a koy,[10] only with a lamb?[11] There is a different case, because [the meaning of] lamb [here] is inferred from 'lamb'[12] [mentioned in connection] with the paschal lamb. Then just as that must be male, without blemish, and one year old,[13] this too ought to be male, without blemish, and one year old? — [To prevent such interpretation], Scripture states: Thou shalt redeem . . . thou shalt redeem,[14] to include both. If [repetition of] 'Thou shalt redeem' means to include, then all ought to be included? — What value would the word 'lamb' have in that case!

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(1) The second hafinah, in the Holy of Holies.

(2) I.e., the ladle when containing the handfuls.

(3) Supra 47b and notes.

(4) V. supra 49a and notes.

(5) Pes. 60b.

(6) V. Ex. Xli, 4.

(7) That the blood, in the service, takes the place of the bullock itself.

(8) E.V. And if (the household) be too little for a lamb', here the ad hoc interpretation is: as long as it is itself — read מהיות i.e., as long as the animal is whole, before it is slaughtered, as long as it is alive.

(9) A firstling of an ass, Ex. XIII, 12, 13.

(10) A kind of bearded deer or antelope (Jastrow), which belongs either to the genus of cattle or of beast of chase.

(11) V. Bek. 12a. Since the emphasis is on 'lamb' (Ex. XIII, 13) and a slaughtered lamb is excluded, the inference appears justified, that a slaughtered lamb is no more considered to be a lamb. Hence a refutation of the view that blood can be considered as of equal ritual value with the animal itself.

(12) Ex. XII, 3ff

(13) Ibid. 5.

(14) Ibid. XIII, 13.

Talmud - Mas. Yoma 50a

R. Isaac the Smith raised the following objection to R. Ammi's view: 'Even the whole bullock shall he carry forth'.[1] — [It means]: he shall take it out in its completeness.[2] And the bullock of the sin-offering and the he-goat of the sin-offering?[3] — R. Papa answered: Nobody disputes with regard to skin, flesh, and excrement, the dispute applies only to the blood,[4] one holding blood to be designated 'bullock', the other holding that blood is not designated 'bullock'. R. Ashi said: It seems reasonable to hold with the view that blood is designated 'bullock', for it is written: Herewith shall Aaron come into the holy place; with a young bullock.[5] Now does he bring it in with its horns? [Is it not] rather, with its blood, and yet it is called 'bullock'. And the other?[6] [It means this:] 'How[7] is Aaron legally permitted to enter the Sanctuary? With a young bullock for a sin-offering'. — But derive it[8] from the fact that it is a sin-offering whose owners have died and 'a[9] sin-offering whose owners have died is left to die'?[10] -Said Rabin the son of R. Ada to Raba: Your own disciples said in the name of R. Amram: This[11] is a community sin-offering and the sin-offering of the community is not left. For we learned:[12] R. Meir said: 'Are not the bullock of 'the Day of Atonement and the pancakes of the high priest and the paschal lamb[13] each offerings of an individual and yet they suspend the law of Sabbath and the laws touching levitical impurity?' Would you not infer therefrom that there must be a view according to which these are considered offerings of the congregation?[14] But according to your own arguments when it states:[15] R. Jacob said to him:[16] But are there not the bullock to be offered for an error of the congregation, and the he-goats to be offered up for idolatry and the festive offering,[17] all of which are community-offerings, and yet they suspend neither the laws of the Sabbath, nor those of levitical impurity? Would you infer from this that there must be a view that they are sacrifices of an individual?[18] Rather [what you must therefore say is] he answered the first Tanna whom he heard saying that a community-sacrifice suspends the laws both of the Sabbath and those touching levitical impurity, whilst the sacrifice of an individual suspends neither the laws of the Sabbath nor those affecting levitical uncleanness, whereupon R. Meir said: 'Is [the law concerning] the offering of an individual a general rule, is there not the bullock of the Day of Atonement? Are there not the pancakes of the high priest and the paschal lamb, all of which are private offerings, and yet they suspend both the Sabbath and the impurity laws?' And also R. Jacob said: 'Is the law concerning the offering of the community a rule, are there not the bullock for an error of the community, and the he-goats for idolatry, and the festive offering, all of which are community-offerings yet suspend neither the laws of the Sabbath, nor those touching levitical impurity?' Rather accept this principle: Whatsoever has a fixed time,[19] suspends both the laws of the Sabbath and those touching levitical impurity, even [though the sacrifice concerned be that] of an individual; and whatsoever has no definite time fixed suspends neither the Sabbath laws nor those affecting levitical uncleanness even if a community-offering [were involved].[20]

Abaye raised the following objection:[21] If the bullock and the he-goat of the Day of Atonement had been lost and other [animals] had been set aside in their stead,[22] then they must all be left to die; similarly, if the he-goats [offered in expiation] for idolatry had been lost and others had been set aside in their stead,[22] they must all be left to die; this is the view of R. Judah. R. Eleazar and R. Simeon hold: They should be left to go to pasture until they become unfit for sacrifice,[23] whereupon they should be sold and the money realized should go to the fund for [providing] freewill-offerings. because 'a community-sacrifice is not left to die'.[24] Bullock here refers to the bullock offered up for an error of the community. — But the text reads 'of the Day of Atonement'? — This refers to the he-goat. But it was stated: If the bullock of the Day of Atonement and the he-goat of the Day of Atonement had been lost and others were set aside in their stead,[22] they must all be left to die, this is the view of R. Judah. R. Eleazar and R. Simeon hold: They should be left to go to pasture until they become unfit for sacrifice, whereupon they should be sold and the money realized for them should go to the fund for providing freewill-offerings. because a community-offering is not left to die'? — Do not read:[25] 'For a community-sacrifice is not left to die', read rather, for 'a sacrifice belonging to partners is not left to die'.[26] What is the practical difference?[27] — That the priests will not have to bring a sacrifice for an error in a legal decision.[28] — Come and hear: For R. Eleazar asked:

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(1) Lev. IV, 12. The animal is slain already and yet Scripture calls it a 'bullock'.

(2) I.e., all that is left of it the emphasis being on 'the whole'.

(3) Ibid. XVI, 27. This shows that the body of the bullock itself after it is slain is still designated ‘bullock’.
(4) Whether blood by itself is equivalent to the whole animal so that the terms may be used indiscriminately or not?
(5) Lev. XVI, 3.
(6) How will he explain this verse?
(7) with such ministrations in view is Aaron permitted to enter the sanctuary, to perform all details in connection with the bullock.
(8) That another priest may not enter with the blood of a bullock slain by the first priest who died.
(9) Tem. 15a.
(10) Hence no further ministration is possible with it.
(11) Bullock of the Day of Atonement.
(12) V. Tem. 14a (Mishnah); v. next note.
(13) This is omitted in Mishnah Tem. hence var. lec. ‘it has been taught’ instead of ‘we have learnt’, v. note 2.
(14) In accord with the view of the first Tanna, whom R. Meir opposes, that only community-offerings can suspend these laws.
(15) Tosef. Tem. I.
(16) To the same first Tanna whom R. Meir opposes.
(17) Brought by the pilgrims to the Temple on the occasion of a festival (Ex. XXIII, 14).
(18) The assumption being that only thus could they fail to suspend either of the laws.
(19) The Pancakes of the high priest are to be offered at a definite time every day, whereas the festive offering may be brought for seven days following the festival, hence having no definite time.
(20) Hence we have no proof that any Tanna is of the opinion that the bullock of the Day of Atonement is a community-sacrifice.
(21) Infra 65a.
(22) When they are found again, they are deprived of food until they die.
(23) Because of a blemish or their repulsive appearance.
(24) Hence we see that these Tannaim consider the bullock of the Day of Atonement a community-offering, in clear contradiction of the statement above.
(25) In the cited Baraithas.
(26) The bullock brought by the high priest on the Day of Atonement being considered a sacrifice belonging to partners because all the priests share in the atonement effected by it.
(27) Since in either case the animal is not left to die, whether we call it a community sacrifice or one belonging to partners?
(28) If the Beth din by error had wrongly advised the priests, such error would not be considered ‘error of the community’, as when a whole tribe by mistake transgresses the law, but would be considered a sacrifice of partners, which is not left to die. Herein lies the practical difference, hence the justification of the distinction.

Talmud - Mas. Yoma 50b

According to him who holds that the bullock of the Day of Atonement is a private sacrifice, is a substitute made for it valid[1] or not? Does not this imply that there is one who considers it a community-offering?[2] - No, the inference is that there is one who considered it an offering of partners.[3]

[To turn to] the main text: R. Eleazar asked: According to him who holds that the bullock of the Day of Atonement is an offering of an individual, is a substitute made for it valid or not?[1] What is his question? [Shall we say, as to] whether [the validity of a substitute] is dependent on him who consecrated it, or on him who attains atonement thereby?[4] Obviously [it may be objected] we make it dependent on him who obtains atonement thereby.[4] for R. Abbuha said in the name of R. Johanan: He who consecrates must add the fifth to and he who obtains atonement thereby can render valid a substitute,[1] and one who separates the priestly gift from his own produce for that of his neighbour has the benefit of the pleasure![5] In truth it is obvious that the matter depends on him who obtains atonement, and this is what he asked: Have his fellow-priests a definite share in the atonement[6] or do they receive their forgiveness merely by implication?[7] Come and hear: There are some aspects of the original sacrificial animal severer than those of a substitute animal, there are some aspects in which the substitute animal has more rigid rules than the original sacrificial animal. More severe are the regulations touching the original inasmuch as it applies both to an individual and to a community, suspends the Sabbath law, and the law concerning levitical impurity, and renders a substitute [valid,] all these things not applying to the substitute animal.[8] More severe are the regulations touching a substitute animal than those of the original sacrificial animal, inasmuch as a substitute is effected[9] even if it have a permanent blemish, and it cannot be made available [on redemption] for profane use, either to be shorn, or put to work,[10] all these things not applying to the original animal.[11] Now what kind of sacrifice is meant here? If we are to assume an individual's sacrifice [is meant]. how could it suspend the laws of either Sabbath or those touching levitical impurity; if, again, the reference be to a community sacrifice, how could it be replaced? Hence the reference here must be to the [high priest's] bullock, and [it is stated that] ‘it suspends both Sabbath and impurity laws’ because it has a definite time; and ‘renders its substitute [valid]’ — because It is the offering of an individual![12] -Said R. Shesheth: No, the reference here is to the ram of Aaron.[13] Thus, indeed, does it also appear logical. For if we were to assume the reference is to the bullock, [the question would arise, Is it] that the substitute of the bullock does not suspend the Sabbath or the laws of impurity, but on a week-day it can be offered; surely is it not the substitute of a sin-offering,[14] and ‘the substitute of a sin-offering is left to die’?-No! in truth, [the reference here is to] his bullock, and what does substitute mean here? [That which goes by] the name of substitute.[15] — But,if so, sacrifice here, too. should mean [that which goes by the name of] an original sacrifice?[16] — No, he does not deal with [whatever goes by the name of] an original sacrifice. Whence that?-Since it states: ‘There are restrictions In the law regarding substitute animals, in that even a permanently blemished animal is affected, and it cannot be made available for profane use either to be shorn or put to work’. Now if the thought should arise in you that the word ‘sacrifice’ here meant [whatever goes by] the name of an original sacrificial animal, surely there is

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(1) V. Lev. XXVII, 10.

(2) A substitute for a congregational sacrifice is not valid. V. Tem. 13a.

(3) A substitute for a sacrifice of partners is not valid, 13a.

(4) This is the problem: If it is determined by the one who consecrated then in his case the substitute would be valid, since it is the high priest, from whose possession it comes, who consecrated it. If, however, it depends on those who obtain forgiveness, then no such substitution would be possible. There are many. i.e., his fellow-priests, who obtain forgiveness with the bullock, and no substitute can be made in the case of a sacrifice of partners. (9) If someone consecrates an animal for his fellow, whose duty is thereby to be fulfilled, and it suffers a blemish and he wishes to redeem it, the one who consecrated it is considered its owner and must add a fifth to its value (v. Lev. XXVII, 19). whereas he who is to obtain atonement thereby, would not have to add the fifth, because Scripture insists (ibid.): And he that sanctified...will redeem it, then he shall add the fifth part of the valuation.

(5) He has the privilege of bestowing it upon whatever priest he chooses. This shows that there is no question that the validity of a substitute is determined by the one who consecrated the original sacrifice. What point then was there in R. Eleazar's question?

(6) Through the bullock of the high priest, i.e., are they to be considered partners in the sacrifice from the time of its dedication.

(7) Jast.: circuit, transference in direction. Rashi: floating, unsettled condition. Goldschmidt: from Syriac: the bearer (of atonement). i.e., the high priest.

(8) No substitute for a substitute is valid.

(9) The animal itself, even though it be blemished, partakes of sacrificial holiness, although unfit for the altar.

(10) I.e.. even after redemption the substitute may neither be shorn nor put to work, though its flesh may be consumed as non-holy meat.

(11) If the original sacrificial animal had been blemished the owner who consecrated it could consecrate only its value, hence the animal on redemption was made available for profane use without any reservation.

(12) Which solves the question of R. Eleazar.

(13) I.e.,the ram brought by the high priest for his own atonement on the Day of Atonement, v. Lev. XVI, 3.
(14) V. Lev. ibid.
(15) The teaching speaks here of a substitute in general, not of a substitute of any particular original sacrificial animal. The restriction concerning substitutes lies in the fact that no substitute ever suspends the law of the Sabbath, even though the substitute be offered up.
(16) Without referring to any original sacrifice in particular; why then refer the term either to his bullock or the ram of Aaron?

Talmud - Mas. Yoma 51a

the first-born and the tithe of cattle, the laws of which affect even a permanently blemished animal, and which are not available [on redemption] for profane use to be subjected to shearing or work. Hence [you must say] he does not deal with [whatever goes by] the name of an original sacrifice.[1] Why is it different with substitute animals? — The substitutes all have uniform rules, whereas the original sacrificial animal includes first-born and tithe for cattle. Now, as to R. Shesheth, why does he refer the teaching to the ram of Aaron, let him rather refer to the paschal lamb, which suspends the laws of the Sabbath and of levitical uncleanness and can have a substitute because it is an individual's sacrifice?-He holds that a paschal lamb is never offered for one individual.[2] Then let him put the case as dealing with the second paschal lamb? — Is that able to suspend the laws of levitical impurity?

Said R. Huna the son of R. Joshua to Raba: Why does the Tanna[3] designate the paschal lamb an individual's sacrifice and the festal offering a community sacrifice? Would you say because the latter is offered up by large crowds?[4] So is the paschal lamb offered up by large crowds. — There is the second paschal lamb, which is not offered up by large crowds. Said he to him: If so,it ought to suspend the laws of Sabbath and those of levitical impurity.[5] — He answered: Yes, he holds in accord with him who says that it suspends [them]. For it was taught: The second paschal lamb suspends the Sabbath, but not the laws of levitical impurity.[6] R. Judah says: It suspends also the laws of levitical impurity. What is the reason for the view of the first Tanna? He will tell you: 'You have postponed it[7] only because of levitical impurity, how then shall it suspend the laws of levitical impurity!' And R. Judah?-He will tell you: Scripture says: According to all the statute of the passover shall they keep it,[8] i.e., even in levitical impurity. The Torah gave him an opportunity to do it in levitical purity, but if he was not privileged to do so, let him do it even in impurity. [

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(1) But with one particular type of original sacrifice.
(2) This is the view of R. Judah (Pes. 91a), there being always more than one to subscribe to the cost of the paschal lamb, which must be eaten up within its prescribed limited time, Ex. XII, 10.
(3) Supra 50a.
(4) I.e., on festivals when there are many pilgrims in the Temple.
(5) Since the reference is to the second paschal lamb. MS.M.: '(how state that) it suspends the law of Sabbath!'
(6) Pes. 95b.
(7) The offering of the paschal lamb,v. Num. IX, 11.
(8) Ibid. IX, 12.

Talmud - Mas. Yoma 51b

But let him infer it[1] from the words of the Divine Law: 'which is of himself',[2] i.e., he shall bring it from what belongs to him, for it was taught 'which is of himself', that means he must bring it of his own possession, not from community funds. One might have assumed he must not bring it from community funds, because the congregation obtains no atonement therefrom, but he may bring it from the funds of his fellow-priests, because they do obtain atonement therefrom, therefore Scripture says: 'which is of himself'. One might have assumed he must [de jure] not bring it from funds beside his own, but that if he [de facto] had done so,it would be valid, therefore Scripture says again: ‘which is of himself’, repeating the condition in order to render conformity with it indispensable.[3] — But according to your own view: If his fellow-priests have no part in it, how can they obtain atonement, [even by implication]?[4] Rather must you say it is different with regard to the private treasury of Aaron[5] for the Divine Law has declared it free to his fellow-priests, thus also with regard to the [question of a] substitute sacrifice [we say] the private treasury of Aaron is different since the Divine Law has made it free for his fellow-priests.

MISHNAH. HE WENT THROUGH THE HEKAL[6] UNTIL HE CAME TO THE PLACE BETWEEN THE TWO CURTAINS WHICH SEPARATED THE HOLY FROM THE HOLY OF HOLIES AND BETWEEN WHICH THERE WAS [A SPACE OF] ONE CUBIT. R. JOSE SAID: THERE WAS BUT ONE CURTAIN, AS IT IS SAID: AND THE VEIL SHALL DIVIDE UNTO YOU BETWEEN THE HOLY PLACE AND THE MOST HOLY.[7] GEMARA. R. Jose gave a proper rejoinder to the Rabbis. What about the Rabbis? — They will tell you: Those things[8] applied at the Mishkan,[9] but in the Second Temple, because there was lacking the partition wall[10] which had been in the first Temple — and the Sages were doubtful as to whether its sacredness partook of the character of the Holy or the Holy of Holies, they made two curtains.[11]

Our Rabbis taught: He was walking between altar and candlestick.[12] This is the view of R. Judah. R. Meir says: Between the table[13] and the altar. Some there are who say: Between the table and the wall.[14] Who are the ‘some’? — R. Hisda said: It is R. Jose. who said: The entrance was to the north.[15] And R. Judah? — He will tell you that the entrance was to the south. According to whose view was that of R. Meir? If it agreed with R. Judah's, let him enter as R. Judah states,[16] if it agreed with R. Jose, let him enter as R. Jose states! In truth he agrees with R. Jose, but he will tell you the tables[17] were placed between north and south, hence they would interrupt his walk, preventing him from getting himself in.[18] Or, if you like you might say: In truth, the tables were placed from east to west, but it does not seen proper

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(1) The answer to the question above of R. Eleazar concerning the relation of the fellow-priests to the high priest's Day of Atonement bullock.

(2) Lev. XVI, 6 with reference to his bullock.

(3) Lev. XVI, 11 surely indicates that they have no share in the bullock, but receive atonement only by implication through the high priest's atonement, although the bullock is his own private property.

(4) So Bah.

(5) I.e., in respect of the bullock of the Day of Atonement.

(6) V. Glos.

(7) Ex. XXVI, 33.

(8) The one curtain referred to in Exodus.

(9) The Sanctuary in the wilderness.

(10) I Kings VI, 16 refers to the two cedar-covered partitions, with a vacant space between then, which separated the Holy Place from the Holy of Holies, occupying the space of one cubit, but the text: And he built twenty cubits on the hinder part of the house with boards of cedar from the floor unto the joists, leaves it undecided from which of the two holy areas the space of one cubit was to be deducted.

(11) In the second Temple that partition was replaced by two curtains with a space between them.

(12) As he entered, he moved southward between the inner altar and candlestick, which was to the south, walking toward the curtain.

(13) The table was placed next to the northern wall, the candlestick next to the southern wall, the golden altar between them. According to R. Judah the high priest walked toward the Holy of Holies between altar and candlestick, that is on the southern side. According to R. Meir between table and altar, i.e., on the northern side.

(14) According to R. Jose between table and wall, on the northern side.

(15) R. Jose held that there was but one curtain, clasped on the north side, and since the entrance was on the north side, the high priest of necessity was walking along the northern wall.

(16) R. Judah also agreed that the immediate entrance into the Holy of Holies had to be on the northern side but he held that there were two curtains, with the outer one clasped to the southern side, through which he first entered, hence the high priest was walking along the southern wall till he reached the outer entrance, then walking along between the two curtains towards the north till he reached the second entrance leading immediately into the Holy of Holies.

(17) Solomon had made ten tables arranged in two rows of five tables, to the left and right of the table of shewbread. The Sages discuss if these tables were placed lengthwise from south to north or from east to west. R. Meir held the former view, so that all the tables were placed in the northern half of the Sanctuary (Ex. XXVI, 35): And thou shalt put the table on the north side. Now the breadth of the Sanctuary was twenty cubits, its northern half ten cubits; the length of a table two cubits, so that each row of five tables filled the northern half of the Temple hall, without any free space between tables and wall.If any space were left free, then the row of the tables would to that extent encroach upon the southern half. Thus the tables would block the high priest on his walk between the table and the wall.

(18) Between the table and the wall.

Talmud - Mas. Yoma 52a

to go straight ahead [towards the seat of the Divine Presence].[1] And R. Jose? — Israel is so beloved that Scripture does not wish to burden their messenger.[2] As to R. Judah. let him enter between the candlestick and the wall! — His garments would become blackened.[3] R. Nathan said: Concerning the ‘cubit of partition’. the Sages did not decide as to whether its sanctity was that of the Holy of Holies or of the Holy Place outside of it. To this Rabina demurred: What was their reason? Shall we say because it is written: And the house which King Solomon built for the Lord, the length thereof was three score cubits, and the breadth thereof twenty cubits, and the height thereof thirty cubits.[4] [Also] it is written: And the house, that is, the Temple before [the Sanctuary]. was forty cubits long[5] and it is further written: And before the Sanctuary which was twenty cubits in length, and twenty cubits in breadth, and twenty cubits in the height thereof[6] — so that we do not know whether the [space of] a cubit of the partition was to be deducted from the twenty or the forty, — perhaps it is to be deducted from neither the twenty nor the forty, the account referring only to the free spaces, not to the walls. As a proof [is the fact] that whenever the walls are mentioned, they are mentioned separately, for we have learnt: The Sanctuary was a hundred cubits square and a hundred cubits in height. The wall of the Ulam[7] was five [cubits thick] and the Ulam eleven. The wall of the Sanctuary six, and its interior forty cubits, the partition one cubit and the Holy of Holies twenty cubits, the wall of the Sanctuary six, the cell six and the wall of the cell five![8] — Rather, the question is whether the sanctity of the partition is as that of the inner part [the Holy of Holies], or the outer part, and this is as R. Johanan reported: Joseph of Huzal asked: [It is written], And a debir[9] in the midst of the house from within he prepared to set there the ark of the covenant of the Lord.[10] The question was asked [in the Academy]: What does Scripture mean to say? [Does it mean] ‘a debir in the midst of the house; from within he prepared to place the ark there’; or ‘a debir in the midst of the house from within’?[11] — But could they have any doubt? Surely it was taught: Issi b. Judah said: There are five verses in the Torah [the grammatical construction of] which is undecided:

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(1) on the assumption that they were placed between east and west, so that he could walk unhandicapped along the north wall towards the Holy of Holies, the suggestion is offered that it would not be in accord with the reverence due to that sacred place for the high priest to walk straight towards it, ‘feasting his eyes all the time on that most awe-inspiring place, through the opening through which he was to enter, hence R. Meir s view.

(2) The high priest, as representative of Israel, is permitted to avoid the weary detour between table and altar and to proceed straight along the north wall towards the Holy of Holies.

(3) From the smoke (soot) of the candlestick on the wall.

(4) l Kings VI, 2.

(5) Ibid. 17.

(6) I Kings VI, 20.

(7) The hall leading into the interior of the Temple.

(8) V. Mid. IV. 6 and 7. Hence the question above is answered.

(9) E.V. ‘Sanctuary:’ here taken to denote the space between the partition dividing the Holy from the Holy of Holies.
(10) I Kings VI, 19.
(11) According to the first interpretation the cubit partition would be excluded then from the Holy of Holies. Does the ‘from within’ belong to the first part of the verse, referring to the debir or to the second interpretation and refer to the Holy of Holies?

Talmud - Mas. Yoma 52b

‘lifted up’,[1] ‘like almond-blossoms’;,[2] ‘tomorrow’,[3] ‘cursed’[4] and ‘rise up’.[5] It was also taught:[6] Joseph of Huzal is the same as Joseph the Babylonian, and is identical[7] with Issi b. Judah, also with Issi b. Gur Aryeh,[8] also with Issi b. Gamliel, also with Issi b. Mahalalel. What was his real name? Issi b. Akiba![9] — In the Torah there is no other,[10] but in the Prophets there is. But is there in the Torah no other; surely there is for R. Hisda asked:[11] [It is written], And he sent the young men of the children of Israel, who offered burnt-offerings,[12] [does it mean] of lambs; and sacrificed peace-offerings unto the Lord [namely of oxen]; or [does the word] ‘oxen’ refer to all [sacrifices]?[13] — R. Hisda had indeed his doubts about it, but to Issi b. Judah it was obvious.

MISHNAH. THE OUTER CURTAIN WAS HELD BACK BY A CLASP ON THE SOUTH SIDE AND THE INNER CURTAIN ON THE NORTH SIDE. HE WALKED ALONG BETWEEN THEM UNTIL HE REACHED THE NORTH SIDE. WHEN HE REACHED THE NORTH SIDE HE TURNED ROUND TO THE SOUTH AND WENT ON ALONG THE CURTAIN, TO HIS LEFT, UNTIL HE REACHED THE ARK. WHEN HE REACHED THE ARK HE PUT THE PAN OF BURNING COALS BETWEEN THE TWO BARS.[14] HE HEAPED UP THE INCENSE UPON THE COALS AND THE WHOLE HOUSE BECAME FULL WITH SMOKE. HE CAME OUT BY THE WAY HE ENTERED[15] AND IN THE OUTER HOUSE[16] HE UTTERED A SHORT PRAYER. HE DID NOT MAKE THE PRAYER LONG SO AS NOT TO FRIGHTEN ISRAEL.

GEMARA. To what are we referring here? If it be the first Sanctuary, was there then a curtain?[17] Again, if it is to the second Sanctuary, was there then an Ark? Surely it has been taught: When the Ark was hidden, there was hidden with it the bottle containing the Manna,[18] and that containing the sprinkling water,[19] the staff of Aaron,[20] with its almonds and blossoms, and the chest which the Philistines had sent as a gift to the God of Israel, as it is said: And put the jewels of gold which you return to Him for a guilt-offering in a coffer by the side thereof and send it away that it may go.[21] Who hid it? — Josiah hid it. What was his reason for hiding it? — He saw the Scriptural passage: The Lord will bring thee and thy King whom thou shalt set over thee,[22] therefore he hid it, as it is said: And he said to the Levites, that taught all Israel, that were holy unto the Lord: Put the holy ark into the house which Solomon, the son of David, King of Israel did build. There shall no more be a burden upon your shoulders now. Serve now the Lord your God and His people Israel.[23] And R. Eleazar said: We derive by analogy[24] between the words ‘there’, ‘generations’ and ‘to be kept’ occurring in these passages![25] In truth we refer to the second Sanctuary and what does ‘He came to the Ark’ mean? I.e., he came to the place of the Ark. But the text reads: HE PLACED THE PAN OF BURNING COALS BETWEEN THE TWO BARS?[26] — Read [it to mean]: ‘as if it were between the two bars’.

HE HEAPED THE INCENSE UPON THE COALS. We learn here in accordance with the view that he heaped it [the incense][27] up. One [Baraitha] taught: He begins to heap it up on the inner side, which is to him the outer side,[28] whereas another taught: he begins to heap it up on the outer side which is to him the inner side. Abaye said: It is a matter of dispute among Tannaim. Further said Abaye: The view of him who holds he begins to heap it on the inner side, which is to him the outer side, seems logical, for we have learnt:[29] One teaches him: Be careful

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(1) Gen. IV, 7: The meaning could be: If thou doest well (good!) — but thou must bear the sin, if thou doest not well; or the usual interpretation: If thou doest well, there will be forgiving (or lifting up of face); and if thou doest not well, sin coucheth at the door.

(2) Ex. XXV, 33: Three cups, made like almond-blossoms in one branch, a knop and a flower, or: Three cups, like almond-blossoms . . . a knop and a flower.

(3) Ex. XVII, 9: Go out and fight with Amalek tomorrow; I will stand on the top of the hill, etc.

(4) Gen. XLIX, 6, 7: And in their self-will they houghed oxen. Cursed be their anger, for it was fierce. Or: And in their self-will they houghed the cursed oxen. Their anger was fierce. (The cursed oxen would thus be an uncomplimentary reference to Shechem, a descendant of Canaan cursed in Gen. IX, 25).

(5) Deut. XXXI, 16: Behold thou art about to sleep with thy fathers; and (this people) will rise up. Or: Behold thou art about to sleep with thy fathers and (wilt in future) rise up. This people will go astray after the foreign gods. — Tosaf. s.v. endeavours to account for the curious order of the sentences quoted.

(6) Pes. 113b.

(7) Issi as an abbreviation of Joseph is perfectly possible. Tosaf.

(8) Judah is called Gur Aryeh (a lion's whelp) in the blessing of Jacob, hence the substitution here, v. Gen. XLIX, 9.

(9) V. Pes., Sonc. ed., p. 585. n. 6.

(10) Now Joseph of Huzal is here identified with Issi b. Judah and yet among the ambiguous passages here enumerated, the passage which aroused his question (I Kings VI, 20) is not mentioned!

(11) Hag. 6b.

(12) Ex. XXIV, 5.

(13) I.e., also to burnt-offerings, the meaning depending on the pause: If we pronounce ‘oloth’ (burnt-offerings) at the end of the middle pause, or read on without such pause in the middle.

(14) V. Ex. XXV, 13f.

(15) Just as, on entering, he turned southwards until he reached the Ark, thus as he left, he did not turn his face, but went backwards, with his face toward the Ark (Rashi).

(16) In the Sanctuary.

(17) V. supra 51b.

(18) Ex. XVI, 33.

(19) Num. XIX, 9.

(20) Num. XVII, 25.

(21) I Sam. VI, 8. Hence it is evident that it was placed together with the Ark and the fear was justified that together with the latter these things might be exiled and lost.

(22) Deut. XXVIII, 36.

(23) II Chron. XXXV, 3.

(24) That the other objects enumerated were hidden at the same time as the Ark.

(25) Ex. XXX, 6 and ibid. XVI, 33, the word ‘there’ occurs, justifying the inference that something must occur in both the Ark and the manna; in the passage referring to the latter, Ex. XVI, 33, as well as in the passage referring to the oil for anointing (ibid. XXX, 31) the priests the word ‘generations’ occurs, again indicating some justified inference of something in common; finally, in connection with the manna as well as in the passage about the staff of Aaron the word ‘to be kept’ occurs (Ex. XVI, 33 and Num. XVII, 25). From all these word analogies the inference is drawn that what manna, bottle, oil, staff of Aaron and Ark had in common is that having been placed in or near the Ark, they also were hidden together. Hence the reference in the Mishnah could not be to the second Sanctuary either.

(26) He placed it just where the two staves had been in the first Sanctuary.

(27) V. supra 49b.

(28) I.e., he commences to heap up the incense from the inside part of the coal-pan in relation to the Holy of Holies, working outwardly towards his arm. I.e., he commenced to heap up the incense on the outer side of the pan in relation to the Holy of Holies, working towards the inside, away from his arm, with the precaution suggested below.

(29) Tamid 33a.

Talmud - Mas. Yoma 53a

not to start in front of thee lest thou be burnt.[1]

Our Rabbis taught: And he shall put the incense upon the fire before the Lord:[2] i.e., he must not put it in order outside and thus bring it in. [This is] to remove the error from the minds of the Sadducees who said: He must prepare it without, and bring it in. What is their interpretation? — For I appear in the cloud upon the ark-cover[3] 'that teaches us that he prepares it outside and brings it in'. The Sages said to them: But it is said already 'And he shall put the incense upon the fire before the Lord'.[4] If so for what purpose then is it stated 'For I appear in the cloud upon the ark-cover'? It comes to teach us that he puts into it a smoke-raiser.[5] — Whence do we know that he must put a smoke-raiser into it? — Because it is said: So that the cloud of the incense may cover the ark-cover.[6] But if he did not put a smoke-raiser into it, or that he omitted one of its spices he is liable to death. But [why not] infer this[7] from the fact that he effected an entrance for no purpose.[8] R. Shesheth said: We speak here of the case that he was in error about the entrance,[9] but deliberate in omitting the spice. R. Ashi said: You might even set the case when he was deliberate with regard to both but [here we deal with the case] where he brought in two incenses, one incomplete, the other defective, so that he is not guilty because of the purposeless entrance because he had offered up a perfect incense, but he is guilty in regard to the incense because he had offered up one defective incense.

The Master had said: 'Whence is it known that he must place a smoke-raiser into it? To teach us that, it is said: "So that [the cloud] may cover etc."[10] [What need of] one scriptural verse added to another?[11] — Said R. Joseph: This is what is meant: From here I know only about the leaf of the smoke-raiser, whence do I know about the root?[12] To teach us that Scripture said: 'So that it may cover [etc.]'[13] Said Abaye to him: But the opposite has been taught; for it was taught: If when he put in the root of the smoke-raiser, it would rise up straight like a stick until it reached the ceiling beams; as soon as it reached the beams of the ceiling it would come slowly down the walls until the house became full of smoke, as it is said: And the house was filled with smoke?[14] — Rather, said Abaye, this is what it means: Now I know only about the root of the smoke-raiser, whence do I know also about its leaf? To teach us that Scripture said: 'So that it may cover [etc.]'.

R. Shesheth said: I know only about the Tent of Meeting in the wilderness; whence do I know about Shiloh and the eternal Sanctuary? To teach us that Scripture said: 'So that it may cover [etc.]' But that we infer from, And so shall he do for the Tent of Meeting, that dwelleth with them?[15] — Rather is this meant: Now I know about the Day of Atonement,[16] whence do I know about the other days of the year? To teach us that, Scripture said: 'So that it may cover [etc.]'. R. Ashi said: One [passage] refers to the commandment, the other to its indispensableness.[17] Raba said: One refers to the penalty incurred, the other to the prohibition.[18] It was taught: R. Eliezer said: That he die not,[19] i.e., the penalty, For I appear in the cloud, i.e., the prohibition. I might have assumed that both were stated before the death of the sons of Aaron,[20] to teach us [the true fact] it is written: After the death of the two sons of Aaron.[21] One might assume that both were said after the death of the two sons of Aaron; to teach us [the true fact] it is written: 'For I will appear in the cloud upon the ark-cover.'[22] How is that [to be explained]? The prohibition [was stated] before the death, the penalty after the death. — How is this inference made? Raba said: 'For I will appear in the cloud' — but He had not appeared[23] yet. Then why were they punished? — As it was taught: R. Eliezer said: The sons of Aaron died only because they decided a question of law in the presence of Moses their Master. What was it they decided? — And the sons of Aaron the priest shall put fire upon the altar[24] [means] although the fire was coming down from heaven[25] yet was it obligatory to bring private[26] fire.

HE CAME OUT BY THE WAY HE ENTERED: Whence is this known? — Said R. Samuel b. Nahmani in the name of R. Jonathan: Scripture said: So Solomon came to the high place that was at Gibeon, [unto] Jerusalem.[27] What has Gibeon to do with Jerusalem?[28] Rather, [Scripture] compares his departure from Gibeon towards Jerusalem with his entrance from Jerusalem into Gibeon, i.e., just as when he entered Gibeon from Jerusalem his face was directed towards the high place, in the same way as he had come in; in the same manner as he left Gibeon for Jerusalem his face was turned toward the high place even in the same way as when he had come in.[29] In similar manner the priests as they ministered, the Levites on their service, the Israelites on their posts[30] — as they left they would not turn their face back, to go out, but would turn their face sideways to leave. Thus also a disciple taking leave of his master, must not turn his face back to go away, but must turn sideways to depart. As was the case with R. Eleazar, whenever he took leave of R. Johanan: if R. Johanan wanted to leave, R. Eleazar would stand on his place, the head bowed, until R. Johanan disappeared from his sight but when R. Eleazar wished to take leave he would walk backwards until he disappeared from the sight of R. Johanan. When Raba was about to take leave of R. Joseph he would go backwards, so that his feet were bruised and the threshold of the house of R. Joseph was stained with blood.

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(1) The incense which he had heaped up towards his end and which burns continually may touch his arm and burn it whilst he is working it towards the other side.

(2) Lev. XVI, 13.

(3) The Sadduceans in literal translation have this interpretation: ‘I, the Lord, am to be visited’, i.e., seen, in the Holy of Holies, in the cloud of the smoke of incense, which must be a cloud, i.e., prepared outside, so that when, in the Holy of Holies I am seen, it is in the cloud of incense, all ready and rising up, as the high priest enters.

(4) Which clearly shows that the incense is put in the fire inside.

(5) The name of a plant used as an ingredient of the incense and whose effect lay in achieving a straight rising smoke.

(6) Lev. XVI, 13.

(7) That he is culpable if he omitted one of its ingredients.

(8) That is indicated already by the passage in Lev. XVI,2: That he come not at all times ... lest he die, which indicates that a fruitless entrance incurs such penalty, hence no additional source of that law is necessary.

(9) To which no penalty of death is attached.

(10) The incense without the smoke-raiser could not possibly effect such ‘covering’.

(11) From the passage ‘For in the cloud, etc.’ we inferred the necessity of the smokeraiser, why then an additional verse?

(12) Whether the roots or the leaf achieved the straight smoke. R. Joseph holds that the leaves had such property, Abaye attributed that quality to the root.

(13) ‘Cover’ may refer to the capacity to just cover the ark-cover, but not to rise above it.

(14) Isa. VI, 4. This proves that the root is more effective for producing the straight smoke.

(15) Lev. XVI, 16, i.e., wherever he shall dwell with them, shall they do this.

(16) The portion of the Torah refers to the Day of Atonement.

(17) ‘So that it may cover’ is the command. He shall not come at all times ... for in a cloud shall I appear — and not otherwise is the prohibition that the incense is indispensable.

(18) Lit., ‘warning’.

(19) Lev. XVI, 13.

(20) Who died in expiation of their sin; and thus assumed it was their neglect to put the smoke-raiser into the incense.

(21) Lev. XVI, 1.

(22) This is the literal rendering.

(23) I.e., when this scriptural verse was uttered the Lord had not appeared yet. But if the reference were to a time after the death of the two sons of Aaron, He would have appeared already, namely on exactly that day, as it is said: And the glory of the Lord appeared unto all the people. (Lev. IX, 23).

(24) Lev. I, 7.

(25) V. supra 21b.

(26) Although their decision was correct, they incurred penalty for their presumptuousness in rendering a decision before their master, instead of requesting him to render it for them.

(27) II Chron. I, 13.

(28) The indeterminate ‘Jerusalem’ in the text is ambiguous and therefore invites ad hoc interpretation.

(29) So that the text means: In the same manner as Solomon journeyed to Gibeon, so did he proceed on his return journey from Gibeon to Jerusalem.

(30) V. Ta'an. 24a.

Talmud - Mas. Yoma 53b

The people told R. Joseph that Raba did that, whereupon he said to him: May it be the will [of God] that you raise your head above the whole city.[1] R. Alexandri said in the name of R. Joshua b. Levi: One who prays [the 'Amidah][2] should go three steps backwards, and then recite 'peace'.[3] R. Mordecai said to him: Having taken the three steps backwards, he ought to remain standing, as should a disciple who takes leave of his master; for if he returns at once, it is as with a dog who goes back to his vomit. It has also been taught thus: One who prays shall take three steps backwards and then pronounce 'peace'. And if he did not do so, it would have been better for him not to have prayed at all. In the name of R. Shemaya they said: He should pronounce 'peace' towards the right, then towards the left, as it is said: At His right hand was a fiery law unto them,[4] and it is also said: A thousand may fall at thy side and ten thousand at thy right hand.[5] For what reason 'and it is also said'? — You might have said it is the usual thing to take a thing with the right hand,[6] come therefore and hear: 'A thousand may fall at thy side and ten thousand at thy right hand'.[7]

Raba saw Abaye pronouncing 'peace' first towards the right and he said to him: Do you mean that your right hand is meant? It is your left hand, which is the right of the Holy One, blessed be He. R. Hiyya the son of R. Huna said: I saw Abaye and Raba who were taking all three steps with one genuflexion.

AND HE UTTERED A SHORT PRAYER IN THE OUTER HOUSE: What did he pray? Raba son of R. Adda and Rabin son of R. Adda both reported in the name of Rab: 'May it be Thy will, O Lord our God, that this year be full of heavy rains and hot'. But is a hot year an advantage? — Rather: If it be a hot one, let it be rich in rain. — R. Aha the son of Raba concluded the prayer in the name of R. Judah [thus]: May there not depart a ruler from the house of Judah, and may the house of Israel not require that they sustain one another, and permit not the prayers of travellers[8] to find entrance before you. R. Hanina b. Dosa was walking along a road when rain came down upon him. He said: 'Lord of the Universe! All the world is comfortable and Hanina is afflicted!' The rain stopped. As he came home, he said: 'Lord of the Universe! All the world is afflicted and Hanina is comfortable!'[9] The rain came again. R. Joseph said: Of what use is the prayer of the high priest against R. Hanina b. Dosa!

Our Rabbis taught:[10] It happened with one high priest that he prolonged his prayer. His fellow priests undertook to enter after him. As they began to enter he came forth. They said to him: Why did you prolong your prayer? — He said: Is it disagreeable to you that I prayed for you, for the Sanctuary, that it be not destroyed? — They said to him: Do not make a habit of doing so, for thus have we learnt: He would not pray long lest he terrify Israel.[11]

MISHNAH. AFTER THE ARK HAD BEEN TAKEN AWAY, THERE WAS A STONE FROM THE DAYS OF THE EARLIER PROPHETS,[12] CALLED THE SHETHIYAH,[13] THREE FINGERS ABOVE THE GROUND, ON WHICH HE WOULD PLACE [THE PAN OF BURNING COALS]. HE WOULD TAKE THE BLOOD FROM HIM WHO WAS STIRRING IT, AND ENTER [AGAIN] INTO THE PLACE WHERE HE HAD ENTERED,[14] AND STAND [AGAIN] ON THE PLACE ON WHICH HE HAD STOOD,[15] AND SPRINKLE THEREOF ONCE UPWARDS[16] AND SEVEN TIMES DOWNWARDS, AIMING TO SPRINKLE NEITHER UPWARDS NOR DOWNWARDS BUT KEMAZLIF [MAKING THE MOVEMENT OF SWINGING A WHIP]. AND THUS WOULD HE COUNT: ONE, ONE AND ONE, ONE AND TWO, ONE AND THREE, ONE AND FOUR, ONE AND FIVE, ONE AND SIX, ONE AND SEVEN. THEN HE WOULD GO OUT AND PUT IT ON THE GOLDEN STAND IN THE SANCTUARY. ONE WOULD BRING HIM THE HE-GOAT, HE WOULD SLAY IT, RECEIVE ITS BLOOD IN A BASIN, ENTER [AGAIN] THE PLACE HE HAD ENTERED BEFORE, STAND [AGAIN] ON THE PLACE HE HAD STOOD ON BEFORE AND WOULD SPRINKLE THEREFROM ONCE UPWARDS AND SEVEN TIMES DOWNWARDS. THUS WOULD HE COUNT; ONE, ONE AND TWO, ETC. THEN HE WOULD GO OUT AND PLACE IT ON THE SECOND GOLDEN STAND IN THE

SANCTUARY. R. JUDAH SAID: THERE WAS NO MORE THAN ONE GOLDEN STAND. HE WOULD[17] TAKE THE BLOOD OF THE BULLOCK AND PUT DOWN THE BLOOD OF THE HE-GOAT, SPRINKLE THEREOF UPON THE CURTAINS FACING THE ARK OUTSIDE, ONCE UPWARDS, SEVEN TIMES DOWNWARD, AIMING TO SPRINKLE NEITHER UPWARDS NOR DOWNWARDS, BUT KE-MAZLIF [MAKING THE MOVEMENT OF SWINGING A WHIP]. THUS WOULD HE COUNT [AS ABOVE]. THEN HE WOULD TAKE THE BLOOD OF THE HE-GOAT, DEPOSITING THE BLOOD OF THE BULLOCK, AND SPRINKLE THEREOF UPON THE CURTAIN FACING THE ARK OUTSIDE ONCE UPWARDS, SEVEN TIMES DOWNWARDS [AS ABOVE]. THEN HE WOULD POUR THE BLOOD OF THE BULLOCK INTO THE BLOOD OF THE HE-GOAT EMPTYING THE FULL VESSEL INTO THE EMPTY ONE. GEMARA. [The Mishnah] does not teach ‘After the Ark has been hidden away’, but ‘After the Ark had been taken away’, this is in accord with him who holds that the Ark went into exile to Babylonia, for it was taught: R. Eliezer said: The Ark went into exile to Babylonia, as it was said: In the following year King Nebuchadnezzar sent and had him brought to Babel together with the precious vessels of the house of the Lord.[18] R. Simeon b. Yohai said: The Ark went into exile to Babylonia, as it was said: Nothing shall be left, saith the Lord,[19] i.e., the Ten Commandments contained therein R. Judah b. Ilai[20] said: The Ark was hidden [buried] in its own place, as it was said:And the staves were so long that the ends of the staves were seen from the holy place, even before the Sanctuary; but they could not be seen without; and there they are unto this day.[21] Now he[22] disputes ‘Ulla for ‘Ulla said: R. Matthiah b. Heresh asked R. Simeon b. Yohai in Rome:[23] Now since R. Eliezer had taught us on the first and second occasion that the Ark went into exile to Babylonia (the first was the one which we said just now: ‘And he had him brought to Babel together with the precious vessels of the house of the Lord’, but what is the second one? — Because it is written: And gone is from the daughter of Zion

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(1) R. Joseph being blind would not have noticed this reverent conduct of his pupil. On learning it he pronounced a prayerful hope, which was fulfilled. For Raba did become head of the Academies of both Sura and Pumbeditha.

(2) Lit., ‘(prayer read) standing’. The prayer par excellence, v. P.B. p. 44ff.

(3) At the end of that prayer one says: May He who maketh peace in His high places, make peace for us and for all Israel. This is the pronouncement of ‘peace’.

(4) Deut. XXXIII, 2.

(5) Ps. XCI, 7.

(6) People would usually use their right hand, but there is no particular importance attached to it to bestow ceremonial preference upon it.

(7) Which suggests that the right hand is granted greater victory, hence is more significant than the left.

(8) Who would pray for dry weather, as better for their comfort on the road.

(9) As he had no fields and thus no need of rain.

(10) Tosef. Yoma II.

(11) By his delay, attributable either to his failure to obtain forgiveness or to personal mishap.

(12) According to Sot. 48b this term includes Samuel, David and Solomon.

(13) Root: shatha — to lay a foundation, thus foundation stone. From it, as the Gemara says, the world was founded or started.

(14) Into the Holy of Holies.

(15) Between the two staves.

(16) In the direction of the ‘ark-cover’.

(17) This continues R. Judah's account. (5) V. Gemara. (6) Lev. XVI, 18: And he shall take the blood of the bullock and the blood of the goat and put it upon the horns of the altar round about. The inference is that since but one act of ‘putting’ is mentioned the two were mixed, by pouring the first into the second.

(18) II Chron. XXXVI, 10.

(19) Isa. XXXIX, 6, dabar, ‘thing’, here taken as ‘word’, i.e., the word(s) i.e., the ten commandments.

(20) Corrected according to Jer. Shek. VI; cur. edd. b. Lakish.

(21) I Kings VIII, 8.

(22) The one who reports in this Baraitha the view of R. Simeon b. Yohai.
(23) Who had gone there to plead with the Emperor on behalf of the people of Israel afflicted by emergency decrees of the Governor, see Graetz II, 443 (Engl. ed.).

Talmud - Mas. Yoma 54a

all her splendour.[1] What does ‘all her splendour’ mean? All that is enclosed within her.[2]) What do you say now? — He answered: l say that the Ark was hidden in its place, as it is said: ‘And the staves were so long, etc.’ Rabbah said to ‘Ulla: How does it follow from this?[3] — Because it is written: ‘Unto this day’. But does the term ‘Unto this day’ mean everywhere ‘forever’? Is it not written: And they [the children of Benjamin] did not drive out the Jebusites that inhabited Jerusalem; but the Israelites dwelt with the children of Benjamin in Jerusalem, unto this day.[4] Would you say here too that they did not go into exile? Surely it was taught:[5] R. Judah said: For fifty-two years no human being passed as it is said: For the mountains will I take up a weeping and wailing, and for the pastures of the wilderness a lamentation; because they are burned up, so that none passeth through, and they hear not the voice of the cattle; both the fowl of the heavens and the beast are fled and gone,[6] and the numerical[7] value of Behemah is fifty-two. Furthermore, R. Jose said: For seven years sulphur and salt prevailed in the land of Israel, and R. Johanan said: What is the basis of R. Jose's view? He infers it from the analogy of the words ‘covenant’, ‘covenant’. Here Scripture reads: And he shall make a firm covenant with many for one week;[8] and in another place it is written: Then men shall say: Because they forsook the covenant of the Lord, the God of their fathers.[9] — He answered: Here the word ‘there’ is used, there this expression[10] is not used. — Would you say that wherever the word ‘there’ is used, it implies ‘forever’, but the following objection can be raised: And some of them, even of the sons of Simeon, five hundred men, went to Mount Seir, having for their captains Pelatiah, and Neariah, and Rephaiah, and Uzziel, the sons of Ishi. And they smote the remnants of the Amalekites that escaped, and dwelt there unto this day.[11] But Sennacherib, King of Assyria, had come up already and confused all the lands as it is said: I have removed the bounds of the peoples, and have robbed their treasures?[12] This is a refutation.

R. Nahman said: It was taught that the Ark was hidden away in the Chamber of the wood-shed. R. Nahman b. Isaac said: Thus were we also taught:[13] It happened to a certain priest who was whiling away his time that he saw a block of pavement that was different from the others. He came and informed his fellow, but before he could complete his account, his soul departed. Thus they knew definitely that the Ark was hidden there. What had he been doing?[14] R. Helbo said: He was playing with his axe. The school of R. Ishmael taught: Two priests, afflicted with a blemish, were sorting the woods when the axe of one of them slipped from his hand and fell on that place, whereupon a flame burst forth and consumed him.[15]

R. Judah contrasted the following passages: And the ends of the staves were seen[16] and it is written but they could not be seen without[16] — how is that possible? — They could be observed, but not actually seen. Thus was it also taught: ‘And the ends of the staves were seen One might have assumed that they did not protrude from their place. To teach us [the fact] Scripture says: ‘And the staves were so long’. One might assume that they tore the curtain and showed forth; to teach us [the fact] Scripture says: ‘They could not be seen without’. How then? They pressed forth and protruded as the two breasts of a woman, as it is said: My beloved is unto me as a bag of myrrh, that lieth betwixt my breasts.[17]

R. Kattina said: Whenever Israel came up to the Festival, the curtain would be removed for them and the Cherubim were shown to them, whose bodies were intertwisted with one another, and they would be thus addressed: Look! You are beloved before God as the love between man and woman.

R. Hisda raised the following objection: But they shall not go in to see the holy things as they are being covered,[18] in connection with which Rab Judah in the name of Rab said: It means at the time when the vessels are being put into their cases?[19] — R. Nahman answered: That may be compared to a bride: As long as she is in her father's house, she is reserved in regard to her husband, but when she comes to her father-in-law's house, she is no more so reserved in regard to him.[20]

R. Hana son of R. Kattina raised the following objection: It happened with a priest who was whiling away his time[21] etc. — He was answered: You speak of a woman, who has been divorced. When she is divorced, she goes back to her earlier love.[22]

Of what circumstances are we treating here?[23] If we were to say the reference is to the first Sanctuary — but there was no curtain![24] If, again, the reference be to the second Sanctuary, but there were no Cherubim? — In truth the reference is to the first Sanctuary and as to 'curtain' the reference here means the curtain at the entrances, for R. Zera said in the name of Rab: There were thirteen curtains in the Sanctuary, seven facing the seven gates, two [more], one of which was at the entrance to the Hekal,[25] the other at the entrance to the Ulam;[26] two to the debir; two, corresponding to them, in the loft.[27] R. Aha b. Jacob said: In truth the reference here is to the second Sanctuary, but it had painted Cherubim, as it is written: And he carved all the walls of the house round about with carved figures of Cherubim and palm-trees and open flowers, within and without,[28] and he overlaid them with gold fitted upon the graven work.[29] And it is written also: According to the space of each, with loyoth [wreaths round about].[30] What does 'according to the space of each with loyoth' mean? Rabbah son of R. Shilah said:

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(1) Lam. I , 6.

(2) Hadarah (her inner chamber); i.e., all that is enclosed within Zion, in its Sanctuary, the Ark, etc.

(3) The inference that the Ark etc. was hidden in its place.

(4) Judg. I, 21.

(5) Shab. 145b.

(6) Jer. IX, 9.

(7) The numerical value serves only as 'asmakta' or intimation. Rashi goes through a closely reasoned argument to account for the fifty-two years.

(8) Dan. IX, 27.

(9) Deut. XXIX, 24; before that statement there is the reference to brimstone and salt: And that the whole land is brimstone and salt (v. 22). Thus the severe punishment for the forsaking of the covenant is that sulphur and salt cover the land. 'One week' in Dan. IX means a week of years.

(10) In the case of the Ark Scripture reads: ' There unto this day',implying for ever, whilst in the absence of 'there' in Judges I, 21, no such claim is made.

(11) I Chron. IV, 42-3.

(12) Isa. X, 13. The King of Babylon boasts of his achievements. Hence the sons of Simeon could not have dwelt there 'forever.

(13) Mish. Shek. VI, 2.

(14) To incur such punishment. The answer being that, unmindful of the reverence due to the Sanctuary, he had been playing around with his axe.

(15) or 'it.'

(16) I Kings VIII, 8.

(17) Cant. I, 13.

(18) Num. IV, 20.

(19) This is said of the Levites in the wilderness, who, whilst carrying the vessels on their shoulders, were not permitted to look at them before they were covered. How much less would the Holy of Holies be profaned by being shown to the masses who had come to celebrate the Festival; the Cherubim being above the mercy-seat in the Holy of Holies.

(20) Before marriage there is reserve, which is given up in marriage, to be assumed again when divorce has taken place. Israel in the wilderness is comparable to the bride in her father's home; in the Temple to the bride in her husband's care.

(21) Which shews that the same reserve still obtains in the Temple.

(22) I.e., to the reserve of original prenuptial state.

(23) Of what time speaks this account of the curtain being unrolled and the Cherubim shown to the pilgrims.

(24) I.e., between the Holy and the Holy of Holies, but a partition; v. supra 52b.

(25) V. Glos.

(26) I.e., in the cubit space of partition between the Holy and the Holy of Holies.

(27) Just above the entrance to the Holy of Holies.

(28) I Kings VI, 29.

(29) Ibid. 35.

(30) Ibid. VII, 36.

Talmud - Mas. Yoma 54b

Even as a man embracing his companion.[1] Resh Lakish said: When the heathens entered the Temple and saw the Cherubim whose bodies were intertwisted with one another, they carried them out and said: These Israelites, whose blessing is a blessing, and whose curse is a curse, occupy themselves with such things! And immediately they despised them, as it is said: All that honored her, despised her, because they have seen her nakedness.[2]

AND IT WAS CALLED SHETHIYAH: A Tanna taught: [It was so called] because from it the world was founded.[3] We were taught in accord with the view that the world was started [created] from Zion on. For it was taught: R. Eliezer says: The world was created from its centre, as it is said: When the dust runneth into a mass, and the clods keep fast together.[4] R. Joshua said: The world was created from its sides on, as it is said: For He saith to the snow: ‘Fall thou on the earth’; likewise to the shower of rain, and to the showers of His mighty rain.[5] R. Isaac the Smith said: The Holy One, blessed be He, cast a stone into the ocean, from which the world then was founded as it is said: Whereupon were the foundations thereof fastened, or who laid the corner-stone thereof?[6] But the Sages said: The world was [started] created from Zion, as it is said: A Psalm of Asaph, God, God, the Lord [hath spoken],[7] whereupon it reads on: Out of Zion, the perfection of the world,[8] that means from Zion was the beauty of the world perfected.

It was taught: R. Eliezer the Great said: These are the generations of the heavens and of the earth, in the day that the Lord God made earth and heaven.[9] The generations [the creations] of heaven[10] were made from the heaven and the generations of the earth were made from the earth. But the Sages said: Both were created from Zion, as it is said: ‘A Psalm of Asaph: God, God, the Lord, hath spoken, and called the earth from the rising of the sun to the going down thereof.’ And Scripture further says: ‘Out of Zion, the perfection of beauty, God hath shined forth’, that means from it the beauty of the world was perfected.

HE TOOK THE BLOOD FROM HIM THAT WAS STIRRING IT: etc. What does ‘KE-MAZLIF’ mean? — R. Judah showed it to mean

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(1) ‘Loyoth’ is connected with the root signifying ‘attach’, hence ‘companions’.

(2) Lam. I, 8.

(3) Tosef. II. The suggestion is that Zion was created first, and around it other clods, rocks, formations, continents, were formed until the earth was completed.

(4) Job XXXVIII, 38.

(5) Ibid. XXXVII, 6. The picture here (Rashi) is that of a skeleton or frame, which filled in, gradually solidifying from all sides towards the centre, which is last in foundation. All Scriptural verses here are used as intimation not logically but illustratively. Here is an amazing anticipation of the modern theory that the world was founded by the solidification of vapours, the Talmudic account ascribing this gradual creation to the will of God.

(6) Job XXXVIII, 6.

(7) Ps. L, 1.

(8) Ibid. v. 2.
(9) Gen. 11, 4.
(10) All things of heaven, the stars, sun and moon.

Talmud - Mas. Yoma 55a

‘as one swinging a whip’. — A Tanna taught: As he sprinkled, he did so not upon the ark-cover,[1] but against its thickness. And when he is to sprinkle upwards he first turns his hand down, and when he is to sprinkle downwards he first turns his hand up. — Whence do we infer this?[2] R. Aha b. Jacob said in the name of R. Zera: Scripture says: And sprinkle it upon the ark-cover and before the ark-cover.[3] Now with regard to the he-goat it need not be said [that he should sprinkle] downwards,[4] for that can be inferred from [the procedure with] the bullock where [the sprinkling] downwards[5] [is made], when then is it mentioned here too? To compare [the sprinkling] ‘upon’ [the ark-cover with the sprinkling] ‘before’ [it]: Just as [the sprinkling] ‘before’ does not mean ‘before’ actually,[6] so does sprinkling ‘upon’ [here] not mean really ‘upon’.[7] On the contrary! It was not necessary to state with regard to the bullock [that the sprinkling should be done] ‘upon’ [the ark-cover], for that could be inferred from the fact that the he-goat's blood was sprinkled upon [it], why then was it mentioned to compare the sprinkling ‘before’ [it], to the sprinkling ‘upon’ [it], viz. just as ‘upon’ means exactly, so shall ‘before’ here mean ‘upon exactly’?[8] How can you say this? Granted, if you say that the ‘downward’ sprinkling in the case of the he-goat is mentioned for the purpose of comparison,[9] then [sprinkling] ‘upward’ written in connection with the bullock is necessary in accord with the school of R. Eliezer b. Jacob; for the school of R. Eliezer b. Jacob taught: Upon the face of the ark-cover on the east,[10] this [special case] establishes a general rule viz., that wherever Scripture says ‘before’ [‘face’] it means ‘on the east’; but if you say that the ‘upwards’ in connection with the bullock is mentioned for the purpose of comparison, then for what purpose is the ‘downward’ in connection with the he-goat mentioned?

Our Rabbis taught:’And he shall sprinkle it upon the ark-cover and before the ark-cover’. From this we know how often the he-goat's blood is to be sprinkled upwards, viz., once; I do not know, though, how often ‘downwards’, so that I infer that thus: The word ‘blood’ is used in connection with the downward [sprinkling] of the bullock's blood, and the same word ‘blood’ is used about the downward [sprinkling] of the goat's blood: hence just as ‘downwards’ with the bullock means seven times, so does ‘downwards’ with the goat mean ‘seven times’. Or argue it this way: The word ‘blood’ is used in connection with the ‘upward’ [sprinkling] of the goat's blood, and the word ‘blood’ is used in connection with the downward [sprinkling] of the he-goat's blood; hence just as ‘upwards’ with the he-goat means once, thus also shall ‘downwards’ with the he-goat mean ‘once’? Let us see what comparison is legitimate: One may infer ‘downwards’ from ‘downwards’; but one may not infer ‘downwards’ from ‘upwards’. On the contrary: It is legitimate to infer [one aspect of] one matter from [another aspect of] the same matter, but one may not infer one matter from an extraneous one![11] To teach [the true facts] Scripture says: And [he shall] do with its blood[12] as he did with the blood of the bullock.[13] Now it was not necessary[14] to say ‘as he did’, why then was it said? To show that all the ‘doings’ of them should be alike; as there were seven sprinklings downward with the bullock, so shall there be seven sprinklings downward with the goat. We learn thus how many [sprinklings] downwards there are to be both with bullock and he-goat. But I do not know how many [sprinklings] upwards are to be made with the bullock's blood. And so I infer: The word ‘blood’ is used for the upward [sprinkling] in the case of the he-goat, and the word ‘blood’ is used for the upward [sprinkling] in the case of the bullock. Hence, [the inference that] just as the upward sprinkling in the case of the he-goat has to be made once,[15] so shall the upward [sprinkling] in the case of the bullock be made once. Or argue it this way: The word ‘blood’ is used for the downward [sprinkling] in the case of the bullock, and the word ‘blood’ is used in the case of the upward [sprinkling] of the bullock: hence just as seven downward sprinklings have to be made with the bullock's blood, so must seven upward sprinklings be made with the bullock's blood! Let us see what comparison is legitimate: One may fitly infer [something about] upward [sprinklings] from [other] upward [sprinklings], but one may not infer [something about] upward [sprinklings] from downward [sprinklings]. On the contrary: It is legitimate to infer one [aspect of one] matter from [another aspect of the same] matter, but one may not fitly infer one matter from an extraneous one.[16] Scripture therefore teaches: 'And he shall do with his blood as he did with the blood of the bullock'! It was not necessary to say 'with his blood', why then was it said? To intimate that all the 'doings' of them should be alike: just as seven sprinklings downward were made in the case of the bullock, so shall seven sprinklings downward be made in the case of the goat; and just as only one upward sprinkling was made with the he-goat, so only one sprinkling upward had to be made in the case of the bullock.

ONE, ONE AND ONE, ONE AND TWO: Our Rabbis taught: [He counted] One, one and one, one and two, one and three, one and four, one and five, one and six, one and seven[17] — this is the view of R. Meir. R. Judah says: One, one and one, two and one, three and one, four and one, five and one, six and one, seven and one. Yet they are not conflicting,[18] each counting as is customary in his place. At any rate, both agree that the first sprinklings must be counted with each of the following. What is the reason thereof? — R. Eleazar said: In order that he make no mistake in the count.[19] — R. Johanan said: Scripture said: 'And before the ark-cover shall he sprinkle'. Now it was not necessary to say 'shall he sprinkle'. [For what teaching purpose] why then was it said, 'He shall sprinkle'? — To indicate that the first sprinkling shall be counted with each subsequent one. — What is the [practical] difference between the two? — In case he had not counted, but also had made no mistake.[20] HE WENT OUT AND PLACED IT ON THE GOLDEN STAND IN THE SANCTUARY: We have learned there:[21] There were no money chests[22] [provided] for obligatory bird-offerings, to prevent confusion. What does 'to prevent confusion' mean? — R. Joseph said: To prevent confusion between freewill and obligatory offerings.[23] — Abaye said to him: Let him make two and inscribe on them: This is a freewill-offering, the other obligatory. — R. Judah

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(1) I.e., not on the top surface thereof.

(2) That the two upward sprinklings are not made actually upon the ark-cover.

(3) Lev. XVI, 15, with reference to the he-goat.

(4) I.e., 'before the ark-cover'.

(5) V. infra.

(6) The blood in the downward sprinkling fell on the ground not on the ark-cover. V. Rashi. Cur. edd.: 'does not mean upon'.

(7) Not only not exactly upwards, but really downwards.

(8) So that in his downward sprinkling the blood is to touch the thickness of the ark-cover, whilst in his upward sprinkling it should touch its upper surface.

(9) As is stated at first.

(10) So lit., Lev. XVI, 14.

(11) I.e.. the he-goat from the bullock.

(12) Sc. of the he-goat.

(13) Lev. XVI, 15.

(14) Since the sprinkling 'upon' or 'before' has been expressly mentioned in connection with the he-goat. Any apparently superfluous word or words were chosen for intimation or indication.

(15) As the Scriptural text indicates.

(16) The assumption that different parts of the same procedure are governed by similar rules seems more justified than that similar aspects of altogether different matters have such regulations.

(17) Tosef. II.

(18) In the place of R. Meir the tens were counted first, the singles following, whilst the opposite way of counting prevailed in the city of R. Judah.

(19) And include the one sprinkled upward among the seven which he has to sprinkle downwards (Bertinoro).

(20) If counting is obligatory, he had failed to do it properly. If the only purpose is the prevention of error and he has managed to avoid it, then de facto all is right.

(21) J. Shek. VI, 6.

(22) These were special money chests into which persons who had a freewill-offering of a bird to offer would put in money in payment of the offerings which the priests would make on their behalf. No such chests were however available for obligatory offerings of a bird.

(23) There were different regulations governing the ritual of the freewill and obligatory offerings respectively, for of the obligatory birds one was offered up as a burnt-offering, the other as a sin-offering, whereas all freewill-offerings were burnt-offerings, these differences implying distinctions in the ritual. Now if one of the money chests were confused with another, so that the priest would offer a freewill-offering from the money meant for obligatory offerings and vice versa, the offering would be rendered invalid.

Talmud - Mas. Yoma 55b

does not consider such inscriptions [of any value]. For we have learnt: R. JUDAH SAID: THERE WAS NO MORE THAN ONE STAND. Now why not two? Evidently because they might be mixed up! But then let him provide two and write upon them: This is for the bullock and this for the he-goat? Hence you must[1] assume that R. Judah does not consider such inscriptions [of any value]. An objection was raised in the Academy: There were thirteen money chests in the Temple, on which were inscribed: ‘new shekels’, ‘old shekels’, ‘bird-offerings’, ‘young birds for the whole offering’, ‘wood’, ‘frankincense’, ‘gold for the mercy-seat’, and on six of them: ‘freewill-offerings’. ‘New shekels’: [i.e..] those shekels due each year; ‘old shekels’: [i.e..] one who had not paid his shekel last year must pay it the next year. ‘Bird-offerings’, these are turtle-doves. ‘Young birds for the whole offerings’, these are young pigeons; and both of these are for whole offerings. This is the view of R. Judah.[2] — When R. Dimi came [from Palestine] he said: In the West[3] they said: It is a preventive measure against the case of a sin-offering whose owner has died.[4] But do we indeed take that into consideration? Have we not learnt: If someone sends his sin-offering from a far-away province,[5] it is offered up in the assumption that he is alive?[6] — Rather [the preventive measure is] against the case of a sin-offering whose owner has assuredly died.[7] But in that case let us separate four zuz[8] and cast them into the sea,[9] so that the rest will be available for use! R. Judah rejects the principle of Bererah.[10] Whence do we know this? Would you say from what we have learnt:[11] If a man buys wine from the Cutheans[12] on the eve of Sabbath, as it is getting dark,[13] he may say: Let the two logs[14] which I am about to set apart[15] be heave-offering

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(1) Because the priest might overlook them.

(2) Shek VI, 6; for notes v. Sonc. ed. a.l. Hence R. Judah apparently did consider inscriptions of value.

(3) Palestine.

(4) A sin-offering, the owner of which died, must not be sacrificed but must be left to die, v. supra 50a. Now if the owner died, then the money for the value of the sin-offering which he may have put in one of the chests must be thrown into the sea. That money, being unusable and confused with other monies in the chest, would render them all useless. This is the confusion referred to above, hence the non-provision of money chests for obligatory offerings of a bird.

(5) Lit., ‘province of the sea’.

(6) V. Git. 28a.

(7) It is known that he died after having deposited his money in the chest for the bird-offerings before having offered it up.

(8) The usual price of one dove.

(9) And thus free the rest of the monies for their designated purposes, on the assumption that these four zuz represented the money for the sin-offering of a bird and was that deposited by the deceased.

(10) Lit., ‘choosing’, ‘choice’, then subsequent selection, retrospective designation, i.e. , the legal effect resulting from an actual selection or disposal of things previously undefined as to their purpose (Jast.).

(11) Demai VI, 4.

(12) Before the prohibition against their wines had been decreed. As the Cutheans (Samaritans) were suspected of neglecting the laws of terumah and tithe the buyer must himself set these aside before he can be permitted to drink any of the wine.

(13) If the purchase took place on the Sabbath eve immediately before dusk (when there is no time to remove these priestly and levitical dues from the wine) and he requires the wine for the Sabbath. It is prohibited to separate priestly or levitical dues on the Sabbath, v. Bez. 36b.

(14) A log (v. Glos.) is c. 549 cubic centimetres.

(15) For the hundred logs contained in the cask he bought.

Talmud - Mas. Yoma 56a

ten[1] tithe-offering, and nine second tithe, and after he sets aside the redemption[2] money for the second tithe he may drink it at once. These are the words of R. Meir.

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(1) 'Logs which I am about to set aside'.

(2) Lit., 'to profane'. 'to desecrate'; to cause the loss of priestly status or of sacred use, to make available for private use. With money (cf. Deut. XIV, 25) that he has at home or anywhere else.

Talmud - Mas. Yoma 56b

R. Judah, R. Jose and R. Simeon prohibit it. Hence we see that he rejects the principle of Bererah! — How does that follow? Perhaps the matter is different there, as the motive is taught there: They said to R. Meir: Don't you admit that if the bottle burst he would be found retrospectively to have drunk untithed wine? He said to them: If it bursts.[1] — Rather is it to be derived from what Ayo taught: for he taught: R. Judah said: No man may stipulate two possibilities at the same time. But if the Sage comes from the east, his 'Erub[2] applies eastwards alone; if he comes from the west, his 'Erub applies westwards alone, but never in both directions. And we asked concerning it: What is the difference touching both directions that it cannot apply, it is only because the principle of Bererah is rejected,[3] the same ought to apply even [where the condition was 'if the Sage comes] from the east or west'? Thereupon R. Johanan said: In this case the Sage has arrived already.[4] But now that we maintain that R. Judah rejects the principle of Bererah whilst upholding the value of inscriptions [notices],[5] also for the Day of Atonement let there be prepared two stands with such inscriptions! Because the high priest is fatigued, he would not pay attention to them. For should you not agree to this consideration, he could really do without any such inscriptions, for one [contains] more [blood], and the other less.[6] And if you were to say, he does not receive the whole of it,[7] but R. Judah said: He who slays the animal, must receive the whole blood, as it is said: The whole blood of the bullock he shall pour upon the base of the altar.[8] And if you were to say some thereof might be spilled; — still, one [blood] is lighter [in colour], the other darker. Hence you must needs explain that the high priest, because of his fatigue, could not pay sufficient attention [to the difference in the blood]; thus is it here: because of his fatigue the high priest could not pay sufficient attention [to the inscriptions].

Once a man went down [to the praying desk] in the presence of Raba[9] and read: Then he came forth, and placed it upon the second stand in the Temple. He took the blood of the bullock and deposited the blood of the he-goat. He said to him: In one point in accord with the Sages,[10] in another with R. Judah?[11] Rather say: He deposited the blood of the he-goat and took the blood of the bullock.

AND HE SPRINKLED THEREOF UPON THE CURTAIN OUTSIDE OPPOSITE THE ARK: Our Rabbis taught: And so shall he do for the tent of meeting.[12] What does that come to teach? That as he sprinkles in the Holy of Holies, thus must he sprinkle in the Hekal, i.e., just as in the Holy of Holies he sprinkles once upward and seven times downward, from the blood of the bullock, thus shall he sprinkle in the Hekal. That dwelleth with them in the midst of their uncleanness[13] i.e., even when they are unclean, the Divine Presence is among them.

A certain Sadducee[14] said to R. Hanina:

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(1) This is a contingency that need not be reckoned with, since a guard may be appointed to watch out for such theoretical situations.

(2) The word ‘erub’ means interweaving, mixture, confusion, conjunction. It signifies also a symbolical act, by which the legal fiction of community or continuity is established. With reference to the Sabbath limits: a person deposits, before the Sabbath (or the Holy Day), certain eatables to remain in their place over the next day, by which act he transfers his abode to that place and his movements on the Sabbath are measured from it as the centre. On the Sabbath in the area around a town or place the limits are two thousand cubits in every direction. The case here discussed is that of one who expects a scholar outside his city and is desirous of meeting him. He deposits the ‘erub for this purpose. V. ‘Er., Sonc. ed., pp. 252f. notes.

(3) It being held that the choice the man made between the two Sages on the following day may not have been his choice at twilight on the previous day when the validity of the ‘erub must take effect.

(4) Sc. at twilight of the Sabbath eve he was already within the permitted Sabbath limit of that man's town though the latter was unaware of the fact. As the validity of the ‘erub was made dependent on an event that, though unknown to the speaker, had actually taken place before twilight of the Sabbath eve there can be no question as to the ‘erub's effectiveness. It is not the speaker's subsequent knowledge of the fact that renders the ‘erub valid retrospectively, but the presence of the Sage at the crucial moment. The question of bererah, therefore, does not at all arise.

(5) As so proved from Shek. VI, 5.

(6) One contains the blood of the bullock which is of a larger quantity than that of the he-goat.

(7) Sc. the blood of the bullock.

(8) Lev. IV, 7.

(9) He acted as deputy of the congregation (public reader) and read the order of the service of the Day of Atonement.

(10) The reference to the second stand.

(11) Stating that he took first the blood of the bullock and then deposited the blood of the he-goat.

(12) Lev. XVI, 16.

(13) Ibid.

(14) A censorial corruption of Min (v. Glos.). A Sadducean would not have spoken of Israel as ‘you’.

Talmud - Mas. Yoma 57a

Now you are surely unclean, for it is written: Her filthiness was in her skirts.[1] -He answered: Come and see what is written concerning them: ‘That dwelleth with them in the midst of their uncleanness’,i.e., even at the time when they are unclean, the Divine Presence is among them. — But may something inferred by analogy be used as basis of another by analogy?[2] — The inference here came from the subject itself for which inference was made, together with another, thus cannot be considered inference by analogy.[3] This will be well in accord with the view that such inference is not inference by analogy, but what can be said according to the view that even that is inference by analogy? — Only the localities are inferred here from one another.[4] Or, if you like, say: He infers the outside [sprinklings] from the inside ones simultaneously.[5] It was taught: When he sprinkled, he did not sprinkle directly upon the curtain, but towards it. R. Eliezer b. Jose said: I saw it[6] in Rome and there were upon it many drops of blood both of the bullock and the he-goat of the Day of Atonement. — Perhaps these stains were those from the [blood of] the bullock [offered up] for an error of the community,[7] or of the goats [offered in expiation] for idolatry? — He saw that they were in their regular order.[8] It has also been taught[9] in connection with the bullock offered up for an error of the community: When he sprinkled the drops were not to reach the curtain, but if they did, they just did.[10] And R. Eleazar b. Jose said: I saw it in Rome and there were upon it many drops of blood from the bullock offered up for an error of the congregation and from the he-goats offered up for idolatry. But perhaps they came from the bullock and he-goat of the Day of Atonement? — He saw that they were not in their regular order.

If the blood [of the one] was mixed up with the blood [of the other],[11] — Raba holds, he sprinkles once upwards and seven times downwards, and it serves for both. When this was reported before R. Jeremiah, he said: Those foolish Babylonians, because they live in a dark country, they utter dark teachings.[12] Surely he would be giving the upward sprinkling [of the blood] of the he-goat before the downward sprinkling [of the blood] of the bullock, whereas the Torah said: And when he hath made an end of atoning for the holy place,[13] [implying] he must complete [the sprinkling of] the blood of the bullock, then complete [the sprinkling of] the blood of the he-goat. Rather, said R. Jeremiah: He sprinkles once upward and seven times downward in the name of the bullock, and then he sprinkles once upward and seven times downward in the name of the he-goat.

If the blood of one was mixed up with the blood of the other in the midst[14] of the last sprinklings, then R. Papa wanted to say before Raba, he makes seven downward sprinklings in the name of the bullock and he-goat, then makes one upward in the name of the he-goat. Said Raba to him: Now they had just called us foolish, now they might call us the most foolish of the foolish for we teach them but they learn not. Surely now he would be making the downward sprinkling [of the blood] of the he-goat before the upward sprinkling [of the blood] of the he-goat, whereas the Torah said: Sprinkle first upward, then downward.

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(1) Lam. I, 9.

(2) Above (55a) we inferred the number of upward and downward sprinklings with the blood of the bullock and the he-goat respectively. Here again an attempt is made to infer through analogy the number of upward and downward sprinklings in the Sanctuary from the sprinklings in the Holy of Holies. The rule is that in the laws appertaining to sacrifices something obtained by analogy may not become the basis or source of new inference by analogy; such inference is legitimate only when based upon the Biblical text itself.

(3) In the primary analogy the main law prescribing upward and downward sprinklings is definitely taught in the Biblical text, both in the case of the bullock and the he-goat , it is only their number that is inferred from one another. In such a case the primary analogy may be made the basis for a further analogy. It is only when the very law itself is mentioned in one case only and then inferred through analogy for the other that no further inference by analogy may be made. If e.g., no reference had been made in the Biblical text to any upward or downward sprinkling, such regulation being based on inference from one to the other, it would then be wrong to endeavour to derive another law by analogy from the first law inferred by analogy.

(4) I.e., whereas in the first analogy the inference was made from one animal for the other, the second is concerned in the localities — i.e., the Holy of Holies and the Temple, extending the sprinkling regulations from the former to the latter.

(5) The second inference is not made via the animals but directly from the sprinklings within the Holy of Holies to those outside, in the Temple Proper.

(6) V. Me'il. 17b: R. Eliezer was in Rome and had occasion to see the holy vessels in the royal treasury, among them the curtain of the Holy of Holies.

(7) Lev. IV, 13 and Num. XV, 24.

(8) One on top of the other, as the result of the motion of the priest, in the manner of one swinging a whip.

(9) V. D.S. Cur. edd. ‘We also learnt’.

(10) De facto it did not matter: even if the drops reached the curtain there was no cancellation of the service.

(11) The blood of the bullock with the blood of the he-goat.

(12) V. Pes., Sonc. ed., 60b.

(13) Lev. XVI, 20.

(14) I.e., after he had made the upward sprinkling with the blood of the bullock.

Talmud - Mas. Yoma 57b

Rather, said Raba, he makes seven downward sprinklings in the name of the bullock, then makes one upward and seven downward sprinklings in the name of the he-goat.

If the cups [of blood] have become confused,[1] then he sprinkles, and sprinkles again, and sprinkles once more, three times.[2] If part[3] of the blood became mixed up and part not, then obviously when he makes the sprinklings he makes them from that part which is definitely known [to be unmixed]; but as for the other,[4] is it to be considered a remainder and must thus be poured out at the base[5] of the altar, or is it to be considered 'rejected' [from sacred use] and must be poured into the canal?[6] — R. Papa said: Even according to the view that one cup renders the other a remainder,[7] that applies only where he could make the sprinklings if he wanted to do so but in this case,[8] even if he so desired, he would be unable to make the sprinkling. R. Huna the son of R. Joshua said to R. Papa: On the contrary! Even according to the view that one cup renders the other 'rejected', that applies only if he rejected it with his hands [deliberately], but where he had not rejected it with his hands it would not apply? For it has been taught: Above it is said: And the remaining blood thereof shall he pour out,[9] and below: And all the remaining blood thereof shall he pour out.[10] Whence do we know that, in the case of a sin-offering, if he had received the blood in four cups and sprinkled from each one cup thereof[11] one sprinkling, all the remaining blood must be poured out at the base? To teach us that Scripture said: 'And all the remaining blood thereof shall he pour out'. One might have assumed that even if he made the four sprinklings from one of the [cups], to teach us correctly, Scripture said: 'And the remaining blood thereof shall he pour out' i.e., only this is to be poured out at the base but they [the rest] are to be poured into the canal. R. Eliezer son of R. Simeon said: Whence do we know that if he received the blood of a sin-offering in four cups and made the four sprinklings from one of them, that they must all be poured out at the base? To teach us that Scripture said: 'And all the remaining blood thereof shall he pour out'.[12] But according to R. Eliezer son of R. Simeon is it not written: 'And the remaining blood thereof shall he pour out'? — R. Ashi said: This is meant to exclude the [blood that] remains in the neck of the animal.

HE POURED THE BLOOD OF THE BULLOCK INTO THE BLOOD OF THE HE-GOAT: We were taught in accordance with the view that one mixed [the blood] to sprinkle upon the horns [of the inner altar], for it has been said: R. Josaia and R. Jonathan [were disputing], one said: One mixed [the bloods], the other one did not do so. It may be ascertained that it is R. Josaia who held that one mixed [the bloods]; for he said: Although Scripture does not state: 'together',[13] is it not written: it is as if 'together' were written. You might also say that it is R. Jonathan, but here it is different, because Scripture states 'once'.[14] It has been taught contrary to this, our reply: 'And he shall take of the blood of the bullock and of the blood of the goat'[15] i.e., that they are to be mixed. This is the view of R. Josaia.

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(1) The priest not knowing which of the cups contained the blood of the bullock and which the blood of the he-goat.

(2) In each case he makes one sprinkling upward and seven downward from one cup then again from the second cup, finally again from the first cup, so that in any case the blood of the bullock would have been sprinkled before that of the he-goat. For, if the first cup was actually that containing the bullock's blood, and the second that containing the he-goat's blood, he has fulfilled his duty properly, with the first and second series of sprinklings. If, however, the first cup happened to be that of the he-goat, then such sprinkling was of no avail, and the second cup being that containing the bullock's blood and the third again the one containing the he-goat's blood, are in order and the service is performed in accord with the regulations which postulate that the sprinklings made with the bullock's blood came first.

(3) As e.g., when the blood contained in two cups was poured into a third, so that each of the two cups contained a quantity of blood.

(4) The mixed blood in the third cup.

(5) V. Zeb. 47a: the remaining blood was poured over the western base of the outer altar.

(6) I.e., since the sprinklings did not come from it, shall the blood be relegated, together with all waste of the Temple Court, through the canal, to the brook of Kidron.

(7) Whenever the priest has received the blood in two cups but has sprinkled from one only, the blood in the other cup is poured out over the base of the altar.

(8) Where part of the blood of the two cups was poured into a third.

(9) Lev. IV, 25.

(10) Ibid. v, 34.

(11) The blood of the sin-offering was sprinkled upon the four corners of the altar.

(12) Thus we see that the first Tanna treats the blood in the cup or cups from which no sprinkling has been made as rejected, to be poured out in the canal, whereas R. Eliezer b. R. Simeon treats it as the remainder, to be poured out over the base.

(13) In Sanh. 66a these two Sages debate the question as to whether literal direction is necessary to indicate that a prohibition does not refer to two persons together where the contrary might be assumed, R. Judah holding that such direction is necessary while R. Jonathan holds it is not. Thus, on the view of R. Josaia, even though no definite instruction is to be found in the text, the inference that the blood of the bullock and he-goat be sprinkled together, appears legitimate according to the analogous consistence of the view.

(14) Ex. XXX, 10. And Aaron shall make atonement upon the horns of it once (a year). The word is here interpreted to mean that one sprinkling is to be made of the blood of both animals.

(15) Lev. XVI, 18.

Talmud - Mas. Yoma 58a

R. Jonathan said: [He sprinkled] separately from the one and from the other. Said R. Josaia to him: But was it not said already: ‘Once’? To this R. Jonathan replied: But was it not said already: ‘From the blood of the bullock and the blood of the he-goat’? Why then was the word ‘once’ stated? To tell you, [sprinkle] once, but not twice from the blood of the bullock; once and not twice from the blood of the he-goat. Another [Baraitha] taught: ‘And he shall take from the blood of the bullock and from the blood of the he-goat’ i.e., that the two shall be mixed together. You say that they shall be mixed together! but perhaps he should sprinkle separately from the one and from the other? To teach us the right thing, Scripture says: ‘once’ and the anonymous [Baraitha] is in agreement with the view of R. Joshua.

HE POURED THE [CONTENTS OF] THE FULL VESSEL INTO THE EMPTY ONE: Rami b. Hama asked of R. Hisda: If he placed one bowl into another and this received the blood, what then? Is homogeneous matter considered an interposition or not?[1] He answered: You have learnt that already: HE POURED [THE CONTENTS OF] THE FULL VESSEL INTO THE EMPTY ONE. Does this mean that he placed the full bowl into the empty one?[2] — No, it means that he poured the full vessel into the empty one.[3] But the first part states already: HE POURED THE BLOOD OF THE BULLOCK INTO THE BLOOD OF THE HE-GOAT? — [It is repeated] in order [to make sure] that he will mix it very well indeed.

Come and hear: If he stood upon any vessel, or upon his fellow's foot, it is invalid![4] — It is different with his neighbour's foot, because he [his fellow] does not abandon it.[5] Some there are who say: This is how he asked of him: Is such the manner of ministration or not? Come and hear: For the school of R. Ishmael taught:[And they shall take] all the vessels of ministry, wherewith they minister in the sanctuary,[6] i.e., two[7] vessels, but one ministry [service].

Rami b. Hama asked of R. Hisda: If he deposited bast in the bowl and he received the blood therewith, what then? Is heterogeneous matter considered an interposition[8] or not? Is it not considered an interposition, since it penetrates [the blood], or is there no difference? — He replied to him: We have learnt that: He empties out the water until the sponge is reached.[9] — It is different with water because it is very weak. Some there are who say: This is how he answered him: In the case of the blood[10] it is permitted, but in the case of the fistful it is invalid.[11]

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(1) The priest is to receive the blood. If one bowl is considered an interposition, then the priest, whose hand does not hold the bowl containing the blood, is not really receiving the blood, the ministration then should be cancelled as invalid. (This discussion refers, as Rashi explains, not just to the Day of Atonement, but to the service on any day of the year). The two bowls are homogeneous and if they be considered as interposition, then the above question follows. With regard to heterogeneous matter, there is no doubt; it surely is considered an interposition, v. Tosaf. s.v. מין.

(2) That would indicate that homogeneous matter is not considered an interposition and would thus settle the above question in the affirmative.

(3) So that the situation is entirely different and no inference as to the interposition of homogeneous matter is possible.

(4) If the priest, in receiving the blood, stood upon a vessel, then that vessel was interposing between the floor of the Sanctuary and the priest, therefore invalidating the service. (Zeb. 24a). Similarly, if he stood upon his fellow's foot. The foot, however, is homogeneous and the fact that the service is cancelled, would seem to indicate that homogeneous matter is considered an interposition, so that the question above would appear to be answered.

(5) Homogeneous matter is not considered an interposition, but a human foot is an undeniable entity.

(6) Num. IV, 12.

(7) I.e., vessels in the plural means at least two (although the plural is indefinite as to the maximum, there is the undeniable minimum of two); whereas the word ministry refers to one ministration only.

(8) The bast is heterogeneous to the bowl, hence should be considered an interposition. But since the blood penetrates the bast and reaches the bowl, does it cancel the interposing bast, so that, as it were, the priest had received the blood in the bowl proper, as viewed retroactively, or not?

(9) Parah VI, 3: If someone was mixing the ashes (of the red heifer) in the water of a trough of stone, and there was a sponge in the trough then the water in the sponge is invalid, as a sponge is not a vessel. What should he do? The water in the trough should be poured out until the sponge is reached and the water is valid. Hence we see that a sponge is not considered interposing so as to invalidate the whole water, and similarly here, the bast should not be considered as interposing between the bowl and the blood.

(10) Because it is thin.

(11) For the fistful of the flour-offering was required to be received in the vessel after having first been taken, analogous to the receiving of the blood, hence any interposing object would render the ministration invalid.

Talmud - Mas. Yoma 58b

MISHNAH. AND HE SHALL GO OUT UNTO THE ALTAR THAT IS BEFORE THE LORD,[1] — THAT IS THE GOLDEN ALTAR.[2] THEN HE BEGINS TO SPRINKLE[3] DOWNWARD.[4] WHENCE DOES HE COMMENCE? FROM THE NORTH-EAST HORN [OF THE ALTAR], THEN THE NORTH-WEST, THEN THE SOUTH-WEST, THEN THE SOUTH-EAST. WHERE HE COMMENCES [SPRINKLING] ON THE OUTER ALTAR,[5] THERE HE COMPLETES [SPRINKLING] ON THE INNER ALTAR. R. ELIEZER SAID: HE REMAINED IN HIS PLACE AND SPRINKLED. AND HE WOULD SPRINKLE EVERY HORN FROM BELOW UPWARDS, WITH THE EXCEPTION OF THE HORN AT WHICH HE WAS STANDING, WHICH HE WOULD SPRINKLE FROM ABOVE DOWNWARDS. THEN HE SPRINKLED THE TOP[6] OF THE ALTAR SEVEN TIMES AND POURED OUT THE REMAINDER OF THE BLOOD AT THE WESTERN BASE OF THE OUTER ALTAR. AND [THE REMAINDER OF THE BLOOD SPRINKLED] ON THE OUTER ALTAR HE POURED OUT AT THE SOUTHERN BASE. BOTH MINGLED IN THE CANAL[7] AND FLOWED INTO THE BROOK KIDRON AND THEY WERE SOLD TO GARDENERS AS MANURE AND BY USING THEM ONE TRANSGRESSES THE LAW OF TRESPASS.[8] GEMARA. Our Rabbis taught: ‘And he shall go out unto the altar’, what does that mean to teach? R. Nehemiah said: Since we find that, in connection with the bullock offered up for [the transgression in error of] ‘any of the commandments’,[9] the priest stands outside the altar and sprinkles towards the curtain,[10] one might have assumed that here the same would take place, therefore Scripture said: ‘And he shall go out unto the altar’, hence he must have been found before on the inner side of the altar.[11] — Another [Baraitha] taught: ‘Before the Lord’. What does that mean to teach? R. Nehemiah said: Since we find with the bullock and he-goat of the Day of Atonement that the priest stands on the inner side of the altar and sprinkles upon the curtain, as he sprinkles one might have assumed here the same would be the case, therefore Scripture has come to teach us: The altar of sweet incense before the Lord, which is in the tent of meeting,[12] that implies: the altar before the Lord, but not the priest before the Lord. How that? He stands outside the altar and sprinkles.

HE BEGAN TO SPRINKLE DOWNWARD: Our Rabbis taught: He began to sprinkle downward.

Whence did he commence? From the south-eastern horn, [proceeding to] the south-western, north-western and north-eastern horns respectively. This is the view of R. Akiba, — R. Jose the Galilean says: [He started from] the north-eastern, [proceeding to] the north-western, southwestern and south-eastern horns respectively.[13] At the place where, according to R. Jose the Galilean, he commenced, there according to R. Akiba, he stopped. At the place where R. Akiba would have him start, there R. Jose the Galilean would have him stop. All agree at any rate that he does not start at the point he first comes to.[14] What is the reason? Said Samuel: Scripture said: And he shall go out unto the altar, i.e., only after he has gone over the whole altar. But according to R. Akiba he ought to go around it to the right.[15] Shall we say [then] that they are disputing a teaching of Rami b. Ezekiel? For Rami b. Ezekiel said: Concerning the sea[16] which Solomon made, [Scripture states]: It stood upon twelve oxen, three looking toward the north, and three looking toward the west, and three looking toward the south, and three looking toward the east; and the sea was set upon them, and all their hinder parts were inward.[17] Hence you are taught that all the turns you make [in the Temple] must be to the right, i.e., eastward;[18] one Master [R. Jose the Galilean] agreeing with Rami b. Ezekiel, the other Master [R. Akiba] disagreeing? — No, all agree with the view of Rami b. Ezekiel and the matter of dispute here is, rather, this: One Master holds that [the regulations] within[19] are inferred from [those] without,[20] the other Master holding we do not infer [the regulations] 'within' from [those] 'without'. But according to R. Akiba, granted that he does not infer 'within' from 'without', let him be permitted to do it one way if he so chooses, or the other way if he so chooses?[21] — R. Akiba will tell you: As far as de jure regulation is concerned he ought to start at the horn to which he had come first, for Resh Lakish has said: One must not forego the occasion for performing a religious act;[22] and the reason why he does not do so is because Scripture said: 'And he shall go out unto the altar,' i.e., until he has gone outside the whole altar. Therefore as soon as he has sprinkled the blood on this horn, he returns to the horn with which he should have started from the beginning.[23]

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(1) Lev. XVI, 18.

(2) Ex. XXX, I.

(3) Lit.,'to cleanse from sin'.

(4) Lit., 'he goes down' i.e., he applies the blood to the horn of the altar beginning at the top and leading his finger downward.

(5) Zeb. 53a.

(6) This word is variously interpreted in the Gemara. It may mean 'back', i.e., top; it has been claimed as 'the pure, real surface' (of gold) i.e., free from coals or ashes; as the centre of the altar front.

(7) V. Shek. IV, 2.

(8) Lev. V, 15.

(9) Lev. IV, 1ff.

(10) V. infra.

(11) The text should have read: 'He shall make atonement on the altar that is before the Lord'. 'And he shall go out unto the altar' has no special significance. But since we find that on the occasion of other sacrifices he was standing outside, the words 'and he shall go out' here indicate that in this case he was on the inner side.

(12) Lev. IV, 7. The words 'before the Lord' are in themselves superfluous — for obviously the altar was 'before the Lord' — but are to indicate that only the altar was 'before the Lord' but not the priest. The latter stood outside and did not interpose between the altar and the curtain either when he sprinkled the blood on the corners or against the curtains.

(13) The dispute hinges on the question as to whether there were one or two curtains before the Holy of Holies. R. Akiba holds there were two, the outer one clasped on the south side. As the priest came from the Holy of Holies from the south in order to proceed with the sprinkling against the curtain, the first horn of the altar he meets is the south-western, however, he did not sprinkle, because of the interpretation of 'And he shall go out unto the altar' (v. infra) so that he begins the sprinkling on the south-eastern side and then turning to the left continues with the outer corners. R. Jose the Galilean holds, in accord with R. Jose, that there was but one curtain, clasped on the north side, so that as the priest came forth from the north he reached first the north-western horn of the altar, where, however, he did not sprinkle but at the north-eastern horn, and then turning to the right he returned to the north-western horn to continue his sprinkling.

(14) Coming from the west, he first reaches one of the western horns of the altar (v. previous note), yet does not commence with it.
(15) V. p. 273, n. 5.
(16) The water reservoir in the Temple of Solomon.
(17) I Kings VII, 25.
(18) This is derived from the order in which the sides are enumerated; the phrase ‘eastward’ does not apply here but is taken from the passage where this principle is originally quoted in connection with the ramp. v. supra 45a and Zeb. 62b.
(19) The inner altar.
(20) The Sea of Solomon.
(21) Either to the right or to the left.
(22) V. supra 33a.
(23) V. p. 273. n. 5.

Talmud - Mas. Yoma 59a

Or if you like, say: If we hold that the sprinkling [on the inner altar] was done in walking around,[1] there would be general agreement that we infer ‘within’ from ‘without’, but the dispute here rests on this: one Master holds the sprinkling was done by circular movements of the hand, the other Master holding the sprinkling was done in walking around. Or if you like, say: All agree that the sprinkling [on the inner altar] was done by circular movements of the hand, the point of dispute here is: one Master holds, we may infer [the regulations touching] the hand from [those governing] the foot, the other Master holding that we do not infer the ‘hand’ from the ‘foot’. But does R. Jose the Galilean hold that the sprinkling was done by circular movement of the hand? Surely, since the second part reads: R. Eliezer said: HE REMAINED IN HIS PLACE AND SPRINKLED,[2] it follows that the first Tanna did not hold so?[3] Hence it is obvious, as we have answered before: One Master holds the sprinkling was done by circular movement of the hand, whereas the other Master holds it was done by walking around. And if you like to say: The dispute lies therein: that one Master holds that the [phrase] ‘round about’ [mentioned in connection] with the inner altar signifies the same as ‘round about’ [mentioned in connection] with the outer altar,[4] whereas the other Master holds that the whole of the inner altar occupied as much space as one horn of the outer altar.[5]

It was taught: R. Ishmael said: Two high priests had survived the First Sanctuary. One said: I had done the sprinkling [in the inner altar] by circular movement of my hand; the other said: I had done the sprinkling by walking around the altar. The first advanced a reason for his procedure, so did the second. The first said: The ‘round about’ of the inner altar had to be as the round about’ of the outer altar; the other stating: The whole of the inner altar occupied as much space as one horn of the outer altar.

R. ELIEZER SAID: HE REMAINED IN HIS PLACE AND SPRINKLED. With whom does our Mishnah agree? — With R. Judah. For it was taught: R. Meir said, R. Eliezer said: He remained in his place and sprinkled. And all the sprinklings he made from above downward with the exception of the one athwart, which he made from below upward. R. Judah said, R. Eliezer said: He remained in his place and sprinkled. All the sprinklings he made from below upward with the exception of this one right before him which he made from above downward, to prevent his garments from becoming sullied.[6]

THEN HE SPRINKLED THE TOP [TIHARO] OF THE ALTAR: What does ‘TIHARO’ mean? — Rabbah son of R. Shila said: The centre of the altar-front, as people say: ‘The moon-light [tiharo] shines,’ meaning thereby the middle of the day. An objection was raised: As he sprinkles, he sprinkles neither upon the ashes, nor upon the embers, but he removes the coal to both sides and sprinkles?[7] — Rather, said Rabbah son of R. Shila: [It means] the cleared surface[8] of the altar, as it is written: And the like of the very heaven for [tohar] clearness.[9]

It was taught: Hanania said: He would sprinkle[10] standing on the north side.[11] — R. Jose said: He would sprinkle standing on the south side.[11] Wherein are they disputing? — One [Hanania] holds the entrance was through the curtain on the south, whereas the other [R. Jose] holds it was on the north side.[12] At any rate all agree that on the place where he completed the sprinkling on the horns there he would sprinkle on the top thereof. What is the reason? — Scripture says: And he shall cleanse it...and hallow it,[13] i.e., where he hallows it,[14] there shall he cleanse it [we-tiharo].[15]

AND THE REMAINDER OF THE BLOOD HE SPRINKLED UPON THE WESTERN BASE OF THE OUTER ALTAR: For Scripture said: And all the remaining blood of the bullock shall he pour out [etc.],[16] and as he comes forth [from the Sanctuary] he meets this [side of the altar base] first.

AND THAT OF THE OUTER ALTAR HE POURED ON THE SOUTHERN BASE: Our Rabbis taught: 'The base of the altar'[17] i.e, the southern base. You say it is the southern base. But perhaps it is not so, but rather the western base? I will tell you: Let his coming down from the ramp be inferred from his going out of the Sanctuary: Just as when he goes out of the Sanctuary [he pours out the remainder of the blood] at [the point] nearest to him, and which is it? — the western base, so when he comes down from the ramp [he pours out the remainder of the blood] at the point nearest to him, and which is it? — the southern base.

It was taught: R. Ishmael said: Both times [blood was poured out] at the western base. — R. Simeon b. Yohai: No, [it was] at the southern base. — It is quite right, according to R. Ishmael: He holds that one may infer that concerning which no details are given from that which is thus described,[18] but what is the reason of R. Simeon b. Yohai? — R. Ashi said: He holds the entrance [to the Sanctuary] was at the south.[19] The teaching of the school of R. Ishmael was taught in the school of R. Simeon b. Yohai:[20] In both cases it was the southern base. As a mnemotechnic sign remember: The men won over the man.[21]

BOTH MINGLED IN THE CANAL AND FLOWED etc.: Our Rabbis taught: One transgresses the law of trespass with [sacrificial] blood. These are the words of R. Meir. R. Simeon and the Sages hold: One does not commit such trespass.

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(1) As was the case with the sprinkling on the outer altar.

(2) So that the sprinkling was done by the circular movement of his hand.

(3) The first Tanna (anonymous) of our Mishnah is R. Jose the Galilean, in accordance with his view in the Baraitha cited. Now since R. Eliezer, in disputing, states that the sprinkling was made by circular movements of the hand, it is obvious that R. Jose did not think so. Hence the statement 'All agree that the sprinkling was done by circular movement of the hand' is wrong.

(4) V. Lev. XVI, 18. And...he shall put it upon the horns of the altar round about. In the case of the outer altar, the sprinkling was done by walking around, the analogy would render the same procedure proper with the inner altar.

(5) One cubit square.

(6) The purpose of this procedure was practical, beyond any ritualistic significance: he sprinkled upon the horn before him from above downward, lest some blood drip into his sleeve.

(7) The first interpretation of the word 'tiharo' would identify it with the middle of the side of the altar. But the passage just adduced indicates it must be the top. Cf. supra, p. 69, n. 2.

(8) Lit., 'exposed (part)'.

(9) Ex. XXIV, 10.

(10) The seven sprinklings on the top of the altar, as explained supra.

(11) I.e., on the side where he completed the round of sprinkling on the altar.

(12) V. supra p. 274, n. 1, 5.

(13) Lev. XVI, 19.

(14) On the horns, i.e., on the horn where he completes the hallowing.
(15) By means of the seven sprinklings.
(16) Lev. IV, 7.
(17) Lev. IV, 30 with reference to an individual sin-offering.
(18) With regard to blood-offerings which are sprinkled on the inner altar there is the Biblical statement: Upon the base of the altar . . . which is at the entrance to the tent of meeting (Lev. IV, 7 and 18), this being the western base; there being no such statement concerning those offerings of which the blood is on the outer altar, the inference is legitimate.
(19) [The whole of the outer altar being on the northern half of the court so that when the priest came out of the Sanctuary the first base he met was the southern, v. supra 16b.]
(20) [I.e., R. Ishmael had retracted his view so that the disciples of R. Simeon b. Yohai could report the teaching in the name of R. Ishmael (Rashi).]
(21) 'The men drew nigh', i.e., won over the man, viz., the disciples of R. Simeon prevailed upon R. Ishmael to agree with them.

Talmud - Mas. Yoma 59b

Now the dispute touches only the question as to whether [there is a trespass] Rabbinically;[1] according to Biblical law, however, there is no trespass.[2] When [do we know] these things ? — 'Ulla said: Scripture said : 'To you'[3] i.e., it belongs to you. The school of R. Simeon taught: To make atonement[4] i.e., I have given it for atonement, but not for [the law of] trespass [to apply]. R. Johanan said: Scripture said: 'It' i.e., [implying that] it is before atonement: just as after atonement one cannot be guilty of trespass concerning it,[5] thus can one before atonement not be guilty of trespass concerning it. But perhaps say: It is after the atonement as before the atonement: just as before the atonement one may become guilty of trespass concerning it, so also after atonement may one become guilty of trespass concerning it? — There is nothing concerning which one can become guilty of trespass, once the atonement touching it has been fulfilled.[6] But there is the removal of the ashes [from the altar]?[7]

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(1) Making the offender liable to pay the capital value of the blood.
(2) And the offender is exempt from the extra payment of the fifth, v. Lev. V, 16.
(3) Lev. XVII, 11 . I have given it (the blood) to you.
(4) Ibid. 'To make atonement', implies but for no other ritual purpose, such as the application of the law of trespass.
(5) Once atonement has been effected with any sacrifice the law of trespass does not apply to it, v. infra.
(6) Once it has served its purpose it is no longer considered the property of the Sanctuary for laws of trespass to apply to it.
(7) V. Lev. VI, 3. The Biblical regulation And he shall put them (the ashes) beside the altar, (ibid.), indicates that they must be hid away, are not available for private use, and are hence still the property of the Sanctuary, to which the laws of trespass apply though the commandment concerning it has already been fulfilled.

Talmud - Mas. Yoma 60a

— That is because referring to the removal of the ashes and the priestly garments[1] there are two verses [written] for the same purpose[2] and wherever two verses have the same purpose no deduction can be made from them [for other precepts].[3] That will be right according to the Rabbis who hold: 'And he shall put them there'[4] signifies that they must be hidden away but what can be said according to R. Dosa who holds that the garments of the [high] priest may be used for a common priest? — That is because concerning the removal of the ashes and the heifer[5] whose neck is to be broken are two verses written for the same purpose, and wherever two verses are written for the same purpose no deduction can be made from them. That will be right according to the view that holds from two identical Scriptural statements no deduction can be made; but what can be said in accordance with the view that such deduction is permissible? — There are two limiting qualifications: And he shall put them[6] and the one whose neck was broken.[7] For what purpose are three Scriptural verses necessary in connection with the blood?[8] — One is to exclude [blood] from [the rule touching] left-overs,[9] one to exclude it from the rule touching trespass,[10] and one to exclude it from the rule touching ritual uncleanness.[11] But no verse is necessary to exclude it from the rule touching piggul[12] for we have learnt: Whatever has that which renders [the offering] permissible, whether for human beings[13] or for service on the altar[14] can make one liable on its account for piggul. And blood itself is a thing which renders the offering permissible.[15]

MISHNAH. CONCERNING EVERY MINISTRATION OF THE DAY OF ATONEMENT MENTIONED[16] IN THE PRESCRIBED ORDER IF ONE SERVICE WAS DONE OUT OF ORDER BEFORE ANOTHER ONE, IT IS AS IF IT HAD NOT BEEN DONE AT ALL. IF HE SPRINKLED THE BLOOD OF THE HE-GOAT BEFORE THE BLOOD OF THE BULLOCK, HE MUST START OVER AGAIN, SPRINKLING THE BLOOD OF THE HE-GOAT AFTER THE BLOOD OF THE BULLOCK. IF BEFORE HE HAD FINISHED THE SPRINKLINGS WITHIN [THE HOLY OF HOLIES] THE BLOOD WAS POURED AWAY, HE MUST BRING OTHER BLOOD, STARTING OVER AGAIN AND SPRINKLING AGAIN WITHIN [THE HOLY OF HOLIES]. LIKEWISE, IN MATTERS OF THE SANCTUARY AND THE GOLDEN ALTAR, SINCE THEY ARE EACH A SEPARATE ACT OF ATONEMENT.[17] R. ELEAZAR AND R. SIMEON SAY: WHEREVER HE STOPPED, THERE HE MUST BEGIN AGAIN.[18]

GEMARA. Our Rabbis taught: Concerning every ministration of the Day of Atonement mentioned in the prescribed order, if one service was done [out of order] before another one, it is as if one had not done it at all. R. Judah said: When does this apply? Only with regard to service performed in white garments, within [the Holy of Holies], but any service performed in white garments without, if in connection with them he performed one out of order before the other one, then what he has done is done [valid]. R. Nehemiah said: These things apply only to service performed in white garments, whether performed within [the Holy of Holies] or without, but in case of services performed in golden garments outside, what has been done, is done. Said R. Johanan: And both expounded it on the basis of one Scriptural passage: And this shall be an everlasting statute unto you . . . once in the year.[19]

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(1) I.e., the garments with which the high priest performed the service of the Day of Atonement, v. Lev. XVI, 23.

(2) Lit.,’that come as one’, i.e., in both there is a special verse stating that the same law applies.

(3) In both cases the Biblical law stipulates that they must not be used; Lev. XVI, 23 and VI, 3 (v.infra). The Torah should have stated the law in one case, for the other to be inferred in the usual manner. The identical statement in both cases — thus ruling out the usual analogy — indicates that both deal with unusual cases, from which no deduction would be legitimate.

(4) Lev. XVI, 23.

(5) Deut. XXI, 1f. ‘There’ (in the valley) indicates that it shall be buried there.

(6) Lev. VI, 3.

(7) Deut. XXI, 6. The definite article (ha-’arufah) is interpreted as implying limitation. The limitation excludes other things from the operation of this law.

(8) On 59b three Amoraim had inferred that the law of trespass does not apply to blood from three special, otherwise superfluous phrases. The Gemara now suggests that since three such special phrases appear, with but one of them necessary according to each Amora, they must each serve a limiting purpose.

(9) Portions of sacrifices left over beyond the legal time must be burnt. But blood of such left-overs is not included in the principle of left-overs, and, therefore, if one ate such blood, the penalty incurred derives only from the fact that he ate blood, not any additional penalty because he has eaten of left-overs.

(10) The law of trespass does not apply to blood.

(11) If someone ate of holy sacrifices in a state of levitical impurity, the penalty, if unwittingly, is a sin-offering, as it is for eating blood. The law does not apply to the blood of sacrifices, which if eaten in a state of levitical impurity involves only one sin-offering, viz., for eating blood.

(12) Piggul i.e., vile (ness) is the term used for a sacrifice that is rejected because of an improper intention in the mind of the officiating priest at the time of the sacrificing. Such improper intention includes his intention to dispose of the same beyond its legal space or time. (Lev. VII, 18 and ibid. XIX, 7.)

(13) The priests or owners by whom portions of the offering are consumed.

(14) On which the prescribed sacrificial portions are burnt.

(15) Zeb. 43a. The sprinkling of the blood makes parts of sacrifices permissible to the owner or priests; just as it makes certain portions of the animal fit to be offered up on the altar.

(16) In our Mishnah.

(17) Therefore every act of atonement completed, even if out of order is valid, without any repetition necessary.

(18) Even if the individual act of atonement has not been completed. These Rabbis hold that one may continue, or start again, even in the midst of a service, even though this service had been started out of order.

(19) Lev. XVI, 34.

Talmud - Mas. Yoma 60b

R. Judah holds: [This means] the place on which once a year atonement is obtained: whereas R. Nehemiah holds that it refers to the objects through which once a year atonement is obtained.[1] But according to R. Judah, is then ‘place’ written here?[2] — Rather is this the reason for R. Judah's view: It is written ‘This’, and it is written ‘Once’, one excludes [services performed in] white garments, the other [those performed in] golden garments.[3] And R. Nehemiah?[4] — One excludes the golden garments, the other the remaining blood,[5] which [if done out of order] do not impair [the service]. And R. Judah? — If [an act performed in white garments out of order] impairs the service,[6] it impairs it here too, and if it does not impair [the service] it does not impair it here either;[7] as it was taught:[8] And when he hath made an end of atoning for the holy place,[9] i.e., if he has obtained atonement he has completed it, if not, not. This is the opinion of R. Akiba. R. Judah said to him: Why should we not interpret thus: If he has completed it, he has obtained atonement, if not, not, to say, that if one of the sprinklings is missing, he has done nothing? And we inquired: What is the difference between them and R. Johanan and R. Joshua b. Levi, each gave an answer: One said: They differ only as to the interpretation of the text, while the other said: The remaining blood[10] is what they differ in. But did R. Johanan hold thus?[11] Surely R. Johanan said: R. Nehemiah taught in accordance with the view that the remaining blood [offered not as prescribed] impairs [the service]?[12] This is a refutation.

R. Hanina said: If he took the handfuls of the incense before the slaying of the bullock, he has done nothing. According to whom is this? [Presumably] not according to the view of R. Judah. Surely he said that the word ‘statute’ was written only in connection with ministrations performed in white garments within [the Holy of Holies]! — [No], you may say that it is even in agreement with R. Judah's view, inasmuch as what is necessary for a service performed within is considered as a service within.

We learned: IF BEFORE HE HAD FINISHED THE SPRINKLINGS WITHIN [THE HOLY OF HOLIES] THE BLOOD WAS POURED AWAY, HE MUST BRING OTHER BLOOD, STARTING OVER AGAIN AND SPRINKLING WITHIN AGAIN. Now, if this view were right [it] should read: ‘He should start again with the taking of the handfuls’?[13] —

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(1) The word ‘statute’ denotes that the order for this day is statutory, hence any disregard would render a service out of order invalid. R. Judah holds that this ‘statute’- limitation has reference to the place whence once a year atonement is obtained, i.e., the Holy of Holies, whereas R. Nehemiah assumes it refers to the objects, by means of which, or in which, once a year atonement is obtained, i.e., both place and garments. Hence according to R. Judah the order is indispensable within the Holy of Holies, but not in the rest of the Sanctuary in which atonement is obtained frequently, and not but once in the course of the year. According to R. Nehemiah both place and garments, in which atonement must be obtained, have indispensable order of regulations.

(2) That the term ‘statute’ should refer to it?

(3) ‘This’ and ‘Once’ being limitations.

(4) How does he explain these two limitations?

(5) Even if the pouring out had been delayed beyond the order, services performed meantime remain valid. The fact that this is done in white garments has no effect on the enforcement of the order in which it is to be done.

(6) I.e., those parts of the service that were to follow it, but which were performed before it.

(7) And there is no reason to exclude the remainder of the blood.

(8) [That according to R. Judah the omission of the rite in connection with the remainder of the blood impairs the service, and consequently the term ‘statute’ should apply to it equally with the other acts performed in white garments.]

(9) Lev. XVI, 20.

(10) R. Akiba holds: the mission of the rite connected with it does not impair the atonement, as the main sprinklings had been made and the atonement is complete, even if the remaining blood has not been poured away; whereas R. Judah holds: If all is completed, then he has obtained atonement, if not (and failure to pour away the remaining blood would be included in this indispensable programme) not.

(11) That according to R. Nehemiah the remaining blood presents no handicap. Since above R. Johanan said that both used one Scriptural passage as their text and R. Nehemiah was consequently held to infer that the disposal of the remaining blood according to order was not indispensable.

(12) V. Zeb. 11a.

(13) Since R. Hanina holds that taking the handfuls of the incense before the slaughtering of the bullock is invalid, he would have to take afresh a new handful before slaughtering the second bullock.

Talmud - Mas. Yoma 61a

He does not treat of the incense.[1]

‘Ulla said: If he slew the he-goat before sprinkling the blood of the bullock, he has done nothing. We learned: IF HE SPRINKLED THE BLOOD OF THE HE-GOAT BEFORE THE BLOOD OF THE BULLOCK, HE MUST START OVER AGAIN, SPRINKLING THE BLOOD OF THE HE-GOAT AFTER THE BLOOD OF THE BULLOCK. Now, if this view were right, [it] should read: ‘He shall start over again’ and slaughter?[2] — ‘Ulla explained this to refer to the sprinklings in the Sanctuary;[3] and thus also R. Afes explained it to refer to the sprinklings in the Sanctuary. LIKEWISE IN MATTERS OF THE SANCTUARY AND THE GOLDEN ALTAR: Our Rabbis taught: And he shall make atonement for the most holy place,[4] i.e., the Holy of Holies [for] The tent of meeting, i.e., the Sanctuary;[5] [for] the altar[6] in the literal sense. ‘He shall make atonement’ — this [refers to] the courts; ‘the priests’ in the literal sense; ‘the people’, i.e., Israel; ‘He shall make atonement’, this refers to the Levites. Then they are all declared alike in respect of one atonement, for all other sins they[7] obtain atonement through the he-goat-that-is-to-be-sent-away,[8] this is the view of R. Judah. R. Simeon said: Just as the blood of the he-goat [the rites of which are] performed within obtains atonement for Israel in all matters of impurity touching the Sanctuary and its holy things,[9] thus also does the blood of the bullock obtain atonement for the priests in all matters of impurity touching the Sanctuary and its holy things; and just as the confession over the he-goat-to-be-sent-away obtains atonement for Israel with regard to all other transgressions, so does the confession over the bullock obtain atonement for the priest for all other transgressions.[10]

Our Rabbis taught: ‘And when he hath made an end of atoning for the holy place’, this refers to the Holy of Holies; ‘The tent of meeting’, i.e., the Sanctuary; the altar, in its literal sense — this teaches that for all of these special [independent] atonements must be obtained. Hence they said: If he sprinkled some of the sprinklings made within, and the blood was poured away, he shall bring other blood and start again from the beginning with the sprinklings within. R. Eleazar and R. Simeon say: He shall start but from the place where he stopped. If he has completed the sprinkling due within and the blood was poured away, then he shall bring other blood and he shall start from the beginning with the sprinklings in the Sanctuary. If he had sprinkled some of the sprinklings due in the Sanctuary and the blood was poured away, he shall bring other blood and start again from the beginning with the sprinklings due in the Sanctuary. R. Eleazar and R. Simeon say: He need start but from the place where he had stopped. If he had completed the sprinklings due in the Sanctuary and the blood was poured away, he shall bring other blood and start again from the beginning with the sprinkling due on the altar. If he had made some of the sprinklings due on the altar and the blood was poured away, he shall bring other blood and he shall start again from the beginning with the sprinklings due on the altar. R. Eliezer and R. Simeon said: He shall not start except from the place where he had stopped. If he had completed the sprinklings due on the altar and the blood was poured all agree that this is no handicap. Said R. Johanan: Both[11] infer it from one scriptural passage: With the blood of the sin-offering of atonement . . . once a year.[12] R. Meir holds: I have spoken to thee of one sin-offering [whereby to obtain one atonement], not of two sin-offerings; R. Eleazar and R. Simeon holding, I have spoken of one sprinkling, not of two sprinklings.[13]

It was taught: Rabbi said: R. Jacob taught me a difference with regard to the logs.[14] But is there no [dispute]? Surely it has been taught: If he made some of the sprinklings within [the Sanctuary],[15] and the blood was poured away, he must bring another log [of oil] and start again from the beginning with the sprinklings due within. R. Eleazar and R. Simeon hold: He starts again from the place he had stopped at. If he had completed the sprinklings due within [the Sanctuary] and the log was spilt, he shall bring another log and start again from the beginning with the application on the thumbs[16] and toes.[16] If he had made some of the applications on the thumbs and toes and the log was spilt, he shall bring another log and start over again from the beginning with the applications on the thumbs and toes. R. Eleazar and R. Simeon hold: He shall start where he had stopped before. If he had completed the applications due on the thumbs and toes and the log was spilt, then all agree that the applications on the head are not a handicap.[17] Say rather: R. Jacob taught me also [the difference of opinion] concerning the log.[18]

The Master had said: The applications on the head are no handicap. Why that? Shall I say because Scripture says: And what remaineth over of the oil,[19] but then [when it says]: But that which is left of the meal-offering etc.,[20] would you say that there, too, it constitutes no handicap?[21] — It is different there because it is written: ‘And the rest’[22] and what remaineth over etc’[23]

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(1) He would certainly have to take anew the handfuls.

(2) [It is assumed that the reference is to the sprinklings within the Holy of Holies, with the result that the he-goat was slaughtered before the sprinkling of the blood of the bullock.]

(3) But the slaying of the he-goat took place in its proper place, after the blood of the bullock had been sprinkled within.

(4) Lev. XVI, 33.

(5) These sprinklings atone for any impurity that occurred in the Holy of Holies or the Sanctuary, if any person should have entered there unwittingly in a state of impurity. V. Shebu. 7b.

(6) If any impurity occurred to any person at the altar, he staying there for a period co-extensive with the time of one prostration.

(7) Priest, Levites and Israelites.

(8) Besides those of impurity. In the case of other transgressions the he-goat-to-be-sent-away obtains forgiveness for both priests and commoners. But for the sin implied in any impurity in the Temple, it is the bullock which obtains forgiveness for the priests, and the he-goat which brings it to Israel.

(9) Without confession. As there was no confession with that he-goat.

(10) V. Sheb. 13b.

(11) The anonymous authority who is R. Meir on the one hand, and R. Eleazar and R. Simeon on the other.

(12) Ex. XXX, 10.

(13) The word חטאת rendered ‘sin-offering’ means also ‘purge from sin’, hence sprinkle.

(14) With regard to the log of oil used for the purification of the leper (v. Lev. XIV, 21) R. Jacob had taught that unlike the sprinklings of the Day of Atonement, there was no dispute concerning the question here where one must start again after a service had been performed out of order.

(15) This refers to the purification rite of a leper, v. Lev. XIV, 16.

(16) Lev. XIV, verse 17.

(17) Hence the dispute between the Rabbis did affect the log of oil as well.

(18) The report had been originally misread. As R. Hananel suggests, it read: 'R. Jacob had not made any difference with regard to the log'. In its original interpretation it implied: There was no difference of opinion among the Rabbis touching the log. But, since that report was now refuted, the meaning must have been: R. Jacob taught me that there was no difference between the log and the other case; in both the Rabbis are of divergent opinion.

(19) Lev. XIV, 29 which indicates that the oil used for the head is but a remainder and not an essential part of the rite.

(20) Ibid. II, 10.

(21) In reality it does, v. Men. 9a.

(22) Ibid. XIV, 17 with reference to the oil applied to the thumbs and toes.

(23) The oil applied on the thumbs and toes is thus designated 'remainder' and that applied on the head 'remainder of remainder' and therefore constitutes no handicap.

Talmud - Mas. Yoma 61b

R. Johanan said: If the guilt-offering of a leper had been slaughtered not for its own purpose,[1] — therein we find a dispute between [on the one hand] R. Meir, and R. Eleazar and R. Simeon [on the other]. R. Meir, who said he must bring another one and start all over from the beginning, would here consistently hold that he must bring another [animal as] guilt-offering and slay it, whereas R. Eleazar and R. Simeon, who say: He shall start at the place he had left off before, would hold that here there is no redress.[2]

R. Hisda demurred to them: Surely it is written: 'It'[3] — This is a refutation. It was taught in accord with R. Johanan: If the guilt-offering of a leper had been slaughtered not for its own purpose, or if one had not sprinkled of its blood upon the thumbs and toes, it is considered a burnt-offering in regard to the altar and requires the [prescribed][4] libations and he requires another guilt-offering to render him right again.[5] — And R. Hisda? — He will answer you: What means, he requires? — He requires, but he has no remedy [to get it]. But would a Tanna teach: 'He requires' when he has no remedy [of getting it]? Indeed, as it was also taught: [Concerning] a baldheaded nazirite Beth Shammai taught he requires to pass through a razor [over his head],[6] whereas Beth Hillel said: He need not pass through a razor [over his head]. And R. Abina said: When Beth Shammai say: It is necessary, [they mean] he requires to [do so] but he has no remedy.[7] He thus contradicts R.Pedath, for R. Pedath said: Beth Shammai and R. Eleazar say one and the same thing. 'Beth Shammai', as we have stated above, and 'R. Eleazar' as we have learnt:[8] If he[9] have no thumb or toe, he[9] can never obtain purity. R. Eleazar said: One should place it on the place due, and thereby the duty is done. R. Simeon said: If he placed it on [the thumb and toe of] the right, he has done his duty.

Our Rabbis taught: And the priest shall take [receive] of the blood of the guilt-offering[10] — one might have assumed that is to be done with a vessel, therefore the text reads: 'And he shall put it' i.e., just as the 'putting' must be done by the priest himself, so must the 'taking' be by the priest himself. One might have assumed the same applied to the blood which is to be used for [sprinkling upon] the altar, therefore the text reads: For as the sin-offering . . . so is the guilt-offering.[11] Just as a vessel is necessary [for receiving the blood of a] sin-offering,[12] so is a vessel necessary [for the blood of] the guilt-offering. You thus find yourself stating that in the case of the guilt-offering of the leper two priests receive the blood thereof, one in his hand,[13] the other in a vessel.[14] The first who receives it in the vessel proceeds to the altar, whereas the other who receives it in his hand goes to the leper.

We have learnt there: All of them[15] render the garments levitically impure and are to be burnt in the place where the ashes are deposited. This is the opinion of R. Eleazar and R. Simeon. The Sages say: They do not render the garments ritually unclean and they are not to be burnt in the place where the ashes are deposited, except the last one because with that he completed the atonement. — Raba asked the following question of R. Nahman: How many he-goats is he to send away?[16] — He answered: Should he perhaps send his flock away?[17] — He said to him:

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(1) [I.e., he offered it in the name of some other sacrifice. In such a case the sacrifice is valid but is not accounted to the owner in fulfillment of his duty and the owner must consequently bring anew the offering which was due from him.]

(2) [R. Meir, who holds that part of a service that has not been completed is of no account, would similarly regard this incomplete guilt-offering as not offered and would require another guilt-offering; whereas R. Eleazar and R. Simeon, who do not disregard that part of the service which had been performed, would hold that he cannot bring a new guilt-offering as Scripture explicitly states ‘One lamb for a guilt offering’ (Lev. XIV, 12) and not two.]

(3) Lev. XIV, 12: ‘And offer it as a guilt-offering’, i.e., only the one which has been waved together with the oil. This unequivocal statement of the Torah R. Meir too must accept, hence the interpretation just offered is to be rejected.

(4) V. Num. XV, 1ff.

(5) I.e., the leper becomes pure, normal again, so that he may eat holy things (sacrificial meat). This shews that there is a view that he can bring a new guilt-offering, which supports R. Johanan.

(6) Num. VI, 5: All the days of his vow of the Naziriteship there shall no razor come upon his head, until the days be fulfilled, i.e., but when the days are fulfilled he shall have his hair cut.

(7) This bald-pate cannot do so. Yet it is stated ‘he requires’.

(8) Naz. 46b.

(9) The leper.

(10) Lev. XIV, 14.

(11) Ibid. XIV, 13.

(12) V. Zeb. 97b.

(13) For sprinkling on the leper himself.

(14) For the sprinkling on the altar.

(15) All the bullocks and he-goats mentioned in our Mishnah, in connection with blood poured away before the completion of the individual atonement or the whole service in question, and for which substitutes are obligatory, must be burnt outside the three camps (that of the priests, the Levites, and of Israel) and they render the garments of those occupied with burning impure. Lev. XVI, 27-28.

(16) [Where, for instance, the blood of the he-goat was poured away after the sprinklings in the Holy of Holies in which case he has to bring anew two goats and cast lots afresh.]

(17) Obviously only one he-goat-to-be-sent-away is dealt with in Lev. XVI.

Talmud - Mas. Yoma 62a

Does he not burn[1] his flock? — How compare these two? With regard to this, it is written ‘it’,[2] touching the other it is not written ‘it’.

It was stated: R. Papi said in the name of Raba: He sends away the first. — R. Shimi said in the name of Raba: He sends away the last. It is quite right according to R. Shimi in the name of Raba, who said he sends the last away: that is because with him he completes the atonement, but what is the view of R. Papi in the name of Raba? — He holds with R. Jose who says: The commandment is properly fulfilled with the first one. Which view of R. Jose is referred to here? Shall I say it is R. Jose's view in the case of the baskets — for we learned: There were three baskets, each of three se'ahs, in which they took up terumah out of the [shekel] chamber[3] and on them were inscribed [the letters] Alef, Beth, Gimel. And it was taught: R. Jose said: Why were Alef, Beth, Gimel inscribed upon them? So that one may know which of them was taken up first [out of the shekel chamber], so as to use it first, for the commandment properly applies to the first! But perhaps it is because at the time when the first is to be used, the others are not ready for use?[4] Rather [do we refer to the view of] R. Jose touching the paschal sacrifice, for it has been taught:[5] If one set aside his passover sacrifice and it was lost [went astray] and he set aside another one in his place and then the first was found again, so that both are before him, then he may offer up whichever he wants. This is the view of the Sages. R. Jose says: The commandment attaches properly to the first, but if the second be better than [the first] then he may offer it.

CHAPTER VI

MISHNAH. THE TWO HE-GOATS OF THE DAY OF ATONEMENT ARE REQUIRED TO BE ALIKE IN APPEARANCE, IN SIZE, IN VALUE, TO HAVE BEEN BOUGHT AT THE SAME TIME. BUT EVEN IF THEY ARE NOT ALIKE THEY ARE VALID. IF ONE WAS BOUGHT ONE DAY AND THE OTHER THE FOLLOWING DAY, THEY ARE VALID. IF ONE OF THEM DIED BEFORE THE LOT WAS CAST ANOTHER ONE IS BOUGHT FOR THE SECOND ONE. BUT [IF IT DIED] AFTER THE LOT WAS CAST ANOTHER PAIR MUST BE BOUGHT AND THE LOTS CAST FOR THEM OVER AGAIN. AND IF THE ONE THAT WAS CAST FOR THE LORD DIED, HE [THE HIGH PRIEST] SHOULD SAY: LET THIS ON WHICH THE LOT FOR THE LORD HAS FALLEN STAND IN ITS STEAD. AND IF THE ONE THAT WAS CAST FOR AZAZEL DIED HE SHOULD SAY: ‘LET THIS ON WHICH THE LOT FOR AZAZEL HAS FALLEN STAND IN ITS STEAD. THE OTHER ONE IS LEFT TO PASTURE UNTIL IT BECOMES BLEMISHED WHEN IT IS TO BE SOLD AND ITS VALUE GOES TO THE TEMPLE FUND. FOR THE SIN-OFFERING OF THE CONGREGATION MUST NOT BE LEFT TO DIE.[6] R. JUDAH SAYS: IT IS LEFT TO DIE. FURTHERMORE SAID R. JUDAH: IF THE BLOOD WAS POURED AWAY, THE GOAT-TO-BE-SENT-AWAY WAS LEFT TO DIE. IF THE GOAT-TO-BE-SENT-AWAY DIED THE BLOOD IS POURED AWAY.

GEMARA.

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(1) And yet it states that ‘all of them are burnt on the place where the ashes are deposited’.

(2) Lev. XVI, 10, with reference to the he-goat-to-be-sent-away. ‘It’ implies only ‘one’.

(3) Into which the shekels were thrown in the month of Adar, with which the priests filled the three baskets for the communal offerings. V. Shek. III, 2.

(4) When one basketful is taken up first one would obviously use that first, but the goat of the first pair could not be sent away before all the sprinklings of blood had been made, when the second is as fitting to be sent away as the first.

(5) Infra 64a.

(6) V. Tem. IV, 3.

Talmud - Mas. Yoma 62b

Talmud - Mas. Yoma 62b

Our Rabbis taught: And he shall take. . . two he-goats,[1] now the minimum of he-goats is two; why then is 'two' mentioned? To indicate that the two be alike. Whence do we know that even if the two are not alike they are valid? Therefore the text reads: 'He-goat', 'he-goat',[2] which is inclusive [widens the scope]. Now the reason, then, is only that the Divine Law expressly includes it, but had the Divine Law not done so, one would have assumed that they are invalid. Whence do we derive this indispensability? — You might have thought that we say: 'Two' is written three times.[3] But now that the Divine Law has twice written 'he-goat' what is the purpose of 'two' written three times? — One applies to appearance, the other to size, the third to value. It has been similarly taught in connection with the lambs of the leper: And he shall take two lambs.[4] Now the minimum of lambs is two, then why does the text say: 'Two'? To indicate that the two be alike. Whence do we know that even if the two be not alike, they are valid? Therefore the text reads: 'Lamb', 'lamb',[5] which is inclusive [widens the scope]. Now the reason is only that the Divine Law expressly includes it, but had the Divine Law not done so, one would have assumed that they are invalid, whence do we assume this indispensability? — You might have thought we say: It is written: [This] shall be [the law].[6] But now that the Divine Law has said: 'Lamb', 'lamb', what purpose serves 'shall be'? — That refers to the rest of the status of the leper.[7]

It was similarly taught in connection with the [birds of] the leper: Birds;[8] now the minimum of birds is two. Why then is 'two' mentioned? To indicate that the two be alike. Whence do we know that even if they be not alike, they are valid? Therefore the text reads: 'Birds', 'birds',[9] which is inclusive. Now the reason then is that the Divine Law expressly includes it, but had the Divine Law not included it, one would have assumed that they are invalid. Whence do we derive this indispensability? — You might have thought that we say that it is written 'shall be'. But now that the Divine Law through 'birds', ['birds'] includes it, what purpose serves 'shall be'? — Because of the rest of the status of the leper.

If so, in the case of the daily burnt-offerings let us make a similar deduction: 'Lambs', 'lambs',[10] since the minimum of lambs is two, why does the text read: 'Two'? To indicate that they shall be alike. And whence do we know that even if they are not alike they are valid? Therefore the text reads: 'Lamb', 'lamb',[11] which is inclusive.[12] But as far as proper performance of the precept is concerned is it indeed required[13] [that the lambs shall be alike]? — Here we need it for what has been taught: Two for the day[10] i.e., against the day.[14] You say: Against the day, but perhaps it really means, the daily duty? When it says: The one lamb shalt thou offer in the morning, and the other lamb shalt thou offer at even,[11] behold the daily duty is already stated, hence how do I apply the words: 'Two for the day'? I.e., against the day. How is that? The continual morning offering was being slain on the north-western corner, on the second ring,[15] whereas that of the even was slain on the north-eastern corner on the second ring.[15] But the additional sacrifices of the Sabbath certainly must be alike.[16]

Our Rabbis taught: If he [the high priest] slew two he-goats of the Day of Atonement outside [the Temple court] before the lots were cast, then he is guilty in respect of both; if, however, after the lot was cast, then he is guilty[17] in respect of the one cast 'for the Lord', but free in respect of the one cast 'for Azazel'.[18] If before he has cast the lots, he is guilty in respect of both of them. But what [sacrifice] are they fit for?[19] — Said R. Hisda: Since [each] is fit to be offered up as the he-goat [the rites of which are] performed without.[20] But why is it impossible to offer it up as the he-goat [of which rites are] performed within [the Holy of Holies]? presumably because it still lacks the casting of the lot? But then it ought to be unfit to be used as the he-goat [of which rites are performed] without, for the reason that it still lacks the other ministrations of the Day?[21] — R. Hisda holds: One may not call the absence of any functions due on the same day a lack of time.[22]

Said Rabina: Now that R. Hisda said that the absence of the casting of the lot has the same significance as the absence of a [direct] action,[23] then in view of what Rab Judah said in the name of Samuel: ‘Peace-offerings which have been slain before the doors of the Temple have been opened are invalid, as it is said: And he shall slay it at the gate of the tent of meeting,[24] i.e., at the time when it is open, but not when it is closed’;

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(1) Lev. XVI, 5.

(2) Ibid. 9, 10.

(3) Lev. XVI, 5, 7, 8 and thus indicates indispensability.

(4) Ibid. XIV, 10.

(5) Ibid. 12, 13.

(6) Ibid. 2. ‘Shall be’ implies precise instructions from which there may be no deviation.

(7) I.e., to the other regulations relating to the purification of the leper.

(8) Lev. XIV, 4.

(9) Ibid. 5, 6.

(10) Num, XXVIII, 3.

(11) Ibid. 4.

(12) It is inclusive, i.e., as long as it is a lamb, even if not exactly like the other, it is included in the terms of the commandment.

(13) This, however, is nowhere stated.

(14) I.e., the morning sacrifice is to be offered up against (opposite) the sun-rise, viz., on the western side of the altar, and the evening sacrifice on the opposite, namely, the eastern side (R. Han.).

(15) To the north of the altar were rings, twenty four, six rows of four each, at which they slaughtered the animal offerings. (V. Mid. III, 5.). On these rings the animals were securely tied before slaying. When the morning sacrifice was slain on the western side the light of the sun poured freely in, just as in the eve, when the sacrifice was slain on the eastern side, the rays of the sinking sun were unimpeded. Always in the direction opposite to the light of the day. Tosaf. suggests that the second ring rather than the first was used to prevent the animal from polluting the altar with excrements.

(16) [Since in connection with this only ‘two lambs’ is stated (V. Num. XXVIII, 9) but not the inclusive ‘one lamb’. V, Rashi and R. Han.]

(17) On the score of Lev. XVI, 3ff:

(18) The he-goat destined for Azazel would in any case be killed outside the Sanctuary hence nothing illegitimate took place, no change of place.

(19) That he should be liable for slaughtering them outside the Temple court.

(20) I.e.,in the Sanctuary proper, without the Holy of Holies. The additional sacrifice for the Day of Atonement, a he-goat, is offered up, its blood sprinkled without (Num. XXIX, 11).

(21) i.e., the sprinkling of the blood of the bullock and he-goat and the taking and offering of the handfuls of incense, all of which must take place before the additional sacrifice is offered up.

(22) The absence of the ministrations of the day mentioned in n. 3 does not affect the validity of the he-goat offered as an additional offering, as these do not constitute a defect in the he-goat itself, but are absent because the time for them had not yet arrived. Whatsoever is bound to come within the day, may not be considered wanting on that day. [This distinguishes it from the casting of lots, the absence of which constitutes a lack in the very he-goat which consequently renders it unfit for use within].

(23) In the offering itself, rendering it unfit for Temple use.

(24) Lev. III, 2.

Talmud - Mas. Yoma 63a

if someone had slain them outside before the doors of the Temple had been open, he would be free, because the lack of opening is like the lack of a [direct] action.[1] But does R. Hisda adopt the principle of ‘since’?[2] Surely R. Hisda said: If someone had slaughtered the Passover sacrifice outside on any of the other[3] days of the year, then, if he did it in its own name, he is free, but if he did it not in its own name, he is culpable.[4] The reason [that he is culpable] lies in his having slaughtered it not in its own name. But if he had slaughtered it without any indication it is [as if — slaughtered] in its name, and he would be free? Why that? Let us say: Since it would be fit for a sacrifice not in its own name, within the Temple[5] [he should be liable]? Now, how compare? There a removal is necessary,[6] whereas this needs no such removal. Rabbah b. Shimi taught these [two statements of R. Hisda] as [emanating] from Rabbah. He then raises a difficulty from [the one view of] Rabbah against [the other given by] Rabbah; but answers [the difficulty] as we have answered. When R. Dimi [came from Palestine] he said in the name of R. Jeremiah, who said it in the name of R. Johanan: If one slaughtered a Paschal sacrifice outside on any of the other days of the year, whether in its name or not in its name, he is exempt. Said R. Dimi: I have reported this statement in the presence of R. Jeremiah [and queried]: It is all correct [in the case where it was slaughtered] in its name, since it is not fit [for the Temple], but [where it was] not in its name [why should it be exempt]? Surely it would be fit as a sacrifice not in its own name within the Temple? And he said this [in reply]: The removal [of the name of a sacrifice] outside [the Temple] is not deemed [an effective] removal.[7] — When Rabin came [from Palestine], [he said that] R. Jeremiah said in the name of R. Johanan: If one had slain a Passover sacrifice outside on any of the other days of the year, whether in its own name or not in its own name, he is culpable. Even 'in its own name'? But have we not learnt: A sacrifice whose time has not yet come [may be such] either because of itself or because of its owner. Which is a sacrifice whose time has not yet come because of its owner? If the owner, either man or woman, was afflicted with gonorrhoea, or was a woman after child-birth or a leper and had offered up their sin-offering or their guilt-offering outside [before the appointed time], they are free.[8] But if they offered up their whole-offerings or their peace-offerings outside, they are culpable.[9] And R. Hilkiah b. Tobi said: They did not teach thus only if they were offered up in their own name, but if they were not offered up in their own name, they were not culpable.[10] Now at any rate, then, when offered up in their own name, the owners are culpable. But why that? Let us say, Since they are fit to be offered up in their own name within [they should be culpable]?- How compare? There a removal is necessary, but here Passover sacrifice during the rest of the days of the year is a peace-offering.[11]

R. Ashi taught:[12] the owner is culpable, as we had stated above. R. Jeremiah of Difti taught he is not culpable, because he is of the opinion that the Passover sacrifice during the rest of the days of the year requires a removal,[13] and the removal outside [the Temple] is not [effective]. Therein he disputes with R. Hilkiah b. Tobi.[14]

The Master said: 'When the lot has been cast, he is culpable in respect of the one [he-goat] cast 'for the Lord', and free with respect to the one cast 'for Azazel'. Our Rabbis taught: What man soever there be of the house of Israel that killeth an ox or lamb, or goat, in the camp, or that killeth it without the camp, and hath not brought it unto the entrance of the tent of meeting to present it as an offering unto the Lord.[15]

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(1) So that the offerings were not fit for Temple use, and thus involve no guilt when offered outside.

(2) הואיל either derived from יעל — ע and א interchange frequently — thus: it helps — and followed by — 'because' since; or הא + אילו 'look now, if', i.e., once this is so, that also may be granted; or from the Biblical יאל'accepted, agreed that this is so, that also ought to be accepted', implying that because something is permitted in one case, the permission should be extended to all analogous cases.

(3) Besides the eve of Passover, the fourteenth of Nisan, which is the proper date for this sacrifice.

(4) Because in this case it is a peace-offering, which should have been slain within the Temple.

(5) It could be used within as a peace-offering.

(6) [It could not be used within as a peace-offering unless it had been expressly removed at the time of slaughtering from its original purpose as Passover sacrifice, and consequently as long as no such removal had been made it cannot be said to be fit for use within the Temple.] The he-goat offered within as well as the one without are sin-offerings in either situation.

(7) [Although a paschal lamb on any other days in the year can be removed from its original purpose and offered as a peace-offering, such a removal is effective only when it is offered within the Temple, but where it is offered outside, the paschal lamb retains its original name and purpose and consequently involves no guilt for having been slaughtered outside.]

(8) V. Lev. XV, 14, 29; XII, 6, XIV, 10.

(9) In the case of sin-offerings or guilt-offerings, which were offered up outside before they were due, no culpability is involved, because they are not acceptable within before their time has come, neither as obligatory nor as freewill-offerings. But burnt-offerings or/and peace-offerings, which are accepted even when not obligatory, are fit to be offered up within even before the appointed time, hence they involve culpability when offered up without. V. Zeb. 112b.

(10) This exemption applies only when the guilt-offering was offered up in its own name outside, in which case being before its appointed time it would be unfit for the Temple. But if it was offered up for another purpose than that originally designated, e.g., for a burnt — or peace-offering, where it would be acceptable within at any time, there is culpability when offered up without.

(11) Without the need of an express removal from its original purpose.

(12) With reference to the statement reported by Rabin.

(13) Before it can be offered as a peace-offering.

(14) Who holds that a removal outside the Temple is an effective removal.

(15) Lev. XVII, 3, 4.

Talmud - Mas. Yoma 63b

From [the word] ‘offering’ I might have assumed that even offerings for the temple repair [are included], which are also called ‘offerings’, in accord with the Scriptural words: And we have brought the Lord's offering,[1] therefore the text reads: ‘And hath not brought it unto the entrance of the tent of meeting’, i.e., whatsoever is fit to be brought to the tent of meeting, if offered up outside, involves culpability; but whatsoever is fit to be brought to the entrance of the tent of meeting, if offered up outside, does not involve culpability. Thus I would exclude only those which are not fit to be offered up at the entrance of the tent of meeting, but I would not exclude [the cow for the sin-offering[2] and] the he-goat-to-be-sent-away, which are fit to be brought to the entrance of the tent of meeting, therefore the text reads: ‘Unto the Lord’ i.e., only those assigned to the Lord, to the exclusion of such as are not assigned to the Lord.

But do the words ‘Unto the Lord’ imply exclusion,? I shall raise a contradiction: It may be accepted for an offering made by fire unto the Lord,[3] i.e., the fire-offerings.[4] Whence do we know that one may not dedicate it before its time has come?[5] Therefore the text reads: ‘As an offering’. ‘Unto the Lord’, includes the he-goat-to-be-sent-away![6] Said Raba: There [the meaning is determined] by the context, and here too [its meaning is determined] by the context: There ‘Unto the entrance implies inclusion, therefore ‘Unto the Lord’ implies exclusion; here ‘An offering made by fire’ implies exclusion, hence ‘Unto the Lord’ has inclusive[7] meaning. Now the only reason then is that the Divine Law included it, but if it had not done so I would have assumed that the he-goat-to-be-sent-away could be dedicated before its time.[8] But[9] the lot does not determine except such [an animal] as is fit ‘for the Lord’?[10] — Said R. Joseph: This is in accord with Hanan the Egyptian, for it was taught:[11] Hanan the Egyptian says: Even if the blood is in the cup, may he bring its mate and pair them.[12] But admitted that Hanan does not accept the opinion concerning ‘rejection’[13] you surely did not hear that Hanan does not accept the opinion as to the necessity of casting the lots? Perhaps he [the high priest] would have to bring [two] and cast lots [afresh]?[14] — Rather, said R. Joseph, this [Baraitha][15] is in accord with R. Simeon, for it was taught: If one of them died, he brings another one without casting lots, this is the view of R. Simeon! Rabina said: The reference [in the Baraitha] is to a case in which one of them became blemished and was redeemed with another one.[16] But whence will you say that a blemish renders it [the scapegoat] invalid? As it was taught: Nor make an offering by fire of them,[17] this refers to the pieces of fat. From here I could infer only as to all the pieces. Whence do we know that it applies also to parts thereof? Therefore the text reads: ‘Of them’. ‘The altar’[17] i.e., the sprinkling of the blood. Unto the Lord,[17] that includes the he-goat-to-be-sent-away.

Now it was necessary [for the Scripture] to write [disqualifying a scapegoat], the blemished animal and one whose time has not yet come. For if the Divine Law had written only about the animal whose time has not yet come, I would have assumed there [it is disqualified] applies because its time has not yet come, but in the case of one blemished whose time had come, I might have assumed that [the disqualification does] not [apply]. And if the Divine Law had written about the blemished animal alone, I might have assumed the reason [for its being disqualified] there lies in repulsiveness, but with the animal whose time has not yet come, and where there is no repulsive feature, one might have assumed [the law] does [not] apply, hence it was necessary [to write about both].

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(1) Num. XXXI, 50.

(2) The red heifer. Tosaf. supports Rashi's elimination of this reference to the red heifer, because the latter was not brought to the entrance of the tent of meeting, hence is logically excluded from the present discussion.

(3) Lev. XXII, 27.

(4) Only from the eighth day are they acceptable as offerings.

(5) I.e., that an offering cannot be dedicated before the eighth day.

(6) This shows that ‘Unto the Lord’ implies inclusion.

(7) The he-goat-to-be-sent-away is not ‘for the Lord’, but fit to be brought unto the entrance of the tent of meeting. So ‘Unto the Lord’ excludes whatsoever is not assigned for the Lord. In the other passage ‘An offering made by fire’ excludes, of course, the goat, which is to be hurled from the precipice, whereas ‘Unto the Lord’ is complimentarily inclusive, hence the goat must not be offered up before it is eight days.

(8) I.e., before it is eight days old.

(9) V. Tem.6b.

(10) And that implies a minimum age, hence invalidation before its time.

(11) Zeb. 34b.

(12) Even if the blood of the he-goat to be sprinkled up within is in the cup, when the he goat-to-be-sent-away dies, no new casting of the lots is necessary according to Hanan, but, as is assumed at present, one may simply bring another he-goat from outside and pair it and appoint it for Azazel even without lots. Thus we see that Hanan does not hold the principle that the lot does not determine etc.; and consequently the he-goat-to-be-sent-away need not necessarily have reached its proper time hence a scriptural verse is necessary to teach that it must do so.

(13) He does not accept the view of R. Judah in our Mishnah that the scapegoat is to be rejected as unfit on account of the mishap to the other.

(14) Leaving the one, upon whom the lot ‘for the Lord’ now falls, to pasture until it acquires a blemish, whilst obtaining atonement through the blood of the first. At any rate, however, casting the lots is necessary, hence one whose time had not yet come would be invalidated, because the lot determines only what is ‘fit for the Lord’, i.e. whose time has come.

(15) Which requires a special text to teach that the he-goat-to-be-sent-away must be of minimum age.

(16) Where the he-goat-to-be-sent-away suddenly became blemished, its successor obtained by means of redemption needs no lot to determine its purpose, and, since no list was required, there is no implied obligation as to proper minimum age.

(17) With reference to blemished animals. Lev. XXII, 22.

Talmud - Mas. Yoma 64a

Raba said: [It[1] was necessary] for the case that he[2] had a sick person in the house, for whom he killed the mother-animal on the Day of Atonement.[3] But is it forbidden in such a case?[4] Does not the Divine Law say: Ye shall not kill it[5] and this is not killing?[6] — In the West [Palestine] they said: Hurling it down from the [mountain] peak, that is its killing.

IF THAT ‘FOR THE LORD’ DIED, etc.: Rab said: The second of the first pair is to be offered up, the second of the second pair should be left to pasture.[7] - R. Johanan said: The second of the first pair should be left to pasture, the second pair should be offered up. In what principle do they differ? — Rab holds: Living animals[8] are not rejected [forever], whereas R. Johanan holds: Living animals are rejected [forever]. What is the reason for Rab's view? He infers it from those whose time has not yet come: An animal whose time has not yet come, although it is as yet unfit, when it later becomes fit again, will be quite in order. Thus also here. How can this be compared? There[9] it was never fit at all. Here it was once fit and then rejected? — Rather is this the reason of Rab's view: He infers it from an animal afflicted with a passing blemish: An animal afflicted with a passing blemish surely although now unfit, yet when it is fit again, is quite in order. Thus also here. But whence do we know if touching the former? Because it is written: Because their corruption is in them, there is a blemish in them[10] i.e., only as long as a blemish is in them are they not acceptable, but when their blemish passes they are acceptable. And R. Johanan? — The Divine Law stated 'in them'[10] i.e., only these are acceptable after the blemish has passed, but all other animals rejected [through temporary unfitness] once they have been rejected, stay rejected. And Rab? — The words 'in them' signify that only as long as they are in their natural form are they not acceptable, but as soon as they are mixed up with others, they are acceptable; as we have learnt,[11] if the members of unblemished [whole-offerings] were mixed up with the members of blemished [animals], R. Eliezer says: If the head of one of them had been offered,[12] the heads of all may be offered; if the legs of one of them had been offered, the legs of all may be offered. The Sages, however, say: Even if all the members with exception of one have been offered, this one must go forth to the place of burning. And the other one [R. Johanan]? He infers that from [the fact that instead of] 'bam' [is written] 'bahem'.[13] — And the other one [Rab]? — He does not expound from 'bahem' instead of 'bam'. But according to Rab, granted that animals cannot be rejected for ever, if he wishes let him offer this, and if he wishes let him offer the other?[14] — Raba said: Rab holds to the view of R. Jose, who said: The command attaches properly to the first. — Which [view of] R. Jose are you referring to? Shall I say, You say [the view of] R. Jose concerning the baskets, for we have been taught:[15] There were three baskets each of three se'ahs,[16] in which they took up terumah out of the shekel-chamber, and on each of them was inscribed: Alef, Beth, Gimel. And we have been taught: R. Jose said: Why is Alef, Beth, Gimel inscribed upon them? So that one may know out of which of them the terumah was taken up [out of the shekel-chamber] first, to use it first, for the command properly applies to the first! — But perhaps it is different there because at the time when the first is to be used, the others are not ready for use yet?[17] - Rather is it R. Jose['s view] concerning the Passover sacrifice, for it was taught: If someone has separated his Passover sacrifice and it is lost, and he thereupon puts aside another one in its place, and afterwards the first one is found again, so that both are standing [ready to be used], then he can offer up whichever he prefers; this is the view of the Sages. R. Jose holds the commandment attaches properly to the first,[18]

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(1) The verse disqualifying a scapegoat that has not reached its proper time.

(2) Who was the purveyor to the community of these animals.

(3) In case of a dangerously ill person the slaying of an animal for food or remedial purpose is permitted. Raba suggests the case that the purveyor of the he-goat had, on the Day of Atonement, slain its mother for the patient. But in view of the prohibition (Lev. XXII, 28:) Whether it be cow or ewe, ye shall not kill it and its young both in one day, the he-goat would thus become an animal that was wanting in time all the Day of Atonement, after the lot had been cast.

(4) To use the young as scapegoat.

(5) Lev. XXII, 28.

(6) The prohibition is now interpreted to refer to the technical ritual slaying, whereas the scapegoat is being hurled down the precipice.

(7) Until it acquires a blemish.

(8) If they are temporarily invalidated, they can still be used by means of the substitution of another animal as pair.

(9) Because it was wanting in time and thus was never rejected.

(10) Lev. XXII, 25.

(11) Zeb. 77b.

(12) Before the confusion of the other members with the members of the whole-offerings had been noticed.

(13) From the fact that the Divine Law used the longer word ‘bahem’ instead of the shorter ‘bam’, which has the identical meaning, this inference is attempted. The rival view ignores this variation as not intended for additional inferences.

(14) Whereas the law here is stated to require only the first.

(15) V. supra 59b and notes.

(16) I.e., 144 eggs.

(17) But here although the lots had been cast, the goat could not be slain until after the blood of the bullock had been sprinkled. In the interim the he-goat with it had died, two others were brought in, and when the time for slaying the goat had come, the latter was already in readiness.

(18) For notes v. supra 59b.

Talmud - Mas. Yoma 64b

but if the second one be very much better, he shall offer it up.

Raba said: Our Mishnah points to be in accord with Rab, whereas the Baraitha is in accord with R. Johanan. Our Mishnah is in accord with Rab for it reads: IF THE ONE THAT WAS CAST FOR THE LORD DIED, HE [THE HIGH PRIEST] SHOULD SAY: LET THIS ON WHICH THE LOT FOR THE LORD HAS FALLEN STAND IN ITS STEAD’ [implying] that the other remains as it is.[1] The Baraitha is in accord with R. Johanan, for it reads: As to the second.[2] I do not know whether [it means] the second of the first pair, or the second of the second pair. But from the words ‘shall be set alive’[3] [I infer: only this one] but not one whose pair has died.[4] How does that follow? — ‘It shall now be set alive’, [and] not the one that has been set [alive] before [but whose pair has died].

We learned: FURTHERMORE DOES R. JUDAH SAY: IF THE BLOOD WAS POURED AWAY, THE SCAPEGOAT IS LEFT TO DIE; IF THE SCAPEGOAT DIED, THE BLOOD IS POURED AWAY. Now that is quite right according to R. Johanan, who holds living animals are rejected [permanently], — therefore the scapegoat is left to die. But according to Rab, who holds that living animals are not rejected [permanently], why should the scapegoat be left to die? — Rab will answer you: What I say, I say in accordance with the view, not of R. Judah, but of the Sages.[5] It is quite right according to Rab: Therein lies the difference between the Sages and R. Judah; but according to R. Johanan, wherein lies the difference?[6] — Raba said: That is what we have said [above]: The Mishnah points to be in accord with Rab.

We learned: FOR A COMMUNITY SIN-OFFERING IS NOT LEFT TO DIE. This [implies] that one of an individual, in such a case, would be left to die. Now that will be right according to R. Johanan,[7] following R. Abba in the name of Rab, for R. Abba said In the name of Rab:

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(1) In the state of holiness, without being rejected.

(2) The second mentioned in the Mishnah, that it is left to pasture.

(3) Lev. XVI, 10. One that ‘shall be set alive’, not one which had been set alive again, a second time.

(4) Hence the second in the Mishnah must refer to the second of the first pair.

(5) [Who, as is to be inferred from the words of R. Judah, held that the second in the first pair is to be offered, because in their view living animals are not rejected permanently].

(6) R. Johanan holds that the Sages insist that the second of the first pair must not be offered. Wherein then does R. Judah, in his additional remark (‘Furthermore’) differ from the Sages.

(7) Who holds that the second of the first pair is left to pasture.

Talmud - Mas. Yoma 65a

All agree that if he had obtained atonement through [the animal that] had not been lost, [the animal that] had been lost must be left to die;[1] but according to Rab it would be as if someone has set aside two sin-offerings as a guarantee [that one of them should be available if the other be lost],[2] and R. Oshaia said: If someone had set aside two sinofferings for the purpose of guarantee, he gains atonement through one of them and leaves the other to pasture? — Since Raba said that Rab followed the view of R. Jose,[3] who holds the commandment properly attached to the first, it is as if it[4] had from the very beginning been set aside [in substitution] for the one that was lost. We learned: R. JUDAH SAYS: IT SHALL BE LEFT TO DIE. It is quite right in the view of R. Johanan who said that the second of the first pair must be left to pasture [that is, according to the Rabbis][5] and [it is this one which] according to R. Judah be left to die,[6] so that he obtains atonement through the second one of the second pair; but if the view of Rab who said that the second of the second pair must be left to pasture, and [it is this one which] according to R. Judah must be left to die, then according to R. Judah[7] through which can he obtain atonement? — Do you understand that R. Judah refers to the second of the second pair? R. Judah refers to the second of the first pair.[8] Others framed the [above] question [against Rab][9] in the following manner: Furthermore did R. Judah say: If the blood was poured away, the scapegoat is left to die; if the scapegoat died the blood is poured away.

Now it is in order according to Rab: In the first part [of the Mishnah] they are disputing about the sin-offering of the community, and in the latter part about [the rejection of] living animals,[10] but according to R. Johanan: What does ‘Furthermore signify?[11] — This difficulty remains.[12]

FURTHERMORE SAID R. JUDAH: IF THE BLOOD WAS POURED AWAY, THE SCAPEGOAT IS LEFT TO DIE. It is quite right that when the blood was poured away the scapegoat must die, because the command with it had not been fulfilled, but when the scapegoat died, why should the blood be poured away; surely the commandment therewith had been fulfilled? — The School of R. Jannai said: Scripture said: [The goat] shall be set alive before the Lord, to make atonement,[13] i.e., how long must he stay alive? Until the time that his fellow's blood is sprinkled.

We have learnt elsewhere: If the inhabitants of a town sent their shekels[14] and they were stolen or lost, then, if terumah[15] has been taken up already, they[16] swear an oath before the Temple treasurers; and if not they swear an oath before the people of the town; and the people of the town must pay the shekels anew. If they were found again or the thieves restored them, then both are taken as shekels[17] and they do not count as prepayment for the dues of the next year. R. Judah says: They count for the next year.[18] What is the reason of R. Judah's view? — Raba said: R. Judah holds that obligatory offerings of one year may be brought up in the following year. Abaye raised the following objection against him:[19] If the bullock or the he-goat of the Day of Atonement were lost and he had set aside others in their place, also, if the goats offered up for idolatry [were lost] and others were set aside for them, then they must all be left to die, this is the opinion of R. Judah. R. Eliezer and R. Simeon hold: They shall be left to pasture until they become blemished, when they should be sold and the money realized for them should go for freewill-offerings, for the sin-offerings of the community must not be left to die.[20] — He [Raba] answered:

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(1) [If one had set aside an animal as sin-offering and the animal got lost, and after setting aside another in its stead, the lost animal was found, then according to Rabbi he obtains atonement with whichever he chooses and the other is left to die. The Sages, however, hold that it is left to pasture, as the law which requires that a sin-offering, the owner of which has obtained atonement by another, is to be left to die applies only if it was found after the atonement rites had been performed, but not if found before the atonement (V. Tem. 23a). Now in connection with this R. Abba said that there is no disagreement between Rabbi and the Sages where the atonement was obtained through the one which had not been lost, i.e., through the second, all agreeing in such a case that the first one is left to die. (In accordance with the established old law that if a sin-offering had been lost and the owner obtained atonement through another, when it is found again it is left to die). The dispute concerns a case where atonement was obtained through the first, after it had been lost and found again, Rabbi holding that what is set aside in substitution for that which had been lost is subject to the same law as the lost animal itself and hence must be left to die, whereas the Sages do not share the view. Now in our

Mishnah on the view of R. Johanan, who holds that the second of the first pair is left to pasture, it rightly gives as reason ‘For no community sin-offering is left to die’; for had it been of an individual it would be left to die, since the atonement is being obtained through the one which had suffered no mishap, and had never been rejected.]

(2) [According to Rab who rules that the atonement is being obtained through the second of the first pair which had been rejected, how could the Mishnah state by implication that if it had been the sin-offering of an individual it would under similar circumstances be left to die? Not only would this not be the case according to the Sages, who rule that whatever is set aside in substitution for that which had been lost is not subject to the same law as the lost animal itself (v. previous note), seeing that he has obtained atonement through the one that had been rejected; but even according to Rabbi (v. ibid) it would not have to be left to die, since the second of the second pair has never been set aside as substitution for the one that had been lost, seeing that its predecessor is still alive. It was merely set aside as a companion to the other which had to be brought in place of the one (the first goat cast for Azazel) that had died. But since living animals cannot be permanently rejected, he should in such a case be able to offer either, just as in the case where one sets aside two offerings as a guarantee for each other.]

(3) V. supra 64a.

(4) [I.e., the second of the second pair, and hence but for the fact that it was a public sacrifice it would have been left to die.]

(5) The authority of the first view reported anonymously in the Mishnah.

(6) [It is now assumed that R. Judah's rule that it must be left to die has reference to the one which, according to the Rabbis, is left to pasture, since R. Judah perforce is of the opinion that living animals are permanently rejected as has been established, supra 64b.]

(7) [He surely cannot obtain atonement by means of the first, seeing that he holds that living animals are permanently rejected.]

(8) [For in the view of Rab, R. Judah differs from the Rabbis also on the question of the fitness of the second of the first pair for sacrifice; whilst the Rabbis hold that it is offered, R. Judah holds that it is left to die.]

(9) Raised supra 64b.

(10) The Rabbis holding that they are not permanently rejected, hence atonement is obtained through the second of the first pair, whereas R. Judah (as has just been explained) holds that the second in the first pair is left to die and the second in the second pair is offered up.

(11) The Rabbis, too, agree that the second in the first pair remains rejected.

(12) Even as stated supra 64b that the Mishnah is in support of Rab.

(13) Lev. XVI, 10.

(14) Through messengers to Jerusalem to pay their Temple dues.

(15) Lit., ‘heave-offering’, here denoting the contribution of Shekels taken up at stated times from out of the shekel-chamber in the Temple from which public sacrifices were bought, v. Shek. III, 1ff

(16) The messengers take the oath of bailees in accord with Ex. XXII, 10.

(17) For the current year.

(18) For notes v. Shek., Sonc. ed., II, 1.

(19) Shebu. 11a.

(20) Hence we see that R. Judah does not permit the obligation of one year to be kept in order to be brought up the following year, otherwise he would not have ruled that this should be left to die, which contradicts the view just expressed.

Talmud - Mas. Yoma 65b

You speak about community sacrifices? It is different with community sacrifices, even as R. Tabi said, in the name of R. Josiah. For R. Tabi said in the name of R. Josiah: Scripture said: This is the burnt-offering of every new moon throughout the months of the year.[1] The Torah indicates: Renew and bring Me an offering of the new terumah.[2] That will be right concerning the he-goat.[3] But can it be said in the case of the bullock? Preventive measure attaches to the bullock because of the he-goat. And because of preventive measure shall they be left to die?[4] And, furthermore, the statement of R. Tabi in the name of R. Josiah characterizes the action as merely a meritorious deed, for R. Judah said in the name of Samuel: It is a meritorious deed to offer the community sacrifices, which are due in

Nisan, from the new terumah. If he had offered them from the old, he has fulfilled his duty, but has omitted a meritorious deed! — Rather, said R. Zeira: [The reason why they cannot be offered in the following year is] because the lot of one year cannot determine for the following year. But let us cast lots again? — There is the fear that people might say the lots do determine from one year for the next. That will be reasonable as far as the he-goat is concerned, but what can be said about the bullock? — The prohibition attaches to the bullock because of the he-goat. And because of a preventive measure shall they be left to die? — The Rabbis before Abaye said that to be a preventive measure on account of a sin-offering whose owner had died.[5] That will be right in the case of the he-goat, but what of the case of the bullock? — The restriction in the case of the bullock derives from the he-goat. And because of a preventive measure shall they be left to die? — Rather is it a restriction because of a sin-offering whose year is past.[6] Is that [but] a preventive measure? This is itself a sin-offering whose year is past.[7] This is no difficulty, in accord with the view of Rabbi. For it was taught:[8] A full year,[9] one counts three hundred and sixty-five days according to the year of the sun, this is the view of Rabbi. The Sages say: One counts twelve months from day to day.

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(1) Num. XXVIII, 14.

(2) V. R.H., Sonc. ed., p. 25, nn. 8 — 9.

(3) Which was provided from the funds of the shekel-chamber.

(4) It would seem sufficient that they be left to pasture.

(5) If the priest should die that year.

(6) I.e., the fear that by the next Day of Atonement it may be more than a year old. All the he-goats offered up as sin-offerings are invalidated after they have reached the age of one year.

(7) Obviously this sin-offering will be past one year this time next year.

(8) R. H. 6b.

(9) Lev. XXV, 30. The reference here is to the time (one year) during which the seller of a dwelling house in a walled city may redeem the property sold by cancellation of contract.

Talmud - Mas. Yoma 66a

And if the year be a prolonged year, the advantage belongs to the seller.[1] That is right as far as the he-goat is concerned. But what can be said in the case of the bullock? — The preventive measure attaches to the bullock because of the he-goat. And because of a preventive measure shall he be left to die? And, furthermore, a sin-offering, whose [first] year is past, is left to pasture,[2] for Resh Lakish[3] said: As to a sin-offering which has passed its year, we look upon it as if it were standing on the cemetery[4] and it is left to pasture? — Rather, said Raba, is the restriction due to the fear of an offence,[5] for it was taught:[6] One may neither consecrate anything, nor vow any ‘valuation’,[7] nor declare anything as devoted[8] nowadays.[9] And if one had consecrated or vowed a ‘valuation’, or declared anything as devoted, if an animal, it should be uprooted;[10] if fruits, vessels or covers, one should let them rot; if money or metal vessels, they are to be taken to the Salt [Dead] Sea.[11] And what does ‘uprooting’ mean? Locking the door before it, so that it die of itself. What kind of offence [is here contemplated]? If an offence in connection with the offering up, that ought then to apply to other cases of pasturing animals also?[12] If an offence in connection with shearing or working it, then that ought to apply to other pasturing animals too? In truth the offence contemplated is one in connection with the offering-up, but with those which are not to be offered up[13] one is not pre-occupied, whereas with this one, since it is to be offered up, he would be pre-occupied. Now as to the question itself whether we fear the possibility of an offence, Tannas are disputing. For it was taught in one [Baraitha]: A Paschal lamb which was not offered up on the first Passover may be offered up on the second,[14] and if not offered up on the second, may be offered up in the following year. And another [Baraitha] taught: It must not be offered up. Is it not then that they dispute touching [the fear of] an offence? — No, all agree we are not apprehensive as to a possible offence; but here they are disputing in the matter at issue between Rabbi and the Sages,[15] and there is no contradiction [between the two Baraithas]; the one is in accord with Rabbi, the other with the Rabbis

[Sages].[16] — But was it not taught: The same applies to the money?[17] Hence rather infer from here that they are disputing in regard to the fear of the offence. — That inference is accepted.

MISHNAH. HE THEN CAME TO THE SCAPEGOAT AND LAID HIS TWO HANDS UPON IT AND HE MADE CONFESSION. AND THUS WOULD HE SAY: I BESEECH THEE, O LORD, THY PEOPLE THE HOUSE OF ISRAEL HAVE FAILED, COMMITTED INIQUITY AND TRANSGRESSED BEFORE THEE. I BESEECH THEE, O LORD, ATONE[18] THE FAILURES, THE INIQUITIES AND THE TRANSGRESSIONS WHICH THY PEOPLE, THE HOUSE OF ISRAEL, HAVE FAILED, COMMITTED AND TRANSGRESSED BEFORE THEE, AS IT IS WRITTEN IN THE TORAH OF MOSES, THY SERVANT, TO SAY: FOR ON THIS DAY SHALL ATONEMENT BE MADE FOR YOU, TO CLEANSE YOU; FROM ALL YOUR SINS SHALL YE BE CLEAN BEFORE THE LORD. AND WHEN THE PRIESTS AND THE PEOPLE STANDING IN THE TEMPLE COURT HEARD THE FULLY-PRONOUNCED NAME COME FORTH FROM THE MOUTH OF THE HIGH PRIEST, THEY BENT THEIR KNEES, BOWED DOWN, FELL ON THEIR FACES AND CALLED OUT: BLESSED BE THE NAME OF HIS GLORIOUS KINGDOM ‘FOR EVER AND EVER. THEY HANDED IT OVER TO HIM WHO WAS TO LEAD IT AWAY. ALL WERE PERMITTED TO LEAD IT AWAY,[19] BUT THE PRIESTS MADE IT A DEFINITE RULE NOT TO PERMIT AN ISRAELITE[20] TO LEAD IT AWAY. R. JOSE SAID: IT ONCE HAPPENED THAT ARSELA OF SEPPHORIS LED IT AWAY, ALTHOUGH HE WAS AN ISRAELITE. AND THEY MADE A CAUSEWAY FOR HIM BECAUSE OF THE BABYLONIANS, WHO WOULD PULL ITS HAIR, SHOUTING TO IT: ‘TAKE[21] AND GO FORTH, TAKE AND GO FORTH’.

GEMARA. But he did not say: ‘The sons of Aaron, thy holy people’; which Tanna is of this opinion? — R. Jeremiah said: This is not in accord with R. Judah, for if it were in accord with R. Judah, surely he said: They, too, obtain atonement from the scapegoat?[22] Abaye said: You might even say that it is in accord with R. Judah: Are the priests not included in ‘Thy people Israel’? Our Rabbis taught: A man[23] [means] to declare a non-priest eligible;[24] appointed[23]

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(1) According to Rabbi, the count always goes according to the number of the days of the solar year, independent as to intercalation or non-intercalation of the extra month, so that the sin-offering need not necessarily have passed its first year by the next Day of Atonement.

(2) And not to die.

(3) Pes. 97a.

(4) Which no priest is permitted to enter, i.e., the animal must not be slaughtered.

(5) Lit., ‘stumbling-block’.

(6) That the fear of an offence is taken into consideration.

(7) V. Lev. XXVII, 3.

(8) Ibid. 28.

(9) After the destruction of the Temple, things consecrated, valued or devoted in favour of it, since not available for the Sanctuary to which they are properly assigned, must be destroyed.

(10) This is soon explained.

(11) [So MS.M. Cur. edd.: he should take the value of the benefit derived from them to the Salt Sea.]

(12) If the offence lies in the possibility that it may be offered up instead of being left to pasture until it acquires a blemish, the same apprehension would be justified with regard to any other animal which is ruled to be left to pasture.

(13) In other cases where animals are ruled to be left to pasture, these animals themselves will never become fit for offering, since they are left to pasture till they become blemished, when they are sold and with the proceeds another animal is bought for offering. Hence he would not be preoccupied with the thought of offering them, as in the case of the animal which is to be offered up on the next Day of Atonement and which he might thus offer up before.

(14) The second Passover for those who were far away or ritually unclean on the fourteenth of Nisan. To some such person this lamb may be sold .V. Num. IX,9.

(15) As supra 65b, whether a complete year denotes a solar year or exactly twelve months.

(16) [According to Rabbi it would perforce be past its first year on the following Passover, when it would be disqualified for a Paschal lamb, hence it cannot be offered in the coming year; whereas, according to the Sages, it might still be under a year, hence it may be retained for the coming year.]

(17) [I.e., the same dispute which is found in connection with the Paschal lamb applies also to money which had been set aside for one year's Paschal lamb, whether it may be used for the next year. Now in the case of money, surely the point at issue between Rabbi and the Sages does not apply.]

(18) Lit., ‘wipe off’.

(19) Var. lec., high priests.

(20) I.e., a non-priest.

(21) Sc. our sins.

(22) V. supra 61a.

(23) V. Lev. XVI, 21.

(24) For taking away the scapegoat into the wilderness.

Talmud - Mas. Yoma 66b

[means] that he must be prepared [from the previous day]; ‘appointed’ [means] that [it is to send away]; even on the Sabbath ‘appointed’, even if in a state of uncleanness.[1] [You say]: ‘Man [means] to declare a non-priest eligible’, but that is obvious? — You might have thought that since [the term] Kapparah [atonement] is written in connection therewith,[2] therefore he informs us [as above]. — ‘Appointed’, i.e., even on the Sabbath. What does this teach?[3] — R. Shesheth said: It is to say that if it is sick, he may make it ride on his shoulder. According to whose view is this? Not according to R. Nathan, for R. Nathan said: A living being carries itself![4] -You may even say that this is in accord with R. Nathan: when it is sick it is different,[5] however.

Rafram said: This is to say that [the laws of] ‘erub[6] and carrying out[7] apply on Sabbath, but do not apply on the Day of Atonement.[8] ‘Appointed’, i.e., even in a state of uncleanness.[9] What does that teach? — R. Shesheth said: It is to say that if he who is to carry it away became unclean, he may enter in impurity the Temple Court[10] and carry it away.

R. Eliezer was asked: What about his carrying it on his shoulder? — He said: He could carry you and me.[11] If he who is to take it away became sick, may he send it away through someone else? — He said: I wish to keep well, I and you![12] If he pushed it down and it did not die, must he go down after it and kill it? — He said to them: So perish all Thine enemies, O Lord.[13] But the Sages say: If it became sick, he may load it on his shoulder; if he pushed it down and it did not die, he shall go down and kill it. They asked R. Eliezer: ‘What about So-and-so[14] in the world to come’? — He replied, ‘Have you asked me only about this one’?[15] ‘May one save the lamb from the lion’? — He said to them: ‘Have you asked me only about the lamb’?[15] ‘May one save the shepherd from the lion’? — He said to them: ‘Have you asked me only about the shepherd’?[16] ‘May a mamzer[17] inherit’? — [He replied]: ‘May he marry the wife of his brother who died without issue’?[18] ‘May one whitewash his house’?[19] — [He replied]: ‘May one whitewash his grave’? — [His evasion was due] not to his desire to divert them with words [counter-questions], but because he never said anything that he had not heard from his teacher.[20]

A wise woman asked R. Eliezer: Since with regard to the offence with the golden calf all were evenly associated, why was not the penalty of death the same?[21] — He answered her: There is no wisdom in woman except with the distaff. Thus also does Scripture say: And all the women that were wise-hearted did spin with their hands.[22] It is stated: Rab and Levi are disputing in the matter. One said: Whosoever sacrificed and burned incense died by the sword; whosoever embraced and kissed [the calf] died the death [at the hands of Heaven];[23] whosoever rejoiced in his heart died of dropsy. The other said: He who had sinned before witnesses and after receiving warning,[24] died by the sword; he who sinned before witnesses but without previous warning, by death; and he who sinned without witnesses and without previous warning, died of dropsy.

Rab Judah said: The tribe of Levi did not participate in the idolatry, as it is said: Then Moses stood in the gate of the camp.[25] Rabina was sitting and reporting this teaching, whereupon the sons of R. Papa b. Abba objected to Rabina: Who said of his father and of his mother: ‘I have not seen him, etc.’?[26] — ‘His father’, that is the father of his mother, an Israelite; ‘brother’, the brother of his mother, an Israelite; ‘sons’, that means the sons of his daughter [which she had] from an Israelite.

AND THEY MADE A CAUSEWAY FOR HIM etc. Rabbah b. Bar Hana said: These were not Babylonians but Alexandrians, and because they [the Palestinians] hated the Babylonians,[27] they called them [the Alexandrians] by their [the Babylonians’] name. It was taught: R. Judah said, They were not Babylonians, but Alexandrians. — R. Jose said to him: May your mind be relieved even as you have relieved my mind![28]

MISHNAH. SOME OF THE NOBILITY OF JERUSALEM USED TO GO WITH HIM UP TO THE FIRST BOOTH. THERE WERE TEN BOOTHS FROM JERUSALEM TO THE ZOK[29]

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(1) This is soon explained.

(2) And this term as a rule occurs only in connection with a rite performed by priests.

(3) What Sabbath desecration could the taking of the scapegoat to the wilderness involve?

(4) V. Shab. 90a. Hence no transgression would be involved in carrying it.

(5) A sick being, unable to ‘carry itself’, might logically be assumed to be an exception to R. Nathan's rule.

(6) v. Glos.

(7) I.e., transferring an object from public to private grounds and vice versa, both of which were prohibited on the Sabbath.

(8) Since the word ‘anointed’ is here interpreted as referring to the suspension of the Sabbath law, the inference is justified that no such prohibition existed on the Day of Atonement, or else it would be illogical to say that a special statement permits the suspension of these laws on the Day of Atonement which fell on a Sabbath, since they would be operative on any Day of Atonement, even if it fell on a weekday. The laws of ‘carrying out’ and ‘erub belong together, hence strictly speaking, the Gemara need not have mentioned both; when one is applied, the other automatically applies too.

(9) How should the laws on levitical uncleanness apply to the taking of the scapegoat to the wilderness?

(10) When he receives it from the high priest.

(11) R. Eliezer made a point of not answering any question concerning which he had not received a definite tradition or interpretation from his teachers.

(12) This, too, is an evasive answer: You and I are well, hope to keep well, why trouble about such hypothetical situations?

(13) Judg. V, 31.

(14) Peloni. It may have been a general question concerning ‘John Doe’, or it may refer to Solomon's (Rashi), or to Absalom's (R. Han.) regard for the Davidic Dynasty being responsible for the substitution of the vague Peloni. [Some see in Peloni a reference to Jesus, Finkelstein L. to Philo. Bokser, B.Z Pharisaism in Transition pp. 18ff, rightly regards these identifications as hardly supported by any facts.]

(15) Ali his answers are evasive.

(16) Some see in the question about the shepherd a reference to David, who as lion (King) or as shepherd had taken the lamb (Bathsheba) from her husband. Others see the lamb in Uriah, Bathsheba's husband, whom the lion (David) sent to his death.

(17) May a bastard (the issue of a union forbidden under the penalty of extinction) inherit his father?

(18) Why don't you ask the whole question: How far does he participate in the rights and duties of normal Jews?

(19) May one whitewash one's house in spite of the fact that one ought to remain conscious all the time of the destruction of the Temple, etc.

(20) [V. Suk., Sonc. ed., p. 122. Bokser, op. cit. pp. 108f sees in these questions differences of opinion on important points of law. The question about sheep concerned the ban against cattle-raising which the Rabbis wished to enforce (v.

B.M. 84b) and which R. Eliezer opposed as having no precedent in tradition. The questions relating to the mamzer involved the imposition of certain discriminations against the mamzer of which R. Eliezer did not approve, and similarly he refused to accept the prohibition of the other Rabbis of plastering one's house in sad remembrance of the destruction of the Temple, not finding any support for it in tradition].

(21) Scripture mentions three forms of penalties: Some died by the sword (Ex. XXXII, 27), others by the plague (ibid. 35), the rest by dropsy as the result of their drinking the water containing the gold dust, which Moses had offered them in expiation (ibid. 20).

(22) Ex. XXXV, 25.

(23) I.e., died by the plague.

(24) Penalty could be imposed only when the offence had been committed in the presence of two witnesses who accuse the defendant, after he had been warned as to the consequences of his offence.

(25) Ex. XXXII, 26. (cont.) and said: ‘Whoso is on the Lord's side, let him come unto me’. And all the sons of Levi gathered themselves together unto him.

(26) Deut. XXXIII, 9. Here seems scriptural proof that the Levites, in punishing the guilty, ignored relationships, such as father or mother, but executed punishment on all. Thus their relatives, other Levites, must have been guilty.

(27) This hatred caused them to look down upon the Babylonians as remiss in their religious duties, and to father upon them other people's wrongs.

(28) R. Jose was a Babylonian. He welcomes the interpretation, which freed his fellow-countrymen from the charge of such boorish conduct.

(29) Lit., ‘the peak’, the mountain top from which the scapegoat was precipitated. Also used to denote the precipice itself.

Talmud - Mas. Yoma 67a

[A DISTANCE OF] NINETY RIS, SEVEN AND A HALF OF WHICH MAKE A MIL.[1] AT EVERY BOOTH THEY WOULD SAY TO HIM: HERE IS FOOD AND HERE IS WATER. THEY WENT WITH HIM FROM BOOTH TO BOOTH, EXCEPT THE LAST ONE.[2] FOR HE WOULD NOT GO WITH HIM UP TO THE ZOK,[3] BUT STAND FROM AFAR, AND BEHOLD WHAT HE WAS DOING.

WHAT DID HE DO? HE DIVIDED THE THREAD OF CRIMSON WOOL, AND TIED ONE HALF TO THE ROCK, THE OTHER HALF BETWEEN ITS HORNS, AND PUSHED IT FROM BEHIND. AND IT WENT ROLLING DOWN AND BEFORE IT HAD REACHED HALF ITS WAY DOWN HILL IT WAS DASHED TO PIECES. HE CAME BACK AND SAT DOWN UNDER THE LAST BOOTH UNTIL IT GREW DARK. AND FROM WHEN ON DOES IT RENDER HIS GARMENTS UNCLEAN?[4] FROM THE MOMENT HE HAS GONE OUTSIDE THE WALL OF JERUSALEM. R. SIMEON SAYS: FROM THE MOMENT HE PUSHES IT INTO THE ZOK.[5]

GEMARA. Our Rabbis taught: There were ten booths and twelve mils[6] [distance] — this is the view of R. Meir. R. Judah says Nine booths and ten mils; R. Jose says: Five booths and ten mils. And they are all available by means of an ‘erub.[7] R. Jose said: My son Eliezer suggested to me: As long as I have an ‘erub, two booths would do even for ten mils.[8] With whose view will agree what was taught: But not from the last booth,for nobody would go with him up to the Zok, but standing afar, would behold what he was doing? According to whom [is this]? According to R. Meir.[9]

AT EVERY BOOTH THEY WOULD SAY TO HIM: HERE IS FOOD AND WATER: A Tanna taught: Never did any one [who carried the goat away] find it necessary to use it, but[10] [the reason of this provision is because] you cannot compare one who has bread in his basket with one who has no bread in his basket.[11]

WHAT DID HE DO? HE DIVIDED THE THREAD OF CRIMSON WOOL: But let him tie the whole [thread] to the rock? — Since it is his duty [to complete his work with] the he-goat, perhaps the thread might become fast white, and he would be satisfied.[12] But let him tie the whole thread between its horns? — At times its head [in falling] is bent and he would not pay attention.[13] Our Rabbis taught:[14] In the beginning they would tie the thread of crimson wool on the entrance of the Ulam[15] without: if it became white they rejoiced; if it did not become white, they were sad and ashamed. Thereupon they arranged to tie it to the entrance of the Ulam within. But they were still peeping through and if it became white, they rejoiced, whereas, if it did not become white, they grew sad and ashamed. Thereupon they arranged to tie one half to the rock and the other half between its horns. R. Nahum b. Papa said in the name of R. Eleazar ha-Kappar: Originally they used to tie the thread of crimson wool to the entrance of the Ulam within, and as soon as the he-goat reached the wilderness, it turned white. Then they knew that the commandment concerning it had been fulfilled, as it is said: If your sins be as scarlet, they shall be as white wool.[16]

BEFORE IT HAD REACHED HALF ITS WAY DOWN HILL: The question was raised: As to those limbs [pieces] are they permitted for general use?[17] Rab and Samuel are in dispute on this point, one saying: They are permitted, the other they are forbidden. The one who holds they are permitted [argues thus]:

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(1) [So that ninety ris is the equivalent of twelve mils.]

(2) I.e., the one who accompanied him to the last booth, the one before the Zok.

(3) [Because according to calculation there was a distance of two mils between the last booth and the Zok which was beyond the walking limits of the Sabbath or Festivals.]

(4) V. Lev. XVI, 26.

(5) Cf. p. 312, n. 6.

(6) [V. n. 1. This allowed for one mil(=2000 cubits) the permissible walking distance between one booth and another and two mils from the last booth to the Zok].

(7) This ‘erub signified the transferring of one's abode to the place where certain foods were deposited, with the consequence that his movements on the Sabbath would be assumed to start from that abode and were permitted within 2000 cubits in every direction.

(8) Suppose some Jerusalemites deposited on the eve of the Day of Atonement some eatables at the end of the 2000 cubits which are the legal maximum for walking out of the city on the Sabbath. Then they are permitted to accompany the man appointed to take away the scapegoat a distance of 2000 more cubits (the maximum as from the present fictitious abode). The guard of other booths eight and four mils off Jerusalem could do the same, in every direction. Now one may go 2000 cubits with him from Jerusalem, where guards from the first booth join him up to the second and so on, until his destination is reached.

(9) According to R. Jose and R.’Judah even the last reaches the Zok.

(10) V. supra 18b.

(11) The craving of him who lacks the opportunity to gratify it is much more intense then the craving of him who has such opportunity.

(12) If the thread should turn white suddenly before the goat had yet been hurled down, the appointed man might be so happy with the sign of forgiveness obtained as to neglect going through with the prescribed ceremony of pushing the he-goat downward, thus leaving the command unfulfilled.

(13) To the change in colour, since the thread would be out of his sight.

(14) V. R.H. 31b.

(15) The Hall leading to the interior of the Temple.

(16) Isa. I, 18.

(17) I.e., may they e.g., be sold so that the profit therefrom be enjoyed. Hana'ah (general use) stands for any enjoyment except akilah, eating for human consumption, therefore using it for profit, as a gift, etc.

Talmud - Mas. Yoma 67b

For it is written: ‘in the wilderness’;[1] the one who holds they are forbidden [argues]: Because

Scripture says: cut off.[2] But as for him who considers them forbidden, for what purpose does he use the word ‘wilderness’? He needs it in accord with what was taught: ‘Into the wilderness’, ‘to the wilderness’, ‘in the wilderness’,[3] that means to include Nob, Gibeon, and Shiloh and the Permanent House.[4] And what does the other [teacher] do with ‘cut off’? — He needs it, in accord with what was taught: Gezerah,’[5] [the term] ‘gezerah’ means something that is ‘cut off’;[6] another explanation: Gezerah means something that goes to pieces as it goes down; another interpretation: ‘gezerah’[7] — perhaps you might say this is a vain thing? Therefore the text reads: I am the Lord, I have decreed[7] it and you are not permitted to criticize it.

Raba said: The view of him who says they are permitted is more reasonable, for the Torah did not say ‘Send away’! to create [possibility of] offence.[8] Our Rabbis taught: Azazel — it should be hard and rough.[9] One might have assumed that it is to be in inhabited land, therefore the text reads: ‘In the wilderness’. But whence do we know that it [is to be in] a Zok?[10] — Therefore the text reads: ‘Cut off’.[11] Another [Baraitha] taught: Azazel, i.e., the hardest of mountains, thus also does it say: And the mighty [ele] of the land he took away.[12] The School of R. Ishmael taught: Azazel — [it was so called] because it obtains atonement for the affair of Uza and[13] Aza'el.-

Our Rabbis taught: Mine ordinances shall ye do,[14] i.e., such commandments which, if they were not written [in Scripture], they should by right have been written and these are they: [the laws concerning] idolatry [star-worship], immorality and bloodshed, robbery and blasphemy. And My statutes shall ye keep,[14] i.e., such commandments to which Satan objects, they are [those relating to] the putting on of sha'atnez,[15] the halizah[16] [performed] by a sister-in-law, the purification of the leper, and the he-goat-to-be-sent-away. And perhaps you might think these are vain things, therefore Scripture says: I am the Lord,[14] i.e., I, the Lord have made it a statute and you have no right to criticize it.

FROM WHEN ON DOES IT RENDER HIS GARMENTS UNCLEAN? Our Rabbis taught: Only he who is to take the goat away renders his garments unclean, but he who sends the appointed man away[17] does not render his garments unclean. One might have assumed that [he does so] as soon as he goes forth outside from the wall of the Temple court, therefore the text reads: He that letteth go.[18] If [you derive from] ‘he that letteth go’ [one might infer that] only when he reaches Zok, therefore the text reads: ‘And he that letteth go’.[19] How then is it? R. Judah says: As soon as he goes out of the walls of Jerusalem. R. Jose says: Azazel and wash [are written in close proximity] i.e., only when he reaches the Zok. R. Simeon says: And he that letteth go the goat for Azazel shall wash his clothes, i.e., he flings it down headlong and his garments become then unclean.

MISHNAH. HE [THE HIGH PRIEST] CAME TO THE BULLOCK AND THE HE-GOAT THAT WERE TO BE BURNT,[20] HE CUT THEM OPEN AND TOOK OUT THE SACRIFICIAL PORTIONS[21] AND PUT THEM ON A TRAY, AND BURNT THEM UPON THE ALTAR. HE TWISTED THEM [THE BEASTS] AROUND CARRYING POLES AND BROUGHT THEM OUT TO THE PLACE OF BURNING. FROM WHAT TIME DO THEY RENDER GARMENTS UNCLEAN?[22] AFTER THEY HAVE GONE OUTSIDE THE WALL OF THE TEMPLE COURT. R. SIMEON SAYS: FROM THE MOMENT THE FIRE HAS TAKEN HOLD OF MOST OF THEM.

GEMARA. And he burnt them up? How could that thought arise in you?[23] — Rather say: To burn them [later] on the altar.

HE TWISTED THEM AROUND CARRYING POLES: R. Johanan said: So in the form of a net-work. — A Tanna taught: He did not cut them up as one cuts up the flesh of a burnt-offering, but [he left] the skin on the flesh. Whence do we know this? Because It was taught:[24] Rabbi said: It is said here: skin . . . flesh . . . and dung[25] and it is said there: skin . . . flesh . . . and dung[26]

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(1) Lev. XVI, 22. This phrase is superfluous and comes to teach that just as the wilderness belongs to all so are the broken limbs of the he-goat it contains free for the use of all.

(2) Ibid. i.e., cut off from use, forbidden.

(3) Ibid. vv. 10, 21, 22.

(4) I.e., The Jerusalem Temple. The law applies to all these places.

(5) The Hebrew for the ‘cut off’.

(6) I.e., something that rises steep, and not in a slope.

(7) The root meaning of the word is: cut off, guard. Thus: to institute a preventive measure, to enact a prohibition, to decree. All these root-meanings are here brought into play: It is ‘cut off’, hence descending precipitately. — It is cut, ‘split’, hence dashed in pieces. — It is a decree, divine, hence no criticism is allowed.

(8) It would be an offence for an unwary man who found them to make use of these animals, and the Torah would place no such stumbling-block in the way of the average person. Hence the assumption that the members of the goat's body are free to be used.

(9) Az and el mean strong, irresistible, impudent.

(10) Zok means a mountain peak; it may be the special name of the mountain whence the he-goat was flung down.

(11) V. Supra p. 315, n. 7.

(12) Ezek. XVII, 13.

(13) This is a reference to the legend of fallen angels, based partly on Gen. VI, 4 and also on foreign lore. V. Jung, L. ‘Fallen Angels in Jewish, Christian and Mohammedan literature’.

(14) Lev. XVIII, 4.

(15) A web of wool and linen, v. Deut. XXII, 11. All the laws mentioned in this group cannot be explained rationally; they are to be taken on faith, as the decree of God.

(16) The ceremony of taking off the brother-in-law's shoe, v. Deut. XXV, 5ff.

(17) I.e.,those who accompany him.

(18) Lev. XVI, 26.

(19) [This argument is not clear. v. Rashi. Tosef. (Yoma III) reads: One might have assumed as soon as he goes forth outside the wall of the Temple court, therefore the text reads: ‘For Azazel shall wash his clothes’. If ‘for Azazel shall wash his clothes’, I might [infer] only when he reaches Zok etc.]

(20) Ibid. 27: And they shall burn in the fire their skin, and their flesh.

(21) Lev. IV, 8-10.

(22) V. Lev. XVI, 28.

(23) That took place much later.

(24) Zeb. 50a.

(25) Lev. XVI, 27.

(26) With reference to the bullock brought by an anointed priest for a sin-offering. Ibid. IV, 11.

Talmud - Mas. Yoma 68a

just as above it is [carried forth] by means of cutting up and not by flaying, so here also it is by means of cutting up and not by flaying. Whence do we know it there? — For it was taught: ‘And its inwards, and its dung, and he shall carry forth’,[1] that teaches that he must carry it forth complete.[2] One might have assumed that he must also burn it complete, therefore it is said here: ‘with its head and with its legs’ and there also it is said: its head and its legs,[3] hence just as there it is [offered] by means of cutting up, so here also it is [carried forth] by means of cutting up. One might assume that just as there it is by means of flaying, so here too, therefore the text reads: ‘And its inwards and its dung’. How is this implied [in the Scriptural text]? — R. Papa answered: Just as the dung is enclosed in the inwards, so shall the flesh be enclosed in the skin.[4]

FROM WHAT TIME DO THEY RENDER GARMENTS UNCLEAN? [etc.] Our Rabbis taught:[5] [And the bullock and . . . the he-goat] he shall carry forth without the camp and they shall burn. There[6] you allot them three[7] camps and here only one camp?[8] Then, why does it read: ‘without the camp'? To tell you: As soon as he goes outside the one camp, the garments are rendered unclean. Whence do we know it there?[9] — For it was taught:[10] Even the whole bullock shall he carry forth without the camp,[11] i.e., without the three camps. — You say: Without the three camps, but perhaps it means [only] 'without one camp'? When Scripture says, in connection with the bullock of the congregation: 'without the camp', whereas no such statement [of the text] is necessary, for it is said already: And he shall burn it as he burned the first bullock,[12] why then was 'without the camp' stated? To allot it another camp; and when Scripture says, Without the camp', in connection with the removal of the ashes whereas no such statement is necessary,[13] since it is said already: Where the ashes are poured out,[11] this means to allot it a third camp. What does R. Simeon[14] do 'Without the camp'?[15] He needs it, as it was taught: R. Eliezer says: It is said here: 'Without the camp', and it is said there: Without the camp:[16] Just as here it means outside the three camps, so does it mean there outside the three camps; and just as there it means to the east of Jerusalem,[17] so does it mean here to the east of Jerusalem. But according to the view of the Sages where were they burnt? In accordance with what was taught: Where were they burnt?

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(1) Lev. IV, 11-12.

(2) But the skin of the bullock, and all its flesh, with its head, and with its legs, and its inwards, and its dung, omitting no part of the animal's anatomy, hence justifies the statement that 'shall he carry forth', in the following verse, means he shall carry it forth complete.

(3) Lev. I, 8, 9. With reference to a burnt-offering of the flock.

(4) The skin of the bullock and all its flesh, occurring in the same passage with and its dung justifies the analogy: as the dung is enclosed, etc.

(5) Zeb. 105b.

(6) In connection with the bullock which the congregation or the anointed priest had to offer up as a sin-offering for an offence committed in error.

(7) Three camps, outside of which it is to be burnt, are 'allotted', designated in connection with it: the priestly camp, the camp of the Levites, the camp (the city) of Israel as shown infra.

(8) This bullock would apparently be burnt outside of the first camp (as 'without the camp' is mentioned only once). What difference justifies such discrimination? The difference would lie in the nature of the sacrifice, but there is practically no such difference, both being offered up inside and having the same regulation with regard to their burning and to their defiling of the garments.

(9) V. p. 318, n. 8.

(10) Sanh. 42b.

(11) Lev. IV, 12.

(12) Ibid. v. 21.

(13) V. ibid. VI, 4.

(14) Who, in our Mishnah, says: The garments are rendered unclean only from the moment the fire has taken hold of most parts of the sacrifice.

(15) Lev. XVI, 27.

(16) Num. XIX, 4. With reference to the red heifer.

(17) As indicated in the words towards the face of the tent of meeting, that is, he stands in the east facing the entrance of the Tabernacle to the west.

Talmud - Mas. Yoma 68b

to the north[1] of Jerusalem, and without the three camps. R. Jose says: They were burnt in the place[2] where the ashes of the sacrifices were deposited.

Raba said: Who is the Tanna disputing with R. Jose. It is R. Eliezer b. Jacob, for it was taught: [The bullock shall he carry forth to] where the ashes are poured out, and burn it, i.e., there shall be ashes [from before].[3] R. Eliezer b. Jacob says: It means that its place shall be sloping. Said Abaye: Perhaps they are disputing as to whether the place shall be sloping![4] — Our Rabbis taught: And he that burneth them[5] i.e., he that burneth renders his garments unclean, but not he who kindles the fire, nor he who puts the wood in order. And who is ‘He that burneth’? He who assists at the time of the burning. One might have assumed that even after they have become ashes, they shall still defile the garments, therefore Scripture says: ‘them, i.e., only as long as they [are ‘they’] do they defile the garments, but not once they have become ashes. R. Eliezer son of R. Simeon says: The bullock [itself] defiles the garments, but when the flesh is burnt to hard lumps it no more defiles the garments. What is the difference between the two views? — If it has been reduced to lumps of charred flesh.[6]

MISHNAH. THEY SAID TO THE HIGH PRIEST: THE HE-GOAT HAS REACHED THE WILDERNESS. AND WHENCE DID THEY KNOW THAT THE HE-GOAT HAD REACHED THE WILDERNESS? THEY USED TO SET UP GUARDS AT STATIONS[7] AND FROM THESE TOWELS WOULD BE WAVED, THUS WOULD THEY KNOW THAT THE HE-GOAT HAD REACHED THE WILDERNESS. R. JUDAH SAID: BUT DID THEY NOT HAVE A GREAT SIGN? FROM JERUSALEM TO BETH HIDODO[8] WAS THREE MILS. THEY COULD WALK A MIL, RETURN THE MIL, THEN TARRY THE TIME IT TAKES TO WALK A MIL, AND THUS KNOW THAT THE HE-GOAT HAD REACHED THE WILDERNESS. — R. ISHMAEL SAID: BUT THEY HAD ANOTHER SIGN TOO: A THREAD OF CRIMSON WOOL WAS TIED TO THE DOOR OF THE TEMPLE, AND WHEN THE HE-GOAT REACHED THE WILDERNESS THE THREAD TURNED WHITE, AS IT IS WRITTEN: THOUGH YOUR SINS BE AS SCARLET THEY SHALL BE AS WHITE AS SNOW.[9]

GEMARA. Abaye said: One may infer from here that Beth Hidodo is in the wilderness and this is what he [the Tanna of the Mishnah] informs us: that R. Judah holds: As soon as the he-goat has reached the wilderness the commandment concerning it is fulfilled.

CHAPTER VII

MISHNAH. THE HIGH PRIEST [THEN] CAME TO READ. IF HE WISHED TO READ IN LINEN GARMENTS HE COULD DO SO, OTHERWISE HE WOULD READ IN HIS OWN WHITE VESTMENTS. THE SYNAGOGUE ATTENDANT[10] WOULD TAKE A SCROLL OF THE LAW AND GIVE IT TO THE HEAD OF THE SYNAGOGUE,[11] AND THE HEAD OF THE SYNAGOGUE GAVE IT TO THE SEGAN,[12] AND THE SEGAN GAVE IT TO THE HIGH PRIEST, AND THE HIGH PRIEST STANDS AND RECEIVES IT, AND READS [THE SECTION] BEGINNING] ‘AFTER THE DEATH . . .’[13] AND ‘HOWBEIT ON THE TENTH. . .’[14] THEN HE WOULD ROLL UP THE SCROLL OF THE LAW AND PUT IT IN HIS BOSOM AND SAY, ‘MORE THAN WHAT I HAVE READ OUT BEFORE YOU IS WRITTEN HERE. AND ON THE TENTH . . .’[15] WHICH IS IN THE BOOK OF NUMBERS HE RECITES BY HEART. THEN HE RECITES IN CONNECTION THEREWITH EIGHT BENEDICTIONS: FOR THE LAW, FOR THE TEMPLE SERVICE, FOR THE THANKSGIVING, FOR THE FORGIVENESS OF SINS AND FOR THE TEMPLE SEPARATELY,[16] AND FOR ISRAEL SEPARATELY AND FOR JERUSALEM SEPARATELY,[17] FOR THE PRIESTS SEPARATELY AND FOR THE REST OF THE PRAYER.[18] HE WHO SEES THE HIGH PRIEST WHEN HE READS DOES NOT SEE THE BULLOCK AND THE HE-GOAT THAT ARE BEING BURNT, AND HE THAT SEES THE BULLOCK AND THE HE-GOAT THAT ARE BEING BURNT DOES NOT SEE THE HIGH PRIEST WHEN HE READS: NOT THAT HE WAS NOT PERMITTED BUT BECAUSE THE DISTANCE APART WAS GREAT AND BOTH RITES WERE PERFORMED AT THE SAME TIME.

GEMARA. Since it states: IN HIS OWN WHITE VESTMENT,[19] the inference is that reading is not a [Temple] service, and then it states: IF HE WISHED TO READ IN THE LINEN GARMENTS HE COULD DO SO, from which one may learn that priestly garments may be enjoyed for private use![20] Perhaps it is different with reading, because it is a necessity for the [Temple] service. For the question was raised: Are the priestly garments allowed for private use or not allowed! — Come and hear: They would nor sleep in the holy garments.[21] Now they could not sleep in them, but they could eat in them![22] — Perhaps it is different with the eating, because it is necessary for the service, for it was taught: And they shall eat those things wherewith atonement was made;[23] this teaches that the priests eat and the owner obtains atonement. 'They could not sleep in them', but could they walk around in them? — In truth they might not walk around in them either

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(1) For all the ceremony in connection with the sin-offering took place in the north.

(2) Before Beth ha-Deshen; when ashes have been deposited there it is Beth ha-Deshen. After they have been deposited it is Shefek ha-Deshen, the place where ashes have been poured out. (v. Rashi).

(3) V. Lev. IV, 12.

(4) I.e., the discussion may concern only the question as to whether the place must be sloping, and not whether ashes must have been deposited there first, R. Eliezer b. Jacob agreeing that ashes must have been deposited there before.

(5) Lev. XVI, 28.

(6) In this case the flesh has been dissolved without having become ashes. According to the first Tanna they render the garments unclean as long as they are not ashes, hence, in this case would still have this defiling effect. According to R. Eliezer son of R. Simeon it is only as long as they are bullocks, i.e., whole, that they render garments impure, whereas as charred flesh they are no more bullocks, hence do not affect the garments any more.

(7) Jastr. from Grk. Diadoche — relays, guard at stations, corrupted into dirchaot.

(8) Not definitely identified. J.T. Beth Horon, var. lec. Haroro, Beth Hadure.

(9) Isa. I, 18.

(10) [Hazzan. There is no certainty in regard either to the origin or rank of the Hazzan. Here he appears a second in rank to the Head of the Synagogue].

(11) [ראש הכנסת Identified with the **, the officer who administered the external affairs of the synagogue, v. Krauss, Synagogale Altertumer, p. 116ff. and J.E. II, 86.]

(12) V. Glos.

(13) Lev. XVI.

(14) Lev. XXIII, 26-32.

(15) Num. XXIX, 7-11.

(16) What 'separately' means is not clear. Some texts including, J.T. omit. V. also Sotah 40b.

(17) [J.T. and separate editions of the Mishnah omit 'for Jerusalem', which makes the number exactly eight].

(18) V. Gemara.

(19) Robe, garment; either the Greek stole, or a derivation of talal, cf. talith — Jast, and does not necessitate sacred priestly vestments.

(20) For private clean use, as against the possibility of impurity in sleep.

(21) Tamid 25b.

(22) Although eating is not part of the service, it is permissible for priests to eat in their official garments.

(23) Ex. XXIX, 23.

Talmud - Mas. Yoma 69a

but it is necessary [to make special mention of sleep] on account of the last clause:[1] they may take them off, fold them, and put them under the head.

'They may take them off, fold them, and put them under the head'! You may infer, then, hence that priestly garments may be enjoyed for private use? — R. Papa said: Do not say, 'Under their heads', but rather say, 'Next to their heads'. R. Mesharsheya said: You may infer, thence, that one may keep the tefillin next to oneself whilst asleep. It is also logical that [the meaning here is] next to their heads'. For if the thought should arise in you that [it means] 'under their heads', surely you ought to derive [the prohibition of that] on account of the mixed texture [of wool and linen], for among [the garments which consisted of a mixed texture] is also the girdle, so that even if the private enjoyment [of priestly garments] is permitted, surely here he is deriving benefit from a mixed texture! — That will be right according to the view that the girdle of the high priest [on the Day of Atonement] is identical with the girdle of the common priest during the rest of the year; but what can be said according to the view that the girdle of the high priest is not identical with that of the commoner?[2] — And if you were to say mixed textures are forbidden only for wearing and putting on, but not for lying on, surely was it not taught: Neither shall there come upon thee,[3] i.e., but you may spread it under you; but the Sages declare that this too is forbidden, because a fringe [of the mattress etc.] might wind itself round the flesh. And if you were to say: Something was placed in between, but did not R. Simeon b. Pazzi in the name of R. Joshua b. Levi say on the authority of Rabbi, in the name of the Holy Community of Jerusalem: Even if there were ten mattress covers, one on top of the other, with mixed textures under them, it would still be forbidden to sleep on them. Rather, therefore, must you say [the meaning is]: ‘Next to their heads’. This is conclusive. R. Ashi said: In reality, read: ‘Under their heads’. [And as to the question][2] But he would enjoy mixed textures? [the answer is], Priestly garments are stiff, for even so did R. Huna, son of R. Joshua say: The shrunk felt-cloth of Naresh[4] is permitted.[5]

Come and hear: As to priestly garments, it is forbidden to go out in them in the province,[6] but in the Sanctuary whether during or outside the time of the service, it is permitted to wear them, because priestly garments are permitted for private use. This is conclusive. But in the province [it is] not [permitted]? Surely it was taught:The twenty-fifth of Tebeth is the day of Mount Gerizim,[7] on which no mourning is permitted. It is the day on which the Cutheans demanded the House of our God from Alexander the Macedonian so as to destroy it, and he had given them the permission, whereupon some people came and informed Simeon the Just.[8] What did the latter do? He put on his priestly garments, robed himself in priestly garments, some of the noblemen of Israel went with him carrying fiery torches in their hands, they walked all the night, some walking on one side and others on the other side, until the dawn rose. When the dawn rose he [Alexander] said to them: Who are these [the Samaritans]? They answered: The Jews who rebelled against you. As he reached Antipatris,[9] the sun having shone forth, they met. When he saw Simeon the Just, he descended from his carriage and bowed down before him. They said to him: A great king like yourself should bow down before this Jew? He answered: His image it is which wins for me in all my battles. He said to them: What have you come for? They said: Is it possible that star-worshippers should mislead you to destroy the House wherein prayers are said for you and your kingdom that it be never destroyed! He said to them: Who are these? They said to him: These are Cutheans who stand before you. He said: They are delivered into your hand. At once they perforated their heels, tied them to the tails of their horses and dragged them over thorns and thistles, until they came to Mount Gerizim, which they ploughed and planted with vetch, even as they had planned to do with the House of God. And that day they made a festive day.[10] If you like say: They were fit to be priestly garments, or, if you like, say: It is time to work for the Lord: they have made void Thy law.[11]

THE SYNAGOGUE ATTENDANT WOULD TAKE A SCROLL OF THE LAW. One may infer from here that one may shew honour to the disciple in the presence of his master?[12] — Abaye said: It is all done for the sake of the high priest.[13]

AND THE HIGH PRIEST STANDS. From this you can infer that he was sitting before, but surely we have learnt:[14]

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(1) Which permits the sleeping on them, independent of any fear that impurity may occur in the sleep, since the garments were taken off the body.

(2) According to the first view both are of linen, without any mixture, hence may be worn. But according to the second view, the commoner did wear a different kind of belt, made up of mixed texture, v. supra 6a notes, hence the difficulty.

(3) Lev. XIX, 19.

(4) Near Sura.

(5) That felt-cloth was so hard that one could not have worn a garment of that material. The prohibition of mixed texture, however, applies only to such material as may be worn as garments and warm the body.

(6) I.e., outside the Temple.

(7) On which the Samaritans (Cutheans) had their Temple.

(8) One of the surviving members of the Great Synod, v. Aboth, Sonc. ed., p. 2, n. 1.

(9) Antipatris, in Judah, on the way from Jerusalem to Caesarea, was built by King Herod and called after his father, Antipater.

(10) Prohibiting every public mourning. This shews that Simeon wore the priestly garments outside Jerusalem.

(11) Ps. CXIX, 126. [In Megillath Ta'anith the day of the destruction of the Temple on Mount Gerizim is 21st Kislev. According to Josephus it was destroyed by Hyrcanus in the year 128 B.C.E. For the literature on the subject v. Lichtenstein, H., HUCA, vol. VIII-IX, p. 288].

(12) The question is, shall we consider this an answer to the problem propounded elsewhere and not answered (B.B 119b; Sotah 40b) as to whether it is legitimate to shew honour to a subordinate in the presence of his superior, (disciple in presence of master). The solution, inferred from here, would be the affirmative.

(13) I.e., what happens here serves but to indicate how many subordinates the high priest has, i.e., how exalted his position is. The problem is still unsolved as to a situation in which the honour would be intended exclusively for the benefit of the disciple or subordinate.

(14) [Read with var. lec.: ‘A Master said’, as what follows is no Mishnah].

Talmud - Mas. Yoma 69b

Nobody may sit down in the [Temple] Court except the kings of the house of David alone, as it is said: Then David the king went in and sat before the Lord?[1] — It is as R. Hisda had explained [elsewhere]: In the women's court, so also here. ‘In the women's court’. — Where was R. Hisda's statement made? — In connection with the following: An objection was raised, it was taught: Where did they read therein?[2] In the Temple. R. Eliezer b. Jacob said: On the Temple Mount, as it is said: And he read therein before the broad place that was before the water gate;[3] and R. Hisda said: In the women's court.[4] And Ezra blessed the Lord, the great God.[5] What does ‘great’ imply? — R. Joseph said in the name of Rab: He magnified Him by [pronouncing] the Ineffable Name.[6] R. Giddal said: [He recited], Blessed be the Lord, the God of Israel, from everlasting even to everlasting.[7] Said Abaye to R. Dimi: But perhaps it means that he magnified Him by [pronouncing] the Ineffable Name? — He answered: One does not pronounce the Ineffable Name outside [the limits of the Temple]. But may one not? Is it not written: And Ezra the scribe stood upon a pulpit of wood, which they had made for the purpose. [. . . and Ezra praised the great God].[8] And R. Giddal [commenting thereupon] said: He magnified Him by [pronouncing] the Ineffable Name?-That was a decision in an emergency.[9] And [they] cried with a great [loud] voice unto the Lord, their God.[10] What did they cry? — Woe, woe, it is he[11] who has destroyed the Sanctuary, burnt the Temple, killed all the righteous, driven all Israel into exile, and is still dancing around among us! Thou hast surely given him to us so that we may receive reward through him.[12] We want neither him, nor reward through him! Thereupon a tablet fell down from heaven for them, whereupon the word ‘truth’[13] was inscribed. (R. Hanina said: One may learn therefrom that the seal of the Holy One, blessed be He, is truth). They ordered a fast of three days and three nights, whereupon he[11] was surrendered to them. He came forth from the Holy of Holies like a young fiery lion. Thereupon the Prophet said to Israel: This is the evil desire of idolatry, as it is said: And he said: This is wickedness.[14] As they took hold of him a hair of his beard fell out, he raised his voice and it went [was audible] four hundred parasangs. Thereupon they said: How shall we act? Perhaps, God forbid, they might have mercy upon him from heaven! — The prophet said unto them: Cast him into a leaden pot, closing its opening with lead. Because lead absorbs the voice, as it is said: And he said: This is wickedness. And he cast her down into the midst of the measure, and he cast the weight of lead upon the mouth thereof.[14] They said: Since this is a time of Grace, let us pray for mercy for the Tempter to evil.[15] They prayed for mercy, and he was handed over to them. He said to them: Realize that if you kill him, the world goes down. They imprisoned him for three days, then looked in the whole land of

Israel for a fresh egg and could not find it.[16] Thereupon they said: What shall we do now? Shall we kill him? The world would then go down. Shall we beg for half-mercy?[17] They do not grant 'halves' in heaven.[17] They put out his eyes and let him go. It helped inasmuch as he no more entices men to commit incest.[18] In the West [Palestine] they taught it thus: R. Giddal said: [And Ezra praised...the] great [God]:[19] i.e., he magnified Him by pronouncing the Ineffable Name. R. Mattena said: He said: The great, the mighty, and the awful God.[20] The interpretation of R. Mattena seems to agree with what R. Joshua b. Levi said: For R. Joshua b. Levi said: Why were they called men of the Great Synod? Because they restored the crown of the divine attributes to its ancient completeness.[21] [For] Moses had come and said: The great God, the mighty, and the awful.[22] Then Jeremiah came and said: Aliens are destroying[23] His Temple. Where are, then, His awful deeds? Hence he omitted[24] [the attribute] the 'awful'. Daniel came and said: Aliens are enslaving his sons. Where are His mighty deeds? Hence he omitted the word[25] 'mighty'. But they came and said: On the contrary! Therein lie His mighty deeds that He suppresses His wrath,[26] that He extends long-suffering to the wicked. Therein lie His awful powers: For but for the fear of Him, how could one [single] nation persist among the [many] nations! But how could [the earlier] Rabbis[27] abolish something established by Moses? R. Eleazar said: Since they knew that the Holy One, blessed be He, insists on truth, they would not ascribe false [things] to Him.[28]

AND HE READ: AFTER THE DEATH' AND 'HOWBEIT ON THE TENTH DAY': A question was raised: One may skip in reading from the Prophets, but one may not skip in reading from the Torah![29] — That is no difficulty: The one [prohibition] applies where [the passage skipped is] sufficiently long to interrupt the interpreter, the other where it is not sufficiently long to interrupt the interpreter.[30] — But surely it is in connection therewith that it was taught: One may skip in reading from the Prophets, but one may not skip in reading from the Torah; and how much may be skipped [in the Prophets]? So much as is not sufficiently long to interrupt the interpreter. This implies that in reading from the Torah one may not skip at all? — Said Abaye: There is no difficulty: [The permission applies] here, where one theme is concerned, [the prohibition] there, where two themes are concerned.[31] Thus also it was taught: One may skip in the reading from the Torah, if the theme be one and same, in reading from the Prophets, even if two themes be involved; in each case, however, only when it is not sufficiently long to interrupt the interpreter. Nor may one skip from one Prophetical Book to another, but in case of one of the twelve Minor Prophets one may skip even [from one Book to another],

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(1) I Chron. XVII, 16. Only the descendants of David who, through his son, built the Temple, are permitted to feel sufficiently at home there to be permitted to sit down in the Temple Court, as Scripture indicates.

(2) I.e., when any public reading took place in the Temple.

(3) Neh. VIII, 3. Ezra read the Law 'in the presence of the men and the women'.

(4) [The text from 'it is as R. Hisda explained' to this point is in disorder. MS.M. reads: 'Said R. Hisda, In the women's court. An objection was raised: Where did they read therein? In the (Temple) Court . . . water-gate? — Said R. Hisda, In the women's court'. Ronsburg (Glosses) deletes 'An objection was raised'. In any case our present text seems to be a conflation of two readings].

(5) Neh. VIII, 6.

(6) [Shem ha-Meforash. Lit., 'the Distinguished Name' synonymous with the Shem ha-Meyuhad 'the Unique Name', and generally held identical with the Tetragrammaton uttered as written, v. Sanh., Sonc. ed., p. 408, n. I].

(7) I Chron. XVI, 36.

(8) Neh. VIII, 4-6.

(9) Not to be taken as precedent. Lit. 'a decision for the moment'.

(10) Ibid. IX, 4. [Here too the text is in disorder as the verse has no connection with the preceding verse to which it is adduced in explanation of the emergency referred to, the incident in the first verse having taken place on the first of the seventh month, whilst that of the second verse on the twenty-fourth. Var. lec. accordingly omit the first quotations from ibid. VIII, 4 and substitute in its place the second verse ibid. IX, 4; v. Bah.]

(11) The evil desire, tempter of idolatry.

(12) For resisting him successfully Israel would be rewarded.
(13) I.e., I agree with you: you spoke the truth.
(14) Zech. V, 8.
(15) The evil desire, for idolatry is also the evil desire for immorality. The two were found to go hand in hand.
(16) Whereas there is no good in idolatry there is at least some good in the desire for sex indulgence. Perpetuation of the race depends upon it. So does human food. The people who found themselves with the opportunity to destroy the temptation of flesh-love discovered that, when the genius of sex-love is cancelled, no eggs are available.
(17) To ask that temptation or the tempter should live, but not tempt, is to ask a thing that Heaven will not grant. The tempter lives to tempt. But by depriving its flame of its major glare, by keeping it within lawful limits, one promotes domesticity and prevents depravity.
(18) Lit., 'against relatives'.
(19) [On the variant given supra p. 327. n. 6, the reference is to 'great' mentioned in Neh. IX, 4.]
(20) Ibid. 32.
(21) The crown, I.e., the praise of the Lord. By re-embodying the attributes, which Jeremiah and Daniel had omitted.
(22) Deut. X, 17.
(23) Or, revel in.
(24) In his prayer, Jer. XXXII, 17f.
(25) In his prayer, Dan. IX, 4ff.
(26) So MS.M. cur. edd. He subdues his inclination.
(27) Jeremiah, Daniel.
(28) Since to them the circumstances indicated that He desired to hide His mighty or awful deeds.
(29) Meg. 24a.
(30) The interpreter would follow immediately the reader. If the rolling did not involve so much time that, at the end of his interpretation of the passage just read, the interpreter would have to stop to await the reading of the new Hebrew passage, well and good. For to keep the congregation waiting for the continuation of the service is unseemly. But 'Howbeit on the tenth day' is so near Lev. XVI, that before the interpreter would have concluded his Aramaic interpretation of the last Hebrew passage, the new passage would have been started and read, for him to interpret without loss of time.
(31) This distinction is not technical, but pedagogical. If both passages although near — so that the interpreter need not keep the congregation waiting — deal with two subjects, one shall not skip from one to another, because closer attention is necessary for an understanding of the laws of the Torah. But where one subject only is involved, as in the reading on the Day of Atonement, such skipping is permitted. Meg. 24a.

Talmud - Mas. Yoma 70a

provided one does not skip from the end of the Book to its beginning.

THEN HE WOULD ROLL UP THE SCROLL OF THE LAW etc.: Why all that?[1] — So as not to discredit the scroll of the Law.[2]

AND ON THE TENTH, WHICH IS IN THE BOOK OF NUMBERS, HE RECITED BY HEART: Why that? Let him roll up [the scroll] and read from it [again]? — R. Huna the son of R. Joshua said in the name of R. Shesheth: Because it is not proper to roll up a scroll of the Law before the community, because of respect for the community.[3] Then one should bring another scroll and read therefrom? — R. Huna, son of R. Judah said: Because it would discredit the first [scroll]. Resh Lakish said: Because of an unnecessary blessing.[4] But we do take into consideration [the reason that it would] discredit [the first scroll]? Has not R. Isaac, the Smith, said: If the beginning of the month of Tebeth falls on the Sabbath, one brings three scrolls of the Torah, and reads from one about the affairs of the day,[5] in the second about the new moon, in the third about Hanukkah?[6] — Three men [reading] from three scrolls do not imply a discredit [for the first and second scroll], one man reading from two scrolls does.[7]

THEREUPON HE PRONOUNCED EIGHT BLESSINGS: Our Rabbis taught: For the Torah, as one pronounces it in the Synagogue;[8] for the Temple service; for the thanksgiving;[9] for the forgiving of iniquity, as usual;[10] for the Sanctuary separately; for the priest separately; for Israel separately; and for the rest of the prayer.

Our Rabbis taught: The rest of the prayer: [Accept my] song, petition, supplication before Thee for Thy people Israel, which are in need of salvation.' He would conclude with: '[Blessed art Thou, O Lord] who hearkenest unto prayer.' Thereupon each would bring a scroll of the Torah from his house and read therefrom, in order to shew the multitude its beauty.[11] HE WHO SEES THE HIGH PRIEST . . . NOT THAT IT WAS NOT PERMITTED etc.: That is self-evident? — You might have thought as Resh Lakish does: For Resh Lakish said: One must not permit a mizwah to pass by unnoticed; and what mizwah is there here? In the multitude of the people is the king's glory.[12] Therefore we are informed[13] [that it was permitted].

MISHNAH. IF HE READ IN THE GARMENTS OF LINEN, HE WOULD THEN SANCTIFY HIS HANDS AND FEET, STRIP OFF HIS CLOTHES, GO DOWN AND IMMERSE HIMSELF, COME UP AND DRY HIMSELF. THE GOLDEN VESTMENTS WOULD BE BROUGHT TO HIM, HE PUT THEM ON, SANCTIFIED HIS HANDS AND FEET, WENT OUT, OFFERED UP HIS OWN RAM AND THE RAM OF THE PEOPLE,[14] AND THE SEVEN UNBLEMISHED, ONE-YEAR-OLD-LAMBS.[15] THIS IS THE VIEW OF R. ELIEZER. R. AKIBA SAID: THESE WERE OFFERED UP TOGETHER WITH THE DAILY WHOLE-OFFERING OF THE MORNING, WHEREAS THE BULLOCK FOR THE WHOLE-OFFERING[15] AND THE HE-GOAT WHICH IS OFFERED UP OUTSIDE[16] WERE OFFERED UP TOGETHER WITH THE DAILY WHOLE-OFFERING OF THE AFTERNOON. HE THEN SANCTIFIED HIS HANDS AND FEET, STRIPPED OFF HIS CLOTHES, WENT DOWN AND IMMERSED HIMSELF, CAME UP AND DRIED HIMSELF. THE WHITE VESTMENTS WOULD BE BROUGHT TO HIM, HE PUT THEM ON AND SANCTIFIED HIS HANDS AND HIS FEET. THEN HE WOULD GO IN TO BRING OUT THE LADLE AND THE FIRE-PAN. HE WOULD SANCTIFY HIS HANDS AND FEET, STRIP OFF HIS CLOTHES, GO DOWN AND IMMERSE HIMSELF, COME UP AND DRY HIMSELF. THE GOLDEN GARMENTS WOULD BE BROUGHT TO HIM. HE PUT THEM ON, SANCTIFIED HIS HANDS AND FEET, AND WENT IN TO BURN UP THE AFTERNOON INCENSE, AND TO TRIM THE LAMPS. HE SANCTIFIED HIS HANDS AND FEET AND STRIPPED. THEN HE WENT DOWN, IMMERSED HIMSELF, CAME UP AND DRIED HIMSELF. THEY WOULD THEN BRING TO HIM HIS OWN GARMENTS, HE PUT THEM ON. THEY WOULD ACCOMPANY HIM TO HIS HOUSE. HE WOULD ARRANGE FOR A DAY OF FESTIVITY FOR HIS FRIENDS WHENEVER HE HAD COME FORTH FROM THE SANCTUARY IN PEACE.

GEMARA. The question was raised: How does he [R. Akiba] mean: They [the seven lambs] were offered up together with the daily whole-offering of the morning, whereas the bullock for the whole-offering and the he-goat which is offered up outside were offered up together with the daily whole-offering of the afternoon; or did he mean, perhaps, this: they were offered up together with the daily whole-offering of the morning and together also with them the bullock for the whole-offering, whereas the he-goat which is offered up outside is offered up together with the daily whole-offering of the afternoon?[17] Furthermore, when, according to R. Eliezer who omits reference to him, is the bullock for the whole-offering being sacrificed? Furthermore, according to both R. Eliezer and R. Akiba, when are the sacrificial portions of the sin-offering[18] smoked? — Raba said: You have no properly arranged order [of the service] except you adopt either the view of R. Eliezer, as taught in the School of Samuel, or the view of R. Akiba as reported in the Tosefta. For the School of Samuel taught: R. Eliezer said, He went forth, prepared his own ram, and the ram of the people and the sacrificial portions of the sin-offering, but the bullock for the whole-offering and the seven lambs, and the he-goat that was offered up outside were offered up together with the daily whole-offering of the afternoon. What is the teaching of R. Akiba as recorded in the Tosefta?[19] — For it was taught: R. Akiba said, The bullock for the whole-offering, and the seven lambs were offered up together with the Daily whole-offering of the morning, as it is said: [Ye shall offer these] beside the burnt-offering of the morning which is for a continual burnt-offering.[20] After that the service of the day

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(1) Why was it necessary for him to say: More than I have read before you is written here?

(2) His reciting by heart may suggest to the congregation that the passage in question is missing from the scroll.

(3) Whom one should not keep waiting for the continuation of the service.

(4) Any unnecessary mention of His name is a transgression of the third command, wherefore in doubtful circumstances a blessing should rather be unpronounced than repeated. A new scroll would require a new blessing and is therefore to be avoided, as leading to an unnecessary, i.e., unlawful mention of His name.

(5) The portion of the Torah, due to be read on that Sabbath, one of the fifty-two Sabbaths of the year, to each of which is apportioned a Sidrah from the Pentateuch.

(6) V. Meg. 29b.

(7) The suggestion that one of the scrolls is defective is more reasonable in the case of one and the same person reading from two, than in the case of three different persons, each of whom reads his portion from one special scroll.

(8) V. P.B. p. 147.

(9) Op. cit. p. 50ff.

(10) As we have it in the Day of Atonement Liturgy.

(11) To ‘adorn oneself’ before Him in the performance of His commandments, i.e., to perform them in a manner aesthetically satisfactory is a duty which our Rabbis derived from Ex. XV, 2: He is my God and I will glorify Him. In pursuit of that ideal, a pious Jew would build his tabernacle in most careful and beautiful form, would have his scroll written by excellent scribes, would have his prayer shawl adorned, or made from costly wool or silk. To shew his scroll to the people would be an exhibition of his natural pride in that precious possession.

(12) Prov. XIV, 28. Consequently it might be thought that one must not depart from witnessing one rite in favour of the other.

(13) That it is permitted to pass by a mizwah unnoticed, if one is engaged in the performance of another. The prohibition to ignore the opportunity of performing a mizwah applies only when one is not engaged, or about to be engaged, in another good deed.

(14) Lev. XVI, 24.

(15) Num. XXIX, 8.

(16) I.e., its blood was sprinkled on the outer altar. Ibid. v. 11.

(17) R. Akiba's statement is not clear enough. Either of the two interpretations are possible, dependent on where the end of the clause is placed.

(18) Mentioned in the Mishnah Supra 67b.

(19) A collection of oral laws, outside of the Mishnah, but considered authoritative. Several such collections are mentioned and ascribed to various Sages.

(20) Num. XXVIII, 23.

Talmud - Mas. Yoma 70b

and after that the he-goat which is to be offered outside, as it is said: One he-goat for a sin-offering, beside the sin-offering of atonement;[1] and after that his own ram and the ram of the people, after that the sacrificial portions of the sin-offering, and after that the Daily whole-offering of the afternoon.

What is the reason for R. Eliezer's view? — He [the high priest] performs [the service] in accord with the order written [in Scripture's text]: first he performs what Leviticus enjoins and then he performs what Numbers prescribes.[2] And R. Akiba? — It is in accord with the reason he himself states: Beside the burnt-offering of the morning, which is for a continual burnt-offering which shews that the additional sacrifices were offered up together with the Daily whole-offering of the morning. What does R. Eliezer do with the passage: Beside the sin-offering of atonement’?[3] He uses it [for the teaching]: Both[4] atone for similar kinds of sins.[5] R. Judah said in his [R. Akiba's] name: One[6] is offered up together with the Daily whole-offering of the morning, and six[6] with the Daily whole-offering of the afternoon. R. Eleazar son of R. Simeon said in his name: Six were offered up with the Daily whole-offering of the morning and one together with the Daily whole-offering of the evening. What is [the reason] of the Rabbis? — There are two verses written: It is written: 'Beside the burnt-offering of the morning'[7] and it is written: 'And he come forth and offer his burntoffering'.[8] He therefore prepares one part with the one, and the other with the other. Wherein are they disputing? — R. Judah holds: He offered one first, as it is written: 'Beside the burnt-offering of the morning', and then he performed the service of the day, because of a [possible] weakness of the high priest. R. Simeon b. Eleazar holds: Since he once started, he performs the service of the six, lest he be negligent [and will not offer them after the service of the day]. But as to the service due that day, he is zealous.[9]

All, at any rate, agree that it was but one ram;[10] according to whose view is that? — In accord with Rabbi. For it was taught: Rabbi says:[11] [The] 'one ram'[12] spoken of here is the same ram which is mentioned in the Book of Numbers.[13] R. Eleazar son of R. Simeon says: Two rams are involved, one mentioned here, the other in the Book of Numbers. What is the ground of Rabbi's view? Because Scripture says: 'One'. — And R. Eleazar son of R. Simeon: 'One' here means, the [unique] outstanding one of his flock. And Rabbi? — He infers that from, and all your choice vows.[14] And R. Eleazar son of R. Simeon? — One refers to obligatory offerings, the other to voluntary ones and [a statement concerning both] is necessary.[15]

HE WOULD SANCTIFY HIS HANDS AND FEET. Our Rabbis taught: And Aaron shall come in to the tent of meeting.[16] For what purpose does he enter? To fetch ladle and fire-pan

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(1) Ibid. XXIX, 11.

(2) [Hence the additional offerings and the Daily afternoon whole-offering prescribed in Numbers are offered last].

(3) [Which implies that the he-goat offered outside is offered before his own ram and the ram of the people].

(4) [The he-goat whose blood is sprinkled outside and the he-goat, the sin-offering of the atonement, whose blood is sprinkled within].

(5) Sheb. 2a. Atonement is made by the he-goat whose blood is sprinkled outside, as well as by: Beside the sin-offering of atonement.

(6) Of the seven lambs.

(7) Which shews that the additional offerings were offered in conjunction with the Daily offering of the morning.

(8) Lev. XVI, 24. [How this implies that the additional offerings were to be offered in conjunction with the Daily offering of the evening is not clear. V. Strashun Glosses].

(9) His zeal for the service of the Day of Atonement will enable him to overcome any weakness that may supervene.

(10) Which is offered up on the Day of Atonement on behalf of the congregation.

(11) V. supra 3a.

(12) Lev. XVI, 5.

(13) Num. XXIX, 8.

(14) Deut. XII, 11.

(15) One could not have inferred the law that the choicest of animals have to be brought in the case of voluntary offerings from the obligatory ones, or vice versa, because to one view the former is preferable, more pleasing because spontaneous, whereas to the other the performance of one's duty takes preference. Hence two texts are necessary to include both kinds of offerings.

(16) Lev. XVI, 23.

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for the whole portion here follows the order with the exception of this verse.[1] Why? — R. Hisda said: We have it on tradition[2] that the high priest underwent five immersions and ten sanctifications on that day. And if you were to say that they are recorded in their normal order, you would find but three immersions and six Sanctifications.[3] To this R. Zera demurred: But perhaps[4] he interrupted [the service of the day] with the he-goat that was to be offered up outside? — Abaye replied: Scripture said, ‘He come forth and offer his burnt-offering’[5] i.e., on his first coming forth he is to offer his burnt-offering, and that of the people.[5] Raba said: Scripture said, And shall put off the linen garments [etc.].[6] . Now it was necessary [to add] ‘which he put on’, for can a man put off except what he had put on before? What then is the purpose of stating ‘which he put on’? I.e., which he had put on before.[7] — To this Rabba son of R. Shila demurred: But perhaps he interrupted with the he-goat to be offered up outside? — Surely it is written: ‘He come forth and offer, etc.’ — But is the rest of the section written in accord with the actual order? Surely the verses say: And the fat of the sin-offering shall he make smoke on the altar,[8] and then: And the bullock of the sin-offering and the goat of the sin-offering,[9] whereas we learned: HE WHO SEES THE HIGH PRIEST WHEN HE READS DOES NOT SEE THE BULLOCK AND THE HE-GOAT THAT ARE BURNT,[10] whereas the sacrificial portions of the sin-offering were smoked up afterwards?[11] — Read: From this passage on.[12] But what makes you find fault[13] with the verses, why don't you find fault with the Mishnah rather? — Said Abaye: Scripture states: And he that letteth go... and he that burneth,[14] i.e., just as the letting go takes place before, so does the burning.[15] — On the contrary! [Say:] Just as the burning takes place now,[16] so does the letting go take place now![17] — ‘And he that letteth go’ implies [to that which was referred to] before.[18] Raba said, Scripture says: [But the goat . . . for Azazel] shall be set alive.[19] How long must it needs be set alive? Until the time of Atonement — Now when is the time of Atonement? At the time when the blood is sprinkled, not beyond it.[20]

When he who was to take [the he-goat] away came back and met the high priest in the street, he would say to him: Sir high priest, we have fulfilled your request. If he met him in his house, he would say to him: We have fulfilled the request of Him Who grants life to all who live.

Rabbah said: When Rabbis in Pumbeditha would take leave of each other, they would say: May He Who grants life to all who live, grant you a long, happy, and right life! — I shall walk before the Lord in the lands of the living.[21] Rab Judah said: That means the place of markets [public thoroughfare].[22] For length of days, and years of life, and peace, will they add to you.[23] But are there years, which are years of life, and years, which are not years of life? — R. Eleazar said: These are such years of man as have changed from evil to good.[24]

Unto you, O men, I call.[25] R. Berekiah said: They are the disciples of the wise, who resemble women, and do mighty deeds like man.[26]

R. Berekiah also said: If a man wishes to offer a libation upon the altar, let him fill the throat of the disciples of the wise with wine, as it is said: ‘Unto you, O men, [ishim][27] I call’. Furthermore did R. Berekiah say: If a man sees that Torah ceases from his seed, let him marry the daughter of a disciple of the wise, as it is said: Though the root thereof wax old in the earth, and the stock thereof die in the ground

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(1) The whole of chapter XVI of Leviticus describes the service of the Day of Atonement, as it actually took place, with the exception of v. 23 which, followed by the statement, And he shall bathe . . . and come forth, and offer his burnt-offering and the burnt-offering of his people (v. 24), would cause one to infer that the high priest had first entered to fetch the ladle and the fire-pan, and afterwards had offered up his burnt-offering and that of his people; whereas actually he fetched ladle and fire-pan after having offered up these burnt-offerings. V. Supra 32b notes.

(2) The Mishnah cites the traditional number of immersions and sanctifications, supra 19a, 30a and 31a. Every change of garments necessitated two sanctifications and one immersion.

(3) And if one were to assume that the order is exactly described also in vv. 23-24 i.e., that the offering of the two burnt-offerings did not interrupt the service of the Day of Atonement by taking place before the fetching of ladle and fire-pan, then only three changes of garments would be involved, viz., the offering of the continual sacrifice of the morning, performed in the golden garments, the service of the day including the fetching of ladle and fire-pan, in white garments, and the offering up of the two burnt-offerings and the rest of the service, in golden garments again, thus three changes involving but three immersions and six sanctifications. The Biblical account would thus contradict, or render impossible, the tradition as preserved in the Mishnah. To harmonize the two the interpretation is offered that in reality the offering of the burnt-offerings came between the service of the day and the fetching of censer and fire-pan, implying two more changes of garments; for the high priest would offer the two burnt-offerings in white garments, into which and from which he would change from and into the golden garments, so that the five traditional changes and immersions as well as the ten sanctifications traditionally reported are thus established: the continual offering of the morning, due in the golden garments, the service of the day in white ones, the offering up of the two burnt-offerings in the golden garments, the fetching of censer and fire-pan In the white ones, and finally, the additional sacrifices and the continual offering of the evening, in the golden ones.

(4) Since all that is required is harmony between the Mishnaic statement as to five immersions and six sanctifications, it is not necessarily the last suggestion that must be adopted. The he-goat to be offered up outside, prescribed in Num. XXIX, 11 (‘the sin-offering of the atonement’) too, required two immersions and four sanctifications, hence the number of sanctifications and immersions could be harmonized on this assumption too. The interruption of the service of the day with the he-goat of which no mention is made in the service of the day prescribed in Leviticus, would involve no rearrangement of the Biblical text, such as the first suggestion implied.

(5) Lev. XVI, 24 states that he offers up the two rams, his own and the people's, as soon as he has left the Holy of Holies. Whereas, if he were to have fetched the ladle and the coal-pan first, he would have offered them after his second coming forth from the Holy of Holies.

(6) Lev. XVI, 23. Raba does not endeavour to answer the question propounded by R. Zera, he endeavours to explain the Baraitha, which would emend the Scriptural account by having the order of the service interrupted as above.

(7) That was thus the second stripping off of the garments. Hence there must have been a change of garments between the service of the day and the fetching of the censer and coal-pan, whence it follows that this verse refers to the second stripping off of garments, and comes after the offering up of the two rams by the high priest.

(8) Lev. XVI, 25.

(9) Ibid. v. 27.

(10) Because the burning and the reading took place at the same time, which is when the priest is still wearing the white garments, in which as the Mishnah states he reads.

(11) I.e., at the third immersion when he offers the two rams, i.e., after changing into the golden garments (v. Mishnah supra 70a). This clearly contradicts the order of Biblical verses.

(12) Read, instead of ‘except this verse’, ‘except from this verse on’, when the Scriptural verses no more take into account the actual order.

(13) Why don't you rather emend the Mishnah and say that the burning of bullock and he-goat did not take place at the time the high priest read the portion from the Torah, but after the portions of the sin-offering had been smoked, as the Scriptural verses have it.

(14) Lev. XVI, 26 and 28.

(15) Scripture here uses the same participial form in referring to him that letteth go and to him that burneth. That implies a certain analogy. In both passages follows the statement: And the fat of the sin-offering shall he make smoke on the altar. (Ibid. v. 25.) Now the sending away of the he-goat for Azazel preceded that, as v. 21 reads: And he shall send him away by the hand of an appointed man into the wilderness. Of necessity ‘He that letteth go’ refers to previous passages, as to say: With reference to the letting go of which you were commanded before, i.e., before the smoking of the sacrificial portions of the sin-offering (he that letteth go defiles the garments). The above-mentioned analogy justifies the inference that ‘he that burneth’ similarly refers to the burning done before.

(16) I.e., after the smoking of his sacrificial portions.

(17) One could also argue just to the contrary, for the analogy could be made in either way: just as the burning takes place after the sacrificial pieces of the sin-offering have been smoked, thus is the reference to him that letteth go, for now. The statement in v. 21 ‘And he shall send it away’ then means, now that the time for this has arrived.

(18) As explained in n. 3.

(19) Lev. XVI, 10: alive, to make atonement for him.

(20) Hence it could not be maintained that the he-goat was to be sent away after the portions of the sacrifice were smoked. That disposes of the last question.

(21) Ps, CXVI, 9.

(22) Markets may be lands of life, because there is much life in them, or because they furnish 'a living' to many.
(23) Prov. III, 2.
(24) When sunshine comes again, the memory of evil days is so obliterated that they do not seem to have been experienced, lived at all.
(25) Prov. VIII, 4.
(26) Study makes them weak, like women. But in the fields of halachah they are mighty heroes. This maxim is included here, because the word 'ish' (Sir high priest) recalls a homiletical interpretation of the same word elsewhere.
(27) Connecting ishim with ishe, fire-offerings.

Talmud - Mas. Yoma 71b

yet through the scent of water it will bud, and put forth boughs like a plant.[1]

AND A FESTIVE DAY HE WOULD ARRANGE FOR HIS FRIENDS: Our Rabbis taught: It happened with a high priest that as he came forth from the Sanctuary, all the people[2] followed him, but when they saw Shemayah[3] and Abtalion, they forsook him and went after Shemayah and Abtalion. Eventually Shemayah and Abtalion visited him, to take their leave of the high priest. He said to them: May the descendants of the heathen come in peace![4] — They answered him: May the descendants of the heathen, who do the work of Aaron, arrive in peace, but the descendant of Aaron, who does not do the work of Aaron, he shall not come in peace![5]

MISHNAH. THE HIGH PRIEST PERFORMS THE SERVICE IN EIGHT PIECES OF GARMENTS, AND THE COMMON PRIEST IN FOUR: IN TUNIC, DRAWERS, MITRE, AND GIRDLE. THE HIGH PRIEST ADDS THERETO THE BREASTPLATE, THE APRON, THE ROBE AND THE FRONTLET. IN THESE WERE THE URIM AND THUMMIM[6] INQUIRED OF. BUT THEY WERE NOT INQUIRED OF EXCEPT FOR THE KING, FOR THE AB BETH DIN[7] OR FOR ONE WHOM THE COMMUNITY NEEDS.[8]

GEMARA. Our Rabbis taught: [All] things, in connection with which the word shesh ['fine linen'] is said, had their threads sixfold: 'twined' [denotes] eightfold [threads]; the robe [had its threads] twelvefold; the curtain,[9] twenty-four-fold; the breastplate and apron twenty-eight-fold. Whence do we know that they had their threads sixfold? — Scripture said: And they made the tunics of fine linen, the mitre of fine linen and the goodly headtires of fine linen, and the linen breeches of fine twined linen.[10] Here are five Scriptural references: One is necessary for the subject itself, that they must be made of flax; one, that their thread shall be sixfold; one to indicate that they must be twisted; one, that this applies also to other garments in connection with which the term 'shesh' is not used, and once, that it is indispensable. What indicates that the word 'shesh' means flax? — R. Jose b. Hanina said: Scripture says: Bad [linen] i.e., whatever comes out of the soil singly.[11] But say, perhaps, it is wool? — Wool splits off.[12] But flax also splits? Flax splits into branches through beating.[13] Rabina said: [I infer it] from this. They shall have linen tires upon their heads, and shall have linen breeches upon their loins.[14] Said R. Ashi to him: But whence did they know that before Ezekiel came? — But, according to your argument, what of R. Hisda's statement: This matter[15] we have learnt not from the Torah of Moses, but from the words of Ezekiel b. Buzi: No alien, uncircumcised in heart and uncircumcised in flesh, shall enter into My sanctuary?[16] Who taught this before Ezekiel came? Rather must you say that it was traditionally handed down and when Ezekiel came he strengthened it by attaching it to Scripture; in our case [here] too it was a traditional teaching and Ezekiel strengthened it by attaching it to Scripture.

Whence do we know that 'twined' [denotes] eightfold [threads]? — Scripture says: And they made upon the skirts of the robe pomegranates of blue, and purple, and scarlet, twined.[17] One may infer from the analogy of 'twined' used in connection with the curtain: just as there [each twined thread] was twenty-four-fold,[18] so also here was it twenty-four-fold, the thread of each kind of material being eightfold.[19] - But one should infer from breast-plate and apron: just as there it was twenty-eightfold, so also here twenty-eight-fold?[20] — One may infer a thing in connection with which gold is not mentioned from another thing, in connection with which gold is not mentioned;[21] that excludes the breast-plate and apron in connection with which gold is mentioned. On the contrary! One should, rather, infer concerning one garment from another garment, which would exclude the curtain, because that [in a sense] is a tent! — Rather, if it is inferred from the girdle,[22] thus inferring concerning a garment, in connection with which gold is not mentioned from another garment, in connection with which gold is not mentioned; but not inferring concerning anything, in connection with which gold is mentioned from something in connection with which gold is mentioned. R. Mari said: Scripture said: Thou shalt make it,[23] i.e., only, nothing else.[24] R. Ashi said: And thou shalt make,[25] i.e., all the work in connection therewith must be the same. Now how is that possible? If he were to make the three kinds tenfold each, there would be thirty [threads]. And if one made two ninefold and one tenfold, but Scripture said: ‘And thou shalt make’, i.e., all the work in connection therewith must be alike.

Whence do we know that the robe [had its threads] twelvefold? Because Scripture said: And thou shalt make the robe of the ephod

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(1) Job XIV, 8, 9. The Torah is compared to water. Such fragrant water the children of the disciples of the wise will bring with them into the new home.

(2) Lit., ‘world’.

(3) They were the famous teachers of Hillel and Shammai of the Mishnah, v. Aboth I. Descendants of non-Jews, according to one tradition (Git. 57b), scions of Sennacherib's.

(4) In this manner this graceless high priest gave vent to his jealous anger at the honour which the people had bestowed upon these masters of the Law.

(5) Aaron pursued peace; his disciples, too, were very peaceful. So were Shemayah and Abtalion increasing peace in the world, but this high priest, whose arrogance caused strife, was not a worthy descendant of Aaron.

(6) v. Ex. XXVIII, 30.

(7) Lit., ‘Father of the Court’. V. Glos.

(8) v. Mak. 11b.

(9) V. Ex. XXVI, 31.

(10) Ex. XXXIX, 27-8.

(11) Bad from badad means single, single stalk. Bad also means linen; hence the interpretation using both homonyms. Similarly, shesh means both ‘fine linen’ and ‘six’, whence support for the teaching that it must be sixfold. Flax has no branches, but leaves, the flax coming from the middle stem.

(12) On the sheep; does not grow in single threads like stalks.

(13) Whilst normally it grows in single stalks.

(14) Ezek. XLIV, 18, whilst in the Pentateuch these tires are prescribed to be of shesh which proves shesh to be flax.

(15) That an uncircumcised priest (no matter whether uncircumcised because of disobedience to the Torah, which would render him also uncircumcised in heart, whose actions ‘alienate’ him from the Lord, or because his brethren had died as the result of circumcision, which circumstances would free him from the obligation of the circumcised) may not enter the Sanctuary.

(16) Ezek. XLIV, 9.

(17) Ex. XXXIX, 24.

(18) [The curtain had four kinds of material, each having its thread sixfold, since the word shesh is mentioned in connection therewith, v. Ex. XXVI, 31. Thus each twined thread which consisted of the four materials was twenty-fourfold].

(19) I.e., with the robe where only three kinds of materials were used, the threads of each strand had to be eightfold to make each twined thread of all the material twenty-eightfold].

(20) As shewn infra.

(21) I.e., the robe from the curtain neither of which had gold.

(22) [Which also had four kinds of material each of sixfold threads, since shesh is written in connection therewith, v. Ex.

XXXIX, 29].

(23) Ex. XXVIII,15 is with reference to the breast-plate.

(24) Only breast-plate and apron, ‘it’, hence no precedence for any other garment, taking ‘it’ to indicate ‘it’ exclusively.

(25) Ex. XXVIII, 33, repeated in connection with the pomegranates, indicates that all the material used there must have been made alike. Hence it is impossible for the twined thread in the robe to be of a twenty-eightfold, as he goes on to explain.

Talmud - Mas. Yoma 72a

plaited of blue.[1] And one may infer from the analogy of ‘blue’, used also in connection with the curtain, just as there [each of the materials had its threads][2] sixfold, so also sixfold here.[3] But let us infer from the skirt and the pomegranates, just as there it was eightfold thus also here eightfold? — One may infer for one garment from another, but one may not infer for a garment from an adornment to a garment. On the contrary! One may infer concerning a matter from the matter itself,[4] but one may not infer for a thing from something outside thereof. For that reason we said:[5] One, to inform us concerning other garments in connection with which ‘shesh’ is not used. The curtain twenty-fourfold. Four [strands of material] each of sixfold [threads], there being here neither controversy nor decision.[6]

Whence do we know that [each twined thread of] breast-plate and apron was twenty-eightfold? Because it is written: And thou shalt make a breast-plate of judgment, the work of the skillful workman; like the work of the ephod thou shalt make it; of gold, of blue and purple, and scarlet and fine twined linen[7] — four kinds of material, each sixfold, amount to twenty-four threads, and of the gold, one thread to each of the sixfold threads of the four materials, four [threads], together twenty-eightfold [twine]. Perhaps the gold too was sixfold? — R. Aha b. Jacob said: Scripture said: And they [did beat the gold into thin plates and] cut it into threads — that means four.[8] R. Ashi said: Scripture states: To work it in the blue and in the purple.[9] How should that be done? Shall one make [the gold] four times in twofold, that would amount to eight [fold gold threads]! Shall one make it twice twofold and twice a one single thread? — Surely the word ‘make’ indicates that all the work in connection therewith must be alike!

Rehaba said in the name of R. Judah: One who makes a tear in priestly garments is to be punished with lashes, for Scripture said: That it be not rent.[10] R. Aha b. Jacob demurred to this: Perhaps this is what the Divine Law Says: Make a hem lest it be torn?[11] — But is it written: Lest it be torn?

R. Eleazar said: One who removes the breast-plate from the apron, or who removes the staves of the ark receives the punishment of lashes, because it was said: That it be not loosed from the ephod,[12] and [the staves] they shall not be removed from it.[13] — To this R. Aha b. Jacob demurred: But perhaps this is what the Divine Law says: Fasten them and arrange them properly [by forcing the chords through the ring], so that they ‘be not loosed’, or that they ‘be not removed’? — Is it written: ‘that they be not loosed’ or ‘that they be not removed’?

R. Jose b. Hanina pointed out a contradiction. It is written: The staves shall be in the rings of the ark: they shall not be taken from it,[12] and it is also written: The staves thereof shall be put into the rings.[14] How is that possible? They were movable, but could not slip off.[15] Thus also was it taught: ‘The staves shall be in the rings of the ark’. One might have assumed that they could not be moved from their place. Therefore the text reads: ‘And the staves thereof shall be put into the rings’. If I had this verse [to go by] one might have assumed that they could be taken out and put in again. Therefore the text says: ‘the staves shall be in the rings of the ark’. How that now? They were movable but could not slip off.

R. Hama b. Hanina said: What is the meaning of the verse: [Thou shalt make the boards of the tabernacle] of acacia wood, standing up,[16] i.e., they should stand up, even as they grow.[17] Another interpretation: ‘Standing up — i.e., they kept up [the gold] they were overlaid with.[18] Another interpretation: ‘Standing up’ — one might assume; Their hope [of restoration] is gone,[19] their expectation is frustrated, therefore the text says: ‘Standing up, i.e., standing up for ever and ever.

Rabbi Hama b. Hanina said: What is the meaning of the text: The plaited

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(1) E.V. ‘all of blue’, ibid. 31.

(2) V. supra p. 341, n. 8.

(3) [And the term plaited’ implies at least another strand of six threads, hence twelvefold].

(4) Skirt and pomegranates are part of the upper garment, hence an inference from them appears more legitimate.

(5) V. supra p. 340.

(6) That is too simple for any dispute, requires no case, and no judge to sit upon it.

(7) Ex. XXVIII, 15.

(8) Ibid. XXXIX, 3. Threads being plural means at least two. When these are cut, at least, or-since there is no qualifying suggestion-four.

(9) Ibid. [This implies that there must be an admixture of gold with every kind of material].

(10) Ibid. XXVIII, 32. Since a precaution is prescribed to prevent a rent, obviously the rending thereof is prohibited and transgressions as with any other not otherwise specified offence, incur punishment of lashes.

(11) It is a precautionary command but its significance is not that of a prohibition, the transgression of which implies punishment by lashing.

(12) Ex. XXVIII, 28.

(13) Ibid. XXV, 15.

(14) Ibid. XXVII, 7. (Rashi quotes Ibid. XXV, 14). The first passage indicated immovability, the other adjustment, which implies contradiction.

(15) The staves at their ends were thicker than the rings, hence could be moved, but not removed entirely.

(16) Ibid. XXVI, 15.

(17) The top on top.

(18) [I.e., without the need of nails. V. D.S. a.l.].

(19) The hope for restoration is found buttressed by the implication of the text.

Talmud - Mas. Yoma 72b

garments for ministering in the holy place.[1] But for the priestly garments, there would not have remained of the haters[2] of Israel one to remain or to escape.[3] R. Samuel b. Nahmani said: In the school of R. Simeon it was taught: [They were] webs which they cut off the looms in the shape required, leaving a small portion of the unwoven thread.[4] What was that? — Resh Lakish said: It was needle-work.[5]

An objection was raised:[6] ‘All priestly garments must not be made by needle-work, but by weaving’, as it is said: woven work![7] — Abaye said: This applies only to their sleeves, as it was taught: The sleeves of the priestly garments were woven apparently and then attached to the garment.[8] They reached up to the wrist.

Rehaba said in the name of Rab Judah: Three arks did Bezalel make: the middle one of wood, nine [handbreadths] high; the inner one of gold, eight high, the outer one of gold,[9] a little more than ten high. But it was taught: A little more than eleven [high]?- That is no contradiction: the one opinion agrees with the view that the thickness thereof[10] was one handbreadth, the other was in accord with the view that the thickness thereof was not one handbreadth.[11] And what purpose served the ‘little more’?[12] — It is the space of the crown.[13]

R. Johanan said: There were three crowns: that of the altar, that of the ark, and that of the table.

The one of the altar Aaron deserved and he received it. The one of the ark, David deserved and received. The one of the ark is still lying and whosoever wants to take it, may come and take it.[14] Perhaps you might think it is of little account, therefore the text reads: By me kings reign.[15]

R. Johanan pointed out a contradiction. It is written: Zar [alien] and we read it: zir? i.e.,[crown] — If he deserves it, it becomes a wreath unto him; if not it remains alien to him.[16] R. Johanan pointed out another contradiction. It is written: Make thee an ark of wood,[17] and it is also written: And they shall make an ark of acacia wood?[18] Hence one learns that the inhabitants of his city are obliged to do the work of the scholar for him.

Within and without shalt thou overlay it.[19] Raba said: Any scholar whose inside is not like his outside, is no scholar.[20] Abaye, or, as some say, Rabbah b. ‘Ulla said: He is called abominable, as it is said: How much less one that is abominable and impure, man who drinketh iniquity like water.[21] R. Samuel b. Nahmani, in the name of R. Jonathan: What is the meaning of the scriptural statement: Wherefore is there a price in the hand of a fool, to buy wisdom, seeing he hath no understanding,[22] i.e., woe unto the enemies of the scholars,[23] who occupy themselves with the Torah, but have no fear of heaven! R. Jannai proclaimed: Woe unto him who has no court, but makes a gateway for his court![24] Raba said to the Sages: I beseech you, do not inherit a double Gehinnom![25]

R. Joshua b. Levi said: What is the meaning of the Scriptural verse: And this is the law which Moses set [before the children of Israel]?[26] — If he is meritorious it becomes for him a medicine of life, if not, a deadly poison. That is what Raba [meant when he] said: If he uses it the right way it is a medicine of life unto him; he who does not use it the right way, it is a deadly poison.

R. Samuel b. Nahmani said: R. Jonathan pointed out the following contradiction: it is written: The precepts of the Lord are right, rejoicing the heart,[27] but it is also written: The word of the Lord is tried?[28] If he is meritorious, it rejoices him; if not, it tries him.[29] Resh Lakish said: From the body of the same passage this can be derived: If he is meritorious, it tests him unto life; if not, it tests him unto death.[30] The fear of the Lord is pure, enduring forever.[31] R. Hanina said: This refers to one who studies the Torah in purity. What does that mean? — He marries a woman and afterwards studies the Torah.[32]

The testimony of the Lord is sure, making wise the simple.[33] R. Hiyya b. Abba said: It [the Torah] may be entrusted to testify as to those who study it. ‘The work of the skillful workman[34] . . . the work of the skillful embroiderer.[35] R. Eleazar said: Those embroidered over what they had traced. It was taught in the name of R. Nehemiah: The embroiderer's is needle-work, therefore it has only one [visible] figure. The designer's is weaving work, therefore it has two different figures.[36]

IN THESE WERE THE URIM AND THUMMIM INQUIRED OF. When R. Dimi came [from Palestine] he said: In the garments wherein the high priest officiates, the [priest] Anointed for Battle officiates, as it is said: And the holy garments of Aaron shall be for his sons after him,[37] i.e., for him who comes after him in greatness [of office]. R. Adda b. Ahabah, some say Kadi, raised an objection: One might have assumed that the son of the Anointed for Battle succeeds him in service, even as the son of the high priest succeeds him in service,

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(1) Ex. XXXV, 19.

(2) Euphemistic for Israel — a calamity is foreshadowed only in indirect fashion.

(3) The root sarad (to plant) also means ‘leaving over’, hence the interpretation: the garments of escape, because they brought atonement for Israel, thereby preventing their extinction.

(4) Here the term is explained as the garments, one part of which was left over unwoven, or unmade.

(5) [This is difficult, nor is the text apparently quite in order. According to Rashi the meaning is, what is done with the unwoven remnant? And the answer is that it is cut off, woven separately and then sewn on to the main garment].

(6) Zeb. 88a.
(7) Ex. XXVIII, 32.
(8) According to Resh Lakish, then, the unwoven remnant would be used in connection with the sleeves.
(9) Reading with Bah.
(10) Of the outer ark.
(11) [In order to understand the distinction thus drawn, it is well to remember that the three arks were open at the top; consequently if the thickness of the outer one was less than one handbreadth, a height of ten handbreadths and a little more would suffice: nine handbreadths corresponding to the height of the middle ark (when measured from without) and a fraction of a handbreadth to allow for the thickness of the outer ark at the bottom, while one extra handbreadth was necessary for the mercy seat which was inserted between the two side boards of the outer ark to rest upon the thickness of the sides of the two smaller arks. If, however, the thickness of the outer ark was one handbreadth, its height, measured from outside would then have to be at least ten handbreadths whilst for the purpose of the mercy seat an extra handbreadth would be necessary, making a total of eleven. As to the need of the ‘little more’ this will be explained soon. V. Rashi].
(12) Mentioned in the Baraitha, v. supra n. 1.
(13) [V. Ex. XXV, 11. The side boards of the outer ark projected beyond the mercy seat that was inserted between them (cf. n. 1), a kind of rim (crown)].
(14) Aaron, the first high priest, obtained the crown of priesthood, symbolized by the altar; David, the crown of kingdom; but there is no hereditary crown of learning, it must be acquired by each individual. The aspirants. however, are not many, hence it is still lying unclaimed.
(15) Prov. VIII, 15. Wisdom is identified with Torah, through which it is acquired.
(16) The Hebrew spelling of wreath may include the letter ‘yod’, without it the word might be read ‘zar’, stranger, hence the illustrative suggestion.
(17) Deut. X,1.
(18) Ex.XXV, 10.
(19) Ibid. II.
(20) Inside and outside there should be the same golden character.
(21) Job XV,16; rendered, one who drinketh the water of the Torah and yet has iniquity in him.
(22) Prov. XVII, 16. Wisdom is knowledge of the Torah, understanding is moral rightness, based on fear of heaven. Hence this interpretation.
(23) Euphemism for ‘scholars’.
(24) Fear of the Lord is the court, the goal. Learning should lead to it. Learning (the gateway) without reverence (the goal) is wasteful, sinful.
(25) The Mishnah, Aboth VI, indicates that acquisition of the Torah depends upon a frugal way of living, a reduction of the margin of joy to a minimum. The reward is to come in after-life. Such reward depends upon reaching the goal of study; fear of heaven. One who now engages in Torah-study without possessing fear of heaven, suffers in this world, wherein he denies himself pleasure for the sake of his study, as well as in the other world, where because he had no fear of heaven, reward will be denied, punishment inflicted.
(26) Deut. IV, 44.
(27) Ps. XIX, 9.
(28) Ibid. XVIII, 31.
(29) Here the part. passive is interpreted as active, ‘tested’ becomes ‘testing’.
(30) It tries and refines him, so that he lives a finer life. It tries him by suffering, which ultimately destroys him.
(31) Ps. XIX, 10.
(32) So that he is undisturbed by impure thoughts.
(33) Ibid. 8.
(34) Ex. XXVI, 31.
(35) Ibid. v. 1.
(36) On the two sides of the cloth.
(37) Ibid. XXIX, 29.

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therefore the text reads: Seven days shall the son that is priest in his stead put them on, even he who cometh into the tent of meeting [etc.],[1] i.e., he who is worthy of entering the tent of meeting. Now if this were the case,[2] then he too would be fit [to enter the tent of meeting]? — R. Nahman b. Isaac said: This is what it means: Whosoever was mainly anointed for the [purpose of] the tent of meeting, that excludes him who was anointed mainly for Battle.

The following objection was raised: The Anointed for Battle officiates neither in four garments, like a common priest, nor in eight like a high priest? — Abaye said: Would you render him then a common man?[3] Rather: Neither like a high priest, for the sake of preventing ill-feeling;[4] nor like a common priest, because one promotes to a higher degree of sanctity, but one must not degrade'. R. Adda b. Ahabah said to Raba: But there is a Tanna who pays no attention to the prevention of ill-feeling, yet according to him, he does not officiate?[5] For it was taught:[6] In the following points a high priest differs from a common priest: the bullock of the priest anointed;[7] and the bullock due in case of [unwitting] transgression of any commandment;[8] the bullock of the Day of Atonement; the tenth of the ephah;[9] he does not unbind his hair, nor rend his clothes.[10] But he [the high priest] tears his garments from below, and the common priest tears his from above; he must not defile himself for his [deceased] relatives;[11] he is under obligation to marry only a virgin;[12] is prohibited from marrying a widow;[13] causes the slayer to return;[14] as onen [mourner][15] he may offer up a sacrifice but may not eat or take a share thereof; he receives his portion first and takes first part in the offering [of the sacrifice]; he officiates in eight garments; is exempt[16] [from a sacrifice] for [an unwitting transgression of] defilement relating to the Sanctuary and its hallowed thing, and the whole service of the Day of Atonement is legitimate only when performed by him. All these [laws] apply also to priests consecrated by a larger number of official garments, with the exception of the bullock to be offered up for the transgression of any commandment. All these apply to the high priest who has passed from his high priesthood,[17] with the exception of the bullock of the Day of Atonement and the tenth of the ephah. All these things do not apply to the priest Anointed for Battle, with the exception of five matters mentioned in that portion of the section: he does not unbind his hair, nor rend his clothes; nor defile himself with any [deceased] relative; is obliged to marry a virgin; forbidden to marry a widow; and causes the slayer to return-according to R. Judah; whereas, according to the Sages, he does not cause him to return.[18] Whence does he [the Tanna] consider [the question of] enmity [to arise]? Only with regard to one of similar rank.[19] But with one of inferior rank he does consider it.[20]

R. Abbahu was sitting and reporting this teaching in the name of R. Johanan, whereupon R. Ammi and R. Assi averted their faces.[21] (Some say it was R. Hiyya b. Abba who reported this teaching, whereupon R. Ammi and R. Assi averted their faces). To this R. Papa demurred: Granted [that they could not say anything against] R. Abbahu, because of the high regard the Imperial house had for him, but as for R. Hiyya b. Abba, they should have told him explicitly that R. Johanan had not said so!

When Rabin came, he said: This[22] was stated with reference to the time when he is consulted.[23] Thus also was it taught: The garments which the high priest wears when he officiates the Anointed for Battle wears when he is consulted.

Our Rabbis taught: How were [the Urim and Thummim] inquired of? — The inquirer had his face directed to him who was consulted, and the latter directed himself to the Divine Presence. The inquirer said: Shall I pursue after this troop?[24] He who was consulted answered: 'Thus saith the Lord: Go up and succeed'! R. Judah said: He need not say, 'This saith the Lord' but only 'Go up and succeed' — One does not inquire in a loud voice, as it is said: Who shall inquire for him;[25] neither shall one but think thereof in one's heart, as it is said: 'Who shall inquire for him';[25] but rather in the manner in which Hannah spoke in her prayer, as it is said: Now Hannah, she spoke in her heart.[26]

One should not put two questions at the same time; if one has done so, only one [question] is answered; and only the first [question] is answered, as it is said: Will the men of Keilah deliver me up into his hand? Will Saul come down,[27] etc. . . . and the Lord said.' He will come down.[27] But you said: Only the first [question] is answered? — David had asked

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(1) I.e., on the Day of Atonement. Ibid. v. 30.

(2) That the Anointed for Battle officiates in eight garments.

(3) I.e., a non-priest.

(4) It is only Rabbinic enactment that interferes therewith, because of the desire of the Sages to prevent ill-feeling. By the law of the Torah, the Anointed for Battle could officiate.

(5) In the eight garments.

(6) Mishnah Hor. III, 4,5.

(7) Rashi and others omit, as this is the same as the item that follows.

(8) V. Lev. IV, 3.

(9) Ibid. VI, 13: This is the offering of Aaron and his sons . . . in the day when he is anointed: the tenth part of an ephah of fine flour for a meal-offering.

(10) In the case of mourning.

(11) Lev. XXI, 11. These relatives include father, mother, wife, son and daughter, brother or sister.

(12) Ibid. v. 13.

(13) Ibid. v. 14.

(14) When the priest dies, the slayer without intent returns from the city of refuge. Num. XXXV, 10ff.

(15) For (Lev. XXI, 12): Neither shall he go out of the Sanctuary. He is called 'onen', whilst his dead lie unburied on the day of death.

(16) V. Hor. 12b.

(17) Who acted as substitute for the high priest, v. supra 12b.

(18) Though this Tanna does not consider here the question of ill-feeling, since he rules that the high priest who passed from his high priesthood continues to officiate with eight garments, and yet the Anointed for Battle he permits the use only of four garments.

(19) The substitute enjoyed the same rank as the high priest.

(20) The Anointed for Battle is of inferior rank to the high priest, and the donning of eight garments would arouse ill-feeling in the high priest.

(21) Refusing to accept the report that R. Johanan had said this.

(22) The statement that the Anointed for Battle wears the same eight garments which are the high priest's official garb.

(23) By means of the Urim and Thummim.

(24) I Sam. XXX, 8.

(25) Num. XXVII, 21.

(26) I Sam. I, 13.

(27) Ibid. XXIII, 11.

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in wrong order and received his answer in right order.[1] And as soon as he knew that he had asked in wrong order, he asked again in right order, as it is said: Will the men of Keilah deliver up me and my men in to the hand of Saul? And the Lord said.' They will deliver thee up.[2] But if the occasion required both questions, both were answered, as it is said: And David inquired of the Lord, saying: Shall I pursue after this troop? Shall I overtake them? And He answered him: pursue; for thou shalt surely overtake them and shalt without fail recover all.[3] And although the decree of a prophet could be revoked, the decree of the 'Urim and Thummim' could not be revoked, as it is said: By the judgment of the Urim. Why were they called 'Urim and Thummim'? 'Urim' because they made their words enlightening.[4] 'Thummim' because they fulfil their words. And if you should ask: Why did they not fulfil their words in Gibeah Benjamin?[5] It is because they did not inquire[6] [whether the result would be] victory or defeat.[7] But at last, when conquered, they [the Urim and Thummim] approved their action, as it is said: And Phinehas, the son of Eleazar, the son of Aaron, stood before it in those days, saying: 'Shall I yet again go out to battle against the children of Benjamin my brother, or shall I cease?' and the Lord said: Go up, for tomorrow I will deliver him into thy hand.[8]

How was it effected? — R. Johanan said: [The letters] stood forth.[9] Resh Lakish said: They joined each other. But the 'Zade' was missing?[10] R. Samuel b. Isaac said: They contained also the names of Abraham, Isaac and Jacob. But the 'Teth', too, was missing? — R. Aha b. Jacob said: They contained also the words: The 'tribes'[11] of Jeshurun.

An objection was raised: No priest was inquired of who does not speak by means of the Holy Spirit and upon whom the Divine Presence does not rest, for Zadok inquired and succeeded, whilst Abiathar inquired and failed, as it is said: But Abiathar went up until all the people had done passing out of the city?[12] — He helped along.[13]

AND ONE INQUIRED ONLY FOR A KING. Whence do we know these things? — R. Abbahu said: Scripture said, And he shall stand before Eleazar the priest, who shall inquire for him by the judgment of the Urim;[14] 'he' i.e., the king, 'and all the children of Israel with him', i.e., the [priest] Anointed for Battle, 'even all the congregation', that is the Sanhedrin.

CHAPTER VIII

MISHNAH. ON THE DAY OF ATONEMENT IT IS FORBIDDEN TO EAT, TO DRINK, TO WASH, TO ANOINT ONESELF, TO PUT ON SANDALS,[15] OR TO HAVE MARITAL INTERCOURSE.[16] A KING OR BRIDE[17] MAY WASH THE FACE, AND A WOMAN AFTER CHILDBIRTH[18] MAY PUT ON SANDALS. THIS IS THE VIEW OF R. ELIEZER. THE SAGES, HOWEVER, FORBID IT. IF ONE EATS THE BULK OF A LARGE DATE, THE LIKE THEREOF, WITH ITS STONE INCLUDED, OR IF HE DRANK A MOUTHFUL, HE IS CULPABLE.[19] ANY FOODS COMPLEMENT ONE ANOTHER IN MAKING UP THE BULK OF A DATE, AND ALL THE LIQUIDS COMPLEMENT ONE ANOTHER IN MAKING UP A MOUTHFUL, BUT WHAT A MAN EATS AND DRINKS DOES NOT GO TOGETHER.[20]

GEMARA. [Merely] FORBIDDEN? But surely punished with extirpation?[21] — R. Ela, or as some say, R. Jeremiah, said: This refers only to less than the legal quantity.[22] That will be right according to the view that even less than legal quantity is for — bidden by the law of the Torah, but what can be said according to the view that less than the legal quantity is permitted by the law of the Torah? For it was said: As for less than the legal quantity, R. Johanan holds it forbidden by the law of the Torah, but Resh Lakish considers it permitted by the law of the Torah. Now [the above answer] would be right according to R. Johanan, but what can be said according to Resh Lakish? — Resh Lakish would agree that [less than the legal quantity] is forbidden by [decree of] the Rabbis.[23] If that be the case, one should not be liable on account thereof to offer a sacrifice for an oath,[24] why then did we learn:[25] [If one had sworn] an oath not to eat carrion, trefah things,[26] abominable[27] or creeping things, and then had eaten thereof, he is culpable? R. Simeon holds him not culpable. And we raised the point in connection therewith: Why should he be culpable? Surely he stands committed to the oath[28] from Mount Sinai on! [And] Rab, Samuel and R. Johanan [in reply] said [it is a case] when he includes things permitted in the oath touching foods forbidden,[29] whereas Resh Lakish said: This cannot be explained except where he either expressly refers to less than the legal quantity, and that in accord with the view of the Sages,[30] or that he made a general statement

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(1) He should have asked first: Will Saul come down? Then, Will they deliver me up?

(2) I Sam. XXIII, 12.

(3) Ibid. XXX, 8.

(4) Etym. 'Urim'- lights. 'Thummim'-tam-to be complete, perfect; here true, fulfilled.

(5) Judg. XX.
(6) [The text of cur. edd. is not clear and the rendering follows the reading of MS.M. Rashi, on the basis of the present text, explains: They (the Urim and Thummim) did not state clearly, etc.].
(7) The single question was who should lead them.
(8) Judg. XX, 28.
(9) The names of the twelve sons of Jacob were inscribed on the Urim and Thummim. The answer always came through the letters which stood in relief.
(10) The names of the twelve sons did not include that letter.
(11) The Hebrew of which includes a teth.
(12) II Sam. XV, 24. [This is explained, that he retired from the priesthood because he received no reply from the Urim and Thummim. This in turn would indicate that it is the Holy Spirit resting on the priest that gives that reply and not the letters of the Oracle].
(13) By the priests' merit the oracle came forth.
(14) Num. XXVII, 21.
(15) Or any shoes of leather. Tosef. Yoma IV: 'Even cloth-shoes'.
(16) The term literally means 'use of the bed'.
(17) Within the first month after the wedding.
(18) Lit., 'one reconvalescing', whose health is still delicate and to whom a cold may prove dangerous. Leather shoes will protect her against such contingency.
(19) V. Lev. XXIII, 29.
(20) To make up the culpable quantity.
(21) The term forbidden may mean: either unlawful but, de facto, unpunished; or normally: punished with lashes. But transgression by eating would be punished with extirpation, kareth (v. Glos.).
(22) Lit., 'half the standard'. The usual legal quantity of forbidden foods is the bulk of an olive; on the Day of Atonement, the bulk of a big date. Any less than that, though the eating thereof does not involve one in the prescribed punishment, nevertheless constitutes a transgression. That is what the Mishnah indicates by the term 'forbidden' i.e., in any quantity.
(23) Even though less than the legal minimum does not involve punishment according to Biblical law, or indeed, may not be forbidden at all, Rabbinical law, as a fence around the laws of the Torah, may declare less than a minimum forbidden, or punishable, too. The dispute between R. Johanan and Resh Lakish would hinge on the question as to whether forbidden foods are so considered in any quantity, however small, or whether the term 'eating' etc. implies a definite minimum below which no transgression at all can be said to have taken place.
(24) I.e.,if someone has sworn that he would not eat less than the legal quantity of a forbidden food. Since that food is forbidden, he has, as it were, already sworn on Mount Sinai, not to eat it; the present oath, therefore, has no force, for the transgression of which no sin-offering is necessary (v. Shebu. 27a).
(25) Shebu. 21a.
(26) The word trefah. lit., 'torn', means any kind of abnormal, irregular, ritually inadmissible food. Nebelah 'carrion' refers to the flesh of animals which had died a natural death, or in connection with the ritual slaughtering of which a basic mistake or irregularity had been committed.
(27) Lev. XI, 11, 31, 42, 46.
(28) Israel swore their allegiance to the Torah, and that oath binds every Israelite.
(29) Had he sworn not to eat forbidden things, such oaths would imply his non-culpability in case of transgression, i.e., as far as the oath is concerned. But, by including things permitted, he swears an oath, the effect of which is to prohibit for him the eating of otherwise permissible foods. Hence the transgression implies the obligation of sacrifice.
(30) The Sages hold that an oath 'I will not eat a certain thing' implies 'l will not eat as much as the legal minimum', hence he could be guilty in the case of having eaten less than that only if he had expressly stated: I shall not eat anything at all of that food, his special declaration investing his oath with validity in the case of an infinitesimal amount of the food now forbidden to himself.

Talmud - Mas. Yoma 74a

and in accord with R. Akiba, who said that a man may prohibit to himself anything in any quantity,[1] however small.[2] And if you would say that since it is permitted by the Torah, [the law relating to the] sacrifice for an oath is operative,[3] surely we learned: An ‘oath of testimony’[4] applies only to those qualified to bear witness;[5] and we raised the point: what does that mean to exclude, whereupon R. Papa said: This excludes a king, and R. Aha b. Jacob said: This excludes a professional dice-gambler.[6] Now a dice-player, as far as Biblical law is concerned, is qualified to bear witness and only the Rabbis declared him unfit, and yet an oath does not apply to him?[7] There it is different, for Scripture said: If he do not utter it,[8] and this man cannot make a [valid] utterance.[9]

Now would you say that wherever the punishment is extirpation the term ‘forbidden’ is not used?[10] Surely it was taught: Although the term ‘forbidden’ was used in connection with all of them,[11] the punishment of extirpation applies only to him who eats or drinks, or engages in labour? — This is what is said: When the term ‘forbidden’ is used, it is applied but to less than the legal minimum, but where the legal minimum has been transgressed the punishment involved is extirpation; and also extirpation is the penalty, that is the case only with him who eats or drinks or engages in labour. Or, if you like, say: When [the Mishnah] uses the term ‘forbidden’, it refers to the rest [of the transgressions],[12] for Rabbah and R. Joseph taught in the other books of the School of Rab:[13] Whence do we know that it is forbidden on the Day of Atonement to anoint oneself, to wash, to put on shoes, and to have marital intercourse? Therefore the text reads: [It] is a Sabbath of solemn rest [unto you].[14] [To turn to] the main text: As for the matter of less than the legal minimum, R. Johanan said: It is forbidden by Biblical law, whilst Resh Lakish said: It is permitted by Biblical law. R.Johanan said, It is forbidden by Biblical law; since it could be joined [to form a minimum] it is forbidden food that he is eating. Resh Lakish said: It is permitted by Biblical law, for the Divine Law speaks of eating and this is not [eating].[15] — R. Johanan raised the following objection against Resh Lakish: I know only that whatsoever involves punishment is subject to a prohibition; but in the case of the koy,[16] and what is less than the legal minimum, since they do not involve punishment, I might say that they are not subject to a prohibition either, therefore the text reads: No fat.[17] — This is only Rabbinical and the text [adduced] is but a mere support. And that is also logical. For if one should assume that the prohibition is Biblical, surely [the status of] the koy is doubtful and no Scriptural text is necessary to cover a doubtful[18] case! — Were it only for this there would be no argument, they would hold

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(1) R. Akiba, on the other hand, holds that a legal minimum exists only in the case of foods etc. forbidden by the Torah, whereas a man who forbids himself by oath any kind of permitted food, implies that he would not partake of any quantity, however small, thereof.

(2) Now, if Resh Lakish held that even less than the legal minimum is forbidden by Rabbinical decree, then how could he endeavour to explain the case of the man taking the oath as applying to one eating less than the legal minimum? For, since he is interdicted to eat by the law of Deut. XVII, 11: According to the law which they shall teach thee ... thou shalt do . . . thou shalt not turn aside... to the right hand or to the left, from eating food Rabbinically forbidden, his oath is inoperative, hence does not oblige him to offer a sacrifice for his transgression thereof.

(3) Shebu. 30a. The answer of Resh Lakish would endeavour to make a distinction between things forbidden by the Torah, the oath re-forbidding the same to oneself would be considered inoperative and would free the swearer, in the case of transgression, from the obligation to offer up a sacrifice — and things permitted by the Torah, to which the oath could apply, so that if one swore not to eat less than the legal minimum which, because below the legal quantity, would be permitted by the law of the Torah and forbidden only by Rabbinic decree, the oath would operate, and in the case of transgression he would have to bring a sacrifice.

(4) Lev. V, 1f.

(5) V. Shebu. 30a.

(6) The king can neither testify, nor be testified against, because of his exalted position; the gambler cannot testify, because his profession renders him, hence his statements or pledges, untrustworthy.

(7) By Biblical law one is considered a robber only if one actually robs from one's hand, as in II Sam. XXIII, 21 where the technical term ‘gazal’, rob, is used: He (plucked — lit.,’robbed’) the spear out of his hand; v. also B.K. 79b. So that, if the oath does not apply to a gambler, although by Biblical law, he is not prevented from testifying, the proposed distinction is unjustified.

(8) Lev. V, 1.

(9) It means: One whose utterance not merely means speech, but words of meaning, words to be trusted, whereas this gambler's words, since he is untrustworthy, are, legally speaking, no utterance at all.

(10) As insufficient, hence misleading; this being the reason for the first question here in the Gemara.

(11) All the things forbidden, as enumerated in our Mishnah.

(12) Not eating and drinking.

(13) From the School of Rab emanated halachical commentaries not only on Leviticus, but on Numbers and Deuteronomy as well.

(14) Lev. XVI,31 interpreted here as solemn rest not only from work, but from the usual occupations, such as eating, drinking, washing, anointing and having marital intercourse. Just as the term ‘solemn day of rest’ in connection with the Sabbath is, by the Sages, interpreted as including all manner of work, even not employed in connection with the building of the Sanctuary, so does that term here imply affliction by rest, as above.

(15) Since below the minimum it may be nibbling, but it is eating that is forbidden.

(16) A kind of bearded deer or antelope (Jast.). It is left undecided as to whether it belongs to the genus of cattle, the tallow of which is forbidden, or to beasts of chase, the tallow of which is permitted.

(17) Lev. VII, 23. This proves that less than a legal minimum is prohibited by the Torah.

(18) Since there is no doubt before the Divine Lawgiver, no Scriptural text would be necessary to cover a doubtful situation.

Talmud - Mas. Yoma 74b

the koy is a creature by itself. For if you were not to say so, how could R. Idi b. Abin say: ‘Also all’ includes the koy,[1] since the koy is a doubtful case and surely no Scriptural text is necessary to cover doubtful cases. Hence [what you must say is] a ‘creature by itself’ is a different case, thus also here [say] ‘a creature by itself’ is a different case.

Our Rabbis taught: Ye shall afflict your souls.[2] One might assume that one must sit in heat or cold in order to afflict oneself, therefore the text reads: And ye shall do no manner of work;[2] just as the [prohibition of] labour [means]: sit and do nothing, so does [the enjoinment of] affliction [signify]: sit and do nothing.[3] But say perhaps: If one sit in the sun and is warm, one may not say unto him: rise and sit in the shade; or, when he sits in the shade and is cool, one may not tell him: rise and sit in the sun?[4] — It is as with labour: Just as you have made no distinction with regard to labour, so in connection with the [prescribed] affliction[5] is no distinction to be made. Another [Baraitha] taught: ‘Ye shall afflict your souls’. One might assume that one must sit in heat or cold to afflict oneself, therefore Scripture said: ‘And ye shall do no manner of work’. Just as in connection with work [the reference is to] something for which one may become culpable also in another connection,[6] so with affliction it is to something for which one might become culpable in another connection, and what is that? ‘An abhorred thing’,[7] or that which remaineth.[8] I shall then include only ‘the abhorred thing’ or that which remaineth, because the penalty there is extirpation but not include tebel,[9] since the penalty involved therein is not extirpation, therefore the text reads: ‘Ye shall afflict’, ‘and ye shall afflict your souls’,[10] which is inclusive. I might then include tebel, the punishment in connection with which is death,[11] but not include carrion, the penalty for eating which is not death, therefore the text reads: ‘Ye shall afflict’, ‘and ye shall afflict your souls’, which is inclusive. I might then include the [eating of] carrion, which involves a [transgression of a] prohibition, but not profane food, [the eating of] which is not prohibited at all, therefore Scripture said: ‘Ye shall afflict’, ‘and ye shall afflict your souls’, which is inclusive. I might then include profane food, the eating of which is not commanded, but exclude terumah,[12] the eating of which is commanded, therefore Scripture said: ‘Ye shall afflict’, ‘and ye shall afflict your souls’, which is inclusive. I might then include terumah, which is not subject to the law concerning remaining over, but exclude holy sacrifices, in connection with which the law concerning remaining over applies, therefore the text reads: ‘Ye shall afflict’, ‘and ye shall afflict your souls’, which is inclusive. And if you should have any remark [in objection thereto], [I can reply], Behold Scripture said: And I will destroy that soul,[13] i.e., an affliction which causes a destruction of life, and what is that but [the denial of] eating and drinking? What is [meant by]: And if you should have any remark [in objection thereto]? — One might have said Scripture speaks here of marital intercourse,[14] therefore the text reads: ‘And I will destroy that soul’, i.e., an affliction which causes the destruction of life, and that is [the abstention from] eating and drinking. The School of R. Ishmael taught: Here the phrase ‘affliction’ is used, and there[15] the term ‘affliction’ is used; just as there an affliction through hunger is meant, so is here an affliction through hunger meant. But let us infer from: ‘If thou shalt afflict my daughters’?[16] — One should infer concerning the affliction of a community from another affliction of a community, but not for the affliction of a community from the affliction of an individual. But let us infer it from the ‘affliction’ in Egypt, as it is said: And [the Lord] saw our affliction,[17] and in connection with which we said: This is the enforced abstinence from marital intercourse? — Rather [answer thus]: One infers for a heavenly affliction from another heavenly affliction, but one should not infer concerning a heavenly affliction from an affliction through human beings.[18]

Who fed thee in the wilderness with manna . . . that He might afflict thee.[19] R. Ammi and R. Assi [are disputing], one said, You cannot compare one who has bread in his basket with one who has none,[20] the other said: You cannot compare one who sees what he eats with one who does not see what he is eating.[21] R. Joseph said: This is an allusion to [the reason] why blind people eat on without becoming satisfied. Abaye said: Therefore let him who has a meal eat only in daylight. R. Zera said: What Scriptural verse intimates that? Better is the seeing of the eyes than the wandering of the desire.[22] Resh Lakish said: Better is the pleasure of looking at a woman than the act itself as it is said: ‘Better is the seeing of the eyes than the wandering of the desire’.

When it giveth its colour in the cup, when it glideth down smoothly.[23] R. Ammi and R. Assi [dispute concerning it], one said: Whosoever fixes

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(1) V. Hul. 21a with reference to the blood of the koy.

(2) Lev. XVI, 29.

(3) The affliction enjoined is negative; deny to yourself certain things, abstain from them. It does not demand self-affliction by specific activity, such as sitting in the sun on a hot day.

(4) In this case affliction would take the negative form of abstaining from comfort, in accord with the proposition suggested.

(5) Labour, in any form, is prohibited. Just as one is not obliged to engage in positive work of affliction, the negative form of abstention from getting comfort. Hence, just as one need not go out of comfortable shade into the sun for the purpose of afflicting oneself, so need one not abstain from a change into shade in order to be afflicted in the sun.

(6) Namely on the Sabbath.

(7) A sacrifice rejected in consequence of an improper intention in the mind of the sacrificing priest, v. Lev. VII, 18.

(8) Portions of sacrifices left over beyond the legal time.

(9) Produce forbidden until the priestly gifts have been separated.

(10) Lev. XVI, 31.

(11) At the hands of heaven.

(12) The priest's share of the crop, one fiftieth of the dough, Num. XVIII, 8, 25.

(13) Lev. XXIII, 30.

(14) The term ‘affliction’ is used for the abstention therefrom, as well as for rape, in the Talmud (infra 77a) as well as in the Bible, Deut. XXII, 24 and elsewhere.

(15) Ibid. VIII, 3.

(16) Gen. XXXI, 50.

(17) Deut. XXVI, 7.

(18) It was God who afflicted Israel in the wilderness, Who bids them afflict themselves — thus may be said to afflict them Himself- on the Day of Atonement, whereas in Egypt it was Pharaoh who afflicted them.

(19) Deut. VIII, 16.

(20) V. Supra 18b.
(21) The taste of the manna according to tradition varied according to one's liking (v. infra), so that he who ate it did not see actually the thing which he was tasting].
(22) Eccl. VI, 9.
(23) Prov. XXIII, 31.

Talmud - Mas. Yoma 75a

his eye in the cup,[1] all incestual intercourse appears to him like a plain;[2] the other said: One who indulges in his cup, the entire world appears to him like a plain.[3]

Care in the heart, boweth it down.[4] R. Ammi and R. Assi [explained it differently], one said: One should force it down,[5] the other said: One should tell thereof to others.[5]

And dust shall be the serpent's food.[6] R. Ammi and R. Assi [disputed its meaning], one said: Even if the serpent were to eat all the delicacies of the world, he would feel therein but the taste of dust; the other said: Even though he ate all the delicacies of the world, his mind would not be at ease until he had eaten dust.

It was taught: R. Jose said, Come and see how different the action of human beings is from that of the Holy One, blessed be He. If one of flesh and blood is angry with his neighbour he persecutes him as far as depriving him of his livelihood, but it is different with the Holy One, blessed be He. Although He cursed the serpent, yet when he goes up to the roof, there is his food; if he goes down, there is his food. He cursed Canaan:[7] yet he eats what his master eats, drinks what his master drinks. He cursed the woman,[8] all are running after her. He cursed the earth,[9] all are feeding from it.

We remember the fish which we were wont to eat in Egypt for nought.[10] Rab and Samuel [were disputing its meaning], one said: [Fish here means] real fish; the other said: Illicit intercourse.[11] One who said it means real fish [explains it so because of] ‘which we were wont to eat’; the other who interprets it as ‘illicit intercourse’, does so because the term ‘for nought’ is used.[12] But according to him who said it means ‘intercourse’, does not Scripture read: ‘Which we were wont to eat’? — Scripture uses an euphemism, as it is written: She eateth and wipeth her mouth and saith: I have done no wickedness.[13] What does ‘for nought’ mean according to him who says they were real fish? — They were brought to them from public property, for a Master taught: When the Israelites were drawing water, the Holy One, blessed be He, prepared for them in the water little fish for their pitchers. According to him who said ‘real fish’, but with regard to illicit intercourse [he holds] they were not dissolute, it will be quite right that Scripture said: A garden shut up is my sister, etc.[14] but according to the view that fishes mean ‘illicit intercourse’, what ‘fountain sealed’ is here? — They were not dissolute with regard to forbidden relations.[15] It will be right according to him who interprets it as ‘illicit intercourse’, hence Scripture said: And Moses heard the people weeping for their families,[16] i.e., because of the families [relations] with whom they were forbidden to have intercourse; but according to him who interprets it as ‘fish’, what does ‘weeping for their families’ mean? — Both[17] are implied.

The cucumbers and the melons.[18] R. Ammi and R. Assi [were disputing its meaning], one said: They found in the manna the taste of every kind of food, but not the taste of these five;[19] the other said: Of all kinds of food they felt both taste and substance, but of these the taste only without the substance.

Now the manna was like gad [coriander] seed.[20] R. Assi said [it was] round like a seed [of coriander] and white like a pearl.

Our Rabbis taught: ‘Gad’ i.e., the manna resembled the seed of flax in its capsules. Others say: ‘Gad’ i.e., it was like a tale, which draws the heart of man, even like water.[21] Another [Baraitha] taught: ‘Gad’, because it revealed to Israel whether the child was one of nine months’ pregnancy from the first husband, or of seven months’ [pregnancy] from the second.[22] ‘White’,[23] because it makes white [cleanses] the sins of Israel.

It was taught: R. Jose said: Even as the prophet would tell Israel what is to be found in clefts or holes so would the manna reveal to Israel what is to ‘be found in clefts or holes’. How that? If, e.g., two men came before Moses with a law-suit, one saying: You have stolen my servant, the other saying: You have sold him to me, Moses would say to them: To-morrow judgment will be pronounced. To-morrow, then: If his [the slave's] ‘omer was found in the house of his first master, it was evidence that the other one had stolen him; if it was found in the house of his second master, that was proof that the former had sold him to the latter. Similarly, if a man and a woman came before Moses with a suit, he saying: She acted offensively against me, and she asserting: He acted offensively against me, Moses would say to them: To-morrow judgment will be pronounced. On the morrow: If her ‘omer was found in her husband's house, that was proof that she had acted offensively, but if it was found in her father's house, that was evidence that he had acted offensively towards her.[24]

It is written: And when the dew fell upon the camp in the night, the manna fell upon it,[25] and it is also written: And the people shall go out and gather,[26] and it is written too: The people went about and gathered it.[27] How all that?[28] — Unto the righteous it fell in front of their homes; the average folk went out and gathered, whereas the wicked ones had to go about to gather it. It is written: ‘bread’,[26] and it is written, [dough of] ‘cakes’,[29] and it is written, ‘they ground it’.[29] How that? — The righteous received it as bread, the average Israelites as [dough of] cakes, and the wicked ones had to grind it in the handmill. Or beat it in mortars.[30] Rab Judah said in the name of Rab, or as some say, R. Hama b. Hanina: That teaches that there came down to Israel with the manna the cosmetics for women, i.e., a thing that is ground in a mortar. And seethed it in pots.[30] R. Hama said: This intimates that with the manna there came down to Israel the ingredients for pudding.

And they brought yet unto him freewill-offerings every morning.[31] What does ‘every morning’ mean? — R. Samuel b. Nahmani, in the name of R. Jonathan said: [This:] Of those things which came down every morning intimates that, together with the manna, there came down to Israel precious stones and pearls, as it is said: And hanesi'im brought the onyx stones;[32] [and] it was taught: [nesi'im here means]: clouds literally, as it is said also: As clouds [nesi'im] and winds, without rain.[33] And the taste of it was as the taste of a cake baked with oil.[30] R. Abbuha said: [Do not read le-shad (cake), but shad (breast)][34] viz: Just as the infant finds very many a flavour in the breast, so also did Israel find many a taste in the manna as long as they were eating it. Some there are who say: [‘Le-shad’ means] a real demon; even as the demon changes into many colours, so did the manna change into many tastes.[35]

And Moses said: This shall be when the Lord shall give you in the evening flesh to eat, and in the morning bread to the full.[36] A Tanna [taught] in the name of R. Joshua b. Karhah: The flesh for which they asked improperly was given to them at an improper time;[37]

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(1) The Talmud takes the passage in this sense: When he puts his eye i.e., devotes his attention to the cup, when he is drunk.

(2) ‘Mesharim’ (‘smoothly’) is connected with meshor, ‘a plain’.

(3) In his drunken state the man overlooks all handicaps to his desire, be they directed against illicit intercourse or against his neighbour's property.

(4) Prov. XII, 25.

(5) One connects the word yashhenna (boweth it down) with the Hebrew nassah, ‘to remove’; the other with the Hebrew suh, ‘to speak’.

(6) Isa. LXV, 25.

(7) Gen. IX, 26. God did not really curse him, it was Noah who did so. But by decreeing that Canaan be a slave, He seems to confirm Noah's curse.

(8) Here, too, God did not really curse the woman, unless the punishment He meted out to her may imply a curse. All the passages here adduced are connected either by the fact that R. Ammi and R. Assi discussed them or by association of ideas.

(9) Gen. III, 17.

(10) Num. XI, 5.

(11) [I.e., they chafed under the new restrictions in matters of intercourse that had been imposed on them.]

(12) The suggestion is that whereas regular marriage implied widowhood (kethubah), before that mohar (dowry, Ex. XXII, 16), no such financial responsibility is necessary in the case of illicit intercourse.

(13) Prov. XXX, 20, referring to an unchaste woman.

(14) Cant. IV, 12.

(15) [I.e., those that had been already forbidden to the sons of Noah, v. Sanh. 57b].

(16) Num. XI, 10: E.V. ‘family by family’; because of its families, family affairs, prohibitions of family life.

(17) The one (fish) is obvious, the other (illicit intercourse) is suggested.

(18) V. p. 361, n. 4.

(19) The Israelites remembered sadly these foods, cucumbers, melons, leeks, onions, garlic. which they had enjoyed in Egypt and which they now missed. Evidently the manna substituted for all other foods, but these five. The latter were ‘absent’ because these foods do not agree with women in pregnancy.

(20) Num. XI, 7.

(21) Connecting it with rt. negad, draw, pull, attract.

(22) The ‘omer per head in each household (v. Ex. XVI, 16) being arranged miraculously in accord with the true state of affairs, would be found in the house of the true father and thus would reveal whose child the infant was. Gad is thus connected with the causative of nagad, meaning to ‘reveal’, ‘tell’.

(23) Being dependent for their daily food on God's bounty, the children of Israel would reflect on their conduct and continually improve it in order to deserve God's food.

(24) In either situation the ‘omer would be found in the home of him who deserved it. The master of the slave would have an additional ‘omer bestowed upon himself; the husband whom his wife had offended would have the measure in his house, where she belonged; if the husband had ill-treated her, so that her father's house was a legitimate refuge, her ‘omer would be found there. Thus would the gad (to which the manna was compared) reveal the true state of affairs. In the case of the slave he would be restored, on the evidence of the ‘omer, to his master; in the case of the wife, either the husband would have to pay her her marriage settlement (kethubah) or, if she had been guilty, she would forfeit it.

(25) Num. XI, 9.

(26) Ex. XVI, 4.

(27) Num. XI, 8.

(28) These three statements seem incompatible with one another; according to Num. XI, 9 the manna fell into the camp; according to Ex. XVI, 4 outside thereof, whereas according to Num. XI, 8 it was so far away from the camp that the people had to go far to find it.

(29) עוגות, Num. XI, 8; this denotes cakes while yet unbaked (Rashi).

(30) Num. XI, 8.

(31) Ex. XXXVI, 3.

(32) The word nesi'im, from the root nasa, ‘to lift up’; thus things lifted up, elevated, may mean either princes or clouds.

(33) Prov. XXV, 14.

(34) Supplemented from Bah.

(35) The word le-shad may mean cake, as the simple text has it. It may also be connected with shad, ‘breast’, or with shed, ‘demon’. Thus the two following interpretations. The different tastes of the milk depend on the food the mother has eaten.

(36) Ex. XVI, 8.

(37) They had enough cattle to feed their lust for flesh, their importune prayers for flesh, hence, were improper, and they would in punishment receive the flesh at night when, because of the need for preparation, it came too late, ‘at an improper time', because usable only the next day.

Talmud - Mas. Yoma 75b

whereas the bread for which they asked properly was given to them in its proper time.[1] Here the Torah intimates a matter of good form; that one should eat meat but at night. But surely Abaye said: One who has a meal should eat it only during the day? — We mean: as in day-light.[2]

R. Aha b. Jacob said: At first Israel were like hens picking in the dunghill, until Moses came and fixed for them a definite meal-time.[3]

While the flesh was yet between their teeth,[4] yet it is also written: But a whole month,[5] how is that? — The average people [died] at once, the wicked ones continued to suffer a whole month. And they spread them all abroad.[6] Resh Lakish said: Do not read 'wayishtehu' [they spread abroad], but 'wa-yishahtu' [they were slaughtered], which [reading] intimates that the enemies of Israel had incurred the punishment of being slaughtered.[7] 'Spread abroad'; it was taught in the name of R. Joshua b. Karhah: Do not read 'shatoah', but 'shahut' [ritually killed], which would intimate that there came down to Israel together with the manna something requiring ritual killing.[8] Rabbi replied: So must you infer it from here. Was it not stated before: He caused flesh also to rain upon them as the dust, and winged fowl as the sand of the sea?[9] And was it not taught: Rabbi said, Then thou shalt kill [of thy herd and of thy flock]. . . as I have commanded thee.[10] This teaches that Moses received commandments concerning the gullet, and the windpipe, and concerning the larger part of one [organ] in the case of a fowl, and the larger part of two in the case of cattle?[11] What then does 'shatoah' [read, shahut] intimate? — That they [the quails] came down so as to form layers.

It is written: 'bread', but it is also written, 'oil' and it is also written, 'honey'?[12] — R. Jose b. Hanina said: Bread for the youths, oil for the aged, honey for the infants. It is written 'shlaw' and we read: slaw?[13] — R. Hanina said: The righteous eat it at ease,[14] whereas when the wicked eat it, it is unto them like thorns.[15] R. Hanan b. Abba said: There are four kinds of slaw [quails]: thrush, partridge, pheasant and quail proper; the best of all is the thrush, the worst of all is the quail proper, which is like a small bird. [One stuffs it],[16] places it in the oven, and it swells up, and becomes so big that it fills the oven. Thereupon one places it on top of twelve loaves of bread, and [even] the lowest one of them cannot be eaten without [some other food] in combination.[17] Rab Judah would find them among his jars; R. Hisda among the twigs. Unto Raba his field labourer used to bring them from the meadow[18] every day. One day he did not bring them. He wondered: Why this? He went up to the roof and heard a child which read: When I heard, my inward parts trembled.[19] Thereupon he said: One knows from this that R. Hisda is dead.[20] It is for this reason that people say: By the merit of his master eats the pupil. It is written: And when the layer of dew was gone up,[21] but it is also written: And when the dew fell?[22] — R. Jose b. Hanina said: There was dew above, and dew below it; it resembled something placed in a box. A fine scale-like thing [mehuspas];[23] Resh Lakish said: It is something that melts on the wrist [palm] of the hand.[23] R. Johanan said: [It means] something which is absorbed by the two hundred and forty-eight parts [of the human body].[24] But [the numerical value] of mehuspas is much more?[25] — R. Nahman b. Isaac said: The word is written defective. Our Rabbis taught: Man did eat the bread of the mighty,[26] i.e., bread which ministering angels eat. This was the interpretation of R. Akiba. When these words were reported to R. Ishmael he said to them: Go forth and tell Akiba: Akiba, thou hast erred. For do, indeed, the ministering angels eat bread? Was it not said long ago: I did neither eat bread, nor drink water?[27] How, then, do I interpret 'the bread abbirum [of the mighty]'? I.e., bread which was absorbed by the two hundred and forty-eight parts [ebarim]. Then how do I apply: And thou shalt have a paddle among thy weapons?[28] That refers to what [foods] the foreign merchants were selling unto them. R. Eleazar b. Perata said: Even of the foodstuff which merchants of other nations sold them, the manna would counteract the effect. What then is the meaning of 'And thou shalt have a paddle among thy weapons'? — That applied to the time after their offence.[29] The Holy One, blessed be He, said: I thought they shall be like ministering angels, but now I shall burden them with the walk of three parasangs[30] as it is written: And they pitched by the Jordan, from Beth-jeshimoth even unto Abel-shittim.[31] And Rabbah b. Hana had said: I have seen this place, it is three parasangs in extension.[32] And furthermore it was taught when they went to relieve nature they went neither forward, nor sideways, but rearwards.[33]

But now our soul is dried away: there is nothing at all.[34] They said: This manna will swell up their bowels, for is there one born of woman who absorbs food without eliminating it too? But when these words were reported before R. Ishmael he said to them: Do not read abbirim [mighty] but ebarim [parts of the body], i.e., something which is absorbed by the two hundred and forty-eight parts. But how do I then interpret: 'And thou shalt have a paddle among thy weapons'? — That refers to food that came to them from the distant parts.[35] Another interpretation of: Man did eat the bread of the mighty:

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(1) Nobody can live without bread, hence that prayer was proper.

(2) By the light of torch, or candle.

(3) Morning and evening, the manna and the quails respectively.

(4) Num. XI, 33.

(5) Ibid. v. 20.

(6) Ibid. v. 32. This suggestion, although aggadic, is not ungrammatical, metathesis being frequent, as in kesseb, kebess (sheep).

(7) Perhaps because of their unrighteous clamour for flesh, when they had cattle of their own. 'Enemies of Israel' is an euphemism for 'Israel'.

(8) Hence we infer that quails were of a species that require ritual killing.

(9) Ps. LXXVIII, 27. 'Before' means, before this indirect inference there was a clear test to convey this teaching.

(10) Deut. XII, 21.

(11) The windpipe and the gullet, one in the case of fowl, both in the case of cattle, must be cut according to the ritual. There is no commandment anywhere in the Pentateuch as to the details of ritual slaughtering of animals or birds, called shechitah. Hence 'as I have commanded thee' must needs refer to another source of law: the unwritten or oral one.

(12) In reference to the manna. Ex. XVI, 29, 31 and Num. XI, 8. Three different tastes are ascribed to this food.

(13) The spelling is ש, the pronunciation ס. The deviation indicates another aspect.

(14) The Hebrew word (with ש) may be traced to a root meaning 'ease'. Thus the homiletical interpretation.

(15) The Aramaic equivalent of the reading means 'thorn', hence the suggestion that slaw in addition to the simple text meaning, has also other implications.

(16) Supplemented from Bah.

(17) It is so greasy that without some other dry food added it would be indigestible.

(18) Bah.

(19) Hab. III, 16.

(20) This story is very satisfactorily explained in Schatzkes' Mafteah I, Warsaw, 1866. R. Hisda, in spite of his great riches, was very frugal in his habits and so economical that he would not entrust even the management of wood to any servant, but himself every day handed wood to the cooks (Git. 56a). Although he would find the quails among his twigs, he would prevent anyone from laying his hands upon these delicacies. His son-in-law Raba, therefore, arranged with a tenant-farmer to bring them. His failure to bring them one day Raba rightly attributed to the thought that something had happened which rendered such service unnecessary. To this inference he added, according to widespread custom, the additional reliance on the implications of a text the first child he met would be studying. When that text suggested evil news the 'evidence was complete'.

(21) Ex. XVI, 14.

(22) Num. XI, 9. The passage in Ex. suggests that the dew covered the manna, whereas the verse in Num. indicates that the dew was below the manna.

(23) There is a play on 'mah', 'melt', and 'pas', 'palm'.

(24) The numerical value of 'Mehuspas': Mem = 40, heth = 8, samek =60, pe =80 and samek = 60, together 248. V. Mak., Sonc. ed., p. 169, n. 5.

(25) The part. pass. is usually spelt with a waw, which makes its numerical value plus 6 =254; whereas the reading is plene, the text is without the waw מחספס, hence 248; and the inference as to the 248 parts of the body is supported.
(26) Ps. LXXVIII, 25.
(27) Deut. IX, 18.
(28) Ibid. XXIII, 14. The paddle is to serve thus: And it shall be, when thou sittest down abroad, thou shalt dig therewith, and shalt turn back, and cover that which cometh from thee. But, if the manna was completely absorbed, there was nothing ‘coming from the Israelite’, hence no need for the paddle.
(29) In complaining of the manna as Num. XXI, 5; Our soul loatheth this light bread.
(30) To get outside the confines of the camp for the call of nature.
(31) Num. XXXIII, 49.
(32) ‘Er. 55b.
(33) None would turn backwards, therefore there was no offence against common decency involved.
(34) Num. XI, 6.
(35) Lit., ‘province of the sea’.

Talmud - Mas. Yoma 76a

That is Joshua for whom manna [specially] fell down as it did to[1] all Israel, [for] it is written: here, ‘man’,[2] and also there it is written: Take thee Joshua, the son of Nun, a man in whom is spirit.[3] But perhaps it is Moses, of whom it is said: Now the man Moses was very meek?[4] — One may infer ish from ish, but not ish from we-ha-ish.[5]

R. Simon b. Yohai was asked by his disciples: Why did not the manna come down unto Israel once annually? He replied: I shall give a parable: This thing may be compared to a king of flesh and blood who had one son, whom he provided with maintenance once a year, so that he would visit his father once a year only. Thereupon he provided for his maintenance every day, so that he called on him every day. The same with Israel. One who had four or five children would worry, saying: Perhaps no manna will come down to-morrow, and all will die of hunger. Thus they were found to turn their attention to their Father in Heaven. Another interpretation: They ate it whilst it was yet warm.[6] Another interpretation: Because of the burden of the way.[7]

And it long ago happened that R. Tarfon, R. Ishmael and the Elders were seated and occupied with the portion referring to the manna, and also R. Eleazar of Modiim was seated among them. R. Eleazar of Modim commenced [to expound] and said: The manna which came down unto Israel was sixty cubits high! R. Tarfon said to him: Modite! How long will you rake words together and bring them up against us?[8] — He answered: My master! I am expounding a Scriptural verse.

Fifteen cubits upward did the waters prevail; and the mountains were covered.[9] Were there indeed fifteen cubits [high] in the valley, [fifteen cubits in the lowlands],[10] fifteen cubits on the mountains?[11] Were the waters standing like a series of walls? And, furthermore, how could the ark come to the top [of the mountains]? Rather, all the fountains of the great deep came up first until the water was even with the mountains, then the water rose fifteen more cubits. Now which measure is larger, that of reward or punishment? You must needs agree that the measure of goodness [reward] is larger. Now with the measure of punishment it is written: The windows of heaven were opened,[12] with the measure of goodness, however, it is said: And he commanded the skies above, and opened the doors of heaven; and caused manna to rain upon them for food, and gave them of the corn of heaven.[13] [And a Tanna taught]:[14] Now how many windows has a door? Four; hence ‘doors’ [imply] eight.[15] Thus it is found that the manna which fell upon Israel was sixty cubits. It was taught: Issi b. Judah says: The manna which fell down for Israel rose so high that all the kings of the east and the west could see it, as it is said: [Thou preparest a table before me in the presence of my enemies. . .] my cup runneth over.[16] (Abaye said: It is evident from this that the cup of King David in the future world will hold two hundred and twenty-one logs, as it is said: My cup is rewayah [overflowing], and this is the numerical value of rewayah).[17] But there is no comparison: there it took forty days, here only one hour;[18] or there for all the world, here for Israel alone;[19] and it should have been higher still! — [Rather]: R. Eleazar of Modim infers it from the analogy of 'opened', 'opened'.[20]

[ON YOM KIPPUR] EATING IS FORBIDDEN. To what do the five afflictions correspond? — R. Hisda said: To the five afflictions mentioned in the Torah: And on the tenth day:[21] howbeit on the tenth day;[22] a sabbath of solemn rest;[23] it is a sabbath of solemn rest,[24] and it shall be unto you.[25] But these are only five, whereas [in our Mishnah] we learned of six [afflictions]? — Drinking is included in eating. For Resh Lakish said: When do we know that drinking is included in eating? Because Scripture said: And thou shalt eat before the Lord thy God . . . the tithe of thy corn, of thy [tirosh] wine, and of thine oil;[26] 'tirosh' is wine and yet Scripture reads: 'And thou shalt eat'. Whence this proof? Perhaps it means that he used it as all admixture to elaiogarum?[27] For Rabbah b. Samuel said: Elaiogarum contains the juice of beets; oxygarum the sauce of all kinds of boiled vegetables? — Rather, said R. Aha b. Jacob, is that inferred from here: And thou shalt bestow thy money for whatever thy soul desireth, for oxen, for sheep, or for wine, or for strong drink.[28] [To] wine and strong drink [applies the term] drinking and yet the Divine Law reads: 'And thou shalt eat'. How is that [conclusive]? — Perhaps here, too, the implication is that he uses it as an admixture to elaiogarum?- Scripture says 'Strong drink', i.e., something which intoxicates.[29] But perhaps the reference here is to preserved figs from Keilah, for it was taught: If one [a priest] ate preserved figs from Keilah,[30] and drank honey and milk, and thus entered the Sanctuary

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(1) Corresponding to.

(2) Num. XXVII, 18.

(3) Ex. XXIV, 13. Joshua went up with Moses to Mount Sinai, Moses did not eat, but Joshua did, hence the manna must have come to him there.

(4) Num. XII, 3.

(5) Analogy should be built upon exact similarity, almost identity, not on relative similarity of expression; according to this rigid rule no analogy from 'ish' to 'ha-ish' or vice versa could be argued.

(6) Its taste or flavour was preserved, but if gathered once for the whole year, it would become stale, cold, tasteless.

(7) It would greatly hamper them on their journeys.

(8) Try to impress us with unsubstantiated statements.

(9) Gen. VII, 20.

(10) [Var. lec. rightly omit as unnecessary repetition].

(11) The phrase fifteen cubits upward surely could not be taken to mean that the fifteen cubits were measured from different levels.

(12) Ibid. v. 11.

(13) Ps. LXXVIII, 23, 24.

(14) Supplied from MS.M. V. also Rashi.

(15) At least two are implied in 'doors' hence at least eight windows. But the measure of goodness surpasses the measure of punishment (as e.g., Ex. II, 6, 7). There were at least two 'windows' of heaven at the flood, as implied in 'windows' which poured forth fifteen cubits of rain; the eight windows (of the two doors of heaven) must have produced at least no less, i.e., sixty cubits of manna, since the measure of goodness is surely no smaller than that of punishment. So that 'sixty' here is to be taken as minimum.

(16) Ps. XXIII, 5, 6. This reckoning is stimulated by the preceding one.

(17) The psalm is taken as prophetic of restoration — either in this world (then 'in the future' at the time of the Messiah) or in the world to come (usual interpretation).

(18) Between the flood and manna.

(19) Here the argument is in favour of a higher measure for the manna. For since the space wherein it fell was limited, whilst the windows of heaven presumably were capable of pouring out the same quantity, the manna confined to a small area should have risen very much higher than the waters, which covered all the earth.

(20) Gen. VII, 11 and Ps. LXXVIII, 23; he does not employ the argument of a greater measure in store for reward than for punishment; but merely from the fact that in each case two windows produced a height of fifteen cubits — whether of manna or water.

(21) Num. XXIX, 7.

(22) Lev. XXIII, 27.

(23) Ibid. 32.

(24) Ibid. XVI, 31.

(25) Ibid. v. 29.

(26) Deut. XIV, 23.

(27) Greek; a sauce of oil and garum, to which wine is sometimes added.

(28) Deut. XIV, 26.

(29) And no intoxication results from eating.

(30) A town in the lowlands of Judea, cf. Josh. XV, 44; v. Sanh., Sonc. ed., p. 481, n. 6.

Talmud - Mas. Yoma 76b

he is culpable?[1] — Rather, he infers it by analogy of ‘strong drink’ from the Nazirite.[2] Just as there it means wine, so here too is wine involved. But is ‘tirosh’ wine? Was it not taught: One who takes a vow to abstain from ‘tirosh’ is forbidden to use any sweet drink but may use wine? — But is [‘tirosh’] not wine? Surely it is written: And tirosh makes the maids flourish![3] The thing which is derived from ‘tirosh’ makes maids flourish.[4] But it is written: And thy vats shall overflow with tirosh?[5] — Thy vats shall overflow with what is derived from ‘tirosh’. But it is written: Harlotry, wine and tirosh take away the heart?[6] — Rather, everybody agrees that ‘tirosh’ is wine, but with regard to vows we go after common parlance.[7]

Why is it [wine] called ‘yayin’ and ‘tirosh’? — It is called ‘yayin’ because it brings lamentation into the world, and ‘tirosh’ ‘because he who indulges in it becomes poor.[8]

R. Kahana pointed out a contradiction: It is written ‘tirash’ and we read ‘tirosh’! — If he is meritorious he becomes a head [rosh] through it; if not, he becomes poor [rash] through it.[9] Raba pointed out this contradiction: The text reads, ‘yeshammah’, whilst we read ‘yesammah’?[10] — If he is meritorious it makes him happy, if not, it makes him desolate. That is why Raba said: Wine and odorous spices made me wise.[11]

Whence do we know that [abstention from] bathing and from anointing oneself is considered an affliction? — Because it is written: I ate no pleasant bread, neither came flesh nor wine in my mouth, neither did I anoint myself at all.[12] What does ‘I ate no pleasant bread’ mean? — Rab Judah, in the name of R. Samuel b. Shilath said: He ate not even bread made of pure wheat. Whence do we know that [the abstention from anointing] was considered an affliction? Because it is written: Then he said unto me: Fear not, Daniel, for from the first day that thou didst set thy heart to understand, and to afflict[13] thyself before thy God, thy words were heard; and I am come because of thy words.[14] We have found it now with regard to [abstention from] anointing oneself. Whence do we know it about [abstention from] washing? — R. Zutra, son of R. Tobiah said: Scripture reads: And it is come into his inward parts like water, and like oil into his bones.[15] But perhaps that applies to drinking it? — It is compared to oil; just as the oil is applied externally, so also the water [is such as is applied] externally. But a Tanna teaches just the reverse, for we learned: Whence do we know that anointing oneself is like drinking on the Day of Atonement? Although there is no conclusive evidence for this, there is some intimation, for it is said: ‘And it is come into his inward parts like water, and like oil into his bones’?[16] — Rather, said R. Ashi: [That abstention from] washing [is considered an affliction] is evident from the verse itself, for it is written: ‘Neither did I anoint myself at all’.[17] What does: ‘And I am come because of thy words’ mean?[18] — It is written: And there stood before them seventy men of the elders of the House of Israel, and in the midst of them stood Jazaniah, the son of Shapan, every man with his censer in his hand; and a thick cloud of incense went up.[19] [Furthermore]: And the form of a hand was put forth, and I was taken by a lock of my head; and a spirit lifted me up between the earth and the heaven, and brought me into the visions of God to Jerusalem, to the door of the gate of the inner court that looketh toward the north; where

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(1) Lev. X, 9.
(2) Num. VI, 3.
(3) Zech. IX, 17.
(4) The argument is not too obvious. According to Rashi the point under consideration is whether 'tirosh' is the name for wine (new wine) or for the grapes themselves. If the latter is accepted wine is 'that which is derived from tirosh (berries)'.
(5) Prov. III, 10 and into vats the wine is poured, not the berries!
(6) Hos. IV, II. Surely grapes would not fit into this context.
(7) And in common parlance 'tirosh' and 'yayin' are separated.
(8) The first is a play on 'ya, ya' exclamation of woe, the second on the second syllable of 'tirosh', which is connected with 'rash', to become poor, as if 'tirosh' meant, You will become poor.
(9) The text connected with the root meaning 'poor', the reading with the noun 'rosh', head.
(10) Ps. CIV, 15. Again a difference between text and pronunciation with a significance attached to both; samah means 'rejoicing', 'shammah' is connected with 'shammah', desolation, the 'he' and 'heth' interchanging.
(11) Stimulated my intellect.
(12) Dan. X, 3.
(13) E.V. 'to humble'.
(14) Ibid. V. 12.
(15) Ps. CIX, 18.
(16) Here water in the verse is taken to refer to 'drinking' from which 'anointing' is derived, contrary to the conclusion just arrived at whereby the meaning of 'water' is derived from its juxtaposition to 'oil'.
(17) Lit., '(as to) anointing I did not anoint myself at all'. 'At all' means, not even washing, which may be preparatory.
(18) When was he driven out, so that he had to re-enter? The reference is to 'the man clothed in linen', (v. ibid. verse 5) identified infra with Gabriel.
(19) Ezek. VIII, 11.

there was the seat of the image of jealousy, which provoketh to jealousy.[1] [Furthermore]: And he brought me into the inner court of the Lord's house, and, behold, at the door of the temple of the Lord, between the porch and the altar, were about five and twenty men, with their backs toward the temple of the Lord, and their faces toward the east; and they worshipped the sun toward the east.[2] Now from the implication of the text: ‘And their faces toward the east’, do I not know that their backs were toward the temple of the Lord? Why then does the text state: ‘With their backs toward the temple of the Lord’? It teaches that they uncovered themselves and committed a nuisance toward that which is below.[3] The Holy One, blessed be He, said to Michael:[4] Michael, your nation has committed sin. Michael answered: Lord of the Universe! Let the good ones among them be considered sufficient! He replied: I shall burn both them and the good ones among them! Immediately then: And he spoke unto the man clothed in linen, and said: Go in between the wheelwork, even under the cherub, and fill both thy hands with coals of fire from between the cherubim, and dash them against the city. And he went in my sight.[5] Thereupon: And the cherub stretched forth his hand between the cherubim unto the fire that was between the cherubim, and took thereof and put it into the hands of him that was clothed in linen, who took it and went out.[6] R. Hana b. Bizna said in the name of R. Simeon the Pious: Were it not for the fact that the coals of the hand of the cherub became cold [in the process of coming] into the hands of Gabriel,[7] there would not have been left over from the ‘enemies of Israel’[8] one to remain or one to escape, for it is written: And behold the man clothed in linen, who had the inkhorn on his side, reported, saying: ‘I have done according to all that Thou hast commanded me’.[9] R. Johanan[10] said: In that hour Gabriel was led out behind the curtain and received forty fiery strokes, he being told: If you had not executed the command at all, well, you simply would not have executed it.[11] But since you did execute it, why did you not do as you were commanded?[12] Furthermore: Don't you know that:[13] ‘One brings no report about mischief’?[14] Thereupon Dubiel,[15] the guardian angel of the Persians, was brought in and placed in his stead, and he officiated for twenty-one days. This is what is written: But the prince of the kingdom of Persia withstood me one and twenty days; but lo, Michael, one of the chief princes, came to help me; and I was left over there beside the kings of Persia.[16] Twenty-one provinces and the port of Mashmahig[17] were given to him. Thereupon he said: Put down for me Israel for the polltax! They did so. Put down the Sages for the poll-tax! They did so. When they were about to sign, Gabriel came forth from behind the curtain and said: It is vain for you that ye rise early, and sit up late, ye that eat the bread of toil; so He giveth unto His beloved in sleep.[18] (What does ‘So He giveth unto His beloved in sleep’ signify?R. Isaac said: This refers to the wives of the scholars who deny themselves sleep in this world, and acquire the world to come).[19] No attention was paid to him. He said before Him: Lord of the Universe, if all the wise men of other nations were in one scale of the balance, and Daniel, the man of pleasant parts, in the other, would he not be found to outweigh them all? — The Holy One, blessed be He, said: Who is it that pleads the merit of my children? They replied: Lord of the Universe, it is Gabriel. He said: Let him come in, as it is written: ‘And I am come [in] because of thy words’. Having commanded that they bring him in, they brought him in. He noticed that Dubiel held the document in his hand, and he wanted to take it from him, but the former swallowed it. Some say: [The document] was written out, but not signed. Others say: It was also signed, but as he swallowed it, the signature was blotted out. Hence there are some people in the kingdom of Persia who are obliged to pay poll-tax, while others are free from it. And when I go forth, lo, the prince of Greece shall come.[20] He cried and cried and none minded him.

Or, if you like, that [abstention from] washing is considered an affliction is deducible from here. For it is written: And unto Abiathar the priest said the king: ‘Get thee to Anatoth, unto thine own fields; for thou art deserving of death; but I will not at this time put thee to death, because thou didst bear the ark of the Lord God before David my father, and because thou wast afflicted in all wherein my father was afflicted’.[21] And concerning David it is written: For they said: ‘The people is hungry, and faint and thirsty in the wilderness’.[22] ‘Hungry’ because of no bread; ‘thirsty’ because of no water; ‘faint’ because of what? Would you not say: Because of no washing?[23] — But perhaps ‘faint’ [means] because of no sandals? — Rather said R. Isaac, [it is to be deducted] from this: As cold water to a faint soul.[24] But perhaps it means: [Faint] from [lack of] drink? — Does Scripture read: ‘Into a faint soul’? Upon a faint soul is written! And whence is to be inferred that [abstention from wearing] sandals [is considered an affliction]? Because it is written: And David went up by the ascent of the Mount of Olives and wept as he went up; and he had his head covered, and went bare.[25] ‘Bare’ of what? Obviously ‘of shoes’. Perhaps it means bare because without horse and whip?- Rather, said R. Nahman b. Isaac, the inference comes from: Go and loose the sack-cloth from off thy loins, and put thy shoe from off thy foot,[26] and it is written: And he did so, walking naked and bare.[26] ‘Bare’ of what? Obviously bare of sandals. But perhaps [it means he went] in patched shoes. For, if you were not to interpret thus, ‘naked’ would also have to be explained as stark naked? Rather, must you here too explain: [naked] i.e.. in shabby garments, thus also ‘bare’ in patched sandals! — Rather, said R. Nahman b. Isaac: [It is derived] from here: Withhold thy foot from being unshod, and thy throat from thirst,[27] i.e., withhold thyself from sin lest thy foot become unshod; withhold thy tongue from idle speech, lest thy throat become dry [faint with thirst].

Whence do we know that [abstention from] marital intercourse is considered an affliction? — Because it is written: If thou shalt afflict my daughters, and if thou shalt take wives beside my daughters,[28] [i.e..]

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(1) Ibid. v. 3.
(2) Ibid. v. 16.
(3) A euphemism for heaven.
(4) Who is the guardian angel of Israel.
(5) Ezek. X, 2.
(6) Ibid. 7.
(7) Alluded to in ‘the man clothed in linen’.
(8) Euphemistic for Israel.
(9) Ibid. IX, 11.
(10) Var. lec. remove the whole account that follows from here.
(11) He may have assumed that God's mercy would postpone or suspend punishment.
(12) You were commanded to fetch the coals yourself, you sinned in appointing someone else to do so.
(13) Meg. 15a. For the same reason one need not report to children the death even of their parents.
(14) With reference to his reporting back, ‘I have done according to all that Thou hast commanded me’.
(15) Lit., ‘bear-god’. In Daniel VII, 5 Persia appears as ‘a bear’, hence their angel is bear-god. V. Kid. 72a. A.Z. 2a.
(16) Dan. X, 13. This verse is ingeniously used to build up the present Aggadah.
(17) A place on an island of the Persian Gulf, famous for pearl fisheries. V. R. H., Sonc. ed., p. 99, n. 5. V. D. S. as to the MSS. which omit this whole passage.
(18) Ps. CXXVII, 2.
(19) The nations of the world should not be able to subdue or tax these, for they are the beloved of the Lord, and their own wives, in denying sleep to themselves in this world (taking ‘yedid’ ad hoc as if derived from ‘nadad’, flee, avoid i.e., sleep) earn eternal salvation. God thus protects them. When this argument proved unavailing, they made another attempt by comparing Daniel with all non-Jewish scholars, and this was accepted by the Lord.
(20) Dan. X, 20. Gabriel's protest was of no avail against the time when Greece was given rule over Israel.
(21) I Kings II, 26.
(22) II Sam. XVII, 29.
(23) Thus would abstention from bathing be proved to be considered an affliction.
(24) Prov. XXV, 25.
(25) II Sam. XV, 30.
(26) Isa. XX, 2.
(27) Jer. II, 25.
(28) Gen. XXXI, 50.

Talmud - Mas. Yoma 77b

‘if thou shalt afflict’ by denying conjugal duty, ‘if thou shalt take’ refers to rivals. But say [perhaps]: Both [afflictions due] to rival women? — Does Scripture say: ‘If thou shalt take’,[1] it reads: ‘And if thou shalt take’. But perhaps both refer to affliction through rivals; one through rivalries among them, the other through rivalries of new wives, so that [‘if thou shalt afflict’] would be the same as ‘if thou shalt take’.[2] Does Scripture say: ‘If thou wilt take and afflict’? It reads: If thou shalt afflict and thou shalt take.[3] R. Papa said to Abaye: But intercourse in itself is described as affliction, for it is written: And he lay with her and afflicted her?[4] He answered: He afflicted her through other [forms of] intercourse.

Our Rabbis taught: It is forbidden to wash part of the body [on the Day of Atonement], as [it is forbidden to wash] the whole body. But if one was soiled with mud or excrement, he may wash in his usual way without any fear.[5] It is forbidden to anoint part of the body [as it is forbidden to anoint] the whole body. If, however, one was sick or had scabs on his head, he may anoint himself in his usual way without any fear. The School of R. Menasseh taught: R. Simeon b. Gamaliel said: A woman may wash one of her hands in water to give bread to an infant without any fear. It was reported about the older Shammai[6] that he would not [hand food] to be eaten even with one hand, whereupon the Rabbis decreed that he must do so with both hands.[7] Why that? Abaye said: Because of Shibta.[8]

Our Rabbis taught: One who goes to visit his father or his teacher, or his superior,[9] may walk through water up to his neck without any fear. They asked: How about a master who visits his disciple? — Come and hear: For R. Isaac b. Bar Hana said: I saw Ze'iri who went to R. Ashi, his disciple. R. Ashi said: That was R. Hiyya b. Ashi, who went to Ze'iri, his master. Raba permitted the people of ‘Ibar Jemina[10] to walk through water for the purpose of guarding [fruits] the crop.[11] Abaye said to Raba: I know a teaching that supports you [your decision]: Those who guard the crop may walk up to the neck through water without any fear. R. Joseph permitted the people of Be Tarbu[12] to walk through the water in order to go to the lecture [of the Day of Atonement] but he did not permit them to return [in the same fashion]. Abaye said to him: If so, you will put a stumbling-block in their way for the future.[13] Some say: He permitted them to go and to return [through water], whereupon Abaye said: Quite right [to permit them] to do so on the way to the lecture, but why the permission on their return? — Lest you put a stumbling-block in their way for the future.

Rab Judah and R. Samuel son of R. Judah were standing at the bank of Nehar Papa,[14] at the ford of Hazdad, and Rami b. Papa was standing on the other bank. He shouted across: How about going over to you to inquire about a decision of the Law? Rab Judah answered; Rab and Samuel both agree: One may come over, provided one take not one's hand out of the bosom of his shirt.[15] Some say: It was R. Samuel, son of Rab Judah who said: We were taught, He may come over, provided he take not his hand out of the bosom of his shirt.

R. Joseph demurred: But, even on a weekday is such action permitted?[16] Does not Scripture say: He measured a thousand cubits and he caused me to pass through the waters, waters that were to the ankles;[17] hence we infer that it is permitted to pass through water up to the ankles. Again he measured a thousand, and caused me to pass through the waters, waters that were up to the knees;[18] hence we learn that it is permitted to pass through waters up to the knees. Again he measured a thousand, and caused me to pass through waters that were to the loins;[18] hence we know that it is permissible to pass through water up to the loins. Henceforth: Afterward he measured a thousand, and it was a river that I would not pass through.[19] Abaye said: It is different with a river whose waters run rapidly.[20] One might have assumed that it is permissible to swim across such a river, therefore the text reads: For the waters were risen, waters to swim in.[19] What does ‘sahu’ mean? —

‘Swim’, for a swimmer is called ‘sayaha’. One might have assumed that it is permissible to pass through such [river] in a small Liburnian boat, therefore the text reads: Wherein, shall go no galley with oars.[21] One might have assumed that one may cross it in a big Liburnian ship, therefore Scripture says: Neither shall gallant ship pass thereby.[20] How does that follow from the text? — As R. Joseph interprets it: No fisher's boat goes thereon, no big boat traverses it.[22] R. Judah b. Pazzi said: Even the Angel of Death has no permission to cross it, for here it is said: ‘Wherein shall go no galley with oars [shayit].’[23] and there it reads: From going [shut] to and fro in the earth.[23] R. Phinehas in the name of R. Huna of Sepphoris said: The spring that issues from the Holy of Holies in its beginning resembles the antennae of locusts; as it reaches the entrance to the Sanctuary it becomes as the thread of the warp; as it reaches the Ulam,[24] it becomes as the thread of the woof; as it reaches the entrance to the [Temple] court, it becomes as large as the mouth of a small flask, that is meant by what we learned: R. Eliezer b. Jacob said: [Hence] go forth the waters

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(1) So that the second part of the verse would state explicitly what the first implies.

(2) Thus the question as to the meaning of ‘and’ would be disposed of.

(3) The lesser evil would be mentioned first, whereas the marrying of Jacob of other additional women would constitute the larger wrong.

(4) Gen. XXXIV, 2.

(5) Of transgressing the prohibition of washing on the Day of Atonement.

(6) The colleague of Hillel in the Sanhedrin under King Herod.

(7) Shammai did not wish to allow himself the concession made by the Rabbis, since he always took the severer view for himself, when two interpretations of ritual obligations were involved. But the Rabbis decided that their permission to wash one's hand was a matter of safeguarding the child's health, and Shammai's unwillingness to accept their rule was unjustified. To emphasize that they imposed upon him the obligation to wash both his hands before handing food to his infant.

(8) An evil spirit, or odour, that endangers the health of those that eat food touched with unwashed hands.

(9) On the day of Atonement and in order to reach him must wade through a river. ‘His superior’ is one to whom one owes obeisance either by Biblical or Rabbinic law or by the exigencies of political situation.

(10) [Lit., ‘the right (= south) side’, the district south of Mahoza on the Tigris, where lay the orchards of Mahoza and which could not be reached except across some canal, v. Obermeyer p. 181.]

(11) [Apparently the people of Ibar Jemina came up to Mahoza for the service of the Day of Atonement and Raba permitted them to return home by wading through water in order to guard their produce, v. loc. cit.].

(12) [Near Pumbeditha, v. Obermeyer. p. 230].

(13) They will abstain from attending the lecture on future occasions because of the discomfort involved in having to wait until the end of the Day of Atonement for their return home.

(14) [A canal that passed through Pumbeditha, v. Obermeyer. p. 227].

(15) I.e., to throw his cloak over his shoulder, it would look as if he were carrying it, rather than wearing it.

(16) To walk through water up to one's neck.

(17) Ezek. XLVII, 3.

(18) Ibid. 4.

(19) Ibid. v. 5.

(20) As with the river, coming from the Holy of Holies; but this is no precedent.

(21) Isa. XXXIII, 21.

(22) V. Targum on Prophets a.l.

(23) Job I, 7. The argument is based on the analogy of expression. The conditions attaching to the ‘shayit’ in Isaiah inferred from Ezekiel apply also to shut in Job. Hence, just as there it is forbidden, by inference, to cross the river, so may the Angel of Death, as another shayit not do so either.

(24) The Main Hall leading into the interior of the Sanctuary.

Talmud - Mas. Yoma 78a

which will bubble forth from under the threshold of the Sanctuary.[1] From there onwards it becomes bigger, rising higher and higher, until it reaches the entrance to the House of David.[2] As soon as it reaches the entrance to the house of David, it becomes even as a swiftly running brook, in which men and women afflicted with gonorrhoea, menstruating women, and women after childbirth bathe, as it is said: In that day there shall be a fountain opened to the house of David and to the inhabitants of Jerusalem, for purification and for sprinkling.[3] Said R. Joseph: Hence there is an intimation that a menstruating woman [at her purification] must sit in water [that reaches in height] up to the neck. But the law is not in accord with him.

(That will be right on the Day of Atonement, on which no sandal is worn). But what about the Sabbath on which sandals are worn?[4] — R. Nehemiah, the son-in-law of the Prince,[5] said: I saw R. Ammi and R. Assi who reached a pool of water and crossed it dressed.[6] That is all right in shoes, but what can be said in the case of sandals?[7] R. Rihumi said: I saw Rabina, who crossed it in sandals. R. Ashi said: One must not do so at the outset in sandals. The Exilarch once came to Hagronia to the house of R. Nathan. Rafram and all the Rabbis attended his lecture, Rabina did not. Next day Rafram wanted to remove Rabina from the mind of the Exilarch,[8] so he said to him: ‘Why did you not come to the lecture, Sir’? He answered: ‘My foot hurt me’. ‘You should have put shoes on’! ‘It was the back of the foot’. ‘You should have put sandals on’. He answered: ‘A pool of water was in the way’. ‘You should have crossed it in them,’. He replied: ‘Don't you hold, Sir, the view of R. Ashi, that one must not at the outset do so in sandals’!

Judah b. Gerogeroth taught: It is forbidden to sit on moist muddy ground on the Day of Atonement. R. Joshua b. Levi said: This refers to mud which makes wet [those sitting on it]. Abaye said: If it is moist enough to moisten other subjects.

Rab Judah said: It is permitted to cool off [by sitting] on fruit on the Day of Atonement. Rab Judah would cool off through squash, Raba through fresh twigs, Rabbah through a silver cup. R. Papa said:[9] On a silver vessel one may not cool oneself if it is full; it is permissible only when it is not full. On an earthen vessel it is forbidden in either case, because [the unglazed vessel] lets the moisture ooze through. R. Papa[10] said: A silver vessel, if not full, is also forbidden for use as a cooler-off, because it may be upset.[11] Ze'iri b. Hama was the host of R. Ammi and R. Assi, and R. Joshua b. Levi, and of all the Rabbis of Caesarea. He said to R. Joseph the son of R. Joshua b. Levi: O, son of a great man,[12] come and let me tell you a fine custom that your father had. He had a towel from the eve of the Day of Atonement, which he soaked in water, made it into a kind of dry vessel, and on the morrow would wipe his face, hands and feet with it. On the eve of the ninth of Ab he would soak it in water and on the morrow he would stroke his eyes with it. Similarly[13] when Rabbah b. Mari came he reported: On the eve of the ninth of Ab a towel was brought to him, he soaked it in water, and put it under his head. On the morrow he would therewith wipe his face, hands and feet. On the eve of the Day of Atonement one brought him a towel, which he soaked in water and made it into a kind of dry vessel, and on the morrow he stroked his eyes with it. Said R. Jacob to R. Jeremiah b. Tahlifa: You had told us the matter in just the opposite fashion and we refuted you by reference to prohibition of wringing out.[14]

R. Menashiah b. Tahlifa, in the name of R. Amram, on the authority of Rabbah b. Bar Hanah said: The following question was propounded to R. Eleazar: Must a scholar, who is a member of an Academy, obtain special permission to declare a firstborn animal allowed,[15] or does he not need that special permission? What was it that appeared doubtful to them? — This is what they wanted to know: In accord with the statement of R. Iddi b. Abin that ‘this matter was left in the hands of the Prince as a special distinction for himself’, the question is: Must [the elder] receive permission, or, since he is an elder and a member of an Academy, he need not? R. Zadok b. Haloka thereupon stood up and said: I saw R. Jose b. Zimra who was both an elder and a member of an Academy, and indeed was superior to the grandfather of this our Prince,[16] yet obtained permission to declare firstborn animals for profane use! — R. Abba replied to him: It was not like this, but rather, this was the fact:

R. Jose b. Zimra was a priest, and this was his problem: Is the halachah in accord with R. Meir, who said: One who is suspected concerning a matter[17] may neither judge nor offer testimony in connection therewith; or is the halachah in accord with R. Simeon b. Gamaliel who said: Such a one would be trustworthy in a case concerning his neighbour, but not in a case concerning himself? The answer given was: The halachah is in accord with the view of R. Simeon b. Gamaliel. Furthermore did they ask [R. Eleazar]: How about

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(1) Mid. III, 6. A play on pakh (pitcher) as if derived from pakhakh (to bubble forth).

(2) I.e., Zion, outside Jerusalem, the fortress in the wall of the Holy City.

(3) All of which need a ritual immersion to regain their purity. Zech. XIII, 1.

(4) Some commentators, among them Rashi, omit the bracketed portion. The question taken up again is: Whether, as apart from the prohibition to wear shoes, which applies on the Day of Atonement as a form of affliction, on a Sabbath such crossing would be permissible, since the possibility of their falling off, and being carried, should involve a preventive prohibition of such crossing. They might slide off easily, and thus lead the wearer to carrying them.

(5) Perhaps R. Judah II.

(6) I.e., with their feet dressed in shoes.

(7) The difference between the two lies in this: that shoes, as a rule, are laced or worn tight, whence the danger of their falling off is minimized. Therefore the Rabbis above were seen wearing shoes. But sandals which are but lightly attached, might slide off.

(8) I.e., to find out from Rabina the reason for his absence and thereby remove the suspicion of deliberate negligence in his friend's part from the mind of the Exilarch.

(9) Asheri: Rab.

(10) Alfasi and Asheri: R. Ashi.

(11) The silver vessel, being smooth, may be upset and the liquid spilt, thus offering unlawful flow.

(12) Lit., ‘son of a lion’.

(13) [Wilna Gaon Glosses deletes ‘Similarly’].

(14) Wringing out is forbidden on the Day of Atonement; the towel had therefore to be dried on the eve of the Day of Atonement. Abba Mari was wrong and rejected this important detail, hence the version reported by R. Jeremiah b. Tahlifa.

(15) According to Sanh. 5a no Sage was permitted to declare a firstborn animal free, i.e., defective and hence permitted for profane use, unless he had received special authorization from the Prince in Palestine. The question here posed is whether a member of an Academy may be considered a privileged person in this respect or not. This problem is not germane to the present discussion and is introduced only because it leads to another (the next) question, touching the Day of Atonement, which was submitted at the same time.

(16) [R. Judah II, whose grandfather was R. Judah I, the Prince].

(17) Since the destruction of the Temple a firstborn animal must be left to pasture under priestly control until it acquired a blemish. To avoid such inconvenience many a priest felt tempted to discover a blemish before its actual appearance, hence the priests were suspected of undue laxity in this matter. V. Bek. 35a.

Talmud - Mas. Yoma 78b

going forth [on the Day of Atonement] in sandals of bamboo? — Thereupon R. Isaac b. Nahmani stood up and said: I saw myself R. Joshua b. Levi going forth in sandals of bamboo on the Day of Atonement. I asked him: How about [on public rain] fast?[1] He answered: There is no difference. Rabbah b. Bar Hanah said: I saw R. Eleazar of Niniveh[2] who was going forth in sandals of bamboo on a public [rain] fast, and I asked him: How about the Day of Atonement? He answered: There is no difference. Rab Judah went forth in [sandals made of] reeds; Abaye in [such made] of palm-branches; Raba in [such made of] twisted reeds; Rabbah b. Bar Hanah tied a piece of cloth around his legs and went thus forth.

Rami b. Hama raised an objection: ‘A cripple may go forth with his artificial foot’, according to R. Meir, whilst R. Jose forbids it. Both agree, however, that he must not go forth with it on the Day of

Atonement.[3] Said Abaye: There, the reference is where it [the wooden leg] has pads, and [the prohibition to go out with them on the Day of Atonement is] due to the comfort [they bring]. Said Raba to him: But if it be no object of wear [without them], would the pads make it one? And, furthermore, is any comfort not coming from shoes forbidden on the Day of Atonement? Did not Rabbah b. Bar Hanah tie a cloth around his legs and thus go forth? Furthermore, since the conclusion [of that teaching] reads: 'If it [the artificial leg] has a receptacle made of pads, it is capable of acquiring ritual uncleanness',[4] it follows that the first portion deals with a wooden leg without such pads? — Rather, said Raba: In truth, all agree that an artificial leg is not considered a shoe, but in the case of the Sabbath they differ on the following point: One Master holds, We decree [the prohibition for fear] it may fall off and cause him to carry it four cubits in a public thoroughfare;[5] whereas the other Master holds, We do not decree [any prohibition because of such fear].

Our Rabbis taught: Children are permitted all these [matters],[6] with the exception of the putting on of shoes. Wherein is the putting on of shoes different? [Presumably] because people might say: Adults made them [wear them]. In all other cases, too, they might say: Adults made them for them? Bathing and anointing can be performed on the preceding day. But sandals, too, may be assumed to have been put on yesterday? It is impossible for sandals to have been put on yesterday, for Samuel said: Let one who would experience a taste of death put on shoes and sleep in them! But it is stated that [the other matters] are permitted [implying] for them at the very outset? — Rather, those things which have nothing to do with their natural growth,[7] the Rabbis have interdicted, these however, which are needed for their health,[8] the Rabbis have not forbidden. For Abaye said: Mother[9] told me the proper treatment for a child consists in [bathing in] warm water and [rubbing with] oil. If he has grown a bit,in egg with kutah;[10] if he grows up still more, the breaking of clay vessels.[11] Thus did Rabbah buy clay vessels in damaged condition for his children who would break them.[12]

THE KING AND THE BRIDE MAY WASH THEIR FACES. According to whom is our Mishnah? According to R. Hananiah b. Tradion. For it was taught: [Even] the king and the bride may not wash their faces. R. Hananiah b. Tradion said in the name of R. Eliezer: The king and the bride may wash their faces. The woman after childbirth may not put on a sandal. R. Hananiah b. Tradion said in the name of R. Eliezer: A woman after childbirth may put on a sandal. Why [may] a king [wash his face]?-Because Scripture said: Thine eyes shall see the king in his beauty.[13] Why [may] a bride [wash her face]? — Lest she become unattractive to her husband. Rab said to R. Hiyya: How long [does] a bride [enjoy this privilege]? He replied: As it was taught: One must not withhold her adornment from the bride during the full thirty days [after the wedding].[14] The woman after childbirth may put on shoes to avoid a cold. Samuel said: If there is danger of a scorpion it is permitted [for all to wear shoes].

ONE WHO EATS AS MUCH AS THE BULK OF A BIG DATE. R. Papa asked:

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(1) V. Ta'an. 12b.

(2) [Probably Nawa in the Golan Province (Transjordania). V. Klein JQR (NS) II, 550ff]

(3) Shab. 65b. It is assumed at present that although the artificial leg is not considered a shoe, it is yet forbidden to walk out with it on the Day of Atonement. Hence sandals of bamboo should also be forbidden on that day.

(4) V. loc. cit.

(5) The minimum constituting a transgression of the prohibition to carry anything in a public thoroughfare. No minimum is necessary for transferring an object from a private to public thoroughfare and vice versa.

(6) Prohibited in our Mishnah on the Day of Atonement.

(7) As wearing shoes.

(8) As washing and anointing.

(9) V. Kid. 31b.

(10) A preserve consisting of sour milk, bread-crusts and salt.

(11) The breaking of the glass is not a concession to their youthful fury, but an excellent outlet for emotional surplus energies, cheaper than anything else on which they might wreak themselves.

(12) V. Kid. 31b.

(13) Isa. XXXIII, 17.

(14) The bride or young matron retains her privilege for thirty days, even if she becomes a mourner after father or mother, her ornaments would be left to her (v. Keth. 4a). Similar consideration is lawful for the weak mother after childbirth, and for any person in danger of contracting a disease. Hence the 'menace of a scorpion' applies to all, even healthy persons.

Talmud - Mas. Yoma 79a

Does the [size of] the date spoken of include the kernel or does it not?[1] R. Ashi asked: Does 'a bone as big as a barley-corn' include the husk or does it not?[2] [Is the reference to] a moist one or to a dry one? — R. Ashi did not ask the question posed by R. Papa: For 'a big date' was said, which means a date in its complete size.[3] R. Papa did not ask the question propounded by R. Ashi, because a moist one would be called 'shiboleth' and one without its husk 'ushla'.[4]

Rabbah said in the name of Rab Judah: The big date spoken of is bigger than an egg, and our Rabbis had established the fact that with such a quantity [a hungry person] becomes satisfied,[5] but with less than that he does not become satisfied.

An objection was raised: Once they brought to R. Johanan b. Zakkai a dish to taste and to Rabban Gamaliel two dates and a bucket of water, whereupon they said: Take them up to the Sukkah.[6] (In connection therewith it was taught:)[7] [They ordered so], not because that was the legal decision, but because they desired to take a severer view for themselves. And[8] when someone gave R. Zadok a piece of food smaller than an egg, he would take it with a towel, eat it outside the Sukkah, and pronounce no blessing after it.[9]

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(1) The Mishnaic text 'kamoha u-kegarinatha' may mean either, date and its kernel; or, date or its kernel (Rashi). Cf. Ex. XXI, 6 where the word 'o' also means 'either' and/or 'or'. V. Mecklenburg, ha-kethab we-hakabbalah a.l. [The question is nevertheless not clear. Var. lec., however, read: Does the size of the date (spoken of) with its kernel (refer to) a dry or moist one, v. D. S. a. l. Cf. the next question].

(2) Ber. 41a. The reference is to a bone as small as a barley-corn, of a corpse which renders him who touches it ritually unclean.

(3) I.e., including the kernel.

(4) And not 'se'orah'.

(5) Comes to himself.

(6) This happened on a Sukkoth day, when meals are to be taken in the booth (sukkah).

(7) The bracketed portion is omitted in some texts.

(8) Hul. 107a.

(9) R. Zadok showed a less severe attitude in three things: (a) He did not wash his hands but would take the food with a towel — only because of his fastidiousness. (b) He ate it outside the Sukkah. (c) He did not pronounce the customary blessing after it (Rashi).

Talmud - Mas. Yoma 79b

This [implies that] if it were as big as an egg it would require [to be eaten] in the Sukkah, and if the thought should occur to you that the big date referred to is larger in size than an egg — now if two dates[1] without kernels are not even as large as one egg, how could a large date with its kernel be bigger in size than an egg? — R. Jeremiah said: Yes, two dates without their kernel are not as large as an egg, but a large date with its kernel is bigger than an egg. R. Papa said: Therefore do people say: Two kabs of dates contain as much as one kab of kernels, with a bit left over.[2] Raba said: The reason there was that they were fruits, and fruits do not require [to be eaten in] a Sukkah.[3] An objection was raised: Rabbi said, ‘When we were studying the Torah with R. Eleazar b. Shammua,’figs and wine-berries were brought before us and we ate them outside the Sukkah as an incidental meal’. That means only as an incidental meal [is it permitted to eat fruit] outside the Sukkah, but as a proper meal not?[4] — Say: ‘We ate them as [if we had partaken of] an incidental meal outside the Sukkah’.[5] Or, if you like say: ‘We ate them for a regular meal and we ate bread with them outside the Sukkah [in a quantity small enough to be considered only for] an incidental meal’. Shall we say that the following supports his view: ‘Therefore if he made up the number [of meals] by means of delicacies, he has done his duty’.[6] Now if you should think that fruits must be eaten in the Sukkah, he should have stated ‘fruits’ [instead of ‘delicacies’]? What does he mean by ‘delicacies’? ‘Fruits’. Or, if you like, say: [The reference is to] a place wherein fruits are not to be found.

R. Zebid said: The big date whereof they spoke is smaller in size than an egg, for we learned: Beth Shammai say: ‘Of leaven as much as an olive, or leavened bread as much as a date’.[7] And thereon we were debating; what is the reason of Beth Shammai? [And were given this]: Let the Divine Law write about hamez [leavened bread] alone, without needing a reference to leaven, and I would say: If the eating of an olive-size of hamez the leaven whereof is not so intensive is forbidden, how much more is such size forbidden in the case of leaven which is so much more leaven! But since the Divine Law nevertheless mentioned them separately, it teaches you that the minimum size of the one is not the same as of the other, viz., in the case of leaven it is that of an olive, in the case of hamez that of a date. Now if you should think that the big date mentioned is bigger than an egg, since Beth Shammai are looking for a quantity bigger than an olive, let them teach that of an egg; and even if the two be of the same size let them teach ‘that of an egg’. Hence one must infer therefrom that the date spoken of is smaller than an egg! How does that follow? In truth I may say to you, perhaps, that the big date referred to is bigger than an egg, but the normal one is as big as an egg, and (even though they be of the same size)[8] Beth Shammai just mentions one of the two! Rather, may one infer it[9] from here: ‘How much must one have eaten to be obliged to make an appointment for common [saying of] grace [after meals]? The size of an olive, according to R. Meir. According to R. Judah: The size of an egg’.[10] [And in connection therewith it was said:] Wherein are they differing? R. Meir holds: And thou shalt eat,[11] refers to eating. ‘And be satisfied’,[11] refers to drinking. And the minimum of ‘eating’ is the size of an olive whereas R. Judah holds: ‘And thou shalt eat and be satisfied’, i.e., an eating which brings satisfaction, and that is [at least as much] as an egg. And if you should think that the big date referred to is bigger than an egg — how if the quantity of an egg even satisfied one, would it not help one to come to? Thence the inference is proper that the big date referred to is smaller than an egg: the quantity of an egg will satisfy one, the size of a big date will help one to come to. It was taught: Rabbi says,

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(1) Which R. Gamaliel had eaten in the Sukkah and in connection with which it was stated ‘not that the law required it’, which means they were less than the legal minimum — one egg.

(2) Because the kernels are larger in bulk than the dates.

(3) The argument from the Sukkah is misleading, because fruits, no matter what their quantity, are not required to be eaten in the Sukkah.

(4) Which would signify, as against R. Papa, that fruits in proper quantity would have to be eaten in the Sukkah.

(5) Because they were fruits, no matter how many of them, they would be considered a mere incidental meal, permissible to be had outside the Sukkah.

(6) V. Suk. 28a. R. Eliezer holds fourteen to be the required minimum number of meals that must be taken in the Sukkah during the feast of Tabernacles. If someone now made up the number of prescribed meals by means of delicacies etc.

(7) The minimum, the possession of which during Passover causes one to transgress the prohibition. Ex. XII, 19: Seven days shall there be no leaven found in your houses, and XIII, 7: And there shall be no leavened bread seen with thee, neither shall there be leaven seen with thee, in all thy borders. V. Bez. 2a.

(8) [The bracketed words are best left out with var. lec.].

(9) That the big date spoken of is less than an egg.

(10) Ber. 45a.
(11) Deut. VIII, 10.

Talmud - Mas. Yoma 80a

All the legal standards [for foods] are the size of an olive, with the exception of that of the ritual defilement of foods, because there Scripture has used a different expression and the Sages accordingly have altered the standard. The proof for this view is furnished by the Day of Atonement.[1] What is the change in the usual expression in connection therewith? — [It follows] from: [For whatsoever soul it be that] shall not be afflicted.[2] And what is the change in the usual quantity the Sages have decreed here? — 'As much as a date'. And what constitutes the proof from the Day of Atonement?[3] One could have replied: Here it is the usual Scriptural expression.[4]

Whence do we know that the minimum for the ritual uncleanness of foods is the size of an egg? — Said R. Abbahu in the name of R. Eleazar: Scripture says, All food therein which may be eaten,[5] i.e., food[6] derived from food, and that is an egg of a hen. But say it is a kid? That still requires slaughtering.[7] But say it is an animal taken alive out of the slaughtered mother's womb?[8] — That still requires cutting open.[9] Then say: the egg of bar-yokani?[10] — If you take hold of too large a thing, you may lose your hold, but if you take hold of the lesser thing, you will retain your hold'.[11] But say: the egg of a little bird, that is very small? — R. Abbahu said in his own name: 'All food there in which may be eaten', i.e.,food which you may eat in one swallowing; and the Sages measured that the esophagus cannot hold more than the size of a hen's egg.

R. Eleazar said: If one has eaten tallow in these times,[12] he must put down [make a note of] the quantity, because another Rabbinical Court may come and increase the measures.[13] What does increase the measures mean? Would say you that they would declare one obliged to bring a sin-offering for having eaten the size of a small olive, but it was taught: When a ruler sinneth, and doeth through error any one of all the things [which the Lord his God hath commanded] not to be done, and is guilty.[14] i.e., only he who repents when he finds out his transgression must bring a sacrifice, because of his error, but he who does not repent when he finds out his transgression, does not bring a sacrifice for his error.[15] Rather, therefore, must ['increase the measures'] signify that they would declare a sacrifice obligatory only when he had eaten a quantity as large as a large olive. But according to the first view, viz., that they could impose a sacrifice even for the quantity of a small olive, what does 'increase the measure' mean? — It might mean increase the number of sacrifices' required because of the reduced minimum of the quantities. R. Johanan said: Standard measures and penalties are fixed by laws [communicated] to Moses on Sinai. But the penalties are written out in Scripture? — Rather: The minimum required for penalties is fixed by laws [communicated] to Moses on Sinai. It was also taught thus: The minima required for penalties are fixed by laws [communicated] to Moses on Sinai. Others say: The Court of Jabetz[16] fixed them. But Scripture said: These are the commandments,[17] which means that no prophet is permitted to introduce any new law from then on? — Rather: They were forgotten and then they established them anew.

OR IF HE DRANK A MOUTHFUL. Rab Judah said in the name of Samuel: Not really a mouthful, but so much that if he moves it to one side it looks like a mouthful. But we learned: A MOUTHFUL. — Say: 'As much as A MOUTHFUL'!

An objection was raised: 'How much must one have drunk to become culpable? Beth Shammai say: One fourth [of a log], Beth Hillel say: One mouthful. R. Judah in the name of R. Eliezer says: As much as a mouthful. R. Judah b. Bathyra says: As much as can be swallowed at a time! Is this one better than our Mishnah which we explained as meaning: 'That it look like a mouthful', and this, too, we can explain: That it look like a mouthful. But if so, it is the same opinion as that of R. Eliezer? — There is a difference in the case of an exact mouthful.[18]

R. Hoshaiah demurred to this: If so, there would be a [another] case in which Beth Shammai took the more lenient view, and Beth Hillel the severer one?[19] — He replied to him:

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(1) Where a change in expression on the part of the Bible involved a change in the fixed minimum standard.

(2) Lev. XXIII, 29. The usual expression would be: Whosoever eateth on the day. The Rabbis, then, would have applied the normal measure, the olive, the legal minimum with every forbidden food.

(3) There seems to be no difference between the law touching ritual impurity of foods and that covering the prohibition of food on the Day of Atonement. In both cases change in expression is responsible for change in measure. Wherein, then, lies the reason for the Day of Atonement text being chosen as a proof?

(4) In the text relating to the uncleanness of foods the expression ‘All foods therein which may be eaten’ (which is the change in the usual expression alluded to, v. infra) would not appear an unusual expression. But ‘that shall not be afflicted’ for ‘that shall eat’ is indeed, unusual and thus accounts best for the change in measure determined by the Rabbis.

(5) Lev. XI, 34.

(6) Interpreted: that (coming) from food, which is also eatable.

(7) Before it can be designated food.

(8) Lit., ‘the young one of an animal which is ripped open’. Such a young animal, where the mother in whose womb it still was, was slaughtered in accord with the rite, is considered ready food, since it does not require ritual slaughtering.

(9) It is not considered ready food since it requires not, indeed, the ritual slaughter, but cutting open and removal of the blood.

(10) A bird of fabulous size, the eggs of which are very large, v. Bek. 57b.

(11) A proverb: v. R.H. 4b. In the case of two possible interpretations, always choose the smaller as the more likely one.

(12) I.e., when the Temple is no longer in existence.

(13) R. Eleazar suggested that if the Sanctuary be rebuilt in his days and a new Rabbinical Court were in session, they might render such decision. Hence one who is conscious of having eaten tallow may well take the precaution of putting down the exact quantity so as to be sure that his transgression does, or does not, involve the obligation of a sin-offering, in accord with the new enactment of the revived court.

(14) Lev. IV, 22.

(15) As he became conscious of his transgression, the new enactment was still unknown, the quantity of a small olive to him, hence, was below the minimum required for a transgression to be constituted, hence he has not ‘found out his transgression’, and is not required to offer up a sacrifice in atonement of his sin.

(16) Identified with Othniel, the son of Kenaz; after the death of Moses he revived the forgotten portions of the law, v. Tem. 16a.

(17) Lev. XXVII, 34: These are the laws, i.e., no others may ever be offered.

(18) According to the Hillelites who insist: a mouthful, it is enough if it looks like a generous mouthful when moved to one cheek; according to R. Eliezer the appearance of an exact mouthful is required.

(19) In the fourth chapter of ‘Ed. all cases are enumerated in which, as against the usual norm, Beth Shammai take the more lenient, and Beth Hillel the more severe, view. If our text were right it should have been enumerated as an additional exception, because here too the usual attitudes of these two conflicting schools of learning are reversed, since Beth Hillel make him liable for what appears like a mouthful, which is less than the minimum required by Beth Shammai.

Talmud - Mas. Yoma 80b

When this came up for discussion, it came up in connection with ‘Og, king of Bashan’,[1] so that Beth Shammai will be found to take the severer view. — R. Zera asked a strong question: To what difference is it due that, with regard to eating, the minimum of a date was fixed for every one, whereas in the case of drinking each has [his minimum] in accord with his own [mouthful]? — Abaye replied to him: Regarding[2] food the Rabbis established that with [the quantity of] a date a person may come to, but with a smaller quantity he will not come to; but with regard to drinking [they have found] that a man will come to with the quantity of his own [mouthful], but not with less than that. — R. Zera then asked another strong question: ‘All the world’ with a date and Og, the king of Bashan, also with a date? — Abaye replied: The Rabbis have ascertained that [touching food] the quantity [of a date] helps one to come to, but with a smaller quantity he will not come to; but, whereas all the world [can come to] more so, Og, king of Bashan, [only] somewhat so. R. Zera again asked another strong question: Fat meat in the quantity of one date and wine-branches also in the quantity of one date? — Abaye replied: The Rabbis have ascertained that one comes to with so much, but not with less; with [this quantity of] fat meat one becomes, however, more satisfied, whilst with the same quantity of wine-branches one becomes less so. Raba asked a strong question: The quantity of an olive, during the time one could eat a peras,[3] — and the quantity of a date during the time required for eating a peras![4] — Abaye replied: The Rabbis have ascertained that if it [the eating of the quantity of a date] takes so long [as one could eat a peras] a person will come to, but if longer he will not come to. Raba asked another strong question: The quantity of a date, during the time required for the eating of a peras, and half a peras during the time required for the eating of a peras?[5] — R. Papa answered: Leave alone the uncleanness of the body, which is not determined by Biblical law.[6] But could R. Papa have answered thus? Is it not written: Neither shall ye make yourselves unclean with them, that ye should be defiled thereby.[7] and R. Papa said that from here is derived the Biblical origin of the [laws concerning] the body's becoming defiled [through unclean foods]? — It is really Rabbinical, and Scripture is quoted only as mere [mnemotechnical] aid.[8]

ALL FOODS COMPLEMENT ONE ANOTHER IN MAKING UP THE BULK OF A DATE. R. Papa said: If one ate a piece of raw meat with salt, they are joined;[9] and although [salt] in itself is no food, since people eat [the two] together, they are joined. Resh Lakish said: The juice on the green [vegetables] joins so as to make up [with the vegetable] the [quantity of a] date in connection with the Day of Atonement. But that is self-evident? You might have said: It is drink,[10] therefore he informs us that whatever is used for seasoning food is considered as food. Resh Lakish said: If one eats an excessive meal on the Day of Atonement, he is free from punishment. Why? Scripture said: That shall not be afflicted,[11] and that excludes whatever causes harm.[12] R. Jeremiah said in the name of Resh Lakish: If a non-priest eats excessively of terumah,[13] he need pay but the principal, but not the [fine of the] additional fifth, for Scripture says: And if a man eat,[14] which excluded one causing harm.[15] R. Jeremiah said in the name of R. Johanan: A non-priest

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(1) I.e., this teaching refers to the case of men as gigantic as Og, king of Bashan (Ber. 54b); in such cases Beth Shammai will be found to have taken, as usual, the severer view. For according to that school the minimum incurring penalty for any man is a fourth of a log, whereas according to the Hillelites it is for each according to his mouthful. According to Beth Shammai, therefore, an ‘Og, king of Bashan’ would become culpable on drinking, what to him would be less than a drop, whereas according to Beth Hillel he would incur penalty only when drinking the generous measure of his own mouthful.

(2) Corrected according to Bah.

(3) Peras, lit., ‘a piece (of bread)’ is in the Tosef. Neg. VII, 10 defined as half a loaf, three of which make a kab. The time it takes to eat such a quantity is the maximum within which morsels of food smaller than the minimum measure are considered to join in order to make up the minimum incurring penalty.

(4) Ought not a longer period to be allowed for the quantity of a date?

(5) If one has eaten half a peras of ritually unclean food during the time it takes to eat a peras of food, one is considered unclean and may not partake of sacred foods. Half a peras is (‘Er. 83a) as two ‘friendly’ (generous sized) eggs, equal in size to three ordinary eggs.

(6) And consequently is not governed by such strict standards.

(7) Lev. XI, 43.

(8) As far as Biblical law is concerned, a person could become defiled by food only by swallowing the meat of a ritually clean fowl that has died a natural death. The reference to this verse is used by R. Papa only to lend support to the more severe rabbinic law.

(9) To make up together the legally required minimum of the big date.

(10) And, according to the Mishnah, foods and drinks do not combine to make up the required minimum.

(11) Lev. XXIII, 29.

(12) The man causes harm to himself by excessive eating and thus is also afflicting himself, or at least not enjoying himself. Rashi suggests that since Jews eat lavishly on the eve of the Day of Atonement, a meal taken immediately thereupon, i.e. after the incidence of the fast, would constitute excessive eating.

(13) V. Glos.

(14) Lev, XXII, 14.

(15) The offence here was committed in error, whence the capital and the fifth as fine is to be repaid by the offender. Such fine would be dispensed with in case this food was taken as an excessive meal, where the eating is but sheer waste of the terumah.

Talmud - Mas. Yoma 81a

who chews[1] barley-corns of terumah must pay the principal, but not the additional fifth, for Scripture said: 'If a man eat', that excludes one causing harm. R. Shezbi said in the name of R. Johanan: If a non-priest swallowed jujubes of terumah, and spat them out, and another one ate them, then the first pays the principal, and the fifth, whereas the second does not pay more than their wood [fuel] value.[2]

BUT WHAT A MAN EATS AND DRINKS DOES NOT GO TOGETHER. Who is the Tanna [of this part of the Mishnah]? — R. Hisda said: This has been taught under a controversy of opinion, and it is in accord with R. Joshua, for we learned: R. Joshua pronounced with principle: All foods are equal regarding the [duration of] their uncleanness and the quantity of them [required to convey uncleanness] combine; if they be equal only concerning the [duration of] their uncleanness, but not concerning the quantity of them [required to convey uncleanness]; or only regarding quantity, but not in the duration of uncleanness; or if they be equal neither in respect of [duration of] uncleanness nor quantity, they do not combine [to make up the minimum quantity which constitutes the transgression].[3] R. Nahman said: You may even say that [this part of our Mishnah is] in accord with the Rabbis. For the Rabbis [opposing R. Joshua] hold their view only touching uncleanness, because all are designated as 'uncleanness', but here the point involved is 'coming to', and this[4] does not enable one to come to. Thus also did Resh Lakish say: This has been taught under the controversy of an opinion and our Mishnah is in accord with R. Joshua, for we were taught: R. Joshua pronounced a principle etc. but R. Johanan said: You may even say that our Mishnah is in accord with the Rabbis: There the Rabbis present their view only in connection with uncleanness, but here 'coming to' is the point, and this[4] does not enable one to come to.

MISHNAH. IF A MAN ATE AND DRANK IN ONE STATE OF UNAWARENESS, HE IS NOT OBLIGED TO BRING MORE THAN ONE[5] SIN-OFFERING, BUT IF HE ATE AND PERFORMED LABOUR WHILE IN ONE STATE OF UNAWARENESS HE[6] MUST OFFER UP TWO SIN-OFFERINGS. IF HE ATE FOODS UNFIT FOR FOOD, OR DRANK LIQUIDS UNFIT FOR DRINKING, OR DRANK BRINE OR FISH-BRINE, HE IS NOT CULPABLE.

GEMARA. Resh Lakish said: Why is no explicit warning[7] mentioned in connection with the commandment to afflict oneself? — Because it is impossible. For how shall the Divine Law word it? Were the Divine Law to write: 'He shall not eat'? But 'eating' implies [the minimum size of] an olive.[8] Shall the Divine Law write: 'He shall not afflict himself'?[9] That would mean: Go and eat! — R. Hoshaiah asked a strong question: Let the Divine Law write: 'Take heed, lest thou dost not afflict thyself'! — That would mean several prohibitions.[10] To this R. Bibi b. Abaye demurred: Let the Divine Law write: Take heed concerning the commandment of affliction! 'Take heed' implies a command, if attached to a command, and a prohibition, if attached to a prohibition.[11] R. Ashi asked a strong question: Let the Divine Law write: Do not depart from affliction! — This is a difficulty.

The following Tanna derives it [the prohibition relating to affliction] from here: And ye shall afflict your souls: ye shall do no manner of work.[12] One might have assumed that the punishment[13] [of extirpation] is involved for one who disregarded the addition[14] by doing a labour, therefore Scripture said: For whatsoever soul it be that doeth any manner of work in that same day he shall be cut off,[15] i.e., only for the [disregard of] that day itself is one punished with extirpation, but for labour performed during the additional time one is not punished with extirpation. One might have assumed that one does not incur punishment of extirpation by doing labour during the additional time, but that one does incur punishment of extirpation for failure to afflict oneself during the additional time, therefore the text reads: For whatsoever soul it be that shall not be afflicted in that same day he shall be cut off;[16] that means for [failure of] afflicting [oneself on] the day itself does the penalty of extirpation come, but the penalty of extirpation does not result from failure to afflict oneself during the additional time. One might have assumed that one is not included in the penalty, but that one is under a warning against performing work during the additional time, therefore the text reads: And ye shall do no manner of work in that same day,[17] i.e., one is warned concerning the day itself but not concerning [work done] during the additional time. One might have assumed that one is not under a warning concerning labour performed during the additional time, but one is under a warning concerning [failure of] affliction during the additional time; but a logical inference cancels that. For if in the case of labour, the prohibition of which applies on Sabbath and festival days, one is not under a warning [concerning additional time] then with regard to [the commandment of] affliction, which does not apply on Sabbath and festival days, how much more should one not be under a warning against it [during the additional time]! But we have not learnt [so far] of any explicit warning with regard to the [obligation to] affliction on the day itself, whence then do we derive [that required 'warning']? [From the following]: There was no necessity for stating the penalty resulting from the performance of labour, for that is inferable from the [commandment of] affliction. If [for failure of] affliction, which is not commanded on the Sabbath and festival days, one is punished with extirpation, then for the performance of labour [the prohibition of] which does apply on Sabbath and festival days, how much more shall [one be punished with extirpation]! Why then was [the penalty] stated? It is free[18] for interpretation, hence it serves for comparison, to derive thence an inference from analogy of expression: the penalty is stated in connection with [the commandment of] affliction, and the penalty is stated in connection with the [prohibition of] labour, hence just as the performance of labour was punished only after warning,[19] so also is [failure of] affliction punished only after warning. But against this it may be objected:[20] The specific condition with affliction [which attaches a penalty to it] lies in the fact that no exception against the general rule was made here; but would you apply [the same] to the performance of labour seeing that in its case exceptions from the general rule were made?[21] Rather [argue thus]: Let Scripture not mention any penalty in connection with [failure of] affliction, inferring it from the [prohibition of] labour. If [the performance of] labour, from the general prohibition of which some exceptions were made, involves the penalty of extirpation, how much more must [failure of] affliction, from the general prohibition of which no exception was made, involve such penalty? Then why does Scripture mention it? It is free for interpretation, hence it serves for comparison, to derive thence an inference from analogy of expression: the penalty is mentioned in connection with [failure of] affliction, and the same penalty is mentioned in connection with [the performance of] labour, hence just as [performance of] labour is punished only after warning, so is [the failure of] affliction punished only after warning. Against this may be objected: There is a specific condition in connection with labour [to which a penalty is attached] in that it is forbidden on Sabbath and festival days, but would you apply the same to [the commandment of] affliction seeing that does not apply on Sabbath and festival days? Rabina said: This Tanna infers it from the word 'self-same'.[22] Now it must be free,[23] for if it were not free, the objection as above could be raised against it. Hence it indeed must be free.

[Consider] there are[24] five Scriptural verses written in connection with labour:[25] one indicating the prohibition for the day, one the prohibition for the night, one the warning for the day, one the warning for the night, one remains free for inference from [the prohibition of] labour for [the commandment of] affliction, touching both day and night.

The School of R. Ishmael taught: Here the word ‘affliction’ is used and there the word ‘affliction’[26] is used; hence just as there the penalty is incurred only after warning, so here too the penalty is incurred only after warning. R. Aha b. Jacob said: One can infer that from the phrase ‘Shabbath Shabbathon’ [‘solemn day of rest’][27] which occurs in connection with the ordinary Sabbath,[28] and just as there penalty is incurred only after warning, so here too, penalty is incurred only after warning. R. Papa said:

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(1) ‘Chewing’ which is the term. techn. for irregular eating.

(2) The first, having eaten them, must pay both principal and fine, a complete offence having been committed by him; but not the second, who ate something which could have been used only as fuel.

(3) Two half olives from two corpses, or two pieces of the size each of one half of a lentil, coming from a dead creeping thing, share the duration of uncleanness and the minimum quantity; a creeping thing and the carcase of an animal that died a natural death, are alike with regard to duration of the uncleanness they cause (in each case up to the evening of the day), but differ as to the minimum quantity which causes defilement; the former has the standard of an olive, the latter that of a lentil. A human corpse and the carcase of an animal again are alike in the minimum required for defiling a person, viz., an olive, but are different with regard to the duration of the uncleanness caused: the former causing one lasting seven days, the latter one lasting up to the evening only; v. Me'il. 17a.

(4) The quantity of a big date, composed of food and drink does not enable one to come to, whereas food alone of that quantity would. The only matter in connection with the minimum required on the Day of Atonement is that it enables one to come to, hence the Rabbis could agree here, whilst disputing R. Joshua in the matter of the combination of various unclean foods.

(5) He did not know all the time that it was the Day of Atonement. Because whereas two offences took place, both belong to one head: eating includes drinking.

(6) But eating and working are two different forms of activities prohibited on the Day of Atonement, derived from two Scriptural verses, Num. XXIX, 7 and Lev. XXIII, 29.

(7) The usual form of which is: ‘Thou shalt not’.

(8) The usual minimum (to render one culpable of having eaten forbidden food) is the quantity of an olive. Had the Torah therefore used the phrase ‘He shall not eat’, the inference would have been that one who ate the quantity of an olive had thereby transgressed the law; whereas the quantity on the Day of Atonement is dependent on one's coming to, which is the result of having eaten as much as the size of a big date.

(9) The form would be negative, but the meaning just the opposite of what is required!

(10) ‘Take heed’ and ‘lest’ are phrases each implying a separate negative command, v. ‘Er. 96a.

(11) Deut. XXIV, 8: ‘Take heed in the plague of leprosy’ implies the prohibition of cutting off the bright spot (Lev. XIII, 2) whereas ‘Take heed that you do a certain thing’, i.e., not neglect it, has affirmative exhortatory meaning. The phrase here would therefore imply a positive command.

(12) Num. XXIX, 7.

(13) Reading with Bah.

(14) The prohibitions and positive commandments in connection with the Day of Atonement become valid some time before the actual commencement of the day — before the night of the tenth of Tishri, and extend for some minutes after the end of the Day of Atonement — the night of the eleventh day. The validity for this additional time of the laws governing the Day of Atonement is Biblical, v. infra 81b.

(15) Lev. XXIII, 30.

(16) Lev. XXIII, 29.

(17) Ibid. v. 28.

(18) Lit., ‘being free’, or ‘vacated’, here unnecessary for the context, hence available for hermeneutical purposes.

(19) Lev. XXIII, 28.

(20) The comparison is superficial, because in spite of similarity of expression, basic difference of prevailing conditions render the comparison unjustified, and but for an explicit statement of penalty in the case of ‘labour’ one would not be able to derive it from ‘affliction’.

(21) None is exempted from the affliction, whereas as regards labour the priests in the Sanctuary were permitted to perform all work in connection with the ceremonial of the Day of Atonement.

(22) This word occurs both with the prohibition of labour in Lev. XXIII, 30 and with the commandment of affliction in

v. 29 ibid., hence appears available for inference from analogy of expression.

(23) V. p. 397. n. 3.

(24) So Bah.

(25) Lev. XVI, 29; XXIII, 28, 29, 30 and Num. XXIX, 7.

(26) In connection with the rape of a betrothed maiden, Deut. XXII, 24.

(27) Lev. XXIII, 32.

(28) Lit., 'with the Sabbath of creation',i.e., the Sabbath, the observance of which is due to the first Sabbath, a tech. term. for any ordinary seventh day Sabbath, as against other days of rest, viz.,the Holy Days.

Talmud - Mas. Yoma 81b

This day itself is also called Sabbath, for Scripture said: [In the ninth day of the month, from even to even], shall ye keep your Sabbath. R. Papa did not [well] interpret as R. Aha b. Jacob, because it is preferable to use a Scriptural text mentioned in connection with the subject itself. But why did not R. Aha b. Jacob expound as R. Papa did? — That[1] is necessary for the following teaching: And ye shall afflict your souls, in the ninth day of the month. One might have assumed that such affliction commences on the ninth of the month already. Therefore the text reads: 'At even'. If from 'at even', one might have inferred that one must afflict oneself only after it gets dark, therefore the text reads: 'In the ninth'. How is [this to be explained]? He should commence to afflict himself whilst it is yet day. From here we learn that we add from the profane time to the sacred one. Thus I know it only at its beginning. Whence do I know it at its end? Therefore Scripture said: 'From even unto even'. Thus I know it only for the Days of Atonement, whence do I learn the same for the Sabbath days? Therefore the text reads: 'Your Sabbath'. How is that? Wherever the word 'shebuth' [rest] is mentioned, we add from the profane time to the sacred one.

How does the Tanna who infers from the word-analogy of 'self-same',[2] 'self-same' interpret the words: 'In the ninth of the month'? — He uses it in accord with what Hiyya, the son of Rab, of Difti taught, for Hiyya, the son of Rab, of Difti learned: 'And you shall afflict your souls in the ninth [day of the month]'. But is one fasting on the ninth? Do we not fast on the tenth? Rather, it comes to indicate that, if one eats and drinks on the ninth, Scripture accounts it to him as if he had fasted on the ninth and the tenth.[3]

IF HE ATE FOODS UNFIT FOR FOOD. Raba said: If one chewed pepper on the Day of Atonement, he is not culpable. If one chewed ginger on the Day of Atonement, he is not culpable. An objection was raised: R. Meir used to say: By mere implication from the text: Then you shall count the fruit thereof as forbidden.[4] I could understand that fruit trees are meant. Why then does Scripture say: 'trees for food'? It means a tree the taste of whose wood and fruit are alike. Say: This is pepper. That teaches you that the plant of pepper is subject to the law of 'orlah,[5] and that the land of Israel lacks nothing, as it is said: Thou shalt not lack anything in it.[6] — That is no difficulty; The one case deals with green pepper, the other with dry pepper.[6] Rabina said to Meremar: But R. Nahman has said that preserved ginger coming from India is permitted,[7] and the blessing . . . Who createst the fruit of the ground' is obligatory [before eating it].[7] — This is no difficulty: The one case deals with fresh one, the other with dry one.

Our Rabbis have taught: If one ate the leaves of calamus, he is culpable. If he ate the leaves of vine, he is culpable. What vines are meant here? — R. Isaac of Magdala said: Such as sprouted forth between New Year and the Day of Atonement.[8] R. Kahana said: During the first thirty days,[9] it was taught in accord with R. Isaac of Magdala: If one ate the leaves of calamus, he is not culpable. If he ate the leaves of vines, he is culpable. The vines meant here are those that sprouted forth between New Year and the Day of Atonement.

IF HE DRANK BRINE OR FISH-BRINE HE IS NOT CULPABLE. But [if he drank] vinegar, he is culpable — according to whom is our Mishnah? — According to Rabbi. For it was taught: Rabbi said, Vinegar restores the soul.[10] R. Giddal b. Menasseh of Bari of Naresh[11] reported that the halachah is not in accord with Rabbi, whereupon in the following year all went forth to drink [on the Day of Atonement] vinegar [mixed with water]. When R. Giddal heard that he became angry and said: I spoke only of a de facto case, did I say at all that one may do so at the outset? I referred only to a small quantity, did I speak at all of a large one? I spoke only of raw vinegar, did I refer at all to [vinegar] mixed [with water]? [

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(1) The Scriptural text adduced by R. Papa.

(2) Who infers the additional time from the words of the text, which are free for interpretation (v. supra). To him the words ‘And ye shall afflict yourself on the ninth’, which to us suggest the additional time, must convey a different meaning.

(3) The feasting on the ninth of Tishri helps to emphasize the solemnity and the self-affliction due on the morrow, indeed, starting at the eve of the same day. The more feasting on the eve of the Day of Atonement, the more pronounced the affliction on the day itself.

(4) Lev. XIX, 23.

(5) Which forbids for the first three years the fruit of trees, v. ibid.

(6) Deut. VIII, 9. Hence pepper is considered fruit, and as such should involve the eater thereof on the Day of Atonement in the penalty of extirpation, whereas Raba had taught that one who ate thereof is not culpable. R. Meir speaks of green pepper which can be eaten, hence subject to the law of ‘orlah, whereas Raba speaks of dry pepper, which cannot be considered a food, hence one who has eaten thereof, in the best case has not partaken of eatables, in the worst case has harmed himself, in either case is not culpable.

(7) Preserved ginger therefore is considered a food. The blessing due emphasizes that it is considered such.

(8) But if they sprouted forth before the New Year, they are considered stale and ‘even as wood’, i.e., no food.

(9) The same principle, though in different terms.

(10) I.e., has the effect of satisfying one, of helping one to come to, on the Day of Atonement.

(11) I.e., Bari, which was near Naresh, north of Sura. V. Obermeyer, p.308.

Talmud - Mas. Yoma 82a

MISHNAH. ONE SHOULD NOT AFFLICT[1] CHILDREN AT ALL ON THE DAY OF ATONEMENT. BUT ONE TRAINS THEM A YEAR OR TWO BEFORE[2] IN ORDER THAT THEY BECOME USED TO RELIGIOUS OBSERVANCES.

GEMARA. Since [the Mishnah has taught already that] two years before [their attaining majority] they must be trained, is it necessary to state that one must do so a year before that time? R. Hisda said: This is no difficulty: the one refers to a healthy[3] child, the other to a sickly one. R. Huna said: At the age of eight and nine years one trains them by hours,[4] at the age of ten and eleven they must fast to the end of the day, by Rabbinic ordinance. At the age of twelve they must fast to the end of the day by Biblical law, [all this] referring to girls. R. Nahman said: At the age of nine and ten one trains them by hours, at the age of eleven and twelve they must fast to the end of the day by Rabbinic ordinance, at the age of thirteen they must fast to the end of the day by Biblical law, [all this] referring to boys. R. Johanan said: There is no Rabbinic ordinance about the obligation of children to fast to the end of the day. But, at the age of ten and eleven one trains them by hours, at the age of twelve they must fast to the end of the day by Biblical law.

We learned: ONE SHOULD NOT AFFLICT THE CHILDREN AT ALL ON THE DAY OF ATONEMENT, BUT ONE TRAINS THEM A YEAR OR TWO BEFORE. That will be right according to R. Huna and R. Nahman: A YEAR OR TWO BEFORE [means] a year before, according to Rabbinic law, or two years before, according to Biblical law.[5] But according to R. Johanan, there is a difficulty![6] R. Johanan will tell you: ‘One or two years before means: before their reaching maturity.[7]

Come and hear: For Rabbah b. Samuel taught: One does not afflict children on the Day of Atonement, but one trains them a year, or two, before their attaining maturity. That will be right according to R. Johanan, but according to R. Huna and R. Nahman this presents a difficulty. — [These] Rabbis will tell you: ‘Training’ here means ‘fasting to the end of the day’. But has ‘training’ the meaning of ‘fasting to the end of the day’? Was it not taught: What is training? If he was accustomed to eat at the second hour [eight o'clock],[8] one feeds him now at the third hour [nine o'clock]; if he was accustomed to eat at the third hour, one feeds him now at the fourth.[9] Raba b. ‘Ulla said, There are two kinds of training.[10]

MISHNAH. IF A WOMAN WITH CHILD SMELT,[11] SHE MUST BE GIVEN TO EAT UNTIL SHE FEELS RESTORED. A SICK PERSON IS FED AT THE WORD OF EXPERTS.[12] AND IF NO EXPERTS ARE THERE, ONE FEEDS HIM AT HIS OWN WISH UNTIL HE SAYS: ENOUGH.

GEMARA. Our Rabbis taught: If a woman with child smelt the flesh of holy flesh, or of pork, we put for her a reed into the juice and place it upon her mouth. If thereupon she feels that her craving has been satisfied, it is well. If not, one feeds her with the juice itself. If thereupon her craving is satisfied it is well; if not one feeds her with the fat meat itself, for there is nothing that can stand before [the duty of] saving life, with the exception of idolatry, incest[13] and bloodshed [which are prohibited in all situations]. Whence do we know that about idolatry? For it was taught: R. Eliezer said: Since it is said, With all thy soul,[14] why is it said: With all thy might?[14] And since it is said: ‘With all thy might’, why is it said: ‘With all thy soul’? [It but comes to tell you that][15] if there be a man whose life is more cherished by him than his money, for him it is said: ‘With all thy soul’; and if there be a person to whom his money is dearer than his life, for him it is said: ‘With all thy might’.[16] Whence do we know it about incest and bloodshed? — Because it was taught: Rabbi said, For as when a man rises against his neighbor, and slayeth him, even so is this matter.[17] What matter do we infer for [the rape of] a betrothed maiden from a murderer? — Rather: What was meant to teach, learns itself:[18] Just as in the case of a betrothed maiden it is lawful to save her at the expense of his [the would-be raper's] life, thus also in the case of a murderer. And just as in the case of [an order to] shed blood one should rather be killed oneself than transgress [the prohibition of murder], thus also in the case of a [command to rape a] betrothed maiden, one should rather be killed than transgress [the prohibition of violating her].

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(1) To make them fast, to deny them food. Concerning other afflictions, v. supra 78b.

(2) The connotation of this is discussed in the Gemara.

(3) With a healthy child the training may be started at an earlier year than with a sick or sickly one.

(4) Extending the hours of fasting from one hour to another.

(5) So Rashi, v. Bah; v. next note. Cur. edd. according to rabbinic law. On interpretation of this reading v. Wilna Gaon, Glosses.

(6) Whereas R. Huna and R. Nahman could explain ‘BEFORE’ as meaning ‘before they are obliged by Rabbinic law’ to fast to the end of the day. R. Johanan holds there is no Rabbinic ordinance compelling children to fast to the end of the day, and would be unable to account for this text.

(7) His answer is simple; ‘before’ means ‘before maturity’, when yet the obligation to fast to the end of the day does not apply.

(8) According to the Jewish calculation for ritual purposes, every day, summer and winter, has twelve hours, every night twelve hours. The hours, however, vary in duration. In December an hour may consist of forty minutes, in June of ninety minutes. In Tishri (usually September) an hour would have about sixty minutes. The first hour of the day would be from six to seven, the second from seven to eight. ‘At the second hour’ would thus correspond to ‘about eight o'clock’.

(9) This indicates, at any rate, that ‘training’ means ‘training by the extension of hours’, not ‘fasting to the end of the day’.

(10) Raba replies that the term ‘training’ is being used in both senses.

(11) Smelt a dish on the Day of Atonement and has a morbid desire for it.
(12) Physicians.
(13) Including adultery.
(14) Deut. VI, 5. The word ‘meod’, usually translated as ‘might’, is here interpreted as ‘economic might’, money.
(15) Life is more important than ‘money’ or ‘might’. Why then the mention of both? If one is commanded to love the Lord even with all one's soul, viz., so that one would surrender life in the service of Him, it is self-evident and therefore superfluous to mention the obligation to love Him with all one's money, viz.,to be willing to surrender one's possessions to Him.
(16) Scripture takes account of people's idiosyncrasies, the Lord, Who gave the Torah to Moses, knoweth the heart of man.
(17) Deut. XXII, 26 referring to the rape of a betrothed maiden.
(18) Lit.,’ Behold this one comes to teach and turns out a learner’. This passage is intended to throw light on another one, whereas it receives light therefrom.

Talmud - Mas. Yoma 82b

Rut whence do we know that this principle applies in the case of a murder? — This is reasonable. For there was a man who came before Raba and said to him: The lord of my village told me: Kill so-and-so, and if you will not, I shall kill you! — He [Raba] answered: Let him kill you, but do not kill! What makes you see that your blood is redder than his? Perhaps the blood of that man is redder than yours?[1]

There was a woman with child who had smelt [a dish]. People came before Rabbi [questioning him what should be done]. He said to them: Go and whisper to her that it is the Day of Atonement. They whispered to her and she accepted the whispered suggestion, whereupon he [Rabbi] cited about her the verse: Before I formed thee in the belly I knew thee.[2] From her came forth R. Johanan. [Again] there was a woman with child who smelt [a dish]. The people came to R. Hanina, who said to them: Whisper to her [that it is the Day of Atonement]. She did not accept the whispered suggestion. He cited with regard to her:

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(1) The Lord wants you to save your own life, because the life of any one of His children is clear to Him. But your neighbour's life is as clear to Him as your own; and no blood is ‘redder than the other’. Hence you must not kill someone else, in order to save life. But if someone comes to murder you, self-defence is not only permissible, but mandatory.
(2) Jer. I, 5.

Talmud - Mas. Yoma 83a

The wicked are estranged from the womb.[1] From her came forth Shabbatai, the hoarder of provisions[2] [for speculation].

A SICK PERSON IS FED AT THE WORD OF EXPERTS. R. Jannai said: If the patient says, I need [food], whilst the physician says: He does not need it, we hearken to the patient. What is the reason? The heart knoweth its own bitterness.[3] But that is self-evident? You might have said: The physician's knowledge is more established; therefore the information [that we prefer the patient's opinion]. If the physician says: He needs it, whilst the patient says that he does not need it, we listen to the physician. Why? Stupor seized him.[4]

We learned: A SICK PERSON IS FED AT THE WORD OF EXPERTS. [That implies]: Only upon the order of experts, but not upon his own order? [Further it implies]: Only upon the order of ‘experts,’ but not upon the order of a single expert?[5] — This refers to the case that he says: I do not need it. But one should feed him upon the order of one expert? — This refers to the case when someone else is present who agrees that he does not need it. [If so, wherefore state that he] is FED

AT THE WORD OF EXPERTS. Surely that is self-evident, for it is a possibility of danger to human life and ‘in the case of the possibility of danger to human life we take a more lenient view’![6] — It refers to a case in which two more people are present who say that he does not need it.[7] And although R. Safra said that ‘Two are as a hundred and a hundred are as two’[8] applies only to witnesses, but with regard to opinion we go according to the number of opinions, all that applies only to opinions concerning money matters, but here it is a case where there is a possibility of danger to human life. But since in the second part [of the Mishnah] it states: AND IF NO EXPERTS ARE THERE, ONE FEEDS HIM AT HIS OWN WISH, it is to be inferred that in the first part we deal with the case that he said he needed it? There is something missing [in the Mishnah] and this is how it reads: These things are said only for the case that he says: I do not need it; but if he says: I need it, then if two experts are not there, but one who says: He does not need it, then ONE FEEDS HIM AT HIS OWN WISH.

Mar son of R. Ashi said: Whenever he says. ‘I need [food]’, even if there be a hundred who say, ‘He does not need it’, we accept his statement, as it is said: ‘The heart knoweth its own bitterness’. We learned in the Mishnah: If no experts are there one feeds him at his own wish. That means only if no experts are there, but not if such experts were there? — This is what is meant: These things are said only for the case that he says, ‘I do not need it’, but if he says, ‘I need it’, then there are no experts[9] there at all, [and] one feeds him at his own wish, as it is said: ‘The heart knoweth its own bitterness’.

MISHNAH. IF ONE IS SEIZED BY A RAVENOUS HUNGER,[10] HE MAY BE GIVEN TO EAT EVEN UNCLEAN THINGS UNTIL HIS EYES ARE ENLIGHTENED.[11] IF ONE WAS BIT BY A MAD DOG, HE MAY NOT GIVE HIM TO EAT THE LOBE OF ITS LIVER, BUT R. MATTHIA B. HERESH PERMITS IT.[12] FURTHERMORE DID R. MATTHIA B. HERESH SAY: IF ONE HAS PAIN IN HIS THROAT, HE MAY POUR MEDICINE INTO HIS MOUTH ON THE SABBATH,[13] BECAUSE IT IS A POSSIBILITY OF DANGER TO HUMAN LIFE AND EVERY DANGER TO HUMAN LIFE SUSPENDS THE [LAWS OF THE] SABBATH. IF DEBRIS FALL ON SOMEONE, AND IT IS DOUBTFUL WHETHER OR NOT HE IS THERE, OR WHETHER HE IS ALIVE OR DEAD, OR WHETHER HE BE AN ISRAELITE OR A HEATHEN, ONE SHOULD OPEN [EVEN ON SABBATH] THE HEAP OF DEBRIS FOR HIS SAKE. IF ONE FINDS HIM ALIVE ONE SHOULD REMOVE THE DEBRIS, AND IF HE BE DEAD ONE SHOULD LEAVE HIM THERE [UNTIL THE SABBATH DAY IS OVER].

GEMARA. Our Rabbis taught: How did they know that his eyes are enlightened again? When he distinguishes between good and bad [food]. — Abaye said: In the taste thereof. Our Rabbis taught: If one was seized by a ravenous hunger, one feeds him with the less forbidden things first; as between tebel [untithed food] and carrion,[14] one should feed him carrion first; between tebel and fruit of the seventh year, one should give him the fruit of the seventh year first.[15] As between terumah[16] and tebel, Tannaim are of divided opinion. For it was taught: One should feed him tebel, but not terumah. Ben Tema holds: Terumah, but not tebel. Rabbah said: If it is possible [to feed him] with common food,[17] there is general agreement that one should prepare it[18] for him and feed him with it; the dispute concerns the case when it is not possible [to feed him] with common food; one holds that [the prohibition of] tebel is more severe, the other assuming that the prohibition[19] of terumah is the more severe. The one holds that [the prohibition of] eating tebel is more severe because terumah is permissible to priests. the other holding [the prohibition of] terumah more severe, whereas tebel may be rendered right [by tithing].

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(1) Ps. LVIII, 4.

(2) The suggestion throughout the page of a woman with child who smells a dish and develops a morbid longing for it, is that it is the embryo, and not the mother, who has the desire. If the mother accepted the whispered suggestion, it was due to the noble piety of the unborn child, hence, R. Johanan as the child of the first woman. None is more contemptible than the speculator in foodstuffs who corners the markets for his sordid gain and who causes great affliction among the poor. Such a person, even in the embryonic stage, would not be influenced by the information that it is the Day of Atonement. He would crave his food, unresponsive to any law or sentiment.

(3) Prov. XIV, 10.

(4) So that he does not feel the lack of food.

(5) Which refutes R. Jannai.

(6) V. Shab. 129a.

(7) Two witnesses are considered sufficient evidence (Deut. XIX, 15) and no increase of their number either strengthens, or if they were counter-witnesses, by reason of superior numbers, weakens their original testimony.

(8) And yet on the strength of the two experts who say ‘he needs it’, he is fed.

(9) Such experts, opposing the patient's own view, would be ignored: ‘They are not present at all’.

(10) **, bulimy, ox-hunger.

(11) Cf. I Sam. XIV, 27. Such ravenous hunger renders the eyes dull.

(12) That was considered a cure: a fore-runner of modern homeopathics. The Tanna who forbids it denies its curative value, hence its use is forbidden. Matthia b. Heresh believed in this cure, hence permitted it.

(13) The dispute here concerns not the principle, but the efficacy, of the proposed medicines.

(14) Whenever the permitted and forbidden food alone are insufficient to restore the patient, one should proceed by eliminating as far as possible the more forbidden foods. Untithed food involves punishment of death by divine hand, whereas the eating of carrion involves only the castigation by stripes.

(15) Similarly is the fruit of the seventh year less ‘forbidden’, its eating implies much less penalty than the eating of untithed food, because there only the transgression of a positive commandment is involved.

(16) V. Glos.

(17) [Probably it means that the hungry person can wait for the priestly dues to be duly set aside, v. D.S. a.l. p. 50].

(18) By setting aside the prescribed dues.

(19) In each case that food which is considered less forbidden, or involving less of a penalty, would be given first.

Talmud - Mas. Yoma 83b

‘If it be possible with common food [etc.]’. Surely it is self-evident?-This refers to the case [that it would have to be done] on the Sabbath.[1] But on the Sabbath, too, It is self-evident, because moving is forbidden only by Rabbinic decree?[2] — We deal here with a pot without a hole, the obligation[3] on which, too’ is only Rabbinic.[4] (‘One holds [the prohibition of] tebel is more severe, the other holding [the prohibition of] terumah more severe).[5] Shall we say that Tannaim have been disputing this matter already?[6] For it was taught: If one was bitten by a snake, one may call for him a physician from one place into another,[7] or tear open a hen for him, or cut leak from the ground for him, give it to him to eat, without having separated the tithe thereof; this is the view of Rabbi. R. Eleazar son of R. Simeon said: He must not eat until tithe has been separated. Shall we say that it is in accord with R. Eleazar son of R. Simeon, and not with Rabbi?[8] — You may even say that it is in accord with Rabbi's view. Rabbi [one may say] makes his statement only here because the tithe of vegetables is in question and that is due but Rabbinically, but in the case of the tithe of corn, which is obligatory by Biblical law, even, Rabbi would agree that if you permit him to eat without [due tithing] in the case of a pot without a hole, he would come to eat likewise even in the case of a pot with a hole.[9]

Our Rabbis taught: If one was seized with a ravenous hunger, he is given to eat honey and all kinds of sweet things, for honey and very sweet food enlighten the eyes of man. And although there is no proof for the matter, there is an intimation in this respect: See, I pray you how mine eyes are brightened. because I tasted a little of this honey.[10] What does ‘although there is no proof for the matter’ mean? Because there no ravenous hunger has seized him. Abaye said: This applies only after a meal, but before the meal, it even increases one's appetite, as it is written: And they found an Egyptian in the field, and brought him, to David, and gave him, bread, and he did eat,’ and they gave him water to drink,’ and they gave him a piece of cake of figs, and two clusters of raisins,’ and when he had eaten, his spirit came back to him,’ for he had eaten no bread, nor drunk any water, three days and three nights.[11]

R. Nahman said in the name of Samuel: If one was seized by a ravenous hunger, one should give him to eat a tail with honey. R. Huna, the son of R. Joshua said: Also pure flour with honey. R. Papa said: Even barley-flour with honey [is effective]. R. Johanan said: Once I was seized by a ravenous hunger, whereupon I ran to the eastern side of a fig-tree, thus making true in my own case: Wisdom preserveth the life of him who hath it,[12] for R. Joseph learned: One who would taste the [full] taste of a fig, turns to its eastern side, as it is said: And for the precious things of the fruits of the sun.[13]

R. Judah and R. Jose were walking together when a ravenous hunger seized R. Judah. He seized a shepherd and devoured his bread. R. Jose said to him: You have robbed the shepherd! As they entered the city, a ravenous hunger seized R. Jose. They brought him all sorts of foods and dishes. Whereupon R. Judah said to him: I may have deprived the shepherd, but you have deprived a whole town. Also, R. Meir and R. Judah and R. Jose were on a journey together. (R. Meir always paid close attention to people's names, whereas R. Judah and R. Jose paid no such attention to them). Once as they came to a certain place. they looked for a lodging, and as they were given it, they said to him [the innkeeper]: What is your name? — He replied: Kidor. Then he [R. Meir] said: Therefrom it is evident that he is a wicked man, for it is said: For a generation [ki-dor] very forward are they.[14] R. Judah and R. Jose entrusted their purses to him;[15] R. Meir did not entrust his purse to him, but went and placed it on the grave of that man's father. Thereupon the man had a vision in his dream [saying]: Go, take the purse lying at the head of this man! In the morning he [the innkeeper] told them [the Rabbis] about it, saying: This is what appeared to me in my dream. They replied to him: There is no substance in the dream of the Sabbath night[16] . R. Meir went, waited there all day, and then took the purse with him. In the morning they [the Rabbis] said to him,: ‘Give us our purses’. He said: There never was such a thing![17] R. Meir then said to them: Why don't you pay attention to people's names? They said: Why have you not told this [before]. Sir? He answered: consider this[18] but a suspicion.I would not consider that a definite presumption! Thereupon they took him [the host] into a shop [and gave him wine to drink].[19] Then they saw lentils on his moustache. They went to his wife and gave her that as a sign, and thus[20] obtained their purses and took them back. Whereupon he went and killed his wife. It is with regard to this that it was taught:[21] [Failure to observe the custom of] the first water[22] caused one to eat the meat of pig, [failure to use] the second water slew a person. At the end they, too, paid close attention to people's names. And when they called to a house whose [owner's] name was Balah, they would not enter, saying: He seems to be a wicked man, as it is written: Then said I of her that was [balah] worn out by adulteries.[23]

IF SOMEONE WAS BITTEN BY A MAD DOG. Our Rabbis taught: Five things were mentioned in connection with a mad dog. Its mouth is open, its saliva dripping, its ears flap, its tail is hanging between its thighs, it walks on the edge of the road. Some say, Also it barks without its voice being heard. Where does it[24] come from? — Rab said: Witches are having their fun with it. Samuel said: An evil spirit rests upon it. What is the practical difference between these two views? — This is the difference

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(1) On the Sabbath it is not usually permitted to separate the terumah.

(2) [The prohibition to set aside on Sabbath any of the priestly dues is of Rabbinical origin, in the same category as moving about on the Sabbath articles that are unfit for use (cf. Bez. 36b]).

(3) To tithe the fruit grown therein.

(4) [I.e., the tebel under consideration grew in a pot without a hole, and consequently not subject biblically to priestly dues. Nevertheless where it can be rendered right by setting aside the dues, we are told one should rather override the shebuth (v. Glos.) involved than feed him with what is regarded as tebel only Rabbinically (Rashi)].

(5) [On the interpretation of Rashi which is followed in these notes, the bracketed passage is best omitted, as it is in various MSS. V. D.S.]

(6) [I.e., Rabbah's principle that we override the shebuth rather than to feed him, with produce which is tebel only

Rabbinically, v. p. 408, n. 10].

(7) On the Sabbath, as a rule, that would not be permitted, but in the case of a possible danger to human life, that restriction would be inoperative.

(8) [I.e., Rabbah's principle is in agreement with R. Eleazar b. R. Simeon, who likewise holds that the vegetables must be first tithed even on Sabbath, although they are subject to tithes only Rabbinically].

(9) In which case the obligation is Biblical, which involves the penalty of death by divine decree. [MS.M. has an entirely different reading of the whole passage. v. D.S. a. l.]

(10) I Sam. XIV, 29.

(11) I Sam. XXX, 11, 12.

(12) Eccl. VII, 12.

(13) Deut. XXXIII, 14.

(14) Ibid. XXXII, 20. The name ‘kidor’ suggested to R. Meir one who does not deserve confidence. That, as he later explained, was an idiosyncrasy of his own, amounting at best to an intuitive caution.

(15) It was on the eve of the Sabbath,

(16) The Sabbath rest gives rise to idle thoughts which are then reflected in dreams.

(17) Lit., ‘these things never happened’.

(18) The suggestion conveyed by the sound of a man's name.

(19) Supplemented from Bah.

(20) Telling him the husband had sent them for the purses and giving her as a proof the fact that lentils had been the last meal in her house.

(21) Corrected in accord with marginal gloss.

(22) The washing of hands before meals implies ‘the first water’, as against the latter water-washing of the hands after meals, to remove any fat, grease, crumbs, from the meal. The one precedes the blessing before the meal, the other the grace after meals. Failure to wash his hands before meals caused one to eat pork. A certain innkeeper, who served both Jews and heathens, guided himself by the attitude of the guests as to ‘first waters’. Once a non-conforming Jew entered, asked for a meal, without washing his hands; the innkeeper taking him for a heathen, placed pork before him (Rashi). In our case, had Kidor washed his hands after meals, and as is usual in such a case, wiped his upper lip, the traces of his repast would not have been visible, the Rabbis would have had no clue as to how to restore their purses to themselves, and the enraged thief would not have killed his wife.

(23) Ezek. XXIII, 43. A play on ‘balah’, viz., one worn out by wrong living.

(24) The madness of the dog.

Talmud - Mas. Yoma 84a

as to killing it by throwing[1] something at it. It was taught in accordance with Samuel: When one kills it, one does so only with something thrown against it. One against whom it rubs itself is endangered; one whom it bites, dies. ‘One against whom it rubs itself is endangered’. What is the remedy?-Let him cast off his clothing, and run . As happened with R. Huna, the son of R. Joshua, against whom one mad dog rubbed itself in the market-place: he stripped off his garments and ran, saying: I fulfilled in myself. ‘Wisdom preserveth the life of him who hath it’.[2]

‘One whom it bites, dies’. What is the remedy? — Abaye said: Let him take the skin of a male hyena.[3] and write upon it: I, So-and-so, the son of that-and-that woman, write upon the skin of a male Hyena: Hami, kanti, kloros. God, God, Lord of Hosts, Amen, Amen, Selah,.[4] Then let him strip off his clothes, and bury then, in a grave [at cross-roads],[5] for twelve months of a year. Then he should take them out and burn them in an oven, and scatter the ashes. During these twelve months, if he drinks water, he shall not drink it but out of a copper tube, lest he see the shadow[6] of the demon and be endangered. Thus the mother of Abba b. Martha, who is Abba b. Minyumi, made for him a tube of gold [for drinking purposes].

FURTHERMORE DID R. MATTHIA SAY. R. Johanan suffered from scurvy. He went to a matron, who prepared something for him on Thursday and Friday. He said to her: How shall I do it on the Sabbath? She answered him,: Then you will not need it [any more]. He said: But if I should need it, what then,? She replied: ‘Swear unto me by the God of Israel[7] that you will not reveal it’ [to others]; whereupon he swore: ‘To the God of Israel I shall not reveal it’. She revealed it to him, and he went forth and expounded it in his lecture. But he had sworn to her? — [He swore]: ‘To the God of Israel I shall not reveal it’ [which implies] but to His people I shall reveal it! But this is a profanation of the Name?[8] — It was so that he had explained it [the meaning of his oath] to her from the very beginning. What did she give to him? R. Aha, the son of R. Ammi said: The water of leaven, olive oil and salt. R. Yemar said: Leaven itself, olive oil and salt. R. Ashi said: The fat of a goose-wing. Abaye said: l tried everything without achieving a cure for myself, until an Arab recommended: ‘Take the stones of olives which have not become ripe one third, burn them in fire upon a new rake, and stick them into the inside of the gums’.[9] I did so and was cured. Whence does [scurvy] come? — From [eating] very hot wheat [-en bread], and from the [overnight] remnants of a pie of fish-hash and flour. What is its symptom? — If he puts anything between his teeth, his gums will bleed.

When R. Johanan suffered from scurvy, he applied this [remedy] on the Sabbath and was healed. How could R. Johanan do that?[10] — R. Nahman b. Isaac said: It is different with scurvy, because whereas it starts in the mouth, it ends in the intestines. R. Hiyya b. Abba said to R. Johanan: According to whom is it? According to R. Matthia b. Heresh who said that if one has pains in his throat one may pour medicine into his mouth on the Sabbath?[11] — I say: In this case, but in no other.[12] Shall we say that the following [teaching] supports his view? If one is attacked by jaundice one may give him to eat the flesh of a donkey; if one was bitten by a mad dog, one may give him to eat the lobe of its liver; and to one who has pains in his mouth may be given medicine on the Sabbath — this is the view of R. Matthia b. Heresh; but the Sages say: These are not considered cures — Now what does ‘these’ mean to exclude? Won't you say it is meant to exclude medicine?[13] No, it is meant to exclude blood-letting in case of asphyxia.[14] Thus also does it seem logical. For it was taught: R. Ishmael son of R. Jose reported three things in the name of R. Matthia b. Heresh: One may let blood in the case of asphyxia on the Sabbath, and one whom a mad dog has bitten may be given to eat the lobe of its liver, and one who has pains in his mouth may be given medicine on the Sabbath, whereas the Sages hold: These are not considered cures. Now what does ‘these’ exclude? Would you not say ‘these’ excludes the two latter one, and not the first one?[15] — No, it means to exclude the first two ones, and not the last one.

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(1) If it were killed by something held in one's hand the contact with the dog's body might cause the evil spirit to attack the dog's assailant. If madness is the result of witches’ fun, no such danger would seem to inhere.

(2) Eccl. VII, 12.

(3) Or, leopard.

(4) V. Blau,Altjud. Zauberwesen, p. 80f

(5) Supplemented from Bah.

(6) Which might have jumped over from the dog, and would endanger him.

(7) The Hebrew proposition ‘l’ may be interpreted as ‘by’ (the God of Israel), as the matron meant it; or, ‘to’ the God of Israel, as the Rabbi took it: I swear that ‘to the God of Israel I shall not reveal it’.

(8) If a scholar deceives a non-Jew he profanes the Name of the Lord, Who is associated with the Torah and Israel, much more than when an ordinary Jew does so although it is a grave offence in any case.

(9) Lit., ‘inside the row of teeth’.

(10) Since that does not seem to be a dangerous disease, justifying the application of medicine on the Sabbath day. By Rabbinic ordinance that is forbidden, as a fence around the law (Aboth I, 1) to prevent its leading to the grinding of spices for medicinal purposes, grinding being one of the thirty-nine kinds of labour prohibited by Biblical law on the Sabbath.

(11) But the Sages oppose R. Matthia, hence he remains in the minority and his permission is invalid.

(12) Here the Sages will agree with him, because of the ultimately dangerous character of the disease.

(13) As being permissible owing to their curative properties.

(14) Which is permitted.

(15) Which the Rabbis consider a cure. Which proves that the Sages, while they regard bloodletting as a cure for asphyxia and permissible on Sabbath, do not extend this sanction to medicine in general.

Talmud - Mas. Yoma 84b

Come and hear: For Rabbah b. Samuel learned: If a woman with child has smelt [food], one feeds her until she is restored; and one who was bitten by a mad dog is given to eat from the lobe of its liver, and one who has pains in his mouth may be given medicine on the Sabbath — these are the words of R. Eleazar b. Jose in the name of R. Matthia b. Heresh. But the Sages say: In this case, but not in another. Now what does ‘in this case refer to? Would you say to the woman with child? That is self-evident; for is there anyone to say that in the case of a woman with child it would not be permitted? — Hence it must refer to the medicine.[1] This is conclusive.[2]

R. Ashi said: Our Mishnah too justifies this inference. R. MATTHIA B. HERESH SAID FURTHERMORE: IF ONE HAS PAINS IN HIS MOUTH ONE MAY GIVE HIM MEDICINE ON THE SABBATH.[3] And herein the Rabbis[4] do not dispute him. For if it were that the Rabbis dispute him, he should teach these together,[5] and afterwards mention that the Rabbis dispute it . This is conclusive evidence.

BECAUSE IT IS A POSSIBILITY OF DANGER TO HUMAN LIFE. Why was it necessary to add ‘AND WHEREVER THERE IS DANGER TO HUMAN LIFE, THE LAWS OF THE SABBATH ARE SUSPENDED?-Rab Judah in the name of Rab said: Not only in the case of a danger [to human life] on this Sabbath, but even in the case of a danger on the following Sabbath.[6] How that? If e.g.. the [diagnosis] estimates an eight-day [crisis] the first day of which falls on the Sabbath. You might have said, let them wait until the evening, so that the Sabbaths may not be profaned because of him, therefore he informs us [that we do not consider that]. Thus also was it taught: One may warm water for a sick person on the Sabbath, both for the purpose of giving him a drink or of refreshing him, and not only for [this] one Sabbath did they rule thus, but also for the following one. Nor do we say: Let us wait, because perchance he will get well, but we warm the water for him immediately, because the possibility of danger to human life renders inoperative the laws of the Sabbath, not only in case of such possibility on this one Sabbath, but also in case of such possibility on another Sabbath. Nor are these things to be done by Gentiles or minors,[7] but by Jewish adults.[7] Nor do we say in this connection: We do not rely in such matters on the opinions of women, or of Samaritans, but we join their opinion to that of others.[8]

Our Rabbis taught: One must remove debris to save a life on the Sabbath, and the more eager one is, the more praiseworthy is one; and one need not obtain permission from the Beth din. How so? If one saw a child falling into the sea, he spreads a net and brings it up — the faster the better, and he need not obtain permission from the Beth din though he thereby catches fish [in his net]. If he saw a child fall into a pit, he breaks loose one segment [of the entrenchment] and pulls it up — the faster the better; and he need not obtain permission of the Beth din, even though he is thereby making a step [stairs]. If he saw a door closing upon an infant,[9] he may break it, so as to get the child out — the faster the better; and he need not obtain permission from the Beth din, though he thereby consciously makes chips of wood. One may extinguish and isolate [the fire] in the case of a conflagration — the sooner the better, and he need not obtain permission from the Beth din, even though he subdues the flames.[10] Now all these cases must be mentioned separately. For if only the case of the [infant falling into] the sea had been mentioned [one would have said, it is permitted there] because meantime[11] the child might be swept away by the water, but that does not apply in the case [of its falling into] the pit, because since it remains [stays] therein, one might have thought, one may not [save it before obtaining permission], therefore it is necessary to refer to that. And if the teaching had confined itself to the case of the pit, [one would have thought, there no permission is required] because the child is terrified but in the case of a door closing upon it, one might sit outside and [amuse the child] by making a noise with nuts, therefore it was necessary [to include that too].

For what purposes is the ‘extinguishing’ and ‘isolating’ necessary? — Even for the benefit of another [neighbouring] court.

R. Joseph said on the authority of Rab Judah, in the name of Samuel: In the case of danger to human life one pays no attention to majority. How is that? Would you say [in the case of] nine Israelites and one heathen among them? But then the majority consists of Israelites! Or, even if there were half and half, in the case of danger to human life, we take the more lenient view? Again, if you say that it is a case of nine heathens and one Israelite, that too is self-evident, because it is stationary and whatever is stationary is considered[12] half and half? — No, it refers to a case in which [one has][13] gone off into another court.[14] You might have said: Whosoever has gone off, has gone off from the majority which consisted of heathens, therefore the information that in case of danger to human life, we are not concerned with question of majorities which consisted of heathens. But that is not so, for R. Assi said in the name of R. Johanan: In the case of nine heathens and one Israelite, [if a building collapsed upon them while they were all] in that court, one must remove debris, but not if [a building collapsed] in another court?[15] — This is no contradiction: In the one case all had gone off, in the other only a few had gone off.[16] But could Samuel have said that? Have we not learnt: If one finds therein[17] a child abandoned, if the majority of the inhabitants are heathens, it is to be considered a heathen; if the majority are Israelites, it is to be considered an Israelite; in the case of half and half it is to be also considered an Israelite.[18] And in connection therewith Rab said: This was taught only in relation to sustaining it,[19] but not for the purpose of legitimizing[20] it;

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(1) V. p. 414, n. 3.

(2) That the Rabbis agree that this may be given on Sabbath.

(3) [The text here differs from the one given in the Mishnah, but agrees with the reading in the Mishnah of MS.M].

(4) The authorities of the first view given anonymously in the Mishnah.

(5) With the other case, wherein the Sages oppose his view.

(6) As is soon explained.

(7) So MS.M.; cur. edd. Cutheans (Samaritans). If the original ‘Cutheans is preferred, then ‘gedole Yisrael’ (rendered here ‘adult Jews’) means ‘even prominent Jews’ — shall profane the Sabbath to save life.

(8) If e.g., two say it is necessary, three say it was not, and a woman or a non-Jew assert it is necessary, the opinion of the latter is joined to that of the others, who are in the affirmative, thus presenting a divided opinion, in which case, since danger to human life is involved, the more lenient view is adopted.

(9) The infant may be frightened, or within the room, endangered.

(10) And produces a coal-fire, which may be utilised. For other readings v. D.S. a.I.

(11) Until such permission is obtained.

(12) Kabua’. For a full explanation of this principle v. Sanh., Sonc. ed., p. 531, n. 4.

(13) [So Asheri].

(14) And in that court he became buried in the debris.

(15) Whereto one of the group had repaired.

(16) [In the former case, since they all had left the former court, the principle of kabua’ no longer operates, and consequently the majority decides, but in the latter case, since there still remains a number of them in the former court, we apply the principle of kabua’ and the debris have to be removed. So Asheri; Rashi explains differently].

(17) In a town wherein Israelites and Gentiles live.

(18) V. Keth. 15a.

(19) Jews are in duty bound to support their own poor.

(20) If the child found exposed were a girl, she could not marry a priest, who is obliged to marry a native-born Israelite, not a proselyte.

Talmud - Mas. Yoma 85a

whereas Samuel said: [It was taught] with reference to removing the debris for its sake?[1] — The words of Samuel refer to the first clause, ‘If the majority are heathens, it is considered a heathen’. It is in connection therewith that Samuel said that it did not apply to the saving of life.[2]

‘If the majority are heathens, it is considered a heathen’. For what practical law [is this taught]? — Said R. Papa: To give it to eat carrion.[3] ‘If the majority are Israelites, it is considered an Israelite’ — For what practical purpose [is this taught]? To restore to it lost property.[4] ‘In the case of half and half, it is considered an Israelite’. For what practical purpose [is this taught]? Resh Lakish said: With regard to damages[5] How that? Shall we say that one ox of ours gored one of his?[6] Let him bring proof and collect![7] — No, It is necessary for the case that an ox of his had gored one of ours; then he must pay one half, and concerning the other he can say: Prove that I am not an Israelite and collect![8]

IF DEBRIS HAD FALLEN UPON SOMEONE [etc.]. What does he teach herewith?[9] — It states a case of ‘not only’.[10] Not only must one remove the debris in the case of doubt as to whether he is there or not, as long as one knows that he is alive if he is there; but, even though it be doubtful whether he is alive or not he must be freed from the debris. Also, not only if it is doubtful whether he be alive or dead,as long as it is definite that he is an Israelite; but even if it is doubtful whether he is an Israelite or a heathen, one must, for his sake, remove the debris.

IF ONE FINDS HIM ALIVE, ONES SHOULD REMOVE THE DEBRIS. But that is self-evident if one finds him alive? — No, the statement is necessary for the case that he has only a short while to live.

AND IF HE BE DEAD, ONE SHOULD LEAVE HIM THERE. But that, too, is self-evident? — It is necessary because of the teaching of R. Judah b. Lakish. for it was taught: One may not save a dead person out of a fire.[11] R. Judah b. Lakish said: I heard that one may save a dead person out of a fire. Now even R. Judah b. Lakish says that only because[12] ‘a person is upset about a dead relative’ and if you will not permit him [to save his dead] he will ultimately come to extinguish the fire, but here, if you do not permit it, what can he do?[13]

Our Rabbis taught: How far does one search?[14] Until [one reaches] his nose. Some say: Up to his heart. If one searches and finds those above to be dead, one must not assume those below are surely dead. Once it happened that those above were dead and those below were found to be alive. Are we to say that these Tannaim dispute the same as the following Tannaim? For it was taught: From where does the formation of the embryo commence? From its head, as it is said: Thou art he that took me [gozi] out of my mother's womb,[15] and it is also said: Cut off [gozi] thy hair and cast it away.[16]

Abba Saul said: From the navel which sends its roots into every direction![17] You may even say that [the first view is in agreement with] Abba Saul, inasmuch as Abba Saul holds his view only touching the first formation, because ‘everything develops from its core [middle]’, but regarding the saving of life he would agree that life manifests itself through the nose especially, as it is written: In whose nostrils was the breath of the spirit of life.[18]

R. Papa said: The dispute arises only as to from below upwards,[19] but if from above downwards, one had searched up to the nose, one need not search any further, as it is said: ‘In whose nostrils was the breath of life’.

R. Ishmael, R. Akiba and R. Eleazar b. Azariah were once on a journey, with Levi ha-Saddar[20] and R. Ishmael son of R. Eleazar b. Azariah following them. Then this question was asked of them: Whence do we know that in the case of danger to human life the laws of the Sabbath are suspended? — R. Ishmael answered and said: If a thief be found breaking in.[21] Now if in the case of this one it is doubtful whether he has come to take money or life; and although the shedding of blood pollutes the land, so that the Shechinah departs from Israel, yet it is lawful to save oneself at the cost of his life — how much more may one suspend the laws of the Sabbath to save human life! R. Akiba answered and said: If a man come presumptuously upon his neighbour etc. thou shalt take him from My altar, that he may die.[22] I.e., only off the altar, but not down from the altar.[23] And in connection therewith Rabbah b. Bar Hana said in the name of R. Johanan: That was taught only when one's life is to be forfeited,

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(1) Which seems to indicate that even in the case of saving human life it is the majority which decides the legal attitude.

(2) Samuel holds that even in that case life must be saved, majority or minority not influencing such a duty.

(3) I.e., the flesh of an animal that either died a natural death, or in the course of the ritual slaughter in which some irregularity occurred. An Israelite bound by the ritual could not partake thereof, whereas a non-Israelite could eat it.

(4) V. B.M., Sonc. ed., p. 149, n. 6.

(5) V. B.K., Sonc. ed., p. 211, n. 6. The Jewish owner of an ox which has gored an ox owned by a heathen, is not obliged to pay damages, whereas the heathen would have to pay full damage, whether the owner had been forewarned or not. The Jewish owner of an ox who has gored an ox owned by a fellow-Jew, if not forewarned must pay half of the damage; if forewarned, full damage.

(6) I.e., the abandoned child. The suggestion is that we would make him pay damage.

(7) The damages due to you.

(8) He pays one half, as any Jew not forewarned would if his ox gored the ox of a fellow-Jew. The owner in this case would wait to collect full damages, claiming the owner of the goring ox to be a heathen, hence obliged to repay full damages, even if not forewarned. The latter would say: One half I have paid because I am a Jew. If you wish to collect the other half, it is upon you to adduce evidence that I am not a Jew. Only thus could you collect.

(9) What is the value of all these hypothetical cases, doubtful savings of life, that he adduces.

(10) Lit., ‘it is not required’.

(11) On the Sabbath, which may be profaned to save life, but not to save a dead person from being burnt.

(12) Shab. 43b.

(13) There is no Biblical law he can transgress; he will but wait for the end of the Sabbath day to do this work.

(14) If the person buried under the debris gives no sign of life at the point at which debris have been removed from him.

(15) Ps. LXXI, 6.

(16) Jer. VII, 29.

(17) Hence the dispute of these Tannaim looks exactly the same as those mentioned above.

(18) Gen. VII, 22.

(19) If the person under the debris has his feet up and his head down. According to one view, one must examine the core, i.e., the heart; according to the other, even though the heart seems to have suspended action, the definitive diagnosis depends on the action or failure of the function of the nose.

(20) Perhaps the systematizer: one who arranged traditions systematically, as opposed to one who excels in dialectics. [Aruch:ha-Sarad: the netmaker].

(21) Ex. XXII, 1, in which case, in spite of all the other considerations, it is lawful to kill him.

(22) Ex. XXI, 14.

(23) If he came as priest to do his service, one may take him off the altar, but if he had commenced on it, one may not take him down.

Talmud - Mas. Yoma 85b

but to save life[1] one may take one down even from the altar. Now if in the case of this one, where it is doubtful whether there is any substance in his words or not, yet [he interrupts] the service in the Temple [which is important enough to] suspend the Sabbath, how much more should the saving of human life suspend the Sabbath laws! R. Eleazar answered and said: If circumcision, which attaches to one only of the two hundred and forty-eight members of the human body, suspends the Sabbath,[2] how much more shall [the saving of] the whole body suspend the Sabbath! R. Jose son of R. Judah said: Only ye shall keep My Sabbaths,’[3] one might assume under all circumstances, therefore the text reads: ‘Only’ viz, allowing for exceptions.[4] R. Jonathan b. Joseph said: For it is holy unto you;[5] I.e., it [the Sabbath] is committed to your hands, not you to its hands.

R. Simeon b. Menassia said: And the children of Israel shall keep the Sabbath.[6] The Torah said: Profane for his sake one Sabbath, so that he may keep many Sabbaths. Rab Judah said in the name of Samuel: If I had been there, I should have told them something better than what they said: He shall live by them,[7] but he shall not die because of them. Raba said: [The exposition] of all of them could be refuted, except that of Samuel, which cannot be refuted. That of R. Ishmael — perhaps that is to be taken as Raba did, for Raba said : What is the reason for the [permission to kill the] burglar? No man controls himself when his money is at stake, and since [the burglar] knows that he [the owner] will oppose him, he thinks: If he resists me I shall kill him, therefore the Torah says: If a man has come to kill you. anticipate him by killing him! Hence we know it [only] of a certain case; [but] whence would we know it of a doubtful one? That of R. Akiba's, there too [there may be a refutation]. Perhaps we should do as Abaye suggests, for Abaye said: We give him[8] a couple of scholars, so as to find out whether there is any substance in his words. Again we know that only in the case of certain death, [but] whence would we know it of a doubtful case? [And similarly with the exposition of] all of them we know it only of a certain case; whence do we know of a doubtful case? But of Samuel, as to that there is no refutation. Rabina, or R. Nahman b. Isaac said: ‘Better is one corn of pepper than a whole basket full of pumpkins.[9]

MISHNAH. THE SIN-OFFERING AND THE GUILT-OFFERING [FOR THE] UNDOUBTED COMMISSION OF CERTAIN OFFENCES[10] PROCURE ATONEMENT, DEATH AND THE DAY OF ATONEMENT PROCURE ATONEMENT TOGETHER WITH PENITENCE.[11] PENITENCE PROCURES ATONEMENT FOR LIGHTER TRANSGRESSIONS: [THE TRANSGRESSION OF] POSITIVE COMMANDMENTS AND PROHIBITIONS. IN THE CASE OF SEVERER TRANSGRESSIONS IT [PENITENCE] SUSPENDS [THE DIVINE PUNISHMENT], UNTIL THE DAY OF ATONEMENT COMES TO PROCURE ATONEMENT. IF ONE SAYS: I SHALL SIN AND REPENT, SIN AND REPENT, NO OPPORTUNITY WILL BE GIVEN TO HIM TO REPENT.[12] [IF ONE SAYS]: I SHALL SIN AND THE DAY OF ATONEMENT WILL PROCURE ATONEMENT FOR ME, THE DAY OF ATONEMENT PROCURES FOR HIM NO ATONEMENT. FOR TRANSGRESSIONS AS BETWEEN MAN AND THE OMNIPRESENT THE DAY OF ATONEMENT PROCURES ATONEMENT, BUT FOR TRANSGRESSIONS AS BETWEEN MAN AND HIS FELLOW THE DAY OF ATONEMENT DOES NOT PROCURE ANY ATONEMENT, UNTIL HE HAS PACIFIED HIS FELLOW. THIS WAS EXPOUNDED BY R. ELEAZAR B. ALARIAH: FROM ALL YOUR SINS BEFORE THE LORD SHALL YE BE CLEAN,[13] I.E., FOR TRANSGRESSIONS AS BETWEEN MAN AND THE OMNIPRESENT THE DAY OF ATONEMENT PROCURES ATONEMENT, BUT FOR TRANSGRESSIONS AS BETWEEN MAN AND HIS FELLOW THE DAY OF ATONEMENT DOES NOT PROCURE ATONEMENT UNTIL HE HAS PACIFIED HIS FELLOW.[14] R. AKIBA SAID: HAPPY ARE YOU, ISRAEL! WHO IS IT BEFORE WHOM YOU BECOME CLEAN? AND WHO IS IT THAT MAKES YOU CLEAN? YOUR FATHER WHICH IS IN HEAVEN, AS IT IS SAID: AND I WILL SPRINKLE CLEAN WATER UPON YOU AND YE SHALL BE CLEAN.[15] AND IT FURTHER SAYS: THOU HOPE OF ISRAEL, THE LORD![16] JUST AS THE FOUNTAIN RENDERS CLEAN THE UNCLEAN, SO DOES THE HOLY ONE, BLESSED BE HE, RENDER CLEAN ISRAEL.

GEMARA. Only the undoubted guilt-offering [atones], but not the suspensive one? But is not the word ‘forgiveness’ written with regard to it too?[17] — These [others] procure complete atonement, the suspensive guilt-offering does not procure complete atonement. Or else, As for these [others][18] another can effect their atonement, whereas in the case of the suspensive guilt-offering nothing else can effect their atonement. For it was taught: If those who were liable to sin-offerings, or guilt-offerings [for the] undoubted [commission of offences] permitted the Day of Atonement to pass, they are still obliged to offer then, up; but in the case of those who were liable to suspensive guilt-offerings, they are exempt.[19]

DEATH AND THE DAY OF ATONEMENT PROCURE ATONEMENT TOGETHER WITH PENITENCE. Only TOGETHER WITH PENITENCE, but not in themselves! — Shall we say that this teaching is not in accord with, Rabbi? For it was taught: Rabbi said, For all transgressions [of commands of] the Torah, whether one had repented or not, does the Day of Atonement procure atonement, except in the case of one who throws off the yoke[20] [of the Torah], interprets the Torah unlawfully.[21] or breaks the covenant of Abraham our father.[22] In these cases, if he repented, the Day of Atonement procures atonement, if not, not! — You might even say that this is in accord with Rabbi: Repentance needs the Day of Atonement, but the Day of Atonement does not need repentance.

PENITENCE PROCURES ATONEMENT FOR LIGHTER TRANSGRESSIONS: [THE TRANSGRESSION OF] POSITIVE COMMANDMENTS AND PROHIBITIONS. If it procures atonement for the transgression of negative commandments, is it necessary [to state that it procures it for the transgression of] positive ones?[23] — Rab Judah said: This is what he means, [It procures atonement] for [the transgression of] a positive commandment , of a negative commandment that is to be remedied into a positive one.[24] But not [for the transgression] of an actual negative commandment? Against this the following contradiction is to be raised: These are light transgressions [for which penitence procures atonement: transgression of] positive commandments and negative commandments

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(1) If one had been sentenced to death, there is ample provision for a revision, if even at the last moment someone claims to have found evidence of the accused's innocence. If a priest has such evidence, or is only believed to have it, he would be taken down from the altar even after he had commenced, and before having completed, his service.

(2) The circumcision must take place on the eighth day, even if that day falls on the Sabbath, suspending the law of the Sabbath, which prohibits operation, as well as preparations leading to it.

(3) Ex. XXXI, 13.

(4) Lit., ‘divides’, ‘makes a distinction’. The word ‘rak’ here translated ‘only’ (E.V. ‘verily’) is interpreted as ‘only under certain, I.e., not all conditions’,

(5) Ibid. 14.

(6) Ibid., 16.

(7) Lev. XVIII, 5.

(8) To the priest who thinks he has relevant testimony in favour of the accused, because of which he may be taken down from the altar in the midst of the service.

(9) A commentary on Samuel's irrefutable simple interpretation, as against the more involved and less perfect interpretations of the other Rabbis.

(10) Cf. Lev. V, 15 and VI, 6, as opposed to the suspensive guilt-offering, due in the case of doubtful commission of sin, which postpones punishment until that doubt is removed, when a sin-offering is due to procure atonement. Among the guilt-offerings due for undoubted commission of certain offences are: one for illegal appropriation of private property, after reparation has been made; one for misappropriation of sacred property; one for carnal connection with a bondwoman betrothed to another man; the offering of a nazirite who had interrupted the days of his avowed naziriteship by levitical impurity.

(11) Penitence is essential; it consists of genuine regret, and determination to improve one's conduct. In the case of any offering (sin or guilt) such penitence is taken for granted, for without it no sacrifice has any meaning or value.

(12) Because this statement indicates that he never experienced genuine regret.

(13) Lev. XVI, 30.

(14) The verse is thus taken to mean ‘From all your sins before the Lord’, (i.e. , as between man and his Creator) will the Day the Atonement procure you forgiveness; but not for those which are committed not ‘before the Lord’, and ‘before man’, viz., sins committed against our fellow-man.

(15) Ezek. XXXVI, 25.

(16) Jer. XVII, 13. The word ‘mikweh’ is a homonym meaning both ‘fountain’ thus ritual bath, and ‘hope’.

(17) V. Lev. V, 18 with reference to a suspensive guilt-offering; v. also supra p. 422, n. 4.

(18) The sin-offering and certain guilt-offerings.

(19) Ker. 25a.

(20) I.e., denies the existence of God.

(21) Lit., ‘reveals an aspect of the Torah (not in accordance with the correct interpretation)’; or, ‘acts in a bare-faced manner against the Torah’. For a full discussion of the phrase v. Sanh., Sonc. ed., p. 99.

(22) Circumcision; v. loc. cit.

(23) A sin of omission is not as serious as one of commission.

(24) A prohibitive law, the transgression of which must be repaired by a positive act, as e.g., Lev. XIX, 13: Thou shalt not rob, and V, 23: He shall make restitution.

Talmud - Mas. Yoma 86a

with the exceptions of: Thou shalt not take [in vain][1] — ‘Thou shalt not take’ and others of the same kind.[2]

Come and hear: R. Judah said: For everything from ‘Thou shalt not take’ and down repentance procures atonement, for everything from ‘Thou shalt take’ and up.[3] penitence procures suspension [of punishment] and the Day of Atonement procures atonement? — ‘Thou shalt not take’ and others of the same kind.

Come and hear: Since in connection with Horeb[4] penitence and forgiveness are stated,[5] one might assume, that includes the [transgression of] ‘Thou shalt not take’, therefore it says: He will not clear the guilty.[6] Then I might have assumed that with all others guilty of having transgressed negative commandments the same is the case, therefore the text reads: ‘[Will not clear the guilt of him who taketh] His name [in vain].[7] i.e., He does not clear the guilt in [the taking in vain of] His name, but He clears the guilt in the transgression of other negative commandments?[8] -This is indeed a point of dispute between Tannam; for it was taught: For what transgression does penitence procure atonement? For that of a positive commandment. And in what case does repentance suspend punishment and the Day of Atonement procure atonement? In such as involve extirpation, death-penalty through the Beth din and in actual negative commandments.

The Master said: In connection with Horeb [penitence and][9] forgiveness is stated. Whence do we know that? Because it was taught : R. Eleazar said: It is impossible to say. ‘He will not clear the guilt ‘[10] Since it says: ‘He will clear the guilt’; nor is it possible to say: ‘He will not clear the guilt’ since it is said: ‘He will clear the guilt’; how is that to be explained? ‘He clears the guilt’ of those who repent, and does not ‘clear the guilt’ of those who do not repent.

R. Matthia b. Heresh asked R. Eleazar b. Azariah in Rome: have you heard about the four kinds of sins, concerning which R. Ishmael has lectured? He answered: They are three, and with each is repentance connected — If one transgressed a positive commandment , and repented , then he is forgiven, before he has moved from his place; as it is said: Return, O backsliding chiidren.[11] If he has transgressed a prohibition and repented,then repentance suspends [the punishment] and the Day of Atonement procures atonement, as it is said : For on this day shall atonement be made for you ... from all your sins.[12] If he has committed [a sin to be punished with] extirpation or death through the Beth din, and repented, then repentance and the Day of Atonement suspend [the punishment thereon], and suffering finishes the atonement,[13] as it is said: Then will I visit their transgression with the rod, and their iniquity with strokes.[14] But if he has been guilty of the profanation of the Name, then penitence has no power to suspend punishment, nor the Day of Atonement to procure atonement, nor suffering to finish it, but all of them together suspend the punishment and only death finishes it , as it is said : And the Lord of hosts revealed Himself in my ears; surely this iniquity shall not be expiated by you till ye die.[15] What constitutes profanation of the Name? — Rab said: If, e.g., I take meat for the butcher and do not pay him at once.[16] Abaye said: That we have learnt [to regard as profanation] only in a place wherein one does not go out to collect payment, but in a place where one does not go out to collect , there is no harm in it [not paying at once]. Rabina said: And Matha Mehasia[17] is a place where one goes out collecting payments due. Whenever Abaye bought meat from two partners, he paid money to each of them, afterwards bringing then, together and squaring accounts with both. R. Johanan said: In my case [it is a profanation if] I walk four cubits without [uttering words of] Torah or [wearing] tefillin.[18]

Isaac, of the School of R. Jannai. said: If one's colleagues are ashamed of his reputation, that constitutes a profanation of the Name. R. Nahman b. Isaac commented: E.g.. if people say, May the Lord forgive So-and-so. Abaye explained: As it was taught: And thou shalt love the Lord thy God,[19] i.e., that the Name of Heaven be beloved because of you. if someone studies Scripture and Mishnah, and attends on the disciples of the wise, is honest in business,[20] and speaks pleasantly to persons, what do people then say concerning him? ‘Happy the father who taught him Torah, happy the teacher who taught him Torah; woe unto people who have not studied the Torah; for this man has studied the Torah look how fine his ways are, how righteous his deeds! . Of him does Scripture say: And He said unto me: Thou art My servant, Israel, in, whom I will be glorified.[21] But if someone studies Scripture and Mishnah, attends on the disciples of the wise, but is dishonest in business, and discourteous in his relations with people, what do people say about him? ‘ Woe unto him who studied the Torah, woe unto his father who taught him Torah; woe unto his teacher who taught him Torah!’ This man studied the Torah: Look, how corrupt are his deeds, how ugly his ways; of him Scripture says: In that men said of them,: These are the people of the Lord, and are gone forth out of His land.[22]

R. Hama b. Hanina said: Great is penitence, for it brings healing to the world, as it is said: I will heal their backsliding, I will love then, freely.[23] R. Hama b. Hanina pointed out a contradiction: It is written : Return, ye backsliding children,[24] I.e., you who were formerly backsliding; and it is written: I will heal your backsliding?[25] This is no difficulty: in the one case the reference is where they return out of love, in the other, out of fear.[26]

Rab Judah pointed out this contradiction: It is written: ‘Return ye backsliding children , I will heal your backsliding’, but it is also written: For I am a lord unto you. and I will take you one of a city. and two of a family?[27] This is no contradiction: The one verse speaks [of a return] out of love or fear; the other, when it comes as a result of suffering.

R. Levi said: Great is repentance, for it reaches up to the Throne of Glory, as it is said: Return, O Israel, unto the Lord thy God.[28]

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(1) Ex. XX, 7; viz., the Name of God. [This proves that other negative commands are included in the lighter transgression for which penitence procures atonement].

(2) I.e., all actual negative commandments.

(3) ‘Up and down’, i.e., before and after.

(4) After the sin of the golden calf as Moses besought the Lord's forgiveness.

(5) As explained infra.

(6) Ex. XX, 7.

(7) Interpreting the phrase as if it were divided into two parts.

(8) [This proves that for the transgression of other negative commandments penitence effects atonement].

(9) Supplemented from Bah.

(10) Ex. XXXIV, 7.

(11) Jer. III, 14.

(12) Lev. XVI, 30.

(13) Lit., ‘cleanses (from sin)’.
(14) Ps. LXXXIX, 33.
(15) lsa. XXII, 14.
(16) He would learn from my bad example to treat debts dishonestly by delaying and ultimately ignoring the payment.
(17) A suburb of Sura, the place of Rabina.
(18) People would not know that l am weak, they would profit by my ‘example’ to neglect the study of the Torah, v. D.S. a.I.
(19) Deut. VI, 5.
(20) Supplemented from Bah.
(21) Isa. XLIX, 3.
(22) Ezek. XXXVI, 20.
(23) Hos. XIV, 5.
(24) Jer. III, 22.
(25) [The contradiction is not clear. Apparently the first part of the verse implies that having repented they are perfect as children, whereas the second part, which speaks of ‘healing’, implies that they still retain a taint of their former backsliding, v. Rashi].
(26) [Where the penitence is motivated by love, the return is complete leaving no trace of any taint, which is not the case where it is motivated by fear].
(27) Jer. III, 14.
(28) Hos. XIV, 2.

Talmud - Mas. Yoma 86b

R. Johanan said: Great is repentance. for it overrides a prohibition of the Torah, as it is said: . . . saying: If a man put away his wife, and she go from him, and become another man's, may he return unto her again? Will not that land be greatly polluted? But thou hast played the harlot with many lovers; and wouldest thou yet return to Me? Saith the Lord.[1] R. Jonathan said: Great is repentance, because it brings about redemption, as it is said And a redeemer will come to Zion, and unto them that turn from transgression in Jacob,[2] i.e., why will a redeemer come to Zion? Because of those that turn from transgression in Jacob. Resh Lakish said: Great is repentance, for because of it premeditated sins are accounted as errors, as it is said: Return, O Israel, unto the Lord, thy God,’ for thou hast stumbled in thy iniquity.[3] ‘Iniquity’ is premeditated, and yet he calls it ‘stumbling’ But that is not so! For Resh Lakish said that repentance is so great that premeditated sins are accounted as though they were merits, as it is said: And when the wicked turneth from his wickedness, and doeth that which is lawful and right, he shall live thereby![4] That is no contradiction: One refers to a case [of repentance] derived from love, the other to one due to fear. R. Samuel b. Nahmani said in the name of R. Jonathan: Great is repentance, because it prolongs the [days and][5] years of man, as it is said: ‘And when the wicked turneth from his wickedness . . . he shall live thereby’. R. Isaac said: In the West [Palestine] they said in the name of Rabbah b. Mari: Come and see how different from the character of one of flesh and blood is the action of the Holy One, blessed be He. As to the character of one of flesh and blood, if one angers his fellow,[6] it is doubtful whether he [the latter] will be pacified or not by him. And even if you would say, he can be pacified, it is doubtful whether he will be pacified by mere words. But with the Holy One, blessed be He, if a man commits a sin in secret, He is pacified by mere words, as it is said: Take with you words, and return unto the Lord.[7] Still more: He even accounts it to him as a good deed, as it is said: And accept that which is good.[7] Still more: Scripture accounts it to him as if he had offered up bullocks, as it is said : So will we render for bullocks the offerings of our lips.[7] Perhaps you will say [the reference is to] obligatory bullocks. Therefore it is said: I will heal their backsliding, I will love them freely.[8]

It was taught: R Meir used to say, Great is repentance. for on account of an individual who repents, the sins of all the world are forgiven, as it is said: I will heal their backsliding. I will love them freely, for mine anger is turned away from him.[8] ‘From them’ it is not said, but ‘from him,’.

How is one proved a repentant sinner? — Rab Judah said: If the object which caused his original transgression comes before him on two occasions, and he keeps away from it. Rab Judah indicated: With the same woman, at the same time, in the same place. Rab Judah said: Rab pointed out the following contradictions. It is written: Happy is he whose transgression is covered,[9] whose sin is pardoned;[10] and it is also written: He that covereth his 'transgression shall not prosper?[11] This is no difficulty, one speaks of sins that have become known [to the public], the other of such as did not become known.[12] R. Zutra b. Tobiah in the name of R. Nahman said: Here we speak of sins committed by a man against his fellow, there of sins committed by man against the Omnipresent.[13] It was taught: R. Jose b. Judah said: If a man commits a transgression, the first, second and third time he is forgiven, the fourth time he is not forgiven, as it is said: Thus saith the Lord.' For three transgressions of Israel, Yea for four, I will not reverse it;[14] and furthermore it says: Lo, all these things does God work, twice, yea, thrice, with a man.[15] What does ' furthermore' serve for? — One might have assumed that applies only to a community, but not to an individual, therefore: Come and hear [the additional verse]: 'Lo, all these things does God work, twice, yea, thrice with a man'.

Our Rabbis taught: As for the sins which one has confessed on one Day of Atonement, he should not confess them on another Day of Atonement; but if he repeated them, then he should confess them, on another Day of Atonement — And if he had not committed them again, yet confessed them again, then it is with regard to him that Scripture says: As a dog that returneth to his vomit, so is a fool that repeateth his folly.[16] R. Eleazar b. Jacob said: He is the more praiseworthy, as it is said: For I know my transgressions, and my sin is even before me.[17] How then do I [explain]. 'As a dog that returneth to his vomit, etc.'? In accord with R. Huna; for R. Huna said: Once a man has committed a sin once and twice, it is permitted to him. 'Permitted'? How could that occur to you? — Rather, it appears to him as if it were permitted.[18]

It is obligatory to confess the sin in detail [explicitly], as it is said: This people have sinned a great sin, and have made them a god of gold.[19] These are the words of R. Judah b. Baba. R. Akiba said: [This is not necessary],[20] as it is said: 'Happy is he whose transgression is covered, whose sin is pardoned.[21] Then why did Moses say: 'And have made them a god of gold'? That is [to be explained] in accord with R. Jannai, for R. Jannai said:[22] Moses said before the Holy One, blessed be He: The silver and gold which Thou hast increased unto Israel until they said 'enough !'[23] has caused them to make golden gods.

Two good administrators arose unto Israel, Moses and David. Moses begged: let my sin be written down, as it is said: Because ye believed not in me to sanctify me.[24] David begged that his sin be not written down, as it is said; 'Happy is he whose transgression is forgiven, whose sin is pardoned'. This case of Moses and Aaron may be compared to the case of two women who received in court the punishment of stripes; one had committed an indecent act, the other had eaten the unripe figs of the seventh year.[25] Whereupon the woman who had eaten unripe figs of the seventh year said: I beg of you, make known for what offence I[26] have been punished with stripes, lest people say: The one woman was punished for the same sin that the other was punished for. They brought unripe fruits of the seventh year, and hanged them on her neck, and they were calling out before her: This woman was punished with stripes because she ate the unripe figs of the seventh year.

One should expose hypocrites to prevent[27] the profanation of the Name,[28] as it is said: Again, when a righteous man doth turn from righteousness. and commit iniquity, I will lay a stumbling-block before him.[29] The repentance of the confirmed sinner delays punishment, even though the decree of punishment for him had been signed already. The careless ease of the wicked ends in calamity. Power buries those who wield it. Naked did man come into the world, naked he leaves it. Would that his coming forth be like his coming in.[30] Whenever Rab went to the court, he used to say thus: Out of his own will he goes[31] towards death, the wishes of his household he is unable to fulfil, for he returns empty to his home. Would that the coming forth be like the going in.[32]

(Whenever Raba went to the court he used to say thus:

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(1) Jer. III, 1.
(2) Isa. LIX, 20.
(3) Hos. XIV, 2.
(4) Ezek. XXXIII, 19.
(5) Supplemented from Bah.
(6) So MS.M.; cur. edd. add ‘with words’.
(7) Hos. XIV, 3.
(8) Ibid. 5.
(9) E.V. ‘forgiven’.
(10) Ps. XXXII, 1.
(11) Prov. XXVIII, 13. The phrase ‘covering of sin’ is understood in the sense of hiding it, not making it public by confession.
(12) Certain sins, such as have become notorious, one ought to confess publicly; secret sins one need confess to none but God.
(13) Social sins one ought to make known to others so that they might intercede on his behalf unto the person he offended; ritual transgressions one need reveal but to God.
(14) Amos II, 6.
(15) Job XXXIII, 29.
(16) Prov. XXVI, 11.
(17) Ps. LI, 5.
(18) In that respect he becomes like a dog, returning to his vomit.
(19) Ex. XXXII, 31.
(20) Supplemented from Bah.
(21) V. supra p. 430, n. 3.
(22) V. Ber. 32a.
(23) A play on the name of a place ‘Di zahab’ (Deut. I, 1) which is read ‘Dai zahab’ viz., ‘enough of gold’.
(24) Num. XX, 12.
(25) Unripe figs of the Sabbatical year, which must not be eaten, as Sabbatical produce must not be wasted.
(26) Lit., ‘she’.
(27) Lit., ‘on account of’.
(28) People should not imitate their conduct.
(29) Ezek. III, 20.
(30) That he leave life as innocent as he entered it.
(31) Referring to himself.
(32) The responsibility involved in rendering decision appeared to him as momentous as if the ethical dangers involved were physical ones. The stipend was insufficient to meet the needs of his household, the only fruit was the fear that he may leave the court less righteous than he entered it. There were no salaries for the judges in antiquity. Like the office of the Rabbi, it was a post of honour. But every scholar who spent his time exclusively in the study of the Torah was freed from taxes and received public and private privileges.

Talmud - Mas. Yoma 87a

Out of his own will he goes towards death, the wishes of his household he is unable to fulfil, for he returned empty to his house. Would that the coming forth be like the going in).[1] And when he [Rab][2] saw a crowd escorting him, he would say: Though his excellency mount up to heaven, and his head reach unto the clouds, yet shall he perish forever like his own dung, they that have seen him shall say: ‘Where is he?’[3] When R. Zutra was carried shoulder-high[4] on the Sabbath before the Pilgrimage festivals,[5] he would say: For riches are not forever; and doth the crown endure unto all generations?[6]

It is not good to respect the person of the wicked.[7] It is not good for the wicked that they are being favoured [by the Holy One, blessed be He] in this world. It was not good for Ahab that he was favoured in this world, as it is said: Because he humbled himself before Me, I will not bring the evil in his days.[8] So as to turn aside the righteous in judgment[9] — it is good for the righteous that they are not favoured in this world. It was good for Moses that he was not favoured in this world, as it is said: Because ye believed not in Me, to sanctify Me [etc.]. But had you believed in Me your time to depart this world would not yet have come. Happy are the righteous! Not only do they acquire merit, but they bestow merit upon their children and children's children to the end of all generations, for Aaron had several sons who deserved to be burnt like Nadab and Abihu, as it is said: ‘That were left’;[10] but the merit of their father helped them. Woe unto the wicked! Not alone that they render themselves guilty, but they bestow guilt upon their children and children's children unto the end of all generations. Many sons did Canaan have, who were worthy to be ordained[11] like Tabi, the slave of R. Gamaliel, but the guilt of their ancestor caused them [to lose their chance].

Whosoever causes a community to do good, no sin will come through him, and whosoever causes the community to sin, no opportunity will be granted him to become repentant. Whosoever causes a community to do good, no sin will come through him’. Why? Lest he be in Gehinnom, and his disciples in Gan Eden [Paradise], as it is said: For Thou wilt not abandon my soul to the nether world, neither wilt Thou suffer thy godly one to see the pit.[12]

‘And whosoever causes the community to sin, no opportunity will be granted him for repentance’, lest he be in Gan Eden and his disciples in Gehinnom, as it is said: A man, that is laden with the blood of any person shall hasten his steps unto the pit; none will help him.[13]

IF ONE SAYS: I SHALL SIN, AND REPENT, SIN AND REPENT. Why is it necessary to state I SHALL SIN AND I SHALL REPENT twice? — That is in accord with what R. Huna said in the name of Rab; for R. Huna said in the name of Rab: Once a man has committed a transgression once or twice, it becomes permitted to him. ‘Permitted ‘? How could that come into your mind — Rather, it appears to him like something permitted.

I SHALL SIN AND THE DAY OF ATONEMENT SHALL PROCURE ATONEMENT; THEN THE DAY OF ATONEMENT DOES NOT PROCURE ATONEMENT. Shall we say that our Mishnah is not in accord with Rabbi, for Rabbi said: It was taught, For all transgressions of Biblical commandments, whether he repented or not, whether positive or negative, does the Day of Atonement procure atonement? — You may even say it will be in agreement with Rabbi. It is different when he relies on it.[14]

FOR TRANSGRESSIONS COMMITTED BY MAN AGAINST THE OMNIPRESENT. R. Joseph b. Helbe pointed out to R. Abbahu the following contradiction: [We learned]:[15] FOR TRANSGRESSIONS COMMITTED BY MAN AGAINST HIS FELLOWMAN THE DAY OF ATONEMENT PROCURES NO ATONEMENT, but it is written: If one man sin against his fellow-man, God [Elohim] will pacify him?[16] ‘Elohim’ here means ‘the Judge’. But how then is the second half of the clause to be understood, ‘But if a man sin against the Lord, who shall entreat for him’? — This is what he means to say: ‘If a man sins against his fellow-man, the judge will judge him, he [his fellow] will forgive him’;[17] ‘but if a man sins against the Lord God, who shall entreat for him’? Only repentance and good deeds.

R. Isaac said: Whosoever offends his neighbour, and he does it only through words, must pacify him, as it is written: My son, if thou art become surety for thy neighbour, If thou hast struck thy hands for a stranger — , thou art snared by the words of thy mouth. . . do this, now, my son, and deliver thyself, seeing thou art come into the hand of thy neighbour; go, humble thyself, and urge thy neighbour.[18] If he has a claim of money upon you, open the palm of your hand to him,[19] and if not, send many friends to him.[20] R. Hisda said: He should endeavour to pacify him through three groups of three people each, as it is said: He cometh before me and saith: I have sinned and perverted that which was right, and it profited me not.[21] R. Jose b. Hanina said: One who asks pardon of his neighbour need do so no more than three times, as it is said: Forgive. I pray thee now . . . and now we pray thee.[22] And if he [against whom he had sinned] had died, he should bring ten persons and make them stand by his grave and say: I have sinned against the Lord, the God of Israel, and against this one, whom I have hurt. R. Abba had a complaint against R. Jeremiah. He [R. Jeremiah] went and sat down at the door of R. Abba and as the maid poured out water, some drops fell upon his head. Then he said: They have made a dung-heap of me, and he cited this passage about himself: He raiseth up the poor out of the dust.[23] R. Abba heard that and came out towards him, saying: Now, I must come forth to appease you, as it is written: 'Go, humble thyself and urge thy neighbour'. When R. Zera had any complaint against any man, he would repeatedly pass by him,[24] showing himself to him, so that he may come forth to [pacify] him. Rab once had a complaint against a certain butcher, and when on the eve of the Day of Atonement he [the butcher] did not come to him,[25] he said: l shall go to him to pacify him. R. Huna met him and asked: Whither are you going, Sir? He said, To pacify So-and-so. He thought: Abba[26] is about to cause one's death.[27] He went there and remained standing before him [the butcher], who was sitting and chopping an [animal's] head. He raised his eyes and saw him [Rab], then said: You are Abba, go away. I will have nothing to do with you. Whilst he was chopping the head, a bone flew off, struck his throat, and killed him.

Once Rab was expounding portions of the Bible[28] before Rabbis, and there entered

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(1) [This bracketed passage is left out in MS.M.].

(2) V. Sanh. 7b.

(3) Job XX, 6-7.

(4) He was advanced in age and unable to walk quickly, and thus he was carried so that the audience should not have to wait long for his arrival.

(5) When he would preach on the Festival laws.

(6) Prov. XXVII, 24.

(7) Ibid. XVIII, 5.

(8) I Kings XXI, 29.

(9) Prov. XVIII, 5.

(10) Lev. X, 12, the suggestion being 'they were left to survive', having also deserved the punishment suffered by their two brethren.

(11) The official ordination, lit., 'laying hands' on the scholar,

(12) Ps. XVI, 9.

(13) Prov. XXVIII, 17.

(14) Lit., 'by the way of'. Since he relies upon the capacity of the Day of Atonement to forgive, for sinning, such forgiveness is not procured by that day.

(15) Supplemented from Bah.

(16) I Sam. II, 25. E.V. 'shall judge him', Elohim may mean either 'God' or 'judge,' and so the Hebrew verb 'pallel' may mean either 'judge' or 'pray', thus 'pacify', 'forgive'. The two meanings of the words are represented in the two suggestions here.

(17) [An instance of aposiopesis, in which part of the sentence is suppressed, cf. Giesenius Kautzsch, ** 159dd and which part of the sentence is suppressed, cf. Gesenius Kautzsch, ¤¤159dd and 162. V. Maharsha. Rashi explains differently].

(18) Prov. VI 1-3.

(19) So Bah. I.e., pay him. The Hebrew is a play on the word התרפס 'humble thyself'.

(20) The Hebrew is a play on רהב רעיך 'urge thy neighbour'.

(21) Job XXXIII, 27. The root for 'right' — 'yashar' is interpreted as if derived from 'shur', from which the noun 'shurah', 'row', 'group' is derived.

(22) Gen. L, 17. The brethren, in their appeal to Joseph to forgive the wrong they had done to him, use the term 'na' (O, pray) three times.

(23) I Sam. II, 8.
(24) To, make it easier for him to endeavour reconciliation.
(25) To pacify him.
(26) Because the butcher had neglected to make his effort to reconcile Rab. Abba was the real name of Rab.
(27) As he knew that the butcher was a hard man and would not take advantage of Rab's offer at reconciliation.
(28) פסיק סדרא V. Shab., Sonc. ed., p. 572, n. 1.

Talmud - Mas. Yoma 87b

R. Hiyya, whereupon Rab started again from the beginning; as Bar Kappara entered, he started again from the beginning; as R. Simeon, the son of Rabbi entered, he started again from the beginning. But when R. Hanina b. Hama entered, he said: So often shall I go back? And he did not go over it again. R. Hanina took that amiss. Rab went to him on thirteen eves of the Day of Atonement, but he would not be pacified. But how could he do so, did not R. Jose b. Hanina Say: One who asks pardon of his neighbour need not do so more than three times?[1] — It is different with Rab.[2] But how could R. Hanina act so [unforgivingly]? Had not Raba said that if one passes over his rights, all his transgressions are passed over [forgiven]? — Rather: R. Hanina had seen in a dream that Rab was being hanged on a palm tree, and since the tradition is that one who in a dream is hanged on a palm tree will become head [of an Academy] he concluded that authority will be given to him, and so he would not be pacified, to the end that he departed to teach Torah in Babylon.[3]

Our Rabbis taught: The obligation of confession of sins comes on the eve of the Day of Atonement, as it grows dark. But the Sages said: Let one confess before one has eaten and drunk, lest one become upset[4] in the course of the meal. And although one has confessed before eating and drinking, he should confess again after having eaten and drunk, because perchance some wrong has happened in the course of the meal, And although he has confessed during the evening prayer, he should confess again during the morning prayer; [and although he has confessed] during the morning prayer, he should do so again during the Musaf [additional prayer]. And although he had confessed during the Musaf, he should do so again during the afternoon prayer; and although he had done so in the afternoon prayer, he should confess again in the Ne'ilah [concluding prayer]. And when shall he say [the confession]? The individual after his ‘Amidah Prayer’,[5] the public reader in the middle thereof. What is it [the confession]? — Rab said: ‘Thou knowest the secrets of eternity’.[6] Samuel said: From the depths of the heart.[7] Levi said: And in thy Torah it is said . . .[8] R. Johanan said: Lord of the Universe, [etc.].[9] Rab Judah: ‘Our iniquities are too many to count, and our sins too numerous to be counted’. R. Hamnuna said: ‘My God, before I was formed, I was of no worth, and now that I have been formed, it is as if I had not been formed. I am dust in my life, how much more in my death. Behold I am before Thee like a vessel full of shame and reproach. May it be thy will that I sin no more, and what I have sinned wipe away in Thy mercy, but not through suffering’.[10] That was the confession [of sins] used by Rab all the year round, and by R. Hamnuna the younger, on the Day of Atonement. Mar Zutra said: All that [is necessary only] when he did not say: ‘Truly, we have sinned’.[11] but if he had said: ‘Truly, we have sinned’, no more is necessary, for Bar Hamdudi said: Once I stood before Samuel, who was sitting, and when the public reader came up and said: ‘Truly, we have sinned’, he rose. Hence he inferred that this was the main confession.

We learned elsewhere: On three occasions of the year the priests raise their hands [in benediction] four times during the day; at the morning prayer, at Musaf, at Minhah [afternoon prayer] and at the closing of the [Temple] gates. Viz., on fast days, at the ma'amads and on the Day of Atonement.[12] What [is the prayer at] ‘the closing of the [Temple] gates’? — Rab said: An extra prayer.[13] Samuel said: ‘Who are we, what is our life, etc.’?[14]

The following objection was raised: On the evening of the Day of Atonement one reads seven [benedictions][15] and then makes the confession, in the morning prayer one reads seven [benedictions] and makes confession, at Musaf one reads the seven [benedictions] and makes confession, at Minhah one reads the seven [benedictions] and makes confession, and at Ne'ilah one reads the seven [benedictions] and makes confession?[16] [And further was][17] it taught: On the Day of Atonement as it becomes dark one reads the seven benedictions and makes confession, and concludes with the confession[18] — that is the view of R. Meir, whereas the Sages say: He should read the seven [benedictions], and if he wishes to conclude with the confession, he may do so. That would be a refutation of Samuel?[19] — It is a refutation.

‘Ulla b. Rab came down [to the reader's desk] before Raba, commencing the Ne'ilah prayer with ‘Thou hast chosen us and concluding with ‘What are we, what is our life’, and he praised him. R. Huna b. Nathan said: The individual should say it[20] after his prayer.

Rab said: The concluding prayer exempts from evening prayer [to follow]. Rab goes according to his idea that it is all extra prayer, and since one has said it already [at dusk] it is not required any more. But did Rab say so? Did not Rab say: The halachah is according to the view that the evening Prayer is not obligatory?[21] He said this on the view that it is obligatory.[22]

An objection was raised: On the evening of the Day of Atonement he should read seven [benedictions] and make confession, in the morning also seven and make confession, at Musaf also seven and make confession, at Minah also seven and make confession,[23] at Ne'ilah also seven and make confession, at the evening Prayer he reads seven benedictions [the seventh consisting of] the substance of the eighteen benedictions.[24] R. Hanina b. Gamaliel said in the name of his ancestors: One must read the complete prayer of eighteen benedictions,

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(1) V. supra p. 435.

(2) He goes beyond what the law requires, his humility and kindness refuse to recognize limits in such matters.

(3) After the death of Raba, R. Hanina became head of the Academy (v. Keth. 103b) and he interpreted the dream to mean that he would die soon, to make place for Rab. In order to allow for another interpretation, with less fatal results to himself of that vision, he refused to become reconciled to Rab, forcing the latter to go to Babylon, where in accord with that dream he did become before long head of the School of Sura.

(4) Through drink.

(5) The ‘Amidah, the prayer par excellence.

(6) V. P.B., p. 259.

(7) [Probably the same as the prayer mentioned by Rab, except that Samuel substitutes ‘The depths of the Heart’ for ‘secrets of the eternity’ V. D.S. a.l.].

(8) [For us this day He shall make atonement for you (Rashi); v. P. B., p. 257].

(9) V. P.B., p. 7.

(10) V. P.B., p. 263.

(11) V. P.B., p. 258.

(12) For notes v. Ta'an., Sonc. ed., p. 136.

(13) I.e., an extra Amidah consisting of the usual seven benedictions like all the other Amidahs of Festivals.

(14) V. P.B., p. 267.

(15) I.e., the Amidah, cf. n. 2.

(16) This contradicts Samuel's opinion.

(17) [So emended by Ronsburg, v. Marginal Glosses; cur. edd. This is a point of dispute between Tannas, v. note 8].

(18) [I.e., he ends the middle benedictions of the ‘Amidah with the usual formula, Blessed art Thou O Lord . . . Who forgivest (Rashi).]

(19) [Here at any rate all agree that at the concluding service there is an Amidah in contradiction to Samuel. MS.M. deletes this and reads in the Baraitha. But the Sages say he need not read the seven (benedictions), which would be in support of Samuel. Thus the view of Samuel is ‘a point of’ dispute among Tannas’. V. n. 6; cur. edd. present a conflated text].

(20) I.e., What are we, etc.

(21) In which case there is no point in his present ruling.
(22) Not arguing for himself, but for the scholar of the opposite view.
(23) So MS.M..
(24) V. Ber. 29a.

Talmud - Mas. Yoma 88a

because one must make mention of Habdalah[1] in the benediction [commencing with] ‘Thou favourest’.[2] That is a dispute of Tannaim, for it was taught in a Baraitha: All those obliged to immerse themselves may do so in their usual manner on the Day of Atonement, the menstruating woman, and the woman after childbirth immerse themselves in their usual manner on the evening of the Day of Atonement. One who had a pollution may do so until the afternoon prayer.[3] R. Jose said: He may do so throughout the day. But the following contradiction is to be pointed out: A man or woman afflicted with gonorrhoea, or with leprosy, one who had had intercourse with a menstruant, or one rendered unclean by contact with a dead person, may immerse themselves in their usual manner on the Day of Atonement. A menstruating woman, and a woman after childbirth may immerse themselves in their usual manner on the night before the Day of Atonement. One who had experienced a pollution may immerse himself throughout the day.[4] R. Jose said: From the Minhah onwards, he may not immerse himself? — This is no difficulty: The one refers to the case that he had read the Ne'ilah prayer,[5] the other that he had not read the Ne'ilah. If he had prayed, what is the reason for the view of the Rabbis?[6] — The Rabbis hold: It is obligatory to take the ritual bath at the proper times.[7] This implies that R. Jose would not hold this not to be obligatory, but surely it was taught: If he has had the name [of God] inscribed on his body he must not bathe, nor anoint himself, nor stand in an unclean place; if it happens that he is obliged to immerse himself, he should tie some reed around, go down and immerse himself, R. Jose said: He may go down and immerse himself in the usual manner, provided he does not rub it off. And we know that they are disputing the principle as to whether it is obligatory to take the ritual bath at its definite time![8] [The Tanna of] that [former Baraitha][9] is R. Jose b. Judah, for it was taught: R. Jose b. Judah said: The [one] immersion at the end suffices for her.[10] Our Rabbis taught: One who experiences a pollution on the Day of Atonement should go down and immerse himself and in the evening he should rub himself off properly. ‘In the evening’? What is passed,is it not passed?[11] Rather say: He should rub himself off on the eve before![12] He holds it is obligatory to rub oneself off. A tanna[13] recited before R. Nahman: To one who experienced a pollution on the Day of Atonement, all sins will be forgiven. But it was taught: All his sins will be arranged before him? — What does ‘arranged’ mean? Arranged to be forgiven. In the School of R. Ishmael it was taught: One who experienced a [night-] pollution on the Day of Atonement, let him be anxious throughout the year, and if he survives the year, he is assured of being a child of the world to come. R. Nahman b. Isaac said: You may know it [from the fact that] all the world is hungry, and he is satisfied. When R. Dimi came, he said: He will live long, thrive and beget many children.[14]

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(1) Lit., ‘division’. The reference to the distinction between holy and profane recited in the Amidah on the termination of the Sabbath and Festivals.
(2) V. P.B., p. 46.
(3) That means, if he had experienced pollution before then, he may immerse himself until Minhah, so that he may pray the afternoon prayer. But if it happened after the afternoon prayer, he should not immerse himself, but await until dark therewith. The Sages hold that the Ne'ilah is to be said at night, and therefore in agreement with Rab's teaching, renders exempt the evening prayer; whereas R. Jose, who holds that the man who had experienced pollution may immerse himself throughout the day, so that even if he had experienced after the afternoon prayer, he may immerse himself in order that he might pray the concluding prayer, is of the opinion that the Ne'ilah prayer is not said at night, and therefore does not exempt the evening service.
(4) V. supra 6b.
(5) Before he experienced the pollution, and therefore R. Jose holds that he may not immerse himself after the Minhah.

(6) In the second Baraitha, allowing immersion after Minhah.
(7) And since the time of the immersion of those who experienced pollution is during the day, they may do so even after Minhah.
(8) V. supra 8a.
(9) Who does not permit immersion after Minhah because he does not regard it as an obligation to immerse at the proper time.
(10) V. Shab., Sonc. ed., p. 598, n. 11.
(11) How can a later action influence something completed before?
(12) So that his body be sufficiently clean, and in the case of a pollution the immersion will touch every part of his body. An immersion is ritually effective only if the waters reach unimpeded the whole surface of the body.
(13) V. Glos. s.v. (b).
(14) His experience indicates that his seed will multiply.

Talmud - Mas. Sukkah 2a

C H A P T E R I

MISHNAH. A SUKKAH[1] WHICH[2] IS MORE THAN TWENTY CUBITS HIGH IS NOT VALID, R. JUDAH, HOWEVER, DECLARES IT VALID. ONE WHICH IS NOT TEN HAND BREADTHS HIGH, OR WHICH HAS NOT THREE WALLS, OR WHICH HAS MORE SUN THAN SHADE, IS NOT VALID.

GEMARA. We have learnt elsewhere[3] : If the [cross-beam above an] alley-entry[4] is more than twenty cubits high, it must be lowered. R. Judah says this is unnecessary. Now wherein lies the difference [between the two cases that] with regard to the Sukkah it is declared NOT VALID, while with regard to [the cross-beam over] the alley-entry, a remedy is indicated? — With regard to the Sukkah, since it is a Pentateuchal[5] ordinance, it [was proper categorically to] state, NOT VALID;[6] with regard to [the cross-beam over] an alley-entry, however, since the injunction is only Rabbinical,[7] a remedy is given.[8] And, if you wish, you may say that even with a Pentateuchal command a remedy may be given, but with regard to the Sukkah, as the ordinances relating thereto are many it was briefly stated, NOT VALID[9] [while in the case of a cross-beam over] an alley-entry, since the regulations thereof[10] are not many, a remedy is indicated.

Whence do we know this?[11] — Rabbah answered: Scripture says, That your generations may know[12] that I made the children of Israel to dwell in booths,[13] [with a booth] up to twenty cubits [high] a man 'knows' that he is dwelling in a booth, but with one higher than twenty cubits he does not 'know' that he is dwelling in a booth, since his eye does not descry it.[14] R. Zera replied: From the following verse, And there shall be a booth for a shadow in the daytime from the heat.[15] [With a booth] up to twenty cubits [high] a man sits in the shade of the booth;[16] but with one higher than twenty cubits he sits, not in the shade of the booth[16] but in the shade of its walls.[17] Said Abaye to him ,[18] But if so, if a man made his Sukkah in Ashteroth Karnayim'[19] would it also be no valid Sukkah? — He answered him: In that case, remove the 'Ashteroth Karnayim' and there will remain the shade of the Sukkah, but here, remove the walls, and you have no shade of a Sukkah.[20]

Raba replied: [It is derived] from the following verse, Ye shall dwell in booths seven days,[21] the Torah declared, For the whole seven days leave thy permanent abode and dwell in a temporary abode. [With a booth] up to twenty cubits [high] a man makes his abode a temporary one; [in one] higher than twenty cubits, a man does not make his abode temporary, but permanent.[22] Said Abaye to him, But if so, if he made walls of iron and placed the [proper] covering[23] over them, would it also[24] be no valid Sukkah. The other answered him, it is this that I mean to tell you: [In a booth] up to twenty cubits, which a man makes his temporary abode, even if he makes it permanent, he has fulfilled his obligation; [but in one] higher than twenty cubits, such as a man makes his permanent abode, even if he makes it temporary, he has not fulfilled his obligation.

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(1) The booth set up at the Feast of Tabernacles in fulfilment of Lev. XXIII, 42.

(2) In its interior.

(3) 'Er. I, 1.

(4) If an alleyway has courtyards opening into it, while on one side it is open to a public domain, a cross-beam placed over the entrance imparts to it some of the characteristics of a private domain within which freedom of movement on the Sabbath is permitted.

(5) V. Supra n. 1.

(6) The suggestion of a remedy might have been misunderstood as being mere advice the neglect of which did not vitally affect the performance of the precept, and so it would be concluded that ex post facto the Sukkah may be deemed fit. (V. Tosaf. 'Er. 2a s.v סוכה contra Rashi).

(7) According to the Pentateuchal ordinance three walls suffice to make an enclosure private.

(8) There is no need for so much precaution in the case of a Rabbinical, as in that of a Pentateuchal law.
(9) Thus presenting a succinct ruling covering all disqualifications. Were remedies for each disqualification to be indicated the ruling would have extended to undue lengths, contrary to the principle of brevity in teaching (v. Pes. 3b).
(10) Given in the cited Mishnah ‘Er. I, 1.
(11) That the prescribed height of a Sukkah is Pentateuchal.
(12) Emphasis on ‘know’.
(13) Lev. XXIII, 43.
(14) The roof covering סכך Which is the essential feature of the Sukkah.
(15) Isa. IV, 6.
(16) Sc. the roof (cf. supra n. 5).
(17) Whose shadows completely fill the interior and render that of the roof superfluous.
(18) R. Zera.
(19) A glen between two high mountains where the sun cannot penetrate. Lit., ‘Ashteroth of the two horns’, v. Gen. Xlv, 5.
(20) Since the high roof would not suffice to exclude the sunshine that comes streaming in from the sides.
(21) Lev. XXIII, 42.
(22) Such a high structure requires firm foundations and walls and these give it the characteristics of a permanent abode.
(23) סכך, ‘to cover’ refers especially to the valid covering of a Sukkah,
(24) Since it is a permanent structure.

Talmud - Mas. Sukkah 2b

All[1] do not agree with [the deduction of] Rabbah, since that [verse][2] refers to the knowledge of [future] generations. Nor do they agree with R. Zera, since that verse[3] refers to the Messianic age.[4] [What, however, does] R. Zera [answer to this objection]?- [he could answer], If so, the verse could read ‘And there shall be a covering for a shadow in the daytime’. Why then was it stated, ‘And there shall be a booth for a shadow in the daytime’? Hence you must infer therefrom both points.[5]

Nor do they[6] agree with Raba, on account of the objection of Abaye.[7]

Whose authority is followed in the statement made by R. Josiah in the name of Rab, that the difference of opinion[8] is where the walls do not reach the covering, but where the walls do reach the covering the sukkah is valid, even if it is higher than twenty cubits?

‘Whose authority is followed’ [you ask]? it is in accordance with Rabbah whose reason[9] is that the eye does not descry it, but where the walls reach the covering, the eye[10] does descry it.

Whose authority is followed in the statement made by R. Huna in the name of Rab, that the difference of opinion[8] is where the area of the sukkah was only four cubits square but where it was more than four cubits square [both agree] that even if it is higher than twenty cubits it is valid? — In agreement with whom [you ask]? In agreement with R. Zera who gives as the reason[11] the [character of the] shade, and, since it[12] is spacious- there is the shade of a Sukkah.[13]

Whose authority is followed in the statement made by R. Hanan b. Rabbah in the name of Rab, that the difference of opinion[14] is only where [the Sukkah] can contain [only] a person's head, the greater part of his body, and his table,[15] but where it is larger than this [both agree] that even if it is higher than twenty cubits it is valid? — In agreement with whom [you ask]? In agreement with none.[16]

It is understandable that R. Josiah disagrees with R. Huna and with R. Hanan b. Rabbah, since they lay down a [minimum] measurement in the extent [of the Sukkah] while he does not lay down a minimum measurement as to the extent [thereof]; but [as regards] R. Huna and R. Hanan b. Rabbah, can we say that they differ on [what minimum of extent constitutes] the validity of the Sukkah, the former[17] holding the opinion that the validity of the sukkah [depends upon its being a minimum of] four cubits [square] while the latter[18] holds that the validity of the sukkah [depends, upon its capacity of] containing his head, the greater part of his body, and his table?- No! Both may agree that the validity of the Sukkah [depends upon its capacity of] containing his head, the greater part of his body, and his table, but here they differ on the following principle: One master[18] holds the opinion that they[19] differ where the Sukkah [can] contain [only] his head, the greater part of his body, and his table, but if it is larger than this both agree that it is valid,[20] while the other master[17] holds the opinion that they differ [about a Sukkah whose size is] between [one capable of] containing his head, the greater part of his body and his table, and one four cubits square, but if it is more than four cubits square, both agree that it is valid.[21]

It was objected:[22] A Sukkah which is higher than twenty cubits is not valid, but R. Judah declared it valid up to a height of forty or fifty cubits. R. Judah stated, ‘It happened with Queen Helena[23] in Lydda[24] that her Sukkah was higher than twenty cubits, and the elders nevertheless were going in and out of it and spoke not a word to her [in disagreement]’. They said to him, ‘Is[25] this a proof? She was a woman and [therefore] free from the obligation of the Sukkah’.[26] He answered them, ‘Did she not have seven sons? And besides, she did nothing except in accordance with the command of the Sages’. Why does he have to add ‘and besides, she did nothing except in accordance with the command of the Sages’? Thus he said to them: If you will answer [with regard to her seven sons] that her sons were minors[27] and minors are free from [the obligation of] the sukkah, since [however] she had seven, there must have been at least one[28] who was [old enough] not to be dependent on his mother; and if you will object that [the duty of educating] a child who is not dependent on his mother is merely a Rabbinical injunction, and she took no heed of a Rabbinical injunction, I[29] add ‘and besides, she did nothing except in accordance with the command of the Sages’. Now this [Baraitha] is well according to the authority who says that their[30] difference of opinion was in the case where the walls did not reach the covering;[31] since it is the custom of a queen to sit in a sukkah whose walls do not reach the roof

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(1) The Amoras, supra 2a, who dealt with the question, whence is it derived that the prescribed height of a Sukkah is Pentateuchal.

(2) Lev. XXIII, 43.

(3) Isa. IV, 6.

(4) When there shall be booths for shelter against heat etc.

(5) That (a) there will be a Sukkah in the Messianic age and (b) only one whose roof provides the necessary shadow is valid.

(6) V.supra n. 3.

(7) Supra 2a ad fin.

(8) In our Mishnah, between the first anonymous authority and R, Judah.

(9) For the ruling of the first Tanna.

(10) Travelling up the walls.

(11) For the ruling of the first Tanna.

(12) The Sukkah.

(13) Sc. the roof covering.

(14) V. p. 3, n. 10.

(15) They used to eat reclining on a couch by the table.

(16) Since even when the Sukkah can contain more than his head, greater part of his body and table, all the reasons given by the above authorities for disqualifying a Sukkah higher than twenty cubits still apply.

(17) R. Huna.

(18) R. Hanan b. Rabbah.

(19) The anonymous authority in our Mishnah and R. Judah.

(20) Even when higher than twenty cubits.

(21) I.e., according to R. Zera, since on account of its spaciousness there is the shade of a Sukkah in it.

(22) Against the Amoras who laid down supra the principles on which the authorities in our Mishnah differ.

(23) A famous royal convert to Judaism, about the year thirty C.E. She was Queen Adiabene, wife of Monobaz I, and mother of Monobaz II. She visited Palestine about forty-three C.E. and presented a golden portal to the Temple (Yoma 37a). She was buried in Jerusalem.

(24) A town in Palestine, west of Jerusalem, noted as a seat of scholarship after the destruction.

(25) Lit., ‘from there’.

(26) Since it is a commandment dependent upon a specified time for its performance from which women are exempt.

(27) Under thirteen years of age.

(28) Who, although still a minor, must be educated in the observance of the commandments of the Torah.

(29) Lit., ‘come and hear’.

(30) That of R. Judah and the first Tanna in our Mishnah.

(31) Of the Sukkah.

Talmud - Mas. Sukkah 3a

because of ventilation; but according to the authority who states that they differed only in the case of a small’ Sukkah,[1] is it then customary for a queen to sit in a diminutive sukkah?[2] — Rabbah b. Adda answered, The ruling was necessary only in the case of a Sukkah constructed with many recesses.[3] Is it then customary for a queen to sit in a sukkah with many recesses? — R. Ashi answered: [The ruling] was necessary only in the case of the recesses in it.[4] The Rabbis hold the opinion that her sons sat in the proper Sukkah, while she sat in one of the recesses for reasons of modesty, and hence they[5] made no remark,[6] while R. Judah was of the opinion that her sons sat with her,[7] and still they[5] made no remark.

R. Samuel b. Isaac[8] stated, The halachah is that [the Sukkah] must be able to contain his head, the greater part of his body, and his table. R. Abba said to him, In agreement with whom is this ruling? Is it in agreement with Beth Shammai?[9] -The other answered him,, According to whom else? Another version: R. Abba said to him, Who holds this opinion?-He answered, ‘Beth Shammai, and[10] do not budge from it’.

R. Nahman b. Isaac demurred: Whence do we know that Beth Shammai and Beth Hillel are in dispute concerning a small Sukkah? Perhaps their dispute concerns a large Sukkah, as for instance, where a man sat at the entrance of the Sukkah with his table inside the house,[11] Beth Shammai holding the opinion that we prohibit it lest he be drawn after the table, while Beth Hillel hold that we do not prohibit it? This, furthermore, may be deduced also [from the wording], for it was stated, ‘If his head and the greater part of his body were within the Sukkah but his table was within the house, Beth Shammai declare it invalid, and Beth Hillel declare it valid;’[12] but if it is [as you say][13] it ought to read, [If the Sukkah can] contain, or cannot contain [his head etc.].[14]

But do they not dispute concerning a small Sukkah? Has it not in fact been taught: [If a Sukkah can] contain his head, the greater part of his body and his table, it is valid. Rabbi says, It must be four cubits square. While in another [Baraitha] it has been taught: Rabbi says, Any Sukkah which is not four cubits square is invalid, while the Sages say, Even if it can contain only his head, and the greater part of his body it is valid. Whereas of ‘his table’ there is no mention. Does not thus[15] a contradiction arise between the two [Baraithas]? We must consequently infer therefrom that one is [according to] Beth Shammai, and the other according to Beth Hillel![16]

Mar Zutra observed, The wording of this Mishnah[12] also proves it,[13] since it says: ‘Beth Shammai declare it invalid, and Beth Hillel declare it valid’, and if it were [as you say][17] it ought to read: Beth Shammai say’, He has not fulfilled his obligation while Beth Hillel say that he has.[18] But do not the words, ‘He [whose head etc.] were’[19] present a difficulty? — The fact is that they differ on two [points], on a small Sukkah and a large one, but the text is defective and is to be read thus: ‘He whose head and the greater part of his body were within the sukkah and his table within the house,[20] Beth Shammai say, He has not fulfilled his obligation and Beth Hillel say, He has; and if it is [able to] contain only his head and the major part of his body alone,[21] Beth Shammai declare it invalid and Beth Hillel valid.’ Who is the authority for that which our Rabbis taught: ‘A house which is not four cubits square is free from the obligations of Mezuzah[22] , and parapet,[23] does not contract levitical uncleanliness from leprosy,[24] is not irredeemable among the dwelling houses of a walled city,[25] nor does one return on its account from the array of war,[26] nor need an ‘Erub[27] be prepared for it, nor Shittuf,[27] nor does one place therein an ‘Erub[28]

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(1) But agreed where it was a large one.

(2) Obviously not. Why then did the Rabbis in this case differ from R. Judah?

(3) Since each recess was small the Rabbis may well have regarded it as invalid.

(4) Sc. It was a large Sukkah with recesses in it.

(5) The elders.

(6) Since a woman is exempt from Sukkah.

(7) In the recesses.

(8) Var. lec., R. Huna.

(9) It cannot be in agreement with Beth Hillel who (infra 28a) do not require a Sukkah to be capable of containing also one's table.

(10) Although the halachah is usually according to Beth Hillel.

(11) I.e., the Sukkah was built on to the house

(12) Mishnah infra 28a.

(13) That the point at issue is a small Sukkah.

(14) It may, therefore, be concluded that the point at issue is a Sukkah that was large.

(15) Since the former does, and the latter does not mention ‘his table’.

(16) Which proves that Beth Shammai and Beth Hillel dispute concerning a small Sukkah.

(17) That the dispute related to a large Sukkah.

(18) Since the Sukkah itself is valid.

(19) As has been pointed out supra in support of R. Nahman b. Isaac's demur.

(20) Referring to a large Sukkah.

(21) Referring to a small Sukkah.

(22) V. Deut. VI, 9 and Glos.

(23) V. Ibid. XXII, 8.

(24) V. Lev. XIV, 34ff

(25) V. Ibid. XXV, 29, 30. Houses in walled cities, if sold, were irredeemable after twelve months, and remained in perpetuity the buyers’, v. Lev. XXV, 30. A structure less than four cubits square is not regarded as a ‘house’, and none of the above-mentioned laws are applicable to it. It may be redeemed at any time, and if it was not redeemed it returns to the seller in the jubilee year.

(26) V. Deut. XX, 5.

(27) V. Glos,

(28) I.e., this structure cannot be regarded as one of the houses wherein the ‘Erub of the courtyard may be placed.

Talmud - Mas. Sukkah 3b

nor make of it an extension[1] between two cities, nor can brothers or partners divide it ‘?[2] Must we say that it agrees with Rabbi,[3] and not with the Rabbis?[4] — No! One can even say that it agrees with the Rabbis. The Rabbis say it[5] only with regard to a Sukkah which is a temporary abode, but with regard to a house which is a permanent abode, even the Rabbis admit that if it has an area of four cubits square, people dwell therein,[6] otherwise, they do not dwell therein.

The Master said, ‘It is free from the obligations of Mezuzah, and parapet, does not contract levitical uncleanliness from leprosy, is not irredeemable among the houses of a walled city, nor does one return on its account from the array of war'. What is the reason? — Because the term 'house' occurs in all [these commandments].[7]

'Nor need an 'Erub be prepared for it, nor Shittuf, nor does one place therein an 'Erub'. What is the reason?-Since it is unsuitable as a dwelling.[8] Now the 'Erub of courtyards is not placed therein, but a Shittuf[9] may be placed therein. What is the reason? — Since it is no worse than a courtyard within an alleyway as we have learnt, 'The 'Erub of courtyards [are placed] in a courtyard, and the shittuf of an alley in the alley',[10] and the point was raised, [How can it be said that], 'The 'Erubs of courtyards [are placed] in a courtyard'? Have we not in fact learnt,[11] If a man placed his 'Erub in a gatehouse[12] or in an exedra, or in a gallery, it is no valid 'Erub,[13] and he who dwells therein cannot be a cause of prohibition?[14] — Say rather, 'Erubs of courtyards [are placed] in a house of the courtyard, and the Shittufs of alleys in a courtyard of the alley; and this[15] is no worse than a courtyard in an alley.

'Nor make of it an extension between two cities'. Since it is not regarded even as an outpost.[16] What is the reason?- Outposts are suitable for their purpose,[17] but this is unsuitable for anything.[18]

'Nor can brothers or partners divide it'. The reason apparently is that it is not four cubits square, but if it were four cubits square, [presumably] they could divide it.[19] But have we not learnt, A courtyard should not be divided unless there be four cubits to each [of the parties]?[20] — Say rather, The law of division[21] does not apply to it, as [it does in the case of] a courtyard. For R. Huna ruled, 'A courtyard is divided according to the number of its doors',[22] and R. Hisda said, 'Four cubits are allowed for each door and the remainder is divided equally', but this[23] applies only to a house which is intended to stand, [and therefore] we allow it a [share in the] courtyard; but as to this [a hovel] which is intended to be demolished, we do not allow it [a share in the] courtyard.

If [a Sukkah] was more than twenty cubits high and he diminished its [height] with bolsters and cushions it is not a [valid] diminution,

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(1) A legal fiction whereby a house between two cities' (situated at a distance of a hundred and forty-one and a third cubits from each other) 'extends' the boundaries of each if it was equidistant from both. The two cities are then treated as one, and walking from one to the other and along distances of two thousand cubits from each city in all directions is permitted on the Sabbath.

(2) If it fell to brothers as an inheritance, or if it belonged to partners who wish to dissolve their partnership. V. Mishnah B.B., I, 6.

(3) Who regards a Sukkah less than four cubits square as invalid.

(4) Is it likely, however, that an anonymous Baraitha represents the view of an individual against that of the majority?

(5) That a structure less than four cubits is valid.

(6) And it can, therefore, be regarded as a 'house'.

(7) V. Deut. VI, 9; XXII, 8; Lev. XIV, 35;. XXV, 29; Deut. XX, 5.

(8) And consequently unfit for an 'erub whose function is to combine all the residents into one group that virtually dwells in the house where it is deposited. For the same reason only the resident of a house that is suitable as a dwelling imposes restrictions on his neighbours unless he joined in the 'Erub. One that is 'unsuitable may be regarded as non-existent (cf. 'Er. 49a).

(9) Whose function is not the combination of dwellings but that of courtyards.

(10) 'Er. 85b.

(11) Mishnah 'Er. VIII, 4.

(12) A porter's lodge.

(13) Cf. supra n. 2 mut. mut.

(14) To the other inmates as regards carrying in the courtyard. How then could it be said that an 'Erub deposited in an open courtyard is valid?

(15) A house less than four cubits square.

(16) בורגין Gr. ** an isolated turret outside a city.

(17) A night's lodging.

(18) Lit., 'for its purpose', to serve as a dwelling for which purpose a house is built.

(19) I.e., presumably they could compel each other to divide.

(20) B.B. 11a.

(21) As explained presently by R. Huna and R. Hisda.

(22) V. B.B., Sonc. ed., p. 54, n. 5.

(23) That house owners are entitled to certain shares in their common courtyard.

Talmud - Mas. Sukkah 4a

even though he abandoned them[1] since his intention is canceled by that of other men;[2] if [he spread] straw [in order to diminish the height] and abandoned it, it is a [valid] diminution, and much more so is this the case with earth which he abandoned. [If he spread] straw which he had no intention of removing[3] or earth concerning which his intention is unknown — this is a matter of dispute between R. Jose and the Rabbis. For we have learnt, If a house was filled with straw or gravel and the owner announced his intention to abandon it, it is duly abandoned.[4] [Thus only if] he expressly abandoned it,[5] is it not regarded as abandoned, but if he did not expressly do so, it is not so regarded; and with regard to this we have learnt, R. Jose ruled: Straw which he has no intention of removing is like ordinary earth[6] and is deemed to be abandoned; earth which he intends to remove [later] is like ordinary straw[6] and is not deemed to be abandoned.[7] [If a Sukkah] was more than twenty cubits high but palm-leaves[8] hung down within the twenty cubits, if the shade[9] is more than the sun,[10] it is valid, otherwise it is invalid. If [the sukkah] was ten handbreadths high[11] and palm-leaves hung down within the ten cubits, Abaye[12] intended to say that if the sun [that penetrates through them] is more than their shade, it is valid,[13] [but] Raba said to him, This is a house [whose roof] hangs low down, and no man lives in such a dwelling. If it was higher than twenty cubits and he built a ledge at the middle wall[14] along its whole length[15] and it[16] has the minimum size of a valid Sukkah,[17] it[18] is valid.[19] If [he built the ledge] on a side [wall], — if from the edge of the ledge to the wall [opposite] there are four cubits,[20] it[21] is invalid; but if the distance was less than four cubits, it[18] is valid.[22] What principle does he teach us by this ruling? That we apply the rule of the 'curved wall'?[23] But have we not [already] learnt it: A house [the middle of whose flat roof] is missing and one placed the valid covering of a Sukkah upon it,[24] if there are four cubits from the [top of the] wall to the covering, it[25] is invalid;[26] which [shows that] if the distance was less than this it is valid?[27] — One might have thought that only there[28] [it is valid] since [each side] is suitable [to serve] as a wall;[29] but that here[30] since it[31] is unsuitable for a wall, one might say that it is invalid, [therefore] we were taught [that even here the principle[32] is applied].

If [a sukkah] was higher than twenty cubits and one built a platform in the middle of it, if there are four cubits on every side between the edge of the platform and the wall, it[33] is invalid; but if the distance is less than four cubits, it is valid. What principle does this teach us? That we apply the rule of the 'curved wall'?[34] But is not this principle identical with the former one?-One might have thought that we apply the rule of the 'curved wall' on one side only, but not on every side, therefore we were taught [that we apply it to all sides also].

If [a Sukkah] was less than ten handbreadths in height and one hollowed out[35] [a hole][36] in order to bring it to [ten handbreadths], — if there was a distance of three handbreadths from the brim of the hollow to the wall, it is invalid;

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(1) I.e., he declared them to be null and void and as part of the ground for the duration of the Festival. '

(2) Who would still regard them as cushions.

(3) During the Festival; but he did not actually pronounce the formula of annulment.

(4) And the house is regarded as filled in respect of the laws of ohel, v. ‘Er., Sonc. ed., fol. 78b, notes.
(5) I.e., pronounced the formula of annulment.
(6) Concerning which the owner's intention is unknown.
(7) It has thus been shown that all agree that straw or earth that had been explicitly abandoned is deemed to be duly abandoned, and that straw about which the owner's intention is not known and earth which he intends to remove is not regarded as abandoned, while as regards straw or earth which the owner does not intend to remove and earth about which the owner's intention is not known there is a divergence of view between R. Jose, who deems it to be abandoned, and the Rabbis.
(8) Which form the roof covering.
(9) Of the palm-leaves that hang down.
(10) Since the palm-leaves may be regarded as a valid covering within the twenty cubits.
(11) The minimum height.
(12) On the analogy of the previous ruling.
(13) Since their presence adds no substantial shade.
(14) A Sukkah generally has only three walls, the fourth side being the door. The ‘middle wall’ is the one between the two side walls.
(15) So that it reached the side walls.
(16) The ledge.
(17) Seven handbreadths and a fraction square.
(18) The entire Sukkah, even the area between the ledge and the door.
(19) The area of the ledge being regarded as a small valid Sukkah with three walls, while the remainder is treated as an extension of it (cf. infra 19a).
(20) Since in this case the ledge had no more than two walls.
(21) The entire Sukkah.
(22) Because the roof, (cf. infra 6b) above the area between the ledge and the opposite wall is regarded as a continuation of that wall which thus serves as a third wall for the ledge.
(23) Sc., that a part of a ceiling may be regarded as the curved extension of a wall that adjoined it.
(24) The hole.
(25) The entire house.
(26) As a Sukkah.
(27) Infra 17a. Why then should the same principle be taught twice?
(28) In the case of the broken roof.
(29) I.e., it is not higher than the permitted maximum
(30) In the case of the ledge, where the wall opposite is higher than the permitted size.
(31) The wall opposite the ledge.
(32) Of ‘curved wall’.
(33) The entire Sukkah, even on the platform.
(34) Sc. that a part of a ceiling may be regarded as the curved extension of a wall that adjoined it.
(35) In the floor.
(36) Extending over an area of the prescribed minimum size of a Sukkah (Rashi).

Talmud - Mas. Sukkah 4b

if the distance was less than three handbreadths[1] it is valid. Why do we say there[2] ‘less than four cubits’, and here ‘less than three handbreadths’?In the former case where there is a wall,[3] it is sufficient [if the distance is] ‘less than four cubits’; in the latter case, however, where a wall has to be made,[4] [if the distance is] ‘less than three handbreadths’ it is [valid]; otherwise it is not.

If [a sukkah] was more than twenty cubits high and one erected in it[5] a pillar ten handbreadths high, and large enough for a valid sukkah,[6] [in this case] Abaye intended to say the partitions[7] are deemed to be continued upward,[8] [but] Raba said to him: Recognizable partitions are necessary, which these are not.

Our Rabbis taught: If a man drove four poles into the ground and put the sukkah-covering on them, R. Jacob declares it valid and the Sages declare it invalid. R. Huna stated: The dispute relates only [to poles erected] on the edge of a roof, where R. Jacob holds that we apply the rule of ‘the partition continues upward’[9] while the Sages hold that we do not apply the rule of ‘the partition continues upward’; but [if they were erected] in the middle of the roof,[10] all agree that [the Sukkah is] invalid.[11] R. Nahman, however, maintained that the dispute relates only [to poles erected] in the middle of the roof.[12] It was asked: [Does he mean that] the dispute concerns only [poles that were erected] in the middle of the roof, but if such were erected on the edge of the roof all agree that it is valid,[13] or is it possible [that he means that] the dispute concerns both cases? — The question remains undecided.[14]

An objection was raised: If one drove poles in the ground and placed the Sukkah-covering over them, R. Jacob declares [such a sukkah] valid, and the Sages declare it invalid. Now the earth, surely, is [in respect of partitions] like the middle of a roof[15] and still R. Jacob regards [the Sukkah] as valid. Is this not, then, a refutation of R. Huna?[16] — It is indeed a refutation. Moreover, [presumably] they dispute[17] concerning the middle of the roof, only, but where [poles are put up] on the edge of the roof they all agree that it is valid. Must it then be said that this will refute R. Huna on two points?[18] -R. Huna could answer you: They disagree about poles in the middle of the roof, and likewise also about those on the edge, and the reason why the dispute concerns the middle of the roof is in order to show you how far R. Jacob's view extends viz., that even where the poles were in the middle of the roof he holds [the Sukkah] to be valid.

Our Rabbis taught: If a man drove four [round shaped] poles into the ground and covered them with the Sukkah-covering, R. Jacob ruled, We see: If it is found that on being planed and smoothed[19] there would remain the width of a handbreadth on two adjacent sides,[20] they[21] are treated as deyomads,[22] but if not, they cannot be treated as deyomads for R. Jacob used to say, The prescribed minimum width of the deyomads of a Sukkah is a handbreadth;[23] but the Sages say, Only if two [of the adjacent walls] are proper [walls], may the width of the third be only a handbreadth.

ONE OF WHICH IS NOT TEN HANDBREADTHS HIGH. Whence do we know this?- It was stated, Rab, R. Hanina, R. Johanan and R. Habiba learnt: (throughout all Seder Mo'ed[24] when these pairs are mentioned together [some] substitute the name of R. Jonathan for that of R. Johanan), the ark [of the covenant] was nine handbreadths high,[25] and the ark cover one handbreadth,[26] making a total of ten handbreadths, and it is written, And there I will meet with thee, and I will speak with thee from above the ark-cover;[27]

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(1) So that the rule of labud (v. Glos.) can be applied.

(2) In the case of the ledge.

(3) Since its height was no less than ten handbreadths.

(4) Since one lower than ten hand breadths cannot be regarded as a valid wall.

(5) Far away from the walls.

(6) I.e., its top had an area of no less than seven handbreadths and a fraction square.

(7) Sc. the side of the pillar.

(8) As far as the ceiling, and that, since the sides are no less than ten handbreadths high and the distance between the top of the pillar and the roof is less than twenty cubits, the pillar constitutes a valid Sukkah.

(9) The walls of the house, may, therefore, be regarded as continuing upward and forming walls for the Sukkah.

(10) So that the house walls are removed front the poles.

(11) The poles alone being insufficient to constitute valid walls.

(12) R. Jacob holding that poles provided the width of each is no less than a handbreadth, constitute valid walls for a Sukkah, while the Sages hold that a Sukkah must have no less than two valid walls adjacent to each other and a third one of the minimum width of a handbreadth.

(13) On the principle of upward extension.

(14) Teku (v. Glos.).

(15) Since in neither case are there any partitions beneath the poles to which the rule of ‘partitions continue upward’ could he applied.

(16) Who holds that, where the poles were erected in the middle of a roof, all agree that the Sukkah is invalid.

(17) R. Jacob and the Rabbis, in the Baraitha just cited.

(18) His statement (a) that all agree that poles in the middle of a roof constitute no valid Sukkah is refuted by the explicit statement in the Baraitha, while his statement (b) that the dispute concerns poles erected on the edge of the roof is refuted by the inference just made.

(19) I.e., cut into a rectangular shape and a portion of the inside removed.

(20) Of each pole.

(21) Each of the corner-pieces.

(22) דיומד a rectangular corner-piece. The word is of uncertain derivation. Probably a hybrid, **+עמוד, ‘two columns’ (Levy).

(23) Unlike in the case of wells in connection with Sabbath, where the minimum is one cubit on each side, v, ‘Er. 17b.

(24) The Order to which this tractate belongs.

(25) A cubit and a half. V. Ex. XXV, 10. One cubit is equivalent to six handbreadths.

(26) V. infra for the proof of this statement.

(27) Ex. XXV, 22.

Talmud - Mas. Sukkah 5a

and it has been taught, R. Jose stated, Neither did the Shechinah[1] ever descend to earth, nor did Moses or Elijah ever ascend to Heaven,[2] as it is written, ‘The heavens are the heavens of the Lord, but the earth hath He given to the sons of men’.[3] But did not the Shechinah descend to earth? Is it not in fact written, And the Lord came down upon Mount Sinai?[4] — That was above ten handbreadths [from the summit]. But is it not written, And His feet shall stand in that day upon the Mount of Olives?[5] — That will be above ten handbreadths. But did not Moses and Elijah ascend to Heaven? Is it not in fact written, And Moses went up unto God.?[6] — [That was] to a level lower than ten [handbreadths from heaven]. But is it not written, And Elijah went up by a whirlwind into heaven.?[7] -[That was] to a level lower than ten handbreadths. But is it not written, He[8] seizeth hold of the face of His throne, and He spreadeth His cloud upon him,[9] and R. Tanhum said: This teaches that the Almighty spread some of the radiance of[10] his Shechinah and his cloud upon him?[11] — That was at a level lower than ten handbreadths. But in any case is it not written, ‘He seizeth hold of the face of His throne’?[12] — The throne was well lowered for his sake until [it reached a level] lower than ten handbreadths [from Heaven] and then he[11] seized hold of it.

One can well understand that the ark was nine [handbreadths high] since it is written, And they shall make an ark of acacia wood: two cubits and a half shall be the length thereof, and a cubit and a half the breadth thereof, and a cubit and a half[13] the height thereof,[14] but whence do we know that the ark-cover was a handbreadth [high]? — From that which R. Hanina learned: As for all the vessels which Moses made, the Torah gave the measurements of their length and breadth and height, [while in the case of] the ark-cover its length and its breadth are given,[15] but not its height.[16] Proceed, therefore, to deduce it from the smallest of the vessels, concerning which it is said, And thou shalt make unto it a border of a handbreadth round about.[17] Just as there the height was a handbreadth so was it there also a handbreadth. But why should not our deduction be made from the vessels themselves?[18] — If one select the greater, one does not select well; if one select the lesser, one selects well.[19] But why should not our deduction be made from the plate of gold,[20] as it was taught: ‘The ziz[21] was in the shape of a plate of gold two finger-breadths broad and stretching from ear to ear, and upon it were engraved two lines, Yod and He[22] above, and Kodesh[23] [followed by a] Lamed[24] below,[25] and R. Eliezer son of R. Jose said, I saw it in Rome[26] and it had Kodesh Ladonai[27] on one line? — We deduce [the measurements of a] vessel from another vessel, but we do not deduce [the measurements of a] vessel from an ornament. Why then should we not deduce from the crown,[28] of which a master stated, The crown was on the smallest possible size?[29] — We deduce the size of a vessel from that of another vessel, but not from the appurtenances of a vessel. If so, [it may be objected] was not the border also an appurtenance of a vessel?[30] — The border was below [the top of] the table.[31] This is correct according to the authority who holds that the border was below, but according to the authority who holds that it was above[32] what can one answer[33] seeing that it[34] was only an appurtenance of a vessel? — The fact is that one adduces the size of a thing some of whose measurements are given by the Torah from another thing whose measurements are given by the Torah, but no deduction can be made from the plate of gold or the crown of which the Torah gave no measurements at all.

R. Huna said: [The height of the ark-cover may be deduced] from the following verse, Upon the face of the ark-cover' on the east,[35] and a 'face' is not smaller than a handbreadth. But perhaps it means a face like that

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(1) V. Glos.

(2) This is no doubt a polemic against the doctrine of the Ascension.

(3) Ps. CXV, 16. Now since the Shechinah descended as low as the ark-cover it may be concluded that the boundary of the earth is at that level, viz., ten handbreadths from, the ground. Consequently a wall whose height is less than ten handbreadths cannot be regarded as a valid wall.

(4) Ex. XIX, 20.

(5) Zech. XIV, 4.

(6) Ex. XIX, 3.

(7) II Kings II, 11.

(8) Moses.

(9) Job XXVI, 9. (E.V., 'it').

(10) R. Tanhum explains the word פרשז Parshez as a notarikon, an abbreviation for Paras SHaddai Ziw, 'The Almighty spread the radiance of'.

(11) Moses.

(12) The throne, surely, is in heaven.

(13) I.e., nine handbreadths (a cubit equals six handbreadths).

(14) Ex. XXV, 10.

(15) Ex. XXV, 17.

(16) I.e., its thickness.

(17) Ibid. v. 25.

(18) Which were higher than a handbreadth.

(19) Proverb. Lit., 'If thou hast seized much, thou hast not seized; if thou hast seized little, thou hast seized.' The lesser is included in the greater, but the greater is not included in the lesser. The selection of the lesser is, therefore, the safer course.

(20) Ex. XXVIII, 36; which was smaller than a handbreadth.

(21) E.V., 'plate of gold'. It was worn by the High priest on his forehead.

(22) One of the divine names.

(23) 'Holy'.

(24) 'To'.

(25) Sc. the divine name Yod He appeared on the left in the first line while 'Holy to' appeared on the right in the second line, so that by reading from right to left (as Semitic languages are to be read) one obtained the phrase 'holy to the Lord' (cf. Tosaf. s.v. קדש a.l.).

(26) R. Eliezer accompanied R. Simeon b. Yohai to Rome, and saw there the vessels of the Temple which Titus had carried off after the destruction of the Temple in 70 C.E. V. Bacher, Agg. Tann, Heb. ed. Part II, vol. II, p. 100.

(27) 'Holy to the Lord'.

(28) Ex. XXV, II. The crown of gold round the ark.

(29) Lit., 'anything'.

(30) How then could deduction be made from it?
(31) Joining its legs together and forming part of the structure.
(32) And thus served only as an ornament.
(33) To the objection, why should deduction be made from it and not from the crown.
(34) Like the crown.
(35) Lev. XVI, 14.

Talmud - Mas. Sukkah 5b

of the Bar-Yokani?[1] — If one select the greater, one does not choose well, if one select the lesser, one does select well. Might it not be said that the face meant was one like that of a zipartha[2] which is very small? — R. Aha b. Jacob answered, R. Huna draws an analogy between two expressions of ‘face’.[3] It is written here, ‘[Upon the face of the ark-cover", and it is written elsewhere,[4] From the face of Isaac his father.[5] But why should we not deduce from the ‘face’ Above, concerning which it is written, As one seeth the face of God, and thou wast pleased with me?[6] -If one selects the greater, one does not select well; if one select the lesser, one selects well. Then why should we not deduce from the cherub,[7] concerning which it is written, Toward the face of the ark-cover shall the faces of the cherubim be?[8] — R. Aha b. Jacob answered, We have a tradition that the face of the cherubim was not less than a handbreadth, and R. Huna too made his deduction from this verse.[9] What is the derivation of cherub?- R. Abbahu said, ‘Like a child’, for in Babylon they call a child Rabia.[10] Said Abaye to him: If so,[11] how will you explain the Scriptural text, The first face was the face of the cherub and the second face the face of a man,[12] seeing that the face of a cherub is the same as that of a man?[13] — [One[14] has] a large face and the other a small face.[15]

But whence do we know that the height of the interior space[16] exclusive of the covering, must be ten [handbreadths] seeing that it might be said that the covering[17] also is included? — The fact is that the deduction[18] is made from the Temple covering of which it is written, And the house which King Solomon built for the Lord, the length thereof was threescore cubits, and the breadth thereof twenty cubits, and the height thereof thirty cubits,[19] and it is written, The height of the one cherub was ten cubits and so was it of the other cherub,[20] and it was taught, Just as we find in the Temple that the cherubim[21] reached to a third of the height thereof[22] so also in the Tabernacle[23] they reached to a third of its height.[24] Now what was the height of the Tabernacle? Ten cubits, as it is written, Ten cubits shall be the length of a board.[25] How much is this? Sixty handbreadths. How much is a third? Twenty handbreadths. Deduct the ten of the ark and the ark-cover,[26] and ten handbreadths remain; and it is written, And the cherubim shall spread out their wings on high, covering the ark-cover with their wings.[9] [From which we see that] the Divine Law calls [the wings that were stretched] above a height of ten handbreadths[27] a ‘covering’.[28] But whence do we know that their wings were above their heads? Is it not possible that they were on a level with their heads.[29] — R. Aha b. Jacob answered, It is written ‘On high’. But perhaps this means that the wings were raised very high?[30] — Is it then written, ‘On high, on high’?

This explanation is satisfactory according to R. Meir, who says that all the cubits [in the Sanctuary] were normal cubits,[31] but according to R. Judah who says that the cubits of the edifice were six handbreadths, but of the vessels were five, what can be said? For how much [then] were the ark and cover?[32] Eight and a half,[33] so that eleven and a half handbreadths are left.[34] Shall we [therefore] say that [according to R. Judah] a Sukkah must be [at least] eleven and a half [handbreadths high]? — The fact is that according to R. Judah the law[35] was learnt as a tradition, for R. Hiyya b. Ashi citing Rab stated: The laws concerning [minima],[36] standards, interpositions[37] and partitions[38] are [a part of the] halachah that was given to Moses on Sinai. But are not the laws relating to minima Pentateuchal, since it is written, A land of wheat and barley, and vines and fig-trees and pomegranates, a land of olive-trees and honey,[39] and R. Hanin stated that all this verse was said in allusion to the prescribed minima. ‘Wheat’ is an allusion to the leprous house as we have learnt: He who enters a leprous house with his clothes on his shoulders, and his sandals and rings in his hand, both he and they become instantaneously unclean;[40] [

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(1) A legendary bird of huge dimensions. Cf. Bek. 57b. Kohut (11 p. 178) connects it with Varaghna (Bactrian), an ostrich.

(2) The smallest known bird. Probably a humming bird.

(3) Which does not occur in connection with the zipartha.

(4) Gen. XXVII, 30.

(5) As in the latter case the reference is to a human face so it is also in the former.

(6) Gen. XXXIII, 10.

(7) Which might have been smaller than a handbreadth.

(8) Ex. XXV, 20.

(9) Ex. XXV, 20.

(10) The first letter of the word כרוב is regarded by him as the caph of comparison. R.Abbahu was a Palestinian.

(11) That the size of the face of a cherub is no less than a handbreadth.

(12) Ezek. X, 14.

(13) If their sizes are identical why were they mentioned separately?

(14) A human being.

(15) But the size of neither is less than a handbreadth.

(16) Of a Sukkah.

(17) As in the case of the ark and ark-cover.

(18) That the height of the interior of a Sukkah must be no less than ten handbreadths.

(19) I Kings VI, 2.

(20) Ibid. 26.

(21) Standing on the floor.

(22) Ten (the height of a cherub) is a third of thirty (the height of a house).

(23) Standing on the ark (inclusive of the ark and ark-cover).

(24) Of the Tabernacle.

(25) Ex. XXVI, 16.

(26) To arrive at the height of the cherubim.

(27) From the ark-cover.

(28) Rt. סכך, the same as that of the word used for the covering of a Sukkah.

(29) In which case, the hollow space between the wings and the ark-cover was only ten handbreadths minus the thickness of the wings.

(30) Sc. above the height of ten handbreadths.

(31) Six handbreadths.

(32) Which are ‘vessels’.

(33) One and a half cubits of the ark (five plus two and a half) seven and a half handbreadths, and the ark-cover one handbreadth.

(34) Between the ark-cover and the wings of the cherubim.

(35) On the minimum height of a Sukkah.

(36) The minimum quantities for forbidden things etc.

(37) The amount of foreign matter which in ritual cleansing constitutes a bar between one's body and the water.

(38) For purposes of Sabbath, Sukkah etc.

(39) Deut. VIII, 8.

(40) Since the clothes, sandals and rings were only carried by the man but not worn, they, like himself come under the Pentateuchal law of ‘He that goeth into the house... shall be unclean’ (Lev. XIV, 46).

Talmud - Mas. Sukkah 6a

if however he was dressed in his garments, and his sandals were on his feet, and his rings on his fingers, he becomes instantaneously unclean, but they[1] remain clean[2] unless he tarries there long enough to eat half a loaf of wheaten bread but not of barley bread,[3] while in a reclining position and eating with condiment.[4] ‘Barley’? As we have learnt, A barley-corn's bulk of a bone[5] defiles by contact and by carrying, but not by ‘overshadowing’.[6] ‘Vines’ are an allusion to the fourth part [of a log of wine which is the minimum prohibited] to a Nazirite.[7] ‘Fig-trees’ allude to the size of a dry fig [which is the minimum measurement for transgressing the law against] the carrying out[8] of [food] on the Sabbath. ‘Pomegranates’? As we have learnt: All [defiled wooden] vessels belonging to householders[9] [become clean if the breaches in them] are as large as pomegranates.[10] ‘A land of olive-trees’ [is an allusion to the] land all of whose [minima] standards [for permitted and forbidden things] is the bulk of an olive. How can it possibly mean ‘all whose [minima] standards’? Are there not those which we have just mentioned? — Say rather, ‘The majority of whose [minima] standards are the bulk of an olive’. ‘Honey’ alludes to the size of a large date,[11] [which is the minimum size forbidden] on the Day of Atonement. Does it not then clearly follow that the [minima] standards are Pentateuchal?[12] — Do you then imagine that the [minima] standards were actually prescribed in the Pentateuch? [The fact is that] they are but traditional laws while the Scriptural verse is merely a support.

But are not [the laws of] interposition Pentateuchal, as it is written, And he shall wash his flesh in water[13] [which implies] that nothing should interpose between him and the water? The traditional law comes [to teach] concerning one's hair, in agreement with a statement of Rabbah b. Bar Hana, for Rabbah b. Bar Hana stated: One knotted hair constitutes an interposition;[14] three hairs do not, but I do not know [the law in the case of] two. But is not the law relating to one's hair also Pentateuchal, since it was written, And he shall wash [eth] his flesh in water[13] and [the word] ‘eth’ includes that which is joined to his body, i.e., his hair?[15] — The traditional law comes to teach with reference to [the ruling reported by] R. Isaac; for R. Isaac said:

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(1) Since they were worn in the usual manner.

(2) They are included in the category of ‘clothes’ which are only to be washed (cf. Lev. XIV, 47).

(3) Wheaten bread is the more easily eaten.

(4) Neg. XIII, 9.

(5) Of a corpse.

(6) Ohal. II, 3. ‘Overshadowing’ or ohel is the technical term, based on Num. XIX, 14 for the defilement conveyed by a dead body to everything within the same house or under the same roof or cover. Only a backbone, a skull or the greater part of the limbs of the body cause the defilement of a person in such circumstances.

(7) Num. VI, 3.

(8) From a private into a public domain and vice-versa.

(9) As opposed to those of craftsmen.

(10) Kel. XVII, 1. If wooden vessels which are unclean become broken, they revert to their cleanliness if the breach is so large, since no householder would continue the use of utensils broken to such an extent, and by losing the status of a utensil, an object becomes levitically clean. In the case of a craftsman's utensils, even holes as small as an olive, are sufficient to deprive them of the legal status of utensils, since they cause the utensils to be unfit for sale, and they consequently become clean.

(11) ‘Honey’ in the Bible is regarded as referring to dates’ honey.

(12) How then could Rab maintain supra 5b that they formed part of the traditional code given orally to Moses at Sinai?

(13) Lev. XIV, 9.

(14) Because it is possible to tie it so closely that no water could penetrate.

(15) The את of the object is interpreted as including something not specifically mentioned.

Talmud - Mas. Sukkah 6b

According to the word of the Torah[1] if most [of one's hair is covered][2] and one minds it, an interposition is constituted,[3] and if one does not mind it, no interposition is constituted. [The Rabbis] however enacted a prohibition against [a covering of] most of one's hair, even if one does not mind it, as a preventive measure [against the possibility of allowing an interposition on] most of one's hair where one does mind it, and that [a covering over] the minor part of one's hair where one minds it [shall constitute an interposition] on account [of the possibility of allowing an interposition over] most of one's hair where one minds it. Then why should not a prohibition be enacted against an interposition over the lesser part of one's hair where one does not mind it as a preventive measure against [the possibility of allowing an interposition over] the lesser part where one does mind it or the major part which one does not mind? — This ruling[4] itself is only a restrictive enactment; shall we come and institute a restrictive enactment against the possibility of infringing another restrictive enactment?[5]

[As for the laws of] partitions, these are those referred to above.[6] That is satisfactory according to R. Judah,[7] but according to R. Meir[8] what can one say?[9] — That the tradition refers to [the legal fiction] of extension,[10] junction[11] and the curved wall.[12]

OR WHICH HAS NOT THREE WALLS. Our Rabbis taught: Two [walls] must be of the prescribed dimensions, and the third [may be] even one handbreadth.[13] R. Simeon says: Three walls must be of the prescribed dimensions, and the fourth [may be] even one handbreadth.[13] On what principle do they differ? — The Rabbis hold that the traditional Scriptural text[14] is authoritative, while R. Simeon holds that the traditional reading[15] is authoritative. ‘The Rabbis hold that the traditional Scriptural text is authoritative’, and the word Sukkoth occurs twice defectively and once plene, making four references.[16] Deduct one[17] for the law itself,[18] and three remain; two [walls at least] must be of the prescribed dimensions, and tradition came and diminished [the prescribed minimum of] the third, reducing it to only one handbreadth. ‘R. Simeon holds that the traditional reading is authoritative’. The word Sukkoth[19] is read thrice, which[20] equals six [references]. Deduct one Scriptural reference[21] for the law itself and four remain; three walls at least of prescribed dimensions, and tradition came and diminished the [prescribed minimum of the] fourth and reduced it to a handbreadth. And if you wish, you can say that they[22] are unanimous that the traditional reading is authoritative[23] but they differ in this; that one Master[24] holds that the covering heeds a Scriptural reference,[25] while the other Master[26] holds that it does not.[27] And if you wish you can say that they are unanimous that the traditional Scriptural text is authoritative,[28] but they differ on this principle; that one Master[24] holds that the tradition comes to diminish [the implications of Scripture][29] while the other[26] holds that tradition comes and adds to it.[30]

And if you wish you can say that both agree that tradition comes to diminish and that the traditional Scriptural text is authoritative, but they differ as to whether one uses first [references] for exegesis. One Master[26] holds that we employ first references for exegesis, and the other Master[31] holds that we do not.

R. Mattenah said: The reason of R. Simeon is a derivation from the following verse: And there shall be a Sukkah for a shadow in the day-time from the heat, and for a refuge and for a covert from storm and from rain.[32] Where is this handbreadth [of a wall][33] placed? — Rab said: It is placed at right angles to one of the projecting [walls].[34] R. Kahana and R. Assi said to Rab:

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(1) ‘Torah’ here means the halachah received by Moses on Sinai (Rashi).

(2) With mud; or each hair was knotted singly.

(3) So far in virtue of the halachah given to Moses on Sinai.

(4) That an interposition (a) over a minor part which one minds or (b) over a major part which one does not mind.

(5) Of course not. Hence the permissibility of an interposition over a minor portion which one does not mind.

(6) The height of a Sukkah.

(7) Who does not derive these laws from a Scriptural text.

(8) Who deduced the height of ten handbreadths from Scriptural verses.

(9) Sc. how could such laws which are Pentateuchal be described as merely traditional?

(10) גוד a partition that does not reach (a) the ground or (b) the ceiling may in certain conditions be deemed to touch the ground and the ceiling respectively.

(11) דבוד small interstices, of less than three handbreadths, are disregarded, and the wall is deemed to be a solid whole.

(12) דופן עקומה if a portion of the roof of a Sukkah consists of materials that are legally unfit for the purpose the Sukkah may nevertheless be valid if that portion is adjacent to any of its walls and terminates within a distance of four cubits from that wall. That portion of the roof together with the wall it adjoins are regarded as one curved wall; and the space under the remainder of the roof, consisting of suitable materials, may be used as a proper Sukkah.

(13) In width.

(14) The letters without the vowels, Sanh., Sonc. ed., p. 10, n. 4.

(15) Irrespective of the spelling.

(16) When the word סכת is written defectively it is regarded as singular, each word counting as one, and when it is plene it is regarded as a plural counting as two

(17) Of the words denoting Sukkoth.

(18) I.e.,the law of Sukkah in general, that a Sukkah has to be made.

(19) In the plural.

(20) Since each plural form denotes two.

(21) I.e., one word Sukkoth in the plural which denotes two.

(22) The Rabbis as well as R. Simeon.

(23) And there are therefore four references free for interpretation.

(24) Sc. the Rabbis.

(25) So that one of the four references is required for the roof and only three remain for the walls.

(26) R. Simeon.

(27) And four free references for the walls remain.

(28) The number of free references is consequently three.

(29) Thus reducing the third wall to one handbreadth.

(30) I.e., Scripture teaches us the necessity of three walls and tradition adds a fourth.

(31) Sc. the Rabbis.

(32) Isa. IV, 6; unless there are four walls, the Sukkah is no refuge from storms.

(33) Of the third wall according to the Rabbis and of the fourth according to R. Simeon.

(34) Sc. if, for instance, (according to the Rabbis) there are only two walls running respectively from north to south along the east and from east to west along the south, meeting each other at south east, the small handbreadth wall is to be placed either at the northern end of the eastern wall or at the western end of the southern wall.

Talmud - Mas. Sukkah 7a

Why not place it in a slanting position?[1] Rab remained silent. It was also stated: Samuel said in the name of Levi: It is placed at right angles to one of the projecting [walls], and so it is ruled in the Beth Hamidrash that it is placed at right angles to one of the projecting [walls]. R. Simon (or, as some say, R. Joshua b. Levi) ruled: One makes [the additional wall of the width of] a loose[2] handbreadth and places it within three handbreaths of the wall, since whatever is less than three handbreadths from the wall is regarded as joined to the wall.[3]

Rab Judah said, A Sukkah made like an [open] alley-way[4] is valid, and this handbreadth [wall] is placed in whatever side one pleases.[5] R. Simon (or, as some say, R. Joshua b. Levi) says, He makes a strip of slightly more than four [handbreadths][6] and places it within three handbreadths of the wall, since whatever is less than three handbreadths from the wall is regarded as joined to the wall. But why did you say in the previous case[7] that one loose handbreadth suffices while here you say that there must be a strip of four handbreadths? — In the previous instance where there are two valid walls,[8] a loose handbreadth suffices, but here, where there are no two valid walls,[9] if there is a strip of four handbreadths it is valid, otherwise, it is not [valid]. Raba ruled, It[10] is only permitted if it has the form of a doorway.[11] Another version is that Raba said, And it[10] is also valid if it has the form of a doorway.[12] Another version is that Raba said: And in addition,[13] the form of a doorway [to the intervening part] is necessary.[14] R. Ashi found R. Kahana making [the third wall of a Sukkah] a loose handbreadth wide[15] and constructing also the form of a doorway. He said to him: Does not the Master hold the opinion of Raba who said that it is also valid with the form of a doorway?[16] — He answered: I accept the other reading of [the statement of] Raba viz., that in addition [to a board of the size of a handbreadth] the form of a doorway is also necessary.

‘Two walls must be of the prescribed dimensions etc.’[17] Raba[18] said, And similarly with regard to the Sabbath.[19] Since [the handbreadth] is regarded as valid wall of the Sukkah it is also regarded as a valid wall in respect of the Sabbath.[20] Abaye raised an objection against him: Do we then apply the rule of ‘since’?[21] Was it not in fact taught: ‘[The rules relating to the structure of] the wall of a Sukkah are the same as those relating to that of the Sabbath,[22] provided only that there is no gap of three handbreadths between any two reeds.[23] And the [law relating to the] Sabbath is more [stringent] than that of Sukkah, in that the [wall for purposes of] the Sabbath is valid only if its standing portion is more than that which is broken,[24] which is not the case with the Sukkah’. Now this means, does it not, that the law relating to the Sabbath of the Sukkah[25] is more [stringent] than that relating to the Sukkah itself,[26] and that we do not apply the rule of ‘since’?[27] — No, [it means that the law relating to] the ordinary Sabbath is more [stringent in its requirements with regard to a valid wall] than [the law relating to] the Sabbath of the Sukkah.[28] But if this is so,[29] why was it not also stated: [The law relating to] the ordinary Sukkah[30] is more [stringent] than [that of] the Sukkah of Sabbath,[31] since [the validity of] the ordinary Sukkah demands a width of a loose handbreadth [for the third wall] while [the validity of] the Sukkah of Sabbath does not require the width of a loose handbreadth [for a wall] but a side-post alone is sufficient,[32] for it is you who ruled[33] that if one placed Sukkah-covering over an alleyway which has a side-post it is valid?[34] — There was no need to mention this,[35] [since it is obvious[36] that] if we apply [the rule of ‘since’] from the less stringent[37] to the more stringent,[38] we certainly apply it From the more stringent to the less stringent.[39] [Reverting to] the main subject; ‘Rab ruled:

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(1) So that it would be facing two walls and the Sukkah would seem to have four walls. Lit., ‘as the head of an ox’, so

(2) A handbreadth is four fingerbreadths and the ‘loose handbreadth’ is measured by holding the fingers loosely, not pressed against one another.

(3) The total width now being four handbreadths and the prescribed minimum size of a Sukkah wall being seven handbreadths, the wall constitutes the greater part of a valid Sukkah wall.

(4) The two walls facing one another.

(5) Since either wall at either end is a projecting wall.

(6) The width of one handbreadth not being enough in this case.

(7) Where the walls were at right angles to one another.

(8) Cf. previous note.

(9) Since each stands isolated from the other.

(10) A Sukkah that has one wall less than the required number of walls.

(11) I.e., it is not enough to attach one board of the width of four handbreadths to one of the walls, but two posts each half a handbreadth in width must be attached to each opposite wall with a cross-beam joining them (cf. ‘Er. 11b).

(12) Instead of a board of the width of a handbreadth; sc. either the one or the other contrivance renders the Sukkah valid.

(13) To a board of the width of a handbreadth.

(14) Sc. one of the posts on which the cross-beam lies (cf. supra n. 2) must be a full handbreadth wide.

(15) In agreement with the ruling of R. Simon supra.

(16) Without the addition of a board of the full width of a handbreadth.

(17) Supra 6b.

(18) Var. lec. Rabbah.

(19) Sc. though at least three walls are necessary to constitute a private domain to permit carrying therein on the Sabbath, on the Sabbath of Tabernacles the Sukkah is regarded as a private domain even though it has only two normal walls and one of the width of a handbreadth, and if he set up such a Sukkah next to his entrance of this house adjoining the street, he may carry in and out of it into his house.

(20) As the third narrow wall is on such a Sabbath, as on any other day, deemed valid as a wall for the Sukkah it is ipso facto deemed valid as a wall in respect of enclosing a private domain, and if such a Sukkah is set up at the entrance of a house opening out into the street, one may carry out of the house into the Sukkah and vice versa.

(21) ‘Since (the handbreadth wall) is regarded etc.’

(22) Sc. the same relaxation of the law (cf. ‘Er. 16b) is applicable in both cases.

(23) That make up the fence.

(24) A technical term meaning that the space of wall must exceed the interstices.

(25) Sc. the Sabbath in the week of Tabernacles.

(26) Sc. that though the Sukkah is valid as a Sukkah, it is not valid to carry therein on the Sabbath unless the wall space is more than the interstices.

(27) Since the walls are valid in respect of the Sukkah they are also valid in respect of the Sabbath.

(28) For on the Sabbath of the Festival the rule of since’ (cf. n. 6) is well applied.

(29) That the comparison is only between the Sabbath generally and the Sabbath of the festival.

(30) Of the festival weekdays.

(31) Cf. supra n. 4.

(32) Since we compare the wall of Sabbath to the wall of Sukkah, two opposite walls and a side-post should suffice in the case of the latter as in that of the former.

(33) By’ applying the rule of ‘since etc.’.

(34) On the Sabbath.

(35) That the law relating to a Sukkah generally is more restrictive than that relating to a Sukkah on the Sabbath.

(36) By an inference from the ruling in the earlier clause.

(37) Sukkah.

(38) Sabbath.

(39) Viz., that a sidepost that effects validity in respect of the Sabbath also effects it in respect of Sukkah.

Talmud - Mas. Sukkah 7b

If one placed Sukkah-covering over an alley-way which has a side-post it is valid’. Rab further ruled: If one placed Sukkah-covering over the [upright] boards around wells[1] it is valid [as a Sukkah]. And the enunciation of [all the three laws[2] was] necessary. For if he had mentioned only [the law relating to] the alley-way one would have assumed [that there the Sukkah is valid][3] because it had two proper walls, but that in the case of partitions of wells, which have not two proper walls, the Sukkah is not valid. And if we had been informed of the boards around wells only, one would have assumed [that there the sukkah is valid] because there are four walls, but that if one placed sukkah-covering over an alleyway, where there are no walls, it is not [valid]. And if we had been informed of both those laws [but not of the third,] one would have assumed that from the more stringent to the less stringent [we apply the rule of ‘since’] but not from the less stringent to the more. [Therefore all the three enunciations were] necessary.

OR WHICH HAS MORE SUN THAN SHADE IS NOT VALID.

Our Rabbis taught: [This[4] applies only where] the sunshine is due to the scanty covering, but not where it is due to [interstices in] the walls, while R. Josiah says,[4] Even where it is due to [interstices in] the walls. R. Yemar b. Shelemiah said in the name of Abaye, What is the reason of R. Josiah?[5] — Because it is written: And thou shalt cover the ark with the veil.[6] Now since the ‘veil’ was a partition[7] and the Divine Law nevertheless called it a ‘covering’ it is evident that a wall must be as [close] as the covering. And [how do] the Rabbis [explain this verse]? — It[8] means that the veil should bend over a little [at the top] so that it might look like a covering.

Abaye said: Rabbi, R. Josiah, R. Judah, R. Simeon, R. Gamaliel, Beth Shammai, R. Eliezer and

‘Others’[9] -all hold the opinion that the Sukkah must be constructed like a permanent abode. ‘Rabbi’? — As it has been taught: Rabbi said, A sukkah which is not four cubits square[10] is invalid.[11] ‘R. Josiah’? — As we have [just] stated. ‘R. Judah’? — As we have learnt: A SUKKAH WHICH IS MORE THAN TWENTY CUBITS HIGH IS NOT VALID, R. JUDAH, HOWEVER, DECLARES IT VALID.[12] ‘R. Simeon’? — As it has been taught: Two [walls] must be of the prescribed dimensions and the third [may be] even one handbreadth.[13] ‘R. Gamaliel’? — As it his been taught: If a man erects his Sukkah on the top of a waggon or on the deck of a ship, R. Gamaliel declares it invalid and R. Akiba declares it valid.[14] ‘Beth Shammai’? — As we have learnt: If his head and the greater part of his body were within the Sukkah and his table was within the house, Beth Shammai declare it invalid, and Beth Hillel declare it valid.[15] ‘R. Eliezer?-As we have learnt: If a man makes his sukkah like a cone-shaped hut[16] or if he propped it up against a wall,[17] R. Eliezer declares it invalid, since it has no roof’, and the Sages declare it valid.[18] The ‘Others’? As it has been taught: Others Say: A Sukkah made like a dovecote[19] is invalid, since it has no corners.

R. Johanan said: If a sukkah was [round shaped] like a furnace,[20] provided twenty-four men can sit around its circumference,[21] it is valid, otherwise it is invalid. According to whom [is this[22] state — ment made]? Obviously[23] according to Rabbi who says that a sukkah which is not four cubits square is invalid. But consider: A man occupies the space of a cubit, and where the circumference [of a circle] is three handbreadths, its diameter is one handbreadth,[24] should it not then[25] suffice[26] if only twelve men[27] [can sit around it]?[28]

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(1) For the convenience of Pilgrims on the Festivals it was enacted that four corner-pieces placed round a well in a public domain impart to the enclosure the status of a private domain where cattle could be watered on the Sabbath. v. ‘Er. 17b.

(2) Laid down by Rab; viz.,those relating to a Sukkah on Sabbath, the alley-way, and the boards around wells.

(3) By the application of the rule of ‘since etc.’.

(4) That the Sukkah is invalid.

(5) For requiring the walls to be as close as the covering.

(6) Ex. XL, 3.

(7) Cf. Ex. XXVI, 33.

(8) The expression ‘Thou shalt cover’.

(9) R. Meir. When Hakam under the presidency of R. Simeon b. Gamaliel II, he together with R. Nathan was involved in a conflict with R. Simeon and was expelled from the Sanhedrin. He was later re-admitted, but henceforth his statements were recorded under the anonymous authorship of ‘Others’. Bacher, Ag. Tann. II, 2, J.E. VIII, 434.

(10) The minimum area of a house.

(11) Supra 3a.

(12) Supra 2a.

(13) Supra 6b.

(14) ‘Infra 23a.

(15) Infra 28a.

(16) I.e., its walls slope to a point and there is no roof; like a bell-tent.

(17) Sc. it was not provided with a roof but its wall sloped from the ground to an adjoining wall.

(18) Infra 19b.

(19) Round shaped.

(20) R. Johanan disagrees with the ‘others’ supra.

(21) Each man is assumed to occupy one cubit space.

(22) Which requires such a large size for a round shaped Sukkah.

(23) Since no other authority required so large a size.

(24) Among the Babylonians **= three (V. Feldman, Rabbinical Mathematics and Astronomy, 1931, p. 22).

(25) Since the circumference is three times the diameter.

(26) According to Rabbi who prescribes the size of four cubits square.

(27) Three times four (cf. supra n. 3).

(28) Why then did R. Johanan speak of twenty-four men?

Talmud - Mas. Sukkah 8a

— That[1] applies only to a circle, but in the case of a square, a greater perimeter is required.[2] But consider: By how much is a square greater than its [inscribed] circle? By a quarter. Should it then not suffice if only sixteen [men can be seated around it]?[3] -That[4] is so in the case of a circle inscribed within a square, but if a square is to be inscribed within a circle a greater circumference is required on account of the projection of the corners.[5] But consider: If the side of a square is a cubit, its diagonal is approximately one and two fifths cubits.[6] Should not then [a circumference equivalent to] sixteen and four fifths [cubits][7] suffice?[8] — [R. Johanan] gave only an approximate figure. But is it not to be maintained that one may be assumed to give all approximate figure only [where the discrepancy is] small, but could such all assumption be made [where the discrepancy is] big? — Mar Kashisha the son of R. Hisda said to R. Ashi: Do you think that a man occupies one cubit? [The fact is that] three men occupy two cubits. How much then does this [amount to for twenty-four men]? Sixteen cubits; and we [really] demand here sixteen and four fifths,[9] [because, as has been said, R. Johanan] gave only an approximate figure. But is it not to be maintained that one may be assumed to give approximate figures only when the law is thereby restricted, but could such an assumption be made where a law is thereby relaxed?-R. Assi answered R. Ashi: In truth, a man occupies a cubit-space, but R. Johanan does not include the space occupied by the men.[10] How many [cubits] does this[11] [amount to]? Eighteen;[12] while sixteen and four-fifths suffice. That is [then] what was meant [when it was stated] that he only gave an approximate figure; and in this case it is in the direction of stringency.[13]

The Rabbis of Caesarea[14] (and some say, The judges of Caesarea) maintain, The circumference of a circle inscribed in a square is a quarter;[15]

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(1) That the perimeter is approx. only three times the diameter.

(2) Since the diameter is not equal to the side, but to the diagonal of the square.

(3) ** being regarded as equivalent to three, a square is one quarter larger than its inscribed circle. If a circle with a diameter of four cubits accommodates four times three is twelve men, a square of four cubits provides seating capacity for four times four is sixteen men. A circumference of sixteen cubits should, therefore, have sufficed.

(4) That a square exceeds a circle by a quarter, and that a four cubits square contains a perimeter of sixteen, and a circle one of twelve cubits.

(5) The circumferences of the Sukkah must, therefore, be large enough to contain a square of four cubits.

(6) Actually it is 1.4142.

(7) Lit., ‘seventeen less a fifth’. The diagonal of the square being equal to (4+4X2/5=) 5 3/5 cubits, and ** being approximately equivalent to three, a circumference of 3 X 5 3/5 cubits 16-4/5 cubits ought to suffice. (For this whole discussion of Feldman, op. cit., pp. 28-30). Cf. also ‘Er., Sonc. ed., p. 531ff, notes.

(8) I.e., space for no more than sixteen men. Why then did R. Johanan prescribe a space for twenty-four men?

(9) V. p. 29, n. 13.

(10) The men are considered as sitting round the circumference of the Sukkah they themselves forming a circumference of twenty-four cubits (equivalent to the space occupied by twenty-four men) with a diameter of eight cubits. But the inner circumference formed by the Sukkah is smaller since its diameter is eight minus two (the space occupied lengthways by the legs of two men, one sitting at each end) is six cubits.

(11) For the circumference of the Sukkah.

(12) Since a diameter of six cubits has a circumference of eighteen cubits.

(13) Instead of a circumference of 16-4/5 one of eighteen cubits is prescribed while the difference in the diameter (6-5 3/5= 2/5) is even less

(14) Caesarea Maritima, a famous seat of learning in the second and third century, the seat of R. Abbahu. The ‘rabbis of Caesarea’ are often quoted. V. Bacher, Die Gelehrten von Caesarea in MGWJ.XLV, p. 298.

(15) I.e., a quarter less than the perimeter of the square.

Talmud - Mas. Sukkah 8b

but the square inscribed within that circle is a half.[1] But this[2] is not correct, for we see that these are not so much bigger. R. Levi said in the name of R. Meir: If the two booths of the potters are one within the other,[3] the inner one[4] is not valid as a Sukkah,[5] and is obliged to have a Mezuzah[6] while the outer one[7] is valid as a Sukkah,[8] and is free from the obligation of a Mezuzah.[9] But why should this be so? Why should not the outer one be regarded as the gate-house of the inner one, and[10] therefore be obliged to have a Mezuzah? — Because neither [booth] is of a permanent nature.[11]

Our Rabbis taught: [Mnemonic,] Ganbak.[12] A booth of Gentiles,[13] women, cattle or Samaritans and any booth whatever[14] is valid, provided that it is covered according to the rule. What is meant by ‘according to the rule’?[15] — R. Hisda answered: Provided that [the covering] was made [with the intention of providing] the shade for the Sukkah.[16] What does ‘any booth whatever’ include? — It includes the booths [whose mnemonic is] Rakbash,[17] as our Rabbis taught: The booth of shepherds, the booth of field-watchers, the booth of city guards, and the booth of orchard-keepers,[18] and any booth whatever[19] is valid, provided that it is covered according to the rule. What is meant by ‘according to the rule’?[20] — R. Hisda answered: Provided [the covering] was made [with the intention of providing] the shade for the Sukkah. What does ‘any booth whatever’ include? — It includes the booths [whose mnemonic] is Ganbak.[21] The Tanna of Ganbak[22] regards these booths as possessing greater validity[23] because they are permanent, and therefore he used the expression, any booth whatever’ to include Rakbash which are not permanent,[24] while the Tanna of Rakbash regards the latter as possessing greater validity since they belong to those who are bound [by the commandment of Sukkah][25] and therefore he used the expression, ‘any booth whatever’ to include the Ganbak booths which belong to those who are not bound [by the commandment of Sukkah].

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(1) Of the circumscribed square. Thus if a circumference is twenty-four cubits (the figure given by R. Johanan) the circumscribed square has a perimeter of 24 + 24/3 = 32 cubits, while the inscribed square has a perimeter of approximately: 32/2 = 16 cubits (the measurements prescribed by Rabbi).

(2) That the perimeter of the circumscribed square is twice the perimeter of the inscribed square and that the circumference of the circle is, therefore, bigger than the latter by a half of its perimeter. V. ‘Er., Sonc. ed., p. 533, n. 6.

(3) A potter worked and lived in his inner booth and displayed his wares in the outer one.

(4) Since he works and lives in it throughout the year.

(5) Because his dwelling in it during the festival would in no way indicate that he is performing the commandment of Sukkah,

(6) As any other dwelling.

(7) In which he lives only during the festival.

(8) It being obvious to all that he is performing the commandment.

(9) Being only a temporary dwelling, it is free from the obligation of Mezuzah, even during the festival. Throughout the year it is free from the obligation since it is not used as a dwelling.

(10) In accordance with the ruling in Men. 33b.

(11) Sc. even the inner one cannot be regarded as important enough to have a gate-house.

(12) The word גנב״ך consists of the initial letters of תבהמה תנשים תגוים and כותים Gentiles, women, cattle and Samaritans, whose booths are discussed in what follows.

(13) Used only as a summerhouse.

(14) This will be explained infra.

(15) It cannot simply refer to rules like those enunciated in our Mishnah, which are applicable to all Sukkahs, since this would be self-evident.

(16) Not merely for privacy. While it is not essential for a Sukkah to be made expressly in connection with the festival, it cannot be valid unless it was originally made to serve as a protection from the sun.

(17) רקב׳ש initials of בורגנין קייצים תרועים and שומרי פירות — shepherds, fieldwatchers, city guards and orchard-keepers.

(18) All these are male Israelites who are subject to the commandment of Sukkah; but their booths are not made for the festival.
(19) This will be explained infra.
(20) V. p. 31, n. 13.
(21) V. p. 31, n. 10.
(22) Who classes the Rakbash booths under ‘any booth whatever’.
(23) Than the Rakbash booths.
(24) Since they are moved from place to place.
(25) Cf. supra n. 1.

Talmud - Mas. Sukkah 9a

[MISHNAH. BETH SHAMMAI DECLARE AN OLD SUKKAH[1] INVALID,[2] BUT BETH HILLEL PRONOUNCE IT VALID. WHAT IS AN OLD SUKKAH? ONE MADE THIRTY DAYS BEFORE THE FESTIVAL; BUT IF ONE MADE IT FOR THE PURPOSE OF THE FESTIVAL, EVEN AT THE BEGINNING OF THE YEAR, IT IS VALID.

GEMARA. What is Beth Shammai's reason?[3] -Scripture says, The festival of Sukkoth, for seven days unto the Lord,[4] [implying therefore] a Sukkah made expressly for the sake of the Festival. And Beth Hillel?[5] - They need that [verse] for the same deduction as that of R. Shesheth, R. Shesheth having said in the name of R. Akiba, Whence do we know that the wood of the Sukkah is forbidden[6] all the seven [days of the Festival]? From Scripture which states, ‘The Festival of Sukkoth, seven days to the Lord’; and it was taught, R. Judah b. Bathyra says: Just as the Name of Heaven rests upon the Festival offering,[7] so does it rest upon the Sukkah, since it is said, ‘The Festival of Sukkoth, seven days to the Lord’: just as the Festival [offering] is ‘to the Lord’, so is the sukkah also ‘to the Lord’. And Beth Shammai also, do not they need the verse for this deduction?-Yes, indeed. What then is Beth Shammai's reason?[8] -There is another Scriptural verse. Thou shalt make[9] the Festival of Sukkoth for seven days.[10] This implies a sukkah made expressly for the sake of the Festival. And Beth Hillel?[11] -They need this [verse for the deduction] that a sukkah may be made in the intermediate days of the Festival.[12] And Beth Shammai? — They hold the same opinion as R. Eliezer, who laid down that no sukkah may be made in the intermediate days of the Festival.[13]

Do not Beth Hillel, however, agree with the statement Rab Judah cited in the name of Rab: If a man made [zizith][14] from the hanging web or woof,[15] or sewing threads,[16] they are invalid;[17] but if he made them from a tuft [sewn to a garment][18] they are valid.[19] When I repeated this in the presence of Samuel,[20] he said to me, Even if made from a tuft [sewn to a garment] they are also not valid, because[21] it is necessary that the weaving[22] shall be done specifically for its purpose?[23] Here too then we should require a Sukkah[24] to be made specifically for its purpose?[25] — [Zizith are] different, since Scripture says, Thou shalt make to thee twisted cords:[26] ‘to thee’ [means] for the specific purpose of thy obligation. But here also [Scripture says], ‘The Festival of Sukkoth thou shalt make to thee’, ‘to thee’ meaning for the specific purpose of thy obligation? That [phrase][27] is needed to exclude a stolen [Sukkah].[28] But in the other case too it[27] is needed to exclude stolen [zizith]? — In that case there is another verse, [that serves the purpose], And they shall make to them,[29] i.e., of their own.

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(1) This is explained anon.
(2) The reason is given in the Gemara infra.
(3) For their ruling in our Mishnah.
(4) Lev. XXIII, 34. Emphasis on ‘Sukkah. . . for the Lord’.
(5) How, in view of this text, can they maintain their view?
(6) To be used for secular purposes.
(7) To render it forbidden before its prescribed portions have been burnt on the altar.

(8) For their ruling in our Mishnah.
(9) J.T. ‘keep’, A. V., ‘observe’.
(10) Deut. XVI, 13; emphasis on ‘make’.
(11) How, in view of the text, can they maintain their view?
(12) If one did not make it prior to the Festival.
(13) Infra 27b.
(14) v. Glos. and cf. Num. XVI, 38.
(15) Sc. he twisted into zizith threads hanging over from a woven garment.
(16) That were used in the sewing of a garment and ends of which were hanging from that garment.
(17) Since they were not attached to the garment as zizith, but merely formed a part of the web etc.
(18) Sc. a tuft of wool was sewn to the garment and then was cut into strips and twisted into zizith.
(19) Since their attachment to the garment was made for the purpose of the zizith.
(20) whose school Rab Judah attended for a time after Rab's death.
(21) Cur. edd. insert in parenthesis ‘thus it is seen clearly’.
(22) Not merely the attachment of the zizith.
(23) I.e., that of zizith.
(24) According to Beth Hillel,
(25) An objection against Beth Hillel who ruled that the Sukkah need not be made specifically for the purpose of Sukkoth.
(26) Deut. XXII, 12.
(27) ‘To thee’.
(28) Sc. with a stolen Sukkah the commandment cannot be fulfilled.
(29) Num. XV, 38.להם’for themselves’.

Talmud - Mas. Sukkah 9b

MISHNAH. IF ONE MADE HIS SUKKAH UNDER A TREE, IT IS AS IF HE MADE IT WITHIN THE HOUSE.[1] IF ONE SUKKAH IS ERECTED ABOVE ANOTHER, THE UPPER ONE IS VALID BUT THE LOWER IS INVALID.[2] R. JUDAH SAID, IF THERE ARE NO OCCUPANTS IN THE UPPER ONE, THE LOWER ONE IS VALID.

GEMARA. Raba said, [Our Mishnah] was taught only in respect of’ a tree whose shade is greater than the sun [shining through its branches] but if the sun is more than its shade, it is valid. Whence [do we know this]? Since it states, IT IS AS IF HE MADE IT WITHIN THE HOUSE. Now for what purpose does it state IT IS AS IF HE MADE IT WITHIN THE HOUSE? Let it simply state ‘it is invalid’? But the fact is that he taught us this, that the tree[3] [referred to is] like a house, just as in a house the shade is more than the sunshine, so the tree has more shade than sunshine.

But even where the sun is more than the shade, what is the advantage, seeing that all invalid covering is joined to a valid one?[4] — R. Papa answered: [This[5] is a case] where [the branches of the tree] were interwoven.[6] If the branches were interwoven,[6] why[7] mention the case at all? — One might have thought that it should be prohibited where it is interwoven as a preventive measure against the possibility of regarding it as valid even where it was not interwoven,[8] [therefore the Mishnah] informs us that no such preventive measure has been enacted. Have we not learnt this also: If a man trained upon it [a sukkah] vine, or a gourd, or ivy, and he covered [it with a valid covering], it is invalid.[9] But if the valid covering exceeded these in quantity, or if one cut them,[10] it is valid.[11] Now to what case does this[12] refer? Shall I say where he did not interweave them,[13] then obviously the invalid covering is joined to[14] the valid one?[15] Must it not then[16] refer to a case where one did interweave them;[13] and hence it may be inferred that no preventive measure was in such a case deemed necessary?[17] — One might have presumed that [this[18] is permissible] only ex post facto but not ab initio, hence we were informed [that[19] even ab initio it is permissible]. IF ONE SUKKAH IS ERECTED ABOVE ANOTHER. Our Rabbis taught, Ye shall dwell in Sukkoth,[20] but not in a sukkah under another sukkah, nor in a Sukkah under a tree, nor in a Sukkah within the house. On the contrary! Does not the word Sukkah[21] imply two? — R. Nahman b. Isaac answered, The word is written defectively.[22] R. Jeremiah said: Sometimes both[23] are valid, sometimes both invalid; sometimes the lower one is valid and the upper invalid, and sometimes the lower one is invalid and the upper one valid. ‘Sometimes both are valid’. In what circumstances? When in the lower one the sun is more than the shade,[24] and in the upper the shade is more than the sun, and the upper one is within twenty [cubits from the ground].[25] ‘Sometimes both are invalid’. In what circumstances? When in both of them the shade is more than the sun, and the upper one is more than twenty cubits [high].[26] ‘Sometimes the lower one is valid and the upper invalid’.

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(1) I.e., it is as though there are two roofs, and it is, therefore, invalid

(2) The reason is given in the Gemara infra.

(3) Which renders a Sukkah under it invalid.

(4) The covering of a Sukkah must be made of plants that are detached from the ground. Growing ones are invalid. The presence of the invalid covering of the tree should, therefore, invalidate the Sukkah.

(5) The ruling in our Mishnah.

(6) Lit., ‘he pressed them down’. The branches of the tree were pressed down and interwoven with the valid covering, and, since the former are less in quantity than the latter, the Sukkah is valid (cf. infra 11a).

(7) Since the ruling is so obvious why did the Mishnah have to state ‘AS IF HE MADE IT IN THE HOUSE’; and what need of Raba's ruling?

(8) Invalid materials that are not interwoven with valid ones render a Sukkah invalid.

(9) On account of the invalid covering which remained isolated from the valid one.

(10) And thus detached them from the growing tree.

(11) Infra 11a.

(12) The Mishnah just cited.

(13) The invalid with the valid material.

(14) But not interwoven with.

(15) And the Sukkah therefore would be invalid.

(16) Since the Sukkah was stated to be valid.

(17) And the question re-arises: Why should the same law be repeated here?

(18) The joining of the two materials.

(19) Provided the two materials were interwoven.

(20) Lev. XXIII, 42.

(21) The plural form of Sukkah.

(22) V. supra. Traditional spelling is סכת a singular form.

(23) Sukkoth that were put up on the top of one another.

(24) Its covering can, therefore, be disregarded.

(25) The covering of the upper one is thus valid for both, since they are regarded as one Sukkah.

(26) I.e., from the roof of the lower one. The lower one is invalid since it is a Sukkah under a Sukkah, and the upper one is similarly invalid since it is more than twenty cubits high.

Talmud - Mas. Sukkah 10a

In what circumstances? When the lower one has more shade than sun, and the upper one more sun than shade,[1] and both are within twenty cubits [from the ground].[2] ‘And sometimes the upper one is valid and the lower invalid’. In what circumstances? When in both of them the shade is more than the sun, and the upper one is within twenty cubits.[3] [But is not all this] self-evident? — The statement of the case of the ‘lower one valid and the upper one invalid’ was necessary. As it might have been thought that [the lower sukkah] would be prohibited as a preventive measure lest one also joins[4] an invalid covering[5] to a valid covering,[6] therefore it teaches us [that it is valid].[7]

How much [space] should there be between [the roof of] one sukkah and that of the other to invalidate the lower one?[8] R. Huna replied, A handbreadth,[9] since we find a handbreadth [prescribed as the minimum size] with regard to overshadowing in cases[10] of uncleanliness, as we have learnt.[11] [A space of] one handbreadth square and one handbreadth high[12] acts as a carrier of uncleanliness and as an interposition to it,[13] but if it is less than one handbreadth high it neither conveys nor interposes.[14] R. Hisda and Rabbah son of R. Huna [however,] say, Four [handbreadths], since we do not find a place of any [legal] importance[15] to be less than four [handbreadths];[16] while Samuel says, Ten [handbreadths]. What is the reason of Samuel? — As its validity, so is its invalidity. Just as its validity [is effected by a height of] ten handbreadths,[17] so is its invalidity [effected by] ten handbreadths.[18]

We have learnt: R. JUDAH SAID, IF THERE ARE NO OCCUPANTS IN THE UPPER ONE, THE LOWER ONE IS VALID. Now what is the meaning of ‘THERE ARE NO OCCUPANTS’? If we say, actual occupants, are then occupants [it could be objected] a determining factor?[19] Must [we then] not [say] that ‘THERE ARE NO OCCUPANTS means that the Sukkah is unsuitable for occupation? And how is this possible? Where it is less than ten handbreadths high. May we not, therefore, infer that the first Tanna[20] holds the opinion that even if it is unsuitable for occupation it is still invalid?[21] — When R. Dimi, came,[22] he said, In the West[23] they say,[24] if the lower one cannot bear the weight of[25] the bolsters and the cushions of the upper one, the lower one is valid.[26] This implies [does it not] that the first Tanna[27] holds the opinion that even if the lower one is not able to bear their weight, it is still invalid?[28] -The difference between them[29] is[30] where it can bear the weight with difficulty.[31]

MISHNAH. IF ONE SPREAD A SHEET[32] OVER IT[33] BECAUSE OF THE SUN OR BENEATH IT BECAUSE OF FALLING [LEAVES], OR IF HE SPREAD [A SHEET] OVER THE FRAME OF A FOURPOST BED,[34] [THE SUKKAH] IS INVALID.[35] ONE MAY SPREAD IT, HOWEVER, OVER THE FRAME OF A TWO-POST BED.[36]

GEMARA. R. Hisda stated, [Our Mishnah] speaks only [of a sheet spread] BECAUSE OF FALLING [LEAVES],[37] but if [it was spread] in order to beautify [the Sukkah], it is valid.[38] But is not this obvious! For have we not learnt, BECAUSE OF FALLING [LEAVES]?One might have said that the law is the same even [where the sheet served the purpose] of beautifying [the Sukkah] and that the reason why it was stated, BECAUSE OF FALLING [LEAVES], is that he mentions what is the common practice, therefore he informs us this.[39]

Can we say that the following supports [R. Hisda's view]: If he covered it[40] according to the rule, and adorned it with embroidered hangings and sheets, and hung therein nuts, almonds, peaches, pomegranates, bunches of grapes, wreaths of ears of corn, [phials of] wine, oil or fine flour, it is forbidden to make use of them[41]

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(1) And thus its covering which is an invalid one cannot invalidate the lower Sukkah.

(2) If the roof of the upper Sukkah, however, was above twenty cubits from the ground its invalid material (since all Sukkah roofs above twenty cubits height are invalid) would be deemed to be joined to the roof of the lower Sukkah and to render it invalid in consequence.

(3) Of the roof of the lower one. Being a valid Sukkah it invalidates the lower one on the ground of the latter's being a Sukkah under a Sukkah.

(4) I.e., regards the roof of the upper, and of the lower Sukkah as one.

(5) Sc. the covering of the upper Sukkah where it is higher than twenty cubits.

(6) And thus use an invalid Sukkah.

(7) Thus indicating that no preventive measure was deemed necessary.

(8) As a Sukkah under a Sukkah.

(9) I.e.,if it is less than this, the two roofs are regarded as one.

(10) Lit., ‘tents’.

(11) V. marg. glos. Cur. edd. in parenthesis, ‘for it was taught’.

(12) I.e., a cubic handbreadth between the level on which the contaminating object lies and the object that forms the ‘roof’ or ‘tent’ above it.

(13) It acts as a carrier in that whatever is under the same ‘roof’ as the unclean object is unclean, and as an interposition in that whatever lies above the ‘roof’ is not defiled.

(14) Ohal. III, 7. Cf. prev. n. mut. mut.

(15) A private domain, for instance.

(16) V. Shab. 7a. A space between the upper and lower roof that was less than four handbreadths cannot, therefore, be regarded as forming an upper Sukkah above the lower one.

(17) The roof of a Sukkah must be at least ten handbreadths high to render the Sukkah valid.

(18) If the roof of the Sukkah above it is, however, lower than ten handbreadths, the lower Sukkah remains valid.

(19) Of course not.

(20) The authority of the anonymous first part of the Mishnah who differs from R.Judah.

(21) Which is refutation of Samuel.

(22) From Palestine to Babylon.

(23) Palestine.

(24) In explanation of R. Judah's ruling, IF THERE ARE NO OCCUPANTS’.

(25) Lit., receive .

(26) Since the upper one is not strong enough to be regarded as a Sukkah. As a Sukkah cannot be valid unless its floor can bear the prescribed weight so also, on the principle, ‘As its validity so is its invalidity’ laid down by Samuel, it cannot cause the invalidity of the lower Sukkah unless the latter's roof which is its floor can bear the prescribed weight. Where the upper one, however, is less than ten handbreadths high even the first Tanna agrees that it cannot affect the validity of the lower one, in agreement with Samuel.

(27) Who differs from R. Judah.

(28) Apparently we may. Now, since in this respect the first Tanna does not uphold Samuel's principle, and since the question of height depends on the same principle, may it not be contended that he differs from Samuel as regards the height also?

(29) The first Tanna and R. Judah.

(30) Not the complete ability or inability to bear the weight mentioned.

(31) According to the first Tanna this invalidates the lower one; according to R. Judah, it does not. Where, however, it cannot bear the weight at all, the first Tanna on Samuel's principle, agrees with R. Judah.

(32) A sheet (cf. infra 11a) is subject to ritual defilement and is, therefore, invalid as a Sukkah-covering.

(33) The roof of a Sukkah.

(34) And thus made a tent within the Sukkah.קינוף Gr. **, four poles over which a covering is placed.

(35) In the former case, because of the unsuitability of the covering, and in the latter case because of of the intervention of a tent.

(36) A bed frame with only two poles, one on each side, the top of which being less than a handbreadth in width it cannot be regarded as a valid tent (v. Gemara infra).

(37) In which case it is regarded as a part of the roof and therefore causes the invalidity of the Sukkah.

(38) Since the sheet does not serve the purpose of a roof covering.

(39) That the Sukkah is valid if a sheet was intended to beautify it.

(40) The Sukkah.

(41) To eat, for instance, any of the fruit.

Talmud - Mas. Sukkah 10b

until the conclusion of the last day of the Festival, but if[1] he expressed a condition about them,[2] all depends on [the terms of] his condition?[3] — No! It is possible [that the statement was made with reference to sheets] at the side [of the Sukkah].[4] It was stated: The adornments of a Sukkah do not diminish [the height of] the Sukkah.[5] R. Ashi said, But at the side, they do diminish [the size of a Sukkah].[6]

Minyamin, the servant of R. Ashi, had his shirt soaked in water, and he spread it out on their Sukkah. R. Ashi said to him, ‘Remove it, lest they say that it is permissible to use as a covering something which is susceptible to defilement’. ‘But [the other asked] can they not see that it is wet?’[7] ‘I mean [the first answered] when it is dry’.[8]

It was stated: The adornments of a Sukkah[9] which are removed four [handbreadths from the roof] R. Nahman declared valid,[10] and R. Hisda and Rabbah son of R. Huna declare invalid.[11] R. Hisda and Rabbah son of R. Huna once came to the house of the exilarch, and R. Nahman[12] sheltered them in a Sukkah whose adornments were separated four handbreadths [from the roof]. They were silent and said not a word to him. Said he to them, ‘Have our Rabbis[13] retracted their teaching’?[14] -"We", they answered him, are on a religious errand,[15] and [therefore] free from the obligation of the Sukkah’.[16]

Rab Judah said in the name of Samuel, It is permissible to sleep in a canopied bed in a Sukkah, even though it has a flat roof, provided it is not ten [handbreadths] high.[17]

Come and hear: He who sleeps in a canopied bed in a Sukkah has not fulfilled his obligation?[18] - Here we are dealing with a case of one that was ten [handbreadths] high. It was objected: He who sleeps under the bed in a Sukkah has not fulfilled his obligation?[19] — But, surely, Samuel has explained that [this refers to] a bed ten [handbreadths] high. Come and hear: OR IF HE SPREAD [A SHEET] OVER THE FRAME OF A FOUR-POST BED, [THE SUKKAH] IS INVALID? — There also it is a case where they are ten [handbreadths] high. But surely, it was not taught thus, for it has been taught, naklitin [means a frame with] two [poles], and kinofoth [means a frame with] four [poles]; if one spread a sheet over the frame of kinofoth it is invalid, if over naklitin, it is valid, provided that the naklitin are not ten [handbreadths] high above the bed. This implies that kinofoth [are invalid] even if they are less than ten [handbreadths high]? — Kinofoth are different, since they are permanent.[20] But, behold the case of one Sukkah above another, which is also permanent; and Samuel nevertheless said, ‘As its validity so is its invalidity’?[21] — I will explain: In the latter case, [when it is a question] of invalidating a Sukkah,[22] [the upper one must be ten [handbreadths] high,[23] but here, [where it is a question] of making a tent,[24] even less than ten [handbreadths suffices] also to constitute a tent.[25]

R. Tahlifa b. Abimi said in the name of Samuel, He who sleeps naked in a canopied bed, may put his head out of the canopied bed and read the Shema’.[26] It was objected: He who sleeps in a canopied bed naked may not put his head out of it and read the Shema’? — The latter refers to a case where [the canopy] was ten [handbreadths] high.[27] This stands to reason also, since it was stated in the final clause: To what can it be compared? To a man standing naked in a house, in which case he may not put his head out of the window and read the Shema’. This is conclusive.

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(1) Prior to the Festival.

(2) I.e., he made a declaration that he desired to retain full possession ‘during the twilight of the first day’ of the Festival of any of the objects mentioned. Unless the declaration is made at the proper time and in this form the objects assume the sanctity of the Sukkah and no subsequent declaration can remove it.

(3) Bezah 30b, which shows that ornamental sheets do not invalidate a Sukkah. Does not this then provide support to R. Hisda's view?

(4) One, however, hung under the roof may well invalidate a Sukkah, even if its purpose was ornamental.

(5) If it was higher than twenty cubits and the sheet hung lower, it is still invalid, since a sheet Is unsuitable as a Sukkah-covering.

(6) If the presence of the adornments caused it to be less than the minimum of seven handbreadths square.

(7) And that it was spread out for the purpose of drying only.

(8) Only then is it necessary to remove it from the Sukkah.

(9) Sheets spread under the Sukkah roof as decorations (Rashi).

(10) Because their identity is merged in that of the roof.
(11) Since they form a 'tent' that intervenes between the roof and the habitable part of the Sukkah.
(12) R. Nahman was chief in authority at the exilarch's house.
(13) Sc. R. Hisda and Rabbah b. R. Huna.
(14) Cited supra.
(15) It was regarded as a religious duty to visit one's master, or the exilarch, on the Festivals.
(16) A person engaged on a religious errand is free from other religious duties (cf. infra 25a).
(17) Above the bed. It cannot be regarded as a valid tent unless it is ten handbreadths high.
(18) An objection against Samuel's ruling just cited.
(19) infra 20b.
(20) Hence they may be regarded as a proper tent. The poles of a canopied bed, however, are not permanent, and cannot be regarded as a valid tent unless they are ten handbreadths high.
(21) Supra 10a; which shows that even a permanent structure cannot be valid unless it is ten handbreadths high.
(22) On the ground that one Sukkah is above another.
(23) Otherwise it cannot invalidate the lower Sukkah.
(24) Under which it should be forbidden to sleep but the rest of the Sukkah remaining valid.
(25) If it is to be permanent.
(26) The Scriptural reading Deut. VI, 4f, which had to be read twice daily; otherwise it is forbidden to read while naked. V. Ber. 24b and 25b.
(27) Which has, therefore, the legal status of a room. As a naked person is forbidden to read the Shema' even if he puts his head out of a window (because the greater part of his body is still in the room) so it is forbidden to read the Shema' while the greater part of one's body remained in the canopied bed. A canopy that is lower than ten handbreadths is regarded as a covering or cloak.

Talmud - Mas. Sukkah 11a

But as to a house, even though it is not ten [handbreadths] high, since it is permanent it constitutes a valid tent,[1] for it is no worse than the frame of a four-post bed.

Another version is that Rab Judah said in the name of Samuel, It is permitted to sleep in a bridal-bed in a Sukkah, since it has no roof,[2] even though it be ten [handbreadths] high. It was objected: He who sleeps in a canopied bed in a Sukkah has not fulfilled his obligations? — Here we are dealing with the case of one which has a roof'. Come and hear: Naklitin [means a frame with] two [poles]; kinofoth [means a frame with] four [poles], if he spread a canopy over the frame of kinofoth it is invalid,[3] over that of naklitin it is valid, provided that the naklitin are not ten [handbreadths] high above the bed. But if they are ten [handbreadths] high above the bed, it is invalid, [is it not] even though it has no roof?-Naklitin are different, since they are permanent. If they are permanent, why are they not [subject to the same law as] kinofoth?[4] — As compared to kinofoth they are not [considered] permanent,[5] but compared to the bridal-bed they are [considered] permanent.[6]

Rabbah son of R. Huna expounded, It is permitted to sleep in a canopied bed [in a Sukkah] even though it has a roof and even though it is ten [handbreadths] high. According to whom [is this opinion expressed]?-According to R. Judah who said that a temporary tent[7] cannot nullify a permanent one,[8] as we have learnt: R. Judah said, We were accustomed to sleep under a bed[9] in the presence of the Elders.[10] Why then does he not say, The halachah is as R. Judah?-If he had said, The halachah is as R. Judah, I might have presumed that this applies only to a bed which is made [to be slept] upon,[11] but not to a canopied bed which, is made [to be slept] within,[12] hence he informs us that the reason of R. Judah is[13] that a temporary tent cannot nullify a permanent one, no matter whether it be an ordinary bed[14] or a canopied bed.[15]

MISHNAH. IF HE TRAINED A VINE OR A GOURD OR IVY OVER [THE SUKKAH] AND

COVERED IT WITH THE COVERING OF A SUKKAH, IT IS NOT VALID.[16] IF [HOWEVER] THE SUKKAH-COVERING EXCEEDS THEM IN QUANTITY, OF IF HE CUT THEM,[17] IT IS VALID. THIS IS THE GENERAL RULE. WHATEVER IS SUSCEPTIBLE TO [RITUAL] UNCLEANLINESS AND DOES NOT GROW FROM THE SOIL MAY NOT BE USED FOR SUKKAH-COVERING, BUT WHATEVER IS NOT SUSCEPTIBLE TO [RITUAL] UNCLEANLINESS AND GROWS FROM THE SOIL MAY BE USED FOR SUKKAH-COVERING.

GEMARA. R. Joseph sat[18] before R. Huna, and in the course of the session he stated, [with reference to the ruling] OR IF HE CUT THEM, IT IS VALID, Rab said, But he must shake them.[19] Said R. Huna to him, This has been said by Samuel! R. Joseph turned away his face [in annoyance] and retorted, Did I then tell you that Samuel did not say it? Rab said it and Samuel also said it. It is this that I say, said R. Huna to him, As to that, Samuel said it, and not Rab, since Rab declares it valid [without shaking],[20] as in the case of R. Amram the Pious who attached fringes to the aprons of the women of his house.[21] He hung them[22] but did not cut off the ends of the threads.[23] When he came before R. Hiyya b. Ashi[24] the latter said to him, Thus said Rab, [In such a case the threads] may be cut and they are valid. Thus it is obvious that their cutting is their [valid] preparation, so here also,[25] their cutting is their [valid] preparation. But does Samuel hold the opinion that we do not say that their cutting is their [valid] preparation? Did not Samuel in fact teach in the name of R. Hiyya, If one attached [zizith] to two corners in one[26] and then cut the ends of these threads, the zizith are valid. Does not this mean that he first knotted them and then cut them?[27] -No, he cut them first[28] and afterwards knotted them. If he cut them first and then knotted them, why mention it?[29] -One would have thought

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(1) And therefore if a person is naked he cannot put his head out and read the Shema'.

(2) The cover was sloping from above the bed around it.

(3) Sc. one may not use it within a Sukkah.

(4) And thus render their use in a Sukkah forbidden.

(5) Hence they cause no invalidity where they are lower than ten handbreadths.

(6) They cause, therefore, invalidity where they are ten handbreadths high even if they have no roof, while a canopied bed that has no roof causes no invalidity even where it is ten handbreadths high.

(7) The canopied bed.

(8) The Sukkah which in comparison with it may be regarded as permanent.

(9) In a Sukkah. The movable bed being regarded as temporary and the Sukkah as permanent.

(10) Infra 20b.

(11) And not under it. As the bed was never intended to serve as a 'tent' a person's occasional use of it for the purpose of sleeping under it cannot confer upon it the status of a valid tent.

(12) And the roof thereof might, therefore, be regarded as constituting a valid tent.

(13) Not the one just suggested.

(14) Under which one sleeps.

(15) Within which one sleeps.

(16) Since a growing plant may not be used as a Sukkah-covering.

(17) From the ground, after he had trained them on the Sukkah.

(18) In the college.

(19) After they had been cut. Sc. each branch must be raised and put back in position so that the covering is made from valid materials. If no moving or shifting takes place after the plants had been cut the Sukkah remains invalid since it was made from invalid materials. The mere cutting of them from the ground does not alter the fact that the covering was made from invalid materials.

(20) The cutting alone is regarded as the 'making' of the covering.

(21) R. Amram was of the opinion, not generally held, that women are bound to wear fringes.

(22) On the four corners of the garments.

(23) He folded one thread four times, and attached it to the garment. By subsequently cutting it he made of it the eight requisite threads.

(24) To inquire whether the mere cutting of the long thread constitutes the ‘making’ of the fringes.

(25) In the case of the Sukkah where the branches were only cut and not shifted.

(26) Long threads folded in four were passed through the two corners, and then separated by being cut in the middle.

(27) In agreement with Rab.

(28) Immediately after insertion before he wound the prescribed number of coils and made the necessary knots.

(29) It is obvious that it is valid.

Talmud - Mas. Sukkah 11b

that it was necessary to insert the threads in one corner at a time, which was not the case here, therefore he informed us [that it was not so].

It was objected: If he hung them[1] and did not cut their ends, they are invalid. Does not this mean invalid for ever,[2] and is thus a refutation of Rab?-[No!] Rab can answer: What is the meaning of ‘invalid’? Invalid until they are cut. Samuel, however, says, [It means] invalid for ever. And so said Levi, They are invalid for ever. And so said R. Mattenah in the name of Samuel: They are invalid for ever. Another version is that R. Mattenah said, A [similar] incident happened to me, and when I came before Samuel he told me, They are invalid for ever.

It was objected: If he inserted them[3] and then cut their ends, they are invalid; and it was also taught concerning a Sukkah: Thou shalt make[4] [implies] but not from that which is already made, hence they[5] inferred, If one trained a vine or a gourd or ivy [over the walls of a Sukkah] and then covered them with the Sukkah-covering it is invalid. Now, how is this to be understood? If you say that it is a case where one did not cut them,[6] why then give the reason because of ‘"Thou shalt make" [implies] but not from that which is already made’? Let him rather give the reason that they are joined to the ground? Consequently it must be a case where he cut them,[6] and yet it is taught that it is invalid. Deduce then, therefrom that we do not say that their cutting[6] is their [valid] preparation. And is not this then a refutation of Rab?Rab can answer that there we are dealing with a case where he pulled them [from the trunk][7] so that their ‘making’ is not apparent. At all events, [does not the case where] ‘he inserted them and then cut their ends’[8] present a difficulty against Rab?[9] — It is a difficulty.

Can we say that [their dispute[10] accords with a dispute of] Tannas? [As we have learnt], If one transgressed and[11] plucked them,[12] [the myrtle is still] invalid, so R. Simeon b. Jehozadak, while the Sages declare it valid. Now they[13] were of the opinion that everyone[14] agrees that [the components of] a lulab[15] must be tied together, and that we deduce [the law of] lulab from that of Sukkah, concerning which it is written ‘thou shalt make’, [which implies]’but not from what which is made’. Do they [then] not dispute on this principle, that the one who declared it[16] valid is of the opinion that with regard to the Sukkah we say that ‘their cutting is their [valid] preparation’, and [therefore] with regard to lulab also we say that their plucking is their [valid] preparation; while the one who declares it invalid is of the opinion that with regard to the Sukkah we do not say that ‘their cutting is their valid preparation’, and [therefore] with regard to lulab also we do not say that their plucking is their [valid] preparation?[17] — No! Everyone may agree that with regard to the Sukkah we do not say that their cutting is their [valid] preparation, but here they differ on the principle whether we deduce the law of lulab from that of Sukkah. The one who declares it[16] valid is of the opinion that we do not deduce lulab from Sukkah, while the one who declares it invalid says that we do deduce lulab from sukkah. And if you wish you may say that if we were of the opinion that[18] the [components of the] lulab must be tied together,[19] [we must admit that] all agree that we do deduce the law of lulab from that of Sukkah,[20] but here they dispute on the following: One Master[21] holds the opinion that it[22] must be tied together[23] while the other holds that it need not be tied together; and their dispute is analogous to that of the following Tannas of whom it has been taught: A lulab, whether [its components] be tied together or not, is valid, while R. Judah says, If tied together it is valid, if not, it is invalid.[24] What is the reason of R. Judah?-He deduces the word ‘take’[25] from the word ‘take’ mentioned in connection with the bundle of hyssop. It is written there, And ye shall take a bundle of hyssop,[26] and it is written here, And ye shall take you on the first day etc.[27] Just as there it was taken in a ‘bundle,[28] so here also it must be taken in a bundle.[28] And the Rabbis?[29] — They do not deduce ‘take’ from ‘take’.[30]

According to whom is that which has been taught, It is a religious duty to tie [the components of] the lulab together, but if one did not tie them, it is [still] valid? If it is according to R. Judah, why is it valid if one does not tie them, and if it is according to the Sages, why is it ‘a religious duty’?[31] -It is in fact according to the Rabbis, but [it is a religious duty][31] since it is written, This is my God and I will glorify him[32] [which implies] glorification[33] before Him in [the due performance of] religious duties.

THIS IS THE GENERAL RULE: WHATEVER IS SUSCEPTIBLE TO [RITUAL] UNCLEANLINESS etc. Whence do we know this?Resh Lakish said: Scripture says, But there went up a mist from the earth;[34] just as a mist is a thing that is not susceptible to [ritual] uncleanliness and originates from the soil, so must [the covering of] the Sukkah[35] [consist of] a thing that is not susceptible to [ritual] uncleanliness, and grow from the soil. That is satisfactory according to the authority who says that [the booths of the wilderness were] clouds of glory, but according to the authority who says [the Israelites] made for themselves real booths, what can one say?[36] For it has been taught: For I made the children of Israel to dwell in booths,[37] These[38] were clouds of glory, so R. Eliezer. R. Akiba says, They made for themselves real booths. Now this[39] is satisfactory according to R. Eliezer, but according to R. Akiba, what can one say?[36] — When R. Dimi came,[40] he explained in the name of R. Johanan, Scripture says, The Festival [hag] of Sukkoth thou shalt keep.[41] The Sukkah is thus[42] compared to the Festival [offering].[43] Just as the Festival offering is a thing which is not susceptible to [ritual] uncleanliness and grows from the soil,[44] so the Sukkah must be unsusceptible to [ritual] uncleanliness and grow from the soil.

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(1) The threads of the zizith.

(2) Even though they were subsequently cut.

(3) The threads of the zizith.

(4) Sc. the Sukkah, Deut. XVI, 13.

(5) The Rabbis.

(6) From the ground.

(7) I.e., he pulled the branches from the vine etc., until they broke, but the bark was still attached (cf. Tosaf. a.l.).

(8) Cited supra.

(9) According to whom they should be valid, whereas the Baraitha declares them invalid.

(10) On the question whether ‘their cutting is their valid preparation’.

(11) On the festival day.

(12) The berries of a myrtle that is to be attached to the festive wreath. Such a myrtle must have more leaves than berries; but it is forbidden in the Festival to remove any of the berries though this may well be done on a weekday.

(13) The Rabbis at the college who raised the argument.

(14) Sc. both the Tannas mentioned.

(15) The palm-branch used on the Festival of Tabernacles. V. infra. To it are tied the myrtle and willow and the tying together of the plants is regarded as analogous to the preparation of a Sukkah.

(16) The myrtle.

(17) Cf. supra p 45, n. 9.

(18) According to the Tannas mentioned.

(19) So that the term of ‘making’ or ‘preparation’ might be applied.

(20) Sc. as in the case of Sukkah ‘cutting’ is not regarded as ‘making’ so in the case of the lulab also ‘plucking’ is not regarded as ‘making and the myrtle is invalid.

(21) R. Simeon.
(22) The festive wreath.
(23) Hence the term of ‘making’ may well be applied to it. As the binding is done prior to the festival the plucking of the berries during the festival is of no avail since at that time the wreath is already made.
(24) Infra 33a.
(25) Mentioned in connection with the festive wreath.
(26) Ex. XII, 22.
(27) Lev. XXIII, 40.
(28) Or ‘tied together’.
(29) How, in view of this deduction, can they maintain their view.
(30) Sc. they did not receive this analogy from their teachers; and no Gezerah shawah (v. Glos.) analogy is valid unless it can be traced through a chain of uninterrupted tradition from Moses.
(31) ‘To tie (the components of) the lulab together’.
(32) E.V., ‘I will praise him’. Ex. XV, 2.
(33) Lit., ‘be glorified’.
(34) Gen. II, 6.
(35) Since the Sukkah is commemorative of the clouds (v. infra).
(36) In explanation of the ruling of our Mishnah.
(37) Lev. XXIII, 43.
(38) Booths.
(39) The explanation of Resh Lakish.
(40) From Palestine to Babylon.
(41) Deut. XVI, 13.
(42) Since it appears in juxtaposition with hag.
(43) Hagigah, from the same rt. as hag.
(44) Since animals are fed on that which grows from the ground. R. Johanan regards them also as growing from the ground.

Talmud - Mas. Sukkah 12a

And if [you will suggest]: Just as the Festival offering was a live animal so the Sukkah must be [of something which is] alive, [it may be replied that] when Rabin came, he said in the name of R. Johanan, Scripture says, After that thou hast gathered in from thy threshing-floor and thy winepress. The verse thus speaks of the leavings of the threshing-floor and the leas of the wine-press.[1] But perhaps it means the actual threshing-floor and the actual wine-press?[2] - Zera answered, It is written winepress’, and[3] it is impossible to cover the Sukkah with this![3] R. Jeremiah demurred: But perhaps it means the solidified wine that comes from Senir, which resembles fig-cakes?[4] R. Zera observed, We had something in our hands, and R. Jeremiah came and cast an axe at it.[5] R. Ashi replied, ‘From thy threshing-floor’,[6] [implies] but not the threshing-floor itself,[7] from thy wine-press’,[6] [implies] but not the wine-press itself.[8] R. Hisda replied,[9] The deduction is made from this verse, Go forth unto the mount and fetch olive-branches, and branches of wild olive, and myrtle-branches and palm-branches, and branches of thick trees.[10] Are not myrtle-branches, the same as branches of thick trees?[11] — R. Hisda answered: The wild myrtle[12] [were to be fetched] for the Sukkah, while the branches of thick trees,[13] for the lulab.

MISHNAH. BUNDLES OF STRAW, BUNDLES OF WOOD, AND BUNDLES OF BRUSHWOOD MAY NOT SERVE AS SUKKAH-COVERING, BUT ALL OF THEM,[14] IF THEY ARE UNTIED, ARE VALID. ALL MATERIALS, HOWEVER,[15] ARE VALID FOR THE WALLS.

GEMARA. R. Jacob said, I heard from R. Johanan [the explanation of] two things,[16] this one,[17] and the following:[18] If one hollows out a haystack to make of it a Sukkah, [the hollow] is no [valid]

Sukkah.[19] The reason for one of them he attributed to a Rabbinical enactment lest [a man use his] store-house as a Sukkah,[20] and as a reason for the other he gave, because ‘thou shalt make’, [implies] but not from that which is made; but I do not remember which of them is on account of a ‘store-house’, and which on account of ‘"thou shalt make" but not from that which is made’. R. Jeremiah said, Let us see:[21] R. Hiyya b. Abba said in the name of R. Johanan, Why did they say that bundles of straw, bundles of wood, and bundles of brushwood may not serve as sukkah-covering? Because it may happen[22] that a man returns in the evening from the field with his bundle on his shoulder, and raising it up he places it on his hut to dry it,[23] and then[24] he might decide to leave it there as a sukkah-covering, but the Torah said, ‘Thou shalt make’, [which implies], but not from that which is made.[25] Now since this is forbidden as a restrictive measure against the possibility of the use of a store-house[26] [as a Sukkah][27] the other[28] must have been forbidden on the ground of ‘thou shalt make’ [which implies], but not from that which is made.[29] And R. Jacob?[30] -He had not heard that [statement] of R. Hiyya b. Abba. R. Ashi said:[31] Are then bundles of straw, bundles of wood and bundles of brushwood forbidden only because of the possible use of a store-house[32] and not because of the injunction ‘thou shalt make’ [which implies], but not from that which is made,[33] and is the hollowing out of a haystack forbidden only because of the injunction ‘thou shalt make’ which implies but not from that which is made, and not because of the possible use of a store-house?[34] And R. Johanan?[35] — He can answer you that here where it states, MAY NOT SERVE AS A SUKKAH-COVERING, it means that only at the outset

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(1) Which grow from the ground and are unsusceptible to ritual uncleanness.

(2) Which includes the grain and the grapes both of which are susceptible to ritual uncleanness.

(3) Since it contains only a liquid.

(4) And is, therefore, suitable as a roof covering.

(5) I.e., R. Jeremiah has destroyed what the former thought was a satisfactory explanation of the ruling in our Mishnah.

(6) Emphasis on ‘from’.

(7) Hence the deduction that the text ‘speaks of the leavings of the threshing-floor’ etc.

(8) V. p. 48, n. 16.

(9) In reply to the question, Whence does our Mishnah deduce that WHATEVER IS SUSCEPTIBLE TO RITUAL UNCLEANLINESS etc.

(10) Neh. VIII, 15. Ali the varieties enumerated are unsusceptible to ritual uncleanliness and grow from the ground.

(11) ‘Branches of thick trees’ in Lev. XXIII, 40 is regarded (v. infra 32b) as referring to myrtle. Why then should the same thing be mentioned twice?

(12) This is the species referred to in ‘myrtle branches’, which has only one or two leaves in each row and is, therefore, invalid for the lulab. V. infra 32b.

(13) Having three leaves in each row.

(14) Straw, wood and brushwood.

(15) Though invalid for the Sukkah roof.

(16) Sc. rulings in the Mishnah.

(17) The ruling in our Mishnah on the invalidity of bundles.

(18) Lit., ‘and the other’.

(19) Infra 15a.

(20) A restrictive enactment of the Rabbis lest a man regard also his ‘store-house’, i.e., a room not used throughout the year, as a valid Sukkah.

(21) Whether another statement of R. Johanan might throw light on R. Jacob's uncertainty.

(22) Any time in the year.

(23) Sc. with no intention to use it for shelter from the sun.

(24) On the approach of the festival of Tabernacles.

(25) As in the latter case a Pentateuchal prohibition is involved, since the bundle was never intended to serve as a Sukkah, a Rabbinical prohibition was imposed even in the case where bundles were used expressly for the festival Sukkah.

(26) Sc. bundles ‘stored’ on a hut during the summer for the winter.

(27) I.e., merely as a Rabbinical prohibition.
(28) ‘If one hollows out a haystack’ etc.
(29) I.e., the prohibition must be Pentateuchai.
(30) Why, in view of the last cited statement of R. Johanan, was he uncertain as to what applied to which?
(31) In objection to R. Jacob.
(32) I.e., a Rabbinical prohibition.
(33) A Pentateuchal prohibition.
(34) Sc. since our Mishnah might refer not only to bundles that were laid on the walls for the purposes of serving as a Sukkah (forbidden only Rabbinically as a preventive measure) but also to such as were stored there during the year (forbidden Pentateuchally), and since the Mishnah cited might refer not only to the usual haystack (forbidden Pentateuchally) but also to one whose sheaves that are to serve as the Sukkah roof were duly shaken and shifted with the specific intention of using them as a roof for the Festival Sukkah (forbidden only Rabbinically as a preventive measure), how could R. Jacob maintain in the name of R. Johanan that only a Pentateuchal, or only a Rabbinical prohibition applied to either Mishnah?
(35) How, in view of R. Ashi's contention, can he assign only one reason for each.

Talmud - Mas. Sukkah 12b

it is invalid, because of the possible use of a store-house;[1] according to the Biblical law, however, it is valid; while in the other case where it is stated categorically that it is no Sukkah, implying even when he has made it, it is no Sukkah even Pentateuchally. Rab Judah said in the name of Rab, If one covered a Sukkah with plain[2] arrow-shafts, it is valid; with bored[3] shafts, it is invalid. ‘With plain arrow-shafts it is valid’; but is not this obvious? I might have said that these should be forbidden on account of bored ones,therefore he informs us [that they are not forbidden]. ‘With[4] bored shafts, it is invalid’, is not this obvious? — I might have thought that a receptacle which is made to be [permanently] filled up is not regarded as a receptacle, therefore he informs us [that it is].

Rabbah b. Bar Hana said in the name of R. Johanan, ‘If one covered a Sukkah with flax-stalks that had been soaked and baked, it is invalid;[5] with flax stalks in their natural state it is valid; with flax-stalks in an intermediate stage of preparation, I do not know [whether it is valid or not]’. But as to what constitutes an intermediate stage,[6] I[7] do not know whether if it has been pounded and not corded it is regarded as in an intermediate stage,[8] but if it has been soaked and not pounded it is regarded as being in its natural state,[9] or perhaps, even if it has been soaked but not pounded, it is also regarded as being in an intermediate stage.[10]

Rab Judah ruled, One may use licorice-wood or wormwood as a Sukkah-covering. Abaye ruled, Licorice-wood may be employed, but not wormwood. What is the reason?- Since

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(1) Ex post facto, however, it is obviously permitted. The prohibition, therefore, can only be Rabbinical.
(2) Lit., ‘male shafts’. The shaft, being plain and inserted into the arrow head, is regarded as a piece of unprepared wood, which is unsusceptible to ritual uncleanliness
(3) Lit., ‘female shafts’. Having a hole bored at one of its ends into which the arrow-head is inserted, the shaft is regarded as a valid receptacle which is susceptible to ritual uncleanliness.
(4) Cur. edd. in parenthesis ‘The Master said’.
(5) Since such stalks are susceptible to ritual uncleanliness (cf. Shab. 27b).
(6) In the view of R. Johanan.
(7) The speaker, Rabbah b. Bar Hana.
(8) And its validity is, therefore, a matter of doubt.
(9) And is consequently valid.
(10) And its validity is, therefore, a matter of doubt.

Talmud - Mas. Sukkah 13a

they give an unpleasant odour, one might leave [the Sukkah][1] and depart.

R. Hanan b. Raba said, Izma and hegeh[2] may be employed as a Sukkah-covering; [while] Abaye said, Izma may be used, but not hegeh. What is the reason?-Since their leaves fall off, one might leave the Sukkah and depart. R. Giddal said in the name of Rab, The forked portion of a palm tree[3] may be used as a Sukkah-covering, even although [the branches] are joined together,[4] [since] a natural joining[5] is not considered a joining; and even although one later joined them[6] [the covering is valid, since] joining of one thing [to itself] is not considered a joining.

R. Hisda said in the name of Rabina b. Shila, One may cover the Sukkah with forked reeds, even though they are joined,[4] [since] a natural joining is not considered a joining; and even though one later joins them,[6] the joining of one thing [to itself] not considered as a proper joining.

So it was also taught: Reeds and forked reeds may be used as a Sukkah covering. As to reeds, this is obvious?[7] — Read: Reeds of the forked variety[8] may be used as a Sukkah-covering.

R. Hisda [further] stated in the name of Rabina b. Shila, A man fulfils his obligation[9] on Passover with bitter herbs of the marsh,[10] It was objected: Hyssop but not Greek hyssop, or stibium-hyssop, or wild hyssop, or Roman hyssop or any kind of hyssop which has a special[11] name?[12] — Abaye answered: Whatever had different names prior to the Giving of the Law, and yet the Torah makes specific mention of the general name only obviously [the intention is to exclude such of the species which] have special names;[13] but the former[14] did not have different names before the Giving of the Law at all.[15]

Raba answered: Their ordinary name is really ‘bitter herbs’,[16] but they are called ‘bitter herbs of the marsh’, because they are found in marshes.

R. Hisda said, The joining of one thing [to itself] is not considered a proper joining;[17] of three things, it is considered a joining; of two, there is a dispute between R. Jose and the Rabbis, as we have learnt, The commandment [to take a bunch] of hyssop [requires the taking of] three stalks having three buds.[18] R. Jose says, Three buds,[19] and its remnants[20] [continue valid] if two [stalks remained] and if there is aught [of each] of the stumps.[21] Now it was assumed that since[22] its remnants [are valid] with two, at the outset also two are valid, and that the reason he teaches three is to indicate what is the most proper observance of the commandment;[23] consequently since R. Jose requires three only for the most proper observance of the commandment according to the Rabbis[24] three are indispensable.[25] But has it not been taught, R. Jose says, If at the outset a bunch of hyssop has only two stalks[26] or if its remnants[27] consist of one, it is invalid, since a bunch is not valid unless at the outset it contains three and its remnants are no less than two? — Reverse [the assumption]:[28] According to R. Jose three are indispensable, according to the Rabbis three are required only for the proper observance of the commandment. So it has also been taught: If[29] a bunch of hyssop contains two stalks at the outset or if its remnant consists of one it is valid, since it is not invalid unless at the outset or when it is a remnant it consists of one. But is a remnant of one invalid? Have you not [just] said that a remnant of one is valid?

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(1) Cf. Bah.

(2) Species of thorns and prickly shrubs.

(3) Either (a) where the ramification starts or (b) its upper portion.

(4) And thus have the appearance of a bundle which is invalid for a Sukkah-covering.

(5) Lit., ‘a binding by the hands of heaven.’

(6) At their upper ends.

(7) Why then should they at all be mentioned?

(8) Sc. the waw in ודוקרנין is not to be rendered ‘and’ but ‘of’, ‘that are’.
(9) Of eating bitter herbs (cf. Ex. XII, 8).
(10) Probably succory (Jast.).
(11) Lit., ‘accompanying’.
(12) Since hyssop in the Bible means ordinary hyssop only, so should ‘bitter herbs’ presumably mean only ordinary bitter herbs, but not that of the marsh.
(13) [Lit., ‘it is known that it has a special name’ (to be excluded). The text is not clear. MS.M.: ‘such has (a species of) a special name (to be excluded)].
(14) Bitter herbs.
(15) All its varieties, therefore, are admissible.
(16) Hence they are admissible like the ordinary bitter herbs.
(17) Either in respect of the designation of ‘bundle’ which is invalid for a Sukkah roof or in that of ‘bunch’ in the case of hyssop.
(18) One bud on each stalk.
(19) This will be discussed infra.
(20) Sc. if one stalk has become broken by use.
(21) Parah XI, 9.
(22) According to R. Jose.
(23) Sc. the commandment is best observed with three, though it is considered fulfilled if only two are taken.
(24) Who differ from him.
(25) Thus we see that according to R. Jose, two can constitute a ‘bunch’ or ‘joining’, whereas according to the Rabbis three are required.
(26) Instead of three.
(27) The bunch having originally contained three stalks.
(28) Made supra in connection with R. Hisda's statement.
(29) According to the Rabbis. V. next note.

Talmud - Mas. Sukkah 13b

— Say rather, Unless at the outset, [it contains] no more than the permitted number for its remnant, viz., one.[1]

Meremar expounded, The bundles of Sura[2] are valid as a Sukkah-covering.[3] Although [the seller] binds them together he does so merely to facilitate their counting.[4] R. Abba said, As for cone-shaped bundles of bulrushes, as soon as the top-knots are untied they are valid [as a Sukkah-covering]. But are they not still tied at the bottom?[5] — R. Papa answered, [This is a case] where he loosens them.[6] R. Huna the son of R. Joshua said, one can even ‘say that [it is valid though] he does not loosen them, since a binding which is not made to facilitate transport[7] is not considered a binding. R. Abba said in the name of Samuel, Herbs concerning which the Sages said that a man fulfils with them his obligation on Passover,[8] carry[9] ritual defilement,[10] do not[11] act as an interposition to ritual defilement[12] and cause invalidity in a Sukkah-covering in the same manner as an air space.[13] What is the reason? — Since when they wither they crumble and fall, they are regarded as though they were not there.

R. Abba further said in the name of R. Huna, He who cuts grapes for the vat, does not render their ‘handles’ [stalks] susceptible to [ritual] uncleanliness;[14] while R. Menashia b. Gada said in the name of R. Huna, He who cuts [ears of corn] for a Sukkah-covering[15] does not render their handles susceptible to uncleanliness. He who holds this opinion with regard to the cutting [of ears], certainly holds it with regard to the cutting of grapes,[16] since one does not desire [any stalks] lest they suck up one's wine; he who holds the opinion that the cutting of grapes[16] does not render their stalks susceptible to the uncleanliness, holds that the cutting [of ears][15] does render them susceptible since one is pleased to use [the ears] for the Sukkah-covering in order that [the grains] be not scattered.[17]

Must we say that the [ruling of] R. Menashia b. Gada[18] is a point at issue between Tannas? For it has been taught, Boughs of fig-trees on which there are figs, branches of vines on which there are grapes, or straws on which there are ears of corn or palm-branches on which there are dates, all these, if the inedible part is greater than the edible are valid [for a Sukkah-covering], otherwise, they are invalid. ‘Others’[19] say, [They are not valid] unless the straw[20] is more than both the ‘handle’[21] and the food. Now do they not differ on this principle, that one Master[22] holds the opinion they[23] render the handles[24] susceptible to uncleanliness,[25] while the other Master holds the opinion that they do not render the ‘handles’ susceptible to uncleanliness? — According to R. Abba,[26] there is certainly[27] a dispute of the Tannas,[28] but according to R. Menashia b. Gada,[29] must we say that [his ruling is] in agreement only with one of the Tannas?[30] — R. Menashia can answer you, All[31] agree that he who cuts ears for a Sukkah-covering does not render the ‘handles’ susceptible to uncleanliness, but here we are dealing with a particular case where he cuts them for food,[32] and then changed his mind [and used them] for a Sukkah-covering. But if he cut them for food, what is the reason [for the view] of the Rabbis?[33] And if you will answer that the Rabbis[34] are of the opinion that since he changed his mind about them [to use them] for a Sukkah-covering, his original intention[35] becomes annulled, [it may be objected], does then one's intention become annulled in such a case?[36] Have we not learnt:[37] All vessels

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(1) Thus it has been shown that the number of three stalks mentioned supra in the name of the Rabbis refers only to what is expected for the most proper observance of the commandment. If the number is to be insisted upon as indispensable this last cited Baraitha, could agree neither with R. Jose nor with the Rabbis.

(2) Reeds tied into bundles which were on sale at Sura.

(3) Sc. they are not to be classed with ordinary bundles which are invalid for the purpose.

(4) He has no intention of keeping them together for storage. Any one buying them usually unbinds them before putting them out to dry. Hence their validity for the Sukkah even before they are unbound.

(5) Since the reeds are also woven together at the bottom.

(6) Sc. undid the ends of the cord that hold them together. The woven part may still remain.

(7) If they are carried about they fall apart.

(8) As, for instance, bitter herbs, lettuce or endives prescribed for the first Passover evening meal.

(9) While they are still fresh.

(10) Sc. they serve as ohel (v. Glos.).

(11) If they form a horizontal partition between a clean and an unclean object.

(12) This is a Rabbinical restriction. Pentateuchally they act as an interposition until they become dry.

(13) The space they occupy is regarded as air space, and just as an air space of three handbreadths in the roof of the Sukkah invalidates it, so does a covering of these herbs.

(14) Lit., ‘they have no handles’, since the stalks serve no useful purpose in the case of grapes for a vat. Handles of vessels or stalks of fruit are susceptible to ritual uncleanliness only where they are needed for the purpose of lifting the object with their aid.

(15) And produce is attached to them.

(16) For a vat.

(17) In the absence of the stalks the grains could not be used at all as a roof covering.

(18) That ‘he who cuts ... does not render their stalks susceptible etc.’

(19) V. supra 7b.

(20) I.e., the inedible portion of the branch or stalk.

(21) Sc. the part of the stalk near the fruit whereby the latter can be lifted.

(22) The ‘Others’.

(23) I.e., both he who cuts grapes and he who cuts ears of corn for Sukkah-covering.

(24) V. supra n. 10.

(25) And, therefore, they are regarded in the same light as the fruit and are unfit for the Sukkah roof unless the inedible portion exceeds both them and the edible portion.

(26) Who ruled that only in the case of grapes are handles not susceptible but in the case of ears the handles are susceptible.

(27) Since the first Tanna holds that in either case the ‘handles’ are not susceptible.

(28) R. Abba holding the same view as the ‘Others’ who hold that ‘handles’ are susceptible.

(29) Who holds that if one cuts ears for a Sukkah-covering it does not render the ‘handles’ susceptible to ritual uncleanliness.

(30) The first Tanna. Sc. must it be admitted that the ‘others’ always maintain that the handles in the case of ‘ears of corn’ are rendered susceptible to uncleanness, in complete contradiction of it. Menashia's ruling, or is it possible to explain the view of the ‘others’ as applying to a particular case only?

(31) Even the ‘others’.

(32) When they are rendered susceptible to uncleanness.

(33) The first Tanna, who ruled that the ‘handles’ are not rendered susceptible to uncleanness.

(34) Sc. the first Tanna.

(35) Of using them for food.

(36) That of susceptibility to ritual uncleanness.

(37) Kelim XXV, 9.

Talmud - Mas. Sukkah 14a

can be rendered susceptible to uncleanliness by intention,[1] but cannot be rendered insusceptible except by an act of change,[2] since[3] an act can disannul a [prior] act or intention, while an intention cannot disannul either a [previous] act or a [previous] intention? And if you will say that this[4] refers only to vessels which are of importance but that ‘handles’ which are needed only as aids for the eating of the food,[5] are made [susceptible to uncleanness] by intention and are also unmade by intention [it may be objected], Have we not learnt: The stalks of all foodstuffs that are threshed[6] in the threshing-floor[7] are insusceptible to ritual uncleanliness,[8] and R. Jose declares them susceptible?[9] It is explicable according to the authority who says that ‘threshing’ here means loosening [the sheaves],[10] but according to the authority who says that ‘threshing’ here really means ‘threshing’,[11] what can one answer?[12] — That in the previous case also,[13] he actually threshed them.[14] If so,[15] what is the reason of the ‘others’?[16] They hold the same opinion as R. Jose, as we have learnt, R. Jose declares them susceptible to uncleanness. How can you compare them?[17] One can understand there[18] the reason of R. Jose, that [the stalks] have a use according to R. Simeon b. Lakish, as R. Simeon b. Lakish said, Since one can [the more easily] turn them[19] with the pitchfork,[20] but in this case,[21] what use have they?[22] --To seize hold of them by their haulms when he takes it[23] to pieces.

[Reverting to] the main text, ‘The stalks of all foodstuffs that are threshed in the threshing-floor are unsusceptible to uncleanness, and R. Jose declares them susceptible’. What is the meaning of ‘threshed’ here? — R. Johanan says, Actual threshing. R. Eleazar[24] says, Untying the bundle. One can understand according to R. Eleazar,[24] who says that ‘threshing’ means untying the bundle, that this[25] is the reason why R. Jose declares them susceptible to uncleanliness, but according to R. Johanan who says that ‘threshing’ means actual threshing, why[26] does R. Jose declare them susceptible to uncleanliness? — R. Simeon b. Lakish answered, Since he can [the more easily] turn them with a pitch fork.

R. Eleazar[24] said, Why are the prayers of the righteous likened to a pitchfork?[27] To teach thee that just as the pitchfork turns the corn from place to place in the barn, so the prayers of the righteous turn the mind of the Holy One, blessed be He, from the attribute of harshness to that of mercy.

MISHNAH. PLANKS MAY BE USED FOR THE SUKKAH-COVERING. THESE ARE THE WORDS OF R. JUDAH. R. MEIR FORBIDS THEM. IF ONE PLACES OVER IT[28] A PLANK FOUR HANDBREADTHS WIDE, IT IS VALID PROVIDED THAT HE DOES NOT SLEEP UNDER IT.[29]

GEMARA. Rab said, The dispute[30] concerns planks which are four [handbreadths wide],[31] in which case R. Meir holds the preventive measure against [the possible use of] an ordinary roofing,[32] while R. Judah disregards this preventive measure against [the use of] an ordinary roofing, but in the case of planks which are less than four handbreadths wide all agree that the Sukkah is valid.[33] Samuel however says that the dispute[34] concerns planks which are less than four [handbreadths wide],[35] but if they are four [handbreadths wide], they are invalid according to all.[36] If they are 'less than four' [you say, does this then imply,] even less than three? But [in this case] are they not mere sticks?[37] — R. Papa answered, He[38] means thus, If they are four [handbreadths wide] the Sukkah is invalid according to all;[36] if they are less than three, it is valid according to all.[39] What is the reason? Since they are mere sticks. In what do they[40] dispute? In [planks that are] from three to four [handbreadths wide]. One Master[41] holds the opinion that since there is not in them the minimum extent of a 'place'[42] we do not make a restrictive enactment,[43] and the other Master[44] holds the opinion that since the law of labud[45] can no longer apply to them[46] we make a restrictive enactment.

We learned: IF ONE PLACES OVER IT A PLANK WHICH IS FOUR HANDBREADTHS WIDE, IT IS VALID, PROVIDED THAT HE DOES NOT SLEEP UNDER IT. Now it is well according to Samuel who says that the dispute is where there are not four [handbreadths] but where there are four, all agree that it is invalid; for this reason he must NOT SLEEP UNDER IT. But according to Rab who says that the dispute is where there are four [handbreadths] but where there are less than four all agree that it is valid, why, according to R. Judah, may he NOT SLEEP UNDER IT? — Do you then think that this statement[47] is according to all? The concluding statement agrees in fact with R. Meir [only]. Come and hear: Two sheets combine,[48]

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(1) Sc. if the owner intended them to be used in their present state as finished products for a purpose for which they are fully suitable. The fact that for any other purposes they could not be regarded as finished products cannot affect the owner's intention.

(2) In the shape or structure of the vessel.

(3) V. Bah.

(4) That an intention cannot be annulled by an intention.

(5) One only holds the fruit by its stalk when eating it.

(6) Lit., 'trampled'.

(7) This is explained infra.

(8) Because by the threshing the owner has indicated that he has no use for the stalks.

(9) 'Ukzin I, 5. Cur. edd. enclose 'and R. Jose. . . susceptible' in parenthesis.

(10) The loosening of the sheaves is regarded as an intention to thresh and, therefore, the stalks are unnecessary, and this intention disannuls their previous susceptibility to uncleanliness.

(11) An actual act.

(12) To the objection, How can it be maintained (supra 3b ad fin.) that an intention alone can annul an intention?

(13) Lit., 'here also' in the dispute of the first Tanna and the 'others'.

(14) I.e., after having decided to use them as Sukkah-covering.

(15) That an act was performed.

(16) Who still regard them as susceptible to uncleanness.

(17) The case in dispute between the first Tanna and the 'others' and that between the first Tanna and R. Jose here.

(18) In the case of the threshing.

(19) The ears.

(20) Even after threshing, the stalks are useful, that the pitchfork may hold the corn, and therefore they are susceptible to uncleanliness.

(21) Where he cuts the ears for the purpose of the Sukkah.

(22) Apparently none. Why then should they be susceptible to uncleanness?

(23) The Sukkah roof.

(24) V. marg. glos. Cur. edd. in parenthesis 'Eliezer'.

(25) Since it is only a very slight act and this does not affect their status as handles.
(26) In view of the fact that an important act had been performed.
(27) The verb עתר ‘to entreat’ in Gen. XXV, 21, is homiletically connected with עתר ‘a pitchfork’.
(28) A Sukkah.
(29) The plank.
(30) Between R. Judah and R. Meir in our Mishnah.
(31) Such planks are used in the usual construction of house roofs.
(32) Lit., ‘beams’. Since roofs were made of planks of this size, if such planks were permitted on a Sukkah, one would regard an ordinary roof also as valid for the purpose.
(33) Since no one is likely to draw an analogy between such narrow boards and the wide ones of an ordinary roof
(34) Between R. Judah and R. Meir in our Mishnah.
(35) Only in this case does R. Judah permit their use (cf. prev. note).
(36) Sc. even R. Judah.
(37) How then could R. Meir disallow their use.
(38) Samuel.
(39) Sc. even according to R. Meir.
(40) R. Judah and R. Meir.
(41) R. Judah.
(42) A structure smaller than four handbreadths is not considered a ‘place’ (v. supra).
(43) V. supra n. 2.
(44) R. Meir.
(45) V. supra 6b and Glos.
(46) Even if each plank were to be regarded as a mere air space. It applies only to an air space of less than three handbreadths in width.
(47) Just cited from our Mishnah.
(48) To form four handbreadths, to render the Sukkah-covering invalid.

Talmud - Mas. Sukkah 14b

two boards do not combine. R. Meir says, Boards also are like sheets.[1] It is well according to Samuel who says that the dispute is where there are not four [handbreadths], but where there are four handbreadths all agree that it is invalid, [since it may be explained;] What does ‘combine’ mean? That they combine to make four [handbreadths]. But according to Rab, who says that their dispute is where there are four [handbreadths], but where there are not four handbreadths all agree that it is valid, how is it[2] to be explained? If there are four [handbreadths][3] why need they combine; if there are not, why [is it invalid]? Are they not mere sticks? — Indeed [it is a case] where there are four handbreadths, and what [is meant by] combine is that they combine to form four cubits[4] at the side.[5]

Another version: It is well according to Samuel, who says that the dispute is where there are not four [handbreadths], but where there are four, all agree that it is invalid, [since it may be explained:] What is meant by ‘combine’? That they combine to form four cubits at the side. But according to Rab, it is well according to R. Meir, since what is meant by ‘combine’ may be that they combine to form four cubits at the side, but according to R. Judah, who says that even if there are four [handbreadths] the Sukkah is valid, what could be the meaning of ‘they do not combine’? Are they not like mere sticks?[6] — Since R. Meir said ‘they combine’, R. Judah said ‘they do not combine’. It has been taught in agreement with Rab, and it has been taught in agreement with Samuel. ‘It has been taught in agreement with Rab’, If he covered the Sukkah with planks of cedar which are not four [handbreadths wide], it is valid according to all. If they have four [handbreadths], R. Meir declares it[7] invalid and R. Judah valid. R. Judah said, It happened in a time of peril[8] that we brought planks which were four [handbreadths wide][9] and we laid them over a balcony and sat under them. They[10] said to him, Is this a proof? A time of peril is no proof.

‘It has been taught in agreement with Samuel’, If one covered the Sukkah with planks of cedar which are four [handbreadths wide] it[7] is invalid according to all; if they have not four [handbreadths] R. Meir declares it[7] invalid and R. Judah valid. But R. Meir admits that if there is a space of one plank between every two planks,[11] a man may place laths[12] between them and the Sukkah is valid,[13] and R. Judah agrees that if he placed on it a plank four handbreadths wide, [although] the Sukkah is valid, a man may not sleep under it,[14] and if he sleeps beneath it he has not fulfilled his obligation.[15]

It was stated: If he placed the planks[16] on their sides,[17] R. Huna declared it[7] invalid,[18] and R. Hisda and Rabbah son of R. Huna declared it valid.[19] R. Nahman once came to Sura and R. Hisda and Rabbah son of R. Huna came in to him and asked, If he placed them on their sides, what is the law?[20] He said to them, It is invalid, since they are regarded as metal spits.[21] R. Huna said to them, Did I not tell you, Say as I do? They answered him, Did then the Master give us a reason when he did not accept his ruling? He said to them, Did you ask me for a reason and I would not give you?

Can we say that the following provides support for his view:[22] If [the Sukkah] cannot contain his head, the major part of his body and his table, or if a breach has been made in it[23] large enough for a kid to jump in headlong,[24] or if he placed on it a plank four handbreadths wide, even if only three handbreadths of it enter within, it[25] is invalid. How is this [last sentence][26] meant? Surely that he placed them[27] on their sides?[28] — No! Here we are dealing with a case where he placed it[29] above the entrance of the booth,[30] with three [of the four handbreadths] within and one protruding outside, in which case it is considered as a lath protruding from the Sukkah, and every lath protruding from a Sukkah is regarded as [part of the] Sukkah.[31]

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(1) Infra 17b.

(2) The ruling of R. Meir just cited.

(3) In the width of each board.

(4) Not in the middle of the roof where invalid material of the width of four handbreadths is sufficient to invalidate the Sukkah.

(5) Of the Sukkah, where invalid covering does not invalidate the Sukkah unless it covers four cubits of space.

(6) Which, obviously, do not combine to invalidate a Sukkah.

(7) The Sukkah.

(8) When the performance of religious rites was forbidden.

(9) Which the heathens did not suspect to serve any ritual purpose.

(10) The Rabbis who differed from his view.

(11) Irrespective of the size of the latter.

(12) Lit.,’refuse’, sc. of the threshing-floor etc.

(13) This is explained infra 18a.

(14) The plank.

(15) Of living in a Sukkah.

(16) That were four handbreadths wide.

(17) Which were less than three handbreadths in width.

(18) For the reason given by R. Nahman infra.

(19) Since no house roof is constructed in such a manner there was no need to enact a preventive measure as in the case of flat-lying planks.

(20) They thought he might agree with their view.

(21) I.e., since a plank of four handbreadths is invalid, as is any metal object, in whatever position it is placed, it is still invalid.

(22) R. Nahman's.

(23) In one of the Sukkah walls near the ground.

(24) Without forcing its way in, i.e., one of three handbreadths.

(25) The Sukkah.

(26) That a plank of four handbreadths should cover only three.
(27) The planks.
(28) And covered all the Sukkah with them.
(29) One plank only.
(30) Sc. the side where there was no wall and to which the principle of 'curved wall' (v. supra 4a) does not apply.
(31) V. infra, 19a. Hence it is that the one handbreadth without is deemed to be added to the three within to constitute an invalid covering.

Talmud - Mas. Sukkah 15a

MISHNAH.IF A ROOF [OF TIMBER][1] HAS NO PLASTERING, R. JUDAH SAYS THAT BETH SHAMMAI RULED THAT[2] HE SHOULD LOOSEN [ALL THE PLANKS] AND REMOVE ONE FROM BETWEEN EACH TWO,[3] WHILE BETH HILLEL RULED HE SHOULD EITHER LOOSEN [THE PLANKS] OR REMOVE ONE FROM BETWEEN TWO. R. MEIR RULED, HE SHOULD REMOVE ONE FROM BETWEEN TWO, BUT NOT LOOSED.[4]

GEMARA. It is well according to Beth Hillel; their reason is that 'Thou shalt make', [implies] but not from that which is [already] made,[5] so that if he loosens [the planks] he performs an action,[6] and if he removes one from between two he performs an action;[6] but what is the reason of Beth Shammai? If it is that 'Thou shalt make' [implies] but not from that which is [already] made, one act only[7] should be sufficient; if it is because of a restriction on account [of the possible use][8] of all ordinary roofing,[9] it should suffice if he removes one from between two?[10] — Indeed it is because of a restriction on account [of the possible use] of an ordinary roofing, but they mean thus: Even although he loosens them, if he removes one from between two,[11] it is [valid], otherwise it is not. If so, read the concluding [part:] R. MEIR RULED, HE SHOULD REMOVE ONE FROM BETWEEN TWO, BUT NOT LOOSEN. Is not R. Meir's view thus identical with that of Beth Shammai? — He[12] means thus: Beth Shammai and Beth Hillel did not dispute on this point.[13] What [then] does [the Mishnah] teach us?[14] That R. Meir holds that a preventive measure [has been enacted] against the possible use[8] of an ordinary roofing, while R. Judah disregards the preventive measure against [the use of] an ordinary roofing? But have they not already disputed on this point, seeing that we have learnt, Planks may be used for the Sukkah covering, these are the words of R. Judah; R. Meir forbids them?[15] — R. Hiyya b. Abba answered in the name of R. Johanan, The former Mishnah deals with planed boards[16] and they forbade them as a preventive measure against [the possible use[8] of] vessels.[17] But according to Rab Judah who citing Rab said,[18] 'If he covered the Sukkah with plain arrowshafts, it is valid; with bored arrow-shafts, it is invalid',[18] and he does not restrict plain shafts on account of [the possible use of] bored ones; here also we should not restrict planed boards on account of [the possible use of] vessels? You are consequently obliged to say that the dispute in the former [Mishnah] is on the question whether a preventive measure against the possible use of an ordinary roofing has been enacted and that the dispute in the latter Mishnah is also on the same question; but why should they dispute the same question twice? — The latter [Mishnah] is what R. Judah said to R. Meir: 'Why [he said in effect] do you forbid planks?[19] As a preventive measure against [the possible use of] an ordinary roofing? But it is Beth Shammai only who hold this opinion while Beth Hillel do not enact any preventive measure'.[20] To this R. Meir answers that Beth Shammai and Beth Hillel do not dispute this point at all. This is correct according to Rab who says that the dispute[21] is where the planks are four [handbreadths wide], since in such a case R. Meir holds that a preventive measure [has been enacted] against [the possible use of] an ordinary roofing while R. Judah disregards the preventive measure against all ordinary roofing; but according to Samuel, who says that the dispute[21] is where the planks are not four [handbreadths wide], but that where they are four handbreadths wide all agree that it[22] is invalid, on what principle do they dispute in the latter [Mishnah]?[23] They dispute on [the question of] the annulment of a roof.[24] One Master[25] holds the opinion that[26] by this means it becomes annulled,[27] while the other Master[28] holds the opinion that by this means it does not become annulled.[29]

MISHNAH. IF ONE ROOFS HIS SUKKAH WITH IRON SPITS OR THE LONG BOARDS OF A BED,[30] AND THE SPACE BETWEEN THEM[31] EQUALS THEM,[32] IT[33] IS VALID. IF HE HOLLOWS OUT A HAYSTACK TO MAKE FOR HIMSELF A SUKKAH, IT IS NO VALID SUKKAH.

GEMARA. Can we say that this[34] is a refutation of R. Huna, the son of R. Joshua, since it was stated, If the breach is equal to that which is standing,[35] R. Papa says it is permitted,[36] and R. Huna the son of R. Joshua says it is forbidden?[37] — R. Huna the son of R. Joshua can answer, 'What is meant by EQUALS THEM? That it can easily pass through them.[38]

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(1) The planks of such a roof were usually no less than four handbreadths wide.

(2) If it is desired to use the room as a Sukkah.

(3) Being replaced by suitable material.

(4) Loosening being of no avail at all.

(5) Sc. from invalid materials or as a house and not as a Sukkah.

(6) For the express purpose of the Sukkah.

(7) Loosen or remove.

(8) As a Sukkah.

(9) V. supra 12a.

(10) By which the solidity of the roof is broken up.

(11) So that (a) he performs an act for the express purpose of the Sukkah and (b) he breaks up the solidity of the roof and there is no need to provide against the possible use of a solid roof for a Sukkah.

(12) R. Meir.

(13) Both agreeing as to the necessity for removing one from between two.

(14) By giving the views of R. Judah and R. Meir.

(15) Mishnah supra 14a.

(16) Less than four handbreadths in width, so that no preventive measure against the possible use of all ordinary roofing was necessary.

(17) Vessels are susceptible to ritual contamination and are, therefore, invalid for a Sukkah-covering. Planed boards are not proper 'vessels' and are not susceptible to ritual uncleanness, but, as they can be used for certain purposes, they are forbidden as a Sukkah-covering lest one regard proper vessels also as permitted.

(18) Supra 12b.

(19) In the Mishnah supra 14a.

(20) An objection thus arises against R. Meir: Why does he adopt the view of Beth Shammai against the more authoritative one of Beth Hillel?

(21) Between R. Meir and R. Judah.

(22) The Sukkah.

(23) Sc. since the planks in an ordinary roof are usually no less than four handbreadths wide why does R. Judah maintain that according to Beth Hillel the Sukkah is nevertheless valid?

(24) Sc. whether what was once a roof can be annulled by removing planks, or by the performance of any other act which indicates that the man is aware that a Sukkah is valid only if it was made for the purpose.

(25) R. Judah.

(26) According to Beth Hillel.

(27) No preventive measure being deemed necessary.

(28) R. Meir.

(29) Even according to Beth Hillel, a preventive measure having been enacted.

(30) Iron spits, since they are metal, and side pieces of a bed since they are 'vessels' are invalid for a Sukkah since they are susceptible to ritual uncleanness.

(31) Which is filled in with a valid Sukkah-covering.

(32) I.e., their thickness.

(33) The Sukkah.

(34) The first ruling in our Mishnah.

(35) This deals with a barrier for the purpose of establishing a private enclosure to carry within it on the Sabbath.

(36) To carry objects within the enclosure.

(37) ‘Er. 15b. Now since in the circumstances mentioned a partition is invalid in the case of the Sabbath why is the roof valid in that of Sukkah?

(38) Sc. between the spits or boards, so that the space between, which will be covered with suitable materials, is slightly wider.

Talmud - Mas. Sukkah 15b

But is it not possible to measure them exactly’?[1] — R. Ammi answered, This is a case where he makes it larger.[2] Raba said, one can even say that he does not make it larger, but if they[3] were placed as the web, he places [the valid covering] as the woof; if as the woof, he places them as the web.[4] OR THE LONG BOARDS OF A BED. Can we say that this[5] confirms [a statement of] R. Ammi b. Tabyomi, for R. Ammi b. Tabyomi said, If he covered the Sukkah with discarded[6] vessels it is invalid? — [No,] as R. Hanan said elsewhere in the name of Rabbi, ‘With the long board and two legs, or with the short board[7] and two legs’,[8] so here also it may refer to the long board and two legs, or the short board and two legs.[9] Where was this statement of R. Hanan in the name of Rabbi stated? — In connection with what we have learnt:

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(1) The questioner assumed that the previous answer meant that the phrase EQUALS THEM denotes a space between boards and the like which is usually larger than the objects between which it intervenes.

(2) I.e., the Mishnah actually referred only to a case where one did make it larger.

(3) The boards or the spits.

(4) I.e., the valid covering is placed crosswise to the invalid, and, therefore, always exceeds it in volume.

(5) The prohibition to use boards that can no longer be regarded as ‘vessels’ on account of having once formed a part of a ‘vessel’.

(6) Lit., ‘worn out’.

(7) The short boards are at the head and foot of the bed, the long at the sides. V. Kelim XVIII, 5.

(8) It will be explained infra why these may be regarded as vessels and what purpose they can serve.

(9) Which may be regarded as a proper vessel.

Talmud - Mas. Sukkah 16a

A bed can become unclean [only] when it is assembled[1] and be rendered clean only when it is assembled, these are the words of R. Eliezer, but the Sages say, it can become unclean when it is in parts and become clean when in parts.[2] What are [these parts]? — R. Hanan said in the name of Rabbi, The long board and two legs or the short board and two legs. For what is it[3] fit?[4] — For placing against a wall and sitting upon it, and for tying it with ropes.[5]

[Reverting to] the main text: ‘R. Ammi b. Tabyomi said, If he covered with discarded vessels it is invalid’. What are discarded vessels? — Abaye said, Small strips of cloth less than three [handbreadths] square which are unfit to be used either by rich or by poor. It has been taught in agreement with R. Ammi b. Tabyomi: In the case of a matting of rushes or straw, the remnants thereof, even if diminished,[6] may not be used for a Sukkah-covering;[7] in that of a mat of reeds, a large one[8] may be used for a Sukkah-covering, a small one[9] may not be used for a Sukkah-covering.[10] R. Eliezer said, The former also is susceptible to [ritual] uncleanliness[11] and may not be used as a Sukkah-covering.[12]

IF HE HOLLOWS OUT A HAYSTACK. R. Huna said, This only refers to where there is not a hollow of one handbreadth [in height] extending to seven [handbreadths square],[13] but if there is a hollow of one handbreadth extending to seven, it is a [valid][14] Sukkah. So it has also been taught; If he hollows out a haystack to make for himself a Sukkah, it is a [valid] Sukkah. But have we not learnt, IT IS NO SUKKAH? Deduce, therefore, therefrom [that the explanation is] according to R. Huna. This is conclusive.

Some put it[15] in the form of a contradiction. We have learnt: IF HE HOLLOWS OUT A HAYSTACK TO MAKE FOR HIMSELF A SUKKAH, IT IS NO SUKKAH. But has it not been taught that it is [a valid] Sukkah? — R. Huna answered, There is no difficulty. The latter refers to where there is a hollow of a handbreadth extending to seven [handbreadths][13] while the former refers to where there is no hollow of a handbreadth extending to seven [handbreadths].

MISHNAH. IF ONE SUSPENDS THE WALLS[16] FROM ABOVE DOWNWARDS,[17] IF THEY[18] ARE HIGHER THAN THREE HANDBREADTHS FROM THE GROUND, IT IS INVALID. IF HE RAISES THEM FROM THE BOTTOM UPWARDS, IF THEY BE TEN HANDBREADTHS HIGH, IT IS VALID.[19] R. JOSE SAYS, JUST AS FROM THE BOTTOM UPWARDS A HEIGHT OF TEN HANDBREADTHS SUFFICES SO FROM THE TOP DOWNWARDS DOES A HEIGHT OF TEN HANDBREADTHS [SUFFICE].

GEMARA. On what principle do they[20] differ? — One Master[21] holds the opinion that a hanging partition[22] renders [the Sukkah] valid, and the other Master[23] holds the opinion that a hanging partition does not render it valid.[24]

We have learnt elsewhere, If there be a cistern between two courtyards,[25] they[26] may not take water therefrom on the Sabbath,[27] unless a partition ten handbreadths high be made either from above, or from below,[28] within[29] its rim.[30] R. Simeon b. Gamaliel says,

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(1) When all its parts are joined together.

(2) Kelim XVIII, 9.

(3) The long or short board with the legs.

(4) That it should in consequence have the status of a ‘vessel’.

(5) To form a couch (v. Rashi). [Aliter: and to sit upon it for twisting ropes. Cf. Aruch; MS.M. omits ‘and sitting upon it’, which Rashi also did not seem to read.]

(6) From the minimum required to make them susceptible to uncleanliness, i.e., six handbreadths square, v. Kel. XXVII, 2.

(7) Since in origin they constituted a vessel.

(8) Which cannot be regarded as a ‘vessel’ since it is usually used as a covering.

(9) Which may be regarded as a vessel.

(10) On account of its susceptibility to ritual uncleanness.

(11) In his opinion a large one also is used as a rule for sitting purposes and must, therefore, be regarded as a vessel.

(12) V. infra Mishnah I, 11.

(13) The minimum size of a Sukkah.

(14) [The reason for invalidating a Sukkah which has been hollowed out of the haystack is as stated supra 12a ‘"thou shalt make" which implies but not from that which has been made’. This reservation it is to be noted applies only to the Sukkah-covering but not to the walls. Now, if in piling up the haystack there was left a space below of the mentioned dimensions, the top of the haystack can be said to have been constructed in the very first instance to provide a covering (for the space below) and as such is valid for the Sukkah which has been hollowed out. Where, however, there was no such space left in the first instance, the covering which the top of the haystack provides comes into existence only as the automatic result of the hollowing out and consequently is invalid for the Sukkah; so Rashi. For another interpretation v. R. Han.]

(15) R. Huna's explanation.

(16) Of a Sukkah.

(17) This refers, of course, to walls woven from reeds, branches or textile.

(18) Sc. their lower ends.

(19) Even though they do not reach the roof.
(20) R. Jose and the first Tanna in our Mishnah.
(21) R. Jose.
(22) If it is ten handbreadths high.
(23) The first Tanna.
(24) When its lower end, however, is within three handbreadths from the ground it is no longer regarded as a hanging partition but as one resting on the ground.
(25) Between which there was no ‘erub (v. Glos.), and one half of the cistern was in one courtyard while the other half was in the other courtyard, and the partition between the courtyards was suspended above the cistern.
(26) The tenants of either courtyard.
(27) Since each group of tenants would thereby be carrying the water of the other group from the latter's domain into their own.
(28) Near the water.
(29) Cf. Rashi. Lit., ‘or within’, referring to ‘from above’.
(30) This is a special relaxation of the law of partitions in the case of water. Where the suspended partition, however, is without the rim, as is the case with the wall between the courtyards, since it was not especially made for the water, it cannot be regarded as valid.

Talmud - Mas. Sukkah 16b

Beth Shammai say, [The partition may be suspended] from above, and Beth Hillel say, Only from below. R. Judah said, A partition[1] should not be [subjected to] greater [restrictions] than the wall between them.[2] Rabbah b. Bar Hana said in the name of R. Johanan, R. Judah spoke according to the view of R. Jose[3] who said that a hanging partition validates. But in fact it is not so! Neither does R. Judah hold the opinion of R. Jose,[4] nor does R. Jose hold the opinion of R. Judah.[5] ‘R. Judah does not hold the opinion of R. Jose’, for R. Judah speaks only there with regard to the ‘erub of courtyards,[6] which is a Rabbinical injunction, but here, with regard to the Sukkah which is a Pentateuchal commandment, he does not [say so]. ‘Nor does R. Jose hold the opinion of R. Judah,’ for R. Jose speaks only here with regard to the Sukkah which is merely a positive commandment[7] but with regard to the Sabbath, the interdiction of which involves stoning, he does not say so.[8] And if you will retort[9] with regard to the incident which occurred at Sepphoris,[10] on whose authority was it done?[11] Not on the authority of R. Jose,[12] but on that of R. Ishmael son of R. Jose.[13] What was this incident? — [That concerning which] when R. Dimi came[14] he related that on a certain occasion they forgot to bring a Scroll of the Law[15] on the eve of the Sabbath. On the morrow, they stretched sheets over the pillars[16] and[17] brought the Scroll of the Law and read therein. Can it mean that they [really] spread them out? Whence then did they bring them on the Sabbath?[18] — Rather they found sheets [already] spread over the pillars, and therefore they brought the Scroll of the Law and read therein. R. Hisda stated in the name of Abimi, A matting slightly more than four handbreadths [wide] is permitted as a Sukkah wall.[19] How does one place it? — One suspends it in the middle less than three [handbreadths] from the ground and less than three from the top,[20] and whatever [space] is less than three handbreadths is treated as labud.[21] But is not this obvious? — One might have said that we apply the law of labud once, but we do not apply labud twice [to the same wall], therefore he informed us of this. It was objected: A matting slightly more than seven [handbreadths] is permitted as a Sukkah wall![22] — With reference to what was this taught? With reference to a large Sukkah;[23] and what does it inform us?[24] That walls may be suspended from above downwards in agreement with R. Jose.[25]

R. Ammi said, A board which is slightly more than four [handbreadths] wide[26] is[27] permitted for a Sukkah wall when he places it less than three [handbreadths] from the termination of the adjacent wall, since a space less than three [handbreadths] is[28] treated as labud.[29] What does he inform us? — He informs us this: That the minimum extent of a small Sukkah is seven [handbreadths].

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(1) Within the cistern.

(2) The two courtyards, ‘Er. 86b. I.e. the wall alone, though suspended above the cistern, is a valid partition in respect of the movement of objects on the Sabbath.

(3) Of our Mishnah.

(4) That a suspended partition is valid in a Sukkah.

(5) That a suspended partition is valid on the Sabbath in the case of the cistern.

(6) V. supra 3b.

(7) The punishment for which transgression is comparatively mild.

(8) Even in the case of a Rabbinical injunction.

(9) Since R. Jose does not agree with R. Judah in the case of Sabbath.

(10) V. infra, where a suspended partition was treated as valid in the case of Sabbath.

(11) Seeing that R. Jose who was the rector of the academy of Sepphoris (v. Sanh. 32b) did not agree with such a view.

(12) Who at that time was no longer alive.

(13) His son.

(14) From Palestine to Babylon.

(15) The Scroll was in one of the houses of the courtyard where stood the Synagogue. As there was no ‘erub prepared it was forbidden to carry from the house to the Synagogue on the Sabbath, and they, therefore, adopted the following device.

(16) That were situated between the house and the Synagogue.

(17) Having thus formed a sort of private domain.

(18) When the carrying of objects is forbidden.

(19) If it is as long as the required wall.

(20) The Sukkah referred to is one that is exactly ten handbreadths high, and the placing of a matting slightly more than four in the middle leaves a space of less than three on either side.

(21) V. supra 6b, and Glos.

(22) Since it prescribes the minimum of seven handbreadths, it follows that only one labud is permitted.

(23) I.e., one more than ten handbreadths in height which precludes the assumption of more than one labud. All that can be done is to suspend the mat at a distance of less than three handbreadths from the roof so that its size (being slightly more than seven handbreadths) combines with the space between it and the roof (which is somewhat less than three handbreadths) to constitute (by the rule of labud) a suspended wall of ten handbreadths in height.

(24) Sc. is it not obvious that a ten handbreadths high wall is valid?

(25) Supra.

(26) And is ten handbreadths high.

(27) Placed vertically.

(28) By the rule of labud.

(29) And thus a wall of the prescribed minimum length of seven handbreadths is obtained.

Talmud - Mas. Sukkah 17a

MISHNAH. IF ONE REMOVED THE SUKKAH-COVERING THREE HANDBREADTHS[1] FROM THE WALLS, IT IS INVALID.[2] IF [THE ROOF OF] A HOUSE IS BREACHED,[3] AND HE PLACED A SUKKAH-COVERING OVER IT, IF THERE IS A DISTANCE OF FOUR CUBITS FROM THE WALL TO THE COVERING, IT IS INVALID.[4] SIMILARLY IN THE CASE OF A COURTYARD WHICH IS SURROUNDED BY AN EXEDRA.[5] IF [THE COVERING OF] A LARGE SUKKAH WAS SURROUNDED WITH A MATERIAL WHICH IS INVALID FOR A SUKKAH-COVERING, IF THERE IS A SPACE OF FOUR CUBITS[6] BENEATH IT, IT IS INVALID.[7]

GEMARA. Why are all these [rulings][8] needed? — It is necessary [to state them all]. For if he[9] had only informed us of [the roof of] a house which is breached, [one would have said that the validity[10] applied to this case only] because the partitions are made for the house,[11] but in the case of a courtyard which is surrounded by an exedra, where the partitions are not made for the exedra it does not apply;[12] and if he had informed us of those two,[13] [one would have said that the validity[10] applied to these cases only] because their covering might be a valid covering,[14] but in the case of a large Sukkah which is surrounded with a material which is invalid for a Sukkah-covering, since the very material of the covering is invalid, it does not apply, [therefore it is] necessary [to mention all].

Rabbah stated, I found the Rabbis of the College of Rab sitting and saying,[15] ‘An air space invalidates[16] if it is three [handbreadths wide]; an invalid covering invalidates[16] if it is four [handbreadths wide]’, and I said to them, Whence do you know that an air space of three [handbreadths] invalidates? [Presumably] because we learned: IF THE SUKKAH-COVERING IS THREE HANDBREADTHS DISTANT FROM THE WALLS, IT IS INVALID. [But if so,] invalid Sukkah-covering too should not invalidate[16] unless it extends to four cubits, since we have learnt: IF [THE ROOF OF] A HOUSE IS BREACHED AND HE PLACED A SUKKAH-COVERING OVER IT, IF THERE IS A DISTANCE OF FOUR CUBITS FROM THE WALL TO THE COVERING, IT IS INVALID. And they said to me, This is no evidence[17] since Rab and Samuel both say that[18] the reason of its validity is because [the roof is regarded as the continuation] of a ‘curved wall’;[19] and I said to them, What [would the law be] if the invalid Sukkah-covering were less than four [handbreadths], with an air space[20] of less than three [handbreadths]? [Surely] it would be valid.[21] And what if he filled in this space with spits?[22] [Surely] it would be invalid.[23] Now should not an air-space which invalidates with three [handbreadths][24] be treated like invalid covering which only invalidates with four?’[25] And they answered me, ‘If so, then even according to you, who say that invalid covering invalidates only if there are four cubits, how [would it be] if there was invalid covering of less than four cubits, and [next to it] an air space of less than three handbreadths? [Surely] it would be valid. And if he filled in this space with spits? [Surely] it would be invalid. Now [can it not similarly be argued] should not an air space which invalidates with three [handbreadths] be like the Sukkah-covering which invalidates [only] if there are four cubits?’ And I answered them, ‘How can you compare the two cases? It is well according to me who say four cubits,

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(1) Horizontally.

(2) Since the mere air cannot be regarded as a valid part of either the roof or the walls.

(3) In the centre at some distance from the walls.

(4) Since the portion of the roof that intervenes between the walls and the valid covering constitutes a break. If the distance, however, is less than four cubits each wall and the portion of the roof adjacent to it is regarded as one ‘curved wall’ reaching from the ground to the valid covering (v. supra 4a). It is forbidden to use the portion of the Sukkah under the solid roof but the centre of the house is regarded as a valid Sukkah.

(5) A peristyle. A roof projects from the sides of the courtyard in front of the houses that surround it while the centre of the courtyard is exposed. If this centre has been covered with the proper materials the courtyard is subject to the same laws as the house spoken of in the previous clause.

(6) Between the walls and the valid covering.
(7) Cf. supra n. 3 mut. mut.
(8) All of which are based on the principle of the inadmissibility of a 'crooked wall' where the invalid part of the roof is no less than four cubits in width.
(9) The author of our Mishnah.
(10) Where the distance is less than four cubits.
(11) And the house becoming a Sukkah, the 'partitions', i.e., the walls, are, on the principle of the 'curved wall', regarded as the valid walls of the Sukkah also.
(12) But for the houses, in consequence of which they cannot be regarded as the walls of the Sukkah either.
(13) House and courtyard.
(14) Its inadmissibility being due entirely to the fact that it was not originally intended as a Sukkah-covering.
(15) In the name of Rab.
(16) An entire Sukkah.
(17) Lit., 'with the exception of this'.
(18) In our Mishnah.
(19) Lit., 'crooked wall', while they spoke of invalid covering that was far removed from the walls and that could not consequently be treated as a continuation of these walls.
(20) Next to it.
(21) Since the invalid covering is less than the prescribed minimum.
(22) Which owing to their susceptibility to ritual uncleanness are invalid for a Sukkah-covering.
(23) Since there are now more than four handbreadths of invalid covering, whereas hitherto whilst it was air space the Sukkah was not invalidated.
(24) And which is, therefore, more serious.
(25) And consequently the Sukkah under discussion would be invalidated by the air space though it is less than three handbreadths.

Talmud - Mas. Sukkah 17b

because [in this case the validity of the Sukkah depends on] whether there is the standard size[1] or not, and here[2] there is not the standard size, for since their standard sizes[3] are unequal, they do not combine; but according to you, who say that the size is solely dependent on the principle of division[4] what does it matter whether the division is made through invalid covering, or through invalid covering and space?' Abaye said to him, And according to the Master also, admitted that their standards are unequal in a large Sukkah, but in a small Sukkah are they not equal?[5] — He answered, The reason there[6] is not because the standards are equal, but because there is not the [minimum] size of a Sukkah remaining.[7]

Do we not then combine standards when they are unequal? Have we not in fact learnt: A garment that is three [handbreadths] square, sacking four handbreadths square, leather five handbreadths square and matting six handbreadths square[8] [are susceptible to uncleanness]. And it has been taught concerning this: Garments and sacking, sacking and leather, leather and matting combine with one another?[9] — In that case the reason has been given, as R. Simeon said, 'What is the reason?[10] Since they[11] are susceptible to uncleanliness[12] if [a man with running issue] sits on them, as we have learnt: If he cuts from any one of them[13] a piece one handbreadth square, it is susceptible to uncleanliness'.[14] To what use can a piece one handbreadth square be put? — R. Simeon b. Lakish in the name of R. Jannai replied, It can be used as a patch[15] for [the saddle of] an ass.[16]

In Sura[17] they taught this decision[18] in the above words;[19] in Nehardea[20] they taught [as follows]:[21] Rab Judah said in the name of Samuel, Invalid covering in the middle [of the Sukkah] invalidates[22] if it is four [handbreadths wide]; at the side only if it is four cubits wide; while Rab says, Whether in the middle or at the sides, [it invalidates] only if it is four cubits wide.

We have learnt: If he placed over it[22] a plank four hand breadths wide,[23] it is valid.[24] It is well according to Rab who says that whether in the middle or at the sides [the invalid covering must be no less than] four cubits [to invalidate it]; for this reason it is [here] valid; but according to Samuel who says that at the middle a width of four [handbreadths invalidates], why is it here valid? — Here it is a case where [the plank was placed at] the side. Come and hear: Two sheets combine,[25] two boards do not combine.[26] R. Meir says, Boards are like sheets.[27] It is well according to that version which says that Rab says that 'whether in the middle or at the sides [it invalidates only] if it is four cubits wide;' for thus by 'combine' was meant, Combine to make four cubits; but, according to the version which says that Rab says that, in the middle [even, only] four handbreadths [width of invalid covering] invalidates, what kind of boards are we to imagine? If they are each four handbreadths wide, why need they combine? And if they are each less than four handbreadths wide, they are mere sticks![28] — This is indeed a case where they are each four handbreadths wide; and what does 'combine' mean? That they combine to make up four cubits at the side.[29]

Come and hear: If he covered the Sukkah with planks of cedarwood which are four [handbreadths wide], according to all it is invalid; if they have not four handbreadths in their width, R. Meir declares it[30] invalid and R. Judah declares it valid,

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(1) To invalidate a Sukkah; the standard being received as Sinaitic tradition.

(2) In the case of the Sukkah under consideration.

(3) For invalid covering and for air space.

(4) The standard of four handbreadths in connection with invalid covering has no basis in tradition, it not being mentioned even in the Mishnah; it has been fixed merely on the principle that four handbreadths represent a 'division, i.e., the minimum size of a separate place, breaking up the unity of the Sukkah.

(5) A Sukkah of minimum size, i.e., of seven handbreadths square, is invalid if there are either three handbreadths of invalid covering or of air space; why then should not the two combine?

(6) In the case of a small Sukkah where three handbreadths of air space or invalid covering equally invalidate.

(7) As the standards are still different they cannot be combined.

(8) By reason of a man with an impure issue sitting or treading on it. Kel. XXVII, 2.

(9) To form the prescribed larger size.

(10) That the various materials enumerated may be combined.

(11) Separately.

(12) The same standard of size applying to each material.

(13) The materials just mentioned.

(14) Kel. XXVII, 4.

(15) So Aruch. V. marg. glos. Cur. edd. in parenthesis 'to take it',

(16) Upon which a man is able to sit.

(17) The seat of the College of Rab.

(18) Of Rab, that invalid covering to the extent of four handbreadths causes the invalidity of a Sukkah.

(19) That Rabbah found the Rabbis of the College of Rab etc. (supra 17a).

(20) The seat of the College of Samuel.

(21) Viz., that Rab did not make the statement but that the question was a point at issue between Rab and Samuel.

(22) A Sukkah.

(23) Presumably even where the plank was placed in the middle of the roof.

(24) Supra 14a.

(25) To constitute the prescribed minimum to invalidate the Sukkah on account of their susceptibility to ritual uncleanliness.

(26) To form the prescribed minimum, to invalidate a Sukkah as a preventive measure against the possible use of boards all along the roof.

(27) Supra 14a and b.

(28) Which are surely a valid Sukkah-covering.

(29) Of the Sukkah.

(30) The Sukkah.

Talmud - Mas. Sukkah 18a

but R. Meir admits that if there is the space of one plank between every two planks that one may place laths between them and it is valid.[1] It is well according to him who says that whether in the middle or at the sides it needs four cubits [of invalid covering to invalidate a Sukkah], for this reason it is here valid;[2] but according to him who says that in the middle four [handbreadths of invalid covering invalidate] why is it valid?[3] — R. Huna the son of R. Joshua answered, We are dealing here with a Sukkah which measures no more than a bare eight [cubits], and he places [alternately] plank and lath, plank and lath, plank and lath on one side and [similarly] plank and lath, plank and lath, plank and lath on the other side, so that there are two laths in the middle, and thus a valid Sukkah is formed in the middle.[4]

Abaye ruled, An air space of three handbreadths in a large Sukkah which is diminished with either sticks or spits[5] is a [valid] diminution;[6] in a small Sukkah,[7] with sticks it is a [valid] diminution,[8] with spits an invalid one.[9] This[10] applies only to the side,[11] but as regards the middle, R. Aha and Rabina differ. One says, The rule of labud[12] applies in the middle,[11] while the other says, The rule of labud does not apply in the middle.

What is the reason of him who says that the rule of labud applies in the middle? — Because it has been taught, If a beam protrudes from one wall but does not touch the opposite wall, and similarly in the case of two beams, one protruding from one wall and one from the other and not touching each other, if [the space between[13] is] less than three [handbreadths] it is unnecessary to provide another beam;[14] if it is three [handbreadths] it is necessary to provide another beam.[15] And [what does] the other[16] [answer to this]? — Beams[17] are different [from a Sukkah][18] since [their erection is merely] a Rabbinical measure.[19]

What is the reason of him who says that the rule of labud is not applied in the middle? — Because we learned: If a skylight in [the roof of] a house was of one handbreadth square, and there was an object of uncleanliness in the house, all the house is unclean, but what is directly below the skylight is clean.[20] If the unclean object is directly below the skylight, the whole house is clean. If the skylight was less than a handbreadth square, and there was an unclean object in the house, what is directly below the skylight is clean; if the unclean object is directly below the skylight, the whole house is clean.[21] And [what does] the other[22] [say]?[23] — The laws of uncleanliness differ [from those of Sukkah] since there is a tradition to that effect.[24]

R. Judah b. Ila'i expounded, If [the roof of] a house is breached, and he placed a Sukkah-covering over it, it[25] is valid.[26] R. Ishmael son of R. Jose said to him, Master, explain [thy words]. Thus my father[27] explained it: If there are four cubits[28] it[25] is invalid,[26] if less than four cubits, it is valid.

R. Judah b. Ila'i expounded, Abruma[29] is permitted. R. Ishmael son of R. Jose said to him, Master, explain [thy words]. Thus said my father, Those from such and such a place are forbidden,[30] and from such and such a place are permitted.[31] This is analogous to that which Abaye said; the zahantha[32] of Bab Nahara[33] are permitted. What is the reason? If you will say that it is because there is a swift current there, and an unclean fish, since it has no spinal cord, cannot exist therein, [it could be retorted that] we see that they do exist [in rivers with rapid currents]. Will you then say that it is because it has salt water, and ‘an unclean fish, since it has no scales, cannot exist [in salt water, it could be retorted that] we see that they do exist? — The reason in fact is that the muddy nature of this river does not allow unclean fish to breed in it. Rabina said, But at the present time that the River Ethan[34] and the River Gamda flow therein, they[35] are forbidden.[36]

It was stated, If a man placed a Sukkah-covering over an exedra[37] which has door-frames,[38] it is valid;[39] if it has no door-frames, Abaye declares it[40] valid and Raba declares it invalid. Abaye declares it valid [since]

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(1) Supra 14b.

(2) Since each board is less than four cubits in width.

(3) Is not each single board sufficient to cause invalidity?

(4) Eight cubits equal forty-eight handbreadths which are duly covered by the six planks (six times four is twenty-four handbreadths) and the latter which also total six times four is twenty-four handbreadths, but the alternation of planks and laths is as follows (P is plank, L is lath) PLPLPLLPLPLP. The eight handbreadths in the middle represented by LL constitute a valid Sukkah, the next being regarded as continuations of the walls, since on any side they are less than four cubits in extent.

(5) Sticks are a valid, spits an invalid covering.

(6) And the Sukkah is valid, since there is now neither the minimum of air space nor the minimum of invalid covering to cause invalidity.

(7) Sc. one of minimum size.

(8) Since by the rule of labud the air space is deemed to be non-existent.

(9) Because the air space and the spits, which together extend along three handbreadths cannot be regarded as a valid part of the roof and the Sukkah (being of the minimum size) is thus reduced to less than the prescribed minimum.

(10) That an air space less than three handbreadths causes no invalidity.

(11) Of the Sukkah.

(12) V. supra 6b.

(13) The beam and the wall or the two beams.

(14) To make the necessary enclosure in connection with the movement of objects in an alley on the Sabbath.

(15) ‘Er. 14a. As the rule of labud is applied to the air space between the two beams so it is applied to an air space in the middle of a Sukkah.

(16) Who does not apply the rule of labud to an air space in the middle.

(17) To make the necessary enclosure in connection with the movement of objects in an alley on the Sabbath.

(18) Which is a Pentateuchal ordinance.

(19) Pentateuchally the movement of objects is permitted even in the absence of a beam.

(20) From which it follows that the space of the skylight is not regarded as labud making the whole roof one and everything within the room unclean.

(21) Ohal. X, 1.

(22) Who applies the rule of labud in the middle.

(23) Sc. how can he maintain his ruling in view of the Mishnah just cited?

(24) As the tradition was received in connection with the former it cannot be applied to the latter.

(25) The house.

(26) As a Sukkah.

(27) R. Ila'i.

(28) Of solid roof between the walls and the valid covering.

(29) A species of very small fish (Rashi), brine of a certain fish (Jast.).

(30) Since in that place very small insects abound in the water and it is difficult to remove them from the fish (Rashi).

(31) Since no insects live in that water.

(32) A species of small fish.

(33) The river Bab. A tributary of the Euphrates.

(34) In A.Z. 39a: Goza.

(35) The zahantha.

(36) Either because the unclean insects of those rivers flow into it, or because their streams purify the waters of the Bab and turn them into a suitable breeding ground for the unclean insects. V. A.Z., Sonc. ed., p. 191 notes.

(37) V. note on our Mishnah. The edge of the exedra was removed from the inner wall of the courtyard more than four cubits.

(38) The exedra being separated from the courtyard by a sort of colonnade each column in which is less than three handbreadths distant from the other.

(39) Since the space between the door-frames is less than three handbreadths we apply the law of labud whereby they are regarded as one solid wall. In the absence of the colonnade the Sukkah, sc. the centre portion with the valid covering, has no walls since the courtyard walls which are separated from it by more than four cubits cannot serve as its walls to the Sukkah.

(40) The Sukkah.

Talmud - Mas. Sukkah 18b

we say that the edge of the roof [of the exedra is regarded as though it] descends and fills up [the space],[1] while Raba says it is invalid, since we do not say that the edge of the roof descends and fills up [the space]. Said Raba to Abaye, According to you who say that the edge of the roof [is regarded as though it] descends and fills in [the space, is a Sukkah valid] even if the middle wall is missing?[2] He answered him, In that case I agree with you [that the Sukkah is invalid] since it would be like an alley-way that is open on two opposite sides.

Must we say that Abaye and Raba differ on the same principle as that on which Rab and Samuel differed for it was stated, If an exedra was in a field,[3] Rab declares that it is permitted to carry [on the Sabbath] over the whole extent of it, since we say that the edge of the roof descends and fills in the space,[4] while Samuel said that it is forbidden to carry in it except within four cubits, since we do not say that the edge of the roof descends and fills in [the space]?[5] — [No!] With regard to the opinion of Samuel neither of them[6] disagrees;[7]

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(1) And this forms a wall on every side of the Sukkah.

(2) Sc. if a Sukkah is erected with only the two opposing sides, are the planks of the roof regarded as descending to form the missing walls?

(3) I.e., one that has a roof but is without walls.

(4) Forming walls around it.

(5) V. ‘Er., Sonc. ed., p. 654 notes. Win then Abaye's view agree only with that of Rab, and Raba's only with that of Samuel?

(6) Not even Abaye.

(7) That the edge of the exedra cannot be regarded as descending and forming walls for the Sukkah. For if in the case of the Sabbath where the roof was made for the exedra its edge is not regarded as descending and forming walls how much less could an edge be regarded as descending and forming walls in the case of a Sukkah where the roof was made for the exedra and not for the Sukkah.

Talmud - Mas. Sukkah 19a

they only differ with regard to the opinion of Rab. Abaye agrees with Rab, while Raba can say that Rab ruled then only in that case,[1] since the partitions[2] are made for the exedra, but in the case here,[3] since they are not made for this purpose [he would] not [rule thus].[4]

We have learnt: SIMILARLY IN THE CASE OF A COURTYARD WHICH IS SURROUNDED WITH AN EXEDRA.[5] But why?[6] Should it not rather be assumed that the edge of the roof descends and fills in [the space]?[7] — Raba explained according to Abaye that this is a case where one made the beams level.[8]

In Sura[9] they taught these statements[10] in the above form. In Pumbeditha[11] they taught [them as follows]: If a man placed a Sukkah-covering over an exedra which has no door-frames, it is invalid according to all.[12] If it has door-frames.[13] Abaye declares it valid, while Raba declares it invalid. Abaye declares it valid, since we apply the law of labud,[14] Raba declares it invalid, since we do not apply the law of labud;[15] but the law is according to the former version.[16]

R. Ashi found R. Kahana placing a Sukkah-covering over an exedra which had no door-frames.[17] He said to him, Does not the Master hold the opinion which Raba stated, that if it has door-frames it is valid, but if it has no door-frames it is invalid? — He showed him [that a door-frame] was visible within though level on the outside, or visible from without, though level from within,[18] for it has been stated, 'If it[19] is visible from without and level from within,[20] it is regarded as a valid side-post',[21] and a side-post is in this respect like door-frames. A Tanna taught: Laths projecting from a Sukkah are regarded as the Sukkah.[22] What is meant by 'laths projecting from a Sukkah'? — 'Ulla replied, Sticks[23] projecting beyond the back[24] of the Sukkah. But do we not need three walls?[25] — [This refers to a case] where there were [three walls]. But do we not need the size[26] prescribed as a minimum for the validity of a Sukkah? — [This refers to a case] where there was [the size prescribed as a minimum for the validity of a Sukkah]. But do we not need that the shade should exceed the sun? — [This refers to] where there was [more shade than sun]. If so,[27] what need was there to state it? — One might have said that since they[28] were made for the inside but not for the outside it[29] is not [valid], therefore he informs us [that it is valid]. Rabbah and R. Joseph both stated: This[30] refers to sticks projecting in front of a Sukkah[31] one wall of which continues with them. As one might have said that it does not contain the prescribed minimum for the validity of a Sukkah,[32] therefore he informs us [that it is valid].[33]

Rabbah b. Bar Hana said in the name of R. Johanan, This[30] is necessary only in the case of a Sukkah, most of which has more shade than sun, while a minor part of it has more sun than shade. As one might have said that this small portion[34] invalidates it, therefore he informs us [that it does not]. What then is meant by 'going out'?[35] [It means] going out from the validity of a Sukkah. R. Oshaia said, This[30] is necessary only in the case of a small Sukkah[36] which has invalid Sukkah-covering to an extent of less than three [handbreadths]; and what is meant by 'going out'?[37] Going out from the laws applicable to a Sukkah.[38] R. Hoshiah demurred: Let it[39] be regarded as no better than air space, does then air space of less than three [handbreadths] invalidate a small[40] Sukkah?[41] — R. Abba answered him, [The difference is that] in the former case[39] it combines [with the rest of the Sukkah] and it is permitted to sleep under it;[42] in the latter case[43] it does not combine and it is forbidden to sleep under it. But is there anything which itself is invalid and yet combines [with another thing to become valid]? — R. Isaac b. Eliashib answered, Yes!

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(1) Sabbath.

(2) Sc. the edge of the roof of the exedra which is assumed to descend and to form partitions.

(3) Sukkah.

(4) Cf. supra n. 5 mut. mut.

(5) If the roof of the exedra is four cubits wide, so that the walls of the houses cannot be regarded as the Sukkah walls, the Sukkah is invalid.

(6) Should the Sukkah be invalid.

(7) And thus provides walls.

(8) The beams of the Sukkah-covering were not placed over the exedra roof, so that the edge of the latter was visible within the Sukkah, but on a level with it.

(9) The site of the College of Rab.

(10) The views of Abaye and Raba.

(11) After the destruction of Nehardea by Odenathus in 259, Judah b. Ezekiel (Rab Judah), a pupil of Rab and Samuel, established a college at Pumbeditha.

(12) Even according to Abaye. Since the roof was made for the exedra and not for the outside space its edge cannot be regarded as forming a wall for that space.

(13) And the distance between any two of them is less than three handbreadths.

(14) As the wall is consequently a proper one it may serve for both the exedra and the Sukkah.

(15) The rule of labud is applied only to a wall that was made to serve the space it encloses but not to one that is to serve an outside space also.

(16) Of Raba's ruling, viz., that labud is applied even where a wall is to serve an outside space, while an edge of a roof is assumed to descend downwards only when it is to serve its inner space.

(17) Only two walls were made to the Sukkah, the exedra edge forming the third, and the fourth side was open lacking even the minimum of a handbreadth to constitute a fictitious wall.

(18) The exedra had a door-frame no less than a handbreadth wide which commenced at the corner of the Sukkah and extended outside the Sukkah, being visible only from without, thus: (see drawing left) a =Sukkah wall; b = roof of exedra; c =wall of exedra; d = projection of exedra wall forming door-frame.

(19) A side-post that must be fixed to the edge of an alley to enable the carrying of objects within it on the Sabbath.

(20) Sc. if the sidepost is level with one of the walls but extending beyond it, so that it is visible only from without. Thus: (see drawing right) a = side-post.

(21) V. ‘Er. (Sonc. ed.) fol. 9b notes. (11) Hence it is valid whether it is visible from within the Sukkah or without it.

(22) And one fulfils his obligation by sitting under them.

(23) Of the Sukkah-covering.

(24) Sc. the middle wall of the three prescribed as the minimum number of walls for a valid Sukkah.

(25) While the projection has only one.

(26) Seven handbreadths square.

(27) That the projection satisfied all the prescribed requirements of a valid Sukkah.

(28) The walls.

(29) The projection.

(30) The ruling about the projection spoken of.

(31) Which has only three walls, the fourth side being entirely open.

(32) And the opposite wall does not reach beyond the Sukkah proper.

(33) Because it is regarded as part of the Sukkah having as it does two complete walls and a portion of a third one which need not be longer (han one handbreadth.

(34) Which has more sun than shade.

(35) The literal translation of יוצא rendered supra ‘projecting’.

(36) Measuring only seven handbreadths.

(37) V. p. 81, n. 14.

(38) In being an invalid covering.

(39) The invalid covering.

(40) Measuring only seven handbreadths.

(41) Of course it does not; much less then would an invalid covering do it; what need then was there to state the obvious?

(42) And this is the point the ruling under discussion was intended to emphasize.

(43) Air space.

Talmud - Mas. Sukkah 19b

Fluid clay proves it; since it combines[1] to make up forty se'ah,[2] yet he who immerses in it has not undergone a proper immersion.[3]

MISHNAH. IF ONE MAKES HIS SUKKAH LIKE A CONESHAPED HUT OR LEANED IT AGAINST A WALL, R. ELIEZER INVALIDATES IT SINCE IT HAS NO [PROPER] ROOF, WHILE THE SAGES DECLARE IT VALID.

GEMARA. It has been taught: R. Eliezer agrees that if he raised it[4] one handbreadth from the ground,[5] or if he separated it[6] one handbreadth from the wall,[7] it is valid. What is the reason of the Rabbis?[8] — That the incline of a tent is like the tent itself. Abaye found R. Joseph sleeping on a bridal bed[9] in a Sukkah. He said to him, ‘According to whom [do you act]?[10] [presumably] according to R. Eliezer?[11] Do you then forsake the Rabbis[12] and act according to R. Eliezer?’[13] — He answered him, ‘In the Baraitha this[14] is taught in the reverse, order, viz., that R. Eliezer declares it valid and the Sages declare it invalid.’ [Abaye then asked], ‘Do you forsake a Mishnah and act according to a Baraitha?'[15] — He answered him, 'The Mishnah represents an individual opinion,[16] as it has been taught, If he makes his Sukkah like a cone-shaped hut, or leaned it against a wall R. Nathan says that R. Eliezer invalidates it because it has no roof while the Sages declare it valid.'[17]

MISHNAH. A LARGE REED MAT[18] IF MADE FOR RECLINING UPON IS SUSCEPTIBLE TO [RITUAL] UNCLEANLINESS[19] AND[20] IS INVALID AS A SUKKAH-COVERING. IF MADE FOR A COVERING,[21] IT MAY BE USED FOR A SUKKAH-COVERING AND IS NOT SUSCEPTIBLE TO [RITUAL] UNCLEANLINESS. R. ELIEZER RULED, WHETHER SMALL OR LARGE, IF IT WAS MADE FOR RECLINING UPON, IT IS SUSCEPTIBLE TO [RITUAL] UNCLEANLINESS AND IS INVALID AS A SUKKAH-COVERING; IF MADE FOR A COVERING, IT IS VAlid AS A SUKKAH-COVERING AND IS NOT SUSCEPTIBLE TO [RITUAL] UNCLEANLINESS.

GEMARA. [Is not our Mishnah] self-contradictory? It says, IF MADE FOR RECLINING UPON IS SUSCEPTIBLE TO [RITUAL] UNCLEANLINESS AND IS INVALID AS A SUKKAH-COVERING. The reason then[22] is because it was made specifically for reclining upon, but if it was made without specific purpose, [it would be assumed that it was] for a covering. And then it is taught: IF MADE FOR A COVERING IT IS VALID AS A SUKKAH-COVERING AND IS NOT SUSCEPTIBLE TO [RITUAL] UNCLEANLINESS. The reason then[23] is because it was made specifically for a covering, but if it was made without specific purpose [it would be assumed that it was] made for reclining upon? — This is no difficulty. The former case refers to a large [mat], the latter to a small one. This is well according to the Rabbis, but according to R. Eliezer it still presents a difficulty, for we have learnt:[24] R. ELIEZER SAYS, WHETHER SMALL OR LARGE, IF IT WAS MADE FOR RECLINING UPON, IT IS SUSCEPTIBLE TO [RITUAL] UNCLEANLINESS AND IS INVALID AS A SUKKAH-COVERING. The reason then is that it was made specifically for reclining upon, but if made with no specific purpose, [it would be assumed that it was intended] for a Sukkah-covering. But read the latter portion [of the Mishnah]. IF MADE FOR A COVERING, IT IS VALID AS A SUKKAH-COVERING AND IS NOT SUSCEPTIBLE TO [RITUAL] UNCLEANLINESS. The reason then is that it was made specifically for a Sukkah-covering, but if made without specific purpose, [it would be assumed that it was] for reclining upon? — Rather said Raba: In the case of a large [mat] all acquiesce that if made without specific purpose [it is assumed to be intended] for a covering. They only differ in the case of a small [mat]. The first Tanna is of the opinion that ordinarily a small one is for reclining upon, and R. Eliezer is of the opinion that ordinarily a small one is for a covering as well;

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(1) With water.

(2) The minimum prescribed for a ritual bath.

(3) Immersion in fluid clay is invalid, yet if there is not the minimum forty se'ah in a mikweh, the fluid clay makes up the necessary amount.

(4) Either the hut or the lean-to.

(5) The intervening air space is regarded as a wall, by applying the law of labud, and the rest as the roof.

(6) The lean-to.

(7) The intervening air space is regarded as a roof, stretching horizontally to the wall.

(8) The Sages.

(9) A bed which has no covering on top of the width of a handbreadth, but the curtains rise to a point. V. supra 10b.

(10) In using a bed that is covered with a curtain that intervenes between it and the Sukkah roof.

(11) Who ruled that a sloping or cone-shaped tent is no valid tent.

(12) The Sages.

(13) But the decision of the Sages, since they are the majority, should be followed rather than that of an individual.

(14) The dispute between R. Eliezer and the Sages.

(15) But a Mishnah surely is more authoritative than the Baraitha.

(16) That of R. Nathan.

(17) The contemporaries of R. Nathan, however, differ from him in maintaining that R. Eliezer declared it valid while the Sages held it to be invalid.
(18) Which is hard and inconvenient for lying or reclining upon.
(19) Since it was expressly made for the purpose it is regarded as a finished article.
(20) On account of its susceptibility to uncleanness.
(21) So that it is not a finished article.
(22) Why it is not regarded as a finished article.
(23) Why it is regarded as an unfinished article.
(24) Rashal omits 'this . . . learnt' and substitutes, 'Read the latter part of the Mishnah'.

Talmud - Mas. Sukkah 20a

and it is this that was meant: If a large mat of reeds is made specifically for reclining upon, it is susceptible to [ritual] uncleanliness and is invalid as a Sukkah-covering. The reason is that it was made specifically for reclining upon, but ordinarily it is regarded as though it was made for a covering, and is valid as a Sukkah-covering. A small [mat], if made for a covering, is valid as a Sukkah-covering. The reason is that it was made specifically for covering, but ordinarily it is regarded as though made for reclining upon, and is invalid for a Sukkah-covering.[1] [This is the view of the first Tanna] and R. Eliezer comes to say that whether it is small, or large, if made without specific purpose, it is valid as a Sukkah-covering.

Abaye said to him,[2] If so,[3] [instead of] R. ELIEZER SAYS, WHETHER IT IS SMALL OR LARGE, it ought to read, Whether it is large or small?[4] Furthermore, is it not in fact with regard to a large mat that they are in dispute, and it is R. Eliezer who takes the stricter view, for it was taught: A large mat of reeds is valid for a Sukkah-covering. R. Eliezer says, If it is not susceptible to [ritual] uncleanliness,[5] it is valid for a Sukkah-covering?[6] Rather said R. Papa, 'With regard to a small [mat], all acquiesce that ordinarily it is intended for reclining upon. In what do they dispute? In the case of a large one. The first Tanna is of the opinion that ordinarily a large one is intended for a covering, while R. Eliezer is of the opinion that ordinarily a large one is intended for reclining upon also'. And what is meant[7] by 'IF IT WAS MADE FOR RECLINING UPON?[8] It is this that was meant: Ordinarily also its manufacture is assumed to be for the purpose of reclining upon unless one made it specifically for a covering.[9] Our Rabbis taught, A mat of wicker or of straw, if large,[10] is valid for a Sukkah-covering,if small[11] it is invalid for a Sukkah-covering.[12] One of reeds or of helath,[13] if plaited,[14] is valid for a Sukkah-covering, if woven,[15] it is invalid. R. Ishmael son of R. Jose said in the name of his father, Both the one and the other, are valid for a Sukkah-covering; and R. Dosa also ruled according to his view.

We have learnt elsewhere: All reed mats are susceptible to corpse uncleanliness.[16] These are the words of R. Dosa. The Sages, however, say, They are susceptible to the uncleanliness of midras.[17] [Can it mean] to the uncleanliness of midras but not to that of a corpse seeing that we have learnt: Whatever is susceptible to [primary] uncleanliness of midras is also susceptible to [primary] uncleanliness from a corpse?[18] — Say rather also to the uncleanliness of midras.[19]

What is meant by hozloth?[20] — R. Abdimi b. Hamduri said marzuble. What is marzuble? — R. Abba said, Bags filled with foliage.[21] R. Simeon b. Lakish said, Real matting. And Resh Lakish is consistent [in this view], since Resh Lakish said, May I be an expiation for R. Hiyya and his sons.[22] For in ancient times when the Torah was forgotten from Israel, Ezra came up from Babylon and established it. [Some of] it was again forgotten and Hillel the Babylonian[23] came up and established it. Yet again was [some of] it forgotten, and R. Hiyya and his sons came up[24] and established it. And thus said R. Hiyya and his sons: R. Dosa and the Sages did not dispute about reed-mats of Usha,[25]

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(1) Rashal omits 'A small mat. . . covering' since it is not in the Mishnah.

(2) Raba.

(3) That R. Eliezer's point is that a small mat is subject to the same law as a large one.

(4) The point of R. Eliezer being that a small mat has the same law as a large one, on which the first Tanna agrees. The order should be: Whether large, as you say, or small.

(5) Sc. if it was specifically intended to be used as a Sukkah-covering.

(6) From which it follows that if a large mat was made without specific purpose it is regarded as made for a covering according to the first Tanna, while according to R. Eliezer it is regarded as made for lying upon.

(7) In R. Eliezer's ruling.

(8) Seeing that ordinarily also it is regarded as intended for the same purpose.

(9) The statement of the first Tanna is thus explained as before viz., that the first clause refers to a large mat (as was explicitly stated) while the latter clause refers to a small mat, the meaning being that if the mat was a small one, that was made specifically for a covering it may be used as a Sukkah-covering while ordinarily it is assumed to be intended for lying upon. To this R. Eliezer objected: A large mat also is subject to the same law as a small one viz., that if made for no specific purpose it is deemed to have been made for lying upon, is susceptible to ritual uncleanness and may not be used as a Sukkah-covering, but if it was expressly made to serve as a covering it may be used as a Sukkah-covering and is not susceptible to uncleanness.

(10) In consequence of which it is not used for lying upon.

(11) Irrespective of whether it was plaited or woven.

(12) Since the materials are soft they are in either case (cf. prev. n.) suitable for reclining upon.

(13) Another kind of reed.

(14) And therefore uneven and unsuitable for reclining upon.

(15) The materials being hard, it is suitable for reclining upon only if it is woven.

(16) Sc. they are ordinarily regarded as vessels that are susceptible to the various degrees of ritual uncleanness, except that they, not being intended for lying upon, contract primary uncleanness only through contact with a corpse and not (v. infra) through midras.

(17) ‘Ed. III, 4. V. Glos.; i.e., in their opinion the mats are as a rule intended for lying upon and are, therefore, susceptible to primary uncleanness even through midras.

(18) Nid. VI, 3.

(19) Because they are (a) deemed to have the status of a vessel and (b) are as a rule intended for lying upon.

(20) Rendered supra ‘reed mats’.

(21) Mizable, used by shepherds as pillows (Rashi).

(22) A respectful way of mentioning one's deceased parent or teacher. V. Kid. 31b.

(23) This famous teacher hailed from Babylon.

(24) From Babylon.

(25) The reeds of Usha, a town in Galilee famous as one of the seats of the Sanhedrin, were soft and were used exclusively for mattresses, those of Tiberias were hard and not used for this purpose.

Talmud - Mas. Sukkah 20b

that they are susceptible to [ritual] uncleanliness,[1] or of Tiberias that they are not susceptible.[2] About what do they dispute? About those of other places. One Master[3] is of the opinion that since they are not [as a rule][4] used for sitting upon, they are like those of Tiberias, and the Masters are of the opinion that since it sometimes happens that they are ‘used for sitting upon,[5] they are like those of ‘Usha.

The Master said: ‘All reed mats are susceptible to corpse uncleanliness. These are the words of R. Dosa’. But was it not taught: ‘And R. Dosa also said according to his[6] words’?[7] -This is no difficulty. The former refers to one that has a rim,[8] the latter to one that has no rim.[9] .

It was objected: Mats of bamboo,[10] of reed grass, of sackcloth[11] or of goat's-hair[12] are susceptible to corpse uncleanliness,[13] so R. Dosa, while the Sages say, They are also susceptible to midras uncleanliness. It is well according to him who says [that hozloth means] ‘bags filed with foliage’, since those of bamboo and of reed-grass[14] can be used[15] for baling fruit, while those of sackcloth and goat's-hair[16] can be used for haversacks or baskets,[17] but according to him who says that it means ‘real matting’, it is well[18] with regard to those of sackcloth and goat's-hair, since they can be used[15] for curtains[19] or for sieves but to what use[18] can those of bamboo and reed-grass be put?[20] — They can be used for [covering] brewing vats.

Some read [as follows]: It is well according to him who says [that hozloth means] ‘real matting’, since those of bamboo and reed-grass may be used for [covering] brewing vats while those of sackcloth and goat's hair can be used for curtains or for sieves, but according to him who says that it means ‘bags filled with foliage, it is well with regard to those of sackcloth and goat's hair which may be used for haversacks or baskets, but to what use can those of bamboo and reed-grass be put? — They may be used for baling fruit.

It was taught: R. Hanina stated, When I journeyed[21] in the Diaspora[22] I came across an old man who said to me, ‘A reedmat may be used as a Sukkah-covering’. And when I came before R. Joshua, my father's brother, he agreed with his words. R. Hisda said, Only if it[23] has no rim.[24] ‘Ulla said, Those mats of the people of Mahuza, were it not for their rim, would be valid as a Sukkah-covering.[25] So it has also been taught: Reed mats are valid as a Sukkah-covering, but if they have rims they are invalid as a Sukkah-covering.

CHAPTER II

MISHNAH. HE WHO SLEEPS UNDER A BED IN THE SUKKAH[26] HAS NOT FULFILLED HIS OBLIGATION.[27] R. JUDAH STATED, WE WERE ACCUSTOMED TO SLEEP UNDER A BED IN THE PRESENCE OF THE ELDERS, AND THEY SAID NAUGHT[28] TO US. R. SIMEON SAID, IT HAPPENED THAT TABI,[29] THE SLAVE OF RABBAN GAMALIEL, USED TO SLEEP UNDER A BED.[30] AND R. GAMALIEL SAID TO THE ELDERS, ‘YE HAVE SEEN TABI MY SLAVE, WHO IS A SCHOLAR, AND KNOWS THAT SLAVES ARE EXEMPT FROM [THE LAW OF] A SUKKAH, THEREFORE DOES HE SLEEP UNDER THE BED’, AND INCIDENTAlly WE LEARNED THAT HE WHO SLEEPS UNDER A BED[31] HAS NOT FULFILLED HIS OBLIGATION.[26]

GEMARA. But, surely, there are no ten [handbreadths in the height of the BED, are there]?[32] — Samuel interpreted, [that it refers to] a bed which is ten [handbreadths high]. We have learnt elsewhere, A hole which has been hollowed out by water or by insects or eaten through by saline corrosion, and similarly a row of stones,[33] or a pile of beams,[34] overshadow uncleanliness.[35] R. Judah said, Any ‘tent’ which is not made by the hands of man[36] is not[37] considered as a tent.[38] What is the reason of R. Judah?

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(1) Even to that of midras since they are intended for lying upon and for no other purpose.

(2) Since no one would use them for lying upon.

(3) R. Dosa.

(4) V. Rashi. Lit., ‘there is none who sits upon them’.

(5) And are appointed for the purpose.

(6) R. Jose's.

(7) That such mats are valid for a Sukkah-covering. From which it follows that they are not regarded as a ‘vessel’ that is susceptible to ritual uncleanness.

(8) And it is thus a finished article, a ‘vessel’.

(9) Which, being used for no other purpose but that of covering booths cannot be regarded as a ‘vessel’.

(10) Or ‘cork’ (v. Jast.).

(11) Made of goat's hair (Rashi).

(12) Or horse-hair from the mane or the tail (Rashi).

(13) But not to that of midras, since they can be regarded as ‘vessels’, but not as objects used for reclining or sitting upon.
(14) Though the materials are loosely woven.
(15) If not for lying upon.
(16) Closely woven materials.
(17) In which even very small objects can be kept.
(18) According to R, Dosa.
(19) V. Rashi and Tosaf. ‘Covers’ (Jast.).
(20) Sc. since these are not made for lying upon and since they are useless for any other purpose why should they be susceptible to ritual uncleanness?
(21) Lit., ‘went down’.
(22) Lit., ‘exile’, sc. Babylon. He undertook the journey for the purpose of arranging the interpolation of an extra month in the calendar. V. Ber. 63a.
(23) The mat.
(24) If it has one it might be used as a vessel and, being in consequence susceptible to ritual uncleanness, becomes invalid as a Sukkah-covering.
(25) Since they were generally used for the coverings of booths and were unsuitable for any other purpose.
(26) Since the bed forms a ‘tent’ that intervenes between him and the Sukkah roof.
(27) During the festival of Tabernacles one must eat, drink and sleep in a Sukkah.
(28) Against it.
(29) The famous slave of Gamaliel II, often mentioned in the Mishnah. Elsewhere Gamaliel makes exceptions for him saying, ‘Tabi was not like other slaves’. v. Ber. II, 7.
(30) In his master's Sukkah.
(31) In a Sukkah.
(32) The bed not being ten handbreadths high how can it be regarded as a ‘tent’? (Cf. Supra n. 1).
(33) Under which a cavity was formed by the removal of a stone.
(34) Cf. prev. n. mut. mut.
(35) A hollow formed by any of the above means is regarded as a ‘tent’, rendering unclean whatever is within it if a piece of corpse lies there.
(36) For the purpose of serving as a tent.
(37) As far as conveying uncleanness is concerned.
(38) Oh. III, 7.

Talmud - Mas. Sukkah 21a

— He deduces it from the word ‘tent’ [common to this[1] and to] the Tabernacle. It is written here, This is the law, when a man dieth in the tent,[2] and it is written there, And he spread the tent over the tabernacle.[3] As there [‘tent’ means one] made by the hands of man, so here [it means one made] by the hands of man. And the Rabbis?[4] — The word ‘tent’ occurs many times,[5] to include [all tents].[6]

Is then R. Judah of the opinion that a tent which is not made by the hand of man is no valid tent? Let us point out an incongruity: [We have learnt] Courtyards were built in Jerusalem over a rock, and beneath them was a hollow [made] because of [the fear of] a grave in the depths,[7] and they used to bring there pregnant women, and there they gave birth to their children and there they reared them for [the service of the Red] Heifer.[8] And[9] they brought oxen, upon whose back were placed doors, and the children sat upon them with stone cups[10] in their hands. When they reached Siloam[11] they went down into the water and filled them, then ascended and sat again [on the doors].[12] R. Jose said, [Each child] used to let [his cup] down and fill it from his place[13] because of [the fear of] a grave in the depths;[14] and it has been taught, R. Judah said, They did not bring doors, but oxen.[15] Now oxen, surely, are a ‘tent’ which is not made by the hands of man, and does it not nevertheless teach, R. Judah said, They did not bring doors, but oxen?-When R. Dimi came,[16] he said in the name of R. Eleazar, R. Judah agrees[17] in, the case [of a ‘tent’ that is as large as] a fistful.[18]

So it has also been taught: R. Judah admits in the case of overhanging crags and clefts of rocks.[19] But a door, surely, has[20] an altitude of many fistfuls and yet R. Judah teaches, does he not, ‘They did not bring doors but oxen’?[21] — Abaye replied, [It means that] they did not need to bring doors.[22] Raba said, [It means that] they did not bring doors at all because the child, feeling confident,[23] might put out his head or one of his limbs and thus contract uncleanliness

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(1) The laws of uncleanness.

(2) Num. XIX, 14.

(3) Ex. XL, 19.

(4) Sc. those who differ from R. Judah. Do they not apply the analogy?

(5) In Num. XIX, the chapter dealing with the laws in question.

(6) Even such as were not made for the purpose.

(7) Sc. the possibility of the existence of an unknown grave under the rock. Unless there is a hollow space of the height of one handbreadth above it the uncleanness of the grave penetrates through the rock and beyond it.

(8) The Red Heifer (Num. XIX) necessitated the utmost degree of ritual cleanliness. All the vessels used in connection with it were, therefore, of stone or earthenware which are not susceptible to ritual uncleanliness, and, according to the above Mishnah, the children whose duty it was to bring the officiating priest the water for the sin-offering were kept free from contamination from pre-natal days until they were seven or eight years of age (Rashi, — Tosefta says, twelve). Hence the precautions mentioned above.

(9) When the water had to be brought from Siloam.

(10) Which are not susceptible to ritual uncleanliness.

(11) Heb. השילוח, the famous conduit the history of whose construction is commemorated in the Siloam inscription.

(12) The doors prevented any contamination reaching the children.

(13) Sc. he did not go down to the water.

(14) Parah III, 2. Cf. supra p. 90, n. 9.

(15) Whose bulky bodies served as a tent and partition between any possible uncleanliness below and the children above. Tosef. Parah III, 2 with variants.

(16) From Palestine to Babylon.

(17) That a tent is valid even if it was not made by the hands of man.

(18) A size that is bigger than that of a handbreadth.

(19) These, although naturally formed, constitute a valid ‘tent’, since the hollow space is more than a handbreadth in height.

(20) From the ground to the door.

(21) Presumably because the doors cannot be regarded as a valid ‘tent’. Now If a door is no valid tent, how could the body of an ox be regarded as a valid one?

(22) The oxen alone were sufficient.

(23) Lit., ‘the mind of the child might be haughty’, since the width of the door would obviate any fear of his falling.

Talmud - Mas. Sukkah 21b

on account of a grave in the depths.[1]

It has been taught in agreement with Raba: R. Judah said, They did not bring doors at all, because the child, feeling confident, might put out his head or one of his limbs and thus contract uncleanness on account of a grave in the depths, but they brought Egyptian oxen with wide bellies, and the children sat on their backs with stone cups in their hands. When they came to Siloam they descended, filled them, and ascended and sat again on their backs.

But has not a bed an altitude of many fistfuls, and yet we have learnt, R. JUDAH SAID, WE WERE ACCUSTOMED TO SLEEP UNDER A BED IN THE PRESENCE OF THE ELDERS?[2] — A bed is different, since it is made [to be slept] upon?[3] But are not oxen also made [to be sat] upon?[4]

— When Rabin came[5] he explained in the name of R. Eleazar, Oxen are different, since they afford shelter for shepherds in summer from the sun, and in the rainy season from the rain.[6] If so, should not a bed [also be so regarded] since it affords shelter to the shoes and sandals under it?[7] — The fact is, said Raba, that oxen are different since they naturally shelter their entrails,[8] as it is written, Thou hast clothed me with skin and flesh, and covered me with bones and sinews.[9]

And if you like [you may say that] R. Judah[10] follows his own view that a Sukkah must be a permanent abode; and since a bed is but a temporary abode, while a Sukkah is a permanent 'tent', a temporary tent cannot annul a permanent one. But does not R. Simeon also say that a Sukkah must be a permanent abode,[11] and yet [he holds[12] that] a temporary tent[13] does annul a permanent tent?[14] — It is in this that they[15] differ. One Master[16] holds the opinion that a temporary tent can come and annul a permanent tent, while the other Master[17] holds the opinion that a temporary tent cannot annul a permanent tent.

R. SIMEON SAID, IT HAPPENED THAT TABI, THE SLAVE etc. It has been taught: R. Simeon said, From the casual conversation of R. Gamaliel we have learnt two things. We have learnt that slaves are free from the obligation of Sukkah, and we have learnt that he who sleeps under a bed [in a Sukkah] has not fulfilled his obligation. But why does he not say, From the words of R. Gamaliel'?[18] -He informs us of something [else] by the way in agreement with that which R Aha b. Adda, [or as some say, R. Aha b. Adda in the name of R. Hamnuna] said in the name of Rab: Whence do we know that even the casual[19] conversation of scholars demands study? From Scripture where it is said, And whose leaf[20] does not wither.[21]

MISHNAH. IF A MAN SUPPORTS HIS SUKKAH WITH THE LEGS OF A BED, IT IS VALID. R. JUDAH SAID, IF IT CANNOT STAND BY ITSELF, IT IS INVALID.

GEMARA. What is the reason of R. Judah? — R. Zera and R. Abba b. Mamal disagree. One says, It is because the Sukkah has no permanence, and the other says, It is because he keeps it up with something susceptible to [ritual] uncleanliness. What essentially differentiates them?[22] — If, for instance, he fixed iron stakes [in the ground] and covered them with a Sukkah-covering. According to him who says, because it has no permanence, here there is permanence; according to him who says, because he keeps it up with something susceptible to [ritual] uncleanliness, he is here also setting it up with something which is susceptible to [ritual] uncleanliness.

Abaye said, They taught this[23] only if he supported it,[24] but if he placed a Sukkoth-covering above a bed,[25] it is valid. What is the reason? — According to him who says, because it has no permanence, here there is permanence; according to him who says, because he sets it up with something susceptible to [ritual] uncleanliness, here he does not set it up with something susceptible to [ritual] uncleanliness.[26] [

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(1) In the absence of a door the child, in his fear of falling down, would not venture to put any part of his body out beyond the width of the body of the ox.

(2) Which shows that an occasional 'tent' is no valid tent.

(3) And not underneath it. Hence it cannot constitute a valid 'tent'.

(4) And not underneath them. How then could they be regarded as a valid tent?

(5) From Palestine to Babylon,

(6) So that the belly of the ox may well be regarded as a valid tent.

(7) V. B.B. 58a.

(8) Thus constituting a tent.

(9) Job X, 11. 'Covered' implies 'shelter', 'tent'.

(10) Who permits sleeping under a bed in a Sukkah.

(11) Supra 7b.

(12) As is evident from his statement in our Mishnah.
(13) A bed.
(14) A valid Sukkah.
(15) R. Simeon and R. Judah.
(16) R. Simeon.
(17) R. Judah.
(18) Sc. why is the term ‘casual conversation’ used, instead of the more common ‘words’.
(19) Lit., ‘profane’.
(20) I.e., even the least important part of the tree.
(21) Ps. I, 3. The righteous man is compared to the tree and his casual talk to the leaf.
(22) R. Zera and R. Abba. As always, this means, what practical difference is there between them?
(23) The law about the bed just enunciated.
(24) The roof.
(25) Sc. beds formed the walls only while the roof was supported on poles of the prescribed material.
(26) Cf. prev. n.

Talmud - Mas. Sukkah 22a

MISHNAH. A DISARRANGED[1] SUKKAH AND ONE WHOSE SHADE IS MORE THAN ITS SUN[2] IS VALID. IF [THE COVERING] IS CLOSE KNIT LIKE THAT OF A HOUSE, IT IS VALID, EVEN THOUGH THE STARS CANNOT BE SEEN THROUGH IT.

GEMARA. What is meant by medubleleth?[3] — Rab replied, It means a beggarly Sukkah;[4] and Samuel says, One whose reeds are not all on the same level.[5] Rab taught the [first part of the Mishnah as] one [statement], while Samuel taught it as two. Rab taught it as one: A Sukkah which is medubleleth, (what is medubleleth? Beggarly) whose shade is more than its sun, is valid; while Samuel taught it as two: What is medubleleth? Disarranged; and [the Mishnah] teaches two [laws,] that a disarranged Sukkah[6] is valid and that a Sukkah whose shade is more than its sun is valid.

Abaye stated, This[7] applies only where there are not three handbreadths of distance between one reed and another, but if there are three handbreadths between one and another, it[8] is invalid. Raba says, Even if there are three handbreadths between one and another we also do not say [that it[8] is invalid] unless the upper reed[9] is not a handbreadth wide but if the upper reed is a handbreadth wide, it[8] is valid,[10] since we apply to it the law of ‘Beat and throw it down’.[11]

Raba said, Whence do I say that if the upper reed is a handbreadth wide we apply to it the law of ‘Beat and throw it down’, and if it is not so wide we do not apply it? From what we have learnt: If the beams of [the roof of] a house and of its upper chamber have no plaster-work,[12] and they[13] lie exactly one above the other, and there is uncleanliness under one of them,[14] only the space beneath this one is unclean; if between a lower and an upper [beam],[15] the space between them is unclean; if upon an upper beam, what is above it as far as the sky is unclean. If the upper beams were opposite the gaps between the lower beams, and uncleanliness lay beneath one of the beams, the space beneath them all is unclean;[16] if it lay above one of the beams, what is above them as far as the sky is unclean.[17] And on this it was taught, When do these[18] apply? When the beams are each a handbreadth [wide][19] and there is [a gap] of a handbreadth between them,[20] but if there is not [a gap] of a handbreadth between them,[21] if there is uncleanliness under one of them,[22] whatever is under that beam[23] is unclean[24] while the space between them[25] and above them is clean.[26] Thus it clearly follows that if there is a handbreadth[27] we apply the law of ‘Beat and throw it down’, but if there is not a handbreadth[27] we do not apply this law. This is conclusive.

R. Kahana was sitting at his studies and enunciated this statement.[28] Said R. Ashi to R. Kahana, Do we then not apply the law of ‘Beat and throw down’ where an object is not a handbreadth wide?

Has it not in fact been taught: If a beam was protruding from one wall, but was not touching the opposite wall, and similarly if two beams, one protruding from one wall and one from the other, were not touching each other, and [the space between them[29] is] less than three [handbreadths][30] it is unnecessary to supply another beam, but if it was three [handbreadths] it is necessary to supply another beam. R. Simeon b. Gamaliel ruled,

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(1) Heb. medubleleth. The Gemara discusses the exact meaning.
(2) This rule which appears to be a repetition of the one supra 2a is discussed infra.
(3) Cf. supra n. 1.
(4) Sc. one covered with very few reeds, the roof having many holes, except that none of them is three handbreadths wide.
(5) Lit., one reed going up, and another down', so that the interior of the Sukkah has more sun than shade. The Sukkah is nevertheless valid because the number of reeds is sufficient, had they been laid on the same level, to provide more shade than sun.
(6) Cf. supra n. 5.
(7) The statement of Samuel that the Sukkah is valid though one reed is up and another is down (cf. supra n. 5).
(8) The Sukkah.
(9) Lit., 'its roof'.
(10) Even if it is three handbreadths higher than the lower one.
(11) A legal fiction whereby a plane is regarded as though it were placed at a lower level. The reed which is raised above the others is regarded as though it were lying on the same level as the lower ones. The necessity of a handbreadth of width is explained forthwith.
(12) So that the beams are completely separated from one another.
(13) The beams of the house and the beams of the upper chamber respectively.
(14) One of the beams of the lower room.
(15) Sc. one of the upper chamber.
(16) Since by the rule of 'Beat and throw it down' the upper and the lower beams are virtually lying at the same level and together make up one continuous roof.
(17) Oh. XII, 5.
(18) The rulings in the Mishnah just cited.
(19) So that each beam is important enough to be treated as a 'tent' both as regards causing uncleanness to spread all under it and to form an interposition between an uncleanness under it and the space above it.
(20) Sc. the lower beams, so that each upper beam placed opposite the gaps between the lower beams virtually covers a part of the roof of the lower room to all extent of not less than one handbreadth.
(21) So that each of the upper beams covers in the roof of the lower room a space that is less than one handbreadth.
(22) The lower beams.
(23) That one being no less than a handbreadth wide.
(24) Cf. supra n. 8.
(25) I.e., the gaps between the lower ones (v. R. Han.).
(26) Tosef. Oh. XIII, 7.
(27) In the width of a beam.
(28) Of Raba.
(29) The beam and the wall or the two beams.
(30) So that the law of labud is applicable.

Talmud - Mas. Sukkah 22b

If the space was less than four [handbreadths][1] it is unnecessary to bring another beam, if not, it is necessary to bring another beam.[2] And so in the case of two parallel beams neither of which can support a half-brick,[3] if they can support a half-brick on their joint width of a handbreadth,[4] it is not necessary to bring another beam; if not, it is necessary to bring another beam. R. Simeon b. Gamaliel said, If they can support a half-brick in its length of three handbreadths,[5] it is not necessary to bring another beam; if not,[6] it is necessary to bring another beam. If one was above and the other below,[7] R. Jose son of R. Judah said, We regard the upper one as though it were lower down[8] or the lower one as though it were higher,[9] provided that the upper one is not more than twenty [cubits from the ground][10] nor the lower one less than ten [cubits from the ground].[11] From which it follows that if both of them were within twenty [cubits][12] we do apply the law of 'beat and throw down' even although none of them is a handbreadth [wide]?[13] — The other replied, Explain thus: Provided that the upper one is not more than twenty [cubits from the ground], but within the twenty [cubits], and the lower one is near it within less than three [handbreadths], or else: Provided that the lower one is not less than ten [cubits from the ground] but more than ten, and the upper one is near it within less than three [handbreadths], but if they were three [handbreadths apart] since [the upper beam] is not a handbreadth [wide], we do not apply the law of 'beat and throw down'.

WHOSE SHADE IS MORE THAN ITS SUN IS VALID. But if they are equal it is invalid? But have we not learnt in the other chapter,[14] 'or whose sun is more than its shade, is invalid', from which it follows that if they are equal it is valid? — There is no difficulty, since the former[15] refers to above and the latter to below.[16] R. Papa observed, This bears on what people say, 'The size of a zuz[17] above becomes the size of an issar[17] below'.

IF CLOSE TOGETHER LIKE A HOUSE. Our Rabbis have taught, If it is close together like a house, even though the stars cannot be seen through it, it is valid. If the rays of the sun[18] cannot be seen through it, Beth Shammai invalidate it, and Beth Hillel declare it valid.

MISHNAH. IF ONE ERECTS HIS SUKKAH ON THE TOP OF A WAGGON,[19] OR ON THE DECK OF A SHIP,[20] IT IS VALID[21] AND THEY MAY GO UP INTO IT ON THE FESTIVAL. IF HE MADE IT ON THE TOP OF A TREE, OR ON THE BACK OF A CAMEL, IT IS VALID,[22] BUT THEY MAY NOT GO UP INTO IT ON THE FESTIVAL.[23] IF THE TREE [FORMED] TWO [WALLS] AND ONE WAS MADE BY THE HANDS OF MAN,[24] OR IF TWO WERE MADE BY THE HANDS OF MAN AND ONE WAS FORMED BY THE TREE, IT IS VALID, BUT THEY MAY NOT GO UP INTO IT ON THE FESTIVAL.[25] IF THREE WALLS WERE MADE BY THE HANDS OF MAN AND ONE WAS FORMED BY THE TREE, IT IS VALID AND THEY MAY GO UP INTO IT ON THE FESTIVAL.

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(1) R. Simeon b. Gamaliel applies the law of labud to a space of four handbreadths also.

(2) 'Er. 14a, supra 18a q.v. notes.

(3) The cross-beam at the entrance of an alley has to be one handbreadth wide in order to be capable of holding a half-brick that is one and a half handbreadths wide (v. 'Er. 13b) One smaller than this width is not valid.

(4) In this case two beams, each less than the required width, were placed next to one another so that the half-brick can be placed in its breadth upon both.

(5) I.e.,the space between the two narrow beams may be wider, provided they are strong and wide enough to carry the half-brick.

(6) I.e.,the beams mentioned were not capable of supporting the half-brick.

(7) Sc. the two beams were not placed exactly level with one another, but one was raised more than the other.

(8) On a level with the lower one.

(9) And level with the one above it.

(10) Since a beam at such a height is invalid.

(11) 'Er. 14a; since no partition is valid unless it is no less than ten handbreadths high.

(12) Though the distance between them was more than three handbreadths.

(13) An objection against Raba.

(14) Mishnah I, 1.

(15) If they are equal it is invalid.

(16) If in the roof ('above') there is as much open, as covered space, then it is invalid, since the sun appears on the floor in broader patches than the shade; if on the floor ('below') there is as much sunshine as shade, it is evident that there is more of the roof covered than open. The idea is that the beams of the sun widen from the roof to the floor.

(17) Coins. The issar was worth one twenty-fourth of a zuz, but being of copper whereas the zuz was of silver, it was larger.

(18) Lit., ‘the stars of the sun’.

(19) Though it is on the move.

(20) Where it is exposed to gales.

(21) Since the Sukkah satisfies the requirements of a temporary abode.

(22) On the intermediate days of the Festival or even on the Festival itself if one did enter it.

(23) Since the use of a tree on the Festival is forbidden under a Rabbinic measure.

(24) Cf. Tosaf. This refers to cases where the roof of the Sukkah was resting on the tree.

(25) A preventive measure against the possibility of putting some object on the roof (cf. prev. n.).

Talmud - Mas. Sukkah 23a

THIS IS THE GENERAL RULE: WHATEVER CAN STAND BY ITSELF IF THE TREE WERE TAKEN AWAY IS VALID, AND THEY MAY GO UP INTO IT ON THE FESTIVAL.

GEMARA. According to whom is our Mishnah? According to R. Akiba, as it has been taught, He who erects his Sukkah on the deck of a ship, R. Gamaliel declares it invalid and R. Akiba valid.[1] It happened with R. Gamaliel and R. Akiba when they were journeying on a ship[2] that R. Akiba arose and erected a Sukkah on the deck of the ship. On the morrow the wind blew and tore it away. R. Gamaliel said to him, Akiba, where is thy Sukkah?

Abaye said, All are in accord that where it[3] is unable to withstand a normal land breeze it is nothing;[4] if it can withstand an unusually [strong] land breeze, all are in accord that it is valid. Where do they dispute? Where it can withstand a normal land breeze, but not a normal sea breeze;[5] R. Gamaliel is of the opinion that the Sukkah must be a permanent abode, and since it cannot withstand a normal sea breeze, it is nothing,[4] while R. Akiba is of the opinion that the Sukkah must be a temporary abode, and since it can withstand a normal land breeze, it is valid.

OR ON THE BACK OF A CAMEL etc. According to whom is [this part of] our Mishnah? — According to R. Meir, as it has been taught, If he makes his Sukkah upon the back of an animal, R. Meir declares it valid and R. Judah invalid. What is the reason of R. Judah? — Since Scripture says, Thou shalt keep the feast of Sukkoth for seven days.[6] A Sukkah which is suitable for seven days is called a valid Sukkah; if it is unsuitable for seven days it is not called a valid Sukkah.[7] And R. Meir? — According to Pentateuchal law this [Sukkah] is also suitable [for seven days], and it is only the Rabbis who decreed against it.[8]

If he used an animal as a wall of the Sukkah, R. Meir declares it invalid and R. Judah valid, for R. Meir was wont to say, Whatever contains the breath of life can be made neither a wall for a Sukkah, nor a side-post for an alley[9] nor boards around wells,[10] nor a covering stone for a grave.[11] In the name of R. Jose the Galilean they said, Nor may a bill of divorcement be written upon it.

What is the reason of R. Meir? — Abaye replied, Lest it die.[12] R. Zera replied, Lest it escape.[12] Concerning an elephant securely bound, all[13] agree [that[14] the Sukkah is valid], since even though it die,[15] there is still ten [handbreadths height] in its carcase.[16] Regarding what then do they dispute? Regarding an elephant which is not bound. According to him[17] who says, Lest it die, we do not fear;[18] according to him[19] who says, We fear lest it escape, we do fear.[20] But according to him who says, Lest it die, let us fear also lest it escape? — Rather say, Regarding an elephant which is not bound, all agree [that the Sukkah is invalid]; regarding what do they dispute? Regarding an [ordinary] animal which is bound: According to him who says, Lest it die, we fear [for that],[21] according to him who says, Lest it escape, we have no fear.[22] But according to him who says, Lest it escape, let us fear lest it die? — Death is not a frequent occurrence.[23] But is there not an open space between [the animal's legs]?[24] — [It refers to] where he filled it in with branches of palms and bay-trees. But might it not lie down? — [It refers to] where it was tied with cords from above.[25]

And according to him who says, Lest it die, is it not tied with cords from above?[26] — It may occur that it is made to stand within three [handbreadths] of the covering[27]

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(1) Supra 7b.

(2) In the week of the Festival.

(3) A Sukkah.

(4) No valid Sukkah.

(5) So Tosaf. supra 7b. Cur. edd., in parenthesis ‘an unusually strong land breeze’.

(6) Deut. XVI, 13.

(7) And this one is unsuitable for the first day of the Festival since it is Rabbinically forbidden to enter it on that day.

(8) As Pentateuchally it is suitable for all the seven days it is a valid Sukkah.

(9) V. supra.

(10) V. ‘Er. 17b.

(11) Golel, v. Naz., Sonc. ed., p. 202, n. 5. I.e., it is not subject to the laws of a covering stone of a grave (cf. Hul. 72a) even if it was used as such.

(12) During the Festival and the Sukkah that would thus remain with one wall less than the prescribed number would be invalid.

(13) Abaye and R. Zera.

(14) According to R. Meir.

(15) And falls to the ground.

(16) And a valid wall still remains.

(17) Abaye.

(18) Sc. the Sukkah is valid, since there are ten handbreadths in the height of the carcase.

(19) R. Zera.

(20) And the Sukkah is, therefore, invalid.

(21) As the animal when lying on the ground would be less than ten handbreadths high, the wall, and consequently the Sukkah, is invalid.

(22) Since the animal is bound; and the Sukkah is, therefore, valid.

(23) Hence no preventive measure was called for.

(24) Even when it is alive. How then can a wall with such a gap be regarded as valid?

(25) So that it cannot lie down.

(26) So that even if it dies it will still be held up in a standing position. Why then should the Sukkah be invalid?

(27) I. e., there is a space of less than three handbreadths between the top of the animal and the roof, which is quite valid because of the law of labud.

Talmud - Mas. Sukkah 23b

but when it dies, it shrinks,[1] and this might not enter his mind.[2] But did Abaye say that R. Meir[3] takes the possibility of death into consideration while R. Judah disregards it? Have we not in fact learnt: If the daughter of an Israelite was married to a priest, and her husband went to a country beyond the sea, she may eat of terumah[4] on the presumption that he is still alive.[5] And when we pointed to the following contradiction: [If a priest said to his wife,] ‘Here is thy bill of divorce [to take effect] one hour before my death’,[6] she is forbidden to eat of terumah forthwith,[7] Abaye answered that there is no difficulty, since the former [statement][8] is according to R. Meir who disregards the possibility of death, while the latter[9] is according to R. Judah who regards the possibility of death, as it has been taught, If a man buys wine[10] from Cutheans[11] he may say, ‘Two log[12] which I intend to set aside are terumah, ten are the first tithe, and nine[13] the second tithe’, and then he redeems it[14] and may drink it at once. So R. Meir

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(1) And the space will then be more than three handbreadths to which labud cannot apply and the Sukkah will in consequence be invalid.

(2) To make the necessary adjustments. Hence the preventive measure that no living animal may ever be used as a Sukkah wall.

(3) In enacting a preventive measure.

(4) V. Glos.

(5) Git., III, 3.

(6) A common procedure to obviate the necessity of halizah (v. Glos.).

(7) Git. 28a, Ned. 3b.

(8) That the woman may eat terumah.

(9) Forbidding her to eat it.

(10) Late on Friday when he has no time to separate the terumah and tithes before the incidence of the Sabbath.

(11) Who do not give the priestly dues.

(12) Two out of a hundred, the normal amount of terumah given. Unlike tithe, the exact amount is not specified in the Bible. A log is a liquid measure, v. Glos.

(13) A tenth of what remains. The terumah goes to the priests, the first tithe to the Levites and the second has to be eaten in Jerusalem.

(14) The second tithe which may be redeemed with money. v. Deut. XIV, 22ff.

Talmud - Mas. Sukkah 24a

. R. Judah, R. Jose and R. Simeon forbid it?[1] -Transpose [the statement:][2] R. Meir takes the possibility of death into consideration, while R. Judah disregards the possibility of death, as it was taught, If he used an animal as a wall for a Sukkah, R. Meir declares it invalid and R. Judah valid. [But then there is still] a contradiction between the two statements of R. Meir?[3] — R. Meir can answer you: Death is of frequent occurrence, but the splitting of a wineskin is infrequent, since one might give it in charge of a guardian.

[But there is still] a contradiction between the two statements of R. Judah?[4] The reason of R. Judah[5] is not lest the wineskin split, but because he does not accept the principle of bererah.[6] But does R. Judah consider the possibility of the wineskin splitting? Surely since the latter part [of the Baraitha] continues: They said to R. Meir, ‘Do you not agree that [we must fear] lest the wineskin split, with the result that he drank untithed [wine] retrospectively?’ And he answered them, ‘When the wineskin splits’,[7] it follows [does it not], that R. Judah[8] does consider the possibility of the wineskin splitting? — [No!] There it is R. Judah who says to R. Meir in effect, ‘As regards myself I do not accept the principle of bererah, but according to you who do accept the principle of bererah, do you not agree that [we must fear] lest the wineskin split?’ And the latter answered, ‘When the wineskin splits’.[9]

But does not R. Judah regard the possibility of death? Have we not in fact learnt: R. Judah says, Even another wife was prepared for him, lest his wife die?[10] — On this surely it was stated: R. Huna the son of R. Joshua said, They adopted a higher standard with regard to Atonement.[11]

Now whether according to him who says,[12] Lest it die, or according to him who says, Lest it escape, [the animal] according to the Pentateuchal law is a valid partition, and it is only the Rabbis who made a restrictive enactment concerning it. But if this is so, it ought according to R. Meir, to convey uncleanliness [if it is used] as a covering stone of a grave,[13] why then have we learnt: R. Judah[14] says it[15] is subject to the laws of uncleanliness that are applicable to the covering stone of a grave, while R. Meir declares it unsusceptible to such uncleanliness?[16] -The fact is, said R. Aha b. Jacob, that R. Meir[17] is of the opinion that any partition which is upheld by wind[18] is no valid partition. Some there are who say that R. Aha b. Jacob said that R. Meir[17] is of the opinion that any partition which is not made by the hands of man[19] is no partition. What [practical difference] is there between [the two versions]? — The practical difference between them is where he set up a Sukkah wall with an inflated skin. According to the version which says a partition which is upheld by wind is no valid partition, [this one is invalid] since it is upheld by wind; according to the version which says 'not made by the hands of man'

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(1) Tosef. Dem. VII, 4, B.K. 69b; since the wineskin may split open and the contents be lost before he is able to make his intended separation an actual one, with the result that what he has already drunk is untithed. Thus R. Judah who takes this possibility into consideration certainly considers the possibility of death, while R. Meir who disregards this possibility equally disregards that of death. Now, since Abaye there distinctly attributes these views to R. Judah and R. Meir respectively how could he attribute to them here the reversed views?

(2) Of Abaye in the passage last cited.

(3) In the case of the skin he does not take its possible splitting into consideration while in the case of the animal he does take into consideration the possibility of its dying.

(4) Cf. supra n. 8, mut. mut.

(5) In the case of the wine.

(6) The principle that the later selection is considered as having been applied retrospectively. The later separation of the wine has no retrospective application. Hence even if the skin did not split the terumah is invalid.

(7) 'Er. 37b. Sc. one does not anticipate the wineskin splitting.

(8) From whom R. Meir differs.

(9) For further notes v. 'Er., Sonc. ed., p. 259.

(10) Yoma I, 1. The High Priest on the Day of Atonement had to be married in accordance with Lev. XVI, 7, where 'his house' is interpreted as his wife. In case his wife died on the eve of the day, another was held in readiness.

(11) Where even very remote possibilities were considered and provided for.

(12) In giving R. Meir's reason supra.

(13) Since according to Pentateuchal law it is a valid partition, it ought to contract uncleanliness, even if the Rabbis decreed later that it is no valid partition. With regard to Sukkah and the alley the Rabbinical decree might well be upheld since it restricts the law but in the case of uncleanliness where it leads to a relaxation of the Pentateuchal law the Rabbinical decree must obviously be disregarded.

(14) Wanting in the separate edd. of the Mishnah and 'Er. 15a.

(15) An animate object that was used to cover a coffin.

(16) 'Er. 15a and supra fol.23a.

(17) In ruling an animate object to be an invalid partition.

(18) Or 'air'.

(19) It is not in human power to impart the breath of life.

Talmud - Mas. Sukkah 24b

it is valid, since it is made by the hands of man.[1]

The Master said: 'In the name of R. Jose the Galilean they said, Nor may a bill of divorcement be written upon it'.[2] What is the reason of R. Jose the Galilean? — As it has been taught: [Scripture[3] says], A bill[4] [hence] I know only [that] a bill[5] [is valid],[6] how do we know to include any other material?[7] Scripture expressly states, Thus he writeth her[8] implying, on whatever material it may be. If so, why does Scripture state, 'bill'?[5] To teach you that just as a bill is a thing which has no breath of life, and cannot eat, so is everything valid which has not the breath of life and does not eat. And the Rabbis?[9] — If Scripture had written 'in a bill', [it would be] as you say,[10] but now that it is written 'a bill'[11] the expression refers merely to the recital[12] of the words.[13] And how do the Rabbis[14] expound the words, 'That he writeth'?[15] — They need that [text for the exposition that] with the writing she becomes divorced, but she does not become divorced with money.[16] As I might have said that, since her exit [from the married state][17] is compared to her entry into it[18] just as her entry is with money,[19] so is her exit, therefore it teaches us [this]. And whence does R. Jose the

Galilean deduce this?[20] -He deduces it from [the words], ‘a bill of divorcement’;[21] the bill divorces and nothing else. And the others?[22] — They need [this terminology to teach that the bill of divorcement must be] one which severs them [completely], as it has been taught. [If a man say,] Herewith is your get [to take effect] on condition that you do not drink wine, or go to your father's house ever, it is no severance.[23] [If he say, The condition shall apply] for thirty days, it is a severance.[24] And the other?[25] — He deduces it from [the use of the form] kerithuth [instead of that of] kareth.[26] And the others? — They do not expound [the difference between] kerithuth and kareth.[27]

MISHNAH. IF HE MAKES HIS SUKKAH BETWEEN TREES, SO THAT THE TREES FORM ITS WALLS,[28] IT IS VALID. GEMARA. R. Aha b. Jacob said, A partition which is unable to withstand[29] a normal wind is no valid partition. We have learnt, IF HE MAKES HIS SUKKAH BETWEEN TREES, SO THAT THE TREES FORM ITS WALLS, IT IS VALID. But do they not sway to and fro? — We are dealing here with solid [trees].[30] But are there not the swaying branches?[31] — [It refers to] where he plaited it with shrubbery and bay-trees.[32] If so, why [need he] mention it? — One would have thought that it should be forbidden as a preventive measure lest he come to make use of the tree,[33] therefore he informs us [that it is valid]. Come and hear: If there was there[34] a tree,[35] or a fence,[36] or a partition of reeds, it is regarded as a valid corner-piece![37] — This also refers to where he plaited it with shrubbery and bay-trees. Come and hear: If a tree[38] throws a shadow on the ground, it is permitted to move objects under it[39] if the ends of its branches are not three handbreadths high above the ground.[40] But why?[41] Does not the tree sway to and fro? — Here also it is a case where one plaited it with shrubs and bay-trees. But if so,[42] it should be permitted[43] to carry objects[39] over its whole area whatever its size; why then did R. Huna the son of R. Joshua say, One may not carry any objects there

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(1) A man inflated it.

(2) An animate object. Supra 23a.

(3) In dealing with divorce.

(4) Deut. XXIV, 1, he writeth her a bill of divorcement.

(5) Sefer, i.e., parchment.

(6) As a writing material.

(7) A wooden tablet or an olive leaf, for instance.

(8) Deut. XXIV, 1, emphasis on writeth.

(9) How, in view of R. Jose's exposition can they maintain their view?

(10) That the reference is to the material on which the divorce formula is written.

(11) ספר.

(12) ספירת.

(13) I.e., the contents of the document, not the material on which it is written.

(14) Who do not take ‘bill’ to imply parchment.

(15) Which R. Jose used to include other materials. Since according to their view ‘bill’ does not exclude anything, what need was there for a text to include other materials?

(16) I.e.,a woman cannot be divorced, as she is betrothed by giving her some money.

(17) Divorce.

(18) Marriage. Deut. XXIV, 2 reads, And when she is departed from his house, and go and be another man's wife. The Talmud on the basis of this juxtaposition compares divorce (‘departure’) to marriage (‘being’).

(19) Betrothal may be effected by the man's giving to the woman money and saying, ‘Behold thou art betrothed unto me by this money’.

(20) The deduction just made.

(21) The juxtaposition of ‘bill’ and ‘divorcement’.

(22) The Rabbis. To what do they apply this text?

(23) Since the condition is timeless, and at any time in the future she might break the condition and the divorce would become void, it is of no effect.

(24) Since at the end of the specified period the get would be definitely effective it is regarded as Pentateuchally valid forthwith.
(25) R. Jose. Whence does he deduce this ruling?
(26) Since Scripture could have written כרת and writes בריתות the extra letters are regarded as teaching an added lesson.
(27) The Rabbis disregard such fine distinctions. On the whole passage v. Git. 21b.
(28) But its roof does not rest upon them (Rashi). [Otherwise it would be invalid as a Sukkah kept up by an object that is attached to the ground. V. supra 21b, Strashun.]
(29) I.e., to stand firm without swaying.
(30) Old and strongly built trees which do not sway in the wind.
(31) Which sometimes form part of the wall.
(32) So that the branches also form a solid part of the wall.
(33) By putting his things on it on the festival day.
(34) At one of the corners of a watering station round which corner-pieces are placed to enable the carrying of the water from the well to the enclosure on the Sabbath.
(35) Whose thickness was of the dimensions of one cubit by one cubit prescribed for a corner-piece.
(36) Cf. prev. n. mut. mut.
(37) ‘Er. 19b. Now does not this prove that trees though swaying to an fro are regarded as a valid wall?
(38) Whose branches bend downwards.
(39) On the Sabbath.
(40) ‘Er. 15a; since by the law of labud they are deemed to be touching the ground and, since at their other ends at which they are attached to the tree they are ten handbreadths above the ground, they form a valid partition.
(41) Sc. why should the branches be regarded as a valid partition to constitute an enclosure within which the movement of objects on the Sabbath is permitted?
(42) That the branches were plaited for the express purpose of serving as an enclosure in which one might dwell while engaged in watching the fields around.
(43) As in the case of all similar enclosures (cf. prev. n.).

Talmud - Mas. Sukkah 25a

except where its area was not bigger than two beth se'ah?[1] — The reason[2] is that it[3] is an abode made to serve the open air[4] and in every abode that is made to serve the open air[4] objects may be moved in it[5] only if its area is no more than two beth se'ah.[6]

Come and hear: If one made his Sabbath rest[7] in a mound which is ten [handbreadths] high and [whose extent] is from four cubits to two beth se'ah and so also with a cavity[8] which is ten [handbreadths] deep, and [whose extent] is from four cubits to two beth se'ah and so also with a harvested spot[9] that was surrounded by ears of corn, he may walk throughout its whole extent and two thousand cubits[10] outside it [on the Sabbath].[11] [Now is not this permitted] even although it[12] sways to and fro?[13] — There also it refers to where he plaited it[12] with shrubs and bay-trees.[14]

MISHNAH. THOSE WHO ARE ENGAGED ON A RELIGIOUS ERRAND[15] ARE FREE FROM [THE OBLIGATIONS OF] SUKKAH.[16] INVALIDS AND THEIR ATTENDANTS ARE FREE FROM [THE OBLIGATIONS OF] SUKKAH. CASUAL EATING AND DRINKING[17] ARE PERMITTED OUTSIDE THE SUKKAH. GEMARA. Whence do we know this?[18] — From what our Rabbis taught: When thou sittest in thy house[19] excludes[20] the man who is occupied with a religious duty,[21] And when thou walkest by the way[19] excludes a bridegroom.[20] Hence[21] they[22] said, He who marries a virgin is free [from the obligation of reading the Shema’], but [he who marries] a widow is bound [by the obligation].[23] How is this[24] inferred? — R. Huna said, It is compared to ‘the way’[19] just as ‘the way’[25] refers to a secular way,[26] so must every act[27] be secular, thus excluding such a man who is occupied with the performance of a religious duty. But does it[28] not refer to where one is going on a religious errand [also]?[29] And does not the Divine Law nevertheless say that one should read?[30] — If so,[31] the verse should have said, ‘When sitting and when walking’;[32] why [then does it say,] ‘When thou sittest and when thou walkest’? [It must consequently mean:] When walking for thy own purpose thou art bound by the obligation, but when walking on a religious errand thou art free. If so,[33] should not even the man who marries a widow[34] also be exempt?-When he marries a virgin his mind is pre-occupied[35] but when he marries a widow his mind is not preoccupied.[36]

Does this mean that whenever a man's mind is pre-occupied he is exempt?[37] If so, if his ship was sunk, so that his mind is preoccupied is he also exempt?[37] And if you will say, ‘It is indeed so’, did not R. Abba b. Zabda [it may be retorted] say in the name of Rab: A mourner[38] is bound by all the commandments that are enumerated in the Torah, with the sole exception of that of tefillin because the word ‘beauty’[39] was applied to them? — In the former case[40] his pre-occupation is on account of a religious duty;[41] in the latter[42] it is on account of a secular event.[43]

But is the law that he who is engaged on one religious duty is free from any other deduced from here?[44] Is it not deduced from elsewhere, As it has been taught: And there were certain men who were unclean by the dead body of a man, etc.[45] Who were these men? They were those who bore the coffin of Joseph,[46] so R. Jose the Galilean.

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(1) ‘Er. 15a. A beth se'ah is a square measure, the size of a field which requires two se'ahs of seed to sow it. One beth se'ah is estimated as two thousand five hundred square cubits.

(2) For. R. Huna's ruling.

(3) The area under the branches.

(4) I.e., it is a mere shelter for the watchman who guards the open field around it.

(5) On the Sabbath.

(6) The Rabbis limited it to this size on the assumption that the courtyard of the sanctuary was of this size. If the area is larger it is subject to the laws of karmelith and objects in it may be moved within four cubits only.

(7) I.e., appointed the spot as his Sabbath abode at the time the Sabbath commenced.

(8) Which a man appointed as his Sabbath abode (cf. prev. n.).

(9) Cf. prev. n. Lit., ‘cut standing (ears)’.

(10) The distance in all directions which a man may walk on the Sabbath outside his town or enclosure in which he rested when the Sabbath began.

(11) ‘Er. 15a.

(12) The enclosure formed by the ears of corn.

(13) Apparently it is. How then could R. Aha maintain that a swaying partition is invalid?

(14) So that the enclosure is a firm one.

(15) Lit., ‘those that are sent forth for a religions duty’. Those, for instance, who go to study the Torah or to redeem a captive.

(16) Even when they stay for a rest.

(17) I.e., but not a set meal.

(18) The first ruling in our Mishnah.

(19) Deut. VI, 7, dealing with the duty of reading the Shema’ (v. P.B. pp. 40-42).

(20) From the duty (cf. prev. n.).

(21) How this is inferred is explained presently.

(22) The Rabbis.

(23) Ber. 11a.

(24) That those engaged in a religious act are exempt.

(25) In walking in which the duty of reading the Shema’ must be performed.

(26) Or, ‘optional. It is now taken to mean that one is walking by the way to pursue his normal occupations.

(27) The performance of which must not interfere with the duty of reading the Shema’.

(28) V. supra n. 2.

(29) Apparently it does.

(30) How then is it inferred that those engaged in a religious act are exempt?
(31) That Deut. VI, 7 refers also to one engaged in a religious act.
(32) Which would have included all forms both secular and religious.
(33) That the performance of a religious act exempts one from the obligations mentioned.
(34) Who also is performing a religious duty.
(35) And he cannot, therefore, perform another duty at that time.
(36) Cf. prev. n. mut. mut.
(37) From the performance of his religious duties.
(38) Though his mind is pre-occupied.
(39) Ezek. XXIV, 17; an ornament that is unbecoming to a mourner.
(40) Where one marries a virgin.
(41) Hence his exemption from other duties.
(42) Where a ship was sunk as in that of a mourner.
(43) Or, ‘optional matter’. Mourning to the extent of shutting out of all other thoughts is regarded as optional and is excluded from the religious duty of mourning which is duly defined.
(44) Deut. VI, 7.
(45) Num. IX, 6, dealing with the celebration of the Second Passover in the month of Iyar by those who, for certain specified reasons, were unable to celebrate the first in Nisan.
(46) Cf. Gen. L, 25 and Ex. XIII, 19.

Talmud - Mas. Sukkah 25b

R. Akiba said, They were Mishael and Elzaphan who were occupied with [the remains of] Nadab and Abihu.[1] R. Isaac said, If they were those who bore the coffin of Joseph, they[2] had time to cleanse themselves [before Passover,][3] and if they were Mishael and Elzaphan they could [also] have cleansed themselves [before the Passover].[4] But it was those who were occupied with a meth mizwah,[5] the seventh day [of whose purification] coincided with the eve of Passover, as it is said, They could not keep the Passover on that day,[6] on ‘that’ day they could not keep the Passover, but on the morrow they could?[7] — [Both texts][8] are necessary. For if he had only informed us of the former,[6] I would have said [that they[9] were free from the obligation there] because the time of the obligation of the Passover had not yet come,[10] but not here[11] where the time of the reading of the Shema’ had come,[12] [therefore] it was necessary [to have the latter].[13] And if he had informed us of the latter[13] only, I would have said [that one is exempt here] because this does not involve kareth,[14] but not there,[6] where it[15] involves kareth [therefore the former[6] also was] necessary.

[Reverting to] the main text: ‘R. Abba b. Zabda said in the name of Rab, A mourner is bound by all the commandments of the Torah with the sole exception of that of tefillin since the word "beauty"[16] is applied to them’.[17] Since the All Merciful said to Ezekiel,[18] Bind thy beauty[19] upon thee,[16] the implication[20] must be, ‘Thou art under this obligation,[21] but other people[22] are free.’ This,[23] however, applies only to the first day,[24] since of that day it is written, And the end thereof as a bitter day.[25]

R. Abba b. Zabda also said in the name of Rab, A mourner is bound by the obligation of Sukkah. Is not this obvious?[26] — I might have said that since R. Abba b. Zabda said in the name of Rab that he who is in discomfort is free from the obligation of Sukkah, this [mourner should be exempt] since he also is in discomfort, therefore he informs us that this[27] applies only to discomfort over which one has no control,[28] but [not to that experienced by a mourner]; since it is he himself who is the cause of his discomfort, it is incumbent upon him to compose his mind.[29]

R. Abba b. Zabda also said in the name of Rab, A bridegroom and the shoshbins,[30] and all the wedding guests[31] are free from the obligation of Sukkah all the seven days.[32] What is the reason? Because they have to rejoice. But let them eat in the Sukkah and rejoice in the Sukkah? — There is no proper rejoicing[33] but under the wedding canopy.[34] But let them eat in the Sukkah and rejoice under the canopy? — There can be no real rejoicing except where the banquet is held. But why should they not put up a canopy in the Sukkah? — Abaye says, [This is impossible] because [of the possibility] of privacy[35] and Raba said, Because of the discomfort of the bridegroom.[36] What practical difference is there between them?[37] — The practical difference between them emerges where people are in the habit of going in and out of there. According to the view of privacy, the restriction does not apply; according to the view of discomfort, it does. R. Zera[38] said, I had the banquet in the Sukkah and rejoiced under the canopy and my heart rejoiced all the more since I was fulfilling two [commandments].[39]

Our Rabbis have taught, The bridegroom, and the shoshbins and all the wedding guests are free from the obligations of prayer[40] and tefllin,[41] but are bound to read the Shema'.[42]

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(1) Cf. Lev. X, 4ff.

(2) Since they did not carry it for ten months (cf. Rashi for proof).

(3) And could not consequently have been described as 'could not keep the Passover' (Num. IX, 6). Cf. following note.

(4) Since Nadab and Abihu died on the first of Nisan which was the eighth day of consecration (cf. Lev. IX and X and Shab. 87b) and, according to Rabbinic tradition, Eleazar the Priest prepared the ashes of the Red Heifer (Num. XIX) on the second day of Nisan in order to enable those who had come into contact with a dead body to be duly cleansed before the Passover. Cf. prev. n.

(5) Lit., '(the burial of) the dead (as a) commandment'. Generally denoting one who has no relatives to occupy themselves with his burial. Here understood to include the one dead who is a near relative (Rashi).

(6) Num. IX, 6.

(7) Now these men, though they well knew that their attendance to the dead would prevent them from celebrating the Passover at the proper time, nevertheless performed the former and were in consequence exempt from the latter. Similarly in the case of all other religious duties one engaged in the performance of one is exempt from any other. What need then was there for a similar deduction from Deut. VI, 7?

(8) That of Num. as well as that of Deut.

(9) The men who were unclean.

(10) When they attended to the dead.

(11) The case of Shema'.

(12) While he is still under the bridal canopy.

(13) Deut. VI, 7.

(14) V. Glos.

(15) The failure to prepare the Paschal lamb.

(16) Ezek. XXIV, 17.

(17) Cf. supra p. 108, n. 2.

(18) Who was in mourning (cf. Ezek. XXIV, 16ff).

(19) E.V. 'headline'.

(20) Emphasis on 'thy' and 'thee'.

(21) Of putting on the tefillin.

(22) Who are in mourning.

(23) The exemption from tefillin.

(24) Of the mourning.

(25) Amos VIII, 10. The beginning of the verse is 'And I will make it as the mourning for an only son'. Since 'day' in the sing. is used it follows that actual mourning is limited to one day.

(26) Since he is under the obligation of observing all other religious duties (as stated supra) that of Sukkah is obviously included.

(27) R. Abba's ruling.

(28) I.e., discomfort caused by the condition of the Sukkah, as, e.g., cold or heat.

(29) And thus fit himself for the performance of the religious duty of Sukkah.

(30) The bridegroom's best man. V. Glos.

(31) [בני החפה Lit., ‘the sons of the bridal-chamber’, denoting more strictly the friends of the bridegroom who prepared for him the bridal-chamber and attended on him at the wedding. V. Mann, J., HUCA I, p. 335.]
(32) Of the wedding festivities.
(33) Of a bridegroom.
(34) Huppah, v. Glos.
(35) The bridegroom had to be alone with his bride in a room after the ceremony as a symbol of conjugality. The Sukkah being usually made on a roof (v. infra p. 115 n. 12) which is frequented by very few people, might afford an opportunity for a stranger to enter it during a temporary and unavoidable absence of the bridegroom.
(36) As a Sukkah need not have more than three walls the canopy in it is too much exposed for the convenient display of his affections.
(37) Abaye and Raba.
(38) Who married on the eve of the festival. During a festival no marriages are allowed (M.K. 8b).
(39) Those of Sukkah and marriage.
(40) Which requires concentration, an effort they are unable to make.
(41) On account of possible drunkenness and levity attendant on festivities.
(42) The first verse of which only requires concentration. For such a short while one is assumed to be able to make the effort.

Talmud - Mas. Sukkah 26a

In the name of R. Shila they said, The bridegroom[1] is free from, but the shoshbins and the wedding guests are subject to the obligation.[2]

It has been taught: R. Hanania b. Akabya said, Scribes of books of the Law, tefillin and mezuzoth, their agents and their agents’ agents, and all who are engaged in holy work[3] including sellers of blue[4] are free from the obligation of prayer and tefillin and all the commandments mentioned in the Torah. This confirms the words of R. Jose the Galilean who laid down: He who is occupied with the performance of a religious duty is [at that time] free from the fulfilment of other religious duties.

Our Rabbis taught, Day travellers are free from the obligation of Sukkah by day[5] but are bound to it at night. Night travellers are free from the obligation of Sukkah at night,[6] but are bound to it by day. Travellers by day and night are free from the obligation both day and night.[6] Those who are on a religious errand[7] are free both by day and by night,[8] as in the case of R.Hisda and Rabbah son of R. Huna who, when visiting on the Sabbath of the Festival the house of the Exilarch,[9] slept on the river bank of Sura,[10] saying, ‘We are engaged on a religious errand[11] and are [therefore] free [from the obligation of Sukkah]’.

Our Rabbis taught, The day watchmen of a town are free from the obligation of Sukkah by day[12] and bound to it at night; the night watchmen are free by night[12] and bound by day, the day and night watchmen are free both by day and at night.[12] Keepers of gardens and orchards[13] are free both by day and by night — But why should they not make a Sukkah there and sit in it? — Abaye said, ‘Ye shall dwell’[14] [implies] just as you normally dwell.[15] Raba said, ‘The breach invites the thief’.[16] What practical difference is there between them?[17] — The practical difference [emerges] where one is guarding a pile of fruit.[18]

INVALIDS AND THEIR ATTENDANTS. Our Rabbis taught, The invalid spoken of here is not [only] an invalid who is in danger, but also one who is not in danger, even one who suffers from eyeache or headache. R. Simeon b. Gamaliel said, On one occasion I was suffering with my eyes in Caesarea and R. Jose Berebi[19] permitted me and my attendants to sleep outside the Sukkah. Rab permitted R. Aha Bardela to sleep in a tester-bed[20] In a Sukkah in order [to shut out] the gnats. Raba permitted R. Aha b. Adda to sleep outside the Sukkah on account of the odour of the day.[21] Raba is here consistent, since Raba said, He who is in discomfort[22] is free from the obligation of Sukkah.

But have we not learnt: INVALIDS AND THEIR ATTENDANTS ARE FREE FROM THE OBLIGATION OF SUKKAH, [from which it follows,] only an invalid[23] but not one who is merely in discomfort? — I will explain: An invalid is free together with his attendants, whereas he who is in discomfort is himself free, but not his attendants.

CASUAL EATING AND DRINKING ARE PERMITTED OUTSIDE THE SUKKAH. What constitutes a casual meal? — R. Joseph said, [The volume of] two or three eggs. Abaye said to him: But sometimes this suffices for [a whole meal for] a man, why then should this not constitute a set meal? Rather, said Abaye, [a small quantity] only as much as a student tastes before proceeding to the college assembly.[24]

Our Rabbis taught, Casual eating is permitted outside the Sukkah, but not casual sleeping.[25] What is the reason? — R. Ashi[26] said, We fear lest the person fall into a deep slumber. Abaye said to him, With reference, however, to that which has been taught, ‘A man may indulge in casual sleep while wearing his tefillin, but not in regular sleep’, why do we not[27] fear lest he fall into a deep slumber? — R. Joseph the son of R. Ila'i said, [The latter refers to where] the person entrusts others [with the task of waking him from his] sleep. R. Mesharsheya demurred: Does not ‘Your guarantor need a guarantor ?[28] — Rather, said Rabbah b. Bar Hana in the name of R. Johanan, This refers to where the person puts his head between his knees.[29] Raba[30] said, [In the case of Sukkah the question of] regularity in sleep does not arise.[31] One [Baraitha] teaches, A man may indulge in a casual sleep in his tefillin but not in regular sleep, and another [Baraitha] taught, Whether a casual sleep or regular sleep [is permitted] while a third Baraitha taught, Neither a casual sleep nor a regular sleep [is allowed]![32] — There is no difficulty: The last refers to where he holds them in his hand,[33] the first one to where they rest on his head,[34] while the second refers to where he spreads a cloth over them.[35]

What constitutes a casual sleep? — Rami b. Ezekiel taught, [Sleeping during the time] it takes to walk one hundred cubits. It has also been taught so: He who sleeps in tefillin and [on waking] observes an issue of semen,[36] should seize hold of the strap[37]

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(1) Whose mind is pre-occupied.

(2) These authorities do not uphold the rule that one engaged in the performance of one's religious duty is at that time exempt from all other duties.

(3) Lit., ‘work of heaven’.

(4) For zizith.

(5) Since one is to live in the Sukkah as in a house. As a day traveller does not use his house during the day so need he not use his Sukkah.

(6) Cf. prev. n. mut. mut.

(7) Though they travel in the daytime only.

(8) Because their minds are pre-occupied with their religious errand in all its phases.

(9) [MS.M.: ‘When they went up for the Sabbath of the Festival of the Exilarch’. During the third century whilst the Exilarch had his seat at Nehardea, a special celebration in honour of the Exilarch was held annually on the Sabbath of Sukkoth,שבת דרגלא which was attended by scholars of all districts. v. Obermeyer p. 292 who strangely enough does not give the reading of MS.M.]

(10) [According to Obermeyer's interpretation of the passage (v. preceding note), this refers to their outward journey. The caravan which R. Hisda and Rabbah b. R. Huna joined for their journey from Sura, which was their home, to Nehardea (a distance of one hundred and ten km.), set out as was usual very early in the morning, even before the break of dawn, so that they in common with other travellers, in order to be ready for the departure, had to spend the preceding night outside the town, near the river bank of Sura].

(11) The visit to the Exilarch and the attendance at his discourse.

(12) Cf. p. III, n. 9 mut. mut.

(13) Who must always be at their posts.

(14) Lev. XXIII, 42.

(15) Infra 27a. As it is practically impossible for an ordinary person to furnish a Sukkah in gardens or orchards, which are away from one's home, in the manner a house is normally furnished, the watchmen of such places were granted exemption from Sukkah.
(16) A proverb. The knowledge that the watchman is within the Sukkah will give the thief his opportunity.
(17) Abaye and Raba.
(18) According to Raba such a man must live in a Sukkah since it is possible to watch the pile through the Sukkah door.
(19) A title of honour given to Sages. v. Nazir, Sonc. ed., p. 64, n. 1. Here it is R. Jose b. Halafta.
(20) Which is ten handbreadths high and has a roof and is ordinarily forbidden. V. supra.
(21) With which the floor of the Sukkah was covered.
(22) On account of conditions in the Sukkah.
(23) Is exempt.
(24) Kallah v. Glos.
(25) A doze.
(26) R. Ashi I, a contemporary of Abaye.
(27) As in the case of Sukkah.
(28) Git. 28b; i.e., the person who is asked to wake him might himself fall asleep.
(29) In which position sound sleep is impossible.
(30) Maintaining that there is no need to provide against the possibility of one's falling from a doze into a regular sleep.
(31) I.e., a doze and sound sleep are equally forbidden, since the former may be as satisfying as the latter. Hence the prohibition outside the Sukkah of even a doze. With tefillin, however, the reason why sleep is forbidden is lest one eructate, and there is no fear of this in a doze.
(32) How are these to be reconciled?
(33) In which case he may not even doze, lest they fall to the ground.
(34) In which case we fear for eructation which is likely during sound sleep, but not when one is only dozing.
(35) While they lie under his pillow.
(36) When, owing to his defilement, it is his duty to remove the tefillin from his head.
(37) Of the tefillin.

Talmud - Mas. Sukkah 26b

but not of the capsule; these are the words of R. Jacob; but the Sages say, A man may indulge in a casual sleep in his tefillin but not in a regular sleep, and what constitutes a casual sleep? [Sleeping during the time] it takes to walk one hundred cubits.

Rab said, It is forbidden to a man to sleep by day[1] more than the sleep of a horse. And what is the sleep of a horse? Sixty respirations. Abaye said, The sleep of the Master[2] is as that of Rab, and that of Rab as that of Rabbi[3] and that of Rabbi as of David,[4] and that of David as of a horse, and that of a horse is sixty respirations.

Abaye slept [by day] as long as it takes to go up from Pumbeditha to Be Kube.[5] R. Joseph applied to him the verse, How long wilt thou sleep, O sluggard, when wilt thou arise out of thy sleep.[6]

Our Rabbis taught, He who wishes to go to sleep by day, he may, if he desires, remove [his tefillin] and he may if he so desires, put them on.[7] At night, he may not put them on but must remove them;[8] these are the words of R. Nathan. R. Jose said, Youths[9] must always[10] remove them and never[9] put them on, since ritual uncleanliness[11] is of frequent occurrence with them. Must we then say that R. Jose is of the opinion that a man who has an issue of semen[12] may not don his tefillin?[13] — Abaye answered, We are dealing here with the case of young men in the company of their wives, [upon whom the restriction was imposed] lest they proceed to familiar practice.[14]

Our Rabbis taught: If he forgot and had sexual intercourse in his tefillin he should not seize hold either of a strap[15] or of a capsule[15] until he wash his hands to take them off, since hands touch things automatically.[16]

MISHNAH. IT ONCE HAPPENED THAT THEY BROUGHT COOKED FOOD TO R. JOHANAN B. ZAKKAI TO TASTE, AND TWO DATES AND A PAIL OF WATER TO R. GAMALIEL AND THEY SAID, ‘BRING THEM UP TO THE SUKKAH’.[17] BUT WHEN THEY GAVE TO R. ZADOK FOOD LESS THAN THE BULK OF AN EGG,[18] HE TOOK IT IN A TOWEL,[19] ATE IT OUTSIDE THE SUKKAH AND DID NOT SAY THE BENEDICTION AFTER IT.[20] GEMARA. Does not the incident[21] come as a contradiction.[22] There is a lacuna, and it should be taught thus: But if he wishes to be strict with himself, he may do so, and it does not constitute presumption, and so it also happened that THEY BROUGHT COOKED FOOD TO R. JOHANAN B. ZAKKAI TO TASTE, AND TWO DATES AND A PAIL OF WATER TO R. GAMALIEL

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(1) ‘When it is one's duty to study the Torah.

(2) Rabbah b. Nahmani.

(3) R. Judah ha-Nasi I, his teacher.

(4) The duration of whose sleep was known to Rabbi by tradition.

(5) A place about two hours’ walking distance north of Pumbeditha, v. Obermeyer, p. 230.

(6) Prov. VI, 9.

(7) Since during day time one is not likely to indulge in regular sleep.

(8) Even if he only desire to doze.

(9) If they intend to sleep.

(10) Even in the day time.

(11) Caused, it is now assumed, by semen.

(12) Cf. prev. n.

(13) But if this were so, and since the halachah is always in agreement with R. Jose (cf. Git. 67b), why does not the halachah agree with this ruling?

(14) A levity which could not be allowed while a man wears his tefillin.

(15) Of the tefillin.

(16) Lit., ‘constantly busy’, and may, therefore, have touched an unclean spot.

(17) As they were of the opinion that one may not partake of anything casually outside the Sukkah. [The Sukkah was, as was usual, built on the flat roof of the house, hence the phrase ‘bring them up’.]

(18) A quantity which in his opinion may be eaten without previous washing of one's hands.

(19) To avoid touching it with his unwashed hands.

(20) R. Zadok is of the opinion that the benediction after the meal, and eating in a Sukkah apply only to a full meal in agreement with R. Judah's interpretation of Deut. VIII, 10 (cf. Ber. 49a).

(21) Recorded in our Mishnah.

(22) To the previous Mishnah where casual eating is permitted outside a Sukkah,

Talmud - Mas. Sukkah 27a

AND THEY SAID, ‘BRING THEM UP TO THE SUKKAH’, BUT WHEN THEY GAVE TO R. ZADOK FOOD LESS THAN THE BULK OF AN EGG, HE TOOK IT IN A TOWEL, ATE IT OUTSIDE THE SUKKAH, AND DID NOT SAY THE BENEDICTION AFTER IT.

But if it was the bulk of an egg, must he needs [eat it in] the Sukkah? Should we say that this is a refutation of R. Joseph and Abaye?[1] — Perhaps [it means that] less than the bulk of an egg does not necessitate washing of the hands[2] and the benediction,[3] but if it was the bulk of an egg, it necessitates washing of the hands and the benediction.[4]

MISHNAH. R. ELIEZER SAID, A MAN IS OBLIGED TO EAT FOURTEEN MEALS IN THE SUKKAH,[5] ONE ON EACH DAY AND ONE ON EACH NIGHT. THE SAGES HOWEVER SAY, THERE IS NO FIXED NUMBER[6] EXCEPT ON THE FIRST NIGHT OF THE FESTIVAL

ALONE.[7] R. ELIEZER SAID IN ADDITION, IF A MAN DID NOT EAT IN THE SUKKAH ON THE FIRST NIGHT OF THE FESTIVAL, HE MAY MAKE UP FOR IT ON THE LAST NIGHT OF THE FESTIVAL,[8] WHILE THE SAGES SAY, THERE IS NO COMPENSATION FOR THIS, AND OF THIS WAS IT SAID: THAT WHICH IS CROOKED CANNOT BE MADE STRAIGHT, AND THAT WHICH IS WANTING CANNOT BE NUMBERED.[9]

GEMARA. What is the reason of R. Eliezer? — Ye shall dwell[10] implies just as you normally dwell. As in a [normal] abode [a man has] one [meal] by day and one by night, so in the Sukkah [he must have] one meal by day and one by night. And the Rabbis?[11] — [They say that the implication[10] is] like an abode. Just as in an abode a man eats if he desires and if he does not so desire he does not eat, so also with the Sukkah; if he desires he eats, and if he does not so desire he does not eat. But if so, [why should he not have the option] on the first night of the Festival also? R. Johanan answered in the name of R. Simeon b. Jehozadak, With regard to Sukkah it says, The fifteenth,[12] and with regard to the Festival of Passover it says, The fifteenth.[13] Just as there[14] the first night only is obligatory[15] but from then on it is optional,[16] so here also the first night is obligatory,[17] but from then on it is optional. And in the case of Passover whence do we know?[18] -Since the verse says, At evening ye shall eat unleavened bread;[19] Scripture thus establishes it[20] as an obligation.

R. ELIEZER SAID IN ADDITION. But did not R. Eliezer say that A MAN IS OBLIGED TO EAT FOURTEEN MEALS IN THE SUKKAH, ONE ON EACH DAY AND ONE ON EACH NIGHT?[21] -Bira answered in the name of R. Ammi, R. Eliezer recanted [of his previous statement]. With what does one make up for it?[22] If you will say with bread,[23] is not one merely eating the [obligatory] meal of the festival day?[24] — The fact is that by ‘make up is meant that one should make up with various kinds of desert.[25] So it has also been taught:[26] If he made up [for a meal he has missed] with various kinds of desert he fulfilled his obligation.[27]

The major domo of King Agrippa[28] asked R. Eliezer, [A man] such as I am, who eat but one meal a day, may I eat one meal [in the Sukkah] and be free [of my obligation]? He answered him, Every day you draw out [the meal] with all kinds of dainties for your own honour, and now you cannot add one dainty for the honour of your Creator? He also asked him, [A man] such as I who have two wives, one in Tiberias and one in Sepphoris, and two Sukkahs, one in Tiberias and one in Sepphoris, may I go from one Sukkah to the other and[29] thus be free from my obligation? He answered him, No! For I say that he who goes from one Sukkah to another annuls the ‘mizwah[30] of the first.

It has been taught: R. Eliezer says,

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(1) Who respectively say (supra 26a) that casual eating is two or three eggs and the bulk of an egg, the quantity a student eats before proceeding to college.

(2) Before eating it.

(3) After it has been eaten.

(4) But not Sukkah, the prescribed minimum for which is either that given by R. Joseph or Abaye.

(5) During the seven days of the festival.

(6) Sc. one need not eat even one meal in the Sukkah if one desires to fast throughout the seven days.

(7) When one must eat a meal in the Sukkah.

(8) Which is the Eighth Day of Solemn Assembly, though on that day the obligation of Sukkah no longer applies. (This will be discussed in the Gemara).

(9) Eccl. I, 15.

(10) Lev. XXIII, 42, dealing with the Sukkah.

(11) THE SAGES, sc. how can they maintain their view against this exposition.

(12) Lev. XXIII, 39.

(13) Ibid. 6.

(14) Passover.

(15) For eating unleavened bread.
(16) V. Pes. 120a.
(17) To eat in the Sukkah.
(18) That the obligation applies at least to the first night.
(19) Ex. XII, 18.
(20) Eating on the first evening.
(21) And since the last day is not subject to the obligation, and any person sitting in the Sukkah on that day in fulfilment of the commandment is guilty of adding to the commandments, how can that day compensate for the first?
(22) The meal of the first evening.
(23) Sc. one's ordinary meal.
(24) How then could it also serve as compensation?
(25) Which form no essential part of the usual festival meal.
(26) That even desert may be regarded as a compensating meal.
(27) Much more so, of course, if he did it with a proper meal of bread and meat.
(28) [Agrippa II; the major domo, epitropos, is identified with Joseph b. Simai mentioned in Shab. 121b. V. Graetz, MGWJ. XIII 1881, p. 484 and Klein, Beitrage p. 66 n. 1.]
(29) Though other people must use the same Sukkah throughout the seven days (v. infra).
(30) The good deed performed by obeying the commandment to dwell in a Sukkah.

Talmud - Mas. Sukkah 27b

One may not go from one Sukkah to another,[1] nor may one[2] make a Sukkah during the Intermediate Days of the Festival, while the Sages say, One may go from one Sukkah to another, and one may make a Sukkah during the Intermediate Days of the Festival; but both of them are in accord that if it fall down, one[3] may re-erect it during the Intermediate Days.

What is the reason of R. Eliezer? — Scripture says, Thou shalt keep the Feast of Sukkah for seven days,[4] [which implies,] make a Sukkah which shall be fit for seven days.[5] And the Rabbis?[6] -This is what the Divine Law means: Make a Sukkah for the Festival. ‘But both of them are in accord that if it fall down one may re-erect it during the Intermediate Days’ — But is not this obvious?[7] — I would have said that this[8] is [deemed to be] another [Sukkah] and is [thus] not one for seven days, therefore he informs us [that we do not say so].[9]

It has been taught: R. Eliezer said, Just as a man cannot fulfil his obligation on the first day of the Festival[10] with the palm-branch of his fellow, since it is written, And ye shall take to you on the first day the fruit of goodly trees, branches of palm-trees[11] i.e., from your own, so cannot a man fulfil his obligation with a Sukkah of his fellow, since it is written, The festival of Sukkoth thou shalt keep to thee for seven days.[12] I.e., of thine own. The Sages, however, say, Although they[13] said that a man cannot fulfil his obligation on the first day of the Festival[10] with the palm-branch of his fellow, he may nevertheless fulfil his obligation with the Sukkah of his fellow, since it is written, All that are homeborn, in Israel shall dwell in Sukkoth,[14] which teaches that all Israel are able to sit in one Sukkah.[15] And how do the Rabbis[16] interpret the words ‘to thee’?[12] — It is needed to exclude a stolen [Sukkah]; but as to a borrowed one, It is written, ‘All that are homeborn’ etc.[14] And what does R. Eliezer do with, ‘All that are homeborn’?[14] — It is needed [to include] a convert who had become converted in the meantime[17] or a minor who had attained his majority in the meantime.[18] And the Rabbis?[19] — Since they say that a man[20] may make a Sukkah during the Intermediate Days of the Festival no [special] verse is needed [for converts and minors].[21]

Our Rabbis have taught: It once happened that R. Ila'i went to pay his respects to R. Eliezer his master in Lydda[22] on a Festival.[23] He[24] said to him, ‘Ila'i, you are not of those that rest on the Festival’,[25] for R. Eliezer used to say, ‘I praise the indolent who do not emerge from their houses on the Festival[26] since it is written, And thou shalt rejoice, thou and thy household’.[27] But it is not so?

For did not R. Isaac say, Whence do we know that a man is obliged to pay his respects to his teacher on the Festival? From Scripture which said, Wherefore wilt thou go to him to-day? It is neither New Moon nor Sabbath[28] from which it follows that on the New Moon[29] and the Sabbath a man is obliged to pay his respects to his master?'[30] — There is no difficulty. The latter refers to where he can go and return [to his house] on the one day;[31] the former to where he cannot go and return on the same day.[32] Our Rabbis have taught: It happened that R. Eliezer passed the Sabbath[33] in Upper Galilee in the Sukkah of R. Johanan son of R. Ila'i at Caesarea or, as some say, in Caesarea [Philippi],[34] and when the sun reached the Sukkah he said to him,[35] 'How if I spread a cloth over it?'[36] He answered him, 'There was not a tribe in Israel which did not produce a judge'.[37] When the sun reached to the middle of the Sukkah, he said to him, 'How if I spread a cloth over it?' He answered him, 'There was not a tribe in Israel from which there did not come prophets, and the tribes of Judah and Benjamin appointed their kings at the behest of the prophets'.[38] When the sun reached the feet of R. Eliezer,[39] Johanan took a cloth and spread it over [the Sukkah]. R. Eliezer [thereupon] tied up his cloak, threw it over his back, and went out.[40] It was not in order to evade an answer [that he answered as he did] but because he never said anything which he had not heard from his master.

How did R. Eliezer act thus?[41] Did not R. Eliezer say, One may not go from one Sukkah to another?[42] — It was on another Festival.[43] But did not R. Eliezer say, I praise the indolent who do not leave their houses on the Festival? — It was an ordinary Sabbath.

But could he not deduce [the answer][44] from his own[45] statement, since we have learnt: One may shut a window[46] with a window-shutter if it is fastened or hung [on the window-frame],[47] but if not, one may not shut a window with it; but the Sages say, In either case one may shut the window with it?[48]

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(1) Sc. to eat in one and sleep in the other or to use one on one day and the other on the next.

(2) Who did not dwell in a Sukkah on the first day.

(3) Who fulfilled his duty in it in the earlier day or days.

(4) Deut. XVI, 13.

(5) One made during the Intermediate Days is obviously for less than 'seven days' as is one that is forsaken before the seven days are over.

(6) How can they maintain their view against this exposition?

(7) Since the Sukkah was originally put up for the full seven days.

(8) Since it is put up again during the Intermediate Days.

(9) Because the repaired Sukkah is merely the continuation of the original one which was duly intended for the full seven days.

(10) Of Tabernacles.

(11) Lev. XXIII, 40.

(12) This is the literal translation of Deut. XVI, 13 quoted supra.

(13) The Rabbis who preceded them.

(14) Lev. XXIII, 42.

(15) Now, the contribution each Israelite could possibly make towards the cost of such a common Sukkah would inevitably amount to less than a perutah which legally acquires nothing, so that each could use the Sukkah only by borrowing it from the others.

(16) The Sages.

(17) I.e., between the first and the last days of the Festival.

(18) They are obliged to make for themselves a Sukkah in which to dwell from that time to the end of the Festival, even although an ordinary Israelite, according to R. Eliezer supra, must make a Sukkah after the Festival has begun.

(19) Who use this text supra for another deduction, whence do they deduce the law just mentioned?

(20) Even an ordinary Jew whose duty it was to make the Sukkah prior to the Festival.

(21) Whose case may be inferred a minori ad majus.

(22) R. Eliezer b. Hyrcanus who conducted his own academy at Lydda for many years. V. Sanh. 36b.

(23) I.e., set out on the eve of the Festival in order to be with his Master on the first day of the Festival.
(24) The Master.
(25) Sc. those who spend it at home in the company of their wives.
(26) Though their sole reason for staying at home is their indolence.
(27) Deut. XIV, 26. This verse does not, as a matter of fact, refer to a Festival but to the second tithe. Tosaf. (Pes. 109a) suggests an analogy between this verse and Deut. XVI, 14, the import of each being the same, but the former is quoted since it mentions the word ‘house’ (i.e., ‘wife’) specifically.
(28) 11 Kings IV, 23. The reference is to the Shunamite woman and Elisha.
(29) Sc. a Festival.
(30) V. R.H., Sonc. ed., p. 62, n. 12. Now how are the two statements to be reconciled?
(31) As his wife would thus have his company for a part of the day he must also pay his respects to his teacher.
(32) His duty to his wife overrides his duty to his teacher as far as a visit to him on a Festival is concerned.
(33) Of Tabernacles.
(34) There were two Caesareas in N. Palestine, distinguished by their spelling.
(35) Johanan to R. Eliezer.
(36) So as to provide more shade. The point of his question was whether the spreading of the cloth is regarded as the extension of a temporary tent which is forbidden on the Sabbath.
(37) He turned to another topic, since, as explained infra, he never gave a decision which had not been handed down. R. Eliezer's outstanding characteristic was his rigid conservatism.
(38) Saul and David, for instance, were appointed by Samuel. Cf. prev. n.
(39) As the sun climbed the sky, its rays penetrated more and more into the Sukkah.
(40) In order to avoid responsibility for Johanan's action (cf. supra n. 4).
(41) Dwell in another person's Sukkah on the Festival.
(42) How then could he leave his own Sukkah in Lydda (cf. Sanh. 32b) for that of Johanan at Caesarea?
(43) Not Tabernacles. They sat in the Sukkah for convenience.
(44) To Johanan's enquiry.
(45) R. Eliezer's.
(46) On the Sabbath.
(47) Because in that case it is regarded as a part of the window and its closure constitutes neither ‘building’ nor an addition to a building.
(48) Shab. XVII, 7. Now since the question was whether spreading the cloth over the Sukkah would be regarded as adding to it on the Sabbath why did not it, Eliezer deduce from this analogous case that the answer was in the affirmative?

Talmud - Mas. Sukkah 28a

— [No.] In the latter case[1] it is [forbidden] since he destroys its identity,[2] but in the former where he does not,[3] the law is not so.[4]

Our Rabbis have taught: It happened that R. Eliezer passed the Sabbath in Upper Galilee, and they asked him for thirty decisions in the laws of Sukkah. Of twelve of these he said, ‘I heard them [from my teachers]’; of eighteen he said, ‘I have not heard’. R. Jose b. Judah said, Reverse the words: Of eighteen he said, ‘I have heard them’, of twelve he said, ‘I have not heard them’. They said to him,’Are all your words only reproductions of what you have heard?’ He answered them, ‘You wished to force me to say something which I have not heard from my teachers. During all my life [I may tell you] no man was earlier than myself in the college, I never slept or dozed in the college, nor did I ever leave a person in the college when I went out, nor did I ever utter profane speech, nor have I ever in my life said a thing which I did not hear from my teachers’.

They said concerning R. Johanan b. Zakkai that during his whole life he never uttered profane talk, nor walked four cubits without [studying the] Torah or without tefillin, nor was any man earlier than he in the college, nor did he sleep or doze in the college, nor did he meditate[5] in filthy alleyways, nor did he leave anyone in the college when he went out, nor did anyone ever find him sitting in silence, but only sitting and learning, and no one but himself ever opened the door to his disciples, he never in his life said anything which he had not heard from his teacher, and, except on the eve of Passover[6] and on the eve of the Day of Atonement,[7] he never said, ‘It is time to arise from the studies at the college’; and so did his disciple R. Eliezer conduct himself after him.

Our Rabbis have taught: Hillel the Elder had eighty disciples, thirty of whom were worthy of the Divine Spirit resting upon them, as [it did upon] Moses our Master, thirty of whom were worthy that the sun should stand still for them [as it did for] Joshua the son of Nun,[8] [and the remaining] twenty were ordinary. The greatest[9] of them was Jonathan b. Uzziel,[10] the smallest[11] of them was Johanan b. Zakkai. They said of R. Johanan b. Zakkai that he did not leave [unstudied] Scripture, Mishnah, Gemara,[12] Halachah,[13] Aggada,[14] details of the Torah,[15] details of the Scribes,[16] inferences a minori ad majus, analogies,[17] calendrical computations[18] gematrias,[19] the speech of the Ministering Angels, the speech of spirits,[20] and the speech of palm-trees,[21] fullers’ parables[22] and fox fables,[23] great matters or small matters; ‘Great matters’ mean the Ma'aseh merkabah,[24] ‘small matters’ the discussions of Abaye and Raba;[25] in order to fulfil what is said, That I may cause those that love me to inherit substance, and that I may fill their treasuries.[26] And if the smallest of them was so great, how much more so was the greatest? They said of Jonathan b. Uzziel that when he used to sit and occupy himself with the study of the Torah, every bird that flew above him was immediately burnt.

MISHNAH. IF A MAN'S HEAD AND THE GREATER PART OF HIS BODY WERE WITHIN THE SUKKAH AND HIS TABLE WITHIN THE HOUSE,[27] BETH SHAMMAI DECLARE IT INVALID AND BETH HILLEL DECLARE IT VALID. BETH HILLEL SAID TO BETH SHAMMAI, DID IT NOT IN FACT HAPPEN THAT THE ELDERS OF BETH SHAMMAI AND THE ELDERS OF BETH HILLEL WENT TO VISIT R. JOHANAN B. HA-HORONITH AND FOUND HIM SITTING WITH HIS HEAD AND THE GREATER PART OF HIS BODY WITHIN THE SUKKAH AND HIS TABLE WITHIN THE HOUSE, AND THEY SAID NAUGHT TO HIM?[28] BETH SHAMMAI ANSWERED, IS THAT A PROOF? INDEED THEY SAID TO HIM, IF YOU HAVE SO CONDUCTED YOURSELF, YOU HAVE NEVER IN YOUR LIFE FULFILLED THE LAW OF THE SUKKAH.

WOMEN, SLAVES AND MINORS ARE FREE FROM THE OBLIGATION OF SUKKAH, BUT A MINOR WHO IS NOT DEPENDENT ON HIS MOTHER IS BOUND BY THE LAW OF SUKKAH. IT ONCE HAPPENED THAT THE DAUGHTER-IN-LAW OF SHAMMAI THE ELDER GAVE BIRTH TO A CHILD,[29] AND HE BROKE AWAY THE PLASTER OF THE ROOF AND PUT SUKKAH-COVERING OVER THE BED FOR THE SAKE OF THE CHIld. GEMARA. Whence do we know this?[30] For our Rabbis taught: [If Scripture had said] ‘homeborn’ [it would have included] every homeborn, [but since it says] ‘the homeborn’[31] it excludes women. ‘Every’ includes minors.

The Master has said: ‘The homeborn’ excludes women. Does that mean that ‘homeborn’ implies both men and women? But has it not been taught: ‘The homeborn’[32] includes the homeborn women that they must fulfil the law of afflicting themselves, which shows that ‘homeborn’[33] implies men [only]? — Rabbah answered, They[34] are traditional laws[35] but the Rabbis applied a Scriptural verse to them. Which[36] is based on a Scriptural verse and which on a traditional law? And, moreover, what is the necessity for a Scriptural verse or for a traditional law?[37] Is not a Sukkah a positive commandment dependent upon a fixed time [for its fulfilment], and are not women exempt from every positive commandment which depends upon a fixed time [for its fulfilment]? As to the Day of Atonement [also][38] can it not be derived from [the statement] Rab Judah made in the name of Rab, for Rab Judah citing Rab stated and so the school of R. Ishmael taught, As Scripture says, Man or woman[39]

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(1) That of the window-shutter.
(2) I.e., the identity of the shutter is lost to the window. The act of closing must, therefore, be regarded as ‘building’.
(3) Since the cloth would not be allowed to remain in the Sukkah.
(4) The window-shutter becomes part of the frame, but the cover does not become part of the Sukkah. The spread of the latter, therefore, need not necessarily be regarded as building.
(5) His studies or other sacred subjects.
(6) When it was necessary to hurry home to the Passover meal for the sake of the children who might otherwise fall asleep (cf. Pes. 109a).
(7) When the last meal of the day had to be eaten early before the fast began.
(8) Cf. Josh. X, 12f.
(9) Or ‘eldest’, but the following statement suggests ‘the greatest’.
(10) According to Meg. 3a, he wrote a Targum to the Prophets, and wished to translate the Hagiographa, but was prevented. The extant Targum to the Prophets is pseudo-Jonathan.
(11) Or ‘the youngest’.
(12) Explanations of the Mishnah.
(13) Decisions of law.
(14) The non-halachic part of Talmud, including homiletics, ethics, folk-lore, legends etc.
(15) The minute details and subtle points in Biblical exposition.
(16) Similarly of Rabbinical enactments.
(17) The second of the thirteen hermeneutical principles of R. Ishmael.
(18) The calculations of the solstice etc.
(19) Laws derived from the numerical equivalents and other numerical computations of letters.
(20) Usually evil spirits, demons.
(21) Rashi professes ignorance of this. Hai Gaon writes in a responsum that on a windless day, if a man stand between two palms and observe how they incline to one another, signs can be deduced which afford information. The Gaon Abraham Kobasi d. 828, was a proficient interpreter of ‘the speech of palms’.
(22) The fuller is a well-known figure in Roman comedy.
(23) R. Meir was an adept in fox fables.
(24) Esoteric speculation based on Ezek. I
(25) They lived much after Johanan b. Zakkai. Rashbam suggests that their forte was the harmonizing of Mishnah and Baraitha. Rashi suggests that they were forgotten and Abaye and Raba re-taught them. For further notes on the passage v. B.B., Sonc. ed., p. 563.
(26) Prov. VIII, 21.
(27) The Sukkah being attached to the house — v. supra.
(28) Some texts omit this sentence, in view of what follows.
(29) A male-child, on the Festival.
(30) That women are exempt, and children bound.
(31) The literal translation of Lev. XXIII, 42 is ‘Every one of the homeborn’ etc.
(32) In Lev. XVI, 29, referring to the Day of Atonement.
(33) Without the prefixed definite article.
(34) Sc. one of the two laws under discussion.
(35) Not dependent upon the proof of a Scriptural verse, but on the tradition given to Moses on Mount Sinai.
(36) Of the two laws.
(37) Either in the case of Sukkah to exclude women or in that of the Day of Atonement to bring them under the obligation.
(38) Sc. the law that women are subject to the law of afflicting themselves on that day.
(39) Num. V, 6 referring to ‘any sin.’

Talmud - Mas. Sukkah 28b

, the Writ [thereby][1] makes man and woman equal as regards all punishable acts in the Torah?[2] Abaye answered, Indeed Sukkah is a traditional law, and still[3] it is necessary. For I would have said, since ‘Ye shall dwell’ implies, in the same manner as you ordinarily live; as one's permanent abode is for husband and wife, so the Sukkah must be for husband and wife, therefore he informs us[4] that it is not so. Raba said, It[5] is necessary,[6] since I might have said, Deduce the fifteenth[7] from the fifteenth[8] of the Festival of Unleavened Bread: just as in the latter case women are bound by the obligation[9] so in the former also women are bound, hence we were informed[4] [that it is not so].

And now that you say that Sukkah is a traditional law, why is the Scriptural verse[10] necessary? — To include converts. I would have said ‘the homeborn in Israel’, said the Divine Law, but not converts, therefore it informs us[11] that it is not so. [That women must fast on] the Day of Atonement is deduced, is it not, from [the statement of] Rab Judah in the name of Rab?[12] — [The verse] is necessary [to include] the additional affliction.[13] As I might have said that, since the Divine Law excluded the additional affliction from punishment and warning,[14] women are entirely exempt therefrom, therefore he informs us that they are subject to the obligation.

The Master said, [The word] ‘every’ comes to include minors. But have we not learnt: WOMEN, SLAVES AND MINORS ARE FREE FROM THE OBLIGATION OF THE SUKKAH? — There is no difficulty. The former refers to a minor who has reached the age of being trained,[15] the latter where he has not yet reached the age of being trained. But is not the obligation of a minor who has reached the age of being trained a Rabbinical injunction?[16] — It is indeed a Rabbinical injunction, but the Scriptural verse is merely a support to it. A MINOR WHO IS NOT DEPENDENT ON HIS MOTHER etc. What is meant by a minor who is not dependent on his mother? — The school of R. Jannai said, Whomever, when he relieves himself, his mother need not clean. R. Simeon b. Lakish[17] said, He who awakes from his sleep and does not call his mother. ‘His mother’! But do not grown-ups also call their mother? Say, rather, he who awakes from his sleep and does not call ‘Mother! Mother!’[18]

IT ONCE HAPPENED THAT THE DAUGHTER-IN-LAW OF . . . GAVE BIRTH TO A CHILD etc. The incident[19] contradicts [the Mishnah],[20] does it not? — There is a lacuna, and thus it should be taught: But Shammai takes a strict view, and [indeed] IT ONCE HAPPENED THAT THE DAUGHTER-IN-LAW OF SHAMMAI THE ELDER GAVE BIRTH TO A CHILD AND HE BROKE AWAY THE PLASTER OF THE ROOF, AND PUT SUKKAH-COVERING OVER THE BED FOR THE SAKE OF THE CHILD.

MISHNAH. ALL THE SEVEN DAYS [OF THE FESTIVAL][21] A MAN MUST MAKE THE SUKKAH HIS PERMANENT ABODE AND HIS HOUSE HIS TEMPORARY ABODE. IF RAIN FELL, WHEN MAY ONE BE PERMITTED TO LEAVE IT?[22] WHEN THE PORRIDGE WOULD BECOME SPOILT. THEY PROPOUNDED A PARABLE. TO WHAT CAN THIS BE COMPARED? TO A SLAVE WHO COMES TO FILL THE CUP FOR HIS MASTER, AND HE[23] POURED A PITCHER OVER HIS FACE.[24]

GEMARA. Our Rabbis have taught, All the seven days,[21] one should make the Sukkah, his permanent abode and his house his temporary abode. In what manner? If he had beautiful vessels, he should bring them up into the Sukkah, beautiful divans, he should bring them up into the Sukkah; he should eat and drink and pass his leisure in the Sukkah.

Whence do we know this?[25] — From what our Rabbis have taught: Ye shall dwell[26] implies, in the same manner as you ordinarily live. Hence they said, All the seven days[27] one should make his Sukkah his permanent abode, and his house his temporary abode. In what manner? If he has beautiful vessels, he should bring them up into the Sukkah, beautiful divans, he should bring them up into the Sukkah,’ he should eat and drink and pass his leisure in the Sukkah; he should also engage in profound study[28] in the Sukkah. But it is not so? For did not Raba say, Scripture and Mishnah [should be studied] in the Sukkah, but Gemara[29] outside the Sukkah? — There is no difficulty, The former [statement refers to] revising,[30] the latter to profound study.

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(1) By placing the two nouns in juxtaposition.

(2) Among which those connected with the Day of Atonement are included.

(3) Although it can be deduced from the fact that Sukkah is dependent on time for its fulfilment.

(4) By citing a traditional law.

(5) The traditional law.

(6) Although it can be deduced from the fact that Sukkah is dependent on time for its fulfilment.

(7) Lev. XXIII, 34 dealing with Tabernacles.

(8) Ibid. 6.

(9) Of eating unleavened bread (cf. Pes. 43b).

(10) 'The homeborn' which implies an addition.

(11) By the definite article before 'homeborn'.

(12) Why then is it necessary to have a Scriptural verse to include women.

(13) I.e.,that the fast of women must also begin on the eve of the Day of Atonement some time before nightfall.

(14) Which apply to the Day of Atonement itself.

(15) The age at which a child has to be trained for his future responsibilities on attaining his majority. Normally eleven or twelve years of age, but here, in view of our Mishnah, it means when he is independent of his mother.

(16) Why then is it here deduced from Scripture?

(17) V. marg. glos. Cur. edd. read, 'Rabbi' and enclose 'Simeon' in parenthesis.

(18) I.e., if when he calls once and she does not answer he is silent, he is regarded as not being dependent on his mother.

(19) Which shows that a Sukkah was made for a minor who was dependent on his mother.

(20) Which ruled that minors are exempt from Sukkah.

(21) Of Tabernacles.

(22) His Sukkah.

(23) The Master.

(24) Rain on Tabernacles is a sign of God's displeasure (Ta'an. I, 1). God shows his displeasure at his servant Israel's performing of his duties.

(25) The rules just enumerated.

(26) Lev. XIII, 42.

(27) Of Tabernacles.

(28) This is taken to mean the Gemara which needs more concentrated application than Scripture or Mishnah.

(29) תנויי On the term v. Shab., Sonc. ed., p. 559, n. 1.

(30) When not much concentration is needed.

Talmud - Mas. Sukkah 29a

As was the case of Raba[1] b. Hama when he was standing before R. Hisda, [first] they ran over the Gemara together, and then they investigated the reasons.

Raba said, Drinking vessels may be kept in the Sukkah,[2] eating utensils[3] [must be taken] outside the Sukkah.[4] Earthenware pitchers and wooden pails [must be kept] outside the Sukkah. A lamp[5] [may be kept] within the Sukkah, while some say [that it must be kept] outside the Sukkah; but there is no difference of opinion between them, the former referring to a large Sukkah and the latter to a small one.[6]

IF RAIN FELL. A Tanna taught, When a porridge of beans[7] would become spoilt.[8] Abaye was seated before R. Joseph in a Sukkah. The wind blew and brought down chips[9] [into the food]. R. Joseph[10] said to them, 'Remove the vessels for me hence' — Abaye said to him, 'But have we not learnt, WHEN THE PORRIDGE WOULD BECOME SPOILT?'[11] He answered him, 'For me, who am fastidious, this is like the porridge becoming spoilt'.

Our Rabbis taught, If he was eating in the Sukkah, and rain fell, and he left [the Sukkah],[12] he need not trouble to return there[13] until he has finished his meal. If he was sleeping in the Sukkah and rain fell and he left,[14] he need not trouble to return until it is dawn. They asked them, [Is the reading] sheye'or[15] or sheye'or?[16] — Come and hear, [It has been taught,] 'Until sheye'or[16] and the morning star appear'. [Now[17] how are the] two[18] [to be reconciled]? Consequently you must read, Until sheye'or[19] and the morning star appear.[20]

THEY PROPOUNDED A PARABLE. TO WHAT CAN THIS BE COMPARED. They asked them, Who POURED upon whom?[21] Come and hear: For it has been taught: The master poured the pitcher over his face and said, 'I have no desire for your service

Our Rabbis taught,[22] When the sun is in eclipse, it is a bad omen for the whole world. This may be illustrated by a parable. To what can this be compared? To a human being who made a banquet for his servants and put up for them a lamp. When he became wroth with them he said to his servant, 'Take away the lamp from them, and let them sit in the dark'.

It was taught: R. Meir said, Whenever the luminaries are in eclipse, it is a bad omen for Israel[23] since they are inured to blows.[24] This may be compared to a school teacher who comes to school with a strap in his hand. Who becomes apprehensive? He who is accustomed to be daily punished.

Our Rabbis taught, When the sun is in eclipse it is a bad omen for idolaters; when the moon is in eclipse, it is a bad omen for Israel,[23] since Israel reckons by the moon[25] and idolaters by the sun.[26] If it[27] is in eclipse in the east, it is a bad omen for those who dwell in the east; if in the west, it is a bad omen for those who dwell in the west; if in the midst of heaven it is bad omen for the whole world. If its face is red as blood, [it is a sign that] the sword is coming to the world; if it is like sack-cloth,[28] the arrows of famine are coming to the world; if it resembles both, the sword and the arrows of famine are coming to the world. If the eclipse is at sunset[29] calamity will tarry in its coming; if at dawn, it hastens on its way: but some say the order is to be reversed. And there is no nation which is smitten that its gods are not smitten together with it, as it is said, And against all the gods of Egypt I will execute judgments.[30] But when Israel fulfil the will of the Omnipresent, they need have no fear of all these [omens] as it is said, Thus saith the Lord,' Learn not the way of the nations, and be not dismayed at the signs of heaven, for the nations are dismayed at them,[31] the idolaters will be dismayed, but Israel will not be dismayed.

Our Rabbis taught, On account of four things is the sun in eclipse: On account of an Ab Beth din[32] who died and was not mourned[33] fittingly; on account of a betrothed maiden who cried out aloud in the city and there was none to save her;[34] on account of sodomy, and on account of two brothers whose blood was shed at the same time. And on account of four things are the luminaries[35] in eclipse: On account of those who perpetrate forgeries, on account of those who give false witness; on account of those who rear small cattle in the land of Israel;[36] and on account of those who cut down good trees.[37]

And on account of four things is the property of householders given into the hands of the government: On account of those who retain in their possession bills which have been paid;[38] on account of those who lend money on usury;

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(1) Cur. edd. in parenthesis 'of Rabbah'. Var. lec., Rami.

(2) Even after use.

(3) After they have been used.

(4) The former remain clean after use, the latter do not.

(5) Though it is an earthen vessel.

(6) Of the minimum size of seven handbreadths.

(7) Which even slight rain spoils.
(8) It is permitted to leave the Sukkah.
(9) Of the roof.
(10) Who was very fastidious (Cf. Pes. 113b).
(11) It is permitted to leave the Sukkah.
(12) In order to finish his meal in the house.
(13) Lit., ‘to go up’; when the rain stops.
(14) To finish his sleep in the house.
(15) ‘That he awakens’, i.e., if he happened to awake during the night and the rain stopped he must return forthwith.
(16) ‘It dawn’.
(17) If the reading is sheye'or (‘it dawn’).
(18) Seeing that ‘dawn’ is later than the time ‘the morning star appears’.
(19) ‘He awakens’.
(20) Sc. both conditions are required. If, for instance, he awoke at midnight he need not return to the Sukkah because it is not yet dawn, and if it dawned before he awoke he need not be awakened.
(21) Sc. does the pronoun refer to the SLAVE or the MASTER, i.e., the improper conduct of Israel or God's disdainful rejection?
(22) The following topics are suggested by the previous mention of rain as a bad omen.
(23) The euphemism ‘enemies of Israel’ in the original is used for Israel.
(24) More than any other people. If any evil is to befall the world Israel may be sure to have the lion's share if not all of it.
(25) Sc. by the moon also. The lunar month is one of the foundations of the Jewish calendar.
(26) I.e., the sun only.
(27) The sun.
(28) Dark and overcast.
(29) Lit., ‘at its entry’, Sc. to its imaginary home of rest for the night.
(30) Ex. XII, 12.
(31) Jer. X, 2.
(32) The vice-president of the Sanhedrin. The nasi was the President.
(33) With a memorial address.
(34) Cf. Deut. XXII, 24.
(35) The moon and the stars.
(36) Animals that cannot be prevented from ravaging the fields of others, v. B.K. 79b.
(37) Even though they are their own.
(38) In the hope of claiming on them again.

Talmud - Mas. Sukkah 29b

on account of those who had the power to protest [against wrongdoing] and did not protest; and on account of those who publicly declare their intention to give specified sums for charity and do not give.

Rab said, On account of four things is the property of householders confiscated by the state treasury:[1] On account of those who defer payment of the labourer's hire; on account of those who withhold the hired labourer's wages; on account of those who remove the yoke from off their necks and place it on [the necks] of their fellows[2] and on account of arrogance. And the sin of arrogance is equivalent to all [the others] whereas of the humble it is written, But the humble shall inherit the land, and delight themselves in the abundance of peace.[3]

C H A P T E R III

MISHNAH. A STOLEN OR A WITHERED PALM-BRANCH[4] IS INVALID. ONE [THAT

CAME] FROM AN ASHERAH[5] OR FROM A CONDEMNED CITY,[6] IS INVALID. IF ITS TOP WAS BROKEN OFF OR ITS LEAVES WERE DETACHED,[7] IT IS INVALID. IF ITS LEAVES ARE MERELY SPREAD APART[8] IT IS VALID. R. JUDAH SAYS, HE SHOULD TIE THEM UP AT THE TOP. THE THORN-PALMS OF THE IRON MOUNTAIN[9] ARE VALID.[10] A PALM-BRANCH WHICH IS THREE HANDBREADTHS IN LENGTH, LONG ENOUGH TO WAVE, IS VALID.

GEMARA. [The Tanna][11] categorically teaches [that the PALMBRANCH IS INVALID] irrespective of whether [it is to be used] on the first day of the Festival[12] or on the second day.[13] Now this is right as regards a withered palm since we must have [a branch that is] 'goodly'[14] which this one is not; but with regard to a stolen one, the law is quite right as far as the first day of the Festival is concerned, since it is written, 'to you'[14] [which implies that it shall be] of your own, but why should it not be allowed on the second day?[15] — R. Johanan answered in the name of R. Simeon b. Yohai,

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(1) For the fiscus.

(2) The reference is to those who evade payment of taxes, so that the burden falls more heavily on others.

(3) Ps. XXXVII, 11.

(4) Lulab, one of the four species used in the festive wreath (cf. Lev. XXIII, 40).

(5) A grove worshipped by heathens (cf. Deut. XII, 2).

(6) Cf. Deut. XIII, 16.

(7) From the stem.

(8) But are joined to the stem at their roots.

(9) A mountain in the vicinity of Jerusalem.

(10) Though their leaves are short.

(11) In our Mishnah.

(12) When the obligation is Pentateuchal.

(13) On which the obligation is only Rabbinical.

(14) Lev. XXIII, 40.

(15) To which the text cited, which explicitly refers to the first day, does not apply.

Talmud - Mas. Sukkah 30a

because it[1] would be a precept fulfilled through a transgression [which is forbidden], as it is said, And ye have brought that which is stolen, and the lame and the sick,[2] 'The stolen' is thus compared with the lame; just as the lame can never be rectified,[3] so that which is stolen can never be rectified, [that is] irrespective of whether the stolen is used before abandonment [of hope of recovery by the owner] or after abandonment. Now this[4] is right before abandonment, since the Divine Law said, When any man of you bringeth an offering unto the Lord[5] and this[6] is not his, but [why should the law apply] after abandonment [of right by the owner], seeing [that the robber] has acquired it[7] by [virtue of that] abandonment?[8] The reason must then be that it is a precept fulfilled through a transgression.

R. Johanan in the name of R. Simeon b. Yohai further said, What is the purport of that which is written, For I the Lord love justice, I hate robbery with iniquity?[9] This may be compared to a human king who passed through his custom-house and said to his attendants, 'pay the tax[10] to the tax-collectors'. They said to him, 'But the whole tax, surely, belongs to thee!' He answered them, 'All travellers would learn from me not to evade their payments of tax'. So the Holy One, blessed be He, said, 'I the Lord hate robbery in burnt-offerings;[11] let My children learn from Me and keep away from robbery'.[12]

Sc[13] it was also stated: R. Ammi said, A withered [palm-branch] is invalid because it is not ‘goodly’,[14] a stolen one is invalid because it constitutes a precept fulfilled through a transgression.

And this[15] disagrees with R. Isaac, since R. Isaac b. Nahmani said in the name of Samuel, This[16] was taught only with regard to the first day of the Festival, but on the second day, since a man fulfils his obligation with a borrowed [palm-branch].[17] he fulfils it also with a stolen one.

R. Nahman b. Isaac objected: A STOLEN OR WITHERED PALM-BRANCH IS INVALID, from which it follows that a borrowed one is valid? Now when?[18] If you say, On the first day of the Festival, is it not written [it may be objected] ‘to you’[19] implying that it should be your own, and this one is not his! Consequently the reference must be to the second day of the Festival, and yet it teaches that a stolen one is invalid?[20] — Raba replied: Indeed it refers to the first day of the Festival but he[21] implies the form of ‘It is not required’:[22] It is not required to state that a borrowed one is invalid since it is not his; but in the case of a stolen one, of which I might say that normally a robbery [implies immediate] abandonment by its owner and that it is, therefore, like his own,[23] therefore he informs us [that even a stolen one is invalid].[24]

R. Huna said to some traders, When you purchase myrtles from heathens,[25] do not cut them yourselves, but let them[26] cut them and give them to you. What is the reason? — Heathens as a rule acquire their land by robbery[27]

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(1) The use of a stolen palm-branch.
(2) Mal. 1, 13.
(3) To become a valid offering.
(4) That the stolen may not be used.
(5) Lev. I, 2. The Heb. for ‘of you’ may be rendered ‘of yours’. sc. the offering must come from the donor's own property.
(6) Being a stolen one.
(7) The stolen.
(8) V. B.K. 67a.
(9) Isa. LXI. 8.
(10) For the king's own goods.
(11) Be'olah. E.V. ‘with iniquity’. The noun may bear both significations.
(12) Even although everything belongs to God, and there can, therefore, technically be no robbery in offering a sacrifice to God.
(13) That the reason for the first ruling in our Mishnah is, as R. Johanan explained, that a pious deed may not be performed through a transgression.
(14) Cf. Lev. XXIII, 40.
(15) The ruling that a stolen palm-branch is invalid on the second day of the Festival.
(16) That a stolen palm-branch is invalid.
(17) As was explained supra 29b ad fin.
(18) Is it valid.
(19) Lev. XXIII, 40.
(20) How then could R. Isaac b. Nahmani maintain in the name of Samuel that it is valid?
(21) The author of our Mishnah.
(22) A statement which mentions only the less probable, and includes the more probable.
(23) Even if the owner was not heard to abandon it.
(24) Unless the owner had actually abandoned the hope of ever recovering it.
(25) For binding to the palm-branch. V. infra.
(26) The heathens.
(27) From Jews.

Talmud - Mas. Sukkah 30b

Talmud - Mas. Sukkah 30b

and there is no [title to] land by robbery;[1] therefore let them cut it down, so that there may be abandonment [of right][2] by the owner while it is in their possession,[3] and change of domain[4] in your hands.[5] But in any case, even when the traders cut the myrtles, let abandonment [of right] by the owner take place when these are in their hands, and change of domain when they are in the hands of the purchasers?[6] — It is necessary [to state this law] only with regard to the hoshanna[7] of the traders themselves.[8] But why could they not acquire possession of them by the change they make in it?[9] — [R. Huna] is of the opinion that the palm-branch [wreath] does not need binding;[10] and [even] if you were to find some ground for saying that the palm-branch wreath does need binding, [still] the change would be one that can be removed by restoring the object to its original condition[11] which is not regarded as a valid change. But why should they not acquire possession by virtue of the change of name, since previously[12] it was called asa [myrtle] and now

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[1] **(1)** Lit., 'land cannot be robbed'; v. B.K. 117b. The myrtle while still growing is, therefore, legally the property of its Jewish owner and thus invalid to the purchaser.

[2] **(2)** Of the cut myrtles.

[3] **(3)** Unlike land, detached produce is acquired by robbery.

[4] **(4)** From that of the seller to that of the buyer.

[5] **(5)** He is of the opinion that abandonment of right by the owner is not sufficient to constitute acquirement of title by the possessor unless there was in addition either (a) a change of domain, (b) a change in the nature of the object, or (c) a change in its name (v. B.K. 67a). But even if abandonment alone were sufficient, the robbery, if the traders themselves had cut the myrtles, would have been committed by them, and they would have been guilty of performing a precept by means of a transgression.

[6] **(6)** Lit., 'in our hands'. And since the purchasers commit no robbery they might well use the myrtles.

[7] **(7)** The myrtle. Lit., 'save, we beseech thee', a refrain chanted when holding the wreath of which the myrtles form a part.

[8] **(8)** Which they require for their own use. In such a case, were they to cut the myrtles, there would be no change of domain and they (the users) would be committing the robbery.

[9] **(9)** By binding the three components, the myrtles, the willows and the palm-branch.

[10] **(10)** Hence there is no change.

[11] **(11)** He may unbind the component parts.

[12] **(12)** Before it was put into the festive wreath.

Talmud - Mas. Sukkah 31a

hoshanna?[1] — Previously also a myrtle[2] was called hoshanna.[1]

Our Rabbis taught, In the case of a stolen Sukkah, and [a Sukkah made by] placing Sukkah-covering over a public thoroughfare,[3] R. Eliezer declares [them] invalid and the Sages declare [them] valid. R. Nahman explained: The dispute[4] applies only where he[5] forcibly ejects his fellow[6] from the Sukkah. In which case R. Eliezer[7] is consistent with his view, he having said, 'A man cannot fulfil his obligation in the Sukkah of his fellow', so that if [we hold that] there is a title to land by robbery, the Sukkah is a stolen one,[8] and even if [we hold that] there is no title to land by robbery.[9] [still] the Sukkah is a borrowed one;[10] and the Rabbis[11] [also] are consistent, since they maintain that a man can fulfil his obligation in the Sukkah of his fellow, and that there is title to land by robbery, so that the Sukkah is a borrowed one.[12] Where, however, he stole wood and used it for Sukkah-covering, all agree[13] that he [the owner] has [a claim] merely against the cost of the wood.[14] How [do we know this]?[15] — Since [the Sukkah] is compared to a public thoroughfare;[16] as the ground of a public thoroughfare is not his,[17] so [must] the Sukkah [referred to] also be one put up on land that is not his.[18]

A certain old woman[19] came before R. Nahman and said to him, 'The Exilarch and all the Rabbis of the house of the Exilarch are sitting in a stolen Sukkah'. She cried[20] but R. Nahman took no notice of her. She said to him, ‘A woman whose father[21] had three hundred and eighteen slaves cries out to you, and you take no notice?’ R. Nahman said to them, ‘She is a noisy woman; but she can claim only the cost of the wood’.[22]

Rabina said, If the main joist of a Sukkah was stolen,[23] the Rabbis made an enactment with regard to it,[24] similar to the enactment of the beam.[25] But is not this[26] obvious? Wherein does it differ from wood?[27] — I would have thought that [the law applied only to] wood since it is common,[28] but not to this which is uncommon,[29] therefore he informs us [that the law applies to this case also]. This,[30] however, only applies during the seven days [of the Festival], but after the seven days, it must be returned in its original state. If, however, he fixed it in with cement,[31] even after the seven days he need only give its value.

A Tanna taught, A withered [palm-branch] is invalid; R. Judah declares it valid. Raba said, The dispute concerns only the palm-branch, since the Rabbis are of the opinion that the palm-branch is likened to the ethrog [citron], and just as the ethrog must be a goodly [fruit][32] so must the palm-branch be goodly, while R. Judah holds that we do not liken the palm-branch to the ethrog; but with regard to the ethrog, all agree that it must be a goodly [fruit].[32]

Does not then R. Judah demand that the palm-branch shall be goodly? Have we not in fact learnt, R. JUDAH SAYS, HE SHOULD TIE THEM UP AT THE TOP, the reason presumably being that it must be goodly? — No! The reason is as it has been taught: R. Judah said in the name of R. Tarfon, Branches of palm-trees[33] [mean that the palm-branches must be] tied up.[34] and if they were separated, one must tie them up.[35] But does he not then demand that it be goodly? Have we not in fact learnt, ‘The lulab[36] is bound only with its own species; so R. Judah’,[37] the reason presumably being that it must be goodly? — No! Since Raba said [that it may be bound] even with the bast or the root of the palm.[37] What then is the reason of R. Judah? — Because he is of the opinion that the [components] of the lulab must be bound together and if one employs another species,[38] the number of species becomes five.[39]

But does R. Judah demand that the ethrog be goodly? Has it not in fact been taught, As to the Four Species of the lulab, just as one may not diminish from them, so one may not add to them. If he cannot find an ethrog, he may neither bring a quince nor a pomegranate, nor any other thing. Dried up [ethrogs] are valid, withered ones are invalid. R. Judah says, Even withered ones [are valid]. And R. Judah, furthermore said, It happened

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(1) V. supra n. 2.

(2) Since it is used in the mentioned wreath.

(3) Whereby one robs the public of access to it.

(4) Between R. Eliezer and the Sages.

(5) The robber.

(6) The rightful owner of the land upon which the Sukkah is erected. Lit., ‘he seizes his fellow and ejects him’. (Whatever is attached to the ground is subject to the laws of title that apply to landed property).

(7) In ruling the Sukkahs mentioned invalid.

(8) And, therefore, invalid.

(9) And the land as well as the Sukkah are, therefore, the property of the rightful owner (cf. supra p. 135, n. 13).

(10) And R. Eliezer excludes both stolen and borrowed Sukkahs by his exposition of ‘to thee’ supra.

(11) The Sages.

(12) And, therefore, valid.

(13) Even R. Eliezer.

(14) But the wood itself passes into the possession of the robber who has acquired it by change of function and name, and the Sukkah being neither robbed nor borrowed, is consequently valid.

(15) That the dispute depends on the questions whether land may be legally acquired by robbery and whether a borrowed

Sukkah is valid.
(16) Both appearing in juxtaposition.
(17) I.e., it does not belong to the man who put up a Sukkah on it since it obviously belongs to the public.
(18) And consequently must refer to the case where he forcibly ejected the owner.
(19) From whom the servants of the Exilarch had robbed the wood wherewith his Sukkah was covered.
(20) Demanding the return of her wood.
(21) Rashi suggests that this refers to Abraham the father of all Jews, who had three hundred and eighteen servants (Gen. XIV, 14).
(22) Sc. there is no need to break up the structure in order to return to her the actual wood (cf. Git. 55a).
(23) And if it were to be removed, the Sukkah would collapse.
(24) That the owner be given the value of it only.
(25) The locus classicus of this law, referring to a house; the Sukkah, though a frail structure, having been given in this respect the status of a permanent structure during the festival days.
(26) The law of the joist.
(27) Concerning which it has just been ruled that its value only is to be paid to the owner.
(28) And the robbed man can, therefore, easily buy some with the money.
(29) Cf. prev. n. mut. mut.
(30) That the joist itself need not be returned.
(31) So that it becomes a permanent fixture.
(32) As is explicitly stated in Lev. XXIII, 40.
(33) Lev. XXIII, 40; ‘branches’ כפות.
(34) כפות the root כפת in Biblical, Aramaic and Mishnaic Hebrew means ‘to bind’.
(35) Infra 32a.
(36) Lit., ‘palm-branch’. Where lulab is used it refers to all three species tied together. V. infra.
(37) Infra 36a.
(38) For the binding.
(39) Instead of the four prescribed in Lev. XXIII, 40; and it is forbidden to add to any legally prescribed number.

Talmud - Mas. Sukkah 31b

that urban dwellers[1] used to bequeath their lulabs to their grandchildren. They[2] said to him, Is that a proof? A case of emergency does not constitute a proof.[3] At all events it is taught that R. Judah says that even withered ones are valid, and this refers, does it not, to the ethrog?[4] — No! It refers to the palm-branch.

The Master has said, ‘Just as one may not diminish from them, so one may not add to them’. But is not this obvious? — I would have said that since R. Judah said that the lulab[5] must be bound, if one bring another species,[6] each is regarded as separate,[7] therefore he informs us [that it is not so].[8]

The Master has said, ‘If he cannot find an ethrog, he may bring neither a pomegranate nor a quince, nor any other thing’. But is not this obvious? — I would have said that he may bring it in order that the law of ethrog might not be forgotten, therefore he informs us [that it is forbidden lest] at times the result be disastrous, since one might confound [the one fruit with the other].[9]

Come and hear: An old ethrog is invalid, but R. Judah declares it valid. [Is not this a] refutation of Raba? — It is a refutation.

But does not [R. Judah] demand that it[10] be goodly? Have we not in fact learnt: If it[10] is green as a leek, R. Meir declares it valid and R. Judah invalid?[11] Is it[12] not because it[10] must be goodly? No! Because the fruit is not yet ripe. Come and hear: The minimum size of an ethrog is, R. Meir says, the size of a nut; R. Judah says that of an egg.[11] Is it[12] not because it[10] must be goodly? — No! Because the fruit is not ripe.

Come and hear: Its[10] maximum size is such that one should be able to hold two in one hand; so R. Judah. R. Jose says, Even if one can hold one ethrog in both hands.[11] Now what is the reason?[13] Is it not because he requires it to be goodly? — No! Because Rabbah[14] said, The lulab [must be held] in the right hand and the ethrog in the left,[15] and since sometimes he might put them in the wrong hands, when he changes over [the ethrog might fall] and become invalid.[16] But, according to R. Judah is it not written in Scripture ‘goodly’?[17] — This means ‘that which remains upon the tree from year to year’.[18]

ONE THAT CAME FROM AN ASHERAH OR FROM A CONDEMNED CITY. Is then [the palm-branch that came from] an asherah invalid? Did not Raba in fact say, One should not take a palm-branch of idolatry, but if he did nevertheless take it, it is valid?[19] — Here we are dealing with an asherah [dating from the time of] Moses, whose [minimum] size[20] [is regarded as] crushed.[21] A deduction from the wording also proves this, since it[22] is compared with a condemned city.[23] This is conclusive. IF ITS TOP WAS BROKEN OFF. R. Huna said, ‘BROKEN OFF’ only was taught, but if it is only split, it is valid. Is it then valid if it is split? Has it not been taught, A palm-branch which is bent

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(1) Who could not obtain fresh ones.

(2) The Rabbis who disagreed with him.

(3) Tosef. Suk. II.

(4) How then could it be maintained that R. Judah insists on the ethrog being goodly?

(5) Lit., ‘palm-branch’. Where lulab is used it refers to all three species tied together. V. infra.

(6) Without binding it with the others.

(7) I.e., the extra species is regarded as something apart from the four and hence permissible.

(8) Even a species that is unbound may not be added.

(9) And thus use a quince or a pomegranate even where an ethrog is obtainable.

(10) The ethrog.

(11) Infra 34a.

(12) R. Judah's reason.

(13) For R. Judah's ruling.

(14) Var. lec. ‘Raba’ (Bah).

(15) Infra 37b.

(16) If the ethrog is too large for him to grasp in his hand together with his lulab, as he is changing over, he will drop it. Hence the ruling that ‘one should be able to hold two in one hand’, one of these two representing the space the lulab would occupy during the change.

(17) Specially in connection with the ethrog, Lev. XXIII, 40.

(18) The word הדר ‘goodly’ is translated by R. Judah homiletically as הדר ‘which dwells’. V. infra 35a.

(19) Hul. 89a.

(20) V. Mishnah supra 29b.

(21) A thing that is condemned to be burnt is regarded as burnt, and since it must be burnt (cf. Deut. XII, 3) it is regarded as non-existent.

(22) The asherah.

(23) Which must too be burnt and, therefore, regarded as non-existent.

, thorny, split or curved like a sickle is invalid. If it[1] has become hardened,[2] it is invalid. If it only appears as though it is hardened,[3] it is valid?[4] — R. Papa answered, It[5] refers to where it[6] is like a prong.[7] 'If it is curved like a sickle', Raba said, refers only to its front, but towards its back, it is its nature [to be curved]. R. Nahman said, At the sides[8] is the same as at the front, and some say, The same as at its back. Raba further said, A palm-branch of which all the foliage grows on one side is a blemished plant and is invalid.

IF ITS LEAVES WERE BROKEN OFF etc. R. Papa said. 'DETACHED' means like a broom,[9] 'SPREAD APART means that they were parted from one another.[10] R. Papa asked, How if the central leaf[11] is split?[12] — Come and hear what R. Johanan[13] said in the name of R. Joshua b. Levi: If the central leaf is removed, it[6] is invalid. No doubt if it is split the same law would apply? No, if it is removed the law is different, since it is entirely lacking. Another version is that R. Johanan said in the name of R. Joshua b. Levi:[13] If the central leaf is split, it is as though it is removed, and [the lulab] is invalid.

R. JUDAH SAYS. It has been taught: R. Judah said in the name of R. Tarfon, 'Branches of palm-trees', [means that palm-branches must be] tied up, and if they were separated, one must tie them up.[14] Rabina said to R. Ashi, How do we know that 'Branches of palm-trees' refers to the [green sprouts of the] palm-branches? Perhaps it means [branches of] the hardened palm?[15] — It must be [a branch the leaves of which can be] bound up, and this one[16] cannot.[17] But[18] perhaps it means the stalk [itself]?[19] — [Since the word] 'bound' is used, it must refer to something which can be separated, but this is permanently bound. But perhaps it means the inflorescence of palms?[20] — Abaye answered, It is written, Her ways are ways of pleasantness, and all her paths are peace.[21] Raba Tosfa'ah said to Rabina, But perhaps it means two branches of palms? — The word is written kappath.[22] Then perhaps it means one? — That would be called kaf.[23]

THE THORN-PALMS OF THE IRON MOUNTAIN ARE VALID. Abaye said, They taught it only where the top of one [leaf] reaches the junction of the next, but if the top of the one does not reach the junction of the next,[24] it[25] is invalid. So it has also been taught: The thorn-palms of the iron mountain are invalid. But have we not learnt that they are valid? It may be deduced, therefore, [that the ruling is] in agreement with Abaye. This is conclusive.

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(1) The palm-branch.

(2) Wooden.

(3) Sc. it began to harden but the process was not yet complete.

(4) Now since this Baraitha distinctly ruled a split lulab to be invalid how could R. Huna uphold it to be valid?

(5) The Baraitha.

(6) The lulab.

(7) If it is naturally split to this extent even R. Huna agrees that it is invalid.

(8) Sc. if the lulab is bent sideways.

(9) Leaves detached from the central rib and subsequently bound together.

(10) But joined to the rib at their roots.

(11) Lit., 'the twins', the central leaf being a junction of two.

(12) The split reaching as low as the top of the lower leaves.

(13) In the parallel passage in B.K. 96a the reading is R. Mathon.

(14) Supra 31a q.v. notes.

(15) I.e., a palm which is some years old, whose branches have become hardened like other tree branches, and there must be one central branch and one protruding from each side.

(16) The hardened branch.

(17) Since the branches are too hard.

(18) Since it is insisted that the branch must be ‘bound’.

(19) From which no leaves branch out at all.

(20) A spike covered with flowers, and enveloped by one or more spathes. Being only one or two years old its leaves can still be bent and bound to the central parts.

(21) Prov. III, 17; i.e., it is unpleasant to hold this prickly spike and, therefore, the Torah could not have referred to it.

(22) Implying the singular. The word כפת is written defectively, which can be read as כפת (cf. supra 31a).

(23) A branch; not kappath which implies something that has to be bound, v. supra.

(24) These thorn-palms are very sparsely covered with leaves, so that the top of the lower leaf may not reach as far as the beginning of the one above it.

(25) The branch.

Talmud - Mas. Sukkah 32b

Some put it[1] in the form of mutual contradiction: We have learnt: THE THORN-PALMS OF THE IRON MOUNTAIN ARE VALID. But has it not been taught that they are invalid? Abaye answered, There is no difficulty: The one[2] refers to where the top of the one leaf reaches the junction of the next; the other[3] to where the top of the one does not reach the junction of the other. R. Marion said in the name of R. Joshua b. Levi, while others say that Rabbah b. Mari taught in the name of R. Johanan b. Zakkai, There are two palms in the valley of Hinnom,[4] between which there ascends smoke, and it is in that connection that we have learnt, THE THORN-PALMS OF THE IRON MOUNTAIN ARE VALID, and it is the entrance to Gehenna.

A PALM-BRANCH WHICH IS THREE HANDBREADTHS IN LENGTH. Rab Judah said in the name of Samuel, The [minimum] length of the myrtle and the willow is three [handbreadths], and that of the palm-branch four, so that the palm-branch should extend one handbreadth beyond the myrtle. And R. Parnak said in the name of R. Johanan, The stem[5] of the palm-branch should extend a handbreadth beyond the myrtle.

Have we not learnt, A PALM-BRANCH WHICH IS THREE HANDBREADTHS IN LENGTH, LONG ENOUGH TO WAVE, IS VALID?[6] — Read AND LONG ENOUGH TO WAVE;[7] and each one[8] explains it according to his own view.[9]

Come and hear: [We have learnt.] The [minimum] length of the myrtle and the willow is three [handbreadths], and that of the palm-branch four. Surely [this means, does it not,] inclusive of the leaves?[10] — No, exclusive of the leaves.

[To turn to] the main text: The [minimum] length of the myrtle and the willow is three [handbreadths], and that of the palm-branch four. R. Tarfon says, A cubit[11] consisting of five handbreadths.[12] Raba said, May R. Tarfon's Master forgive him [for this absurd statement]! We cannot find a valid myrtle three [handbreadths] long, would one of five handbreadths be required?[13] When R. Dimi came[14] he explained. [R. Tarfon meant thus]: Make a cubit which has [normally] six handbreadths, into five.[15] Deduct from these the three for the myrtle and the remainder is for the palm-branch. How much then[16] is it?[17] Three and three fifths?[18] Do not then two statements of Samuel contradict one another, for here Rab Judah says in the name of Samuel, The [minimum] length of the myrtle and the willow is three [normal handbreadths], and elsewhere R. Huna said in the name of Samuel that the halachah is as R. Tarfon?[19] — [Samuel] was not precise.[20]

But do we not say that one is not precise only when [this results in] a restriction [of the law] but not when [it results in] a relaxation of it?[21]

When Rabin came,[22] he explained: [R. Tarfon meant thus]: Make a cubit of five normal handbreadths into one of six handbreadths. Deduct of these three for the myrtle, and the remainder is for the palm-branch. But how much[16] is it?[23] Two and a half.[24] Is there not 'then a discrepancy between [the two statements of] Samuel?[25] — [The answer is that] he was not precise, and in this case his lack of precision[26] results in a restriction [of the law], since R. Huna said in the name of Samuel that the halachah is as R. Tarfon.[27]

MISHNAH. A STOLEN OR WITHERED MYRTLE IS NOT VALID, ONE OF AN ASHERAH OR OF A CONDEMNED CITY IS INVALID. IF ITS TIP WAS BROKEN OFF, OR ITS LEAVES WERE SEVERED, OR IF ITS BERRIES WERE MORE NUMEROUS THAN ITS LEAVES, IT IS INVALID, BUT IF HE DIMINISHED THEIR NUMBER IT IS VALID. ONE MAY NOT, HOWEVER, DIMINISH THEM ON THE FESTIVAL.

GEMARA. Our Rabbis taught, 'Boughs of a thick tree'[28] [means] [that kind of tree] whose branches completely cover its trunk. Now what [tree] is this? Obviously you must say that it is the myrtle. But perhaps it is the olive?[29] — It must be wreathed,[30] which [the olive] is not. But perhaps it is the plane tree?[31] — It is required that the branches shall cover its trunk, which is not the case [with the plane tree]. But perhaps it is the oleander?[32] Abaye said, 'Its[33] ways[34] are the ways of pleasantness',[35] and [with the oleander] this is not the case.[36] Raba expressed [the same idea] from the following verse, Therefore love ye truth and peace.[37]

Our Rabbis taught, [That plant whose leaves are] shaped like a plait, and resemble a chain, is the myrtle. R. Eliezer b. Jacob said 'The boughs of a thick tree'[28] [means] a tree the taste of whose wood and whose fruit is similar: Say, then, it is the myrtle.

A Tanna taught, A tree which is 'aboth[38] is valid, and which is not 'aboth is not valid. What constitutes 'aboth? — Rab Judah said, When three leaves grow out of one nest.[39] R. Kahana said, Even [if they only grow in] twos and ones.[40] R. Aha the son of Raba sought to obtain[41] one [whose leaves grew] in twos and ones, since R. Kahana said [that such are valid]. Mar b. Amemar said to R. Ashi, 'My father used to call that[42] the wild myrtle'.

Our Rabbis taught, If the larger part of its[43] leaves fell off[44] and the lesser part remained, it is valid, provided that its wreath-work[45] remains. But is not this self-contradictory? You said that if the larger part of its leaves fell off[44] it is valid and then it is stated, 'provided that its wreath-work remains'. But since two [of the three leaves] have fallen off, how is it possible to have a wreathwork? — Abaye said, It is possible

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(1) Our Mishnah as well as the Baraitha cited.

(2) Our Mishnah.

(3) The Baraitha.

(4) A valley near Jerusalem. v. Jer. XIX, 2.

(5) Not merely the leaves.

(6) How then could Samuel and R. Johanan maintain that the length must be four handbreadths?

(7) Sc. the part which extends beyond the myrtle and willow, which is, therefore, not bound and can be waved.

(8) Samuel and R. Johanan.

(9) According to Samuel a handbreadth including the leaves, according to R. Johanan one excluding the leaves.

(10) An objection against R. Johanan.

(11) [אמה. So MS.M. Cur. edd.: באמה (to be measured by) a cubit etc.].

(12) This is now assumed to mean that the myrtle and the willow must each be one such cubit long.

(13) Obviously not.

(14) From Palestine to Babylon.

(15) A normal handbreadth is one-sixth of a cubit. R. Tarfon made its measurement for the purpose of the lulab one fifth instead of one sixth. [I.e., R. Dimi reported that R. Tarfon said באמה and not אמה, cf. p. 142, n. 8.]

(16) In normal handbreadths.

(17) The three handbreadths each of which is equal to a fifth of the six normal handbreadths.
(18) Since the three handbreadths of the myrtle are equivalent to 3 X 1 1/5 = 3 3/5 normal handbreadths.
(19) Who prescribes 3 3/5 normal handbreadths.
(20) By three he really meant 3 3/5.
(21) Three instead of 3 3/5.
(22) From Palestine to Babylon.
(23) The three handbreadths each of which equals 5/6 of a normal one.
(24) The normal cubit of six handbreadths being divided into five, each handbreadth is 5/6 of a normal handbreadth. The three handbreadths of the myrtle, therefore, equal (3 X 5/6 = 15/6 =) 2 1/2 normal handbreadths, leaving 2 1/2 for the extending portion of the palm-branch.
(25) Three, against two and a half normal handbreadths.
(26) The number three.
(27) That only a length of two and half normal handbreadths is enough.
(28) Lev. XXIII, 40; E.V., ‘of thick trees’.
(29) Whose branches also cover its trunk.
(30) ‘Aboth (E.V., ‘thick’), i.e., the leaves must grow in a sort of wreath-like formation.
(31) Whose leaves also grow in wreath-like formation.
(32) A bitter plant with stinging leaves which possesses both required characteristics.
(33) The Torah's.
(34) Sc. the performance of its commandments.
(35) Prov. III, 17.
(36) Since it is both bitter and stinging.
(37) Zech. VIII, 19. There is in it neither ‘peace’ since it stings, nor ‘love’ since it is bitter and poisonous.
(38) The leaves of which grow in wreath-like formation, v. supra n. 3.
(39) Where the leaf emerges from the stem.
(40) Two leaves coming out of one nest, and one from the lower one ascends and touches them.
(41) For his lulab.
(42) One whose leaves grow in twos and ones.
(43) The myrtle's.
(44) Sc. of each group of three leaves two fell off.
(45) I.e., that three leaves are still coming out from each nest of the stem. The contradiction is discussed anon.

Talmud - Mas. Sukkah 33a

with the Egyptian[1] myrtle which has seven [leaves] in each nest, and [therefore] when four fall off, there are still three left. Abaye said, [From this] we can deduce that the Egyptian myrtle is valid for the hoshanna[2] But is not this obvious? — I might have said that since it has a distinctive name, it cannot be considered valid, therefore he informs us [that it is valid]. But perhaps it is indeed so?[3] -The Divine Law says, ‘boughs of a thick tree’[4] i.e., of any kind.

Our Rabbis taught, If the larger part of its leaves were withered, and only three twigs with green leaves[5] remained, it is valid. And R. Hisda added, [Provided] that they[6] are at the top of each [twig].[7]

IF ITS TIP WAS BROKEN OFF. ‘Ulla bar Hinena taught, If its tip was broken off, and a berry grew on it,[8] it is valid. R. Jeremiah asked, If the tip was broken off before the Festival, and the berry grew on it on the Festival,[9] what [is the law]? Do we apply the law of disability to [all] commandments or not?[10] — Can he not decide this point from that which we have learnt: If he covered it and it became uncovered, he need not cover it again; if the wind covered it, he must cover it again.[11] And Rabbah b. Bar Hana said in the name of R. Johanan, They taught this[12] only where it subsequently became uncovered, but if it did not subsequently become uncovered, he is free from [the duty of] covering it. And when we asked concerning this, ‘Even if it subsequently became uncovered, why must he cover it? Once it[13] has suffered[14] the disability[15] is it not permanently disabled?'[16] R. Papa said, This implies that the law of disability does not apply to [all] commandments? — The question [of R. Jeremiah] is concerning that very statement of R. Papa: Is he[17] certain that the law of disability does not apply to [all] commandments, irrespective of whether it is in the direction of stringency[18] or leniency,[19] or perhaps he[17] is doubtful, and therefore we apply it in the direction of stringency,[18] but not in the direction of leniency?[19] It remains unanswered.[20]

Can we say that these[21] are according to the dispute of Tannas? [For we have learnt], If he transgressed and picked them[22] off,[23] it is invalid. These are the words of R. Eleazar b. Zadok,[24] while the Sages declare it valid.[25] Now they[26] were of the opinion that according to all[27] the lulab does not need binding, and that, even if some reason could be found for ruling that it does need binding, we do not deduce [the laws of] lulab from those of Sukkah of which it is written, 'Thou shalt make' [which implies] but not from that which is already made.[28] Surely then they disagree on the following principle viz., that he who declares it invalid is of the opinion that we apply the law of disability to [all] commandments,[29] while he who declares it to be valid is of the opinion that we do not apply the law of disability[30] to [all] commandments?[31] — No! All agree that we do not apply the law of disability to [all] commandments, but they disagree here in whether we deduce [the laws of] lulab from [those of] Sukkah. One Master[32] is of the opinion that we do so deduce them,[33] while the other Master[34] is of the opinion that we do not make such a deduction.

And if you wish you may say that if it were held that the lulab needs binding all would have agreed that we deduce [the laws of] lulab from [those of] Sukkah;[33] but they disagree here on whether the lulab needs binding, as is the case in the dispute of these Tannas of whom it has been taught: A lulab, whether [the other prescribed species were] bound with it or not, is valid. R. Judah says, If it is bound [with the others] it is valid; if it is unbound, it is invalid.[35] What is the reason of R. Judah? — He deduces it from the word 'take' [which occurs here and with] the bundle of hyssop. It is written here, And ye shall take on the first day,[36] and there it is written And ye shall take a bundle of hyssop.[37] Just as there [it must be] a bundle, so here also [it must be] a bundle. And the Rabbis?[38] - They make no deduction from the mention of the word 'take' in the two passages. Who is it that learned that which our Rabbis have taught: It is a pious deed to bind the lulab, but [even] if he did not bind it, it is valid? Now who is it? If R. Judah be suggested, why is it valid if he did not bind it? If the Rabbis are suggested, what pious deed does he perform?[39] — It is in fact the Rabbis, and the pious deed spoken of is due to 'This is my God and I will glorify Him'.[40]

OR IF ITS BERRIES WERE MORE NUMEROUS THAN ITS LEAVES. R. Hisda said, The following statement was made by our great Master,[41] and may the Omnipresent be his help! They taught it[42] only [if all the berries were] in one place, but if in two or three places, it[43] is valid. Said Raba,[44]

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(1) Or 'hedge', where it is free to grow unhampered (Rashi).

(2) The festive wreath.

(3) That it is not valid.

(4) V. supra p. 144, n. 1.

(5) Each twig having three leaves on it.

(6) The leaves.

(7) If they are not at the top, the myrtle cannot be regarded as 'goodly' and is, therefore, invalid.

(8) A kind of berry which can grow even on a detached myrtle (Rashi).

(9) While it was bound to the lulab.

(10) As it applies to sacrifices. Once a disability appears in a sacrifice after it is slain, even if the disability is removed, the sacrifice is still regarded as invalid. Similarly here the myrtle has become disabled for use before the Festival, and recovers its sound state on the Festival, and the question is whether or not the disability it once suffered renders it permanently invalid.

(11) Hul. 87a. The Mishnah refers to the law of covering up the blood of a bird or beast. V. Lev. XVII, 13 and Mishnah

Hul. VI.
(12) That if the wind covered the blood it must be covered up again.
(13) The blood.
(14) When the wind had covered it.
(15) I.e., there was no obligation then to cover it again.
(16) Even after it had been uncovered. Why then has it been ruled that it must be covered again?
(17) The Tanna of the Mishnah cited.
(18) As in the case of the blood which must be covered again.
(19) As in that of the broken myrtle where the growth of the berry would render it valid.
(20) Teku, v. Glos.
(21) The two views on the law of disability.
(22) The berries whose number exceeded that of the leaves. V. supra 11b.
(23) On the Festival when such picking is Rabbinically forbidden as shebuth (v. Glos.).
(24) The reading supra 11b is ‘R. Simeon b. Jehozadak’.
(25) Supra 11b.
(26) The Rabbis at the college who were discussing the question.
(27) Sc. the Rabbis and R. Eleazar.
(28) So that the disqualification of the lulab cannot be due to the fact that when the myrtle became fit the festive wreath had already been made.
(29) As the myrtle was once invalid it must always remain so.
(30) Which is applicable to holy sacrifices.
(31) Hence the validity of the myrtle after the number of its berries had been reduced on the festival.
(32) R. Eleazar.
(33) As a Sukkah that was not made for the festival is invalid so also is the festive wreath invalid if the validity of the myrtle was effected after the wreath had been made.
(34) The Sages.
(35) Supra 11b.
(36) Lev. XXIII, 40.
(37) Ex. XII, 22.
(38) How can they maintain their view in the face of this deduction?
(39) Seeing that they require no binding.
(40) Ex. XV, 2. For the whole passage and notes cf. supra 11b.
(41) Rab.
(42) The ruling just cited from our Mishnah.
(43) The myrtle.
(44) So Bah. Cur. edd. add ‘to him’.

Talmud - Mas. Sukkah 33b

[If the berries are in] two or three places it is regarded as speckled,[1] and [therefore] invalid. Rather if it[2] was at all stated, thus was it stated: OR IF ITS BERRIES WERE MORE NUMEROUS THAN ITS LEAVES, IT IS INVALID. R. Hisda said, The following statement was made by our great Master, and may the Omnipresent be his help! They taught this only if the berries were black,[3] but if they were green they are merely a species of myrtle and valid. R. Papa said, Red [berries] are like black,[4] since R. Hanina said, Black blood is [in reality] red blood except that it deteriorated.[5]

IF HE DIMINISHED THEIR NUMBER, IT IS VALID. When did he diminish them? If you say, before he bound them,[6] is not this obvious? Consequently it must be said, after he bound them?[7] This then is a disability from the very outset.[8] Why then may it not be deduced therefrom that a disability from the outset[8] Is no [permanent] disability?[9] — Indeed it refers to [a diminution that took place] after he bound them, but he[10] is of the opinion that the binding is merely a designation [for its purpose], and a mere designation is of no consequence.[11]

THE DIMINUTION, HOWEVER, MAY NOT TAKE PLACE ON THE FESTIVAL. But if he transgressed and did pluck them,[12] how is it? Is it valid? But then, when did it become black? If you will say that it became black from the previous day,[13] then it is a disability from the very outset.[14] Why then may it not be deduced therefrom that a disability from the very outset is no disability? Consequently it must be conceded, must it not, that it became black on the Festival. It is thus a case of being fit[12] and then disabled. May it then be deduced therefrom that if anything was fit[12] and then suffered a disability it may become fit again? — No! Indeed it refers to where it became black before the Festival; and that a disability from the very outset[11] is no disability you may well deduce therefrom; but that where it was fit[12] and then suffered a disability it becomes fit again you may not deduce therefrom.

Our Rabbis taught, The diminution[15] may not take place on the Festival. In the name of R. Eliezer son of R. Simeon they said that it may be diminished.[16] But is he not[17] improving an object[18] on the Festival?[19] — R. Ashi said, This is a case where he plucked them[20] for food,[21] and R. Eliezer son of R. Simeon maintains the same opinion as his father who said that a work which is done without intention is permitted. But do not both Abaye and Raba say that R. Simeon admits in the case of ‘cut off his head, but let him not die’[22] [that it is forbidden]?[23] — Here we are dealing with a case where he has another hoshanna.[24] Our Rabbis taught, If the binding[25] became loosened on the Festival,[26] he may bind it as one binds vegetables.[27] But why [should this[28] be necessary]? Why should not one make a proper loop?[29] — [This statement is] according to R. Judah who says that a loop is to be considered a proper knot.[30] But if it is according to R. Judah, should not a proper binding be required?[31] The Tanna [of the Baraitha] agrees with R. Judah on one point[32] and disagrees with him on the other.[33]

MISHNAH. A STOLEN OR WITHERED WILLOW-BRANCH IS INVALID. ONE FROM AN ASHERAH OR FROM A CONDEMNED CITY IS INVALID. ONE WHOSE TIP WAS BROKEN OFF OR WHOSE LEAVES WERE SEVERED, OR A MOUNTAIN WILLOW[34] IS INVALID. ONE THAT WAS SHRIVELLED OR HAD LOST SOME OF ITS LEAVES, OR ONE GROWN IN A NATURALLY WATERED SOIL,[35] IS VALID.

GEMARA. Our Rabbis taught, Willows of the brook[36] means those which grow by a brook. Another interpretation of ‘willows of the brook’ is one whose leaf is elongated as a brook.[37]

Another Baraitha taught: ‘Willows of the brook’, [might mean] willows of the brook only. Whence do we know that those grown on naturally watered soil and mountain willows [are also valid]? Scripture expressly states, ‘willows[38] of the brook’, i.e., from any place.

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(1) Since the leaves are green while the berries are black.

(2) R. Hisda's tradition just cited.

(3) In which case it is speckled (cf. supra n. 7) and invalid.

(4) And, therefore, invalid.

(5) With regard to the blood of menstruation (v. Nid. 28a).

(6) So that when it was bound with the other species it was already valid.

(7) So that at the time of binding it was invalid.

(8) I.e., a disability that appeared before the Festival. Such a disability having appeared before the time for the fulfilment of the Festival is due does not invalidate permanently the object of ritual, which on recovering its normal status, becomes fit for use, v. infra.

(9) A question that remained unanswered, v. infra.

(10) The Tanna of our Mishnah.

(11) Sc. the plants do not thereby assume the full character of a festive wreath. The disability, therefore, cannot be regarded as having occurred prior to the Festival.

(12) On the Festival.
(13) The Festival eve.
(14) V. p. 148, n. 14.
(15) Of the berries (cf. our Mishnah).
(16) On the Festival.
(17) By making an invalid plant valid.
(18) Lit., ‘a vessel’.
(19) Which is forbidden.
(20) The berries.
(21) Not for the purpose of rendering the plant valid.
(22) The symbolic representation of the fact that although one has not the intention of bringing about a certain result, it is nevertheless an inevitable consequence.
(23) And the validity of the myrtle is the inevitable consequence of the plucking of the berries.
(24) Being independent of the one with the berries the removal of the latter cannot be regarded as the improvement of an object.
(25) Of the three species of the festive wreath.
(26) When the tying of a knot is forbidden.
(27) No knot is made and the loose end is inserted between the winding and the plants.
(28) Mode of binding.
(29) Which not being a knot is permitted on the Festival.
(30) Shab. 113a.
(31) As laid down by him supra 33a.
(32) That a loop is regarded as a proper knot and is forbidden on the Festival.
(33) That the lulab must be properly bound.
(34) צפצפה v. infra 34a.
(35) Sc. land which does not need artificial irrigation.
(36) Lev. XXIII, 40.
(37) And not rounded.
(38) In the plural.

Talmud - Mas. Sukkah 34a

Abba Saul[1] says, Willows [in the plural means] two, one for the lulab and one for the Sanctuary.[2] And whence do the Rabbis[3] deduce [the law of the willow] for the Sanctuary? — They had this as an accepted tradition; for R. Assi said in the name of R. Johanan, The laws of ten plants,[4] the willow-branch and the water libation[5] were given to Moses upon Mount Sinai.[6]

Our Rabbis taught, ‘Willows of the brook’[7] means those that grow by the brook excluding the zafzafah which is a willow that grows on the mountains. R. Zera said, Where is its Scriptural support?[8] — He placed it beside many waters, he set it as a zafzafah.[9] Abaye said to him, Is it not possible that [the latter part] is merely an explanation:[10] ‘He placed it beside many waters’, and what was it? A zafzafah? — If so, what was the need for ‘he set it’? R. Abbahu explained it:[11] The Holy One, blessed be He, said, I intended that Israel should be before Me as something placed beside many waters, that is, a willow, but they have made themselves as a zafzafah of the mountains.

Some teach this verse[11] in connection with the Baraitha:[12] ‘He placed it beside many waters, he set it as a zafzafah’.[9] To this R. Zera demurred, Is it not possible that [the latter part] is merely an explanation: ‘He placed it beside many waters’ and what was it? A zafzafah? — If so, what could be the meaning of ‘he set it’? R. Abbahu explained it:[11] The Holy One, blessed be He, said, I intended that Israel should be before Me as something placed beside many waters, that is, a willow, and they have made themselves as a zafzafah of the mountains.

Our Rabbis taught, What is a willow and what a zafzafah?--The willow has a red stem, an elongated leaf and a smooth edge; the zafzafah has a white stem, a round leaf and an edge serrated like a sickle. But has it not been taught, If it is like a sickle it is valid, if like a saw[13] it is invalid? — Abaye said. That[14] was taught only with regard to the rounded willow.[15] Abaye said, Deduce therefrom that a rounded willow[15] is valid for the hoshanna. But is not this obvious? — I would have said that since it has a distinctive name[16] it would be thereby invalid, therefore he informs us [that it is not so]. But perhaps it is indeed so?[17] — 'Willows[18] of the brook', says the Divine Law, implying from any place.

R. Hisda said, Since the destruction of the temple the following three things have had their names interchanged. [What was formerly called] hilpetha [is now called] 'arabta, and what was called 'arabta, is now called hilpetha.[19] What does that legally matter?-With regard to the lulab.[20] [What was before called] shifora [is now called] hazozerah,[21] and what was hazozerah is now shifora. In what respect does this legally matter? — In respect of the shofar for the New Year. [What was formerly called] pathora [is now called] pathorta, and what was pathorta is now pathora.[22] In what respect does this matter legally? — In respect of business transactions.[23] Abaye said, I also add [that what was formerly called] be kase [is now called] hublila,[24] and the former hublila is now be kase. In what respect does this legally matter? — In respect of a needle found in the fleshy part of the second stomach.[25] Raba b. Joseph said, I also add that [what was formerly called] Babylon [is now called] Borsif[26] and the former Borsif is now Babylon. In what legal respect

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(1) Objecting to the deduction just made.

(2) V. infra 45a. In the Sanctuary they walked round the altar seven times with willows.

(3) Who expound the plural 'willows' as referring to the validity of mountain willows and those that grow on naturally watered soil.

(4) That if there is a minimum of ten saplings to a se'ah, the whole area may be ploughed until the New Year of the Sabbatical year, since the digging is for the sake of the trees; not of the ground, v. Sheb. I, 6.

(5) V. infra 48a.

(6) V. supra.

(7) Lev. XXIII, 40.

(8) That the mountain willow is inferior to the ordinary one.

(9) Ezek. XVII, 5. The assumption is that the second part of the verse 'he set it as a zafzafah' is in contrast to the former part, as R. Abbahu infra explains.

(10) Of the first part.

(11) The text just cited.

(12) I.e., the author of the Baraitha and not R. Zera cited it. According to this version Abaye's objection is attributed to R. Zera.

(13) A sickle-like edge has all the teeth pointing in a slanting direction towards the handle; a saw-like edge has upright teeth (Rashi).

(14) 'Like a sickle it is valid'.

(15) One with rounded leaves.

(16) 'Rounded' willow. V. supra p. 145.

(17) I.e., invalid.

(18) The plural form.

(19) Kinds of willow. The hilpetha is identical with the zafzafah and is invalid, the 'arabta is the valid willow.

(20) What is now called 'arabta is invalid, and vice versa.

(21) The shifora or shofar is the ram's horn which is valid for sounding on the New Year, the hazozerah is a silver trumpet.

(22) The pathora is a large table, usually of a money-changer, the pathorta a small one.

(23) The seller must supply the article named in the contract in accordance with the current usage.

(24) Or hablila. The hablila is the first stomach of ruminants, the be kase (or beth ha-kosoth) the second stomach.

(25) If a needle is found in the first stomach, provided it does not perforate it, the animal remains ritually fit. If it is found in the second stomach the animal is ritually unfit (v. Hul. 50b).

(26) Borsippa, a town adjoining the old city of Babylon. v. Obermeyer. p. 314ff.

Talmud - Mas. Sukkah 34b

does this matter? — In respect of bills of divorcement?[1]

MISHNAH. R. ISHMAEL SAYS, [ONE MUST HAVE][2] THREE MYRTLE-BRANCHES, TWO WILLOW-BRANCHES, ONE PALM-BRANCH AND ONE ETHROG. EVEN IF TWO [OF THE MYRTLE-BRANCHES] HAVE THEIR TIPS BROKEN OFF AND [ONLY] ONE IS WHOLE [THE WREATH IS VALID]. R. TARFON SAYS, EVEN IF ALL THREE HAVE THEIR TIPS BROKEN OFF. R. AKIBA SAID, JUST AS [IT IS NEEDED TO HAVE BUT] ONE PALM-BRANCH AND ONE ETHROG, SO [IT IS NEEDED TO HAVE BUT] ONE MYRTLE-BRANCH AND ONE WILLOW-BRANCH.

GEMARA. It has been taught, R. Ishmael said, ‘The fruit of a goodly tree[3] implies one; ‘Branches of palm-trees’[3] implies one;[4] ‘boughs of thick trees’[3] implies three;[5] ‘willows of the brook’[3] implies two, and even if two [of the myrtle-branches] have their tips broken off, and only one is whole [the wreath is valid]. R. Tarfon said, [There must be] three,[6] [and they are valid] even if all have their tips broken off. R. Akiba said. Just as [it is necessary to have but] one palm-branch and one ethrog, so [it is necessary to have but] one myrtle-branch and one willow-branch. R. Eliezer said to him,[7] If one should say that the ethrog should be bound with them[8] in one bundle you can answer, Is it then written, ‘The fruit of a goodly tree and branches of palm-trees’? It says only, ‘The fruit of a goodly tree, branches of palm-trees’.[9] And whence do we know that they are a hindrance to one another?[10] Scripture teaches, ‘And ye shall take’.[11] [implying] that the taking must be complete.[12] As to R. Ishmael,[13] whichever view he takes [he is inconsistent]. For if he demands that the myrtle-branches] be whole, why should he not demand[14] that they all be whole, and if he does not demand it, why should even one [have to be whole]? — Said Bira'ah in the name of R. Ammi, R. Ishmael recanted from this view.[15] Rab Judah said in the name of Samuel, The halachah is in agreement with R. Tarfon.[16] And Samuel is consistent; for in his view [expressed elsewhere] Samuel said to those who sold myrtle. ‘Sell at the normal price, for if not, I will expound to you as R. Tarfon’.[17] What is his reason?[18] If you will say that he wished to take a lenient view, why did he not expound to them as R. Akiba[19] who is still more lenient? — Three with broken tips are common, one with an unbroken tip is uncommon.[20]

MISHNAH. AN ETHROG WHICH IS STOLEN OR WITHERED IS INVALID. ONE FROM AN ASHERAH OR A CONDEMNED CITY IS INVALID. IF IT WAS OF ‘ORLAH[21] OR OF UNCLEAN TERUMAH[22] IT IS INVALID. IF IT WAS OF CLEAN TERUMAH HE SHOULD NOT TAKE IT,[23] BUT IF HE DID TAKE IT, IT IS VALID. IF IT WAS DEMAI,[24] BETH SHAMMAI DECLARE IT INVALID, AND BETH HILLEL DECLARE IT VALID. IF IT WAS OF SECOND TITHE, IT SHOULD NOT BE TAKEN[23] [EVEN] IN JERUSALEM, BUT IF HE TOOK IT, IT IS VALID.

IF THE LARGER PART OF IT IS COVERED WITH SCARS, OR IF ITS NIPPLE IS REMOVED, IF IT IS PEELED, SPLIT, PERFORATED, SO THAT ANY PART IS MISSING, IT IS INVALID. IF ITS LESSER PART ONLY IS COVERED WITH SCARS, IF ITS STALK WAS MISSING, OR IF IT IS PERFORATED BUT NAUGHT OF IT IS MISSING, IT IS VALID. AN ETHIOPIAN[25] ETHROG IS INVALID. IF IT IS GREEN AS A LEEK, R. MEIR DECLARES IT VALID AND R. JUDAH DECLARES IT INVALID.

THE MINIMUM SIZE OF AN ETHROG, R. MEIR SAYS, IS THAT OF A NUT. R. JUDAH SAYS THAT OF AN EGG. THE MAXIMUM [SIZE] IS SUCH THAT TWO CAN BE HELD IN

ONE HAND. THESE ARE THE WORDS OF R. JUDAH. R. JOSE SAID, EVEN ONE [THAT HE CAN HOLD ONLY] IN BOTH HIS HANDS.

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(1) A bill of divorcement executed in the original Borsif and carried to another place is invalid unless the bearer made the declaration; ‘In my presence it was written and in my presence it was signed’, while one brought from Babylon required no such declaration (cf. Git. 2a, 6a, and Sanh. 109a). For further notes on this passage v. Shab., Sonc. ed., fol. 36a.
(2) For the festive wreath (cf. Lev. XXIII, 40).
(3) Lev. XXIII, 40.
(4) Since the word is written in singular form. V. supra.
(5) Corresponding to the three words in the original: ‘anaf, ‘ez and ‘aboth.
(6) Myrtle-branches.
(7) [Var. lec. rightly omit ‘to him’].
(8) The other three species.
(9) The absence of the waw conjunctive in this case and its presence in the case of the myrtles and willows that follow indicates that while the last three must be tied together the first need not.
(10) I.e., if one of the four species is missing it invalidates all.
(11) Lev. XXIII, 40.
(12) The four species together.
(13) Who requires only one myrtle-branch to be whole while the other two may have their tips broken off.
(14) Since Scripture draws no distinction between the two and the one.
(15) Sc. he now holds that one myrtle-branch is enough, but it must be whole.
(16) That myrtle-branches whose tips are broken off are valid.
(17) The people preferred whole, unbroken myrtles and to prevent exploitation by the vendors, Samuel threatened to expound that even broken ones are valid.
(18) That Samuel threatened to rule as R. Tarfon.
(19) Who requires only one myrtle-branch.
(20) The threat to adopt R. Tarfon's ruling had, therefore, a greater effect.
(21) The fruit of a tree during the first three years of its growth. V. Lev. XIX, 23.
(22) V. Glos.
(23) For the festive wreath.
(24) Produce about which it is doubtful whether it has been tithed; lit., ‘mixed’.
(25) I.e., ‘dark coloured’, ‘black’.

Talmud - Mas. Sukkah 35a

GEMARA. Our Rabbis have taught, ‘The fruit of a goodly tree’[1] implies[2] a tree the taste of whose ‘fruit’ and ‘wood’ is the same. Say then that it is the ethrog. Might it not be said to be pepper, as it has been taught. ‘R. Meir used to say, From the implication of the text, And ye have planted all manner of trees,[3] do I not know that the reference is to a tree for food?[4] What then does Scripture teach by the [next phrase] "for food"? [That[5] the reference is to] a tree the taste of whose fruit and wood is the same. Say then that it is pepper. This is to teach you that the pepper tree[6] is subject to the law of ‘orlah and that the Land of Israel lacks nothing, as it is said, Thou shalt not lack anything in it’?[7] — There[8] [pepper is excluded] since it is impossible [to use it].[9] For how shall he proceed? If he take one [pepper seed],[9] it is unrecognizable;[10] if he takes two or three, the Divine Law surely said, one ‘fruit’[11] and not two or three fruits. [Its use] therefore is impossible.

Rabbi said, Read not hadar[12] but ha-dir;[13] just as the stable contains large and small [animals], perfect and blemished ones, so also [the fruit spoken of[8] must have] large and small, perfect and blemished. Have not then other fruits large and small, perfect and blemished? — It is this rather that was meant: Before the small ones[14] come, the large[15] are still existent [on the tree].[16]

R. Abbahu[17] said, Read not hadar,[12] but ha-dar,[18] a fruit which remains upon its tree from year to year. Ben ‘Azzai said, Read not hadar, but hudor[19] for in Greek water is called hudor.[19] Now what fruit is it that grows by every water? Say, of course, it is the ethrog.

IF FROM AN ASHERAH OR FROM A CONDEMNED CITY, IT IS INVALID. What is the reason? — Since it is condemned to be burnt, [it is considered as though] its minimum size is destroyed.[20]

IF FROM ‘ORLAH, IT IS INVALID. What is the reason? R. Hiyya b. Abin and R. Assi disagree on this point. One explains because there is no permission to eat it,[21] and the other explains because it[22] has no monetary value.[23] It is now assumed that the authority who insists on permission to eat it [in order to render it valid] does not insist upon [its having] monetary value,[24] and that he who insists upon monetary value does not insist upon permission to eat it.[25]

Now we learned, OR OF UNCLEAN TERUMAH, IT IS INVALID. This is well according to him who explains, because there is no permission to eat it,[26] but according to him who explains, because it has no monetary value,[27] why [should unclean terumah be invalid] seeing that the man can kindle it under his cooking?[28] The fact is [that with regard to] permission to eat it, all agree that it is an essential,[29] and they disagree only on the question whether monetary value [is also necessary]. One Master is of the opinion that permission to eat it is necessary[29] but not monetary value, while the other Master is of the opinion that monetary value is also necessary. What is the practical difference between them? — The case of the Second Tithe in Jerusalem differentiates them according to R. Meir.[30] According to him who explains, because there is no permission to eat it [it is valid, since] in this case there is permission to eat it. According to him who explains, because it has no monetary value [it is invalid, since] the Second Tithe is sacred money.[31]

It may be concluded that it is R. Assi who gives [also] the reason that it has no monetary value,[32] since R. Assi said, [With] an ethrog of the Second Tithe according to R. Meir,[33] a person cannot fulfil his obligation on the Festival, and according to the Sages[34] he may fulfil his obligation with it on the Festival.[35] This is proved.

[Turning to] the main text, R. Assi said: [With] an ethrog of the Second Tithe, according to R. Meir, a person cannot fulfil his obligation on the Festival, and according to the Sages he may fulfil his obligation with it on the Festival. With unleavened bread of the Second Tithe, according to R. Meir, a man cannot fulfil his obligation[36] on Passover,[37] and according to the Sages he may fulfil his obligation with it on the Passover. Dough of the Second Tithe, according to R. Meir, is exempt from hallah;[38] according to the Sages it is liable to hallah.

R. Papa demurred: This[39] is well with regard to dough, since it is written, Of the first of your dough.[40] With regard to the ethrog also it is written, To you[41] [implying that — it should be yours.[42] With regard however to unleavened bread, does Scripture say, ‘your unleavened bread’? — Rabbah b. Samuel, or as some say, R. Yemar b. Shelemiah, replied. We deduce it from the word ‘bread’ which is common to both passages. In this connection it is written, The bread of affliction[43] and there[44] it is written,

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(1) Lev. XXIII, 40.

(2) Since ‘ez (tree) or ‘wood’ and peri (fruit) are in juxtaposition.

(3) Lev. XIX, 23, the conclusion of which is ‘It shall not be eaten’.

(4) Apparently we do.

(5) Since ma'akal (food) and ‘ez (trees or ‘wood’) are in juxtaposition.

(6) Though low and similar to a vegetable plant which is exempt from ‘orlah.

(7) Deut. VIII, 9.

(8) In Lev. XXIII, 40.
(9) With the festive wreath.
(10) On account of its minute size.
(11) Peri in the sing.
(12) ‘Goodly’.
(13) ‘The stable’.
(14) Of the current year.
(15) Of the previous year.
(16) And this can refer to the ethrog only whose fruit remains on the tree for two or three years.
(17) Agreeing with Rabbi but adopting a different form of exposition.
(18) ‘Which dwells’.
(19) Cur. edd., ‘Idor’.
(20) V.supra 31b.
(21) Since it is prohibited for use, it does not come within the category of ‘yours’. lakem (E.V., ‘unto you’).
(22) Since it is forbidden to derive any benefit from it.
(23) Cf. supra n. 15, mut. mut.
(24) Second Tithe, for instance, which may be eaten in Jerusalem would consequently be valid though it cannot be regarded as having monetary value since its owner according to R. Meir is not permitted to use it for such a purpose for instance as the betrothal of a wife (cf. Kid. 52b).
(25) An ethrog of tebel (v. Glos.) though forbidden to be eaten, would consequently be valid since benefit may be derived from it.
(26) Since unclean terumah may not be eaten.
(27) While permission to eat it is of no consequence.
(28) Cf. Shab. 25b.
(29) To validity.
(30) Who regards Second Tithe as sacred, not secular money (Kid. 52b).
(31) Lit., ‘of the Most High.’ And is therefore not ‘yours’ (cf. supra p. 156. n. 15).
(32) Sc. that an ethrog is invalid unless it satisfies both conditions, permissibility to eat it as well as the possession of monetary value and that an ethrog of Second Tithe is, according to R. Meir, invalid.
(33) Who regards Second Tithe as sacred money.
(34) Who regard it as secular property.
(35) Pes. 38a.
(36) To eat unleavened bread.
(37) Sc. on the first night of the Festival.
(38) The separation of a portion of one's dough for the priest (v. Glos.). The reason is discussed infra.
(39) That the use of Second Tithe is invalid.
(40) Num. XV, 21; while Second Tithe is sacred and not entirely ‘yours’.
(41) Lev. XXIII, 40.
(42) Cf. supra n. 5 mut. mut.
(43) Deut. XVI, 3.
(44) With regard to hallah.

Talmud - Mas. Sukkah 35b

Then it shall be when ye eat of the bread of the land;[1] just as in the latter case [the reference is to] what is yours and not of the tithe, so in the former case, [it must be] yours and not of the tithe.

Can we say that the following supports [this view]: Dough of the Second Tithe is exempt from hallah, according to R. Meir, while the Sages say that it is liable?[2] — ‘Can we say that the following supports [this view]’! Is it not the identical statement? Rather [say that the question was whether we can say that] since they[3] dispute in this instance,[4] they also dispute in the others[5] or perhaps dough is exceptional because Scripture repeated the words ‘your dough’.[6] OR OF UNCLEAN TERUMAH, IT IS INVALID; because there is no permission to eat it.

IF IT WAS OF CLEAN TERUMAH, HE SHOULD NOT TAKE IT. R. Ammi and R. Assi disagree on the reason of the ruling. One explains, Because he [thereby][7] renders it susceptible [to ritual uncleanness],[8] while the other explains. Because he depreciates its value.[9] What is the practical difference between them? The case where one assigned the name of terumah to it[10] except to its outer peel. According to him who explains, Because he renders it susceptible [to ritual uncleanness], this[11] does apply;[12] according to him who explains, Because he depreciates its value, it[13] does not apply.[14]

BUT IF HE DID TAKE IT, IT IS VALID; [since] according to him who explains, Because there is no permission to eat it, this is permitted to be eaten,[15] and according to him who explains, Because it has no monetary value, this surely has monetary value.[16]

IF IT WAS DEMAI. What[17] is the reason of Beth Hillel?-Because, if he wishes, he may declare his property to be hefker[18] and thereby become a pauper who is entitled to benefit [from demai] we may now also apply to it the expression 'to you'. For we have learnt, Poor men and billeted troops may be fed with demai.[19] [But on the view of] Beth Shammai[20] a poor man may not eat demai; as we have learnt, Poor men and billeted troops may[21] eat demai and R. Huna stated, A Tanna taught: Beth Shammai say that poor men and billeted troops may not be fed with demai, while Beth Hillel say that poor men and billeted troops may be fed with demai.

IF IT WAS OF SECOND TITHE . . . IN JERUSALEM. According to him who explained,[22] Because he renders it susceptible [to uncleanliness] it is [here forbidden] since he renders it susceptible [to uncleanliness]; according to him who explained.[22] Because he depreciates its value [it is forbidden] since here also he depreciates its value.

BUT IF HE TOOK IT, IT IS VALID. According to him who explains.[23] Because there is no permission to eat it,[24] [the ruling][25] is according to all.[26] According to him who explains,[23] Because it has no monetary value, according to whom [is the ruling]? According to the Rabbis.[27]

IF THE LARGER PART OF IT IS COVERED WITH SCARS. R. Hisda said, The following was said by our great Master,[28] may the Omnipresent be his help! This was taught only [where they were] in one place, but if they were in two or three places, [the ethrog] is valid. Raba said,[29] On the contrary! If they were in two or three places the ethrog is as though speckled and invalid. Rather if the statement was at all made, it was made in connection with the latter part [of our Mishnah]: IF ITS LESSER PART ONLY IS COVERED WITH SCARS . . . IT IS VALID. R. Hisda said, The following was said by our great Master, may the Omnipresent be his help! This was taught only [if they were] in one place, but if in two or three places the ethrog is as speckled and invalid. Raba said, But [if a scar is] on the oblate part,[30] even if it is one of the slightest extent, the ethrog is invalid.

IF ITS NIPPLE IS REMOVED. R. Isaac b. Eleazar[31] taught,[32] If its peduncle was removed.[33] IF IT IS PEELED. Raba ruled, An ethrog which was peeled so as to resemble[34] a red date[35] is valid. But have we not learnt, IF IT IS PEELED . . . IT IS INVALID? — This is no difficulty,

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(1) Num. XV, 19.

(2) Pes. 28a.

(3) R. Meir and the Sages.

(4) Hallah.

(5) Ethrog and unleavened bread; bind thus support is afforded to R. Assi's submission.

(6) In Num. XV, 20 and 21. In this case alone perhaps, where the fact that it must be one's property is emphasized, does R. Meir exempt it, but not in the case of ethrog or unleavened bread where Scripture laid no such emphasis.

(7) By using an ethrog of terumah in connection with the festive wreath.
(8) An article is not susceptible to ritual uncleanness until it has come in contact with water. The lulab is usually placed in water to keep it fresh (cf. infra 42a) and when the ethrog comes in contact with the wet lulab it also is rendered susceptible to similar uncleanliness.
(9) Since the peel of the ethrog becomes damaged by use.
(10) The ethrog.
(11) The prohibition to use it ab initio.
(12) Since the entire ethrog becomes susceptible.
(13) The prohibition to use it ab initio.
(14) Since the outer peel is no terumah.
(15) By a priest and, under certain conditions, by an Israelite also.
(16) A priest and, under certain conditions an Israelite also, being permitted to betroth a woman with it.
(17) Since demai may not be eaten.
(18) V.Glos.
(19) Demai III, 1.
(20) Who forbid the use of demai.
(21) Cur. edd. in parenthesis ‘not’.
(22) Supra p. 159.
(23) With regard to ‘orlah, supra.
(24) And that the question of monetary value is of no consequence.
(25) On Second Tithe.
(26) Both the Sages who say that the Second Tithe is secular property and R. Meir who says it is sacred property, since in either case it may be eaten.
(27) But (cf. prev. n.) not according to R. Meir.
(28) Rab. (V. supra 33b).
(29) Cf. Bah. Cur. edd. add ‘to him’.
(30) The part of the ethrog which slopes towards the nipple.
(31) In his Baraitha.
(32) Instead of ‘IF ITS NIPPLE’ etc.
(33) Reading buknah instead of pitmah.
(34) In colour, after it had been peeled.
(35) Ahina, a kind of inferior dates.

Talmud - Mas. Sukkah 36a

since the former refers to where all of it [was peeled], the latter to where only a part was peeled.[1]

SPLIT, PERFORATED. ‘Ulla b. Hanina[2] learned,[3] If it is completely perforated [it is invalid even if the hole is] of the minutest size; if it is not completely perforated [the hole must be of the minimum size] of an issar.[4]

Raba enquired: If there developed in an ethrog the symptoms [which render an animal] terefah,[4] what is the law? — But concerning what does he inquire? If concerning [an ethrog which is] peeled,[5] have we not [already] learnt it?[6] If concerning one that is split[5] have we not learnt it also?[6] If concerning one that is perforated.[5] have we not learnt it also?[6] — The enquiry he raised was concerning [the law] ‘Ulla cited in the name of R. Johanan [who taught], If the [contents of the] lung pour out as from a ladle[7] [the animal] is fit to be eaten,[8] and Raba explained that this applies only when the arteries are still whole, but if the arteries are rotted [the animal is] terefah. Now what is the ruling here?[9] Is it possible that this[10] applies to the former case only, where, since the air cannot affect it,[11] it could become healthy again,[12] but not in the latter case where, since the air can affect it, it inevitably decays, or is it possible that there is no difference? — Come and hear: An ethrog which is swollen, decayed, pickled, boiled, and Ethiopian,[13] white or speckled, is invalid. An ethrog which is round as a ball is invalid. And some add if two are grown together. If an ethrog is half-ripe, R. Akiba declares it invalid, and the Sages valid. If it was grown In a mould, so that it has the appearance of another species, it is invalid. At any rate it teaches 'swollen or decayed', which implies, does it not, swollen from without or decayed from within?[14] No! Both refer to the exterior, and yet there is no discrepancy. The one refers to a case where the ethrog is swollen even although it is not decayed; the other to a case where it was decayed without being swollen.

The Master has said, An Ethiopian ethrog is invalid. But has it not been taught, If it is Ethiopian it is valid, if it is like an Ethiopian,[15] it is invalid? — Abaye answered, In our Mishnah also we learned of one that is like an Ethiopian. Raba answered, There is no difficulty. The former refers to us,[16] the latter to them.[17]

A half-ripe ethrog, R. Akiba declares invalid, and the Sages declare it valid. Rabbah observed, Both R. Akiba and R. Simeon say the same thing. As to R. Akiba there is the statement just quoted. But what is the ruling of R. Simeon? — That which we have learnt:[18] R. Simeon declares ethrogs to be exempt [from tithes] when they are small.[19] Said Abaye to him, But perhaps it is not so! R. Akiba may uphold his view only here, since the ethrog must be 'goodly', which [an unripe ethrog] is not, but there[20] he may hold the opinion of the Rabbis;[21] or else, R. Simeon may have maintained his view only here,[20] since it is written, Thou shalt surely tithe all the increase of thy seed,[22] [which confines liability to tithe to such fruit only] as men bring forth for sowing,[23] but in the present instance he might agree with the Rabbis,

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(1) It is invalid since it is 'speckled'.
(2) Var. lec. Hinena (Bah).
(3) In connection with the ruling. IF IT IS PERFORATED BUT NAUGHT OF IT IS MISSING.
(4) V. Glos.
(5) Certain organs, if peeled, split or perforated, cause an animal to be terefah.
(6) In our Mishnah.
(7) Sc. the flesh inside is decayed and liquified.
(8) Hul. 47b.
(9) In the case of the ethrog. The seed kernels are regarded as corresponding with the arteries of the lungs.
(10) The permissibility.
(11) One of the internal organs.
(12) Were the animal alive. An injury which, were the animal alive, would disappear, does not render the animal terefah.
(13) V. infra.
(14) In which case it can be compared to an organ which is sound outside, but decayed from within.
(15) I.e., black, but not grown in Ethiopia.
(16) Babylonians.
(17) In Palestine, Ethiopian ethrogs are unknown and therefore they are declared invalid. In Babylon, Ethiopian ethrogs were common and valid (Rashi).
(18) Cur. edd. in parenthesis 'as it was taught'.
(19) Ma'as. I, 4.
(20) With regard to its liability to tithes.
(21) Who regard it as liable to tithes.
(22) Deut. XIV, 22.
(23) I.e., ripe fruit.

Talmud - Mas. Sukkah 36b

and there is nothing more [to say about it].[1]

'If it was grown in a mould, so that it has the appearance of another species, it is invalid.' Raba stated, They taught this Only in the case where ‘it has the appearance of another species’, but if it has its natural shape it is valid. But is not this obvious, seeing that it was taught,[2] ‘the appearance of another species’? — It[3] was necessary only in a case where it[4] was moulded in the shape of planks joined together.[5]

It was stated: An ethrog which has been gnawed by mice, Rab ruled, is no longer ‘goodly’.[6] But it is not so? Did not R. Hanina in fact, taste a part of it,[7] and fulfilled his obligation[8] [with the remainder]? — Does not then our Mishnah[9] present a contradiction against R. Hanina?[10] — One might well explain that our Mishnah presents no contradiction against R. Hanina since the former might refer to the first day of the Festival,[11] while the latter might refer to the second day; but [does not R. Hanina's ruling[12] present] a contradiction against Rab?[13] — Rab can answer you: [The gnawing by] mice is different, since they are repulsive.

Others says, Rab ruled that it[14] is ‘goodly’ since R. Hanina tasted a part [of an ethrog] and fulfilled his obligation [with the remainder]. But does not our Mishnah[9] present a contradiction against R. Hanina? — There is really no contradiction, since the former refers to the first day of the Festival, while the latter refers to the second day.

THE MINIMUM SIZE OF AN ETHROG etc. Rafram b. Papa observed: As is the dispute[15] here, so is the dispute with regard to rounded pebbles. For it has been taught, It is permitted on the Sabbath[16] to carry three rounded smooth pebbles[17] into [a field] lavatory.[18] And what must be their size? R. Meir ruled, The size of a nut, R. Judah ruled, That of an egg.

THE MAXIMUM SIZE etc. It was taught: R. Jose related, It happened with R. Akiba that he came to Synagogue with his ethrog on his shoulder.[19] R. Judah answered him,[20] Is this a proof? They[21] in fact said to him, This ethrog is not ‘goodly’.

MISHNAH. THE LULAB[22] MAY BE BOUND ONLY WITH [STRANDS OF] ITS OWN SPECIES; SO R. JUDAH. R. MEIR SAYS IT MAY BE BOUND EVEN WITH A CORD.[23] R. MEIR OBSERVED, IT ACTUALLY OCCURRED THAT THE MEN[24] OF JERUSALEM USED TO BIND THEIR LULABS WITH STRANDS OF GOLD. THEY[25] ANSWERED HIM, BUT THEY BOUND IT WITH [STRANDS OF] ITS OWN SPECIES UNDERNEATH [THE STRANDS OF GOLD].[26]

GEMARA. Raba stated, A lulab may be bound even with bast, or even with [strips of] the roots of the date-palm. Raba further stated, What is the reason of R. Judah? He is of the opinion that the lulab[22] must be bound so that if one uses another species, the wreath would contain five species.[27]

Raba further stated, Whence do I deduce that bast and roots of date-palms are species of the palm-tree? From what has been taught: [It is written,] Ye shall dwell in Sukkoth [booths],[28] which implies a Sukkah[29] made of any material; so R. Meir. R. Judah ruled, The Sukkah must be made of the same four species as the lulab. And logic demands it: If the lulab which does not obtain by night as by day,[30] is valid only with the Four Species, is there not then much more reason that the Sukkah which obtains both by night and by day,[30] shall be valid only with the Four Species? They answered him, Any a fortiori argument which begins with a restriction [of the law] and concludes with a relaxation [of it][31] is no valid argument.[32]

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(1) Sc. no further arguments can be advanced since R. Simeon need not agree with R. Akiba nor need the latter agree with the former.

(2) Cur. edd. in parenthesis ‘we learned’.

(3) Raba's statement.

(4) The ethrog.

(5) ‘Angular’ (Jast.) ‘in the shape of the wheel of a water mill’ (Rashi); Raba's view being that such a shape may be regarded as natural.
(6) Cf. Lev. XXIII, 40.
(7) Lit., ‘differed with it’, sc. in some relish.
(8) Of taking the festive wreath.
(9) Which ruled an ethrog any part of which is missing to be invalid.
(10) Who, as stated, used an ethrog after a part of it had been removed.
(11) When, in accordance with an exposition of ‘and ye shall take’ in Lev. XXIII, 40, the ethrog must be whole.
(12) According to which an ethrog a part of which is missing is fit at least for the second day.
(13) Who does not regard such an ethrog as ‘goodly’, and consequently it is invalid even on the second day of the festival, v. supra 29b.
(14) An ethrog gnawed by mice.
(15) Between R. Meir and R. Judah on the minimum size of an ethrog.
(16) When the carrying of an object in certain domains is forbidden.
(17) To cleanse oneself.
(18) Which has no walls and the movement of objects into it on the Sabbath is otherwise Rabbinically forbidden.
(19) Owing to its huge size; which proves that there is no maximum size.
(20) R. Jose.
(21) The Rabbis at the Synagogue.
(22) Sc. the festive wreath consisting of the palm, myrtle and willow-branches.
(23) So separate edd. of the Mishnah, Alfasi and Asheri. Cur. edd. insert, ‘with a thread’.
(24) [אנשי ירושלם MS.M. יקירי ירושלם ‘The nobility’. V. infra p. 166, n. 3. Klein, S. מדעי היהדות I, p. 72ff regards both these terms as synonymous with נקיי הדעת . V. Sanh., Sonc. ed., p. 131, n. 3].
(25) The Rabbis at the College.
(26) The former serving as binders and the latter as mere ornaments.
(27) Instead of the four prescribed in Lev. XXIII, 40. It is forbidden to add to a commandment.
(28) Lev. XXIII, 42.
(29) I.e., the Sukkah-covering.
(30) V. infra 43a for proof.
(31) As will soon be illustrated.
(32) Since the ultimate effect of the restriction is a relaxation.

Talmud - Mas. Sukkah 37a

For suppose he could not find all the Four Species, he would be sitting and doing nothing[1] while the Torah said, ‘Ye shall dwell in booths for seven days.’ implying a Sukkah of whatever material. And so with Ezra it says, Go forth unto the mount, and fetch olive branches, and branches of wild olive, and myrtle branches and palm-branches, and branches of thick trees to make Sukkoth, as it is written.[2] And [what does] R. Judah [answer to this verse?] — He is of the opinion that the other [species] were for the walls, while the ‘myrtle branches and palm-branches and branches of thick trees’ were for Sukkah — covering. And [nevertheless] we have learnt, Planks may be used as a Sukkah-covering, these are the words of R. Judah.[3] Thus[4] it clearly follows that bast and roots of date-palms[5] are a species of palm-tree.[6] This is conclusive.

But did R. Judah rule that the Four Species alone [are valid][7] and not anything else? — Was it not in fact taught, ‘If he covered it[8] with planks of cedar wood which are four handbreadths wide, it is invalid according to all.[9] If they are not four handbreadths wide, R. Meir declares it invalid and R. Judah valid, but R. Meir admits that, if there is a space of one plank between every two planks, he may place laths between them and the Sukkah is valid’?[10] — What is meant by ‘cedar’? Myrtle. This is in agreement with Rabbah son of R. Huna, since Rabbah son of R. Huna stated, In the school of Rab[11] they said that there were ten species of cedar, as it is said, I will plant in the wilderness the cedar, the acacia tree, and the myrtle etc.[12]

R. MEIR SAYS EVEN WITH A CORD. It has been taught: R. Meir said, It occurred with the nobility[13] of Jerusalem that they bound their lulabs with [strands of] gold. They said to him, Is that evidence? They bound it in fact with strands of its own species underneath.[14]

Rabbah said to those who bind the hoshanna[15] at the house of the Exilarch, 'When you bind the hoshannas at the house of the Exilarch, [be careful to] leave a handle[16] so that[17] there should be no interposition'.[18] Raba [however] ruled, Whatever is used to beautify it[19] constitutes no interposition.

Rabbah further stated, A man shall not hold the hoshanna[20] with a scarf, because it is required that the 'taking'[21] shall be complete, and in this case it is not. Raba, however, ruled, Taking hold by means of something else is also regarded as a valid 'taking'. Whence, said Raba, do I derive that taking hold by means of something else is also regarded as a valid taking? From what we have learnt: If the hyssop[22] is too short,[23] it may be made to suffice with a thread or with a reed and so it is dipped and brought up, but one must hold the hyssop itself when sprinkling.[24] Now why [is this[25] permitted]? Did not the Divine Law say, And he shall take hyssop and dip?[26] May we not then deduce therefrom that taking hold by means of something else is also regarded as a valid 'taking'?[27] — But whence the proof? That case[28] perhaps is different; since [the thread or reed] was joined on [to the hyssop],[29] it is regarded as part of it? — In fact [the deduction is made] from the following: [If the ashes of the Red Heifer] fell [of their own accord] from their tube into the trough they are invalid.[30]

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(1) Sc. would be deprived of the performance of the precept of Sukkah.

(2) Neh. VIII, 15.

(3) Supra 14a.

(4) Since only that which is valid for the lulab is valid for the Sukkah.

(5) Which, in view of R. Judah's restrictions, must be understood to be the material of the planks which he permits for Sukkah-covering.

(6) Had they not been that, they would have been invalid for the Sukkah as well as for the lulab.

(7) As a Sukkah-covering.

(8) A Sukkah.

(9) I.e., even according to R. Judah.

(10) Supra 17b.

(11) Be-rab may also mean simply 'in the school'.

(12) Isa. XLI, 19, which shows that myrtle is also called cedar.

(13) V. supra p. 164, n. 9.

(14) So that the gold bands above them served as a mere ornament.

(15) The term is used for the myrtle or the entire festive wreath, here it is to be understood in the latter sense.

(16) Below the binding.

(17) When the wreath is held in the performance of the precept.

(18) Between the hand of the holder and the wreath. Rabbah holds that according to Pentateuchal law, the binding is unnecessary hence it would form an interposition between one's hand and the wreath.

(19) The wreath.

(20) V. supra n. 7.

(21) With reference to Lev. XXIII, 40.

(22) Used for the sprinkling of the water containing the ashes of the Red Heifer. V. Num. XIX, 6.

(23) To reach the level of the water in the tube.

(24) Parah XII, 1.

(25) Dipping the hyssop by means of a thread or reed.

(26) Num. XIX. 18, the verb 'to take' being used here as in the case of the lulab.

(27) Nevertheless, in order that he may have a firmer grasp of it for the better sprinkling, he must take hold of the hyssop itself when performing the lustration.

(28) Parah XII, 1.
(29) I.e., to lengthen it.
(30) Parah VI, 1. The ashes were carried in tubes from which they were emptied into a stone trough containing tile water. If the ashes fall into the water of their own accord they become invalid since the putting into the water must be done with intention.

Talmud - Mas. Sukkah 37b

From this it follows that if the man himself threw them into the water they are [presumably] valid.[1] Now why [should that be so]? Did not the Divine Law say, And they shall take of the ashes . . . and he shall put?[2] May we not then[3] deduce that taking by means of something else is also regarded as a valid 'taking'.

Rabbah further stated, One should not thrust the palm-branch through the bound willow and myrtle[4] lest some leaves are detached and thus form an interposition.[5] Raba, however, ruled, A thing of the same species does not constitute an interposition.

Rabbah further stated, One should not shear the palm-branch while it is in the wreath,[4] since loose leaves[6] might remain and form an interposition,[5] Raba however ruled, A thing of the same species does not constitute an interposition.

Rabbah further stated, it is forbidden to smell[7] a myrtle branch [used] for the [fulfilment of the] commandment,[8] but it is permitted to smell an ethrog [used] for the [fulfilment of the] commandment. What is the reason? — The myrtle — since it is used as perfume, when it is set apart [for ritual purposes] is set apart from [use as a] perfume: the ethrog, however, since it is used as food, when it is set apart [for ritual purposes] it is set apart [only] from [use as] food.

Rabbah further stated, If a myrtle is attached to the ground, it may be smelt;[9] if an ethrog is attached to the ground, it may not be smelt. What is the reason? — The myrtle, since it is used as a perfume,[10] [even] if you permit it [to be smelt], the man would not be tempted to cut it; the ethrog, however, since it is used for food, if you permit it [to be smelt] the man might be tempted[11] to cut it.[12]

Rabbah further stated, The lulab [must be held][13] in the right hand and the ethrog in the left. What is the reason? The former constitutes three commandments[14] and the latter only one.[15]

R. Jeremiah enquired of R. Zerika, Why in the blessing[16] do we say only 'To take the palm-branch'?[17] — Because it towers above the others. Then[18] why should not one lift up the ethrog and recite the blessing over it? — The reason is, the other answered him, that as a species it naturally towers above all of them.

MISHNAH. AND WHERE[19] IS [THE LULAB] WAVED? AT THE COMMENCEMENT AND THE CONCLUSION OF THE PSALM, O GIVE THANKS UNTO THE LORD[20] AND AT SAVE NOW, WE BESEECH THEE, O LORD.[21] THESE ARE THE WORDS OF BETH HILLEL. BETH SHAMMAI SAY, ALSO AT O LORD WE BESEECH THEE, SEND NOW PROSPERITY.[22] R. AKIBA STATED, I WATCHED R. GAMALIEL AND R. JOSHUA, AND WHILE ALL THE PEOPLE WERE WAVING THEIR LULABS [AT OTHER VERSES], THEY WAVED THEM ONLY AT SAVE NOW, WE BESEECH THEE, O LORD.[22]

GEMARA. Who has ever mentioned the name of waving [of the lulab]?[23] — It was mentioned previously:[24] A lulab which has a length of three handbreadths, sufficient to wave with it, is valid,[25] and in reference to this the Mishnah says, AND WHERE IS THE LULAB WAVED?

We have learnt elsewhere, As to the Two Loaves[26] and the Two Lambs of Pentecost,[27] how does one proceed? [The priest] places the two loaves upon the two lambs and places his hands beneath them and waves them forwards and backwards, upwards and downwards, as it is said, Which is waved[28] and which is heaved[29] up.[30] R. Johanan explained, [One waves them] to and fro [in honour of] Him to Whom the four directions belong, and up and down [in acknowledgment of] Him to Whom are Heaven and Earth.

In Palestine[31] they taught us thus: R. Hama b. 'Ukba stated in the name of R. Jose son of R. Hanina, He waves them to and fro in order to restrain harmful winds; up and down, in order to restrain harmful dews. R. Jose b. Abin, or, as some say, R. Jose b. Zebila, observed, This implies

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(1) Though, as in the case when they fell of their own accord, the man did not hold the ashes themselves but only the tube which contained them.
(2) Num. XIX, 17, the verb 'to take' being used.
(3) Since taking by means of a tube is here regarded as a valid taking.
(4) Lit., 'hoshanna' v. supra, p. 166, n. 5.
(5) Between the components of the wreath.
(6) Of the lulab.
(7) During the seven days of the Festival.
(8) Of Lev. XXIII, 40.
(9) This refers to the Sabbath. There is no need to fear that the man might be tempted to cut it down and thus transgress the Sabbath.
(10) And can well be enjoyed without plucking it.
(11) By its fragrance.
(12) In order to eat it. Cutting or even biting off a growing fruit is an act forbidden on the Sabbath.
(13) When the precept, Lev. XXIII, 40, is fulfilled.
(14) Those of the palm, the myrtle and the willow which are bound together.
(15) The right hand is regarded as the more important, and in it, therefore, one must hold the more important part of the species.
(16) On taking the Four Species of which the palm-branch is one.
(17) Omitting all mention of the others. Cf. P.B. p. 218.
(18) Since it is merely altitude that determines the blessing.
(19) In the course of the recital of the Hallel Psalms (CXIII-CXVIII) on Tabernacles.
(20) Ps. CXVIII.
(21) Ibid. 25.
(22) Ps. CXVIII, 25.
(23) Apparently none. Why then does our Mishnah tacitly assume that the lulab is to be waved.
(24) Lit., 'there he stands'.
(25) Supra 29b.
(26) Cf. Lev. XXIII, 16f.
(27) Ibid. 20.
(28) Referring to the first two movements.
(29) Referring to the last two.
(30) Ex. XXIX, 27.
(31) Lit., 'West'.

Talmud - Mas. Sukkah 38a

that even the dispensable parts[1] of a commandment[2] prevent calamities; for the waving is obviously a dispensable part of the commandment,[3] and yet it shuts out harmful winds and harmful dews. In connection with this Raba remarked, And so with the lulab.[4] R. Aha b. Jacob used to wave it[5] to and fro, saying, ‘This[6] is an arrow in the eye of Satan’.[7] This, however, is not a proper thing [for a man to do] since [Satan] might in consequence be provoked [to let temptation loose] against him.

MISHNAH. IF A MAN WAS ON A JOURNEY[8] AND HAD NO LULAB WHEREWITH TO PERFORM THE PRESCRIBED COMMANDMENT,[9] WHEN HE COMES HOME HE SHOULD TAKE IT [EVEN IF HE IS] AT TABLE.[10] IF HE DID NOT TAKE THE LULAB IN THE MORNING, HE SHOULD TAKE IT AT ANY TIME BEFORE DUSK, SINCE THE WHOLE DAY[11] IS VALID FOR [TAKING] THE LULAB.

GEMARA. You said that he should take it [even if he is] AT TABLE. This then means that he must interrupt [his meal for the purpose]. But is not this in contradiction with the ruling,[12] If they have begun[13] they need not interrupt [it]?[14] — R. Safra replied, There is no contradiction: The latter statement refers to where there is still time [to perform the commandment] during the day, while the former refers to where there is [otherwise] no time.

Raba retorted, What difficulty is this?[15] Is it not possible [that the difference in ruling is due to the fact that] the former[5] is a Pentateuchal commandment[16] while the latter[17] is only Rabbinical? Rather, said Raba, if a difficulty at all exists, it is this: [The ruling] HE SHOULD TAKE IT WHEN HE COMES HOME [EVEN IF HE IS] AT TABLE, clearly shows that he must interrupt [his meal], while [the ruling] subsequently taught, IF HE DID NOT TAKE IT DURING THE MORNING HE SHOULD TAKE IT AT ANY TIME BEFORE DUSK shows, [does it not], that he need not interrupt [his meal]? [To this] R. Safra might well reply, There is no difficulty: The latter refers to where there is still time during the day, the former where there is [otherwise] no time.

R. Zera retorted, What difficulty is this?[18] Perhaps it is a religious duty to interrupt [one's meal for the purpose of taking the lulab] but if one did not interrupt it one should take [the lulab] at any time before dusk, since the whole day is valid for the taking of the lulab? Rather, said R. Zera, [The incongruity] indeed is as we said previously;[19] and with regard to your difficulty [why the reply was not given[20] that] the former was a Pentateuchal commandment while the latter was only Rabbinical,[21] the fact is that here we are dealing with the second day of the Festival [the obligation of taking the lulab on] which is only Rabbinical.[22] A deduction [from the wording of our Mishnah] also [shows that this is so], since it teaches IF A MAN WAS ON A JOURNEY AND HAD NO LULAB WHEREWITH TO PERFORM THE PRESCRIBED COMMANDMENT. Now if it could possibly have been assumed to refer to the first day of the Festival, [the difficulty would arise] is it permitted [to travel on that day]?[23]

MISHNAH. IF A SLAVE, A WOMAN, OR A MINOR RECITED [THE HALLEL][24] TO HIM, HE MUST REPEAT AFTER THEM WHAT THEY SAY,[25] (AND A CURSE BE UPON HIM).’ IF A MAJOR RECITED TO HIM, HE REPEATS AFTER HIM [ONLY] HALLELUJAH.[26] WHERE THE CUSTOM OBTAINS TO REPEAT [THE VERSES],[27] HE SHOULD REPEAT; [WHERE THE CUSTOM IS] TO SAY THEM ONLY ONCE, HE SHOULD SAY THEM ONCE; [WHERE THE CUSTOM OBTAINS] TO RECITE THE BENEDICTION,[28] HE SHOULD RECITE THE BENEDICTION. EVERYTHING IS DEPENDENT ON LOCAL CUSTOM.

GEMARA. Our Rabbis have taught, It has truly[29] been laid down that a [minor] son[30] may recite [the Grace after meals] for his father,[31] a slave may recite it for his master, and a wife for her husband; but the Sages said, May a curse come upon that man whose wife and [minor] sons have to recite the benediction for him![32]

Raba observed,

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(1) Lit., ‘remnants’.

(2) There are parts of a commandment whose performance is indispensable to the due fulfilment of that commandment, and the neglect to perform which renders it invalid. Others are prescribed but dispensable. The waving belongs to the latter category.
(3) Cf. Yoma 5a.
(4) It also must be waved to and fro, up and down.
(5) The lulab.
(6) The performance of God's commandments of which that of lulab is one.
(7) Whose aim is the seduction of man.
(8) During the festival of Tabernacles.
(9) Lit., ‘in his hand . . . to take’.
(10) Sc. if he did not remember it until he began his meal, he must interrupt his meal and take the lulab forthwith.
(11) The night only excluded.
(12) In connection with the reading of the afternoon prayer.
(13) Any of the acts (including that of eating) which must not be begun before the afternoon prayer has been read.
(14) Shab. 9b.
(15) To which R. Safra had to give an almost arbitrary answer.
(16) Being Pentateuchal it is more rigid than a Rabbinical rule. A meal must consequently be interrupted for its sake at all times.
(17) Statutory daily prayer.
(18) The one raised by Raba.
(19) That between our Mishnah and that of Shab. 9b.
(20) By R. Safra.
(21) The answer suggested by Raba.
(22) The Pentateuchal commandment referring only to the first day (cf. supra 30b). Hence the necessity for R. Safra's reply.
(23) The reference consequently must be to the second day when the duty of taking the lulab, like that of the daily statutory prayers, is only Rabbinical.
(24) Ps. CXIII-CXVIII.
(25) The Reader used to read the Hallel, and the congregation responded only with certain words (v. infra). Since, however, a minor, a slave and a woman are exempt from the Hallel, they cannot officiate for others, and each individual must repeat it after them word for word. (9) That he has not learnt to read himself, or if he has learnt, that he makes use in divine service of inferior or second rate deputies.
(26) For the words or passages after which the response is to be made cf. Sot. 30b. For a full discussion of the mode of recital, cf. I. W. Slotki, ‘Antiphony in Ancient Hebr. Poetry’. JQR., N.S., vol. XXVI, pp. 199-219.
(27) Of Ps. CXVIII, 21-29. Lit., ‘to double’.
(28) At the conclusion of the Hallel. The opening benediction is obligatory.
(29) Be'emeth, a formula introducing a generally accepted ruling.
(30) Who has attained the age of training, and who is subject to the duty of saying Grace after meals by Rabbinic law.
(31) This is explained in Ber. 20b to refer to one who ate only a small quantity of bread and who, like his son, is consequently obliged to say Grace after it by a Rabbinic law only. The two being subject to the same Rabbinic law, the latter may well exempt the former (cf. Ber. 20b).
(32) Cf. relevant note on our Mishnah.

Talmud - Mas. Sukkah 38b

One can deduce important decisions from the [present] custom of [reciting the] Hallel.[1] [Thus], since he[2] says Hallelujah[3] and they respond Hallelujah,[4] it may be inferred that it is a religious duty[5] to answer Hallelujah.[6] Since he[7] says, Praise Him, ye servants of the Lord,[8] and they [again] respond Hallelujah,[9] it may be deduced that if a major recites [the Hallel] for one the latter[10] responds Hallelujah.[11] Since he[7] says, Give thanks unto the Lord,[12] and they respond, Give thanks unto the Lord, it may be inferred that it is a religious duty[10] to make a response of the beginning of the sections.[13] (So it was also stated; R. Hanan b. Raba ruled, It is a religious duty to make a response of the beginning of the sections.) Since he[14] says, Save now, we beseech Thee, O Lord,[15] and they[16] answer, Save now, we beseech Thee, O Lord,[17] it may be inferred that if a minor was reciting it for him, the latter[18] answers after him what he says.[19] Since he[14] says, O Lord, we beseech Thee, send now prosperity,[15] and they[16] respond O, Lord we beseech Thee, send now prosperity, it may be inferred that if a man wishes to double [the verses] he may.[20] Since he[14] says, Blessed be he that cometh,[21] and they[22] answer, In the name of the Lord,[21] it may be inferred that he who hearkens is as though he responded.[20]

They enquired of R. Hiyya b. Abba, If one listened but did not make the responses — what is the law?[23] — He answered them, The Sages, the Scribes,[24] the leaders of the people and the expounders laid down that if a man listened though he did not make the responses he has fulfilled his obligation. So it was also stated:[25] R. Simeon b. Pazzi citing R. Joshua b. Levi who had it from Bar Kappara stated, Whence do we know that he who listens is as though he responds? From what is written, Even all the words of the book[26] which the King of Judah[27] hath read.[28] For was it Josiah that read them? Was it not, in fact Shaphan who read them, as it is written, And Shaphan read it[29] before the king.[30] Consequently it may be inferred that he who listens is as though he responds. But perhaps Josiah read it after Shaphan had read it? — R. Aha b. Jacob replied, This cannot be thought of, since it is written, Because thy heart was tender, and thou didst humble thyself before the Lord, when thou heardest[29] what I spake;[31] "When thou heardest', not 'when thou didst read'.

Raba ruled, One should not say Blessed be he that cometh'[32] and then [pause and] say 'in the name of the Lord,'[32] but 'Blessed be he that cometh in the name of the Lord'[32] all together.[33] (R. Safra said to him,

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(1) [In former days it was customary for the congregation to rely on the Reader for the recital of the Hallel, and in order to enable them to participate actively in the recital, a number of customs were introduced. In the days of Raba the congregation read it themselves, yet certain features of the former procedure were retained as reminders.]

(2) The Reader who leads the congregation in prayer.

(3) The first Hallelujah introducing the Hallel.

(4) [While the Reader does not proceed until the congregation has responded. This was the custom in Raba's place; v. Rashi and Tosaf.]

(5) For the whole congregation including even those who recite the Hallel themselves.

(6) After the Reader had said it.

(7) The Reader who leads the congregation in prayer.

(8) Ps. CXIII, 1.

(9) This too was the custom that obtained in Raba's place, though the congregation subsequently recited the Hallel themselves, v. n. 7.

(10) Where he relies on the Reader to recite it for him.

(11) [I.e., after every clause. As a reminder of this custom the congregants in the days of Raba responded Hallelujah after 'Praise him, ye servants of the Lord'. This custom is not followed nowadays.]

(12) Ps. CXVIII, 1.

(13) Whereas the mere response of Hallelujah is sufficient for single clauses, this is not enough for the beginning of the sections.

(14) The Reader who recites to the congregation in the Synagogue.

(15) Ps. CXVIII, 25.

(16) Though they subsequently recite themselves all the Psalm.

(17) Thus repeating every word though it forms no part of the beginning of a section.

(18) [Lit., 'he answers'. So MS.M.; cur. edd. 'They answer'.]

(19) This custom (which is still retained to the present day) serving as a reminder of the original one when a minor may have acted as Reader.

(20) Cf. supra n. 15 mut. mut.

(21) Ps. CXVIII, 26.

(22) Neither repeating what the Reader has said nor responding Hallelujah. This custom does not obtain nowadays.
(23) Sc. Has that man thereby fulfilled his duty.
(24) Or 'elementary teachers' (Rashi).
(25) By Amoras.
(26) Cur. edd. in parenthesis 'the words'.
(27) Cur. edd. in parenthesis 'Josiah'.
(28) II Kings XXII, 16.
(29) Cur. edd. in parenthesis 'all these words'.
(30) Ibid.10.
(31) Ibid. 19.
(32) Ps. CXVIII, 26.
(33) Only in antiphonal chant is the breaking up of the distich allowed.

Talmud - Mas. Sukkah 39a

'Moses![1] Do you speak aright? The fact is that both here and there,[2] it[3] is the conclusion of the clause and the pause does not matter'.)[4]

Raba ruled, One should not say,[5] 'May His great Name' and then [pause and] say, 'be blessed' but 'May His great Name be blessed' all together. R. Safra said to him, 'Moses![1] Do you speak aright? The fact is that both here and there[6] it[7] is the conclusion of the clause and the pause does not matter'.

WHERE THE CUSTOM OBTAINS TO REPEAT. It was taught, Rabbi used to repeat [certain] words in it;[8] R. Eleazar b. Perata used to augment [certain] words in it.[9] What is meant by 'augment'? — Abaye explained, He augmented the doubling beginning with 'I will give thanks unto Thee'[10] to the end of the Psalm.[11]

[WHERE THE CUSTOM OBTAINS] TO RECITE THE BENEDICTION, HE SHOULD RECITE THE BENEDICTION. Abaye explained, This was taught only with regard to the concluding benediction,[12] but with regard to the preceding benediction,[12] it is a positive commandment to say it, for Rab Judah citing Samuel ruled, With all commandments the benediction is to be recited 'ober [prior] to their performance. And whence do we know that the word 'ober means prior? — R.[13] Nahman b. Isaac replied, Since it is written, Then Ahimaaz ran by the way of the plain and he overran[14] the Cushite.[15] Abaye said the inference is from the following verse. And he himself passed over[16] before them.[17] And if you wish, you may infer from the verse, And their king is passed[18] on before them, and the Lord at the head of them.[19]

MISHNAH. IF A MAN PURCHASE A LULAB[20] FROM HIS FELLOW[21] IN THE SABBATICAL YEAR THE LATTER SHOULD GIVE HIM THE ETHROG AS A GIFT, SINCE ONE IS NOT PERMITTED TO PURCHASE IT IN THE SABBATICAl YEAR.[22]

GEMARA. What is the position if the other[23] is unwilling to give him it[24] as a gift? — R. Huna replied, He should include[25] the price of the ethrog in that of the palm-branch.[26] But why should he not pay him directly?[27] — Because one must not hand over money for fruit of the Sabbatical Year to an 'am ha-arez.[28] For it has been taught, A man must not hand over money to an 'am ha-arez for fruit of the Sabbatical Year[29] more than is sufficient for three meals,[30] but if he handed [him] over [more][31] he should say, 'This money[32] shall be exchanged[33] for [the ordinary] fruit which I have in my house'[34]

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(1) Either a flattering title given to Raba by R. Safra, or a form of oath.
(2) Perhaps meaning in ordinary, as in antiphonal recital (cf. supra n. 10). [MS.M. however omits 'both here and there'; v. n. 16.]

(3) The second member of the clause (distich).
(4) Rashal omits the passage in parenthesis.
(5) When reciting the Kaddish (cf. P.B. p. 75f).
(6) If the previous statement of R. Safra is to be deleted with Rashal (cf. supra n. 14) the meaning will be both ‘here’ in the case of the Kaddish and ‘there’ in that of Ps. CXVIII, 26. V. Maharam.
(7) The second half of the sentence.
(8) From Ps. CXVIII, 25 to the end of the Psalm.
(9) I.e., to those doubled by Rabbi.
(10) Ps. CXVIII, 21.
(11) Cf. I. W. Slotki, ‘The Stichometry and Text of the Great Hallel’, J.T.S., p. 261f.
(12) Of the Hallel.
(13) Cur. edd. ‘because R.’.
(14) Waya'abor, of the same rt. as ‘ober.
(15) II Sam. XVIII, 23.
(16) ‘Abar.
(17) Gen. XXXIII. 3.
(18) V. supra n. 7.
(19) Mic. II, 13.
(20) Sc. the festive wreath.
(21) Who was an ‘am ha-arez (Rashi; cf. Tosaf. a.l.).
(22) During the Seventh Year of release, it is forbidden to purchase fruit which has grown that year. The ethrog alone of the Four Species is a fruit. V. Lev. XXV, 1-7. The Gemara (infra 39b) discusses the palm-branch.
(23) The seller.
(24) The ethrog.
(25) Lit., ‘cause to swallow up’.
(26) He gives a price, ostensibly for the other three species, sufficient to cover the cost of all four.
(27) For the ethrog.
(28) V. Glos.
(29) With which it is forbidden to trade, and any money obtained from trading with Sabbatical Year fruit must be consumed in the Sabbatical Year. But an ‘am ha-arez is suspected to trade with the money or hoard it for another year.
(30) To enable him to enjoy the prescribed number of Sabbath meals; and since this was permitted for the Sabbath it was also permitted for any other day of the week.
(31) So that there is reason to fear that the ‘am ha-arez will trade with that money.
(32) Which is in excess of that required for three meals.
(33) Lit., ‘profaned’.
(34) The money thus loses all sanctity.

Talmud - Mas. Sukkah 39b

and [the purchaser] eats the fruit[1] [as though it has] the sanctity of the Sabbatical Year. This[2] however, applies only where one buys from what is hefker,[3] but if one buys from protected produce[4] it[5] is forbidden [to buy] even for as little as half an issar.

R. Shesheth objected, And [if a man buys] from what is hefker [may he pay, you say, for] three meals and no more? I will point out contradictions: Rue, asparagus, fenugreek,[6] coriander of the mountains, water-parsley and meadow-eruca are always exempt from tithe and may be bought from anyone[7] in the Sabbatical Year, since the like of these is not guarded.[8] He[9] raised the objection and he himself replied to it: They[10] taught [that only as much as is] sufficient for one's food[11] [may be bought]. And so said Rabbah b. bar Hana in the name of R. Johanan. They[10] taught [that only as much as is] sufficient for food[11] [may be bought]. (How do we know that ‘man’[12] means food? — Since it is written, And the king appointed[13] for them a daily portion of the king's food.)[14]

But if so,[15] the lulab also[16] [should not be bought]?[17] — The lulab is a product of the sixth year which entered the seventh.[18] But if so, is not the ethrog also a product of the sixth year which entered the seventh? — In the case of the ethrog we compute from the time of its gathering.[19] But surely, both R. Gamaliel and R. Eliezer[20] agree that as regards the Sabbatical Year we compute the year of the ethrog from its time of blossoming, as we have learnt, The ethrog is like a tree in three respects, and like a vegetable in one. It is like a tree in three respects, as regards the laws of ‘orlah,[21] of the Fourth Year, and of the Seventh Year;[22] and like a vegetable in one respect

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(1) Which assumes the sanctity of the Sabbatical Year which the money previously had.

(2) That the ‘am ha-arez may be entrusted with a sum sufficient for the purchase of three meals.

(3) V. Glos. I.e., where the ‘am ha-arez took no measures to protest his field so that the poor may freely come and take of the produce, in which case there is no need to suspect that the ‘am ha-arez intended to keep all the produce for himself.

(4) Where he took good care to have his field protected, so that there is good reason to suppose that the ‘am ha-arez intends keeping all of it for himself.

(5) Since the fruit of the Sabbatical Year must be made hefker for all.

(6) Var. lec. (cf. sep. edd. of the Mishnah) ‘wild yarbuz’.

(7) Even from an ‘am ha-arez.

(8) Sheb. IX, 1; which clearly proves that the produce of an unguarded field may be bought in unlimited quantities, not merely for three meals.

(9) R. Shesheth.

(10) The authors of the Mishnah cited.

(11) ‘Man’, sc. for three meals of the day.

(12) Cf. prev. n.

(13) Wa-yeman of the same rt. as man.

(14) Dan I, 5.

(15) That the price of produce of the Sabbatical Year may not be handed over to an ‘am ha-arez if it exceeds the prescribed maximum.

(16) Since it is subject to the restrictions of the Sabbatical Year.

(17) From an ‘am ha-arez.

(18) The year of the palm is reckoned from its blossoming (cf. R. H. 13b) and a palm-branch which is cut in the Sabbatical Year even as late as the fourteenth day of Tishri (the eve of Tabernacles) must, since this month is the first of the year, inevitably have blossomed in the sixth year that preceded it.

(19) When it is cut from the tree, which, of course, takes place in the seventh year (cf. R.H. 13b, Kid. 3a).

(20) Who differ in the case of tithe.

(21) V. Glos.

(22) I.e., that the year of its growth is the one in which it blossoms.

Talmud - Mas. Sukkah 40a

in that its tithing is determined by the time of its gathering.[1] So R. Gamaliel. R. Eliezer ruled, The ethrog is like a tree in all respects?[2] — He[3] holds the same opinion as that Tanna of whom it has been taught: R. Jose stated, Abtolmos gave evidence in the name of five elders that the tithing of the ethrog depends upon [the time of its] gathering,[4] but our Rabbis voted in Usha[5] and laid down [that this[6] applies] both to tithing and the Sabbatical Year.[7] But who mentioned the Sabbatical Year?[8] — There is a lacuna in the text, and so it[7] should be read: The tithing of the ethrog depends upon [the time of its] gathering, and its subjection to the laws of the Sabbatical Year depends on [the time of its] blossoming, but our Rabbis voted in Usha and laid down that the ethrog is dependent on the time of its gathering as regards both tithing and the Sabbatical Year.[9]

The reason then for the [permission to purchase a] lulab[10] is[11] that it is [the product of] the sixth year which entered the seventh, but if it were of the Sabbatical Year it would have been sacred? But why? Is it not mere wood, and wood does not possess the sanctity of the Sabbatical Year, as it has been taught,[12] Leaves of reeds and leaves of the vine which have been heaped up as a hiding-place upon a field, if they were gathered for [animal] food, they possess the sanctity of the Sabbatical Year, but if they were gathered for firewood, they have not the sanctity of the Sabbatical Year?[13] — There[13] the case is different, since Scripture says, ‘For you for food’[14] thus comparing ‘for you’ to ‘for food’, i.e., that [product is forbidden] the benefit from which comes at the time of its consumption;[15] firewood therefore is excluded since the benefit from it[16] comes after its consumption.[17] But is there not the wood of the pine tree,[18] the benefit from which is derived at the same time as its consumption?[19] — Raba replied, Wood, as a rule, is used for heating.[20]

And the question of whether [the restrictions of the Sabbatical Year apply to] wood that is used for heating[21] is one in dispute between Tannas, as it has been taught: The produce of the Sabbatical Year may not be used[22] either for steeping or for washing. R. Jose ruled, they may be so used.[23] What is the reason of the first Tanna? — Because Scripture says ‘for food’,[24] [implying] but not for steeping or for washing. What is the reason of R. Jose? — Because Scripture says, ‘for you’[24] [implying], ‘for all your needs’, even for steeping and for washing. But, according to the first Tanna, is it not written, ‘for you’? — That ‘for you’ is compared with ‘for food’, viz., the benefit from which comes at the same time as its consumption, thus excluding [produce used for] steeping and washing the benefit from which comes after their consumption.[25] But according to R. Jose, is it not written ‘for food’? — He employs this phrase for the deduction, ‘for food’, but not for an emollient, as it has been taught, ‘for food’, but not for an emollient. You say that ‘for food’ implies but not for an emollient; why not say, ‘[For food’] but not for washing? When it says, ‘for you’ washing is included, what then can I deduce from the phrase, ‘for food’? ‘For food’, but not for an emollient. But what reason do you see for including washing and excluding an emollient?

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(1) If, for instance, it blossomed in the second year of the Septennial Cycle and was gathered in the third, the ‘poor man's tithe’ (due in the latter year) must be given in addition to the first tithe, and not ‘second tithe’ which is due in the second year.

(2) Bik. II, 6; even as regard tithes. How then could it be maintained supra that the Tanna of our Mishnah holds that the year of the ethrog is the one in which it is gathered?

(3) The Tanna of our Mishnah who forbids the purchase of an ethrog in the Sabbatical Year.

(4) V. p. 177, n. 16.

(5) One of the seats of the Sanhedrin.

(6) That the determining factor is the year in which it is gathered.

(7) R.H. 15a.

(8) No one, of course; why then the expression, ‘but our Rabbis etc.’?

(9) V. R.H., Sonc. ed., fol. 15a notes.

(10) In the Sabbatical year.

(11) As has been explained supra 39b.

(12) Cur. edd. in parenthesis, ‘we learned’.

(13) B.K. 101b.

(14) Lev. XXV, 6.

(15) When a fruit, for instance, is eaten, or an oil is used in a lamp.

(16) Baking on it, for instance.

(17) I.e., when it is already turned into coals. A lulab, however, whose main use is for sweeping a floor is used up or consumed at the same time that the benefit is derived from it.

(18) Used for torches.

(19) Why then should not the laws of the Sabbatical Year apply to it where it was gathered for lighting purposes?

(20) So that the benefit cannot be derived until it is consumed. Hence its exemption from the laws of the Sabbatical Year even where it was expressly gathered for lighting.

(21) So Rashi a.l. Cf., however, Tosaf. a.l. and Rashi B.K. 102a.

(22) Lit., ‘handed over’.

(23) B.K. 102a.
(24) Lev. XXV, 6.
(25) If flax, for instance, is steeped in wine of the Sabbatical Year in the process of its preparations, the wine is already spoilt by the time the flax is ready for use.

Talmud - Mas. Sukkah 40b

I include washing since[1] it is a requirement common to all men and exclude an emollient since it is not common to all men.[2] Who is the author of that [statement] which our Rabbis taught: 'For food' implies but not for an emollient, 'for food', but not for perfume, 'for food' but not for an emetic? — In agreement with whom is this statement? It is in agreement with R. Jose;[3] for were it [to be suggested, with] the Rabbis,[4] [it could be retorted,] surely there is also steeping and washing [to be excluded].[5]

R. Eleazar ruled, The produce of the Sabbatical Year can be redeemed[6] only by way of sale,[7] while R. Johanan ruled, Either by way of sale or by way of exchange.[8] What is the reason of R. Eleazar? — Since it is written, In this year of jubilee ye shall return etc.[9] and there follows immediately the verse, And if thou sell aught to thy neighbour,[10] [which implies,][11] only by way of sale,[12] but not by way of exchange. And what is the reason of R. Johanan? — Since it is written, For it is a jubilee, it shall be holy;[13] just as sacred objects can be redeemed either by way of sale or by way of exchange, so the produce of the Sabbatical Year can be redeemed either by way of sale or by way of exchange. But what does R. Johanan do with the verse, 'And if thou sell aught unto thy neighbour'?[14] — He requires it in accordance with the statement of R. Jose b. Hanina, as it has been taught,[15] R. Jose b. Hanina observed, Come and see how serious is [even] the dust[16] of the Sabbatical Year,[17] etc. For if a man merely trades with the produce of the Sabbatical Year, the result is that he will eventually have to sell his movables and his tools, as it is said, 'In this year of jubilee ye shall return, each man to his possession'[18] and there immediately follows the verse, 'And if thou sell aught unto thy neighbour etc.'[19]

What, however, does R. Eleazar do with the verse of R. Johanan? — He needs it in accordance with what has been taught, 'For it is a jubilee, it shall be holy unto you';[20] just as with holy objects the money [for which it is redeemed] assumes the same sanctity,[21] so with the products of the Sabbatical Year, the money [for which it is redeemed] assumes the same sanctity.

It has been taught in agreement with R. Eleazar, and it has also been taught in agreement with R. Johanan. It has been taught in agreement with R. Eleazar: [In the case of the produce of] the Sabbatical Year the money [for which it is exchanged] assumes the same sanctity [as the produce itself], for it is said, 'For it is a jubilee it shall be holy unto you';[20] just as with holy objects the money [for which it is redeemed assumes] the sanctity [of the holy object], and becomes forbidden, so with the produce of the Sabbatical Year, the money [for which it is redeemed] assumes the same sanctity [as the produce] and becomes forbidden. [But] in case [you would say] that just as, with holy objects, the money [for which it is redeemed] assumes its sanctity and [the holy object itself] becomes profaned, so also with the produce of the Sabbatical Year, the money for which it is redeemed assumes its sanctity and the [produce itself] becomes profaned Scripture explicitly says, 'it shall be'[20] i.e., it remains in its original consecrated state. How so? If with the produce of the Sabbatical Year one purchased meat, both the meat[22] and the produce[23] must be removed[24] during the Sabbatical Year. If, however, one purchased with the meat fish, the meat[25] emerges [from the sanctity of the produce of the Sabbatical Year], and the fish assumes it. If one purchased with the fish wine, the fish emerges [from the sanctity of the produce of the Sabbatical Year], and the wine assumes it. If one purchased with the wine oil, the wine emerges [from Its state of sanctity] and the oil assumes it. How does this come about? The last [object for which the previous one is redeemed] assumes [the sanctity] of the Sabbatical Year,[26] but the produce itself[27] remains under restriction.[28]

Now since the term ‘purchased’ repeatedly is used, it is evident that only by way of sale [does it become redeemed], but not by way of exchange.[29]

It was taught in agreement with R. Johanan: Both the produce of the Sabbatical Year and of the Second Tithe may be redeemed[30] with cattle, beast or fowl, whether live or slaughtered. These are the words of R. Meir, while the Sages ruled, With slaughtered [animals and fowls] they may be redeemed,[30] but not with live ones, this being a preventive measure against one's possible rearing of flocks[31] from them.[32]

Raba said, The dispute[33] applies only

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(1) Like the eating of ‘food’.

(2) Thus it has been shown that the first Tanna who excludes steeping and washing, on the ground that the produce is already consumed by the time the benefit is derived from it, excludes also for the same reason, wood that is used for heating, while R. Jose who does not exclude steeping and washing does not exclude wood either.

(3) Who excludes only such benefit as is not common to all.

(4) Sc. the first Tanna.

(5) V. p. 179, n. 10.

(6) Lit., ‘rendered profane’; whereby that for which it is exchanged receives the sanctity which the produce of the Sabbatical Year had previously, and the produce itself becomes redeemed.

(7) I.e., only if it is sold to a second party, not by exchanging the one for the other while the owner retains the produce for himself as in the case of holy things.

(8) By declaring ‘This produce is exchange for this money’.

(9) Lev. XXV, 13. The laws of the Jubilee are also applicable to the Sabbatical Year.

(10) Ibid. 14.

(11) Since the two verses are in juxtaposition.

(12) May the produce of the Sabbatical Year be redeemed.

(13) Ibid. 12.

(14) Ibid. 14.

(15) ‘Ar. 30b.

(16) Sc. not only the actual prohibition itself but even secondary prohibitions.

(17) V. supra n. 7.

(18) V. p. 180, n. 7.

(19) Lev. XXV, 14.

(20) Ibid. 12.

(21) Lit., ‘takes hold of the money thereof’. While the objects completely lose their sanctity.

(22) Which has assumed sanctity — i.e., the character of the Sabbatical Year produce.

(23) Which remained in its original state.

(24) V. Sheb. Ch. VII.

(25) Whose sanctity was only an acquired one.

(26) While the previous object loses its sanctity.

(27) That actually grew in the Sabbatical Year.

(28) Kid. 58a.

(29) This Baraitha thus agrees with R. Eleazar.

(30) Lit., ‘rendered profane’, the general term used for redeeming sacred objects implying ‘exchange’, in agreement with R. Johanan.

(31) A generic term for animals, beasts and fowls.

(32) And by thus retaining them would transgress either the precept of removing the tithe by the end of the third year of the Septennial Cycle (v. Deut. XXVI, 12ff) or the prohibition against trading with the produce of the Sabbatical Year.

(33) Between R. Meir and the Sages.

Talmud - Mas. Sukkah 41a

to male [animals and birds],[1] but with regard to female ones, all agree that they may be redeemed with slaughtered ones, but not with live ones, since a preventive measure has been enacted against one's possible rearing of flocks from them.

R. Ashi said, The dispute[2] concerns only the original produce itself,[3] but with regard to secondary produce,[4] both agree that [it can be redeemed] either by way of sale, or by way of exchange: and the reason that the term ‘purchased’ was continually repeated[5] is that since in the first clause the term ‘purchased’ was used it was used in the latter clause also.[6]

Rabina raised an objection against R. Ashi, [It has been taught]: If a man has a sela’ of [the proceeds of the produce of] the Sabbatical Year,[7] and wishes to purchase therewith a shirt,[8] how should he proceed?[9] Let him go to his regular shopkeeper[10] and say to him, ‘Give me a sela’ worth of fruit’ and give it to him.[11] Then he tells him, ‘Behold this fruit[12] is given to you as a gift’,[13] and [the shopkeeper] answers him, ‘And here is a gift for you of a sela’’[14] And the latter may purchase with it whatsoever he desires.[15] Now here, surely, the sela’ is a secondary produce,[16] and yet it teaches, does it not, [that it may be redeemed only] by way of sale, and not by way of exchange?[17] — Rather, said R. Ashi, the dispute [of R. Eleazar and R. Johanan] centres round the secondary produce, but with regard to the primary produce all agree that [it may be redeemed] only by way of sale, and not by way of exchange; and as to what has been stated,[18] ‘Both the produce of the Sabbatical Year and of the Second Tithe [may be redeemed by exchange]’,[19] what is meant by ‘the produce of the Sabbatical Year’ is the money for which the produce is exchanged. For if you will not say so, then ‘tithe’ also must mean actual tithe,[20] surely it is written, Thou shalt bind the money in thy hand?[21] Consequently it must mean the money for which tithe [was exchanged],[22] and so here also it means the money for which the produce of the Sabbatical Year [is exchanged].

MISHNAH. FORMERLY[23] THE LULAB WAS TAKEN FOR SEVEN DAYS IN THE TEMPLE, AND IN THE PROVINCES[24] FOR ONE DAY ONLY. WHEN THE TEMPLE WAS DESTROYED, R. JOHANAN R. ZAKKAI INSTITUTED THAT THE LULAB SHOULD BE TAKEN IN THE PROVINCES FOR SEVEN DAYS IN MEMORY OF THE TEMPLE, [AND HE ALSO INSTITUTED] THAT ON THE WHOLE OF THE DAY OF WAVING[25] IT SHALL BE FORBIDDEN [TO EAT THE NEW PRODUCE OF THE YEAR].[26]

GEMARA. Whence do we know that we must perform [ceremonies] in memory of the Temple? — R. Johanan replied, Since Scripture says, For I will restore health unto thee, and I will heal thee of thy wounds, saith the Lord, Because they have called thee an outcast. She is Zion, there is none that seeketh for her.[27] ‘There is none that seeketh for her’, implies that she should be sought.[28]

AND THAT ON THE WHOLE OF THE DAY OF WAVING. What is the reason? — The Temple may be rebuilt speedily, and people[29] would say, ‘Did we not eat [the new corn] last year from the time that day dawned in the East? Let us now also eat it [from the same time]’ and they would be unaware of the fact that in the previous year, when there was no Temple, once day dawned in the East it was permitted [to eat of the new corn], but now that the Temple is rebuilt,it is only the [waving of the] ‘omer which [commences] the permission.[30]

But when [does this assume the Temple to be] rebuilt? If you will say that it is rebuilt on the sixteenth [of Nisan], then obviously it is permitted to eat from the time that day dawned in the East?[31] If, however, it is rebuilt on the fifteenth[32] why should it not be permitted after midday, for surely we have learnt, Those that lived at a distance[33] were permitted [to eat of the new corn] from midday[34] onwards, because [they knew that] the Beth din would not be negligent in the matter?[35] — This[36] was necessary [only in case] it is rebuilt at night,[37] or [on the fifteenth] close to sunset.[38] R.[39] Nahman b. Isaac replied, R. Johanan b. Zakkai instituted this in accordance with a principle of R.

Judah[40] who holds that Pentateuchally all that day[41] is forbidden,[42] since it is written,

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(1) Who are not usually kept for breeding purposes. Only in this case does R. Meir not uphold the preventive measure of the Sages.
(2) Between R. Eleazar and R. Johanan.
(3) That actually grew in the Sabbatical Year.
(4) The produce for which the original produce is exchanged.
(5) In the Baraitha (supra 40b) cited in support of R. Eleazar.
(6) Though actually one could exchange it as well.
(7) Which must be spent in the same year.
(8) Which would probably last until the following year.
(9) In order to comply with the law which permits it to be spent for use in the same year only.
(10) lit., ‘with whom he is familiar’. Who, on account of their acquaintance would be willing to oblige him.
(11) The sela’ thus loses all its sanctity which passes over to the fruit.
(12) Which is now sacred.
(13) And the shopkeeper eats during the Sabbatical Year.
(14) Which now possesses no sanctity.
(15) The fruit becomes sacred and being given as a gift, can be eaten by the shopkeeper. The money has become redeemed in the process of exchange and can, therefore, be used to purchase anything.
(16) The sela’, being money received from the sale of the original produce is obviously a ‘secondary produce’.
(17) Had the latter way been permitted there would have been no need to go to a shopkeeper. It would have sufficed for the man to redeem the sela’ with any produce he has in his own house. How then could R. Ashi maintain that secondary produce may be redeemed by way of exchange?
(18) Cited supra 40b in support of R. Johanan.
(19) Which would prove that the Sabbatical produce itself may be redeemed by way of exchange.
(20) I.e., that it may be exchanged for cattle, beast or fowl.
(21) Deut. XIV, 25; which proves that the exchange can only be made for money.
(22) It is the money obtained from the sale of the tithe which is mentioned, not the tithe itself.
(23) In Temple times. This Mishnah is repeated in R.H. IV, 3.
(24) Including Jerusalem (Rashi).
(25) The sixteenth of Nisan, the Second Day of Passover, when the ‘omer was first waved. (Cf. Lev. XXIII, 11).
(26) When the Temple stood, the new corn could be eaten immediately after the waving, but after the destruction of the Temple it was Pentateuchally permitted from the early morning (cf. Men. 68a). R. Johanan b. Zakkai, however, forbade it the whole day.
(27) Jer. XXX, 17.
(28) I.e., that ceremonies in its memory should be performed.
(29) Who before its rebuilding were eating the new produce from the morning of the sixteenth of Nisan.
(30) The distinction depends upon the apparent contradiction in Lev. XXIII, 14 which says, Until this self-same day until ye have brought the offering, the first part of which permits it the moment day dawns, the second when the offering has been brought. V. Men. 68a.
(31) Since in the morning there was as yet no Temple.
(32) Or before.
(33) From Jerusalem, and were, therefore, unaware when the court ordained the offering of the ‘omer.
(34) Of the sixteenth.
(35) Men. X, 5; and would certainly effect it before midday.
(36) The institution of R. Johanan b. Zakkai.
(37) That belonged to the sixteenth of Nisan.
(38) So that in either case there would be no time to prepare the ‘omer, which necessitates great preparation, before midday on the sixteenth. On the question how the Temple could be rebuilt on the fifteenth day, being a Festival day. v. Rashi and Tosaf.
(39) Cur. edd. in parenthesis, ‘said R.’.
(40) R. Judah lived two generations later than R. Johanan b. Zakkai, but the meaning is that they were both of the same

opinion.
(41) Of the sixteenth of Nisan, the Day of Waving.
(42) To eat of the new corn.

Talmud - Mas. Sukkah 41b

Until this self-same day,[1] [which means] until the very day itself, and he is of the opinion that the expression ‘until’ is meant to include [the terminus in the prohibition].[2] But does he[3] hold a similar opinion?[4] Does he not in fact disagree with him, as we have learnt,[5] When the Temple was destroyed, R. Johanan b. Zakkai instituted that on the whole of the Day of the Waving it should be forbidden [to eat of the new corn]. Said R. Judah to him, But[6] is it not forbidden Pentateuchally, since it is written, ‘Until the self-same day’[7] [which means] until the very day itself?[8] — It is R. Judah who was under a misapprehension, He thought that [R. Johanan b. Zakkai] meant that it[9] was forbidden as a Rabbinical prohibition, but it is not so. He meant it as a Pentateuchal prohibition. But does it not say, ‘He instituted’?[10] — What is meant by ‘he instituted’ is that he expounded (the Pentateuchal verse][11] and instituted the law accordingly.

MISHNAH. IF THE FIRST DAY OF THE FESTIVAL[12] FALLS ON A SABBATH, ALL THE PEOPLE BRING THEIR LULABS TO THE SYNAGOGUE [ON THE PREVIOUS DAY]. ON THE MORROW THEY ARISE EARLY [AND COME TO THE SYNAGOGUE] AND EACH ONE RECOGNIZES HIS OWN [LULAB] AND TAKES IT, SINCE THE SAGES LAID DOWN THAT NO ONE CAN FULFIL HIS OBLIGATION ON THE FIRST DAY OF THE FESTIVAL WITH THE LULAB OF HIS FELLOW. BUT ON THE OTHER DAYS OF THE FESTIVAL A MAN MAY FULFIL HIS OBLIGATION WITH THE LULAB OF HIS FELLOW. R. JOSE RULED, IF THE FIRST DAY OF THE FESTIVAL FELL ON THE SABBATH, AND A MAN FORGOT AND CARRIED OUT HIS LULAB INTO A PUBLIC DOMAIN, HE IS NOT CULPABLE, SINCE HE BROUGHT IT OUT WHILE UNDER THE INFLUENCE [OF A RELIGIOUS ACT].[13] GEMARA. Whence do we know this?[14] — From what our Rabbis have taught, ‘And ye shall take’[15] [implies] that there should be a ‘taking’ with the hand of each individual, ‘to you,’ implies that it should be yours, excluding a borrowed or a stolen [lulab]. From this verse the Sages deduced that no one can fulfil his obligation on the first day of the Festival with the lulab of his fellow, unless the latter gave it to him as a gift. And it once happened that when R. Gamaliel, R. Joshua, R. Eleazar b. ‘Azariah and R. Akiba were travelling on a ship[16] and R. Gamaliel alone had a lulab which he had bought for one thousand zuz, R. Gamaliel took it and fulfilled his obligation with it; then he gave it as a gift to R. Joshua who took it, fulfilled his obligation with it and gave it as a gift to R. Eleazar b. ‘Azariah who took it, fulfilled his obligation with it, and gave it as a gift to R. Akiba who took it, fulfilled his obligation with it and then returned it to R. Gamaliel.

Why does he need mention that he[17] returned it?[18] — He teaches us something incidentally viz., that a gift made on condition that it be returned constitutes a valid gift; as also follows from what Raba said: [If a man say to his fellow], ‘Here is an ethrog [as a gift] on condition that you return it to me’, and the latter took it and fulfilled his obligation with it, if he returned it, he is regarded as having fulfilled his obligation,[19] but if he did not return it, he is regarded as not having fulfilled his obligation.[20]

For what purpose need he mention that [R. Gamaliel] had bought it for one thousand zuz? — In order to let you know how precious to them was the opportunity of fulfilling a religious duty.

Mar b. Amemar said to R. Ashi, My father used to recite his prayers [while holding the lulab in his hand].[21] It was objected: A man should not hold his tefillin in his hand or a Scroll of the Law in his bosom while reciting his prayers,[22] nor [while wearing his tefillin] should he let water, or doze or sleep.[23] And in connection with this Samuel said, The same[24] applies to a knife,[25] a dish,[26] a loaf of bread[27] and money?[28] — In the latter cases he is not performing a religious duty[29] and, therefore, would worry over them[30] but in the former one[31] he is fulfilling a religious duty[32] and, therefore, he would not worry over it.[33]

It has been taught, R. Eleazar b. Zadok stated, This was the custom of the men[34] of Jerusalem. When a man left his house he carried his lulab in his hand; when he went to the synagogue his lulab was in his hand, when he read the Shema'[35] and his prayers[36] his lulab was still in his hand, but when he read in the Law or[37] recited the priestly benediction[38] he would lay it on the ground.[39] If he went to visit the sick or to comfort mourners, he would go with his lulab in his hand, but when he entered the House of Study, he would send his lulab by the hand of his son, his slave or his messenger.[40] What does this[41] teach us? — It serves to inform you how zealous they were in the performance of religious duties.

R. JOSE RULED, [IF THE FIRST DAY OF] THE FESTIVAL etc. Abaye stated,

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(1) Lev. XXIII, 14.

(2) Sc. ‘until the day’ means that even on the day itself it is also forbidden.

(3) R. Judah.

(4) To that of R. Johanan b. Zakkai.

(5) Cur. edd. in parenthesis, ‘for it was taught’.

(6) Why institute it?

(7) Lev. XXIII, 14.

(8) Men. 68a, which shows that R. Judah and R. Johanan b. Zakkai differ.

(9) The new corn on the sixteenth day.

(10) An expression which implies a Rabbinical prohibition only.

(11) Explaining that ‘until’ includes also the terminus.

(12) Of Tabernacles.

(13) He was so intent on the performance of the act that he inadvertently overlooked the fact that the day was the Sabbath on which such carrying is forbidden.

(14) That one cannot fulfil one's obligation on the first day with someone else's lulab.

(15) Lev. XXIII, 40.

(16) On the Festival of Sukkoth. Probably on their way to Rome in the year 95 B.C. [V. Finkelstein L., Akiba, p. 137.]

(17) R. Akiba.

(18) To R. Gamaliel, who had already fulfilled his duty at the very beginning.

(19) Because the condition on which the gift was dependent was duly carried out.

(20) Since the gift was dependent upon the condition of his returning it, which was not complied with.

(21) The fulfilment of the duty of lulab was so dear to him that he did not wish to part with it even during prayer.

(22) Since he might be so anxious not to drop the tefillin or the scroll that he would not concentrate on his prayers.

(23) In case he might drop them (cf. supra 26a).

(24) That they must not be held in one's hand during prayers.

(25) The man's anxiety not to let it drop upon his foot prevents him from concentration on his prayer.

(26) That was full (cf. prev. n. mut. mut.).

(27) The falling of which to the ground would render it objectionable.

(28) Ber. 23b; which a man is anxious not to drop and scatter (cf. supra n. 4 mut. mut.).

(29) In holding the objects mentioned.

(30) Being a burden to him they disturb his mind and interfere with his prayers.

(31) Lulab.

(32) In holding it.

(33) His prayers, therefore, would not be disturbed.

(34) Cf. supra p. 164, n. 9.

(35) Sc. Deut. VI, 4-9, XI, 13-21 and Num. XV, 37-41 (cf. P.B. pp. 40-42).

(36) The ‘Amidah or the Eighteen Benedictions (cf. P.B. pp. 44-54).

(37) Being a priest.
(38) ‘The Lord bless thee etc.’ (cf. P.B. p. 53).
(39) He had to use his hands to roll up the Scroll of the Law and he had to raise his outspread hands when reciting the priestly benediction.
(40) Tosef. Sukkah II. Lest his interest in his studies should cause him to forget its existence and to drop it from his hands.
(41) The record of the custom of the men of Jerusalem.

Talmud - Mas. Sukkah 42a

They taught [that he is not culpable] only when he had not yet fulfilled his obligation,[1] but if he had fulfilled his obligation,[1] he is guilty of a transgression.[2] But has he not fulfilled his obligation[3] the moment he lifted it up?[4] — Abaye answered, [This is a case] where he held it upside down.[5] Raba replied, You may even say that he did not hold it upside down,[6] but here we are dealing with a case where he carried it out in a vessel. But is it not Raba himself who laid down that taking by means of something else is regarded as a valid taking?[7] — That applies only [where the taking with something else is done] as a mark of respect, but not [if it is done] in a disrespectful manner.[8]

R. Huna stated, R. Jose used to say, A fowl [offered as] a burnt-offering[9] that was found[10] among other fowls[11] and [the priest] thought that it was a fowl of a sin-offering, and ate it, he is not culpable.[12] What, however, does he[13] teach us by this ruling? Is it that if a man errs in connection with a matter of religious duty he is exempt? But this is, is it not, exactly the same [as the one in our Mishnah]?[14] — It might have been assumed that only there[15] is the man not culpable when he errs in connection with a matter of religious duty, because [by his very mistake] he performs a religious duty,[16] but here,[17] where, by erring in connection with a matter of religious duty he does not perform another religious duty,[18] might have said that he is culpable, therefore he[19] informs us [that even here he is not culpable].

An objection was raised: R. Jose ruled, If a man slaughters on the Sabbath the daily offering which has not been properly examined,[20] he is liable to bring a sin-offering[21] and another daily offering must be offered![22] — The other answered him, That case lies in a different category,[23] for concerning it it has been stated: R. Samuel b. Hattai citing R. Hamnuna Saba[24] who cited it in the name of R. Isaac b. Ashian who had it from R. Huna who cited Rab, explained, This is a case, for instance, where the daily offering was brought from a chamber that contained animals which had not been examined.[25]

MISHNAH. A WOMAN MAY TAKE [THE LULAB] FROM THE HAND OF HER SON OR FROM THE HAND OF HER HUSBAND AND PUT IT BACK IN WATER[26] ON THE SABBATH.[27] R. JUDAH RULED, ON THE SABBATH IT MAY BE PUT BACK [INTO THE WATER IN WHICH IT WAS PREVIOUSLY KEPT],[28] ON A FESTIVAL DAY[29] [WATER] MAY BE ADDED,[30] AND ON THE INTERMEDIATE DAYS [OF THE FESTIVAL THE WATER] MAY ALSO BE CHANGED. A MINOR[31] WHO KNOWS HOW TO SHAKE [THE LULAB] IS SUBJECT TO THE OBLIGATION OF LULAB.

GEMARA. Is not this[32] obvious? — I might have said that, since a woman does not come under the obligation [of lulab] she may not take it,[33] therefore he informs us [that she may].[34]

A MINOR WHO KNOWS HOW TO SHAKE THE [LULAB]. Our Rabbis taught, A minor who knows how to shake [the lulab] is[35] subject to the obligation of the lulab;[36] [if he knows how] to wrap himself [with the tallith][37] he is subject to the obligation of zizith;[38] [if he knows how] to look after tefillin, his father must acquire tefillin for him; if he is able to speak, his father must teach him Torah and the reading of the Shema’. What [in this context] could be meant by Torah? — R.

Hamnuna replied, [The Scriptural verse] Moses commanded us a Law, an inheritance of the congregation of Jacob.[39] What [in this context] is meant by the Shema'? — The first verse.[40] If [the minor] knows how to take care of his body[41] we may eat food that has been prepared in ritual purity though his body [touched it]; if he knows how to take care of hands,[42] we may eat food that has been prepared in ritual purity even though his hands [touched it]. If he knows how to answer [questions on whether he touched any ritual uncleanliness], a doubtful case on his part[43] that occurs in a private domain is regarded as unclean, but if in a public domain as clean.[44] [If he[45] knows how] to spread out his hands [in priestly benediction][46] terumah[37] may be shared out to him in the threshing-floors.[47]

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(1) Before he left his house.

(2) Since at the time he left his house he could not have been under the influence of a religious act.

(3) Of 'taking' the lulab.

(4) Of course he did. How then is it possible ever to leave one's house with a lulab in hand without having ipso facto fulfilled the prescribed duty?

(5) The obligation is not fulfilled unless it is held as it grows naturally (cf. infra 45b).

(6) The reason is explained presently.

(7) Supra 37a.

(8) If one takes it with the scarf one wears out of respect, it is valid but if one carries it out in a vessel, thus showing lack of respect, it is not valid.

(9) The burnt-offering was forbidden to be eaten, since all of it had to be consumed on the altar.

(10) At the south western side of the altar where, in addition to burnt-offerings of fowls, sin-offerings of fowls were also sometimes offered.

(11) Lit., 'wings'.

(12) Sc. is exempt from a trespass-offering which the eating of it would otherwise have entailed. Since the eating of a sin-offering is a religious duty, no offence is committed by the man who, intending to do a good deed, has mistakenly eaten the wrong bird.

(13) R. Huna.

(14) When R. Jose informs us that if one errs in connection with a matter of religious duty he is not culpable. Why then should R. Huna merely repeat a ruling of our Mishnah?

(15) In our Mishnah.

(16) That of taking the lulab.

(17) In R. Huna's ruling.

(18) Since the fowl is a burnt-offering no religious duty is performed in eating it.

(19) R. Huna.

(20) To ascertain whether it was free from blemishes.

(21) Because a daily offering that has not been previously examined is invalid, and by slaughtering it on the Sabbath one is guilty of doing forbidden work.

(22) Now since R. Jose holds the man liable to bring a sin-offering it follows that if one errs in connection with a matter of religious duty without performing one, he is culpable. An objection against R. Huna.

(23) Lit., 'outside that (case)'.

(24) The Elder.

(25) The man had no right at all to take an animal from an unexamined supply and his act, therefore, is not a mistake committed when under the anxiety of performing a religious duty, but almost a wilful transgression.

(26) To prevent it from withering.

(27) And she is not guilty of moving an object that is useless to her.

(28) But no other water may be added. Much less may the water be changed.

(29) Which is subject to lesser restrictions than the Sabbath.

(30) But not changed.

(31) Under the age of thirteen years and one day.

(32) That A WOMAN MAY TAKE THE LULAB etc.

(33) Since she is carrying on the festival an object that is useless to her.

[34] Since the lulab is suitable for the man it has the status of a ‘vessel’ which may be moved by everybody.
[35] In Rabbinic law.
[36] In this and all the instances that follow, the purpose is to train the child in the observance of precepts.
[37] V. Glos.
[38] Cf. Num. XV, 37.
[39] Deut. XXXIII, 4.
[40] Deut. VI, 4, the first verse of the passage.
[41] Though not of his hands, i.e., he is careful enough not to touch any ritual uncleanness with his body though he might allow his hands to touch a minor uncleanness.
[42] Cf. prev. n. mut. mut.
[43] Sc. if he answer that he is in doubt.
[44] Cf. Sot. 28a. Any doubtful case of uncleanliness is regarded as clean if it is in a public domain and unclean if in a private one.
[45] Being a priest.
[46] I.e., he actually performs the precept in public (Rashi). Num. VI, 24ff. Cf. P.B. p. 53.
[47] Where the sharing of the terumah to the priests took place publicly. As such a boy may obviously be relied upon (cf. Meg. 24a) to preserve the terumah in its levitical purity, it may be given to him even in public. (V. Tosaf). If he is unable to ‘spread his hands’ he cannot be assumed to know how to take proper care of terumah and, therefore, only those who know him personally to be able to do it may privately send terumah to his house (cf. Yeb. 99b).

Talmud - Mas. Sukkah 42b

If he knows how to slaughter [animals ritually][1] we may eat from [the meat of animals] which he has slaughtered. R. Huna explained: This applies only where an adult was standing by his side [when he performed the act].[2] If [a child] is able to eat an olive size of [bread made of] corn,[3] one[4] must remove oneself a distance of at least four cubits from his excrement or water.[5] R. Hisda explained: This applies only where the child is able to consume it[6] in the time [which it takes an ordinary adult] to eat half a loaf.[7] (R. Hiyya the son of R. Yeba observed, But in the case of an adult [the law[8] applies] even if he cannot eat it[6] in the time [which it takes a normal person] to eat half a loaf, since it is written, He that increaseth knowledge[9] increaseth sorrow.)[10] If [a child] can eat an olive of roast meat, the Paschal lamb may be slaughtered on his behalf,[11] as it is said, According to the eating of every man.[12] R. Judah ruled, [This[13] is not allowed] until he is able to pick out an eatable. In what manner? — If he is given a splinter, he throws it away; if he is given a nut, he eats it.

CHAPTER IV

MISHNAH. [THE CEREMONIALS OF] THE LULAB AND THE WILLOW[14] [CONTINUED FOR] SIX [DAYS] OR[15] SEVEN; THE [RECITAL OF THE WHOLE] HALLEL[16] AND THE REJOICING[17] [CONTINUED FOR] EIGHT [DAYS]; [THE DWELLING IN A] SUKKAH AND THE WATER LIBATION[18] SEVEN [DAYS]; THE FLUTE PLAYING[19] FIVE[20] OR SIX [DAYS].[21]

‘[THE CEREMONIALS OF] THE LULAB . . . SEVEN’. HOW IS THIS? IF THE FIRST DAY OF THE FESTIVAL FELL ON A SABBATH, THE LULAB [IS CARRIED FOR] SEVEN DAYS; BUT [IF IT FELL] ON ANY OTHER DAY, [IT IS CARRIED ONLY] FOR SIX.[22]

‘THE WILLOW . . . SEVEN DAYS’. HOW IS THIS? IF THE SEVENTH DAY OF [THE CEREMONIALS OF] THE WILLOW FELL ON SABBATH, [THEY LAST] SEVEN DAYS; IF IT FELL ON ANY OTHER DAY, [THEY LAST ONLY] SIX.[23]

HOW WAS [THE CEREMONIAL OF] THE LULAB CARRIED OUT?[24] IF THE FIRST DAY OF THE FESTIVAL FELL ON A SABBATH, THEY BROUGHT THEIR LULABS TO THE

TEMPLE MOUNT, AND THE ATTENDANTS RECEIVED THEM AND ARRANGED THEM IN ORDER UPON THE PORTICO,[25] WHILE THE ELDERS[26] LAID THEIRS IN A CHAMBER.[27] AND THE PEOPLE WERE INSTRUCTED TO SAY, 'WHOSOEVER GETS MY LULAB IN HIS HAND, LET IT BE HIS AS A GIFT'.[28] ON THE MORROW THEY AROSE BETIMES, AND CAME [TO THE TEMPLE MOUNT] AND THE ATTENDANTS THREW DOWN [THEIR LULABS] BEFORE THEM, AND THEY SNATCHED AT THEM, AND SO THEY USED TO COME TO BLOWS WITH ONE ANOTHER. WHEN THE BETH DIN, HOWEVER, SAW THAT THEY REACHED A STATE OF DANGER, THEY INSTITUTED THAT EACH MAN SHOULD TAKE [HIS LULAB] IN HIS OWN HOME.

GEMARA. But why [should it be forbidden to carry the lulab on the Sabbath]?[29] It[30] involves only a mere movement, why then[31] should it not override the Sabbath?[32] — Rabbah answered, It[33] is a restrictive measure, lest a man take [the lulab] in his hand and go to an expert in order to learn [the rites connected with it]

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(1) Though he is not well-versed in the various laws associated with it (Rashi).

(2) And the adult testifies that all the ritual laws associated with it were duly observed.

(3) Of any of the following five species: Wheat, barley, spelt, oats and rye.

(4) Who desires to read his prayers or any sacred matter.

(5) Since they emit an offensive odour.

(6) The olive size of bread.

(7) Sc. an amount of bread that suffices for two ordinary meals. A whole loaf suffices for four meals (cf. 'Er. 82b). If it takes him a longer time he is in the same legal position as one who eats the size of half an olive on one day and the size of another half on the following day, in which case the two are not combined to form the prescribed minimum.

(8) To remove oneself etc.

(9) Sc. the adult, as compared with the child.

(10) Eccl. I, 18. 'Sorroa is taken as a euphemism. The older a man is, the more offensive his excrement.

(11) Sc. he may be included in a party that joined together to participate in the lamb.

(12) Ex. XII, 4; emphasis on 'eating'.

(13) The inclusion of a child in a party for participation in the Paschal lamb.

(14) The willow branch was carried round the Altar in the Temple (cf. infra 45a).

(15) When they superseded the Sabbath v. infra.

(16) Ps. CXIII-CXVIII.

(17) The consumption of peace-offerings (cf. Deut. XVI, 14 and Pes. 109a).

(18) After the offering of the regular daily morning offering during the Festival (cf. Yoma 26b).

(19) In connection with the water drawing.

(20) If a Sabbath occurred during the middle of the Festival.

(21) If the first day happened to be a Sabbath. Since the flute may not be played on the Sabbath and on the first and last day of the Festival, three days have to be deducted from the eight in the former case (cf. prev. n.) and only two (the first and the last) in the latter case where Sabbath coincides with the first and last Festival days. Each of the items mentioned in the Mishnah is dealt with at length in the subsequent Mishnahs, where it is fully explained.

(22) The lulab may be carried on Sabbath on the first day only. If the first day was not Sabbath, one of the succeeding days was, and on this Sabbath it was not permitted to be carried.

(23) The Gemara later explains the importance of the seventh day.

(24) When during Temple times the first day fell on a Sabbath.

(25) The Temple Mount was surrounded by a portico with seats under it. The Gemara (infra 45a) discusses whether it means the roof of the portico or the seats under it.

(26) To avoid the crush on the following day.

(27) Away from those of the public.

(28) Since if it belonged to someone else it was invalid. V. supra 41b.

(29) Even if it is not the first day.

(30) The rite of the lulab.

(31) Since the commandment to take the lulab in the Temple for seven days is Pentateuchal.
(32) Sc. on what ground did the Rabbis institute a preventive measure against taking it?
(33) The prohibition to take the lulab on a Sabbath.

Talmud - Mas. Sukkah 43a

and thereby he will be carrying it for four cubits through a public domain.[1] And the same reason applies to the shofar,[2] and the same reason applies to the megillah.[3]

But if so, let it[4] apply to the first day[5] also? — 'The first day' you say? Did not our Rabbis institute that it should be taken in one's home?[6] — That is quite correct as from after this enactment, but what can you answer as regards the time before the enactment? — The fact is that with regard to the first day, the obligation to take the lulab on which is Pentateuchal even in the Provinces[7] the Rabbis[8] did not enact a restrictive measure,[9] but with regard to the other days [the command to take the lulab on which] does not Pentateuchally obtain in the Provinces,[10] the Rabbis did enact a restrictive measure.[11]

But if this is so,[12] the same law should obtain at the present time also?[13] — We do not know when the New Moon was fixed.[14] But why should it not override the Sabbath[15] for them[16] since they know when the New Moon was fixed? — The law is indeed so; for in our Mishnah we have learnt, IF THE FIRST DAY OF THE FESTIVAL, FELL ON A SABBATH, all the people BROUGHT THEIR LULABS TO THE TEMPLE MOUNT, while in another Mishnah we have learnt [that they brought them] to the Synagogue,[17] consequently you may deduce from these that the former refers to the time when the Temple was in existence while the latter refers to the time when the Temple was no longer in existence.[18] This is conclusive.[19]

Whence do we derive that [the taking of the lulab] is a Pentateuchal obligation in the Provinces? — From what has been taught: And ye shall take[20] teaches that the lulab must be taken in the hand of each one; to you teaches[21] that it must be yours, thus excluding a borrowed or a stolen [lulab]; on the day[22] implies, even if it be the Sabbath; first[23] implies[24] even in the Province; the first[25] teaches that it overrides the first day of the Festival only.[26]

The Master said, 'On the day[27] implies, even if it be Sabbath.' But consider: [The taking of the lulab] is ordinary carrying. Is a Scriptural verse then necessary to permit ordinary carrying?[28] Raba answered, It was necessary to have it only with regard to the preliminaries of the lulab,[29] and this is in accordance with a ruling of that Tanna of whom it has been taught, The lulab and all its preliminaries[29] override the Sabbath, so R. Eliezer.[30]

What is the reason of R. Eliezer? — Scripture says, 'on the day,' implying, even the Sabbath. But what do the Rabbis[31] make of the expression, on the day'?-They need it to infer from it that on the day, [is the lulab to be taken] but not at night. Then whence does R. Eliezer deduce that [the lulab is to be taken] by day, and not at night? — He deduces it from the conclusion of the verse, 'And ye shall rejoice before the Lord your God for seven days', 'days' imply, but not nights. And the Rabbis?[32] — If deduction were made from this verse, I might have said that we ought to compare 'days' [mentioned here] with 'days' mentioned with regard to the Sukkah[33] so that just as there [the expression of] 'days' includes nights, so here also [the expression of] 'days' includes nights.[34]

And with regard to the Sukkah itself whence do we derive [that the expression of 'days' includes nights]? — From what our Rabbis have taught: Ye shall dwell in booths for seven days,[33] the expression of 'days' includes also the nights. You say that the expression of 'days' includes also the nights, perhaps it is not so and 'days' implies but not the nights, and this is really logical. For the word 'days' is used here,[35] and it is also used in connection with lulab so that just as there it means days and not nights, so here also it must mean days and not nights. Or take it another way: The word ‘days’ is mentioned here,[35] and also in connection with the [seven days of the] investment,[36] so that just as there it means days and also nights,[37] so here also it must mean days and also the nights! Let us then see to what it[38] is more comparable.[39] We should deduce a thing whose performance is a matter of the whole day[38] from a thing whose performance is a matter of the whole day,[40] and let no proof be adduced from something whose performance is only for one moment.[41] Or take it another way: We might deduce a thing which was ordained for future generations[38] from something whose performance also was ordained for future generations,[41] but let no proof be adduced from the investment which does not obtain for future generations![42] [This is, therefore, an open question, but] Scripture explicitly repeats

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(1) Not with the intention of fulfilling a religious duty, but merely to receive instruction.

(2) The ram's horn blown on the New Year.

(3) The Scroll of Esther read on Purim. The shofar may not be blown and the megillah may not be read on the Sabbath for the same reason.

(4) The restrictive measure.

(5) Of the festival.

(6) As stated in our Mishnah ad fin., and since it must be taken at home only, and not in the Synagogue, no one is likely to forget the prohibition against carrying it out.

(7) Sc. all places outside the Temple.

(8) On account of its importance.

(9) Either in the Temple or in the Provinces.

(10) It only obtains in the Temple (v. infra).

(11) Even in the Temple.

(12) That because it obtains in the Provinces no preventive measure was enacted.

(13) I.e., the command to take the lulab should override on the first day the Sabbath even now when the Temple is no longer in existence.

(14) Having to rely on the messages from Palestine which did not reach everywhere in time for the Festival, the fifteenth of the month may consequently not be actually the fifteenth and one taking the lulab on that day might be transgressing the Sabbath.

(15) Even at the present time.

(16) The Palestinians.

(17) Supra 41b. How then are the two Mishnahs to be reconciled.

(18) Hence they brought their lulabs to the Synagogue.

(19) [Tosaf. a.l. points out that this conclusion is reversed later on, infra 44a, where the contradiction of the two Mishnahs is reconciled in a different manner].

(20) Lev. XXIII, 40; emphasis on ‘take’.

(21) Ibid, emphasis on ‘you’.

(22) Ibid., emphasis on ‘day’.

(23) Ibid.

(24) Since Temple was not mentioned.

(25) Ibid., sc. the use of the He article.

(26) The He restricting it to the ‘well-known’, or most important day of the Festival.

(27) Lev. XXIII, 40; emphasis on ‘day’.

(28) Which is only a Rabbinical law enacted long after Scripture.

(29) E.g., its preparation, its cutting from the tree and its binding.

(30) Shab. 131b.

(31) Who differ from R. Eliezer.

(32) Why do they not deduce from this verse?

(33) Lev. XXIII, 42.

(34) Hence the necessity for the other verse.

(35) In respect of Sukkah.

(36) Of Aaron and his sons for the High Priesthood. (V. Lev. VIII).
(37) Since the text explicitly mentioned day and night (v. Lev. VIII, 35).
(38) The Sukkah.
(39) To the seven days of investment or to the lulab.
(40) Investment (cf. Lev. VIII, 33 and 35).
(41) The lulab.
(42) Each of the rites of lulab and investment has one point of similarity with the Sukkah and one of difference from it. The Sukkah like the lulab is an eternal commandment, but unlike it its performance is continuous. The seven days of investment on the other hand were continuous but not ordained for future generations.

Talmud - Mas. Sukkah 43b

'Ye shall dwell' in order to point an analogy. It is stated here,[1] Ye shall dwell,[2] and with regard to the [seven days of] investment it is also stated, 'Ye shall dwell',[3] so that just as in that case the word 'days' includes also the nights, so here also 'days' includes the nights.

THE WILLOW . . . SEVEN DAYS'. HOW IS THIS? Why does the [ceremonial of the] willow-branch on the seventh day[4] override the Sabbath?[5] — R. Johanan answered, In order to publish the fact that it[6] is a [commandment] of the Torah. But if so, in the case of the lulab also, why should it not override the Sabbath[7] in order to publish the fact that it[8] is a [commandment] of the Torah? — In the case of lulab there is a restrictive enactment on account of the reason of Rabbah.[9] But if so, let us make the same restrictive enactment with regard to the willow also? — In the case of the willow-branch the emissaries of the Beth din would bring it[10] but the lulab is entrusted to everyone.[11] But if so,[12] ought it not to override [the Sabbath] on any day?[13] — [If that were done] people would come to hold the lulab[14] in light esteem. Then why should not [the willow] override [the Sabbath] on the first day of the Festival?[15] — It will not be clear [that it is the rite of the willow that overrides the Sabbath, for] people might say that it is the lulab which overrides it.[16]

But why should not the Sabbath be overridden on any one of the other days?[17] — Since [the permission to override the Sabbath] was removed from the first day,[18] it was transferred to the seventh.[19] But if so,[12] why should it not override it at the present time also? — We do not know when New Moon was fixed.[20] But in their case[21] since they know when New Moon was fixed, why should it not override [the Sabbath]? — When Bar Hadya came,[22] he explained that this never happened.[23] When, however, Rabin came[22] and all the company that used to go down [from Palestine to Babylon][24] they stated that it did happen, and that it did not override [the Sabbath]. Does not then the original difficulty arise? — R. Joseph answered, Who says that [the ceremonial of] the willow-branch is [performed] by the taking of it? Perhaps it is done by its being fixed [to the sides of the altar].[25]

Abaye raised an objection against him: THE CEREMONIALS OF THE LULAB AND THE WILLOW [CONTINUED FOR] SIX [DAYS] OR SEVEN. Does not [this[26] imply that the willow is] as the lulab just as the [ceremonial of the] lulab is [performed] by its being taken, so is that of the willow performed by its being taken?[27] — What an argument! The rite of each may have been carried out according to its own particular rules.[28]

Abaye raised a further objection against him: Every day they walked round the altar once, but on that day[29] they walked round it seven times.[30] Does not this mean, with the willow-branch?[31] No, with the lulab.[32] But did not R. Nahman state in the name of Rabbah b. Abbuha [that the circuit was made] with the willowbranch? — The other[33] answered him, He told you, 'with the willow-branch' and I say 'with the lulab'.

It was stated, R. Eleazar stated [that the circuit was made] with the lulab; R. Samuel b. Nathan citing R. Hanina stated [that it was made] with the willow-branch. And so said R. Nahman who had it from Rabbah b. Abbuha, With the willow-branch.

Raba said to R. Isaac the son of Rabbah b. bar Hana, Come, O Son of the Law, and I will tell you of an excellent statement which your father made. With reference to what we have learnt, ‘Every day they walked round the altar once, and on that day they went round seven times’,[34] your father citing R. Eleazar stated, [This was done] with the lulab.

He raised an objection against him: The rite of the lulab overrides the Sabbath on the first day,[35] and that of the willow-branch on the last day.[36] On one occasion the seventh day of the [ceremonial of the] willow-branch fell on a Sabbath, and they brought saplings of willows on the Sabbath eve and placed them in the courtyard of the Temple. The Boethusians,[37] having discovered them, took and hid them under some stones.[38] On the morrow some of the ‘amme ha-arez[39] discovered them and removed them from under the stones, and the priests brought them in and fixed them in the sides of the altar. [The reason for hiding the willows was that] the Boethusians do not admit that the beating of the willow-branch[40] overrides the Sabbath.[41] Thus[42] we see clearly that [the performance of the willow ceremonial is] in the taking of it?[43] — This is a refutation. Then why should it[44] not override [the Sabbath]?[45] — Since with us[46] it does not override [the Sabbath][47] it does not override it with them[48] either.[49]

But is there not the first day of the Festival on which [the rite of the lulab] does not override the Sabbath for us,[50] but does it for them?[48]

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(1) In respect of Sukkah.

(2) Lev. XXIII, 42.

(3) Ibid. VIII, 35.

(4) Of the Festival.

(5) Sc. why was no preventive measure enacted in its case as in that of lulab supra?

(6) Though not specifically mentioned.

(7) On every day of the Festival (not only the first) that falls on the Sabbath.

(8) Sc. taking it on all the seven days, though this is not specifically mentioned in the Pentateuch, since the period indicated in Lev. XXIII, 40, may refer to other forms of rejoicing.

(9) Supra 42b ad fin.

(10) On the Sabbath eve, to be borne round the altar by the priests on the morrow. For these men, who are presumed to be acquainted with the Law, no preventive measures were called for.

(11) Had no preventive measure been enacted, a breach in the Sabbath laws might have occurred.

(12) That in the case of the willow no preventive measure was deemed necessary and that Pentateuchally it must be taken all the seven days of the Festival.

(13) Of the Festival which falls on the Sabbath, and not only on the seventh.

(14) Since it overrides the Sabbath only the first day.

(15) As is the case with the lulab.

(16) The inference might be made that the overriding of the Sabbath is mainly due to the lulab and only incidentally to the separate willow.

(17) Sc. why was preference given to the seventh day?

(18) For the reason given supra.

(19) Another conspicuous day. The middle days are not so conspicuous as the first and the seventh.

(20) V. supra p. 195, n. 9. The day we assume to be the seventh may in fact be the sixth, and the Sabbath is thus overridden on the wrong day.

(21) Sc. the Palestinians.

(22) From Palestine to Babylon.

(23) The date of the beginning of the month was so arranged that the seventh day of the Festival never coincided with the Sabbath. This was effected by adding a day to the previous month or to any other of the preceding months.

(24) [נחותי Lit., ‘going down’, a term denoting a group of Palestinian ‘travelling scholars’ of the fourth century who used to journey to and fro between Palestine and Babylonia in order to transmit the teachings and traditions of the Academies of one country to the other, v. Funk S., Die Juden in Babylonian I, p. 146].
(25) And since now there is no altar and the rite cannot be properly performed, the Sabbath may not be overridden.
(26) The juxtaposition of the two.
(27) How then could R. Joseph suggest that the willow was fixed to the sides of the altar?
(28) The appearance of the two nouns in juxtaposition is no proof that the performance of the two rites was identical.
(29) The seventh day of the Festival.
(30) Infra 45a.
(31) And, therefore, the duty is obviously performed by the mere holding of the willow-branch. An objection against R. Joseph (cf. supra n. 7).
(32) After the willow-branch had been fixed in the sides of the altar.
(33) R. Joseph.
(34) Infra 45a.
(35) Lit., ‘at its beginning’.
(36) Lit., ‘at its end’.
(37) A sect closely related to the Sadducees. Tradition traces their origin to Boethus a pupil of Antigonus of Soko. More probably followers of Boethus or Simeon b. Boethus who was made High Priest by Herod in 25 B.C.E. V. J.E. III, p. 285.
(38) The Boethusians, knowing that the Pharisees would not remove the stones on the Sabbath, hoped thereby effectively to prevent a ceremony in which they did not believe.
(39) Who are unacquainted with the Sabbath laws.
(40) The willow-branch, according to Rabbinic law, was beaten on the ground. Cf. Mishnah infra 45a.
(41) Tosef. Suk. III.
(42) Since the willow-branch had to be beaten.
(43) Not merely in fixing it to the altar.
(44) The taking of the willow on the seventh day of the Festival.
(45) In Palestine, where they know when the New Moon was fixed.
(46) In Babylon and all other countries outside Palestine.
(47) On account of our ignorance of the day when the New Moon was fixed.
(48) The Palestinians.
(49) In order that no distinctions be made between one country and another.
(50) In Babylon and all other countries outside Palestine.

Talmud - Mas. Sukkah 44a

— I will answer! For them also it does not override [the Sabbath]. Does not then a contradiction arise between those two Mishnahs, since one teaches ‘all the people BROUGHT THEIR LULABS TO THE TEMPLE MOUNT’,[1] and the other Mishnah teaches [that they brought them] to the Synagogue,[2] and we answered,[3] did we not, that the one referred to Temple times and the other to the time after the destruction of the Temple? — No; both refer to Temple times,[4] but there is nevertheless no contradiction since the one refers to the Sanctuary and the other[5] to the Provinces.[6]

Abaye said to Rabbah,[7] Why in the case of the lulab do we perform the ceremony for seven days in commemoration of the Sanctuary, whereas in the case of the willow-branch we do not perform the ceremony for seven days in commemoration of the Sanctuary?[8] — He answered him, Since one fulfils the obligation [of taking the willow-branch] with the willow-branch on the lulab. But the former asked, does not one do it[9] on account of the lulab?[10] And if you will answer that one first raises it once[11] and then raises it again,[12] is it not a daily occurrence that we do not so act? — R. Zebid answered in the name of Raba, In the case of the lulab which is a Pentateuchal precept we perform the ceremony for seven days in commemoration of the Sanctuary; in the case of the willow-branch which is only a Rabbinical precept, we do not perform the ceremony for seven days in commemoration of the Sanctuary.

According to whom [is this statement][13] made? If you will say, According to Abba Saul,[14] did he not say: It is written, willows of the brook,[15] implying[16] two, one referring to the [willow-branch in the] lulab and the other to [the willow-branch for use in] the Sanctuary?[17] If you will say, It is according to the Rabbis, did they not have it as an accepted tradition, since R. Assi citing R. Johanan who had it from R. Nehunya of the Plain of Beth Hawartan,[18] stated, The laws of the ten plants, the willow-branch and water libation were given to Moses upon Mount Sinai?[19] Rather, said R. Zebid, in the name of Raba, In the case of the rite of the lulab, which has a Pentateuchal origin[20] for its performance in the Provinces, we perform it for seven days in commemoration of the Sanctuary; in the case of the rite of the willow-branch, which has no Pentateuchal origin for its performance in the Provinces, we do not perform it for seven days in commemoration of the Sanctuary.

Resh Lakish ruled, Priests suffering from a physical blemish[21] were permitted[22] to enter between the Ulam[23] and the altar in order to fulfil the precept of the willow-branch.[24] Said R. Johanan to him, Who said so? — 'Who said so?' Did he not himself say so,[25] since R. Assi citing R. Johanan who had it from R. Nehunya of the Plain of Beth Hawartan stated, The laws of the ten plants, the willow-branch and water libation were given to Moses upon Mount Sinai?[26] — He rather meant this: Who said that [the precept[27] is fulfilled] by taking,[28] perhaps it is fulfilled by fixing,[29] who said that it may be done by priests with a blemish, perhaps it [may be done] only by unblemished priests?

It was stated, R. Johanan and R. Joshua b. Levi differ. One holds that the rite of the willow-branch is an institution of the prophets,[30] the other holds that the willow-branch is a usage of the prophets.[31] It can be concluded that it was R. Johanan who said, 'It is an institution of the prophets', since R. Abbahu stated in the name of R. Johanan, 'The rite of the willow-branch is an institution of the prophets'. This is conclusive.

Said R. Zera to R. Abbahu, Did then R. Johanan say so?[32] Did not R. Johanan in fact state in the name of R. Nehunya of the Plain of Beth Hawartan that 'the law of the ten plants, the willow-branch and the water libation were given to Moses on Mount Sinai'? — [The other] was appalled for a while,[33] and then he answered, They were forgotten[34] and the prophets[35] reinstituted them.

But could R. Johanan say so?[36] Did not R. Johanan in fact state, 'What I said was yours was in fact theirs'?[37] — Rather[38] [answer thus]: This is no difficulty,

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(1) Supra 42b.

(2) Supra 43a.

(3) V. supra 43a.

(4) [When messengers were sent forth to the Diaspora informing them when the New Moon had been fixed, v. Strashun].

(5) Which speaks of carrying the lulab 'to the Synagogue'.

(6) After the destruction of the Temple, however, no such messengers were sent forth, so that the taking of the lulab on the Sabbath is forbidden within as well as without Palestine.

(7) So Bah. Cur. edd., 'Raba'.

(8) The latter ceremony is performed on one day only (cf. Rashi, a.l.).

(9) Take a willow-branch with the lulab.

(10) And not in fulfilment of the precept of the willow-branch.

(11) To fulfil the precept of the lulab.

(12) To fulfil the precept of the willow-branch.

(13) That the rite of the willow-branch is only Rabbinical.

(14) Supra 34a.

(15) Lev. XXIII, 40.

(16) Since the plural is used.

(17) Now since both are derived from the Pentateuch the latter like the former must obviously be a Pentateuchal commandment.
(18) V. Ta'an. Sonc. ed., p. 7, n. 2.
(19) Supra 34a, q.v. notes.
(20) For the first day.
(21) Though such priests were throughout the year forbidden not only to take part in the Temple ceremonies but also to enter the Sanctuary (cf. Kelim I).
(22) In this case an exception was made.
(23) The Hall leading to the interior of the Temple. V. Mid. IV, 7.
(24) Which necessitated a circuit round the altar, and which could not possibly be done without passing between the Ulam and the altar.
(25) The questioner assumed that R. Johanan meant, ‘Who said that the rite of the willow-branch is a religious duty’?
(26) Supra.
(27) Of the willow-branch.
(28) So that even those who suffer from blemishes must enter and thus tread upon ground forbidden to them.
(29) In which case one eligible priest can perform the rite for all the others.
(30) Haggai, Zechariah and Malachi, the prophets of the Second Temple to whom tradition ascribes many enactments.
(31) Sc. they had it only as a custom, and since it did not have the force of a law, no benediction over it is necessary.
(32) That the rite of the willow was an institution of the prophets.
(33) Cf. Dan. IV, 16.
(34) During the exile.
(35) At the divine commandment.
(36) That the commandments were forgotten during the exile.
(37) B.K. 117b. Sc. the knowledge of the Law which he first thought was the possession of the Palestinians was in fact in the hands of the Babylonians (Rashi). How then could it be said that he held that the Torah was forgotten during the Babylonian exile? [R. Han. (v. Tosaf.) renders thus: ‘One of yours (sc. a Babylonian scholar) said that it (the rite of taking the willow-branch) is theirs’, i.e., of Rabbinic origin].
(38) [Lit., ‘But’, so MS.M. The answer of R. Abbahu is being rejected and another is given to reconcile the two statements of R. Johanan].

Talmud - Mas. Sukkah 44b

since one statement[1] refers to the Sanctuary and the other[2] to the Provinces.

R. Ammi ruled, The willow-branch is required to have a minimum size;[3] it must be taken separately only,[4] and no man can fulfil his obligation with the willow-branch in the lulab. But since the Master said, ‘It must be taken separately only’ is it not self-evident that ‘no man can fulfil his obligation with the willow-branch in the lulab’? — I might have said that that applies only where one does not lift [the lulab] a second time, but not where one does lift it a second time,[5] therefore he informs us that it is not so. R. Hisda citing R. Isaac, however, ruled, A man may fulfil his obligation with the willow-branch in the lulab.[6]

What is its prescribed minimum?[7] — R. Nahman said, Three fresh twigs with leaves. R. Shesheth, however, said, Even one leaf and one twig. ‘One leaf and one twig’! Can such a rule be imagined?[8] — Say rather, Even one leaf on one twig.[9]

Aibu[10] related, I was once standing in the presence of R. Eleazar b. Zadok when a man brought a willow-branch before him, and he took it and shook[11] it over and over again without reciting any benediction, for he was of the opinion that it[12] was merely a usage of the prophets.[13]

Aibu[10] and Hezekiah, the maternal grandsons of Rab, brought a willow-branch before Rab, and he shook it over and over again without reciting a benediction, for he was of the opinion that it[12] was merely a usage of the prophets.[13] Aibu stated, I was standing in the presence of R. Eleazar b. Zadok when a certain man came before him and said to him, ‘I possess cities, vineyards and olive trees, and the inhabitants of the cities come[14] and hoe the vineyards and eat the olives.[15] Is this[16] proper or improper?’ — ‘This’, the other replied, ‘is improper’. As the man was about to leave him and depart, [R. Eleazar] observed, ‘It is now forty years that I have dwelt in this land, and I have never seen a man walking in the paths of righteousness as this man’. The man thereupon returned and said to him, ‘What should be done?’ he answered him, ‘Abandon the olives to the poor and pay yourself for hoeing the vineyards’.

But is hoeing permitted [during the Sabbatical year]? Has it not in fact been taught: But the seventh year thou shalt let it rest and lie still[17] means, ‘Let it rest’ from hoeing and ‘lie still’ as regards the removal of stones? — R. Ukba b. Hama replied, There are two kinds of hoeing; one consists in closing up the fissures and the other in aerating the soil.[18] Aerating the soil is forbidden[19] but closing up the fissures[20] is permitted.

Aibu citing R. Eleazar b. Zadok ruled, One should not walk more than three parasangs on the Sabbath eve.[21] R. Kahana observed, They made this statement only [in reference to a man who was going to] his home,[22] but if he was going to his inn[23] he relies upon [the food] which he has with him. Others say that R. Kahana observed, The statement[24] was necessary even in the case of a man [who was going] to his home.[25] R. Kahana stated, It actually happened with me, that[26] I did not find even a fishpie.[27]

HOW WAS [THE CEREMONIAL OF] THE LULAB CARRIED OUT? A tanna recited before R. Nahman, ‘Arranged them upon the roof[28] of the portico’. The other said to him

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(1) That it was a law given to Moses on Mount Sinai.

(2) That it was an institution of the prophets.

(3) This is given infra.

(4) Nothing else may be bound together with it.

(5) Once in fulfilment of the rite of lulab and a second time in fulfilment of that of the willow.

(6) Cur. edd. in parenthesis, ‘on the first festival day of the feast’, which is difficult to explain.

(7) Sc. of the willow-branches.

(8) Obviously not

(9) The size prescribed supra 32b applies only to the willow-branches that were bound with the lulab.

(10) This Aibu, the father of Rab, is the great-grandfather of the Aibu mentioned later (v. Rashi). R. Eleazar b. Zadok before whom he stood, the grandson of R. Eleazar b. Zadok I, lived in the second century.

(11) So Rashi.

(12) The shaking of the willow outside the Temple.

(13) Only a Pentateuchal or Rabbinical rite requires a benediction.

(14) During the Sabbatical Year, when the produce should be hefker (v. Glos.).

(15) As payment for hoeing the vineyards.

(16) The payment out of the produce with which all trading is forbidden.

(17) Ex. XXIII, 11.

(18) Breaking up the clods and allowing the air to permeate to the roots. Lit., ‘to make the trees strong’.

(19) Since the tree is thereby improved.

(20) Which only serves to protect the tree.

(21) Lest he is unable to reach his destination before sunset. He should rather remain where he is, allowing himself sufficient time in which to prepare his Sabbath meals.

(22) Without first informing them of his arrival. Were he to arrive after or near sunset it would be too late to prepare for him his Sabbath meals. As he might have expected his people to be ready for him there might be a clash.

(23) The people of which he does not expect to prepare his meals without notice.

(24) Of Aibu.

(25) Where he is sure to find at least some food, much more so does it apply to an inn, since he cannot rely upon finding there any food at all for the Sabbath.

(26) Arriving unexpectedly.

(27) ‘Kassa deharsana’, a concoction of fish-hash and flour fried in the fish oil. It represents the minimum of a meal.

(28) His reading in our Mishnah was not על גב האיצטבא ‘upon the portico’ but על גג האיצטבא ‘upon the roof of the portico’.

Talmud - Mas. Sukkah 45a

‘Does one then need to dry them?[1] Say rather, Upon the portico’.[2] Rehaba citing R.[3] Judah stated, The Temple Mount had a double colonnade, one colonnade being within the other.[4]

MISHNAH. HOW WAS THE PRECEPT OF THE WILLOW-BRANCH [CARRIED OUT]? THERE WAS A PLACE BELOW JERUSALEM CALLED MOZA.[5] THEY WENT DOWN THERE AND GATHERED THENCE YOUNG WILLOW-BRANCHES AND THEN CAME AND FIXED THEM AT THE SIDES OF THE ALTAR SO THAT THEIR TOPS BENT OVER THE ALTAR. THEY THEN SOUNDED[6] A TEKI'AH [LONG BLAST], A TERU'AH [TREMULOUS BLAST] AND AGAIN A TEKI'AH.[7] EVERY DAY[8] THEY WENT ROUND THE ALTAR ONCE, SAYING, ‘WE BESEECH THEE, O LORD, SAVE NOW, WE BESEECH THEE, O LORD, MAKE US NOW TO PROSPER’.[9] R. JUDAH SAID, [THEY WERE SAYING],[10] ‘ANI WAHO,[11] SAVE NOW’. BUT ON THAT DAY[12] THEY WENT ROUND THE ALTAR SEVEN TIMES. WHEN[13] THEY DEPARTED, WHAT DID THEY SAY? ‘THINE, O ALTAR, IS THE BEAUTY! THINE, O ALTAR, IS THE BEAUTY!’ R. ELIEZER SAID, [THEY WERE SAYING,] ‘TO THE LORD AND TO THEE, O ALTAR, TO THE LORD AND TO THEE, O ALTAR’.

AS WAS ITS PERFORMANCE[14] ON A WEEKDAY, SO WAS ITS PERFORMANCE ON THE SABBATH, SAVE THAT THEY GATHERED THEM[15] ON THE EVE [OF THE SABBATH,] AND PLACED THEM IN GOLDEN BASINS THAT THEY MIGHT NOT BECOME MILDEWED. R. JOHANAN B. BEROKA SAID, THEY USED TO BRING PALM TWIGS AND BEAT THEM ON THE GROUND AT THE SIDES OF THE ALTAR, AND THAT DAY WAS CALLED ‘[THE DAY OF] THE BEATING OF THE PALM TWIGS’. THEY USED TO TAKE THEIR LULABS FROM THE HANDS OF THE CHILDREN AND EAT THEIR ETHROGS.[16]

GEMARA. It was taught, It[17] was the place called Kolonia. Then why does our Tanna call it MOZA?[18] — Since it was exempt from the king's tax, he calls it MOZA.

AND THEN CAME AND FIXED THEM AT THE SIDES OF etc. A Tanna taught, They were large[19] and long and eleven cubits high, so that they might bend over the altar one cubit.[20] Meremar citing Mar Zutra observed, Deduce therefrom[21] that they[15] were laid upon the base [of the altar],[22] for if you were to assume that they were placed on the ground, consider this: It[23] rose up one cubit and drew in one cubit, and this[24] formed the base. It[25] then rose up five cubits and drew in one cubit, and this[26] formed the circuit; it[27] [then] rose up three cubits, and this[28] was the place of the horns.[29] Now[30] how could they[31] bend over the altar?[32] Consequently it may be deduced from this that they were laid on the base.[33] This is conclusive. R. Abbahu said, What is its Scriptural proof?[34] — Since it is said, Order the festival procession with boughs, even unto the horns of the altar.[35]

R. Abbahu citing R. Eleazar stated, Whosoever takes the lulab with its binding and the willow-branch with its wreathing is regarded by Scripture as though he had built an altar and offered thereon a sacrifice. For it is said,

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(1) Obviously not, since a dried lulab is in fact invalid.

(2) Not upon its roof.

(3) Cur. edd. in parenthesis ‘Rab’. [The reference is to Rab Judah the Amora, whom Rehaba designated as Rabbi because he was his teacher, v. Bez., Sonc. ed., p. 54, n. 9]-
(4) V. Pes., Sonc. ed., p. 59, nn. 10-11.
(5) The Gemara infra identifies the place. Cf. Josh. XVIII, 26. The name has been revived in a modern colony in the same locality.
(6) On the shofar.
(7) V. R.H. 33b.
(8) Of the first six days of the Festival.
(9) Ps. CXVIII, 25.
(10) In order to avoid the repetition of the Tetragrammaton.
(11) אני והו the numerical value of which equals that of the Hebrew for ‘we beseech Thee, O Lord’. For other explanations cf. Rashi, a.l.
(12) The seventh day of the Festival.
(13) Bah, and apparently also Rashi, delete this paragraph.
(14) The ceremonial of the willow-branch.
(15) The willow-branches.
(16) And the act was not regarded as robbing but as a form of sport associated with the jollity of the day. An alternative translation: ‘Immediately the children pulled out their lulabs (from their wreaths) and ate their ethrogs’. (Tosaf. a.l. Bertinoro and Rashi infra 46b).
(17) MOZA.
(18) Meaning ‘exempt’.
(19) Var. lec. ‘tender’. (Ronsburg).
(20) The measurements are discussed presently.
(21) From the statement that they bent ‘over the altar one cubit’.
(22) I.e., at a height of one cubit from the ground.
(23) The altar at its base.
(24) The platform, one cubit in height and 32 X 32 cubits in area.
(25) The altar above the base.
(26) The second platform, 30 X 30 cubits in area and five cubits in height, that rested on the base.
(27) The topmost part of the altar.
(28) The top, three cubits in height and 28 X 28 cubits in area, that rested on the circuit.
(29) Vertical projections, one cubit cube, at each of the four corners of the top of the altar. Mid. III, 1.
(30) Since, as has been shown, the height from the base of the altar to the top was nine cubits.
(31) The willow-branches that were eleven cubits high and stood on the ground.
(32) The willow-branch, placed in a slanting position against the altar (nine cubits in height) and removed sufficiently from its base to allow for the horizontal distance of two cubits from the side of the base to the top of the altar, would not project at all beyond the top of the altar; what then, would remain for bending over?
(33) And leaned against the side of the circuit, thus gaining the two cubits of the height and width of the base and leaving two cubits length of willow-branch sufficient to bend over the top of the altar one cubit.
(34) That the willow-branches overhung the top of the altar.
(35) Ps. CXVIII, 27. The height of the horns was one cubit above the top of the altar, and boughs that reached to the top of the horns naturally bent one cubit over the altar top.

Talmud - Mas. Sukkah 45b

Bind the festival[1] with myrtle branches[2] even unto the horns of the altar.[3]

R. Jeremiah citing R. Simeon b. Yohai, and R. Johanan citing R. Simeon of Mahoz[4] who had it from R. Johanan of Makkuth stated, Whosoever makes an addition[5] to the Festival by eating and drinking[6] is regarded by Scripture as though he had builded an altar and offered thereon a sacrifice. For it is said, Make an addition to[7] the Festival with fat cattle,[8] even to the horns of the altar.[9]

Hezekiah citing R. Jeremiah who had it from R. Simeon b. Yohai stated, In the case of all commandments,[10] one does not fulfil one's obligation unless [the objects involved] are in the same condition as when they grow,[11] for it is said, Acacia wood standing up.[12] So it was also taught, ‘Acacia wood standing up,’, implies that they should stand in the manner of their growth. Another interpretation: ‘Standing up’ implies that they held[13] their [gold] overlaying.[14] Another interpretation of ‘Standing up’.’ Lest you may say, ‘Their hope is lost, their expectation is frustrated’,[15] Scripture expressly states, ‘Acacia wood standing up’[12] implying that they will stand for ever and to all eternity.

Hezekiah further stated in the name of R. Jeremiah who said it in the name of R. Simeon b. Yohai, I am able[16] to exempt the whole world from judgment from the day that I was born until now, and were Eliezer, my son, to be with me [we could exempt it] from the day of the creation of the world to the present time, and were Jotham the son of Uzziah[17] with us, [we could exempt it] from the creation of the world to its final end.[18]

Hezekiah further stated in the name of R. Jeremiah who said it in the name of R. Simeon b. Yohai, I have seen the sons of heaven[19] and they are but few. If there be a thousand, I and my son are among them; if a hundred, I and my son are among them; and if only two, they are I and my son.

Are they then so few? Did not Raba in fact state,[20] The row [of righteous men immediately] before the Holy One, blessed be He, consists of eighteen thousand, for it is said, It shall be eighteen thousand round about?[21] — This is no difficulty: The former number refers to those who see Him ‘through a bright speculum, the latter to those who see Him through a dim one.[22] But are those who see Him through a bright speculum so few? Did not Abaye in fact state, The world never has less than thirty-six righteous men who are vouchsafed a sight of the Shechinah every day, for it is said, Happy are they that wait lo[23] [for Him] and the numerical value of lo is thirty-six? — There is no difficulty: The latter number[24] refers to those who may enter [the Presence] with permission, the former[25] to those who may enter without permission.

WHEN THEY DEPARTED, WHAT DID THEY SAY? But does not one thereby[26] associate the name of God[27] with something else[28] concerning which it has been taught, Whosoever associates the name of God with something else is uprooted from the world, as it is said, Save unto the Lord alone?[29] — It is this that was meant: TO THE LORD we give thanks, AND TO THEE we offer praise, TO THE LORD we give thanks AND THEE we laud.

AS WAS ITS PERFORMANCE ON A WEEKDAY. Said R. Huna, What is the reason of R. Johanan b. Beroka? Because it is written, Branches,[30] which[31] implies two, one for the lulab and one for the altar. But the Rabbis say, The word ‘branches’ is written defectively.[32] R. Levi explained, [The reason of R. Johanan b. Beroka[33] is that Israel is] compared to the date-palm; as the date-palm has but one heart[34] also Israel has but one heart [which is completely devoted] to their Father in Heaven.[35]

Rab Judah citing Samuel stated, [The benediction is recited over] the lulab for seven [days] and over the Sukkah only on one day.[36] What is the reason? — In the case of the lulab where the nights form breaks between the days,[37] each day involves a separate commandment; in the case of the Sukkah where the nights do not form breaks between the days,[38] all seven days are regarded as one long day. Rabbah b. Bar Hana, however, stated in the name of R. Johanan, [The benediction is recited over] the Sukkah for seven days and over the lulab but one day.[36] What is the reason? — For the Sukkah which is a Pentateuchal precept [the benediction must be recited all the] seven [days]; in the case of the lulab which is but a Rabbinical enactment [a benediction on] one day suffices. When Rabin came,[39] he stated in the name of R. Johanan, [The benediction is recited over] the one as well as the other [all] seven [days]. R. Joseph ruled, Lay hold fast to the decision of Rabbah b. Bar Hana, since with regard to Sukkah,[40] all the Amoras adopt the same position as he.

An objection was raised:

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(1) Sc. the lulab that is taken at the Festival.
(2) Lit., ‘its twistings or plaitings’, reference to the shape of the foliage. E.V., ‘Order the festival procession with boughs’.
(3) Ps. CXVIII, 27; sc. the act is like the sprinkling of the sacrificial blood upon the horns of the altar.
(4) A place in Palestine not to be confused with Mahuza in Babylon.
(5) Lit., ‘a binding’.
(6) Sc. enjoys himself with better food and drink on the Festival, or, alternatively, enjoys himself in this way on the day following the Festival. The alternative interpretation is the origin of the name Isru hag given to the day after a festival.
(7) Lit., ‘bind’.
(8) Heb. ba'abothim is taken as derived from ‘abeh, ‘thick’, ‘fat’.
(9) Ps. CXVIII, 27. For E.V. v. supra.
(10) E.g., the lulab and willow-branch.
(11) The roots downwards and the tops upwards.
(12) Ex. XXVI, 15, in reference to the walls of the Tabernacle.
(13) Lit., ‘cause to stand’.
(14) Sc. the plates of gold were nailed to the boards with golden nails, the plates alone not being long enough to stand in independence of the boards.
(15) Sc. since the disappearance of the Tabernacle of Testimony the boards will never again reappear.
(16) On account of his troubles and suffering.
(17) King of Judah. Tradition sees in him one of the most righteous and pious of kings, one who loyally observed the fifth commandment in being content to act as regent during his father's reign without even aspiring to the throne, and one who always gave his ruling in the name of his father.
(18) Simeon b. Yohai, who is the reputed author of the Zohar, spent thirteen years in a cave with his son, hiding from the Romans, and suffering great privation.
(19) Those who will see the Presence of God in the Hereafter.
(20) So in Sanh. 97b (where the entire passage is reproduced with some variants); the text here is in slight disorder.
(21) Ezek. XLVIII, 35.
(22) They receive only a clouded vision of the Divine Presence.
(23) Isa. XXX, 18.
(24) Thirty-six.
(25) Two, R. Simeon b. Yohai and his son.
(26) By saying, TO THEE LORD AND TO THEE, O ALTAR.
(27) Lit., ‘heaven’.
(28) Thus suggesting a co-deity.
(29) Ex. XXII, 19; Sanh. 63a.
(30) Lev. XXIII, 40.
(31) The use of the plural.
(32) In the singular, v. supra 34b.
(33) For prescribing a special lulab rite for the altar.
(34) Sc. its marrow is found in the central branch only.
(35) And expresses thus its devotion by this symbolic act.
(36) The first.
(37) Since the commandment of the lulab does not obtain at night (v. supra 43a).
(38) Since the commandment obtains both by day and by night (ibid.).
(39) From Palestine to Babylon.
(40) That the benediction must be recited on each of the seven days.

Talmud - Mas. Sukkah 46a

Talmud - Mas. Sukkah 46a

He who makes a lulab[1] for his own use[2] shall recite the benediction, 'Blessed [art Thou, O Lord our God, King of the Universe] who has kept us in life, and hast preserved us, and enabled us to reach this season'. When he takes it to fulfil therewith his obligation, he shall say, 'Blessed [art Thou, O Lord our God, King of the Universe] who hast sanctified us by Thy commandments, and commanded us concerning the taking of the lulab' and even though he has recited the benediction on the first day, he must again recite it on all seven days. He who makes a Sukkah for his own use shall recite the benediction, 'Blessed [art Thou, O Lord our God, King of the Universe] who kept us in life, and sustained us etc.' When he enters the Sukkah to take up his abode therein he shall say, '. . . Who hast sanctified us by Thy commandments and commanded us to dwell in the Sukkah'; and once he has recited the benediction on the first day, he has no need to repeat it [on subsequent days].[3] Now is there not a contradiction between the one statement concerning the lulab and the other,[4] and between the one concerning Sukkah and the other?[5] The difficulty between the one statement concerning the lulab and the other may well be disposed of, since one might refer to Temple times[6] and the other to the time when the Temple was no longer in existence; but does not the difficulty concerning the two statements about the Sukkah remain? — The question[7] is one in dispute between Tannas, as it has been taught, Whenever a man puts on his tefillin[8] he must[9] recite the benediction; so Rabbi,[10] but the Sages ruled, He recites the benediction in the morning only.[11]

It was stated:[12] Abaye ruled, The law is in agreement with Rabbi, while Raba ruled, The law is in agreement with the Rabbis. R. Mari the son of Samuel's daughter remarked, I noticed that Raba himself did not act in accordance with his own ruling[13] but rising early, he would go to the privy, emerge and wash his hands, put on his tefillin and recite the benediction, and when he had to attend to his needs a second time he would[14] go to the privy, emerge and wash his hands, put on his tefillin and recite the benediction again. We also act in accordance with the ruling of Rabbi and recite the benediction[15] all seven days.[16]

Mar Zutra remarked, I notice that R. Papi recited the benediction whenever he put on his tefillin.[17] The Rabbis of the school of R. Ashi recited the benediction whenever they touched their tefillin.[18]

Rab Judah citing Samuel ruled: The commandment of lulab[19] applies to all the seven days,[16] but R. Joshua b. Levi ruled, The commandment of the lulab[19] applies to the first day only,[20] and subsequently it is but an ordinance of the Elders;[21] while R. Isaac ruled, [The taking of the lulab on] every day, and even on the first one is but an ordinance of the Elders. But have we not an established rule that on the first day it is a Pentateuchal commandment? — Say rather, Except on the first day. But if so, is not this[22] identical with the ruling of R. Joshua b. Levi? — Read, And so said R. Isaac.

Rab also is of the opinion that the commandment of the lulab[19] applies to all seven days,[23] for R. Hiyya b. Ashi citing Rab stated, One who kindles the Hanukkah lamp[24] must recite a benediction.[25]

R. Jeremiah ruled, He who sees the Hanukkah light[26] must recite the benediction. What benediction does one recite? — Rab Judah answered, On the first day he who kindles the light must recite three benedictions[27] and he who sees it must recite two;[28] henceforth he who kindles the lights recites two benedictions[29] and he who sees them only one.[30] What is the benediction? — 'Blessed [art Thou, O Lord our God, King of the Universe] who hast sanctified us by Thy commandments, and commanded us to kindle the light of Hanukkah'.[27] But where[31] did He command us? — [The commandment is deduced from the verse,] Thou shalt not turn aside.[32] R. Nahman b. Isaac replied, [Deduction is made from the verse,] Ask thy father, and he will declare unto thee.[33] (Which [benediction] does one omit?[34] — The benediction on the season.[35] Might it not be suggested that one omits the benediction of the miracle?[36] — The miracle occurred every day).[37]

R. Nahman b. Isaac taught this[38] explicitly:[39] Rab ruled, The commandment of the lulab applies to all seven days.

Our Rabbis taught, He who makes a Sukkah for his own use shall recite the benediction, 'Blessed art Thou . . . who has kept us in life etc.'[40] When he enters to take up his abode in it, he says, 'Blessed art Thou . . . who has sanctified us, etc.'[41] If it[42] was already erected,[43] he may recite the benediction if he can make some renovation in it; and if not, he recites two benedictions[40] when he enters to take up his abode in it.

R. Ashi stated, I observed that R. Kahana recited all of them over the cup of Sanctification.[44]

Our Rabbis taught, He who has to perform many commandments[45] [simultaneously] shall say, 'Blessed . . . who hast sanctified us by Thy commandments and commanded us concerning the commandments'.[46] R. Judah ruled, One must recite a benediction over each one separately. R. Zera or, as some say, R. Hanina b. Papa stated, The halachah[47] is in agreement with R. Judah. R. Zera or, as some say, R. Hanina b. Papa further stated, What is the reason of R. Judah? Because it is written, Blessed be the Lord by day.[48] Now do we bless Him by day and not by night?[49] But this comes to teach you: Return to Him every day its appropriate benedictions.[50] So also here: Return unto Him for every single thing, its appropriate benedictions. R. Zera or, as some say, R. Hanina b. Papa further stated, Come and see that not as the standards of mortal man are the standards of the Holy One, blessed be He. According to the standards of mortal man, an empty vessel

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(1) On the eve of the Festival.

(2) Not for that of others.

(3) Pes. 7b.

(4) Since Rabbah b. Bar Hana ruled that the benediction over the lulab is recited only on the first day and here it is ruled that it must be recited all the seven days.

(5) Since he says that the benediction over the Sukkah must be recited all seven days and here it is ruled that it is to be recited on the first day only.

(6) When, according to R. Johanan, it was a Pentateuchal commandment to take the lulab every day.

(7) Whether in the case of a commandment that is performed during a certain length of time the benediction is to be said more than once.

(8) Though it is one's duty to wear them all day.

(9) Irrespective of the number of times he takes them off and puts them on again.

(10) Similarly in the case of Sukkah. Though the seven days are regarded as one long day the benediction must be repeated every day.

(11) Men. 43a. So also in the case of Sukkah the benediction is recited on the first day only.

(12) By Amoras.

(13) That the benediction is to be recited only once.

(14) After taking off his tefillin.

(15) Of the Sukkah.

(16) Of the Festival.

(17) Irrespective of the number of times this had happened during the day.

(18) It is a pious act to touch one's tefillin as frequently as possible (cf. Yoma 7b).

(19) Sc. the recital of the benediction over it.

(20) Since the obligation on that day is Pentateuchal.

(21) R. Johanan b. Zakkai and his colleagues. Such an ordinance, being only Rabbinical, requires no benediction.

(22) The ruling of R. Isaac.

(23) The benedictions must be recited, even though it is only a Rabbinical ordinance.

(24) During Hanukkah or the Feast of Dedication beginning on the twenty-fifth of Kislev, one lamp is lit on the first night, two on the second, three on the third, and so on, until the eighth night when eight lamps are kindled.

(25) Even though it is only a Rabbinical institution; and similarly in the case of lulab.

(26) While he himself did not light one in his own home.

(27) V. P.B. p. 274.
(28) Omitting the first benediction, ‘to kindle the light’.
(29) The first two.
(30) The second only.
(31) Since it is not mentioned in the Bible.
(32) Deut. XVII, 11; even from that which the Rabbis institute, thus giving a Rabbinical commandment Pentateuchal sanction.
(33) Deut. XXXII, 7.
(34) After the first day.
(35) The third, ‘Who has kept us alive etc.’
(36) The second one.
(37) The benediction mentioning it cannot, therefore, be omitted. Rashal omits the passage in parenthesis. On the whole passage, v. Shab. 23a.
(38) Rab's ruling on the lulab.
(39) Sc. he did not deduce it, as stated supra, from the law of the Hanukkah light.
(40) Cf. P.B. p. 232.
(41) ‘. . . to dwell in the Tabernacle’ (ibid.).
(42) The Sukkah.
(43) For some secular purpose.
(44) When he recited the Sanctification of the Festival (v. P.B. p. 230f) he recited the two above mentioned benedictions (P.B. p. 232 also. This is our present custom.
(45) E.g., Sukkah, lulab, tefillin and zizith.
(46) And there is no need to recite the special benedictions prescribed for each individual commandment.
(47) [הלכה So MS.M.: cur. edd.הלכתא].
(48) Ps. LXVIII, 20.
(49) Is He not in fact blessed always.
(50) Those of the Sabbath on a Sabbath and those of a weekday during weekdays.

Talmud - Mas. Sukkah 46b

is able to contain [what is put into it], and a full vessel cannot contain it[1] but according to the standards of the Holy One, blessed be He, a full vessel is able to contain it[1] While an empty one cannot; as it is said, And it shall come to pass, if thou shalt hearken diligently,[2] if you hearken,[3] you will continue to hearken,[4] but if not, you will not hearken.[5] Another interpretation: If you will hearken to the old,[6] you will be able to hearken to the new,[7] but if thy heart turn away[8] you will no more hearken.[9]

FROM THE HANDS OF THE CHILDREN, etc. R. Johanan ruled, The ethrog is forbidden[10] on the seventh day,[11] and permitted on the eighth; the Sukkah is forbidden[12] even on the eighth. Resh Lakish, however, ruled that the ethrog is permitted[10] even on the seventh day.[13] On what principle do they differ? — One Master[14] is of the opinion that it is set aside only for the performance of its commandment,[15] while the other Master[16] is of the opinion that it[17] is set aside for the whole day.[18]

Resh Lakish raised an objection against R. Johanan: THEY USED[19] TO TAKE THEIR LULABS FROM THE HANDS OF THE CHILDREN AND EAT THEIR ETHROGS. Does not this equally apply to adults also?[20] — No; it applies to children alone.[21]

There are others who say that R. Johanan raised the objection against Resh Lakish: THEY USED[19] TO TAKE THEIR LULABS FROM THE HANDS OF THE CHILDREN AND EAT THEIR ETHROGS. [Of] children only, but not [of] adults![22] — No; the same law applies to [those of] adults also, and the reason that he mentions children is that he states what was customary.[23]

Said R. Papa to Abaye, What, according to R. Johanan, is the essential difference between the Sukkah and the ethrog?[24] — The other answered him, The Sukkah which is fit to be used at twilight [after the seventh day], for were he perchance to have a meal at that time he would be expected to sit therein and eat there, is set aside for its ritual purpose during the twilight, and since it is set aside during twilight, it is also set aside for the whole of the eighth day; the ethrog, however, which is not suitable during twilight,[25] is not set aside for its ritual purpose during twilight, hence it is not set aside for the purpose for the whole of the eighth day.

Levi, however, ruled, The ethrog[26] is forbidden even on the eighth day;[27] while the father of Samuel ruled, The ethrog is forbidden on the seventh day, but permitted on the eighth — The father of Samuel subsequently adopted the view of Levi. R. Zera, however, adopted the [earlier] view of the father of Samuel, for R. Zera ruled, It is forbidden to eat an ethrog [even one] that has become invalid, all the seven days.[28]

R. Zera ruled, One should not transfer possession[29] of the festive wreath[30] to a child on the first day of the Festival.[31] What is the reason? — Because a child is[32] entitled to acquire possession but not to transfer it, and the result will be that (the man] would have to perform his duty with a lulab which is not his.[33]

R. Zera further ruled, One should not promise a child to give him something and then not give it to him, because he will thereby teach him lying, as it is said, They have taught their tongues to speak lies.[34]

[The following dispute is based on the same principles] as the one between R. Johanan and Resh Lakish.[35] For it was stated, If a man set apart seven ethrogs for the seven days,[36] Rab ruled, He may fulfil his obligation with each one and eat it forthwith, while R. Assi ruled, He may fulfil his obligation with each one and eat it on the morrow.[37] On what principle do they differ? One Master[38] is of the opinion that it[39] is set apart only for the performance of its rite[40] while the other Master[41] is of the opinion that it[39] is set apart for the whole day.

And as for us, who[42] keep two days [of the Festival] how are we to proceed?[43] — Abaye replied, On the eighth day which may be the seventh,it[44] is forbidden;[45] on the ninth day which may be the eighth, it is permitted. Meremar ruled, Even on the eighth day, which may be the seventh, it is permitted. In Sura they acted in accordance with the ruling of Meremar. R. Shisha the son of R. Idi acted in accordance with the ruling of Abaye. And the law is in agreement with Abaye.

R. Judah the son of R. Samuel b. Shilath citing Rab ruled, The eighth day which may be the seventh is regarded as the seventh in respect of the Sukkah[46] and as the eighth in respect of the benediction.[47] R. Johanan, however, ruled, It is regarded as the eighth in respect of both.[48] That one must dwell [in the Sukkah on the eighth day] is agreed by all, they only differ

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(1) Sc. anything added to its contents.

(2) Deut. XXVIII, 1. Lit., ‘if hearkening, thou wilt hearken’, emphasis on the repetition of the verb.

(3) I.e., if you are in the habit of listening and learning.

(4) The mind used to hearkening and learning (‘a full vessel’) will be able to continue to hearken and to gather more knowledge.

(5) One not used to the discipline of religion and study from his youth is unable to acquire them in later life.

(6) Sc. revise regularly that which you have already learnt.

(7) His previous knowledge will serve as a preparation and aid to further knowledge.

(8) Deut. XXX, 17; neglecting past study and experience.

(9) Your studies will have no foundation or background.

(10) To be eaten.

(11) Even after it had been used for its ritual purpose.
(12) To be used as fuel.
(13) After it served its ritual purpose.
(14) Resh Lakish.
(15) The moment, therefore, it has served its ritual purpose for the last time on the seventh day, profane use may be made of it.
(16) R. Johanan.
(17) Since it still has its sacred use on the seventh day.
(18) For ordinary purposes, therefore, it may not be used until the eighth day.
(19) On the seventh day of the Festival.
(20) Sc. that the adults may eat their own ethrogs also, which proves that an ethrog may be eaten on the seventh day.
(21) Since their ethrogs were never properly set aside, as is the case with adults, for the ritual purpose. A child is under no obligation to have an ethrog, and he is given one for the mere purpose of his religious training and practice.
(22) Cf. prev. note mut. mut.
(23) The ethrogs were snatched from the children, not from adults.
(24) That the former should be forbidden all the seventh day while the latter is permitted.
(25) After one has duly take it in the morning.
(26) Since it is doubtful whether the moment of twilight is to be regarded as the conclusion of the one day or as the beginning of the following one, and since the ethrog was forbidden all the seventh day including twilight which possibly belongs to the eighth day.
(27) Because what is forbidden at twilight remains forbidden throughout the day.
(28) But on the eighth day it is permitted.
(29) As a gift.
(30) Lit., ‘hoshanna’.
(31) Unless he himself has already performed the rite.
(32) In accordance with Rabbinic law.
(33) Which is invalid (v. supra 29b). Once the man gave it to the child, it becomes the latter's property which, as a minor, he cannot transfer again to him.
(34) Jer. IX, 4.
(35) Supra.
(36) Of the Festival, one for each day.
(37) Rashal transposes the views of Rab and R. Assi.
(38) Rab.
(39) Each ethrog.
(40) Hence it may be eaten immediately after the rite had been performed.
(41) R. Assi.
(42) Since we are in doubt as to which day is the first.
(43) Subjecting the two to the same sanctity and restrictions as the first.
(44) The ethrog.
(45) To be eaten.
(46) As will be explained infra.
(47) Sc. the mention of the day, viz., ‘The Eighth Day of Solemn Assembly’, must be included in the daily prayers, the Grace after meals and the kiddush.
(48) Sukkah as well as benediction.

on the question of the benediction.[1] According to him who regards the day as the seventh in respect of the Sukkah, we also recite the benediction [of the Sukkah], while according to him who holds that it is regarded as the eighth in respect of both, we do not recite the benediction [of the Sukkah].[2] R. Joseph observed, Hold fast to the ruling of R. Johanan,[3] since R. Huna b. Bizna and all the notables of his age once entered a Sukkah on the eighth day which may have been the seventh, and while they sat therein, they did not recite the benediction.[4] But is it not possible that they were of the same opinion as he who laid down that once a man has recited the benediction[4] on the first day, he has no more need to recite it?[5] — There was a tradition that they[6] had just come from the fields.[7]

There are some who say that the ruling that one must not recite the benediction [of the Sukkah] is agreed upon by both, and that they only differ on the question whether one must sit [in the Sukkah].[8] According to him who ruled that it is regarded as the seventh day in respect of the Sukkah, we must indeed sit in it thereon, while according to him who ruled that it is regarded as the eighth day in respect of both, we may not even sit in it thereon. R. Joseph observed, Hold fast to the ruling of R. Johanan. For who is the authority of the statement?[9] R. Judah the son of R. Samuel b. Shilath [of course], and he himself sat on the eighth day which might be the seventh outside the Sukkah.[10] And the law is that we must indeed sit in the Sukkah but may not recite the benediction.

R. Johanan ruled, We recite the benediction of the season[11] on the Eighth Day of the Festival,[12] but we do not say the benediction of the season on the seventh day of Passover. [In connection with this] R. Levi b. Hama or, as some say, R. Hama b. Hanina stated, You can have proof that this is so,[13] since [the Eighth Day] is different [from the preceding days] in three respects: In those of Sukkah, lulab and water libation,[14] and according to R. Judah who maintained that with one log[15] of water they performed the water libation for eight days,[16] it is different at least in two respects.

If so, is not the seventh day of Passover also different in respect of the commandment to eat unleavened bread, since a Master has said, On the first night[17] it is an obligation [to eat unleavened bread], and henceforth it is voluntary?[18] — What a comparison! In the case of Passover, it is different from the first night, but not from the day,[19] whereas in the case of the Eighth Day, it is different even from the preceding day. Rabina replied, The Eighth Day is different from the day immediately preceding it, whereas the seventh day of Passover is different from what is prior [to the period] which precedes it.[20] R. Papa replied,[21] In one case[22] it is written ‘bullock’, in the other[23] ‘bullocks’. R. Nahman b. Isaac replied, In this case[22] it is written, ‘on the day’, in the other,[23] ‘and on the day’. R. Ashi replied, In the case of the Eighth Day it is written, ‘According to the ordinance’ while in the case of the seventh day it is written, ‘according to their ordinance’.

Can we say that [the following statement] supports [the view of R. Johanan]:[24] The bullocks, the rams and the lambs[25] act as a hindrance to one another,[26] while R. Judah ruled, The bullocks do not act as a hindrance to one another, since they diminish in number progressively.[27] They[28] said to him, But are not all of them[29] diminished in number on the Eighth Day?[30] He answered them, The Eighth Day is a separate festival,[31] for, just as the seven days of the Festival must have [their own] sacrifices, psalm,[32] benediction[33] and staying overnight,[34] so the Eighth Day must have its own sacrifices, psalm,[35] benediction[33] and staying overnight.

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(1) ‘Blessed art Thou . . . to sit in the Sukkah’.

(2) Thus it is the eighth ‘in respect of Sukkah’ in that the benediction of the Sukkah is not recited, and it is the eighth ‘in respect of the benediction’, in that we mention the ‘Eighth Day of Solemn Assembly’.

(3) That the benediction of the Sukkah is not to be said on the eighth which may be the seventh.

(4) Of the Sukkah.

(5) On any of the other days of the Festival.

(6) R. Huna b. Bizna and the others.
(7) Or ‘pasture land’, where they looked after their cattle since the beginning of the Festival and, therefore, had not yet sat in a Sukkah during that Festival.
(8) On the eighth day.
(9) Cited in the name of Rab supra.
(10) Which proves that he did not rely upon the tradition he cited.
(11) The benediction, ‘Blessed . . . who hast kept us in life . . . to reach this season’ (cf. P.B. p. 231) which is said only on the first day of a festival. R. Johanan regards the eighth day as a separate festival.
(12) The Eighth Day of Solemn Assembly, which is regarded as a festival distinct from that of Tabernacles.
(13) That the Eighth Day is a festival of its own.
(14) None of which obtains on the Eighth Day.
(15) Not, as the first Tanna stated, with three logs.
(16) Infra 48b; and only for the seven days.
(17) Of Passover.
(18) Pes. 120a.
(19) Since even on the first day of Passover the eating of unleavened bread is voluntary.
(20) The first night.
(21) The next three statements point out that in the section dealing with the sacrifices of the festival, Num. XXIX, 12-39, there are differences between the first seven days, and the Eighth Day either in respect of the laws of the sacrifices or the expressions used in connection with them; proving that the latter is a separate festival. These differences are that (a) on each of the seven days a number of bullocks were sacrificed while on the Eighth Day only one was offered (v. 36). (b) the descriptions of the sacrifices of the second to the seventh day begin with the word ‘and’ (‘And on the day’). suggesting continuity, while that of the Eighth Day commences ‘On the eighth day’ omitting the ‘and’, (c) on the seventh day it was ‘According to their ordinance’, connecting it with the previous days whereas the Eighth Day has, ‘according to the ordinance’.
(22) The Eighth Day.
(23) The first seven days.
(24) That the benediction of the season is to be said on the Eighth Day.
(25) Prescribed as sacrifices for the days of Tabernacles.
(26) The omission of one of them invalidates the whole number.
(27) Thirteen on the first day and one less every day (v. Num. XXIX). As the number is in any case steadily diminished, the additional omission of one or more cannot affect the remainder.
(28) The Rabbis who differed from him.
(29) Even the rams and lambs.
(30) Of course they are: On the seven days of the festival the number of rams and he-lambs remains constant at two and fourteen respectively, while on the Eighth Day only one ram and seven he-lambs were offered (cf. Num. XXIX, 36). Why then should the omission of one of these more than the omission of a bullock affect the remainder?
(31) Its sacrifices cannot, therefore, like those of any of the seven days, be compared to the others.
(32) Ps. XCIV, sung by the Levites when the sacrifice was offered (v. infra 55a).
(33) This is explained infra.
(34) The duty of remaining in Jerusalem for the night following the festival, mentioned in the case of the Passover (Deut. XVI, 7) is adduced to apply to all festivals (cf. R.H. 5a).
(35) According to Soferim XIX, 2, it was Ps. VI.

Talmud - Mas. Sukkah 47b

Now does not [‘benediction’ refer to the benediction of the] season?[1] — No, it refers to the Grace after meals and to Prayer.[2] It is also in accordance with reason to say so, for if you were to imagine that [the reference is to the benediction of] the season, do we then [it could be objected] recite the benediction of the season during all the seven days?[3] — This really presents no difficulty, for if a man did not recite the benediction [of the season] during the first day, he has to recite it on the morrow, or on any subsequent day.[4] But, in any case, must not the benediction [of the season] be recited over a cup [of wine]?[5] Must we then say that this[6] supports the view of R. Nahman,[7] for R. Nahman laid down [that the benediction of the] season may be recited even in the market-place?[8] For if you will say that the cup [of wine] is essential, has one then a cup [of wine] every day? — This might apply to a case where one chanced to have a cup [of wine].

Is then R. Judah of the opinion that on the Eighth Day there must be staying overnight? Has it not in fact been taught: R. Judah stated, Whence do we know that the Second Passover[9] does not need staying overnight? From what was said, And thou shalt turn in the morning and go into thy tents[10] and [immediately afterwards] it is written, Six days thou shalt eat unleavened bread,[11] thus implying that that which must have six days [of observance][12] must have staying overnight, but that which does not need six days [of observance][13] does not need staying overnight. Now is not this[14] to exclude also the Eighth Day of the festival? — No, to exclude only the Second Passover which is similar to it.[15] It is also in accordance with reason to say so,[16] for we have learnt, The bikkurim[17] require a sacrifice, a psalm,[18] waving[19] and staying overnight.[20] Now who is it that has been heard to say that they require waving? R. Judah of course, and it states that they[21] require staying overnight.[22] For it has been taught,[23] And thou shalt set it down[24] refers to the waving. You say that it refers to the waving but perhaps it means literally ‘setting it down’? As it says [subsequently], And set it down,[25] ‘setting down,’ surely, is mentioned, to what then do I apply the verse, ‘and thou shalt set it down’? To waving.[26]

[This Mishnah],[27] however, might concur with R. Eliezer b. Jacob,[28] for it has been taught, And the priest shall take the basket out of thy hand[29] teaches[30] that bikkurim require waving; these are the words of R. Eliezer b. Jacob. What is the reason of R. Eliezer b. Jacob? He deduces it from the word ‘hand’ occurring here and in the case of the peace-offering. Here it is written, ‘And the priest shall take the basket out of thy hand’,[29] and there it is written, His own hands shall bring the offering unto the Lord,[31] just as here the priest [takes it and waves it] so there the priest [takes it and waves it], and just as there the owner [brings and waves it] so here also the owner [brings and waves it]. How is this possible?[32] The priest places his hand under the hand of the owner and waves it.[33]

What is the ultimate decision?[34] — R. Nahman ruled, We say [the benediction of the] season on the Eighth Day of the Festival, while R. Shesheth ruled, We do not say [the benediction of the] season on the Eighth Day of the Festival. And the law is that we say [the benediction of the] season on the Eighth Day of the Festival.

It has been taught in agreement with R. Nahman, The Eighth Day

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(1) Which shows, does it not, that in agreement with R. Johanan, the benediction of the season must be said on the Eighth Day?

(2) Instead of saying ‘this Festival of Tabernacles’, as is done during the seven days, one says, ‘this Eighth Day of Solemn Assembly’ (cf. P.B. pp. 282 and 228). The Tosefta (IV, 17) says that this refers to the blessing of the king, in accordance with I Kings VIII, 66.

(3) Of course not. It is said only on the first day.

(4) ‘Benediction’ may, therefore, apply to that of the season.

(5) And not every one has always wine on the intermediate days of a festival.

(6) The assumption that ‘benediction’ refers to that of the season and that it may be said on any of the intermediate days when not every one can afford wine.

(7) That the cup of wine is not essential for the benediction?

(8) Without wine.

(9) Which was kept by those who were unable to keep the Passover proper owing to ritual uncleanness or absence (cf. Num. IX, 6 14).

(10) Deut. XVI, 7.

(11) Ibid. 8.

(12) Sc. the Passover proper.
(13) The Second Passover which is kept on the fourteenth of Iyar only.
(14) The deduction of R. Judah which seems to lay down a general rule.
(15) [I.e.,to the celebration spoken of in the context Deut. XVI, 7-8. Var. lec., however, omit 'which is similar to it'. R. Judah was thus referring only to the Second Passover, and did not lay down a general rule].
(16) That R. Judah excludes the Second Passover only.
(17) First fruits (v. Deut. XXVI, 1ff), when taken up to Jerusalem.
(18) Ps. XXX.
(19) This is discussed infra.
(20) Bik. II, 4.
(21) Bikkurim.
(22) Though the ceremony does not last for six days, which shows that only the Second Passover has been excluded.
(23) Proof is now adduced that R. Judah requires bikkurim to be waved.
(24) Deut. XXVI, 10.
(25) Deut. XXVI, 4. For variant in order of verses quoted v. Mak., Sonc. ed., p. 130, n. 7.
(26) Mak. 18b.
(27) Which requires 'waving' and 'staying overnight' in the case of bikkurim.
(28) And not with R. Judah who may be maintaining that whatever rite lasts for less than six days requires neither the one nor the other.
(29) Deut. XXVI, 4.
(30) Since it says 'Out of thy hand'.
(31) Lev. VII, 30.
(32) For both the priest and the owner to perform the waving.
(33) Mak. 18b. Thus it has been shown that the Mishnah Bik. II, 4, may represent the view of R. Eliezer b. Jacob; and consequently no support may be adduced from it to the view that R. Judah excludes the Second Passover only.
(34) On the question of the benediction of the season on the Eighth Day.

Talmud - Mas. Sukkah 48a

is a Separate festival with regard to P'Z'R' K'SH'B'[1] i.e., with regard to balloting it is a separate festival,[2] with regard to the benediction of the season it is a separate festival,[3] with regard to the nature of the festival it is a separate festival,[4] with regard to its sacrifice it is a separate festival,[5] with regard to its psalm it is a separate festival,[3] and with regard to its benediction it is a separate festival.[3]

MISHNAH. 'THE HALLEL [WAS RECITED] AND THE [PEACE-OFFERINGS OF] REJOICING [WERE OFFERED] ON ALL THE EIGHT DAYS' — HOW IS THAT? THIS TEACHES THAT ONE IS BOUND TO RECITE THE HALLEL, [OFFER PEACE-OFFERINGS OF] REJOICING AND SHOW HONOUR TO THE FESTIVAL ON THE LAST DAY, AS ON ALL THE OTHER DAYS OF THE FESTIVAL.

GEMARA. Whence do we know this?[6] — From what our Rabbis taught, [The verse], And thou shalt be altogether joyful[7] includes[8] the night of the last day of the Festival.[9] But perhaps this is not so, but the text was meant to include [the night of] the first day of the Festival?[10] As it says, ak[11] a division is indicated.[12] But why have you seen fit to include the last night of the Festival and to exclude the first night? I include the last night since it is preceded by rejoicing[13] and exclude the first night which is not preceded by rejoicing.

MISHNAH. THE SUKKAH [MUST BE USED ALL] SEVEN DAYS. HOW IS THIS [TO BE UNDERSTOOD]? WHEN A MAN HAS FINISHED HIS [LAST] MEAL,[14] HE MAY NOT DISMANTLE HIS SUKKAH.[15] HE MAY, HOWEVER, REMOVE ITS FURNITURE[16] FROM THE AFTERNOON ONWARDS IN HONOUR OF THE LAST DAY OF THE FESTIVAL.[17]

GEMARA. If a man has no FURNITURE to remove,[18] what shall he do? ‘If a man has no FURNITURE’! What then did he use when he was using [his Sukkah]? — Rather say, If he had no place where to put his furniture[19] what shall he do?[20] — R. Hiyya b. Ashi[21] answered, He removes four handbreadths [of its roof],[22] while R. Joshua b. Levi answered, he should kindle a lamp in it.[23] In fact, however, there is no difference of opinion between them, the latter referring to us [Babylonians], and the former to them [the Palestinians].[24] This[25] is a satisfactory procedure with regard to a Sukkah of minimum size[26] but what can be said with regard to a large Sukkah?[27] — One might carry into it eating utensils, since Raba ruled, Eating utensils must be kept outside the Sukkah; drinking vessels in the Sukkah.[28]

MISHNAH. HOW WAS THE WATER LIBATION [PERFORMED]? A GOLDEN FLAGON HOLDING THREE LOGS WAS FILLED FROM THE SILOAM.[29] WHEN THEY ARRIVED AT THE WATER GATE,[30] THEY SOUNDED A TEKI'AH [LONG BLAST], A TERU'AH [TREMULOUS NOTE] AND AGAIN A TEKI'AH [LONG BLAST]. [THE PRIEST THEN] WENT UP THE ASCENT [OF THE ALTAR][31] AND TURNED TO HIS LEFT[32] WHERE THERE WERE TWO SILVER BOWLS. R. JUDAH SAID, THEY WERE OF PLASTER [BUT THEY LOOKED SILVER] BECAUSE THEIR SURFACES WERE DARKENED FROM THE WINE. THEY HAD EACH A HOLE

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(1) A mnemonic acrostic formed by the initial letters of פיים ‘balloting’, זמן ‘season’, רגל ‘festival’, קרבן ‘sacrifice’, שיר ‘psalm’, ברכה ‘benediction’.

(2) There were so many sacrifices on the first seven days, that the balloting for duty among the courses of priests was unnecessary. On the Eighth Day there was but one bullock offered and it was balloted for (cf. infra 55b).

(3) As stated supra.

(4) That it is unnecessary to dwell on it in the Sukkah.

(5) The number of bullocks offered is not six as might have been expected if the sixth day had been regarded as the eighth of the days of Tabernacles on each of which the number of bullocks was reduced by one.

(6) That the duty of rejoicing prescribed for the seven days of the Festival applies to the Eighth Day also.

(7) Deut. XVI, 15.

(8) Since ‘joyful’ is superfluous, the duty of rejoicing having been mentioned earlier in the context.

(9) Sc. one must include the night belonging to the Eighth Day and following the seventh in the rejoicings of the concluding day, i.e., the number of sacrifices on the seventh day must be such as to suffice for the night following; and since the night is included much more so the day that follows since the time for offerings is the day-time.

(10) Sc. that offerings must be brought on the eve of the first day of the Festival in order to provide for the first evening when no offering may be brought.

(11) Lit., ‘but’, ‘only’; E.V., ‘altogether’.

(12) Implying a limitation, v. Pes. 5a.

(13) Of the concluding day.

(14) On the seventh day.

(15) Since he must still use it for learning, sleeping or any occasional meal on that day.

(16) From the Sukkah into the house where he is to have his meals in the evening and the following day.

(17) For the rejoicings of which the house has to be prepared.

(18) V. supra n. 4.

(19) I.e., he had nowhere else to eat.

(20) To indicate that he is not using his Sukkah for more than the prescribed seven days.

(21) So Asheri. Cur. edd. in parenthesis, ‘Rab’.

(22) Thus invalidating it and showing that it is no longer in use.

(23) By doing in it that which is forbidden in a Sukkah (cf. supra 29a) he indicates that it is no longer in use as a Sukkah but as an ordinary hut.

(24) In Babylon where the proper calculations of the calendar are unknown, the Eighth Day may be the seventh, and the Sukkah must, therefore, be used on the morrow. It cannot be invalidated by a breach in its roof so one places there a lamp which can subsequently be removed. The Palestinians, however, who are familiar with the calculations, make no more use of the Sukkah after the seventh day, and it may, therefore, be invalidated on that day.

(25) The kindling of the lamp.

(26) Into which no lamp may be brought during the seven days of the Festival (cf. supra 29a).

(27) Where a lamp may be taken in even during the seven days.

(28) Ibid.

(29) A pool near Jerusalem.

(30) One of the gates of the Temple court.

(31) Which was on the south (Mid. III, 3).

(32) Towards the south-west of the altar where the water libations were offered.

Talmud - Mas. Sukkah 48b

LIKE A SLENDER SNOUT,[1] ONE [HOLE] BEING WIDE AND THE OTHER NARROW SO THAT BOTH EMPTIED THEMSELVES[2] TOGETHER.[3] THE ONE ON THE WEST WAS FOR WATER AND THE ONE[4] ON THE EAST FOR WINE. IF ONE POURED THE FLAGON OF WATER INTO THE BOWL FOR WINE, OR THAT OF WINE INTO THAT FOR WATER, HE HAS FULFILLED HIS OBLIGATION. R. JUDAH STATED, WITH ONE LOG[5] HE PERFORMED THE CEREMONY OF THE WATER-LIBATION ALL EIGHT[6] DAYS. TO [THE PRIEST] WHO PERFORMED THE LIBATION THEY USED TO SAY, ‘RAISE THY HAND’;[7] FOR ON A CERTAIN OCCASION, A CERTAIN MAN[8] POURED OUT THE WATER OVER HIS FEET, AND ALL THE PEOPLE PELTED HIM WITH THEIR ETHROGS.

AS WAS ITS PERFORMANCE ON WEEKDAYS, SO WAS ITS PERFORMANCE ON THE SABBATH, SAVE THAT ON THE EVE OF THE SABBATH AN UNHALLOWED[9] GOLDEN BARREL WAS FILLED FROM THE SILOAM, AND PLACED IN A CHAMBER. IF IT WAS POURED AWAY OR UNCOVERED, IT WAS REFILLED FROM THE LAVER,[10] FOR WINE OR WATER WHICH HAS BECOME UNCOVERED IS INVALID FOR THE ALTAR.

GEMARA. Whence do we know this?[11] — R. Ena replied, From Scripture which says, Therefore with joy shall ye draw water [from the wells of salvation].[12]

There were once two minim,[13] one was called Sason[14] and the other Simha.[15] Said Sason to Simha, ‘I am better than you, since it is written, They shall obtain Sason and Simha’.[16] ‘I’, said Simha to Sason, ‘am better than you, since it is written, The Jews had Simha and Sason’.[17] ‘One day’, said Sason to Simha, ‘they will take you out[18] and make you a runner, since it is written, For with Simha shall they go forth’.[19] ‘One day’, said Simha to Sason, ‘they will take you out[18] and draw with you water, for it is written, "Therefore with Sason shall ye draw water"’.[12]

A certain min[20] whose name was Sason once said to R. Abbahu, ‘You are destined to draw water for me in the world to come, for it is written, "Therefore be-sason shall ye draw water"’.[21] ‘If’, the other retorted, ‘it had been written, "le-sason"[22] it would be as you say, but as it is written "be-sason"[23] the meaning must be that a water-skin will be made of your skin, and water will be drawn with it’.

[THE PRIEST] WENT UP THE ASCENT [OF THE ALTAR] AND TURNED TO HIS LEFT etc. Our Rabbis have taught, All who ascended the altar turned to the right, proceeded round and descended by the left,[24] save those ascending for the following three purposes,[25] who ascended by the left,[26] turned on their heel[27] and returned [the same way]. These [three things] are the water-libation and wine-libation, and the burnt-offering of a fowl when the altar was full on [its south] east side.[28]

[BUT THEY LOOKED SILVER] BECAUSE THEIR SURFACES WERE DARKENED. It is well [as regards the flagon of the wine] since wine darkens, but how was that of the water darkened?- Since the Master has said, IF ONE POURED THE FLAGON OF WATER INTO THE BOWL FOR WINE, OR THAT OF WINE INTO THAT FOR WATER, HE HAS FULFILLED HIS OBLIGATION, the [flagon] of water may[29] thus become darkened.

THEY HAD EACH A HOLE LIKE A SLENDER SNOUT etc. Must we say that our Mishnah[30] agrees with R. Judah and not with the Rabbis seeing that we have learnt, R. JUDAH STATED, WITH ONE LOG HE PERFORMED THE CEREMONY OF THE WATER-LIBATION ALL EIGHT DAYS;[31] for if it agrees with the Rabbis, could they not both pour together?[32] — [No,] You may say that it agrees even with the Rabbis, [the reason for the different sizes of the holes being that] wine is viscous and water is fluid. It is in accordance with reason also to say so,[33] for if [our Mishnah concurs with] R. Judah, [it should have used the terms] ‘broad’ and strait’ which he used;[34] as it has been taught, R. Judah stated, There were two vessels there, one of water and one of wine, the mouth of the wine [vessel] was broad, and that of the water was strait, so that both should empty themselves together. This is conclusive.

THE ONE ON THE WEST WAS FOR WATER. Our Rabbis taught, It once happened that a certain Sadducee[35] poured the water libation over his feet and all the people pelted him with their ethrogs. On that day the horn of the altar became damaged,[36] and a handful of salt was brought and it was stopped up, not because the altar was thereby rendered valid for the service, but merely in order that it should not appear damaged

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(1) Sc. each bowl had a perforated spout.

(2) On the altar, through a hole in which the water ran down to the deep altar ditches.

(3) This is explained in the Gemara.

(4) Adjacent to it.

(5) Not, as the first Tanna stated, three.

(6) And not, as the first Tanna asserted, seven.

(7) That all may see that the water is poured into the bowl.

(8) A Sadducee. Josephus, Ant. XIII, 13, 5, ascribes the incident to Alexander Jannai, king and High Priest 107-76 B.C.E. The Sadducees denied the validity of this precept and in this way he showed his contempt of the Pharisees.

(9) Since anything which remains in a hallowed vessel overnight becomes invalid (cf. Men. VII, 4).

(10) Cf. Ex. XXX, 18. Though a hallowed vessel, it did not cause the water in it to be invalid because it was sunk in a cistern on the festival eve (cf. Yoma 37a).

(11) That the shofar is sounded at the ceremony (Rashi). That the water was taken from Siloam (Tosaf.). According to Rashi, the answer is in the word ‘joy’, according to Tosaf. in the words ‘from the wells of salvation’.

(12) Isa. XII, 3.

(13) ‘Sectarians’, ‘apostates’ or ‘Jewish Christians’. V. Glos., s.v. Min.

(14) Meaning ‘joy’.

(15) ‘Gladness’.

(16) Isa. XXXV, 10; ‘joy’ before ‘gladness’.

(17) Esth. VIII, 17.

(18) From heaven.

(19) Isa. LV, 12.

(20) Cf. n. 5.

(21) Isa. XII, 3.

(22) ‘For joy’.

(23) ‘With joy’.

(24) The ascent was on the south, and on reaching the altar one turned to the right, to the south-east corner, to perform the sacrifice. Since it was obligatory to make right-hand turns one could not return by the same way but had to make a complete circuit of the altar and descend by the western side of the descent.

(25) Which took place at the south-west corner of the altar.

(26) And (cf. prev. n.) immediately turned towards the south-west. They could not turn to the right to make a circuit round the altar for reasons explained in Zeb. 64a.

(27) Which meant turning to the right.

(28) Where normally this sacrifice was done. (Cf. Lev. I, 16, Tamid I, 4).

(29) Since wine may sometimes be poured into it.

(30) Which prescribes one hole to be wide and the other narrow.

(31) The wine was the fourth of a hin (Num. XXVIII, 7) equivalent to three logs. This would explain the necessity for having a larger aperture in the wine flagon, since there was three times as much wine.

(32) Since each was three logs.

(33) That our Mishnah is in agreement with the Rabbis.

(34) קצר-רהב instead of מיעובה ‘WIDE’ and דק ‘NARROW’. The difference between broad and strait is larger than that between wide and narrow (Rashi).

(35) V. supra p. 226, n. 15.

(36) On account of some hard missiles that caught it.

Talmud - Mas. Sukkah 49a

for[1] an altar which has not the ascent, the horn,[2] the base[3] and the square shape[4] is invalid for the service. R. Jose b. Judah adds, Also the circuit.[5]

Rabbah b. Bar Hana citing R. Johanan stated, The Pits[6] have existed[7] since the Six days of creation,[8] for it is said, The roundings of thy thighs are like the links of a chain the work of the hands of a skilled workman.[9] ‘The rounding[10] of thy thighs’ refers to the Pits; ‘like the links[11] of a chain’ implies that their cavity[12] descends to the abyss; ‘the work of the hands of a skilled workman’ means that they are the skillful handiwork of the Holy One, blessed be He.

The school of R. Ishmael taught: Bereshith;[13] read not bereshith but bara shith.[14]

It has been taught, R. Jose says, The cavity of the Pits descended to the abyss, for it is said, Let me sing of my well-beloved, a song of my beloved touching his vineyard. My well-beloved had a vineyard on a very fruitful hill.[15] And he digged it, and cleared it of stones, and planted it with the choicest vine, and built a tower in the midst of it, and also hewed out a vat therein.[16] ‘And planted it with the choicest vine’, refers to the Temple; ‘and built a tower in the midst of it’, refers to the altar; ‘and also hewed out a vat therein’, refers to the Pits.[17]

It has been taught, R. Eleazar b. Zadok stated, There was a small passage-way between the ascent and the altar,[18] on the westward of the ascent, and once in seventy years the young[19] of the priesthood used to descend there[20] and gather up therefrom the congealed wine which had the appearance of rounds of pressed figs, and proceeded to burn it in a state of sanctity[21] as it is said, In the holy place shalt thou pour out a drink-offering of strong drink unto the Lord,[22]

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(1) The reason why it was unfit for service.

(2) A stone of one cubic cubit at each of the four corners.

(3) A ledge of one cubit in width and one cubit in height from the ground round the altar.

(4) Cf. Ex. XXVII, 1.

(5) V. Mid. III, 1. Its absence also invalidates the altar. Cf. Zeb. 62a.

(6) ‘Shithin’, the pits under the altar into which the wine flowed after the libation.

(7) Lit., ‘were created’.

(8) I.e., they were a natural formation.

(9) Cant. VII, 2.

(10) Of the rt. hamak ‘hidden’, ‘covered up’.

(11) From hala.
(12) From halal, similar (cf. prev. n.) to hala.
(13) ‘In the beginning’, Gen. I, 1.
(14) ‘He created the pit’ (of the altar).
(15) Palestine.
(16) Isa. V, 1 and 2.
(17) Tosef. Sukkah III, 15.
(18) [The ascent did not adjoin closely the altar at the top, but was removed from it by two cubits].
(19) Lit., ‘flowers’.
(20) The cavity through which the wine passed was fenced up along four sides, forming a vat reaching to the marble floor of the court (not as the Rabbis maintain, to the abyss).
(21) Sc. in a holy place in the Temple.
(22) Num. XXVIII, 7.

Talmud - Mas. Sukkah 49b

just as its libation was done in sanctity, so must its burning be done in sanctity.[1] But what is the proof?[2] — Rabina answered, An analogy is made between two expressions of ‘holy’. It is written here, ‘In the holy place shalt thou pour out a drink-offering of strong drink unto the Lord’, and it is written elsewhere, Then shalt thou burn the remainder with fire, it shall not be eaten, because it is holy.[3]

Whose view is followed in what we learned,[4] ‘The law of sacrilege[5] applies to drink-offerings at the beginning,[6] but after they have descended into the Pits,[7] the law of sacrilege does not apply to them’?[8] Must we say[9] that it is that of R. Eleazar b. Zadok,[10] for if it were that of the Rabbis [the objection could be raised: Did they not state] that the Pits descended to the abyss?[11] You may even say that it is that of the Rabbis, [but it refers to] where it was collected.[12]

There are some who read: Must we say that[13] it is that of the Rabbis,[14] and not that of R. Eleazar b. Zadok, for if it were that of R. Eleazar b. Zadok, [the objection would arise:] Do they not[15] still retain their hallowed character?[16] — You may even say that it is that of R. Eleazar, for sacrilege cannot apply to anything whose commandment has already been fulfilled.[17]

Resh Lakish stated, When the wine-libation was poured upon the altar, the Pits were stopped up,[18] in order to fulfil what is written, ‘In holiness shalt thou pour out a drink-offering of strong drink unto the Lord’.[19] But how does this imply it? — R. Papa answered, Shekar[20] is an expression suggestive of drink, satiety and plenty. From this it may be inferred, R. Papa observed that when a man has his fill of wine, it is due to his filling of his throat.[21]

Raba remarked, A young scholar who has not much wine should swallow it in quaffs.[22] Raba used to gulp down the cup of benediction.[23]

Raba made the following exposition: What is the implication of what was written, How beautiful are thy steps in sandals, O prince's daughter?[24] How beautiful are the steps of Israel when they go up [to Jerusalem] to celebrate a festival. ‘O prince's daughter’, means, daughter of our father Abraham, who is called prince, as it is said, The princes of the peoples are gathered together, the people of the God of Abraham.[25] ‘The God of Abraham’! And not the God of Isaac and Jacob? But the meaning is, The God of Abraham who was the first of proselytes.[26]

The School of R. Anan taught: It is written,[27] The roundings of thy thighs.[28] Why are the words of the Torah compared to the thigh? To teach you that just as the thigh is hidden, so should the words of the Torah be hidden,[29] and this is the import of what R. Eleazar said, What is the implication of the text, It hath been told thee, O man, what is good, and what the Lord doth require of thee: Only to do justly, and to love mercy, and to walk humbly with thy God?[30] ‘To do justly’ means [to act in accordance with] justice; ‘to love mercy’ refers to acts of loving kindness’[31] ‘and to walk[32] humbly with thy God’ refers to attending to funerals and dowering a bride for her wedding.[33] Now can we not make a deduction a fortiori: If in matters which are normally performed publicly[34] the Torah enjoins ‘to walk humbly’, how much more so in matters that are normally done privately?[35]

R. Eleazar stated, Greater is he who performs charity than [he who offers] all the sacrifices, for it is said, To do charity[36] and justice is more acceptable to the Lord than sacrifice.[37]

R. Eleazar further stated, Gemiluth Hasadim[38] is greater than charity, for it is said, Sow to yourselves according to your charity, but reap according to your hesed;[39] if a man sows, it is doubtful whether he will eat [the harvest] or not, but when a man reaps, he will certainly eat. R. Eleazar further stated, The reward of charity depends entirely upon the extent of the kindness in it,[40] for it is said, ‘Sow to yourselves according to charity, but reap according to the kindness’.

Our Rabbis taught, In three respects is Gemiluth Hasadim superior to charity: charity can be done only with one's money, but Gemiluth Hasadim can be done with one's person and one's money. Charity can be given only to the poor, Gemiluth Hasadim both to the rich and the poor. Charity can be given to the living only, Gemiluth Hasadim can be done both to the living and to the dead.[41]

R. Eleazar further stated, He who executes charity and justice is regarded as though he had filled all the world with kindness, for it is said, He loveth charity and justice, the earth is full of the lovingkindness of the Lord.[42] But lest you say that whoever wishes to do good succeeds without difficulty,[43] Scripture expressly says, How precious is Thy lovingkindness, O God etc.[44] As[45] one might say that this applies also to a man who fears God,[46] Scripture expressly says, But the lovingkindness of the Lord is from everlasting to everlasting upon them that fear Him.[47]

R. Hama b. Papa stated, Every man who is endowed with grace[48] is without doubt a God-fearing man, for it is said, ‘But the lovingkindness of the Lord is from everlasting to everlasting to them that fear Him.’ R. Eleazar further stated, What is the purport of what was written, She openeth her mouth with wisdom, and the Torah of lovingkindness is on her tongue?[49] Is there then a Torah of lovingkindness and a Torah which is not of lovingkindness? But the fact is that Torah [which is studied] for its own sake is a ‘Torah of lovingkindness’, whereas Torah [which is studied] for an ulterior motive is a Torah which is not of lovingkindness.

Some there are who say, Torah [which is studied] in order [subsequently] to teach it is a ‘Torah of lovingkindness’, but Torah [which is] not [studied subsequently] to teach it is a Torah which is not of lovingkindness.

AS WAS ITS PERFORMANCE ON WEEKDAYS etc. But why [bring the water in an UNHALLOWED vessel]? let him bring it in a hallowed one?[50] — Ze'iri replied, [The author of our Mishnah] is of the opinion that no fixed amount has been prescribed for the water [of libation] and that vessels of ministry hallow their contents even if there was no intention.

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(1) Tosef Me'il. I, 16.

(2) That the text refers to burning. No proof is expected for the periodical cleaning of the Pits, since it is obvious that the wine could not be allowed to accumulate there for ever.

(3) Ex. XXIX, 34; as the latter expression of ‘holy’ applies to burning, so also does the former.

(4) Cur. edd. in parenthesis ‘was taught’.

(5) Necessitating a trespass-offering (cf. Lev. V, 15).

(6) I.e.,from the time they were consecrated until libation, since during all this time they are consecrated for the altar.

(7) When they are no longer suitable for the altar.
(8) V. Me'il. 11a.
(9) Since it was necessary to state that the law of sacrilege does not apply to them.
(10) Who holds that the Pits reached only to the floor of the court and that the wine poured into them was retrievable.
(11) No law, surely, is required for an object that is for ever lost in the abyss.
(12) By the suspension of a vessel in the Pit.
(13) Since the law of trespass does not apply to them after they descended into the Pits.
(14) The case being one where the drink-offerings were intercepted in the Pits.
(15) Since he ruled that they are to be burnt in a holy place.
(16) Why then should not the law of sacrilege still apply?
(17) The act of libation is regarded as the completion of the commandment.
(18) So that the wine should not run away immediately and the hole present the sight of a throat full of ‘drink, satiety and plenty’.
(19) Num. XXVIII, 7.
(20) E.V., ‘strong drink’.
(21) By swallowing large mouthfuls, and not by taking small draughts however large the total quantity consumed.
(22) Since thereby (cf. prev. n.) he has the same satisfaction as if he drank much wine.
(23) To show his love of the precept. [The text appears in slight disorder. MS.M. reads: ‘A young scholar who has no wine in excess of the cup of benediction should gulp it down’.]
(24) Cant. VII, 2.
(25) Ps. XLVII, 10.
(26) At that time God was only his and not Isaac's or Jacob's.
(27) Lit., ‘what (means) that which is written’.
(28) This is a continuation of Cant. VII, 2.
(29) It should be taught in privacy, not in the market place (cf. M.K. 16a).
(30) Mic. VI, 8.
(31) Gemiluth Hasadim (v. infra). It is wider than charity including as it does all acts of kindness.
(32) Emphasis on ‘walk’.
(33) One's help in such cases should be given humbly and in privacy.
(34) Weddings and funerals.
(35) The giving of alms.
(36) Zedakah. E.V. ‘righteousness’.
(37) Prov. XXI, 3.
(38) Translated ‘the practice of kindness’ (v. infra).
(39) Hos. X, 12; the last work signifying Gemiluth Hasadim.
(40) [I.e., the grace, gentleness and sympathy that accompany the act of charity].
(41) By attending to their funeral and burial.
(42) Ps. XXXIII, 5.
(43) Lit., ‘that whoever wishes to leap may leap’.
(44) Ps. XXXVI, 8; i.e., the opportunity of doing real, well-deserved charity and dispensing it in a judicious manner, is rare (Rashi).
(45) Cur. edd. in parenthesis, ‘the earth is full of the lovingkindness of the Lord’.
(46) Sc. that he also has difficulties in executing charity and justice.
(47) Ps. CIII, 17. Those that truly fear God find lovingkindness easily.
(48) Var. lec., ‘lovingkindness’.
(49) Prov. XXXI, 26.
(50) The questioner assumes that a vessel of ministry does not hallow its contents unless there is that intention, and that it does not hallow it unless it corresponds to the specific amount prescribed for that particular rite. In this case the water has neither of these desiderata.

Talmud - Mas. Sukkah 50a

If, therefore, it were brought in a hallowed vessel it would have been rendered invalid by remaining therein overnight.

Hezekiah[1] replied, Vessels of ministry do not in fact hallow their contents where there was no intention, but [the use of a hallowed vessel was here forbidden] as a preventive measure lest it be assumed that there was intention that the contents should be hallowed.[2] R. Jannai citing R. Zera replied, You may even say that a fixed amount has been prescribed for the water [of libation][3] and that vessels of ministry do not hallow their contents unless there was intention, [but the use of a hallowed vessel was nevertheless forbidden] as a preventive measure lest people will think that it was filled with the water for the purpose of using it for the washing of the hands and the feet [of the High Priest].[4]

IF IT WAS POURED AWAY OR UNCOVERED etc. But why?[5] Could it not[6] be filtered through a strainer?[7] Must we then say[8] that our Mishnah does not agree with R. Nehemiah, for it has been taught, [Liquid that has passed through] a strainer is forbidden under the law of uncovering, and R. Nehemiah stated, When does this apply? Only when the receptacle underneath[9] was uncovered, but when the receptacle underneath is covered, even although the upper one[10] was uncovered, the law of uncovering does not apply, since the venom of a serpent is like a fungus which floats on the surface and remains where it is?[11] -You may even maintain that it agrees with R. Nehemiah, since it may be submitted that R. Nehemiah's ruling referred to secular use, but not to one divine,[12] for does not R. Nehemiah uphold [the lesson of the verse,] Present it[13] now to thy governor; will he be pleased with thee? Or will he accept thy person?[14]

CHAPTER V

MISHNAH. THE FLUTE-PLAYING [TOOK PLACE] SOMETIMES [ON] FIVE DAYS AND SOMETIMES ON SIX. THIS REFERS TO THE FLUTE-PLAYING AT BETH HA-SHO'EBAH [THE PLACE OF THE WATER-DRAWING][15] WHICH OVERRIDES NEITHER THE SABBATH NOR ANY FESTIVAL DAY.[16]

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(1) Granting that our Mishnah provides evidence that no specific quantity has been prescribed for the water of libation.

(2) And those observing that the water is used despite the fact that it was kept overnight might draw the wrong conclusion that hallowed objects of similar nature are equally unaffected by a stay overnight.

(3) Three logs, according to the Rabbis, and one log according to R. Judah.

(4) Such water must first be hallowed (cf. Ex. XXX, 19) and however large its quantity it might still be regarded as intended to be used for this purpose. If the water were allowed to be used on the next day, wrong conclusions (cf. p. 234 n. 6) might be drawn.

(5) Should uncovered water be invalid.

(6) Since the only reason why uncovered water is forbidden is lest a snake injected its venom into it.

(7) And thus eliminate the venom.

(8) Since the use of a filter is not allowed.

(9) The strainer, i.e., the one that receives the filtered water.

(10) Sc. the strainer.

(11) In the strainer. B.K. 115b, cf. B.B. 97b.

(12) Lit., ‘for the Most High’.

(13) I.e., the blind, the lame and the sick, mentioned by the prophet in the earlier part of the verse.

(14) Mal. I, 8; sc. would you offer to God what is rejected by man? As those objectionable offerings (cf. prev. n.) were condemned by the prophet as unsuitable, so is any objectionable thing (such as liquid that was exposed and possibly contaminated by venom) to be condemned as unsuitable for any divine service.

(15) [בית השואבה. The exact meaning of the term which also appears in the form שאובה (v. D.S. a.l.) is not clear. For a full discussion of the ceremony v. Feuchtwanger S., MGWJ. LIV-45]. For the details v. infra.

(16) Therefore when one of the Intermediate Days was a Sabbath it was performed on five days only.

Talmud - Mas. Sukkah 50b

GEMARA. It was stated, Rab Judah and R. Ina differ, one of them taught Sho'ebah[1] and the other taught Hashubah.[2] Mar Zutra observed, He who teaches, Sho'ebah is not in error, and he who teaches Hashubah is not in error. He who teaches Sho'ebah[1] is not in error, since it is written, And ye shall draw water in joy,[3] and he who teaches Hashubah is not in error, since R. Nahman stated, It is an important precept, dating from the very Creation.[4]

Our Rabbis taught, The flute-playing overrides the Sabbath; so R. Jose b. Judah; but the Sages ruled, It does not override even the Festival. R. Joseph explained, The dispute[5] concerns only the song that accompanied the sacrifices,[6] since R. Jose is of the opinion that the essential feature of the [Temple] music is the instrument, in consequence of which it is a Temple service which overrides the Sabbath, whereas the Rabbis are of the opinion that the essential feature of the [Temple] music is the vocal singing, in consequence of which the [playing of the instruments] is not a Temple service and does not, therefore, override the Sabbath; but with regard to the singing at the Festival of Water-Drawing, all agree that it is a mere expression of rejoicing and does not, therefore, override the Sabbath.

Whence, said R. Joseph, do I derive that the dispute concerns only that?[7] From what has been taught, If vessels of ministry were made of wood, Rabbi declares them invalid and R. Jose b. Judah holds them to be valid.[8] Now do they not differ on this principle, that he who declares them valid is of the opinion that the essential feature of the [Temple] music is the instrument[9] and [its validity may, therefore,] be deduced from that of the reed-flute of Moses,[10] while he who holds them to be invalid is of the opinion that the essential feature of the Temple music is the vocal singing[11] and its validity, therefore, cannot be deduced from that of the reed-flute of Moses? — No; both of them may agree that the essential feature of the [Temple] music is the instrument, but in this case they differ on the question whether we may deduce what it is possible [to manufacture from another material] from that which it is impossible [to manufacture from another material].[12] He who declares them valid is of the opinion that we do deduce that which it is possible [to manufacture from another material], from that which it is impossible [to manufacture from another material],[13] whereas he who holds them to be invalid is of the opinion that we do not deduce the possible from the impossible.[14] And if you wish you may say that all are in agreement that the essential feature of the [Temple] music is the vocal singing,[15] and that[16] we do not deduce the possible from the impossible,[15] but in this case they differ on the question whether, in making the deduction concerning the candlestick,[17] we apply the principle of ‘the general and the particular’ or the rule of ‘extension and limitation’.[18] Rabbi applies the principle of ‘the general and the particular’ while R. Jose b. Judah applies the principle of ‘extension and limitation’. Rabbi applies the principle of the ‘general and particular’ [thus:] And thou shalt make a candlestick[19] is a general statement, of pure gold[19] is a particular, of beaten work shall the candlestick be made[19] is again a general statement; [the instruction thus consists of] two general [statements] with a particular [statement between], in which case it includes only such things as are similar to the particular [statement],[20] so that as the particular is specified to be of metal, so must all [vessels] be of metal. R. Jose b. Judah applies the principle of ‘extension and limitation’ [thus:] And thou shalt make a candlestick[19] is an extension, of pure gold[19] is a limitation, of beaten work shall the candlestick be made[19] is again an extension. The text thus gives two extensions with a limitation between in which case it includes everything [and excludes but one thing]. What does it include? All materials, and what does it exclude? [Only][21] earthenware.

R. Papa stated,

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(1) ‘Water-drawing’.

(2) ‘Important’. The phrase would thus mean ‘The Important Rejoicing of the Temple’. [This reading would support the variant hashe'ubah השאובה (v. n. 1) with which it could easily be confused].

(3) Isa. XII, 3.

(4) When, as stated supra 49a, the Pits were created to receive the libations.

(5) Between R. Jose and the Sages.

(6) When the libation of wine was offered in connection with the continual morning and evening offerings (cf. ‘Ar. 10a).

(7) Whether the vocal organs or the instruments are the essential features of the Temple music.

(8) Sot. 14b.

(9) And it may, therefore, be regarded as a Temple vessel.

(10) Which was made of wood (cf. ‘Ar.10b). Tradition dated this reedpipe from Moses. As that pipe was made of wood so may all musical instruments of the Temple be made of wood.

(11) So that the instrument cannot be regarded as one of the Temple vessels.

(12) It was impossible (as explained in ‘Ar. 10b) to make the best of pipes of anything but reeds. All other vessels, however, can be made from metal.

(13) Hence he allows all vessels to be made from wood as was the reed-pipe of Moses.

(14) Hence it is only the pipe, which (as stated supra) cannot be satisfactorily made of other materials, that may be made of wood, but not any other vessels which can well be made of metal.

(15) No deduction, therefore, may be made from Moses’ reed-pipe.

(16) Even if it were to be insisted that the essential feature of the music was the instrument.

(17) Of the sanctuary, which is regarded as the prototype of all the other vessels.

(18) Two methods of homiletics, the former employed by R. Ishmael, the latter by R. Akiba. Cf. Sanh., Sonc. ed., vol I, p. 301, n. I.

(19) Ex. XXV, 31.

(20) Cf. P.B. p. 13.

(21) Since according to the principle of extension and limitation, only the most remote is excluded.

Talmud - Mas. Sukkah 51a

[This dispute[1] is] on the same principle as the one between the following Tannas concerning which we have learnt,[2] [The instrument players in the Temple] were the slaves of the priests; so R. Meir. R. Jose says, They were the families of Beth Ha-Pegarim, and Beth Zipporia who hailed from Emmaus[3] and were married into the priestly stock.[4] R. Hanina b. Antigonus says, They were Levites.[5] Now do they[6] not differ on the following principles: He who says that they were slaves is of the opinion that the essential feature of the [Temple] music was the vocal singing,[7] while he who says that they were Levites holds the opinion that the essential feature of the [Temple] music was the instrument?[8] — But do you understand this? What then is the opinion upheld by R. Jose? If he is of the opinion that the essential feature of the [Temple] music was the singing, then even slaves [should be allowed to play the instruments],[9] and if he is of the opinion that the essential feature was the instrument, should not then only Levites [be allowed to play] but not Israelites?[10] But the fact is that all agree that the essential feature of the [Temple] music was the vocal singing, but it is on this that they differ: One Master holds that the practice was as he stated[11] while the other Master holds that the practice was as he stated.[11] In what respect could this[12] matter? — In respect of taking the fact that a man stood upon the platform[13] as proof of honourable descent[14] or [as proof that he is eligible for] tithes.[15] He who says that they were slaves is of the opinion that the fact that [one's ancestor] stood upon the platform is proof neither of honourable descent nor that [he is eligible for] tithes;[16] he who says that they were Israelites [of honourable family] is of the opinion that we accept the standing upon the platform as proof of honourable descent, but not [of eligibility for] tithes;[17] while he who says that they were Levites is of the opinion that the standing upon the platform is accepted as proof in regard to both honourable descent and [eligibility for] tithes.[18]

R. Jeremiah b. Abba, however, maintains[19] that the dispute[20] concerns only the music[21] at the Water-Drawing, since R. Jose b. Judah is of the opinion that even an added expression of Rejoicing[22] overrides the Sabbath, while the Rabbis are of the opinion that an added expression of Rejoicing does not override [either] the Sabbath [or the Festival], but as regards the music which accompanied the sacrifices, all agree that it is [an integral part of] the Service and overrides the Sabbath.

An objection was raised:[23] [It was taught,] The music which accompanied the Water-Drawing overrides the Sabbath. So R. Jose b. Judah. The Sages, however, rule that it does not override even the Festival. Is not this a refutation of R. Joseph?[24] — It is indeed a refutation.

Can we also say that they[25] dispute only concerning the music which accompanied the Water-Drawing, but that with regard to the music that accompanied the sacrifices all[26] agree that it overrides the Sabbath, and this[27] would, therefore, constitute a double refutation of R. Joseph?[28] — [No.] R. Joseph could answer you, They dispute concerning the music that accompanied the Water-Drawing and the same applies also to [that which accompanied] the sacrifices, and the reason that they expressed their different views with regard to the Water-Drawing was in order to acquaint you with the extent of the view of R. Jose b. Judah, viz., that even the music of the Water-Drawing overrides [the Sabbath]. Was it not, however, stated, THIS REFERS TO THE FLUTE-PLAYING AT THE PLACE OF THE WATER-DRAWING, WHICH OVERRIDES NEITHER THE SABBATH NOR ANY FESTIVAL DAY, [from which we can infer that] this [playing] does not override the Sabbath, but the playing which accompanied the sacrifices does override [the Sabbath]?[29] Now whose view is it? If you were to say that it is that of R. Jose b. Judah, did he not state that the playing which accompanies the Water-Drawing also overrides the Sabbath?[30] Consequently it must be, [must it not,] the view of the Rabbis, and thus[31] arises a double refutation of R. Joseph?[32] It is indeed a refutation.

What is the reason of him who stated that the essential feature of the [Temple] music was the instrument? — Because it is written, And Hezekiah commanded to offer the burnt-offering upon the altar. And when the burnt-offering began, the song of the Lord began also, and the trumpets together with the instruments of David, King of Israel.[33] What is the reason of him who stated that the essential feature of the Temple music was the vocal singing? — Because it is written, It came even to pass, when the trumpeters and the singers were as one, to make one sound to be heard.[34] As to the other also,[35] is it not written, ‘and Hezekiah commanded etc.’?[36] — It is this that was meant: The song of the Lord began’ vocally ‘together with the instruments of David, King of Israel’, which were but to sweeten the voice. And as to the other one too,[37] is it not written, ‘it came even to pass, when the trumpeters and singers were as one’?[38] — It is this that was meant: ‘The singers’ performed in the same manner as ‘the trumpeters’. Just as the trumpeters [performed] with instruments, so did the singers [perform] with instruments.

MISHNAH. HE[39] WHO HAS NOT SEEN THE REJOICING AT THE PLACE OF THE WATER-DRAWING HAS NEVER SEEN REJOICING IN HIS LIFE. AT THE CONCLUSION OF THE FIRST FESTIVAL DAY OF TABERNACLES THEY[40] DESCENDED[41] TO THE COURT OF THE WOMEN[42] WHERE THEY HAD MADE A GREAT ENACTMENT.[43] THERE WERE THERE GOLDEN CANDLESTICKS WITH FOUR GOLDEN BOWLS ON THE TOP OF EACH OF THEM AND FOUR LADDERS[44] TO EACH, AND FOUR YOUTHS DRAWN FROM THE PRIESTLY STOCK IN WHOSE HANDS WERE HELD JARS OF OIL CONTAINING ONE HUNDRED AND TWENTY LOG WHICH THEY POURED INTO THE BOWLS.[45]

FROM THE WORN-OUT DRAWERS AND GIRDLES OF THE PRIESTS THEY MADE WICKS AND WITH THEM THEY KINDLED THE LAMPS; AND[46] THERE WAS NOT A COURTYARD IN JERUSALEM THAT WAS NOT ILLUMINED BY THE LIGHT OF THE PLACE OF THE WATER-DRAWING.

MEN OF PIETY AND GOOD DEEDS[47] USED TO DANCE BEFORE THEM

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(1) Whether the vocal singing or the instrumental playing was the essential feature of the Temple service.
(2) Cur. edd. in parenthesis ‘it was taught’.
(3) Near Tiberias.
(4) Because they were Israelites of pure and honourable descent (cf. Kid. IV, 5).
(5) V. ‘Ar. 10a.
(6) The three Tannas just mentioned.
(7) As this was done by the Levites, slaves were allowed to play the instruments.
(8) Hence only the Levites were allowed to play it.
(9) Supra n. 5.
(10) Why then does he allow Israelites.
(11) Lit., ‘thus’.
(12) The type of the instrument players.
(13) Dukan, the platform upon which the Levites stood in the Temple during the singing of the Psalms (cf. ‘Ar. II, 6).
(14) Lit., ‘whether we raise one from the dukan to (an honourable) pedigree’. The Jews were proud of their lineage and investigated the descent of the women whom they wished to marry for four generations back. (V. Kid. IV, 4 and 5).
(15) I.e., that he is a Levite.
(16) Hence it is permitted even for slaves to take part.
(17) Honourable Israelites only were, therefore, allowed to participate.
(18) Levites only were, therefore, allowed to ascend the platform.
(19) Contrary to the view of R. Joseph supra 50b.
(20) Of R. Jose b. Judah and the Rabbis.
(21) Sc. the instrument playing.
(22) Even if it is not an integral part of the Service.
(23) To R. Joseph's view.
(24) Who stated that R. Jose agreed that the music at the Water-Drawing did not override the Sabbath.
(25) R. Jose and the Sages.
(26) Even the Sages.
(27) Since he submitted that the Sages hold that this music does not override the Sabbath.
(28) Both with regard to the Water-Drawing and the sacrifices. In the case of the former he maintained that R. Jose holds that it does not override the Sabbath, while here it is shown that according to R. Jose it does override it; while in the case of the latter he maintained that the Sages hold that it does not override the Sabbath, from here it might be inferred that according to their view it does.
(29) Apparently we can.
(30) While here it is stated that it does not override it.
(31) Since the Rabbis here admit that the music at the sacrifice overrides the Sabbath while R. Joseph maintained that according to their view it does not override it.
(32) V. p. 240, n. 11.
(33) II Chron. XXIX, 27. Thus the other instruments no less than the trumpets sounded at the time of sacrifice, make ‘the song of the Lord’; v. next note.
(34) II Chron, V, 13, where no instrumental music is mentioned. ‘The trumpeters’ refers not to the players of the instruments that accompanied the singing, but to those who sounded the trumpets at the time of sacrifice. Hence it was ‘the singers’ alone who made here the music (V. Rashi).
(35) Who holds that the vocal music was an essential feature of the Temple service.
(36) Which proves that the instruments were an essential.
(37) Who stated that the instruments were an essential feature.
(38) Which, as shown supra,implies that the music was only vocal.
(39) Separate edd. of the Mishnah read, ‘They said: He who’ etc.
(40) The priests and Levites.
(41) The fifteen steps (mentioned later in our Mishnah) that led from the Court of the Israelites.
(42) Cf. Mid. II, 5.
(43) The Gemara infra explains this.
(44) To ascend to the top, since they were fifty cubits high (v. infra).

(45) This is explained in the Gemara infra.
(46) Owing to the considerable height of the lamps (cf. prev. n.) and the high altitude of the Temple mount on which the court was situated.
(47) Or ‘miracle workers’, lit., ‘men of work’ (cf. Sot. IX, 15).

Talmud - Mas. Sukkah 51b

WITH LIGHTED TORCHES IN THEIR HANDS,[1] AND SING SONGS AND PRAISES. AND LEVITES WITHOUT NUMBER WITH HARPS, LYRES, CYMBALS AND TRUMPETS AND OTHER MUSICAL INSTRUMENTS WERE THERE UPON THE FIFTEEN STEPS LEADING DOWN FROM THE COURT OF THE ISRAELITES TO THE COURT OF THE WOMEN, CORRESPONDING TO THE FIFTEEN SONGS OF ASCENTS[2] IN THE PSALMS.[3] IT WAS UPON THESE[4] THAT THE LEVITES STOOD[5] WITH THEIR INSTRUMENTS OF MUSIC AND SANG THEIR SONGS. TWO PRIESTS STOOD BY THE UPPER GATE WHICH LEADS DOWN FROM THE COURT OF THE ISRAELITES TO THE COURT OF THE WOMEN, WITH TWO TRUMPETS IN THEIR HANDS. WHEN THE COCK CROWED THEY SOUNDED A TEKI'AH [LONG DRAWN-OUT BLAST], A TERU'AH [TREMULOUS NOTE] AND AGAIN A TEKI'AH.[6] WHEN THEY REACHED THE TENTH STEP THEY SOUNDED A TEKI'AH, A TERU'AH AND AGAIN A TEKI'AH. WHEN THEY REACHED THE COURT[7] THEY SOUNDED A TEKI'AH, A TERU'AH AND AGAIN A TEKI'AH.[8] AND WHEN THEY REACHED THE GROUND[9] THEY SOUNDED A TEKI'AH, A TERU'AH, AND AGAIN A TEKI'AH.[10] THEY PROCEEDED, SOUNDING THEIR TRUMPETS, UNTIL THEY REACHED THE GATE WHICH LEADS OUT TO THE EAST. WHEN THEY REACHED THE GATE WHICH LEADS OUT TO THE EAST, THEY TURNED THEIR FACES FROM EAST TO WEST[11] AND PROCLAIMED, OUR FATHERS[12] WHO WERE IN THIS PLACE [STOOD] WITH THEIR BACKS TOWARD THE TEMPLE OF THE LORD, AND THEIR FACES TOWARD THE EAST, AND THEY WORSHIPPED THE SUN TOWARD THE EAST,[13] BUT AS FOR US, OUR EYES ARE TURNED TO THE LORD’. R. JUDAH STATED, THEY USED TO REPEAT [THE LAST WORDS] AND SAY ‘WE ARE THE LORD'S AND OUR EYES ARE TURNED TO THE LORD’.

GEMARA. Our Rabbis taught, He who has not witnessed the rejoicing at the place of the Water-Drawing has never seen rejoicing in his life. He who has not seen Jerusalem in her splendour, has never seen a desirable city in his life. He who has not seen the Temple in its full construction has never seen a glorious building in his life. Which Temple?[14] — Abaye, or it might be said, R. Hisda, replied, The reference is to the building of Herod.[15] Of what did he build it? — Rabbah[16] replied, Of yellow and white marble. Some there are who say, With yellow, blue and white marble. The building rose in tiers[17] in order to provide a hold for the plaster. He[18] intended at first to overlay it with gold, but the Rabbis told him, Leave it alone for it is more beautiful as it is, since[19] it has the appearance of the waves of the sea.

It has been taught, R. Judah stated, He who has not seen the double colonnade[20] of Alexandria in Egypt[21] has never seen the glory of Israel. It was said that it was like a huge basilica, one colonnade within the other, and it sometimes held[22] twice the number of people that went forth from Egypt.[23] There were in it seventy-one cathedras of gold, corresponding to the seventy-one members of the Great Sanhedrin,[24] not one of them containing less than twenty-one[25] talents of gold, and a wooden platform in the middle upon which the attendant of the Synagogue stood with a scarf in his hand. When the time came to answer Amen,[26] he waved his scarf and all the congregation[27] duly responded. They moreover did not occupy their seats promiscuously, but goldsmiths sat separately, silversmiths separately, blacksmiths separately, metalworkers separately and weavers separately, so that when a poor man entered the place he recognized the members of his craft and on applying[28] to that quarter obtained a livelihood for himself and for the members of his family.[29]

Abaye stated, Alexander of Macedon[30] slew them all. Why were they so punished? — Because they transgressed this verse: Ye shall henceforth return no more[31] that way,[32] and they did return. When he[33] came and found them reading from The Book, ‘The Lord will bring a nation against thee from afar’,[34] he remarked, ‘I[35] should have brought my ships in a ten days’ journey, but as a strong wind arose the ships arrived in five days’! He, therefore,[36] fell upon them and slew them.

AT THE CONCLUSION OF THE FIRST FESTIVAL DAY etc. What was the GREAT ENACTMENT? — R. Eleazar replied, As that of which we have learnt. Originally [the walls of the Court of the Women] were smooth,[37] but [later the Court] was surrounded with a gallery, and it was enacted that the women should sit above and the men below.[38]

Our Rabbis have taught, Originally the women used to sit within [the Court of the Women] while the men were without, but as this caused levity, it was instituted that the women should sit without and the men within. As this, however, still led to levity, it was instituted that the women should sit above[39] and the men below.

But how could they do so?[40] Is it not written, All this [do I give thee] in writing as the Lord hath made me wise by His hand upon me?[41] — Rab answered, They found a Scriptural verse and expounded it:

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(1) Throwing them up and catching them again, and performing this feat with four or eight torches throwing up and catching one after the other (Rashi).

(2) So with sep. edd. of the Mishnah. Cur. edd. omit ‘SONGS OF’ and insert ‘ASCENTS’ in parenthesis.

(3) Pss. CXX-CXXXIV.

(4) And not at the side of the altar where they performed at the time of the offering of the sacrifices.

(5) At the festivities of the Water-Drawing.

(6) This was a call to proceed to draw the water of libation from Siloam.

(7) Sc. the floor of the Court of the Women.

(8) The last sentence is deleted by Elijah Wilna.

(9) Elijah Wilna adds, ‘of the court’.

(10) Cur. edd. enclose the last sentence in parenthesis.

(11) Thus facing the Temple.

(12) In the days of the first Temple.

(13) Cf. Ezek. VIII, 16.

(14) Lit., ‘what is it (to which the reference is made)’. There were the Temples of Solomon, Nehemiah and Herod.

(15) Herod rebuilt the Temple. For a full description cf. Josephus, Ant. XV, 11 v. also B.B. 4a.

(16) Cur. edd. in parenthesis, ‘Raba’.

(17) Lit., ‘he brought out an edge and brought in an edge’.

(18) Herod.

(19) On account of the variegated hues of the marble.

(20) ** i.e., the basilica-synagogue.

(21) From the foundation of the city by Alexander the Great in 332 B.C.E., the Jews formed an important section of the population with their own places of worship and other rights and privileges.

(22) Cur. edd. in parenthesis, ‘600,000 X 600,000’.

(23) I.e., 1,200,000.

(24) Bah read ‘elders’ for ‘members of... Sanhedrin’.

(25) The reading ‘twenty-one myriads’ of cur. edd. is deleted by Elijah Wilna.

(26) When e.g., the Reader concluded a benediction.

(27) To whom owing to the huge size of the Synagogue, the reader's voice was inaudible.

(28) For employment.

(29) [Whether this is to be identified with the beautiful Synagogue mentioned by Philo is not certain. Krauss S., Synagogale Altertumer, p. 261ff argues that this basilica was no Synagogue but a trading mart where the Jews would also hold services.]

(30) Var. lec., Trajan (Elijah Wilna). [Trajan is the name given in J. Suk. V, I, and the reference is to the massacre of the Jews in Alexandria under Trajan in 116 recorded by Eusebius. V. Derenbourg, Essai, p. 410ff and Graetz, Geschichte IV, p. 117ff.]

(31) Sc. to Egypt.

(32) Deut. XVII, 16.

(33) The tyrant.

(34) Ibid. XXVIII, 49.

(35) Lit., 'that man'.

(36) Finding in the Scriptural verse and in the kindness of the elements that his expedition was providential.

(37) [So Rashi on basis of reading חלקה; var. lec. חלוקה '(the floor spacing) was divided (into two sections)'. V. D.S.].

(38) Cf. Mid. II, 5.

(39) On the gallery.

(40) Alter the original structure of the Temple.

(41) I Chron. XXVIII, 19, referring to the construction of the First Temple.

Talmud - Mas. Sukkah 52a

And the land shall mourn, every family apart; the family of the house of David apart, and their wives apart.[1] Is it not, they said, an a fortiori argument? If in the future[2] when they will be engaged in mourning and the Evil Inclination will have no power over them,[3] the Torah[4] nevertheless says, men separately and women separately, how much more so now[5] when they are engaged in rejoicing and the Evil Inclination has sway over them.[6]

What is the cause of the mourning [mentioned in the last cited verse]?[1] — R. Dosa and the Rabbis differ on the point. One explained, The cause is the slaying of Messiah the son of Joseph,[7] and the other explained, The cause is the slaying of the Evil Inclination.

It is well according to him who explains that the cause is the slaying of Messiah the son of Joseph, since that well agrees with the Scriptural verse, And they shall look upon me because they have thrust him through, and they shall mourn for him as one mourneth for his only son;[8] but according to him who explains the cause to be the slaying of the Evil Inclination, is this [it may be objected] an occasion for mourning? Is it not rather an occasion for rejoicing? Why then should they weep? — [The explanation is] as R. Judah expounded: In the time to come[9] the Holy One, blessed be He, will bring the Evil Inclination and slay it in the presence of the righteous and the wicked. To the righteous it will have the appearance of a towering hill, and to the wicked it will have the appearance of a hair thread. Both the former and the latter will weep; the righteous will weep saying, 'How were we able to overcome such a towering hill!' The wicked also will weep saying, 'How is it that we were unable to conquer this hair thread!' And the Holy One, blessed be He, will also marvel together with them, as it is said, Thus saith the Lord of Hosts, If it be marvellous in the eyes of the remnant of this people in those days, it shall[10] also be marvellous in My eyes.[11]

R. Assi stated, The Evil Inclination is at first like the thread of a spider, but ultimately[12] becomes like cart ropes, as it is said, Woe unto them that draw iniquity with cords of vanity, and sin as it were with a cart-rope.[13]

Our Rabbis taught, The Holy One, blessed be He, will say to the Messiah, the son of David (May he reveal himself speedily in our days!), 'Ask of me anything, and I will give it to thee', as it is said, I will tell of the decree etc. this day have I begotten thee, ask of me and I will give the nations for thy inheritance.[14] But when he will see that the Messiah the son of Joseph is slain, he will say to Him, 'Lord of the Universe, I ask of Thee only the gift of life'.'As to life', He would answer him, 'Your father David has already prophesied this concerning you', as it is said, He asked life of thee, thou gavest it him, [even length of days for ever and ever].[15]

R. 'Awira or, as some say, R. Joshua b. Levi, made the following exposition: The Evil Inclination has seven names. The Holy One, blessed be He, called it Evil, as it is said, For the imagination of man's heart is evil from his youth.[16] Moses called it the Uncircumcised, as it is said, Circumcise therefore the foreskin of your heart.[17] David called it Unclean, as it is said, Create me a clean heart, O Lord,[18] which implies that there is an unclean one. Solomon called it the Enemy, as it is said, If thine enemy[19] be hungry, give him bread[20] to eat and if he be thirsty give him water to drink.[21] For thou wilt heap coals of fire upon his head, and the Lord will reward thee;[22] read not, 'will reward thee'[23] but 'will cause it to be at peace with thee.'[24] Isaiah called it the Stumbling-Block, as it is said, Cast ye up, Cast ye up, clear the way, take up the stumbling-block out of the way of my people.[25] Ezekiel called it Stone, as it is said, And I will take away the heart of stone out of your flesh and I will give you a heart of flesh.[26] Joel called it the Hidden One, as it is said, But I will remove far off from you the hidden one.[27]

Our Rabbis taught: 'But I will remove far off from you the hidden one',[27] refers to the Evil Inclination which is constantly hidden in the heart of man; and will drive him into a land barren and desolate[28] means, to a place where there are no men for him to attack; with his face toward the eastern sea,[28] [implies] that he set his eyes against the First Temple[29] and destroyed it and slew the scholars who were therein; and his hinder part toward the western sea[28] [implies] that he set his eyes against the Second Temple and destroyed it and slew the scholars who were therein. That his foulness may come up and his ill-savour may come up[28] [means] that he leaves the other nations in peace and attacks only Israel.[30] Because he hath done great things.[28] Abaye explained, Against scholars[31] more than against anyone;[32] as was the case when Abaye heard a certain man saying to a woman, 'Let us arise betimes and go on our way'. 'I will', said Abaye, 'follow them in order to keep them away from transgression' and he followed them for three parasangs across the meadows. When they parted company[33] he heard them say, 'Our company is pleasant, the way is long'.[34] 'If it were I',[35] said Abaye, 'I could not have restrained myself', and so went and leaned in deep anguish against a doorpost, when a certain old man[36] came up to him and taught him: The greater the man, the greater his Evil Inclination.

R. Isaac stated, The [Evil] Inclination of a man grows stronger within him from day to day, as it is said, Only

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(1) Zech. XII, 12.

(2) The time alluded to in the text cited.

(3) So that levity is least to be expected.

(4) Sc. Scripture, in the statement 'and their wives apart'.

(5) At the festivities of the Water-Drawing.

(6) And undue levity is most likely.

(7) The precursor of the Messiah ben David, the herald of the true Messianic age.

(8) Zech. XII, 10.

(9) The Messianic age.

(10) E.V., 'Should it'.

(11) Zech. VIII, 6.

(12) If the man continues to yield to temptation.

(13) Isa. V, 18.

(14) Ps. II, 7 and 8.

(15) Ps. XXI, 5.

(16) Gen. VIII, 21.

(17) Deut. X, 16; the heart is the supposed seat of the Evil Inclination.

(18) Ps. LI, 12.
(19) The Evil Inclination.
(20) Sc. the study of the Torah.
(21) Sc. the study of the Torah.
(22) Prov. XXV, 21 and 22.
(23) Yeshalem lak.
(24) Yashlimenu lak.
(25) Isa. LVII, 14.
(26) Ezek XXXVI, 26.
(27) Joel II, 20; E.V., ‘northern one’.
(28) Ibid.
(29) Synonymous with sea (cf. Rashi).
(30) Lit., ‘the enemies of Israel’, a euphemism.
(31) Who are ‘great’ men.
(32) Does the Evil Inclination act.
(33) Each one having had to go in a different direction.
(34) Sc. much as they would have liked to go together they must part company since they had to go in different directions.
(35) Lit., ‘he who hates me’, euphemism.
(36) Tradition identifies the anonymous old man with the spirit of Elijah.

Talmud - Mas. Sukkah 52b

evil all the day.[1] R. Simeon b. Lakish stated, The Evil Inclination of a man grows in strength from day to day and seeks to kill him, as it is said, The wicked watcheth the righteous and seeketh to slay him;[2] and were it not that the Holy One, blessed be He, is his help, he would not be able to withstand it, as it is said, The Lord will not leave him in his hand, nor suffer him to be condemned when he is judged.[3]

The school of R. Ishmael taught, If this repulsive wretch[4] meets thee, drag him to the Beth Hamidrash.[5] If he is of stone, he will dissolve, if of iron he will shiver into fragments. ‘If he is of stone he will dissolve’,for it is written, Ho, every one that thirsteth come ye to the water[6] and it is written, The waters wear the stones.[7] ‘If he is of iron, he will shiver into fragments’, for it is written, Is not my word like as fire? Saith the Lord, and like a hammer that breaketh the rock in pieces?[8]

R. Samuel b. Nahmani citing R. Johanan stated, The Evil Inclination entices man in this world and testifies against him in the world to come, as it is said, He that delicately bringeth up his servant from a child shall have him become a manon[9] at the last,[10] for according to the Atbah[11] of R. Hiyya a witness[12] is called[13] manon.[14] R. Huna pointed out an incongruity: It is written, For the spirit of harlotry hath caused them to err,[15] but is it not also written, [For the spirit of harlotry] is within them?[16] First it only causes them to err, but ultimately it enters into them. Raba observed, First he[17] is called a passer-by, then he is called a guest, and finally he is called a man,[18] for it is said, And there came a passer-by[17] to the rich man, and he spared to take of his own flock and of his own herd, to dress for the guest[17] and then it is written, but took the poor man's lamb and dressed it for the man[17] that was come to him.[19]

R. Johanan remarked, There is a small organ in man which satisfies him when in hunger and makes him hunger when satisfied,[20] as it is said, When they were starved[21] they became full etc.[22]

R. Hana b. Abba stated: It was said at the schoolhouse, There are four things of which the Holy One, blessed be He, repents that He had created them, and they are the following: Exile, the Chaldeans, the Ishmaelites and Evil Inclination. ‘The Exile’, since it is written, Now, therefore, what do I here, saith the Lord, seeing that My people is taken away for naught etc.;[23] ‘the Chaldeans’, since it is written, Behold the land of the Chaldeans — this is the people that was not;[24] ‘the Ishmaelites’, since it is written, The tents of the robbers[25] prosper, and they that provoke God are secure since God brought them with His hand;[26] ‘the Evil Inclination’, since it is written, [And I will gather her that is driven away] and her that I have afflicted.[27]

R. Johanan remarked, Were it not for [the declarations in] the following three Scriptural verses,[28] the feet of the enemies of Israel[29] would have sunk. One is the verse, And her that I have afflicted;[30] the other is the verse, Behold, as the clay in the potter's hand, so are ye in My hand, O House of Israel;[31] and the third, And I will take away the heart of stone out of your flesh, and I will give you a heart of flesh.[32] R. Papa observed, [This may be derived] from the following verse also, And I will put My spirit into you.[33]

And the Lord showed me four craftsmen.[34] Who are these ‘four craftsmen’? — R. Hana b. Bizna citing R. Simeon Hasida replied: The Messiah the son of David, the Messiah the son of Joseph, Elijah and the Righteous Priest.[35] R. Shesheth objected,[36] If so, was it correct to write, These[37] are the horns which scattered Judah,[38] seeing that they came to turn [them] back?[39] — The other answered him, Go to the end of the verse: These then are come to frighten them, to cast down the horns of the nations, which lifted up their horns against the Land of Judah, to scatter it[40] etc. Why, said R. Shesheth to him, should I argue with Hana in Aggada?[41]

And this shall be peace: when the Assyrian shall come into our land, and when he shall tread in our palaces, then shall we raise up against him seven shepherds and eight princes among men.[42] Who are the ‘seven shepherds’? — David in the middle, Adam, Seth and Methuselah[43] on his right, and Abraham, Jacob and Moses[44] on his left. And who are the ‘eight princes among men’? — Jesse, Saul, Samuel, Amos, Zephaniah, Zedekiah, the Messiah, and Elijah.[45]

FOUR LADDERS etc. A Tanna taught, the height of a candlestick was fifty cubits.

AND FOUR YOUTHS DRAWN FROM THE PRIESTLY STOCK IN WHOSE HANDS WERE HELD JARS OF OIL CONTAINING ONE HUNDRED AND TWENTY LOG. It was asked: Were there one hundred and twenty log for[46] all of them or one hundred and twenty log for each? — Come and hear: With jars of oil in their hands, each of thirty log making a total of one hundred and twenty log.

A Tanna taught, And they[47] were superior[48] to the son of Martha the daughter of Boethus.[49] It was said of the son of Martha the daughter of Boethus, that he[50] could take[51] two sides of a huge ox which cost one thousand zuz and walk with them,[52] heel to toe,[53] but the Sages would not permit him to do so because In the multitude of the people is the King's glory.[54] In what respect, however, were they[55] superior? If you will say because of the weight do not those[56] weigh more?[57] — The fact is that in that case there was an ascent every four [cubits length of which rose only to a height of about one cubit][58] so that it was far from being perpendicular, while here there were ladders which were almost perpendicular.[59]

AND THERE WAS NOT A COURTYARD IN JERUSALEM. A Tanna taught,

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(1) Gen. VI, 5; as the days go on the evil increases.

(2) Ps. XXXVII, 32.

(3) Ibid. 33.

(4) The Evil Inclination.

(5) The schoolhouse, i.e., overcome it by your application to study.

(6) Isa. LV, 1; sc. the Torah.

(7) Job XIV, 19.

(8) Jer. XXIII, 29. [This can also be rendered: ‘like the hammer which the (granite) rock (against which it is struck) breaketh; the Evil Inclination being compared to an iron hammer and the Beth Hamidrash to a granite rock, v. Tosaf.].

(9) מנון E.V., ‘master’.

(10) Prov. XXIX, 21.

(11) A form of arrangement of the letters of the alphabet in groups of two, each group corresponding to the numerical value of ten (e.g. ב״ה,א״ט) or a hundred (e.g. כ״פ ,י״צ) while nun which in the tens has no corresponding letter is grouped with he which in the units has no corresponding letter.

(12) סהדה sahadah.

(13) Since the letters מ and ו correspond to ס and ד and each נ corresponds to a ה.

(14) מנון. מ = ס, נ = ה, ו = ד, ן = ה.

(15) Hos. IV, 12; the cause of the error thus being external.

(16) Ibid. V, 4; i.e., internal.

(17) Sc. the Evil Inclination.

(18) Sc. an inmate, an occupier of the house.

(19) II Sam. XII, 4.

(20) The more one yields to one's passions the more mastery they gain. Cf. ‘the appetite comes with the eating’.

(21) Kemar'itham, apparently compared with the rt. of ra'ab (‘to hunger’) or ra’ (‘bad’, ‘lean’). E.V. ‘fed’.

(22) Hos. XIII, 6.

(23) Isa. LII, 5.

(24) Ibid. XXIII, 13; i.e., it were better if they had never existed.

(25) Identified with the Arabs (Ishmaelites) who dwell all their lives in tents.

(26) Job XII,6 E.V., ‘in whatsoever God bringeth into their hand’.

(27) Mic. IV, 6; by creating the Evil Inclination.

(28) Which imply that God is responsible for the sins of His people.

(29) Euphemism for Israel.

(30) Mic. IV, 6; by creating the Evil Inclination.

(31) Jer. XVIII, 6.

(32) Ezek. XXXVI, 26.

(33) Ibid. 27.

(34) Zech. II, 3.

(35) Identified in Gen. R. XLIII with Melchizedek. [MS.M. reads: Melchizedek. He represented the best type of Monotheist of the non-Jewish race].

(36) [Read with MS.M.: demurred, מתקיף לה].

(37) Presumably ‘the craftsmen’.

(38) Zech. II, 4, Which shows that it refers to enemies of Israel.

(39) MS.M.: to rehabilitate them.

(40) Zech. ibid., which shows that the ‘horns’ refer to the enemies of Israel and not to the craftsmen.

(41) He admitted defeat at the hands of an expert in homiletics.

(42) Mic. V, 4.

(43) Non-Jews.

(44) Jews.

(45) The Yalkut and Ein Jacob have Elijah before Messiah. Cf. Mal. III, 23.

(46) Cf. Bah.

(47) The youths, who were able to carry the heavy weight of oil mentioned.

(48) In strength.

(49) Boethus was the High Priest whose daughter Martha married Joshua b. Gamala, the institutor of the school system in Palestine, and who with her wealth bribed Agrippa II to appoint him High Priest, c. 64. She was a widow when she married Joshua and the reference here may be to a son of her first marriage.

(50) Who was a priest.

(51) Up the ascent to the altar.

(52) Despite their heavy weight.

(53) I.e., in a stately and slow manner.
(54) Prov. XIV, 28; one ox had to be carried by twenty-four priests (cf. Yoma 26b).
(55) The youths, who were able to carry the heavy weight of oil mentioned.
(56) The two sides of an ox.
(57) Than thirty log.
(58) The total length of the ascent being thirty-two cubits and the height of the altar only nine cubits.
(59) Needing greater physical effort to ascend them even though the weight one carried was less.

Talmud - Mas. Sukkah 53a

A woman could[1] sift wheat by the illumination of the place of the Water-Drawing.

MEN OF PIETY AND GOOD DEEDS, etc. Our Rabbis have taught, Some of them, used to say,[2] ‘Happy our youth that has not disgraced our old age’. These were the men of piety and good deeds. Others used to say, ‘Happy our old age which has atoned for our youth’. These were the penitents. The former and the latter, however, said, ‘Happy he who hath not sinned, but let him who hath sinned return and He will pardon him.’[3]

It was taught, Of Hillel the Elder, It was said that when he used to rejoice at the Rejoicing at the place of the Water-Drawing, he used to recite thus, ‘If I am here, everyone is here; but if I am not here, who is here?’[4] He also used to recite thus, ‘To the place that I love, there My feet lead me: if thou wilt come into My House, I will come into thy house; if thou wilt not come to My House, I will not come to thy house, as it is laid, In every place where I cause My name to be mentioned, I will come unto thee and bless thee’.[5]

He[6] moreover once saw a skull floating upon the face of the water. ‘Because’, he said to it, ‘thou didst drown others, they have drowned thee, and they that drowned thee shall be drowned too’.[7]

R. Johanan stated, A man's feet are responsible for him; they lead him to the place where he is wanted.[8]

There were once two Cushites[9] who attended on Solomon, and these were Elihoreph and Ahyah, the sons of Shisha, scribes,[10] of Solomon. One day Solomon observed that the Angel of Death was sad. ‘Why’, he said to him, ‘art thou sad?’ — ‘Because’, he answered him, ‘they[11] have demanded from me the two Cushites who sit here’.[12] [Solomon thereupon] gave them in charge of the spirits[13] and sent them to the district of Luz.[14] When, however, they reached the district of Luz[15] they died. On the following day he observed that the Angel of Death was in cheerful spirits. ‘Why’, he said to him, ‘art thou cheerful?’ — ‘To the place’, the other replied, ‘where they expected them from me, thither didst thou send them!’[16] Solomon thereupon uttered the saying, ‘A man's feet are responsible for him; they lead him to the place where he is wanted’.

It was taught: They said of R. Simeon b. Gamaliel that when he rejoiced at the Rejoicing at the place of the Water-Drawing, he used to take eight lighted torches [and throw them in the air] and catch one and throw one and they did not touch one another;[17] and when he prostrated himself, he used to dig his two thumbs in the ground, bend down,[18] kiss the ground, and draw himself up again,[18] a feat which no other man could do, and this is what is meant by Kidah.[19]

Levi showed in the presence of Rabbi what Kidah is and as a result, became lame.[20] But was this the cause of his [lameness]? Did not R. Eleazar in fact state, One should never cast reproach against Providence, for a great man cast reproach against Providence and was as a result rendered lame, and he was[21] Levi?[22] Both the former and the latter were the cause [of his lameness].[23]

Levi[24] used to juggle in the presence of Rabbi[25] with eight knives, Samuel before King Shapur[26] with eight glasses of wine,[27] and Abaye before Rabbah[28] with eight eggs or, as some say, with four eggs. It was taught: R. Joshua b. Hanania stated, When we used to rejoice at the place of the Water-Drawing, our eyes saw no sleep. How was this? The first hour [was occupied with] the daily morning sacrifice; from there [we proceeded] to prayers; from there [we proceeded] to the additional sacrifice, then the prayers to the additional sacrifice, then to the House of Study, then the eating and drinking, then the afternoon prayer, then the daily evening sacrifice, and after that the Rejoicing at the place of the Water-Drawing [all night]. But it cannot be so![29] For did not R. Johanan rule, He who says, 'I take an oath not to sleep for three days' is to be flogged[30] and he may sleep forthwith?[31] — The fact is that what was meant was this: 'We did not enjoy a proper sleep', because they dozed on one another's shoulder.

FIFTEEN STEPS. R. Hisda said to a certain Rabbi who was arranging his Aggadas before him,[32] 'Have you heard in correspondence to what David composed his fifteen Songs of Ascent?'[33] — 'Thus', the other replied, 'said R. Johanan: When David dug the Pits[34] the Deep rose up and threatened to submerge the world, and David thereupon uttered the fifteen Songs of Ascent and caused its waves to subside'. But if so, [asked R. Hisda,] ought it not to be Songs of Descent, instead of Ascent? — 'Since you have reminded me', the other replied '[I may say that] it was stated thus: When David dug the Pits, the Deep arose and threatened to submerge the world. "Is there anyone", David enquired, "who knows whether it is permitted to inscribe the [Ineffable] Name

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(1) Cf. Tosaf. a.l.

(2) In the course of their praises.

(3) Tosef. Sukkah IV, 2.

(4) Ibid. IV, 3; 'I' referring to God (Rashi) or Israel (T.J. cf. Tosaf. a.l.).

(5) Ex. XX, 21; all the personal pronouns in the passage referring to the divine presence.

(6) Hillel.

(7) Cf. Aboth II, 6; an expression of the idea of Divine Retribution.

(8) By Death.

(9) 'Ethiopians' or (with Rashi) 'handsome men', as the Rabbis render the noun in Num. XII, 1.

(10) I Kings IV, 3.

(11) In heaven.

(12) Sc. death has been decreed against them.

(13) Over whom Solomon had dominion (cf. Meg. 11b, on I Chron. XXIX, 23).

(14) To save them from death. V. Gen. XXVIII, 19 and Judg. I, 23. Owing probably to the identification of this word with the one meaning 'the indestructible bone of the vertebra' (Lev. R., XVIII) tradition says that the Angel of Death had no power in Luz (v. Sot. 46b).

(15) And were still at the gate.

(16) It was decreed that they should die at the gate of Luz.

(17) A form of juggling.

(18) While still leaning on them.

(19) A form of prostration mentioned in Scripture, translated 'bowed their heads' (Ex. IV, 31). The feat consisted in the leverage of the body without bending or using the hands.

(20) The tremendous strain dislocated his thigh.

(21) Lit., 'and who was he?'

(22) V. Ta'an. 25a.

(23) His reproach of God was the Divine cause, and his attempt to perform Kidah the occasion. Cf. 'the ox dropped whets the knife' (Shab. 32a).

(24) On the occasion of the Rejoicing at the Water-Drawing.

(25) R. Judah I, the Patriarch, who was always in a melancholy mood, sorrowing for Israel's suffering and persecution, and whom his disciples were anxious to cheer.

(26) Shapur I, King of Persia, with whom Samuel was on such terms of friendship that the latter was sometimes called

King Shapur, cf. B.B. 115a (Sonc. ed., p. 475. n. 8).
(27) Without spilling any of their contents.
(28) Cur. edd. in parenthesis ‘Raba’.
(29) That they had no sleep during all the days devoted to the rejoicings of the Water-Drawing.
(30) For taking a false oath, since it is impossible to go three days without sleep.
(31) Shebu. 25a.
(32) [MS.M.: before R. Johanan].
(33) Pss. CXX-CXXXIV.
(34) R. Johanan disagrees with the previous view that the Pits were a natural formation dating from the Creation.

Talmud - Mas. Sukkah 53b

upon a sherd, and cast it into the Deep that its waves should subside?" There was none who answered a word. Said David, "Whoever knows the answer and does not speak, may he be suffocated". Whereupon Ahitophel[1] adduced an a fortiori argument to himself: "If, for the purpose of establishing harmony between man and wife, the Torah said, Let My name that was written in sanctity[2] be blotted out by the water,[3] how much more so may it be done in order to establish peace in the world!" He, therefore, said to him, "It is permitted!" [David] thereupon inscribed the [Ineffable] Name upon a sherd, cast it into the Deep and it subsided sixteen thousand cubits. When he saw that it had subsided to such a great extent, he said, "The nearer it is to the earth, the better the earth can be kept watered" and he uttered the fifteen Songs of Ascent and the Deep reascended fifteen thousand cubits and remained one thousand cubits [below the surface]’.’Ulla remarked, Deduce therefrom that the thickness of the earth's surface is one thousand cubits.[4] But do we not see that one has but to dig a little for the waters to emerge? — R. Mesharsheya answered, That[5] is due to the high level[6] [of the source] of the Euphrates.[7]

TWO PRIESTS STOOD BY THE UPPER GATE WHICH LEADS DOWN etc. R. Jeremiah asked, [What is meant by] ‘THE TENTH STEP’? Does it mean that they descended five [of the fifteen] and stood upon the remaining ten, or rather that they descended ten and stood upon the five? — It cannot be decided.[8]

Our Rabbis taught, Since it is said, And their faces toward the east,[9] is it not obvious that their backs were toward the Temple of the Lord?[9] What then is the import of the statement, ‘their backs were toward the Temple of the Lord’? It teaches that they uncovered themselves and committed there a nuisance.

WE ARE THE LORD'S AND OUR EYES ARE TURNED TO THE LORD etc. But can it be so? Did not R. Zera in fact rule, He who repeats Shema’, Shema’[10] is as though he said Modim, Modim [and he is silenced]?[11] — The fact is that it was this that they used to say, "They worshipped the sun toward the east" but as for us we give thanks unto the Lord, and to the Lord do our eyes hope’.[12]

MISHNAH. THEY NEVER SOUNDED LESS THAN TWENTY-ONE BLASTS IN THE TEMPLE,[13] AND NEVER MORE THAN FORTY-EIGHT. EVERY DAY THEY BLEW TWENTY-ONE BLASTS[14] IN THE TEMPLE, THREE AT THE OPENING OF THE GATES,[15] NINE AT THE DAILY MORNING SACRIFICE,[16] AND NINE AT THE DAILY EVENING SACRIFICE. AT THE ADDITIONAL SACRIFICES[17] THEY SOUNDED AN ADDITIONAL NINE; AND ON THE EVE OF THE SABBATH THEY ADDED SIX, THREE AS A SIGN TO THE PEOPLE TO CEASE FROM WORK AND THREE TO MARK A DISTINCTION BETWEEN THE HOLY AND THE PROFANE.[18]

ON THE EVE OF THE SABBATH IN THE INTERMEDIATE DAYS OF THE [SUKKOTH] FESTIVAL, THERE WERE [THEREFORE] FORTY-EIGHT BLASTS, [VIZ.,] THREE AT THE

OPENING OF THE GATES,[15] THREE AT THE UPPER GATE,[19] THREE AT THE LOWER GATE,[20] THREE AT THE WATER-DRAWING, THREE AT THE ALTAR,[21] NINE AT THE DAILY MORNING SACRIFICE, NINE AT THE DAILY EVENING SACRIFICE, NINE AT THE ADDITIONAL SACRIFICES, THREE AS A SIGN TO THE PEOPLE TO CEASE FROM WORK, AND THREE TO MARK A DISTINCTION BETWEEN THE HOLY AND THE PROFANE.[18] GEMARA. Our Mishnah does not agree with R. Judah, for it has been taught: R. Judah ruled, The minimum number of blasts is seven, and the maximum sixteen.[22] What is the basic principle of their dispute? — R. Judah is of the opinion that Teki'ah, Teru'ah and Teki'ah[23] are counted as one, and the Rabbis[24] are of the opinion that the Teki'ah and the Teru'ah are separate and distinct notes. What is the reason of R. Judah? — Scripture says, And ye shall sound a Teki'ah Teru'ah,[25] which clearly proves that the Teki'ah and the Teru'ah are regarded as one.[26] And the Rabbis?[27] — That verse is required to teach that the Teru'ah must be preceded and followed by a sustained blast.[28] What then is the reason of the Rabbis? — Because it is written, And when the congregation is to be gathered together, ye shall sound a Teki'ah, but not a Teru'ah.[29] Now if you could imagine that the Teki'ah and the Teru'ah form one note, would the Divine Law say, ‘Perform one half of the commandment, but not the other half’?[30] And R. Judah?[31] — That sounding was a mere signal.[32] And the Rabbis? — It was indeed a signal, but the Divine Law[33] made it into a commandment.

Whose view is followed in that which R. Kahana stated, There must be no interval whatever between the Teki'ah and the Teru'ah?[34] — In agreement with whose view [you ask]? In agreement with that of R. Judah.[35] But[36] is not this obvious?

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[1] The teacher of David. Cf. Aboth VI, 3 (the Baraitha of R. Meir).

[2] On a scroll. V. Num. V, 23.

[3] Ibid.

[4] Below which are ‘the depths beneath’.

[5] The water near the surface.

[6] Lit.,’ladder’.

[7] The Euphrates was reputed to have the highest source of all (Babylonian) rivers, v. Bek. 55a and Obermeyer, p. 56.

[8] Teku, v. Glos.

[9] Ezek. VIII, 16. V. our Mishnah.

[10] In order to avoid any suggestion of Dualism, it was rigidly forbidden to the Reader to repeat the word Shema’ (Deut. VI, 4), or the word modim (‘we give thanks’) in the ‘Amidah. (Ber. 33b).

[11] Here also he appears to repeat the word God twice.

[12] [Since each mention of the name of the Lord has reference to a different context, the suggestion of dualism does not arise].

[13] On any day.

[14] I.e., seven quavering sounds (teru'ahs) each of which was preceded and followed by a sustained one (teki'ah).

[15] Of the Temple court.

[16] When its libations were offered the Levites sang, and the blasts were blown at three intervals in the songs. At each interval there was one quavering blast preceded and followed by a sustained blast (cf. Tamid VII, 3).

[17] On New Moons, Sabbaths and Festivals.

[18] The Holy Sabbath and the profane weekdays.

[19] The Nikanor Gate; v. Mishnah supra 51b.

[20] That led out to the East.

[21] When they set the willow-branches at the side of the altar, v. supra 45a.

[22] Tosef. Sukkah IV, 10. In Zuckermandel's edition, the reading is thirteen instead of sixteen.

[23] The Teki'ah is a long drawn out sound and the Teru'ah a tremulous, quavering note.

[24] In our Mishnah.

[25] Num. X, 5; E.V., ‘And when ye blow an alarm’.

[26] So Rashal. Cur. edd. in parenthesis, ‘And it is written, an alarm they shall blow. How is this possible? By regarding the Teki'ah and the Teru'ah as one’.

(27) How, in view of this text can they maintain that the Teki'ah and the Teru'ah are regarded as separate blasts?
(28) Since in this verse Teki'ah precedes Teru'ah, and in another it follows it (cf. R. H. 34a). Cur. edd. in parenthesis insert, 'And whence does R. Judah deduce the necessity of a sustained blast preceding and following the Teru'ah? — He deduces it from the expression, a second time' (Num. X, 6).
(29) Num. X, 7; E.V., 'Ye shall blow, but ye shall not sound the alarm'.
(30) Hence their opinion that the Teki'ah and the Teru'ah are independent blasts.
(31) How, in view of this argument, does he justify his statement?
(32) For the camp. As it had no religious significance its incompleteness did not matter.
(33) By commanding its use.
(34) 'Ar. 10a.
(35) Who regards the three notes as one.
(36) Cur. edd. in parenthesis, 'if R. Judah'.

Talmud - Mas. Sukkah 54a

— [No.] As it might have been said that it is also in agreement with the view of the Rabbis, and that its purpose[1] was to exclude the view of R. Johanan who laid down that if a man heard the nine Teki'ahs[2] in nine hours[3] during the day he has still fulfilled his obligation, therefore he informed us [that it agrees only with the view of R. Judah]. Might it not be suggested that it is indeed so?[4] — If it were so,[5] what could be meant by 'no interval whatever'?

ON THE EVE OF THE SABBATH IN THE INTERMEDIATE DAYS OF THE FESTIVAL etc. But [the sounding of the trumpet] on the tenth step[6] he does not mention. In agreement with whose view then is our Mishnah? — It is in agreement with that of R. Eliezer b. Jacob, for it has been taught: Three blasts on the tenth step. R. Eliezer b. Jacob ruled, Three at the altar. He[7] who ruled three on the tenth step omits the three at the altar; and he[8] who ruled three at the altar omits the three upon the tenth step.

What is the reason of R. Eliezer b. Jacob? — Since one sounded the trumpet for the opening of the gates, why should one sound it on the tenth step? Is it not a gate![9] It is, therefore, preferable that the trumpet should be sounded at the altar. The Rabbis, however, are of the opinion that since one sounds the trumpet for the Water-Drawing,[10] why should one sound it at the altar?[11] It is, therefore, preferable to sound it upon the tenth step.[12]

When R. Aha b. Hanina came from the South, he brought a Baraitha with him [which read:] And the sons of Aaron the priests shall blow with trumpets.[13] Surely there was no need to state explicitly 'shall blow', since it is already written, Ye shall blow with the trumpets over your burnt-offerings and over the sacrifices of your peace-offerings.[14] Why then was it stated, 'shall blow'? [To teach you that] the sounding of the trumpets is throughout in accordance with the number of the additional offerings.[15] He[16] taught this [Baraitha] and he also explained it to mean that the trumpet is to be sounded[17] for every single additional offering.[18]

We have learnt, ON THE EVE OF THE SABBATH IN THE INTERMEDIATE DAYS OF THE FESTIVAL THERE WERE [THEREFORE] FORTY-EIGHT BLASTS. Now if it were so,[19] why was it not stated[20] that on the Sabbath of the Festival[21] it was possible to have fifty-one blasts?[22] — R. Zera answered, Because the trumpet was not sounded at the opening of the gates on the Sabbath.[23]

Who is this, Raba exclaimed, who is not concerned about the flour [he grinds out]?[24] [The answer is untenable], firstly, because we have learnt EVERY DAY[25] and, secondly, even if there were[26] the same number,[27] it should still have been stated that 'on the Sabbath of the Festival they blew forty-eight blasts' since from this statement one could make two deductions, that of R. Eliezer b.

Jacob[28] and that of R. Aha b. Hanina.[29] The fact, however, is, Raba explained, [that the reason[30] is] because the trumpet was not sounded for the Water-Drawing on the Sabbath,[31] so that[32] the number was diminished much.[33]

But[34] why was not the New Year that fell on a Sabbath mentioned[35] seeing that on it there are three additional sacrifices: The additional offering of the New Year, the additional offering of the New Moon, and the additional offering of the Sabbath?[36] — It was necessary to teach the instance of the eve of the Sabbath in the Intermediate Days of the Festival in order to inform us that the law is in agreement with R. Eliezer b. Jacob.[37] Was it then asked why the one was not mentioned instead of the other? [The question in fact is] why is not the one mentioned as well as the other?[38] — [The Tanna of our Mishnah] might have mentioned some and omitted others. But what else did he omit to justify this omission also?[39] — He omitted the instance of the eve of Passover.[40]

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(1) In stating that there must be ‘no interval’.

(2) Of the New Year (v. R.H. 34b).

(3) I.e., at long intervals.

(4) That R. Kahana's statement agrees also with the view of the Rabbis and excludes only that of R. Johanan.

(5) That in agreement with the Rabbis, short intervals are permitted.

(6) Of the Temple court; v. Mishnah supra 51b.

(7) Sc. the Rabbis.

(8) R. Eliezer.

(9) Of course it is.

(10) The rejoicing at which is the real cause of all the extra soundings of the trumpet on the Festival (Rashi).

(11) I.e.,where the sounding might appear to be due to the willow-branch ceremony.

(12) Which makes it more evident that it is specially sounded on account of the Water-Drawing, as no other rite is connected with the tenth step.

(13) Num. X, 8.

(14) Num. X, 10.

(15) This is explained presently.

(16) R. Aha b. Hanina.

(17) The prescribed number of blasts.

(18) If the day is, for instance, both a Sabbath and a Festival, the prescribed number of nine blasts must be sounded for each of the two additional offerings.

(19) As R. Aha b. Hanina interpreted.

(20) In giving the maximum number possible.

(21) Since there are two additional sacrifices, that of Sabbath and that of the Festival.

(22) Three more than on the Sabbath eve (according to R. Judah) on account of the second additional offering, after deducting the special six sounded on Sabbath eve.

(23) So that there were three less than on the Sabbath eve.

(24) A criticism of R. Zera: ‘He does not care what answer he gives’.

(25) Including the Sabbath day. If on the Sabbath no blasts were sounded at the opening of the gates the number on that day would have been less than the number so given in our Mishnah.

(26) On the Sabbath and on the Sabbath eve.

(27) Forty-eight.

(28) That the blowing of the trumpets was upon the altar and not on the tenth step, as our Mishnah goes on to explain.

(29) That the trumpet was sounded for every additional offering.

(30) Why the Sabbath was not mentioned.

(31) Since the water was drawn on the Sabbath eve (v. supra 48b).

(32) On the Sabbath.

(33) Those of the upper gates and the lower gates and the altar, besides those that served as a sign to cease work and to mark the distinction between the holy and the profane.

(34) According to R. Aha who maintains that each additional offering was accompanied by additional blasts.

(35) Among the maxima in our Mishnah.

(36) Making a total of forty-eight: The twenty-one daily blasts and the twenty-seven for the three additional sacrifices.

(37) As stated supra, that no blasts were sounded on the tenth step.

(38) Lit., 'let him teach this and let him teach that'.

(39) The answer that he mentioned some and omitted others is valid only if it can be shown that other instances beside the one under discussion have also been omitted.

(40) The sacrifice of the Paschal Lamb was performed by three groups of the people, each one reading the Hallel three times and sounding three blasts on the trumpet each time, making a total of twenty-seven blasts (cf. Pes, 64a). which added to the twenty-one blasts sounded daily, amounts to forty-eight.

Talmud - Mas. Sukkah 54b

If [the omission is to be justified] on account of the omission of the eve of the Passover, [the latter, it may be pointed out], is no omission, for this statement[1] is made according to[2] R. Judah who stated, Never in the life of the third group did they reach the verse, I love the Lord, for he heareth my voice,[3] since the people composing the group were few in number.[4] But[5] did you not say that the earlier part of our Mishnah is not in agreement with R. Judah?[6] — Is it not possible that our Tanna agrees with R. Judah on one point[7] though he disagrees with him on another point?[8] What else then was omitted that we might say that this also was similarly omitted? — The other omission was the eve of the Passover which fell on the eve of a Sabbath, when six blasts are to be subtracted[9] and six[10] are to be added.

AND NEVER MORE THAN FORTY-EIGHT. No? But is there not the eve of the Passover which falls on the Sabbath, on which, if the statement is in agreement with R. Judah, there were fifty-one blasts, and if it is in agreement with the Rabbis[11] there were fifty-seven?[12] — [Our Mishnah] mentioned only those which recur annually, but does not mention the case of the eve of the Passover which falls on the Sabbath, since it does not occur every year. Does then the eve of the Sabbath in the Intermediate Days of a Festival occur every year? May it sometimes not happen at all, this being the case[13] when, for instance, the first day of the Festival coincides with the eve of the Sabbath?[14] — No, when the first day of the Festival would coincide with the eve of the Sabbath, the Festival is postponed.[15] What is the reason?[16] — Because if the first day of the Festival were to fall on the eve of the Sabbath, when would the Day of Atonement [of that year] be? On the [previous] Sunday.[17] Therefore it is postponed.[18]

But do we postpone it? Have we not in fact learnt, The fats [of offerings performed on] the Sabbath[19] may be offered on the Day of Atonement;[20] and R. Zera furthermore stated, When I was[21] in the school of Rab in Babylon[22] I used to say that that which has been taught, 'If the Day of Atonement fell on the eve of the Sabbath, they did not sound the trumpet,[23] and if it fell at the conclusion of the Sabbath[24] they did not recite the Habdalah'[25] is agreed to by all,[26] but when I came up to Palestine[27] I found R. Judah the son of R. Simeon b. Pazzi that he sat at his studies and taught that it was in agreement with R. Akiba only?[28] — This is no difficulty since the one statement[29] is according to the Rabbis[30] and the other[31] according to 'the Others',[32] for it has been taught, 'Others' say, There cannot be more than four weekdays' difference between the Pentecost of one year and the next, and between one New Year and the next,[33] and if the year was prolonged,[34] there would be five days.[35]

An objection was raised:[36] If New Moon fell on the Sabbath, the Psalm of the New Moon[37] supersedes the Psalm of the Sabbath.[38] Now if the law were [as R. Aha stated], why[39] should not one say both that of the New Moon and that of the Sabbath?[40] — R. Safra replied: What is meant by 'supersedes'? That it[41] supersedes it[42] in the sense of taking precedence over it. But why? [Does not then] that which is constant take precedence over that which is not constant?[43] — R. Johanan answered, [The New Moon Psalm was given precedence] in order that people should know that the

New Moon has been fixed[44] at its proper time.[45] Do we then use this[46] as a distinguishing sign? Do we not in fact use another distinguishing sign, as we have learnt:[47] ‘The fats[48] of the Daily Morning offering were placed on the lower half of the Ascent [of the altar] on its east side,[49] while those of the additional offerings were placed on the lower half of the Ascent on its west side;[50] while those of the New Moon were placed beneath the rim of the altar below,’[51]

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(1) The maximum of forty-eight blasts on the eve of the Passover.

(2) Lit., ‘this according to whom’.

(3) Ps. CXVI,1; sc. they did not complete the Hallel even once. The number of blasts in their case was, therefore, no more than three.

(4) Pes. 64a; most of the people having joined the first, or the second group. Only in the case of these two groups, the offering of whose sacrifices took longer than the singing of the Hallel, owing to their large number, it was necessary to read it a second and a third time.

(5) For the reading cf. Rashal. Cur. edd., ‘surely we have established’.

(6) Who, contrary to our Mishnah, enumerates a minimum of seven and a maximum of sixteen (v. supra 53b). Now is it likely that the latter clause will be in agreement with his view while the earlier one is not?

(7) As regards the Passover eve.

(8) The number of blasts. As this is, of course, possible the instance of the eve of the Passover could not obviously have been cited and, consequently, could not be regarded as an omission.

(9) From the blasts for the third group, in agreement with R. Judah's statement.

(10) Of the blast common to every Sabbath eve, the three for ceasing work and the three that served as a mark of distinction between the holy and the profane.

(11) Who, contrary to R. Judah's statement, maintain that the Hallel was recited three times by the last group also.

(12) Six more, three for each repetition of the Hallel.

(13) Lit., ‘and how is this to be imagined?’

(14) The Water-Drawing does not override the first day of the Festival if it is a Sabbath, and the following Sabbath is already the Eighth Day of Solemn Assembly on which the Water-Drawing ceremonial no longer took place.

(15) By one day. The previous month of Ellul is made to have thirty days instead of twenty-nine, so that the Friday which would have been the fourteenth of Tishri is the thirteenth of the month.

(16) For the postponement of the first day of the Festival, and consequently, the first of Tishri by one day.

(17) Since the first day of the Festival is on the fifteenth of Tishri and the Day of Atonement is on the tenth of that month.

(18) The Day of Atonement was not allowed to fall on a Sunday on account of the difficulties involved. (V. R.H. 20a).

(19) Sc. the daily evening sacrifice.

(20) Which immediately follows it. (Shab. XV, 5).

(21) [So MS.M. V. Shab. 114b, cur. edd. ‘we were’.]

(22) R. Zera was a Babylonian who emigrated to Palestine.

(23) To warn the people to cease work, since in any case no work was done on that Friday on account of the sanctity of the Day of Atonement.

(24) Since the Day of Atonement is no less holy than the Sabbath day.

(25) The prayer of ‘distinction’ between a holy day and a weekday and between one holy day and another.

(26) Sc. by R. Ishmael and R. Akiba.

(27) Lit., ‘there’.

(28) Shab. 114b. Now in any case both the Mishnah and the Baraitha cited prove that the Day of Atonement may fall on a Sunday. How then could it be maintained that if it were to fall on a Sunday it must be postponed?

(29) Our Mishnah which implies that there is no Intermediate Sabbath every year.

(30) Who allow the addition of an extra day to Ellul to meet certain exigencies. Hence the postponement.

(31) The Baraitha which implies that the Day of Atonement can fall on a Sunday.

(32) Sc. R. Meir who allows no addition of any extra day to a month to meet certain exigencies and, consequently, no postponement.

(33) I.e., if in one year it falls on a Sunday, in the next it must be on a Thursday, since the twelve months consist of 29 and 30 days alternately or 6 x (29 +30) = 354 days =354/7 weeks= 50 weeks and 4 days.

(34) By the addition of an extra month.
(35) The additional intercalated month being always twenty-nine days, R.H. 6b.
(36) Against R. Aha's view (supra p. 54a) that the trumpet was sounded separately for every additional offering of the day.
(37) Ps. CIV.
(38) Ps. XCII.
(39) Since the sounding of the trumpet accompanied the singing of the Psalms.
(40) I.e., a separate Psalm for each additional offering, in the same manner as there was a separate sounding of the trumpet.
(41) The Psalm for the New Moon.
(42) The Sabbath Psalm.
(43) It is a general principle that that which has the more common incidence takes precedence over that of the less common occurrence. Why then should not the Sabbath Psalm take precedence over that of the New Moon?
(44) By the Great Beth din in Jerusalem.
(45) Not every one can see the birth of the New Moon, and the fact that its Psalm was given preference served as an assurance of the official recognition of the date.
(46) The precedence of the Psalm.
(47) Cur. edd. in parenthesis, ‘it was taught’.
(48) The term here refers to all parts of the sacrifice.
(49) Var. lec. ‘west side’.
(50) Var. lec. ‘east side’. So also Maimonides.
(51) Var. lec. ‘on the rim of the altar above’. V. Shek. VIII, 8.

Talmud - Mas. Sukkah 55a

and in connection with this R. Johanan stated that [the reason for this[1] was] that people should know that the New Moon has been fixed at its proper time? — Two distinguishing signs were made, so that some might see the one while others might see the other.[2]

An objection was raised[3] [from what] Raba b. Samuel learned: Since it might have been presumed that as the trumpet is sounded for the Sabbath on its own[4] and for the New Moon on its own[5] it is also sounded for each additional offering separately.[6] Scripture, therefore, teaches explicitly, And on your New Moons.[7] Is not this then a refutation of R. Aha? — It is indeed a refutation. But how is the inference[8] made? — Abaye answered, Scripture says, ‘And on your New Moons’, whereby all the months are compared with one another.[9] R. Ashi answered, It is written, ‘your month’[10] and it is written ‘On the beginnings of.’[11] What month is it that has two beginnings? It is, you must say, that of the New Year,[12] and the Divine Law nevertheless says, ‘your month’[10] viz., that it is to be regarded as one.

Moreover it has been taught: What did they recite on the first day of the Intermediate Days?[13] Ascribe unto the Lord, O ye sons of might.[14] On the second day what did they recite? But unto the wicked God saith.[15] On the third day what did they recite? Who will rise up for me against the evil-doers?[16] On the fourth day what did they recite? Consider, ye brutish among the people.[17] On the fifth day what did they recite? I removed his shoulder from the burden.[18] On the sixth day what did they recite? All the foundations of the earth are moved;[19] and if the Sabbath occurred on any of these days[20] ‘are moved’[21] is to be superseded.[22] R. Safra assigned to them[23] the mnemonic Humbahi.[24] R. Papa assigned to them the mnemonic Humhabi;[25] and the mnemonic for you[26] is ‘the escort of the scribes’.[27] Now is not this a refutation of R. Aha b. Hanina?[28] — It is indeed a refutation.

But did not R. Aha b. Hanina quote both a Scriptural verse and a Baraitha [in support of his view]?[29] — Rabina answered, [The meaning of the Baraitha is] that the trumpet blasts are lengthened.[30] The Rabbis of Caesarea in the name of R. Aha[31] stated, It[32] means that the number of the trumpeters is to be increased.

And we who keep two days [of the Festival], how do we proceed?[33] — Abaye ruled, The [paragraph for the] second day is to be omitted.[34] Raba ruled, [That of] the seventh day is omitted.[35] It was taught in agreement with Raba: If the Sabbath falls on one of them[36] 'are moved'[37] is omitted.

Amemar instituted in Nehardea[38] to go back and repeat the previous portions.[39]

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(1) The special place for the New Moon sacrificial pieces.
(2) Lit., 'he who saw one saw it' etc.
(3) To R. Aha's view.
(4) Sc. when it is an ordinary Sabbath.
(5) Sc. when it occurs on a weekday.
(6) Even when Sabbath and New Moon occur on the same day.
(7) Num. X, 10. This is explained presently.
(8) From Num. X, 10 (cf. prev. n.).
(9) Sc. whatever Festivals the day of the New Moon may have, the number of trumpet blasts is always to be the same, i.e., they are to be sounded for one additional offering only.
(10) Num. X, 10; i.e., the written form being defective it may be rendered as a sing.
(11) The plural form, ibid. E.V., 'In the beginnings of your months'.
(12) Since its first day is both New Moon and New Year.
(13) Of Tabernacles, when the additional sacrifice was being offered.
(14) Ps. XXIX, 1. Sc. all the Psalm in which this verse occurs.
(15) Ps. L, 16. Sc. the whole Psalm (cf. prev. n.).
(16) Ps. XCIV, 16. From this verse to the end of the Psalm (Rashi).
(17) Ps. XCIV v, 8. Sc. vv. 8-15 (Rashi).
(18) Ps. LXXXI, 7. Sc. all the Psalm.
(19) lbid. LXXXII, 5. Sc. all the Psalm.
(20) When Ps. XCII had to be read.
(21) Sc. Ps. LXXXII which is allotted to the last day.
(22) The Psalm that is superseded by the Sabbath Psalm is read on the Sunday and is followed on the subsequent days by the other Psalms in the order given, so that the Psalm for the last day is always the one completely superseded.
(23) The Psalms mentioned.
(24) A fictitious word composed of the first letters of the verses quoted.
(25) Making Ps. LXXXI precede Ps. XCIV, 8-15.
(26) To remember who made Humbahi his mnemonic, and who Humhabi.
(27) Or 'school teachers' whose quarters are frequented by many people, men and women. Sadra is the Aramaic for 'scribe' or 'school teacher', and 'ambuha', ('an escort') is similar in sound to Humbahi. The mnemonic thus suggests that 'Safra said humbahi'.
(28) Who ruled supra that for every additional offering of the day there were special blasts, thus requiring also special Psalms while here it is ruled that one Psalm superseded the other.
(29) How then could such an authoritative statement be refuted?
(30) Not as R. Aha b. Hanina interpreted it. The Baraitha merely says that 'they sound according to the additional offerings'. The explanation that it means separate blasts for each additional offering is R. Aha's alone and his own interpretation might well be refuted.
(31) Not to be confused with R. Aha b. Hanina.
(32) The Baraitha.
(33) The paragraphs of the sacrifices (v. Num. XXVIII) are to be read on the respective days. Since, owing to doubt, two days instead of one, are kept as the first day of the Festival, thus diminishing the Intermediate Days by one, which of the paragraphs is to be omitted?
(34) And the others then follow in order.

(35) That of the second to the sixth being moved one day forward.

(36) The days of Tabernacles.

(37) Sc. Ps. LXXXII, i.e., the Psalm of the seventh, which is the last day.

(38) In the case of the Pentateuchal texts dealing with the respective sacrifices on the different days of the Festival, that are included in the additional prayers of the respective days.

(39) Lit., 'to skip'. Sc. on the first day of the Intermediate Days, concerning which there is doubt whether it is the second or the third day of the Festival, the paragraphs relating to the second and the third (Num. XXIX, 17-22) are recited; on the second day which might be the third or the fourth, the paragraphs relating to the third and the fourth (ibid 20-25) are recited; on the third day, which might be the fourth or the fifth, the paragraphs relating to the fourth and fifth (ibid. 23-28) are recited, and so on. None of the paragraphs is thus omitted. This is the custom followed nowadays.

Talmud - Mas. Sukkah 55b

MISHNAH. ON THE FIRST FESTIVAL DAY OF TABERNACLES THERE WERE OFFERED THIRTEEN BULLOCKS, TWO RAMS AND ONE HE-GOAT.[1] FOURTEEN HE-LAMBS[2] THEREFORE[3] REMAINED FOR THE OTHER EIGHT COURSES OF PRIESTS. ON THE FIRST DAY, SIX[4] OFFERED[5] TWO EACH AND THE REMAINING [TWO] ONE EACH.[6] ON THE SECOND DAY[7] FIVE [COURSES][8] OFFERED[5] TWO EACH AND THE REMAINING [FOUR] ONE EACH.[6] ON THE THIRD DAY[9] FOUR [COURSES][10] OFFERED TWO EACH AND THE REMAINING [SIX] ONE EACH.[11] ON THE FOURTH DAY[12] THREE[13] OFFERED TWO EACH AND THE REMAINING [EIGHT] ONE EACH.[11] ON THE FIFTH DAY[12] TW[13] OFFERED TWO EACH AND THE REMAINING [TEN] ONE EACH.[11] ON THE SIXTH DAY[12] ONE[13] OFFERED TWO AND THE REMAINING [TWELVE] ONE EACH.[11] ON THE SEVENTH DAY[14] ALL WERE EQUAL.[15] ON THE EIGHTH DAY[16] THEY AGAIN CAST LOTS[17] AS ON THE OTHER PILGRIM FESTIVALS. IT WAS ENJOINED THAT [THE COURSE] THAT OFFERED BULLOCKS ON ONE DAY SHOULD NOT OFFER THEM ON THE MORROW, BUT THAT THEY SHOULD TAKE THEIR TURNS IN ROTATION.[18]

GEMARA. Must we say that our Mishnah[19] represents the view of Rabbi, and not that of the Rabbis, since it has been taught, For the bullock which is offered on the Eighth Day lots are cast as at first,[20] these are the words of Rabbi, but the Sages ruled, One of the two courses which did not have a third turn in the bullocks[21] offered it? — You may even say that it represents the view of the Rabbis,[22] for do not two courses also require[23] the casting of lots?[24]

Whose view is followed in that which has been taught, All the courses repeated[25] a second and a third time, with the exception of two courses who repeated a second time but not a third one?[26] Must we say that it follows that of Rabbi, and not that of the Rabbis?[27] — You may even say that it follows that of the Rabbis, but the statement that[28] they did not repeat a third time refers to the bullocks of the Festival.[29] What then does this[30] teach us?[31] — It is this that we were taught, that he who offered bullocks on the one day shall not offer them on the morrow, but they must all take their turns in rotation.

R. Eleazar[32] stated, To what do those seventy bullocks[33] [that were offered during the seven days of the Festival] correspond? To the seventy nations.[34] To what does the single bullock [of the Eighth Day] correspond? To the unique nation.[35] This may be compared to a mortal king who said to his servants, 'Prepare for me a great banquet'; but on the last day he said to his beloved friend, 'Prepare for me a simple meal that I may derive benefit from you'.

R. Johanan observed, Woe to the idolaters, for they had a loss and do not know what they have lost.[36] When the Temple was in existence the altar atoned for them, but now[37] who shall atone for them?

MISHNAH. AT THREE PERIODS IN THE YEAR[38] ALL THE COURSES OF THE PRIESTS SHARED EQUALLY IN THE FESTIVAL SACRIFICES[39] AND IN THE DIVISION OF THE SHEWBREAD.[40] ON PENTECOST[41] THEY USED TO SAY TO THE PRIEST,[42] ‘HERE IS UNLEAVENED BREAD FOR YOU,[43] HERE IS LEAVENED BREAD’.[44] THE COURSE OF PRIESTS WHOSE PERIOD OF SERVICE WAS FIXED [FOR THAT FESTIVAL WEEK][45] OFFERED THE DAILY OFFERING, VOW-OFFERINGS AND FREEWILL-OFFERINGS AND ALL OTHER CONGREGATIONAL OFFERINGS;[46] AND IT OFFERED THEM ALL.[47]

GEMARA. But are not the emurim[48] the Most High's?[49] - R. Hisda replied, [The meaning is], that which is prescribed [to be offered] on the Festivals.[50]

Our Rabbis taught, Whence do we know that all the courses share equally in the sacrifices of the Festival? Since Scripture explicitly stated, And come with all the desire of his soul . . . and minister.[51] As it might be said that the same applies to all the days of the year Scripture explicitly teaches ‘From one of thy gates’[52] [meaning this:] I have said so, [saith the Lord], Only when all Israel enter[53] by one gate.[54]

AND IN THE DIVISION OF THE SHEWBREAD. Our Rabbis taught, Whence do we know that all the courses share equally in the division of the shewbread?

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(1) As prescribed in Num. XXIX, 13 and 16, a total of sixteen beasts.

(2) Ibid. 13.

(3) Since there were twenty-four courses (v. Ta'an., Sonc. ed., pp. 136 and 142f) of priests all of whom were entitled to share in the Festival sacrifices, and sixteen of these were occupied with the sixteen beasts (ct. n. 7).

(4) Of the eight courses.

(5) Of the fourteen lambs.

(6) A total of fourteen.

(7) When the number of bullocks was reduced by one (cf. Num. XXIX, 17), and only fifteen courses were occupied with the twelve bullocks, two rams and one he-goat.

(8) Of the remaining (24 — 15 =) 9.

(9) When the number of bullocks was again reduced by one. From the second day to the seventh day the number was reduced by one on each successive day (v. Num. XXIX, 17-32).

(10) Of the remaining (24 — 14 =) 10.

(11) A total of fourteen.

(12) Cf. p. 267, n. 15 mut. mut.

(13) Cf. p. 267, n. 16.

(14) When the number of beasts, seven bullocks, two rams, fourteen he-lambs (Num. XXIX, 32) and one he-goat (ibid. 34) was equal to the number of the courses of priests.

(15) Sc. each course offered one beast.

(16) When there was but one bullock, one ram and seven he-lambs to be offered (Num. XXIX, 36) a number that did not suffice to provide even one beast for each course of priests.

(17) As prescribed in Yoma 22a.

(18) So that twenty-two of the courses had three turns with the bullocks and only two had no more than two turns (cf. Rashi a.l.).

(19) Which states ON THE EIGHTH DAY THEY AGAIN CAST LOTS, presumably for all the twenty-four courses.

(20) Sc. by all the twenty-four courses, as if the Festival has just begun, and not merely by those who had only two turns in the bullocks (cf. prev. n. but one).

(21) Cf. supra n. 8.

(22) The Sages.

(23) To determine which of them should have the privilege of offering the bullock of the Eighth Day.

(24) Of course they do.

(25) The offering of a bullock during the seven days of Tabernacles.

(26) Tosef. Suk. IV, 15.

(27) Since according to the Rabbis, who regard the offering of the bullock of the Eighth Day as connected with the offerings on the previous seven days, only one course did not offer a third time.

(28) Lit., ‘what’.

(29) But not to the bullock of the Eighth Day.

(30) The statement that twenty-two repeated three times and two repeated only twice.

(31) Is it not obvious that seventy bullocks divided among twenty-four courses means that twenty-two offered three each and the remaining two courses two each?

(32) Cur. edd. in parenthesis, ‘Eliezer’.

(33) Cf. prev. n. but one.

(34) Seventy is the traditional number of Gentile nations, and the seventy bullocks are offered to make atonement for them.

(35) Israel.

(36) By their destruction of the Temple.

(37) That it is no longer in existence.

(38) Passover, Pentecost and Tabernacles.

(39) Sc. those prescribed for respective Festivals. The word used is emurim which usually signifies that part of the sacrifice which is burnt upon the altar. The Gemara explains this infra.

(40) If there was a Sabbath during the Festival. Cf. Lev. XXIV, 5-9. The shewbread was removed from the table and distributed among the priests on the Sabbath day (cf. Men. 52b).

(41) If it happened to be on a Sabbath.

(42) When he was given his share.

(43) Sc. shewbread. The twelve loaves of the shewbread were unleavened.

(44) The two loaves prescribed as a Pentecost offering. These were leavened. Each priest must receive a share from the leavened as well as from the unleavened. It is not enough to give him a larger share in the one to make up for the share due to him in the other (cf. Kid. 53a, Men. 73a).

(45) Each course officiated in turn for one week during which they offered and received the dues from all the sacrifices of that week.

(46) That have not been prescribed for the Festival. It is only in the sacrifices that were prescribed for the Festival in question that all the courses have an equal share.

(47) This apparently superfluous statement is explained in the Gemara infra.

(48) Rendered in our Mishnah SACRIFICES (cf. supra p. 269, n. 14).

(49) Burnt upon the altar. How then can they be shared among the priests?

(50) R. Hisda connects emurim with amur ‘stated’, ‘declared’, referring to the sacrifices prescribed to be offered by individuals on a Festival; the festive peace-offerings of the breast and shoulder belonged to the priests, and the burnt-offerings brought on appearing in the Temple of which the hide was given to the priests. V. Hag., Sonc. ed., p. 2, nn. 1-2.

(51) Deut. XVIII, 6, 7. ‘Levite’ in this verse refers to the priests. On all other days the offering belonged to the officiating course (cf. Lev. VII, 9).

(52) Deut. XVIII, 6; emphasis on ‘one’.

(53) I.e., into the one city of Jerusalem.

(54) Sc. during the Festivals.

Talmud - Mas. Sukkah 56a

From Scripture which teaches, They shall have portion to portion to eat,[1] meaning, as the division of the service [is equal for all], so is the division of the food.[2] Now what food [could this mean]? If you will say that it means the sacrifices, do we not deduce that from a different verse,[3] It shall be the priest's that offers it?[4] Consequently[5] it must refer to the shewbread. As one might assume that the same applies also to obligatory offerings that are offered on the Festival, though not on account of the Festival,[6] Scripture explicitly teaches, Except for that which is sold[7] according to the fathers’ houses;[1] now what is it that the fathers have sold to each other? [The week allotted to each course, each one having agreed] ‘I shall be in charge in my week and you in your week’.[8]

ON PENTECOST THEY USED TO SAY TO THE PRIEST etc. It was stated, Rab ruled, [The benediction of] the Sukkah[9] [comes first][10] and then that of the season.[9] Rabbah b. Bar Hana ruled, [The benediction of] the season [is first] and then that of the Sukkah. ‘Rab ruled, [The benediction of] the Sukkah [comes first] and then that of the season’, since the obligation of the day is more important. ‘Rabbah b. Bar Hana ruled, [The benediction of] the season [is first]’, since that which is more constant[11] precedes that which is less constant.[12] Must we say that Rab and Rabbah b. Bar Hana differ on the same principles as those on which Beth Shammai and Beth Hillel differed? For our Rabbis have taught, These are the points of difference between Beth Shammai and Beth Hillel with regard to [the ritual at] a meal: Beth Shammai rule that one[13] recites the benediction of the day[14] and then the benediction over the wine, whereas Beth Hillel rule that one recites the benediction over the wine and then the benediction of the day. ‘Beth Shammai rule that one recites the benediction of the day and then the benediction over the wine’, since it is the day which is the cause of the wine being brought,[15] and [moreover] the sanctification of the day comes before the wine is brought;[16] ‘whereas Beth Hillel rule that one recites the benediction over the wine first and then the benediction of the day’, since the wine is the cause of the sanctification being recited.[17] Another reason: The benediction over wine is more common,[18] and the benediction of the day less common,[19] and that which is more common takes precedence over that which is less common.[20] Now must we say that Rab[21] is in agreement with Beth Shammai and Rabbah b. Bar Hana[22] with Beth Hillel? — [No,] Rab can answer you, I may uphold my view even according to Beth Hillel, for Beth Hillel maintain their ruling only in that case, since the wine is the cause of the sanctification being recited, but not in this case, since even if there were no benediction of the season, do we not say [the benediction of] the Sukkah?[23] And Rabbah b. Bar Hana can answer you, I may maintain my view even according to Beth Shammai, for Beth Shammai gave their ruling only in that case, since it is the day which is the cause of the wine being brought, but not in this case, since even without a Sukkah do we not recite [the benediction of] the season?[24]

We have learnt, ON PENTECOST THEY USED TO SAY TO THE PRIEST, ‘HERE IS UNLEAVENED BREAD FOR YOU, HERE IS LEAVENED BREAD’. Now here, surely, the leavened bread is the essential feature [of the Festival][25] and the unleavened bread an unessential one,[26] and yet it teaches, ‘HERE IS UNLEAVENED BREAD FOR YOU, HERE IS LEAVENED BREAD’. Is not this then a refutation of Rab?[27] — Rab can answer you, This point is one in dispute between Tannas; for it has been taught [elsewhere], ‘Here is unleavened bread for you, here is leavened bread’. Abba Saul, [however] stated, [They said,] ‘Here is leavened bread for you, here is unleavened’.

R. Nahman b. R. Hisda expounded: The law is not according to Rab who said, [First the benediction of] the Sukkah and then [that of] the season, but first [is the benediction of] the season and then [is that of] the Sukkah. R. Shesheth the son of R. Idi however, laid down, First [the benediction of] the Sukkah and then [that of] the season; and the law is that the benediction of Sukkah is first and then follows that of the season.

THE COURSE OF PRIESTS WHOSE PERIOD OF SERVICE WAS FIXED etc., AND ALL OTHER CONGREGATIONAL OFFERINGS. What does [this][28] include? — It includes the bullock brought as a result of a transgression caused by the forgetfulness of the congregation[29] and the he-goats brought as an atonement for idolatry.[30]

AND IT OFFERED THEM ALL. What does this include? — It includes the slack season[31] of the altar.[32] MISHNAH. IF A FESTIVAL FELL NEXT TO THE SABBATH, EITHER BEFORE OR AFTER IT,[33] ALL THE COURSES SHARED EQUALLY IN THE DISTRIBUTION OF THE SHEWBREAD. IF ONE DAY INTERVENED BETWEEN THEM,[34] THE COURSE WHOSE

PERIOD OF SERVICE WAS FIXED [FOR THAT WEEK] TOOK TEN [OF THE] LOAVES, WHILE THEY THAT WERE DETAINED[35] TOOK TWO.[36] ON ALL OTHER DAYS OF THE YEAR THE INCOMING COURSE TOOK SIX LOAVES AND THE OUTGOING COURSE SIX.[33] R. JUDAH STATED, THE INCOMING COURSE TOOK SEVEN AND THE OUTGOING FIVE.[33] THE INCOMING COURSE DIVIDED IT IN THE NORTH, AND THE OUTGOING IN THE SOUTH.[33] [THE COURSE OF] BILGAH[37] ALWAYS DIVIDED IT IN THE SOUTH,[33] SINCE THEIR RING[38] WAS IMMOVABLE[39] AND THEIR ALCOVE[40] WAS BLOCKED UP.

GEMARA. What is meant by BEFORE and what by AFTER? If you will say that BEFORE refers to the First Day of the Festival and AFTER to the Last Day of the Festival,[41] is not then [the Sabbath referred to] the very Sabbath of the Intermediate Days? But the fact is that BEFORE refers to the Last Day of the Festival and AFTER refers to the First Day of the Festival.[42] What is the reason?[43] — Since the one course[44] had to arrive early[45] and the other had to leave late,[46] the Rabbis made the provision[43] in order that they[47] might have their meals together.

IF ONE DAY INTERVENED.

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(1) Deut. XVIII, 8.
(2) Lit., ‘eating’.
(3) Lit., ‘from there’.
(4) Lev. VII, 9, i.e., the priest who offers it is entitled to its dues.
(5) Since it cannot refer to the ordinary sacrifices.
(6) Obligatory offerings which happen to be offered on the Festival, but are not prescribed for the Festival.
(7) E.V., ‘his due’.
(8) I.e., that each course shall officiate for one week in rotation. Hence it is only in the sacrifices that are specially prescribed for the Festival that all the courses have an equal share.
(9) Cf. P.B. p. 232.
(10) If one did not recite the benediction of the season when the Sukkah was made in consequence of which (cf. supra 46a) the benedictions of Sukkah and the season have to be recited on entering the Sukkah for the first time during the Festival.
(11) The benediction of the season is recited at all Festivals.
(12) That of Sukkah is recited during Tabernacles only.
(13) In the course of the recital of the kiddush on Friday nights (cf. P.B. p. 124).
(14) The Sabbath.
(15) If not for the Sabbath there would have been no need at all to bring wine.
(16) I.e., the Sabbath is automatically sanctified at sunset.
(17) Without it the sanctification (kiddush) is not said.
(18) It has to be said whenever one drinks wine.
(19) It occurs only once in seven days.
(20) Ber. 51b.
(21) Who laid down that the obligation of the day is more important.
(22) Who holds that the more constant takes precedence.
(23) Of course we do. Hence it takes precedence on account of the precedence of the obligation of the day.
(24) We do; and since the latter is more constant it takes precedence.
(25) Since it is prescribed for the ritual of the day (cf. Lev. XXIII, 17).
(26) It is the ordinary shewbread of the previous Sabbath.
(27) Since that which is constant, though unessential is mentioned first.
(28) The addition of ALL OTHER.
(29) V. Lev. IV, 13 — 14. If the congregation as a whole erred on the Festival through the forgetfulness of a law.
(30) Committed during the Festival.
(31) קייץ Lit., ‘summer time’ or ‘summer fruit’. V. Shebu., Sonc. ed., p. 50, n. 3.
(32) When there were not sufficient private offerings to supply the altar, freewill-offerings were offered from the public

funds.

(33) The Gemara infra explains this.

(34) The Sabbath and the Festival.

(35) If the Festival fell, for instance, on a Thursday, and the outgoing course instead of leaving on Friday remained over the Sabbath.

(36) Since they could have left on the Friday which was an ordinary weekday, if they wanted.

(37) V. I Chron. XXIV, 14.

(38) Which was on the north side.

(39) And useless. Twenty-four rings were attached to the floor of the Temple court, corresponding to the number of courses, to hold the necks of the animals sacrificed by each course respectively. Since Bilgah was debarred from officiating (v. infra) their ring was fixed and made immovable.

(40) A sort of niche in which were kept the sacrificial instruments etc. (cf. Mid. IV, 7).

(41) I.e., the first day fell on Friday or the last day fell on Sunday.

(42) I.e., the last day fell on Friday or the first day on Sunday. There was no Intermediate Sabbath, since the Sabbath either immediately preceded the first day or immediately followed the last.

(43) That the outgoing course received a share in the shewbread.

(44) The incoming.

(45) Before the Sabbath.

(46) After the Festival.

(47) The two courses.

Talmud - Mas. Sukkah 56b

But why the extra two?[1] - R. Isaac answered, They were a reward for the closing of the doors.[2] But [why should not the outgoing course] say to the other, ‘Less for less’?[3] — Abaye replied, ‘A young pumpkin [in hand] is better than a full-grown one [in the field]’.[4]

Rab Judah stated, In the same manner[5] they[6] divided the additional offerings.[7]

An objection was raised: ‘The outgoing course offered the Daily Morning Sacrifice and the additional offerings, and the incoming course offered the Evening Daily Sacrifice and the censers’;[8] but it does not state, [does it,] that they divided the additional offerings? — That Tanna[9] does not deal with the question of division.

Rab objected, But the Tanna cited at the school of Samuel does deal with the question of division, and yet does not mention the division of the additional offerings, for at the school of Samuel it was taught: The outgoing course offered the Daily Morning Sacrifice and the additional offerings; the incoming course offered the Daily Evening Sacrifice and the censers; four priests entered there,[10] two from one course and two from the other and they divided the shewbread. But it does not mention that they divided the additional offerings. Is not this a refutation of Rab Judah? It is indeed a refutation. THE INCOMING COURSE DIVIDED IT IN THE NORTH. Our Rabbis taught, The incoming priests divided their shares in the north in order that it should be seen that they were the incoming course, and the outgoing priests divided theirs in the south, so that it should be seen that they were the outgoing course.[11]

[THE COURSE OF] BILGAH ALWAYS DIVIDED IT IN THE SOUTH. Our Rabbis taught, It happened that Miriam the daughter of Bilgah[12] apostatized and married an officer of the Greek[13] kings. When the Greeks[14] entered the Sanctuary,[15] she stamped with her sandal upon the altar, crying out, ‘Lukos! Lukos![16] How long wilt thou consume Israel's money! And yet thou dost not stand by them in the time of oppression!’ And when[17] the Sages heard of the incident, they made her ring[18] immovable and blocked up her alcove.[19]

Some however, say that the course [of Bilgah] was dilatory in coming[20] and [that of] Jeshebeab his brother[21] , entered with him and served in their stead. Although the neighbours of the wicked have no profit [from their proximity][22] the neighbours of Bilgah[23] did have profit, since [after the imposition of the penalty, the course of] Bilgah always[24] divided their shares in the south, while that of his brother Jeshebeab did it[25] in the north.[26]

It is well according to him who stated[27] that his[28] course was dilatory in coming, since for this reason the whole course might well be penalized; but according to him who stated[29] that it was Miriam the daughter of Bilgah who apostatized, do we [it may be objected] penalize [even a] father on account of his daughter?

Yes, replied Abaye, as the proverb has it, ‘The talk of the child in the market-place, is either that of his father or of his mother’.[30] May we then penalize the whole course on account of her father or mother? — ‘Woe’, replied Abaye ,’to the wicked, woe to his neighbour;[31] it is well with the righteous and well with his neighbour; as it is said, Say ye of the righteous, that it shall be well with him, for they shall eat the fruit of their doings’.[32]

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(1) The question concerns R. Judah. Why, according to him, does the incoming course receive two more loaves than the outgoing one?

(2) The incoming course had to close the Temple Gates which the outgoing course had left open.

(3) Lit., ‘take off for take off’, sc. you take one less now and when it is your turn to go out, the next incoming course will in its turn be one less.

(4) Proverb. Cf. ‘A bird in the hand is worth two in the bush’.

(5) As the shewbread.

(6) The outgoing and incoming courses.

(7) Of the Sabbath, sc. both had equal shares in the skills of the offerings.

(8) Of frankincense. Before these were burnt the shewbread could not be eaten.

(9) Of the Baraitha cited.

(10) The Temple courtyard.

(11) Tosef. Sukkah IV.

(12) Of the course of Bilgah, although her father's name also might have been Bilgah (v. infra).

(13) Sc. Syrian Greek.

(14) Cf. prev. n.

(15) In 168 B.C.E., during the persecutions of Antiochus IV that culminated in the same year in the Maccabean revolt. [Buchler, Priester, p. 76, n. 3 places this incident during the Roman wars, the terms Greek and Roman being frequently interchangeable in the Talmud].

(16) **, ‘Wolf’, name for the altar. [For this expression applied to the altar, with an allusion to its construction and situation rather than to its voraciousness, v. Gen. R. XCIX and Brull, Jahrbucher I, p. 63].

(17) After the Maccabean victory.

(18) Sc. that of her course.

(19) The justice of the penalty is discussed infra.

(20) When it was their turn to take charge of the Temple service.

(21) Cf. I Chron. XXIV, 13.

(22) Cf. ‘woe to the wicked, woe to his neighbour’ (Neg. XII, 6, Num. R. XVIII, 5 and infra).

(23) Sc. the course of his brother Jeshebeab.

(24) Even on entering.

(25) Even when leaving.

(26) Cf. Tosef. Suk. III. The north was deemed to be superior to the south.

(27) As a reason for the penalty imposed on the course of Bilgah.

(28) Bilgah's.

(29) As a reason for the penalty imposed on the course of Bilgah.

(30) Parents are held responsible for the character and upbringing of their offspring.

(31) The neighbours of the wicked suffer with him.

(32) Isa. III, 10. The verse is omitted in some editions since it does not conclusively prove Abaye's statement. It may have been quoted merely in order to conclude the Tractate with a happy Scriptural verse.

Talmud - Mas. Beitzah 2a

CHAPTER I

MISHNAH . [IF] AN EGG IS LAID ON A FESTIVAL-DAY, BETH SHAMMAI[1] SAY: IT MAY BE EATEN [ON THE SAME DAY], BUT BETH HILLEL[1] MAINTAIN: IT MAY NOT BE EATEN [UNTIL THE DAY IS OVER]. BETH SHAMMAI SAY: [THE QUANTITY OF] LEAVEN[2] IS OF THE SIZE OF AN OLIVE[3] AND LEAVENED BREAD IS OF THE SIZE OF A DATE,[4] BUT BETH HILLEL MAINTAIN: BOTH[5] ARE OF THE SIZE OF AN OLIVE. HE WHO SLAUGHTERS GAME ON POULTRY ON A FESTIVAL-DAY, BETH SHAMMAI SAY: HE MAY DIG UP [EARTH] WITH A SHOVEL[6] AND COVER [THE BLOOD],[7] BUT BETH HILLEL MAINTAIN: ONE MAY NOT SLAUGHTER[8] UNLESS HE HAS [LOOSE] EARTH PREPARED FROM THE DAY BEFORE [THE FESTIVAL];[9] BUT THEY AGREE THAT IF HE HAS [ALREADY] SLAUGHTERED, HE MAY DIG UP [EARTH] WITH A SHOVEL AND COVER [THE BLOOD], BECAUSE[10] THE ASHES OF THE HEARTH ARE MUKAN [CONSIDERED AS HAVING BEEN PREPARED].[11]

GEMARA. What[12] are we discussing? If one should say about a hen kept[13] for food, what is the reason of Beth Hillel,[14] [seeing that] it is food which has been separated;[15] and [if] about a hen kept for laying eggs, what is the reason of Beth Shammai,[16] [seeing that] it is mukzeh?[17] — But what objection is this? Perhaps Beth Shammai do not accept [the prohibition of] Mukzeh? (We are of the opinion that even he who permits mukzeh forbids nolad;[18] what then is the reason of Beth Shammai?) — R. Nahman replied: In table [we are debating] about a hen kept for laying eggs; but he who accepts [the prohibition of] mukzeh accepts [the prohibition of] nolad, and he who rejects [the prohibition of] mukzeh rejects [the prohibition of] nolad:[19] Beth Shammai is [of the same opinion] as R. Simeon[20] and Beth Hillel is [of the same opinion] as R. Judah.[21] But did R. Nahman say thus? Surely we have learnt: Beth Shammai say: One may remove[22] [on the Sabbath] from the table [with the hand] bones and nutshells;[23] but Beth Hillel maintain: One lifts off the whole table-top and shakes it.[24] And R. Nahman[25] said: As for us, we only hold that Beth Shammai [follow the view] of R. Simeon! — R. Nahman can reply to you: With reference to the Sabbath where the Tanna teaches anonymously[26] according to [the opinion of] R. Simeon as we have learnt: You may cut up gourds[27] for cattle and a carcass[28] for dogs[29] Beth Hillel is made to represent the opinion of R. Simeon; but

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(1) For the Schools of Shammai and Hillel v. J.E. III, 115ff.

(2) On the Feast of Passover, involving penalty; cf. Ex. XII, 19.

(3) But not less.

(4) A date is considered larger than an olive; but v. Jast. s.v.

(5) Leaven and leavened bread.

(6) If loose earth is not available.

(7) Cf. Lev. XVII, 13.

(8) On a Festival-day.

(9) In the three cases here mentioned Beth Shammai is more lenient than Beth Hillel. Hence they are taught together though not all are relevant to the subject.

(10) The sentence introduced by because has no casual relation with what precedes, and infra 8a, the letter ש == because, is emended to ו == and.

(11) ‘Mukan’, ‘set in readiness’; v. Glos. The wood having been kindled on the previous day, the ashes accumulated during the Festival are considered as if they were prepared before the Festival, as the house-holder had in his mind that there would be ashes which he could use for covering the blood.

(12) Kind of hen that laid the egg.

(13) Lit., ‘standing’.

(14) Who say the egg may not be eaten.

(15) From the hen. Since the hen was kept to be killed for food, the egg laid is regarded as a separated edible part of the hen. Cf., however, נרשום Hul. 14b who takes the word אפרת in the sense of פרו ורבו .

(16) Who say the egg may be eaten.

(17) A thing not mentally intended or set in readiness before the Festival to be used on the Festival is called mukzeh; v. Glos. Since the hen was not ‘set in readiness’ before the Festival the egg should therefore be forbidden to be eaten or handled on the Festival.

(18) Lit., ‘born’; i.e., an object which has only come into existence in its present form on a Festival. Such is forbidden to be used on a Festival.

(19) There is no fundamental difference between mukzeh and nolad, only temporal.

(20) Who rejects the prohibition of mukzeh,cf. Shab. 44b.

(21) The opponent of R. Simeon, ibid.

(22) Because they do not accept the prohibition of mukzeh.

(23) Bones and nutshells are regarded as refuse and by the law of mukzeh may not be handled.

(24) Beth Hillel accept the prohibition of mukzeh and therefore rule that one may not remove the bones and nutshells with his hand but gets rid of them by lifting the table-top. Shab. 143a.

(25) R. Nahman, wishing to follow the standard rule that in disputes between Shammai and Hillel the law prevails as Hillel, and also to follow the rule that the law prevails according to the opinion expressed in an anonymous Mishnah, here reverses the teaching of the two Schools.

(26) A Mishnah taught anonymously without mention of its author indicates that the teaching is the prevailing law.

(27) The cutting up of gourds is not regarded as unnecessary labour on Sabbath, for the animals are then better able to feed.

(28) Of an animal that dies on a Sabbath and consequently was not intended before the Sabbath to be given to the dogs to feed on.

(29) Shab. 156b; infra 6b, 27b.

Talmud - Mas. Beitzah 2b

with reference to Festivals, where the Tanna teaches anonymously according to [the Opinion of] R. Judah as we have learnt: You may not [on a Festival] chop up firewood from rafters[1] nor from a beam which was broken on a Festival[2] — Beth Hillel is made to represent the opinion of R. Judah.

Now who taught our Mishnah anonymously, [was it not] Rabbi?[3] Why then is it that with reference to the Sabbath he teaches the Mishnah anonymously according to [the opinion of] R. Simeon, whereas with reference to Festivals he teaches the Mishnah anonymously according to R. Judah? — I will answer. With respect to the Sabbath which is stringent so that people will not come to treat it lightly, he taught the Mishnah anonymously according to R. Simeon who is lenient; [with respect to] a Festival which is less stringent[4] so that people might come to treat it lightly, he taught the Mishnah anonymously according to R. Judah who is strict.

How have you explained it [the Mishnah]? With respect to a hen kept for laying eggs [the prohibition is] on account of mukzeh! If so, then instead of disputing about an egg,[5] let [the Mishnah state that] they dispute about the hen [itself]![6] — It is in order to inform you of the extent of the opinion[7] of Beth Shammai that [even] nolad is permitted. Then let them, dispute about the hen [itself] to show you the extent [of the opinion] of Beth Hillel that they forbid [even] mukzeh! And if you reply that information with respect to the extent of the opinion of permitting is to be preferred,[8] then let them dispute about it both,[9] thus: ‘A hen and its egg [laid on a Festival] may be eaten; but Beth Hillel maintain: They may not be eaten’![10] — Therefore, said Rabbah: In reality, it [the Mishnah] refers to a hen kept for food; but we are discussing a Festival which fell on a Sunday,[11] and [the prohibition[12] is] on account of preparation [on a Sabbath].[13] For Rabbah is of the opinion that every egg laid now was completely formed the day before. And Rabbah is consistent with his view;[14] for Rabbah said: What is [the teaching of] that which is written,[15] and it shall come to pass on the sixth day that they shall prepare that which they bring in?[16] [It is that] a weekday may prepare[17] for Sabbath, and a weekday may prepare for a Festival; but a Festival may not prepare for

Sabbath and Sabbath may not prepare for a Festival.[18] Said Abaye to him [Rabbah]: But if it is so,[19] let [the egg laid on] a Festival in general[20] be permitted![21] — It is a preventive measure out of consideration for a Festival falling on a Sunday.[22] Let [the egg laid on] a Sabbath in general[23] be permitted![21] — It is a preventive measure out of consideration for a Sabbath [immediately] following a Festival.[24] But do we enact a preventive measure [in such a case]? Surely it was taught: If one slaughters a hen[25] and finds therein eggs completely formed, they may be eaten on the Festival.[26] Now if this be so,[27] let them[28] be prohibited on account of those [eggs] laid on the same day![29] — He answered him: [The case of] there being in a hen eggs completely formed is a rare occurrence, and the Rabbis do not decree a prohibition with regard to a rare occurrence.

R. Joseph said: It[30] is a preventive measure on account of [the eating of] fruit fallen [from a tree].[31] Said Abaye to him: What is the reason [that] fruit fallen from a tree [on a Festival] is forbidden?

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(1) Stacked for building purposes.

(2) Before the Festival the beam was not intended to be used for firewood, hence it may not be so used on account of mukzeh, infra 31a, Shab. 157b.

(3) Rabbi Judah ha-Nasi.

(4) Cf. Ex. XII, 16.

(5) Which is forbidden on account of its hen.

(6) Whether it may be eaten or slaughtered on the Festival, since it was specifically kept for laying eggs.

(7) Lit., ‘power’; i.e., how far Beth Shammai maintain their view.

(8) Because It is an evidence of courage of conviction, while the more rigid opinion may be the outcome of doubt.

(9) The hen and its egg. Granted that information respecting the power of permission is preferable, but where, by a slight addition, more information could be given, this addition should be made.

(10) And since the Mishnah does not state this, R. Nahman's explanation of the Mishnah cannot be accepted.

(11) Lit., ‘(immediately) after the Sabbath’.

(12) According to Beth Hillel.

(13) Though the egg was here prepared by nature, it is none the less forbidden.

(14) Expressed elsewhere. ‘Er. 38b. V. Tosaf. s.v. אמר.

(15) This clause is omitted in ‘Er.; for such an expression is only used in haggadic passages, cf. D.S.

(16) Ex. XVI, 5.

(17) The preparation needs only be by word of mouth, or even by thought alone.

(18) [As a day of rest, a festival is included in the term Sabbath and requires also ‘preparation’; but such ‘preparation’ may not take place on the Sabbath and consequently the egg is prohibited].

(19) Lit., ‘from now’, where now refers to what Rabbah has just stated as the reason for Hillel's view.

(20) Except that falling on a Sunday.

(21) To be eaten the same day.

(22) If it should be permitted in the one case it will be thought that it is also permitted in the other.

(23) Except when a Festival falls on a Friday.

(24) V. p. 4, n. 15.

(25) On a Festival.

(26) No matter whether the Festival falls on a Sunday or on any other day, infra 7b.

(27) That a measure is enacted in such a case.

(28) The eggs found in the hen killed on a Festival falling on a Sunday.

(29) Which are forbidden.

(30) The prohibition of the egg according to Beth Hillel.

(31) On a Festival, which is forbidden. Not eating the egg laid on a Festival is fencing the law of not eating fruit fallen on a Festival.

Talmud - Mas. Beitzah 3a

It is a preventive measure lest one climbs [a tree] and plucks [its fruit];[1] but this[2] is itself [only] a preventive measure: should we then come and enact one preventive measure to safeguard [another] preventive measure! — Both[3] are one preventive measure.[4]

R. Isaac said: It is a preventive measure on account of [the consuming of] juices exuding [from fruit].[5] Said Abaye to him: What is the reason that juice exuding [from fruit on a Festival] is forbidden? It is a preventive measure lest one [purposely] squeezes out [the juice];[6] [thus] this is itself [only] a preventive measure; should we then come and enact one preventive measure against [the breach of] another preventive measure! — Both[7] are one preventive measure.[8]

All [the other Rabbis] do not explain[9] as R. Nahman does, in accordance with our objection.[10] Likewise they do not explain as Rabbah, because they do not accept [his rule of] Hakanah.[11] But why does not R. Joseph explain as does R. Isaac? — He will answer you: An egg is food and fruit is food, excluding juice which is not food [but a beverage]. And why does not R. Isaac explain as does R. Joseph? — He will answer you: An egg is enclosed [in the hen] and juice is enclosed in the fruit, excluding fruit which is exposed all the time.

R. Johanan also is of the opinion that it is a preventive measure on account of [the consuming of] juices exuding [from fruit]. For R. Johanan pointed out a contradiction between one statement of R. Judah and another statement and [also] reconciled it: We have learnt: You may not squeeze fruit[12] to bring out juice, and [even] if the juice exuded of itself it is [still] forbidden. R. Judah says: If [the fruit was intended] as an eatable, what exudes is permitted; but if [it was kept] for its juice, then what exudes is forbidden.[13] So we see that according to R. Judah [what exudes from] anything [kept] as eatables is [regarded] as food separated.[14] But contrast this with the following: R. Judah further said:[15] One may stipulate on the first day of the [New Year] Festival with respect to a basket of fruit[16] and eat it on the second [day];[17] similarly an egg laid on the first [day] may be eaten on the second.[18] Only ‘on the second’, but not on the first![19] And R. Johanan answered: The statement must be reversed.[20] Now since he [R. Johanan] contrasts them with each other, infer from this that there is one and the same reason.[21]

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(1) An act Biblically forbidden on a Sabbath or Festival, being in the nature of reaping.

(2) Prohibition of eating fallen fruit on a Festival.

(3) The prohibition of eating the egg laid on a Festival and the fruit fallen from a tree on a Festival.

(4) Against the same prohibition of climbing and gathering fruit. In the enactment of the measure against fallen fruit the egg was included, being regarded as a fallen fruit.

(5) On a Festival. Not eating the egg laid on a Festival is fencing the law of not consuming juice exuding from fruit on a Festival.

(6) An act Biblically forbidden on a Sabbath or Festival, being in the nature of threshing.

(7) The prohibition of eating the egg and the juice.

(8) Against the same prohibition of squeezing juice from fruit on a Festival. In the enactment of the measure against exuding juice the egg was included.

(9) Our Mishnah.

(10) Supra 2b.

(11) V. Glos.

(12) On a Sabbath or Festival.

(13) Shab. 143b.

(14) I.e., a part of the whole.

(15) With respect to the New Year Festival which even in Palestine was observed for two days.

(16) Not yet tithed.

(17) It is forbidden to separate the Levitical tithe on a Festival (v. infra 36b). But since, according to R. Judah, only one of the two days is holy, the owner can make a conditional statement on the first day as follows: if to-day is not the Festival, then let this specified portion be the tithe for the rest; if, on the other hand, to-day is the Festival, then let what I have just said be void. On the second day he says likewise: If to-day is not the Festival, then let the specified portion be the tithe; if to-day is the Festival, then the specified portion is already tithe. By means of these two conditional statements the owner can, on the second day, proceed to eat the fruit, for it has been tithed either on the first or second day. V. ‘Er. 39b.

(18) For if the first day when the egg was laid was the holy day of the two days, then it can be eaten on the following day; and if the first day was not the holy day then the egg may also be eaten on the second day because it was not laid on a Festival. ‘Er. 39b.

(19) Because the egg is not regarded as food separated from the hen, and this is contradictory to his statement above with respect to the juice being permitted to be consumed on the Festival itself. At present it is assumed that the reference here is to a hen kept for food.

(20) To remove the contradiction, R. Johanan suggests, that in the quoted Mishnah, it is not R. Judah who permits the juice to be consumed but his opponent, the anonymous Tanna.

(21) For prohibiting both the egg and the self-exuded juice, viz., it is a preventive measure against the breach of the prohibition of squeezing juice from fruit on a Festival.

Talmud - Mas. Beitzah 3b

Rabina says: In reality you need not reverse [the authorities] for R. Judah was speaking from the point of view of the Rabbis,[1] thus: According to my view [the egg] is permitted even on the first day, because it is food separated [from the hen]; but according to your opinion, you should at least agree with me that it is permitted on the second day, for they[2] are two distinct days of holiness.[3] And the Rabbis answered him: No, [the two days] are one [continuous day of] holiness. Rabina, the son of R.’Ulla, says: [We are dealing] here with a hen kept for laying eggs, and R. Judah[4] is consistent with his view, for he holds [the interdict of] mukzeh.[5]

An objection was raised: Both an egg laid on a Sabbath and an egg laid on a Festival may not be moved to cover therewith a vessel,[6] nor to support therewith the leg of a bed;[7] but a vessel may be placed over it so that it should not be broken; and if in doubt,[8] it is forbidden; and if it got mixed up with [even] a thousand [eggs], they are all forbidden.[9] This is well, according to Rabbah, who says [that it is] ‘on account of preparation’,[10] [then it is a] doubt with respect to a Biblical prohibition, and every doubt with respect to a Biblical prohibition [must be decided] with stringency. But according to R. Joseph and R. Isaac, who say [that it is] ‘a preventive measure’, then it is a doubt with respect to a Rabbinical enactment, and every doubt with respect to a Rabbinical enactment [is resolved] with leniency![11] — The last clause [of the text] deals with a doubt of trefa.[12] If so, consider the latter clause; ‘and if it got mixed up with a thousand [eggs] they are all forbidden’. Now if you say that the doubt is whether [the egg was laid on] a Festival or on a weekday,[13] it is well, because [the egg] is an object which can become [otherwise] permitted,[14] and any object which can become [otherwise] permitted is not neutralized even in a thousand [times its quantity].[15] But if you say that it is a doubt of trefa, then [the egg] is an object which cannot become [otherwise] permitted and should therefore] be neutralized by a greater number [than itself].[16] And if you answer ‘an egg is valuable and is not neutralized by a greater number,’ this[17] would be correct according to him who says that we learnt ‘whatsoever one is wont to count’.[18] But according to him who says that we learnt ‘that which one is wont to count’, what is to be said?[19] For we have learnt:[20] If one had trusses of fenugreek of kil'ayim of a vineyard[21] they are to be burnt;[22] if they got mixed up with others[23] and these [again with others,[24] they are all to be burnt. This is the opinion of R. Meir. But the Sages say: [The forbidden trusses] are neutralized in [a majority of the proportion of] one in two hundred. For R. Meir used to say: That which one is wont to count [when selling] disqualities.[25] But the sages say: Only six things[26] render [the whole] prohibited — R. Akiba says: seven — and they are as follows: The nuts of Perek,[27] and the pomegranates of Baden,[27] casks spigoted, beetroot-tops,[28] cabbage stalks[29] and Greek gourds. R. Akiba adds also the loaves of a householder.[30] Those mixtures which are subject to the law of ‘Orlah, [impart the prohibition of] ‘Orlah,[31] and those which are subject to the law of Kil'ayim of a vineyard [impart the prohibition of] Kil'ayim of a vineyard.[32] And it was stated thereon that R. Johanan said: We learnt,[33] ‘that which one is wont to count [when selling]’; and Resh Lakish said: We learnt: ‘whatsoever one is wont to count [when selling].’ [Now the text][34] would be well according to the opinion of Resh Lakish; but according to the opinion of R. Johanan, what can be said? R. Papa replied: This Tanna[35] is the author [of the teaching] concerning the ‘litra of dried figs’, who says that anything which [is sold] by number, even though [its prohibition is] a Rabbinical enactment, is not annulled, how much more so when it is Biblical.[36] For we have learnt:[37] If a litra of dried figs[38] was pressed upon the top of a jar[39] and he does not know on which jar it was pressed, or on the top of a barrel and he does not know on which barrel it was pressed, or on top of a basket[40] and he does not know on which basket it was pressed, R. Meir maintains [that] R. Eliezer

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(1) His opponents. The anonymous opinion is that of the majority of the Rabbis.

(2) The two days.

(3) Only one of which is really holy, cf. infra.

(4) Who prohibits the egg to be eaten on the first day.

(5) Cf. Shab. 156b.

(6) A wine glass or a decanter.

(7) According to an old tradition, an egg standing quite vertically can support a very heavy weight. But cf. MGWJ 71, 1927 p. 44; 72, 1928. pp. 391-5, where this Baraitha is discussed, and where it is shown that this was done for magical purposes.

(8) On the present assumption as to whether the egg was laid on a Festival or not.

(9) Infra 42; Shab. 43b.

(10) Supra 2b.

(11) And therefore the egg concerning which a doubt arose whether it was laid on a Festival or not should be permitted.

(12) I.e., whether the hen that laid it is trefa the prohibition of which is Biblical. V. Glos.

(13) Lit., ‘common’, ‘ordinary’, i.e., not a Festival-day.

(14) After the Festival the egg is in any case permitted, even though no neutralization were to take place.

(15) This is a Talmudic principle with respect to the neutralization of an object when intermixed with permitted commodities. Though normally a certain portion of the latter is sufficient to neutralize the former, that does not operate if the former is destined to become permitted without recourse to neutralization. Hence, in our case, where the egg was laid on a Festival-day and is forbidden for that day only, but not after, if that egg got mixed up with no matter how many others on the day it was laid, it is not neutralized, but all are forbidden on that day. Cf. B.M., Sonc. ed. p. 314, note 2.

(16) According to the rule based on Ex. XXIII, 3.

(17) Forbidding to be eaten even though the egg got mixed up with a thousand.

(18) When selling is regarded as important and is not neutralized by a greater quantity than itself. For eggs, though occasionally sold in bulk are also sold in units and therefore do not merge in the majority.

(19) To explain this statement; for the eggs which are sometimes sold in bulk do not belong to such a category. Whatsoever is more comprehensive than that. According to the former teaching, neutralization is not permitted in the case of any objects which are regarded as of sufficiently high commercial value to be sold in units rather than in bulk. According to the latter teaching, neutralization is permitted in all cases except those where the objects are of such a high value that they are not sold save by counting single units. V. Yeb., sonc. ed,. p. 551 n. 11.

(20) ‘Orlah. III, 6; Yeb. 81a. Zeb. 72a.

(21) Cf. Lev. XIX, 19, and Deut. XXII, 9. Lit., ‘mixed growths of plantings’. V. Glos.

(22) For no benefit or usufruct may be had from such mixed growths.

(23) Trusses of fenugreek not of mixed growths of a vineyard.

(24) This clause is omitted both in ‘Orlah and Yeb. But V. Tosaf. Zeb. 72a. s.v. נתערבו .

(25) Or renders forbidden the others with its prohibition. For this rendering of the word מקדש v. Jast. p. 1320a. V. also Yeb., Sonc. ed. p. 552, n. 4 and 9.

(26) If forbidden and mixed up with others.

(27) Perek and Baden are both localities in Samaria N.E. of Shechem (cf. Rashi). Tosaf. Yeb. 81b. s.v. פרך takes the former to mean cracknuts. Cf. A.Z., Sonc. ed. p. 354, note 4.

(28) For making beverage.

(29) For making crude whisky.

(30) With reference to the law of leaven during passover, as distinct from the loaves of a baker.

(31) I.e., come under the law of ‘Orlah. Lit., ‘circumcision ‘. V. Lev. XIX, 23-4. where the use of the fruit of young trees forbidden. The use is wholly forbidden during the first three years.

(32) The first three belong to ‘Orlah, the others to Kil'ayim.

(33) In the words of R. Meir.

(34) That if the egg got mixed up even in a thousand they are all prohibited.

(35) Who made the statement that even if the egg got mixed up with a thousand they are all forbidden.

(36) As the egg from the trefa hen.

(37) Cf. Ter. IV, 10. For var. lec. v. Comm. a.l.

(38) Of terumah (V. Glos.) which may not be eaten by non-priests. Cf. Lev. XXII, 10. It is the portion (from one sixtieth to one fortieth) that must be given to the priests from the produce of the harvest and can only become neutralized in a quantity 100 times itself. V. Num. XVIII, 8; Deut. XVIII, 4, where corn, wine, and oil are mentioned but not fruit. The requirement to give terumah of fruit is only a Rabbinical enactment.

(39) Which was only among many jars of figs each holding 100 litras.

(40) In the shape of a beehive.

Talmud - Mas. Beitzah 4a

said: We regard the upper [layers] as if they are dispersed [among each barrel] and the lower[1] neutralize the upper [litra of figs]; [while] R. Joshua says: If there were there a hundred tops [of barrels] they neutralize, but if not, then [all] the top layers are forbidden and [all] the remainders are permitted. [But] R. Judah maintains[2] [that] R. Eliezer said: If there are a hundred upper layers they neutralize, but if not then [all] the top layers are forbidden and [all] the remainders are permitted; [while] R. Joshua Says: Even if there are three hundred tops of barrels they do not neutralize.[3] If it[4] was pressed in a jar and he does not know in which jar he pressed it, all agree that they neutralize. [You say], All agree? [Why] this is the point they are disputing! Said R. Papa: This is what he says: If it was pressed in a jar and he does not know it, which part of the jar it was pressed, whether northward or southward, all agree that it is neutralized.[5]

R. Ashi said: In reality the doubt is whether [the egg was laid] on a Festival-day or on a weekday,[6] [but] it [the egg] is a forbidden] object which will become permitted,[7] and anything [forbidden] which will become permitted, even though [forbidden] by a Rabbinical enactment[8] is not neutralized.[9]

It was taught: Others say in the name of R. Eliezer: The egg [laid on a Festival] and the hen may be eaten. About what are we discussing? If about a hen kept for food, it is self-evident that the egg and the hen are permitted;[10] and if about a hen kept for laying eggs, then the egg and the hen are forbidden![11] — Answered R. Zera: [It means,] it [the egg] may be eaten in virtue of the hen.[12] What are the circumstances?[13] — Said Abaye: For example when he bought it [the hen] without specifying [for what purpose]; if it is killed then it is [retrospectively] clear that it was intended to be kept for food;[14] if it is not killed, then it is evident that it was intended to be kept for laying eggs.[15] R. Mari says: He states an exaggeration.[16] For it was taught: Others say in the name of R. Eliezer: The egg may be eaten, it and its hen, and its chicken and its shell. What is meant by ‘its shell’? Shall I say [it means] literally ‘shell’, is then the shell [fit for] food?[17] Again, if it should [mean] a chicken in its shell, surely the Rabbis dispute with R. Eliezer b. Jacob[18] only when the chicken is actually hatched, but when it has not yet been hatched they do not dispute![19] Therefore ‘the chicken and its shell’ is an exaggeration,[20] so also here ‘it and its hen may be eaten’ is an exaggeration.

It was stated: A Sabbath and a Festival [following one another]. Rab says: [An egg] laid on the one is forbidden on the other, but R. Johanan maintains: [The egg] laid on the one is permitted on the other. Shall we say that Rab holds that they [a Sabbath and a Festival immediately following] are regarded as one [continuous day of] holiness? But Rab said: The halachah is according to the four elders who decided according to the opinion of R. Eliezer who says [the Sabbath and the Festival] are two [distinct days of] holiness! — Rather they differ here in Rabbah's [law of] Hakanah;[21] Rab accepts Rabbah's law of Hakanah and R. Johanan rejects Rabbah's law of Hakanah.

The same is disputed by Tannaim: If it [an egg] is laid on a Sabbath, it may be eaten on a Festival;[22] [if it is laid] on a Festival it may be eaten on a Sabbath.[23] R. Judah says in the name of R. Eliezer: The dispute still continues; for Beth Shammai say: It may be eaten; whereas Beth Hillel maintain: It may not be eaten.[24] The host of R. Adda b. Ahabah had some eggs from a festival [which he wished to prepare] for the Sabbath.[25] He came before him, and asked: Is it permitted to roast them to-day[26] that we may eat their to-morrow? He answered him: What is in your mind: [in a dispute between] Rab and R. Johanan the halachah Is as R. Johanan? But even R. Johanan only allows [the egg] to be quaffed on the morrow, but not on the same day [it was laid];[27] even as it was taught: Whether an egg was laid on a Sabbath or on a Festival, one may not move it to cover therewith a vessel nor to support therewith the leg of a bed.[28]

The host of R. Papa — some say it was another man who came before R. Papa — had some eggs from a Sabbath [which he wished to prepare] on the [immediately following] Festival. He came, asking him: Is it permitted to eat them to-morrow?[29] He answered him: Go away now and come to-morrow: for Rab would not appoint an interpreter for himself from [the first day of] the Festival until [the termination of] its companion[30] on account of inebriety.[31] When he came on the morrow, he said to him:

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(1) Layers of each barrel.

(2) R. Meir and R. Judah differ with respect to the dispute between R. Eliezer and R. Joshua.

(3) The litra of figs, for the top layers of figs are in the category of things that are also sold by number and therefore the quantity of vessels is immaterial. Cf. J. Ter. IV, 7.

(4) The litra of terumah figs.

(5) Because not being a complete layer now, it is no longer in the category of being numbered. R. Joshua is then the Tanna who held that anything which is often sold by number is not annulled, and he will be the author of the teaching regarding the mixed egg.

(6) And as for the suggestion that in any doubt with respect to a prohibition based on a Rabbinical enactment leniency is required, v. supra 3b.

(7) After a certain time. The egg will in any case be permitted after the Festival.

(8) Concerning which leniency is usually preferred.

(9) And we are to proceed with stringency even in the case of doubt.

(10) That is, in the view of Beth Shammai; and if R. Eliezer intends to rule like Beth Shammai, why mention the hen-mother at all? Rashi.

(11) On account of mukzeh. V. infra 34a.

(12) If the hen is eaten on the Festival so may also the egg be eaten.

(13) When it is the actual eating of the hen that renders also the egg permissible.

(14) And therefore the egg, being part of the hen, may also be eaten.

(15) And therefore the egg is not permitted.

(16) He uses the figure of speech called hyperbole for the sake of emphasis; i.e., he states the law very emphatically, mentioning more than is necessary.

(17) All that was necessary to be said was ‘the chicken’, for the shell is not classed as food.

(18) And say that a chicken just hatched may be eaten even though its eyes were not open. V. infra 6b.

(19) I.e., they all agree that it may not be eaten. Hence it cannot mean in its shell.

(20) Saying more than is required.

(21) Supra 2b. V. Glos.

(22) Immediately following the Sabbath.

(23) Immediately following the Festival.

(24) So that the anonymous Tanna supports R. Johanan and R. Judah supports Rab.

(25) Immediately following the Festival, and he was doubtful.
(26) On Friday, the day they were laid.
(27) When it is forbidden even to move it.
(28) Supra 3b. q.v.
(29) I.e., on the Sunday.
(30) I.e.,the second day of the Festival.
(31) Rab was in the habit of appointing an interpreter who would enlarge and expand the teachings he would communicate to him. Rab was so scrupulous that he refrained from communicating teachings and decisions to his interpreter on a feast day lest he should risk giving less than his best through the influence of drinking wine on the Festival. R. Papa would not give on a Sabbath a decision for the same reason.

Talmud - Mas. Beitzah 4b

If [I had given my decision] forthwith, I would have erred, and told you that [in a dispute between] Rab and R. Johanan the halachah is as R. Johanan; whereas Raba has said: In these three [cases][1] the law is as Rab, both when he is lenient and when he is stringent.

R. Johanan said: If branches fell off a palm tree on a Sabbath, it is forbidden to burn them [for firewood] on the Festival [immediately following it], and do not seek to refute me [by referring to the case] of the egg.[2] What is the reason? Because the egg is fit to be taken raw on the [Sabbath] day [it was laid],[3] and since you do not permit it [to be eaten] until the following day, one will surely know that on the same day [that it was laid] it is prohibited.[4] [But in the case of the] branches which are not fit for the [Sabbath] day [on which they fell],[5] if you permit them to be used on the morrow,[6] one might say that even on the [same] day [they fell off][7] , they are also permitted, while [their prohibition] the day before was on account of the Sabbath, when they were not fit for burning.

R. Mattenah said: If branches fell off a palm tree on a Festival into an oven, one may add thereto a larger amount of wood kept in readiness[8] and burn them [together]. But is he not handling a prohibited object?[9] Since the greater part consists of that which is permitted, when he is handling, he is handling that which is permitted. But he neutralizes a prohibited object at the outset, and we have learnt: One may not [directly] neutralize a prohibited object at the outset![10] — This applies only [where the object is prohibited] according to the Biblical law, but [where it is only] Rabbinical]y [prohibited] one may [directly] neutralize.[11] But how is it to be explained according to R. Ashi, who says that an object [forbidden] which will become permitted is not neutralized even though [forbidden] by a Rabbinical enactment?[12] — this applies only where the prohibited object remains intact, but here the thing forbidden is indeed burnt up.[13] It was stated: [With reference to] the two Festival-days of the Diaspora,[14] Rab says: [The egg] laid on the one[15] is permitted on the other,[16] and R. Assi maintains: [The egg] laid on the one is forbidden on the other. Shall it be said that R. Assi holds the opinion that [both days] have one continuous holiness? But R. Assi recited the habdalah[17] [blessing] between the first and second Festival-days?[18] — R. Assi himself was in doubt, hence he acted in both cases with stringency.[19]

R. Zera said: Logic supports R. Assi; for we are now well acquainted with the fixing of the new moon and, nevertheless, we do observe two days.[20] Abaye said: Logic supports Rab; for we have learnt: In early times they used to light bonfires,[21] but on account of the mischief of the Samaritans[22] the Rabbis ordained that messengers should go forth.[23] Now if the [mischief of the] Samaritans ceased[24] we would [all] observe only one day; and [even during the Samaritan mischief] wherever the messengers arrived[25] they observed [only] one day.[26] But now that we are well acquainted with the fixing of the new moon,[27] why do we observe two days? — Because they sent [word] from there [Palestine]:[28] Give heed to the customs of your ancestors which have come down to you; for it might happen that the government might issue a decree[29] and it will cause confusion [in ritual].

It was stated: [With respect to] the two Festival-days of the New Year, Rab and Samuel[30] both say: [An egg] laid on the first day is forbidden on the second day. For we have learnt:[31] In early times they [the Sanhedrin] admitted the testimony about new moon throughout the [whole][32] day.[33] Once, however, the witnesses were late in arriving

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(1) For the three cases v. infra 5b. Our case is one of the three.

(2) Concerning which I have said that an egg laid on a Sabbath may be eaten on the immediately following Festival-day.

(3) All egg may not be cooked on a Sabbath, but may be eaten raw because there is no work in sucking eggs.

(4) On account of mukzeh.

(5) For it is prohibited to kindle fire on a Sabbath. Cf. Ex. XXXV, 3.

(6) The following Festival-day.

(7) If it were a Festival and not a Sabbath.

(8) V. Glos. s.v. mukan.

(9) When stoking the fire the alien branches are prohibited on account of mukzeh.

(10) This statement is not found anywhere else so worded, but is inferred from Ter. V, 9, where it is stated that if one se'ah of Heave-offering fell into less than 100 se'ahs of common produce, and other common produce afterwards fell therein, if it was in error the whole is permitted, but if wantonly, it is forbidden. Cf. ר״ש a.l.

(11) And the prohibition of mukzeh is only Rabbinical.

(12) V. supra 3a. And the wood will in any case be permitted after the Festival.

(13) Cf. Tosaf. Pes. 26b. s.v. חדש .

(14) Outside Palestine every Festival which Biblically is to be observed for day is kept for two days because of doubt. Since the Festival is fixed for a certain day of the month (for example passover on the 15th Nisan) it is Important to know the exact day the New Moon appears. For the consecration of the New Moon was determined not only by mathematical calculation but by the confirmation of witnesses who had seen it. This applied only to the 30th, but on the 31st, the day would be consecrated even without witnesses, because it would be known that after the 30th the moon should become new even if it were not seen, for the moon renewed itself about every 292 days. therefore those in Palestine could easily be informed whether the new moon was consecrated by the Sanhedrin in Jerusalem on the 30th day or on the 31st, thus making the month just passed either full or defective. But those in the Diaspora, not being able to be informed in time whether the new moon was consecrated on the 30th or on the 31st, kept the appointed Festival-day for two days in order to be sure of observing it (for example, in the case of Passover, they kept both the 15th and 16th of Nisan as the 1st day of Passover). Hence the two Festival-days of the Diaspora.

(15) I.e., the first day.

(16) Because only one of the two days is holy.

(17) V. Glos.

(18) He would not have recited the habdalah had he regarded the two Festival-days as one continuous day of holiness. V. Rashi.

(19) The observance in the Diaspora of two days instead of one as in Palestine can be regarded from two points of view: (a) It was an enactment of the Rabbis that for all time in the Diaspora two days should be kept for each Festival-day (v. supra n. 1). From that point of view the two days are regarded as one long day of holiness and the egg might not be eaten on the second day. (b) The people in the Diaspora have taken upon themselves the observance of two days instead of one because of their uncertainty; for those however, who were well acquainted with the fixing of the new moon, the first day only is regarded as really holy and the second day as of a minor holiness, requiring the recitation of the habdalah between the two, and the egg would be permitted to be eaten on the second day.

(20) Presumably because the Rabbis have so enacted for us to keep the two days as one continuous day of holiness and it is their ordinances that we observe.

(21) They indicated the new moon outside Jerusalem by means of firesignals whether the day just elapsed was the 30th of the past month or the 1st of the coming month.

(22) In lighting beacons at other times to confuse the Jews. For the term Cuthim v. J.E. vol. IV, p. 398.

(23) V. R.H. 22b (Sonc. ed. p. 96, n. 7).

(24) And we reverted to the lighting of fire-signals.

(25) The distance covered by the traveling messengers was relative, dependent on what day in the month a festival fell, so that sometimes they would cover more territory than at others.

(26) Evidently the observance of two days was not an enactment for all time.
(27) The calendar was fixed about the beginning of the fourth century. [This has been ascribed to Hillel II, v. Graetz IV, pp. 316-318.]
(28) To the Jews in the Diaspora. Cf. Sanh. 17b. [probably this refers to the message sent by R. Jose (J. ‘Er. III) a contemporary of Hillel II, urging the people of the Diaspora not to depart from the ancestral customs despite the calendar which have been introduced by the Patriarch, v. Graetz IV, p. 456.]
(29) To destroy all the sacred writings and prevent the study of the Law and thus all knowledge of fixing the calendar would be lost.
(30) Who are often opposed in debate.
(31) R.H. 30b.
(32) The word ‘whole’ is absent in R.H.
(33) The 30th of Ellul, which had already been determined as New Year. The 30th of Ellul, commencing at sunset, was observed as New Year's day in case witnesses should arrive during that day reporting that they had seen the new moon.

Talmud - Mas. Beitzah 5a

and the Levites erred in the chant.[1] [In consequence] they enacted that they should only receive witnesses until Minhah,[2] but if witnesses came from Minhah onwards[3] they observed [the remainder of] that day[4] and the following day as holy.[5]

Rabbah said: Since the enactment of R. Johanan b. Zakkai, the egg is permitted;[6] for we have learnt:[7] AFter the destruction of the Temple[8] R. Johanan enacted that testimony [concerning the appearance of new moon] should be admitted the [whole] day.[9] Said Abaye to him: But have not Rab and Samuel both said that the egg is forbidden [on the second day]? — He replied to him: I quote to you R. Johanan b. Zakkai, and you tell me about Rab and Samuel![10] But for Rab and Samuel our Mishnah is a difficulty! — There is no difficulty. This [ruling] applies to us [Babylonians], but that [ruling] applies to them [the Palestinians].[11] But R. Joseph[12] says: Even from [the time of] the enactment of R. Johanan b. Zakkai and onwards the egg is prohibited [on the second day]. What is the reason? It[13] is a matter which was decided by a majority vote[14] and whatever was [forbidden] by a majority vote, requires another majority vote to permit it.[15] Said R. Joseph: Whence do I infer this?[16] From what is written: ‘Go say to them, return ye to your tents’.[17] And [Scripture] further says: ‘When the trumpet soundeth long, they shall come up to the mount’.[18] And we have further learnt:[19] The fourth [year] vineyard [fruit] was to be brought to Jerusalem [from all places] within a radius of one day's journey [from Jerusalem], and the following are its boundaries: Elath[20] on the South,[21] Akrabah[22] on the North, Lydda[23] on the West, and the Jordan on the East.[24] And ‘Ulla said — others say Rabba b. Bar Hana in the name of R. Johanan — What is the reason? [It is] in order to decorate the streets of Jerusalem with fruits. And it was [further] taught: R. Eliezer had trees of the fourth year in a vineyard to the east of Lydda near Kefar Tabi[25]

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(1) They sang the psalm for ordinary days at the eventide sacrifice and it turned out after the arrival of witnesses that it was actually New Year's day. V. Tamid VII, 3-4.
(2) The time of the offering of the eventide sacrifice. V. Glos. Cf. Schurer II, I pp. 286ff.
(3) When there was still some part of the day to run, though their testimony would not be accepted for consecrating the 30th as New Year's day, yet.
(4) The end of the 30th from the arrival of the witnesses to the close of the day was also considered holy.
(5) Hence it was seen that the Sanhedrin itself under such conditions observed the New Year's Festival for two days even where there was no uncertainty; and the people outside Jerusalem would need to observe both the 30th and the 31st of Ellul as New Year in case of such a contingency, so that the observance of two days for the New Year's Feast was an enactment of the Rabbis from the very beginning making two days one continuous day of holiness, and, therefore, an egg laid on the first day is prohibited even on the second.
(6) To be eaten on the second day.
(7) R.H. 30b.

(8) Since the Temple no longer existed the reason for the previous enactment falls away.

(9) So that the observance of the two days at the present time could only be on account of doubt, since only one of the two days is holy. For, even if witnesses came towards the end of the 30th, the whole of the 30th would be regarded as New Year and the 31st would be regarded as a weekday. But if no witnesses came on the 30th, the 31st would be New Year's day and the 30th, though observed as a holy day, was in reality an ordinary day; and therefore the egg laid on the 30th in such a case would be permitted on the 31st.

(10) R. Johanan b. Zakkai was the greater authority.

(11) The enactment of R. Johanan b. Zakkai could only affect Palestine, where only one day, viz., the 30th, would now be regarded as New Year, however late the messengers came on that day. But in Babylon and all places outside Palestine, the observance of the two days was not affected by the enactment of R. Johanan, for there the two days were kept holy by the early Rabbinical enactment, and were regarded as one continuous day of holiness.

(12) In opposition to Rabbah.

(13) The prohibition of the egg on the second day.

(14) If witnesses had not come before eventide the Assembly of Sages decided to make the two days one continuous day of holiness.

(15) Even though the reason for its prohibition no longer exists, the prohibition still holds until a further vote in Assembly had been taken and declaring it now permissible; and as no such vote had been taken the status quo remains,i.e., the prohibition of the egg is still binding. V. Sanh. 59b. It is pointed out infra 5b that the vote of Assembly was not directly dealing with the egg but with the making of the two days one continuous day of holiness.

(16) That a prohibition once made by an Assembly is still binding until it has been rescinded by another Assembly.

(17) Deut. V, 27. God had previously told them to abstain from women for three days, and this prohibition did not ipso facto cease at the expiration of the three days, but required from God direct permission to resume cohabitation. V. Tosaf. 5a, s.v. כל V. also Sanh., Sonc. ed. p. 403, n. 1.

(18) Ex. XIX, 13. Here too the prohibition of ascending Mt. Sinai was on account of the Theophany, and at the ceasing of the Theophany it could be inferred that the people might ascend the Mount. Yet it was not left for anyone to infer that they might ascend, but they had to await the express a authority of God.

(19) M.Sh. V, 2; R.H. 31b. (9) Fruit of the first three years of a tree may not be eaten, and the fruit of the fourth year must be eaten before the Lord in Jerusalem, Lev. XIX, 23. If, however, the journey was too great, the fruit might be redeemed and the money expended in Jerusalem. V. Deut. XIV, 24-25. The Rabbis, however, ordained that for a radius of one day's journey from Jerusalem the fruit could not be redeemed but must be brought to Jerusalem.

(20) V. Neubauer, La Geographic du Talmud, p. 19. No place of such a name within one day's journey from Jerusalem has yet been plausibly identified.

(21) This is the correct reading as in M.Sh. and not North. Cf. D.S. a.l.

(22) Neubauer, p.159. Perhaps the modern Akrabah, 25 miles North of Jerusalem.

(23) Cf. Neh. VII, 37. V. also Neubauer, p. 76.

(24) V. R.H., Sonc. ed. p. 151, notes.

(25) Since Lydda was within one day's journey West of Jerusalem, Kefar Tabi which was East of Lydda would likewise be within one day's journey from Jerusalem.

Talmud - Mas. Beitzah 5b

and he wished to renounce [the vineyard] for the poor.[1] But his disciples said to him: Master, thy colleagues have already taken a vote with respect to your case and permitted it.[2] Who are meant by ‘thy colleagues’? R. Johanan b. Zakkai [and his school]. Now the reason [why the fruit may be redeemed] is only because they had taken a vote; but if they had not taken a vote, it would not [have been permitted].[3]

What is meant by ‘And [Scripture] further says’?[4] — He means thus: Consider: It is written: Be ready against the third day, come not near a woman.[5] Then what is the purpose of ‘Go say to them, Return ye to your tents’? Infer therefrom that every prohibition decided by a majority vote requires another majority vote to rescind it. And should you reply, it comes as a command concerning conjugal duties,[6] [then] come and hear: ‘When the trumpet soundeth long they shall Come up to the mount.' Now consider: It is written: 'Neither let the flocks nor herds feed before that Mount.'[7] Then what is the purpose of:' When the trumpet soundeth long they shall come up to the Mount'. Conclude therefrom that what has been prohibited by a majority vote requires another majority vote to rescind it.[8] And should you argue, this only applies to the case of a Biblical [prohibition] but not to the case of a Rabbinical [prohibition],[9] [then] come and hear: 'The fourth [year vineyard] fruit, etc.' Now the law concerning the fourth [year vineyard] fruit is a Rabbinical enactment, and yet they said to him: 'Thy colleagues have already taken a vote respecting your case and permitted it!' And if you say[10] that R. Johanan b. Zakkai allowed also a vote to be taken concerning an egg and permitted it, [I will reply]: They only took a vote concerning testimony, but concerning the egg they did not take a vote. Said Abaye to him: Has there been then at all a vote taken [at any time] concerning the egg [itself]?[11] The egg is dependent on [the acceptance of] testimony: If the testimony of the witnesses is disallowed, then the egg is forbidden[12] but if the testimony of the witnesses is permitted then the egg is [a automatically] permitted,[13]

R. Adda and R. Salmon, both of Be Kelohith[14] say: Even [from the time of] the enactment of R. Johanan b. Zakkai and onwards the egg is prohibited. Why? The Temple may very soon be rebuilt,[15] and people would say: 'Did we not eat last year on the second day [of the New Year] the egg [laid on the first day]? Now too, we shall continue to eat it;' and they will not know that in the previous year[16] they [the two days] were of two distinct forms of holiness[17] whereas now[18] they are one [continuous day of] holiness.[19] If so, we should not even accept [the] testimony [of witnesses the whole day]! What is the reason? For the Temple may very soon be rebuilt, and people might say: 'Did we not accept last year testimony concerning the New Moon during the whole day [long]? Now too, we shall [continue to] accept [their testimony]!'? — Where [is the comparison] in this? [The acceptance of] testimony is entrusted to the Beth din[20] [only], but [the case of] the egg is entrusted to all.[21]

Raba Says: Even since the enactment of R. Johanan b. Zakkai and onwards, the egg is forbidden; [for] does not R. Johanan b. Zakkai agree that if witnesses arrive after Minhah, the remainder of that day and the following day is observed as holy?[22] Raba further said: The law [is as] Rab in the foregoing three cases[23] whether he is lenient or stringent. [

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(1) In order not to have to bring the fruit himself to Jerusalem, but that the poor might gather the fruit for themselves and bring it to Jerusalem. Although R. Eliezer lived after the fall of Jerusalem when the reason for decorating its streets no longer existed, yet he adhered to the ruling that the fruit being within the radius of one day's journey, could not be redeemed but had to be brought to Jerusalem.

(2) I.e., the authority you are holding to has been rescinded by another authority and you can therefore redeem the fruits and bring only the money to Jerusalem.

(3) [Which proves that whatever has been decided by a majority vote requires another majority vote to abrogate the decision, even where the reason for the original decision no longer operates].

(4) The question here is: How do you infer from the first passage of Scripture the principle that a prohibition once made is absolutely binding until it has been rescinded; and if the inference is satisfactory, why is it necessary to have a second Scripture text? Rashi.

(5) Ex. XIX, 15.

(6) But not a cancelling of the previous prohibition of Ex. XIX, 15.

(7) Ibid. XXXIV, 3. The expression 'before that Mount' is interpreted as meaning 'that Mount covered with the cloud of the Divine presence', from which it might be inferred that only as long as the cloud of the Divine presence remained over the mountain no man or beast could draw near, but when the cloud was removed the people might, by their own inference, have thought that they might now ascend the mountain.

(8) The reason for the 'trumpet sounding long' was to indicate that the Divine presence was removed from the mountain.

(9) As our case of the egg.

(10) R. Joseph resumes here the thread of his remarks which were interrupted by quoting the source of his principle.

(11) And if no vote was directly taken, the question of requiring another vote rescinding it does not arise.

(12) For the two days are regarded as one continuous day of holiness.
(13) For then, in reality, only one of the two days is holy.
(14) Or Kaluhith Chalchitis in Mesopotamia. V. Funk Monumenta I, p. 290.
(15) When the old order of consecrating the new moon through the testimony of witnesses would be restored and the witnesses be received until eventide only.
(16) Before the Temple had been restored.
(17) For only one day was really holy and the other was observed on account of doubt.
(18) The Temple having been rebuilt.
(19) As existed before the enactment of R. Johanan R. Zakkai.
(20) The Ecclesiastical Authorities, and they know the rule to be observed after the building of the Temple. V. Yeb. 22a.
(21) The question of the egg is a matter about which anyone may feel he can decide, and decide to eat the egg on the second day after the Temple had been rebuilt as he did before the Temple was rebuilt.
(22) In which case the two days of New Year would be regarded as one continuous day of holiness. According to this view, the object of R. Johanan's enactment of accepting witnesses throughout the 30th day was for the purpose of fixing the days of the Festivals following New Year; i.e., if witnesses came any time on the 30th, that day would be the first of Tishri, from which the days of the month would be computed.
(23) (a) When a Festival-day falls on Friday or on a Sunday; (b) The two Festival-days of the Diaspora; (c) The two days of New Year.

Talmud - Mas. Beitzah 6a

Raba said: On the first day of a Festival, [only] Gentiles may busy themselves with a corpse,[1] [but] on the second day, Israelites may busy themselves with a corpse, and[2] even on the two Festival-days of the New Year, which however is not the case with respect to an egg.[3] The Nehardeans[4] say: The same holds good even with respect to an egg; for what is in your mind: Perhaps [the month of] Ellul will be intercalated?[5] Surely R. Hinena b. Kahana said in the name of Rab: From the days of Ezra[6] and onward we do not find Ellul ever intercalated.[7]

Mar Zutra said: This[8] was said only when [the corpse] had already been lying for some time,[9] but if it had not lain for a long time, we let it remain.[10] R. Ashi says: Even if it had not lain for a [good] long time we do not let it remain [unburied]. What is the reason? With regard to a dead body the Rabbis have made the second day of a Festival as a weekday even with respect to cutting for it a shroud and cutting for it a [branch of] myrtle.[11] Rabina said: But nowadays when there are Guebers[12] we apprehend.[13]

Rabina was once sitting in the presence of R. Ashi on [one of] the two Festival-days of the New Year,[14] [and] noticing that he was troubled, he said to him: Why is the Master troubled? He [R. Ashi] replied: I have not set an ‘erub tabshilin.[15] Said he to him: Let the Master prepare an ‘erub tabshilin now. For did not Raba say: A man may set an ‘erub tabshilin on the first day of a Festival for the second and stipulate?[16] — He replied: Granted that Raba [indeed] said so with respect to the two Feast-days of the Diaspora.[17] But did he then say this also with respect to the two days of the New Year's Festival?[18] But the Nehardeans maintain that even an egg is permitted![19] — R. Mordecai observed to him [to Rabina]: The Master[20] distinctly told me that he does not accept this [teaching] of the Nehardeans.

It was stated: If a chicken was hatched out on a Festival, Rab says: It is forbidden,[21] but Samuel — some say, R. Johanan — maintains: It is permitted. Rab says it is forbidden [because] it is mukzeh;[22] but Samuel — some say, R. Johanan — maintains it is permitted, since it makes itself permitted through shechitah.[23] R. Kahana and R. Assi said to Rab: What difference is there between this and a calf born on a Festival?[24] — He replied to them: [The case of the calf is different] since it was [regarded as] mukan[25] by virtue of its mother.[26] And what difference is there between this and a calf born [on a Festival] from a Trefa?[27] Rab remained silent. Said Rabbah — some say [it was] R.

Joseph — Why was Rab silent? He should have replied to them: [This calf is permitted] since it is mukan for dogs through its [trefa] mother.[28] — Abaye replied to him:

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(1) E.g., the making of a shroud and the digging of a grave.

(2) The same holds good.

(3) I.e., an egg laid on the first day of the New Year is not permitted on the second day.

(4) The scholars of Nehardea, i.e.,the School of Samuel. V. Sanh., Sonc. ed. p. 42.

(5) I.e., Beth din will insert an extra day in the month of Ellul, in which case the New Year Festival would begin on the second day.

(6) Cf. Neh. VIII, 13, where ‘second day’ refers to New Year.

(7) The only exception was when the witnesses arrived late.

(8) Law that Israelites may busy themselves with a dead body on a Festival.

(9) And is decomposing and becoming offensive.

(10) Until after the Festival.

(11) The funeral trappings and the myrtle placed on the coffin were to honour the dead.

(12) The fanatical sect of Persian fireworshippers, v. Git., Sonc. ed. p. 63, n. 2. This probably refers towards the close of the Sassanid rule marked by the persecution of the Jews. V. J.E. p. 648, c. 1. The Jews had to render to the Guebers compulsory service from which they were exempt on a Festival.

(13) Lest through allowing Jews to bury on the second day of a Festival the Guebers might regard that day as an ordinary working day and compel them to work.

(14) The New Year Festival fell on Thursday and Friday.

(15) V. Glos. It is a symbolical act by which meals may be prepared on a Festival occurring on a Friday for the following Sabbath. The method is to prepare a dish on the Thursday for the Sabbath which enables all the cooking done on the Friday to be regarded as a continuation of the cooking begun on the Thursday.

(16) If the first of the two days is the real feast-day, then the preparation of the food on the second day should be permitted; and if the second day is the proper feast-day, then preparation of the ‘erub is permissible on the first day, which is not a Festival but a weekday.

(17) I.e., observed only in the Diaspora where two days are observed on account of doubt.

(18) Which are observed also in Palestine where the two days of the New Year are regarded as one continuous holy day. Surely not!

(19) On the second day, if laid on the first day of the New Year's Festival thus indicating that only one of the two days is holy.

(20) R. Ashi who was R. Mordecai's teacher, v. Sot. 46b.

(21) To be eaten on the day of the Festival.

(22) V. supra, p. 2, n. 5.

(23) V. Glos. Before the chicken is hatched, the act of slaughtering does not permit it to be eaten. It is only when born that the chicken can be eaten through ritual slaughter. And since the hatching out of the chicken (on the Festival) enables it to be eaten through slaughtering, it also frees it from mukzeh; i.e., since it gains permission for itself to be eaten through ritual slaughter, it also gains permission for itself to be free from mukzeh.

(24) Which may be eaten on the same day, v. infra.

(25) V. Glos.

(26) The calf found in a ritually slaughtered cow may be eaten through the slaughtering of its mother. The calf therefore is valid for provision even before its birth.

(27) V. Glos. This calf when found within the mother is not permitted for use by the slaughtering of its trefa mother. It must itself be ritually slaughtered before it can be permitted; and yet we do not find anyone prohibiting the eating of a calf born of a trefa on a Festival.

(28) Immediately before the Festival the mother-cow as trefa was intended as food for dogs, and this included the calf within it. The cow and the calf would thus become mukan for dogs and therefore the law of mukzeh should not apply to the calf. The same, however, cannot be said of the chicken in the egg.

Talmud - Mas. Beitzah 6b

Seeing that that which is mukan for human consumption is not mukan for dogs — for we have learnt: One may cut up[1] gourds for cattle and a carcass for dogs;[2] R. Judah says: If [the animal] was not yet nebelah[3] on the eve of the Sabbath it is forbidden,[4] for it was not mukan[5] — can that which is mukan for dogs be considered mukan for human beings? — He said to him: It is even so; that which is mukan for human consumption is not mukan for dogs, for that which is useable for man one does not throw to dogs. [But] that which is mukan for dogs is [also] mukan for human consumption, for the mind of man is directed to everything which may be fitting for him. [A Baraitha] was taught in accordance with Rab [and a Baraitha] was taught in accordance with Samuel, or as some say, R. Johanan. [A Baraitha] was taught in accordance with Rab: A calf which is born on a Festival is permitted;[6] [but] a chicken which is hatched on a Festival is forbidden. And what difference is there between the one and the other? [The calf] is mukan by virtue of its mother through shechitah,[7] but [the chicken] is not mukan by virtue of its another.[8] [A Baraitha] was taught in accordance with Samuel, or as some say, R Johanan: A calf which is born on a Festival is permitted; a chicken which is hatched on a Festival is permitted. Why? [The calf] is mukan by virtue of its mother and [the chicken] makes itself permitted through slaughter.

Our Rabbis taught: A chicken which is hatched on a Festival is forbidden. R. Eliezer b. Jacob says: It is forbidden even on a weekday since its eyes are not yet open. With whose opinion does the following passage agree: Even all creeping things that creep upon the earth,[9] this includes chickens whose eyes are not yet opened?[10] With whose opinion? The opinion of R. Eliezer b. Jacob.

R. Huna said in the name of Rab: An egg is completed on its issue [from the fowl]. What is meant by ‘completed on its issue’? If we say, [it means] it is completed on its issue, so that [the egg] may be eaten with milk;[11] [which implies] when it is still within the hen [the egg] may not be eaten with milk? But surely we have learnt: If one kills a hen and finds therein completely formed eggs, these may be consumed with milk! And if [it means] it is completed on its issue so that [the egg] may be eaten on a Festival;[12] [which implies] when [the egg] is still within the hen,[13] it may not be eaten on the Festival?[14] But surely we have learnt: If one kills a hen and finds therein eggs completely formed they are permitted to be eaten on the Festival.[15] And if you say that he informed us in the Baraitha what we do not learn in the Mishnah?[16] This too[17] we have learnt [in a Mishnah]: If an egg is laid on a Festival, Beth Shammai say: It may be eaten [on the same day], but Beth Hillel maintain: It may not be eaten [until the day is over].[18] Now Beth Shammai and Beth Hillel dispute thus only about [the egg] that is laid; but if [the egg] is in the hen, all agree that it is permitted! And if you maintain that Beth Hillel prohibit [the egg] even when it is within the hen, and the reason he [the author of the Mishnah] quotes [their dispute with respect to an egg] ‘laid’ is in order to manifest to you the extent of the opinion of Beth Shammai that even if it is laid it is permitted; then as to that which we have learnt: If one slaughtered a hen and found therein eggs completely formed they are permitted to be eaten on the Festival — who will its author be? Neither Beth Shammai nor Beth Hillel![19] Therefore ‘it is completed on its issue’ [means] that [the egg] can hatch chickens, [but the egg found] in the body of the hen cannot hatch chickens. What is its practical bearing? — with respect to buying and selling.[20] As once happened when someone called out [to the salesmen]: Who has eggs

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(1) On the Sabbath.

(2) V. supra p. 3 and notes.

(3) V. Glos.

(4) To be given to the dogs.

(5) For dog's consumption before the Sabbath.

(6) [The prohibition of nolad (V. Glos.) does not apply to living beings. V. Tosaf. s.v. עגל .]

(7) The owner of the mother-cow could have intended to kill the cow on the Festival and the cow and the calf that was within it would be mukan. The same however cannot be said of a chicken, because the owner could never conceive of an egg within the fowl ready to be hatched, so that in the case of the chicken there is no case of mukan.

(8) Because no egg is ever upon the point of being hatched when the hen is killed.

(9) Lev. XI, 42.

(10) Hul. 64a.

(11) And is not regarded as part of the flesh of the fowl. The Biblical rule not to eat meat together with milk (based on Ex. XXIII, 19) is extended by the Rabbis to include fowls. Eggs, however, may be eaten with milk.

(12) If the egg was laid before the Festival.

(13) Which was slaughtered on the Festival.

(14) On account of the law of Hakanah, v. supra 2b.

(15) Supra 2b.

(16) I.e., the Baraitha finds no support in the Mishnah, and therefore the Baraitha is not authoritative, so that R. Huna could rule that when the egg is still in the hen it may not be eaten on the Festival.

(17) The ruling of the Baraitha.

(18) Supra 2a.

(19) For Beth Shammai permit even the laid egg and Beth Hillel, according to this theory, prohibit the egg even though it is in the body of the hen.

(20) If one sells eggs for hatching then they must be eggs that are really laid and fertile.

Talmud - Mas. Beitzah 7a

of a cackling hen? When they gave him eggs [found] in a slaughtered hen, he came to R. Ammi [complaining], who said to them: It is an erroneous sale and he can withdraw [from it]. [But] this is self-evident![1] — You might say that this [buyer] really wanted [the eggs] for eating, and the reason he asked [for eggs] of a cackling hen is that [such eggs] are hard-shelled; and that the practical outcome [of] his claim[2] is that he must refund him the difference,[3] so he informs us [that this is not so].[4]

There was once one who said to [the salesmen], ‘Who has mated eggs[5] [for sale]? Who has mated eggs?’ [When] they gave him unmated eggs,[6] he came to R. Ammi who said to them: It is an erroneous sale and he can withdraw [from the transaction]. [But] this is self evident! — You might say that he needed [the eggs] only for eating,[7] and the reason he asked for mated eggs is that they are richer; and that the practical bearing of this is that they must refund him the difference,[8] so he informs us that the whole transaction is fraudulent].

Alternatively: What is meant, ‘it is completed on its issue’? [It means] it is completed with the coming forth of its greater part, and it is accordance with R. Johanan. For R. Johanan said: If the greater part of an egg issued on the day before the Festival and went back, it may be eaten on the Festival-day.[9] There are some [scholars] who say: What is meant, ‘it is completed on its issue’? [It means] it is completed with the [coming forth] of the whole of it. Only with the coming forth of the whole of it, but not with its greater part,[10] and this is to reject the opinion of R. Johanan.

[To revert to] the main text: If one slaughtered a hen and found therein completely formed eggs, these may be taken with milk.[11] R. Jacob says: If [the eggs] were attached [to the hen] by sinews they are forbidden.[12] Who is the author of that which our Rabbis taught: He who eats of a carcass[13] of a clean bird, of its cluster of eggs, or of its bones, or of its veins, or of its flesh torn off while alive[14] is clean;[15] [but he who eats] of its ovary or of its crop or of its entrails, or if he melted its fat and swallowed it,[16] he is unclean.[17] — Who is the author [of the teaching], ‘[He who eats] of its cluster of eggs is clean’? — Said R. Joseph: It is not in accordance with R Jacob. For if it were in accordance with R. Jacob, lo, he says: If [the eggs] were attached by sinews they are forbidden [to be taken with milk]![18] Said Abaye to him: Whence [do you say this]? Perhaps R. Jacob regards [these eggs as flesh] only with respect to a prohibition[19] but not with respect to defilement? And if you say that we should enact a preventative measure also in respect to defilement?[20] [I would reply], This would be an extension of [the scope of] defilement, and we do not extend [the scope of] defilement by Rabbinical enactment.[21]

There are some [scholars] who say [thus]: Who is the author [of the teaching that if one eats] ‘of its ovary he is unclean’?[22] Said R. Joseph: It is R. Jacob: For he says, ‘If [the eggs] were attached [to the hen] by sinews they are forbidden [to be taken with milk]’. Said Abaye to him: Whence [do you understand] that by the term ovary is meant [the eggs] that are attached to the ovary? Perhaps it means the ovary itself![23] And if you object: What need is there to say this with respect to the ovary? [I would reply]: It is analogous to the crop and the inwards; for although these are [really] flesh,[24] [yet] since there are people who do not eat them, it is therefore necessary to state these; so also here [with respect to the ovary] since there are people who do not eat it, it is necessary to teach it. Our Rabbis taught: All creatures which copulate during the day are born during the day; all creatures which copulate during the night are born during the night; all creatures which copulate both by day and by night, give birth both by day and by night. ‘Those which copulate by day are born by day’, this refers to a fowl; ‘those which copulate during the night are born during the night’, this refers to the bat; ‘those which copulate by day and by night give birth by day and by night’, this refers to man and whatever is like him.

The Master said [above]: ‘Those who copulate by day are born by day refers to a fowl’. What is the practical difference? — With respect to the teaching of R. Mari son of R. Kahana. For R. Mari son of R. Kahana said: If one examined a hen-coop on the eve of the Festival and could not find in it an egg, and on the morrow he rose early[25] and found in it an egg, it is permitted.[26] But did he not examine [the nest]? — I say[27] that he did not examine it very carefully, and even if he did examine it very carefully, I would say that [perhaps] the greater part [of the egg] came out [before the Festival] and went back; and [this ruling is] in accordance with [the opinion of] R. Johanan.[28]

But that is not so; for R. Jose b. Saul said in the name of Rab: If one examined a hen-coop on the eve of the Festival and did not find in it an egg and on the morrow he rose early and found an egg in it, it is prohibited?[29] — This [latter passage] refers to eggs laid through friction with the earth,[30] If so,[31] with respect to the teaching of R. Mari, might I not also say [the egg] was laid through friction with the earth? — When there is a cock near her.[32] Even when there is a cock [near her] might I not [still] say that the egg was laid through friction with the earth? — Said Rabina: There is a tradition[33] that wherever there is a cock near her she will not fructify [eggs] through friction. And how near [should the cock be]?[34] — R. Gamda replied in the name of Rab: Sufficiently near

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(1) That it is a fraudulent sale, since he asked for one thing and was given another.

(2) Seeing that he requires them in any case for eating.

(3) Between the value of cackling eggs and the eggs received, but the sale is nevertheless valid and cannot be rescinded.

(4) But we rather assume that when he asked for eggs of a cackling hen he wanted them for hatching, hence the sale is null.

(5) Lit., ‘eggs of (a hen paired with) a cock’.

(6) Lit., ‘eggs produced through friction of the body in the earth’, but not through contact with a male.

(7) And not for hatching.

(8) Between the value of mated eggs and the eggs received, but the transaction would still be valid.

(9) If subsequently laid on the Festival-day, and the law of mukzeh does not apply in this case.

(10) Lit., ‘with the coming . . . yes, but with . . . no’.

(11) V. supra p. 25, n. 4.

(12) Because they are then regarded as flesh.

(13) The carcass of a bird not ritually slaughtered does not defile a person through being carried or touched; it is only the eating of its flesh which defiles. Cf. supra to Lev. XXII, 8 and Nid. 42b.

(14) If any part of the bird is cut off while the bird is still living, although it may not be eaten, it does not defile.

(15) Because the cluster of eggs, the bones and the veins are not considered as flesh.

(16) Drinking is included in this law of defilement.

(17) These are considered as part of the flesh.

(18) Hence they are considered flesh.

(19) Not because he regards the eggs as flesh but as a preventative measure to safeguard the breach of eating flesh and milk together.

(20) I.e.,to pronounce the person unclean when eating only the eggs.

(21) The Rabbis did not extend the law of defilement by declaring the man who eats of these eggs unclean, because of the monetary loss that would follow (by his clothes and whatever he touches becoming unclean; v. Lev. XVII, 15). But with respect to the prohibition of eating the eggs with milk, there the eggs themselves are not prohibited; it is only to safeguard the law of eating flesh and milk that the Rabbis instituted a preventive measure, and though the eggs themselves may be eaten, they may not be eaten with milk. In this respect they consider the eggs flesh.

(22) And thus considers the eggs flesh. Cf. Tosaf. Men. 70a. s.v. ביצי .

(23) And that is indeed flesh.

(24) And you would understand that they defile.

(25) Before daybreak.

(26) Because it is assumed that the egg was laid the previous day as, by the nature of the case, it could not have been laid during the night.

(27) אימר Either Imperf. 1. sing., or Imper. 2. sing.

(28) Who regards the egg as having been laid. It may have been deposited during the night of the Festival, but it is not regarded as having been laid during the night.

(29) Because we assume the egg was laid during the night of the Festival.

(30) Which eggs might be laid even at night.

(31) That unmated eggs can be laid at night.

(32) Therefore the egg must have been laid during the day.

(33) Lit., 'they (teachings) are handed down'.

(34) That the hen should not lay eggs through friction.

Talmud - Mas. Beitzah 7b

that [the hen] can hear his crowing in the daytime.[1] R. Mari gave a decision [in a case where the cock was] at a distance of sixty houses.[2] But if there is a river [between them] she [the hen] does not cross over, but if there is a bridge,[3] she crosses over; if there is a plank she does not cross over. It happened once that [a hen] crossed over even a plank.

How have you explained it;[4] with respect to unmated eggs? Then why particularly teach when he examined [the hen-coop]; even if he had not examined, it should also [be prohibited]! — If he did not examine it, I might say [the egg] was from yesterday. If so, even if he had examined it, I might still say that the greater part [of the egg] came out [yesterday] and went back and [should therefore be permitted] in accordance with R. Johanan! — The contingency stated by R. Johanan is rare.

R. Jose b. Saul further said in the name of Rab: This pulverized garlic is a danger to be left exposed.[5]

BETH SHAMMAI SAY: [THE QUANTITY OF] LEAVEN IS OF THE SIZE OF AN OLIVE, AND LEAVENED BREAD IS OF THE SIZE OF A DATE. What is Beth Shammai's reason? — If so,[6] the Divine Law should only have written about leavened bread and not about leaven and I should have said: If leavened bread, the acidity of which is not very great, [is forbidden] at the size of an olive, how much more should leaven, the acidity of which is very great [be forbidden] at the size of an olive: then why does the Divine Law need to state leaven? In order to teach that the standard of the one is not like the standard of the other.[7] And Beth Hillel? — It is necessary [for the Divine Law to state both]. For if the Divine Law had written only about leaven I might have said that the reason [leaven is forbidden to be seen] is that its acidity is very great, but leavened bread, the acidity of which is not great, I might have said is not [forbidden to be seen at all]. It is therefore necessary [to state leavened bread]. And if the Divine Law had stated leavened bread, [I might have said that] the reason [leavened bread is forbidden to be seen] is that it is fit for food, but leaven which is not fit for food, I might have said is not [forbidden to be seen at all]. Therefore both are necessary.

Shall we say that Beth Shammai does not agree with what R. Zera had said? For R. Zera said: The Scripture [verse][8] begins with the term ‘leaven’ and concluded with the term ‘leavened bread’ in order to teach that ‘leaven’ and ‘leavened bread’ are alike? — With respect to eating, no one differs [about the size].[9] They only differ with respect to the removal [of the leaven from the house]; Beth Shammai is of the opinion that we do not learn [the law of] ‘removal’ from [that of] ‘eating’, while Beth Hillel maintains that we do learn ‘removal’ from ‘eating’.[10]

Likewise it was stated: R. Jose b. Hanina said: The dispute Is only with respect to the ‘removal’, but with respect to ‘eating’ all agree that both [leavened bread and leaven] are [forbidden] of the size of all olive. Likewise it was also taught: ‘And there shall no leavened bread be seen with thee neither shall there be leaven seen with thee’;[11] herein lies the dispute between Beth Shammai and Beth Hillel, where Beth Shammai say that leaven is the size of an olive and leavened bread is of the size of a date, but Beth Hillel maintain that both are of the size of an olive.

HE WHO SLAUGHTERS GAME OR POULTRY ON A FESTIVAL, etc. HE WHO SLAUGHTERS [implies] only if he has done so,[12] but not [that it may be done] at the very outset. Then consider the subsequent clause: BUT BETH HILLEL MAINTAIN: HE MUST NOT SLAUGHTER [etc.], whence it follows that the first Tanna holds that he may slaughter [at the outset]! — This is no difficulty. He means, ‘HE MUST NOT SLAUGHTER AND COVER [etc.]’.[13] But consider the final clause: BUT THEY AGREE THAT IF HE SLAUGHTERED HE MAY DIG WITH A SHOVEL AND COVER; whence it follows the first clause does not mean ‘[only] if he has done it’! — Answered Rabbah: This is what [the Mishnah] says: ‘The slaughterer who comes to ask advice[14] how should one answer him? Beth Shammai say: One answers him: Slaughter, dig and cover; but Beth Hillel maintain: he must not slaughter unless he had [loose] earth set in readiness before the Festival’. R. Joseph says: This is what [the Mishnah] says: ‘The slaughterer who comes to ask advice, how should one answer him? Beth Shammai say: One answers him: Go [and] dig, slaughter and cover; but Beth Hillel maintain: He may not dig unless he had [loose] earth set in readiness from before the Festival’.

Said Abaye to R Joseph: Shall it be said that you, Sir, and Rabbah disagree with respect to the teaching of R. Zera in Rab's name? R. Zera said in the name Rab: The slaughterer [of game or poultry] must put earth beneath [to receive the blood] and earth above, for it is said:’He shall pour out the blood thereof, and cover it with dust’.[15] It does not say earth but ‘in earth’,[16] teaching that the slaughterer must put earth beneath and earth above. You, Sir, [therefore] accept the teaching of R. Zera and Rabbah rejects the teaching of R. Zera. He answered him: Both I and Rabbah accept the teaching of R. Zera and our dispute here is as follows: Rabbah is of the opinion that he may [only slaughter] if there is [already] earth beneath [to receive the blood]; but if not, he may not slaughter,[17] for we apprehend that he might change his mind and not slaughter.[18] But according to my view, it Is better,[19] for if you will not permit him [to dig] he will come to be deprived of the joy of the Festival.[20]

BUT THEY AGREE THAT IF SOME HAS [ALREADY] SLAUGHTERED, HE MAY DIG UP [EARTH] WITH A SHOVEL AND COVER [THE BLOOD]. R. Zerika said in the name of Rab. Judah: This only holds good when the shovel had [already] been sticking [in the earth] since the previous day.[21] But does he not cause crumbling of the earth?[22] — Answered R. Hiyya b. Ashi in the name of Rab:

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(1) The crowing does not reach so far during the daytime as at night.

(2) The cock was removed sixty houses from the hen yet R. Mari maintained that there was copulation and permitted the egg.
(3) Or ‘ferry’.
(4) The saying of R. Jose b. Saul.
(5) Any exposed liquid is forbidden for use lest a snake has drunk therefrom. The same applies to pulverized garlic.
(6) That the prohibition of both leaven and leavened bread were of the size of an olive.
(7) I.e., leavened bread is of the size of a date, for food of such a size is estimated by the Rabbis sufficient to make one ‘come to’, (cf. Yoma 79a), and leaven is of the size of an olive which is the minimum.
(8) Ex. XII, 19.
(9) I.e., even Beth Shammai agree that both leaven and leavened bread of the size of an olive are forbidden to be eaten.
(10) Ex. XII, 19 deals with the prohibition and penalty of eating anything leavened. Ex. XIII, 7 deals with the removal of anything leavened from the house. From the fact that Ex. XIII, 7 mentions both ‘leaven’ and ‘leavened bread’ Beth Shammai infer that the size of the ‘leavened bread’ with respect to removal is not that of an olive but that of a date.
(11) Ex. Xlii, 7.
(12) For otherwise, the Mishnah should state that a man may slaughter it. HE WHO SLAUGHTERS, however, implies that the law which follows holds good only if he has already slaughtered.
(13) Beth Hillel's point is made with reference to the covering of the blood, not with reference to the killing at all; and therefore a deduction as to the view of the first Tanna can likewise be made only with reference to the covering.
(14) Whether he may slaughter, having no earth.
(15) Lev. XVII, 13
(16) The preposition ב here means in rather than with, indicating that dust is to be put on all sides. V. Nachmanides a.l. for reason of covering the blood.
(17) For he may not dig to obtain the earth to place beneath.
(18) He would then have dug earth unnecessarily.
(19) That he should be allowed to dig.
(20) For he will not be able to slaughter, v. Deut. XVI, 14.
(21) So that there is no violation of the law of digging on the Festival; for digging requires both the sticking in of the shovel as well as the lifting of it with the earth in it.
(22) Granted there is not digging, but this crumbling of the earth is also forbidden, being in the nature of grinding.

Talmud - Mas. Beitzah 8a

[We are dealing with a case] where the soil is loose.[1] But does he not make a hole?[2] — This is according to R. Abba; for R. Abba said: if one digs a hole on the Sabbath and only requires its soil, he is guiltless in regard to it.[3]

BECAUSE THE ASHES OF THE HEARTH ARE MUKAN [CONSIDERED AS HAVING BEEN PREPARED]. Who is speaking here of the ashes of the hearth?[4] Answered Rabbah: Read thus: ‘AND[5] THE ASHES OF THE HEARTH ARE MUKAN’. Rab Judah said in Rab's name: They only taught this[6] when it [the fire] had been kindled on the day of the Festival; but if it had been kindled on the Festival [itself] it is forbidden;[7] but if [the ashes] are suitable[8] to roast an egg therein, it is permitted.[9] Likewise It was also taught: When they said [that] the ashes of the hearth are mukan, they only said so when it [the fire] had been kindled before the Festival; but if it had been kindled on the Festival it is forbidden; but if they are suitable to roast an egg therein it is permitted. If one had brought earth into his garden or into his waste land [before the Festival] one may cover the blood therewith.[10]

Rab Judah further said in the name of Rab: A man may bring a basket-full of earth [into his house] and may use it for whatever is necessary.[11] Mar Zutra pointed out in the name of Mar Zutra the Great: This only holds good if he had appointed a special corner for it.[12]

An objection was raised: One may not slaughter a koy[13] on a Festival, and if he did slaughter it, he may not cover its blood.[14] Now if this were so[15] , let him cover it [the blood] in accordance with the opinion of Rab Judah?[16] — But even according to your point of view, let him cover the blood with ashes of the hearth, or with earth in which a shovel was stuck?[17] Therefore you must needs say that we are dealing here with a case where he has not [any of these];[18] so also explain that we are dealing with a case where he has not [a basket-full of earth in the house]. If so[19] then why particularly with respect to [an animal about which there is] a doubt [whether its blood requires covering]; even with respect to an animal about which there is no doubt one also may not [cover the blood by digging]?[20] — He uses the expression ‘not only but also’: not only may he not slaughter [in the case of an animal about which there is no doubt],[21] but even in the case of an animal about which there is a doubt, where I might have said that because of the joy of the Festival he should be allowed to slaughter without covering the blood, he informs us [that he may not slaughter].

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(1) As for example gravel or sand.

(2) When he takes it out, which is forbidden, being in the nature of ‘building’.

(3) Since it was not his intention to make the hole, the presence of the hole is only a disfigurement and for such an act of impairing or disfiguring one is not considered guilty of a breach of the Sabbath law; and although such an act is forbidden ab initio, yet for the sake of the joy of the Festival it has been permitted.

(4) Lit., ‘who has mentioned its name previously (that you are referring to it now)?’

(5) Changing the letter ש for ו. V. supra p. 1, n. 10.

(6) That the ashes of the hearth are considered mukan.

(7) On account of mukzeh.

(8) Hot enough.

(9) To use such ashes for covering the blood even though the fire was kindled on the Festival itself, because since the ashes may be used for baking they cannot be regarded as mukzeh and may therefore be used, when in such a state, for any other purpose.

(10) Since it was prepared for any purpose.

(11) And it is not regarded as a part of the earth of the house and thus be prohibited from being handled.

(12) I.e., he did scatter over the ground, thereby indicating that it was for his use.

(13) A bearded deer or antelope (GR. **) Jast. V. however Hul. 79b where it is defined as a cross between a goat and a gazelle. V. also B.K., Sonc. ed. p. 443 n. 6. A doubt prevails regarding this animal whether it is in the category of cattle the blood of which need not be covered, or in the category of game the blood of which is to be covered. Cf. Lev. XVII, 13.

(14) Perchance it is cattle and he would be handling earth unnecessarily. V. Hul. 83b, 79b.

(15) That earth thus brought could be used in any way.

(16) By listing the basket-full of earth. Even if it were definitely cattle, the earth could still be used without infringing the law not to do any work on a Festival.

(17) From before the Festival, which is stated in our Mishnah to be mukan.

(18) Viz., ashes or a shovel of earth.

(19) That we are dealing with a case where he has no earth except through digging.

(20) Since we accept the decision of Beth Hillel according to which it is forbidden to dig earth on a Festival for covering blood.

(21) Since he has no earth in readiness.

Talmud - Mas. Beitzah 8b

But surely since he teaches at the end [of the clause] ‘and if he did slaughter it, he may not cover its blood’, understand from this that [we are] speaking of a case where he has [earth in readiness]![1] — Therefore answered Rabbah: The ashes of the hearth[2] are regarded as mukan for [the covering of blood of] animals about which there is no doubt, but they are not regarded as mukan with respect to animals about which there is some doubt [whether their blood requires covering]. Why are they not [considered mukan in respect of the blood of the animal] about which there is a doubt? because he would be making a hole [in the ashes on the Festival]! Then in the case of an animal [game] about which there is no doubt, he would also be making a hole? But [why would it not be regarded as making a hole in the ashes]? because it is in accordance with R. Abba![3] Than here also it is in accordance with R. Abba![4] And if [you say that] the reason [why he may not use them to cover the blood of an animal about which there is] a doubt is that he may cause a crumbling [of the earth],[5] we should enact a preventive measure on account of crumbling of the earth even in the case of definite [game]? — In the case of [animals] about which there is no doubt, even if he crumbles the earth [it is permitted]; for the positive command [to cover the blood] comes and overrides the negative command.[6] But when do we say that a positive command overrides[7] a negative command, [only in cases] like 'circumcision in leprosy'[8] or 'a linen garment with [woolen] fringes',[9] where the infringement of the negative command is at the same time as the fulfillment of the of the positive command![10] — This presents no difficulty, for simultaneously with the crumbling of the earth he covers the blood. But after all, [in] a Festival there exists both a positive and a negative command,[11] and a positive command cannot override both a positive and negative command! — Therefore answered Raba: ashes of the hearth [or anything like it] are intended for a definite case of game but not for a doubt.[12] And Raba follows [here] his opinion [expressed elsewhere]. For Raba said: If one brought in earth [before the Festival] to cover therewith excrement [of a child], he may cover therewith the blood of a bird;[13] [to cover therewith] the blood of a bird he may not cover therewith the excrement [of a child].[14] The Neharbeleans[15] say: Even if one brought in earth to cover therewith the blood of a bird, he may [also] cover therewith the excrement [of a child].[16]

In the West[17] they say: R. Jose Hama and R. Zera — some say, Raba the son of R. Jose b. Hama and R. Zera — differ therein; one says: koy is analogous to excrement,[18] and the other says: koy is not analogous to excrement.[19] It may be proved that it was Raba who said that koy is analogous to excrement; for Raba said: If one brought in earth to cover therewith excrement [of a child], he may cover therewith the blood of a bird, [but if he brought it earth to cover therewith] the blood of a bird, he may not cover therewith the excellent [of a child].[20] Conclude from this [that it was Raba].

Rami the son of R. Yabba said: The reason why we are not allowed to cover [the blood of] a koy is that it is a preventive measure against permitting the use of its suet.[21] If it is so, [it should be prohibited] even on a weekday! — On a weekday people will say because he wants to clean his court.[22] What is there to be said if he slaughtered [the koy] on a dust-heap?[23] [And further] what will you say if one comes to ask advice?[24] — On a weekday even if there is any doubt the Rabbis would tell him: Go, take trouble and cover [the blood]; but on a Festival, if there is a doubt, would the Rabbis tell him: Go, take trouble and cover [the blood]![25] R. Zera learnt: it is not only with respect to a koy that the Rabbis said [thus]; but even if one slaughtered cattle, game and poultry and their blood became mingled, it is [also] prohibited to cover [such mingled blood] on a Festival.[26]

Said R. Jose b. Jasiniah: This was only said when one cannot cover it [the mingled blood] with one thrust of the shovel;[27] but if one can cover it with one thrust of the shovel, it is permitted. But is not this self-evident?[28] — You might assume that we should prohibit [even] one shovelful lest perchance [he might go on to use] two shovelfuls, so he informs us [that one is allowed]. Rabbah said: If one slaughtered a bird on the eve of the Festival [and omitted to cover the blood], one may not cover it on the Festival;[29]

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(1) For otherwise there would be no point in stating the law, seeing that where no earth in readiness is available he may not cover the blood of an animal which certainly requires covering. The original question therefore remains, viz., why should he not cover the blood of the koy either according to the teaching of Rab Judah or with the ashes of the earth?

(2) The same applies to the basket-full of earth.

(3) Who does not regard this as digging a pit; v. supra 6a.

(4) Therefore the reason cannot be on account of making a hole.

(5) [It is possible that the ashes contain cinders, or the basket-full of earth clods. V. supra p. 33 n. 6].

(6) Not to do any work on a Festival.

(7) Lit., ‘positive command comes and overrides etc.’

(8) It is forbidden to remove a Leprous spot by an operation. Deut. XXIV, 8. The command to circumcise however (Gen. XVII, 10ff) has to take place even though a leprous spot is on the foreskin.

(9) Woollen fringes (Deut. XXII, 12) may be inserted in a garment of linen in spite of the prohibition not to wear a garment of heterogeneous materials.

(10) For the act of crumbling the earth precedes the action of covering the blood.

(11) In addition to the negative command ‘not to do any work’, cf. Lev. XXIII, 7, 8, 21, 35 there is also a positive command of ‘resting’, cf. ibid. XXIII, 39.

(12) [They are not considered mukan in respect of animals about which there is a doubt, not because of the infringement of any prohibition involved, but because it is assumed that he had intended to use them only for such animals as definitely require the covering of their blood].

(13) In the case of a child's excrements the need is only a probable one, but with respect to the blood, he decided beforehand to kill on that day. Therefore if he prepared the earth to use for a contingency. how much more should he be permitted to use it for that which he definitely decided.

(14) For the earth was set in readiness only for a certain definitely determined object and therefore cannot be used in case of contingency.

(15) I.e., Rami b. Berabi or Beroki V. Sanh. 17b, Sonc. ed. p. 89. Neharbel identified with Nehar Bil, east of Bagdad, Obermeyer, p. 269.

(16) Because the contingency of the excrement is almost a certainty.

(17) I.e., Palestine. The Babylonians, when alluding to Palestine, called it the West, as Palestine was to the west of Babylon. Cf. Ber. 2b. But V. Sanh. 17b.

(18) I.e., if one brought earth to cover dung, he could cover therewith the blood of the koy, for the contingency of the dung is similar to the uncertainty with respect to the koy.

(19) Because the contingency of the dung is almost a certainty, and is therefore regarded as definite in comparison with koy which is absolutely uncertain.

(20) Hence Raba regards the contingency of requiring the earth for dung as remote and not as almost a certainty

(21) Heleb (V. Glos.). Suet is disallowed in the case of oxen and sheep but not in the case of game. If therefore you allow to cover its blood, people might regard it as game.

(22) And not because the koy is regarded as game. On a Festival work is forbidden with the exception of the preparation of food. The cleansing of a court is no exception.

(23) Where you cannot say that the covering of the blood is in order to keep the dust-heap clean.

(24) Whether, if he slaughters a koy on a weekday he should cover its blood? Is there not the possibility of the one asking the question, on being told that he is to cover its blood, himself coming to the conclusion that he may regard the koy as game and thus eat its suet.

(25) Surely not! Therefore people might come to a wrong inference.

(26) Because in so doing, he would be doing unnecessary work in covering the blood of the cattle.

(27) Which would be sufficient to cover the blood of the game and poultry; so that anything more than one shovelful would be unnecessary work.

(28) The one shovelful is required for the game and poultry, so that no extra work is done on account of the blood of the cattle.

(29) Because that which could be done before the Festival may not be done on the Festival. The bird, however, could be eaten in spite of the breach of the positive command to cover the blood.

Talmud - Mas. Beitzah 9a

if one prepared dough on the eve of the Festival, he may separate from its hallah[1] on the Festival.[2] The father of Samuel Says: Even if one Prepared dough on the eve of the Festival, he may not separate from it hallah on the Festival.[3] Shall it be said that Samuel disputes with his father? For Samuel said: With respect to hallah outside Palestine, one may go on eating [of the dough] and separate the priestly portion at the end![4] — Answered Raba: Does then not Samuel agree that if one designated it by name[5] that it is forbidden to be eaten by laymen?[6]

MISHNAH. BETH SHAMMAI SAY: ONE MAY NOT CARRY A LADDER [ON A FESTIVAL] FROM ONE DOVECOTE TO ANOTHER,[7] BUT HE MAY INCLINE IT FROM ONE PIGEON-HOLE TO ANOTHER. BUT BETH HILLEL PERMIT [THIS].

GEMARA. R. Hanan b. Ammi said: The dispute refers only to public ground, when Beth Shammai is of the opinion that whoever sees [him carrying the ladder] might say that he needed it for [plastering his roof];[8] Beth Hillel hold, his dovecote proves his intention; but in private ground, all agree that it is permitted. But it is not so. For Rab Judah said in the name of Rab:[9] 'Wherever the sages have forbidden anything because of appearances, it is forbidden even in the most innermost chambers![10] — It is [a contro versy of] Tannaim. For it was taught: One may spread them out in the sun, but not in the presence of people.[11] R. Eleazar and R. Simeon forbid this.[12]

Others say [thus]: R. Hanan b. Ammi said: The dispute refers to private ground; for Beth Shammai accept the teaching of Rab Judah in the name of Rab, and Beth Hillel reject the teaching of Rab Judah in the name of Rab; but on public ground all agree that it is forbidden. Shall it be said that Rab ruled as Beth Shammai?![13] — It is [a controversy of] Tannaim.[14] For it was taught: 'He may spread them out in the sun, but not in the presence of people. R Eleazar and R. Simeon forbid this'

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(1) The priestly portion of dough. V. Glos.

(2) For the decree of the Rabbis 'not to separate tithes on a Festival' (infra 36b) did not include dough, since it is permitted to make dough, which cannot be eaten until the priestly portion of the dough has been taken.

(3) When the Rabbis permitted the separation of hallah on a Festival, it only referred to a dough that was made on the Festival.

(4) Thus showing that the separation of hallah is not essential, since the eating of the dough does not depend upon the separation of hallah; and since one may eat of the dough before the separation one should be allowed to separate the hallah on the Festival, since the separation cannot be regarded as making the dough legally fit for use; cf. infra 36b.

(5) If one designated the separated part by the name hallah, it automatically assumes the name of terumah (V. Glos.).

(6) Hence such hallah is called terumah and can therefore be included in the Rabbinical enactment forbidding tithing on a Festival.

(7) To bring down the pigeons that are to be slaughtered.

(8) A man must avoid even the appearance of transgression.

(9) The authority of Rab as head of the Babylonian Community was not to be disputed by all Amora like R. Hanan, for he was regarded as enjoying the authority of a Tanna. CF. Sanh. 83b; 'Er. 50b; etc.; cf. also Tosaf. B.M. 46b.

(10) If therefore on public ground it is forbidden because of appearances, It should also be forbidden even on private ground.

(11) This refers to clothes which were accidently wetted on the Sabbath. For they might say that work had been done in washing. Hence there is an opinion that in private ground where the question of because of appearances does not apply it is permitted.

(12) Shab. 64b; 146b.

(13) This explanation would make Rab appear to side with Beth Shammai against Beth Hillel. But Rab would not go against the standard rule that the halachah prevails according to the opinion of Beth Hillel.

(14) The dispute between Beth Shammai and Beth Hillel according to R. Hanan is similar to the dispute between the anonymous Tanna and Rabbis Eleazar and Simeon. Rab, however, must explain the dispute of the Mishnah as in the first stage of the argument, and Beth Hillel, according to him, permit even on public ground because the dovecote proves the intention.

Talmud - Mas. Beitzah 9b

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Our Mishnah is not in agreement with the following Tanna. For it was taught: R. Simeon b. Eleazar said: Beth Shammai and Beth Hillel agree that one may carry the ladder from one dovecote to [another] dovecote;[1] they dispute only about bringing it back, Beth Shammai saying: One may not bring it back, and Beth Hillel maintaining: One may even bring it back. R. Judah said: These words apply only to a dovecote ladder;[2] but with respect to a loft-ladder all agree that it is forbidden.[3] R. Dosa says: One may incline it [the ladder] from one pigeon-hole to another. Others say in the name of R. Dosa: One may even move it with [short] hop-like steps.[4]

The sons of R. Hiyya[5] went out to the Villages [to inspect the fields]. When they came back their father asked them: Has any legal question come before you? They replied to him: A case of [carrying] a loft-ladder came before us and we permitted it. He said to them: Go and forbid what you have permitted. They were of the opinion: Since R. Judah said that they [Beth Shammai and Beth Hillel] do not dispute with respect to a loft-ladder, it follows that the first Tanna holds that they do differ [even there].[6] But this is not so; R. Judah is only explaining the view of the first Tanna.[7] Whence [is this known]? — Since [the list Tanna] states: ‘One may carry a ladder from one dovecote to another [dovecote].’ If therefore you maintain that they differ with respect to a loft-ladder [instead of] this [phrase], ‘One may carry a ladder from one dovecote to another dovecote,’[8] he should say, ‘One may carry a ladder to a dovecote.’[9] [Evidently] this is what he means: only [the ladder] of a dovecote but not that of a loft. And the other?[10] — Does it then state a ladder of a dovecote’? It [only] states ‘from one dovecote to another dovecote’, [indicating] even to any number of dovecotes.[11]

Others say: A case of inclining a loft-ladder came before us and we permitted it. He said to them: Go and forbid what you have permitted. They were of the opinion that what the first Tanna[12] forbids, R. Dosa permits.[13] But it is not so. [Rather is it] what the first Tanna permits,[14] R. Dosa forbids.

BUT HE MAY INCLINE IT FROM ONE PIGEON HOLE TO ANOTHER etc. Accordingly [we see] that Beth Shammai is stringent in regard to the joy of the Festival[15] and Beth Hillel is lenient, but the following contradicts this: If one slaughters game or poultry on a Festival, Beth Shammai say: He may dig up [earth] with a shovel and cover [the blood], but Beth Hillel maintain: One may not slaughter unless he has [loose] earth prepared from the day before [the Festival]![16] — R. Johanan replied: The authorities should be reversed.[17] ‘Whence [does this follow]?[18] Perhaps Beth Shammai say thus there[19] only when there is [already] a shovel sticking in the earth,[20] but not where there is no shovel sticking in the earth.[21] Or perhaps Beth Hillel permit here[22] only because the dovecote makes it evident,[23] but there[24] it is not permitted![25] Rather, if there is a difficulty,[26] the following is the difficulty. Beth Shammai say,[27] One may not take [pigeons][28] unless he stirred [them] up[29] the day before. But Beth Hillel say: He stands and declares, ‘This one or that one shall I take’.[30] Accordingly [we see] that Beth Shammai is stringent in regard to the joy of the Festival and Beth Hillel is lenient; but the following contradicts this: If one slaughters game or poultry on a Festival [etc.]! — R. Johanan replied: The authorities should be reversed. Whence [does this follow]?[31] Perhaps Beth Shammai [permit] only when there is [already] a shovel sticking in the earth

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(1) In order not to be deprived of the joy of the Festival.

(2) As his intention is then unmistakable.

(3) For the sake of appearance, as it may certainly be thought that he wishes to repair the roof.

(4) If the top of the ladder does not reach a particular pigeon-hole otherwise.

(5) Judah and Hezekiah.

(6) And, of course, Beth Hillel's view is law.

(7) Thus none permit the use of the ladder of the loft, since R. Judah does not state a separate view.

(8) Which signifies a ladder only used for dovecotes.

(9) The word משובך should have been omitted.

(10) I.e., R. Hiyya, what was the meaning of the text to him?

(11) The expression from ‘one dovecote to another dovecote’ is not asserting that it was a dovecote ladder, but rather that the ladder may be moved to several dovecotes.

(12) The first Tanna of R Dosa is R. Judah who forbids the carrying of a loft-ladder.
(13) The loft-ladder at any rate to be inclined from one pigeon hole to another.
(14) R. Judah permits the carrying of a dovecote ladder while R. Dosa forbids carrying and only permits inclining the ladder which had been brought to the dovecote before the Festival. But a loft-ladder would be forbidden even to incline.
(15) Beth Shammai do not give a more lenient decision out of regard for the joy of the Festival.
(16) Supra 2a. In this case Beth Shammai is more lenient than Beth Hillel.
(17) Rashi: The authorities in the second Mishnah are to be reversed; Tosaf.: The authorities of the first Mishnah are to be reversed.
(18) There is no need to change the authorities for the attitude of each school in the second Mishnah can be in harmony with their attitude in the first Mishnah.
(19) That it is permissible to dig up earth with a shovel.
(20) Before the Festival when there is no likelihood of breaking any law on the Festival.
(21) Even if the earth is loose, for in sticking in the shovel it would appear as if he were digging on a Festival. Similarly in the second Mishnah an onlooker might think that he was intending to repair his roof.
(22) Not out of consideration for the joy of the Festival.
(23) That no forbidden work is intended to be performed.
(24) In the first Mishnah.
(25) To dig even though the shovel was already sticking in the earth because he may cause a crumbling of the earth which is in the nature of grinding and the possibility of an infringement of the law by digging takes precedence over the consideration of the joy of the Festival.
(26) Which led R. Johanan, to reverse the authorities.
(27) Infra 10a.
(28) For slaughtering on a Festival.
(29) V. infra 10a.
(30) Preparing then, for the following day.
(31) So D.S. as supra. Cur. edd. ‘perhaps it is not so’.

Talmud - Mas. Beitzah 10a

but not when there is no shovel sticking in the earth;[1] or perhaps Beth Hillel rule thus only here because since it is mukzeh,[2] it is sufficient if he stands and declares, ‘This one or that one shall I take’;[3] but there [they do] not [rule thus]! Rather, if there is a difficulty, the following is the difficulty: Beth Shammai say: One may not take a pestle[4] to cut up meat thereon; but Beth Hillel permit [it].[5] Accordingly [we see] that Beth Shammai is stringent in regard to the joy of the Festival and Beth Hillel is lenient, but the following contradicts this: If one slaughters game or poultry [on a Festival] Beth Shammai etc.! — R. Johanan replied: The authorities should be reversed. ‘Whence [does this follow]? Perhaps it is not so? [Perhaps] Beth Shammai rule [thus] only there where there is [already] a shovel sticking in the earth, but not when there is no shovel sticking In the earth. Or perhaps Beth Hillel rule thus only here, because it [the pestle] bears the designation of utensil;[6] but there [they do] not [rule thus]! Rather, if there is a difficulty, the following is the difficulty: Beth Shammai say: One may not lay out a hide[7] for treading on[8] and one may not lift it up unless it has [sticking to it] flesh [as much as] an olive;[9] but Beth Hillel permit.[10] Accordingly [we see] that Beth Shammai is stringent in regard to the joy of the Festival and Beth Hillel is lenient, but the following contradicts that if one slaughters game or poultry on a Festival etc! — R. Johanan replied: The authorities should be reversed. Whence [does this follow]? Perhaps it is not so; [perhaps Beth Shammai rule thus only there, where there is [already] a shovel sticking in the earth, but not when there is no shovel sticking in the earth. Or perhaps Beth Hillel rule thus only here because it [the hide] is fit for sitting thereon,[11] but there [they do] not [rule thus]! Rather, if there is a difficulty, the following is the difficulty: Beth Shammai say: One may not take down shutters[12] on a Festival, but Beth Hillel permit them even to be put back.[13] Accordingly [we see] that Beth Shammai is stringent in regard to the joy of the Festival and Beth Hillel is lenient, but the following contradicts this: If one slaughters game or poultry on a Festival etc.! It is well [that the rulings of] Beth Shammai are not contradictory: there [it is permitted only] when there is [already] a shovel sticking in the earth but here there is no shovel sticking in the earth.[14] But [the views of] Beth Hillel are contradictory! — Said R. Johanan: The authorities should be reversed. [Why reverse the authorities]?[15] Perhaps Beth Hillel rule thus only here because building and pulling down do not apply to utensils,[16] but there [they do] not [rule thus].

MISHNAH. BETH SHAMMAI SAY:[17] ONE MUST NOT TAKE [PIGEONS] UNLESS HE HAS STIRRED[18] [THEM] UP THE DAY BEFORE [THE FESTIVAL]: BUT BETH HILLEL SAY: HE STANDS AND DECLARES: THIS ONE OR THAT ONE WILL I TAKE. GEMARA. R. Hanan b. Ammi said: The dispute is only with respect to the first brood[19] when Beth Shammai is of the opinion that[20] we preventively prohibit,[21] lest he may come to change his mind;[22] whereas Beth Hillel is of the opinion: We do not prohibit as a precautionary measure; but with respect to the second brood all agree that it is sufficient when he stands and declares, ‘This one or that one will I take’.[23]

Now according to Beth Hillel, why must he declare, ‘This one or that one will I take’, let him [rather] say, ‘Of these will I take [one] tomorrow’?[24] And if you reply that Beth Hillel do not accept [the law of] Bererah,[25] surely we have learnt:[26] If a corpse [lay] in a room[27] which has many doors[28] they are all unclean;[29] if one of these [doors] was opened,[30] it alone is unclean[31] and all the others are clean.[32] If he formed the intention to take it [the corpse] out through one of them, or through a window which [measures] four handbreadths square,[33] this gives protection to all the other doors.[34] Beth Shammai say: Providing that he had formed his intention to take it out[35] before the person died;[36] but Beth Hillel say: [It holds good] even [if his intention was formed] after the person died![37] — But has it not already been stated thereon: Rabbah said: [The statement of Beth Hillel is] with respect to the cleansing of the entrances from now onwards.[38] R. Oshaia also said: [The statement of Beth Hillel is] with respect to the cleansing of the entrances from now onwards; only ‘from now onwards’ but not ‘retrospectively’.[39] Raba says: In reality [the statement of Beth Hillel is even in respect of cleansing] retrospectively,[40] and here[41] the reason[42] is lest he might take up [a pigeon] and put it down again, take up [a pigeon] and put it down again and thus come to take one which is not fit for him.[43] But you say it is sufficient if he stands and says this or that will I take![44] — This only applies on the eve of the Festival,[45]

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(1) Similarly they do not permit to take a pigeon on a Festival unless he had specified before the Festival the particular pigeon he intended to slaughter, for after handling one he might change his mind and decide upon another and thus the handling of the first pigeon would be regarded as unnecessary work on a Festival.

(2) Viz., the prohibition of taking pigeons without previous preparation.

(3) This constitutes sufficient preparation.

(4) Used for the pounding of groats and therefore reserved for work forbidden on a Festival and so must not be handled.

(5) Infra 11a.

(6) Lit., ‘the law of a utensil is upon it’, and one may always handle a utensil on a Festival.

(7) Flayed on the Festival.

(8) Whereby it becomes tanned.

(9) The minimum to be used as a meal and what is needful for food may be carried about on a Festival.

(10) Cf. infra p. 51.

(11) They used to sit cross-legged upon rugs.

(12) For it is of the nature of building and pulling clown. V. infra 54, n. 2.

(13) Although such work is not directly for the sake of the Festival, infra 11b.

(14) I.e., in this case there is nothing corresponding to the shovel sticking in the earth in order to permit.

(15) Cf. MS.M. Cur. ed. ‘or’. [The text is in disorder: D.S. a.l. on the basis of different MSS. reconstructs it as follows: ‘On a Festival etc.’ — Said R. Johanan: The authorities are reversed. But whence (does this follow)? Perhaps Beth Shammai rules thus only there . . . but here there is no shovel . . . earth. Or perhaps Beth Hillel rule thus only here because building etc.’ — following the same line of argument as in the preceding cases].

(16) The forms of the utensils are not changed but are only used for a different purpose.

(17) Supra 9b. q.v.

(18) To stir up, means to examine properly what sort of bird it was.

(19) It is usual to leave the first brood as company for the parent birds.

(20) If he did not ‘stir’ them before the Festival.

(21) Taking any on the Festival.

(22) About slaughtering that particular pigeon and put it back. He would thus have handled and moved the pigeon unnecessarily. If, however, he ‘stirred’ them before the Festival and chose one for slaughter, then he has definitely made up his mind to have that bird.

(23) For there is no question of putting the bird back, since it is only the first brood that is left with the parent birds.

(24) Since a verbal preparation is sufficient to remove the prohibition of mukzeh, it should be assumed that the bird chosen on the Festival is retrospectively the same one about which he spoke the day before.

(25) Retrospective selection. A legal term to denote that a present selection shall have retrospective validity. The selection of a particular dove on the Festival from a number that have been generally designated before the Festival (when it was intended to take one only) shall rank as though that dove itself has been selected before the Festival.

(26) Infra 37b; ‘Er. 68b; Oh. VII, 3.

(27) A corpse in a room defiles not only the vessels inside the room but even those standing just outside the door beneath the lintel of the entrance through which the corpse is to be carried out. If there is more than one entrance to the room the same rule applies to them all unless it has been specifically determined to carry it through one particular entrance. Such determination protects the other entrances.

(28) All of which are closed or open.

(29) The doors themselves and even the vessels outside under the same lintels; because the corpse may be carried out through any one of them.

(30) After the person's death.

(31) For it is assumed that the corpse will be taken out through the open door.

(32) I.e., all vessels placed subsequently in the remaining entrances. With respect to those vessels placed there prior to the opening of the one door v. the immediately following hypothetical dispute between Beth Shammai and Beth Hillel.

(33) The minimum opening through which a whole corpse could be carried out.

(34) His intention or determination is regarded as if he had actually opened the entrance.

(35) Through a particular door.

(36) But if only after death, then those vessels which had been placed in the same entrance prior to his determination would be unclean.

(37) It ranks as though that door had been designated for that purpose immediately at death; hence we see that Beth Hillel accept the rule of Bererah.

(38) I. e., from the time subsequent to his determination. According to Beth Shammai, when there has been no determination before the death, all the entrances are unclean and the subsequent determination does not remove the uncleanness except by the actual act of opening. Not so Beth Hillel. But Beth Hillel will not accept the rule of Bererah.

(39) I.e., those vessels placed in the entrances from the time of death until the forming of his intention all agree are unclean.

(40) Because Beth Hillel accept the rule of Bererah.

(41) In our Mishnah.

(42) That Beth Hillel say that he must specify this or that.

(43) On account of mukzeh; for his intention was to take only what was necessary’ for him. If, however, he said ‘this or that I will take,’ he will definitely take those designated.

(44) Why not apprehend here too lest he will pick and choose since he did not ‘stir’ them before the Festival?

(45) I.e., If he makes this declaration on the eve of the Festival to remind him that he may not pick and choose on the Festival on account of mukzeh.

Talmud - Mas. Beitzah 10b

but[1] on the Festival [itself][2] it is forbidden;[3] for sometimes the [seemingly] fat ones are found [to be] lean, and the [seemingly] lean ones are found [to be] fat, and [thus] he handles [birds] which are not fit for him; or else, sometimes they may all be found lean, and he will leave them and thus come to refrain from the joy of the Festival.[4]

MISHNAH. IF HE DESIGNATED[5] BLACK [DOVES][6] BUT FOUND WHITE, WHITE BUT FOUND BLACK, TWO BUT FOUND THREE, THEY ARE [ALL] FORBIDDEN;[7] THREE BUT FOUND TWO, THEY ARE PERMITTED. [IF HE DESIGNATED DOVES] INSIDE THE NEST AND FOUND THEM IN FRONT OF THE NEST, THEY ARE FORBIDDEN; BUT IF NONE EXCEPT THESE WERE THERE, THEY ARE PERMITTED.

GEMARA. Is not this self-evident? — Said Rabbah: We are dealing here with a case where he had designated black and white,[8] and on the following morning he found black ones in the place of the white and white ones in the place of the black; you might say they are the very same [doves] and they had only exchanged [their nests], so he informs us[9] that those[10] are gone away and these are different ones. Shall it be said that [this Mishnah] supports the view of R. Hanina? for R. Hanina said:[11] [If] majority and proximity [are in opposition][12] you follow the majority?[13] — As Abaye has explained,[14] when there is a board,[15] likewise also here [explain] when there is a board.

[IF HE DESIGNATED] TWO [DOVES] BUT FOUND THREE THEY ARE [ALL] FORBIDDEN. Whichever way you take it [they are forbidden]; if these[16] are other [doves], then they are indeed others;[17] if they are the same, then there is [another] one mixed up with them.[18]

[IF HE DESIGNATED] THREE [DOVES] BUT FOUND TWO THEY ARE PERMITTED. What is the reason? — They are indeed the same[19] and one of them has flown away. Shall it be said that the Mishnah is according to Rabbi and not according to the Sages? For we have learnt: If one deposited one hundred [zuz][20] and found two hundred,[21] [it is assumed that] there is hullin [money][22] and second tithe [money] mixed together. This is the opinion of Rabbi. But the Sages say: The entire sum is hullin [money].[23] If he deposited two hundred [zuz] and found one hundred, [it is assumed that] one hundred has been left[24] and one hundred has been taken away. This is the opinion of Rabbi. But the Sages say: The entire sum is hullin [money].[25] — You can even say [that it is] in accordance with the Sages, for It was stated thereon: R. Johanan and R. Eleazar both say:[26] Doves are different since they are used to hop about.[27] But why is it necessary[28] to explain here, ‘doves are different since they are used to hop about’? Surely it has already been stated with respect to this [very Baraitha] that [there is a dispute between] R. Johanan and R. Eleazar; one says: The controversy [between Rabbi and the Sages] is when there were two purses,[29] but when there is [only] one purse all agree that the entire sum is hullin.[30] And the other says: The dispute is when there is one purse,[31] but when there are two purses all agree that [we are to assume] one hundred has been left and one hundred taken away! It is well according to the view that the dispute relates to two purses; hence it is necessary to explain here ‘it is different with doves since they are used to hop about.’ But according to the view that ‘the dispute is [only] with respect to one purse but when there are two purses all agree that one hundred had been left and one hundred taken’ why is it necessary to answer it [as above]; surely you have said indeed that they do not dispute with respect to two purses?[32] — Said R. Ashi: We are dealing here with doves tied together and with purses fastened together;[33] doves pull themselves apart from one another, but purses do not pull themselves apart from one another.[34] And Rabbi?[35] — He will answer you: In the case of purses too, it occurs

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(1) If he has to make up his mind.

(2) I.e., if he only said ‘of these will I take to-morrow.

(3) To take any bird.

(4) But had he specifically designated which to take, he would not change his mind.

(5) For eating on the Festival.

(6) That were in the nest.

(7) In the first case they are definitely strange doves and in the second case since he cannot recognize the doves he designated they are all forbidden.

(8) In two separated nests.

(9) That we are to suppose.

(10) Doves that have been designated for slaughter on the eve of the Festival.

(11) B.B. 23b.

(12) I.e., If a case can be decided one way on the ground of majority and another way on the ground of nearness. For majority and nearness, cf. Ex. XXIII, 2 and Deut. XXI, 3 respectively. V. also B.B., Sonc. ed. p. 117, n. 2.

(13) Here too it is probable that the doves are the same and that the nests have been exchanged owing to their close proximity. On the other hand it is possible to imagine these doves as part of the great majority of birds which do not belong to him and which had not been predetermined on.

(14) With reference to another case, infra 11a.

(15) In front of the dovecote upon which strange birds settle. Accordingly it is also probable that as soon as the old doves left their dovecote (quitted their nest), these strange doves took their place. The question of proximity therefore applies equally to the strange doves as well as to the doves that were originally in the nest in which case no one disputes that majority decides.

(16) All three.

(17) They are therefore forbidden, for these have not been designated before the Festival.

(18) And since it is not known which is the new one they are all forbidden.

(19) I.e. , two of the three previously designated.

(20) I.e., one case of a hundred zuz of the second tithe which had to be taken to Jerusalem, but which owing to the distance was converted into money. This money had to be spent in Jerusalem. V. Deut. XIV, 22-26.

(21) I.e., two one-hundred zuz pieces.

(22) I.e., ordinary, unconsecrated, not of the second tithe.

(23) He must therefore select the finest coin for the second tithe and say: If this was originally the second tithe coin then it is well; if, on the other hand, the other coin was originally the second tithe, then let this one be exchanged for the other.

(24) For he would not have put away hullin money together with second tithe money; and since two coins were found instead of one, it is to be assumed that the one-hundred zuz piece of the second tithe had been taken out and put in another place, while this two-hundred is ordinary money subsequently put in the same place.

(25) Because the owner would not have separated one second tithe coin from the other except to take it to Jerusalem; hence the Sages assume that he had taken out the two hundred zuz which he put somewhere away, replacing them by the hundred zuz of ordinary money, but that he had forgotten the whole matter. Similarly according to the Sages it would follow that the three doves had flown away and two others came in their place. V. Pes. 100.

(26) In explanation of this seeming contradiction.

(27) Therefore one of them may have hopped away and the two left are of the original ones. But the same cannot be said with respect to money.

(28) For both R. Johanan and R. Eleazar.

(29) Each containing one hundred zuzim. It is then that Rabbi says that one hundred was left and one hundred taken away.

(30) For if he took aught of such money he would have taken the lot.

(31) It is then that the Sages assume that the entire two hundred second tithe money had been taken out and placed elsewhere.

(32) The contradiction shown between the Mishnah and the view of the Sages was removed by both R. Johanan and R. Eleazar by explaining that there was a difference between doves and coins. But since one of the same two Rabbis maintains that in the case of two purses each containing one hundred zuzim the Sages agree that the hundred left is part of the original, which is in agreement with the statement in the Mishnah, then why was he a party to that explanation of the contradiction?

(33) The expression ‘One purse containing two hundred zuzim’ means two purses, each containing one hundred zuzim, tied together and regarded as one purse; likewise ‘two purses’ would mean when they are not tied together. In the former case the Sages hold that the purse left is not one of the original two that were tied together. This view is contradictory to the Mishnah which says that the two doves found are of the original three that were tied together from which one had torn itself away. This contradiction is overcome by drawing a distinction between live birds and inanimate purses.

(34) And therefore the purse left may not be of the original two tied together.
(35) Surely this is a logical distinction!

Talmud - Mas. Beitzah 11a

that their knot becomes worn out.

WITHIN THE NEST AND FOUND THEM IN FRONT OF THE NEST THEY ARE FORBIDDEN. Shall it be said that this[1] supports the view of R. Hanina? For R. Hanina said:[2] [If] majority and proximity [are in opposition] you follow the majority? — Said Abaye: When there is a board.[3] Raba says: 'We are treating here of two nests one above the other;[4] and it goes without saying that if he designated [doves] in the lower [nest] and did not designate [those] in the upper, and [on the morrow] finds [doves] in the lower [nest] and none in the upper they are forbidden, for we assume that those of the lower [nest] had flown away and these[5] had indeed hopped down; but even if he designated [doves] in the upper [nest] and did not designate [those] in the lower and he came and found [some] in the upper and did not find [any] in the lower, these too are forbidden, for we assume that those[6] had flown away and these had indeed fluttered up.[7] BUT IF NONE EXCEPT THESE WERE THERE THEY ARE PERMITTED. What are the circumstances? If you say that [this refers] to those which can fly, then it is possible to assume that those had flown away and these are different ones? And if [this refers] to those which can [only] hop,[8] then if there is [another] nest within fifty cubits, they might indeed have hopped away;[9] and if there is no [other] nest within fifty cubits, it is obvious that they are permitted, for Mar 'Ukba b. Hama said: 'Whatever hops does not hop more than fifty cubits! — In truth [it means] where there is [another] nest within fifty cubits, but e.g., it is situated round a corner; you might say that they has indeed hopped away,' so it[10] informs us that they only hop along as long as by turning they see their nest,[11] but if not,[12] they do not hop away.

MISHNAH. BETH SHAMMAI SAY:[13] YOU MAY NOT TAKE A PESTLE[14] TO CUT UP MEAT THEREON,[15] BUT BETH HILLEL PERMIT [IT]. BETH SHAMMAI SAY: ONE MAY NOT PLACE A HIDE[16] FOR TREADING ON[17] NOR MAY HE LIFT IT UP UNLESS THERE IS AS MUCH AS AN OLIVE OF FLESH WITH IT,[18] BUT BETH HILLEL PERMIT IT.

GEMARA. A Tanna taught: And they [both] agree that if he had already cut up meat thereon, it [the pestle] may not be moved.[19]

Abaye said: The dispute is [only] with respect to a pestle, but in the case of a butcher's block[20] all agree that it is permitted. This is obvious: we learnt, A PESTLE![21] — You might say that the same applies even to a butcher's block[22] and the reason it states PESTLE is in order to inform you of the extent of the view of Beth Hillel that even an object specially made for work which is forbidden[23] is also permitted; hence he informs us [that it is not so]. Others state; Abaye [himself] replied:[24] It is only necessary [to teach] that even a new butcher's block [is permitted]. You might say: He may change his mind and not cut up [meat] on it,[25] so he informs us [that this is not so]. Do then Beth Shammai not fear [the possibility of] one changing his mind?[26] Surely it was taught: Beth Shammai say: One may not lead the slaughterer[27] and the knife to the animal [to be slaughtered][28] nor the animal to the slaughterer and the knife; but Beth Hillel say: One may bring the one to the other. Beth Shammai say: One may not carry spices or a pestle to the mortar, nor the mortar to the spices or the pestle; but Beth Hillel say: One may bring the one to the other! — What comparison is this? [With respect to] an animal it is well: he may come to change his mind saying, let us leave this lean animal and I will bring another animal which is fatter than this; [with respect to] a dish too he may come to change his mind, saying, let us leave this dish which requires spices and I will bring another [dish] which does not require spices. [But] here what are we to suppose? He will change his mind and not cut up [the meat]? Since he has already slaughtered [the animal], it has to be cut up.

BETH SHAMMAI SAY: ONE MAY NOT PLACE A HIDE. A Tanna taught: And they [both] agree that one may salt upon it meat for roasting.[29] Abaye said: It was taught only [when it is] for roasting but not for boiling.[30] This is obvious: We learnt[31] 'for roasting'? — This he [Abaye] informs us that even for roasting [to salt it almost as much] as for boiling is [also] forbidden.

Our Rabbis taught: One may neither salt[32] pieces of suet[33] for turn them about.[34] They reported in the name of R. Joshua: One may spread them out in the air on pegs [of wood]. R. Mattenah said: The halachah is as R. Joshua. Others state: R. Mattenah said: The halachah is not as R. Joshua. This is well according to the version, 'the halachah is as R. Joshua', [then it is necessary]: For I might say, [when] an individual and a majority [are in dispute] the halachah is as the majority: [hence] he informs us that [here] the halachah is as the individual. But according to the version 'the halachah is not as R. Joshua', it is obvious: [for when] an individual and a majority [are in dispute], the halachah is as the majority! — You might think that the opinion of R. Joshua is logical, for if you will not permit him[35] he will altogether forbear to slaughter,[36] so he informs us.[37] And why is this different from the case of placing a hide before the treading place?[38]

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(1) Statement of the Mishnah in assuming that the doves now found in front of the nest are not those that were originally within the nest.

(2) Supra 10b; B.B. 23b.

(3) Before the dovecote upon which strange doves settle. V. supra p. 48, n. 2.

(4) And the reason they are forbidden is on account of mukzeh and not that we regard them as part of the great majority of bids.

(5) At present in the lower nest.

(6) First mentioned.

(7) From the nest below.

(8) I.e., young ones that cannot yet fly.

(9) From their own cote and settled here.

(10) The Mishnah.

(11) I.e., so long as their nest is within sight.

(12) If by turning they cannot see their own nest.

(13) Supra 10a.

(14) Normally used for pounding grain, a work forbidden on a Festival.

(15) Work permitted on a Festival.

(16) Flayed on a Festival.

(17) Or, 'before the treading place', i.e., to be walked on as a door-mat whereby it becomes tanned; v. p. 43.

(18) I.e., clinging to it.

(19) For the purpose for which it was needed had already been done.

(20) Lit., 'bone-breaker'.

(21) But not a butcher's block.

(22) I.e., Beth Shammai prohibits this too, lest after taking it he changes his mind and does not use it at all.

(23) On a Festival; v. p. 51, n. 7.

(24) To the question 'is it not obvious?'

(25) In order to spare it so as not to spoil it; hence it should be forbidden; cf. n. 1.

(26) For we have just said according to Abaye that Beth Shammai agree that a new butcher's block may be moved for cutting up meat thereon, and they do not take into consideration the possibility of changing the mind.

(27) V. Marg. note; cf. also D.S.

(28) If they are distant from one another lest the slaughtering might not take place, and unnecessary toil is forbidden on a Festival.

(29) Although salt assists the tanning, because very little salt is used when the meat is to be roasted.

(30) Where much salt is required.

(31) The word תנן is used here loosely as it refers to a Baraitha.

(32) On a Festival.

(33) In order to preserve them for use after the Festival. Suet may not be eaten but may be used for making candles, etc.

(34) To prevent them decaying.

(35) To spread the pieces of suet on pegs.

(36) And thus be deprived of the joy of the Festival.

(37) That we do not follow the opinion of R. Joshua.

(38) Which Beth Hillel permit for the reason that if you will not allow him to do this he will omit slaughtering altogether.

Talmud - Mas. Beitzah 11b

— There it is not manifest,[1] since it [the hide] is fit to be used as a mat to sit on. Here [however] he will be led to argue: ‘What is the reason [that] the Rabbis permitted me [to spread it on pegs]: so that it should not become offensive: what difference is there whether I spread them or salt them? Rab Judah in the name of Samuel said: A man may salt [on a Festival] several pieces of meat together even though he needs only one piece.[2] R. Adda b. Ahabah made use of an artifice and salted piece after piece.[3] MISHNAH. BETH SHAMMAI SAY:[4] ONE MAY NOT TAKE DOWN SHUTTERS ON A FESTIVAL,[5] BUT BETH HILLEL PERMIT EVEN TO PUT THEM BACK AGAIN.

GEMARA. What [kind of] shutters? — Said ‘Ulla: The shutters of a [shopkeeper's] stall.[6] ‘Ulla further said: There are three cases where [the Rabbis] allowed the completing [of the action][7] on account of its beginning,[8] and they are as follows: [The placing of] the hide for people to tread on;[9] [the taking down of] shutters from stalls[10] and the replacing of a plaster[11] in the Temple. And Rehaba said in the name of Rabbi Judah:[12] Also he who opens his cask [of wine] or commences [cutting] into his dough for the requirements of the Festival[13] and according to R. Judah who Says: He may finish [selling them after the Festival].[14]

‘[The placing of] the hide for people to tread on’; we have [already] learnt it![15] — You might say that the reason of Beth Hillel[16] is because it is fit to be used as a mat and therefore even though [the hide was flayed] before the Festival it is also [permitted]; so he informs us [that] they permitted its completion for the sake of the beginning: [therefore if flayed] on the Festival it is [permitted], before the Festival it is not [permitted].

‘[THE TAKING DOWN OF] SHUTTERS FROM STALLS’ we have also learnt, [viz., but Beth Hillel permit even to put them back again]: — You might say that the reason of Beth Hillel is that building or demolishing does not apply to utensils and [therefore] even [the lids of chests in] houses are also permitted,[17] so he informs us that they only permitted its completion on account of the beginning; therefore of stalls only [is it permitted] but not of [chests in] houses.[18]

‘The replacing of a plaster in the Temple’ we have also learnt [viz.]:[19] One may replace[20] a plaster [on a wound] in the Temple but not in the country:[21] — You might Say, what is the reason? Because there is no shebuth[22] in the Temple and [therefore] even a priest not performing a Temple service [may also replace a plaster], so he informs us that they [only] permitted its completion on account of the beginning, [therefore it is permitted] only in the case of [a priest] performing a Temple service, but not when not performing a Temple service. ‘[The case of] opening a cask’, we have also learnt[23] [viz.]: He who opens his cask [of wine] or commences cutting into his dough for the requirements of the Festival, R. Judah says: He may finish [selling them after the Festival]; but the Sages say: He may not finish! — You might say that the Rabbis regarded the uncleanness of an ‘am ha-arez during the [period of the] Festival as cleanness and [therefore] even though he had not commenced[24] it is also [permitted];[25] so he informs us that they only permitted its completion on account of the beginning, [therefore] only if he had commenced [to sell them during the Festival] but not if he had not commenced.[26] And ‘Ulla: What is the reason that he does not state this?[27] — He does not deal with [cases] where there is a dispute. But there is a dispute concerning those too![28] — The [opinion of] Beth Shammai against that of Beth Hillel is regarded as having no authority.[29]

Our Mishnah[30] is not according to the following Tanna; for it was taught: R. Simeon b. Eleazar says: Beth Shammai and Beth Hillel agree that one may take down the shutters on a Festival; they dispute only about replacing, Beth Shammai maintaining: One may not replace [them]; while Beth Hillel rules: One may even replace [them]. When is this said? Where they [the shutters] have hinges,[31] but if they have no hinges all agree that it is permitted [even to replace them]. But it was taught: This applies only if they have no hinges, but if they have hinges all agree that it is forbidden! — Said Abaye: When they have hinges on the side all[32] agree that it is forbidden;[33] they only dispute where there is a hinge in the middle:

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(1) That the spreading of the hide is for tanning.

(2) For this is not doing extra work, for there is one act of salting whether it be for one or for several pieces.

(3) After salting one piece for eating on the same day, he took another under the pretence that it was preferable, and so on until the whole was salted. The object was to preserve the meat in better condition for the days following the Festival.

(4) Supra 10a.

(5) For it is of the nature of building and pulling down, work forbidden on a Festival.

(6) Although general trading is prohibited on a Festival, yet things necessary for the full enjoyment of the Festival may be sold on trust, no payment being made on the day of the Festival. One or two shutters were taken down to show that such goods might be obtained.

(7) Which was not necessary for the Festival and in an ordinary way would have been prohibited.

(8) The beginning of the action was necessary for the enjoyment of the Festival and so the ending is permitted for the sake of the beginning. If it were forbidden, it might cause the neglect of beginning certain work which was necessary for the full enjoyment of the Festival.

(9) If he would not be allowed to use the skin in this way he would not kill.

(10) If he will not be allowed to close he will not open to give food.

(11) To apply a plaster on the Sabbath is forbidden. If, however, a priest having a plaster on a wound on his hand by reason of which he may not perform the Temple service (because nothing may adhere to his hand during the Temple service) has removed same, then he may replace it after the Temple service is over.

(12) [The reference is to Rab Judah, whom Rehaba designated as ‘Rabbi’ (‘my teacher’) because he was his teacher (Rashi). V. D.S. a.l.]

(13) To retail these to the pilgrims during the Festival among whom may be some of the עמי הארץ who do not observe the law of purification and who may have come into contact with the wine or bread thus rendering them unclean. According to R. Judah, the remainder also may after the Festival be bought by or sold to anyone however scrupulous he may be. V. p. 56, n. 1. Here, too, if we do not allow him to sell after the Festival, he will not commence opening for the Festival.

(14) This is explained infra.

(15) Supra 11a. Then why mention it again?

(16) In permitting the hide to be trodden on.

(17) To be taken off and to be put back again.

(18) I.e. , even Beth Hillel hold that building or demolishing with respect to utensils is Rabbinically prohibited, but here they permit only on account of the enjoyment of the Festival.

(19) ‘Er. 102b.

(20) On a Sabbath.

(21) מדינה (country) used here as opposed to מקדש (Sanctuary, Temple precincts).

(22) A Rabbinical Statute concerning the true keeping of the Sabbath; an act forbidden by the Rabbis on a Sabbath as being out of harmony with the celebration of the day. The replacing of a plaster on a Sabbath, like other medicinal remedies, is forbidden by the Rabbis as a preventive measure against pounding spices. The prohibition of acts as shebuth, however, did not apply to Temple duties. V. Glos.

(23) Hag. 26b. Wine or dough which has been touched by an ‘am ha-arez may not be bought by or sold to persons who are scrupulous about purification, for the ‘am ha-arez is suspected of being unclean. If an ‘am ha-arez comes into contact with the wine or the dough during the Festival, they are not contaminated and may be bought by or sold to anybody during the Festival, even the most scrupulous. Should any wine or dough remain after the Festival, R. Judah and the Sages dispute whether these may continue to be bought by or sold to scrupulous people. If, however, wine or dough not for sale during the Festival came in contact with an ‘am ha-arez, such may not be bought by or sold to the scrupulous after the Festival even according to R. Judah.

(24) To sell during the Festival.

(25) To the most scrupulous according to R. Judah, even though an ‘am ha-arez had come into contact with these.

(26) The uncleanness of an ‘am ha-arez was regarded as clean only with respect to things that were started to be sold, but if an ‘am ha-arez touched a thing that had not been started to be sold, he contaminated them.

(27) Additional case of Rehaba.

(28) For Beth Shammai dispute the three cases he mentions.

(29) Lit., ‘Beth Shammai(‘s view), in the place of Beth Hillel is not a Mishnah’, since the halachah is determined according to Beth Hillel. Cf. Ber. 36b, Yeb. 9a.

(30) Which states the dispute between Beth Shammai and Beth Hillel with respect to taking down shutters.

(31) In which case replacing appears more in the nature of building.

(32) Both Beth Shammai and Beth Hillel.

(33) Because it is more difficult to put them back.

Talmud - Mas. Beitzah 12a

One master[1] holds that we preventively prohibit a hinge in the centre on account of a hinge at the side;[2] and the other master[3] is of the opinion we do not preventively prohibit.[4]

MISHNAH. BETH SHAMMAI SAY: ONE MAY NOT CARRY OUT AN INFANT[5] OR A LULAB[6] OR A SCROLL OF THE LAW[7] INTO PUBLIC GROUND,[8] BUT BETH HILLEL PERMIT [IT].

GEMARA. A Tanna taught before R. Isaac b. Abdimi: He who slaughters a freewill burnt-offering on a Festival is flagellated.[9] Said he to him: He who taught you this held the opinion of Beth Shammai who maintain: We do not say, ‘Since carrying out is permitted for what is [actually] necessary [for the preparation of food], it is also permitted for that which is not necessary’.[10] For if [he held the opinion of] Beth Hillel, surely they maintain: ‘Since carrying out is permitted where it is necessary, it is also permitted where it is not necessary’, so also here, since slaughtering is permitted where it is necessary[11] it is also permitted where it is not necessary.[12] To this Rabbah demurred: Whence do you know that Beth Shammai and Beth Hillel differ on this [point]; perhaps they differ as to whether [the laws of] ‘erub and carrying out apply to Sabbath, but [the laws of] ‘erub and carrying out do not apply to a Festival?[13] One Master is of the opinion, ‘Erub and [the laws of] carrying out apply to both the Sabbath and the Festival,[14] and the other Master maintains, ‘Erub and [the laws of] carrying out apply to Sabbath but ‘erub and [the laws of] carrying out do not apply to the Festival, as it is written, Neither carry forth a burden out of your houses on the Sabbath day,[15] only on the Sabbath day but not on the Festival![16] To this R. Joseph demurred [in turn]: If so,[17] let them[18] dispute with respect to stones![19] Since, however, they do not dispute about stones, infer from it that they differ with respect to carrying out [things] that are not necessary [in the preparation of food].[20]

R. Johanan is also of the opinion that they differ in whether [we say], ‘Since carrying out is permitted for what is necessary [in the preparation of food] it is also permitted for what is not necessary [in the preparation of food]’; for a tanna recited before R. Johanan:[21] He who boils the thigh sinew on a Festival[22] in milk and eats it is flagellated on five counts, for [unnecessarily] cooking the sinew on a Festival,[23] for eating the sinew, for boiling meat in milk,[24] for eating meat with milk,[24] and

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(1) I.e., Beth Shammai.
(2) If the former is permitted, one will think that the latter, too, is permitted.
(3) I.e., Beth Hillel.
(4) And therefore permit even to put them back again. The two Baraitha therefore are not contradictory, for each refers to a different case.
(5) On a Festival, even to circumcise it. The circumcision ceremony was usually performed in a synagogue, hence the need to carry the infant out.
(6) Lit., ‘palm-branch’, which bound together with myrtles and willows was carried, together with a citron, during the Feast of Tabernacles. V. Lev. XXIII, 40. Beth Shammai prohibit the carrying out of the lulab even for the purpose of fulfilling this command.
(7) For the purpose of reading it.
(8) For only such work as is necessary in the preparation of food may be done on a Festival.
(9) The only offering which an individual may bring on a Festival is one part of which he may eat. But a burnt-offering is entirely consumed by fire on the altar; hence he does unnecessary work on the Festival. Obligatory (i.e., public) burnt-offerings are however permitted, as are all public sacrifices, both on the Sabbath and on Festivals, but voluntary offerings can be offered after the Festival.
(10) As follows from our Mishnah.
(11) For his own food during the Festival.
(12) As the freewill burnt-offering.
(13) The carrying of articles from one domain to another is forbidden, yet by means of an ‘erub it is permitted. ‘Erub is a symbolical act by which is established the legal fiction of joining one private estate with another private estate, thus extending the area in which things could be carried.
(14) Just as it is not permitted on a Sabbath to carry from one domain to another without an ‘erub, so on a Festival.
(15) Jer. XVII, 22.
(16) Thus Beth Hillel too may hold that we do not say, ‘Since a certain labour is permitted in the preparation of food, it is also permitted in other cases too’, their reason in the Mishnah being that they do not regard carrying out as a labour at all vis a vis Festivals.
(17) That Beth Hillel hold that the prohibition of carrying without an ‘erub does not apply to Festivals.
(18) Beth Shammai and Beth Hillel.
(19) Which it is altogether unnecessary to carry out; whether these may be carried out on Festivals into a public domain, v. Tosaf. s.v. ה ג and R. Hananel.
(20) But for the carrying out of which there is nevertheless some reason as the examples quoted in the Mishnah, v. loc. cit.
(21) Mak. 21b; Yes. 47b. In Mak. the reading is slightly different.
(22) Forbidden in Gen. XXXII, 33.
(23) Since the sinew may not be eaten, the work of cooking it is unnecessary and consequently punishable by flogging. The same applies to the work of kindling a fire.
(24) The prohibition of boiling meat with milk or eating of the same as well as making any use thereof is derived from the three passages of Scripture (Ex. XXIII, 19; XXXIV, 26; Deut. XIV, 21) forbidding to seeth a kid in its mother's milk.

Talmud - Mas. Beitzah 12b

for kindling fire.[1] Said he [R. Johanan] to him: Go, teach [this] outside [the Academy]; [what you have said with respect to] kindling and cooking has no authority, and if you say that it has an authority, [that authority] must be Beth Shammai who maintain that we do not say, ‘Since carrying out [on a Festival] is permitted for what is necessary[2] it is also permitted for what is not necessary’, likewise [they maintain] here that we do not say, ‘Since the kindling of fire is permitted [on a Festival] for what Is necessary, it is also permitted for what is not necessary’. For according to Beth Hillel, since they maintain [that we do say] ‘Since carrying out is permitted for what is necessary, it is also permitted for what is not necessary’, so also they would maintain here [that we say], ‘Since the kindling of fire is permitted for what is necessary. it is also permitted for what is not necessary’.[3]

MISHNAH. BETH SHAMMAI SAY: YOU MAY NOT TAKE TO THE PRIEST HALLAH[4] OR PRIESTLY DUES[5] ON A FESTIVAL WHETHER THEY WERE SEPARATED ON THE DAY BEFORE OR ON THE SAME DAY. BUT BETH HILLEL PERMIT IT. SAID BETH SHAMMAI TO THEM: AN ANALOGY [SUPPORTS OUR VIEW]: HALLAH AND PRIESTLY DUES ARE A GIFT TO THE PRIEST AND TERUMAH[6] IS [LIKEWISE] A GIFT TO THE PRIEST; JUST AS ONE MAY NOT TAKE [TO THE PRIEST] TERUMAH[7] SO ONE MAY NOT TAKE [TO HIM] PRIESTLY DUES. BETH HILLEL, REPLIED TO THEM: NO! IF YOU SAY[8] IN THE CASE OF TERUMAH WHICH HE HAS NOT THE RIGHT TO SEPARATE,[9] WILL YOU SAY [THE SAME] WITH RESPECT TO PRIESTLY DUES WHICH HE IS PERMITTED TO SEPARATE?[10]

GEMARA. Now it was assumed that [the Mishnah means where] they were [both] separated on that day and slaughtered on that day, and [where] they were [both] separated the day before and slaughtered the day before. Who is [the authority for] our Mishnah: It is neither R. Jose nor R. Judah but the ‘Others’![11] For it was taught: R. Judah said: Beth Shammai and Beth Hillel did not differ concerning the dues which were separated on the eve of the Festival, [both agreeing] that you may take them together with the dues which were separated and killed on the same day [viz., the Festival]![12] They differ only whether one may take them[13] by themselves, when Beth Shammai say: You may not take [them], and Beth Hillel maintain: You may take [them]. And this is how Beth Shammai argued: Hallah and Priestly Dues are a gift to the priest and terumah is a gift to the priest; just as you may not take terumah, so may you not take Priestly Dues. Beth Hillel replied to them: No! If you say [thus] of terumah which he has not the right to set apart [on a Festival], would you say [the same] of Priestly Dues which he has the right to set apart! R. Jose said: Beth Shammai and Beth Hillel do not differ about the Priestly Dues, [both agreeing] that you may take [them];[14] they dispute only with respect to terumah when Beth Shammai say: You may not take [it],[15] and Beth Hillel maintain: You may take [it]. And this is how Beth Hillel argued: Hallah and Priestly Dues are a gift to the priest and terumah is a git to the priest; just as you may take the Priestly Dues [to the priest] so may you take terumah [to him]. Beth Shammai replied to them: No! If you say [thus] of Priestly Dues which he has the right to separate [on a Festival], would you say [the same] of terumah which he has not the right to separate! Others say: Beth Shammai and Beth Hillel do not differ about terumah, [both agreeing] that you may not take [it]; they dispute only with respect to the Priestly Dues, when Beth Shammai say: You may not take [them] and Beth Hillel maintain: You may take [them]. Now shall it be said that it [the Mishnah] is [the ruling of] ‘Others’ and not [the ruling of] R. Judah?[16] — Said Raba: Does it then say, ‘Which were separated that day and killed that day’? It [only] says, ‘WHICH WERE SEPARATED [etc.’] but in reality they were slaughtered the day before. [Accordingly] shall it be said that it [the Mishnah] is according to R. Judah and not according to the ‘Others’?[17] — You can even say, [It agrees with] the ‘Others’, for [they speak of Priestly Dues separated on a Festival] from those [animals] slaughtered the day before. If so they are identical with R. Judah! — They differ in respect of being brought together with other Priestly Dues.[18]

Rab Judah said in the name of Samuel: The halachah is as R. Jose.[19] R. Tobi the son of R. Nehemiah had a jug of wine of terumah. He came to R. Joseph asking him: May I carry it now [on the Festival] to the priest? He answered him: Thus did Rab Judah say in the name of Samuel: The halachah is as R. Jose.

The host[20] of Rab, son of R. Hanan had bundles of mustard-stalks [and] he asked him: Is it permissible to crush it on the Festival and eat of it?[21] He could not answer.[22] He went to Raba who replied: You may rub ears of corn together[23] and crumble pods[24] on a Festival.[25] Abaye raised an objection: He who rubs ears of corn on the eve of the Sabbath may winnow them on the following day [Sabbath] from hand to hand and eat, but [he may] not [winnow them] with a reed-basket nor with a dish. He who rubs ears of corn on the eve of a Festival may winnow them on the following day [the Festival] little by little[26] and eat, even with a reed-basket and even with a dish, but not with a tray nor with a winnowing fan nor in a sieve.[27] [Now] only ‘on the eve of the Festival’ [is rubbing of corn stated to be permitted] but not on the Festival [itself]![28] — You may even say [that it may be done] on the Festival [itself], but because he states in the first part [of the passage] ‘on the eve of the Sabbath’, he also states in the concluding part ‘on the eve of a Festival’. If so,[29] we find that one has the right to separate [on a Festival][30] and we have learnt: NO! IF YOU SAY THAT WITH RESPECT TO TERUMAH WHICH HE HAS NO RIGHT TO SEPARATE etc.! — This is no difficulty:

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(1) V. Ex. XII, 16 and cf. n. 4.

(2) As in the preparation of food.

(3) This proves that R. Johanan is also of the opinion that the dispute between Beth Shammai and Beth Hillel is whether we say, ‘Since carrying out is permitted etc.

(4) Dough-offering. V. Num. XV, 17-21. Although hallah may be taken from the dough in order to enable the dough to be eaten, it may not be carried to the priest.

(5) For the different parts of a slaughtered animal which fall to the share of the priest, v. Deut. XVIII, 3.

(6) Heave-offering. V. Num. XVIII, 11ff and Glos.

(7) To the priest on a Festival, since it could have been taken to the priest before the Festival when it was separated.

(8) That one nay not bring to the priest on a Festival.

(9) On a Festival; cf. infra 36b.

(10) Since slaughtering is permitted on a Festival. Surely not!

(11) ‘ Others’ usually refers to R. Meir; Hor. 13b.

(12) He regards the latter as axiomatic, and permits the former because no extra work is involved.

(13) The Priestly Dues separated before the Festival.

(14) The same holds good with respect to hallah.

(15) To the priest on a Festival.

(16) The Mishnah can certainly not agree with R. Jose; but can it agree with R. Judah?

(17) For according to the present explanation, even Beth Shammai permit taking to the priest the Priestly Dues of animals slaughtered on the Festival. Put the ‘Others’ represent Beth Shammai as prohibiting the bringing of Priestly Dues from both an animal slaughtered before or on the day of the Festival.

(18) Which were separated on the Festival itself. In R. Judah's opinion Beth Shammai permit them to be taken in conjunction with similar gifts separated on the day of the Festival.

(19) Who hold that Beth Hillel permits even terumah to be taken to the priest on a Festival.

(20) I.e., Innkeeper.

(21) Is crushing prohibited since it is possible to do this before the Festival?

(22) Lit., ‘it was not in his hand’.

(23) To separate the grain from the chaff; v. infra 13b.

(24) To get the seeds out.

(25) Since rubbing ears of corn is different from the usual manner of threshing and does not involve culpability on a Sabbath it is altogether permitted in the case of a Festival.

(26) Lit., ‘upon the hand’, v. fast. s.v. יד.

(27) Such vessels are used for large quantities and it would appear as if he was preparing for the following day.

(28) Which contradicts Rab b. R. Hanan.

(29) That one may rub ears of corn on a Festival.

(30) Corn is liable for tithing only after it has been threshed, winnowed and piled up in a heap, after which nothing may be eaten until terumah is taken. But before it is subject to tithe a light meal is permitted. By allowing a man on a Festival to rub ears of corn and eat the grain it follows that he must also be permitted to take terumah which he would not have done before, as terumah is generally not separated in the ears of corn until they have been turned into grain.

Talmud - Mas. Beitzah 13a

One[1] is [according to] Rabbi and the other[2] is [according to] R. Jose son of R. Judah.[3] For it was taught: If he brought in ears of corn[4] to make dough therefrom, he may eat a slender repast[5] thereof and it is exempt [from terumah]; [if however he brought in the ears of corn] in order to rub the in together,[6] Rabbi declares them liable [to terumah][7] and R. Jose son of R. Judah exempts them.[8] But [even] according to R. Jose son of R. Judah, it[9] may also occur when, for example, one has brought in ears of corn to make dough therefrom[10] and on the Festival changed his mind [deciding] to rub them,[11] so that they become tebel[12] on the day [of the Festival]![13] — Rather what does terumah [mentioned in the Mishnah] mean? Terumah [as separated] in most cases.[14]

Abaye said: The dispute[15] is only with respect to ears of corn,[16] but in the case of grain of pulse all agree that when in bundles they are tebel.[17] Shall it be said that the following supports him? [For we have learnt]: He who had bundles of fenugreek of tebel, must beat out [the seeds] and estimate how much seed there is in them and separate [terumah] on the seed, but he does not separate [terumah] on the stalks.[18] Is not the author of this R. Jose son of R. Judah who says there[19] that it is not tebel, yet here[20] it is tebel?[21] — No, it is in accordance with the opinion of Rabbi.[22] If it is in accordance with Rabbi, [then] why state fenugreek; even ears of corn too [are liable to be tithed]? — What then: [it is according to] R. Jose son of R. Judah? Let [the text] inform us of other kinds of pulse[23] and [I would infer] how much more [is it true of] fenugreek? But he [the Tanna] needs [to teach it about] fenugreek; for I might have thought that since the stalks have the same taste as the fruit, he should also give tithe on the stalks,[24] so he informs us [that it is not so].

Others state: Abaye said: The dispute is only with respect to ears of corn,[25] but as for grain of pulse all agree that when in bundles they are not tebel.[26] An objection is raised: He who had bundles of fenugreek of tebel, he must beat out [the seeds] and estimate how much seed there is in them and separate [terumah] on the seed but not on the stalks. Does not tebel connote that it is tebel in respect of terumah?[27] — No, [it means] tebel in respect of the terumah of the tithe,[28] and it is in accordance with R. Abbahu's dictum in the name of R. Simeon b. Lakish. For R. Abbahu said in the name of R. Simeon b. Lakish: The first tithe [levitical] which one anticipated while the corn was yet in the ears,[29] its designation renders it tebel in respect of the terumah of the tithe.[30] Why must he [the Levite] beat out [the seeds]? Let him say [to the priest]: Just as they have given them to me so will I give them to you![31] — Said Raba: This is a penalty.[32] Likewise has it been taught: A Levite to whom his tithes were given while the corn was still in the ear, must[33] make it [fit for] a barn;[34] [if it is] grapes, he must make them into wine; if olives, he must turn them into oil; [only] then does he separate the terumah of [the] tithe and give same to the priest. For just as the great terumah is taken

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(1) The Baraitha allowing the corn to be rubbed and eaten on the Festival.

(2) Our Mishnah.

(3) Both agree that rubbing ears of corn on a Festival is allowed. They only dispute whether terumah must then be separated. Rabbi maintains that it is required; consequently terumah may in such a case be separated on a Festival. R. Jose, however, holds that it is unnecessary; hence terumah may never be separated on a Festival. (Rashi). Tosaf: This, i.e., the Mishnah, is according to Rabbi, for since Rabbi holds that the bringing in of the ears for eating raw constitutes the final stage for tithing, terumah could and should have been separated before the Festival; and it is a general rule that whatever could be done before the Festival may not be done on the Festival. But the Baraitha is according to R. Jose b. R. Judah: for since he holds that the bringing in of the ears for eating raw does not constitute the final stage for tithing, there was no obligation to tithe them before the Festival; hence if he decides on the Festival to make a full meal of them, he must first separate terumah; since there was no obligation before, it is regarded as something which could not be done earlier, and therefore it is permitted on a Festival.

(4) Not yet ready for tithing.

(5) V. p. 62, n. 13.

(6) And to eat the grain raw little by little.

(7) According to Rabbi, the bringing in of corn into the house for the purpose of eating raw grain corresponds to the finishing touch of the corn brought into the barn and makes it liable for tithing even for a light meal.

(8) He draws a distinction between the two purposes. For the Biblical expression דגן (Num. XVIII, 27) signifies corn which has been threshed and levelled out in a heap, and as this corn was brought in the ears, it has not had the finishing touch making it ready for tithing.

(9) The taking of terumah on a Festival.

(10) After the usual threshing and winnowing.

(11) And eat them raw. On the interpretation of Tosaf. (v. supra p. 63 n. 3) the question should read, ‘But even according to Rabbi . . . therefrom’ (when no obligation rested upon him to title before the Festival), ‘and on the Festivals . . . to rub them’, when he may not eat of these except after tithing, so that we find terumah being authorized to be set apart on a Festival.

(12) Grain from which the priestly and Levitical dues have not been taken. V. Glos.

(13) The fact that he brought in the ears of corn to make dough therefrom after the normal threshing and winnowing made them liable for terumah, and by changing his mind to rub the ears together to eat them raw not only cannot remove the liability for tithing, but, on the contrary, takes the place of the finishing touch in the barn so that not even a light meal may be had without first taking terumah.

(14) Viz., when the corn is levelled out in heaps in a barn, as above. But the case which is now discussed is exceptional and therefore generally disregarded. The Mishnah can therefore agree both with Rabbi and R. Jose.

(15) Between Rabbi and R. Jose b. Judah.

(16) It is then that R. Jose exempts from tithing.

(17) V. Glos. Because pulse is frequently tied up in bundles to be threshed in small quantities as required, and consequently the bringing in of a bundle of pulse in the house corresponds to the finishing touch of grain in a barn. (Rashi).

(18) Ter. X, 6.

(19) In the case of ears of corn.

(20) In the case of pulse.

(21) The statement ‘bundles of fenugreek of tebel’ presupposes a liability for tithing, because the tying up into bundles is the finishing preparation for tithing.

(22) Who maintains that even ears of corn are also liable for tithing when brought into the house for use.

(23) Which are not tied up into bundles, like peas or beans.

(24) For the stalks together with its fruit are used for seasoning. The Baraitha can therefore on this argument be in accordance with Rabbi, so that it affords no support to Abaye.

(25) It is then that Rabbi says that they are liable to be tithed, because many take bundles of corn into the house to eat them raw or roasted without having been stored and prepared for tithing in a barn.

(26) Because pulse becomes liable for tithing only after it has been made into a stack.

(27) Consequently we see that although yet in bundles they are already liable for tithing.

(28) The proper order of tithing, after the corn has first been levelled out in the barn, is this: First terumah is separated for the priest (called the great terumah) and one-tenth of the remainder (called tithe) for the Levite, who in turn, separates one-tenth of his tithe for the priest which is designated terumah of the tithe. The great terumah, or simply terumah as it is generally referred to, varies from one-fortieth to one-sixtieth. It is also called the ‘great terumah’ because this portion is greater than that received from the Levite.

(29) I.e. , the Israelite separated it before separating the great terumah.

(30) Although had he not separated tithe it would not be regarded as tebel, and a light meal would be permissible. Similarly in the Baraitha, although pulse does not become liable to terumah before it has been made into a stack, once the Levite anticipated and received his share when in bundles, it becomes liable also to terumah of the tithe.

(31) If it referred to the terumah of an Israelite he would have to beat out the grain because the expression דגן (Num. XVIII, 27) signifies that the priest is to be given tithe only when the corn is threshed; V. Rashi.

(32) For taking the tithe before the great terumah was rendered, against the prescribed order.

(33) Before giving his terumah to the priest.

(34) When it would have received the last preparation for tithing.

Talmud - Mas. Beitzah 13b

only from the threshing-floor and from the wine-press,[1] so also is the terumah of the tithe to be taken only from the threshing-floor and from the wine-press.

[It is stated above]: ‘He estimates!’ Surely it requires [exact] measuring![2] — The author of this is

Abba Eleazar b. Gimal. For it was taught: Abba Eleazar b. Gimal says: ‘And your heave-offering shall be reckoned unto you’.[3] Scripture speaks of two heave-offerings,[4] one [being] the great terumah and the other the terumah from the [Levite's] tithe; just as the great terumah may be separated by estimation[5] and by mental determination[6] so may the terumah from the [Levite's] tithe be separated by estimation and by mental determination.

The text [above stated]: R. Abbahu said in the name of R. Simeon b. Lakish: The first tithe which one anticipated while the corn was yet in the ears,its designation renders it tebel in respect of the terumah from the [Levite's] tithe. What is the reason? Said Raba: Because it already bears the name tithe.

R. Simeon b. Lakish said: The First Tithe which was anticipated while the corn was yet in the ears is exempt from the great terumah, for Scripture Says: Then ye shall offer up an heave-offering of it for the Lord, a tithe of the tithe;[7] a tithe of the tithe have I commanded you, but not ‘the great terumah and a tithe of the tithe’. Said R. Papa to Abaye: If so, even if he anticipated it[8] at the barn too? — He replied to him: It is for your sake that Scripture states: Out of all your gifts ye shall offer every heave-offering of the Lord.[9] What [reason] do you see?[10] — In the one case,[11] it is already corn;[12] in the other, it is not already corn.

We have learnt elsewhere:[13] He who hulls barley,[14] may hull it grain by grain and eat it;[15] but if he hulls [it] and lays [the grains] in his hand, he is liable [to give tithe].[16] Said R. Eleazar: And it is likewise with respect to the Sabbath.[17] But this is not so! For Rab's wife hulled for him cupfuls, and likewise R. Hiyya's wife hulled cupfuls for him! Rather if this [statement of R. Eleazar] has been said, It was said with respect to the second clause: He who rubs ears of wheat may winnow them from one hand to the other and eat them [without tithing]; but if he winnows them and lays them on his lap he is liable. Said R. Eleazar: And it is likewise with respect to the Sabbath. R. Abba b. Mamel demurred to this: And [in] the first clause, [is he liable] in respect to tithe but not in respect to Sabbath? Is there then any action which with respect to the Sabbath does not rank as the final act,[18] whereas with respect to tithe it is regarded as the final act?[19] To this R. Shesheth the son of R. Idi demurred: Is there not? Surely there is [the case of what constitutes] their threshing-floor in respect of tithing;[20] for we have learnt,[21] When is their harvesting time for tithing?[22] In the case of cucumbers and gourds after their coils of blossom have dropped,[23] and if they have not dropped, then as soon as they have been made a heap. And we learnt likewise of onions:[24] [They are liable for tithing] as soon as he [their owner] sets up a heap. Yet with respect to the Sabbath the setting up of a heap does not involve culpability? Therefore you must needs say that [with respect to the Sabbath] the Torah forbade work of craftsmanship;[25] so also here[26] [say] the Torah forbade work of craftsmanship.

How should one rub them?[27] — Abaye in the name of R. Joseph says: One [finger] against one [finger].[28] But R. ‘Awia in the name of R. Joseph says: One [finger] against two [fingers].[29] Raba [however] says: So long as he does it in an unusual way it is permitted even between the thumb and all the fingers.

How should one winnow [them on a Sabbath]? — Said R. Adda b. Ahabah in the name of Rab: He should winnow

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(1) V. Num. XVIII, 27.

(2) If the text referred to the great terumah, the expression ‘estimate’ would be correct, since according to Scripture no definite percentage is required, for even a single grain can exempt the whole of the crop, while the giving of one-fortieth — one-sixtieth is only a Rabbinical enactment. But now that we explain that it means the terumah from the Levite's tithe, it definitely says (Num. XVIII, 27) that this must be one-tenth.

(3) Num. XVIII, 27.

(4) The Massoretic text has תרומתכם in the singular, but many MSS. including the Samaritan Version read תרומותיכם in the plural.

(5) It was not necessary to measure out the fiftieth part usually given for the terumah.

(6) One can mentally determine to take terumah from one side of the heap of corn and may then eat from the other side before the terumah had been actually set apart.

(7) Num. XVIII, 26.

(8) I.e., if he tithed it before separating the great terumah.

(9) Num. XVIII, 29, indicating that even the great terumah has to be given by the Levite to the priest if it was not already given by the Israelite.

(10) To make this distinction between the corn in the ear and the corn in the barn.

(11) When the corn is already in the barn.

(12) And the great terumah is due to the priest. Therefore he is entitled to recover the great terumah from the Levite.

(13) Ma'as. IV, 5.

(14) In order to eat it raw.

(15) For this is regarded as a scanty meal and he is exempt from tithing.

(16) For this is regarded as a full meal.

(17) If he hulls it into the hand it is regarded in the in the nature of threshing and he is guilty of desecrating the Sabbath.

(18) To make one guilty of a breach of the Sabbath. The finishing touch to a work on a Sabbath involves culpability.

(19) To make him liable for tithing.

(20) The word גרן 'threshing-floor' is used as a technical term meaning harvesting time or the final act making cereals or vegetables liable to tithe.

(21) Ma'as I, 5.

(22) So that it may be regarded as tebel and a light meal would not be permissible.

(23) I.e., after they have been trimmed up and made neat.

(24) Ma'as I, 6.

(25) מלאכת מחשבת Ex. XXXI, 4-5 speaks of the work of craftsmanship of the Tabernacle and is immediately followed by the laws respecting the Sabbath, indicating that the work forbidden on the Sabbath is similar to the craftsmanship there referred to. But the placing of the vegetables in a heap is not considered a work of craftsmanship. But v. R. Hananel a.l.

(26) In the case of the laying of the grains in his hand.

(27) On a Festival to distinguish from the rubbing on any other day, which was to rub with the finger of one hand on the palm of the other.

(28) I.e., between the thumb and the first finger.

(29) I.e., between the thumb and the two fingers.

Talmud - Mas. Beitzah 14a

from the joints of the fingers upwards.[1] They Iaughed at it in the West:[2] so long as he does it in an unusual manner [it is permitted to be done] even with the whole palm! But said R. Eleazar: He should winnow vigorously with one hand.[3] MISHNAH. BETH SHAMMAI SAY: SPICES MAY BE POUNDED WITH A WOODEN PESTLE[4] AND SALT IN A SMALL CRUSE OR WITH A WOODEN LADLE;[5] BUT BETH HILLEL MAINTAIN: SPICES MAY BE POUNDED AFTER THEIR USUAL FASHION WITH A STONE PESTLE AND SALT WITH A WOODEN PESTLE.[6]

GEMARA. All agree at any rate that [the pounding of] salt must be done in an unusual manner; what is the reason? — R. Huna and R. Hisda [differ]. One says: [Because] all dishes require salt,[7] but not all dishes require spices; and the other says: [Because] all spices lose their flavour,[8] but salt does not lose its flavour. Wherein do they differ? — The difference between them is when he knew [on the eve of the Festival] what dish he will cook [on the morrow],[9] or in the case of saffron.[10]

Rab Judah said in the name of Samuel: Everything which is pounded may be pounded in the usual way, even salt.[11] But Surely you have said that salt must be [pounded] in an unusual way! He rules as the following Tanna, for it was taught: R. Meir says: Beth Shammai and Beth Hillel do not differ over [commodities] which are pounded, [agreeing] that they may be pounded in the usual way, and salt with them;[12] they differ only with respect to pounding it [salt] alone, when Beth Shammai say: Salt [may be pounded] in a small cruse and with a wooden ladle only for roasting[13] but not for boiling, and Beth Hillel maintain: [It may be pounded] with everything. 'With everything'! — Can you think so?[14] — Say rather, for everything.[15]

R. Aha Bardela said to his son: 'When you pound [salt], incline [the mortar] sideways and pound. R. Shesheth heard[16] the sound of a mortar and pestle; [then] said he: This is not [coming] from my house. Perhaps it was done sideways?[17] — He heard a shrill noise.[18] Perhaps it was spices?[19] — Spices produce a dull sound.

Our Rabbis taught: One may not prepare pearl-barley[20] nor pound anything in a mortar. [You state] two [contradictory rulings]?[21] — This is what it means to say: 'What is the reason that you may not prepare pearl-barley? Because you may not pound [anything] in a mortar. Then it should have [only] stated: 'One may not pound [anything] in a mortar'! — If it stated [only], 'One may not pound anything in a mortar', I would say, that is only in a big mortar; but in the case of a small mortar [I would say], It is well; so it informs us [that this is not so]. But it was taught: One may not pound in a big mortar but one may pound in a small mortar! — Said Abaye: 'When the teaching[22] was taught, it too was taught of a large mortar.[23]

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(1) But not in his palm.

(2) I.e., the scholars of Palestine. V. Sanh. 17b, Sonc. ed. p. 89.

(3) Not just throw it up a little.

(4) Although the pounding of spices is permitted on a Festival it should be done in a somewhat different way from ordinary days.

(5) The pounding of salt must be done in all entirely unusual way, both with regard to the vessel in which, and also with regard to the vessel with which, it is pounded.

(6) According to Beth Hillel it is sufficient if the vessel with which it is pounded is different.

(7) He should therefore have prepared the salt before the Festival.

(8) Therefore it must be prepared on the day it is required.

(9) According to the first reason, even the pounding of spices must be done in an unusual manner since it could have been prepared on the day it is required.

(10) According to not lose its flavour, so that according to the second reason it is the same as salt.

(11) Or, Even salt! But etc.

(12) I.e. , pounding them both on the same occasion, by preparing the salt in immediately after the spices Rashi as explained by Rashal).

(13) When a small quantity only is required.

(14) Even with a utensil which may not be handled at all on the Sabbath?

(15) I.e., for every purpose, whether for roasting or boiling — and that in the usual way Rab Judah thus has a Tanna in support for his ruling.

(16) On a Festival.

(17) In which case it is permissible.

(18) Whereas if the mortar were inclined there would be a heavy, dull noise.

(19) Which may be pounded in the usual way.

(20) On a Festival, because it requires toilsome pounding.

(21) The first ruling forbids toilsome pounding only, whereas the second for bids all pounding.

(22) Introduced by, Our Rabbis taught'.

(23) The two statements are not contradictory. The first statement forbidding the pounding of pearl-barley refers even to a small mortar, and the second statement refers to a big mortar. Only pearl-barley is forbidden to be pounded in a small mortar but other things may be.

Talmud - Mas. Beitzah 14b

Talmud - Mas. Beitzah 14b

Raba says: There is no difficulty: this [Baraitha[1] refers] to us,[2] and the other [Baraitha[3] refers] to them.[4]

R. Papa visited Mar Samuel.[5] They set before him pearl-barley broth and he did not eat of it. Perhaps they prepared it in a small mortar?[6] — He noticed that it was very fine.[7] Perhaps they prepared it the day before [the Festival]? — He saw that it [the pearl-barley] was still bearing the polish from the husking.[8] Or you can say: It is different in the case of the house of Mar Samuel, on account of the laxity of the servants.[9]

MISHNAH. IF ONE SELECTS PULSE ON A FESTIVAL, BETH SHAMMAI SAY: HE MUST SELECT THE EDIBLE PARTS AND EAT [THEM FORTHWITH]; BUT BETH HILLEL SAY: HE MAY PICK OUT AS USUAL[10] [FROM A SMALL QUANTITY] IN HIS LAP OR IN A BASKET OR IN A DISH; BUT NOT ON TO A BOARD OR IN A SIFTER OR IN A SIEVE.[11] RABBAN GAMALIEL SAYS: HE MAY EVEN RINSE THEM [IN WATER] AND SKIM OFF [THE REFUSE].

GEMARA. It was taught: Rabban Gamaliel said: This was [only] stated when the edible part is more than the refuse;[12] but if the refuse is more than the edible part, all agree that he must pick out the edible part and leave the refuse. If the refuse is more than the edible part, is there anyone who permits it [to be picked]?[13] — This refers to a case where the work [of picking out the refuse] is great though the quantity [of the refuse] is small.[14]

RABBAN GAMALIEL SAYS: HE MAY EVEN RINSE THEM AND SKIM OFF [THE REFUSE]: It was taught: R. Eleazar son of R. Zadok said: This was the practice in the house of Rabban Gamaliel; they brought a bucket-full of lentils and poured water over them with the result that that which was edible remained below and the refuse [floated] on top. But has not the opposite been taught?[15] — There is no contradiction: The one applies to sand, the other applies to chaff.[16]

MISHNAH. BETH SHAMMAI SAY: ONE MAY SEND [GIFTS TO A NEIGHBOUR] ON A FESTIVAL ONLY PORTIONS [READY FOR EATING],[17] BUT BETH HILLEL SAY: ONE MAY SEND CATTLE, GAME AND POULTRY WHETHER ALIVE OR SLAUGHTERED. ONE MAY [ALSO] SEND WINE, OIL, FLOUR OR PULSE BUT NOT GRAIN.[18] BUT R. SIMEON PERMITS [ALSO] GRAIN.[19]

GEMARA. R. Jehiel taught: Provided that he does not send it [the present] by a company [of men].[20] A Tanna taught: A company consists of not less than three persons. R. Ashi put the question: What [is the law] with respect to three persons with three varieties [of gifts]?[21] This question is undecided.

R. SIMEON PERMITS [ALSO] GRAIN. It was taught: R. Simeon allows grain: e.g., wheat, to prepare thereof food for gladiators;[22] barley, to give to his cattle; [and] lentils to prepare thereof groats.[23]

MISHNAH. ONE MAY SEND CLOTHES, WHETHER SEWN UP OR NOT YET SEWN UP EVEN THOUGH THERE IS KIL'AYIM[24] IN THEM, PROVIDED THEY ARE NECESSARY[25] FOR THE FES TIVAL; BUT [ONE MAY] NOT [SEND] HOB-NAILED SANDALS[26] NOR UNSTITCHED SHOES. R. JUDAH SAYS: NOT EVEN WHITE SHOES BECAUSE THEY [STILL] REQUIRE AN ARTISAN [TO BLACKEN THEM]. THIS IS THE GENERAL RULE: WHATEVER MAY BE USED ON A FESTIVAL MAY [ALSO] BE SENT [ON A FESTIVAL].

GEMARA. As for sewn [articles] it is well: they are fit for garments; [likewise] unsewn [articles] too, [as] they are fit for a covering. But for what are kil'ayim fit? And if you say they can be used to fold under him,[27] surely it was taught: Neither shall there come upon thee [a garment of two kinds of stuff mingled together],[28] but you may spread it beneath you. But the Sages said: It is forbidden to do so lest a thread might cling to his body! And if you say [that it is permissible] if there is anything interposing between them,[29] surely R. Simeon b. Pazzi said in the name of R. Joshua b. Levi, who said in the name of R Jose b. Saul, who said in the name of Rabbi in the name of the Holy Community at Jerusalem:[30] Even if ten mattresses lie one on top of the other and [some material of] kil'ayim is beneath them, it is forbidden to sleep thereon! And if [you say] it refers to a curtain, surely ‘Ulla said: Why did [the Sages] say a curtain is unclean[31] because the attendant warms himself beside it![32]

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(1) Permitting the pounding in a small mortar.

(2) Babylonians, who have no domestics.

(3) Forbidding pounding even in a small mortar.

(4) Palestinians, who have domestics who are inclined to laxity; these might pound in a large mortar and say they have used a small one; hence small ones too were forbidden.

(5) On a Festival.

(6) Which is permitted in Babylon.

(7) This cannot be attained in a small mortar.

(8) Its sheen was too fresh for it to have been prepared the day before.

(9) Mar Samuel, although in Babylon, had servants who might disregard the observance of the rules.

(10) I.e., pick out the refuse and the bad ones that are not edible.

(11) Because it might seen he was preparing for the next day.

(12) It is then that Beth Hillel permit to pick out the refuse.

(13) Since the lesser part is lost in the greater it is forbidden even to be handled on the Festival.

(14) By the expression ‘if the refuse is more’ is to be understood not that the refuse is greater in quantity but rather that the trouble of picking out the refuse was greater.

(15) That the edible parts float on top and the refuse sinks to the bottom.

(16) Sand sinks to the bottom and chaff floats on top.

(17) Which will be eaten at once and not kept.

(18) Which must be ground, and consequently may not be used.

(19) For they can be cooked as they are or may be ground in a small mortar.

(20) Lest it should appear as if the food were being sent to a public sale.

(21) Are they regarded as individuals or does the variety of gifts make no difference.

(22) The wheat was not ground but prepared whole for their special diet.

(23) Which may be done on a festival.

(24) V. Glos. So that one may not wear them. V. Lev. XIX, 19, Deut. XXII, 11; cf. Shab. 60b.

(25) [Var. lec. ‘Although they are not necessary’].

(26) V. infra.

(27) To be used cushion or mat.

(28) Lev. XIX, 19.

(29) Between the garment of kil'ayim and the body.

(30) V. R. H., Sonc. ed. p. 80, n. 9.

(31) I.e. it can become unclean.

(32) All ordinary partition does not receive defilement, being regarded as part of the house, but a curtain can become defiled, because it is also used as a wrap for warming; and since a curtain may be used as a wrap it may not be made of kil'ayim.

Talmud - Mas. Beitzah 15a

— Rather, [this refers] to hard material;[1] just as R. Huna the son of R. Joshua said: The coarse felt-mattresses [coming] from Naresh[2] are permitted [to sit on].[3] R. Papa said: Slippers[4] are not [forbidden] on account of kil'ayim. Raba said: These money-bags do not come under [the law of] kil'ayim,[5] but seed-bags do come under [the law of] kil'ayim.[6] R. Ashi said: Neither money-purses nor seed-bags are subject to [the law of] kil'ayim, because it is not the usual practice to warm oneself with these.

BUT NOT HOB-NAILED SANDALS: What is the reason that hob-nailed sandals may not [be sent]? Because of the incident that occurred.[7] Abaye said: Hob-nailed sandals may not be worn [during a Festival] but they may be handled. 'They may not be worn on account of the incident that happened; 'but they may be handled', since it teaches ONE MAY NOT SEND; for if you maintain that it is forbidden to handle, now if it is forbidden to handle, need sending [be taught]?[8]

NOR UNSTITCHED SHOES. This is obvious! — It is necessary even when it is fastened with wooden pins.[9]

R. JUDAH SAYS: NOT EVEN WHITE SHOES. It was taught: R. Judah permits black [sandals] and forbids white because they [still] require a clod containing silicate of iron.[10] R. Jose forbids black [sandals] because they [still] require to be smoothed. And they do not differ, the one Master [ruling] according to his district and the other Master according to his district. In the district of the one Master [the sandal was finished] with the flesh [side of the leather] inside, [and] in the district of the other Master [they finished the sandals] with the flesh [side] outwards.[11]

THIS IS THE GENERAL RULE: WHATEVER MAY BE USED ON A FESTIVAL R. Shesheth permitted scholars to send tefillin[12] on a Festival. Abaye said to him: But we have learnt: WHATEVER MAY BE USED ON A FESTIVAL MAY HE SENT:[13] — This is what he means to say: 'Whatever one uses on a weekday[14] may be sent on a Festival.

Abaye said: Since we are now dealing with tefillin, we would say something thereon. If one was on his way [home],[15] wearing tefillin on his head,[16] and the sun was setting upon him, he should place his hand upon them[17] until he reaches his house. If he was sitting in the Academy[18] with tefillin on his head and the holiness of the day [the Sabbath] came in, [then] he must place his hand upon then, until he reaches his house.[19] R. Huna the son of R. Ika raised an objection: If one was on his way [home] with tefillin on his head and the holiness of the day [the Sabbath] came in, [then] he must place his hand upon them until he reaches a house situated near the wall [of the city].[20] If he was sitting in the Academy [with tefillin on his head] and the holiness of the day came in, he must place his hand upon them until he reaches the house nearest to the Academy.[21] There is no contradiction. The one treats of a case when it [the house] is guarded,[22] the other when it is not guarded. If it is not guarded, [then] why particularly 'on his head'; even if they [the tefillin] were [found] lying on the ground he should also [be allowed to carry them to this house]: For we have learnt: He who finds tefillin [on a Sabbath] may bring them in in pairs![23] — This is no difficulty: The one[24] treats of a case when it is guarded against thieves and against dogs, the other[25] when it is guarded against dogs but it is not guarded against thieves.[26] You might think that the majority of robbers [in that district] are Israelites[27] who would not handle them disrespectfully; hence he informs us [that it is not so]. [

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(1) Which does not warm and upon which it is permitted to sit.

(2) Identical with Nahras or Nalr-sar, on the canal of the same name, on the east bank of the Euphrates, Obermeyer p. 307. Cf. B.M., Sonc. ed. pp. 468 n. 3;539 n. 7.

(3) Although they are manufactured from kil'ayim.

(4) Home-shoes or a kind of socks.

(5) Because the purses become hard through the coins they contain and therefore do not warm.

(6) And therefore may not be placed on one's lap.

(7) The event is recorded in Shab. 60a. This particular sandal could be worn with the heel in front, giving the appearance that the one who had entered had gone out. When men hiding in a cave from the Romans saw what appeared as Signs of someone having left they became panic-stricken lest the Romans should by this means find them in their hiding-place, and in their attempt to escape more were killed through the panic than might have been killed by the Romans.
(8) Surely not!
(9) Or even in the case when only a few stitches were put in, Rashi.
(10) Used for blacking leather.
(11) It had therefore to be smoothed and polished.
(12) Phylacteries. v. Glos.
(13) But tefillin are not used on a Festival. V. ‘Er. 96a.
(14) I.e. a thing that is properly finished, which includes tefillin.
(15) On the eve of the Sabbath.
(16) In Talmudic times tefillin were worn all day and in the street not merely at the morning service as now.
(17) The Sages allowed him to carry the tefillin into the city after the manner of a garment and not to leave them unguarded, out of respect for the tefillin.
(18) Which was in the field, and therefore an unguarded place.
(19) The tefillin could not be left in the Academy for fear of being lost.
(20) And leave the tefillin there, but he may not carry them into the city.
(21) But he may not carry them to his own house.
(22) And therefore the tefillin must be left in the house nearest the city wall or the Academy.
(23) In the manner they are worn on weekdays, one on the arm and one on the forehead. V. Shab. 62a; ‘Er. 95a.
(24) The Baraitha that states they must be left in the house nearest the city wall.
(25) Abaye.
(26) [MS.M. adds, ‘and one when it is guarded neither against dogs nor thieves’, the reference being to the Mishnah in ‘Er. 95a that he may bring them in in pairs].
(27) Cf. A.Z. 70b; Tosaf. B.B. 55b, s.v. רבי אליעזר . This refers to large Jewish settlements. The Rabbis were broad-minded enough to realize that in a town containing an overwhelming Jewish population the majority of thieves would be Jewish.

Talmud - Mas. Beitzah 15b

CHAPTER II

MISHNAH. [IF] A FESTIVAL FELL ON THE EVE OF SABBATH, ONE MAY NOT AT THE OUTSET COOK ON THE FESTIVAL FOR THE SABBATH, BUT HE MAY COOK FOR THE FESTIVAL, AND IF ANY IS LEFT OVER IT REMAINS FOR THE SABBATH; AND HE MAY PREPARE A DISH ON THE EVE OF THE FESTIVAL[1] AND RELY UPON IT [TO PREPARE FOOD] FOR THE SABBATH.[2] BETH SHAMMAI SAY: TWO DISHES [ARE REQUIRED FOR THIS PURPOSE], WHILE BETH HILLEL SAY: ONE DISH. YET THEY [BOTH] AGREE THAT A FISH AND AN EGG UPON IT ARE [CONSIDERED AS] TWO DISHES. [IF] HE ATE IT[3] OR IT WAS LOST, HE MAY NOT IN THE FIRST PLACE COOK [IN RELIANCE] ON IT, BUT IF HE LEFT OVER ANY [SMALL] PORTION OF IT, HE MAY RELY ON IT [TO COOK] FOR THE SABBATH.

GEMARA. Whence do we know this?[4] — Said Samuel: Because the Scripture Says: Remember the Sabbath day to keep it holy,[5] remember it in view of another[6] Festival which comes to make it forgotten.[7] What is the reason [for the institution of the ‘erub]?[8] — Said Raba: In order that he may choose a fine portion for the Sabbath and a fine portion for the Festival.[9] R. Ashi said: In order that people might say, ‘You may not bake on a Festival for the Sabbath, how much the more [is it forbidden] on a Festival for a weekday’.[10]

We have learnt: HE MAY PREPARE A DISH ON THE EVE OF THE FESTIVAL AND RELY

UPON IT [TO PREPARE FOOD] FOR THE SABBATH. It is well according to R. Ashi who says, ‘In order that people might say you may not bake on a Festival for the Sabbath [etc.]’: hence it is only ON THE EVE OF THE FESTIVAL but not on the Festival. But according to Raba, why particularly on the eve of the Festival; even on the Festival [itself] too [let it be permitted]?[11] — It is even so, but it is a preventive decree lest he be negligent.[12] Now a Tanna deduces it from the following: Bake that which ye will bake, and seethe that which ye will seethe;[13] from this R. Eliezer concluded [that] you may bake only [in dependence] upon what is [already] baked and you may cook only [in dependence] upon what is [already] cooked.[14] Herein the Sages found a Biblical support for ‘erub tabshilin.[15]

Our Rabbis taught: It happened that R. Eliezer was once sitting and lecturing the whole day [of the Festival] on Festival laws. [When] the first group left [the lecture hall] he said: These are people of butts;[16] [when] the second group [left] he said: These are people of casks; [when] the third group [left] he said: These are people of pitchers;[17] [when] the fourth group [left] he said: These are people of flasks: [when] the fifth group [left] he said: These are people of beakers.[18] [When] the sixth group began to go out he said: These are the people of the curse.[19] He cast his eyes at his disciples[20] and their faces began to change,[21] [whereupon] he said to them: My sons, not of you said I this, but of those who have gone out, who put aside life eternal and occupy themselves with the life temporal [or ephemeral]. When they were taking their leave[22] he said to them: Go your way, eat the fat, and drink the sweet, and send portions unto him for whom nothing is prepared: for this day is holy unto our Lord: neither be ye grieved; for the joy of the Lord is your [strength] stronghold.[23] The Master said: ‘Who put aside life eternal and occupy themselves with the life temporal’. But the enjoyment of the Festival is a religious duty! — R. Eliezer is consistent with his [own] view, for he said: Rejoicing on the Festival is optional. For it was taught: R. Eliezer says: On a Festival a man has nought [to do] save either eat and drink or sit and learn. R. Joshua says: Divide it, half of it for the Lord, [and] half of it for yourselves. R. Johanan said: Both drew their inference from the same Scripture verse[s]. One verse states: A solemn assembly to the Lord thy God,[24] and another verse reads: Ye shall have a solemn assembly.[25] How is this [to be reconciled]? R. Eliezer is of the opinion: Either the whole of it is for the Lord or the whole of it is for yourselves; while R. Joshua is of the opinion: Divide it; half of it is for the Lord and half of it is for yourselves. What means ‘for whom nothing is prepared’? — R. Hisda said: For him who did not set [i.e., prepare] an ‘erub tabshilin. Others say: He who had not the opportunity to set an ‘erub tabshilin; but he who had the opportunity to set an ‘erub tabshilin and did not set is a transgressor. What means ‘for the joy of the Lord is your strength’? — R. Johanan said in the name of R. Eleazar son of R. Simeon: The Holy One, blessed be He, said unto Israel: My children, borrow on My account and celebrate the holiness of the day, and trust in Me and I will pay. R. Johanan [further] said in the name of R. Eleazar son of R. Simeon: He who desires his property to be preserved for him, should plant therein an adar,[26] for it says: The Lord on high is mighty;[27] alternatively, adara,[28] [implies] what its name [indicates]; for people say: Why [is it called] adara? Because it lasts from generation to generation.[29] It was similarly taught: A field in which there is an adar can neither be robbed nor forcibly purchased and its fruits are protected.[30]

R. Tahlifa, the brother of Rabinai of [Be] Hozae[31] learnt:

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(1) V. supra p. 23, n. 1.

(2) The dish prepared on the eve of the Festival is regarded as the basis upon which the right to cook on the Festival for the Sabbath depends.

(3) The dish intended for the ‘erub.

(4) That he may cook for the Sabbath in virtue of a special dish (‘erub).

(5) Ex. XX, 8.

(6) Lit., ‘from another’.

(7) The interest in the Festival preceding the Sabbath might cause one to forget about the Sabbath. The ‘erub counteracts this possibility. [Aliter: ‘Remember it since one might forget it’ (v. Rashi) — a rendering supported by MS.M. which reads לאחר for מאחר cf. cur. edd.]

(8) Actually it is not based upon any Biblical verse, but is only a Rabbinical enactment, the verse being a mere support.

(9) He will not consume all the good things on the Festival, but will leave some for the Sabbath.

(10) The ‘erub is instituted not in honour of Sabbath but in honour of the Festival.

(11) For on the Festival itself he can still choose a fine portion for the Sabbath.

(12) And omit to prepare it altogether.

(13) Ex. XVI, 23.

(14) On the Friday which is a Festival, you may bake and cook only in virtue of the baking and cooking of the previous day.

(15) This phrase indicates that the present deduction too is merely in support, not the actual source of the law, which is Rabbinical only.

(16) I.e., very rich, counting their wine by butts. They have left thus early because of the large quantities of food and drink waiting for them. These are gluttons.

(17) I.e., less rich than the second but wealthier than the next group.

(18) Less keen on their pleasures.

(19) The emptiness of the Lecture Hall roused his ire.

(20) Who had remained behind.

(21) I.e., to turn pale, because they thought he was angry with them for not leaving earlier — apparently they thought that he considered himself bound to go on as long as he had hearers.

(22) At the close of the lecture.

(23) Neh. VIII, 10.

(24) Deut. XVI, 8.

(25) Num. XXIX, 35. The first verse implies that it may be devoted to God's service, whereas the second intimates that it is meant for man.

(26) A kind of cedar, high and majestic. Such a tree is known, and in case of his having to go abroad, he will be remembered as possessor, for his name will be coupled with the adar tree.

(27) Ps. XCIII, 4. The word אדיר is linked with the אדר tree. The planting of the adar tree will strengthen his claim to the property.

(28) The Aramaic form of adar.

(29) Dora dora; a play on words

(30) The pollen of this tree is a vermicide, Rashi.

(31) The modern Khuzistan province S.W. Persia, Obermeyer, op. cit. pp, 204ff. cf. B.M., Sonc. ed. p. 508, n. 2.

Talmud - Mas. Beitzah 16a

The entire sustenance of man [for the year] is fixed for him from New Year's [Festival] to the Day of Atonement,[1] except the expenditure for Sabbaths and the expenditure for Festivals and the expenditure for the instruction of his children in the Law; if he [spent] less [for any of these] he is given less and if he [spent] more he is given more. Said R. Abbahu:[2] What verse of Scripture [supports this]? ‘Blow the horn at the new moon at the full moon for our feast-day’.[3] Which is the Festival on which the moon is concealed? Say, it is New Year;[4] and it is written [with respect to this Festival]: ‘For it is a statute [hok] for Israel, an ordinance of the God of Jacob’.[5] How is it implied that [the word] hok connotes sustenance? For it is written: ‘And did eat their portion [hukkam] which Pharaoh gave them’.[6] Mar Zutra says, [It is inferred] from here: ‘Feed me with mine allotted [hukki][7] bread’. It was taught: They related concerning Shammai, the Elder [that] all his life he ate in honour of the Sabbath. [Thus] if he found a well-favoured animal he said, Let this be for the Sabbath. [If afterwards] he found one better favoured he put aside the second [for the Sabbath] and ate the first.[8] But Hillel the Elder had a different trait, for all his works were for the sake of heaven,[9] for it is said: Blessed be the Lord, day by day.[10] It was likewise taught: Beth Shammai say: From the first day of the week [prepare] for the Sabbath;[11] but Beth Hillel say: Blessed be the Lord, day by day.[10]

R. Hama b. Hanina said: He who makes a gift to his neighbour need not inform him, for it says, ‘And Moses knew not that the skin of his face sent forth beams’.[12] An objection was raised: ‘That ye may know I am the Lord who sanctify you’,[13] The Holy One, blessed be He, said unto Moses: Moses, I have a precious gift in my treasury and its name is Sabbath and I wish to give it to Israel; go and tell them. Hence R. Simeon b. Gamaliel said: He who gives a child [a piece of] bread must inform its mother! — There is no difficulty. The one treats of a gift which will naturally become known, and the other treats of a gift which does not naturally become known. But the Sabbath too is a gift which would have naturally become known! — Its reward[14] would not naturally be known.[15] The Master said: ‘Hence R. Simeon b. Gamaliel said: He who gives a child [a piece of] bread must inform its mother’. What should he do to it [the child]?[16] — He smears it with oil or puts rouge on it. But now that we are afraid of witchcraft, what [is to be done]?[17] — R. Papa said: He must smear it [the child] with some of that very substance [he put on the bread].[18] R. Johanan said in the name of R. Simeon b. Yohai: Every commandment which the Holy One, blessed be He, gave unto Israel, He gave to them publicly, except the Sabbath which He bestowed upon them in secret, for it is said: ‘It is a sign between Me and the children, of Israel for ever’.[19] If so, idolators should not be punished on its account![20] — The Sabbath He indeed made known to them [the idolator] but its reward He did not make known to them. Or you can say: Its reward too He made known to them [but] the enlarged soul,[21] He did not make known to them; for R. Simeon b. Lakish said: On the eve of the Sabbath the Holy One, blessed be He, gives to man an enlarged soul and at the close of the Sabbath He withdraws it from him, for it says: He ceased from work and rested:[22] once it [the Sabbath] has ceased[23] woe that the [additional] soul is lost![24]

A MAN MAY PREPARE A DISH ON THE EYE OF THE FESTIVAL. Abaye said: They taught this only of a dish[25] but not of bread.[26] Why is bread different that it is not [fit for an ‘erub]? If I were to say something used as a relish is required then what of pearl-barley which is also not a relish — for R. Zera said: These Babylonians are fools for they eat bread with bread[27] — and [yet] R. Nahumi b. Zecharaiah said in the name of Abaye: One may set an ‘erub of pearl-barley broth! — Rather, we require [for an ‘erub dish] something which is not common, and bread is common, whereas pearl-barley broth is not common.[28] Others teach: Abaye said: They taught this only of a dish but not of bread. What is the reason? If I were to say something which is not common is required whereas bread is common, then what of pearl-barley broth, which is also not common and [yet] R. Nahumi b. Zecharaiah said in the name of Abaye: One may not set an ‘erub with pearl-barley broth! — Rather, something used as a relish is required and bread is not used as a relish and pearl-barley broth too is not used as a relish for R. Zera said: These Babylonians are fools for they eat bread with bread.

R. Hiyya taught: The lentils at the bottom of the pot[29] can be relied upon as an ‘erub tabshilin, providing that they amount to as much as an olive. R. Isaac son of Rab Judah said: One may scrape off the fat which is upon the knife and rely upon it as an ‘erub tabshilin, providing that it amounts to as much as an olive.

R. Assi said in the name of Rab: Small salted fish are not subject to [the interdict against] the cooking of a heathen.[30] R. Joseph said: And if a heathen grilled them one may rely upon them as [or for] an ‘erub tabshilin,[31] but if a heathen made them into a pie of fish-hash it is prohibited.[32] This is obvious! You might think

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(1) Between the first and the tenth of Tishri. These days are known as the ten days of Penitence.

(2) In Sanh. 11b, R. Abba.

(3) Ps. LXXXI, 4; he connects כסה (E. V. full moon) with the same root meaning to cater, and translates: ‘at the concealed (moon)’.

(4) The remaining Festivals fall during the middle of the month near full moon.

(5) Ps. LXXXI, 5. The word חק (E.V. statute) is taken to mean sustenance which is allotted to Israel on New Year.

(6) Gen. XLVII, 22.
(7) Prov. XXX, 8.
(8) So that he was always eating in honour of the Sabbath.
(9) He trusted in God that he would obtain something worthy for the Sabbath.
(10) Ps. LXVIII, 20.
(11) In Aramaic the saying rhymes and is a cue to prompt people to think of the coming Sabbath.
(12) Ex. XXXIV, 29.
(13) Ex. XXXI, 13.
(14) Lit., ‘the gift of its reward’.
(15) God informed Israel, through Moses, the reward for keeping the Sabbath.
(16) In order to let the mother know.
(17) Sorcerers or witches used these in the practice of their occult arts.
(18) Whether butter, jam or fat (dripping). These do not suggest witchcraft.
(19) Ex. XXXI, 17. The word לעָלם is written defectively as if derived from עָלם to hide, conceal.
(20) V. A.Z. 2b, where it is implied that the idolator will be punished for rejecting the Torah when it was offered to him. But in respect of the Sabbath, at least, there should he no punishment, seeing that it was offered even to Israel in secret only.
(21) Lit., ‘additional soul’, by this term the Talmud indicates the spiritual ennoblement conferred by the Sabbath.
(22) Ex. XXXI, 17.
(23) The verb שבת ‘he ceased from work’ is translated: He ceased keeping the Sabbath (because of its expiration). Malter, Ta'anit, 27a.
(24) This is a play on the word וינפש which is taken to stand for וי אבדה נפש (Goldschmidt suggests the reading וי אבדה נפש ‘the soul is no longer (here)’, which is nearer the Hebrew word וינפש .)
(25) A cooked meal.
(26) Bread cannot be an ‘erub.
(27) Concerning the Babylonians who eat pearl-barley broth with bread, v. Ned. 49b.
(28) Bread is eaten at every meal, whereas pearl-barley is not.
(29) Left over unintentionally on the eve of the festival.
(30) The Rabbis forbade food cooked by heathens, to prevent over-familiarity leading to intermarriage. But things which can be eaten raw do not come under this prohibition even if they are cooked, been use the cooking of such things could hardly be considered a favour. These salted small fish can be eaten raw.
(31) Since they can be eaten raw.
(32) Because the dough could not be eaten unbaked (i.e. uncooked).

Talmud - Mas. Beitzah 16b

[that] the fish-hash is the principal element;[1] hence he informs us that the flour is the principal element.

R. Abba said: An ‘erub tabshilin[2] must be the size of all olive.[3] The Scholars asked: [Does that mean] one olive for all [the participants together] or an olive for each one separately? — Come and hear: For R. Abba said in the name of Rab: An ‘erub tabshilin requires to be the size of an olive whether for one or for one hundred.

We have learnt: [IF] HE ATE IT OR IT WAS LOST, HE MAY NOT IN THE FIRST PLACE COOK [IN RELIANCE] ON IT, BUT IF HE LEFT OVER ANY [SMALL] PORTION OF IT, HE MAY RELY ON IT [TO COOK] FOR THE SABBATH. What does ‘ANY’ [SMALL] PORTION mean? Does it not mean although it is not as much as an olive?[4] — No, when it is as much as an olive.

Come and hear: This dish[5] [can be] grilled or pickled or stewed[6] or boiled; and the Spanish colias[7] [can be used] when he had poured hot water over it[8] on the eve of the Festival; [for] its commencement and its end[9] there is no standard [in quantity]. Does it not [surely] mean there is no standard [fixed] at all? No, there is no upper [i.e., maximum] standard,[10] but there is a downwards [i.e., minimum] standard.[11]

R. Huna said in the name of Rab: The ‘erub tabshilin requires cognizance.[12] It is certain that the cognizance of him who deposits [the dish] is required but do we require the cognizance of him for whom it is deposited, or do we not require [it]? — Come and hear: For the father of Samuel used to set the ‘erub for the whole of Nehardea; R. Ammi and R. Assi used to set the ‘erub for the whole of Tiberias.[13] R. Jacob b. Idi proclaimed: He who has not set an ‘erub tabshilin, let him come and rely upon mine. And how far?[14] — R. Nahumi b. Zecharaiah said in the name of Abaye: As far as the Sabbath limit.[15]

There was a certain blind man who used to recite Baraithas in the presence of Mar Samuel. When he noticed that he was gloomy he asked him: Why are you gloomy? Because I have not set an ‘erub tabshilin,[16] replied he. Then rely upon mine, he rejoined. The following year he [again] noticed that he was gloomy. Said he to him: Why are you gloomy? He answered him: Because I have not set all ‘erub tabshilin. [Then] said he to him: You are a transgressor: to everybody else it is permitted,[17] but to you it is forbidden.[18]

Our Rabbis taught: If a Festival falls on the eve of Sabbath one may neither set [on the Festival] a boundary ‘erub[19] nor an ‘erub of courts.[20] Rabbi Says: One may set a court ‘erub but not a boundary ‘erub, for you can forbid him[21] what is forbidden to him [on a Festival][22] but you cannot forbid him what is allowed to him [on a Festival].[23] It was stated: Rab says: The halachah is as the first Tanna, and Samuel says: The halachah is as Rabbi.

The Scholars asked: Is the halachah as Rabbi [meant] leniently or stringently?- Of course he [Samuel] meant it leniently![24] — [The question was raised] because R. Eleazar sent word to the Diaspora [to wit]; Not as you teach in Babylon that Rabbi permits and the Sages forbid, but [rather] Rabbi forbids and the Sages permit. How is it now?[25] — Come and hear: For R. Tahlifa b. Abdimi decided a case according to Samuel, and Rab remarked [thereon:] The first decision of this young scholar is harmful.[26] [Now] if you say that he [Samuel] meant [his teaching] to be lenient it is well, hence this is harmful. But if you say [he meant] stringently, what harmful [teaching] is there! — Since many come to error[27]

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(1) And therefore the dough is disregarded altogether.

(2) The Hebrew employs the plural.

(3) But not less.

(4) Which contradicts Rab.

(5) Of the ‘erub.

(6) Shaluk, translated ‘stewed’, means very much boiled.

(7) A very small fish of the tunny type. V. Krauss TA II, pp. 91 and 506.

(8) The pouring of hot water on the tunny fish is its preparation for eating.

(9) I.e., both when it is first made for an ‘erub and when part has been eaten or lost.

(10) I.e., as regards its greatness.

(11) Below which it cannot constitute an ‘erub.

(12) That it has been set for the purpose of ‘erub.

(13) It is evident from this that the cognizance of all the Jewish residents of Nehardea and Tiberias was not required.

(14) I.e. within what area.

(15) Tehum, v. Glos.

(16) The Festival referred to here was New Year when in ‘erub cannot be set conditionally.

(17) To rely upon my ‘erub.

(18) I only had intended those who had unwittingly forgotten to rely on my ‘erub, but not where the forgetfulness is through sheer negligence.

(19) Enabling him to go on the Sabbath from one township to another.

(20) Enabling him to carry on the Sabbath from one court to another, because he would thereby join the courts in a legal sense, making them ali as one. This ranks as the repairing of an object and constitutes work.

(21) To effect on a Festival that a certain action should be permitted on the Sabbath.

(22) The prohibition of going from one township to another applies both to Sabbaths and Festivals.

(23) Carrying out from one private court to another is permitted on a Festival, without an ‘erub.

(24) For Rabbi allows a court ‘erub to be set on a Festival.

(25) Did Samuel mean that the halachah is as Rabbi taught in Babylon or as taught in Palestine.

(26) I.e. leading to a breach of the law.

(27) By forgetfully carrying on the Sabbath following the Festival from one court to another though no ‘erub could be set on the Festival.

this is harm.[1] Raba said in R. Hisda's name who said in the name of R. Huna: The halachah is as Rabbi, viz., that it is forbidden.[2]

Our Rabbis taught: If a Festival fell on a Sabbath, Beth Shammai Say: He must pray eight [benedictions][3] and recite [the benediction] of the Sabbath separately and of the Festival separately; but Beth Hillel say: He must pray seven [benedictions][4] beginning with the Sabbath [formula] and ending with the Sabbath [formula],[5] and he makes mention of the holiness of the day in the middle.[6] Rabbi says: He should also conclude it [the benediction] ‘Who sanctifieth the Sabbath, Israel and the Seasons.’ A tanna recited in the presence of Rabina: ‘Who sanctifieth Israel and the Sabbath[7] and the Seasons.’ He said to him: Does then Israel sanctify the Sabbath?[8] The Sabbath has already been sanctified [from the creation] and so continues! Say rather: ‘Who sanctifieth the Sabbath, Israel and the Seasons.’ R. Joseph said: The halachah is as Rabbi and as Rabina explained it.

Our Rabbis taught: If a Sabbath falls on a New Moon or on the intermediate days of a Festival,[9] at the evening, morning and afternoon services he prays seven [benedictions][10] and makes mention of the nature of the day[11] in the ‘Abodah,[12] and if he did not recite [it], he is made to turn back;[13] R. Eliezer says: [He alludes to the day] in the Thanksgiving [benediction],[14] while in the Additional Services[15] he begins with the Sabbath [formula] and closes with the Sabbath [formula], and makes mention of the holiness of the day in the middle.[16] R. Simeon b. Gamaliel and R. Ishmael son of R. Johanan b. Beroka say: Whenever one is obliged to say seven benedictions[17] he begins with the Sabbath [formula] and closes with the Sabbath [formula] and mentions the holiness of the day in the middle. Said R. Huna: The halachah is not as that pair [of scholars].[18]

R. Hiyya b. Ashi in Rab's name said: A man may prepare a boundary ‘erub on the first day of a Festival[19] for the second and stipulate.[20] Raba said: A man may prepare an ‘erub tabshilin on the first day of a Festival for the second and stipulate.[21] He who states a boundary ‘erub, all the more an ‘erub tabshilin’ while he who states an ‘erub tabshilin, but not a boundary ‘erub. What is the reason? Because one may not acquire a [Sabbath] residence on a ‘Sabbath’.[22]

Our Rabbis taught: One may not bake on the first day of a Festival for the second. In truth they said:[23] A woman may fill the whole pot with meat although she only needs one portion; a baker may fill a barrel with water although he only needs one handful,[24] but as for baking he may bake only what he needs. R. Simeon b. Eleazar says: A housewife may fill the entire oven with loaves, because bread is baked better in a full oven. Said Raba: The halachah is as R. Simeon b. Eleazar.

The scholars asked: He who did not set an ‘erub tabshilin is he forbidden [to bake for the Sabbath] and [likewise] his flour is forbidden,[25] or perhaps only he is forbidden, but his flour is not forbidden? What is the practical difference? — Whether he must give up his flour to others.[26] If you say that [both] he is forbidden and [likewise] his flour is forbidden, then he must give his flour to others,[27] but if you say, he is forbidden but his flour is not forbidden, [then] he need not give up his flour to others. What [is the law]? — Come and hear: He who has not set an ‘erub tabshilin may neither bake nor cook nor store [food] away[28] neither for himself nor for others; nor may others bake or cook for him. What should he do? He gives up his flour to others [and these] bake and cook for him — Conclude therefrom that he is forbidden and [likewise] his flour is forbidden. It is thus concluded.

The scholars asked: What if he transgressed and baked?[29] Come and hear: He who has not set an ‘erub tabshilin what is he to do? He gives up his flour to others and [these] others bake and cook for him.

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(1) Had he permitted the ‘erub to be set on the Festival they could have carried without transgressing the law.

(2) To set on a Festival either a boundary ‘erub or a court ‘erub.

(3) The first three and the last three are the same as that of the ordinary ‘Amidah (v. Glos).

(4) One middle benediction sufficing for both the Sabbath and the Festival, but must commence and end with the Sabbath formula.

(5) And no more, not as we end with the additional words ‘Israel and the Seasons’ cf. P.B. p. 229.

(6) The middle benediction is from אתה בחרתנו to מקדש ישראל and the allusion to the specific prayer is found in ותתן לנו v. P.B. p. 228.

(7) Mentioning Israel before Sabbath.

(8) Festivals are consecrated by Israel in accordance with the fixing of the New Moon, but the sanctity of the Sabbath is independent and absolute.

(9) Lit., ‘the nonsacred portion of the Festival’. In the case of Passover and Tabernacles the first and last days only are holy, the intermediate days enjoying a semi-sanctity.

(10) As on an ordinary Sabbath.

(11) Whether it be New Moon "ran intermediary day of a Festival.

(12) ‘Abodah (lit., ‘service’) is the designation of the benediction commencing with רצה , so called because it is a prayer for the restoration of the sacrificial service. A passage commencing with יעלה ויבא in which specific mention of New Moon or of the Intermediate Days is made, is inserted in the middle of this benediction. Cf. P.B. p. 50.

(13) I.e., start again at רצה .

(14) Viz., in the benediction commencing with מודים (‘we give thanks’). P.B. p. 51.

(15) On Sabbaths, Festivals, and New Moons an additional services read after the morning service, corresponding to the additional sacrifices when were offered in the Temple on those days. V. J.E. IX, p. 116.

(16) In the passage ותתן לנו cf. P.B. p. 233.

(17) Even in the first-named prayers.

(18) But as the first Tanna in so far as the nature of day at the evening, morning and afternoon services is to he mentioned in the ‘Abodah. His ruling, however, that the close at the Additional Service is only with the Sabbath formula, is not adopted as halachah, for in that respect the halachah is as Rabbi that the conclusion is, ‘Who sanctifieth the Sabbath, Israel and the seasons (or the New Moon)’ — Rashi.]

(19) If he forgot to set the ‘erub on the eve of the Festival which fell on Thursday and Friday.

(20) For the Sabbath immediately following the second day. For the condition v. supra p. 23, n. 2.

(21) V. supra 6a.

(22) The term שבתא here means Festival. An ‘erub tabshilin, however, was allowed in honour of the Sabbath.

(23) For this expression v. B.M. 60a.

(24) With the same labour he can fill the entire vessel as well as partly fill it, but with respect to bread every loaf requires extra labour.

(25) To be baked on the Sabbath, even by others.

(26) Before they may bake it.

(27) By giving it to them as a present.

(28) In such a manner that it retains its heat.

(29) May he eat it on the Sabbath or not?

Talmud - Mas. Beitzah 17b

Now if there is [this possibility],[1] let him state: If he transgressed and baked it is permissible! — Said R. Adda b. Matena: [The Tanna] teaches a legal remedy; an illegal remedy he does not teach.

Come and hear: He who has set an ‘erub tabshilin may bake and cook and store, and if he wishes to eat his ‘erub he is at liberty to do so. If he ate it [the ‘erub] before he had baked [or] before he had stored, then he may not bake nor cook nor store away neither for himself nor for others, nor may others bake or cook for him; but he may cook for the Festival and if he leaves [any thing] he has left it for the Sabbath, provided that he does not [intentionally] resort to an artifice;[2] and if he has resorted to all artifice it is forbidden![3] — Said R. Ashi: You speak of all artifice? An artifice is different, for the Rabbis have treated it more rigorously than an intentional transgression.[4]

R. Nahman b. Isaac says: This[5] represents the opinion of Hananiah and according to Beth Shammai. For it was taught:[6] Hananiah says that Beth Shammai maintain: One may bake only if he set an ‘erub of bread, and one may cook only if he set an ‘erub of cooked food, and one may store only if he had already warm water stored on the eve of the Festival; but Beth Hillel affirm: One may set an ‘erub with one dish and prepare all his requirement [in reliance] thereon.[7]

Come and hear: He who tithed his fruits on the Sabbath,[8] if [he acted] in error he may eat [of them], if deliberately, he may not eat [of them].[9] This treats of a case where he has other fruits.[10]

Come and hear: If one purified his [unclean] vessels on the Sabbath,[11] if in error he may use them, if deliberately he may not use them![12] — This treats of a case where he has other vessels, or [the reason may he because] it is possible to borrow [vessels from others].

Come and hear: He who has cooked on the Sabbath, if in error he may eat [of it], if deliberately, he may not eat [of it]![13] — The prohibition with respect to Sabbath is different.[14]

BETH SHAMMAI SAY TWO DISHES. Our Mishnah is not in accordance with the following Tanna; for it was taught: R. Simeon b. Eleazar says: Beth Shammai and Beth Hillel agree that two dishes are necessary;[15] they differ only about a fish and the egg thereon,[16] when Beth Shammai say: Two [separate] dishes [are necessary] and Beth Hillel maintain: [This] one dish [is sufficient]. But they agree that if one crumbles a [hardboiled] egg and puts it inside the fish or if he shreds a head of leek[17] and puts it inside the fish, they [count as] two dishes. Rab said: The halachah is according to our Tanna[18] [in his representation] of the view of Beth Hillel.[19]

IF HE ATE IT OR IF IT WERE LOST, HE MAY NOT . . . Abaye said: We have a tradition; if his ‘erub was eaten up after he had begun to prepare the dough he may finish it.[20]

MISHNAH. IF IT [THE FESTIVAL] FELL ON THE DAY AFTER THE SABBATH, BETH SHAMMAI SAY: ONE MUST IMMERSE EVERYTHING [UNCLEAN] BEFORE THE SABBATH;[21] BUT BETH HILLEL MAINTAIN; VESSELS [MUST BE IMMERSED] BEFORE THE SABBATH BUT MEN ON THE SABBATH. THEY AGREE [HOW EVER] THAT ONE MAY EFFECT SURFACE CONTACT FOR [UNCLEAN] WATER IN A STONE VESSEL,[22] BUT ONE MAY NOT IMMERSE [IT];[23] AND ONE MAY IMMERSE[24] [TO CHANGE] FROM ONE INTENTION TO ANOTHER[25] OR FROM ONE COMPANY TO ANOTHER.[26]

GEMARA. All incidentally agree that a vessel may not [be immersed] on a Sabbath: What is the reason? — Said Rabba: It is a preventative measure

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(1) Of being able to eat, viz., by transgressing.

(2) Evasion of the law by purposely cooking much more than he requires.

(3) And presumably the same is true if he transgressed and cooked!

(4) Deliberate transgression is recognized as such and will not entice others whereas all evasion may be regarded as wholly permitted and set an evil example for others too.

(5) The teaching if he has resorted to an artifice it is forbidden. R. Nahman does not admit the possibility that an artifice may be treated more stringently than deliberate transgression, for the latter is certainly a graver fault intrinsically.

(6) Supra 22b.

(7) Consequently we see that Hananiah is very stringent with reference to an ‘erub tabshilin, and therefore the same applies to an artifice, but our problem is based on Beth Hillel's more lenient ruling.

(8) This is forbidden by the Rabbis. V. infra 36b.

(9) Ter. II, 3. Hence we may infer that if he deliberately baked without an ‘erub, he may not eat of it.

(10) To eat on the Sabbath, so that there is no hindering of the enjoyment of the Sabbath. The problem here is when he has no other provision.

(11) In order to cleanse them, which is forbidden by the Rabbis since it is equivalent to repairing a utensil. V. infra 18a.

(12) Ibid.

(13) V. infra 18a.

(14) Cooking on the Sabbath is Biblically forbidden, the penalty for which may be stoning. Therefore the Rabbis have been rigorous in the treatment of such intentional breach. But with respect to cooking on a Festival without an ‘erub, where the prohibition is mere Rabbinical, it is possible that the Rabbis are more lenient and would allow him to eat on the Sabbath.

(15) As an ‘erub.

(16) I.e., the egg in which the fish is smeared before cooking.

(17) קפלוטות GR. ** == a head of leek. V. Krauss T.A. II, pp. 560-561.

(18) I.e.,

(19) In Mishnah. (7) Viz., that an ‘erub may consist of one dish only.

(20) Even to baking it.

(21) But not on the Sabbath, because it is equivalent to repairing or reconditioning the vessel, and the same applies to man.

(22) Which cannot be defiled. The stone vessel containing the unclean water is placed in a mikweh (ritual bath) and immersed until the two waters make contact. Other liquids and foods once unclean cannot be made ritually clean. V. Mik. VI, 8.

(23) Viz., the unclean water in a defiled vessel in order to cleanse the vessel at the same time.

(24) On a Festival.

(25) I.e., if the vessels were immersed before the Festival to be put to a particular use and on the Festival he decided to use them for another purpose which requires higher sanctity, he may immerse the in on the Festival, for the second immersion is not regarded as reconditioning the vessels. V. Hag. II, 6, 7.

(26) If he performed an immersion before Passover with the intention of eating the Paschal Lamb with one company, and then determined to join another company which required a higher degree of sanctity, he may immerse again on the Festival itself.

Talmud - Mas. Beitzah 18a

lest he take it in his hand and carry it four cubits in a public ground.[1] Abaye said to him: How is it to be explained when there is a pit[2] in his courtyard?[3] He answered him: A pit in his courtyard is preventively forbidden on account of a pit in public ground. This is well with respect to Sabbath, but with respect to Festivals[4] how is it to be explained? — They forbade [it on] Festivals on account of [the] Sabbath. Do we then preventively forbid?[5] Surely we have learnt: THEY AGREE THAT [ON A FESTIVAL] ONE MAY EFFECT SURFACE CONTACT FOR [UNCLEAN] WATER IN A STONE VESSEL BUT ONE MAY NOT IMMERSE [IT]; and if this is so, let us forbid surface contact on account of immersion! — Now is that logical? If he has [other] clean water, then why effect surface contact for this [water]? Therefore [this treats of a case] where he has no [other clean water], and since he has no [other clean water] he will be very careful with it.[6]

He raised an objection to him: One may draw [water] with a [ritually] unclean bucket and it [the bucket] becomes clean;[7] Now if it is so, let us preventively forbid lest he come to immerse it by itself! It is different there; since he is permitted [to immerse it] by means of drawing water only he will remember.[8] He raised an objection to him: A vessel which became defiled on the eve of a Festival, one may not immerse it on the Festival; [if it became defiled] on the Festival one may immerse it on the Festival: Now if it is so, let us forbid [that which became defiled] on the Festival on account of [that which became defiled] on the eve of the Festival? — Defilement on a Festival is a rare occurrence and [with regard to] a thing of rare occurrence the Rabbis did not enact a preventative measure.[9]

He raised an objection to him: A vessel which became defiled[10] through a father of uncleanness,[11] one may not immerse it on a Festival;[12] [but if it became defiled] through a derivative uncleanness,[13] one may immerse it on a Festival.[14] Now if it is so, let us forbid one because of the other! — How is a derivative uncleanness possible?[15] [Only] in the case of priests,[16] [and] priests are careful.[17]

Come and hear: For R. Hiyya b. Ashi said in Rab's name: A niddah,[18] who has no [ritually clean] clothes,[19] may use guile and immerse herself in her clothes.[20] Now if it is so, let us forbid this lest she come to immerse [her clothes] by themselves! — It is different there; since it is permitted to her only in her clothes, she will remember .[21]

R. Joseph says: It[22] is a preventive measure on account of wringing [the clothes].[23] Said Abaye to him: This is well [with respect to] apparel, which can be wrung; [but with respect to] vessels, which cannot be wrung, what is there to be said? — He replied to hini: These have been forbidden on account of those. He raised all the above mentioned objections and he answered him [the said] as we have answered.

R. Bibi says: It[22] is a preventive measure, lest he delay.[24] It was taught as R. Bibi: A vessel which became defiled on the eve of the Festival, one may not immerse it on the Festival lest he delay.

Raba Says: [The immersion of vessels is forbidden] because it looks like repairing the vessel.[25] If it is so, a man too [should likewise] be forbidden?[26] — [In the case of] a man it looks as if he were cooling himself.[27] This is well in the case of clear water;[28] but what will you say with respect to turbid water? — Said R. Nahman b. Isaac: It happens that one comes [home]

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(1) The minimum distance involving culpability.

(2) I.e., a mikweh.

(3) When there is no need to carry the vessel out of private ground at all.

(4) When carrying is permitted.

(5) I.e., enact one preventative measure lest another preventative measure be violated.

(6) Not to allow it to become defiled. Accordingly the water becoming defiled is a rare occurrence and such is disregarded; cf. infra.

(7) Because the real purpose of the immersion is not patent, for people would think that his purpose was to draw water.

(8) That immersion itself is forbidden on a Festival.

(9) V. ‘Er. 63a.

(10) On the eve of the Festival.

(11) I.e., a primary uncleanness, a person or object that touched a dead body. For the various degrees of defilement v. Pes. 14a.

(12) For a father of uncleanness defiles the vessel by Biblical law, hence the immersion of the vessel would be regarded as reconditioning it on a Festival.

(13) I.e., anything which itself became unclean through contact with a ‘father of uncleanness’; which Biblically is incapable of transmitting uncleanness to the vessel.

(14) Since by Biblical law the vessel is still clean, the immersion is not regarded as reconditioning it.

(15) That it should defile a vessel

(16) Who eat consecrated food which would be contaminated by this vessel.

(17) To distinguish between a vessel that became defiled through a primary cause or through a secondary cause. Or, they are careful not to permit their vessels to become unclean, which makes such defilement rare: v. supra.

(18) V. Glos.

(19) To put off after performing tebillah, while, on account of the Festival, she is unable to immerse the clothes she wears.

(20) Which cleanses both herself and her clothes. This is permitted for the same reason that you may draw water in an unclean bucket, as people will think that she is performing it for herself.

(21) As above.

(22) The prohibition of immersing vessels and clothes on Sabbath and Festivals.

(23) Wringing is prohibited both on Sabbath and Festivals.

(24) Their immersion until the Festival when he has more time and in the meantime uses the defiled vessels for consecrated food.

(25) Since this makes it useable.

(26) Since tebillah makes hin fit to eat sacred food, such as flesh of sacrifices.

(27) And that he was not taking a ritual bath.

(28) Where one may wash oneself.

Talmud - Mas. Beitzah 18b

in hot weather and bathes even in water used for soaking [dirty linen]. This is well in summer;[1] what will you say of winter? R. Nahman b. Isaac replied: A man sometimes returns [home] from the field besmeared with mud and filth and bathes even in winter. This is well on a Sabbath;[2] but on the Day of Atonement[3] what is there to be said? — Said Raba: Is there then any[thing] which on a Sabbath is permitted[4] and on the Day of Atonement is forbidden?[5] But since it [bathing] is permitted on the Sabbath,it is also permitted on the Day of Atonement. Does then Raba accept the argument of 'Since'?[6] Surely we have learnt: He who has toothache must not rinse them with vinegar[7] [On the Sabbath],[8] but he may dip [his food] in vinegar in his usual manner, and if it becomes better, it becomes better.[9] And we pointed out a contradiction: He must not rinse and expectorate[10] but he may rinse and swallow? And Abaye answered: When we learnt our Mishnah,[11] we learnt it also [as referring to] rinsing and expectorating. Raba however answered: You may even say [the Mishnah refers to] rinsing and swallowing, and [still] there is no contradiction: in the one case [it means] before the dipping [of the food into the vinegar][12] and in the other case [it means] after the dipping [of the food in the vinegar]. Now if it is so[13] let us say, Since it is permitted before the meal, it is also permitted after the meal! — Raba retracted from that [statement].[14] How do you know that he retracted from that [statement]; perhaps he changed his mind with respect to the present one?[15] — You cannot suppose this, for it was taught: Everyone who is required to take a ritual bath[16] may bathe in the usual way, both on the [fast of the] Ninth of Ab and on the Day of Atonement.[7] BUT THEY BOTH AGREE THAT [ON A FESTIVAL] YOU MAY EFFECT SURFACE CONTACT FOR [UNCLEAN] WATER IN A STONE VESSEL etc. What does BUT ONE MAY NOT IMMERSE [IT] mean? — Said Samuel: One may not on a Festival immerse the [unclean] vessel on account of its water in order to cleanse it![17]

Who is the author of our Mishnah? It is neither Rabbi nor the Sages! For it was taught: One may not immerse the [unclean] vessel on account of its water in order to cleanse it, nor may one effect surface contact or [unclean] water in a stone vessel in order to cleanse it; this is the opinion of Rabbi. But the Sages say: One may immerse the vessel on account of its water in order to cleanse it, and one may effect surface contact for [unclean] water in a stone vessel in order to cleanse it.[18] Who now is [the author of our Mishnah]? If Rabbi, [the ruling on] surface contact is a difficulty;[19] if the Sages, [the ruling on] immersion[20] is a difficulty? — If you like I can say [the author of the Mishnah is] Rabbi; alternatively, it is the Sages. If you like I can say it is Rabbi; the first clause of the Baraitha[21] concerns Festivals and the concluding clause[22] concerns the Sabbath, whereas the whole of our Mishnah[23] deals with Festivals.

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(1) When one may bathe to cool oneself.

(2) When it is permissible to wash.

(3) When it is forbidden to wash oneself

(4) On the score of work.

(5) Surely not!

(6) As stated, even where there may be a reason for prohibiting it on the Day of Atonement which does not apply to the Sabbath, as in the present instance.

(7) Lit., 'suck vinegar into them'.

(8) Healing, except in the case of danger, is forbidden, lest he crush the ingredients on the Sabbath. V. Shab. 111a; A.Z. 28a.

(9) I.e. , there is no harm done; he has not broken the law.

(10) Because it is then evident that he is taking it as medicine.

(11) On toothache.

(12) Then he may rinse and swallow for it is regarded as a part of the meal, being his first meal, the aperitif, the hors d'oeuvre.

(13) That Rab accepts the argument of ‘Since’.

(14) Concerning toothache, and his statement about bathing on the Day of Atonement was made subsequently.

(15) Viz., re bathing on the Day of Atonement.

(16) E.g., a woman after menstruation or confinement. (16) When washing oneself is forbidden. V. Ta'an. 13a; Shab. 111a.

(17) One may not put unclean water [for surface contact in an unclean wooden vessel which itself requires immersion, so that through the surface contact the vessel is automatically immersed.

(18) For var. lec. v. D.S.

(19) Whereas Rabbi forbids it our Mishnah permits it.

(20) Which the Sages allow, while our Mishnah forbids.

(21) In which Rabbi forbids immersion, implying that surface contact is permitted.

(22) In which Rabbi forbids even surface contact.

(23) Which forbids immersion and permits surface contact. For var. lec. v. Rashi and D.S.

Talmud - Mas. Beitzah 19a

Alternatively, I can say it is the Sages and the whole of our Mishnah deals with the Sabbath.

Our Rabbis taught: A vessel which became defiled on the eve of a Festival one may not immerse at twilight.[1] R. Simeon Shezuri says: Even on a weekday one may not immerse it [then], because it requires [waiting until] sunset.[2] And does not the first Tanna require [waiting until] sunset?[3] Said Raba: I found the disciples of the Academy who sat and said: They differ whether his intention is to be recognized from his acts. How so? If, for example, he is holding a vessel in his hand and running along [about] twilight [time][4] to immerse it; one Master is of the opinion that the reason he is running along is that he indeed knows that he requires [to wait until] sunset;[5] and the other Master is of the opinion that he is running on account of his work.[6] Then said I to them: None dispute that his intention is recognized from his acts;[7] they differ [only] when [another] vessel[8] became defiled through [part of a reptile] less than the size of a lentil,[9] and he[10] came before the Rabbis to ask whether [having come into contact with part of a reptile] less than the size of a lentil it has become defiled or not.[11] One Master is of the opinion: Since he does not know this he also does not know that;[12] and the other Master is of the opinion: This [only] he does not know,[13] but [with the requirement of] sunset he is well acquainted.[14] AND ONE MAY IMMERSE [TO CHANGE] FROM ONE INTENTION TO ANOTHER. Our Rabbis taught: How is, FROM ONE INTENTION TO ANOTHER, meant? He who wishes to make his wine press out of his olive press[15] or his olive press out of his wine press may do so.[16] What means ‘FROM ONE COMPANY TO ANOTHER’? If he intended to eat with one company,[17] and [now] wishes to eat with another company,[18] he may do so.[19]

MISHNAH. BETH SHAMMAI SAY: ONE MAY BRING PEACE-OFFERINGS[20] [ON FESTIVALS] BUT MAY NOT LAY [HANDS] THEREON;[21] BUT ONE MAY NOT BRING BURNT-OFFERINGS[22] [ON A FESTIVAL]; BUT BETH HILLEL MAINTAIN: ONE MAY BRING PEACE-OFFERINGS AND BURNT-OFFERINGS AND ALSO LAY HANDS THEREON.

GEMARA. ‘Ulla said: ‘The dispute is only with respect to the laying on [of hands] on Festival peace-offerings[23] and the sacrificing of the pilgrimage burnt-offerings,[24] when Beth Shammai hold:

‘And ye shall keep [wehagothem] it a Feast [hag] unto to the Lord’,[25] implies only Festival peace-offerings [hagigah][26] but not the pilgrimage burnt-offerings; and Beth Hillel maintain: ‘unto the Lord’ [implies] all [sacrifices offered] unto the Lord;[27] but all agree that vows and freewill-offerings[28] may not be offered on a Festival.[29] And thus did R. Adda b. Ahabah say: Vows and freewill-offerings may not be offered on a Festival.

An objection was raised: R. Simeon b. Eleazar said: Beth Shammai and Beth Hillel do not differ concerning a burnt-offering which is not for the Festival,[30] [both agreeing] that it may not be offered on a Festival,[31] and concerning peace-offerings of the Festival[32] that they may be offered on the Festival;[33] they only differ concerning a burnt-offering which is for the Festival and concerning peace-offerings which are not for the Festival, when Beth Shammai say: He may not bring [them][34] and Beth Hillel maintain: He may bring [them]! — Reconcile it by saying thus: R. Simeon b. Eleazar said: Beth Shammai and Beth Hillel do not differ concerning a burnt-offering or peace-offering which are not connected with the Festival that they may not be offered on the Festival and concerning peace-offerings connected with the Festival that they may be offered on the Festival; they differ only concerning a burnt-offering connected with the Festival, when Beth Shammai say: He may not bring [it], and Beth Hillel maintain: He may bring [it]. R. Joseph said:[35] You quote Tannaim at random.[36] There is a dispute of Tannaim. For it was taught: [As to] peace-offerings which are offered[37] on account of the Festival, Beth Shammai say: He lays [hands] on them on the eve of the Festival and slaughters them on the Festival; but Beth Hillel maintain: He lays [hands] on them on the Festival and slaughters their on the Festival,

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(1) Because it may already be the Festival. Twilight is a period after sunset which it cannot exactly be determined whether it is day or night.

(2) I.e., if a person is seen to attempt to immerse a vessel at twilight he is stopped: the person immersing the vessel at twilight evidently intends to use it immediately after immersion. But the vessel immersed at twilight would still be unclean until sunset of the following day; cf. Lev. XI, 32.

(3) Before it is ritually clean. Surely a person who has ritually cleansed all unclean vessel by immersion must wait until the sun sets before he may use it.

(4) [I.e., before sunset. The bracketed words must be added if the word ‘twilight’ which MS.M. omits is retained with cur. edd.]

(5) Before he can use it. Therefore on a weekday he is allowed to proceed because when, on reaching the ritual bath, he finds that the sun has already set, he will immerse it and wait until the following sunset before using it. But on the eve of a Festival he may not immerse it in case it is already the Festival. But v. Goldschmidt, n. a.l.

(6) I.e., he is in a hurry to get on with his work. Such action does not show intention and it is therefore to be apprehended lest he will come to use it after immersing it.

(7) We may certainly deduce his intention from his acts.

(8) In addition to the one already defiled, Rashi. V. n. 9.

(9) The minimum size to cause defilement.

(10) This man who was seen running before sunset to immerse the vessel.

(11) R. Hananel reads: ‘Became defiled through (a part of a reptile) of the size of a lentil, and he came before the Rabbis to ask whether a reptile of the size of a lentil defiles’ (he not knowing the law that it does). On this reading the vessel which he was rushing to immerse was the very vessel about which he enquired of the Rabbis and which he was told that it required immersion; v. n. 6.]

(12) Viz., that sunset is required.

(13) For it is not specifically written in Scripture that it must be of the size of a lentil. [On the reading of R. Hananel (note 9): For it is not specifically stated in Scripture that a reptile (or part of it) bigger than a lentil defiles.]

(14) Scripture distinctly states that sunset is required cf. Lev. XI, 32.

(15) If one immersed his defiled vessel in order to use it for his olive press and then changed his mind and wished to use it for his wine press. כד is the smaller vessel for oil. [MS.M. reads בד ‘Olive press’.]

(16) Without requiring further immersion. If therefore the owner takes it upon himself to immerse again the vessel, such immersion may be performed on a Festival, for he is not thereby reconditioning the vessel.

(17) And performed immersion with this intention.
(18) He can only change his mind before the animal is sacrificed.
(19) Without requiring further immersion. The extra immersion is therefore permissible on a Festival.
(20) Because part thereof is eaten by their owners.
(21) Beth Shammai forbid this as a shebuth (v. Glos.), as it was performed with all one's strength and is regarded as being in the nature of riding an animal which is expressly forbidden by the Rabbis (Rashi). [V. however, infra 20a where Beth Shammai are said to hold that the law of laying on of hands does not apply at all to obligatory offerings. Rashi's explanation follows, however, that of R. Johanan, Hag. 16b; v. Tosaf. infra 20a s.v. דלא]
(22) I.e., private voluntary burnt-offerings.
(23) Which are obligatory. V. Lev. XXIII, 41, and the eating of meat was considered an essential part of the festival enjoyment.
(24) V. Ex. XXIII, 15. Lit., 'the appearance (in the Temple before the Lord)'.
(25) Lev. XXIII, 41.
(26) We-hagothem being grammatically connected with hag and hagigah.
(27) Which includes the pilgrimage burnt-offering.
(28) I.e., private sacrifices.
(29) Since they do not belong to the Festival and can be offered on any other day.
(30) E.g., a burnt-offering as a vow or a freewill-offering.
(31) Because (a) none of the sacrifice is eaten by the owners; and (b) it can be brought after the Festival.
(32) I.e., the Festival peace-offerings.
(33) Because (a) They are eaten by the owners, thus increasing the joy of the Festival; (b) They belong to the Festival and cannot be brought after the Festival.
(34) Thus Beth Shammai maintain that peace-offerings not connected with the Festival may not be brought on the Festival, which contradicts 'Ulla.
(35) There is no need to amend the Baraitha
(36) You quote the view of one Tanna (viz., R. Simeon b. Eleazar) while disregarding the possibility that another Tanna may have a different opinion.
(37) Lit., 'come'.

Talmud - Mas. Beitzah 19b

but all agree that vows and freewill-offerings may not be offered on a Festival.[1]

And the following Tannaim [are engaged in the same controversy][2] as these [aforementioned] Tannaim. For it was taught: One may not bring a thank-offering[3] on the Feast of Unleavened Bread on account of the leaven which it contains;[4] nor on Pentecost, because it is a Festival;[5] but one may bring his thank-offering on the Feast of Tabernacles.[6] R. Simeon says: Lo, Scripture says, on the Feast of Unleavened Bread, and on the Feast of Weeks, and on the Feast of Tabernacles,[7] [teaching] whatever may be brought on the Feast of Unleavened Bread may [also] be brought on the Feast of Weeks and on the Feast of Tabernacles, and whatever may not be brought on the Feast of Unleavened Bread may not be brought on the Feast of Weeks and on the Feast of Tabernacles [either]. R. Eleazar son of R. Simeon says: A man may bring his thank-offering[8] on the Feast of Tabernacles and may therewith fulfil his obligation in respect of the joy [of the Festival],[9] but does not fulfil his obligation therewith in respect of the Festival sacrifices.[10] The Master said:[11] 'One may not bring a thank-offering on the Feast of Unleavened Bread on account of the leaven which it contains. This is obvious! — Said R. Adda son of R. Isaac, some say R. Samuel b. Abba: We are treating here of the fourteenth [of Nisan] and he holds: You must not bring consecrated meat to the place of disqualification.[12] 'Nor on Pentecost, because it is a Festival'; he is of the opinion [that] vows and freewill-offerings may not be offered on a Festival.[13]

'But a man may bring his thank-offering on the Feast of Tabernacles'. When? If it should mean on the Festival itself, but you say, 'Nor on Pentecost because it is a Festival'. — Therefore [it must mean] on the intermediary days of the Festival.

R. Simeon says: Lo, Scripture says: ‘on the Feast of Unleavened Bread, and on the Feast of Weeks, and on the Feast of Tabernacles’, [teaching] whatever may be brought on the Feast of Unleavened Bread may [also] be brought on the Feast of Weeks and on the Feast of Tabernacles, and what may not be brought on the Feast of Unleavened Bread may [also] not be brought on the Feast of Weeks and on the Feast of Tabernacles.[14] To this R. Zera demurred: Seeing that we may [even] gather firewood can there be a question about vows and freewill-offerings![15] — Said Abaye: None dispute that the offering [of the thank-offering] is permitted:[16] they differ only as to whether he is subject to ‘Thou shalt not delay’[17] on its account. The first Tanna holds: The Divine Law said ‘Three Festivals’,[18] even not in their order of sequence;[19] while R. Simeon is of the opinion; only in their order of sequence [he transgresses] but not when they are not in order of sequence.

‘R. Eleazar son of R. Simeon says: One may bring the thank-offering on the Feast of Tabernacles’ — When? If [it means] on the Intermediary days of the Festival, then it is the same as the first Tanna. Therefore [it means] on the Festival [itself], and he is of the opinion that vows or freewill-offerings may be offered on Festivals.[20] And why does he teach this particularly of the Feast of Tabernacles? — R. Eleazar son of R. Simeon follows his view [expressed elsewhere]. For it was taught: R. Simeon Says: Scripture[21] need not have mentioned ‘the Feast of Tabernacles’ for the passage is dealing with it.[22] Why [then] is it mentioned? To teach that this is the last.[23] R. Eleazar son of R. Simeon Says: To teach that this [Festival of Tabernacles alone] brings it about.[24]

‘And may therewith fulfil his obligation concerning the joy [of the Festival], but does not fulfil his obligation therewith con cerning the Festival sacrifices.’ This is obvious; for this is indeed an obligatory sacrifice[25] and any obligatory sacrifice can only be brought of unconsecrated [animals or money]![26] — It is necessary to teach this even if he explicitly stipulated.[27] As R. Simeon b. Lakish asked R. Johanan: What if one said, ‘I vow a thank-offering that I may therewith fulfil my obligation of hagigah;’ [or] ‘I take upon myself to become a Nazirite

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(1) This Tanna corroborates the statement of ‘Ulla.

(2) With respect to vows and freewill-offerings

(3) V. Lev. VII, 12-15.

(4) The thank-offering requires leaven (V. Lev. VII, 13) and naturally cannot be offered on Passover.

(5) And a thank-offering like vows and freewill-offerings may not be offered on a Festival.

(6) I. e., during the Intermediary days of the Festival.

(7) Deut. XVI, 16.

(8) I.e., one which he had previously vowed.

(9) It is obligatory to rejoice on the Festivals (v. Deut. XVI, 14), and this rejoicing requires meat (v. supra p. 97, n. 9). The thank-offering can be brought for this purpose.

(10) These are obligatory and such must be brought from unconsecrated animals (i.e., animals which are not due on account of a previous vow); hence the thank-offering is ineligible for this purpose.

(11) The Talmid proceeds to a discussion of the Baraitha in the course of which there emerges the Tannaitic controversy referred to.

(12) For the ten loaves of leaven which accompany the thank-offering could hardly be eaten by about 10 a.m. when leaven becomes forbidden, and the rest would have to be burnt as nothar (v. Glos.).

(13) This is the statement referred to above of the Tanna who differs and maintains that vows and freewill-offerings may not be offered on Festivals.

(14) It was wrongly assumed that the statement forbids the bringing of the thank-offering even on the Intermediary days of the Festival, hence the following objection.

(15) This certainly may be brought.

(16) On the Intermediary Days of the Festival of Tabernacles.

(17) Deut. XXIII, 22.

(18) Ex. XXIII, 14. In R.H. 4b it is deduced that one violates this if three festivals pass without his fulfilling his vow.
(19) If the vow to bring the thank-offering is made before Tabernacles, the first Tanna counsels the vower to bring it at the immediately following Feast of Tabernacles. Because, according to him, the three Festivals just mentioned need not be in order of sequence commencing with Passover. Therefore unless he brings it on the immediately following Tabernacles he will have to make a special journey to Jerusalem to offer it, since he cannot bring it either on Passover or the Pentecost, whilst he must not delay beyond them. R. Simeon, however, maintains that he transgresses only if three Festivals, taken in order of sequence starting from Passover, pass without his fulfilling the vow. Hence this is what he means: Whatever comes 'on the Feast of Unleavened Bread', i.e., whatever was vowed before the Feast of Passover, so that there was already an obligation by Passover, must be brought either at Pentecost or Tabernacles immediately following: but 'Whatever does not come on the Feast of Unleavened Bread, 'i.e., if there was no obligation then, as he vowed after Passover, need not be brought on the immediately following Festivals of Pentecost or Tabernacles, since he will still have till the Tabernacles of the following year without transgressing the prohibition of 'delaying'.
(20) V. supra p. 100, n. 3.
(21) Deut. XVI, 16.
(22) Viz., Tabernacles. V. verse 13.
(23) I.e., that the three Festivals must, for the transgression of 'delaying' follow in that order — Passover, Pentecost and Tabernacles.
(24) The transgression of the Command. If he vowed before Tabernacles and did not fulfil the vow until Tabernacles elapsed he has transgressed. Cf. R.H. 4a.
(25) V. p. 99, n. 11.
(26) But not of second tithe money which is already consecrated, nor of animals already dedicated as vows and freewill-offerings. V. Pes. 71a.
(27) When he vowed the thank-offering he stipulated that it should take the place of the Festival sacrifice.

Talmud - Mas. Beitzah 20a

[on condition] that I shave with the second tithe money?[1] He replied to him: He is under a vow, but he cannot discharge [his hagigah obligation therewith]: he is a Nazirite, but he cannot shave [as he stipulated].[2]

A certain man declared,[3] Give four hundred zuz to So-and-so and let him marry my daughter. R. Papa said: The four hundred zuz he receives, and as for the daughter, if he wishes he may marry [her] [and] if he wishes he need not marry [her].[4] The reason is because he said: 'Give him and he shall marry;[5] but if he had said, 'Let him marry and give him', [then] if he marries her, he receives [the money]; but if he does not marry [her], he does not receive [it].

Meremar was sitting and stated this ruling[6] in his own name. Said Rabina to Meremar: You are teaching this thus,[7] [but] we teach it as a question directed by Resh Lakish to R. Johanan.

A tanna recited before R. Isaac b. Abba: 'And he presented the burnt-offering; and offered it according to the ordinance',[8] [i.e.,] according to the ordinance of a freewill burnt-offering;[9] this teaches that the obligatory burnt-offering requires laying on of hands.[10] Said he to him: He who told you this did so in accordance with Beth Shammai[11] who do not learn obligatory peace-offerings from freewill peace-offerings;[12] for it is according to Beth Hillel, since they learn obligatory peace-offerings from freewill peace-offerings, the obligatory burnt-offering too does not require a Scripture text, for they infer it from the freewill burnt-offering.[13] But whence do you know that Beth Hillel[14] learn obligatory peace-offerings from freewill peace-offerings; perhaps they learn it from the obligatory burnt-offering,[15] while the obligatory burnt-offering itself requires a Scripture text?[16] — Why [would you say that] they do not infer it from freewill peace-offerings: because they are frequent?[17] Then they could not infer it from an obligatory burnt-offering either, since it is wholly consumed![18] — It is inferred from both of them.[19] But does Beth Shammai maintain that obligatory peace-offerings do not require the laying on of hands. Surely it was taught: R. Joseph said: Beth

Shammai and Beth Hillel do not differ about the laying on of hands itself, [both agreeing] that it is necessary;[20] they dispute only whether the [act of] slaughtering must immediately follow the laying on of hands, when Beth Shammai hold: It is not necessary,[21] and Beth Hillel maintain: It is necessary! — He[22] teaches according to the following Tanna. For it was taught: R. Jose son of R. Judah said: Beth Shammai and Beth Hillel do not differ that the slaughtering must immediately follow the laying on of hands, they dispute only about the laying on of hands itself,[23] Beth Shammai ruling: It is not necessary, while Beth Hillel maintain: It is necessary.

Our Rabbis taught: It once happened that Hillel the Elder brought his burnt-offering into the Temple Court on a Festival for the purpose of laying hands thereon. The disciples of Shammai the Elder gathered around him and asked: What is the nature of this animal? He replied to them: It is a female[24] and I brought it as a peace-offering. [Thereupon] he swung its tail for them[25] and they went away. On that day Beth Shammai got the upper hand over Beth Hillel[26] and wished to fix the halachah according to their ruling.[27] But an old man of the disciples of Shammai the Elder was there named Baba b. Buta, who knew that the halachah is as Beth Hillel[28] and he sent

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(1) I.e. , that I purchase the sacrifice due on the day that I cut my hair (v. Num. VI, 13ff) with second tithe money.

(2) Although the condition on which he made his vow is invalid, he is still bound to fulfil his vow.

(3) As his last will and testament.

(4) This decision of R. Papa has some analogy with that ruling of the Baraitha that precedes, hence its inclusion here.

(5) In this order.

(6) Supra 19b bottom and the ruling on same.

(7) In your own name.

(8) Lev. IX, 16. This verse refers, according to Rashi, to the obligatory burnt-offering brought by Aaron on the eighth day of his consecration (v. Lev. IX, 2), and according to Tosaf. to the communal burnt-offering (v. Lev. IX, 15).

(9) For the Bible does not state a rule about the obligatory burnt-offering. Hence this verse must mean that the same rules that apply to a freewill burnt-offering apply to an obligatory burnt-offering. V. Lev. I, 3ff.

(10) The law of laying on of hands is prescribed only for freewill-offerings v. Lev. I, 3ff (burnt-offerings), III, 2 (peace-offerings).

(11) In our Mishnah 19a.

(12) In regard to the necessity of laying on of hands (v. supra note 1). Similarly with respect to burnt-offerings Beth Shammai will not infer obligatory burnt-offerings from freewill burnt-offerings; hence a special Scripture text is required that obligatory burnt-offerings require laying on of hands. V. Lev. III, 2.

(13) The inference is as follows: Just as we find that a freewill burnt-offering, because it is a burnt-offering, requires laying on of hands, so also an obligatory burnt-offering, since it is likewise a burnt-offering. This principle of exegesis is called Binyan Ab, v. Glos. Beth Shammai, however, does not admit this difference as there is no analogy between freewill burnt-offerings that can be brought at any time and obligatory burnt-offerings which are only brought at stated times.

(14) Who permit the laying of hands on obligatory offerings on a Festival.

(15) Perhaps Beth Hillel too reject this inference (v. n. 4) of obligatory from freewill offerings.

(16) [I.e., Lev. IX, 16 from which is derived the law that the obligatory burnt-offering requires laying on of hands, so that the cited Baraitha can be in accord with Beth Hillel as well as Beth Shammai.]

(17) I.e., they can be brought at any time.

(18) V. Lev. I, 9.

(19) So that if an objection is raised with regard to one that the rule of laying on hands applies there because of a certain characteristic which is not found in the case of obligatory peace-offerings, reference can be made to the other where the same characteristic is lacking and yet the rule of laying on hands is not dependent on the presence of that characteristic.

(20) Save that Beth Shammai maintain that the laying on of hands in the case of obligatory peace-offerings must be performed before the Festival and not on the Festival itself.

(21) Hence it can be done before the Festival, and therefore it may not be done on the Festival.

(22) The author of our Mishnah.

(23) In the case of obligatory peace-offerings.

(24) And such is not offered as a burnt-offering. V. Lev. I, 3. He wanted to avoid a quarrel and told them what was not true for the sake of peace.
(25) In order to make them believe it was a female.
(26) I.e., they forced the majority.
(27) Viz., that obligatory burnt-offerings do not require laying on of hands.
(28) I.e., that Beth Shammai's ruling is only a stringency, but not based on Biblical law.

Talmud - Mas. Beitzah 20b

and fetched all the sheep of Kedar[1] that were in Jerusalem and put them Into the Temple Court and said: Whoever wishes to lay on hands let him come and lay on hands; and on that day Beth Hillel got the upper hand and established the halachah according to their opinion and there was no one there who disputed it.[2]

It happened again with a certain disciple of the disciples of Beth Hillel who brought his burnt-offering into the Temple Court for the purpose of laying hands thereon. A certain disciple of the disciples of Beth Shammai found him and said to him: Why the laying on of hands?[3] He replied: Why [not keep] silence? He silenced him with a rebuke and he went away. Said Abaye: Therefore a young scholar to whom his colleague says anything should not answer back more than the former had spoken to him; for the one said to the other, Why the laying on of hands? and the other replied, [correspondingly] Why [not keep] silence?

It was taught; Beth Hillel said to Beth Shammai: If, when it is forbidden [to slaughter to provide food] for a layman,[4] it is permitted [to slaughter] for the Most High,[5] then where it is permitted on behalf of a layman,[6] it is surely logical that it is permitted for the Most High.[7] Beth Shammai replied to them: Let vows and freewill-offerings prove [the contrary], for they are permitted for a layman and yet forbidden for the Most High.[8] Beth Hillel said to them: As for vows and freewill-offerings, that is because there is no fixed time for them; will you say [the same] with respect to a pilgrimage burnt-offering seeing that it has a fixed time![9] Beth Shammai replied to them: Even [for] this [sacrifice] there is no [strictly] fixed time. For we have learnt:[10] He who did not bring his Festival offering on the first day of the Festival, may bring it during the whole of the remaining days of the Festival, even on the last day. Beth Hillel replied to them: Even [for] this there is indeed a time fixed, for we have learnt:[10] If the Festival passes and he has not brought his Festival offering, he bears no [further] liability [on its account].[11] Beth Shammai said to them: Surely it is said ‘[That only may be done] for you,[12] [implying] but not for the most High God? Beth Hillel replied to them: Surely it is said: ‘[And ye shall keep it as a feast] unto the Lord’,[13] [implying] whatever is for the Lord! If so, why then does the text say: ‘For you’? for you but not for heathens,[14] for you, but not for dogs.

Abba Saul taught the same in another form: If when thy hearth is closed,[15] the hearth[16] of the Master is open,[17] how much the more must the hearth of thy Master be open when thy hearth is open.[18] And that is logical that thy table should not be full and the table of thy Master empty. In what do they differ?[19] — One Master[20] holds: Vows and freewill-offerings may be offered on a Festival and the other Master holds they may not be offered on a Festival.

R. Huna said: On the view that vows and freewill-offerings may not be offered on a Festival, say not, Biblically they are indeed permitted[21] and only the Rabbis preventively forbade them lest one delay,[22] but even Biblically they are not permitted; for the two loaves of bread[23] which are obligatory for that day[24] so that we need not apprehend delay, yet [their preparation] does not override either the Sabbath or a Festival.[25]

The scholars asked: On the view that vows and freewill-offerings may not be offered on a Festival what is the law if one transgressed and did slaughter?[26] Raba says: He sprinkles the blood in order to permit the flesh to be eaten for food.[27] Rabbah son of R. Huna says: He sprinkles the blood in order to burn their inwards at eventide.[28] What [difference] is there between them? — They differ when the flesh was defiled or lost; according to Raba he must not sprinkle [the blood],[29] according to Rabbah son of R. Huna he does sprinkle.

An objection was raised: If one slaughters the lambs of the Feast of Weeks[30] for another purpose[31] or if one slaughters them before or after their [fixed] time, the blood is to be sprinkled and the flesh is to be eaten; but if it was the Sabbath, he may not sprinkle[32] and if he did sprinkle[33]

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(1) I.e., the best, cf. Isa. LX, 7.
(2) Cf. Buchler, Types, p. 74.
(3) Seeing that we forbid it.
(4) Viz., on the Sabbath.
(5) Public sacrifices being offered on that day.
(6) Viz., on a Festival.
(7) Whatever is required for the altar, even the pilgrimage burnt-offering.
(8) I.e., vows and freewill-offerings may not be offered on a Festival, yet animals may be killed for ordinary foot, then.
(9) Surely not!
(10) Hag. 9a, 17a; R.H. 4b; Meg. 5a.
(11) Therefore he should be allowed to bring it on the first day of the Festival lest, by postponing, he be prevented from bringing it at all.
(12) Ex. XII, 16.
(13) Lev. XXIII, 41.
(14) Lit., ‘kuthim’, but this is probably a censor's substitute for heathen. For these no food may be cooked on Festivals.
(15) I.e., when you may not prepare food, viz., Sabbath.
(16) The altar.
(17) For sacrifice.
(18) Viz., on a Festival.
(19) Abba Saul and the first Tanna.
(20) Abba Saul who does not quote in his version the reply of Beth Shammai that vows and freewill-offerings prove the contrary.
(21) For Beth Hillel's interpretation ‘unto the Lord’ whatever is for the Lord is the correct one.
(22) To offer them until the Festival when he may be prevented from offering them at all.
(23) V. Lev. XXIII, 17.
(24) I.e., The Feast of Weeks.
(25) They may not be baked on the Festival, since that can be done prior thereto.
(26) May the blood be sprinkled?
(27) On the day of the Festival.
(28) Sprinkling may only be performed during the day but the burning of the inwards takes place at night.
(29) Though sprinkling is no labour, it is forbidden as shebuth (v. Glos.).
(30) V. Lev. XXIII, 19.
(31) I.e., as burnt-offerings instead of peace-offerings.
(32) For the flesh cannot be eaten on the Sabbath since cooking is prohibited.
(33) Without consulting.

Talmud - Mas. Beitzah 21a

It Is acceptable[1] on condition that the inwards are burnt at eventide.[2] [Now] ‘If he did sprinkle’ indicates only if it was [already] done, but [it may] not [be done] at the outset. According to Raba it is well, but on Rabbah b. R. Huna's view there is a difficulty? — That is indeed a difficulty. Alternatively you can answer: The shebuth[3] of Sabbath is different from the shebuth of a Festival.[4]

R. Awia the Elder asked R. Huna: Is it permissible to slaughter on a Festival an animal half of which belongs to a heathen and half to an Israelite? — He said to him: It is permitted. The other said: What difference is there between this [case] and the case of vows and freewill-offerings?[5] — A raven flies,[6] he retorted. When he left, his son Rabbah said to him: Was this not R. Awia the Elder whom you, sir, have praised as a great man?[7] — What then was I to do with him? answered he; I am to-day [in the condition of the lover who said] 'Stay ye me with dainties, refresh me with apples',[8] and he asked me things which require reasoning.[9] And what is [really] the reason?[10] — An animal half of which belongs to a heathen and half to an Israelite may be slaughtered on a Festival, because it is impossible [to eat] as much as an olive of flesh without slaughtering;[11] but vows and freewill-offerings may not be slaughtered on a Festival because when the priests receive their portion,[12] they receive it from the table of the Most High.[13]

R. Hisda said: An animal half of which belongs to a heathen and half to an Israelite is permitted to be slaughtered on a Festival, because as much as an olive of flesh is unattainable without slaughtering; [but] dough belonging half to a heathen and half to an Israelite may not be baked on a Festival for it is possible to divide it at the kneading. R. Hana b. Hanilai raised an objection: Dogs' dough,[14] if the shepherds eat of it, is subject to hallah,[15] and one may prepare an 'erub[16] therewith, effect a partnership[17] therewith, pronounce a blessing over it,[18] and say grace after it,[19] and it may be baked on a Festival,[20] and a man can fulfil his obligation therewith on Passover.[21] But why [may it be baked on a Festival]? Surely it is possible for him to divide it during the kneading! — Dogs' dough is different since it is possible to appease them [the dogs] with carrion.[22]

Does then R. Hisda accept the argument of 'Since'?[23] Surely it was stated: He who bakes on a Festival for the weekday, R. Hisda says: He is flagellated; whereas Rabbah maintains: He is not flagellated. R. Hisda says: He is flagellated, [for] we do not say, Since if visitors came to him, it is fit for him [on the festival], it is even now[24] [con sidered] fit for him; Rabbah maintains: He is not flagellated, [for] we do maintain [the argument of] 'Since'?[25] — Rather, do not say, 'Since it is possible [etc.]', but when, for example, he [the shepherd] has a carcass, so that it is definitely possible to satisfy them [the dogs] therewith.[26] They asked of R. Huna: May the [Jewish] inhabitants of the valley[27] who are obliged to supply bread[28] for the troops, bake [it] on a Festival? — He replied to them: We see' If they can give some bread [thereof] to a child and they [the soldiers] do not object, then every [loaf] is fit for a child; hence it is permitted; but if not,[29] it is forbidden. But surely it was taught: It once happened that Simeon the Temanite did not come to the Academy on the eve [of the Festival]. In the morning Judah b. Baba found him and asked: Why did you not attend yesterday [evening] at the Academy? He replied to him: A troop of soldiers came into our town and wished to plunder the entire city; so we killed a calf for them and fed them and let them depart in peace. Said [Judah] to him: I should be surprised if your gain is not counterbalanced by your loss,[30] for surely the Torah said 'for you'[31] but not for heathens. But why so: the [calf] was fit to be eaten [by them]?[32] — Said R. Joseph: It was a trefa calf.[33] But it was fit for dogs? — Tannaim differ on this; for it was taught: 'Save that which every soul[34] must eat, that only may be done by you'.[31] From the implication of the expression 'every soul' I might assume also that the soul of cattle is included[35] as it is said, 'And he that smiteth a soul of a beast mortally shall make it good';[36] the text therefore says, 'for you'

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(1) I.e., a valid act.

(2) V. Nazir 28b; Men. 48a.

(3) V. Glos., cf. n. 2.

(4) On a Sabbath it is more stringent.

(5) Which the owners likewise share, as it were with God.

(6) A well-known phrase eluding a question or making an evasive reply.

(7) Why then did you dismiss him insultingly?

(8) Cant. II, 5. He had just finished lecturing and was anticipating the joy of the festive meal.

(9) And I did not feel equal to the task.
(10) This the Talmud proceeds to ask.
(11) Therefore the animal may be slaughtered for the sake of the portion belonging to an Israelite.
(12) The breast and thigh. V. Lev. VII, 34.
(13) As invited guests, without having in the sacrifice any proprietary rights. Therefore the slaughtering of the sacrifice is entirely for God, and hence forbidden.
(14) Which is to be baked for dogs.
(15) For it is called bread. V. Num. XV, 19ff.
(16) I.e., a court ‘erub.
(17) For an alley ‘erub.
(18) Before eating it.
(19) Cf. P.B. pp. 279-280.
(20) On account of the portion which the shepherds are to eat.
(21) With unleavened bread prepared from such dough. V. Hal. I, 8.
(22) So that it may all be for the shepherds, though in fact it will not be.
(23) Since a thing is permitted under certain conditions it is permitted even where these conditions are absent, for in actual fact he has no carrion available and the dough will be eaten in part by the dogs.
(24) Though he has no visitors.
(25) If guests were coming etc.
(26) With the result that the whole dough will be for the shepherds. So according to cur. edd. R. Hananel omits ‘possible’, reading: ‘For he will certainly satisfy them therewith’. On his reading render, ‘Do not say etc. but (say that we speak of) a case when (the shepherd) has etc. cf. MS.M.]
(27) Or (Jewish) villages.
(28) Lit., ‘flour’.
(29) If the soldiers do object.
(30) I.e., the punishment for transgressing the Festival.
(31) Ex. XII, 16.
(32) The owners could have eaten a part of it.
(33) Which is forbidden to Israelites.
(34) So literally. E.V. ‘man’.
(35) For the word ‘soul’ is found in connection with cattle.
(36) Lev. XXIV, 18.

Talmud - Mas. Beitzah 21b

[intimating] but not for dogs. This is the opinion of R. Jose the Galilean. R. Akiba says: Even the soul of cattle is included; if so, then why does the text say ‘for you’? For you, but not for heathens — And what reason do you see to include dogs and to exclude heathens? I include dogs, since you are responsible for their food, and I exclude heathens because you are not responsible for their food.[1]

Abaye said to R. Joseph: Now according to R. Jose the Galilean who says ‘for you’ but not for dogs, how can we throw date stones [as fodder] to cattle on a Festival?[2] — Said he to him: Because they are fit for fuel. This is well when they are dry, but how is it to be explained when they are moist? — They are fit for a big fire.[3] This is well on a Festival, but what will you say with respect to the Sabbath.[4] — We may handle them in virtue of bread,[5] in accordance with Samuel; for Samuel said: A man may do all he needs in virtue of bread.[6]

But he[7] disagrees with R. Joshua b. Levi; for R. Joshua b. Levi said: One may invite a heathen [to a meal] on a Sabbath, but one may not invite a heathen on a Festival as a preventive measure, lest he may [cook] more on his [the heathen's] account. R. Aha b. Jacob says: Not even on a Sabbath, on account of what is left at the bottom of the cups.[8] If so, even [the remains of] our own [wine] too?[9] — Ours is fit for fowls.[10] Theirs too is fit for fowls? — Theirs is forbidden for any use.[11] Let him remove them in virtue of the cups! Did not Raba say: You may remove the brazier on account of the ashes,[12] although it contains fragments of wood![13] — There[14] they are not prohibited for use, but here[15] they are pro hibited for use. R. Aha b. Difti said to Rabina: Let it be like a vessel for excrement![16] — He answered him: May we make excrement at the outset?[17] Raba accompanied[18] Mar Samuel who lectured: One may invite a heathen [to a meal] on a Sabbath, but one may not invite a heathen on a Festival as a preventive measure lest he will [cook] more on his account. When a heathen visited Meremar and Mar Zutra on a Festival they would say to him: If you are content with that which we have prepared for ourselves it is well; but if not we cannot take extra trouble for your sake.

MISHNAH. BETH SHAMMAI SAY: A MAN MAY NOT HEAT WATER FOR HIS FEET[19] UNLESS IT IS ALSO FIT FOR DRINKING;[20] BUT BETH HILLEL PERMIT IT. A MAN MAY MAKE A FIRE AND WARM HIMSELF AT IT.

GEMARA. The scholars asked: Who taught this [ruling] about fire? Is it the opinion of all, Beth Shammai drawing a distinction between the benefit of the whole body[21] and the benefit of a single limb;[22] or does Beth Hillel teach this, while Beth Shammai do not differentiate?[23] — Come and hear: Beth Shammai say: A man may not make a fire to warm himself at it; but Beth Hillel permit it.

MISHNAH. IN THREE THINGS RABBAN GAMALIEL WAS STRINGENT, IN ACCORDANCE WITH THE RULING OF BETH SHAMMAI: ONE MAY NOT STORE AT THE OUTSET WARM WATER ON A FESTIVAL [FOR THE SABBATH],[24] AND ONE MAY NOT SET UP[25] A CANDLESTICK ON A FESTIVAL, AND ONE MAY NOT BAKE BREAD IN LARGE LOAVES[26] BUT ONLY IN THIN WAFERS. RABBAN GAMALIEL SAID: NEVER DID MY FATHER'S HOUSEHOLD BAKE BREAD IN LARGE LOAVES BUT ONLY IN THIN WAFERS. SAID THEY TO HIM: WHAT CAN WE DO WITH YOUR FATHER'S HOUSEHOLD, WHO WERE STRINGENT TOWARDS THEMSELVES AND LENIENT TO ALL ISRAEL, [PERMITTING THEM] TO BAKE BREAD BOTH IN LARGE LOAVES AND THICK CAKES.

GEMARA. What are the circumstances? If he has set an ‘erub tabshilin, what is the reason of Beth Shammai?[27] And if he had not set an ‘erub tabshilin, what is the reason of Beth Hillel?[28] — Said R. Huna: In truth I can say that he did not set an ‘erub tabshilin but the Rabbis[29] permitted him [to prepare][30] what is necessary for his sustenance; and R. Huna follows his view: for R. Huna said: He who did not set an ‘erub tabshilin, others[31] may bake one loaf for him and cook one dish for him

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(1) Thus R. Akiba permits the preparation of animal's food, while R. Jose forbids it.

(2) Since they are not fit for human consumption, they should not be allowed to be handled.

(3) A big fire can burn even damp fuel.

(4) When it is forbidden to kindle a fire.

(5) I.e., together with bread.

(6) I.e., handle an article forbidden in itself along with bread, and it does not show disrespect to food.

(7) R. Huna, who permits baking for heathens if a part thereof can be given to a child.

(8) The wine left by the Jew in his cup may be used, and therefore it may be removed, whereas the wine in the cup of the heathen must not be used, and consequently may not be handled either.

(9) May not be removed, because it is unseemly.

(10) By putting pieces of bread into it.

(11) Lest they performed some idolatrous libation therewith.

(12) Which he intended before the Festival to use on the Festival for covering up anything unseemly.

(13) Which are not usable and may not be handled.

(14) With respect to the pieces of wood.

(15) The dregs in the wine cups.

(16) Which may be removed on account of its repulsiveness.

(17) I.e., may we make an object repulsive so as to be permitted to remove it? Surely not!
(18) אדבריה , v. Ta'an, Sonc. ed. p. 60, n. 5.
(19) [Rashi: ‘To wash them’: R. Hananel: ‘To warm them’.]
(20) Kindling on a Festival is permitted for food but not for the purpose of washing.
(21) Regarding this as equivalent to food.
(22) I.e., heating water for his feet.
(23) Between the whole body and a single limb.
(24) Storing counts as cooking.
(25) This appears to mean that if a metal candelabrum fell down, it must not be put up again, this being regarded as building.
(26) Such loaves involve burdensome labour.
(27) Who prohibit.
(28) Who permit.
(29) Adopting Beth Hillel's ruling.
(30) V. n. 7.
(31) [Lit., ‘they’. Others take ‘they’ as referring to the household, including the master himself v. Asheri.]

Talmud - Mas. Beitzah 22a

and light [one] candle for him. It was said in the name of R. Isaac: They may also grill a small fish for him. It was taught likewise: He who did not set an erub tabshilin, one may bake one loaf for him and store one dish for him and light [one] candle for him and heat one jug of water for him, while some maintain: They may also grill a small fish for him.[1] Raba says: In truth it treats of a case where he did set [an ‘erub tabshilin], but storing [hot water] is different for it is evident that he is doing it for the sake of the Sabbath.[2] Abaye raised an objection:[3] Hananiah says [that] Beth Shammai maintain: One may bake only if he set an ‘erub of bread and one may cook only if he set an ‘erub of cooked food, and one may store only if he had already warm water stored on the eve of the Festival. But if he had stored water, it is [as implied] at any rate allowed, even though it is evident that he is doing it for the sake of the Sabbath! Therefore said Abaye: [It[4] treats of a case] when for example he set an ‘erub for the one[5] and did not set an ‘erub for the other,[6] and the author is Hananiah according to Beth Shammai.

AND ONE MAY NOT SET UP A CANDLESTICK: What does he do?[7] — Said R. Hinena b. Bisna: We are dealing with [a jointed] candlestick composed of parts, [the reason being] because it looks like building;[8] for Beth Shammai hold:[9] Building applies [also] to utensils and Beth Hillel maintain: Neither building nor pulling down apply to utensils. ‘Ulla visited Rab Judah and his attendant arose and set up the lamp[10] [on the Festival]. Rab Judah raised an objection to ‘Ulla: He who puts oil in a [burning] lamp [on a Sabbath] is culpable on account of kindling, and he who draws supplies from it is culpable on account of extinguishing.[11] — He replied: I was not paying attention to it.

Rab said: Snuffing [the wick] is permitted [on a Festival]. Abba b. Martha asked Abaye: May one extinguish the lamp for something else?[12] — He replied: It is possible [to take place] in another room. What if he has no other room? — It is possible to make a partition. What if he has nothing wherewith to make a partition? — It is possible to cover it [the light] with a vessel. What if he has no vessel? — He replied: It is forbidden.[13] He raised an objection: One may not extinguish a log in order to save it,[14] but it is permitted [to extinguish it] so that a room or a pot does not become smoky![15] — He replied: This is the opinion of R. Judah,[16] but I am speaking according to the view of the Rabbis.[17] Abaye asked Rabbah: May one extinguish a conflagration on a Festival? When danger of life is involved I do not ask, for [this] is permitted even on a Sabbath; I only ask when a loss of money [alone] is involved: What is the law? — He replied: It is forbidden. He raised an objection: One may not extinguish a log in order to save it, but it is permitted [to extinguish it] so that the room or a pot does not become smoky![18] — This is the opinion of R. Judah, but I am speaking according to the view of the Rabbis.

R. Ashi asked Amemar: May one [medically] paint the eyes on a Festival? When there is a danger, for example of discharge, pricking [pain], congestion, watering, inflammation or the first stages of sickness, I do not ask, for [then] it is permissible even on the Sabbath;[19] I only ask when the sickness is almost cured and it [the painting] is only to give brightness to the eyes:[20] What is the law? — He replied: It is forbidden. He raised the objection: ‘You may not extinguish a log [etc.]’ and he answered the same as we have answered.[21]

Amemar permitted the eye to be painted [medically] by a heathen on a Sabbath. Some say: Amemar himself allowed his eye to be painted by a heathen on a Sabbath. R. Ashi said to Amemar: What is your opinion, because ‘Ulla the son of R. Illai said: All that a sick man needs may be performed by a heathen on a Sabbath? And R. Hamnuna [further] said: In all cases where there is no danger one may tell a heathen to do it? But this is only when he does not himself help him, but you, Sir, assist him by closing and opening the eye! — He replied: R. Zebid made the same objection and I answered him: Helping is of no consequence.

Amemar permitted to paint the eyes on the second day of the New Year's Feast. R. Ashi said to Amemar: But Raba said: On the first day of a Festival Gentiles [only] may busy themselves with a corpse, [but] on the second day Israelites may do it, and even on the two Festival days of the New Year

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(1) [According to the rendering adopted here (cf. n. 6) only others are permitted by Beth Hillel to prepare food for him, v. R. Nissim a.l.]

(2) Whereas cooking, even when intended for the Sabbath, may nevertheless appear to be for the Festival.

(3) V. supra 17b.

(4) Our Mishnah which prohibits storing.

(5) I.e., he baked and cooked before the Festival for the purpose of ‘erub.

(6) I.e., he did not store any hot water before the Festival.

(7) Surely this is not a prohibited labour!

(8) If it is put together.

(9) V. supra 10a, 11b.

(10) [Alfasi and Rashi: He inclined it backwards so as to draw off the oil from the wick and caused the light to go out.]

(11) Because the light goes out sooner, and extinguishing is likewise forbidden on a Festival.

(12) A euphemism for marital intercourse.

(13) To put out the light.

(14) I.e., for the sake of thrift.

(15) Consequently we see that in order to derive benefit on a Festival, it is permissible to extinguish.

(16) V. infra 28b where R. Judah maintains that . . . ‘for you’ (Ex. XII, 16) means for all your (permitted) needs.

(17) Who differ from R. Judah. V. ibid.

(18) A conflagration likewise gives forth smoke and causes great inconvenience.

(19) V. A.Z. 28b, Sonc. ed. p. 142.

(20) I.e., to make the eyes sparkle.

(21) Viz. the Baraitha is according to R. Judah.

Talmud - Mas. Beitzah 22b

which how ever is not the case with respect to an egg?[1] — He replied: I hold as the Nehardeans who say: [The same holds good] even with respect to an egg; for what is in your mind: perhaps [the month of] Elul will be intercalated?[2] Surely R. Hinena b. Kahana said:[3] From the days of Ezra and onward we do not find Elul ever intercalated.

AND ONE MAY NOT BAKE BREAD IN LARGE LOAVES BUT ONLY IN THIN WAFERS: Our Rabbis taught: Beth Shammai say: One may not bake thick bread on Passover,[4] but Beth Hillel permit it; and how much is regarded as thick bread? — Said Rab Huna: A handbreadth, for so we find with respect to the Shewbread [that the loaves were] a handbreadth [in thickness].[5] To this Rab Joseph demurred: If they allowed[6] this for experts,[7] did they also permit it to non-experts?[8] If they allowed it in the case of well-kneaded bread,[9] are they also to allow it with respect to bread which is not well-kneaded?[10] If they allowed it in the case of dry wood,[11] would they allow it in the case of moist wood?[12] If they allowed it in the case of a hot oven,[13] would they allow it in the case of a cold oven?[14] If they allowed it in the case of a metal oven,[15] would they allow it in the case of a clay oven?[16] Said R. Jeremiah b. Abba: I asked my teacher (viz., Rab) privately, what is meant by ‘thick bread’ [and he replied:] a large quantity of bread.[17] Others say: R. Jeremiah b. Abba said in Rab's name: I asked my teacher (viz., Rabbi the Holy),[18] privately, what is meant by ‘thick bread’, [and he replied:] a large quantity of bread. And why do they call it ‘thick bread’? — Because there is more kneading to be done.[19] Alternatively: In the district of this Tanna they called a large quantity of bread thick bread — Consider: [the reason is] that he labours unnecessarily.[20] [Then] why teach [particularly] about Passover, this should hold good of other Festivals as well? — It is even so, only the Tanna was dealing with Passover. It was taught likewise: Beth Shammai say: One may not bake a large quantity of bread on a Festival, but Beth Hillel permit it.

MISHNAH. HE[21] FURTHERMORE GAVE THREE LENIENT RULINGS:[22] ONE MAY SWEEP A DINING-ROOM[23] AND PUT THE SPICES[24] [ON THE FIRE] ON A FESTIVAL, AND ONE MAY PREPARE A ‘HELMETED’ KID ON PASSOVER NIGHT.[25] BUT THE SAGES FORBID THESE.[26]

GEMARA. R. Assi said: The dispute is [only with respect] to perfuming [clothes],[27] but when it is for smelling all agree that it is permitted. An objection was raised: One may not sweep a dining-room on a Festival, but in the house of Rabban Gamaliel they did Sweep. R. Eleazar b. Zadok said: Frequently I accompanied my father to the house of Rabban Gamaliel and [observed that] they did not sweep the dining-room on a Festival but they swept it on the eve of the Festival and covered it with sheets. On the morrow when guests came they removed the sheets with the result that the room was automatically swept. They said to him: If so, it is permitted to do the same even on the Sabbath. And one may not put the spices [on the fire] on a Festival, but in the house of Rabban Gamaliel they did put. Said R. Eleazar b. Zadok: Frequently I accompanied my father to the house of Rabban Gamaliel and [observed that] they did not put the spices [on the fire] on a Festival, but they used to bring in iron censers and fill them with the perfume of the incense on the eve of the Festival and stop up the vent-holes on the eve of the Festival. On the morrow when guests came they opened the vent-holes with the resuit that the room was automatically perfumed. They said to him: If so, it is permitted to do the same even on a Sabbath.[28] But if stated it was thus stated: R. Assi said: The dispute is when it is for smelling, but when it is for perfuming [clothes] it is forbidden. The scholars asked: May one fumigate[29] [fruits] on a Festival? R. Jeremiah b. Abba in Rab's name says: It is forbidden;[30] but Samuel says: It is permissible. R. Huna says: It is forbidden because he extinguishes [the charcoal].[31] Said R. Nahman to him: Let the Master say because he kindles[32] [the spices]? — He answered him: At first he extinguishes and afterwards he kindles.[33] Rab Judah says: On charcoal fire it is forbidden,[34]

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(1) The egg laid on the first day may not be eaten on the second. V. supra 6a.

(2) In which case the New Year's Festival will begin on the second day.

(3) V. supra 6a where the words ‘in the name of Rab’ are added.

(4) It was presumed that the reason is lest the dough become leavened during its preparation.

(5) V. Men. 57a.

(6) Lit., ‘said’.

(7) I.e., priests who were acquainted with the preparation of the Shewbread. Cf. Yoma 38a.
(8) Inexperienced bakers might allow the thick dough to become leavened.
(9) Such as was essential for the Shewbread (Men. 76a). Well-kneaded dough does not easily become sour.
(10) There is no guarantee that the dough in private houses would be well-kneaded.
(11) Such as was used in the Temple (v. Ta'an 31a) and which gives a clear fire and bakes quickly.
(12) Which smoulders and does not give forth much heat.
(13) The oven in the Temple was heated daily and never got quite cold.
(14) I.e., an oven that was allowed to get cold and afterwards heated.
(15) Such as was used in the Temple (v. Zeb. 95b) and which gives forth good heat and keeps the heat long.
(16) Surely not! — In the Temple all these favourable conditions were present but they might be absent elsewhere.
(17) More than is necessary for the Festival, thus doing more work than he should.
(18) For this title of Rabbi Judah, the Prince, cf. Shab. p. 118b.
(19) Lit., ‘there is increase in kneading it’.
(20) And not because the dough might become leaven as previously presumed.
(21) Rabban Gamaliel.
(22) Lit., ‘said three things for leniency’.
(23) Lit., ‘couches’ used as dining tables.
(24) For the purpose of perfuming the room. V. Ber. (Cohen) p. 279 n. 6.
(25) I.e., a kid roasted whole with its knees and inwards hanging outside. The Passover-offering was roasted in that manner in the days of the Temple; consequently the Sages forbade this after the destruction of the Temple, since sacrifices might not be brought then. Rabban Gamaliel, however, permits it.
(26) They forbid sweeping because of the filling up of cavities, and they forbid spices because this only applies to epicureans or to people possessing repugnant odours, cf. Keth. 7a (Rashi).
(27) It is then that the Sages prohibit because the perfuming of the clothes is not directly one's personal pleasure.
(28) The Rabbis would never have disagreed in such a case. Since they do disagree, however, R. Gamaliel must have permitted the putting of spices on the fire on the Festival. They must then have assumed either that R. Eleazar b. Zadok's memory was at fault or that R. Gamaliel, while in truth holding that it was permitted, did not act on his view out of deference to the Sages who were in a majority. Incidentally we see that the Sages prohibit it even for smelling.
(29) For eating purposes, by placing them over spices on burning coals.
(30) Because it is only an epicurean luxury.
(31) When sprinkling the spices over it.
(32) And kindling is forbidden unless it is for the general preparation of food.
(33) The first effect of his action is to extinguish (i.e. dim) the coals; that is followed by the spices catching fire; R. Nahman quoted the first only.
(34) For there is both extinguishing and kindling.

Talmud - Mas. Beitzah 23a

on [hot] sherds[1] it is permitted;[2] but Rabbah maintains: On [hot] sherds it is also forbidden because he generates a fragrance [in the sherd].[3] Rabba and R. Joseph both say: It is forbidden to invert a box [of aromatics] on silken garments on a Festival, because he is producing a fragrance [in the garments]. And why is [this case] different from [the Baraitha]: One may rub it [aromatic wood] and smell it and one may nip off a bit of it and smell it?[4] — There the fragrance is indeed present and one only increases the smell, [whilst] here he produces a fragrance [in the garments].

Raba [however] says: On charcoal too it is permitted, [for it is] just as roasting meat on a charcoal [fire].[5] R. Gebiha from Be Kathil[6] expounded at the door of the Exilarch: Kittura[7] is allowed. Amemar said to him: What [is meant by] Kittura? If it means the plaiting of sleeves, [creasing of garments] then it is a craftsman's work;[8] and if [it means] to fumigate, it is [surely] forbidden for he indeed extinguishes! — Said R. Ashi to him: In truth [it means] to fumigate, but it is analogous to roasting meat on a charcoal fire. Some teach: Amemar said to him: What is [meant by] Kittura? If it means the plaiting of sleeves, then it is a craftsman's work; and if [it means] to fumigate, it is [surely] forbidden, for he produces a perfume! — Said R. Ashi: I told it to him, and in the name of a great man did I tell it to him: In truth [it means] to fumigate, but it is analogous to roasting meat on a charcoal fire.

AND ONE MAY PREPARE A ‘HELMETED’ KID: It was taught: R. Jose said Theodosius of Rome introduced among the community of Rome the practice of eating a helmeted kid on Passover night. They [the Rabbis] sent [word] to him: If you were not Theodosius, we would have condemned you to excommunication, for you are causing the children of Israel to eat consecrated [animals] outside of Jerusalem. Do you really mean consecrated [animals]?[9] — Say rather: [That which is] similar to consecrated [animals].[10]

MISHNAH. THREE THINGS R. ELEAZAR B. AZARIAH PERMITTED AND THE SAGES FORBADE: HIS COW WAS LED OUT [ON A SABBATH] WITH A LEATHER STRAP BETWEEN HER HORNS,[11] AND [HE ALSO RULED THAT] ONE MAY CURRY CATTLE ON A FESTIVAL,[12] AND ONE MAY GRIND PEPPER IN A PEPPER MILL.[13] R. JUDAH SAYS: ONE MAY NOT CURRY CATTLE ON A FESTIVAL BECAUSE IT MAKES A WOUND THEREBY, BUT ONE MAY COMB;[14] BUT THE SAGES SAY: ONE MAY NEITHER CURRY NOR COMB.

GEMARA. Shall it be said that R. Eleazar b. Azariah had [only] one cow, surely Rab — some say, Rab Judah in Rab's name — said: R. Eleazar b. Azariah had given as tithe thirteen thousand calves yearly from his herd? — It was taught: It was not his cow but of a neighbouring lady, and because he did not restrain her, it [is referred to as his].[15]

AND ONE MAY CURRY CATTLE ON A FESTIVAL. Our Rabbis taught: What is currying and what is combing? Currying is done with a small toothed [comb] and causes wounds; combing is done with a larged toothed [comb] and does not cause wounds; and there are three views with respect to this: R. Judah maintains: An unintentional act[16] is forbidden, but currying is done with fine teeth and causes wounds, [while] combing is done with large teeth and does not cause wounds, and we do not preventively prohibit combing on account of currying. The Sages are likewise of R. Judah's opinion that an unintentional act is forbidden, but they preventively prohibit combing on account of currying;[17] and R. Eleazar b. Azariah holds as R. Simeon who says: An unintentional act is permitted, [hence] both currying and combing is allowed.

Raba in the name of R. Nahman in the name of Samuel said: — some say, R. Nahman himself said — the halachah is as R. Simeon, since R. Eleazar b. Azariah agrees with him. Said Raba to R. Nahman: Let the Master say the halachah is as R. Judah since the Sages agree with him? — He replied to him: I hold as R. Simeon, and furthermore R. Eleazar b. Azariah agrees with him.

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(1) Lit., ‘on a fragment of pottery’.

(2) For extinguishing does not apply here and the kindling is performed in an unusual way, which is not prohibited Biblically (Rashi).

(3) I.e., he creates something new in the sherd which was absent before, and this the Rabbis forbade.

(4) Infra 33b.

(5) Which is permitted, although here too there is extinguishing and kindling while the odour of the meat enters the coals.

(6) On the Tigris, N. of Bagdad. Obermeyer, p. 143.

(7) The word has two meanings (a) plaiting (b) perfuming and he did not specify what he meant.

(8) Which is certainly forbidden.

(9) But they were not consecrated.

(10) V. p. 116, n. 9.

(11) Because he regarded such halter as an ornament. The Sages, however, regarded it as a burden.

(12) With a fine comb.
(13) Lit., 'in their mill'.
(14) Rashi: with a blunt-toothed wooden comb or scraper.
(15) Lit., 'is called by his name'.
(16) As the causing of a wound through the combing.
(17) If the former is permitted, people will do the latter too.

Talmud - Mas. Beitzah 23b

MISHNAH. A PEPPER-MILL IS SUSCEPTIBLE TO DEFILEMENT ON ACCOUNT OF [IT CONSISTING OF] THREE [SEPARATE] UTENSILS;[1] ON ACCOUNT OF A RECEPTACLE,[2] ON ACCOUNT OF A METAL UTENSIL[3] AND ON ACCOUNT OF A SIFTING UTENSIL.[4]

GEMARA. It was taught: The lower part [becomes defiled] as a receptacle; the middle part as a sifting utensil; the upper part as a metal vessel.

MISHNAH. A CHILD'S GO-CART IS SUSCEPTIBLE TO THE DEFILEMENT OF MIDRAS,[5] AND IT MAY BE HANDLED ON SABBATH,[6] AND IT MAY BE PULLED ALONG ONLY ON MAT TING.[7] R. JUDAH SAYS: NO ARTICLES MAY BE DRAGGED [ALONG THE FLOOR] EXCEPT A WAGON BECAUSE IT [ONLY] PRESSES[8] [THE EARTH] DOWN.

GEMARA. A CHILD'S GO-CART IS SUSCEPTIBLE TO THE DEFILEMENT OF MIDRAS, because he [the child] supports himself thereon;[9] AND IT MAY BE HANDLED ON SABBATH, because it is considered a utensil;

AND IT MAY BE PULLED ALONG ONLY ON MATTING; only on matting but not on the earth. What is the reason? Because he makes a rut [furrow]:[10] the author of this is [therefore] R. Judah who says: An unintentional act is forbidden; for if it were R. Simeon, surely he maintains: An unintentional act is permitted; for it was taught: R. Simeon says: A man may drag along a bed, stool or bench [on the floor], provided he has no intention of making a furrow. [But] read the last clause: R. JUDAH SAYS: NOTHING MAY BE DRAGGED [ALONG THE FLOOR] ON THE SABBATH EXCEPT A WAGON BECAUSE IT [ONLY] PRESSES [THE EARTH] DOWN; Only because it presses it down but it does not make a furrow? — There are two Tannaim[11] who differ as to the opinion of R. Judah.

CHAPTER III

MISHNAH. ONE MAY NOT CATCH FISH FROM A FISHPOND ON A FESTIVAL[12] NOR GIVE THEM FOOD,[13] BUT ONE MAY CATCH VENISON OR GAME FROM ANIMAL ENCLOSURES AND ONE MAY PUT FOOD BEFORE THEM. RABBAN SIMEON R. GAMALIEL SAYS: NOT ALL ENCLOSURES ARE ALIKE. THIS IS THE GENERAL RULE:

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(1) So that even if one part were missing the rest counts as complete utensils and can become unclean (Rashi). Tosaf: if one part became defiled the other parts are not affected.
(2) In contrast to flat wooden vessels which have no hollow for receiving and cannot become unclean. V. Kelim. XI, 1.
(3) V. Kelim. XI, 2. Even a flat metal utensil can become unclean.
(4) V. Kelim. XVI, 3, XVII, 4.
(5) V. Glos.
(6) Since it really is a utensil. That which does not rank as a utensil may not be handled.
(7) In order not to make a rut. Their floors were earthen.
(8) But does not turn it up into a furrow.
(9) It is therefore considered a stool.

(10) I.e., he breaks the surface of the ground, being in the nature of ploughing.

(11) One holds that a go-cart is regarded as any other piece of furniture and may not be dragged along because it may skid and turn up the earth as a plough, and the other holds the wheels only press down the earth but do not make a rut.

(12) Because this could have been done before the Festival.

(13) Because they can look after themselves.

Talmud - Mas. Beitzah 24a

WHENEVER CHASING IS STILL NECESSARY[1] IT IS FORBIDDEN[2] BUT WHERE CHASING IS NOT STILL NECESSARY IT IS PERMITTED.

GEMARA. Now the scholars pointed out a contradiction: One may not catch [animals] from enclosures of venison and game on a Festival nor may one put food before them. Thus the rulings on venison are contradictory and those on game are contradictory. As for the rulings on venison, it is well and there is no difficulty, one agreeing with R. Judah, the other with the Sages. For we have learnt: R. Judah says: If [on a Sabbath] one hunts a bird into a tower-trap or a gazelle into a house he is culpable[3] — (only [if he drives it] into a house is he culpable but not into an enclosure).[4] But the Sages say: [If he drives] a bird into a tower-trap or a gazelle [even] into a garden, a court or an enclosure [he is culpable].[5] But the rulings on game are contradictory! And if you say, this also presents no difficulty, for the one treats of a roofed enclosure and the other of an unroofed enclosure, — surely a house is like a roofed enclosure and [yet] according to both R. Judah and the Sages [he is liable] only [if he drove] a bird into a tower-trap but not into a house! — Said Rabbah b. Huna: We treat here[6] of a wild bird which does not submit to taming.[7] For the School of R. Ishmael taught: Why is it called free-bird, because it dwells in the house as in the fields.[8] Now that you have come to this [explanation],[9] there is no contradiction in the rulings on venison, [for] the one refers to a small enclosure; the other, to a large enclosure.[10] What is ‘a small enclosure’ [and] what is ‘a large enclosure’? — Said R. Ashi: Whenever one runs after it [the animal] and catches it with one lunge,[11] It is a small enclosure, otherwise it is a large enclosure. Alternatively: If there are many corners [whither it can escape] it is a large enclosure, otherwise it is a small enclosure. Alternatively: whenever the shadow of one wall falls upon the other,[12] it is a small enclosure, otherwise it is a large enclosure.

RABBAN SIMEON B. GAMALIEL SAYS: NOT ALL ENCLOSURES ARE ALIKE etc. R. Joseph said in the name of Rab Judah in the name of Samuel: The halachah is as Rabban Simeon b. Gamaliel. Abaye said to him: ‘The halachah is [etc.],’ from which it would follow that they [the Sages] dispute it![13] — He said to him: What practical difference does it make to you?[14] — He replied to him: Is a lesson to be recited as a sing-song?[15]

THIS IS THE GENERAL RULE: WHENEVER CHASING IS STILL NECESSARY, etc.: What is meant by CHASING IS STILL NECESSARY? Said R. Joseph in the name of Samuel: Whensoever one has to say, ‘Bring a trap so that we may catch it’.[16] Said Abaye to him: But what of geese and hens where one [also] says, ‘Bring a net so that we may catch it’, and yet it was taught: He who catches geese, hens or Herodian doves[17] he is free! Said Rabbah son of R. Huna in the name of Samuel: These come at night into their coops [for roosting],[18] but those do not come at night into their coops. But what of doves of a dovecote and doves of a loft which [likewise] come at night into their coops, and yet it was taught: He who catches doves of a dovecote or doves of a loft or birds nesting in nests[19] or in a residence[20] is liable? — Rather, said Rabbah son of R. Huna in the name of Samuel: These come at night into their coops and their feeding is your obligation,[21] but those come at night into their coops but you are not obliged to feed them. R. Mari says: These are in the habit of fleeing, but those make no attempt to flee. But surely all of them make an attempt to flee! — I mean they are wont to flee to their nests.[22]

MISHNAH. IF TRAPS FOR WILD ANIMALS, BIRDS OR FISH WERE SET ON THE EVE OF THE FESTIVAL, ONE MAY NOT TAKE FROM THEM ON THE FESTIVAL UNLESS HE KNOWS THAT THEY WERE [ALREADY] CAUGHT ON THE EVE OF THE FESTIVAL; AND IT ONCE HAPPENED THAT A CERTAIN GENTILE BROUGHT FISH TO RABBAN GAMALIEL WHO SAID: THEY ARE PERMITTED, BUT I HAVE NO WISH TO ACCEPT [THEM] FROM HIM.[23]

GEMARA. You quote an incident to contradict [the teaching of the Mishnah]! — There is a lacuna in the text and learn thus: When a doubt prevails whether it is in mukan,[24] it is forbidden, but Rabban Gamaliel Permits it: AND IT ONCE HAPPENED THAT A CERTAIN GENTILE BROUGHT FISH TO RABBAN GAMALIEL, WHO SAID: THEY ARE PERMITTED BUT I HAVE NO WISH TO ACCEPT [THEM] FROM HIM.

Rab Judah said in the name of Samuel: The halachah is not as Rabban Gamaliel. Some recited it [the statement of Samuel] with reference to the [following] teaching: When a doubt prevails whether it was mukan, Rabban Gamaliel permits and R. Joshua prohibits. Said Rab Judah in the name of Samuel: The halachah is as R. Joshua.

Some [again] recite it with reference to the following teaching:

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(1) Lit., 'whenever the hunting is wanting', i.e., if the enclosure is large and great effort in pursuing the game is requisite.

(2) Because it is regarded as hunting.

(3) For having transgressed the Sabbath because these are now quite caught. Hunting is forbidden on the Sabbath, but liability is not incurred unless the act of hunting is complete and the animal actually caught.

(4) For there is still effort required to catch the animal.

(5) V. Shab. 106a. Thus all agree that the chasing of a bird into a house does not involve liability, the bird not being regarded as caught.

(6) With respect to chasing a bird on Sabbath.

(7) Even when chased into a house it cannot easily be captured.

(8) Even when in the house it is not domesticated.

(9) That the apparent contradiction in the rulings on game may be reconciled without assuming a controversy of Tannaim.

(10) And both rulings state the view of the Sages.

(11) The space being too small to allow escape.

(12) The walls were of ordinary height.

(13) Which is not the case, for the Sages too draw a distinction between a large enclosure and a small one.

(14) Since the halachah remains true.

(15) Whether correct or not.

(16) I.e., means are still required for catching it.

(17) [Domesticated indoor doves, supposed to have been bred by Herod. V. Krauss, T.A. II, p. 138].

(18) Where it is easy to catch them, and therefore they are regarded as permanently caught.

(19) Lit., 'pitcher-shaped (vessels)' put up in walls or cornices as birds' nests. V. fast., s.v. טפיה .

(20) [Var. lec. (a) 'or residences'; (b) 'or pits', v. infra p. 127, n. 16.]

(21) Therefore they are regarded as any domestic animal which is always ready for food.

(22) So that great effort is needed before they are caught.

(23) Because he did not like the man.

(24) I.e., prepared before the Festival. V. Glos.

Talmud - Mas. Beitzah 24b

One may slaughter [animals] out of enclosures[1] on a Festival but not out of hunting-nets or gins;[2] R.

Simeon b. Eleazar says: If he came on the eve of the Festival and finds them [the nets or gins][3] damaged, [then] it is certain that they were caught on the eve of the Festival and [consequently] they are permitted; but if he came on the Festival and finds them damaged, it is certain that they were caught on the Festival and are [therefore] prohibited. Now this is self-contradictory. [First] you say: If he came on the eve of the Festival and finds them damaged it is certain that they were caught on the eve of the Festival. Hence it is only because he came and found them damaged; but if a doubt exists, they are forbidden. Consider then the latter clause: If he came on the Festival and finds them damaged, it is certain that they were caught on the Festival: Thus it is only because he came and found them damaged [on the Festival]; but if a doubt exists [then I say] they were caught on the eve of the Festival and are [therefore] permitted? — This is what he means: If he came on the eve of the Festival and found them damaged, it is certain that they were caught on the eve of the Festival and are permitted; but if a doubt exists it is regarded as if they had been caught on the Festival and they are forbidden. Said Rab Judah in the name of Samuel: The halachah is as R. Simeon b. Eleazar.

WHO SAID: THEY ARE PERMITTED. For what purpose are they permitted? — Rab says: They are permitted to be received,[4] and Levi says: They are permitted to be eaten. Said Rab: A man should never absent himself from the Academy even for a single hour, for I and Levi were both present when Rabbi taught this lesson. In the evening he said: They are permitted to be eaten; but on the [following] morning he said: They are permitted to be received. I who was present in the Academy retracted, [but] Levi who was not present in the Academy did not retract.

An objection is raised: If a Gentile brings a present to an Israelite, even slimy fish or fruit [gathered] on the same day, they are permitted.[5] This is well on the view that they are permitted to be received.[6] But on the view that they are permitted to be eaten, is then fruit [picked] on the same day permitted to be eaten?[7] — Now even according to your reasoning, is then fruit [gathered] on the same day permitted to be handled? But we treat here of fish that are red at the gills[8] and of fruit preserved in leaves.[9] And why does he call them 'of the same day'? Because they are [as fresh] as [if they had been gathered] on the same day. R. Papa said: The law is: If a Gentile brought a present[10] to an Israelite on a Festival, [then] if there is of that kind still attached to the ground it is prohibited,[11] and in the evening it is also prohibited for as long a time as it takes to gather;[12] but if there is nothing of the same kind attached to the earth, [then] within the tehum[13] it is permitted,

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(1) Since they are already there on the eve of the Festival, when they are regarded as fully caught. Lit., 'dykes', so called because they contain pools of water for the animals to drink.

(2) Because they may have been caught on the day of the Festival.

(3) [I.e., the long ropes or cords to which the nets proper are attached and which tend to become loosened when an animal is caught at the far distant end].

(4) I.e., to be handled, but not to be eaten.

(5) This teaching is evidently in accordance with Rabban Gamaliel.

(6) For although it is almost definite that they have been gathered on the Festival, yet he permits them only to be received.

(7) Surely not!

(8) They are fresh but have been caught for some time.

(9) To keep them fresh, but which had really been gathered before the Festival.

(10) Of freshly gathered fruit.

(11) Since they were possibly gathered on the Festival.

(12) In order not to benefit from work performed on the Festival.

(13) V. Glos. I.e., if the fruit were brought from within the Sabbath limit.

Talmud - Mas. Beitzah 25a

but outside the tehum it is prohibited. And what is brought [from outside the tehum] for one

Israelite[1] is permitted for another Israelite.[2] Rabbah son of R. Huna said in Rab's name: If one stops up a pond [from a stream] on the eve of a Festival[3] and on the following morning he finds fish therein, they are permitted.[4] Said R. Hisda: From the words of our Master[5] we learn [that] if a wild beast takes up its abode in an orchard, predetermination [of the young for the Festival] is not necessary.[6] Said R. Nahman: Our colleague has fallen among the great.[7] (Some say: Rabbah son of R. Huna said: From the words of our Master we learn [that] if an animal takes up its abode in an orchard predetermination is not necessary. Said R. Nahman: The son of our colleague has fallen among the great — There he has not performed an action[8] [whereas] here he did perform an action.)[9] Does it[10] then not require [special] predetermination?[11] Surely it was taught: If an animal takes up its abode in all orchard it requires predetermination, and a free bird[12] must be tied by her wings[13] so that it should not be mistaken for its mother, and this they averred in the name of Shemaiah and Abtalion! — This is [indeed] a refutation.[14] Does it then require predetermination? Surely it was taught: R. Simeon b. Eleazar said: Beth Shammai and Beth Hillel agree that if he determined on doves within the nest and finds them in front of the nest they are forbidden;[15] this only applies to doves of a dovecote or doves of a loft and birds nesting in nests and pits;[16] but geese, hens and Herodian doves[17] and animals having their abodes in orchards are permitted and do not require predetermination; and a free-bird must be tied by its wings so that it should not be mistaken for its mother; and those that were tied up and those that have been handled,[18] [if found] in pits, houses, dykes or trenches are permitted,[19] but [if] on trees they are forbidden lest he climb up and pluck [fruit at the same time]; and those that are tied and those that have been handled, wherever they are found[20] are forbidden on account of robbery![21] — Said R. Nahman: There is no difficulty: the one applies to the young bird,[22] the other to its mother.[23] Is then determination [alone] sufficient for the mother-bird; it still requires to be caught?[24] Rather said R. Nahman b. Isaac: Both treat of the young, but the one refers to a garden near the city[25] and the other refers to a garden which is not situated near [the city].

MISHNAH. ONE MAY SLAUGHTER [ON A FESTIVAl] AN ANIMAL AT THE POINT OF DEATH ONLY IF THERE IS TIME ENOUGH ON THAT DAY TO EAT THEREOF AS MUCH AS AN OLIVE OF ROASTED FLESH.[26] R. AKIBA SAYS: EVEN [IF THERE IS ONLY TIME TO EAT] AS MUCH AS AN OLIVE OF RAW FLESH [TAKEN] FROM THE PLACE OF SLAUGHTER.[27] IF HE SLAUGHTERED IT[28] IN THE FIELD, HE MAY NOT BRING IT IN ON A POLE OR A BARROW,[29] BUT HE BRINGS IT IN PIECE BY PIECE IN HIS HAND.

GEMARA. Rami b. Abba said: Flaying and cutting up [is required] in the case of a burnt-offering,[30] and the same holds good with respect to butchers:[31] the Torah teaches in this good breeding[32] that one should not eat flesh before flaying and cutting up. What does he inform us?[33] If I were to say that it is to reject the opinion of R. Huna, who said: An animal, when alive, stands in the presumption of a forbidden object until you ascertain how it was slaughtered;[34] once it is slaughtered, it stands in the presumption of being permitted until it becomes known to you how it became trefa[35] — but surely we have learnt in our Mishnah as R. Huna, for we have learnt: R. Akiba Says: EVEN [IF THERE IS ONLY TIME TO EAT] AS MUCH AS AN OLIVE OR RAW FLESH [TAKEN] FROM THE PLACE OF SLAUGHTER; does it not mean literally ‘from the place where it is slaughtered’?[36] — No, it [means] ‘from the place where it digests the food’.[37] But R. Hiyya taught: [It means] literally ‘from the place where it is slaughtered’? Rather, Rami b. Abba

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(1) Who may not use it

(2) Since the law of tehum is only Rabbinical, the Rabbis were lenient (Rashi).

(3) So that no fish can come in.

(4) Although he did not know before the Festival that they had been trapped, for the fish in the pond are regarded as having been predetermined for use before the Festival.

(5) I.e., Rab.

(6) [They themselves are however forbidden since they need chasing, Asheri.]

(7) He has made a statement about which there is great controversy.

(8) The animal took up its abode of its own accord without the owner of the park enclosing it.

(9) The act of stopping up. An action is a tacit predetermination.

(10) An animal that took up its abode in an orchard.

(11) As inferred by R. Hisda.

(12) Living in a house as well as in a field.

(13) [This kind of bird is very small so that the mother and its young are alike, hence a sign is necessary].

(14) Of R. Hisda.

(15) V. supra 11a.

(16) So Rashi: Cur. edd.: ‘And in a residence’.

(17) V. supra p. 124, n. 1.

(18) Before the Festival, and their owner recognizes them.

(19) On the Festival.

(20) On public property, even not on a Festival.

(21) For the first person that handled them acquired ownership to them.

(22) Which cannot escape.

(23) Its mother, which is larger, requires predetermination.

(24) And should be forbidden on the Festival.

(25) The owner naturally would draw from that, and therefore he is regarded as having tacitly predetermined thereon.

(26) Otherwise it would be preparing food on a Festival for the following day, which is forbidden.

(27) I.e., from the neck without first having to flay the animal and cut it up.

(28) Any animal.

(29) This is not a way of paying due regard to the sanctity of the Festival.

(30) Before the animal is placed on the altar; v. Lev. I, 6.

(31) Before they sell the meat the animal must be flayed and cut up.

(32) ‘The way of the land’.

(33) Does he merely teach good manners or state a prohibition? In the latter case, the reason would be that the animal might be found trefa (v. Glos.) when cut up, whence it follows that he regards an animal as a doubtful trefa even if nothing has been seen to cause this doubt.

(34) The flesh is forbidden so long as it is not known that the animal was slaughtered according to prescribed ritual.

(35) V. Glos. If a cause of trefa is discovered after shechitah, e.g., the lung is pierced, and it is not known whether this happened before shechitah or after, the animal is permitted. Cf. Hul. 9a. Thus he holds that we entertain no doubt at all once the animal is ritually slaughtered.

(36) I.e., from the neck where flaying of the animal is not required. Hence we see that it is permissible to eat of the animal before it is flayed and cut up to discover any internal injury.

(37) The word טבח has the wider significance ‘to destroy and grind up’, and under the term בית טביחתה the digestive organs are to be included, and in order to arrive at them, the animal must be cut up

Talmud - Mas. Beitzah 25b

merely teaches us good manners, as it was taught:[1] A man should not begin to eat leek or onion from the top side, but from the leaves; and if he did eat, he is a glutton.[2] Likewise, a man should not drink his cup of wine in one draught; and if he did so drink, he is a swiller. Our Rabbis taught: He who drinks his beaker in one draught is greedy, in two [draughts] is well-mannered, in three [draughts] is haughty. Rami b. Abba further said: The ivy[3] cuts off the feet[4] of criminals;[5] the [law concerning] young trees[6] cuts off the feet of butchers[7] and of those cohabiting with menstruous women;[8] the lupine[9] will cut off the feet of the enemies[10] of Israel, for it is said: ‘And the children of Israel again did that which has evil in the sight of the Lord, and served the Baalim, and the Ashtaroth, and the gods of Aram, and the gods of Zidon, and the gods of Moab, and the gods of the children of Ammon, and the gods of the Philistines, and they forsook the Lord, and served him not.’[11] From the implication of ‘and they forsook the Lord’, do I not know that ‘they served Him not’? Then why does the text say, ‘and they served him not’? Said R. Eleazar: The Holy One, blessed be He, said:

My children have not even treated Me like the lupine[12] which is boiled seven times and eaten as a dessert.

A Tanna taught in the name of R. Meir: Why was the Torah given to Israel? Because they are impetuous.[13] The School of R. Ishmael taught: 'At His right hand was a fiery law unto them';[14] the Holy One, blessed be He, said: These are worthy to be given the fiery law. Some say: The laws of these are like fire, for had not the Law been given to Israel no nation or tongue could withstand them. And this is what R. Simeon b. Lakish said: There are three distinguished in strength [fierce]: Israel among the nations,[15] the dog among animals, [and] the cock among birds. Some say: Also the goat among small cattle. And some say: Also the caper-bush[16] among shrubs.

IF HE SLAUGHTERED IT IN THE FIELD, HE MAY NOT BRING IT IN ON A POLE. Our Rabbis taught: A blind man may not go out [on a Festival] with his staff,[17] nor a shepherd with his wallet, neither may a man or a woman go out in a palanquin. But it is not so! For R. Jacob b. Idi sent [word]: In our neighbourhood was an old man who was carried in his sedan-chair, and when they came and asked R. Joshua b. Levi [about this], he said: When a number of people need him it is permitted. And our Teachers relied on the words of Ahi Shakia who related: I brought[18] R. Huna from Hini to Shili[19] and from Shili to Hini; and R. Nahman b. Isaac narrated: I carried Mar Samuel from the sun into the shade and from the shade into the sun? — There it is as the reason stated: When a number of people need him it is permitted.

R. Nahman said to Hanna b. Adda, Zion's messenger:[20] When you go hither make a circuit and go over the Promontory of Tyre[21] and visit R. Jacob b. Idi and ask him: What do you say with respect to a palanquin? Before he came there, R. Jacob b. Idi departed this life. When he arrived, he found R. Zerika. He asked him: How do you rule with respect to a palanquin? — He replied: Thus did R. Ammi say: [It is permissible] provided that he is not carried on the shoulders. What means 'provided that he is not carried on the shoulders'? — Said R. Joseph the son of Raba: By means of alanki.[22] But it is not so, for R. Nahman permitted [his wife] Jaltha to be carried in a sedan-chair by means of alanki? — It is different with Jaltha for she was nervous.[23] Amemar and Mar Zutra were carried on the shoulders[24] on the Sabbath [preceding] the Festival[25] on account of nervousness, and some say, on account of troubling the public.[26]

MISHNAH. IF A FIRSTLING[27] FELL INTO A PIT,[28] R. JUDAH SAYS: LET AN EXPERT GO DOWN AND INSPECT [IT];

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(1) For we find even Tannaim giving instructions with respect to good manners.

(2) Likewise he who eats from the animal before it is flayed is a glutton.

(3) Used for boundary marks. The ivy is used for landmarks because its roots go straight down and do not obtrude into neighbouring land.

(4) I.e., convicts.

(5) Who perpetrate the removal of such landmarks.

(6) V. Lev. XIX, 23.

(7) Who eat of the flesh before the animal has been flayed and cut up and examined.

(8) I.e., before the woman has taken the ritual bath. As patience is required until the fourth year before the fruit is eaten, so We are to have patience and wait until the proper time before enjoying meat or conjugal privilege.

(9) The lupine is so bitter that it is not edible until it has been cooked seven times. So Israel has worshipped the seven idols mentioned in the following verse and was seven times chastened without amending.

(10) A euphemism for Israel itself.

(11) Judg. X, 6.

(12) The lupine after seven boilings is sweet, but although Israel has repented seven times and been forgiven, they still rebel and make me bitter towards them again.

(13) The Law was to discipline them.

(14) Deut. XXXIII, 2.
(15) But the Law tempers their strength.
(16) Because of its rapid growing, for as soon as it is plucked it grows again. V. Shab. 30b.
(17) Because of the disrespect to the Festival, since this is his everyday practice.
(18) In a palanquin.
(19) Hini and Shili are places in Babylon near Sura situated very close to each other.
(20) He was so called because he frequently travelled to Palestine (Rash). Or, perhaps he was something like our modern משולח Palestine at this time was in a decaying state and needed support from abroad.
(21) I.e., along the sea coast.
(22) Poles used to carry burdens on the shoulders of two or more persons, Jast.
(23) Of falling.
(24) In the Beth ha-Midrash, to their seat. [MS.M. adds: by means of alanki].
(25) When it was customary for them to lecture on the Festival laws.
(26) Who would have to stand up and wait until these teachers made their way slowly through the crowd to the platform. But by being carried shoulder high (or by means of alanki) they were quickly carried through the gathering; cf., however, Sanh., Sonc. ed. p. 30, n. 4.
(27) Which may be slaughtered in post-Temple days for consumption by priests only when it has a blemish which would disqualify it for the altar. V. Deut. XV, 19-22.
(28) On a Festival, before the condition of its blemish was exactly known, and it is feared lest it die there.

Talmud - Mas. Beitzah 26a

IF IT HAD A BLEMISH[1] HE MAY BRING IT UP AND SLAUGHTER IT,[2] BUT IF NOT, HE MAY NOT SLAUGHTER IT. R. SIMEON SAYS: WHENEVER ITS BLEMISH WAS NOT OBSERVED ON THE DAY BEFORE THE FESTIVAL, IT IS NOT MUKAN.[3]

GEMARA. Wherein do they differ?[4] If we are to say that they differ as to whether one may examine blemishes [on a Festival], R. Judah holding: One may examine blemishes on a Festival, while R. Simeon maintains: One may not examine blemishes on a Festival, then let them dispute whether one may examine blemishes in general [on a Festival]![5] — It is especially necessary [to teach this] with respect to a firstling that fell into a pit; [for] you might have thought that on account of suffering of animals one might have recourse to an artifice and bring it up [from the pit] in accordance with R. Joshua,[6] so he informs us [that it is not so]. If so, instead of HE MAY NOT SLAUGHTER IT, it should be stated, ‘He may not bring it up[7] and slaughter it!’ — This [teaching] is necessary [only] where he transgressed and brought it [the animal] up; you might think that he may slaughter it, so he informs us [that it is not so]. [But how could he possibly] slaughter it? Surely it is without blemish! — This is necessary [concerning the case] where it received a blemish.[8] But it is mukzeh![9] — Rather, [it treats of a case] where it received a temporary [transient] blemish on the eve of the Festival and now [on the Festival] it turned into a permanent blemish; you might have thought that he [the owner] had set his mind upon it[10] and he may therefore slaughter it; so he informs us[11] [that it is not so]. Our Rabbis taught: A firstling without blemish that fell into a pit. R. Judah the Prince[12] says: Let an expert go down [the pit] and examine it; if it has sustained a blemish, he may bring [it] up and slaughter [it],[13] but if not, he may not slaughter [it]. R. Simeon b. Menasia said to him: They [the Rabbis][14] indeed said: One may not examine blemishes on a Festival. How [is this[15] to be explained]? If it received a blemish on the eve of the Festival,[16] one may not examine it on the Festival;[17] if it received a blemish

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(1) Rashi: If the firstling sustained a defect before the Festival, but it was not known until now whether the defect was such as to disqualify it for the altar.
(2) For its owner probably intended before the Festival to slaughter it on the Festival.
(3) I.e., no expert may go down to examine it, because the pronouncing of the blemish by the expert is regarded by R. Simeon as preparing a vessel, since before the examination of the expert it could not be used on the Festival, or as sitting

in judgment, which is not permitted on a Festival (Rashi), v. infra 36a.

(4) It cannot be that they are disputing here with respect to mukzeh, because we have previously learnt that R. Judah prohibits mukzeh and R. Simeon permits it.

(5) Why particularly about a firstling that has fallen into a pit.

(6) V. Shab. 117b.

(7) Since on the present hypothesis this is the main purpose of the teaching.

(8) Through its fall.

(9) Since the firstling had no blemish before the Festival it may not be slaughtered on the Festival on account of mukzeh. V. Glos.

(10) On account of its temporary blemish.

(11) Since the blemish was of a temporary nature, it is regarded as if the firstling had no blemish at all and cannot be intended to be slaughtered.

(12) [Not to be confused with R. Judah in our Mishnah who is R. Judah b. Ila'i].

(13) R. Judah the Prince does not regard the firstling as mukzeh (Rashi).

(14) Of former generations.

(15) [The views of the Rabbis of former generations in which R. Simeon b. Yohai the teacher of R. Simeon b. Menasia is included].

(16) And it is not known whether the blemish was of a temporary nature or permanent.

(17) At the outset. But if it was examined, it may be slaughtered, since on the eve of the Festival it only lacked the expert's examination.

Talmud - Mas. Beitzah 26b

on the Festival, R. Simeon [b. Yohai] says: This is not mukan.[1] But they agree that if it is born [on a Festival] with a blemish it is regarded as mukan.[2]

Rabbah son of R. Huna expounded: If it is born with a blemish one may examine it at the outset on a Festival. R. Nahman said to him: My father taught: If he transgressed and examined it, it is an examination,[3] and you say one may examine it at the outset'!

Abaye said: The opinion of Rabbah son of R. Huna[4] is more acceptable, for it [the previous Baraitha] teaches three cases: [viz.,] 'If it received a blemish on the eve of the Festival you may not examine it on the Festival'; it is only at the outset that you may not [examine], but if it has been done it is well and good; 'If it received a blemish on the Festival, R. Simeon says: This is not mukan'? i.e., even if it has been examined it still may not [be slaughtered]; and then it states, 'But they agree that if it is born [on a Festival] with a blemish it is regarded as mukan', [i.e.,] even at the very outset.[5] But surely when R. Oshaia came he brought with him the following teaching: Whether it received the blemish on the eve of the Festival, or whether it received the blemish on the Festival, the Sages[6] say: This is not regarded as mukan![7] But then there is a contradiction from the other [Baraitha]![8] — The author of that Baraitha is Adda b. Ucmi who blunders in his teaching.[9] R. Nahman b. Isaac said: Our Mishnah also proves this;[10] for it states: R. Simeon says: WHENEVER ITS BLEMISH WAS NOT OBSERVED ON THE DAY BEFORE THE FESTIVAL IT IS NOT MUKAN. What means ITS BLEMISH WAS NOT OBSERVED? If I were to say that no blemish was visible at all,[11] [then] it is obvious; need this be taught?[12] Therefore [it means] that it was not examined by an expert on the eve of the Festival whether it was a passing blemish or a permanent blemish. Nevertheless it teaches IT IS NOT MUKAN;[13] understand therefrom [that it is so]. [R.] Hillel[14] asked Raba: Does the law of mukzeh apply to a part[15] of the Sabbath or not? How can such a contingency arise? If they [the fruit] were fit at twilight[16] they were fit;[17] and if [at twilight] they were not fit, then they are not fit![18] — It applies to a case where [at twilight] they were fit[19] but afterwards became unfit[20] and then again became fit.[21] What is the law?[22] He replied to him: The law of mukzeh applies. He raised an objection: 'But they agree that if it is born with a blemish it is regarded as mukan';[23] but why? Let us say: This firstling was originally[24] fit through its mother;[25] when it was born, it became debarred [from use];[26] on it being shown to an expert it became permitted![27] — Answered Abaye — some say, R. Safra: It means for example that the experts were present there [at the time of birth].[28] Some teach: He replied to him: The law of mukzeh does not apply to a part of the Sabbath. Shall we say [the following] supports him? 'But they agree that if it is born with a blemish it is regarded as mukan'; now this firstling was originally fit through its mother; when it was born, it became debarred [from use]; on its being shown to an expert it became permitted! — Answered Abaye — some say, R. Safra: It means for example that the experts were present there [at the time of birth].

Come and hear: If one was eating grapes [on a Sabbath] and left some over, which he carried up on the roof to make from them raisins; [or was eating] figs and left some over which he carried up on the roof to make from them dry figs, he may eat of them [on the Festival] only if he had designated them before the Festival;[29] the same is true of peaches, quinces and other kinds of fruit.[30] Now what are the circumstances? If they were fit,[31] why must he designate [them]? If [on the other hand] they were not fit, [then] what even if he does designate them?[32] And if you say that he did not know[33] whether they were fit or not,[34] surely R. Kahana said: [Fruits] set aside [for drying] which had dried [before the eve of the Festival] even if the owners did not know it, are permitted![35] Hence it must surely treat [of a case] where they were fit but [afterwards] became debarred from use and then again became fit, now if you maintain the law of mukzeh does not apply [to such a case] why is it necessary to designate them? — What then: the law of mukzeh does apply? Then what if he does designate them?[36] — Rather it treats of a case where they were only half fit,[37] some people eating them[38] and some not; if he designated them, he made known his mind,[39] [but] if he did not designate them he did not make known his mind. R. Zera said: Come and hear [an argument] from beans and lentils; for beans and lentils are in their raw state[40] fit for chewing; by putting them in a pot [for cooking] they become inedible;[41]

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(1) And even if an expert did examine it, it still may not be slaughtered. For the reason v. supra p. 132, n. 9.

(2) Since the firstling was never in a condition of prohibition but from its birth was ready for use.

(3) I.e., his decision is valid.

(4) That it may be examined at the outset.

(5) If it were otherwise this clause should have been coupled with the first clause.

(6) I.e., R. Simeon.

(7) So that it is still possible to maintain that the teaching with respect to the firstling being born with a blemish refers only to a case de facto. How could then Abaye support the opinion of Rabbah son of R. Huna in face of this Baraitha?

(8) Brought in support of Rabbah son of R. Huna. Which of these is the more authoritative?

(9) I.e., he is an unreliable authority.

(10) As supporting R. Oshaia.

(11) I.e., that it incurred no blemish at all.

(12) Even R. Judah, R. Simeon's disputant, would agree that it may not be slaughtered; for though he may hold that a blemish may be examined on a Festival, yet he maintains the law of mukzeh.

(13) Even in the case of de facto. Hence the last clause in the Baraitha 'but they agree that if it is born with a blemish it is regarded as mukan' also refers only to a case de facto.

(14) A fourth century Amora.

(15) חצי = moiety or a part.

(16) Just before the Sabbath commences.

(17) And there was no part of the Sabbath during which they became mukzeh.

(18) And are certainly forbidden. — The question whether something was fit or not is always decided by its state at twilight.

(19) When for example fruits such as figs or grapes have been set apart for drying, i.e., to become dry figs or raisins, (during which process they are not edible) but at the commencement of the Sabbath the drying process had finished.

(20) Being swollen and puffed up by rain.

(21) The sun having dried them before the end of the Sabbath.

(22) Does the unfitness of part of the day render them mukzeh for the rest of the day?

(23) V. supra.
(24) I.e., at twilight.
(25) Through the slaughtering of the mother-animal the embryo, though a firstling, is permitted even if it is unblemished. V. Deut. XV, 19.
(26) Until an expert will establish the permanency of its blemish.
(27) Hence this animal too was forbidden for a part of the day, yet it is not accounted mukzeh for the rest of day.
(28) And immediately affirmed that it was a permanent blemish; hence at no time of the day was it mukzeh.
(29) That if he would set aside fruits on the Sabbath or Festival to be dried, he should be allowed to eat them after they were dried.
(30) V. Shab. 45a.
(31) I.e., at twilight.
(32) It is of no avail, for designation cannot change that which is mukzeh to mukan.
(33) At twilight.
(34) And as it was too much trouble for him to find out, he designated them by declaring, ‘I will eat them to-morrow if they are fit’.
(35) To be eaten without requiring any designation.
(36) Why should they be permitted, since the unfitness intervened later.
(37) Lit., ‘fit and not fit’.
(38) In this half fit condition.
(39) That for him they were fit.
(40) Lit., ‘originally’.
(41) So long as they are boiling. Lit., rejected (from use)’.

Talmud - Mas. Beitzah 27a

and when their cooking is finished they are [again] fit![1] — Said Abaye to him: Then according to your reasoning,[2] cooked dishes in general present a difficulty; for usually dishes at twilight are seething[3] and [yet] in the evening we eat them![4] But [the truth is] if they [can] become fit through human means, there is no question at all;[5] our question[6] is only when they become fit through heaven.[7] R. Judah the Prince[8] had a firstling and sent it [on the Festival] to R. Ammi.[9] He however did not want to examine it. Said R. Zerika — some say, R. Jeremiah — to him: [In a dispute between] R. Judah and R. Simeon the halachah is as R. Judah![10] Afterwards he sent it to R. Isaac the Smith. He [too] did not want to examine it. Said R. Jeremiah — some say, R. Zerika — to him: [In a dispute between] R. Judah and R. Simeon the halachah is as R. Judah! Said R. Abba to him: Why did you not allow the Rabbis to act according to R. Simeon? He replied: What support have you?[11] — He said to him: Thus did R. Zera say: The halachah is as R. Simeon. A certain person exclaimed: May it fall to my lot to go thither [Palestine] and learn this teaching from the mouth of the Master. When he came thither he met R. Zera and asked him: Did you, Sir, say the halachah is as R. Simeon? — He replied to him: No, I [only] said, his view is to be preferred; for since our Mishnah states: R. SIMEON SAYS: WHENEVER ITS BLEMISH WAS NOT OBSERVED BEFORE THE FESTIVAL IT IS NOT MUKAN; and the Baraitha teaches the same in the name of the Sages,[12] it follows that his opinion is to be preferred. How then does the law stand? — Said R. Joseph: Come and hear; for it hangs on strong ropes;[13] for R. Simeon b. Pazzi said in the name of R. Joshua b. Levi in the name of R. Jose b. Saul in the name of Rabbi in the name of the Holy Congregation of Jerusaiem:[14] R. Simeon [b. Menasiah] and his contemporaries have said: The halachah is as R. Meir. They[15] have said! But these[16] are much older[17] than he![18] — Therefore [say], They taught it according to the opinion of R. Meir.[19] For we have learnt: If one slaughtered a firstling and [only] afterwards showed its blemish [to an expert], R. Judah permits[20] [it], but R. Meir says: Since it was slaughtered without the permission of an expert it is forbidden.[21] Consequently R. Meir holds [that] the examination of a firstling is not like the examination of a trefa; [for] the examination of a firstling [must take place] during life, [but] the examination of a trefa [is done] after slaughtering. Hence [it follows that] the examination of a trefa [takes place] even on a Festival, [but] the examination of a firstling [must take place only] on the eve of the Festival.[22] Abaye said to him: Do they[23] then dispute there on the examining of blemishes [on a Festival]; [surely] they dispute whether he is to be penalized![24] For Rabbah b. Bar Hana said in the name of R. Johanan: In the case of a cataract,[25] all agree that it [the animal] is forbidden, because it changes[26] [after slaughter]. They differ only with respect to a blemish in the body,[27] when R. Meir holds: We preventively prohibit a blemish in the body out of regard to a blemish in the eye;[28] while R. Judah is of the opinion: We do not preventively prohibit! Said R. Nahman b. Isaac: The Mishnah also proves [this]. For it states: R. Meir says, Since it was slaughtered without the permission of an expert it is forbidden; conclude therefrom that [R. Meir merely] penalizes [him]. It is thus concluded.

Ammi of Wardena[29] used to examine the firstlings in the household of the Prince;[30] one [a blemish] occurred on a Festival, and he did not examine it. They came and told [this] to R. Ammi, who told then,: He did right in not examining it. But it is not so! For R. Ammi himself did examine? — R. Ammi indeed examined it on the day before[31]

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(1) Thus they are exactly parallel to the case under discussion, yet they are certainly permitted when cooked.

(2) That food on the boil is treated as mukzeh.

(3) And therefore unfit to be eaten.

(4) [Despite the well-established principle that whatever is mukzeh at twilight remains mukzeh for the whole Sabbath].

(5) About their becoming mukzeh through their momentary unfitness, Since it is in his power to make them fit — which explains why the beans and lentils as well as the cooked dishes referred to are not considered mukzeh.

(6) Whether mukzeh applies to a part of the Sabbath.

(7) I.e., through the heat of the sun over which he has no control.

(8) I.e., R. Judah II.

(9) To examine whether it had a permanent blemish so that it might be eaten by the priests who ate at the Prince's table.

(10) And R. Judah, in one instance, allows to examine blemishes on a Festival. V. ‘Er. 46b.

(11) To decide the halachah according to R. Simeon.

(12) R. Simeon's opinion is recorded in the Baraitha (supra 26b, ‘when R. Oshaia came etc.’) anonymously in the form of ‘the Sages say’ — this expression indicates that it is the majority ruling.

(13) An idiom meaning, ‘it is based on high authority’. The strong ropes are the great authorities. (Cf. the expression, ‘It is well moored.’) V. A.Z., Sonc. ed. p 34 n. 5. Aliter: High trees (v. Aruch).

(14) V. R.H., Sonc. ed., p. 80, n. 9.

(15) I.e., R. Simeon b. Menasiah and his contemporaries.

(16) The Rabbis who formed the Holy Congregation of Jerusalem.

(17) I.e., belong to an earlier generation.

(18) I.e. R. Simeon b. Menasiah. And it is very unusual for such to report a halachah in the name of a very young man.

(19) It is usual for older scholars to commend younger contemporaries by saying that their opinion coincides with the opinion of some great authority.

(20) To be eaten if the examination proves the blemish to be permanent.

(21) Even though the examination proved the blemish to be permanent. V. Bek. 28a.

(22) Because the examination of the firstling is the allimportant thing and may not be performed on a Festival. Hence R. Judah is in a minority against the opinions of R. Meir and R. Simeon b. Yohai.

(23) R. Meir and R. Judah.

(24) So that even R. Meir may hold that a blemish may be examined on a Festival.

(25) I.e., a skin on the pupil of the eye which gradually causes blindness.

(26) Had the animal been examined before it was slaughtered, the blemish would have appeared transitory, whilst after slaughter it appears permanent.

(27) Which does not vary with the slaughtering of the animal.

(28) And this preventive prohibition is really a penalty for having slaughtered it without permission of an expert.

(29) [On the Eastern Bank of the Tigris near Bagdad, Obermeyer p. 270.]

(30) [In Palestine where Ammi had settled.]

(31) The Festival to see whether the blemish was permanent.

and on the day of the Festival he only asked how it [the blemish] had come about; just as a certain man[1] brought a firstling before Raba on the eve of a Festival towards evening. Raba was sitting and combing his head; he lifted up his eyes and looked at the blemish and said to him: Go now, and come to-morrow. When he came on the following day, he asked him: How did it happen? He replied: Barley was strewn on the one side of the hedge and it [the firstling] was on the other side. As it wanted to eat thereof, it stuck its head [through the hedge] and the hedge tore its lip.[2] Said he to him: Perhaps you caused this intentionally? — He replied to him: No. And whence do you know that the intentional causing [of a blemish] renders it forbidden? — For it was taught: There shall not be any blemish therein,[3] I only know that no blemish may be therein.[4] Whence do I know that one may not indirectly cause [a blemish] to it through something, [for example] that he may not bring dough or pressed figs and put them on the ear in order that a dog may come and take it?[5] The text says: ‘Not any blemish’. It says ‘blemish’ and it says ‘any blemish’.[6]

MISHNAH. IF A BEAST DIED [ON A FESTIVAL] IT MAY NOT BE MOVED FROM ITS PLACE. IT HAPPENED THEY ONCE ASKED R. TARFON CONCERNING THIS AND CONCERNING HALLAH[7] THAT BECAME DEFILED;[8] HE WENT INTO THE ACADEMY AND INQUIRED, AND THEY ANSWERED HIM: THEY MAY NOT BE MOVED FROM THEIR PLACE.

GEMARA. Shall it be said that we have learnt anonymously not as R. Simeon; for we have learnt: R. Simeon says: One may cut up gourds for cattle and a carcass[9] for dogs. R. Judah says: If the animal was not yet dead on the eve of the Sabbath it is forbidden.[10] — You can say it [the Mishnah] can even be as R. Simeon, [for] R. Simeon admits that living animals[11] that died [on the Sabbath] are forbidden.[12] This is ail very well according to Mar b. Amemar in the name of Raba, who said: R. Simeon admits that living animals that died [on the Sabbath] are forbidden.[13] But according to Mar the son of R. Joseph in the name of Raba, who says: R. Simeon disputes even in the case of living animals which died [on the Sabbath, maintaining] that they are permitted, what is there to be said? — Ze'iri explained it with respect to a consecrated animal.[14] [Our Mishnah] also proves this; for it teaches CONCERNING THIS AND CONCERNING HALLAH THAT BECAME DEFILED; just as hallah is consecrated, so is the animal [one that is] consecrated. Then the reason is that it was consecrated; but if [the animal was] not consecrated it is permitted;[15] this is all very well according to Mar the son of R. Joseph in the name of Raba, who says: R. Simeon disputes even in the case of living animals which died [on the Sabbath, maintaining] that they are permitted. But according to Mar b. Amemar in the name of Raba who says: R. Simeon agrees that living animals which died [on the Sabbath] are forbidden, what is there to be said?[16] — It treats here of an [animal] that had been in a dangerous condition [on the eve of the Festival], and it is according to the opinion of all.[17]

MISHNAH. ONE MAY NOT ON THE FESTIVAL BE COUNTED IN AS HAVING A SHARE IN THE ANIMAL[18] AT THE OUTSET, BUT [PEOPLE] MAY BE COUNTED IN ON THE EVE OF THE FESTIVAL AS HAVING A SHARE IN THE ANIMAL, AND THEY SLAUGHTER IT[19] AND DIVIDE IT BETWEEN THEM.[20] GEMARA. What means ONE MAY NOT BE COUNTED IN AS HAVING A SHARE? — Said Rab Judah in the name of Samuel: One may not on a Festival, at the outset, arrange about the price of an animal.[21] How should he do it?[22] Said Rab: Let him[23] bring two animals[24] and place them side by side and say: ‘This one is like the other one’.[25] It was Likewise taught:[26] One may not say to his neighbour: ‘I want to go shares with you [in your animal] to the value of a sela’, I want to go shares with you to the value of two sela's’; but he may say. ‘I want to go shares with you for a half or for a third or for a fourth’.

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(1) A priest.

(2) Which counts as a permanent blemish.
(3) Lev. XXII, 21.
(4) I.e., one may not make a blemish.
(5) And injure its ear.
(6) I.e., 'blemish' alone would have sufficed; 'any' (Heb. kol) is an extension and therefore includes even indirect action.
(7) V. Glos.
(8) Which may not even be used as fuel on a Festival.
(9) I.e., an animal that died on the Sabbath.
(10) V. supra 6b.
(11) I.e., animals that were healthy and strong at the beginning of the Sabbath.
(12) To be moved on the Sabbath. R. Simeon allows an animal to be cut up for dogs only if the same were in a dangerous condition on the eve of the Sabbath or Festival.
(13) V. Shab. 45b.
(14) Which is forbidden to be given to dogs, hence it may not be moved at all, since no use can be made of it.
(15) To cut it up for dogs on Sabbath.
(16) Whose opinion will our Mishnah represent.
(17) Since the owner reckoned on it dying, he intended to give it to the dogs; therefore it was mukan. [Var. lec. omit: 'And it is according to . . . all'. I.e., the Mishnah which implies that the carcass of a non-consecrated animal that has been in a dangerous condition may be cut up on the Festival is in accordance with R. Simeon, v. Rashi. On the reading of cur. edd., the Mishnah can be also in accordance with R. Judah; for he would agree that, where it had been in a dangerous condition before the Festival, it may be cut up on the Festival, his dispute with R. Simeon concerning only an animal that had been ill but not dangerously so, v. R. Nissim.]
(18) In doing so, it would be like transacting business on a Festival, because they would know its weight and market value.
(19) On the Festival, leaving over the question of price etc. until after the Festival.
(20) [Rashi: 'He (the butcher) slaughters it'].
(21) As it savours of transacting business. V. infra 37a.
(22) Referring to the second clause of the Mishnah. How do they divide it on a Festival so that they should know afterwards how much each received?
(23) [On Rashi's reading (p. 141, n. 7): 'How should the butcher do to be able to fix the price after the festival'].
(24) Of equal value, only one of which is to be slaughtered and shared.
(25) And after the Festival they arrange the price of the one that was not slaughtered and pay their shares pro rata for the one that was slaughtered.
(26) That no price may be fixed on a Festival.

Talmud - Mas. Beitzah 28a

MISHNAH. R. JUDAH SAYS: A MAN MAY WEIGH MEAT [ON A FESTIVAL] AGAINST A UTENSIL OR AGAINST A BUTCHER'S CHOPPER;[1] BUT THE SAGES SAY: ONE MAY NOT LOOK ON THE PAIR OF SCALES AT ALL.

GEMARA. What means [NOT] AT ALL? — Said Rab Judah in the name of Samuel: even to protect it [the flesh] from mice[2] Said R. Idi b. Abin: This only applies if it [the scales] hang on a hook.[3] Rab Judah in the name of Samuel further said: A skilled butcher may not weigh meat [on a Festival] even by hand.[4] Rab Judah in the name of Samuel further said: A skilled butcher may not weigh meat [on a Festival] in water.[5] Rab Hiyya b. Ashi said: One may not cut a handle in the meat.[6] Said Rabina: But with the hand[7] it is permitted [to make a handle]. R. Huna said: It is permitted to make a mark on the meat,[8] just as Raba son of R. Huna was wont to cut it [the meat] in a triangular shape.[9] R. Hiyya and R. Simeon b. Rabbi weighed one portion against [another] portion[10] on the Festival.[11] According to whom? It is neither according to R. Judah nor according to the Rabbis! For if according to R. Judah, Surely he says: A MAN MAY WEIGH MEAT [ON A FESTIVAL]

AGAINST A UTENSIL OR AGAINST A BUTCHER'S CHOPPER; only against a utensil but not against any other thing![12] And if according to the Rabbis, surely they say: ONE MAY NOT LOOK ON THE PAIR OF SCALES AT ALL! — They acted as R. Joshua. For it was taught: R. Joshua says: One may weigh one portion [against] another portion on a Festival. Said R. Joseph: The halachah is as R. Joshua, since we learnt in [Tractate] Bekoroth in accordance with his view. For we have learnt: As to consecrated animals that became disqualified, the benefit of them belongs to the Temple,[13] and one may weigh [the meat] portion against portion in the case of the firstling.[14] Said Abaye to him: Perhaps it is not so?[15] [Perhaps] R. Joshua says this[16] only here[17] where there is no disrespect to consecrated animals, but not there[18] where there is a disrespect to consecrated animals. Alternatively, [perhaps] the Rabbis said this[16] only there[18] because it does not appear as everyday practice,[19] but not here[20] which appears like an ordinary transaction.[21] Shall it be said that they[22] were very particular [with each other]; but there were seven fishes brought to the house of Rabbi and [although] five of them were found in the house of R. Hiyya, yet R. Simeon b. Rabbi did not mind? — Answered R. Papa: Link a [different] person with each of them;[23] either it was R. Hiyya and R. Ishmael son of R. Jose or it was R. Simeon b. Rabbi and Bar Kappara.

MISHNAH. ONE MAY NOT WHET A KNIFE ON A FESTIVAL,[24] BUT ONE MAY DRAW IT OVER ANOTHER KNIFE[25] [TO SHARPEN IT].

GEMARA. R. Huna said: They only taught this of a whet-stone, but it is permitted on a knife-board. Said Rab Judah in the name of Samuel: That which you say that on a [whet-]stone it is forbidden, applies only to sharpening it, but to remove its grease is permitted; whence it follows that on a knife-board even sharpening is permitted. Some taught this[26] on the concluding part: ‘it is permitted on a [knife-]board’. — Said Rab Judah in the name of Samuel: That which you said that on a [knife-]board it is permitted, applies only to the removal of its grease, but to sharpen it is forbidden; whence it follows that on a whet-stone even to remove its grease is forbidden. Some taught this on our Mishnah: ONE MAY NOT WHET A KNIFE ON A FESTIVAL. Said Rab Judah in the name of Samuel: They only taught this with respect to sharpening it, but to remove its grease is permitted; whence it follows that to draw it over another knife is permitted even for the purpose of sharpening it. And others taught this on the concluding part [of our Mishnah]: BUT ONE MAY DRAW IT OVER ANOTHER KNIFE. Said Rab Judah in the name of Samuel: They only taught this with respect to removing its grease, but to sharpen it, is prohibited; whence it follows that on a whet-stone even to remove its grease is prohibited.

Who is the authority [of our Mishnah] that on a whet-stone it is forbidden? Said R. Hisda: It is not as R. Judah; for it was taught: The Festival is distinguished from the Sabbath only with respect to the preparing of food alone. R. Judah permits [on a Festival] even the preliminaries for the preparing of food.[27] Raba said to R. Hisda: May we lecture in your name that the halachah is as R. Judah? — He replied to him: May it be [God's] will that you lecture all good things of this sort in my name. R. Nehemiah the son of R. Joseph said: I was standing [on a Festival] before Raba who

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(1) Putting the meat in one pan of the scale and the utensil in the other. But actual weights may not be used, as it would look like doing business.

(2) Meat may not be put in scales even for that.

(3) It is then prohibited because it appears as if the meat is being weighed.

(4) Because he does the same during the week.

(5) The water being placed in a graduated vessel used for weighing meat by observing the displacement of the water.

(6) A hole by which it is handled.

(7) By digging the fingers into the meat.

(8) So that its ownership might not be mistaken.

(9) When he sent it by a messenger, in order that his household might recognize it, because meat temporarily lost from sight is prohibited. V. B.M. 23a, Sonc. ed. p, 146, n. 5.

(10) When they used to divide meat between them.

(11) In the two pans of a scale. This is not an everyday practice, therefore they held it is permitted.

(12) Such as one portion against another portion which he regards as an everyday practice.

(13) And therefore they may be sold even by weight.

(14) Though it may not be weighed with ordinary weights, because the benefit belongs not to the Temple but to the owner, yet weighing portion against portion is permitted. This proves that weighing portion against portion is not an everyday practice.

(15) Perhaps the two cases are not analogous, as has been assumed.

(16) That one may weigh portion against portion.

(17) In the case of a Festival.

(18) In the case of a firstling.

(19) Because one does not usually sell meat by employing another piece of meat as the weight, and the law of disqualified sacred animals refers to the sale of their meat.

(20) With respect to the division of the meat between the two Rabbis.

(21) For it is not unusual for divisions to be made in this manner and therefore they would forbid this on a Festival.

(22) R. Hiyya and R. Simeon b. Rabbi who divided the meat exactly between them.

(23) Do not say it was these two who were particular about having an equal share, but bring in somebody else.

(24) On a whet-stone.

(25) Because such a method is different from the everyday practice.

(26) Statement of Rab Judah.

(27) And sharpening a knife is such a preliminary.

Talmud - Mas. Beitzah 28b

was stropping a knife on the edge of a basket and I asked him: Do you, Sir, want to sharpen it or do you want to remove its grease? And he replied to me: To remove its grease. But it was clear to me that he was engaged in sharpening, only he was of the opinion: Thus is the halachah but one does not teach it [publicly].[1]

Abaye also related: I was standing before the Master[2] who was stropping a knife on the edge of a mill and I asked him: Do you, Sir, want to sharpen it or do you want to remove its grease? — And he replied to me: To remove its grease. But it was clear to me that he was engaged in sharpening, but he was of the opinion, Thus is the halachah but one does not teach it [publicly]. The scholars asked: May one show a knife on a Festival to a sage?[3] — R. Mari the son of R. Bizna permits, and the Rabbis forbid [it]; but R. Joseph says: A scholar may examine [a knife] for himself[4] and lend it to another. R. Joseph further said: If a knife became blunt[5] it may be sharpened on a Festival; and this applies only in the case when it can cut with difficulty.[6] R. Hisda — some say, R. Joseph — lectured: With respect to a knife dented[7] and a spit with the point broken off[7] and the sweeping out of a stove and a pot range[8] on a Festival we come to the dispute between R. Judah and the Rabbis. For it was taught: The Festival is distinguished from the Sabbath only with respect to the preparing of food alone. R. Judah permits even the preliminaries for the preparing of food. What is the reason of the first Tanna?[9] Scripture says, ‘that alone may be done for you,’[10] [only] ‘that’ but not the preliminaries [for the preparation]. And R. Judah? — The text says, ‘for you’ for you [means] for all your needs. And the first Tanna; surely it says ‘for you’?[11] — He will reply to you: That [text] ‘for you’ [signifies] but not for a heathen. And the other;[12] surely it also says ‘that [alone]’? — He will reply to you: ‘That’ is written and ‘for you’ is written, yet there is no contradiction; the one applies to preliminaries which can be performed before the Festival,[13] and the other to preliminaries which cannot be performed before the Festival.[14] Rab Judah in the name of Samuel said: One may not repair a bent spit on a Festival. This is obvious! — It [the teaching] is necessary even when one can straighten it with the hand.[15]

Rab Judah in Samuel's name further said: A spit which was used for roasting meat may not be handled on the Festival.[16] R. Adda b. Ahabah said in the name of Malkio: He pulls it out [of the joint] and puts it in a corner.[17] Said R. Hiyya b. Ashi in R. Huna's name: Providing there is as much as an olive of meat on it. Rabina says: It [the spit] may be handled even though there is no meat on it at all, for it is analogous to the case of a thorn in a public ground.[18] R. Hanina[19] son of R. Ikka said: [The teachings on] a spit,[20] bondmaids,[21] and hair-pits[22] are by R. Malkio; whereas those on belorith-tresses,[23] wood-ashes[24] and cheese[25] are by R. Malkia.[26] R. Papa says: If referring to a Mishnah or a Baraitha[27] it is [by] R. Malkia, [but] independent teachings[28] are by R. Malkio; and as a mnemonic make use of: The Mishnah is queen.[29] Wherein do they differ? They differ in regard to bondmaids.[30] MISHNAH. A MAN MAY NOT SAY TO A BUTCHER, ‘WEIGH ME A DINAR'S WORTH OF MEAT’,[31] BUT HE SLAUGHTERS [THE ANIMAL] AND SHARES IT AMONG THEM.[32]

GEMARA. What is he to do?[33] — As

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(1) So that people might not treat Festivals lightly.

(2) Rabbah.

(3) Before slaughtering the animal, the knife must be examined by a sage or an expert to assure that it is free from the slightest notch.

(4) At home.

(5) But there was no sign before the Festival that the knife needed sharpening.

(6) I.e., it was not badly blunt so that it would not require much sharpening; otherwise it is forbidden.

(7) On the Festival.

(8) I.e., sweeping out plaster which had fallen from its walls before the Festival, but which was only just noticed.

(9) I.e., the Rabbis.

(10) Ex. XII, 16. E.V. ‘by you’.

(11) Signifying ‘for all your needs’.

(12) R. Judah.

(13) Such ‘are forbidden as implied in ‘that’.

(14) Such are permitted as implied in ‘for you’.

(15) Without beating it on an anvil. I might think that that does not constitute work.

(16) I.e., it may not be taken out of the joint but the meat is carved from it on the spit; for the spit becomes mukzeh on account of its unseemliness.

(17) Thrust out of harm's way, but not taken there (Rashi).

(18) Which one may remove on a Sabbath, to prevent danger to the public, by carrying it repeatedly short distances, each of which is to be less than four cubits. Similarly the spit may be taken to a place where it can do no harm,. Cf. Shab. 42a.

(19) In the parallel passage in Mak. 21a. It is R. Nahman.

(20) Quoted above, allowing the greasy spit to be put into a corner.

(21) R. Eliezer says (in a Mishnah), even if a wife brought with her one hundred maids of her own, the husband can still insist on her doing work with wool on the ground that idleness is demoralizing. On this R. Malkio comments, the halachah is as R. Eliezer. V. Keth. 59b and 61b.

(22) In Nid. 52a R. Huna says that the two hairs proving puberty must be set in pitlets. On this R. Malkio comments that the pitlets alone even without the hairs are sufficient indication of puberty.

(23) In A.Z. 29a a Baraitha teaches that when an Israelite cuts the hair of a heathen, he should refrain from touching the top-tresses (or crown-lock) because these were usually consecrated to some deity. On this R. Malkia comments that the Israelite should begin to withdraw his hand at a distance of three fingers breadth on every side. On belorith V. Krauss. T.A. I., 645. Cf also Sanh., Sonc. ed. p. 114, n. 5.

(24) In Mak. 21a. R. Malkia says that it is prohibited to powder one's wound with burnt wood ash, because it gives the appearance of an incised imprint which is forbidden according to Lev. XIX, 28.

(25) In A.Z. 35b, R. Malkia, in a discussion why the cheese of a heathen is forbidden (in the Mishnah) says that it is forbidden because its surface is smeared with lard.

(26) The two names Malkio and Malkia can easily be interchanged, hence these two groups were given to assist the memory.

(27) Heb. Mathnitah.

(28) I.e., opinions and dicta heard from eminent teachers and reported by their disciples or visiting scholars as distinguished from what is taught in Mishnah and Baraitha.

(29) The name of the one associated with a Mishnah (and Baraitha) is R. Malkia which name closely resembles the Aramaic word for ‘queen’-malketha.

(30) According to R. Hanina it is attributed to R. Malkio, while according to R. Papa, since it has a reference to a Mishnah, it is attributed to R. Malkia.

(31) The mentioning of money is disallowed.

(32) Without mentioning money.

(33) In order to get the quantity he desires.

Talmud - Mas. Beitzah 29a

in Sura they say,[1] ‘[Give me] a tirta[2] or half a tirta’; in Naresh[3] they say, ‘[Give me] a helka[2] or half a helka; in Pumbeditha they say, ‘[Give me] an uzya[2] or half an uzya’; in Nehar Pekod[4] and in Matha Mehasia[5] they say, [‘Give me] a rib'a[2] or half a rib'a.

MISHNAH. A MAN MAY SAY [ON A FESTIVAL] TO HIS NEIGHBOUR, ‘FILL ME THIS VESSEL’, BUT NOT IN A MEASURE. R. JUDAH SAYS: IF IT WAS A MEASURING-VESSEL HE MAY NOT FILL IT. IT IS RELATED OF ABBA SAUL B. BATNITH THAT HE USED TO FILL UP HIS MEASURES ON THE EVE OF A FESTIVAL AND GIVE THEM TO HIS CUSTOMERS ON THE FESTIVAL. ABBA SAUL SAYS: HE USED TO DO SO DURING THE INTERMEDIARY DAYS OF A FESTIVAL[6] TOO, ON ACCOUNT OF THE CLEARNESS OF MEASURE;[7] BUT THE SAGES SAY: HE USED ALSO TO DO SO[8] ON AN ORDINARY DAY FOR THE SAKE OF THE DRAINING OF THE MEASURES.[9] GEMARA. What means BUT NOT IN A MEASURE? — Said Rab Judah in Samuel's name, But not in a vessel set aside as a measure; but one may fill a vessel held in reserve[10] for measuring.[11] Whereupon R. Judah said: One may not fill even a vessel held in reserve as a measure. This proves that where the joy of the Festival is concerned R. Judah is stringent and the Rabbis are lenient; but we know of them to the contrary! For we have learnt: R. Judah says: A man may weigh meat [on a Festival] against a utensil or a butcher's chopper, but the Sages say: One may not look on the pair of scales at all;[12] which proves [that] R. Judah is lenient and the Rabbis are stringent! [Hence] there is a contradiction [in the rulings] of R. Judah and a contradiction [in the rulings] of the Rabbis! — R. Judah is not self-contradictory, [for] there[13] [it treats of a vessel] not held in reserve as a measure,[14] whereas here [it treats of a vessel] which is held in reserve as a measure. The Rabbis too are not self-contradictory, [for] there[13] he acts as one acts on an ordinary day,[15] [but] here he does not act as one acts on an ordinary day.[16] Raba says: What means BUT NOT IN A MEASURE? [It is] that he may not mention to him the name of the measure;[17] but one may fill a vessel appointed as a measure. Whereupon R. Judah said: One may not fill a vessel appointed as a measure. This proves that where the joy of the Festival is concerned R. Judah is stringent and the Rabbis are lenient, but we know of them to the contrary! For we have learnt: R. Judah says: A man may weigh meat [on a Festival] against a utensil or a butcher's chopper, but the Sages say: You may not look on the pair of scales at all, which [proves that] R. Judah is lenient and the Rabbis are stringent! [Hence] there is a contradiction [in the rulings] of R. Judah and a contradiction [in the rulings] of the Rabbis! — R. Judah is not self-contradictory, [for] there it is not appointed as a measure, [but] here it is appointed as a measure. The Rabbis too are not self-contradictory, [for] there he acts as one acts on an ordinary day, [but] here he does not act as one acts on an ordinary day; for People are accustomed to pass wine in a measuring-vessel and drink [therefrom].[18]

IT IS RELATED OF ABBA SAUL B. BATNITH. A Tanna taught: He also used to act thus during [the Intermediary Days of] a Festival on account of disturbing [study] in the Academy.[19] Our Rabbis taught: He collected three hundred jugs of wine from the foam of the measures,[20] and his associates collected three hundred jugs of oil from the drops of the measures,[21] and they brought them to the treasurers [of the Temple] in Jerusalem,[22] who said to them: There is no need for you to [do] this.[23] They replied to them: We too will have none of it. They said to them: Since you act so stringently with yourselves then apply it to public purposes; for it was taught: If one robbed and he does not know whom he robbed,[24] he must apply it to public purposes. What are such? — Said R. Hisda: Wells, ditches and grottos.[25] R. Hisda took Rabana Ukba about and lectured:[26] A man may not measure barley on a Festival and give it to his animal, but he may scoop up [with his hand] a kab-full or two kabs-full and give it to his animal without fear.[27] And the baker may measure spices and put them in his pot so as not to spoil the dish.[28] R. Jeremiah b. Abba said in Rab's name: A woman may measure flour on a Festival and make it up into dough in order that she may separate hallah[29] generously, but Samuel says: It is forbidden. But the School of Samuel taught:[30] It is permitted! — Said Abaye: Now that Samuel says: It is forbidden, and the School of Samuel taught: It is permitted,

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(1) When asking for meat on a Festival.

(2) According to Rashi these terms are technical names of the pieces of meat which were carved for retailing. They had different names in different places.

(3) Identical with Nahras or Nahr-sar, on the canal of the same name, on the east bank of the Euphrates. Obermeyer, p. 307.

(4) West of Mehuza, identical with Nehar Malka, situated on the canal of the same name on the west bank of the Tigris. Obermeyer, pp. 273, 275.

(5) A suburb of Sura. V. Obermeyer, p. 297.

(6) The second (or third) to the sixth days of Passover and the second (or third) to the seventh days of Tabernacles.

(7) So that the froth might settle, thus assuring correct measure, or that the sediment might remain in the measuring vessel. [Var. lec. omit: ON ACCOUNT...MEASURE, v. Rashi.]

(8) I.e., fill the measures a day before.

(9) Lit., ‘squeezing’, ‘wringing out’. He placed his measuring-vessels a-tilt over the vessels of the customers so that no drop should be left behind in the measuring-vessel.

(10) העומד למדה , Lit., ‘which stands for measuring’. [MS.M. העומד על , i.e., a vessel which has the capacity of a certain measure but not intended to be used for measuring, v. D.S.]

(11) In case the real measure is broken or lost; but as yet this reserve has never been used for the purpose.

(12) Supra 28a.

(13) In the case of weighing meat.

(14) The utensil and the hatchet are not vessels serving as weights.

(15) When the weights are not at hand the butcher often uses his implements as weights.

(16) For the new vessel was not yet regarded as a measure (Rashi). [This is difficult: On the reading of MS.M. (supra n. 1): For the vessel is not intended for measuring.]

(17) E.g., pints, quarts or gallons, but only ‘fill this vessel’.

(18) Therefore the filling of such a vessel has not at all the appearance of a sale.

(19) He filled up the measures during the night in order that he may be free to lecture on the day of the Festival. [This might be taken as supplementing the reason stated in the Mishnah: He filled them during the night so that he should not have to wait for the froth to settle and be free to lecture, v. Rashi and supra p. 148, n. 10.]

(20) By not removing the froth he saved so much on each measure. In that way he found that he had saved three hundred jugs full.

(21) By not leaving the measuring vessel to run out into the funnel.

(22) They thought it belonged to their customers. For the whole story cf. Buchler, Types, p. 144.

(23) I.e., to deliver this, since the purchasers have waived all claim thereto.

(24) To whom he wishes to make restitution.

(25) And thus provide water to the general public among whom the robbed person is to be found. Cf. B.K. 94b.

(26) אדבריה . V. Supra p. 111, n. 3.

(27) That he is desecrating the Festival thereby.

(28) Which might occur if he merely guessed at the measure.

(29) V. Glos.

(30) [Rashi: Like R. Hiyya and R. Oshaia, Samuel too had compiled a collection of Tannaitic teachings.]

Talmud - Mas. Beitzah 29b

then Samuel's purpose is to inform us the halachah for actual practice.[1] Our Rabbis taught: One may not [sift] flour a second time[2] on a Festival. In the name of R. Papeus and R. Judah b. Bathyra they said: One may [sift it] a second time;[3] but they agree that if a pebble or a splinter fell in, one may sift it again.

A tanna recited in the presence of Rabina: One may not [sift] flour a second time on a Festival, but if a pebble or a splinter fell in, he may pick it out with his hand. He said to him: All the more this is forbidden, because it is in the nature of selecting.[4] Raba[5] the son of R. Huna Zuti expounded at the gate of Nehardea: One may [sift] flour a second time on a Festival. R. Nahman said to them [his disciples]: Go and say to Abba,[6] 'Take your favours and throw them on thorns';[7] come and see how many sieves are being used in Nehardea. The wife of R. Joseph sifted flour on an inverted sieve.[8] He said to her: Take notice that I want good bread.[9] The wife of R. Ashi sifted flour on the top side of the table. Said R. Ashi: This my [wife] is the daughter of Rami b. Hama, and Rami b. Hama was a man of [pious] deeds, and unless she had seen this in the home of her parents, she would not have done it.

MISHNAH. A MAN MAY GO TO A SHOPKEEPER WHOM HE GENERALLY PATRONIZES[10] AND SAY TO HIM: 'GIVE ME [SO MANY] EGGS AND NUTS, AND STATING THE NUMBER; FOR THIS IS THE WAY OF A HOUSEHOLDER TO RECKON IN HIS OWN HOME.[11]

GEMARA. Our Rabbis taught: A man may go to a cattledealer whom he generally patronizes and say to him: Give me one kid or one lamb; to a butcher whom he generally patronizes and say to him: Give me one shoulder or one leg; to a poultry breeder whom he generally patronizes and say to him: Give me one dove or one pigeon; to a baker whom he generally patronizes and say to him: Give me one loaf or one roll; and to a shopkeeper whom he generally patronizes and say to him: Give me twenty eggs, or fifty nuts, or ten peaches, or five pomegranates, or one Ethrog; provided that he does not mention any measure.[12] R. Simeon b. Eleazar says: Provided that he does not mention any sum of money.

CHAPTER IV

MISHNAH. WHEN ONE TAKES JARS OF WINE FROM PLACE TO PLACE, HE MAY NOT CARRY THEM IN A BASKET OR IN A HAMPER,[13] BUT HE MAY CARRY [THEM] ON HIS SHOULDER OR IN FRONT OF HIM. LIKEWISE, ONE WHO CARRIES STRAW MAY NOT LET THE BUNDLE [OF STRAW] HANG DOWN OVER HIS BACK, BUT MUST CARRY IT IN HIS HAND; AND ONE MAY START [USING] A HEAP OF STRAW,[14]

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[1] Although theoretically it is permitted, still one should not decide accordingly. Cf. supra 28b.

[2] For this could have been done before the Festival.

[3] The sifting a second time is not considered work.

[4] Which is forbidden on Sabbaths and Festivals. Cf. Shab. 73a.

[5] Var. lec.: Rabbah.

[6] I.e.,to my colleague (Rashi). [Abba is a familiar appelation of Raba (Rabbah), whereby he could be addressed only by a colleague. As R. Nahman could hardly have been his colleague, preference is to be given to MS. M. which reads R. Hama, the head of the Nehardea School at the time; v. Hyman, Toledoth p. 1074].

[7] All know without this that it is allowed. Cf. B.K. 83a; B.M. 63b. V. Keth., Sonc. ed. p. 313, n. 7.

(8) In an unusual way.

(9) You can therefore sift it in the usual way.

(10) Who would trust him to settle the reckoning after the Festival. Lit., 'with whom he is often'.

(11) Hence mentioning the number does not particularly give it the appearance of purchase.

(12) E.g., pints, quarts or gallons.

(13) For this is the usual way of carrying it.

(14) On a Festival even though he did not designate it before the Festival.

Talmud - Mas. Beitzah 30a

BUT [ONE MAY] NOT [START USING WOOD] FROM A PENT-HOUSE.[1]

GEMARA. A Tanna taught: If it is impossible [to carry it] in an unusual way,[2] it is permitted [to carry in a basket or hamper]. Raba enacted in Mehuza: Whatever [load] one [usually] carries with a great effort,[3] must be carried [on a Festival] on a carrying pole;[4] whatever is [usually] carried on a carrying-pole is to be carried [on a Festival] by a yoke;[4] whatever is [usually] carried by a yoke, is to be carried [on a Festival] by a hand-barrow;[4] whatever is [usually] carried by a hand-barrow [on a Festival] a cloth is to be spread over it;[5] but if it is impossible [to vary the usual procedure] it is permitted, for a Master said: If it is impossible [to carry it] in an unusual way it is permitted. R. Hanan b. Raba[6] said to R. Ashi: Did the Rabbis say that on a Festival [every work] as far as possible should be done in an unusual way? But these [our] women fill their pitchers with water on a Festival without any alteration and we do not say anything to them! He replied to him: Because it is impossible [in any other way]. [For] how should it be done? If [a woman], who usually draws water in a large pitcher, should have to draw in a small pitcher, then she would have to do more walking![7] If [a woman], who [usually] draws in a small pitcher, should have to draw in a large pitcher, then you would increase her burden! Should she cover the vessel with a [wooden] lid, it might fall off and she will have to carry it![8] Should she bind it fast, it might become unfastened and she would be caused to tie it up again![9] Should she spread a cloth over it,[10] it might become soaked in water and she be led to wring it out![11] Therefore, it is impossible [otherwise]. Raba son of R. Hanin said to Abaye: We have learnt: You may not clap the hands or slap the thighs or dance;[12] and yet we indeed see that [people] do this and we do not take them to task! — He replied to him: And according to your opinion, that which Rabbah said: A man may not sit down at the entrance of the lehi[13] lest an object should roll away and he come to carry it [four cubits in a public thoroughfare];[14] yet there are these women who take their waterugs and go and sit at the entrance of an alley and we do not say anything to them! But let Israel [go their way]: it is better that they should err in ignorance than presumptuously;[15] here also [I say], Let Israel go their way: it is better that they should err in ignorance than presumptuously. This, however, applies only to a Rabbinical [prohibition] but not to a Biblical [prohibition]. But it is not so; whether it [the prohibition] is Biblical or Rabbinical we do not tell them anything; for the additional time to the Day of Atonement is a Biblical injunction,[16] yet people eat and drink until dusk and we do not say anything to them.

AND ONE MAY START [USING] A HEAP OF STRAW. Said R. Kahana: This proves that one may start using [wood] for the first time from a store [on a Festival]. With whom does that agree? With R. Simeon who does not hold [the law of] mukzeh. Then consider the last clause: BUT [ONE MAY] NOT [START USING STORED] WOOD FROM A PENT-HOUSE; this is in accordance with R. Judah who holds [the prohibition of] mukzeh. — We treat here of cedar and cypress wood which are mukzeh on account of monetary loss,[17] where even R. Simeon agrees. Some recite this in reference to the last clause [thus]: BUT NOT FROM WOOD FROM A PENT-HOUSE. Said R. Kahana: This proves that one may not start using [wood] for the first time from a store [on a Festival]. With whom does that agree? With R. Judah who holds the prohibition of mukzeh. Then consider the first clause: ONE MAY START [USING] A HEAP OF STRAW; this is in in accordance with R. Simeon who does not hold mukzeh! — There it speaks of rotted straw.[18] Rotted straw is indeed capable of being used for clay![19] — When there are thorns in it.[20]

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(1) Lit., ‘which is in the mukzeh (stored away)’. The wood stored there is usually for building purposes and not for fuel, hence it is mukzeh.

(2) If e.g., he needs a great quantity.

(3) On a handspike.

(4) Commentators disagree about these terms. Cf. D.S. ad loc.

(5) Some kind of deviation, so that what is being carried is not seen.

(6) [R. Hanan b. Raba was no contemporary of R. Ashi and hence read with MS.M.: Raba b. Hanin said to Abaye.]

(7) She would have to go several times to draw the water to the amount she requires.

(8) [Var. lec.: It might break and she will carry the fragments, v. Ronsburg, Glosses].

(9) And it is forbidden to make a knot on a Festival, when the knot is in the nature of a repair.

(10) V. supra p. 153, n. 7.

(11) Which is forbidden.

(12) These are forbidden on a Festival as a preventive measure lest he fit up instruments of music. V. infra 36b.

(13) The post of an alley.

(14) Carrying in the alley is permitted, the post converting it by a legal fiction into a private residence. But carrying in the public thoroughfare is of course forbidden.

(15) And therefore we do not tell them this, since in any case they would go on doing the same thing.

(16) The injunction against eating, etc. commences a little before evening, and in Yom. 81b (q.v.) it is deduced that this addition is required by Scriptural law.

(17) They are too good to be used as fire-wood and are only intended for building purposes.

(18) Which being unfit for fodder is automatically intended as fuel, and therefore is not mukzeh.

(19) For building; hence it cannot be regarded as automatically intended for fuel.

(20) Which render it unfit for kneading into clay.

Talmud - Mas. Beitzah 30b

MISHNAH. ONE MAY NOT TAKE WOOD FROM A HUT BUT ONLY FROM [WHAT IS] ADJACENT TO IT.[1]

GEMARA. Why may he not [take wood] from the hut:[2] because he thereby demolishes a tent![3] Then [if he takes it] from what is adjacent thereto he likewise demolishes a tent![4] — Said Rab Judah in Samuel's name: By the term adjacent understand adjacent to the walls.[5] R. Menasiah says: You can even say that they are not adjacent to the walls,[6] but this was taught with respect to [tied] bundles.[7]

R. Hiyya son of Joseph recited in the presence of R. Johanan: One may not take wood [on a Festival] from a hut but only from what is adjacent to it, and R. Simeon permits it. They agree, however, with respect to a Tabernacle on the Feast of Tabernacles that it is forbidden;[8] but if he stipulated concerning it,[9] everything depends upon his reservation.

‘And R. Simeon permits it;’ but surely he is pulling down a tent! — Answered R. Nahman b. Isaac: We treat here of a collapsed hut and R. Simeon follows his opinion, for he does not hold the prohibition of mukzeh.[10] For it was taught: The oil left over in a lamp or in a dish[11] is forbidden [to be used on Sabbath], but R. Simeon permits it.[12] But what comparison is it? There the man sits and waits for the going out of the lamp,[13] but here does then a man sit and wait for his hut to collapse? — Said R. Nahman b. Isaac: We treat here of a tottering hut, so that he had his mind set upon it since the day before.[14]

‘They agree, however, with respect to a Tabernacle on the Feast of Tabernacles that it is forbidden; but if he stipulated concerning it everything depends upon his reservation.’ Is then a stipulation concerning it of any avail? Surely R. Shesheth said on the authority of R. Akiba: Whence do we know that the wood of the Tabernacle is forbidden [for use] the entire seven days [of the Festival]? From the verse: [On the fifteenth day of the seventh month is] the feast of Tabernacles for seven days unto the Lord.[15] And it was taught R. Judah b. Bathyra says: Whence do we know that just as the Festival offering bears the name of Heaven so also the Sukkah [Tabernacle] bears the name of Heaven: Because the text says ‘the feast [hag][16] of tabernacles for seven days unto the Lord’,[15] just as the Festival offering is for the Lord[17] so is the Sukkah for the Lord![18] Said R. Menasiah the son of Raba:[19] The concluding clause[20] refers to an ordinary hut,[21] but the stipulation with respect to a Festival booth[22] is of no avail. Yet is it not [valid] in the case of a Festival booth? Surely it was taught: If one covered it [the Festal booth] according to law and decorated it with hand-made carpets and tapestries, and hung therein nuts, almonds, peaches, pomegranates and bunches of grapes, vines, oils,[23] and fine meal, and wreaths of ears of corn, it is forbidden to make use of them until the termination of the last day of the Festival; and if he stipulated thereon, everything depends upon his stipulation![24] — Abaye and Raba both say: This refers to one who says [before the Festival] ‘I will not stand aloof from them[25] right through the period of twilight,’ so that the sanctity [of the Festival] did not fall upon them;[26] but as to the wood of the Festival booth, since sanctity did fall upon it[27] it becomes mukzeh for the entire seven days. But in what respect is this different from what was stated: If one set aside seven Ethrogim[28] for the seven days of the Festival,[29] Rab says, [After] fulfilling his obligation with each one [of them], they may be eaten immediately;[30] and R. Assi says: [After] fulfilling his obligation with each one [of them] they may be eaten on the morrow?[31] — There where the nights are separated from the days,[32] each day is a separate obligation; but here where the nights are not separated from the days,[33] all the [seven] days are regarded as one long day.

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(1) The meaning of this is discussed in the Gemara.

(2) I.e., from its roof.

(3) Technically, removing part of a building is regarded as demolishing it.

(4) I.e., to the roof lying on top of it, The removal of that too or of part thereof also constitutes demolishing.

(5) But not built into and part of them; but the wood that lies on the roof, even though not built into the roof, is regarded as part of the covering of the roof.

(6) But adjacent to the roof, i.e., lying on the roof.

(7) Since they were not untied, we see that they were put there for storage, and not to form part of the roof.

(8) Even during the Intermediary days of the Festival.

(9) Before the Festival.

(10) The hut collapsed on the Festival. Now since it was standing just before the Festival commenced, it was then regarded as mukzeh, as it was forbidden then to remove part of it on account of the prohibition of demolishing. Hence the first Tanna holds that even when it collapses it remains forbidden as mukzeh. R. Simeon, however, does not accept the prohibition of mukzeh at all, hence it is permitted.

(11) I.e., a dish of oil placed near a lamp to act as a feed thereto.

(12) For while it was burning one might not remove any of the oil, as technically that constituted extinguishing. Hence the oil is regarded as mukzeh on account of a prohibition and remains forbidden even after the light goes out. R. Simeon permits it, because he rejects the prohibition of mukzeh. Shab. 44a.

(13) Lit., ‘when will his lamp go out’. He knows it will finally go out and therefore he intended to use the residue from the very beginning; hence R. Simeon does not regard it as mukzeh.

(14) I.e., He intended before the Festival that, should the hut collapse on the Festival, he would use its wood; hence it is quite analogous to the residue of the oil in the lamp or dish.

(15) Lev. XXIII, 34. I.e., the entire seven days, it is consecrated ‘unto the Lord’.

(16) The word חג is taken as חגיגה .

(17) The animal becomes holy as soon as it was dedicated for a Festival offering.

(18) And may not be used. Hence this is a Biblical prohibition: surely a stipulation cannot nullify such!

(19) [Var. lec. Said R. Menasiah in the name of Samuel.]

(20) ‘If he stipulated, everything depends upon his reservation.’

(21) Which has collapsed on a Festival.
(22) Lit., ‘a booth of a precept’ — i.e., one erected in fulfilment of the scriptural law; v. Lev. XXIII, 42.
(23) I.e., decanters containing wine and oil.
(24) Here we see that the stipulation holds good.
(25) I.e., I accept no interdict in respect of them.
(26) Technically a Festival prohibition falls on an object at the immediately preceding twilight. Hence here he expressly stipulated that this should not happen; therefore it does not become mukzeh.
(27) The preceding stipulation would be of no avail here, since he could not take it at twilight on account of the prohibition of demolishing.
(28) V. Glos. s.v. Ethrog.
(29) One to be used for each day.
(30) Without having to wait till the end of the day. Cf. Suk. 46b. He holds that it was made mukzeh only in respect of that particular duty, and since that has been fulfilled, it is no longer mukzeh.
(31) Thus both agree that their prohibition does not extend to the entire Festival.
(32) The command to take an ethrog (v. Lev. XXIII, 40) has reference only to the day.
(33) Since the precept of dwelling in booths applies to the nights just as well as to the days.

Talmud - Mas. Beitzah 31a

MISHNAH. ONE MAY BRING IN FROM THE FIELD [FIRE-] WOOD THAT IS GATHERED TOGETHER,[1] AND FROM A KARPIF [AN ENCLOSURE] EVEN THOUGH IT IS SCATTERED ABOUT.[2] WHAT IS A KARPIF? ANY [ENCLOSURE] ADJOINING THE TOWN; THIS IS THE OPINION OF R. JUDAH. R. JOSE SAYS: ANY [ENCLOSURE] WHICH ONE ENTERS WITH A KEY,[3] EVEN IF IT IS [ONLY JUST] WITHIN A SABBATH TEHUM. GEMARA. Rab Judah said in Samuel's name: You may take wood only from a collected pile in an enclosure. But we have learnt: FROM AN ENCLOSURE EVEN THOUGH IT IS SCATTERED ABOUT! — Our Mishnah represents the opinion of an individual; for it was taught: R. Simeon b. Eleazar said: Beth Shammai and Beth Hillel do not differ [both agreeing] that one may not take in [wood] that was scattered in the field, and that one may take in [wood] that was piled up in an enclosure; they differ only with respect to scattered [wood] in an enclosure and collected [wood] in a field, when Beth Shammai say: He may not take thereof, and Beth Hillel say: He may take thereof.[4]

Said Raba: Leaves of shrubs and leaves of the vine-shoots even though they lie in a heap are forbidden, for since if a wind rises it scatters them, they are regarded as if they are scattered. But if he laid a garment over them the previous day,[5] it is well.[6]

WHAT IS A KARPIF etc.? The scholars asked: What does it mean? [Does it mean], ‘Any [enclosure] adjoining the town providing, however, it has a way of entering by a key; whereas R. Jose comes to teach: Since it has a way of entering by a key, even if [only just] within a Sabbath tehum, it is still [a karpif]; or this is perhaps what it means: ‘Any [enclosure] adjoining the town whether it has a way of entering by a key or not; and R. Jose comes to teach: Even if [only just] within a Sabbath tehum [it is a karpif] but only if it has a way of entering by a key; if, however, it has no way of entering by a key it is not [a karpif] even though [the enclosure] adjoins the town? — Come and hear: Since it [the Mishnah] teaches: ‘R. JOSE SAYS: ANY [ENCLOSURE] WHICH ONE ENTERS WITH A KEY, EVEN IF [ONLY JUST] WITHIN A SABBATH TEHUM’, understand therefrom that R. Jose teaches a twofold leniency.[7] R. Salla said in the name of Jeremiah: The halachah is as R. Jose in the direction of leniency. MISHNAH. ONE MAY NOT CHOP UP FIREWOOD FROM BEAMS NOR FROM A BEAM WHICH WAS BROKEN ON A FESTIVAL;[8] AND ONE MAY NOT CHOP EITHER WITH AN AXE OR WITH A SAW OR WITH A SICKLE BUT ONLY WITH A [BUTCHER'S] CHOPPER.

GEMARA.

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(1) The wood was piled up before the Festival for that purpose, so that strangers might not take it away.

(2) For even then we may assume that he intended to use it, but did not trouble to collect it because it was enclosed and so guarded.

(3) Lit., 'a padlocked entrance'.

(4) But the majority of the Rabbis differ and hold that Beth Hillel forbids the taking of scattered wood even from an enclosure.

(5) To keep the wind from scattering them.

(6) For it shows that he intended before the Festival to use them for firewood.

(7) If the enclosure is adjacent to the city there is no need to have an entrance by a key, and if it can be entered by means of a key it is regarded as a karpif even though it is distant from the city to the extent of a tehum.

(8) V. supra 2b.

Talmud - Mas. Beitzah 31b

But you say [in] the first clause, ONE MAY NOT CHOP UP [WOOD] at all! — Answered Rab Judah in the name of Samuel: There is a lacuna and must be taught thus: ONE MAY NOT CHOP UP FIREWOOD FROM a layer of BEAMS[1] NOR FROM A BEAM WHICH WAS BROKEN ON A FESTIVAL; but one may chop up [firewood] from a beam which was broken before the Festival; and when one chops up, ONE MAY NOT CHOP EITHER WITH AN AXE OR WITH A SAW OR WITH A SICKLE BUT ONLY WITH A [BUTCHER'S] CHOPPER.

We have likewise learnt: One may not chop up firewood from a layer of beams nor from a beam which was broken on a Festival, because it was not mukan..

BUT NOT WITH AN AXE. R. Hinena b. Salmia said in Rab's name: They taught this only of its broad end; but with its narrow end[2] it is permitted. This is obvious: we have learnt: [BUT ONLY] WITH A [BUTCHER'S] CHOPPER![3] — You might say: This applies to a chopper only, but as for a combined axe and chopper,[4] I might say, Since this side is forbidden the other side too is forbidden, so he informs us [that it is not so].

Some teach this with respect to the latter clause: BUT ONLY WITH A [BUTCHER'S] CHOPPER. R. Hinena b. Salmia said in Rab's name: They taught this only of its narrow end, but with its broad end it is prohibited. This is obvious; we have learnt: ONE MAY NOT [CHOP] WITH AN AXE! — You might say: This applies only to an axe alone; but as for a combined chopper and axe, I might say: Since this end is permitted, the other end too is permitted,' so he informs us [that it is not so].

MISHNAH. IF A [CLOSED] ROOM FULL OF PRODUCE WAS BURST OPEN[5] [ON A FESTIVAL] HE MAY TAKE [THE PRODUCE] OUT THROUGH THE BREACH.[6] R. MEIR SAYS: HE MAY MAKE A HOLE AT THE OUTSET AND BRING OUT [THE PRODUCE].

GEMARA. Why so? He is indeed pulling down a tent! — Said R. Nahumi b. Adda in the name of Samuel: It treats here of a layer of bricks.[7] But it is not so, for R. Nahman said: Bricks left over from a building may be moved on Sabbath, because they are fit for sitting on;[8] but if he put them in layers one upon the other, he has certainly determined them for something else! Said R. Zera: They said this[9] with respect to a Festival but not with respect to Sabbath. We have likewise learnt: R. Meir says: He may make a hole at the outset and take out; they said this with respect to a Festival but not with respect to Sabbath. Samuel said: One may loosen the knots[10] in the ground[11] but one may not unravel nor cut[12] [the rope]; [the knots in the doors] of utensils, one may loosen and unravel and cut,[13] whether on a Sabbath or a Festival. They raised an objection: One may loosen the knots in the ground on the Sabbath but one may not unravel nor cut; but on a Festival one may loosen and unravel and cut! — This represents the view of R. Meir, who says: He may make a hole at the outset and bring out [the produce] but the Rabbis dispute with him, and I say this according to the Rabbis. Do then the Rabbis dispute with him with respect to knots in the ground? Surely it was taught: The Sages agree with R. Meir with respect to knots in the ground that on Sabbath one may loosen but one may not unravel nor cut, while on a Festival one may loosen and unravel and cut!

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(1) Because the beams were stored for building purposes and not for firewood.

(2) Lit., 'its feminine side' . . . 'its masculine side'.

(3) This usually has no broad, sharp side.

(4) I.e., where one side is broad, like an axe, and the other narrow, like a butcher's chopper — presumably the choppers were made thus, not like ours nowadays.

(5) I.e., some of the bricks fell out through the pressure.

(6) The produce is not regarded as mukzeh though he would not have been able to get at them had the room not burst open.

(7) Lying loose one upon the other and not built in with mortar.

(8) Hence rank as utensils. — An object not ranking as a utensil may not be handled on the Sabbath.

(9) Viz., the law in our Mishnah.

(10) Lit., 'seals'.

(11) I. e., the knot in the cord which fastens the door to the rafter to keep it tight and which also points out the trap-door in the floor.

(12) For this would be in the nature of pulling down.

(13) For the law of pulling down does not apply to utensils.

— He[1] ruled as the following Tanna. For It was taught: One may loosen the knots in the ground, but one may not unravel nor cut, whether on a Sabbath or on a Festival; but as to those of utensils — on a Sabbath one may loosen but one may not unravel nor cut; on a Festival one may loosen and unravel and cut. You have justified the first clause; but there is a contradiction from the concluding clause![2] — This represents the opinion of R. Nehemiah who says: All utensils may not be handled except for their normal use.[3] If it is R. Nehemiah, why particularly the Sabbath; the same holds good even on a Festival! And if you say that R. Nehemiah makes a distinction between a shebuth[4] of the Sabbath and a shebuth of a Festival,[5] [I would object], Does he then make a distinction? For one [Baraitha] teaches: One may kindle a fire [on a Festival] with utensils,[6] but one may not kindle a fire with fragments of utensils;[7] and another [Baraitha] teaches: One may kindle a fire with both utensils and fragments of utensils; and [still] another [Baraitha] teaches: One may not kindle either with utensils or with broken pieces of utensils; and we explained, there is no contradiction: One is according to R. Judah, the other is according to R. Simeon, and the third is according to R. Nehemiah![8] — Two Tannaim dispute about the opinion of R. Nehemiah.[9] MISHNAH. ONE MAY NOT HOLLOW OUT A LAMP[10] [ON A FESTIVAL], BECAUSE HE WOULD BE MAKING A UTENSIL; AND ONE MAY NOT MAKE CHARCOAL[11] ON A FESTIVAL, NOR CUT A WICK IN TWO. R. JUDAH SAYS: ONE MAY SEVER IT WITH A FLAME.

GEMARA. Who teaches that the hollowing out of a lamp constitutes [making] a utensil?[12] — Said R. Joseph: It is R. Meir; for it was taught: When is a clay vessel susceptible to defilement? As soon as its form is finished;[13] this is the opinion of R. Meir. R. Joshua says: As soon as it is baked in the furnace. Said Abaye to him: Whence does this follow? Perhaps R. Meir is of this opinion only there, because they [the vessels] are fit for receiving things;[14] but here[15] for what is it fit? — For receiving copper coins.

Some say: Said R. Joseph: It is R. Eliezer son of R. Zadok: For we have learnt: Ironian[16] stewpots do not contract defilement when under the same roof as a corpse, but they become defiled if they are carried by one who has an issue.[17] R. Eliezer son of R. Zadok says: They are undefiled even if they are carried by one who has an issue, because they are not yet finished in the making.[18] Said Abaye to him: Perhaps R. Eliezer son of R. Zadok is of this opinion only there, because they [the stewpots] are fit for receiving things;[19] but here for what is it fit? — For receiving copper coins.

Our Rabbis taught: One may not hollow out a lamp and one may not make Ironian stewpots on a Festival. R. Simeon b. Gamaliel permits Ironian stewpots. What means Ironian? — Said Rab Judah: Provincial. What means ‘provincial’? — Said Abaye: Peasants’ trenchers.[20]

AND ONE MAY NOT MAKE CHARCOAL. This is obvious; for what is it fit?[21] — R. Hiyya taught: This is necessary to be taught only with respect to handing them over to the bath attendants on the same day.[22] Is it then permissible [for such use] on that day?[23] — As Raba explained [elsewhere]: Where it is for perspiring,[24] and before the prohibition,[25] so also here [it treats of a case] of perspiring and before the prohibition.

NOR CUT A WICK IN TWO [etc.]: Why not with a knife —

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(1) R. Samuel who forbids unravelling even on a Festival.

(2) According to the concluding clause one may in the case of vessels only loosen on a Sabbath, whereas Samuel permits even unravelling and cutting too.

(3) Hence, though the cutting is permitted in itself, a knife may not be handled for that purpose. But Samuel disagrees with R. Nehemiah in this.

(4) V. Glos.

(5) Treating the latter less rigorously than the former and consequently the said restriction does not apply to a Festival.
(6) Since being utensils they may be handled, they may also be used for burning.
(7) Being fragments, they may not be handled normally; and though fit for fuel (which under other circumstances would permit them to be handled), this is discounted, since they were not intended for this before the Festival.
(8) R. Judah who holds the prohibition of mukzeh, forbids fragments as fuel; R. Simeon who rejects this prohibition, permits them, while R. Nehemiah, holding that utensils may be handled for their normal use only, forbids even whole utensils This proves that R. Nehemiah's ruling applies to Festivals too.
(9) One holding that he draws a distinction in respect of his ruling between the Sabbath and Festivals; the other, that he does not.
(10) By pressing in the finger into a lump of clay.
(11) This too is technically regarded as a utensil for goldsmiths.
(12) Although the clay is not yet baked in the furnace.
(13) I.e., hollowed out, even before it is hardened in the furnace.
(14) I.e., dry objects, even though they were unfit for liquids.
(15) Being unbaked, it cannot take oil for lighting, as it will soak into it; while it is too small for ordinary dry objects.
(16) For V.L. cf. D.S. The correct reading as well as the exact meaning of this term is uncertain. The Talmud (infra) explains it in the sense of provincial, coarse and unfinished. V. ‘Ed., Sonc. ed. p. 12, n. 9. According to the Commentaries, this stewpot was fashioned like a hollow ball and thus baked in the kiln and afterwards cut into two. Undivided it cannot become unclean through a dead body because the inner space is enclosed and a clay vessel must have a hollow before it can receive defilement. (Cf. Num. XIX, 15).
(17) Cf. Lev. XV, 4 and 12, where a hollow in the vessel is not required.
(18) Viz., their hollowing out, and are therefore not considered utensils. ‘Ed. II, 5. Hence we see that the hollowing out constitutes the making of a utensil, and the same holds good in the Mishnah.
(19) When they are hollowed out.
(20) Which are coarse and unfinished.
(21) They can only be used on the same day for manufacturing works which are forbidden on a Festival.
(22) For the preparation of the bath water.
(23) The Rabbis distinctly forbade taking baths both on Sabbath and Festivals. Cf. Shab. 38a.
(24) Not actually bathing.
(25) Of such perspiring on Sabbath and Festivals. Cf. Shab. 40a.

Talmud - Mas. Beitzah 32b

because he thereby makes an article;[1] then by [severing it] with fire he is also making an article? — R. Hiyya taught: He may sever it with fire [when the wick is] in two lamps.[2]

Said R. Nathan b. Abba in the name of Rab: One may trim the wick on a Festival. What is meant by trimming? Said R. Hanina b. Salmia [in Rab's name]: To remove the snuff.

Bar Kappara taught: Six things have been taught with respect to a wick, three restrictions and three leniencies. The restrictions are: One may not plait it at the outset on a Festival, and one may not singe it with fire,[3] and one may not cut it in two. Leniencies: One may rub it by hand,[4] and one may soak it in oil, and one may sever it with fire when it is in two lamps.

R. Nathan b. Abba further said in the name of Rab: The rich men of Babylon will go down to Gehenna; for once Shabthai b. Marinus came to Babylon and entreated them to provide him with facilities for trading and they refused this to him; neither did they give him any food. He said: These are the descendants of the ‘mixed multitude’,[5] for it is written, And [He will] show thee mercy and have compassion upon thee,[6] [teaching that] whoever is merciful to his fellow-men is certainly of the children of our father Abraham, and whosoever is not merciful to his fellow-men is certainly not of the children of our father Abraham.[7]

R. Nathan b. Abba further said in the name of Rab: He who is dependent on another's table, the world is dark to him, for it is said: He wandereth abroad for bread. ‘Where is it?’ He knoweth that the day of darkness is ready at his hand.[8] R. Hisda says: Also his life is no life.

Our Rabbis taught: There are three whose life is no life and they are: He who is dependent on the table of his neighbour; he whom his wife rules; and he whose body is subject to suffering. And some say: Also he who possesses only one shirt.[9] And the first Tanna? — It is possible to examine his garment.[10]

MISHNAH. ONE MAY NOT BREAK UP A POTSHERD OR CUT PAPER IN ORDER TO ROAST THEREON SALT-FISH;[11] NOR MAY ONE RAKE OUT AN OVEN OR A POT RANGE,[12] BUT ONE MAY PRESS [THE ASHES] DOWN;[13] NOR MAY ONE PLACE TWO JARS SIDE BY SIDE IN ORDER TO SET A SAUCEPAN ON THEM.[14] NOR MAY ONE PROP UP A POT WITH A WOODEN WEDGE AND THE SAME APPLIES TO A DOOR; NOR MAY ONE DRIVE CATTLE WITH A STAFF ON A FESTIVAL, BUT R. ELEAZAR SON OF R. SIMEON PERMITS IT.

GEMARA. What is the reason [that one may not break Up a potsherd]? — Because he is making a [new] article.[15]

NOR MAY ONE RAKE OUT AN OVEN OR A POT RANGE. R. Hiyya b. Joseph recited in the presence of R. Nahman: If it is impossible to bake unless it is raked out it is permitted. A brick fell down in R. Hiyya's wife's oven on a Festival. [So] R. Hiyya said to her: Take notice that I want good bread.[16] Raba said to is attendant: Roast a duck for me and mind it does not get burnt.[16] Rabina said to R. Ashi: R. Aha from Huzal[17] told that they pasted up the oven[18] for you, Sir, on a Festival![19] He replied to him: We use[20] [the clay from] the bank of the Euphrates,[21] and even then only when one had marked out [the clay] on the previous day. Said Rabina: Ashes are permitted.[22]

NOR MAY ONE PLACE TWO JARS SIDE BY SIDE: Said R. Nahman: It is permissible to arrange the stones of a privy side by side on a Festival.[23] Rabbah raised an objection to R. Nahman: ONE MAY NOT PLACE TWO JARS SIDE BY SIDE AND ON THESE SET A SAUCEPAN! — He replied to him: It is different there, for he is making a tent.[24] Rabbah Zuta said to R. Ashi: Accordingly it should also be permitted to build a seat[25] on a Festival, since he is not making a tent! — He replied to him: There the Torah forbade a permanent building but not a temporary building, but the Rabbis forbade a temporary building on account of a permanent building; but here[26] the Rabbis did not enact this prohibition, for the sake of his dignity.

Rab Judah said: It is permitted [to build] a fireheap from above downwards but not from beneath upwards.[27]

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(1) Out of one wick he makes two.

(2) If the two ends of the wick are two lamps he may light it in the middle, since his purpose does not appear to be to divide it but rather to get a light.

(3) To remove any threads or fibres.

(4) To soften it.

(5) Cf. Ex. XII, 38.

(6) Deut. XIII, 18.

(7) The verse ends: as He hath sworn unto thy fathers. Now he translates the part quoted thus: and He will give thee (the spirit of) mercy — i.e., to be merciful to others. Hence, of the person who possesses that, it can be said . . . ‘unto thy fathers’, viz., the Patriarchs; but if one lacks it, ‘Unto thy fathers’ cannot be said of him, and so he must be a descendant of the mixed multitude.

(8) Job XV, 23.

(9) Because he is distressed by vermin.
(10) To cleanse it from vermin.
(11) Which must not lie on the metal of the tripod, as it would be burnt.
(12) If some of its plaster peeled and fell into it. It must not be raked out, as that would constitute the repairing of a utensil.
(13) So that the dough which was pressed to the side of the oven (this was the ancient method of baking) should not come into contact with the old ashes or earth.
(14) Because it looks like setting up a tripod and is in the nature of building.
(15) The broken potsherd is now to serve as a utensil for preventing burning.
(16) I.e., have the oven raked out.
(17) A place between Nehardea and Sura; Obermeyer op. cit. p. 299. V. Keth., Sonc. ed. p. 716, n. 7.
(18) I.e., they filled up the cracks in the oven making it airtight.
(19) But surely mixing the cement for that purpose is forbidden, as a derivative of kneading. V. Shab. 73a.
(20) Lit., ‘we rely’.
(21) The alluvial soil of the bank of the Euphrates is like clay and no further preparation is required. [R. Ashi's home was Matha Mehasia on the right bank of the Euphrates.]
(22) To be mixed with water and used for making the oven airtight, because ‘kneading’ does not apply to ashes.
(23) Two large stones were put side by side, thus forming a kind of seat.
(24) In a technical sense.
(25) אצטבא is a solid seat standing on the ground. Since there is no empty space beneath its top, it does not constitute a tent.
(26) In the case of a privy.
(27) I.e., one may not lay two logs of wood near one another and lay a third above it, since this resembles the building of a tent. He must therefore hold up one log and lay two underneath.

Talmud - Mas. Beitzah 33a

The same is true also of an egg, a pot, a bed and a jug.[1]

NOR MAY ONE PROP UP A POT WITH A WOODEN WEDGE AND LIKEWISE WITH A DOOR. Can you possibly mean WITH A DOOR.[2] — Say rather: And the same applies to a door.[3]

Our Rabbis taught: One may not prop up a pot with a wooden wedge and the same applies to a door, for wood is meant [as a rule] only for heating;[4] but R. Simeon permits it. Nor may one drive cattle with a staff on a Festival, but R. Eleazar son of R. Simeon permits it. Shall it be said that R. Eleazar son of R. Simeon agrees with his father in rejecting [the prohibition of] mukzeh? — No; in this case even R. Simeon agrees,[5] for it looks as though he were going to market.[6]

Bamboo-cane, R. Nahman forbids[7] and R. Shesheth permits. When it is moist none dispute that it is forbidden;[8] they [only] dispute when it is dry; he who forbids it says: Wood is made to serve only for kindling;[9] he who permits it says, It is one and the same thing whether roasting with it [used as a spit] or whether roasting with its coal.[10] Some say: When it is dry none dispute that it is permitted; they [only] dispute when it is moist; he who forbids [it,] it is because it is not fit for fuel,[11] and he who permits [it] says, It is fit for a big fire. And the law is: When it is dry it is permitted, when it is moist it is forbidden.

Raba lectured: A woman may not go into a wood-shed to fetch therefrom a brand;[12] and a log of wood that was broken [on a Festival] may not be burnt on the Festival, for one may heat with utensils but one may not heat with broken utensils. Shall it be said that Raba is of the same opinion as R. Judah who holds the rule of mukzeh? But surely Raba said to his attendant: Roast me a duck and throw its inwards to the cat![13] — There [it is different]; since they [the inwards] turn putrid, he had intended them [for the cat] from the day before.[14] MISHNAH. R. ELIEZER SAYS: A MAN

MAY TAKE A CHIP FROM THAT WHICH IS LYING BEFORE HIM[15] TO PICK HIS TEETH WITH IT, AND HE MAY COLLECT [CHIPS] FROM THE COURT YARD AND MAKE A FIRE, FOR EVERYTHING IN A COURT IS MUKAN. BUT THE SAGES SAY: HE MAY COLLECT ONLY FROM THAT WHICH IS BEFORE HIM AND MAKE A FIRE. ONE MAY NOT PRODUCE FIRE EITHER FROM WOOD,[16] OR FROM STONES,[17] OR FROM EARTH,[18] OR FROM TILES,[19] OR FROM WATER;[20] NOR MAY ONE MAKE TILES RED-HOT IN ORDER TO ROAST ON THEM.

GEMARA. Rab Judah said:

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(1) When an egg is to be placed on a tripod for baking, the tripod must not be placed on the fire and the egg on it, but it must be held in the hand, the egg placed on it, and then the whole on the fire. — A pot was placed on two barrels with a fire burning underneath. These barrels, however, must not be placed in position first, but the pot must be held in the air and then the barrels put underneath. — Folding beds are likewise: instead of the supports being placed first and then the canvas or skin overlay, as usual, the canvas must be stretched out first and the supports fitted in to it. Finally, when barrels are being stored away, One on top of two, the top one must be held and the other two pushed under it. In each case the usual mode of setting would constitute making a tent.

(2) It was presumed that it means ‘the door may not be used as a prop’.

(3) Viz., a door may not be propped up with a chip. The Mishnah therefore must be translated: And it is likewise so in the case of a door.

(4) Hence it is mukzeh in respect of any other purpose.

(5) That it is prohibited.

(6) Lit., ‘to a dance’, so called because of the crowds assembled at the market.

(7) To be used as a spit on a Festival, on account of mukzeh, for it was not intended before the Festival to use it as a spit.

(8) For it cannot then be used even for eating.

(9) Hence it is mukzeh in respect of any other purpose.

(10) For it is permissible to burn it and use its charcoal for roasting.

(11) Hence it cannot be handled for its natural purpose, and therefore it must not be handled for any other purpose either.

(12) To be used for a poker. For wood can only be employed for kindling and cannot be used as a utensil unless it was so intended before the Festival.

(13) Whereas according to R. Judah the inwards should be forbidden to be handled as mukzeh. Cf. supra 2a, 27b.

(14) Hence R. Judah would agree that the inwards are not mukzeh.

(15) I.e., in the house.

(16) By rubbing two sticks together, because this would be bringing into existence something which was not already made.

(17) By striking flint with steel,

(18) Sulphur or phosphorus.

(19) This clause is omitted in the Mishnayoth.

(20) By using the water in a glass as a mirror to focus the rays of the sun.

Talmud - Mas. Beitzah 33b

[The prohibition] of making a utensil does not apply to cattle fodder.[1] R. Kahana raised an objection to Rab Judah: One may carry about spice-wood for smelling or in order to fan a sick person with it; and he may rub it and smell it but he may not cut off [a piece] in order to smell it;[2] and if he did cut off [a piece] he is not culpable, although it is forbidden; he may not cut off [a piece] in order to pick his teeth, but if he did cut off he is liable to a sin-offering![3] — He replied to him: If [the Baraitha had taught that] ‘he is not culpable, yet it is forbidden’, even that would contradict me; how much more so when it states ‘he is liable for a sin-offering’; but that [Baraitha] was taught with respect to hard [spice-wood].[4] But is hard [spicewood] capable of being rubbed! — There is a lacuna and must be taught as follows: ‘He may rub it and smell it and he may cut off [a piece] and smell it’. This only applies to soft spice-wood, but he may not cut hard [spice-wood], and if he does cut it, he is not culpable, although it is forbidden; he may not cut off [a piece] in order to pick his teeth, but if he does cut off he is liable to a sin-offering. One [Baraitha] teaches: He may cut off [a piece] and smell it; and another [Baraitha] teaches: He may not cut off in order to smell thereof? — Said R. Zera in the name of R. Hisda: There is no contradiction; one refers to soft [spice-wood]; the other, to hard. To this R. Aha b. Jacob demurred: Why [may he] not [cut off] from hard [spice-wood]?[5] In what respect is this different from what we learnt: A man may break open a cask in order to eat of its dry figs, provided that he does not intend to make a utensil [of it].[6] And furthermore, Raba son of R. Adda and Rabin son of R. Adda have both related: When we were staying with Rab Judah he broke a branch off[7] and gave us each a piece of aloe-wood, although they were [so hard that they were] capable of being used as a handle for a bill or an axe![8] — There is no contradiction; the one is according to R. Eliezer, and the other is according to the Rabbis; for it was taught: R. Eliezer says: A man may take a chip from [wood] lying before him to pick his teeth with it, but the Sages say: He may take [it] only out of a cattle-crib;[9] but they both agree that he may not cut off [a piece], and if he did cut off to pick his teeth or to open a door with it,[10] if he did it unwittingly on a Sabbath, he is liable to a sin-offering, and if he did it deliberately on a Festival he is liable to receive forty lashes: this is the opinion of R. Eliezer. But the Sages say: Both the one and the other are forbidden only as a shebuth.[11] [Now] R. Eliezer[12] who says there,[13] 'he is liable to a sin-offering', [will hold] here [that] he is not culpable, although it is forbidden; the Rabbis who say there, 'he is not culpable although it is forbidden' [maintain] here [that] it is permitted at the outset. But does not R. Eliezer accept the teaching, A man may break open a cask in order to eat of its dry figs provided that he does not intend to make a utensil? — Said R. Ashi: That was taught with respect to a barrel whose parts are stuck together with pitch.[14]

AND HE MAY COLLECT FROM THE COURT: Our Rabbis taught: He may collect from the court and make a fire, for every thing in the court is mukan, provided that he does not make many heaps; but R. Simeon permits [even this]. In what do they differ? — One is of the opinion: It looks as though he were gathering for the morrow and the day after;[15] and the other is of the opinion: His pot bears testimony for him.[16]

ONE MAY NOT PRODUCE FIRE. What is the reason? Because he is creating [something new] on a Festival.

NOR MAY ONE MAKE TILES RED-HOT. What does he do?[17] — Said Rabbah b. Bar Hana in the name of R. Johanan: We are dealing here with new bricks [and the prohibition is] because

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(1) I.e., straw or stubble and the like may be used as a tooth-pick.

(2) By cutting off a piece, he produces a new surface which yields greater fragrance.

(3) Although some spice-wood can be used as fodder. This contradicts Rab Judah.

(4) Which is unfit for fodder. Hence it does not contradict me at all.

(5) In order to smell. Did then the Rabbis preventively forbid it lest he might cut it off as a utensil?

(6) I.e., he must not break open the bung in such a way as to make a permanent mouth. This we see that no such preventative decree exists.

(7) On a Sabbath in order to smell thereof. The branch was, of course, detached.

(8) Cf. Shab. 146a.

(9) Since it is definitely food, it can therefore be used for any purpose.

(10) I. e. , to use it as a latch.

(11) V. Glos.

(12) The explanation of there being no contradiction is now continued.

(13) With respect to cutting spice-wood.

(14) Therefore it cannot afterwards again be used as a vessel. Cf. Jast. s.v. מוסתקי

(15) Which is certainly forbidden.

(16) I.e., it is quite obvious that he wants the fuel for the Festival.

(17) What forbidden action is there in this?

Talmud - Mas. Beitzah 34a

he has yet to examine them.[1] Others explain it: Because he has yet to harden them.[2] We have learnt elsewhere:[3] If one trod upon it [poultry] or knocked it against a wall, or if cattle trampled over it and it still moves convulsively and continues alive for a full day of twenty-four hours, and he then slaughters it, it is ritually fit. Said R. Eleazar b. Jannai in the name of R. Eleazar b. Antigonos: It still has to be examined.[4] R. Jeremiah asked of R. Zera: May one slaughter it on a Festival? Should we assume an unsoundness On a Festival[5] or not? He replied to him: We have learnt it: NOR MAY ONE MAKE TILES RED-HOT IN ORDER TO ROAST ON THEM; and we raised the point: What does he do? And Rabbah b. Bar Hana in the name of R. Johanan said: We are dealing here with new bricks [and they must not be heated] because he has yet to examine them.[6] He said to him: We teach: Because he has yet to harden them.[7] It was taught: If one brings the fire [on a Sabbath] and another brings the wood and another puts the pot on the fire and another brings the water and another puts in the seasoning and another stirs, they are all liable.[8] But surely it was taught: The last one is liable and the rest are exempt! — There is no contradiction. The one speaks of a case where the fire was brought first; and the other, where the fire was brought last.[9] As for all the others, it is well, for they perform an action;[10] but he who puts the pot on the fire, what does he do?[11] — Said R. Simeon b. Lakish: We treat here of a new pot and they applied here the prohibition of making tiles red-hot. Our Rabbis taught: A new oven and a new pot range are like all other utensils which may be carried about in a court; but one may not smear them with oil or polish them with a rug or cool them with cold water in order to harden them; but if [it is done] for the purpose of baking,[12] it is permitted.

Our Rabbis taught: One may scald the head and the feet [of a fowl or animal] or singe them with fire; but one may not cover then, with potter's clay or with earth or with lime,[13] nor may one cut off [their hair] with scissors; and one may not cut round vegetables with their [garden] shears,[14] but one may trim the artichoke and the cardoon;[15] one may heat and bake in a large oven[16] and one may warm up water in an antiki[17] vessel; but one may not bake in a new large oven lest it crack[18] .

Our Rabbis taught: One may not blow up [the fire] with bellows [on a Festival] but one may blow it up with a tube [reed]; one may not condition a spit nor may one sharpen it.

Our Rabbis taught: One may not split a reed in order to roast a salt fish thereon, but one may crack a nut in a rag and we do not apprehend lest it be torn.[19]

MISHNAH. R. ELIEZER FURTHER[20] SAID: A MAN MAY STAND NEAR HIS DRYING FIGS[21]

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(1) Whether they can stand burning, for if they crack they cannot be used and all his labour has been in vain.

(2) By burning; hence when he makes them red-hot he completes their manufacture, and this may not be done on Festival.

(3) Hul. 57a and 57b.

(4) Whether the injury did not make it trefa.

(5) I.e., on account of its stringency and therefore not kill it.

(6) To see if they crack. Hence we see that we do assume an unsoundness on account of the stringency of the Festival.

(7) So that this has no bearing on our problem.

(8) For various breaches of the Sabbath.

(9) In the former case all are liable, for all have committed a breach of the Sabbath; in the latter only the last person performed a culpable act.

(10) As one carries the fire he creates a draught which fans it into a stronger blaze; hence his action technically constitutes kindling. Similarly, he who adds fuel. Pouring in the water and the condiments and stirring all constitute cooking.

(11) He puts it on empty; hence he does not cook at all.

(12) That the bread should not burn.

(13) In order to remove the hair.

(14) The shears with which they are cut from the soil. The prohibition is because one might suspect that the person had only on that day cut them from the ground.

(15) These plants require a good deal of care in their preparation.

(16) Though it involves much labour.

(17) [אנטיכי A water-heating vessel with a fuel compartment (v. Shab. 41a). Though it retains its heat for a long time, extending even beyond the needs of the Festival day on which it is heated, it is nevertheless permitted, v. R. Nissim. The derivation of the word is obscure. Krauss TA, I , p. 73 connects it with Grk, GR. ** v. op. cit. p. 411.]

(18) And the whole labour will be in vain. Unnecessary labour is forbidden on a Festival.

(19) For even if it does get torn it is of no consequence, for one is liable only if the tearing is for the purpose of sewing it up again.

(20) Cf. supra p. 33a.

(21) Heb. mukzeh. Which require designation for the Sabbath.

Talmud - Mas. Beitzah 34b

ON THE EVE OF A SABBATH IN THE SABBATICAL YEAR[1] AND SAY: FROM THIS PART WILL I EAT TO-MORROW.[2] BUT THE SAGES SAY: ONLY IF HE MARKS IT OUT AND SAYS, ‘FROM HERE UNTO THERE.’

GEMARA. We have learnt elsewhere:[3] If children put away figs[4] [in the field] on the eve of Sabbath [for the Sabbath] and they forgot and did not tithe them, [before the Sabbath], they may not be eaten after the Sabbath until they have been tithed.[5] And we have also learnt:[6] If one was carrying figs through his court for drying,[7] his children and the members of his household may make a light meal of them and are exempt [from tithes].[8] Raba asked R. Nahman: Does the Sabbath establish a liability to tithes in the case of drying figs,[9] seeing that they were not completely ready [for eating]?[10] Do we say, Since it is written, And [thou shalt] call the Sabbath a delight,[11] it [the Sabbath] establishes a liability even where the commodity is not completely ready [for tithing], or perhaps it [the Sabbath] establishes liability only where the commodity is completely ready [for tithing], but not where the commodity is not yet completely ready? — He replied to him: The Sabbath establishes liability whether the commodity is completely ready [for tithing] or not. He said to him: Say [perhaps] that the Sabbath is like a court? Just as a court establishes liability only where the commodity is completely ready [for tithing],[12] so also the Sabbath does not establish liability save where the commodity is completely ready? — He replied to him: We have a distinct teaching that the Sabbath establishes liability both where the commodity is completely ready and where the commodity is not completely ready [for tithing]. Mar Zutra son of R. Nahman said: We have likewise learnt: R. Eliezer further said: A MAN MAY STAND NEAR HIS DRYING FIGS ON THE EVE OF A SABBATH IN THE SABBATICAL YEAR etc.: Thus it is only in the Sabbatical year, when it is free from tithe; but in the other years of the septennate it would be forbidden;[13] [and] for what reason? Is it not because the Sabbath establishes liability! — No, there it is different; since he Says, FROM THIS PART WILL I EAT TO-MORROW, he established liability for himself.[14] If so, why particularly the Sabbath; this holds good even on a weekday? — This is what he informs us, [namely] that tebel[15] is regarded as mukan

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(1) V. Lev. XXV, 1-7. In the Sabbatical year fruit is tithe-free.

(2) Such designation is sufficient for he holds the rule of retrospective selection , i.e., a selection made subsequently is of legal effect retrospectively, as though it were made earlier-here, as though he expressly designated the particular figs to-morrow.

(3) Ma'as. IV, 2.

(4) Which were ready for eating and therefore liable for tithing.

(5) Although a light meal of untithed fruit is permitted before it has been brought into the house or the court (v. B.M. 88a), appointing these figs for the Sabbath marks the end of their ingathering and they become liable to tithe.

(6) Ma'as. III, 1.

(7) The preparation of which is not yet complete.

(8) Although they have been brought into the court.

(9) Heb. mukzeh.

(10) Lit., 'its work (of storing) is not finished'. This clause is explanatory of the word mukzeh, Rashi.

(11) Isa. LVIII, 13.

(12) Cf. Mishnah, Ma'as. III, I cited supra.

(13) To eat the fruit without tithing.

(14) For he has shown that as far as he is concerned its preparation is completed and it is now quite ready for eating.

(15) V. Glos.

Talmud - Mas. Beitzah 35a

with respect to Sabbath, so that if one transgressed and tithed it, it is fit for use.[1] But is not the remainder put back; and we know R. Eliezer to hold that whenever the remainder can be put back, it does not establish liability?[2] For we have learnt: If one took olives out of the vat he may dip them in salt one at a time and eat them [untithed]; but if he dipped ten[3] [in salt] and placed them before him he is liable.[4] R. Eliezer says: [If he takes them] from a clean vat he is liable; from an unclean vat, he is exempt, because he can put back what remains over.[5] And we argued on this: What is the difference between the first clause and the last clause?[6] And R. Abbahu answered: The first clause treats of a clean vat and an unclean person, so that he cannot put the remainder back;[7] the last clause treats of an unclean vat and an unclean person, so that he can put it back! — Our Mishnah too treats of clean drying figs and an unclean person who cannot put it back. But surely they are de facto put back?[8] — Rather said R. Simi b. Ashi:[9] You speak of R. Eliezer? R. Eliezer follows his opinion [expressed elsewhere]; for he says that [separating] terumah[10] establishes liability, how much more so the Sabbath.[11] For we have learnt: If terumah had been separated from fruits before they were completely ready [for tithing],[12] R. Eliezer forbids a light meal to be made of it, but the Sages permit.[13]

Come and hear [a support] from the second clause: BUT THE SAGES SAY: ONLY IF HE MARKS IT OUT AND SAYS: FROM HERE UNTO THERE. Thus it is only on the eve of a Sabbath in the Sabbatical year, when it is free from tithe; but in other years of the septennate, it would be forbidden. What is the reason? Surely because the Sabbath establishes liability? — No, there it is different; since he says, FROM HERE UNTO THERE WILL I EAT TOMORROW, he made it liable for tithing. If so, why particularly of Sabbath: this holds good even on a weekday? This is what he informs us, [namely] that tebel is mukan with respect to Sabbath, so that if one transgressed and separated the tithe, it is fit for use. But the following contradicts this: If one was eating a cluster of grapes[14] and entered from the garden into the court,[15] R. Eliezer says: He may finish [eating it without tithing], [but] R. Joshua maintains: He may not finish. If it was getting dark towards the Sabbath,[16] R. Eliezer says: He may finish [eating the cluster of grapes], [but] R. Joshua maintains: He may not finish.[17] — There [it is different] as the passage is explained:[18] R. Nathan says: When R. Eliezer said, 'He may finish', he did not mean that he may finish [eating it] in the court, but he must leave the court and finish [it in his garden]; and when R. Eliezer said, 'He may finish', he did not [mean] that he may finish [it] on the Sabbath, but he waits until the termination of the Sabbath and finishes [it]. When Rabin came [from Palestine], he said in the name of R. Johanan: Neither the Sabbath nor [the separating of] terumah nor [bringing the fruit into the] court, nor [the act of] purchasing establish liability save where it was [otherwise] completely ready [for tithing]. 'The Sabbath', to reject the opinion of Hillel; for it was taught: if one carries fruit from one place to another[19] and the holiness of the [Sabbath] day came upon him, said R. Judah: Hillel alone forbids

[it].[20]

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(1) On the Sabbath, for the designation of the day before is valid; and the tithing too is valid, since the prohibition of the tithing on a Sabbath is only Rabbinical.
(2) How much more so is it not liable for tithing when he merely said, ‘From here will I eat to-morrow’.
(3) ‘Ten’ is absent in the Mishnayoth: it thus means, if he dipped a fair number, etc.
(4) By thus placing them all in front of him and not eating each as he dips it into the salt, he shows that he wishes to make a proper meal of them, not a mere snack, and a proper meal is forbidden before tithing.
(5) Ma'as. IV, 3. When he can put the remainder back, even if he takes many he does not mean to make a proper meal, as he may eat a few only; hence he is not liable. But when he cannot put the remainder back, and he takes a number, he evidently intends to eat them all now, and this intention establishes liability to tithes because it will constitute a full and proper meal.
(6) Even in a clean vat one can put back the fruit left over.
(7) Because he renders what he touches unclean, and so this in turn will defile the olives in the vat if he puts it back.
(8) Since they have never been taken out; he merely designated them by word of mouth.
(9) In truth it is not his speech but the Sabbath that establishes liability; nevertheless our Mishnah does not support R. Nahman, because it only quotes the view of R. Eliezer, but the Sages differ.
(10) V. Glos.
(11) But the Sages who differ with respect to terumah differ also with respect to Sabbath.
(12) I.e., before their preparation was complete and therefore not yet liable to tithe.
(13) Ma'as. II, 4. — R. Eliezer holds that the separating of terumah though It was as yet unnecessary, has established a liability to tithes too, though it is not yet completely ready. But the Sages dispute this.
(14) The grapes are tithe-free until they are brought within the owner's court. When yet in the vineyard, the owner may eat of them a slender meal, for their preparation for tithing is regarded complete only when made into wine.
(15) Which makes the grapes liable to tithe, without which even a light meal is now forbidden.
(16) When it is forbidden to tithe. — This is a separate case and does not refer to when he entered the court.
(17) Ter. VIII, 3. Hence it is to be inferred that R. Eliezer does not hold that the Sabbath establishes liability for tithing.
(18) In Tosef. Ter. VII.
(19) This follows the text of the Tosefta, which is preferable to that of our edd. [The Fruit was evidently taken for drying; v. Wilna Gaon Ma'as. III and cf. R. Hananel a.l. Assuming that לקצור ‘to harvest’ in cur. edd. is a scribal error for לקצות ‘to dry’, the reading of cur. edd. yields equally good sense.]
(20) But all the other scholars allow.

Talmud - Mas. Beitzah 35b

‘Court’, to reject the opinion of R. Jacob, for we have learnt: If one was carrying figs into his court for drying, his children and the members of his household may eat of them a light meal and are exempt [from tithes]; and with respect to this, it was taught: R. Jacob makes him liable for tithing and R. Jose son of R. Judah exempts [him].

‘Terumah’, to reject the opinion of R. Eliezer; for we have learnt: If one separated terumah from fruits before they were completely ready [for tithing] R. Eliezer forbids a light meal to be made of it, but the Sages permit.[1]

‘Purchasing’ , as it was taught: If one bought figs from an ‘am ha-arez[2] in a district where the majority of the people press [them], he may eat thereof a light meal and he tithes them as demai.[3] Infer from this three things; infer from this [that] ‘purchasing’ establishes liability only where it was completely ready [for tithing]; infer from this also [that] the majority of the ‘amme ha-arez do tithe [their produce]; and [further] infer from this [that] one should tithe the demai of an ‘am ha-arez even of a commodity whose preparation has not yet been completed. And it[4] is to reject that which we have learnt: If one exchanges fruit with his neighbour, the one intending to eat them [as they are] and the other intending to eat them, or the one intending to dry them and the other intending to dry them, or the one intending to eat them and the other intending to dry them, they are both liable.[5] R. Judah says: He who intends eating it is liable,[6] but he who intends drying it is exempt.[7]

C H A P T E R V

MISHNAH. ONE MAY LET DOWN FRUIT[8] THROUGH A TRAP-DOOR ON A FESTIVAL BUT NOT ON A SABBATH, AND COVER UP FRUIT WITH VESSELS ON ACCOUNT OF THE RAIN; AND LIKEWISE JARS OF WINE AND JARS OF OIL; AND [EVEN] ON A SABBATH ONE MAY PLACE A VESSEL BENEATH THE DROPS OF RAIN.

GEMARA. It was stated: Rab Judah and R. Nathan [dispute]; one recites MASHILLIN[9] and the other teaches MASHHILLIN. Said Mar Zutra: The one that recites MASHILLIN does not teach wrongly and the other who recites MASHHILLIN does not teach wrongly. The one that recites MASHILLIN does not teach wrongly for it is written, For thine olives shall drop off, [yishshal];[10] and the other who recites MASHHILLIN does not teach wrongly for we have learnt: [If the firstling is a] shahol or a kasol [it may be slaughtered]; ‘shahol’ [means an animal] whose hip has become dislocated[11] and ‘kasol’ [means an animal] one of whose hips is higher than the other.[12] R. Nahman b. Isaac said: The One that recites MASHIRIN does not teach wrongly and the one that recites MASHHIRIN does not teach wrongly, and the one that recites MANSHIRIN does not teach wrongly. The one that recites MASHIRIN does not teach wrongly, for we have learnt: R. Ishmael says: A Nazirite may not shampoo his head with clay because it makes the hair fall out [mashir];[13] and the one that recites MASHHIRIN does not teach wrongly, for we have learnt: The hair-clip [shahor] and the barber's scissors are susceptible to defilement even though they [the two parts] are separated;[14] and the one that recites MANSHIRIN does not teach wrongly, for we have learnt: If one's clothes fell [nashru] in the water [on a Sabbath], he may walk in them without fear.[15] Alternatively, from the following teaching: What is leket?[16] That which was let fall [nashar] at the time of harvesting.[17] We have learnt: YOU MAY LET DOWN FRUIT THROUGH A TRAPDOOR ON A FESTIVAL? How much?[18] — Said R. Zera in the name of R. Assi — some say, R. Assi said in the name of R. Johanan: Like that which we have learnt: One may clear away [on Sabbath as much as] four or five bundles of straw or grain[19] on account of guests or to avoid disturbance of study.[20] But perhaps it is different there where study would [otherwise] be disturbed, but here where there is no disturbance of study it is not so![21] Or perhaps there [as many as] four or five bundles are allowed [to be cleared away] because the Sabbath is stringent and [people] will not come to treat it lightly, but on a Festival, which is less stringent and people might come to treat it lightly, he may not [move any at all]! Or [argue] in the reverse: There [only four or five are allowed] because no monetary loss is involved, but here where monetary loss is involved[22] even more is allowed!

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(1) V. supra 35a.

(2) The name given to an illiterate peasant who is under suspicion of not giving tithes from his produce. V. Glos.

(3) ‘Suspect produce’, i.e. produce regarding which it is not known whether the prescribed tithes have been duly set apart by the vendor before selling.

(4) The statement of Rabin in the name of R. Johanan above.

(5) For exchange is a purchase, and this Tanna holds that purchase establishes liability even when the commodity is not completely ready.

(6) For it is ready as far as he is concerned.

(7) For it is not ready for him, and R. Judah holds that purchase itself does not establish liability.

(8) Spread out on the roof for drying.

(9) This and all the following verbs have the significance of letting down.

(10) Deut. XXVIII, 40. Mashillin is from the same root (nashal).

(11) I.e., dropped, and mashhillin therefore has the same sense.

(12) Bek. 40a.

(13) Naz. 42a. V. also Num. VI, 5.

(14) Because each part can be used separately as an instrument for cutting. Kel. XIII, 1. Thus ‘shahor’ has the sense ‘to cause to fall’.

(15) That he may be suspected of having washed them on the Sabbath. Shab. 147a.

(16) Which belongs to the poor.

(17) Pe'ah. IV, 10.

(18) May he clear away that it should not be regarded as extra work?

(19) But no more.

(20) I.e., if one needs the space for guests or disciples. Shab. 126b. Lit., ‘the disturbance of the House of learning’.

(21) I.e., he may not take as many as four or five.

(22) The rain would spoil the fruit.

Talmud - Mas. Beitzah 36a

[Moreover] we have learnt there:[1] But [one may] not [clear away] the store-house; and Samuel said: What means ‘but [one may] not [clear away] the storehouse’? [It means,] But one may not clear away the entire store[2] lest he come to level out hollows.[3] Now what is the law here?[4] [Do I say that] it is forbidden there, on the Sabbath, because it is stringent, but on a Festival which is less stringent it is permitted; or perhaps [I can argue], if there where there is disturbance of study, you say that it is forbidden, here where there is no disturbance of study how much the more? [Furthermore] we have learnt here: ONE MAY LET DOWN FRUIT THROUGH A TRAP-DOOR ON A FESTIVAL; and R. Nahman said: They taught this only with respect to the same roof, but not from one roof to another. And it was likewise taught: One may not move [things] from one roof to another even when the roofs are level with each other.[5] Now how is it there [on the Sabbath]?[6] [Do I say that] here only it is forbidden, because a Festival is less stringent and [people] might come to treat it lightly, but on a Sabbath which is stringent and [people] will not come to treat it lightly, it is allowed; or perhaps [I can argue], if here, where loss of fruit is involved, you say that it is not [permitted] there, where no damage of fruit is involved, how much the more? [Again] it was taught here:[7] He may not let them [the bundles] down through windows with ropes, nor may he bring then, down by means of ladders. How is it there?[8] [Do I say that] only here, on a Festival it is forbidden, because no disturbance of study is involved, but [there] on the Sabbath, where there is a disturbance of study, it is allowed: or perhaps [I can argue], if here where damage of fruit is involved, you say that it is forbidden, there where no damage of fruit is involved, how much the more? The questions remain undecided.

AND ONE MAY COVER UP FRUIT. ‘Ulla said: Even a stack of loose bricks.[9] R. Isaac said: [Only] fruits which are useable [may be covered]. And R. Isaac follows his opinion [expressed elsewhere]; for R. Isaac said: A utensil may be handled [on Sabbath] only for the benefit of a thing which itself may be handled on the Sabbath.[10]

We have learnt: ONE MAY COVER UP FRUIT WITH VESSELS; only fruit but not a stack of loose bricks! — The same is true even of a stack of loose bricks; but because he teaches in the first part [of the Mishnah], ONE MAY LET DOWN FRUIT,[11] he teaches also in the concluding part, ONE MAY COVER UP FRUIT.

We have learnt: AND LIKEWISE JARS OF WINE AND JARS OF OIL![12] — We are dealing here with tebel.[13] This too is logical: for if you maintain [that we are dealing with] jars of wine and oil which are permitted, surely this he already teaches in the first clause, viz., FRUITS![14] — It is especially necessary to teach this with respect to jars of wine and oil; for I might have thought that the Rabbis took into consideration only a great loss,[15] but a small loss they did not take into consideration, so he informs us [that it is not so].

We have learnt: ON A SABBATH YOU MAY PLACE A VESSEL BENEATH THE DROPS OF RAIN![16] — [It deals here] with respect to rain fit for use.[17] Come and hear: One may spread a mat over bricks on a Sabbath![18] — [It treats of bricks] that were left over from a building and which are fit to sit on.

Come and hear: You may spread a mat over stones on a Sabbath![19] — [It treats] of smoothly pointed stones which are fit for a privy.

Come and hear: One may spread a mat over a beehive on a Sabbath,[20] in sunny weather on account of the sun and in rainy weather on account of the rain, provided that he does not intend to capture [the bees]! — There likewise [it treats of a case] where it contains honey.[21] R. Ukba of Meshan[22] said to R. Ashi: This is well in summer when there is honey [in the hive], but in winter how is it to be explained? — It is especially necessary to teach this with respect to the two honeycombs.[23] But these two honeycombs are mukzeh![24] — We deal here with a case where he reserved them [for his use]. But what if he did not reserve them for his use? [It is] forbidden! Then instead of teaching, 'provided that he does not intend to capture [the bees]', he should teach a distinction with respect to [the first case] itself,[25] [viz.], This applies only when he has reserved them for his use, but if he did not reserve them for his use it is forbidden? — This is what he means to say; even though he has reserved then, [for his use he may cover them with a mat] provided always that he does not intend to capture [the bees]. How have you explained it:[26] according to R. Judah who holds the law of mukzeh?[27] But say the concluding part: provided that he does not intend to capture [the bees]: this is in accordance with R. Simeon, who says, An unintentional act is permitted![28] — Do you then think [the concluding clause] is according to R. Simeon? Surely Abaye and Raba both said: R. Simeon agrees [that it is forbidden] in the case of 'Cut off his head but let him not die'.[29] — In point of fact, the whole [Mishnah there] is according to R. Judah, and we are dealing here with a case where it [the beehive] has a little window;[30] and do not say, ac cording to R. Judah provided that he does not intend to capture [the bees]

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(1) Shab. 126b.

(2) I.e. if the store contained only four or five bundles he may not remove them all and thus clear the Boor.

(3) Found in the floor of the barn.

(4) May one clear away the entire barn on a Festival?

(5) When no extra labour in lifting is incurred.

(6) For the sake of guests or the study of the Law?

(7) With respect to clearing bundles on a Festival.

(8) On the Sabbath, may one remove for the sake of guests or the study of the Law?

(9) May be covered up, even though the bricks themselves may not be moved.

(10) Since the bricks may not be handled, nothing else (e.g., a tarpaulin) may be handled to cover them.

(11) I.e. only that which is fit for use on the Sabbath or Festival and hence may be handled.

(12) Implying, but not bricks.

(13) Which, like the bricks, are not useable on a Festival and therefore may not be moved, yet they may be covered. Hence bricks are the same.

(14) For obviously they are alike.

(15) The rain can cause greater damage to fruit than to the jars of wine or oil.

(16) The rain-drops are likewise not useable, and therefore may not be handled, and yet a vessel may be handled for receiving them.

(17) I.e., ordinary rainwater which can be used for watering cattle.

(18) To protect them from rain, although the bricks are for building purposes and may not be moved; cf. Shab. 43a.

(19) Shab. 43a, — it is assumed that these too are not fit for use and therefore may not be handled.

(20) To protect it from the rain, although the beehive itself may not be moved.

(21) And the mat is to protect the honey, which may be handled.

(22) Mesene, a district south-east of Babylon, on the path of the trade route to the Persian Gulf. V. Obermeyer, p. 89ff; B.K., Sonc. ed. p. 566, n. 5.

(23) Which are left behind as food for the bees, v. B.B. 80a.

(24) For they are reserved for the bees, and may not be moved.
(25) When he covered it solely to protect it from the rain.
(26) This law about covering a beehive?
(27) For otherwise you could have answered that it agrees with R. Simeon, who rejects the law of mukzeh.
(28) Provided that the act he is doing is permitted, he is not made to refrain because he may unintentionally also do something forbidden. V. Shab. 50b. Whereas R. Judah is of the opinion that all unintentional act is prohibited.
(29) This is an idiom describing the inevitable result of an unintentional act; i.e., where an unintentional act must inevitably result in a forbidden act, R. Simeon agrees that it is forbidden. Here too, he inevitably captures the bees, so that even R. Simeon should forbid it. V. Keth., Sonc. ed. p. 20, n. 8.
(30) Through which the bees can escape.

Talmud - Mas. Beitzah 36b

but say rather, provided that he does not make it [the beehive] a trap.[1] [But] this is obvious! — You might say [that] catching is forbidden only in respect of a kind of creature which one usually catches, but with respect to the sort which one does not usually catch,[2] it is permitted; so he informs us [that it is not so]. R. Ashi says:[3] Does he then teach 'in summer and in winter'? He teaches 'in sunny weather on account of the sun and in rainy weather on account of the rain', [i.e.,] in the days of Nisan and in the days of Tishri[4] when there is both sun and rain as well as honey present.

ON SABBATH ONE MAY PLACE A VESSEL BENEATH THE DROPS OF RAIN. It was taught: If the vessel became full, he may keep on pouring it out as it fills and put it back again without restraint. In the mill-room of Abaye rain trickled through.[5] He came before Rabbah who said to him: Go, bring in your bed there, so that it [the mill] may be regarded by you like a commode[6] and [so] take it out. Abaye sat and put himself the question: May then one make of anything a commode at the outset?[7] In the meantime Abaye's mill fell to pieces. He said: I well deserve it, for I have transgressed the words of my Master.[8] Samuel said. The commode and the chamber-pot may be taken out to the dung-heap [for emptying], and when he brings them back, he is to pour water therein and [then] take them back.[9] From this they [the disciples] concluded that one may carry out [the contents of] the commode by means of the vessel but not the ordure itself;[10] [but] come and hear [to the contrary]: Once a mouse was found in a scent-box belonging to R. Ashi. R. Ashi said to them: Take it by the tail and bring it out.[11]

MISHNAH. EVERY [ACT] THAT IS CULPABLE[12] ON A SABBATH AS A SHEBUTH,[13] [OR] AN OPTIONAL ACT [RESHUTH], [OR] A RELIGIOUS ACT,[14] IS ALSO CULPABLE ON A FESTIVAL. THE FOLLOWING ACTS ARE CULPABLE AS A SHEBUTH: ONE MAY NOT CLIMB A TREE, NOR RIDE A BEAST, NOR SWIM IN WATER, NOR CLAP THE HANDS, NOR SLAP [THE THIGHS], NOR DANCE. THE FOLLOWING ARE CULPABLE AS OPTIONAL SECULAR ACTS: ONE MAY NOT JUDGE,[15] NOR BETROTH A WIFE, NOR PERFORM HALIZAH,[16] NOR PERFORM YIBBUM [CONSUMATE A LEVIRATE MARRIAGE].[17] THE FOLLOWING ARE CULPABLE AS RELIGIOUS ACTS: ONE MAY NOT DEDICATE [ANYTHING TO THE TEMPLE], NOR VOW A PERSONAL VALUATION,[18] NOR MAKE A VOW OF HEREM,[19] NOR SET ASIDE TERUMAH OR TITHES. ALL THESE THINGS THEY [THE RABBIS] PRESCRIBED [AS CULPABLE] ON A FESTIVAL, HOW MUCH MORE [ARE THEY CULPABLE] ON SABBATH. THE FESTIVAl, DIFFERS FROM THE SABBATH ONLY IN RESPECT OF THE PREPARATION OF FOOD ALONE.

GEMARA. ONE MAY NOT CLIMB A TREE; it is a preventive measure lest he pluck [fruit]. NOR RIDE A BEAST; it is a Preventive measure lest he might go without the tehum.[20] Then this proves that the law of tehum is Biblical?[21] — Rather say, it is a preventive measure lest he cut off a switch.[22]

NOR SWIM IN WATER; it is a preventive measure lest he might make a swimming bladder.

NOR CLAP THE HANDS, NOR SLAP THE THIGHS, NOR DANCE; it is a preventive measure lest he might repair musical instruments.

THE FOLLOWING ARE CULPABLE AS OPTIONAL SECULAR ACTS: ONE MAY NOT JUDGE: But is he not discharging a religious act?[23] — This holds good only where a more capable person is available.[24]

NOR BETROTH A WIFE. Is he not discharging a religious obligation?[25] — It treats of one

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(1) By closing also the small aperture.

(2) Bees, as a rule, are not caught with a net.

(3) The text treats of a case,. as previously explained, when there is honey in the hive; and as for the question, In winter there is no honey!

(4) Nisan is the first and Tishri the seventh month of the Jewish Calendar, corresponding to the months of March and September respectively.

(5) The placing of vessels to catch the dripping rain would itself be insufficient to save the mill from damage, unless it were itself removed.

(6) The mill was of clay and the rain would make it dirty and foul.

(7) V. supra 21b.

(8) By questioning his advice.

(9) Since the vessel itself is considered mukzeh on account of its filthiness and may not be carried about.

(10) I.e., to take out the ordure by itself or anything filthy and obnoxious is forbidden.

(11) Showing that it is the unclean thing itself that can be removed.

(12) According to Rabbinical enactment.

(13) V. Glos. The term is generally applied to an action which while not belonging to the category of forbidden labours (V. Shab. 73a) or their derivatives, was nevertheless forbidden either because it might lead to one of these or because it did not harmonize with the general spirit of the Sabbath.

(14) I.e., actions which are normally secular and optional or even in the nature of religious observances, but which are nevertheless forbidden on the Sabbath.

(15) In a lawsuit.

(16) V. Deut. XXV, 9, and Glos. s.v.

(17) The marriage with the wife of a deceased brother. V. Deut. XXV, 5-7.

(18) V. Lev. XXVII, 1-8.

(19) I.e., devote anything to the Lord; V. Lev. XXVII, 28.

(20) V. Glos.

(21) For it is a general rule that a preventive measure is enacted to safeguard a Biblical law only, but not a Rabbinical one. But actually there is a controversy whether the law of tehum is Biblical or only Rabbinical, v. ‘Er. 35.

(22) To use as a whip. Cutting off anything that is growing is certainly prohibited by Biblical law.

(23) To judge is a meritorious deed — hence it should be included in the third category.

(24) So that as far as this person is concerned it is an optional act, though judging in general ranks as a religious obligation.

(25) V. Gen. I, 28.

Talmud - Mas. Beitzah 37a

who [already] has a wife and children.[1]

NOR PERFORM HALIZAH, NOR PERFORM YIBBUM. Is he not performing a religious act? — It treats of a case where there is an elder [brother] and it is a [prior] obligation for the elder [brother] to consummate a levirate marriage. And on account of what are all these [forbidden]? — It is a preventive measure lest he write.[2]

THE FOLLOWING ARE CULPABLE AS RELIGIOUS ACTS: ONE MAY NOT DEDICATE, NOR VOW A PERSONAL VALUATION, NOR MAKE A VOW OF HEREM; [they are forbidden] as preventive measures lest one transact business.[3]

NOR SET ASIDE TERUMAH OR TITHES. This is obvious![4] R. Joseph taught: It is necessary [to teach this] even in the case of giving them to the priest on the same day [of the Festival].[5] This, however, applies only to produce which was tebel[6] since the day before; but with respect to produce which is only just now become tebel, as for example to set aside hallah from dough, he may set them [tithes] aside and give them to the priest. Are then these acts[7] culpable only as reshuth and not as shebuth?[8] And are those acts[9] culpable only as religious acts and not as shebuth? Said R. Isaac: He proceeds to a climax;[10] not only is an act which is purely a shebuth[11] forbidden, but even a shebuth which partakes of an optional [meritorious] act[12] is also forbidden; and not only is a shebuth partaking of an optional [meritorious] act forbidden, but even a shebuth partaking of a religious obligation[13] is also forbidden.

ALL THESE THINGS THEY FORBADE ON A FESTIVAL [etc.]. But the following contradicts this. One may let down fruit through a trap-door on a Festival but not on a Sabbath![14] — Said R. Joseph: There is no contradiction: the one[15] is according to R. Eliezer, the other is according to R. Joshua. For it was taught: If it [an animal] and its young fell into a pit,[16] R. Eliezer says: He may bring up one of them in order to slaughter it and must slaughter it; and as for the other, he feeds it in the very place [it fell], so that it should not die. R. Joshua says: He brings up one in order to slaughter it but does not slaughter it, and he uses sub tlety[17] and again brings up the second [animal]; and he may slaughter whichever he desires.[18] Abaye said to him: Whence [do you know that it is so]? Perhaps R. Eliezer said so only there where one can feed the animal,[19] but not here where no feeding is possible.[20] Or [perhaps] R. Joshua ruled thus only there, where one can make use of subtlety, but not here where it is not possible to make use of subtlety?[21] — Rather said R. Papa: There is no contradiction: the one[22] is according to Beth Shammai, the other is according to Beth Hillel. For we have learnt: Beth Shammai say: One may not carry out an infant or a lulab or a Scroll of the Law into public ground; but Beth Hillel permit it.[23] But perhaps it is not so! [Perhaps] Beth Shammai ruled thus only there, with respect to carrying out, but not with respect to handling?[24] — Is not handling needed for carrying out?[25]

MISHNAH. CATTLE AND UTENSILS ARE [RESTRICTED TO THE SAME LIMITS] AS THE FEET OF THE OWNERS.[26] IF ONE GIVES HIS COW OVER TO HIS SON OR TO A HERDSMAN [TO TEND], THEY[27] ARE [RESTRICTED TO THE SAME LIMITS] AS THE FEET OR THE OWNER. [ANY] UTENSILS WHICH HAVE BEEN SET APART FOR [THE USE OR] ONE OF THE BRETHREN IN A HOUSE, ARE [RESTRICTED TO THE SAME LIMITS] AS HIS FEET; BUT [THOSE UTENSILS] WHICH HAVE NOT BEEN SO SET APART, CAN BE TAKEN [ONLY] WHERE [ALL THE BRETHREN] MAY GO.[28] IF ONE BORROWS A VESSEL FROM HIS NEIGHBOUR ON THE EVE OF A FESTIVAL, [IT IS RESTRICTED TO THE SAME LIMITS] AS THE FEET OF THE BORROWER; [BUT IF HE BORROWED IT] ON THE FESTIVAL, IT IS AS THE FEET OR THE LENDER. LIKEWISE A WOMAN THAT BORROWED FROM HER NEIGHBOUR CONDIMENTS, WATER OR SALT FOR HER DOUGH, THESE ARE [RESTRICTED TO THE SAME LIMITS] AS THE FEET OF THEM BOTH.[29] R. JUDAH EXEMPTS IN THE CASE OF WATER,[30] BECAUSE IT IS NOT SUBSTANTIAL.[31]

GEMARA. Our Mishnah

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(1) V. Mishnah. Yeb. 61b.

(2) The betrothal or marriage contracts.

(3) Since these partake somewhat of that nature.

(4) [It is not quite obvious, and Rashi seems to omit the question as well as ‘It is necessary’ in the reply, reading, ‘R. Joseph taught: Even in the case etc.’. V. D.S. a.l.]

(5) Although it is not then evident that the setting aside of the tithes was for his own benefit; rather has it the appearance that he is doing it in the interest of the priest.

(6) V. Glos.

(7) Not judging, etc.

(8) Surely they too are forbidden on account of shebuth for the reason stated supra.

(9) Not dedicating, etc.

(10) Lit., “He says it is unnecessary" etc.’.

(11) Which have no semblance of religious merit in them, such as climbing a tree, etc.

(12) Such as are enumerated in the middle list.

(13) Such as are enumerated in the last list.

(14) Whereas from the end of our Mishnah it is to be inferred that no difference exists between Sabbaths and Festivals except in the preparation of food alone.

(15) Our Mishnah which teaches that every action forbidden on a Sabbath on account of shebuth is also forbidden on a Festival, implying even though it entails a monetary loss.

(16) On a Festival, when one may bring up the animals for slaughtering only. On the other hand, it is forbidden to slaughter an animal together with its young on the same day. Lev. XXII, 28.

(17) By preferring the other animal for slaughter.

(18) V. Shab. 117b, 124a.

(19) So that no monetary loss is incurred.

(20) Perhaps in such a case even R. Eliezer would permit it on a Festival, and yet not on the Sabbath.

(21) I.e., where it is impossible to give the pretence that the proposed action is entirely permissible in itself, even R. Joshua may forbid it.

(22) Our Mishnah.

(23) V. supra 12a. [It is assumed that just as Beth Shammai forbid carrying into the public ground anything not connected with preparation of food, so they would forbid the handling of such things even when money loss is involved].

(24) I.e., moving it from one part of the house to another.

(25) Before an article can be carried out it must be moved and handled, and it was only on that account that handling is forbidden (Rashi). Hence where carrying out is forbidden, handling and moving are likewise.

(26) They may be taken on a Festival only where the owner may go. [On Sabbath and Festivals it is permitted to walk within two thousand cubits in all directions from the boundaries of the town where one lives. Should one wish to walk beyond that limit, he can do so by depositing an ‘erub at the end of the two thousand cubits in the direction he wishes to go, from which point he may again walk another two thousand cubits. Having however gained the two thousand cubit limit in one direction, he forfeits his right of movement in the opposite direction outside the town boundary].

(27) Such animals — the plural is used generically.

(28) I.e., if each brother has a different Sabbath limit, their common utensils are restricted to the area common to them all.

(29) The dough may only be brought to that place where both may go.

(30) I.e., the ownership of the water does not affect the dough.

(31) I.e., it is not noticeable as a separate ingredient and therefore does not affect the status of the dough.

Talmud - Mas. Beitzah 37b

is not as R. Dosa, for it was taught: R. Dosa says — some say, Abba Saul says: If one buys a beast from his neighbour on the eve of the Festival, even though he did not deliver it to him until the Festival, it is [restricted to the same limits] as the feet of the purchaser; and if one handed over a beast to a herdsman, even though he did not deliver it to him until the Festival, it is [restricted to the same limits] as the feet of the herdsman! — You can even say, it is as R. Dosa, and there is no contradiction: Here it treats of one herdsman and there of two herdsmen.[1] This call also be proved; for it teaches TO HIS SON ON TO A HERDSMAN;[2] infer from this [that it is so]. Rabbah b. Bar Hana said in the name of R. Johanan: The halachah is as R. Dosa. Did then R. Johanan say thus? But surely R. Johanan has said: The halachah is as an anonymous Mishnah, and we have learnt: CATTLE AND UTENSILS ARE AS THE FEET OF THE OWNERS [etc.]! — Have we not already explained, here it treats of one herdsman and there of two herdsmen! Our Rabbis taught: If two people borrowed one garment jointly,[3] one to wear it[4] in the morning at the Academy and the other to wear it in the evening[5] at a banquet, the one setting an ‘erub on the north [side of the town] and the other on the south [side], [then] the one who set the ‘erub on the north [side] may walk in it to the north [side] only as far as the other who set his ‘erub on the south [side] is allowed to go; and the one who set the ‘erub on the south may wear it to the south only as far as the other who set the ‘erub on the north may go; and if they measured the Sabbath limit exactly,[6] then it [the garment] may not be moved from its place.[7] It was stated: If two [men] bought a barrel and an animal[8] in partnership, Rab says: The barrel is permitted[9] but the animal is forbidden;[10] Samuel, however, says: The barrel too is forbidden. What is Rab's opinion? If he holds that selection is retrospective,[11] then the animal too should be permitted; and if he holds that selection is not retrospective, then the barrel too should be forbidden! In reality he holds that selection is retrospective, but the case of an animal is different, because the territories draw their vitality from one another.[12] R. Kahana and R. Assi said to Rab: They [the partners] do not take into account the prohibition of mukzeh, but they do take into account the prohibition of boundary limits![13] Rab was silent. How does the law stand? R. Oshaia says, Selection is retrospective, and R. Johanan maintains: Selection is not retrospective. Does then R. Oshaia hold the law of bererah? But surely we have learnt:[14] If a corpse [lay] in a room which has many doors they are all unclean; if one of these [doors] was opened, it alone is unclean and all the others are clean. If he formed the intention to take it [the corpse] out through one of them, or through a window which [measures] four handbreadths square, this gives protection to all the other doors. Beth Shammai Say: Providing that he had formed his intention to take it out before the person died; but Beth Hillel Say: [It holds good] even [if his intention was formed] after the person died. And it was stated thereon: R. Oshaia said: [The statement of Beth Hillel is] with respect to the cleansing of the doors from now and onwards. Only ‘from now and onwards’ but not retrospectively! — Reverse [the authorities]; R. Oshaia Says, selection is not retrospective and R. Johanan maintains: Selection is retrospective. Does then R. Johanan hold that selection is retrospective? Surely R. Assi said in the name of R. Johanan: Brothers who have divided [an inheritance] are considered as purchasers[15] and must restore [their shares] to one another in the year of Jubilee![16] And if you answer that R. Johanan does not hold that Selection is retrospective in the case of a Biblical [law][17] but with respect to a Rabbinical [law][18] he does hold, [I would object] does he then hold in the case of a Rabbinical [law], but Ayyo taught:[19] R. Judah says: A man cannot conditionally reserve for himself two contingencies simultaneously; but if a scholar comes to the East, his ‘erub to the East is valid: if to the West, his ‘erub to the West is valid.[20] However, he cannot [stipulate] when there are two scholars coming on different sides.

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(1) If there are in the town several herdsmen, the owner cannot know which will take over the beast and therefore it is restricted to the feet of the owner. But if there is only one, it is tacitly assumed that it will be entrusted to him, and therefore it automatically takes his status.

(2) Since the Mishnah states an alternative, we see that the circumstances are such that he is not restricted to one person only, and that is the same as where there are several herdsmen in the town.

(3) Before the Festival.

(4) Lit., ‘to go out in it’.

(5) Of the Festival.

(6) I.e., if each set his ‘erub at the extreme limit of his boundary.

(7) It may not be taken without the town at all (cf. supra p. 188, n. 10).

(8) On the eve of the Festival to be divided on the Festival.

(9) To be carried by each according to his territory limit.

(10) To be carried save in the area where they may both go.

(11) I.e., what each was to receive on the Festival is assumed as having been determined before the Festival.

(12) I.e., the animal is one indivisible whole before it is killed, and the portion which subsequently falls to one could not at the beginning of the Festival be accounted as cut off from the other.

(13) Rashi: We can see that each partner did not put the portion of his other partner so much out of his mind that his own should be forbidden because it drew vitality from his partner's, (for if he had put it out of mind, his partner's portion would be forbidden to him as mukzeh, and his own too, on the present hypothesis, since it draws vitality from the other). Why then should we assume that he does take his partner's portion into account in respect of boundaries? Tosaf. explains this differently.

(14) V. supra 10a, for notes.

(15) I.e., the portion chosen by each brother for himself cannot be considered as having thus retrospectively become the very inheritance designated for him, v. B.K., Sonc. ed. p. 399 and notes.

(16) Because there is no fictitious understanding that the father had given that part to one brother and the other part to the other. Purchased property returns in the year of Jubilee to the former owners. V. Lev. XXV, 8ff. V. B.K. 69b, Git. 25a and 48a.

(17) As for example the law of Jubilee.

(18) As for example the law of tehum.

(19) In ‘Err. 36b a Mishnah teaches that if two scholars were coming near to him, one to the East and one to the West, he may place two ‘erubs and on the Sabbath choose to which of these two he should go. R. Judah, according to Ayyo, disputes this.

(20) I.e., if only one scholar was coming and it was not definite whether he would be coming to the East or to the West.

Talmud - Mas. Beitzah 38a

And we raised the question: Why is it that he cannot [stipulate] when there are two scholars coming on different sides? Because we do not hold that selection is retrospective; then even [if a scholar came] to the East or to the West we should likewise not maintain that selection is retrospective! And R. Johanan answered: It treats of a case where the scholar had already come.[1] Consequently [we see that] R. Johanan does not hold that selection is retrospective! But in reality do not reverse [the authorities]; but R. Oshaia does not hold that selection is retrospective [only] in respect of a Biblical [law], but in respect to a Rabbinical [law] he does hold it. Mar Zutra lectured: The halachah is as R. Oshaia. Samuel said: The ox of a cattle breeder is as the feet of all;[2] the ox of a herdsman is as the feet [of the people] of that town.[3]

IF ONE BORROWS A VESSEL FROM HIS NEIGHBOUR ON THE EVE OF THE FESTIVAL [etc.]. This is obvious! — This is necessary respecting the case when it was not delivered to him until the Festival; you might think that he [the owner] did not place it in his [the borrower's] possession, so he informs us [that it is not so]. This supports R. Johanan; for R. Johanan said: If one borrows a vessel from his neighbour on the eve of a Festival, even though he did not hand it over to him until the Festival, it is as the feet of the borrower.

BUT ON THE FESTIVAL IT IS AS THE FEET OF THE LENDER. This is obvious! — This is necessary respecting the case when he is wont to borrow frequently from him; you might think that he [tacitly] puts it into his [the borrower's] possession, so he informs us [that it is not so]; for he [the owner] might say,[4] he will probably find another person and go and borrow from him.

LIKEWISE A WOMAN THAT BORROWED FROM HER NEIGHBOUR: When R. Abba went up [to Palestine], he said: May it be the will [of God] that I may say something which is acceptable. When he came up [to Palestine] he met R. Johanan and R. Hanina b. Pappi and R. Zera — some say, R. Abbahu and R. Simeon b. Pazzi and R. Isaac the Smith; and they were sitting and saying: Why so? Let the water and the salt be nullified in relation to the dough![5] — R. Abba said to them:

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(1) So that the selection had already been made for him before Sabbath, though he was not aware where.

(2) Since it may be bought by any man, it may go wherever the purchaser goes.

(3) A cattle breeder sells to people of all districts, whereas a herdsman, though he does not generally sell, does so occasionally to people in the immediate vicinity.

(4) Since he had not asked him.

(5) Hence the dough would be permitted to be carried without reference to the ownership of the water and the salt!

Talmud - Mas. Beitzah 38b

If one kab of wheat of one person got mixed up with ten kabs of wheat of another, should the latter eat and be happy?[1] They laughed at him. Said he to them: Have I taken away your coats [that you laugh at me]?[2] They again laughed at him. Said R. Oshaia: They were right in laughing at him. Why did he not say to them [as an example] of a case of wheat that got mixed up with barley? Because they are of different kinds, and in a mixture of different kinds the rule of neutralization takes effect; then the same is true of wheat that got mixed up with wheat: granted that according to R. Judah it does not become neutralized, but according to the Rabbis it indeed becomes neutralized.[3] R. Safra said to him:[4] By Moses![5] Is it well what you say?[6] Did they not hear what R. Hiyya of Ktesifon[7] said in the name of Rab: If one picks out pebbles from his neighbour's threshing floor he must pay him the value of wheat.[8] Consequently [it is because] he lessened the measure [of his wheat];[9] likewise in this case he has lessened the quantity.[10] Said Abaye to him: Does not the Master make a distinction between money which is being claimed and money which is not being claimed?[11] — He replied to him: And according to your opinion, that which R. Hisda said: Nebelah[12] is neutralized in ritually slaughtered meat,[13] because the slaughtered cannot assume the character of nebelah,[14] but ritually slaughtered meat is not neutralized in nebelah, because nebelah can assume the character of ritually slaughtered meat.[15] Would you likewise [assume that], if it[16] has an owner, it does not become neutralized? And if you say it is even so, surely it was taught: R. Johanan b. Nuri said: Ownerless articles acquire their [Sabbath] rest;[17] although they had no owner, it is the same as if they had an owner![18] — He replied to him: [Still][19] can you compare the case of a ritual prohibition with a monetary case! In the case of a ritual prohibition, it [the less] is neutralized [in the majority]; but with respect to a monetary case, it is not neutralized [in the majority]. What is now the reason?[20] Abaye says: It is a preventive measure lest the dough be made in partnership.[21] Raba says: Condiments are used for seasoning and whatever is used for seasoning does not become neutralized.[22]

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(1) Obviously not! Similarly, the salt and water do not lose their identity in spite of the greater value of the flour.

(2) Surely I have said or done nothing absurd.

(3) Cf. Men. 22a. Hence the very basis of his answer was incorrect.

(4) To R. Oshaia (Rashi), cf. however infra p. 194, n. 1.

(5) So Rashi. Or, Moses, well hast thou spoken, ‘Moses’ being a title of honour, as one might say, ‘O great scholar’.

(6) [Aliter ‘It is well what you say’; R. Safra addressing R. Abba.]

(7) On the eastern bank of the Tigris.

(8) Corresponding to the measure of the stones picked out, since these stones are measured up with the wheat for sale.

(9) By taking out the pebbles.

(10) Through the water the quantity of the dough is enlarged and without the water the measure of the dough would be less. Hence if the pebbles, which have no intrinsic value, can nevertheless not be disregarded, surely we cannot disregard the water and the salt.

(11) The pebbles cannot be disregarded and retain their separate identity because their owner claims their value, since a loss has been inflicted upon him. In the Mishnah no such claim is made on the Festival, therefore owing to their lesser value the salt and the water may well be disregarded.

(12) V. Glos.

(13) If of three pieces of flesh, two are from a ritually slaughtered animal and one from a nebelah, then that which is touched by one of these three is not unclean, for we assume that contact has taken place with one of the pieces of the ritually slaughtered animal.

(14) Hence there are two different kinds and the rule of majority prevails.

(15) If the nebelah flesh putrefies, it loses the characteristic of nebelah flesh and does not defile.

(16) The nebelah.

(17) He who finds them may carry them two thousand cubits in every direction but not to the place for which he has set an ‘erub, for that would be beyond two thousand cubits.

(18) This proves that the absence of an owner to claim a thing does not destroy the status of an object in regard to its movements on Sabbaths and Festivals.

(19) Even granted that no distinction is made between objects that have an owner and such as have none, the difficulty presented by our Mishnah still remains.

(20) For the teaching of our Mishnah that condiments, water, and salt do not become neutralized, seeing that here too we are concerned merely with a matter of ritual prohibition — moving beyond the tehum.

(21) And each carry it to his own limit, which is certainly forbidden.

(22) By its very nature.

Talmud - Mas. Beitzah 39a

And R. Ashi says: Because it is an object which can become [otherwise] permitted;[1] and any object which can become [otherwise] permitted is not neutralized even in two thousand [times its quantity].[2]

R. JUDAH EXEMPTS IN THE CASE OF WATER. Only water and not the salt? But surely it was taught: R. Judah says: Water and salt become neutralized both in dough as well as in cooked food![3] — There is no difficulty; the one treats of salt of Sodom[4] and the other of salt of Istria.[5] But it was taught: R. Judah says: Water and salt become neutralized in dough but do not become neutralized in cooked food, because of its fluidity![6] — There is no difficulty; the one treats of a thick mass, the other of clear soup.

MISHNAH. A LIVE COAL IS [RESTRICTED TO THE SAME LIMITS] AS ITS OWNER, BUT A FLAME[7] CAN BE TAKEN ANYWHERE.[8] ONE INCURS A TRESPASS-OFFERING IN RESPECT OF A LIVE COAL OF HEKDESH;[9] BUT AS FOR A FLAME [OF HEKDESH], ONE MAY NEITHER BENEFIT FROM IT, NOR INCUR A TRESPASS-OFFERING.[10] IF ONE CARRIES OUT A LIVE COAL INTO PUBLIC GROUND [ON A SABBATH] HE IS CULPABLE, BUT [IF HE DOES THE SAME] WITH A FLAME HE IS EXEMPT.

GEMARA. Our Rabbis taught: Five things were said in respect to a live coal: A live coal is [restricted to the same limits] as its owner, but a flame can be taken anywhere; one incurs a trespass-offering in respect to a live coal of hekdesh, but with respect to a flame, one may not benefit from it, nor incur a trespass-offering. A live coal used in idolatrous service is forbidden but a flame is permitted; if one carries out a live coal into public ground [on a Sabbath] he is culpable, but [if he does the same] with a flame he is exempt; he who is under a vow not to benefit from his neighbour, may not make use of his coal but may make use of his flame. Now why is the flame used in idolatrous service permitted and that of hekdesh forbidden? — Idolatrous service is repugnant and people hold themselves very aloof from it, therefore the Rabbis have taken no measures against it; but as hekdesh is not repugnant and people do not hold themselves aloof from it, the Rabbis enacted a preventive measure on its account.[11]

IF ONE CARRIES OUT A LIVE COAL INTO PUBLIC GROUND [ON A SABBATH] HE is CULPABLE, BUT [IF HE DOES THE SAME] WITH A FLAME HE IS EXEMPT. But it was taught:[12] He who takes out a flame of whatever size is culpable! — Answered R. Shesheth: This treats of a case when he brings it [the flame] out on a chip. Then he should be liable on account of the chip! — When it is less than the standard required; for we have learnt: He who carries out wood [is culpable only] if it is sufficient to cook therewith a small egg.[13] Abaye says: When he smears a vessel with oil and kindles it. Then he should be liable on account of the vessel! — [We are treating] of a potsherd. Then he should be liable on account of the potsherd! — When it is less than the standard required; for we have learnt: [He is culpable that takes out] a potsherd big enough to place between one board and another;[14] this is the opinion of R. Judah.[15] But that which we have learnt: 'If one carries out a flame [on a Sabbath] he is exempt', how can it occur?[16] — If, for example, he brandishes the object [that is burning so that the flame projected] into public ground.[17]

MISHNAH. [THE WATER FROM] A PRIVATE WELL IS [RESTRICTED TO THE SAME LIMITS] AS ITS OWNER;[18] AND [THE WATER FROM A WELL] BELONGING TO THE INHABITANTS OF THAT TOWN IS [RESTRICTED TO THE SAME LIMITS] AS THE PEOPLE OF THAT TOWN; AND [THE WATER FROM A WELL] BELONGING TO THOSE WHO RETURNED FROM BABYLON[19] IS [RESTRICTED TO THE SAME LIMITS] AS THE ONE THAT DRAWS.

GEMARA. Raba pointed out a contradiction to R. Nahman: We have learnt: [The water from] a private well is [restricted to the same limits] as its owner; but the following contradicts this: Flowing streams and bubbling springs [have the same restrictions] as anyone![20] — Answered Rabbah: Our Mishnah treats of collected [water].[21] It was likewise stated: R. Hiyya b. Abin said in the name of Samuel: [It treats] of collected [water].

AND [THE WATER FROM A WELL] BELONGING TO THOSE WHO RETURNED FROM BABYLON IS AS THE ONE THAT DRAWS. It was stated: If one draws [water] and gives it to his neighbour, R. Nahman says: [It is restricted to the same limits] as the one for whom it was drawn; [but] R. Shesheth maintains: As the one who drew. In what are they disputing? — One is of the opinion that the well is ownerless,[22] while the other is of the opinion that the well is held jointly.[23]

Raba raised the [following] objection to R. Nahman: If one says to his neighbour, Behold, I am herem to you,[24] he against whom the vow is made is forbidden;[25]

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(1) After the Festival it can be taken anywhere.

(2) This is a general rule; cf. supra 3b.

(3) [Var. lec., 'R. Judah exempts in the case of water and salt'.]

(4) The salt of Sodom was thick and hard. V. Krauss op. cit. I, 499ff. Hence it is not neutralized as its presence is always discernable.

(5) A town in Pontus.

(6) Whereas R. Judah's exemption in our Mishnah in the case of water applies also to cooked food with which the condiments mentioned are used.

(7) I.e., if one for example lights a taper at another's flame.

(8) Within the restricted areas belonging to those who carry it.

(9) I.e., belonging to the Sanctuary. V. Lev. V, 14ff.

(10) If one does benefit from it.

(11) If people are permitted to use that, they will also put other articles of hekdesh to secular use, which is forbidden.

(12) V. Ber. 53a.

(13) I.e., the egg of a hen. Shab. 89b.

(14) To keep boards rigid and to avoid warping (Rashi).

(15) Shab. 82a.

(16) For a flame must be carried in something else.

(17) Lit., he throws', while retaining the thing to which the flame clings.

(18) Like the individual.

(19) The wells that were dug for the use of the exiles who returned from Babylon and hence were regarded as the property of the whole nation.

(20) I.e., one may take them wherever he himself may go.

(21) I.e., a cistern.

(22) The water accordingly belongs to the one that draws, on the principle that a man cannot act as agent to acquire ownerless property on behalf of another person; v. infra p. 199, n. 9.

(23) I.e., it belongs to the whole nation, which includes him for whom the water was drawn, and the drawer of the water merely acts as his agent.

(24) I.e., I am to you as a thing that is banned.

(25) To benefit from the vower.

Talmud - Mas. Beitzah 39b

[if he said,] Behold, thou art herem, to thee, the vower is forbidden;[1] [if he said,] Behold, I am [herem] to thee, and thou to me, both are forbidden to benefit from one another; but [to both] is permitted the use of things that belong to them that came up from Babylon, but the use of things that belong to the citizens of that town is forbidden to both.[2] And the following are the things which belong to them that came up from Babylon: The Temple Mount, the [Temple] Chambers, the [Temple] Courts, and a well in the middle of the road.[3] The following belong to [the citizens of] that town: The market-square, the Synagogue, and the bath-house.[4] Now if you say that a well is held jointly, then why is it permitted? Surely we have learnt: Partners who vowed not to derive benefit from one another may not enter their [common] court-yard to bathe in the well![5] — To bathe in it is indeed [not allowed], but we are treating here of drawing [water]; the one draws of his own and the other draws of his own.[6] Does then R. Nahman hold the rule of bererah, but we have learnt: Brothers who are [also] partners,[7] when they are liable to surcharge[8] they are exempt from cattle-tithe, and when they are liable to cattle-tithe[9] they are exempt from the surcharge.[10] And in this connection R. ‘Anan said: This[11] was taught only in the case when they divided goats for lambs and lambs for goats;[12] but if they divided goats for goats and lambs for lambs,[13] we say, each receives his share which was designated for him at the very beginning.[14] While R. Nahman said: Even if they divided goats for goats and lambs for lambs, we do not say each receives his share which was designated for him at the very beginning![15] — Rather, all agree that the well is ownerless, but they dispute here with respect to the case of one who picks up a lost article on behalf of his neighbour; one is of the opinion that he [the neighbour] acquires title [to it], and the other is of the opinion that he does not acquire [it].[16] MISHNAH. IF ONE HAS HIS PRODUCE IN ANOTHER TOWN, THE INHABITANTS OF WHICH HAVE MADE AN ‘ERUB IN ORDER TO BRING TO HIM SOME OF HIS PRODUCE, THEY MAY NOT BRING IT TO HIM;[17] BUT IF HE HIMSELF MADE AN ‘ERUB, HIS PRODUCE IS LIKE HIMSELF.[18]

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(1) To benefit from the other.

(2) Because they are both shareholders therein.

(3) Made for the exiles who returned from Babylon to Jerusalem.

(4) Ned. 47b.

(5) [V. Ned. 45b. The words ‘to bathe in the well’ do not occur there, and are omitted here in MS.M.]

(6) I.e., what each draws is regarded as though it had retrospectively been assigned to him, so that the other never had any claim therein. This answer therefore assumes the law of bererah, v. Glos.

(7) partners are exempt from cattle-tithe (cf. Bek. 56b); brothers, on the other hand, who have come into the inheritance of their father, are liable to tithe those cattle that were born when their goods were still undivided.

(8) Every Israelite had to give half a shekel annually to the Temple for the communal sacrifices; this was augmented by an agio, i.e., a kind of premium or surcharge to cover a possible deficiency in the value of the half shekel, since the value of coins depended on their weight. If two partners combine to pay a whole shekel, they still each have to pay the extra agio. On the other hand, a father can give a whole shekel for his two sons without any extra agio. If two brothers have come into the inheritance of their father, they are regarded as brothers, i.e., as successors of a property belonging to one individual, so that they would be liable for cattle-tithe and exempt from the agio, as their father would have been. If they divide the inheritance and afterwards become partners, they are regarded as partners both in respect of the cattle-tithe and of the agio.

(9) I.e., if they have not yet divided the inheritance.

(10) Shek. 1,7; Hul. 25b; Bek. 56b.

(11) I.e., the teaching 'when they are liable to surcharge they are exempt from cattle-tithe', indicating that by dividing the estate the brothers are no longer regarded as heirs.

(12) When they deal with each other In a purely business manner, it is then that they are not regarded as heirs but as partners.

(13) I.e., if they are not so strict about the exact monetary value.

(14) I.e., the portion chosen by each brother for himself is considered as having thus retrospectively become the very inheritance designated for him, so that they are still regarded as heirs with respect to the estate though it had been divided.

(15) And therefore by dividing the estate the brothers cease to be regarded any longer as heirs. Thus R. Nahman rejects the law of bererah.

(16) V. B.M. 10a. According to one opinion the water belongs to the one on whose behalf it was drawn, and according to the other opinion it belongs to the drawer. For since the well has the legal status of being ownerless, water drawn from it is like something found.

(17) Because the produce, being his private property, lay under the same restrictions as the owner. Bah emends: whose inhabitants set an 'erub in order to visit him, they must not bring him of his fruit.

(18) I.e., he may bring his produce home, where his 'erub permitted him to go to that town.

Talmud - Mas. Beitzah 40a

IF ONE INVITED GUESTS TO HIS HOME, THEY MAY NOT TAKE AWAY WITH THEM [ANY] PORTIONS UNLESS HE [THE HOST] HAD ASSIGNED FOR THEM THEIR PORTIONS ON THE EVE OF THE FESTIVAL.

GEMARA. It was stated: If one deposits produce with his neighbour, Rab says: [The produce has the same restrictive limits] as the one with whom they were deposited; but Samuel says: [They have the same restrictive limits] as the one who deposited them. Shall it be said that Rab and Samuel follow their opinions [expressed elsewhere]? For we have learnt: If he brought in[1] with permission, the owner of the court-yard is liable. Rabbi says: He is liable only when the owner has undertaken to guard it.[2] And R. Huna said in Rab's name: The halachah is according to the opinion of the Sages; whereas Samuel said: The halachah is as Rabbi. Shall it be said that Rab is of the opinion of the Rabbis and Samuel is of the opinion of Rabbi?[3] — Rab will say to you: My opinion is even in accordance with Rabbi; for Rabbi holds his opinion there[4] because without an explicit declaration he does not undertake supervision,[5] but here[6] he definitely undertook to look after it. [Also] Samuel will reply [to you]: My opinion is even in accordance with the Rabbis; for the Rabbis hold their opinion there[7] because a man wishes it, that his ox should be in the possession of the owner of the court, so that if it does damage he should not be liable; but here,[8] does a man then wish that his produce should be in the possession of his neighbour![9] We have learnt: BUT IF HE HIMSELF MADE AN 'ERUB, HIS PRODUCE IS LIKE HIMSELF. Now if you say [that the produce has the same restrictive limits] as the one with whom it was deposited, even if he himself set an 'erub, of what avail is it to him?[10] — R. Huna replied: In the Academy they declared [that it treats of a case] where he assigned a corner [of his house] to him.[11]

Come and hear: IF ONE INVITED GUESTS TO HIS HOME, THEY MAY NOT TAKE AWAY WITH THEM PORTIONS UNLESS HE HAD ASSIGNED FOR THEM THEIR PORTIONS ON THE EVE OF THE FESTIVAL. Now if you say [that the produce has the same restrictive limits] as the one with whom it was deposited, even if he assigned [the portions] for them through another person of what avail is it? — Here also, since he assigned [the portions] for them through another person, it is as if he assigned a corner [of his house] to them. Alternatively say: Assignment is different.[12] R. Hana b. Hanilai hung up meat[13] On the door-bolt.[14] He came before R. Huna who said to him: If you yourself hung it up, go and take it away; but if they[15] hung it up for you, you may not take it away.[16] And even if he himself hung it up, may he then take it away? Surely R. Huna was a disciple of Rab and Rab said: [The produce has the same restrictive limits] as the one with whom it was deposited! — It is different [when he himself hung it up on] the door-bolt, for it is as if he[17] assigned for him a corner [of the house]. R. Hillel said to R. Ashi: And if they hung it up for him, may he not take it away? Surely Samuel said: The ox of a cattle-breeder is as the feet of anyone![18] Rabina said to R. Ashi: And if they hung it up for him may he not take it away? Surely Rabbah the son of R. Hana said in the name of R. Johanan: The halachah is as R. Dosa![19] R. Ashi said to R. Kahana: And if they hung it up for him, may he not take it away? Surely we have learnt: Cattle and utensils have the same restrictive limits as the feet of the owners![20] — Rather it is different in the case of R. Hana b. Hanilai, for he was an important man[21] and was deeply occupied in his study, and he [R. Huna] said this to him: If you yourself hung it up, then you have an identification mark on it, and you did not let it out of your mind; therefore go and take it away; but if they hung it up for you, then you let it pass out of your mind and you may not take it away.[22]

MISHNAH. ONE MAY NOT GIVE DRINK AND SLAUGHTER PASTURE ANIMALS,[23] BUT ONE MAY GIVE DRINK AND SLAUGHTER HOUSEHOLD ANIMALS. THE FOLLOWING ARE HOUSEHOLD ANIMALS: THEY THAT PASS THE NIGHT IN TOWN. PASTURE ANIMALS ARE SUCH AS PASS THE NIGHT IN [MORE DISTANT] PASTURE GROUND.[24]

GEMARA. Why does he teach ‘GIVE DRINK AND SLAUGHTER’?[25] — He incidentally informs us that a man should water his animal before slaughter on account of the adhesiveness of the skin.[26]

Our Rabbis taught: The following are pasture animals and the following are household animals. Pasture animals are such as are led out about [the time of] Passover[27] and graze in [more distant] meadows, and who are led in at the time of the first rainfall.[28] The following are household animals: Such as are led out and graze outside the city-border[29] but return and spend the night inside the city-border. Rabbi says: Both of these are household animals; but pasture animals are such as are led out and graze in [more distant] meadows and who do not return to the habitation of men either in summer or in winter. Does then Rabbi accept the prohibition of mukzeh?[30] Surely R. Simeon b. Rabbi asked of Rabbi: What is the law, according to R. Simeon, with respect to dates which are set aside for ripening?[31] [And] he replied to him: According to R. Simeon

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(1) His ox or other objects through which damage was caused in a stranger's court-yard.

(2) B.K. 47b.

(3) I.e.,in the present instance, Rab rules that the produce suffers the same restrictions as their trustee, because he holds as the Rabbis that it belongs to the trustee in respect of guardianship, and therefore it also belongs to him in respect of ritual restrictions.

(4) In B.K.

(5) He merely permitted him to bring in his ox, but did not undertake to guard it.

(6) In the case of the produce.

(7) In B.K.

(8) In the case of the produce.

(9) [MS.M. adds ‘so that the use of them should be prohibited to him (on the Festival)’.]

(10) Since the produce is still in the possession of his trustees in the other town.

(11) I.e., the trustee lent him the corner of his house where the produce was kept; therefore it remained legally in his (the depositor's) possession.

(12) Since its very purpose thereby is that the object so assigned should pass into the assignee's ownership. [MS.M. omits this last passage.]

(13) Given to him by the butchers before the Festival. He was visiting the town on the Festival to deliver a discourse, and was returning to his own place after the lecture.

(14) Of the house of his host.
(15) The host's household.
(16) The reason is soon explained.
(17) His host with whom the meat was left.
(18) Likewise here too, since the butchers naturally have in mind that it is to belong to any purchaser as from the eve of the Festival.
(19) Cf. supra 37b. Similarly here the movements of the meat should be determined by his limits.
(20) V. supra 37a.
(21) I.e., a great scholar.
(22) Because meat (temporarily) hidden from sight is forbidden unless it is recognized by an identification mark. Such an identification mark would however have been noticed only by him himself, and not by the host's house hold who were not immediately concerned with the meat].
(23) On account of mukzeh.
(24) And so cannot come within the definition of ‘what is set in read iness’.
(25) Surely the whole question is only about slaughtering, since even pasture animals may be given drink on Festivals.
(26) In order that the skin may more easily be flayed.
(27) The month of Nisan, i.e., March-April.
(28) October-November.
(29) In the environs and suburbs of the town.
(30) For the prohibition of slaughtering pasture animals on a Festival is due to mukzeh, and therefore it is assumed that since Rabbi defines pasture animals, he accepts this prohibition.
(31) Lit., ‘burst dates’. May they be eaten on Festivals?

Talmud - Mas. Beitzah 40b

only dry figs and raisins[1] come under the category of mukzeh! — If you like, say: These[2] also are like dry figs and raisins. And if you like, say: He [Rabbi] answered him[3] according to the opinion of R. Simeon, but he himself is not of this opinion.[4] Alternatively, say: He [Rabbi] said this according to the opinion of the Rabbis. According to my view, there is [absolutely] no mukzeh; but even on your view, you should agree with me at all events that such [animals] as are led out and graze about the time of Passover and who are led in at the time of the first rainfall are household animals. And the Rabbis replied to him: No, such are pasture animals.

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(1) Because they were formerly edible and have been set aside for drying.
(2) Animals which shun the habitation of men.
(3) His son.
(4) He himself extended the law of mukzeh even to these.

Talmud - Mas. Rosh HaShana 2a

C H A P T E R I

MISHNAH. THERE ARE FOUR NEW YEARS.[1] ON THE FIRST OF NISAN[2] IS NEW YEAR FOR KINGS[3] AND FOR FESTIVALS.[4] ON THE FIRST OF ELUL[5] IS NEW YEAR FOR THE TITHE OF CATTLE.[6] R. ELEAZAR AND R. SIMEON, HOWEVER, PLACE THIS ON THE FIRST OF TISHRI.[7] ON THE FIRST OF TISHRI[8] IS NEW YEAR FOR YEARS,[4] FOR RELEASE AND JUBILEE YEARS,[9] FOR PLANTATION[10] AND FOR [TITHE OF] VEGETABLES.[11] ON THE FIRST OF SHEBAT[12] IS NEW YEAR FOR TREES,[13] ACCORDING TO THE RULING OF BETH SHAMMAI; BETH HILLEL, HOWEVER, PLACE IT ON THE FIFTEENTH OF THAT MONTH.

GEMARA. FOR KINGS. Why this law?[14] — R. Hisda said: For dealing with documents,[15] as we have learnt: ‘Bonds if antedated are invalid,[16] but if postdated are valid’.

Our Rabbis learnt: If a king ascended the throne on the twenty-ninth of Adar, as soon as the first of Nisan arrives[17] he is reckoned to have reigned a year. If on the other hand he ascended the throne on the first of Nisan, he is not reckoned to have reigned a year till the next first of Nisan comes round.

The Master has said, ‘If a king ascends the throne on the twenty-ninth of Adar, as soon as the first of Nisan arrives he is reckoned to have reigned a year.’

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(1) I.e.,the year is reckoned to commence at different dates for different purposes, as the Mishnah goes on to specify.

(2) The first month of the Jewish calendar (in Biblical times known as ‘the month of Abib’, or the springing corn), commencing in the latter half of March or the earlier part of April.

(3) If a document is dated with a certain year in a king's reign, the year is reckoned to have commenced in Nisan, no matter in what month the king came to the throne. The Gemara discusses what kinds of kings are meant — whether Israelitish or other.

(4) The meaning of this is discussed infra in the Gemara.

(5) The sixth month of the Jewish calendar.

(6) For purposes of tithe it was necessary to specify the year in which cattle were born, because cattle born in one year could not be given as tithe for cattle born in another, v. Lev. XXVII, 32.

(7) So that according to these authorities there were only three New Years.

(8) The seventh month.

(9) I.e., from the first of Tishri in these years ploughing and similar operations were forbidden. V. Lev. XXV, 4, 11.

(10) For reckoning the years of ‘uncircumcision’. V. Lev. XIX, 23.

(11) I.e., those gathered after this date could not be used as tithe for those gathered before. Cf. n. 6.

(12) The eleventh month.

(13) For tithing the fruit. V. notes 6 and 11.

(14) Why should we not be content to reckon the year of the king from the day on which he ascended the throne?

(15) I.e., to enable us to determine which are antedated.

(16) If a man borrowed money in Tishri and the bond was dated in Tammuz (the fourth month of the Jewish calendar) the bond is invalid and does not give the lender any right to seize property which the borrower may have sold even subsequent to Tishri. This is a fine for having conspired to seize by means of the bond property which had been sold prior to the making of the loan. Now if the reigning king came to the throne some time between Tammuz and Tishri, then if we reckoned his years from the date of his accession, Tishri would always come before Tammuz, and the document should therefore be valid. To prevent this leading to confusion, it was consequently ordained that the king's year should always be regarded as commencing with Nisan. Tosaf. point out that it is very difficult to conceive of an instance where this might actually lead to confusion, as scribes can usually be trusted to remember the year of the reign; the example Tosaf. give is where the king came to the throne on the first of Nisan and a scribe has to write a document

on the first of Nisan in the following year. In such a case the scribe might easily think that the king came to the throne on the second of Nisan, and so, but for the regulation, might date the document a whole year wrong.
(17) I.e., on the next day.

Talmud - Mas. Rosh HaShana 2b

This teaches us that Nisan is the New Year for kings, and that one day in a year is reckoned as a year. ‘But if he ascended the throne on the first of Nisan he is not reckoned to have reigned a year till the next first of Nisan comes round’. This surely is self-evident? — It had to be stated in view of the case where his election to the throne was determined upon[1] in Adar. You might think that in that case we should reckon him [by the next first of Nisan] to have reigned two years. We are therefore told [that this is not so].

Our Rabbis learnt: If [a king] died in Adar and was succeeded by another in Adar, we can designate [the rest of] the year [up to the first of Nisan] as belonging to either.[2] If he died in Nisan and was succeeded by another in Nisan, we can date the year by either.[3] If he died in Adar and was succeeded by another in Nisan, the earlier year is dated by the first and the later by the second.

The Master has here said, ‘If he died in Adar and was succeeded by another, we can date the year by either’. Surely this is obvious? — You might think that we never date the same year by two kings;[4] hence we are told [that this can be done]. ‘If the first died in Nisan and was succeeded by another in Nisan, the year may be dated by either’. This also seems to be obvious? — You might think that when we lay down that a day in the year is reckoned as a year we mean only at the end of the year but not at the beginning;[5] therefore we are told [that this is not so]. ‘If the first died in Adar and he was succeeded by another in Nisan, the earlier year is dated by the first and the later by the second’. This surely is obvious? — It had to be stated in view of the case where his election was determined upon from Adar and he is succeeding his father.[6] In that case you might think that we should reckon two years to him. We are therefore told [that this is not so].

R. Johanan said: How do we know [from the Scripture] that the years of kings’ reigns are always reckoned as commencing from Nisan? Because it says, And it came to pass in the four hundred and eightieth year after the children of Israel were come out of the land of Egypt, in the fourth year of Solomon's reign over Israel, in the month of Ziv which is the second month.[7] Here Solomon's reign is put side by side with the exodus from Egypt,[8] [to indicate that] just as [the years from] the exodus from Egypt are reckoned from Nisan, so [the years of] Solomon's reign commenced with Nisan.

But how do we know that the years from the exodus from Egypt itself are reckoned as commencing with Nisan? Perhaps we reckon them from Tishri?[9] — Do not imagine such a thing. For it is written, And Aaron the priest went up into Mount Hor at the commandment of the Lord, and died there, in the fortieth year after the children of Israel were come out of the land of Egypt, in the fifth month,[10] on the first day of the month,[11] and it is further written, And it came to pass in the fortieth year, in the eleventh month,[12] on the first day of the month, that Moses spoke, etc.[13] Now since the text when referring to Ab places it in the fortieth year and again when referring to [the following] Shebat places it also in the fortieth year, we may conclude that Tishri is not the beginning of the year.[14] [This, however] is not conclusive. I grant you that the former text states explicitly that [the year spoken of was] ‘from the going forth from Egypt’; but how do we know that [the year mentioned in] the latter text is reckoned from the exodus?[15] Perhaps it is from the setting up of the Tabernacle?[16] — [We may reply to this] on the model of R. Papa, who said [in another connection][17] that the occurrence of the expression ‘twentieth year’ in two contexts provides us with a gezerah shawah:[18] so here, [I may say that the occurrence of] the expression ‘fortieth year’ in the two contexts provides us with a gezerah shawah, [showing that] just as in the one case[19] [the date is reckoned] from the Exodus, so in the other case[20] also.

But how do you know that [in respect of these two incidents] that of Ab was prior? Perhaps that of Shebat was prior?[21] — Do not imagine such a thing. For it is written [in connection with the latter], ‘After he had smitten Sihon’;[22] and when Aaron died Sihon was still alive, as it is written

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(1) By the notables of the State. Lit. ‘they (i.e., their votes) have been counted for him’.

(2) I.e., we can regard the remaining days of the year as belonging either to the last year of the late king or the first year of the new king.

(3) And similarly if the second ascended the throne in any other month of the year.

(4) But reckon the whole as belonging to the one who has died.

(5) E.g.. if the first king died after only reigning a few days in the year.

(6) This point is mentioned here because we have already been told above that his mere election does not affect the dating.

(7) I Kings. VI. 1.

(8) I.e., the event recorded is dated by both of them.

(9) Which is the beginning of years reckoned from the creation.

(10) Ab.

(11) Num. XXXIII, 38.

(12) Shebat.

(13) Deut. I, 3.

(14) As otherwise Ab and Shebat would fall in different years.

(15) As it simply says ‘In the fortieth year’, without specifying from when.

(16) Which was in Nisan of the second year of the exodus.

(17) V. infra 3b.

(18) V. Glos.

(19) The death of Aaron.

(20) The address of Moses.

(21) I.e., the address of Moses was prior to the death of Aaron, the fortieth year having commenced with the Tishri preceding Moses’ address.

(22) Deut. I, 4.

Talmud - Mas. Rosh HaShana 3a

And the Canaanite the king of Arad heard.[1] What was the report that he heard? He heard that Aaron had died and that the clouds of glory had departed, and he judged that it was now permitted to attack Israel; and this is intimated in the verse, And all the congregation saw [wa-yiru] that Aaron was dead,[2] [commenting on which] R. Abbahu said, Do not read wayiru, but wa-yerau [and they were seen],[3] [the next word[4] being translated] in accordance with the dictum of Resh Lakish; for Resh Lakish said, Ki has four significations — ‘if’, ‘perhaps’, ‘but’ ‘for’.[5] [In objection to this it may be asked], Are the two things alike?[6] [The verse] there speaks of Canaan, whereas [here] it [speaks of] Sihon? — It has been taught: Sihon, Arad, and Canaan are all one. He was called Sihon as resembling a sayyah [foal] of the wilderness, he was called Canaan after his kingdom; and as for his real name, this was Arad. According to other authorities, he was called Arad as resembling an ‘arad [wild ass] of the wilderness, and Canaan after his kingdom, while as for his real name, this was Sihon.

But can I not suppose that New Year is in Iyar?[7] — Do not imagine such a thing. For it is written, And it came to pass in the first month in the second year on the first day of the month that the tabernacle was reared up,[8] and it is written elsewhere, And it came to pass in the second year in the second month . . . that the cloud was taken up front over the tabernacle of the testimony.[9] Seeing that the text when referring to Nisan places it in the second year and when referring to Iyar places it also in the second year, we may conclude that Iyar is not New Year. Can I suppose then that New Year is in Sivan?[10] — Do not imagine such a thing. For it is written, In the third month after the children of Israel were gone forth out of the land of Egypt;[11] and if Sivan is New Year, it should say, 'In the third month in the second year after the children of Israel etc.' But why not say that New Year is in Tammuz,[12] in Ab,[13] in Adar?[14] — Rather, said R. Eleazar, we learn [that Nisan is New Year] from here: And he began to build in the second month in the second[15] in the fourth year of his reign.[16] What [is here meant by] 'in the second'? Does not [the superfluous word] mean the second by which his reign is reckoned? Rabina strongly demurred to this. Why not, [he said], suppose it to mean the second day of the month? — In that case it would have said distinctly, 'on the second day of the month'.[17] But may I not suppose it means on the second day of the week? [This cannot be for two reasons.] One is that we never find the second day of the week mentioned in Scripture, and the other is that the second 'sheni' [second] is put on the same footing as the first sheni, [indicating that] just as the first sheni refers to a month, so the second sheni refers to a month.

It has been taught in accordance with R. Johanan: How do we know [from the Scripture] that the years of kings' reigns are always reckoned as commencing from Nisan? Because it says, 'And it came to pass in the four hundred and eightieth year after the children of Israel were come out of the land of Egypt etc.,' and it is further written, 'And Aaron the priest went up to Mount Hor at the commandment of the Lord, etc.,' and it is further written, And it came to pass in the fortieth year in the eleventh month',[18] and it is further written, 'After he had smitten Sihon etc:,' and it is further written, And all the congregation saw that Aaron was dead etc.,' and it is further written, 'And it came to pass in the first month in the second year etc., and it is further written, 'And it came to pass in the second year in the second month etc.,' and it is further written, 'In the third month after the children of Israel were gone forth out of the land of Egypt etc.,' and it is further written, 'And he began to build etc.'

R. Hisda said: The rule [that New Year for kings is in Nisan] was only meant to apply to the kings of Israel, but the years of non-Israelitish kings are reckoned from Tishri,[19] as it says, The words of Nehemiah the son of Hachaliah. Now it came to pass in the month of Kislev,[20] in the twentieth year[21] etc., and it is written further, And it came to pass in the month of Nisan in the twentieth year of Artaxerxes.[22] Now since when speaking of Kislev he places it in the twentieth year and when speaking of Nisan he places it also in the twentieth, we may conclude that New Year is not in Nisan. [This, however, is not conclusive]. In the latter text, it is true, it is expressly stated that [it was the twentieth year] of Artaxerxes, but in the former how do we know that the reign of Artaxerxes is referred to? Perhaps

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(1) Num. XXXIII, 40. (V. Tosaf. s.v. וישמע). The text continues in the E.V., of the coming of the children of Israel, but the Talmud renders (more in accordance with the original), 'when the children of Israel came'. The text thus does not state what he heard and so leaves room for the exposition which follows.

(2) Num. XX, 29.

(3) I.e., became visible, the clouds of glory having previously served as a screen to them.

(4) In the original.

(5) And here if we read wa-yerau, 'ki' means 'for'. Apparently Resh Lakish means that these four significations are in addition to the usual one of 'that', which must be the meaning here if we keep the reading wa-yiru.

(6) Viz., your exposition and your argument.

(7) The second month.

(8) Ex. XL, 17.

(9) Num., X, 11.

(10) The third month.

(11) Ex. XIX, 1.

(12) The fourth month.

(13) The fifth month.

(14) The twelfth month. The months between Ab and Adar have already been excluded above where it was shown that

Ab and Shebat must be in the same year.

(15) E.V., ‘on the second day’.

(16) II Chron. III, 2.

(17) This being the usual formula of the text.

(18) This citation is inserted in the text on the authority of Maharsha. It is certainly necessary.

(19) The seventh month.

(20) The ninth month.

(21) Neh., I, 1.

(22) Ibid, II, 1.

Talmud - Mas. Rosh HaShana 3b

some other system of dating is adopted? — R. Papa replied: The occurrence in each text of the expression ‘twentieth year’ provides us with a gezerah shawah,[1] [indicating that] just as in the latter case it means ‘of the reign of Artaxerxes’, so in the former. But how do you know that the incident of Kislev was prior? Perhaps the incident of Nisan was prior?[2] — Do not imagine such a thing, since it has been taught: The things that Hanani told Nehemiah in Kislev were related by Nehemiah to the king in Nisan. ‘The things that Hanani told Nehemiah’, as we read, The words of Nehemiah the son of Hachaliah. Now it came to pass in the month of Kislev, in the twentieth year, as I was in Shushan the castle, that Hanani, one of my brethren, came out of Judah, he and certain men; and I asked them concerning the Jews that had escaped, that were left of the captivity, and concerning Jerusalem. And they said unto me: The remnant that are left of the captivity there in the province are in great affliction and reproach; the wall of Jerusalem also is broken down, and the gates thereof are burned with fire.[3] These things ‘were related by Nehemiah to the king in Nisan,’ as we read, And it came to pass in the month Nisan, in the twen tieth year of Artaxerxes the king, when wine was before him, that I took up the wine and gave it unto the king. Now I had not been beforetimes sad in his presence. And the king said unto me, Why is thy countenance sad, seeing thou are not sick? This is nothing else but sorrow of heart. Then I was very sore afraid. And I said unto the king, Let the king live for ever; why should not my countenance be sad, when the city, the place of my fathers’ sepulchres, lieth waste and the gates thereof are consumed with fire? Then the king said to me: For what dost thou make request? So I prayed to the God of heaven. And I said unto the king: If it please the king and if thy servant have found favour in thy sight, that thou wouldst send me unto Judah, unto the city of my fathers’ sepulchres, that I may build it. And the king said unto me, the queen also sitting by him, For how long will thy journey be and when wilt thou return? So it pleased the king to send me; and I set him a time.[4]

R. Joseph sought to disprove [the statement that the years of non-Israelitish kings are reckoned from Tishri, as follows]: [It is written], In the four and twentieth day of the month, in the sixth month, in the second year of Darius the king,[5] and it is further written, In the seventh month in the second year in the one and twentieth day of the month.[6] Now if it is [as you say], then we should have here ‘in the seventh month in the third year’! — R. Abbahu replied: Cyrus was a worthy king,[7] and therefore they reckoned his years like those of the kings of Israel.[8]

R. Joseph demurred strongly against this [last notion]. For one thing [he said, if this is so,] then there is a contradiction between two biblical texts. For it is written, And the house[9] was finished on the third day of the month of Adar, which was the sixth year of Darius the king,[10] and in connection with this it has been taught: ‘At that period ,in the year following,[11] Ezra went up from Babylon along with his band of exiles’. Now it is written further, And he [Ezra] came to Jerusalem in the fifth month, which was in the seventh year of the king; and if it is [as you say], it should be ‘in the eighth year’? Further, is there any connection [between your answer and the question]? You speak of Cyrus and the text[12] speaks of Darius! — It has been taught: ‘Cyrus,[13] Darius, and Artaxerxes[14] were all one. He was called Cyrus because he was a worthy king;[15] Artaxerxes after his realm;[16] while Darius was his own name. All the same, the contradiction still remains?[17] — There is no contradiction. The one verse[18] speaks of him before he degenerated,[19] the other after he degenerated.

R. Kahana strongly demurred to this [saying], Did he indeed degenerate? Is it not written,

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(1) V. Glos.

(2) And the year might therefore commence with Nisan.

(3) Neh., I, 1-3.

(4) Neh. II, 1-6. It is not clear why the last three verses are quoted.

(5) Hag. I, 15.

(6) Ibid. II, 1. This verse follows immediately on the one just quoted and it is assumed that it refers to the same year as the preceding verse; therefore the words ‘in the second year’, which appear in the quotation as given in the Talmud in brackets, are not found in this verse (Rashi).

(7) The Hebrew word is kasher, which contains the same consonants as the name Koresh (Cyrus).

(8) I.e., commenced them with Nisan.

(9) The Second Temple.

(10) Ezra, VI, 15.

(11) Which would be the seventh year of Darius.

(12) In Haggai.

(13) The Second.

(14) Mentioned together in Ezra, VI, 14.

(15) V. supra, p. 8, n. 4.

(16) [The Persian Artakhshathra means ‘by whom empire is perfected’].

(17) Between the statements in Haggai and in Ezra.

(18) In Haggai, which reckons his years from Nisan.

(19) Lit., ‘fermented’, a metaphor either from wine turning to vinegar or from flour becoming leaven. The ‘evil imagination’ is often compared by the Sages to a ‘leaven’.

Talmud - Mas. Rosh HaShana 4a

And that which they have need of, both young bullocks and rams and lambs, for burnt-offerings to the God of heaven, wheat, salt, wine and oil, according to the word of the priests that are in Jerusalem, let it be given them day by day without fail?[1] — Said R. Isaac to him: [Here is something] out of your own package:[2] That they may offer sacrifices of sweet savour unto the God of heaven, and pray for the life of the king and of his sons.[3] But even so, is not the action still a meritorious one, seeing that it has been taught: ‘If a man says, I offer this sela’ for charity in order that my children may live and in order that through it I may merit the future world, he may still be a wholly righteous man?’ — There is no contradiction; this statement applies to Israelites, there we speak of heathens.[4]

Alternatively I may say that we know he deteriorated because it is written, with three rows of great stories and a row of new timber, and let the expenses be given out of the king's house.[5] Why did he make these conditions? He thought to himself, If the Jews revolt against me, I will burn it with fire. But did not Solomon do the same thing, as it is written, three rows of hewn stone and a row of cedar beams?[6] — Solomon placed the wood above and he placed it below; Solomon sunk it in the building and he did not sink it in the building; Solomon plastered it over and he did not plaster it over.

R. Joseph, (or, as some say, R. Isaac) said: Whence do we know that he deteriorated? From here: And the king said unto me, the shegal also sitting by hint.[7] What is ‘shegal’? Rabbah b. Lema said In the name of Rab, a she-dog.[8] But if that is so, what are we to make of the verse, But hast lifted up thyself against the Lord of heaven, and they have brought the vessels of His house before thee, and thou and thy lords, thy shegaloth and thy concubines have drunk wine in them.[9] Now how can ‘shegal’ here be a dog? Do dogs drink wine? — This is no difficulty, as [we can suppose that] it was taught to drink. But what of the verse where it is written, Kings’ daughters are among thy favourites, at thy right hand doth stand the shegal in gold of Ophir?[10] Now if ‘shegal’ is a dog, what promise is the prophet bringing to Israel? — What he means is this: Because the Torah is as dear to Israel as a ‘shegal’ to the heathens, you have earned as your reward the gold of Ophir. Alternatively I may say that ‘shegal’ does as a rule mean ‘queen’, but in this case Rabbah b. Lema had a tradition [that it means ‘dog’], and the reason why [in the text] it is called ‘shegal’ is because it was as dear to him[11] as a queen; or, possibly, because he put it on the queen's seat.

Alternatively I may say that we know he deteriorated from here: Unto a hundred talents of silver and to a hundred measures of wheat and to a hundred baths of wine and salt without prescribing how much.[12] At first there was no limit, but now he made a limit. But perhaps at first he simply had not decided on the limit? The truth is that the best explanation is that which was given first.

AND FOR FESTIVALS. How can [New Year] for the festivals be on the first of Nisan? It is surely on the fifteenth of Nisan?[13] — R. Hisda said: What it means is that the festival which occurs in it is the New Year for the festivals. The legal import of this rule is for determining when one who makes a vow transgresses the precept of ‘not delaying’.[14] and R. Simeon is here followed, as it has been taught: Whether a man makes a vow, or sanctifies,[15] or makes a valuation,[16] as soon as three festivals elapse [before he carries out his word], he transgresses the precept of ‘not delaying’. R. Simeon says: The three festivals must be in order, with Passover first. So too R. Simeon b. Yohai used to say: The festivals [referred to] are sometimes three [in number], sometimes four, sometimes five. For instance, if a man made a vow before Passover, they are three, if before Pentecost five, if before Tabernacles four.

Our Rabbis taught: Those who are liable for a money valuation,[17] for a valuation,[18] for a herem,[19] for consecrations,[20] for sin-offerings, trespass-offerings, burnt-offerings and peace-offerings, charity contributions, tithes, firstborn and tithe of cattle, paschal lamb,

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(1) Ezra, VI, 9.

(2) I.e., the next words in the same passage confute you.

(3) Which would show that his motives were not pure.

(4) And therefore the king's action was not meritorious. [Heathens are assumed to regret the good deed should the attached condition not be realized (Rashi and Tosaf.)].

(5) Ezra, VI, 4. These words occur in the rescript issued by the first Cyrus authorizing the building of the Temple. We must suppose therefore that Darius intended at first to allow them to build it wholly of stone, but on consulting the rescript changed his mind. V. Tosaf. s.v. ונדבך

(6) I Kings, VI, 36.

(7) Neh. II, 6.

(8) For immoral purposes.

(9) Dan. V, 23.

(10) Ps. XLV, 10.

(11) Artaxerxes.

(12) Ezra VII, 22, referring to the appropriations for the builders of the Temple.

(13) The first day of Passover, the first of the festivals.

(14) Deut. XXIII, 22: When thou shalt vow a vow to the Lord thy God, thou shalt not delay to pay it.

(15) I.e., dedicates an object to the Sanctuary.

(16) Saying, ‘I dedicate to the sanctuary the value of such-and-such a person’. V. Lev. XXVII, 1-8.

(17) By saying, ‘I dedicate to the Sanctuary my own price’.

(18) V. supra, n. 4.

(19) Something devoted. V. Lev. XXVII, 28, 29.

(20) Objects dedicated to the Sanctuary.

Talmud - Mas. Rosh HaShana 4b

gleanings, forgotten sheaves and corners of the field,[1] as soon as three festivals have elapsed transgress the precept of ‘not delaying’. R. Simeon said: The three festivals must be in order, with Passover first. R. Meir said: As soon as one festival has passed, he transgresses the precept of ‘not delaying’. R. Eliezer b. Jacob said: As soon as two festivals have elapsed, he transgresses the precept of ‘not delaying’. R. Eleazar son of R. Simeon said: As soon as the feast of Tabernacles has passed, he transgresses the precept of ‘not delaying’.

What is the reason of the First Tanna?[2] — Let us see, [he says]: The text[3] has been speaking of them[4] [the three festivals]. Why then does it repeat,[5] on the feast of unleavened bread, on the feast of weeks, and on the feast of tabernacles? We must understand it to be laying down the rule for ‘not delaying’.[6] R. Simeon again says that there was no need [even so] to repeat ‘on the feast of tabernacles’, of which the text was just speaking.[7] Why then was it mentioned? To show that this one must be the last. What is R. Meir's reason?[8] — Because it is written, And thither thou shalt come and thither ye shall bring.[9] What do the Rabbis [say to this]? — They say that this constitutes only a positive injunction.[10] What has R. Meir [to say to this]? — [He says that] since the All-Merciful told him to bring and he did not bring, automatically he has transgressed the precept of ‘not delaying’. What is the reason of R. Eliezer b. Jacob?[11] Because it is written, These ye shall offer unto the Lord in your appointed seasons;[12] the minimum of ‘seasons’ is two. What do the Rabbis [say to this]? — [They say] that this word is required for the exposition of R. Jonah; for R. Jonah said,[13] All the festivals are put on the same footing with one another, to show that all[14] atone for the uncleanness of the Sanctuary and its holy things.[15] What is the reason of R. Eleazar son of Simeon?[16] As it has been taught: R. Eleazar son of Simeon said: There was no need for the feast of Tabernacles to be mentioned in this verse,[17] as the text was already speaking of it. Why then was it mentioned? To show that this one is the determining factor. What exposition then do R. Meir and R. Eliezer b. Jacob give of the words ‘on the feast of unleavened bread and on the feast of weeks and on the feast of tabernacles’ ? — They require them for the same purpose as R. Eleazar b. Oshaia. For R. Eleazar b. Oshaia said: How do we know that [a sacrifice due but not brought on] Pentecost[18] can be made up for during the next seven days? Because it says, On the feast of unleavened bread and on the feast of weeks and on the feast of tabernacles. Just as [a sacrifice not brought on the first day of] the feast of Passover can be made up for during the next seven days,[19] so [a sacrifice not brought on] the Feast of Weeks can be made up for during the next seven days.

But why should not the Feast of Weeks be put on the same footing [in this respect] as the feast of Tabernacles, so that just as in that case [the duration of the festival is] eight days, so here eight days [should be allowed]? — The eighth day [of Tabernacles] is a separate festival.[20] I can still say that we call the eighth day a separate festival in respect of P'Z'R' K'SH'B’,[21] but that in the matter of compensation all agree that this can be made on it for the first day, as we have learnt: If one did not bring his festival sacrifice on the first day of Tabernacles, he can bring during the whole of the festival, including the last day of the festival? — If you grasp a lot you cannot hold it, if you grasp a little you can hold it.[22]

But what injunction then[23] did the All-Merciful indicate by mentioning the festival of Tabernacles [in this verse]? — [It is mentioned] in order to be put on the same footing as the feast of Passover [in this respect]:

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(1) If an owner took these, he has to restore them to the poor.

(2) Who requires three festivals in any order.

(3) Viz., Deut. XVI.

(4) Lit. he set out from these'.

(5) In v. 16, after saying, three times a year shall all thy males appear, etc.

(6) As much as to say, 'Come before God to pay your vows, and do not come empty-handed.'

(7) In vv. 13-15.

(8) For requiring only one festival.

(9) Deut. XII, 5, 6. As much as to say, 'each time you come, bring your vows'.

(10) And if he does not carry it out, he is still not guilty of 'delaying'.

(11) Who requires two festivals.

(12) Num. XXIX, 39. The 'these' here strictly refers to obligatory sacrifices, but as the text goes on, besides your vows and free will-offerings, these can also be included in the rule.

(13) Sheb. 10.

(14) The he-goats for sin-offering brought on festivals; v. Num. XXVIII and XXIX.

(15) V. Shebu. 10a.

(16) Who says that Tabernacles must be the last,

(17) Viz., Deut. XVI, 16.

(18) 'Azereth.

(19) This is learnt from the words, And ye shall keep it as a feast to the Lord . . . seven days (Ex. XII, 14, 15). V. Hag. 9a.

(20) Standing in the same relation to Tabernacles as Pentecost to Passover.

(21) P== payyes (casting lots); on the eighth day the twenty-four mishmaroth (wards) of the priests cast lots to see which should officiate, but not on the preceding days, when all officiated in order. Z == zeman (time); the blessing sheheheyanu (who has kept us alive) is said on the eighth day, as on the first days of other festivals. R == regel (festival); the eighth day is no longer termed 'Tabernacles' but is known as 'the eighth day of solemn assembly'. K == Korban (offering); the sacrifice of the day (one bullock, one ram and seven sheep) was quite different from that of the days of Tabernacles. SH == shir (song); the psalm chanted by the Levites was not the same as that for Tabernacles. B == berakah (blessing); on this day, in the time of the Monarchy, a blessing was said for the king, in memory of the dedication of the Temple, when, as we read, on the eighth day the people blessed the king (I Kings, VIII, 66) Cf. Yoma 3a, Suk. 48a.

(22) A proverbial saying, indicating here that Pentecost should be put on a level in this respect with Passover which has the smaller number of days, not with Tabernacles.

(23) If the Feast of Weeks is not to be put on the same footing as Tabernacles.

Talmud - Mas. Rosh HaShana 5a

just as on the feast of Passover [the celebrant is] required to stay overnight[1] [in Jerusalem], so on the feast of Tabernacles he is required to stay overnight. How do we know this in the case of Passover? — Because it is written,[2] And thou shalt turn in the morning and go unto thy tents.[3]

But whence then do the First Tanna and R. Simeon[4] derive the rule of compensation for the Feast of Weeks? — They derive it from the statement of Rabbah b. Samuel; for Rabbah b. Samuel stated: The Torah said, Count days[5] and sanctify the new moon,[6] count days and sanctify the Feast of Weeks,[7] [indicating that] just as the new moon [is sanctified for the period corresponding with the unit of time] by which it is counted,[8] so the Feast of Weeks [is sanctified for the period corresponding with the unit of time] by which it is counted.[9] [In that case] I should say that [the compensation period of] the Feast of Weeks is only one day?[10] — Raba replied: Do we count only days to the Feast of Weeks and not weeks [also]? Has not a Master said, It is a mizwah to count days and it is also a mizwah to count weeks?[11] And further, we read in the text, 'the feast of weeks'.[12]

But can the paschal lamb[13] be offered on any of the festivals? The paschal lamb [surely] has a fixed date:[14] if it is brought then, well and goods but if not, it is rejected?[15] — R. Hisda replied: The paschal lamb is mentioned incidentally. R. Shesheth said: 'Paschal lamb' here means the peace-offering [brought] in lieu of the paschal lamb.[16] But if that is so, this is covered by the term peace-offerings'?[17] — Our authority mentions the peace-offering [which is brought] in lieu of the paschal lamb and he also mentions the peace-offerings which are brought for their own sake. You might be inclined to think that [the former] being brought in lieu of the paschal lamb

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(1) I.e., the first night of the intermediate days (Rashi).

(2) In connection with the paschal lamb.

(3) Deut. XVI, 7. The morning of the first day of the festival obviously cannot be meant, as on that day the celebrant had to bring his festival offering.

(4) Who require the whole of this verse for the rule of 'not delaying'.

(5) As it is written. Ye shall not eat it one day, nor two days, nor five days, nor ten days, nor twenty days, but a whole month (Num. XI, 19, 20).

(6) By sacrifices, v. Num. XXVIII, 11.

(7) V. Lev. XXIII, 15. [Read with R. Hananel, Count weeks and sanctify the Feast of Weeks, v. Lev. XXIII, 15].

(8) It is counted by days and is sanctified for one day.

(9) It is counted by weeks and is sanctified for one week.

(10) Since it also says, 'Ye shall count fifty days'. Ibid. 16.

(11) To say, e.g., 'seven days which are one week to the 'omer'.

(12) Deut. XVI, 16.

(13) Mentioned above (p. 11) among the objects to which the rule of 'not delaying' applies.

(14) Viz., the fourteenth of Nisan.

(15) Lit., 'pushed away'.

(16) Lit., peace-offerings of the paschal lamb'. If the paschal lamb was not brought at the proper time through being lost, another was declared to be a peace-offering in its place, and this came under the rule of 'not delaying'.

(17) Which also occurs in the Baraitha quoted.

Talmud - Mas. Rosh HaShana 5b

is on the same footing as the paschal lamb.[1] Therefore we are told [that this is not so].

What is the authority [in the Scripture] for these rules? — As our Rabbis have taught: ' When thou shalt vow a vow:[2] this tells me only [the rule for] a vow; how do I know that a freewill-offering[3] is also included? We have here the term 'vow' and in another place[4] we find the expression if a vow or a free will-offering; just as there a freewill-offering goes with the vow, so here, a freewill-offering goes with it. To the Lord thy God: this indicates money valuations, valuations, devoted things, and consecrated things.[5] Thou shalt not be slack to pay it: it, but not its substitute.[6] For he will surely require it: this indicates sin-offerings, trespass-offerings, burnt-offerings and peace-offerings.[7] The Lord thy God: this indicates charity contributions, tithes and firstborn.[8] From thee: this indicates gleanings, forgotten sheaves and corners of the field. And it will be sin in thee; but not sin in thy offering.[9]

The Master has [just] said: "'Thou shalt not be slack in paying it"; It and not its substitute'. Substitute for what? If the substitute for a burnt-offering or a peace-offering is meant, this is actually offered.[10] If the substitute for a sin-offering, this is allowed to perish.[11] How then are we to understand 'its substitute'? — The substitute for a thanksgiving-offering, as R. Hiyya taught: If a thanksgiving offering became mixed up with its substitute and one of them died , there is no remedy for the other,[12] For what is he [the owner] to do? Shall he offer it and offer the bread[13] with it? Perhaps it is the substitute.[14] Shall he offer it without the bread? Perhaps it is the original thank-offering. But [if that is so,] seeing that it cannot be offered, why do I require a text to exclude it? — R. Shesheth replied: In point of fact, [the intention of the verse is] to exclude the substitutes for burnt-offerings and peace-offerings, and we are dealing here with the case of one which was kept over during two festivals and then became blemished and the owner made it profane by substituting another and this was kept over one festival. You might imagine in this case that since it takes the place of the first, it is as if it had been kept over for three festivals; therefore we are told that this is not so. But on the view of R. Meir who said that as soon as one festival has been allowed to elapse there is a transgression of the precept ‘not to delay’, what can be said? — Raba replied: Here we are dealing with a case where the animal became blemished during the festival and he declared it profane [by substituting another], and this was kept over the festival. You might imagine that since it takes the place of the first it is as if it had been kept over during the whole of the festival.[15] Therefore we are told [that this is not so].

"’And it will be sin in thee," but not sin in thy offering’. Do we derive this lesson from here? Surely it is derived from the text adduced by the ‘Others’, as it has been taught: ‘Others say, I might say that a firstling after a year has passed[16] is like consecrated things that have become disqualified[17] and so is disqualified. Therefore it says, And thou shalt eat before the Lord thy God the tithe of thy corn and of thy wine and of thine oil, and the firstlings of thy herd and of thy flock.[18] Here firstling is mentioned alongside of tithe, [to indicate that] just as tithe is not disqualified by being kept from one year to another,[19] so a firstling is not disqualified by being kept from one year to another.’ — It was still necessary [to learn the lesson in the other way]. For you might have imagined that this applies only to a firstling, which is not for appeasement, but consecrated[20] things which are for appeasement[21] will not appease [if kept over]. Therefore I am told that this is not so.

But still [I may object that]

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(1) And the transgression of ‘not delaying’ is incurred with the passing of one festival (Rashi).

(2) Deut. XXIII, 22.

(3) In making a vow a man said, ‘I undertake to bring such-and-such an offering’; in making a freewill-offering he said, ‘I undertake to bring this animal as an offering’.

(4) Lev. VII, 16.

(5) V. supra p. 11 nn. 5-8. Because all these went for the repair of the Temple and not to the priests.

(6) This is explained below.

(7) All these as distinct from the vow and freewill-offerings were an obligation the fulfilment of which could be demanded. The burnt-offerings and peace-offerings referred to are those which were brought as an additional offering on the festival. If they had been already set aside, they could be brought on a subsequent festival (V. Tosaf., s.v. אלו).

(8) The words ‘the Lord thy God’ here are strictly speaking superfluous, and can therefore be used for an exposition.

(9) I.e., the offering is not disqualified thereby.

(10) If the original animal was lost and another substituted and then the first was found, both are offered and the substitute also comes under the rule of ‘not delaying’.

(11) And never offered.

(12) I.e., it must be allowed to perish.

(13) V. Lev. VII, 12, 13.

(14) And according to Men. 79b, bread was not to be brought with the substitute of a thanksgiving-offering.

(15) And thus, according to R. Meir, is the rule of ‘not delaying’ transgressed.

(16) A firstling has to be sacrificed within its first year, v. Deut. XV, 20.

(17) For being offered on the altar.

(18) Deut. XIV, 23.

(19) Because it says, At the end of every three years thou shalt bring forth all the tithe etc., Deut. XIV, 28.

(20) E.g., burnt — and sin-offerings.

(21) Heb. לרצנו Lev. I, 3 et al. E.V. ‘that he (it) may be accepted.’

Talmud - Mas. Rosh HaShana 6a

the lesson is derived from the exposition of Ben ‘Azzai, as It has been taught: Ben ‘Azzai said: What is the point of the word otho [it]?[1] Since it says, Thou shalt not be slack in paying it,[2] I might think that a vow which is delayed also fails to appease. Therefore it says, ‘it’: this one fails to appease, but a delayed vow does not fail to appease! — No; [what we must say is], ‘"in thee a sin", but not in thy wife a sin’. For you might think that, since R. Johanan [or, as some say, R. Eleazar] has said, ‘A man's wife dies only because money is [rightfully] demanded of him and he has it not,[3] as it says, Why should he take thy bed from under thee’?[4] and so I would say that his wife will die also because of this transgression of ‘not delaying’. We are therefore told [that this is not so].

Our Rabbis taught: ‘That which is gone out of thy lips:[5] this is an affirmative precept.[6] Thou shalt observe: this is a negative precept. And do: this is an injunction to the Beth din to make thee do, According as thou hast vowed: this means a vow. To the Lord thy God: this means sin-offerings and trespass-offerings, burnt-offerings and peace-offerings.[7] A freewill-offering:[8] this has its literal meaning. Even that which thou hast promised: this means things sanctified for the repair of the Temple. With thy mouth: this means charity.’

The Master has here said that ‘"that which is gone out of thy lips" implies an affirmative precept’. Why do I require the words for this purpose? This lesson can be derived from the words, and thither thou shalt come and thither ye shall bring.[9] ‘"Thou shalt observe"; this implies a negative precept’. Why do I require these words? This lesson can be derived from ‘thou shalt not be slack in paying it’.[10] ‘"And do": this is an injunction to the Beth din to make thee do’. Why do I require these words? This lesson can be derived from he shall bring it,[11] as it has been taught: He shall bring it: this teaches us that he is to be constrained[12] [if necessary]. I might say, even against his will. Therefore it says, of his own will.[13] What is to be done then? We constrain him until he says ‘I am willing’. [What is the answer?] — The one [set of texts[14] deal with the case] where he had pledged himself but had not yet set aside the animal, the other with the case where he had set it aside but had not yet offered it. And both are required. For if the rule had been laid down only for the case where he had pledged himself but had not yet set aside the animal, [I might say that the reason is] because he has not yet carried out his word, but where he has set it aside but not yet offered it I might argue that wherever it is, it is in the treasury of the All-Merciful. These texts therefore were necessary. And if again the rule had been laid down only for the cases where he has set the animal aside but not yet offered it, I might say that the reason is because he is keeping it by him, but if he has pledged himself without having yet set it aside I might argue that his mere word counts for nothing. Therefore these texts are also necessary.

But how can you say that [one set of texts is] where he has pledged himself but not yet set aside, seeing that ‘freewill-offering’ is mentioned, and we have learnt, What is a vow? When a man says, I pledge myself to bring a burnt-offering. What is a freewill-offering? Where a man says, I declare this to be a burnt-offering. What is the difference [in practice] between a vow and a freewill-offering? If [an animal set aside to perform] a vow dies or is stolen, he has to replace it, but if a freewill-offering dies or is stolen he is not bound to replace it! — Raba replied: You can find a freewill-offering of this kind[15] in the case where he said, ‘I pledge myself to bring a burnt-offering on condition that I shall not be obliged to replace it’.

‘"With thy mouth": this is charity’. Raba said: For [paying] charity-offerings one becomes liable at once. What is the reason? Because the poor are waiting.[16] Surely this is obvious? — [Not so, since] you might think that, as charity is mentioned in the passage dealing with offerings, [it need not be paid] till three festivals have elapsed, as in the case of offerings. We are therefore told that this is not so. Only the others [the offerings] were made by the All-Merciful dependent on the festivals, but this [charity] is not so, because the poor are waiting.[17]

Raba said: As soon as one festival has elapsed, he transgresses an affirmative precept. The following objection was raised:[18] R. Joshua and R. Pappias testified regarding the offspring of a peace-offering[19] that it should also be brought as a peace-offering. R. Pappias said: I testify that we had a heifer which was sacrificed as a peace-offering, and we ate it on Passover, and we ate its young as a peace-offering on the Festival.[20] Now I can understand why it was not offered on Passover, the ground being that it was still too short-lived.[21] But how could the young be kept over Pentecost, which would involve the transgression of an affirmative precept? — R. Zebid said in the name of Raba: It may have been

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(1) In Lev. VII, 18, If any of the flesh . . . be eaten on the third day, it shall not be accepted, neither shall it be imputed unto him that offereth it. The word otho could be dispensed with.

(2) Deut. XXIII, 22.

(3) E.g., if he vows without having the wherewithal to pay.

(4) Prov. XXII, 27, referring to those who go surety.

(5) Deut. XXIII, 24.

(6) Because we understand the word ‘carry out’.

(7) V. supra, p. II

(8) Heb. נדבה E.V., ‘freely’.

(9) Deut. XII, 5, 6. V. p. 12, n. 8.

(10) Which occurs just above in Deut. XXIII, v. 22.

(11) Lev. I, 3.

(12) By physical force.

(13) לרצנו E.V., ‘that he may be accepted’.

(14) Explicitly in Deut. XXIII, verse 24, and by derivation in verse 22; v. supra p. 5b (Rashi).

(15) One in respect of which he has pledged himself without setting aside.

(16) Lit., ‘are standing’.

(17) Lit., ‘are to be found’. MS.M. omits, ‘Only . . . waiting’.

(18) ‘Ed. 7.

(19) If the animal was consecrated when pregnant, or became pregnant subsequently, and gave birth before being sacrificed.

(20) Heb. חג , which usually designates Tabernacles.

(21) Lit. ‘deficient in time’. I.e., not yet eight days old. V. Lev. XXII, 27.

Talmud - Mas. Rosh HaShana 6b

that it was sick on Pentecost. R. Ashi said: What is meant by the statement ‘we ate its young as a peace-offering on the Festival’? it means, the Feast of Weeks. What says the other to this? — [He says that] wherever [Pentecost] is mentioned in connection with Passover, it is called ‘Assembly’ [‘azereth].[1]

Raba said: As soon as three festivals have elapsed, he transgresses every day the precept of ‘not delaying’. The following was cited in objection to this: [The rule] both for a firstling and for all consecrated animals is that so soon as they have been kept back a year [even] without three festivals,[2] or three festivals even it less than a year, the precept of ‘not delaying’ is transgressed. What objection is there here?[3] — R. Kahana said: The objection is a sound one.[4] See now: the Tanna is looking for prohibitions; let him then state, ‘he transgresses the precept of "not delaying" every day’.[5] What says the other to this? — [He says that] the Tanna is only anxious to stamp the act as forbidden;[6] he does not look for extra prohibitions.[7]

[To revert to] the [above] text: ‘[The rule] both for a firstling and for all consecrated animals is that so soon as they have been kept back a year even without three festivals or three festivals even if less than a year, the precept of "not delaying" is trans gressed’. I grant that three festivals without a year are possible; but how is a year possible without three festivals? And I still grant that this is possible for one who requires the three festivals to be in order, but for one who does not require them to be in order how is it possible? And I still grant that this is possible for Rabbi in a leap year, since it has been taught, [It is written] ‘a complete year’[8] : Rabbi says, he [the seller] reckons three hundred and sixty-five days, which is the number of days in the solar year, while the Sages say that he reckons twelve months from day to day,[9] and if it is a leap year he gets the benefit.[10] — It is possible for Rabbi [to have a year without three festivals] in the case where one sanctified the animal after[11] the festival of Passover, since when the end of the next second Adar[12] comes round the year is completed but the number of festivals is not completed. But for the Rabbis how is it possible? — [It is possible] on the basis of what R. Shemaiah learnt: Pentecost is sometimes on the fifth of the [third] month, sometimes on the sixth, and sometimes on the seventh. For instance, if both of them[13] are full,[14] it is on the fifth;[15] if both of them are defective.,[16] it is on the seventh; if one is full and the other defective, it is on the sixth.[17] Who is the Tanna who takes a different view from R. Shemaiah?[18] It is the 'Others', as it has been taught: Others say that between Pentecost and Pentecost, between New Year and New Year there is always an interval of four days [of the week],[19] or, in a leap year, five.[20]

R. Zera asked: Does the rule of 'not delaying' apply to an heir?[21] [Do we reason that] the All-Merciful has said 'When thou shalt vow a vow', and he has not made a vow, or [perhaps we apply the text], and thither thou shalt come and thither shall ye bring,[22] and he also is liable?[23] — Come and hear, since R, Hiyya has taught: 'From thee [me'imak]':[24] this excludes the heir. But this 'me'imak' is required to bring under the rule gleanings, forgotten sheaves, and corners of the field?[25] — I expound 'imak, and I expound me'imak.[26]

R. Zera also asked: Does the rule of 'not delaying' apply to a woman? Do we reason that she is not obliged to appear [at Jerusalem on the festivals][27] or perhaps do we reason that she is enjoined to rejoice?[28] — Abaye replied: Is not the answer provided by the fact that she is enjoined to rejoice? But could Abaye say this, seeing that Abaye has said that a woman is made joyful by her husband?[29] Abaye was answering R. Zera on his own premises.

The question was raised: From what day is the year of the firstling reckoned? — Abaye said, From the hour of its birth; R. Aha b. Jacob said, From the time when it can be used for appeasement.[30] Nor is there any conflict of opinion between them; one speaks of an animal without blemish,[31]

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(1) The Rabbinic term for Pentecost; and therefore חג here must mean Tabernacles.

(2) This statement is discussed infra.

(3) There is no contradiction between this statement and that of Raba.

(4) Lit., 'he who raises the objection objects well'.

(5) And since he does not say so, we presume that he is in disagreement with Raba.

(6) Lit., 'to fix it in a prohibition'.

(7) But all the same he would agree with Raba.

(8) Within which a house sold in a walled city could be compulsorily redeemed. Lev. XXV, 29.

(9) Which in an ordinary year is only 354 days according to the Jewish calendar.

(10) The year in this case being 383 days.

(11) Strictly speaking it must be during passover, since 365 days would not elapse from after Passover till the end of the next Adar sheni. Or 'the end of Adar' may be used loosely to signify the days between then and Passover.

(12) The second Adar in a leap year.

(13) The months of Nisan and Iyar.

(14) I.e., contain thirty days.

(15) This being the fiftieth day from the second day of Passover.

(16) I.e., contain only 29 days.

(17) Hence if pentecost is in one year on the fifth and he sanctifies on the sixth, and the next year Pentecost is on the seventh, a full twelvemonth can pass without three festivals.

(18) And would not count a year without three festivals.

(19) They held that the months are full and defective in strict rotation, and the twelvemonth consequently has 354 days, which is four days over 50 weeks. On this view, Pentecost must always be on the sixth of Sivan.

(20) It being assumed that the intercalary month consists always of twenty-nine days. i.e., four weeks and a day.
(21) Whose father made a vow which he had not fulfilled before his death.
(22) V. supra p. 12, n. 8.
(23) To ‘come’ and consequently to ‘bring’.
(24) Deut. XXIII, 22.
(25) V. supra p. 11.
(26) ‘Imak’ means ‘from thee’, and this would be sufficient for the rule; we therefore derive an additional lesson from the form me ‘imak (lit., ‘from with thee’).
(27) Since it says, shall all thy males appear (Deut. XVI, 16).
(28) Which implies partaking of the peace-offerings. v. pes. 109a, and as she must go to Jerusalem for this purpose, she must also ‘not delay’ the vow’
(29) With fine clothes, v. Kid. 34b.
(30) I.e., sacrifice, viz., on the eighth day, v. Lev. XXII, 27.
(31) Which can be sacrificed on the eighth day.

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, the other of an animal with a blemish.[1] Can a blemished animal be eaten [on the day of birth]?[2] [We speak of one] of which we know for certain that it has not been born prematurely.[3]

Our Rabbis taught: On the first of Nisan is New Year for months,[4] for leap-years,[5] and for the offering of shekalim;[6] some say, also for the renting of houses.[7]

‘New Year for months’: whence do we know this? — Because it is written, This month shall be unto you the beginning of months, it shall be the first month of the year to you. Speak ye unto all the congregation of Israel saying, In the tenth day of this month they shall take unto then: every man a lamb, according to their fathers’ houses, a lamb for a household. . . and ye shall keep it until the fourteenth day of the same month, and they shall kill it[8] etc. It is also written [elsewhere],[9] Observe the month of Abib[10] [springing corn]. Now which is the month in which there is springing corn? You must says this is Nisan; and this is called ‘first’. But cannot I say that it is Iyar? — We require springing corn’, and there is none. But cannot I say that it is Adar? — We require the bulk of the springing corn, and this we have not [in Adar]. But does the text say, ‘the bulk of the springing corn’? Rather, said R. Hisda; we learn it from here: Howbeit on the fifteenth day of the seventh month, when ye have gathered in the fruits of the land.[11] What is the month in which there is ‘gathering in’?[12] You must say that this is Tishri, and the text calls it ‘seventh’. But cannot I say that it is Marheshvan, and by ‘seventh’ is meant the seventh to Iyar? — We require ‘gathering in’, and this we have not [in Marheshvan]. But cannot I say that it is Elul, and by seventh’ is meant seventh to Adar? — We require the bulk of the ingathering, which we have not [in Elul]. But does the text say, ‘the bulk of the ingathering’? — The fact is, said Rabina, that we cannot learn this from the Torah of Moses our teacher, but we have to learn it from the later Scriptures,[13] [viz.,] Upon the four and twentieth day of the eleventh month, which is the month Shebat.[14] Rabbah b. ‘ulla said, [We learn it] from here: So Esther was taken unto king Ahasuerus into his house royal in the tenth month which is the month Tebeth.[15] R. Kahana said: [We learn it] from here, In the fourth day of the ninth month, even in Kislev.[16] R. Aha b. Jacob said, [We learn it] from here: Then were the king's scribes called at that time in the third month which is the month of Sivan.[17] R. Ashi said, [We learn it] from here: They cast pur, that is, the lot, before Haman from day to day and from month to month to the twelfth month, which is the month Adar.[18] If you prefer, I can learn it from here: In the first month which is the month Nisan.[19] Why did not all the others derive it from here?[20] — Perhaps ‘first’ here means, ‘first in relation to his [Haman's] affair’.[21]

Why did not our Tanna[22] [reckon the first of Nisan as the New Year for months]? — Our Tanna speaks only of years, he does not speak of months.

‘For leap years’. Do we reckon [a New Year] for leap years from Nisan?[23] Has it not been taught: ‘A leap year is not decreed[24] before New Year,[25] and if such a decree is issued it is not effective. In cases of emergency,[26] however, the decree may be issued immediately after New Year, and even so the intercalary month must be [the second] Adar’![27] — R. Nahman b. Isaac replied: What is meant here by ‘leap years’? The closing of a leap year, as we have learnt: ‘They's testified that the year may be declared a leap year throughout the whole of Adar, since others asserted that this could be done only until Purim.’[28] What was the reason of those who held that this could be done only until Purim? — Since a Master has stated that ‘enquiries are made regarding the laws of Passover for thirty days before Passover,[29] People might be led into neglecting the rules of leaven.[30] What says the other to this? — He says that people know that a leap year depends on calculation, and they say to themselves that the Rabbis have only now got the calculation right.[31]

What of our Tanna?[32] — He speaks only of commencements, not of terminations.

‘And for the offering of shekalim’.[33] How do we know this [from Scripture]? — R. Josiah said: The Scripture says, This is the burnt-offering of each month in its month throughout the months of the year.[34] The Torah here enjoins:[35] ‘Renew [the year] and bring an offering from the new contributions’. That the ‘year’ here commences with Nisan is learnt by analogy with the text,[36] It is the first to you of the months of the year.[37] But why not suppose it is Tishri from the analogy of, From the beginning of the year?[38] — To a year with which months are mentioned we apply the analogy of a year with which months are mentioned, but to a year with which months are mentioned, we do not apply the analogy of a year with which months are not mentioned.

Rab Judah said in the name of Samuel: It is proper to bring the congregational sacrifices that are offered on the first of Nisan from the new contributions. If, however, they are brought from the old, the duty has been performed,[39] but not in the most appropriate manner.[40] It has been taught to the same effect: ‘It is proper to bring the congregational sacrifices which are offered on the first of Nisan from the new contributions; if, however, they were brought from the old, the duty has been performed, but not in the most appropriate manner. If a private person has offered them from his own property, they are unexceptionable, provided he hands them over to the congregation’. Surely this is self-evident? — You might think that we should have some scruples [in accepting them], in case

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(1) Which can be eaten as ordinary non-sacrificial flesh,

(2) Perhaps it has been born prematurely and cannot survive, v. Shab. 135b.

(3) Lit., ‘that its months have been completed’.

(4) I.e., the order of months commences with Nisan.

(5) V. infra.

(6) For first using for the purchase of congregational sacrifices the shekalim that were collected in Adar. Cf. Meg. 29b.

(7) V. infra.

(8) Ex. XII, 2-6. Only the first of these verses need have been quoted.

(9) In connection with the Passover.

(10) Deut. XVI, 1.

(11) Lev., XXIII, 39.

(12) When the produce is brought in from the fields to save it from the approaching rain.

(13) Lit., ‘words of Kabbalah’ (tradition), a name given in the Talmud to the Prophetical writings and the Hagiographa, v. B.K., Sonc. ed., p. 3, n. 3.

(14) Zech. I, 7.

(15) Esth. II, 16.

(16) Sech. VII, 1.

(17) Esth. VIII, 9.

(18) Ibid., III, 7.

(19) Ibid.
(20) Since Nisan is mentioned explicitly.
(21) With regard to the others also it might be asked why more than one quotation is needed. Perhaps the idea was to show that there had been no change in the names of the months since the time of ‘kabbalah’. V. however, Tosaf. s.v. מדברי .
(22) The Tanna of our Mishnah.
(23) I.e., can the Beth din even in Nisan declare that the year just begun is to be a leap year?
(24) In the time of the Second Temple the calendar was not fixed, but the Beth din declared any year a leap year (i.e., inserted an intercalary month) according as they judged necessary, subject to certain rules.
(25) Because if this were done, by the time Adar came round people might forget.
(26) E.g., if they were afraid that they might be prevented from issuing the decree later.
(27) V. Sanh., Sonc. ed. p. 55 notes. (15) R. Joshua and R. Pappias. Sanh. 87a Ed. VII, 7.
(28) And once Purim had passed, the next month had to be Nisan of the next year and not the second Adar of the present year.
(29) I.e., the emissaries of the Beth din instructed the public on the matter during this time.
(30) If in the interval Passover was postponed for a month, they would not observe the new date of the Passover.
(31) Lit., ‘this calculation had not been completed by the Rabbis till now’.
(32) Why does he not include leap years.
(33) In Adar a shekel had to be contributed by every Israelite for the purchase of congregational sacrifices during the coming year.
(34) Num. XXVIII, 14.
(35) By the superfluous expression, ‘throughout the months of the year’.
(36) ‘And we derive (the meaning of) "year" from "year" (commencing) with Nisan’.
(37) Ex. XII, 2.
(38) Deut. XI, 12, referring to the rainfall.
(39) In respect of the sacrifice itself.
(40) Lit. ‘he has omitted a precept’.

Talmud - Mas. Rosh HaShana 7b

he has not transferred them with all his heart.[1] We are told therefore [that this is not necessary].

Why does our Tanna [not reckon New Year for shekalim]? — Since it is laid down that if the sacrifices are brought [from the old contributions] the duty is still performed, he was not certain [whether this should be counted a New Year].

‘Some say, Also for the renting of houses’. Our Rabbis have taught: ‘If a man lets a house to another for a year, he reckons it as twelve months from day to day.[2] If, however, he stipulates "for this year", then even if the tenant only entered into occupation[3] on the first of Adar, as soon as the first of Nisan arrives,[4] a year has been completed.’ And even according to those who say that one day in the year is reckoned as a year, this does not apply here, because a man would not trouble to rent a house for less than thirty days . But why should I not say that Tishri [is the New Year for letting houses]?[5] — It is taken for granted that when a man takes a house [in Tishri], he takes it for the whole of the rainy season. Why do the first Tanna of the Baraitha and our Tanna [not reckon the renting of houses]? — In Nisan also there is often cloudy weather.[6]

ON THE FIRST OF ELUL IS NEW YEAR FOR THE TITHE OF CATTLE. Who is the authority for this? — It is R. Meir, as it has been taught: ‘R. Meir says, On the first of Elul is New Year for the tithe of cattle’. Who is the authority in respect of festivals? It is R. Simeon,[7] Now look at the succeeding clause: R. ELEAZAR AND R. SIMEON SAY, ON THE FIRST OF TISHRI. [Am I to say that] the first and third statements here follow the authority of R. Simeon and the middle one that of R. Meir? — R. Joseph said: The authority here is Rabbi, and he decides now in accordance with one, now with another Tanna. In respect of festivals he concurs with R. Simeon, and in respect of tithe of cattle he concurs with R. Meir. If that is so, how can he say FOUR [New Years]? There are five?[8] — Raba replied: There are four according to all authorities. There are four according to R. Meir, excluding the festivals,[9] and four according to R. Simeon, excluding the tithe of cattle.[10] R. Nahman b. Isaac said: [The meaning of our Mishnah is], There are four months in which there are a number of New Years.[11]

An objection was raised: 'The sixteenth of Nisan is the New Year for the 'Omer;[12] the sixth of Sivan is the New Year for the two loaves'.[13] Now [this being so], according to Raba the Mishnah should say six, and according to R. Nahman b. Isaac five? — R. Papa said: In fixing the number, [the Tanna] reckons only such [New Years] as commence with the evening,[14] he does not reckon those that do not commence with[15] the evening.[16] But what of festivals which [in respect of vows] do not commence with the evening[17] and yet are reckoned? — Since he has to bring [his vow], he becomes guilty [of 'delaying'] from the very commencement [of the festival].[18] But what of Jubilees which do not commence with the evening,[19] and yet are reckoned in? — This follows the view of R. Johanan b. Ishmael the son of R. Johanan b. Beroka, who said that the Jubilee commences with the New Year. R. Shisha the son of R. Idi said: In fixing the number, [the Tanna] reckoned only New Years that are not inaugurated with some ceremony,[20] but he does not reckon those that are inaugurated with a ceremony.[21] But what of festivals, which [in respect of vows] are inaugurated with a ceremony,[22] and yet are not reckoned? — The [transgression of] 'not delaying' comes automatically.[23]

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(1) Lit., 'very well'.

(2) I.e.,from a date in one month to the same date in the same month next year.

(3) Lit., 'stood'.

(4) I.e., as soon as thirty days have passed.

(5) So that, if a man rents a house on the first of Elul for a year, he takes it only to the first of Tishri.

(6) And therefore at no time would a man if he took a house for a year mean merely thirty days.

(7) As explained above, that R. Simeon requires three festivals in order in the matter of vows, and he is therefore the authority for the first statement in the Mishnah, that there is a New Year for festivals.

(8) The New Year for festivals being on the fifteenth of Nisan.

(9) Since R. Meir is of the view that the transgression is involved after the lapse of one festival. V. supra 4b.

(10) I.e., the first of Elul as a separate New Year; since R. Simeon places it on the first of Tishri which is in any case a new year.

(11) There being two in Nisan, and these are counted as one.

(12) I.e., for making permissible the new corn. Lev. XXIII, 14.

(13) For bringing meal-offerings from the new corn. Ibid. 17.

(14) E.g., the New Year for kings commences with the evening of the first of Nisan.

(15) Lit, 'full'.

(16) As instanced presently.

(17) It being assumed that the precept of 'not delaying' is not transgressed till the hour arrives when the animal vowed may be offered, i.e., till the perpetual offering of the morning is brought.

(18) Even though he is unable to bring the sacrifice till the morning.

(19) But which are ushered in with a blast of the shofar on the Day of Atonement, in the daytime.

(20) Lit. 'depend on an act'. I.e., the New Years which begin with the advent of the day itself.

(21) The prohibition of the new corn for personal consumption and for offerings respectively is raised only by the offering of the Omer and the two loaves.

(22) No sacrifice could be offered before the bringing of the daily morning sacrifice.

(23) As soon as the Festival sets in.

Talmud - Mas. Rosh HaShana 8a

But what of Jubilees?[1] — This follows the authority of R. Ishmael the son of R. Johanan b. Beroka. R. Ashi said: [The meaning of our Mishnah is,] There are four New Years which fall on four firsts of the month.[2] [Do you then reckon] the first of Shebat [as one and so] follow Beth Shammai?[3] — He [R. Ashi] meant it in this way: There are three according to all authorities; with regard to the first of Shebat there is a difference of opinion between Beth Shammai and Beth Hillel.

R. ELEAZAR AND R. SIMEON SAID, ON THE FIRST OF TISHRI. R. Johanan said: They both based their opinions on the same verse, viz., The rams have mounted the sheep[4] and the valleys also are covered over with corn, they shout for joy, yea, they sing.[5] R. Meir reasoned: When do the rams mount the sheep? At the time when the valleys are covered over with corn. And when are the valleys covered over with corn? In Adar. The sheep conceive in Adar and bear in Ab,[6] and their New Year is in Elul. R. Eleazar and R. Simeon said: When do the rams mount the sheep? At the time when they [the ears of corn] shout for joy and sing.[7] When do the ears of corn burst into song? In Nisan. They conceive in Nisan and bear in Elul, and their New Year is in Tishri. How then does the other [R. Meir] account for the words, 'they shout for joy, yea they sing'? — This refers to the late ones, whose conception takes place in Nisan. But how then does the other [R. Eleazar] account for the words, the valleys are covered with corn? — That refers to the early ones, whose conception takes place in Adar. Now according to R. Meir, there is no difficulty; the text says, 'The rams mount the sheep', to wit at the time when 'the valleys are covered with corn', but there are some also [which do not conceive till] they shout aloud and sing'. But on the view of R. Eleazar and R. Simeon, the clauses should be reversed, thus: 'The rams mount the sheep', to wit, at the time when the ears of corn 'shout for joy and sing', but there are some which do so [already] 'when the valleys are covered with corn'? — The fact is, said Raba, that all authorities hold that the rams mount the sheep at the time when the valleys are covered with corn, which is in Adar, but where they differ is in the exposition of the following text, viz., Thou shalt surely tithe,[8] [in regard to which we have learnt that] the Scripture speaks of two tithes, the tithe of cattle and the tithe of corn. Now R. Meir was of opinion that the tithe of cattle is put on the same footing as the tithe of corn in this way: just as corn becomes liable to tithe, soon after it reaches completion,[9] so cattle becomes liable to tithe soon after it reaches completion.[10] R. Eleazar and R. Simeon again held that the tithe of cattle is put on the same footing as the tithe of corn in this way: just as the New Year for the tithe of corn is in Tishri, so the New Year for the tithe of cattle is in Tishri.

ON THE FIRST OF TISHRI IS NEW YEAR FOR YEARS. What legal bearing has this? — R. Papa said: For [determining the validity of] documents, as we have learnt, 'Bonds if antedated are invalid, but if postdated are valid'.[11] But we have learnt, ON THE FIRST OF NISAN IS NEW YEAR FOR KINGS, and we asked, What is the legal bearing of this, and R. Hisda replied, For [determining the validity of] documents?[12] — There is no contradiction; the one statement refers to kings of Israel, the other to kings of other nations. What then of the dictum of R. Hisda, 'This statement refers only to the kings of Israel, but for the kings of other nations we reckon from Tishri'; was R. Hisda telling us only something that we already know from a Mishnah? — No; R. Hisda wanted to tell us the import of some Scriptural verses.[13] If you like I can say that R. Hisda explains the Mishnah here in the same way as R. Zera, since R. Zera said [that it[14] means], for reckoning cycles,[15] in this following the view of R. Eleazar, who said that the world was created in Tishri.[16] R. Nahman b. Isaac [explained the Mishnah to refer] to the Divine judgment 'as it is written, From the beginning of the year to the end of the year,[17] [which means], From the beginning of the year sentence is passed as to what shall be up to the end of it. How do we know that this takes place in Tishri? — Because it is written, Blow the horn at the new moon, at the covered time [keseh][18] for our feastday.[19] Which is the feast

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(1) V. n. 2.

(2) And for this reason the New Year for the Omer and the two loaves are not included in our Mishnah.

(3) V. Mishnah.

(4) E.V., ‘The meadows are clothed with flocks’.
(5) Ps. LXV, 14.
(6) Six months being allowed for pregnancy.
(7) A poetic description of the rustling of the ears. It is doubtful whether we can find here an allusion to the idea that ‘all creatures sing a certain chant before the Holy One, blessed be He’.
(8) Lit., ‘tithing thou shalt tithe’, Deut., XIV, 22.
(9) I.e., after it has become thoroughly dried in the fields, in Elul, v. infra 12a.
(10) I.e., after it is born, in Ab.
(11) V. supra, p. 2, n. 2.
(12) Which shows that the year for documents is dated from Nisan and not Tishri.
(13) I.e., he was telling us that we can learn from the Scriptures that the years of non-Israelitish kings are reckoned from Tishri. V. supra p. 7.
(14) The statement ON THE FIRST OF TISHRI IS THE NEW YEAR FOR YEARS.
(15) I.e., the cycle of Tishri is the first of the four cycles of the year, v. infra p. 43, n. 9. The year is divided into four cycles called Tekufoth, the Tekufah of Nisan (Vernal Equinox); Tammuz (Summer Solstice); Tishri (Autumn Equinox); Tebeth (Winter Solstice). The term Tekufah is also applied to the season itself.
(16) V. infra 10b.
(17) Deut. XI, 12. The verse continues, the eyes of the Lord thy God are always upon it (the land of Canaan).
(18) E.V., ‘appointed time’, or ‘full moon’.
(19) Ps. LXXXI, 4.

Talmud - Mas. Rosh HaShana 8b

on which the moon is covered over [mithkaseh]? You must say that this is New Year;[1] and it is written [in this connection], For it is a statute for Israel, an ordinance for the God of Jacob.[2]

Our Rabbis taught: ‘For it is a statute for Israel, an ordinance for the God of Jacob’: this teaches that the heavenly Beth din does not assemble for judgment until the Beth din on earth has sanctified the month’.

Another [Baraitha] taught: ‘For it is a statute for Israel’; this tells me only that Israel [are judged]; how do I know that this applies also to the [other] nations of this world? Because it is written, an ordinance for the God of Jacob’. If that is the case, what is the point of saying, For it is a statute for Israel?[3] — It teaches that Israel are brought up for trial first. And this is in harmony with the [following] saying of R. Hisda. For R. Hisda said: Where a king[4] and a community appear together, the king is brought up for judgment first, as it says, the judgment of his servant [Solomon] and the judgment of his people.[5] What is the reason? — If you like I can say, because it is not seemly that the king should stand outside, and if you like I can say, [the king is tried] before [the Divine] wrath becomes really fierce.[6]

FOR RELEASE YEARS. How do we know this [from the Scripture]? — Because it is written, And in the seventh year shall be a sabbath of solemn rest for the land,[7] and that this commences with Tishri we learn from the analogy with the word ‘year’[8] in from the beginning of the year.[9] But let us learn that it is Nisan from analogy with the word ‘year’ in the text, it is the first to you of the months of the year?[10] — We draw an analogy to a year with which months are not mentioned from a year with which months are not mentioned, but we do not draw an analogy to a year with which months are not mentioned from a year with which months are mentioned.[11]

AND FOR JUBILEE YEARS. [is the New Year for] Jubilees on the first of Tishri? Surely [the New Year for] Jubilees is on the tenth of Tishri, as it is written, on the day of atonement shall ye make proclamation with the horn?[12] — What authority is here followed? R. Ishmael the son of R. Johanan b. Beroka, as it has been taught: And ye shall hallow the fiftieth year.[13] What is the point of these words? [It is this]. Since it says, On the day of atonement [ye shall make proclamation],[12] I might think that the year is sanctified only from the Day of Atonement onwards. Therefore it says, And ye shall sanctify the fiftieth year. This teaches that it is sanctified from its inception. On this ground R. Ishmael the son of R. Johanan b. Beroka laid down that from New Year to the Day of Atonement slaves were neither dismissed to their homes nor subjected to their masters, but they ate and drank and made merry, wearing garlands on their heads.[14] When the Day of Atonement came, the Beth din sounded the horn; slaves were dismissed to their homes and fields returned to their original owners. And the Rabbis [— what do they make of this verse]? — [They say it teaches that] you are to sanctify years but not months.[15]

Another [Baraitha] taught: ‘It is a Jubilee.[16] What is the point of these words? — Since it says, And ye shall hallow the fiftieth year,[13] I might think that, just as it is sanctified from its inception onwards, so it remains sanctified [for a time] after its termination. And there would be nothing to wonder at in this, seeing that we [regularly] add from the profane on to the holy.[17] Therefore it says, it is a Jubilee to you, the fiftieth year, [to show that] you are to sanctify the fiftieth year, but not the fifty-first year.[18]

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(1) The only feast which takes place when the moon is hidden.

(2) Ibid. 5.

(3) For if the other nations are judged, a plus forte raison Israel.

(4) Israel being regarded as a king in relation to the other nations.

(5) I Kings, VIII, 59.

(6) Being inflamed by the sins of the community.

(7) Lev. XXV, 4.

(8) And he derives (the meaning of) ‘year’ from ‘year’ (commencing) with Tishri.

(9) Deut. XI, 12, which refers to Tishri.

(10) Ex. XII, 2.

(11) V. supra p, 7a.

(12) Lev. XXV, 9. referring to the Jubilee.

(13) Ibid 10. These words are apparently superfluous, it having already been said, and thou shalt number forty-nine years.

(14) In sign of their approaching freedom.

(15) Cf. infra 24a.

(16) Lev. XXV, II.

(17) V. infra.

(18) The word ‘it’ being specific.

Talmud - Mas. Rosh HaShana 9a

And the Rabbis [— what do they make of these words]?[1] — [They say]: You are to count the fiftieth year, but you are not to count the fifty-first,[2] to exclude the view of R. Judah, who said that the fiftieth year is reckoned both ways.[3] We are here told that this is not so.

And how do we know [from the Scripture] that we add from the profane on to the holy?[4] — As it has been taught: In plowing time and in harvest time thou shalt rest.[5] R. Akiba, [commenting on this,] said: There was no need [for Scripture] to specify the ploughing and harvest of the Sabbatical year, since this has already been mentioned [in] thy field thou shalt not sow etc.[6] What must be meant therefore is the ploughing of the year before the seventh which is passing into the seventh,[7] and the harvest of the seventh year which is continuing into the period after the seventh year.[8] R. Ishmael said: Just as ploughing is optional,[9] so the harvest [here referred to] is an optional one, excluding the harvesting of the ‘Omer, which is a religious duty.[10] Whence then does R. Ishmael derive the rule that an addition is to be made from the profane on to the holy? — From what has been taught: And ye shall afflict your souls on the ninth day:[11] I might think [literally] on the ninth day. It therefore says, In the evening.[12] if in the evening, I might think, after dark? It therefore says , ‘or, the ninth day’.[13] What then am I to understand? That we begin fasting while it is yet day; which shows that we add from the profane on to the holy. I know this [so far] only in regard to the inception [of the holy day]; how do I know it in regard to its termination? Because it says, from evening to evening.[12] So far I have brought only the Day of Atonement under the rule; how do I know that it applies to Sabbaths also? Because it says, ye shall rest.[14] How do I know that it applies to festivals? Because it says, your Sabbath.[14] How am I to understand this? That wherever there is an obligation to rest, we add from the profane on to the holy.

What then does R. Akiba make of this, ‘and ye shall afflict your souls on the ninth day’? — He requires it for the lesson learnt by R. Hiyya b. Rab from Difti.[15] For R. Hiyya b. Rab from Difti learnt: ‘And ye shall afflict your souls on the ninth day’. Do we then fast on the ninth day? Is it not on the tenth day that we fast? [We do]; but [the use of this word] indicates that if a man eats and drinks on the ninth day, the Scripture accounts it to him

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(1) They have no need of this lesson, seeing that they do not consider the year sanctified from its inception. (Cf. Tosaf. s.v. ורבנן 8b).

(2) Lit. ‘the year fifty and first’. So our texts, the meaning being, according to Rashi, that you are not to reckon the fiftieth year as fiftieth to the Jubilee and first to the next septennate. Tosaf., by a slight change of wording, renders: ‘You are to count the fiftieth year (as fiftieth to the Jubilee), but you are not to count the fiftieth year as one (to the following septennate)’, which is a smoother reading.

(3) As fiftieth to the Jubilee and first to the next septennate.

(4) I.e., add a little from the ordinary week-day on to the holy day.

(5) Ex. XXXIV, 21.

(6) Lev. XXV, 4.

(7) Ploughing under trees in the sixth year which will benefit them in the seventh.

(8) Stuff which grows of itself and reached a third of its growth in the seventh year.

(9) As there is no ploughing, which is considered a religious duty.

(10) R. Ishmael takes the words ‘in plowing time etc.’ to refer to the Sabbath, and learns from them that the ‘Omer to be brought on the second day of Passover may be reaped on Sabbath, v. Mak. 8b.

(11) Lev. XXIII, 32.

(12) Ibid.

(13) And after dark would be on the tenth.

(14) Lev. XXIII, 32.

(15) Dibtha, below the Tigris, S.E. of Babylon.

Talmud - Mas. Rosh HaShana 9b

as if he fasted on both the ninth and the tenth days.[1]

Our Rabbis taught: It is a Jubilee[2] — ‘A Jubilee’[3] even though they did not observe the release of fields, even though they did not observe the blowing of the trumpet.[4] I might say [that it is still a Jubilee] even though they did not observe the dismissal of slaves. Therefore it says, ‘it is’.[5] So R. Judah. R. Jose said: ‘It is a Jubilee’, — ‘A Jubilee’[3] even though they did not release fields, even though they did not dismiss slaves. I might think [that it is still a Jubilee] even if they did not blow the trumpet. It therefore says, ‘it is’. Now[6] since one text brings some cases under the rule and another text excludes others from it, why should I expound: ‘A Jubilee’,[7] even though they did not dismiss, but it is not a Jubilee unless they blew the trumpet’? Because it is possible that there should be no [opportunity for][8] dismissing slaves, but it is not possible that there should be no [opportunity for] blowing the trumpet.[9] Another explanation is that the per formance of the latter depends on the Beth din, but the performance of the former does not depend on the Beth din.[10] What need is there for the alternative explanation? — Because you might argue that it is impossible that there should not be someone in some part of the world who has not a slave to dismiss. Therefore I say that the one depends on the Beth din but the other does not depend on the Beth din.

I understand R. Jose's point of view, his reason being as he stated. But what is R. Judah's reason? — The text says, And ye shall proclaim liberty throughout the land,[11] and he holds that a text may be expounded in connection with the clause immediately preceding it, but not with the one before that.[12]

All authorities agree that the word deror[13] means freedom. What does this tell us? — As it has been taught: The word deror means freedom. R. Judah said: What is the significance of the word deror? [The freedom of] one who dwells [medayyer] where he likes[14] and can carry on trade in the whole country.

R. Hiyya b. Abba said in the name of R. Johanan: The views given above are those of R. Judah and R. Jose, but the Sages say that [the neglect of] any of these three ceremonies renders the Jubilee inoperative. Their view was that a text can be expounded in connection both with the clause immediately preceding it and with the one before that and with the one that follows it.[15] But it is written ‘Jubilee’?[16] — This is to show that it must be kept even outside of Palestine. But it is written ‘throughout the land’?[17] — This means that when liberation is carried out in the land it is carried out abroad, and when it is not carried out in the land it need not be carried out abroad.

AND FOR PLANTATION. How do we know this [from the Scripture]? — Because it is written, Three years [it shall be] uncircumcised,[18] and it is written, and in the fourth year,[19] and we learn that this year commences with Tishri from the analogy of the word ‘year’ in the text from the beginning of the year.[20] But why not conclude that it commences with Nisan from the analogy of the word ‘year’ in It is the first to you of the months of the year? — We draw an analogy to a year with which months are not mentioned from a year with which months are not mentioned, but we do not draw an analogy to a year with which months are not mentioned from a year with which months are mentioned.

Our Rabbis taught: ‘If one plants or bends over[21] or grafts a tree in the year before[22] the Sabbatical year thirty days before New Year — in all three cases, [by New Year] a year has passed for him,[23] and he can preserve the growth during the seventh year. [If he does so] less than thirty days before New Year, the interval [up to New Year] does not count as a year for him and he may not preserve the growth in the Sabbatical year

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(1) Because the eating and drinking on the ninth day is called in the text ‘fasting’.

(2) Lev. XXV, 11.

(3) Added by Bah.

(4) The superfluous word ‘Jubilee’ shows that even in these cases the year is observed as a Jubilee for the abstaining from sowing etc.

(5) היא This word having a limiting force.

(6) This is a continuation of R. Jose's statement.

(7) So Bah; cur. edd. ‘It is a Jubilee’.

(8) Lit., ‘it is possible for the world’. E.g.. if no Israelite had a slave.

(9) It is hardly possible that there should be no trumpet.

(10) Because the Beth din may not be able to compel all persons to dismiss their slaves.

(11) Just before the words ‘it is a Jubilee’.

(12) Hence we apply the limiting force of the words ‘it is’ to the dismissal of slaves, but not to the blowing of the trumpet, which does not immediately precede.

(13) In Lev. XXV, 10. E.V. ‘liberty’.

(14) [בי דיירא , Lit., ‘in a dwelling place’. MS.M.; דיירא (carrier). As a carrier carries (or, goes round with) his load everywhere he likes].
(15) Viz., ‘and ye shall return everyone unto his possession’.
(16) This should cancel the limiting force of ‘it is’.
(17) So how can you say that it should be kept outside of Palestine?
(18) Lev. XIX, 23.
(19) Ibid. 24.
(20) V. supra p. 31.
(21) A branch from a tree and plants it in the ground without separating it from the parent tree.
(22) Lit., ‘in the eve of’.
(23) I.e., the thirty days count as one of the years of ‘uncircumcision’.

Talmud - Mas. Rosh HaShana 10a

. The fruit of such a plantation is forbidden until the fifteenth of Shebat,[1] whether as "uncircumcised" in [the year of] "uncircumcision", or as fourth year fruit in the fourth year’,[2] What is the ground for this ruling? — R. Hiyya b. Abba said in the name of R. Johanan (though some trace it back to the authority of R. Jannai): Scripture says, And in the fourth year. . . and in the fifth year.[3] There are occasions when fruit appears in the fourth year and it is still forbidden on account of uncircumcision’, and there are occasions when fruit appears in the fifth year and it is still forbidden on account of ‘fourth year’.

Shall I say that that is not [in agreement with] R. Meir,[4] since R. Meir has affirmed[5] that one day in the year is reckoned as a year, as it has been taught: ‘Par [bullock] is mentioned in the Torah without further qualification and means an animal twenty-four months and one day old. So R. Meir. R. Eleazar says, it means an animal twenty-four months and thirty days old. For R. Meir used to say: Wherever ‘egel [calf] is mentioned in the Torah without further qualification, it means of the first year; [‘egel][6] ben bakar [young ox] means, of the second year; par [bullock] means, of the third year’! — You may still say [it is in agreement with] R. Meir. When R. Meir said that one day in a year is counted as a year, he meant at the end of a period,[7] but not at the beginning.[8]

Raba said: Cannot we apply here an argument a fortiori,[9] [to wit]: Seeing that in the case of a niddah,[10] though the beginning of the [seventh] day is not reckoned as concluding her period,[11] the end of the [first] day yet counts for the beginning of her period,[12] in the case of [a period of] years where one day is counted [as a whole year] at the end,[13]

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(1) Although three years are reckoned to have been completed by the previous New Year.
(2) Tosef. Sheb. I.
(3) Ibid. 24, 25. Stress is laid in the exposition on the word ‘and’.
(4) The view that thirty days are required to count as a year.
(5) Lit., ‘for if like R. Meir, surely he said’.
(6) But par ben bakar means ‘of the third year’. V. Tosaf. s.v. עגל .
(7) E.g.. the three-yearly period of the par.
(8) E.g., of the three-yearly period of ‘uncircumcision.
(9) To show that it makes no difference whether the day is at the beginning or the end of the period.
(10) A menstruous woman.
(11) Her period of uncleanness ending only at nightfall on the seventh day, and not at any hour earlier in the day.
(12) I.e., if she begins counting in the middle of a day, as soon as nightfall arrives she is reckoned as having completed one day. [The reference here is to Niddah who according to Biblical law was allowed to cleanse herself when seven days had passed from her first menstrual flow, provided it ceased on the seventh day before sunset. This law was later replaced by the more stringent Rabbinic rule necessitating a period of seven clean days after a single blood issue.]
(13) As in the case of the par.

Talmud - Mas. Rosh HaShana 10b

does it not follow that one day should be counted [as a year] at the beginning? — What then? Will you say [that the passage quoted[1] follows] R. Eleazar? [How can this be, seeing that] R. Eleazar requires thirty days and thirty days,[2] as we have learnt: ‘It is not allowed to plant nor to bend over nor to graft in the year before the Sabbatical year less than thirty days before New Year, and if one did plant or bend over or graft, he must uproot the plant. So R. Eleazar. R. Judah said: If a grafting does not take within three days, it will not take at all. R. Jose and R. Simeon said that it takes two weeks’,[3] and [commenting on this] R. Nahman said in the name of Rabbah b. Abbuha: On the view that thirty days are the period [for taking] we require thirty days and thirty;[4] on the view that three days are the period, thirty-three days are required; on the view that two weeks are the period, two weeks and thirty days are required. Now even if [we accept the view of] R. Judah, thirty-three days are required? — The truth is [that the statement in question follows] R. Meir, and when it says thirty days, it means the thirty days of taking. In that case it should say thirty-one days?[5] — He held that the thirtieth day counts both ways.

R. Johanan said: Both of them [R. Meir and R. Eleazar] based their views on the same verse, viz., And it came to pass in the one and six hundredth year, in the first month, on the first day of the month.[6] R. Meir reasoned: Seeing that the year was only one day old and it is still called a year, we can conclude that one day in a year is reckoned as a year. What says the other to this? — [He says that] if it were written, ‘In the six hundred and first year’, then it would be as you say. Seeing, however, that it is written, ‘In the one and six hundredth year’, the word ‘year’ refers to ‘six hundred’, and as for the word ‘one’, this means ‘the beginning of one’.[7] And what is R. Eleazar's reason? — Because it is written, ‘In the first month on the first day of the month. Seeing that the month was only one day old and it is yet called ‘month’, we can conclude that one day in a month is reckoned as a month; and since one day in a month is reckoned as a month, thirty days in a year are reckoned as a year, a month being reckoned by its unit and a year by its unit.

(We infer from what has just been said that both [R. Meir and R. Eleazar] were of opinion that the world was created in Nisan.)[8]

It has been taught: R. Eliezer says: In Tishri the world was created; in Tishri the Patriarchs[9] were born; in Tishri the Patriarchs died; on Passover Isaac was born; on New Year Sarah, Rachel and Hannah were visited;[10] on New Year Joseph went forth from prison

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(1) Where it says that less than thirty days does not count for planting etc.

(2) To elapse before a year is completed for ‘uncircumcision’ — thirty days for the ‘taking’ and thirty for the addition from the profane on to the holy (Rashi).

(3) Sheb. II, 6.

(4) To count for a year of ‘uncircumcision’. V. p. 37, n. 11.

(5) Thirty days for taking and one for the addition.

(6) Gen. VIII, 13.

(7) I.e., it merely gives the date, but gives no indication that a day can be counted as a year.

(8) Because both agree that ‘the first day of the first month’ in the text marks the beginning of another year. Rashi points out that both might equally well hold that the ‘first month’ here means Tishri, it being so called as first month to the creation and he therefore rejects this sentence. But v. Tosaf. s.v. מכלל .

(9) Abraham and Jacob.

(10) I.e., remembered on high.

Talmud - Mas. Rosh HaShana 11a

; on New Year the bondage of our ancestors in Egypt ceased;[1] in Nisan they were redeemed and in Nisan they will be redeemed in the time to come. R. Joshua says: In Nisan the world was created; in Nisan the Patriarchs were born; in Nisan the Patriarchs died; on Passover Isaac was born; on New Year Sarah, Rachel and Hannah were visited; on New Year Joseph went forth from prison; on New Year the bondage of our ancestors ceased in Egypt; and in Nisan they will be redeemed in time to come.

It has been taught: ‘R. Eliezer says: Whence do we know that the world was created in Tishri? Because it says, And God said, Let the earth put forth grass, herb yielding seed, and fruit-tree.[2] Which is the month in which the earth puts forth grass and the trees are full of fruit? You must say that this is Tishri. That time was the season of rainfall,[3] and the rain came down and the plants sprouted, as it says, And a mist went up from the earth.[4]

R. Joshua says: Whence do we know that the world was created in Nisan? Because it says, And the earth brought forth grass, herb yielding seed after its kind, and tree bearing fruit.[5] Which is the month in which the earth is full of grass and trees [begin to] produce fruit? You must say that this is Nisan. That time was the period when cattle, beasts and fowls copulate with one another, as it says, The rains have mounted the sheep etc.[6] And how does the other explain the text, ‘tree bearing fruit’? — This signifies a blessing for future generations. And what does the other make of the words ‘fruit-tree’? — This is to be explained in accordance with the dictum of R. Joshua b. Levi; for R. Joshua b. Levi said: All creatures of the creation were brought into being with their full stature, their full capacities, and their full beauty, as it says, And the heaven and the earth were finished, and all the host of them [zeba'am]. Read not zeba'am, but zibyonam [their beauty].

R. Eliezer said: Whence do we know that the Patriarchs were born in Tishri? Because it says, And all the men of Israel assembled themselves unto King Solomon, at the feast in the month Ethanim;[7] that is, the month in which the mighty ones [ethanim] of the world were born. How do you know that this word ethan means ‘mighty’? — Because it is written, Thy dwelling-place is firm [ethan],[8] and it also says, Hear, ye mountains, the Lord's controversy, and ye mighty rocks [ethanim] the foundations of the earth.[9] It also says, The voice of my beloved, behold he cometh, leaping upon the mountains, skipping upon the hills,[10] [where] ‘leaping upon the mountains’ means, for the merit of the patriarchs, and ‘skipping upon the hills’ means, for the merit of the matriarchs.

R. Joshua said: Whence do we know that the patriarchs were born in Nisan? Because it says, and it came to pass in the four hundred and eightieth year after the children of Israel were come out of the land of Egypt, in the fourth year in the month of Ziv[11] — that is, the month in which the brilliant ones [zewthane] of the world were born. But how does he explain the expression ‘month of Ethanim’? — It means, [the month] which is strong in religious duties.[12] What does the other make of the expression ‘in the month of Ziv’? — It means, the month in which there is splendour for the trees, for so Rab Judah has said: When a man goes abroad in the days of Nisan and sees trees blossoming, he should say, ‘Blessed is He that hath not left His world short of anything and has created therein goodly creatures and goodly trees to rejoice mankind’.

He who holds that they were born in Nisan holds that they died in Nisan, and he who holds that they were born in Tishri holds that they died in Tishri, as it says, I am a hundred and twenty years old this day.[13] The word ‘this day’ seems here superfluous. What then is the point of it? [As much as to say], This day my days and years have reached full measure, which teaches that the Holy One, blessed be He, sits and completes the years of the righteous from day to day and from month to month, as it says, The number of thy days I will fulfil.[14]

Whence do we know that Isaac was born on Passover? — Because it is written, On the [next] festival[15] I will return unto thee.[16] Now when was he [the angel] speaking?[17] Shall I say [he was speaking] on Passover and referring to Pentecost? Could she bear in fifty days?[18] Shall I say then that [he was speaking on] Pentecost and was referring to Tishri? Even in five months could she bear? I must suppose then that he was speaking on Tabernacles and referring to Passover.[19] Even so, could she bear in six months? — It has been taught that that year was a leap year. All the same, if the Master deducts the days of uncleanness,[20] the time is too short? — Mar Zutra replied: Even those who hold that when a woman bears at nine months she does not give birth before the month is complete[21] admit that if she bears at seven months she can give birth before the month is complete, as it says, And it came to pass after the cycle of days;[22] the minimum of cycles is two, and the minimum of days is two.

‘On New Year Sarah, Rachel and Hannah were visited’. Whence do we know this? — R. Eliezer said: We learn it from the two occurrences of the word ‘visiting’, and the two occurrences of the word ‘remembering’. It is written concerning Rachel, And God remembered Rachel,[23] and it is written concerning Hannah, And the Lord remembered her,[24] and there is an analogous mention of ‘remembering’ in connection with New Year, as it is written, a solemn rest, a remembering of the blast of the trumpet.[25] The double mention of visiting [is as follows]. It is written concerning Hannah, For the Lord had visited Hannah,[26] and it is written concerning Sarah, And the Lord visited Sarah.[27]

‘On New Year Joseph went forth from the prison’. Whence do we know this? — Because it is written, Blow the horn on the new moon, on the covering day for our festival . . .

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(1) Six months be-. fore the redemption.

(2) Gen. I, 11.

(3) Lit., ‘fructification’.

(4) Gen. II, 6. This is supposed to have been at the time of the creation, and is therefore a proof that the world was created in Tishri.

(5) Gen. I, 12. ‘Bearing fruit’ is taken to mean, ‘about to bear fruit’.

(6) Ps. LXV, 14. ‘The meadows are clothed with flocks’. This Psalm is supposed to refer to the creation.

(7) I Kings VIII, 2. The verse continues, ‘which is the seventh month’.

(8) Num. XXIV, 21.

(9) Micah VI, 2.

(10) Cant. II, 8. This verse is adduced to show that mountains’ can refer to the Patriarchs.

(11) I Kings VI, 1. The text says that this was the second month, but sometimes the Nisan tekufah (vernal equinox) is late in occurring, in which case the month of Iyar may according to solar calculation still be Nisan (Rashi).

(12) As a number of festivals occur in it.

(13) Deut. XXXI, 2.

(14) Ex. XXIII, 26.

(15) Heb. למועד E.V. ‘at the set time’.

(16) Gen. XVIII, 14. Said by the angel to Abraham with reference to the birth of Isaac.

(17) Lit., ‘standing’.

(18) The interval between Passover and Pentecost.

(19) According to another tradition (based on the words, knead and prepare unleavened cakes), the angels appeared to Abraham on Passover. Cf. Tosaf. s.v. אלא .

(20) According to tradition, Sarah became niddah (v. Glos.) on that day.

(21) Lit., ‘defective (months)’. I.e., less than twenty-nine or thirty days.

(22) I Sam. I, 20 (E.V. ‘when the time was come about’). This is taken as proof by the Talmud that Hannah bore after six months and two days.

(23) Gen. XXX, 22.

(24) I Sam. I, 19.

(25) Lev. XXIII, 24.

(26) I Sam. II, 21.

(27) Gen. XXI, 1 .

Talmud - Mas. Rosh HaShana 11b

He appointed it for Joseph for a testimony when he went forth[1] etc.

‘On New Year the bondage of our ancestors ceased in Egypt’. It is written in one place, and I will bring you out from under the burdens of the Egyptians,[2] and it is written in another place, I removed his shoulder from the burden.[3] ‘In Nisan they were delivered’, as Scripture recounts. ‘In Tishri they will be delivered in time to come’. This is learnt from the two occurrences of the word ‘horn’. It is written in one place, Blow the horn on the new moon,[4] and it is written in another place, In that day a great horn shall be blown.[5] ‘R. Joshua says, In Nisan they were delivered, in Nisan they will be delivered in the time to come’. Whence do we know this? — Scripture calls [the Passover] ‘a night of watchings’,[6] [which means], a night which has been continuously watched for from the six days of the creation. What says the other to this? — [He says it means], a night which is under constant protection against evil spirits.[7]

R. Joshua and R. Eliezer are herein consistent [with views expressed by them elsewhere], as it has been taught: ‘In the sixth hundredth year of Noah's life, in the second month, on the seventeenth day of the month.[8] R. Joshua said: That day was the seventeenth day of Iyar, when the constellation of Pleiades sets at daybreak and the fountains begin to dry up, and because they [mankind] perverted their ways, the Holy One, blessed be He, changed for them the work of creation and made the constellation of Pleiades rise at daybreak and took two stars from the Pleiades and brought a flood on the world. R. Eliezer said: That day was the seventeenth of Marheshvan, a day on which the constellation of Pleiades rises at daybreak, and [the season] when the fountains begin to fill

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(1) Ps. LXXXI, 4-6.

(2) Ex. VI, 6.

(3) Ps. LXXXI, 7 in reference to Joseph.

(4) Ibid. 4.

(5) Isa. XXVII, 13.

(6) Ex. XII, 42.

(7) I.e., on this night they are not allowed to roam as on other nights.

(8) Gen. VII, 11.

Talmud - Mas. Rosh HaShana 12a

, and because they perverted their ways, the Holy One, blessed be He, changed for them the work of creation, and caused the constellation of Pleiades to rise at daybreak and took away two stars [from it] and brought a flood on the world’.[1] Now accepting the view of R. Joshua, we can understand why the word ‘second’ is used;[2] but on R. Eliezer's view, what is meant by ‘second’? — [It means], the second to [the day of] judgment.[3] Again, on R. Joshua's view we see what change there was in the work of creation; but on R. Eliezer's view what change was there?[4] — The answer is found in the dictum of R. Hisda; for R. Hisda said: With hot liquid they sinned and with hot liquid they were punished. ‘With hot liquid they sinned’, namely, in [sexual] transgression. ‘With hot liquid they were punished’: it is written here[5] , and the waters assuaged,[6] and it is written elsewhere, and the wrath of the king was assuaged.[7]

Our Rabbis taught: ‘The wise men of Israel follow R. Eliezer in dating the Flood[8] and R. Joshua in dating the annual cycles,[9] while the scholars of other peoples follow R. Joshua in dating the Flood also’.

AND FOR VEGETABLES. A Tanna taught: ‘For vegetables and for tithes and for vows’. What is meant by vegetables? The tithe of vegetables? But this is the same as ‘tithes’? — [The Tanna] mentions first a tithe prescribed by the Rabbis and then those prescribed by the Torah.[10] But let him mention those prescribed by the Torah first? — Since he was specially pleased with the others,[11] he mentions them first. And our Tanna [— why does he not mention tithes]? — He mentions a tithe prescribed by the Rabbis,[12] and [leaves us to infer] a fortiori those prescribed by the Torah. Why does not the Tanna here say simply ‘tithe’ [in the singular]? — He desires to include both the tithe of cattle and the tithe of cereals. Then why does he not say vegetable’ [in the singular]? — He refers to two kinds of vegetables, as we have learnt: ‘[Tithe is to be given from] vegetables which are commonly made up into bundles, from the time they are so made up, and from those which are not commonly so made up, from the time when he fills a vessel with them.

Our Rabbis taught: If one[13] gathered herbs on the eve of New Year before sunset, and then gathered some more

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(1) There seems to be some confusion in the text here. To make it astronomically correct we should read (with the Seder Olam) in the dictum of R. Joshua, ‘When Pleiades rises at daybreak’, and in the dictum of R. Eliezer, ‘sets at daybreak’.

(2) Because we find Nisan called the first month in the Torah.

(3) Which is also recognized by Scripture as the beginning of a year in the text, ‘The eyes of the Lord are upon it (the Land of Israel) from the beginning of the year’.

(4) Seeing that it was the season of rain.

(5) In connection with the Flood.

(6) Gen. VIII, 1.

(7) Esth. VII, 10.

(8) I.e., the years of Noah and the calendar from Tishri; Tishri being the New Year for years.

(9) They hold that the world was created in Nisan, v. supra p. 30, n. 5.

(10) Tithes for all other kinds of produce apart from vegetables are derived by the Rabbis from biblical texts. But v. Tosaf. s.v. תנא .

(11) Because they were a rabbinic innovation.

(12) I.e., tithes for vegetables.

(13) Apparently a non-Jew is meant (Tosaf.).

Talmud - Mas. Rosh HaShana 12b

after sunset, terumah[1] and tithe are not given from one lot for another, because terumah and tithe are not given from the new for the old nor from the old for the new. If it was at the meeting point of the second and third years[2] [of the septennial cycle], from that [which is plucked in] the second year first and second tithe[3] [have to be given], [and from that which was plucked in] the third year, first tithe and the tithe of the poor.

Whence this rule? — R. Joshua b. Levi says: [It is written], When thou hast made an end of tithing all the tithe of thine increase in the third year, which is the year of the tithe.[4] This means the year in which there is only one tithe.[5] How is then one to act? [He gives] the first tithe and the tithe of the poor, and the second tithe is omitted. Is this correct, or should the first tithe also be omitted? — [Not so], because it says, Moreover thou shalt speak unto the Levites and say unto them, When ye take of the children of Israel the tithe which I have given you from them for your inheritance.[6] The text here compares the tithe [of the Levites] to an inheritance, [to signify that] just as an inheritance is to be held uninterruptedly, so their tithe is to be given without interruption. It has been taught to the same effect: ‘When thou hast made an end of tithing etc.’ [This means] a year in which there is only one tithe. How is one to act? [He gives] first tithe and tithe of the poor, and the second tithe is omitted. Should perhaps the first tithe also be omitted? — [Not so], because it says, and the Levite shall come,[7] which means to say, every time he comes give him.[8] So R. Judah. R. Eliezer b. Jacob says:

We have no need [to appeal to this text].[9] It says, Moreover thou shalt speak unto the Levites and say unto them, When ye take from the children of Israel the tithe which I have given you from them for your inheritance.[10] The text here compares the tithe to an inheritance, to signify that just as an inheritance is held uninterruptedly, so the tithe is to be given without interruption.

AND FOR VOWS. Our Rabbis taught: If one is interdicted by vow to have no benefit from another person for a year, he reckons twelve months from day to day. If he said ‘for this year’, then even if he made the vow on the twenty-ninth of Elul, as soon as the first of Tishri arrives a year is completed for him; and this even on the view of those who say that one day in a year is not counted as a year. For he undertook to mortify himself, and he has mortified himself. But why not say [that his year ends in] Nisan? — In respect of vows, follow the ordinary use of language.[11]

We have learnt elsewhere: ‘Fenugrec[12] [becomes liable to tithe] from the time when it grows;[13] produce[14] and olives, from the time when they have grown a third’. What is meant by ‘from the time when it grows’? — From the time when it grows sufficiently for resowing.[15] ‘Produce and olives from the time when they are a third grown’. Whence this rule? — R. Assi said in the name of R. Johanan (some trace it back to the name of R. Jose the Galilean): Scripture says: At the end of every seven years, in the set time of the year of release, in the feast of Tabernacles.[16] Now how comes the year of release to be mentioned here? The feast of Tabernacles is already the eighth year? It is in fact to intimate to us that if produce has grown a third in the seventh year before New Year, the rules of the seventh year are to be applied to it in the eighth year.[17]

Said R. Zera to R. Assi:

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(1) V. Glos.

(2) Lit., ‘if the second entered into the third’. In the second year a tithe was taken to Jerusalem to be consumed there; in the third year a tithe was given to the poor, but not taken to Jerusalem. The first tithe which went to the Levites was given every year. v. infra.

(3) I.e., tithe of the Levites and tithe for Jerusalem.

(4) Deut. XXVI, 12.

(5) I.e., one of the two regular tithes.

(6) Num. XVIII, 26.

(7) Deut. XIV, 29.

(8) In the third year also.

(9) R. Eliezer apparently was not completely satisfied with the proof from this text, because it speaks of the Levite as in the category of the poor.

(10) Num. XVIII, 26.

(11) And men ordinarily talk of the year as beginning in Tishri.

(12) Or ‘fenugreek’, a leguminous plant allied to clover.

(13) I.e., its year is determined by the time of its growth and not of its gathering, as in the case of vegetables.

(14) התבואה It is a question whether this includes grapes or not. V. Tosaf.

(15) Cf. Tosaf. s.v. משתצמח .

(16) Deut. XXXI, 10.

(17) Tosaf. (s.v. מנהג) points out that this would seem to come under the rule already given above of adding from the profane on to the holy, and answers that from this verse we should learn only that the produce if harvested must be treated as seventh-year produce e.g.. in respect of trading interest, but not that it is forbidden to harvest it.

Talmud - Mas. Rosh HaShana 13a

But perhaps even though it has not begun to ripen at all, the All-Merciful has still laid down that it is to be left alone until the feast of Tabernacles? — Do not imagine such a thing. For it is written, and the feast of ingathering [asif] at the end of the year.[1] Now what is ‘ingathering’? Shall I say it means the feast which comes at the time of ingathering? This is already signified in the words when thou gatherest in.[2] What then must be meant here by asif? Harvesting;[3] and the Rabbis take it for granted that all produce which is harvested by Tabernacles must have grown to a third by New Year, and Scripture applies to it the words at the end of the year.[4] Said R. Jeremiah to R. Zera: And were the Rabbis certain that there is this distinction between a third and less than a third?[5] He replied to him: Am I not always telling you not to let yourself go beyond the established rule? All the measurements laid down by the Sages are of this nature. In forty se'ahs [of water] a ritual bath may be taken; in forty se'ahs less a kurtub[6] it may not be taken. [A quantity of food equal to the] size of an egg can be rendered unclean as foodstuff; if it is short of that quantity by a grain it cannot be rendered unclean. [A piece of cloth] three handbreadths by three can be rendered unclean by being trodden on,[7] less than this quantity by one hair is not so rendered unclean. R. Jeremiah subsequently said: What I said is of no account. For R. Kahana was asked by members of the college, Whence did the Israelites bring the omer which they offered on their entry into the Land [of Israel]? If you say, it grew[8] while still in the possession of the heathen, [this cannot be, since] the All Merciful prescribed your harvest[9] and not the harvest of the stranger. (But how do we know that they [the Israelites] offered it at all? Perhaps they did not offer it at all? — Do not imagine such a thing. For it is written, And they did eat of the produce of the land on the morrow after the Passover.[10] On the morrow after the Passover they ate, but not before, [which shows that] they brought the omer and only then ate. Whence then did they obtain it?) — He [R. Kahana] replied to them: All that had not grown to a third while in the possession of the stranger [was fitting for their use]. Now [it might be argued here also that] perhaps it had grown [in the possession of the stranger] and they were not certain. The fact, however, [that they ate it] shows that they were certain. So here,[11] the Rabbis are certain. But perhaps [the Israelites brought the omer from] corn which had not commenced to grow [when they entered the land], but where it had grown to a quarter they were not certain about the difference between a third and less than a third?[12] — Do not imagine such a thing. For it is written, And the people went up from the Jordan on the tenth of the month.[13] Now if you assume that by then the corn had not grown at all, could it become ripe in five days? But [on your assumption] that it had grown to a fourth or a fifth, could [such corn] become ripe in five days? What you consequently have to answer [even on this assumption] is that the land of Canaan is called ‘the land of the hind’;[14] so [on the other assumption] you can answer that it is called ‘the land of the hind’.

R. Hanina objected strongly to the statement made above. Can you, he said, maintain that this ‘asif’ is ‘harvesting’, seeing that it is written, when thou gatherest in from thy threshing floor and from thy wine press,[15] and [commenting on this] a Master has said , The verse speaks of the waste of the threshing floor and the wine press?[16] Said R. Zera: I thought I was sure of this,[17] and now R. Hanina has come and put a spoke in my wheel.[18] How then do we know [this rule about a third]? — As it has been taught: R. Jonathan b. Joseph says: And it shall bring forth produce for the three years;[19]

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(1) Ex. XXIII, 16.

(2) Ibid.

(3) The verse meaning that the harvest gathered in at this season belongs to the year going out.

(4) Which shows that it is regarded as belonging to the year which is going out.

(5) Viz., that what is grown to a third belongs to one year, and what is less grown to another year. This seems to R. Jeremiah rather arbitrary.

(6) A small liquid measure equal to 1/64 of a log.

(7) By one who had a flux.

(8) A third (Rashi).

(9) Ye shall bring the sheaf of the firstfruits of your harvest unto the priest. Lev. XXIII, 10.

(10) Josh. V, 11.

(11) With reference to the corn that is harvested at the season of Tabernacles.

(12) And it was not from such corn that they brought the omer.

(13) Josh. IV, 19.

(14) Dan. XI, 16 (E.V. beauteous land). The Sages say that the Land of Israel is compared to a hind on account of its swiftness in bringing its products to maturity. Keth. 112.

(15) Deut. XVI, 13. 'From' is taken in the partitive sense.

(16) To show that it may be used for covering the sukkah; and the phrase, Festival of 'asif' ('ingathering') here too has the same signification — the festival that comes at the time when people 'gather in' the waste products for the sukkah.

(17) Lit., 'this thing was in our hand'.

(18) Lit., 'has thrown into it an axe'.

(19) Lev. XXV, 21.

Talmud - Mas. Rosh HaShana 13b

read not lishlosh [for three], but lishlish [to a third].[1] But this text is required for its literal meaning?[2] It is written in another verse, And ye shall sow for the eighth year and eat of the produce, the old store, until the ninth year.[3]

We have learnt elsewhere:[4] 'Rice, millet, hanie[5] and sesame,[6] if they have taken root by New Year, are for purposes of tithe counted[7] as belonging to the year before [the New Year],[8] and are permitted in the seventh year.[9] Otherwise they are forbidden in the seventh year,[9] and are reckoned for tithe as belonging to the next year.[10] Rabbah said: The Rabbis have laid down that [the tithe year of] a tree is determined by its blossoming, that of produce and olives by their becoming a third grown, that of vegetables by their ingathering. In which class have these been placed by the Rabbis? — Rabbah answered himself by saying: Since they are gathered for shelling as required,[11] the Rabbis made the taking root the determining factor.[12]

Said Abaye to him: Can he not collect the whole crop in a heap,[13] so that ex post facto he will have set aside from the new crop in it for the new crop in it, and from the old crop in it for the old crop?[14] Has it not been taught:[15] 'R. Jose b. Kippar says in the name of R. Simeon Shezuri: If Egyptian beans have been sown for seed and part takes root before New Year and part after, terumah and tithe must not be given from one lot for another, because terumah and tithe are not given from the new for the old nor from the old for the new. How then is one to manage? He collects the whole crop in a heap, so that in the end he gives terumah and tithe from the new crop in the heap for the new crop in the heap, and from the old crop in the heap for the old crop in the heap! — He replied to him: You cite R. Simeon Shezuri. R. Simeon Shezuri held that mixing can be relied on,[16] whereas the Rabbis held that mixing cannot be relied on.

R. Isaac b. Nahmani said in the name of Samuel: The halachah follows the ruling given by R. Jose b. Kippar in the name of R. Simeon Shezuri. R. Zera strongly demurred to this. Did Samuel, he asked, really say this? Has not Samuel said: Mixing is not relied on for anything save wine and oil? — R. Zera overlooked the following dictum of Samuel: The determining factor is in all cases the full ripening.[17]

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(1) Meaning that it is considered ripe when it has grown a third.

(2) And how therefore can you use it for a deduction?

(3) Ibid. 22. This shows that the produce of the sixth year will last three years, and therefore the other verse is not required to tell us this and may be used for a deduction.

(4) Sheb. II, 7.

(5) A species of millet.

(6) These are all counted as varieties of pulse.

(7) In an ordinary year.

(8) Second or third as the case may be. V. p. 44, n. 6.

(9) Viz. , those that take root in the sixth.

(10) V. Sheb. II, 7.

(11) I.e., some before New Year and some after. [The phrase עשויין פּרכין פּרכין is difficult. Rashi renders: They (their gathering) are made (as they are needed) for shelling. R. Hananel reads פּרגין (‘beds’) and renders, They ripen (at different times) in different beds, even though they may ‘take’ at the same time].

(12) Because otherwise it would be difficult to keep the old and the new separate for tithing purposes without great inconvenience.

(13) Lit., ‘heap up his threshing-floor in the middle of it’.

(14) Abaye holds that if the whole crops old and new, is well mixed together, then when he sets aside terumah and tithe from it, the proportion of old and new in the terumah and tithe will be the same as the proportion of old and new in the whole crop.

(15) Tosef. Sheb. II.

(16) To produce old and new in proper proportions in the tithe. Lit., ‘there is mixing’.

(17) And therefore in fact tithe is given from Egyptian beans all together, whether they took root in the outgoing or in the incoming year, which is as R. Simeon Shezuri said, in so far that the two crops can be tithed together, although according to each for a different reason. For on the view of Samuel the whole is regarded as belonging to the incoming year, which is not what R. Simeon said.

Talmud - Mas. Rosh HaShana 14a

And all three dicta of Samuel are necessary.[1] For if he had told us only that the law follows R. Simeon b. Shezuri, I should have said that his reason was because we can rely on mixing; he tells us therefore that mixing is not to be relied on for anything. And if he had told us that mixing is not to be relied on for anything, I should have said that he holds with the Rabbis;[2] therefore he tells us that the halachah follows R. Simeon Shezuri. If again we had only these two dicta, I should have said that Samuel contradicts himself;[3] he therefore tells us that the determining factor is in all cases the full ripening.[4] And if he had told us [only] that the determining factor is in all cases the full ripening, I should have said that this applies also to produce and olives. Therefore he tells us that the halachah follows R. Simeon Shezuri where he expresses a different view.[5] [But if so], let him indicate [only] these two points; why does he tell us that mixing is not in all cases to be relied on? — His object is to tell us that for wine and oil mixing is to be relied on.

It has been taught: R. Jose the Galilean says: After that thou hast gathered in from thy threshing-floor and from thy wine press:[6] [this tells us that] just as the [produce brought to the] threshing floor and the wine press have this special feature, that they are nurtured by the waters[7] of the outgoing year and are [consequently] tithed for the outgoing year, so all products which are nurtured by the waters of the outgoing year are tithed for the outgoing year. This excludes vegetables, which are nurtured by the waters of the current year[8] and are [consequently] tithed for the current year. R. Akiba said: ‘After that thou hast gathered it, from thy threshing-floor and thy wine press:’ just as [the products brought to the] threshing-floor and wine press have this special feature that they are nurtured by rain water[9] and [consequently] are tithed for the outgoing year, so all products that are nurtured by rain water are tithed for the outgoing year. This excludes vegetables, which are nurtured by all kinds of water[10] and are consequently tithed for the current year. Where do they [R. Jose and R. Akiba] differ in practice? — R. Abbahu said: They take different views with regard to seedless onions and Egyptian beans, as we have learnt:[11] Seedless onions and Egyptian beans which have been kept without water for thirty days before New Year [and are gathered after New Year] are tithed for the outgoing year and are permitted in the Sabbatical year. Otherwise they are forbidden in the Sabbatical year and are tithed for the current year.[12]

ON THE FIRST OF SHEBAT IS NEW YEAR FOR TREES. What is the reason? — R. Eleazar said in the name of R. Oshaia: Because [by then] the greater part of the year's rain has fallen[13] and the greater part of the cycle[14] is still to come. What is the sense of this? What it means is this: ‘Although the greater part of the cycle is still to come, yet since the greater part of the year's rain has fallen, [therefore etc.]'.

Our Rabbis taught: 'It is recorded of R. Akiba that he once plucked a citron tree on the first of Shebat and gave two tithes from

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(1) For making clear to us his point of view.

(2) So that if old and new have become mixed together, tithe for both parts of the mixture must proportionately be given from some other quarter.

(3) By saying on the one hand that the law follows R. Simeon, which would imply that mixing can be relied on, and on the other that mixing cannot be relied on.

(4) And this is the reason why the law follows R. Simeon.

(5) From the Rabbis. That is, only in the case of beans etc. but not of produce, where Samuel would hold that the decisive factor is the growth of a third. [R. Hananel reads 'where they (R. Simeon b. Shezuri and the Rabbis) differ'].

(6) Deut. XVI, 13.

(7) This apparently includes both rain water and irrigation.

(8) Lit., 'the year that covers'. The year in which they are gathered.

(9) Lit., 'most (kinds of) water'.

(10) Including irrigation.

(11) Sheb. II, 9.

(12) Rashi gives two views as to what is implied in this. According to one opinion, if these vegetables have been kept without water for the last thirty days of the outgoing year, then R. Jose would hold that they must have been nurtured by the rain water of that year, and so are to be tithed for that year; whereas R. Akiba would hold that their growth is due in part to irrigation. and so they would be tithed for the next year; and the Mishnah quoted follows R. Jose. The other opinion is that as they have not been irrigated for thirty days, it is R. Akiba and not R. Jose who would hold that they have been nurtured by the rain of the outgoing year, and the Mishnah therefore follows R. Akiba. It was customary to withhold water from these two species for thirty days before plucking them so as to harden them.

(13) And the trees now begin to blossom.

(14) The cycle of Tebeth; i.e., the winter season beginning at the winter solstice. V. supra p. 30, n. 5.

Talmud - Mas. Rosh HaShana 14b

it,[1] one[2] in accordance with the ruling of Beth Shammai and one[3] in accordance with the ruling of Beth Hillel.[4] R. Jose b. Judah said: He did not follow the [two] rulings of Beth Shammai and Beth Hillel, but the [two] rulings of Rabban Gamaliel and R. Eliezer, as we have learnt:[5] 'A citron tree follows the rule of a tree in three respects and of a vegetable in one respect. It follows the rule of a tree in three respects — for 'uncircumcision,'[6] for fourth-year fruit, and for the Sabbatical year. It follows the rule of a vegetable in one respect, its tithe [year] being determined by its plucking. So Rabban Gamaliel. R. Eliezer, however, says that a citron follows the rule of a tree in all respects.[7]

But is it right to adopt the harder rule from both sides?[8] Has it not been taught: 'As a general principle, the halachah follows Beth Hillel. If one prefers, however, to adopt the rule of Beth Shammai, he may do so, and if he desires to adopt the rule of Beth Hillel he may do so. One, however, who adopts the more lenient rulings of both Beth Shammai and Beth Hillel [on the same subject] is a bad man, while to one who adopts the more stringent rulings of both Beth Shammai and Beth Hillel may be applied the verse, But the fool walketh in darkness.[9] No; either one must follow Beth Shammai both where they are more severe and more lenient or Beth Hillel both where they are more severe and more lenient'? — [The answer is that] R. Akiba was doubtful about the tradition, and did not know whether Beth Hillel fixed [the New Year for trees] on the first of Shebat or on the fifteenth of Shebat.[10]

'R. Jose b. Judah said: He did not adopt the two rulings of Beth Shammai and Beth Hillel, but of Rabban Gamaliel and R. Eliezer [But would R. Jose hold that] in respect of the first of Shebat he adopted the ruling of Beth Shammai?[11] — R. Hanina (or some say R. Hananiah) said: The case here is one of a citron which had blossomed before the fifteenth of Shebat of the previous year,[12] and R. Akiba might equally well have done the same thing at all earlier date,[13] but this happened to be the actual date. Rabina said: Combine[14] the two statements. It was not the first of Shebat but the fifteenth of Shebat,[15] and he [R. Akiba] did not adopt the two rulings of Beth Shammai and Beth Hillel but of Rabban Gamaliel and R. Eliezer.

Rabbah son of R. Huna said: Seeing that Rabban Gamaliel has said that the tithe year of a citron tree is determined by its plucking like that of a vegetable, its New Year [like that of a vegetable] must be the first of Tishri. The following was cited in objection to this: 'R. Simeon b. Eleazar says: If a man plucked the fruit of a citron tree on the eve of the fifteenth of Shebat before sunset, and then plucked some more after sunset, terumah and tithe must not be given from one lot for the other because terumah and tithe are not given from the new for the old nor from the old for the new. [If it was at the meeting point of the third and] fourth years, [from the fruit of] the third year he gives first tithe and the tithe of the poor, and from the fruit of the fourth year the first tithe and the second tithe'.[16]

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(1) The second tithe for the second year and the poor tithe for the third.

(2) The poor tithe.

(3) The second tithe.

(4) Who say that the New Year begins only on the fifteenth of Shebat.

(5) Bek. II, 6.

(6) 'Orlah, v. Glos.

(7) And its tithe-year is determined by its blossoming. Being in doubt whether to follow R. Gamaliel or R. Eliezer, R. Akiba gave two tithes.

(8) Where two authorities give each two rulings with regard to a certain subject, one being more stringent in respect of one point and the other in respect of the other. For instance, Beth Shammai rule that the lack of one vertebra in a human spine still leaves it capable of defiling by 'overshadowing' (v. Glos. s.v. ohel) but does not make an animal trefa (v. Glos.) whereas Beth Hillel says that it makes an animal trefa but leaves it incapable of defiling by overshadowing. Here Beth Shammai are more stringent in the matter of defilement and Beth Hillel in the matter of trefa (v. 'Er. 6b). So here, R. Akiba took on himself two burdens when one would have sufficed.

(9) Eccl. II, 14.

(10) And he followed Beth Hillel only.

(11) [For according to Beth Hillel, even if the tithe is determined by the blossoming he would still not be liable to the tithe of third year, which would not begin before the fifteenth of Shebat.]

(12) When the third year began, and the fruit had been left on the tree. A citron can remain on the tree for several years.

(13) R. Akiba following Beth Hillel and the two rulings of R. Gamaliel and R. Eliezer, the blossoming having taken place in the second year.

(14) In R. Jose's statement.

(15) When unquestionably a New Year would have commenced for trees.

(16) Tosef., R.H.I., cf. supra p. 44, nn. 6-7.

Talmud - Mas. Rosh HaShana 15a

Now which authority is reported to make plucking the determining factor? Rabban Gamaliel; and he says here Shebat?[1] — The statement should have been reported differently,[2] [thus]: Rabbah b. bar Huna said: Although Rabban Gamaliel said that [the tithe-year of] a citron tree is determined by its plucking like [that of] a vegetable, yet its New Year is Shebat.

Why in the former statement[3] is the expression used, 'if it was the meeting point of the second and third years', and in this statement the expression, 'if it was the meeting point of the third and fourth years'? — This points out to us incidentally that the citron tree suffers from being handled, and since everybody handles it in the seventh year,[4] it does not yield fruit till the third year [after blossoming].

R. Johanan inquired of R. Jannai: When is the New Year of the citron tree? — He replied: In Shebat. Do you mean [he asked further] Shebat of the calendar[5] or Shebat of the cycle?[6] — He replied: Shebat of the calendar.[7]

Raba inquired of R. Nahman (or, according to others, R. Johanan inquired of R. Jannai): Suppose it was a leap year, what is the rule?[8] — He replied: Do as in ordinary years.[9]

Rabbah said: A citron tree which has blossomed in the sixth year and ripened in the seventh[10] is not liable to tithe and not liable to clearance;[11] while one which has blossomed in the seventh year and produced fruit in the eighth is not liable to tithe but is liable to clearance. Said Abaye to him: Your second clause is unobjectionable, because [you can say that] you take the more stringent view.[12] But your first clause [surely involves a contradiction]? [For you say], 'It is not liable to clearance'. Why so? Because we say, Make the blossoming the determining factor.[13] But if so, it should surely be liable to tithe? — He replied to him: Everybody handles it, and you say it should be liable to tithe! R. Hamnunah, however, said: A citron tree which blossoms in the sixth year and ripens in the seventh is always reckoned as belonging to the sixth, and one which blossoms in the seventh and ripens in the eighth is always regarded as belonging to the seventh. The following was cited in objection: 'R. Simeon b. Judah said in the name of R. Simeon: A citron tree which blossoms in the sixth year and ripens in the seventh is not liable to tithe and not liable to clearance, since no fruit is liable to tithe which has not both grown and been plucked in a period of liability.[14] A citron tree which blossoms in the seventh year and ripens in the eighth year is not liable either to tithe or to clearance, since no fruit is liable to clearance which has not both grown and been plucked in the seventh year'. Now the first part of this statement seems to contradict R. Hamnunah,[15] and the second part both Rabbah and R. Hamnunah?[16] — There is a difference of Tannaim on this point,[17] as it has been taught: 'R. Jose said: Abtolmus testified in the name of five elders that a citron is determined by its plucking in the matter of tithe. Our teachers, however, took a vote in Usha and decided that it is determined by its plucking for purposes both of tithe and of Sabbatical year'. How does Sabbatical year come to be mentioned here? —

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(1) And not Tishri.

(2) Lit., 'if the statement was made it was stated thus'.

(3) In the Tosef. quoted on 12a ad fin.

(4) Since, like all other trees, it is common property in that year.

(5) I.e., the lunar month Shebat-thirty days from the first of Tebeth.

(6) Thirty days from the cycle of Tebeth (Winter Solstice, usually Dec. 22).

(7) In spite of the fact that fructification is due to the action of the sun.

(8) Do we make the New Year in Shebat which comes next to Tebeth, or in First Adar which takes the place of Shebat in this year?

(9) Lit., 'follow most of the years'. I.e., adhere to Shebat.

(10) Lit., 'the daughter of the sixth which enters into the seventh'.

(11) In the third and sixth years of the Septennate. V. Deut. XXVI, 13.

(12) I.e., the view which is more stringent in this case, viz., that we go by the blossoming and not by the plucking. And since we do this for purposes of clearance, we also do it for purposes of tithes, although this means taking the more lenient view. (V. Tosaf s.v. בשלמא).

(13) And so it belongs to the sixth year.

(14) And the seventh year is not a period of liability for tithe.

(15) Who holds that if it blossoms in the sixth it is liable to tithe.

(16) Who both hold that if it blossomed in the seventh year it is liable to clearance.

(17) As to whether we go by the plucking or the blossoming for purposes of the Sabbatical year.

Talmud - Mas. Rosh HaShana 15b

Talmud - Mas. Rosh HaShana 15b

There is an omission in the statement, which should read as follows: ‘[Abtolmus testified that] a citron tree is determined by its plucking for purposes of tithe and by its blossoming for purposes of the Sabbatical year.[1] Our teachers, however, took a vote in Usha and decided that it is determined by its plucking for purposes both of tithe and of Sabbatical year’.

It has been stated: R. Johanan and Resh Lakish both lay down that a citron tree which blossoms in the sixth year and ripens in the seventh year is always reckoned as belonging to the sixth year.[2] When Rabin came [from Palestine], he said in the name of R. Johanan: A citron which blossomed in the sixth year and ripened in the seventh, even though [at the beginning of the seventh] it was no bigger than an olive and it subsequently became as big as a loaf, can render one guilty of breaking the rule of tebel.[3]

Our Rabbis taught: If the fruit of a tree blossoms before the fifteenth of Shebat, it is tithed for the outgoing year; if after the fifteenth of Shebat, it is tithed for the incoming year. R. Nehemiah said: This rule applies only to trees which produce two broods in a year.[4] (Two broods,[5] do you say? — He should say, as it were two broods).[6] Trees, however, which produce only one brood, like date trees, carob trees and olive trees, even though they blossom before the fifteenth of Shebat are tithed for the incoming year.

R. Johanan said: In regard to carob trees, it has become the general custom to follow the rule of R. Nehemiah. Resh Lakish sought to confute R. Johanan from the following: ‘As regards wild fig-trees, their seventh year is the second year [of the Septennate] because [after blossoming] their fruit takes three years to grow’.[7] — He made no answer.[8] Said R. Abba the priest to R. Jose: Why did he make no answer? He could have said to him, I give the view of R. Nehemiah, and you bring against me the view of the Rabbis! — [He could not have answered him thus], because Resh Lakish could have retorted: Do you abandon the Rabbis and follow R. Nehemiah? — But he could have said to him, I speak to you of the general custom, and you speak to me of a prohibition?[9] — [He could not answer thus], because he could have said to him: Where a prohibition applies, even if there is a general custom, do we allow it? — But he could have said to him: I speak to you of the tithe of carobs, which is Rabbinical, and you speak to me of the Sabbatical year, which is Pentateuchal! — The truth is, said R. Abba the priest, I wonder whether Resh Lakish put this question. Whether he put this question? But we are distinctly told that he did so! — What R. Abba should say is, whether he [R. Johanan] admitted the difficulty or not.[10]

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(1) And this is the view taken by Rabbah and R. Hamnunah in respect of the law of clearance. For the purposes of tithes, however, Rabbah is of the opinion that although Abtolmus makes the plucking the decisive factor, he would nevertheless exempt from tithe a citron tree which blossomed in the sixth year and ripened in the seventh, for the reason that it is handled by everybody (Rashi)].

(2) Whether for purposes of the Sabbatical year or tithes.

(3) V. Glos. If it was consumed before tithe was given for it, R. Johanan being of the opinion that we go by the blossoming.

(4) R. Nehemiah's statement is here interrupted while the use of the strange word ‘broods’ is explained.

(5) Heb. ברינות , a word strictly applicable only to broods of birds.

(6) I.e., their fruit is not all gathered at one time; e.g.. figs; cf. supra 13b, the rule in the case of beans.

(7) Sheb. V, 1 . Which would show that the blossoming is the determining factor in all trees, even those which are all plucked at one time.

(8) Lit. ‘he was silenced’.

(9) The prohibition to determine the year by the plucking.

(10) I.e. , whether his silence was due to the fact that he had no answer, or to the fact that he thought it obvious that tithe of carobs, which is Rabbinical, could not be put on the same footing as produce of the Sabbatical year which is

Pentateuchal.

Talmud - Mas. Rosh HaShana 16a

MISHNAH. AT FOUR SEASONS [DIVINE] JUDGMENT IS PASSED ON THE WORLD:[1] AT PASSOVER IN RESPECT OF PRODUCE; AT PENTECOST IN RESPECT OF FRUIT; AT NEW YEAR ALL CREATURES PASS BEFORE HIM [GOD] LIKE CHILDREN OF MARON,[2] AS IT SAYS, 'HE THAT FASHIONETH THE HEART OF THEM ALL, THAT CONSIDERETH ALL THEIR DOINGS';[3] AND ON TABERNACLES JUDGMENT IS PASSED IN RESPECT OF RAIN.

GEMARA. Which produce is referred to? Shall I say, the produce which is already grown?[4] If so, then when were the hardships decreed which it has already suffered? It must be then the produce which is to be sown later.[5] You assume then that only one judgment is passed. But it has been taught: 'If some calamity or misfortune[6] happens to produce before Passover, it is in virtue of a judgment passed on the previous Passover, if after Passover, of a judgment passed at the Passover which has just gone.[7] If a calamity or misfortune happens to a man before the Day of Atonement, it is in virtue of a judgment passed on the last Day of Atonement, if just after the Day of Atonement, of a judgment passed on the one just gone'! — Raba replied: This shows that two judgments are passed on the produce.[8] Abaye remarked: Therefore if a man sees that the slow-maturing seed[9] is doing well he should sow the quick-maturing seed[10] in good time, so that it may be well grown before the time comes to judge it.[11]

Our Mishnah seems to agree neither with R. Meir nor with R. Judah nor with R. Jose nor with R. Nathan. For it has been taught: 'All are judged[12] on New Year and their doom is sealed on the Day or Atonement. So R. Meir. R. Judah says: All are judged on New Year and the separate dooms are sealed each in its time — on Passover in respect of produce, on Pentecost in respect of fruit, on Tabernacles judgment is passed in respect of rain, and man is judged on New Year and his doom is sealed on the Day of Atonement. R. Jose says: Man is judged every day, as it says, And thou dost visit him every morning.[13] R. Nathan says: Man is judged every moment, as it says, Thou dost try him every moment'.[14] Should you maintain that it is after all in accordance with Rabbi Judah, [the seasons] mentioned in our Mishnah referring to the final doom, we may retort that if so there is a difficulty with the case of man![15] — Raba replied: This Tanna [of our Mishnah] follows the Tanna of the school of R. Ishmael, since it has been taught in the school of R. Ishmael: 'At four seasons judgment is passed on the world, on Passover in respect of produce, on Pentecost in respect of fruit, on Tabernacles judgment is passed in respect of rain, and man is judged on New Year and his doom is sealed on the Day of Atonement'. The statements of the Mishnah must then be taken to refer to the preliminary judgment.

R. Hisda said: What is the reason of R. Jose? — [How can you ask this?] Surely it is as he has stated, [viz., the text], 'And thou dost visit him every morning'! — What we mean is this: What is his reason for not taking the same view as R. Nathan? — 'Trying' merely means scrutinizing. But 'visiting' also merely means scrutinizing? The truth is, said R. Hisda, that R. Jose's reason is to be found in this text: To do the judgement of his servant and the judgement of his people Israel, as every day shall require.[16]

R. Hisda further said: If a king and a people present themselves together, the king stands his trial first, as it says, To do the judgement of his servant and the judgement of his people Israel.[16] What is the reason? — If you like, I can say, because it is not proper that a king should remain outside, or if you like I can say, [so that he may be judged] before the [divine] anger waxes hot.[17]

R. Joseph said: Whose authority do we follow nowadays in praying [daily] for the sick and for the ailing?[18] — Whose authority? That of R. Jose.[19] Or if you like I can say that it is after all that of the

Rabbis,[20] but that at the same time we follow the counsel of R. Isaac. For R. Isaac said: Supplication[21] is good for a man whether before the doom is pronounced or after it is pronounced.[22]

It has been taught: R. Judah said in the name of R. Akiba: Why did the Torah enjoin on us to offer an ‘Omer on Passover? Because Passover is the season of produce. Therefore the Holy One, blessed be He, said, Bring before Me an ‘Omer’ on Passover so that your produce in the fields may be blessed.[23] Why did the Torah enjoin on us to bring two leaves on Pentecost? Because Pentecost is the season for fruit of the tree. Therefore the Holy One, blessed be He, said: Bring before Me two loaves on Pentecost so that the fruit of your trees may be blessed.[24] Why did the Torah enjoin on us to pour out water on Tabernacles?[25] The Holy One, blessed be He, said, Pour out water before Me on Tabernacles, so that your rains this year may be blessed. Also recite before Me on New Year [texts making mention of] kingship, remembrance, and the shofar-kingship, so that you may proclaim Me king over you; remembrance, so that your remembrance may rise favourably before Me; and through what? Through the shofar.[26]

R. Abbahu said: Why do we blow on a ram's horn? The Holy One, blessed be He, said: Sound before Me a ram's horn so that I may remember on your behalf the binding of Isaac the son of

Abraham,[27] and account it to you as if you had bound yourselves before Me.

R. Isaac said: Why do we sound the horn on New Year? — [You ask], why do we sound? The All-Merciful has told us to sound![28] — What he means is, why do we sound a teru'ah?[29] [You ask] why do we sound a teru'ah? The All-Merciful has proclaimed ‘a memorial of teru'ah![30] — What he means is, why do we sound a teki'ah and teru'ah![30] — sitting

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(1) In accordance with its actions during the preceding year. By the ‘world’ here is probably meant only the people of Israel

(2) The general sense of this obscure expression is ‘one by one’, ‘in single file’. Its precise meaning is discussed in the Gemara infra p. 18a q.v.

(3) Ps. XXXIII, 15.

(4) Having been sown in the previous autumn.

(5) In the coming autumn.

(6) קרי או אונס . The former by an ‘act of God’, the latter by an act of man’, Aruch.

(7) Lit. , ‘to come’. I.e., the Passover after which it had been sown.

(8) I.e., the same produce is judged in two years.

(9) Wheat and cummin, which are sown in October.

(10) Barley, ‘which is sown in January or February.

(11) At the next Passover, and meanwhile it profits from the favourable judgment of the preceding Passover.

(12) This means apparently, ‘all judgments are passed’.

(13) Job VII, 18.

(14) Ibid. Tosef. R.H. I.

(15) Whose judgment according to the Mishnah is on New Year.

(16) I Kings VIII, 59.

(17) Cf. supra 8b.

(18) V. P.B. p 47.

(19) Who holds that man is judged daily; v. Ned. 49a.

(20) I.e. our Mishnah.

(21) Lit., ‘crying’.

(22) So that daily prayer for the sick is of some effect though judgment has already been pronounced on New Year.

(23) Passover being the season when judgment is pronounced on the produce.

(24) The connection between the loaves and fruit lies in the fact that firstfruits were not brought to the Temple before Pentecost.

(25) The ceremony of water-pouring on Tabernacles (v. Suk. 48a) was derived by the Rabbis from hints in the Pentateuch, though it is not expressly mentioned there (V. Ta'an 2b-3a).
(26) V. infra 34b.
(27) Because eventually Abraham offered a ram in place of Isaac.
(28) In the verse Sound (tik'u) the horn on the New Moon, on the appointed day of our festival. Ps. LXXXI, 4.
(29) Because the word tik'u implies only the teki'ah sound. For teru'ah and teki'ah v. Glos.
(30) Lev. XXIII, 24. E.V. ‘a memorial proclaimed with the blast of horns’.

Talmud - Mas. Rosh HaShana 16b

and then again sound a teki'ah and teru'ah standing? — It is so as to confuse the Accuser.[1]

R. Isaac further said: If the shofar is not sounded[2] at the beginning of the year, evil will befall at the end of it. Why so? Because the Accuser has not been confused.

R. Isaac further said: Every year which is poor[3] at its opening becomes rich before it ends, as it says, From the beginning of the year — where the word is spelt meroshith[4] — ‘unto the end’; such a year is destined to have a ‘latter end’.[5]

R. Isaac further said: Man is judged only according to his actions up to the time of judgment,[6] as it says, God hath heard the voice of the lad as he is there.[7]

R. Isaac further said: Three things call a man's iniquities to mind, namely, a shaky wall,[8] the scrutinizing of prayer,[9] and calling for [Divine] judgment on one's fellow man. For R. Abin said: He who calls down [Divine] judgment on his neighbour is himself punished first [for his own sins], as it says, And Sarai said unto Abram, My wrong be upon thee,[10] and it is written later, And Abraham came to mourn for Sarah and to weep for her.[11]

R. Isaac further said: Four things cancel the doom of a man, namely, charity, supplication, change of name and change of conduct. Charity, as it is written, And charity delivereth from death.[12] Supplication, as it is written, Then they cried unto the Lord in their trouble, and he delivered them out of their distresses.[13] Change of name, as it is written, As for Sarai thy wife, thou shalt not call her name Sarai, but Sarah shall her name be;[14] and it continues, And I will bless her and moreover I will give thee a son of her. Change of conduct, as it is written, And God saw their works, and it continues, and God repented of the evil which he said he would do unto them and he did it not.[15] Some say that change of place [also avails], as it is written, Now the Lord said unto Abram, Get thee out of thy country, and it proceeds, and I will make of thee a great nation.[16] And the other [— why does he not reckon this]? — In that case it was the merit of the land of Israel which availed him.

R. Isaac further said: It is incumbent on a man to go to pay his respects to his teacher on festivals, as it says, Wherefore wilt thou go to him today? It is neither new moon nor sabbath,[17] from which we infer that on New Moon and Sabbath[18] one ought to go.’[19]

R. Isaac further said: A man should purify himself for the festival, as it says, and their carcasses ye shall not touch.[20] It has been taught to the same effect: ‘And their carcasses ye shall not touch’. I might think that [ordinary] Israelites are cautioned not to touch carcasses. Therefore it says, Say unto the priests the sons of Aaron;[21] [which shows that] the sons of Aaron are cautioned but ordinary Israelites are not cautioned. May we not then argue a fortiori: Seeing that in the case of a serious uncleanness,[22] while the priests are cautioned Israelites are not cautioned, how much less [are they likely to be cautioned] in the case of a light uncleanness![23] What then am I to make of the words, ‘and their carcasses ye shall not touch’? — On the festival.

R. Kruspedai said in the name of R. Johanan: Three books are opened [in heaven] on New Year, one for the thoroughly wicked,[24] one for the thoroughly righteous, and one for the intermediate. The thoroughly righteous are forthwith inscribed definitively in the book of life; the thoroughly wicked are forthwith inscribed definitively in the book of death;[25] the doom of the intermediate is suspended from New Year till the Day of Atonement; if they deserve well, they are inscribed in the book of life; if they do not deserve well, they are inscribed in the book of death. Said R. Abin, What text tells us this? — Let them be blotted out of the book of the living, and not be written with the righteous.[26] ‘Let them be blotted out from the book — this refers to the book of the wicked. ‘Of life — this is the book of the righteous. ‘And not be written with the righteous’ — this is the book of the intermediate. R. Nahman b. Isaac derives it from here: And if not, blot me, I pray thee, out of thy book which thou hast written,[27] ‘Blot me, I pray thee’ — this is the book of the wicked. ‘Out of thy book’ — this is the book of the righteous. ‘Which thou has written’ — this is the book of the intermediate.

It has been taught: Beth Shammai say, There will be three groups at the Day of Judgment[28] — one of thoroughly righteous, one of thoroughly wicked, and one of intermediate. The thoroughly righteous will forthwith be inscribed definitively as entitled to everlasting life; the thoroughly wicked will forthwith be inscribed definitively as doomed to Gehinnom, as it says. And many of them that sleep in the dust of the earth shall awake, some to everlasting life and some to reproaches and everlasting abhorrence.[29] The intermediate will go down to Gehinnom

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(1) Heb. ‘Satan’. The devotion of the Jews to the precepts nullifies Satan's accusation against them (Rashi). [The Shofar on New Year is blown twice: once at the close of the morning prayer and the reading of the Law when the congregation is seated, and again during the Musaf prayers while the people stand. According to J.R.H. IV, 8 the Shofar was originally blown only at the morning service, whence it was transferred to a later hour in the Musaf because their enemies on one occasion took the Shofar blasts early in the morning as a call to arms, whereupon they attacked the Jews. The custom of blowing the Shofar at Musaf service was retained even after the rite had been restored to the morning service].

(2) [This does not apply where New Year falls on Sabbath, in which case the Shofar may not be blown, but where the rite was omitted through some other cause (Tosaf.)].

(3) I.e., in which Israel humble themselves and make themselves poor in spirit.

(4) Defectively, and can be read מרשית from the poverty of’.

(5) Apparently there is an allusion here to the verse, ‘for the latter end of that man is peace’. Ps. XXXVII.

(6) And not in view of those which he is likely to commit at some later time. Lit., ‘of that hour’.

(7) Gen. XXI, 17. Stress is laid on the words as he is there (E.V. ‘where he is’); Ishmael was still righteous, whatever he was destined to become in the future.

(8) By passing under a shaky wall a man, as it were, ‘tempts Providence’.

(9) Lit., ‘speculation in prayer’. To see whether it produces an effect or not. [Or, ‘expectation of the immediate grant of one's request’. The offence lies in the presumption of claiming that God must answer prayer of any kind whatsoever. V. Abrahams, I, Pharisaism and Gospels II, 78ff].

(10) Gen. XVI, 5.

(11) Which shows that Sarah died first. Ibid. XXIII, 2.

(12) Prov. X, 2 (E.V. ‘righteousness’).

(13) Ps. CVII, 6.

(14) Gen. XVII, 15.

(15) Jonah III, 10.

(16) Gen. XII, 1, 2.

(17) II Kings IV, 23.

(18) Which is a generic name for all holy days.

(19) [R. Hananel's text reads on ‘But we have said (only) on festivals (whereas the verse speaks of New Moon and Sabbaths)? — If the teacher resides near him he must go to pay him his respects every Sabbath and New Moon; if he resides at a long distance, he must go to pay him his respects (only) on Festivals].

(20) Lev. XI, 8.

(21) Lev. XXI, 1. The text continues, there shall none defile himself for the dead among his people.

(22) That of a dead body.
(23) That of an animal carcass.
(24) I.e. , those whose bad deeds definitely outweigh their good.
(25) The life and death in the future world (i.e., of the soul) is meant. V. Tosaf. s.v. ונחתמין .
(26) Ps. LXIX, 29.
(27) Ex. XXXII, 32.
(28) When the dead will arise in the flesh. V. Tosaf. s.v. ליום .
(29) Dan. XII, 2.

and squeal[1] and rise again, as it says, And I will bring the third part through the fire, and will refine them as silver is refined, and will try them as gold is tried. They shall call on my name and I will answer them.[2] Of them, too, Hannah said, The Lord killeth and maketh alive, he bringeth down to the grave and bringeth up.[3] Beth Hillel, however, say: He that abounds in grace inclines [the scales] towards grace,[4] and of them David said, I love that the Lord should hear my voice and my supplication,[5] and on their behalf David composed the whole of the passage, I was brought low and he saved me.[6]

Wrongdoers of Israel who sin with their body[7] and wrongdoers of the Gentiles who sin with their body go down to Gehinnom and are punished there for twelve months. After twelve months their body is consumed and their soul is burnt and the wind scatters them under the soles of the feet of the righteous as it says, And ye shall tread down the wicked, and they shall be as ashes under the soles of your feet.[8] But as for the minim[9] and the informers and the scoffers,[10] who rejected the Torah and denied the resurrection of the dead, and those who abandoned the ways of the community,[11] and those who 'spread their terror in the land of the living',[12] and who sinned and made the masses sin, like Jeroboam the son of Nebat and his fellows — these will go down to Gehinnom and be punished there for all generations, as it says, And they shall go forth and look upon the carcasses of the men that have rebelled against me[13] etc. Gehinnom will be consumed but they will not be consumed, as it says, and their form shall wear away the nether world.[14] Why all this? Because they laid hands on the habitation [zebul], as it says, that there be no habitation [zebul] for Him,[15] and zebul signifies the Temple, as it says, I have surely built thee a house of habitation [zebul].[16] Of them Hannah said, They that strive with the Lord shall be broken to pieces.[17] R. Isaac b. Abin said: And their faces shall be black like the sides of a pot. Raba added: Among them are the most handsome of the inhabitants of Mahuza, and they shall be called 'sons of Gehinnom'.[18]

The Master said [above]: 'Beth Hillel say, He that abounds in grace inclines [the scales] towards grace'. [How can this be], seeing that it is written, And I shall bring the third part through the fire?[19] That refers to wrongdoers of Israel who sin with their body. Wrongdoers of Israel who sin with their body! But you said that there is no remedy for them?[20] — There is no remedy for them when their iniquities are more numerous [than their good deeds]. We now speak of those whose iniquities and good deeds are evenly balanced, but whose iniquities include that which is committed by sinners of Israel with their body. In that case they cannot escape the doom of 'I shall bring the third through the fire', but otherwise, [in regard to them], 'He that is abundant in grace inclines towards grace', and of them David said, I love that the Lord should hear. [On this verse] Raba discoursed as follows: What is meant by the words, 'I love that the Lord should hear'? The Community of Israel exclaimed before the Holy One, blessed be He: Sovereign of the Universe, when am I beloved in thy sight? At the time when thou hearest the voice of my supplications. 'I was brought low [dalothi] and he saved me': although I am poor (dallah) in the performance of religious duties, yet it is fitting to save me.

What is meant by 'wrongdoers of Israel who sin with their body'? — Rab said: This refers to the cranium which does not put on the phylactery.[21] Who are 'the wrongdoers of the Gentiles who sin with their body'? — Rab said: This refers to [sexual] sin. 'Who have spread their terror in the land of the living': [who are these]? — R. Hisda said: This is a communal leader[22] who makes himself unduly feared by the community for purposes other than religious.[23] Rab Judah said in the name of Rab: Any communal leader who makes himself unduly feared by the community for purposes other than religious will never have a scholar for a son, as it says, Therefore if men fear him, he shall not see [among his sons] any wise of heart.[24]

'Beth Hillel say: He that abounds in grace inclines [the scales] to grace'. How does He do? — R . Eliezer[25] says: He presses down [the scale of merit], as it says, He will again have compassion on us, he will press down our iniquities.[26] R. Jose b. Hanina says: [He does so] by raising [the scale of iniquities], as it says, Raising[27] iniquity and passing by transgression.[28] In the school of R. Ishmael they taught: He puts aside every first iniquity;[29] and herein lies the attribute [of grace]. Raba said: The iniquity itself is not obliterated, and if there is an excess of iniquities[30] [God] reckons it with the others.[31]

Raba said: He who forgoes his right [to exact punishment][32] is forgiven all his iniquities, as it says, Forgiving iniquity and passing by transgression. Who is forgiven iniquity? One who passes by transgression [against himself]. R. Huna the son of R. Joshua was once ill. R. Papa went to inquire about him. He saw that he was very ill[33] and said to those present, Make ready provisions for his [everlasting] journey.[34] Eventually, however, he [R. Huna] recovered, and R. Papa felt ashamed to see him. He said to him, What did you see [in your illness]? He replied, It was indeed as you thought, but the Holy One, blessed be He, said to them [the angels]: Because he does not insist upon his rights, do not be particular with him, as it says, Forgiving iniquity and passing by transgression. Who is forgiven iniquity? He who passes by transgression. [The verse continues], ‘to the remnant of his heritage’. R. Aha son of R. Hanina said: We have here a fat tail with a thorn in it:[35] ‘for the remnant of his inheritance’, but not for all his inheritance.

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(1) On account of their punishment. Al. ‘struggle and rise’. [Ginzberg L.: ‘be singed’, i.e., by the fires of the Gehinnom, and after this experience arise thence and be healed. V. Moore S.F. Judaism III, p. 198].

(2) Zech. XIII, 9.

(3) 1 Sam. II, 6.

(4) And does not doom them to Gehinnom.

(5) Ps. CXVI, 1. Further on we read, The cords of death compassed me (v. 3).

(6) Ibid. 6.

(7) This is explained infra.

(8) Mal. III, 21.

(9) V. Glos. The reference is probably to the Judeo-Christians, as the Sadducees would be included under ‘those who denied the resurrection’.

(10) אפיקורסים ; those who treat the Rabbis and students of the Torah with disdain. If this is meant, then we should insert with MS.M. the words ‘and those’ before the word ‘who’.

(11) Rashi deletes these words, (on the ground that they do not designate a separate class, but are a general description of all the classes mentioned.

(12) A phrase borrowed from Ezek. XXXII, 23. It is explained infra.

(13) Isa. LXVI, 24.

(14) Ps. XLIX, 15.

(15) Ibid. (E.V. ‘for it’. [It is through the sins of such as these that the Temple has been destroyed (Rashi). If the reference is to Jewish Christians it may allude to their repudiation of the claims of the Temple as the place where alone true and perfect worship could be offered, V. Herford, Christianity in Talmud p. 135].

(16) I Kings VIII, 13.

(17) I Sam. II, 10.

(18) [The passage is difficult. Read with MS.M. ‘The Master said (above) "Of them (of the intermediate class) Hannah said The Lord killeth and maketh alive, he bringeth down to the grave and bringeth up". R. Isaac b. Abin said, And their faces (that is, of the intermediate class) shall (on rising from Gehinnom) be black like the sides of the pot. Raba added, And yet (despite this disfigurement) they shall be more beautiful than the most handsome men of Mahuza who shall be called the sons of Gehinnom’. V. D.S. a.l.].

(19) Which was explained above to refer to the intermediate.

(20) I.e., that after passing through the fire they become dust.

(21) Even this in an Israelite is sufficient to merit Gehinnom.

(22) Heb. Parnas. (V. Git., Sonc. ed., p. 280, n. 9).

(23) I.e., not merely to make them keep the commandments.

(24) Job XXXVII, 24. E.V. Men do therefore fear Him; He regardeth not any that are wise of heart.

(25) [Read with MSM. R. Eleazar].
(26) I.e., press down the scale of merit against our iniquities, Micah VII, 19.
(27) E.V. 'that pardoneth'.
(28) Ibid. 18.
(29) Rashi and Asheri explain this to mean that if without the first iniquity the good deeds are in excess, then the first iniquity is not put back in the scale.
(30) I.e., if even so the iniquities just balance the merits.
(31) So as to count him guilty.
(32) Lit., 'passes by his measures'.
(33) Lit. 'the world (life) was getting weak for him'.
(34) I.e., prepare shrouds.
(35) A certain breed of sheep in the East have very long tails which are esteemed a great delicacy, but as they trail on the ground they often pick up thorns. Hence the proverbial expression, 'a tail with a thorn in it' for a good thing containing a snag.

Talmud - Mas. Rosh HaShana 17b

[What it means is], for him who makes himself a mere remnant.[1]

R. Huna contrasted [two parts of the same verse]. It is written, The Lord is righteous in all his ways, and then it is written, and gracious in all his works.[2] [How is this]?[3] — At first righteous and at the end gracious.[4] R. Eleazar [similarly] contrasted two texts. It is written, Also unto thee, O Lord, belongeth mercy, and then it is written, For thou renderest to every man according to his work.[5] [How is this]? — At first, 'Thou renderest to every man according to his work', but at the end, 'unto thee, O Lord, belongeth mercy'.

Ilfi (or, as some report, Ilfa) [similarly] contrasted two texts: It is written, abundant in goodness, and then it is written, and in truth.[6] [How is this]? — At first, 'truth', and at the end 'abundant in goodness'.

And 'the Lord passed by before him and proclaimed [etc.].[7] R. Johanan said: Were it not written in the text, it would be impossible for us to say such a thing; this verse teaches us that the Holy One, blessed be He, drew his robe round Him like the reader[8] of a congregation and showed Moses the order of prayer. He said to him: Whenever Israel sin, let them carry out this service before Me,[9] and I will forgive them.

'The Lord, the Lord': I am the Eternal[10] before a man sins and the same[10] after a man sins and repents. 'A God merciful and gracious:' Rab Judah said: A covenant has been made with the thirteen attributes[11] that they will not be turned away empty-handed,[12] as it says, Behold I make a covenant.[13]

R. Johanan said: Great is the power of repentance that it rescinds[14] a man's final sentence, as it says , Make the heart of this people fat and make their ears heavy and shut their eyes, lest they seeing with their eyes and hearing with their ears and understanding with their heart return and be healed.[15] Said R. Papa to Abaye: Perhaps this was before the final sentence? — He replied: It is written, 'and he be healed'. What is that which requires healing? You must say, the final sentence.

An objection [against this view] was raised [from the following]: 'If one repents in the interval,[16] he is forgiven; if he does not repent in the interval, should he even offer [subsequently] all the rams of Nebayoth,[17] he is not forgiven'! — There is no contradiction: the latter statement refers to an individual, the former to a community.

A further objection was raised [from the following]: ‘The eyes of the Lord thy God are upon it [the land of Israel],[18] sometimes for good, sometimes for evil. How sometimes for good? Suppose Israel were [in the class of] the thoroughly wicked at New Year,[19] and scanty rains were decreed for them, and afterwards they repented. [For God] to increase the supply of rain is impossible, because the decree has been issued . The Holy One, blessed be He, therefore sends down the rain in the proper season on the land that requires it,[20] all according to the district. How sometimes for evil? Suppose Israel were [in the class of] the thoroughly virtuous on New Year, and abundant rains were decreed for them, but afterwards they backslided. To diminish the rains is impossible, because the decree has been issued. The Holy One, blessed be He, therefore sends them down not in their proper season and on land that does not require them’.[21] Now, [if the decree can be rescinded], for good at any rate, let the decree be rescinded and let the rains be increased? — There is a special reason there, namely, that this[22] is sufficient.

Come and hear [a further objection]: ‘They that go down to the sea in ships, that do business in great waters, they saw the works of the Lord . . . For he commanded and raised the stormy wind which lifted up the waves thereof . . . they reeled to and fro and staggered like a drunken man . . . They cried unto the Lord in their trouble . . . let them give thanks unto the Lord for his mercy[23] etc. [The Psalmist] inserted here signs[24] having the same force as the ‘buts’ and ‘onlys’ of the Torah,[25] to indicate that if they cried before the final sentence they were answered, but if they cried after the final sentence they were not ‘answered’! — These also are on the same footing as individuals.

Come and hear [again]: ‘Bluria[26] the proselyte put this question to Rabban Gamaliel: It is written in your Law, [she said], who lifteth not up the countenance,[27] and it is also written, The Lord shall lift up his countenance upon thee.[28] R. Jose the priest joined the conversation and said to her: I will give you a parable which will illustrate the matter.[29] A man lent his neighbour a maneh and fixed a time for payment in the presence of the king, while the other swore to pay him by the life of the king. When the time arrived he did not pay him, and he went to excuse himself to the king. The king, however, said to him: The wrong done to me I excuse you, but go and obtain forgiveness from your neighbour. So here: one text speaks of offences committed by a man against God, the other of offences committed by a man against his fellow man. [This explanation was generally accepted] until R. Akiba came and taught

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(1) I.e., who is self-effacing.

(2) Ps. CXLV, 17.

(3) How can God be both righteous (i.e., just) and gracious at the same time?

(4) When He sees that in strict justice the world cannot endure.

(5) Ps. LXII, 13.

(6) Ex. XXXIV, 6.

(7) Ibid.

(8) Lit., ‘emissary’; the one appointed to lead the congregational prayers. It is usual for such a one to draw his robe over his head.

(9) I.e., read from the Torah the passage containing the thirteen attributes.

(10) Lit., ‘He’. The Divine name YHWH (E.V. ‘the Lord’) designates the divine attribute of mercy (Rashi).

(11) Enumerated in this verse. According to one reckoning, ‘The Lord, the Lord’ count as two, according to another reckoning only the second of these counts as an attribute, and the expressions ‘keeping mercy’ and ‘unto the thousandth generation’ count as two attributes. V. Tosaf., s.v. שלש .

(12) I.e., that Israel will not be turned away empty-handed when they recite them.

(13) Ibid. 10.

(14) Lit., ‘tears up’.

(15) Isa. VI, 10.

(16) Between New Year and the Day of Atonement.

(17) Cf. Isa. LX, 7.

(18) Deut. XI, 12.
(19) I.e. at New Year their evil deeds in the past clearly exceeded their good deeds.
(20) E.g., gardens and orchards.
(21) E.g. on barren land.
(22) Sending the rain in the proper place and time.
(23) Ps. CVII, 23-31.
(24) In the Hebrew text an inverted nun is inserted before the verses 23-28 of this passage.
(25) It was a principle of R. Akiba that wherever the words אך (but) and רק (only) occur in the Pentateuch, they are meant to except something which is not explicitly mentioned in the text.
(26) Valeria.
(27) Deut. X, 17. E. V. ‘who regardeth not persons’, ‘countenance’ referring to man's. It is here, however, taken as referring to God's in the sense of ‘who shows not favour’, as in the passage next quoted.
(28) Num. VI, 26.
(29) Lit., ‘to what the thing is like’.

Talmud - Mas. Rosh HaShana 18a

: One text speaks of God's attitude before the final sentence, the other of his attitude after the final sentence!’ — Here too the case is that of an individual.

On the question of the final sentence of an individual there is a difference between Tannaim, as it has been taught: R. Meir used to say: Two men take to their bed suffering equally from the same disease, or two men are before a criminal court to be judged[1] for the same offence; yet one gets up[2] and the other does not get up, one escapes death and the other does not escape death. Why does one get up and the other not? Why does one escape death and the other not? Because one prayed and was answered, and the other prayed and was not answered. Why was one answered and the other not? One prayed with his whole heart[3] and was therefore answered, the other did not pray with his whole heart and was not answered. R. Eleazar, however, said: The one man was praying before his final sentence had been pronounced [in heaven], the other after his final sentence had been pronounced.

R. Isaac said: Supplication[4] is good for a man whether before the final sentence has been pronounced or after.

But can the final sentence on a community be rescinded? Have we not one text which says, Wash they heart from wickedness,[5] and another which says, For though thou wash thee with nitre and take thee much soap, yet thine iniquity is marked before me,[6] and does not the one text apply before the final sentence is pronounced and the other after? — No; both apply after the final sentence has been pronounced, yet there is no contradiction; in the one case the final sentence has been accompanied by an oath, in the other it has not been accompanied by an oath. This accords with the dictum of R. Samuel b. Ammi. For R. Samuel b. Ammi (or, as some say R. Samuel b. Nahmani) said in the name of R. Jonathan: How do we know that a final sentence accompanied by an oath is never rescinded? Because it says, Therefore I have sworn unto the house of Eli that the iniquity of Eli's house shall not be expiated with sacrifice nor offering.[7] Raba said: With sacrifice and offering it cannot be expiated, but it can be expiated with Torah. Abaye said: With sacrifice and offering it cannot be expiated, but it can be expiated with Torah and charitable deeds . Rabbah[8] and Abaye were of the house of Eli. Rabbah who devoted himself to the Torah lived forty years, Abaye who devoted himself both to the Torah and to charitable deeds lived sixty years.[9]

The Rabbis taught: There was a family in Jerusalem the members of which used to die at the age of eighteen. They came and told Rabban Johanan b. Zaccai. He said to them, Perhaps you are of the family of Eli, to whom it was said, and all the increase of thy house shall die young men.[10] Go and study the Torah and you may live. They went and studied the Torah and lived, and they used to call that family the family of Rabban Johanan after his name.

R. Samuel b. Inia said in the name of Rab: Whence do we know that the final sentence on a community is never sealed? — Never sealed , [you say]? Is it not written, Thine iniquity is marked before me?[11] What he should say is, [How do we know that] although it is sealed it can yet be rescinded? Because it says, as the Lord our God is whenever we call upon him.[12] But it is written, Seek ye the Lord while he may be found?[13] — This verse speaks of an individual, the other of community. When can an individual [find God]? — Rabbah b. Abbuha said: These are the ten days between New Year and the Day of Atonement.

And it came to pass after the ten days that the Lord smote Nabal.[14] How come these ten days here? — Rab Judah said in the name of Rab: They correspond to the ten dishes which Nabal gave to the servants of David.[15] R. Nahman said in the name of Rabbah b. Abbuha: These are the ten days between New Year and the Day of Atonement.

ON NEW YEAR ALL MANKIND PASS BEFORE HIM LIKE CHILDREN OF MARON.[16] What is the meaning of the expression 'like children of Maron'? — In Babylon it was translated, 'like a flock of sheep'.[17] Resh Lakish said: As [in] the ascent of Beth Maron.[18]

Rab Judah said in the name of Samuel: Like the troops of the house of David.[19] Rabbah b. Bar Hanah said in the name of R. Johanan: [All the same] they are all viewed with a simple glance. R. Nahman b. Isaac said: We also have learnt the same idea: He that fashioneth the hearts of them all, that considereth all their doings.[20] What does this mean? Shall I say that it means this, that [God] has created all creatures and unites all their hearts together? But we see that this is not so! No; what it means is this: 'The Creator sees[21] their hearts together and considereth all their doings'.

MISHNAH. THERE ARE SIX NEW MOONS TO REPORT WHICH[22] MESSENGERS GO FORTH [FROM JERUSALEM[23] TO THE DIASPORA]. [THE NEW MOON] OF NISAN ON ACCOUNT OF PASSOVER,[24] OF AB[25] ON ACCOUNT OF THE FAST,[26] OF ELUL ON ACCOUNT OF NEW YEAR,[27] OF TISHRI FOR THE ADJUSTMENT OF THE FESTIVALS,[28] OF KISLEV ON ACCOUNT OF HANUKAH,[29] AND OF ADAR ON ACCOUNT OF PURIM.[30] WHEN THE TEMPLE STOOD, THEY USED ALSO TO GO FORTH TO REPORT IYAR ON ACCOUNT OF THE LESSER PASSOVER.[31]

GEMARA. Why should they not also go forth to report Tammuz and Tebeth[32]

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(1) So Rashi: Aliter: 'ascend the scaffold to be punished'.]

(2) Lit., 'comes down', i.e., from the bed.

(3) Lit., 'a perfect prayer'.

(4) Lit., 'cry'.

(5) Jer. IV, 14.

(6) Ibid. II, 22.

(7) I Sam. III, 14.

(8) Bar Nahmani, the colleague of R. Hisda. V. Tosaf. s.v. רבה .

(9) [Forty and sixty are mere round figures, as there is evidence that Rabbah lived more than forty years. The main thing the Talmud wishes to point out is that Abaye lived longer than Rabbah for the reason stated. V. Funk. S., Die Juden in Babylonian II, Note I and cf. A.Z., Sonc. ed., p. 101, n. 6.]

(10) I Sam. II, 33.

(11) Jer. II, 22.

(12) Deut. IV, 7.

(13) Isa. LV, 6. This implies that God cannot always be found.

(14) I Sam. XXV, 38. The question is suggested by the use of the definite article with the word 'ten'.

(15) David sent to Nabal ten young men (I Sam. XXV, 5), and Nabal according to tradition gave them each one meal. This hospitable act secured for him some respite.

(16) מרון .

(17) Passing through a wicket to be counted one by one. The word ‘maron’ is here connected with the Aramaic אמרא , a sheep.

(18) Var. lec. Beth Horon. A narrow pass where wayfarers had to proceed in single file.

(19) Which pass in review one by one. The word ‘maron’ is here connected with מרות , ‘lordship’. [Cf. the reading of the Vienna MS.: נומרין (numerus), i.e., a troop of soldiers].

(20) Ps. XXXIII, 15.

(21) This word being supplied from ‘beholdeth’ in v. 13.

(22) I.e., to report whether the Beth din in Jerusalem have made the New Moon on the thirtieth or the thirty-first day after the preceding New Moon. Lit., ‘for six months’.

(23) As soon as the New Moon has been declared, on the twenty-ninth or the thirtieth day as the case may be.

(24) So that before Passover arrives the Jews in the Diaspora will know which day is the fifteenth.

(25) There is no need for them to go on Sivan, because the date of Pentecost is known from the counting of the ‘Omer.

(26) The ninth of Ab.

(27) Knowing the New Moon of Elul, the Jews of the Diaspora will fix New Year thirty days later, Elul usually having twenty-nine days, though there is still a risk that the Beth din may in any particular year declare Elul to have thirty.

(28) Viz., the Day of Atonement and Tabernacles, about which they could not be any more sure than about New Year.

(29) Which commences on Kislev 25.

(30) Adar the 14th.

(31) The Passover for the unclean, kept on the fourteenth of Iyar. V. Num. IX, 1-14.

(32) On account of the fasts of the seventeenth of Tammuz and the tenth of Tebeth.

Talmud - Mas. Rosh HaShana 18b

seeing that R. Hanah b. Bizna has said in the name of R. Simeon the Saint: ‘What is the meaning of the verse, Thus had said the Lord of Hosts: The fast of the fourth month and the fast of the fifth and the fast of the seventh and the fast of the tenth shall be to the house of Judah joy and gladness?[1] The prophet calls these days both days of fasting and days of joy, signifying that when there is peace they shall be for joy and gladness, but if there is not peace they shall be fast days’! — R. Papa replied: What it means is this: When there is peace they shall be for joy and gladness; if there is persecution,[2] they shall be fast days; if there is no persecution but yet not peace, then those who desire may fast and those who desire need not fast.[3] If that is the case, the ninth of Ab also [should be optional]? — R. Papa replied: The ninth of Ab is in a different category, because several misfortunes happened on it, as a Master has said: On the ninth of Ab the Temple was destroyed both the first time and the second time, and Bethar was captured[4] and the city [Jerusalem] was ploughed.[5]

It has been taught: R. Simeon said: There are four expositions among those given by R. Akiba with which I do not agree. [He said]:[6] ‘The fast of the fourth month’ — this is the ninth of Tammuz, on which a breach was made in the walls of the city,[7] as it says, On the fourth month on the ninth of the month the famine was sore in the city, so that there was no bread for the people of the land, and a breach was made in the city.[8] Why is it called fourth? As being fourth in the order of months. ‘The fast of the fifth month’: this is the ninth of Ab, on which the House of our God was burnt. Why is it called fifth? as being fifth in the order of months. ‘The fast of the seventh month’: this is the third of Tishri on which Gedaliah the son of Ahikam was killed.[9] Who killed him? Ishmael the son of Nethaniah killed him; and [the fact that a fast was instituted on this day] shows that the death of the righteous is put on a level with the burning of the House of our God. Why is it called the seventh? As being the seventh in the order of months. ‘The fast of the tenth month’: this is the tenth of Tebeth on which the king of Babylon invested Jerusalem, as it says, And the word of the Lord came unto me in the ninth year in the tenth month, in the tenth day of the month, saying, Son of man, write thee the name of the day, even of this selfsame day; this selfsame day the king of Babylon hath invested

Jerusalem.[10] Why is it called the tenth? As being the tenth in the order of months. [It might be asked], should not this have been mentioned first?[11] Why then was it mentioned in this place [last]? So as to arrange the months in their proper order. I, however, [continued R. Simeon], do not explain thus. What I say is that 'the fast of the tenth month, is the fifth of Tebeth on which news came to the Captivity that the city had been smitten, as it says, And it came to pass in the twelfth year of our captivity, in the tenth month, in the fifth day of the month, that one who had escaped out of Jerusalem came to me saying, The city is smitten,[12] and they put the day of the report on the same footing as the day of burning. My view is more probable than his, because I make the first [mentioned by the prophet] first [chronologically] and the last last,[13] whereas he makes the first last and the last first, he, however, following [only] the order of months I [also follow] the order of calamities.

It has been stated [elsewhere]: Rab and R. Hanina hold that the Megillath Ta'anith[14] has been annulled,[15] whereas R. Johanan and Resh Lakish hold that the Megillath Ta'anith, has not been annulled. Rab and R. Hanina hold that the Megillath Ta'anith has been annulled, interpreting the words of the prophet thus: 'When there is peace, these days[16] shall be for joy and gladness, but when there is no peace, they shall be fasts', and placing the days mentioned in the Megillath Ta'anith, on the same footing. R. Johanan and Resh Lakish hold that the Megillath Ta'anith has not been annulled, maintaining that it was those others [mentioned by the prophet] that the All-Merciful made dependent on the existence of the Temple,[17] but these [mentioned in Megillath Ta'anith] remain unaffected.

R. Kahana cited the following in objection: 'On one occasion a fast was decreed in Lydda on Hanukah[18] and R. Eliezer went down there and bathed and R. Joshua had his hair cut,[19] and they said to the inhabitants, Go and fast in atonement for having fasted [on this day]'![20] — R. Joseph said: Hanukah is different, because there is a religious ceremony [attached to it][21] Said Abaye to him: Let it be abolished and its ceremony with it?[22] — R. Joseph thereupon [corrected himself and] said: Hanukah is different because it commemorates publicly a miracle.[23]

R. Aha b. Huna raised an objection [from the following]: 'On the third of Tishri the mention [of God] in bonds was abolished:[24] for the Grecian[25] Government had forbidden the mention of God's name[26] by the Israelites, and when the Government of the Hasmoneans became strong and defeated them, they ordained that they should mention the name of God even on bonds, and they used to write thus: 'In the year So-and-so of Johanan, High Priest to the Most High God', and when the Sages heard of it they said, 'To-morrow this man will pay his debt and the bond will be thrown[27] on a dunghill', and they stopped them, and they made that day a feast day.[28] Now if you maintain that the Megillath Ta'anith has been annulled, [is it possible that] while the former [prohibitions of fasting] have been annulled, new ones should be added? — With what are we here dealing? With the period when the Temple was still standing

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(1) Zech. VIII, 19.

(2) Lit., 'decrees of the Government'.

(3) Since these fasts were at the time of this Mishnah optional, no messengers were sent forth on their account.

(4) In the war of Bar Cochba.

(5) V. Ta'an. 20b.

(6) In expounding the verse from Zechariah quoted above.

(7) [The fast of Tammuz observed nowadays on the seventeenth of the month is in commemoration of the same calamity at the Second Destruction; v. Ta'an. 26b. Supra on Deut. VI, 4 reads, 'on the seventeenth' following J. Ta'an. IV, 8 that also point in their evidence since in the absence of witnesses the New Moon is on the first time the breach was made on the seventeenth, the 'ninth' mentioned in the text being due to miscalculation caused by the confusion of the time, v. Tosaf. s.v. זה].

(8) Jer. LII, 6, 7.
(9) V. Jer. XLI, 1, 2.
(10) Ezek. XXIV, 1, 2.
(11) The event commemorated being chronologically the first of those mentioned.
(12) Ezek. XXXIII, 21. This is one of the four expositions in which R. Simeon differed from his teacher, R. Akiba. The other three are found in the Tosefta of Sot. VI and Sifre on Deut. VI, 4.
(13) The fast of the fourth month.
(14) Lit., ‘Scroll of Fasting’: a record of days on which it was prohibited to fast in memory of some joyful event which had happened on that date. It dates back in part before the destruction of the Second Temple (v. Shab. 13b). Its present form dates from the days of Hadrian.
(15) Apparently we have to supply, ‘since the destruction of the Temple’.
(16) The four days mentioned by Zechariah.
(17) So that when the Temple is restored and there is peace these fasts are abolished.
(18) One of the Festivals mentioned in Megillath Ta'anith.
(19) R. Eliezer and R. Joshua were disciples of R Johanan b. Zaccai, and became authorities only after the destruction of the Temple. Bathing and haircutting were prohibited on fast days.
(20) And if it was prohibited to fast on Hanukah, so also on the other days mentioned in Megillath Ta'anith.
(21) Viz., the kindling of the lights.
(22) Seeing that it is purely Rabbinical.
(23) By the kindling of lights, and the people regard its ceremony like one ordained in the Torah.
(24) This is a sentence from Megillath Ta'anith, which the Baraitha explains.
(25) I.e., Syrian.
(26) Lit., ‘the name of heaven’. [Cf. Gen. Rab. 11, 4: ‘The Jews were ordered by the Greeks to write on the horn of the ox, "We have no share in the God of Israel"’].
(27) Lit., ‘it is found that the name of heaven is lying about’.
(28) [Geiger, Urschrift, p. 34 places this in the last days of John Hyrcanus when the Pharisees turned against him; Graetz, Geschichte III, 2 p. 572 during the reign of Queen Salome when the Pharisees were in power. For other views, v. Lichtenstein, H, HUCA, pp. 283ff].

Talmud - Mas. Rosh HaShana 19a

. But [if that is so], cannot the prohibition [of the third of Tishri] be derived from the fact that it was the day on which Gedaliah the son of Ahikam was killed?[1] — Rab replied: Its [insertion in the Megillath Ta'anith] was required only to prohibit the day before it also.[2] But the prohibition of the day before it can also be derived from the fact that it is the day after New Moon?[2] — New Moon is ordained by the Written Law, and the ordinances of the Written Law do not require reinforcement, as it has been taught: ‘These days which are mentioned in Megillath Ta'anith are forbidden [for fasting on] along with both the day before them and the day after them. As to Sabbaths and New Moons, they themselves are forbidden, but the days before and after them are permitted. What is the difference between one set and the other? The one set are ordained by the Torah,[3] and the words of the Torah require no reinforcement, whereas the other are laid down by the Scribes, and the words of the Scribes require reinforcement’.[4] But cannot the prohibition [of the second of Tishri] be derived from the fact that it is the day before the day on which Gedaliah the son of Ahikam was killed?[5] — R. Ashi replied: The fast of Gedaliah the son of Ahikam is laid down in the later Scriptures,[6] and the words of the later Scriptures are on the same footing as those of the Torah.

R. Tobi b. Mattenah raised the following objection [against the statement that Megillath Ta'anith has been annulled]: ‘"On the twenty-eighth thereof [of Adar] came glad tidings to the Jews that they should not abandon the practice of the Law". For the Government [of Rome] had issued a decree that they should not study the Torah and that they should not circumcise their sons and that they should profane the Sabbath. What did Judah b. Shammu'a and his colleagues do? They went and consulted a certain matron whom all the Roman notables used to visit.[7] She said to them: "Go and make proclamation [of your sorrows] at night time". They went and proclaimed at night, crying, "Alas, in heaven's name, are we not your brothers, are we not the sons of one father and are we not the sons of one mother? Why are we different from every nation and tongue that you issue such harsh decrees against us?" The decrees were thereupon annulled, and that day was declared a feast day'.[8] Now if you maintain that the Megillath Ta'anith[9] was annulled, [is it possible that] after the earlier prohibitions had been annulled they should add new ones? And should you reply that this also was in the period when the Temple was still standing, [this cannot be], because Judah b. Shammu'a was the disciple of R. Meir, and R. Meir was after the destruction of the Temple. We know [that R. Judah was R. Meir's disciple] because it has been taught: 'If holes were made in a vessel of glass and filled up with lead, R. Simeon b. Gamaliel reports that R. Judah b. Shammu'a in the name of R. Meir declares it unclean,[10]

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(1) On which, as established above, fasting was prohibited in the period of the Temple.

(2) V. infra.

(3) The Pentateuch.

(4) And the days before and after are prohibited lest one should come to fast on the actual day.

(5) Cf. p. 75, n. 1.

(6) Viz., Zechariah. Lit., 'words of Kabbalah. V. supra p., 23 n. 10.

(7) [Probably the widow of Tineius Rufus (v. A.Z. 20a) whose home was in Caesarea, (Graetz, Geschichte IV, p. 169)].

(8) [Graetz, loc. cit. refers this to the withdrawal of the Hadrianic edicts by his successor Antonius Pius in 139 — 140. For other views v. Lichtenstein op. cit. p. 279].

(9) I.e., those days that were inserted in the list before the destruction of the Temple.

(10) Supposing it had been unclean, it now reverts to the uncleanness which it had lost when it was broken, v. Shab. 15b. Or it may mean 'becomes capable of receiving uncleanness'. V. Rashi a.l. and Tosaf. s.v. יהודה .

Talmud - Mas. Rosh HaShana 19b

whereas the Sages declare it clean'! — There is a difference of opinion between Tannaim [as to whether the Megillath Ta'anith, has been annulled], as it has been taught: 'These days which are mentioned in the Megillath Ta'anith are prohibited [to be kept as fast days] whether in the period when the Temple is standing or in the period when the Temple is not standing. So R. Meir. R. Jose says: In the period when the Temple is standing they are prohibited, because they [Israel] have cause for rejoicing; in the period when the Temple is not standing they are permitted, because they have cause for mourning'. The law is that these prohibitions are annulled and the law is that they are not annulled. There is a contradiction, is there not, between these two laws? — There is no contradiction: the one[1] relates to Hanukah and Purim, the other to the other days.

OF ELUL ON ACCOUNT OF NEW YEAR, OF TISHRI FOR THE ADJUSTMENT OF THE FESTIVALS. Once the messengers have gone forth to report [the new moon of] Elul, why should they be required to do so for Tishri? Should you reply that [the reason is because] perhaps Elul has been prolonged,[2] [this cannot be], because R. Hinena b. Kahana has said in the name of Rabbi: 'From the days of Ezra onwards we have found no instance of Elul being prolonged'! — [Exactly so]: 'We find no instance', because there was no reason [to prolong it]; where, however, there is a special reason,[3] we do prolong it. But in that case New Year is interfered with?[4] — It is better that New Year should be interfered with than that all the festivals should be interfered with. There is also an indication [that this view is correct in the language of the Mishnah], which states, OF TISHRI FOR THE ADJUSTMENT OF THE FESTIVALS. This is clear proof.

OF KISLEV ON ACCOUNT OF HANUKAH AND OF ADAR ON ACCOUNT OF PURIM. [The Mishnah], however, does not say, 'When the year is prolonged,[5] messengers go forth to report [the new moon of] the second Adar also on account of Purim'. [This shows that] our Mishnah does not agree with Rabbi, since it has been taught: 'Rabbi says that if the year has been prolonged, messengers go forth to report also regarding the second Adar on account of Purim'. Shall we say that the point on which they join issue is this, that one authority holds that all the ceremonies observed in the second Adar[6] are observed also in the first,[7] while the other holds that the ceremonies observed in the second are not observed in the first?[8] — No. Both hold that the ceremonies observed in the second are not observed in the first, and here they differ on the question of the prolongation of the year,[9] as it has been taught: 'How long is the period of the prolongation of the year? Thirty days. Simeon b. Gamaliel, however, says a month'.[10] But why should only [the one who says] thirty days [require no messengers to be sent]? Because, you say, people in this case know when the month ends?[11] If the period is a month, they also know! — R. Papa said: The one who said 'a month' holds that [the Beth din may prolong the year] either by thirty days or by a month at their option.[12]

R. Joshua b. Levi testified on behalf of the holy community of Jerusalem concerning the two Adars, that they are sanctified on the day of their prolongation.[13] This is equivalent to saying that we make them defective but we do not make them full, and excludes the statement made in a discourse by R. Nahman b. Hisda; [for R. Nahman b. Hisda stated in a discourse]: 'R. Simai testified in the name of Haggai, Zechariah and Malachi concerning the two Adars that if they [the Beth din] desired they could make both of them full, and if they desired they could make both of them, defective, and if they desired they could make one full and the other defective; and such was their custom in the Diaspora. In the name of our teacher,[14] however, they said: One is always to be full and the next defective, unless you have been informed that New Moon has been fixed at its proper time'.[15]

They sent [from Palestine] to Mar 'Ukba to say: The Adar which precedes Nisan is always defective. R. Nahman raised an objection [from the following]: 'For the fixing of two New Moons the Sabbath may be profaned,[16] for those of Nisan and of Tishri'. Now if you say that [the Adar before Nisan] is sometimes full and sometimes defective, I can understand how occasions arise for profaning the Sabbath

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(1) That fasting is prohibited.

(2) I.e., made to last thirty days, and therefore the Diaspora may make a mistake about the Day of Atonement and Tabernacles.

(3) The 'special reason' is discussed infra, 20a.

(4) Lit., 'spoilt'. The Diaspora will keep it one day too soon.

(5) I.e., made to consist of thirteen months, by the insertion of a second Adar.

(6) Including in particular Purim.

(7) And therefore the observance of Purim in the first Adar is really sufficient for religious purposes, and so there is no need to send out messengers to fix the date of the second.

(8) And therefore it is important that Purim in the second Adar should be kept on the right day, v. Meg. 6b.

(9) I.e., the [days of the month of the first Adar which is inserted to prolong the year (Rashi).

(10) I.e., twenty-nine days. This is apparently the opinion of Rabbi also.

(11) When the first Adar ends and the second Adar begins.

(12) And therefore it is necessary to keep the public informed. (9) [Regarded by some as a survival of an Essene community, v. J.E V. p. 226].

(13) The thirtieth day is known as the day of prolongation (יום עיבור) as it is the day which is added to make the preceding month full (v. supra p. 21, n. 7). In the case of the two Adars the thirtieth day of each is sanctified as the New Moon of the next month.

(14) Rab.

(15) I.e., that the Beth din is Jerusalem fixed the New Moon of Adar II on the thirtieth day of the first Adar, the thirtieth day always being regarded as the 'proper time' of New Moon.

(16) By the watchers for the new moon, who are allowed to exceed the two thousand cubit limit in order to report their observation to the Beth din in Jerusalem. V. infra 23b.

Talmud - Mas. Rosh HaShana 20a

. But if it is always defective, why should they profane it?[1] — Because it is a religious duty to sanctify [the New Moon] on the strength of actual observation.[2] According to another version, R. Nahman said: We also have learnt: ‘For the fixing of two New Moons the Sabbath may be profaned, for those of Nisan and of Tishri’. Now if you say that the Adar which precedes Nisan is always defective, there is no difficulty; the reason why Sabbath may be profaned is because it is a religious duty to sanctify [the New Moon] on the strength of actual ob servation. But if you say that it is sometimes full and sometimes defective, why should [the Sabbath] be profaned? Let us prolong [the month] today and sanctify [the New Moon] to-morrow?[3] — If the thirtieth day happens to be on Sabbath, that is actually what we do. Here, however, we are dealing with the case where the thirty-first day happens to fall on Sabbath [and we allow the Sabbath to be profaned because] it is a religious duty to sanctify on the strength of actual observation.[4]

R. Kahana raised [against the instruction sent to Mar ‘Ukba] the following objection: ‘When the Temple stood, Sabbath was profaned for the fixing of all the months, for the sake of the adjustment of the sacrifice’.[5] Now since the reason [for allowing the profanation of the Sabbath] was not in the case of all the other [months] because it is a religious duty to sanctify on the strength of actual observation, neither is the reason in the case of Nisan and Tishri because it is a religious duty to sanctify on the strength of actual observation.[6] Now if you say that the Adar preceding Nisan is sometimes full and sometimes defective, there is no difficulty: for the reason mentioned we allow the profanation of the Sabbath. But if you say that it is always defective, why should we allow the profanation?[7] — This is unanswerable.[8]

When ‘Ulla came [from Palestine to Babylon], he said: They have prolonged Elul.[9] Said ‘Ulla thereupon: Do our Babylonian colleagues recognize what a boon we are conferring on them? What was the boon? — ‘Ulla said: On account of the vegetables;[10]

R. Aha b. Hanina said: On account of the [unburied] dead.[11] What difference does it make [in practice which view we adopt here]? — There is a difference, in the case of a Day of Atonement coming just after Sabbath. According to him who says that the reason is because of the [unburied] dead, we prolong Elul [so as to prevent this], but according to him who says that it is because of vegetables, [we do not do so, because] when are the vegetables required? For the evening [after the Day of Atonement]; and in the evening we can get fresh ones. But even if we accept the view that the reason is because of vegetables, we should still prolong Elul because of the unburied dead? — We must therefore say that the practical difference is in the case of a festival which comes just before or just after Sabbath. In such a case, according to him who says the reason is because of vegetables,[12] we prolong Elul [to prevent this], but according to him who says it is because of the [unburied] dead, [we do not do so], because they can be attended to by heathens. But even if we accept the view that it is because of the [unburied] dead, let us still prolong Elul on account of the vegetables? — Vegetables can be [freshened by being put] in hot water. If that is the case, why is it a boon only for us [in Babylon]? Why not also for them [in Palestine] — We suffer from oppressive heat, they do not suffer from oppressive heat.[13]

Is all this correct,[14] seeing that Rabbah b. Samuel has learnt: I might think that just as the year is prolonged in case of emergency,[15] so the month may be prolonged to meet an emergency; therefore it says, This month is for you the head of months,[16] [which implies], See [the moon] like this and then sanctify![17] — Raba replied: There is no contradiction: in the once case we speak of prolonging the month, in the other of sanctifying it,[18] and what [the above teaching] meant is this: I might say that just as the year is prolonged to meet an emergency, so the month may be sanctified to meet an emergency, therefore it says, ‘This month is for you’; See [the moon] like this, and then sanctify. This is illustrated by the dictum of R. Joshua b. Levi: ‘Witnesses[19] can be intimidated [to withhold the report of] the new moon which has appeared in its due time[20] in order that the month may be prolonged,[21] but they may not be intimidated into reporting the new moon which has not appeared in its proper time in order that a New Moon may be sanctified [on the thirtieth]'. Is this so? Did not R. Judah the Prince[22] send to R. Ammi a message saying: Know that when R. Johanan was alive he used to teach us that witnesses may be intimidated into reporting [on the thirtieth day] the new moon which has not appeared in its due time, in order that the New Moon may be sanctified, and even though they have not seen it they may say, We have seen it? — Abaye said: There is no contradiction: the one rule[23] holds good for Nisan and Tishri, the other for the other months of the year.[24] Raba said: This teaching which Rabbah b. Samuel learnt follows the 'Others', as it has been taught: 'Others say that between one Pentecost and another and between one New Year and 'another there are always four days [of the week] difference, or, if it was a leap year, five'.[25] R. Dimi from Nehardea reports the teaching in the reverse form: 'Witnesses can be intimidated to report [on the thirtieth day] the appearance of the moon which has not appeared in its proper time, in order that the month may be sanctified, but they may not be intimidated to withhold the report of the new moon which has been seen at its proper time in order that the month may be prolonged. What is the reason?

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(1) Since the New Moon can be fixed without actual observation.

(2) Even though the observation is not necessary for the purpose.

(3) I.e., in all such cases we can make Adar thirty days, and if the watchers have seen the new moon on Sabbath, they need not report till the next day.

(4) Hence we do not make New Moon on the thirtieth day, the new moon not yet having been observed, and it is not permitted to make it on the thirty-second.

(5) I.e., so that the sacrifice for New Moon should be offered at the proper time.

(6) But, as in the case of all the others, to secure that the New Moon offering should be brought on the proper day.

(7) Seeing that the observation makes no difference.

(8) Lit., 'this is a confutation'.

(9) So as to prevent Sabbath and a festival falling on successive days.

(10) Which would become stale if kept over two days. Vegetables eaten raw are referred to, and of course, there could be no plucking on Sabbath or Festivals.

(11) Which would commence to decompose if kept over two days.

(12) Which would be required on the second of the holy days.

(13) Lit., 'the world is oppressive for us'. In Palestine vegetables or dead bodies could be kept for two days.

(14) That a month may be prolonged to prevent inconvenience to the public. Lit. 'It is not so?'

(15) E.g., to make Passover fall in the season of new corn., v. Sanh. 11b.

(16) Ex. XII, 2.

(17) The word 'this' is interpreted to mean that God showed Moses the new moon as a model for all future time

(18) V. infra.

(19) Men sent out by the Beth din to watch for the appearance of the new moon from points of vantage.

(20) I.e., on the thirtieth day.

(21) Over the thirtieth day and the next New Moon declared on the thirty-first, which shows that the month can be prolonged in case of need.

(22) The grandson of Rabbi.

(23) That the month may be sanctified to meet a special need.

(24) A 'special need' might arise in the other months of the year if, for instance, eight months in a year (which was the maximum) had already been made 'full' and in the next month the moon did not appear on the thirtieth: v. 'Ar. 8b.

(25) V. p. 21, nn. 12, 13, and note. For this to happen the months would have to follow the moon strictly.

Talmud - Mas. Rosh HaShana 20b

— The latter statement would be seen to be false,[1] the former statement is not seen to be false.[2]

Samuel said: I am quite able to make a calendar[3] for the whole of the Diaspora. Said Abba the father of R. Simlai to Samuel: Does the Master know [the meaning] of this remark which occurs in [the Baraitha known as] the secret of the Calendar?[4] 'If the new moon is born before midday or after midday'? — He replied: I do not. He then said to him: Since the Master does not know this, there must also be other things which the Master does not know. When R. Zera went up [to Palestine], he sent back word to them [in Babylon]: It is necessary that there should be [on New Moon] a night and a day of the new moon.[5] This is what Abba the father of R. Simlai meant: 'We calculate [according to] the new moon's birth. If it is born before midday, then certainly it will have been seen shortly before sunset. If it was not born before midday, certainly it will not have been seen shortly before sunset'. What is the practical value of this remark? — R. Ashi said: To [help us in] confuting the witnesses.[6]

R. Zera said in the name of R. Nahman: The moon is invisible for twenty-four hours [round about new moon]. For us [in Babylon] six of these belong to the old moon and eighteen to the new;[7] for them [in Palestine] six to the new and eighteen to the old.[8] What is the practical value of this remark? — R. Ashi said: To confute the witnesses.

The Master has just said: It is necessary that there should be [on New Moon] a night and a day of the new moon. Whence is this rule derived? — R. Johanan said: [From the text]. From evening to evening;[9] Resh Lakish said: [From the text], Until the twenty-first day of the month in the evening.[10] What practical difference is there between them? — Abaye said: The difference between them is only one of exegesis.[11] Raba said: They differ in regard to [the hours up to] midnight.[12]

R. Zera said in the name of R. Nahman: Wherever [an extra day is kept] out of doubt, we make it the succeeding day.[13] This means to say that we keep [Passover and Tabernacles] on the fifteenth and sixteenth but not on the fourteenth.[14] But should not the fourteenth also be kept, in case both Ab and Elul[15] have been declared short?[16]

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(1) Because other people might have seen the new moon.

(2) Because it could not be proved that they had not seen it (Rashi). R. Hananel: Provided they had seen a semblance of the new moon].

(3) Heb. עִבּוּר lit., 'taking across': the word used for the prolonging of the year and the month.

(4) This was a Baraitha made up of enigmatic sentences like the one which follows.

(5) I.e., that there should be no appearance of the old moon in this period, viz., after the closing of the twenty-ninth day; otherwise New Moon cannot be proclaimed on the thirtieth.

(6) Because if the conjunction is calculated to have been after midday and they claim to have seen the new moon before nightfall, they are not telling the truth.

(7) Which would imply that in Babylon the new moon is not visible till eighteen hours after its birth (Rashi).

(8) Which would imply that in Palestine the new moon is visible six hours after its birth (Rashi).

(9) Lev. XXIII, 32, in connection with fasting on the Day of Atonement. This shows that the day follows the night in reference to the festivals.

(10) Ex. XII, 18, in connection with eating unleavened bread on Passover. This shows that the festivals end at even.

(11) Lit., 'the interpretation of exegeses'.

(12) According to R. Johanan,the 'night' referred to is on the same footing as the night of the Day of Atonement which commences at nightfall. But according to Resh Lakish, it is on a par with the first night of Passover, which, in relation to the Paschal lamb, was a continuation of the afternoon before. Hence Resh Lakish holds that even if the old moon was seen in the early part of the evening, the next day may still be declared New Moon.

(13) Lit., 'wherever there is a doubt, we cast it forward'.

(14) I.e., that we reckon fifteen days from the thirtieth day, and also from the thirty-first day of the previous Adar or Elul, out of doubt, but in no case from the twenty-ninth. This dictum would seem to be superfluous, as in no circumstances was New Moon proclaimed on the twenty-ninth day after the previous New Moon.

(15) Rashi reads 'Shebat'.

(16) And in this case, what we suppose to have been the twenty-ninth day of Adar or of Elul would really have been the first of Nisan or of Tishri.

Talmud - Mas. Rosh HaShana 21a

— If two [successive] months[1] are declared short, the thing becomes known.

Levi once arrived in Babylon on the eleventh of Tishri.[2] He said [to the people there]: How good and sweet is the dish of the Babylonians on the great day of the West.[3] They said to him, Testify [that this is the tenth day].[4] He replied: I did not [personally] hear the Beth din [in Jerusalem proclaim] ‘sanctified’.[5]

R. Johanan issued a proclamation: ‘In all those places which can be reached by the messengers sent out in Nisan but not by those sent out in Tishri,[6] two days should be kept [on Passover],[7] Nisan being included so that there should be no mistake as to Tishri’.[8]

R. Aibu b. Nagri and R. Hiyya b. Abba once arrived at a certain place which had been reached by the messengers sent out in Nisan but not by those sent out in Tishri, and though the inhabitants kept only one day [of Passover] they did not reprove them. When R. Johanan heard this he was annoyed and said to them: Did I not tell you that in places which have been reached by the messengers sent out in Nisan but not by those sent out in Tishri they should keep two days, Nisan being included so that no mistake should be made in Tishri?

Rabbah was accustomed to fast two days [on the Day of Atonement].[9] Once he was found to be right.[10] R. Nahman had once fasted the whole of the Day of Atonement, when in the evening a man came and told him, To-morrow is the great day in the West. He said to him, Whence are you? He replied, From Damharia.[11] ‘Blood will be his latter end’[12] he ejaculated, applying to himself the verse, Swift were our pursuers.[13]

R. Huna b. Abin sent an instruction to Raba: When you see that the cycle of Tebeth[14] extends to the sixteenth of Nisan,[15] declare that year[16] a leap year and have no scruples,[17] since it is written, Observe the month [hodesh] of Abib,[18] which signifies, See to it that the Abib of the cycle[19] should commence in the earlier half [hodesh][20] of Nisan.

R. Nahman said to those who were going to sea: As you will not know when New Moon is fixed, [I will tell you what to do]. When you see the moon ceases shining with daylight,[21] clear away leaven [for Passover]. When does it so shine? On the fifteenth [of the month]. But we clear away leaven on the fourteenth? — For them, as they had a clear view,[22] the moon commenced to shine into the day from the fourteenth.

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(1) Viz., (apparently) Ab and Elul, or Tebeth and Shebat. Rashi: Tebeth and Tammuz are always, according to the principles of fixed calendar, defective, and if Shebat’ which follows Tebeth, Ab and Tammuz were also to be defective, it would have become known to the Diaspora before the advent of the festivals.

(2) I.e., according to the reckoning of the Babylonians who were not aware that the previous month had been prolonged in Palestine by one day. He either came from near the frontier or just before nightfall, before they had broken their fast (v. Tosaf. s.v. לוי).

(3) I.e., this is the Day of Atonement in Palestine, and you are eating, or you are ready to break your fast, cf. p. 86, n. 10.

(4) And we will keep this day too.

(5) I.e., that the day was sanctified as New Moon and therefore he could not testify, although he knew from independent sources that this was only ten days before, v. infra 21b. [MS.M.: ‘(proclaim)’, ‘prolonged’ מעובר instead of מקודש].

(6) The messengers sent out from Jerusalem to announce the New Moon of Nisan would be able to travel further by Passover than the messengers sent out in Tishri would be able to travel by Tabernacles, because the latter would lose two days on New Year and the Day of Atonement, when it was forbidden to travel.

(7) Although the inhabitants would know when the New Moon of Nisan had been proclaimed.

(8) I.e., if they kept Passover only one day, they might come to keep Tabernacles only one day.

(9) Being uncertain whether the month of Elul, which normally consisted of twenty-nine days, had not been prolonged by the Beth din in Jerusalem.

(10) Lit., ‘it was found (to be) according to him’.

(11) [Damar S.W. of Sura. V. Obermeyer p. 298.]

(12) Heb. Dam tehi Aharitho — a play on the name Damharia.

(13) Lam. IV, 19.

(14) V. supra p. 30, n. 5.

(15) Inclusive. V. Tosaf. s.v.

(16) In other words, if the vernal equinox is known by calculation to fall after the sixteenth of Nisan a leap year is proclaimed.

(17) Although this follows the view only of an individual authority, as recorded in Sanh. 13b.

(18) Deut. XVI, 1.

(19) I.e., the beginning of the vernal equinox. The day on which the vernal equinox begins is called Abib because on that day the corn begins to ripen by the effects of the sun (Rashi). V. Sanh., Sonc. ed., p. 60 notes.

(20) Lit., ‘newness’. I.e., the first fourteen days. The New Moon of Nisan must be timed so that this can take place.

(21) Lit., ‘completing (its course) by day’.

(22) Lit., ‘as the world was revealed to them’.

Talmud - Mas. Rosh HaShana 21b

MISHNAH. FOR THE SAKE OF TWO MONTHS SABBATH MAY BE PROFANED,[1] NAMELY, NISAN AND TISHRI, SINCE IN THEM MESSENGERS GO FORTH TO SYRIA AND IN THEM THE DATES OF THE FESTIVALS ARE FIXED.[2] WHEN THE TEMPLE WAS STANDING THEY USED TO PROFANE SABBATH FOR ALL THE MONTHS, IN ORDER THAT THE SACRIFICE [OF NEW MOON] MIGHT BE OFFERED ON THE RIGHT DAY.[3]

GEMARA. [Do messengers go forth] for two months only? The following was cited as conflicting with this: ‘Messengers go forth to proclaim six months’![4] — Abaye replied: What is meant is this: For all [the other months] the messengers set out while is is still night,[5] but for Nisan and Tishri they do not set out till they have heard the Beth din proclaim, ‘sanctified’.[6]

It has been taught to the same effect: ‘For all [the other months] they [the messengers] went forth while it was still night, but for Nisan and Tishri not until they had heard the Beth din proclaim ‘sanctified’.

Our Rabbis taught: How do we know [from the Scripture] that Sabbath may be profaned on account of these? Because it says, These are the appointed seasons of the Lord . . . which ye shall proclaim in their appointed season.[7] I might say then that just as it may be profaned until they [the months] are sanctified, so it may be profaned [further] until they are promulgated?[8] Not so, since it says, ‘which ye shall proclaim:’ for their proclamation you may profane the Sabbath, but not for their promulgation.[9]

WHEN THE TEMPLE WAS STANDING THEY USED TO PROFANE SABBATH FOR ALL THE MONTHS, IN ORDER THAT THE SACRIFICE MIGHT BE OFFERED ON THE RIGHT DAY. Our Rabbis taught : Originally the Sabbath could be profaned for all of them. When the Temple was destroyed, Rabban Johanan b. Zakkai said to them [the Beth din], Is there then a sacrifice [waiting to be brought]? They therefore ordained that Sabbath should not be profaned save for Nisan and Tishri alone.[10]

MISHNAH. WHETHER [THE NEW MOON] HAS BEEN SEEN CLEARLY[11] OR HAS NOT

BEEN SEEN CLEARLY, SABBATH MAY BE PROFANED ON ACCOUNT OF IT. R. JOSE SAYS, HOWEVER, THAT IF IT HAS BEEN SEEN CLEARLY SABBATH IS NOT TO BE PROFANED ON ACCOUNT OF IT.[12] IT HAPPENED ONCE THAT MORE THAN FORTY PAIRS OF WITNESSES WERE ON THEIR WAY[13] [TO JERUSALEM] AND R. AKIBA DETAINED THEM IN LYDDA. R. GAMALIEL THEREUPON SENT TO HIM SAYING: IF YOU PREVENT THE MULTITUDE [FROM COMING TO GIVE EVIDENCE] YOU WILL PROVE TO BE THE CAUSE OF THEIR STUMBLING IN THE TIME TO COME.[14]

GEMARA. How do we know that the word ‘alil here means ‘clear’? — R. Abbahu replied: Because the Scripture says, The words of the Lord are pure words, as silver tried in the clear sight [ba-’alil] of the earth, refined seven times.[15]

Rab and Samuel [gave different interpretations of a certain text]. One said: Fifty gates of understanding were created in the world, and all were given to Moses save one, as it says, Yet thou hast made him but little lower than a God,[16] Now, Koheleth sought to find out words of delight.[17] [That is to say,] Koheleth sought to be like Moses, but a bath kol[18] went forth and said to him, It is written uprightly even words of truth,[19] ‘There arose not a prophet again in Israel like Moses’.[20] The other said: Among the prophets there arose not, but among the kings there did arise. How then do I interpret the words, Koheleth sought to find out words of delight? Koheleth sought to pronounce verdicts from his own insight,[21] without witnesses and without warning,[22] whereupon a bath kol went forth and said, It is written uprightly even words of truth, ‘At the mouth of two witnesses’ etc.[23]

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(1) By witnesses who have seen the new moon, in order that they may give information in Jerusalem at the earliest possible moment. V. supra.

(2) It is difficult to see what reason this furnishes for allowing the witnesses to break the Sabbath. Rashi explains that if the witnesses are not allowed to bring the news on Sabbath, the New Moon will not be sanctified till Sunday, and so the messengers instead of setting out as soon as Sabbath is over will not set out till several hours later, and this might make them late in some places in giving notice of the date of Passover. V. Rashi and Tosaf.

(3) Lit., ‘for the proper adjustment of the sacrifice’.

(4) I.e., whenever the month is lengthened to thirty days.

(5) On the thirty-first day, since it is already certain that New Moon will be on this day.

(6) Which would be at some hour in the daytime.

(7) Lev. XXIII, 4. Stress is laid on the words ‘in their appointed season’.

(8) I. e., to the Diaspora, by the messengers.

(9) I. e., the witnesses may profane, but not the messengers.

(10) On account of their extra sanctity.

(11) Lit., ‘in an ‘alil’. V. Gemara infra.

(12) There being no necessity, as many people will have seen it.

(13) Lit., ‘were passing’.

(14) As people will be reluctant to come to give evidence.

(15) Ps. XII, 7. E.V. ‘in a crucible’.

(16) Ps. VIII, 6. E.V. ‘than the angels’.

(17) Eccl. XII, 10.

(18) A voice from heaven, V. Glos.

(19) Ibid.

(20) Deut. XXXIV, 10.

(21) Lit., ‘that are in the heart’. [Omitted in MS.M.].

(22) The forewarning required by law for the punishment of an offender.

(23) Deut. XIX, 15.

Talmud - Mas. Rosh HaShana 22a

IT HAPPENED ONCE THAT MORE THEN FORTY PAIRS [OF WITNESSES] WERE ON THEIR WAY [TO JERUSALEM] AND R. AKIBA DETAINED THEM etc. It has been taught: R. Judah said: Far be it from us to think that R. Akiba detained them. It was Shazpar the head of Geder[1] who detained them, and Rabban Gamaliel thereupon sent and they deposed him from his office.[2]

MISHNAH. IF A FATHER AND A SON HAVE SEEN THE NEW MOON, THEY SHOULD BOTH GO [TO JERUSALEM], NOT THAT THEY CAN ACT AS JOINT WITNESSES[3] BUT SO THAT IF ONE OF THEM IS DISQUALIFIED[4] THE OTHER MAY JOIN WITH SOME OTHER WITNESS. R. SIMEON, HOWEVER, SAYS THAT A FATHER AND SON AND ALL RELATIVES ARE ELIGIBLE TO TESTIFY TO THE APPEARANCE OF THE NEW MOON. R. JOSE SAID: IT HAPPENED ONCE WITH TOBIAH THE PHYSICIAN THAT HE SAW THE NEW MOON IN JERUSALEM ALONG WITH HIS SON AND HIS EMANCIPATED SLAVE, AND THE PRIESTS ACCEPTED HIS EVIDENCE AND THAT OF HIS SON AND DISQUALIFIED HIS SLAVE, BUT WHEN THEY APPEARED BEFORE THE BETH DIN THEY ACCEPTED HIS EVIDENCE AND THAT OF HIS SLAVE AND DISQUALIFIED HIS SON.

GEMARA. R. Levi said: What is the reason of R. Simeon? — Because it is written, and the Lord spoke unto Moses and Aaron in the land of Egypt, saying, This month shall be unto you the beginning of months,[5] which implies, ‘this testimony shall be valid [when given] by you’.[6] And the Rabbis? — [It implies], this evidence shall be entrusted to you.[7]

R. JOSE SAID, IT HAPPENED ONCE WITH TOBIAH THE PHYSICIAN etc. R. Hanan b. Raba said: The law[8] is as stated by R. Simeon. Said R. Huna to R. Hanan b. Raba, We have R. Jose and an incident [on the other side], and you say that the law is as stated by R. Simeon! — He replied: Many times I said in the presence of Rab, ‘The law is as stated by R. Simeon’, and he did not correct me.[9] He then asked him, How did you repeat [the Mishnah]? — He [R. Hanan] replied [I repeated it to him with the names] reversed.[10] He [R. Huna] thereupon said to him, That was the reason why Rab did not correct you. Tabi said in the name of Mari Tabi who had it from Mar ‘Ukba: The law is as stated by R. Simeon.

MISHNAH THE FOLLOWING ARE INELIGIBLE: GAMBLERS,[11] USURERS, PIGEON-FLYERS,[12] THOSE WHO TRAFFIC IN PRODUCE OF THE SABBATICAL YEAR,[13] AND SLAVES. IT IS A GENERAL RULE THAT FOR ANY TESTIMONY FOR WHICH A WOMAN IS DISQUALIFIED THESE ALSO ARE DISQUALIFIED.

GEMARA. I infer from this that any testimony which a woman is qualified to give[14] they are also qualified to give. R. Ashi said: This is equivalent to saying that one who is Rabbinically[15] accounted a robber is qualified to give the same evidence as a woman.

MISHNAH. IF ONE WHO HAS SEEN THE MOON IS NOT ABLE TO GO ON FOOT, HE MAY BE BROUGHT ON AN ASS OR EVEN IN A LITTER [ON SABBATH]. IF THEY [THE WITNESSES] ARE LIKELY TO BE WAYLAID,[16] THEY MAY TAKE CUDGELS [TO DEFEND THEMSELVES].[17] IF THE DISTANCE IS GREAT [TO JERUSALEM], THEY MAY TAKE PROVISIONS WITH THEM, SINCE FOR AS MUCH AS A NIGHT AND A DAY'S JOURNEY[18] THEY WERE ALLOWED TO PROFANE SABBATH AND GO FORTH TO TESTIFY TO THE APPEARANCE OF THE NEW MOON, AS IT SAYS: THESE ARE THE APPOINTED SEASONS OF THE LORD . . . WHICH YE SHALL PROCLAIM IN THEIR APPOINTED SEASON.[19]

CHAPTER II

MISHNAH. IF THAT ONE[20] IS NOT KNOWN TO THEM [THE BETH DIN IN JERUSALEM], THEY [THE BETH DIN OF HIS OWN PLACE] SEND ANOTHER WITH HIM TO CERTIFY

HIM [AS RELIABLE]. ORIGINALLY TESTIMONY WITH REGARD TO [THE APPEARANCE OF] THE NEW MOON WAS RECEIVED FROM ANYONE. WHEN, HOWEVER, THE BOETHUSIANS[21] ADOPTED EVIL COURSES, IT WAS ORDAINED THAT TESTIMONY SHOULD BE RECEIVED ONLY FROM PERSONS KNOWN [TO THE BETH DIN].

GEMARA. What is meant by ANOTHER? [I would naturally suppose], one other person.

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(1) [Gederah in Judah. V. Josh. XV, 36].
(2) Lit., ‘greatness’.
(3) Near relatives being disqualified from offering evidence together.
(4) I.e., found by the Beth din to be unreliable.
(5) Ex. XII, 1, 2.
(6) Even if you are near relatives.
(7) The communal leaders, to sanctify the month on the strength of it. Nothing, however, is implied about relatives.
(8) [MS.M. ‘the Halachah’ and so in all other cases in this passage].
(9) Lit., ‘he did mot say anything to me’.
(10) I.e., saying that R. Jose declared a father and son to be eligible, and that R. Simeon related the incident.
(11) Lit., ‘those who play with dice’.
(12) For wagers.
(13) V. Sanh., Sonc. ed. p. 142, nn. 3-5.
(14) E.g., to testify the death of a husband so as to enable the widow to remarry.
(15) Like those mentioned above, who are not accounted robbers according to the strict letter of the Pentateuch, since although they acquire money wrongfully they do not take anything by force: v. Yeb. 25a
(16) Lit., ‘if there are lyers-in-wait for them’.
(17) Although it was forbidden to carry on Sabbath.
(18) If the distance was much larger there would be no point in their evidence since in the absence of witnesses the New Moon is on the first day.
(19) Lev. XXIII, 4. V. supra, p. 89. n. 5.
(20) V. Gemara, infra.
(21) The followers of a certain Boethus, who seems to have lived in the second century B.C.E. Like the Sadducees, they rejected the Oral Law and opposed the Rabbis. [MS.M. ‘Minim’ (v. Glos. s.v. Min.)]

Talmud - Mas. Rosh HaShana 22b

But [is the word of] one person to be taken? Has it not been taught, ‘On one occasion he came accompanied by the witnesses[1] who were to testify to his bona fides’? — R. Papa replied: What is meant by ANOTHER? Another pair. This view too is borne out by an examination [of the language of the Mishnah]. For should you hold otherwise, [consider the words] IF THAT ONE [OTHO] IS NOT KNOWN TO THEM. Now what is referred to by THAT ONE? Shall I say, a single person? But is [the word of] one person accepted,[2] seeing that the word judgment[3] is used in connection with it? But in fact what is meant by THAT ONE? That pair. So here, what is meant by ANOTHER? Another pair.

But is not the word of one witness taken [in this matter]? Has it not been taught, ‘On one occasion R. Nehorai accompanied the witness to testify to his bona fides on Sabbath in Usha’?[4] — I can reply that there was another witness along with R. Nehorai, and the reason why he was not mentioned was out of respect for R. Nehorai.[5] R. Ashi said: In R. Nehorai's case there was [already] another witness in Usha,[6] and R. Nehorai went to join his testimony with his. If that is the case, what is the point of the statement?[7] — You might think that we do not allow the Sabbath to be profaned [by one witness] where there is any doubt [about the other].[8] Hence we are told [that this is not so].

When ‘Ulla came [to Babylon], he announced that they had sanctified the New Moon [on a certain day] in the West [Palestine]. Said R. Kahana: Not only [in such a case] do we take the word of ‘Ulla who is a great man, but we take the word of any ordinary man. What is the reason? Because whenever a thing is bound to come to light later on, men do not lie about it. It has been taught to the same effect: If a man comes from the other end of the world and says, The Beth din have sanctified the New Moon, his word is taken.

ORIGINALLY TESTIMONY WITH REGARD TO THE APPEARANCE OF THE NEW MOON WAS RECEIVED FROM ANYONE. Our Rabbis taught: What evil course did the Boethusians[9] adopt? Once the Boethusians sought to mislead the Sages.[10] They hired two men for four hundred zuzim, one belonging to our party and one to theirs. The one of their party gave his evidence and departed. Our man [came and] they said to him: Teil us how you saw the moon. He replied: I was going up the ascent of Adumim[11] and I saw it couched between two rocks, its head like [that of] a calf, its ears like [those of] a hind, and its tail lying between its legs, and as I caught sight of it I got a fright and fell backwards, and if you do not believe me, why, I have two hundred zuzim tied up in my cloak. They said to him: Who told you to say all this?[12] He replied: I heard that the Boethusians were seeking to mislead the Sages, so I said [to myself], I will go myself and tell them, for fear lest untrustworthy men should come and mislead the Sages. They said: You can have the two hundred zuzim as a present,[13] and the man who hired you shall be laid out on the post.[14] There and then they ordained that testimony should be received only from persons who were known to them.

MISHNAH. ORIGINALLY THEY USED TO LIGHT[15] BEACONS.[16] WHEN THE CUTHEANS [SAMARITANS] ADOPTED EVIL COURSES,[17] THEY MADE A RULE THAT MESSENGERS SHOULD GO FORTH. HOW DID THEY LIGHT THE BEACONS? THEY USED TO BRING LONG POLES OF CEDAR AND REEDS AND OLIVE WOOD AND FLAX FLUFF WHICH THEY TIED TO THE POLES WITH A STRING, AND SOMEONE USED TO GO UP TO THE TOP OF A MOUNTAIN AND SET FIRE TO THEM AND WAVE THEM TO AND FRO AND UP AND DOWN UNTIL HE SAW THE NEXT ONE DOING THE SAME THING ON THE TOP OF THE SECOND MOUNTAIN; AND SO ON THE TOP OF THE THIRD MOUNTAIN. WHENCE DID THEY CARRY THE [CHAIN OF] BEACONS? FROM THE MOUNT OF OLIVES [IN JERUSALEM] TO SARTABA, AND FROM SARTABA TO GROFINA, AND FROM GROFINA TO HAURAN, AND FROM HAURAN TO BETH BALTIN.[18] THE ONE ON BETH BALTIN DID NOT BUDGE FROM THERE BUT WENT ON WAVING TO AND FRO AND UP AND DOWN UNTIL HE SAW THE WHOLE OF THE DIASPORA[19] BEFORE HIM LIKE ONE BONFIRE.[20]

GEMARA. How do we know that the word massi'ir[21] connotes ‘burning’? — Because it is written in the Scripture, wa-yisa'em, David and his men,[22] and we translate[23] ‘and David burnt them’.

Our Rabbis taught ‘Beacon fires are lit only for the new moon which has been seen at its proper time,[24] [to announce that] it has been sanctified. When are they lit? On the night following its announcement.[25] This means to say that we light beacons for defective months but not for full months. What is the reason? — R. Zera said: It is a precaution on account of a defective month which ends on Friday. [In that case] when do we light? On the termination of Sabbath; and if you were to insist that we should light up also for full months, this might give rise

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(1) This would show that at least two were required.

(2) In giving evidence regarding the New Moon.

(3) In the verse, For it is a statute for Israel, a judgment for the God of Jacob. Ps. LXXXI, 5. ‘Judgment’ could be delivered only on the evidence of at least two witnesses.

(4) At the time when the Beth din was in Usha.

(5) I.e., so as not to put him on the same footing as R. Nehorai. Cf. Git. 5b for a similar incident.

(6) This witness may have been either one who had seen the new moon, or one who could testify to the bona fides of the man who has seen it. V. Tosaf. s.v. סהרא .

(7) What reason was there why R. Nehorai should not have gone on Sabbath, seeing that the Mishnah permits this?

(8) Who might disappear in the interval.

(9) [MS.M.: Minim, v. supra p. 94, n. 2].

(10) By making them believe that the new moon had been seen on the thirtieth of Adar, which was a Sabbath, when in fact it had not, so that the second day of Passover might be on a Sunday and the counting of the ‘Omer might commence literally ‘on the morrow of the Sabbath’, according to their interpretation of the words (Rashi).

(11) V. Josh. XV, 7.

(12) Lit., ‘who compelled you to all this’.

(13) Beth din having the right to expropriate. [On the reading Minim, if the reference is to Jewish Christians, their desire to have the first day of Passover fall on Friday and Pentecost on Sunday as was the case in the year of the crucifixion, would supply them with a reason for tampering with the Calendar, V. Herford, Christianity in the Talmud, p. 330.]

(14) For a flogging.

(15) The Hebrew word is massi'in, which literally means ‘raise up’.

(16) To convey the news of the New Moon to the diaspora in Babylon.

(17) And lit beacons on the thirtieth day, so as to mislead the Babylonians.

(18) [There is no general agreement about the identification of these places. Obermeyer (p. 17ff) locates them as follows: Sartaba == Karn Sartaba, five km from the western bank of the Jordan; Grofina (or ‘Agrufina, v. D.S.) ‘Arafun, a hill situated among the Gilead range of mountains; Hauran south of Damascus, cf. Ezek. XLVII, 18. Beth Baltin == Beiram (v. infra) some miles N.W. of Pumbeditha. For other views, v. Horowitz Palestine, p. 125].

(19) I.e., the district of Pumbeditha. V. Gemara. [Rashi omits ‘the whole of’.]

(20) Because, as explained infra in the Gemara, the inhabitants on seeing the beacon fire used to light torches.

(21) V. supra p. 96, n. 5.

(22) 2 Sam,. V, 21 in reference to the idols captured from the Philistines. E.V. ‘took them away’.

(23) In the authorized Aramaic version.

(24) I.e., on the thirtieth day of the outgoing month.

(25) יום עיבור , ‘the day of the prolongation’. V. supra, p. 81, n. 1.

Talmud - Mas. Rosh HaShana 23a

to confusion, since people would say: This month may be defective, and the reason why beacons were not lit yesterday is because it was impossible,[1] or perhaps it is full and they are lighting up at the proper time. But why should we not light up whether for a full month or a defective month, and when New Moon is on Friday not light up at all, so that since we do not light at the termination of Sabbath, in spite of the fact that we usually light for a full month, people will know that it is defective? — This nevertheless may lead to errors, since people will say, This month is full, and the reason why they have not lit up is because they have been prevented.[2] But why not light up for the full months and not at all for the defective months? — Abaye replied: So as not to deprive the public of two working days.[3]

HOW DID THEY LIGHT THE BEACONS? THEY USED TO BRING LONG POLES etc. Rab Judah said: There are four kinds of cedar — cedar, kedros,[4] pinewood[5] and cypress [What is] kedros? — R. Idra stated that in the school of R. Shila it was defined as mabliga,[6] though others held that it is gulmish. He [Rab Judah] differs herein from Rabbah son of R. Huna; for Rabbah son of R. Huna reported that in the school of Rab it was stated that there are ten kinds of cedar, as it says, I will plant in the wilderness erez, shitah, and hadas and oil-tree, I will set in the desert berosh, tidhor and teashur together.[7] ‘Erez’ is cedar; ‘shitah’ is pine; ‘hadas’ is myrtle; ‘oil-tree’ is balsam; berosh is cypress; tidhor is teak;[8] teashur is larch.[9] This makes seven. When R. Dimi came, he said: To these were added alonim, almonim, and almugim. ‘Alonim’ are terebinths; almonim are oaks; almugim are coral-wood. According to others it should be aronim, ‘armonim, and almugim. Aronim are bay-trees; ‘armonim are planes; almugim are coral-wood.

Neither shall gallant ship pass thereby.[10] Rab said: This refers to the great ship.[11] How is it carried out?[12] They bring there six thousand men for twelve months (or according to others twelve thousand men for six months) and load the boat with sand until it rests on the sea-bottom.[13] Then a diver goes down and ties a rope of flax to the coral while the other end is tied to the ship, and the sand is then taken and thrown overboard, and as the boat rises it pulls up the coral with it. The coral is worth twice its weight in silver. There were three ports, two belonging to the Romans[14] and one belonging to the Persians. From the Roman side they brought up coral, from the Persian side pearls. This [the Persian] one was called the port of Mashmahig.[15]

R. Johanan said: Every acacia tree that was taken by the invaders from Jerusalem will be restored to it by the Holy One, blessed be He, in time to come, as it says, I will plant in the wilderness the cedar, the acacia tree,[16] and 'wilderness' means Jerusalem, as it is written, Zion is become a wilderness[17] etc.

R. Johanan further said: One who studies the Torah but does not teach it is like the myrtle in the wilderness.[18] Others report [the saying thus]: One who studies the Torah and teaches it in a place where there is no [other] talmid hakam[19] is like the myrtle in the wilderness, which is precious.

R. Johanan also said: Alas for the idol-worshippers since they have no means of remedy,[20] as it says, For brass I will bring gold, and for iron I will bring silver, and for wood brass and for stones iron.[21] But what can they bring to replace R. Akiba and his companions? Of them the Scripture says, Though I cleanse them [of other transgressions] from their blood I shall not cleanse them.[22]

WHENCE DID THEY CARRY THE CHAIN OF BEACONS etc.? FROM BETH BALTIN. What is Beth Baltin? — Rab said: This is

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(1) On account of Sabbath.

(2) Through having drunk too much on Sabbath, and become intoxicated (Rashi).

(3) It was customary to abstain from work on New Moon (v. Tosaf. s.v. מישום). In this case the thirtieth day would always he kept as New Moon from doubt, and if the actual day fixed was the thirty-first, there would be two days New Moon.

(4) Heb. קדרום or קתרום prob. ==GR.**.

(5) Lit., 'oil (i.e., resinous) wood'.

(6) Prob. connected with the root זלג 'to drip'.

(7) Isa. XLI, 19. E.V. I will plant in the wilderness the cedar, the acacia tree, and the myrtle and the oil-tree, I will set in the desert the cypress, the plane-tree and the larch together. The Talmud proceeds to give the Aramaic equivalents of the Hebrew words.

(8) The Aramaic is shaga, of which the precise meaning is unknown.

(9) Aramaic shuribna, of which also the precise meaning is unknown.

(10) Isa. XXXIII, 21.

(11) Heb. בורני prob. a corruption of GR.**, a light fast-sailing Liburnian vessel. [Supply here from MS.M.: 'For what purpose is it made? — To raise with it corals'].

(12) Viz., the coral fishing in the Persian Gulf.

(13) The water being here rather shallow.

(14) [בי רומאי so MS.M.; cur. edd. בי ארמאי Be Armae, the Hebrew equivalent of Suristan (the land of the Syrians) the name given to Babylon by the Sasamans; v. Funk, Monumenta, p. 16 and Obermeyer p. 74].

(15) [Rashi: 'the port of the kingdom'. Fleischer (notes to Levy's Dictionary): 'name of an island in the Persian Gulf between 'Oman and al-Bahrin.]

(16) Isa. XLI, 19.

(17) Ibid. LXIV, 9.

(18) The fragrance of which is wasted.

(19) V. Glos.

(20) I.e., they will not be able to save themselves by remedying the wrong they have done.
(21) Isa. LX, 17.
(22) Joel IV, 21. E.V., And I will hold as innocent their blood that I have not held as innocent.

Talmud - Mas. Rosh HaShana 23b

Biram.[1] What is meant here by DIASPORA [GOLAH]? — R. Joseph said: This is Pumbeditha. What is meant [then] by LIKE ONE BIG BONFIRE? — A Tanna taught: ‘Every inhabitant [of Pumbeditha] takes a torch in his hand and goes up on to his roof’.[2] It has been taught: ‘R. Simeon b. Eleazar says: [Beacon fires were lit] also on Harim and Kayir and Geder and the neighbouring places’.[3] Some say that these places are between [those mentioned in the Mishnah].[4] Others say that they are on the further side from the Land of Israel, and that one authority [the Mishnah] reckons the places on one side,[5] and the other reckons the places on the other.[6] R. Johanan said: Between each one and the next[7] there were eight parasangs.[8] How many [parasangs] then were there altogether? Thirty-two.[9] But to-day there is much more? — Abaye said: The [direct] roads have been closed,[10] as it is written, Therefore behold, I will hedge up thy way with thorns [etc.].[11] R. Nahman b. Isaac said: It is stated in this verse, viz., He hath made my paths crooked.[12]

MISHNAH. THERE WAS A LARGE COURT IN JERUSALEM CALLED BETH YA'AZEK. THERE ALL THE WITNESSES USED TO ASSEMBLE AND THE BETH DIN USED TO EXAMINE THEM. THEY USED TO ENTERTAIN THEM LAVISHLY THERE[13] SO THAT THEY SHOULD HAVE AN INDUCEMENT[14] TO COME. ORIGINALLY THEY USED NOT TO LEAVE THE PLACE THE WHOLE DAY,[15] BUT RABBAN GAMALIEL THE ELDER INTRODUCED A RULE THAT THEY COULD GO TWO THOUSAND CUBITS FROM IT IN ANY DIRECTION. THESE WERE NOT THE ONLY ONES [TO WHOM THIS CONCESSION WAS MADE]. A MIDWIFE WHO HAS COME [FROM A DISTANCE] TO HELP IN CHILDBIRTH OR ONE WHO COMES TO RESCUE FROM A FIRE OR FROM BANDITS OR FROM A RIVER IN FLOOD OR FROM A BUILDING THAT HAS FALLEN IN — ALL THESE ARE ON THE SAME FOOTING AS THE RESIDENTS OF THE TOWN, AND MAY GO TWO THOUSAND CUBITS [ON SABBATH] IN ANY DIRECTION.

GEMARA. The question was raised: Do we read here Beth Ya'azek or Beth Ya'zek? Do we read Beth Ya'azek, regarding the name as an elegantia[16] based on the Scriptural expressions, And he ringed it round and cleared it of stones?[17] Or do we read Beth Ya'zek, taking the name to connote constraint,[18] as it is written, being bound in chains?[19] — Abaye said: Come and hear [a proof that it is the former]: THEY USED TO ENTERTAIN THEM LAVISHLY THERE SO THAT THEY SHOULD HAVE AN INDUCEMENT TO COME. [This is not conclusive], as perhaps they treated them in both ways.[20]

MISHNAH. HOW DO THEY TEST THE WITNESSES? THE PAIR WHO ARRIVE FIRST ARE TESTED FIRST. THE SENIOR OF THEM IS BROUGHT IN AND THEY SAY TO HIM, TELL US HOW YOU SAW THE MOON — IN FRONT OF THE SUN OR BEHIND THE SUN?[21] TO THE NORTH OF IT OR THE SOUTH? HOW BIG WAS IT, AND IN WHICH DIRECTION WAS IT INCLINED?[22] AND HOW BROAD WAS IT? IF HE SAYS [HE SAW IT] IN FRONT OF THE SUN, HIS EVIDENCE IS REJECTED.[23] AFTER THAT THEY WOULD BRING IN THE SECOND AND TEST HIM. IF THEIR ACCOUNTS TALLIED, THEIR EVIDENCE WAS ACCEPTED, AND THE OTHER PAIRS WERE ONLY QUESTIONED BRIEFLY,[24] NOT BECAUSE THEY WERE REQUIRED AT ALL, BUT SO THAT THEY SHOULD NOT BE DISAPPOINTED, [AND] SO THAT THEY SHOULD NOT BE DISSUADED FROM COMING.[25]

GEMARA. ‘IN FRONT OF THE SUN’ is surely the same as ‘TO THE NORTH OF IT’, and ‘BEHIND THE SUN’ is surely the same as TO THE SOUTH OF IT’?[26] — Abaye said: [It means], whether the concavity of the moon is in front of the sun or behind the sun.[27] If he says, in front of the sun, his evidence is rejected, since R. Johanan has said: What is meant by the verse, Dominion and fear are with him, He maketh peace in his high places?[28] Never did the sun behold the concavity of the new moon nor the concavity of the rainbow. It never sees the concavity of the moon, so that she should not feel humiliated.[29] It never sees the concavity of the rainbow so that the worshippers of the sun should not say,

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(1) Apparently some place between Syria and Mesopotamia; v. supra p. 97, n. 1.

(2) To spread the news throughout Babylon.

(3) [These places are likewise difficult to identify. For various attempts v. Horowitz loc. cit. Graetz, Geschichte p. 67, n. 1 emends on the basis of the Tosef. a.l. חרים וכייר וגדר into הרי מכוור וגדר the mountains of Macherus (in the south) and Gedera in the north. ‘The neighbouring places’ will include Tabor which is also mentioned in the Tosef.]

(4) And therefore in Palestine.

(5) Perhaps those nearer to Jerusalem.

(6) Perhaps those nearer to Babylon. This reference in both cases is uncertain; v. Horowitz, Palestine, loc. cit.

(7) Of those mentioned in the Mishnah.

(8) About forty miles.

(9) [Apparently from Mount of Olives to Beth Baltin, the last station in Palestine.]

(10) And travellers are obliged to take a round about route.

(11) Hos. II, 8. The verse continues, that she shall not find her paths.

(12) Lam. III, 9.

(13) Lit., ‘they made for them large banquets’.

(14) Lit., ‘become accustomed to come’.

(15) If they came on Sabbath, as they had already exceeded the limit of two thousand cubits.

(16) Lit., ‘an elevated’ or ‘refined expression’, i.e., not belonging to the language of everyday life.

(17) Isa. V, 2. E.V. ‘and he digged it and cleared it’. The Heb. is ויעזקהו which the Talmud connects with the Aramaic עזקא ‘a ring’, so that Beth Ya'azek would refer to the stone wall round the court.

(18) In allusion to the fact that they were (originally) confined to the courtyard the whole of the day. But cf. Tosaf. s.v. או .

(19) Jer. XL, 1. The Hebrew word is באזיקים .

(20) I.e., both kindly and rigorously.

(21) The meaning of this is discussed in the Gemara.

(22) I.e., in which direction were the horns turning.

(23) Lit., ‘he has not said anything’.

(24) Lit., ‘with heads of subjects’.

(25) Lit., ‘so that they should (still) be accustomed to come’.

(26) The new moon can be seen only about sunset, close to the sun, when the sun is travelling towards the north. We should therefore naturally take ‘in front of the sun’ to mean ‘to the north of the sun’, and ‘behind the sun’ to mean ‘to the south of the sun’.

(27) I.e., whether the rim of the moon visible from the earth is concave or convex in relation to the sun. By ‘in front of’ Abaye understands ‘turned towards’, and by ‘behind’, ‘turned away from’.

(28) Job XXV, 2.

(29) And in this way God keeps the peace between the sun and the moon.

Talmud - Mas. Rosh HaShana 24a

He is shooting arrows [at those who do not worship him].[1]

HOW HIGH WAS IT AND IN WHICH DIRECTION WAS IT INCLINED. One Tanna taught: [If he says], To the north, his evidence is accepted; [if he says], To the south, his evidence is rejected.[2] But it has been taught to the opposite effect: ‘[If he says], To the south, his evidence is accepted; [if he says], To the north, his evidence is rejected'? — There is no contradiction; one statement speaks of the dry season,[3] the other of the rainy season.[4]

The Rabbis taught: If one[5] says that it was two ox-loads high[6] and the other three,[7] their evidence is accepted. If one, however, says that it was three and the other five, their evidence is nullified, only each of them can be joined with another witness.[8]

Our Rabbis taught: '[If they say], We saw it in water, we saw it in a mirror, we saw it through the clouds, they are not allowed to testify concerning it. [If they say], We saw half of it in water, half of it through the clouds, half of it in a mirror, they are not allowed to testify concerning it'. Since you disallow them [when they see] the whole, can there be any question [when they see] only half? — In fact the statement should run as follows: '[If they say they saw] half of it in water and half in the sky, half of it through the clouds and half in the sky, half of it in a mirror and half in the sky, they are not allowed to testify.'

Our Rabbis taught: [If they say], We saw it [once], but did not see it again, they are not allowed to testify concerning it. [Why so?] Are they to go on seeing it the whole time? — Abaye replied: What is meant is this. [If they say], We saw it by chance,[9] but when we came to look for it deliberately[10] we could not see it, they are not allowed to testify concerning it. What is the reason? Because I might say, they saw only a circular disc in the clouds.

MISHNAH. THE HEAD OF THE BETH DIN SAYS, SANCTIFIED', AND ALL THE PEOPLE REPEAT AFTER HIM, SANCTIFIED, SANCTIFIED. WHETHER THE NEW MOON IS SEEN AT ITS PROPER TIME[11] OR NOT AT ITS PROPER TIME, IN EITHER CASE [THE NEW MOON] IS SANCTIFIED.[12] R. ELEAZAR B. ZADOK, HOWEVER, SAYS THAT IF IT IS NOT SEEN AS ITS PROPER TIME [THE NEW MOON] IS NOT [FORMALLY] SANCTIFIED, BECAUSE HEAVEN HAS ALREADY SANCTIFIED IT.

GEMARA. THE HEAD OF THE BETH DIN etc. What is the Scriptural warrant for this? — R. Hiyya b. Gamda said in the name of R. Jose b. Saul, who had it from Rabbi: The Scripture says, And Moses declared the appointed seasons of the Lord;[13] from this we learn that the head of the Beth din says, 'sanctified'.

AND ALL THE PEOPLE REPEAT AFTER HIM, 'SANCTIFIED, SANCTIFIED'. Whence do we learn this? — R. Papa said: Scripture says, which ye shall proclaim [them].[14] [For otham] read attem.[15] R. Nahman b. Isaac said, [we learn it from here]: Even these [hem] are my appointed seasons;[16] [which implies], they shall say, my seasons.[17]

SANCTIFIED, SANCTIFIED: why twice? — Because it is written, holy convocations.[18]

R. ELEAZAR B. ZADOK SAYS THAT IF IT IS NOT SEEN AT ITS PROPER TIME IT IS NOT SANCTIFIED. It has been taught: Polemo says: If seen at its time is is not sanctified,[19] if seen out of its time it is sanctified. R. Eleazar b. Simeon says: in either case it is not sanctified, since it says, And ye shall sanctify the fiftieth year,[20] which shows that you are to sanctify years, but are not to sanctify months.

Rab Judah said in the name of Samuel: The halachah is as laid down by R. Eleazar b. Zadok. Abaye said: We have also learnt to the same effect: 'If the Beth din and all Israel saw it,[21] and if the witnesses had been tested, but they had no time to say 'sanctified' before it grew dark, the month is prolonged', which implies that it is prolonged[22] but that [the new month] is not sanctified [later in the day]. [This is not conclusive, since] there was a special reason for mentioning the prolonging. You might think that since the Beth din and all Israel saw it [the new moon] everyone knew that it had appeared and therefore the month should not be prolonged. Therefore we are told [that this is not so].

MISHNAH. R. GAMALIEL USED TO HAVE A DIAGRAM OF PHASES OF THE MOON ON A TABLET [HUNG] ON THE WALL OF HIS UPPER CHAMBER, AND HE USED TO SHOW THEM TO THE UNLEARNED AND SAY, DID IT LOOK LIKE THIS OR THIS?

GEMARA. Is this allowed, seeing that it is written, Ye shall not make with me,[23] which we interpret, ‘Ye shall not make the likeness of my attendants’? — Abaye replied: The Torah forbade only those attendants of which it is possible to make copies,[24] as it has been taught: A man may not make a house in the form of the Temple, or an exedra in the form of the Temple hall,[25] or a court corresponding to the Temple court, or a table corresponding to the [sacred] table or a candlestick corresponding to the [sacred] candlestick, but he may make one

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(1) The rainbow in this case having the appearance of a bow bent by the sun against the earth.

(2) Reading this sentence in its present context, we must suppose it to mean, ‘if he says, (it was inclined) to the north’ etc. This is very difficult to understand, and it is much more natural to suppose that the words to be supplied are ‘that he saw it’, and that this sentence is to be connected with the words in the Mishnah TO THE NORTH OF IT OR TO THE SOUTH. So apparently it is taken by Rashi. V. Maharsha, ad loc.

(3) Lit., ‘the days of the sun’: the summer months.

(4) The new moon always appears due west. Hence in the summer months when the sun sets in the north-west it is south of the sun, and similarly in the winter months north of the sun.

(5) Apparently this means here, one of a pair of witnesses.

(6) I.e., above the horizon.

(7) If the preceding paragraph related to the inclination of the moon, it obviously should have followed this paragraph, which is another reason for transferring the last Mishnah heading to the beginning of this paragraph. V. n. 1.

(8) Who gives the same version as he does.

(9) Lit., ‘of ourselves’.

(10) I.e., with the object of testifying.

(11) I.e., on the thirtieth day.

(12) On the thirtieth or the thirty-first day, as the case may be.

(13) Lev. XXIII, 44.

(14) Ibid. 4. Heb. אותם .

(15) Lit., ‘you’, implying that the public should join in the proclamation.

(16) Ibid. 2.

(17) The word הם ‘they’, being superfluous.

(18) Ibid. The Hebrew word is מקראי , ‘callings’ or ‘proclaimings’, the plural implying at least two.

(19) Since there is no need to impress its sanctity on the public.

(20) Lev. XXV, 10.

(21) On the thirtieth day.

(22) I.e., New Moon is not declared till the thirty-first day.

(23) Ex. XX, 20.

(24) Lit., ‘like them’. Out of the same or other materials.

(25) Ulam, the hall leading to the interior of the Temple, v. Mid. IV, 7. All exedra had only three sides, but since the fourth side of the Temple hall had a very wide entrance it is not counted. V. Tosaf. a.l.

Talmud - Mas. Rosh HaShana 24b

with five or six or eight lamps, but with seven he should not make, even of other metals.[1] R. Jose b. Judah said: He should not make one even of wood, this being the way in which the kings of the house of the Hasmoneans made it.[2] They said to him: Can you adduce this as a proof? The spits[3] were of iron and they overlaid them with tin.[4] When they grew richer they made them of silver.

When they grew richer still, they made them of gold.

But is it allowed [to make likenesses] of attendants of which it is impossible to make copies, seeing that it has been taught: ‘Ye shall not make with me’: [this implies], ye shall not make the likeness of My attendants who minister before Me on high?’ — Abaye replied: The Torah forbade only the likeness of the four faces[5] all together. If that is so, the portrait of a human being by himself should be allowed; why then has it been taught: All portraits are allowed, save the portrait of man? — R. Huna the son of R. Idi replied: From a discourse of Abaye I learnt: ‘Ye shall not make with me’ [implies], ye shall not make Me.[6]

Still, are the other attendants permitted, seeing that it has been taught: ‘"Ye shall not make with me": ye shall not make the likeness of My attendants who serve before Me on high, such as Ofanim and Seraphim and holy Hayyoth and ministering angels’? — Abaye replied: The Torah forbade only the attendants in the upper sphere.[7] But are those in the lower sphere[8] permitted? Has it not been taught: ‘Which are in the heaven:[9] this brings under the rule the sun, the moon, the stars and constellations; "above":[10] this brings under the rule the ministering angels?’ — That statement refers to the prohibition of [making a likeness] for serving them.

If for serving, then the tiniest worm should also [be prohibited]? — Yes, that is so, as it has been taught: Which are in the earth:[11] this brings under the rule mountains, hills, seas, rivers, streams and valleys. Beneath:[12] this brings under the rule the tiniest worm.

But is the mere making allowed? Has it not been taught: "’Ye shall not make with me": ye shall not make a likeness of My attendants who minister before Me, such as the sun, the moon, the stars and constellations’? — R. Gamaliel's case was different, because others[13] made for him. But what of Rab Judah who [had a figure on a seal which] others had made for him, and yet Samuel said to him, Shinena,[14] put out that fellow's eye?[15] — In that case the seal was projecting, and [Samuel forbade it] so that it should not arouse suspicion,[16] as it has been taught: ‘A ring of which the seal projects must not be worn on the finger, but it is permitted to sign with it. If the seal is sunk in, it is permitted to wear it but forbidden to sign with it’. But does it matter if we do arouse suspicion? Was there not a synagogue which ‘moved and settled’ in Nehardea[17] and in it was a statue [of a king] and Rab and Samuel and the father of Samuel used to go in there to pray, and were not afraid of arousing suspicion? — Where a whole body of persons is concerned it is different. But Rabban Gamaliel was an individual? — Since he was the Nasi,[18] a large company was always with him. If you like I can say that it was [drawn] in sections,[19] or if you like I can say that he did it for purposes of study, and it is written, Thou shalt not learn to do,[20] which implies that you may learn to understand and to teach.

MISHNAH. ON ONE OCCASION TWO WITNESSES CAME

AND SAID, WE SAW IT IN THE MORNING IN THE EAST

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(1) Since a candlestick of other metal besides gold would have been permissible in the Temple. V. Men. 28.

(2) When they first recaptured the Temple from the Syrians, and were still too poor to provide a gold candlestick.

(3) I.e., the branches of the candlestick, so called because they had no ornaments. V. Tosaf. s.v.

(4) [MS.M.: with wood].

(5) V. Ezek. I, 10.

(6) [And since man was made in God's image (Gen. I, 27), the reproduction of the human face is not allowed.]

(7) In the seventh heaven.

(8) E.g., the second heaven, that of the sun and moon. V. Hag. 12.

(9) Ex. XX, 4 in the Ten Commandments.

(10) Ibid.

(11) Ex. XX, 4.
(12) Ibid.
(13) Non-Jews.
(14) You clever person. Lit.. ‘sharp-toothed’. V. B.B., Sonc. ed. p. 561, n. 14.
(15) Deface the image. This shows that the fact that it had been made by others does not render it permissible.
(16) That he used it for idolatrous purposes.
(17) Rashi states that according to a legend this synagogue was originally built by King Jeconiah with stones brought from Jerusalem; v. Meg., Sonc. ed. p. 175, n. 5.
(18) Lit., ‘the Prince’, the President of the Sanhedrin.
(19) And so was not a complete likeness.
(20) Deut. XVIII, 9.

Talmud - Mas. Rosh HaShana 25a

AND IN THE EVENING IN THE WEST.[1] R. JOHANAN B. NURI THEREUPON SAID, THEY ARE FALSE WITNESSES.[2] WHEN, HOWEVER, THEY CAME TO JABNEH RABBAN GAMALIEL ACCEPTED THEM. ON ANOTHER OCCASION TWO WITNESSES CAME AND SAID, WE SAW IT AT ITS PROPER TIME,[3] BUT ON THE NIGHT WHICH SHOULD HAVE BEEN NEW MOON[4] IT WAS NOT SEEN, AND RABBAN GAMALIEL [HAD ALREADY] ACCEPTED THEIR EVIDENCE.[5] RABBI DOSA B. HARKINAS SAID: THEY ARE FALSE WITNESSES. HOW CAN MEN TESTIFY THAT A WOMAN HAS BORN A CHILD WHEN ON THE NEXT DAY WE SEE HER BELLY STILL SWOLLEN?[6] SAID R. JOSHUA TO HIM: I SEE [THE FORCE OF] YOUR ARGUMENT. THEREUPON RABBAN GAMALIEL SENT TO HIM TO SAY, I ENJOIN UPON YOU TO APPEAR BEFORE ME WITH YOUR STAFF AND YOUR MONEY ON THE DAY WHICH ACCORDING TO YOUR RECKONING SHOULD BE THE DAY OF ATONEMENT.[7] R. AKIBA WENT [TO R. JOSHUA] AND FOUND HIM IN GREAT DISTRESS.[8] HE SAID TO HIM: I CAN BRING PROOF [FROM THE SCRIPTURE] THAT WHATEVER RABBAN GAMALIEL HAS DONE IS VALID, BECAUSE IT SAYS, THESE ARE THE APPOINTED SEASONS OF THE LORD, HOLY CONVOCATIONS, WHICH YE SHALL PROCLAIM IN THEIR APPOINTED SEASONS,[9] [WHICH MEANS TO SAY THAT] WHETHER THEY ARE PROCLAIMED AT THEIR PROPER TIME OR NOT AT THEIR PROPER TIME, I HAVE NO APPOINTED SEASONS SAVE THESE.[10] HE [R. JOSHUA] THEN WENT TO R. DOSA B. HARKINAS, WHO SAID TO HIM: IF WE CALL IN QUESTION [THE DECISIONS OF] THE BETH DIN OF RABBAN GAMALIEL, WE MUST CALL IN QUESTION THE DECISIONS OF EVERY BETH DIN WHICH HAS EXISTED SINCE THE DAYS OF MOSES UP TO THE PRESENT TIME. FOR IT SAYS, THEN WENT UP MOSES AND AARON, NADAB AND ABIHU AND SEVENTY OF THE ELDERS OF ISRAEL.[11] WHY WERE NOT THE NAMES OF THE ELDERS MENTIONED? TO SHOW THAT EVERY GROUP OF THREE WHICH HAS ACTED AS A BETH DIN OVER ISRAEL IS ON A LEVEL WITH THE BETH DIN OF MOSES.[12] HE [R. JOSHUA] THEREUPON TOOK HIS STAFF AND HIS MONEY AND WENT TO JABNEH TO RABBAN GAMALIEL ON THE DAY ON WHICH THE DAY OF ATONEMENT FELL ACCORDING TO HIS RECKONING. RABBAN GAMALIEL ROSE AND KISSED HIM ON HIS HEAD AND SAID TO HIM: COME IN PEACE, MY TEACHER AND MY DISCIPLE — MY TEACHER IN WISDOM AND MY DISCIPLE BECAUSE YOU HAVE ACCEPTED MY DECISION.

GEMARA. It has been taught: Rabban Gamaliel said to the Sages: This formula has been handed down to me from the house of my father's father: Sometimes it [the moon] traverses [the heavens][13] by a long course and sometimes by a short course.[14] R. Johanan said: What is the reason of the house of Rabbi?[15] Because it is written, Who appointest the moon for seasons, the sun knoweth his going down.[16] It is the sun which knows its going down, but the moon does not know its going down.[17]

R. Hiyya once saw the [old] moon in the heavens on the morning of the twenty-ninth day.[18] He took a clod of earth and threw it at it, saying, Tonight we want to sanctify you,[19] and are you still here! Go and hide yourself.[20] Rabbi thereupon said to R. Hiyya, Go to En Tob[21] and sanctify the month,[22] and send me the watchword, 'David king of Israel is alive and vigorous'.[23]

Our Rabbis taught: Once the heavens were covered with clouds and the likeness of the moon was seen on the twenty-ninth of the month. The public were minded to declare New Moon, and the Beth din wanted to sanctify it, but Rabban Gamaliel said to them: I have it on the authority of the house of my father's father that the renewal of the moon takes place after not less than twenty-nine days and a half and two-thirds of an hour and seventy-three halakin.[24] On that day the mother of Ben Zaza died, and Rabban Gamaliel made a great funeral oration over her, not because she had merited it, but so that the public should know that the Beth din had not sanctified the month.[25]

R. AKIBA WENT AND FOUND HIM[26] IN GREAT DISTRESS. The question was asked, Who was in distress? Was R. Akiba in distress or was R. Joshua in distress? — Come and hear, since it has been taught: 'R. Akiba went and found R. Joshua while he was in great distress. He said to him, Master, why are you in distress? He replied: Akiba, it were better for a man[27] to be on a sick-bed for twelve months than that such an injunction should be laid on him.[28] He said to him, [Master,] will you allow me to tell you something which you yourself have taught me? He said to him, Speak. He then said to him: The text says, 'you', 'you', 'you', three times,[29] to indicate that 'you' [may fix the festivals] even if you err inadvertently, 'you', even if you err deliberately, 'you', even if you are misled.[30] He replied to him in these words: 'Akiba, you have comforted me, you have comforted me'.[31]

HE THEN WENT TO R. DOSA B. HARKINAS etc. Our Rabbis taught: Why were not the names of these elders mentioned? So that a man should not say, Is So-and-so like Moses and Aaron? Is So-and-so like Nadab and Abihu? Is So-and-so like Eldad and Medad?[32] Scripture also says, And Samuel said to the people, It is the Lord that made Moses and Aaron,[33] and it says [in the same passage], And the Lord sent Jerubaal and Bedan and Jepthah and Samuel.[34] Jerubaal is Gideon. Why is he called Jerubaal? Because he contended with Baal. Bedan is Samson. Why is he called Bedan? Because he came from Dan. Jepthah is Jepthah

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(1) We should naturally suppose this to mean that they saw the old moon in the morning and the new moon in the evening.

(2) Presumably because according to what has been stated above (20b) the old moon is never visible for twenty-four hours before the new appears. But v. infra at the beginning of the Gemara and notes.

(3) Apparently this must have been on the thirtieth day shortly before nightfall.

(4) Lit., 'the night of its carry-over', i.e., after the nightfall with which the thirty-first day begins, when it should have been clearly visible.

(5) And declared the thirtieth day New Moon.

(6) Lit., 'between her teeth'. Similarly the old moon would still be 'between the teeth' of the new.

(7) The New Moon in question was that of Tishri, and consequently the Day of Atonement according to R. Joshua would fall a day later than according to R. Gamaliel.

(8) Because he had been ordered to profane the Day of Atonement.

(9) Lev. XXIII, 4.

(10) V. supra. 89.

(11) Ex. XXIV, 9.

(12) Seeing that most of the members of that Beth din also bore no names of distinction.

(13) Lit., 'it comes (to its setting place)'.

(14) This would seem to show that (in the first case mentioned in the Mishnah) the witnesses said that they saw the new moon on both occasions, and R. Johanan b. Nuri rejected them, on the ground that it could not go from, east to west so quickly, while R. Gamaliel held that it could. V. Rashi s.v. עדי שקר in the Mishnah.

(15) Rabbi was a descendent of Rabban Gamaliel.
(16) Ps. CIV, 19.
(17) I.e., its speed varies.
(18) Which was a sign that the new moon would not appear for at least twenty-four hours.
(19) So that the Day of Atonement should not be on Sunday.
(20) [Before nightfall, so that there should be no appearance of the old moon after the closing of the twenty-ninth day, which would prevent the thirtieth day from being proclaimed New Moon (Rashi); v. supra p. 85, n. 5].
(21) A place in Judah where the Beth din [used to meet to sanctify the month. V. Tosaf. s.v. זיל .
(22) Disregarding what you have seen.
(23) I.e., the moon is reborn. The expression is based on Ps. LXXXIX, 38.
(24) Lit., ‘parts’ (sc. of one hour), 73/1080 X 60 m == 4 m 3 1/3 sec. The new moon, therefore, could not be seen on the twenty-ninth day.
(25) As a funeral oration would not be delivered on New Moon, which was regarded as a holy day.
(26) [MS.M. omits ‘HIM’ which explains the question which follows].
(27) [Var. lec.’me’. V. Maharsha.]
(28) Var. lec. ‘on me’. V. Maharsha.
(29) I.e., the word אותם (them) in Lev. XXII, 31, XXIII, 2 and XXIII, 4 is read אתם (you) for homiletical purposes.
(30) By the witnesses.
(31) By showing me that Rabban Gamaliel was within his rights. V. Maharsha ad loc.
(32) I.e., if a man does say so about the Beth din in his own time, we can answer him that they may be at least like the seventy elders who are unknown by name.
(33) 1 Sam. XII, 6.
(34) Ibid.11. These are here put on a par with Moses and Aaron.

Talmud - Mas. Rosh HaShana 25b

. It says also: Moses and Aaron among his priests and Samuel among them that call on his name.[1] [We see therefore that] the Scripture places three of the most questionable characters[2] on the same level as three of the the most estimable characters,[3] to show that Jerubaal in his generation is like Moses in his generation, Bedan in his generation is like Aaron in his generation, Jepthah in his generation is like Samuel in his generation, [and] to teach you that the most worthless, once he has been appointed a leader[4] of the community, is to be accounted like the mightiest of the mighty. Scripture says also: And thou shalt come unto the priests the Levites and to the judge thou shall be in those days.[5] Can we then imagine that a man should go to a judge who is not in his days? This shows that you must be content to go to the judge who is in your days. It also says; Say not, How was it that the former days were better than these.[6]

HE TOOK HIS STAFF AND HIS MONEY IN HIS HAND. Our Rabbis taught: When he [Rabban Gamaliel] saw him, he rose from his seat and kissed him on his head, saying, Peace to thee my teacher and my disciple — my teacher, because thou hast taught me Torah publicly, my disciple because I lay an injunction on thee and thou dost carry it out like a disciple. Happy is the generation in which the greater defer to the lesser, and all the more so the lesser to the greater! [You say] ‘All the more so’! It is their duty![7] — What it means is that because the greater defer to the lesser, the lesser apply the lesson to themselves with all the more force.[8]

CHAPTER III

MISHNAH. IF THE BETH DIN AND ALL ISRAEL SAW IT,[9] IF THE WITNESSES WERE TESTED[10] AND THERE WAS NO TIME LEFT TO SAY ‘SANCTIFIED’ BEFORE IT GREW DARK, THEN THE MONTH IS PROLONGED.[11] IF THE BETH DIN[12] ALONE HAVE SEEN IT,[13] TWO OF THEM SHOULD COME FORWARD AND TESTIFY BEFORE THEM, AND THEN THEY CAN SAY, ‘SANCTIFIED, SANCTIFIED’. IF THREE PERSONS SAW IT, THEY

[THEMSELVES] CONSTITUTING THE BETH DIN, TWO [OF THEM] SHOULD COME FORWARD AND THEY SHOULD ASSOCIATE SOME OF THEIR COLLEAGUES WITH THE ONE LEFT, AND THEY [THE TWO] SHOULD TESTIFY BEFORE THEM AND THEY CAN THEN SAY, ‘SANCTIFIED, SANCTIFIED’. [THIS MUST BE DONE] BECAUSE AN INDIVIDUAL IS NOT AUTHORIZED [TO SAY ‘SANCTIFIED’] BY HIMSELF.

GEMARA. What need is there to state IF THE BETH DIN AND ALL ISRAEL SAW IT?[14] — It is necessary. You might think that since the Beth din and all Israel have seen it everyone knows about it and therefore they should not prolong the month.[15] Therefore we are told [that this is not so].

But when once it has been stated IF THE BETH DIN AND ALL ISRAEL SAW IT, why should it further say, IF THE WITNESSES HAVE BEEN TESTED?[16] — What it means is, ‘Or if the witnesses had been tested and there was no time left to say "sanctified" before it grew dark, then the month must be prolonged’.

But when once it has been stated if IT GREW DARK THEN THE MONTH IS PROLONGED, why should the testing of the witnesses be mentioned at all?[17] — It is necessary. For you might suppose that the testing of the witnesses is regarded as the commencement of a suit in court, and the pronouncement of ‘sanctified’, ‘sanctified’ as the end of the suit, and therefore they should sanctify at night, on the analogy of money suits, as we have learnt, ‘Money suits are heard by day and concluded [if necessary] at night’; so here we should sanctify at night. Therefore we are told [that this is not so]. But cannot I say that this actually is the case?[18] — Scripture says, For it is a statute for Israel, a judgment for the God of Jacob.[19] When does the word ‘statute’[20] apply? To the conclusion of the suit; and the All-Merciful calls it ‘judgment’. [Therefore we reason], Just as judgment is delivered by day,[21] so here [the pronouncement must be] by day.

IF THE BETH DIN [ALONE] HAVE SEEN IT, TWO OF THEM SHOULD COME FORWARD AND TESTIFY BEFORE THEM. Why so? Surely hearing should not carry greater weight than seeing?[22] — R. Zera said, [It is necessary if] for instance, they saw it at night.[23]

IF THREE PERSONS SAW IT, THEY [THEMSELVES] CONSTITUTING THE BETH DIN, TWO [OF THEM] SHOULD COME FORWARD AND THEY SHOULD ASSOCIATE SOME OF THEIR COLLEAGUES WITH THE ONE LEFT. Why so? Here too we can argue that hearing should not carry greater weight than seeing? And should you reply that here too [it is necessary] if, for instance, they saw it at night, then this is the same case as the one [preceding]? — It was necessary to state the last clause[24]

[VIZ.]: BECAUSE AN INDIVIDUAL IS NOT AUTHORIZED [TO SAY ‘SANCTIFIED’] BY HIMSELF. For you might have thought that since it has been taught, ‘Money suits must be tried before three, but one who is a recognized legal expert[25] can try them even alone’, so here too one might sanctify the month single-handed. Therefore we are told [that this is not so]. But cannot I say that this actually is the case?[26] — There was no more universally recognized expert in Israel than Moses, and yet the Holy One, blessed be He, said to him, [Do not sanctify the month] until Aaron is with thee, as it is written, And the Lord said unto Moses and Aaron in the land of Egypt saying, This month is to you.[27]

This implies that a witness[28] may act as judge. Shall we say then that our Mishnah does not agree with R. Akiba, since it has been taught: ‘If the Sanhedrin saw a man slay a person

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(1) Ps. XCIX, 6. This shows that Samuel is on a par with Moses and Aaron.

(2) Lit., ‘light ones of the world’.

(3) Lit., ‘heavy ones of the world’.

(4) Hebr. Parnas. V. Git, Sonc. ed, p. 280, n. 9.
(5) Deut. XVII, 9.
(6) I.e., had better judges than these. Eccl. VII, 10.
(7) We naturally suppose the words to mean, ‘all the more so where the lesser defer to the greater’, which would imply that such a thing is not ordinarily to be expected.
(8) I.e., they say, ‘how much more should we defer to the greater’.
(9) On the thirtieth day, shortly before nightfall.
(10) The meaning of this is explained infra in the Gemara.
(11) I.e., the thirty-first day becomes New Moon and not the thirtieth.
(12) Of twenty-three members.
(13) Not necessarily on the thirtieth day.
(14) I.e., why mention Israel as well as the Beth din?
(15) But reckon that same day as New Moon.
(16) Why are witnesses needed if all the people have seen it?
(17) Since this case can be inferred a fortiori from the previous one.
(18) I.e., what reason is there why in general the pronouncement should not be made at night?
(19) Ps. LXXXI, 5.
(20) The Hebrew word is חק, which is taken by the Talmud in the sense of ‘decision’, ‘verdict’.
(21) V. Sanh. 32a.
(22) I.e., the report of the witnesses should not carry greater weight than what they have seen with their own eyes.
(23) Hence on the next day they must rely on a report.
(24) I.e., this sentence merely leads up to the next.
(25) Heb. Mumhe (v. Glos.).
(26) That one expert may sanctify.
(27) Ex. XII, 1, 2; cf. supra 22a.
(28) I.e., one who is competent to act as witness, as here the Beth din.

Talmud - Mas. Rosh HaShana 26a

, some of them act as witnesses and some as judges. This is the view of R. Tarfon. R. Akiba says: They all act as witnesses, and a witness cannot act as a judge’? — You may say that our Mishnah agrees even with R. Akiba. R. Akiba meant this rule to apply only to capital cases, in regard to which the All-Merciful enjoined, the congregation shall judge . . . and the congregation shall deliver[1] and since they have seen him slay a person, they cannot find any defence for him. But in this case even R. Akiba would agree [that a witness may act as judge].

MISHNAH. ALL KINDS OF SHOFAR[2] MAY BE USED EXCEPT [ONE MADE FROM THE HORN] OF A COW, BECAUSE IT IS [PROPERLY] KEREN.[3] SAID R. JOSE: ARE NOT ALL SHOFARS CALLED ‘KEREN’ AS IT SAYS, WHEN THEY MAKE A LONG BLAST WITH THE RAM'S KEREN [HORN]?[4]

GEMARA. R. Jose was surely quite right. What can the Rabbis reply? — That all shofars are called both shofar and keren, whereas that of a cow is called keren but is not called shofar, as it is written, His firstling bullock, majesty is his, and his horns [karnaw] are as the horns of a re'em.[5] What says R. Jose to this? — He can reply that that of a cow is also called shofar as it is written, And it shall please the Lord better than a bullock [shor par][6] that hath horns and hoofs.[7] Now if ‘shor’ is mentioned here why ‘par’, and if ‘par’ why ‘shor’?[8] The fact is that shor par is equivalent to shofar.[9] And the Rabbis? — They adopt the explanation of R. Mattenah; for R. Mattenah said: What is meant by shor par? A shor which is as full-grown as a par.[10] ‘Ulla said: The reason of the Rabbis is to be found in the saying of R. Hisda; for R. Hisda said: Why does not the High Priest enter the inner precincts[11] in garments of gold[12] to perform the service there? Because the accuser may not act as defender.[13] Is that so? What of the blood of the bullock?[14] — Seeing that this has been transformed,[15] the objection to it is removed.[16] But what of the ark, with the mercy-seat and the cherub?[17] — What we say is that the sinner should not bring near the offering. But what of the spoon and the censer?[18] — What we say is that the sinner should not adorn himself. But what of the garments of gold [which he wore] in the outer sanctuary? — We speak of [ministrations In the] inner precincts. The shofar also is [used] in the outer precincts? — Since its purpose is to awaken remembrance, it is as if it were [used] within.

But the Tanna says BECAUSE IT IS [PROPERLY] KEREN? — He mentioned [only] an additional reason:[19] one reason is because the accuser cannot act as defender, and the other is because it is keren. What says R. Jose to this? — His answer is: Your statement that the accuser cannot act as defender applies only to the inner precincts, and this shofar is [used] in the outer precincts. And as for your statement that this shofar is keren, all shofars are likewise called keren.

Abaye said: The reason of the Rabbis is that the All-Merciful prescribed ‘a shofar’, and not two or three shofars, and the one made from a cow's horn being in layers[20] looks like two or three shofars. But the Tanna says, BECAUSE IT IS PROPERLY KEREN? — He stated [only] an additional reason:[19] one reason is that the All-Merciful prescribed one shofar, and not two or three shofars, and another reason is that it is keren. What then says R. Jose to this? — He can reply: With regard to your statement that the All-Merciful prescribed one shofar and not two or three shofar, since the layers are closely joined together, it is really one, and as for your statement that it is keren, all shofars are likewise called keren.

What proof is there that the word yobel here[21] means ram? — As it has been taught: R. Akiba said: When I went to Arabia, they used to call a ram yobla. R. Akiba further said: When I went to Gallia, they used to call a niddah[22] ‘galmudah’.[23] How galmudah? — [As much as to say], gemulah da [this one is isolated] from her husband. R. Akiba further said: When I went to Africa, they used to call a ma'ah[24] ‘kesitah’. What is the practical importance of this? — For explaining [the Scriptural expression] a hundred kesitah;[25] it means, a hundred danki.[26]

Rabbi said: When I went to the sea-ports, they called mekirah [selling] ‘kirah’. What is the practical importance of this? — To explain [the Scriptural expression] asher karithi.[27] R. Simeon b. Lakish said: When I went to the district of Ken Nishraya,[28] they used to call a bride ninfe and a cock sekvi. ‘A bride ninfe’:[29] where do we find this in Scripture? Yefeh nof,[30] the joy of the whole earth.[31] ‘A cock sekvi’: Rab Judah said in the name of Rab, or, if you prefer,[32] of R. Joshua b. Levi: Where do we find this in the Scripture? Who hath put wisdom in the tuhoth,[33] or who hath given understanding to the sekvi?[34] ‘Who hath put wisdom in the tuhoth’ — these are the reins; ‘or who hath given understanding to the sekvi’ — this is the cock.

In a certain place which Levi happened to visit, a man came before him and said

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(1) Num,. XXXV, 25, 26. The word ‘deliver’ is taken by R. Akiba to mean ‘find a defence for’.

(2) A kind of trumpet made of the horn of certain animals. Scripture prescribes (Lev. XXV, 9) that a shofar should be used for proclaiming the Jubilee. The Psalmist also says (Ps. LXXXI, 4), Blow ye the shofar on the new moon.

(3) I.e., all kinds of horns may be used for making a shofar except that of a cow, because an instrument made from a cow's horn, though similar to a shofar in all respects, is properly called keren (lit. ‘horn’)

(4) Josh. VI, 5. This is identified by the Talmud with the shofar mentioned in the same verse (when ye hear the sound of the shofar).

(5) Deut. XXXIII, 17. We see here that the horn of a bullock is called keren.

(6) שור פר, lit., ‘ox bullock’.

(7) Ps. LXIX, 32.

(8) Either of these expressions would be sufficient by itself.

(9) With ר inserted as is found in many Hebrew nouns, Strashun.]

(10) The name shor could be applied to the animal at birth; the name par not till it entered its third year. V. supra, 10a,

(11) The Holy of Holies, on the Day of Atonement.

(12) The High Priest entered the Holy of Holies wearing garments of linen only. V. Lev. XVI, 4, 23.

(13) ‘Gold’ is called the accuser in reference to the Golden Calf. The garments worn by the High Priest in the Holy of Holies and all his other appurtenances there were regarded as propitiatory.

(14) Sprinkled by the High Priest on the Day of Atonement. A bullock could be regarded as an ‘accuser’ for the same reason as gold.

(15) It is no longer recognizable as a bullock.

(16) Lit., ‘since it has been changed, it has been changed’.

(17) In all of which there was an abundance of gold.

(18) Which the High Priest took with him into the Holy of Holies and which were also of gold.

(19) Lit., ‘he says one and again’.

(20) As a separate layer grows each year.

(21) In Josh. VI, 5.

(22) V. Glos.

(23) Lit., ‘desolate’.

(24) A small coin.

(25) Gen. XXXIII, 19: the price paid by Jacob for the field he bought at Shechem.

(26) One sixth of a denar (v. Glos.).

(27) Gen. L, 5. To be rendered, ‘which I have bought for myself’. E.V. ‘which I have digged for myself’.

(28) [Kennesrin, south of Aleppo; Obermeyer p. 114].

(29) ==GR.**.

(30) E.V. ‘beautiful in elevation’.

(31) Ps. XLVIII, 3.

(32) [Read with MS.M.: ‘or as some say’.]

(33) E.V. ‘inward parts’.

(34) E.V. ‘mind’. Job. XXXVIII, 36.

Talmud - Mas. Rosh HaShana 26b

, So-and-so has kaba'ed[1] me. He did not know what he meant, so he went and enquired in the Beth Hamidrash. They said to him: He wanted to say to you,’ has robbed me’, as it is written, Will man rob [yikba’] God?[2] Raba from Barnish[3] said to R. Ashi: Had I been there, I should have said to him, How did he kaba’ you, in what did he kaba’ you, why did he kaba’ you, and so I should have found out [from his answers]. The other [Levi], however, thought that he meant some kind of offence.[4]

The Rabbis did not know what was meant by serugin[5] till one day they heard the maidservant of Rabbi's household, on seeing the Rabbis enter at intervals, say to them, How long are you going to come in by serugin?

The Rabbis did not know what was meant by haluglugoth[6] till one day they heard the handmaid of the household of Rabbi, on seeing a man peeling portulaks, say to him, How long will you be peeling your haluglugoth?

The Rabbis did not know what was meant by ‘salselehah’ and it shall exalt thee.[7] One day they heard the handmaid of the household of Rabbi say to a man who was curling his hair, How long will you be mesalsel[8] with your hair?

The Rabbis did not know what was meant by we-tetethia bematate of destruction,[9] till one day they heard the handmaid of the household of Rabbi say to her companion, Take the tatitha [broom] and tati [sweep] the house.

The Rabbis did not know what was meant by Cast upon the Lord thy yehab and he shall sustain thee.[10] Said Rabbah b. Bar Hanah: One day I was travelling with an Arab[11] and was carrying a load, and he said to me, Lift up your yehab and put it on [one of] the camels.[12]

MISHNAH. THE SHOFAR USED ON NEW YEAR[13] WAS OF AN ANTELOPE'S HORN AND STRAIGHT, AND ITS MOUTH WAS OVERLAID WITH GOLD. THERE WERE TWO TRUMPETS, ONE ON EACH SIDE OF IT. THE SHOFAR GAVE A LONG BLAST AND THE TRUMPETS A SHORT ONE, SINCE THE PROPER CEREMONY OF THE DAY WAS WITH THE SHOFAR.[14] ON [COMMUNAL] FAST DAYS THEY USED [TWO] CURVED SHOFARS OF RAMS, THE MOUTHS OF WHICH WERE OVERLAID WITH SILVER. THERE WERE TWO TRUMPETS BETWEEN THEM; A SHORT BLAST WAS MADE WITH THE SHOFARS AND A LONG ONE WITH THE TRUMPETS, BECAUSE THE RELIGIOUS DUTY OF THE DAY WAS [TO BE PERFORMED] WITH THE TRUMPETS.[15] THE JUBILEE IS ON A PAR WITH NEW YEAR FOR BLOWING THE HORN AND FOR BLESSINGS.[16] R. JUDAH SAYS: ON NEW YEAR THE BLAST IS MADE WITH A SHOFAR OF RAMS AND ON JUBILEES WITH ONE OF ANTELOPES.

GEMARA. R. Levi said: The religious duty of New Year and of the Day of Atonement is performed with a curved shofar, and on other days in the year with a straight shofar. But we learn, THE SHOFAR OF NEW YEAR WAS A STRAIGHT ONE OF ANTELOPE'S HORN? — Levi followed the view of the following Tanna, as it has been taught: ‘R. Judah says, On New Year they used to blow with curved shofars of rams’ horns and on jubilees with shofars of antelopes’ horns’. Why then did not he [Levi] say that the law[17] follows the view of R. Judah?[18] — If you were to say that the law follows R. Judah, I should say that in the case of the Jubilee also he was of the same opinion as R. Judah. Now we know [that this is not so]. What is the ground of the difference [between R. Judah and the First Tanna]? — One authority [R. Judah] holds that on New Year the more a man [so to speak] bends his mind the more effective [is his prayer], while on the Day of Atonement [of the Jubilee] the more a man elevates[19] his mind the better is the effect.[20] The other authority holds that on New Year the more a man elevates his mind the better the effect, and on fast days the more he bends his mind the better the effect.

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(1) קבע

(2) Mal. III, 8.

(3) [Near Sura, v. Obermeyer, p. 297.]

(4) [Lit., ‘a matter of prohibition’, the nature of which could not be ascertained from the answers, v. Maharsha.]

(5) Found e.g., in Meg. 17a, ‘if he reads it by serugin’, i.e.’ not in order.

(6) Found in Yoma 18a.

(7) Prov. IV, 8. E.V. ‘extol her’.

(8) I.e., adorning.

(9) Isa. XIV, 23. E.V. ‘I will sweep it with the besom of destruction’.

(10) Ps. LV, 23. E.V. ‘burden’.

(11) [Heb. Ta'ya, name of an Arab tribe which name came finally to be applied to Arabs in general, as the name of a part is often given to a whole.]

(12) On this passage v. Meg. 18a.

(13) In the Temple.

(14) Hence the sound of the shofar was allowed to be heard after that of the trumpets.

(15) As it says, (Num. X, 2), Make thee two trumpets of silver . . . for the calling of the congregation, and on fast days the public were summoned to assemble.

(16) I.e., nine blessings have to be said over the shofar as on New Year.

(17) [Read with MS.M.: ‘the halachah is’.]

(18) As expressed in the Mishnah,

(19) Lit., ‘straightens’, with the idea of freedom.

(20) On the analogy of the words, Let us lift up our hearts to our hands unto God in the heavens (Lam. III, 41).

Talmud - Mas. Rosh HaShana 27a

AND ITS MOUTH WAS OVERLAID WITH GOLD. But has it not been taught: ‘If it was overlaid with gold at the place where the mouth is applied, it is not valid;[1] if not at the place where the mouth is applied, it is valid’? — Abaye replied: When this state ment is made in our Mishnah, it also refers to the place where the mouth is not applied.

THERE WERE TWO TRUMPETS, ONE ON EACH SIDE OF IT. But can two distinct sounds be caught at once?[2] Has it not been taught:[3] ‘"Remember" and "observe" were spoken in a single utterance,[4] a thing which transcends the capacity of the [human] mouth to utter and of the [human] ear to hear’? — It was for this reason that the blast of the shofar was prolonged. This implies that if one heard the end of the blast without the beginning he has performed his duty;[5] and from this it would follow that if he heard the beginning of the blast without the end he has equally performed his duty. Come now and hear [a refutation of this idea]: ‘If he blew teki'ah at the beginning [of the service] and prolonged the second so as to make it equal to two, this only counts as one’.[6] Why should this be? Why should not it [the second blast] be counted as divided into two?[7] — We do not divide a teki'ah into two.

Come and hear [another objection]: If one blew into a pit or a cistern or a barrel, if the sound of the shofar came out [pure], he has performed his duty, but if an echo came out [with it], he has not performed his duty.[8] Why should this be? Cannot he have performed his duty [by hearing] the beginning of the blast, before the sound is confused [with the echo]? — The truth is that two utterances proceeding from one man cannot be distinguished, but proceeding from two men they can be distinguished.[9] But if they proceed from two men can they be distinguished? Have we not learnt: ‘In the recital of the Torah [in synagogue] one may read and another translate;[10] what is not allowed is that[11] one should read[12] and two translate’.[13] — The fact is that our case resembles that mentioned in the next clause [of this quotation]: ‘In the recital of Hallel and the Megillah[14] even ten may read’.[15] This shows that since an interest is taken in these,[16] the hearer pays close attention. So here, since an interest is taken, he pays close attention and hears [the two sounds]. Why then is the blast of the shofar prolonged? — So that people should know that the proper ceremony of the day is with the shofar.

ON FAST DAYS THEY USED CURVED SHOFARS OF RAMS’ HORNS THE MOUTHS OF WHICH WERE OVERLAID WITH SILVER. Why in the other case should gold have been used and here silver? — If you like I can reply that for all public gatherings silver is used, as it is written, Make thee two trumpets of silver,[17] or if you like I can say that the Torah wished to spare Israel unnecessary expense.[18] [If that is so], we should use silver in the other case also? — Even so, this consideration is outweighed by that of paying respect to the holyday.

R. Papa b. Samuel was minded to follow the instructions of the Mishnah,[19] but Raba said to him, These instructions were laid down only for the Sanctuary. It has been taught to the same effect: Where do these rules apply? To the Sanctuary; but in the provinces, where the trumpets are in place[20] there is no shofar, and where the shofar is in place[21] there are no trumpets. R. Halafta adopted the same custom in Zepphoris and R. Hananiah b. Teradion in Sikni,[22] and when this was reported to the Sages they said: This was not the practice save only in the gates of the East and the Mount of the Temple.[23] Said Raba — or it may be R. Joshua b. Levi: What is the Scriptural warrant for this? — Because it is written, With trumpets and the sound of the shofar shout ye before the king, the Lord:[24] before the king, the Lord,[25] we require trumpets and the sound of the shofar, but elsewhere not.

THE JUBILEE IS ON A PAR WITH THE NEW YEAR FOR BLOWING THE HORN AND FOR BLESSINGS. R. Samuel b. Isaac asked: What authority do we follow in saying nowadays [on New Year] the prayer, ‘This day is the beginning of thy works, the commemoration of the first day’?[26] What authority? R. Eliezer, who said that the world was created in Tishri. R. ‘Ena raised an objection [against this view]: [It is stated], THE JUBILEE IS ON A PAR WITH THE NEW YEAR FOR BLOWING THE TRUMPET AND FOR BLESSINGS. [Now how can this be on your view] seeing that there is [the prayer], ‘This day is the beginning of thy works, the commemoration of the first day’?[27] — The statement of the Mishnah refers to the other [features]. R. Shisha the son of R. Idi reported the discussion thus. ‘R. Samuel b. Isaac said: This statement of our Mishnah, THE JUBILEE IS ON A PAR WITH THE NEW YEAR FOR BLOWING THE HORN AND FOR BLESSINGS. — which authority does it follow? Not that of R. Eliezer. For if you were to say it follows R. Eliezer, seeing that he holds that the world was created in Tishri, what would you make of "This day is the commencement of thy works, the commemoration of the first day", which is said on New Year and is not said on the Jubilee? — [The answer is that] the Mishnah speaks only of the other [features]’.

MISHNAH. A SHOFAR WHICH HAS BEEN SPLIT AND STUCK TOGETHER IS NOT VALID.[28] IF FRAGMENTS OF SHOFARS

ARE STUCK TOGETHER [TO MAKE ONE], IT IS NOT VALID.

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(1) Because the blast has to be made with a shofar, and not with gold.

(2) As much as to say, if the shofar and the trumpets are blown together, the sound of the shofar will not be distinguished.

(3) B.B. 64a.

(4) In the version of the Ten Commandments in Ex. XX, the fourth commandment commences with the words Remember the Sabbath day, whereas in Deut. V it commences with ‘Observe’; and the Rabbis explain the discrepancy in this way.

(5) Seeing that in this case he hears distinctly only the end of the shofar blast, after the trumpets have ceased.

(6) This is a quotation from the Mishnah on 33b, where an explanation will be found in the notes.

(7) So that the beginning would count as the end of the first series of teki'ah teru'ah teki'ah, and the end of it would count as the beginning of the second series.

(8) V. infra 28a.

(9) And so the shofar and the trumpets can be distinguished here.

(10) It was usual in ancient times to read after each verse of the Torah the authorized Aramaic translation (targum) of it.

(11) Lit., ‘only one should not’.

(12) So in Meg. loc. cit. Our texts have here ‘two should read and two translate’.

(13) Meg. 21b.

(14) The book of Esther.

(15) V. loc. cit. for notes.

(16) Lit., ‘endeared’. I.e., a greater interest than in the Torah, since they come more rarely.

(17) Num. X, 2. V. supra.

(18) Lit., ‘had mercy on the money of Israel’.

(19) I.e., to use both shofar and trumpets.

(20) I.e., on fast days.

(21) I.e., on New Year and Jubilees.

(22) perhaps Sogana in Galilee mentioned in Josephus, Vita, 51.

(23) I.e., the gates of the East on the Temple Mount. According to some, however, the ‘gates of the East’ were in the Women's Court (v. Rashi).

(24) Ps. XCVIII, 6.

(25) I.e., in the Temple.

(26) In the Musaf ‘Amidah for New Year, v. P.B., p. 250.

(27) Which cannot be said on the Day of Atonement of the Jubilee.
(28) Because it is like two shofars.

Talmud - Mas. Rosh HaShana 27b

IF A HOLE IN A SHOFAR HAS BEEN STOPPED UP, IF IT INTERFERES WITH THE BLOWING IT IS NOT VALID, BUT OTHERWISE IT IS VALID.[1] IF ONE BLOWS INTO A PIT OR A CISTERN[2] OR A BARREL, IF HE CAN HEAR THE SOUND OF THE SHOFAR [PURE] HE HAS PERFORMED HIS DUTY, BUT IF HE HEARS THE ECHO [ALSO], HE HAS NOT PERFORMED HIS DUTY. SIMILARLY IF ONE WAS PASSING BEHIND A SYNAGOGUE OR IF HIS HOUSE WAS ADJOINING THE SYNAGOGUE AND HE HEARD THE SOUND OF THE SHOFAR OR OF THE MEGILLAH[3] [BEING READ], IF HE LISTENS WITH ATTENTION[4] HE PERFORMS THE RELIGIOUS PRECEPT [BY SO HEARING], BUT OTHERWISE HE DOES NOT; ALTHOUGH ONE HEARS EQUALLY WITH THE OTHER, [YET THERE IS A DIFFERENCE, BECAUSE] THE ONE LISTENED WITH ATTENTION WHILE THE OTHER DID NOT LISTEN WITH ATTENTION.

GEMARA. Our Rabbis taught: ‘If the horn was too long and it has been shortened, it is valid. If it has been scraped till it becomes thin like a wafer,[5] it is valid. If it is overlaid at the spot where the mouth is applied, it is not valid, if not at the spot where the mouth is applied,[6] it is valid. If it is overlaid with gold on the inside, it is not valid,[7] if on the outside, if the sound is thereby changed from what it was before, it is not valid, but otherwise it is valid. If it had a hole which has been stopped up, if this interferes with the blast it is not valid, but otherwise it is valid.[8] If one shofar is put inside another shofar, if one can hear the sound of the inner one he thereby performs his religious duty, but if he hears the sound of the outer one he does not thereby perform his religious duty.[9]

Our Rabbis taught: If it was scraped whether on the inside or the outside, it is valid. If it was scraped till it became [thin like] a wafer, it is valid. If one shofar is placed within another, if one hears the sound of the inner one he thereby performs his religious duty, but if he hears the sound of the outer one he does not thereby perform his religious duty. If he turns it inside out[10] and blows it, he does not thereby perform his religious duty. Said R. Papa: Do not take this to mean [merely], ‘if he turned it inside out like a coat’, but even if he widened the narrow part and narrowed the wide part. What is the reason? — As stated by R. Mattenah; for R. Mattenah said: And thou shalt carry along:[11] we require [the horn to be] of the shape in which it is carried along.[12]

Our Rabbis taught: ‘If the least quantity is added to it whether of its own material or of another material, it is not valid. If there was a hole in it and it is stopped up, whether with its own material or another material, it is not valid. R. Nathan, however, says, if with its own material it is valid, but if with another material it is not valid’.[13] ‘If with its own material it is valid’: Said R. Johanan: This is the case only if the greater part of the original is left. From this we infer that if it is stopped with another material, even though the greater part of the original was left it may not be used. Some attach R. Johanan's remark to the latter clause: ‘If with another material it is not valid’: Said R. Johanan: This is the case only if the greater part of the original was removed. From this we infer that if the stoppage is made with the same material, even though the greater part of the original is gone it is valid.[14] ‘If it was overlaid with gold on the inside it is not valid, if on the outside, if its sound becomes different from what it was before, it is not valid, but otherwise it is valid. If it is split lengthwise it is not valid, but if breadthwise, if enough is left to produce a blast it is valid, but otherwise it is not valid.’[15] How much is enough to produce a blast? — R. Simeon b. Gamaliel explained: Enough to allow of it being held in the hand and leaving something showing on either side. ‘If its sound is thin or thick or dry, it is valid, since all sounds emitted by a shofar can pass muster’,[16] They sent to inform the father of Samuel: If one pierced it [the horn] and blew with it, he has performed his religious duty. Is not this obvious? All shofars are pierced![17] — R. Ashi explained: [It means], if he pierced the inset bone.[18] You might think that although it is of the same material it makes a partition; we are therefore told [that this is not so].

IF ONE BLOWS INTO A PIT OR A CISTERN etc. R. Huna said: This rule applies only to those standing on the edge of the pit, but those standing in the pit perform their religious duty thereby. It has been taught to the same effect: ‘If one blows into a pit or a cistern, he performs his religious duty’. But have we not learnt, HE DOES NOT PERFORM HIS RELIGIOUS DUTY? You must therefore understand it in the sense of R. Huna's dictum. Some put the two statements in opposition, [thus]: We have learnt, IF ONE BLOWS INTO A PIT OR A CISTERN HE DOES NOT PERFORM HIS RELIGIOUS DUTY. But has it not been taught, ‘He does perform his religious duty’? — R. Huna replied: There is no contradiction; the one statement speaks of those standing on the edge of the pit, the other of those standing in the pit.

Rabbah[19] said:

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(1) The Talmud Yerushalmi reads here, ‘If it (the hole) interfered with the blowing before it was closed, the shofar is not valid after it was closed’. Our version, however, rather implies that if the stoppage restores the shofar to its original condition, it may be used. V. Tosaf. s.v. ניקב.

(2) Heb. דות , a pit faced with cement.

(3) V. Glos.

(4) Lit., ‘if he applies his heart’.

(5) Lit., ‘he reduced it to its coating’.

(6) This apparently means, on the top opposite the exact spot to which the mouth is applied. V. Tosaf. s.v. צפהו

(7) Because the blast is then made by gold.

(8) V. supra n. 1.

(9) Because as the sound comes from the air between the two shofars, it is as if made by two or three shofars. V. Tosaf. s.v. אם .

(10) By means of softening it with hot water.

(11) והעברת Lev. XXV, 9. E.V. Then shalt thou make proclamation with. Lit., ‘cause to pass’.

(12) By the ram when alive.

(13) The quotation is here interrupted with a gloss on the last clause.

(14) The quotation from the Baraitha is here resumed.

(15) The quotation is again interrupted.

(16) Lit., ‘are valid’.

(17) I.e., the horn is pierced to make a shofar.

(18) A bone which grows from the animal's head inside the horn, and which is usually removed to make the shofar.

(19) Var. lec. Raba.

Talmud - Mas. Rosh HaShana 28a

If one heard part of the blast in the pit and part of the blast on the edge of the pit,[1] he has performed his religious duty. If he heard part of the blast before the dawn[2] and part of the blast after dawn he has not performed his religious duty. Said Abaye to him: Why this difference? Because in the latter case we require the whole of the blast [which he hears] to be obligatory and this requirement is not fulfilled?[3] In the former case also we require the whole of the blast to be obligatory, and this requirement is not fulfilled![4] — Are the two cases parallel? In the latter, night is a time to which the obligation does not apply at all, but in the former, the pit is a place to which the obligation does apply for those who are in the pit.[5]

I infer from this that Rabbah was of opinion that if one heard the end of a blast without the beginning he has performed his religious duty,[6] and that from this it follows that if he heard the beginning without the end, he has likewise performed his religious duty. Come now and hear [an objection to this]: 'If one blew a teki'ah at the beginning [of the series] and prolonged the second one so as to be equal to two, it still counts as only one'. Why should this be? Let it be counted as divided into two? — We do not divide teki'ahs.[7] Come and hear [another objection]: 'If one blows into a pit or a cistern or a barrel, if he hears the sound of the shofar [pure] he has performed his religious duty, but if he hears the echo he has not performed his religious duty'. Why should this be? Let him have performed his religious duty with the beginning of the blast, before the sound is confused [with the echo?] — Rabbah was speaking of one who blows [for himself] and as he blows steps out of the pit.[8] If that is so, what is the point of his remark?[9] — You might argue that sometimes he puts his head out while the shofar is still in the pit and so the sound is confused. We are therefore told [that this makes no difference].

Rab Judah said: One should not blow with a shofar taken from a burnt-.offering,[10] but if he did so[11] hie has performed his religious duty. One should not blow with a shofar taken from a peace-offering, and if he did so he has not performed his religious duty. What is the reason? A burnt-offering is subject to the rule of trespass,[12] and once trespass has been committed with it, it becomes unhallowed. Peace-offerings, on the other hand, not being subject to the rule of trespass,[13] are still saddled with their prohibition,[14] (and do not become unhallowed).[15] Raba strongly demurred to this. When [he said], is the trespass committed? After he has blown; but when he blows, he does so with something prohibited.[16] No, said Raba: alike in one case and the other, he has not performed his religious duty. Later, however, he said: Alike in one case and in the other he has performed his religious duty, because religious precepts are not meant to provide physical enjoyment.[17]

Rab Judah said: One should not blow with a shofar which has been used for idolatrous purposes,[18] but if he does so, he has performed his religious duty.[19] One should not blow with a shofar from a devoted city,[20] and if he does so he has not performed his religious duty. What is the reason? In a devoted city nothing is [presumably] left of proper size.[21]

Raba said: If one is interdicted by vow to have any benefit[22] from his neighbour, the other may yet perform the ritual blowing of the shofar for him.[23] One, too, who is interdicted by vow to have any enjoyment from a shofar may yet perform with it the ritual blowing. Raba further said: If one is interdicted by vow to have any benefit from his neighbour, the other may yet sprinkle on him the water of the sin-offering[24] in the rainy season, but not in the summer time. One who has vowed to have no enjoyment from a fountain may take a ritual bath in it in the rainy season[25] but not in the summer time.

They sent to inform the father of Samuel: If a man is compelled by force to eat unleavened bread [on Passover], he thereby performs his religious duty.[26] Compelled by whom? Shall I say, by an evil spirit? But has it not been taught, 'If a man is sometimes in his sound senses and sometimes crazy, when he is in his senses he is regarded as a sane man in all particulars, and when he is crazy he is regarded as insane in all particulars'?[27] — R. Ashi said: [It means], if the Persians compelled him. Said Raba:[28] This would imply that if one blew the shofar simply to make music, he has performed his religious duty. Is not this obvious?[29] This is just what has been said![30] — You might argue that in the previous case the All-Merciful has prescribed that unleavened bread should be eaten, and he has eaten[31]

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(1) We naturally suppose this to speak of one who steps out of the pit while he hears someone else blowing in the pit.

(2) [Lit., 'before the pillar of the dawn went up'. This is the legal dividing line between night and day.]

(3) It is obligatory to hear the shofar only by day but not by night.

(4) One who is on the edge of the pit does not fulfil his obligation by hearing one blow in the pit.

(5) And he fulfils his obligation with the part he heard in the pit.

(6) V. supra.
(7) V. supra, and notes.
(8) And he hears both the beginning and the end of the blast clearly.
(9) As it is obvious.
(10) Made from the horn of a living animal which, has been consecrated for a burnt-offering. After it has been offered and the blood thereof sprinkled the law of trespass does not apply to its horns, v. infra.
(11) Unwittingly. V. Tosaf. s.v. בשופר .
(12) Heb. מעילה , the using of holy things for secular purposes, v. Lev. V, 15ff.
(13) I.e., even while still alive. After it had been offered and the blood sprinkled the law of trespass applied to certain portions of the flesh assigned for the altar.
(14) Even if they have been accidentally used for secular purposes, they remain hallowed and must not be further used for such purposes.
(15) These words in the text are bracketed.
(16) Even in the case of the burnt-offering.
(17) And since he derives no physical enjoyment from the act, he does not commit trespass.
(18) Because no benefit may be derived from articles which have been used for idolatrous purposes, v. A.Z. 51b.
(19) Because such performance is not intended to give any enjoyment. This reason is based on the opinion of Raba and not of Rab Judah; perhaps therefore we should read here ‘Raba said’, not ‘Rab Judah said’. V. Tosaf. s.v. אמר רב יהודה .
(20) V. Deut. XIII, 13-17.
(21) Lit., ‘its measurements are cut to pieces’. Everything in it was supposed to be burnt.
(22) Heb. הנאה which can mean either ‘benefit’ or enjoyment’.
(23) For this is no physical enjoyment.
(24) Of the red heifer, to cleanse him from the pollution of a dead body.
(25) I.e., when it is cold.
(26) Even though he had no intention of performing it.
(27) And we cannot speak of the performance of religious duties in connection with an insane person.
(28) Var. lec. Rabbah.
(29) Viz., that this is the implication of R. Ashi's remark.
(30) Lit., ‘this is that’.
(31) And has obtained some physical benefit.

Talmud - Mas. Rosh HaShana 28b

, whereas in this case it is written a memorial of blowing the trumpet[1] and this man is merely amusing himself.[2] Therefore we are told [that this argument does not apply].

We conclude from this that in Raba's opinion religious precepts do not need to be performed with deliberate intention. The following objection was raised against this view: ‘If a man was reading the [passage of the shema’] in the Torah and the time of reading [the shema’] arrived, if he put his mind to it, he has performed his religious duty’ . Does this not mean, ‘put his mind to perform his religious duty’? — No; it means, [put his mind] to read [distinctly]. To read? But he is reading! — We speak of one who is reading to correct [the scroll].[3]

Come and hear: ‘IF HE WAS PASSING BEHIND THE SYNAGOGUE, OR IF HIS HOUSE WAS ADJOINING THE SYNAGOGUE, AND HE HEARD THE SOUND OF THE SHOFAR OR OF THE READING OF THE MEGILLAH, IF HE PUT HIS MIND TO IT HE THEREBY PERFORMED HIS RELIGIOUS DUTY, BUT IF NOT HE DID NOT PERFORM HIS RELIGIOUS DUTY’. Does not this mean, ‘if he put his mind to perform his religious duty’? — No; [it means, if he put his mind] to hear. To hear? But he is hearing! — He may think, it is merely an ass braying. The following objection was raised against this view: ‘If the hearer [of the shofar] put his mind to the act but not the performer,[4] or the performer put his mind but not the hearer, he did not perform his religious duty; [he does not do so] until both hearer and performer put their minds to the act'. I understand the case where the performer put his mind but not the hearer, as the latter may have thought it was merely an ass braying. But that the hearer should put his mind and not the performer — how can this happen? Is it not where the latter blows merely to make music?[5] — Perhaps [it refers to a case] where he merely [as it were] barks.[6] Said Abaye to him:[7] But if that is so, then one who sleeps in the Sukkah[8] on the eighth day should be flogged?[9] — He replied: [Not so], because I maintain that commandments cannot be transgressed [by adding to them] save in their proper season.

R. Shaman b. Abba raised the following objection against this view: 'Whence do we learn that a priest who mounts the platform[10] should not say, "Because the Torah has given me permission to bless Israel, I will add a blessing of my own, as for instance, The Lord, the God of your fathers, add unto you"?[11] Because it says, Ye shall not add unto the word'.[12] Now here, since he has finished blessing them,[13] the time of the precept has passed, and yet it states that he transgresses? — Here we are dealing with the case where he has not yet finished the blessings. But the statement runs, 'he has finished'? — That means, he has finished one blessing.[14] But it states, 'he finished all his blessings'? — There is a special reason in this case; seeing that, if he comes across another congregation, he may bless again, the whole day is reckoned as the proper time.[15] But what is your ground for saying so? — Because we have learnt: If blood which has to be sprinkled [on the altar] once[16] has been mixed with other blood which had to be sprinkled once, the whole should be sprinkled once. If blood which has to be sprinkled four times[17] has been mixed with other blood which has to be sprinkled four times, the whole must be sprinkled four times. If blood which has to be sprinkled four times is mixed with blood which has to be sprinkled once, R. Eleazar says the whole should be sprinkled four times. R. Joshua says it should be sprinkled once. Said R. Eleazar to him: By doing so he transgresses the precept of 'thou shalt not diminish'![18] To which R. Joshua retorted, By doing your way, he transgresses the precept of thou shalt not add.[19] Said R. Eleazar to him: The precept 'thou shalt not add' applies only when the act is repeated on the same subject.[20] To which R. Joshua replied: The precept 'thou shalt not diminish' applies only where the act is withheld from the same subject.[20] R. Joshua said further to him: If you do not sprinkle [four times], you transgress the rule of 'thou shalt not diminish', but you do not perform any positive action,[21] When you do sprinkle, you transgress the rule of 'thou shalt not add' and you do perform a positive action.[22] Now here, as soon as he has made one sprinkling for the firstborn, its time is past, and yet it says that he transgresses the precept of 'thou shalt not add'; and is not the reason for this because we say that since, if he gets hold of another firstborn he can sprinkle its blood, the whole day is reckoned its proper time? — [No.] Perhaps R. Joshua was of opinion that precepts may be transgressed even out of their proper time.[23] We argue thus.[24] Why does R. Shaman b. Abba leave the Mishnah and bring his objection from the Baraitha? Let him bring his objection from the Mishnah! What is the reason why he does not adduce the Mishnah? On the ground that, if he [the priest] gets hold of another firstborn he can sprinkle its blood, the whole day is its proper time. But in the case mentioned in the Baraitha also, seeing that, if he comes across another congregation he may bless again, the whole day is the proper time! What says R. Shaman b. Abba to this? — In that case [of the blood], he is bound to sprinkle;[25] in this case, if he likes he may bless, and if he likes he need not bless.

Raba says: For the performance of his religious duty, he does not require to put his mind to it. For transgression [by adding to the precept], he does require to put his mind. But what of the sprinkling of blood, where, according to R. Joshua, he transgresses though he does not put his mind to it?[26] Raba therefore [corrected himself and] said: For the performance of the religious duty he does not require to put his mind to it; for [being accounted to have committed a] transgression [by adding to the precept] if [the act is done] in proper time, he does not require to put his mind to it; if it is not done in its proper time he does require to put his mind to it.

R. Zera said to his attendant:

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(1) Lev. XXIII, 24.
(2) Lit., ‘occupying himself’. And we are told infra that one who blows merely to pass the time does not fulfil his obligation.
(3) And only mumbles the words.
(4) Lit., ‘he who causes to hear’.
(5) And in such a case he does not perform the precept of blowing the shofar, which would show that such performance requires intention.
(6) I.e., produces only half the requisite sound.
(7) Raba.
(8) V. Glos.
(9) Because the commandment is to sleep there only seven days, and he is adding to the commandment even if he does not mean to, v. Deut. IV, 2.
(10) Heb. דוכן .
(11) Deut. I, 11.
(12) Ibid. IV, 2.
(13) Before he adds his own blessing.
(14) Of the three priestly blessings.
(15) And we may still hold that commandments cannot be transgressed by adding to them save in their proper time.
(16) E.g., the blood of the firstborn of cattle when brought as a sacrifice. Lit., ‘has to be given in a single gift’.
(17) E.g., the blood of burnt-offerings and peace-offerings which had to be sprinkled on four corners of the altar.
(18) Because he sprinkles in one instalment blood which should be sprinkled in four.
(19) Because he sprinkles in four instalments blood which should be sprinkled in one.
(20) Lit., ‘when it (the instrument of the religious act) is by itself’.
(21) I.e., the sin is one of omission only.
(22) I.e., the sin is one of commission, v. Zeb. 80a.
(23) So that this Mishnah affords no support for the distinction made above in regard to the blessing of the priest and thus the objection against Raba stands.
(24) In trying to bring support from the Mishnah to the above distinction.
(25) Lit., ‘there is no way of not giving’; if he gets other blood.
(26) He does not intend to sprinkle the blood of the firstborn in the last three installments.

Talmud - Mas. Rosh HaShana 29a

Put your mind to it and blow [the shofar] for me. I gather from this that in his opinion the performer requires to put his mind to it.[1] The following was raised in objection against this view: IF HE WAS PASSING BEHIND THE SYNAGOGUE, OR IF HIS HOUSE WAS ADJOINING THE SYNAGOGUE AND HE HEARD THE SOUND OF THE SHOFAR OR THE READING OF THE MEGILLAH, IF HE PUT HIS MIND TO IT HE THEREBY PERFORMED HIS RELIGIOUS DUTY, BUT IF NOT HE DID NOT. And if he did put his mind to it, what difference does it make [on your theory], seeing that the other [the performer] was not consciously performing for him? — We are here speaking of a congregational reader who performs consciously for all.

Come and hear: ‘If the hearer put his mind to it but not the performer, or if the performer put his mind to it but not the hearer, he did not perform his religious duty; [he does not do so] until both the hearer and the performer put their mind to it’. Here he mentions the performer in the same breath with the hearer, [to indicate that] just as the hearer hears for himself, so the performer performs for himself, and [in such a case] he states that ‘he did not perform his religious duty’?[2] — There is a difference on this point between Tannaim, as it has been taught: The hearer hears for himself, and the performer performs for all and sundry.[3] R. Jose said: This applies only to a congregational reader, but an ordinary individual does not perform his religious duty until both the hearer and the performer put their mind to it.

MISHNAH. [IT IS WRITTEN] AND IT CAME TO PASS, WHEN MOSES HELD UP HIS HAND THAT ISRAEL PREVAILED, ETC.[4] NOW DID THE HANDS OF MOSES WAGE WAR OR CRUSH THE ENEMY?[5] NOT SO; ONLY THE TEXT SIGNIFIES THAT SO LONG AS ISRAEL TURNED THEIR THOUGHTS ABOVE AND SUBJECTED THEIR HEARTS TO THEIR FATHER IN HEAVEN THEY PREVAILED, BUT OTHERWISE THEY FELL. THE SAME LESSON MAY BE TAUGHT THUS. [IT IS WRITTEN], MAKE THEE A FIERY SERPENT AND SET IT UP ON A POLE, AND IT SHALL COME TO PASS THAT EVERYONE THAT IS BITTEN, WHEN HE SEETH IT, SHALL LIVE.[6] NOW DID THE SERPENT KILL OR DID THE SERPENT KEEP A LIVE? NO; [WHAT IT INDICATES IS THAT] WHEN ISRAEL TURNED THEIR THOUGHTS ABOVE AND SUBJECTED THEIR HEARTS TO THEIR FATHER IN HEAVEN, THEY WERE HEALED, BUT OTHERWISE THEY PINED AWAY.[7]

A DEAF-MUTE, A LUNATIC AND A MINOR CANNOT PERFORM A RELIGIOUS DUTY ON BEHALF OF A CONGREGATION.[8] THIS IS THE GENERAL PRINCIPLE: ONE WHO IS NOT HIMSELF UNDER OBLIGATION TO PERFORM A RELIGIOUS DUTY CANNOT PERFORM IT ON BEHALF OF A CONGREGATION.

GEMARA. Our Rabbis taught: ‘All [males] are under obligation to blow the shofar, Priests, Levites and lay Israelites, proselytes and emancipated slaves, tumtum[9] and androgynus,[10] and one who is half slave and half free.[11] A tumtum cannot perform [a religious duty] either for a fellow-tumtum or for anyone else.[12] An androgynus can perform [a religious duty] for a fellow-androgynus[13] but nor for anyone else. One who is half a slave and half free can perform [a religious duty] neither for one in the same condition nor for anyone else’.[14]

The Master has here said, ‘All are under obligation to blow the shofar, Priests, Levites and lay Israelites’. Is not this self-evident? If these have not the duty, who has? — This had to be stated. For you might have argued, Seeing that it is written, A day of blowing the trumpet it shall be to you,[15] this obligation devolves upon those who have not to blow save on one day a year, but since these priests participate in the blowings all through the year, as it is written, And ye shall blow with your trumpets over your burnt-offerings,[16] I might think that they are not bound [to observe this blowing]. Therefore we are told [that this is not so]. Is there any analogy? You cite trumpets and we speak of shofar! No; [what you must say is], This had to be stated. For I might argue that since we have learnt, ‘The Jubilee is on the same footing as New Year in respect of blowing the shofar and blessings’,[17] those to whom the injunction of the Jubilee applies have to keep the precept of New Year, and since these priests do not come under the obligations of the Jubilee, as we have learnt, ‘Priests and Levites may sell at any time and redeem at any time’,[18] therefore they are not bound to keep the precept of New Year. Therefore we are told [that this is not so].

‘One who is half a slave and half free can perform [a religious duty] neither for one who is in the same condition nor for anyone else’. R. Huna said: He may, however, perform [the duty] for himself. Said R. Nahman to R. Huna: What is the reason why he may not perform [it] for others? Because the side of slavery [in himself] cannot perform [the duty] for the side of freedom [in others]. In regard to himself similarly, the side of slavery should not be able to perform [the duty] for the side of freedom in himself? No, said R. Nahman; he cannot perform [the duty] for himself either. It has been taught to the same effect: One who is half slave and half free cannot perform the [religious duty] even for himself.

Ahabah the son of R. Zera learnt: Any blessing which one has already recited on behalf of himself, he can recite again on behalf of others,[19] save the blessing over bread and the blessing over wine.[20] These if he has not yet recited on behalf of himself[21] he may recite on behalf of others,[22] but if he has already recited them for himself he cannot recite them on behalf of others.[23] Raba inquired:

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(1) I.e., to perform consciously for the benefit of the hearer.

(2) [This is difficult, v. Marginal Glosses, Bezaleel Ronsburg. Read with MS.M.: ‘and it states (in such a case, i.e., where the performer performs for himself provided the hearer puts his mind to it) he performed his duty.]

(3) Lit., ‘according to his way’; i.e., he need not consciously perform for the benefit of the listener.

(4) Ex. XVII, 11.

(5) Lit., ‘break war’.

(6) Num. XXI, 8.

(7) This disquisition in the Mishnah is suggested by the references above to ‘religious intention’ (v. Maharsha).

(8) Lit., ‘cannot take the public out of the power of their obligation’.

(9) One of uncertain sex.

(10) A hermaphrodite.

(11) E.g., a slave of two masters, one of whom has released him.

(12) Because possibly the tumtum is a female and as no obligation. Lit., ‘either for his own species or not for his own species’.

(13) In virtue of the male part common to both of them.

(14) As the slave side of the performer cannot delegate for the free side of the hearer.

(15) Num. XXIX, 1.

(16) Ibid. X, 10.

(17) V. supra 26b.

(18) ‘Ar. 33b. A better reading is, ‘may sanctify at any time and redeem etc’. (v. Tosaf. s.v. דתנן), the reference being to the right of a priest or Levite to sanctify or redeem at any time a field even if it has been sold by the treasurer of the sanctuary, which was not permissible to a lay Israelite; v. ‘Ar. 26b and 33b.

(19) Lit., ‘in respect of all other blessings, though he emerged from his responsibility, he can bring (others) forth’. The blessings referred to are those said over the performance of religious precepts, and the reason is that all Israelites are responsible for one another in regard to the performance of religious precepts.

(20) This includes blessings over food and scents generally, which are only said because it is forbidden to enjoy the goods of this world without a blessing, not because the partaking is a religious duty.

(21) Lit., ‘if he does not emerge (from his responsibility)’.

(22) Lit., ‘he brings forth (from their responsibility)’.

(23) Because, as there is no religious duty involved, he is not responsible for their partaking.

Talmud - Mas. Rosh HaShana 29b

What is the rule with regard to the blessing for bread said over the mazzah and the blessing for wine said in the sanctification?[1] Do we say that since [the partaking of these] is obligatory, he can perform [the duty] for others, or have we here perhaps only an [optional] blessing, not an obligation?[2] — Come and hear, since R. Ashi said: When we were at the house of R. Papi, he used to say the sanctification for us, and when his tenants came from the fields he used to make the sanctification for them.[3]

Our Rabbis taught: A man should not break bread[4] for visitors unless he eats with them, but he may break bread for his children and the members of his household so as to train them in the performance of religious duties. In the reciting of [the blessing over] Hallel and the Megillah, even though he has already performed [the duty] for himself, he may perform it for others.

CHAPTER IV

MISHNAH. IF THE FESTIVE DAY OF NEW YEAR FELL ON A SABBATH, THEY USED TO BLOW THE SHOFAR IN THE TEMPLE BUT NOT IN THE COUNTRY:[5] AFTER THE DESTRUCTION OF THE TEMPLE, RABBAN JOHANAN BEN ZACCAI ORDAINED THAT IT SHOULD BE BLOWN [ON SABBATH] IN EVERY PLACE WHERE THERE WAS A BETH DIN. R. ELIEZER SAID: RABBAN JOHANAN BEN ZACCAI LAID DOWN THIS RULE FOR

JABNEH ONLY.[6] THEY SAID TO HIM: IT APPLIES EQUALLY TO JABNEH AND TO ANY PLACE WHERE THERE IS A BETH DIN. JERUSALEM HAD THIS FURTHER[7] SUPERIORITY OVER JABNEH, THAT IN EVERY CITY FROM WHICH IT COULD BE SEEN OR HEARD AND WHICH WAS NEAR AND FROM WHICH IT WAS ACCESSIBLE THEY USED TO BLOW [ON SABBATH],[8] WHEREAS IN JABNEH THEY USED TO BLOW IN THE BETH DIN ONLY.[9]

GEMARA. Whence [in the Scripture] is this rule[10] derived? — R. Levi b. Lahma said: One verse says, a solemn rest, a memorial of blast of horns,[11] while another verse says,it is a day of blowing the horn unto you![12] [Yet] there is no contradiction, as one refers to a festival which falls on Sabbath[13] and the other to a festival which falls on a weekday. Raba said: If the prohibition [on Sabbath] is from the Written Law, how comes the shofar to be blown in the Temple? And besides, [the blowing] is no work[14] that a text should be needed to except it.[15] For it was taught in the school of Samuel:[16] [When it says], Ye shall do no servile work [on New Year],[17] this excludes the blowing of the shofar and the taking of bread from the oven,[18] these being kinds of skill and not work! — No, said Raba. According to the Written Law it is allowed, and it is the Rabbis who prohibited it as a precaution; as stated by Rabbah; for Rabbah said, All are under obligation to blow the shofar but not all are skilled in the blowing of the shofar. [Hence] there is a danger that perhaps one will take it in his hand [on Sabbath] and go to an expert to learn and carry it four cubits in public domain.[19] The same reason applies to the lulab and the same reason to the Megillah.[20]

AFTER THE DESTRUCTION OF THE TEMPLE RABBAN JOHANAN BEN ZACCAI ORDAINED etc. Our Rabbis taught: Once New Year fell on a Sabbath [and all the towns assembled],[21] and Rabban Johanan said to the Bene Bathyra,[22] Let us blow the shofar. They said to him, Let us discuss the matter.[23] He said to them, Let us blow and afterwards discuss. After they had blown they said to him, Let us now discuss the question. He replied: The horn has already been heard in Jabneh, and what has been done is no longer open to discussion.[24]

R. ELIEZER SAID: RABBAN JOHANAN BEN ZACCAI LAID DOWN THIS RULE FOR JABNEH ONLY. THEY SAID TO HIM: IT APPLIES EQUALLY TO JABNEH AND TO ANY PLACE WHERE THERE IS A BETH DIN. [What] THEY SAID TO HIM is the same as the dictum of the first Tanna?[25] — There is a difference between them, namely, in the case of a temporary Beth din.[26]

THEY SAID TO HIM: IT APPLIES EQUALLY TO JABNEH AND TO ANY PLACE WHERE THERE IS A BETH DIN. R. Huna said

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(1) The eating of unleavened bread on the first night of Passover and the sanctification of Sabbaths are religious duties and as such have to be prefaced with blessings. In addition, the ordinary blessing is said over the mazzah and the wine as articles of physical enjoyment. Raba's question relates to these latter blessings.

(2) I.e., is the blessing on this occasion on a par with the blessing on other occasions when the partaking is optional?

(3) This would show that in this case the one who recites the blessing over bread and wine, though he had already recited it for himself, can recite it again for others.

(4) I.e., recite the blessing.

(5) Including Jerusalem (Rashi). [Maim.: excluding Jerusalem].

(6) Where there was a ‘Great Beth din’ or Sanhedrin of seventy-two members. [A small town on the N.W. border of Judah, the Jabneel of Josh. XV, 11. It was a seat of learning as early as the days of R. Gamaliel the Elder. At the request of R. Johanan b. Zaccai it was spared by Vespasian at the time of the destruction of the Temple. when the Great Sanhedrin removed there and was presided over by R. Johanan b. Zaccai.]

(7) The meaning of this expression is discussed in the Gemara.

(8) After the destruction of the Temple.

(9) And not in the surrounding towns.

(10) That the shofar should not be blown on Sabbath.
(11) Lev. XXIII, 24.
(12) Num. XXIX, 1. How reconcile the two texts?
(13) When there is to be only a ‘memorial’ or mention of the blowing of the shofar, not actual blowing.
(14) [Read with MS.M. and Rashi: ‘Is it work that etc.’.]
(15) From the general Prohibition of work on Sabbath.
(16) [Var. lec., R. Ishmael.]
(17) Num. XXIX, 1.
(18) After it is baked. V. Tosaf., s.v. רדיית
(19) But this carrying was not forbidden in the Temple.
(20) V. GIos,
(21) To Jabneh in order to hear the blowing of the shofar by the representatives of the Beth din. The brackets appear in the text.
(22) Descendants of the leaders of the Sanhedrin who resigned their position in favour of Hillel. V. Pes. 66a.
(23) Whether the prohibition should be extended to a Place where there is a Beth din.
(24) Lest we should have to stigmatize ourselves as having committed an error.
(25) That R. Johanan b. Zaccai ordained that the shofar should be blown on Sabbath wherever there was a Beth din.
(26) The latter authority requires that the Beth dill should be a permanent one like that of Jabneh.

Talmud - Mas. Rosh HaShana 30a

, [The shofar on Sabbath is blown only] with the Beth din. What is meant by ‘with the Beth din’? — In the presence of the Beth din, [and he means] to except [from the permission] any blowing [on Sabbath] not in the presence of the Beth din.

Raba raised the following objection against this view: JERUSALEM HAD THIS FURTHER SUPERIORITY OVER JABNEH etc. What does THIS FURTHER imply? Shall I say that [the text] is to be taken as it stands?[1] Then it should have said THIS simply![2] Again, should it imply that in Jerusalem private individuals used to blow and in Jabneh private individuals did not blow, [I would ask,] but did not private individuals blow in Jabneh? When R. Isaac b. Joseph came, did he not report that when the congregational reader had finished blowing in Jabneh, a man could not hear his own voice[3] for the noise of the blowing [of individuals]?[4] What then must be said is that in Jerusalem the shofar was blown whether during the hours when the Beth din sat[5] or the hours when they did not sit, but in Jabneh it was blown during the hours when they sat but not when they did not sit. You admit then that during the hours when the Beth din sat at any rate they blew away from the Beth din?[6] — No; [what it implies[7] is that] in Jerusalem they blew whether in the presence of the Beth din or not in their presence, but in Jabneh they did blow in the presence of the Beth din, but otherwise not.

Some attach R. Huna's dictum to [the exposition of] the text, On the day of Atonement ye shall cause a shofar to pass through all your land,[8] [thus]: This teaches that every individual is under obligation to blow. R. Huna said: It must be with the Beth din. What is meant by ‘with the Beth din’? At the time when the Beth din sits,[9] to exclude [from the permission] the time when the Beth din does not sit. Raba raised the following objection: The blowing of the shofar on New Year and Jubilee overrides Sabbath in the country[10] [for] a man and his house. What is meant by ‘a man and his house’? Shall I say it means a man and his wife? Has then a woman to perform this duty, seeing that it is a duty for which there is a specific time,[11] and women are not liable to perform any duties for which there is a specific time? What it therefore must mean is, every man in this house’, and even [I presume] during the hours when the Beth din does not sit? — No; it means in fact during the hours when the Beth din does sit.

R. Shesheth raised the following objection [against this view]: ‘The Jubilee is on the same footing as New Year for blowing the shofar and for blessings, only on the Jubilee they blew [on Sabbath] alike in a Beth din in which the New Moon had been sanctified and in a Beth din in which the New Moon had not been sanctified, and every individual was under obligation to blow, whereas on New Year they blew only in a Beth din in which the New Moon had been sanctified and private individuals were not under obligation to blow'. What is meant by 'private individuals were not under obligation to blow'? Shall I say that on the Jubilee individuals used to blow a shofar and on New Year individuals did not blow? [This cannot be], because when R. Isaac b. Joseph came he said that when the congregational reader in Jabneh finished blowing a man could not hear his own voice for the noise [of the blowings] of individuals. It must mean then that on the Jubilee they blow both during the hours when the Beth din sits and also when the Beth din does not sit, but on New Year they blow when the Beth din sits but not when the Beth din does not sit. Now it states here at any rate that on the Jubilee [it is blown] whether when the Beth din is sitting or when it is not sitting?[12] — No; what indeed is meant is, when the Beth din sits, and the statement should be understood thus: On the Jubilee [it is blown] during the hours when the Beth din sits whether in the presence of the Beth din or not in the presence of the Beth din; but on New Year it is blown only when the Beth din sits and in the presence of the Beth din. It has also been stated [elsewhere]: R. Hiyya b. Gamda said in the name of R. Jose b. Saul, who had it from Rabbi: The shofar is blown only during the hours that the Beth din sits.

R. Zera inquired: If they have made ready[13] to rise, what is the rule? Is it necessary that the Beth din should be still seated, and this condition is fulfilled, or is it necessary that it should be during the sitting of the Beth din, and this condition is not fulfilled? — This question is left undecided.

JERUSALEM HAD THIS FURTHER SUPERIORITY OVER JABNEH etc. FROM WHICH IT COULD BE SEEN: this excludes one situated in a valley. OR HEARD: this excludes one situated on the top of a mountain. OR NEAR: this excludes one situated beyond the Sabbath limit.[14] OR FROM WHICH IT WAS ACCESSIBLE: this excludes one separated from it by a river.

MISHNAH. ORIGINALLY THE LULAB WAS SHAKEN[15] IN THE SANCTUARY DURING SEVEN DAYS AND IN THE COUNTRY ONLY ONE DAY.[16] WHEN THE TEMPLE WAS DESTROYED RABBAN JOHANNAN B. ZACCAI ORDAINED THAT THE LULAB SHOULD BE SHAKEN IN THE COUNTRY SEVEN DAYS, IN REMEMBRANCE OF THE SANCTUARY. [HE] ALSO [ORDAINED] THAT DURING

THE WHOLE OF THE DAY OF THE WAVING [OF THE 'OMER][17] THE NEW CORN SHOULD BE FORBIDDEN.

GEMARA. What is our warrant for doing things in remembrance of the Temple? — Because the Scripture says, For I will restore health unto thee and I will heal thee of thy wound, saith the Lord, because they have called thee an outcast, 'she is Zion, there is none that inquireth after her'.[18] From this we gather that she ought to be inquired after.

THAT THE WHOLE OF THE DAY OF WAVING THE 'OMER THE NEW CORN SHOULD BE FORBIDDEN. What is the reason? — The Temple, [let us hope], will speedily be rebuilt, and [the Jews] will [then] say, 'Last year did we not eat [the new corn] from daybreak?[19] Now too let us eat', they not knowing that last year when there was no [waving of the] 'omer it was daybreak which rendered the new corn permissible, but now that there is the 'omer it is the 'omer which renders it permissible. When [are we supposing] it will be built? Shall I say it will be built on the sixteenth [of Nisan]? Then daybreak [of the sixteenth] will render the new corn permissible.[20] Shall I say then that it will be built on the fifteenth?[21] Then let [the new corn] become Permissible from midday [on the sixteenth], since we have learnt: 'Those who are at a distance [from the Temple] are allowed to eat [the new corn] from midday, because the Beth din do not procrastinate [with the 'omer]'![22] -The rule is necessary in case the Temple will be built on the fifteenth shortly before sunset,[23] or also in case it will be built by night.[24]

R. Nahman b. Isaac [however] said: Rabban Johanan b. Zaccai

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(1) I.e., that there is no omission to be supplied.

(2) Because no superiority has so far been mentioned.

(3) Lit., ‘ears’. [MS.M.: voice in his ears’.]

(4) In the text the words ‘of individuals’ are in brackets.

(5) I.e.,till six hours (midday) — Rashi.

(6) Which refutes R. Huna's statement that in Jabneh the permission to blow on Sabbath was only in the presence of the Beth dill.

(7) As to the superiority of Jerusalem.

(8) Lev. XXV, 9.

(9) And not, as above, in the presence of the Beth din, this being excluded by through all your land including places where there is no Beth din.

(10) Lit., ‘the borders’, i.e., outside the Sanctuary.

(11) Lit., ‘which time causes (its observance)’.

(12) Which is contrary to the opinion of R. Huna as explained above.

(13) Lit., ‘shaken themselves’.

(14) I.e., more than two thousand cubits from the wall of Jerusalem.

(15) Lit., ‘taken’, ‘lifted up’. On lulab v. Glos.

(16) V Suk. 41a.

(17) I.e., the sixteenth of Nisan; v. Glos. s.V.

(18) Jer. XXX, 17.

(19) The text says, Ye shall not eat bread . . . until this selfsame day, until ye have brought the offering (of the ‘omer). — Lev. XXIII, 14. The Rabbis learn from this (Men. 68), that when the ‘omer is brought the new corn may be eaten as soon as it is brought, and when it is not brought the new corn may be eaten from daybreak on the sixteenth of Nisan.

(20) The Temple not yet having been built.

(21) [I.e.,it will have been built by the fifteenth so that there would be time to make all the preparation necessary for the offering of the ‘omer v. Rashi Suk. 41a.]

(22) And it may be safely assumed that they have brought it by midday.

(23) [The law that the building of the Temple does not override the Sabbath (v. Sheb. 15b) does not apply to the future Temple which will be wrought by the hands of Heaven (Rashi). MS.M. (v. also Tosaf. Suk. 41a S.V. אי) omit fifteenth, the reference being to the fourteenth day before sunset when there would not be ample time to provide for many of the preliminaries to the offering of the ‘omer, which had to be attended to on the eve of the Festival (v. Men. 65a).]

(24) And in such a case there will not be time to bring the ‘omer by midday, and if the Jews should eat the new corn then they will transgress.

Talmud - Mas. Rosh HaShana 30b

based his rule on the view enunciated [later] by R. Judah, who said: [Ye shall neither eat bread . . .] until this selfsame day:[1] this means, until the termination[2] of the day, and he was of the opinion that the expression ‘until’ is inclusive [of its object]. But did Rabban Johanan concur with him [R. Judah]? Did he not join issue with him, as we have learnt:[3] ‘When the Temple was destroyed, Rabban Johanan b. Zaccai ordained that during the whole of the day of waving the ‘omer the new corn should be forbidden. Said R. Judah: Is it not forbidden from the Torah, [as it is written, until this selfsame day]?[4] — On that occasion it was R. Judah who made a mistake. He thought that Rabban Johanan b. Zaccai declared it only Rabbinically forbidden, but this is not the case: he declared it forbidden from the Pentateuch. But it is stated that ‘he ordained’?[5] — What is meant [here] by ‘ordained’? It means, he expounded [the text] and ordained’.[6]

MISHNAH. ORIGINALLY THEY USED TO ACCEPT TESTIMONY WITH REGARD TO THE NEW MOON DURING THE WHOLE OF THE DAY. ON ONE OCCASION[7] THE WITNESSES WERE LATE IN ARRIVING, AND THE LEVITES WENT WRONG IN THE DAILY HYMN.[8] IT WAS THEREFORE ORDAINED THAT TESTIMONY SHOULD BE ACCEPTED [ON NEW YEAR] ONLY UNTIL

THE AFTERNOON SACRIFICE, AND THAT IF WITNESSES CAME AFTER THE AFTERNOON SACRIFICE THAT DAY[9] SHOULD BE KEPT AS HOLY[10] AND ALSO THE NEXT DAY. AFTER THE DESTRUCTION OF THE TEMPLE RABBAN JOHANAN B. ZACCAI ORDAINED THAT TESTIMONY WITH REGARD TO THE NEW MOON SHOULD BE RECEIVED DURING THE WHOLE OF THE DAY.

GEMARA. How did the Levites go wrong in the daily Psalm?[11] — Here [in Babylon] it was explained that they did not say any psalm at all.[12] R. Zera, however, said that they recited the weekday psalm along with the regular sacrifice of the afternoon.[13] Said R. Zera to Ahabah his son: Go and cite to them [the Babylonians] [the following Baraitha]: ‘They made a rule that testimony with regard to the new moon should not be received unless there was still time left to offer the regular sacrifices and the additional sacrifices and their drink-offerings and to recite the psalm without confusion’.[14] Now if you hold that they said the weekday psalm, we understand how there is a possibility of confusion, but if they did not say any psalm at all, how could there be confusion? — Since they did not say a psalm at all, there could be no confusion[15] greater than this.

R. Aha b. Huna raised the following objection [against this latter view]: The regular morning sacrifice on New Year is offered In the usual way.[16] Over the additional sacrifice what psalm is said? [The one commencing], Sing aloud unto God our strength, make a teru'ah[17] unto the God of Jacob.[18] At the afternoon sacrifice what did they say? [The psalm containing the words], The voice of the Lord shaketh the wilderness.[19] When New Year fell on a Thursday, for which the regular psalm is ‘Sing aloud unto God our strength’,[20] they did not say ‘Sing aloud’ at the morning service because the same section was afterwards repeated. What then did they say? I removed his shoulder from the burden.[21] If, however, witnesses came after the regular morning sacrifice,[22] they said ‘Sing aloud’, although the verse might afterwards have to be repeated’. Now if you hold that wherever there is a doubt we say the weekday psalm, we understand the statement here that ‘it might be repeated’. But if you hold that they said no psalm at all, what is meant by repeating it’? —

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(1) Lev. XXIII, 14.

(2) Heb. עצמו של יום lit., ‘the very self of the day’.

(3) Men. 68b.

(4) These words in the text are bracketed.

(5) Heb. התקין a term usually applied to ordinances of the Rabbis not derived from the written text.

(6) That henceforth they should be forbidden to eat the new corn the whole of the sixteenth, this being an injunction of the Scripture.

(7) On the occasion of a New Year (Rashi).

(8) The meaning of this is discussed infra in the Gemara.

(9) I.e., the thirtieth day of the month.

(10) In point of fact it had already been kept as holy from the previous sunset, out of doubt. The rest of it was now to be kept as holy, although the New Moon would not be sanctified till to-morrow, the thirty-first day, which naturally would also be holy. The reason why the rest of the thirtieth clay was declared holy was as a precaution lest, if the public were allowed to keep this part as a weekday, they might in future years keep the whole day as a weekday on the assumption that after all the witnesses would not come, or not come till late (Rashi).

(11) Lit., ‘song’. It was the custom for the Levites to chant a psalm while the drink-offering accompanying the daily sacrifices was being offered, as explained in the Gemara infra.

(12) Being in doubt whether to recite the festival psalm or that of the weekday, V. infra.

(13) Whereas, since the day was eventually declared holy, they should have recited the festival psalm. [No special psalm was instituted to be recited in connection with the morning sacrifice on New Year as witnesses rarely came so early.]
(14) The Hebrew word is שיבוש which R. Zera apparently understands in the sense of 'gabbling'.
(15) The word שבוש being taken in the sense of 'error'.
(16) I.e., it is accompanied by the weekday psalm, v. p. 144, n. 5.
(17) E.V. 'shout'.
(18) Ps. LXXXI, 2. The words 'make a teru'ah' were of course appropriate to the day of teru'ah, — New Year.
(19) Ps. XXIX, 8. This verse is reminiscent of the shofar blown at the giving of the Law.
(20) V. infra, in the list of the daily psalms.
(21) Ps. LXXXI, 7. This verse was said because it refers to Joseph who was supposed to have been liberated on New Year (v. supra 11a). Apparently the latter half of this psalm was said with the morning sacrifice and the first half with the additional sacrifice.
(22) So that at the time of the sacrifice they did not yet know if the day would be holy.

Talmud - Mas. Rosh HaShana 31a

There the case is different, because it is the psalm of the day.[1]

It has been taught: 'R. Judah said in the name of R. Akiba: On the first day [of the week] what [psalm] did they [the Levites] say? [The one commencing] The earth is the Lord's and the fulness thereof,[2] because He took possession and gave possession[3] and was [sole] ruler in His universe.[4] On the second day what did they say? [The one commencing], Great is the Lord and highly to be praised,[5] because he divided His works[6] and reigned over them like a king.[7] On the third day they said, God standeth in the congregation of God,[8] because He revealed the earth in His wisdom and established the world for His community.[9] On the fourth day they said, O Lord, Thou God, to whom vengeance belongeth,[10] because He created the sun and the moon and will one day punish those who serve them. On the fifth day they said, Sing aloud to the God of our strength,[11] because He created fishes and birds to praise His name.[12] On the sixth day they said, The Lord reigneth, He is clothed in majesty,[13] because He completed His work and reigned over His creatures. On the seventh day they said, A psalm a song for the Sabbath day,[14] to wit,for the day which will be all Sabbath.[15] Said R. Nehemiah: What ground had the Sages[16] for making a difference between these sections?[17] No. On the first day [the reason for the psalm said is] because He took possession and gave possession and was [sole] ruler in His world; on the second day because He divided and ruled over them; on the third day because He revealed the earth in His wisdom and established the world for His community; on the fourth day, because He created the sun and the moon and will one day punish those who serve them; on the fifth day because He created birds and fishes to praise His name; on the sixth day because He completed His work and reigned over His creatures; on the seventh day, because He rested. The point at issue between them[18] is whether to accept or not the dictum of R. Kattina; for R. Kattina said: The world is to last six thousand years, and one thousand it will be desolate, as it says, And the Lord alone shall be exalted in that day.[19] Abaye, however, said: It will be desolate two thousand, as it says, After two days He will revive us.[20]

At the additional sacrifice of Sabbath what did they say? — R. Anan[21] b. Raba said in the name of Rab: Hazyw Lak.[22] R. Hanan b. Raba said also in the name of Rab: As these sections are divided here, so they are divided [when read on Sabbath] in the synagogue.[23] At the afternoon sacrifice of Sabbath what did they say? — R. Johanan said: Then sang,[24] and Who is like thee,[25] and Then sang.[26]

The question was raised: Were all these portions said on each Sabbath, or was only one said on every Sabbath? — Come and hear, since it has been taught: 'R. Jose said: By the time the first of these sections[27] has come round once, the second has come round twice'.[28] This shows that each Sabbath one portion was said: and this may be taken as proved.

R. Judah b. Idi said in the name of R. Johanan: The Divine Presence [so to speak] left Israel by ten stages[29] — this we know from references in Scripture — and the Sanhedrin correspondingly wandered to ten places of banishment[30] — this we know from tradition. ‘The Divine Presence left Israel by ten stages — this we know from references in Scripture’: [it went] from the Ark-cover to the Cherub[31] and from the Cherub to the threshold [of the Holy of Holies], and from the threshold to the court, and from the court to the altar,[32] and from the altar to the roof [of the Temple], and from the roof to the wall, and from the wall to the town, and from the town to the mountain, and from the mountain to the wilderness, and from the wilderness it ascended and abode in its own place,[33] as it says, I will go and return to my place.[34] ‘From the Ark-cover to the Cherub[35] and from the Cherub to the threshold’, as it is written, And there will I meet with thee . . . from above the ark-cover,[36] and it is written, And the glory of the Lord was gone up from the cherub whereupon it was to the threshold of the house.[37] ‘And from the threshold to the court’, as it is written, And the house was filled with the cloud, and the court was full of the brightness of the Lord's glory,[38] ‘From the court to the altar’, as it is written, I saw the Lord standing on the altar.[39] ‘And from the altar to the roof’, as it is written, It is better to dwell it, a corner of the housetop [than in a house in common with a contentious woman].[40] ‘From the roof to the wall’,as it is written, Behold, the Lord stood by a wall made by a plumbline.[41] ‘From the wall to the town’, as it is written, The voice of the Lord crieth unto the city.[42] ‘And from the city to the mountain’, as it is written, And the glory of the Lord went up from the midst of the city and stood upon the mountain which is on the east side of the city.[43] ‘And from the mountain to the wilderness as it is written, It is better to dwell in a desert land [than with a contentious woman].[44] ‘And from the wilderness it went and abode in its own place’, as it is written, I shall go and return to my place until they acknowledge their guilt.[45]

R. Johanan said: The Divine Presence tarried for Israel in the wilderness six months in the hope that they would repent. When [it saw that] they did not repent, it said, Let their soul expire, as it says, But the eyes of the wicked shall fail and they shall have no way to flee and their hope shall be the expiry of the soul.[46]

‘Correspondingly the Sanhedrin wandered to ten places of banishment, as we know from tradition’, namely, from the Chamber of Hewn Stone[47] to Hanuth,[48] and from Hanuth to Jerusalem, and from Jerusalem to Jabneh,[49]

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(1) And therefore was said in spite of the doubt.

(2) Ps. XXIV, 1.

(3) To the sons of men (Rashi), cf. Ps. CXV, 16. Maharsha: He made something which could subsequently be acquired, as it says, ‘Who shall go up in the Mount of the Lord’ etc.

(4) I.e., without angels, who were created on the second day.

(5) Ps. XLVIII, 2.

(6) I.e., the upper and lower worlds.

(7) This apparently means, reigned over the lower world from the heavens, referred to in the psalm as ‘beautiful in elevation in the city of a great king’. [R. Hananel: Thus did He set aside Jerusalem to become ‘the city of our God, the mountain of his holiness’.]

(8) Ps. LXXXII.

(9) Cf. Gen. I, 9.

(10) Ps. XCIV.

(11) Ps. LXXXI, 2.

(12) I.e., to manifest His glory.

(13) Ps. XCIII.

(14) Ps. XCII.

(15) When God shall be alone, between the end of the world and the resurrection of the dead (Rashi).

(16) Var. lec., ‘R. Akiba’, who in any case is meant.

(17) Viz., the psalms for the first six days, all of which they take to refer to the past, and that for the seventh day, which they take to refer to the future.
(18) R. Akiba and R. Nehemiah.
(19) Isa. II, 11. A ‘day’ of God is reckoned as a thousand years, on the basis of Ps. XC, 4, ‘For a thousand years in thy sight are but as yesterday’; v. Sanh. 97a.
(20) Hos. VI, 2. Cf. p. 146, n. 11, R. Nehemiah holds with Abaye, and therefore cannot refer to this period as a Sabbath day.
(21) Var. lec. Hanan.
(22) Mnemonic (lit., ‘the splendour of thine’). I.e., Ha'azinu, (give ear), Zekor, (remember), Yarkibehu (He made him ride), Wayar (and he saw), Lule (but that), Ki (when), the first words of verses 1, 7, 13, 19, 27 and 36 in Deut. XXXII, the ‘Song of Ha'azinu’.
(23) I.e.,the divisions of the sidra are at the same verses.
(24) The ‘song of Moses’, Ex. XV, up to v. 9.
(25) The rest of the song of Moses.
(26) The ‘song of the well’, Num. XXI, 17ff
(27) I.e., Ha'azinu.
(28) Because the first had six portions and the second three.
(29) Lit., ‘made ten journeys’, before the destruction of the first Temple.
(30) Before and after the destruction of the second Temple.
(31) The text here incorrectly inserts, ‘and from one cherub to the other’.
(32) Of sacrifice.
(33) I.e., heaven.
(34) Hos. V, 15.
(35) The text here incorrectly inserts, ‘and from one cherub to the other’.
(36) Ex. XXV, 22. This shows that the original abode of the Shechinah was over the ark-cover. The text here inserts, ‘and it is written, And he rode upon a cherub and did fly’ (II Sam. XXII, 11), which is omitted by Rashi.
(37) Ezek. IX, 3, describing the departure of the divine glory from the Temple.
(38) Ibid. X, 4.
(39) Amos IX, I. These words were spoken long before the destruction of the Temple, but they are taken by the Talmud as prophetic.
(40) Prov. XXI, 9. These words are put by the Talmud in the mouth of the Shechinah, the ‘contentious woman’ being the idol which was placed in the Temple.
(41) Amos VII, 7. Cf. supra n. 8.
(42) Micah VI, 9. Cf. supra n. 8.
(43) Ezek. XI, 23.
(44) Prov. XXI, 19. Cf. supra n. 9.
(45) Hos. V, 15.
(46) Job. XI, 20.
(47) [Lishkath ha-Gazith in the inner court of the Temple, v. J.E. XII, p. 576].
(48) Lit., ‘shop’, ‘bazaar’, to which the Sanhedrin removed when they ceased to judge capital cases. [Hanuth was a place on the Temple Mount outside the Chamber of Hewn Stone. Derenbourg, Essai p. 467, identifies it with the Chamber of the Sons of Hanan (a powerful priestly family, cf. Jer. XXXV, 4) mentioned in J. Pe'ah 1,5.]
(49) Jamnia, in Judea. This was in the time of R. Johanan b. Zaccai.

Talmud - Mas. Rosh HaShana 31b

and from Jabneh to Usha,[1] and from Usha [back] to Jabneh, and from Jabneh [back] to Usha, and from Usha to Shefar'am,[2] and from Shefar'am to Beth She'arim, and from Beth She'arim to Sepphoris, and from Sepphoris to Tiberias;[3] and Tiberias is the lowest-lying of them all,[4] as it says, And brought down thou shalt speak out of the ground.[5] R. Eleazar says: There were six banishments, as it says, For he hath brought down them that dwell on high, the lofty city, laying it low, laying it low even to the ground, bringing it even to the dust.[6] Said R. Johanan: And from there they are destined to be redeemed, as it says, Shake thyself from the dust, arise.[7]

MISHNAH. R. JOSHUA B. KORHA SAID: THIS FURTHER

REGULATION DID R. JOHANAN B. ZACCAI MAKE, THAT SHOULD THE HEAD OF THE BETH DIN BE IN SOME OTHER PLACE THE WITNESSES SHOULD STILL PROCEED ONLY TO THE PLACE OF THE ASSEMBLY.[8]

GEMARA. A certain woman was summoned to appear before Amemar in Nehardea. Meanwhile Amemar went to Mahuza, but she did not follow him. He accordingly wrote out a summons [under the penalty of the ban][9] against her. Said R. Ashi to Amemar: [Is this right] seeing that we have learnt: SHOULD THE HEAD OF THE BETH DIN BE IN SOME OTHER PLACE THE WITNESSES SHOULD STILL PROCEED ONLY TO THE PLACE OF THE ASSEMBLY? — He replied: This refers only to the testimony with regard to the new moon, and [the reason for it is that] if this[10] [were to be insisted on], the result might be to put a stumbling block in their way for the future;[11] but in this case, the borrower is a servant to the lender.[12]

Our Rabbis have taught: 'The priests are not permitted to ascend the duchan[13] in their sandals, and this is one of the nine regulations laid down by Rabban Johanan b. Zaccai'. [What are these nine?] — Six mentioned in this chapter[14] and one in the preceding chapter[15] and the following one, as it has been taught: 'One who becomes a proselyte at the present time[16] must set aside a quarter[17] for a nest of pigeons'.[18] Said R. Simeon b. Eleazar: Rabban Johanan took a vote on it and annulled this rule, because it may lead to wrongdoing.[19] As to the last,[20] there is a difference of opinion between R. Papa and R. Nahman b. Isaac. R. Papa said it was [the regulation] regarding a vine of the fourth year, whereas R. Nahman b. Isaac said it was the one regarding the thread[21] of scarlet. 'R. Papa said it was the regulation regarding the vine of the fourth year', for we have learnt: [The fruit of] a vine in the fourth year was taken to Jerusalem from any point within a day's journey on all sides.[22] The boundary of this area was as follows: Elath on the north, Akrabath on the south,[23] Lydda on the west, and Jordan on the east'. [In reference to this] 'Ulla (or as some say, Rabbah b. 'Ulla) said in the name of R. Johanan: What was the reason? To decorate the streets of Jerusalem with fruit.[24] It has been further taught: 'R. Eliezer had a vine in its fourth year east of Lydda[25] at the side of Kefar Tabi, and R. Eliezer had a mind to declare it free to the poor,[26] but his disciples said to him, Rabbi, your colleagues have already taken a vote on it and declared it permitted'.[27] Who are his 'colleagues'? — Rabban Johanan b. Zacca.

'R. Nahman b. Isaac said it was the tongue of scarlet', as it has been taught: 'Originally they used to fasten the thread of scarlet on the door of the [Temple] court on the outside.[28] If it turned white the people used to rejoice,[29] and if it did not turn white they were sad. They therefore made a rule that it should be fastened to the door of the court on the inside. People, however, still peeped in and saw, and if it turned white they rejoiced and if it did not turn white they were sad. They therefore made a rule that half of it should be fastened to the rock and half between the horns of the goat that was sent [to the wilderness]'. Why did not R. Nahman b. Isaac accept the view of R. Papa? — He could reply: If you assume that it was R. Johanan b. Zaccai [who made the rule about the vine], was he the colleague of R. Eliezer? He was his teacher! [What replies] the other [to this]? — Since they were his disciples [who reported the rule to him], it was not polite of them to say to their teacher, 'your teacher'. Why did not R. Papa accept the view of R. Nahman b. Isaac? — He could reply: If you assume It was R. Johanan b. Zaccai [who made the rule], was there in the days of R. Johanan b. Zaccai a thread of scarlet [which turned white]? Has it not been taught: 'R. Johanan b. Zaccai lived altogether a hundred and twenty years. For forty years he was in business, forty years he studied, and forty years he taught', and it has further been taught: 'For forty years before the destruction of the Temple the thread of scarlet never turned white but it remained red'.[30] Further, the statement of the Mishnah is, 'After the destruction of the Temple R. Johanan b. Zaccai made a rule'.[31] [What says] the other [to this]? — During those forty years that he studied[32] his status was that of a disciple sitting before his teacher, and he would offer a suggestion and make good his reasons

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(1) This was in the time of Rabban Gamaliel II.

(2) The last three in the time of R. Simeon b. Gamaliel. [The Sanhedrin met at Usha mostly after the Hadrianic persecutions, and apparently ceased functioning during the reign of Verus, and re-established in Shefar'am under Marcus Aurelius; v. Horowitz, Palestine, p. 34.]

(3) The last three were in the time of Rabbi.

(4) Being on Lake Galilee below sea-level. This is a figurative way of saying that at Tiberias the authority of the Sanhedrin sank to its lowest level.

(5) Isa. XXIX, 4.

(6) Ibid. XXVI, 5. The six are (i) he hath brought down, (ii) laying it low, (iii) laying it low, (iv) even to the ground, (v) bringing it, (vi) even to the dust.

(7) Ibid. LII, 2.

(8) And the Beth din should declare the New Moon hallowed without the head, though by rights this was his privilege, v. sura 24a.

(9) Heb. פתיחא lit., ‘opening’ of legal proceedings.

(10) Viz., that they should go after the head.

(11) As the messengers will refrain from going to all this trouble in order to give evidence.

(12) Quoted from Prov. XXII, 7.

(13) V. Glos.

(14) Viz., (i) that the shofar should be blown on Sabbath wherever there is a Beth din, (ii) that the lulab should be taken in the provinces seven days, (iii) that new corn should be forbidden the whole of the sixteenth of Nisan, (iv) that testimony with regard to the new moon should be received the whole day, (v) that witnesses should go only to the place of assembly, (vi) and that the priests should not ascend the duchan in their sandals. [Read with R. Hananel: ‘One, the one (first stated), five in this chapter’.]

(15) That the witnesses should be allowed to profane Sabbath only for Nisan and Tishri, v. supra 21b.

(16) I.e., when there is no Temple.

(17) It is not certain whether this means a quarter of a shekel (== half a denar) or a quarter of a denar. V. Tosaf. s.v. רובע.

(18) While the Temple stood a new convert had to bring a sacrifice (v. Ker. 9a), a couple of pigeons being the smallest, and after the destruction of the Temple the Rabbis still insisted on his bringing them in case the Temple should be rebuilt.

(19) Because the money set aside might be used for secular purposes.

(20) Lit., ‘and the other’.

(21) Lit., tongue’. The explanation follows immediately.

(22) According to Lev. XIX, 24 fruit produced by a tree in its fourth year was to be ‘holy for giving praise to the Lord’ and the Rabbis interpreted this to mean that it was to be consumed in Jerusalem. If, however, the tree was not in the Jerusalem district, the money value of the fruit could be taken to Jerusalem instead of the fruit itself.

(23) [Mishnah M.Sh. V, 2 reverses: Elath on the south, Akrabath on the north. Akrabath is perhaps the modern Akrabah twenty-five miles north of Jerusalem, and Elath is identified with (a) Eleutheropolis (Horowitz, Palestine, p. 41) (b) Beth Elonim near Hebron (Klein, D.J. s.v.).]

(24) Hence all this area was put by the Rabbis under the same rule as Jerusalem itself.

(25) I.e., between Lydda and Jerusalem.

(26) So as not to have the trouble of taking it to Jerusalem.

(27) Because as there was no longer a Temple, there was no point any more in decorating the streets of Jerusalem.

(28) After the High Priest had performed the service on the Day of Atonement. V. Yoma, 67a.

(29) This being a sign that their sins had been forgiven.

(30) When then could R Johanan have had an opportunity of making this rule?

(31) This applies presumably to all his rules and regulations.

(32) While the Temple still existed.

and his teacher would make it a definite rule in his name.

MISHNAH. THE ORDER OF BLESSINGS [IN THE MUSAF ‘AMIDAH[1] IS AS FOLLOWS]: [THE READER SAYS THE BLESSING OF] THE PATRIARCHS,[2] [THAT OF] MIGHTINESS[3] AND THAT OF THE SANCTIFICATION OF THE NAME[4] AND INCLUDES THE KINGSHIP-VERSES[5] WITH THEM AND DOES NOT BLOW THE SHOFAR. HE THEN SAYS THE SANCTIFICATION OF THE DAY[6] AND BLOWS, THE REMEMBRANCE-VERSES[5] AND BLOWS, AND THE SHOFAR-VERSES[5] AND BLOWS; AND HE THEN SAYS THE BLESSING OF THE TEMPLE SERVIce[7] AND THE ONE OF THANKSGIVING[8] AND THE BLESSING OF THE PRIESTS.[9] THIS IS THE VIEW OF R. JOHANAN B. NURI. SAID R. AKIBA TO HIM: IF HE DOES NOT BLOW THE SHOFAR FOR THE KINGSHIP-VERSES, WHY SHOULD HE SAY THEM? NO; [THE RULE IS AS FOLLOWS]. HE SAYS [THE BLESSING OF] THE PATRIARCHS AND OF THE RESURRECTION AND OF THE SANCTIFICATION OF THE NAME, AND SAYS THE KINGSHIP-VERSES ALONG WITH THE SANCTIFICATION OF THE DAY AND BLOWS THE SHOFAR, THEN HE SAYS THE REMEMBRANCE-VERSES AND BLOWS, AND THE SHOFAR-VERSES AND BLOWS. THEN HE SAYS THE TEMPLE SERVICE BLESSING AND THE THANKSGIVING AND THE BLESSING OF THE PRIEST.

GEMARA. SAID R. AKIBA TO HIM, IF HE DOES NOT BLOW THE SHOFAR FOR THE KINGSHIP-VERSES, WHY DOES HE SAY THEM? [He asks], Why does he say them! But the All-Merciful enjoined that they should be said![10] — What he really means is, why say ten verses? Why not only nine,[11] because if there is a difference [in one particular][12] so there may as well be a difference [in another]?[13]

Our Rabbis taught: Whence do we learn in the Scripture that we are to say [the blessing of] the Patriarchs? Because it says, Ascribe unto the Lord, O ye sons of might.[14] And whence do we learn that we say the blessing of mightiness? Because it says, Ascribe unto the Lord glory and strength.[15] And whence that we say sanctifications? Because it says, Ascribe unto the Lord the glory of his name, worship the Lord in the beauty of holiness.[16] Whence do we learn that we are to say kingship, remembrance and shofar[17] [verses]? R. Eliezer says: Because it is written, a solemn rest, a memorial proclaimed with the blast of trumpets, a holy convocation.[18] ‘A solemn rest’; this indicates the sanctification of the day. ‘A memorial’: this indicates remembrance verses. ‘Proclaimed with the blast of horns’: this indicates shofar verses. ‘A holy convocation’: sanctify it by [abstaining from] the doing of work. Said R. Akiba to him: Why should we not interpret ‘a solemn rest’ to apply to the abstention from work, seeing that the text placed this first?[19] No; [we should interpret thus]: ‘A solemn rest’: sanctify it by [abstaining from] the doing of work — ‘A memorial’: this indicates the remembrance verses. ‘Proclaimed with the blowing of horns’: this indicates shofar-verses. ‘A holy convocation’: this indicates the sanctification of the day. Whence [then] do we learn that we say kingship-verses? — It has been taught: Rabbi says, I am the Lord your God,[20] [and immediately afterwards], In the seventh month,[21] this [juxtaposition][22] indicates kingship-verses. R. Jose b. Judah said: There is no need [of such an interpretation]. For Scripture says, And they [the trumpets] shall be to you for a memorial before your God.[23] This makes superfluous [the succeeding words], I am the Lord your God. What then is the point of the words, I am the Lord your God’? This creates a general pattern[24] for all places where we say remembrance verses, [to show] that kingship verses should accompany them.

Where is the blessing of the sanctification of the day to be said? — It has been taught: Rabbi says, It should be said with the kingship verses. For just as on every other occasion[25] we find that it comes fourth [in the order of blessings], so here it should come fourth. Rabban Simeon b. Gamaliel says: It should be said with the remembrance verses. Just as we find that on all other occasions it is said in the middle,[26] so here it should be in the middle.[27]

When the Beth din sanctified the New Moon in Usha, R. Johanan b. Beroka went down [before the ark][28] in the presence of Rabban Simeon b. Gamaliel, and read as prescribed by R. Johanan b. Nuri.[29] Rabban Simeon said to him: That was not the way they used to do in Jabneh.[30] On the second day, R. Hanina the son of R. Jose the Galilean went down and read as prescribed by R. Akiba.[31] Rabban Simeon b. Gamaliel said: So they used to do in Jabneh. This would seem to show that R. Simeon b. Gamaliel was of the same opinion as R. Akiba. But [how can this be seeing that] R. Akiba said that the kingship verses are to be joined with the sanctification of the day, whereas R. Simeon b. Gamaliel said that the sanctification of the day is to be joined with the remembrance verses? — R. Zera replied: What it indicates is that [in R. Simeon's opinion] the shofar is blown with the kingship verses.

‘On the second day R. Hanina went down’. What is meant by second’? Shall I say, the second day of the holyday, which would imply that Elul had been prolonged?[32] [But this cannot be] seeing that R. Hanina b. Kahana has said that from the time of Ezra there has been no case known of Elul being prolonged? R. Hisda replied: What is meant by ‘second’? It means the same holyday in the next year.

MISHNAH. THERE SHOULD BE RECITED NOT LESS THAN TEN KINGSHIP VERSES, TEN REMEMBRANCE VERSES, AND TEN SHOFAR VERSES. R. JOHANAN B. NURI SAID: IF THE READER SAYS THREE FROM EACH SET[33] HE HAS FULFILLED HIS OBLIGATION.

GEMARA. To what do these ten kingship verses correspond? — R. Levi said, To the ten praises that David uttered in the book of Psalms. But there are a large number of praises there? — It means, those among which occurs, Praise him with the blowing of the shofar.[34] R. Joseph said: To the ten commandments that were spoken to Moses on Sinai.[35] R. Johanan said: To the ten Utterances by means of which the world was created.[36] Which are they? The phrase ‘and he said’ occurs in the account of the creation only nine times? — The words ‘in the beginning’ are also an utterance, as it is written, By the word of the Lord the heavens were made.[37]

R. JOHANAN B. NURI SAID: IF HE SAYS THREE OF EACH SET HE HAS FULFILLED HIS OBLIGATION. The question was raised: How is this to be understood? Three from the Pentateuch, three from, the Prophets and three from the Writings, which would make nine [for each set], so that there is a difference of one between the two authorities, or is it one from the Pentateuch, one from the Prophets and one from the Writings,[38] making three for each set, so that they differ considerably? — Come and hear, since it has been taught: ‘There must be recited not less than ten kingship verses, ten remembrance verses, and ten shofar verses, but one who said seven of all of them has fulfilled his obligation, these corresponding to seven firmaments. R. Johanan b. Nuri said: The lowest number one should say is seven,[39] but if he said [even] three of them he has fulfilled his obligation, these corresponding to the Torah, the Prophets and the Writings, or, as others report, to Priests, Levites, and lay Israelites’. R. Huna said in the name of Samuel: The halachah is as laid down by R. Johanan b. Nuri.

MISHNAH. NO MENTION IS MADE OF KINGSHIP, REMEMBRANCE AND SHOFAR VERSES THAT SIGNIFY PUNISHMENT. IT IS PROPER TO BEGIN WITH THE TORAH[40] AND CONCLUDE WITH THE PROPHETS. R. JOSE SAID: IF ONE CONCLUDES WITH THE TORAH HE HAS FULFILLED HIS OBLIGATION.

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(1) On New Year, v. P.B. pp. 245-254; on Musaf and ‘Amidah, v. Glos.

(2) The one ending, ‘Blessed art thou, O Lord, shield of Abraham’.

(3) Lit., ‘mightinesses’: the one ending ‘Blessed art thou, O Lord, who revivest the dead’.

(4) The one ending, ‘the holy king’. These are the first three benedictions of every ‘Amidah. V. P.B. pp. 44-45.
(5) Ten verses, v. infra.
(6) The passage ending, ‘Blessed art thou, O Lord, who dost sanctify Israel and the day of memorial’.
(7) The passage ending, ‘Blessed art thou . . . who restorest thy divine presence to Zion’.
(8) The one ending, ‘Blessed art thou . . . to thee it is fitting to give thanks’.
(9) Which precede the last benediction of every ‘Amidah, v. P.B. p. 53.
(10) As explained infra.
(11) I.e., three each from the Torah, the Prophets and the Writings.
(12) Viz., in the blowing of the shofar.
(13) So as to have nine verses instead of ten.
(14) Ps. XXIX, 1. By ‘the sons of might’ the Patriarchs are understood.
(15) Ibid.
(16) Ibid. 2.
(17) Heb. Malkeyoth, Zikronoth, Shoferoth.
(18) Lev. XXIII, 24.
(19) And abstention from work is the first mark of the day.
(20) Lev. XXIII, 22.
(21) Ibid. 24.
(22) The intervening words, And the Lord spoke unto Moses saying, Speak unto the children of Israel saying, are not counted.
(23) Num. X, 10.
(24) Lit., ‘this builds a father’.
(25) I.e., in the ‘Amidah of the other festivals.
(26) I.e., it is the fourth out of seven blessings that constitute the ‘Amidah of the festivals except the one in question.
(27) I.e., it should be the fifth, as the New Year Musaf ‘Amidah has nine blessings.
(28) To act as reader.
(29) I.e., he joined the kingship verses with the third blessing and did not blow the shofar after them. V. Mishnah.
(30) In the days of his father Rabban Gamaliel, when the seat of the Sanhedrin was in Jabneh.
(31) I. e., he joined the kingship verses with the sanctification of the day and blew the shofar after them. V. Mishnah.
(32) So that the thirtieth day was kept as New Moon out of doubt, but the new month was not sanctified till the thirty-first.
(33) The meaning of this is discussed infra in the Gemara.
(34) Ps. CL, 3.
(35) Because these were prefaced by the blowing of the shofar.
(36) New Year being the anniversary of the creation.
(37) Ps. XXXIII, 6. Hence the first verse of Genesis is equivalent to ‘In the beginning God said, Let there be heaven and earth’.
(38) And we translate in the Mishnah, ‘three in all’, i.e., in each set of the kingship, remembrance and shofar verses.
(39) Obviously this means seven altogether in each set.
(40) Pentateuch.

Talmud - Mas. Rosh HaShana 32b

GEMARA. [What are] KINGSHIP VERSES [signifying punishment]? — For instance, As I live, saith the Lord God, surely with a mighty hand and with an outstretched arm and with fury poured out will I be king over you,[1] and although R. Nahman said, Let the Holy One, blessed be He, be as furious as all this with us so only that He [finally] redeem us, yet since this was spoken in wrath, we do not call wrath to mind at the beginning of the year. REMEMBRANCE VERSES, as for instance, And he remembered that they were flesh[2] etc. SHOFAR VERSES, as for instance, Blow ye the horn in Gibeah[3] etc. If, however, he desires to recite kingship, remembrance and shofar verses mentioning the punishment of idolaters, he may do so. ‘Kingship verses’, as for instance, The Lord reigneth, let the peoples tremble,[4] or, The Lord is king for ever and ever, the nations are perished out of his land.[5]

‘Remembrance verses’, as for instance, Remember, O Lord, against the children of Edom[6] etc. ‘Shofar verses’, as for instance, And the Lord God will blow the horn and will go with whirlwinds of the south,[7] and the text continues, The Lord of hosts will defend them.[8] [On the other hand] a verse mentioning the remembrance of an individual is not recited, even if it is for good, as for instance, Remember me, O Lord, when thou favourest thy people,[9] or, Remember unto to me, O my God, for good.[10] ‘Visitation’ is equivalent to ‘remembrance’, as, for instance, in the verse, And the Lord visited Sarah,[11] or, I have surely visited you.[12] This is the view of R. Jose; R. Judah, however, says that ‘visitation’ is not equivalent to ‘remembrance’. Now on R. Jose's view, even granting that ‘visitation’ is equivalent to ‘remembrance’, the text, ‘And the Lord visited Sarah’ refers to the visitation of an individual,[13] [does it not]? — Since a multitude issued from her,[14] it is as good as a multitude.

[In the text], Lift up your heads, O ye gates, and be ye lifted up, ye everlasting doors, that the king of glory may come in. Who is the king of glory? The Lord strong and mighty, the Lord mighty in battle, Lift up your heads, O ye gates, yea, lift them up, ye everlasting doors, that the king of glory may come in. Who is the king of glory? The Lord of hosts, he is the king of glory,[15] the first [apostrophe] contains two mentions [of God's kingship][16] and the second three. So R. Jose; R. Judah, however, says that the first contains one and the second two.[17] [In the text], Sing praises to God, sing praises; sing praises unto our king, sing praises. For God is the king of all the earth,[18] there are two mentions [of God's kingship]; so R. Jose. R. Judah, however, says there is only one.[19] They agree, however, that in the verse, God reigneth over the nations, God sitteth upon his holy throne,[20] there is only one.

A remembrance verse which also mentions blowing [teru'ah], as for instance, a memorial proclaimed with the blast of horns, a holy convocation may be recited either with the remembrance verses or with the shofar verses; so R. Jose. R. Judah, however, says that it may be recited only with the remembrance verses.[21] A kingship verse which also contains mention of blowing, as, for instance, The Lord his God is with him and the shouting [teru'ath] for the king is among them,[22] may be recited either with the kingship verses or with the shofar verses; so R. Jose. R. Judah, however, says that it may be recited only with the kingship verses.[23] A verse mentioning simply blowing of the trumpet, as for instance, it is a day of blowing the horn [teru'ah] unto you,[24] may be recited with the shofar verses; so R. Jose. R. Judah, however, says that it may not be recited at all.[25]

IT IS PROPER TO BEGIN WITH THE TORAH AND CONCLUDE WITH THE PROPHETS. R. JOSE SAID: IF ONE CONCLUDES WITH THE TORAH HE HAS FULFILLED HIS OBLIGATION. ‘IF ONE CONCLUDES’ [HE HAS FULFILLED]: that is to say, the deed having been done; but he should not do so in the first instance. [Is this correct] seeing that it has been taught: ‘R. Jose says, He who concludes with the Torah verses, he is to be commended’? — Read, ‘He concludes’. But it states [distinctly], IF HE CONCLUDES [etc.], [which implies that] what is done is done, but in the first instance it should not be done? — What is meant is this: ‘It is proper to commence with the Torah and conclude with the Prophets. R. Jose said: It is proper to conclude with the Torah, but if one concluded with the Prophets, he has fulfilled his obligation’. It has been taught to the same effect: ‘R. Eleazar b. R. Jose said: The wethikin,[26] used to conclude with the Torah’.

We can understand this being done with the remembrance and shofar verses, because there are numbers of them [in the Pentateuch], but of kingship verses there are only three, viz., The Lord his God is with him and the shouting for the King is among them,[27] And he was king in Jeshurun,[28] and The Lord shall reign for ever and ever,[29] and we require ten verses [in all][30] and [in this way] we cannot find them?[31] — R. Huna replied: Come and hear. Hear, O Israel, the Lord our God the Lord is one;[32] this is a kingship verse according to R. Jose, though R. Judah says it is not a kingship verse. And thou shalt know on that day and lay it to thy heart that the Lord he is God, there is none else,[33] is a kingship verse according to R. Jose, though R. Judah says it is not a kingship verse, Unto thee it was shown, that thou mightest know that the Lord he is God, there is none else beside him[34] is a kingship verse according to R. Jose, though R. Judah says it is not a kingship verse.

MISHNAH. OF THOSE WHO PASS BEFORE THE ARK[35] ON THE HOLYDAY OF NEW YEAR, THE SECOND[36] BLOWS[37] THE SHOFAR. ON DAYS WHEN HALLEL IS SAID,[38] THE FIRST[39] READS ALOUD THE HALLEL.[40]

GEMARA. What special reason is there for the second to blow? [You must say], because of the maxim, In the multitude of people is the king's glory.[41] But if that is so, Hallel should also be recited by the second because 'in the multitude of people is the king's glory'? Should you say, however, that there is a special reason why Hallel is said by the first, because the zealous come early for the performance of religious duties, then let the blowing of the shofar be performed by the first because the zealous come early for the performance of religious duties! — R. Johanan replied: They made this rule at a time when the Government had forbidden [the blowing of the shofar].[42]

Since it says, ON DAYS WHEN HALLEL IS SAID, we infer that on New Year Hallel is not said. What is the reason? — R. Abbahu replied: The ministering angels said in the Presence of the Holy One, blessed be He: Sovereign of the Universe, why should Israel not chant hymns of praise before Thee on New Year and the Day of Atonement? He replied to them: Is it possible that the King should be sitting on the throne of justice with the books of life and death open before Him, and Israel should chant hymns of praise?

MISHNAH. [FOR THE SAKE OF] THE SHOFAR OF NEW YEAR IT IS NOT ALLOWED TO DISREGARD THE DISTANCE LIMIT[43] NOR TO REMOVE DEBRIS NOR TO CLIMB A TREE NOR TO RIDE ON AN ANIMAL NOR TO SWIM ON THE WATER. IT MUST NOT BE SHAPED[44] EITHER WITH AN IMPLEMENT THE USE OF WHICH IS FORBIDDEN ON ACCOUNT OF SHEBUTH[45] OR WITH ONE THE USE OF WHICH IS FORBIDDEN BY EXPRESS PROHIBITION.[46] IF ONE, HOWEVER, DESIRES TO POUR WINE OR WATER INTO IT HE MAY DO SO.[47] CHILDREN NEED NOT

BE STOPPED FROM BLOWING; ON THE CONTRARY, THEY MAY BE HELPED[48] TILL THEY LEARN HOW TO BLOW. ONE WHO BLOWS MERELY TO PRACTISE[49] DOES NOT THEREBY FULFIL HIS RELIGIOUS OBLIGATION, NOR DOES ONE WHO HEARS THE BLAST MADE BY ANOTHER WHEN PRACTISING.

GEMARA. What is the reason [why these things may not be done]? — The blowing of the shofar is [based on] a positive precept,[50] whereas the observance of the holyday is [based both on] a positive[51] and a negative precept,[52] and a positive precept cannot override both a positive and a negative precept.

NOR TO CLIMB A TREE NOR TO RIDE ON AN ANIMAL etc, Seeing that you have not allowed even Rabbinical [prohibitions to be broken],[53] need you mention Pentateuchal ones?[54] — The Mishnah adopts the style of 'A, and needless to say B'.

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(1) Ezek. XX, 33.

(2) Ps. LXXVIII, 39.

(3) Hos. V, 8.

(4) Ps. XCIX, 1.

(5) Ps. X, 16.

(6) Ibid. CXXXVII, 7.

(7) Zech. IX, 14.

(8) Ibid. 15.

(9) Ps. CVI, 4.
(10) Neh. V ,19.
(11) Gen. XXI, 1. Heb. פקד
(12) Ex. III, 16.
(13) Which has just been declared inadmissible.
(14) Through this visitation.
(15) Ps. XXIV, 7-10.
(16) I.e., the expression ‘the king of glory’.
(17) R. Judah does not reckon the question ‘who is the king of glory’.
(18) Ps. XLVII, 7, 8.
(19) R. Judah does not reckon ‘Our King’, as this does not declare God king over the whole world.
(20) Ibid. 9.
(21) Because the mention of teru'ah is not equivalent to the mention of shofar.
(22) Num. XXIII, 21.
(23) V. n. 1.
(24) Num. XXIX, 1.
(25) V. n. 1.
(26) Lit., ‘ancients’: a name given to certain men of exceptional piety in the days of the Second Temple. [These are identified by some with the Essenes, v. J.E. V. p. 226. Others regard them as a community of priests who held a service in common; v. Blau, REJ, XXXI, pp. 184ff.]
(27) Num. XXIII, 21.
(28) Deut. XXXIII, 5.
(29) Ex. XV, 18.
(30) V. supra 32a.
(31) As the Torah verses come last, they should be four out of the ten
(32) Deut. VI, 4.
(33) Ibid. IV, 39.
(34) Ibid. 35.
(35) Lit., ‘he who passes etc.’. I.e., who read the service before the congregation. These were said to ‘pass’ or, more correctly, to ‘go down before the Ark’, because they stood in front of the Ark on a level lower than the Ark itself and the rest of the congregation.
(36) I.e., the one who reads the Musaf service (v. Glos.).
(37) מתקיע Hai Gaon takes it literally, ‘he causes to blow’, ‘he orders the blowing’. I.e., he recites the prayers introductory to the blowing, v. supra 32a, but the blowing itself is performed by another to avoid confusing the reader; cf. Ber. 34a.]
(38) Lit., ‘at the time of Hallel’: e.g., on the festivals.
(39) I.e., the one who reads the shaharith service (v. Glos).
(40) V. Glos.
(41) Prov. XIV, 28. The larger the congregation, the greater the honour paid to God. The implication is that there will be more persons present at the later than at the earlier service.
(42) And the blowing was less likely to be noticed if it was postponed to the second half of the service. Once made the rule was not altered even when the reason for it had disappeared, v. supra p. 61, n. 5.
(43) Lit., ‘to pass the limit’. I.e., to travel more than the permitted two thousand cubits in order to hear the shofar blown.
(44) Lit., ‘cut’.
(45) I.e., merely to make a distinction between Sabbath (or holydays) and weekdays, and not because any ‘work’ in the strict legal sense is involved. For shebuth, v. Glos.
(46) Found in or based on the Pentateuch.
(47) And we do not say that he is carrying out repairs, which is forbidden on the Sabbath or holydays.
(48) Lit., ‘we occupy ourselves with them’.
(49) Lit., ‘one who occupies himself’.
(50) Num. XXIX, 1. It shall be a day of blowing the horn unto you.
(51) Lev. XXIII, 24: In the seventh month . . . shall be a solemn rest unto you.

(52) Ibid. 25: Ye shall do no manner of servile work.

(53) The prohibitions to exceed the Sabbath limit and to remove debris are purely Rabbinical, without basis in the Pentateuch. (Rashi).

(54) Riding and climbing are forbidden because they might lead to the cutting or plucking of a branch, which is forbidden by the Pentateuch. The argument is very forced, and Rashi is inclined to regard the whole sentence as spurious. [R. Hananel takes the prohibitions regarding the Sabbath limit and removing the debris to be the Biblical prohibitions referred to.]

Talmud - Mas. Rosh HaShana 33a

IT MUST NOT BE SHAPED EITHER WITH AN IMPLEMENT THE USE OF WHICH IS FORBIDDEN ON ACCOUNT OF SHEBUTH OR WITH ONE THE USE OF WHICH IS FORBIDDEN BY EXPRESS PROHIBITION. ‘An instrument the use of which is forbidden on account of shebuth’ — as for instance, a sickle.[1] ‘An implement which is forbidden by express prohibition’ — as for instance, a knife. Seeing that you disallow an implement prohibited on account of shebuth, need you mention one disallowed by express prohibition?[2] — The Mishnah adopts the style of ‘A and needless to say B’.

IF ONE, HOWEVER, DESIRES TO POUR WINE OR WATER INTO IT HE MAY DO SO. Wine or water he may, but urine he may not. Which authority does our Mishnah follow? — That of Abba Saul, as it has been taught: ‘Abba Saul says, Wine or water is permissible, these serving to clean it, but urine is forbidden, as showing disrespect’.[3]

CHILDREN NEED NOT BE STOPPED FROM BLOWING. This would imply that women are stopped. [But how can this be], seeing that it has been taught: ‘Neither children nor women need be stopped from blowing the shofar on the Festival’? — Abaye replied: There is no discrepancy; the one statement follows R. Judah, the other R. Jose and R. Simeon, as it has been taught: ‘Speak unto the children [bene] of Israel:[4] [this indicates that] the "sons" [bene] of Israel lay on hands but not the "daughters" of Israel. So R. Judah, R. Jose and R. Simeon say that women also have the option of laying on hands’.[5]

ON THE CONTRARY, THEY MAY BE HELPED UNTIL THEY LEARN HOW TO BLOW. R. Eleazar said: Even on Sabbath. it has been taught to the same effect: ‘They may be helped till they learn how to blow even on Sabbath, and children are not stopped from blowing on Sabbath, and needless to say on a [weekday] holyday’. This statement itself involves a contradiction. You say first, ‘They may be helped till they learn how to blow, even on Sabbath’, from which I should infer that we may actually tell them in the first instance to blow. Then it states, ‘They are not stopped’, which would indicate that we do not go so far as to stop them, but we do not tell them in the first instance to blow! — There is no contradiction: In the one case we speak of

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(1) To cut ordinary articles with a scythe or sickle on Sabbath is not regarded legally as ‘work’ because the implement is not being used for its proper purpose. The Rabbis, however, forbade it on account of shebuth.

(2) The sanction for which is Pentateuchal and not merely Rabbinical.

(3) Lit., ‘because of respect’.

(4) Lev. I, 2, introducing the regulations of the sacrifice.

(5) Similarly R. Jose and R. Simeon hold that although women are not commanded to blow the shofar (this being a precept for which a definite time is fixed), they have the option of doing so, and therefore may practise.

Talmud - Mas. Rosh HaShana 33b

a child old enough to be trained [in the performance of religious precepts],[1] in the other of one not yet old enough to be trained.

ONE WHO BLOWS MERELY TO PRACTISE DOES NOT THEREBY FULFIL HIS RELIGIOUS OBLIGATION:[2] I infer that one who blows to make musical sounds[3] does thereby fulfil his religious obligation. May we say that this supports Raba, for Raba said that one who blows to make musical sounds fulfils his religious obligation?[4] — Perhaps our authority includes ‘making music’ also under the head of ‘practising’.

NOR ONE WHO HEARS THE BLAST MADE BY ANOTHER WHEN PRACTISING. But one who hears the blast from another who is blowing for himself, we are to assume, does fulfil his obligation? If so, this would be a refutation of R. Zera; for R. Zera said to his attendant, ‘Blow with intent to clear me[5] also’![6] — Perhaps our authority having mentioned ‘practising’ in the first clause used the same expression in the second.[7]

MISHNAH. THE ORDER OF THE BLASTS CONSISTS OF THREE SETS[8] OF THREE EACH.[9] THE LENGTH OF A TEKI'AH IS EQUAL TO THREE TERU'AHS,[10] AND THE LENGTH OF A TERU'AH TO THREE YEBABOTH.[11] IF ONE BLEW THE FIRST TEKI'AH[12] [AS USUAL] AND PROLONGED THE SECOND SO AS TO MAKE IT EQUAL TO TWO, IT COUNTS ONLY AS ONE.[13] IF ONE HAS SAID THE [NINE] BLESSINGS[14] AND THEN PROCURES[15] A SHOFAR, HE SOUNDS A TEKI'AH TERU'AH TEKI'AH THREE

prohibition, and therefore explains that it is the other one whom we may help, and this one we simply do not stop.

TIMES.[16] JUST AS THE CONGREGATIONAL READER IS UNDER OBLIGATION, SO EVERY INDIVIDUAL IS UNDER OBLIGATION.[17] RABBAN GAMALIEL, HOWEVER, SAID THAT THE CONGREGATIONAL READER CLEARS THE WHOLE CONGREGATION OF THEIR OBLIGATION.

GEMARA. [THE LENGTH OF THE TEKI'AH IS EQUAL TO THREE TERU'AHS]. But it has been taught that the length of a teki'ah is equal to a teru'ah? — Abaye replied: Our Tanna reckons the teki'ahs of all the sets and the teru'ahs of all the sets,[18] whereas the external Tanna[19] was reckoning one set and no more.[20]

THE LENGTH OF THE TERU'AH IS EQUAL TO THE LENGTH OF THREE YEBABOTH. But it has been taught, ‘The length of the teru'ah is equal to three shebarim’?[21] — Abaye said: Here there is really a difference of opinion. It is written, It shall be a day of teru'ah unto you,[22] and we translate [in Aramaic], a day of yebaba, and it is written of the mother of Sisera, Through the window she looked forth,[23] [wa-teyabab]. One authority thought that this means drawing a long sigh,[24] and the other that it means uttering short piercing cries.

Our Rabbis taught: ‘Whence do we know [that the blowing on New Year must be] with a shofar? Because it says, Thou, shalt make proclamation, with a shofar of teru'ah.[25] I know this so far only of the Jubilee; how do I know it of New Year? The text says significantly, In the seventh month,[26] when there is no real occasion for the expression, in the seventh month.[27] Why then does it say, in the seventh month? To show that all the teru'ahs of the seventh month should be of the same character. How do we know that there must be a plain blast[28] before it? Because it says, Thou, shalt make proclamation with a shofar of teru'ah.[29] How do we know that there must be a plain blast[30] after it? Because it says, Ye shall make proclamation with the shofar.[31] I know this only of the Jubilee; how do I learn it of New Year also? It says significantly, in the seventh month[32]

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(1) Such a one we may actually help to learn. So Rashi. Tosaf., however, (s.v. תניא) objects that this would involve telling him to break a Rabbinical

(2) Even if accidentally he produces the proper sounds.
(3) Without religious intention.
(4) V. supra 28b.
(5) From the obligation of blowing the shofar.
(6) This would show that in R. Zera's opinion it was not sufficient to hear another blowing merely for himself.
(7) But he meant to include one blowing for himself
(8) One set for the kingship, one for the remembrance and one for the shofar verses, v. supra 32a.
(9) A teki'ah, teru'ah and teki'ah in each set. For teki'ah and teru'ah v. Glos.
(10) V. infra in the Gemara.
(11) Lit., ‘moanings’. The meaning of this word is discussed in the Gemara infra.
(12) Of one set of three.
(13) I.e., he cannot count half for one set and half for the next.
(14) Of the Musaf prayer.
(15) Lit., ‘there was assigned to him’.
(16) For each of the three sets, cf. p. 164, n. 7.
(17) To say the daily prayers, v. Gemara.
(18) And we should translate: ‘the length of a teki'ah is the same as that of (each of) the three teru'ahs’.
(19) The Tanna of the Baraitha or ‘external’ Mishnah.
(20) And he meant just the same thing.
(21) Lit., ‘breakings’. These are somewhat longer than yebaboth.
(22) Num. XXIX, 1.
(23) Jud. V, 28. E.V. ‘and peered’.
(24) The one who held that a teru'ah is equal to three shebarim.
(25) Lev. XXV, 9, referring to the Jubilee. E.V. ‘blast of the horn’.
(26) Ibid.
(27) Because it says immediately after, ‘on the day of atonement’.
(28) I.e., a teki'ah.
(29) Which is taken to mean ‘shofar (i.e., teki'ah) and teru'ah’.
(30) I.e., a teki'ah.
(31) Lev. XXV, 9. The repetition of the word shofar points to another teki'ah.
(32) Ibid.

Talmud - Mas. Rosh HaShana 34a

when there is no real occasion for the expression, "in the seventh month". Why then does it say, "in the seventh month"? To indicate that all the teru'ahs of the seventh month should be of the same character. How do we know that there must be three sets of three each? Because it says, Thou shalt make proclamation with the shofar of teru'ah,[1] and again, a solemn rest, a memorial of teru'ah,[2] and again, a day of teru'ah it shall be to you.[3] And how do we know that we can utilize what is said in connection with one for purposes of the other and vice versa?[4] The word "seventh" occurs twice[5] to provide a gezerah shawah.[6] How then is it carried out? There are three [sets] which are nine [blasts]. The length of the teki'ah is equal to that of the teru'ah. The length of the teru'ah is equal to three shebarim’.

This Tanna first derives his inference from an analogy[7] and now he derives it from a gezerah shawah![8] — He reasons thus: ‘If there were no gezerah shawah, I would derive the inference from analogy; now, however, that there is a gezerah shawah, I do not require the analogy’.

The following Tanna derives the same lesson from a gezerah shawah [with the blowing of the horn ordained] in the wilderness, as it has been taught: And ye shall blow a teru'ah:[9] this indicates that there shall be a separate teki'ah[10] and a separate teru'ah. You say, there shall be a separate teki'ah and a separate teru'ah! But can it not be interpreted differently, namely, that the teki'ah and teru'ah are all one?[11] When you come to the text, But when the assembly is to be gathered together ye shall blow a teki'ah but not a teru'ah,[12] you must conclude that teki'ah and teru'ah are separate. And how do we know that a plain blast is to precede it [the teru'ah]? Because it says, And ye shall blow a teru'ah.' And how do we know that a plain blast follows it? Because it says, a teru'ah shall they blow.[13] R. Ishmael the son of R. Johanan b. Beroka said: This[14] is not necessary. For the text says, And ye shall blow a teru'ah a second time.[15] Here the words a second time' are unnecessary.[16] Why then are the words 'a second time' inserted? This furnishes a general rule[17] that wherever teru'ah is mentioned a teki'ah should follow it.[18] So far I know this only of the wilderness.[19] On what ground can I apply it to New Year also? Because we find teru'ah [in one place] and teru'ah [in another place][20] to provide a gezerah shawah. Three teru'ahs are mentioned in connection with New Year — 'a solemn rest, a memorial proclaimed with teru'ah'; 'a day of teru'ah', and 'thou shalt make proclamation with the shofar of teru'ah'. Each teru'ah is accompanied with two teki'ahs. We thus learn that three teru'ahs and six teki'ahs were prescribed for New Year. Two of these are ordained by the Torah and one by the Soferim:[21] [The teru'ahs mentioned in] 'a solemn rest, a memorial of teru'ah,' and in 'thou shalt make proclamation with the shofar of teru'ah' are ordinances of the Torah; the text 'a day of teru'ah it shall be to you' is required for its own lesson.[22] R. Samuel b. Nahmani said in the name of R. Jonathan: One is ordained by the Torah and two by the Soferim: [That mentioned in] 'and thou shalt make proclamation with the shofar of teru'ah' is ordained by the Torah. [The texts] 'a solemn rest, a memorial of teru'ah' and, 'a day of teru'ah it shall be to you', are required for their own lessons. What is meant by saying that 'it [the latter] is required for its own lesson'?[23] — It is required to show that [the blowing must be] in the daytime and not at night. Whence does the other authority derive the rule that the blowing must be by day and not by night? — He derives it from the expression On the Day of Atonement.[24] But if he learns it from 'On the Day of Atonement', let him also learn from this text the rule that there is to be a plain blast before the teru'ah and a plain blast after it?[25] — He does not accept the implication of the expressions 'and thou shalt proclaim', 'ye shall proclaim'. How then does he expound these words? — [He expounds] 'and thou shalt proclaim' in the same way as R. Mattenah; for R. Mattenah said: 'And thou shalt proclaim': this means, in the usual manner of proclamation.[26] The words 'Ye shall proclaim' mentioned by the All-Merciful indicate that the shofar should be taken in the hand,[27] and the other, [what says he to this?] — The lesson of R. Mattenah you can learn from the fact that the text uses an unusual expression,[28] but that the word means 'taking in the hand' you could not maintain, for one can compare the expression 'passing' here with the expression 'passing' used in connection with Moses.[29] It is written here, And ye shall cause to pass a shofar of teru'ah, and it is written elsewhere, And Moses commanded, and they caused a voice to pass.[30] Just as there the passing was of a sound, so here it is of a sound.

And to the Tanna who derives the rule [regarding the teki'ah] from [the blowing commanded] in the wilderness, [it may be objected that] just as there trumpets were to be used, so here [on New Year] trumpets should be used? — Therefore it is written, Blow ye the shofar at the New Moon, at the concealment for the day of our festival.[31] Which is the festival on which the moon is concealed? You must say that this is New Year; and the All-Merciful prescribed the shofar [to be used on it].

R. Abbahu prescribed in Caesarea that there should be a teki'ah, three shebarim, a teru'ah and a teki'ah. How can this be justified?[32] If [the sound of teru'ah] is a kind of wailing, then there should be teki'ah, teri'ah[33] and teki'ah, and if it is a kind of groaning, there should be teki'ah, three shebarim, and teki'ah? — He was in doubt whether it was a kind of wailing or a kind of groaning.[34] R. 'Awira strongly demurred against this procedure, saying, Perhaps it is a kind of wailing, and the three shebarim make an interruption between the teru'ah and the [first] teki'ah? — We assume that he afterwards blows teki'ah, teru'ah, teki'ah. Rabina strongly demurred against this, saying, Perhaps it is a kind of sighing and the teru'ah makes an interruption between the shebarim and the [second] teki'ah? — We suppose that he afterwards blows teki'ah, shebarim, teki'ah. What then is the point of R. Abbahu's regulation?[35] If it is a groaning sound, it has already been made,[36] and if it is a wailing sound it has already been made?[37] — He was in doubt whether it does not include both groaning and wailing. If so, the reverse should also be carried out, namely, teki'ah, teru'ah, three shebarim, teki'ah, since perhaps it is wailing and groaning? — Ordinarily when a man has a pain, he first groans and then wails.

IF ONE BLEW THE FIRST TEKI'AH AND PROLONGED THE SECOND SO AS TO MAKE IT EQUAL TO TWO. R. Johanan said: If one heard

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(1) Lev. XXV, 9, referring to the Jubilee. E.V. ‘blast of the horn’,

(2) Ibid. XXIII, 24.

(3) Num. XXIX, 1.

(4) Two of the verses quoted occur in connection with the New Year and one in connection with the Jubilee. What right have we then to assume from this that there should be three teru'ahs on each?

(5) In the seventh month (Lev. XXIII, 24) in connection with New Year, and in the seventh month (Lev. XXV, 9) in connection with the Jubilee.

(6) V. Glos.

(7) On the basis of the superfluous ‘in the seventh month’.

(8) Heb. hekkesh. Having laid down from analogy the principle that all the teru'ahs of the seventh month must be of the same character, why does he require a gezerah shawah to show that there must be three both on New Year and on the Jubilee?

(9) Num. X, 5. E.V. ‘And when ye blow an alarm’.

(10) The word ותקעתם being taken to signify the blowing of a teki'ah.

(11) I.e., made in one blast. And the word ותקעתם means simply ‘and you shall blow’.

(12) Ibid. 7’ E.V. ‘ye shall blow but ye shall not sound an alarm’.

(13) Ibid. 6.

(14) I.e., to resort to so forced an exposition.

(15) Ibid. 6.

(16) Because one blowing of an alarm has already been mentioned in v. 5’

(17) Lit., ‘builds a father’.

(18) And we translate, ‘and ye shall blow a teki'ah’ as second to the teru'ah’.

(19) I.e., of the assembling of the people in the wilderness.

(20) Viz., in connection both with the wilderness and the New Year.

(21) V. Glos.

(22) I.e., to provide a gezerah shawah; and the third teru'ah is an ordinance of the Soferim.

(23) The gezerah shawah being provided by the other text.

(24) Lev. XXV, 9.

(25) . From the texts, ‘and thou shalt make proclamation’,’and ye shall make proclamation’, as supra 33b ad fin.

(26) I.e., the shofar must not be held the wrong way up, v. supra 27b.

(27) And not blown.

(28) The word והעברת lit., ‘and ye shall cause to pass’ instead of ‘you shall blow’.

(29) [This is apparently the meaning of this difficult passage].

(30) Ex. XXXVI, 6.

(31) Ps. LXXXI, 4. E.V. ‘at the full moon for our feast day, v. .supra 8a.

(32) Lit., ‘what is your desire?’, a formula for posing a dilemma.

(33) I.e., what is elsewhere called yebaba.

(34) And had both sounds blown.

(35) If he repeats both teki'ah, teru'ah, teki'ah, and teki'ah, shebarim, teru'ah.

(36) In teki'ah, teru'ah, teki'ah. [MS.M.: We are making it.]

(37) In teki'ah, shebarim, teki'ah. We then have a set containing four blasts.

Talmud - Mas. Rosh HaShana 34b

nine blasts at nine different times of the day, he has performed his religious obligation. It has been taught to the same effect: ‘If one heard nine blasts at nine different times of the day, he has performed his religious obligation. If, however, he heard nine different people at once, he has not performed his obligation.[1] If he hears a teki'ah from one and a teru'ah from another, he has fulfilled his obligation, even if the intervals extended over the whole day’.

But could R. Johanan have said this,[2] seeing that R. Johanan said in the name of R. Simeon b. Jehozadok: If in the midst of reciting Hallel and the Megillah[3] one paused long enough to say the whole, he must go back to the beginning? — There is no contradiction: in one case he was giving his own opinion,in the other that of his teacher. But does not his own opinion [conflict with the above statement]? Was not R. Abbahu once following after R. Johanan reciting the shema’,[3] and when he came to some dirty alley-ways he stopped, and after they had passed them he asked R. Johanan whether he should finish, and he replied, If you paused long enough to say the whole, you must start again from the beginning? What he meant to say to him was this: ‘I do not hold this view,[4] but according to you who do hold it,[5] if you have paused long enough to say the whole, you must start afresh’.

Our Rabbis taught: ‘[On most days],[6] the omission of one blast is no bar to another, and the omission of one blessing[7] is no bar to another, but on New Year and the Day of Atonement the omission of one blast or one blessing is a bar to the others’.[8] What is the reason? — Rabbah said: God proclaimed: Recite before Me on New Year kingship, remembrance and shofar verses; kingship verses to declare Me king over you; remembrance verses, that the remembrance of you may come before Me for good; and through what? Through the shofar.

IF ONE HAS SAID THE [NINE] BLESSINGS AND THEN PROCURES A SHOFAR, HE SOUNDS A TEKI'AH, TERU'AH, TEKI'AH. The reason is that he had no shofar to begin with. This shows that if he had a shofar to begin with, when he hears the blasts he must hear them during the recital of the blessings.[9] R. Papa b. Samuel rose to say his prayer, and at the same time said to his attendant, When I give you a sign,[10] blow the shofar for me. Said Raba to him:[11] This rule[12] was laid down only for a congregation.[13] It has been taught to the same effect: ‘When he hears the blasts, he must hear them in order, and during the recital of the blessings.[14] When does this hold good? In a congregation; but when not praying with the congregation he must hear them in order but not necessarily during the recital of the blessings. If an individual has not blown [the shofar], another may blow it for him, but if an individual has not said the blessings another may not say them for him. It is a greater act of piety to hear the shofar than to say the blessings. Hence[15] if there are two towns in one of which the shofar is being blown and in the other of which the blessings are being said, one should go rather to the place where they are blowing than to the place where they are saying the blessings’. Surely this is self-evident: the former precept is of Pentateuchal sanction, the latter [only] of Rabbinic! — It was necessary to state the rule, [to show that it still applies] even though he is certain of [finding an opportunity for] the latter and not certain of [finding an opportunity for] the former.[16]

JUST AS THE CONGREGATIONAL READER IS UNDER OBLIGATION, SO EVERY INDIVIDUAL etc. It has been taught: ‘They said to Rabban Gamaliel: Accepting your view,[17] why do the congregation [first] say the [‘Amidah] prayer? He replied, So as to give the reader time to prepare his prayer.[18] Rabban Gamaliel then said to them: Accepting your view,[19] why does the reader go down [and stand] before the Ark?[20] They replied: So as to clear from his obligation one who is not familiar [with the prayers]. He said to them: Just as he clears one who is not familiar, so he clears one who is familiar’.[21]

Rabbah b. bar Hanah said in the name of R. Johanan: The Sages gave Rabban Gamaliel right. Rab, however, said: The difference of opinion still remains.[22] Hiyya the son of Rabbah b. Nahmani heard the argument [reported] and went and repeated it before R. Dimi b. Hinnena. He said to him: Thus said Rab: The difference of opinion still remains. The other said to him: This is what Rabbah b. bar Hanah also said, that when R. Johanan made this statement, Resh Lakish joined issue with him, saying: The difference of opinion still remains. But did R. Johanan say this? Has not R. Hanah of Sepphoris stated that R. Johanan said that the law[23] follows the view of Rabban Gamaliel, and since he said the law is so, we infer that there is a difference of opinion?

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(1) According to Tosaf. the reason is because he does not hear a teru'ah preceded and followed by a teki'ah. Rashi, however, reads: ‘If he heard nine people at once, a teki'ah from one and a teru'ah from another, he has fulfilled his obligation, and even if he heard at intervals’ etc. He points out that it has already been laid down above that two different sounds from two different persons can be discerned at once.

(2) That it is permissible to hear different blasts at different times.

(3) V. Glos.

(4) That it is necessary to pause on coming to a dirty place, (V. Ber. 24b) nor, again, that it is necessary to start afresh after a pause.

(5) And your difficulty is simply, how long the pause must be.

(6) E.g., on fast days.

(7) In the ‘Amidah. (V. Glos.).

(8) I.e., a teru'ah cannot be blown without a teki'ah before it, nor can remembrance verses be said unless kingship verses have first been said. V. Tosaf. 33b, s.v. שיעור sub fin.

(9) V. supra 32a.

(10) As a signal that I have finished a blessing which is to be followed by the blowing of the shofar.

(11) To reassure him.

(12) That the blasts must be heard during the recital of the blessings.

(13) חבר עיר v. Meg. Sonc. ed., p. 164, n. 1.

(14) Lit., ‘on the order of the blessings’.

(15) Lit., ‘how so?’.

(16) He can always find ten men to make a congregation, but he may come too late to hear the shofar.

(17) That the reader may recite on behalf of the congregation.

(18) I. e. , put himself in the proper frame of mind by thinking over the prayers, which in those days were recited from memory.

(19) That each individual must pray for himself.

(20) V. supra p. 160, n. 9.

(21) If he has accidentally omitted something. V. Tosaf. s.v. כך

(22) [This sentence is rightly omitted in MS.M.]

(23) [הלכתא read with MS.M. הלכה .]

Talmud - Mas. Rosh HaShana 35a

. When R. Ammi returned from a sea-voyage,[1] he explained it thus: ‘The Sages give Rabban Gamaliel right’ in regard to the blessings of New Year and the Day of Atonement; and ‘the halachah is so’, which implies that they differ in regard to the blessings of the rest of the year.[2] But is this so? Did not R. Hanah of Sepphoris say in the name of R. Johanan, ‘The halachah follows Rabban Gamaliel in regard to the blessings of New Year and the Day of

Atonement’?[3] — No, said R. Nahman b. Isaac. Who is it that gave [Rabban Gamaliel] right? R. Meir;[4] and the halachah is so’, which shows that the Rabbis[5] refer to [the others]. For it has been taught: ‘In regard to the blessings of New Year and the Day of Atonement, the reader can clear the congregation of their obligation to say them’.

Why should a difference be made in respect of these [blessings]? Should you say it is because they contain many scriptural texts, has not R. Hananel said in the name of Rab, As soon as one has said,’And in thy Law it is written saying’,[6] he need not recite any more [texts]? — No; the reason is because there is an extra large number of blessings.[7]

[To revert to] the [above] text — R. Hananel said in the name of Rab, As soon as one has said, "And in thy Law it is written saying", he need not recite any more [texts]’. It was presumed [in the Academy] that this applies only to an individual but not to a congregation. It has been stated, however, [elsewhere]: R. Joshua b. Levi said: [The rule] alike for an individual or a congregation is that as soon as they have said ‘And in thy Law it is written saying’, they need not recite any more [texts].

R. Eleazar said: A man should always first prepare himself for his prayer[8] and then say it. R. Abba said: The dictum of R.

Eleazar appears to be well founded in respect of the blessings of New Year and the Day of Atonement and periodical [prayers][9] but not of the rest of the year. Is that so? Did not Rab Judah use always to prepare himself for his prayer before praying? — Rab Judah was exceptional; since he prayed only every thirty days,[10] it was [to him] like a periodical [prayer].

R. Aha b. ‘Awira said in the name of R. Simeon the Pious: Rabban Gamaliel used to allow even the people in the fields to be cleared [by the reader in the synagogue], and needless to say those in town.[11] On the contrary, [we should have expected the opposite, because] the former are prevented from coming and the latter are not prevented, in the same way as Abba the son of R. Benjamin b. Hiyya has stated, ‘The People who stand behind the priests are not included in the [priestly] benediction’! — The fact is that when Rabin came [from Palestine] he stated in the name of R. Jacob b. Idi that R. Simeon the Pious said: Rabban Gamaliel allowed only the people in the fields to be cleared [by the reader]. What is the reason? Because they are prevented by their work from coming [to synagogue]. Those in the town, however, are not cleared.[12]

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(1) [מימי Aliter: From Jammi, a place in Naftali.]

(2) And thus both statements of R. Johanan might be correct.

(3) Which shows that even on this point the Sages continued to differ with him.

(4) Who agrees with him in regard to the blessings of New Year and the Day of Atonement, and not the Sages, as at first stated in the name of R. Johanan.

(5) Apart from R. Meir.

(6) I.e., the passage which runs in our prayer-book, ‘May we offer before thee the additional offerings of this day according to the commandment of thy will as thou hast prescribed for us in thy law’.

(7) Viz., nine instead of seven. [In point of fact the blessings on the Day of Atonement are only seven. [In point of fact the blessings on the Day of Atonement ‘blessings’ (v. Lewin, Otzar ha-Geonim, Rosh Hashanah p. 73; on this reading render: they (the benedictions) are lengthy. Ritba (a.l.) takes the Day of Atonement throughout this passage to refer to the Day of Atonement on the year of Jubilee, v. supra 33b].

(8) So as to be fluent and avoid all mistakes, v. supra p. 172, n. 2.

(9) For feasts, fasts, etc.

(10) Being occupied in the intervening period with study.

(11) Lit., ‘those who are here’.

(12) [Rashi: They themselves must say the prayer and not rely on the reader. Alfasi: They are not cleared by the reader unless they attend the synagogue and hear from him the prayers from beginning to end; v. Commentary of R. Nissim a.l.]

Talmud - Mas. Ta'anith 2a

CHAPTER I

MISHNAH. WHEN DO WE [BEGIN TO] MAKE MENTION OF THE POWER OF RAIN?[1] R. ELIEZER SAYS: ON THE FIRST DAY OF THE FEAST.[2] R. JOSHUA SAYS: ON THE LAST DAY OF THE FEAST. R. JOSHUA SAID TO HIM: SEEING THAT RAIN ON THE FEAST IS A SIGN OF [GOD'S] ANGER[3] WHY MAKE MENTION OF IT? THEREUPON R. ELIEZER SAID TO HIM: I ALSO DID NOT SAY TO PRAY[4] BUT TO MAKE MENTION [IN THE WORD] ‘HE CAUSETH THE WIND TO BLOW AND THE RAIN TO FALL’[5] -IN ITS DUE SEASON. HE [R. JOSHUA] REPLIED TO HIM: IF THAT IS SO ONE SHOULD AT ALL TIMES MAKE MENTION OF IT.

WE PRAY FOR RAIN ONLY CLOSE TO THE RAINY SEASON. R. JUDAH SAYS: THE LAST TO STEP BEFORE THE ARK[6] ON THE LAST DAY OF THE FEAST MAKES MENTION, THE FIRST DOES NOT; ON THE FIRST DAY OF PASSOVER THE FIRST MAKES MENTION, THE LAST DOES NOT.

GEMARA. What has the Tanna [in mind] when he teaches WHEN etc.?[7] -The Tanna refers to [a Mishnah] elsewhere which teaches: We make mention of the Power of Rain in the [benediction of] the Revival of the Dead,[8] and we pray for [rain] in the Benediction of the Years[9] and [we insert] the Habdulah[10] in [the benediction] ‘Thou favourest man with knowledge’.[11] [With that passage in mind] the Tanna now teaches: When do we [begin] to make mention of the Power of Rain? Would it not have been more appropriate to teach it there, why did he leave it until now? — [Say] rather, because the Tanna had just completed [learning the Tractate] Rosh Hashanah[12] where we have learnt: And on the Feast [the world] is judged through water. And, [as there] he taught: ‘And on the Feast [the world] is judged through water,’ therefore there he teaches: When do we [begin] to make mention of the Power of Rain. But let him teach: When do we [begin] to make mention of Rain: why, the Power of Rain?-R. Johanan said: Because Rain comes down by the Power [of God], as it is said, Who doeth great things und unsearchable, marvellous things without number.[13] And it is [further] written, Who giveth rain upon the earth, and sendeth waters upon the fields.[14] Where [in these verses is this idea] implied? — Rabbah b. Shila replied: It is derived from the analogous use of the word heker in verses treating of Creation. Here it is written, ‘Who doeth great things and unsearchable’. And there it is written, ‘Hast thou not known? hast thou not heard that the everlasting God, The Lord, the Creator of the ends of the earth, fainteth not, neither is weary? His discernment is past searching out.[15] And [of Creation] it is [also] written, Who by Thy strength settest fast the mountains, Who art girded about with might.[16] Whence do we know that mention of

Rain is to be made in the Prayer?[17] - It has been taught: To love the Lord your God and to serve Him with all your heart.[18] What is Service of Heart? You must needs say, Prayer. And the verse following reads, That I will give the rain of your land in its season, the former rain and the latter rain.[19]

R. Johanan said: Three keys the Holy One blessed be He has retained in His own hands and not entrusted to the hand of any messenger, namely, the Key of Rain, the Key of Childbirth, and the Key of the Revival of the Dead. The Key of Rain, for It is written, The Lord will open unto thee His good treasure, the heaven to give the rain of thy land in its season,[20] The Key of Childbirth, for it is written, And God remembered Rachel, and God hearkened

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(1) The term ‘power of Rain’ is applied to the phrase ‘He causeth the wind to blow and the rain to fall’ inserted in the second benediction of the prayer known as ‘the Eighteen Benedictions’ — The Tefillah (v. Glos.) On the expression POWER OF RAIN v. infra.

(2) The Feast, חג, the name by which the festival of Tabernacles is referred to in Mishnah and Talmud. Cf. I Kings VIII, 2, 65; Neh. VIII, 14, 15.

(3) Lit., curse , v. Suk. 28b.

(4) I.e., to insert in the ninth benediction the words, ‘Give dew and rain for a blessing upon the face of the earth’.

(5) V. n. 1.

(6) To step before the Ark (tebah), a technical term denoting the recitation of the tefillah or the Amidah by the reader. V. R.H., Sonc. ed. p. 160, n. 9.

(7) What is the Tanna's authority that the power of rain has to be mentioned at all?

(8) The second benediction.

(9) The ninth benediction.

(10) Additional prayer inserted in the fourth benediction in the evening service at the termination of Sabbath and festivals.

(11) Ber. 33a.

(12) The order of the tractates of the Mishnah mentioned here is the same as given by the Gaon Sherira of Pumbeditha (968 C.E.) in the letter addressed by him to the community of Kairwan. (V. Neubauer Med. Jew. Chronicles, p. 13). The same sequence is given by Maimonides in the Introduction to his Commentary on the Mishnah.

(13) Job V, 9-10. The Gemara cites IX, 10, but the commentators substitute for it V, 9 which makes the sequence of ideas clearer.

(14) V. supra n. 5.

(15) Isa. XL, 28.

(16) Ps. LXV, 7. Rabbah b. Shilah infers from the analogous use of the word חקר, in Job (where it speaks of rain) and Isaiah (where it refers to Creation) that just as God displayed ‘Power’ at Creation so too ‘Power is a concomitant of rain. Hence the expression, POWER OF RAIN.

(17) The Tefillah.

(18) Deut. XI, 13.

(19) Ibid. v. 14.

(20) Deut. XXVIII, 12.

Talmud - Mas. Ta'anith 2b

to her, and opened her womb.[1] The Key of the Revival of the Dead, for it is written, And ye shall know that I am the Lord, when I have opened your graves.[2] In Palestine they said: Also the Key of Sustenance, for it is said, Thou openest thy hand etc.[3] Why does not R. Johanan include also this [key]? — Because in his view sustenance is [included in] Rain.[4]

R. ELIEZER SAYS: ON THE FIRST DAY OF THE FEAST etc. The question was asked, Whence did R. Eliezer derive this? Did he learn it from Lulab[5] or from the Libation of Water?[6] If he learnt it from Lulab, then just as the obligation of the use of the Lulab comes into force on the [first] day of Tabernacles, so too should we begin to make mention of rain on that day. Or perhaps he learnt it from Libation. [If so, then] just as Water Libation may be [carried out] on the evening [preceding the first day] — (for a Master [interpreting the verse], And the meal-offering thereof and their drink-offerings,[7] said, Even by night)-so too should one begin to make mention of rain on that evening![8] — Come and hear: R. Abbahu said: R. Eliezer deduced it from Lulab only. Some there are who say: R. Abbahu had a tradition. Whilst others say: He based it on a Baraitha. Which is the Baraitha? — It has been taught: ‘When do we [begin to] make mention of Rain? R. Eliezer says: From the time of the taking up of the Lulab; R. Joshua says, From the time when the Lulab is discarded.[9] Said R. Eliezer: Seeing that these Four Species are intended only to make intercession for water,[10] therefore as these cannot [grow] without water so the world [too] cannot exist without water. R. Joshua said to him: Is not rain on the Feast a sure sign of [God's] anger? R. Eliezer replied: I too did not say to pray but to make mention. And just as one makes mention of the Revival of the Dead all the year round[11] although it will take place only in its proper time, so too should mention be made of the Power of Rain all the year round although it comes only in its due season. Therefore if one desires to make mention all the year round he may do so. Rabbi says: I hold the view that when one ceases to pray [for rain][12] one should also no longer make mention of it. R. Judah b. Bathyra says: On the second day of the Feast one [begins] to make mention. R. Akiba says: On the sixth day of the Feast. R. Judah says in the name of R. Joshua: The last to step before the Ark on the last day of the Feast makes mention, the first does not; on the first day of Passover the first makes mention, the last does not. Did not then R. Eliezer reply well to R. Joshua?- R. Joshua can answer you: It is quite in order to make mention of the Revival of the Dead [all the year round], since any day may be its time, but is rain seasonable at all times? Have we not learnt: Should Nisan terminate and then rain fall it is a sign of [God's] anger, for it is said, Is it not wheat harvest to-day etc.?[13]

‘R. Judah b. Bathyra says: on the second day of the Feast one [begins] to make mention’. What is R. Judah b. Bathyra's reason? — It has been taught: R. Judah b. Bathyra says, Of the second day of the Feast, Scripture Says, we-niskehem,[14] [‘and their drink-offerings’] and of the sixth day, u-nesakeah[15] [‘and its drink-offerings’] and of the seventh day, kemishpatam[16] [according to their rule]. Note [the letters] Mem, Yod, Mem which form the word mayim [‘water’].[17] Here you have the biblical allusion to the Libation of Water. And what makes him [R. Judah b. Bathyra] fix it on the second day? — Because [the first of the allusions to the Water Libation] is found in connection [with the order for] the second day. Hence why we should [begin] to make mention on the second day. R. Akiba says: On the sixth day of the Feast one [begins] to make mention, for of the sixth day Scripture says, And its drink-offerings.[18] Scripture thus speaks of two libations,[19] the Libation of Water and the Libation of Wine. Perhaps both Libations must be of wine? — He [R. Akiba] is of the same opinion as R. Judah b. Bathyra who said, There is an allusion to water.[20]

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(1) Gen. XXX, 22. R. Joshua stresses the connection between מפתח key (lit., opener’) and the verb פתח to open, in the verses cited.

(2) Ezek. XXXVII, 13.

(3) Ps. CXLV, 16.

(4) Since it comes through rain.

(5) The Palm-branch. Term applied to the Four Plants used in the service on Tabernacles. Cf. Lev. XXIII, 40.

(6) [The vessel for the Water Libation was filled the preceding evening, v. Suk. 51 b. Aliter: The drink-offerings of wine brought in conjunction with animal sacrifices could be offered on the evening following the animal sacrifice, v. p. 4, n.1.]

(7) Num. XXIX, 18.

(8) [On this first interpretation of Rashi this verse is irrelevant and is to be omitted, v. Rashi. On the second interpretation the argument will run as follows: Should R. Eliezer deduce his opinion from the Water Libation, the mention of rain would have to be mentioned in the evening, seeing that the evening is a time at which drink-offerings (of wine) may be offered. Once, however, it is granted that the mention of rain starts on the evening, it will have to be the preceding, so as to be on the same day as the Water Libation (the night always being counted with the following day). V. Tosaf, s.v. איבעיא. On this interpretation the text should read as ‘Libation (not ‘Water Libation’) may be on the evening’, v. Me'iri a.I. where also other interpretations of this difficult passage are given.]

(9) On the seventh day of the Feast.

(10) V. Suk. 37b.

(11) In the second benediction.

(12) On the first day of Passover.

(13) I Sam. XII, 17.

(14) Num. XXIX, 18.

(15) Ibid. 31.

(16) Ibid. 33.

(17) The מ of נסכיהם, the י of נסכיה, and the מ of כמשפטם taken, together spell the word, מים water.

(18) The plural form implies (at least) two drink-offerings. [It is taken to refer to the festival, in contradistinction to the phrase, ‘their drink-offering’ mentioned in the sixth day where ‘their’ has reference to the sacrifices.]

(19) On the Festival of Tabernacles.

(20) I.e., he accepts the allusion supplied by the letters Mem, Yod, Mem.

Talmud - Mas. Ta'anith 3a

If he accepts the view of R. Judah b. Bathyra let him also agree with him [that one begins to make mention on the second day of the Feast]? — R. Akiba holds the view that the additional Libation occurs in the text[1] on the sixth day.

It has been taught: R. Nathan says, In the holy place shalt thou pour out a drink-offering of strong drink unto the Lord.[2] Scripture [here] speaks of two Libations, the Libation of Water and the Libation of Wine.[3] Perhaps both are of wine?- If it were so, he should have said, either hassek hassek or nasok nesek. What is the force [of the words] hassek nesek? — From this is to be inferred, that one points to the Libation of Water, and the other to the Libation of Wine.[4]

Who is the authority for that which we have learnt, The Libation of Water [is performed] throughout the seven days [of the Feast]? Is it R. Joshua? He would have stated on one day only![5] Is it R. Akiba? According to him it is performed on two days![6] Is it R. Judah b. Bathyra? According to him it is performed on six days?[7] — I can still say, It is R. Judah b. Bathyra and he will hold the same opinion as R. Judah of the following Mishnah. For we have learnt: R. Judah says, A vessel of a log[8] capacity was used for Libation throughout the eight days [of the Feast]; but he [R. Judah b. Bathyra] excludes the first day and includes the eighth day.[9] Why does he exclude the first day? Is it because the [first of the] biblical allusions to water [is to be found] on the second day? Then the eighth day too should be excluded seeing that the last [of the] allusions to water is on the seventh day! — It must then be R. Joshua, and as for the Libation of Water being performed throughout the seven days [of the Feast] this is founded on a tradition;[10] for R. Ami said in the name of R. Johanan, in the name of R. Nehunia a native[11] of the Plain of Beth-Hawartan,[12] the laws concerning the Ten Young Trees,[13] the Willow of the Brook,[14] and the Libation of Water are laws [communicated] to Moses from Sinai.[15]

‘R. Judah in the name of R. Joshua says: The last to step before the Ark on the last day of the Feast makes mention [of rain], the first does not; on the first day of Passover the first makes mention, the last does not. Which R. Joshua? Is it R. Joshua of our Mishnah? Surely he said, ON THE LAST DAY OF THE FEAST ONE MAKES MENTION? Or, is it R. Joshua of the Baraitha? Surely he said: From the day that the Lulab is discarded? And further, when it is taught: R. Judah says in the name of Ben Bathyra: The last to step before the Ark on the last day of the Feast makes mention. Which Ben Bathyra [is meant]? Is it R. Judah b. Bathyra? Surely he said: On the second day of the Feast one makes mention? — R. Nathan bar Isaac replied: [In both passages cited] it is R. Joshua b. Bathyra. Sometimes he is called by his own name and some times he is referred to by his father's name; by the one before his ordination, and by the other after his ordination.

It has been taught: The Sages did not make it obligatory on one to make mention of dew and winds, but if one desires to make mention he may do so. What is the reason? — R. Hanina said: Because they are never withheld. And how do we know that dew is never withheld? — For it is written, And Elijah the Tishbite, who was of the settlers of Gilead, said to Ahab: As the Lord the God of Israel liveth, before whom I stand, there shall not be dew nor rain these years but according to my word.[16] And it is written further, Go, show thyself unto Ahab, and I will send rain upon the land.[17] Of dew, however, Scripture does not speak. Why?

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(1) Lit., ‘written’.

(2) Num. XXVIII, 7.

(3) On the Festival of Tabernacles.

(4) The two different word formations of the root, נסך seem to point to two kinds of libation.

(5) On the seventh day, since R. Joshua says: We begin to make mention from the time when the Lulab is discarded. [The question is not quite clear. Rashi did not seem to have this passage which is also omitted by MS.M.]

(6) On the sixth and seventh day. Cf. 2b.

(7) From the second until the seventh inclusive.

(8) A liquid measure equal to the contents of six eggs.

(9) [I.e., whilst R. Judah b. Bathyra agreed with R. Judah that the Water Libation continued to the eighth day, he differs in so far that he holds that the rite began only with the second day, so that it lasted only seven days.]

(10) [Var. lec. omit R. Joshua and read, 'It must then be that as for the libation of water being performed etc.' On this reading all authorities agree that the rite is performed for seven days, the difference between them being only as to where the allusion is to be found, v. D.S. a.l.]

(11) Lit., 'a man of'.

(12) Perhaps Beth Hawran, east of the Jordan. V. Neubauer, Geog. du Talmud, p. 50.

(13) All work in a tree-planted field had to be discontinued thirty days before the end of the sixth year of the Sabbatical cycle; but where ten saplings are spread over an area of fifty square cubits they may be cultivated right until the end of the sixth year. V. Sheb. 1, 6.

(14) The use of the Willow in the daily processions around the altar during the festival of Tabernacles. V. Suk. IV, 5-6.

(15) A phrase often denoting a law which has no scriptural basis and the origin of which is no longer known. V. Moore, Judaism I, 256.

(16) I Kings XVII, 1.

(17) I Kings XVIII, 1.

Talmud - Mas. Ta'anith 3b

Because it is never withheld. But if it is never withheld, why did Elijah take an oath on it? — This is what he conveyed to him [Ahab]. THe dew of blessing also would not fall. Then the dew of blessing should also have been restored? — Because the difference would not have been discernable. How do we know that winds are not withheld? R. Joshua b. Levi said: Scripture says, For I have spread you abroad as the four winds of heaven, saith the Lord.[1] What does the prophet desire to convey? Shall we say that the Holy One, blessed be He, spoke thus to Israel, 'I have scattered you to the four corners of the world'. If so, Scripture should have said not 'as the four' but 'to the four'. But this is what he meant: 'As the world cannot endure without winds, so too the world cannot exist without Israel'. R. Hanina said: Therefore, if in the summer one inserted [in the Tefillah the words], 'He causeth the wind to blow', he is not compelled to repeat [the Tefillah]; if, however, he said, 'He causeth the rain to fall', he is compelled to repeat [it]. Similarly, if in winter one did not insert, 'He causeth the wind to blow', he is not compelled to repeat; if, however, he did not say, 'He causeth the rain to fall', he is compelled to repeat. And furthermore, even if he said, 'He causeth the wind to pass and the dew to disappear',[2] he is not compelled to repeat.

A Tanna taught: The Sages did not make it obligatory to make mention of clouds and winds, but if one desires to make mention he may do so. What is the reason? Is it because they are never withheld? But are they never withheld? Did not R. Joseph learn, 'And He will shut up the heaven,[3] means, in respect of clouds and winds. You say that this verse is in respect of clouds and winds, perhaps it is not so but means in respect of rain? When Scripture adds, So that there shall be no rain, rain is thus already referred to. What then is the force of [the words], And He will shut up the heaven? [It must mean] in respect of clouds and winds'. There will then be a contradiction between 'winds and winds' and between 'clouds and clouds'? — There is really no contradiction between clouds and clouds'. In the one case [the reference is] to early clouds[4] and in the other to late clouds.[5] Between winds and winds' too there is no contradiction; in the one case they are normal winds and in the other extraordinary winds.[6] But are not extraordinary winds suitable for[7] [winnowing] in the barn? — This can be done with sieves [independently of the wind].

A Tanna taught: The clouds and the winds are secondary to rain.[8] Which are they? 'Ulla said, or as some say, R.[9] Judah said: Those that come after the rain. Can we then say that these are beneficial? Is it not written, The Lord will make the rain of thy land powder and dust,[10] and on this ‘Ulla, or as some say, R. Judah commented, [This refers to] the wind following the rain?[11] — There is no contradiction; in the one case [it speaks] of when the rain comes down gently and in the other when it comes down with vehemence.[12] In the latter it throws up dust, and in the former it does not.

Rab Judah further said: Wind after rain is as beneficial as rain, clouds after rain as beneficial as rain, sunshine after rain as beneficial as twofold rain. What does this exclude? — The glow after sunset and sunshine between clouds.

Raba said: Snow is beneficial to the mountains as fivefold rain to the earth, as it is said, For he saith to the snow, ‘Fall thou on the earth’; likewise to the shower of rain and to the showers of His mighty rain.[13]

Raba further said: Snow is beneficial to the mountain, heavy rain to the trees, gentle rain to the fruits of the field,

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(1) Zech. II, 10.

(2) Lit., ‘to fly away’.

(3) Deut, XI, 17.

(4) Before the rain. These are never withheld.

(5) After the rain. [Such clouds depend on the rain and are withheld, nevertheless, as clouds as a whole are never withheld, no mention need be made of them.]

(6) [Such are withheld. Since, however, they are not particularly beneficial no mention need be made of then,.

(7) [R. Gershom reads, ‘are necessary’].

(8) I.e., they are almost as beneficial as rain.

(9) [Read with MS.M., Rab Judah.]

(10) Deut. XXVIII, 24.

(11) The wind raises dust which in turn sticks to the damp produce.

(12) [Cur. edd. insert here in brackets, ‘If you wish I can tell you’, but this is best left out.]

(13) Job XXXVII, 6.

Talmud - Mas. Ta'anith 4a

drizzling rain [‘urpila] even to the seeds under a hard clod. What is ‘urpila? ‘Uru pili [‘Wake up ye cracks’].

Raba further said: A young scholar may be likened to the seeds under a hard clod; once he has sprouted he soon shoots forth.

Raba further said: If a young scholar gets into a rage it is because the Torah inflames him, as it is said, Is not my word like a fire? said the Lord.[1]

R. Ashi said:[2] A scholar who is not as hard as iron is no scholar, as it is said, And like a hammer that breaketh the rock in pieces.[3] R. Abba said to R. Ashi: You have learnt this from that verse but we have learnt it from the following verse: A land whose stones are iron.[4] Do not read, abaneha [stones] but boneha [builders].[5] Rabina said: Despite this, a man should train himself to be gentle, for it is said, Therefore remove vexation from thy heart, etc.[6]

R. Samuel b. Nahmani said in the name of R. Jonathan: Three [men] made haphazard requests,[7] two of them were fortunate in the reply they received and one was not, namely, Eliezer, the servant of Abraham; Saul, the son of Kish; and Jephtha the Gileadite. Eliezer, the servant of Abraham, as it is written, So let it come to pass, that the damsel to whom I shall say, ‘Let down thy pitcher etc.’[8] She might have been lame or blind, but he was fortunate in the answer given to him in that Rebecca chanced to meet him. Saul, the son of Kish, as it is written, And it shall be, that the man who killeth him, the king will enrich him with great riches, and will give him his daughter.[9] [He] might have been a slave or a bastard. He too was fortunate in that it chanced to be David. Jephtha, the Gileadite, as it is written, Then it shall be, that whatsoever cometh forth out of the doors of my house etc.[10] It might have been an unclean thing. He, however, was fortunate in that it so happened that his own daughter came to meet him. This is what the prophet had in mind when he said to Israel, Is there no balm in Gilead? Is there no physician there?’’ And it is further written, Which I commanded not, nor spake it, neither came it to my mind.[11] ‘Which I commanded not’: This refers to the sacrifice of the son of Mesha, the king of Moab, as it is said, Then he took his eldest son that should have reigned in his stead and offered him for a burnt-offering.[12] ‘Nor spake it’; This refers to the daughter of Jephtha.[13] ‘Neither came it to my mind’: This refers to the sacrifice of Isaac, the son of Abraham.

R. Berekiah said: The Congregation of Israel also made a thoughtless request, yet God granted that request,[14] as it is said, And let us know, eagerly strive to know the Lord. His going forth is sure as the morning: and He shall come to us as the rain.[15] The Holy One, blessed be He, said to her [Israel]: My daughter, thou askest for something[16] which at times is desirable and at other times is not desirable, but I will be unto thee something which is desirable at all times, as it is said, I will be as dew unto Israel.[17] She further made another thoughtless request. She said before Him,: O God, Set me as a seal upon thy heart,- as a seal upon thine arm.[18] Thereupon the Holy One, blessed be He, replied to her: My daughter, thou askest for something which at times can be seen and at other times cannot be seen. I, however, will make of thee something which can be seen at all times, as it is said, Behold I have graven thee upon the palms of My hands.[19]

WE PRAY FOR RAIN ONLY etc. [The scholars] were of the opinion that ‘praying’ and ‘making mention’ are one and the same thing. Who is the authority for this?-Raba replied: It is R. Joshua, who said, [We begin to make mention of rain] from the time when the Lulab is discarded —[20] Abaye said to him: You can even say, that it is R. Eliezer; ‘praying’, however, is one thing and ‘making mention’ is another. Others have the reading:

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(1) Jer. XXIII, 29.

(2) [So MSS. cur. edd., And R. Ashi said.]

(3) Ibid.

(4) Deut. VIII, 9.

(5) Cf. Ber. 64a for a similar example of אל תקרי. The scholar as the builder of minds must be adamantine and determined if he is to succeed in his lofty mission.

(6) Eccl. XI, 10.

(7) Lit., ‘asked not in a proper manner’, two they answered in a proper manner, and one they answered in a non-proper manner.

(8) Gen. XXIV, 14.

(9) I Sam. XVII, 25.

(10) Jud. XI, 31. (11) Jer. VIII, 22. [Was there no remedy for Jephtha? Surely he could have had his

(11) lbid. XIX, 5.

(12) II Kings III, 27.

(13) [So MS.M., cur. ed., ‘this refers to Jephtha’.]

(14) Cf. supra p. 10, n. 7.

(15) Hos. VI, 3.

(16) I.e., rain.

(17) Hos. Xlv, 6.

(18) Cant. VIII, 6.

(19) Isa. XLIX, 16. A seal on the heart and arm is not always visible. Hence the reply of God.

(20) Supra 2b. After the seventh day which is close to the rainy season.

Talmud - Mas. Ta'anith 4b

Shall we say it is R. Joshua, who said, From the time when the Lulab is dis-

vow annulled by appealing to Phinehas who was in Gilead for a remission of the vow; cf. Gen. Rab. LX, .] carded? — Raba replied: You can even say that it is R. Eliezer; ‘praying’, however, is one thing and ‘making mention’ is another,

R. JUDAH SAYS: THE LAST TO STEP BEFORE THE ARK etc. The following was cited in contradiction to this: Until when do we [continue] to pray for rain? R. Judah says: Until Passover is over; R. Meir says, Until the end of Nisan! — R. Hisda replied: The two statements [of R. Judah] are not contradictory; the one refers to ‘praying’ and the other to ‘making mention’; ‘praying’[1] one continues [until] the end of Passover] but ‘making mention’ is discontinued on the first day [of Passover]. ‘Ulla said: This [solution of the contradiction] by R. Hisda is as difficult as vinegar to the teeth, and as smoke for the eyes. If one makes mention of rain at such times when it is not permissible to pray for[2] [it], how much more so should one make mention of rain when it is permissible to pray for it? — It must be, says ‘Ulla, that [there is a dispute] between two Tannaim as to the opinion of R. Judah. R. Joseph said: What is the meaning of, ‘Until Passover is over’? Until the first reader on the first day of Passover is over [with his prayers].[3] Said Abaye to him: Is there then a place in the Festival [Tefillah] for inserting the prayer for rain? He replied to him: Yes, the Meturgeman[4] ‘prays’ — Does then the Meturgeman ever pray for something of which the community has no need? Therefore, the better solution is that of ‘Ulla.

Rabbah said: What is the meaning of, ‘Until Passover is over’? Until the time limit for the slaughtering of the Paschal offering has passed;[5] and as at its beginning[6] so at its end; just as at its beginning one makes mention [of rain] although one has not yet [begun] to pray,[7] so too at its end he makes mention although he no longer has to pray.[8] Abaye replied: I can understand that one should make mention at the beginning, seeing that making mention is a form of propitiation [prefatory to prayer] but as for the end, what place is there for such propitiation? Therefore, the better solution is that of ‘Ulla.

R. Assi said in the name of R. Johanan, The halachah is according to R. Judah. Thereupon R. Zera asked R. Assi: Could then R. Johanan [really] have said so? Have we not learnt: We [begin] to pray for rain on the third of Marcheshvan; Rabban Gamaliel said: On the seventh of the same month — And with reference to this R. Eleazar declared: The halachah is according to Rabban Gamaliel. He [R. Assi] replied to him: You set one authority against another![9] Moreover, if you like I will say there is no contradiction; the one [case] speaks of ‘praying’ and the other of ‘making mention’.[10] But did not R. Johanan say: Whenever one prays one should also make mention? That [rule] applies only to the discontinuation [of ‘praying’].[11] But did not R. Johanan say: When one begins to make mention one should also [begin] to pray; when one discontinues to pray one should also cease to make mention? — There is really no contradiction; one statement refers to us [Babylonians] and the other to them [Palestinians],[12] Why should we be different? — Is it because we have produce in the field?[13] They also have Pilgrims?[14] -R. Johanan speaks [of con — ditions] after Temple times.[15] Now that you have arrived at this conclusion [I can say], Both teachings apply equally to them [Palestinians] and there is no contradiction; the one speaks [of conditions] in Temple times and the other [of conditions] after Temple times. But as for us who observe two days [of the festival],[16] what shall our practice be? — Rab says: He begins [to make men-tion] in the Additional Service of the Eighth Day of the Feast, he discontinues in the Afternoon Service and in the Evening Service and in the Morning Service but resumes in the Additional Service of the second day. Samuel said to them [to the scholars]: Go and say to Abba:[17] After you have declared the day holy[18] can you declare it again a weekday?[19] — Therefore Samuel said: He begins [to make mention] in the Additional Service and in the Afternoon Service and discontinues in the Evening Service and in the Morning Service [of the following day], and resumes it in the Additional Service

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(1) V. supra p. 1, n. 4.

(2) I.e., in the musaf of the last day of the Feast of Tabernacles, the ‘prayer’ for rain being inserted only in the weekday Tefillah

(3) I.e., the Shaharith Tefillah. (v. Glos.). [MS.M. ‘until the time of the first... is over’].

(4) The translator or interpreter. The function of this official in Talmudic times was to interpret to the audience in the Synagogue in a popular manner and to enlarge upon the theme of the rabbi lecturing. Rashi, feeling that in our passage no such official could be referred to, explains that here the lecturing rabbi and interpreter are one and the same person, he who lectures on the first day of Passover, and that he included in his address a prayer for rain. V. however, the commentary of R. Hananel ad loc.

(5) I.e., noon of the fourteenth of Nisan.

(6) I.e., of the rainy season.

(7) V. supra p. 1, n. 4.

(8) Having ceased to pray on the preceding day in the afternoon service, v. Rashi.

(9) R. Eleazar against R. Johanan.

(10) Which begins on the seventh whereas in regard to mentioning R. Johanan will rule in accordance with R. Judah.

(11) At the end of the rainy season we stop at the same time both the making of mention and the praying for rain; but at the beginning of the rainy season we commence with the making mention of rain and at a later date we also add the formal prayer for rain.

(12) [In Babylonia the harvest was gathered later than in Palestine and consequently the prayer for rain would also begin later].

(13) And therefore rain was not opportune as long as the harvest had not been gathered in.

(14) And therefore mention of rain should be put off as late as possible to enable the Pilgrims to reach home in comfort before the rains set in. MISHNAH. UNTIL WHEN DO WE PRAY FOR RAIN? R. JUDAH SAYS: UNTIL THE PASSOVER IS OVER. R. MEIR SAYS: UNTIL

(15) When pilgrimages to Jerusalem, no longer took place.

(16) [Because of doubt, In this case whether it is the eighth or seventh day of the Festival of Tabernacles.]

(17) I.e., Rab. His proper name was Abba Arika.

(18) By making mention of rain indicating thereby that it is the eighth day of the Festival.

(19) [By discontinuing it at the afternoon service and then implying that it is still the seventh day which belongs to the half holiday.]

Talmud - Mas. Ta'anith 5a

. Raba said: Once he has begun [to make mention] he should not discontinue. And so said R. Shesheth: Once he has begun he should not discontinue. Rab also retracted his statement. For R. Hananel said in the name of Rab: One counts twenty-one days from New Year[1] and begins to make mention in the same way as one counts Ten Days [of Penitence] from the New Year until the Day of Atonement; and once he has begun he should not discontinue. And the law is, once he has begun he should not discontinue.

THE END OF NISAN, AS IT IS SAID: AND HE CAUSETH TO COME DOWN FOR YOU THE RAIN, THE FORMER RAIN AND THE LATTER RAIN, AT THE FIRST.[2]

GEMARA. R. Nahman said to R. Isaac: Does then the former rain [fall] in Nisan? The former rain surely [falls] in Marcheshvan. It has been taught: Former rain, [falls] in Marcheshvan and latter rain in Nisan. He replied: Thus said R. Johanan, This verse[3] was fulfilled in the days [of the prophet] Joel, the son of Pethuel, That which the palmer-worm hath left hath the locust eaten etc.[4] In that year, although Adar had passed yet no rain had fallen, and it was not until the first of Nisan that the first rain, came down. Thereupon the prophet said to Israel, ‘Go and sow’ — They replied, If a man has a kab[5] of wheat or two kabim of barley, should he eat them and keep himself alive, or sow them and die? He answered: ‘Despite this, go and sow’ — A miracle happened for them and they discovered whatever [grain] which was hidden [in the chinks of] the walls and in the ant-holes; they proceeded to sow on the second, on the third, and on the fourth and the second rain came down on the fifth of Nisan; on the sixteenth of Nisan they offered the ‘Omer;[6] and thus it so came about that the grain which should take six months to ripen ripened in eleven days.[7] To that generation was applied the scriptural verses, They that sow in tears shall reap in joy. Though he goeth on his way weeping that beareth the measure of seed etc.[8] What is the meaning of, ‘Though he goeth on his way weeping that beareth the measure etc.’? — Rab Judah said: When the ox is ploughing, on his forward journey he weeps, but on his return journey he eats the young green from the furrows — And this is the force of the words, ‘He shall come home with joy’ — What is the meaning of, ‘Bearing his sheaves’? — R. Hisda said: Others say it was taught in a Baraitha: The stalk was then one span and the ear two spans.

R. Nahman said to R. Isaac: What is the meaning of the scriptural verse, For the Lord hath called for a famine, and it shall also come upon the land seven years?[9] What had they to eat during these seven years? — He replied: Thus said R. Johanan, In the first year they ate what was stored up in the houses, in the second what was in the fields, in the third the flesh of clean animals, in the fourth the flesh of unclean animals, in the fifth the flesh of forbidden animals and reptiles, in the sixth the flesh of their sons and daughters and in the seventh the flesh of their own arms and thus the verse of Scripture was fulfilled, They eat every man the flesh of his own arms.[10]

Further, R. Nahman said to R. Isaac: What is the meaning of the scriptural verse, The Holy One in the midst of thee and I will not come in to the city?[11] [Surely it cannot be that] because the Holy One is in the midst of thee I shall not come into the city! He replied: Thus said R. Johanan: The Holy One, blessed be He, said, ‘I will not enter the heavenly Jerusalem until I can enter the earthly Jerusalem’. Is there then a heavenly Jerusalem?-Yes; for it is written, Jerusalem thou art builded as a city that is compact together.[12]

R. Nahman further said to R. Isaac: What is the meaning of the verse, But they are altogether brutish and foolish; the vanities by which they are instructed are but a stock?[13] — He replied: Thus said R. Johanan, There is one thing that brings about the perdition of the wicked in Gehenna[14] and that is, idolatrous worship. Here it is written, ‘The vanities by which they are instructed’ and elsewhere [of the idols] it is written, They are a vanity, a work of delusion.[15]

R. Nahman further said to R. Isaac: What is the meaning of the verse, For my people have committed two evils?[16] Were they only two? Has he then ignored the fact that they were twenty-four?[17] — He [R. Isaac] replied: There is one [evil]

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(1) [I.e., from the first day of New Year to the eighth day of the Festival of Tabernacles. This is despite the general rule that where a Jewish month has two New Moon days, the days of the month are counted from the second day].

(2) Joel II, 23. E.V. ‘at first’.

(3) I.e., Joel I, 4.

(4) Joel I, 4.

(5) A measure of capacity equal to one-sixth of a se'ah.

(6) V. Glos.

(7) From the fifth of Nisan to the sixteenth.

(8) Ps. CXXVI, 5-6.

(9) II Kings VIII, 1.

(10) Isa, IX, 19.

(11) Hosea XI, 9- The A.V.renders, I will not come in fury. Cf. Tosaf, s.v. לא.

(12) Ps. CXXII, 3. Stressing the word שחוברה R. Johanan adduces from the verse that Jerusalem has a חברה a companion (or prototype) in heaven. Both are said to be situated exactly opposite each other. [The verse in Hosea is thus taken to mean: There is a holy (city) in thy midst (referring to the earthly Jerusalem) and I (i.e., God) will not enter the city (the heavenly Jerusalem)].
(13) Jer. X, 8.
(14) A play upon the word ובערו the root of which (בער) in the Pi'el means, to destroy, to remove. The wicked, by following the instructions of idols that are but wood, find themselves fooled and are carried off into Gehenna.
(15) Jer. X, 15.
(16) Ibid. II, 13.
(17) [Aliter: ‘Has he forgiven them the twenty-four?’] The twenty-four sins enumerated in Ezek. XXII; according to some commentators the sins in transgressing the commandments contained in the twenty-four canonical books of Scripture. [Some take twenty-four as a round number. For other renderings v. Aruchs.v.עשר].

Talmud - Mas. Ta'anith 5b

which is equal to two, and that is, idolatrous worship, for it is written, For my people have committed two evils: they have forsaken me, the fountain of living waters and hewed them out cisterns, broken cisterns.[1] And further it is written, For pass over to the isles of the Kittites, and see, and send unto Kedar, and consider diligently etc. Hath nation changed its gods, which are yet no gods? But my people hath changed its glory for that which doth not profit.[2]

A Tanna taught: The Kittites worship fire and the Kedarites water, and although they know that water extinguishes fire they have yet not changed their gods but my people hath changed their God for that which doth not profit.

R. Nahman further said to R. Isaac: What is the meaning of the verse, And it came to pass when Samuel was old.[3] Did Samuel ever reach old age? He lived only for fifty-two years. For a Master said: If a man dies in his fifty-second year he is said to have died at the age reached by Samuel, the Ramathite?[4] — He replied: Thus said R. Johanan: Old age came prematurely upon him, for it is written, It repenteth Me that I have set up Saul to be king.[5] Samuel complained before Him: Sovereign of the Universe! You have made me equal to Moses and Aaron, for it is written, Moses and Aaron are amongst His priests, and Samuel among them that call upon His name.[6] As in the case of Moses and Aaron the work of their hands did not come to nought in their lifetime, so too let not the work of my hands come to nought in my lifetime. The Holy One, blessed be He, replied: How shall I act? Shall Saul die? Of this Samuel will not approve. Shall Samuel die young? People will speak ill of him.[7] Shall neither Saul nor Samuel die? The time has come for David to reign and one reign may not encroach on another even by a hair's breadth. Thereupon the Holy One, blessed be He, said: I will make him prematurely old and this is what is written, Now Saul was sitting in Gibeah, under the Tamarisk tree in Ramah.[8] How comes Gibeah to Ramah?[9] This is to teach you that it was the prayer of Samuel the Ramathite that was the cause of Saul's two and a half years’[10] sojourn as king in Gibeah? Should then one man be put aside because of another? — Yes, for R. Samuel b. Nahmani said in the name of R. Jonathan: What is the meaning of the verse, Therefore have I hewed them by the prophets, I have slain them by the words of my mouth?[11] Scripture does not say, by their works,’ but, ‘by the words of my mouth’, this proves that one may be put aside because of another.

R. Nahman and R. Isaac were sitting at a meal and R. Nahman said to R. Isaac: Let the Master expound something. He replied: Thus said R. Johanan: One should not converse at meals lest the windpipe acts before the gullet and his life will thereby be endangered. After they ended the meal he added: Thus said R. Johanan: Jacob our patriarch is not dead. He [R. Nahman] objected: Was it then for nought that he was bewailed and embalmed and buried?-The other replied: I derive this from a scriptural verse, as It is said, Therefore fear thou not, O Jacob, My servant, saith the Lord; neither be dismayed, O Israel,- for, lo, I will save thee from afar and thy seed from the land of their captivity.[12]

The verse likens him [Jacob] to his seed [Israel]; as his seed will then be alive so he too will be alive.

R. Isaac said: Whosoever repeats [the name] Rahab, Rahab, becomes immediately subject to an onset of issue.[13] Thereupon R. Nahman said to him: I have repeated it and was not in any way affected. R. Isaac replied: I speak only of one who knew her intimately (and recalls her likeness).[14] When they were about to part, [R. Nahman] said: Pray Master, bless me. He replied: Let me tell you a parable — To what may this be compared? To a man who was journeying in the desert; he was hungry, weary and thirsty and he lighted upon a tree the fruits of which were sweet, its shade pleasant, and a stream of water flowing beneath it; he ate of its fruits, drank of the water, and rested under its shade. When he was about to continue his journey, he said: Tree, O Tree, with what shall I bless thee? Shall I say to thee, 'May thy fruits be sweet'? They are sweet already; that thy shade be pleasant? It is already pleasant; that a stream of water may flow beneath thee? Lo, a stream of water flows already beneath thee; therefore [I say], 'May it be [God's] will that all the shoots taken from thee

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(1) Jer. II, 13.

(2) Ibid. v. 10-11.

(3) I Sam. VIII, 1.

(4) M.K. 28a.

(5) I Sam. XV, 11.

(6) Ps. XCIX, 6.

(7) Saying that he died young on account of his sins.

(8) I Sam. XXII, 6.

(9) Gibeah being in Benjamin while Ramah is in Ephraim.

(10) V. Seder 'Olam XIII.

(11) Hos. VI, 5.

(12) Jer. XXX, 10.

(13) Cf. Josh. II. According to Meg. 15a, she was a very beautiful woman. The thought of her physical beauty may lead one to harbour impure thoughts.

(14) Lit., 'her name'. [The words in brackets are bracketed also in the original, and left out in many edd.]

Talmud - Mas. Ta'anith 6a

be like unto thee'. So also with you. With what shall I bless you? With [the knowledge of the Torah?] You already possess [knowledge of the Torah]. With riches? You have riches already. With children? You have children already. Hence [I say], 'May it be [God's] will that your offspring be like unto you'.

Our Rabbis have taught: ['Former rain is termed] 'yoreh',[1] because it warns[2] people to plaster their roofs and to gather in their fruits and to attend to all their needs.[3] Another explanation: It saturates[4] the ground and waters it right down to its depths, as it is said, Watering her ridges abundantly, settling down the furrows thereof, thou makest her soft with showers; thou blessest the growth thereof.[5] Another explanation: [It is termed] 'yoreh' because it comes down[6] gently and not heavily. Or perhaps [it is termed] 'yoreh' because it causes the fruit to fall[7] and it washes away the seed, and the trees? The text [therefore] adds 'malkosh' ['latter rain'];[8] just as latter rain is a blessing, so too is former rain. Or perhaps [it is termed] 'malkosh,'[9] because It razes the houses to the ground and it shatters the trees and brings up the crickets? The text [therefore] adds 'yoreh'; just as former rain is a blessing so too is latter rain. How do we know that 'yoreh' itself is a blessing? — For it is written, Be glad then ye children of Zion, and rejoice in the Lord your God; for He giveth you the former rain [moreh] in just measure and He causeth to come down for you the rain, the former rain and the latter rain, at the first.[10]

Our Rabbis have taught: Former rain [falls] in Marcheshvan and latter rain in Nisan. You say, Former rain in Marcheshvan and latter rain in Nisan; perhaps it is otherwise, former rain in Tishri and latter rain in Iyar? The text [therefore] adds, in its due season.[11] R. Nehilai b. Idi said in the name of Samuel: [‘Latter rain’ is termed] ‘malkosh’ because it is a thing that removes the stiff-neckedness of Israel.[12] The school of R. Ishmael taught: It is something that fills the stalks with grain.[13] In a Baraitha it has been taught: [It is] something which falls both upon the ears and upon the stalks.[14]

Our Rabbis have taught: Former rain [falls] in Marcheshvan and latter rain in Nisan. You say, Former rain in Marcheshvan; perhaps, on Kislev? The text [therefore] adds, ‘in its due season, former rain and latter rain, as latter rain is that which comes in due season (since should Nisan pass and no rain fall, it is not a sign of blessing)[15] so too former is that which comes in due season.

Another [Baraitha] teaches: Former rain [falls] in Marcheshvan and latter rain in Nisan; this is the opinion of R. Meir; but the Sages say: Former rain [falls] in Kislev. Who are the Sages?R. Hisda replied: It is R. Jose. For it has been taught: Which is the first rainfall?[16] The early [rain] falls on the third of Marcheshvan, the intermediate on the seventh, the late on the seventeenth; this is the opinion of R. Meir. R. Judah says: On the seventh, on the seventeenth, and on the twenty-third. R. Jose says: On the seventeenth, on the twenty-third and on the first of Kislev. And likewise R. Jose used to say: The individuals do not begin to fast until the first day of Kislev. R. Hisda said: The halachah is according to the opinion of R. Jose.

Amemar reported R. Hisda's statement in the following version: On the third day of Marcheshvan we pray for rain; Rabban Gamaliel says, On the seventh of the month. R. Hisda said: The halachah is according to Rabban Gamaliel. In accordance with whose view then is the following which has been taught: R. Simeon b. Gamaliel says: If rain falls on seven days in succession you may consider it as the combination of the first, the second [or the second] and the third rainfall?[17] — It is in accordance with the opinion of R. Jose.[18] R. Hisda said: The halachah is according to R. Jose. The reason for giving a date for the first rainfall is evident seeing that from that date we begin to pray for rain; likewise the date of the third rainfall is given because from that date we begin to fast; but what may be the reason for giving the date of the second rainfall?-R. Zera replied: It has to do with Vows. For we have learnt:

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(1) The reference is to Deut. XI, 14.

(2) Lit., ‘teaches’. connecting יורה with the root ירה, to teach.

(3) In preparation of the Winter.

(4) Connecting יורה with the root רוה, to saturate.

(5) Ps. LXV, 11.

(6) Connecting יורה with the root ירד to descend.

(7) Connecting יורה with the root ירה to throw.

(8) Deut. XI, 14.

(9) According to Rashi מלקוש is connected with לקש (cf. Amos VII, 1) which he takes to mean, grasshopper.

(10) Joel II, 23.

(11) Deut. XI, 14.

(12) דבר שמל קשיותיהן של ישראל

(13) שממלא תבואה בקשיה

(14) דבר שיורד על המלילות ועל הקשין

(15) [The words in brackets which appear bracketed also in the original seem irrelevant here. They are more appropriate in the preceding paragraph after the words, ‘In its due season’ where in point of fact they so occur in some edd.].

(16) [רביעה ראשונה. The yoreh (former rain) consists of three rainfalls, each being termed rebi'ah; when each is due is the point at issue in the discussion that follows. The word ‘first’ is accordingly difficult and is omitted by R. Hananel and MSS. of the Tosef. Ta'an. I from where the passage is quoted.]

(17) [The words in square brackets are supplied from MS.M.; v. also Tosef. loc. cit.]
(18) [According to R. Jose each rainfall is due within seven days of the other].

Talmud - Mas. Ta'anith 6b

If one interdicts himself by a vow [from the enjoyment of anything] until the rainy season or until rain has fallen, then his vow remains operative until the second rainfall.[1] R. Zebid said: It has to do with Olives — We have learnt: When is it permissible for any man to take of the gleanings[2] [of the field] and of the forgotten sheaves[3] and of the corners of the field?[4] After the nemushot have departed. When [is it permissible to take] of the grapes that have fallen off the branches and of the gleanings of the vine?[5] After the poor have left the vineyard and have come back again. When of the olives?[6] After the second rainfall.[7] Who are the nemushoth?- R. Johanan said: Old People who walk on a staff[8] . Resh Lakish said: Those who glean behind the gleaners.[9]

R. Papa said: [The date of the second rainfall is necessary] so that travellers should know whether they may walk on private paths[10] [across the fields]. For a Master said:[11] It is permissible for any one to walk on private paths until the second rainfall. R. Nahman b. Isaac said: [The date is necessary] for the disposal of the produce grown during the sabbatical year. For we have learnt: Until when is it permissible to derive benefit from the burning of straw and stubble grown in the sabbatical year? Until the second rainfall.[12] Why? Because it is written, And for thy cattle, and for the beasts that are in thy land;[13] so long as there is food for the beast in the field you may feed your cattle in the house, but when there is no more food in the field for the beast to eat, you must withhold food that is in your house from the cattle.

R. Abbahu said: What is the meaning of rebi'ah?[14] That which fructifies the ground — This is according to the teaching of Rab Judah who said: Rain is the husband of the soil, for it is written, For as the rain cometh down and the snow from heaven, and returneth not thither except it water the earth, and make it bring forth and bud.[15]

R. Abbahu further said: The first rainfall [to be beneficial] should be sufficient to penetrate the soil one handbreadth deep, the second should be sufficient to make of it a stopper for a cask.

R. Hisda said: When it has rained sufficient to make [of the soil] a stopper for a cask then [the curse contained in the words ‘and He will shut up’[16] does not apply.

R. Hisda further said: If rain came down before [the time for reciting in the Shema’], ‘and He will shut up’ then the curse contained in these words does not apply.[17] Abaye thereupon interjected: This only holds good when the rain fell before [the time for the recital of the words,] ‘and He will shut up’ in the evening [Shema’], but if rain fell before [the time for their recital in] the morning [Shema’] then the curse can still be said to apply.[18] For R. Judah b. Isaac said: The morning clouds have no significance, for it is written, O Ephraim, what shall I do unto thee? For your goodness is as the morning cloud, etc.[19] Said R. Papa to Abaye: But people say, if it rains when the gates are opened [in the morning], ‘lay down thy sack ass-driver and sleep’![20] — This is no contradiction. In the one case the heavens are overcast with thick clouds and the other with light clouds.[21]

Rab Judah said: Happy is the year wherein [the month of] Tebeth is widowed.[22] Some say it is so because the gardens do not lie waste[23] [or, because the schools are not empty]; others say, Because the grain will not become subject to blast. Is that so? Did not R. Hisda say: Happy is the year wherein [the month of] Tebeth is muddy![24] — This is no contradiction. The former is the case when rain had already fallen [in the previous months] and the latter when it had not yet fallen.

R. Hisda further said: If rain falls on some parts of the country and not on others then [the curse contained in the words], 'and He will shut up' cannot be said to apply. Is that so? Is it not written, And I also have withholden the rain from you, when there were three months to the harvest: and I caused it to rain upon one city and caused it not to rain upon another city; one piece was rained upon etc.?[25] And referring to this verse, Rab Judah said in the name of Rab: Both are a curse! — There is no contradiction. In the one case [Scripture speaks of] abnormal rain and in the other of normal rain . R. Ashi said: This can in fact be proved from the use of the word timoter in the verse, that is to say, it will be a place [flooded by] rain.[26] And thus [the interpretation] is proved.

R. Abbahu said: When do we [begin to] recite the benediction over rain?[27] When the bridegroom goes forth to meet the bride.[28] What benediction should one recite? — Rab Judah said in the name of Rab: 'We give thanks unto Thee, O Lord, our God for every single drop which thou hast caused to fall upon us'. And R. Johanan concluded the benediction thus: 'Though our mouths were full of song as the sea, and our tongues of exultation as the multitude of its waves, etc.!' until, 'Let not Thy mercies forsake us O Lord, our God, even as they have not forsaken us . Blessed art Thou to Whom abundant thanksgivings are due'. 'Abundant thanksgivings' and not 'all the thanksgivings'? — Raba replied: Read, 'The God to Whom thanksgivings are due'. R. Papa said: Therefore

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(1) V. Ned. 62b for slight variants.
(2) Lev. XIX, 9.
(3) Deut. XXIV, 19.
(4) Lev. XIX, 9.
(5) Lev. XIX, 10.
(6) Deut. XXIV, 20.
(7) Pe'ah VIII, 1.
(8) These walk slowly and usually leave nothing behind them.
(9) The poor who come for the second gleanings.
(10) שבילי הרשות Lit., (a) 'paths of permission', i.e., paths which the court has sanctioned for the use of the public (Rashi); (b) 'paths of (private) property', R. Gershon.]
(11) B.K. 81a. Till then no injury can be done to the seeds sown.
(12) Sheb. IX, 7.
(13) Lev. XXV, 7.
(14) V. supra p. 20 n. 7.
(15) Isa. LV, 10.
(16) Deut. XI, 17.
(17) Although there most of the rain required has not yet fallen.
(18) Since they did not fall during the day they are not beneficial.
(19) Hos. VI, 4.
(20) Rain will continue to fall and there will be plenty of supplies available and consequently the prices will fall.
(21) Such have no significance.
(22) I.e., without rain. Cf. supra the statement of Rab Judah, Rain is the husband of the soil.
(23) As there is no rain people are able to attend undisturbed to the cultivation of the soil. תרביצא, a garden. The word is also applied figuratively to mean, School or College Assembly. As the roads are in good condition the scholars are able to attend the lectures at the School Assembly.
(24) Heavy rains fall.
(25) Amos IV, 7.
(26) תמטר rendered as if the word were made up of the three words, תהא מקום מטר.
(27) Cf. Ber. 54a.
(28) When the accumulated rain-water rebounds to meet every additional drop of rain as it falls.

Talmud - Mas. Ta'anith 7a

we should say both 'the God to Whom thanksgivings are due' and 'to Whom abundant thanksgivings are due’.

R. Abbahu said: The day when rain fails is greater than [the day of] the Revival of the Dead,for the Revival of the Dead is for the righteous only whereas rain is both for the righteous and for the wicked. And he differs from the opinion of R. Joseph who said: As [rain] is equal to the Revival of the Dead the mention of it has therefore been inserted in the section of the Revival of the Dead.[1]

Rab Judah said: The day when rain falls is as great as the day when the Torah was given, as it is said, My doctrine shall drop as the rain:[2] and by ‘doctrine’ surely, Torah is meant as it is said, For I give you good doctrine, forsake ye not my Torah.[3] Raba said: It is even greater than the day when the Torah was given, as it is said, My doctrine shall drop as the rain.[4] Who is dependent upon whom? You must needs say, the lesser upon the greater.[5]

Raba pointed out a contradiction. It is written ‘My doctrine shall drop as the rain’, and immediately on this follows, My speech shall distil as dew.[6] [The implication here is]. if the scholar is a worthy person then he is like unto dew, but if he is not then drop him like rain.[7]

It has been taught in a Baraitha: R. Banna'ah used to say: Whosoever occupies himself with the Torah for its own sake his learning becomes an elixir of life to him, for it is said, It is a tree of life to them that grasp it;[8] and it is further said, It shall be as health to thy navel;[9] and it is also said, For whoso findeth me findeth life.[10] But, whosoever occupies himself with the Torah not for its own sake, it becomes to him a deadly poison, as it is said, My doctrine shall drop as the rain, and ‘arifa surely means, death, as it is said, And they shall break [we'arfu] the heifer's neck there in the valley.[11]

R. Jeremiah said to R. Zera: Pray, Master, come and teach. The latter replied: I do not feel well enough[12] and am not able to do so. [Then said R. Jeremiah] Pray, Master, expound something of an aggadic character, and he replied: Thus said R. Johanan: What is the meaning of the verse, For is the tree of the field man?[13] Is then man the tree of the field? [This can only be explained if we connect the verse with the words immediately before it] where it is written, For thou mayest eat of them, but thou shalt not cut them down; but then again it is written, ‘It thou shalt destroy and cut down’?[14] How is this to be explained?-If the scholar is a worthy person learn [eat] from him and do not shun [cut] him, but if he is not destroy him and cut him down.

R. Hama b. Hanina said: What is the meaning of the verse, Iron sharpneth iron?-[15] This is to teach you that just as in the case of one [iron] iron sharpeneth the other so also do two scholars sharpen each others mind by halachah.

Rabbah b. Hanah said: Why are the words of the Torah likened to fire, as it is said, Is not my word like as fire? saith the Lord?[16] This is to teach you that just as fire does not ignite of itself so too the words of the Torah do not endure with him who studies alone. This is in agreement with what R. Jose b. Hanina said: What is the meaning of the verse, A sword is upon the lonely,[17] and they shall become fools?[18] This means, destruction comes upon the enemies[19] of such scholars who confine themselves to private study; and what is even more they become stultified, as it is said, And they shall become fools; and what is more they are guilty of sin. For here it is written, And they shall become fools, and there it is written, For that we have done foolishly and for that we have sinned.[20] If you wish, you can infer it from the following verse, The princes of Zoan are become fools . . . they have caused Egypt to go astray.[21]

R. Nahman b. Isaac said: Why are the words of the Torah likened to a tree, as it is said, It is a tree of life to them that grasp it? This is to teach you. just as a small tree may set on fire a bigger tree so too it is with scholars, the younger sharpen the minds of the older. This will be in agreement with what R. Hanina said: I have learnt much from my teachers, and from my colleagues more than from my teachers, but from my disciples more than from them all.

R. Hanina b. Papa pointed out a contradiction . It is written, Unto him that is thirsty bring ye water;[22] and it is also written Ho, everyone that thirsteth come ye for water.[23] If he is a worthy disciple, then, 'Unto him that is thirsty bring ye water', but if he is not, then, 'Ho, everyone that thirsteth come ye for water'.

R. Hanina b. Hama pointed out a contradiction. It is written, Let thy springs be dispersed abroad,[24] and it is also written, Let them be only thine own![25] If he is a worthy disciple. 'Let thy springs be dispersed abroad,'[26] but if not, 'Let them be thine own'.

R. Hanina b. Ida said: Why are the words of the Torah likened unto water-as it is written, 'Ho, everyone that thirsteth, come ye for water'? This is to teach you, just as water flows from a higher level to a lower, so too the words of the Torah endure only with him who is meekminded. R. Oshaia said: Why are the words of the Torah likened unto these three liquids, water, wine and milk — as it is written, 'Ho, everyone that thirsteth come ye for water'; and it is written, Come ye, buy and eat; yea, come buy wine and milk without money, and without price?[27] This is to teach you, just as these three liquids can only be preserved in the most inferior of vessels, so too the words of the Torah endure only with him who is meekminded. This is illustrated by the story of the daughter of the Roman Emperor[28] who addressed R. Joshua b. Hanania, 'O glorious Wisdom in an ugly vessel'. He replied, 'Does not your father keep wine in an earthenware vessel?' She asked, 'Wherein else shall he keep it?' He said to her, 'You who are nobles should keep it in vessels of gold and silver'. Thereupon she went and told this to her father and he had the wine put into vessels of gold and silver and it became sour. When he was informed of this he asked his daughter, 'Who gave you this advice?' She replied. 'R. Joshua b. Hanania' — Thereupon the Emperor had him summoned before him and asked him, 'Why did you give her such advice?' He replied, 'I answered her according to the way that she spoke to me'. But are there not good-looking people who are learned?

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(1) V. supra 2a.

(2) Deut. XXXII, 2.

(3) Prov. IV, 2.

(4) E. V. 'my teaching'. Deut. XXXII, 2.

(5) Hence the Torah, which is compared to rain, is the less important.

(6) Deut. XXXII, 2.

(7) עורפהו from the root ערף, to break the neck, to destroy; cf. Ex. XIII, 13. Hos. X, 11. Drop him with all your might just as the heavy rains coming down with force on the crops crush them.

(8) Prov. III, 18.

(9) Ibid. v. 8.

(10) Prov. VIII, 35.

(11) Deut. XXI, 4.

(12) Lit., 'my heart is faint'.

(13) Deut. XX, 19.

(14) Ibid. v. 20.

(15) Prov. XXVII, 17.

(16) Jer. XXIII, 29.

(17) בדים from בדד to be alone. E.V. 'boasters'.

(18) Jer. L, 36.

(19) A euphemism for the scholars themselves.

(20) Num. XII, 11.

(21) Isa. XIX, 13.

(22) Isa. XXI, 14.

(23) Isa. LV, 1.
(24) Prov.V, 16.
(25) Ibid. v. 17.
(26) Reveal the secrets of the Torah unto him.
(27) Isa. LV, 1.
(28) Hadrian.

Talmud - Mas. Ta'anith 7b

— If these very people were ugly they would be still more learned.[1] Another explanation: Just as these three liquids can become unfit for consumption only through inattention,[2] so too the words of the Torah are forgotten only through inattention.

R. Hania b. Hanina said: The day when rain falls is as great as the day on which heaven and earth were created, as it is said, Drop down, ye heavens from above, and let the skies pour down righteousness: let the earth open, that they may bring forth salvation, and let her cause righteousness to spring up together; I the Lord have created it.[3] It is not said, ‘I created them’, but I have created it.[4]

R. Oshaia said: The day when rain falls is great for on it even salvation springs forth and waxes great, as it is said, ‘Let the earth open, that they may bring forth salvation’.

R. Tanhum b. Hanilai said, No rain falls unless the sins of Israel have been forgiven, as it is said, Lord, Thou hast been favourable unto Thy land, Thou hast turned the Captivity of Jacob. Thou hast forgiven the iniquity of Thy people, Thou hast pardoned all their sins. Selah.[5] Ze'iri of Dahabath[6] said to Rabina: You have learnt it from this verse, but we have learnt from the following verse, Then hear Thou in heaven and forgive the sin etc.[7]

R. Tanhum the son of R. Hiyya of Kefar Acco[8] said: Rain is withheld only when the enemies of Israel[9] have merited destruction as it is said, Drought and heat consume the snow waters; so doth the nether world those that have sinned.[10] Ze'iri of Dahabath said to Rabina: You have learnt from this verse, but we have learnt it from the following verse, And He will shut up the heaven . . . and ye perish quickly.[11]

R. Hisda said: Rain is withheld only because of the neglect to bring heave-offerings and tithes, as it is said, Drought and heat[12] consume the snow waters. How is this derived from the verse? — In the school of R. Ishmael it was taught: Because you have not performed in the summer the things I have commanded you, you shall be denied snow waters in the winter.

R. Simeon b. Pazzi said: Rain is withheld only because of those who talk slander, as it is said, The north wind bringeth forth rain, and a backbiting tongue an angry countenance.[13]

R. Salla said in the name of R. Hamnuna: Rain is withheld only because of the insolent, as it is said,Therefore the showers have been withheld, and there hath been no latter rain; yet thou hadst a harlot's forehead etc.[14]

R. Salla further said in the name of R. Hamnuna: Any man who is insolent stumbles in the end into sin, for it is said, ‘Thou hadst a harlot's forehead’. R. Nahman said: It is evident that he [actually] stumbled into sin, for it is said ‘Thou hadst’ and not, ‘thou wilt have’. Rabbah the son of R. Huna said: It is permissible to call ‘wicked’ any one who is insolent, as it is said, A wicked man hardeneth his face.[15] R. Nahman the son of R. Isaac said: One may even hate him, as it is said, And the boldness of his face is changed.[16] Do not read yeshuneh [changed] but yesuneh [hated].

R. Kaltina said: Rain is withheld only because of the neglect of the Torah , as it is said, By slothfulness the rafters sank in [yimak].[17] Because of the sloth displayed by Israel in not occupying themselves with the Torah the enemy of the Holy One, blessed be He,[18] becomes Poor. Mak, actually means, poor, as it is said, But if he be too poor [mak] for thy valuation.[19] Mekoreh actually denotes God, as it is said, Who layest [ha-mekoreh] the beams of Thine upper chambers in the waters.[20] R. Joseph derived it from the following verse, And how men see not the light which is bright in the skies; but the wind passeth and cleanseth them.[21] And ‘light’ surely means Torah, as it is said, For the commandment is a lamp and the teaching [Torah] is light.[22] ‘Which is bright in the skies’: [With reference to this] it was taught In the school of R. Ishmael: Even when the heavens are full of white spotted clouds ready to cause dew and rain to fall a wind passes and cleanses them .[23]

R. Ammi said: Rain is withheld only because of the sin of violent robbery, as it is said, He covereth His hands with the lightning;[24] that is to say, for the sin [of violent robbery committed by] their hands He covereth the light. And ‘hands’ surely signifies, violent robbery, as it is said, And from the violence that is in their hands,[25] and ‘light’ Surely [stands for] rain, as it is said, He spreadeth abroad the cloud of His lightning.[26] What is then his remedy? — Let a man make many prayers, as it is said, And giveth it a charge that it strike the mark [be-mafgi'ah],[27] and pegi'ah is prayer, as it is said, Therefore pray not thou for this people . . . neither make intercession [tifga’] to me.[28]

R. Ammi further said: What is the meaning of the verse, If the iron be blunt, and one do not whet the edge?[29] If you see the sky hard as iron so that neither dew nor rain fall, this is to be attributed to the deeds of the generation which are corrupt, as it is said, And one do not whet the edge. What then shall be their remedy? Let them make many prayers [for mercy], as it is said, Then must he put to more strength; but wisdom is profitable to direct.[30] [The latter words indicate,] how much more [efficacious their prayer would prove] if their deeds had originally been righteous.[31]

Resh Lakish said: If you see a student

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(1) They would be meek and devote themselves even more to their studies.

(2) If one neglects to cover them.

(3) Isa. XLV, 8.

(4) Thus referring to the rain.

(5) Ps. LXXXV, 2, 3.

(6) Place not identified. Rashi reads: Said Mar Ze'iri to Rabina.

(7) I Kings VIII, 36.

(8) [Caphare Accho in lower Galilee; v. Hildesheimer, Beitrage, p. 81.]

(9) A euphemism for Israel themselves.

(10) Job XXIV, 19.

(11) Deut. XI, 17.

(12) ציה drought, is here connected with צוה to command and חום heat, taken to mean, summer. With the completion of the harvest heave-offerings tithes have to be brought.

(13) Prov. XXV, 23

(14) Jer. III, 3.

(15) Prov. XXI, 29.

(16) Eccl. VIII, 1.

(17) Ibid. X, 18.

(18) A euphemism for God Himself. God is unable (lit., ‘too poor’) to send rain because Israel do not merit it.

(19) Lev. XXVII, 8.

(20) Ps. CIV, 3.

(21) Job XXXVII, 21.

(22) Prov. VI, 23.
(23) Because of their disregard of the Torah which is compared to light, the wind disperses the clouds that were bringing the rain.
(24) Job. XXXVI, 32.
(25) Jonah III, 8.
(26) Job XXXVII, 11. [The meaning then of the verse is: On account of hands (violence). He covers the lightning (withholds rain).]
(27) Job XXXVI, 32.
(28) Jer. VII, 16. All interplay upon the word פגע meaning both to strike and to intercede. [Var. lec. omit: ‘What is then his remedy? . . . to me’ which passage is apparently an intrusion from infra p. 31. V. D.S. It is a well established Talmudic teaching that no amends can be made for robbery by prayer alone; this must be accompanied by restitution, v. infra 16a and Yoma 85b.]
(29) Eccl. X, 10. R. Ammi recalling the words ונתתי את שמיכם כברזל in Lev. XXVI, 19 endeavours to find an allusion in ברזל in the verse quoted. to the hardness of the heavens. He takes the negative לא as לו ‘to it’, ‘of it’ and interprets the word קלקל ‘to whet’, in the later Hebrew sense of, ‘to be corrupt’, thus rendering the face of it (of the generation) is corrupt.
(30) Eccl. X, 10.
(31) הכשיר from the root כשר to be proper. Cf. Esth. VIII, 5.

Talmud - Mas. Ta'anith 8a

to whom his studies are as hard as iron,[1] it is because he has failed to systematize his studies, as it is said, And one do not whet the edge.[2] What is his remedy? Let him attend the school even more regularly, as it is said, Then must he put to more strength; but wisdom is profitable to direct. [The latter words indicate] how much more profitable would his efforts be if he had originally systematized his studies. Thus for example, Resh Lakish made it his practice to repeat in systematic order his studies forty times corresponding to the forty days[3] during which the Torah was given, and only then would he come before R. Johanan. R. Adda b. Abbahu made it his practice to repeat in systematic order his studies twenty-four times corresponding to the [twenty-four books[4] which embody] the Torah, the Prophets and the Hagiographa, and only then would he come before Raba.

Raba said: If you see a student who finds his studies as hard as iron, it is because his teacher does not encourage him,[5] as it is said, ‘and one do not whet the edge’.[6] What is his remedy? Let him seek many companions [to intercede for him with his teacher], as it is said. ‘Then must he put to more strength; but wisdom is profitable to direct.’ [The latter words indicate,] how much more successful he would have been had his efforts originally found favour with his teacher.

R. Ammi further said: What is the meaning of the verse, If the serpent bite before it is charmed, then the charmer hath no advantage?[7] If you see a generation over whom the heavens are rust coloured[8] like copper so that neither dew nor rain falls, it is because that generation is wanting in men who pray softly.[9] What then is their remedy? Let them go to one skilled in the art of praying softly, as it is written, The noise thereof telleth concerning it.[10] ‘Then the charmer hath no advantage’ [means]: ‘As to him who is skilled in the art of praying softly and does not do so what benefit has he?[11] But if he has prayed softly and was not answered, what is his remedy? Let him go to the most pious man of that generation that he may intercede abundantly for him, as it is said, And giveth it a charge that it strike the mark [be-mafgia'h]. and striking the mark [pegi'ah] is prayer, as it is said, Therefore pray not thou for this people, neither lift up cry nor prayer for them, neither make intercession [tifga’] to Me.[12] But if he did pray softly and proved successful and on account of this he becomes overproud he thereby brings divine displeasure upon the world, as it is said, The cattle also concerning the storm that cometh up.[13]

Raba said: Two scholars who reside in the same city but are intolerant of each other in matters of halachah provoke anger and bring it upon themselves, as it is said, The cattle also concerning the storm that cometh up.[14]

Resh Lakish said: What is the meaning of the verse, If the serpent bite before it is charmed, then the charmer hath no advantage? In the Messianic age all animals will assemble and come to the serpent and say to him, ‘The lion claws [his victim] and devours him, the wolf tears him and devours him, but as for thee what benefit dost thou derive? His reply will be, The charmer hath no advantage.[15]

R. Ammi said: A man's prayer is only answered if he takes his heart into his hand,[16] as it is said, Let us lift up our heart with our hands.[17] [But it is not so. Surely][18] Samuel appointed an amora[19] to act for him and his exposition ran thus: But they beguiled Him with their mouth, and lied unto Him with their tongue. For their heart was not steadfast with Him, neither were they faithful in His covenant; and yet, But He being full of compassion, forgiveth iniquity etc.?[20] — This is no contradiction. The one refers to the individual, and the other to the community.[21]

R. Ammi said: Rain falls only for the sake of Men of Faith,[22] as it is said, Truth springeth out of the earth and righteousness hath looked down from heaven.[23]

R. Ammi further said: Come and see how great the Men of Faith are as is evidenced from the episode of the Weasel[24] and the Well. If this is the case with one who trusts in the Weasel and the Well how much more so if one trusts in the Holy One blessed be He!

R. Johanan said: He who leads a righteous life [on earth below][25] is judged strictly [in heaven] above, as it is said, Truth springeth out of the earth and righteousness hath looked down from heaven. R. Hiyya b. Abin in the name of R. Huna [adduced this lesson] from this verse, And Thy wrath according to the fear that is due unto Thee.[26] Resh Lakish said: [It may be adduced] from this verse, Thou didst take away him that joyfully worked righteousness, those that remembered Thee in Thy ways — behold Thou wast wroth, and we sinned-upon them have we stayed of old, that we might be saved.[27]

R. Joshua b. Levi said: He who joyfully bears the chastisements that befall him brings salvation to the world as it is said, ‘Upon them have we stayed of old, that we might be saved’.

Resh Lakish said: What is the meaning of the verse, And He will shut up the heaven?[28] — When the heavens are shut up so that neither dew nor rain falls it is like to a woman who is in labour but who cannot give birth. This is in keeping with what Resh Lakish said in the name of Bar Kappara: ‘Withholding’ is applied to rain, and ‘withholding’ is applied to a woman;

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(1) He cannot grasp what he learns.

(2) Taking קלקל as a reduplication of קל light, clear. I.e., he did not make it clear unto himself: פנים the meaning of a passage in the Torah, cf. Aboth III, 11,

(3) Ex. XXXIV, 28.

(4) On the twenty-four books of the Bible v. Blau, Zur Einleitung in die heilige Schrift, pp. 6ff.

(5) Does not show him a cheerful countenance. Cf. Aboth 1, 15 בסבר פנים יפות.

(6) [Taking קלקל in the sense of ‘corrupting’ to make unpleasant. He showed a displeasing countenance to him.]

(7) Eccl. X, 11.

(8) Taking נשך to bite, in the Aramaic sense of שתך to become rusty coloured; נחש shortened for נחשת copper. The heavens are, so to speak, covered with a deposit of copper-rust and this prevents rain and dew from falling.

(9) לחש to charm, is also used in the sense of, to whisper. and then to pray. The Tefillah (v. Glos.) was recited in silence.

(10) Job XXXVI, 33. Connecting רע noise, from root רוע to shout, with רע friend from root רעה to associate with. The context in Job deals with rain.

(11) He himself suffers with others from the drought that follows.

(12) V. supra p. 30, n. 3. [MS.M omits: ‘But if he has prayed . . . to me’.]

(13) Job XXXVI, 33- The verse is generally interpreted, that the cattle through their greater sensitiveness to atmospheric conditions feel in advance the coming of the storm. The Gemara reads מקנה (for מקנה of the Massoretic Text) in the sense of, acquire, and it takes אף to be a noun meaning anger; and עולה exalted or elated (with pride). The meaning of the verse according to this interpretation would be: He brings upon the world divine displeasure who is overbearing with pride because his prayer was answered.

(14) Raba takes מקנה=...ב התקנא to provoke; אף as previously, and על יעולה= that cometh up.

(15) Heb. בעל הלשון lit., ‘the man of tongue’; figuratively, the slanderer. The allusion here is to the tempting of Eve, Gen. III.

(16) He feels deeply what he prays.

(17) Lam. III, 41.

(18) So Bomberg ed. and inserted in cur. edd. in square brackets, p. 33 n. 1.

(19) Same as Meturgeman. V. supra p. 12, n. 4.

(20) Ps. LXXVIII, 36-38. [MS.M. adds: ‘Do these (verses) not contradict one another’. This reading makes unnecessary the insertion noted on p. 32, n. 7. V. Marginal Glosses.]

(21) The prayers of a community are accepted even if they do not come up to the higher standard set by R. Ammi.

(22) Trustworthy men, honest in business. Cf. Prov. XXVIII, 20 איש אמונות.

(23) Ps. LXXXV, 12. R. Ammi takes the verse to mean: When there is truth on earth righteousness symbolizing rain, (cf. Isa. XLV, 8) looketh down from heaven.

(24) An allusion to the story of a young man who extracted a promise of marriage from a maiden who had fallen into a well, if he rescued her. The well and a passing weasel were made witnesses to the undertaking and avenged subsequently the maiden for the young man's breach of promise. V. Rashi and Tosaf. a.l. and Aruch s.v. חלד.

(25) The greater the man the more strictly he is judged for his actions. R. Johanan takes צדק in the sense of strict justice דין.

(26) Ps. XC, 11.

(27) Isa. LXIV,4.

(28) Deut. Xl, 17.

Talmud - Mas. Ta'anith 8b

‘withholding’ is applied to a woman, as it is said, For the Lord had fast closed up all the wombs;[1] and ‘withholding’ is applied to rain, as it is written, ‘And He will shut up the heaven.’ ‘Bearing’ is applied to a woman, and ‘bearing’ is applied to rain; ‘bearing’ is applied to a woman, as it is written, And she conceived and bore a son;[2] and ‘bearing’ is applied to rain, as it is written, And make it bear[3] and bud.[4] ‘Remembering’ is applied to a woman and ‘remembering’ is applied to rain; ‘remembering’ is applied to a woman, as it is written, And the Lord remembered Sarah;[5] and ‘remembering’ is applied to rain, as it is written, Thou hast remembered the earth, and watered her, greatly enriching her, with the river of God that is full of water.[6] What is the meaning of, ‘With the river of God that is full of water’? — A Tanna taught: There is in heaven a kind of chamber from which the rain issues.

R. Samuel b. Nahmani said: What is the meaning of the verse, Whether it be for correction, or for His earth, or for mercy, that He cause it to come?[7] If the rain is ‘for correction,’ [then it falls] upon the mountains and upon the hills; if it is ‘for mercy’, He causes it to come upon His earth, upon the fields and upon the vineyards;[8] if it is ‘for correction’, upon the trees; if it is upon His earth, upon the seeds [in the ground]; if it is ‘for mercy’, He causes it to come for cisterns, pits and caves.

In the days of R. Samuel b. Nahmani there was a famine and pestilence. People asked, What shall we do? Shall we pray for [the removal] of the two? That is not possible. Let us then pray for [the removal of] the pestilence and we will endure the famine. Thereupon R. Samuel b. Nahmani said to them: Let us rather pray [for the removal of] the famine, because when the All-Merciful gives plenty, He gives it for the living, as it is said, Thou openest Thy hand, and satisfiest every living thing with favour.[9] How do we know that it is not fitting to pray for two things [at the same time]? — Because it is written, So we fasted and besought our God for this.[10] 'This' would indicate that there were other things to pray for. In the West [Palestine] it was reported in the name of R. Haggai that it could be adduced from this verse, That they might ask mercy of the God of heaven concerning this secret.[11] 'This would indicate that there were other things too [to pray for]. In the days of R. Zera there was a religious persecution and fasting was also prohibited. R. Zera said to his colleagues: Let us now resolve to fast and when the decree is rescinded we will observe these fasts. His colleagues asked him: What is your authority for this? He replied: Because it is written, Then said he unto me, 'Fear not, Daniel, for from the first day when thou didst set thy heart to understand, and to humble thyself before thy God, thy words were heard'.[12]

R. Isaac said: If rain falls on the eve of Sabbath then though the years be [years of drought] as in the days of Elijah[13] it is yet none-the-less but a sign of [divine] anger.[14] This is in agreement with the statement of Rabbah b. Shila who said: The day when rain falls is as hard [to bear][15] as a day of Judgment.[16] Amemar said: Were it not that mankind must have rain we would pray and have it cease.

R. Isaac further said: Sunshine on the Sabbath is an act of kindness towards the poor, as it is said, But unto you that fear My name shall the sun of righteousness arise with healing in its wings.[17]

R. Isaac further said: The day when rain falls is great for thereon even the peruta[18] in one's purse is blessed, as it is said, To give the rain of Thy land in its season, and to bless all the work of thy hands.[19]

R. Isaac further said: Blessing is only possible in things hidden from sight, as it is said, The Lord will command the blessing with thee in thy barns.[20] In the school of R. Ishmael it was taught: Blessing is only possible in things not under the direct control of the eye, as it is said, 'The Lord will command the blessing with thee in thy barns.'

Our Rabbis have taught: On entering the barn to measure the new grain one shall recite the benediction, 'May it be Thy will O Lord, our God, that Thou mayest send blessing upon the work of our hands'. Once he has begun to measure he says, 'Blessed be He who sends blessing into this heap'. If, however, he first measured the grain and then recited the benediction then his prayer is in vain, because blessing is not to be found in anything that has been already weighed or measured or numbered, but only in a thing hidden from sight.

(Mnemonic: Gathering of Armies, Charity, Tithes, Sustenance.)

R. Johanan said: The day on which rain falls is as great as the day of the Gathering of exiled [Israel,] as it is said, Turn our captivity: O Lord, as the streams in the dry land.[21] By 'streams' rain is meant, as it is said, And the channels of the sea appeared.[22]

R. Johanan further said: The day when rain falls is great, for thereon even warring armies cease [fighting], as it is said, Watering her ridges abundantly, settling down the furrows thereof.[23]

R. Johanan further said: Rain is withheld only on account of those who subscribe to charity in public and fail to pay, as it is said, As vapours and wind without rain, so is he that boasteth himself of a false gift[24]

R. Johanan further said: What is the meaning of the verse

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(1) Gen. XX, 18.
(2) Ibid. XXX, 23.
(3) E.V. bring forth.
(4) Isa. LV, 10.
(5) Gen. XXI, 1.
(6) Ps. LXV, 10.
(7) Job XXXVII, 13.
(8) [The text from this point to the end of the passage is in disorder and omitted in MS.M.]
(9) Ps. CXLV, 16.
(10) Ezra VIII, 23.
(11) Dan. II, 18.
(12) Dan. X, 12. The good intention was acceptable as a good deed.
(13) Cf. 1 Kings XVII, 7ff
(14) Because the rain prevents the people from making the necessary preparations for Sabbath.
(15) Owing to the inconvenience and discomfort to which people are put.
(16) Mondays and Thursdays when the Beth din met and the people could have their cases tried (Rashi).
(17) Mal. III, 20. You that fear my name, I.e., those who keep the Sabbath. On the Sabbath the poor have the time and leisure to enjoy the sunshine.
(18) Smallest coin. The word is used for money in general.
(19) Deut. XXVIII, 12.
(20) Deut. XXVIII, 8. R. Isaac connects the Hebrew word באסמיך with סמא to hide, conceal.
(21) Ps. CXXVI, 4.
(22) II Sam. XXII, 16. The same word אפיקים is used in both verses.
(23) Ps. LXV, n. 'Watering ridges' implies rain. גדוד 'furrows' has also the meaning of, 'army'.
(24) Prov. XXV, 14. Both act deceitfully and disappoint.

Talmud - Mas. Ta'anith 9a

, Thou shalt surely tithe?[1] Give tithes that you may be enriched.[2] R. Johanan met the young son[3] of Resh Lakish and said to him, 'Recite to me the Bible verse [you have learnt to-day]. The latter replied, 'Thou shalt surely tithe', at the same time asking, 'What may be the meaning of these words?' R. Johanan answered, 'Give tithes that you may be enriched' . The boy then asked, 'Whence do you adduce this?' R. Johanan replied: 'Go test it [for yourself]'. The boy thereupon asked: Is it permissible to try the Holy One, blessed be He, seeing that it is written, Ye shall not try the Lord?[4] -R. Johanan replied: Thus said R. Oshaia: The case of tithe-giving is excepted [from the prohibition], as it is said, Bring ye the whole tithe unto the storehouse, that there may be food in My house, and try Me now herewith, saith the Lord of Hosts, if I will not open you the windows of heaven, and pour you out a blessing, that there shall be more than sufficiency.[5] (What is the meaning [of the words], 'That there shall be more than sufficiency?' — R. Rami b. Hama said in the name of Rab: Until your lips grow weary from saying, 'It is enough'.) The boy thereupon exclaimed, Had I reached this verse [in my Bible studies] I should need neither you nor R. Oshaia, your teacher. On another occasion R. Johanan met the young son of Resh Lakish sitting and reciting the verse, The foolishness of man perverteth his way; and his heart fretteth against the Lord.[6] R. Johanan thereupon[7] exclaimed in amazement: Is there anything written in the Hagiographa to which allusion cannot be found in the Torah? The boy replied: Is then this verse not alluded to in the Torah, seeing that it is written, And their heart failed them, and they turned trembling one to another, saying: 'What is this that God hath done unto us?'[8] R. Johanan lifted up his eyes and stared at him, whereupon the boy's mother came and took him away, Saying to him, 'Go away from him, lest he do unto you as he did unto your father'.[9]

R. Johanan further said: Rain may fall even for the sake of an individual but sustenance [is granted] only for the sake of the many. [That] rain [may fall] for the sake of even one man may be learnt from the verse where it is written, The Lord will open unto thee his good treasure, the heaven to give the rain of thy land;[10] sustenance for the sake of the many, as it is written, Behold I will cause to rain bread for you.[11]

An objection was raised: R. Jose the son of R. Judah says: Three good leaders had arisen for Israel, namely. Moses, Aaron and Miriam, and for their sake three good things were conferred [upon Israel], namely, the Well,[12] the Pillar of Cloud and the Manna; the Well, for the merit of Miriam; the Pillar of Cloud for the merit of Aaron; the Manna for the merit of Moses. When Miriam died the well disappeared, as it is said, And Miriam died there,[13] and immediately follows [the verse], And there was no water for the congregation; and it returned for the merit of the [latter] two. When Aaron died the clouds of glory disappeared, as it is written, And the Canaanite, the king of Arad heard.[14] What news did he hear? He heard that Aaron had died, and that the clouds of glory had disappeared; he thought that he was free to make war on Israel. Therefore it is written, And all the congregation saw that Aaron was dead.[15] With reference to which R. Abahu said: Do not read, ‘they saw’ [wayir-u] but ‘they were seen’ [wayyero-u].[16] This is also in accordance with the view of Resh Lakish who said: [The word] ki may be used in four different senses, namely, ‘if’ ‘perhaps’. ‘but’, ‘because’.[17] The two [the Well and the Cloud] returned because of the merit of Moses, but when Moses died all of them disappeared, as it is said, And I cut off the three shepherds in one month.[18] Did they then all [three] die in one month? Did not Miriam die in Nisan, Aaron in Ab and Moses in Adar? This therefore is meant to teach you that the three good gifts which were given because of their merit were nullified and they all disappeared in one month. Thus we find that sustenance[19] may be granted for the sake of one individual! — The case of Moses is exceptional; as he prayed on behalf of the many, he himself is regarded as a multitude.

R. Hunah b. Manoah and R. Samuel b. Idi and R. Hiyya of Wastanya[20] were wont to attend the discourses of Raba. When Raba died they came to those of R. Papa and whenever he expounded to them a law which did not appeal to them they winked at one another, and thus hurt him greatly.

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(1) עשר תעשר Deut. XIV, 22.

(2) A play upon the words תע,ר to give tithes, and תע,ר to grow rich.

(3) The boy was a nephew of R. Johanan, being the son of his sister.

(4) Deut. VI, 16.

(5) Mal. III, 10.

(6) Prov. XIX, 3.

(7) [So MS.M. Cur. ed. Insert ‘sat’.]

(8) Gen. XLII, 28. First they sold their brother and then they complained at the punishment meted out to them by God.

(9) In B.M. 84a it is related that R. Johanan was the cause of R. Lakish's untimely death.

(10) Deut. XXVIII, 12.

(11) Ex. XVI, 4.

(12) A rock that accompanied the Israelites throughout their wanderings in the wilderness. Cf. Shab. 35a.

(13) Num. XX, 1.

(14) Ibid. XXI, 1.

(15) Ibid. XX, 29.

(16) With the disappearance of the Pillar of Cloud Israel became visible and exposed to the enemy.

(17) ‘Ki’ here on the reading of R. Abbahu is rendered ‘because’.

(18) Zech. Xl, 8.

(19) 1.e., the manna.

(20) [Astunia, near Pumbeditha, v. Obermeyer, p. 229.]

Talmud - Mas. Ta'anith 9b

In a dream he was made to recite the verse, ‘And I cut off the three shepherds’. When next day these disciples took leave of him he said to them, Go in peace.[1]

R. Shimi b. Ashi was wont to frequent [the discourses] of R. Papa and used to annoy him, very much with questions. One day he observed that R. Papa fell on his face[2] [in prayer] and he heard him saying. ‘May God preserve me from the insolence of Shimi’. The latter thereupon vowed silence and annoyed him no more [with questions].

Resh Lakish too held the view that rain may fall even for the sake of an individual, for Resh Lakish said: Whence do we adduce that rain may fall even for the sake of an individual? Because it is written, Ask ye of the Lord rain in the time of the latter rain, even of the Lord that maketh lightnings, and He will give them showers of rain, to every one grass in the field.[3] You might have thought, only when all need [it]. therefore Scripture says. ‘to everyone’. Further, it has been taught: Had Scripture said, ‘to everyone’ [only] you might have thought [rain would fall] only when one needs it for all his fields, therefore Scripture adds, ‘field’. Had the word ‘field’ [been used] you might have thought only when the whole field needs [rain] Scripture therefore adds, ‘grass’. This is borne out by the case of Daniel b. Kattina who had a garden which he was in the habit of inspecting daily and he would exclaim, ‘This bed needs water and that one does not’; and rain would fall on those beds that needed water.

What is the meaning of the verse, ‘Even the Lord that maketh hazizim [lightnings]? — R. Jose son of R. Hanina said: This teaches that God provides a haziz for each righteous man. What are hazizim? Rab Judah said: Porehoth.[4] R. Johanan said: Porehoth are a sign of [coming] rain. What are porehoth? — R. Papa said: A thin cloud under a thick cloud. Rab Judah said: Should fine rain come down before the heavy rain then the rain will continue for some time; should it follow a heavy downpour of rain then the rain will soon cease. If before the rain, the rain will continue, of this the sieve serves as a reminder; if after a heavy rain, the rain will cease, of this goats’ excrement serves as a reminder.[5]

‘Ulla chanced to be in Babylon and observing light clouds [porehoth] he exclaimed, ‘Remove the vessels for rain is now coming’. No rain however fell and he exclaimed, As the Babylonians are false, so too is their rain.

‘Ulla chanced to be in Babylon and observing that a basketful of dates was being sold for a zuz[6] he exclaimed, ‘A basketful of honey for a zuz and yet the Babylonians do not occupy themselves with the study of the Torah’. During the night he was in agony [from eating the dates] and he then exclaimed, ‘A basketful of knives for a zuz and yet the Babylonians occupy themselves with the study of the Torah.

It has been taught: R. Eliezer said: The whole world draws its water supply from the waters of the ocean, as it is said, But there went up a mist from the earth and watered the whole of the ground.[7] Thereupon R. Joshua said to him: But are not the waters of the ocean salty? He replied: They are sweetened by the clouds. R. Joshua said: The whole world drinks from the upper waters, as it is said, And drinketh water as the rain of heaven cometh down.[8] If so, what is the force of the verse, ‘But there went up a mist from the earth’? This teaches that the clouds grow in strength as they rise towards the firmament and then open their mouth as a flask and catch the rain water, as it is said, Which distil rain from His vapour,[9] they are perforated like a sieve and they slowly distil [mehashroth] waters on the ground. as it is said, Distilling [hashroth] of waters, thick clouds of the skies;[10] there is but one hand-breadth space between one drop and another, in order to teach you that the day on which rain falls is as great as the day whereon heaven and earth were created, as it is said, Who doeth great things past finding out;[11] and it is written, Who giveth rain upon the earth;[12] and it is also written, Hast thou not known? hast thou not heard that the everlasting God, the Lord . . . His discernment is past finding out?[13]

Whose view is supported by the verse, Who waterest the mountains from Thine upper chambers,[14] which R. Johanan interprets to mean the upper chambers of the Almighty? Whose view? — It is that of R. Joshua. And R. Eliezer's[15] view?-As [the waters] ultimately find their way above [Scripture] aptly terms them, ‘from Thine upper chambers’[14] For if it were not so, how will you explain, Powder and dust from heaven?’[16] What you must [say is] that as these rise upwards [from the ground] the words, ‘from heaven’ are quite aptly applied to them. Likewise as the waters eventually find their way above Scripture aptly refers to them as, from Thine upper chambers’. Whose view supports R. Hanina who said this, He gathereth the waters of the sea together as a heap; He layeth up the deeps in storehouses,[17] [as meaning,] Who caused the storehouses to be filled with grain? The deeps-the view of R. Eliezer. And what of R. Joshua's [view]?[18] — That [verse] refers to Creation of the world.

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(1) בשלמא ‘Go in peace’ was addressed to the dead while to the living the greeting was לשלמא ‘Go to peace . Cf. Ber. 64a. R. Papa. by his greeting, implied that the disciples would not survive long. [MSM. however reads לשלם ‘to peace’. R. Papa then in using this formula expressed the wish that the implications of the dream would not be fulfilled.]

(2) He recited the prayer known as the Tahanun. V. P. B. p. 62

(3) Zech. X, 1.

(4) [Transpose with MS.M. R. Johanan's statement after that of R. Papa which follows.]

(5) The fine flour comes first from a sieve then the heavier parts; contrariwise the goat first discharges with force then relaxes.

(6) Zuz = a denar=about a quarter of a silver shekel.

(7) Gen. II, 6.

(8) Deut. XI, 11.

(9) Job XXXVI,27.

(10) II Sam. XXII, 12. E.V. ‘Gathering waters etc. ‘.

(11) Job V, 9.

(12) Ibid. v. 10.

(13) Isa. XL, 28.

(14) Ps. CIV, 13.

(15) How does he explain this verse?

(16) Deut. XXVIII, 24.

(17) Ps. XXXIII, 7.

(18) How does he explain this verse?

Talmud - Mas. Ta'anith 10a

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Our Rabbis have taught: Palestine was created first and then the rest of the world, as it is said, While as yet He had not made the earth, nor the fields.[1] Palestine is watered by the Holy One, blessed be He, and the rest of the world is watered by a messenger, as it is said, Who giveth rain upon the earth, and sendeth waters upon the fields.[2] Palestine is watered by the rain and the rest of the world is watered by the residue,[3] as it is said, ‘ Who giveth rain upon the earth, etc’.[4] Palestine is watered first and then the rest of the world, as it is said, ‘Who giveth rain upon the earth, etc’. This may be compared to a man making cheese; he removes first what is edible and discards the refuse.

The Master said: ‘[The waters of the ocean] are sweetened by the clouds’ — Whence does he learn this? R. Isaac b. Joseph said in the name of R. Johanan: It is written, Darkness of waters, thick clouds of the skies,[5] and it is also written, Distilling of waters, thick clouds of the skies,’[6] take away the kaf and add it to the [word written with] resh and read haksharath.[7] As for R. Joshua what use does he make of these verses? — He is of the opinion that these verses are the basis for the statement made by R. Dimi when he came [to Babylon] and he reported that in Palestine people say, If the clouds are bright they contain little water, but if they are dark they contain much water.[8] In keeping with whose view is the teaching which has been taught: The upper waters remain suspended by Divine command, and their fruit is the rain-water, as it is said, The earth is full of the fruit of Thy works?[9] This is according to R. Joshua. And as for R. Eliezer?-[He is of the opinion] that this [verse] refers to the other handiwork of God.

R. Joshua b. Levi said: The whole world is watered by the residue of the Garden of Eden, as it is said, And a river went out of Eden, etc.[10] A Tanna taught: The residue of a kor[11] is enough to irrigate a tarkab.[12]

Our Rabbis taught: Egypt is four hundred parasangs by four hundred, and it is one sixtieth of the size of Ethiopia; Ethiopia is one sixtieth of the world, and the world is one sixtieth of the Garden [of Eden].[13] and the Garden is one sixteenth of Eden, and Eden is one sixtieth of Gehenna;[14] thus the whole world compared with the Gehenna is but as a lid to the pot. Some say that Gehenna has no limit In size; others say that Eden is without limit. R. Oshaia said: What is the meaning of the verse, O thou that dwellest upon many waters, abundant in treasures?[15] What has brought it about that Babylon's treasures are full of corn? Because it dwells by many waters.[16] Rab said: Babylon is rich because it harvests without rain. Abaye said: We have a tradition, Better is a flooded land than an arid land.

MISHNAH. ON THE THIRD OF MARCHESHVAN WE [BEGIN TO] PRAY FOR RAIN. R. GAMALIEL SAYS: ON THE SEVENTH, [THAT IS.] FIFTEEN DAYS AFTER THE FEAST SO THAT THE LAST ISRAELITE[17] MAY REACH THE RIVER EUPHRATES.

GEMARA. R. Eleazar said: The halachah is according to R. Gamaliel. It has been taught: Hananiah says: In the Diaspora[18] [we do not begin to pray] until the sixtieth day after the [Tishri] cycle.[19] R. Huna b. Hiyya said in the name of Samuel: The halachah is according to Hananiah. Is it really so? Was not a question asked of Samuel: When do we begin to make mention [of the words] ‘and give dew and rain’? and he replied, ‘When wood is brought into the house of Tabut,[20] the fowler’? — Perhaps the two time limits are identical. A question was asked in the school: Is the sixtieth day counted with those that precede it or with those that follow it?[21] -Come and hear:[22] Rab said: The sixtieth day is counted with those that follow it; and Samuel said: With those that precede it.[23] R. Nahman said: The mnemonic for this is, the highlands need water, but the lowlands do not.[24] R. Papa said: The halachah is that the sixtieth day is counted with those that follow it.[25]

MISHNAH. IF THE SEVENTEENTH OF MARCHESHVAN CAME AND NO RAIN FELL THE YEHIDIM[26] [INDIVIDUALS] BEGIN TO FAST THREE FASTS; THEY MAY EAT AND DRINK AFTER IT GETS DARK[27] [AND ON THESE FASTS] IT IS PERMISSIBLE FOR THEM TO DO WORK, TO BATHE, TO ANOINT THEMSELVES WITH OIL, TO WEAR SHOES, AND TO HAVE

of Tabernacles may reach home without being inconvenienced by the rain. MARITAL RELATIONS. IF THE NEW MOON OF KISLEV CAME AND NO RAIN FELL THE BETH DIN ORDAIN UPON THE COMMUNITY THREE FASTS; [ON THESE] THEY MAY EAT AND DRINK WHILST IT IS STILL DARK AND IT IS PERMISSIBLE TO DO WORK, TO BATHE, TO ANOINT ONESELF WITH OIL, TO WEAR SHOES, AND TO HAVE MARITAL RELATIONS.

GEMARA. Who are the yehidim? R. Huna said: The rabbis. R. Huna further said: The yehidim fast three fasts, [that is to say, on] Monday, Thursday and Monday. What new fact does he teach us? Has it not already been taught to us:[28] No fast is ordained upon the community to begin on a

Thursday in order to prevent a rise in food prices.[29] Hence the order of the first three fasts must be, Monday, Thursday, Monday? You might have thought that this applies only to public fasts but not to those of individuals therefore he teaches us [that it applies] equally to those of individuals. The same has been taught us elsewhere: When the yehidim begin to fast they fast on Monday, Thursday and Monday, and they interrupt[30] their fasts on New Moon

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(1) Prov. VIII, 26.

(2) Job V, 10. ארץ taken to mean ארץ ישראל Palestine, and חוצות from חוץ (outside, field) the rest of the world (חוץ לארץ).

(3) [MS.M. adds, of Palestine.]

(4) [The order of the last two sentences should be reversed with MS.M.]

(5) Ps. XVIII, 12.

(6) In the parallel psalm. II Sam. XXII, 12.

(7) By the manipulation of the letters in the words חשכת and חשרת in the verses cited the word הכשרת is obtained, meaning ‘making fit’, i.e., drinkable. The meaning is the clouds make the waters drinkable. The additional change of ח to ה involved is quite common in Semitic languages.

(8) [This popular proverb is alluded to in the verse cited from Psalms, ‘Darkness of waters — thick clouds of skies’, R. Joshua being of the opinion that חשכיו is not a variant of חשרת.]

(9) Ps. CIV, 13.

(10) Gen. II, 10. The continuation of the verse is, ‘and from thence it was parted and became four heads’.

(11) A dry measure = 30 se'ahs. Cf.II Kings VII,16.

(12) Tarkab, Gk.***=3 kabs= one half se'ah. With the residue of water used for watering a space sown with a kab seed one can water a space sown with a tarkab.

(13) If the world is one sixteenth of the Garden of Eden, then it can be seen from the previous statement that the residue of the Garden of Eden is sufficient to water the whole world.

(14) [Var. lec. omit ‘and the Garden . . . of Eden’ which words are difficult to explain.]

(15) Jer. LI, 13.

(16) Being a low-lying country it is well irrigated and consequently it needs but little rain.

(17) Who comes on pilgrimage to Jerusalem on the feast

(18) In the first instance applied to Babylonia.

(19) The year was divided into four cycles (v. Glos. s.v. Tekufah), Tishri, Tebeth, Nisan and Tammuz. Here the Tishri Tekufah is meant-the Autumnal Equinox.

(20) A sign that the rainy season was about to set in.

(21) Exclusive or inclusive.

(22) [Omitted in MS.M.]

(23) [R. Hananel and Aruch reverse the opinions of Rab and Samuel.]

(24) Rab came from Palestine which is mountainous and so needed more rain, while Samuel came from Babylonia which was well irrigated and therefore needed less rain. [R. Hananel and Aruch (v. n. 6): Samuel's place was Nehardea which was situated higher and consequently in greater need of rain at an earlier period than Sura, the place of Rab.]

(25) And the words ‘give dew and rain’ are said earlier.

(26) Distinguished persons.

(27) On the night preceding the fast, the fast beginning only with dawn.

(28) V. infra 15b.

(29) Thursday being a market day, they would purchase food for the breaking of their fast and also for the Sabbath and consequently the abnormal demand for food would tend to make the prices soar.

(30) Should any such festive day coincide with their fast days.

Talmud - Mas. Ta'anith 10b

and on such festive days as are enumerated in the Scroll of Fasts.[1]

The Rabbis have taught: Let not a man say, ‘I am but a disciple and I am therefore not worthy to consider myself a yahid', since all Disciples of the Wise are accounted yehidim. Who is a yahid? And who is a disciple? A yahid is one worthy to be appointed Leader of the Community; a disciple is one who is asked any question of halachah connected with his studies and can answer it — even though it is on a subject dealt with in the Tractate Kallah.[2] Our Rabbis have taught: Not everyone desirous to consider himself a yahid may do so;[3] a disciple however may do so; this is the opinion of R. Meir. R. Jose says: Anyone may do so, and may he be remembered for good, because it is not an advantage to him but a hardship. Another [Baraitha] teaches: Not everyone desirous to consider himself a yahid may do so; a disciple however may do so; this is the opinion of R. Simeon son of R. Eliezer. R. Simeon b. Gamaliel says: This only applies to things which are to his distinction[4] but in things which cause him hardship any one may do so and may he be remembered for good, because it is not an advantage to him but a hardship.

Our Rabbis have taught: If one fasted on account of some visitation and it passed, or for a sick person and he recovered, he should nevertheless complete his fast. If one journeys from a place where they do not fast to a place where they do, he should fast with them; from a place where they do fast to a place where they do not, he should nevertheless complete his fast. If he forgot and ate and drank let him not make it patent in public nor may he indulge in delicacies, as it is written, And Jacob said to his sons: Why should you show yourself?'[5] Jacob conveyed thereby to his sons' 'When you are fully sated do not show yourselves either before Esau or before Ishmael that they should not envy you'. See that ye fall not out by the way. R. Eleazar said: Joseph said to his brethren, 'Do not busy yourselves with questions of law lest the road become uncertain for you [you lose the way]'.[6] Is it really so; did not R. Elia b. Berackiah say: Two scholars who are journeying on the road and they do not discuss words of Torah merit to be devoured by fire, as it written, And it came to pass, as they still went on and talked, that behold, there appeared a chariot of fire, and horses of fire, which parted them asunder?[7] — [They parted asunder] only because they talked [of Torah] but if they had not talked they would have merited to be devoured by fire! — There is no contradiction. The latter case speaks of repeating one's studies, and the former of cogitation.

A Tanna taught: [Joseph said to his brethren] 'Do not take big strides and bring the sun into the city'. 'Do not take big strides': For a Master said: Big strides rob a man of one five-hundredth part of his eyesight. 'And bring the sun into the city': As Rab Judah said in the name of Rab: Let a man always leave [the city by 'daylight',[8] and enter it by 'daylight, as it is said, As soon as the morning was light, the men were sent away.[9] Rab Judah said[10] in the name of R. Hiyya: He who journeys on the road should not eat more than one eats in years of famine. Why? Here [in Babylonia] they explained the reason to be in order to prevent digestive troubles[11] but in Palestine they said, in order [to make] his provisions last [throughout the whole journey]. What is the difference between the two [reasons]? — The difference is

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(1) Megillath Ta'anith. A chronicle enumerating thirty-five eventful days in the history of the Jewish people on which fasting is forbidden. The Scroll was written between 66-70 C.E. V. Zeitlin, Megillat Taanit.

(2) There are two explanations of the term Kallah. (a) It is the name of an apocryphal tractate of the Talmud not usually studied. (b) The term signifies the half-yearly assemblies in the Babylonian schools in Adar and Elul when a particular tractate was studied and the lecture sessions thrown open to all. V. Shab. 114a and commentaries ad loc.; J.E. VII, 423. and Kid., Sonc. ed. p. 247 n. 4.

(3) With reference to the first three fasts.

(4) Cf. Ber. 16b.

(5) Gen. XLII, 1. E. V. 'Why do you look upon one another.'

(6) [Aliter: 'Become unsafe for you'. passers-by might be irritated by your disputes.]

(7) II Kings II, 11.

(8) Cf. Gen. 1, 4. כי טוב applied by the Rabbis to the daylight.

(9) Gen. XLIV, 3.

(10) [Var. lec. insert: In the name of Rab.]

(11) Which would retard the peace of the journey

Talmud - Mas. Ta'anith 11a

apparent in the case of a man on board ship[1] or of a man journeying from one inn to another.[2] R. Papa ate a piece of bread at every parasang; he was therefore of the opinion that the reason is in order to prevent digestive troubles.[3]

Rab Judah said in the name of Rab:[4] He who starves himself in years of famine escapes unnatural death, as it is said, In famine He will redeem thee from death.[5] [Scripture should have said] ‘from famine’. This is therefore what [Scripture] meant to convey. As a reward for starving himself in years of famine one will escape unnatural death. Resh Lakish said: A man may not have marital relations during years of famine, as it is said, And unto Joseph were born two sons before the year of famine came.[6] A Tanna taught: Childless people may have marital relations in years of famine. Our Rabbis have taught: When Israel is in trouble and one of them separates himself from them, then the two ministering angels who accompany every man come and place their hands upon his head and say, ‘So-and-so who separated himself from the community shall not behold the consolation of the community’. Another [Baraitha] taught: When the community is in trouble let not a man say, ‘I will go to my house and I will eat and drink and all will be well with me’. For of him who does so Scripture says, And behold joy and gladness, slaying oxen and killing sheep, eating flesh and drinking wine — ‘Let us eat and drink, for to-morrow we shall die’.[7] What follows after this [verse]? — And the Lord of Hosts revealed Himself in mine ears; surely this iniquity shall not be expiated by you till ye die. This is the conduct of the ordinary man, but what does Scripture say of the conduct of the wicked? Come ye, I will fetch wine, and we will fill ourselves with strong drink; and to-morrow shall be as this day.[8] What follows after this [verse]? The righteous perisheth, and no man layeth it to heart . . . that the righteous is taken away from the evil to come.[9] But rather a man should share in the distress of the community, for so we find that Moses, our teacher, shared in the distress of the community, as it is said, But Moses’ hands were heavy; and they took a stone and put it under him, and he sat thereon.[10] Did not then Moses have a bolster or a cushion to sit on? This is then what Moses meant [to convey], ‘As Israel are in distress I too will share with them. He who shares in the distress of the community will merit to behold its consolation’.[11] Perhaps a man will say, ‘Who is there to testify against me?’ The very stones of his house and its beams testify against him, as it is written, For the stone shall cry out of the wall, and the beam out of the timber shall answer it.[12] In the school of R. Shila it was taught: The two ministering angels who accompany every man testify against him, as it is said, For He will give His angels charge over thee.[13] R. Hidka says: A man's own soul testifies against him, as it is said, Keep the doors of thy mouth from her that lieth in thy bosom.[14] And some say: A man's own limbs testify against him, as it is said, Ye are my witnesses saith the Lord.[15]

A God of faithfulness and without iniquity.[16] ‘A God of faithfulness’: Just as punishment will be exacted of the wicked in the world to come even for a slight transgression which they commit, So too is punishment exacted in this world of the righteous for any slight transgression which they commit. ‘And without iniquity’: Just as the righteous will receive their reward in the world to come, even for the least meritorious act which they do, so too are the wicked rewarded in this world even for the least meritorious act which they do. Just and right is He:[17] They [the Rabbis] said: When a man departs to his eternal home all his deeds are enumerated before him and he is told, Such and such a thing have you done, in such and such a place on that particular day. And he replies, ‘Yes’. Then they say to him. ‘Sign’ — And he signs, as it is said, He sealeth up the hand of every man.[18] And what is even more, he acknowledges the justice of the verdict and he says. ‘You have judged me well’, in order that the words of Scripture may be fulfilled, That thou mayest be justified when Thou speakest.[19]

Samuel said: Whosoever fasts [for the sake of self-affliction] is termed a sinner. He is of the same opinion as the following Tanna. For it has been taught: Eleazar ha-Kappar Berabbi[20] Says: What is Scripture referring to when it says [of the Nazirite] , And make atonement for him, for that he sinned by reason of the soul.[21] Against which soul did he sin?[22] [It must refer to the fact that] he denied himself wine. We can now make this inference from minor to major: If this man [Nazirite] who denied himself wine only is termed, Sinner, how much more so he who denies himself the enjoyment of ever so many things. R. Eleazar says: He is termed, Holy. as it is said, He shall be holy, he shall let the locks of the hair of his head grow long.[23] If this man [Nazirite] who denied himself wine only is termed, Holy. how much more so he who denies himself the enjoyment of ever so many things — How will then Samuel explain the verse wherein he is termed, Holy? — That refers to the locks growing long. And how will R. Eleazar explain the statement that he is termed, Sinner?-That is because he defiled himself [by contact with the dead]. But did R. Eleazar say so? Did he not say: Let a man always consider himself

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(1) The former reason does not apply here, but the latter does.

(2) Lit., ‘from station to station’ where he can obtain new provisions. The latter does not apply here but the former does.

(3) [Of which he was not afraid owing to his corpulence, v. B.M. 84a.]

(4) [MS.M. adds: In the name of R. Hiyya, cf. n. 3.]

(5) Job V, 20.

(6) Gen. XLI, 50.

(7) Isa. XXII, 13.

(8) Ibid. LVI, 12.

(9) Ibid. LVII, 1.

(10) Ex. XVII, 12.

(11) [This sentence is omitted in MS.M.]

(12) Hab. II, 11.

(13) Ps. XCI, 11.

(14) Micah VII, 5. Bosom is interpreted to mean, ‘soul’.

(15) Isa. XLIII, 10.

(16) Deut. XXXII, 4.

(17) [MS.M. reverses the application of the two texts.]

(18) Job XXXVII, 7.

(19) Ps. LI, 6.

(20) Or ‘Beribi’ v. Nazir, Sonc. ed. p. 64, n. 1. J.E. s.v. Berabbi.

(21) Num. VI, 11. E.V. ‘dead’.

(22) He has sinned against his own soul.

(23) Num. VI, 5.

Talmud - Mas. Ta'anith 11b

as if the Holy One dwells within him, as it is said, The Holy One in the midst of thee, and I will not come in fury?[1] — This is no contradiction. The one speaks of him, who is able to bear self-affliction and the other of one who is not able. Resh Lakish says: He is termed, Pious, as it is said, The Pious man[2] weans his own soul but he that is cruel etc.[3] R. Shesheth, said: The young scholar who would afflict himself by fasting let a dog devour his meal.[4]

R. Jeremiah b. Abba said: There are no public fasts[5] in Babylonia except [the Fast of] the Ninth of Ab.[6] R. Jeremiah b. Abba further said in the name of Resh Lakish: A scholar may not afflict himself by fasting because he lessens thereby his heavenly work.[7]

THEY MAY EAT AND DRINK AFTER IT GETS DARK etc. R. Ze'ira said in the name of R. Hanina: An individual who has undertaken to fast though he may have eaten and drunk the whole of the [preceding] night, yet on the morrow he should recite the [special] prayer for fast days; if, however, he has continued his fast throughout the following night he may not recite the prayer for fast days [on the next day].[8] R. Joseph asked: What view does R. Huna take? Does he take the view that one cannot [undertake a] fast for a matter of hours? Or perhaps one can undertake a fast for hours, but if one does so he should not recite the [special] prayer for fast days?[9] — Abaye replied to him: It is quite definite R. Huna may hold the opinion that one can undertake a fast for a matter of hours and if one does so he may recite the [special] prayer for fast days, but here the case is different since he did not previously take upon himself[10] [to fast]. Mar ‘Ukba[11] chanced to come to Ganzaka[12] and he was asked: Is fasting for a matter of hours considered a fast or not? and he was unable to answer. [They then asked him] are wine-jars belonging to idolaters prohibited for use or not and he was unable to answer; [he was then asked] in which [garments] did Moses perform the service [in the Tabernacle] during the seven days of consecration[13] and he was unable to answer. He went and inquired in the House of Learning and he was told, the law is that fasting for a matter of hours is considered a fast and we do recite the [special] prayer for fast days [if one has completed the fast].[14] Further the law is that wine-jars belonging to idolaters may be used after twelve months; Moses performed the service during the seven days of consecration dressed in a white frock. R. Kahana taught: In a white frock without a border.[15]

R. Hisda said:

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(1) Hosea XI, 9. R. Eleazar holds the view that the divine is ever present in man. How could then a man who fasts be called holy seeing that he humiliates God through his fasting.

(2) E.V. ‘merciful’. Resh Lakish takes איש חסד as denoting חסיד.

(3) Prov. Xl, 17. Resh Lakish takes גמל in the sense of, to wean (e.g.. Gen. XXI, 8). He refrains from food (Rashi). [Aliter: Resh Lakish considers the one who does not fast as pious on this view the verse is rendered: The pious man doeth good to his own soul, v. Tosaf. s.v. גומל]

(4) He deserves to have no food on which to break his fast.

(5) Observed with the same strictness as the fast of the ninth of Ab.

(6) [The reference is (a) to rain fasts of which some were subject to the stringencies of the ninth of Ab (v. infra 30a). As Babylon could do with a minimum of rain (v. supra) such fasts were not decreed (v. Tosal s.v. אין); (b) To fasts decreed for some visitation. Since there was no Sanhedrin in Babylon they were not treated as public fasts. An exception to this rule is the ninth of Ab which has been decreed for all generations by a Sanhedrin of a former age. v. Me'iri, a.I.]

(7) He weakens himself by fasting and consequently his studies suffer.

(8) Every fast must be explicitly undertaken on the preceding day. קבלת תענית In the case where he merges one day's fast into another for which he has failed to make that undertaking he is not entitled to recite the עננו prayer (v. P. B. p. 50) since the second day's fast in the absence of the undertaking is considered no fast and can be broken at will (Rashi).

(9) [I.e. is R. Huna's view that a fast that has not been undertaken in the preceding day is considered no fast at all, and consequently may be broken at will, or though the fast prayer is not provided for such a fast, it is nevertheless considered a fast in so far that once begun it has to be continued to the end of the stipulated time (Rashi). For other interpretations v. R. Hananel and R. Gershom.]

(10) [I.e.. the question whether fasting by hours is considered a fast has no bearing on it. Huna's case where the individual incidentally merged one day's fast into another without at all intending the second day to be a fast. Where, however, a man vows to fast for a number of hours, the fast indeed may be considered a fast in every respect (Rashi).]

(11) The parallel passage in A.Z. 34a has R. Akiba.

(12) Ganzaka, identified with Shiz S.E. of Lake Urmia, N.W. Persia. V. Obermeyer. p. 10.

(13) Lev. VIII, 33. Aaron we know did put on special priestly garments for the occasion. Cf Ex. XXIX, 29-30.

(14) [Cf. MS.M.: ‘and he who fasts by hours recites the fast prayer’; v. also A.Z. loc. cit.]

(15) To indicate that it was for temporary ministration only. V. Tosaf. A.Z. 34a.

Talmud - Mas. Ta'anith 12a

With reference to what you said that one may fast for a matter of hours this only applies if [the man concerned] had not tasted anything until the evening. Abaye said to him: This is then a full fast! — This speaks of a case where the fast was only an after thought.[1]

R. Hisda further said: A fast over which the sun has not set cannot be deemed a fast. An objection was raised against this. The men of the Mishmar fast but do not complete [the day]. [There fasting] is merely in order to afflict themselves [in sympathy with the community].[2]

Come and hear: R. Eleazar b. Zadok said: I am a descendant of Sena'ah[3] of the tribe of Benjamin; once the [fast of] the ninth of Ab fell on the Sabbath and we postponed it until the day after the Sabbath and we fasted but did not complete the fast because it was our festive day![4] — There too the fasting was merely in order to afflict themselves [in sympathy with the community].

Come and hear: R. Johanan [once] said: ‘I will fast until I return home’! — There he said this merely in order to evade the hospitality of the house of the Nasi.[5]

Samuel said: A fast which one does not undertake before sunset on the previous day is not deemed to be a fast. But what if a man does observe such a fast? — Rabbah b. Shila replied: It may be compared to a pair of bellows filled with wind.[6] At what time should one undertake such a fast? — Rab said: During the time that one may read the Afternoon Service, and Samuel said, In the course of the Afternoon Tefillah. R. Joseph said: The view of Samuel appears the more reasonable, since it is written in the Scroll of Fasts: Therefore any man who has been subject to a fast previous to this [i.e. , the incidence of these festive days] should build himself[7] [by an undertaking]. Does this not refer to an undertaking made during prayer?[8] — No; this only denotes that he is forbidden [to break his fast because of his previous undertaking]. R. Hiyya and R. Simeon b. Rabbi differ on this question. One reads[9] yesar[10] [‘he should bind himself by his under-taking’] and the other reads, yeaser[11] [he is forbidden, i.e., to break his fast]. The one who reads, yesar, justifies his view in the way we have just stated, but the one who reads, yeaser, what does this mean? — It has been taught in the Scroll of Fasts: Any man who is subject to a fast previous to this [incidence of these festive days] is forbidden [to break his fast]. How is this to be understood? If a man undertook to fast on Mondays and Thursdays throughout the year and any of the festive days enumerated in the Scroll of Fasts happens to fall on those days, then if his vow was made previous to our decree his vow overrides our decree, but if our decree was made before his vow then our decree overrides his vow.

Our Rabbis taught: Until when may one eat and drink [on the night preceding a fast]? Until the rise of dawn; this is the opinion of Rabbi. R. Eliezer b. Simeon says: Until cock crow. Abaye said: This only holds good where a man had not yet finished his meal, but if he had finished his meal he may not eat again.

Raba raised an objection against this: If one had completed his meal and rose from the table, he may eat further! — There it speaks of the case where he had not yet removed the [table].[12] Some say, Raba said: This holds good only when he has not gone to sleep, but if he has gone to sleep he may not eat again. Abaye raised an objection against this: If one had gone to sleep and then got up he may eat again! — There it speaks of the case where he was merely dozing. What constitutes dozing?-R. Ashi replied:

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(1) R. Hisda's interpretation of fasting for a matter of hours is this. A man was too occupied for the first half of the day to have a meal and decides that he would end the day without food so as to make it constitute a fast. In such special circumstances the fast is a valid one, though the man had not explicitly undertaken it on the day previous (V. Rashi).

(2) V. Mishnah infra 15b and notes.

(3) Cf. Ezra II, 35. The Gemara reads Sena'ab.

(4) V. infra 26a.

(5) V. Glos.
(6) I.e., of no significance.
(7) The text reads, ייסר.
(8) בצלו in prayer. ייסר בצלו an undertaking made during the Minhah Tefillah the day previous.
(9) In the text of the Scroll of Fasts.
(10) ייסר.
(11) יאסר.
(12) The meal is not looked upon as ended.

Talmud - Mas. Ta'anith 12b

A sleep which is no sleep, a wakefulness which is no wakefulness, he answers when he is called, but cannot recall an argument; when, however, he is reminded of something he remembers it.

R. Kahana said in the name of Rab: An individual who has undertaken a fast is forbidden to wear shoes because we fear that perhaps he has undertaken a public fast.[1] How shall he declare his vow [to be able to wear shoes]?-Rabbah b. Shila said: He should make the following declaration, 'To-morrow I shall observe before Thee a private fast'. The Rabbis said to R. Shesheth: We have seen Rabbis who come to an Assembly on a fast day wearing their shoes. Thereupon he became angry and asked them, Perhaps they even eat? Abaye and Raba used to come [to the Assembly] wearing shoes[2] without soles. Meremar and Mar Zutra used to change the right [shoe] to the left [foot] and the left to the right.[3] The scholars of the school of R. Ashi wore their shoes as usual; they were of the same opinion as Samuel who said: In Babylonia except for the Fast of the Ninth of Ab there are no public fasts .[4]

Rab Judah said in the name of Rab: One may borrow a fast and repay it [on another day]; When I repeated this [statement] before Samuel he said to me, Did he then take a vow upon himself that he must pay it?-He merely undertook to afflict himself, if he is able he afflicts himself, if not he does not do so. Some say, Rab Judah said in the name of Rab: One may borrow his fast and repay it. When I repeated this before Samuel he said to me, This is self-evident; even if it is merely a vow, would he not have to pay a vow on the next day or on a later day?

R. Joshua, the son of R. Idi chanced to be with R. Assi, and after they had prepared in his honour a three-year-old calf[5] they said to him, 'Will the Master partake of it?' He replied. 'I am fasting'. They said to him, 'Let the Master borrow and repay [the fast later]'. Is the Master not in agreement with the view of Rab Judah, who said in the name of Rab: One may borrow a fast and repay it? — He replied: [Mine] is a fast for a [bad] dream, and Rabbah b. Mehasiah said in the name of R. Hama b. Guriah, in the name of Rab: Fasting is as efficacious for the bad dream as fire is for tow, and upon this R. Hisda commented: And [the fast must be] on the same day; and R. Joseph added: Even if [the day] is the Sabbath. What amends shall he make [for having fasted on the Sabbath]? — He should observe an additional fast.[6]

MISHNAH. IF THESE FAST DAYS PASSED AND THERE WAS NO ANSWER TO THEIR PRAYERS, THE BETH DIN ORDAIN UPON THE COMMUNITY THREE FURTHER FASTS; [ON DAYS PRECEDING THESE FASTS] THEY MAY EAT AND DRINK [ONLY] WHILST IT IS STILL DAY, AND THEY MAY NOT [ON THESE FAST DAYS] DO WORK, NOR BATHE, NOR ANOINT THEMSELVES WITH OIL, NOR WEAR SHOES, NOR HAVE MARITAL, RELATIONS; AND THE BATHS TOO ARE CLOSED. IF THESE [DAYS] PASSED AND THERE WAS [STILL] NO ANSWER TO THEIR PRAYERS THE BETH DIN ORDAIN UPON THE COMMUNITY A FURTHER SEVEN [FASTS]. MAKING THIRTEEN IN ALL. [IN THIS RESPECT ARE] THE LATTER MORE STRINGENT THAN THE FORMER[7] IN THAT ON THEM THE ALARM IS SOUNDED AND THE SHOPS ARE CLOSED. ON MONDAYS THE

SHUTTERS [OF THE SHOPS] ARE OPENED A LITTLE WHEN IT GETS DARK, BUT ON THURSDAYS THEY ARE PERMITTED[8] [THE WHOLE DAY][9] IN HONOUR OF THE SABBATH. IF THESE PASSED AND THERE WAS [STILL] NO ANSWER TO THEIR PRAYERS THEN BUSINESS IS RESTRICTED AS ALSO IS BUILDING, PLANTING, BETROTHAL AND MARRIAGE; AND MEN GREET ONE ANOTHER AS PEOPLE LABOURING UNDER DIVINE DISPLEASURE. THE YEHIDIM[10] BEGIN THEIR FASTING ANEW AND CONTINUE UNTIL THE END OF NISAN; IF NISAN PASSES AND RAIN FALLS THIS IS A SIGN OF DIVINE ANGER, AS IT IS WRITTEN, IS IT NOT WHEAT HARVEST TO-DAY, etc.[11]

GEMARA. It is reasonable that all the other restrictions [should be forbidden] because they give pleasure, but why work which is a source of pain? — R. Hisda replied in the name of R. Jeremiah b. Abba: Scripture says. Sanctify ye a fast, call a solemn assembly, gather the elders.[12] This means that [the fast day is to be treated] like a solemn assembly. Just as it is not permissible to do work on a solemn assembly it is likewise not permissible to do work on a fast day. Perhaps just as on the solemn assembly work is forbidden from the preceding evening so too on a fast day work should close on the preceding evening? — R. Zeira replied: R. Jeremiah b. Abba explained the matter to me thus: Scripture says, Gather the elders'; it is to be like a gathering of elders, as the elders foregather by day so too the fast commences on the day. Perhaps [it commences] from noon? — R. Shisha b. Idi replied: This is a support for R. Huna who said: The assembly [of the community on a fast day] takes place in the morning. How do they spend [the day]?-Abaye replied: From morning to midday they look into the affairs of the city;[13] from then onwards they read for a quarter of the day from the Torah and the Prophets and the rest of the day [is spent] in praying for mercy, as it is said, And they stood up in their place, and read in the book of the Law of the Lord their God a fourth part of the day; and another fourth part they confessed and prostrated themselves before the Lord their God.[14]

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(1) And therefore he must observe the fast with all the strictness of a public fast. V. supra 10a.

(2) [MS.M 'Used to wear shoes.' V. Tosaf. s.v. אביי.]

(3) To show that they had not forgotten that it was a fast day.

(4) V. note on supra 11 b.

(5) Another explanation is: a calf the third born of its mother.

(6) Lit., 'He should observe a fast for his fast'.

(7) [Var lec., In what respect are the latter more stringent than the former? in that on them etc.]

(8) V. Gemara.

(9) V. Mishnah text in the Gemara.

(10) V. supra p. 44, n. 9.

(11) I Sam. XII, 17.

(12) Joel I, 14.

(13) To find out if the citizens were guilty of any dishonesty or whether in the city there were men of violence (Maimonides). V. Buchler, Moses Maimonides, viii Centenary Memorial Volume, ed. by I. Epstein, pp. 13-55.

(14) Neh. IX, 3.

Talmud - Mas. Ta'anith 13a

Perhaps the order of the day is to be reversed? — This cannot possibly be so, seeing that it is written, Then were assembled unto me everyone that trembled at the words of the God of Israel, because of the faithlessness of them of the captivity etc.;[1] and then follows, And at the evening offering I arose from my fasting . . . and spread out my hands unto the Lord.[2]

Rafram b. Papa said in the name of R. Hisda: On any fast ordained on account of mourning, as for example the Ninth of Ab and a mourner, it is forbidden to bathe in warm or in cold water, but on any fast ordained merely to prevent indulgence in pleasure, as for example, a public fast day, bathing in warm water is forbidden but permissible in cold water. R. Idi b. Abin said: We too have learnt: AND THE BATHS TOO ARE CLOSED? Abaye said to him: If it were forbidden to bathe even in cold water, then it should have stated, ‘and the rivers are stopped up’! — R. Shisha the son of R. Idi replied: This was the difficulty which my father felt. [He argued]. Let us see: the Mishnah already states, IT IS NOT PERMISSIBLE TO BATHE, why does it add AND THE BATHS TOO ARE CLOSED? Evidently from this is to be concluded that [bathing] in warm water is forbidden but permissible in cold water.

Shall we say that the following supports [R. Hisda]: ‘All those who have to take the ritual bath[3] immerse in the usual way both on the Ninth of Ab and on the Day of Atonement’. In what [water is here meant]? Is it in warm [water]? Is then [ritual] immersion in warm water permissible, seeing that such water must of a necessity be drawn[4] [and is therefore unfit for immersion]? It must therefore be in cold [water]; and yet it is only those who have to take the ritual bath who may [immerse] but others may not?[5] — Said R. Hana b. Kattina [No:] This [passage] has special reference to the hot springs of Tiberias. If this is so how is the concluding statement to be understood? R. Hanina, the Deputy High Priest said: Our House of God merits that a man should for its sake forego an immersion once a year.[6] Now should you say that bathing in cold water is permissible, let him then bathe in cold water! — R. Papa replied: [It speaks] of a place where cold water is not available.

Come and hear: When the Rabbis declared that it is not permissible to do work [on a public fast day] this applies only to the day but not to the night [preceding]; and when they declared that it is not permissible to wear shoes, this applies only within the city, but on the road it is permissible. How should a man act? When he sets out on a journey he puts his shoes on, but when he enters the city he removes them. And when they declared that it is not permissible to bathe they meant the whole body but he may wash his face, hands or feet. You will find that the same applies to one placed under the ban and also to the mourner. Now does not [this last statement] imply that they are subject to all [the restrictions mentioned previously]? This being so, of what [water does the Baraitha] speak? Shall we say warm water? Is it then permissible [for a mourner] to wash his face, hands or feet [in warm water]? Did not R. Shesheth say: The mourner may not put even his finger into warm water? Therefore [it must speak of] cold water![7] — No; it refers indeed to warm water, and as for your difficulty in interpreting, ‘and the same applies to one placed under the ban and also to the mourner’, [you must take] this to refer only to the remaining restrictions[8] [and not to bathing].

Come and hear: R. Abba the Priest said in the name of R. Jose the Priest: It happened that the sons of R. Jose b. Hanina died and he bathed in cold water throughout the seven days [of mourning]! — In his case one bereavement followed close on the other. For it has been taught: Where a man suffers one bereavement close upon another and his hair weighs heavy upon him he may thin them out with a razor and he may also wash his clothes in water. R. Hisda said: With a razor but not with scissors, in water but not in natron nor in sand.

Raba said: A mourner may bathe in cold water all the seven days in the same way as he may partake of meat and wine. An objection was raised against this:

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(1) Ezra IX, 4.

(2) Ezra IX, 5.

(3) E.g.a woman after menstruation or confinement. (V. Num. XIX, 17.)

(4) Ritual immersion takes place only either in running water i.e., In a stream, or in a natural spring or in a ritual bath the waters of which are directly connected with them. To be warmed, waters would have to be ‘drawn’, and this is not permissible.

(5) This supports R. Hisda.

(6) On the ninth of Ab because of national mourning.

(7) [This shows that on a public fast day. as in the case of a mourner, bathing in cold water is forbidden in opposition to

R. Hisda.]
(8) I.e., working and wearing shoes.

Talmud - Mas. Ta'anith 13b

A girl who has reached adolescence[1] may not make herself unsightly during the days of mourning for her father.[2] This implies that a girl who has not reached adolescence may [make herself unsightly]. And in which respect [may she neglect herself]? By not bathing. [This being so], in what water? Shall I say in warm? [Then how can you say that] a girl who has not reached adolescence may not neglect herself [in this respect]? Did not R. Hisda say: A mourner may not put even his finger in warm water? Therefore [it must speak of] cold water![3] — No; [it speaks of] painting the eyelids and dyeing the hair.

Shall we say that the following supports Raba: R. Abba the Priest said in the name of R. Jose the Priest: It happened that the sons of R. Jose b. Hanina died and he bathed in cold water throughout the seven days [of mourning]. The answer is, in his case one bereavement followed close on the other. For it has been taught: Where a man suffers one bereavement close upon another and his hair weighs heavy upon him he may thin them out with a razor and he may also wash his clothes in water. R. Hisda said: With a razor, but not with scissors, In water, but not in natron, nor in sand nor in aloe.

Some say. Raba said: The mourner may not [bathe] in cold water all the seven days. Why this differentiation [between bathing in cold water] and partaking of meat and wine?[4] — Of these [the mourner] may partake in order to counteract his fear.[5] Shall we say that support may be adduced from the following passage: A girl who has reached adolescence may not make herself un-sightly [during the days of mourning for her father]. This implies that one who has not reached adolescence may? And in what respect may she neglect herself? [By not bathing]. [This being so], in what water? Is it in warm water? Then how can you say that a girl who has reached adolescence may not neglect herself in this respect? Did not R. Hisda say: A mourner may not put even his finger in warm water? Therefore [it must speak of] cold water! — No; it speaks of painting the eyelids and dyeing the hair. R. Hisda said this proves[6] that a mourner is forbidden to wash his clothes throughout the seven days of mourning.[7] The law is, a mourner is forbidden to bathe his whole body either in warm or in cold water all the seven days; his face, hands and feet he may not [wash] in warm water but in cold water he may; anointing is not permitted at all; if, however, it is to remove the dirt it is permissible.

Where is the prayer for the fast day[8] inserted?[9] Rab Judah brought his son R. Isaac [to the school][10] and he expounded as follows: An individual who has taken upon himself a fast should recite the prayer for the fast day. And where does he insert it? Between the benediction for ‘Redemption’ and the benediction for ‘Healing’.[11] R. Isaac demurred to this [saying]: Is it proper that an individual should insert [in his prayers] a special benediction for himself? Therefore said R. Isaac: [He includes it] in the benediction ‘Thou hearkenest to the prayer’.[12] And so, too, said R. Shesheth: [In the benediction] ‘Thou hearkenest to the prayer’. An objection was raised [against this]: The only difference between [the Order of Prayer] of an individual on a fast day and a community is that the former recites eighteen benedictions and the latter recite nineteen. Now what is [meant by] an ‘individual’ and what by a ‘community’? Shall we say that [by] an ‘individual’ [is meant] literally and [by] ‘community’ the Representative of the community [leading in prayer]?[13] If so, are the benedictions [recited by the latter] nineteen? Are they not rather twenty-four?[14] Therefore the [Baraitha quoted] should read thus: The only difference between an individual who has undertaken a private fast and an individual who has undertaken a public fast is that the former recites eighteen [benedictions] and the latter nineteen.[15] From which one may infer that an individual may insert a special benediction for himself.[16] No; [by ‘community’ is definitely meant], the Representative of the Community and as to your difficulty, that the Representative recites twenty-four benedictions [and not nineteen]. [this refers] to the first three fasts when the twenty-four are not [recited]. But is this so? Is it not stated that the only difference between the first three [fasts] and the middle three [fasts] is that work is permissible on the former and forbidden on the latter? Does this not imply that with regard to the recital of the twenty-four [benedictions] both are alike?-The Tanna [of the Baraitha] has stated only one [difference] and has left out [others] — What other differences has he left out besides this one?[17] And further, does he not explicitly state: The only difference etc.? — The Tanna speaks only of differences with regard to things forbidden on the fast days and not [of differences with regard to] prayers. And if you like, I can say that even on the middle three fasts the twenty-four benedictions are also not recited. But is this so? Has it not been taught: ‘The only difference between the second three [fasts] and the last seven is that on the latter the alarm is sounded and the shops are closed.’ Does this not imply that in all other respects they are alike? And should you reply that here too [the Tanna] stated one difference only and left out [others], I would object on the ground that it explicitly states, ‘The only difference’! — Do you assume the expression, ‘The only difference etc.’

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(1) בוגרת Twelve and a half years of age plus one day. opposed to a vrgb twelve years plus one day old.

(2) In order not to prejudice her chances of marriage because of her unsightliness.

(3) [And yet it is forbidden to a girl who has not reached adolescence to bathe in it during her mourning, which contradicts Raba.]

(4) Which is permissible for the mourner.

(5) I.e., to counteract his grief.

(6) Which is in support of Raba. Cf. P. 59, n. 3 mutatis mutandis.

(7) [Washing clothes is placed on a par with painting eyelids and dyeing hair (Rashi). This passage is omitted in one MS. v. D.S. a.l.]

(8) תפלת עננו v. P.B. p. 50.

(9) [This sentence is omitted in MS.B. v. D.S.]

(10) [אדבריה Lit., ‘to lead’. Various meanings have been given to the phrase: (a) Took him for a walk (Rashi. Bezah 29a); (b) Put the words in his mouth (R. Hananel, ibid.) i.e., prepared for him the exposition; (c) Gave him permission (Epstein J.N. MGWJ, LXIII, p. 258, adopted by Malter a.I.)

(11) I.e., between the seventh and the eighth benedictions.

(12) I.e., in the sixteenth benediction.

(13) The Reader.

(14) V. infra 15a.

(15) V. supra 12b.

(16) In opposition to R. Isaac.

(17) Surely he would not stop short of just one item.

Talmud - Mas. Ta'anith 14a

to denote the absolute exclusion of any other differences? Has he not left out [mention of the taking out of] the Ark?[1] — [As for the taking out of the] Ark this cannot be considered an omission because [the Baraitha] enumerates only things done in private but not things done in public. R. Ashi said: This[2] may also be deduced from our Mishnah where it is learnt: IN WHAT RESPECT ARE THE LATTER MORE STRINGENT THAN THE FORMER?[3] IN THAT ON THEM THE ALARM IS SOUNDED AND THE SHOPS ARE CLOSED. This would imply that in all other respects they are alike. And should you reply that here too [the Mishnah] has stated only one [difference] and left out [others]. I would object, the Mishnah explicitly states, IN WHAT RESPECT ARE THE LATTER etc.’![4] — Do you assume the expression, ‘IN WHAT RESPECT ARE THE LATTER etc. literally? Has he not also left out [mention of the taking out of] the Ark?- [As for the taking out of] the Ark this cannot be considered an omission because he mentions it in the next chapter. If now that you have arrived at this conclusion [the difference in respect of the recital of] the twenty-four benedictions is also no omission since he mentions it [also] in the next chapter. What is the final decision [with regard to the insertion of the special benediction for fast days]?[5] R. Samuel b. Sasartai said, and so too R. Hiyya b. Ashi in the name of Rab: [He inserts it] between ‘Redemption’ and ‘Healing’. R. Ashi said in the name of R. Jannai, the son of R. Ishmael: In [the benediction] ‘Who hearkenest unto prayer.

One Baraitha teaches: Pregnant women and nursing mothers fast on the first fasts but not on the last; another teaches: They fast on the last but not on the first; and yet another teaches: They fast neither on the first nor on the last! — R. Ashi said: Take it that they fast on the middle set of fasts and in this way all [three Baraithas] will be reconciled.[6]

IN WHAT RESPECT ARE THE LATTER MORE STRINGENT THAN THE FORMER? IN THAT ON THEM THE ALARM IS SOUNDED AND THE SHOPS ARE CLOSED. How do we sound the alarm? — Rab Judah said: By the shofar.[7] Rab Judah the son of R. Samuel b. Shilath in the name of Rab said: By [the recital of the] ‘anenu.[8] The scholars assumed that the authority who said by the ‘anenu was opposed to the sounding of the alarm by the shofar and that the one who said by the shofar was opposed to the recital of the ‘anenu. But has it not been taught: No less than seven fasts are ordained upon the community upon each of which the alarm is sounded eighteen times; [as] a sign to remember this take Jericho. Now at Jericho the shofar [was used to give the alarm]. This would be a refutation of him who said: By ‘anenu [only]! Hence [we must conclude] that all are agreed that the sounding of the shofar constitutes the sounding of an alarm, and that they differ only with regard to [the recital of] the ‘anenu; one takes the view that it constitutes the sounding of an alarm, and the other that it does not. The authority who says that the recital of the ‘anenu constitutes the sounding of an alarm [will hold] how much more so does the sounding of the shofar, but the authority who says, ‘by the shofar’, would exclude the recital of the ‘anenu. But has it not been taught: In the case of all other visitations that break out [in the world], as for example. Itch, Locusts, Flies, Hornets, Gnats and the invasion by Snakes and Scorpions they did not sound the alarm, but they cried aloud? And as crying can only be by mouth, the sounding of the alarm must consequently be by the shofar! — This forms a subject of dispute amongst the Tannaim, for it has been learnt: In the case of these [calamities] they sound the alarm even on the Sabbath ; when a city is surrounded by a ravaging troop, or is in danger of inundation by a river or when a ship is foundering on the sea, R. Jose said: [We may sound the alarm to summon] help but not for intercession! Now with what [is the alarm sounded]? Shall we say by the shofar? Is then the sounding of the shofar on the Sabbath permissible? It must therefore be by the recital of the ‘anenu, and this is termed: ‘Sounding the alarm’. This proves it.

In the time of R. Judah the Prince[9] there was distress[10]

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(1) Which was taken out during the last seven fasts but not during the intermediary, v. infra 15a.

(2) That the twenty-four benedictions are recited also during the middle three fasts.

(3) [‘THE FORMER’ means those immediately preceding the middle three fasts which, taken together with what follows, seems to imply that the difference is limited to the points enumerated.

(4) [Where as explained in the Gemara infra 15b it applies only to the last fast days (Rashi). R. Hananel explains differently.]

(5) I.e., by an individual (Rashi).

(6) The reconciliation of the conflicting Baraithas is arrived at in the following manner. Call the three groups of fasts A (the first three), B (the middle three) and C (the last seven). In the first Baraitha B is first with regard to C; in the second B is last with regard to A; and in the third B is the middle one.

(7) V. Glos.

(8) The fast prayer. v. P.B. p. 50.

(9) Text reads, Judah Nesi'ah. Nesi'ah, is the title by which the Patriarch Judah III (end of third century) was known.

(10) Not a drought, but some other kind of visitation.

Talmud - Mas. Ta'anith 14b

; he ordained thirteen fast days and their prayer was not answered. He thought of ordaining additional fasts but R. Ammi said to him,'Did not [the Sages] declare we should not trouble the community unduly'. Said R. Abba the son of R. Hiyya b. Abba, 'R. Ammi [in saying this] was studying his own interests',[1] for thus did R. Hiyya b. Abba say in the name of R. Johanan: The statement [cited by R. Ammi] holds good only so far [as fasts for] rain are concerned, but in the case of other forms of visitation the fasts are continued until their prayers are answered from heaven. It has been taught to the same effect: When they [the Sages] instituted the order of fasts for [twice] three days, and then a further seven days, they intended these to be applicable only in the case of fasts for rain, but in all other forms of visitation the fasts are to be continued until their prayers are answered from heaven. Shall we say that this will be a refutation of R. Ammi? — R. Ammi can answer you: The Tannaim are divided on this question. For it has been taught: Not more than thirteen fasts are ordained upon the community because we should not trouble the community unduly; this is the opinion of Rabbi. R. Simeon b. Gamaliel says: This is not the real reason[2] [why no additional fasts are ordained] but it is because after these thirteen fasts the time of rainfall has gone.

The inhabitants of Nineveh[3] sent to enquire of Rabbi: How should we who need rain even in the Tammuz cycle act?[4] Are we to consider ourselves individuals and [insert the special prayer for rain] in 'Who hearkenest unto prayer'. or shall we consider ourselves a community and [insert it] in the 'Blessing of the Years'?[5] He sent [word] back to them: Consider yourselves individuals and [insert the prayer] in, 'Who hearkenest unto prayer'. An objection was raised [against this]: R. Judah said: When did this order of fasts apply? Only at such times when the seasons of the year were normal[6] and Israel dwelt in their own land, but to-day all depends upon the years, the countries and the seasons! He replied:[7] You cite a Baraitha in refutation of Rabbi; Rabbi is a Tanna and has the right to differ [from a Baraitha]. What is the final decision [with regard to this matter]? — R. Nahman said: [The blessing is inserted] in the Blessing of the Years. R. Shesheth said: In 'Who hearkenest unto prayer'. The Law is [it is inserted in]. 'Who hearkenest unto prayer'.

ON MONDAYS THE SHUTTERS [OF THE SHOPS] ARE OPENED A LITTLE WHEN IT GETS DARK; BUT ON THURSDAYS THEY ARE PERMITTED[8] THE WHOLE DAY IN HONOUR OF THE SABBATH. The question was raised: How did [the Mishnah] teach? Was it that on Mondays the shutters are opened a little when it gets dark and on Thursdays they are opened [a little] during the whole day in honour of the Sabbath, or perhaps, that on Mondays they are open a little and on Thursdays they are open wide for the whole day? — Come and hear: It has been taught: On Mondays they are opened slightly till the evening and on Thursdays they remain wide open the whole day in honour of the Sabbath; should there be two doors then one is kept open and the other remains closed; should there be a stand[9] in front of the door he may open [the door] in the usual way without any compunction.

IF THESE 'PASSED WITHOUT THEIR PRAYER BEING ANSWERED THEN BUSINESS DEALINGS ARE RESTRICTED AS WELL AS BUILDING AND PLANTING. It has been taught: By BUILDING [is to be understood] building for joyous purposes, and by PLANTING planting for joyous purposes. What is 'building' for joyous purposes? — Building a house for the marriage-feast of one's own son. What is 'planting' for joyous purposes? When one erects a royal banqueting hall.[10]

AND GREETING. Our Rabbis taught: Scholars do not greet one another at all; the greetings of the ignorant are reciprocated in an undertone in a solemn manner; people are seated covered in mourner's fashion and like those placed under the ban, and like men labouring under Divine displeasure, until mercy is shown to them from heaven.

R. Eleazar said: A prominent man should not fall upon his face[11] unless he is confident that he will be answered like Joshua. as it is said, And the Lord said unto Joshua. 'Get thee up; wherefore now art thou fallen upon thy face?’[12] R. Eleazar further said: A prominent man should not put on sackcloth unless he is confident that he will be answered like Jehoram, the Son of Ahab, as it is said, And it came to pass, when the king heard the words of the woman, that he rent his clothes — now he was passing by upon the wall — and the people looked, and, behold, he had sackcloth within upon his flesh, etc.[13]

R. Eleazar further said: Not everyone [is answered] through rending his garments nor is everyone [answered] through falling [on his face]. Moses and Aaron [were answered] through falling [on the face], Joshua and Caleb through rending [their] garments. Moses and Aaron through falling [on the face]; for it is written, Then Moses and Aaron fell on their faces.[14] Joshua and Caleb through rending [their] garments, for it is written, And Joshua the son of Num and Caleb ... rent their clothes.[15] R. Ze'ira and some say, R. Samuel b. Nahmani demurred to this. Had it been written [in the verse] ‘Joshua’. it would be as you say, but seeing that the verse reads ‘And Joshua’, they may have done both.[16]

R. Eleazar further said: Not all [will in the Messianic era] rise [before Israel], nor will all prostrate themselves; kings will rise and princes prostrate themselves; ‘Kings will rise’, for it is written, Thus saith the Lord, the Redeemer of Israel, his Holy One

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(1) Because he did not wish to fast.

(2) Lit., ‘not of the same denomination’. Cf. Shebu. 3b.

(3) [Identified by Klein, S. (JQR. N. S. II, p. 551) with Nawa north of the Gaulan in Transjordania. The climatic conditions of the country and the stony nature of the territory rendered it necessary for them to have rain even in the summer season.]

(4) Heb. Tekufah, v. Glos.

(5) V. P.B. p. 47.

(6) I.e., divided according to the work regularly done in the fields-sowing in Marcheshvan and reaping in Nisan.

(7) [To be omitted with MS.M.]

(8) V. supra p. 55. n. 3.

(9) The stand obscures the door and it is not easily visible whether it is open or closed.

(10) For his son's wedding.

(11) Recite the Tahanum. v. P.B. p. 57.

(12) Josh. VII, 10; v. Meg., Sonc. ed. p. 137ff and notes.

(13) II Kings VI, 30.

(14) Num. Xlv, 5.

(15) lbid. v. 6.

(16) The ‘waw’ (‘and’) connects it with the previous verse and conveys the meaning that Joshua and Caleb both rent their garments in the same way as they both fell on their faces.

Talmud - Mas. Ta'anith 15a

to him who is despised of men, to him who is abhorred of nations, to a servant of rulers; kings shall see and arise;[1] ‘and princes will prostrate themselves,’ for it is written, Princes and they shall prostrate themselves. R. Ze'ira and some say R. Samuel b. Nahmani demurred to this. Had it been written in the verse, ‘And princes shall prostrate themselves’, it would be as you say, but seeing that the verse reads, ‘Princes and they shall prostrate themselves,’ they will perhaps do both.

R. Nahman b. Isaac declared: I say furthermore, Not all are destined to share in the light nor all in the gladness. Light shall be for the righteous and gladness for the upright. ‘Light for the righteous’, for it is written, Light is sown for the righteous;[2] And gladness for the upright’. for it is written, And gladness for the upright in heart.[2]

C H A P T E R I I

MISHNAH. WHAT IS THE ORDER [OF SERVICE] FOR FAST DAYS?[3] THE ARK IS TAKEN OUT TO THE OPEN SPACE[4] OF THE CITY, WOOD ASHES ARE PLACED ON THE ARK, ON THE HEAD OF THE NASI[5] AND ON THE HEAD OF THE AB-BETH-DIN.[6] EVERYONE ELSE PUTS ASHES ON HIS OWN HEAD; THE ELDER AMONG THEM ADDRESSES THEM WITH WORDS OF ADMONITION [TO REPENTANCE] THUS, OUR BRETHREN, SCRIPTURE DOES NOT SAY OF THE PEOPLE OF NINEVEH, AND GOD SAW THEIR SACKCLOTH AND THEIR FASTING, BUT, AND GOD SAW THEIR WORKS, THAT THEY TURNED FROM THEIR EVIL WAY;[7] AND IN THE PROPHETS IT IS SAID, AND REND YOUR HEART AND NOT YOUR GARMENTS.[8] WHEN THEY STAND UP TO PRAY THEY PLACE [AS READER] BEFORE THE ARK AN OLD MAN CONVERSANT [WITH THE PRAYERS], WHO HAS CHILDREN AND WHOSE HOUSE IS EMPTY [OF FOOD], SO THAT HIS HEART IS CONCENTRATED ON HIS PRAYER; HE RECITES BEFORE THEM TWENTY-FOUR BENEDICTIONS, THE EIGHTEEN RECITED DAILY, TO WHICH HE ADDS SIX AS FOLLOWS, ZIKRONOTH,[9] SHOFAROTH,[10] AND [THESE PSALMS]: IN MY DISTRESS I CALLED UNTO THE LORD;[11] I WILL LIFT UP MINE EYES UNTO THE MOUNTAINS ETC.;[12] OUT OF THE DEPTHS HAVE I CALLED THEE, O LORD;[13] A PRAYER OF THE AFFLICTED WHEN HE FAINTETH.[14] R. JUDAH SAYS: HE NEED NOT RECITE THE ZIKRONOTH AND SHOFAROTH, BUT INSTEAD HE SHOULD RECITE THE FOLLOWING SCRIPTURAL, PASSAGES, IF THERE BE IN THE LAND FAMINE, IF THERE BE PESTILENCE;[15] THE WORD OF THE LORD THAT CAME TO JEREMIAH CONCERNING THE DROUGHTS;[16] AND HE ENDS EACH [OF THE ADDITIONAL SIX] SECTIONS WITH ITS APPROPRIATE CONCLUDING BENEDICTION. THE FIRST HE CONCLUDES WITH, ‘HE WHO ANSWERED ABRAHAM ON MT. MORIAH, HE SHALL ANSWER YOU AND HEARKEN THIS DAY TO THE VOICE OF YOUR CRY. BLESSED ART THOU O LORD WHO REDEEMEST ISRAEL. THE SECOND HE CONCLUDES WITH, ‘HE WHO ANSWERED OUR FATHERS AT THE RED SEA, HE SHALL ANSWER YOU AND HEARKEN THIS DAY TO THE VOICE OF YOUR CRY. BLESSED ART THOU O LORD WHO REMEMBEREST ALL FORGOTTEN THINGS. THE THIRD HE CONCLUDES WITH, HE WHO ANSWERED JOSHUA IN GILGAL, HE SHALL ANSWER YOU AND HEARKEN THIS DAY TO THE VOICE OF YOUR CRY. BLESSED ART THOU O LORD WHO HEAREST THE TRUMPET BLAST. THE FOURTH HE CONCLUDES WITH, ‘HE WHO ANSWERED SAMUEL IN MIZPAH, HE SHALL ANSWER YOU AND HEARKEN THIS DAY TO THE VOICE OF YOUR CRY. BLESSED ART THOU O LORD WHO HEARKENEST TO CRIES. THE FIFTH HE CONCLUDES WITH, ‘HE WHO ANSWERED ELIJAH ON MT. CARMEL, HE SHALL ANSWER YOU AND HEARKEN THIS DAY TO THE VOICE OF YOUR CRY. BLESSED ART THOU O LORD WHO HEARKENEST UNTO PRAYER. THE SIXTH HE CONCLUDES WITH, ‘HE WHO ANSWERED JONAH IN THE BELLY OF THE FISH, HE SHALL ANSWER YOU AND HEARKEN THIS DAY TO THE VOICE OF YOUR CRY. BLESSED ART THOU O LORD WHO ANSWEREST IN TIME OF TROUBLE. THE SEVENTH[17] HE CONCLUDES WITH, ‘HE WHO ANSWERED DAVID AND SOLOMON HIS SON IN JERUSALEM, HE SHALL ANSWER YOU AND HEARKEN THIS DAY TO THE VOICE OF YOUR CRY. BLESSED ART THOU O LORD WHO HAST MERCY UPON THE LAND. IT HAPPENED

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(1) Isa. XLIX, 7.

(2) Ps. XCVII, 11.

(3) For rain.

(4) According to Krauss (Syn. Alt. pp. 140-1) it was an open space in front of the synagogue.

(5) Head of the Great Sanhedrin in Jerusalem.

(6) Lit., ‘Father of the Beth din’, generally taken to denote the Vice-President of the Great Sanhedrin and next in dignity to the Nasi. V. Hor., Sonc. ed. p. 101, n. 6.

(7) Jonah III, 10.
(8) Joel II, 13.
(9) Lit., ‘remembrances’. The term is applied to the second section of the Musaf for the New Year which consists of scriptural verses describing the mindfulness of God for man. The section ends with the prayer that God may show his mindfulness of Israel in their present calamity. Cf. R.H. 32a.
(10) Lit., ‘trumpets’. The term applied to the third section of the musaf of Rosh Hashanah consisting of scriptural verses which speak of God proclaiming in thunder-notes a message to the world and especially to Israel. The section concludes with the prayer for the great trumpet to be sounded heralding the redemption of Israel. Cf. R.H. 32a.
(11) Ps. CXX.
(12) Ps. CXXI.
(13) Ps. CXXX.
(14) Ps.CII.
(15) I Kings VIII, 37-41.
(16) Jer. XIV, 1-10.
(17) V. Gemara.

Talmud - Mas. Ta'anith 15b

IN THE DAYS OF R. HALAFTA AND R. HANINA B. TRADYON THAT A MAN STEPPED BEFORE THE ARK AND COMPLETED THE ENTIRE BENEDICTION AND THEY DID NOT RESPOND, ‘AMEN’.[1] [THE SYNAGOGUE ATTENDANT CALLED OUT], SOUND A TEKI'AH, PRIESTS, SOUND A TEKI'AH.[2] [THEN THE READER EXCLAIMED], HE WHO ANSWERED ABRAHAM OUR FATHER ON MT. MORIAH, HE SHALL ANSWER YOU, AND HEARKEN THIS DAY TO THE VOICE OF YOUR CRY. [THE SYNAGOGUE ATTENDANT CONTINUED], SOUND A TERU'AH,[3] CHILDREN OF AARON, SOUND A TERU'AH. [THEN THE READER EXCLAIMED], HE WHO ANSWERED OUR FATHERS AT THE RED SEA, HE SHALL ANSWER YOU AND HEARKEN THIS DAY TO THE VOICE OF YOUR CRY. AND WHEN THE MATTER CAME UP BEFORE THE WISE, THEY DECLARED, THIS[4] WAS OUR ORDER OF PROCEDURE ONLY AT THE EASTERN GATES AND ON THE TEMPLE MOUNT.[5]

ON THE FIRST THREE [RAIN][6] FASTS THE MEN OF THE MISHMAR[7] FAST BUT DO NOT COMPLETE THEIR FAST, AND THE MEN OF THE BETH-AB[8] DO NOT FAST AT ALL. ON THE SECOND THREE [RAIN FASTS][9] THE MEN OF THE MISHMAR FAST AND COMPLETE THEIR FAST AND THE MEN OF THE BETH-AB FAST BUT DO NOT COMPLETE THEIR FAST; ON THE LAST SEVEN[9] BOTH FAST AND COMPLETE THEIR FAST; THIS IS THE OPINION OF R. JOSHUA. THE SAGES, HOWEVER, SAY: ON THE FIRST THREE FASTS NEITHER FAST AT ALL, ON THE SECOND THREE, THE MEN OF THE MISHMAR FAST AND DO NOT COMPLETE THEIR FAST; BUT THE MEN OF THE BETH-AB DO NOT FAST AT ALL; ON THE LAST SEVEN, THE MEN OF THE MISHMAR FAST AND COMPLETE THEIR FAST, AND THE MEN OF THE BETH-AB FAST BUT DO NOT COMPLETE THEIR FAST.

THE MEN OF THE MISHMAR ARE PERMITTED TO DRINK WINE IN THE EVENINGS BUT NOT DURING THE DAY,[10] BUT THE MEN OF THE BETH-AB MAY NOT [DRINK WINE] EITHER ON THE DAY OR ON THE PRECEDING EVENING. BOTH THE MEN OF THE MISHMAR AND THE MEN Of THE MA'AMAD[11] MAY NOT CUT THEIR HAIR NOR WASH THEIR CLOTHES, BUT ON A THURSDAY THEY MAY IN HONOUR OF THE SABBATH.

THE RESTRICTION AGAINST MOURNING ON THE DAYS ENUMERATED IN THE SCROLL OF FASTS[12] APPLIES EQUALLY TO THE PRECEDING DAY BUT NOT TO THE

DAY FOLLOWING. R. JOSE SAYS: IT IS FORBIDDEN [TO MOURN] BOTH ON THE PRECEDING DAY AND) THE DAY FOLLOWING. AS FOR FASTING IT IS PERMITTED ON THE PRECEDING DAY AND ON THE DAY FOLLOWING. R. JOSE SAYS: IT IS FORBIDDEN ON THE PRECEDING DAY BUT PERMITTED ON THE DAY FOLLOWING.

WE DO NOT ORDAIN UPON THE COMMUNITY A FAST TO COMMENCE ON A THURSDAY IN ORDER NOT TO CAUSE A RISE IN THE MARKET PRICES. HENCE THE FIRST THREE FASTS ARE HELD [IN THIS ORDER], MONDAY, THURSDAY, AND MONDAY; THE SECOND THREE, THURSDAY, MONDAY, AND THURSDAY; R. JOSE SAYS: JUST AS THE FIRST THREE [FASTS] SHOULD NOT COMMENCE ON A THURSDAY SO TOO NEITHER THE SECOND [THREE] NOR THE LAST [SEVEN].

WE DO NOT ORDAIN UPON THE COMMUNITY A FAST ON NEW MOON, ON HANUKKAH, OR ON PURIM, BUT IF THEY HAD ALREADY BEGUN [A SERIES OF FASTS AND ONE OF THESE FESTIVE DAYS INTERVENED] THEY DO NOT INTERRUPT [THEIR FASTS]; THIS IS THE OPINION OF RABBAN GAMALIEL. R. MEIR SAID: EVEN THOUGH R. GAMALIEL IS OF THE OPINION THAT THE [FASTS] SHOULD NOT BE INTERRUPTED HE YET AGREES THAT THEY SHOULD NOT COMPLETE THEIR FASTS. AND THE SAME APPLIES TO THE NINTH OF AB SHOULD IT FALL ON A FRIDAY.

GEMARA. WHAT IS THE ORDER [OF SERVICES] FOR FAST DAYS? THE ARK IS TAKEN out etc. Does all this apply to the first six fasts? If so, is there not a contradiction raised against this? [For it has been taught]: On the first three and also on the second three [fasts] they enter the synagogue and pray there in the same way as they pray all the year round, but on the last seven the Ark is taken to the open space of the city and ashes are placed on the Ark and also upon the head of the Ab-Beth-din, and everyone else puts ashes upon his own head. R. Nathan says: They take wood-ashes![13] — R. Papa replied: Our Mishnah also refers to the last seven fasts.

ANd ON The HEAD OF THE NASI: And afterwards [the Mishnah] states, EVERYONE ELSE PUTS ASHES UPON HIS OWN HEAD. But is it so? Has it not been taught: Rabbi says: Where it is a case of doing honour we begin at the most distinguished, but where it is a case of censuring we begin at the least important; as it is said, And Moses said unto Aaron, and unto Eleazar and unto Ithamar;[14] but where it is a case of censuring we begin at the least important, (for a Master said:) First the serpent was cursed, and afterwards Eve and [only] then Adam?-Here [in our Mishnah] it is also a case of doing honour, because [by this act] the people convey to them[15] [the thought] you are worthy to entreat for mercy on behalf of us all.

EVERYONE ELSE PUTS ASHES ON HIS OWN HEAD: R. Adda said: Seeing that everyone else puts the ashes on his own head let also the Nasi and the Ab-Beth-din themselves take ashes and place them on their own heads! Why should someone else take ashes and put them on their head? — R. Aba of Caesarea replied: To humiliate oneself is not the same as being humiliated by others.

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(1) [But the response, Blessed be the Name of the Glorious Kingdom for ever, (Me'iri) v. infra p. 77. For other interpretations v. D.S. a.l. Var. lec. ‘and they answered, Amen’; v. note 5].

(2) A single long blast, V. Glos.

(3) A series of brief blasts in quick succession as for alarm. V. Glos.

(4) [The response, ‘Blessed be the Name etc.’, v. preceding note. On the reading ‘they answered, Amen’, the reference is to the custom of the synagogue attendant to call upon the priests to blow and the reader to recite the formula ‘He who answered’ after the conclusion of the Benediction. V. Me'iri. For other interpretations v. D.S. loc. cit.]

(5) [Var. lec. At the Eastern Gate. Others again omit: ‘and on the Temple Mount’ which in the context is difficult to explain. The Eastern Gate was ‘the brass gate situated in the inner space of the Temple towards the East’. V. Buchler, Types p. 207.]

(6) V. supra 10a.
(7) Term applied to each of the twenty-four divisions of priests (and Levites) who did one week's duty in the Temple every half year. V. infra.
(8) Each Mishmar was subdivided into seven sections (בתי אבות) each detailed for duty on one day of the week, v. loc. cit.
(9) V. supra 12b.
(10) This is a general law without any reference to the rain fasts.
(11) A division of lay Israelites in attendance on the regular daily offerings v. Glos. and infra 20a.
(12) V. supra p. 45.
(13) [MS.M. omits: 'and also upon the head... wood ashes', these words being unnecessary in this connection.]
(14) Lev. X, 6. (3) [The brackets appear also in the original; these words being apparently superfluous, they are omitted in MS.M.]
(15) To the Nasi and Ab-Beth-din.

Talmud - Mas. Ta'anith 16a

And where [on the head] does he put [the ashes]?-R. Isaac said: On the place of the phylacteries, as it is said, To appoint unto them that mourn in Zion, to give unto them a garland for ashes.[1] (Mnemonic: open space, Ark, sackcloth, wood-ashes, dust, cemetery, Moriah.)

Why do they go out to the open space [of the city]?R. Hiyya b. Abba said: In order to express thereby [the idea], We have prayed in private but we have not been answered; we will [therefore] humiliate ourselves in public. Resh Lakish said: We have exiled ourselves [from the House of God] may our exile atone for us. What is the difference between the two explanations? — The difference is when they move from one synagogue to another.[2]

And why do they take out the Ark to the open space of the city? — R. Joshua b. Levi said: In order to express thereby [the idea], We had a vessel which we kept hidden and now because of our sins it has been rendered common.

And why do they clothe themselves in sackcloth? — R. Hiyya b. Abba said: In order to express thereby [the idea], We consider ourselves animals[3] [before God].

And why do they place wood-ashes upon the Ark? — R. Judah b. Pazzi said: As if to say, I will be with him in trouble.[4] Resh Lakish said: [As if to say] In all their afflictions He was afflicted.[5] R. Zera said: When I first saw the rabbis placing wood-ashes on the Ark my whole body shook.

And why does everyone else put ashes on his head?- With regard to this there is a difference of opinion between R. Levi b. Hama and R. Hanina. One says: [To signify thereby], We are merely like ashes before Thee; and the other says: That [God] may remember for our sake the ashes of Isaac.[6] What is the difference between them? — The difference is with regard to [the use of] ordinary dust.[7]

Why do they go to the cemetery? — With regard to this there is a difference of opinion between R. Levi b. Hama nad R. Hanina. One says: [To signify thereby], We are as the dead before Thee; and the other says: In order that the dead should intercede for mercy on our behalf. What is the difference between them? — The difference is with regard to going to the cemetery of Gentiles.[8] What is [the meaning of] 'Mount Moriah'?[9] — With regard to this there is a difference of opinion between R. Levi b. Hama and R. Hanina.[10] [One says] because from this mountain instruction went forth unto Israel;[11] and the other says: Because it is the mountain whence fear[12] came upon the heathens.

THE ELDER AMONG THEM ADDRESSES THEM WITH WORDS OF ADMONITION. Our Rabbis have taught: If there is an elder present he addresses them; if not, then a scholar addresses them; and if there is no scholar present then a distinguished looking man addresses them. Does the term ‘elder’ here used denote one who is not a scholar? — Abaye replied: This is what is meant: If there is present an elder who is also a scholar then he addresses them, and if not, then a [younger] scholar addresses them, and if not, a distinguished looking man addresses them. [And this is what he says], ‘Our brethren, neither sackcloth nor fastings are effective but only penitence and good deeds, for we find that of the men of Nineveh Scripture does not say, And God saw their sackcloth and their fasting, but, God saw their works that they turned from their evil way.’

But let them be covered with sackcloth, both man and beast.[13] How did they act? — They separated the animals from their young and they said, Master of the Universe, if Thou wilt not have mercy upon us we will not show mercy to these.

And let them cry mightily unto God.[14] What did they say? — They said, Master of the Universe, If one is submissive and the other is not, if one is righteous and the other is not, who of them should yield?[15]

Let them turn everyone from his evil way and from the violence that is in their hands.[16] What is the meaning of, ‘From the violence that is in their hands’? — Samuel said: Even if one had stolen a beam and built it into his castle he should raze the entire castle to the ground and return the beam to its owner.

R. Adda b. Ahaba said: One who has sinned and confesses his sin but does not repent may be compared to a man holding a dead reptile in his hand, for although he may immerse himself in all the waters of the world his immersion is of no avail unto him; but if he throws it away from his hand then as soon as he immerses himself in forty se'ahs of water,[17] immediately his immersion becomes effective, as it is said, But whoso confesseth and forsaketh them shall obtain mercy.[18] And it is further said, Let us lift up our heart with our hands unto God in the heavens.[19]

WHEN THEY STAND UP TO PRAY THEY PLACE BEFORE THE ARK [AS READER] AN OLD MAN etc. Our Rabbis have taught: When they stand up to pray, although there may be present an elder and a scholar, they place before the Ark [as Reader] only a man conversant with the prayers. (Who is considered conversant with prayers)?[20] — R. Judah says: One having a large family[21] and has no means of support, and who draws his subsistence from [the produce of] the field,[22] and whose house is empty, whose youth was unblemished, who is meek and is acceptable to the people; who is skilled in chanting, who has a pleasant voice, and possesses a thorough knowledge of the Torah, the Prophets and the Hagiographa, of the Midrash, Halachoth and Aggadoth and of all the Benedictions. Thereupon the Rabbis gazed on R. Isaac b. Ammi.[23]

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(1) Isa. LXI, 3. The Gemara takes the word פאר, garland, to refer to the phylacteries. So Ber. 11a in interpreting Ezek. XXIV, 17.

(2) This would constitute an ‘exile’ but not a humiliation.

(3) Because sackcloth is woven of the hair of animals (Rashi).

(4) Ps. XCI, 15.

(5) Isa. LXIII, 9. The thought implied is that though God punishes people He yet does not fail to have sympathy with them.

(6) This refers to the sacrifice of Isaac. Cf. Gen. XXII.

(7) For humiliation ordinary dust or earth could be used, but for recalling the sacrifice of Isaac only ashes would do.

(8) In the former case any cemetery would be used but in the latter case only a Jewish cemetery.

(9) The mount on which the Temple was built.

(10) The difference of opinion between R. Levi and R. Hama b. Hanina also in the matter accounts for the inclusion here of this passage.

(11) Taking מוריה from ירה’to teach’. [The Sanhedrin from which proceeded all legislation governing the life of the

people had its seat in the Temple Mount.]
(12) II Chron. III, 1. Taking מוריה from ירא, ‘to fear’. [Either (a) fear for Israel (Rashi); or (b) reverence for God.]
(13) Jonah III, 8.
(14) lbid.
(15) Man cannot force God to yield to him. God should, however, in his great loving-kindness yield to the prayer of a man who humiliates himself before him.
(16) Jonah III, 8.
(17) The minimum requirement for ritual immersion.
(18) Prov. XXVIII, 13.
(19) Lam. III, 41.
(20) [The bracketed words appear in brackets also in the original. The statement of’ R. Judah that follows is hardly relevant as a definition of ‘one conversant with prayers’. The words are omitted in MS.M.]
(21) מטופל, lit., burdened’; var. lec. מטפל ‘engages himself in work’, ‘labours away’.]
(22) [And thus depends for his livelihood on rain. This will make him pray with more devotion for the acceptance of his prayers].
(23) As one whom the description befits.

Talmud - Mas. Ta'anith 16b

Is not one having a large family with no means of support the same as one whose house is empty? — R. Hisda replied: The latter refers to a man whose house is free from sin.[1]

Whose youth was unblemished. Abaye said: This is one against whom no evil reputation had gone forth in his youth.

My heritage is become unto to Me as a lion in the forest; she hath uttered her voice against Me; therefore have I hated her.[2] What is the meaning of, ‘She hath uttered her voice against Me’? — Mar Zutra b. Tobiah said in the name of Rab, some say R. Hama said in the name of R. Eleazar: This refers to an unfit person who steps down before the Ark [to act] as Reader.

AND HE RECITES BEFORE THEM TWENTY-FOUR BENEDICTIONS, THE EIGHTEEN RECITED DAILY TO WHICH HE ADDS SIX MORE. Are there only six? Are they not actually seven, as we have learnt: THE SEVENTH [BENEDICTION] HE CONCLUDES WITH BLESSED BE HE WHO HAS MERCY UPON THE EARTH! — R. Nahman b. Isaac replied: [Do you know] which is THE SEVENTH? it is the seventh of the longer benedictions.[3] As it has been taught: [The benediction], ‘Who redeemest Israel,’ is prolonged and at its conclusion [the Reader] adds, He who answered Abraham on Mt. Moriah, He shall answer you and hearken this day unto the voice of your cry. Blessed art Thou who redeemest Israel, and the congregation respond, Amen. The synagogue attendant[4] calls out unto them, ‘Blow a Teru'ah, ye children of Aaron, blow a Teru'ah, and [the Reader] resumes with, ‘He who answered our fathers at the Red Sea, He shall answer you and hearken this day to the cry of your voice. Blessed art Thou O Lord who rememberest forgotten things’; and the congregation responds, Amen. The synagogue attendant calls out, Sound a Teru'ah,O ye children of Aaron, sound a Teru'ah. And likewise [he does] with the other benedictions, at one he calls out, sound a Teki'ah, and another, sound a Teru'ah. The order of service[5] [in which the congregation responds, Amen] holds good for the country generally but not for the Temple, because the response, Amen’ is not made use of in the Temple.[6] And whence can it be adduced that the response, Amen, was not made use of in the Temple? — For it is said, Stand up and bless the Lord your God from everlasting to everlasting; and and let them say: Blessed be Thy glorious Name, that is exalted above all blessing and praise.[7] You might have thought that there shall be only one form, of praise after all Benedictions, therefore the text adds, ‘Exalted above all blessing and praise’; that is to say, Give him ‘praise’ after every blessing. ‘What them was said in the Temple? Blessed be the Lord God, the God of Israel, from everlasting to everlasting. Blessed art Thou who redeemest Israel;

and the congregation respond, Blessed be the name of his glorious kingdom for ever and ever.[8] The synagogue attendant calls out unto them, Blow a Teki'ah, O Priests, sons of Aaron, blow a Teki'ah, and [the Reader] resumes with, he who answered Abraham on Mt. Moriah, He will answer you and hearken to the voice of your cry. Blessed art Thou, O Lord God of Israel, who remembers forgotten things; and the congregation respond, Blessed be the name of His glorious kingdom for ever and ever. The synagogue attendant calls out, Sound a Teru'ah, O Priests, children of Aaron, sound a Teru'ah etc. And likewise [he does] with the other benedictions; at one he calls out, Blow a Teki'ah, and at another, Sound a Teru'ah, until he completes them all. R. Halafta made this order of procedure the custom of Sepphoris and R. Hananya b. Tradyon made it the custom of Siknin. When however the matter came to the notice of the Sages they declared that this custom was observed only at the eastern gates and on the Temple mount.

Some report [the passage just cited] in the form taught in the following Baraitha: [The Reader] recites before them twenty-four benedictions; the eighteen recited daily, to which he adds six more. ‘Where are those six included? Between the benedictions for redemption and Healing the Sick,[9] the latter benediction being prolonged and the congregation respond, ‘Amen’, after every benediction. This was the custom in the country generally, but in the Temple they said, Blessed be the Lord, God of Israel from everlasting to everlasting. Blessed art Thou O Lord who redeemest Israel and there was no response, ‘Amen’, after it. And why all this [long response]? Because it was not customary to respond ‘Amen’, in the Temple. And whence can it be adduced that they did not respond, ‘Amen’, in the Temple? For it is said, ‘Stand up and bless the Lord your God from everlasting to everlasting, and let them say: Blessed be Thy glorious name that is exalted above all blessing and praise’; that is to say, Give Him praise after every benediction.

Our Rabbis have taught: When concluding the first benediction he says: Blessed be the Lord, God of Israel from everlasting to everlasting. Blessed art Thou who redeemest Israel. And the congregation respond, Blessed be the name of His glorious kingdom for ever and ever. The synagogue attendant calls out, Sound a Teki'ah, Priests, Sound a Teki'ah, and [the Reader] then resumes, He who answered Abraham on Mt. Moriah, He will answer you and hearken this day to the voice of your cry. And they blow a Teki'uh and sound a Teru'ah, and blow a Teki'ah [again]. When concluding the second benediction he says: Blessed be the Lord God, the God of Israel from everlasting to everlasting. Blessed art Thou who rememberest forgotten things; and the congregation respond, Blessed be the name of His glorious kingdom for ever and ever. The synagogue attendant then calls out, Sound a Teru'ah, children of Aaron, sound a Teru'ah, and the reader resumes, He who answered our fathers at the Red Sea, He will answer you and hearken this day to the voice of your cry. They then sound a Teru'ah and blow a Teki'ah and sound a Teru'ah [again]; and likewise he [does] after every benediction, at one he calls out, Blow a Teki'ah, and at another, Sound a Teru'ah, until all the benedictions are concluded. R. Halafta made this order of procedure the custom of Sepphoris and R. Hananya b. Tradyon made it the custom of Siknin. When, however, the matter was brought to the notice of the Sages, they declared that this custom was observed only at the eastern gate and on the Temple mount.

R. JUDAH SAYS: HE NEED NOT RECITE THE ZIKRONOTH AND SHOFAROTH etc.: Said R. Adda of Joppa; what may be R. Judah's reason? Because Zikronoth and Shofaroth are recited only on New Year

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(1) He has no stolen goods or any property acquired by dishonest means (Rashi).

(2) Jer. XII, 8.

(3) [לארוכות (so R. Hananel, R. Gershom and MS. M.). The seventh benediction of the daily Tefillah ending in, ‘Who redeemest Israel’ (גואל ישראל) was on rain fasts increased by the addition of the formula, ‘He who answered etc.’ inserted before its conclusion. After this followed the six additional special benedictions as described in the Mishnah thus making a total of seven long benedictions. On the reading לארוכה of cur. edd. render the seventh from the seventh lengthened benediction (of the daily Tefillah)] .

(4) [Hazzan. There is no certainty either in regard to the original function or rank of the Hazzan; v. Sot., Sonc. ed. p. 202, n. 4.]

(5) Lit., ‘in what are these said’.

(6) [No satisfactory reason has so far been given for this regulation. Graetz, MGWJ 1872 pp. 492ff suggests that this does not mean that the response, Amen, was not allowed in the Temple, but that the solemnity of the service, heightened by the pronunciation of the Tetragrammaton as written, demanded a more extensive and impressive formula. V. also Blau, REJ. XXXIX, p. 188.]

(7) Neh. IX, 5.

(8) Cf. ‘and let them say, Blessed be Thy Glorious Name etc..’ cited from Neh. IX, 5.

(9) I.e., between the seventh and the eighth benedictions of the daily Tefillah.

and on the [Day of Atonement of] the Jubilee year and in the time of war.[1] THE FIRST HE CONCLUDES WITH, HE WHO ANSWERED ABRAHAM etc.: A Tanna taught: Some reverse the order of the words and attribute ‘crying’ to Elijah and ‘praying’ to Samuel. True, of Samuel Scripture uses the words ‘praying’ and ‘crying’.[2] but of Elijah Scripture uses only [the word] ‘praying’ but never ‘crying’. [When Elijah says], Hear me, O Lord, hear me;[3] that is an expression of ‘crying’.

THE SIXTH HE CONCLUDES WITH, HE WHO ANSWERED JONAH etc.; THE SEVENTH HE CONCLUDES WITH, HE WHO ANSWERED DAVID etc. Let us see, Did not Jonah live after David and Solomon, why then is he placed first? — Because it was desired to conclude [the prayers] with, Blessed art Thou, O Lord who hast mercy upon the earth.[4] A Tanna taught: It was reported in the name of Symmachos, [that the prayers were concluded] with, Blessed art Thou who humblest the proud.

ON THE FIRST THREE [RAIN] FASTS THE MEN OF THE MISHNAH FAST BUT DO NOT COMPLETE THEIR FAST etc. Our Rabbis have taught: Why have the Sages ruled that the Men of the Mishmar are permitted to drink wine by night and not by day, lest the work weigh too heavily on the men of the Beth-ab and then they will be called upon to help them; why have the Sages ruled that the men of the Beth-ab are forbidden [to drink] both by day and by night because they are continuously at work [in the Temple]. Hence the Sages have declared that any priest who can identify his Mishmar and his particular Beth-ab and who also knows definitely that the members of his Beth-ab were participating in the service of the Temple[5] is forbidden to drink wine on the whole of that day.[6] If, however, he can identify only his Mishmar but not his particular Beth-ab and yet he knows definitely that the members of his Beth-ab were participating in the service of the Temple, he is forbidden to drink wine the whole of that week.[7] If he cannot identify his Mishmar nor his particular Beth-ab, but he knows definitely that the members of his Beth-ab were participating in the service of the Temple, he is forbidden to drink wine all the year round. Rabbi says: I declare [priests] should not at any time drink wine, but what can I do seeing that his misfortune turned out to be an advantage to him.[8] Abaye said: According to whose opinion do priests drink wine? According to that of Rabbi.

BOTH THE MEN OF THE MISHMAR AND THE MEN OF THE MA'AMAD MAY NOT CUT THEIR HAIR NOR WASH THEIR CLOTHES, BUT ON A THURSDAY THEY MAY OUT OF RESPECT FOR THE SABBATH. What is the reason? — Rabbah b. Bar Hana said in the name of R. Johanan: In order that they should not enter on their week of duty in an unkempt state.

Our Rabbis have taught: A king cuts his hair every day, a high priest on the eve of every Sabbath, all ordinary priest once in thirty days. Why has a king to cut his hair every day? — R. Abba b. Zabda said: Scripture says, Thine eyes shall see the king in his beauty.[9] Why has a high priest [to cut his hair] on the eve of every Sabbath? — R. Samuel b. Isaac said: Because the Mishmar changes every week. Whence can it be adduced that an ordinary priest [must cut his hair] once in thirty days? — It is to be adduced from the analogous use of the word pera’ in connection with the Nazirite [and the priests]. Of the priests [it is written], Neither shall they shave their heads, ‘nor suffer their locks [pera’] to grow long;[10] and of the Nazirite it is written, He shall be holy. he shall let the locks of the hair of his head grow long [pera’];[11] as in the case of the Nazirite the period of growing his hair is thirty days so too must it be in the case of the ordinary priest. But whence do we know this to be the requirement of the Nazirite himself? R. Mattena said: A Nazirite's unspecified [term of] vow is thirty days. Whence is this to be adduced? — Scripture uses the word yihyeh the numerical value of which is thirty.[12] R. Papa said to Abaye: Perhaps Scripture means [that the priests] should not let their hair grow at all? — The latter replied: Had Scripture written, ‘nor suffer to grow long their locks’, it might be as you suggest, but since Scripture has written, ‘Nor suffer their locks to grow long,’ this implies, they may grow their hair but they may not suffer their locks to grow long. If that is so, this restriction should be valid even at the present time! — [This restriction is] on the same lines as that of the drinking of wine; just as the restriction of drinking wine applied only to the time when they might enter [the Temple][13] to do service, so too with regard to the restriction of letting the locks grow long. But has it not been taught: Rabbi says, I declare that [a priest] should not at any time drink wine, but what can I do, seeing that his misfortune turned out to be an advantage to him. And on this Abaye commented: At the present time according to whom do priests drink wine? According to Rabbi.

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(2) 1 Sam. VII, 5; VIII, 6: XV, 11.

(3) I Kings XVIII, 37.

(4) Earth, in the first instance refers to the land of Israel. David and Solomon were the founders of the Jewish kingdom and prayed for its welfare.

(5) [There were many of the priestly families who had been disqualified from the priesthood.]

(6) [On the particular day on which his Beth Ab was in service, as the Temple might be rebuilt and they might be called upon to serve.]

(7) [The particular week on which the Mishmar to which he belonged was in service.]

(8) The destruction of the Temple with the consequent cessation of priestly duties enables the priests to drink wine at any time.

(9) Isa. XXXIII, 17.

(10) Ezek. XLIV, 20.

(11) Num. VI, 5.

(12) יהיה taken numerically, 10 + 5 + 10 + 5 + 30.

(13) I.e., so long as the Temple was in being.

Talmud - Mas. Ta'anith 17b

From this may be inferred that the Rabbis forbid [priests to drink wine], why? Perhaps the Temple may speedily be rebuilt and the need will arise for priests to do service therein and there will be none available; and so here too [in the case of letting the hair grow long] the Temple may speedily be rebuilt and the need will arise for priests fit for service and there will be none available]? — [This difficulty cannot arise] here [in this latter case] since it is always possible for a priest to cut his hair and then enter [the Temple]. If that is so, then priests who are intoxicated could first sleep a little and then enter [the Temple],in accordance with the statement of Rami b. Abba who said: A mile walk or a little sleep drives away the effects of drink? — Has it not been stated in connection with this [statement]: This only holds good where a man has drunk a quarter of a log, but where he has drunk more than a quarter of a log walking renders him all the more tired, and sleep all the more drunk. R. Ashi replied: The Rabbis have decreed against those who are drunk because they profane [thereby] the service, but against those who perform the service with their hair long they did not decree because they do not [thereby] profane the service.

An objection was raised against this: The following [priests] incur the penalty of death,those who are intoxicated with wine and those whose hair has grown long. With regard to those who are intoxicated with wine, it is expressly stated, Drink no wine nor strong drink,[1] but whence do we adduce that this also applies to those who grow their hair long? For it is written, Neither shall they shave their heads, nor suffer their locks to grow long,[2] and the next verse states, Neither shall any priest drink wine when they enter into the inner court; thus, those who grow their hair long are likened to those who are drunk with wine, just as those who are drunk with wine incur the penalty of death so too those who grow their locks long. Now can we not carry the comparison even further [and say] that just as those who are drunk with wine profane the service, so too should those who grow their hair long profane the service?[3] — (No; [the two] are likened only with regard to the penalty of death but not with regard to the rendering of the service profane).[4]

Rabina asked R. Ashi:[5] Who taught it[6] before Ezekiel's time? — He replied: And according to your reasoning how will you explain the statement of R. Hisda, who said: The rule forbidding an uncircumcised priest[7] to do service we have learnt not from the Law of Moses but from the prophets [where it is written], No alien uncircumcised in heart and uncircumcised in flesh, shall enter My sanctuary.[8] But who stated it? It must therefore [be assumed] that it was a tradition and then Ezekiel came and gave it a Scriptural basis. Here too [of long hair profaning the service] there was a tradition and then Ezekiel came and gave it a Scriptural basis. (The tradition was with regard to the death penalty only but not with regard to the profaning of the service).[9]

THE RESTRICTION AGAINST MOURNING ON THE DAYS ENUMERATED IN THE SCROLL OF FASTS APPLIES TO THE PRECEDING DAY BUT NOT TO THE DAY FOLLOWING. Our Rabbis have taught:[10] These are the days on which fasting is not permissible, and on some of them mourning also is forbidden. From the New Moon of Nisan until the eighth of the month mourning is not permissible because the Daily offering was established;[11] from the eighth day of the same month until the end of the festival [of Passover] mourning is not permissible since the date of the observance of the Feast of Weeks was then definitely fixed.[12]

The Master said: From the New Moon of Nisan until the eighth of the month mourning is not permissible because the Daily offering was established. Why does it state, ‘from the New Moon’? Let it state from the second of Nisan and as New Moon itself is a festive day mourning is in any case forbidden thereon! — Rab replied: This is necessary in order to extend the restriction to the preceding day. But should not the restriction in any case apply to it seeing that it is the day before New Moon? — New Moon is a biblical ordinance, and a biblical ordinance needs no [additional] strengthening. For it has been taught: Mourning is forbidden before and after the days enumerated in the Megillath Ta'anith; as for Sabbaths and Festivals mourning is forbidden on the day before their incidence but not after their incidence. Why this differentiation between the two? The latter are biblical ordinances and need no [additional] strengthening, but the former are ordinances of the Soferim and ordinances of the Soferim need [additional] strengthening.

The Master said: ‘From the eighth of the same month until the end of the festival [Passover] mourning is not permissible since the date of the observance of the Feast of Weeks was then definitely fixed.’ Why does it state, ‘until the end of the festival’? Let it state ‘until the festival’ and the festival itself being a holiday will ipso facto be a forbidden period for mourning? — R. Papa replied: [The answer is] as Rab who said: This was necessary

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(1) Lev. X, 9.

(2) Ezek. XLIV, 20.

(3) This is in opposition to R. Ashi who holds that priests with long hair do not profane the service.

(4) [The bracketed words, which appear in brackets also in the original, stand in contradiction to the parallel passage in Sanh. 22b and are omitted in MS.M.; v. Sanh., Sonc., ed., pp. 127-8 and notes.]

(5) [MS.M.: ‘said R. Ashi to Rabina’ on which reading what follows is R. Ashi's reply to the objection cited against him; v. p. 84, n. 1.]

(6) That those who perform service with long hair are punishable by death.

(7) Cf. Zeb. 18b.

(8) Ezek. XLIV, 9.

(9) [These bracketed words, bracketed also in the original, are omitted in MS.M. and are difficult to explain in this context. Accepting, however, the reading of MS.M. cited supra p. 83, n. 5, these words conclude R. Ashi's argument which runs thus: Since Ezekiel merely provides here a basis for laws that are essentially based on tradition, there is no warrant for the suggested analogy between intoxicated priests and those with long hair. While the former do profane the service, there is no tradition for this to apply to the latter.]

(10) V. Megillath Ta'anith.

(11) A dispute lasting from the first to the eighth day of Nisan took place between the Pharisees and the Sadducees with regard to the Daily offering (Num. XXVIII, 3). The Pharisees were of the opinion that it could be brought only out of public funds (i.e., from the Temple treasury) and the Sadducees maintained it might also be defrayed by private funds. The Pharisees gained the day. V. Megillath Ta'anith, ch. 1; Men. 65a.

(12) There was also a dispute between the Pharisees and Sadducees with regard to the fixing of the date of Pentecost. The dispute turned on the interpretation of the words ממחרת השבת (Lev. XXIII, 15). The Pharisees took the view that the ‘Omer had to be brought on the second day of Passover, while the Sadducees maintained that these words meant the morrow of the first Sabbath of the Passover week and from that day forty-nine days had to be counted to Pentecost. V. Megillath Ta'anith, ch. 1; Men. 65a.

Talmud - Mas. Ta'anith 18a

in order to extend the restriction to the preceding day, so here also it was necessary in order to extend the restriction to the following day. With whose view will this agree? Is it with that of R. Jose,[1] who declared that the restriction applies equally to the day before and the day after it? If so, with regard to the twenty-ninth Adar, why need you base your restriction on the ground that it is the day before the Daily offering was established;[2] deduce it rather from the fact that it is the day after the twenty-eighth concerning which it has been taught: On the twenty-eighth of the month [Adar] the good news reached the Jews that they were no longer to be kept back from the study of the Torah.[3] For once it was decreed that the Jews should not occupy themselves with the study of the Torah nor circumcise their children and that they should desecrate the Sabbath. What did Judah b. Shammua’ and his colleagues do? They went and took counsel with a Roman Matron with whom all the prominent Romans were wont to associate. She advised them, ‘Arise and raise an alarm by night’. They went and raised the alarm by night thus, ‘O ye heavens, are we not your brethren? Are we not the children of one Father? Are we not the children of one mother? Wherein are we different from every other nation and tongue that ye make harsh decrees against us?’ Thereupon the decrees were annulled and that day was declared a festive day![4] -Abaye replied: It was necessary to state the restriction in this way in order to cover the case of a full month [where Adar has thirty days].[5] R. Ashi said: The same would be the case even when the month [of Adar] is deficient,[6] because on a day following on a festive day fasting alone is forbidden but mourning is permissible; but as for this day [the twenty-ninth Adar] seeing that it is placed between two festive days it was considered as if it were a festive day itself, and therefore mourning too was forbidden thereon.

The Master said: ‘From the eighth day of the month until the end of the festival mourning is forbidden since then the date of the observance of the Feast of Weeks was definitely fixed.’ Why does he say, ‘from the eighth of the same month’? Let him say, ‘from the ninth of the same month’ and the eighth day would ipso facto be forbidden because it is the day on which the Daily offering was established?[7] — The reason why it is stated ‘the eighth day’ is this, should it ever come to pass that the seven festive days be abolished,[8] even then on the eighth day it would still be forbidden to mourn, because it is the first day on which the date of the Feast of Weeks was definitely fixed. Now that you have arrived at this conclusion the same will apply also to the twenty-ninth Adar because should it ever come to pass that the twenty-eighth Adar be abolished as a festive day, even then the twenty-ninth would be forbidden seeing that it is the day before the Daily offering was established.

It has been taught: R. Hiyya b. Asi said in the name of Rab, the halachah is in accordance with the view of R. Jose.[9] Samuel said, The halachah is in accordance with the view of R. Meir.[10] But did Samuel actually say so? Has it not been taught: R. Simeon b. Gamaliel said: Why does the text [in the Scroll of Fasts] repeat the word ‘behon’ [on them] twice?[11] This is to teach you that the restriction applies to these days but not to the days immediately preceding or following the days enumerated in the Scroll of Fasts. On which Samuel's comment was that the halachah is in accordance with the view of R. Simeon b. Gamaliel! — At first he thought that as there was no other authority who took a lenient view as R. Meir did he decided that the halachah was according to R. Meir, but when he heard that Rabbi Simeon took an even more lenient view he decided that the halachah was according to R. Simeon b. Gamaliel. And so too said Bali in the name of R. Hiyya b. Abba, in the name of R. Johanan: The halachah is according to R. Jose. Thereupon R. Hiyya said to Bali: I will explain to you that when R. Johanan said that the halachah was in accordance with R. Jose, he meant only with regard to the prohibition of fasting.[12] But did R. Johanan actually say so? Did not R. Johanan say that the halachah is in accordance with the anonymous opinion of a Mishnah,[13] and it has been learnt: Although the Rabbis said that [the Megillah of Esther] could be read earlier[14] but not later, yet

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(1) In our Mishnah.

(2) I.e., the first of Nisan, v. supra.

(3) R.H. 19a; cf. Megillath Ta'anith, ch. 12.

(4) For notes v. R.H., Sonc. ed. 19a. Why then state that the restriction on the twenty-ninth Adar was due to the matter of the Tamid.

(5) In that case the thirtieth Adar would be the last day of the month and it could only be included in the restriction on the ground that it precedes the first Nisan and not that it follows the twenty-ninth Adar, seeing that a day (the twenty-eighth) intervenes.

(6) I.e., it has twenty-nine days.

(7) I.e., one of the eight festive days.

(8) Because of some misfortune that befalls Israel and it would be necessary to fast on these days.

(9) Who holds that the restriction applies both to the day before and the day after the festive days.

(10) Who holds that the restriction applies only to the day following the festive day but not to the day before it. This view is anonymously stated in the Mishnah and in accordance with the accepted tradition that every anonymous statement in the Mishnah goes back to R. Meir. Hence the statement in our Mishnah is taken, to be the view of R. Meir.

(11) In the introductory sentence cited supra p. 84.

(12) But not mourning.

(13) I.e., R. Meir.

(14) Than the fourteenth and fifteenth days of Adar.

Talmud - Mas. Ta'anith 18b

mourning and fasting are permitted.[1] Now to what does this apply? Shall we say that it applies to those [who should read the Megillah] on the fifteenth [Adar] and they read it on the fourteenth? Is then mourning permissible [for them on that day]?[2] Is it not written in the Scroll of Fasts, ‘The fourteenth day and the fifteenth day [of Adar] are the days of Purim and no mourning is permissible thereon,’ and Raba's comment on this was: It was necessary [to mention both these dates] in order to make it clear that what was forbidden on the one day was equally forbidden on the other! Again, should it refer to [those who should read the Megillah] on the fourteenth and they read it on the thirteenth [Adar];[3] [the question arises] that is Nicanor's Day.[4] Or again, if it refers to those [who should read it] on the fourteenth and read it on the twelfth? But then that is Trajan's Day![5] Hence it can only have reference [to those who should read it on] the fourteenth and they read it on the eleventh, and yet it is stated that mourning and fasting are permitted thereon![6] — No; it has reference to those who should read it on the fourteenth and they read it on the twelfth, and as to your objection that it is Trajan's Day, this [festive] day was subsequently abolished because Shemaiah and his brother Ahijah[7] were killed thereon. Thus R. Nahman once ordained a public fast for the twelfth of Adar and the Rabbis objected to this because it was Trajan's Day. Thereupon R. Nahman replied: This [festive] day has been abolished because Shemaiah and his brother Ahijah were killed thereon. Let, however, the restrictions [aforementioned] remain valid for the day seeing that it is the day before Nicanor's Day? — R. Ashi replied: If the festive character of the day had been once abolished [is it then feasible] that fasting should be forbidden thereon because it is the day before Nicanor's

Day?

What is Nicanor's Day? And what is Trajan's Day? It has been taught: Nicanor was one of the Greek generals; every day he waved his hand against Judah and Jerusalem and exclaimed, ‘When shall it fall into my hands that I may trample upon it?’ But when the Hasmonean Rulers proved victorious and triumphed over him they cut off his thumbs and his great toes and suspended them from, the gates of Jerusalem, as if to say of the mouth that spake arrogantly, of the hands that were waved against Jerusalem, May vengeance be exacted.

What is Trajan's [Day]?[8] It was said: When Trajan[9] was about to execute Lulianus and his brother Pappus in Laodicea [Lydia] he said to them, ‘If you are of the people of Hananiah, Mishael and Azariah, let your God come and deliver you from my hands, in the same way as he delivered Hananiah, Mishael and Azariah from the hands of Nebuchadnezzar; and to this they replied: ‘Hananiah, Mishael and Azariah were perfectly righteous men and they merited that a miracle should be wrought for them, and Nebuchadnezzar also was a king worthy for a miracle to be wrought through him, but as for you, you are a common and wicked man and are not worthy that a miracle be wrought through you; and as for us, we have deserved of the Omnipresent that we should die, and if you will not kill us, the Omnipresent has many other agents of death. The Omnipresent has in His world many bears and lions who can attack us and kill us; the only reason why the Holy One, blessed be He, has handed us over into your hand is that at some future time He may exact punishment of you for our blood’. Despite this he killed them. It is reported that hardly had they moved from there when two officials[10] arrived from Rome and split his skull with clubs.

WE DO NOT ORDAIN UPON THE COMMUNITY FASTS TO COMMENCE ON A THURSDAY etc.; WE DO NOT ORDAIN UPON THE COMMUNITY A FAST ON NEW MOON etc. What constitutes a beginning?[11] — R. Aha said: Three fasts. R. Assi said: One. Rab Judah said in the name of Rab: The view [that one should not complete the fast] is in accordance with R. Meir who reported it in the name of R. Simeon b. Gamaliel, but the Sages say: He should complete the fast. Mar Zutra expounded in the name of R. Huna: The halachah is, one should complete the fast.

CHAPTER III

MISHNAH. THE ORDER OF PUBLIC FASTS AFOREMENTIONED IS OBSERVED ONLY IN CONNECTION WITH [THE WITHHOLDING OF] THE FIRST RAIN,[12] BUT IF THE CROPS HAVE UNDERGONE [AN UNUSUAL] CHANGE THE ALARM IS SOUNDED AT ONCE. THE SAME TOO IS DONE IF FORTY DAYS ELAPSED BETWEEN THE FIRST AND THE SECOND RAINFALL[13] BECAUSE IT IS THEN A PLAGUE DUE TO DROUGHT. IF [RAIN] FALLS FOR CROPS BUT NOT FOR THE TREES, FOR THE TREES BUT NOT FOR CROPS, FOR BOTH OF THESE BUT NOT FOR CISTERNS, DITCHES AND CAVES THE ALARM IS SOUNDED AT ONCE. AND SO TOO IF NO RAIN FALLS UPON A PARTICULAR CITY, AS IT IS WRITTEN, AND I CAUSED IT TO RAIN UPON ONE CITY, AND CAUSED IT NOT TO RAIN UPON ANOTHER CITY; ONE PIECE WAS RAINED UPON ETC.[14]

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(1) On the days on which the Megillah is read earlier, v. Meg. 5a.

(2) On the fourteenth.

(3) Cf. Megillah I, 2.

(4) V. infra, that on which fasting is in any case forbidden.

(5) V. infra.

(6) But it is the day before Trajan's Day and according to R. Jose the restriction is extended to it. How can then mourning and fasting be permissible thereon? How could then R. Johanan declare that the halachah is according to R. Jose?

(7) [Identified with Julianus and Pappus, the martyrs of Lydia mentioned infra v. Aruch s.v. הרג].

(8) [The victory of Judas Maccabeus over Nicanor is mentioned in I Maccabees as the occasion for making the thirteenth of Adar a holiday. This was in 161 B.C.E. V. Zeitlin, Megillat Ta'anit, p. 82.]

(9) [טוריינוס The identification of this name with Trajan is disputed, particularly as Trajan is known to have died a natural death. It is suggested that this reference here is to Trajan's General, Lusius Quietus, who was executed by Trajan (Schurer I, 660 n. 62). Nothing can however as yet be said with certainty. V. HUCA, Lichtenstein Die Fastenrolle, p. 273.]

(10) דיופלי So Rashi. [Aliter: GR. ** = GR. ** ‘dispatch’].

(11) So that the fasts that have been begun should not be interrupted.

(12) רביעה ראשונה The first of the fructification (רביעה) rain that is expected to begin in the month of Marcheshvan, v. supra p. 20, n. 7 and Gemara.

(13) V. supra 6a.

(14) Amos IV, 7.

Talmud - Mas. Ta'anith 19a

IN SUCH A CASE THAT CITY FASTS AND SOUNDS THE ALARM, BUT THOSE [IN THE PLACES] AROUND IT FAST BUT DO NOT SOUND THE ALARM. R. AKIBA SAYS: THEY SOUND THE ALARM BUT DO NOT FAST. AND SO TOO IF A PLAGUE RAGES IN A CITY OR [ITS BUILDINGS] COLLAPSE[1] THEN THAT CITY FASTS AND SOUNDS THE ALARM, BUT THE PEOPLE [IN THE PLACES] AROUND IT FAST BUT DO NOT SOUND THE ALARM. R. AKIBA SAYS: THEY SOUND THE ALARM BUT DO NOT FAST. WHAT CONSTITUTES A PLAGUE? IF IN A CITY THAT CAN SUPPLY FIVE HUNDRED FOOT-SOLDIERS THREE DEATHS TAKE PLACE ON THREE CONSECUTIVE DAYS, THIS CONSTITUTES A PLAGUE; LESS THAN THIS IS NO PLAGUE.

THE ALARM IS SOUNDED EVERYWHERE ON ACCOUNT OF THE FOLLOWING [VISITATIONS]: BLAST, MILDEW, LOCUST, CRICKET, WILD BEASTS AND THE SWORD, AS THEY ARE ALL PLAGUES LIKELY TO SPREAD. IT HAPPENED THAT ELDERS WENT DOWN FROM JERUSALEM TO THEIR OWN CITIES AND ORDERED A FAST BECAUSE THERE WAS OBSERVED IN ASKELON BLAST WHICH AFFECTED AS MUCH GRAIN AS WOULD FILL AN OVEN [WITH LOAVES MADE THEREOF]. THEY ALSO ORDAINED A FAST BECAUSE WOLVES DEVOURED TWO CHILDREN ON THE OTHER SIDE OF THE JORDAN; R. JOSE SAID: NOT BECAUSE THEY DEVOURED [THE CHILDREN] BUT [MERELY] BECAUSE THEY WERE SEEN.

THE ALARM IS SOUNDED ON THE SABBATH ON ACCOUNT OF THE FOLLOWING MISHAPS: IF A CITY IS BESIEGED BY HOSTILE TROOPS OR [INUNDATED BY] THE RIVER, OR IF A SHIP IS FOUNDERING ON THE SEA, R. JOSE SAYS: [THE ALARM IS SOUNDED] FOR HELP BUT NOT FOR A CALL TO PRAYERS. SIMEON THE TEMANITE SAYS: [THE ALARM IS SOUNDED] ON ACCOUNT OF PLAGUE, BUT THE SAGES DID NOT AGREE WITH HIM.

THE ALARM IS SOUNDED ON ACCOUNT OF ANY VISITATION, THAT COMES UPON THE COMMUNITY[2] EXCEPT ON ACCOUNT OF AN OVER-ABUNDANCE OF RAIN. IT HAPPENED THAT THE PEOPLE SAID TO HONI THE CIRCLE DRAWER, PRAY FOR RAIN TO FALL. HE REPLIED: GO AND BRING IN THE OVENS [ON WHICH YOU HAVE ROASTED] THE PASCHAL OFFERINGS SO THAT THEY DO NOT DISSOLVE.[3] HE PRAYED AND NO RAIN FELL...WHAT DID HE DO? HE DREW A CIRCLE AND STOOD WITHIN IT AND EXCLAIMED, MASTER OF THE UNIVERSE, THY CHILDREN HAVE TURNED TO ME BECAUSE THEY BELIEVE ME TO BE AS A MEMBER OF THY HOUSEHOLD; I SWEAR BY THY GREAT NAME THAT I WILL NOT MOVE FROM HERE UNTIL THOU HAST MERCY UPON THY CHILDREN. RAIN THEN BEGAN TO DRIP, AND THEREUPON HE EXCLAIMED: IT IS NOT FOR THIS THAT I HAVE PRAYED BUT FOR RAIN [TO FILL]

CISTERNS, DITCHES AND CAVES. THE RAIN THEN BEGAN TO COME DOWN WITH GREAT FORCE, AND THEREUPON HE EXCLAIMED; IT IS NOT FOR THIS THAT I HAVE PRAYED BUT FOR RAIN OF BENEVOLENCE, BLESSING AND BOUNTY. RAIN THEN FELL IN THE NORMAL WAY UNTIL THE ISRAELITES IN JERUSALEM WERE COMPELLED TO GO UP [FOR SHELTER] TO THE TEMPLE MOUNT BECAUSE OF THE RAIN. THEY CAME AND SAID TO HIM: IN THE SAME WAY AS YOU HAVE PRAYED FOR [THE RAIN] TO FALL PRAY [NOW] FOR THE RAIN TO CEASE. HE REPLIED: GO AND SEE IF THE STONE OF CLAIMANTS[4] HAS BEEN WASHED AWAY. THEREUPON SIMEON B. SHETAH SENT TO HIM [THIS MESSAGE]: WERE IT NOT THAT YOU ARE HONI I WOULD HAVE PLACED YOU UNDER THE BAN, BUT WHAT CAN I DO UNTO YOU WHO IMPORTUNE GOD AND HE ACCEDES TO YOUR REQUEST AS A SON THAT IMPORTUNES HIS FATHER AND HE ACCEDES TO HIS REQUEST; OF YOU SCRIPTURE SAYS, LET THY FATHER AND THY MOTHER BE GLAD, AND LET HER THAT BORE THEE REJOICE.[5]

IF WHILST THEY ARE FASTING RAIN FALLS, IF IT IS BEFORE SUNRISE THEY DO NOT COMPLETE THE FAST,[6] IF AFTER SUNRISE, THEY DO COMPLETE THE FAST. R. ELIEZER SAYS: IF BEFORE NOON THEY DO NOT COMPLETE THE FAST, AFTER NOON THEY DO COMPLETE IT. IT HAPPENED THAT THE RABBIS ORDAINED A FAST IN LYDIA AND RAIN FELL BEFORE NOON. THEREUPON R. TARFON SAID TO THEM: GO, EAT AND DRINK AND OBSERVE THE DAY AS A HOLIDAY. THEY WENT AND ATE AND DRANK AND OBSERVED THE DAY AS A HOLIDAY AND AT EVENING TIME THEY CAME AND RECITED THE GREAT HALLEL.[7]

GEMARA. THE ORDER OF PUBLIC FASTS AFOREMENTIONED IS OBSERVED ONLY IN CONNECTION WITH [THE WITHHOLDING] OF THE FIRST RAIN. A contradiction was raised against this Mishnah: [If rain is withheld at the time of] the first and second rainfalls prayers are offered; if at the third rainfall, fasts are observed![8] Rab Judah replied: The Mishnah means this: The order of fasts aforementioned is observed only when the time for the first, second and third fructification rainfalls has passed and no rain fell, but if rain fell at the time for the first fructification rainfall and they sowed but nothing sprouted forth, or if the [plants] did sprout forth but they had undergone an unusual change the alarm is sounded at once.[9]

R. Nahman said: Only when they had undergone an unusual change, but not if they merely withered away. Is not this self-evident? We clearly learned, HAVE UNDERGONE A CHANGE[R. Nahman's statement] is needed to cover the case of seeds that have already shot up into stalks. You might have thought that this is a sign of recovery, he therefore informs us [that it is not].

THE SAME TOO IS DONE IF FORTY DAYS ELAPSED BETWEEN THE FIRST AND THE SECOND RAINFALLS AND NO RAIN FELL etc. What is the nature of the plague of drought? Rab Judah said in the name of Rab: A plague which leads to scarcity. R. Nahman said: When [grain] has to be transported by river

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(1) If the collapse is caused by an earth-quake or by some other extraordinary natural phenomena.

(2) [Aliter: ‘that may not come etc.’ a euphemism for ‘that may come etc.’]

(3) These ovens were usually made of clay and were portable.

(4) Lit., ‘a stone of the losers’. A stone in Jerusalem from which announcements of property lost and found were made. (Cf. B.M. 28b where the reading is אבן הטוען ‘stone of claims or claimants’). [The meaning of Honi's statement becomes clear from the parallel passage in Tosef. Ta'an. III, We are confident that God will not bring a flood upon the world according to Gen. IX, 15. It was this assurance which made it impossible for the rain to be so strong as to dissolve the stones and which should allay the fear of the anxious people.]

(5) Prov. XXIII, 25. [With this story cf. Josephus, Ant. XVI, 2,1 and v. Buchler, Types, 198ff for a fine analysis of

Honi's prayer.]

(6) Because strictly speaking the fast had not yet begun.

(7) Ps. CXXXVI. Cf. Ber. 4b.

(8) Here it is stated that fasts are ordained after these three rainfalls had failed, whereas the Mishnah says that the fasts are observed immediately after the first expected rainfalls had failed.

(9) The phrase רביעה ראשונה does not denote, as it was assumed, the first fructification rain but the whole of the former rain season (יורה) which comprises three fructification rains as stated supra 6a.

Talmud - Mas. Ta'anith 19b

[from one city to another] it is drought, but when it has to be brought [overland] from one province to another it is famine. R. Hanina said: If a se'ah of grain costs one sela' and is obtainable it is drought; but if four se'ahs cost a sela' but are not easily obtainable, then it is a famine. R. Johanan added: This holds good only when money is cheap and food dear, but if money is dear and food cheap then the alarm is sounded at once. For R. Johanan said: I remember well [the time] when four se'ahs cost one sela' and yet there were many in Tiberias swollen from hunger because there was not a coin to be had.

IF RAIN FALLS FOR CROPS BUT NOT FOR THE TREES. It is of course possible [for rainfall to be beneficial] for crops and not for the trees when [the rain] falls gently and not heavily; similarly, It can be beneficial for trees and not for crops when it falls heavily and not gently; similarly, it can be beneficial for both of them and yet not for cisterns, ditches and caves if it falls heavily and gently but yet not in great enough volume. But is it possible for rain to fall for cisterns, ditches and caves and yet not be beneficial for both of these [crops and trees] as has been taught in the Baraitha? — When the rain is torrential.

Our Rabbis have taught: The alarm [for rain] for the trees is sounded during the middle of the Passover [season],[1] and for the cisterns, ditches and caves even during[2] the middle of the Tabernacles [season]; and at any time should there be no water to drink the alarm is sounded at once. What is meant by 'at once'? — On the [following] Monday, Thursday and Monday. The alarm is sounded for all the aforementioned only in the particular province affected. In the case of croup the alarm is sounded only when deaths result from it, but if no deaths result the alarm is not sounded. In the case of locust the alarm is sounded no matter how small in number. R. Simeon b. Eleazar says: [The alarm is sounded] also in the case of grasshoppers.

Our Rabbis have taught: The alarm is sounded for the trees during the working years of the Sabbatical Cycle,[3] but for the cisterns, ditches and caves even on the Sabbatical year. R. Simeon b. Gamaliel says: [The alarm is sounded] also for the trees during the Sabbatical year because the poor derive their livelihood from them.[4]

Another Baraitha taught: The alarm is sounded for trees during the six working years of the Sabbatical Cycle, but for the cisterns, ditches and caves even on the Sabbatical year. R. Simeon b. Gamaliel says: [The alarm is sounded] also for the trees. For what grows of itself the alarm is sounded even on the Sabbatical year because the poor derive their livelihood from them.

It has been taught: R. Eleazar b. Perata said: Ever since the day the Temple was destroyed the rains have become irregular;[5] there are years in which rains are abundant, and there are other years when they are scanty; there are some years when the rains come in season, and there are other years when they do not. To what may be compared the years when the rains come in season? To a servant to whom his master gave his week's food allowance [in advance] on the first day of the week, with the result that the dough is baked well and eatable.[6] To what may be compared the years when the rains do not come in season? To a servant to whom his master gave his week's food allowance on the eve of the Sabbath with the result that his dough is not well baked[7] and uneatable. To what may be compared the years when the rains are abundant? To a servant to whom his master gave his [year's] food allowance in one lot so that the [waste of] the mill in grinding a kor[8] is no more than [the waste] in grinding a kab[9] and likewise the waste in kneading a kor is no more than in kneading a kab. To what may be compared the years when the rains are scanty? To a servant to whom his master gave his [year's] food allowance little by little, so that the waste in grinding a kab is no less than in grinding a kor, and likewise the waste in kneading a kab is no less than in kneading a kor. Another explanation: When the rains are plentiful they may be compared to a man kneading clay; if he has a plentiful supply of water then the clay is well kneaded without all the water being used up, but if the supply is scanty the water will give out and the clay is not well kneaded.

Our Rabbis have taught: Once it happened when all Israel came up on pilgrimage to Jerusalem that there was no water available for drinking. Thereupon Nakdimon b. Gurion approached a certain [heathen] lord and said to him: Loan me twelve wells of water for the Pilgrims and I will repay you twelve wells of water; and if I do not, I will give you instead twelve talents of silver, and he fixed a time limit [for repayment]. When the time came [for repayment] and no rain had yet fallen the lord sent a message to him in the morning: Return to me either the water or the money that you owe me. Nakdimon replied: I have still time, the whole day is mine. At midday he [again] sent to him a message, Return to me either the water or the money that you owe me. Nakdimon replied: I still have time to-day. In the afternoon he [again] sent to him a message, Return to me either the water or the money that you owe me. Nakdimon replied, I still have time to-day. Thereupon the lord sneeringly said to him, Seeing that no rain has fallen throughout the whole year

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(1) פרום ‘half’. This is explained by J. T. (Sheck. III, 47b) to mean half of the thirty days before the feast, i.e., within fifteen days before the feast.

(2) Though it is still summer season (Rashi). MS.M. omits ‘even’.

(3) At any time within the six years of the seven years’ cycle (Shemittah).

(4) The poor had equal rights with the owners to the produce of the seventh year. Cf. Ex. XXIIl, 11 and Lev. XXV, 6.

(5) צימוקין Rashi explains the word to mean ‘with difficulty’. Jastrow thinks the word to be a corruption of xenium, ‘a host or king's gift, donation indefinite as to time and amount’, hence, irregular.

(6) He has plenty of time to devote to its baking.

(7) It is baked hurriedly.

(8) Thirty se'ahs.

(9) One sixth of a se'ah.

Talmud - Mas. Ta'anith 20a

will it then rain now? Thereupon he repaired in a happy mood to the baths. Meanwhile, whilst the lord had gone gleefully to the baths, Nakdimon entered the Temple depressed. He wrapped himself in his cloak and stood up to pray. He said, ‘Master of the Universe! It is revealed and known before Thee that I have not done this for my honour nor for the honour of my father's house, but for Thine honour have I done this in order that water be available for the Pilgrims’. Immediately the sky became covered with clouds and rain fell until the twelve wells were filled with water and there was much over. As the lord came out of the baths Nakdimon b. Gurion came out from the Temple and the two met, and Nakdimon said to the lord, Give me the money for the extra water that you have received. The latter replied,I know that[1] the Holy One, blessed be He, disturbed the world but for your sake, yet my claim against you for the money still holds good, for the sun had already set and consequently the rain fell in my possession. Nakdimon thereupon again entered the Temple and wrapped himself in his cloak and stood up to pray and said, ‘Master of the Universe! Make it known that Thou hast beloved ones In Thy world’. Immediately the clouds dispersed and the sun broke through. Thereupon the lord said to him, Had not the sun broken through I would still have had a claim against you entitling me to exact my money from you. It has been taught: His name was not

Nakdimon but Boni and he was called Nakdimon because the sun had broken through [nikdera] on his behalf.

The Rabbis have taught: For the sake of three the sun broke through, Moses, Joshua and Nakdimon b. Gurion. Now of Nakdimon we know from the above tradition; of Joshua too we know from Scripture where it is written, And the sun stood still, and the moon stayed,[2] etc.; but of Moses whence do we know this?

R. Eleazar said: We deduce it from an inference from the analagous use of the word ahel.[3] Here it is written, I will begin [ahel] to put the dread of thee,[4] and elsewhere it is written, I will begin [ahel] to magnify thee.[5] R. Samuel b. Nahmani said: From an analogous use of the word teth.[6] Here it is written, I will begin to put [teth] the the dread of thee, and elsewhere it is written, In the day when the lord delivered [teth] up the Amorites etc.[7] R. Johanan said: It can be derived from the verse itself, Who, when they hear the report of thee, shall tremble and be in anguish because of thee.[8] When did they tremble and were in anguish before Moses? When the sun broke[9] through for Moses.

AN SO TOO IF NO RAIN FALLS UPON A PARTICULAR CITY etc. Rab Judah said in the name of Rab: Both [cities cited in the verse are under] divine displeasure.[10] Jerusalem is among them as one unclean.[11] Rab Judah said in the name of Rab: [The verse implies] blessing; as an unclean [menstruous] woman becomes permissible [to her husband],[12] so too will Jerusalem be reinstated.

She is become as a widow;[13] Rab Judah said: [The verse implies] blessing; ‘as a widow’; not a real widow, but a woman whose husband has gone to a country beyond the sea [fully] intending to return to her.

Therefore have I also made you contemptable and base before all the people:[14] Rab Judah said: [The verse implies] blessing; of you no overseers of rivers[15] nor officers[16] shall be appointed.

For the Lord will smite Israel as a reed is shaken in the water:[17] Rab Judah said in the name of Rab: [The verse implies] blessing. For R. Samuel b. Nahmani said in the name of R. Johanan: What is the meaning of the verse, Faithful are the wounds of a friend; but the kisses of an enemy are importunate?[18] Better is the curse which Ahijah the Shilonite pronounced on Israel than the blessings with which Balaam the wicked blessed them. Ahijah the Shilonite cursed them by comparing them with the ‘reed’; he said to Israel, For the Lord will smite Israel as a reed is shaken in water. [Israel are as the reed], as the reed grows by the water and its stock grows new shoots[19] and its roots are many, and even though all the winds of the universe come and blow at it they cannot move it from its place for it sways with the winds and as soon as they have dropped the reed resumes its upright position. But Balaam the wicked blessed them by comparing them with the ‘cedar’, as it is said, As cedars beside the waters;[20] the cedar does not grow by the waterside and its stock does not grow new shoots and its roots are not many, and even though all the winds of the universe blow at it they cannot move it from its place;[21] if however the south wind blows at it, it uproots it and turns it upside down. Moreover, [because of its yielding nature] the reed merited that of it should be made a pen for the writing of the Law, the Prophets and Hagiographa.

Our Rabbis have taught: A man should always be gentle as the reed and never unyielding as the cedar. Once R. Eleazar son of R. Simeon was coming from Migdal Gedor,[22] from the house of his teacher, and he was riding leisurely on his ass by the riverside and was feeling happy and elated because he had studied much Torah

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(1) no.

(2) Josh. X, 13.

(3) אהל

(4) Deut. II, 25.
(5) Josh. III, 7.
(6) תת.
(7) Josh. X, 12.
(8) Deut. 11, 25.
(9) There is in this passage a confusion of the root קדם with the root קדר to break through. Jast. reads שנקדה V. Jast. s.v. נקד.
(10) The one suffers from a want of rain and the other from an excess.
(11) Lam. I, 17.
(12) After her period of separation.
(13) lbid. I.
(14) Mal. 11,9.
(15) I.e., toll collectors.
(16) גזיריפטי Jastrow derives the word from the Persian meaning, a class of oppressive Persian officers.
(17) I Kings XIV, 15.
(18) Prov. XXVII, 6.
(19) If the stock is cut it grows again.
(20) Num. XXIV, 6.
(21) [Read with MS.M.: ‘it does not sway with them’. I.e., it offers resistance to the wind.]
(22) probably in Judah. V. Josh. XV, 36.

Talmud - Mas. Ta'anith 20b

. There chanced to meet him an exceedingly ugly man who greeted him, ‘Peace be upon you, Sir’. He, however, did not return his salutation but instead said to him, ‘Raca,[1] how ugly you are. Are all your fellow citizens as ugly as you are?’ The man replied: ‘I do not know, but go and tell the craftsman who made me, "How Ugly is the vessel which you have made".’ When R. Eleazar realized that he had done wrong he dismounted from the ass and prostrated himself before the man and said to him, ‘I submit myself to you, forgive me’. The man replied: ‘I will not forgive you until you go to the craftsman who made me and say to him,"How ugly is the vessel which you have made".’ He [R. Eleazar] walked behind him until he reached his native city. When his fellow citizens came out to meet him greeting him with the words, ‘Peace be upon you O Teacher, O Master,’ the man asked them, ‘Whom are you addressing thus’? They replied, ‘The man who is walking behind you.’ Thereupon he exclaimed: ‘If this man is a teacher, may there not be any more like him in Israel’! The people then asked him: ‘Why’? He replied: ‘Such and such a thing has he done to me. They said to him: ‘Nevertheless, forgive him, for he is a man greatly learned in the Torah.’ The man replied: ‘For your sakes I will forgive him, but only on the condition that he does not act in the same manner in the future.’ Soon after this R. Eleazar son of R. Simeon entered [the Beth Hamidrash] and expounded thus, A man should always be gentle as the reed and let him never be unyielding as the cedar. And for this reason the reed merited that of it should be made a pen for the writing of the Law, Phylacteries and Mezuzoth.[2]

AND SO TOO, IF A PLAGUE RAGES IN A CITY OR [ITS BUILDINGS] COLLAPSE etc. Our Rabbis have taught: The ‘COLLAPSE spoken of refers only to sound buildings but not to those already dilapidated; only to those which are not likely to fall in but not to those that are likely to fall in. Are not ‘sound buildings’ the same as ‘those that are not likely to fall in’? And are not those already dilapidated’ the same as ‘those likely to fall in’? — It is necessary [to distinguish between them] when for instance they collapsed because of their excessive height, or, when they stood on the bank of a river.[3] In Nehardea there was a dilapidated wall and neither Rab nor Samuel would go past it although it had remained standing in the same position for thirteen years. One day R. Adda b. Ahaba happened to come there and Samuel said to Rab: ‘Come, Sir, let us walk around it’, and the latter replied, ‘This precaution is not necessary now because R. Adda b. Ahaba is with us; his merit is great and therefore I do not fear’.

R. Huna had wine [stored] in a certain dilapidated house and he desired to remove it. He took R. Adda b. Ahaba into that house and kept him occupied with traditional teaching until he had removed it. As soon as he had left the house it fell in. R. Adda b. Ahaba noticed this and was offended, because he agreed with the statement of R. Jannai who said: A man should never stand in a place of danger and declare, ‘A miracle will befall me’; perhaps a miracle will not befall him. And if a miracle does befall him he suffers thereby a reduction from his merits. R. Hanan said: This can be inferred from the verse where it is written, I am not worthy of all the mercies, and of all the truth.[4] .[4] What were the merits of R. Adda b. Ahaba?-Thus it has been stated: The disciples of[5] R. Adda b. Ahaba asked him: To what do you attribute your longevity? — He replied: I have never displayed any impatience in my house, and I have never walked in front of any man greater than myself, nor have I ever meditated [over the words of the Torah] in any dirty alleys, nor have I ever walked four cubits without [musing over] the Torah or without [wearing] phylacteries, nor have I ever fallen asleep in the Beth Hamidrash for any length of time or even momentarily, nor have I rejoiced at the disgrace of my friends, nor have I ever called my neighbour by a nickname given to him by myself, or, some say by the nickname given to him by others.[6]

Raba said to Rafram b. Papa: Tell me some of the good deeds which R. Huna had done. He replied: Of his childhood I do not recollect anything, but of his old age I do. On cloudy [stormy] days they used to drive him about in a golden carriage and he would survey every part of the city and he would order the demolition of any wall that was unsafe; if the owner was in a position to do so he had to rebuild it himself, but if not, then [R. Huna] would have it rebuilt at his own expense. On the eve of every Sabbath [Friday] he would send a messenger to the market and any vegetables that the [market] gardeners had left over he bought up and had then, thrown into the river. Should he not rather have had these distributed among the poor? — [He was afraid] lest they would then at times be led to rely upon him and would not trouble to buy any for themselves. Why did he not give the vegetables to the domestic animals? — He was of the opinion that food fit for human consumption may not be given to animals[7] Then why did he purchase them at all? — This would lead [the gardeners] to do wrong in the future [by not providing an adequate supply].[8] Whenever he discovered some [new] medicine he would fill a water jug with it and suspend it above the doorstep and proclaim, Whosoever desires it let him come and take of it . Some say, he knew from tradition a medicine for that disease, Sibetha[9] and he would suspend a jugful of water and proclaim, Whosoever needs it let him come [and wash his hands] so that he may save his life from danger. When he had a meal[10] he would open the door wide and declare, Whosoever is in need let him come and eat. Raba said: All these things I could myself carry out except the last one

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(1) ‘Empty one’, ‘Good for nothing’.

(2) V. Glos. s.v. mezuzah.

(3) Though they were sound they were liable to fall, because of their height or because of the water washing away the foundations.

(4) Gen. XXXII, 11. R. Hanan renders the verse thus: I have become smaller on account of all the mercies, etc.

(5) Cur. edd. insert in brackets, ‘R. Zera and according to some, the disciple of’.

(6) V. Meg., Sonc. ed. p. 170, n. 11.

(7) That would be treating God's food disrespectfully.

(8) It would cause a rise in prices and the poor would suffer thereby.

(9) שיבתא the name of an evil spirit that attacks those who eat food with unwashed hands. Cf. Yoma 77b. Hence R. Huna suspended a jug filled with water in order to warn those whose hands were unwashed to wash them and so save themselves from the power of the evil spirit, v. Rashi ad loc. [R. Hananel takes Sibetha to be the name of a liquid medicine.]

(10) Lit., ‘wrapped bread’. It was the custom to begin a meal with herbs and salt placed between two pieces of bread, hence the phrase.

Talmud - Mas. Ta'anith 21a

because there are so many in Mahuza.[1]

Ilfa and R. Johanan studied together the Torah and they found themselves in great want and they said one to another, Let us go and engage in commerce so that of us may be fulfilled the verse, Howbeit there shall be no need among you.[2] They went and sat down under a ruinous wall and while they were having their meal two ministering angels came and R. Johanan overheard one saying to the other, Let us throw this wall upon these [people] and kill them, because they forsake life eternal and occupy themselves with life temporal. The other [angel] replied: Leave them alone because one of them has still much to achieve.[3] R. Johanan heard this but Ilfa did not. Whereupon R. Johanan said to Ilfa, Master, have you heard anything? He replied: No. Thereupon R. Johanan said to himself: Seeing that I heard this and Ilfa has not, it is evident that I am the one who still has much to achieve. R. Johanan then said to Ilfa: I will go back, that of me may be fulfilled, For the poor shall never cease out of the land.[4] Thereupon R. Johanan went back but Ilfa did not. When [at last] Ilfa returned, R. Johanan was already presiding over the school, and the scholars said to him: Had you remained here and studied the Torah you might have been presiding.[5] Ilfa then suspended himself from the mast of a ship and exclaimed, If there is any one who will ask me a question from the Baraithas of R. Hiyya and R. Hoshaiah and I fail to elucidate it from the Mishnah then I will throw myself down and be drowned [in the sea]. And an old man came forward and cited the following Baraitha: If a man [in his last will and testament] declares, Give a shekel weekly to my sons, but actually they needed a sela'[6] then they should be given a sela'; but if he declared, Give them a shekel only, then they should be given a shekel. If, however, he declared, On their death others should inherit [their allowance] in their stead, then whether he has declared ‘give’ or ‘give only’ they are given a shekel only.[7] He replied: This is in accordance with the view of R. Meir who said: It is a duty to carry out the will of a dying man.[8]

It is related of Nahum of Gamzu[9] that he was blind in both his eyes, his two hands and legs were amputated — and his whole body was covered with boils and he was lying in a dilapidated house on a bed the feet of which were standing in bowls of water in order to prevent the ants from crawling on to him. On one occasion his disciples desired to remove the bed and then clear the things out of the house, but he said to them, My children, first clear out the things [from the house] and then remove my bed for I am confident that so long as I am in the house it will not collapse. They first cleared out the things and then they removed his bed and the house [immediately] collapsed. Thereupon his disciples said to him, Master, since you are wholly righteous, why has all this befallen you? and he replied, I have brought it all upon myself. Once I was journeying on the road and was making for the house of my father-in-law and I had with me three asses, one laden with food, one with drink and one with all kinds of dainties, when a poor man met me and stopped me on the road and said to me, Master, give me something to eat. I replied to him, Wait until I have unloaded something from the ass; I had hardly managed to unload something from the ass when the man died [from hunger]. I then went and laid myself on him and exclaimed, May my eyes which had no pity upon your eyes become blind, may my hands which had no pity upon your hands be cut off, may my legs which had no pity upon your legs be amputated, and my mind was not at rest until I added, may my whole body be covered with boils. Thereupon his pupils exclaimed, ‘Alas! that we see you in such a sore plight’. To this he replied, ‘Woe would it be to me did you not see me in such a sore plight’. Why was he called Nahum of Gamzu? — Because whatever befell him he would declare, This also is for the best. Once the Jews desired to send to the Emperor a gift and after discussing who should go they decided that Nahum of Gamzu should go because he had experienced many miracles. They sent with him a bag full of precious stones and pearls. He went and spent the night in a certain inn and during the night the people in the inn arose and emptied the bag and filled it up with earth. When he discovered this next morning he exclaimed, This also is for the best. When he arrived at his destination and they undid his bag they found that it was full of earth. The king thereupon desired to put them[10] all to death saying, The Jews are mocking me. Nahum then exclaimed, This also is for the best. Whereupon Elijah appeared in the guise of one of them[11] and remarked, Perhaps this is some of the earth of their father Abraham,[12] for when he threw earth [against the enemy] it turned into swords and when [he threw] stubble it changed into arrows, for it is written, His sword maketh them as dust, his bow as the driven stubble.[13] Now there was one province which [the emperor had hitherto] not been able to conquer but when they tried some of this earth [against it] they were able to conquer it. Then they took him [Nahum] to the royal treasury and filled his bag with precious stones and pearls and sent him back with great honour. When on his return journey he again spent the night in the same inn he was asked, What did you take [to the king] that they showed you such great honour? He replied, I brought thither what I had taken from here. [The innkeepers] thereupon razed the inn to the ground and took of the earth to the king and they said to him, The earth that was brought to you belonged to us. They tested it and it was not found to be [effective] and the innkeepers were thereupon put to death.

WHAT CONSTITUTES PLAGUE? IF IN A CITY THAT CAN SUPPLY FIVE HUNDRED FOOT-SOLDIERS etc. Our Rabbis have taught: If in a city that can supply fifteen hundred foot-soldiers, as for example Kefar Acco,[14] nine deaths take place in three consecutive days, this constitutes plague; if, however, these deaths take place in one day or in four days it is not plague. And if in a city that can supply five hundred foot-soldiers, as for example, Kefar-Amiko,[15] three deaths take place in three consecutive days this constitutes plague; if, however, they take place in one day or in four days it is not plague.

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(1) A city in Mesopotamia on the river Tigris where Raba lived. [Soldiers would frequently be billeted in Mahuza on account of its proximity to the capital Ktesifon, v. Obermeyer, p. 174.]

(2) Deut. XV, 4.

(3) Lit., ‘time stands for him’ (in his favour).

(4) Ibid. 11.

(5) [Tosaf.: ‘Had you returned . . . he (R. Johanan) would not have been presiding.]

(6) Two common shekalim make a sela’.

(7) V. B.B. 129a. Keth. 69a.

(8) And thus make it possible for others to inherit the residue of the estate on the death of the sons, v. Keth. 69b.

(9) גמזו is mentioned in II Chron. XXVIII, 18 as the name of a place. Here it is not a name of a place but a cognomen and the Gemara explains it to be the combination of גם ‘also’, and זו ‘this’.

(10) The Jews.

(11) Romans.

(12) Cf. Midrash Tanhuma on Genesis XIX (ed. Buber); Gen. Rab. XLIII.

(13) Isa. XLI, 2.

(14) V. supra p. 28, n. 4.

(15) [North of Acco, Klein, NB, p. 9].

Talmud - Mas. Ta'anith 21b

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In Derokereth,[1] a city that supplied five hundred foot-soldiers three deaths took place in one day, whereupon R. Nahman b. Hisda ordained a [public] fast. R. Nahman b. Isaac said, This must be in accordance with the authority of R. Meir who declared, If for goring at long intervals [during three days] there is [full] liability, how much more so for goring at short intervals [in one day].[2] Said R. Nahman b. Hisda to R. Nahman b. Isaac: Pray, take a seat nearer us.[3] The latter replied: We have taught, R. Jose says: It is not the place that honours the man but it is the man who honours the place. We find it thus In connection with Mt. Sinai, as long as the Shechinah dwelt thereon the Torah declared, Neither let the flocks nor herds feed before that mount;[4] but once the Shechinah had departed thence the Torah said, When the ram's horn soundeth long, they shall come up to the mount.[5] The same too we find in connection with the Tent of Meeting in the wilderness; so long as it remained pitched the Torah commanded, That they put out of the camp every leper;[6] but once the curtains were rolled up[7] both those with a running issue and the lepers were permitted to enter therein. Thereupon R. Hisda retorted: If so I will come nearer to you; whereupon the latter replied: It is more fitting that a scholar, the son of an ordinary man, should go to one who is a scholar and is the son of a scholar, than the latter should go towards the former.[8]

Once a plague broke out in Sura but it did not affect the locality in which Rab resided. People thought that this was on account of Rab's great merit but in a dream it was made clear to them that this was far too small a matter to need Rab's great merit, but that it was on account of the merit of a certain man who made it a practice to lend shovel and spade for burials.

Once a fire broke out in Derokereth but it did not spread to the locality where R. Huna resided. People thought that it was on account of the great merit of R. Huna, but in a dream it was made clear to them that this was far too small a matter to need R. Huna's great merit, but that it was on account of a certain woman who [on the eve of Sabbaths] would heat her oven and permit her neighbours to make use of it.

Once Rab Judah was informed that locusts had come and he ordained a fast. He was then told that no damage had been done, whereupon he exclaimed: Have they then brought provision with them?[9]

Once Rab Judah was informed that pestilence was raging among the swine and he ordained a fast. Can it then be concluded from this that Rab Judah is of the opinion that a plague scourging one species of animals is likely to attack also other species? No, the case of the swine is exceptional, because their intestines are like unto those of human beings.

Once Samuel was informed that pestilence was raging amongst the inhabitants of Be Hozae,[10] and he ordained a fast. The people said to him: surely [Be Hozae] is a long distance away from here.[11] He replied: Would then a crossing prevent it from spreading?[12]

Once R. Nahman was informed that there was pestilence in Palestine and he ordained a fast, for he said, If the ‘Mistress’ is stricken how much more so the ‘Maidservant’ .[13] [Are we then to assume] that the reason for his ordaining the fast was because it was a case of ‘mistress’ and ‘maidservant’, but if both were maidservants’, he would not have ordained the fast? But did not Samuel ordain a fast [in Nehardea] when he was informed that there was pestilence amongst the inhabitants of Be Hozae?[14] The case there was exceptional since there are caravans which it accompanies and with which it comes along.

Abba was a cupper and daily he would receive greetings from the Heavenly Academy. Abaye received greetings on every Sabbath eve, Raba on the eve of every Day of Atonement. Abaye felt dejected because of [the signal honour shown to] Abba the Cupper. People said to him: This distinction is made because you cannot do what Abba does. What was the special merit of Abba the Cupper? When he performed his operations he would separate men from women, and in addition he had a cloak which held a cup [for receiving the blood][15] and which was slit at the shoulder[16] and whenever a woman patient came to him he would put the garment on her shoulder[17] in order not to see her [exposed body].[18] He also had a place[19] out of public gaze[20] where the patients deposited their fees which he would charge; those that could afford it put their fees there, and thus those who could not pay were not put to shame.[21] Whenever a young scholar happened to consult him not only would he accept no fee from him but on taking leave of him he also would give him some money at the same time adding, Go and regain strength therewith. One day Abaye sent to him two scholars in order to test him. He received them and gave them food and drink and in the evening he prepared woollen mattresses for them [to sleep on].

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(1) Identified with Daraukat on the Tigris, v. Obermeyer p. 197.

(2) Cf. B.K. 24a. An ox is considered a goring ox (mu'ad) if he gored three times in three days. R. Meir takes the view that he is considered a goring ox if he gored three times in one day (cf. ibid. 23b).

(3) Take a more prominent place worthy of your great learning of which you have just given us proof.

(4) Ex. XXXIV, 3.

(5) Ex. XIX, 13.

(6) Num. V, 2.

(7) For the continuation of their journeyings.

(8) R. Hisda, the father of R. Nahman, was a more eminent scholar than Isaac, the father of R. Hisda, as can be seen from the fact that the former was an ordained rabbi and is referred to as R. Hisda, whereas the latter is termed Isaac without the title ‘Rabbi’. To show his less distinguished ancestry R. Nahman refers to himself as מנה בן פרס (מנה == GR. **,mina and פרס, half of a mina). Lit., ‘a mina the son of half a mina’, while R. Nahman is designated by him as ‘mina the son of a mina’.

(9) That they did not damage the crops.

(10) [The modern Khurzistan, v. Obermeyer p. 204.]

(11) Nehardea, the place of Samuel.

(12) So MS.M. and Rashi. Nothing can prevent disease from spreading. Cur. edd. ‘There is here no crossing to prevent them’.

(13) Palestine is the Mistress and Babylon the Maidservant.

(14) And there the Maidservant alone was concerned.

(15) The caravans carry with them the pestilence to Nehardea.

(16) Lit., ‘between the shoulders, shoulder blade’.

(17) [Var. lec.: a garment which had many slits at the shoulder blade.]

(18) He would insert the cup through the slit on the shoulder to bleed the patient without having to expose her body.

(19) Lit., ‘hidden’.

(20) [Var. lec.: ‘outside (his surgery)’].

(21) [Var. lec.: and those who could not pay could come in and sit down, and were not etc.]

Talmud - Mas. Ta'anith 22a

In the morning the scholars rolled these together and took them to the market [for sale]. There they met Abba and they said to him, Sir, value these, how much they are worth, and he replied, So-and-so much. They said to him, Perhaps they are worth more? He replied, This is what I paid for them. They then said to him, They are yours, we took them away from you; tell us, pray, of what did you suspect us. He replied: I said to myself, perhaps the Rabbis needed money to redeem captives and they were ashamed to tell me. They replied, Sir, take them back. He answered: From the moment I missed them I dismissed them from my mind and [I devoted them] to charity.

Raba was dejected because of the special honour shown to Abaye and he was therefore told, Be content that [through your merit] the whole city is protected.

R. Beroka Hoza'ah[1] used to frequent the market at Be Lapat[2] where Elijah often appeared to him. Once he asked [the prophet], is there any one in this market who has a share in the world to come? He replied, No. Meanwhile he caught sight of a man wearing black shoes and who had no thread of blue on the corners of his garment[3] and he exclaimed, This man has a share in the world to come. He [R. Beroka] ran after him and asked him, What is your occupation? And the man replied: Go away and come back tomorrow. Next day he asked him again, What is your occupation? And he replied: I am a jailer and I keep the men and women separate and I place my bed between them so that they may not come to sin; when I see a Jewish girl upon whom the Gentiles cast their eyes I risk my life and save her. Once there was amongst us a betrothed girl upon whom the Gentiles cast their eyes. I therefore took lees of [red] wine and put them in her skirt and I told them that she was unclean.[4] [R. Beroka further] asked the man, Why have you no fringes and why do you wear black shoes?[5] He replied: That the Gentiles amongst whom I constantly move may not know that I am a Jew, so that when a harsh decree is made [against Jews] I inform the rabbis and they pray [to God] and the decree is annulled. He further asked him, When I asked you, What is your occupation, why did you say to me, Go away now and come back to-morrow? He answered, They had just issued a harsh decree and I said I would first go and acquaint the rabbis of it so that they might pray to God.

Whilst [they were thus conversing] two [men][6] passed by and [Elijah] remarked, These two have a share in the world to come. R. Beroka then approached and asked them, What is your occupation? They replied, We are jesters, when we see men depressed we cheer them up; furthermore when we see two people quarrelling we strive hard to make peace between them.

THE ALARM IS SOUNDED EVERYWHERE ON ACCOUNT OF THE FOLLOWING [VISITATIONS] etc. Our Rabbis have taught: The alarm is sounded everywhere on account of the following visitations, blast, mildew, locust, crickets and wild beasts. R. Akiba says: For the slightest attack of blast and mildew; and In the case of locust and crickets even if only one winged creature is seen the alarm is sounded [immediately].

FOR WILD BEASTS etc. Our Rabbis have taught: The Alarm is sounded for wild beasts only when they are a [divine] visitation but not otherwise. What constitutes a [divine] visitation and what does not? When they make their appearance in the city that is a [divine] visitation, in the field it is not; by day it is a [divine] visitation, by night it is not; if a beast sees two persons and pursues them it is a [divine] visitation, but if it hides itself on seeing them it is not; if it killed two persons and devoured only one of them that is a [divine] visitation, but if it devoured both of them it is not;[7] if it mounted the roof and carried off an infant out of the cradle that is a divine visitation. Is not this [Baraitha] self-contradictory? [First] you say, ‘If it makes its appearance in the city it is a visitation’ and no distinction is made whether this happens by day or by night, and then you add ‘it is a visitation’, but by night it is not! — There is no contradiction. This is what is meant. If it makes its appearance in the city by day it is a visitation, but in the city by night it is not. Or, in the field even by day it is not a visitation.[8]

[First you say,] ‘If the beast sees two persons and pursues them it is a visitation’ which implies that if it remains still it is no visitation and then you add ‘if it hides itself on seeing then it is not a visitation’; this would imply that if it remains still it is a visitation! — This is no contradiction. In the one case it speaks of [a beast] in a field near reedland,[9] in the other in a field not near reedland.

[You say,] ‘If it kills two men and devours one of them, that is a visitation but if it devours both of them it is not.’ But did you not say that even if it only pursues [two people] that is a visitation? — R. Papa replied: That speaks of a case [where the beast is standing] in reedland.

The [above] text [states] ‘If it mounted the roof and carried off an infant out of the cradle it is a visitation’. Is not this self-evident? R. Papa replied: This statement is meant to refer to [the case of a beast carrying off an infant out of a cradle in] a hunter's cave.[10]

AND THE SWORD etc. Our Rabbis have taught: By ‘SWORD’ is meant not only a hostile attack by an invading army but also the passing en route of a friendly army.[11] For there could be no more friendly army than that of Pharaoh-Necho, and yet through it king Josiah met his fate, as it is said

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(1) Of Be Hozae (Khuzistan).

(2) [The capital of the province of Khuzistan during the Sasanian period, v. Obermeyer p. 209.]

(3) Cf. Num. XV, 38.

(4) She was menstruating. [As protection of the woman this was singularly effective, as among the Persians the laws of menstruation were of extreme rigour, v. Obermeyer p. 210, n. 1.]

(5) [It was the black latchets which were the distinguishing marks between Jews and Gentiles, v. Sanh. 74b and Krauss TA. I, 628.]

(6) [Var. lec.: ‘two brothers’.]

(7) The animal had already satisfied its hunger by devouring the first person whom it killed; when therefore it kills another person then it can only be a divine visitation.

(8) [The text is doubtful and in disorder. MS.M. omits, or in the field... visitation’. The words ‘in the fields by night it is not a visitation’, which appear in the cur. ed. in brackets are best left out.]

(9) When the animal stands near reedland and it feels itself secure because it has a place of escape and it therefore is not likely to attack a person

(10) Although it is a low building and the animal need not climb up high for its prey, the attack is yet taken as a divine visitation.

(11) Lit., ‘there is no need to speak of a sword that is not of peace but ever a sword of peace’.

Talmud - Mas. Ta'anith 22b

But he sent ambassadors to him, saying[1] : What have I to do with thee, thou king of Judah? I come not against thee this day, but against the house wherewith I have war: and God hath given command to speed me; forbear thee from meddling[1] with God, who is with me, that He destroyeth thee not.[1]

What is meant by ‘God who is with me’? — Rab Judah said in the name of Rab: Idols. Josiah said [to himself], Since he [Pharaoh-Necho] puts his trust in his idols I will prevail over him.

And the archers shot at king Josiah; and the king said to his servants: Have me away, for I am sore wounded.[2] What is meant by, ‘For I am sore wounded’? Rab Judah said in the name of Rab: This teaches that his whole body was perforated like a sieve.[3] R. Samuel b. Nahmani said in the name of R. Jonathan: Josiah was punished because he should have consulted Jeremiah and he did not. On what did Josiah rely? — On the divine promise contained in the words, Neither shall the sword go through your land.[4] What sword? Is it the warring sword? It is already stated [in the same verse], And I will give peace in the land.[4] It must surely refer to the peaceful sword. Josiah, however, did not know that his generation found but little favour [in the eyes of God]. When he was dying Jeremiah observed that his lips were moving and he feared that perhaps, Heaven forfend,[Josiah] was saying something improper because of his great pain; he thereupon bent down and he overheard him justifying [God's] decree against himself saying, The Lord is righteous; for I have rebelled against His word.[5] He [Jeremiah] then cited of him, The breath of our nostrils, the anointed of the Lord.[6]

IT HAPPENED THAT THE ELDERS RETURNED FROM JERUSALEM TO THEIR OWN CITIES etc. The question was asked, [Does the Mishnah mean] as an oven full of grain, or as an oven full of bread?[7] — Come and hear: As much as would fill the opening of an oven. The following question however still remains, Does it mean [as much bread] as would close the opening of an oven, or a row of loaves extending to the opening of the oven? This is left undecided.

THEY ALSO ORDAINED A FAST BECAUSE WOLVES DEVOURED etc. ‘Ulla said in the name of R. Simeon b. Jehozadak: It happened that wolves devoured two children and they passed them out through their secretory canal and the question came up before the Sages and they declared that the flesh [of the children] was clean but that their bones were unclean.[8]

THE ALARM IS SOUNDED ON THE SABBATH etc. Our Rabbis have taught: When a city is surrounded by hostile Gentiles, or threatened with inundation by the river, or when a ship is foundering in the sea, or when an individual is being pursued by Gentiles or robbers or by an evil spirit,[9] the alarm is sounded [even] on the Sabbath; and on account of all these an individual may afflict himself by fasting. R. Jose says: An individual may not afflict himself by fasting lest thereby he come to need the help of his fellow men and it may be that they will not have mercy upon him. Rab Judah said in the name of Rab: R. Jose's reason is because It is written, And became a living soul;[10] Scripture thereby implies, [God says], Keep alive the soul which I gave you.

SIMEON THE TEMANITE SAYS [THE ALARM IS SOUNDED] ALSO EVEN ON ACCOUNT OF PLAGUE etc. The question was asked: Did the Rabbis disagree with him only when it was a question of sounding the alarm on the Sabbath, but on weekdays they agreed with him; or, perhaps they did not agree with him in any circumstances? — Come and hear: The alarm is sounded on account of plague on the Sabbath, and, it goes without saying, on weekdays. R. Hanan b. Pitom,[11] a disciple of R. Akiba, said in the name of R. Akiba: We may not under any circumstances sound the alarm on account of plague.

THE ALARM IS SOUNDED ON ACCOUNT OF ANY VISITATION, THAT COMES UPON THE COMMUNITY! Our Rabbis have taught: The alarm is sounded on account of any visitation that comes upon the community! except on account of an overabundance of rain. Why?- R. Johanan said: Because we may not pray on account of an excess of good. R. Johanan further said: Whence do we derive that we may not pray on account of an excess of good? For it is said, Bring ye the whole tithe into the storehouse . . . that there shall be more than sufficiency.[12] What is the meaning of, ‘More than sufficiency’? — Rami son of R. Yud interpreted: Until your lips grow weary with saying, Sufficient. Rami son of R. Yud said: In the Diaspora the alarm is sounded on account of this.[13] It has been taught likewise: In a year of excessive rain the Men of the Mishmar send [a message] to the Men of the Ma'amad:[14] Think of your brethren in the Diaspora that their houses may not become their graves.[15]

R. Eliezer was asked, How excessive must the rainfall be to warrant prayer for it to cease? He replied: When a man standing on Keren Ofel[16] is able to dabble his feet in water. But has it not been taught ‘his hands’? — I mean, his feet [at the same time] as his hands.[17] Rabah bar b. Hana related: Once as I was standing on Keren Ofel I saw [below] an Arab with a spear in his hand riding on a camel and to me he looked as small as a flax-worm.

The Rabbis have taught: And I will give you rains in their season.[18] [This means that the soil shall be] neither soaked nor parched, but moderately rained upon. For whenever the rain is excessive it scours away the soil so that it yields no fruit.

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(1) II Chron. XXXV, 21.

(2) Ibid. 23.

(3) Rab Judah infers this from the words ויורו היורים which he renders,’And the archers continued shooting.’[Or, החליתי is connected with חלל to pierce through.]

(4) Lev. XXVI, 6.

(5) Lam. I, 18.

(6) Ibid. IV, 20.

(7) The former is the larger quantity.

(8) Their flesh as mere secretion does not render anyone coming into contact with them unclean, but their bones, still retaining their solid nature, do; cf. Lev. V, 2-3.

(9) [Var. lec.: ‘an evil beast’.]

(10) Gen. II, 7.

(11) [Var. lec.: b. Phinehas.]

(12) Mal. III, 10.

(13) Because of an excess of rain.

(14) The phrase, Men of the Mishmar’ here does not refer to priests but to a division of lay Israelites whose representatives in Jerusalem known as the Men of the Ma'amad (v. Glos.) stood by during the sacrificial ceremonies reciting prayers (v. Malter, a.l. and infra 27a notes).

(15) Diaspora in the first instance denotes Babylon. Babylon being a low lying country would be swamped by an excess of rain.

(16) The name of a high rock on the brook of Kidron E. of Jerusalem. Cf. Tosef. Ta'an. III, I. [The water to reach the Ofel would have to rise five hundred feet. V. Buchler, op. cit. p. 197.]

(17) [MS.M. omits, 'I mean', the reference being to the Baraitha. I.e., the Baraitha, in stating 'hands' means that the water had risen so high that one can sit on the Keren Ofel and wash his hands whilst his feet dabble in the water.]

(18) Lev. XXVI, 4.

Talmud - Mas. Ta'anith 23a

Another explanation. 'In their season': [This means that rain would fall only] on the eve of Wednesdays[1] and Sabbaths. For so it happened in the days of Simeon b. Shetah. [At that time] rain fell on the eve of Wednesdays and Sabbaths so that the grains of wheat came up as large as kidneys and the grains of barley like the stones of olives, and of the lentils like the golden denarii and they stored specimens of them for future generations in order to make known unto them the in effects of sin, as it is said. Your iniquities have turned away these things and your sins have withholden good from you.[2] Likewise we find happened in the days of Herod when the people were occupied with the rebuilding of the Temple. [At that time] rain fell during the night but in the morning the wind blew and the clouds dispersed and the sun shone so that the people were able to go out to their work, and then they knew that they were engaged in sacred work.

IT HAPPENED THAT THE PEOPLE SAID TO HONI, THE CIRCLE DRAWER etc. Once it happened that the greater part of the month of Adar had gone and yet no rain had fallen. The people sent a message to Honi the Circle Drawer, Pray that rain may fall. He prayed and no rain fell. He thereupon drew a circle and stood within it in the same way as the prophet Habakuk had done, as it is said, I will stand upon my watch, and set me upon the tower etc.[3] He exclaimed [before God], Master of the Universe, Thy children have turned to me because [they believe] me to be a member of Thy house. I swear by Thy great name that I will not move from here until Thou hast mercy Upon Thy children! Rain began to drip and his disciples said to him, We look to you to save us from death;[4] we believe that this rain came down merely to release you from your oath. Thereupon he exclaimed: It is not for this that I have prayed, but for rain [to fill] cisterns, ditches and caves. The rain then began to come down with great force, every drop being as big as the opening of a barrel and the Sages estimated that no one drop was less than a log. His disciples then said to him: Master, we look to you to save us from death; we believe that the rain came down to destroy the world. Thereupon he exclaimed before [God], It is not for this that l have prayed, but for rain of benevolence, blessing and bounty. Then rain fell normally until the Israelites [in Jerusalem] were compelled to go up [for shelter] to the Temple Mount because of the rain. [His disciples] then said to him, Master, in the same way as you have prayed for the rain to fall pray for the rain to cease. He replied: I have it as a tradition that we may not pray on account of an excess of good. Despite this bring unto me a bullock for a thanks-giving-offering.] They brought unto him a bullock for a thanks-giving-offering and he laid his two hands upon it and said, Master of the Universe, Thy people Israel whom Thou hast brought out from Egypt cannot endure an excess of good nor an excess of punishment; when Thou wast angry with them, they could not endure it; when Thou didst shower upon them an excess of good they could not endure it; may it be Thy will that the rain may cease and that there be relief for the world. Immediately the wind began to blow and the clouds were dispersed and the sun shone and the people went out into the fields and gathered for themselves mushrooms and truffles. Thereupon Simeon b. Shetah sent this message to him, Were it not that you are Honi I would have placed you under the ban; for were the years like the years [of famine in the time] of Elijah[5] (in whose hands were the keys of Rain) would not the name of Heaven be profaned through you?[6] But what shall I do unto you who actest petulantly before the Omnipresent and He grants your desire, as a son who acts petulantly before his father and he grants his desires; thus he says to him, Father, take me to bathe in warm water, wash me in cold water, give me nuts, almonds, peaches, and pomegranates and he gives them unto him. Of you Scripture says, Let thy father and thy mother be glad, and let her that bore thee rejoice.[7]

Our Rabbis have taught: What was the message that the Sanhedrin[8] sent to Honi the Circle-Drawer? [It was an interpretation of the verse], Thou, shalt also decree a thing, and it shall be established unto thee, and light shall shine upon thy ways etc.[9] ‘Thou shalt also decree a thing:’ You have decreed [on earth] below and the Holy One, Blessed be He, fulfills your word [in heaven] above. ‘And light shall shine upon thy ways:’ You have illumined with your prayer a generation in darkness. ‘When they cast thee down, thou shalt say: There is lifting up:’ You have raised with your prayer a generation that has sunk low. ‘For the humble person He saveth:’ You have saved by your prayer a generation that is humiliated with sin. ‘He delivereth him that is not innocent:’ You have delivered by your prayer a generation that is not innocent. ‘Yea, He shall be delivered through the cleanliness of thy hands:’ You have delivered it[10] through the work of your clean hands.

R. Johanan said: This righteous man [Honi] was throughout the whole of his life troubled about the meaning of the verse, A Song of Ascents, When the Lord brought back those that returned to Zion, we were like unto them that dream.[11] Is it possible for a man to dream continuously for seventy years?[12] One day he was journeying on the road and he saw a man planting a carob tree; he asked him, How long does it take [for this tree] to bear fruit? The man replied: Seventy years. He then further asked him: Are you certain that you will live another seventy years? The man replied: I found [ready grown] carob trees in the world; as my forefathers planted these for me so I too plant these for my children.

Honi sat down to have a meal and sleep overcame him. As he slept a rocky formation enclosed upon him which hid him from sight and he continued to sleep for seventy years. When he awoke he saw a man gathering the fruit of the carob tree and he asked him, Are you the man who planted the tree? The man replied: I am his grandson. Thereupon he exclaimed: It is clear that I slept for seventy years. He then caught sight of his ass who had given birth to several generations of mules;[13] and he returned home. He there enquired, Is the son of Honi the Circle-Drawer still alive? The people answered him, His son is no more, but his grandson is still living. Thereupon he said to them: I am Honi the Circle-Drawer, but no one would believe him. He then repaired to the Beth Hamidrash and there he overheard the scholars say, The law is as clear to us as in the days of Honi the Circle-Drawer, for whenever he came to the Beth Hamidrash he would settle for the scholars any difficulty that they had. Whereupon he called out, I am he; but the scholars would not believe him nor did they give him the honour due to him. This hurt him greatly and he prayed [for death] and he died. Raba said: Hence the saying, Either companionship or death.

Abba Hilkiah was a grandson of Honi the Circle-Drawer, and whenever the world was In need of rain the Rabbis sent a message to him and he prayed and rain fell. Once there was an urgent need for rain and the Rabbis sent to him a couple of scholars [to ask him] to pray for rain. They came to his house but they did not find him there. They then proceeded to the fields and they found him there hoeing. They greeted him

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(1) People did not venture out on Wednesday evenings as there was a belief that demons were about. Cf. Pes. 112b.

(2) Jer. V, 25.

(3) Hab. II, 1.

(4) The meaning of the Hebrew phrase is doubtful. (3) [Rashi: ‘for confession of sins’.]

(5) Cf. I Kings XVII, 1ff.

(6) [Honi would not have hesitated to force, so to speak, the hand of Heaven even in the face of an oath such as Elijah had made in the name of God that there would be no rain for years (1 Kings XVII, 1ff).]

(7) Prov. XXIII, 25.
(8) Lit., ‘the Men of the Hall of Hewn Stone’. The Sanhedrin met in the Hall of Hewn Stone.
(9) Job XXII, 28ff.
(10) The nation.
(11) Ps. CXXVI, 1.
(12) Cf. Jer. XXV, 11; XXIX, 10.
(13) [MS.M. omits the last sentence.]

Talmud - Mas. Ta'anith 23b

but he took no notice of them. Towards evening he gathered some wood and placed the wood and the rake on one shoulder and his cloak on the other shoulder. Throughout the journey he walked barefoot but when he reached a stream he put his shoes on; when he lighted upon thorns and thistles he lifted up his garments; when he reached the city his wife well bedecked came out to meet him; when he arrived home his wife entered first [the house] and then he and then the scholars. He sat down to eat but he did not say to the scholars, ‘Join me’. He then shared the meal among his children, giving the older son one portion and the younger two. He said to his wife, I know the scholars have come on account of rain, let us go up to the roof and pray, perhaps the Holy One, Blessed be He, will have mercy and rain will fall, without having credit given to us. They went up to the roof; he stood in one corner and she in another; at first the clouds appeared over the corner where his wife stood. When he came down he said to the scholars. Why have you scholars come here? They replied: The Rabbis have sent us to you, Sir, [to ask you] to pray for rain. Thereupon he exclaimed, Blessed be God, who has made you no longer dependent on Abba Hilkiah. They replied: We know that the rain has come on your account, but tell us, Sir, the meaning of these mysterious acts of yours, which are bewildering to us? Why did you not take notice of us when we greeted you? He answered: I was a labourer hired by the day and I said I must not relax [from my work]. And why did you, Sir, carry the wood on one shoulder and the cloak on the other shoulder? He replied: It was a borrowed cloak; I borrowed it for one purpose [to wear] and not for any other Purpose. Why did you, Sir, go barefoot throughout the whole journey but when you came to a stream you put your shoes on? He replied: What was on the road I could see but not what was in the water. Why did you, Sir, lift up your garments whenever you lighted upon thorns and thistles? He replied[1] : This [the body] heals itself, but the other [the clothes] does not. Why did your wife come out well bedecked to meet you, Sir, when you entered the city? He replied: In order that I might not set my eyes on any other woman. Why, Sir, did she enter [the house] first and you after her and then we? He replied: Because I did not know your character.[2] Why, Sir, did you not ask us to join you in the meal? [He replied]: Because there was not sufficient food [for all]. Why did you give, Sir, one portion to the older son and two portions to the younger? He replied: Because the one stays at home and the other is away in the Synagogue[3] [the whole day]. Why, Sir, did the clouds appear first in the corner where your wife stood and then in your corner? [He replied]: Because a wife stays at home and gives bread to the poor which they can at once enjoy whilst I give them money which they cannot at once enjoy.[4] Or perhaps it may have to do with certain robbers In our neighbourhood; I prayed that they might die, but she prayed that they might repent [and they did repent].

Hanan ha-Nehba was the son of the daughter of Honi the Circle-Drawer. When the world was in need of rain the Rabbis would send to him school children and they would take hold of the hem of his garment and say to him, Father, Father, give us rain. Thereupon he would plead with the Holy One, Blessed be He, [thus], Master of the Universe, do it for the sake of these who are unable to distinguish between the Father who gives rain and the father who does not. And why was he called, Hanan ha-Nehba? — Because he was wont to lock [mihabbeh] himself in the privy[5] [out of modesty].

R. Zerika said to R. Safra: Come and see the difference between the [so called] hard men of

Palestine and the pious men of Babylonia. When the world was in need of rain the pious men of Babylonia, R. Huna and R. Hisda said: Let us assemble and pray, Perhaps the Holy One, Blessed be He, may be reconciled and send rain. But the great men of Palestine, as for example, R. Jonah the father of R. Mani, would go into his house when the world was in need of rain and say to his [family]: Get my haversack and I shall go and buy grain for a zuz. When he left his house he would go and stand in some low-lying spot, and then standing in this hidden spot, as it is written, Out of the depths have I called thee O Lord,[6] dressed in sackcloth he prayed and rain came. When he returned home [his family] asked him, Have you brought the grain? He replied: Now that rain has come the world will feel relieved.

Again his son, R. Mani, was annoyed by the members of the household of the Patriarch, he went and prostrated himself on the grave of his father and exclaimed: Father, father, these people persecute me. Once as they were passing [the grave] the knees of their horses became stiff [and remained so] until they undertook not to persecute him any longer.

Again, R. Mani used often to attend [the discourses] of R. Isaac b. Eliashab and he complained: The rich members of the family of my father-in-law are annoying me. The latter exclaimed: May they become poor! And they became poor. Later on he [R. Mani] complained: They press me [for support] and R. Isaac exclaimed: Let them become rich! And they became rich. [On another occasion] he complained: My wife is no longer acceptable to me. R. Isaac thereupon asked: What is her name? He replied: Hannah. Whereupon R. Isaac exclaimed: May Hannah become beautiful! And she became beautiful. He then complained: She is too domineering over me. Whereupon R. Isaac exclaimed: If that is so, let Hannah revert to her [former] ugliness! And she became once again ugly.

Two disciples used to attend [the discourses of] R. Isaac b. Eliashab and they said to him, Master, pray that we may become very wise. He replied: Once I had the power to do this, but now I no longer possess this power.[7]

R. Jose b. Abin used to attend [the discourses of] R. Jose of Yokereth.[8] Later he left him and went to those of R. Ashi.

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(1) no.

(2) Therefore he would not leave his wife unprotected.

(3) [For instruction. The School, in Talmudic days, was attached to the synagogue.]

(4) Immediate relief is best.

(5) [Var. lec. omit: ‘in the privy’. V. Rashi.]

(6) Ps. CXXX, 1.

(7) Lit., ‘it was with me and l dismissed her’.

(8) Probably to be identified with דרוקרת V. supra 21b.

Talmud - Mas. Ta'anith 24a

One day he heard him reciting a tradition that Samuel had said: He that takes out of the sea a fish on the Sabbath, as soon as there is on it a dry spot as large as a sela’, he has committed a breach of the Sabbath laws.[1] Thereupon R. Jose b. Abin asked him: Why does not the Master add, ‘and between the fins’? He replied : Are you not aware that R. Jose b. Abin had [already] stated this? [The former] retorted: I am R. Jose b. Abin. Thereupon R. Ashi enquired: Did you not frequent the discourses of R. Jose of Yokereth? He replied: Yes. R. Ashi then asked him: Why did you leave him, Sir, and come here? He replied: How could the man who showed no mercy to his son and daughter show mercy to me?

What happened to his son? Once R. Jose had day-labourers [working] in the field; night set in and no food was brought to them and they said to his son, ‘We are hungry’. Now they were resting under a fig tree and he exclaimed: Fig tree, fig tree, bring forth thy fruit that my father's labourers may eat. It brought forth fruit and they ate. Meanwhile the father came and said to them, Do not bear a grievance against me; the reason for my delay is because I have been occupied up till now on an errand of charity. The labourers replied, May God satisfy you even as your son has satisfied us. Whereupon he asked: Whence? And they told him what had happened. Thereupon he said to his son: My son, you have troubled your Creator to cause the fig tree to bring forth its fruits before its time, may you too be taken hence before your time!

What happened to his daughter? He had a beautiful daughter. One day he saw a man boring a hole in the fence so that he might catch a glimpse of her. He said to the man, What is [the meaning of] this? And the man answered: Master, if I am not worthy enough to marry her, may I not at least be worthy to catch a glimpse of her? Thereupon he exclaimed: My daughter, you are a source of trouble to mankind; return to the dust so that men may not sin because of you. He also had an ass. When it was hired out for the day [the people who hired it] would place, in the evening, the hire on its back and the ass would make its way home to its master. If, however, the money was too much or too little, it would not go. One day a pair of sandals were left on its back and the ass would not move until they were removed and only then did it proceed.

Whenever the collectors of charity caught sight of R. Eleazar b. Birtai[2] they would hide themselves from him, because he was in the habit of giving away to them all that he had. One day he was going to the market to buy a trousseau for his daughter. When the collectors of charity caught sight of him they hid themselves from him. He ran after them and said to them: I adjure you, [tell me] on what mission are you engaged? And they replied: [The marriage of] an orphaned pair. He said to then: I swear, they must take precedence over my daughter. And he took all that he had and gave to them. He was left with one zuz and with this he bought wheat which he deposited in the granary. When his wife returned house she asked her daughter, What did your father bring home? She replied, He has put in the granary all that he had bought. She thereupon went to open the door of the granary and she found that it was so full of wheat that the wheat protruded through the hinges of the door-socket and the door would not open on account of this. The daughter then went to the Beth-Hamidrash and said to him [her father], Come and see what your Friend has done for you. Whereupon he said to her, l swear,[3] they shall be to you as devoted property, and you shall have no more right to share in them than any poor person in Israel.[4]

R. Judah the Prince[5] ordained a fast and he prayed but no rain fell. He thereupon exclaimed: What a great difference there is between, Samuel the Ramathite[6] and Judah the son of Gamaliel! Woe to the generation that finds itself in such plight! Woe to him in whose days this has happened. He felt very grieved and rain fell. Once the House of the Patriarch ordained a fast and did not inform either R. Johanan or Resh Lakish. In the morning, however, they did notify them. Resh Lakish then said to R. Johanan, But we have not undertaken the fast on the previous evening.[7] The latter replied: We are subject to their ordinances.

Once the House of the Patriarch ordained a fast and no rain fell. Thereupon Oshaiah, the youngest of the college scholars,[8] expounded the verse, Then it shall be, if it be done in error by the congregation.[9] This can be compared to a bride who lives in the house of her father. So long as her eyes[10] are beautiful her body needs no examination; should, however, her eyes be bleared then her body needs examination. Thereupon the servants of the Patriarch came and put a scarf around his neck and tortured him. Whereupon the people of the city cried out, Leave him alone; us also he insults but since we see that whatever he does is for the sake of Heaven, we say nothing to him and we leave him alone, so you too leave him alone.

Once Rabbi ordained a fast and no rain fell. Thereupon ‘Ilfa (some say, R. Ilfi),[stepped down before the ark and] recited [the prayer], ‘He causeth the wind to blow’, and the wind blew. [He continued], ‘He causeth the rain to fall’, and rain fell. Rabbi then asked him, What is your special merit? He replied: I live in a poverty-stricken remote place where wine for Kiddush and Habdalah[11] is unobtainable but I take the trouble to procure for myself wine for Kiddush and Habdalah and thus help also others to fulfil their duty.

Once Rab came to a certain place and decreed a fast but no rain fell. The Reader then stepped down at his request before the ark and recited, ‘He causeth the wind to blow’, and the wind blew; [he continued], ‘He causeth the rain to fall’, and rain fell. Rab thereupon asked him, What is your special merit? The latter replied: I am a teacher of young children and I teach the children of the poor as well as those of the rich; I take no fees from any who cannot afford to pay; further, I have a fishpond and any boy who is reluctant [to learn] I bribe with some of the fishes from it[12] and thereby appease him so that he becomes eager to learn.

Once R. Nahman ordained a fast and he prayed but no rain fell. He thereupon said, ‘Take Nahman and throw him down from the wall to the ground’.[13] He felt greatly dejected and then rain came . Rabbah once decreed a fast . He prayed but no rain came. Thereupon the people remarked to him: When Rab Judah ordained a fast rain did fall. He replied: What can l do? Is it because of studies? We are superior to him, because in the time of R. Judah all studies were concentrated on

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(1) Cf. Shab. 107b. He desecrates the Sabbath by killing which is one of the thirty-nine primary types of work forbidden on the Sabbath (cf. Shab. 73a).

(2) [Identified by Horowitz (Palestine p. 115) with Beiruth.]

(3) Lit., ‘By the Service of the Temple’, one of the formulas of oaths.

(4) R. Eleazar b. Birtah did not wish his daughter to derive any benefit from the results of a miracle.

(5) V. supra p. 64, n. 1.

(6) Cf. I Sam. XII, 17.

(7) V. supra 11b.

(8) [זעירא דמן הברייא, Aliter: (Oshaia) Ze'ira of Haberya. a village in the Hawran district. V. Horowitz, p. 263.]

(9) Num. XV, 24.

(10) The meaning is that the leaders of the community (‘the eyes’) because of their sins are the cause of the sufferings that have befallen the community.

(11) V. Glos.

(12) [Cur. edd. insert ‘and we arrange them for him,’ ‘clean them for him’.]

(13) Figuratively He is not worthy of his high office.]

Talmud - Mas. Ta'anith 24b

Nezikin,[1] whereas we study all the six sections. When R. Judah reached the passage in [the Mishnah],[2] ‘If a woman was preserving vegetables in a pot etc. or as some say the passage, ‘If olives are preserved together with their leaves then the leaves are not susceptible to uncleanness’,[3] he exclaimed: I see here disputations of Rab and Samuel,[4] and yet we to-day teach ‘Ukkazin in thirteen different sessions.[5] And yet when Rab Judah removed one shoe [as a sign of humiliation][6] rain fell but when we cry out the whole day no one pays need to us. Is it because of some failing? If so, let any one who knows of it declare it. What, however, can the great men[7] of a generation do when their generation does not [appear good enough to favour in the eyes of God].

Once Rab Judah saw two men using bread wastefully and he exclaimed: It seems that there is plenty in the world. He gave an angry look and a famine arose. Thereupon the Rabbis said to R. Kahana the son of R. Nehunia, his attendant, You who are so constantly with him, endeavour to persuade him to go out by the door near the market place.[8] He prevailed upon him and he went out to the market place and seeing there a large crowd he asked. What is the matter? He was told, They stand around a mass of ground dates which is on sale. Whereupon he exclaimed: It seems that there is famine in the world. He then said to his disciple: Take off my shoes. As soon as he had taken off one shoe rain fell. As he was about to take off the other Elijah appeared and said to him: The Holy One, Blessed be He, said, if you will take off the other shoe I will lay waste the world.[9]

R. Mari the son of the daughter of Samuel related: Once I was standing on the bank of the river Papa[10] and I saw angels in the guise of sailors who brought sand and loaded ships with it and it turned into fine flour. When the people came to purchase [it] I called out to them: Do not buy this because it resulted from a miracle. Next day boatloads of wheat came from Perezina.[11]

Once Raba came to Hagrunia[12] and ordained a fast but no rain fell. Thereupon he said to the people: Continue with your fasting overnight. Next morning he said to them: If there is any one of you who had a dream let him tell it. Thereupon R. Eleazar from Hagrunia replied: To me in my dream the following was said: Good greetings to the good teacher from the good Lord who from His bounty dispenseth good to His people. Raba then exclaimed: It seems that this is a favourable time to pray. He prayed and rain fell.

Once a certain man was sentenced by the Court of Raba to receive corporal punishment because he had intercourse with a Gentile woman. Raba had the man punished and he died. The matter reached the ears of King Shapur and he sought to punish Raba. Whereupon Ifra Hormuz, the mother of King Shapur,[13] said to her son, Do not interfere with the Jews because whatever they ask of their God He grants them. The king asked her, For example? They pray and rain falls [she replied]. He retorted: This must have been because it is the season for rain; let them pray now, in the Tammuz cycle[14] for rain. She sent a message to Raba: Concentrate now your mind and pray for rain. He prayed but no rain fell. He then exclaimed: Master of the Universe, ‘O God, we have heard with our ears, our fathers have told us; a work Thou didst in their days, in the days of old.’[15] But as for us we have not seen [it] with our eyes. Whereupon there followed such a heavy fall of rain that the gutters of Mahuza[16] emptied their waters into the Tigris. Raba's father then appeared unto him in a dream and said to him: Is there anyone who troubles Heaven so much? Change thy [sleeping] place.[17] He changed his place and next morning he discovered that his bed had been cut with knives.

R. Papa ordained a fast and no rain fell. As he felt faint he sipped a plateful of grits and he again prayed, but still no rain fell. Thereupon R. Nahman b. Ushpazarti[18] said to him: If you, Sir, will sip another plateful of grits rain would fall. Raba felt humiliated and faint, and rain fell.

R. Hanina b. Dosa was journeying on the road when it began to rain. He exclaimed: Master of the Universe, the whole world is at ease, but Hanina is in distress; the rain then ceased. When he reached home he exclaimed: Master of the Universe, the whole world is in distress and Hanina is at ease; whereupon rain fell. [With reference to this incident] R. Joseph remarked: Of what avail was the prayer of the High Priest [on the Day of Atonement] against that of R. Hanina b. Dosa? For we have learnt:[19] [The High Priest on the Day of Atonement] prayed a short prayer in the outer room [of the Temple]. What did he pray? Raba son of R. Adda and Rabin son of R. Adda both said in the name of Rab Judah: ‘May it be Thy will, O Lord our God, that this year may be one of rain and of heat’. Is then heat beneficial? Is it not rather something harmful? — Rather [the prayer reads thus], ‘If the year is to be a year of heat, let it also be a year of rain and of dew, and let the prayer of those journeying on the roads gain admission before Thee.

R. Aha the son of Raba in the name of Rab Judah completed the prayer as follows: ‘May a ruler never cease from the house of Judah and may Israel never be in need of sustenance one from another, nor from another people’. Rab Judah said in the name of Rab: Every day a Heavenly Voice is heard declaring, The whole world draws its sustenance because [of the merit] of Hanina my son, and Hanina my son suffices himself with a kab of carobs from one Sabbath eve to another. Every Friday his wife would light the oven and throw twigs[20] into it

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(1) The fourth order of the Mishnah.

(2) Toh. II, 1. The word עוקצין is here out of place and refers to the passage which follows.

(3) M. Uk. 11,1.

(4) The disputations of Rab and Samuel are proverbial for their complexity. For fuller notes V. Sanh., Sonc. ed. p. 728.

(5) Cf. Ber. 20a and Rashi there a.l.; Ned. 41a. Rashi, on our passage; in the thirteen colleges that were to be found in the place where Rabbah resided.

(6) Cf. 12b; Ta'an. I, 6.

(7) [MSM.: ‘leaders’.]

(8) That he might see for himself how the people suffer because of the famine.

(9) He should not weary God with any further prayers as He had already answered his prayer.

(10) A tributary of the Euphrates. V. Obermeyer, p. 227.

(11) Obermeyer (p. 227, n. 2) identifies with Parazika, Farausag near Bagdad.

(12) A city near Nehardea in Babylonia. V. Obermeyer, p. 265-7.

(13) [Shapur II, King of Persia (310-379 C.E.), son of King Hormuzd.]

(14) Heb. Tekufah, v. Glos.

(15) Ps. XLlv, 2.

(16) [For this reading v. D.S. Mahuza was the place of Raba. Cur. edd. ‘of Sepphoris’.]

(17) Underlying this is the popular belief that a change of place brings with it a change of fortune.

(18) [Aruch reading Ushparti takes it as the name of R. Papa's mother. The phrase is thus to be rendered: ‘O son of Ushparti’.]

(19) Yoma 53b.

(20) Lit., ‘something that produces smoke’.

Talmud - Mas. Ta'anith 25a

so as not to be put to shame. She had a bad neighbour who said,I know that these people have nothing, what then is the meaning of all this [smoke]? She went and knocked at the door. [The wife of R. Hanina] feeling humiliated [at this] retired into a room. A miracle happened and [her neighbour] saw the oven filled with loaves of bread and the kneading trough full of dough; she called out to her: You, you, bring your shovel, for your bread is getting charred; and she replied, I just went to fetch it. A Tanna taught: She actually had gone to fetch the shovel because she was accustomed to miracles.

Once his wife said to him: How long shall we go on suffering so much: He replied: What shall we do?-Pray that something may be given to you, [she replied]. He prayed, and there emerged the figure of a hand reaching out to him a leg of a golden table. Thereupon he saw in a dream that the pious would one day eat at a three-legged golden table but he would eat at a two-legged table. Her husband said to her:[1] Are you content that everybody shall eat at a perfect table and we at an imperfect table? She replied: What then shall we do? — Pray that the leg should be taken away from you, [she replied]. He prayed and it was taken away. A Tanna taught: The latter miracle was greater than the former; for there is a tradition that a thing may be given but once; it is never taken away again.

Once on a Friday eve he noticed that his daughter was sad and he said to her, My daughter, why are you sad? She replied: My oilcan got mixed up with my vinegar can and I kindled of it the Sabbath light. He said to her: My daughter, Why should this trouble you? He who had commanded the oil to burn will also command the vinegar to burn. A Tanna taught: The light continued to burn the whole day until they took of it light for the Habdalah.[2]

R. Hanina b. Dosa had goats. On being told that they were doing damage he exclaimed, If they indeed do damage may bears devour them, but if not may they each of them at evening time bring home a bear on their horns. In the evening each of them brought home a bear on their horns.

Once a woman neighbour of R. Hanina was building a house but the beams would not reach the walls. She thereupon came to him and said: I have built a house but the beams will not reach the walls. He asked her: What is your name? She replied: Aiku. He thereupon exclaimed: Aiku,[3] may your beams reach [the walls]. A Tanna taught: They projected one cubit on either side. Some say, New pieces joined themselves [miraculously] to the beams.[4] It has been taught: Polemo says: I saw that house and its beams projected one cubit on either side, and people told me: This is the house which R. Hanina b. Dosa covered with beams, through his prayer.

Whence did R. Hanina b. Dosa have goats seeing that he was poor? And furthermore, did not the Sages say: We may not rear small cattle in Palestine?[5] — R. Phinehas said: Once it happened that a man passed by his house and left there hens and the wife of R. Hanina b. Dosa found them. Her husband, however, forbade her to eat of their eggs. As the eggs and the chickens increased in number he was very troubled by them and he therefore sold them and with the proceeds he purchased goats. One day the man who lost the hens passed by [the house] again and said to his companions, Here I left my hens. R. Hanina overhearing this asked him: Have you any sign [by which to identify them]? He replied: Yes. He gave him the sign and took away the goats. These were the goats that brought bears on their horns.

R. Eleazar b. Pedath found himself in very great want. Once after being bled he had nothing to eat. He took the skin of garlic and put it into his mouth; he became faint and he fell asleep. The Rabbis coming to see him noticed that he was crying and laughing, and that a ray of light was radiating from his forehead . When he awoke they asked him: Why did you cry and laugh? He replied: Because the Holy One, Blessed be He, was sitting by my side and I asked Him, How long will I suffer in this world? And He replied: Eleazar, my son, would you rather that I should turn back the world to its very beginnings? Perhaps you might then be born at a happier hour?[6] I replied: All this, and then only perhaps?[7] I then asked Him, Which is the greater life, the one that I had already lived, or the one I am still to live. He replied: The one that I have already lived. I then said to Him: If so, I do not want it. He replied: As a reward for refusing it I will grant you in the next world thirteen rivers of balsam oil as clear as the Euphrates and the Tigris, which you will be able to enjoy. I asked, And nothing more? He replied: And what shall I then give to your fellow men? I said: Do I then ask the share of one who has nothing? He thereupon snapped at my forehead and exclaimed: Eleazar, my son, I have shot you with my arrows.[8] R. Hama b. Hanina ordained a fast but no rain fell. People said to him: When R. Joshua b. Levi ordained a fast rain did fall. He replied: I am I, and he is the son of Levi.[9] Go and ask him that he may come [and pray for us] and let us concentrate on our prayer, perhaps the whole community will be contrite in heart and rain will fall.[10] They prayed and no rain fell. He[11] then asked them: Are you content that rain should fall on our account? They replied: Yes. He then exclaimed: heaven, heaven, cover thy face.[12] But it did not cover [its face]. He then added: How brazen is the face of heaven! It then became covered and rain fell.

Levi ordained a fast but no rain fell. He thereupon exclaimed: Master of the Universe, Thou didst go up and take Thy Seat on high and hast no mercy upon Thy children. Rain fell but he became lame. R. Eleazar said: Let a man never address himself in a reproachful manner towards God, seeing that one great man did so and he became lame, and he is Levi. But was this actually the cause [of his lameness]? Was it not rather because he demonstrated to Rabbi a particular form of prostration?[13] — Both were the cause of his lameness.

R. Hiyya b. Luliani overhearing the clouds saying to one another, Come, let us take water to Ammon and Moab, exclaimed: Master of the Universe! When Thou wast about to give the Law to Thy people Israel Thou didst offer it around amongst all the nations of the world but they would not accept it, and now Thou wouldst give them rain; let them [the clouds] empty their waters here; and they emptied their waters on the spot.

R. Hiyya b. Luliani expounded: What is the meaning of the verse, The righteous shall flourish like the palm tree; he shall glow like a cedar in Lebanon?[14] If it is said, ‘Palm-tree’ why is also said ‘Cedar’? And if ‘Cedar’ why also ‘Palm-tree’? Had it been said, ‘Palm-tree’ and not ‘Cedar’ I might have argued that just in the same way [

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(1) [The text is in disorder. The rendering adopted is based on the reading of MS.M.].

(2) V. Glos.

(3) The name Aiku suggests to him the Greek **= Would that sc. the joists may reach the walls (Malter, Ta'an. p. 188).

(4) [Aliter:(a) They (the angels) made (added) new joints to them (R. Gershom). (b) They made of them (the lengthened beams) new joints (Aruch).]

(5) As these usually destroy the crops of the field. Cf. B.K. 79b.

(6) Lit., ‘In an hour of sustenance’.

(7) He would not give God all this trouble for a mere probability.

(8) The text is in disorder and its meaning is doubtful. According to Rashi it is a gesture of God's love for Eleazar.

(9) I.e., I am not as great a man as he is.

(10) [This appears to be the meaning of text of cur. edd. from which MSS.vary.]

(11) [On our text, either R. Hama b. Hanina, or R. Joshua b. Levi, who had come at their request to pray. V. J. Ta'an III, 4.]

(12) With clouds that bring rain.

(13) And so injured himself. V. Suk. 53b.

(14) Ps. XCII, 13.

Talmud - Mas. Ta'anith 25b

as the stem of the Palm-tree does not renew itself[1] so too the stem of the righteous, Heaven forfend, does not renew itself; therefore it is said ‘Cedar’. Had it been said ‘Cedar’ and not ‘Palmtree’, I might have argued that just in the same way as the Cedar does not yield fruit, so too the righteous do not yield fruit; therefore it is said, ‘Palm-tree’ and ‘Cedar’. But does the stem of the cedar renew itself. Surely it has been taught: If one buys a tree from his neighbour for felling he must leave of the trunk one handbreadth from the ground;[2] of the trunk of the sycamore tree two handbreadths; of the virgin sycamore tree three handbreadths; of reeds and of vines from the knot above it;[3] in the case, however, of date palms and cedars he may dig into the ground and uproot them because their stock does not renew itself.[4] Here it speaks of other types of cedar trees in accordance with a statement of Rabbah b. Huna, who said:[5] There are ten types of cedar trees, as it is said, I will plant in the wilderness the cedar, the acacia tree and the myrtle tree etc.[6]

Our Rabbis have taught: It is related of R. Eliezer that he ordained thirteen fasts upon the community and no rain fell. In the end, as the people began to depart [from the synagogue], he exclaimed: Have you prepared graves for yourselves? Thereupon the people sobbed loudly and rain fell.

It is further related of R. Eliezer that once he stepped down before the Ark and recited the twenty-four benedictions[7] [for fast days] and his prayer was not answered. R. Akiba stepped down after him and exclaimed: Our Father, our King, we have no King but Thee; our Father, our King, for Thy sake have mercy upon us; and rain fell. The Rabbis present suspected [R. Eliezer], whereupon a Heavenly Voice was heard proclaiming.[The prayer of] this man [R. Akiba] was answered not because he is greater than the other man, but because he is ever forbearing and the other is not. Our Rabbis have taught: How long should it continue to rain to warrant the community breaking their fast? [Until the rain has penetrated] as far as the knee of the plough enters the soil; this is the opinion of R. Meir. The Sages, however, say: In the case of arid soil one handbreadth,in the case of moderately soft soil two handbreadths, and in the case of cultivated soil three handbreadths.

It has been taught: R. Simeon b. Eliezer says: Not a handbreadth of rain coming down from above but that the deep with three handbreadths comes up from below to meet it.[8] But has it not been taught: Two handbreadths? — There is no contradiction. In the one case it is cultivated soil, and in the other it is not.[9]

R. Eliezer said: When on the Feast of Tabernacles the water libations are carried out, Deep says to Deep, 'Let thy waters spring forth, I hear the voice of two friends',[10] as it is said, Deep calleth unto Deep at the voice of Thy cataracts etc.[11] Rabbah said: I myself have seen Ridya.[12] who resembles a three years' old heifer, with its lips parted; he stands between the lower deep and the upper deep; to the upper deep he says. 'Distil thy waters', and to the lower deep he says. 'Let thy waters spring forth', as it is said, The flowers appear on the earth etc.[13]

IF WHILST THEY ARE FASTING RAIN FALLS, IF IT IS BEFORE SUNRISE etc. Our Rabbis have taught: If whilst they are fasting rain falls, if it is before sunrise they need not complete the fast; if it is after sunrise they must complete it; this is the opinion of R. Meir. R. Judah says: If before midday they need not complete the fast, if after midday they must complete it. R. Jose says: If before the ninth hour they need not complete the fast, if after the ninth hour they must complete it — For thus we find it in the case of Ahab, King of Israel, that he fasted from the ninth hour onwards, as it is said, Seest thou how Ahab humbleth himself before Me etc.[14]

R. Judah the Prince[15] ordained a fast and rain fell after sunrise. He was of the opinion that the people should complete the fast. Said R. Ammi to him: We have learnt: [There is a difference] between before midday and after midday.

Samuel the Little ordained a fast and rain fell before sunrise. The people thought that it was due to the merit of the community, whereupon he said to them: I will quote you a parable. This can be compared to a servant who asked his master for a gratuity and the master exclaimed, Give it to him, and let me not hear his voice.

Another time Samuel the Little ordained a fast and rain fell after sunset. The people thought that it was due to the merit of the community. whereupon Samuel exclaimed: I will quote you a parable. This can be compared to a servant who asked his master for a gratuity and the master exclaimed, Keep him waiting until he is made submissive and is distressed, and then give him his gratuity. According to Samuel the Little, what would be an instance of rain falling on account of the merit of the community? — If they recited [the prayer]. 'He causeth the wind to blow', and the wind blew, and if they recited, 'He causeth the rain to fail, and rain fell.

IT HAPPENED THAT THE RABBIS ORDAINED A FAST IN LYDIA etc. Should they not have recited the Hallel first? — Abaye and Raba explained this to be because the Hallel is recited

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(1) I.e. , it does not produce new shoots once it is cut down.

(2) So that the trunk above the ground may send forth fresh shoots.

(3) From the point where the plant begins to branch out.

(4) V B.B. 80a.

(5) R.H. 23a.

(6) Isa. XLI, 19.

(7) V. supra 15a.

(8) The waters below the earth rise to meet the water of the rain. Cf. supra 6b, the statement of R. Abbahu.

(9) [In cultivated soil a small quantity of water sufficient to water only one handbreadth penetrates still lower and so attracts the deep with a response of three handbreadths (Rashi). Strashun explains differently.]

(10) The two friends are the two vessels used for the libation of water and wine respectively. V. Suk. 48a.

(11) Ps. XLII, 8.

(12) In Persian mythology the angel who has charge over rain. V. Kohut, Aruch s.v. רידיא and Yoma, Sonc. ed. ,21a note.

(13) Cant. II, 12. The verse is taken to point to the resurrection of nature as the result of the rain. [The verse continues, ‘and the voice of the turtle (תור) is heard in our land’. תור is taken in its Aramaic sense of ‘ox’, thus alluding to Ridya's resemblance to a three years’ old heifer.]

(14) I Kings XXI, 29. According to Pes. 107b kings dine at the ninth hour (i.e.. three o'clock) of the day. Scripture tells us that Ahab fasted and humbled himself on the day that Elijah informed him of his doom. The Gemara construes Ahab's fasting to be that he went without his meal that day. This would prove that the last moment resolution to fast, provided a man had not partaken of any food before that time, is counted as a valid fast. V. 12a, the statement of R. Hisda.

(15) V. supra p. 64, n. 1.

Talmud - Mas. Ta'anith 26a

only when the appetite is satisfied and the stomach is full? Is that so? Did not R. Papa on one occasion when coming to the synagogue at Abi-Cobar[1] ordain a fast and rain fell before midday and yet he first recited the Hallel and only after that the people ate and drank! — It is different with the people of Mahuza, because drunkenness is frequent amongst them.[2]

CHAPTER IV

MISHNAH. ON THREE OCCASIONS OF THE YEAR, ON FAST-DAYS, ON MA'AMADOTH,[3] AND ON THE DAY OF ATONEMENT DO THE PRIESTS LIFT UP THEIR HANDS TO BLESS [THE PEOPLE] FOUR TIMES DURING THE DAY, NAMELY AT THE SHAHARITH[4] [SERVICE], AT MUSAF,[5] AT MINHAH[6] AND AT THE CLOSING OF THE GATES [NE'ILAH].[7]

THE FOLLOWING ARE [THE DETAILS CONCERNING] THE MA'AMADOTH. BECAUSE[8] IT IS SAID, COMMAND THE CHILDREN OF ISRAEL [AND SAY UNTO THEM]: MY FOOD WHICH IS PRESENTED UNTO ME.[9] NOW HOW CAN A MAN'S OFFERING BE BROUGHT [ON THE ALTAR] AND HE IS NOT PRESENT? [THEREFORE] THE EARLIER PROPHETS[10] INSTITUTED TWENTY-FOUR MISHMAROTH,[11] AND EACH MISHMAR WAS REPRESENTED [AT THE TEMPLE] IN JERUSALEM BY ITS OWN MA'AMAD OF PRIESTS, LEVITES AND ISRAELITES. WHEN THE TIME CAME FOR THE MISHMAR TO GO UP [TO JERUSALEM] THE PRIESTS AND LEVITES WENT UP TO JERUSALEM AND THE ISRAELITES OF THAT MISHMAR ASSEMBLED IN THEIR CITIES AND READ [FROM THE LAW] THE STORY OF CREATION.[12] THE MEN OF THE [ISRAELITE] MA'AMAD FASTED ON FOUR DAYS OF THAT WEEK, FROM MONDAY TO THURSDAY; THEY DID NOT FAST ON FRIDAY OUT OF RESPECT FOR THE SABBATH NOR ON SUNDAY IN ORDER NOT TO CHANGE OVER [WITHOUT A BREAK] FROM THE REST AND DELIGHT [OF THE SABBATH] TO WEARINESS AND FASTING AND SO [PERHAPS] DIE.

ON SUNDAY [THEY READ],[13] IN THE BEGINNING, AND, LET THERE BE A FIRMAMENT; ON MONDAY,[14] LET THERE BE A FIRMAMENT, AND, LET THE WATERS BE GATHERED TOGETHER; ON TUESDAY,[15] LET THE WATERS BE GATHERED TOGETHER, AND, LET THERE BE LIGHTS; ON WEDNESDAY,[16] LET THERE BE LIGHTS, AND, LET THE WATERS SWARM; ON THURSDAY,[17] LET THE WATERS SWARM, AND, LET THE EARTH BRING FORTH; ON FRIDAY,[18] LET THE EARTH BRING FORTH, AND, AND THE HEAVENS [AND THE EARTH] WERE FINISHED.

TWO PERSONS READ BETWEEN THEM A LONG SECTION[19] AND ONE A SHORT SECTION. AT SHAHARITH, MUSAF, AND MINHAH THEY ASSEMBLED AND READ [THE REQUISITE] SECTION BY HEART, IN THE SAME WAY AS PEOPLE RECITE THE SHEMA'. THEY DID NOT ASSEMBLE AT MINHAH ON FRIDAY OUT OF RESPECT FOR THE SABBATH.

ON ANY DAY WHEN HALLEL[20] WAS RECITED THERE WAS NO MA'AMAD [SERVICE][21] AT SHAHARITH;[22] [ON THE DAY WHEN] A MUSAF-OFFERING [WAS BROUGHT] THERE WAS NONE. AT NE'ILAH, [ON THE DAY OBSERVED AS] THE WOOD-FESTIVAL[23] THERE WAS NONE AT MINHAH;[24] THIS IS THE OPINION OF R. AKIBA. BEN 'AZZAI SAID TO HIM: THUS DID R. JOSHUA LEARN: [ON THE DAY WHEN] A MUSAF-OFFERING [WAS BROUGHT] THERE WAS NONE AT MINHAH; [ON THE DAY OBSERVED AS] THE WOOD-FESTIVAL THERE WAS NONE AT THE CLOSING OF THE GATES. THEREUPON R. AKIBA RETRACTED AND LEARNT LIKE BEN 'AZZAI.

NINE TIMES IN THE YEAR [WAS OBSERVED] THE WOOD-FESTIVAL OF THE PRIESTS AND THE PEOPLE; ON THE FIRST OF NISAN THE FAMILY OF ARAH[25] OF THE TRIBE OF JUDAH BROUGHT THE OFFERING OF WOOD; ON THE TWENTIETH OF TAMMUZ THE FAMILY OF DAVID OF THE TRIBE OF JUDAH;[26] ON THE FIFTH OF AB THE FAMILY OF PAROSH[27] OF THE TRIBE OF JUDAH; ON THE SEVENTH OF THE SAME MONTH, THE FAMILY OF JONADAB OF THE RECHABITES;[28] ON THE TENTH OF THE SAME MONTH THE FAMILY OF SENAAH OF THE TRIBE OF BENJAMIN;[29] ON THE FIFTEENTH OF THE SAME MONTH THE FAMILY OF ZATTU[30] OF THE TRIBE OF JUDAH, AND WITH THEM WERE THE PRIESTS AND LEVITES AND ALL THOSE WHO WERE NOT CERTAIN OF THEIR TRIBE AND THE BENE GONBE 'ALI AND THE BENE KOZE KEZI'OTH;[31] ON THE TWENTIETH OF THE SAME MONTH THE FAMILY OF PAHATH MOAB[32] OF THE TRIBE OF JUDAH; ON THE TWENTIETH OF ELUL THE FAMILY OF ADIN[33] OF THE TRIBE OF JUDAH; ON THE FIRST OF TEBETH THE FAMILY OF PAROSH A SECOND TIME; ON THE FIRST OF TEBETH THERE WAS NO MA'AMAD FOR THEREON THERE WAS HALLEL, MUSAF-OFFERING[34] AND THE WOOD-FESTIVAL.

FIVE MISFORTUNES BEFELL OUR FATHERS ON THE SEVENTEENTH OF TAMMUZ AND FIVE ON THE NINTH OF AB. ON THE SEVENTEENTH OF TAMMUZ

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(1) A place in the vicinity of the city of Mahuza. v. Obermeyer, pp. 177-8.

(2) Hence they cannot be trusted to leave over the Hallel until they had eaten and drunk.

(3) Cf. infra 27a.

(4) Morning Service.

(5) Additional Service.

(6) Afternoon Service.

(7) V. Glos. [I.e. at the service held at the end of the day about the time of the closing of the gates of the Temple. This service is now represented by the Ne'ilah service on the Day of Atonement.]

(8) V. Gemara.

(9) Num. XXVIII, 2.

(10) Samuel and David. Cf. supra 27a.

(11) Twenty-four divisions of lay people as well as of priests and levites, v. supra 27b.

(12) Gen. I.

(13) Gen. I, 1-8. Three were the minimum number of verses each person was permitted to read. As three persons (Priest, Levite and Israelite) read from the Law, there were not sufficient verses in any one section for the reading, and therefore two sections had to be coupled. Even then on some days (e.g., Sunday and Monday) a verse had to be repeated because the two sections did not have the minimum number of nine verses.

(14) Ibid. 6-13.

(15) Ibid. 9-19.
(16) Ibid. 14-23.
(17) Ibid. 20-31.
(18) Ibid. 24-31 and II, 1-3.
(19) Containing at least six verses.
(20) The name for the collection of Psalms, CXIII-CXVIII recited on festivals or semi-festivals like Hanukkah. [Here the reference is to Hanukkah, when Hallel is read but not Musaf.]
(21) I.e., the reading of the section from Genesis.
(22) So as not to take up too much time. The same reason applies for the absence of a Ma'amad on days when there is Musaf and wood-offering.
(23) V. infra 28a and cf. Neh. X, 35; XIII, 31. V. also Rabbinowitz, Mishnah Megillah pp. 44-45.
(24) [Provided the celebrants of the wood-festival were the members of the particular division on service, Me'iri.]
(25) Neh. VII, 10.
(26) [There is no record of this family in Neh. VII].
(27) Neh. VII, 8.
(28) II Kings X, 15.
(29) Neh. VII, 38.
(30) Neh. VII, 13.
(31) V. Gemara.
(32) Neh. VII, 11.
(33) Neh. VII, 20.
(34) Since it was New Moon and Hanukah.

Talmud - Mas. Ta'anith 26b

THE TABLES [OF THE LAW] WERE SHATTERED, THE DAILY OFFERING WAS DISCONTINUED, A BREACH WAS MADE IN THE CITY AND APOSTOMOS[1] BURNED THE SCROLL OF THE LAW AND PLACED AN IDOL IN THE TEMPLE. ON THE NINTH OF AB IT WAS DECREED THAT OUR FATHERS SHOULD NOT ENTER THE [PROMISED] LAND, THE TEMPLE WAS DESTROYED THE FIRST AND SECOND TIME, BETHAR WAS CAPTURED AND THE CITY [JERUSALEM] WAS PLOUGHED UP.

WITH THE BEGINNING OF AB REJOICINGS ARE CURTAILED. DURING THE WEEK IN WHICH THE NINTH OF AB FALLS IT IS FORBIDDEN TO CUT THE HAIR AND TO WASH CLOTHES BUT ON THE THURSDAY IT IS PERMISSIBLE IN HONOUR OF THE SABBATH. ON THE EVE OF THE NINTH OF AB ONE MAY NOT PARTAKE OF A MEAL OF TWO COURSES NOR EAT MEAT NOR DRINK WINE. RABBAN SIMEON B. GAMALIEL SAID: ONE SHOULD MAKE A DIFFERENCE IN HIS DIET. R. JUDAH MAKES IT OBLIGATORY TO TURN THE BED OVER;[2] THE SAGES, HOWEVER, DID NOT AGREE WITH HIM IN THIS.

R. SIMEON B. GAMALIEL SAID: THERE NEVER WERE IN ISRAEL GREATER DAYS OF JOY THAN THE FIFTEENTH OF AB AND THE DAY OF ATONEMENT. ON THESE DAYS THE DAUGHTERS OF JERUSALEM[3] USED TO WALK OUT IN WHITE GARMENTS WHICH THEY BORROWED IN ORDER NOT TO PUT TO SHAME ANY ONE WHO HAD NONE. ALL THESE GARMENTS REQUIRED RITUAL DIPPING.[4] THE DAUGHTERS OF JERUSALEM CAME OUT AND DANCED IN THE VINEYARDS EXCLAIMING AT THE SAME TIME, YOUNG MAN, LIFT UP THINE EYES AND SEE WHAT THOU CHOOSEST FOR THYSELF. DO NOT SET THINE EYES ON BEAUTY BUT SET THINE EYES ON [GOOD] FAMILY. GRACE IS DECEITFUL, AND BEAUTY IS VAIN; BUT A WOMAN THAT FEARETH THE LORD, SHE SHALL BE PRAISED.[5] AND IT FURTHER SAYS,[6] GIVE HER OF THE FRUIT OF HER HANDS; AND LET HER WORKS PRAISE HER IN THE GATES.

LIKEWISE IT SAYS, GO FORTH, O YE DAUGHTERS OF ZION, AND GAZE UPON KING SOLOMON, EVEN UPON THE CROWN WHEREWITH HIS MOTHER HATH CROWNED HIM IN THE DAY OF HIS ESPOUSALS, AND IN THE DAY OF THE GLADNESS OF HIS HEART.[7] ‘ON THE DAY OF HIS ESPOUSALS:’ THIS REFERS TO THE DAY OF THE GIVING OF THE LAW. ‘AND IN THE DAY OF THE GLADNESS OF HIS HEART:’ THIS REFERS TO THE BUILDING OF THE TEMPLE; MAY IT BE REBUILT SPEEDILY IN OUR DAYS.

GEMARA. ON THREE OCCASIONS OF THE YEAR DO THE PRIESTS LIFT UP THEIR HANDS [TO BLESS THE PEOPLE]. Is there then MUSAF ON FAST-DAYS and ON MA'AMADOTH? — There is a clause wanting [in our Mishnah]. It should read thus: ‘on three occasions do the priests lift up their hands [to bless the people] at all services, and on one of these[8] occasions four times during the day, at the Shaharith [service], at Musaf, at Minhah and at the closing of the Gates. The following are the three occasions, Fast-days, Ma'amadoth and the Day of Atonement’. R. Nahman said in the name of Rabbah b. Abbuha: This is the opinion of R. Meir. The Sages, however, say: At Shaharith and at Musaf there is ‘lifting up of hands’ but at Minhah or at Ne'ilah there is no ‘lifting up of hands’. Who are meant by ‘the Sages’? — It is R. Judah. For it has been taught: At all [services, namely] at Shaharith, at Musaf, at Minhah and at Ne'ilah there is ‘lifting up of hands’; this is the opinion of R. Meir. R. Judah says: At Shaharith and at Musaf there is ‘lifting up of hands’ but at Minhah or Ne'ilah there is no ‘lifting up of hands’. R. Jose says: At Ne'ilah there is ‘lifting up of hands’ but at Minhah there is no ‘lifting up of hands’. Wherein do they differ? R. Meir holds the view that the reason why on ordinary days the priests do not ‘lift up their hands’ at Minhah is because of the likelihood of intoxication,[9] but on the days [cited above] the question of Intoxication does not arise.[10] R. Judah takes the view that as drunkenness during [the time of] Shaharith and Musaf on ordinary days is not usual the Rabbis did not prohibit the lifting up of hands [at these services on fast-days also], whereas at [the time of] Minhah and Ne'ilah since on ordinary days drunkenness is quite a likely occurrence the Rabbis prohibited the ‘lifting up of hands’ [at these services even on fast-days]. R. Jose holds the view that the Rabbis confined their restriction to the Minhah only seeing that it is read every day, but they did not to the Ne'ilah which is not read every day.[11]

R. Judah said in the name of Rab: The halachah is in accordance with the view of R. Meir. R. Johanan said: The people followed the view of R. Meir. And Raba said: The established custom is in accordance with the view of R. Meir. On the view that the halachah is according to R. Meir we teach it [explicitly] in the school sessions; but if we say that the established custom is according to R. Meir, then we should not teach it explicitly in the school sessions but we may give our decisions in accordance with it; if, however, we say that the people followed the view of R. Meir then we do not definitely give a decision in accordance with it, but should one have acted on it we do not declare his action null. But R. Nahman said: The halachah is according to R. Jose. And the halachah is [indeed] according to R. Jose. But nowadays why do the priests ‘lift up their hands’ [to bless the people] on fast-days at Minhah? — As they lift up their hands [in blessing] very near sunset[12] it is as if this was the Ne'ilah [service].

It is, however, generally agreed that an intoxicated [priest] may not lift up his hands [in benediction]. Whence is this view adduced? — R. Joshua b. Levi said in the name of Bar Kappara: Why does the section dealing with [the blessing by] the priest follow immediately after the portion of the Nazirite?[13] In order to teach you that, just as the Nazirite is forbidden to drink wine, so too is the priest about to recite the priestly benediction. The father of R. Zera, and some say Oshaiah b. Zabbda, demurred to this: [If that is so], then just as the Nazirite is forbidden to eat the shells[14] [of grapes], so too should the priest about to recite the priestly benediction be forbidden [to eat] the ‘shells of grapes’.-R. Isaac replied: Scripture says, To minister unto Him and to bless in His name;[15] [from this is to be inferred] that just as the officiating priest may eat the shells [of grapes][16] so too may the priest about to recite the priestly benediction.

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(1) V. J.E. s.v.

(2) And thus sleep and sit on the ground as a sign of mourning, v. infra.

(3) [Var. lec.: ‘the sons of Israel’. That the same, however, applies to the daughters is clear from the Baraitha cited in the Gemara infra 31a.]

(4) In case they had been worn by a woman in a state of uncleanness and so became unclean. Cf. Lev. XV, 19ff.

(5) Prov. XXXI, 30.

(6) [Mishnah ed. Lowe reads: ‘וכך הוא אומר, and thus he said’, the quotation which follows being the answer of the young man, v. Malter.]

(7) Cant. III, 11. The Song of Songs has ever been regarded by the Rabbis as an allegory depicting the love of Israel for God.

(8) On the Day of Atonement.

(9) The priest may likely be intoxicated. A priest in a state of intoxication may not officiate in the Temple. Cf, Lev. X, 9.

(10) I.e., on fast days. On Ma'amadoth and the Day of Atonement. The men of the Ma'amad fasted four fasts. Cf. infra 27b.

(11) It is read only on all fast-days (Rashi). [Others: only on the Day of Atonement, v. R. Hananel and Me'iri.]

(12) [On fast-days Minhah was recited close to sunset; v. supra 12b. R. Gershom refers this only to ‘the Day of Atonement.]

(13) Num. VI, 1-21; the priestly section ibid. 22-27.

(14) Or ‘kernels’.

(15) Deut. X, 8.

(16) Scripture forbids expressly the drinking of wine only. Cf. Lev. X, 9.

Talmud - Mas. Ta'anith 27a

[If so, why not also argue]: Just as an officiating priest may not be blemished so too may a priest reciting the benediction not be blemished. — Surely he is compared to the Nazirite.[1] Why do you choose to make your analogies more lenient [for the priest]? Why not make your analogies more strict [for him]![2] — These analogies are but supports for a Rabbinical law and they must therefore incline towards the side of leniency.

THE FOLLOWING ARE [THE DETAILS CONCERNING] THE MA'AMADOTH. BECAUSE IT IS SAID, COMMAND THE CHILDREN OF ISRAEL etc. What does [this Mishnah] mean to say? — This is what it means to say: THE FOLLOWING ARE [THE DETAILS CONCERNING] THE MA'AMADOTH. AND WHY WERE THE MA'AMADOTH INSTITUTED? BECAUSE IT IS SAID, COMMAND THE CHILDREN OF ISRAEL AND SAY UNTO THEM: MY FOOD WHICH IS PRESENTED UNTO ME. HOW CAN A MAN'S OFFERING BE BROUGHT [ON THE ALTAR] AND HE IS NOT PRESENT? [THEREFORE] THE EARLIER PROPHETS INSTITUTED TWENTY-FOUR MISHMAROTH; EACH MISHMAR WAS REPRESENTED [AT THE TEMPLE] IN JERUSALEM BY ITS OWN MA'AMAD OF PRIESTS, LEVITES AND ISRAELITES. WHEN THE TIME CAME FOR THE MISHMAR TO GO UP, THE PRIESTS AND LEVITES WENT UP TO JERUSALEM.

Our Rabbis have taught: ‘There were twenty-four Mishmaroth in Palestine and twelve in Jericho’. [You say] there were [also] twelve in Jericho, then there were actually far more [than twenty-four]! — It must therefore be understood to mean that twelve of them [of the twenty-four] were in Jericho. When the time came for the Mishmar to go up [to Jerusalem] one half of the Mishmar went up from [their homes] in Palestine to Jerusalem and the other half went up to Jericho in order to provide their brethren in Jerusalem with water and food.

Rab Judah said in the name of Samuel: The absence of the Priests, Levites and Israelites is a bar to [the offering of] the sacrifices. A Tanna taught: R. Simeon b. Eleazar said: The absence of Priests, Levites and musical instruments is a bar to [the offering of] the sacrifices. On what question does their dispute turn? — The one [Rab Judah] holds the view that the principal music of the Temple was vocal,[3] and the other that it was with an instrument.

R. Hama b. Guria said in the name of Rab: Moses instituted for Israel eight Mishmaroth, four from [the family of] Eleazar and four from [the family of] Ithamar; Samuel came and increased them to sixteen; David came and increased them to twenty-four, as it is said, In the fortieth year of the reign of David they were sought for, and there were found among them mighty men of valour at Jazer of Gilead.[4]

An objection was raised against this: Moses instituted for Israel eight Mishmaroth, four from [the family of] Eleazar and four [from the family of] Ithamar; David and Samuel came and increased them to twenty-four, as it is said, Whom David and Samuel the seer did ordain in their set office![5] — This is what the passage means: From their institution by David and Samuel the Ramathite they were increased to twenty-four. Another [Baraitha] taught: Moses instituted for Israel sixteen Mishmaroth, eight from [the family of] Eleazar and eight from [the family of] Ithamar; but when the descendants of Eleazar increased in number above those of Ithamar, [the Mishmaroth] were again divided and they were increased to twenty-four, as it is said, And there were more chief men found of the sons of Eleazar than of the sons of Ithamar; and thus were they divided: of the sons of Eleazar there were sixteen, heads of fathers' houses, and of the sons of Ithamar, according to their fathers' houses, eight.[6] And it says further, One father's house being taken for Eleazar, and proportionately for Ithamar.[7] What is the force of the additional verse cited? Should you say, that just as the descendants of Eleazar increased in number, so also those of Ithamar increased from their original four into eight. Then come and hear: 'One father's house being taken for Eleazar, and proportionately [we-ahuz ahuz] for Ithamar.' This [Baraitha] will then refute the opinion of R. Hama b. Guria[8] — R. Hama b. Guria will answer by saying: Tannaim are divided on the question and I accept the opinion of the Tanna [who says that Moses instituted only] eight Mishmaroth.

Our Rabbis have taught: Four Mishmaroth returned from the [Babylonian] exile, and they were: Jedaiah, Harim, Pashhur and Immer.[9] The prophets amongst them

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(1) And a blemished person may be a Nazirite.

(2) [By comparing the priest reciting the blessing to a Nazirite in respect of the eating of the shells and to an officiating priest in respect of a blemish.]

(3) Hence so long as there were Levites present to sing, the absence of musical instruments does not invalidate the sacrifices.

(4) I Chron. XXVI, 31.

(5) Ibid. IX, 22.

(6) I Chron. XXIV, 4.

(7) Ibid. XXIV, 6.

(8) Who said that Moses instituted only eight Mishmaroth, four each.

(9) V. Ezra II, 36-39.

Talmud - Mas. Ta'anith 27b

arose and divided them and increased them to twenty-four. [Lots were prepared] and mixed and placed in an urn. First came Jedaiah and took his portion and the portions of his colleagues,[1] six [in all]; then came Harim and took his portion and the portions of his colleagues six [in all]; and likewise Pashhur; and likewise Immer. And the prophets amongst them stipulated that even if Jehoiarib, who was the chief of the Mishmaroth should go up to [Jerusalem][2] Jedaiah should not be ousted from his place, but Jedaiah[3] should have precedence and Jehoiarib should be subordinate [to him].[4]

AND THE ISRAELITES OF THE MISHMAR ASSEMBLED IN THEIR CITIES AND READ [FROM THE LAW] THE STORY OF CREATION, On what is this based? — R. Jacob b. Aha said in the name of R. Assi: Were it not for the Ma'amadoth heaven and earth could not endure, as it is said, And he said: O Lord God, whereby shall I know that I shall inherit it?[5] Abraham said: Master of the Universe, should Israel sin before Thee wilt Thou do unto them [as Thou hast done] to the generation of the Flood[6] and to the generation of the Dispersion?[7] [God] replied to him: No. He then said to him: Master of the Universe, 'Let me know whereby I shall inherit it'. [God] answered: Take Me a heifer of three years old, and a she-goat of three years old etc.[8] Abraham then continued: Master of the Universe! This holds good whilst the Temple remains in being, but when the Temple will no longer be what will become of them? [God] replied: I have already long ago provided for them in the Torah the order of sacrifices and whenever they read it I will deem it as if they had offered them before me and I will grant them pardon for all their iniquities.

Our Rabbis have taught: The men of the Mishmar[9] prayed over the sacrifice of their brethren that it may be favourably accepted, whilst the men of the Ma'amad assembled in their synagogues and observed four fasts, on Monday, Tuesday, Wednesday and Thursday of that week. On Monday [they fasted] for those that go down to the sea; on Tuesday for those who travel in the deserts; on Wednesday that croup may not attack children; on Thursday for pregnant women and nursing mothers, that pregnant women should not suffer a miscarriage, and that nursing mothers may be able to nurse their infants; on Friday they did not fast out of respect for the Sabbath; and certainly not on the Sabbath. Why did they not fast on Sunday? — R. Johanan said: Because of the Nazareans.[10] R. Samuel b. Nahmani said: Because it is the third day after the creation of Man.[11] Resh Lakish said: Because of the additional soul. For Resh Lakish said: Man is given an additional soul on Friday, but at the termination of the Sabbath it is taken away from him, as it is said, He ceased from work and rested[12] [shabat wa-yinafash] that is to say, Once the rest had ceased, woe! that soul is gone.

ON SUNDAY [THEY READ], 'IN THE BEGINNING', AND, 'LET THERE BE A FIRMAMENT'. It has been taught: Two persons read [the section] 'In the beginning', and one 'Let there be a firmament'. I can understand one person reading, 'Let there be a firmament', as it contains three verses, but how can two persons read, 'In the beginning', seeing that it contains only five verses? Has it not been taught: He who reads the Law should not read less than three verses? — Rab answered: [The third verse] is repeated. Samuel said: It is divided into two. Rab who says that the third verse is repeated why does he not agree that it is divided? — He is of the opinion that any verse which Moses did not divide, we may not divide. And as for Samuel who says that it is divided, may it then be divided? Did not R. Hanina, the Bible teacher, declare, I endeavoured hard to get permission from R. Hanina the elder to divide a verse into two and he would permit me only in the case of teaching children, because it is merely for teaching practice! — To this Samuel can reply: There [in the case of school children] the reason why [R. Hanina permitted the verse to be divided] was because it is not possible [for them to read the whole verse at one stretch], here too it is not possible. And as for Samuel who said, 'It is divided', why should he not agree that it be repeated? — In order to prevent any misunderstanding on the part of those who may enter or leave [the synagogue].[13]

An objection was raised: [A section of] six verses is read by two, but [a section of] five verses by one; should, however, the first person have read three verses then the second person reads the [remaining] two and one verse from the following section; some say, he reads three verses [from the following section] because we do not read from a [new] section less than three verses. Now in accordance with the view of him who says that it should be repeated,let then [the third verse of the first section] be repeated; and in accordance with the view of him who says that it should be divided, let the verse be divided? — There the position is different

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(1) I.e., those of his sub-divisions.

(2) In the First Temple, I Chron. XXIV, 7.

(3) [Who in the First Temple was second, v. I Chron. ibid.]

(4) [Because he refused to return at the time with Ezra, v. n. 4.]

(5) Gen. XV, 8.

(6) Cf. Gen. VI, 9ff.

(7) Gen. XI, 1-9.

(8) Gen. XV, 9.

(9) The lay representatives at the Temple sacrifices (Rashi). [They are loosely designated the Men of the Mishmar because they were attached to a priestly division (v. Me'iri and Malter, a.l.).]

(10) I.e., Christians, who may take umbrage at the Jews turning their Sabbath into a fast-day. V. Herford, Christianity in Talmud and Midrash, pp. 171-3.

(11) Man was created on the sixth day (Friday). Cf. Gen. I, 27. The third day after birth, like the third day after circumcision, was considered a critical period; cf. Gen. XXXIV, 25.

(12) Ex. XXXI, 17. The word שבת R. Lakish renders as ‘ceasing’ to observe the Sabbath and the word וינפש he divides into two, וי ‘woe’ and נפש ‘soul’.

(13) Those coming in when the second person reads verse three might conclude that the first person read two verses only; similarly those leaving the synagogue when the first person reads verse three might conclude that the second person will read two verses only.

Talmud - Mas. Ta'anith 28a

because he has plenty of verses at his disposal.[1]

TWO PERSONS READ A LONG SECTION . . . AT SHAHARITH, MUSAF AND MINHAH THEY READ [THE REQUISITE] SECTION BY HEART etc. The question was raised: How is this Mishnah to be understood? [Does it mean] that at Shaharith and Musaf [the section] is read from a Scroll of the Law and at Minhah by heart in the same manner as people recite the Shema’? Or, it means this: At Shaharith it is read from a Scroll of the Law and at Musaf and Minhah by heart in the same manner as people recite the Shema’? — Come and hear: At Shaharith and Musaf they assemble in the synagogue and read [from the Scroll of the Law] in the same way as all the year round, but at Minhah an individual reads it by heart. — R. Jose asked: May then an individual read by heart in public words of the Law? It must surely be that all assemble [in the synagogue] and read it by heart in the same way as the Shema’ is recited.

ON ANY DAY WHEN HALLEL WAS RECITED THERE WAS NO MA'AMAD etc. What is the difference between the one and the other?[2] — The one [Minhah] is a Biblical injunction and the other [Ne'ilah] is a rabbinic institution.[3]

THE WOOD-FESTIVAL OF THE PRIESTS AND OF THE PEOPLE etc. Our Rabbis have taught: Why was it necessary [to fix special days for] the Wood-Festival of the Priests and of the People? It is reported that when the exiles returned [to Palestine] they found no wood in the [Temple wood] chamber and the families here mentioned came forward and offered wood of their own. The prophets amongst them thereupon made it a condition that even should at any time the chamber be full of wood they should still continue their offerings, as it is said, And we cast lots the priests, the Levites and the people, for the wood-offering, to bring it into the house of our God, according to our fathers’ houses at times appointed, year by year, to burn upon the altar of the Lord our God, as it is written in the Law.[4]

AND WITH THEM WERE THE PRIESTS AND THE LEVITES AND ALL THOSE WHO etc. Our Rabbis have taught: What is the incident connected with the Bene Gonbe ‘Ali and the Bene

Koze Kezi'oth? It is reported that once the ruling power made a decree that Israel should not bring wood to the altar, nor bring their first-fruit to Jerusalem, and placed guards on the roads as Jeroboam the son of Nebat had done to prevent Israel from going on pilgrimage. What did the pious and sin-fearing men of that generation do? They took the baskets of the first-fruit and covered them with dried figs and carried them with a pestle on their shoulders, and when they reached the guards they were asked: Whither are you going? They replied: With the pestle on our shoulders we are going to make two cakes of pressed figs in the mortar we have yonder. When they had gone away from the guard they decorated the baskets and brought them to Jerusalem.[5] It has been taught: The family of Salami Netofah acted in a similar way.

Our Rabbis have taught: What is the incident connected with the family of Salami Netofah? It is reported that once the ruling power decreed that Israel should not bring wood to the altar and they placed guards on the roads as Jeroboam the son of Nebat had done to prevent Israel from going on pilgrimage. What did the God-fearing men of that generation do? They took the logs of wood and made them into ladders which they carried on their shoulders and proceeded on their journey; when they reached the guards they were asked: Whither are you going? They replied: [We are going] with the ladders on our shoulders to take down young pigeons from the dovecot at a place further on. When they had gone away from the guards they dismantled [the ladders] and brought them to Jerusalem.[6] And it is of them and of men like them that Scripture says, The memory of the righteous shall be for a blessing;[7] and of Jeroboam and his companions the verse adds, But the name of the wicked shall rot.

ON THE TWENTIETH OF THE SAME MONTH THE FAMILY OF PAHATH MOAB: A Tanna taught: The sons of Pahath Moab b. Judah are identical with the sons of David the son of Judah; this is the opinion of R. Meir. R. Judah says: They are identical with the sons of Joab b. Zeraiah.

ON THE TWENTIETH OF ELUL THE FAMILY OF ADIN THE SON OF JUDAH: Our Rabbis have taught: The sons of Adin the son of Judah are the same as the sons of David the son of Judah; this is the opinion of R. Judah. R. Jose says: They are the same as the sons of Joab the son of Zeraiah.

ON THE FIRST OF TEBETH THE FAMILY OF PAROSH A SECOND TIME etc. With whose view does the Mishnah agree? It is neither with the view of R. Meir nor with that of R. Judah, nor with that of R. Jose. If it were in agreement with the view of R. Meir then [the Mishnah] would read, ‘the sons of David b. Judah a second time’; should it be with that of R. Judah then it should read ‘the sons of David b. Judah a second time’; if with that of R. Jose then it should read ‘the sons of Joab b. Zeraiah a second time’! — [The Mishnah actually] agrees with the view of R. Jose, but there are two Tannaim in dispute as to what R. Jose's view was.[8]

ON THE FIRST OF TEBETH THERE WAS NO MA'AMAD etc. Mar Kashisha the son of R. Hisda asked R. Ashi

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(1) But here in the case of the Ma'amadoth the Scriptural verses are limited in number. For further notes on this passage v. Meg., Sonc. ed. p. 133f.

(2) Why on the day of the Wood-Festival is no Ma'amad held at Ne'ilah but takes place as usual at Minhah?

(3) Minhah is of Biblical origin its institution being attributed to the Patriarch Isaac (cf. Ber. 26b), hence the Wood-Festival cannot supersede the Ma'amad in connection with it, whereas Ne'ilah is a rabbinic institution and therefore the festive day can supersede it. (So Rashi). V. however, Tosaf. ad loc. for an alternative interpretation of the passage.

(4) Neh. X, 35.

(5) Cf. Bik. III, 3.

(6) To be used as fuel for the altar.
(7) Prov. X, 7.
(8) On one view (represented under Mishnah) R. Jose identifies the family of Adin with that of David; on the other (in the Baraitha) with that of Joab.

Talmud - Mas. Ta'anith 28b

: Why is Hallel different that it suspends its own Ma'amad[1] while Musaf does not supersede its own Ma'amad?[2] — R. Ashi replied: If [Musaf] suspends the Ma'amad of a service of which it is not part, [i.e., Minhah] all the more should it suspend its own Ma'amad? — R. Kashisha then said: This is what I mean to say: Let it [Musaf] suspend its own Ma'amad only![3] — R. Ashi replied: There is R. Jose who holds the same view as you. For it has been taught: R. Jose says: Any day on which there is Musaf there is also a Ma'amad. Now which Ma'amad [is here referred to]? Shall I say the Ma'amad of the Shaharith? [Surely] the first Tanna [of our Mishnah] also says likewise! Is it the Ma'amad of the Musaf? Does not Musaf suspend even its own Ma'amad! Is it the Ma'amad of Minhah? But this is already suspended because of the Wood-Festival![4] It must then surely be the Ma'amad of Ne'ilah. Hence the conclusion therefrom that Musaf suspends its own Ma'amad but it does not suspend the Ma'amad of any other service. Hence it is proved.

Let [the Mishnah] also state that there was no Ma'amad on the first of Nisan, because there was Hallel,[5] and Musaf offering and the wood-offering? — Raba replied: This proves that the recital of Hallel on New Moon is not a Biblical injunction.[6] For R. Johanan said in the name of R. Simeon b. Jehozadak, On eighteen days in the year the individual [worshipper] completes the Hallel[7] and they are, the eight days of the Feast of Tabernacles, the eight days of Hanukkah, the first day of Passover,[8] and the Festival of Pentecost; but in the Diaspora[9] [the Hallel is completed] on twenty-one days, and they are, the nine days of the Feast of Tabernacles, the eight days of Hanukkah, the first two days of Passover and the two days of Pentecost.

Rab once came to Babylonia[10] and he noticed that they recited the Hallel[11] on New Moon; at first he thought of stopping them but when he saw that they omitted parts of it he remarked: It is clearly evident that it is an old ancestral custom with them. A Tanna taught: The individual should not deliberately begin to recite [the Hallel][12] but once he has begun he should complete it.

FIVE MISFORTUNES BEFELL OUR FATHERS ON THE SEVENTEENTH OF TAMMUZ etc. Whence is it known that the Tables [of the Law] were shattered [on the seventeenth of Tammuz]? For it has been taught:[13] On the sixth of the month [of Sivan] the Ten Commandments were given to Israel; R. Jose says: On the seventh of the month. He who says that they were given on the sixth takes the view that on the sixth they were given and on the seventh Moses ascended the mount. And he who says that they were given on the seventh holds that they were given on the seventh and on the seventh Moses ascended the mount. For it is written, And the seventh day he called unto Moses,[14] and it is further written, And Moses entered into the midst of the cloud, and went up into the mount; and Moses was in the mount forty days and forty nights.[15] The [remaining] twenty-four days of Sivan and the sixteen days of Tammuz make altogether forty. On the seventeenth of Tammuz he came down [from the mountain] and shattered the Tables, as it is written, And it came to pass as soon as he came nigh unto the camp, that he saw the calf . . . and he cast the tables out of his hands, and broke them beneath the mount.[16]

[THE DAILY OFFERING] WAS DISCONTINUED. This is a tradition.

A BREACH WAS MADE IN THE CITY. Did this then happen on the seventeenth? Is it not written, In the fourth month, in the ninth day of the month, the famine was sore in the city etc.,[17] and in the following verse it is written, Then a breach was made in the city etc.! — Raba said: This is no contradiction. The one refers to the First Temple and the other to the Second Temple. For it has been taught: In the First Temple the breach was made in the city on the ninth of Tammuz, but in the Second Temple on the seventeenth of Tammuz.

APOSTOMOS BURNED THE SCROLL OF THE LAW. This is a tradition.

AND PLACED AN IDOL IN THE TEMPLE. Whence do we know this? — For it is written, And from the time that the continual burnt-offering shall be taken away and the detestable thing that causeth appalment set up.[18] Was there then only one detestable thing? Is it not written, And upon the wing of detestable things shall be that which causeth appalment?[19] — Raba replied: There were two [idols] and one fell upon the other and broke its hand and upon it was found inscribed

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(1) On the day when Hallel is recited is the corresponding Ma'amad prayer of the Shaharith eliminated.

(2) On the day when there is Musaf the Ma'amad of the Minhah is eliminated and not the one attached to the Musaf.

(3) And not also that of Minhah, having a similar effect as Hallel.

(4) [This is difficult to explain. Wilna Gaon omits the last two sentences and reads: Hence it must then surely be the Ma'amad of Minhah and Ne'ilah.]

(5) Being New Moon.

(6) As the Mishnah does not state this, it is to be inferred that in spite of the fact that the Hallel was recited on the first of Nisan the Ma'amad prayers were read as usual at the Shaharith. This proves that the recital of the Hallel on New Moon is but a custom that had sprung up and is not a Biblical institution, otherwise the Hallel would eliminate the Ma'amad.

(7) The complete Hallel consisted of Psalms CXIII-CXVIII; on the days when Hallel was not to be completed verses I-XI of Psalms CXV and CXVI were omitted.

(8) The Hallel was also completed on the Eve of Passover at the Passover sacrifices. Cf. Pes. V, 7.

(9) The next day was also observed as a festival.

(10) [Stands here for Sura, v. Meg., Sonc. ed. p. 135, n. 5.]

(11) The recitation of the Hallel on New Moon was one of the points of difference between the ritual of the Jews in Babylonia and Palestine.

(12) On the New Moon.

(13) Cf. Shab. 86a.

(14) Ex. XXIV, 16.

(15) Ibid. 18.

(16) Ex. XXXII, 19. Thus it is proved that Moses broke the Tables on the seventeenth of Tammuz.

(17) Jer. LII, 6-7.

(18) Dan. XII, 11.

(19) Ibid. IX, 27.

Talmud - Mas. Ta'anith 29a

: You desired to destroy the Temple, but I have handed over your hand to Him.[1]

ON THE NINTH OF AB IT WAS DECREED THAT OUR FATHERS SHOULD NOT ENTER THE [PROMISED] LAND. Whence do we know this? For it is written, And it came to pass in the first month in the second year, on the first day of the month, that the tabernacle was reared up.[2] And [regarding this verse] a Master said: In the first year Moses built the Tabernacle, in the second year Moses erected the Tabernacle and sent out spies. Further it is written. And it came to pass in the second year, in the second month, on the twentieth day of the month, that the cloud was taken up from over the tabernacle of testimony.[3] And it is further written, And they set forward from the mount of the Lord three days’ journey,[4] and R. Hama b. Hanina explained this means that on that day they turned aside from after the Lord. And it is further written, And the mixed multitude that was among them fell a-lusting; and the children of Israel also wept on their part etc.[5] And it is further written, But a whole month etc.[6] That brings us up to the twenty-second of Sivan. And it is further written, And Miriam was shut up [without the camp] seven days.[7] That brings us up to the twenty-ninth of Sivan. And it is further written, Send thou men.[8] And it has been taught: Moses sent out spies on the twenty-ninth of Sivan. And it is further written, Add they returned from spying out the land at the end of forty days.[9] But is not this forty days less one?[10] — Abaye replied: Tammuz of that year was a full month [of thirty days],[11] for it is written, He hath called a solemn assembly against me to crush my young men.[12] And it is further written, And all the congregation lifted up their voice, and cried; and the people wept that night.[13] Rabbah said in the name of R. Johanan: That night was the night of the ninth of Ab. The Holy One, blessed be He, said to them: You have wept without cause, therefore I will set [this day] aside for a weeping throughout the generations to come.

[ON THE NINTH OF AB] THE TEMPLE WAS DESTROYED THE FIRST TIME. For it is written, Now in the fifth month, on the seventh day of the month, which was the nineteenth year of King Nebuchadnezzar, king of Babylon, came Nebuzaradan the captain of the guard, a servant of the King of Babylon, unto Jerusalem. And he burnt the house of the Lord etc.[14] And it is further written, Now in the fifth month, in the tenth day of the month, which was the nineteenth year of King Nebuchadnezzar, king of Babylon, came Nebuzaradan the captain of the guard, who stood before the king of Babylon into Jerusalem etc.[15] With reference to this it has been taught: We cannot say that this happened on the seventh, for it has already been stated that it was ‘in the tenth’; and we cannot say that this happened on the tenth, for it has already been stated that it was ‘on the seventh’. How then are these dates to be reconciled? On the seventh the heathens entered the Temple and ate therein and desecrated it throughout the seventh and eighth [of Ab] and towards dusk of the ninth they set fire to it and it continued to burn the whole of that day, as it is said, Woe unto us! for the day declineth, for the shadows of the evening are stretched out.[16] And this is what R. Johanan meant when he said: Had I been alive in that generation I should have fixed [the mourning] for the tenth, because the greater part of the Temple was burnt thereon. How will the Rabbis then [explain the contradiction]? — The beginning of any misfortune is of greater moment.

AND [THE TEMPLE WAS DESTROYED] THE SECOND TIME. Whence do we know this? For it has been taught: Good things come to pass on an auspicious day, and bad things on an unlucky day. It is reported that the day on which the First Temple was destroyed was the eve of the ninth of Ab, a Sunday, and in a year following the Sabbatical year, and the Mishmar of the family of Jehoiarib[17] were on duty and the Levites were chanting the Psalms standing on the Duchan.[18] And what Psalm did they recite? — [The Psalm] containing the verse, And He hath brought upon them their own iniquity; and will cut them off in their own evil.[19] And hardly had they time to say, ‘The Lord our God will cut them off’,[19] when the heathens came and captured them. The same thing too happened in the Second Temple.

BETHAR WAS CAPTURED. This is a tradition.

AND THE CITY WAS PLOUGHED UP. It has been taught: When Turnus Rufus the wicked destroyed[20] the Temple, R. Gamaliel was condemned to death. A high officer came and stood up in the Beth-Hamidrash and called out, ‘The Nose-man[21] is wanted, the Nose-man is wanted’. When R. Gamaliel heard this he hid himself. Thereupon the officer went up secretly to him and said, ‘If I save you will you bring me into the world to come?’ He replied: Yes. He then asked him, ‘Will you swear it unto me?’ And the latter took an oath. The officer then mounted the roof and threw himself down and died. Now there was a tradition [amongst the Romans] that when a decree is made and one of their own [leaders] dies, then that decree is annulled.[22] Thereupon a Voice from Heaven was heard declaring, This high officer is destined to enter into the world to come.

Our Rabbis have taught: When the First Temple was about to be destroyed bands upon bands of young priests with the keys of the Temple in their hands assembled and mounted the roof of the Temple and exclaimed, ‘Master of the Universe, as we did not have the merit to be faithful treasurers these keys are handed back into Thy keeping'. They then threw the keys up towards heaven. And there emerged the figure of a hand and received the keys from them. Whereupon they jumped and fell into the fire. It is in allusion to them that the prophet Isaiah laments: The burden concerning the Valley of Vision. What aileth thee now, that thou art wholly gone up to the house tops, thou that art full of uproar, a tumultuous city, a joyous town? Thy slain are not slain with the sword, nor dead in battle.[23] Of the Holy One, blessed be He, also it is said, Kir shouting, and crying at the mount.[24]

WITH THE BEGINNING OF AB REJOICINGS ARE CURTAILED. Rab Judah the son of R. Samuel b. Shilath said in the name of Rab: Just as with the beginning of Ab rejoicings are curtailed, so with the beginning of Adar rejoicings are increased.

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(1) V. Tosaf. ad loc. [Aliter: based on MS.M., I desired to destroy Thy Temple but Thy hand cut it (my hand) off.]
(2) Ex. XL, 17.
(3) Num. X, 11.
(4) Ibid. 33.
(5) Ibid. XI, 4.
(6) Ibid. 20.
(7) Ibid. XII, 15.
(8) Ibid. XIII, 2.
(9) Ibid. 25.
(10) 29-30 Sivan; 1-29 Tammuz; 1-8 Ab (2 + 29 + 8 = 39).
(11) The additional day brings the figure up to forty.
(12) Lam. I, 15. The word מוֹעֵד 'an appointed season', festival, is interpreted homiletically as a season appointed for mourning, as the Talmud goes on explaining.
(13) Num. XIV, 1.
(14) II Kings XXV, 8-9.
(15) Jer. LII, 12.
(16) Jer. VI, 4.
(17) V. supra p. 27b.
(18) The platform in the Temple on which the Levites stood when chanting the Psalms.
(19) Ps. XCIV, 23.
(20) Var lec.: 'ploughed'.
(21) Goldschmidt (a.l.) suggests that the Roman officer confused the Hebrew title Nasi with the Latin word, nasus, nose. Hence he called out, בַּעַל הַחוֹטֵם = vir nasi.
(22) They regard the death as a punishment for the evil decree (Rashi).
(23) Isa. XXII, 1-2.
(24) Ibid. 5. קִיר is interpreted as **, God (Malter)

Talmud - Mas. Ta'anith 29b

R. Papa said: Therefore a Jew who has any litigation with Gentiles should avoid him in Ab because his luck is bad and should make himself available in Adar when his luck is good.

To give you a future and a hope:[1] Rab Judah the son of R. Samuel b. Shilath said in the name of Rab: By this is meant [an abundance of] palm trees and flaxen garments.[2]

And he said: See, the smell of my son is as the smell of a field which the Lord hath blessed:[3] Rab Judah the son of R. Samuel b. Shilath said in the name of Rab: As the smell of an apple orchard.

DURING THE WEEK IN WHICH THE NINTH OF AB FALLS IT IS FORBIDDEN TO CUT THE HAIR AND TO WASH CLOTHES. R. Nahman said: This restriction only applies to the washing of clothes for immediate wear but the washing of clothes for storing is permissible. R.

Shesheth said: It is forbidden to wash clothes even for storing. R. Shesheth said: A proof for this is that the fullers in the house of Rab[4] are then idle.

R. Hamnuna raised an objection: ON THURSDAY IT IS PERMISSIBLE IN HONOUR OF THE SABBATH.[5] What is permissible? Shall I say it is to wash clothes for immediate wear?[6] Where does the honour of the Sabbath enter into it? It must surely mean, washing clothes for storing [till Sabbath], and this is permissible only on Thursday but not during other days of the week! — In reality [the Mishnah refers] to the washing of clothes for immediate wear and it speaks of a case where a man has only one shirt. For R. Assi said in the name of R. Johanan: When a man has one shirt only he may wash it in the middle days of the Festival.[7] So too it has been stated: R. Benjamin said in the name of R. Eleazar: The restriction applies only to washing clothes for immediate wear but washing clothes for storing is permissible. An objection was raised against this: It is forbidden to wash clothes before the ninth of Ab even for storing them until after the ninth of Ab. And our [Babylonian] laundry work is like their [Palestinian] plain washing, [in respect of this prohibition],[8] but flaxen garments are not included in this prohibition against laundry work. This is indeed a refutation.

R. Isaac b. Giyuri sent a message in the name of R. Johanan: Although the Rabbis declared that flaxen garments are not included in the prohibition against laundry work, yet it is forbidden to wear them [newly laundered] in the week in which the Ninth of Ab falls. Rab said: This applies to the days before the Ninth of Ab but on the days after it it is permissible to wear them. Samuel said: Even on the days after the Ninth of Ab it is forbidden to wear them. An objection was raised against this: The week in which the Ninth of Ab falls it is not permissible to cut the hair or to wash clothes, but on Thursday it is permissible in honour of the Sabbath. How is this to be understood? Should it fall on Sunday it is permissible to wash clothes the whole of the week, [but should it fall] on Monday or Tuesday or Wednesday or Thursday, before it it is not permissible, but after it, it is permissible; [should it fall] on Friday it is permissible to wash clothes on Thursday in honour of the Sabbath; if however he has not washed them on the Thursday it is permissible to wash them on the Friday from the hour of Minhah onwards. (Abaye, and some say, R. Aha b. Jacob expressed his strongest disapproval[9] of any one who acted so.) Should [the Ninth of Ab] fall on Monday or on Thursday three people read the Law, and [of these the last] one also reads the prophetical lesson; but [should it fall] on Tuesday or Wednesday one reads the Law and he also reads the prophetical lesson. R. Jose says: Invariably three persons read the Law and the last one of these also reads the prophetical lesson. [Will not this Baraitha be] a refutation of Samuel [who holds that it is not permissible to wash clothes, even on the days after the Ninth of Ab]? — Samuel will reply: Tannaim are divided on this point. For it has been taught: Should the Ninth of Ab fall on the Sabbath, and likewise if the eve of the Ninth of Ab falls on the Sabbath, one may eat and drink as much as he needs and he may load his table with as many viands as Solomon in his time did, but it is forbidden to cut the hair and to wash clothes, from the beginning of the month until after the fast; this is the opinion of R. Meir. R. Judah says: It is forbidden the whole month. R. Simeon b. Gamaliel says: It is forbidden only on that particular week. And elsewhere it has been taught: And mourning is observed from the beginning of the month until the fast; this is the opinion of R. Meir. R. Judah says: It is forbidden the whole month. R. Simeon b. Gamaliel says: It is forbidden only on that particular week.[10]

Said R. Johanan: All three authorities adduced their ruling from the same scriptural verse. For it is written, I will also cause all her mirth to cease, her feasts, her new moons, and her sabbaths.[11] The one who says, from the beginning of the month until the fast

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(1) Jer. XXIX 11.

(2) Rab Judah points out that the blessings for the future promised by the prophet Jeremiah to the exiles in Babylonia are of a material kind.

(3) Gen. XXVII, 27.

(4) [דבי רב Aliter: of the school house.]
(5) Cf. supra 26b.
(6) On the same day — Thursday.
(7) Although washing is forbidden on these days. Cf. M.K. 14a, 18b.
(8) So that plain washing of clothes is permissible in Babylon for storing after the Ninth of Ab.
(9) Lit., 'cursed'.
(10) Samuel has thus the authority of R. Judah and R. Simeon b. Gamaliel in forbidding the washing of clothes on the days following the Ninth of Ab.
(11) Hosea II, 13.

Talmud - Mas. Ta'anith 30a

adduces his opinion from 'her feasts';[1] the one who says, it is forbidden the whole month, from 'her new moons';[2] and the one who says, it is forbidden the whole week, from 'her sabbaths'.[3] Raba said: The halachah is according to R. Simeon b. Gamaliel. And Raba further said: The halachah is according to R. Meir. And both decisions are in favour of the more lenient practice, and both are needed [to be stated]. For had it only been stated that the halachah is according to R. Meir, I might have said that the restriction is in force from the beginning of the month, therefore it is also clearly stated that the halachah is according to R. Simeon b . Gamaliel; and had it only been stated that the halachah is according to R. Simeon b. Gamaliel, I would have said that the restriction continues even on the days after [the Ninth of Ab], therefore it is clearly stated that the halachah is according to R. Meir.[4]

ON THE EVE OF THE NINTH OF AB ONE MAY NOT PARTAKE OF A MEAL OF TWO COURSES etc. Rab Judah said: This restriction applies to any time after midday[5] but not to any time before midday. Rab Judah further said: It applies only to the concluding meal [before the fast] but not to any other meal. And both decisions are in favour of the more lenient practice, and both are needed to be stated. For had it [only] mentioned the concluding meal, I would have said that the restriction held good of a meal partaken even at any time before midday, therefore it is clearly stated, from midday onwards. And had it only mentioned from midday onwards I would have said, that the restriction held good of a meal even though it be not the concluding meal, therefore it is clearly stated that it must be the concluding meal. It has been taught according to the first statement and it has also been taught according to the second statement. It has been taught according to the second statement: One who has a meal on the eve of the Ninth of Ab if it is his intention to have another meal [later] he may eat meat and drink wine; but if not, he may not eat meat nor drink wine. It has also been taught according to the first statement: On the eve of the Ninth of Ab one may not partake of a meal of two courses, nor may he eat meat nor drink wine. R. Simeon b. Gamaliel says: He should make a difference [in his diet]. What constitutes a difference in diet? If one is in the habit of having two courses he should have one only; and if he usually dines in the company of ten persons, he should dine with five; if it is his usual practice to drink ten cups [of wine] he should drink five only.[6] These restrictions apply only to meals partaken from midday onwards, but not to meals partaken at any time before midday.

Another [Baraitha] taught: On the eve of the Ninth of Ab a man may not partake of a meal of two courses, he should not eat meat, nor drink wine; this is the opinion of R. Meir. But the Sages say: He should make a difference [in his diet] and restrict his consumption of meat and wine. How should one restrict? If he was in the habit of eating one pound of meat he should eat one half only, if it is his usual practice to drink one log of wine he should drink one half log only; but if he is not in the habit of partaking any of these things he may not have these at all. R. Simeon b. Gamaliel said: If it was his habit to eat radish or savoury after his meal he may do so if he wishes. Another [Baraitha] taught: At the meal intended to be the concluding one [prior to the fast of] the Ninth of Ab it is forbidden to eat meat or to drink wine or to bathe after the meal; at the meal which is not intended to be a concluding meal prior to the Ninth of Ab[7] it is permissible to eat meat and to drink wine but not to bathe. R. Ishmael b. Jose said in the name of his father: So long as it is permissible to eat[8] meat it is also permissible to bathe.

Our Rabbis have taught: All the restrictions that apply to the mourner hold equally good of the Ninth of Ab. Eating, drinking, bathing, anointing, the wearing of shoes and marital relations are forbidden thereon. It is also forbidden [thereon] to read the Law, the Prophets, and the Hagiographa or to study Mishnah, Talmud, Midrash, Halachoth, or Aggadoth;[9] he may, however, read such parts of Scripture which he does not usually read and study such parts of Mishnah which he usually does not study;[10] and he may also read Lamentations, Job and the sad parts of Jeremiah; and the school children are free from school for it is said, The precepts of the Lord are right, rejoicing the heart.[11] R. Judah said: Even such parts of Scripture which he does not usually read he may not read, nor study parts of the Mishnah which he does not usually study, but he may read Job, Lamentations and the sad parts of Jeremiah; and the school children are free [from school] for it is said, ‘The precepts of the Lord are right, rejoicing the heart’.

NOR EAT MEAT NOR DRINK WINE. A Tanna taught: But he may eat salted meat[12] and he may drink [new] wine from his vat.[13] For how long must meat remain in salt so as to render it permissible? For the length of time that peace-offering may be eaten.[14] How long is wine considered new? As long as it remains in its first stage of fermentation. A Tanna taught: The law forbidding the use of liquids left uncovered does not apply to new wine in the first stage of fermentation.[15] And how long does it take to ferment? — Three days.

Rab Judah said in the name of Rab: The following was the practice of R. Judah b. Il'ai. On the eve of the Ninth of Ab there was brought to him dry bread with salt and he would take his seat

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(1) New Moon is also a festive day.

(2) שחד ‘New Moon’ can also mean, month.

(3) שבת ‘Sabbath’ has also the meaning, a whole week.

(4) Who is opposed to the view.

(5) Lit., ‘from the sixth hour onward’.

(6) [MS.M.: ‘. . . out of ten (successive) cups . . . out of five’].

(7) Any other meal during the day or the concluding meal prior to any other fast, e.g.,the Day of Atonement.

(8) [Var lec. omit: ‘meat’.]

(9) The study of all these brings delight to the genuine student.

(10) The study of new subjects needs great application and the pleasure derived from the study is eclipsed by the efforts expended.

(11) Ps. XIX, 9. This last passage occurs again in the statement of R. Judah that follows and is thus rightly omitted in MS.M.

(12) I.e., pickled meat.

(13) As these have not a good taste.

(14) Two days and one night, i.e., sixty hours. Cf. Zeb. V, 7.

(15) There is no danger of contamination by the poison of a snake as the snake would not drink such liquid. Cf. Ter. VIII, 4.

Talmud - Mas. Ta'anith 30b

between the [baking] oven and the [cooking] stove[1] and eat and he would drink with it a pitcher full of water and he would appear as if a near relation were lying dead before him.

Elsewhere we have learnt: Where it is the custom to do work on the Ninth of Ab we may do work, but where it is not the custom we may not; and everywhere the Scholars refrain from work. R.

Simeon b. Gamaliel says: [In this respect] a man should always consider himself a scholar. It has been taught likewise: R. Simeon b. Gamaliel says: [In this respect] let a man always consider himself a scholar that he may feel more strongly the fast.

A [Baraitha] taught: R. Simeon b. Gamaliel says: Any one who eats or drinks on the Ninth of Ab is as if he ate and drank on the Day of Atonement. R. Akiba says: Any one who does work on the Ninth of Ab will never see in his work any sign of blessing. And the Sages say: Any one who does work on the Ninth of Ab and does not mourn for Jerusalem will not share in her joy, as it is said, Rejoice ye with Jerusalem, and be glad with her, all ye that love her; rejoice for joy with her, all ye that mourn for her.[2] From this originates what they [the Rabbis] have said: Everyone who mourns for Jerusalem merits to share in her joy, and any one who does not mourn for her will not share in her joy. It has also been taught likewise: Of him who eats meat and drinks wine on the Ninth of Ab Scripture says: And their iniquities are upon their bones.[3]

R. JUDAH MAKES IT OBLIGATORY TO TURN THE BED OVER, BUT THE WISE DID NOT AGREE WITH HIM IN THIS. It has been taught: [The Sages] said to R. Judah: If your view is followed what will happen to pregnant women and nursing mothers?[4] — He replied to them: I too meant my statement to apply only where it is possible. It has also been taught likewise: R. Judah agrees with the Sages where it is not possible [to overturn the beds]; and the Sages agree with R. Judah where it is possible. What is the real difference between them? The difference between them arises in the case of other beds [not used for sleeping]. As it has been taught: When the Rabbis said that a man should turn over the bed, they meant not only his own bed but also all the beds [in the house]. Raba said: The halachah is according to our Tanna, but the Sages would not accept his [R. Judah's] view at all.

R. SIMEON B. GAMALIEL SAID: THERE NEVER WERE IN ISRAEL GREATER DAYS OF JOY THAN THE FIFTEENTH OF AB AND THE DAY OF ATONEMENT. I can understand the Day of Atonement, because it is a day of forgiveness and pardon and on it the second Tables of the Law were given,[5] but what happened on the fifteenth of Ab? — Rab Judah said in the name of Samuel: It is the day on which permission was granted to the tribes to inter-marry.[6] Whence may this be adduced? — Scripture says, This is the thing which the Lord hath commanded concerning the daughters of Zelophehad etc.,[7] [meaning] ‘this thing’ shall hold good for this generation only. R. Joseph said in the name of R. Nahman: It is the day on which the tribe of Benjamin was permitted to re-enter the congregation [of Israel], as it is said, Now the men of Israel had sworn in Mizpah, saying: There shall not any of us give his daughter unto Benjamin to wife.[8] From what was their exposition?[9] — Rab said: From the phrase ‘any of us’ which was interpreted to mean, ‘but not from any of our children’.

Rabbah b. Bar Hanah said in the name of R. Johanan: It is the day on which the generation of the wilderness ceased to die out. For a Master said: So long as the generation of the wilderness[10] continued to die out there was no divine communication to Moses,[11] as it is said, So it came to pass, when all the men of war were consumed and dead . . . that the Lord spake unto me.[12] [Only then] came the divine communication ‘unto me’.

‘Ulla said: It is the day on which Hosea the son of Elah removed the guards which Jeroboam the son of Nebat had placed on the roads to prevent Israel from going [up to Jerusalem] on pilgrimage,[13] and he proclaimed

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(1) He took up a humble position.

(2) Isa. LXVI, 10.

(3) Ezek. XXXII, 27.

(4) Who cannot sleep on the ground.

(5) [According to a tradition in Seder Olam 6, Moses spent three periods of forty days and forty nights in the Mount beginning with the seventh of Sivan and ending on the tenth of Tishri when he came down on earth with the Second Tables.]

(6) V. next note.

(7) Cf. Num. XXXVI, 6-7. The Law was later annulled.

(8) Judg. XXI, 1.

(9) I.e., on what did they base their permission.

(10) Those who came out of Egypt.

(11) [In a direct manner as described in Num. XII, 8, ‘With him I speak mouth to mouth, etc. (Rashbam, B.B. 121b).]

(12) Deut. II, 16-17.

(13) Cf. Git. 88a.

Talmud - Mas. Ta'anith 31a

, Let them go up to whichever shrine they desire. R. Mattenah said: It is the day when permission was granted for those killed at Bethar to be buried. R. Mattenah further said: On the day when permission was granted for those killed at Bethar[1] to be buried [the Rabbis] at Jabneh instituted [the recitation of] the benediction,[2] ‘Who art kind and dealest kindly etc.’; ‘Who art kind’: Because their dead bodies did not become putrid;[3] ‘And dealest kindly’: Because permission was granted for their burial. Rabbah and R. Joseph both said: It is the day on which [every year] they discontinued to fell trees for the altar.[4] It has been taught: R. Eliezer the elder says: From the fifteenth of Ab onwards the strength of the sun grows less and they no longer felled trees for the altar, because they would not dry [sufficiently]. R. Menashya said: And they called it the Day of the Breaking of the Axe.[5] From this day onwards,[6] he who increases [his knowledge through study] will have his life prolonged, but he who does not increase [his knowledge] will have his life taken away.[7] What is meant by ‘taken away’? — R. Joseph learnt: Him his mother will bury.[8]

ON THESE DAYS THE DAUGHTERS OF JERUSALEM etc. Our Rabbis have taught: The daughter of the king borrows [the garments] from the daughter of the High Priest, the daughter of the High Priest from the daughter of the deputy High Priest,[9] and the daughter of the deputy High Priest from the daughter of the Anointed for Battle,[10] and the daughter of the Anointed for Battle from the daughter of an ordinary priest, and all Israel borrow from one another, so as not to put to shame any one who may not possess [white garments].

ALL THE GARMENTS REQUIRE RITUAL DIPPING: R. Eleazar said: Even though they lay folded in a box.[11]

THE DAUGHTERS OF ISRAEL CAME OUT AND DANCED IN THE VINEYARDS. A Tanna taught: Whoever was unmarried repaired thither.

THOSE OF THEM WHO CAME OF NOBLE FAMILIES EXCLAIMED, ‘YOUNG MAN etc.’ Our Rabbis have taught: The beautiful amongst them called out, Set your eyes on beauty for the quality most to be prized in woman is beauty; those of them who came of noble families called out, Look for [a good] family for woman has been created to bring up a family; the ugly ones amongst them called out, Carry off your purchase in the name of Heaven, only on one condition that you adorn us with jewels of gold.

Ulla Bira'ah said in the name of R. Eleazar: In the days to come the Holy One, blessed be He, will hold a chorus for the righteous and He will sit in their midst in the Garden of Eden and every one of them will point with his finger towards Him, as it is said, And it shall be said in that day: Lo, this is our God, for whom we waited, that He might save us; this is the Lord for whom we waited, we will be glad and rejoice in His salvation.[12]

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(1) During the Bar Kochba War. Cf. Git. 57a.

(2) The fourth benediction of the Grace after Meals.

(3) [During the long period in which the slain were left lying in the open field owing to Hadrian's decree forbidding their interment.]

(4) Undried wood harbours woodworms and this makes the wood unfit for the altar. After the fifteenth of Ab the rays of the sun are not sufficiently strong to dry the fresh-cut logs and therefore the felling of trees for the altar was discontinued as from this date. Cf. Mid. II, 5.

(5) The name signified that there was no longer any need for the woodcutter's axe.

(6) The nights grow longer and people have more time for study.

(7) Cf. Aboth. I, 13.

(8) He will die prematurely.

(9) Segan, v. Sanh., Sonc. ed., p. 97, n. 1.

(10) Priest anointed as Chaplain of the Army in time of war, and part of whose duty it was to make the necessary proclamations for the exemptions from military service. Cf. Deut. XX, 2ff.

(11) Which would show that they were new and had never been worn.

(12) Isa. XXV, 9.

CHAPTER I

MISHNAH. THE MEGILLAH[1] IS READ ON THE ELEVENTH, THE TWELFTH, THE THIRTEENTH, THE FOURTEENTH, AND THE FIFTEENTH [OF ADAR], NEVER EARLIER AND NEVER LATER.[2] CITIES[3] WHICH HAVE BEEN WALLED SINCE THE DAYS OF JOSHUA SON OF NUN[4] READ ON THE FIFTEENTH; VILLAGES AND LARGE TOWNS[5] READ ON THE FOURTEENTH. THE VILLAGES, HOWEVER, MAY [SOMETIMES] PUSH THE READING FORWARD TO THE COURT DAY.[6] HOW DOES THIS WORK OUT? IF [THE FOURTEENTH OF ADAR] FALLS ON MONDAY,[7] THE VILLAGES AND LARGE TOWNS READ ON THAT DAY AND THE WALLED PLACES ON THE NEXT DAY: IF IT FALLS ON TUESDAY OR ON WEDNESDAY, THE VILLAGES PUSH THE READING FORWARD TO THE COURT DAY,[8] THE LARGE TOWNS READ ON THE DAY ITSELF, AND THE WALLED PLACES ON THE NEXT DAY. IF [THE FOURTEENTH FALLS] ON THURSDAY, THE VILLAGES AND LARGE TOWNS READ ON THAT DAY AND THE WALLED PLACES ON THE NEXT DAY: IF IT FALLS ON FRIDAY, THE VILLAGES PUSH THE READING FORWARD TO THE COURT DAY[9] AND THE LARGE TOWNS AND WALLED PLACES READ ON THE DAY ITSELF.[10] IF IT FALLS ON SABBATH, THE VILLAGES AND LARGE TOWNS PUSH THE READING FORWARD TO THE COURT DAY.[9] AND THE WALLED PLACES READ ON THE NEXT DAY.[11] IF IT FALLS ON SUNDAY, THE VILLAGES PUSH THE READING FORWARD TO THE COURT DAY,[9] THE LARGE TOWNS READ ON THE SAME DAY, AND THE WALLED CITIES ON THE DAY FOLLOWING.

GEMARA. THE MEGILLAH IS READ ON THE ELEVENTH. Whence is this derived? — [How can you ask,] ‘Whence is this derived’? Surely it is as we state further on,[12] ‘The Sages made a concession to the villages, allowing them to push the reading forward to the Court day, so that [they should have leisure to] supply food and water for their brethren in the large towns’? — What we mean [by our question] is this: Let us see now. All these dates were laid down by the Men of the Great Assembly.[13] For if you should [deny this and affirm] that the Men of the Great Assembly laid down only the fourteenth and fifteenth, [is it possible that] the [later] Rabbis should have come and annulled a regulation made by the Men of the Great Assembly, seeing that we have learnt, ‘One Beth din cannot annul the ordinances of another unless it is superior to it in number[14] and in wisdom’?[15] Obviously, therefore, all these days must have been laid down by the Men of the Great Assembly, [and we ask therefore], where are they hinted [in the Scripture]? — R. Shaman b. Abba replied in the name of R. Johanan: Scripture says, To confirm these days of Purim in their times.[16] [which indicates that] they laid down many ‘times’ for them. But this text is required for its literal meaning?[17] — If that were all, Scripture could say simply ‘at the [appointed] time’. What then is implied by ‘their times’? A large number of ‘times’! But still I may say that [the expression ‘their’ times’] is required to indicate that the time of one is not the same as the time of the other?[18] — In that case, Scripture should say [simply], ‘their time’. Why does it say ‘their times’? So that you may infer from this all of them. But cannot I say that ‘their times’ means ‘numerous times’?[19] — The expression ‘their times’ is to be interpreted in the same way as we should interpret ‘their time’: just as ‘their time’ would indicate two [days], so ‘their times’ indicates two [in addition].[20] But why not make these the twelfth and thirteenth? — For the reason given [elsewhere] by R. Samuel b. Isaac, that the thirteenth is a time of assembly for all,[21] and no special indication is required for it in the text; so we may say here that the thirteenth day is a time of assembly and no special indication is required for it in the text. But why not say that the sixteenth and seventeenth are meant? — It is written, and it shall not pass.[22]

R. Samuel b. Nahmani, however, explained thus. Scripture says. As the days wherein the Jews had rest from their enemies.[23] [The expression] ‘the days’ [would have sufficed] and we have ‘as the days', to include the eleventh and the twelfth. But cannot I say rather the twelfth and thirteenth? — R. Samuel b. Isaac said: The thirteenth is a time of assembly for all, and does not require special indication. But cannot I say the sixteenth and the seventeenth? — It is written, 'and it shall not pass'.

Why did R. Samuel b. Nahmani not derive the rule from the expression 'in their times'? — He does not accept the distinction [made above between] 'time', 'their time' and 'their times'. And why did R. Shaman b. Abba not derive the rule from the expression 'as the days'? — He can say to you: This is meant to make the rule apply to future generations.

Rabbah b. Bar Hanah said in the name of R. Johanan: This [rule stated in the Mishnah] is the ruling of R. Akiba the anonymous authority,[24] who draws the distinction between 'time', 'their time' and 'their times', but according to the Sages the Megillah is to be read only on the proper day.[25] The following was adduced in refutation of this: 'R. Judah said, When does this rule hold good? When the years are properly fixed[26] and Israel reside upon their own soil. But in these days, since people reckon from it,[27] the Megillah is to be read only on the proper day'. Now which authority is R. Judah here following? Shall I say, R. Akiba? This cannot be, because [according to him] the regulation[28] is in force in these days also. It must be then that he follows the Rabbis, and [even according to them] we read [on the other days] at any rate when the years are properly fixed and Israel reside on their own soil! Is not this a refutation of R. Johanan? — It is.

Some report as follows. Rabbah b. Bar Hanah said in the name of R. Johanan: This rule follows the ruling of R. Akiba the anonymous authority, but the Sages held that in these days, since people reckon from it, we read it only on the proper day. It has been taught to the same effect: 'R. Judah said: When does this rule hold good? When the years are properly fixed and Israel reside upon their own soil, but in these days, since people reckon from it, it is read only on the proper day.'[29]

R. Ashi noted a contradiction between two statements of R. Judah

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(1) Lit., 'scroll'. The scroll of the Book of Esther is meant (v. Introduction).

(2) Lit., 'neither less nor more'.

(3) כרכין (Sing. כרך). This word is generally applied to large centres of population with a more or less metropolitan character. In Mishnah Megillah, (cf. 19a), however, it seems to be used exclusively of walled towns, whatever their size.

(4) The Gemara infra discusses what is meant by this.

(5) כפרים ועיירות גדולות. The expression 'villages and large towns' in the Mishnah here seems to be merely a periphrasis for 'other places', since, as appears from the Gemara, the distinction here is between places which were walled in the days of Joshua and places which were not. The epithet 'large' is added because the word עיר (or עירה) is also often used of a small place, hardly distinguishable from a village.

(6) Lit., 'the day of assembly', i.e. Monday or Thursday, when the Beth din sat in the towns, and the people came in from the villages. They were allowed to read the Megillah then because they were more likely to find someone who could read to them in the town than in their own village (Rashi). Another reason is also given in the Gemara infra.

(7) Lit., 'the second (day of the week)'. In the Talmud the days of the week are distinguished by the ordinal numbers.

(8) I.e., the previous Monday.

(9) I.e., the preceding Thursday.

(10) Reading on the Sabbath was prohibited, for fear the scroll might be carried from place to place. V. infra.

(11) On the Sunday.

(12) V. infra p. 116.

(13) Or 'synagogue'. A name given to Ezra and his Beth din and their successors, up to the time of Simon the Just. V. Aboth, Sonc. ed. p. 1, n. 5. According to the Talmud, the Book of Esther was composed by or under the direction of the Men of the Great Assembly.

(14) Of the members of the Beth din.

(15) Cf. M.K. 3b; Git. 36a.

(16) Esth. IX, 31. E.V. 'their appointed times'. The plural form 'times' is stressed.

(17) Lit., 'for itself'; viz., the 14th and 15th mentioned in the text.
(18) Viz., the time for the villages is not the same as that for the walled towns.
(19) E.g., five or six.
(20) To the fourteenth and fifteenth, viz., the eleventh and twelfth.
(21) Rashi explains this to refer to the statement in the Scripture that on the thirteenth the Jews assembled and defended themselves. Asheri, however, points out that this has nothing to do with the reading of the Megillah, which was instituted to commemorate the resting, and he therefore prefers the explanation of R. Tam, that on the thirteenth the Jews assemble to observe the fast of Esther.
(22) Ibid. 27. These words are interpreted to mean, 'the observance shall not pass beyond the fifteenth day'. E.V., and it shall not fail.
(23) Ibid. 22.
(24) So called because Rabbi in compiling the Mishnah usually followed R Akiba when he mentioned no authority.
(25) Viz., the fourteenth and fifteenth of Adar.
(26) I.e., when there is a Beth din which fixes new moons and leap years as occasion arises.
(27) I.e. count thirty days from Purim to Passover, since the new moon of Nisan will not be promulgated by the Beth din
(28) That the Megillah may be read on the eleventh, twelfth, or thirteenth.
(29) And there is now no contradiction between R. Johanan and Rabbi Judah.

Talmud - Mas. Megilah 2b

, and therefore attributed the statement in the Baraitha to R. Jose son of R. Judah. [He said]: Can R. Judah really have said that in these days, since people reckon from it, it is read only on the proper day? To this may be opposed the following:[1] R. Judah said, When [do they push forward the reading]? In places where the villagers go to town[2] on Monday and Thursday; but in places where they do not go to town on Monday and Thursday, it is read only on the proper day. But at any rate in places where they do go to town on Monday and Thursday it is read [on the earlier dates] even in these times'? He accordingly ascribed the statement in the Baraitha[3] to R. Jose son of R. Judah. And because he finds a contradiction between two statements of R. Judah, is he entitled to ascribe the one in the Baraitha to R. Jose son of R. Judah? — R. Ashi had heard some report the statement in the name of R. Judah and some report it in the name of R. Jose son of R. Judah, and to avoid making R. Judah contradict himself he said that the one who ascribed the statement to R. Judah was not [reporting] accurately, while the one who ascribed it to R. Jose son of Judah was [reporting] accurately.

CITIES WHICH HAVE BEEN WALLED SINCE THE DAYS OF JOSHUA SON OF NUN READ ON THE FIFTEENTH. Whence is this ruling derived? — Raba replied: Because Scripture says, Therefore do the Jews of the villages that dwell in the unwalled towns,[4] etc. Since the villages [are to read] on the fourteenth, the walled towns [must read] on the fifteenth. But why not say that the villages [should read] on the fourteenth, and those in walled towns not at all?[5] — But are they not also Israelites? And moreover is it not written, From India into Ethiopia?[6] But why not say that the villages [should read] on the fourteenth and those in walled towns on both the fourteenth and fifteenth, as it is written, that they should keep the fourteenth day of the month of Adar and the fifteenth day of the same yearly?[7] — If the text had said, 'the fourteenth day and [we] the fifteenth', you would have been right. Now, however, that it is written 'the fourteenth day and [we-eth] the fifteenth — the eth[8] comes and makes a distinction, so that the one set is on the fourteenth and the other set on the fifteenth. But why not say that the villages are on the fourteenth, and those surrounded [by a wall] can [celebrate] if they like on the fourteenth or if they like on the fifteenth? — The text says, in their seasons,[9] the season of one is not the same as the season of the other. But why not say that they[10] should celebrate on the thirteenth? — [They must do] as Susa [did].

We have accounted for the celebration [of Purim]; how do we know that the recital[11] [of the Megillah must be on these days]? — The text says, that these days should be remembered and kept;[12] 'remembering' is put on the same footing as 'keeping'.

Our Mishnah does not take the same view as the following Tanna, as it has been taught: 'R. Joshua b. Korha says: Cities which have been walled since the days of Ahasuerus read on the fifteenth'. What is the reason of R. Joshua b. Korha? — [They must be] like Susa: just as Susa has been walled since the days of Ahasuerus and reads on the fifteenth, so every city that has been walled since the days of Ahasuerus reads on the fifteenth. What then is the reason of our Tanna? — He draws an analogy between the two occurrences of the word perazi [villagers]. It is written here, Therefore the Jews of the villages [ha — perazim],[13] and it is written in another place, beside the unwalled [ha — perazi] towns, a great many;[14] just as there the reference is to towns which were [not] walled in the days of Joshua son of Nun, so here the reference is to towns which were [not] walled in the days of Joshua son of Nun.[15]

I can understand why R. Joshua b. Korha did not adopt the view of our Tanna; he does not accept the analogy of perazi and perazi.[16] But why does not our Tanna accept the view of R.Joshua b. Korha? — [You ask] why does he not? Why, because he draws the analogy of perazi with perazi, of course! What the questioner meant was this: [On the view of our Tanna], whom did Susa follow?[17] It followed neither the villages nor the walled towns![18] — Raba, or, as some say, Kadi,[19] replied: Susa was an exception, because a miracle was performed in it.[20]

We can understand according to the view of our Tanna why the text should say, city and city, town and town;[21] 'city and city'[22] to make a distinction between those which were walled in the days of Joshua son of Nun and those which were walled in the days of Ahasuerus; 'town and town' likewise to distinguish between Susa and other towns.[23] But according to R. Joshua b. Korha, it is true we can account for 'city and city', as being intended to distinguish between Susa and other cities,[24] but what is the purpose of 'town and town' ? — R.Joshua b. Korha can answer: And can our Tanna explain the words satisfactorily? Since he draws the analogy between perazi and perazi,[25] why do we require the words 'city and city'? The truth is that the text is inserted for a homiletical purpose, and to teach the rule laid down by R.Joshua b. Levi. For R. Joshua b. Levi said: 'A city[26] and all that adjoins it and all that is taken in by the eye with it is reckoned as city'.[27] Up to what distance? — R. Jeremiah, or you may also say R. Hiyya b. Abba, said: As far as from Hamthan[28] to Tiberias, which is a mil. Why not say [simply] a mil? — We learn from this what is the extent of a mil, namely, as far as from Hamthan to Tiberias.

R. Jeremiah — or you may also say R. Hiyya b. Abba — also said: The [alternative forms of the] letters M'N'Z'P'K[29] were prescribed[30] by the Watchmen.[31] Do you really think so? Is it not written, These are the commandments,[32] which implies that no prophet is at liberty to introduce anything new[33] henceforward? And further, R.Hisda has said: The Men and the Samek in the tablets

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(1) Infra n. 4.

(2) Lit., 'assemble'.

(3) The former of the statements quoted.

(4) Esth. IX, 19.

(5) Since no mention is made of walled towns in the context.

(6) These words occur in Esth. I, 1, arid are used here loosely instead of the words in Esth. IX, 30. and he (Mordecai) sent letters to . . . the hundred and twenty — seven provinces of the kingdom of Ahasuerus.

(7) Ibid. 21.

(8) Eth is a sign of the accusative, and as its use is optional, it is usually interpreted as indicating something not specified in the text. The interpretation placed upon it here is rather unusual.

(9) Ibid. 31.

(10) Those in the walled towns.

(11) Lit., 'remembrance'.

(12) Ibid. 28.
(13) Ibid. 19.
(14) Deut. III, 5, referring to the territory of Sihon conquered by the Israelites in the time of Moses.
(15) The word ‘not’ is not in the text of the original here, but is necessary for the sense. Rashi greatly simplifies the text by reading: ‘Just as there (the villages were such) from the days of Joshua, so here, (the villages must have been such) from the days of Joshua’.
(16) I.e., he had not learnt this particular gezerah shawah from his teacher, and therefore could not reply upon it.
(17) Since there is no evidence that it was walled in the days of Joshua.
(18) These last words make no satisfactory sense, and seem to be interpolated. [They do not occur in MS.M.]
(19) Aliter: ‘an unknown authority’, v. B.M., Sonc. ed. p. 3, n. 1.]
(20) Since they were allowed to continue slaying their enemies on the fourteenth and did not rest till the fifteenth, they were allowed to celebrate that day (Rashi).
(21) Esth. IX, 28. The word medinah which the Talmud here takes as equivalent to כרך is translated in E.V. by ‘province’.
(22) As much as to say, ‘Some cities one way and some another’.
(23) Susa also having been an unwalled town till the time of Ahasuerus.
(24) Rashi here reads, ‘to distinguish between those which were walled from the days of Ahasuerus and those which were not yet walled in the days of Ahasuerus’, and this seems to be required by the sense.
(25) That the wall must have been in existence since the days of Joshua.
(26) כרך v. supra p. 1, n. 3.
(27) For purposes of reading the Megillah on the fifteenth.
(28) [The Hammath mentioned in Josh. XIX, 35.]
(29) The five letters of the Hebrew alphabet, mem, nun, zadi, pe, and kaf, which have two forms — a middle and final form, the latter being more closed than the former. In the case of mem the final is completely closed ם, with the other the final form is distinguished by the shaft being drawn straight down as distinct from the middle form where it is bent round towards the left ץ(נ)ן ת(צ)ץת(פ)ףת(כ)ך
(30) Lit., said’.
(31) A name applied to the prophets who flourished towards the end of the period of the first Temple. There is a play on the words zophim (watchmen) and Manzepak. [Perhaps to be read Min Zofeka ‘from thy watcher’ v. G.K. (1910) p. 27, n. 1.]
(32) Lev. XXVII, 34.
(33) I.e., to make any alteration in the written Torah, whether in the wording or the writing.

Talmud - Mas. Megilah 3a

remained in place by a miracle.[1] — That is so; they were in use, but people did not know which form came in the middle of a word and which one at the end, and the Watchmen came and ordained that the open forms should be in the middle of a word and the closed forms at the end. But when all is said and done, [we have the text] ‘these are the commandments’, which implies that no prophet was destined ever to introduce an innovation hereafter?[2] — What we must say therefore is that they were forgotten[3] and the Watchmen established them again.

R. Jeremiah — or some say R. Hiyya b. Abba — also said: The Targum[4] of the Pentateuch was composed by Onkelos the proselyte under the guidance[5] of R. Eleazar and R. Joshua.[6] The Targum of the Prophets was composed by Jonathan ben Uzziel under the guidance of Haggai, Zechariah and Malachi,[7] and the land of Israel [thereupon] quaked over an area of four hundred parasangs by four hundred parasangs, and a Bath Kol[8] came forth and exclaimed, Who is this that has revealed My secrets to mankind?[9] Jonathan b. Uzziel thereupon arose and said, It is I who have revealed Thy secrets to mankind. It is fully known to Thee that I have not done this for my own honour or for the honour of my father's house, but for Thy honour l have done it, that dissension may not increase in Israel.[10] He further sought to reveal [by] a targum [the inner meaning] of the Hagiographa, but a Bath Kol went forth and said, Enough! What was the reason? — Because the date[11] of the Messiah is foretold in it.[12]

But did Onkelos the proselyte compose the targum to the Pentateuch? Has not R. Ika said in the name of R. Hananel who had it from Rab: What is meant by the text, And they read in the book, in the law of God, with an interpretation. and they gave the sense, and caused them to understand the reading?[13] 'And they read in the book, in the law of God': this indicates the [Hebrew] text; 'with an interpretation': this indicates the targum,[14] 'and they gave the sense': this indicates the verse stops; 'and caused them to understand the reading': this indicates the accentuation,[15] or, according to another version, the massoretic notes?[16] — These had been forgotten, and were now established again.

How was it that the land did not quake because of the [translation of the] Pentateuch, while it did quake because of that of the prophets? — The meaning of the Pentateuch is expressed clearly, but the meaning of the prophets is in some things expressed clearly and in others enigmatically. [For instance,] it is written , In that day shall there be a great mourning in Jerusalem, as the mourning of Hadadrimmon in the valley of Megiddon,[17] and R. Joseph [commenting on this] said: Were it not for the targum of this verse, we should not know what it means.[18] [It runs as follows]: 'On that day shall there be great mourning in Jerusalem like the mourning of Ahab son of Omri who was killed by Hadadrimmon son of Rimmon in Ramoth Gilead[19] and like the mourning of Josiah son of Ammon who was killed by Pharaoh the Lame in the plain of Megiddo'.[20]

And I, Daniel, alone saw the vision; for the men that were with me saw not the vision; but a great quaking fell upon them, and they fled to hide themselves.[21] Who were these 'men' — R. Jeremiah — or some say, R. Hiyya b. Abba — said: These were Haggai, Zechariah, and Malachi. They were superior to him [in one way], and he was superior to them [in another]. They were superior to him, because they were prophets and he was not a prophet.[22] He was superior to them, because he saw [on this occasion] and they did not see. But if they did not see, why were they frightened? — Although they themselves did not see, their star saw.[23] Rabina said: We learn from this that if a man is seized with fright though he sees nothing, [the reason is that] his star sees. What is his remedy? He should recite the shema'.[24] If he is in a place which is foul,[25] he should move away from it four cubits. If he cannot do this, he should say this formula: 'The goat at the butcher's is fatter than I am'.[26]

Now that you have decided that the words 'city and city' have a homiletical purpose, what is the purpose of the words 'family and family' [in the same verse]? — R.Jose b. Hanina replied: This contains a reference to the families of the Priests and Levites, [and indicates] that they should desist from their [Temple] service in order to come and hear the reading of the Megillah. For so said Rab Judah in the name of Rab: The Priests at their [Temple] service, the Levites on their platform,[27] the lay Israelites at their station[28] — all desist from their service in order to hear the reading of the Megillah. It has been taught to the same effect: Priests at their [Temple] service, Levites on their platform, lay Israelites at their station — all desist from their service in order to come and hear the reading of the Megillah. It was in reliance on this dictum that the members of the house of Rabbi[29] were wont to desist from the study of the Torah in order to come and hear the reading of the Megillah. They argued a fortiori from the case of the [Temple] service. If the service, which is so important, may be abandoned, how much more the study of the Torah?

But is the [Temple] service more important than the study of the Torah? Surely it is written, And it came to pass when Joshua was by Jericho, that he lifted up his eyes and looked, and behold there stood a man over against him, . . . (and he fell on his face.[30] Now how could he do such a thing, seeing that R. Joshua b. Levi has said that it is forbidden to a man to greet another by night, for fear that he is a demon? — It was different there, because he said to him, 'I am captain of the host of the Lord'. But perhaps he was lying? — We take it for granted[31] that they do not utter the name of heaven vainly).[32] He said to him: This evening you neglected the regular afternoon sacrifice, and now you have neglected the study of the Torah.[33] Joshua replied: In regard to which of them have you come? He answered, ‘I have come now’.[34] Straightway, Joshua tarried that night in the midst of the valley [ha-emek],[35] and R. Johanan said:

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(1) According to tradition, the letters on the tablets of Moses were cut completely through the stone, and therefore a letter which was wholly closed could keep in place only by a miracle. Hence the mem to which R. Hisda refers must have been wholly enclosed; which shows that such a mem must have been used already by Moses. This objection against R. Jeremiah is valid only if we suppose him to have been speaking of the closed forms of the letters, which is not necessarily the case. Cf. Shab. 104.

(2) And the determining which letters should go in which place (in the Sefer Torah) was an innovation.

(3) Viz., the correct place of each.

(4) Apparently what is meant is the official Aramaic version of the Pentateuch used in the synagogue.

(5) Lit., ‘from the mouth of’.

(6) We know on good authority that a Greek translation of the Bible was composed under the guidance of R. Eleazar and R. Joshua by a proselyte named Aquilas. The Aramaic Targum probably took shape about the same time, but there is no authority except this passage for connecting it with anyone of the name of Onkelos. We may surmise therefore that we have here some confusion between the two translations. For the discussion and literature on the subject v. J.E. s.v. Targum, and Silverstone, E.A. Aquila and Onkelos.

(7) Jonathan b. Uzziel was a disciple of Hillel, so he can hardly have had any direct contact with the prophets mentioned. He may, however, have had traditions handed down from them (Maharsha).

(8) V. Glos.

(9) The Targum of Jonathan b. Uzziel is very paraphrastic, and applies many of the prophetic verses to the Messianic age.

(10) Through different interpretations being placed on the prophetic allusions.

(11) Lit., ‘end’.

(12) The reference is probably to the Book of Daniel.

(13) Neh. VIII, 8.

(14) Which shows that the targum dates back to the time of Ezra.

(15) פיסוק טעמים. V. Ned., Sonc. ed. p. 113, n. 5.

(16) For notes v. Ned., Sonc. ed. p. 116.

(17) Zech. XII, 11.

(18) Because there is no mourning for Hadadrimmon mentioned in the Scripture.

(19) V. I Kings XXII.

(20) v. II Kings XXIII. It is difficult to see what ‘mystery’ is here revealed that should have caused the land to quake.

(21) Dan. X, 7.

(22) Although he had visions, he did not admonish or exhort the people.

(23) Or ‘guardian angel’ or ‘spirit’. The Hebrew mazzal here seems to mean something corresponding to the Roman genius.

(24) V. Glos.

(25) And where the shema’ may not be recited.

(26) Go to them for a victim.

(27) On which they stood to chant the daily psalm.

(28) A number of lay Israelites were always appointed to be present at the offering of the daily sacrifices, which they accompanied with certain prayers. V. Ta'an. 26a; and Glos. s.v. ma'amad.

(29) R. Judah I, the Prince.

(30) Josh. V, 13f.

(31) Lit., ‘we have learnt by tradition’.

(32) The passage in brackets (from ‘and he fell’) is parenthetical, and has nothing to do with the argument.

(33) It is not clear what indication there is of this in the text. V. Tosaf., s.v. אמש.

(34) I.e., on account of the study of the Torah which you are neglecting now.

(35) This seems to be an alternative reading of Joshua VIII, 13. which in our text reads, And Joshua went that night in the midst of the valley. Cf. Tosaf., s.v.

Talmud - Mas. Megilah 3b

This shows that he tarried in the depths [‘umkah] of the halachah.[1] And R. Samuel b. Unia also said: The study of the Torah is greater than the offering of the daily sacrifices, as it says. ‘I have come now’ — There is no contradiction; in the one case[2] [the study] of an individual is meant, in the other[3] that of the whole people.[4] But is that of an individual unimportant? Have we not learnt: Women [when mourning] on a festival make a dirge[5] but do not beat the breast. R. Ishmael says: If they are near the bier,[6] they can beat the breast. On New Moon, Hanukkah and Purim they may make a dirge and beat the breast, but on neither the one nor the other do they wail;[7] and in reference to this, Rabbah b. Huna said: The festival involves no restrictions in the case of a scholar, still less Hanukkah and Purim? — You are speaking of the honour to be paid to the Torah. The honour to be paid to the learning of an individual is important, the study of an individual is [comparatively] unimportant.

Raba said: There is no question in my mind that, as between the Temple service and the reading of the Megillah, the reading of the Megillah takes priority, for the reason given by R. Jose b. Hanina.[8] As between the study of the Torah and the reading of the Megillah, the reading of the Megillah takes priority, since the members of the house of Rabbi based themselves [on the dictum of R. Jose].[8] As between the study of the Torah and attending to a meth mizwah,[9] attending to a meth mizwah takes precedence, since it has been taught: The study of the Torah may be neglected in order to perform the last rites or to bring a bride to the canopy. As between the Temple service and attending to a meth mizwah, attending to a meth mizwah takes precedence, as we learn from the text or for his sister,[10] as it has been taught: ‘Or for his sister. What is the point of these words? Suppose he was on his way to kill his Paschal lamb or to circumcise his son, and he heard that a near relative had died,[11] shall I assume that he should defile himself? You must say, he should not defile himself. Shall I assume then that, just as he does not defile himself for his sister, so he should not deflle himself for a meth mizwah?[12] It says significantly, ‘or for his sister’,’ it is for his sister that he may not defile himself, but he may defile himself for a meth mizwah.[13] Raba propounded the question: As between the reading of the Megillah and [attending to] a meth mizwah, which takes precedence? Shall I say that the reading of the Megillah takes precedence in order to proclaim the miracle, or does perhaps [the burying of] the meth mizwah take precedence because of the respect due to human beings? — After propounding the question, he himself answered it saying, [Burying] the meth mizwah takes precedence, since a Master has said: Great is the [obligation to pay due] respect to human beings, since it overrides a negative precept of the Torah.[14]

The text [above states]: ‘R. Joshua b. Levi said: A city[15] and all that adjoins it and all that is taken in by the eye with it is reckoned as city’. A Tanna commented: Adjoining, even if it is not visible, and visible even if it is not adjoining. Now we understand what is meant by ‘visible even though not adjoining’: this can occur for instance with a city situated on the top of a hill. But how can there be ‘adjoining but not visible’? — R. Jeremiah replied: If it is situated in a valley.

R. Joshua b. Levi further said: A city which was first settled and then walled is reckoned as a village.[16] What is the reason? Because it is written, And if a man sell a dwelling house of a walled city,[17] one, [that is,] which was first walled and then settled, but not first settled and then walled.

R. Joshua b. Levi also said: A city in which there are not ten men of leisure[18] is reckoned as a village. What does he tell us? We have already learnt this: ‘What is a large town? One in which there are ten men of leisure. If there are less than this, it is reckoned as a village’. — He had to point out that the rule applies to a city,[19] even though [leisured] people come there from outside.[20] R. Joshua b. Levi also said: A city which has been laid waste and afterwards settled is reckoned as a city. What is meant by ‘laid waste’? Shall I say, that its walls have been destroyed, in which case if it became settled[21] it is reckoned as a city but otherwise not? [How can this be], seeing that it has been taught: R. Eleazar son of R. Jose says: [The text says], which has a wall;[22] [which implies that it is to be reckoned as a city] even though it has not a wall now, provided it had one previously?[23] What then is meant by 'laid waste'? Laid waste of its ten men of leisure.

R. Joshua b. Levi further said:

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(1) This shows that the study of the Torah is superior to the Temple service.
(2) That of the household of Rabbi.
(3) That of Joshua.
(4) Lit., 'many'.
(5) Heb. מענות, all raising their voices in unison.
(6) Lit., 'bed'.
(7) Heb. מקוננות one chanting and the others responding.
(8) V. supra P. 11
(9) Heb. מת מצוה strictly speaking, a body which there is no-one else to bury and the burial of which is a religious duty. V. Glos. Meth Mizwah.
(10) Num. VI, 7, in reference to the Nazirite.
(11) Lit., 'that a dead one had died for him'.
(12) Nazir 48b.
(13) Although Scripture says 'If thou seest the ox of thy neighbour falling by the way, thou shalt not hide thyself' (Deut. XXII, 4), the Rabbis said that a man of eminence for whom it would be undignified to help may hide himself.
(14) V. p. 13, n. 7.
(15) כרך. V. supra p. 1, n. 3.
(16) It is not clear whether this means for purposes of reading the Megillah on the fourteenth or the fifteenth, or for purposes of restoring a house to its original owner at the Jubilee. Rashi takes the latter view, Tosaf. the former. V. Tosaf. s.v. כרך.
(17) V. Rashi. E.V. 'in a walled city'. Lev. XXV, 29.
(18) Who always have time to attend synagogue. V. infra 5a.
(19) [A כרך which is distinguished from a עיר גדולה in that it is a marketing centre to which are drawn people from all parts.]
(20) Lit., 'from the world'. These are only a floating population, and we require ten men who are always available.
(21) I.e., its walls were raised anew.
(22) Lev. XXV, 30.
(23) The lesson is derived from the curious spelling of the word in the Hebrew text, which may imply either that it has or has not a wall.

Talmud - Mas. Megilah 4a

Lod and Ono and Ge Haharashim[1] were walled in the days of Joshua son of Nun. But did Joshua build these? Was it not Elpaal who built them, as it is written, And the sons of Elpaal Eber and Misham and Shemed, who built Ono and Lod, with the towns there of?[2] — But on your showing[3] Asa built them, as it is written, And he built fenced cities in Judah?[4] — R. Eleazar replied: These places were walled in the days of Joshua son of Nun. They were laid waste in the days of the concubine of Gibea,[5] and Elpaal came and rebuilt them. They again fell, and Asa came and repaired them. There is an indication of this in the text also, as it is written, For he said unto Judah, Let us build these cities.[6] From this we can infer that they had already been towns beforehand; and this may be taken as proved.[7]

R. Joshua b. Levi also said: Women are under obligation to read the Megillah, since they also profited by the miracle then wrought.[8] R. Joshua b. Levi further said: If Purim falls on a Sabbath, discussions and discourses are held on the subject of the day. Why mention Purim? The same rule applies to festivals also,[9] as it has been taught: Moses laid down a rule for the Israelites that they should discuss and discourse on the subject of the day — the laws of Passover on Passover, the laws of Pentecost on Pentecost, and the laws of Tabernacles on Tabernacles! — It was necessary to state the rule [separately] in the case of Purim. For you might suggest that we should forbid this for fear of breaking the rule of Rabbah.[10] We are therefore told that this is not so.

R. Joshua b. Levi further said: It is the duty of a man to read the Megillah in the evening and to repeat it in the day, as it is written, O my God, I cry in the daytime, but thou answerest not, and in the night season and am not silent.[11] The students took this to mean that the [Megillah] should be read at night, and the Mishnah relating to it should be learnt in the morning.[12] R. Jeremiah. however, said to them: It has been explained to me by R. Hiyya b. Abba [that the word ‘repeat’ here has the same meaning] as when, for instance, men say, I will go through this section and repeat it. It has also been stated: R. Helbo said in the name of ‘Ulla of Biri:[13] It is a man's duty to recite the Megillah at night and to repeat it the next day, as it says, To the end that my glory may sing praise to thee [by day]. and not be silent [by night]. O Lord, my God, I will give thanks to thee for ever.[14]

THE VILLAGES, HOWEVER, MAY PUSH THE READING FORWARD TO THE COURT DAY. R. Hanina said: The Sages made a concession to the villages by allowing them to push the reading forward to the Court day, in order that they might furnish food and water to their brethren in the cities.

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(1) Three towns in the territory of Benjamin.

(2) I Chron. VIII, 12.

(3) I.e., if you appeal to the Book of Chronicles.

(4) II Chron. XIV, 6. ‘Judah’ is here apparently taken by the Talmud to include Benjamin, which was ruled by the kings of Judah.

(5) When the territory of Benjamin was laid waste. Jud. XX.

(6) II Chron. XIV, 6.

(7) [The text of this paragraph is in disorder. According to a Gaonic responsum (v. B.M.) Lewin אוצר הגאונים a.l. the passages, ‘But on your showing. . . in Judah’ and ‘There is an indication . . . taken as proved’ are later interpolations. For other readings v. Aruch s.v. שפין.]

(8) Lit., ‘for also these were (included) in that miracle’. Since Haman plotted to destroy the women also. Esth. III, 13.

(9) Although they are discussed for thirty days beforehand, so that the rule should apply all the more to Purim. V. Tosaf. s.v. מאי.

(10) Not to read the Megillah on Sabbath, since this might lead to its being carried from place to place, v. infra p. 19.

(11) Ps XXII, 3. This Psalm is supposed by the Talmud to refer to Esther. V. Yoma 29a.

(12) They took the word לשנותה (‘to repeat it’) used by R. Joshua b. Levi in the sense of ‘learning the Mishnah’.

(13) [Either Bira, S.E. or Kefar Birim, N.W. of Gush Halab, v. Klein N.B. p. 39.]

(14) Ps. XXX, 13. This Psalm was also applied by the Rabbis to Mordecai and Esther.

Talmud - Mas. Megilah 4b

This would show [would it not] that the regulation is for the benefit of the cities; but we have learnt: ‘If Purim falls on Monday, the villages and large towns read on that day’. Now if it is as you say, they should push the reading forward to the [previous] Court day? — This would bring it to the tenth, and the Sages did not fix the tenth [as a possible day].

Come and hear: ‘If it falls on Thursday, the villages and large towns read on that same day’. Now if it is as you say, they should push the reading forward to the [previous] Court day which is the eleventh? — We do not shift it from one Court day to another. Come and hear [again]: ‘R. Judah says: When [is the reading pushed forward]? In places where the villagers come into town on Mondays and Thursdays, but in places where they do not come into town on Mondays and

Thursdays it is read only on the proper day'. Now if you assume that the regulation is for the benefit of the cities, because they do not come into town on Mondays and Thursdays; are the cities to be deprived of the benefit? — Do not read [in the dictum of R. Hanina] 'in order that they may furnish food and water', but read, 'because they furnish food and water to their brethren in the cities'.[1]

HOW [DOES THIS WORK OUT]? IF IT FALLS ON MONDAY, VILLAGES AND LARGER TOWNS READ ON THAT SAME DAY etc. How is it that in the first clause of the Mishnah[2] the dates of the month are mentioned and in the second[3] the days of the week?[4] — Since (in the second clause] the dates of the month would have to go backwards,[5] the Mishnah prefers to mention the days.[6] IF IT FALLS ON FRIDAY etc. Which authority does our Mishnah follow? — [You may say], either Rabbi or R. Jose. How Rabbi? — As it has been taught: 'If it falls on Friday, villages and large towns push the reading forward to the Court day, and walled cities react on the day itself. Rabbi said: I maintain that towns should not have to shift their date,[7] but both one and the other read on the day itself'. What is the reason of the First Tanna? — Because it is written, every year:[8] just as every year towns read before cities, so in this case towns should read before cities. But why not argue thus: 'Every year': just as every year towns have not to shift their date, so here towns should not have to shift their date? — There is a special reason [for not reasoning thus here] since this is impracticable.[9] What is Rabbi's reason? — [It is written], 'every year': just as in most years the towns have not to shift their date, so here they should not have to shift their date. But why not reason thus: 'every year': just as in most years towns read before walled cities, so here towns should read before walled cities? — There is a special reason [for not arguing thus here], because this is impracticable.[10]

How R. Jose? — As it has been taught: 'If it falls on Friday, walled cities and villages push the reading forward to the Court day, and large towns read on the day itself. R. Jose said: Walled cities do not read before towns, but both read on the day itself'. What is the reason of the First Tanna? — Because it is written, every year': just as in most years towns react on the fourteenth and their time is not the same as the time of the walled cities, so here towns should read on the fourteenth and their time should not be the same as the time of the walled cities. But why not reason thus: 'Every year': just as in most years walled cities do not read before towns, so here walled cities should not read before towns? — Here the case is different, because it cannot be avoided. What is R. Jose's reason? — [It says], 'every year': just as in most years walled cities do not read before towns, so here walled cities should not read before towns. But why not reason thus: 'Every year': just as in most years the time of one is not the same as the time of the other, so here the time of one should not be the same as the time of the other? — Here the case is different, because it cannot be avoided.

But did Rabbi really hold that towns should not shift their time to the Court day? Has it not been taught: 'If it falls on Sabbath, villages push the reading forward to the Court day, and large towns read on Friday and walled cities on Sunday. Rabbi said: My view is that, since the towns have to shift their time, they may as well shift it to the Court day'?[11] — Are the two cases parallel? In this last case, the proper time is Sabbath, and since they must shift they can shift [further]; but in our case the proper time is Friday.

Whose authority is followed in this dictum enunciated by R. Helbo in the name of R. Huna: 'If Purim falls on Sabbath, all shift the reading to the Court day'? 'All shift their reading', do you say? [How can this be] seeing that we have the walled cities which read on the Sunday? — What we should say is, 'All who are shifted are shifted to the Court day'.Which authority, [you ask]? — Rabbi.

But at any rate all agree that the Megillah is not to be read on Sabbath. What is the reason? — Rabbah replied: All are under obligation to read the Megillah, but not all are competent to read it, and there is therefore a danger that one may take the scroll in his hand and go to an expert to be instructed and [in doing so] convey it four cubits in a public domain. This is also the reason for [not blowing] the shofar on Sabbath and [for not carrying] the lulab.[12] R. Joseph said: It is because the poor are anxiously awaiting the reading of the Megillah.[13] It has been taught to the same effect: ‘Although it has been laid down that villages push the reading forward to the Court day, contributions are collected and distributed on the same day’. ‘Although it has been laid down’! On the contrary, it is because it has been laid down![14] — Read therefore: Since it has been laid down that villages push the reading forward to the Court day, contributions are collected and distributed on the same day, because the poor are waiting anxiously for the reading of the Megillah, but

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(1) The concession was therefore made to them as a reward, but if they do not come into town there would be no concession in allowing them to read earlier.

(2) THE MEGILLAH IS READ ON THE ELEVENTH, THE TWELFTH etc.

(3) IF IT FALL, ON MONDAY etc.

(4) Lit., ‘in the first clause he (the Tanna) takes the order of the months and in the second the order of the days’.

(5) If he specified the dates of the month instead of the days of the week, he would have to begin with the reading on the fourteenth, and then take the thirteenth and so on.

(6) Because as these go in regular order, it is easier to remember, and there is less danger of the Tanna making a mistake.

(7) Lit., ‘towns should not be shifted from their place’.

(8) Esth. IX, 27.

(9) It is impracticable for towns to retain this date and also to read before the walled cities.

(10) It is impracticable for the towns to read before the walled cities and yet not shift their date.

(11) Lit., ‘since they are shifted, let them be shifted to etc.’

(12) V. Glos.

(13) Because they expect to receive gifts immediately afterwards, and on Sabbath these could not be given.

(14) As otherwise they would receive them on the actual day of Purim.

Talmud - Mas. Megilah 5a

rejoicing[1] is kept only at the proper season.

Rab said: On the actual day of Purim the Megillah can be read even by an individual, but on the alternative days[2] it should be read only in a company of ten. R. Assi, however, said: Whether on the actual day or on the alternative days, it should be read only in a company of ten. In a case which actually occurred, Rab gave weight to the opinion of R. Assi.[3] But could Rab actually have said this?[4] — Did not Rab Judah the son of R. Samuel b. Shilath say in the name of Rab: ‘If Purim falls on Sabbath, Friday is the proper time’? — Friday the proper time! Surely Sabbath is the proper time! What Rab must have meant therefore is this: The alternative time is like the proper time.[5] Just as at the proper time [the Megillah may be read] by an individual, so at the alternative time [it may be read] by an individual. — No. For the reading of the Megillah[6] Rab requires ten. What then did he mean by saying ‘Friday is the proper time’? His intention was to reject the opinion of Rabbi, who said that since the towns had to shift their time they might as well shift to the Court day. Here, therefore, Rab informs us that Friday is the proper day [to which they should shift].

MISHNAH. WHAT IS RECKONED A LARGE TOWN? ONE WHICH HAS IN IT TEN MEN OF LEIsure.[7] ONE THAT HAS FEWER IS RECKONED A VILLAGE. IN RESPECT OF THESE[8] IT WAS LAID DOWN THAT THEY SHOULD BE PUSHED FORWARD BUT NOT POSTPONED. THE TIME, HOWEVER, OF BRINGING THE WOOD FOR THE PRIESTS,[9] OF KEEPING THE [FAST OF] THE NINTH OF AB,[10] OF OFFERING THE FESTIVAL SACRIFICE,[11] AND OF ASSEMBLING THE PEOPLE[12] IS TO BE POSTPONED[13] [TILL AFTER SABBATH] BUT NOT PUSHED FORWARD. ALTHOUGH IT WAS LAID DOWN THAT THE TIMES [OF READING THE MEGILLAH] ARE TO BE PUSHED FORWARD BUT NOT POSTPONED, IT IS PERMISSIBLE ON THESE [ALTERNATIVE] DAYS[14] TO MOURN, TO FAST, AND TO DISTRIBUTE GIFTS TO THE POOR. R. JUDAH SAID: WHEN IS THIS?[15] IN PLACES WHERE PEOPLE COME TO TOWN ON MONDAYS AND THURSDAYS. IN PLACES, HOWEVER, WHERE THEY DO NOT COME TO TOWN EITHER ON MONDAYS OR THURSDAYS, THE MEGILLAH IS READ ONLY ON ITS PROPER DAY.

GEMARA. [TEN MEN OF LEISURE]: A Tanna taught: The ten unoccupied men who attend synagogue.[16]

IN RESPECT OF THESE IT WAS LAID DOWN THAT THEY SHOULD BE PUSHED FORWARD BUT NOT POSTPONED. What is the reason? — R. Abba said in the name of Samuel: The text says, and he shall not go further.[17] R. Abba further said in the name of Samuel: Whence do we know that years are not to be counted by days?[18] Because it says, [It is the first to you] of the months of the year,[19] [which implies] that you reckon a year by months but not by days. The Rabbis of Caesarea said in the name of R. Abba: How do we know that a month is not reckoned by its hours?[20] Because it says, until a month of days:[21] you reckon a month by days, but you do not reckon a month by hours.[22]

THE TIME, HOWEVER, OF BRINGING THE WOOD FOR THE PRIESTS, OF KEEPING [THE FAST OF] THE NINTH OF AB, OF OFFERING THE FESTIVAL SACRIFICE AND OF ASSEMBLING THE PEOPLE IS POSTPONED BUT NOT PUSHED FORWARD. [The reason for the Fast of] the ninth of Ab is that we do not hasten the approach of trouble. [The reason for] the festival sacrifice and the assembling of the people is that the time for their performance has not yet arrived.[23]

A Tanna taught: ‘The festival sacrifice and all the period of the festival sacrifice is to be postponed’. We understand what is meant by the festival sacrifice, namely, that if its day happens to be Sabbath we postpone it till after the Sabbath. But what is meant by the ‘period of the festival sacrifice’? — R. Oshaia replied: What is meant is this: The festival sacrifice [is postponed if its time] occurs on Sabbath, and the ‘burnt-offering of appearance’[24] is postponed even till after the festival day which is the proper time for a festival sacrifice.[25] Which authority does this follow? Beth Shammai, as we have learnt: ‘Beth Shammai say, Peace-offerings may be brought on the festival, but without laying on of hands; not, however, burnt-offerings; while Beth Hillel say, Both burnt-offerings and peace-offerings may be brought, and hands may be laid on’.[26] Raba said: [The meaning is]: The festival sacrifice may be postponed for the whole period of the festival sacrifice,[27] but not more, as we have learnt: ‘If one did not bring a festival sacrifice on the first day of the festival, he may go on to do so throughout the festival, including the last day. If the festival terminated without his having brought the festival sacrifice, he need not bring another in compensation’.[28] R. Ashi said: [It means that] the festival sacrifice may be postponed for the whole period of the festival sacrifice,[29] and even on Pentecost which is only one day it may be postponed [for seven days], as we have learnt: [Beth Hillel] agree that if Pentecost falls on Sabbath, the day for killing [the sacrifice] is after the Sabbath’.[30]

R. Eleazar said in the name of R. Hanina: Rabbi planted a shoot on Purim,

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(1) I.e., feasting.

(2) Lit., ‘not in its proper time’.

(3) And put himself out to assemble ten persons.

(4) That on the alternative days it can only be read before ten.

(5) ‘Friday is the proper time’ means, ‘Friday is regarded as the proper time’.

(6) On the alternative days.

(7) Heb. batlanim (idle men), v. supra, p. 14, n. 5.

(8) The times when the Megillah is to be read.

(9) It was usual for certain families to undertake to bring to Jerusalem on a certain day of the year a certain quantity of wood for the fire on the altar. V. Ta'an. 28a.

(10) In commemoration of the destruction of the first and second Temples, v. Glos.

(11) The hagigah, an optional peace-offering brought by individuals in honour of the festival, usually on the first day of the festival.

(12) On the Feast of Tabernacles in the first year of the Septennate, to hear the Law read. V. Deut. XXXI, 10-13.

(13) If it happens to fall on Sabbath.

(14) On which the Megillah is actually read.

(15) That a concession is made to villagers to read on the alternate days.

(16) Lit. , ‘Who are in the synagogue’. I.e., who are always available to attend synagogue if required. Cf. supra. [According to Rashi: These were men specially maintained for the purpose from the communal fund. Aliter: men of ample means who freely devoted their time to the service of the community. V. Aruch s.v. בטל

(17) Esth. IX, 27. V. supra 2a.

(18) Lit., that we do not count days (to make up) years. I.e., ‘a year’ without further specification does not mean three hundred and sixty-five days but twelve (lunar) months.

(19) Ex. XII, 2.

(20) I.e. , if the month is defective, we reckon it as twenty-nine days, and ‘a month’ without further specification means (if it is defective) twenty-nine days and not twenty-nine and a half, which is the real interval between one new moon and the next.

(21) Num. XI, 20. E.V. ‘a full month’.

(22) V. Nazir, Sonc. ed. p. 20 notes.

(23) And so with the wood for the priests, since none of these things can be done on Sabbath. The same, however, cannot be said of the Megillah, the purpose of which is to serve as a reminder.

(24) עֹולת ראייה A burnt-offering which was brought to fulfil the injunction of ‘they shall not appear before the Lord empty, (Deut. XVI, 16). This was regarded as obligatory.

(25) I.e., even if the first day is not a Sabbath, and a

(26) V. Bez. 19a.

(27) I.e., the whole seven days of Passover or Tabernacles.

(28) Lit., ‘he is not responsible for it’.

(29) [So MS.M.; cur. ed. ‘The festival sacrifice and all the period of the festival sacrifice’.]

(30) Beth Hillel differed from Beth Shammai in the case where Pentecost fell on Friday, but in this case they also agreed that both the festival sacrifice (hagigah) and the ‘burnt-offering of appearance’ could be killed after the festival, since they could not be offered on Sabbath. V. Hag. 17a.

Talmud - Mas. Megilah 5b

and bathed in the [bathhouse of the] marketplace[1] of Sepphoris on the seventeenth of Tammuz[2] and sought to abolish the fast of the ninth of Ab, but his colleagues would not consent. R. Abba b. Zabda ventured to remark:[3] Rabbi, this was not the case. What happened was that the fast of Ab [on that year] fell on Sabbath, and they postponed it till after Sabbath, and he said to them, Since it has been postponed, let it be postponed altogether, but the Sages would not agree. He

festival peace-sacrifice (hagigah) may be brought, this offering is not brought till the intermediate days. [R. ELeazar] thereupon applied to himself the verse, Better are two than one.[4]

But how could Rabbi have planted a shoot on Purim seeing that R. Joseph has learnt: [We read in connection with Purim] gladness and feasting and a good day;[5] ‘gladness’: this teaches that it is forbidden on these days to mourn; ‘feasting’: this teaches that it is forbidden on them to fast; ‘a good day’: this teaches that it is forbidden on them to do work? — The fact is that Rabbi belonged to a place which kept Purim on the fourteenth, and when he planted, it was on the fifteenth. Is this so?[6] Was not Rabbi in Tiberias, and Tiberias was walled in the days of Joshua son of Nun? — The fact is that Rabbi was in a place which kept on the fifteenth, and when he planted it was the fourteenth. But was he certain that Tiberias was walled in the days of Joshua son of Nun, seeing that Hezekiah read the Megillah in Tiberias both on the fourteenth and on the fifteenth, being uncertain whether it had been walled in the days of Joshua son of Nun or not? Hezekiah was in doubt, but Rabbi was certain. But even supposing he was certain, was he permitted to do this, seeing that it is written in Megillath Ta'anith,[7] 'The fourteenth day and the fifteenth day are the days of Purim on which there is to be no mourning', and Raba said, The only purpose of mentioning these days [in Megillath Ta'anith][8] was to make whatever is forbidden on the one forbidden on the other also? — This applies only to mourning and fasting, but for abstention from work one day and no more is prescribed. Is that so? Did not Rab see a man sowing flax on Purim, and curse him, so that the flax did not grow? — There he [the man] was doing it on the day which he ought to have kept. Rabbah the son of Raba said. You may even say [that Rabbi planted] on the day [which he ought to have kept]: [the Jews] bound themselves [in the days of Esther] to abstain from mourning and fasting, but not from work, since first it is written, 'gladness and feasting and a good day', but afterwards it is written, that they should make them days of feasting and gladness',[9] and 'a good day' is not mentioned. Why then did Rab curse that man? — It was a case of 'things which are permitted but others make a practice of abstaining from them'; but in Rabbi's place this[10] was not the practice. Or if you like I can say that they did in fact make a practice of this, and Rabbi planted a festive shoot, as we have learnt:[11] If these days[12] pass and they are still not answered, they abstain to a certain extent from business, from building and from planting, from betrothing and from marrying,[13] and a Tanna taught: 'Building' here means festive building; 'planting' means festive planting. What is festive building? If one builds a wedding residence for his son [on the occasion of his marriage]. What is a festive planting? If one plants a royal abarnaki.[14]

The text [above state]: 'Hezekiah read in Tiberias on the fourteenth and on the fifteenth, being doubtful whether it had been walled in the days of Joshua son of Nun or not'. But could he have been in doubt about Tiberias, seeing that it is written, And the fortified cities were Ziddim-zer and Hamath and Rakath and Kinnereth,[15] and it is generally agreed that Rakath is Tiberias? — The reason why he was doubtful was because one side is bounded by the lake.[16] If so, why was he in doubt? It certainly was not walled, as it has been taught : Which has a wall,[17] and not merely a fence of houses.[18] Round about:[19] this excludes Tiberias, the lake forming its wall'![20] In respect of the houses of a walled town he was not in doubt; where he was in doubt was in respect of reading the Megillah. [He asked]: What constitutes the difference between villages and walled towns which are mentioned in connection with the reading of the Megillah? Is it that the former are exposed and the latter are not exposed, [in which case] Tiberias [belongs to the former] being also exposed, or is it that the latter are protected and the former are not protected, [in which case] Tiberias [belongs to the latter], being protected? That was why he was in doubt.

R. Assi read the Megillah in Huzal[21] on the fourteenth and on the fifteenth, being in doubt whether it had been walled in the days of Joshua son of Nun or not. According to another report, R. Assi said: Huzal of the house of Benjamin was walled in the days of Joshua son of Nun.

R. Johanan said: When I was a boy, I made a statement about which I afterwards questioned the old men,

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(1) Heb. קרונה, a place where wagons were stationed on market.day (Rashi). [Alter: 'spring' from Gk. **. V. Aruch and Krauss T.A. 1. 212.]

(2) One of the four public fasts. V. R. H. 18.

(3) Lit., 'said in his (R. Eleazar's) presence'.

(4) Eccl. IV, 9. He was glad to be corrected.

(5) Esth. IX, 19.

(6) This is not so

(7) V. Glos.

(8) We know already from the Scripture that ‘mourning is forbidden on these days.

(9) Esth. IX, 22

(10) To abstain from work.

(11) That there is a planting of a festive kind.

(12) Of fasting for rain.

(13) V. Ta'an 12b.

(14) The correct form according to Levy and Jast. is achvarnaki, a Persian word for a spreading tree in a garden under which banquets could be held.

(15) Josh. XIX, 35.

(16) Of Galilee. Rakath therefore was not fortified on this side, and the question arises whether it should be accounted a ‘walled city’ for religious purposes.

(17) Lev. XXV, 30. In a town with a wall houses could be sold permanently.

(18) Lit., ‘wall of roofs’, though this is also a barricade.

(19) Ibid. 31.

(20) I.e., the lake being where the wall ought to be.

(21) [In Babylonia between Nehardea and Sura. It was called ‘of the House of Benjamin’ (v. infra) probably because its early settlers hailed from Benjamin (v. Obermeyer pp. 299ff). There was also a Huzal in Palestine. V. Keth., Sonc. ed. p. 716, n. 7.]

Talmud - Mas. Megilah 6a

and it was found that I was right: [I said:] Hamath is Tiberias. And why was it called Hamath? On account of the hot springs [hamme] of Tiberias. Rakath is Sepphoris, And why was it called Rakath? Because it slopes down like the bank [raktha] of a river. Kinnereth is Gennesaret. And why was it called Kinnereth? Because its fruits are sweet like the music of a harp [kinnor].[1] Raba said: Is there anyone who can maintain that Rakath is not Tiberias, seeing that when a man dies here [in Babylonia] they mourn for him there [in Tiberias] as follows: ‘Great was he in Sheshach[2] and he has a name in Rakath’,[3] and when the coffin is taken there they mourn for him thus: ‘Ye lovers of the remnants,[4] dwellers in Rakath, go forth and receive the slaughtered of the depths’.[5] When R. Zera departed, a certain mourner opened his dirge thus: ‘The land of Shinar[6] conceived and bore him, the beauteous land[7] brought up her delight. Woe to me, saith Rakath, for her precious instrument is lost’![8] No, said Raba. Hamath is the hot springs of Gerar; Rakath is Tiberias; and Kinnereth is Gennesaret. Why is it called Rakath? Because even the least worthy[9] of its inhabitants are full of religious performances like a pomegranate. R. Jeremiah said: Rakath is its proper name. And why is it called Tiberias? Because it is situated in the very centre[10] of the land of Israel. Rabbah said: Rakath is its name. And why is it called Tiberias? Because its aspect is good.[11]

Zeira said: Kitron is Sepphoris. And why is it called Sepphoris? Because it is perched on the top of a mountain like a bird [zippor]. But is Kitron Sepphoris? Now Kitron was in the territory of Zebulun, as it is written, Zebulun drove not out the inhabitants of Kitron nor the inhabitants of Nahalol.[12] Now Zebulun complained of his portion, as it says, Zebulun was a people which shamed his soul to death.[13] Why? Because Naphtali was on the high places of the field.[14] Zebulun complained to the Holy One, blessed be he, saying: Sovereign of the Universe, to my brethren Thou hast given fields and vineyards and to me Thou hast given hills and mountains; to my brethren Thou hast given lands, and to me Thou hast given lakes and rivers. [God] replied: They will all require thee for the hilazon,[15] as it says, and the hidden treasures of the sand,[16] and R. Joseph learnt: ‘Hidden’ indicates the hilazon; ‘treasures’ indicates the tunny fish;[17] ‘sand’ indicates white glass.[18] Zebulun then said: Sovereign of the Universe, who will inform me?[19] He replied: There they shall offer sacrifices of righteousness.[20] This shall be thy sign: whoever takes of thee without payment will not prosper in his business. Now if you assume that Kitron is Sepphoris, why did Zebulun complain of his portion, seeing that Sepphoris is an excellent spot? Nor can you say that it is not ‘flowing with milk and honey’. For Resh Lakish has said: I have myself seen the trail of milk and honey[21] round Sepphoris, and it is sixteen miles by sixteen miles. Nor can you say that [even so] his is not as good as his brothers, since Rabbah b. Bar Hanah said in the name of R. Johanan: I have myself seen the trail of milk and honey of the whole land of Israel, and it extends [altogether] about as far as from Be Kubi[22] to the Fort of Tulbanke, twenty-two parasangs in length and six parasangs in breadth?[23] Even so, he preferred fields and vineyards. This is also indicated by the language of the text, as it says, 'Naphtali upon the high places of the field'. This is a proof.

R. Abbahu said: [It is written], Ekron shall be rooted up;[24] this is Kisri the daughter of Edom,[25] which is situated among the sands, and which was a thorn in the side of Israel[26] in the days of the Greeks. When the House of the Hasmoneans grew powerful and conquered them, they called it 'the capture of the tower of Shir'.[27]

R. Jose b. Hanina said: What is meant by the text, And I will take away his blood out of his mouth and his detestable things from between his teeth, and he also shall be a remnant for our God?[28] 'And I will take away his blood out of his mouth': this refers to their sacrificial shrines.[29] 'And his detestable things from between his teeth': this refers to their oracles.[30] 'And he also shall be a remnant for our God': these are the synagogues and houses of learning in Edom.[31] And he shall be as a chief in Judah, and Ekron as a Jebusite:[32] these are the theatres and circuses[33] in Edom in which one day the chieftains of Judah shall publicly teach the Torah. R. Isaac said: Leshem is Pamias.[34] Ekron shall be rooted out: this is Caesarea, the daughter of Edom, which was a metropolis[35] of kings. Some say that this means that kings were brought up there, and others that kings were appointed from there. Caesarea[36] and Jerusalem [are rivals]. If one says to you that both are destroyed, do not believe him; if he says that both are flourishing, do not believe him; if he says that Caesarea is waste and Jerusalem is flourishing, or that Jerusalem is waste and Caesarea is flourishing, you may believe him, as it says, I shall be filled, she is laid waste;[37] if this one is filled, that one is laid waste, and if that one is filled, this one is laid waste. R. Nahman b. Isaac derived the same lesson from here: and the one people shall be stronger than the other people.[38] R. Isaac also said: What is the meaning of the verse, Let favour be shown to the wicked, yet will he not learn righteousness?[39] Isaac said in the presence of the Holy One, blessed be He: Sovereign of the Universe, let mercy be shown to Esau. He replied: He is wicked. He said to Him; He has not learnt righteousness.[40] He replied: In the land of uprightness[41] will he deal wrongfully.[42] He said: If so, let him not behold the majesty of the Lord.[42]

R. Isaac also said: What is meant by the verse, Grant not, O Lord, the desires of the wicked, draw not out his bit,[43] so that they exalt themselves, selah?[44] Jacob said before the Holy One, blessed be He: Sovereign of the Universe, grant not to Esau the wicked the desire of his heart, draw not out his bit:

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(1) A more probable reason is that Kinnereth is shaped like a harp.

(2) A name given to Babylon in Jer. XXV, 26; LI, 41.

(3) Tiberias was for many centuries a great centre of Jewish learning, especially in the field of Biblical study.

(4) שרידים 'left', 'escaped'. A name given to Israel, after Jer. XXXI, 1.

(5) Babylon, so called because it was low-lying.

(6) Babylonia.

(7) The land of Israel, so called after Dan. XI, 16.

(8) Which shows that all are agreed that Rakath is Tiberias.

(9) Heb. rekanin, lit., 'empty ones'.

(10) Heb. tibbur, lit., 'navel'.

(11) Heb. Tobah Re'Iathah.

(12) Jud. I, 30.

(13) Ibid. V, 18. E.V. jeopardised their lives to the death'.

(14) Ibid.

(15) A small shell-fish from which was extracted the purple colour used for the fringes.

(16) Deut. XXXIII, 19.

(17) Much used for salting or pickling and an important article of commerce in ancient Palestine.

(18) Which was made from the sand of Zebulun. [This was a source of wealth owing to the difficulty of the process for producing colourless glass among the ancients. V. Krauss T.A. II, 286.]

(19) If they are cheating me.

(20) Ibid.

(21) Left by the goats after eating dates.

(22) [Near Pumbeditha. The parallel passage (Keth. 112a) has Be Mikse (cf. also בי כמי in MS.M. a.l.). On the geographical names v. Keth., Sonc. ed. p. 724 notes.]

(23) As a parasang was four miles, this would be about eight times the extent of Zebulun's trail.

(24) Zeph. II, 4.

(25) [Caesarea by the Sea is designated ‘the daughter of Edom’ because it was an outpost of the Roman Empire, Edom being in Rabbinic literature the prototype of Imperial Rome.]

(26) Lit. ‘a peg driven into Israel’.

(27) This seems to be a mistake for Zor (Tyre) which is the reading of MS.M. The Aruk reads Shed, lit., ‘demons’. [The reference is probably to the conquest of Caesarea by Alexander Jannaeus, v. Josephus Ant. XIII, 15, n. Cf. also Meg. Ta'an. III. The old name of Caesarea was Strato's Tower, after the Phoenician king Strato, its founder. The reading ‘shed’(demon) contains perhaps at allusion to the worship of Astarte by the original inhabitants. On the other readings v. Hildesheimer, H. Beitrage z. Geographie Palastinas, pp. 4ff]

(28) Zech. IX, 7.

(29) Beth Bamya. Lit., ‘house of high places’.

(30) Beth Galya. Lit., ‘house of revelation’. [These terms are taken by others as names of idolatrous shrines, the former being identified with Dajr al Banat and the latter with Bait Galia, both in the neighbourhood of Bethlehem. V. Horowitz S. Palestine, pp. 126 and 129.]

(31) I.e., the Roman Empire.

(32) Zech. IX, 7.

(33) Where the Roman Games took place.

(34) More correctly Panias, Caesarea Philippi, the modern Banias, a place near the source of the Jordan.

(35) This may mean either that it was a capital of Palestine or that some of its Roman Governors became Emperors.

(36) Probably Rome is meant.

(37) Ezek. XXVI, 2, of Tyre and Jerusalem.

(38) Gen. XXV, 23.

(39) Isa. XXVI,10.

(40) Rashi renders: ‘Can not one find a plea on his behalf’.

(41) I.e., the land of Israel.

(42) Ibid.

(43) E.V., ‘further not his evil device’.

(44) Ps, CXL, 9.

Talmud - Mas. Megilah 6b

this refers to Germamia of Edom,[1] for should they but go forth they would destroy the whole world. R. Hama b. Hanina said: There are three hundred crowned heads in Germamia of Edom and three hundred and sixty-five chieftains in Rome,[2] and every day one set go forth to meet the other and one of them is killed, and they have all the trouble of appointing a king again.

R. Isaac also said: If a man says to you, I have laboured and not found, do not believe him. If he says, I have not laboured but still have found, do not believe him. If he says,I have laboured and found, you may believe him. This is true in respect of words of Torah,[3] but in respect of business, all depends on the assistance of heaven. And even for words of Torah this is true only of penetrating to the meaning,[4] but for remembering what one has learnt, all depends on the assistance of heaven.

R. Isaac also said: If you see a wicked man being favoured by fortune,[5] do not contend with him, as it says, Do not contend with evildoers.[6] Nor is this all, but he may even prosper in his undertakings, as it says, His ways prosper at all times.[7] Nor is this all, but he may even be declared right, as it says, Thy judgments are far above out of his sight.[8] Nor is this all, but he may even triumph over his enemies, as it says, As for all his adversaries, he puffeth at them.[8] Is this so? Has not R. Johanan said in the name of R. Simeon b. Yohai: It is permitted to contend with the wicked in this world, as it says, They that forsake the law praise the wicked, but such as keep the law contend with them.[9] Also it has been taught: R. Dosethai b. Mathon says: It is permitted to contend with the wicked in this world. And if one should whisper to you saying, [As for the text] Do not contend with evildoers, neither be thou envious against them that work unrighteousness, one whose conscience smites him speaks thus, and the meaning is, Do not contend with the evildoer to be like evildoers, neither be envious of such as work unrighteousness; and so it says also, Let not thy heart envy sinners?[10] — There is no contradiction; the one [piece of advice] refers to one's own affairs the other to religious matters.[11] Or if you like I may say that both refer to one's own affairs, and still there is no contradiction: the one is addressed to a man who is wholly righteous, and the other to one who is not wholly righteous,[12] as R. Huna said: What is the meaning of the verse, Wherefore lookest thou when they deal treacherously, and holdest thy peace when the wicked swalloweth up the man that is more righteous than he?[13] He can swallow up one that is more righteous than himself, he cannot swallow up one that is completely righteous. Or if you like I can say that when fortune is smiling on him, the case is different.

‘Ulla said: ‘Greek Italy’[14] is the great city of Rome,[15] which covers an area of three hundred parasangs by three hundred. It has three hundred markets corresponding to the number of days of the solar year. The smallest of them is that of the poultry sellers, which is sixteen mil by sixteen. The king dines every day in one of them. Everyone who resides in the city, even if he was not born there, receives a regular portion of food from the king's household,[16] and so does everyone who was born there, even if he does not reside there. There are three thousand baths in it, and five hundred windows the smoke from which goes outside the wall.[17] One side of it is bounded by the sea, one side by hills and mountains, one side by a barrier of iron, and one side by pebbly ground and swamp.[18]

MISHNAH. IF THE MEGILLAH HAS BEEN READ IN THE FIRST ADAR AND THE YEAR HAS SUBSEQUENTLY BEEN PROLONGED,[19] IT IS READ AGAIN IN THE SECOND ADAR. THERE IS NO DIFFERENCE BETWEEN THE FIRST ADAR AND THE SECOND ADAR SAVE ONLY IN THE READING OF THE MEGILLAH AND THE DISTRIBUTION OF GIFTS TO THE POOR.[20]

GEMARA. This [last statement] implies that in respect of the series of special portions[21] they are on the same footing.[22] Which authority does the Mishnah follow? [It would seem], neither the First Tanna nor R. Eliezer son of R. Jose nor R. Simon b. Gamaliel [in the following Baraitha], as it has been taught: ‘If the Megillah has been read in the first Adar and the year has then been prolonged,it is read in the second Adar, since all the precepts which are to be performed in the second Adar can be performed in the first,[23] except the reading of the Megillah’. R. Eliezer son of R. Jose says that it is not to be read [again] in the second Adar, because all precepts that are to be performed in the second Adar may be performed in the first. R. Simon b. Gamaliel says in the name of R. Jose that it is to be read again in the second, because precepts which are to be performed in the second Adar may not be performed in the first. They all however agree in regard to mourning and fasting, that they are forbidden on [the fourteenth and fifteenth of] both. Does not R. Simon b. Gamaliel here repeat the First Tanna? — R. Papa replied: They differ on the question of the series of special portions — the First Tanna holding that these should in the first instance be read in the second [Adar], but if they have been read in the first, this suffices. [But he also] excludes from this ruling the reading of the Megillah, [holding that], even though it has been read in the first [Adar], it must be read again in the second. R. Eliezer son of R. Jose on the other hand held that even the Megillah may in the first instance be read in the first [Adar], and R. Simon b. Gamaliel held that even the series of special portions, if they have been read in the first [Adar], must be read again in the second. Which authority then [does our Mishnah follow]? If [you say] the First Tanna, there is the difficulty of gifts.[24] If [you say] R. Eliezer son of R. Jose, there is the difficulty of the reading of the Megillah also. If [you say] R. Simon b. Gamaliel, there is the difficulty of the series of special portions! — In fact it is the First Tanna, and when he mentioned the reading of the Megillah, we suppose the same to apply to the gifts of the poor, since one depends on the other. Or if you like, I can say that in fact it is R. Simon b. Gamaliel, and there is an omission[25] in our Mishnah and what it means is this: 'There is no difference between the fourteenth of the first Adar and the fourteenth of the second Adar save in the matter of reading the Megillah and gifts to the poor'. from which we infer that in regard to mourning and fasting they are on the same footing, while in regard to the special portions no ruling is given.[26] R. Hiyya b. Abin said in the name of R. Johanan: The halachah[27] is as laid down by R. Simon b. Gamaliel, who gave it in the name of R. Jose. R. Johanan said: Both of them [R. Simon and R. Eliezer son of R. Jose] based their opinions on the same text, in every year.[28] R. Eliezer son of Jose reasoned: 'In every year'; just as in most years [we think of] Adar as the month which adjoins Shebat, so here [we keep the precepts] in the Adar which adjoins Shebat. R. Simon b. Gamaliel again reasoned: Just as in most years [we think of] Adar as adjoining Nisan, so here [we keep the precepts] in the Adar which adjoins Nisan. Now we understand R. Eliezer son of R. Jose taking the view he did, because it is inherently probable, it being a rule that we do not postpone the performance of religious precepts.[29] But what is the reason of R. Simon b. Gamaliel? — R. Tabi said: The reason of R. Simon b. Gamaliel is that more weight is to be attached to bringing one period of redemption close to another.[30] R. Eleazar said: The reason of R. Simon b. Gamaliel is derived from this verse: to confirm this second letter of Purim.[31] And it was necessary for the text to write

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(1) There was another Germamia which was probably the land of the Cimmerians. [Rieger, P. (MGWJ. LXXX, p. 455) identifies it with Carminia, the Persian Kerman.]

(2) This word seems to be an interpolation.

(3) I.e., of the effort to gain enlightenment from the Torah.

(4) Lit,, 'sharpening' (the understanding).

(5) Lit., 'on whom the hour smiles'.

(6) Ps. XXXVII, 1. E.V. 'fret not thyself because of evildoers'.

(7) Ps. X, 5.

(8) Ibid.

(9) Prov. XXVIII,4.

(10) Prov. XXIII, 17. R. Johanan and R. Dosethai say that it is not permissive to contend with the wicked, which contradicts R. Isaac.

(11) In regard to which it is permissible to contend with the wicked.

(12) For whom it is not safe to contend with the wicked.

(13) Hab. I, 13.

(14) 'Ulla probably had in mind the saying quoted in the Midrash of Cant. that when Jeroboam made the golden calf (according to another version, when Manasseh brought the image into the Temple), the angel Gabriel stuck a pole in the sea, and a dry place was formed on which subsequently Rome was built.

(15) [home is so designated on account of the great influence of the Greek civilization on the Roman, v. Bacher, REJ, XXXIII, p. 190.]

(16) [Alluding to the regular distribution of corn and money in Rome.]

(17) The windows being higher than the wall of the city. Another reading is: 'Each one of them has five hundred windows, the smoke, etc.' [The allusion is to the famous thermal baths constructed by Diocletian (284-304).]

(18) [The reference is respectively to the Tiber, the wall erected by the Emperor Aurelius (271-276) and to the Ostian Marshes (stagno di ostia). For the other allusions in this hyerbolic description of Rome, v. Bacher, op. cit. pp. 190ff.]

(19) By the intercalation of a second Adar.

(20) This statement is immediately discussed in the Gemara.

(21) The special portions of Shekalim (Ex. XXX, 11-16), Zakor (Deut. XXV, 17-19), Parah (Num. XIX, 1-22) and ha-Hodesh (Ex. XII, 1-20) read in the synagogue between the Sabbath preceding the first of Adar and the first of Nisan. V. infra 29a.

(22) I.e., if they had been read in the first of Adar and the year is then proclaimed a leap year, they need not be read again in the second.

(23) I.e., if they have been performed in the first and the year is then prolonged, they need not be performed again.

(24) Since, as he does not mention gifts, we presume that he allows these to be made in the first Adar.

(25) These words are out of place here and seem not to have been read by Rashi. If we omit them we translate: ‘and the meaning of the Mishnah is as follows’. The omission in fact, as will be seen, is not in the Mishnah but in the Gemara which immediately follows it.

(26) It is this last clause which was omitted from the Gemara above.

(27) [הלכה So MSS.; cur. edd. הקכתא.]

(28) Esth. IX, 27.

(29) I.e., we perform them at the first opportunity, even though it is also permissible to perform them later.

(30) Viz., Purim to Passover.

(31) Ibid. 29.

Talmud - Mas. Megilah 7a

‘the second’ and also to write ‘in every year’. For if I had to base the rule on ‘every year’, I could raise the difficulty stated above: therefore it is written ‘second’.[1] And if I had been told only ‘second’, I might say that the Megillah is properly to be read both in the first and in the second. Therefore it says, in every year.[2] And what does R. Eliezer son of R. Jose make of this second’? — He requires it for the statement enunciated by R. Samuel b. Judah. For R. Samuel b. Judah said: At first they [Mordecai and Esther] decreed the observance of Purim only in Susa, but afterwards[3] throughout the world.

R. Samuel b. Judah said: Esther sent to the Wise Men saying, Commemorate me[4] for future generations. They replied, You will incite the ill will of the nations against us.[5] She sent back reply: I am already recorded in the chronicles of the kings of Media and Persia. Rab and R. Hanina and R. Johanan and R. Habiba record [the above statement in this form]: (in the whole of the Order Mo'ed, wherever this set of Rabbis is mentioned, R. Johanan is replaced by R. Jonathan):[6] Esther sent to the Wise Men saying, Write an account of me for posterity. They sent back answer, Have I not written for thee three times[7] — three times and not four?[8] [And they refused] until they found a verse written in the Torah, Write this a memorial in a book,[9] [which they expounded as follows]: ‘Write this’, namely, what is written here and in Deuteronomy;[10] ‘for a memorial’, namely, what is written in the Prophets;[11] ‘in a book’, namely, what is written in the Megillah. The difference [between the first and second of these opinions] is also found between two Tannaim. ‘Write this’, what is written here.[12] ‘For a memorial’, namely, what is written in Deuteronomy. ‘In a book’, namely, what is written in the Prophets. So R. Joshua.[13] R. Eliezer of Modi'im says: Write this’, namely, what is written here and in Deuteronomy; for a memorial’, namely, what is written in the Prophets; ‘in a book’, namely, what is written in the Megillah.

Rab Judah said in the name of Samuel; [The scroll] of Esther does not make the hands unclean.[14] Are we to infer from this that Samuel was of opinion that Esther was not composed[15] under the inspiration of the holy spirit? How can this be, Seeing that Samuel has said that Esther was composed under the inspiration of the holy spirit? — It was composed to be recited [by heart], but not to be written. The following objection was raised: ‘R. Meir says that [the scroll of] Koheleth[16] does not render the hands unclean, and that about the Song of Songs there is a difference of opinion. R. Jose says that the Song of Songs renders the hands unclean, and about Koheleth there is a difference of opinion. R. Simeon says that Koheleth is one of those matters in regard to which Beth Shammai were more lenient and Beth Hillel more stringent, but Ruth and the Song of Songs and

Esther [certainly] make the hands unclean'! — Samuel concurred with R. Joshua.[17]

It has been taught: R. Simeon b. Menasia said: Koheleth does not render the hands unclean because it contains only the wisdom of Solomon.[18] They said to him], Was this then all that he composed? Is it not stated elsewhere, And he spoke three thousand proverbs,[19] and it further says, Add thou not unto his words.?[20] Why this further quotation? — In case you might object that he composed very much, and what it pleased him to write he wrote and what it did not please him he did not write. Therefore it says,[21] Add thou not to his words.[22]

It has been taught: R. Eleazar said: Esther was composed under the inspiration of the holy spirit, as it says, And Haman said in his heart.[23] R. Akiba says: Esther was composed under the inspiration of the holy spirit, as it says, And Esther obtained favour in the eyes of all that looked upon her.[24] R. Meir says: Esther was composed under the inspiration of the holy spirit, as it says, And the thing became known to Mordecai.[25] R.Jose b. Durmaskith said: Esther was composed under the inspiration of the holy spirit, as it says, But on the spoil they laid not their hands,[26] Said Samuel: Had I been there,[27] I would have given a proof superior to all, namely, that it says, They confirmed and took upon them,[28] [which means] they confirmed above[29] what they took upon themselves below. Raba said: All the proofs can be confuted except that of Samuel, which cannot be confuted. [Thus,] against that of R. Eleazar it may be objected that it is reasonable to suppose that Haman would think so, because there was no one who was so high in the esteem of the king as he was, and that when he spoke at length,[30] he was only expressing the thought concerning himself. Against the proof of R. Akiba it may be objected that perhaps the fact is as stated by R. Eleazar, who said that these words show that to every man she appeared to belong to his own nation.[31] Against R. Meir it may be objected that perhaps the fact is as stated by R. Hiyya b. Abba who said that Bigthan and Teresh were two men from Tarsis.[32] Against the proof of R. Jose b. Durmaskith it may be objected that perhaps they[33] sent messengers. Against the proof of Samuel certainly no decisive objection can be brought. Said Rabina: This bears out the popular saying, Better is one grain of sharp pepper than a basket full of pumpkins. R. Joseph said: It[34] can be proved from here: And these days of Purim shall not fail from among the Jews.[35] R. Nahman b. Isaac said, From here: Nor the memorial of them perish from their seed.[36] .

AND GIFTS TO THE POOR. R. Joseph learnt: And sending portions one to another[37] that means two portions[38] for one man. And gifts to the poor[39] that means two gifts to two men.[40] R. Judah Nesi'ah[41] sent to R. Oshaia the leg of a third-born calf[42] and a barrel of wine. He sent him back word saying,

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(1) To show that it must be the Adar adjoining Nisan.

(2) To show that it is to be read only once even in leap years.

(3) By means of this second letter.

(4) Lit., 'fix me', by means of a book and a festival.

(5) Who will accuse the Jews of rejoicing at their downfall and celebrating it.

(6) This is evidently a gloss made by a later commentator.

(7) Prov. XXII, 20. (E. V. 'have I not written unto thee excellent things'.) The meaning is, Is not the war of Israel against Amalek mentioned three times in Scripture.

(8) The three times are (i) Ex. XVII, 8-16; (ii) Deut. XXV, 17-19; (iii) I Sam. XV.

(9) Ex. XVII, 14, referring to the war against Amalek.

(10) Which, being both in the Pentateuch, are counted as one.

(11) Viz., the Book of Samuel.

(12) In Ex. XVII.

(13) Who thus holds that the Megillah was not meant to be written.

(14) Like the scrolls of other books of the Scripture. V. Shab.14.

(15) Lit., 'said'.

(16) Ecclesiastes.
(17) That the Megillah was not meant to be written.
(18) And not inspired wisdom.
(19) I kings, V, 12. Since these were not written and Ecclesiastes was, we may conclude that the latter was inspired.
(20) Prov. XXX, 6.
(21) Lit., ‘come and hear’.
(22) Which shows that whatever he wrote down was inspired.
(23) Esth. VI, 6. How could the author know this if he was not inspired?
(24) Ibid. II, 15. Cf. previous note.
(25) Ibid. 22. Who revealed it to him if not the holy spirit?
(26) Ibid. IX, 10. Cf. note 8.
(27) among the Tannaim who discussed this matter.
(28) Ibid. 27.
(29) In heaven.
(30) ‘As for the man whom the king deligheth to honour’ etc.
(31) V. infra 13a.
(32) V. infra 13b.
(33) Those in the more distant parts.
(34) That Esther was written under the inspiration of the holy spirit.
(35) Esth. IX, 28.
(36) Ibid. R. Nahman prefers the second half of the verse, because the first half might refer only to that generation.
(37) Ibid. 22.
(38) The minimum number of ‘portions’ being two.
(39) Ibid.
(40) The minimum number of the plural אביונים ‘poor’ being two. Or it may mean that a gift is twice as big as a portion (Maharsha).
(41) R. Judah, the Prince II.
(42) So Rashi. Aliter: ‘a third grown’; ‘in the third year’ — which was supposed to be specially good.

Talmud - Mas. Megilah 7b

You have fulfilled in our person, O our teacher, the words, and sending portions one to another.[1] Rabbah sent to Mari b. Mar by Abaye a sackful of dates and a cupful of roasted ears of corn. Said Abaye to him: Mari will now say, ‘If a countryman becomes a king, he does not take his basket off his neck’.[2] The other [Mari] sent him [Rabbah] back a sackful of ginger and a cup full of long-stalked pepper. Said Abaye: Now the Master [Rabbah] will say, I sent him sweet and he sends me bitter. Abaye said: When I went out of the Master's [Rabbah's] house, I was already full, but when I reached the other place[3] they set before me sixty dishes of sixty different preparations, and I had sixty pieces from them. The last preparation was called pot-roast, and [I liked it so much that] I wanted to lick the dish after it. Said Abaye: This bears out the popular saying, The poor man is hungry and does not know it,[4] or the other saying, There is always room for sweet things. Abaye b. Abin and R. Hananiah b. Abin used to exchange their meals with one another.[5]

Raba said: It is the duty of a man to mellow himself [with wine] on Purim until he cannot tell the difference between cursed be Haman’ and ‘blessed be Mordecai’.[6]

Rabbah and R. Zera joined together in a Purim feast. They became mellow, and Rabbah arose and cut R. Zera's throat.[7] On the next day he prayed on his behalf and revived him. Next year he said, Will your honour come and we will have the Purim feast together. He replied: A miracle does not take place on every occasion. Raba said: If one eats his Purim feast on the night [of the fourteenth], he does not thereby fulfil his obligation. What is the reason? It is written, days of feasting and gladness.[8] R. Ashi was sitting before R. Kahana. It grew late, and still the Rabbis did not arrive. He said to him, Why have not the Rabbis come? Perhaps they are busy with the Purim feast. He said to him: Could they not have had it last night? He replied: Is your honour not acquainted with the diction of Raba, 'If one eats his Purim feast on the night [of the fourteenth], he does not thereby fulfil his obligation'? He said to him; Did Raba really say so? (He replied Yes).[9] He then repeated it after him forty times, until he had safely stored it in his mind.[10]

MISHNAH. THERE IS NO DIFFERENCE BETWEEN FESTIVALS AND SABBATH SAVE ONLY IN THE MATTER OF [PREPARING] FOOD.[11]

GEMARA . We can infer from this that in the matter of preliminaries for preparing food[12] they are on the same footing. The Mishnah then does not agree with R. Judah, as it has been taught: 'There is no difference between festivals and Sabbath save in the matter of [preparing] food'. R. Judah, however, permits [on the festivals] the preliminaries for preparing food.[12] What is the reason of the First Tanna? The Scripture says: [Save that which every man must eat], that only [shall be prepared]:[13] that and not its preliminaries. R. Judah, on the other hand, stresses the word for you:[14] for you, which means, for all your requirements. Why then does not the other also admit this, seeing that it is written, 'for you'? — [This, he says, means], 'for you' and not for non-Jews; 'for you' and not for dogs. And [why does not] the other [adopt this view], seeing that it is written, 'that only'? [He replies]: It is written, 'that only', and it is written, 'for you'; we apply the one to preliminaries which can be attended to on the day before the festival, and the other to preliminaries which cannot be attended to on the day before the festival.

MISHNAH. THERE IS NO DIFFERENCE BETWEEN SABBATH AND THE DAY OF ATONEMENT SAVE ONLY THAT THE DELIBERATE VIOLATION OF THE ONE IS PUNISHED BY A HUMAN COURT AND THE DELIBERATE VIOLATION OF THE OTHER BY KARETH.[15]

GEMARA. It is to be inferred from this that in respect of compensation[16] they are on the same footing. Whose view does the Mishnah follow? — That of R. Nehunia b. ha-Kaneh, as it has been taught: R. Nehunia b. ha-Kaneh used to put the Day of Atonement on the same footing as Sabbath in respect of compensation: just as [one who deliberately breaks] Sabbath forfeits his life but is released from the obligation to make compensation,[17] so [one who deliberately breaks] the Day of Atonement forfeits his life but is released from the obligation to make compensation.

We have learnt elsewhere: If any who have incurred the penalty of kareth are flogged — they become quit of their kareth, as it says, Then thy brother should be dishonoured in thine eyes;[18] once he has been flogged, he is like thy brother.[19] So R. Hananiah b. Gamaliel. Said R. Johanan: The colleagues of R. Hananiah b. Gamaliel joined issue with him on this point. Raba said, They said in the school of Rab: We have [also] learnt [this]:[20] There is no difference between the Day of Atonement and Sabbath save that he who breaks the one is punished by a human court, while he who breaks the other is punished with kareth. Now if [R. Hananiah's opinion] is correct, then both are punished by the human court?[21] — R. Nahman replied: Whose view is this?[22] That of R. Isaac, who said that lashes are never inflicted on those who have incurred kareth, as it has been taught: Those who have incurred kareth are included in the general statement.[23] Why then is kareth specially mentioned in the case of [one who lies with] his sister?[24] To show that she is punished with kareth and not with lashes.[25] R. Ashi said: You may even say that it[26] is the view of the Rabbis:[27] in the case of the one [the breaker of Sabbath], the essential [punishment for] his presumption is inflicted by the human court, but in the case of the other, the essential punishment for his presumption consists in 'being cut off'.[28]

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(1) [Cur. ed. add: and 'gifts to the poor'].

(2) As much as to say, Although you have become head of the Academy (in Pumbeditha), you send very ordinary gifts.

(3) The house of Mari.
(4) Till the food is actually set before him.
(5) According to Rashi, this means that one provided the feast one year and the other the next. More naturally it could mean that they sent their meals to one another and thereby fulfilled the obligation of ‘sending portions to one another’ (Maharsha).
(6) [The two phases have the same numerical value, 502.]
(7) Apparently without actually killing them But cf. Maharsha.
(8) Esth. IX, 22.
(9) These words are bracketed in the text.
(10) Lit., ‘and he was (then) like one who had put it in his purse’.
(11) Lit., ‘food of the person’. I.e., that food for the day may be cooked on festivals but not on Sabbath.
(12) E.g., the sharpening of a knife.
(13) Ex. XII, 16; relating to the Passover.
(14) Ibid.
(15) I.e., by the hand of heaven. V. Lev. XXIII, 30 and Glos.
(16) For damage done by the act of transgression.
(17) The lesser penalty being merged in the larger penalty.
(18) Deut. XXV, 3.
(19) Which shows that he is not ‘cut off’.
(20) That there is a difference of opinion.
(21) And the one who is flogged for breaking Yom Kippur becomes quit of kareth.
(22) That of our Mishnah. (9) And not of the colleagues of R. Hananiah.
(23) Of the punishment for incest. Lev. XVIII, 29.
(24) In Lev. XX, 17.
(25) And the same applies to all other cases punishable by kareth. V. Mak. 13b.
(26) Our Mishnah.
(27) And still there is no difference between them and R. Hananiah.
(28) הכרת cf. Num. XV, 31; though lashes may also be inflicted.

Talmud - Mas. Megilah 8a

MISHNAH.THERE IS NO DIFFERENCE BETWEEN ONE WHO IS INTERDICTED BY VOW TO HAVE NO BENEFIT FROM HIS NEIGHBOUR AND ONE WHO IS INTERDICTED BY VOW FROM HIS FOOD, SAVE IN THE MATTER OF SETTING FOOT [ON HIS PROPERTY] AND OF UTENSILS WHICH ARE NOT USED FOR [PREPARING] FOOD.[1]

GEMARA. It is to be inferred from this that in the matter of utensils which are used for preparing food they are on the same footing.

SETTING FOOT. But people are not particular about this?[2] — Raba said: Whose view is this? R. Eleazar's, who said that [even] a thing which is usually excused[3] is forbidden to one who vows to have no benefit.

MISHNAH. THERE IS NO DIFFERENCE BETWEEN VOWS AND FREEWILL-OFFERINGS SAVE THAT VOWED OFFERINGS HAVE TO BE REPLACED[4] BUT FREEWILL-OFFERINGS NEED NOT BE REPLACED.

GEMARA. It is to be inferred from this that in respect of ‘not delaying’[5] they are on the same footing.

We have learnt in another place: What is a vow? Where a man says, I take upon me the obligation to bring a burnt-offering. What is a freewill-offering? Where a man says, Behold this is [to be] a burnt-offering. What then is the [practical] difference between vows and freewill-offerings? — If vowed animals die or are stolen or lost, the one who offered is under obligation to replace them;[6] if freewill-offerings die or are stolen or lost, he is not under obligation to replace them.[7] Whence is this rule derived? — As our Rabbis have taught: And it shall be accepted for him to make atonement upon him:[8] R. Simeon says: That which is 'upon him'[9] he is under obligation to replace.[10] How is it implied [that this substitute is upon him']? — R. Isaac b. Abdini replied: Since he has said '[I take] upon me', it is as if he had taken it upon his shoulder.

MISHNAH. THERE IS NO DIFFERENCE BETWEEN ONE SUFFERING FROM AN ISSUE WHO MAKES TWO OBSERVATIONS[11] AND ONE WHO MAKES THREE,[12] SAVE IN THE MATTER OF BRINGING A SACRIFICE.[13]

GEMARA. From this it is to be inferred that in the matter of [defiling] a bed or a seat[14] and counting seven days[15] they are on the same footing. Whence is this rule derived? — As our Rabbis have taught: 'R. Simai says: The text specified two [observations][16] and designated the man as unclean, and also specified three[17] and designated him as unclean'. How do we explain this? Two bring uncleanness but do not entail a sacrifice, three entail a sacrifice. But cannot I say that two bring uncleanness but do not entail a sacrifice, while three entail a sacrifice but no uncleanness?[18] — To this you may answer that before he has three observations he must have two.[19] Let me say then that two observations entail a sacrifice but not uncleanness,[18] whereas three bring uncleanness also? — Do not imagine such a thing, since it has been taught: And the priest shall make atonement for him before the Lord from his issue;[20] this implies that some persons with an issue bring a sacrifice and some do not.[21] How is this? if he has three observations, he brings a sacrifice, if only two, he does not bring. Or shall we expound differently and say that if he has two he brings the sacrifice, but if three he does not? — You can reply to this that before he has three he must have had two.[22] And both the exposition of R. Simai and the text 'from his issue' are necessary [to prove this point]. For if I had only the dictum of R. Simai, I could raise against it the objection mentioned, and therefore l have recourse to 'from his issue'. And if I had only 'from his issue', I should not know how many observations [are necessary for a sacrifice]; therefore I have the dictum of R. Simai.[23]

Now, however, that you have assumed that the words 'from his issue are to be used for a special exposition,[24] [I may ask], what lesson do you derive front the words and when he that hath an issue is cleansed from his issue?[25] That is required for the following lesson, as it has been taught: 'And when he that hath an issue is cleansed': that is to say, when the issue ceases.[26] 'From his issue': that is to says from his issue [only], and not from both his issue and his leprosy.[27] 'Then he shall number': this teaches us that one with an issue who has had two observations must count seven days [without issue]. But cannot this be deduced logically [as follows]?[28] If he defiles bed and seat, shall he not [all the more] be required to count seven days?

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(1) The latter may take these liberties, the former may not.

(2) And therefore if one takes this liberty, he cannot be said to be deriving any benefit.

(3) ויתור Aliter: 'The (retailer's customary) addition (to exact measure)', and the accenting of which is not counted as receiving a benefit.

(4) Lit., one is responsible for them'. V. infra.

(5) To fulfil the undertaking, in accordance with Deut. XXIII, 22.

(6) Because the vow still stands.

(7) Because the undertaking applied only to that particular animal.

(8) So lit. E.V, 'for him'. Lev. I, 4.

(9) I.e.,the vow.

(10) Apparently R. Simeon renders: 'Any animal will be accepted so long as it is "upon him"'.

(11) On a single day or two successive days.

(12) On one day or three successive days or two on one day and one on the next.

(13) V. Lev. XV, 13-15.
(14) Ibid. 4-6.
(15) For his cleansing, after the cessation of the issue. Ibid.13.
(16) Lev. XV, 2: When a man hath an issue out of his flesh, his issue is unclean.
(17) Ibid. 3: And this shall be his uncleanness in his issue: whether his flesh run with his issue, or his flesh be stopped from his issue, it is his uncleanness,
(18) Viz., the stringent uncleanness of one with an issue (cf. nn. 3-4), but only the lighter uncleanness resulting from a discharge of semen. V. Deut. XXIII, 11-12.
(19) And is already unclean as a zab.
(20) Ibid. 15.
(21) The proposition ‘from’ is stressed, as implying only part of these who have an issue.
(22) And so already become liable for the sacrifice.
(23) To show that it is three.
(24) I.e.,for some lesson not contained in the literal meaning of the words.
(25) Ibid. 13.
(26) V. next note.
(27) If the one with an issue was also a leper, he need not wait for his counting till he is healed of his leprosy.
(28) And why therefore is a text required?

Talmud - Mas. Megilah 8b

— This argument can be confuted by the case of the woman who is keeping day for day,[1] for such a one defiles bed and seat[2] but does not count seven days. And thus do not be surprised that this one also, although he defiles bed and seat, should not be obliged to count seven days. Therefore it says, ‘from his issue, and he shall number’, which implies that after part of his issue[3] he shall number; this teache[2] with regard to one with an issue who has had two observations that he is required to count seven days.

R. Papa said to Abaye: Why do we use the one text ‘from his issue’ to include[4] one with an issue who has had two observations, and the other text ‘from his issue’ to exclude[5] one with an issue who has had two observations? — He replied: If you should assume that the former text[6] is for the purpose of excluding, then the text could simply omit the word. And should you say, we could then derive the rule [that he is to count seven days] by a logical deduction, such a deduction could be confuted by the case of the woman who counts day for day. And should you say that this word is required to show that the text refers to one who is cleansed of his issue [only] and not [of his issue and] his leprosy, — in that case the text should say, ‘and when he that hath an issue is cleansed’, and no more. Why do I require, ‘from his issue’? This teaches that one with an issue who has two observations is required to count seven days.

MISHNAH. THERE IS NO DIFFERENCE BETWEEN A LEPER WHO IS UNDER ORSERVATION[7] AND ONE DEFINITELY DECLARED SUCH[8] SAVE IN THE MATTER OF LEAVING THE HAIR LOOSE[9] AND RENDING THE GARMENTS.[10] THERE IS NO DIFFERENCE BETWEEN A LEPER WHO HAS BEEN DECLARED CLEAN[8] AFTER BEING UNDER OBSERVATION[11] AND ONE WHO HAS BEEN DECLARED CLEAN[8] AFTER HAVING BEEN DEFINITELY DECLARED A LEPER SAVE IN THE MATTER OF SHAVING AND [OFFERING] THE BIRDS.[12]

GEMARA. From this it is to be inferred that in the matter of being sent outside [the camp][13] and uncleanness[14] they are on the same footing. Whence is this rule[15] derived? — As R. Samuel b. Isaac taught before R. Huna: Then the priest shall pronounce him clean; it is a scab; and he shall wash his clothes and be clean;[16] which implies that he shall already have been [in a sense] clean[17] from the first, not having been liable to rending the garments and loosening the hair. Said Raba to him. If that is so, then in regard to one with an issue, of whom it is written, and he shall wash his garments and be clean,[18] how is it possible to say that he shall have been clean from the start? What it means then is, 'clean now so far as not to defile earthenware vessels by moving them',[19] so that, even if he observes an issue again, he does not defile them retrospectively. So here, [the meaning is that] the leper is clean now to the extent of not defiling retrospectively by his entrance![20] The fact is, said Raba, that we learn it from here: And the leper in whom the plague is;[21] [that means] one whose leprosy is due to the state of his body, excluding this one[22] whose leprosy is due to days.[23] Said Abaye to him: If that is so, then when it says, All the days wherein the plague is in him he shall be unclean,[24] are we to say that one whose leprosy is due to his state of body is required to be sent out of the camp, but one whose leprosy is not due to his state of body is not to be sent out of the camp? And should you reply that that is so, [how can this be] seeing that it states, THERE IS NO DIFFERENCE BETWEEN A LEPER UNDER OBSERVATION AND ONE DEFINITELY DECLARED SUCH SAVE IN THE MATTER OR LOOSENING THE HAIR AND RENDING THE GARMENTS, from which it may be inferred that in the matter of being sent out [of the camp] and defiling by entrance they are on the same footing? — [The text might have said simply] 'the days', and it says, 'all the days', to bring a leper under observation within the rule of sending out [of the camp]. If that is the case, what is the reason that he is not required to shave and offer birds [which is not the case], as it states: THERE IS NO DIFFERENCE BETWEEN A LEPER UNDER OBSERVATION AND ONE DEFINITELY DECLARED SUCH SAVE IN THE MATTER OF SHAVING AND OFFERING BIRDS? — Abaye replied: Scripture says: And the priest shall go forth out of the camp, and behold the plague of leprosy is healed in the leper;[25] this means, one whose leprosy is such because it requires healing,[26] and excludes one whose leprosy is such in virtue not of [requiring] healing but of days [of isolation].

MISHNAH. THERE IS NO DIFFERENCE BETWEEN BOOKS [OF THE SCRIPTURE][27] AND TEFILLIN AND MEZUZAHS[28] SAVE THAT THE BOOKS MAY BE WRITTEN IN ANY LANGUAGE[29] WHEREAS TEFILLIN AND MEZUZAHS MAY BE WRITTEN ONLY IN ASSYRIAN.[30] R. SIMEON B. GAMALIEL SAYS THAT BOOKS [OF THE SCRIPTURE] ALSO WERE PERMITTED [BY THE SAGES] TO BE WRITTEN ONLY IN GREEK.

GEMARA. [From this we infer] that for requiring [the sheets] to be stitched with sinews[31] and for defiling the hands[32] both are on the same footing.

BOOKS MAY BE WRITTEN IN ANY LANGUAGE. The following seems to conflict with this: '[A Scriptural scroll containing] a Hebrew text written[33] in Aramaic or an Aramaic text written in Hebrew,[34] or [either] in Hebraic script,[35] does not defile the hands;[36] [it does not do so] until it is written in Assyrian script upon a scroll and in ink'! — Raba replied: There is no contradiction;

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(1) If a niddah (v. Glos.) who is counting her eleven days between the menses sees blood on one or two of the days, she need not count seven clean days but becomes clean after ablution on the evening of the following day. V. Sanh., Sonc. ed. p. 577, n. 2.

(2) V. Nid. 72b.

(3) Cf. p. 43. n. 10.

(4) Under the obligation to count seven days.

(5) From the obligation to bring a sacrifice.

(6) Lev. XV, 13.

(7) מוסגר Lit., 'shut up'. V. Lev. XIII, 4.

(8) מוחלט Lit., 'confirmed'; by the priest. Ibid. v. 11.

(9) Or 'let his hair grow wild', v. M.K 15a.

(10) Which is incumbent on the latter but not on the former. Ibid. 45.

(11) I.e., one in whom the suspicious signs did not develop into actual leprosy

(12) Which was incumbent on the latter. Lev. XIV, 2-7.

(13) V. Num. V, 2.

(14) The stringent laws of uncleanness to which lepers are subjected.

(15) That the leper under observation need not loosen his hair and rend his garments.

(16) Lev. XIII, 6, of the suspect in whom the signs do not develop.

(17) The Hebrew word being וטהר in the present tense (as if to say: ‘and he was already clean’), where the future ויטהר might have been used.

(18) Lev. XV, 13. Here again he present tense וטהר is used.

(19) Without touching them. Such a defilement is termed היסט.

(20) The rule was that a leper by entering a room defiled persons and things within it. The question thus remains, Whence is this rule (v. p. 45, n. 9) derived?

(21) Lev. XIII, 45.

(22) The leper under observation.

(23) It is the seven days of his observation that cause him to be designated a leper, for should there be no change in the leper at the end of the seven days he is pronounced clean.

(24) Ibid. 46.

(25) Lev. XIV, 3.

(26) I.e., who has been declared definitely a leper. Only such a one has to shave and bring birds.

(27) This means apparently, scrolls of the Scriptural books.

(28) V. Glos.

(29) Apparently what is meant is that official translations for use in the synagogue may be made in any language. We know actually of two such — the Aramaic translation known as Targum Onkelos, and the Greek translation of Aquilas made under the supervision of R. Eleazar and R. Joshua.

(30) ‘Assyrian is used as the equivalent of Hebrew written in the square characters used for religious writings. This script was called ‘Assyrian’, the reason being that it came into common use after the return of the Jews from the Babylonian exile; v. Sanh. 21b, Sonc. ed. pp. 119ff and notes.

(31) And not merely with flax thread.

(32) V. supra p. 35, n. 11.

(33) I.e., translated into.

(34) E.g., the Chaldaic parts of Daniel and Ezra.

(35) כתב עברי. The ancient Hebrew script (as found e.g., in the Siloam and Moabite inscriptions and old Jewish coins, and in modified form in Samaritan writing) which was in common use before the Exile. V. Sanh. ibid.

(36) Whereas the Mishnah seems to imply that they do.

Talmud - Mas. Megilah 9a

the one statement [that of the Mishnah] speaks of [books written in] our script,[1] the other of [books written in] their script.[2] Said Abaye to him: How have you explained the other statement [that of the Baraitha]? As referring to their script. [If so], why should it say, ‘A Hebrew text written in Aramaic or an Aramaic text written in Hebrew’? The same would apply even to a Hebrew text which is written in Hebrew or an Aramaic text which is written in Aramaic, since it goes on to say. ‘till it is written in Assyrian on a scroll in ink’![3] No. [What you must say is], there is no contradiction: the one statement [in the Mishnah] represents the view of the Rabbis, the other that of R. Simeon b. Gamaliel. But if it is the view of R. Simeon b. Gamaliel, what about Greek?[4] — No. What you must say is, there is no contradiction; the one statement [in the Mishnah] refers to scrolls, the other to tefillin and mezuzahs. What is the reason [why] tefillin, and mezuzahs [must be written in Assyrian]? — Because in reference to them it is written, and they shall be,[5] which implies, they shall be as they originally were. What cases are there of Aramaic which can be written in Hebrew? I grant you we find in the Torah yegar sahadutha;[6] but here [in the case of tefillin, and mezuzoth] what Aramaic is there? — No. What you must say is, there is no contradiction; the one statement [in the Baraitha] refers to the Megillah, the other to the other books [of the Scripture]. What is the reason in the case of the Megillah? — Because it is written In regard to it, according to their writing and according to their language.[7] What case of Aramaic being written in Hebrew is possible here? — R.

Papa said: And the king's pithgam[8] shall be published;[9] R. Nahman b. Isaac said: And all the wives shall give yekar[10] to their husbands.[11] R. Ashi said: That statement [in the Baraitha] was made in reference to other books [of the Scripture], and it follows the view of R. Judah, as it has been taught: ‘Tefillin and mezuzahs are to be written only in Assyrian, but our Rabbis allowed them to be written in Greek also’.[12] But is it not written, and they shall be? I must say therefore, ‘Scrolls of the Scripture may be written in any language, and our Rabbis permitted them to be written in Greek’.[13] They permitted! This would imply that the First Tanna forbade it! What I must say therefore is, ‘Our Rabbis permitted them to be written only in Greek’. And it goes on to state, ‘R. Judah said: When our teachers permitted Greek, they permitted it only for a scroll of the Torah’.[14] This was on account of the incident related in connection with King Ptolemy,[15] as it has been taught: ‘It is related of King Ptolemy that he brought together seventy-two elders and placed them in seventy-two [separate] rooms, without telling them why he had brought them together, and he went in to each one of them and said to him, Translate[16] for me the Torah of Moses your master.[17] God then prompted each one of them and they all conceived the same idea and wrote for him, God created in the beginning,[18] I shall make man in image and likeness,[19] And he finished on the sixth day,and rested on the seventh day,[20] Male and female he created him[21] [but they did not write ‘created them’],[22] Come let me descend and confound their tongues,[23] And Sarah laughed among her relatives;[24] For in their anger they slew an ox and in their wrath they digged up a stall;[25] And Moses took his wife and his children, and made them ride on a carrier of men;[26] And the abode of the children of Israel which they stayed in Egypt and in other lands was four hundred years,[27] And he sent the elect of the children of Israel;[28] And against the elect of the children of Israel he put not forth his hand;[29]

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(1) Even though in another language.

(2) The Scriptural text was transliterated into the characters of a foreign language.

(3) This shows, according to Abaye, that the Baraitha is speaking of the language independently of the script.

(4) According to Abaye the Baraitha, in saying, ‘till it is written in Assyrian’ forbids even Greek, which is allowed by R. Simeon.

(5) Deut. VI, 8.

(6) Gen. XXXI, 47.

(7) Esth. VIII, 9.

(8) Aramaic for the Heb. dabar, ‘decree’.

(9) Ibid. I, 20.

(10) Aramaic for the Heb. kabod, ‘honour’.

(11) Ibid.

(12) The quotation is here interrupted.

(13) The quotation is again interrupted.

(14) Thus R. Judah forbade other books of the Scripture to be written save in the original language.

(15) It seems to be an historical fact that a Greek translation of the Pentateuch was made in the time of King Ptolemy Philadelphus of Egypt (285-247), but many regard this as apocryphal; cf, The Letter of Aristeas.

(16) Lit., ‘write’.

(17) Here follow a number of cases in which the translation of the Elders did not follow the Massoretic text. We do not find all these variants in our texts of the Septuagint.

(18) Instead of ‘In the beginning God created’. The purpose of this change was apparently to prevent the idea of Two Powers being read into the text, i.e., ‘In the beginning’ and ‘God’. V. Rashi and Tosaf. a.I.

(19) Gen. 1, 26, instead of ‘Let us make’, for the same reason.

(20) Ibid. II, 2, instead of ‘and he finished on the seventh day’, which might be taken to imply that some work was done on the seventh day.

(21) Ibid. V, 2.

(22) Which might be taken to mean that they were separate from the first.

(23) Ibid. XI, 7: ‘me’ instead of ‘us’. V. n. 7.

(24) Ibid. XVIII, 12: instead of ‘in herself’, in order to make a distinction between Sarah and Abraham, who also laughed inwardly.

(25) Ibid. XLIX, 6: 'ox' instead of 'man', to save the name of Jacob's sons.
(26) Ex. IV, 20: carrier of men' instead of 'ass', to save the dignity of Moses.
(27) Ibid. XII, 40. The words 'and in other lands' are inserted because, according to the Biblical record, the Israelites were at the utmost 210 years in Egypt.
(28) Ibid. XXIV, 5: 'elect' instead of 'young men', which is regarded as not suitable to the context.
(29) Ibid. 11 : 'elect' instead of 'nobles'.

Talmud - Mas. Megilah 9b

I have taken not one valuable of theirs;[1] Which the Lord thy God distributed to give light to all the peoples;[2] And he went and served other gods which I commanded should not be served.[3] They also wrote for him 'the beast with small legs' and they did not write 'the hare',[4] because the name of Ptolemy's wife was hare,[5] lest he should say, The Jews have jibed at me and put the name of my wife in the Torah.

R. SIMEON B. GAMALIEL SAYS THAT BOOKS [OF THE SCRIPTURE] ALSO ARE PERMITTED TO BE WRITTEN ONLY IN GREEK. R. Abbahu said in the name of R. Johanan: The halachah follows R. Simeon b. Gamaliel. R. Johanan further said: What is the reason of R. Simeon b. Gamaliel? Scripture says, God enlarge Japheth, and he shall dwell in the tents of Shem;[6] [this means] that the words of Japheth[7] shall be in the tents of Shem. But why not say [the words of] Gomer and Magog?[8] — R. Hiyya b. Abba replied: The real reason is because it is written, Let God enlarge [yaft] Japheth: implying, let the chief beauty [yafyuth] of Japheth[9] be in the tents of Shem.

MISHNAH. THERE IS NO DIFFERENCE BETWEEN A PRIEST ANOINTED WITH THE OIL OF ANOINTMENT AND ONE WHO [ONLY] WEARS THE ADDITIONAL GARMENTS[10] SAVE IN THE MATTER OF THE BULLOCK WHICH IS OFFERED FOR THE [UNWITTING BREAKING OF] ANY OF THE COMMANDMENTS.[11] THERE IS NO DIFFERENCE BETWEEN A REGULAR[12] [HIGH] PRIEST AND ONE WHO HAS PASSED THROUGH [THE OFFICE][13] SAVE IN RESPECT OF THE BULLOCK OF THE DAY OF ATONEMENT AND THE TENTH OF THE EPHAH.[14]

GEMARA. [BETWEEN THE PRIEST ANOINTED etc.]. From this we infer that in the matter of the bullock of the Day of Atonement and the tenth of the ephah they are on the same footing. The Mishnah, it appears, does not concur with R. Meir; for with regard to the view of R. Meir, it has been taught: 'One who wears the additional garments [without having been anointed] brings the bullock which is offered [by the High Priest] for the [unwitting breaking of] any of the precepts'. So R. Meir. The Sages, however, say that he does not offer it. What is the reason of R. Meir? — As it has been taught: [If the] anointed [priest shall sin]:[15] this tells me only of one anointed with the oil of anointment. How do I know that it applies also to one who [merely] wears the additional garments? — Because it says, the 'anointed'.[16] How have you explained [the Mishnah]? As not concurring with R. Meir. Look now at the next clause: THERE IS NO DIFFERENCE BETWEEN A REGULAR HIGH PRIEST AND ONE WHO HAS PASSED THROUGH THE OFFICE SAVE IN THE MATTER OF THE BULLOCK OF THE DAY OF ATONEMENT AND THE TENTH OF THE EPHAH. We infer from this that in all other matters they are on the same footing; and so we come round to the view of R. Meir, as it has been taught: 'If something happened to disqualify him and another priest was appointed to take his place, when the first returns to his service the second is still liable to all the obligations of the high priesthood'.[17] So R. Meir. R. Jose said: The first returns to his service whereas the second is qualified to act neither as a high priest nor as an ordinary priest. R. Jose further said: it happened with R. Jose b. Ulam[18] from Sepphoris that a disqualification occurred to the high priest and they appointed him in his place, and the case eventually came before the Sages and they said: The first returns to his service. The second is qualified to act neither as a high priest nor as an ordinary priest: as a high priest, so as not to create enmity,[19] as an ordinary priest, because we can raise to a higher grade of holiness but we never put down to a lower.[20] Are we then to say that the first clause [of the Mishnah] follows the Sages and the second R. Meir? — Said R. Hisda: Yes; the first clause follows the Sages and the second R. Meir. R. Joseph said: The whole gives the opinion of Rabbi, who combined the views of[21] differing Tannaim.[22]

MISHNAH. THERE IS NO DIFFERENCE[23] BETWEEN A GREAT HIGH PLACE[24] AND A SMALL ONE[25] SAVE IN THE MATTER OF THE PASCHAL LAMB OFFERING.[26] THIS IS THE GENERAL PRINCIPLE: ANY ANIMAL WHICH IS THE OBJECT OF A VOW OR A FREEWILL-OFFERING MAY BE BROUGHT ON A [SMALL] HIGH PLACE, ANY ANIMAL WHICH IS NOT THE OBJECT OF A VOW OR A FREEWILL-OFFERING MAY NOT BE BROUGHT ON A [SMALL] HIGH PLACE.

GEMARA. THE PASCHAL LAMB and nothing else?[27] — We should say, things like the paschal lamb.[28] Whose view is this? — R. Simeon's, as it has been taught: ‘The congregation also did not offer [on the large high place] anything save paschal lambs and obligatory sacrifices for which there is a fixed time; but obligatory sacrifices for which there is no fixed time[29] were not offered either on the one or the other’.

MISHNAH. THERE IS NO DIFFERENCE BETWEEN SHILOH[30] AND JERUSALEM SAVE THAT IN SHILOH SACRIFICES OF LESSER SANCTITY[31] AND SECOND TITHE[32] COULD BE EATEN ANYWHERE WITHIN SIGHT [OF THE TOWN], WHEREAS IN JERUSALEM THEY HAD TO BE CONSUMED WITHIN THE WALLS. IN BOTH PLACES THE MOST HOLY SACRIFICES[33] WERE EATEN WITHIN THE CURTAINS.[34] AFTER THE SANCTIFICATION OF SHILOH

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(1) Num. XVI, 15: ‘valuable’ for ‘ass’.

(2) Deut. IV, 19. The words ‘to give light’ are inserted, to guard against misunderstanding.

(3) Ibid. XVII, 3. The words ‘should be served’ are inserted, to avoid misunderstanding.

(4) In Lev. XI, 6.

(5) In fact, it was Ptolemy's father who was named ‘hare’ (**).

(6) Gen. IX, 27.

(7) Javan (Greece) is reckoned among the sons of Japheth in Gen. X, 2.

(8) Who are also reckoned among the sons of Japheth, loc. cit.

(9) I.e., the Greek language.

(10) I.e., the robe, the breastplate, the mitre and the plate, which were worn by the high priest but not by ordinary priests. High priests, according to tradition, ceased to be anointed from the days of Josiah.

(11) Lev. IV, 3.

(12) Lit., ‘officiating’.

(13) And who retired; i.e., one who was appointed to take the place of a High Priest while the latter is temporarily disqualified. When the disqualification is removed the High Priest returns to his duties while his substitute retires. V. infra.

(14) The daily offering of the High Priest. Lev. VI, 13-15. Only one person could make these two offerings.

(15) Lev. IV, 3.

(16) The definite article is regarded as adding something.

(17) E.g., to minister only in eight garments, not to mourn etc.

(18) [Or Ailim; joseph b. Ellimus mentioned in Josephus. V. Hor., Sonc. ed. p. 89, n. 5.]

(19) Between him and the original High priest.

(20) Hence, having served as a High Priest, he can never revert to the status of an ordinary one.

(21) Lit., ‘who took it according to’.

(22) For further notes on the whole passage v. Hor., Sonc. ed. pp. 88ff.

(23) In the period when the high places (Bamoth, sing. Bamah) were permitted, i.e., when there was no sanctuary at Shiloh or Jerusalem.

(24) Those at Nob and Gibeon, where the altar made by Moses was used for public services.
(25) Erected by any individual for private sacrifices.
(26) Which could be offered only on the large one.
(27) This seems to contradict the next clause, which implies that congregational sacrifices were brought on the large high places.
(28) As explained presently.
(29) E.g..the bullock offered in atonement for a sin committed unwittingly by the whole congregation.
(30) Shiloh was made the religious centre of the people in the time of Joshua (Josh. XVIII, 1), and remained such till the time of Samuel, when it seems to have been laid waste by the Philistines (cf. Jer. XXVI, 6, 9).
(31) Viz., peace-offerings, firstlings and tithe of cattle.
(32) Set aside on the first, second, fourth and fifth years of the seven-year cycle after the dues to the priests and levites had been paid. Their second tithe or redemption money was taken to Jerusalem and there consumed by the owners. V. Deut. XIV, 22ff.
(33) Viz., sin- and guilt-offerings, and congregational peace-offerings.
(34) This expression applies strictly only to the Tabernacle at Shiloh. The corresponding place in the Temple at Jerusalem was the space within the walls of the Temple court.

Talmud - Mas. Megilah 10a

THE HIGH PLACES COULD AGAIN BECOME PERMITTED, BUT AFTER THE SANCTIFICATION OF JERUSALEM THERE CAN BE NO SUCH PERMISSION.

GEMARA. R. Isaac said: I have heard that sacrifices may be offered in the Temple of Onias[1] at the present day.[2] He was of opinion that the Temple of Onias is not an idolatrous shrine, and that the first holiness [of Jerusalem] was conferred on it for the time being but not for all time,[3] as it is written, For ye are not as yet come to the rest and to the inheritance.[4] ‘Rest’ here means Shiloh and ‘inheritance’ means Jerusalem, and ‘inheritance’ is put on the same footing as ‘rest’, [to show that] just as after the [destruction of the] ‘rest’ the high places were again permitted, so after the [destruction of the] ‘inheritance’ they will be permitted. They said to him: Do you really say so? He replied, No. Said Raba: By God! he did say it and I learnt it from him. Why then did he retract? On account of the difficulty raised by R. Mari. For R. Mari adduced the following in confutation: AFTER THE SANCTIFICATION OF SHILOH HIGH PLACES CAN AGAIN BE PERMITTED, BUT AFTER THE SANCTIFICATION OF JERUSALEM THERE CAN BE NO SUCH PERMISSION. We have also learnt further: After they [the Israelites] occupied Jerusalem, the high places were forbidden, and they were never permitted again, and it was the ‘inheritance’. — There is a difference of Tannaim on this point, as we have learnt. ‘R. Eliezer said: I have heard that when they were building the hekal[5] [in the second Temple] they made curtains for the hekal and for the courtyard,[5] the difference being that in the hekal they built [the walls] outside [the curtains][6] and in the courtyard they built [the walls] within [the curtains]. And R. Joshua said: I have heard that sacrifices may be brought even though there is no temple; that the most holy foods may be eaten, even though there are no curtains; and that foods of lesser sanctity and second tithe may be eaten even though there is no wall, because the first holiness was conferred on Jerusalem[7] both for the time being and for all time.’[7] We infer from this[8] that R. Eliezer was of opinion that it was not [at first] sanctified for all time.[9] Said Rabina to R. Ashi: How can we draw this inference? Perhaps all agree that the first holiness was conferred upon it for the time being and for all time, and one Master reported what he had heard and the other what he had heard. Should you ask, In that case, why were curtains needed according to R. Eliezer, we can answer that they were merely for privacy. Rather it is the following Tannaim who differ on this point as it has been taught: ‘R. Ishmael son of R. Jose said: Why did the Sages enumerate these?[10] Because when the exiles returned they found these cities [still walled] and sanctified them;[11] the others,[12] however, lost their privilege when the land lost its sanctity’. This shows that he was of opinion that the first holiness was conferred for the time being and not for the future. And a contradiction was pointed out with the following: ‘R. Ishmael son of R.

Jose said: Were these all? Do we not find it said, Sixty cities, all the region of Argob,[13] and it is written, All these were fortified cities with high walls?[14] Why then did the Sages enumerate these? Because when the exiles returned, they found these [still walled] and sanctified them'.[15] They sanctified then,

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(1) A shrine built at Leontopolis in Egypt by Onias IV, a high priest who fled from Jerusalem. c. 154 B.C.E., v. Josephus, Ant. XIII, iii, 1ff and Men. 109b.

(2) This must refer to the period of the originator of the dictum, as the Temple of Onias did not exist any longer in the time of R. Isaac.

(3) Lit., 'for the future to come'. Hence after its destruction the high places would again be permitted.

(4) Deut. XII, 9.

(5) We assume for the present that the reason for the curtains was to invest the place with holiness enabling sacrifices to be offered and eaten pending the construction of the walls.

(6) [To prevent the builders from either penetrating into the hekal or gazing into it whilst engaged in their work. V. Rashi a.I. and Shebu. 16a.]

(7) V. 'Ed. VIII, 7 and Zeb. 107b.

(8) From the fact that curtains were required to confer holiness.

(9) This shows that Tannaim differ on this point.

(10) Nine cities enumerated in Tractate Arakin 32b as having been walled in the time of Joshua.

(11) I.e gave them the status of 'walled towns'.

(12) Lit., 'the earlier ones, i.e., all the others which had previously been walled.

(13) Deut. III, 4.

(14) Ibid. 4f.

(15) The quotation is here interrupted.

Talmud - Mas. Megilah 10b

now, [say you]! Do we not say that they did not require to be sanctified?[1] What [you should say is], they found these and enumerated them. And not only in these alone, but in every one in regard to which you shall find a tradition from your ancestors that it was walled from the days of Joshua son of Nun, all these precepts[2] are to be observed, because the first holiness was conferred for the time being and for all future time. There is thus a contradiction between two statements of R. Ishmael! — Two Tannaim report R. Ishmael son of R. Jose differently.Or if you like, I can say that the latter dictum emanates from R. Eleazar b. Jose, as it has been taught: 'R. Eleazar b. Jose says: That has [no] wall;[3] even though it has not now, but it had in previous times.'

And it came to pass in the days of Ahasuerus.[4] R.Levi, or some say R. Jonathan said: The following remark is a tradition handed down to us from the Men of the Great Assembly:[5] wherever in the Scripture we find the term wa-yehi[and it was, and it came to pass], it indicates [the approach of] trouble.[6] Thus, and it came to pass in the days of Ahasuerus — there was Haman. And it came to pass in the days when the Judges judged[7] — 'there was a famine'. And it came to pass when man began to multiply[8] — then 'God Saw that the wickedness of man was great'. And it came to pass, as they journeyed east[9] — then 'they said, come let us build a city'. And it came to pass in the days of Amrafel[10] — then 'they made war'. And it came to pass when Joshua was in Jericho[11] — then 'his [the angel's] sword was drawn in his hand'.[12] And the Lord was [wa-yehi] with Joshua[13] — then, 'the children of Israel committed a trespass', And there was a certain man of Ramathaim-Zophim[14] — then, for he loved Hannah but the Lord had shut up her womb'. And it came to pass when Samuel was old[15] — then, 'his sons walked not in his ways'. And David had [wa-yehi] great success in all his ways[16] — then, 'And Saul eyed David'.[17] And it came to pass when the king dwelt in his house[18] — then, 'Nevertheless thou shalt not build the house'.[19] But is it not written, — And it came to pass on the eighth day,[20] and it has been taught, 'On that day there was joy before the Holy One, blessed be He, as on the day when heaven and earth were created. For it is written, And it came to pass [wa-yehi] on the eighth day, and it is written in the other place, And there was [wa-yehi] one day'?[21] Nadab and Abihu died on that day. But is it not written, And it came to pass in the four hundred and eightieth year,[22] And it came to pass when Jacob saw Rachel,[23] and it is also written, And there there was evening and there was morning one day, and there is the second day and the third, and there are many other cases? — R. Ashi replied: The fact is that 'wa-yehi' sometimes has this signification and sometimes not, but the expression 'and it came to pass in the days of' always indicated trouble. Five times we find the expression 'and it came to pass in the days of'; viz., 'And it came to pass in the days when the Judges judged', 'and it came to pass in the days of Amrafel', 'and it came to pass in the days of Ahaz',[24] 'and it came to pass in the days of Jehoiakim'.[25]

R. Levi further said: The following is a tradition that we have from our ancestors, that Amoz[26] and Amaziah[27] were brothers. What does this tell us?[28] — It confirms what was said by R. Samuel b. Nahmani in the name of R. Jonathan: Every bride who is modest in the house of her father-in-law is rewarded by having kings and prophets among her descendants. How do we prove this? From Tamar, as it is written, And Judah saw her and thought her to be a harlot; for she had covered her face.[29] Now because she had covered her face did he think her to be a harlot? Rather, what it means is that because she had covered her face in the house of her father-in-law and he did not know her, she was rewarded by having among her descendants kings and prophets; kings from David, and prophets — as R. Levi said, 'It is a tradition handed down to us from our ancestors that Amoz and Amaziah were brothers', and it is written, The vision of Isaiah son of Amoz.[30]

R. Levi further said: We have a tradition from our ancestors that the ark took up no room.[31] It has been taught to the same effect: 'The ark which Moses made had round it an [empty] space of ten cubits on every side'. Now it is written, And in front of the Sanctuary was twenty cubits in length [and twenty cubits in breadth],[32] and it is also written, And the wing of the one cherub was ten cubits and the wing of the other cherub was ten cubits.[33] Where then was the ark itself? We must therefore conclude that it stood by a miracle [without occupying any room].[34]

R. Jonathan prefaced his discourse on this section[35] with the text,[36] And I will rise against them, saith the Lord, and cut off from Babylon name and remnant', and offshoot and offspring, saith the Lord,[37] [which he expounded as follows]: 'Name' means script; 'remnant is language;[38] 'offshoot' is kingdom, and 'offspring' is Vashti.

R. Samuel b. Nahmani introduced his discourse on this section with the following text: Instead of the thorn shall come up the cypress, and instead of the brier shall come up the myrtle:[39] 'Instead of the thorn': instead of the wicked Haman who put himself up as an object of worship, as it is written, and upon all thorns and upon all brambles[40] 'shall come up the cypress': this is Mordecai who was called the chief of all spices, as it is said, And do thou take to thee the chief spices,flowing myrrh,[41] which [last words] we translate [in Aramaic], mar deki.[42] 'Instead of the brier': instead of the wicked Vashti, the daughter of the wicked Nebuchadnezzar who burnt the ceiling of the house of the Lord; as it is written, its top was gold,[43] 'the myrtle shall come up': this is the virtuous Esther who is called Hadassah,[44] as it is said, And he brought up Hadassah.[45] 'And it shall be to the Lord for a name': this is the reading of the Megillah; 'and for an everlasting sign which shall not be cut off': these are the days of Purim.

R. Joshua b. Levi introduced his discourse on this section with the following text: And it shall come to pass that as the Lord rejoiced over you to do you good, so the Lord will rejoice over you to cause you to perish.[46] Now does the Holy One, blessed be He, rejoice in the downfall of the wicked? Is it not written, as they went out before the army, and say, Give thanks unto the Lord, for his mercy endureth for ever',[47] and R. Johanan said, Why are the words 'for he is good' omitted from this thanksgiving? Because the Holy One, blessed be He, does not rejoice in the downfall of the wicked? And R. Johanan further said, What is the meaning of the verse, And one came not near the other all the night?[48] The ministering angels wanted to chant their hymns, but the Holy One, blessed be He, said, The work of my hands is being drowned in the sea, and shall you chant hymns? — R. Eleazar replied: He himself does not rejoice, but he makes others rejoice. This is indicated also by the text, which writes yasis and not yasus;[49] which proves [what we said].

R. Abba b. Kahana introduced his discourse on this section with the following text: For to the man that is good in his sight he giveth wisdom, and knowledge and joy.[50] This, he said, is the righteous Mordecai. But to the sinner He giveth the task, to gather and to heap up;[50] this is Haman. That he may leave it to him, that is good in the sight of God;[50] this refers to Mordecai and Esther, as it is written, And Esther set Mordecai over the house of Haman.[51]

Rabbah b. ‘Ofran introduced his discourse on this section with the following text: And I will set my throne in Elam, and will destroy from thence king and princes.[52] ‘King’ indicates Vashti, and ‘princes’ indicates Haman and his ten sons.

R. Dimi b. Isaac introduced his discourse on this section with the following text:

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(1) As it says presently, that all which are traditionally known to have been walled are sanctified.

(2) Of sending out a leper and reading the Megillah on the fifteenth and restoring a house to a vendor at the end of a year.

(3) Lev. XXV, 31. The kere means which has a wall’ and the kethib ‘which has no wall’, and R. Eleazar combines both meanings, he being of the opinion that the first holiness is retained for all times, in contradistinction to R. Ishmael. These then are the two Tannaim who differ on this point.

(4) Esth. I, 1.

(5) V. p. 2, n. 5.

(6) Wa-yehi being read as wai, hi (woe and sorrow). V.infra.

(7) Ruth I, I.

(8) Gen. VI, I

(9) Ibid. XI, 2.

(10) Ibid. XIV, I.

(11) Josh. V, 13.

(12) Ibid.

(13) ,Ibid. VI,27.

(14) I Sam.I, 1.

(15) Ibid. VIII, 1.

(16) Ibid. XVIII, 14.

(17) This is in fact mentioned before the other, in v. 9 of the same chapter.

(18) II Sam VII, 1.

(19) This is in fact found in I Kings VIII, 19. In II Sam. VII the expression is, ‘Shalt thou build a house’.

(20) Lev. IX, 1 of the setting up of the Tabernacle.

(21) Gen. I, 5.

(22) I Kings VI, 1 of the building of the Temple.

(23) Gen. XXIX, 10.

(24) Isa. VII, 1.

(25) Jer. I, 3.

(26) The father of Isaiah. V. infra.

(27) The king of Judah.

(28) I.e., what homiletical lesson does it convey.

(29) Gen. XXXVIII, 15.

(30) Isa. I, 1.

(31) Lit., ‘the place of the ark was not included in the measurements’.

(32) 1 Kings VI, 20.

(33) This is the sense but not the exact wording of I Kings VI, 24, 25.
(34) V. Yoma 21a and B.B. 99a.
(35) The Book of Esther.
(36) Lit., 'from here'.
(37) Isa. XIV, 22.
(38) The connection between 'name' and 'script' and between 'remnant' and 'language' is not very clear. But v. Maharsha.
(39) lsa. LV, 13.
(40) Ibid. VII, 19. The proof is not clear. Cf. Maharsha.
(41) Ex. XXX, 23.
(42) 'Pure myrrh' a popular etymology of Mordecai.
(43) Cant. III, 10. There is here a play on the words sirpad (brier), and refidah (top).
(44) The Aramaic for myrtle.
(45) Esth. 11, 7,
(46) Deut. XXVIII, 63.
(47) II Chron. XX, 21, of the army of Jehoshaphat marching against the Moabites.
(48) Ex. XIV, 20, of Pharaoh and the Israelites at the Red Sea.
(49) Yasis is a hif'il form, and should properly mean 'cause to rejoice', though it is often used as equivalent to the kal, yasus rejoice'.
(50) Eccl. II, 26.
(51) Esth. VIII, 2.
(52) Jer. XLIX, 38.

Talmud - Mas. Megilah 11a

For we are bondmen; yet hath God not forsaken us in our bondage, but hath extended mercy unto us in the sight of the kings of Persia.[1] When was this? In the time of Haman. R. Hanina b. Papa introduced his discourse on this section with the following text: Thou hast caused men to ride over our heads, we went through fire and through water:[2] through fire in the days of the wicked Nebuchadnezzar, and through water in the days of Pharaoh. But thou didst bring us out into abundance,[2] in the days of Haman.

R. Johanan introduced his discourse on this section with the following text: He hath remembered his mercy and his faithfulness to the house of Israel, all the ends of the earth have seen the salvation of our Lord.[3] When did all the ends of the earth see the salvation of our Lord? In the days of Mordecai and Esther.[4]

Resh Lakish introduced his discourse on this section with the following text: As a roaring lion and a ravenous bear, so is a wicked ruler over a poor people.[5] 'A roaring lion': this is the wicked Nebuchadnezzar, of whom it is written, A lion is gone up from his thicket.[6] 'A ravenous bear': this is Ahasuerus, of whom it is written, And behold another beast, a second, like to a bear',[7] and R. Joseph learnt: These are the Persians, who eat and drink like bears, and are coated with flesh like bears, and are hairy like bears, and can never keep still like bears.[8] 'A wicked ruler': this is Haman. 'Over a poor people': this is Israel, who are poor in [the observance of] precepts.

R. Eleazar introduced his discourse on this with the following text: By slothfulness he that lays beams[9] becomes poor [yimak], and through idleness of the hands the house leaketh.[10] Through the slothfulness in which Israel indulged, not busying themselves with the Torah, the enemy of[11] the Holy One, blessed be He, became poor. The meaning of 'mak' is poor, as it says, And if he is too mak for thy valuation,[12] and mekoreh means only the Holy One, blessed be He, as it says, Who layest the beams [ha-mekareh] of thy upper chambers in the waters.[13]

R. Nahman b. Isaac introduced his discourse on this section with the following text: A Song of Ascents: If it had not been for the Lord who was for us, let Israel now say If it had not been the Lord who was for us when a man[14] rose up against us[15] — ‘a man’ and not a king.[16]

Raba introduced his discourse on this section from here: When the righteous are increased the people rejoice, but when the wicked beareth rule the people sigh.[17] ‘When the righteous are increased the people rejoice’ — this is illustrated by Mordecai and Esther, as it is written, and the city of Shushan shouted and was glad.[18] ‘But when the wicked beareth rule the people sigh’ — this is illustrated by Haman, as it is written, but the city of Shushan was perlexed.[19] R. Mattenah made his introduction[20] from this verse: For what great nation is there that hath God so nigh to them.[21] R. Ashi made it from this verse: Or hath God assayed etc.[22]

And it came to pass [wa-yehi] in the days of Ahasuerus[23] etc. Rab said, [The word wa-yehi is equivalent to] ‘wai and hi’ [woe and mourning]. With reference to this it is written, and there ye shall sell yourselves unto your enemies for bondmen and for bondwomen, and no man shall buy you.[24]

Samuel quoted: I did not reject them, neither did I abhor them to destroy them utterly.[25] ‘I did not reject them’ in the days of the Greeks; ‘neither did I abhor them’ — in the days of Nebuchadnezzar;[26] ‘to destroy them utterly’ — in the days of Haman; ‘and to break my covenant with them’ — in the days of the Persians;[27] ‘for I am the Lord their God’ — in the days of Gog and Magog.[28] In a Baraitha It was taught: ‘I have not rejected them’ — in the days of the Chaldeans, when l raised up for them Daniel, Hananiah, Mishael and Azariah; ‘neither did I abhor them’ — in the days of the Greeks, when I raised up for them Simeon the Righteous and Hasmonai and his sons, and Mattathias the High Priest;[29] ‘to destroy them utterly’ — in the days of Haman, when I raised up for them Mordecai and Esther; ‘to break my covenant with them’ — in the days of the Persians,[30] when I raised up for them the members of the house of Rabbi and the Sages of the various generations. ‘For I am the Lord their God’ — in the time to come, when no nation or people[31] will be able to subject them.

R. Levi introduced [his discourse] from this verse: But if ye will not drive out the inhabitants of the land before you.[32] R. Hiyya introduced [his discourse] from this verse: And it shall come to pass that as I thought to do unto them, so will I do unto you.[33]

Ahasuerus: Rab said: He was [as his name implies], the brother of the head[34] and the counterpart of the head — ‘The brother of the head’: the brother of Nebuchadnezzar the wicked who was called head, as it is written, Thou art the head of gold.[35] ‘The counterpart of the head’: the one slew, the other sought to slay; the one laid waste, the other sought to lay waste, as it is written, And in the reign of Ahasuerus, in the beginning of his reign, wrote they an accusation against the inhabitants of Judah and Jerusalem.[36] Samuel said that [as his name indicates], the face of Israel was blackened[37] in his days like the sides of a pot. R. Johanan said that [his name indicates that] everyone who thought of him said ‘alas for my head’.[38] R. Hanina said, [it indicates that] all became poor[39] in his days, as it says, And the king Ahasuerus laid a tribute.[40]

That [hu] is Ahasuerus. — [this means that] he persisted in his wickedness from beginning to end — [Similarly] this is [hu] Esau:[41] the same in his wickedness from beginning to end. [Similarly], These are that [hu] Dathan and Abiram:[42] the same in their wickedness from the beginning to the end. [Similarly], this same [hu] king Ahaz:[43] the same in his wickedness from the beginning to the end. [Similarly], Abram, the same [hu] is Abraham:[44] the same in his righteousness from the beginning to the end. [Similarly], These are that [hu] Aaron and Moses:[45] the same in their righteousness from the beginning to the end. [Similarly], And David, he was [hu] the smallest;[46] he persisted in his humility[47] from the beginning to the end; just as in his youth he humbled himself before anyone who was his superior in Torah, so in his kingship he humbled himself before anyone who was his superior in wisdom.

Who reigned: Rab said: this indicates that he raised himself to the throne.[48] Some interpret this to his credit, and some to his discredit. Some interpret it to his credit, holding that there was no other man equally fitted for the throne. Others interpret it to his discredit, holding that he was not fitted for the throne, but that he was very wealthy, and by means of lavish distribution of money rose to the throne.

From Hodu to Cush.[49] Rab and Samuel gave different interpretations of this. One said that Hodu is at one end of the world and Cush at the other, and the other said that Hodu and Cush adjoin one another, and that [the meaning is that] as he ruled over Hodu and Cush, so he ruled from one end of the world to the other. A similar difference occurs with reference to the words, For he had dominion over all the region on this side of the River, from Tiphsah even unto Gaza.[50] Here again Rab and Samuel interpreted differently. One said that Tiphsah is at one end of the world and Gaza at the other, and the other said that Tiphsah and Gaza are near one another [and that what is meant is that] as he [Solomon] ruled over Tiphsah and over Gaza, so he ruled over the whole world.[51] Seven and twenty and a hundred provinces. R. Hisda said: At first he ruled over seven, then over twenty [more], and finally over a hundred [more]. But if you interpret thus, what of the verse, And the years of the life of Amram were seven and thirty and a hundred years?[52] What lesson will you derive from that? — There is a difference here, because the whole text is superfluous. See now: it is written, from Hodu to Cush. Why then do I require, seven and twenty and a hundred provinces? You must conclude that it is for a special lesson .

Our Rabbis taught: Three [potentates] ruled over the whole globe,[53] namely, Ahab, Ahasuerus and Nebuchadnezzar.[54] Ahab, as it is written, As the Lord thy God liveth, there is no nation or kingdom whither my lord hath not sent to seek thee etc.[55] Now if he was not king over them, how could he make them take an oath? Nebuchadnezzar, as it is written: And it shall come to pass that the nation and the kingdom which will not serve the same Nebuchadnezzar king of Babylon and will not put their neck under the yoke of the King of Babylon.[56] Ahasuerus, as we have pointed out above

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(1) Ezra IX, 9.

(2) Ps. LXVI, 12.

(3) Ps. XCVIII, 3.

(4) Since letters were sent to all the provinces of the Persian Empire.

(5) Prov. XXVIII, 15.

(6) Jer. IV, 7.

(7) Dan. VII, 5.

(8) V. A.Z. 2b.

(9) Heb. המקרה E.V. ‘the rafters sink in’.

(10) Eccl. X, 18.

(11) Euphemism.

(12) Lev. XXVII, 8.

(13) Ps. CIV, 3.

(14) E.V. ‘men’.

(15) Ps. CXXIV, 1, 2.

(16) Referring to Haman.

(17) Prov. XXIX, 2.

(18) Esth. VIII, 15

(19) Ibid. III, 15.

(20) Lit., ‘said’.

(21) Deut. IV, 7.

(22) Ibid. 34.
(23) Esth. I, 1.
(24) Deut. XXVIII, 68.
(25) Lev. XXVI, 44.
(26) [The order followed here differs from that in the parallel passage in the Yalkut a.I. which is the more chronological. V. Maharsha.]
(27) Read with MS.M. ‘Romans’, v. Wilna Gaon Glosses.
(28) I.e., the days of the Messiah. V. Ezek. XXXVIII, XXXIX.
(29) Mattathias is usually identified with Hasmonai. [MS.M. omits ‘Hasmonai and his sons’.]
(30) Here also read with MS.M. ‘Romans’, v. Wilna Gaon Glosses.
(31) Lit., ‘tongue, language’
(32) Num. XXXIII, 55.
(33) Ibid. 56.
(34) Heb. ahiw shel rosh.
(35) Dan. II, 38.
(36) Ezra IV, 6.
(37) Heb. hushharu.
(38) Heb.ah le-rosho.
(39) Heb.rashin.
(40) Esth.X, 1.
(41) Gen.XXXVI,43.
(42) Num. XXVI, 9.
(43) II Chron. XXVIII, 22.
(44) I Chron. I, 27.
(45) Ex. VI, 26.
(46) I Sam. XVII,14. E.V. youngest’.
(47) The Heb. katan means both ‘young’ and ‘humble’.
(48) Because it does not say ‘who was king’.
(49) E.V. ‘from India to Ethiopia’.
(50) I Kings V, 4.
(51) V. Sanh., Sonc. ed. p. 110, nn. 5-6.
(52) Ex. VI, 20.
(53) Heb. כיפה. Lit., ‘arch’, the space beneath the vault of the heaven.
(54) Only those mentioned in Scripture are reckoned (Tosaf.).
(55) I Kings XVIII, 10. The text continues, and when they said, he is not here, he took an oath, etc.
(56) Jer. XXVII, 8.

Talmud - Mas. Megilah 11b

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(Mnemonic: Sh'S'D'K’)[1] But are there no more? Is there not Solomon? — He did not retain his kingdom [till his death]. This is a sufficient answer for the one who holds that he was first a king and then a subject.[2] But for the one who holds that he was first a king, then a subject, and then a king again, what can we reply? — Solomon was in a different category, because he ruled over the denizens of the upper world[3] as well as of the lower, as it says, And Solomon sat upon the throne of the Lord.[4]

But was there not Sennacherib, as it is written, Who are they among all the gods of these countries that have delivered their country out of my hand.[5] — There was Jerusalem which he had not subdued.

But was there not Darius, as it is written, Then king Darius wrote unto all the peoples, nations and languages that dwell in all the earth, Peace be multiplied unto you?[6] — There were the seven over which he did not rule, as it is written, It pleased Darius to set over the kingdom a hundred and twenty satraps.[7] But there was Cyrus, of whom it is written, Thus saith Cyrus king of Persia, All the kingdom of the earth hath the Lord given me?[8] — There he was merely indulging in a boast.

In those days, when the king sat [on his throne].[9] [How can this be] seeing that it says just afterwards, in the third year of his reign? — Raba said: What is meant by 'when he sat'? After he began to feel secure. He reasoned thus: 'Belshazar calculated and made a mistake; l have calculated and made no mistake' — What is the meaning of this? — It is written, After seventy years are accomplished for Babylon I will remember you,[10] and it is written, That He would accomplish for the desolations of Jerusalem seventy years.[11] He reckoned forty-five years of Nebuchadnezzar and twenty-three of Evilmerodach and two of his own, making seventy in all. He then brought out the vessels of the Temple and used them. And how do we know that Nebuchadnezzar reigned forty-five years? — As a Master has said: 'They went into exile in the seventh year and they went into exile in the eighth year; they went into exile in the eighteenth year and they went into exile in the nineteenth year' — [That is to say], in the seventh year after the subjection of Jehoiakim[12] they underwent the exile of Jeconiah, this being the eighth year of Nebuchadnezzar.[13] In the eighteenth year from the subjection of Jehoiakim[14] they underwent the exile of Zedekiah, this being the nineteenth year of Nebuchadnezzar,[15] as a Master has said, In the first year [of his reign] he [Nebuchadnezzar] overthrew Nineveh; in the second year he conquered Jehoiakim[16] and it is written, And it came to pass in the seven and thirtieth year of the captivity of Jehoiachin king of Judah, in the twelfth month in the seven and twentieth day of the month, that Evilmerodach King of Babylon, in the year of his reign, lifted up the head of Jehoiachin king of Judah and brought him forth out of prison.[17] Eight and thirty-seven make forty-five of Nebuchadnezzar. The twenty-three of Evilmerodach we know from tradition. These with two of his own[18] make seventy. He [Belshazar] said to himself, Now of a surety they will not be redeemed. So he brought out the vessels of the Temple and used them. Hence it was that Daniel said to him, but thou hast lifted up thyself against the Lord of heaven, and they have brought the vessels of his house before thee.[19] It is further written, In that night Belshazar the Chaldean king was slain,[20] and it is written, And Darius the Mede received the kingdom, being about threescore and two years old.[21] He [Ahasuerus] said: He calculated and made a mistake,[22] I will calculate and make no mistake. Is it written, 'seventy years for the kingdom of Babylon?'[23] It is written, seventy years for Babylon. What is meant by Babylon? The exile of Babylon — How many years [is this reckoning] less [than the other]? Eight.[24] So in place of them he inserted one of Belshazar,[25] five of Darius and Cyrus,[26] and two of his own, which made seventy — When he saw that seventy had been completed and they were not redeemed, he brought out the vessels of the Temple and used them — Then the Satan came and danced among them and slew Vashti.

But he reckoned correctly? — He also made a mistake, since he ought to have reckoned from the destruction of Jerusalem.[27] Granted all this, how many years are short? Eleven. How long did he reign? Fourteen.[28] Consequently in the fourteenth year of his reign he ought to have rebuilt the Temple. Why then is it written, Then ceased the work of the house of God which is at Jerusalem?[29] — Raba replied: The years were not full ones.[30]

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(1) Sh=Solomon (Shelomoh);S = Sennacherib; D = Darius; K = Koresh (Cyrus).

(2) Cf. Git. 68b.

(3) The demons.

(4) 1 Chron. XXIX, 23.

(5) Isa. XXXVI, 20.

(6) Dan. VI, 26.

(7) Ibid. 2.

(8) Ezra 1, 2.

(9) Esth. I, 2. Which would naturally mean, immediately after his accession.
(10) Jer. XXIX, 10.
(11) Dan. IX, 2.
(12) By Nebuchadnezzar, as explained infra. V. Jer. LII, 28: This is the people whom Nebuchadnezzar carried away captive: in the seventh year etc.
(13) V. II Kings XXIV, 12: And Jehoiachin (Jeconiah) the king of Judah went out to the king of Babylon . . . and he took him in the eighth year of his reign.
(14) Jer. LII, 29.
(15) V. II Kings XXV, 8.
(16) Jehoiakim served Nebuchadnezzar three years (II Kings XXIV, 1), and according to the Seder Olam, he was in rebellion for three years. (This is based on Daniel I, 1. In the third year of the reign of Jehoiakim, Nebuchadnezzar came to Jerusalem, etc. which is interpreted to mean, the third year of his rebellion. V. Rashi.) In the same year he was deposed and Jeconiah went into exile, and as this was the eighth of Nebuchadnezzar (v. supra), his subjection must have commenced in the second or third year of Nebuchadnezzar.
(17) II Kings XXV, 27.
(18) It was in the third year of his reign that he gave his feast.
(19) Dan. V, 23.
(20) Ibid. 30.
(21) Ibid. VI, 1.
(22) In thinking that the prophecy had already been falsified.
(23) I.e.,from the accession of Nebuchadnezzar.
(24) Because the exile of Jeconiah took place in the eighth year of Nebuchadnezzar. V. supra
(25) I.e., the third year of Belshazar, which he himself did not reckon.
(26) According to the Talmudic chronology, the Darius mentioned in Daniel VI was succeeded by the Cyrus who gave permission for the building of the Temple. On what authority they are supposed to have reigned five years is not clear.
(27) Which took place eleven years after the exile of Jehoiachin.
(28) Haman cast lots in the twelfth year (Esth. III, 7). The deliverance took place in the next year, and the second letter of Esther (v. Esth. IX, 29) is supposed to have been sent out in the next.
(29) Until the second year of Darius who succeeded Ahasuerus. Ezra IV, 24.
(30) I.e., the five years of Darius I and Cyrus were really only four, and a year may also have been added to the reigns of Nebuchadnezzar and Evilmerodach, so that the seventy years were really not completed till the second year of Darius II.

Talmud - Mas. Megilah 12a

It has been taught to the same effect: There was yet another year left to Babylon,[1] and Darius arose and completed it.

Raba said: Daniel also made a mistake in this calculation, as it is written, In the first year of his reign, I Daniel meditated in the books [etc.].[2] From his use of the words ‘I meditated’ we can infer that he [at first] made a mistake.

All the same, there is a contradiction between the texts [is there not]? It is written [in one], when there are accomplished for Babylon,[3] and it is written [in the other], for the desolations of Jerusalem? — Raba replied: [The first term] was for visitation [pekidah] only, and this was fulfilled, as it is written, Thus saith Cyrus king of Persia, All the kingdoms of the earth hath the Lord, the God of the heavens, given to me, and he hath charged [pakad] me to build him a house in Jerusalem.[4]

R. Nahman son of R. Hisda gave the following exposition. What is the meaning of the verse, Thus saith the Lord to his anointed to Cyrus, whose right hand I have holden.[5] Now was Cyrus the Messiah? Rather what it means is: The Holy One, blessed be He, said to the Messiah: I have a complaint on thy behalf against Cyrus.[6] I said, He shall build my house and gather my exiles,[7] and he [merely] said, Whosoever there is among you of all his people, let him go up.

The army of Persia and Media, the nobles. And elsewhere it is written, [The chronicles] of the kings of Media and Persia.[8] [How is this]? — Raba replied: They [the Medes and Persians] made a stipulation with one another, saying, if we supply the kings, you will supply the Governors, and if you supply the kings we will supply the Governors.

When he showed the riches of his glorious [tif'ereth] kingdom. R. Jose b. Hanina said: This shows that he arrayed himself in priestly robes. It is written here, ‘the riches of his glorious [tif'ereth] kingdom’, and it is written elsewhere [in connection with the priestly garments], for splendour and for glory, [tif'ereth].[9]

And when these days were fulfilled.[10] Rab and Samuel interpreted this differently. One said he was a clever king, and the other said that he was a foolish king. The one who held he was a clever king said that he did well in entertaining[11] his distant subjects first, because he could win over the inhabitants of his own city any time he wished. The one who held that he was foolish says that he ought to have entertained the inhabitants of his metropolis first, so that if the others rebelled against him, these would have supported him.

R. Simon b. Yohai was asked by his disciples, Why were the enemies of Israel[12] in that generation deserving of extermination? He said to them: Do you answer. They said: Because they partook of the feast of that wicked one.[13] [He said to them]: If so, those in Susa should have been killed, not those in other parts?[14] They then said, Give your answer. He said to them: It was because they bowed down to the image.[15] They said to him, Did God then show them favouritism?[16] He replied: They only pretended to worship,[17] and He also only pretended to exterminate them; and so it is written, For he afflicted not from his heart.[18] In the court of the garden of the king's palace.[19] Rab and Samuel gave different interpretations of this — One said that those who had the entree[20] of the court were [entertained] in the court, and those who had the entree of the garden in the garden, and those who had the entree of the palace in the palace. The other said: He first put them in the court, and it did not hold them — Then he took them into the garden and it did not hold them; and finally he had to take them into the palace, and he found room for them. In a Baraitha it was taught: He took them into the court and opened two doors for them, one into the garden and one into the palace.

White [hur], fine cotton [karpas] and blue.[21] What is hur? — Rab said, fine lace-work. Samuel said: He spread for then, carpets of white silk. Karpas: R. Jose b. Haninah said: [this means] cushions of velvet.[22]

Upon silver rods and pillars of marble; the couches were of gold and silver.[21] It has been taught: R. Judah said: Silver for some and gold for others, according to their degree. Said R. Nehemiah to him: If that were so, there would have been[23] jealousy at the banquet! No; the couches themselves were of silver and their feet of gold.

Green [bahat] and white marble.[21] R. Assi said: [This means] stones that flash back at their owner;[24] and so it says, as the stones of a crown, glittering over his land.[25]

And shell [dar] and onyx marble [sohareth].[21] Rab said: This means rows [dari] upon rows.[26] Samuel says: There is a precious stone in the seaports called darah. He put it in the midst of the guests, and it lit up the place as at midday [Sahara].[27] In the school of R. Ishmael it was taught: It means that he gave a remission of taxes [deror] to all who dealt in merchandise [sehorah].

And they gave them drink in vessels of gold, the vessels being diverse [shonim] one from another.[28] It should have said, in different vessels? — Raba said: A bath kol[29] went forth and said to them, Your predecessors[30] met their end on account of vessels, and yet you use them again [shonim]?[31]

And royal wine in abundance:[28] Rab said: This teaches that each one was given to drink wine older[32] then himself.

And the drinking was according to law.[33] What is meant by ‘according to law’? — R. Hanan said in the name of R. Meir: According to the law of the Torah. Just as according to the law of the Torah the [quantity of] food exceeds the drink,[34] so in the feast of that wicked one there was more food than drink.

None did compel.[33] R. Eleazar said: This teaches that each one was given to drink from the wine of his own country.[35]

That they should do according to every man's [ish, ish] pleasure.[33] Raba said: This means that they should do according to the will of Mordecai and Haman.[36] Mordecai [is called ‘man’] as it is written, A Jewish man;[37] and Haman, [as it is written], a man, an adversary and an enemy.[38]

Also Vashti the queen made a feast for the women in the royal house.[39] It should have said, ‘the women's house’? — Raba said: Both of them [Ahasuerus and Vashti] had an immoral purpose. This bears out the popular saying, He with large pumpkins and his wife

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(1) I.e. , when Belshazar was killed, according to Seder Olam, only sixty-nine years had passed since Nebuchadnezzar had subdued Jehoiakim, and not seventy as reckoned above.
(2) Dan. IX, 2. Heb. בינותי, which conveys the idea of calculating and revising.
(3) Ibid. I.e., from the rise of Nebuchadnezzar.
(4) Ezra I, 2. But the actual building was commenced some years later.
(5) Isa. XLV, 1.
(6) And we translate: ‘God said to his anointed regarding Cyrus’.
(7) Ibid. 13.
(8) Esth. X, 2. Here ‘kings’ is put next to Media, not next to Persia as in the case of the ‘nobles’ in the earlier passage.
(9) Ex. XXVIII, 2.
(10) Esth. 1,5.
(11) Lit., ‘bringing near’.
(12) Euphemism for ‘Israel’.
(13) Ahasuerus.
(14) As only those in Susa were invited.
(15) Set up by Nebuchadnezzar.
(16) By delivering them, since they really deserved to be exterminated.
(17) Lit., ‘they did only for appearance’.
(18) Lam. III, 33. [מלבו is rendered ‘without heart’, מ being taken as partitive: God does not afflict him who sins without intent (Maharsha).]
(19) Esth. I, 5.
(20) Lit., ‘he who was worthy’.
(21) Esth. I, 6.
(22) These interpretations are based on similarities in sound to the words hur and Karpas.
(23) Lit., ‘you cast’.
(24) מתחוטטות play on בהט (‘green marble’). [Aliter: much sought after by their owners (v. Rashi).]
(25) מתנוססות Zech. IX, 16. [On Rashi's interpretation the verse is to be rendered as ‘stones of a crown obtainable only after many trials (נסיונות)’.]
(26) Possibly mosaics are meant (Jastrow).
(27) V. Rashi.
(28) Esth. I, 7

(29) V. Glos.
(30) Belshazar and his company.
(31) Lit., ‘repeat’.
(32) The word rab (in abundance) being taken in its other sense of ‘older’.
(33) Ibid. 8.
(34) E.g., the meal-offering for a bullock was three tenth deals, and the wine-offering only half a hin.
(35) Which did not easily intoxicate him.
(36) [Both served as butlers at the banquet (Rashi).]
(37) Ibid. II, 5.
(38) Ibid. VII, 6.
(39) Ibid. I, 9.

Talmud - Mas. Megilah 12b

with small pumpkins.

On the seventh day, where the king's heart was merry with wine.[1] Was then his heart not merry with wine until then? — Rab said: The seventh day was Sabbath, when Israel eat and drink. They begin with discourse on the Torah and with words of thanksgiving [to God]. But the nations of the world, the idolaters, when they eat and drink only begin with words of frivolity. And so at the feast of that wicked one. Some said, The Median women are the most beautiful, and others said, The Persian women are the most beautiful. Said Ahasuerus to them, The vessel that I use is neither Median nor Persian, but Chaldean. Would you like to see her? They said, Yes, but it must be naked — (For man receives measure for measure.[2] This [remark] teaches you that the wicked Vashti used to take the daughters of Israel and strip them naked and make them work on Sabbath.[3] So it is written, After these things when the wrath of the king Ahasuerus abated, he remembered Vashti and what she had done and what was decided against her.[4] As she had done so it was decreed against her.)

And the queen Vashti refused.[5] Let us see. She was immodest, as the Master said above, that both of them had an immoral purpose. Why then would she not come? — R. Jose b. Hanina said: This teaches that leprosy broke out on her. In a Baraitha it was taught that Gabriel came and fixed a tail on her.[6]

And the king was very angry,[5] Why was he so enraged? — Raba said: She sent him back answer: Thou son of my father's steward,[7] my father drank wine in the presence of a thousand,[8] and did not get drunk, and that man has become senseless with his wine. Straightway, his wrath burnt within him.[5]

And the king said to the wise men.[9] Who are the wise men? — The Rabbis. Who knew the times:[9] that is, who knew how to intercalate years and fix new moons. He said to them: Try her for me. They said [to themselves]: What shall we do? If we tell him to put her to death, to-morrow he will become sober[10] again and he will require her from us. Shall we tell him to let her go? She will lose all her respect for royalty. So they said to him: From the day when the Temple was destroyed and we were exiled from our land, counsel has been taken from us and we do not know how to judge capital cases. Go to Ammon and Moab[11] who have remained in their places like wine that has settled on its lees. They spoke to him thus with good reason, since it is written, Moab hath been at ease from his youth, and he hath settled on his lees, and hath not been emptied from vessel to vessel, neither hath he gone into captivity. Therefore his taste remaineth in him, and his scent is not changed.[12] Straightway [he did so, as we read], and the next unto him was Carshena, Shethar, Admatha, Tarshish [etc.].[13] R. Levi said: Every name in this verse contains a reference to the sacrifices. Thus, Carshena: the ministering angels said to the Holy One, blessed be He: Sovereign of the Universe, did they ever offer before thee lambs of the first year [karim bene shanah] as Israel offered before Thee? Shethar: did they ever offer before Thee two pigeons [shte torim]? Admatha: did they ever build before Thee an altar of earth [adamah]? Tarshish: did they ever minister before Thee in the priestly garments, of which it is written [that they contained] a beryl [tarshish], an onyx and a jasper?[14] Meres: did they ever stir [mersu] the blood [of the sacrifice] before Thee? Marsena: did they ever stir [mersu] the meal-offerings before Thee? Memucan: did they ever prepare [hekinu] a table before Thee?

And Memucan said.[15] A Tanna taught: Memucan is the same as Haman, And why was he called Memucan? Because he was destined [mukan] for punishment. R. Kahana said: From here we see that an ordinary man always pushes[16] himself in front.[17]

That every man should bear rule in his house.[18] Raba said: Had it not been for these first letters, there would have been left no shred or remnant of the enemies of Israel.[19] People said: What does he mean by sending us word that every man should bear rule in his own house? Of course he should! Even a weaver in his own house must be commander![20]

And let the king appoint officers.[21] Rabbi said: What is the meaning of the verse, Even prudent man dealeth with forethought, but a fool unfoldeth folly?[22] 'Every prudent man dealeth with forethought': this applies to David, of whom, it is written, Wherefore his servants said unto him, Let there be sought for my lord the king a young virgin:[23] every one who had a daughter brought her.[24] But a fool unfoldeth folly': this applies to Ahasuerus, of whom it is written, and let the king appoint officers: whoever had a daughter hid her.[25]

There was a certain Jew in Shushan the castle, etc. a Benjamite.[26] What is the point of this verse? If it is to give the pedigree of Mordecai, it should trace it right back to Benjamin![27] [Why then were only these specified?] — A Tanna taught: All of them are designations [of Mordecai]. 'The son of Jair' means, the son who enlightened [he'ir] the eyes of Israel by his prayer. 'The son of Shimei means, the son to whose prayer God hearkened [shama']. 'The son of Kish' indicates that he knocked [hikkish] at the gates of mercy and they were opened to him. He is called 'a Jew' [yehudi] which implies that he came from [the tribe of] Judah, and he is called 'a Benjamite', which implies that he came from Benjamin. [How is this]? — R. Nahman said: He was a man of distinguished character.[28] Rabbah b. Bar Hanah said in the name of R. Joshua b. Levi: His father was from Benjamin and his mother from Judah. The Rabbis, however, said: The tribes competed with one another [for him]. The tribe of Judah said: I am responsible for the birth of Mordecai, because David did not kill Shimei the son of Gera, and the tribe of Benjamin said: He is actually descended from me. Raba said: The community of Israel explained [the two designations] in the opposite[29] sense: 'See what a Judean did to me and how a Benjamite repaid me!' What a Judean did to me

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(1) Ibid. 10.

(2) Lit., 'for with the measure with which a man measures they measure to him'.

(3) [Add with MS.M.: 'Therefore was it decreed that she should be killed naked on Sabbath'.]

(4) Esth. II, 1.

(5) Ibid. I, 12.

(6) [זנב does not necessarily mean a 'tail' but any projection or growth, v. Aruch s.v. זנב.]

(7) [Var. lec., 'Thou steward of my father'. Ahasuerus was said to have been the steward of Belshazar, the father of Vashti.]

(8) V. Dan. V, 1.

(9) Esth. I, 13.

(10) Lit., 'his wine will pass off'.

(11) According to Tosaf., 'Ammon' here should be omitted, as the Ammonites were carried into exile by Nebuchadnezzar.

(12) Jer. XLVIII, 11.
(13) Esth. I, 14.
(14) Ex. XXVIII, 20.
(15) Esth. I, 16.
(16) Lit., ‘jumps’.
(17) Memucan is mentioned last of the seven princes, and yet it was he who spoke first.
(18) Ibid. 22.
(19) Euphemism for Israel. Had the people not seen from this letter how foolish the king was, when the next letter was sent out for the destruction of the Jews, they would not have waited till the appointed day.
(20) Pardashca: a Persian word meaning ‘policeman’ or ‘officer’.
(21) Esth. II, 3.
(22) Prov. XIII, 16.
(23) I Kings I, 2.
(24) Since only one was to be tried.
(25) Because all were to be tried, though only one was to be closed.
(26) Esth. II, 5.
(27) And not mention three names only.
(28) Lit., ‘crowned with his nimus’. The word nimus means in the Talmud ‘manner’, or ‘way’ (**), hence bearing, character. Rashi translates ‘with his names’ (as just explained) as if ‘nimus’ here = Greek **. [Var. lec. add ‘as an ornament’, כעדי. V. Aruch who explains: He was adorned with the precepts of the Law as with an ornament. Yehudi as applied to Mordecai then does not denote a tribal name but is an epithet of distinction.]
(29) I.e., derogatory.

Talmud - Mas. Megilah 13a

viz., that David did not kill Shimei from whom was descended Mordecai who provoked Haman. ‘And how a Benjamite repaid me’, viz., that Saul did not slay Agag from whom was descended Haman who oppressed Israel. R. Johanan said: He did indeed come from Benjamin. Why then was he called ‘a Jew’? Because he repudiated idolatry. For anyone who repudiates idolatry is called ‘a Jew’, as it is written, There are certain Jews[1] etc.

R. Simon b. Pazzi once introduced an exposition of the Book of Chronicles as follows: ‘All thy words are one,[2] and we know how to find their inner meaning’. [It is written], And his wife the Jewess bore Jered the father of Gedor, and Heber the father of Socho, and Jekuthiel the father of Zanoah, and these are the sons of Bithya the daughter of Pharaoh, whom Mered took.[3] Why was she [the daughter of Pharaoh] called a Jewess? Because she repudiated idolatry, as it is written, And the daughter of Pharaoh went down to bathe in the river,[4] and R. Johanan, [commenting on this,] said that she went down to cleanse herself[5] from the idols of her father's house. ‘Bore’: But she only brought him [Moses] up? — This tells us that if anyone brings up an orphan boy or girl in his house, the Scripture accounts it as if he had begotten him. ‘Jered’: this is Moses. Why was he called Jered? Because manna came down [yarad] for Israel in his days.[6] ‘Gedor": [he was so called] because he fenced in [gadar] the breaches of Israel. ‘Heber’, because he joined [hiber] Israel to their Father in heaven. ‘Socho’, because he was like a sheltering booth [sukkah] for Israel. ‘Jekuthiel’, because Israel trusted in God [kiwu le'el] in his days. ‘Zanoah’, because he made Israel abandon [hizniah] their inquities. ‘Father of’, ‘father of’, ‘father of’: he was a father in Torah, a father in wisdom, a father in prophecy. ‘These are the sons of Bithya whom Mered took’. Was Mered his name? Was not Caleb his name?[7] — The Holy One, blessed be He, said: Let Caleb who rebelled [marad] against the plan of the spies come and take the daughter of Pharaoh who rebelled against the idols of her father's house.

Who had been carried away from Jerusalem.[8] Raba said: [We understand this to mean] that he went into exile of his own accord.[9]

And he brought up Hadassah.[10] She is called Hadassah[11] and she is called Esther. It has been taught: Esther was her proper name. Why then was she called Hadassah? After the designation of the righteous who are called myrtles,[12] for so it says, And he stood among the myrtle trees.[13] R. Judah says: Hadassah was her name — Why then was she called Esther? Because she concealed [mastereth] the facts about herself, as it says, Ester did not make known her people or her kindred.[14] R. Nehemiah says: Hadassah was her name. Why then was she called Esther? All peoples called her so after Istahar.[15] Ben ‘Azzai said: Esther was neither too tall nor too short, but of medium size, like a myrtle. R. Joshua b. Korha said: Esther was sallow,[16] but endowed with great charm.[17]

For she had neither father nor mother. [And it continues] and when her father and mother died.[10] Why these last words?[18] — R. Aha said: When her mother became pregnant with her, her father died; when she was born, her mother died.

And when her father and mother died, Mordecai took her for his own daughter.[19] A Tanna taught in the name of R. Meir: Read not ‘for a daughter’ [le-bath], but ‘for a house’ [le-bayith].[20] Similarly it says: But the poor man had nothing save one little ewe lamb, which he had brought up and reared; and it grew up together with him, and with his children; it did eat of his own morsel, and drank of his own cup, and lay in his bosom, and was unto him as a daughter.[21] Because it lay in his bosom, was it like a daughter to him? Rather what it means is like a wife; so here, it means a wife.

And the seven maidens who were meet to be given to her.[22] Raba said: [They were seven so that] she could count the days of the week by them.

And he changed[23] her and her maidens. Rab said: [This means that] he gave her Jewish food to eat. Samuel, however, said, it means that he gave her chines of pork[24] while R. Johanan said that he gave her pulse, and so it says, So the steward took away their food and gave them pulse.[25]

Six months with the oil of myrrh.[26] What is the oil of myrrh? R. Hiyya b. Abba said, Satchet;[27] R. Huna said, Oil from olives not a third grown. It has been taught: R. Judah says that anpikinun[28] is oil of olives not a third grown. Why is it used for smearing? Because it removes hair and makes the skin soft.

In the evening she went and on the morrow she returned.[29] From the discreditable account of that wicked man we can learn something to his credit, namely, that he did not perform his marital office by day.

And Esther obtained favour.[30] R. Eleazar said: This informs us that every man took her for a member of his own people.

So Esther was taken unto king Ahasuerus into his house royal in the tenth month, which is the month Tebeth:[31] the month when body warms up body.[32] And the king loved Esther above all the women, and she obtained grace and favour in his sight more than all the virgins.[33] Rab said: If he wanted to find in her the taste of a virgin he found it; if the taste of a married woman, he found it.

Then the king made a great feast.[34] He made a feast for her, and she did not tell him [who she was]. He remitted taxes,[35] and she did not tell him. He sent gifts,[36] and she [still] did not tell him.

And when the virgins were gathered together the second time, etc.[37] He went and took counsel of Mordecai who said, The way to rouse a woman is to make her jealous;[38] and even so she did not tell.

R. Eleazar said: What is the meaning of the verse,

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(1) Dan. III, 12. Though Hananiah, Mishael and Azariah to whom he refers were not of the tribe of Judah. V. Sanh. 93 b (Tosaf.).

(2) I.e., numerous names in the Book of Chronicles refer to the same person.

(3) I Chron. IV, 18.

(4) Ex. II, 5.

(5) By means of the tebillah or ceremonial bath taken by a proselyte.

(6) According to Wilna Gaon the correct reading is, ‘because he brought down the Torah (from Heaven) for Israel’.

(7) As stated in I Chron. IV, 15.

(8) Esth. II, 6.

(9) The ground of this inference is not clear. Possibly Raba is stressing the word עם, as meaning ‘in company with’, ‘on a footing of equality with’, instead of את, which would have meant ‘taken along with as subsidiary’.

(10) Ibid. 7.

(11) Lit. , ‘myrtle’.

(12) V. Sanh. 93a.

(13) Zech. I, 8.

(14) Esth. II, 20.

(15) The planet Venus (Jast.).

(16) Lit., ‘greenish’, like a myrtle leaf.

(17) Lit., ‘a thread of grace was drawn about her’.

(18) Which seem superfluous.

(19) Esth. II, 7.

(20) I.e., a wife.

(21) II Sam. XII,3.

(22) Esth. II, 9.

(23) E.V., ‘advanced’.

(24) קתלי דחזירי. Not that she necessarily ate them (Tosaf.). [Var. lec. קדלי דחיזרי ‘heads of radish’ — a delicatessen, v. Aruch.]

(25) Dan. I, 16; of Daniel and his companions.

(26) Esth. II, 12.

(27) Heb. סטכת=**.

(28) **, a kind of oil that was not allowed to be used for sacrifices.

(29) Ibid. 14.

(30) Ibid. 15.

(31) Ibid. 16.

(32) The season being midwinter.

(33) Esth. II, 17.

(34) Ibid. 18.

(35) As it says here, ‘and he made a release to the provinces’.

(36) As it says, ‘and gave gifts, according to the bounty of the king’.

(37) Ibid. 19

(38) Lit., ‘a woman is only jealous of the thigh of another’.

Talmud - Mas. Megilah 13b

He withdraweth not his eyes from the righteous?[1] In reward for the modesty displayed by Rachel, she was granted to number among her descendants Saul; and in reward for the modesty displayed by Saul, he was granted to number among his descendants Esther.[2] What was the modesty displayed by Rachel? — As it is written: And Jacob told Rachel that he was her father's brother.[3] Now was he her father's brother? Was he not the son of her father's sister? What it means is this: He said to her, Will you marry me? She replied, Yes, but my father is a trickster, and he will outwit you.[4] He replied, I am his brother in trickery. She said to him, Is it permitted to the righteous to indulge in trickery? He replied. Yes: with the pure thou dost show thyself pure and with the crooked thou dost show thyself subtle.[5] He said to her, What is his trickery? She replied : I have a sister older than I am , and he will not let me marry before her. So he gave her certain tokens. When night came, she said to herself, Now my sister will be put to shame. So she handed over the tokens to her. So it is written, And it came to pass in the morning that, behold, it was Leah.[6] Are we to infer from this that up to now she was not Leah? What it means is that on account of the tokens which Rachel gave to Leah he did not know till then. Therefore she was rewarded by having Saul among her descendants — What modesty did Saul display? — As it is written, But concerning the matter of the kingdom whereof Samuel spoke he told him not.[7] He was therefore rewarded by having Esther among his descendants.

R. Eleazar further said: When the Holy One, blessed be He, assigns greatness to a man, he assigns it to his sons and his sons' sons for all generations, as it says, [With kings on the throne;] He setteth them for ever and they are exalted.[8] If, however, he becomes arrogant, God humiliates him, as it says. And if they be bound in fetters etc.[9]

For Esther did the commandment of Mordecai.[10] R. Jeremiah said: [This means] that she used to show the blood of her impurity to the Sages.

Like as when she was brought up with him.[10] Rabbah b. Lema said in the name of Rab: [This means] that she used to rise from the lap of Ahasuerus and bathe and sit in the lap of Mordecai.[11]

In those days, while Mordecai sat in the king's gate, Bigthan and Teresh were wroth.[12] R. Hiyya b. Abba said in the name of R. Johanan: The Holy One, blessed be He, [once] caused a master to be wroth with his servants in order to fulfil the desire of a righteous man, namely Joseph, as it says, And there was with us there a young man, a Hebrew, etc.;[13] and servants with their master in order to perform a miracle for a righteous man, namely, Mordecai, as it is written, 'And the thing was known to Mordecai etc. ' R. Johanan said: Bigthan and Teresh were two Tarseans[14] and conversed in the Tarsean language. They said: From the day this woman came we have been able to get no sleep.[15] Come, let us put poison in the dish so that he will die. They did not know that Mordecai was one of those who had seats in the Chamber of Hewn Stone,[16] and that he understood seventy languages.[17] Said the other to him, But are not my post and your post different?[18] He replied: I will keep guard at my post and at yours. So it is written, And when inquisition was made, he was found,[19] that is to say, they were not [both] found at their posts.

After these things.[20] After what? — Raba said: After God had created a healing for the blow [which was about to fall]. For Resh Lakish has said: The Holy One, blessed be He, does not smite Israel unless He has created for them a healing beforehand, as it says . When I have healed Israel, then is the iniquity of Ephraim uncovered.[21] Not so, however, with the other nations: He smites them first, and then creates for them a healing, as it says: The Lord will smite Egypt, smiting and healing.[22]

But it seemed contemptible in his eyes to lay hands on Mordecai alone.[23] At first he aimed at 'Mordecai alone', then at 'the people of Mordecai' — and who are these? The Rabbis; and finally at 'all the Jews'.

They cast pur, that is the lot.[24] A Tanna taught: When the lot fell on the month of Adar, he rejoiced greatly. saying, The lot has fallen for me on the month in which Moses died. He did not know, however, that Moses died on the seventh of Adar and was born on the sixth of Adar.

There is one people.[25] Raba said: There never was a traducer so skillful as Haman. He said to Ahasuerus, Come, let us destroy them. He replied: I am afraid of their God, lest He do to me as He did to my predecessors. He replied: They are 'negligent'[26] of the precepts. He said, There are Rabbis among them.[27] He replied. They are ‘one people’.[28] Should you say that I will make a void[29] in your kingdom, [I reply], they are ‘scattered abroad among the peoples’. Should you say. There is some profit in them, I reply, ‘they are dispersed’ [nifredu], like an isolated bough [peridah] that does not bear fruit. Should you say that they occupy one province, I reply, ‘they are in all the provinces of thy kingdom’. ‘Their laws are diverse from those of every other people’: they do not eat of our food, nor do they marry our women nor give us theirs in marriage, ‘Neither keep they the king's laws’, since they evade taxes the whole year[30] by their loitering and sauntering.[31] ‘Therefore it profiteth not the king to suffer them’, because they eat and drink and despise the throne. For if a fly falls into the cup of one of them, he throws it out and drinks the wine, but if my lord the king were to touch his cup, he would dash it on the ground and not drink from it. ‘If it please the king, let it be written that they be destroyed, and I will pay ten thousand talents of silver’: Resh Lakish said: It was well known beforehand to Him at whose word the world came into being that Haman would one day pay shekels for the destruction of Israel. Therefore He anticipated his shekels with those of Israel. And so we have learnt: ‘On the first of Adar[32] proclamation is made regarding the shekalim[33] and the mixed seeds’.[34]

And the king said to Haman, The silver is given to thee and the people also, to do with them as it seemeth good to thee.[35] R. Abba said:

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(1) Job XXXVI, 7.

(2) There seems to be no authority in the Scripture for this statement. V. Rashi

(3) Gen. XXIX, 12.

(4) Lit., ‘you will not be able to deal with him’.

(5) II Sam. XXII, 27.

(6) Gen. XXIX, 25.

(7) I Sam. X, 16.

(8) Job XXXVI, 7.

(9) Ibid. 8. How the text implies this is not clear. V. Maharsha.

(10) Esth. II, 20.

(11) As wife. The word באמנה (brought up) means literally ‘nursing’.

(12) Ibid. 21.

(13) Gen. XLI, 12.

(14) There was a Tarsus in Cilicia and in Cappodocia and it is not certain which is referred to.

(15) Having always to dance attendance on Ahasuerus.

(16) לשכת הגזית. The meeting place of the Sanhedrin in the Temple at Jerusalem.

(17) V. Sanh. 17a.

(18) So that neither of us can do duty for both.

(19) E.V., ‘it was found’.

(20) Esth. III, 1.

(21) Hos. VII, 1. E.V., ‘when I would heal’.

(22) Isa. XIX, 22.

(23) Esth. III, 6.

(24) Ibid. 7.

(25) Ibid. 8. E.V. ‘a certain people’.

(26) ישנים, lit., ‘asleep’ from a play on the word ישנו (there is).

(27) Who keep the precepts.

(28) And all hang together.

(29) Lit., ‘baldness’.

(30) Lit., ‘they bring out the whole year with’.

(31) Heb. שהי פהי, which may also be an abbreviation for שבת היום פסח היום ‘To-day is Sabbath, to-day is Passover’.

(32) I.e. , fourteen days before the date fixed by Haman.

(33) For the repair of the Temple.
(34) Which it is now time to uproot. V. Shek. I, 1.
(35) Esth. III, 11.

Talmud - Mas. Meg ilah 14a

To what can we compare Ahasuerus and Haman at this point? To two men one of whom had a mound in the middle of his field and the other a ditch in the middle of his field. The owner of the ditch said, I wish I could buy that mound, and the owner of the mound said, I wish l could buy that ditch. One day they met, and the owner of the ditch said, Sell me your mound, whereupon the other replied, Take it for nothing, and I shall be only too glad.[1]

And the king removed his ring.[2] R. Abba b. Kahana said: This removal of the ring was more efficacious than forty-eight prophets[3] and seven prophetesses[4] who prophesied to Israel; for all these were not able to turn Israel to better courses, and the removal of the ring did turn them to better courses.[5]

Our Rabbis taught: 'Forty-eight prophets and seven prophetesses prophesied to Israel, and they neither took away from nor added aught to what is written in the Torah save only the reading of the Megillah'. How did they derive it [from the Torah]? — R. Hiyya b. Abin said in the name of R. Joshua b. Korha: If for being delivered from slavery to freedom we chant a hymn of praise, should we not do so all the more for being delivered from death to life? If that is the reason we should say Hallel[6] also? — [We do not do so] because Hallel is not said for a miracle which occurred outside of the land of Israel. How then do we come to say it for the Exodus from Egypt which was a miracle which occurred outside the land of Israel? — As it has been taught: 'Until they entered the land of Israel, all lands were counted as proper for chanting a hymn of praise [for miracles done in them] — After they had entered the land, other countries were not counted as proper for chanting a hymn of praise [for miracles done in them]. R. Nahman said: The reading of the Megillah is equivalent to Hallel. Raba said:[7] There is a good reason in that case [of the Exodus from Egypt] because it says [in the Hallel], Praise ye O servants of the Lord, who are no longer servants of Pharaoh — But can we say in this case, Praise ye, servants of the Lord and not servants of Ahasuerus? We are still servants of Ahasuerus! Whether on the view of Raba[8] or on the view of R. Nahman,[9] there is a difficulty in what has been taught [above], that 'after they had entered the land, other countries were not counted as proper for chanting a hymn of praise [for miracles done in them]'? — When the people went into exile, the other countries became proper as at first.

Were there no more prophets than these [forty-eight]? — Is it not written, How there was a man from Ramathaim-Zophim,[10] [which we interpret], one of two hundred prophets [zophim][11] who prophesied to Israel? — There were actually very many, as it has been taught, 'Many prophets arose for Israel, double the number of [the Israelites] who came out of Egypt', only the prophecy which contained a lesson for[12] future generations was written down, and that which did not contain such a lesson was not written.

R. Samuel b. Nahmani said: This [Ramathaim-Zophim] means, a man who came from two heights which faced one another.[13] R. Hanin said: It means, a man who came from ancestors of the most exalted position.[14] And who were they? The sons of Korah, as it says, And the sons of Korah did not die.[15] A Tanna taught in the name of our Teacher:[16] A special place was assigned[17] to them in Gehinnom and they stood on it.

'Seven prophetesses'. Who were these? — Sarah, Miriam, Deborah, Hannah, Abigail, Hulda and Esther. 'Sarah', as it is written, The father of Milkah and the father of Yiscah',[18] and R. Isaac said [on this]. Yiscah is Sarah; and why was she called Yiscah? Because she discerned [sakethah] by means of the holy spirit, as it is said, In all that Sarah saith unto thee, hearken to her voice.[19] Another explanation is: because all gazed [sakin] at her beauty. ‘Miriam’, as it is written, And Miriam the prophetess the sister of Aaron.[20] Was she only the sister of Aaron and not the sister of Moses? — R. Nahman said in the name of Rab: [She was so called] because she prophesied when she was the sister of Aaron [only][21] and said, My mother is destined to bear a son who will save Israel. When he was born the whole house was filled with light, and her father arose and kissed her on the head, saying, My daughter, thy prophecy has been fulfilled. But when they threw him into the river her father arose and tapped her on the head, saying. Daughter, where is thy prophecy? So it is written, And his sister stood afar off to know;[22] to know, [that is,] what would be with the latter part of her prophecy. ‘Deborah’, as it is written, Now Deborah a prophetess, the wife of Lapidoth.[23] What is meant by a woman of flames[23] ? [She was so called] because she used to make wicks for the Sanctuary. And she sat under a palm tree[24] Why just a palm tree? — R. Simeon b. Abishalom said: [To avoid] privacy.[25] Another explanation is: Just as a palm tree has only one heart, so Israel in that generation had only one heart devoted to their Father in heaven. ‘Hannah’, as it is written, And Hannah prayed and said, My heart exulteth in the Lord, my horn is exalted in the Lord.[26] [She said], my horn is exalted’, and not, my cruse is exalted’, thus implying that the royalty of [the hour of] David and Solomon, who were anointed from a horn,[27] would be prolonged,[28] but the royalty of [the house of] Saul and Jehu,[29] who were anointed with a cruse, would not be prolonged.

There is none holy as the Lord, for there is none beside thee.[30] R. Judah b. Menashia said: Read not bilteka, ‘beside thee’], but read lebalotheka [‘to survive thee’]. For the nature of the Holy One, blessed be He, is not like that of flesh and blood. It is the nature of flesh and blood to be survived by its works, but God survives His works. Neither is there any rock [zur] like our God.[30] There is no artist [zayyar] like our God. A man draws a figure on a wall, but is unable to endow it with breath and spirit, inward parts and intestines. But the Holy One, blessed be He, fashions a form within a form and endows it with breath and spirit, inward parts and intestines.

‘Abigail’, as it is written, And it was so, as she rode on her ass and came down by the covert of the mountain.[31] ‘By the covert [sether] of the mountain’? It should say from the mountain’! — Rabbah b. Samuel said: It means that she came with reference to blood that came from the hidden parts [setharim]. She brought some blood and showed it to him.[32] He said to her: Is blood to be shown by night? She replied: Are capital cases tried at night?[33] He said to her:

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(1) Lit., ‘would it were so’. So Ahasuerus was as eager to get rid of the Jews as Haman.

(2) Ibid. 10.

(3) These are enumerated in Rashi (s.v. נבואה) and Seder Olam XX-XXI.

(4) V. infra.

(5) As it says, fasting3 and weeping and mourning, many put on sackcloth and ashes. Esth. IV,3.

(6) V. Glos.

(7) The Bah. reads: Raba demurred to this, saying.

(8) Who holds that Hallel would be said were we not servants of Ahasuerus.

(9) Who holds that the Megillah is equivalent to Hallel.

(10) I Sam. I, 1.

(11) Lit., ‘watchers’. V. supra.

(12) Lit., ‘was required for’.

(13) The literal meaning.

(14) Lit., ‘height of the world’.

(15) Num. XXVI, 11.

(16) Rab (?).

(17) Lit., ‘fenced in’.

(18) Gen. XI, 29.

(19) Ibid. XXI. 12.

(20) Ex. XV, 20.
(21) I.e., before the birth of Moses.
(22) Ex. II, 4.
(23) Jud. IV,4. ‘Lapidoth’ means literally ‘flames’.
(24) Ibid. 5.
(25) And the possibility of scandal, a palm tree not being leafy.
(26) I Sam. II, 1.
(27) V. I Sam. XVI, 13 (David); I Kings I, 39 (Solomon).
(28) As symbolized by a horn.
(29) V. I Sam. X, 1 (Saul); II Kings IX. 1 (Jehu).
(30) I Sam. II, 2.
(31) Ibid. XXV, 20.
(32) David was supposed to have been an authority on the Torah, v. Ber. 4a.
(33) And yet you are condemning Nabal to death.

Talmud - Mas. Megilah 14b

He [Nabal] is a rebel against the king and no trial is necessary for him.[1] She replied; Saul is still alive, and your fame is not yet spread abroad in the world. Then he said to her: Blessed be thy discretion and blessed be thou, that hast kept me this day from bloodguiltiness.[2] The word damim [bloodguiltiness] is plural, to indicate two kinds of blood.[3] The passage teaches that she bared her thigh[4] and he went three parasangs by the light of it.[5] He said, Listen to me. She replied, Let not this be a stumbling-block to thee.[6] The word ‘this’ implies that something else would be, and what was that? The incident of Bathsheba; and so it was eventually.[7] The soul of thy lord shall be bound up in the bundle of life.[8] When she left him she said to him, and when the Lord shall have done good to my lord . . . then remember thy handmaid.[9] R. Nahman said: This bears out the popular saying, While a woman talks she spins.[10] Some adduce the saying: The goose stoops as it goes along, but its eyes peer afar.

‘Hulda, as it is written, So Hilkiah the priest and Ahikam and Achbor etc.[11] But if Jeremiah was there,[12] how could she prophesy? — It was said in the school of Rab in the name of Rab: Hulda was a near relative of Jeremiah, and he did not object to her doing so. But how could Josiah himself pass over Jeremiah and send to her? — The members of the school of R. Shila replied, Because women are tender-hearted.[13] R. Johanan said: Jeremiah was not there, as he had gone to bring back the ten tribes. Whence do we know that they returned? — Because it is written, For the seller shall not return to that which is sold.[14] Now is it possible that after the Jubilee had ceased[15] the prophet should prophesy that it will cease? The fact is that it teaches that Jeremiah brought them back.[16] Josiah the son of Amon ruled over them, as it says, Then he said, What monument is that which I see? And the men of the city told him, It is the sepulchre of the man of God who came from Judah, and proclaimed these things that thou hast done against the altar in Beth-el.[17] Now what connection is there between Josiah and the altar in Bethel?[18] What it teaches therefore is that Josiah reigned over them. R. Nahman said: We learn it from here: Also, O Judah, there is a harvest appointed for thee, when I would turn the captivity of my people.[19]

‘Esther,’ as it is written, Now it came to pass on the third day that Esther clothed herself in royalty.[20] Surely it should say,’royal apparel’? What it shows is that the holy spirit clothed her. It is written here, ‘and she clothed’, and it is written in another place. Then the spirit clothed Amasai, etc.[21]

R. Nahman said: Haughtiness does not befit women. There were two haughty women, and their names are hateful, one being called a hornet[22] and the other a weasel.[23] Of the hornet it is written, And she sent and called Barak,[24] instead of going to him. Of the weasel it is written, Say to the man,[25] instead of ‘say to the king’.

R. Nahman said: Hulda was a descendant of Joshua. It is written here [in connection with Hulda]. The son of Harhas,[26] and it is written in another place [in connection with Joshua], In Timnath-Heres.[27] R. ‘Ena Saba cited the following in objection to R. Nahman: ‘Eight prophets who were also priests were descended from Rahab the harlot, namely, Neriah, Baruch, Serayah, Mahseyah, Jeremiah, Hilkiah, Hanamel and Shallum.’ R. Judah says: Hulda the prophetess was also one of the descendants of Rahab the harlot. [We know this] because it is written here ‘the son of Tikvah’ and it is written elsewhere [in connection with Rahab]. ‘the line [tikvath] of scarlet thread’![28] — He replied: ‘’Ena Saba’[29] — or, according to another report. ‘Black bowl’,[30] — the truth can be found by combining my statement and yours’.[31] We must suppose that she became a proselyte and Joshua married her. But had Joshua any children? Is it not written, Nun his son, Joshua his son?[32] — He had no sons, but he had daughters.

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(1) I.e., he can be condemned at night. V. Tosaf.

(2) I Sam. XXV, 33.

(3) Of uncleanness and capital punishment.

(4) Not necessarily in his presence. V. Maharsha.

(5) I.e., through desire for her. V. Tosaf.

(6) Ibid. 31.

(7) This shows that she was a prophetess.

(8) Ibid. 29. This sentence seems to be an interpolation and should be omitted (Maharsha).

(9) Ibid. 30, 31.

(10) Ibid. So Abigail, while speaking about Nabal, put in a word for herself, proposing that David should marry her should Nabal die (Rashi).

(11) II Kings XXII, 14.

(12) Jeremiah began to prophesy in the thirteenth year of Josiah (Jer. I, 2) and this happened in the eighteenth year of Josiah.

(13) And she would pray for them (Maharsha).

(14) Ezek. VII, 13. Ezekiel prophesied in the period between the exiles of Jeconiah and Zedekiah.

(15) The Jubilee was to be kept only when all Israel were in the land, and therefore ceased as soon as the tribes across the Jordan were deported (Rashi).

(16) So that in that year they commenced counting again for the Jubilee.

(17) II Kings XXIII, 17.

(18) Which was in the kingdom of Ephraim.

(19) Hos. VI, 11. ‘Harvest’ here is supposed to have the sense of ‘power’ or ‘greatness’ (Rashi).

(20) Esth. V, 1.

(21) I Chron. XII, 19.

(22) The literal meaning of Deborah.

(23) The literal meaning of Hulda.

(24) Jud. IV, 6.

(25) II Kings XXII, 15.

(26) Ibid. 14.

(27) Jud. II, 9. This is interpreted as ‘Timnath belonging to Heres’, who is identified with Harhas.

(28) Josh. II, 18.

(29) Lit., ‘old eye’.

(30) Alluding perhaps to his ugliness (Maharsha).

(31) Lit., ‘from me and thee is the matter concluded’.

(32) I Chron. VII, 27. The genealogy stops at this point; from which it is inferred that Joshua had no sons.

Talmud - Mas. Megilah 15a

We admit that [some of] those [eight] mentioned above are expressly described [as prophets],[1] but how do we know that their fathers[2] [were prophets]? — From the dictum of ‘Ulla; for ‘Ulla said: Wherever a man's name is given along with that of his father as the author of a prophecy[3] we know that he was a prophet son of a prophet. Where his own name is given but not that of his father, we know that he was a prophet but not the son of a prophet. Where his name and the name of his town are specified, we know that he came from that town — Where his name is given but not that of his town, we know that he was from Jerusalem — In a Baraitha it was stated: If nothing is known about the character of a man or of his ancestors,[4] and the Scripture mentions any one of them in connection with a praiseworthy action, as for instance, The word of the Lord which came to Zephaniah son of Cushi son of Gedaliah,[5] we may know that he was a righteous man son of a righteous man; and wherever the Scripture mentions any one of them in connection with a reprehensible action, as for instance, And it came to pass in the seventh month that Ishmael the son....of Elishama came,[6] we may know that he was a wicked man son of a wicked man.

R. Nahman[7] said: Malachi is the same as Mordecai. Why was he called Malachi? Because he was next to the king.[8] The following was cited in objection to this: ‘Baruch the son of Neriah and Serayah the son of Mahseyah and Daniel and Mordecai, Bilshan, Haggai, Zechariah and Malachi all prophesied in the second year of Darius’! — This is a refutation.

It has been taught: R. Joshua b. Korha said: Malachi is the same as Ezra, and the Sages say that Malachi was his proper name. R. Nahman said: There is good ground for accepting the view that Malachi was the same as Ezra. For it is written in the prophecy of Malachi, Judah hath dealt treacherously and an abomination is committed in Israel and in Jerusalem, for Judah hath profaned the holiness of the Lord which he loveth and hath married the daughter of a strange God.[9] And who was it that put away the strange women? Ezra, as it is written, And Shechaniah the son of Jehiel, one of the sons of Elam answered and said unto Ezra: We have broken faith with our God and have married foreign women.[10]

The Rabbis taught: There have been four women of surpassing beauty in the world — Sarah, Rahab, Abigail and Esther. According to the one who says that Esther was sallow,[11] Vashti should be inserted in place of Esther.

Our Rabbis taught: Rahab inspired lust by her name; Jael by her voice; Abigail by her memory; Mical daughter of Saul by her appearance. R. Isaac said: Whoever says. ‘Rahab, Rahab’, at once has an issue. Said R. Nahman to him: I say Rahab, Rahab, and nothing happens to me! He replied: I was speaking of one who knows her and is intimate with her.

Now when Mordecai knew all that was done[12] [etc.]. What [was his cry]? — Rab said: He said, ‘Haman has raised himself above Ahasuerus’; Samuel said, ‘The upper king has prevailed over the lower king’.[13]

And the queen was exceedingly pained [wa-tithhalhal].[14] What is the meaning of wa-tithhalhal?[15] — Rab said: It means that she became menstruous; R. Jeremiah said that her bowels were loosened.

And Esther called Hatach.[16] Rab said: Hatach is the same as Daniel. Why was he called Hatach? Because he was degraded [hataku-hu] from his position.[17] Samuel said, Because all affairs of state were decided [nehtakim] by his voice.

To know what this was and why this was.[16] R. Isaac said: She sent to him saying. Perhaps Israel have transgressed the five books of the Torah, in which is written, On this side and on this they were written.[18]

And they told Mordecai Esther's words.[19] But Hatach did not go to him on this occasion.[20] This shows us that a recalcitrant answer[21] need not be taken back [by the messenger].[22]

Go, gather together all the Jews . . . which is not according to the custom.[23] R. Abba said: It will not be [she said] according to the custom of every other day. Till now [I have associated with Ahasuerus] under compulsion, but now I will do so of my own will.

And if I perish, I perish.[23] As I am lost to my father's house so I shall be lost to thee.[24]

And Mordecai passed [wa-ya'abor].[25] Rab said: This indicates that he made the first day of Passover pass[26] as a fast day. Samuel said: It indicates that he crossed a stream [on that day].[27] Now it came to pass on the third day that Esther put on royalty.[28] Surely it should say, ‘royal apparel’? — R. Eleazar said in the name of R. Hanina: This tells us that the holy spirit clothed her. It is written here, ‘and she put on’, and it is written elsewhere, And a spirit clothed Amasai.[29]

R. Eleazar b. Hanina also said: Let not the blessing of an ordinary man be lightly esteemed in thine eyes, for two men great in their generation received from ordinary men blessings which were fulfilled in them. They were, David and Daniel. David was blessed by Araunah, as it is written, And Araunah said unto the king, The Lord thy God accept thee.[30] Daniel was blessed by Darius, as it is written ‘ Thy God whom thou servest continually, He will deliver thee.[31] R. Eleazar further said in the name of R. Hanina: Let not the curse of an ordinary man be lightly esteemed in thine eyes, because Abimelech cursed Sarah, saying, Behold he is to thee a covering of the eyes,[32] and this was fulfilled in her seed, [as it says], And it came to pass that when Isaac was old his eyes were dim.[33]

R. Eleazar further said in the name of R. Hanina: Come and observe that the way of the Holy One, blessed be He, is not like the way of flesh and blood — The way of flesh and blood is that a man places a pot on the fire and then pours water into it, but God first puts in the water and then fixes the pot, to fulfil what is written, At the sound of his giving a multitude of waters in the heavens.[34]

R. Eleazar further said in the name of R. Hanina: Whoever reports a saying in the name of its originator brings deliverance to the world, as it says, And Esther told the king in the name of Mordecai.[35]

R. Eleazar further said in the name of R. Hanina: When a righteous man dies, he dies only for his own generation.[36] It is with him as with a man who loses a pearl. Wherever it is, it remains a pearl,[37] and is lost only to its owner.

Yet all this availeth me nothing.[38] R. Eleazar said in the name of R. Hanina: Because he saw Mordecai sitting in the king's gate, was this any reason why he should say, ‘All this availeth me nothing’? The explanation is in the dictum of R. Hisda; for R. Hisda said: The one came [to the court] as a counsellor[39] and the other

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(1) Viz., Jeremiah and Hanamel (Jer. XXXII) and also Baruch and Serayah, who were disciples of Jeremiah and therefore presumably prophets also (Rashi).

(2) Viz., Hilkiah, Shallum, Neriah and Mahseyah.

(3) Lit., ‘in prophecy’.

(4) Lit., ‘where his actions and those of his ancestors are not defined’.

(5) Zeph. I, 1.

(6) Jer. XLI, 1. They came to murder Gedaliah.

(7) According to a better reading, Rab. V infra.

(8) V. Esth. X, 3. ‘And he was looked on as an angel (mal'ak)’. (Maharsha).

(9) Mal. II, 11.

(10) Ezra X, 2.
(11) V. supra p.75.
(12) Esth. IV, 1.
(13) Euphemistically, meaning the opposite. Or it may be taken literally, as a kind of prayer (Maharsha).
(14) Esth. IV 4.
(15) Lit., ‘became full of hollows’.
(16) Ibid. 5.
(17) Which he held in the reigns of Belshazar, Darius and Cyrus.
(18) Ex. XXXII, 15.
(19) Esth. IV, 12.
(20) As, if so, it would say he told.
(21) E.g., Esther's reluctance to petition the king.
(22) And Mordecai must have learnt from some other source.
(23) Ibid. 16.
(24) [By submitting voluntarily to Ahasuerus she would be for ever forbidden to Mordecai who was (v. p. 78, n. 5) her legitimate husband, according to the law which forbids a wife to her husband where she had relations of her own free will with another man.]
(25) Ibid. 17.
(26) A play on the word he'ebir which means, ‘to prolong a month by adding an extra day’,[or in the sense of ‘transgressed’, cf. Targum a.I.: ‘and he transgressed the joy of the feast of Passover’.] The order for the destruction of the Jews was given in Susa on the thirteenth day of Nisan, and the Jews fasted the next three days.
(27) To inform the Jews on the other side. [The Jewish quarter in Susa was separated from the main city by a small tributary of the Tigris. V. Obermeyer, p. 214.]
(28) Esth. V, 1.
(29) I Chron. XII, 19.
(30) II Sam. XXIV, 23.
(31) Dan. VI, 17.
(32) Gen. XX, 16.
(33) Ibid. XXVII, 1. V. supra.
(34) Jer. X, 13. The text continues, when he causeth the vapours to ascend, like steam from a boiling pot.
(35) Esth. II, 22.
(36) And his name, or his soul, survives.
(37) Lit., ‘its name is pearl’.
(38) This verse from the Book of Esther (V. 13) is here commented on out of its place, in order to introduce another dictum of R. Eleazar in the name of R. Hanina.
(39) Heb. פרוזבולי apparently = **.

Talmud - Mas. Megilah 15b

as an envoy.[1] R. Papa said: They also called him, The slave that was sold for loaves of bread .[2]

Yet all this availeth me nought. This tells us that all the treasures of that wretch were engraved on his heart, and when he saw Mordecai sitting in the king's gate he said, Yet all this[3] availeth me nought.

R. Eleazar further said in the name of R. Hanina: God will in the time to come be a crown on the head of every righteous man, as it is said, In that day shall the Lord of Hosts be for a crown of glory[4] etc. What is meant by a ‘crown of glory’ [zebi] and a ‘diadem [zefirath] of beauty’? For them that do his will [zibyono] and who await [mezapin] his glory. Shall He be so to all? [Not so]. since it says, ‘unto the residue of [lish'ar] his people’: that is, to whoever makes of himself a mere residue [shirayim]. ‘And for a spirit of judgment’: this indicates one who brings his inclination to trial.[5] ‘To him that sitteth in judgment’: this indicates one who gives a true verdict on true evidence.[6] ‘And for strength’: this indicates one who subdues his evil passions.[7] ‘That turn back the battle’: this indicates those who thrust and parry[8] in the war of the Torah. ‘At the gate’: these are the disciples of the wise who are early and late in synagogues and houses of study. Said the Attribute of Justice[9] before the Holy One, blessed be He: Why this difference between these and the others? The Holy One, blessed be He, said to him: Israel busy themselves with the Torah, the other nations do not busy themselves with the Torah — He replied to Him, But these also reel through wine, and stagger through strong drink, they totter in judgment[10] [paku peliliyah]; and ‘paku’ contains a reference to Gehinnom, as it says, that this shall be no stumbling-block [pukah] to thee;[11] and ‘peliliyah’ contains a reference to the judges, as it says. and he shall pay as the judges determine [bi-felilim].[12]

And stood in the inner court of the king's house.[13] R. Levi said: When she reached the chamber of the idols, the Divine Presence left her. She said, My God, My God, why hast thou forsaken me.[14] Dost thou perchance punish the inadvertent offence[15] like the presumptuous one, or one done under compulsion like one done willingly? Or is it because I called him ‘dog’, as it says. Deliver my soul from the sword, mine only one from the power of the dog?[16] She straightway retracted and called him lion, as it says. Save me from the lion's mouth.[17]

And it was so when the king saw Esther the queen.[18] R. Johanan said: Three ministering angels were appointed to help her at that moment; one to make her head[19] erect, a second to endow her with charm[20] and a third to stretch the golden sceptre. How much [was it stretched]? — R. Jeremiah said: It was two cubits long and he made it twelve cubits — Some say, sixteen, and some again twenty-four. In a Baraitha it was stated, sixty. So too you find with the arm of the daughter of Pharaoh,[21] and so you find with the teeth of the wicked, as it is written, Thou hast broken [shibarta] the teeth of the wicked,[22] and Resh Lakish said in regard to this, Read not shibarta but shirbabta [Thou hast prolonged]. Rabbah b. ‘Ofran said in the name of R. Eleazar who had it from his teacher, who had it from his teacher, [that the sceptre was stretched] two hundred [cubits].

And the king said to her, What wilt thou, queen Esther? For whatever thy request, even to the half of the kingdom, it shall be given thee.[23] ‘Half the kingdom’, but not the whole kingdom. and not a thing which would divide the kingdom.[24] What could that be? The building of the Temple.

Let the king and Haman come unto the banquet.[25] Our Rabbis taught: What was Esther's reason for inviting Haman? — R. Eleazar said, She set a trap for him, as it says. Let their table before them become a snare.[26] R. Joshua said: She learnt to do so from her father's house, as it says. If thine enemy be hungry give him bread to eat, etc.[27] R. Meir said, So that he should not form a conspiracy[28] and rebel. R. Judah said: So that they should not discover that she was a Jewess.[29] R. Nehemiah said: So that Israel should not say, We have a sister in the palace, and so should neglect[30] [to pray for] mercy. R. Jose said: So that he should always be at hand for her.[31] R. Simeon b. Menassiah said: [She said], Perhaps the Omnipresent will notice[32] and do a miracle for us. R. Joshua b. Korha said: [She said], I will encourage him so that he may be killed, both he and I.[33] Rabban Gamaliel said: [She said]. Ahasuerus is a changeable king.[34] Said R. Gamaliel: We still require the Modean,[35] as it has been taught: R. Eliezer of Modi'im says, She made the king jealous of him and she made the princes jealous of him. Rabbah said: [She said], Pride goeth before destruction.[36] Abaye and Raba gave the same reason, saying: [She said], With their poison I will prepare their feast.[37] Rabbah b. Abbuha came across Elijah and said to him, Which of these reasons prompted Esther to act as she did? He replied: [All] the reasons given by all the Tannaim and all the Amoraim.

And Haman recounted unto them the glory of his riches and the multitude of his children.[38] How many are indicated by ‘the multitude of his children’? — Rab said: Thirty. Ten died, ten were hung, and ten were reduced to beggary. The Rabbis, however, said: Those who were reduced to beggary numbered seventy, as it says, They that were full [sebe'im] have hired themselves out for bread.[39] Read not sebe'im, but shib'im [seventy]. Rami b. Abba said: In all they were two hundred and eight, as it says, And the multitude [we-rob] of his sons. But we-rob in gematria[40] is two hundred and fourteen?[41] — R. Nahman b. Isaac said: The word is written defectively.[42]

On that night the sleep of the king was disturbed.[43] R. Tanhun said: The sleep of the King of the Universe was disturbed. The Rabbis, however, say: Those above[44] were disturbed and those below[45] were disturbed. Raba said: It means literally ‘the sleep of king Ahasuerus. A thought occurred to him: What is the meaning of Esther inviting Haman? Perhaps they are conspiring[46] against me to kill me? He thought again: If that is so, is there no man who is my friend and who would tell me? Then he thought again: Perhaps there is some man who has done me a good turn and I have not rewarded him; and therefore men refrain from informing me. Straightway, he commanded to bring the book of records of the chronicles.[43]

And they were read.[43] This [form of expression][47] indicates that they were read of themselves.

And it was found [being] written.[48] It should say, a writing [kethab] was found? — This shows

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(1) Heb. פרוזבוטי apparently = ** There was a tradition that Mordecai once went with a deputation to the king of Persia to ask permission for the Jews to rebuild the Temple, v. Jast. [Rashi: One (Mordecai) came as a rich man, the other (Haman) as a debtor. Haman according to the legend had sold himself during one of the wars as a slave to Mordecai for a loaf of bread.]

(2) V. previous note.

(3) Pointing to it (Maharsha).

(4) Isa. XXVIII, 5f.

(5) And forces himself to repent (Rashi).

(6) Lit., ‘true to its own truth’.

(7) Avoids sin.

(8) Lit., ‘take and give’, i.e., ‘argue’, ‘debate’.

(9) The qualities assigned to God in Ex. XXXIV, 6,7 are called in the Talmud the divine Attributes (middoth, lit., ‘measures’). and those of Justice and Mercy are often personified.

(10) Isa. XXVIII, 7.

(11) I Sam. XXV, 31.

(12) Ex. XXI, 22.

(13) Esth. V, 2.

(14) Ps. XXII, 2.

(15) In associating with Ahasuerus.

(16) Ibid. 21.

(17) Ibid. 22.

(18) Esth. V, 2.

(19) Lit., ‘neck’.

(20) Lit., ‘to draw a thread of grace over her’.

(21) In Ex. II, 5 the words ותשלח את אמתה are translated by the Rabbis ‘and she put forth her arm’ (E.V., ‘she sent her handmaid’)

(22) Ps. III, 8. Cf. Ber.

(23) Esth. V, 3.

(24) By setting up a rival power.

(25) Ibid. 4.

(26) Ps. LXIX, 23.

(27) Prov. XXV, 21. The next verse continues, ‘for thou heapest coals of fire upon his head’.

(28) Lit., ‘take counsel’.

(29) Since she was willing to eat with Haman.

(30) Lit., ‘discuss their mind’.

(31) If she wanted to accuse him.

(32) To what straits I am brought.
(33) Lit., 'she'.
(34) And I may persuade him to alter his mind while Haman is with us, so that he will not have time to change again.
(35) To explain why Haman alone was invited (Maharsha).
(36) Prov. XVI, 18.
(37) Jer. LI, 39.
(38) Esth. V, 11.
(39) I Sam. II, 5.
(40) V. Glos.
(41) Viz., W = 6; R = 200; W = 6; B = 2.
(42) I.e., without the middle waw.
(43) Esth. VI, 1.
(44) The angels.
(45) Israel.
(46) Lit., 'taking counsel'.
(47) Instead of 'and they read them'.
(48) Ibid. 2.

Talmud - Mas. Megilah 16a

that Shamshai[1] kept on erasing and Gabriel kept on writing. R. Assi said: R. Shila, a man of Kefar Temarta,[2] drew a lesson from this, saying: If a writing on earth which is for the benefit of Israel cannot be erased, how much less a writing in heaven![3]

There is nothing done for him.[4] Raba said: [They answered him thus] not because they loved Mordecai but because they hated Haman.

He had prepared for him.[5] A Tanna stated: [This means], he had prepared for himself.[6]

And do even so to Mordecai etc.[7] Haman said to him: Who is Mordecai? He said to him: 'The Jew'. He said: There are many Mordecais among the Jews. He replied: 'The one who sits in the king's gate'. Said Haman to him: For him [the tribute] of one village or one river is sufficient! Said Ahasuerus: Give him that too; 'let nothing fail of all that thou hast spoken'.

Then took Haman the apparel and the horse.[8] He went and found [Mordecai with] the Rabbis sitting before him while he showed them the rules of the 'handful'.[9] When Mordecai saw him approaching and leading the horse, he became frightened and said to the Rabbis, This villain is coming to kill me. Get out of his way so that you should not get into trouble with him.[10] Mordecai thereupon drew his robe round him and stood up to pray. Haman came up and sat down before them and waited till Mordecai had finished his prayer. He said to him: What have you been discussing? He replied: When the Temple stood, if a man brought a meal-offering he used to offer a handful of fine flour and make atonement therewith. Said Haman to them: Your handful of fine flour has come and displaced my ten thousand talents of silver. Said Mordecai to him: Wretch, if a slave acquires property, whose is the slave and whose is the property?[11] Haman then said to him: Arise and put on this apparel and ride on this horse, for so the king desires you to do. He replied: I cannot do so until I have gone into the bath and trimmed my hair, for it would not be good manners to use the king's apparel in this state. Now Esther had sent and closed all the baths and all the barbers' shops. So Haman himself took him into the bath and washed him, and then went and brought scissors from his house and trimmed his hair. While he was doing so, he sighed and groaned. Said Mordecai to him: Why do you sigh? He replied: The man who was esteemed by the king above all his nobles is now made a bath attendant and a barber. Said Mordecai to him: Wretch, and were you not once a barber in Kefar Karzum?[12] (For so a Tanna stated: Haman was a barber in Kefar Karzum twenty-two years.) After he had trimmed his hair he put the garments on him, and said to him, Mount and ride. He replied: I am not able, as I am weak from the days of fasting. So Haman stooped down and he mounted [on his back]. When he was up he kicked him. He said to him: Is it not written in your books,[13] Rejoice not when thine enemy faileth?[14] He replied: That refers to an Israelite, but in regard to you [folk] it is written, And thou shalt tread upon their high places.[15]

And proclaimed before him, This shall be done to the man whom the king delighted to honour.[16] As he was leading him through the street where Haman lived, his daughter who was standing on the roof saw him. She thought that the man on the horse was her father and the man walking before him was Mordecai. So she took a chamber pot and emptied it on the head of her father. He looked up at her and when she saw that it was her father, she threw herself from the roof to the ground and killed herself. Hence it is written . . .[17]

And Mordecai returned to the king's gate. R. Shesheth said: This indicates that he returned to his sackcloth and fasting. But Haman hastened to his house, mourning and having his head covered; mourning for his daughter, and with his head covered on account of what had happened to him.

And Haman recounted unto Zeresh his wife and all his friends, etc. They are first called ‘his friends’ and then they are called ‘his wise men’. R. Johanan said: Whoever says a wise thing even if he is a non-Jew[18] is called ‘wise’.

If Mordecai be of the seed of the Jews. They said to him: If he comes from the other tribes, you can prevail over him, but if he is from the tribe of Judah or of Benjamin, Ephraim or Manasseh, you will not prevail over him. ‘Judah’, as it is written, Thy hand shall be on the neck of thine enemies.[19] The others, because it is written of them, Before Ephraim and Benjamin and Manasseh stir up thy might.[20]

But falling thou shalt fall.[21] R. Judah b. Ila'i drew a lesson from this verse, Saying: Why are two fallings mentioned here? Haman's friends said to him: This people is likened to the dust and it is likened to the stars. When they go down, they go down to the dust, and when they rise they rise to the stars. Came the king's chamberlains and hastened [wa-yabhilu] to bring Haman.[22] The use of this word [wa-yabhilu][23] tells us that they brought him all in confusion [behalah].

For we are sold, I and my people etc . . . For the adversary cares[24] not that the king is endamaged.[25] She said to him: This adversary cares not for the damage of the king. He was angry with Vashti and killed her,[26] and he is angry with me and wants to kill me.

Then said the king Ahasuerus, and he said to Esther the queen.[27] Why ‘said’ and again ‘said’? R. Abbahu replied: He first spoke to her through an intermediary.[28] When she told him that she came from the house of Saul,[29] forthwith, ‘he said to Esther the queen’.

And Esther said, An adversary and an enemy, even this wicked Haman.[30] R. Eleazar said: This informs us that she was pointing to Ahasuerus and an angel came and pushed her hand so as to point to Haman.[31]

And the king rose in his wrath...and the king returned out of the palace garden.[32] His returning is put on the same footing as his arising. Just as the arising was in wrath, so the returning was in wrath. For he went and found ministering angels in the form of men who were uprooting trees from the garden. He said to them, What are you doing? They replied: Haman has ordered us. He came into the house, and there ‘Haman was falling[33] upon the couch’. ‘Falling’? It should say. ‘had fallen’? — R. Eleazar said: This informs us that an angel came and made him fall on it. Ahasuerus then exclaimed: Trouble[34] inside, trouble outside!

‘Then said the king, Will he even force the queen before me in the house? Then said Harbonah, etc.’ R. Eleazar said: Harbonah also was a wicked man and implicated in that plot.[35] When he saw that his plan was not succeeding, he at once fled, and so it is written, And he cast upon him and did not pity, from his hand he surely fleeth.[36]

Then the king's wrath was assuaged.[37] Why are there two assuagings here?[38] — One of the [wrath of the] King of the Universe,[39] and the other of Ahasuerus. Others say, one [of the wrath] on account of Esther and the other on account of Vashti.

To all of them he gave to each man changes of raiment but to Benjamin he gave five changes of raiment.[40] Is it possible that that righteous man[41] should fall into the very mistake from which he himself had suffered?

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(1) A scribe, mentioned in the book of Ezra (IV, 8) as an enemy of the Jews. According to tradition he was a son of Haman.

(2) [Tamara, south of Kabul, v. E.J. s.v.]

(3) Seeing that Gabriel is already there (Maharsha).

(4) Esth. VI, 3.

(5) Ibid. 4.

(6) As otherwise the words ‘for him,’ are superfluous.

(7) Ibid. 10.

(8) Ibid. 11.

(9) V. Lev. II, 2 and infra.

(10) Lit., ‘that you be not burnt with his coal’.

(11) How then can you, being the slave of Ahasuerus, talk of your ten talents of silver. [Aliter: Haman had sold himself to Mordecai as slave. V. supra p. 90. n. 4.]

(12) [MS.M. קרינום, Kefar Karnayim in Transjordania, cf. Josephus, Ant. XII, 8,4; v. however, Romanoff, P. Amer. Acad. for Jewish Research, VII, pp. 58ff].

(13) Lit., ‘for you’.

(14) Prov. XXIV, 17.

(15) Deut. XXXIII, 29.

(16) Esth. VI, 11.

(17) These words connect with the sentence after the next, ‘but Haman hastened’ etc.

(18) Lit., ‘of the nations of the world’.

(19) Gen. XLIX, 8.

(20) Ps. LXXX, 3.

(21) So lit. E.V. Shalt surely fall.

(22) Esth. VI, 14.

(23) Instead of the more usual וימהרו.

(24) E.V., ‘is not worthy’.

(25) Esth. VII, 4.

(26) V. supra 12b.

(27) Ibid. 5.

(28) Heb. turgeman; lit., ‘interpreter’.

(29) I.e., that she was of royal descent.

(30) Ibid. 6.

(31) She meant the words ‘adversary and enemy’ to apply to Ahasuerus himself.

(32) Esth. VII, 7f.

(33) Heb. נפל.

(34) Lit., ‘woe!’.

(35) To hang Mordecai. [Otherwise how would he have known the exact measurements of the gallows.]

(36) Job XXVII, 22.
(37) Esth. VII, 10.
(38) The Hebrew is שככה, where שכה might have been used.
(39) Against Israel for bowing down to the image; supra 12a.
(40) Gen. XLV, 22.
(41) Joseph.

Talmud - Mas. Megilah 16b

For Raba b. Mehasia said in the name of R. Hami b. Guria, who said it in the name of Rab: Through two sela's weight of fine silk which Jacob gave to Joseph over what he gave to his brothers, a ball was set rolling and our ancestors eventually went down to Egypt! — R. Benjamin b. Japhet said: He gave him a hint that a descendant would issue from him who would go forth before a king in five royal garments, as it says, And Mordecai went forth from the presence of the king in royal apparel of blue etc.[1]

And he fell upon his brother Benjamin's neck.[2] How many necks[3] had Benjamin? — R. Eleazar said: He wept for the two Temples which were destined to be in the territory of Benjamin[4] and to be destroyed. And Benjamin wept upon his neck:[2] he wept for the tabernacle of Shiloh which was destined to be in the territory of Joseph and to be destroyed.

And behold your eyes see and the eyes of my brother Benjamin.[5] R. Eleazar said: He said to them: Just as I bear no malice against my brother Benjamin who had no part in my selling, so I have no malice against you.

That it is my mouth that speaketh unto you. As my mouth is, so is my heart.

And to his father he sent in like manner ten asses laden with the good things of Egypt.[6] What are ‘the good things of Egypt’? R. Benjamin b. Japhet said in the name of R. Eleazar: He sent him [old] wine which old men find very comforting.[7]

And his brethren also went and fell down before him.[8] R. Benjamin b. Japhet said in the name of R. Eleazar: This bears out the popular saying, A fox in its hour — bow down to it. [You compare Joseph to] a fox! Where was his inferiority to his brothers? Rather if this was said [by R. Eleazar] it was applied as follows: And Israel bowed down upon the bed's head.[9] R. Benjamin b. Japhet said in the name of R. Eleazar; A fox in its hour — bow down to it.[10]

And he comforted them and spoke kindly to them.[11] R. Benjamin b. Japhet said in the name of R. Eleazar: This tells us that he spoke to them words which greatly reassured them,[12] [saying], If ten lights were not able to put out one, how can one light put out ten?

The Jews had light and gladness and joy and honour.[13] Rab Judah said: ‘Light’ means the Torah,[14] and so it says. For the commandment is a lamp and the Torah is a light.[15] ‘Gladness’ means a feast day; and so it says, And thou shalt be glad in thy feast.[16] ‘Joy’ means circumcision; and so it says, I rejoice at thy word.[17] ‘Honour’ means the phylacteries, and so it says, And all the peoples of the earth shall see that the name of the Lord is called upon thee, and they shall be afraid of thee;[18] and it has been taught: R. Eleazar the Great says that this refers to the phylactery of the head.

And Parshandatha . . . the ten sons of Haman.[19] R. Adda from Joppa said: The ten sons of Haman and the word ‘ten’ [which follows] should be said[20] in one breath. What is the reason? Because their souls all departed together. R. Johanan said: The waw of waizatha must be lengthened like a boat-pole of the river Libruth.[21] What is the reason? Because they were all strung on one pole. R.

Shila, a man of Kefar Temarta, drew a lesson from this saying, All the songs [in Scripture] are written in the form of a half brick over a whole brick,[22] and a whole brick[22] over a half brick,[23] with the exception of this one and the list of the kings of Canaan[24] which are written in the form of a half brick over a half brick and a whole brick over a whole brick.[25] What is the reason? So that they should never rise again from their downfall.

And the king said to the queen, In Shushan the castle the Jews have slain . . .[26] The mode of expression informs us that an angel came and slapped him on his mouth.[27]

But when she came before the king, he said along with the letter.[28] 'He said'? It should be, 'she said'! — R. Johanan said: She said, Let there be said by word of mouth what is written in the letter.[29]

Words of peace and truth.[30] R. Tanhum said: [or, according to some, R. Assi]: This shows that the Megillah requires to be written on ruled lines, like the true essence of the Torah.[31] And the ordinance of Esther confirmed.[32] Only the ordinance of Esther and not the words of the fastings? — R. Johanan said: We must read thus: The words of the fastings [and their cry] and the ordinance of Esther confirmed these matters of Purim.[33]

For Mordecai the Jew was next unto king Ahasuerus, and great among the Jews and accepted of the majority of his brethren.[34] Of the majority of his brethren but not of all his brethren; this informs us that some members of the Sanhedrin separated from him.[35]

R. Joseph said: The study of the Torah is superior to the saving of life. For at first Mordecai was reckoned next after four, but afterwards next after five. At first it is written, Who came with Zerubabel, [namely] Jeshua, Nehemiah, Seraiah, Reelaiah, Mordecai, Bilshan,[36] and subsequently it is written, Who came with Zerubabel, Jeshua, Nehemiah, Azariah, Raamiah, Nahamani, Mordecai, Bilshan.[37]

Rab — or, some say. R. Samuel b. Martha — said: The study of the Torah is superior to the building of the Temple, for as long as Baruch b. Neriah was alive Ezra would not leave him to go up to the land of Israel.[38] Rabbah said in the name of R. Isaac b. Samuel b. Martha: The study of the Torah is superior to the honouring of father and mother. For, for the fourteen years that Jacob spent in the house of Eber, he was not punished, since a Master has said:

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(1) Esth. VIII, 15.

(2) Gen. XLV, 14.

(3) The Heb. צוארי can also be taken as a plural. [Rashi omits this question. He did not regard the exposition that follows as being based upon the supposed difference in the grammatical form. the neck is simply taken as allusion to the Temple.]

(4) On the Temple Mount in Jerusalem.

(5) Gen. XLV, 12.

(6) Ibid. 23.

(7) Lit., 'in which the mind of old will take delight'.

(8) Ibid. L, 18.

(9) Ibid. XLVII, 31.

(10) By comparison with his father there would be no disrespect in referring to Joseph as a fox.

(11) Lit., 'upon their heart.

(12) Lit., 'which were received upon the heart'.

(13) Esth. VIII, 16.

(14) I.e., they resumed the study of the Torah without hindrance; and so with circumcision and phylacteries.

(15) Prov. VI, 23.

(16) Deut. XVI, 14.

(17) Ps. CXIX, 162. The word לאמר (saying) here is taken to refer to circumcision because God said (אמר) to Abraham that he should circumcise his son, Gen. XVII, 9.

(18) Deut. XXVIII, 10.

(19) Esth. IX, 7-10.

(20) By one reading the Megillah.

(21) Not identified, v. B.M., Sonc. ed. p. 503, n. 10.

(22) Al. ‘blank space’.

(23) The words in each line must be spaced in such a way as to present this appearance, the space of the half-brick being occupied in each case by the writing.

(24) In Joshua XII.

(25) אספתא ואת דלפון ואת פרשנדתא ואת etc.

(26) Esth. IX, 12.

(27) Because he commenced as if in anger and then proceeded and what is thy request etc.

(28) Ibid. 25.

(29) Rashi omits here the words, ‘she said’, and explains that R. Johanan is here laying down the rule that the Megillah (which is called ‘letter’) should be read aloud. How he derives this lesson from the text is not clear.

(30) Ibid. 30.

(31) I.e., the Pentateuch, v. Git. 6b.

(32) Ibid. 32.

(33) Ibid. 31.

(34) Ibid. X, 3.

(35) Because when he rose to power he neglected the study of the Torah.

(36) Ezra II, 2.

(37) Neh. VII, 7. The list in Ezra is given in connection with the first return from Babylon, the list in Nehemiah in connection with the dedication of the Temple which is reckoned by the Talmud to have taken place twenty-four years later (v. Rashi); and the incident of Purim is supposed to have taken place in the interval.

(38) I.e., but for Baruch, Ezra would have come back with the first of the returning exiles.

Why are the years of Ishmael mentioned? So as to reckon by them the years of Jacob, as it is written, And these are the years of the life of Ishmael, a hundred and thirty and seven years.[1] How much older was Ishmael than Isaac? Fourteen years, as it is written, And Abram was fourscore and six years old when Hagar bore Ishmael to Abram,[2] and it is also written, And Abraham was a hundred years old when his son Isaac was born to him,[3] and it is written, And Isaac was threescore years old when she bore them.[4] How old then was Ishmael when Jacob was born? Seventy-four. How many years were left of his life? Sixty-three; and it has been taught: Jacob our father at the time when he was blessed by his father was sixty-three years old. It was just at that time that Ishmael died, as it is written, Now Esau saw that Isaac had blessed Jacob...so Esau went unto Ishmael and took Mahlath the daughter of Ishmael Abraham's son the sister of Nebaioth.[5] Now once it has been said, ‘Ishmael's daughter’ do I not know that she was the sister of Nebaioth? This tells us then that Ishmael affianced her and then died, and Nebaioth her brother gave her in marriage.[6] Sixty-three and fourteen till Joseph was born[7] make seventy-seven, and it is written, And Joseph was thirty years old when he stood before Pharaoh.[8] This makes a hundred and seven. Add seven years of plenty and two of famine,[9] and we have a hundred and sixteen, and it is written, And Pharaoh said unto Jacob, How many are the days of the years of thy life? And Jacob said unto Pharaoh, The days of the years of my sojournings are a hundred and thirty years.[10] But [we have just seen that] they were only a hundred and sixteen? We must conclude therefore that he spent fourteen years in the house of Eber,[11] as it has been taught: ‘After Jacob our father had left for Aram Naharaim two years.[12] Eber died’. He then went forth from where he was[13] and came to Aram Naharaim. From this[14] it follows that when he stood by the well he was seventy-seven years old. And how do we know that he was not punished [for these fourteen years]? As it has been taught: ‘We find that Joseph was away from his father twenty-two years.[15] just as Jacob our father was absent from his father’. But Jacob's absence was thirty-six years?[16] It must be then that the fourteen years which he was in the house of Eber are not reckoned. But when all is said and done, the time he spent in the house of Laban was only twenty years?[17] — The fact is that [he was also punished] because he spent two years on the way, as it has been taught: He left Aram Naharaim and came to Succoth and spent there eighteen months, as it says, And Jacob journeyed to Succoth, and built him a house, and made booths for his cattle;[18] and in Bethel he spent six months and brought there sacrifices.

CHAPTER II

MISHNAH. IF ONE READS THE MEGILLAH BACKWARDS,[19] HE HAS NOT PERFORMED HIs OBLIGATION. IF HE READS IT BY HEART, IF HE READS IT IN A TRANSLATION [TARGUM] IN ANY LANGUAGE,[20] HE HAS NOT PERFORMED HIS OBLIGATION. IT MAY, HOWEVER, BE READ TO THOSE WHO DO NOT UNDERSTAND HEBREW[21] IN A LANGUAGE OTHER THAN HEBREW. IF ONE WHO DOES NOT UNDERSTAND HEBREW HEARS IT READ IN HEBREW, HE HAS PERFORMED HIS OBLIGATION. IF ONE READS IT WITH BREAKS,[22] OR WHILE HALF-ASLEEP, HE HAS PERFORMED HIS OBLIGATION. IF HE WAS COPYING IT, CORRECTING IT OR EXPOUNDING IT, THEN IF [IN DOING SO] HE PUT HIS MIND [ALSO TO THE READING] OF IT HE HAS PERFORMED HIS OBLIGATION, BUT OTHERWISE NOT. IF [THE COPY FROM WHICH HE READS] IS WRITTEN WITH SAM, WITH SIKRA, WITH KUMUS, OR WITH KANKANTUM,[23] OR ON NEYAR OR DIFTERA,[23] HE HAS NOT PERFORMED HIS OBLIGATION; IT MUST BE WRITTEN IN HEBREW[24] ON PARCHMENT[25] AND IN INK.

GEMARA. Whence is this rule [not to read backward] derived? — Raba said: The text says, according to the writing thereof and according to the appointed time thereof:[26] just as the appointed time cannot be backward,[27] so the [reading from the] writing must not be backward. But does the text speak here of reading? It speaks of keeping, as it is written, that they would keep these two days? — The truth is that we derive the rule from here, as it is written: And that these days should be remembered and kept.[28] ‘Remembering’ is here put on the same footing as ‘keeping’: just as keeping cannot be in the wrong order, so remembering also.

A Tanna stated: The same rule applies to Hallel,[29] to the recital of the Shema’,[29] and to the ‘Amidah[29] prayer. Whence do we derive the rule as regards Hallel? — Rabbah said: Because it is written, From the rising of the sun unto the going down thereof [the Lord's name is to be praised].[30] R. Joseph said, [from here]: This is the day which the Lord hath made.[31] R. Awia said: Let the name of the Lord be blessed.[32] R. Nahman b. Isaac — or you may also say, R. Aha b Jacob — said, It is from here: From this time forth and for ever.[33]

‘To the recital of the Shema’’, as it has been taught: The Shema’ must be recited as it is written.[34] So Rabbi. The Sages, however, say: It may be recited in any language. What is Rabbi's reason? Scripture says

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(1) Gen. XXV, 17.
(2) Ibid. XVI, 16.
(3) Ibid. XXI, 5.
(4) Ibid. XXV, 26.
(5) Ibid. XXVIII, 6-9.
(6) Which shows that Ishmael died just about the time that Isaac blessed Jacob.
(7) It is reckoned by the Talmud that Jacob had been with Laban fourteen years when Joseph was born. V. Gen. XXXI, 41.
(8) Ibid. XLI, 46.
(9) V. Ibid. XLV, 6.
(10) Ibid. XLVII, 8,9.
(11) [So Rashi: cur. edd., ‘the fourteen years he spent . . . are not reckoned’.]
(12) [So Rashi: cur. edd. introduce passage with: ‘Jacob lay hidden in the house of Eber for fourteen years’.]
(13) This is the reading here of the Bah. The reading of the text is unintelligible.
(14) [By calculating the years Eber lived, v. Gen. XI, 17.]
(15) He left when he was seventeen, he was thirty when he stood before Pharaoh, and seven years of plenty and two of famine passed before he saw his father.
(16) He left when he was sixty-three and returned when he was ninety-nine.
(17) V. Gen. XXXI, 41.
(18) Gen. XXXIII, 17: a ‘house’ for one summer, and two ‘booths’ for two winters.
(19) [Perhaps as a magical incantation for driving away demons. V. Blau Das altjudische Zauberwesen pp. 146ff.]
(20) [MS.M. If he read it in Targum (Aramaic); if he read it in any other language. The text of cur. edd. can also bear this interpretation, v. Rashi 18a s.v. קראה].
(21) לעוזות people speaking a foreign (לעז) language.
(22) I.e., reads a part and then waits some time before resuming v. Gemara.
(23) Because these materials fade. A similar rule was laid down with regard to the Get. For the meaning of these terms, v. infra in the Gemara.
(24) Lit., ‘Assyrian" characters’; v. supra 8b.
(25) Lit., ‘on the book’. [Var lec. ‘on skin’.]
(26) Esth. IX, 27.
(27) I.e., the fifteenth cannot come before the fourteenth.
(28) Esth. IX, 28. The Hebrew word זכירה means both ‘remembering’ and ‘mentioning’.
(29) V. Glos.
(30) Ps. CXIII, 3. Just as the sun never goes backward from West to East, so the praise of the Lord should not be recited backward.
(31) Ibid. CXVIII, 24. The day also cannot go backward.
(32) Ibid. CXIII, 2.

(33) Ibid.
(34) I.e., in the original language.

Talmud - Mas. Megilah 17b

, [And these words] shall be,[1] which implies, they shall be kept as they are. And what is the reason of the Rabbis? — Because Scripture says, Hear,[2] which implies, in any language which you understand. How then can Rabbi [hold otherwise], seeing that it is written, ‘hear’? — He requires that word for the injunction, ‘Let thine ear hear what thou utterest with thy mouth’. The Rabbis, however, concurred with the authority who said that if one recites the Shema’ without making it audible, he has performed his obligation. But the Rabbis too — [how can they hold as they do], seeing that it is written, ‘And they shall be’? — They require this for the injunction that it should not be recited backwards. Whence does Rabbi derive the rule that it should not be recited backwards? From [the use of the expression] ‘the words’, where ‘words’ [would have been sufficient]. The Rabbis, however, do not accept this distinction between ‘the words’ and ‘words’.

May we say that Rabbi was of opinion that the whole of the Torah has been ordained [to be recited] in any language?[3] For should you assume that it has been ordained [to be recited] only in the holy tongue, why should the words ‘and they shall be’ be inserted [in reference to the Shema’]? — These were necessary. For it might have occurred to me to understand ‘hear’ in the same sense as the Rabbis:[4] therefore the All-Merciful wrote ‘and they shall be’. May we then say that the Rabbis were of opinion that the whole of the Torah was ordained [to be recited] only in the holy tongue, since, should you assume that it was ordained to be recited in any language, [I might ask], why should ‘hear’ be inserted [in reference to the Shema’]? — This word is necessary. For it might occur to me to understand ‘and they shall be’ in the same sense as Rabbi. Therefore the All-Merciful wrote, ‘hear’.

‘To the ‘Amidah prayer’. Whence is this derived? — As it has been taught: ‘Simeon the Pakulite[5] formulated eighteen blessings in the presence of Rabban Gamaliel in the proper[6] order in Jabneh.[7] R. Johanan said (others report, it was stated in a Baraitha): A hundred and twenty elders, among whom were many prophets, drew up eighteen blessings in a fixed order’.

Our Rabbis taught: Whence do we derive that the blessing of the Patriarchs[8] should be said? Because it says, Ascribe unto the Lord, O ye sons of might.[9] And whence that we say the blessing of mighty deeds?[10] Because it says, Ascribe unto the Lord glory and strength.[11] And whence that we say sanctifications?[12] Because it says, Ascribe unto the Lord the glory due unto His name, worship the Lord in the beauty of holiness.[13] What reason had they for mentioning understanding[14] after holiness? Because it says, They shall sanctify the Holy One of Jacob and shall stand in awe of the God of Israel,[15] and next to this, They also that err in spirit shall come to understanding. What reason had they for mentioning repentance[16] after understanding? Because it is written, Lest they, understanding with their heart, return and be healed.[17] If that is the reason, healing should be mentioned next to repentance?[18] — Do not imagine such a thing, since it is written, And let him return unto the Lord and He will have compassion upon him, and to our God, for he will abundantly pardon.[19] But why should you rely upon this verse? Rely rather on the other! — There is written another verse, Who forgiveth all thine iniquity, who healeth all thy diseases, who redeemeth thy life from the pit,[20] which implies that redemption and healing come after forgiveness. But it is written, ‘Lest they return and be healed’? That refers not to the healing of sickness but to the healing [power] of forgiveness. What was their reason for mentioning redemption in the seventh blessing?[21] Raba replied: Because they [Israel] are destined to be redeemed in the seventh year [of the coming of the Messiah],[22] therefore the mention of redemption was placed in the seventh blessing. But a Master has said, ‘In the sixth year will be thunderings, in the seventh wars, at the end of the seventh the son of David will come’? — War is also the beginning of redemption. What was their reason for mentioning healing in the eighth blessing? — R. Aha said: Because circumcision which requires healing is appointed for the eighth day, therefore it was placed in the eighth blessing. What was their reason for placing the [prayer for the] blessing of the years ninth? R. Alexandri said: This was directed against those who raise the market price [of foodstuffs], as it is written, Break thou the arm of the wicked; and when David said this, he said it in the ninth Psalm.[23]

What was their reason for mentioning the gathering of the exiles after the blessing of the years? — Because it is written, But ye, O mountains of Israel, ye shall shoot forth your branches and yield your fruit to thy people Israel, for they are at hand to come.[24] And when the exiles are assembled, judgment will be visited on the wicked, as it says, And I will turn my hand upon thee and purge away thy dross as with lye,[25] and it is written further, And I will restore thy judges as at the first.[26] And when judgment is visited on the wicked, transgressors cease,[27] and presumptuous sinners[28] are included with them, as it is written, But the destruction of the transgressors and of the sinners shall be together, and they that forsake the Lord shall be consumed.[29] And when the transgressors have disappeared, the horn of the righteous is exalted,[30] as it is written, All the horns of the wicked also will I cut off, but the horns of the righteous shall be lifted up.[31] And ‘proselytes of righteousness’[32] are included with the righteous, as it says, thou shalt rise up before the hoary head and honour the face of the old man,[33] and the text goes on, And if a stranger sojourn with thee. And where is the horn of the righteous exalted? In Jerusalem,[34] as it says, Pray for the peace of Jerusalem, may they prosper that love thee.[35] And when Jerusalem is built, David[36] will come, as it says.

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(1) Deut. VI, 6.

(2) Ibid. 4. The word שמע means both ‘hear’ and ‘understand’.

(3) According to Tosaf., this refers only to those passages of the Scripture which were to be recited on special occasions, e.g., the passage relating to the first-fruit, the declaration of halizah etc.

(4) Viz., in any language.

(5) Possibly this means ‘cotton dealer’ (Rashi).

(6) I.e. one based on Scriptural texts, as explained infra.

(7) V. Ber. 28b.

(8) The first blessing, containing the words, the God of Abraham, the God of Isaac, and the God of Jacob’. For the ‘Amidah prayer v. P.B. pp. 44ff.

(9) Ps. XXIX, 1. ‘Sons of might’ is taken as a description of the Patriarchs. The Talmud renders: ‘Mention before the Lord the sons of might’, i.e., the Patriarchs.

(10) The second blessing, mentioning the ‘mighty deed’ of the resurrection.

(11) Ps. XXIX, 1.

(12) The third blessing beginning, ‘Thou art holy’.

(13) Ibid. 2.

(14) In the fourth blessing, beginning, ‘Thou grantest to man understanding’.

(15) Isa. XXIX, 23f.

(16) In the fifth blessing, commencing, ‘Bring us back, O Father’.

(17) Ibid. VI, 10.

(18) Whereas in fact it comes in the next blessing but one, ‘redemption’ being interposed.

(19) Ibid. LV, 7.

(20) Ps. CIII, 3f.

(21) Concluding, ‘Blessed art thou, O Lord, who redeemest Israel’.

(22) V. Sanh. 97a.

(23) In our books it is the tenth (v. 15), but the Talmud apparently reckoned the first and second Psalms as one.

(24) Ezek. XXXVI, 8.

(25) Isa. I, 25.

(26) Ibid. 26. The next blessing proceeds, ‘Restore our judges’. etc.

(27) MS. M. minim (plur. of min v. Glos.).

(28) Mentioned in the next blessing. This, however, was not one of the original eighteen, v. Ber. 28b.

(29) Ibid. 28.
(30) The next blessing concludes, ‘the support and trust of the righteous’.
(31) Ps. LXXV, II.
(32) Mentioned in the same blessing. ‘Proselytes of Righteousness’ are converts who completely accept the Jewish creed and life.
(33) Lev. XIX, 32.
(34) Mentioned in the next blessing.
(35) Ps. CXXII, 6.
(36) Mentioned in the next blessing, which commences, ‘Cause to sprout quickly the shoot of David’.

Talmud - Mas. Megilah 18a

Afterwards shall the children of Israel return and seek the Lord their God, and David their king.[1] And when David comes, prayer[2] will come, as it says. Even then will I bring to my holy mountain, and make them joyful in my house of prayer.[3] And when prayer has come, the Temple service[4] will come, as it says, Their burnt-offerings and their sacrifices shall be acceptable upon mine altar.[5] And when the service comes, thanksgiving[6] will come, as it says. Whoso offereth the sacrifice of thanksgiving honoureth me.[7] What was their reason for inserting the priestly benediction after thanksgiving? Because it is written, And Aaron lifted up his hands toward the people and he came down from offering the sin-offering and the burnt-offering and the peace-offerings.[8] But cannot I say that he did this before the service? — Do not imagine such a thing. For it is written, ‘and he came down from offering’. Is it written ‘to offer’? It is written, ‘from offering’.[9] Why not then say it [the priestly benediction] after the [blessing of] the Temple service? — Do not imagine such a thing, since it is written, whoso offereth the sacrifice of thankgiving.[10] Why base yourself upon this verse? Why not upon the other? — It is reasonable to regard service and thanksgiving as one. What was their reason for having ‘give peace’ said after the priestly benediction? — Because it is written, So they [the priests] shall put my name upon the children of Israel, and [then] I shall bless them;[11] and the blessing of the Holy One, blessed be He, is peace, as it says, The Lord shall bless his people with peace.[12]

Seeing now that a hundred and twenty elders, among whom were many prophets. drew up the prayers in the proper order, why did Simeon the Pakulite formulate them? — They were forgotten, and he formulated them afresh. Beyond this it is forbidden to declare the praise of the Holy One, blessed be He.[13] For R. Eleazar said: What is the meaning of the verse, Who can express the mighty acts of the Lord, or make all his praise to be heard?[14] For whom is it fitting to express the mighty acts of the Lord? For one who can make all his praise to be heard. Rabbah b. Bar Hanah said in the name of R. Johanan: One who descants upon the praises of the Holy One, blessed be He, to excess is uprooted from the world, as it says, Shall it be told to him that I should speak? Should a man [try to] say, surely he would be swallowed up.[15] R. Judah a man of Kefar Gibboraya,[16] or, as some say, of Kefar Gibbor Hayil,[17] gave the following homily: What is meant by the verse, For thee silence is praise?[18] The best medicine of all is silence. When R. Dimi came, he said: In the West[19] they say: A word is worth a sela’, silence two sela's.

IF ONE READS IT BY HEART, HE HAS NOT PERFORMED HIS OBLIGATION. Whence this rule? — Raba said: We explain the expression zekirah[20] in one passage from its use in another. It is written here, And these days shall be nizkarim[21] [remembered] and it is written elsewhere, Write this le-zikaron [for a memorial] in the book.[22] Just as there it was to be in a book, so here it must be in a book. But how do we know that this ‘nizkarim’ implies ‘uttering’? Perhaps it means mere reading with the eyes? — Do not imagine such a thing, since it his been taught: ‘Remember’ [zakor].[23] Am I to say, this means only with the mind? When the text says, thou shalt not forget, the injunction against mental forgetfulness is already given. What then am I to make of ‘remember’? This must mean, by utterance.[24]

IF ONE READS IT IN A TRANSLATION, HE HAS NOT PERFORMED HIS OBLIGATION. How are we to understand this? Are we to suppose that it is written in Hebrew and he reads it in a translaion? This is the same as reading by heart! — It is required for the case where it is written in a translation and he reads it in a translation.

IT MAY, HOWEVER, BE READ TO THOSE WHO DO NOT SPEAK HEBREW IN A LANGUAGE OTHER THAN HEBREW. But you have just said, IF ONE READS IT IN ANY [OTHER] LANGUAGE HE HAS NOT PERFORMER HIS OBLIGATION? — Rab and Samuel both answered that what is referred to here is the Greek vernacular. How are we to understand this? Shall we say that it is written in Hebrew and he reads it in Greek? This is the same as saying by heart? — R. Aha said in the name of R. Eleazar: What is referred to is where it is written in the Greek vernacular.

(R. Aha also said in the name of R. Eleazar: How do we know that the Holy One, blessed be He, called Jacob El [God][25] Because it says, And the God of Israel called him [Jacob] El.[26] For should you suppose that [what the text means is that] Jacob called the altar El, then it should be written, ‘And Jacob called it’. But [as it is not written so], we must translate, ‘He called Jacob El’. And who called him so? The God of Israel).

An objection was brought [against the dictum of Rab and Samuel] from the following: ‘If one reads it in Coptic,[27] in Hebraic,[28] in Elamean, in Median, in Greek, he has not performed his obligation’! — This [statement][29] means only in the same sense as the following: ‘If one reads it in Coptic to the Copts,[30] in Hebrew to the Hebrews, in Elamean to the Elameans, in Greek to the Greeks, he has performed his obligation’. If that is the case, why do Rab and Samuel explain the Mishnah to refer to the Greek vernacular? Let them make it refer to any vernacular? — The fact is that the Mishnah agrees with the Baraitha,[31] and the statement of Rab and Samuel was meant to be a general one [thus]: Rab and Samuel both say that the Greek vernacular is good for all peoples. But it is stated, ‘[He may read] in Greek for the Greeks’ — for the Greeks, that is, he may, but for others not? — They [Rab and Samuel] concurred with Rabban Simeon b. Gamaliel, as we have learnt: ‘Rabban Simeon b. Gamaliel says: Scrolls of the Scripture also were allowed to be written only in Greek’.[32] Let them then say, The halachah is as stated by Rabban Simeon b. Gamaliel? — Had they said, The halachah is as stated by Rabban Simeon b. Gamaliel, I should have understood them to mean that this is the case with other books of the Scriptures but not with the Megillah, of which it is written, according to the writing thereof.[33] Therefore we are told [that this is not so].

IF ONE WHO DOES NOT UNDERSTAND HEBREW HEARD IT READ IN HEBREW, HE HAS PERFORMED HIS OBLIGATION. But he does not know what they are saying? — he is on the same footing as women and ignorant people. Rabina strongly demurred to this saying;[34] And do we know the meaning of ha-ahashteranim bene ha-ramakim?[35] But all the same we perform the precept of reading the Megillah and proclaiming the miracle. So they too perform the precept of reading the Megillah and proclaiming the miracle.[36]

IF ONE READS IT WITH BREAKS [SERUGIN], HE HAS PERFORMED HIS OBLIGATION. The Rabbis did not know what was meant by serugin,[37] until one day they heard the maidservant of Rabbi's household, on seeing the Rabbis enter at intervals, say to them, How long are you going to come in by serugin?

The Rabbis did not know what was meant by haluglugoth, till one day they heard the handmaid of the household of Rabbi, on seeing a man peeling portulaks, say to him, How long will you be peeling your haluglugoth?

The Rabbis did not know what was meant by, salseleah and it shall exalt thee.[38] One day they heard the handmaid of the house of Rabbi say to a man who was curling his hair, How long will you be mesalsel with your hair?[39]

The Rabbis did not know what was meant by, Cast upon the Lord thy yehab and he shall sustain thee.[40] Said Rabbah b. Bar Hanah: One day I was travelling with a certain Arab[41] and was carrying a load, and he said to me, Lift up your yehab and put it on [one of] the camels.

The Rabbis did not know what was meant by, we-tetethia bematate of destruction,[42] till one day they heard the handmaid of the household of Rabbi say to her companion, Take the tatitha [broom] and tati [sweep] the house.

Our Rabbis taught: If one reads it with breaks, he has performed his obligation;

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(1) Hos. III, 5.

(2) Mentioned in the next blessing, which commences, ‘Hear our voice .

(3) Isa. LVI, 7.

(4) The next blessing contains the words, ‘Restore the service’.

(5) Ibid.

(6) The next blessing commences, ‘We give thanks to Thee’.

(7) Ps. L, 23.

(8) Lev. IX, 22.

(9) [Omit with MS.M.: ‘For it is written . . . to offer’?].

(10) Which shows that sacrifice is followed immediately by thanksgiving.

(11) Num. VI, 27.

(12) Ps. XXIX, 11.

(13) I.e., it is forbidden to add any more blessings.

(14) Ps. CVI, 2.

(15) Job XXXVII, 20. E.V., ‘Or should a man wish that he were swallowed up’.

(16) Lit., ‘village of warriors’.

(17) Lit., ‘village of a mighty warrior’. [MS.M. has ‘Kefar Naburya’ and ‘Kefar Napor Hayil. The former is identified with en-Nebraten in Upper Galilee, v. Keth., Sonc. ed. p. 391,n. 11].

(18) Ps. LXV, 2. E.V., ‘Praise waiteth for thee’.

(19) Palestine.

(20) Which means both ‘remembering’ and ‘mentioning’.

(21) Esth. IX, 28.

(22) Ex. XVII, 14.

(23) Deut. XXV, 17.

(24) Lit., ‘with the mouth’. So here, the days of Purim must be ‘remembered’ by utterance.

(25) Generally rendered ‘God’; literally, ‘Mighty’.

(26) Gen. XXXIII, 20. E.V., and called it El-Elohe-Israel’.

(27) The language of the Egyptians.

(28) Apparently the reference is to a kind of Aramaic spoken by the Bene Eber, or ‘on the other side’ (be'eber) of the Euphrates.

(29) The last clause of our Mishnah.

(30) I.e., the Coptic-speaking Jews.

(31) That it may be read in a vernacular only for those who speak that vernacular.

(32) Supra 8b.

(33) Esth. IX, 27.

(34) [Read with MS.M.: ‘For should you not say thus’ omitting ‘Rabina strongly demurred to this’].

(35) Ibid. VIII, 10. E.V., ‘that were used in the king's service, bred of the stud’. The words are obviously Persian.

(36) Because they enquire and are told.

(37) The whole of this passage, down to ‘house’ is repeated in R.H. 26b.
(38) Prov. IV, 8. E.V., ‘extol her’.
(39) Which shows that salseleah means ‘turn it about and about’.
(40) Ps. LV, 23. E.V., ‘thy burden’.
(41) [Taya, name of Arab tribe which was applied to all Arabs as a part to a whole].
(42) Isa. XIV, 23. E.V., ‘I will sweep it with the besom of destruction’.

Talmud - Mas. Megilah 18b

if with omissions,[1] he has not performed it. R. Muna said in the name of R. Judah: Even with breaks, if he stops long enough to finish the whole of it, he must go back to the beginning. R. Joseph said: The halachah is as stated by R. Muna in the name of R. Judah. Abaye inquired of R. Joseph: [When it says] ‘long enough to finish the whole of it’, does it mean from where he is to the end, or from the beginning to the end? He replied: It means from the beginning to the end, as otherwise there would be no fixed standard.[2] R. Abba said in the name of R. Jeremiah b. Abba who said it in the name of Rab: The halachah is as stated by R. Muna. Samuel, however, said: The halachah is not as stated by R. Muna. This is the version given in Sura. In Pumbeditha the following version is given: R. Kahana said in the name of Rab: The halachah is as stated by R. Muna, but Samuel said that the halachah does not follow R. Muna. R. Bibi reverses the statement, [making] Rab say that the halachah does not follow R. Muna and Samuel that it does follow R. Muna. R. Joseph said: Adopt[3] the version of R. Bibi, since it is Samuel who takes note of the view of an individual authority,[4] as we have learnt: ‘If a woman was waiting for the levir [to make his decision], and a [younger] brother of his became affianced to her sister, the rule was laid down in the name of R. Judah b. Bathyra that the Beth din say to him, Wait till your elder brother acts [one way or the other];[5] and Samuel said, The halachah is as stated by R. Judah b. Bathyra’.[6]

Our Rabbis taught: If the scribe had omitted letters or verses and the reader read them like the translator when he is translating,[7] he has performed his obligation. The following was cited in objection to this: ‘If letters in it [the scroll] are partially effaced or torn, if they are still legible, it may be used, but otherwise it may not be used’! — There is no contradiction: the one statement[8] refers to the whole of it, the other[9] to part of it.

Our Rabbis taught: If the reader omitted one verse, he must not say, I will finish reading it [the Megillah] and I will then read that verse, but he must read [again] from that verse. If a man enters the synagogue and finds that the congregation has read half, he must not say, I will read half with the congregation and then I will read the other half, but he must read it from the beginning to the end.

IF HE WAS HALF-ASLEEP, HE HAS PERFORMED HIS OBLIGATION. What is meant by ‘half-asleep’?[10] — R. Ashi said: He is asleep and not asleep, awake and not awake; if he is called he responds, but he cannot give a rational answer, though if he is reminded [of what has been said] he remembers.

IF ONE WAS WRITING IT, EXPOUNDING IT, OR CORRECTING IT, IF HE PUT HIS MIND TO IT etc. How are we to understand this? If he was conning each verse and then writing it, what does it matter if he did put his mind to it? He is writing by heart! We must suppose therefore that he writes each verse and then recites it. But does he thereby perform his obligation? Has not R. Helbo said in the name of R. Hama b. Guria who said it in the name of Rab, The halachah follows the view of him who says that all of it [must be recited],[11] and even according to the one who says that it is sufficient [to recite] from ‘A Jew was’, it is necessary that the whole should be [already] written? We must suppose therefore that a Megillah lies before him and he reads from it, verse by verse, and then writes. Shall we then[12] say that this supports Rabbah b. Bar Hanah, for Rabbah b. Bar Hanah said in the name of R. Johanan. It is forbidden to write one letter [of the Megillah], save from a copy?

Perhaps [the Mishnah speaks only of a case] where he just happened [to have a copy before him].[13]

The text [above states]: ‘Rabbah b. Bar Hanah said in the name of R. Johanan, It is forbidden to write one letter save from a copy’. The following was cited in opposition to this: ‘It happened once that R. Meir went to prolong the year[14] in Assia,[15] and there was no Megillah there and he wrote one out by heart’! — R. Abbahu said: R. Meir is different, because to him could be applied the verse, Thine eyelids shall look straight before thee.[16] Rami b. Hama asked R. Jeremiah from Difti:[17] What is the meaning of ‘thine eyelids [‘af'apeka] shall look straight before thee’? — He replied: This refers to the words of the Torah, of which it is written, Wilt thou direct [ta'if] thine eyes from it? it is gone.[18] And even so, R. Meir could produce them correctly. R. Hisda found R. Hananel writing scrolls without a copy. He said to him: You are quite qualified to write the whole Torah by heart,[19] but thus have the Sages ruled: It is forbidden to write one letter save from a copy. Seeing that he said, ‘You are qualified to write the whole Torah by heart’, we may conclude that he could produce them correctly, and we see that R. Meir actually did write?[20] — In case of emergency it is different — Abaye allowed the members of the household of Bar Habu[21] to write tefillin and mezuzoth[22] without a copy. What authority did he follow? — The following Tanna, as it has been taught: R. Jeremiah says in the name of our Teacher:[23] Tefillin and mezuzoth may be written out without a copy, and do not require to be written upon ruled lines. The law, however, is that tefillin do not require lines,[24] but mezuzoth do require lines, and both may be written without a copy. What is the reason? — They are well known by heart.

IF IT WAS WRITTEN WITH SAM[25] etc. SAM: this is paint. SIKRA: this is vermilion. Rabbah b. Bar Hanah said: It is what we call sekarta [vermilion]. KUMUS: this is gum

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(1) So Asheri. Rashi: ‘Backwards’.

(2) Lit., ‘you place your rule at the mercy of different measurements’, according to the amount that still remains to be read.

(3) Lit., ‘take hold of in your hand’.

(4) When he differs from the majority.

(5) I.e., decides either to marry the sister-in-law or to take halizah from her. Otherwise, since the levirate obligation also devolves on the younger brother, he must not marry the sister.

(6) Although the majority of the Rabbis did not agree with him. V. Yeb. 18b.

(7) The Pentateuch into Aramaic in the synagogue, which is done by heart (Rashi). [R. Hananel: Like the translator who paraphrases and adds matter which is not in the text].

(8) That it may not be used.

(9) That it may be read if letters are omitted.

(10) Lit., ‘nodding’.

(11) Infra 19a.

(12) Since the Mishnah cannot be explained in any other way.

(13) And would not insist on the rule laid down by Rabbah b. Bar Hanah.

(14) By intercalating a second Adar.

(15) Probably one of the cities of Asia Minor is meant, v. Sanh., Sonc. ed. p. 151, n. 1.

(16) Prov. IV, 25.

(17) Dibtha below the Tigris S.E. of Babylonia.

(18) I.e if one turns his eyes a moment away from the Torah, he forgets it. Prov. XXIII, 5 E.V., ‘wilt thou set thine eyes upon it’.

(19) Lit., ‘the whole Torah is fitted to be written at thy mouth’.

(20) Then why could not he also?

(21) A vendor of tefillin, v. B.M. 29b.

(22) V. Glos.

(23) Rabbi(?)

(24) V. supra p. 16b.

(25) For this passage. cf. Git., Sonc. ed. p. 70 notes.

Talmud - Mas. Megilah 19a

. KANKANTUM: this is bootmakers' blacking. DIFTERA: this is a skin which has been salted and put in flour but not treated with gall nuts. NEYAR: this is paper.[1]

IT MUST BE WRITTEN IN HEBREW. As it is written, according to the writing[2] thereof, and according to the appointed time thereof.[2]

ON PARCHMENT AND IN INK. Whence this rule? — We explain writing' in one place by the use of the term in another. It is written here, And Esther the queen wrote,[3] and it is written in another place, then Baruch answered them, He pronounced all these words unto me with his mouth, and I wrote them with ink in the book.[4]

MISHNAH. A RESIDENT OF A TOWN WHO HAS GONE TO A WALLED CITY[5] OR OF A WALLED CITY WHO HAS GONE TO A TOWN, IF HE IS LIKELY TO RETURN TO HIS OWN PLACE[6] READS ACCORDING TO THE RULE OF HIS OWN PLACE,[7] AND OTHERWISE READS WITH THE REST. FROM WHERE MUST A MAN READ THE MEGILLAH SO AS TO FULFIL HIS OBLIGATION? R. MEIR SAYS, [HE MUST READ] THE WHOLE OF IT; RABBI JUDAH SAYS, [HE MUST READ] FROM 'THERE WAS A JEW';[8] R. JOSE SAYS, FROM 'AFTER THESE THINGS'.[9]

GEMARA. Raba said: This rule applies only if he[10] intends to return on the night of the fourteenth; but if he does not mean to return on the night of the fourteenth, he reads with the rest. Said Raba: Whence do I derive this ruling? Because it is written, Therefore do the Jews of the villages that dwell in the unwalled towns.[11] See now. It is written, 'the Jews of the villages'. Why then should it be further written, 'that dwell in the unwalled towns'? This teaches us that one who is a villager for one day is called[12] a villager. We have proved this for a villager. How do we know that it applies also to inhabitants of walled towns? — It is reasonable to suppose that since a villager of one day is called a villager, a walled-city-dweller of one day is called a walled-city-dweller.

Raba also said: A villager who has gone to a town reads with the rest in any case. What is the reason? By rights he ought to read at the same time as the townspeople — and it is the Rabbis who made a concession to the villagers so that they might supply food and drink to their brethren in the large cities.[13] Now this applies only so long as they are in their own place, but when they are in the town, they must read like the townspeople. Abaye raised an objection to this from the following: 'If a resident of a walled city has gone to a town, in any case he reads according to the custom of his own place'. 'A resident of a walled city', do you say? His rule depends on whether he means to return![14] What you must read, then, is 'a villager'.[15] — But must you not [in any case] explain [the passage]?[16] Read, [then] 'reads with the rest'.

FROM WHERE MUST A MAN READ THE MEGILLAH etc. It has been taught: R. Simeon b. Yohai says, from On that night'.[17] R. Johanan said: All these authorities derived their lesson from the same verse, viz., Then Esther the queen and Mordecai the Jew wrote all the acts of power.[18] He who says that the whole Megillah must be read refers this to the power of Ahasuerus;[19] he who says it must be read from 'there was a Jew', to the power of Mordecai; he who says from 'after these things', to the power of Haman; and he who says, from 'on that night', to the power of the miracle. R. Huna said: They derived it from here: And what did they see? For this reason. And what came upon them?[20] He who says that the whole of it must be read [interprets thus]: What had Ahasuerus seen to make him use the vessels of the Temple? It was for this reason, that he reckoned seventy years and they had not yet been redeemed;[21] And what came upon them? that he put Vashti to death.

He who says that it should be read from ‘there was a Jew’ [interprets thus]: What had Mordecai seen that he picked a quarrel with Haman? It was for this reason, that he made himself an object of worship. ‘And what came upon them’? that a miracle was performed [for him]. He who says that it is to be read from ‘after these things’, [interprets thus]: What did Haman see to make him pick a quarrel with all the Jews? It was for this reason, that Mordecai did not bow down or prostrate himself; ‘and what came upon him’? They hung him and his sons on the tree. He who says that it is to be read from ‘on that night’ interprets thus: What did Ahasuerus see to make him order the book of chronicles to be brought? It was for this reason that Esther invited Haman with him. ‘And what came upon them’? A miracle was performed for them.

R. Helbo said in the name of R. Hama b. Guria, who said it in the name of Rab: The halachah follows the view of him who says that the whole of it must be read; and even according to him who says that it need be read only from ‘There was a Jew’, it must all be written before him.[22]

R. Hama b. Guria said in the name of Rab: The Megillah is called ‘book’[23] and it is also called ‘letter’.[24] It is called ‘book’ to show that if it is stitched with threads of flax,[25] it is not fit for use; and it is called ‘letter’ to show that if it is stitched with three threads of sinew, it may be used. R. Nahman said: This is only on condition that they are evenly spaced.[26]

Rab Judah said in the name of Samuel: If one reads the Megillah from a volume containing the rest of the Scriptures,[27] he has not performed his obligation.[28] Raba said: This is the case only if it is not a little shorter or longer than the rest, but if it is a little shorter or longer than the rest,[29] there is no objection to it. Levi b. Samuel was reading before Rab Judah in a Megillah

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(1) Made from papyrus stalk.

(2) Esth. IX, 27.

(3) Ibid. 29.

(4) Jer. XXXVI, 18.

(5) רכך. V. supra p. 1 n. 3.

(6) This is explained in the Gemara.

(7) I.e., on the fourteenth if he belongs to a town, on the fifteenth if to a city.

(8) Esth. II, 5.

(9) Ibid. III, 1.

(10) According to Rashi, this applies only to the man from the walled city who went to a town; but according to Asheri, even if a man from a town went to a walled city and stayed there over the night of the fourteenth, even if he returns to his own place on the fourteenth, he reads on the fifteenth and not on the fourteenth.

(11) Ibid. IX, 19.

(12) I.e., comes under the rule of.

(13) V. supra. 2a.

(14) As laid down explicitly in the Mishnah.

(15) And this would contradict the statement of Raba.

(16) By showing that the reading should be changed.

(17) Esth. VI,1

(18) Ibid. IX, 29.

(19) Who is mentioned at the very beginning.

(20) Ibid. 26. I.e., this is the subject-matter of the Megillah, as explained presently. E.V., ‘And of that which they had seen concerning the matter’.

(21) V. supra 11b.

(22) I.e., he must have a complete copy, even if he does not read the whole of it.

(23) Esth. IX, 32.

(24) Ibid. 26.

(25) According to one authority in Mak. 11a a sefer torah must be stitched with sinews.

(26) Lit., ‘trebled’, i.e., placed at equal distances from one another and from the top and bottom.
(27) Lit., ‘written among the writings’.
(28) Because he does not thereby sufficiently proclaim the miracle.
(29) So that it is recognizable as a separate book.

Talmud - Mas. Megilah 19b

which was included in a volume of the Scriptures. He said to him: [I must tell you that] they have said: ‘If one reads the Megillah from a volume containing the rest of the Scriptures, he has not fulfilled his obligation’.

R. Hiyya b. Abba said in the name of R. Johanan: ‘If one reads the Megillah in a volume containing the rest of the Scriptures, he has not fulfilled his obligation’; and he at once qualified this remark[1] by adding, ‘in a congregation’.

R. Hiyya b. Abba also said in the name of R. Johanan: It is a rule deriving from Moses at Sinai that a space should be left unstitched [in the sefer torah];[2] and he at once qualified the remark by saying, ‘this rule was laid down[3] only so that it should not be torn’.[4]

R. Hiyya b. Abba also said in the name of R. Johanan: Had there been in the cave in which Moses and Elijah stood[5] a chink no bigger than the eye of a fine needle, they would not have been able to endure the light, as it says, for man shall not see me and live.[6]

R. Hiyya b. Abba also said in the name of R. Johanan: What is the meaning of the verse, And on them was written according to all the words which the Lord spoke with you in the mount?[7] It teaches us that the Holy One, blessed be He, showed Moses the minutiae of the Torah,[8] and the minutiae of the Scribes,[9] and the innovations which would be introduced by the Scribes; and what are these? The reading of the Megillah.[10]

MISHNAH. ALL ARE QUALIFIED TO READ THE MEGILLAH EXCEPT A DEAF PERSON,[11] AN IMBECILE AND A MINOR.[12] R. JUDAH DECLARES A MINOR QUALIFIED.

GEMARA. Who is the Tanna that maintains that [even if] the deaf person has read, it does not count?[13] — R. Mattenah said: It is R. Jose, as we have learnt: ‘If one reads the Shema’ inaudibly, he has performed his obligation. R. Jose, however, says that he has not performed his obligation’. But why should we say that [our Mishnah] follows R. Jose and [lays down that] even if the deaf man has read, it does not count? Perhaps it follows R. Judah, and [what it means is that] the deaf man may not read in the first instance, but if he has read, his reading is accepted? — Do not imagine such a thing. For a deaf man is mentioned in the same category as an imbecile and a minor; just as the reading of an imbecile and a minor is not accepted, so the reading of a deaf man is not accepted. But perhaps there is one rule for the one and another rule for the other? — Since it states in the final clause that R. Judah declares a minor qualified, we may conclude that the first clause does not state the opinion of R. Judah. (But perhaps the whole of the Mishnah states the opinions of R. Judah? — Is it possible that he should disqualify in the first and permit in the second?)[14] But perhaps the whole [of the Mishnah] gives the views of R. Judah, and he speaks of two kinds of minor, and there is an omission in the Mishnah, and it should run this: ‘All are qualified to read the Megillah, except a deaf man, an imbecile and a minor. Of what kind of minor are we speaking? Of one who is not old enough to be trained in the performance of religious duties. But a minor who is old enough to be trained in religious duties[15] may read even in the first instance, since R. Judah declares a minor qualified! — How then have you explained [the first clause of the Mishnah]? As following R. Judah and applying to an action already performed. What then of this statement made by Judah the son of R. Simeon b. Pazzi: ‘One who can speak but not hear may set aside terumah in the first instance.’[16] Whose view is this? If you say R. Judah's. [this cannot be, because] he would say, his blessing [once made] is a blessing, but he may not say it in the first instance. If you say R. Jose, this also cannot be, since he disallows the action even if already performed! What then will you say? That it follows R. Judah, and that he allows it even in the first instance?[17] What then of this which has been taught: ‘A man should not say the grace after food in his heart,[18] but if he does do so, he has performed his obligation’. Whose opinion is this? It is neither that of R. Judah[19] nor that of R. Jose. For if it were to follow R. Judah, it would allow this even in the first instance, and if R. Jose, it would disallow it even when performed! —

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(1) Lit., ‘he struck it on the head’.

(2) I.e., the parchment sheets of which the scroll is composed should not be stitched together right to the top and right to the bottom.

(3) Lit., ‘they said’, i.e.,the Sages. It was not derived from Moses at Sinai.

(4) Since if it is pulled violently it will give a little and the sheets will not come asunder.

(5) According to tradition, the cave in which Elijah stood when the Lord passed before him was the same as that in which Moses had stood on a similar occasion.

(6) Ex. XXXIII, 20.

(7) Deut. IX, 10.

(8) Minute indications upon which homiletical lessons are based, e.g.. the words אך and רק.

(9) Inferences drawn by the Scribes from minute indications in the earlier Mishnahs.

(10) The ‘men of the Great Synagogue’ who are supposed to have written the Megillah are also numbered among the ‘Scribes’ (Soferim) by the Talmud.

(11) Because it is necessary for one who reads the Megillah to hear what he is saying.

(12) One under thirteen years of age.

(13) Lit., ‘not even if (the thing) is done’.

(14) The passage in brackets is omitted by Rashi as breaking the connection.

(15) I.e., nine or ten years old, v. Yoma 82a.

(16) Although he has to say a blessing which he cannot hear.

(17) And the Mishnah does not follow R. Judah.

(18) I.e., inaudibly.

(19) According to the latest version of his opinion.

Talmud - Mas. Megilah 20a

In fact it follows R. Judah,[1] and he holds that the act may be done even in the first instance, and there is no difficulty: in the first quotation[2] he is giving his own opinion, in the second[3] that of his teacher, as it has been taught: ‘R. Judah says in the name of R. Eleazar b. Azariah: One who recites the Shema’ must do so audibly, as it says, Hear, O Israel, the Lord our God is One,[4] which implies. ‘Let thine ear hear what thy mouth utters’. R. Meir says: [It says], which I command thee this day upon thy heart:[5] according to the concentration of the mind, so is the value of the words. Now that you have come so far as this,[6] you may even say that R. Judah was of the same opinion as his teacher, and the statement made by Judah the son of R. Simeon b. Pazzi follows R. Meir.

R. JUDAH DECLARES A MINOR QUALIFIED. It has been taught: ‘R. Judah said: When I was a boy, I read it [the Megillah] before R. Tarfon and the elders in Lydda. They said to him: A proof cannot be adduced from a recollection of boyhood’.[7] It has been taught: ‘Rabbi said: When a boy, I read it before R. Judah. They said to him: A proof cannot be adduced from the very authority who allows [the act]’.[8] Why did they not say to him, A proof cannot be adduced from recollections of boyhood? They gave him a double answer.[9] For one thing, they said, you were a boy and besides, even had you been grown up, proof cannot be brought from the very authority who allows.

MISHNAH. THE MEGILLAH SHOULD NOT BE READ, NEITHER SHOULD

CIRCUMCISION BE PERFORMED, NOR A RITUAL BATH BE TAKEN,[10] NOR SPRINKLING[11] BE PERFORMED, AND SIMILARLY A WOMAN KEEPING DAY FOR DAY[12] SHOULD NOT TAKE A RITUAL BATH UNTIL THE SUN HAS RISEN. BUT IF ANY OF THESE THINGS IS DONE AFTER DAWN HAS APPEARED,[13] IT COUNTS AS DONE.

GEMARA. Whence this rule [about the Megillah]? — Because the Scripture says, and these days should be remembered [mentioned] and kept,[14] which implies, that they are to be so by day, but not by night. Shall we say that this is a refutation of R. Joshua b. Levi; for R. Joshua b. Levi said: It is a man's duty to read the Megillah by night and a second time by day? — When the Mishnah makes this statement it is referring to the day reading.

NEITHER SHOULD CIRCUMCISION BE PERFORMED. Because it is written, And on the eighth day he shall be circumcised.[15]

NEITHER SHOULD A RITUAL BATH BE TAKEN NOR SPRINKLING BE PERFORMED. Because it is written, And the clean person shall sprinkle on the unclean . . . and on the seventh day:[16] and bathing[17] is put on the same footing as sprinkling.

AND SIMILARLY A WOMAN WHO IS KEEPING DAY FOR DAY SHOULD NOT TAKE A RITUAL BATH TILL THE SUN HAS RISEN. This is obvious! Why should a woman keeping day for day be different from all others who are under obligation to take ritual baths?[18] — Her case had to be mentioned. For you might suppose that she should be on the same footing as the first observation of one with an issue, and the first observation of one with an issue has been put on the same footing as one with a seminal issue, as it is written, This is the law of him that hath an issue and of him from whom the flow of seed goeth out:[19] just as one with a seminal issue takes his bath by day, so this one also should take his bath on the same day. This woman, however, cannot bathe on the day, because it is written, all the days of the issue of her uncleanness she shall be as in the days of her impurity;[20] so [you might say], by night at least she might keep watch for a short time[21] and then bathe; therefore we are told that [she must not do this], because she requires to count [day for day];[22]

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(1) And our Mishnah in the first clause follows R. Jose.

(2) Referring to the blessing over terumah.

(3) Referring to grace after meals

(4) Deut. VI, 4.

(5) Ibid. 6.

(6) To inform us of the difference between R. Judah and R. Meir.

(7) Lit., ‘from a boy’.

(8) Seeing that the majority disagree with him.

(9) Lit., ‘they answered him (in the form of) one thing and yet another’.

(10) For defilement through a dead body (Num. XIX, 17ff) or through an issue (Lev. XV, 15). So Rashi. Tosaf., however, points out that, according to other passages in the Talmud, it is very doubtful if this is the rule, and therefore renders, ‘the hyssop (for sprinkling) should not be dipped’, v. Num. XIX, 11-12.

(11) Of the waters of purification on one who has touched a dead body.

(12) V. supra p. 44, n. 4.

(13) [Lit.. ‘after the going up of the pillar of the morning’; the first streaks of light visible about 1 1/5 hours before sunrise, v. Maim. Commentary on Ber. I. 1].

(14) Esth. IX, 28.

(15) Lev. XII, 3.

(16) Num. XIX, 19.

(17) V. n. 1.

(18) If we accept the explanation of Tosaf. we must suppose this to refer not to the Mishnah but to mean, ‘why should this one be specified rather than any others who have to take ritual baths and who must bathe by day'.

(19) Lev. XV, 32.

(20) Ibid. 25. This shows that she must wait till the day is over. The verse refers to a woman who is keeping day for day.

(21) To make sure that she has no further issue.

(22) Cf. notes supra 3 and 11.

Talmud - Mas. Megilah 20b

and counting must be by day.[1]

IF ANY OF THESE THINGS IS DONE AFTER DAWN HAS APPEARED, IT COUNTS AS DONE. Whence is this rule derived? — Raba said: Because the Scripture says, And God called the light day;[2] that which gradually becomes light He called day.[3] But according to this, [when it says] and the darkness He called night,[4] [are we to explain] that which gradually becomes dark He called night? Is it not generally agreed that till the stars come out it is not night? No, said R. Zera; we derive it from here: So we wrought in the work; and half of them held the spears from the rising of the morning till the stars appeared;[5] and it says further, that in the night they may be a guard to us, and may labour in the day.[6] What is the point of the second quotation?[7] — You might say that from the time of the first rising of the dawn it is not yet day, though from the time the sun begins to set it is already night and they were early and late.[8] Therefore come and hear: that in the night they may be a guard to us, and may labour in the day.[9] MISHNAH. THE WHOLE OF THE DAY IS A PROPER TIME FOR THE READING OF THE MEGILLAH AND FOR THE RECITING OF HALLEL[10] AND FOR THE BLOWING OF THE SHOFAR[10] AND FOR TAKING UP THE LULAB[10] AND FOR THE MUSAF[10] PRAYER AND FOR THE ADDITIONAL SACRIFICES[11] AND FOR CONFESSION OVER THE OXEN[12] AND FOR THE ACKNOWLEDGMENT MADE OVER THE TITHE[13] AND FOR THE CONFESSION OF SINS ON THE DAY OF ATONEMENT,[14] FOR LAYING ON OF HANDS,[15] FOR SLAUGHTERING [THE SACRIFICES], FOR WAVING,[16] FOR BRINGING NEAR [THE VESSEL WITH THE MEAL-OFFERING TO THE ALTAR], FOR TAKING A HANDFUL, AND FOR PLACING IT ON THE FIRE,[17] FOR PINCHING OFF [THE HEAD OF A BIRD-OFFERING][18] AND FOR RECEIVING THE BLOOD,[19] AND FOR SPRINKLING,[20] AND FOR MAKING THE UNFAITHFUL WIFE DRINK[21] AND FOR BREAKING THE NECK OF THE HEIFER[22] AND FOR PURIFYING THE LEPER.[23] THE WHOLE OF THE NIGHT IS PROPER TIME FOR REAPING THE OMER,[24] AND FOR BURNING FAT AND LIMBS [ON THE ALTAR].[25] THIS IS THE GENERAL PRINCIPLE: ANY COMMANDMENT WHICH IS TO BE PERFORMED BY DAY MAY BE PERFORMED DURING THE WHOLE OF THE DAY, AND ANY COMMANDMENT WHICH IS TO BE PERFORMED BY NIGHT MAY BE PERFORMED DURING THE WHOLE OF THE NIGHT.

GEMARA. Whence this rule [about the Megillah]? — Because the Scripture says, And these days shall be mentioned and kept.[26]

FOR READING THE HALLEL: as it is written, From the rising of the sun to its going down.[27] R. Joseph says: Because it is written, this is the day on which the Lord hath wrought.[28]

FOR THE TAKING UP OF THE LULAB: as it is written, And ye shall take you on the first day.[29]

FOR THE BLOWING OF THE SHOFAR, as it is written, it is a day of blowing the horn unto you.[30]

FOR THE ADDITIONAL SACRIFICES, as it is written, each on its own day.[31]

AND FOR THE MUSAF PRAYER: because the Rabbis put this on the same footing as the additional sacrifices.

AND FOR THE CONFESSION MADE OVER THE OXEN, an analogy being drawn between the ‘atonement’ mentioned in this connection and that mentioned in connection with the Day of Atonement, as it has been taught in reference to the Day of Atonement: ‘And he shall make atonement for himself and for his house:[32] the text speaks of atonement made by words. And atonement is by day, as it is written, For on this day shall atonement be made for you.[33]

AND FOR THE ACKNOWLEDGMENT MADE OVER THE TITHE: as it is written, And thou shalt say before the Lord thy God, I have put away the hallowed things out of my house,[34] and in the same context it says, This day the Lord thy God commandeth thee.[35]

FOR LAYING ON OF HANDS AND FOR SLAUGHTERING: as it is written, and he shall lay his hand . . . and he shall kill,[36] and it is written in connection with killing, on the same day that ye sacrifice.[37]

AND FOR WAVING: as it is written, and in the day when ye wave the sheaf.[38]

AND FOR BRINGING NEAR; because this is compared to waving, as it is written, And the priest shall take the meal-offering of jealousy out of the woman's hand, and shall wave the meal-offering . . . and bring it near[39] [to the altar].

AND FOR PINCHING AND FOR TAKING A HANDFUL AND FOR BURNING AND FOR SPRINKLING, as it is written, in the day that he commanded the children of Israel [to present their offerings].[40]

AND FOR MAKING THE UNFAITHFUL WIFE DRINK: The word ‘law’ which occurs in this connection is explained by its use in another.[41] It is written here, and the priest shall execute upon her all this law,[42] and it is written elsewhere, According to the law which they shall teach thee and according to the judgement[43]

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(1) As it says, And she shall count seven days. Ibid. 28.

(2) Gen. I, 5.

(3) Which shows that from dawn may be called day.

(4) Ibid.

(5) Neh. IV, 15.

(6) Ibid. 16.

(7) Lit., ‘what is "and it says"’.

(8) I.e., started before day and finished after nightfall.

(9) Which shows that all the time during which they laboured was called day.

(10) V. Glos.

(11) On Sabbath or Festivals. V. Num. XXVIII-IX.

(12) Brought as a sin-offering for a sin committed unwittingly by the High Priest or by the congregation. V. Lev. IV.

(13) V. Deut. XXVI, 12-15.

(14) V. Lev. XVI.

(15) V. e.g., Lev. I, 4, III, 2.

(16) E.g., the breast of the peace-offering. V. Lev. VII, 30.

(17) From the meal-offering. V. Lev. II, 2.

(18) V. Lev. I, 15.

(19) Of the slaughtered animal in a vessel.

(20) The blood on the altar.

(21) The bitter waters. V. Num. V, 24.
(22) As atonement for an unpunished murder. V. Deut. XXI, 1-9.
(23) V. Lev. XIV.
(24) Lev. XXIII, 10-11.
(25) V. Lev VI, 2.
(26) Esth. IX, 28.
(27) Ps. CXIII, 3.
(28) Ibid. CXVIII, 24.
(29) Lev. XXIII, 40.
(30) Num. XXIX, 1.
(31) Lev. XXIII, 37.
(32) Ibid. XVI, 6.
(33) Ibid. 30.
(34) Deut. XXVI, 13.
(35) Ibid. 16.
(36) Lev. I, 4, 5.
(37) Ibid. XIX, 6.
(38) Ibid. XXIII, 12.
(39) Num. V, 25.
(40) Lev. VII, 38. and all these ceremonies constitute the presenting of the offering.
(41) Lit., ‘There comes along "law", "law"’.
(42) Num. V, 30.
(43) Deut. XVII, 11.

Talmud - Mas. Megilah 21a

: just as judgement is by day,[1] so here it must be by day.

AND FOR BREAKING THE NECK OF THE HEIFER. In the school of R. Jannai it was said: [The word] ‘atonement’ is applied to it[2] as to holy things.

AND FOR THE PURIFICATION OF THE LEPER: as it is written, This shall be the law of the leper in the day of his cleansing.[3]

THE WHOLE NIGHT IS A PROPER TIME FOR REAPING THE ‘OMER. Since a Master has said that reaping and counting are to be performed by night and the bringing by day.[4]

AND FOR BURNING FAT AND LIMBS: as it is written, All the night till the morning.[5]

THIS IS THE GENERAL PRINCIPLE: ANY COMMANDMENT THAT IS TO BE PERFORMED BY DAY CAN BE PERFORMED DURING THE WHOLE OF THE DAY. [The words] ‘this is the general principle’ are inserted to add what? — To add the setting of the cup[6] and the removal of the cups, and in agreement with R. Jose, as it has been taught: ‘R. Jose says: If he removed the old [shew-bread] in the morning and set the new one in the evening, there is no harm.[7] What then do I make of the verse, before me continually?[8] [This is to show that] the table of the Lord should not be without bread.[9]

A COMMANDMENT WHICH IS TO BE PERFORMED BY NIGHT MAY BE PERFORMED DURING THE WHOLE OF THE NIGHT. What does this add? — It adds the consumption of the paschal lamb, thus differing from R. Eleazar b. Azariah, as it has been taught: And they shall eat the flesh on that night:[10] R. Eleazar b. Azariah said: It says here, on that night, and it says elsewhere, And I shall pass through the land of Egypt on that night:[11] just as there up to midnight [is meant], so here up to midnight [is meant].

CHAPTER III

MISHNAH. HE WHO READS THE MEGILLAH MAY DO SO EITHER STANDING OR SITTING. WHETHER ONE READS IT OR TWO READ IT [TOGETHER] THEY [THE CONGREGATION] HAVE PERFORMED THEIR OBLIGATION. IN PLACES WHERE IT IS THE CUSTOM TO SAY A BLESSING,[12] IT SHOULD BE SAID, AND WHERE IT IS NOT THE CUSTOM IT NEED NOT BE SAID.

ON MONDAYS AND THURSDAYS AND ON SABBATH AT MINHAH,[13] THREE READ FROM THE TORAH, NEITHER MORE NOR LESS, NOR IS A HAFTARAH[14] HEAD FROM A PROPHET. THE ONE WHO READS[15] FIRST IN THE TORAH[16] AND THE ONE WHO READS LAST[17] MAKE [RESPECTIVELY] A BLESSING BEFORE READING AND AFTER.[18] ON NEW MOONS AND ON THE INTERMEDIATE DAYS OF FESTIVALS FOUR READ, NEITHER MORE NOR LESS, AND THERE IS NO HAFTARAH FROM A PROPHET. THE ONE WHO READS FIRST AND THE ONE WHO READS LAST IN THE TORAH MAKE A BLESSING BEFORE AND AFTER. THIS IS THE GENERAL RULE: ON ANY DAY WHICH HAS A MUSAF[16] AND IS NOT A FESTIVAL FOUR READ; ON A FESTIVAL FIVE READ; ON THE DAY OF ATONEMENT SIX READ; ON SABBATH SEVEN READ; THIS NUMBER MAY NOT BE DIMINISHED BUT IT MAY BE ADDED TO, AND A HAFTARAH IS READ FROM A PROPHET. THE ONE WHO READS FIRST AND THE ONE WHO READS LAST IN THE TORAH MAKE A BLESSING BEFORE AND AFTER. GEMARA. A Tanna stated: ‘This [that one may read sitting] is not the case with the Torah’.[19] Whence this rule? — R. Abbahu said: Because Scripture says, But as for thee, stand thou here by me.[20] R. Abbahu also said: Were it not written in the Scripture, it would be impossible for us to say it: as it were, the Holy One, blessed be He, also was standing.[21]

R. Abbahu further said: How do we know that the master should not sit on a couch and teach his disciples while they sit on the ground? Because it says, ‘But as for thee, do thou stand here by me.[22]

Our Rabbis taught: From the days of Moses up to Rabban Gamaliel, the Torah was learnt only standing. When Rabban Gamaliel died, feebleness descended on the world, and they learnt the Torah sitting; and so we have learnt that ‘from the time that Rabban Gamaliel died, [full] honour ceased to be paid to the Torah’.

One verse says, And I sat [wa-esheb] in the mount,[23] and another verse says, And I stood in the mount.[24] — Rab says: He [Moses] stood when he learnt and sat while he went over [what he had learnt]. R. Hanina said: He was neither sitting nor standing, but stooping. R. Johanan said: ‘Sitting’ [yosheb] here means only ‘staying’, as it says, And ye stayed [teshbu] in Kadesh many days.[25] Raba said: The easy things [he learnt] standing and the hard ones sitting.

WHETHER ONE READS IT OR TWO READ IT, THEY HAVE PERFORMED THEIR OBLIGATION.

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(1) V. Sanh. 34b.

(2) ‘And the blood shall be atoned unto them’. Deut. XXI, 8.

(3) Lev. XIV, 2.

(4) This is deduced from scriptural texts in Men. 66a.

(5) Ibid. VI, 2.

(6) Containing the frankincense for the shewbread.

(7) [Rashi reads, ‘also this is (termed) ‘continually’].

(8) Lev. XXIV, 3.
(9) [Var lec. ‘Should not be overnight without bread’.]
(10) Ex. XII, 8.
(11) Ibid. 12.
(12) After the reading. V. infra.
(13) V. Glos. On these three occasions the first section of the Sedra (portion) of the following Sabbath is read.
(14) V. Glos. [Lit., ‘we do not dismiss (the public) with (a reading from) a prophet’, the haftarah having originally formed the concluding part of the morning service Saturdays and Festivals when the worshippers were dismissed to their homes. V. Buchler JQR VI, p. 7].
(15) Lit., ‘he who opens’, ‘begins’.
(16) V. Glos.
(17) Lit., ‘he who seals’, ‘closes’.
(18) V. infra p. 130.
(19) Referring to the public reading of the Law.
(20) Deut. V, 28.
(21) Because it says, by (lit., ‘with’) me.
(22) And God was to Moses in the relation of master to pupil.
(23) Deut. IX, 9; v. Sot. 49a.
(24) Ibid. X, 10.
(25) Ibid. I, 46.

Talmud - Mas. Megilah 21b

A Tanna stated: This is not the case with [the public reading of] the Torah.

Our Rabbis taught: As regards the Torah, one reads and one translates,[1] and in no case must one read and two translate [together]. As regards the Prophets, one reads and two may translate, but in no case may two read and two translate. As regards Hallel and the Megillah,[2] even ten may read [and ten may translate].[3] What is the reason? Since the people like it,[4] they pay attention and hear.[5]

WHERE IT IS THE CUSTOM TO SAY A BLESSING, IT SHOULD BE SAID. Abaye said: This rule applies only to the blessing after the reading, but before the reading it is a religious duty to say a blessing, since Rab Judah said in the name of Samuel: ‘Over the performance of all religious precepts a blessing is said as one passes on [‘ober] to perform them’. How can you prove that this ‘passing on means ‘just in front of’? — R. Nahman b. Isaac said: Scripture says, Then Ahimaaz ran by way of the plain and overran [wa-ya'abor] the Cushite.[6] Abaye said: We prove it from here: And he himself passed over before them.[7] Or, if you prefer, I can prove it from here: And their king is passed on before them and the Lord at the head of them.[8]

What blessing is said before the reading of the Megillah? — R. Shesheth from Kateriza happened [once to read] in the presence of R. Ashi, and he made the blessings M'N'H’.[9] What blessing is said after it? — ‘Blessed art thou, O Lord our God, king of the universe, [the God][10] who espoused our quarrel and vindicated our cause and executed our vengeance and punished our adversaries for us and visited retribution on all the enemies of our soul. Blessed art thou, O Lord, who avenges Israel on all their enemies’. Raba Says: [The concluding words are], ‘The God who saves. R. Papa said: Therefore we should say both: ‘Blessed art thou, O Lord, who avenges Israel on all their enemies, the God who saves’.

ON MONDAYS AND THURSDAYS AND ON SABBATH AT MINHAH THREE READ. What do these three represent? — R. Assi said: The Pentateuch, the Prophets and the Hagiographa. Raba said: Priests, Levites, and lay Israelites. But now, in the statement of R. Shimi, ‘Not less than ten verses [of the Torah] should be read in the synagogue, the verse ‘and [God] spoke to [Moses saying]’ being counted as one',[11] — what do these ten represent? — R.Joshua b. Levi said: The ten men of leisure in the synagogue.[12] R. Joseph said: The ten commandments which were given to Moses on Sinai. (R. Levi said: The ten times hallel [praise] which David uttered in the book of Psalms.)[13] R. Johanan said: The ten utterances with which the world was created.[14] What are these? The expressions 'And [God] said' in the first chapter of Genesis.[15] But there are only nine? — The words 'In the beginning' are also a [creative] utterance, since it is written, By the word of the Lord the heavens were made, and all the host of them by the breath of his mouth.[16]

Raba said: If the first reads four verses[17] he is to be commended; if the second reads four verses[18] he is to be commended; if the third reads four verses he is to be commended. 'If the first reads four verses he is to be commended', as we have learnt: 'There were three bags holding three se'ahs[19] each, in which the priests take up the money-offerings out of the [shekel] chamber,[20] and they were labelled Aleph, Beth, Gimel,[21] so as to show which was taken out first, so that sacrifices could be brought from that one first, since it is a religious duty to offer from the first. 'If the middle one reads four verses, he is to be commended', as it has been taught: '[The seven lamps] shall give light in front of the candlestick;[22] this teaches that they were made to face the western lamp[23] and the western lamp faced the Shechinah; and R. Johanan said: This shows that the middle one is specially prized'. 'If the last reads four verses he is to be commended': because of the principle that 'in dealing with holy things we promote but never degrade'.[24] R. Papa was once in the synagogue of Abe Gobar,[25] when the first one [who was called up] read four verses, and R. Papa commended him.

NEITHER LESS NOR MORE [etc.]. A Tanna stated: The one who reads first makes a blessing before the reading, and the one who reads last makes a blessing after it. Nowadays that all make a blessing both before and after the reading, the reason is that the Rabbis ordained this to avoid error on the part of people entering and leaving synagogue.[26]

ON NEW MOONS AND ON THE INTERMEDIATE DAYS OF THE FESTIVAL FOUR READ. 'Ulla b. Rab enquired of Raba: How is the portion of New Moon[27] to be divided? [The paragraph commencing] 'command the children of Israel and say to them'[28] has eight verses. How are we to deal with them? Shall two persons read three verses each? Then two verses will be left [to the end of the paragraph], and it is not proper to leave over less than three verses to the end of the paragraph.[29] Shall two read four verses each? Then seven verses will be left altogether, [the paragraph beginning] 'and on the sabbath day'[30] being two, and [the paragraph beginning] 'and on your new moons'[31] being five. How are we to do? Shall we read [as one portion] two from one paragraph and one from the next?

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(1) I.e., reads the Aramaic Targum.

(2) V. Glos.

(3) Rashi omits these words on the ground that there is no Targum to the Hagiographa. Tosaf., however, points out that there is such a Targum, though it is not attributed to Jonathan b. Uzziel; v. supra 3a.

(4) Lit., 'it is beloved'.

(5) Even though many are speaking together.

(6) II Sam. XVIII, 23.

(7) Gen. XXXIII, 3, of Jacob and his family before Esau.

(8) Micah II, 13.

(9) M = Mikra (or Megillah), over the reading of the Megillah; N = Nissim, the blessing for miracles; H = she-heheyanu (or Hayyim, life) 'who has kept us alive to this day'.

(10) This word is omitted by Alfasi and Asheri.

(11) Although it is a recurring introductory formula.

(12) Every community was required to have ten men who had leisure always to attend synagogue when required. V. supra p. 21, n. 9.

(13) This is bracketed in the text, and is omitted by Bah and MS.M. [This number is exceeded many times in the Book of

Psalms and applies to Psalm CL by itself (v. R.H. 32a) hence, the omission].
(14) V. Aboth V, 1.
(15) Lit., ‘in "In the beginning"’.
(16) Ps. XXXIII, 6. The creation of ‘Heavens’ and ‘the host of them’ (the earth) is mentioned in the first verse of Genesis.
(17) Out of the obligatory ten read on weekdays.
(18) If the first has read only three, or even if he has read four.
(19) V. Glos.
(20) Shekels brought by the public for purchasing the congregational sacrifices.
(21) V. Shek. 5a.
(22) Num. VIII, 2.
(23) According to one opinion, this was the middle lamp of the candlestick; according to another, the one second from the western end. R. Johanan evidently adopted the first opinion.
(24) Hence the religious service of the last should be at least equal to that of those who preceded him.
(25) [Or, Be Gobar, near Mahuza, v. Obermeyer p. 178. This synagogue is also mentioned in Ber. 50a and Ta'an. 26a].
(26) People who come in after the reading has commenced, on seeing a fresh person commence to read without saying a blessing, might think that no blessing is necessary before the reading. Similarly, those who leave before the reading is concluded might think that no blessing at all is necessary after the reading.
(27) Which consists of three paragraphs of eight, two and five verses. Num. XXVIII, 1-15.
(28) Ibid. 1-8.
(29) V. infra. פרשה A ‘paragraph’ is a section at the end of which a blank space is left in the Scroll.
(30) Ibid. 9, 10.
(31) Ibid. 11-15.

Talmud - Mas. Megilah 22a

[This is not right], since we do not read less than three verses together at the beginning of a paragraph.[1] Shall the reader read two from one and three from the other? Then only two verses are left [to the end of the second paragraph]! — He replied: On this point I have not heard [any pronouncement], but I have learnt the rule in a somewhat similar case, as we have learnt: ‘On Sundays, [the ma'amad[2] read the paragraph] "In the beginning" and "let there be a firmament",[3] and to this a gloss was added, "In the beginning" is read by two and "let there be a firmament" by one’, and we were somewhat perplexed by this. For that [the paragraph] ‘let there be a firmament’ can be read by one we understand, since it has three verses, but how can ‘In the beginning, be read by two, seeing that it has only five verses, and it has been taught, ‘He who reads in the Torah should not read less than three verses’? And it was stated [in answer] to this [question] that Rab says he should repeat,[4] and Samuel says he should divide a verse. Rab said he should repeat. Why should he not say ‘divide’? — He was of opinion that any verse which Moses had not divided, we may not divide, whereas Samuel held that we may divide. But surely, R. Hananiah the Bible teacher[5] said, I was in great pain in the house of R. Hanina the great, and he would not allow me to make [additional verse] divisions save for the school children, because they are there to be taught? — Now what was the reason there [why he was allowed to make divisions]? Because it could not be avoided; here[6] too it cannot be avoided. Samuel said that he divides. Why did he not say that he repeats? It is a precaution to prevent error on the part of those coming in and going out.[7]

An objection [against both these views][8] was brought from the following: ‘A section of six verses may be read by two persons, a section of five verses must be read by one. If the first reads three verses, the second reads the remaining two from this section and one from the next; some, however, say that he reads three from the next, because not less than three verses should be read at the beginning of a section’.[9] Now if it is as you said,[10] then according to the one who says he should repeat, let him repeat, and according to the one who says he should divide, let him divide? — It is different here,[11] because this method is open to him.[12]

R. Tanhum, said in the name of R. Joshua b. Levi: The halachah follows the alternative opinion[13] mentioned.

R. Tanhum also said in the name of R. Joshua b. Levi: Just as at the beginning of a section not less than three verses should be read, so at the end of a section not less than three verses should be left. Surely this is obvious! Seeing that in regard to the beginning of a section where the First Tanna is not so strict the alternative opinion is strict, is it not certain that in regard to the verses left [at the end of the section] where the First Tanna is strict the alternative opinion will also be strict? — You might argue that it is usual for people to come in [to synagogue during the reading of the law],[14] but it is not usual for them to go out and leave the scroll of the law while it is being read;[15] therefore we are told [that we do not argue thus]. But now with regard to the First Tanna: Why does he forbid [less than three verses] to be left [at the end of the section]? On account of people going out of synagogue,[16] is it not? Then with regard to the beginning also he should take precautions on account of people coming in? — I can answer that a person coming in enquires [how much has been read].[17]

Rabbah the son of Raba sent to enquire of R. Joseph: What is the law?[18] He sent him back word: The law is that the verse is repeated, and it is a middle reader[19] who repeats.

THIS IS THE GENERAL RULE: WHENEVER THERE IS A MUSAF etc. The question was raised: How many read on a public fast day?[20] Shall we say that on New Moon and the intermediate days of the festival when there is an additional sacrifice four read, but here where there is no additional sacrifice this is not the case? Or shall we argue that here also there is an additional prayer?[21] — Come and hear: ON NEW MOONS AND ON THE INTERMEDIATE DAYS OF FESTIVALS FOUR READ', from which we conclude that on public fasts only three read. Look now at the preceding clause: 'ON MONDAYS AND THURSDAYS AND ON SABBATH AT MINHAH THREE READ', from which we may conclude that on a public fast four read! The truth is that we cannot decide from here.

Come then and hear [this]: 'Rab happened to be at Babylon[22] during a public fast. He came forward and read in the scroll of the law. Before commencing he made a blessing but after finishing he made no blessing. The whole congregation [afterwards] fell on their faces,[23] but Rab did not fall on his face'. Let us now see. Rab read as a lay Israelite.[24] Why then did he say no blessing after finishing? Was it not because another was to read after him? — No. Rab read as kohen,[25] for R. Huna also read as kohen.[26] I can understand R. Huna reading as kohen, because even R. Assi and R. Ammi who were distinguished kohanim of Eretz Israel showed deference to R. Huna.[27] But as to Rab there was Samuel [his Babylonian contemporary] who was a kohen and who took precedence of him?[28] — Samuel also showed deference to Rab, and it was Rab[29] who of his own accord paid him special honour[30] and this he did only in his presence, but not when he was not present. It is reasonable also to assume that Rab read as kohen, because if you presume that he read as a layman, why did he say a blessing before reading? — It was after the regulation[31] had been made. If so, he should have said a blessing after reading also? — Where Rab was present there was a difference, because people came in [late]

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(1) V. infra.

(2) V. Glos.

(3) Gen. I, 1-5, and 6-8; v. Ta'an. 26a.

(4) The last verse read by the predecessor. Lit., 'skip', 'go back'.

(5) Heb. קרא, a Bible teacher who appears to have been also a professional reader of the Scripture, with proper vowels, stops and accents, as the tanna (v. Glos. s.v.) was a professional memorizer of the Mishnah or Baraitha.

(6) In the readings of the ma'amad.

(7) V. supra p. 132, n. 3.

(8) Of Rab and Samuel.
(9) V. Ta'an 27b.
(10) That he either divides or repeats.
(11) Which deals with the Biblical reading on Mondays and Thursdays.
(12) Whereas on New Moon the next paragraph deals with a different subject and therefore cannot be read.
(13) Lit., ‘the "some say"’; viz., that three verses are read from the next paragraph.
(14) And therefore, if they hear only the first verse of a section read, may not know that at least three verses have been read.
(15) And therefore, even if only one verse of a section is left, they will see that three are read.
(16) Who might think that if two verses to the end of a section had been left by a reader at the point when he went out, only those two will have been read by the next reader. Cf. n. 7.
(17) Supposing he finds when he comes in that someone reads three verses beginning from the third verse of a paragraph, he inquires whether the previous reader read only the preceding two verses or more.
(18) With respect to the reading by the ma'amad and on the New Moon readings.
(19) I.e., not the one who reads last.
(20) Other than the day of Atonement.
(21) Inserted in the Amidah — the prayer עננו, v. P. B. p. 47.
(22) [Babylon stands here, as in other places in the Talmud, for Sura which was in the neighbourhood of the old great city of Babylon, and in contradistinction to Nehardea where Samuel had his seat, v. Obermeyer p. 306].
(23) To say propitiatory prayers — tahanun, v. P.B. p. 62.
(24) I.e., third, being neither kohen nor Levite.
(25) I.e., first.
(26) Although only a lay Israelite.
(27) Cf. Git. 59b.
(28) V. B.K. 80a.
(29) In giving him precedence.
(30) V. Shab. 108a.
(31) That a blessing should be said both before and after each reading. V. supra, p. 132.

Talmud - Mas. Megilah 22b

but did not go out [during the reading of the law].[1]

Come and hear: ‘The general principle is that wherever the people would be hindered from their work, as on a public fast and on the month of Ab, three read, and where the people would not be hindered from their work, as on New Moons and the intermediate days of festivals,[2] four read’. This settles the question. Said R. Ashi: But we have learnt differently, viz., THIS IS THE GENERAL RULE: WHEREVER THERE IS A MUSAF BUT NOT A FESTIVAL FOUR READ: Now what is added [by the words ‘THIS IS THE GENERAL RULE’]? Is it not a public fast and the month of Ab? But according to R. Ashi,[3] whose view then is recorded in the Mishnah? It is neither that of the First Tanna nor of R. Jose, as it has been taught: ‘If it [the month of Ab] falls on Monday or Thursday, three read and one [of them] says a haftarah. If on Tuesday or Wednesday, one reads and [the same] one says the haftarah. R. Jose, however, says that in all cases three read and one [of them] says the haftarah’. But still[4] the words ‘THIS IS THE GENERAL RULE are difficult! — No. They add New Moon and the intermediate days. But as these are stated explicitly: ON NEW MOONS AND THE INTERMEDIATE DAYS FOUR READ? — [The Mishnah][5] is merely giving an indication that you should not say that the festivals and the intermediate days have the same rule, but you should take this as a general principle, that for every additional distinguishing mark an additional person reads. Hence on New Moon and the intermediate days, when there is an additional sacrifice, four read; on festivals, when [in addition] work is prohibited, five read; on the Day of Atonement when [in addition] there is a penalty of kareth, six read; on Sabbath when there is a penalty of stoning, seven read.

The text [above stated]: ‘Rab happened to be in Babylon on a public fast. He came forward and read in the scroll. He made a blessing before commencing, but made no blessing after finishing. The whole congregation [subsequently] fell on their faces, but Rab did not fall on his face’. Why did not Rab fall on his face? There was a stone pavement there and it has been taught: ‘Neither shall ye place any figured stone in your land to bow down upon it:[6] upon it ye may not bow down in your land, but you may prostrate yourselves on the stones in the Temple’, this teaching is in accord with the opinion of ‘Ulla, who said: The Torah [here] is forbidding only a pavement of stone. If that is the case, why is only Rab mentioned? All the rest should equally have abstained? — It was in front of Rab. But could he not have gone among the congregation and fallen on his face? — He did not want to trouble the congregation.[7] Or if you like I can say that Rab usually spread out his hands and feet [when he fell on his face], and he followed the opinion of ‘Ulla, who said, The Torah forbade only the spreading out of the hands and feet. But could he not have fallen on his face without spreading out his hands and feet? — He did not care to change his custom. Or if you like I can say that for a distinguished man the rule is different, as laid down by R. Eleazar; for R. Eleazar said: A man of eminence is not permitted to fall on his face[8] unless he is [sure of being] answered like Joshua son of Nun, as it is written, Wherefore now art thou fallen upon thy face.[9]

Our Rabbis have taught: Kidah means falling upon the face, as it says, Then Bathsheba bowed [wa-tikod] with her face to the earth.[10] Keri'ah means going down upon the knees, and so it says, [Solomon arose] from kneeling [mi-kroa’] on his knees.[11] Hishtahawa'ah is spreading out of the hands and feet, as it says, Shall I and thy mother and thy brethren come to prostrate ourselves [lehishtahawoth] before thee to the earth.[12]

Levi displayed a kidah[13] in the presence of Rabbi and became lame.[14] But was this the cause of his accident? Did not R. Eleazar Say: ‘A man should never complain against heaven, because a great man complained against heaven and he became lame; and who was he? Levi’?[15] — Both things caused it. R. Hiyya b. Abin said: I saw Abaye

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(1) Hence the reason for saying a blessing after did not apply.

(2) On the intermediate days only work which could not be left over without serious loss was allowed to be done. On New Moon it was the custom for women to abstain from work. V. Rashi and Tosaf. [In ancient times as long as the Temple stood New Moon was marked by a cessation of work; cf. Pseudo-Jonathan on I Sam. XX, 19; v. Halevy, Doroth, I, p. 330ff].

(3) That the Mishnah means to include a public fast and the month of Ab among the days on which four read.

(4) Viz., if we do not accept R. Ashi's explanation.

(5) In mentioning explicitly new moons and the intermediate days, although these are already implied in THIS IS THE GENERAL RULE.

(6) Lev. XXVI, 1. E.V., ‘to it’.

(7) Who would all have risen.

(8) In public.

(9) Josh. VII, 10. So that Rab never fell on his face for the propitiatory prayer.

(10) I Kings I, 31.

(11) Ibid. VIII, 54.

(12) Gen. XXXVII ,10.

(13) V. Suk. 53a.

(14) In getting up.

(15) V. Ta'an.

Talmud - Mas. Megilah 23a

and Raba bend over to one side.[1]

ON FESTIVALS FIVE READ, ON THE DAY OF ATONEMENT SIX etc. Whose view does the Mishnah embody? It is neither that of R. Ishmael nor of R. Akiba, as it has been taught: 'On festivals five read, on the Day of Atonement six, and on Sabbath seven. This number may neither be increased nor diminished. So R. Ishmael. R. Akiba says: On festivals five read, on the Day of Atonement seven and on Sabbath six. This number may not be diminished but it may be increased'. Whom [does the Mishnah follow]? If R. Ishmael, it conflicts with him over the additional number, if R. Akiba, it conflicts with him over the question of six and seven! — Raba said: The view is that of a Tanna of the school of R. Ishmael, since in the school of R. Ishmael it was stated: 'On festivals five, on the Day of Atonement six, on Sabbath seven; this number may not be diminished but it may be increased. So R. Ishmael.' R. Ishmael is now in conflict with himself! — Two Tannaim report R. Ishmael differently.

Who is responsible for the statement which has been taught: 'On festivals people come late to synagogue and leave early.[2] On the Day of Atonement they come early and leave late. On Sabbath they come early and leave early'?[3] Shall I say it is R. Akiba who makes an extra man [read on the Day of Atonement]? — You may also say it is R. Ishmael, [his reason being that] the order [of the service] of the day is very long.

What do these three, five and seven represent? — Different answers were given by R. Isaac b. Nahmani and one who was with him, namely, R. Simeon b. Pazzi, or, according to others, by R. Simeon b. Pazzi and one who was with him, namely, R. Isaac b. Nahmani, or according to others, R. Samuel b. Nahmani. One said that [these represent] the [respective number of Hebrew words in the three verses of the] Priestly benedictions,[4] while the other said 'the three keepers of the door'.[5] [The five represent] 'five of them that saw the king's face'[6] [and the seven] 'seven men of them that saw the king's face'.[7] R. Joseph learnt: Three, five and seven: 'three keepers of the door', five of them that saw the king's face', and 'seven that saw the king's face'. Said Abaye to him: Until to-day your honour never explained the reason to us, he replied: I never knew that you wanted to know. Did you ever ask me anything which I did not tell you?

Jacob the Mir.[8] asked R. Judah: What do the six of the Day of Atonement represent? — He replied: The six who stood at the right of Ezra and the six who stood at his left, as it says, And Ezra the scribe stood upon a pulpit of wood which they had made for the purpose, and beside him stood Mattithiah, Shema and Anaiah and Uriah and Hilkiah and Maaseiah, on his right hand; and on his left hand, Pedaiah, and Mishael and Malchijah and Hashum and Hashbaddanah, Zechariah, Meshullam.[9] But these last are seven? — Zechariah is the same as Meshullam. And why is he called Meshullam? Because he was blameless [mishlam] in his conduct.

Our Rabbis taught: All are qualified to be among the seven [who read], even a minor and a woman, only the Sages said that a woman should not read in the Torah out of respect for the congregation.

The question was raised: Should the Maftir[10] be counted among the seven? — R. Huna and R. Jeremiah b. Abba answered differently. One said that he does count and the other that he does not count. The one who says he does count points to the fact that he actually reads [from the Torah also], while the one who says he does not count relies on the dictum of 'Ulla, who said: Why is it proper for the one who reads the haftarah from the Prophet to read in the Torah first? To show respect for the Torah.[11] Since then he reads [only] out of respect for the Torah,[12] he should not be counted to make up the seven.

The following was cited in objection to this: 'He who says the haftarah from the Prophet should read not less than twenty-one verses, corresponding to [those read by] the seven who have read in the Torah'. Now if it is as you say,[13] there are twenty-four? — Since it is only out of respect for the Torah [that he reads],

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(1) Because as men of eminence they were not permitted to fall right on their faces.

(2) They come late because they have been busy preparing the festival meal, and they leave early to enjoy the festival.

(3) They come early because their food is already prepared, and they leave early to enjoy Sabbath.

(4) Num. VI, 24-26.

(5) Mentioned in II Kings XXV, 18, among those taken captive from Jerusalem by Nebuzaradon.

(6) Mentioned ibid. 19.

(7) Mentioned in the corresponding account in Jer. LII, 25.

(8) V. Glos. Probably a Christian.

(9) Neh. VIII, 4.

(10) The one who reads the haftarah.

(11) I.e., by not putting the Prophet on the same level as the Torah.

(12) And not because an extra one is required to read.

(13) That the Maftir is not one of the seven.

Talmud - Mas. Megilah 23b

no corresponding verses [to those read by him] are required [in the prophetical reading]. Raba strongly demurred to this: There is, he said, [the haftarah of] 'Add your burnt-offerings'[1] in which there are not twenty-one verses, and yet we read it! — The case is different there, because the subject is completed [before twenty-one verses]. But where the subject is not completed, do we then not [read less than twenty-one]? Has not R. Samuel b. Abba said: Many times I stood before R. Johanan, and when I had read ten verses he said,[2] 'Stop [both of] you'? — In a place where there is a translator[3] it is different, since R. Tahlifa b. Samuel has taught: This rule was laid down only for a place where there is no translator, but where there is a translator a stop may be made [earlier].

MISHNAH. THE INTRODUCTION TO THE SHEMA IS NOT REPEATED,[4] NOR DOES ONE PASS BEFORE THE ARK,[5] NOR DO [THE PRIESTS] LIFT THEIR HANDS,[6] NOR IS THE TORAH READ [PUBLICLY] NOR THE HAFTARAH READ FROM THE PROPHET,[7] NOR ARE HALTS MADE [AT FUNERALS],[8] NOR IS THE BLESSING FOR MOURNERS SAID,[9] NOR THE COMFORT OF MOURNERS,[10] NOR THE BLESSING OF THE BRIDEGROOMS,[11] NOR IS THE NAME [OF GOD] MENTIONED IN THE INVITATION TO SAY GRACE,[12] SAVE IN THE PRESENCE OF TEN. FOR REDEEMING SANCTIFIED PROPERTIES[13] NINE AND A PRIEST [ARE SUFFICIENT], AND SIMILARLY WITH HUMAN BEINGS.

GEMARA. Whence these rules?[14] — R. Hiyya b. Abba said in the name of R. Johanan: Because Scripture says, But I will be hallowed among the children of Israel:[15] every act of sanctification requires not less than ten. How does the verse denote this? — As R. Hiyya taught: We explain the word 'among' here by reference to its use in another place. It is written here, 'But I will be hallowed among the children of Israel', and it is written elsewhere, Separate yourselves from among this congregation;[16] and we further explain the word 'congregation' here by reference to what is written in another place, How long shall I bear with this evil congregation.[17] Just as there ten are indicated,[18] so here.

NOR ARE HALTS MADE [AT FUNERALS]. Since [the conductor of the funeral] requires to say, 'stand, dear friends, stand; sit, dear friends, sit',[19] it is not proper[20] [to have less than ten].

NOR IS THE BLESSING OF MOURNERS NOR THE BLESSING OF BRIDEGROOMS SAID etc. What is the blessing of mourners? The blessing of the public square,[21] since[22] R. Isaac said in the name of R. Johanan: The blessing of mourners requires the presence of ten, the mourners not being counted; the blessing of bridegrooms requires the presence of ten, the bridegroom being counted.

THE NAME [OF GOD] IS NOT MENTIONED IN THE INVITATION TO SAY GRACE WITH LESS THAN TEN. Since the one who invites has to say, ‘Let us bless our God’,it is not seemly to do so with less than ten.

FOR REDEEMING PROPERTIES NINE AND A PRIEST. Whence is this rule derived? — Samuel said: Ten priests are mentioned in the section [dealing with sanctifications],[23] one for the actual priest required (and [the first] one [after] to limit),[24] and the rest constitute a limitation after a limitation, and a limitation after a limitation has the force of an addition, to include, namely, nine Israelites and one priest.[25] But cannot I [rather] say five priests and five Israelites?[26] — This is indeed a difficulty.

AND SIMILARLY WITH HUMAN BEINGS. But can a human being become sanctified?[27] — R. Abbahu said: It refers to one who says, ‘My money [value] be upon me’, as it has been taught: ‘If a man says, My money [value] be upon me, we estimate his value as we would that of a slave’. And a slave is put on the same footing as landed property, as it is written, And ye may make them an inheritance for your children after you, to hold for a possession.[28]

MISHNAH. ONE WHO READS THE TORAH [IN SYNAGOGUE] SHOULD READ NOT LESS THAN THREE VERSES, AND HE SHOULD NOT READ TO THE TRANSLATOR MORE THAN ONE VERSE [AT A TIME].[29]

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(1) Jer. VII, 21, the Maftir to section Zaw (Lev. VI, I to VIII, 36).

(2) To him and to the translator.

(3) Who repeats each verse, in the Aramaic Targum.

(4) פורסין על שמע lit., ‘they do not divide over the Shema’’ (v. Glos.). According to Rashi this means that if a number of persons (not less than ten, or seven, or six, or three, according to various opinions, v. Tosaf. and Asheri) come into synagogue after the Shema’ has been said, it is allowable for the congregation to repeat the kaddish and bareku and the first blessing before the Shema’ for their benefit. From the context one would say that it means here more simply ‘say the Shema’ with its attendant blessings’. V. P.B. pp. 37ff. V. Rabbinowitz Mishnah Megillah, ad loc. [Kohler (The Origin of the Synagogue and the Church; p. 58) explains the phrase: ‘The lifting up the hands towards heaven at the recital of the Shema’ — In continuation of the old practice of the Hasidim’. Krauss (Israel-Theol. Lehranstalt, Wien, Bericht, 1933 p. 53): The stepping forward of the reader to recite the Shema’].

(5) To lead the congregation in the Amidah.

(6) To say the priestly blessing, Num. VI, 24-26.

(7) V. supra p. 140.

(8) Lit., ‘they do not make a halting and sitting’. It was the custom on the return from a funeral to have seven pauses during which lamentation was made in honour of the dead. V. infra.

(9) V. infra.

(10) The formal words of consolation addressed to the mourners on passing between the two rows formed by friends after the funeral; v. Keth. 8b and Sanh. 19a. Some texts omit ‘NOR COMFORT OF MOURNERS’.

(11) V. Keth. 7b and 8a and P.B. p. 299.

(12) Said by one of those present at table to the rest of the company.

(13) V. Lev. XXVII, 16-23.

(14) Relating to the synagogue.

(15) Lev. XXII, 32.

(16) Num. XVI, 21.

(17) Ibid. XIV, 27.

(18) The twelve spies without Joshua and Caleb; v. Sanh. 2a.

(19) V. B.B. 100b.

(20) Lit., ‘the way of the world’.

(21) ברכת רחבה A blessing of consolation pronounced in the open air on the mourners return from the burial; v. Keth., Sonc. ed. p. 41, n. 5.

(22) [To be omitted with MS.M. ‘R. Isaac said etc.’ beginning a new sentence v.Tosaf. s.v. ואמר].

(23) In Lev. XXVII, three times in connection with personal valuations v. 8, three in connection with the valuation of animals vv. 11-13, four with sanctification of property vv. 14, 18, 23; v. 21 is not included as the word priest is not mentioned there in connection with the act of ‘valuation’.

(24) These words are bracketed in the text.

(25) V. Sanh., Sonc. ed. p. 71 notes.

(26) The second mention adding an Israelite, the third going back to a priest, the fourth adding an Israelite and so on.

(27) Since all Israelite could not be sold in the market like a slave. (V. Tosaf.).

(28) Lev. XXV, 46.

(29) So that the translator (who had no book) should not become confused.

Talmud - Mas. Megilah 24a

IN A PROPHET, HOWEVER, [HE MAY GIVE HIM] THREE AT A TIME.[1] IF THE THREE VERSES CONSTITUTE THREE SEPARATE PARAGRAPHS,[2] HE MUST READ THEM [TO THE TRANSLATOR] ONE BY ONE. THE READER MAY SKIP [FROM PLACE TO PLACE] IN A PROPHET BUT NOT IN THE TORAH. HOW FAR MAY HE SKIP? [ONLY] SO FAR THAT THE TRANSLATOR WILL NOT HAVE STOPPED[3] [BEFORE HE FINDS HIS PLACE].[4]

GEMARA. What do these three verses represent? — R. Assi said: The Pentateuch, the Prophets, and the Hagiographa.

HE SHOULD NOT READ TO THE TRANSLATOR MORE THAN ONE VERSE. IN A PROPHET, HOWEVER, HE MAY READ THREE. IF THE THREE VERSES CONSTITUTE THREE PARAGRAPHS, HE MUST READ THEM ONE BY ONE. For instance, [the three verses], For thus saith the Lord, ye were sold for nought; For thus saith the Lord God, my people went down aforetime to Egypt; Now therefore what do I here, saith the Lord.[5]

THE READER MAY SKIP IN A PROPHET BUT NOT IN THE TORAH. A contradiction was pointed out [between this and the following]: ‘He [the High Priest] reads [on the Day of Atonement] "after the death"[6] and "only on the tenth day".[7] But he is skipping? — Abaye replied: There is no contradiction; in the one case the translator will have come to a stop [before the place is found] in the other case he will not have come to a stop.[8] But it states in connection with this. THE READER MAY SKIP IN THE PROPHET BUT HE MAY NOT SKIP IN THE TORAH. AND HOW FAR MAY HE SKIP? SO FAR THAT THE TRANSLATOR WILL NOT HAVE STOPPED. From this we infer that in the Torah he may not skip at all? — The truth is, said Abaye, that there is no contradiction. In the one case [the reader deals] with one subject, in the other case with two; and in fact it has been taught: ‘The reader may skip in the Torah [provided he keeps] to one subject, and in a Prophet even if he goes on to another subject’; and in both cases only so far that the translator will not have stopped [before he finds the place]. It has been taught in another place: ‘The reader may not skip from one prophet to another. In the Twelve Minor Prophets he may skip,[9] provided only that he does not skip from the end of the book to the beginning.’[10]

MISHNAH. THE ONE WHO SAYS THE HAFTARAH FROM THE PROPHET REPEATS ALSO THE BLESSINGS BEFORE THE SHEMA’[11] AND PASSES BEFORE THE ARK[12] AND LIFTS UP HIS HANDS.[13] IF HE IS A CHILD,[14] HIS FATHER OR HIS TEACHER PASSES BEFORE THE ARK IN HIS PLACE. A CHILD MAY READ IN THE TORAH AND TRANSLATE, BUT HE MAY NOT PASS BEFORE THE ARK NOR LIFT UP HIS HANDS. A PERSON IN RAGS[15] MAY REPEAT THE BLESSINGS BEFORE THE SHEMA AND

TRANSLATE, BUT HE MAY NOT READ IN THE TORAH NOR PASS BEFORE THE ARK NOR LIFT UP HIS HANDS. A BLIND MAN MAY REPEAT THE BLESSINGS BEFORE THE SHEMA AND TRANSLATE. R. JUDAH SAYS: ONE WHO HAS NEVER SEEN THE LIGHT FROM HIS BIRTH MAY NOT RECITE THE BLESSINGS BEFORE THE SHEMA'.[16]

GEMARA. What is the reason [why the one who says the haftarah has this privilege]? — R. Papa said: As a mark of honour;[17] R. Shimi said: Because otherwise quarrels might arise.[18] What difference is there in practice between them? — There is a difference, in the case of one who reads gratis.[19]

We learn: IF HE IS A CHILD, HIS FATHER OR HIS TEACHER PASSES BEFORE THE ARK IN HIS PLACE. If now you say it is to avoid quarrels, will a child pick a quarrel? What then? It is a mark of respect? Does a child receive marks of respect? What you must say is, out of respect for his father and his teacher.

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(1) Because if he makes a mistake, it does not matter so much.

(2) V. infra.

(3) Lit., 'so that the translator shall not (have to) pause'.

(4) I.e., he must not have much to unroll in the scroll.

(5) Isa. LII, 3, 4 and 5.

(6) Lev. XVI, 1ff.

(7) Ibid. XXIII, 26ff.

(8) Because the passages read by the High Priest are not far apart.

(9) As these were all written in one scroll,

(10) I.e., go backwards.

(11) V. supra. Sof. XIV, 8 refers this to the Shema' recited at the taking out of the law from the Ark; v. P.B. p. 145.

(12) To read the 'Amidah, and especially the kedushah.

(13) To say the priestly blessing. Why the maftir should have these privileges is not at all clear, and the 'lifting up of hands' certainly was the privilege of every priest. V. Rabbinowitz, op. cit. MS.M. omits: 'AND LIFTS UP HIS HANDS.

(14) Under thirteen.

(15) So that most of his body is exposed.

(16) Which include a prayer of thanksgiving for the creation of light.

(17) I.e., as a kind of reward for having consented to read the haftarah.

(18) Between persons eager to act as reader.

(19) In which case there will not be such competition for the honour, and so there is no need to give the one who says the haftarah priority.

Talmud - Mas. Megilah 24b

So here too, there is the question of quarrels, involving him or his teacher.

A PERSON IN RAGS MAY REPEAT etc. 'Ulla b. Rab enquired of Abaye: Is a child in rags allowed to read in the Torah?[1] He replied: You might as well ask about a naked one. Why is one without any clothes not allowed? Out of respect for the congregation. So here, [he is not allowed] out of respect for the congregation.

A BLIND MAN MAY REPEAT THE BLESSINGS etc. It has been taught: They said to R. Judah: Many have discerned sufficiently [with their mind's eye] to expound the Chariot,[2] and yet they never saw it? — What says R. Judah to this? — There [he can reply], all depends on the discernment of the heart, and the expounder by concentrating his mind can know, but here one reads for the benefit which he derives therefrom,[3] and this one derives no benefit.[4] The Rabbis, however, hold that he does derive a benefit, for the reason given by R. Jose, as it has been taught: R. Jose said: I was long perplexed by this verse, And thou shalt grope at noonday as the blind gropeth in darkness.[5] Now what difference [I asked] does it make to a blind man whether it is dark or light? [Nor did I find the answer] until the following incident occurred. I was once walking on a pitch black night when I saw a blind man walking in the road with a torch in his hand. I said to him, My son, why do you carry this torch? He replied: As long as I have this torch in my hand, people see me and save me from the holes and the thorns and briars.[6]

MISHNAH. A PRIEST WHOSE HANDS ARE DEFORMED SHOULD NOT LIFT UP HIS HANDS [TO SAY THE PRIESTLY BLESSING]. R. JUDAH SAYS: ALSO ONE WHOSE HANDS ARE DISCOLOURED WITH WOAD[7] SHOULD NOT LIFT UP HIS HANDS, BECAUSE [THIS MAKES] THE CONGREGATION LOOK AT HIM.[8]

GEMARA. A Tanna stated: The deformities which were laid down [as disqualifying] are on the face, the hands and the feet.[9] R. Joshua b. Levi said: If his hands are spotted[10] he should not lift up his hands. It has been taught similarly: ‘If his hands are spotted, he should not lift up his hands. If they are curved inwards or bent sideways, he should not lift up his hands’.

R. Assi said: A priest from Haifa or Beth Shean[11] should not lift up his hands. It has been taught to the same effect: ‘We do not allow to pass before the ark either men from Beth Shean or from Haifa or from Tib'onim,[12] because they pronounce alif as ‘ayin and ‘ayin as alif’.[13]

Said R. Hiyya to R. Simeon b. Rabbi: If you were a Levite, you would not be qualified to chant,[14] because your voice is thick. He went and told his father who said to him: Go and say to him, When you come to the verse, And I will wait [we-hikethi] for the Lord,[15] will you not be a reviler and blasphemer?[16]

R. Huna said: A man whose eyes run should not lift up his hands. But was there not one in the neighbourhood of R. Huna who used to spread forth his hands? — The townspeople had become accustomed to him.[17] It has been taught to the same effect: ‘A man whose eyes run should not lift up his hands, but if the townspeople are accustomed to him, he is permitted’. R. Johanan said: A man blind in one eye should not lift up his hands. But was not there one in the neighbourhood of R. Johanan who used to lift up his hands? — The townspeople were accustomed to him. It has been taught to the same effect: ‘A man blind in one eye should not lift up his hands, but if the townspeople are accustomed to him, he is permitted’.

R. JUDAH SAYS: A MAN WHOSE HANDS ARE DISCOLOURED SHOULD NOT LIFT UP HIS HANDS. A Tanna stated: If most of the men of the town follow the same occupation it is permitted.

MISHNAH. IF ONE SAYS, I WILL NOT PASS BEFORE THE ARK [TO ACT AS READER] IN COLOURED ROBES, HE MUST NOT PASS BEFORE IT IN WHITE ROBES EITHER. [IF HE SAYS], I WILL NOT PASS BEFORE IT IN SHOES, HE MUST NOT PASS BEFORE IT BAREFOOT EITHER. A PHYLACTERY [FOR THE HEAD] WHICH IS MADE ROUND[18] IS DANGEROUS[19] AND HAS NO RELIGIOUS VALUE. TO PUT THEM ON THE FOREHEAD OR ON THE PALM OF THE HAND[20] IN THE MANNER OF THE HERESY,[21] TO OVERLAY THEM WITH GOLD OR PUT [THE ONE FOR THE HAND] ON ONE'S SLEEVE IS THE MANNER OF THE OUTSIDERS.[22]

GEMARA. [IN COLOURED ROBES]. What is the reason [why he must not act as reader]? We are apprehensive that he has a leaning towards minuth.[23]

TO MAKE ONE'S PHYLACTERY ROUND IS DANGEROUS AND HAS NO RELIGIOUS

VALUE. May we say that our Mishnah teaches here the same as our Rabbis taught: ‘That phylacteries should be square is a law set down by Moses at Sinai’, and Raba explained [this to mean] in their seam and in their diagonal?[24] — R. Papa said: The Mishnah is speaking only of those which are made as round as a nut.[25]

MISHNAH. IF ONE SAYS

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(1) A child not being forbidden to expose himself.

(2) The first chapter of Ezekiel.

(3) Viz., the light.

(4) He does not enjoy the benefit of light.

(5) Deut. XXVIII, 29.

(6) So although blind, he does benefit by the light.

(7) [Var. lec. add: ‘or madder’, a red dye].

(8) And it is forbidden to look at the priests while saying the blessing, v. Hag. 16.

(9) The priest said the blessing barefoot, v. Sot. 40a.

(10) With white pustules. The deformity apparently is the same as that referred to in Lev. XIII, 39.

(11) Towns in Palestine.

(12) More correctly Tibe'on, perhaps the same as modern Tubun, W. of Sephoris.

(13) V. Glos.

(14) Lit., ‘for the platform’, on which the Levites stood while chanting.

(15) Isa. VIII, 17.

(16) Because he could not pronounce a heth and would say we-hikethi, which would mean ‘And I shall smite’.

(17) Lit. ‘he had become familiar to the townspeople’.

(18) Instead of cube-shaped.

(19) [The capsule might penetrate his head during prostration at tahanun (supra p. 135 n. 6). V. Rashi and R. Hananel]. R. Tam takes this to mean that it will not avail him in time of danger. V. Shab. 49a.

(20) According to the literal meaning of the text, and thou shalt bind them for a sign upon thy hand and they shall be phylacteries between thine eyes. Deut. VI, 8.

(21) Minuth (v. Glos. s.v. Min) Maim.: Sadducees. The reading ‘Karaites’ in some texts is a censor's variant.

(22) This term apparently designates persons who followed the Rabbis only partially. According to the Rabbis, the phylacteries had to be made wholly of the skin of a clean animal and to be placed directly on the flesh.

(23) Probably Judeo-Christianity, the Christians being particular about this. For other suggestions v. Rabbinowitz, op. cit. a.l.

(24) Apparently this means ‘both in their base and in their height’.

(25) But the shape of an egg or of a bean might be permitted (Rashi).

Talmud - Mas. Megilah 25a

‘MAY THE GOOD BLESS THEE’, THIS IS A CUSTOM OF HERESY.[1] [IF HE SAYS], ‘MAY THY MERCIES REACH THE NEST OF A BIRD’, ‘MAY THY NAME BE MENTIONED FOR WELL-DOING’, ‘WE GIVE THANKS, WE GIVE THANKS’,[2] HE IS SILENCED. IF HE INTRODUCES EUPHEMISMS INTO THE PORTION DEALING WITH FORBIDDEN MARRIAGES,[3] HE IS SILENCED. IF HE SAYS, [INSTEAD OF] ‘AND THOU SHALT NOT GIVE ANY OF THY SEED TO SET THEM APART TO MOLOCH’, ‘THOU SHALT NOT GIVE TO TRANSFER IT TO A GENTILE WOMAN’,[4] HE IS BOTH SILENCED AND REBUKED.[5]

GEMARA. We understand the prohibition of saying ‘WE GIVE THANKS, WE GIVE THANKS’, because he seems to be addressing two Powers;[6] also of ‘THY NAME BE MENTIONED FOR WELL-DOING’, because this implies, for good, yes, for evil, no, and we have learnt, ‘It is the duty of a man to bless [God] for evil in the same way as he blesses for good’.[7] But what is the reason for prohibiting, ‘MAY THY MERCIES REACH THE NEST OF A BIRD’?[8] —

Different answers were given by two Amoraim in the West [Palestine], R. Jose b. Abin and R. Jose b. Zebida. One said, it is because he creates jealousy in the work of the creation,[9] and the other says it is because he makes the commands[10] of the Holy One, blessed be He, acts of grace, whereas they are only decrees.[11] A certain man went down [before the ark] in the presence of Rabbah and said, ‘Thou hast shown pity to the nest of a bird, do thou have pity and mercy on us’; (Thou hast shown pity to an animal and its young,[12] do thou have pity and mercy on us). Said Rabbah: How well this Rabbi knows how to placate his Master! Said Abaye to him: But we have learnt, HE IS SILENCED? — Rabbah only wanted to sharpen Abaye's wits.

A certain [reader] went down before the ark in the presence of R. Hanina and said, ‘The great, the mighty, the terrible, the majestic, the strong, the powerful God’. He said to him: Have you finished the praises of your Master? Even the first three, had it not been that Moses wrote them in the Law[13] and the Men of the Great Synagogue came and ordained them,[14] we should not recite; and you say all this! It is as if a man had thousands of thousands of denarii of gold and people to praise his wealth would say he had a thousand. Would it not be an insult to him?

R. Hanina said: Everything is in the hands of heaven except the fear of heaven[15] as it says, And now, Israel, what doth the Lord thy God ask of thee but to fear.[16] Are we to infer from this that fear is a small thing? — Yes; for Moses our teacher it was a small thing. In the same way, if a man is asked for a big article and he has it, it seems to him only small, but if he is asked for a small article and he has it not, it seems big to him.

R. Zera said: For one to say, ‘Hear, Hear’,[17] is like saying, ‘We give thanks, we give thanks’. The following was cited in objection to this: ‘He who recites the Shema’ and repeats is reprehensible’. He is only reprehensible, but we do not silence him? — There is no contradiction. In the one case we suppose he repeats each word as he says it,[18] in the other that he repeats a whole sentence.[19] Said R. Papa to him: But perhaps [the reason why he repeats] is because at first he was not thinking of what he said, and now he does think? — He replied: Is he to treat heaven like an ordinary acquaintance?[20] If he does not think of what he is saying, I will hit him with a hammer till he does think.

IF HE INTRODUCES EUPHEMISMS INTO THE PASSAGE DEALING WITH FORBIDDEN MARRIAGES, HE IS SILENCED. R. Joseph learned: [If, for example, he says] ‘the shame of his father, the shame of his mother’.[21]

IF ONE SAYS, AND THOU SHALT NOT GIVE ANY OF THY SEED TO SET THEM APART etc. In the school of R. Ishmael it was stated: The text speaks of an Israelite who has intercourse with a Cuthean woman and begets from her a son for idolatry.[22]

MISHNAH. THE INCIDENT OF REUBEN IS READ IN SYNAGOGUE BUT NOT TRANSLATED.[23] THE STORY OF TAMAR[24] IS READ AND TRANSLATED. THE FIRST ACCOUNT OF THE INCIDENT OF THE GOLDEN CALF[25] IS BOTH READ AND TRANSLATED, THE SECOND[26] IS READ BUT NOT TRANSLATED. THE BLESSING OF THE PRIESTS[27] IS READ BUT NOT TRANSLATED. THE STORIES OF DAVID[28] AND AMNON[29] ARE READ BUT NOT TRANSLATED. THE PORTION OF THE CHARIOT[30] IS NOT READ AS A HAFTARAH, BUT R. JUDAH PERMITS THIS. R. ELEAZAR SAYS: THE PORTION, MAKE KNOWN TO JERUSALEM’,[31] IS NOT READ AS A HAFTARAH.

GEMARA. Our Rabbis taught: Some portions [of the Scripture] are both read and translated, some are read but not translated, [and some are neither read nor translated].[32] The following are both read and translated: (Mnemonic: B'L'T' ‘E'K'N' N'SH'P'H’).[33] The account of the creation[34] is both read and translated. Certainly! — You might think that [through hearing it] people are led to inquire what is above and what is below,

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(1) Minuth (v. supra note 4); implying that only the good are invited to bless God (Rashi).
(2) In the ‘Amidah prayer.
(3) Lev, ch. XVIII.
(4) I.e., beget children from a Gentile woman. Aliter: ‘To render pregnant a Gentile woman’. Either version is a departure from the text which is an injunction against Moloch worship. [Aruch (s.v. ארם): ‘Thou shalt not give any of thy seed to the Arameans to set them apart to Moloch’, implying that the prohibition applies only to the Moloch worship of a particular nation. Albeck Ch., Bericht Hochschule, Berlin 1930 p. 55 renders it: thou shalt not give thy seed to pass to heathendom, viz., to introduce them to the knowledge of heathen culture and custom.]
(5) All this is explained in the Gemara.
(6) V. Ber. 54a.
(7) [The dualism of the Persians — the god of darkness and of light.]
(8) With reference to the prohibition of taking both a bird and its nestlings. Deut. XXII, 6. 7.
(9) As though God had mercy on birds and not on beasts.
(10) Lit., ‘his attributes’. [Herford sees in this a protest against the Pauline antithesis of Law and Grace, v. Christianity in Talmud and Midrash pp. 202ff.]
(11) Which must be obeyed whether they are merciful or not.
(12) V. Lev. XXII, 28. This sentence is bracketed in the text.
(13) Deut. X, 17.
(14) V. Neh. IX, 32.
(15) It is left to the free choice of man whether to be Godfearing or not.
(16) Deut. X, 12.
(17) In reciting the Shema’.
(18) I.e., he says, ‘Hear, hear, Israel, Israel’ which is only a stupidity.
(19) I.e., he says, ‘We give thanks to thee, we give thanks to thee’, as if he were addressing two Powers.
(20) Lit., ‘Intimacy towards heaven!’
(21) From prudery, instead of ‘the nakedness’; Lev. XVIII, 7. [Maim: instead ‘of thy father’, ‘of thy mother’].
(22) Cf. Pseudo-Jonathan a.l. Apparently this is in flat contradiction with the Mishnah. Possibly R. Ishmael means to explain the words of the Mishnah which are somewhat obscure (Rashi). [According to Aruch's and Albeck's explanations (v. p. 149, n. 3) the Mishnah does not denounce R. Ishmael's version.]
(23) Gen. XXXV, 22.
(24) Ibid. XXXVIII.
(25) Ex. XXXII, 1-20.
(26) Ibid. 21-25. (So Maim).
(27) Num. VI, 24-27.
(28) II Sam. XI, 2-17.
(29) Ibid. XIII, 1-4.
(30) Ezek. I and X.
(31) Ibid. XVI.
(32) Wilna Gaon omits the words in brackets.
(33) B = Bereshith (creation); L = Lot; T = Tamar;E= ‘Egel (Calf); K = Kelaloth (curses); N = ‘Oneshin (penalties); N = Amnon; Sh =Abshalom, P = Pilegesh (concubine); H =hoda’ (make known).
(34) Gen. I.

Talmud - Mas. Megilah 25b

and what is before and what is after.[1] Therefore we are told [that this is no objection]. The story of Lot and his two daughters[2] is both read and translated. Certainly! — You might think that [we should forbear] out of respect for Abraham. Therefore we are told [that this is no objection]. The story of Tamar and Judah is both read and translated. Certainly! — We might think that [we should forbear] out of respect for Judah. Therefore we are told [that this is no objection]; [the passage] really redounds to his credit, because [it records that] he confessed.[3] The first account of the making of the Calf is both read and translated. Certainly! — You might think that [we should forbear] out of respect for Israel. Therefore we are told [that this is no objection]; on the contrary, it is agreeable to them,[4] because it was followed by atonement.[5] The curses and blessings[6] are both read and translated. Certainly! — You might think that [we should forbear] lest the congregation should become disheartened; therefore we are told [that this is no objection]. Warnings and penalties are both read and translated. Certainly! — You might think that [we should forbear] for fear that they may come to keep the commandments out of fear;[7] therefore we are told [that this is no objection]. The story of Amnon and Tamar is both read and translated. Certainly! — You might think that [we should forbear] out of respect for David. Therefore we are told [that this is no objection]. The story of the concubine in Gibea[8] is both read and translated. Certainly! — You might think [that we should forbear] out of respect for Benjamin. Therefore we are told [that this is no objection]. The passage commencing ‘Make known to Jerusalem her abominations’ is both read and translated. Certainly! — This is stated to exclude the view of R. Eleazar, as it has been taught: ‘On one occasion a man read in the presence[9] of R. Eleazar ‘Make known to Jerusalem her abominations’. He said to him, While you are investigating the abominations of Jerusalem, go and investigate the abominations of your own mother. Inquiries were made into his birth, and he was found to be illegitimate.

Mnemonic: R'E'B'D'N’).[10] The incident of Reuben is read but not translated. On one occasion R. Hanina b. Gamaliel went to Kabul,[11] and the reader of the congregation read, ‘And it came to pass when Israel abode’,[12] and he said to the translator, Translate only the latter part of the verse, and the Sages commended his action. The second account of the Calf is read but not translated. What is the second account of the Calf? — From ‘And Moses said’ up to ‘and Moses saw’.[13] It has been taught: A man should always be careful in wording his answers, because on the ground of the answer which Aaron made to Moses the unbelievers were able to deny [God], as it says, And I cast it into the fire and this calf came forth.[14]

The priestly blessing is read but not translated. What is the reason? — Because it contains the words, May he lift up.[15]

The accounts of David and Amnon are neither read nor translated.[16] But you just said that the story of Amnon and Tamar is both read and translated? — There is no contradiction; the former statement refers to where it says ‘Amnon son of David’,[17] the latter to where it says ‘Amnon’ simply.

Our Rabbis taught: Wherever an indelicate expression is written in the text, we substitute a more polite one in reading.[18] [Thus for] yishgalenah[19] [we read] yishkabenah;[20] [for] ba'apolim[21] [we read] ba-tehorim;[22] [for] hiryonim[23] [we read] dibyonim;[24] [for] le-ekol eth horehem we-lishtoth eth meme shinehem[25] [we read] le-ekol eth zo'atham we-lishtoth eth meme raglehem;[26] [for] la-mahara'oth[27] [we read] lemoza'oth.[28] R. Joshua b. Korha, however, says that the actual word la-mahara'oth[27] [is read] because it is a term of opprobrium for idolatry. R. Nahman said: All gibing[29] is forbidden save gibing at idolatry, which is permitted, as it is written, Bel boweth down, Nebo stoopeth[30] and the text goes on, They stoop, they bow down together, they cannot deliver the burden, etc. R. Jannai learns the same lesson from here: The inhabitants of Samaria shall be in dread for the calves of Beth Aven, for the people thereof shall mourn over it and the Priests thereof shall tremble for it, for its glory, because it is departed from it.[31] Read not ‘its glory’ [kebodo], but ‘its burden’ [kebedo]. R. Huna b. Manoah said in the name of R. Aha the son of R. Ika: It is permitted to an Israelite to say to a Cuthean, Take your idol and put it in your shin tof.[32] R. Ashi said: It is permissible to abuse a person of ill fame[33] with the term gimel shin.[34] It is permissible to praise a person of good report and if one does praise him, ‘blessings shall rest upon his head’.

CHAPTER IV

MISHNAH. IF THE TOWNSPEOPLE[35] SELL THE TOWN SQUARE,[36] THEY MAY BUY WITH THE PROCEEDS A SYNAGOGUE;[37] [IF THEY SELL] A SYNAGOGUE, THEY MAY BUY WITH THE PROCEEDS AN ARK;[38] [IF THEY SELL] AN ARK THEY MAY BUY WRAPPINGS [FOR SCROLLS]; [IF THEY SELL] WRAPPINGS

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(1) I.e., before the creation and after the end of the world. Cf. Hag. 11b.

(2) Gen. XIX, 31-38.

(3) Ibid. XXXVIII, 26.

(4) To have the story recounted.

(5) [MS.M. so that there may be (by the recounting of the lapse) an atonement unto them].

(6) Lev. XXVI; Deut. XXVII.

(7) Rashi apparently makes this the reason for reading the curses and blessings, and reads ‘out of love and fear’, i.e., desire for the blessings and fear of the curses, while he transfers to this place the clause in the previous sentence, ‘lest the congregation should become disheartened’. But. v. Maharsha.

(8) Jud. XIX, XX.

(9) [Lit., ‘above’, the reader in public occupying a raised position].

(10) R = Reuben; E= ‘Egel (calf); B = berakah (blessing); D = David; N = Amnon.

(11) S.E. of Akko.

(12) Gen. XXXV, 22.

(13) Ex. XXXII, 21-25.

(14) Which seems to be an admission that the calf had divine powers.

(15) Which seems to imply favouritism for Israel.

(16) According to R. Bezalel Ronsburg, the proper reading is ‘The accounts of David and Amnon are read but not translated’.

(17) I.e. the first verse of the chapter.

(18) Lit., ‘wherever the text is written indelicately, we read it delicately’.

(19) ישגלנה ‘ravish’.

(20) ישכבנה. Deut. XXVIII, 30. E.V. ‘shall lie with her’.

(21) בעפולים ‘posteriors’.

(22) בטחורים I Sam. V, 5. E.V. ‘emerods’.

(23) חריונים ‘dove's dungs’. So E.V.

(24) דביונים II Kings VI, 25. E.V. ‘decayed leaves’.

(25) חוריהםץץמימי שיניהם ‘excrement . . . urine.

(26) צואתםץץמימי רגליהם Ibid. XVIII, 27. E.V. ‘deposit . . . water of his feet’

(27) למחראות ‘privies’.

(28) למוצאות Ibid. X, 27, ‘retreats’. E.V. ‘draughthouse’.

(29) The reference apparently is to obscenity.

(30) Isa. XLVI, 1.

(31) Hos. X, 5.

(32) שת. Fundament.

(33) I.e., suspected of adultery.

(34) According to Rashi, = gala shaita (adulterer, madman). Another reading is beth gimel = bar girtha (son of a harlot).

(35) Lit., ‘sons of the town’: probably the general assembly of residents of over twelve months’ standing. V. Rabbinowitz, op. cit.

(36) Lit., ‘broad place’. Where at times religious ceremonies were performed.

(37) On the principle that we may use for a more holy purpose but not for a less holy’; and so with the rest.

(38) In which to place the Scrolls of the Law.

Talmud - Mas. Megilah 26a

THEY MAY BUY SCROLLS;[1] [IF THEY SELL] SCROLLS THEY MAY BUY A [SEFER] TORAH. BUT IF THEY SELL A [SEFER] TORAH THEY MAY NOT BUY WITH THE

PROCEEDS SCROLLS; IF [THEY SELL] SCROLLS THEY MAY NOT BUY WRAPPINGS; IF [THEY SELL] WRAPPINGS THEY MAY NOT BUY AN ARK; IF [THEY SELL] AN ARK THEY MAY NOT BUY A SYNAGOGUE; IF [THEY SELL] A SYNAGOGUE THEY MAY NOT BUY A TOWN SQUARE. THE SAME APPLIES TO ANY MONEY LEFT OVER.[2]

GEMARA. IF THE TOWNSPEOPLE SELL THE TOWN SQUARE. Rabbah b. Bar Hanah said in the name of R. Johanan: This is the view of R. Menahem b. Jose the anonymous author,[3] but the Sages say that no sanctity attaches to the square. What is the reason of R. Menahem b. Jose? — Because the people pray in it on fast days[4] and at gatherings of the ma'amad.[5] What say the Rabbis to this? — That happens only exceptionally. IF [THEY SELL] THE SYNAGOGUE THEY MAY BUY AN ARK. R. Samuel b. Nahmani said in the name of R. Jonathan: This rule applies only to a synagogue in a village, but a synagogue in a large town, since people from all parts come to it,[6] may not be sold, it being regarded as belonging to a wider public. Said R. Ashi: As for this synagogue in Matha Mehasia,[7] although people come to it from all parts, since they come at my discretion,[8] I can if I like sell it. An objection was raised: ‘R. Judah says: It is recorded of the synagogue of the coppersmiths[9] in Jerusalem that they sold it to R. Eliezer and he used it for his own purposes’. And yet that was one in a large town? — That was a very small synagogue, and they themselves had made it.

The following was further raised in objection: ‘In a house of the land of your possession:[10] your possession is defiled by leprosy, but Jerusalem is not defiled by leprosy’.[11] R. Judah said: I have not heard this laid down save with respect to the area of the Sanctuary alone. We thus see that [according to R. Judah] synagogues and houses of study are defiled; and yet why [according to you] should this be, seeing that they belong to the town?[12] — I would emend [the above statement to read]: ‘R. Judah says: I have not heard this rule laid down save in relation to a sanctified place only’.[13]

On what point do these [two authorities] join issue? — The First Tanna is of opinion that Jerusalem was not apportioned to [any of] the tribes,[14] while R. Judah was of opinion that it was apportioned to [certain of] the tribes; and their difference is the same as that of the following Tannaim, as it has been taught: What [part of Jerusalem] was in the portion of Judah?[15] The Temple mountain,[16] the priestly chambers,[17] and the courts.[18] And what was in the portion of Benjamin? The hall[19] and the sanctuary[20] and the holy of holies.[21] A strip projected from the portion of Judah into the portion of Benjamin, and in it the altar [of sacrifice] was built, and every day the righteous Benjamin fretted over it, desiring to swallow it up, as it says, Crouching over it all the day.[22] Therefore Benjamin was privileged to become the host of the Shechinah’.[23] The following Tanna, however, held that Jerusalem was not apportioned to any of the tribes, as it has been taught: ‘People cannot let out houses[24] in Jerusalem as they do not belong to them. R. Eleazar b. Zadok says: They may not hire out beds either.[25] Therefore householders [who took in guests] would seize the skins of [visitors’] sacrifices forcibly’.[26] Abaye remarked: We may see from this that it is good manners for a man to leave his [empty] wine-flask and his skin-rug at his guest-house.

Raba said: This rule[27] was meant to apply only where the seven ‘good men’ of the town[28] did not sell in the assembly of the townspeople. But if the seven ‘good men’ of the town sold in the assembly of the townspeople, even

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(1) Of the Scriptural books other than the Pentateuch.

(2) From any of these purchases.

(3) I.e., whose opinions are usually quoted without mention of his name. Cf. supra p. 4, n. 1.

(4) V. Ta'an. 15a. Apparently the square was usually in front of the synagogue.

(5) V. Glos. The ma'amad did not in fact pray in the square but in the synagogue, and this word is omitted by many authorities, v. Rashi.

(6) And are regarded as having contributed to it, or may actually have contributed to it.

(7) A suburb of Sura.

(8) I.e., since they have contributed on condition that I may do as I please with the money (Tosaf.). Cf. B.B. 3b.

(9) טורסיים(Tarsians), or ‘filigree workers’. [We find a synagogue of Tarsians also in Tiberias and Lydda, and in Krauss, Synagogale Altertumer, p. 201, they are identical with the synagogue of Alexandrians (cf. the parallel passage in the Jerusalem Talmud Megillah III, 1) who had brought over with them to Palestine the industry in Tarsian carpets — an industry which flourished greatly in Egypt; v. also T.A. II, 625].

(10) Lev. XIV, 34; of leprosy of houses.

(11) V. infra.

(12) And so cannot be called ‘your possession’. (V. Tosaf. s.v. ואמאי).

(13) Including also synagogues and houses of study.

(14) But remained the possession of all of them jointly.

(15) Jerusalem was on the border between the territories of Judah and Benjamin.

(16) On the east of the city.

(17) The rooms used by the priests for various purposes.

(18) The Court of Women, the Israelites’ Court, and the Priests’ Court.

(19) Ulam. Leading to the interior of the Temple.

(20) Containing the candlestick and table and altar of incense.

(21) Containing the Ark.

(22) As if to swallow it. Deut. XXXIII, 12. E. V. ‘He covereth him all the day’.

(23) Through the Holy of Holies. V. Yoma 12a.

(24) To the pilgrims who come to Jerusalem for the three Festivals (Rashi).

(25) Because the ground on which they rested did not belong to them (Tosaf).

(26) In lieu of payment for lodging.

(27) That the proceeds of the sale could not be used for purchasing something less holy, and that the thing sold itself retained its holiness.

(28) Seven men who acted as representatives of the town in communal matters — optimates.

Talmud - Mas. Megilah 26b

if it was for a drinking place,[1] the transaction holds good. Rabina had the ground of a dismantled synagogue. He applied to R. Ashi to know whether he could plant seeds there. He replied: Go and buy it from the seven ‘good men’ of the town in the assembly of the townspeople, and you may then sow it.

Rami b. Abba was building a synagogue. There was a certain old synagogue which he wanted to pull down, so as to take bricks and beams from it and use them for the other. He was doubtful, however, how to interpret the dictum of R. Hisda; for R. Hisda[2] said: A man should not pull down a synagogue until he has built another [to take its place]. The reason there, [he knew] was so that there should be no negligence.[3] But what was the rule in such a case as this?[4] He applied to R. Papa, who forbade him; to R. Huna, and he also forbade him.

Raba said: A synagogue may be exchanged or sold [for secular purposes], but may not be hired or pledged. What is the reason?

[In the latter case] its holiness is still adhering to it.[5] Its bricks also, may be exchanged or sold [for secular purposes], but not lent. This rule applies only to old ones,[6] but in the case of new ones there is no objection.[7] And even if we adopt the view that the mere intention [to use a thing for a certain purpose] has a certain force, this would be the case, for instance, with one who weaves a shroud for a dead body,[8] but in this case [the objects in question] are like thread which has still to be woven into cloth, and no authority says [that in such a case there is force in mere intention].

[With regard to a synagogue which has been made] a gift, there is a difference of opinion between

R. Aha and Rabina, one forbidding [it to be used for secular purposes] and one permitting. The one who forbade did so on the ground that there is nothing to which its holiness is transferred,[9] while the one who permitted it argued that if he [the giver] did not derive some benefit from the act[10] he would not give it, so that in the end the gift is equivalent to a sale.

Our Rabbis taught: ‘Accessories of religious observances [when disused] are to be thrown away; accessories of holiness are to be stored away. The following are accessories of religious observances: a sukkah, a lulab, a shofar,[11] fringes. The following are accessories of holiness: large sacks for keeping scrolls of the Scripture in, tefillin and mezuzoth,[11] a mantle for a sefer torah,[11] and a tefillin bag and tefillin straps’. Raba said: At first I used to think that the stand [on which the sefer torah is placed] is an accessory to an accessory and that it is permitted.[12] When, however, I saw that the sefer torah is placed actually on it,[13] I came to the conclusion that it is all accessory of holiness and is forbidden. Raba further said: At first I used to think that the curtain[14] is an accessory of an accessory. When, however, I observed that it is folded over and a scroll is placed on it, I came to the conclusion that it is itself an accessory of holiness, and forbidden.

Raba further said: When an ark is falling asunder, to make it into a smaller ark is permitted, but to make it into a stand[15] is forbidden. Raba further said: When a curtain is worn out, to make it into a mantle for a [whole] scroll of the Law is permitted, but for a single humash[11] is forbidden. Raba further said: These bags for humashim and boxes for scrolls[16] are accessories of holiness and must be stored away [when disused]. Is not this obvious? — You might think that these are used not out of respect [for the scrolls] but merely for protection. Therefore we are told [that this is not so].

There was a synagogue of the Roman Jews[17] which opened out into a room where a dead body was deposited.[18] The kohanim[19] wanted to go in there to pray, and they came and asked Raba [what they should do]. He said: Take the ark and put it down there,[20] since it is a wooden vessel which is meant to be stationary, and every wooden vessel which is meant to be stationary is immune from defilement and forms a partition to prevent the passage of defilement. Said the Rabbis to Raba: But sometimes it is moved while a scroll of the law is resting on it, and thus it becomes a vessel which is moved both when full and when empty? If that is so [he said], there is no remedy.

Mar Zutra said: Wrappings of scrolls which are worn out may be used for making shrouds for a meth mizwah;[21] and this act constitutes their ‘storing away’.

Raba also said: A scroll of the law which is worn out may be buried by the side of a talmid hakam,[19] even though he be one who only repeats halachoth.[22] R. Aha b. Jacob said: It should be put in an earthenware vessel, as it says, And put them in an earthen vessel that they may continue many days.[23]

R. Papi said in the name of Raba: To turn a synagogue into a college[24] is permitted; to turn a college into a synagogue is forbidden. R. Papa, however, also reporting Raba, states the opposite. R. Aha said:

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(1) Bah. adds: ‘or for spreading out fruit’.

(2) B.B. 3b.

(3) To build the new one after the old one had been pulled down.

(4) Where the object of pulling down the old one was to obtain building material for the new one.

(5) But if it is sold or exchanged, its holiness is transferred to the money or to its equivalent.

(6) I.e., bricks in an old synagogue.

(7) Because they have not yet become holy.

(8) The shroud being ready for use for the purpose for which it is intended.

(9) Lit., ‘(asked) to what is its holiness transferred’, reading במאי with Alfasi; or, ‘why should its holiness be lost’, reading אמאי with Asheri; cur. edd. בהאי 'with this'.

(10) I.e., receive some return from the recipient, which acquires the sanctity of the synagogue.

(11) V. Glos.

(12) 'To use it for secular purposes when it is worn out'.

(13) And not on a cloth spread over it.

(14) Hung over the Ark in synagogue.

(15) On which to place the sefer torah when read.

(16) Of the Prophets or Hagiographa.

(17) יהודאי רומאי. Who had settled in Mahuza (Rashi). Probably Syrian Jews are meant, not Roman. [Obermeyer (p. 179): Jews of Rumae, the Persian Rumakan, near Mahuza, the seat of Raba].

(18) Before being taken to the cemetery, and its uncleanness spread from the room to the synagogue. V. B.B. 20a.

(19) V. Glos.

(20) Just between the room and the synagogue.

(21) Lit., 'an obligatory corpse': a dead body found by the wayside which it is obligatory on passers-by to bury if the relatives cannot be found; v. Glos.

(22) I.e., he knew only Mishnahs and Baraithas, not the Gemara also (Rashi).

(23) Jer. XXXII, 14.

(24) Lit., 'House of Rabbis'.

Talmud - Mas. Megilah 27a

The statement of R. Papi is the more probable, since R. Joshua b. Levi said: It is permissible to make a synagogue into a beth hamidrash. This seems conclusive.

Bar Kappara gave the following exposition. 'What is the meaning of the verse, And he burnt the house of the Lord and the king's house and all the houses of Jerusalem even every great man's house burnt he with fire?[1] 'The house of the Lord': this is the Temple. 'The king's house': this is the royal palace. 'All the houses of Jerusalem': literally. 'Even every great man's house burnt he with fire':[2] R. Johanan and R. Joshua b. Levi gave different interpretations of this. One said, it means the place where the Torah is magnified; the other, the place where a prayer is magnified. The one who says Torah bases himself on the verse, The Lord was pleased, for his righteousness' sake to make the torah great and glorious.[3] The one who says prayer bases himself on the verse, Tell me, I pray thee, the great things that Elisha has done;[4] and what Elisha did, he did by means of prayer. It may be presumed that it was R. Joshua b. Levi who said, 'the place where Torah is magnified', since R. Joshua b. Levi said that a synagogue may be turned into a beth ha-midrash; which is a clear indication.

BUT IF THEY SELL A [SEFER] TORAH THEY MAY NOT BUY SCROLLS. The question was raised: What is the rule about selling an old sefer torah to buy a new one? Do we say that since we do not thus go to higher grade [in the use of the money] it is forbidden, or are we to say that since there is no higher grade to go to, there is no objection? Come and hear: BUT IF THEY SELL, A [SEFER] TORAH THEY MAY NOT BUY SCROLLS; it is scrolls that they may not buy, but to buy a [sefer] torah with the money of a [sefer] torah is unobjectionable! [No.] But the Mishnah speaks of some thing already done, we ask whether it may be done in the first instance? — Come and hear: A sefer torah may be rolled up in the wrappings of a humash, or a humash in the wrappings of a scroll of prophets and hagiographa, but prophets and hagiographa may not be rolled up in the wrappings of a humash, nor a humash in the wrappings of a sefer torah.[5] Now it states here at any rate that a sefer torah may be rolled up in the wrappings of a humash; [as much as to say], in the wrappings of a humash it may be, but in those of [another] sefer torah it may not be?[6] — Look at the succeeding clause: 'But a humash may not be rolled up in the wrappings of a sefer torah', which would imply that there is no objection against wrapping a sefer torah in those of another sefer torah? — The fact is that from this statement no conclusion can be drawn.

Come and hear: ‘A [sefer] torah may be laid on another [sefer] torah, and a [sefer] torah on separate humashim, and separate humashim on scrolls of the prophets and hagiographa, but scrolls of the prophets and hagiographa may not be placed on humashim, nor humashim on a [sefer] torah’! — You speak here of laying; laying is different, because it is impossible to avoid it; for if you do not suppose this, [we may ask,] how are we allowed to roll up the scrolls, seeing that in so doing we lay one sheet on another? The fact is that since this cannot be avoided,it is permitted; and so here also, since it cannot be avoided,[7] it is permitted.

Come and hear, since Rabbah b. Bar Hanah said in the name of R. Johanan, who had it from Rabban Simeon b. Gamaliel: A man should not sell an old [sefer] torah in order to buy a new one with the proceeds! — There the reason is lest he should [afterwards] neglect to do so; here we speak of a case where the new one is written and waiting to be paid for. What is the rule [in such a case]? — Come and hear, since R. Johanan said in the name of R. Meir: A man should not sell a sefer torah save in order to study the Torah and to marry a wife. From this we may conclude [may we not] that there is no objection against buying one sefer torah with the proceeds of another? — Perhaps study comes under a different rule, since study leads on to practice. Marrying also [is permitted because it says], He created it not a waste, he formed it to be inhabited,’[8] but to buy a sefer torah with the proceeds of another is still not permitted.

Come and hear: ‘A man should not sell a sefer torah even though he does not require it. Rabban Simeon b. Gamaliel went further and said: Even if a man has no food and he sells a sefer torah or his daughter, he will never have any luck[9] [from that money]’.

THE SAME APPLIES TO ANY MONEY LEFT OVER. Raba said: This is the rule only if they had money left over from a sale; but if they had money left over from a collection, it is permitted [to use it for any purpose]. Abaye cited the following in objection to this: ‘When does this rule apply? If they made no stipulation; but if they made a stipulation, they may even give it to the duchsusia’.[10] Now how are we to understand this? Shall we say that they [the seven good men] sold [a holy article] and had money left over [after purchasing a new one]? Then even if they made a stipulation [that they could do what they liked with it], what does it avail?[11] We must say therefore that they collected money and had some left over, and the reason is given that ‘they made a stipulation’, but if they made no stipulation they cannot? — I still maintain that [what is meant is] that they sold and had something left, and the statement should run thus: ‘When does this rule apply? When the seven "good men" of the town did not make any stipulation in the assembly of the townspeople; but if the seven good men of the town made a stipulation in the assembly of the townspeople, it may be used even for paying a duchsusia’.

Abaye said to a Rabbinical student who used to repeat[12] the Mishnah in the presence of R. Shesheth: Have you ever heard from R. Shesheth what is meant by duchsusia? — He replied: This is what R. Shesheth said: The town horseman.[13] Abaye thereupon observed: This shows that a Rabbinical student who has heard something of which he does not know the meaning should ask one who is frequently in the company of the Rabbis, since he is almost certain to have heard the answer from some great man.

R. Johanan said in the name of R. Meir: If the representatives of one town[14] go [on a visit] to another town and they are there rated for a charity contribution, they should pay it and on leaving they should bring the money with them[15] to assist with it the poor of their own town. It has been taught to the same effect: ‘If the men of one town go to another town and are there rated for a charity contribution, they should pay it, and when they leave they should bring the money back with them. If an individual, however, goes to another town and is there rated for a charity contribution, it is given to the poor of that town

R. Huna once proclaimed a fast day. R. Hana b. Hanilai and all the [leading] men of his place happened to visit him [on that day], and they were called upon for a charity contribution, and they gave it. When they were about to leave, they said to him [R. Huna], Kindly return it to us so that we may go and assist with it the poor of our own town. He replied to them: We have learnt: 'When does this rule apply? When there is no

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(1) II Kings XXV, 9.

(2) These words are apparently superfluous and therefore lend themselves to a homiletical exposition.

(3) Isa. XLII, 21.

(4) II Kings VIII, 4.

(5) Because this brings the wrappings to a lower stage of holiness.

(6) And we infer that similarly one sefer torah may not be bought from the proceeds of another.

(7) In point of fact it is now avoided in the synagogue by the device of letting someone hold one sefer torah while another is being read from.

(8) Isa. XLV, 18.

(9) Lit., 'he will never see a sign of blessing'.

(10) V. infra.

(11) Since the Mishnah expressly says that it is on the same footing as purchase money.

(12) Lit., 'arrange'.

(13) Whose function it was to take urgent messages to the authorities on behalf of the town.

(14) Lit., 'Sons of the town, v. supra p. 155, n. 1. [Aliter: 'a group of people of the same town' — not necessarily representatives; v. Maim. Mat. 'Aniyim VII, 14].

(15) I.e., secure repayment.

Talmud - Mas. Megilah 27b

town scholar[1] in charge there; but if there is a scholar in control there, it should be given to the town scholar, and all the more so in this case, seeing that both my poor and your poor depend upon me.

MISHNAH. [A SYNAGOGUE][2] BELONGING TO A COMMUNITY[3] SHOULD NOT BE SOLD TO A PRIVATE PERSON BECAUSE ITS SANCTITY IS [THEREBY] LOWERED. SO R. MEIR. THEY SAID TO HIM: IF SO, IT SHOULD NOT BE ALLOWED TO SELL FROM A LARGER TOWN TO A SMALLER ONE.

GEMARA. That was a sound objection raised by the Rabbis against R. Meir, [was it not]? What says R. Meir to this? — [To sell] from a large town to a small one [is unobjectionable], because if it was holy to begin with, it is still holy now. But if it passes from a community to an individual, there is no holiness left.[4] [And what is the reply of] the Rabbis [to this]? — If that raises a scruple [in this case], in the other case also it raised a scruple, because 'in the multitude of people is the king's glory'.[5]

MISHNAH. A SYNAGOGUE MAY NOT BE SOLD SAVE WITH THE STIPULATION THAT IT MAY BE BOUGHT BACK [BY THE SELLERS] WHENEVER THEY DESIRE. SO R. MEIR. THE SAGES, HOWEVER, SAY THAT IT MAY BE SOLD IN PERPETUITY, SAVE FOR FOUR PURPOSES-FOR A BATH, FOR A TANNERY, FOR A RITUAL BATH, OR FOR A LAUNDRY. R. JUDAH SAYS: IT MAY BE SOLD FOR [TURNING INTO] A COURTYARD, AND THE PURCHASER MAY DO WHAT HE LIKES WITH IT.

GEMARA. On R. Meir's ruling, how do people live in it? [The rent they pay] would be interest![6] — R. Johanan replied: R. Meir gave this ruling on the basis of the view of R. Judah, who said that interest which is only contingent[7] is permitted, as it has been taught:[8] 'If a man lent another a maneh and the latter made a [conditional] sale to him of his field,[9] if the vendor takes[10] the produce, this is permitted, but if the purchaser takes the produce, it is forbidden.[11] R. Judah said that even if the purchaser takes the produce it is permitted. Said R. Judah further: It happened once that Boethus b. Zunin made a sale of his field with the permission of R. Eleazar b. Azariah, and the purchaser took the produce. They said to him: Do you cite that as a proof? It was in fact the vendor who took the produce and not the purchaser'. On what point of principle did they differ? — On the question of contingent interest; one authority [R. Judah] held that contingent interest is permitted, and the other held that it is forbidden. Raba said: All authorities agree that contingent interest is forbidden, and the point at issue is the taking of interest on condition of returning it. One authority [R. Judah] held that to take interest on condition of returning it [when the principal is returned] is permitted,[12] while the other held that it is forbidden.

THE SAGES SAY HE MAY SELL IT IN PERPETUITY etc. Rab Judah said in the name of Samuel: It is permitted to a man to make water within four cubits of where prayers have been said. Said R. Joseph: What has he told us? We have already learnt it: R. JUDAH SAYS: IT MAY BE SOLD FOR USE AS A COURTYARD, AND THE PURCHASER MAY DO WHAT HE LIKES IN IT; And even the Rabbis did not forbid save in the synagogue itself, since its sanctity is permanent, but for the four adjoining cubits, the sanctity of which is not permanent,[13] they did not make such a rule.

A tanna recited in the presence of R. Nahman: One who has just said prayers may go a distance of four cubits and make water, and one who has made water may go a distance of four cubits and pray. He said to him: I grant you that one who has made water may go four cubits and pray; this we have learnt:[14] 'How far should he remove from it and from excrement? Four cubits'. But why should one who has prayed remove four cubits before making water? If that is the rule, you have sanctified all the streets of Nehardea![15] Say, 'should wait' [the time it takes to go four cubits]. [Is that so?] I grant you that one who has made water should wait till he can go four cubits, on account of drippings [on his clothes]. But why should one who has just prayed wait long enough to go four cubits? — R. Ashi replied: Because for the time it takes to go four cubits his mouth is still full of his prayer[16] and his lips are still muttering it. (Mnemonic Z'L'P'N').[17] R. Zaccai was asked by his disciples: In virtue of what have you reached such a good old age? He replied: Never in my life have I made water within four cubits of a place where prayers have been said, nor have I given an opprobrious epithet to my fellow, nor have I omitted [to perform] the sanctification of the [Sabbath] day.[18] I had a grandmother who once sold her headdress so as to bring me [wine for] the sanctification of the day. It was taught: When she died she left him three hundred barrels of wine, and when he died he left his sons three thousand barrels.

R. Huna once came before Rab girded with a string. He said to him, What is the meaning of this? He replied: I had no [wine for] sanctification, and I pledged my girdle so as to get some. He said: May it be the will of heaven that you be [one day] smothered in robes of silk. On the day when Rabbah his son was married, R. Huna, who was a short man, was lying on a bed and his daughters and daughters-in-law stripped [clothes] from themselves and threw them on him until he was smothered in silks. When Rab heard he was chagrined and said, Why when I blessed you did you not say, The same to you, Sir?[19]

R. Eleazar b. Shammua' was asked by his disciples: In virtue of what have you reached such a good old age? He replied: Never in my life have I made a short[20] cut through a synagogue, nor have I stepped upon the heads of the holy people,[21] nor have I lifted my hands [to say the priestly blessing] without reciting a blessing.[22]

R. Peridah was asked by his disciples: In virtue of what have you reached such a good old age? He replied: Never in my life have I allowed anyone to be before me at the house of study

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(1) חבר עיר. A Rabbi who took a leading part in the town affairs. [Others vocalize חבר ‘a group’ denoting either a town council similar to the Roman Collegia (Krauss) or an official communal religious or charity organization, v. Krauss, Synagogale Altertumer pp. 20ff and Weinberg, M. Jeschurun, 1929 pp. 240ff and 1930, 269ff].
(2) V. Rashi s.v. ורבנן.
(3) Lit., ‘to many’.
(4) Since a quorum of at least ten is required for any act of sanctification (v. supra p. 142) — Rashi.
(5) Prov. XIV, 28. The meaning is that the more worshippers, the greater the glory of God.
(6) I.e.,it becomes interest when the place is bought back and the first purchaser recovers his capital.
(7) Lit., ‘one side in interest
(8) B.M. 63a.
(9) I.e., saying, ‘the field is sold from now if I do not repay’.
(10) Lit., ‘consumes’.
(11) Because if the loan is repaid, this will appear like interest on his maneh.
(12) According to R. Judah, when the loan is repaid, any profit that has been made out of the field in the interval is to be given up. The Rabbis, however, forbid even this since the lender does after all enjoy interest for the time being on the loan. V. B.M., Sonc. ed. p. 376, n. 8.
(13) But it lasts only while prayers are actually being said.
(14) Ber. 22.
(15) For there is no space of four cubits in them in which prayers have not been said by somebody.
(16) Lit., ‘his prayer is ordered in his mouth’.
(17) Z = Zaccai; L = Eleazar; P = Peridah; N = Nehunia.
(18) Kiddush, v. P.B. p. 142.
(19) Because that might also have been fulfilled.
(20) V. infra p. 171, n. 2.
(21) I.e., pushed the disciples out of the way in order to get to his place in the beth ha-midrash. It was the custom there to sit on the ground.
(22) ‘Blessed art thou . . . who hast sanctified us with the sanctity of Aaron’, v. Sot. 39a.

Talmud - Mas. Megilah 28a

, nor have I said grace before a kohen,[1] nor have I eaten of a beast from which the priestly dues[2] have not been given,[3] as R. Isaac said in the name of R. Johanan: It is forbidden to eat from an animal from which the priestly dues have not been given; and R. Isaac further said: To eat from an animal from which the priestly dues have not been given is like eating tebel.[4] The law, however, is not as stated by him. ‘Nor did I say grace before a kohen’. This implies that this is a meritorious action. But has not R. Johanan said: ‘If a talmid hakam allows even a high priest who is all ignoramus to say grace before him, that talmid hakam commits a mortal offence,[5] as it says, All that hate me [mesanne'ai] love death;[6] read not mesanne'ai [that hate me], but masni'ai [that make me hated]’?[7] — When R. Johanan made this remark, he was thinking of equals.[8]

R. Nehunia b. ha-Kaneh was asked by his disciples: In virtue of what have you reached such a good old age? He replied: Never in my life have I sought respect through the degradation of my fellow, nor has the curse of my fellow gone up with me upon my bed, and I have been generous with my money.[9] ‘I have not sought respect through the degradation of my fellow’, as illustrated by R. Huna who once was carrying a spade on his shoulder when R. Hana b. Hanilai wanted to take it from him, but he said to him, If you are accustomed to carry in your own town, take it, but if not, I do not want to be paid respect through your degradation. ‘Nor did the curse of my fellow go up on my bed with me’. This is illustrated by Mar Zutra, who, when he climbed into his bed said, I forgive all who have vexed me. ‘I have been generous with my money’, as a Master has said, ‘Job was generous with his money; he used to leave with the shopkeeper a perutah[10] of his change’. R. Akiba asked R. Nehunia the great: In virtue of what have you reached such a good old age? His attendants came and beat him,[11] so he went and sat on the top of a date tree, and said to him: Rabbi, seeing that it says ‘a lamb’, why does it also say ‘one’?[12] Thereupon he [R. Nehunia] said, He is a rabbinical student, leave him alone. He then answered his question, saying, ‘One’ means ‘unique in its flock’. Then he said to him: Never in my life have I accepted presents, nor have I insisted on retribution [when wronged],[13] and I have been generous with my money. ‘I have not accepted presents’, as illustrated by R. Eleazar, who, when presents were sent to him from the Prince would not accept them and when he was invited there would not go. He said to them: Do you not want me to live, since it says, He that hateth gifts shall live?[14] R. Zera, when presents were sent to him from the Prince, would not accept them, but when he was invited there he used to go, saying, They derive honour from my presence. ‘Nor did I insist on retribution’, as Raba said: ‘He who waives his right to retribution[15] is forgiven all his sins, as it says, that pardoneth iniquity and passeth by transgression.[16] Whose iniquity is forgiven? The iniquity of him who passes by transgression.

Rabbi asked R. Joshua b. Korha: In virtue of what have you reached such a good old age? He said to him: Do you begrudge me my life?[17] Said Rabbi to him: This is [a point of] Torah, and it is important for me to learn. He replied: Never in my life have I gazed at the countenance[18] of a wicked man; for so R. Johanan said: It is forbidden to a man to gaze at the form of the countenance[19] of a wicked man, as it says, Were it not that I regard the presence of Jehoshaphat the king of Judah, I would not look toward thee nor see thee.[20] R. Eleazar said: His eyes become dim, as it says, And it came to pass that when Isaac was old that his eyes were dim, so that he could not see;[21] because he used to gaze at the wicked Esau. But was that the cause? Has not R. Isaac said: Let not the curse of an ordinary person ever seem of small account to thee, for Abimelech cursed Sarah, and it was fulfilled in her seed, as it says, Behold he is for thee a covering [kesuth] of the eyes.[22] Read not ‘kesuth’ but ‘kesiyath’ [blinding]? — Both caused the affliction. Raba said. We learn it from here, It is not good to respect the person of the wicked.[23] When he was about to depart life, Rabbi said to him, Bless me. He said to him: May it be heaven's will that you attain to half my days. Not to their whole length [he exclaimed]? Shall those who succeed you,[24] [he replied] pasture cattle?[25]

Abbuha b. Ihi and Minyamin b. Ihi [both left sayings on this subject]. One said: May I be rewarded[26] because I have never gazed at a Cuthean, and the other said, May I be rewarded because I have never gone into partnership with a Cuthean.

R. Zera was asked by his disciples: In virtue of what have you reached such a good old age? He replied: Never in my life have I been harsh with my household, nor have I stepped in front of one greater than myself, nor have I meditated on the Torah in filthy alleys,[27] nor have I gone four cubits without Torah[28] and tefillin,[29] nor have I slept in the beth ha-midrash,[29] either a long or a short sleep,[30] nor have I rejoiced in the downfall of my fellow, nor have I called my fellow by his nickname, (or, as some report, ‘family nickname’).[31]

MISHNAH. R. JUDAH SAID FURTHER:[32] IF A SYNAGOGUE HAS FALLEN INTO RUINS, IT IS NOT RIGHT TO DELIVER FUNERAL ORATIONS THEREIN NOR TO WIND ROPES[33] NOR TO SPREAD NETS NOR TO LAY OUT PRODUCE ON THE ROOF [TO DRY] NOR TO USE IT AS A SHORT CUT,[34] AS IT SAYS, AND I WILL BRING YOUR SANCTUARIES UNTO DESOLATION,[35] [WHICH IMPLIES THAT] THEIR HOLINESS REMAINS EVEN WHEN THEY ARE DESOLATE. IF GRASS COMES UP IN THEM, IT SHOULD NOT BE PLUCKED, SO AS TO EXCITE COMPASSION.[36]

GEMARA. Our Rabbis taught: ‘Synagogues must not be treated disrespectfully. It is not right to eat or to drink in them

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(1) But invariably gave him precedence, v. Git. 59b.

(2) The shoulder, the two cheeks and the maw. Deut. XVIII, 3.

(3) Bah. reverses the order of the two last clauses.
(4) Produce from which the priestly and levitical dues have not been separated.
(5) [Lit., 'deserves death', a recurring rabbinic phrase not to be taken literally but merely as expressing strong indignation].
(6) Prov. VIII, 36. Wisdom is speaking.
(7) The talmid hakam makes wisdom hated by allowing the ignoramus to have precedence.
(8) I.e., where the priest is also a talmid hakam, even though not of equal standing (Tosaf.).
(9) Lit., 'ready to excuse with my money'.
(10) V. Glos.
(11) For asking such a question, v. infra.
(12) Num. XXVIII, 4, of the daily sacrifice: one lamb in the evening where 'a lamb' would have been sufficient.
(13) Lit., 'insisted on my measures'.
(14) Prov. XV, 27.
(15) Lit., 'passes by his measures'.
(16) Micah VII, 18.
(17) That you ask me such a question.
(18) Lit., 'likeness', with reference to Gen. I, 26.
(19) Lit., 'image of the likeness V. ibid.
(20) II Kings III, 14. Spoken by Elisha to Jehoram.
(21) Gen. XXVII, 1.
(22) Ibid. XX, 16.
(23) Prov. XVIII, 5.
(24) Your children (Rashi).
(25) They will also be scholars, and if you live too long, they will not enjoy a position of dignity.
(26) Lit., 'let it come to me'.
(27) V. Ber. 24b.
(28) I.e., without conning words of Torah.
(29) V. Glos.
(30) Lit., 'a fixed or an accidental sleep'.
(31) So Rashi. According to Maharsha the reading should be 'my nickname, i.e., a name of reproach which he himself would reject. [According to some edd. there is no difference in the meaning but in the Hebrew word used to express 'nickname', in the former version it is hakinah, in the latter hanikah].
(32) The point of the word 'further' is not clear, as R. Judah was the most lenient of the authorities quoted in the last Mishnah, and this Mishnah contains restrictions. V. Tosaf.
(33) This is taken as typical of any kind of rough work which needs a great deal of room such as a synagogue would provide (Rashi).
(34) קפנדריא, compendiaria, sc. via.
(35) Lev. XXVI, 31.
(36) In the beholders, and make them pray for the restoration of the holy place.

Talmud - Mas. Megilah 28b

, nor to dress up in them, nor to stroll about in them, nor to go into them in summer to escape the heat and in the rainy season to escape the rain, nor to deliver a private funeral address[1] in them. But it is right to read [the Scriptures] in them and to repeat the Mishnah and to deliver public funeral addresses.[2] R. Judah said: When is this? When they are still in use; but when they are abandoned, grass is allowed to grow in them, and it should not be plucked, so as to excite compassion'. Who was speaking about grass? — There is an omission, and the statement should read thus: 'They should be swept and watered so that grass should not grow in them. R. Judah said: When is this? When they are in use; but when they are abandoned, grass is allowed to grow in them; if grass does grow, it is not plucked, so that it may excite compassion

R. Assi said: The synagogues of Babylon have been built with a stipulation,[3] and even so they must not be treated disrespectfully. What [for instance] is this? — Doing calculations [for business purposes] in them. R. Assi said: A synagogue in which people make calculations is used for keeping a dead body in over night. You actually think it is used for keeping a dead body in? — Is there no way otherwise? But [say] in the end a meth mizwah[4] will be kept there over night.

'Nor to dress up in it'. Raba said: The Sages and their disciples are permitted — since R. Joshua b. Levi has said: What is the meaning of 'Be Rabbanan'?[5] The Rabbis' house.

'Nor to go into them in summer to escape the heat and in the rainy season to escape the rain'. For instance, Rabina and R. Ada b. Mattenah were once standing and asking questions of Raba when a shower of rain came on. They went into the synagogue, saying, Why we have gone into the synagogue is not because of the rain, but because the discussion of a legal point requires clarity, like a clear day.[6]

R. Aha the son of Raba asked R. Ashi: If a man has occasion to call another out of synagogue, what is he to do? He replied: If he is a rabbinical student, let him say some halachah; if he is a tanna,[7] let him repeat a Mishnah; if he is a Kara,[8] let him say a verse of Scripture; if none of these, let him say to a child, 'Repeat me the last verse you have learnt'; or else let him stay a little while and then get up.

'To deliver public funeral addresses[9] in them'. What is meant by a public funeral address? — R. Hisda gave as an example, For instance, a funeral address at which R. Shesheth is present.[10] R. Shesheth mentioned as an example: For instance, a funeral address at which R. Hisda is present.[11] Rafram had a funeral address delivered for his daughter-in-law in the synagogue, saying, To pay honour to me and to the dead[12] all the people will come.[13]

R. Zera delivered a funeral address for a certain rabbinicai student in the synagogue, saying, Whether to pay honour to me or to pay honour to the dead, all the public will come.

Resh Lakish delivered a funeral address for a certain rabbinical student who frequented the Land of Israel and who used to repeat halachoth[14] before twenty-four rows [of disciples]. He said: Alas! The Land of Israel has lost a great man. [On the other hand] there was a certain man who used to repeat halachoth, Sifra and Sifre and Tosefta,[15] and when he died they came and said to R. Nahman, Sir, will you deliver a funeral oration for him, and he said, How are we to deliver over him an address: Alas! A bag full of books has been lost![16] Observe now the difference between the rigorous scholars of the Land of Israel and the saints of Babylon.[17]

We have learnt in another place.[18] 'Whoever makes use of a crown, passeth away [from the world]' and Resh Lakish commented: This applies to one who accepts service from one who can repeat halachoth, and 'Ulla said: A man may accept service from one who can repeat the four [orders of the Mishnah][19] but not from one who can [also] teach[20] them. This is illustrated by the following story of Resh Lakish, he was once traveling along a road when he came to a pool of water, and a man came up and put him on his shoulders and began taking him across. He said to the man: Can you read[20] the Scriptures? He answered, I can. Can you repeat the Mishnah? [He replied], I can repeat four orders of the Mishnah. Resh Lakish thereupon said: You have hewn four rocks, and you carry Resh Lakish on your shoulder? Throw the son of Lakisha into the water! He replied: I would sooner that your honour tell me something.[21] If so, he replied, learn from me this dictum which was enunciated by R. Zera: 'The daughters of Israel imposed spontaneously upon themselves the restriction that if they saw [on their garments] a spot of blood no bigger than a mustard seed, they waited for seven days without issue [before taking a ritual bath].[22]

It was taught in the Tanna debe Eliyyahu:[23] ‘Whoever repeats halachoth may rest assured that he is destined for the future world, as it says, His goings [halikoth] are to eternity.[24] Read not halikoth but halachoth’.

Our Rabbis taught:

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(1) I.e., one not attended by the general public.

(2) V. infra.

(3) That they may be used for various purposes.

(4) As punishment many will die and there will be no near relatives found to attend to their burial. V. Glos.

(5) Lit., ‘at the Rabbis’, the common name for the College, exactly equivalent to the French chez les Rabbins, be being a contraction of beth (the house of).

(6) Lit., ‘a day of the north wind’. They could not think clearly in the rain.

(7) V. Glos. s.v. (b).

(8) Lit., ‘reader’; one who could recite correctly the Scriptures by heart; v. Supra p. 133, n. 5.

(9) Heb. hesped. This was an address in honour of the dead designed to evoke lamentation and mourning, and often delivered by a professional orator called a safdan.

(10) Lit., ‘a hesped at which R. Shesheth stands’. (V. Maharsha).

(11) R. Shesheth and R. Hisda desired to pay compliments to one another.

(12) Rashi reads: Whether to pay honour to me or to the dead.

(13) This makes it a public funeral address.

(14) Traditional teachings.

(15) Sifra is the halachah midrash on Leviticus; Sifre the halachic midrash on Num. V to the end of Deuteronomy; Tosefta the Baraitha of R. Hiyya; v. Sanh. Sonc. ed., p. 567, n. 1.

(16) As much as to say, that would not redound to his praise: he could only repeat these books parrot-like, but did not know what they meant.

(17) Resh Lakish was from Palestine, R. Nahman from Babylon. On the rigour of the former v. Yoma 9b; on the saintliness of the latter v. Sot. 49b.

(18) Ab. I.

(19) Apparently the Orders of Zera'im and Toharoth were not considered so necessary as no longer having practical application (V. Maharsha).

(20) I.e., explain.

(21) So that he might be indebted to Resh Lakish and be allowed to perform service for him.

(22) Whereas the law demanded this only if an issue was observed three days running, during the eleven days between the menses, v. supra P. 44, n. 4.

(23) I.e., in a Baraitha attributed to Elijah; v. Keth., Sonc. ed. p. 680, n. 2.

(24) Hab. III, 6. E.V. ‘as of old’.

Talmud - Mas. Megilah 29a

The study of the Torah may be suspended for escorting a dead body to the burying place and a bride to the canopy. It was recorded of R. Judah b. Ila'i that he used to suspend the study of the Torah for escorting a dead body to the burying place and a bride to the canopy. When does this rule [regarding the dead] apply? When there are not present sufficient numbers [to pay him due honour]; but if sufficient numbers are available, [the study of the Torah] is not suspended. What numbers are sufficient?-R. Samuel b. Inia said in the name of Rab: Twelve thousand and [in addition] six thousand trumpets, or, as according to another version, twelve thousand men of whom six thousand have trumpets. Ulla said: Enough to make a procession extending from the burying ground to the town gate. R. Shesheth said: The withdrawal of the Torah[1] should correspond to its delivery:[2] as its delivery was in the presence of sixty myriads, so its withdrawal should be accompanied by sixty myriads. This applies to one who knew by heart Scripture and Mishnah; but for one who [also] taught the Mishnah there is no limit.[3]

It has been taught: R. Simon b. Yohai said: Come and see how beloved are Israel in the sight of God, in that to every place to which they were exiled the Shechinah went with them. They were exiled to Egypt and the Shechinah was with them, as it says, Did I reveal myself unto the house of thy father when they were in Egypt.[4] They were exiled to Babylon, and the Shechinah was with them, as it says, for your sake I was sent to Babylon.[5] And when they will be redeemed in the future, the Shechinah will be with them, as it says, Then the Lord thy God will return [with] thy captivity.[6] It does not say here we-heshib [and he shall bring back] but we-shab [and he shall return]. This teaches us that the Holy One, blessed be He, will return with them from the places of exile.

Where [is the Shechinah] in Babylon?-Abaye said: In the synagogue of Huzal[7] and in the synagogue of Shaf-weyathib[8] in Nehardea. Do not, however, imagine that it is in both places,[9] but it is sometimes in one and sometimes in the other. Said Abaye: May I be rewarded[10] because whenever I am within a parasang[11] I go in and pray there.

The father of Samuel and Levi were sitting in the synagogue which ‘moved and settled’ in Nehardea. The Shechinah came and they heard a sound of tumult and rose and went out. R. Shesheth was once sitting in the synagogue which ‘moved and settled’ in Nehardea, when the Shechinah came. He did not go out, and the ministering angels came and threatened him. He turned to him and said: Sovereign of the Universe, if one is afflicted[12] and one is not afflicted, who gives way to whom? God thereupon said to them: Leave him.

Yet have I been to them as a little sanctuary.[13] R. Isaac said: This refers to the synagogue and houses of learning in Babylon. R. Eleazar says: This refers to the house of our teacher[14] in Babylon.

Raba gave the following exposition: What is the meaning of the verse, Lord, thou hast been our dwelling [ma'on] place?[15] This refers to synagogues and houses of learning. Abaye said: Formerly I used to study at home and pray in the synagogue, but when I noticed[16] the words of David, O Lord, I love the habitation [me'on] of thy house,[17] I began to study also in the synagogue.

It has been taught: R. Eleazar ha-Kappar says: The synagogues and houses of learning in Babylon will in time to come be planted in Eretz Israel, as it says, For as Tabor among the mountains and as Carmel by the sea came.[18] Now can we not draw an inference here a fortiori: Seeing that Carmel and Tabor which came only on a single occasion to learn the Torah are implanted in Eretz Israel, how much more must this be the case with the synagogues and houses of learning where the Torah is read and expounded![19]

Bar Kappara gave the following exposition: What is the meaning of the verse, Why look ye askance [terazedun], ye mountains of peaks.[20] A bath kol[21] went forth and said to them: Why do ye desire litigation [tirzu din] with Sinai? Ye are all full of blemishes as compared with Sinai. It is written here gabnunim [with peaks], and it is written elsewhere or crookbacked [gibben] or a dwarf.[22] R. Ashi observed: You can learn from this that if a man is arrogant, this is a blemish in him.

IT SHOULD NOT BE USED AS A SHORT CUT [KAPANDRIA]. What is kapandria?[23] Raba said: Kapandria is as its name implies. What does its name imply? As if one were to say, Instead of going round the block [‘makifna adare], I will go through here. R. Abbahu said: If a road passed through there originally,[24] it is permitted. R. Nahman b. Isaac said: If one goes in without any intention of using it as a short cut, he may afterwards use it as a short cut. And R. Helbo said in the name of R. Huna: If one enters a synagogue to pray, he may[25] afterwards use it as a short cut, as it says, But when, the people of the land shall come before the Lord at the appointed seasons, he that entereth by way of the north gate to worship shall go forth by way of the south gate.[26]

IF GRASS HAS GROWN IN IT, IT SHOULD NOT BE PLUCKED, SO AS TO EXCITE COMPASSION. But it has been taught: ‘It should not be plucked and given as food [to cattle], but it may be plucked and left there’? — The statement in our Mishnah also refers to plucking and giving for food.

Our Rabbis taught: ‘Burying grounds must not be treated disrespectfully. Cattle should not be fed in them, nor should a watercourse be turned through them, nor should grass be plucked in them, and if it is plucked, it should be burnt on the spot, out of respect for the dead’. To what do these last words apply? Shall I say, to the last clause? If it is burnt on the spot, what respect does this show for the dead? It must be then to the preceding clauses.

MISHNAH. IF THE NEW MOON OF ADAR FALLS ON SABBATH, THE PORTION OF SHEKALIM[27] IS READ [ON THAT DAY]. IF IT FALLS IN THE MIDDLE OF THE WEEK, IT IS READ ON THE SABBATH BEFORE, AND ON THE NEXT SABBATH THERE IS A BREAK.[28] ON THE SECOND [OF THE SPECIAL SABBATHS] ZAKOR[29] IS READ, ON THE THIRD THE PORTION OF THE RED HEIFER,[30] ON THE FOURTH THIS MONTH SHALL BE TO YOU.’[31] ON THE FIFTH THE REGULAR ORDER[32] IS RESUMED. [THE REGULAR READING][33] IS INTERRUPTED FOR ANY SPECIAL OCCASION: FOR NEW MOONS, FOR HANUKKAH, FOR PURIM, FOR FASTS, FOR MA'AMADOTH,[34] AND FOR THE DAY OF ATONEMENT.[35]

GEMARA. We have learnt in another place: ‘On the first of Adar proclamation is made with regard to the shekels[36]

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(1) I.e., the burial of a learned man.
(2) At Mount Sinai.
(3) V. Keth. 17a.
(4) I Sam. II, 27. This is taken to mean that God revealed himself to Aaron in Egypt even before Moses came.
(5) Isa. XLIII, 14. E.V. (incorrectly) ‘have sent’.
(6) Deut. XXX, 3.
(7) V. supra p. 26 n. 1. Sherira Gaon, in his Epistle (ed. Lewin p. 73) locates it ‘near the Beth Hamidrash of Ezra the Scribe, below Nehardea’].
(8) שף ויתיב Lit., ‘that moved and settled’. The name for a synagogue in Nehardea which according to tradition was built with materials brought by King Jeconiah and his companions from Jerusalem at the time of the first captivity. [For this tradition v. Sherira Gaon op. cit. p. 72-3, where the passage is also found with variants: Rab said in the synagogue of Huzal, Samuel said in the synagogue of Shaf-weyathib in Nehardea. The name is also spelled שפיתיב and is regarded by some as being a name of a place, v. Krauss, Synagogale Altertumer pp. 214ff and Obermeyer pp. 299ff].
(9) Lit., ‘here and there’. [Sherira Gaon: ‘here and not there’].
(10) Lit., ‘may it come to me’.
(11) Of either of these synagogues.
(12) R. Shesheth was blind.
(13) Ezek. XI, 16.
(14) Rab. [The reference is to the venerable old Synagogue founded by Rab in Sura of which there is frequent mention in the Geonic Responsa; v. Krauss, Synagogale, Altertumer, p. 221 and Ginzberg, Geonica, p. 41].
(15) Ps. XC, 1.
(16) Lit., ‘heard’ or ‘understood’. This means apparently that his attention was called to them by the exposition of Raba.
(17) Ibid. XXVI, 8.
(18) Jer. XLVI, 18. E.V. ‘As Tabor... he shall come’. According to tradition these two mountains (or their angelic guardians) came to Sinai at the giving of the Law.
(19) Lit., ‘spread (learning among many)’.
(20) Ps. LXVIII, 17. According to tradition, all the mountains were jealous of Sinai.
(21) V. Glos.

(22) Lev. XXI, 20.
(23) V. supra p. 171,n. 2.
(24) I.e., before the synagogue was built.
(25) According to Asheri, this is not only permitted but is a duty.
(26) Ezek. XLVI, 9.
(27) The Gemara discusses what this is.
(28) In the series of four special Sabbaths; v. supra p. 32, n. 5.
(29) Deut. XXV, 17-19; on account of Purim.
(30) Num. XIX, calling the people's attention to the need of ritual cleanness for participating in the Paschal lamb soon to be offered.
(31) Ex. XII; on account of the proximity of Passover.
(32) V. Gemara infra.
(33) The Pentateuch is divided into a number of portions (sidra), one to be read on each Sabbath of the year, commencing with the Sabbath after Tabernacles. The opening verses of each weekly portion are also read on Sabbath afternoon, and in the morning service on the Monday and Thursday of that week. It is the weekday reading that is here primarily referred to.
(34) V. Glos.
(35) In the Minhah service, even when it falls on Sabbath (v. Tosaf.).
(36) The so-called terumath halishkah, contributions to the shekel chamber to provide the daily sacrifices for the coming year.

Talmud - Mas. Megilah 29b

and with regard to diverse seeds.[1] I can understand it being made for diverse seeds, because it is the time for sowing.[2] But what is the ground for making it for the shekels? — R. Tabi said in the name of R. Josiah: Because Scripture says, This is the burnt-offering of each new moon in its renewal.[3] The Torah herein says to us: As you renew the month, bring an offering from the new contributions. And since it is in Nisan that we have to bring from the new contributions,[4] we read beforehand on the first of Adar so that shekels should be brought [in time] to the Sanctuary. With whose view does this accord? Not with that of R. Simeon b. Gamaliel. For if you take the view of R. Simeon b. Gamaliel, he requires [only] two weeks' [notice], as it has been taught: 'Moot points in the law of Passover are considered[5] from thirty days before Passover; R. Simeon b. Gamaliel, however, says, from two weeks before'. You may even say it accords with the view of R. Simeon b. Gamaliel. For since a Master has said that 'on the fifteenth of this month [Adar] tables[6] are set up in the provinces and on the twenty-fifth in the Sanctuary',[7] On account of the tables we read beforehand [on the first of Adar].[8]

What is the portion of Shekalim? — Rab said, Commanded the children of Israel and say unto them My food which is presented unto me,[9] Samuel said, When thou takest.[10] We call well see how, according to the one who says the portion is 'When thou takest', it is called the portion of Shekalim, because shekalim are mentioned in it. But according to the one who says it is 'My food which is presented to me', — are shekels mentioned there? — Yes; the reason is based on the dictum of R. Tabi.[11] I can well understand [the reason of] the one who says that 'Command the children of Israel' [should be read], because sacrifices are mentioned in it. But according to the one who says that 'When thou takest' should be read, are sacrifices mentioned there? It is the shekels for the sockets that are mentioned there![12] — [The reason is] as R. Joseph learnt: 'There were three contributions;[13] of the altar for the altar,[14] of the sockets for the sockets, and of the repair of the House for the repair of the House'.[15] There is a justification for the one who says that 'When thou takest' should be read, because he thus makes a difference between this New Moon and other New Moons. But the one who says that 'Command the children of Israel' should be read — what difference does he make?[16] — He does make a difference, because on other New Moons[17] six read in the portion of the day[18] and one that of New Moon, whereas on this occasion all read in that of New Moon. This is a good answer for one who says that [when the Mishnah says that the ‘REGULAR ORDER’ IS RESUMED it means] ‘the regular order of portions’; but according to the one who says that [what it means is that] the order of haftarahs[19] is resumed [and the order of Pentateuch portions has not been interrupted], what difference is there [between this New Moon and others]? — There is a difference, because on other New Moons six read in the portion of the day[18] and one the special portion for New Moon, whereas on this occasion three read in the portion of the day and four in that of New Moon.

On objection was raised:[20] ‘When the New Moon of Adar falls on Sabbath, the portion of Shekalim is read, and the chapter of Jehoiada the Priest[21] is said as haftarah’. Now according to the one who says that ‘When thou takest’ should be said, there is a good reason for reading Jehoiada the Priest as haftarah because it is similar in subject,[22] as it is written [there], the money of the persons for whom each man is rated.[23] But according to the one who says that ‘My food which is presented to me’ is read, is there any similarity? — There is, on the basis of R. Tabi's dictum.[24]

The following was then cited in objection: ‘If it [the New Moon of Adar] falls on the portion next to it [the portion of Shekalim], whether before or after, they read it and repeat it’. Now this creates no difficulty for one who holds that ‘When thou takest’ is read because [the regular portion containing this passage] falls about that time.[25] But according to the one who says that ‘My food which is presented to ‘me’ is read — does [the portion containing that passage] fall about that time?[26] — Yes, for the people of Palestine, who complete the reading of the Pentateuch in three years.[27]

It has been taught in agreement with Samuel: ‘When the New Moon of Adar falls on Sabbath, the portion ‘When thou takest’ is read, and the haftarah is about ‘Jehoiada the Priest’.

R. Isaac Nappaha said: When the New Moon of Adar falls on Sabbath, three scrolls of the Law are taken out [of the Ark], and read out of — from one the portion of the day, from one the portion of New Moon,[28] and from one ‘When thou takest’. R. Isaac b. Nappaha also said: When the New Moon of Tebeth falls on Sabbath, three scrolls of the Law are brought and read out of; from one the regular portion, from a second the portion of New Moon, and from the third that of Hanukkah.[29] Both statements are required. For if only the latter had been given, [I might think that] in this case R. Isaac required [three scrolls], but in the other case he followed the view of Rab who said that the portion of Shekalim is ‘My food which is presented to me’, and therefore two would be enough. Therefore we are told that this is not so. But why not state the former [only] and the other would not need to be stated? — One was inferred from the other.[30]

It was stated: If the New Moon of Tebeth falls on a weekday, R. Isaac [Nappaha] says that three read the portion of New Moon and one the portion of Hanukkah. R. Dimi from Haifa, however, says that three read the portion of Hanukkah and one that of New Moon. Said R. Mani: The opinion of R. Isaac Nappaha is the more probable, because when it is a question between the regular and the intermittent, the regular takes precedence.[31] R. Abin, however, said: The opinion of R. Dimi is the more probable. For what is it that causes a fourth man to read?[32] The New Moon. Therefore the fourth ought to read the portion of the New Moon. What do we decide? — R. Joseph said: We take no notice of New Moon,[33] while Rabbah said, We take no notice of Hanukkah. The law, however, is that we take no notice of Hanukkah,’ and New Moon is the main consideration.

It was stated: ‘If it [the Sabbath of Shekalim] falls when the portion ‘And thou shalt command’[34] is read, then six persons read from ‘And thou shalt command’ to ‘When thou takest’, and one from ‘When thou takest’ to ‘Thou shalt also make’.[35] Abaye remarked:

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(1) That it is time to pluck them up, if any have appeared, v. Shek. I, 1.

(2) More precisely, sprouting (v. Tosaf.).

(3) Num. XXVIII, 14.
(4) This is derived in R.H. 7a from the words 'for the months of the year' in this text.
(5) Lit., 'one asks concerning the laws of Passover'.
(6) For changing smaller coins into shekels.
(7) Shek. I, 3.
(8) The two weeks before the tables are set up.
(9) Num. XXVIII, 2. This is the portion always read on New Moon.
(10) Ex. XXX, 12ff
(11) Who said that shekels are to be brought in Adar for the congregational sacrifices.
(12) As we learn from Ex. XXXVIII, 26-28.
(13) The word terumah occurs three times in Ex. XXX, 12ff.
(14) For the purchase of congregational sacrifices for the altar.
(15) So that congregational sacrifices are also referred to in Ex. XXX, 12ff.
(16) Since this is the portion actually read on every other new moon.
(17) That fall on Sabbath.
(18) The Pentateuchal portion of the particular week cf. p. 178, n. 6.
(19) V. Glos. The special feature of the reading is that the one who is called up maftir reads a special portion appropriate for the day instead of the one in the sequence of the weeks.
(20) Against the view that the portion of Shekalim is from Num. XXVIII.
(21) 11 Kings XII.
(22) The prophetical reading (haftarah) must always have some resemblance in subject matter to the Pentateuchal lesson of the day.
(23) Ibid. 5.
(24) V. p. 179, n. 7.
(25) The portion Ki Thisa in which this passage occurs usually falls on a Sabbath about the beginning of Adar.
(26) This passage is in the portion Pinhas, which usually falls about the middle of Tammuz.
(27) This is known as the Triennial Cycle.
(28) Num. XXVIII, 1-15.
(29) In Num. VII. Hanukkah lasts from Kislev 25 to Tebeth 2 or 3.
(30) I.e., the statement about Hanukkah was given not as a tradition but as an inference.
(31) New Moon comes every month, Hanukkah only every twelve months.
(32) On the other days of Hanukkah only three read.
(33) I.e., we do not make it the first consideration.
(34) The portion Tezaweh from Ex. XXVII, 20 to XXX, 10, which is followed by the portion Ki Thissa.
(35) lbid. XXX, 11-16. I.e., six read the portion of Tezaweh and one the portion of Shekalim which immediately follows.

Talmud - Mas. Megilah 30a

If that is done, people will say that that is where they stop.[1] No, said Abaye; six read from 'And thou shalt command' to 'Thou shalt also make', and one repeats and reads from 'When thou takest' to 'Thou shalt also make'.

The following was cited in objection to this: 'If it [the Sabbath of Shekalim] falls on the Sabbath of the portion adjoining it, whether just before or just after,[2] it is read and repeated'. Now if we accept the view of Abaye, this is quite in harmony with it; but on the view of R. Isaac Nappaha, it does conflict with it,[3] [does it not]? — R. Isaac Nappaha can answer you: And on the view of Abaye does it create no difficulty? We may allow the Sabbath before it, but if it falls on the Sabbath after, where do you find a repetition? What you have to say in fact is that [according to Abaye] this portion [of Shekalim] is read on two successive Sabbaths;[4] so l too can answer that it is read on two successive Sabbaths.

If it falls on the portion of 'When thou takest' itself, R. Isaac Nappaha says that six read from

‘Thou shalt also make’ to ‘And Moses assembled’,[5] and one from ‘When thou takest’ to ‘Thou shalt also make’. Abaye strongly demurred to this, saying, Now people will say that we are reading backwards![6] No, said Abaye; Six read to ‘And Moses assembled’, and one repeats from ‘When thou takest’ to ‘Thou shalt also make’. It has been taught in agreement with Abaye: ‘If it falls on [the Sabbath of] ‘When thou takest itself, it is read on the Sabbath before’.

It was stated: ‘If the new moon of Adar falls on Friday, Rab says that [the portion of Shekalim] is read on the Sabbath before, while Samuel says that it is read on the Sabbath after’. Rab says it is read before, because otherwise there will be a shortage in the days of the tables.[7] Samuel says it is read after, because after all the fifteenth day [from the new moon] falls on a Friday, and the tables will not be taken out till the Sunday; therefore we delay the reading [of the portion of Shekalim].

We have learnt: IF IT FALLS IN THE MIDDLE OF THE WEEK, IT IS READ ON THE SABBATH BEFORE, AND ON THE NEXT SABBATH THERE IS A BREAK. Does not this rule apply even where it falls on Friday? — No; only if it falls actually in the middle part of the week.

Come and hear: ‘Which is the first Sabbath [of the series]? That in the week succeeding which the new moon of Adar falls, even if it is on the Friday’. Now do not the words ‘even on Friday’ here [put Friday] on the same footing as the middle of the week, so that just as when it falls in the middle of the week we read before, so when it falls on Friday we read before? — Said Samuel: [The words ‘in the middle’ here mean], ‘on it’ .[8] So too a Tanna of the school of Samuel taught: ‘On it’. The same difference of opinion is found between Tannaim: ‘An interruption can be made [in the series] of Sabbaths. This is the ruling of R. Judah the Prince.[9] R. Simeon b. Eleazar says: No interruption is made. Said R. Simeon b. Eleazar: When do I rule that no interruption may be made? When it [new moon] falls on Friday;[10] but if it falls in the middle of the week, it [the portion of Shekalim] is read on the Sabbath before, even though that is still in Shebat’.[11]

ON THE SECOND ZAKOR etc. It was stated: If Purim falls on Friday, Rab says that the portion of Zakor is read on the Sabbath before, while Samuel says it is read on the Sabbath after. Rab says it is read on the Sabbath before, so that the celebration [of Purim] should not precede the commemoration [of the miracle]. Samuel says on the Sabbath after; he can argue that since there are the walled cities which celebrate on the fifteenth, celebration and commemoration come together.

We learnt: ON THE SECOND ZAKOR. Now when the new moon [of Adar] is on Sabbath, Purim falls on Friday, and he states ON THE SECOND ZAKOR?[12] — R. Papa replied: What is meant by ‘second’ here? The second to the break.[13]

Come and hear: ‘Which is the second Sabbath? That in the week following which Purim falls, even if on Friday’. Now is not the Friday here mentioned meant to be on the same footing as the middle of the week, so that just as when it falls in the middle of the week we read before, so when it falls on Friday we read before? Said Samuel: [The proper reading is] ‘on it’;[14] and so a Tanna of the school of Samuel taught, ‘On it’.

If it falls on Sabbath itself. R. Huna said, All authorities concur that the portion of Zakor is not read on the Sabbath before, whereas R. Nahman said, There is a difference of opinion on this point also. It was also stated: ‘R. Hiyya b. Abba said in the name of R. Abba, who had it from Rab: If Purim falls on Sabbath, Zakor is read on the Sabbath before’.

ON THE THIRD THE PORTION OF THE RED HEIFER etc. Our Rabbis taught: Which is the third Sabbath? The one which follows Purim. It was stated: R. Hama b. Hanina said: The Sabbath next to the new moon of Nisan. There is no conflict [between these two statements]; the one refers to where the new moon of Nisan falls on Sabbath,[15] and the other to where it falls in the middle of the week.[16]

ON THE FOURTH, THIS MONTH SHALL BE TO YOU. Our Rabbis taught: If the new moon of Adar falls on Sabbath, we read Ki Thissa[17] and [the account of] Jehoiada as haftarah. Which is the first Sabbath? The one in the week following which the new moon of Adar falls, even if on Friday. On the second Sabbath Zakor is read, and for haftarah, I have visited.[18] Which is the second Sabbath? The one in the week following which Purim falls, even if on Friday. On the third Sabbath the portion of the Red Heifer is read, and for haftarah, And I shall sprinkle on you.[19] Which is the third Sabbath? The one which follows Purim. On the fourth 'This month'[20] is read, and for haftarah, Thus saith the Lord God, in the first month on the first of the month.[21]

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(1) I.e.,that the portion of Tezaweh extends to XXX, 16.

(2) I.e., the portion of Tezaweh or that of Wa-yakhel.

(3) Because there is no doubling according to R. Isaac Nappaha.

(4) Lit., 'he doubles it on Sabbaths'. Once qua Shekalim, and once as part of Ki Thissa; and this is the meaning of the word 'repeated' in the Baraitha quoted.

(5) The beginning of the portion next to Ki Thissa — the portion Wa-yakhel. I. e., the whole portion Ki Thissa, commencing from Ex. XXX, 17 up to XXXIV, 35.

(6) Because the first verses of the portion (11-16) are read last.

(7) I.e., two full weeks will not elapse between the proclamation of the Shekalim and the setting of the tables on Adar 15.

(8) Viz., on the Sabbath itself.

(9) I.e., his version of the statement in the Mishnah was, 'Which is the first Sabbath? That on which etc.

(10) In which case even if it is read on the Sabbath after it would not affect the 'tables' as stated supra.

(11) The month preceding Adar.

(12) 'Second' being taken to mean the second Sabbath of the month.

(13) I.e., the Sabbath after the one on which there is no special portion.

(14) V. supra.

(15) In which case the 'portion of the red heifer' is read on the Sabbath preceding it.

(16) In which case the 'portion of the month' is read on the Sabbath preceding it.

(17) I.e., the portion of Shekalim.

(18) 1 Sam. XV.

(19) Ezek. XXXVI, 22ff

(20) Ex. XII, 1-20.

(21) Ezek. XLV, 18.

Talmud - Mas. Megilah 30b

Which is the fourth Sabbath? — The one immediately preceding the week in which the new moon of Nisan falls, even if on Friday.

ON THE FIFTH THE REGULAR ORDER IS RESUMED. What order? — R. Ammi said: The order of weekly portions: R. Jeremiah said, The order of haftarahs is resumed. Said Abaye: The opinion of R. Ammi is the more probable, Since we learnt: THE REGULAR READING IS INTERRUPTED FOR ANY SPECIAL OCCASION FOR NEW MOONS, FOR HANUKKAH, FOR PURIM, FOR FASTS, FOR MA'AMADOTH AND FOR THE DAY OF ATONEMENT. This accords well with the opinion of the one who says that the order of weekly portions is resumed,[1] seeing that a portion [of the Law] is read on weekdays.[2] But on the view of him who says that the order of haftarahs is resumed — is there any haftarah on [ordinary] weekdays?[3] [What says] the other to this? — The one rule holds where it applies, and the other where it applies.[4] But on fast days [according to R. Jeremiah], why should there be an interruption [of the regular portion]? Let us read in the morning from the portion of the week and at Minhah on the subject of the fast? — [R.

Jeremiah's ruling] supports R. Huna; for R. Huna said: ‘In the morning of fast days there is a public assembly’.[5] How do we act? Abaye said: From the morning to midday we examine the affairs of the town;[6] from midday to evening, for a quarter of the day we read the portion of the Law and the haftarah, and for a quarter we offer up supplications as it says, And they read in the book of the law of their Lord a fourth part of the day, and another part they confessed and prostrated themselves before the Lord their God.[7] But cannot I interpret this in the reverse way?[8] — Do not imagine such a thing, since it is written, Then were assembled unto me every one that trembled at the words of the God of Israel because of the faithlessness of them of the captivity and I sat appalled unto the evening offering;[9] and it goes on, And at the evening offering I arose up from my fasting.[10]

MISHNAH. ON PASSOVER WE READ FROM THE SECTION OF THE FESTIVALS IN LEVITICUS.[11] ON PENTECOST, ‘SEVEN WEEKS’[12] ON NEW YEAR, ‘ON THE SEVENTH DAY ON THE FIRST OF THE MONTH’;[13] ON THE DAY OF ATONEMENT, ‘AFTER THE DEATH’;[14] ON THE FIRST DAY OF TABERNACLES WE READ FROM THE SECTION OF THE FESTIVALS IN LEVITICUS, AND ON THE OTHER DAYS OF TABERNACLES THE SECTION OF THE OFFERINGS OF THE FESTIVAL.[15] ON HANUKKAH WE READ THE SECTION OF [THE DEDICATION OF THE ALTAR BY] THE PRINCES;[16] ON PURIM, ‘AND AMALEK CAME’;[17] ON NEW MOONS, ‘AND ON YOUR NEW MOONS’;[18] ON MA'AMADOTH,[19] THE ACCOUNT OF THE CREATION;[20] ON FAST DAYS,[21]

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(1) R. Ammi held that on Sabbaths a special portion was substituted for the regular one on special occasions, cf. supra p. 180.

(2) On which the ma'amadoth met for prayer and a fast could be held.

(3) Though there is on fast days. V. infra.

(4) I.e., the order of haftarahs is resumed on Sabbaths and of portions on other days.

(5) And so there is no time to read the Law; v. Ta'an 12b.

(6) I.e., the conduct of the inhabitants.

(7) Neh. IX, 3.

(8) That the reading of the Law was in the morning.

(9) Ezra IX, 4.

(10) Ibid. 5.

(11) I.e., Lev. XXIII. Heb. Torath Kohanim, (lit., ‘law of the priests’), the name given by the Rabbis to Leviticus.

(12) Deut. XVI, 9ff.

(13) Lev. XXIII, 23ff.

(14) Lev. XVI.

(15) Num. XXIX, 12ff.

(16) Num. VII.

(17) Ex. XVII, 8ff.

(18) Num. XXVIII, 11ff.

(19) V. Glos.

(20) Because the heaven and earth are preserved on account of the sacrifices. V. Ta'an 26a.

(21) [According to Geonic authorities the reference here is to fasts for rain. v. Lewin, Ozar ha-Geonim, Megillah p. 60].

Talmud - Mas. Megilah 31a

THE SECTION OF BLESSINGS AND CURSES.[1] THE SECTION OF CURSES MUST NOT BE BROKEN UP, BUT MUST ALL BE READ BY ONE PERSON. ON MONDAY AND THURSDAY AND ON SABBATH AT MINHAH THE REGULAR PORTION OF THE WEEK IS READ, AND THIS IS NOT RECKONED AS PART OF THE READING [FOR THE SUCCEEDING SABBATH],[2] AS IT SAYS,[3] AND MOSES DECLARED UNTO THE CHILDREN OF ISRAEL. THE APPOINTED SEASONS OF THE LORD;’[4] WHICH IMPLIES THAT IT IS PART OF THEIR ORDINANCE THAT EACH SHOULD BE READ IN ITS SEASON.

GEMARA. Our Rabbis taught: 'On Passover we read from the section of the festivals[5] and for haftarah the account of the Passover of Gilgal'.[6] Now[7] that we keep two days Passover, the haftarah of the first day is the account of the Passover in Gilgal and of the second day that of the Passover of Josiah.[8] 'On the other days of the Passover the various passages in the Torah relating to Passover are read'[9] What are these? — R. Papa said: The mnemonic is M'A'P'U'.[10] 'On the last day of Passover we read, And it came to pass when God sent,[11] and as haftarah, And David spoke'.[12] On the next day we read, All the firstborn,[13] and for haftarah, This very day.[14] Abaye said: Nowadays the communities are accustomed to read 'Draw the ox', 'Sanctify with money', 'Hew in the wilderness', and 'Send the firstborn'.[15] 'On Pentecost, we read Seven weeks,[16] and for haftarah a chapter from Habakuk.[17] According to others, we read In the third month,[18] and for haftarah the account of the Divine Chariot'.[19] Nowadays that we keep two days, we follow both courses, but in the reverse order.[20] On New Year we read On the seventh month,[21] and for haftarah, Is Ephraim a darling son unto me.'[22] According to others, we read And the Lord remembered Sarah[23] and for haftarah the story of Hannah.[24] Nowadays that we keep two days, on the first day we follow the ruling of the other authority, and on the next day we say, And God tried Abraham,[25] with 'Is Ephraim a darling son to me' for haftarah. On the Day of Atonement we read After the death[26] and for haftarah,For thus saith the high and lofty one.[27] At minhah we read the section of forbidden marriages[28] and for haftarah the book of Jonah.[29]

R. Johanan said:[30] Wherever you find [mentioned in the Scriptures] the power of the Holy One, blessed be He, you also find his gentleness mentioned. This fact is stated in the Torah, repeated In the Prophets, and stated a third time in the [Sacred] Writings. It is written in the Torah, For the Lord your God, he is the God of gods and Lord of lords,[31] and it says immediately afterwards, He doth execute justice for the fatherless and widow. It is repeated in the Prophets: For thus saith the High and Lofty One, that inhabiteth eternity whose name is holy,[32] and it says immediately afterwards, [I dwell] with him that is of a contrite and humble spirit. It is stated a third time in the [Sacred] Writings, as it is written: Extol him that rideth upon the skies, whose name is the Lord,[33] and immediately afterwards it is written, A father of the fatherless and a judge of the widows.

'On[34] the first day of Tabernacles we read the section of the festivals in Leviticus, and for haftarah, Behold a day cometh for the Lord'.[35] Nowadays that we keep two days, on the next day we read the same Section from the Torah, but what do we read for haftarah.? — And all the men of Israel assembled unto King Solomon.[36] On the other days of the festival we read the section of the offerings of the festival.[37] On the last festival day we read, 'All the firstlings', with the commandments and statutes [which precede it],[38] and for haftarah, 'And it was so that when Solomon had made an end'.[39] On the next day we read, 'And this is the blessing',[40] and for haftarah, 'And Solomon stood'.[41]

R. Huna said in the name of R. Shesheth: On the Sabbath which falls in the intermediate days of the festival, whether Passover or Tabernacles, the passage we read from the Torah is 'See, Thou [sayest unto me]'[42] and for haftarah on Passover the passage of the 'dry bones',[43] and on Tabernacles, 'In that day when Gog shall come'.[44] On Hanukkah we read the section of the Princes[45] and for haftarah [on Sabbath] that of the lights in Zechariah.[46] Should there fall two Sabbaths in Hanukkah, on the first we read [for haftarah] the passage of the lights in Zechariah and on the second that of the lights of Solomon.[47] On Purim we read 'And Amalek came'.[48] On New Moon, 'On your new moons'.[49] If New Moon falls on a Sabbath, the haftarah is [the passage concluding] 'And it shall come to pass that from one new moon to another'.[50] If it falls on a Sunday, on the day before the haftarah is, 'And Jonathan said to him, tomorrow is the new moon'.[51] R. Huna said:

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(1) Lev. XXVI.

(2) And must be repeated on the Sabbath.

(3) This refers to all the previous part of the Mishnah.
(4) Lev. XXIII, 44.
(5) Lev. XXIII.
(6) Josh. V.
(7) This is an interpolation in the Baraitha inserted by an Amora who lived In Babylon and gives the practice of the Galuth.
(8) II Kings XXIII.
(9) Lit., ‘he collects and reads of the subject of the day’.
(10) M=mishku (Draw and take you lambs, Ex. XII, 21); A=im (If thou lend money to any of my people, Ibid. XXII, 24); P = pesol (Hew thee two tables of stone, Ex. XXXIV, 1); U = wayedaber (And God spoke, Num. IX, 1). All these passages go on to speak of Passover.
(11) Ex. XII, 17 relating to the passage of the Red Sea which is supposed to have taken place on the seventh day.
(12) David's song of deliverance in II Sam. XXII.
(13) Deut. XV, 19.
(14) Isa. X, 32 referring to the overthrow of Sennacherib which is supposed to have taken place on Passover.
(15) A mnemonic of the key words in the passages following the order: Ex. Xli, 21; Lev. XXII, 27; Ex. XIII; Ex. XXII, 24; Ex. XXXIV, 1; Num. IX, I; Ex. XIII, 17; Deut. XV, 19. Cf. Tosaf.
(16) Deut. XVI, 9.
(17) Hab. III, which describes the giving of the Law, commemorated (according to the Rabbis) by Pentecost.
(18) Ex. XIX.
(19) Ezek. I, describing the heavenly hosts who also are supposed to have appeared on Mount Sinai.
(20) I.e., Ex. XIX on the first day.
(21) Num. XXIX, 1.
(22) Jer. XXXI, 20. The text proceeds, ‘For I shall surely remember him’, which is suitable to the day of memorial.
(23) Gen. XXI, in order that the merit of Isaac may be remembered.
(24) l Sam. I, because Hannah was supposed to have been visited on New Year.
(25) Gen. XXII.
(26) Lev. XVI.
(27) Isa. LVII, 15, which goes on to speak of repentance.
(28) Lev. XVIII. Apparently this section is chosen because the temptation to sexual offences is particularly strong (Rashi). Cf. Tosaf.
(29) Which speaks of repentance.
(30) The reference to Isa. LVII leads to the introduction of the passage which follows.
(31) Deut. X, 17.
(32) Isa. LVII, 15.
(33) Ps. LXVIII, 5.
(34) The Baraitha is here resumed.
(35) Zech. XIV, in which the festival of Tabernacles is mentioned.
(36) I Kings VIII, 2. The verse continues, ‘on the festival in the seventh month’.
(37) Num. XXIX, 12-34.
(38) The ‘commandments and statutes’ are those contained in Deut. XIV, 22-XV, 18, after which follows ‘all the firstling,’. A better reading is: ‘We read commandments and statutes and all the firstling.
(39) I Kings, VIII, 54.
(40) Deut. XXXIII; the conclusion of the Torah.
(41) I Kings VIII, 22.
(42) Ex. XXXIII, 12. The festivals are mentioned in the sequel.
(43) Ezek. XXXVII. The ‘dry bones’ are supposed to have been those of the Israelites who tried to break out of Egypt before the time (Rashi).
(44) Ezek. XXXVIII, 18. The subject of this chapter is supposed to be the same as that of the chapter of Zechariah read on the first day of Tabernacles (Rashi).
(45) The dedication of the altar in Num. VII.
(46) Zech. IV. .

(47) 1 Kings VII, 40-50.
(48) Ex. XVII, 8ff.
(49) Num. XXVIII, 11.
(50) Isa. LXVI, 23.
(51) I Sam. XX, 18.

Talmud - Mas. Megilah 31b

If the new moon of Ab falls on a Sabbath the haftarah is [the passage with the verse] ‘Your new moons and your appointed seasons my soul hateth, they are a burden unto me’.[1] What is the meaning of ‘they are a burden unto me’? God said: ‘It is not enough for Israel that they sin before Me, but they impose on Me the burden of considering what punishment[2] I shall bring upon them". On the Ninth of Ab itself what is the haftarah? — Rab said: ‘[The passage containing], How is she become a harlot’.[3] What is the section from the Torah? — It has been taught: Others say, ‘But if ye will not hearken unto me’;[4] R. Nathan b. Joseph says, ‘How long will this people despise me’;[5] and some say, ‘How long shall I bear with this evil congregation’.[6] Abaye said: Nowadays the custom has been adopted of reading [from the Torah] ‘When thou shalt beget children’,[7] and for haftarah, ‘I will utterly consume them’.[8]

ON MA'AMADOTH THE ACCOUNT OF THE CREATION. Whence is this rule derived? — Said R.. Ammi: But for the ma'amadoth, the heaven and earth would not be firmly established, as it says, But for My covenant [which continues] day and night, I had not set the statutes of heaven and earth,[9] and it is written, And he said, O Lord God, Whereby shall I know that I shall inherit it.[10] Said Abraham before the Holy One, blessed be He: Sovereign of the Universe, perhaps God forbid, Israel will sin before Thee and Thou wilt do to them as Thou didst to the generation of the Flood and the generation of the Division?[11] He answered, Not so. He then said before Him: Sovereign of the Universe, by what shall I know this? He said: Take me a heifer of three years old[12] etc. He then said before Him: Sovereign of the Universe, This is very well for the time when the Temple will be standing, but in the time when there will be no Temple what will befall them? He replied to him: I have already fixed for them the order of the sacrifices. Whenever they will read the section dealing with them, I will reckon it as if they were bringing me an offering, and forgive all their inquities.

ON FAST DAYS [THE PORTION OF] BLESSINGS AND CURSES IS READ, AND THERE MUST BE NO BREAK IN [THE READING OF] THE CURSES. Whence is this rule derived? — R. Hiyya b. Gamda replied in the name of R. Assi: Because Scripture says, My son, despise not the chastening of the Lord.[13] Resh Lakish said: It is because a blessing[14] should not be said for chastisement. How then is the reader to do? A Tanna taught: He commences his reading with a verse[15] before them and concludes it with a verse after them. Said Abaye: This rule was laid down only for the curses in Leviticus, but in the curses in Deuteronomy a break may be made. What is the reason? — In the former Israel are addressed in the plural number and Moses uttered them on behalf of the Almighty;[16] in the latter Israel are addressed in the singular, and Moses uttered them in his own name.[17] Levi b. Buti was once reading the curses [in Deuteronomy] in the presence of R. Huna hesitatingly. Said R. Huna to him: Do just as you please, the rule [against making a break] applies only to the curses in Leviticus, but in those in Deuteronomy a break may be made.

It has been taught: R. Simeon b. Eleazar says: Ezra made a regulation for Israel that they should read the curses in Leviticus before Pentecost and those in Deuteronomy before New Year. What is the reason? — Abaye — or you may also say Resh Lakish said: So that the year may end along with its curses. I grant you that in regard to the curses in Deuteronomy you can say, ‘so that the year should end along with its curses’. But as regards those In Leviticus — is Pentecost a New Year? — Yes; Pentecost is also a New Year, as we have learnt: ‘On Pentecost is the new year for [fruit of] the tree’.[18]

It has been taught: R. Simeon b. Eleazar says: If old men say to you, throw down', and young men say to you 'build up' throw down and do not build up, because destruction by old men is construction, and construction by boys is destruction; and the example is Rehoboam son of Solomon.[19]

Our Rabbis taught: The place [in the Torah] where they leave off in the morning service on Sabbath is the place where they begin at Minhah; the place where they leave off at Minhah [on Sabbath] is the place where they begin on Monday; the place where they leave off on Monday is the place where they begin on Thursday; the place where they leave off on Thursday is the place where they begin on the next Sabbath. This is the ruling of R. Meir. R. Judah, however, says that the place where they leave off in the morning service on Sabbath is the place where they begin on [Sabbath] Minah, on Monday, on Thursday, and on the next Sabbath. R. Zera said: The halachah is that the place where they leave off in the morning service on Sabbath is the place where they begin at Minhah, on Monday, on Thursday and on the next Sabbath. Why does he not say, 'the halachah follows Rabbi Judah'? —

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(1) Isa. I, 14.

(2) Lit. 'harsh decree'.

(3) Ibid. 21.

(4) Lev. XXVI, 14ff.

(5) Num. XIV, 11.

(6) Ibid. 27.

(7) Deut. IV, 25.

(8) Jer. VIII, 13.

(9) Jer. XXXIII, 25.

(10) Gen. XV, 8.

(11) The division of tongues at the Tower of Babel.

(12) Indicating that Israel would obtain forgiveness through the sacrifices.

(13) Prov. III, 11. As much as to say, Do not treat the portion of the curses disrespectfully by giving the impression that you do not wish to continue with the reading of it.

(14) The blessing said over the reading of the Torah.

(15) More strictly, a few verses, because the curses commence a new paragraph.

(16) 'If ye shall not hearken unto me etc.'.

(17) 'If thou shalt not hearken unto the voice of the Lord thy God etc.

(18) R.H. 16a.

(19) Who destroyed his power by following the advice of the young men which was intended to strengthen it; v. Ned. 50a.

Talmud - Mas. Megilah 32a

Because [the names] might be reversed.[1]

Our Rabbis taught: [The one who reads] opens the scroll and sees [the place], then rolls it together and says the blessing, then opens it again and reads. So R. Meir. R. Judah says: He opens and looks and says the blessing, and reads. What is R. Meir's reason? — It is similar to that of ‘Ulla [in a parallel case]; for ‘Ulla said: Why did they lay down that he who reads from the Torah should not prompt the translator? So that people should not say that the translation is written in the Torah. So here [R. Meir's reason is], so that they should not say that the blessings are written in the Torah. And [what says] R. Judah [to this]? — With regard to translation a mistake might be made, but no mistake will be made with regard to the blessings.[2] R. Zera said in the name of R. Mattenah: The halachah is that he opens and looks, then says the blessing and reads. Why not say, ‘The halachah follows R. Judah’? Because the names might be reversed.[3]

R. Zera said in the name of R. Mattenah. No sanctity attaches to the boards and to the platforms.[4]

R. Shefatiah said in the name of R. Johanan: When one rolls up a scroll of the Torah, he should make it close at a seam.[5]

R. Shefatiah further said in the name of R. Johanan: One who rolls together a sefer torah should roll it from without and should not roll it from within,[6] and when he fastens it he should fasten it from within and should not fasten it from without.[7]

R. Shefatiah further said in the name of R. Johanan: If ten have had a reading of the Torah, the senior among them rolls up the sefer torah. He who rolls it up receives the reward of all of them, since R. Joshua b. Levi said: If ten have had a reading of the Torah, the one who rolls it up receives the reward of all of them. The reward of all of them, think you? No; say rather, he receives a reward equal to that of all of them.

R. Shefatiah further said in the name of R. Johanan: Whence do we know that we may avail ourselves of a chance utterance[8] [as an omen]?[9] Because it says, And thine ears shall hear a word behind thee saying.[10] This applies, however, only if one hears the voice of a man in town and of a woman in the country,[11] and Only if it says, yes, yes, or no, no.[12]

R. Shefatiah further said in the name of R. Johanan: If one reads the Scripture without a melody[13] or repeats the Mishnah without a tune,[14] of him the Scripture Says, Wherefore I gave them also statutes that were not good etc.[15] Abaye strongly demurred to this, saying, Because he cannot sing agreeably, are you to apply to him the verse, ‘ordinances whereby they shall not live’? No; this verse is to be applied as by R. Mesharshia, who said: If two scholars live in the same town and do not treat one another's halachic pronouncements respectfully, of them the verse says, I gave them also statutes that were not good and ordinances whereby they should not live.

R. Parnak said in the name of R. Johanan: Whoever takes hold of a scroll of the Torah without a covering[16] is buried without a covering. Without a covering, think you? — Say rather, without the covering protection of religious performances. Without religious performances, think you? — No, said Abaye; he is buried without the covering protection of that religious performance.[17]

R. Jannai the son of the old R. Jannai said in the name of the great R. Jannai: It is better that the covering [of the scroll] should be rolled up [with the scroll] and not that the scroll of the Torah should be rolled up [inside the covering].[18]

And Moses declared unto the children of Israel the appointed seasons of the Lord.[19] It is part of their observance that [the section relating to] each one of them should be read in its season.

Our Rabbis taught: Moses laid down a rule for the Israelites that they should enquire and give expositions concerning the subject of the day — the laws of Passover on Passover, the laws of Pentecost on Pentecost, and the laws of Tabernacles on Tabernacles.

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(1) I. e., the opinion of R. Judah might be assigned to R. Meir and vice versa.

(2) For everyone knows that they are not written in the Torah.

(3) V. p. 192, n. 3.

(4) הלוחות והבימות. Opinions are divided as to what is meant by these two terms. We should naturally suppose ‘boards’ to mean a kind of noticeboard in the synagogue and ‘platforms’ the stand from which the Torah is read. But there is good authority for supposing that both words are technical terms for parts of the scroll of the Torah, ‘boards’ being the side margins and platforms’ the upper margins, and the meaning will be that no sanctity attaches to these if they have been cut away from the scroll (v. Tosaf.) [J. Meg. III, 1 reads בימה ולווחין; this leads Krauss (Synagogale Altertumer, p. 388) to render, ‘the reading desk (made of boards, on which the Torah was read) and the platform (on which it stood)’. In a word, the almemor].

(5) So that if it is accidentally pulled, it should come asunder easily without being torn.

(6) I.e., he should have the written side of the scroll facing him (Asheri).

(7) I.e., the wrapping should be fastened in such a way that he will not need to turn the scroll over when he comes to open it again (Asheri). Rashi explains this passage differently.

(8) בת קול ‘a reverberating sound’, ‘echoing’, — as it were — a thought in one's mind (Rashi).

(9) In spite of the prohibition of divination (Deut. XVIII, 11).

(10) Isa. XXX, 21.

(11) I.e., in an unusual place.

(12) I.e., says the word twice.

(13) As indicated by the singing accents.

(14) To aid the memory (Tosaf.).

(15) Ezek. XX, 25.

(16) Lit., ‘naked’.

(17) I.e., the precept of reading or rolling up the scroll which he performed at that time is not accounted to him as a merit (Tosaf.).

(18) [Aliter: It is better that the covering (of the scroll) should be rolled up (round the scroll) than that the scroll of the Torah (itself) should be rolled up. MS.M. reads, The covering should be rolled (round the scroll) but not the scroll itself (without a covering); v. R. Hananel and D.S. It may however mean: It is better that the covering should be rolled round the scroll than that the scroll should be wrapped up by being rolled along the scroll].

(19) Lev. XXIII, 44.

Talmud - Mas. Mo'ed Katan 2a

CHAPTER I

MISHNAH. AN IRRIGATED FIELD[1] MAY BE WATERED DURING THE FESTIVAL[2] [WEEK] OR IN THE SABBATICAL YEAR[3] BOTH FROM A NEWLY-EMERGING SPRING AND FROM A SPRING THAT IS NOT JUST EMERGED, BUT NOT WITH WATER FROM STORED RAIN, NOR FROM A SWIPE-WELL;[4] NOR MAY SMALL BASINS[5] BE FORMED ABOUT THE VINES. R. ELEAZAR B. AZARIAH SAYS THAT A [WATER] CHANNEL MAY NOT BE NEWLY MADE DURING THE FESTIVAL [WEEK], NOR IN THE SABBATICAL YEAR; BUT THE SAGES SAY THAT A CHANNEL MAY BE NEWLY MADE IN THE SABBATICAL YEAR AND ONE THAT HAS GOT OUT OF ORDER MAY BE REPAIRED DURING THE FESTIVAL [WEEK]. AND IMPAIRED WATER WORKS[6] IN THE PUBLIC DOMAIN MAY BE REPAIRED OR CLEANED OUT; AND ROADS, BROADWAYS AND [RITUAL] POOLS[7] MAY BE PUT IN ORDER. AND ALL PUBLIC NEEDS MAY BE PERFORMED,[8] AND GRAVESIDES MAY BE MARKED,[9] AND [PUBLIC COMMISSIONERS] MAY SET OUT ALSO[10] TO INSPECT DIVERSE[11] SEED-CROPS.

GEMARA. Now, one might argue that after [having permitted] watering FROM A NEWLY EMERGING spring — which is apt to come along tearing up [the soil][12] — need further mention be made of [drawing from] A SPRING THAT IS NOT NEWLY EMERGING-which is unlikely to come tearing up [the soil]?[13] — I may answer that it is necessary [to mention the latter]; for if [the Tanna] had mentioned only the newly emerging spring I might have said that only here [where it is] for an irrigation plot it is permitted — but not for a Baal-plot,[14] because it is apt to come tearing up [the soil]; but [on the other hand], from a spring that is not newly emerging, which is unlikely to come tearing up [the soil], I might say that even a Baal-plot [may be watered]; therefore he informs us[15] that there is no difference; be it a spring newly emerging, or a spring not newly emerging, an irrigation plot may be watered therefrom, but a Baal-plot may not be.[16]

And whence [know we] that the term BETH HA-SHELAHIN[17] denotes a ‘thirsty’[18] field? — It is written: When thou wast faint and weary,[19] and we render the word ‘faint’ [in Aramaic] by meshalhi.[20] And whence [know we] that Beth ha-Baal[21] denotes ‘settled’ soil? — It is written: For as a man be the husband [yib'al] of a maiden, so shall thy sons be as husbands unto thee[22] and we render [in Aramaic], ‘Behold as a young man settles down with a maiden, thy sons shall become settled[23] in the midst of thee’.

Who may be the [unnamed] Tanna[24] who maintains that [work[25] to prevent] loss is allowed,[26] but [to augment] profit[27] is not allowed; and that even in [averting] loss we should not do any laborious work?[28] Said R. Huna: It is [the view of] R. Eliezer b. Jacob, as we learned:[29] R. Eliezer b. Jacob says: Water may be trained along from tree to tree, provided that one does not water thus the entire field.[30]

I grant[31] you may understand R. Eliezer [b. Jacob][32] to disallow exertion to enhance profit,[33] but could you also understand him [from here] to disallow exertion [even] where loss is [involved]? Rather, said R. Papa, (whose view is it)?[34] It is R. Judah's, as it is taught: ‘A spring newly emerging may be [used for] watering even (a field that is)[35] a Baal-plot. So R. Meir; R. Judah[36] says, None but (a field that is)[35] a ‘languid plot’ that has dried up may be watered [therefrom]. R. Eleazar b. ‘Azariah says, Neither one nor the other.[37] R. Judah[38] went even further and said, ‘A person may not clean out a water channel[39] and [with the dredging] water his garden of debris — [heap][40] during the festival week’. [Now] what is [meant by a ‘languid plot’] that dried up?[41] If you say, literally dried up’ what is the good of watering it? — Said Abaye, It means that this [old] spring has run dry[42] and another has [just] emerged [instead].[43] ‘R. Eleazar b. Azariah says, Neither one nor the other’. [By this he means to say that] it makes no difference whether the [old] spring has run dry or has not run dry, a newly emerging spring is not to be used.

But how [do you arrive at this conclusion]? Perhaps when R.Judah said that a languid plot may be watered from a newly emerging spring and a Baal-plot may not be,

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(1) בית השלחין means lit. ‘a house of channels’, i.e., a plot of land which owing to situation or climate or nature of the soil requires to be watered artificially. It is often a laborious process and at times of vital importance to the crop.

(2) I.e., during the middle period of the two longer Feasts, namely, the ‘Feast of Unleavened Bread’ (Passover) and that of Tabernacles, v. Introduction.

(3) Lit., ‘the seventh year’. Every seventh year in the Jubilee cycle was ordained to be a year of remissness, or sabbath for the land, when the regular processes of agriculture for its improvement were to be suspended. V. Ex. XXIII, 10-11; Lev. XXV, 2ff and infra 3a.

(4) קילון the Greek **, a mechanical contrivance for raising water by water-wheel or bucket from a deep well, like the shadoof in Egypt and the denkli or paecottah in India. The reason for the objections is stated in the Gemara.

(5) Circular depressions made about the stem of the vine, or a small trench drawn about a group of vines to retain the water. V. infra 4b.

(6) Broken wells, cisterns or aqueducts; pools that have become muddy puddles, or blocked drains. (קילקולי _ Latin cloaculae, Baneth).

(7) For priests and pilgrims to purify themselves ritually or their vessels that have met with defilement. Cf. Lev. XI, 24-40; XXII, 1-7.

(8) E.g., removing rubbish and thorns, levelling the road and footways, mending bridges, etc. Cf. infra 5a.

(9) With whitewash of lime to warn passers-by against defilement. Cf. infra 5a.

(10) [MS.M. omits ‘ALSO’ which is difficult to explain. V. Tosaf. Yom Tob].

(11) Lev. XIX, 19: Thou shall not sow thy field with two (or more kinds of) seeds (promiscuously). They are neither to be sown nor preserved by active process. Infra 2b, 6a and cf. Kil. I, 1, 9; Shek. I, 1, a.

(12) I.e., by erosion, necessitating immediate repair of the damage during the restricted period.

(13) Running on its habitual course.

(14) בית בעל , lit., ‘Baal's area’, or field — an old pagan denomination of a fertile soil, i.e., a soil favoured by ‘Baal Lord of the heavens’, Baal-Shamen, with fertilizing rain and sunshine. V. Cooke's N.S.I. p. 45, n. 1 etc. and Robertson Smith's Religion of the Semites (ed. 1894) pp. 96-97. Cf. Isa. LV, 10 and Ta'an. 6b: ‘Rain is earth's husband’; also Krauss, TA II, p. 546, n. 115.

(15) From here to the end of the sentence is not in DS., being seemingly a gloss from 2b.

(16) From a new or old spring.

(17) Rendered ‘AN IRRIGATED FIELD’.

(18) Or ‘a languid track.’ The term שלחין (channels) is here explained by popular etymology as derived from שלהי (the gutturals ה and ח interchanging), ‘weary’, ‘exhausted’. V. n. 2.

(19) Deut. XXV, 18. Han. and Aruch s.v. שלה (VIII, 80b) quote more appropriately Gen. XXV, 29 referring to Esau's exhaustion and thirst. Cf. Isa. XXIX, 8 and Ps. LXIII, 2.

(20) A participle Shafel from להי meaning ‘exhausted’. This derivation is grammatically unsound. In B.B., Sonc. ed. p. 271 it is more correctly connected with the root in the sense of sending water across the fields in channels. Cf. Ezek. XXXI, 4;. Ps CIV, 10; Job V, 10. It is surmised that the name of the Pool of Siloam (לשח) is derived from the same root. V. Krauss, TA. II, p. 547, n. 117.

(21) V. supra p. 2, n. 7.

(22) Isa. LXII, 5.

(23) Cf. our expressions husbandry and husbandman.

(24) In the first clause of the Mishnah.

(25) During the Festival week.

(26) I.e., watering a languid soil.

(27) E.g., watering a fertile field to make it still more productive.

(28) Lit., ‘excessive trouble’, e.g., to use rainwater or raise water by swipe.

(29) V. infra 6b, Mishnah.

(30) To water the whole field in that manner is all exertion to be avoided during the Festival week.

(31) Lit., ‘say’.

(32) So correctly, R. Han., DS.

(33) As he forbids watering the entire field, presumably thinking it unnecessary to give it an extra watering to increase its fertility.

(34) Omitted in DS.

(35) A doublet occurring also in the texts given in the next note.

(36) J.M.K. I, 1 (81a) and Tosef.,1, I read here, ‘and the Sages say’ instead, showing that it is R. Judah's view that has been adopted in the Mishnah. Obviously, the Babylonian teachers engaged in this critical discussion did not have that reading.

(37) I.e., that a newly emerging spring may not be used either for a generally nourished field (again at R. Meir's view), nor in a ‘languid field’ even where it has replaced a dried-up old spring (against R. Judah's view).

(38) He went further in his restrictions, even in the case of a ‘languid field’. (Tosaf. v. Ritba).

(39) A running brook or ditch which has become muddy and shallow, which he may clean out under certain conditions discussed infra 4b.

(40) Used as a vegetable garden or bed for nurslings. V. Tosaf. Lit., ‘his garden and his ruin’.

(41) I.e., that is waste.

(42) Lit., ‘it is dried up from this spring’.

(43) [All of which shows that R. Judah does not permit any laborious work even in order to avert loss, as in the case of the old spring having dried up, whereas R. Judah permits watering from the new spring that has emerged but not from rain-water or a swipe-well, which is in agreement with our Mishnah].

Talmud - Mas. Mo'ed Katan 2b

he was referring only to a newly emerging spring since it may come along tearing up [the soil]; but a spring that is not just newly emerging and which is unlikely to come along tearing up [the soil] he might allow even for a Baal-plot?[1] If [you take it] thus, then whom does our Mishnah represent?[2] The fact is that according to R. Judah it makes no difference, whether it be a newly emerging spring, or a spring not just newly emerging; in either case a languid plot may be watered [therefrom], but a Baal-plot may not be. And the reason why it states the ‘newly emerging’ spring[3] is [merely] to show how far R. Meir is prepared to go, [namely], that even a newly emerging spring may be used for watering and even for a Baal-field!

It was stated: ‘If one is [seen] weeding or watering his seedlings on the Sabbath,[4] under what category [of the offence] should he be cautioned?[5] — Rabbah said, [It comes] under the category of ploughing. R. Joseph said, under the category of sowing. Said Rabbah, My view seems the more reasonable, for what is the object of the plougher? To loosen the soil; here too, he loosens the soil. Said R. Joseph, My view seems the more reasonable, for what is the object of the sower? To promote the growth of the produce; here too, he promotes the growth of the produce.

Said Abaye to Rabbah, Your view presents difficulty and R. Joseph's view presents difficulty. Your view presents difficulty, for does the act come [only] under the category of ploughing [and] not under that of sowing [only]? R. Joseph's view presents difficulty, for does it come [only] under the category of sowing [and] not under that of ploughing also? And should you rejoin that where there are two [possible categories], the offender is liable only on one count, [this cannot be] for did not R. Kahana say that if one [incidentally] pruned [his tree] in cutting it for wood[6] he is liable on two counts, one under the category of planting[7] and one again under that of reaping?[8] — This is a difficulty.[9]

R. Joseph, thereupon, put an objection to Rabbah from [the following]: One who weeds or covers [with earth] diverse-seeds[10] receives [judicial] flogging. R. Akiba says, Also one who preserves [them].[11] Now this is in perfect accord with my view, as I say that [he who weeds is to be cautioned] under the category of sowing, which [explains the penalty] because sowing is [explicitly] forbidden in connection with diverse-seeds; but according to your view who say that [he is to be cautioned] under the category of ploughing, is ploughing forbidden in connection with diverse-seeds? — Said he [Rabbah] to him, [He[12] is flogged] under the category of preserving [them]. But surely, since the last clause states 'R. Akiba says, Also one who preserves [them]', may we not infer that according to the first Tanna the penalty is not on account of preserving [them]? — The entire statement is [to be taken as] recording R. Akiba's view, and the latter clause is explanatory: 'On what ground does one who weeds or covers [with earth] diverse-seeds receive a flogging? Because he comes under the category of preserving, for R. Akiba says, Also he who preserves [them]'. What is R. Akiba's reason? — It is taught: — Thou shalt not sow thy field with two kinds of seed'.[13] This tells me about 'sowing', whence [the prohibition against] preserving [what is already sown]? — From the instructive wording kil'ayim [diverse-seeds] in thy field not.[14] We learned: An IRRIGATED FIELD MAY BE WATERED DURING THE FESTIVAL [WEEK] OR IN THE SABBATICAL YEAR. This [permission] is perfectly correct in regard to the festival [week] where [the prohibition is] merely to avoid exertion, but where loss is [threatened][15] the Rabbis have allowed it. But in regard to the sabbatical year, whether on the view that [watering] comes under the category of sowing[16] or on the view that it comes under that of ploughing,[17] is either sowing or ploughing permitted in the sabbatical year?[18] — Said Abaye, Our Mishnah is speaking of the sabbatical year in the present time and it [expresses] the view held by Rabbi;[19] for it is taught: Rabbi says, [It is written] And this is the manner of the release; release [by every creditor of that which he hath lent to his neighbour];[20] the text speaks here of two forms of release, one the release of the soil [from tillage][21] and the other the release of money[22] [the juxtaposition of] which tells us that so long as you must release the soil [from tillage], you must release the money [debt], but when you do not release the soil, you need not release the money![23] Said Raba [not necessarily], you may even say [it voices] the view of the Rabbis[24] and that they[25] are the principal [types of work] that the Divine Law has forbidden [explicitly],

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(1) Whereas our Mishnah forbids watering a Baal-plot from a newly emerging spring. Consequently it will not represent the view of R. Judah.

(2) Lit., 'to whom will you throw (trace the view of) our Mishnah'.

(3) In the cited Baraitha: the spring might as well have been left undefined, as either is allowed for a languid plot by R. Judah.

(4) Ritba reads on a festival, which is preferred by R. Moses Sofer. Cf. Mak., Sonc. ed., p. 149.

(5) An offender doing an act which is explicitly forbidden in Holy Writ had to be duly and accurately cautioned by two witnesses against that particular act, and informed of the exact penalty it involved, before he could be judicially punished by a duly constituted tribunal. Ploughing, sowing and mowing are of the thirty-nine main categories of work forbidden (Scripturally) on Sabbath or Festivals. For the list v. Shab. VII, 2 and Shab. 73aff.

(6) Lit., 'he prunes and requires the wood'. Shab. 73b. Work on the Sabbath is to be purposive, whether intended or not. If one did what he desired to do, without knowing that such a thing was not to be done on the Sabbath, or forgetting for the moment that it was the Sabbath day, he would not be punishable, but would have to bring a sin-offering in Temple times.

(7) Pruning promotes growth and is therefore another form of sowing or planting.

(8) Having a definite purpose for the cuttings.

(9) Var. lec. omit this final admission. [The statement of R. Kahana, being of an Amora, is not deemed sufficiently authoritative to refute the views of Rabbah and R. Joseph. V. Tosaf. s.v. חייב.]

(10) Weeding and covering with earth diverse-seeds are here made punishable as sowing, v. Lev. XIX, 19 (cf. Deut. XXII, 9).

(11) Fencing in the plot to prevent cattle from trampling them out or feeding on the young blades. Cf. A.Z. 64a (Rashi and Tosaf.).

(12) He who weeds diverse-seeds.

(13) Lev. XIX, 19.

(14) Some explain a section of the Hebrew text of Lev. XIX, 19, namely, כלאים שדך לא תזרע כלאים, as it were two interlocked sentences, (i) כלאים שדך לא i.e., ‘Kil'ayim in thy field not’, (which forbids the presence and the preservation of diverse-seed crops in the field); and (ii) שדך לא תזרע כלאים i.e., ‘Thy field thou shalt not sow kil'ayim’ (which forbids sowing). This explanation, however, is very strained, as the variations in the parallel passages show, having puzzled the commentators. The readings ת״ל לא כלאים and ת״ל כלאים לא are both correct and to the same effect. It is the import of the wording rather than the form of the text that R. Akiba stressed. It is the diverse mixing or crossing — ‘kil'ayim’ — that is emphatically forbidden, be it of animal, or field, or raiment (Lev. XIX, 19) and fiercest of all in the (oliveyard or) vineyard (Deut. XXII, 9). Have no share by your action in producing kil'aym!

(15) As shown above.

(16) R. Joseph, above.

(17) Rabbah, above.

(18) Sowing, pruning, gleaning and reaping are directly forbidden in Lev. XXV, 4-5. Ploughing, however, is forbidden only indirectly, by implication from a positive law in Ex. XXIII, 11; XXXIV, 21. Note this point.

(19) R. Judah ha-Nasi, compiler of the Mishnah.

(20) Deut. XV, 2.

(21) I.e., let the soil lie fallow and the crops free and unguarded against the poor, Ex. XXIII, 11.

(22) Let slip the money debts owing to you.

(23) The interpretation is based on the ground that since the Nation, Israel as a whole, is no longer in possession of the Holy Land as his inheritance, the land laws relative to the sabbatical year and Jubilee re-distributions, which are made contingent on Israel's entry and possession (Lev. XXV, 2, 10ff; cf. ibid. XXVI, 34-35, and Deut. XXXI, 10-13) are of necessity in abeyance, for the time being. [This according to Rabbi, since the prohibition of tilling the soil on the sabbatical years nowadays is merely Rabbinical, it is not enforced where a loss is involved; hence the ruling of our Mishnah.]

(24) That the operation of the sabbatical year nowadays is Biblical.

(25) Those that are specified in the text of Holy Writ.

Talmud - Mas. Mo'ed Katan 3a

but derivative[1] operations it has not forbidden, for it is written: But in the seventh year shall be a sabbath of solemn rest for the land..., thou shalt neither sow thy field nor prune thy vineyard. That which groweth of itself of thy harvest thou shalt not reap and the grapes of thy undressed vine thou shalt not gather.[2] Now, since pruning comes within the general process of sowing[3] and grape-gathering within the general process of reaping,[4] what law then did the All-Merciful desire to inculcate by inserting these [secondary processes] into the text? To indicate that only for these secondary processes [specified in the text] is one [to be] held liable[5] and for [any] other [secondary processes] one is not [to be] held liable.[6] Indeed not? Surely it has been taught: Thou shalt neither sow thy field nor prune thy vineyard,[7] that only forbids me sowing or pruning; whence is forbidden weeding or hoeing or the trimming of wilted parts? From the instructive [form of the] text: Thy field thou shalt not... thy vineyard thou shalt not . . . [which means] no manner of work in thy field; no manner of work in thy vineyard. [Likewise] whence [is derived the rule] not to cut back shoots, or thin twigs or put up props for supporting [fruit trees]? From the [same] instructive text: Thy field thou shalt not . . . thy vineyard thou shalt not . . . [which means] no manner of work in thy field, no manner of work in thy vineyard. [Similarly] whence [is derived the rule] not to manure,[8] or remove stones, or dust [with flower of sulphur][9] or fumigate the tree? From the instructive wording of the text: Thy field thou shalt not . . . thy vineyard thou shalt not, that is, no manner of work in the field, no manner of work in the vineyard. Shall I say that one should not [even] stir the soil under the olive trees, nor use the hoe under the vines, nor fill the gaps [under the olive trees][10] with water nor make drills[11] for the vines? There is the Instructive wording of the text: Thy field thou shalt not sow [nor thy vineyard shalt thou prune]. Now, as ‘sowing’ was already embraced in the general terms of the ordinance,[12] why then was it singled out [for mention]? To provide ground for an analogy, namely that just as sowing has the special quality of being a work common to field and orchard,[13] so is every [other] work that is common to field and orchard [forbidden]![14] — [That is only] Rabbinically; and the text is adduced merely as a support.[15] But, is it permitted to stir the soil [under the olive tree] in the sabbatical year? Surely [is it not taught]: It is written, But the seventh year thou shalt let it rest and lie fallow;[16] 'let it rest' — not to hoe; and '[let it] lie fallow — not to remove stones? — Said R. 'Ukba b. Haba, there are two sorts of hoeing, one for strengthening the [olive] tree, and another to close up fissures; that for strengthening the tree is forbidden, whereas that for closing up fissures is allowed.[17]

It has been stated:[18] — If one ploughed in the sabbatical year,[19] R. Johanan and R. Eleazar[20] [took opposite views]. One said that he is flogged[21] and the other said that he is not flogged.[22] Might I suggest that the issue turns on the dictum of R. Ela as reported by R. Abin? For R. Abin reported R. Ela to have stated that wherever a general [proposition] is stated in the form of a positive command and a particular [specification] in the form of a negative injunction,[23] the hermeneutical rule of General-Particular-General[24] does not apply to it.[25] [Accordingly], the one who says the offender is flogged, did not agree with that dictum of R. Abin in the name of R. Ela,[26] while the other who says that the offender is not flogged did agree with the dictum of R. Abin [in the name of R. Ela]?[27] — Not [necessarily]. It can be maintained that nobody agrees with the dictum of R. Ela, as reported by R. Abin. As to the one who says that the offender is flogged[28] it of course is in order, while the other who says the offender is not flogged may tell you thus:[29] Consider: pruning comes within [the general process of] sowing and grape-gathering within [the general process of] reaping, what rule did the All-Merciful intend to inculcate by inserting these [secondary processes] into the text? To indicate that only for these secondary processes [specified in the text] is one [to be] held liable, but for any other secondary process[30] he is not [to be] held liable. But is he not? Surely it is taught: Thou shalt neither sow thy field nor prune thy vineyard, this only forbids me sowing or pruning; whence is forbidden weeding, hoeing, or the trimming of wilted parts? From the instructive [form of] the text: Thy field thou shalt not . . . thy vineyard thou shalt not . . . [which means] no manner of work in thy field; no manner of work in thy vineyard. Whence [is derived the rule] not to cut back shoots, or thin twigs or put up props for [fruit] trees? From the [same] instructive text: thy field thou shalt not ...thy vineyard thou shalt not . . . [which means] no manner of work in thy field, no manner of work in thy vineyard. Whence [is derived the rule] not to manure, or remove stones, [or dust] or fumigate the trees? From the instructive text: Thy field thou shalt not . . . thy vineyard thou shalt not . . . [that is], no manner of work in thy field, no manner of work in thy vineyard. Am I then to say that one may not stir the soil under the olive trees, nor use the hoe under the vines, nor fill the [open] gaps [under the olives] with water, nor make drills for the vines? There is the instructive wording of the text: Thy field thou shalt not sow and thy vineyard thou shalt not prune. Now, sowing was already embraced in the general terms of the ordinance, why then was it singled out [for mention]? For the purpose of providing [ground for] an analogy, that just as sowing has the special quality of being a work common to field and vineyard, so is any other work that is common to field and orchard [forbidden]? — [That is only] rabbinically; and the text is [adduced] as a mere support.[31]

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(1) Or secondary processes which are not unspecified.

(2) Lev. XXV, 4-5.

(3) Or planting, as explained above by R. Kahana.

(4) V. Shab. 73a.

(5) To a judicial flogging.

(6) I.e., scripturally (even according to the Rabbis) though reprehensible rabbinically.

(7) The order of the Hebrew words in the text is: 'Thy field thou shalt not sow nor thy vineyard shalt thou etc.'

(8) Yalkut reads: 'remove excrescences' or 'warts'.

(9) Thus J. Sheb. II, 2; Aruch explains 'remove dust from the foliage' and Rashi here takes it as covering with dust the exposed roots. The context seems to favour the first explanation here adopted.

(10) After thinning olive trees, by lifting some to give more room for the other young trees, the gap left in the soil would ordinarily be filled with manure and olive trees need much water. Cf. Sheb. IV, 5, and Sifra Behar Rabad's Commentary.

(11) Or small ridges with furrows on top between the vines. V. loc. cit.

(12) Lev. XXV, 4: But the seventh year shall be a sabbath of solemn rest for the land, a sabbath unto the Lord, in direct contrast to verse 3; there was therefore no further need to continue with specific instances of the prohibition, such as sowing the field and pruning the vineyard.
(13) I.e.,common to both, agriculture and horticulture.
(14) [Excluding the last mentioned processes which are not common to both field and vineyard. At all events this teaching shows that a number of processes though of the secondary type are forbidden in the sabbatical year).
(15) I.e., mnemotechnical and Biblically only sowing, pruning, reaping and gleaning are forbidden explicitly. The inclusion of ploughing, digging, hoeing or watering in the prohibition is purely Rabbinic. Thus the ruling of the Mishnah that an irrigated field may be watered . . . in the sabbatical year has now been explained: by Abaye on the basis of Rabbi's view, namely, that the restrictions of the sabbatical year are not operative nowadays; and, on the other hand by Raba, on the view of the other Rabbis (who do not concede Rabbi's interpretation of Deut. XV, 2), by pointing out that ‘watering’ is, strictly speaking, not textually forbidden, it being a ‘derivative’ (secondary) process, and hence allowed by the Rabbis in the sabbatical year where damage (loss of crop) is likely.
(16) Ex. XXIII, 11.
(17) The former is for enhancing profit and the latter is prevention of loss, namely, to save the tree from bleeding or rotting.
(18) The same question is again discussed from a different angle in Palestinian schools.
(19) After having been duly cautioned.
(20) B. Pedath.
(21) As having offended against a Biblical prohibition.
(22) Because ‘ploughing’ is not distinctly forbidden, but is only an implied offence, for which no judicial flogging can be given.
(23) E.g., in Lev. XXV, 2-5. We have first a general ordinance in positive terms: The land shall keep a sabbath unto the Lord. Six years thou shalt sow . . . prune . . . gather in the produce thereof, but the seventh year shall be a sabbath of solemn rest unto the Lord (cf. Ex. XXIII,11); then follow the particulars in negative terms. Thou shalt neither sow thy field, nor prune thy vineyard. That which groweth of itself thou shalt not reap and the grapes of thy undressed vines thou shalt not gather (Lev. XXV, 4-5). Then follows a general rule again in positive form: It shall be a year of solemn rest for the land.
(24) According to this rule, the particulars are in such a case considered typical as illustrations serving to include in the general rule all such items as are similar to the particulars. E.g. in Ex. XXII, 8 the text first states that an oath can be judicially imposed ‘for every matter of trespass’ (General term). This is followed by: ‘for ox, for ass, for sheep, for raiment’ (particulars), which again is followed finally by: ‘for any manner of lost thing’ (General). We infer from this that an oath can be imposed for things like those specified as typical instances, but not in the case of a dispute about land, being immovable property, or in the case of sanctuary-property, as it being not one's neighbour's property, or in the case of dispute about a slave, as being a (human) chattel, or about documents, as not being ‘property’, but merely instruments of evidence. Similarly in the case of the sabbatical year,if the particulars are typical of the general rule, one who does any of these would break the law.
(25) But it is treated merely as a general proposition which is followed only by a particularization, in which case the general proposition does not go beyond what has actually been specified by the particularization that follows it.
(26) I.e., he interprets the Sabbatical Ordinance as a pure instance of a General-Particular-General form and takes sowing, pruning, reaping and gleaning as typical illustrative instances and, accordingly, considers ‘ploughing’ as included in the general terms of the Ordinance and hence as a punishable offence.
(27) I.e., that the Sabbatical Ordinance cannot be treated as a pure form of General-Particular-General, it being negative in the particulars, which amounts to saying, ‘Not a, not b, not c; these, I mean, precisely, and no others’. ‘Ploughing’ therefore is not included among the forbidden processes and hence is not a punishable offence.
(28) For ploughing in the sabbatical year.
(29) In interpreting the import of the wording of the text, to show that there is no penalty for ploughing, although the application of the General-Particular-General rule would indicate to the contrary.
(30) I.e., ploughing.
(31) For notes v. supra p. 9, n. 6.

Talmud - Mas. Mo'ed Katan 3b

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When R. Dimi came [from Palestine] he said [the discussion went on]: Possibly, you might say that the offender be flogged [even] for the ‘extension’? But the teaching was concluded[1] to prove that he was exempt. But [said he], I know not which was the teaching, nor what was [actually] meant by ‘extension’.

R. Eleazar [b. Pedath] said that the ‘extension’ had reference to [the inclusion of] ‘ploughing’ [as a punishable offence], and the argument proceeded thus: Possibly [you might say] that he should be flogged for ‘ploughing’ [in the sabbatical year], the rule being inferred by [treating the sabbatical ordinance as a case of] General-Particular-General; then the teaching was concluded to prove exemption. For, if it [the flogging] were correct, what is the [legal] import of all those particulars [set out in the text]?

R. Johanan said [that the ‘extension’ had reference to] the extra days [of restriction] which the sages had added prior to New Year; and the argument proceeded thus: Possibly [you might say] that he should be flogged for [ploughing during] the extended extra period prior to New Year which is based on the text: ‘In ploughing time and in reaping time thou shalt rest.[2] Then the teaching was concluded to prove exemption [from a flogging], as we shall seek to explain presently.

What is meant by ‘the days [of restriction] prior to New Year’? — According to what we learned: ‘Up to what date may ploughing be done in a tree field [orchard] in the pre-sabbatical year? Beth Shammai say, As long as it is for the benefit of the fruit; Beth Hillel say, Up to the Feast of Weeks; and the [practical effect of] one ruling is much the same as that of the other.[3] And up to what date may they plough a "white field"[4] in the pre-sabbatical year? Up to when the moisture gives out and as long as people till for planting their cucumber and gourd beds. Said R. Simeon, If that is so, you have handed over the Torah for every individual to determine for himself the right time! No: [I say], a "white field" [they may till] up to Passover and a tree field up to the Feast of Weeks’.[5] (And Beth Hillel say up to Passover.)[6]

And[7] R. Simeon b. Pazzi reported in the name of R. Joshua b. Levi who had it from Bar Kappara that Rabban Gamaliel and his Beth din took a vote on these two [terminal] periods[8] and abrogated them. Said R. Zera to R. Abbahu, some say, Resh Lakish said to R. Johanan: How could Rabban Gamaliel and his Beth din abrogate a measure instituted by Beth Shammai and Beth Hillel? Surely we learned: ‘No Beth din has power to nullify the words [ruling] of another Beth din unless it be superior to it in learning and number’![9] ‘He was astonished for a while’;[10] then he replied: I say, they thus have stipulated among themselves that whoever might thereafter wish to abrogate that [measure] could come and abrogate it.[11] But was it their measure? Was it not an [ancient] halachah of Moses from Sinai?[12] As [in fact] R. Assi reported R. Johanan to have said in the name of R. Nehuniah[13] a man hailing from the valley of Beth Hauran,[14] that the [laws of] ‘Ten Saplings,’[15] the ‘Willow’[16] and the ‘Water Libation’[17] were ‘halachah’ of Moses from Sinai! — Said R. Isaac, When we received on tradition that law [of extra restriction] as [an ancient] halachah, It was only in reference to ‘thirty days prior to the New Year’; thereafter came those [of Beth Shammai and Hillel] and instituted [the cessation] from Passover[18] and the Feast of Weeks,[19] and [at the same time] they stipulated with reference to their [measure] that whoever might [thereafter] wish to abrogate [them] might come and abrogate them.[20]

But were these [termini] merely halachah [-usages]? Were they not [based on Biblical] texts? For is it not taught: [Six days thou shalt work, but on the seventh day thou shalt rest]: in ploughing time and in reaping time thou shalt rest.[21] Says R. Akiba,[22] There is no need to be told [in the second clause] to desist from ploughing or reaping in the seventh year, since it is already stated [elsewhere at length]: thou shalt neither sow thy field nor prune thy vineyard: [that which groweth of itself thou shalt not reap].[23] [It can be taken] only [to debar] ploughing in the pre-sabbatical year

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(1) Lit., ‘the Talmud took it up’. (3) As explained above. (4) The sabbatical year began with the New Year. It was necessary to stop tillage before that date; when, and where, did it originate? On what authority? These are the points to be discussed now at length.

(2) Ex. XXXIV, 21 The exposition of this follows presently.

(3) Sheb. I, 1.

(4) Preparing for a grain crop, i.e., of cereals or legumina. A white field=a sown field, not planted with trees that cast a shadow.

(5) Ibid. II, 1.

(6) This bracketed part is a meaningless gloss.

(7) [So MS. M. Cur. edd. insert ‘And’].

(8) Passover (Nisan) and the Feast of Weeks (Sivan); after these were abrogated, tillage was again permitted down to New Year (Tishri).

(9) ‘Ed. I, 5.

(10) A phrase from Daniel IV, 16. R. Abbahu or R. Johanan was for the moment puzzled for a reply.

(11) Should the exigencies of the time demand it.

(12) I.e., a rule of immemorial practice, whose origin is unknown. Cf. our expression ‘as old as the hills’. Cf. ‘Ed. VIII, 7; Yad. Malachi No. 663 and W. Bacher's Tradition und Tradenten etc. (1914) p. 33ff.

(13) Also Hunya, Huna or Huna. Bacher ibid. p. 38 sect. 11.

(14) A high plain S.E. of Damascus mentioned by Ezekiel, XLVII, 18, among the boundaries of Palestine (cf. R.H. 22b). Herod established there a protectorate under Zamaris, a Babylonian Jew who offered military safety to the Babylonian pilgrims on their way to Jerusalem. V. Josephus, Antiquities XVII, 11, 1-2.

(15) A young plantation in a field of fifty by fifty cubits in dimension with at least ten saplings may be tilled entirely for their benefit, down to the edge of the sabbatical year which began with New Year's day, the first of Tishri. This implies that with old trees tilling must cease before New Year.

(16) V. infra. Willows were carried in procession once round the altar during the first six days of Tabenacles and then fixed at the side of the altar. On the seventh day the circuit was made seven times. V. Suk. 45a, where Abbahu suggests a Biblical indication, Ps. CXVIII, 27.

(17) On the same occasions the grand celebration of the water libation took place in the Temple, a golden flagon being filled with water from Siloam, was brought amidst trumpet blasts to the Temple and poured on the altar by the High Priest.

(18) For a ‘white field’, growing cereals and legumina.

(19) For a tree field, an orchard.

(20) And it is only these two earlier terms, Passover and Feast of Weeks, up to thirty days before New Year that Rabban Gamaliel and his Beth din abrogated. Cf. J. Sheb. I, 5.

(21) Ex. XXXIV, 21.

(22) As all manner of work is forbidden on the sabbath day, the particular stress on ploughing and reaping suggested a connection between the sabbath-day and the sabbath-year.

(23) Lev. XXV, 4-5.

Talmud - Mas. Mo'ed Katan 4a

[which may have beneficial effects] extending into the seventh year and [likewise] to the reaping of the seventh year's crops which mature in the post-sabbatical year.[1] Says R. Ishmael, [It is purely a Sabbath law]; as the ploughing [here forbidden on Sabbath] is optional ploughing,[2] so is the reaping [here mentioned] optional reaping; outside this [law] is the reaping [of the new barley] for the ‘omer’[3] which is a religious duty [by ordinance]![4] — In fact said R. Nahman b. Isaac, when we received on tradition [that the pre-sabbatic restrictions had their origin in] halachah [-usage], this had reference to the permission [of tilling for the benefit] of saplings;[5] whereas the texts are for the prohibition of old trees.[6] But since ‘halachah [-usage] allowed [tillage down to New Year] for saplings,it is not obvious that old trees were forbidden? — What we must say therefore is, the halachah [-usage] as basis for the prohibition is [necessary] according to R. Ishmael,[7] whereas the texts [serve as basis] according to R. Akiba.

But R. Johanan said that Rabban Gamaliel and his Beth din abrogated those [restrictions] on Biblical authority. What was the reason? He deduced it by equating the term ‘Sabbath’ common to both[8] the Sabbath-year and the Sabbath of Creation[9] [thus]: Just as in the case of the Sabbath Day [work is forbidden] on the day itself, but on the day before and on the day after it is allowed, so [likewise] in the Sabbath Year [tillage is forbidden] during the year itself, but in the year before and in the year after it is allowed.

To this R. Ashi demurred: On the view that it [the restriction] is a halachah [-usage] can a gezerah shawah [deduction][8] come and eradicate a halachah [-usage]; and [likewise] on the view that it is [based on] a Biblical text, can a gezerah shawah[8] come and eradicate a text! — But no, said R. Ashi, Rabban Gamaliel and his Beth din concurred with R. Ishmael who held that [the presabbatical restrictions] were based on a halachah-usage. And when did the tradition of such halachah-usage [apply]? During the time when the Temple was still standing, like that of the water libation;[10] but in times when the Temple is no longer standing the tradition of this halachah-usage does not apply.[11]

BUT IT MAY NOT BE WATERED FROM [STORED] RAIN NOR BY THAT OF A SWIPE-WELL. It is quite correct [to prohibit water] from a swipe-well, because that is a rather extra trouble; but rain water-what trouble is there [in using it]? — Said R. Ela, reporting R. Johanan: Rain water is prohibited as a precaution on account of the swipe-well.[12] R. Ashi said: Rain water itself may [sometimes] come to be [just as difficult to draw[13] as] the water of a swipe-well. And they differ on [the statement of] R. Zera; for R. Zera said that Rabbah b. Jeremiah, citing Samuel, said that rivers drawing from [adjoining] water pools may be used for watering during the festival week.[14] One Master[15] is in agreement with [the statement of] R. Zera, while the other[16] is not in agreement with [the statement of] R. Zera. The text [above stated]: ‘R. Zera said that Rabbah b. Jeremiah, citing Samuel, said that rivers drawing from [adjoining] water pools may be used for watering during the festival week’. R. Jeremiah put all objection to him [R. Zera]: BUT... NOT WATERED FROM [STORED] RAIN NOR BY THAT OF A SWIPE-WELL![17] — Said R. Zera to him: Jeremiah, my son, these Babylonian pools are like water [pools] that do not fail.[18]

Our Rabbis taught: Ditches and pools[19] [even though] filled with water on the day before the festival are debarred from being used for watering during the festival week,[20] but if a canal passes between them they may be used. Said R. Papa: This is only provided that the greater part of that field obtains its supply from that canal.[21] R. Ashi said that [they may be used] even if the greater part of that field does not obtain its supply [from that canal], because since its flow is continuous [the owner] says. if it [the field] does not get enough drink on [this] one day, it will [soon] get its drink in two or three days.’[22] Our Rabbis taught: ‘If a pool gets tricklings from[23] an irrigated field [higher up], it may be used for watering another field’.[24] But is it not going [ultimately] to give out? — Said R. Jeremiah: For the present at any rate it is still trickling! Said Abaye: This is [permitted] only so long as the first source has not given out.[25]

It has been taught: R. Simeon b. Menassia says: Where two cultivated beds lie one above the other, one should not[26] draw from the [supply of the] lower to water the upper. R. Eleazar b. Simeon went even further, saying: Even in one bed, if half of it is low and the other half higher one should not draw from the low-lying part to water the upper part.

Our Rabbis taught: ‘One may raise [medallin][27] for the vegetables if they are to be eaten; but if it is to improve their appearance it is forbidden’. Rabina and Rabbah of Thospia[28] were [once] walking on the road when they saw a certain man drawing buckets of water during the festival week.[29] Said Rabbah of Thospia to Rabina: Come, Sir, put a ban[30] on him. Said Rabina to him, But is it not taught: ‘One may raise[31] for vegetables to be eaten’? — Replied Rabbah, Do you think that this medallin means one may raise water [in buckets]?[32] [No], what medallin means is

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(1) Accordingly ‘ploughing’ is Biblically forbidden in the pre-sabbatical extension and the offender would be liable to a flogging were it not for the inferences derived from the other text of Lev. XXV, 4-5, as expounded above, 3a. Cf. Tosaf. 3b s.v. שהרי and Han.

(2) I.e., not ordained to be done on any particular day.

(3) ‘The sheaf of the first fruit of your (barley) harvest’. V. Lev. XXIII, 10ff. R. Ishmael holds that this may be reaped even on Sabbath. R. Ishmael's statement is for the moment irrelevant, though it comes in later. R. Akiba's dictum shows that the extension, i.e., the pre-sabbatical bar on tillage, is not merely a pristine halachah-usage, but has textual basis.

(4) Cf. M. Sheb. I, 4 and Mak., Sonc. ed. p. 48.

(5) Down to New Year's eve.

(6) Thirty days before New Year, which prohibition was extended by Beth Shammai and Beth Hillel to Passover and Feast of Weeks, according to the field.

(7) Who, unlike R. Akiba, uses that text for another point, namely, as permitting reaping the barley for the ‘omer even on a Sabbath, if that is the date.

(8) Gezerah shawah (V. Glos.) which some admit and others do not.

(9) I.e., Ex. XXXIV, 21 taken with Lev. XXV, 2 (‘a Sabbath-rest year-unto the Lord’).

(10) Mentioned together with the tradition regarding the ten saplings, supra 3b.

(11) With the fall of the Temple and the Jewish State many of the laws appertaining to the Temple and the Land fell into abeyance owing to the force of circumstances. Recently, I. S. Zuri has attempted to establish that Rabban Gamaliel's abrogation was enacted soon after May 215 C.E. when Caracalla entered Antioch and thence marched his armies through Palestine on his way to Egypt, when the people had to pay ‘annonae’ to feed the armies. V. his שלטון הנשיאות והועד I, Vol. III, 58-59.

(12) If stored rain water is permitted, one will also work a shadoof.

(13) When much of it has been drawn off he will have to go deep down with his bucket, with almost as much exertion as from a shadoof.

(14) [And we do not apprehend the possibility of the pool drying up when he might go and fetch water from another river, with all the extra trouble it involves.]

(15) R. Ashi.

(16) R. Johanan, who prohibits rain water on account of a swipe-well.

(17) [Presumably because we apprehend lest he may go deep down with his bucket should the water be drawn off and the same should apply to the case of R. Zera.]

(18) And there is no likelihood of leading to exertion during the Festival Week.

(19) The former rough-cut and the latter well-made (Commentators on Alfasi). J.M.K. I, 1 reads הפיסקין והבריכה, which points to the Latin piscina, reservoir, swimming bath or fish-tank.

(20) Because their supply comes from a distance and may entail exertion should the supply fail.

(21) I.e., if the supply is plentiful.

(22) Because he will get what he may and if not enough will readily wait for a day or two for another chance, without going to exertion during the festival week.

(23) [So MS.M. Cur. edd. ‘trickles water (which one gets) from’].

(24) Tosef M.K. I, 1; J.M.K. I, 1.

(25) But once the trickling has ceased the pool has lost its supply and becomes like a swipe-well or stored rain water likely to entail exertion.

(26) During the festival week.

(27) [מדלין either (i) ‘medallin’ (from דלה), ‘raise water by means of buckets’, hence irrigate; or (ii) madlin (from דלל) ‘to lift (vegetables)’ for thinning the beds. At present the first rendering is assumed].

(28) The capital of the Armeman district Thospitis.,

(29) To water his vegetables.

(30) שמתא cf. infra 17a.

(31) מדלין or מדלין from דלה to raise, draw water with bucket (דלי).

(32) In the course of the festival week.

to pull out [vegetables],[1] as we learned:[2] ‘If one is [engaged in] thinning[3] vines, just as he may thin his own, so also he may thin those due to the poor;[4] so R. Judah. R. Meir says: He is permitted [to attend] to his own but not to those of the poor’.[5] Said Rabina: But it is taught [explicitly]: ‘One may raise water for vegetables if they are to be eaten’! — Said Rabbah [of Thospia] to Rabina: If it is thus taught, that settles the matter.[6]

NOR MAY SMALL BASINS [‘UGIOTH] BE FORMED ABOUT THE VINES. What is meant by ‘ugioth?[7] — Said Rab Judah, [What we call] banki.[8] It is also taught thus: These are ‘ugioth; light hoeing done about the roots of olives and at the roots of vines.[9] [But] this is not so, for did not Rab Judah allow the family of Bar-Zittai[10] to make banki in their vineyards? — This is not difficult: The one statement [in the Mishnah] refers to fresh [trenchings], the other [Rab Judah's] refers to re-trenching.[11]

R. ELEAZAR B. AZARIAH SAYS A [WATER] CHANNEL MAY NOT BE NEWLY MADE [DURING THE FESTIVAL WEEK, NOR IN THE SABBATICAL YEAR; BUT THE SAGES SAY].[12] It is perfectly in order in regard to the festival week, because he performs laborious work, but what reason can there be [against making a channel] in the sabbatical year? — R. Zera and R. Abba b. Memel differ in the matter: One says [it is forbidden] because [the digger] seems to be doing spading [in his field]; the other says, because he is [thereby] preparing the banks for sowing. What is the [practical] difference between the two [explanations]? — There is a difference where water comes along forthwith; according to the one who says that [it is] because he is preparing the banks for sowing, there is [still an objection], but according to the one who says that [it is] because he seems to be doing spading, there is none.[13] But, the one who objects on the ground that he seems to be doing spading, should he not likewise object on the ground that he seems to be preparing the bank for sowing? — Rather, the [practical] difference between them is where he takes [the mould] from the trench and throws it outside. According to the one who says that [it is] because he seems to be preparing the banks for sowing, there is no objection, whereas according to the one who says that [it is] because he seems to be spading, there is [still an objection]. But, he who takes the view that he seems to be preparing the banks for sowing, should he not likewise admit the objection that he seems to be doing spading? — [No,] because one who does spading, as soon as he takes up a spadeful he puts it down again in its place.

Amemar taught this [clause of the] Mishnah with the explanation [that R. Eleazar b. ‘Azariah forbids making a channel] ‘because he seems to be doing spading [in his field]’[14] but felt some difficulty about it in view of another statement of R. Eleazar b. ‘Azariah. Could R. Eleazar b. ‘Azariah [said he] have held the view that wherever one seems to be spading [his field],[14] it is forbidden? And he contrasted that with the [statement in the] following [Mishnah]:[15] One may lay up a store of manure [in his field].[14] R. Meir says he may not until he places it either three handbreadths below or three handbreadths above [the surface]. If he had some small quantity [already there] he may go on adding thereto. R. Eleazar b. ‘Azariah says [even then] he may not until he puts it down either three handbreadths below, or raises it three handbreadths above [the surface],[16] or places it on a rock!’ — R. Zera and R. Abba b. Memel [explained this seeming discrepancy], one said: [The latter Mishnah means where], for instance, he has had the place excavated; the other said: [The reason there is because] the manure heap itself attests his intention.[17]

AND [A CHANNEL] THAT HAS GOT OUT OF ORDER MAYBE RE-PAIRED. What is meant by OUT OF ORDER? — Said R. Abba:[18] ‘It means that if it is [now, for instance] but one handbreadth in depth, he may restore it to [a depth of] six handbreadths’. It is obvious that [to restore it] from half a handbreadth to [the original] three, seeing that there was [originally] scarcely any flow of water, it is nothing at all;[19] [to deepen it] front two handbreadths to [the original] twelve[20] which involves extra exertion,[21] is not [allowed]. What about [deepening it] front two [handbreadths] to [the original] seven? [Do we argue that] as in the first instance [it was explained above] he deepens it by five handbreadths, [from one to six], so here he deepens it by five handbreadths [from two to seven];[22] or, maybe that as in this instance he [actually] deepens the channel by an extra handbreadth there is extra exertion, and hence it is forbidden? — It stands undecided.

Abaye allowed the people of Harmek to clear away[23] [the growths obstructing][24] the canal.[25] R. Jeremiah allowed the people of Sacutha to dredge the canal that had become blocked.[26] R. Ashi allowed the people of Matha-Mehasia to clear obstructions from the river Barnis, saying that as the public obtained their drinking water from it it was virtually a [pressing] public need, and we learn: AND ALL PUBLIC NEEDS MAY BE PERFORMED.

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(1) I.e., one may lift vegetables for thinning and improving the crop. If the vegetables pulled up are to be eaten in the course of the festival week, and it should be vocalized to read madlin.

(2) Pe'ah VII, 5. Cf. IV.

(3) מידל from דלל.

(4) V. Lev. XIX, 10; Deut. XXIV, 21.

(5) Because he has no right to handle them, as if they were his.

(6) It is taught.

(7) Grooves, ditchlets, or circular depressions, or trenching drawn around a group of vines. V. n. 5 on Mishnah.

(8) Little hollows, basins.

(9) Tosef. M.K. I, 2. Cf. Ibid. Sheb. I.

(10) A well-known family referred to in Yeb. 21b.

(11) Lit., ‘old ones’.

(12) V. Mishnah 2a.

(13) The flow of water in the trench shows that he has no intention of spading the field.

(14) In the sabbatical year.

(15) Sheb. III, 3.

(16) Here R. Eleazar b. ‘Azariah permits digging in the field in the sabbatical year to prepare a place for the manure store without seeming concern about giving a wrong impression, that he is said to have had in his mind when he prohibited the making of a water channel.

(17) Lit., ‘is the proof for him’. Cf. J.M.K. I, 2. J. Sheb. III, 2.

(18) D.S. react Abbahu.

(19) It is useless work to be done in the festival week (Rashi).

(20) That is, proportionately double, i.e., from one to six and from two to twelve.

(21) V. supra 2a, pp. 3 and 4.

(22) And it should therefore be permitted.

(23) During the festival week.

(24) Projecting from the banks, or weeds choking the canal.

(25) Or stream.

(26) According to J.M.K. I, 2 it was a public bathing pool that had got into disorder at Sacutha and R. Abbahu allowed the repairing to be done in the festival week.

Talmud - Mas. Mo'ed Katan 5a

AND IMPAIRED WATER-WORKS[1] IN THE PUBLIC DOMAIN MAY BE REPAIRED AND CLEANED OUT. [That is to say only] to repair, but not to be dug [afresh]. Said R. Jacob as reporting R. Johanan: This was taught only where there is no public need; but where there is public need[2] for it even [fresh] digging is allowed.

And where there is a public need is digging allowed? Surely it is taught: ‘Wells,[3] ditches or caverns of a private person may be cleaned out, and needless to say, those of the public; but wells, ditches or caverns of the public may not be dug and still less those of a private person'.[4] Does not that mean that [digging is not allowed] even where the public has need of it? — No, [only] where the public has no need of it. Then similarly the reference to a private person is where the private person has no need of it, but in that case is 'cleaning out' allowed? Surely it is taught: 'Wells, ditches or caverns of a private person may have water run into them, but they may not be cleaned out, nor have their cracks plastered; but those of the public may be cleaned out and their cracks may be plastered'? — But what else [are we to say] but that the private person has need of it; in which case [the references to the public is similarly where the public has need of it? But where the public has need of it, is digging forbidden? Surely it is taught: 'Wells, ditches or caverns of a private person may have water run into them or be cleaned out; but their cracks may not be plastered, nor may the scourings be put into them,[5] nor may they be plastered with cement. But those of the public may be dug and plastered with cement'.[6] But [if so], the first [Baraitha] is difficult. Explain it thus: 'Wells, [ditches or caverns] of a private person [may be cleaned out]' — providing he has need of them, 'and needless to say those of the public' — when the public has need of them, as then, even digging is allowed.[7] 'But wells, ditches or caverns of the public are not to be dug' — when the public has no need of them, 'still less, those of a private person', as when a private person has no need of them, even cleaning out is not allowed. R. Ashi remarked: Our own Mishnah is also precisely worded [to the same effect] as it states AND ALL PUBLIC NEEDS MAY BE PERFORMED. What is the force of ALL? Is it not meant to include digging? — No; it is to include [other instances] such as are taught [in the following]: 'They [Public Commissioners] go forth to clear the roads of thorns, to mend the broadways and [main] highways and to measure the [ritual] pools; and if any [ritual] pools be found short of forty [cubic] se'ahs of water[8] they train a continuous flow into it [to ensure] forty se'ahs'. And whence do we know that if they did not go forth and attend to all these [public needs], then if any blood be shed there [through] this neglect [Scripture] lays [blame] on them, as if they themselves had shed it? From the instructive text, And so blood be upon thee.[9] But surely [the Mishnah does] state these instances expressly: AND ROADS, BROADWAYS AND [RITUAL] WATER POOLS AND ALL PUBLIC NEEDS MAY BE PERFORMED! What else [then] may be included under this word ALL? Is it not digging [afresh if required by the public]? This proves it.

AND GRAVESIDES MAY BE MARKED. R. Simeon b. Pazzi said: Where is an indication in the Torah that gravesides should be marked? In the instructive text: [And when they pass through . . . the land] and one seeth a man's bone then shall he set up a sign by it.[10] Said Rabina to R. Ashi, But who told us that[11] before Ezekiel came? — [Said the other]: Accepting your view, with regard to the statement made by R. Hisda[12] [namely]: This point we do not learn from the law of our Master Moses; we learn it from the words of [prophet] Ezekiel the son of Buzi: No alien, uncircumcised in heart and uncircumcised in flesh, shall enter into My Sanctuary.[13] [We might equally ask], who had told us that before Ezekiel came and stated it? Only, that was first learnt by oral tradition and then Ezekiel came and gave us a textual basis for it; here too, it was first learnt as an oral tradition and then Ezekiel came and gave us a textual basis for it. R. Abbahu suggested that it may be derived from this [text]: And he shall cry, 'Unclean! Unclean!'[14] [That is], impurity cries out [to the passer-by] and tells him, 'Keep off!' And R. 'Uzziel, the grandson of the elder R. 'Uzziel said the same, [that] impurity cries out and tells him, 'Keep off!' But was this [text] intended for this lesson? It is required for what has been taught: And he shall cry 'Unclean! Unclean!'; [this teaches that] one must needs make his distress known to many, that many pray for mercy on his behalf? — If that be so, let the text read 'Unclean' [but once]; why has it 'Unclean', 'Unclean' [twice over]? Infer [from it] the two points. Abaye said [that the rule[15] may be derived] from here: And put not a stumbling-block before the blind.[16] R. Papa said: And he will say, Cast ye up, cast ye up, clear the way.[17] R. Hinena suggested, Take up the stumbling-block out of the way of My people.[17] R. Joshua the son of R. Idi said: And thou shalt show them the way wherein they must walk.[18] Mar Zutra said: And ye shall separate the Children of Israel from their uncleanness.[19] R. Ashi said: And they shall have charge of My charge,[20] [which implies], make safeguards to My charge. Rabina said: And to him who ordereth[21] [we-sam] his way will I show the salvation of God.[22]

Said R. Joshua b. Levi, Whoever appraises [ha-sham] his ways [in this life][23] becomes privileged to behold the salvation of the Holy One, blessed be He, for it is said: ‘[And to him] who ordereth his way’.[22] Read not [we-sam][24] who sets [his way], but [we-sham][25] who appraises the worth [of his way], him will I show the divine salvation. R. Jannai had a certain disciple who daily raised critical points [at his college][26] but refrained from raising any critical points at the periodic lectures of the Festival Sabbaths[27]

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(1) Damaged wells or cisterns, etc. Cf. Mishnah n. 6.

(2) Lit., ‘where the public needs them.’ Though there be no immediate need for it, yet ‘cleaning out’ may be done in the festival week.

(3) Or ‘cisterns, pits.

(4) Note the absence of the proviso of ‘need’ in this Baraitha, which seemingly contradicts R. Johanan's quoted comment above.

(5) To fill the cracks.

(6) The first Baraitha, which forbids digging public wells even when the public has need of them, contradicts this latter Baraitha which permits.

(7) In agreement with R. Johanan's ruling.

(8) The minimum quantity of natural flowing water, calculated to allow an average person to go in and submerge himself completely. V. Mak., Sonc. ed. p. 13, n. 2.

(9) Deut. XIX, 10 in conjunction with verse 3, and Num. XXXV, 12 and 25, which was a public charge.

(10) Ezek. XXXIX, 15. This is a mere allusion as the verse refers to the future.

(11) In the Pentateuch, the main source of Law.

(12) V. Ta'an 17a and 17b.

(13) Ezek. XLIV, 9.

(14) The leper, in his state of uncleanness, shall warn those who approach him. Lev. XIII, 45.

(15) For marking off graves.

(16) Lev. XIX, 14. A travelling priest or pilgrim might by stepping unawares on a grave become defiled.

(17) Isa. LVII, 14.

(18) Ex. XVIII, 20.

(19) Lev. XV, 31; which with Num. XIX, 13, 20 has a special bearing on this marking for pilgrims on their way to visit the Temple and celebrate the Passover (Num. IX, 6ff).

(20) Lev. XXII, 9 as referring especially to priests and Levites who are charged again and again with repeated warnings. Cf. Num. XVIII, 3,4,5.

(21) In the sense of marking off the unclean paths for the people to avoid.

(22) Ps. L, 23.

(23) Some texts add these words.

(24) From the root שׂם to put, place, set out, e.g., Ex. XXI, 13 and especially Isa. XLIII, 19.

(25) From the later Hebrew שׁם, to estimate, the value or worth of an object or claim.

(26) Often this task was assigned to the most prominent member of the college or the Vice-principal.

(27) When many strangers were gathered to hear the master on the topics of the day. Cf. B.M. 97a.

Talmud - Mas. Mo'ed Katan 5b

. He [R. Jannai] applied to him the text: And to him who ordereth his way will I show the salvation of God.[1]

Our Rabbis taught: ‘No markings are made to indicate [the presence of] a piece of flesh[2] [from a corpse] no larger than an olive, nor of [human] bone no larger than a barley-corn,[3] nor of any [human] remains which do not diffuse defilement under ‘tent’.[4] But markings are made to indicate [the presence of] a [human] spine, a skull or the major members of a skeleton or the major number of lesser bones thereof.[5] And the markings are not made in cases of certainty[6] but [only] in cases of uncertainty. These are [instances of] uncertainty: Leafy bowers,[7] jutting ledges[8] and a Peras-area.[9] And the markings are not placed on the site of the impurity [itself], in order to avoid wasting what is [preserved as] pure;[10] nor is the marking placed far away from the spot, in order to avoid wasting any space[11] of the Land of Israel'.[12] But does not flesh of an olive's size from a human body diffuse defilement under a tent? For we learned: 'The following diffuse defilement by tent [overspreading]: Flesh of an olive's size from a human dead body . . .'! — Said R. Papa, We speak here of an olive's size precisely which after all shrinks [to less]: far better is it that terumah and other meats that are pure[13] should be burnt [unnecessarily] on one occasion[14] than that they should be burnt continuously.[15]

And these are [instances] of uncertainty: Leafy bowers and jutting ledges.[16] 'Leafy bowers' [means] a tree which overspreads the ground[17] and 'jutting ledges' are [stones][18] projecting from wall enclosure.[17] 'And a Peras-area': as we learned: 'One who runs a plough over a grave makes the site a Peras-area'; and how much thereof has he thus affected? The full length of a furrow, one hundred cubits [each way].[19] But does a Peras-area convey defilement by tent? Surely, Rab Judah, citing Samuel, said that one [a pilgrim] may walk across a Peras-area cautiously fanning his way [in front of him]![20] Moreover, R. Judah b. Ammi, in the name of 'Ulla, said that a Peras-area which has been [much] trampled is [considered as] clean?[21] — Said R. Papa: 'This [discrepancy] is not difficult [to explain]. The former statement refers to a field where a grave has become lost;[22] whereas the latter refers to a field where a grave had been run over by the plough'.[23] But is a field where a grave has been lost[24] [correctly] called a Peras-area? — Yes [indeed], for we learned: 'There are three kinds of Peras-areas — [a] a field where a grave has been lost[25] [b] a field where a grave has been run over by the plough[26] and [c] the weepers' field'.[27] What is the weepers' field? — R. Joshua[28] b. Abba explained in the name of 'Ulla that it is a field where they bid final farewell[29] to the dead. And wherefore [is it held as a defiling area]? — Said [R. Hisda, as reporting][30] Abimi, [It is] because there is here a possibility[31] of abandoned ownership.[32] But does not a field where a grave has been run over by the plough require to be marked? Surely it is taught: 'If one came upon a marked field without knowing its character,[33] then if there are trees on it,it is thereby indicated that a grave in it had been run over by the plough;[34] if there are no trees, it is thereby indicated that a grave has been lost in it.[35] R. Judah says: [The presence of trees is no criterion] until there is some elder or disciple [to attest it], for not all are well versed on the subject [of proper markings]'! — Said R. Papa: What is taught in this [latter Baraitha] refers to a field in which a grave had been lost, and which had [consequently] been marked. If there are trees on it, it is thereby indicated that a grave had been run over by the plough [subsequently]; if there are no trees on it, it is indicated that a grave had been lost in it.[36] But is there not a danger that the trees are situate within the field and the grave was outside?[37] — as 'Ulla said [elsewhere that we speak of a case where][38] the trees are situate on the boundaries [of the field] here likewise they were situate on the boundary line.[39]

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(1) In appreciation of his disciple's thoughtful considerateness towards himself on those special public occasions. Cf. Ta'an. 9b and B.K. 117a.

(2) As flesh soon shrinks to less than its (traditional) minimum size of an olive and is then impotent to cause defilement without direct contact, Num. XIX, 13-16; Ohal. II, 3.

(3) Which is (traditionally) the minimum size for human bone to cause defilement by direct contact. V. references in previous note and Tosaf. s.v. עצם.

(4) Anything extending to one handbreadth over dead human remains represents the 'tent' of Num. XIX, 14, to diffuse defilement without contact, unless it is less than the minimum size.

(5) Any of these enumerated defile under cover without coming into direct contact with the object or grave. Any covering to the extent of one handbreadth, say his coat tail or sleeve spread, or hanging down over the spot, is enough to defile him, even if neither he nor his garment touch the unclean thing or spot.

(6) As people take care of their own accord not to run the risk of personal defilement or the loss of sacred meats.

(7) Lit., 'coverings', arbours, groves, avenues or single trees whose thick branches are full of folliage, constitute a 'tent', to spread the defilement to the walker; cf. Tosaf. s.v. אילן.

(8) E.g., stone copings, boards and ledges projecting from cemetery walls each way within and without, constitute a ‘tent’. These are doubtful, as one is not certain whether there is a corpse near by within.
(9) Defined lower down. On the term v. Pes., Sonc. ed. p. 492, n. 4.
(10) Which may be brought close to the grave and defiled before one is aware. To those pure’ things belong e.g., the priest's due — terumah ‘first-fruits’, ‘second tithe’, etc. Cf. Num. XVIII, 11-13;26-30.
(11) I.e., declaring any of it unclean unnecessarily.
(12) Cf. Sot. 30b.
(13) Reading טהרות (instead of קדשים), as holy sacrificial meat is not carried about.
(14) While the human dead flesh, soon after the burial is still of the size potent to defile.
(15) Through the unnecessary space included in the marking. Holy food or drink (wine, corn, fruit and oil) could not be given away or thrown away, it had to be burnt.
(16) Explaining the above technical terms.
(17) Near a cemetery; Ohal. VIII, 2.
(18) The word ‘stones’ is omitted in the above Baraitha as the fence or wall enclosure may be any of other materials.
(19) Ibid. XVII, 1. (Cf. ‘furlong’ as the length of a furrow).
(20) With bellows or a spade to blow away from his path, without touching any piece of splintered bone cast up by the plough. They used to bury the dead in a very shallow grave, barely three handbreadths under the surface, which were therefore easily exposed. Cf. Tosaf. s.v. מנפה and Ohal. XVIII, 5.
(21) And need not be marked or avoided. (Han.).
(22) And, as it cannot be located, the whole field is considered a place of defilement.
(23) The plough, we assume, crushes the bones rendering them impotent to communicate tent-defilement.
(24) So according to Wilna Gaon. Cur. edd., that was ploughed over.
(25) Ohal. XVIII, 3.
(26) Ibid. 2.
(27) Ibid. 4’
(28) Better D.S.; ‘R. Hoshaia in the name of ‘Ulla’.
(29) The ‘broad place’ or forum provided on the cemetery.
(30) So D.S. and Ritba.
(31) Lit., ‘a touch of’, contingency.
(32) Loose limbs may have been dropped in transit, which the mourners being unable to identify, leave abandoned. On the practice of collecting bones after temporary burial and transferring them to their permanent place of rest v. infra 8a and Ber. 18a.
(33) Whether a grave had been lost in it, and the field cannot then be traversed by ‘fanning’, or whether the grave had the plough run over it in which case it may be traversed by ‘fanning’.
(34) For the sake of the trees, this shows that a field in which a grave had been run over by the plough is marked.
(35) As such a field is not to be planted, Ohal. XVIII, 3; Tosef. Ohal. XVII.
(36) And had not been ploughed over.
(37) I.e., where the soil had not been ploughed, so that it is treated like a field wherein a grave had been lost.
(38) Ned. 42b.
(39) And since dead are not buried on the road, the grave must be among the trees and has been run over by the plough, when the field has been tilled for the good of the trees.

Talmud - Mas. Mo'ed Katan 6a

But perhaps the defilement lies within the field while the trees stand on the outer sides [of it]?[1] — They were planted irregularly.[2] Or, if you like, I may explain by what was said above: Nor is the marking placed far away from the spot, in order to avoid wasting any space of the Land of Israel.[3]

‘R. Judah says [the presence of trees is no criterion] until there be some elder or disciple [to attest that it has been ploughed], for not all are well versed in the subject [of markings]’. Said Abaye: You may infer from here, that when a scholar is resident in a place, all local matters devolve upon him.

Said Rab Judah: If one comes across a [single] stone which is marked [with lime], the space under it is defiled; if two stones [with markings] then if there is lime on the space between them, the space between is defiled, and if there is no lime between them, the intervening space is clean, even though there is no [sign of] tilling [there]. But surely it is taught: 'If one comes upon one stone which is marked, the space under it is defiled, if on two stones, if there is tilling between them, the intervening space is clean, if not, it is defiled'? — Said R. Papa. Here [it is a case where] the lime had been poured on top of the stones and got spread here and there. [Now] if there is any tilling [in the space] between them, [the space] between is clean, because it may be presumed that the [splashed] lime had got peeled off by the tilling; whereas if there is not [any trace of tilling] the lime is intended to mark the space between and it is 'defiled'.

Said R. Assi:[4] If one boundary is marked, that side [alone] is 'defiled', but the rest of the entire field is 'clean'. If two [are marked] those [alone] are 'defiled', but the rest of the entire field is 'clean'; if three [are marked], those are 'defiled', but the rest of the entire field is clean; if the four [boundaries are marked] they are clean and the entire field [within] is 'defiled',for the Master[5] said: 'Nor is the marking place far away from the spot, in order to avoid wasting space of the Land of Israel'.[6]

AND [PUBLIC COMMISSIONERS] SET OUT [ALSO] TO INSPECT DIVERSE SEED-CROPS. But do we set out for inspecting seed-crops during the festival week? This is contradicted by the [following]: On the first of Adar announcements are made about the [contribution of] shekels and about the diverse crops. On the fifteenth thereof the scroll [of Esther] is read in the [ancient] walled cities and [commissioners] go forth to clear the roads of thorns, mend the broadways, measure the [ritual] water-pools and to perform all public needs, and they mark the gravesides and go forth to inspect the diverse seed-crops?[7] — R. Eleazar and R. Jose b. Hanina [gave differing explanations], One said, The latter statement speaks of earlier crops,[8] the other of later[9] crops; the other said, In one case[8] [they go out to attend] to grain crops, in the others to vegetable crops.

R. Assi, reporting R. Johanan said: The rule laid down [in the Mishnah] applies only when the sproutings [of the season are late and] had not become recognizable[10] [before then]; but where the sproutings had become recognizable [before], they went forth about them [even earlier].

Why do we particularly set out during the festival week? R. Jacob reporting R. Johanan explained that it was because the wages given for labour are then low with us.[11]

R. Zebid, or some say, R. Mesharsheya said: From the afore — mentioned [explanation] you may infer that when pay was given,[12] it was given them out of the Terumah of the [Shekel] Chamber;[13] for if you should suppose that they [the owners of the fields] themselves paid, what difference does it make to us? Let them pay whatever they ask.[14]

And how much [constitutes an admixture]?[15] Said R. Samuel b. Isaac, The same as we learned:[16] Every se'ah of seeds that contains one quarter [of a kab][17]

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(1) And the grave has not been disturbed at all. What is the indication of the trees in such a case?

(2) Not in even rows, but promiscuously and thus the whole site had to be disturbed by the ploughing.

(3) [And since the marking is in proximity to the trees, it is evident that the defilement lay between the trees].

(4) Explaining the precise principle and system of marking, by confining the markings close to the spot of defilement.

(5) In the Baraitha, supra 5b.

(6) [Consequently where the whole field was defiled the whole of the four boundaries had to be marked. As to the cleanliness of the boundaries themselves, v. Tosaf. s.v. אמר.]

(7) Shek. I, 1. Meg. 13b.

(8) In mid Adar.

(9) In our Mishnah again directing it to be done in mid Nisan during the festival week.

(10) Cf. e.g., Ex. IX, 32.

(11) As ordinary work, apart from emergencies, is suspended during the festival week.

(12) For the work.

(13) V. Shek. III, 1.

(14) As this was a punitive campaign against the inobservant, let them be mulcted.

(15) What quantity of diverse seeds necessitate; the pulling up of the (offensive) crop?

(16) In reference to initial sowing, Kil. II, 1.

(17) A se'ah contains six kabs and a quarter of a kab's admixture is therefore one twenty-fourth of the se'ah, or enough seed to be sown in a field of 50 X 50 cubits.

Talmud - Mas. Mo'ed Katan 6b

of another kind must be reduced.[1] But it is taught: They [the authorities] introduced a rule that they should declare ownerless the [crop of the] entire field? — That is not difficult [to explain]. The former [Mishnah] states the practice before the [new] rule, while the latter [of the Baraitha] gives the practice after the [introduction] of the rule, as it is [distinctly] taught: Formerly they [the public commissioners] used to uproot [the diverse-crop], throwing it to the cattle, at which the owners were doubly pleased, for one thing that they weeded their fields for them, and again that they threw [the forbidden crop] to the cattle; thereupon they made a [new] regulation that they should pull up [the forbidden crop] and cast it on the road. And still the owners were greatly pleased, because they weeded their fields. Thereupon they instituted that they should declare ownerless the crop of the entire field.[2]

MISHNAH. R. ELIEZER B. JACOB SAYS: WATER MAY BE DRAWN FROM [ONE] TREE TO [ANOTHER] TREE,[3] PROVIDED THE WHOLE FIELD IS NOT WATERED IN THIS WAY.[4] SEEDS[5] THAT HAVE NOT HAD [ANY] DRINK BEFORE THE FESTIVAL WEEK MAY NOT BE WATERED DURING THE FESTIVAL WEEK.[6] THE SAGES HOWEVER ALLOW IT IN BOTH THE ONE CASE AND THE OTHER.[7]

GEMARA. [NOT...THE ENTIRE FIELD]. Said Rab Judah,[8] If the field has a clayey[9] soil he may [water it].[10] It is likewise taught:[11] When they said[12] that it is forbidden to water them during the festival [week], they referred only to seeds that had not drunk before the festival; but seeds that had drunk before the festival may [again] be watered during the festival [week]; and if the field was a clayey soil, it is allowed [to water it]. And a bare[13] field is not watered during the festival [week]; but the Sages allow it[14] in the one case and in the other. Said Rabina: You may infer from here that a garden plot may be sprinkled[15] in the festival week. For in the case of a bare field, why is it [permitted]?[16] Because it just quickens a tardy soil; here too, it just quickens a tardy soil.

Our Rabbis taught: ‘A white field may be sprinkled[17] in the sabbatical year, but not during the festival [week]’. But it has been taught: It may be sprinkled either in the sabbatical year or during the festival [week]?[18] — Said R. Huna, This [discrepancy] is not difficult [to explain]; the former [quotation] states the view of R. Eliezer b. Jacob[19] and the latter that of the Rabbis.[20]

Another [Baraitha] taught: A white field may be[21] sprinkled in the pre-sabbatical year so that the greens may sprout in the sabbatical year. Nay, more, a white field may be[21] sprinkled in the sabbatical year, so that the greens may sprout [better] in the post-sabbatical year.

MISHNAH. MOLES AND MICE MAY BE TRAPPED IN A TREE-FIELD OR WHITE FIELD IN THE USUAL WAY[22] DURING THE FESTIVAL [WEEK] AND IN THE SABBATICAL YEAR: BUT THE SAGES[23] SAY, IN THE TREE-FIELD IN THE USUAL WAY AND IN THE

WHITE FIELD NOT IN THE USUAL WAY: AND A BREACH MAY BE BLOCKED UP DURING THE FESTIVAL [WEEK] AND IN THE SABBATICAL YEAR ONE MAY BUILD IN THE USUAL WAY.

GEMARA. What is ESHUTH?[24] — Said Rab Judah: [It is] a creature which has no eyes. Raba b. Ishmael, some say, R. Yemar b. Shelemia, said, What [may be the] text [for this]? — 'Let them [the wicked] be as a snail which melteth and passeth away; like the young mole [esheth][25] which hath not seen the sun.[26]

Our Rabbis taught: Moles and mice may be trapped in a white field and in a tree-field in the usual way and ants' holes may also be destroyed. How are they destroyed? Rabbah Simeon b. Gamaliel says: Earth is fetched from one hole and put into another and they[27] strangle each other. R. Yemar b. Shelemia said in the name of Abaye, That is [effective] only if [the nests are] situate on two sides of the river; and that [again], if there is no bridge; and that [again], if there is not [even] a [crossing] plank; and that [again], if there is not even a rope [to cross by].

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(1) Or when already sown and sprouting the admixture is to be pulled up.

(2) As a deterrent, s.v. Shek. 1, 3.

(3) If the fruit-trees need it.

(4) I.e., under this pretext.

(5) Grain crops, white and leguminous, in contrast to fruit-trees.

(6) Either because they then require fuller attention, entailing greater exertion, or to discourage leaving the task for this week of leisure.

(7) The Sages disagree in both clauses of the Mishnah, i.e., that they do allow watering the entire orchard by training from tree to tree, and allow watering seeds even if they had not been watered before the festival.

(8) D.S.: R. Huna.

(9) 'Trees, shrubs . . . generally thrive better in heavy soil'. 'Clays are especially of a pourous nature and consequently retentive of water and plant food'. H. J. Webb, Element, Agriculture, 1896, p. 20.

(10) Otherwise the soil goes hard.

(11) Var. lec. insert, R. Eliezer b. Jacob said.

(12) R. Eliezer b. Jacob and those who share his view.

(13) I.e., a plot uncultivated at the moment; cf. Pes. 55a and Lewin Otz. Hag. IV, 3, No. 6, p. 10.

(14) Both in the case of seeds that were not watered before the festival, and in the case of a bare field when an extra chance supply of water occurs, thereby to fit the soil for its turn to be sown or planted.

(15) By hand, jug or watering pot but not by regular irrigation, I.e., running the water into the field by ridges or channels.

(16) According to the Rabbis. So taken in Otz. Hag. l.c. and Tosaf. here s.v. ר,י but Han. explains differently.

(17) Of cereals and legumina. Rashi here takes it as a Baal-field, i.e., one favourably situated as regards rain and sunshine.

(18) This is in agreement with Rashi and Tosaf. according to the reading in our text. Var. lec.: 'May not be sprinkled... neither in the sabbatical year nor during the festival (week)'. V. Han. Alfasi. The reading is discussed by the Tosafist R. Shimshon (b. Abraham) of Sens in his commentary on Sheb. II, 10.

(19) Who disallows (in the Mishnah) watering the whole field in the festival week (and sprinkling marrows with 'white earth' even in the sabbatical year). Sheb. II, 10 q.v.

(20) Both in our Mishnah and in the first cited Baraitha, as regards the tree-field and seeds.

(21) Tosef. Sheb. II, 1 reads 'a field'.

(22) Mishnah texts read here 'not in the usual way'.

(23) Var. lec. R. Judah; v. Gemara infra. Obviously, it is ultimately the view adopted by the Sages. 7a.

(24) The Hebrew word for 'moles' in the Mishnah.

(25) Biblical Hebrew for Eshuth.

(26) Ps. LVIII, 9.

(27) The ants of the two nests not knowing each other.

Talmud - Mas. Mo'ed Katan 7a

How much [apart]? — Up to a parasang.[1]

R. JUDAH[2] SAYS: IN THE TREE-FIELD IN THE USUAL WAY AND IN THE WHITE FIELD NOT IN THE USUAL WAY. Our Rabbis taught: How is the usual way? He digs a hole and suspends a trap in it. How is the unusual way? He drives a stake [into the spot] or strikes it with a pick and flattens out the soil underneath.[3] It is taught: R. Simeon b. Eleazar[4] says, When they[5] said, [‘And in the white field not in the usual way’], they said it only in reference to a white field situate near the city; but in a white field that is situate near a tree-field [they may trap them] even in the usual way, lest these [pests] come away from the white field and destroy the tree-field.

AND A BREACH IS BLOCKED UP DURING THE FESTIVAL [WEEK]. How is it ‘blocked up’? — Said R. Joseph: With [a hurdle made of] twigs and daphne stakes. In a Baraitha it is taught: ‘Loose rubble is piled up without being plastered with clay.[6] Said R. Hisda, This[7] is taught only with regard to a garden wall,[8] but the wall of a court[9] is built in the usual way. Might one suggest that the following supports him: A wall that is bulging out into the public domain may be pulled down and built in the usual way, because it constitutes a danger [to the passers-by]![10] — [Not necessarily]. There the reason is as stated: ‘Because it constitutes a danger’. Some [put the argument] as follows: Come and hear: A wall that is bulging out into the public domain may be pulled down and built in the ordinary way, because it constitutes a danger. That is, where it constitutes a danger he may, but if it is not a danger he may not build. May we see in this a confutation of R. Hisda? — [Not necessarily], as R. Hisda might reply: There[11] he may ‘pull down and build’, whereas here[12] he may build[13] but not pull down. Then let one in that case[11] likewise [merely] pull down[14] and not build![15] — If so, he might refrain even from pulling down.[16] R. Ashi said: Our Mishnah, here, gives an indication to the same effect,[17] for it states: BUT IN THE SABBATICAL YEAR, ONE BUILDS IN THE ORDINARY WAY. Now of what is it [that he may block up the breach]? If it means [the wall of] his courtyard, does this need to be stated?[18] It can only be, therefore [a breach in] his garden [wall] although he might seem to be doing it in order to safeguard his fruits.[19] You can infer it [from this].

MISHNAH.[20] R. MEIR SAYS: AN [INITIAL][21] INSPECTION OF LEPROUS SYMPTOMS MAY BE MADE [DURING THE FESTIVAL ‘WEEK][22] FOR [THE PRIEST TO MAKE] A LENIENT PRONOUNCEMENT[23] [ON THE FINDINGS], BUT NOT TO MAKE A SEVERE[24] PRONOUNCEMENT; BUT THE SAGES SAY: [IT IS TO BE MADE] NEITHER FOR A LENIENT NOR FOR A SEVERE PRONOUNCEMENT.[25]

GEMARA. It is taught: R. Meir says that an inspection is made [during the festival week] to make a lenient pronouncement but not for a severe one. R. Jose says: Neither for making a lenient nor a severe pronouncement;[26] as, if you arrive at the necessity of having to make a lenient pronouncement [on the findings] you are [likewise] bound to make a severe pronouncement. Said Rabbi: R. Meir's statement seems appropriately applied to the case of an [observational] detention[27] and R. Jose's to that of a decided leper.[28]

Said Raba, In the case of one who is [as yet nominally] ‘clean’,[29] all are agreed that he is not examined.[30] In regard to one under preliminary [observational] detention, all agree that he is examined;[31] where a difference of opinion arises is

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(1) Four Roman miles.

(2) V. Mishnah note.

(3) I.e., rams it down to flatten out the tunnelled cavities.

(4) Sheeltoth reads: R. Eleazar b. Jacob. Our reacting, however, is well attested.
(5) The Sages (adopting R. Judah's view).
(6) Cf. infra 11a.
(7) The ruling that he may merely block it up but not build in the usual way.
(8) Which can wait, as not much damage or loss could be caused by this temporary delay.
(9) As the Talmudic saying goes: ‘The breach invites the thief’ (Suk. 26a, SBH), or the possible loss of cattle or poultry, by straying.
(10) Tosef. I, 4; infra 13a.
(11) The case of a dangerous wall.
(12) Where there is no public danger.
(13) If it had already broken down.
(14) Just remove the danger.
(15) During the festival week, as in the other private case.
(16) It is therefore ultimately a case of public need which may be performed during the festival week. Cf J.M.K. a.l., ‘R. Hananiah in the name of R. Johanan (said), They permitted the last act thereof by reason of the first (the danger)’.
(17) As R. Hisda's interpretation.
(18) That he may build it in the ordinary way (cf. the discussion above).
(19) ‘Yet he may in the usual way in the Sabbatical year, but not in Festival week’.
(20) The technical points involved in the discussion of this Mishnah bearing on the diagnosis of the symptoms of (biblical) leprosy and the treatment of the patient are the following: (a) The diagnosis may be made by any expert, priest or layman, ‘save that the pronouncement of "cleanness" or "uncleanness" is assigned to the priest: if the priest be told that the man is "clean", he pronounces him clean; if he be told the man is "unclean", he pronounces him unclean’. Neg. III, 1. (b) On the findings of the first inspection the priest pronounced the patient either (i) as ‘clean’ and discharged, or as ‘unclean’, to be isolated; and (ii) in some cases of doubt, to be remanded for seven days’ observational detention. Cf. Lev. XIII, 2-4ff; Neg. III, 3-4. (c) After a second inspection in doubtful cases, the priest pronounced the patient either ‘clean’ or ‘unclean’ as before, or if still in doubt a further remand for seven days’ observational detention. Cf. Lev. ibid. 5-8; 13-17; Neg. ibid. 5-6. (d) On the third and final inspection he declared him ‘clean’ and discharged or ‘unclean’ to be isolated, until he recovered from his affection. During these periods the patient was allowed to consort with his wife. (e) On his recovery the patient went through two ritual purifications, (i) a preliminary, outside the town and returned home for seven days, during which, however, he was not to consort with his wife; cf. Lev. XIV, 2-8; Neg. XIV, 1-2. He then went through a second ritual purification which admitted him to the sanctuary for the sacrificial rites. Lev. XIV, 9ff; Neg. ibid. 3 and 7ff.
(21) בתחילה seems best omitted here, as seems apparent from Raba's comment infra, and other ancient texts, e.g., Asheri and commentaries of Alfasi, although our editions of Alfasi as well as the Mishnah texts (Babylonian and Palestian) have it. V. Heller, Tosaf. Yom Tob and particularly Dr E. Baneth's full critical examination in his commentary on the Mishnah, Berlin,, 1925, Pt. II, p. 161, n. 26.
(22) This (bracketed) expression is in the Mishnah text and is essential here.
(23) If the findings warrant it, to pronounce him ‘clean’; and if not, to withhold the adverse pronouncement pending the festival.
(24) If the symptoms are unfavourable, to order an observational detention (first or second), or his isolation as a confirmed ‘unclean’ leper. Cf. supra, n. 11, b, c, and d.
(25) I.e., no inspection is to be made during the festival week.
(26) I.e., the view adopted by the Sages (in the Mishnah).
(27) V. p. 35, n. 3.
(28) After the first or second detention. V. the following discussion by Raba.
(29) I.e., who has not yet submitted to an inspection.
(30) During the festival.
(31) If he is pronounced ‘clean’ he is happy; if he is remanded for a second period he is no worse off.

Talmud - Mas. Mo'ed Katan 7b

in the case of one under a second [observational] detention: one Master [R. Meir] considers that it is left to [the discretion of] the priest, so that if the patient is [found] ‘clean’ he declares him ‘clean’, and if he is [found] ‘unclean’ he holds his peace; while the other Master [R.Jose] considers that, [since] it is written: [This is the law of the plague and leprosy. . .], to pronounce it clean or unclean,[1] [the priest has no choice].[2]

The Master said: Said Rabbi, R. Jose's statement seems appropriately applied to the case of a decided leper[3] and R. Meir's to one under [observational] detention.[4] But the reverse[5] is taught [elsewhere]? — Both versions are [variant] tannaitic interpretations of Rabbi's observation. One [authority][6] is of the opinion that the patient prefers the company of the world at large[7] [during the Festival], while the other [authority][8] holds that he prefers to retain his wife's company.[9]

Is that to say that [according to Rabbi][10] a confirmed leper may have the use of the [conjugal] bed? — [Yes], it is taught: But he shall dwell outside his tent seven days,[11] [that is] he shall be[12] precluded from the use of the [conjugal] bed; for ‘tent’ means nothing but [living with] his wife, as it is said: Go, say unto them, return ye unto your tents.[13] R. Judah says:[14] [It is written,] [And after he is cleansed] they shall reckon for him seven days,[15] [which implies that he is precluded only] while counting his seven days [‘after he is cleansed] but not while he is a confirmed leper’. R. Jose b. Judah says: ‘[I take it to mean he is precluded] while counting seven days [and] all the more so while he is a confirmed leper’. ‘And’ ‘said R. Hiyya: ‘I argued on this point before Rabbi’. Our Master! [said I], You taught that [King] Jotham could not have been born unto Uzziahu[16] save during the time that he was a confirmed leper,[17] [to which] Rabbi replied, ‘and I said so too’.[18]

Wherein do they differ? — R. Jose b. Judah argues that as the All Merciful has plainly indicated[19] that a convalescent leper [‘shall dwell outside his tent’][20] while counting his seven days [of preliminary ritual purification] it is all the more [to be expected that he be apart from his wife] while being in the state of a confirmed leper; and the [other] Master [Rabbi] argues that what has been plainly indicated is [to be kept as] indicated and what has not been indicated is not [to be assumed as] indicated.[21]

[Reverting to Raba's explanation above], do you mean to say that [the postponement of an unfavourable pronouncement or of the time of inspection][22] is [solely] dependent on the discretion of the priest?[23] — Yea, indeed, as it is taught [in the following]: And on a day when [raw flesh] shall be seen in him [he shall be unclean; and the priest shall lood on the raw flesh and pronounce him unclean],[24] which means that there is a day when you do see it in him as well as a day when you do not see it in him. Hence said they [the Sages] that if a groom developed symptoms of leprosy they grant him [delay of inspection to the end of] the seven days of the [marriage] feast,[25] whether it be his person, or his house[26] or his garment[27] [that is affected]; and likewise [if the symptoms developed] during a festival they grant him [the patient] all[28] the seven days of the festival: thus R. Judah. Rabbi says: There is no need [to resort to this text] as it says: And the priest shall command that they empty the house[29] [before the priest goes in to see the plague that all that is in the house be not made unclean].[30] Now if [the inspection is] here delayed for his convenience, which is just an optional [matter],[31] may it not all the more be deferred for his [due observance of a] religious obligation?[32] What is the [actual] issue between them? — Said Abaye: Merely the different expository results obtained by each from his text. And Rab said, it is the delay of inspection in an optional [matter][33] that is the issue between them, R. Judah [holding] that from the [other] text [cited above by Rabbi][34] we cannot learn [this],[35] as it is an anomaly,[36]

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(1) Lev. XIII, 59.

(2) And he must declare one or the other, according to his findings.

(3) To make no inspection so as to avoid the adverse decision being given in the festival week.

(4) The order of the statements is reversed but not the substance.

(5) Viz., that R. Jose's ruling is appropriate to a case under second observation and R. Meir's to that of a confirmed leper.

(6) The second Baraitha which regards the view of R. Meir as appropriate to a confirmed leper and that of R. Jose to a case under second detention.

(7) Thus: R. Meir, having in mind a confirmed leper, says: ‘Inspect him now to mitigate his plight. If he is still a leper, he loses nothing. If he is found cured, he can at once get back to the town by beginning his first ritual cleansing; and although he has thereupon to part from his wife for seven days, he does not mind it as he prefers to get back to his friends in town’. And R. Jose, thinking of the case of a second detention, says: ‘No inspection! For if you find him a leper you must confirm him as such and send him into complete isolation, right away from everybody (save from his wife)’.

(8) The first Baraitha quoted.

(9) Thus: R. Jose, thinking of a confirmed leper says: ‘No inspection! For if you examine and find him clean" (cured), he must at once begin counting seven days of his ceremonial cleansing (referred to infra) and live apart from his wife. Leave him alone, therefore, just now; he prefers his wife's company to getting back to the town’. And R. Meir, thinking of a case of second observation, says: ‘Examine him to ease his plight. If you find him "clean" (cured) he is happy with the favourable decision; if "unclean", (make no pronouncement just yet, or) even if you declare him a confirmed leper and he had to be strictly isolated, he will not be much worse off, as he still retains his wife's company’.

(10) As implied in the discussion.

(11) ‘And he that is to be cleansed shall wash his clothes . . . and bathe himself in water and he shall be clean; and after that he may come (back) into the camp, but he shall dwell . . ., Lev. XIV, 8.

(12) Var. lec. (v. D.S., Han.) add here: ‘As one under a ban and as a mourner and’; cf. infra 15b.

(13) Deut. V, 27, which is taken to mean the removal of the injunction, ‘Come not near a woman’ before the theophany. Ex. XIX, 14-15 and Bez. 5b.

(14) I.e., Rabbi, as in the texts of Sifra, ad loc. ed. Weiss, 71b and RID (R. Jacob David of Wishogrod) ed. Warsaw 1866, p. 61 and Yalk. ¤ 561.

(15) Ezek. XLIV, 26. Although that passage speaks of the ceremonial cleansing after contact with the dead — cf. Num. XIX, II, 12ff, 19 — it is taken exegetically, as having also a bearing on the leper's ceremonial cleansing. Cf. p. 35, n. 11e.

(16) According to calculation. V. Rashi on II Kings XV, 1; and Tosaf. s.v. יותם.

(17) Cf. II Chron. XXVI, 19ff, and II Kings XV, 5.

(18) That a leper may consort with his wife while a confirmed leper. This proves that Rabbi permits a confirmed leper the use of the conjugal bed.

(19) Lev. XIV, 8 and Ezek. XLIV, 26.

(20) Avoid marital connection.

(21) There is no need or warrant to extend the restriction. V. Tosaf. s.v. מאי.

(22) During the festival week, in a case of a second observational detention, as suggested by Raba.

(23) And not on the condition of the patient, or the ruling of Holy Writ which fixes definite periods for inspection and detention.

(24) Lev. XIII, 14-15. The first part is rendered here according to the needs of the exposition.

(25) Cf. Gen. XXIX, 27-28 with Nahmanides’ commentary a.l. also J. Targum a.l.

(26) Lev. XIV, 35-38.

(27) Ibid. XIII, 47,50ff.

(28) Mishnah, Sifra and Han. read ‘all the days . . ., which is more correct than our text, as Shabu'oth is shorter and Tabernacles is longer than seven days.

(29) Affected by symptoms of leprosy.

(30) Lev. XIV, 36.

(31) To save his effects in the house from becoming involved in defilement by the priest's declaration.

(32) Marriage is ordained in Gen. I, 22 and II, 24; the joyous observance of festivals is ordained in Deut. XIV, 26 and XVI, 11, 14-15.

(33) In the case of body leprosy (Rashi).

(34) Lev. XIV, 36.

(35) That inspection is delayed in an optional matter.

(36) Lit., ‘novel’, something exceptional altogether. You cannot take an exceptional instance as a basis for argument or deductions.

Talmud - Mas. Mo'ed Katan 8a

inasmuch as wood and stones elsewhere are not subject to [ceremonial] uncleanness whereas here [in a house affected by leprosy] they are [made] subject to uncleanness. And [on the other hand] Rabbi says [that this text] is also needed.[1] For had the All Merciful prescribed [only], ‘And on a day when [raw flesh] shall be seen in him . . .’ I might have said that postponement [of inspection or pronouncement on the findings] is granted only for the [due observance of a] religious obligation, but not for the sake of an optional [matter]; therefore did the All Merciful prescribe also, ‘And the priest shall command’. Again, had the All Merciful prescribed only ‘And the priest shall command that they empty the house . . ., I might have said that [postponement is granted] in the case of these effects [of the house] because the uncleanness is not that of a person, but where the uncleanness is that of a person I might say that the priest should inspect him, [without delay]: therefore it is necessary [to have both texts].

The Master said: ‘There is a day when you do see it in him and there is a day when you do not see it in him. How is this implied? — Said Abaye, If it is just so,[2] the Divine Law should have written: ‘On a day [when]’; what then is the [import of] ‘And on a day [when]’? From this you infer that there is ‘a day’ when you see in him . . . and there is ‘a day’ when you do not see . . . in him. Raba said: The whole text[3] is redundant altogether for if it be just so,[4] Divine Law might have had ‘And when [raw flesh] is seen [in him]’. What then is the import of the [amplification] ‘And on a day’?[5] From this infer that there is a day when you do see it in him and there is a day when you do not see it in him.[6] And Abaye?[7] He needs that [to teach that the inspection is held] by ‘day’, and not at night.[8] And whence derives Raba this [point] ‘by day and not at night’? — It is derived by him from, ‘According to all the sight of the eyes of the priest’.[9] And Abaye? — He needs that [text] to exclude a person blind in one eye [inspecting a leper]. But does not Raba also require this text for that same point? — Yea, [he does] so also. But then, whence [does he derive the point] ‘by day but not at night’? — He derives it from, ‘Like as a plague was seen by me in the house’,[10] [that is, seen] by me, not by [the aid of] my [candle] light. And Abaye?[11] — If he did learn from there, I might have said that these [restrictions] obtain [only] where the uncleanness is not personal [of one's body]; but where uncleanness is that of the body, [it may be inspected] also by one's [candle] light. [Therefore] the [original] text[12] conveys it to us [best].

MISHNAH. FURTHERMORE R. MEIR SAID, A MAN MAY GATHER[13] HIS FATHER'S AND MOTHER'S BONES,[14] SINCE THIS IS [AN OCCASION] ‘OF JOY’ FOR HIM;[15] R. JOSE SAYS, IT IS AN [OCCASION] ‘OF MOURNING’[16] FOR HIM. A PERSON SHOULD NOT STIR UP WAILING[17] FOR HIS DEAD, NOR HOLD A LAMENTATION[18] FOR HIM THIRTY DAYS BEFORE A FEAST.

GEMARA. AS IT IS A JOY FOR HIM. [The following] was cited in contrast to this: ‘One who gathers his father's or mother's bones holds himself in mourning for them all the day,[19] but in the evening he does not hold himself in mourning for them [any longer].’ And R. Hisda commented thereon, even if he had them by him tied up in a sheet.[20] Said Abaye, I should suggest [it means], ‘because the joyousness of the feast prevails with him’.[21]

A PERSON SHOULD NOT STIR UP A WAILING FOR HIS DEAD: What is the meaning of ‘stirring up a wailing for one's dead’? Rab said: In Palestine [it is customary that] whenever a professional lamenter comes round people say, ‘Let all those who are sore at heart weep with him.

THIRTY DAYS BEFORE A FEAST. Why [just] thirty days? R. Kahana said that Rab Judah as reporting Rab told him that once it happened that a man saved money to ‘go up for the feast’[22] [to Jerusalem] when a [professional] lamenter came and stopped at his door and the wife took her husband's savings and gave them to him, and so he was prevented from going. Then it was that they [the Rabbis] said, One should not stir up a wailing for his dead, nor hold a [funerary] lament for him thirty days before a Feast; but Samuel gave another reason, namely,

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(1) I.e., although Rabbi holds that delay is afforded in the case of body leprosy even for the sake of an optional matter on the analogy of leprosy of houses etc., yet he requires the verse quoted by R. Judah.

(2) To be read just ordinarily.

(3) The word ‘on a day’.

(4) To be read just ordinarily.

(5) Which suggests, ‘yet another day’.

(6) Cf. Yeb. 72b.

(7) Why does he not explain thus the redundant phrase ‘on a day’?

(8) Cf. Shab. 132a.

(9) Lev. XIII. 12, so lit. This implies that it must be held by day when it can be seen well.

(10) Ibid. XIV, 35.

(11) Why does he not derive it from this latter text.

(12) ‘And on a day etc.’ that there is a time when you see etc.

(13) During the festival (week).

(14) It was an ancient custom to give first a temporary burial, and after the flesh had decayed to transfer the bones to a reserved tomb or mausoleum, where they were kept in cedar or marble coffins. Cf. Sem. XII.

(15) To perform a filial duty while he is free to go and ‘bring them home’ to their assigned resting place. There is another possible meaning, see the discussion later.

(16) And should not be undertaken during the festival week.

(17) The meaning apparently is (as explained by Rab later) to join others in lamenting their dead and resuscitate ones own old grief on the occasion. A funeral in the town or village provided a good occasion for such a renewed lament, when professional funerary orators, ‘lamenters’ and female dirge-singers, were available.

(18) I.e., The ceremonial lament for an individual at the time of his death and funeral.

(19) Contrary to R. Meir who allows it during the festival week and furthermore says, ‘it is a joy for him’.

(20) Even if he had not gathered them himself that day, their presence is mournful enough and it is surprising that R. Meir allowed transference and even said ‘it was a joy for him’.

(21) Not that it is an occasion of joy, but that the joy of the festive season prevails in dispensing with formal mourning. Or, that the performance of his filial duty will afford him a sense of satisfaction throughout the remaining festival days (J.M.K.).

(22) On one of the three pilgrim feasts. V. Deut. XVI, 16. Cf. Ex. XXIII, 14ff. ibid. XXXIV, 23. The festival atmosphere is introduced by the study and discussion of its laws thirty days before. Pes. 6b.

Talmud - Mas. Mo'ed Katan 8b

because the dead cannot be put out of mind and heart for [at least] thirty days. What practical difference is there between the two [explanations]? — There is [a difference] between them, where [say], the [professional] lamenter does it without a charge.[1]

MISHNAH. KUKIN[2] AND BURIAL PLACES[3] MAY NOT BE DUG IN THE FESTIVAL [WEEK]: BUT KUKIN MAY BE ADAPTED[4] DURING THE FESTIVAL [WEEK] AND A NIBREKETH[5] MAY BE MADE IN THE FESTIVAL [WEEK] AND A BOX, WITH THE DEAD [BODY] CLOSE BY IN THE COURT [YARD]: R. JUDAH FORBIDS, UNLESS THERE ARE SAWN BOARDS AT HAND.

GEMARA. What are KUKIN and what are BURIAL PLACES? — Said Rab Judah, kukin are [recesses made] by excavation and ‘burial-places’ [are structures made by] building. It is [actually] taught thus: ‘These are kukin and these are burial places: Kukin, are [niches made] by excavation and ‘burial places’ are [structures made] by building’.

BUT KUKIN MAY BE ADAPTED. How are they adapted? — Rab Judah said: If [for instance] one is [too] long it may be shortened. A. Tanna taught: ‘He lengthens or shortens [the recess] within[6] [the cave]’.

AND THEY [MAY] MAKE A NIBREKETH[7] . . . What is NIBREKETH?[8] — Rab Judah said: It is [the same as] bekia’.[9] But then, is it not taught: ‘The nibreketh and the bekia’ [etc.]?[10] — Abaye, or as some say R. Kahana, replied [They have the same relation as] a trough and a troughlet.[11]

AND A RON WITH THE DEAD [BODY] CLOSE BY IN THE COURT [YARD]. We learn here what our Rabbis taught [elsewhere]: ‘They [may] do all that the dead requires, they cut his hair and wash a garment for him and make him a box of boards that had been sawn on the day before the Festival. Rabban Simeon b. Gamaliel says, they [may] even bring trees and he saws them [into] boards in his house, behind closed doors’.

MISHNAH. ONE MAY NOT TAKE A WIFE DURING THE FESTIVAL [WEEK], WHETHER A VIRGIN OR A WIDOW, NOR EFFECT A LEVIRATE MARRIAGE,[12] AS IT IS A REJOICING FOR THE GROOM; BUT ONE MAY REMARRY HIS DIVORCED WIFE. AND A WOMAN MAY MAKE HER ADORNMENTS IN THE FESTIVAL [WEEK]. R. JUDAH SAYS, SHE MAY NOT USE LIME,[13] AS THAT IS A [TEMPORARY] DISFIGUREMENT TO HER. AN ORDINARY PERSON SEWS IN THE USUAL WAY; BUT A CRAFTSMAN SEWS A TUCK-STITCH.[14] AND THE CORDS[15] IN BED-FRAMES MAY BE INTERLACED. R. JOSE SAYS, THEY MAY [ONLY] BE TIGHTENED. GEMARA. [A REJOICING FOR THE GROOM]. And if it is a rejoicing for him, what is amiss? — Said Rab Judah, as reporting Samuel, and so said R. Eleazar, as reporting R. Oshaia — and some say, R. Eleazar, as reporting R. Hanina: — It is [barred], because one ‘rejoicing’ may not be merged in another ‘rejoicing’.[16] Rabbah son of R. Huna said: It is [barred] because he abandons the ‘rejoicing’ of the festival and busies himself with that of his wife. Said Abaye to R. Joseph: That explanation of Rabbah son of R. Huna is the same as that given by Rab. For R. Daniel b. Kattina reporting Rab, said, Whence [is the ruling] that ONE MAY NOT TAKE A WIFE DURING THE FESTIVAL [WEEK]? For it is said, And thou shalt rejoice in thy feast,[17] [that is,] in ‘thy feast’, but not with thy [new] wife [instead]. ‘Ulla said, [It is] because of the exertion [it occasions]. R. Isaac b. Nappaha said, Because it may cause a decline in marriage and parenthood.[18]

An objection was raised: ‘All those who have been declared to be forbidden to take wives during the festival [week]

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(1) According to the former view (of Rab), even if performed gratis it may not be held, as the bitterness and grief are thereby being roused too near the festive time. Cf. Tosaf. s.v. דקא.

(2) כוכין (plural of כוך) are loculi, or recesses, excavated in the sides of a sepulchral cave. V. B.B. 100bff, (Sonc. ed. p. 421ff.)

(3) A sepulchral tomb, mausoleum, built above the ground.

(4) I.e., one of the loculi already excavated may be adapted to receive a particular corpse during the festival week.

(5) נברכת seems to denote a kind of (stone) tank, or trough used by fullers in which they soaked and cleansed soiled woollens. Cf. B.B. 19a. (Sonc. ed. p. 96). From the context however, it is quite obvious as Ritba points out — that here it is not the fuller's trough or tank, but the dead man's sarcophagus, a stone, clay or wooden coffin (box) that is allowed, such as the labella-troughs used as coffins.

(6) Tosef. M.K. I, 9.

(7) V. p. 42, n. 5.

(8) This word (connected with ברכה — the fuller's trench or pool in Isa. VII, 3) is most probably of Assyrian origin as the form with initial N instead of M suggests, cf. מרכבת with narkabtu. V. J.H.

(9) A small hollow creek.

(10) Which shows that they are not identical.

(11) Lit. , ‘son of a trough’.

(12) The marriage of a deceased's brother's widow, if the deceased had died absolutely childless. This was an obligation on the brother to keep his deceased brother's memory alive. Deut. XXV, 5ff.

(13) As a depilatory.

(14) Or with irregular stitches, like a dog's teeth. It means here that a craftsman should not do skilled work, only what is barely needed for the festival week.

(15) Or girths that support the bedding.

(16) I.e., the festival will lose its own significance in the marriage festivities.

(17) Deut. XVI, 14.

(18) Lit., ‘(the precept of) being fruitful and multiplying. If marriages were to be deferred till the festival season when people are free, there would be a likelihood that some might never take place at other times, apart from the congestion that such a practice might cause; and others might come to nothing because of the delay through innumerable other causes. Marriage and parenthood are a primary duty of man and should receive every consideration. Cf. Gen. I, 27-28; II, 18, 24; IX, 1; Isa. XLV, 18.

Talmud - Mas. Mo'ed Katan 9a

are free to marry on the day previous to the festival’, which presents a difficulty to all those authorities. — There is no difficulty: As to one who states [that it is forbidden] because of the ‘rejoicing’, [it may be said that] the main rejoicing [of a marriage celebration] lasts mainly one day.[1] As to the one who states [that it is] because of the exertion [it occasions here too] the main exertion falls on one day.[1] As to the one who says [that it is] because it may lead to a decline in marriage and parenthood, [it may be said] that for the sake of one day[2] a person would not put himself off [indefinitely].[3] Whence do we derive the principle that ‘rejoicing should not be merged in rejoicing’? From the text: So Solomon made the feast at that time and all Israel with him, a great congregation from the entrance of Hamath unto the Brook of Egypt, before the Lord our God seven days and seven days, even fourteen days.[4] Now, if it is the fact that one rejoicing may be merged in another rejoicing, he should have kept back the consecration ceremony [of the Temple] for the time of the feast and then have held it for seven days [concurrently], for both one and the other.[5] Maybe that the rule is [only] that we should not [deliberately keep a marriage] for the time of a festival,[6] but where it so turns out to be [opportune], we might as well hold it then? — [If so], Solomon should have left some small part [unfinished].[7] But perhaps this could not be done because we brook no delay in the building of the Temple![8] — Then he could have left [say], an ell of the Ravens’ Scare Palisade.[9] [But, it may be asked,] The ell of the Ravens’ Scare Palisade was an essential part of the Temple building![10] Rather [it is derived] from [the fact that] the text is redundant. Consider, it is written ‘fourteen days’, wherefore the need of ‘seven days and seven days’? Infer from this that these [first] seven days and those [second] seven days were distinct from each other.

R. Parnak, reporting R. Johanan, said that that year Israel did not observe the Day of Atonement, whereat they were perturbed, saying, that perhaps the enemies of Israel[11] had thereby incurred their doom;[12] whereat a Bath Kol[13] came forth and an nounced to them: ‘All of you are destined for the life of the world to come.[14] What was the basis of their exposition? — They argued a fortiori [thus]: If within the Tabernacle, the sanctity of which was not to be in perpetuity,[15] yet an individual's sacrificial gifts[16] were allowed [at the consecration] to be offered on the Sabbath day,[17] which [ordinarily] is an offence punishable by stoning[18] to death; all the more is it the case [that it is permitted] with the Temple, the sanctification of which is to be for ever, and with public[19] offerings, and that on the Day of Atonement, whose desecration is an offence punished only by kareth! But then, why were they perturbed? — Because there [in the former case] the offerings were brought as dues to the Supreme Being;[20] whereas here, they were brought for their [own] common needs.[21] Then here too, should they not have made their offerings without partaking [on that day] of any meat or drink?[22] — There is no joyous celebration without eating and drinking.[23]

Whence do we know that at [the consecration of] the Tabernacle the Sabbath restrictions were suspended? Shall I say because it is written, ‘On the first day [So-and-so offered] . . . on the seventh[24] day [So-and-so offered], then [say I], maybe it means the seventh day [in the order] of the offerings?[25] Said R. Nahman b. Isaac: The text says, ‘On the day of the eleventh, day’[26] just as a day is continuous, so were the eleven days continuous.[27] But perhaps, it means [continuous] on days appropriate?’ — Then there is yet another such text, On the day of the twelfth day,[28] — just as a day was continuous, so had the whole twelve days been entirely continuous. But that too, maybe means only continuous on days appropriate? — If that be so, why do I require two [peculiarly worded] texts?

Again, whence do we know that during the consecration of the Temple the restrictions of the Day of Atonement were suspended? — Shall I say because it is written, ‘even fourteen days’, maybe it means days appropriate?[29] — That is learnt from the analogy between the repeated word ‘day’ here and in the other place.[30]

‘Whereat a Bath kol came forth and announced to them: "All of you are destined for the life of the world to come".’ And whence know we that pardon was granted them? — For R. Tahlifa taught: [It is written], On the eighth day he sent the people away and they blessed the king and went unto their tents joyful and glad of heart for all the goodness that the Lord had shown unto David His Servant and to Israel His people.[31] ‘To their tents’, that is, they went [home] and found their wives in [a state] of purity[32] [to receive their husbands]; joyful’, that is, that they had enjoyed the radiance of the Shechinah;[33] ‘and glad of heart’, that is, each man's wife conceived and bore him a male child. ‘For all the goodness’ that is, a Bath kol had come forth and announced to them: ‘All of you are destined for the life of the world to come ; That the Lord had shown unto David His servant and to Israel His people’: It is perfectly clear [as to what is referred to] by ‘all the goodness shown to Israel His people’, as indicating that God had granted them pardon for their sin against [the non-observance of] the Day of Atonement; but what is the point of ‘the goodness shown unto David His servant’? — Said Rab Judah, as reporting Rab; At the moment when Solomon wanted to bring the Ark into the Temple, the gates held fast together. Solomon recited [a prayer of] four and twenty [expressions of] intercession[34] but had no response. He began [anew] and said: lift up your heads, O ye gates[35] and again he had no response. As soon as [however] he said: [Now therefore arise, O Lord God . . . Thou and the Ark of Thy strength . . .] O Lord, turn not away the face of Thine anointed, remember the good deeds of David Thy servant,[36] he was answered forthwith.[37] At that moment the faces of David's foes turned [livid] like the [blackened] sides of a pot and all became aware that the Holy One, blessed be He, had pardoned David that misdeed.[38]

R. Jonathan b.’Asmai[39] and R. Judah son of proselyte parents were studying the section of ‘Vows’[40] at the school of R. Simeon b. Yohai. They had taken leave from him in the evening, but in the morning they came and again took leave from him. Said he to them: But did you not take leave of me yesternight? Said they to him: Our Master, You taught us, a disciple who had taken leave from his Master and remained overnight in the city must needs take leave from him once again, for it is said: ‘On the eighth day[41] he [King Solomon] sent the people away and they blessed the King,[42] and [then] it is written: ‘And on the three and twentieth day of the seventh month he sent the people away’.[43] Hence we learn from here that a disciple who had taken leave from his Master and remained overnight in the city must needs take leave from him once again. Said he to his son, ‘These are men of countenance,[44] go along with them, that they may bless you’. He went and found them comparing text with text: It is written: Balance the path of thy feet and let all thy ways be established;[45] and it is written: Lest thou shouldst balance the path of life?[46] It is not difficult [to explain]: the former text applies where an obligation can be discharged through another person:[47]

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(1) In this case on the eve of the festival.

(2) The eve of the festival.

(3) For fear he might be prevented from marrying on that day.

(4) I Kings VIII, 65, and more particularly, II Chron. VII, 9.

(5) To spare the people loss of time and work, as it could best be celebrated leisurely during the festival week.

(6) Even as we find that Solomon did not keep back the consecration.

(7) To be completed just before the festival so that the consecration be held on the festival. As reported, Solomon's Temple had been completed some time before. V. I Kings, VII, 51 — VIII, 1 and II Chron. V, 1-3,

(8) And thus the Temple of Solomon affords no proof for the principle against merging one joy with another!

(9) A projecting palisade of iron spikes, or according to others a sheet of iron one ell wide, was fixed with sharp edge upward all round the Temple walls. V. Mid. IV, 6 and cf. Josephus, Wars, V, 5, 6.

(10) And likewise brooked no delay.

(11) A euphemistic expression for ‘Israel’.

(12) Lev. XXIII, 29-30, threatens the non-observance of the Day of Atonement. by working and eating with the penalty of kareth.

(13) Lit., ‘the daughter of the voice’. V. Glos. and R. Hirsch Chajes’ study of the subject Immrei Binah, chap. VI.

(14) I.e., they felt reassured of their spiritual existence in the after life.

(15) Temporary, to be replaced by a permanent structure after the settlement in the Land of Promise.

(16) Num. VII, records the gifts which the Princes of the tribes, as individuals, brought day after day, in succession, among them ‘burnt-offerings’ and ‘sin-offerings’ which were not permitted to be eaten by the donors or the people, and the male priests alone were allowed to eat of the sin-offerings as if partaking of ‘the table of the Lord’.

(17) Only the prescribed offerings were permitted on Sabbaths and festivals. Cf. Num. XXVIII.

(18) If the desecration was deliberate. Ex. XXXI, 14; XXXV, 2-3. For the expression מות יומת (as by stoning), v. Lev. XX, 2, 27 and Num. XV, 32-36.

(19) I Kings VIII, 62-64, more than the sacrifices prescribed for the consecration of the Tabernacle (Lev. VIII, IX), which were permitted to the priests alone as sacred meat, whereas here they brought many ‘peace-offerings’ to be partaken of by the whole community. Cf. Lev. VII, 11-16 and I Sam. IX, 19-24.

(20) V. note 3 above.

(21) Making ‘peace-offerings’ for their own enjoyment, mainly, as only a portion was given to the altar and the priests, and the bulk went to the people.

(22) Fasting, v. supra p 45. n. 9.

(23) Cf. I Sam. IX, 19-24 cited above at the end of n. 6.

(24) Num. VII, 12, 18 and 48, the seventh day here being the Sabbath.

(25) I.e., every day, the Sabbath excepted, when no other offerings save those prescribed for the Sabbath day were offered.

(26) Num. VII, 72. The repetition of the word ‘day’ is taken to express the meaning ‘day by day’, daily without interruption. Cf. verse 11 and Solomon's prayer, I Kings VIII, 59; Lev. XXIV, 8.

(27) I.e., gift-offerings were brought consecutively on each of the twelve days.

(28) Num. VII, 78.

(29) For feasting, exclusive of the Day of Atonement.

(30) In connection with the offerings in the Tabernacle and here in the repetition ‘seven days and seven days, even fourteen days’. This method of analogy is the Gezerah Shawah. See Glos.

(31) I Kings, VIII, 66.

(32) On the meaning of tent’ as denoting wife, cf. supra 7b. As regards the state of purity referred to here, v. Lev. XVIII, 19 and XX, 18; XV, 19-24.

(33) The elation of feeling the Divine Presence near.

(34) In I Kings, VIII, 22-53, the expressions for intercession (in their nominal and verbal forms) amount to twenty-four, namely:Five in v. 28; two in 29; two in 30; two in 33; one in 35; two in 38; one in 42; one in 44; two in 45; one in 47; one in 48; two in 49; two in 52, total, twenty-four.

(35) Ps. XXIV, 7ff.

(36) II Chron. VI, 41-42.

(37) The gates yielded an entry.

(38) Against Uriah the Hittite and his wife Bath-sheba, II Sam. XI.

(39) Many texts have b. Akmai. The theme here on taking leave from a master is in continuation of Solomon's farewell to the people.

(40) I.e., they were pursuing the method of Midrashic exposition of Num. XXX, on the law of vows ultimately formulated in the Mishnah.

(41) The eighth day was the twenty-second of Tishri, when they bade the King farewell.

(42) I Kings VIII, 66.

(43) II Chron. VII, 10. Which apparently contradicts the former verse.

(44) Men of importance.

(45) Prov. IV, 26, i.e., carefully pick and choose your actions and duties.

(46) Ibid. V, 5, i.e., do not pick and choose.

(47) Should duty's calls come from several directions some of which may be discharged through some other trusty person, choose the more important and responsible tasks for yourself.

Talmud - Mas. Mo'ed Katan 9b

the latter where the obligation cannot be discharged through another person.[1] Again they were sitting and enquiring [into the following]: It is written: She [Wisdom][2] is more precious than rubies; and all the things thou canst desire are not to be compared unto her',[3] [which implies] that heaven's demands [of you] are comparable to Her,[4] Again it is written: And all things desirable are not to be compared unto Her,[5] [which means] that even things that are of Heaven's desire are not comparable to Her?[6] The former text applies where the duty can be discharged through others, the latter — where the Duty cannot be discharged through others. Then [turning to him] they said: 'What is your business here?[7] He replied: 'Father told me, "Go along with them that they may bless you".[8] Said they to him: 'May it be [Heaven's] pleasure that you sow and mow not; that what you bring in go not out; that what goes out you bring not in; that your house be desolate and your inn be inhabited; that your board be disturbed and you behold not a new year'. 'When he came home to his father, he said to him: 'So far were they from blessing me that they [even] distressed me sorely[7] . His father asked him: 'What did they say to you?' — They said thus and thus. Said the father to him: 'Those are all blessings. That "you sow and mow not [means], that you beget children and they do not die. That "what you bring in go not out" [means], that you bring home daughters-in-law and your sons do not die, so that their wives need not leave again. "What goes out you bring not in" [means], that you give your daughters [in marriage] and their husbands do not die so that your daughters need not come back. "That your house be desolate and your inn be inhabited" [means], that this world is your inn and the other world[7] is a home, as it is written, Their grave is their house for ever;[8] reading not "their inward thought" [Kirbam] but "their grave (Kibram] is their house for ever, and their dwelling places be for generations."[8] "That your board be disturbed" [that is]; by sons and daughters and "that you behold not a new year [means] that your wife do not die and you have not to take you a new wife'.[9]

R. Simeon b. Halafta took his leave from Rabbi.[10] Said Rabbi to his son: 'Go along with him that he may bless you' — Said [the parting Rabbi] to him: 'May it be [Heaven's] pleasure that you be not put to shame nor feel ashamed yourself'.[11] When he came to his father, he asked him: 'What did he say to you?' — He replied: 'He made some commonplace remark[12] to me — Said [Rabbi] to his son: 'He blessed you with the blessing with which the Holy One [blessed be He] blessed Israel twice over; for it is written: And ye shall eat in plenty and be satisfied and shall praise the name of the Lord your God . . . And My people shall never be ashamed. And ye shall know that I am in the midst of Israel, and that I am the Lord your God, and there is none else; and My people shall never be ashamed.[13]

AND A WOMAN MAY MAKE HER TOILET DURING THE FESTIVAL [WEEK]. Our Rabbis taught: These are [permitted in] woman's adornment. She [plaits her hair][14] treats her [eyes] with kohl; fixes a parting,[15] [trims her hair and nails[14] and] puts rouge on her face; some say she may use a razor for her privy parts. R. Hisda's wife made her toilet in front of her daughter-in-law.[16] R. Hina

b. Hinena sat before R. Hisda;[17] as he sat he said that the instances [mentioned in the Mishnah] applied only to a young woman, but not to an elderly woman. Said R. Hisda to him: God! even to your mother, even to your mother's mother, yea even if she be standing at the [brink of the][18] grave, as the saying goes: 'At sixty as at six; the sound of a timbrel makes her nimble'.[19]

R. JUDAH SAYS SHE SHOULD NOT USE LIME. It is taught: R. Judah says, a woman should not use lime, as it is a disfigurement to her. R. Judah concedes, however, that [if it is] a lime [preparation] that can be peeled off during the festival week she may apply it during the festival week, because, although it is irksome to her at the moment, It is a pleasure to her afterwards. But does R. Judah hold this view? Surely we learned [elsewhere]: 'R. Judah said, Debts may be recovered [from pagan creditors during their festivals] as it is irksome to them'. They said to him, Although it is irksome [for them] at the moment, they feel pleased afterwards?[20] — Said R. Nahman b. Isaac, Do not cite the rules for the festival week, as they all derive from the principle 'that though [the task] is irksome for the moment, it gives satisfaction afterwards'.[21] Rabina remarked that [the recovery of debts is allowed because] to a pagan the payment of a debt is always irksome.

Rab Judah [reporting Rab][22] said: The daughters of Israel, who attain puberty before the [normal] age,[23] if they are poor, put on a cosmetic preparation made of lime; richer girls put on fine-flower,[24] and the wealthy[25] girls put on oil of myrrh, as it is said: 'Six mouths with the oil of myrrh'.[26] What is this 'oil of myrrh'? — Said R. Huna b. Hiyya, [It is what is called] stacte.[27] R. Jeremiah b. Ammi[28] said, It is oil obtained from olives that have reached but a third of their [normal] growth. It is taught: 'R. Judah says omphacinon[29] is an oil made of [unripe] olives that have reached but a third of their [normal] growth' — And why do they put it on? Because it is a depilatory and softens the flesh [skin].[30] R. Bebai had a dark-skinned[31] daughter; he applied to her that unguent one limb at a time and this brought her a husband with four hundred zuzim.[32] There was a pagan neighbour of his who had a daughter, and he applied it all over her at once [and] she died; [whereupon] he said, Bebai killed my daughter. Said R. Nahman: 'R. Bebai drinks beer, therefore his daughters needed unguents; [but as] we do not drink beer, our daughters need no unguents'.[33]

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(1) If there be no trusty person at hand or there be but one call, do not delay action to wait for some more important task; be it great or small, do it promptly, as delay may rob you of your chance of doing it, or you may be too late to do anything at all.

(2) The Torah.

(3) Prov. III, 15.

(4) I.e., your own affairs and wishes are not comparable to the study of Torah; but such pursuits as please Heaven, the calls of duty and religion, are comparable to it.

(5) Ibid. VIII, 11.

(6) I.e., nothing else is comparable to the study of Torah, it is absolutely supreme.

(7) The sepulchre; cf. the term בית עלמי and v. Eccl. XII, 5 and Han.

(8) Ps. XLIX, 12. Cf. Targum.

(9) V. Deut. XXIV, 5.

(10) Should be Rabbi instead of Rab.

(11) Reading with MS.M., SBH and Han. לא תיבוש the more difficult text, but supported by Rabbi's observation. Cur. edd., 'that you shame not (others) nor feel ashamed' does not accord with the quotation.

(12) So MS. M., cur. edd., 'mere words'.

(13) Joel II, 26-27. The same assurance repeated twice.

(14) So Hananel.

(15) So Ps. Rashi and SBH. Perhaps it means making the hair frizzy or curled. Cf. Shab. 64b, Keth. 4b and 17a.

(16) To show what may and what may not be done. (SBH not so Ps. Rashi). V. Strashun's Glos. ad loc.

(17) To expound the Mishnah (SBH).

(18) So D.S. and SBH.

(19) Lit., 'run', to see a wedding procession. On the custom cf.B.B. 145b (Sonc. ed. p. 625).

(20) V. A.Z. 6b. The idea is to avoid any dealings with pagans
(21) E.g., baking, cooking etc., troublesome at the moment but enjoyed later.
(22) So Han.
(23) Lit., 'years', the statutory age of twelve years and one day.
(24) A cosmetic paste.
(25) Lit., 'daughters of kings'. Cf. The Latin use of rex, reges for rich.
(26) Esth. II, 12.
(27) Latin stacta, oil of myrrh.
(28) So D.S.; SBH and Meg. 13a read 'b. Abba'.
(29) Latin omphacium, oil or juice of unripe olives or grapes.
(30) Cf. Targum Sheni on Esth. II, 12.
(31) So MS.M.
(32) As a gift before marriage. Cf. B.B. 146a (Sonc. ed. p. 628).
(33) Beer produces obesity and growth of hair (Rashi).

Talmud - Mas. Mo'ed Katan 10a

AN ORDINARY PERSON SEWS IN THE USUAL WAY. How do we define 'an ordinary person'? — At the school of R. Jannai they said, [It means] anyone who cannot draw a needleful

during their festivals, as the means afforded them by the Jew may go to enhance the heathen celebrations. The settlement of a debt leaves the debtor with an easy mind. of stitches in one sweep. R. Jose b. Hainna said, [It means] anyone who cannot sew an even seam on the hem of his tunic.

BUT A CRAFTSMAN MAY SEW A TUCK-STITCH. What is meant by sewing a 'tuck-stitch'? — R. Johanan said, [It means] 'overstepping'.[1] Rabbah b. Samuel said, [It means that the stiches resemble] dogs' teeth.[2]

AND THE CORDS MAY BE INTERLACED IN BED-FRAMES. [R. JOSE SAYS THEY MAY ONLY BE TIGHTENED]. What is meant by 'interlacing' and what by 'tightening'? When R. Dimi came [from Palestine] he said that R. Hiyya b. Abba and R. Assi had different views on this, both reporting in the name of Hezekiah and R. Johanan. One said that 'interlacing' meant [interlacing] both the warp and the woof, and that 'tightening' meant putting in the warp without the woof;[3] while the other said that 'interlacing' meant putting in the warp without the woof, and tightening' meant that he may tighten a girth cord if it has become slack.

But this cannot be [correct], for R. Tahlifa[4] b. Saul taught: 'And all agreed that no cords may be let in afresh'. Now this is perfectly in accord with the one who says that the 'interlacing' [permitted in the Mishnah] means interlacing both the warp and the woof, and that the 'tightening' [that R. Jose permitted] means putting in the warp without the woof; hence R. Tahlifa could say: 'And all agreed that no cords may be let in afresh' — But, according to one who says that 'interlacing' means putting in the warp without the woof and that 'tightening' means that he may tighten a cord if it has become slack, [how do you explain R. Tahlifa b. Saul's statement? For,] if you say that interlacing the warp and the woof is forbidden, need one [at all state] that cords are not to be let in afresh? — This is a difficulty. Said R. Nahman b. Isaac to R. Hiyya b. Abin: Is there anybody who applies the term 'Interlacing' to inserting a warp without the woof? For surely we learned:[5] R. Meir says: A bed [frame] is not [subject to ritual defilement] until three warp spaces in it have been crossed? The fact is that when Rabin came [from Palestine] he said that all agree that 'interlacing' means interlacing the warp and woof; but where the difference arose was on the interpretation of 'tightening'; one Master held that the 'tightening' [that was permitted] was inserting the warp without the woof, and the other Master held [that what was allowed was] the tightening of a cord which has become slack. An objection was raised: Bed-frames may be interlaced [during the festival week] and needless to say that they may be tightened: these are the words of R. Meir. R. Jose says: They may be tightened, but not interlaced and ‘Some say’[6] that tightening may not be done at all — Now here [the several views are] perfectly [understandable] according to the one who says that by ‘tightening’ is meant ‘inserting the warp without the woof’, as then, ‘Some’ come and express their dissent [on that kind of mending]. But according to the one who says that by the ‘tightening’ [which is allowed] is meant that when a cord has become slack one may make it taut, then according to the view of ‘Some’ not even this [simple adjustment] is allowed! — Yes, indeed; because, since it is possible [temporarily] to fill [the sag] with bedclothes, we should not go to [further] exertion [during the festival week].

MISHNAH. AN OVEN STOVE[7] OR MILL MAY BE SET UP [IN POSITION] DURING THE FESTIVAL [WEEK]; R. JUDAH SAYS, A PAIR OF MILLSTONES IS NOT TO BE COMPRESSED FOR THE FIRST TIME [IN THE FESTIVAL WEEK].

GEMARA. What is meant by ‘compressing’? — Rab Judah said that [it means] chiselling[8] the millstones; R. Jehiel said, It means [fixing] an eye-hole.[9] An objection was raised: An oven or stove [or mill] may be set up in the festival [week], provided that the work is not entirely completed; these are the words of R. Eliezer; but the Sages say, It may even be finished off. R. Judah, speaking in his[10] name says: A new one may be set up and an old [mill] compressed, and ‘Some’[11] say compressing may not be done at all. Now this accords well with the one who says that ‘compressing’ means scoring the mill [stones], hence this process is applicable in the case of an old mill; but according to the one who says that it means [fixing] an eye-hole, what fixing of an eye-hole does an old mill need?[12] — l may say, for instance, that it needs widening a little more. R. Huna [once] hearing someone scraping his millstones during the festival week said: ‘ Who is that? May he himself suffer desecration that desecrates the festival week!’ He [evidently] held the view of ‘Some say’ [cited above]. R. Hama expounded:[13] ‘One [may] scrape millstones during the festival [week]’. In the name of our Master[14] they said: One [may] trim the hoofs of the horse he rides or the ass he rides during the festival week;

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(1) Like a baste stitch, hot contiguous but in and out on either side of the material, alternatively.

(2) Irregular in form, or unevenly. Cf. n. 9. on the Mishnah, supra 8b, p. 43.

(3) I.e., putting in a cord or webbing in one direction only.

(4) MS.M.: Halafta.

(5) Kei. XVI, 1: ‘Straight wooden frames, such as are used for litter or cradle, are not subject to ritual contamination until they are rubbed smooth with a fish-skin; R. Meir says, not (even then) until (the cords have been let in) and three spaces have been crossed by the woof cord’.

(6) Representing the view of R. Nathan the Babylonian. V. Hor., Sonc. ed. p. 104.

(7) Probably of clay.

(8) Scoring the grooves or scraping and removing the sediment of flour dust to make the two stones fit closely together.

(9) Of the upper stone, the runner, through which the grain is poured in.

(10) R. Eliezer's: he often cites R. Eliezer's views, which were stricter, as being of the Shammaite school.

(11) R. Nathan the Babylonian. V. p. 54, n. 2.

(12) Surely an old mill has an eye-hole already.

(13) On a Sabbath within a month before the festival.

(14) So Han. MS. M. and many texts, i.e., Rab, which is the correct reading (not R. Meir of cur. edd.).

Talmud - Mas. Mo'ed Katan 10b

but not those of the ass turning the mill.[1] Rab Judah[2] declared it permissible to trim the hoofs of the ass turning the mill or to set up the mill or build a mill, or to construct a base for the mill or build a horse stable. Rab[3] declared it permissible to curry horses and to construct a bed[4] or make a mattress-box.[5] Raba allowed bleeding of cattle during the festival week. Said Abaye to him: There is a Tanna who supports you: Cattle [may] be bled and no curative means are [to be] withheld from an animal during the festival week'. Raba allowed fulled clothes[6] to be rubbed.[7] On what ground? It is an ordinary unskilled process. Said R. Isaac b. Ammi, as citing R. Hisda: To pleat sleeve-ends[8] is forbidden; on what ground? Because that is a craftsman's process.

Raba said: [With regard to] a man who levels up his ground, if it is to even [the slope of] the threshing floor[9] it is allowed; if merely to level the soil, it is forbidden. How can one tell? If he takes up heaped [soft] soil to heap on [soft] soil, or stiff soil to lay on stiff soil, it shows that [it is done] for [improving] the threshing floor; but if he takes up heaped [soft] soil and casts it on the stiff soil, this shows that it is for [improving] the ground.[10]

Raba said: With regard to one who clears his field [of chips of wood], if it is for gathering [fire] wood, it is allowed; if for clearing the ground, it is forbidden. How can we tell? If he picks up the larger pieces and leaves the smaller, this shows that it is to gather [fire] wood; but if he picks up both large and small, this shows that it is to clear the field. Raba said also: With regard to one who opens [sluices] to let water run off into his field, if it be to get the fish,[11] it is permitted; if it is to water the soil, it is forbidden. How can we tell? If he opens two flood-gates one above[12] and another below,[13] this shows that it is for getting the fish; but if only one gate, it is [obviously] for watering the soil. Raba further said: With regard to one who trims his palm,[14] if it is for the [benefit of his] beasts it is allowed; but if for the [benefit of the] palm it is forbidden. How can we tell? If he trims one side only, this shows that it is for the beasts; if both one side and the other, it is for the [benefit of the] palm, and it is forbidden. And furthermore said Raba: Those [unripe] tauhla[15] dates one may pick, but to press them is not permitted. R. Papa remarked that as [if these are left] the worms get at them, they are on the same footing as a business deal[16] [the postponement of which] would entail loss,[17] and therefore may be [pressed during the festival week]. Raba also said: Any business transaction whatsoever is forbidden. R. Jose b. Abin said: And if there be a risk of loss, it is permitted. Rabina had some deal on hand which would have fetched six thousand zuzim;[18] he deferred the sale till after the festival and sold at twelve thousand. Rabina had advanced some money to the people living at Akra di-Shanutha.[19] He came to consult R. Ashi and said: 'What about going over to them just now [during the festival week]?' — Said R. Ashi to him: 'As they had ready cash just then which they might not have later, it is [practically] like a deal [the postponement of which] would entail loss, and [accordingly] is allowed'. It is also similarly taught with reference to heathens: One may go

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(1) As not being so urgent.

(2) Of Pumbeditha, Rab's disciple.

(3) Readings vary.

(4) Latin, grabatus, a Macedonian article of furniture, a very low bedframe or couch. V. the references in Tosaf. s.v. Ps. Rashi takes it as meaning a crib.

(5) Stibadium or stibas (Greek) a pallet or mattress, a semicircular low seat for lounging. Cf. Pliny's Letters, V, 6.

(6) קירמי are fulled or carded sheets of cloth (from the Latin carminare) worn as a mantle or used as coverlets and tapestries. Cf. Suk. 10a, also Kel. XXIII, 4.

(7) Han. explains (in Arabic) as 'damping to be rubbed and twisted to make them soft (or pliable)'. V. B.M. Lewin, Otz. Hag. IV, Mashkin, II, no. 173.

(8) Reading קיטורי בי ידי. Lewin, op cit. Yom-tob p. 5, no. 164. Cf. Lat. manicatae tunicae. According to another reading קיטורי בירי; to 'pleat' or 'bleach' (with sulphur fumes or with scented perfume ingredients) mantles, birri (Jast. s.v. ביריא. According to Gaonic explanation (Lewin, Otz. Hag. IV, Yom-tob, p. 55, no. 164) as al-akmis (Arabic), Camisoles, shirt-tunics. Cf. Persian pirahan.

(9) Which was raised in the centre sloping outwards.

(10) Which means that he is simply working the field during the festival week.

(11) When the water is run off.

(12) The water that carries the fish into the next section.

(13) To run off the upper water leaving the fish lower down in the shallows.

(14) Removing the foliage and young shoots.

(15) Syriac, Arabic, from Assyrian tuhallu (Brockelmann 70b) palmulla praematura. Cf. Hag. 15b.
(16) Lit., ‘business transaction’.
(17) Risk of a loss may be prevented during the festival week. V. supra, 2a, p. 3.
(18) Same as (silver) denarii.
(19) The foot of Shanwatha. V. Obermeyer L.B. 268. From B.M. 73b, (Sonc. ed. p. 425), we learn it was a deal in wine.

Talmud - Mas. Mo'ed Katan 11a

to a heathen fair and buy cattle, male and female slaves, houses, fields and vineyards, and draw up contracts and have them registered at their Registry Offices,[1] because it is [practically] like rescuing something of which they [the heathens] had got possession. Rab permitted R. Hiyya b. Ashi to mend basket-traps[2] during the festival week. What is the reason? — It is ordinary [unskilled] work; but [to mend] mesh-nets is forbidden. What is the reason? It is work of craftsmanship. Rab Judah allowed Ammi the ovenmaker to put up ovens and Rabbah b. Ashbi he allowed to plait sieves. But this cannot be [correct], as Rabbah b. Samuel learned: And all [authorities] are agreed that an oven may not be set up for the first time [during the festival week]! — There is no difficulty [here]: The former ruling obtains during the ‘warm season’[3] while the latter ruling obtains in the ‘rainy season’.[4]

MISHNAH. A PARAPET MAY BE PUT ROUND A ROOF OR [A RAILING ROUND] A GALLERY ROUGHLY BUT NOT IN FINISHED STYLE.[5] PLASTER MAY BE SMEARED ON THE CREVICES[6] AND FLATTENED DOWN WITH A ROLLER,[7] WITH HAND OR FOOT, BUT NOT WITH RAMMING TOOLS.[8] PIVOTS AND SOCKETS,[9] LINTELS, LATCHES,[10] BOLT-LOCKS AND DOOR-HANDLES[10] THAT HAVE GIVEN WAY MAY BE REPAIRED DURING THE FESTIVAL [WEEK], ONLY THEY MUST NOT BE LEFT PURPOSELY FOR THE FESTIVAL [WEEK]; AND ALL PRESERVES THAT MAY BE EATABLE IN THE FESTIVAL [WEEK] ONE MAY PUT IN PICKLE.

GEMARA. What, for instance, is meant by putting up a parapet or railing ‘roughly’? — R. Joseph explained: [Something like a fence of] palm-leaves and daphne-stakes.[11] A Tanna taught: One may pile up rubble without daubing with clay. PLASTER MAY BE SMEARED ON THE CREVICES AND FLATTENED DOWN WITH A ROLLER, WITH HAND OR FOOT, BUT NOT WITH RAMMING TOOLS. Now, if you say it is allowed to flatten down with a roller, need one [be told] ‘with hand or foot’? — What it means is: One may smear [plaster on] the crevices and flatten down as with a roller, by hand or foot, but not with ramming-tools.

PIVOTS AND SOCKETS, LINTELS, LATCHES, BOLT-LOCKS AND DOOR-HANDLES THAT HAVE GIVEN WAY MAY BE REPAIRED DURING THE FESTIVAL [WEEK]. Some contrasted this with [the following]: ‘Up to his days,[12] the hammer was beating in Jerusalem during the festival [week] . . .’, [that is], ‘up to his days’, but not thereafter![13] — [Said R. Huna][14] that is not difficult [to explain]; the reference there is to the smith's [hammer],[15] while here [the tool allowed] is the joiner's [mallet].[16] R. Hisda demurred to this [explanation] as according to this some will say that a loud din is forbidden, [but] a faint sound is allowed. No, said R. Hisda, it is not difficult [to explain]: One [the tool allowed here] is the bill-hook[17] and the other [which is not allowed] is an adze.[18] R. Papa said that in one statement we have the [older view held] before the restriction [had been introduced] and in the other the [later] view held after the restriction [was introduced]. R. Ashi said that one [Mishnah] expresses R. Judah's view[19] and the other R. Jose's; for R. Isaac b. Abdimi said: ‘Who may be the [anonymous] Tanna that [holds] that work must be done in a different way from the ordinary[20] [in working] during the festival [week] even where its [postponement would entail] loss? Not R. Jose’.[21] Rabina said, Whose ruling do we follow nowadays when we raise the pivot-cups[22] of the doors during the festival week? — R. Jose's. AND ALL PRESERVES THAT MAY BE EATABLE IN THE FESTIVAL [WEEK] ONE MAY PUT IN PICKLE. On Baditha Luba,[23] everybody engaged in fishing and they brought in fish,[24] and Raba allowed to put them in salt. Said Abaye to him: But [why]? We learned: PRESERVES THAT MAY BE EATABLE IN THE FESTIVAL [WEEK] ONE MAY PUT IN PICKLE? — Said he [Raba] to him, Since they brought them home with the intention of eating them and if they leave them [uneaten] they will be spoilt, it is similar to [a case of] business that might be lost and is therefore permitted.[25] And some say that Raba [actually] allowed them to him, But surely we learned: PRESERVES THAT MAY BE EATABLE go fishing,[26] fetch the fish home and put them in salt. Said Abaye to IN THE FESTIVAL [WEEK] ONE MAY PUT IN PICKLE! — Said he [Raba] to him, These may be eaten [also] by means of 'pressing', as was the case with Samuel when they applied pressure [to the fish in salt] sixty times[27] and he ate [thereof]. When Raba [himself] once happened to be at the house of the Exilarch,[28] they prepared for him [a dish of fish] pressed sixty times and he ate it. Rab was [on a festival week] once at Bar-Shappir[29] [Perissabora?] where they put before him some kind of fish [which was] a third boiled, a third salted and a third broiled. Rab said, Adda the fisherman told me that a fish is at its best when it is about to turn putrid. Rab also said this, Adda the fisherman told me: Broil the fish with his brother [salt], plunge it into its father [water], eat it with its son [sauce] and drink after it its father [water]. This too Rab said: Adda the fisherman told me: [After eating] fish, cress and milk occupy your body, don't occupy your couch.[30] And furthermore said Rab, Adda the fisherman told the: [After] fish, cress and milk drink [rather] water, not mead;[31] mead and not wine. [

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(1) Archives.

(2) For fish or fowl.

(3) Passover time, when the clay very soon dries and the oven may be used forthwith.

(4) At the time of Tabernacles, when the rain delays its use, hence the work is untimely during the festival week.

(5) Lit., 'the work of an ordinary man but not that of a craftsman'.

(6) On the roof, which was flat and sloping slightly towards the edges to allow the rain to run off'. Cf. Bez. 9a.

(7) A leveller, so called because of its round shape. It was made of a piece of round log with a long handle fixed at right angles, by which it was drawn to and fro, like our broom. Sometimes it was a flat stone with the edges rounded on moved in a circular motion by a long handle. V. Rashi, Mak. 7a, (Sonc. ed. p. 38).

(8) Pressing tools; Roman pavicula.

(9) The doors of the ancients did not hang on hinges, but turned on wedgeshaped pins which fitted into a hollow, or metal ring fixed into the threshold and lintel. V. Krauss, T.A. I, 36ff

(10) All made of wood. Cf. 'Er. 101a.

(11) Like a hurdle or hedge fixed temporarily. Daphne is a dwarf shrub often used for hedges.

(12) Referring to the High Priest, John Hyrcanus I, one of the Maccabean princes. Cf. Sot. 17a.

(13) Whereas here the Mishnah permits its use!

(14) So MS.M.

(15) Publicly plied in the forge.

(16) Privately, in the house.

(17) A gardener's tool for a piece of joinery.

(18) The regular artisan's tool.

(19) I.e., the stricter view, as he forbids exertion and only allows it where loss is threatened. Cf. supra 2a, p. 3.

(20) E.g., by using an improvised tool, or be satisfied with a temporary adjustment.

(21) V. infra 11a and 12a.

(22) Or the cavity which receives the bolt. Cf. Ar. Compl. s.v. VI, 161b. There are different readings.

(23) בדיתא לבאי i.e., the canal Baditha near Luba on the northern Euphrates, v. Obermeyer, p. 311.]

(24) The time of flood in Mesopotamia is between March and May and there was therefore at Passover-time a plentiful supply of fish in the streams.

(25) Cf. supra 10b for Raba's view in regard to merchandise, as modified by R. Jose b. Abin.

(26) Ab initio, or to purchase fish, i.e., to take advantage of the opportunity.

(27) Sixty is a Babylonian unit, e.g., sixty minutes an hour, a minute sixty seconds etc. and is used often as conventionally as here for 'ever so many times'.

(28) Resh Galutha. The official head of the Jewish community in Babylon, an office held in succession by descendants of the royal house of David, and recognized by the Government. It was, in this distance, either Mar Huna III or Abba son of Mar ‘Ukban III, to both of whom Raba was official adviser on religious matters. V. W. Bacher's article, Jew. Encycl. V, 289, s.v. Exilarch.

(29) MS.M. Piruz-Shabur = Perisaboras was however rebuilt and so named later by Sapor II. Cf. Obermeyer p. 226.

(30) I.e., move about and do not lie down to sleep.

(31) A fermented beverage made of dates used in Babylon.

Talmud - Mas. Mo'ed Katan 11b

CHAPTER II

MISHNAH. IF ONE HAD [ALREADY] TURNED HIS OLIVES[1] WHEN MOURNING[2] OR SOME HINDRANCE BEFELL HIM, OR WORKMEN DISAPPOINTED HIM, HE MAY [DURING THE FESTIVAL WEEK] PUT ON THE BEAM FOR THE FIRST TIME AND LEAVE IT [THUS] UNTIL AFTER THE FESTIVAL; THESE ARE THE WORDS OF R. JUDAH. R. JOSE SAYS, HE MAY DRAW OFF [THE OIL] AND COMPLETE THE PROCESS[3] AND BUNG[4] [THE JARS] IN HIS USUAL WAY [DURING THE FESTIVAL WEEK].

GEMARA. The Mishnah begins with mourning and finally [only] deals with the festival [week]![5] — Said R. Shisha[6] son of Idi: This implies that things one is permitted [to do] during the festival [week] are forbidden him during [the week of] his mourning.[7] R. Ashi says, [Not so], this wording is cast in the form of, ‘No need to say’ . . .,[8] no need to say [that he may put on the beam for the first time] during [the week of] his mourning when [the restriction on work] is but rabbinical, but even during the festival [week], when [work] is restricted on Scriptural grounds, the Rabbis still permit it where loss is involved.

It was taught[9] in the sense of R. Shisha son of Idi: These are the things they may do for the mourner during his [week of] mourning: If his olives had been turned they may put on for him [the beam for the first time], or if his wine [cask] is to be bunged, or his flax is to be lifted from the retting, or his wool is to be lifted from the dye-bath; and they may besprinkle his field[10] for him when his turn for water-rights arrives. R. Judah says they may even sow for him the ploughed field or the field awaiting a flax-crop. Said they [the Rabbis] to him: [Not so], if the field is not sowed in the early season it could be sowed in the latter season and if It cannot be sowed with flax let it be sowed with some other kind [of crop].[11] Rabban Simeon b. Gamaliel says, If his olives had been turned and there is no skilled worker save himself, or his cask is [ready] for bunging and there is no skilled worker save himself, or his flax is [ready] for lifting from the retting or his wool for lifting from the dye-bath and there is no skilled worker save himself, such a one may perform [his task] behind closed doors. Furthermore, said Rabban Gamaliel, if he is a skilled worker engaged in the service of the public, or a hairdresser or a bath-attendant in the service of the public, and the Festival is close at hand and there is no skilled worker save him, such a one may do the work. Farmkeepers,[12] tenant-farmers[13] and contractors of labour may have others doing work for them.[14] Ass-drivers, camel-drivers and bargemen may not work;[15] but if they were [already] engaged on the job or were [just then] in the hire of others, they [themselves] may do their work.[14] A daily worker[16] may not work, even in another town.[17] One who has others’ work in hand,[18] even if it is a contract job,[19] he may not do it. [You say,]’ Even if it is a contract job’, [which implies] and all the less so if it is not a contract job. On the contrary, a contract job is like his own [work]![20] Rather, whether it is a contract job or not a contract job he may not do it. If his work[21] was placed in the hand of others, they may not do it in his own house, but in another house they may do it.

Marion the son of Rabin and Mar the son of R. Aha the son of Raba had a yoke of oxen[22] between them, when a misfortune[23] befell Mar the son of R. Aha the son of Raba; he broke up the team [and did not send his animal to work]. Said R. Ashi, A great man like Mar the son of R. Aha acting in such a manner! Granted that he minds not his own loss [of earning], is he not concerned about the loss [caused] to others? Surely it is taught: ‘But if they were [already] engaged [on the job] or were [just then] in the hire of others, these may do their work’?[24] — He [Mar] however held the view that [the case of] a prominent man is different.[25]

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(1) For maturing before pressing (or milling).

(2) For the death of a parent, wife, child, brother or sister.

(3) Of a second or third pressing, etc.

(4) Omitted in most texts as rather more applicable to the next case, that of wine.

(5) Without stating how to proceed in the case of mourning.

(6) Var. lec. Shesheth.

(7) Namely, that the permission to do those things now was granted only in connection with the festival week, but not during the week of mourning.

(8) ‘No need to say only this . . . but even that’ may or may not be done.

(9) Cf. Sem. II, 2-5, and J.M.K. II, 1 (81a).

(10) Sem. has ‘besprinkle for him a white field’ and J.M.K. has ‘irrigate for him a languid field’.

(11) Abstention would thus involve no loss.

(12) Gardeners or metayers who receive from the owner of the field or orchard a certain proportion of the produce for their labour.

(13) Who pay a fixed annual rent in money or in kind.

(14) While in mourning, as their abstention means a loss to the workers besides the mourners themselves.

(15) Either drive the animal or let it out on hire just then.

(16) I.e., on a day to day employment.

(17) Where he is not known. [Since according to the law he may withdraw during any part of the day, v. B.K. 116a.]

(18) I.e., he does the work at home.

(19) I.e., he is paid by piece and not by day.

(20) And therefore should be forbidden.

(21) Here the quotation is resumed.

(22) Gemella. A pair of oxen owned in partnership which they let on hire to farmers.

(23) A bereavement.

(24) In the Baraitha cited above, with a slight variation in the order to suit the case.

(25) I.e., he was not unaware of the ruling in the Baraitha, but felt that a man of his status (and maybe, his partner too) should be stricter in the application of the law. Cf. Bez. II, 6; 22b; Shab. 51a.

Talmud - Mas. Mo'ed Katan 12a

Samuel said: ‘[If non-Jews] take work on contract they may not [work for a Jew][1] within the [limits of the Sabbath] boundary;[2] but outside the boundary they may’. Said R. Papa, Even outside the boundary we do not say [they may] save where there is no town in the Vicinity; but where there is a town near by, it is forbidden. Said R. Mesharshaya: And even if there be not a town close by we [still] do not say [they may carry on the work] save on Sabbaths and festivals when there are not frequent [Jewish] passers-by, but during the festival week when people are often passing to and from the place it is forbidden. Mar Zutra son of R. Nahman had a mansion erected for himself by [non Jewish] contractor [builders] outside the boundary.[3] R. Safra and R. Huna b. Hinena happened to come thither and did not enter his house; and some report that he [R. Nahman] himself did not enter the building. But did not Samuel say that con tractors may not carry on their work within the boundary, but outside the boundary they may? — [The case of] a prominent man is different. Some say [his servant][4] had assisted then with straw. R. Hama allowed the Exilarch's table-stewards to do their work[5] during the festival week; he said that as they received no remuneration they only intend to benefit him[6] which concerns us nought.

Our Rabbis taught: Contracts may be made during the festival [week for work] to be executed after the festival [week]; but [to do it] during the festival [week] is forbidden. The general principle on this point is that whatever one may do himself he may tell a non-Jew to do; and what he himself may not do, he may not tell a non-Jew to do. Another [Baraitha] taught: Contracts may be made during the festival [week] to be executed after the festival [week], only that one should not measure, weigh or count [quantities] after the manner in which this is done on an ordinary day.

Our Rabbis taught: One may not bring a sire to mate during the festival week. Similarly, a ‘first-born, sire should not[7] be [used to] mate,[8] nor a votive beast that has become disqualified.[9] Another [Baraitha] taught: They may not bring a sire to mate during the festival week. R. Judah says, Where an ass is hankering [for the male] they may bring her the jackass to mate lest she become chilled. All other beasts are [merely] brought into the stalls.[10]

Our Rabbis taught: Sheep may not be turned out to graze in a hurdled enclosure[11] on Sabbaths, festivals, or in the festival week, but if they come [and do it] of their own accord,[12] it is allowed; and they may not be assisted [to it]. Nor may a watchman be assigned [to the shepherds] to move the sheep about.[13] If [the herdsman was] engaged by the week, month, year or septennate, assistance may be given to these[14] and a watch may be assigned to them to move the sheep about. Rabbi[15] says, [This may be done] on the Sabbath by way of favour, on the festival for meals and during thee festival [week] for payment. R. Joseph stated that the law is according to Rabbi.

MISHNAH. LIKEWISE IF ONE HAD HIS WINE [ALREADY] RUN INTO THE CISTERN THEN MOURNING BEFELL HIM, OR [SOME OTHER] HINDRANCE, OR WORKMEN DISAPPOINTED HIM, HE MAY DRAW OFF [THE WINE], COMPLETE THE PROCESS AND BUNG [THE CASKS] IN HIS USUAL WAY: THESE ARE THE WORDS OF R. JOSE; R. JUDAH SAYS, HE [MERELY] COVERS [THE CISTERN] WITH SHINGLES TO PREVENT IT TURNING SOUR.

GEMARA. [LIKEWISE IF ONE HAD etc.] And this [wine clause] is necessary. Because, if [the Tanna] had told us the first [clause alone], we might have argued that only in that case did R. Jose say [he may complete the process] as the loss on oil is considerable, whereas in the case of wine, where the loss is not much, one might presume that he concurred with the [stricter] view of R. Judah. And if [the Tanna] had told us the latter [clause alone], we might have argued that only in this case [of wine] did R. Judah say [he may not do more], whereas in that [former case of oil], one might presume that he concurred with thee more [lenient] view of R. Jose: [therefore] it was necessary [to enunciate both clauses]. Said R. Isaac b. Abba,[16] Who is the Tanna who requires that work [if done] should be done with a difference during the festival [week] where loss is threatened? It is not R. Jose.[17] R. Joseph said, The halachah is according to R. Jose.

Some [scholars] asked of R. Nahman b. Isaac: Is it permitted to coat a mead-cask [with resin][18] in the festival week? — Said he to them: Sinai[19] stated that the halachah is according to R. Jose. Supposing that R. Jose said [one may] in the case of wine, [does it follow] that he said [that one may] also in the case of mead? — [Indeed,] for what is the reason [that he allows] in the case of wine? [It is] because the loss on it is considerable; it is also considerable In the case of mead, as Abaye said, Mater[20] told me: ‘Better a coated cask of Six se'ahs than an uncoated cask of eight se'ahs’.[21]

R. Hama b. Guria citing Rab said: The halachoth[22] appertaining to the festival [week] are like the halachoth regulating the dealings with Kuthites.[23] What is the legal import [of this dictum]? — Said R. Daniel son of R. Ketina, It is to say that they are ‘sterile’[24] [regulations] and communicate nought[25] to each other, as [for instance] Samuel said that they [may] coat a jug with pitch but may not coat a cask; while R. Dimi of Nehardea said that they [may] coat a cask with pitch but they may not coat a jug; one master being solicitous to avert loss,[26] the other master being solicitous to avoid exertion[27] [during the festival week]. Said Abaye, We have it as tradition[28] that the halachoth appertaining to the festival [week] are like the halachoth appertaining to the Sabbath:

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(1) People might say that they were given the work on the Sabbath.

(2) On a Sabbath or Festival (Rash). V. however, Asheri.

(3) On a Sabbath or a Festival.

(4) Han. and other texts.

(5) He allowed these non-Jewish servants to mend or improvise extra tables for the guests of the Exilarch. R. Hama is mentioned with Mar zutra in B.B. 7a.

(6) By working for the Exilarch during the festival week.

(7) At any time. Cf Tosef. M.K. II.

(8) 'Firstborn' males of 'clean' animals are from birth dedicated to the altar and as such claimed by the priest (v. Num. XVIII, 15, 17). These may not be worked, nor shorn for fleece, nor milked (v. Deut. XV, 19-20). Cf. Mak. 22a, (Sonc. ed. p. 155) and Bek. 15a.

(9) Having become blemished, it is unfit for the altar and may be redeemed for ordinary slaughter but not for any other use. V. Bek. 15b.

(10) To mate without assistance.

(11) To manure the field.

(12) I.e., if the non.jewish herdsmen drive the cattle into the field without any Instruction or request from the owner of the field.

(13) I.e., to use means whereby to expedite the discharge of excrements of the flock on the spot to be manured. V. Jast. s.v. נער, II.

(14) As these non-jewish herdsmen carry out their own work according to undertaking.

(15) J. Sheb. III, 3 reads here Rabban Simeon b. Gamaliel, besides other variations. Also cf. Tosef. Sheb. end of Chapter li and Tosef. Shab. XVIII, 16.

(16) It is Isaac b. Abdimi on 11b.

(17) Since R. Jose holds that he can complete the process in the usual way.

(18) Or pitch, to make it air-tight. V. A.Z. 33a (Sonc. ed. p. 162). Han. takes it as sealing the stopper, by smearing it over with clay or pitch to prevent the wine or mead becoming vapid. The mead made from the syrup of dates was a Babylonian beverage, cf. Pes. 107a and 113b.

(19) A complimentary appellation of R. Joseph as an eminent authority on the body of Baraitha-comments (on the Mishnah), in contrast to Rabbah b. Nahmani, his great contemporary and predecessor as Principal of the Academy at Pumbeditha, who was called 'Uprooter of Mountains', a title descriptive of his method of acute analysis. V. Ber. 64a and Hor. 14a, (Sonc. ed. p. 105).

(20) Abaye was a posthumous child and his mother died in childbirth. He was brought up by a foster mother whose instructive sayings he frequently quotes as here. V. Kid. 31b.

(21) A se'ah is about two and a third gallons.

(22) Traditional rules of practice.

(23) The Samaritans who, when friendly, were treated as observant Jews, and when hostile and making common cause with the heathens in persecuting Jews and jeering at their religious practices, were treated as heathens. The attitude towards them, therefore, varied from time to time, according to circumstances.

(24) Some texts have עקודות 'tethered', i.e., inapplicable as 'rules in practice' owing to their frequent variability.

(25) Serving no purpose as definite instances from which to argue any definite principle.

(26) There is more loss involved in neglecting a cask than a jug, which is much smaller.

(27) The exertion entailed in coating a cask is greater than with a jug.

(28) Abaye often uses that expression.

Talmud - Mas. Mo'ed Katan 12b

some acts involve no penalty, though forbidden,[1] while other acts are allowed ab initio.

R. Huna had his harvest reaped during the festival [week], whereupon Rabbah put an objection to R. Huna [from the following]: They may mill flour during the festival [week] for the requirements of the festival; what is not required for the festival is forbidden. A thing that is perishable in the festival [week] is permitted to be done; a thing that is not perishable in the festival [week] is forbidden. When does this [rule] obtain?[2] In the case of something that is [already] severed from the soil, but where [the crop is still] attached to the soil, even if all of it perish it is forbidden; but if he have not food to eat, he may reap, gather into sheaves, thresh, winnow, clean and mill,[3] only that he shall not thresh with cows?[4] — He replied: That [Baraitha] is but an individual[5] opinion, and is not generally accepted by us, as it has been taught: Rabban Simeon b. Gamaliel stated a general rule in the name of R. Jose, Whatever is [already] severed from the soil, even though only part of it might perish, yet may it be worked; while that which is [still] attached to the soil, even though it might all perish, is forbidden. But if [as you say] that [anonymous] Baraitha be R. Jose's opinion, then he should also be allowed to thresh with cows![6] For Surely R. Isaac b. Abba said: ‘Who is the Tanna that demands some variation In the working during the festival [week] where loss is involved? It is not R. Jose![7] — [Said R. Huna],[8] He [R. Jose] might reply:[9] ‘Yea indeed, so; yet as one does not usually[10] thresh with cows, threshing without them [during the festival week] would be no variation now.[11]

Our Rabbis taught: Flour may be ground during the festival [week] for the needs of the festival; but if not for the requirements of the festival [week], it is forbidden. If, however, one ground[12] and had some flour over, he is allowed to use it.[13] Trees may be cut down during the festival [week] for the needs of the festival, but if it is not for the needs of the festival it is forbidden; if one, however, had cut down[12] and had some over, it is permitted.[13] [The ingredients] for brewing mead[14] may be put in during the festival [week] for the needs of the festival; but if it is not needed for the festival it is forbidden; and if one put in [the ingredients][12] and had some [brew] left over, it is permitted,[13] provided only that there is no guile.[15] A contradiction was raised [from the following]: ‘They may put in [ingredients for brewing] mead during the festival [week] for the needs of the festival, but what is not for the needs of the festival is forbidden, be it a brew of dates or a brew of barley, and even though one have some old [brew] he may act with guile and drink of the new’?[16] — There is a difference among Tannaim as was taught: There should be no resort to guile in such matters; R. Jose son of R. Judah says, One may act with guile [sometimes].[17]

Rab [once] had his harvest gathered for him in the festival week. Samuel heard [of it] and was annoyed. Might one suggest that Samuel concurred with the view of the individual authority?[18] — No, it was a crop of wheat which [if left a while] would not have deteriorated. What is the reason that Rab acted thus? — He had not then [enough] to eat; and as for Samuel, he had not been fully informed [of the circumstances]. Or, [maybe he thought that the case of] a prominent person is different.

R. Judah the Prince[19] [once] went out [on the Sabbath] wearing an amethyst[20] signet and [once] drank water which an Aramean [non-Jewish] cook[21] had heated. R. Ammi hearing of it was annoyed. Said R. Joseph: What is the reason he was annoyed? Was it on account of the amethyst signet? Why, it is taught: Chains, earrings and rings are like all articles of dress that may be worn in the courtyard![22] [Again], if because he drank water which an Aramean had made hot? Why, Samuel b. Isaac, citing Rab, stated that whatever can be eaten raw is not [debarred] as in the category of heathen-cooked food! — [The case of] a prominent person is different.[23]

R. Hananel, citing Rab, said that one may lop off branches from a palm tree during the festival [week] even though he needs only the chips.[24] Abaye denounced[25] this [dictum] vehemently. R. Ashi had a wood in Shelania. He went to cut it down during the festival week. Said R. Shela of Shelania to R. Ashi, What is your ground [for acting thus]? Is it because of what R. Hananel, citing Rab, said, that one may lop branches from a palm during the festival [week] even though he needs only thee chips?[24] But surely Abaye denounced it vehemently! — Said he [R. Ashi] to him: ‘I heard it not’, as much as to Say, ‘I do not concur [with Abaye's view]’. The hatchet then slipped threatening to cut off his leg. He then abandoned his task and came again.[26]

Rab Judah permitted pulling up flax, picking hops and pulling up sesame crops. Said Abaye to R. Joseph: It is quite correct to do this in the case of flax, as if may be used for covering [fruits]; in the case of hops, as they may be used for [brewing] beer; but sesame — to what [immediate] use can it be put? — [It may be picked] on account of the seeds[27] it contains. R. Jannai had an orchard[28] that had become ripe for picking during the festival week [and] he picked it. The year [after] all the people kept their orchards waiting for the festival week. R. Jannai [thereupon] renounced his [proprietory rights in the] orchard that year.[29]

MISHNAH. A MAN MAY BRING HIS FRUITS INDOORS FOR FEAR OF THIEVES AND PULL HIS FLAX OUT OF RETTING TO PREVENT IT SPOILING, PROVIDED HE DOES NOT PURPOSELY HOLD THE WORK OVER TILL THE FESTIVAL [WEEK]; AND ALL THOSE WHO HAVE DELIBERATELY HAD THEIR WORK HELD OVER FOR THE FESTIVAL [WEEK] SHALL HAVE IT DESTROYED.[30]

GEMARA. BRING INDOORS. A Tanna taught: Provided only that he bring them into his house privily. R. Joseph had some beams of timber which he brought in during daylight. Said Abaye, But it is taught: ‘Provided only that he bring them into his house privily’! — He replied, The [requisite] privacy for these is [attained best] during daylight, since at night more men would be needed and torchbearers too would be required, making much ado.[31]

AND PULLS HIS FLAX OUT OF RETTING. R. Jeremiah asked of R. Zera: If a man keeps work over for the festival [week] and dies, should his children be penalized after him? Should you cite[32] [the case of],

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(1) Cf. rules of Ulpian: ‘An in imperfect law is one which forbids something to be done, and yet if it be done, neither rescinds it nor imposes a penalty on him who has acted contrary to the Law’. I, l.

(2) That which is perishable may be attended to in the festival week.

(3) I.e., one may do anything and everything that is necessary.

(4) I.e., he must introduce some variation. This Baraitha forbidding to reap except in the case where he has no food to eat, refutes R. Huna who, it is assumed, was not short of ready food.

(5) R. Jose's view which is given in the citation that follows and which is, however, not generally accepted.

(6) Which, however, is distinctly debarred in the anonymous Baraitha, above.

(7) As may be seen from his attitude in the first and second Mishnah (11b and 12a) in contrast to that of R. Judah in regard to both oil and wine. Whereas, In the anonymous Baraitha ascribed to him he distinctly stipulates not to thresh with cows, insisting on a variation.

(8) To explain that there is really no contradiction in the discrepancy.

(9) SBH reads better: ‘Said he, R. Huna, to him (to Raba)’.

(10) Lit., ‘every day’.

(11) On the contrary to use cows would be in this case an undesirable offensive display of his work (Rashi).

(12) During the festival week for the needs of the festival.

(13) After the festival.

(14) Or beer.

(15) To prepare which under the guise of forgetfulness or mistake for the needs of the festival with the intention of having some left over after the festival.

(16) Indicating thereby that he made the brew for the festival week.

(17) On the principle, v. Bez. 17b, especially Rashi's observation s.v.

(18) Cf. supra R. Huna's reply to Rabbah's question.

(19) R. Judah III, Rabbi's grandson.

(20) מדושא אמדושא representing the Greek form **. The amethyst was often worn (as its name implies) as a talisman against drunkenness. Or the phrase may possibly be a talisman ring having a setting of a Medusa head, a popular charm against spells and against the power of enemies; and, although this could not have been the case in our instance, it is not unlikely in the instance cited in ‘Er. 69a, where the wearer on sighting R. Judah the Prince, quickly covered it; he is considered there as a semi-heathen or renegade.

(21) Or tavern keeper.

(22) Cf. ‘Er. 69a and R. Tam's comments, Tosaf, s.v, כיון.

(23) Cf. Shab. 51a.

(24) Or sawdust.

(25) Lit., ‘cursed’.

(26) Another time.

(27) For sesame oil.

(28) J.M.K. II, 2 (81a) reads: R. Simeon, R. Jannai's son.

(29) As a self-imposed penalty for having led others to do wrong.

(30) I.e., they must be deprived of any advantage gained.

(31) Lit., ‘a noisy affair’.

(32) Lit., ‘Find a case to explain (my question) by saying. . .’; or, ‘Extract an answer from the case of. . .’

Talmud - Mas. Mo'ed Katan 13a

‘One who had [craftily] clipped the ear of his first-born beast’, and whose son is penalized after him,[1] [I can reply that] that is because that is [an offence against] a Scriptural prohibition. Or should you cite [the case of], ‘One who sold his [non-Jewish] slave to a non-Jew’, and whose son was penalized after him, [I can say that] that is because he debarred him daily from the [performance of] religious duties.[2] Here, what do we say? That the Rabbis’ intention was to penalize the man personally and he is no more, or, maybe that it was only to impose a pecuniary penalty [on his estate] and that is to be had? — R. Zera replied, You learned it [in the Mishnah]: ‘A field that has been cleared of thorns[3] during the seventh year may be sowed in the post-sabbatical year; if it had been well improved[4] or manured[5] by hurdling cattle[6] on it, it may not be sowed in the post-sabbatical year’,[7] and [on this Point] R. Jose b. Hanina said: ‘We have it on tradition that if one had well improved his field and died, his son may Sow it’. This shows that our Rabbis did [intend to] penalize him,[8] but his son the Rabbis did not [intend to] penalize; here too, then, it is the man himself that they would penalize, but his son the Rabbis would not have penalized. Said Abaye, We have it on tradition that if a man has defiled his fellow's clean [produce][9] and dies they do not penalize his son after him [to pay for the damage caused]. What is the reason? ‘Imperceptible damage[10] is not in the category of [legal] damage’;[11] the man himself the Rabbis would have penalized, but his son the Rabbis would not have penalized.

MISHNAH. HOUSES, [STONES],[12] SLAVES AND CATTLE MAY NOT BE BROUGHT SAVE FOR THE NEEDS OF THE FESTIVAL, OR THE NEED OF A VEND OR WHO HAS NOT [ENOUGH] TO EAT. GEMARA. Raba asked of R. Nahman: What about [affording] ‘earning-jobs’[13] in aid of one who has not [enough] to eat? — He replied: We learned: OR THE NEED OF A VENDOR WHO HAS NOT [ENOUGH] TO EAT. What is this [relative] clause, ‘Who has not enough to eat’ intended to cover?[14] Is it not to include such [casual] ‘earning-jobs’? — Not [necessarily]; it is an explanatory clause.[15] Thereupon Abaye pointed out to him an objection: ‘One should not write credit-bills during the festival [week]; but if [the creditor] does not trust [the person] or he [the clerk] has not [enough] to eat, one may [then] write’.[16] What is the clause, ‘Or he has not [enough] to eat’ intended to cover here? Is it not to include [casual] ‘earning-jobs’?[13] — [Yes], you may infer that.

R. Shesheth raised an objection: ‘And the Sages say, Three craftsmen [may] do work until midday on the day preceding the [Feast of] Passover,[17] [namely], tailors, hairdressers and fullers; tailors, for the same reason that a private person may do [some] sewing in his usual way during the festival [week]; hairdressers and fullers, for the same reason that persons returning home from abroad,[18] or coming out of prison may crop their hair and wash their clothes during the festival [week]’.[19] Now, if you presume that ‘earning-jobs’ are allowed[20] where one has not [enough] to eat, then also all [other] work should have been allowed here,[21] because ‘earning-jobs’ are permitted[20] where one has not [enough] to eat! R. Papa demurred to this [argument]: Then accordingly, building [work should] be allowed,[22] just as ‘a wall which is bulging outward into the public domain, may be pulled down and rebuilt in the usual way,[23] because it is a [public] danger’![24] Rabina also demurred to this [argument]: Accordingly then, a scrivener[25] should be allowed [to work][22] just as one may ‘write marriage deeds,[26] bills of divorcement[27] and receipts’![28] Said R. Ashi:[29] [How] can you argue thus from regulations governing the festival [week] to those governing the fourteenth of Nisan? Those governing the festival [week] are based on [the avoidance of] exertion and where loss is threatened the Rabbis have allowed [exertion]; whereas the regulations governing the fourteenth of Nisan are based on the exigencies of the Festival; anything which is required for the Festival our Rabbis have permitted and anything that is not required for the Festival our Rabbis have not permitted.

MISHNAH. ONE MAY NOT REMOVE [EFFECTS] FROM HOUSE TO HOUSE,[30] BUT ONE MAY REMOVE THEM TO HIS COURT. WARES[31] MAY NOT BE BROUGHT HOME FROM THE HOUSE OF THE CRAFTSMAN. IF ONE IS ANXIOUS ABOUT THE THINGS,[32] HE MAY REMOVE THEM TO ANOTHER COURT.[33]

GEMARA. [BUT ONE MAY REMOVE THEM TO HIS COURT]. But you said at first that one's effects may not be removed at all? — Said Abaye, The latter part comes to [tell] us that [to another] house in that [same] court he may [remove his effects].[34]

AND WARES MAY NOT BE BROUGHT HOME FROM THE HOUSE OF THE CRAFTSMAN. Said R. Papa: Raba [once] gave us a test: We learned, ‘WARES MAY NOT BE BROUGHT HOME FROM THE HOUSE OF THE CRAFTSMAN’ and this he contrasted [with the following]: ‘Wares may be conveyed [to][35] and brought home from the house of the craftsman, even though they be not needed for the festival’![36] And we replied to him: The latter [Baraitha] refers to the fourteenth of Nisan, while here it refers to the festival week. Or, if you like, I might suggest that both [passages] refer to the festival week, [but that the ruling] here [obtains] where he trusts him[37] [and] the latter [ruling obtains] where he does not trust him.[38]

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(1) The firstborn male of ‘clean’ animals is from birth ‘dedicated’ or destined for the altar and its flesh is the priests’ due (Num. XVIII, 15-18). It may not be used for work or be shorn, unless it be born blemished or becomes accidentally permanently maimed, when it is no longer fit for sacrifice (Deut. XV, 19-22; cf. Lev. XXII, I8ff). If the owner cunningly contrives to get it injured either to avoid the trouble and expense of keeping it or to have the flesh, he is penalized to have it buried and is mulcted to half its value for the loss he caused to a priest. V. Shul. ‘Ar. Yor. De'ah. 309-310.

(2) Non-Jewish male slaves who (with their consent) had been circumcised (cf. Gen. XVII. 12-13) and (male and female) ritually received into the household, enjoyed the privileges of resting on the Sabbaths (Ex. XX, 10) and Feasts (Deut. XII, 12, 18) and to partake of holy meats (ibid. XVI, 11) even in the priest's household (Lev. XXII, 11) and to perform such Jewish religious observances as they chose. (Cf. Ber. 20a and Suk. 20b). By selling him to a non-Jew he debarred the slave from the religious observances he learned to love and enjoy, and for this heartless act the offending master was penalized by the loss of his monetary gain.

(3) Merely picked up, cleared, lifted from the soil by the first superficial ploughing which did not constitute working the soil, forbidden Scripturally.

(4) By regular harrowing or deeper or cross ploughing. V. Tosaf. s.v. נטייבה and commentary of R. Samson of Sens on M. Sheb. IV, 2.

(5) By bringing cartloads of manure and methodically spreading it over the field.

(6) Methodically, instead of just letting cattle roam about on it.

(7) M. Sheb. IV, 2.

(8) For clearing thorns by harrowing, manuring and hurdling cattle on the field, are not of the processes explicitly forbidden in Scripture (Lev. XXV, 1-5); and though some included even such ‘secondary processes’ under the Scriptural prohibition (cf. supra 3a), the Rabbis did not press the penalty against the dead man's son.

(9) Which had been carefully guarded by the owner from contamination, if the malefactor spitefully threw (for instance) a dead reptile on the heap of washed corn or among the gathered olives or grapes (cf. Lev. XI, 29-34). Priests' due of these could not be eaten, but might only be burnt as fuel. Pious lay-people would not buy such produce.
(10) As there is no visible change in the produce that has been thus deteriorated, he call say that all is still as it was.
(11) MS. M. and in parallel passages add here: 'The penalty (imposed) is rabbinical (in origin) '.
(12) V. D.S. Other texts add also 'fields'.
(13) I.e., find a poor man some odd, unnecessary job to do, as a chance of earning something wherewith to buy provisions for the Festival.
(14) It is assumed that the words THE NEED OF A VENDOR imply that he has not enough to eat.
(15) Explaining the phrase THE NEED OF A VENDOR. But there is no indication according to this interpretation of the Mishnah — to have any unnecessary job done in the festival week.
(16) During the festival week, plainly allowing it as a means of helping the borrower or the (professional) scribe.
(17) The fourteenth of Nisan, when from early afternoon the people began the preparation of the Paschal Lambs. Cf. pes. V, 1, 5ff.
(18) Lit., 'from the maritime province', generally denoting the Diaspora.
(19) V. Pes. 55b and cf. with the Mishnah 55a on the variations in the text.
(20) During the festival week.
(21) On the fourteenth of Nisan, instead of limiting the permission to three crafts only, because there may be other craftsmen who may be in need of money for food. But, as there is no mention of such a contingency there, it shows that even in such a case, unnecessary odd 'earning-jobs' may not be given in the festival week.
(22) On the fourteenth of Nisan.
(23) During the festival week.
(24) V. supra 7a.
(25) Lat. librarius.
(26) The terms of the marriage contract agreed to by the parents, the bride and bridegroom.
(27) To end an unhappy marriage all the sooner, it is allowed even in the festival week.
(28) V. infra 18b.
(29) There is a flaw in K. Shesheth's argument.
(30) Either (i) from one house to another in the same court, or (ii) from another's house into his own, as this is gratifying to him. V. Han., Asheri and Ritba.
(31) כלים ; the term covers articles of household furniture, utensils, clothing and bedding; but obviously not tools, etc.
(32) Fearing they might be stolen.
(33) To ensure their safety.
(34) Cf. p. 75. n. 9 (ii).
(35) So SBH. p. 62. In our text as it stands, both here and pes. 55b מוליכין might possibly refer to the conveyance of larger, unportable objects, while מביאין refers to smaller, portable things. The concluding words of this discussion, however, do not take note of this possibility.
(36) V. pes. 55b.
(37) The craftsman, and may leave his things with him safely to avoid all unnecessary 'exertion'.
(38) Fearing they might be stolen.

Talmud - Mas. Mo'ed Katan 13b

And [in fact] it is taught [thus]: 'Wares may be brought [home] from the house of the craftsman, for instance, jugs from the jug maker's and tumblers from the glass maker's, but not wool from the dyer's nor articles from the house of the craftsman; but if he has not [enough] to eat one gives him his pay [in advance] and leaves the object with him, if however he does not trust him he leaves It In a house near him[1] and if he is anxious about the things lest they be stolen he[2] brings them home privily'.[3] You have thus explained[4] [the discrepancy] about 'bringing home', [but] the discrepancy about 'conveying' still remains a difficulty; for when it states WARES MAY NOT BE BROUGHT HOME, [it follows] much less may one convey [wares to the house of the craftsman]! Hence [obviously] the explanation given at first[5] is the correct one. MISHNAH. FIGS [WHILE DRYING]

MAY BE COVERED WITH STRAW;[6] R. JUDAH SAYS, THEY MAY EVEN BE PILED UP [IN HEAPS].[7] VENDORS OF FRUITS, CLOTHING AND [OTHER] WARES MAY SELL Privily FOR THE REQUIREMENTS OF THE FESTIVAL [WEEK]. FISHERMEN, GROATS-POUNDERS AND GRIST GRINDERS[8] PLY THEIR TRADE PRIVILY FOR THE REQUIREMENTS OF THE FESTIVAL [WEEK]. R. JOSE SAYS, THEY HAVE IMPOSED A RESTRICTION ON THEMSELVES.[9]

GEMARA. R. Hiyya b. Abba and R. Assi differ [in their interpretation] both in the name of Hezekiah and R. Johanan.[10] One says that the [former expression], they MAY BE COVERED, MEHAPPIN, means [covering but] lightly, and [the latter] MAY EVEN BE PILED UP, ME'ABBIN, means [spreading the straw] closely; the other says that MAY BE COVERED, means [spreading the straw] lightly or densely, while [the latter expression], MAY EVEN BE PILED UP, means miaking a sort of pile.[11] It is also taught thus: ‘May be piled up [me'abbin] — making a sort of pile: these are the words of R. Judah’.

VENDORS OF FRUITS, CLOTHING AND [OTHER] WARES MAY SELL PRIVILY. The question was asked: Does THEY HAVE IMPOSED A RESTRICTION ON THEMSELVES, mean that they do not work at all, or perhaps that they do it privily? Come and hear: ‘Vendors of fruits, clothing and [other] wares sell privily for the requirements of the festival [week]; R. Jose says, The Tiberian traders have imposed a restriction on themselves not to sell at all. Deerstalkers, fowlers and fishermen catch privily for the requirements of thee festival [week]; it. Jose says, The catchers of Acra have imposed a restriction on themselves not to catch at all. Groats-pounders make hilka[12] [coarse meal], tragus[13] [pulse-porridge] and tisana[14] [pearl-barley] privily for the requirements of the festival [week]; R. Jose says, The gristpounders of Sepphoris have imposed a restriction on themselves not to pound at all’. Abaye explained:[15] Hilka means [groats of] one [grain broken] in two;[16] tragus, one into three;[17] tisana, one into four.[18] When R. Dimi came [from Palestine] he said: [All these are] kuntha [spelt].

An objection was raised: Hilka, tragus and tisana are [considered as] ‘tainted’[19] everywhere.[20] Now this harmonizes well with the explanation that it is one [grain broken] in two, three or four; they are [considered] ‘tainted’ everywhere, because they have been rendered ‘fit’ [liable to take the taint of impurity]; but according to the explanation that they are all ‘spelt’, why then are they taken as ‘tainted’ everywhere, for these have not [necessarily] been rendered ‘fit’ [by damping]? [Sometimes they are], for instance, where the groats are [made of] peeled [spelt]; because, unless the grain had been soaked in water it would not peel. And why is it called hilka? Because it has had its ‘tunic’[21] [husk] taken off. An objection was raised: ‘One who vowed [to abstain] from dagan[22] is debarred even from [partaking of] the Egyptian bean[23] when dry, but is allowed to eat it when fresh [green];[24] and he is permitted rice,[25] hilka, tragus and tisana.[26] Now, this harmonizes well with the explanation that these [varieties] are so called because one [grain] is broken into two, three or four; it is Proper [to allow him to eat] because these [being now meal] no longer belong to the [category] of dagan [grain]; but according to him who says that hilka is [what we call] ‘spelt’, it is [still] properly [designated as] dagan! — This is a difficulty.

R. Huna[27] permitted vendors of Pot-herbs[28] to go and sell in the festival week in the market Place in the ordinary way. R. Kahana thereupon put an objection to him [from the following]: ‘A shop which opens into a colonnade may be opened and closed in the ordinary way; if it opens into the public domain, [the shopkeeper] may open one door and close one; and on the day preceding the last day of the Feast [of Tabernacles][29] he may bring out fruit and decorate the markets all round the town in honour of the last day of the Feast’. [That is to say], ‘In honour of the last day of the Feast, [he may open]; but if not in honour of the last day of the Feast, he may not [open]! That is not difficult [to explain]: This latter prohibition refers to the sale of fruits, whereas in the former case it is the sale of seasoning [pot-herbs that is allowed].

CHAPTER III

MISHNAH. AND THESE [MAY] CROP[30] [THEIR HAIR] DURING THE FESTIVAL [WEEK]: ONE ARRIVING [HOME] FROM ABROAD,[31] OR FROM A PLACE OF CAPTIVITY OR ONE COMING OUT OF PRISON, OR ONE UNDER A BAN[32] TO WHOM THE SAGES HAVE [JUST] GRANTED ABSOLUTION. AND LIKEWISE ONE WHO APPLIED TO A SAGE[33] AND WAS ABSOLVED [BY HIM], AND A NAZIRITE[34] OR A LEPER ON EMERGING FROM HIS [STATE OF RITUAL] IMPURITY TO [BEGIN] HIS PURIFICATION.[35]

AND THESE [MAY] WASH [THEIR GARMENTS] DURING THE FESTIVAL [WEEK]: ONE ARRIVING [HOME] FROM ABROAD,[31] OR FROM THE PLACE OF [HIS] CAPTIVITY, OR COMING OUT OF PRISON

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(1) The craftsman.

(2) The owner takes the things into his house.

(3) V. supra n. 3.

(4) Lit., ‘straightened out’.

(5) Namely that the Baraitha ruling (cf. Pes. 55b) refers to the fourteenth of Nisan while our Mishnah refers to the festival week. Cf. R. Ash's reply, above. For further notes on this passage v. pes., Sonc. ed. p. 276.

(6) During the festival week, to protect them from rain. קציעות are split figs, which are sun-dried and pressed into cakes. V. commentaries on Alfasi ‘s text and Krauss, TA II, 246.

(7) The figs, or the covering straw. V. Gemara.

(8) Coarse and fine.

(9) V. Gemara.

(10) All four were Palestinian teachers (Tiberias).

(11) Supra n. 2.

(12) Latin halica, alicia. Cf. Martial, Epigr. XIII, 9: ‘Villio est alicia, carior illa faba’. It is mentioned there with the fine Egyptian lentil (Niliacam . . . lentem).

(13) Lat. tragum, pulse, porridge.

(14) Lat. pitsana, barley crushed and cleansed from the husks.

(15) By popular etymology.

(16) Derived from חלק ‘divide’ (into halves).

(17) From the Greek ** in three parts.

(18) Greek ** four.

(19) Literally (ritually) defiled, potentially or actually, by the grain being washed before the milling. Fruits, grain and vegetables are not subject to ritual defilement until washed or sprayed or have Purposely been left exposed to get damped by rain or dew. After that deliberate damping these take ritual defilement by contact with defiling objects. Cf. Lev. XI, 34. 37-38 with commentaries of Rashi and Nahmanides and B.M. 22a-b, (Sonc. ed. p. 138-9).

(20) M. Maksh. VI, 2, and cf. Pes 40a.

(21) Another popular derivation from חלוק a shirt or tunic.

(22) Means ‘cereal’ in the (final) form of grain.

(23) V. supra p. 77, n. 7.

(24) When it is not called a ‘cereal’ but a ‘vegetable’ and ‘in vows we follow the (meaning of terms in) popular parlance’, Ned. 49a; cf. 55a (top) commentaries.

(25) Or hirse. V. Pes. 35a.

(26) V. Ned. 55b; Tosef. Ned. IV, 1, ZM. p. 279. 17-l8.

(27) Of Sura, Rab's disciple and successor. Many texts (v. D.S. and SBH) read here Rab Judah at Pumbeditha, also a disciple of Rab, as was also R. Kahana, mentioned next.

(28) And other ingredients for food seasoning or ‘cornchandlers’. V. Tosaf. s.v. בתבלין and כרופייתא (sing. כרופיתא), probably connected with the Greek **

(29) The bracket is omitted in the Tosefta (M.K. II, 13) and other texts and rightly so, as the addition confines the permission only to the last part of Tabernacles, whereas there is no reason to exclude that of Passover.

(30) Lit., ‘shave’.

(31) Lit., ‘From a maritime province’.

(32) Lit., ‘repelled’ for some flagrant breach of discipline, a religious or moral offence. The matter is discussed fully infra 16aff. The ‘repelled’ person was expected to go about in sorry apparel, with disordered hair during the time of disgrace. as if in mourning.

(33) A hakam, an ordained Rabbi, to absolve him of a vow to go unkempt for a period, which is found to have been made rashly and is now extremely inconvenient or impossible of fulfillment. Cf. e.g., Ned. IX, 6; 66a.

(34) V. Num. VI, 1-21. If he became defiled by contact with a corpse he had first to be ritually purified and shaved (ibid 6-9); or, on the completion of his Nazirite period (13, 18).

(35) He had likewise to be shaved and to wash his garments. Lev. XIV, 8-9.

Talmud - Mas. Mo'ed Katan 14a

, OR ONE UNDER A BAN TO WHOM THE SAGES HAVE [JUST] GRANTED ABSOLUTION. AND LIKEWISE ONE WHO APPLIED TO A SAGE AND WAS ABSOLVED [BY HIM]. HAND-TOWELS, BARBERS’ TOWELS AND BATH-TOWELS [MAY BE WASHED]. MEN OR WOMEN [AFFECTED] WITH ‘THE FLUX’[1] OR MENSTRUANTS,[2] OR WOMEN AFTER CHILDBIRTH[3] AND ALL THOSE EMERGING FROM [A STATE OF RITUAL.] IMPURITY[4] TO [BEGIN] THEIR PURIFICATION ARE ALLOWED [TO WASH THEIR GARMENTS]; BUT ALL OTHER MEN ARE FORBIDDEN.

GEMARA. What is the reason that all other men are forbidden? — As we learned: ‘Members of the ward on duty[5] and [communal] Deputies at their Posts[6] are forbidden [during their turn] to crop [their hair] or wash [their garments]. But on Thursday they are allowed, in honour of the Sabbath’. Now Rabbah b. Bar-Hana reporting R. Eleazar [as commenting on this] said: ‘What is the reason [they may on Thursday]? So that they should not enter [on the duty of] their Ward in a state of untidiness’. Here also the reason is that they do not enter upon the festival in a state of untidiness.

R. Zera inquired: Suppose one had lost something on the day before the festival? [Do we say], since he was prevented [from attending to himself before] he may,[7] or perhaps, as the reason is not obvious, he may not? — Said Abaye: [Obviously not], as people would then say: ‘[So] all Syrian [fancy] loaves are forbidden, but the Syrian [fancy] loaves of Boethus are allowed’?[8] But admitting your argument [against], yet what about it. Assi's statement? who citing R. Johanan said: ‘Anybody who has but one tunic[9] is allowed to wash it during the festival week’. Would not people say in that case, too: ‘[So] all Syrian [fancy] loaves are forbidden, but the Syrian [fancy] loaves of Boethus are allowed’? — Surely it has been stated in this connection: ‘Said Mar son of R. Ashi, His girdle[10] proves his plight’.[11] R. Ashi's comments on our Mishnah were [in this form]: R. Zera enquired, What if a craftsman[12] had lost something on the day before the festival? Do we say that since he is a craftsman, the reason [why he is allowed] is obvious, or since the reason is not so obvious as in those other cases [mentioned in the Mishnah], he may not [attend to himself in the festival week]? Let this question stand [adjourned].[13]

[ONE ARRIVING HOME] FROM ABROAD [MAY CROP]. [The anonymous view of] our Mishnah is not that of R. Judah. For it is taught: R. Judah says, One arriving [home] from abroad may not crop himself [during the festival week] because he had set out [on his voyage] without the approval [of the Rabbis].[14] Said Raba: ‘If he merely went on a tour all [authorities] are agreed that he is forbidden;[15] if to seek his bread, all are agreed that he is allowed.[15] Difference of opinion arises only in the case of a voyage for business profits, one master looking upon it as equivalent to [mere] travelling, and the other master looking upon it as equivalent to seeking his bread’.

An objection was raised: ‘Said Rabbi: R. Judah's opinion seems apposite where he had set out without approval and the Sages' opinion seems apposite where he had set out with approval'. Now, what is 'without approval'? If I say for going on a tour, did you not say that all are agreed that he is forbidden?[15] Again [should it mean] for seeking [his] bread; surely did you not say that [if with this object] all are agreed that he is allowed?[16] It is obvious therefore that it means for profit-seeking.[17] Now consider the latter clause: 'And the Sages' opinion seems apposite where he had set out with approval'; what is meant by 'with approval'? If I say [approval to set out] for earning his bread, have you not said that all are agreed that he is allowed?[16] Again, should it [rather] mean for profit [seeking]; but surely then, did you not say that' R. Judah's [adverse] opinion seems apposite in this case [that he is forbidden]?[18] — This is what he [Rabbi] meant to say: The Rabbis accept R. Judah's opinion where he had started out 'without approval', and what means it? For going on a tour; because, even the Sages disagree with him only on [the question of a voyage] for gaining profit, whereas in regard to going on a tour they concur with him.[19] And again, R. Judah accepts the Rabbis' opinion [that he may attend to himself][16] where he had set out 'with approval', and what means it? For seeking his bread; because even R. Judah disagrees with them only on [the question of a voyage] for gaining profit, whereas in regard to going out for seeking his bread he concurs with them.[20]

Samuel said: 'If an infant is born during the festival [week] it is allowed to cut his hair[21] during the festival [week] because there is no imprisonment[22] more real than this'. [That is, only 'if . . . born] during the festival [week]' it may be done, but [if born] before then, it is [presumably] not allowed.[23]

R. Phineas raised all objection: 'Every one of those mentioned [by the Sages] as being permitted to crop his hair during the festival [week] may [likewise] crop his hair during the [thirty][24] days of his mourning';[25] [which means conversely] that every one of those who is forbidden to crop his hair during the festival [week] is [likewise] forbidden to crop his hair during the [thirty][26] days of his mourning.

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(1) Ibid. XV, 2, 5, 13.

(2) Ibid. 19-27.

(3) Ibid. XII, 2; cf. XV, 25ff.

(4) Ibid. XI, 24-25, 28, 40 and Num. XIX, 19.

(5) Mishmar, v. Glos. The priests and Levites were grouped in twenty-four wards to take their turn in the Temple. V. I Chron. XXIV, 1-19 (Priests) and 20-25 (Levites). Cf. Neh. XII, 44-47 and XIII, 29-31.

(6) Ma'amad, v. Glos. Palestine was divided into twenty-four stations or districts which sent their deputies of priests, Levites and lay Israelites to represent the community at the Temple service and they served for a week. While on duty the Deputies observed a daily fast during the day, from Monday to Thursday and in a side chapel recited Holy Writ. V. Ta'an. IV, 1; Talm. 26a and 27a.

(7) Trim himself and wash his garments during the festival week.

(8) A proverbial expression, protesting against discrimination. The origin of the proverb is found in Pes. 37a where it is objected to fancy-shaped loaves for Passover use, as the shaping of the piece of dough may delay the baking to the point of leavening. R. Boethus b. Zonin suggested that the use of moulds might easily obviate this fear, which evoked the (proverbial) retort.

(9) Or shirt.

(10) Or loin cloth.

(11) While washing his shirt, he is either girded with a loin cloth or wears his outer garment fastened by the belt to avoid exposure of his body.

(12) A barber or bath attendant who is permitted to work on the fourteenth of Nisan, who mislaid or lost one of his tools, and his customers see him worried and hindered in his work.

(13) For a future adequate solution.

(14) Quoted in J.M.K. I, 1: 'For R. Judah said it is forbidden to set out on a voyage on the great sea'. The reason for his disapproval is probably on account of the risk of not arriving home in time for the festival. Cf. Shab. 19a and J. Shab. 1, 3.

(15) To attend to his personal appearance during the festival week.

(16) To attend to his personal appearance during the festival week.

(17) I.e., R. Judah does not approve of a sea voyage for mere gain or profit.

(18) All of which shows that the difference cannot be as stated on the question of a voyage for profit.

(19) That he is to be penalized if his homecoming was delayed, and not allowed to trim himself during the festival week.

(20) The accepted view is that a voyage for profit is an extenuating circumstance. V. Han., Asheri and Codes.

(21) If its hair is abnormally long and, for convenience, would best be shortened. If, however, the shortening is imperative for hygienic reasons there is no question.

(22) In the pre-natal state.

(23) Since it could have been cut before the festival.

(24) So in Tosef. II, 2. I. e., if he suffered a second bereavement before the mourning days of the first expired. V. infra 17b.

(25) V. infra 17b.

(26) V. p. 83, n. 9.

Talmud - Mas. Mo'ed Katan 14b

Now if you say that there is a difference here in the case of the infant,[1] you are this implying that [the observance of] mourning obtains in the case of a minor, whereas it is taught: ‘A minor's garment is rent out of grief of soul’?[2] R. Ashi said [that the negative inference is faulty, for] does it [actually] state ‘but those who are forbidden’?[3] Perhaps [it means to state] that some there are who are forbidden[4] and some others who are permitted.[5]

Amemar, or some say. R. Shisha son of R. Idi, taught thus: ‘Samuel said: "An infant may be cropped in the festival [week]: it makes no difference whether he was born during the festival [week] or was born before".’ Said R. Phineas: We learned this also [indirectly] from [the following]: ‘Every one of those mentioned [by the Sages] as being permitted to crop during the festival [week] may likewise crop his hair during the [thirty] days of his mourning’; which means conversely, but every one of those who is forbidden to crop during the festival [week] is likewise forbidden to crop during the [thirty] days of his mourning. Now if you say that a [newly-born] infant is forbidden [to be cropped] you find yourself [implying] that [the observance of] mourning obtains in the case of a minor; whereas it is taught [distinctly]: ‘The garment of a minor is rent [merely] out of grief of soul’? — Said R. Ashi: [That negative inference is faulty for] does it [actually] state, ‘But he who is forbidden [in the festival week] is also forbidden during his [thirty] days of mourning? Probably it means that some there are who are forbidden and some others who are permitted.

A mourner does not deport himself as one in mourning during a festival, as it is said: And thou shalt rejoice in the feast.[6] [For], if his mourning began before [the festival], a positive precept incumbent on the community[7] overrides one incumbent on him as an individual;[8] and if his mourning began just then [during the festival], an individual's function cannot come and put off that of the public.

Now what about one separated [under a ban]? Should he deport himself as one in ‘separation’ during a festival? — Said R. Joseph: Come and hear: ‘They [the Courts] deal with capital offenses, with [offenses involving judicial] floggings[9] and monetary suits,[10] [during the festival week]’. [This implies that] if one heeds not the [court's] decision, we put him under a ban.[11] Now if you presume that he should not deport himself during the festival like one under ‘separation’, [then] seeing that where one is already fallen under a ban, the festival comes and suspends [the ban],[12] shall we pronounce him banned in the first instance [during the festival]? Abaye replied: Perhaps [the object of the adjudication is] to examine the charge against him.[13] For, should you not say thus, then ‘capital offenses’ therein mentioned would likewise mean indeed that they would have him slain; but surely thereby they [the judges] themselves would be debarred from ‘rejoicing in the feast’ [as is Scripturally ordained], as it is taught:[14] Says R. Akiba: Whence may it be shown that a Sanhedrin [Court] that put a [sinning] soul to death do not taste [food] all that day? From the instructive text ‘Ye shall not eat on the blood’.[15] Therefore [I say] it must be only to examine the charge against him, and likewise here it is only to examine the charge against him. Said R. Joseph to him: If [you explain it] so, the result is that you delay the execution of his sentence [which is forbidden]?[16] But [I take it], they come early in the morning and examine the charges against him; then they go home and eat and drink all that day[17] and, coming back with the setting sun, they do give a final decision and [also] have him put to death.[18]

Said Abaye: Come and hear:[19] OR ONE UNDER A BAN TO WHOM THE SAGES HAVE GRANTED ABSOLUTION.[20] Said Raba: Does it state: ‘Whom the Sages granted absolution’? It says: OR ONE UNDER A BAN TO WHOM THE SAGES HAVE [JUST] GRANTED ABSOLUTION, [that is] where he [the offender] went and appeased the plaintiff and then came before our Rabbis[21] and they then set him free [from restraints].[22]

What about a leprous person; does he deport himself as a leper during the festival?[23] — Said Abaye: ‘Come and hear: AND [ALSO] A NAZIR OR LEPER EMERGING FROM HIS [STATE OF] IMPURITY TO [BEGIN] HIS PURIFICATION [may crop his hair and wash his garments],[24] which implies that during the days of his impurity he does deport himself [as a leper]’! — [No]; the Tanna considered that this goes without saying [and is to be understood thus]: It goes without saying that he does not deport himself [as a leper] during the festival.[25] But when [he is emerging] into his state of cleanness we might [be inclined to] restrict him, in case he might defer[26] making his [preliminary] offerings [of purification].[27] Therefore he informs us [that he may, nevertheless].[28] Said Raba: Come and hear:[29] ‘[It is taught]: And the leper. [in whom the plague is, his clothes shall be rent and the hair of his head shall be loose . . .],[30] that is meant to include a High Priest [in this rule]’. Now [we learned] a High Priest all through the year is on a par with any other person on a festival, as we learned: The High Priest may make sacrifice [on the altar] even when he be onen,[31] without however eating thereof! From this [latter restriction of even a High Priest] you can infer [about the former] that he should deport himself as a leper during the festival. — Infer that.

A mourner is forbidden to cut his hair, because since the Divine Law ordained the sons of Aaron:[32] Let not the hair of your heads go loose,[33] we infer that for everybody else [cutting the hair] is forbidden

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(1) Whether the infant was born during or before the festival, in which latter case he must not be cropped, and consequently on the principle just enunciated he may not be cropped on his days of mourning.

(2) V. infra 26h. It is done, not as an obligatory observance on the part of the child, but merely to deepen the poignancy of grief among the mourners by including the young, unknowing child in the sorrow.

(3) ‘But those who are forbidden to crop their hair during the festival (week) are (likewise) forbidden to do it during the (thirty) days of mourning’.

(4) In the case of adults.

(5) In the case of minors.

(6) Deut. XVI, 14.

(7) The divine charge, an ‘ordinance’ to the community to observe the joyous celebration of the festival.

(8) The observance of mourning.

(9) Of thirty-nine stripes, for a well-attested breach of a Scriptural prohibition after due warning. V. Deut. XXV, 1-3; Mak., Sonc. ed. p. 90, n. 1.

(10) Claims or fines. So Tosef. M.K. II, 11.

(11) Shammetha, to enforce public discipline.

(12) I.e., his disabilities of seclusion and wearing a mourner's garb as in the case of the mourner.

(13) Without pronouncing judgment.

(14) Sanh., Sonc. ed. p. 430.
(15) Lev. XIX, 26.
(16) Cf. Aboth. V, Il and Shab. 33a.
(17) In fulfillment of the precept of rejoicing on the Festival.
(18) [Since after all a final decision is given on the festival week, it follows that the ban is necessarily imposed on the disobedient and consequently proves that the regulations of the ban are in force on the festival week.]
(19) In support of my view.
(20) The relative clause is at present assumed to mean that one who is banned is automatically released by the Sages on the festival from the disabilities of a ban.
(21) During the festival week.
(22) Otherwise he remains under his disabilities during the festival.
(23) I.e., to remain isolated, let his hair remain long and wear torn or soiled clothes as a leper, during the festival week.
(24) Cf. Mishnah supra 13b.
(25) I.e., it is immaterial either way so long as he is still an unclean leper, as he, in any case, has to resume his disabilities after the festival. V. Ritba.
(26) I.e., after having trimmed himself and changed his clothes during the festival he might postpone the offerings and bring them on the last day of the festival when a private sacrifice may not be offered.
(27) I.e., taking two live birds and spring water for the ritual sprinkling with the hyssop, as prescribed in Lev. XIV, 2-8, after which he washed his clothes and shaved his body and was to return to the camp' (home) and after another seven days to complete his 'purification and atonement by sacrifice at the Temple.
(28) Crop his hair and cleanse or change his torn clothes during the festival week.
(29) That the leper deports himself as a leper in the festival week also.
(30) Sifra on Lev. XIII, 45 where by laying stress on 'And the' together with the descriptive clause 'in whom the plague is' still, the wording is taken to include especially the otherwise exceptional person of the High Priest, who may never grow long hair or wear torn clothes, even when a mourner. Lev. XXI, 10.
(31) I.e., on the day of poignant grief, when the death of his near and dear occurred. This law is based on the sad experience of Aaron who lost two of his soils on the day of his induction as High Priest. He then offered up the sacrifices, but did not partake of the holy meat. V. Lev. X, 16; 16-20. Cf. Hor., Sonc. ed. pp. 90 and 93. Any other priest may not officiate during the state of onen, except on festivals when the law of onen does not apply.
(32) When Nadab and Abihu died.
(33) I.e., keep it in trim. V. Lev. X, 6 and cf, Ezek. XLIV, 20.

Talmud - Mas. Mo'ed Katan 15a

. What about those 'separated' [under a ban], and [segregated] lepers in regard to cutting [their hair] during the festival week? — Come and hear. 'Those "separated" [under a ban] and [segregated] lepers are forbidden to cut [their hair] and wash [their garments]. If one "separated" [under a ban] died,[1] the Beth din stone his coffin; R. Judah says, not that they set up a heap of stones over him like the heap of Achan,[2] but the Beth din send [commissioners][3] and have a large stone[4] placed on his coffin, which teaches you that if anyone is placed under a ban and dies in his "separation", the Beth din stone his coffin'.[5]

A mourner is obliged to muffle his head. Since the All Merciful enjoined Ezekiel: And cover not thine upper lip,[6] we infer that everybody else is obliged [to do so].[7] What about one 'separated' [under a ban] in regard to muffling the head? — Said R. Joseph, Come and hear: 'And they[8] muffle themselves and sit as men "separated" [under a ban] and like mourners until Heaven grants them mercy'. Said Abaye: Perhaps it is different with one who is 'separated' [under a ban] by displeasure of Heaven[9] [as it were]; for that is [more] serious [than being in disfavour with man]!

What about a leper, in regard to muffling the head? — Come and hear: And he shall cover his upper lip;[10] we infer from this that he is obliged to muffle his head. — Infer that.

A mourner is forbidden to put on tefillin.[11] Since the All Merciful ordained Ezekiel: Bind thy headtire upon thee,[12] this implies that everybody else is forbidden [to do so in deep mourning]. What about one ‘separated’ [under a ban], in regard to tefillin? — It stands [adjourned].

What about a leper, in regard to [putting on] tefillin? — Come and hear: [Holy Writ prescribes], ‘And the leper’;[13] this [amplification] is to include [even] a High Priest [in this law];[14] ‘his clothes shall be perumim’,[15] that is, they shall be torn. ‘And [the hair of] his head shall be parua’’.[16] ‘Parua’’ means only letting the hair grow long;[17] these are the words of R. Eliezer. R. Akiba explains [otherwise]: ‘Shall be’ is stated in connection with the leper's head;[18] and ‘shall be’ is stated in connection with the leper's garment.[19] [Therefore] just as ‘shall be’ stated in connection with the garment refers to something external to the body [clothes],[20] so also ‘shall be’ stated in connection with the head refers to something external to the body.[21] What then [is to be discarded]? Is it not the reference to tefillin? — Said R. Papa, [Not necessarily these], it may refer to [not putting on] a cap or sudarium.[22]

A mourner is forbidden to give the usual greeting [of wellbeing],[23] because the All Merciful said to Ezekiel: Sigh in silence.[24] What about one ‘separated’ [under a ban] in regard to [abstaining from] the usual greeting?[23] — R. Joseph said, Come and hear: And in regard to greeting one another ‘with peace’, as man to man, they [that are fasting][25] behave like persons who are ‘separated’ [under a ban] by the Omnipresent.[26] Said Abaye to him, Perhaps [the case of] the ‘separated’ [as under a ban] by displeasure of Heaven is different because it is [more] serious.

What about a leper in regard to [abstaining from] greeting one ‘with peace’? — Come and hear: [It is written]: And he shall cover his upper lip,[27] that is, his lips shall be compressed together, that he should behave like one ‘separated’ [under a ban] and like a mourner, and he is forbidden to greet one ‘with peace Infer that. Then why not solve now[28] [the above question] about one ‘separated’ [under a ban]?[29] — Said R. Aha b. Phineas in the name of R. Joseph: Does it [actually] state that he [the leper] is forbidden [to greet one ‘with peace’ like one ‘separated’]? It only states that he behaves like one ‘separated’ or like a mourner with reference to other things and at the same time that he is also forbidden to greet one ‘with peace’.

A mourner is forbidden [to engage] in the words of the Torah, because the All Merciful said to Ezekiel: ‘Sigh in silence’.[30] What about one ‘separated’ [under a ban engaging in] the words of the Torah? — Said R. Joseph, Come and hear: One ‘separated’ [under a ban] may teach [others] and others may teach him; he may be hired [for work] and others may be hired by him. One under anathema[31] neither teaches others, nor do others recite it to him; he is not hired [for work] nor are others [to be] hired by him; but he recites to himself in order that he does not interrupt his study;[32] and he makes a small stall for himself [as a means] for ‘his livelihood’.[33] Whereat Rab[34] remarked, [As for instance] selling water at the pass of Araboth.[35] Infer from that.[36] What about a leper [engaging] in the words of the Torah? — Come and hear: [It is written], And make them known[37] unto thy children and thy children's children; the day that thou stoodest before the Lord thy God in Horeb. [that they may learn to fear Me all the days . . . and that they may teach their children],[38] that is, just as [they heard God's word] then [at Sinai] with awe, fear, trepidation and perspiration;[39] [so be it now studied with awe, fear, trepidation and perspiration]. Hence sad they [the Sages], that men who are [affected] with flux,[40] lepers, or such as [in error] consorted with their wife while in separation[41] are allowed to read [Scripture] out of the Torah [Pentateuch], the Prophets or the Hagiographa[42] or to recite [orally] Mishnah,[43] Midrash,[44] Gemara,[45] Halachah or Aggadah;[46] while those who have night pollutions are forbidden.[47] You may infer it from that.

A mourner is forbidden to wash his clothes, for it is written, And Joab sent to Tekoa and fetched thence a wise woman and said unto her: ‘I pray thee, feign thyself to be a mourner and put mourner apparel, I Pray thee and anoint not thyself with oil, but be as a woman that had a long time mourned for the dead'.[48] What about the 'separated' [under a ban] and the lepers washing their clothes? — Come and hear: Persons 'separated' [under a ban] and lepers are forbidden to cut [their hair] or wash [their clothes]. You may infer it from here.

A mourner is in duty bound to rend [his garments], because the All Merciful enjoined the sons of Aaron, 'Neither rend [your clothes]'.[49] From here you infer that everyone else is bound to do it. What about one 'separated' [under a ban] rending his garments? It stands [adjourned].

What about the leper rending his garments? — Come and hear: 'His clothes shall be perumim'[50] which means they shall be rent. [Yes], infer it.

A mourner is bound to overturn his couch, because Bar Kappara taught:

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(1) Sem. V, 11 adds: 'he requires a stoning'.
(2) Josh. VII, 25.
(3) Sem. ibid. has: But a messenger of the Beth din takes a stone and puts it on his coffin to carry out on him the ordinance of a stoning.
(4) Cf. Lev. XXIV. 23.
(5) Cf. 'Ed. V, 6 (Sonc. ed. p. 25) and Ber. 19a.
(6) Ezek. XXIV, 17.
(7) Under similar circumstances of bereavement, as Ezekiel's grief was meant to be excessively poignant.
(8) Some of the leading Rabbis who meet to fast and pray on account of the shortage of rain. V. Ta'an. 14b.
(9) The drought being the sign of Heaven's displeasure.
(10) Lev. Xlll, 45. 'Cover' here is the same term as used in Ezek. XXIV, 17; 22-23.
(11) Phylacteries. Cf. Deut. VI, 4-9; XI, 19 and Prov. III, 3; VI, 20-23.
(12) Ezek. XXIV, 17-23.Cf. Targum ad loc.
(13) Lev. XIII, 45. V. the full text cited by Raba p. 87.
(14) V. supra p 87, n. 5.
(15) Note the phrase, also the specific meaning of the root פרם , to tear, rend clothes, as here. It is used again twice (Lev. X, 6; and XXI, 10) and Lily in connection with Aaron and his sons; (not) to rend their garments for the dead.
(16) Note this phrase as well as the several meanings of the root פרע ; (a) to be, or get free (from restraint or debt), be loose; (b) to grow freely (of hair, foliage or branches), Num. VI, 5; (c) to let go free, without restraint (Ex. XXXII, 25); (d) to uncover, loosen, disarrange (hair etc.), Num. V, 18.
(17) V. 3b. Cf. Pseudo Jonathan on Lev. XIII, 45.
(18) V. supra p. 87, n. 5.
(19) V. supra ibid.
(20) I.e., his clothes are to be rent exposing parts of the body as a sign of distress and mourning.
(21) I.e., his head to be left bare, uncovered, by not putting on any external covering, as a sign of distress and mourning. Cf. Onkelos on Lev. XIII, 45.
(22) A Latin word meaning a napkin; here a cloth used as a kerchief.
(23) Lit., 'ask after peace'. E.g., Gen. XXIX, 6: 'Is it (peace) well with him? 'Is well': ibid. XLIII, 27. To ask such a question would be invidious and a happy reply even painful to the mourner who is in deep sorrow.
(24) Ezek. XXIV, 17; 22-23. Keep your grief to yourself, but outwardly chat and greet people freely, implying that other mourners may not greet, Han.
(25) on account of the prolonged drought.
(26) V. Ta'an. 12b.
(27) Lev. XIII, 45, with reference to a leper.
(28) From the leper's silence.
(29) Left in suspense because of Abaye's query that perhaps the demeanour of the faster is no criterion, as a public calamity such as drought, Hood, or epidemic disease etc. seems a more serious indication of divine displeasure than the sorrow of an individual.
(30) But converse and talk freely, as if nothing is amiss; implying that other mourners are forbidden. The learned

discussion on the words of the Torah is deemed as a joy. V. Ps. XIX, 9-11; CXIX, 15-16 etc.

(31) One put under herem. This is the extreme disciplinary measure taken against a refractory offender, who persists in his defiance of the first reprimand' (for seven days); the 'separation' (or exclusion) for another seven days (in Babylon and thirty days in Palestine), refusing to submit. The matter is dealt with fully infra 16a.

(32) MS.M., 'Does not impair his studies'.

(33) Cf. Sem. V, 12-13 (where the text is defective).

(34) MS.M., R. Hisda.

(35) A place proverbially notorious for its lack of water, and highly infested by brigands. Cf. Ber. 54a; Naz. 43b. The best place where a man like him would find ready customers.

(36) That one under a ban is permitted to engage in the words of the Torah.

(37) 'The things which the eyes saw', i.e., the scene at Sinai.

(38) Deut. IV, 9-10.

(39) 'And when people saw it they trembled . . .' Ex. XX, 15.

(40) Lev. XV, 2ff.

(41) I.e., within the forbidden period of menses. V. Lev. XV, 19, 24 and XX, 18.

(42) Because 'The sacred word is not subject to defilement'; besides, it cleanses the mind and heart.

(43) The Mishnah par excellence. Inserted by MS.M.

(44) Lit., 'exposition' of the Biblical text.

(45) Lit., 'oral' or 'complementary' teaching and explanations of the Mishnah received from the mouth of a master. These constitute the study of the Talmud.

(46) Halachah is matter of legal import, and Aggadah is ethical and homiletical exposition.

(47) V. Ber. 22a, where the subject is discussed at length showing the divided opinions of teachers, who ultimately inclined to recognize human weakness along with the value of the study of Torah as a moral aid. Cf. Mak. 10a and 23b (Sonc. ed. pp. 62, 169ff).

(48) II Sam. XIV, 2.

(49) Lev. X, 6. At the death of their brothers Nadab and Abihu, during their installation into their priestly office.

(50) Ibid. XIII, 45. Cf. Supra p. 89, n. 2.

Talmud - Mas. Mo'ed Katan 15b

'[God says], "I have set the likeness of mine image on them and through their sins have I upset it; let your couches be overturned[1] on account thereof".' What about one 'separated' [under a ban] and a leper overturning couches? Let this stand [adjourned].

A mourner is forbidden to engage in work, for it is written: And I shall turn your feasts into mourning;[2] [hence we say] that just as it is forbidden to engage in work during a Feast [festival], so is it forbidden to engage in work during mourning. What about one 'separated' [under a ban] in regard to doing work? — Said R. Joseph: 'Come and hear: "When the Sages said that it is forbidden them[3] to engage in work, [about themselves, bathe, don shoes. . .], they laid this down only for the daytime, but at night it is all permitted and [the same restrictions] you find also in the case of one 'separated' and a mourner."[4] Does not this refer to all those [restrictions]?' — No, it is only to the other things, [but not to work].

Come and hear: 'One "separated" [under a ban] teaches [others] and others teach him; he is hired [for work] and others are hired by him'.[5] You may infer from that. What about a leper engaging in work? — Let this stand [adjourned]. A mourner is forbidden to wash himself, as it is written, And anoint not thyself with oil,[6] and bathing is implied in anointing.[7] What about one 'separated' [under a ban] bathing? — Said R. Joseph, Come and hear: 'When the Sages said that it is forbidden then, to wash [on the fast day] they meant only in regard to washing the whole body, but one is permitted to wash one's face, hands or feet, and [the same restrictions] you find also in the case of one "separated" [under a ban] and a mourner'[8] . Now, does not this refer to all the restrictions? — No, [only] to the others [but not to bathing]. What about the leper washing himself? — Let this stand [adjourned].

A mourner is forbidden to put on sandals [shoes], as the All Merciful ordained Ezekiel, And put thy shoes upon thy feet,[9] which implies that for everyone else it is forbidden [to do so]. What about one ‘separated" [under a ban] putting on sandals? — Said R. Joseph, Come and hear: ‘When the Sages said that it is forbidden then, [on the fast day] to put on sandals, they meant only in town, but on the road it is permitted. When, for instance? When one sets out on the road he puts on [shoes], on entering town, he takes them off: and [the same] you find also in the case of one "separated" [under a ban]’.[8] Now, does not this refer to all those [restrictions]?[10] — No, [only] to the other.[11] What about the leper putting on sandals? — Let this stand [adjourned].

A mourner is forbidden the use of the [conjugal] bed, as it is written: And David comforted Bath-Sheba his wife and went in unto her,[12] which implies that before then[13] it was forbidden [him]. What about one ‘separated’ [under a ban] in regard to the use of the [conjugal] bed? — Said R. Joseph, Come and hear: All those years that Israel spent in the wilderness they were ‘separated’ [under a ban][14] yet they used their [conjugal] beds.[15] Said Abaye: But, maybe, the case of those who are ‘separated’ by [displeasure] of Heaven is different because it is less serious? [You say], ‘less serious’! But you argued [before][16] that it was more serious? — He is uncertain on the point; [if you] go [and argue] this way, he rebuts it, and if you go [and argue] the other way, he [again] rebuts it. What about a leper, in regard to the use of the [conjugal] bed? — Come and hear, for it is taught: ‘[It is written], But [he] shall dwell outside his tent seven days’,[17] that is, he shall be like one ‘separated’ [under a ban] and like a mourner; and he is forbidden the use of the [conjugal] bed, as ‘[outside] his tent’ means only [apart from] his wife, as it is said: Go say to them: Return ye to your tents.[18] You may infer it from that. Then could not one now by this [conclusion] solve the above question [on this point] about one ‘separated’ [under a ban]? — Said R. Huna[19] son of Phineas in R. Joseph's name: Does it state [categorically] that he [the leper] is forbidden [like one ‘separated’]? It only states that he is like one ‘separated’ [under a ban] and like a mourner in respect of other things and that he be [also] forbidden the use of the [conjugal] bed.[20]

A mourner does not send his sacrifices [to the Temple], for it is taught: Says R. Simeon, [It is written, And thou shalt sacrifice] peace-offerings[21] and eat there,[22] and thou shalt rejoice before the Lord thy God,[23] that is, one offers ‘peace-offerings’ [only] at times when one is untroubled,[24] but not at a time when one is onen,[25] What about one ‘separated’ [under a ban], should he [then] send his offerings? — Said R. Joseph, Come and hear: All those years that Israel spent in the wilderness they were ‘separated’ [under a ban][26] and [yet] they sent their offerings [to the Tabernacle]. Said Abaye to him: But perhaps one ‘separated’ by [the displeasure of] Heaven is different, because it is not so serious? [You say], ‘Not so serious’! But you argued [before] that it was more serious! — [Abaye] being uncertain on the point rebutted it [either way]. What about a leper, may he send his [sacrificial] offerings? — Come and hear: And after he [a defied priest] is cleansed[27] — [that is, cleansed][28] after coming away from his dead near of kin — they shall reckon unto him seven days[29] — those are the seven days which he has to count[30] — and in the day that he goeth into the Sanctuary,[31] into the inner court,[32] to minister in the Sanctuary, he shall offer his sin-offering[33]

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(1) So MS.M.; cur. edd.: ‘overturn their couches’. Cf. Ezek. XXIV, 23 and J. Ber. Ill, 1.

(2) Amos VIII, 10.

(3) Those praying and fasting on account of persistent drought.

(4) Ta'an. 13a; Tosef. Ta'an. 1, 6; J. Ta'an. I, 3 twice, and J.M.K. III, 5.

(5) V. supra 15a.

(6) II Sam. XIV, 2.

(7) V. Ruth III, 3 and Yoma76.

(8) Cf. supra p. 92, nn. 5 and 6.

(9) Ezek. XXIV, 17.

(10) Including that of not wearing sandals.

(11) Exclusive of sandals.

(12) Il Sam. XII, 24 and infra 21a.

(13) During the period of mourning.

(14) Deut. 1, 34-35; 43-44. Cf Mekilta, Bo. Poem, based on Deut. II, 15-16.

(15) Deut. I, 39.

(16) V. supra p. 90.

(17) Lev. XIV, 8.

(18) Deut. V, 27. Cf. supra 7b.

(19) Var. lec. Aha.

(20) V. supra p. 93.

(21) שלמים derived here from שלם , to be whole, hale and at peace.

(22) These ‘peace-offerings’ were usually brought to the Temple by the pilgrims during the festivals (of Passover, Weeks and Tabernacles) and after the altar rites had been performed and the priests given their due portions (Lev. VII, 29-34), the worshippers with their family group ate the remainder of the sacrificial meat in a state of ritual purity as joyous celebrants (Deut. XII, 6-7; 17-19; XXVII, 7).

(23) Deut. XXVII, 7.

(24) Lit., ‘whole’. Cf. n. 1.

(25) V. Supra p. 87, n. 6.

(26) V. n. 2 and Yeb. 72a. (12) Lev. XVII, 5. (Private peace-offerings). V. however Men. 45b.

(27) Ezek. XLIV, 26.

(28) V. verse 25; about the ritual sprinkling after being defiled by the dead (before one may enter the sanctuary), Num. XIX, 11-13; 19-20.

(29) The (above) ritual sprinkling from defilement by contact with the dead was done on the third and seventh days after having separated from the corpse; but the use of the phrase ‘they shall reckon seven days’ instead of ‘they shall sprinkle upon him’ is taken to be reminiscent of the seven days for a leper on his recovery and his preliminary ritual cleansing, before leaving his place of Isolation (Lev. XI V, 1-8), which were followed by another seven days of ritual purification before he may proceed on the eighth day with his final purification and atonement. (Ibid. 8-11). Accordingly, the case of a leprous priest is read into the text of Ezekiel. For obviously it would be useless to cleanse a leprous priest (or layman) from his defilement by the dead while still being unclean as a leper, and as such unfit to enter the camp or sanctuary.

(30) As a leper, 11 the course of his cleansing.

(31) After having been purified from both defilements.

(32) As a priest.

(33) Prescribed for a recovered leper (Lev. Xlv, 19 or 22); or it might be translated, ‘His (offerings for) cleansing’ (cf. Lev. Xlv, 52; Num. VIII, 7; XIX, 9, 12, 19). V. supra n. 3.

Talmud - Mas. Mo'ed Katan 16a

— which is his [own meal-oblation[1] consisting of] one tenth part of an ephah [of fine flour]: These are the words of R. Judah. R. Simeon says, [the wording:] And in the day that he goeth into the sanctuary [into the inner court to minister in the sanctuary], he shall offer his sinoffering[2] [implies that only] when he is fit to go into the sanctuary he is fit to offer up [his own oblation]: and when he is not fit to go into the sanctuary, he is not fit to offer up [his own oblation].[3] Raba said: Whence do we know[4] the regulation that we send a messenger of the Court?[5] — From what is written: And Moses sent to call Dathan and Abiram the sons of Eliab.[6] And whence do we know that we summon[7] him to attend [in person]? — From what is written, And Moses said to Korah, Be thou and all thy congregation before the Lord, thou and Aaron [tomorrow].[8] [Whence, to appear] ‘before a great personage’? — From what is written, Before the lord.[8] [To name both parties], ‘thou and So-and-so’? — From what is written, Thou and they [that are with thee] and Aaron.[8] That we fix a time? — As it is written, To-morrow.[8] Time and again?[9] — As it is written: They called there,[10] Pharaoh the king of Eqypt [the author of] ‘commotion’; he hath let the appointed time pass by. [As I live, saith the King, the Lord of Hosts, surely like Tabor among the mountains and like Carmel by the sea, so shall he come].[11] And whence do we know that if one behaves insolently towards the

Court's messenger and the latter comes and reports it, this is not deemed slander [on his part]? — As it is written: [And Moses sent to call Dathan and Abiram the sons of Eliab]; And they said: [We will not come up][6] . . . Wilt thou put out the eyes of these men? [We will not come up].[12] Whence do we derive that we [may] pronounce a shammetha[13] [imprecation]? — From the text: Curse ye Meroz.[14] Whence do we derive that it must be according to the considered opinion of some prominent person? — From the text: [Curse ye Meroz] said the angel of the Lord[14] [to Barak]. And whence do we derive that we pronounce the herem?[15] — Front the [same] text: Curse ye a cursing.[16] Whence do we derive that [it falls on one who] eats and drinks with the offender or stands within four cubits of him? — From the same text: [Curse ye a cursing] the inhabitants thereof.[17] Whence do we derive that we publish the details of his offence? — From the [same] text: Because they [the denizens of Meroz] came not to the help of the Lord. And, said ‘Ulla, Barak pronounced the shammetha[18] against Meroz with [the blast of] four hundred horns. Some say that Meroz was [the name of] a great personage;[19] others say that it was [the name of] a star,[20] as it is written [there]: They fought from Heaven, the stars in their courses fought against Sisera.[21] Whence do we derive that his property may be forfeited?[22] — From the text: And whosoever come not within three days, according to the counsel of the princes and the elders, all his substance should be forfeited and himself separated from the congregation of the captivity.[23] Whence do we derive that we may quarrel [with an offender], curse him, smite him, pluck his hair and put on him an oath?[24] — From the text: And I contended with them, and cursed them, and smote certain of them and plucked off their hair and made them swear by God.[25] Whence do we derive that we may fetter, arrest and prosecute them? — From the text: [Let judgment be executed upon him with all diligence], whether it be unto death, or to uprooting, or to confiscation of goods or to imprisonment.[26] What is meant by ‘uprooting? Said [R.] Adda Mari, reporting Nehemiah b. Baruch, who said in the name of R. Hiyya b. Abin, who had it from Rab Judah, it mean the hardafah.[27] What is denoted by hardafah? — Said Rab Judah son of R. Samuel b. Shelath in the name of Rab: It means, They declare him ‘separated’[28] forthwith; then [if he still persists] they repeat [the same declaration] after thirty days,[29] and finally they pronounce the herem on him after sixty days. Said R. Huna b. Hinena, This is what R. Hisda said: They [first] warn him on Monday, [then] on the Thursday[30] [following] and [again on the] Monday. This rule applies if he disregards a monetary judgment; but in a case of sheer contumacy the ban is imposed forthwith. When a certain butcher had been insolent to R. Tobai b. Mattena, Abaye and Raba were appointed[31] to investigate and they pronounced the shammetha on him. In the end, the fellow went and appeased his litigant.[32] Said Abaye, What is one to do? Should we absolve him now? The shammetha had not lasted [its] thirty days.[33] Shall we not absolve him? The Rabbis want to go in to him![34] Said lie to R. Idi b. Abin: ‘Have you [perchance] heard aught bearing on this?’ He replied: ‘Thus said R. Tahlifa b. Abimi as reporting Samuel: "A toot[35] binds and a toot releases!"’ [Said Abaye] to him, Yea, but this obtains only in the case of disregarding a monetary decision, but in a case of contumacy [it holds] until it has rested on him for thirty days! Anyhow, that shows that Abaye was of opinion that if three people had pronounced the shammetha on a man three others cannot come and release him![36] For the question was raised: If three people had pronounced the shammetha on a man, can three others come and remit it for him? — Come and hear: ‘One who has been "separated" [under a ban] by the master is [deemed as] "separated" from the disciple;[37] but one who has been "separated" by the disciple is not [considered as] "separated" from the master. One who is "separated" by his own town is also "separated" from another town; but one who is "separated" by another town is not [considered] "separated" from his own town. One who is "separated" by the Nasi [Prince] is "separated" in all Israel; but one who is "separated" by all Israel is not [thereby] "separated" from the "Prince". Rabban Simeon b. Gamaliel says that if one of the disciples had "separated" someone and died, his part is not nullified’. From this you derive three points: — [a] That if a disciple ‘separated’ someone in [defence of] his personal dignity,[38] the ‘separation’ lies, and you infer [b] that each person revokes his own part, and you infer [c] that if a body of three have pronounced a shammetha on a person, three others may not come and release him.[39]

Amemar said: ‘The rule in practice is, that if a body of three have laid a shammetha on a person, a body of three others [can] come and release him’. Said R. Ashi to Amemar, But it is taught: ‘Rabban Simeon b. Gamaliel says that if one of the disciples "separated" someone and died, his part is not nullified’! Does not this meal, that it cannot be nullified at all? — No, [it means] not until a body of three others come and release him.

Our Rabbis taught: No ‘separation’ ban holds less than thirty days and no ‘reproof’[40] holds less than seven days; and although there is no direct proof on that point, there is an [indirect] ‘indication’ of it: If her father had but spit in her face, should she[41] not hide in shame seven days? [Let her be shut up without the camp seven days and after that he shall be brought in again].[42]

R. Hisda remarked, ‘Our "separation" [in Babylon] corresponds to their "reproof" [in Palestine]’. But is their ‘reproof’ of only seven days’ duration, not more? Is it not a fact that R. Simeon, Rabbi's son, and Bar Kappara were once sitting rehearsing the lesson together when a difficulty arose about a certain passage[43] and R. Simeon said to Bar Kappara, ‘This [matter] needs Rabbi [to explain it]’, and Bar Kappara replied: ‘And what forsooth can Rabbi [have to] say on this?’ He went and repeated it to his father, [at which] the latter was vexed, and [when] Bar Kappara next presented himself before Rabbi, he said: ‘Bar Kappara, I have never known you!’[44] He realized that he [Rabbi] had taken the matter to heart and submitted himself to the [disability of a] ‘reproof’ for thirty days. Again, on one occasion, Rabbi issued an order that they should not teach disciples in the open public market place. (What was his exposition?[45] — How beautiful are thy steps in sandals, O prince's daughter![46] The roundings of thy thighs are like the links of a chain [the work of the hands of a skilled workman].[47] As the thigh is covered

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(1) If he is a common priest, after full purification and re-admission into the inner court of the priests, he might on that very day officiate and offer up his own free-gift oblation (v. Men. 73-74a). This proves that as long as he is unclean, whether through contact with dead or through leprosy, he cannot bring his offerings.

(2) Ezek. XLIV, 27.

(3) That is, R. Simeon does not allow a leper and common priest or a layman to send his offerings to the Temple until after his purification and atonement by sacrifices. For a leper had to attend in person to be purified by the stated ceremony (Lev. XIV, 11, 14-18, 20).

(4) Scripturally.

(5) So amended by Bah. V. D.S. To invite one to a suit.

(6) Num. XVI, 12.

(7) The defendant.

(8) Ibid. 16.

(9) If he does not obey the first summons.

(10) ‘Summoned’, so the Targum.

(11) Jer. XLVI, 17-18. V. Rash. Cf. Targum and Rashi ad loc cit.

(12) Num. XVI, 12-l4. V. Rashi.

(13) משמתינן probably a dialectical form for משמדינן from שמד to curse, which occurs in this sense of ‘cursing’ in a Nabatean El-Hejra inscription (Cooke N. Sem. Inscr. No. 80p. 220 line 8); cf. infra 17a note on etymology.

(14) Judg. V, 23.

(15) V. supra p. 90, n. 5.

(16) I.e., a repeated cursing (of the defiant sinner).

(17) Cf. Judg. V, 23.

(18) Note that shammetha is here used as the equivalent of herem, or its Aramaic form ahramta.

(19) Or hero, who gave his name to the city ‘Meroz’. V. Gen. IV, 17, Num. XXXII, 41-42; also cf. Alexandria, Antioch, Caesarea, Constantinople.

(20) A planet, like Mars, Mercury, Jupiter; or a constellation, like Perseus or Orion.

(21) Judg. V, 20.

(22) In the case of disobedience of the court.

(23) Ezra X, 8.

(24) To desist from his malpractices.

(25) Neh. XIII, 25.

(26) Ezra VII, 26.

(27) Active pursuit, ‘prosecution’; cf. Judg. XX, 43 for the term in this sense

(28) Repel or expel him from their midst. Niddui and herem are Mishnaic, Palestinian terms, while shammetha is a popular Babylonian term loosely used for either, and whose legal denotation was the subject of discussion in Talmudic times (e.g., Ned. 7a-b) and later in Geonic responsa; as to its precise meaning, v. B.M. Lewin's Otzar ha-Geonim IV on Mashkin, Responsa 29ff, pp. 17-19.

(29) The ordinary period of niddui, ‘separation’.

(30) The Beth din had their regular sessions on Mondays and Thursdays: a practice said to have been one of the Ten Institutions introduced by Ezra, B.K. 82a (Sonc. ed. p. 466).

(31) With a third person, v. infra.

(32) Apologized to R. Tobai.

(33) The normal period of a ‘separation’. V. R. Han.

(34) They need him to obtain their meat. [Var. lec. ‘The Rabbis wish to depart’ (Han.). The Rabbis, who took part in imposing the ban and who must consequently be present at the absolution, wish to depart and the opportunity of releasing him will thus be lost, v. infra].

(35) The horn blown at banning.

(36) [Rashi! Since he himself was anxious to perform the release. In var. lec. supra n. 6 the question is clear.]

(37) I.e., the ban is effective also as far as the disciple is concerned; and similarly in all the other cases that follow.

(38) [Since we find that a disciple's ban has no force as far as the teacher is concerned, which can apply only to a ban imposed in defence of the disciple's own dignity, and not to one for a general transgression.]

(39) [(b) and (c) are inferred from the statement of R. Simeon b. Gamaliel. The phrase ‘his part is not nullified’ is taken to mean that it can never be nullified.]

(40) Nezfah, a ‘snub’; sometimes ge'arah, a ‘shout’. Cf. Gen. XXXVII, 10 and Zech. II, 2.

(41) Miriam.

(42) Num. XII, 14.

(43) שמעתא ; something ‘heard’ or ‘repeated’, usually a halachic interpretation repeated in the name of a well-known master.

(44) I.e., I don't (want to) know you, stay away, or I have never been able to understand your attitude towards me. B. Kappara clashed with Rabbi on several occasions. The cause, it seems, was not personal, but rather due to the different schools to which they each belonged. B. K. belonged to the ‘Southern Sages’ (Lydda and Caesarea) and was himself the compiler of an often quoted collection of Mishnah (Baraitha).

(45) A question interrupts the quotation.

(46) The Torah, which is allegorically represented by Shulammith, ‘Perfection’ or ‘Pence’, the beloved of Solomon (the divine) King of Perfection or Peace. Cf. Prov. III, 13-18; VIII, 1 ff.

(47) Cant. VII, 2. (Cf. its counterpart V, 15).

Talmud - Mas. Mo'ed Katan 16b

so the [discussions on the] words of the Torah are also [to be] under cover.)[1] — R. Hiyya went out and taught the sons of his two brothers in the [open] marketplace, Rab and Rabbah son of Kar Hana. Rabbi heard [of this and] was vexed. [When] R. Hiyya [next] presented himself before him, Rabbi said to him, ‘Iyya![2] Who is calling you outside?’ He realized that he [Rabbi] had taken the matter to heart, and sub mitted himself to [the disability of] a ‘reproof’ for thirty days. On the thirtieth day Rabbi sent him a message saying ‘Come!’ Later he sent him a message not to come! (What[3] was his idea in sending the first [message] and what in sending the second? At first he thought ‘part of the day may be deemed equivalent to the whole day’ and in the end he thought, we do not say part of the day may be deemed equivalent to the whole day’.)[4] In the end he came. Said Rabbi to him, Why have you come? R. Hiyya replied: ‘Because you, Sir, sent for me to come’. But then I sent to you not to come! He replied: ‘The one [messenger] I saw and the other I have not seen’. Thereupon he [Rabbi] cited [as appropriate] the text: When a man's ways please the Lord, He maketh even his enemies to be at peace with him.[5] Wherefore, Sir, [asked Rabbi] did you act thus [contrary to order]? — Because, replied R. Hiyya, it is written: Wisdom crieth aloud it, the street: [She uttereth her voice in the broad places; she calleth at the head of the street; at the entrance of the gates, in the city she uttereth her words].[6] Said Rabbi to him: ‘If you read Holy Writ [once], you have not read it a second time; if you have read it a second time, you have not react it a third time; and if you have read it a third time, they [who taught you] have not explained it to you’.[7] [The text] ‘Wisdom crieth aloud in the streets’ is [to be taken] in the sense in which Raba [explained it];[8] for Raba said: ‘If one studies the Torah indoors, the Torah proclaims his merit abroad’. But then is it not written [otherwise]: ‘From the beginning I have not spoken in secret’?[9] — That has [special] reference to the ‘Kallah’ days.[10] And what [use] does R. Hiyya make of the text — ‘The roundings of thy thighs’? — He explained it in reference to the dispensing of charity and acts of lovingkindness.[11] Thus[12] [you see] the disability of their ‘reproof’ [in Palestine] lasts thirty days! — The ‘reproof’ of a Nasi is different. And our ‘reproof’, how long [is its disability]? — One day [only], as in the case of Samuel and Mar ‘Ukba.[13] When they were sitting together [at the College] engaging in the revision of some theme, Mar ‘Ukba sat before him[14] at a distance of four cubits; and when they sat together at a judicial session, Samuel sat before him[14] at a distance of four cubits and a place was dug out[15] for Mar ‘Ukba where he sat on a matting so that what he[16] said should be heard. Every day Mar ‘Uba accompanied Samuel to his house. One day he[16] was [rather] engrossed in a suit, and Samuel walked behind him. When he[16] had reached his house, Samuel said to him: ‘Haven't you been rather a long time at it?[17] Take up now my case!’[18] He[16] then realized that he [Samuel] felt aggrieved and submitted himself to the [disability of a] ‘reproof’ for one day.

There was a certain woman who sat sprawling on the footway fanning the husks out of her barley groats, and when a Collegiate was walking past her she did not make way for him. He said, ‘How impudent is this woman!’ She came before R. Nahman. Said he to her, Did you hear him utter the shammetha?[19] She replied [she had] not. Said he to her, Go and submit yourself to the [disability of a] ‘reproof’ for one day.[19] Zutra b. Tobiah was [once] expounding a Scriptural lesson in the presence of Rab Judah. Coming to the verse: And these are the last words of David,[20] he said to R. Judah. ‘Last words’: this implies that there were former words; which are those former [words]? He [Rab Judah] kept silent, without saying anything. Again said the former: ‘Last words! This implies there were former words; which are those former [words]’? — He [then] replied: What, think you that one who does not know an explanation of that text is not an eminent man? He [Zutra] realized that he [Rab Judah] had taken the matter to heart [and] submitted himself to the [disability of a] ‘reproof’ for one day. Now, however, that we have come upon this question: ‘"Last words", this implies that there were former words’, what were they? — [These:] And David spoke unto the Lord the words of this song in the day that the Lord delivered him out of the hand of all his enemies and out of the hand of Saul.[21] The Holy One, blessed ‘be He, said to David, David do you compose a song on the downfall of Saul? Had you been Saul and he David, I would have annihilated many a David out of regard for him. Hence it is written, ‘Shiggaion[22] of David, which he said unto the Lord, concerning Cush a Benjamite.[23] Was Cush that Benjamite's name? And was not his name Saul? — But, just as a Cushite [Ethiopian][24] is distinguishable by his skin, so was Saul distinguished by his deeds. In like manner you explain: ‘[And Miriam and Aaron spoke against Moses] because of the Cushite woman that he had take;, to wife.[25] Was she a Cushite [woman]? Was not her name Zipporah? But as a Cushite woman is distinguishable by her skin so was also Zipporah distinguished by her deeds. In like manner you explain: Now Ebed-Melek the Cushite . . . heard.[26] Now was his name Cushite? Was not his name Zedekiah?[27] But as the Cushite is distinguishable by his skin so was Zedekiah distinguished by his deeds. In like manner you explain: Are ye not as the children of the Cushites unto me, O children of Israel, saith the Lord?[28] Now is their name [children of] Cushites? Was not their name [children of] Israel? The truth is that as the Cushite is distinguishable by his skin, so are Israel distinguished by their ways[29] from all other nations.[30]

R. Samuel b. Nahmani citing R. Jonathan. explained: [And these tire the last words of David], The saying of David the son of Jesse and the saying of the man raised on high,[31] [means, it is] the saying of David the son of Jesse who established firmly the yoke [discipline] of repentance.[32] [The spirit of the Lord spoke by the and His word was upon ny tongue]. The God of Israel said, The Rock of Israel spoke to me: Ruler over man shall be the righteous, even he that ruleth through the [reverent] fear of God.[33] What does this mean? — Said R. Abbahu, It means this: ‘The God of Israel said, to the [David] spake the Rock of Israel; I rule man; who rules Me? [It is] the righteous: for I make a decree and he [may] annul it’.[34]

And these tire the names of the mighty of David: Josheb-basshebeth a Tahchemonite [etc.].[35] What does this mean? — Said R. Abbahu, It means: And these are the mighty deeds of David: ‘Josheb-basshebeth’ — [which means], sitting at the session;[36] [that is], When David sat at the College Session he was not seated on cushions and coverlets but on the [bare] ground.[37] For all the time that his Master, Ira the Jairite,[38] was alive he taught the Rabbis whilst being himself seated on cushions and coverlets; when his soul found rest David used to teach the Rabbis being himself seated on the ground.[39] Said they [the Rabbis] to him: ‘Sit, sit on the cushions and coverlets’; but he would not accede to their request.

‘Tahchemoni’.[40] Rab explained: The Holy One, blessed be He, said to him [to David], ‘Since you have humbled yourself you shall be like Me [that is], that I make a decree and you [may] annul it’. ‘Chief of the Captains’,[41] [that is] you be chief next to the three Fathers. He is Adino[42] the Eznite,[43] [that is] when he was sitting engaged in the [study of] Torah he rendered himself pliant as a worm, but when he went marching out to [wage] war he hardened himself like a lance. ‘On eight hundred slain at one time’, [that is] when he threw a javelin he felled eight hundred slain at one time and moaned for the [shortage of] two hundred, for it is written: How one should chase a thousand.[44] But an echo came forth and said: ‘Save only for the matter of Uriah the Hittite’![45]

Said R. Tanhuni son of R. Hiyya a man of Kefar Acco as citing R. Jacob b. Aha who reported R. Simlai; and some say, R. Tanhun, said as reporting R. Huna; and again some say, R. Huna alone said that

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(1) The motive of this new restriction is not given. It was an old common practice to teach in the open. perhaps it was to avoid misrepresentation on the part of the passing crowds who might mistake the heated discussions for acrimonious disputations. The quotation is now resumed.

(2) Imitating Hiyya's defective pronunciation; he could not correctly pronounce the guttural letters. Cf. Meg. 24b.

(3) The quotation is here again interrupted.

(4) Cf. infra p. 129 and Pes. 4a where R. Hiyya's action determines the former alternative to be the ‘rule in practice’.

(5) Prov. XVI, 7.

(6) Ibid. I, 20-21.

(7) Cf. Ber. 18a where R. Hiyya makes the same retort to R. Jonathan.

(8) Much later; Rabbi died about 200 C.E. and Raba lived 299-352 C.E.

(9) Isa. XLVIII, 16, the prophet speaking in the name of God. This is taken to refer to the Revelation when the Torah was given to all Israel assembled at Sinai and heard by all the other nations. Cf. Shab. 88b and Zeb. 116a.

(10) These were half-yearly assemblies held in Adar and Elul, before the great Festivals.

(11) I.e., to ‘be practiced privately.

(12) Reverting to the original question.

(13) ‘Mar’ is a Babylonian title of rank and is sometimes also borne by Samuel, but mostly by the members of the Exilarch's family. Samuel was the principal of the Academy at Nehardea and the Chief justice, while Mar ‘Ukba was both a disciple of Samuel and Exilarch, the supreme civil Head of the Jewish community invested with authority by the persian king. This Mar ‘Ukba is probably the same as Nathan ‘Ukban who succeeded his father ‘Anan or Huna as Exilarch shortly before the rise of the Neo-Persian rule of the Sassanids (c. 226 C.E.). V. W. Bacher, Jew. Encyc. Vol. V, 289a s.v. Exilarch.

(14) I.e., in his presence, probably sitting at his right.

(15) Either a kind of recess or alcove in the wall or a marked-off enclosure with a rich matting for the Exilarch. [Aliter: A place was hollowed out in the ground over which the Exilarch's matting was spread for Mar ‘Ukba to sit on, in order that his seat may not be on a higher level than that of Samuel; cf. Maharsha and D.S. a.l. The text is not clear.]
(16) Mar ‘Ukba.
(17) Lit., ‘is it not yet clear to you?’
(18) So MS.M. Cur. edd. ‘his case’. V. Rashi.
(19) Which as a ‘separation ‘would take effect for seven days; v. R. Hisda's observation, supra 16a,
(20) II Sam. XXIII, 1.
(21) Ibid. XXII, 1.
(22) שגיון (from שגה) is here taken to mean an error’. It was an error on his part to celebrate in song the downfall of Saul.
(23) Ps. VII, 1.
(24) Aithiops in Greek means ‘fiery-looking’, ‘flashing’.
(25) Num. XII, 1.
(26) Jer. XXXVIII, 7ff.
(27) Sifre on Num. XII, 1 has it obviously more correctly: Baruch, son of Neriah (Jer. XXXVI, 4ff) his disciple.
(28) Amos IX, 7.
(29) Sifre. ibid. has: ‘By their commandments’.
(30) On this antiphrasis, cf. Juvenal, Sat. VIII, 32-33: ‘Somebody's dwarf we call an Atlas and an Aethiopian a swan’. And L. Friedlander's note ad loc. quotes Isid. Origg. I, 36, 24, ‘antiphrasis — hoc tropo et nani Atlantes — et vulgo Aethiopes appellantur argentei(?)’.
(31) II Sam. XXIII, 1.
(32) He showed the way of repentance for a heinous sin. Cf. p5, LI, 15 and A.Z., Sonc. ed. p. 19.
(33) II Sam. XXIII, 2-3. V. Hananel.
(34) The righteous have power to move God to change his adverse decree by prayer. Cf. Gen. XVIII, 20ff; Ex. XXXII, 7-14.
(35) II Sam. XXIII, 8.
(36) Playing on the meaning of the words: josheb _ sitting; basshebeth _ at the ‘sitting’ or ‘Session’ (of scholars).
(37) Cf. Mar ‘Ukba above.
(38) II Sam. XX, 26.
(39) Cf. ‘Er. 63a and Sit. 59a.
(40) II Sam. XXIII, 8. (From חכם), a session of the sages; but here Rab divides it into תהא כמוני ‘be (thou) like me’.
(41) Explained as Chief of the Trio, the three Patriarchs.
(42) From עדן = ‘gentle’; he was gentle, tender.
(43) ** _ wood; the wooden lance. Cf. I Sam. XVIl, 7. Cf. on this section, Seder Elijahu Rabbah Ed. M. Friedmann, III, pp. 15-16.
(44) Deut. XXXII, 30.
(45) I Kings XV, 5.

if a disciple ‘separates’ someone in [defence of] his personal dignity his ‘separation’ is an [effective] . For it is taught: ‘One who has been "separated" [as under a ban] by the Master is [deemed] "separated" from the disciple; but one who has been "separated" by the disciple is not [deemed] "separated" from the Master’.[1] [That means], not ‘separated’ from the Master; but in regard to everybody else he is [‘separated’]. [Now let us see; ‘separated’] for what [offence]? If [it was imposed] for some offence towards Heaven, then there is no wisdom nor understanding nor counsel against the Lord![2] Therefore [presumably] it is only so[3] [where a disciple had pronounced it] in [defence of] his personal dignity. R. Joseph said that a Collegiate[4] may enforce his own rights in a matter where he is perfectly certain [as to the law]. There was once a certain Collegiate whose reputation was objectionable. Said Rab Judah, How is one to act? To put the shammetha on him [we cannot], as the Rabbis have need of him [as an able teacher]. Not to put the shammetha on him [we cannot afford] as the name of Heaven is being profaned. Said he to Rabbah b. Bar Hana, Have you heard alight on that point? He replied: ‘Thus said R. Johanan: What means the text, For the priest's lips should keep knowledge and they should seek the law at his mouth; for he is the messenger of the Lord of Hosts?[5] [It means, that] if the Master is like unto a messenger of the Lord of Hosts, they should seek the law at his mouth; but if [he be] not , they should not seek the law at his mouth’. [Thereupon] Rab Judah pronounced the shammetha on him. In the end Rab Judah became indisposed. The Rabbis came to enquire about him and that man came along with them. When Rab Judah beheld him he laughed. Said the man to him: Not enough for him that he put upon that man [me] the shammetha, but he even laughs at me! Replied he [Rab Judah]: I was not laughing at you: but as I am departing to that World [beyond] I am glad to think that even towards such a personage as you I showed no indulgence. Rab Judah's soul came to rest.[6] The man [then] came to the College [and] said, ‘Absolve me’. Said the Rabbis to him, There is no man here of the standing of Rab Judah who could absolve you; but go to R. Judah Nesi'ah[7] that he may absolve you. He went and presented himself to him. Said he to R. Ammi: ‘Go forth and look into his case; if it be necessary to absolve him, absolve him’. R. Ammi looked into his case and had a mind to absolve him. Then R. Samuel b. Nahmani got up on his feet and said: ‘Why, even a ‘separation" imposed by one of the domestics in Rabbi's house was not lightly treated by the Rabbis for three years; how much more so one imposed by our colleague, Rab Judah!’ Said R. Zera, From the fact that this venerable scholar[8] should just now have turned up at this College after not having come here for many years, you must take it that it is not desirable to absolve that man. He [R. Judah Nesi'ah][9] did not absolve him. He went away weeping. A wasp then came and stung him in the privy member and he died. They brought him into ‘The Grotto of the Pious’, but they admitted him not.[10] They brought him into ‘The Grotto of the Judges’ and they received him.[11] Why was he admitted there? — Because he had acted according to the dictum of R. Il'ai. For R. Il'ai says, If one sees that his [evil] yezer[12] is gaining sway over him, let him go away where he is not known; let him put on sordid[13] clothes, don a sordid wrap and do the sordid deed that his heart desires rather than profane the name of Heaven openly.[14]

What [was the incident] of the domestic in Rabbi's house? It was one of the maidservants in Rabbi's house that had noticed a man beating his grown-up son and said, Let that fellow be under a shammetha! because he sinned against the words [of Holy Writ]: Put not a stumbling-block before the blind.[15] For it is taught: ‘And put not a stumbling-block before the blind’, that text applies[16] to one who beats his grown-up son.[17]

Resh Lakish was once guarding an orchard [when] a fellow came and ate [some] figs; he shouted at him, but the fellow heeded him not, [whereupon] he said: ‘Let that fellow be under a shammetha!’ He replied: ‘Rather be that other fellow [Resh Lakish] under a shammetha! Though I have incurred a pecuniary liability towards you, did I incur a "separation"?’ [Resh Lakish] went to the College [and reported it]; they said to him: ‘His "separation" is a [justified][18] "separation", yours was not a [justified] "separation".’ And what is the remedy for it? — ‘Go to him that he [himself] may absolve you'. [But] I know him not! Said they to him [to Resh Lakish]: 'Go to the Nasi that he absolve you;' for it is taught: '[If] they "separate" him and he knows not who he was that "separated" him, let him go to the Nasi and let him absolve him from his "separation".'

Said R. Huna, At [one of the Synods at] Usha[19] they made a regulation that if the Ab Beth din[20] committed an offence he was not to be [formally] 'separated', but someone was to tell him, Save your dignity and remain at home.[21] Should he again offend they 'separate' him, because [otherwise there would be] a profanation of the Name [of God]. And this is at variance with Resh Lakish; for Resh Lakish said: If a scholar-disciple has committed an offensive deed they do not 'separate' him publicly, because it is said: Therefore shalt thou stumble' in the day and the prophet also shall stumble with thee in the night, [that is to say], Keep it dark,[22] like night.

Mar Zutra, the Pious,[23] if ever a Collegiate incurred the shammetha, pronounced the shammetha first on himself[24] and then pronounced it on the culprit; as he entered his house he first absolved himself and then absolved the other.[25] Said R. Giddal, as citing Rab: 'A scholar-disciple may Pronounce "separation" on himself and absolve himself'. Said R. Papa, 'May [good] befall me, for I have never put the shammetha on any Collegiate.'[26] But then, when a Collegiate did incur the shammetha, how did he act? — As they do [in the West]; for in the West [Palestine] they appoint a tribunal for chastising a Collegiate but do not appoint a tribunal for pronouncing a shammetha.

What is [the etymology of the word] shammetha? — Said Rab, [It is], sham-mitha, 'death is there'. Samuel said, [It is], shemamah yihye,[27] 'he shall be a desolation'; and its effects adhere to one like grease to the oven. And this is in disagreement with [what] Resh Lakish said. For Resh Lakish said that just as when it [the herem] enters, it penetrates the two hundred and forty eight joints [on one's body],[28] so on its withdrawal it departs from the two hundred and forty eight joints. When it enters, as it is written; And the city shall be Herem, [a curse[29] [i.e.,] Herem being in its letter value two hundred and forty eight,[30] So at its withdrawal, as it is written: In wrath remember Rahem [to have compassion][31] the letter value being the same.

R. Joseph said, 'Cast a shammetha on the dog's tail and it will do its work'. For there was a dog that used to eat the Rabbis' shoes and they did not know what it was [that did it], so they pronounced a shammetha on the culprit, and the dog's tail caught fire and got burnt. There was a domineering fellow who bullied a certain Collegiate. The latter came before R. Joseph [for advice]. Said he to him: 'Go and put the shammetha on him'. 'I am afraid of him', he replied. Said he to him, 'Then go and take [out] a Writ[32] against him.' — 'I am all the more afraid to do that!' Said R. Joseph to him: 'Take that Writ, put it into a jar,

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(1) Supra p. 98.

(2) Prov. XXI, 30. That is to say, there should be no distinctions: the offender must be debarred from all and everybody.

(3) That the 'separated' is not debarred from his Master.

(4) צורבא מרבנן , the Babylonian appellation of an acknowledged scholar, a member of the Academy. The term has not been satisfactorily explained; but it is obviously from an Aramaic form, צרב = Hebrew צרף to be joined, adhere to, the equivalent of the Palestinian term חבר = associate, colleague, Collegiate.

(5) Mal. II, 7.

(6) In 299 C.E. Succeeded after a short interregnum by Rabbah b. Nahmani. V. Sherira's Epistle, ed. B. M. Lewin, p. 86.

(7) R. Judah II, grandson of Rabbi Judah l and son of Rabban Gamaliel III. Nesi'ah is the Aramaic form of Nasi 'the Prince'; it is conveniently used to indicate the second Judah (and sometimes the third).

(8) R. Samuel b. Nahmani.

(9) Or his Beth din, among whom were prominent R. Ammi and R. Zera.

(10) It is forbidden to bury a bad man next to a good man. V. Sanh. 47a.

(11) He was such himself and had repented.

(12) I.e., the evil (formative) imagining, prompting, 'urge'. V. Gen. VI, 5; VIII, 21; Deut. XXXI, 21. There is, however,

a ‘steady’ (formative) urge for good. V. Isa. XXVI, 3 and P.B. p. 7.
(13) Lit., ‘black clothes’. He had probably in mind the Roman custom for a discredited official to be sordidatus. For an earlier reference v. Mid. V, 4; 37b. Cf however Hag. 16a.
(14) V. kid., Sonc. ed. p. 199 notes.
(15) Lev. XIX, 14.
(16) Lit., ‘speaks of’.
(17) And this caused him to rebel.
(18) An effective ban, because deserved. J.M.K. III, 1 gives another version of this incident.
(19) V. e.g., Keth. 49b-5o. J.M.K. III, 1.
(20) V. Glos.
(21) II Kings XIV, 10.
(22) Do it as quietly as possible for his sake and that of the community.
(23) Seemingly one of the Exilarchs or of their family. Cf. Sanh. 7b.
(24) So hateful was it to him.
(25) To be free himself before he freed another. Cf. Tosaf. s.v. משמית
(26) Some take it as an asseveration, ‘May evil befall me if I ever did that’. Cf. II Sam. III, 35.
(27) Cf. fer. XLII, 18; Han. and Aruch have sham tehi, i.e., ‘be it there’; let it stay there as a curse, citing Zech. V, 3-4.
(28) Cf. Mak. 23b.
(29) Josh. VI, 17, ‘even it and all that; is therein’.
(30) ח =8; ר = 200; ם = 40.
(31) Hab. III, 2.
(32) Lit., the Opening’, preliminary action after a verbal shammetha. It is to write out the shammetha against him.

Talmud - Mas. Mo'ed Katan 17b

take it to a graveyard and hoot into it a thousand shipur [horn-blasts] on forty days’. He went and did so. The jar burst and the domineering bully died.

What is the [significance of using a] shipur’? — That he'll pay, the penalty.[1] What signifies the tabra[2] [tooting]? — Said R. Isaac son of R. Judah: [It suggests] ‘the tumbling of high houses’: for it is taught: Rabban Simeon b. Gamaliel said that wherever the Sages set their eye against one, [the result was] either death or poverty.[3]

AND THE NAZIRITE OR LEPER, EMERGING FROM HIS [STATE OF] IMPURITY TO [A STATE OF] PURITY. . . R. Jeremiah enquired of R. Zera whether this [concession][4] was allowed [only] when they had not an [earlier] opportunity.[4] or, maybe, even if they had an [earlier] opportunity? — He replied, We learned it [in a Baraitha]:[5] All those who were mentioned [in the Mishnah][6] as being allowed to crop their hair during the festival [week, are allowed] where they had no [earlier] opportunity, but if they had an [earlier] opportunity [and did not use it] are forbidden.[7] The Nazirite and the leper [however] are allowed,[7] even if they had an opportunity [and did not use it]; the reason being that they should not delay bringing their [prescribed] offerings[8] [on their release from their respective restrictions].

A Tanna taught: A priest and a mourner also[9] are allowed to crop themselves.[7] Now, as to this mourner, under what conditions [may he do so]? Shall I assume that the eighth day of his [mourning] fell on the day before the festival? Then he ought to have trimmed himself then, on the day before[10] the festival! Again, if the eighth day of his [mourning] came on a Sabbath which was the day before the festival; [if so] then he should have trimmed his hair on the Friday. as R. Hisda stated, citing Rabina b. Shila, that ‘the rule in practice’ followed Abba Saul's view and that the Sages concurred with Abba Saul,[11] [namely] that where the eighth day of his [mourning’] came on a Sabbath which was the day before a festival, [in such a case] he was allowed to trim himself on the Friday![12] — No, this [statement in the Baraitha] is required for the case where the seventh day of his [mourning] came on a Sabbath which was also the day before the festival. [In that case] the external Tanna takes the view of Abba Saul who says that part of a day may be deemed as an entire day; and [accordingly] the seventh day of his [mourning] is counted both with the preceding and with the following period[13] and as that happens to be a Sabbath day,[14] the mourner was prevented [from trimming himself on the festival eve].[15] [Whereas], our Tanna[16] takes the view of the Sages who say that part of a day is not deemed as an entire day, and [accordingly] the mourner has not yet completed the seven days of his mourning [before the festival].[17]

Now as to the priest,[18] under what conditions [may he]? Shall I assume that [the turn of] his Ward[19] terminated on the day before the festival?[20] He should have trimmed himself then on the day before the festival! No, it is necessary to assume that [the turn of] his Ward terminated on the festival [day].[21] [In that case], our Tanna[16] then holds in view of what we learned: At three periods of the year, all the Wards have an equal right to [assist in placing] the ‘ordained’ parts[22] of the festival offerings [on the altar] and sharing the ‘shewbread’[23] — that we consider him as one whose Ward had virtually not yet completed [its turn].[24] Whereas the external Tanna holds that although [in a way] he belongs to the other Wards [also], his own Ward had nevertheless [actually] completed [its turn, and therefore he may trim himself].[25] Our Rabbis taught: All those who were mentioned [in the Mishnah] as being allowed to crop their hair during the festival [week] are likewise allowed to crop their hair during the days of their mourning. But surely it is taught that they are forbidden? — Said R. Hisda as citing R. Shela: When it is taught here that they ‘are allowed [to crop their hair during the days of their mourning]’, it refers only to persons who suffered one bereavement immediately after another. If it refers only [as you say] to persons who suffered one bereavement immediately after another, what is the point in wording it ‘all those who were mentioned [in the Mishnah]’ whereas [under such unfortunate circumstances] it is even applicable to anybody, as it is taught: ‘If a person suffered one bereavement immediately after another and his hair has become oppressively [long], he may ease it with a razor and wash his raiment with water’? — But that has already been explained: R. Hisda said [it means], ease it with a razor but not with scissors: wash his raiment with water but not natron or lye.[26] [Furthermore] said R. Hisda: This [Baraitha] indicates that [otherwise] a mourner is barred from washing [his clothes].

Our Rabbis taught: ‘Just as it was said that cropping the hair during the festival [week] is not allowed, so is paring the nails during the festival [week] not allowed. This is R. Judah's opinion; but R. Jose allows it. And just as it was said that a mourner is not allowed to crop his hair within [the period of] his mourning, so is paring the nails not allowed to him within [the period of] his mourning. This is R. Judah's opinion; but R. Jose allows it

‘Ulla stated that the halachah follows the view of R. Judah in the case of a mourner, and that of R. Jose in regard to the festival [week]. Samuel said

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(1) She-nifra'im; lit., ‘they will exact punishment’.

(2) Lit., ‘broken’. The short broken toots which were sounded at a shammetha.

(3) Cf. Hag. 5b (top).

(4) To trim themselves during the festival week.

(5) V. supra 14a-b and cf. Tosef. M.K. II.

(6) V. supra 13b-14a.

(7) To trim themselves during the festival week.

(8) The Nazirite, Num. VI, 10ff; the leper, Lev. XIV, 9ff.

(9) These are not mentioned in the Mishnah list.

(10) As the seven days of mourning are over, the festival cancels the rest, down to 30 days (in all).

(11) The issues are discussed at length, infra 19b.

(12) Why then should he be allowed to crop himself during the festival week.

(13) Lit., ‘with this way and that way’.

(14) On which he may not trim himself.

(15) I.e., it is not on account of his negligence, but owing to the force of circumstances, and therefore he may have his hair cut in the festival week.

(16) Of the Mishnah who does not include the priest or mourner in his list.

(17) And consequently the rest of the period is not canceled and therefore he id not among those who are allowed to trim in the festival week.

(18) Mentioned above with the mourner by the external Tanna (in the Baraitha) as being allowed to trim in the festival week.

(19) Mishmar, v. Glos.

(20) Priests were not allowed to trim themselves or wash their garments while their Ward was on duty in the Temple, save on the Friday in honour of the Sabbath. Cf. supra 14a.

(21) When he could not trim himself.

(22) V. e.g., Lev. 1, 5-9; 11-13; II, 1-3ff; VII, 1-10 etc.

(23) Ibid. XXIV, 5-9.

(24) Therefore he is not in the list of the Mishnah among those who may.

(25) Cf. n. 1.

(26) [In the case of those mentioned in the Mishnah, where they in addition suffered one bereavement after another, the said restrictions do not apply].

Talmud - Mas. Mo'ed Katan 18a

that the Halachah follows the opinion of R. Jose [both] in regard to the festival [week] and to mourning. For Samuel said that in [questions appertaining to] mourning, the halachah follows the authority of the more lenient view.

Phineas, Mar Samuel's brother, suffered a bereavement[1] and Samuel called on him to ask him the cause of it.[2] Noticing that his nails were long, he asked him why he had not cut them. He replied: Had this happened to you, would you have been so regardless of it [as to cut them]? This was [inauspicious], ‘like an error which proceedeth from a ruler;[3] and Samuel [later] suffered a bereavement himself. When his brother [Phineas] called on him to ask the cause of it, Samuel took his cut nails and cast them down in front of his brother, saying, ‘Do you not hold that a covenant has been made with the lips?’[4] For R. Johanan said: Whence is derived the notion that the lips are subject to a covenant? From what is said: And Abraham said unto his young men: ‘Abide ye here with the ass, and I and the lad will go yonder; and we will worship and [we will] come back to you’;[5] and the words came true[6] so that they both came back.

Some argued from the above [incident] that [only] the fingernails may [be cut],[7] but not the toe-nails. But R. ‘Anan b. Tahlifa said, ‘I myself had it explained to me by Samuel, that there was no distinction made between the finger-nails and the toe-nails’. R. Hiyya b. Ashi citing Rab said: But with a nail-cutter it is forbidden. Said R. Shaman b. Abba: ‘I was once standing before R. Johanan[8] at the College during the festival week when R. Johanan bit off his nails and threw them away. Learn from this [incident] three points: Learn that it is allowed to take off nails during the festival week; that [doing it with the teeth] was not considered objectionable, and that [nails] may be thrown away’. But this [deduction] is not [correct]? as surely it is taught. ‘Three things were said in reference to nails: One who buries them is righteous;[9] one who burns them is pious[10] and one who throws them away is a villain’! What is the reason? Lest a pregnant woman should step over them and miscarry; [but then], women do not ‘often come to the College. And should you say that sometimes the nails are gathered and thrown away outside, once they have been shifted their spell has been lifted.[11]

Rab Judah. as citing Rab, said: ‘A pair [of scholars] came from Hammathan[12] before Rabbi . . .’, and Mar Zutra taught [the same as a Baraitha]. ‘A pair [of scholars] came from Hammathan before Rabbi, and asked him about [paring] the nails [during mourning]; and he permitted it to them. And if they had asked him about [trimming] the upper lip. he would[13] have permitted it to them likewise'. And Samuel stated that they did ask him also about the upper lip and that he permitted them.

Abitol the hair-dresser[14] said in the name of Rab that [trimming the] upper lip means from corner[15] to corner; [and of the drooping ends[16] too, all that causes inconvenience]. Said R. Ammi, And as regards the upper lip [it also means only] whatever part causes inconvenience. Said R. Nahman b. Isaac, And to me [all of it][17] is like the [end of the] upper lip causing inconvenience.

And Abitol the hair-dresser, citing Rab, said [also this]: Pharaoh[18] the contemporary of Moses, was [a puny fellow] a cubit [in height] with a beard a cubit long and his shock of hair[19] a cubit and a span, justifying what is said: And He setteth up over it [the kingdom of men] the lowest of men.[20] And [furthermore] said Abitol the hair-dresser, as citing Rab, Pharaoh, the contemporary of Moses, was a Magus,[21] because it is said: [Get thee unto Pharaoh in the morning,] lo he goeth out unto the water.[22]

AND THESE [MAY] WASH [THEIR CLOTHES] DURING THE FESTIVAL [WEEK], ONE ARRIVING FROM ABROAD.[23] R. Assi, as citing R. Johanan said that one who has but one tunic is allowed to wash it during the festival week. Thereupon R. Jeremiah put an objection to him: 'AND THESE [MAY] WASH [THEIR CLOTHES] DURING THE FESTIVAL [WEEK]. ONE ARRIVING FROM ABROAD etc.' [which enumeration implies that only] those here mentioned may [wash] but one who has but one tunic[24] [may] not? — Said R. Jacob to R. Jeremiah [b. Tahlifa],[25] I will explain that to you: Our Mishnah [permits to wash] even if he has two garments if they be soiled.[26] R. Isaac son of R. Jacob b. Giyora sent [a message] in the name of R. Johanan that garments made of flax[27] one may wash during the festival week. Raba raised an objection: HAND-TOWELS, BARBERS'-WRAPS AND BATHTOWELS [MAY BE WASHED].

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(1) Lit., 'something befell him'.

(2) Rashi: to console him.

(3) Eccl. X, 5.

(4) I.e., the way in which a thing is expressed may contain a prognostication for the future.

(5) Gen. XXII, 5.

(6) Lit., 'the thing was furthered'.

(7) Because they are visible.

(8) Waiting on him.

(9) By justly removing a stumbling block, a believed cause for injury,

(10) By going to greater trouble in disposing of the injurious matter effectively, beyond recovery. Cf. B. K. 30a; 50b.

(11) I.e., they are quite harmless once the nails have been shifted from their first place.

(12) Ancient Emmaus, a famous spa about a mile from Tiberias. Hanimatha(n) means 'Hot Springs'.

(13) Judging by his attitude.

(14) Hardly 'scribe', as his observation shows. He is otherwise unknown; he may have consulted Rab professionally.

(15) Of the mouth.

(16) So Rabad and SBH (p. 92). Cf. Asheri (section 20) and Ritba.

(17) So D.S.

(18) Under Pharoah, Rab alluded veiledly to the new Persian rulers as may be gathered from the following description of the Parthians (or Persians). Two Palestinian Rabbis had visited Nehardea and had there an awkward experience. R. Jose b. Kippar, on his return, explained his timidity, thus: 'Those people are a cubit (in height) with a cap a cubit high, speaking as ventriloquists, bearing formidable names (such as) Arda(shir) and Arta (xerxes) and having a shock of hair on their head. If they say, "Fetter" they put on fetters; if they say "Kill" they kill . . . and they were related to royalty', Git. 14b. 'Surena (a Parthian grandee) had his face painted and his hair parted after the fashion of the Medes, whereas the Parthians (whom he led against Crassus 53 B.C.E.) made a more terrible appearance with their shaggy hair gathered in a mass upon their forehead after the Scythian manner'. Plutarch's Lives, Crassus (Everyman's Library, Vol. II, pp. 292-293). 'But to describe their persons and customs (says Ammianus Marcellus) they are nearly all slight in figure, swarthy... fierce-looking with goat-like eyes, eyebrows arched in semi-circle and joined, handsome beards and long hair'. Amm. Marcell. Chapter XXIII, VI, 75 (Bohn's ed. pp. 343ff expedition of Julian in 363 C.E.).

(19) פרמשתקו Adopting J. Perles' suggested etymology cited in (Ar. Compl. s.v. 430b) as more likely correct, ** meaning here not the side whiskers but the other hair, the shock of hair on top of the head.

(20) Dan. IV, 14, in reference to Nebuchadnezzar who turned beast, with hair grown like eagles' feathers (v. 30). Cf. Kid. 72a (and parallel passage, Meg. 11a) where Persians are compared to a restless, corpulent, shaggy bear, with a corresponding reference to the Book of Daniel.

(21) I.e., a priest of the Zoroastrian religion, who adored Ahura-Mazda (Ormuzd) 'the Lord of Light' who would vanquish Angra-Mainyus, (Ahriman) 'the Lord of the Demons, Darkness and Evil'.

(22) Ex. VII, 15. It is the reference to the light of morning which is the emphatic part of this quotation. Rab undoubtedly referred to the then national revival of Zoroastrianism on the defeat of Artaban IV and the overthrow of the Parthian, Arsacid dynasty by Ardashir I — (Artaxerxes) and the establishment of the Sassanid dynasty in 226 C.E. Artaban (who is said to have been friendly disposed towards Rab) was captured, held a prisoner and finally put to death in 233. i.e., at the time when Alexander Severus repelled the Persian attacks on the Roman outposts in Northern Mesopotamia. Ardashir 'was an ardent devotee of the Zoroastrian doctrine and closely connected with the Priesthood and in his royal style assumed the designation Mazdayasman' (i.e., devotee of Ahura-Mazda) and depicted himself on rock-reliefs as King and Ormuzd both on horseback, i.e., King and god as Pharaoh did of old. Shapur I, his son and successor, was more liberal and friendly to Samuel. Hence the discussion between Rab and Samuel (Shab. 75a) as to what is a magus, a sorcerer (a muttering quack-priest) or a blasphemer, reviler of God? On the historical facts cf. Enc. Brit. II (1911) Art. Peria, VIII, p. 219a-b.

(23) Lit., 'from a maritime province'.

(24) Or shirt.

(25) So MS.M.

(26) Bit where he has only one tunic he may in all circumstances wash it.

(27) Linen, in contrast to woollens that require more skill and exertion in cleaning.

Talmud - Mas. Mo'ed Katan 18b

This [detailed enumeration] implies that these only [one may wash], but not [all sorts of] garments made of flax? — Said Abaye to him, [Not necessarily]; Our Mishnah included even those other kinds [of material].[1] Said Bar Hedya: I have myself seen at the lake of Tiberias [people] bringing along basins full of flax garments [and washing them] during the festival week. Abaye [however] strongly contested this [testimony]. Who can vouch to us that they did it with the approval of the Sages? Possibly they did so without the approval of the Sages!

MISHNAH AND THE FOLLOWING DOCUMENTS MAY BE INDITED DURING THE FESTIVAL [WEEK]: INSTRUMENTS OF BETROTHAL,[2] BILLS OF DIVORCE[3] AND RECEIPTS;[4] TESTA MENTS, BEQUESTS[5] AND PROSBOLS;[6] VALUATION CERTIFICATES[7] AND ORDERS FOR ALIMONY:[8] RECORDS OF HALIZAH[9] AND OF REPUDIATION [OF MARRIAGE][10] AND ARBITRATION RECORDS;[11] JUDGMENT ORDERS AND DIPLOMATIC[12] CORRESPONDENCE.

GEMARA. [INSTRUMENTS OF BETROTHAL]. Said Samuel, 'One is allowed to betroth a woman during the festival week, [the reason being] lest another [rival suitor] anticipate him'. Might one suggest that [the wording here] lends support to Samuel's view: AND THE FOLLOWING MAY BE INDITED DURING THE FESTIVAL [WEEK]: INSTRUMENTS OF BETROTHAL. What is [meant by this]? Is it not actually inditing the formula of Kiddushin?[13] — No, [it means, drawing up] the [preliminary] terms, and as R. Giddal, citing Rab, stated: 'How much do you give to your son?' 'So much and so much.' 'How much do you give to your daughter?' 'So much and so much'. [If] they then stood up and pronounced the 'dedication' [espousal formula] they have acquired their legal rights [to the offers]; these are [among] the matters that are [legally] acquired by word of mouth.[14] Might one suggest [then] the following as lending support to him [to Samuel]? 'One may take a wife during the festival [week]. whether a virgin or a widow, but not effect a levirate marriage;[15] as it is a rejoicing for him [the groom]',[16] [which implies] that betrothing is allowed. — Not [quite so]. He stated [the rule in the form] 'Not merely [this is not allowed but even that]: Not merely [it is forbidden] to betroth,[17] by which no scriptural obligation is carried out; but even to take [a wife in wedlock] whereby a scriptural obligation is fulfilled,[18] he is forbidden. Come and hear [a support for this]: For it was learnt in the School of Samuel:[19] [Grooms] may betroth, but not bring [a bride] home: and they may not make a feast of betrothal nor effect a levirate marriage, as this is a rejoicing for him [the groom]'. Infer this.[20]

But [yet], could Samuel have said 'Lest another [rival suitor] anticipate him'? Surely Rab Judah, as citing Samuel, said: ['Forty days before the embryo is formed[21] an echo issues[22] forth [on high] announcing, "The daughter of So-and-so is [to be a wife] to Soand-so".' [Similarly]. 'Such and such a field[23] is [to belong] to Soand-so'. — No; what it means is, 'Lest another [rival suitor] anticipate him' by means of prayer, as is illustrated by what occurred to Raba, who overheard a certain fellow praying for grace saying: 'May that girl be destined to be mine!' Said Raba to the man: 'Pray not for grace thus; if she be meet for you, you will not lose her, and if not , you have challenged Providence'.[24] Later he overheard him praying that either he should die before her or she before him. Said Raba to him: '[Praying Jack],[25] did I not tell you not to pray for grace in this matter?' Thus said Rab in the name of R. Reuben b. Estrobile, from the Torah,[26] from the Prophets and from the Hagiographa it may be shown that a woman is [destined to] a man by God. From the Torah: Then Laban and Bethuel answered and said, The thing proceedeth from the Lord.[27] From the Prophets: But his [Samson's] father and mother knew not that it was of the Lord.[28] And from the Hagiographa: House and riches are the inheritance of fathers, but a prudent wife is from the Lord.[29]

And Rab said [also this] in the name of R. Reuben b. Estrobile: 'A person does not incur suspicion unless he has done the thing [suspected]; and if he has not done it wholly he has done it partly; and if he has not done it partly, he has a mind to do it; and if he has not had a mind to do it, he has seen others doing it and enjoyed [the sight of it]'. [As against this], R. Jacob [of Nehar Pekod][30] raised an objection [from the following text]: 'And the children of Israel did impute things that were not right unto the Lord their God.[31] There they did it [purposely] to provoke [God].

Come [then] and hear [this statement]: And [Moses heard and fell on his face].[32] What tidings had he heard? — Said R. Samuel b. Nahmani, as reporting R. Jonathan: [He heard that] they suspected him of [adultery with] a married woman, as it is said: And they were jealous[33] of Moses in the camp and of Aaron the holy one of the Lord.[34] And, said R. Samuel b. Isaac, this indicates that everyone was jealous of his wife because of Moses. — There [again] it was done out of hatred.[35]

[Then] come and hear [this statement]: Said R. Jose, May my share be with him whom they suspect of something of which he is innocent. Nay further, R. Papa said, They suspected me myself of something of which I was innocent! — It is not difficult [to explain]. One [speaks of a] rumor that dies away, the other of a rumor that persists. And how long would a persistent rumor be? — Said Abaye. 'Nanna' told me, Local gossip lasts a day and a half; and that holds good only if it did not cease in the meantime, but if it had ceased in the meantime, we take no notice of it. If, however, it does cease in the meantime, the rule is [to disregard it] only where it was not [stopped] out of fear, but if it was stopped out of fear, it is not [to be disregarded]; again, the rule is [to disregard it] only where it does not break out again, but where it breaks out again [we do] not [disregard it]; also, the rule is [to disregard it] when he [the maligned] person has no enemies, but if he has enemies, [we say] it is his enemies who have spread the [adverse] rumor.

MISHNAH. BILLS OF CREDIT MAY NOT BE WRITTEN DURING THE FESTIVAL [WEEK]; BUT IF HE [THE CREDITOR] DOES NOT TRUST HIM OR HE[36] HAS NOT [ENOUGH] FOOD TO EAT, HE MAY WRITE. SCROLLS [OF THE LAW] AND THE

[SCRIPTURAL SECTIONS FOR] PHYLACTERIES[37] AND MEZUZOTH[38] MAY NOT BE WRITTEN DURING THE FESTIVAL [WEEK]; NOR MAY A SINGLE LETTER BE CORRECTED, EVEN IN THE [ANCIENT] TEMPLE-SCROLL.[39] R. JUDAH SAYS, A PERSON MAY WRITE THE [SCRIPTURAL SECTIONS FOR] THE PHYLACTERIES OR MEZUZOTH FOR HIMSELF

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(1) [E.g., woollen which requires more skill in cleaning, yet in the case of hand-towels, washing is permitted. But as to those made of linen, all sorts of garments may be washed].

(2) Either (a) the formula of espousal: ‘Behold thou art dedicated unto me according to the law of Moses and Israel’ (Cf. Kid. 5b and 6a), to be handed by the suitor to his bride (thereby to secure her for himself forthwith in case of another rival suitor) as a ‘marriage’ may not be celebrated during the festival week (Rashi); or, (b) the terms of the marriage settlement (instrumenta dotalia). V. Gemara and SHB ad loc. p. 95; also Lewin, Otz. Hag. Mashk No. 52.

(3) Cf.. Deut. XXIV, 1-4.

(4) Or part-cancellation of a debt. Cf. Keth. 89a ff and B.M. 18a, 19a-b.

(5) During his lifetime. B.M. 19a. palest. Mishnah reads: ‘and bequests’.

(6) A formal written declaration made by a creditor before the Judges assigning to the Court the collection of an outstanding debt, thus preventing its cancellation by the incidence of the Sabbatical year. Cf. Deut. XV, 2, and Sheb. X, 4; Git. 36a. The Prorbol is said to have been instituted by Hillel.

(7) Valuation of a debtor's property by order of Court prior to a public auction to meet the payment of his debt. Cf. B.M. 20a and ‘Arach. 21b.

(8) E.g., to keep a step-daughter for a certain period. V. Keth. 101b.

(9) The ceremony on the refusal of the levirate marriage by the brother of a man who died absolutely childless. V. Deut. XXV, 5-10. For the text see J.M.K. ad loc. and Yeb. 3 9b.

(10) By a girl minor who before attaining puberty had been given in marriage (after her father's death) by her mother or brothers. Her repudiation before a tribunal of three judges was sufficient to nullify the marriage. Cf. Yeb. 107b ff.

(11) ‘Compromissium’, a covenant to abide by the decision of arbitrators, according to J.M.K. III, 3 or copies of the pleadings and award, according to B.M. 20a.

(12) רשות ראשות government ‘letters of credentials’, ‘diplomas’; or רשות voluntary, private, friendly letters, J.M.K., ibid; also Lewin Otz. Hag. IV, Mashk. Nos. 53-55.

(13) The dedication formula, v. n. 6 on Mishnah.

(14) Without formal, symbolical ‘delivery’. Cf. Keth. 102a and b.

(15) Deut. XXV, 5-6. V. p. 117, n. 5.

(16) V. supra 8b.

(17) During the festival week.

(18) The duty of procreation. Gen. I, 27-28; II, 18, 22-24.

(19) [Han.: Menasseh.]

(20) I.e., this is conclusive.

(21) V. D.S. note ad loc and cf. Sot. 2a and Sanh. 22a (Sonc. ed. p. 124).

(22) Cur. edd. have here ‘daily’.

(23) Or house, family, D.S.

(24) You will (in the end) challenge Providence for not having granted your sincere prayer.

(25) חלאי SBH. (Cf. Ex. XXXII, 11).

(26) The Pentateuch.

(27) Gen. XXIV, 50.

(28) Judg. XIV,4.

(29) Prov. XIX, 14.

(30) So MS.M. and parallels.

(31) II Kings, XVII, 9. Surely, God has not been guilty of improper intentions. Yet ill is imputed to Him.

(32) Num. XVI, 4. According to MS.M. Cf. Sanh. 110a.

(33) Connecting this expression with that of Num. V, 14.

(34) Ps. CVI, 16.

(35) It was not suspicion, but sheer spite.

(36) The borrower or the scribe. V. J.M.K. 82a.

(37) Cf. Deut. VI, 8; XI, 18 and supra.

(38) Deut. VI, 9; XI, 20.

(39) According to some, a copy written by Ezra, according to others, the scroll kept in the 'Court' of the Temple.

Talmud - Mas. Mo'ed Katan 19a

AND MAY SPIN ON HIS THIGH THE BLUE-WOOL FOR HIS FRINGE.[1]

GEMARA. Our Rabbis taught: A person [may] write [the scriptural sections for] phylacteries or mezuzoth for his own use [and spin on his thigh the blue threads for his own fringe],[2] and for others [he may do so] as a favour:[3] this is R. Meir s view; R. Judah says, He may artfully dispose of his own and [then] write fresh ones for his own use. R. Jose says, He may write and sell [them] in his usual way enough for his [personal] requirements',[4] Rab gave a decision to R. Hananel and some say, Rabbah b. Bar-Hanah to R. Hananel[5] — that the halachah is that one [may] write and them in his way to the extent of his requirements.

AND [MAY] SPIN ON His THIGH BLUE-WOOL FOR HIS FRINGE. Our Rabbis taught: A person [may] spin on his thigh the blue [thread] for his fringe, but [may] not do so with a stone [as a spindle-whorl]: that is R. Eliezer's view; but the Sages say [he may] even with a stone. R. Judah says in his [R. Eliezer's] name: [He may] with a stone, but not with a spindle; but the Sages say, [He may] either with stone or with spindle. Said R. Judah as citing Samuel, and similarly R. Hiyya b. Abba said as citing R. Johanan: The halachah is that [one may spin the blue-wool for his fringe] whether with a stone [as whorl] or with a spindle;[6] and it is also the halachah that one [may] write in his usual way and sell sufficient for his requirements.[7]

MISHNAH. IF ONE BURIES HIS DEAD THREE DAYS[8] BEFORE A FESTIVAL, THE RESTRICTIONS[9] APPERTAINING TO HIS SEVEN DAYS' MOURNING FALL AWAY; [IF HE BURIES HIS DEAD] EIGHT DAYS BEFORE A FESTIVAL, THE RESTRICTIONS OF THE THIRTY [DAYS] FALL AWAY,[10] BECAUSE THEY [THE SAGES] SAID THAT THE SABBATH ENTERS INTO COUNT BUT DOES NOT INTERRUPT,[11] WHILE FESTIVALS INTERRUPT[12] AND DO NOT ENTER INTO COUNT.[13] R. ELIEZER SAYS, SINCE THE SANCTUARY [AT JERUSALEM] WAS LAID IN RUINS, [THE FEAST OF] 'AZERETH'[14] IS [RECKONED] AS AN [ORDINARY] SABBATH [DAY];[15] RABBAN GAMALIEL SAYS, NEW YEAR AND THE DAY OF ATONEMENT ARE [RECKONED] AS FESTIVALS; WHILE THE SAGES SAY, [THE RULE IS] NEITHER ACCORDING TO THE STATEMENT OF THE ONE NOR ACCORDING TO THE STATEMENT OF THE OTHER, BUT AZERETH IS [RECKONED] LIKE [THE OTHER] FESTIVALS AND NEW YEAR AND THE DAY OF ATONEMENT ARE [RECKONED] AS A SABBATH [DAY].

GEMARA. [THE RESTRICTIONS... FALL AWAY]. Said Rab, [this means only] 'the restrictions'[16] fall away, but the days [of mourning] do not fall away[17] and so said also R. Huna:[18] The 'restrictions fall away but the 'days' do not fall away; and R. Shesheth[19] said that even the days also fall away.[20] What is the meaning of, 'But the days [of mourning] do not fall away'? [It means] that if he had not cropped his hair on the day before the festival he is forbidden to crop himself after the festival

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(1) Num. XV, 38ff.

(2) This bracketed part is omitted in many texts. Cf. D.S.

(3) Without payment for his work.

(4) פרנסה includes 'food, raiment and home' for himself, wife and children or his father's widow. Cf. Shab. 118a and Keth. 69a.

(5) V. J.M.K. III, 4.
(6) It being for the performance of a Biblical ordinance which gives him joy.
(7) To help him joyously to keep the festival.
(8) V. infra 20a.
(9) גזרה means generally a restrictive measure. (Cf. Be. 4b, 8b, 36b). Here it refers to the abstention, during the seven days of mourning, from work and bodily comforts — bathing, anointing, footwear and fresh clean clothes, i.e., the maintenance of a neglected disconsolate appearance in honour of the deceased. The public, religious, festive rejoicing suspends, or according to some, cancels the formal observance of sorrow.
(10) I.e., the remaining period of formal mourning down to thirty days lapses on his having duly observed the first seven days plus one day of the remaining period before the festival.
(11) I.e., it neither counts as a blank day, nor does it cancel the rest. The re maining days of mourning continue after the Sabbath.
(12) Cancel the remaining days of mourning.
(13) If the interment took place during the festival. But v. Rashi.
(14) The rabbinic term for the ‘Feast of Weeks’ (Deut. XVI, 10). or the Day of Bikkurim, First Fruits (of wheat; Lev. XXIII, 17). Both terms occur in Num. XXVIII, 26. V. Targums on the last, and Mid. Lekah Tob, ad loc. p. 272; cf. also infra 24b.
(15) It enters into count and does not interrupt.
(16) I.e., only the outer, formal observances of mourning but not the obligation.
(17) I.e., the period of mourning of seven or (down to) thirty days (as the case may be, according to the wording of the Mishnah) is not canceled but only deferred pending the festive time.
(18) Rab's disciple and his successor at the Academy of Sura.
(19) Var. lec., Samuel; v. D.S. a.l.
(20) I.e., they are not to be compensated after the festival to the number of the days during which the mourning formalities were suspended.

Talmud - Mas. Mo'ed Katan 19b

and that is [exactly] what is taught [in a Baraitha]: If one buries his dead three days before a festival his restrictions of the seven fall away;[1] if eight days before a festival his restrictions of the thirty fall away;[1] and he crops [his hair] on the day before the festival.[2] If he had not cropped himself on the day before the festival, he is forbidden to crop himself after the festival.[3] Abba Saul says, He is permitted to crop himself after the festival; for just as the ‘[observed] obligation[4] of three’ [days] quashes the restriction of the seven’[5] so does the ‘[observed] obligation of seven’ quash the ‘restrictions of thirty’.[6] [You Say, ‘The observed obligation of] seven’? But we learned [in our Mishnah] ‘eight’ [days before the festival]! — Abba Saul maintains the view that part of a day is [reckoned] as an entire day and [here] the seventh day [of mourning] enters into the count both this way and that.[7] R. Hisda, as citing Rabina son of Shela, said the halachah follows the opinion of Abba Saul;[8] and the Sages concur with Abba Saul that when his eighth day comes on a Sabbath which is the day before a festival he is permitted to crop himself [even] in the Friday.[9]

Whose opinion is followed in the statement in which R. Amram, citing Rab, said: ‘[As to] the mourner, as soon as the comforters have risen to depart from his house, he is permitted to bathe’? Whose view [is it]? — It is Abba Saul's [view]. Said Abaye, The halachah follows Abba Saul's view in regard to the seventh day [of mourning] and the Sages concur with Abba Saul in regard to the thirtieth day [of mourning] that we say, part of the day is regarded as the whole day. Raba said, The halachah follows Abba Saul's view in regard to the thirtieth day, but in regard to the seventh day the halachah does not follow the view of Abba Saul. And the Nehardeans[10] say the halachah follows Abba Sauls view in both instances, because Samuel stated that in matters appertaining to mourning the halachah is to follow the view of the more lenient authority.

Whence [in Scripture] do we derive the term of thirty days [of mourning]? — It is obtained by an analogy[11] between two texts which have in common the term pera’ used [in connection] with mourning[12] and again used [in connection] with the Nazirite,[13] [namely]: Here [in the law about mourning] it is written, Let not the hair of your heads grow long [tifra'u];[12] an there [in the law of the Nazirite] it is written: He shall let the locks of the hair of his head [pera’] grow long.[13] Just as the period there [for the Nazirite] is thirty days, so also here [for the mourner] it is thirty days. And whence do we derive it there? — Said R. Mattena: An unspecified Nazirite-vow is [binding] for thirty days. What is the reason? The text there reads: He shall be [Yihyeh] holy;[14] the [consonant] letter value of Yihyeh being [ten + five + ten + five] thirty.

Said R. Huna the son of R. Joshua,[15] [Authorities] all accept the view that when the third day [of mourning] occurs on the day before the festival the mourner is forbidden to wash [his whole body][16] till the evening.[17] Said R. Nehemiah the son of R. Joshua: I once found R. Pape and R. Papa sitting together and stating that the halachah is in accordance with the statement of R. Huna the son of Joshua. Some report it thus: R. Nehemiah the son of R. Joseph said, I once found R. Pape, R. Papa and R. Huna the son of R. Joshua sitting together and stating that all are agreed that when the third day occurs on the day before a festival, the mourner is forbidden to bathe till the evening.

Abaye enquired of Rabbah: What if one buried his dead during the festival? Does the festival enter into his counting of the thirty days, or does the festival not enter into his counting of the thirty days?[18] I am not asking about [counting the festival as part of] the seven days, because the ‘due observance of seven [days of mourning] does not obtain during the festival;[19] but what I do ask is about the period of thirty days, because the ‘due observance of thirty days does [partly] obtain during the festival;[20] what [is your view]? — He [Rabbah] replied, The [days of the] festival do not enter into the counting.

[Thereupon] he put to him an objection from [the following]: If one buried his dead two days before the festival, he counts five [supplementary] days after the festival,[21] and his work is done [for him] by others; his men-servants and maid-servants do [their domestic] work quietly indoors, privily; and the public do not [need to] condole formally[22] with him

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(1) As then his obligation to the dead is already sufficiently fulfilled.

(2) In honour of the festival, although he is still within the thirty days.

(3) I.e., the remaining period of mourning up to thirty is resumed: it having been only suspended but not canceled.

(4) מצוה means a positive order and denotes rather the positive aspect, the active fulfillment of the obligation to the departed, in contrast to the גזירה , the restrictive aspect of mourning.

(5) Not to be resumed again.

(6) I.e., again. if he had not cropped himself before the festival he is permitted to do so immediately after the festival.

(7) I.e., that after part has served for the seventh day, the remainder can count as part of the eighth day with its easier regimen.

(8) [With reference to his latter ruling, cf. D.S. note7 and Han].

(9) Though it is still the seventh.

(10) Represented by R. Han., Sanh. 17b. Also by R. Nahman b. Isaac (according to another source). V. A. Hyman, Toledoth II, p. 919.

(11) This question interrupts the discussion. The method of equalling two texts is gezerah shawah, v. Glos.

(12) V. Lev. X, 6; Aaron and his sons were thus commanded at the death of Nadab and Abihu, not to allow their hair to go loose, i.e., not to grow freely or long.

(13) Num. VI, 5. Cf. supra 15a.

(14) Num. VI, 5: י 10, ה 5 (twice).

(15) The discussion on the former theme is resumed here.

(16) I.e., to bathe in warm water which affords pleasure.

(17) Even Abba Saul will in this case not regard a part of the day as the whole.

(18) Formal mourning alter burial falls into three periods: (i) three days of weeping and (ii) up to the seventh day (part-inclusive) for lamenting with abstention from work and attention to the person; then (iii) down to the thirtieth day (part-inclusive) in slightly mitigated formal mourning.

(19) Therefore it is certain that the mourner begins his observance of the seven after the festival; and as these had not begun, there was as yet no part to be taker, into account.

(20) For on it too, like during the thirty days, washing clothes and cropping hair are forbidden.

(21) To make up the requisite seven days of mourning.

(22) Lit., 'busy themselves'.

Talmud - Mas. Mo'ed Katan 20a

as they have already done that Service towards him during the festival. As a general principle on this matter [it may be stated]: 'Whatever appertains to the mourner [himself],[1] that the festival interrupts,[2] but whatever appertains to the [obligations of] the public,[3] that the festival does not interrupt'. If he buried his dead three days towards the conclusion of the festival,[4] he counts seven days [of mourning] after the festival. During the first four days [alter the festival] the public engage [in condoling] with him, but in the last three days the public do not [need to] condole with him as they have already done [this service] towards him during the [three days within the] festival; and the festival enters into the counting. Now, does not [this last sentence] refer to the latter part [of the statement]?[5] — No, [said Rabbah] it refers to the former part [of the statement].[6] Thereupon he put an objection to him [from the continuation of the Baraitha]: The festival enters into the counting of thirty days: how, for instance? If one buried his dead at the beginning of the festival he counts seven days [of mourning] after the festival and his work is done by others; his men-servants and maid-servants do work quietly indoors, and the public do not [need to] engage [in condoling] with him, as they have already done that service towards him during the festival; and the festival enters in the counting![7] — That Is a confutation [of Rabbah].

When Rabin came [from Palestine] he reported R. Johanan to have said, Even if one buried his dead during the festival;[8] and similarly R. Eleazar gave as his decision to his son R. Pedath, Even if one buried his dead during the festival.

Our Rabbis taught: 'If one carried out the rule of overturning the couch[9] for three days before the festival, he need not overturn it [any more] after the festival; these are the words of R. Eliezer; but the Sages say: [He need not] even if he had [done so] only for one day or even for one hour. Said R. Simeon b. Eleazar, Those were the very words of Beth Shammai and the very words of Beth Hillel: for Beth Shammai say: 'For three days [before the festival]', and the Hillelites Say: Even [if] for one day'. R. Huna said: R. Hiyya b. Abba, as citing R. Johanan. stated[10] — sonic say that R. Johanan told R. Hiyya b. Abba and R. Huna: [He need not], even if he had [overturned the couch] for one day; even for one hour. Raba stated[11] that the halachah is according to our Tanna [of the Mishnah] who said three days.[12]

Rabina once came to Sura-cum-Euphrates.[13] Said R. Habiba to Rabina: What is the law [on this point]? — He replied: 'Even [if he had the couch overturned] one day and even for one hour'. R. Hiyya b. Abba, R. Ammi and R. Isaac were [once] seated in the marquee of R. Isaac b. Eleazar[14] when a discussion was begun between them: Whence is it authentically derived that the observance of mourning is for seven days? From the text, And I shall turn your feasts[15] into mourning . . . [and I will make it as the mourning for an only son];[16] just as the 'Feast' lasts seven days.[15] so [the period of] mourning is also for seven days. But why not [draw an analogy with] the feast of 'Azereth,[17] which lasts but one day? — [No], that [analogy] is needed [for another lesson] as explained by Resh Lakish; for Resh Lakish said in the name of R. Judah Nesi'ah:[18] Whence is it derived that on [the receipt of] belated tidings[19] [formal] mourning obtains for one day only? From the text, And I shall turn your feasts into mourning;[20] and we find 'Azereth as an instance where one day's celebration is designated [a 'Feast'].

Our Rabbis taught: On receiving near tidings [formal] mourning obtains for seven [days] as well as [up to] thirty [days]; on distant tidings, it obtains for one day only. Which are 'near' tidings and which 'distant' tidings? 'Near' tidings are [recent tidings] within, thirty [days] and 'distant' tidings are [belated tidings] after thirty [days]: these are the words of R. Akiba; the Sages, however, say, One and the same [practice obtains in both], on [the receipt of] 'near' tidings or of 'distant' tidings, [formal mourning] obtains for seven as well as [up to] thirty [days]. Said Rabbah b. Bar Hanah, as citing R. Johanan: Wherever you find a single authority expressing a lenient view and a number expressing a strict view, the halachah is in accordance with the strict view, save in this case: that although R. Akiba is lenient and the Sages are strict, the halachah is in accordance with R. Akiba, as Samuel stated, that in matters obtaining to mourning the halachah follows the lenient authority.

R. Hanina[21] received tidings from Be[th]-Hozai about [the death of] his father; he consulted[22] R. Hisda, [who] told him, 'On [receipt of] distant tidings [formal mourning] obtains for one day only'. R. Nathan b. Ammi received tidings from Be[th]-Hozai about his mother; he consulted[22] Raba, who told him: The authorities have already stated [that] on [receipt of] distant tidings [formal mourning] obtains for one day only. Thereupon he put to him an objection [from the following]: When does this ruling apply? In the case of the [other] five nearest-of-kin [for whom mourning is] obligatory;[23] but for one's father or mother [mourning is for] seven [days] and [up to] thirty [days] — [Raba] replied: That is the ruling of an individual[24] with which we do not concur, as [will be made clear from what] is taught [in the following]: 'There was the case of the father of R. Zadok who had died at Ginzak,[25] and he was not informed till after three years. He [thereupon] came and asked of Elisha b. Abuyah and the elders that were with him and they told him to observe seven [days] and [up to] thirty, and when R. Ahiyya's son died in the Diaspora,[26] he [too] sat on his account seven and [observed mourning up to] thirty'. But this is not so? For when Rab, R. Hiyya's brother's son — who was also R. Hiyya's sister s son[27] — came up there [to Palestine], he [R. Hiyya] said to his nephew [Rab]: 'Is father alive'?[28]

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(1) I.e., the observance of formal mourning by the mourner.

(2) Is deferred till after the festival.

(3) Lit., 'the business of the public', i.e., to pay visits of condolence and offer words of comfort.

(4) בסוף הרגל probably a misreading of בתוך הרגל 'within', 'during the festival', as in MS.M.

(5) 'If one buried his dead during the festival, three days before towards conclusion . . .' As the seven days have been dealt with already, the last sentence must refer to the thirty days, namely, that the festival days enter into the counting; i.e., not as Rabbah replied, negatively.

(6) 'If one buried his dead two days before the festival', when two days of the seven were also two days of the thirty, as Abaye himself admitted when he put the question to Rabbah.

(7) Of the thirty days, obviously.

(8) That part of the festival enters in the counting of thirty days.

(9) Cf. supra p. 92.

(10) As the Palestinian practice.

(11) As the Babylonian practice.

(12) As the minimum observance of formal mourning before the festival secures remission of the remainder.

(13) The Western part of Sura which lay along the junction of the Sura canal. V. Obermeyer p. 293.

(14) Palestinian authorities.

(15) I.e., Passover and Tabernacles, Lev. XXIII, 7-8 and 34-35.

(16) Amos VIII, 10.

(17) The Feast of Weeks; Deut. XVI, 10, 16 and cf. Num. XXVIII, 26.

(18) Judah II. grandson of R. Judah ha-Nasi (Judah I).

(19) Lit., 'distant tidings' (of a death), defined below.

(20) Amos VIII, 10. (10) The Feast of Weeks, Deut. XVI, 1, 16, cf. Num. XXVIII, 26.

(21) Var. lec. R. Hinena of Be(th)-Hozai (Chuzistan).

(22) Lit., ‘came before’.
(23) I.e., for brother, sister, wife, son and daughter. Lev. XXI, 2-4. This is again taken up lower down.
(24) The authority is named lower down.
(25) Gazaka, a city in North Media (Atropatene); according to Rawlinson it is Shiz near Lake Urmia. V. Obermeyer p. 10.
(26) Golah, the ancient place of the ‘Captivity’ when the first Temple fell, Babylon, Nehardea and later, Pumbeditha, were considered the most ancient centres of the Golah.
(27) R. Aha of Kafri married a widow and his eldest son Aybu married her daughter. From these unions Aha had a son R. Hiyya, and Aybu had a son Rab (‘R. Abba the Long’, later the famous principal of Sura). Rab's mother was R. Hiyya's half-sister (from one mother, i.e., R. Ala's second wife); and Rab's father Aybu was R. Hiyya's eldest half-brother (from the same father, namely, R. Aha of Kafri). R. Hiyya was therefore doubly related to his nephew Rab, being his paternal uncle as well as his maternal uncle, cf. Pes. 4a (Rashi).
(28) I.e., is my father Aha alive?

Talmud - Mas. Mo'ed Katan 20b

He replied, ‘Mother’[1] is alive’. [Again] he asked ‘Is mother[2] alive’? He replied: ‘Father is alive’.[3] R. Hiyya thereupon said to his attendant: ‘Take off my shoes and bring along my things after me to the [public] baths’. Now from this instance we learn three lessons: We learn that a mourner is forbidden to don shoes;[4] that distant tidings [entail formal mourning] but for one day; and that part of the day is [deemed] as all entire day's [mourning]![5] [In fact], R. Hiyya is one person and R. Ahiyya [whose son died in the Diaspora] is another person.[6]

Said R. Jose b. Abin: [If] one received near tidings on a festival and by the [time of its] termination it became distant tidings, [the festival-time] enters into the counting and [accordingly] he observes but one day [of formal mourning]. R. Adda[7] of Caesarea recited in the presence of R. Johanan: If one hears near tidings on a Sabbath day and by the termination of the Sabbath it has become distant tidings, he observes but one day [of formal mourning]. Does one [in such a case] rend his garment, or does he not rend his garment? — R. Mani said: He does not [need to] rend his garment; R. Hanina said, He does rend [his garment]. Said R. Mani to R. Hanina: My view that he does not rend [his garment] is consistent with the fact that there is no [observance of] ‘seven’. But according to your view that he [should] rend his garment, tell me, is there a rending of [one's garment] without [the observance of] the seven [days of mourning]? But is there not? Surely, Isi, father of R. Zera — or as sonic say, R. Zera's brother, recited in the presence of R. Johanan: If one had no tunic[8] to rend [at the time] and he obtained one during the seven [days], he should rend it then; [if it became available] after the seven days, he does not rend it! [Thereupon] R. Zera chimed in after him: ‘When does this ruling apply? In the case of the [other] five nearest-of-kin [for whom mourning is] obligatory,[9] but in the case of father or mother one always rends one's garment!’ — What you cited [in fact] refers to the deference to be shown to one's father or mother.[10]

Our Rabbis taught: For all [nearest-of-kin] mentioned in the Priest's Section[11] for whom a priest is to defile himself, a mourner is to observe [formal] mourning, namely, these: [For] his wife, father or mother, brother or [single] sister, son or daughter. To these they added: His brother or single sister from the same mother,[12] as well as his married sister, be it from the same mother or the same father.[13] And just as he observes [formal] mourning for these, he likewise observes [formal] mourning for their relatives in the second degree:[14] this is R. Akiba's ruling. R. Simeon b. Eleazar says: [Extended, formal] mourning is not observed except for one's son's child and a father's father,[15] and the Sages say [by way of definition]: Whomever he mourns for he should also mourn with.[16] Is not the Sages’ view [practically] the same as that of the former Tanna?[17] — Not [quite]; there is a [practical] difference between them, whether [we require him to be, that is to say when he is] with him in the [same] house,[18] as Rab[19] said to his son Hiyya, and as R. Huna likewise said to his son Rabbah:[20] ‘In her presence observe mourning; away from her presence do not observe mourning’.

[When] Mar Ukba's father-in-law's son died, he thought of sitting for him[21] seven [days of mourning] and [continuing to] thirty. R. Huna going to his house found him [in formal mourning]. ‘Do you desire’, said he, ‘to eat of mourners’ fare?’[22] They [the Sages] did not say that [one should observe formal mourning] out of deference to his wife only in the case of [the death of] his father-in-law or his mother-in-law,[23] as it is taught: ‘If his father-in-law or mother-in-law died the husband may not compel his [mourning] wife to put on kohl or do her hair[24] [as usual], but he should overturn his [own] couch and observe [formal] mourning with her; and likewise she, when her fatherin-law or mother-in-law dies, may not put on kohl or do her hair [as usual]; but she should overturn her couch and observe [formal] mourning with him’. And another Baraitha taught: ‘Although it was stated [that] he may not compel his wife to put on kohl or do her hair [as usual] it is — said they — indisputably correct[25] that she [may] mix his wine for him, make his bed and wash his face, hands and feet’.[26] [Now the regulations in] the two citations contradict each other.[27] Hence infer from this that the one Baraitha refers to [the death of] a father-in-law or mother-in-law,[28] while the other to [the death of] other near of kin.[29] — This proves it.[30] It is also taught thus [explicitly]: ‘They did not lay down [that one should observe formal mourning] out of deference to his wife, save [at the death of] his father-in-law or his mother-in-law alone’.

Amemar lost his son's son, and he rent [his garment]. Thereupon his son came and he [again] rent [his garment] in his [son's] presence. He then recollected that he had done it while sitting; he rose and relit [his garment again] standing. Said R. Ashi to Amemar: Whence do we derive that the rending [of a garment] is [to be done] standing? From the text: Then Job rose[31] and rent his mantle.[32]

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(1) To evade a direct doleful reply, Rab said that his own mother was alive, but said nothing about his grandfather, R. Aha of Kafri.

(2) I.e., is my mother alive? I.e., R. Hiyya's mother, Rab's grandmother, R. Aha's wife.

(3) Again to evade the direct and sad answer Rab replied that his own father (i.e., Aybu, R. Hiyya's half-brother) was alive, but nothing about it. Hiyya's mother, Aha's wife. This is according to R. Hananel. Rashi and Tosaf. s.v. איבו offer different interpretations. V. Pes. 4a (Sonc. ed. p. 11.)

(4) Cf. supra p. 93.

(5) Even in the case of a parent one short while and one simple demonstration of respectful, sorrowful mourning, such as doffing the shoes, are enough; as soon after R. Hiyya went to the baths, which is forbidden to a mourner for a recent bereavement. Cf supra p. 101.

(6) That is, do not confuse Ahiyya of the Baraitha with Hiyya, Rab's uncle as being the same person who had acted differently on two occasions, at receiving belated distant news of the loss of a son and again of the loss of parents. They are two different persons.

(7) Var. lec. Abba.

(8) Of his own, to rend it at the poignant moment of hearing the sad tidings. Cf. infra, 24a and Tosaf. s.v. כי .

(9) Brother, sister, wife, son and daughter. see next citation.

(10) [I.e., though there is no observance of seven days he rends his garments not as an obligation but as a special mark of respect for his parents; v. Nimmuke Yosef.]

(11) Lev. XXI, 1ff.

(12) [Though not of the same father. The text implies only a paternal brother or sister.]

(13) [Although the text speaks only of a single sister (ibid. v. 3).]

(14) I.e., for his grandfather, grandmother or grandchildren; also for brothers and sisters of parents, i.e., uncles and aunts.

(15) I.e., for these only but no others of those included in R Akiba's extended list. Cf. n. 7.

(16) E.g., One mourns (in sympathy) with his father on the death of his father's father; likewise a father mourns (in sympathy) with his son who loses a child.

(17) I.e., R. Simeon b. Eleazar

(18) As implied in the words of the Sages, ‘he should mourn with him’.

(19) When Rab's sister died, v. J.M.K. III, 5.

(20) When Rabbah's wife was in mourning.

(21) Out of deference to his wife.

(22) Food provided by friends. Cf. infra 24b arid 27aff.

(23) Cited in Samuel's name, J.M.K. III, 5.

(24) I.e., to insist that she should keep up her personal appearance, instead of looking neglected and dejected when numerous callers come to condole with her; kohl was used for the eye-brows.

(25) Lit., ‘in truth, they said’. V. B.M. 6.

(26) I.e., she may attend to his usual needs. [Washing hands and feet means in warm water which is forbidden to a mourner (Tosaf.).]

(27) In the former it is insisted that the husband must observe formal mourning out of deference to the wife, while in the latter, it implies that the husband need not.

(28) In which case he must mourn with her.

(29) In which case he need not mourn with her.

(30) That the distinction made by R. Huna supra is correct.

(31) I.e., stood up to perform the act of rending.

(32) Job I, 20.

Talmud - Mas. Mo'ed Katan 21a

But if that is so,[1] [the text]: And if he stand and say, I like not to take her,[2] [will be interpreted] similarly? But surely it is taught: [And if she loose the shoe from off the foot of a grownup levir], whether he be standing or sitting or stooping, [the ceremony is valid]?[3] . — He replied: [It is because] there it is not written, ‘And he stood and said’;[4] whereas here [in our instance] it is written, ‘And Job rose and rent his mantle’. Rami b. Hama said: Whence [is it derived] that the rending [of a garment] is to be done standing? From what is said: And Job rose and rent his mantle. But perhaps what he did was something extra? For should we not say so, [what of the next thing Job did], And he shaved his head, [should we] likewise [have to conform with it]? — Rather it is [to be derived] from here: Then the king arose and rent his garments.[5] But here too, perhaps, what he did was something extra? For should you not say so [what of the next thing he did], And he lay on the earth,[5] [should we] likewise [have to conform with it]? Whereas it is taught: ‘If a mourner sat on a bed,[6] on a chair[7] or on a stall for urns [and cans],[8] or even goes to the extreme[9] of sleeping on the bare ground, he has not discharged his duty [to the dead]’. And, explained R. Johanan, [It is] because he has not carried out the [custom of] overturning the bed? — He replied: [It means that David lay] as it were on the ground.

Our Rabbis taught: The following things are forbidden to a mourner: He is forbidden to do work, to bathe or anoint himself, to have [marital] intercourse, or don sandals; he is forbidden to read the Pentateuch, Prophets or Hagiograplia, or to recite the Mishnah, or Midrash and halachoth or the Talmud or aggadoth.[10] If, however, the public have need of him, he need not abstain. There was all actual case, when a son of R. Jose of Sepphoris[11] died, he went into the Beth Hamidrash[12] and expounded there all day long; [also[13] when a daughter of Rabbi died at Beth-Shearim, he went into the Beth Hamidrash and expounded there all day long]. Rabbah b. Bar Hanah had a bereavement [and] he thought he ought not to go out to [give] his lecture. Said Rab to him, We learned:[14] ‘And if the public have need of him he does not refrain’. He then thought of calling upon his ‘expositor’ [assistant].[15] When Rab said to him, ‘We learned:[14] ‘Provided only that he does not place [at his side] an expositor [assistant]’. But then how is he to do? — After the manner taught [in the following]: ‘It happen ed, that when a son of R. Judah b. Il'ai died, he went into the Beth Hamidrash and R. Hananiah b. ‘Akabia also went in and sat him down at his side: he then whispered to R. Hananiah b. ‘Akabia and R. Hananiah b. ‘Akabia [whispered] to the Turgeman and the Turgeman spoke aloud to the public’.

Our Rabbis taught: ‘[During] the first three days a mourner is forbidden to put on phylacteries.[16] From the third day onward, the third day included, he is allowed to put on phylacteries and he does not[17] [have to] take them off at the entry of fresh personages [visitors]:[18] this is R. Eliezer's opinion.

R. Joshua says, A mourner is forbidden to put on phylacteries [during] the first two days. From the second day onward, the second day included, he is allowed to put on phylacteries; but at the entry of fresh personages [visitors] he takes[17] them off.[19] Said R. Mattena: What is the reason for R. Eliezer's view? — Because it is written: And the days of weeping in the mourning of Moses were ended.[20] Said R. Ena: What is the reason for R. Joshua's view? — Because it is written: [And I will turn your feasts into mourning . . . And I will make it as the mourning for an only son] and the end thereof as a bitter day.[21] But as to R. Joshua. surely it is written: [And the days of weeping in the mourning for Moses] were ended? — He may reply. The case of Moses was different; the mourning for him was [more] intense. And what of R. Eliezer too, surely it is written, ‘And the day thereof [I will make] as a bitter day’? — The poignancy of the bitterness is but on one day. Said ‘Ulla: The halachah follows R. Eliezer in regard to taking off [the phylacteries][22] and R. Joshua in regard to putting on [the phylacteries].[23] They enquired: What of the second day [of mourning]. according to ‘Ulla? Does he [at the entrance of fresh personages] have to take them off, or does he not [have to] take them off? — Come and hear: ‘Ulla said: He takes them off and puts them on [the second day] even a hundred times’.[24] Likewise it is taught: Judah b. Tema Says, He takes them off and puts them on even a hundred times. Raba said, Having put them on he does not take them off. But was it not Raba who said [above],[25] The halachah follows our Tanna [of the Mishnah],[26] who says [that the minimum observance of formal mourning is] three [days]?

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(1) That the brother of the deceased husband must declare his rejection of a levirate marriage standing.

(2) Deut. XXV, 8.

(3) Yeb. 103a.

(4) The distinction is not clear, and texts vary; v. D.S. ad loc.

(5) II Sam. XIII, 31.

(6) Without any bedding.

(7) Var. lec. a bench.

(8) אורייני is the correct form derived from the Latin urnari(um), a low bench or stand for the urnae-cans and water buckets. This derivation fits in with the requirements of all the passages where this obscure word occurs. B.B. 144a and עירניה J.B.B. IX, 4; Tosef. Kel. 587, 22 and Sifra, Mezora II, Weiss 75c. Cf. however, Dictionaries and S. Krauss, T A. I., 273 n. 60 and addenda III, 361.

(9) V. marginal note according to Han. and Alfasi.

(10) The study of the Torah is considered a source of joy. Cf. Ps, XIX and CXIX, e.g. vv. 14, 16, 24, 47 etc.

(11) R. Jose b. Halafta, prominent in the College of Rabbi.

(12) The College.

(13) This bracketed part (which occurs in MS.M.) has accidentally fallen out through the same ending ‘all day long’.

(14) So MS. M.

(15) It was the practice to call upon a competent scholar or scholars at the college to stand at the side of the Principal or lecturer of the day and expound the theme to the listeners in several groups. He was called Amora or Turgeman (Meturgeman) _ expounder, interpreter (dragoman).

(16) Cf. supra 15a.

(17) In Sem. VI, and J.M.K. III, 5, it is the reverse.

(18) [Although they might be led to assume that he had donned the phylacteries also in the first two days.]

(19) Rashi: on the second day; according to J.M.K. (ibid.) in the week of mourning.

(20) Deut. XXXIV, 8. That the main mourning is during the first three days is derived by counting the three expressions. ‘days’, ‘weeping’, ‘mourning’.

(21) Amos VIII, 10, which indicates that the essential mourning is but one day. .

(22) That he need not take them off on the third day at the entry of fresh visitors.

(23) On the second day.

(24) Each time at the entry of new visitors, to show the visitors that he has not been disregarding the law hitherto.

(25) 20a about keeping the bed overturned for at least three days before a festival.

(26) Supra 19a.

Talmud - Mas. Mo'ed Katan 21b

Talmud - Mas. Mo'ed Katan 21b

— It is different in the case of a religious precept. [like phylacteries].[1]

Our Rabbis taught: A mourner is forbidden, during the first three days [to do] work, even a poor man who receives maintenance from charity; thereafter he does [his work] privately, in his house: and a woman [in mourning] plies the spindle in her house.

Our Rabbis taught: A mourner should not go during the first three days to a place of mourning;[2] thereafter he may go but not take a place among the comforters, but among those who are [to be] comforted.

Our Rabbis taught: A mourner is forbidden during the first three days to give greeting [of peace];[3] after three and to seven [days], he responds but does not give greeting [of peace]; thereafter he gives greeting [of peace] and responds in his usual manner.

[It is stated above] ‘Forbidden during the first three days to give greeting of peace’. But surely it was taught: It happened, when [two][4] sons of R. Akiba, [bridegrooms],[5] died, all Israel entered[6] and made a great lament for them, and as the people were about to depart, R. Akiba stood on a large bench[7] and addressed them: Our brethren, the House of Israel, hear ye! Even though these two sons were ‘bridegrooms’,[8] I am[9] consoled on account of the honour you have done [them].[10] And even though you have come on account of Akiba, there is many an Akiba![11] But this it is what you said [to yourselves]: The law of God is in his heart, [his footsteps will not falter].[12] All the more then, two-fold be your reward: Go home unto peace!’[13] — Deference towards the public is a different matter.

[It was stated above ‘After three to seven [days]; he responds but does not give greeting [of peace]; thereafter, he gives greeting [of peace] and responds, in his usual manner’. Some contrasted this statement with the following: ‘One who meets his fellow mourner within thirty days, tenders him [words of] consolation but enquires not about his peace; after the thirty days he enquires about his peace, but tenders him not [words of] consolation.[14] If his [friend's] wife had died and he married another [formally],[15] he is not allowed to call at his house to tender him [there,[16] words of] consolation; if he meets him in the street he expresses [his condolence] to him in a low voice and with downcast looks!’[17] — Said R. Idi b. Abin: The mourner enquires about the peace of others [within his period of mourning][18] because others’ are abiding in peace; others enquire not about the peace of the mourner, because he is not abiding in peace [but in sorrow].[19] But then, since it states [in the former Baraitha]: [After three to seven days] ‘he responds. . .’, does this not imply that others may enquire [about the mourner's peace]?[20] — Where they are unaware [of his bereavement]. If so, does not the same apply also to the other earlier period?[21] — [No,] then[21] he is obliged to acquaint them [of his sorrow] and makes no [further] response, whereas here[22] he need not acquaint them [of it].

Thereupon some contrasted [this latter Baraitha] with the following: One who meets another mourner within a twelvemonth tenders him [words of] consolation, but does not enquire about his ‘peace’;[23] after a twelvemonth, he enquires about his ‘peace and does not tender him [words of] consolation, but may refer to his sorrow indirectly.[24] Said R. Meir: If one meets another mourner after a twelvemonth and tenders him [then words of] consolation, to what can he be likened? To [the case of] a man who had his leg broken and healed when a physican met him and said to him, Come to me and let me break it and set it [again], to convince you that my medicaments are good? — This offers no diffculty: This last citation refers to [the death of] father or mother, while the former refers to [the death of] other near of kin. But in that case[25] too, why not tender him [words of] consolation indirectly? — Yes indeed [he may], and what means: [‘After thirty days he may] not tender him [words of] consolation' is, [not] in one's usual manner — but he refers to his sorrow indirectly.

Our Rabbis taught: A mourner who arrives home during the first three days from a place in the near vicinity, counts [his days of mourning] with them.[26] If he came home from a distance, he counts on his own. Thereafter even if he came home from a place in the vicinity he counts on his own. R. Simeon says: Even if he came home on the seventh day from a place in the vicinity, he counts with them.[26]

The Master said: 'During the first three days from a place in the vicinity, he counts with them'. R. Hiyya b. Abba, as citing R. Johanan said that this is done only where the chief person of the household was at home. The following question was then raised:

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(1) Deut. VI, 8; XI. 18.

(2) Lit., 'House of mourning', i.e., either to a private house or to the cemetery to attend a funeral. Cf. Sem. VI.

(3) Lit., 'enquire about his "peace"' (welfare). E.g., Gen. XXIX, 6 and cf. supra p. 89, n. 10.

(4) Cf. D. note 7: probably during a plague.

(5) So Sem. III, 6. The expression denotes that they died in the prime of life, under thirty years of age.

(6) The cemetery.

(7) An improvised rostrum.

(8) V. p. 135 n. 8.

(9) The text reads, 'He is consoled' by way of euphemism, to avoid an omen for one who reads or recounts this.

(10) By your presence.

(11) I.e., I am not so great a man as to be entitled to it all.

(12) Ps. XXXVII, 31.

(13) Thus R. Akiba tendered 'peace' to his audience on the very first day of mourning. Cf. Sem. VIII, where this incident among others is told at length.

(14) Here ends the part that causes difficulty. The attempted reply follows later after the conclusion of the whole quotation.

(15) That is by betrothal within the thirty days of mourning: this is permitted for the sake of little children, left motherless; often it is the deceased wife's sister. He may thus marry her formally but is not to live with her as man and] wife till after the period of mourning is over. Generally a widower should wait till after the three Festivals — Passover, Weeks and Tabernacles have passed, before he marries again. Cf. infra, 23a.

(16) Not to embarrass the second wife.

(17) Lit., 'with faint lip and heavy head', so as to avoid giving the impression of being cynical. l This Baraitha thus teaches that within the thirty days one may not greet a mourner, which is in opposition to the ruling of the former Baraitha that the mourner himself is permitted to exchange greetings once the seven days are over].

(18) Within the thirty days.

(19) [I.e., the two Baraithas are not contradictory: whereas the former teaches that the mourner may greet others within the thirty days, the latter forbids others to greet him within, that period.]

(20) And thus the two Baraithas are still contradictory.

(21) I.e., during the first three days.

(22) After three days.

(23) Whereas above it was ruled that after thirty days one may tender greetings.

(24) Rashi: He merely utters a word of comfort without mentioning the name of the deceased.

(25) I.e., in the case of other near-of-kin to which the former Baraitha refers.

(26) With the other members of the family.

Talmud - Mas. Mo'ed Katan 22a

What if the chief person[1] of the household had gone to the place of interment?[2] — Come and hear: For R. Hiyya b. Abba as citing R. Johanan. said that even if the chief person of the household went to the place of interment, he [still] counts with them. [You say] 'He counts with them?' Why, it is taught [definitely]: ‘He counts by himself’! — That is not difficult [to explain]: The former [ruling] obtains where he returned within three [days]; the latter [ruling] obtains where he had not returned within three [days]. Similar it is to what Rab told the sons of Hazzalponi:[3] Those that come [home] within three [days] should count with you; those that do not come [home] within three [days] should count by themselves. Raba told the people of Mahoza: You who do not follow the bier,[4] should begin counting [the days of mourning] as soon as you turn your faces from the city gates.

‘R. Simeon says, Even if he came home on the seventh day from a place in the vicinity he counts with them’. Said R. Hiyya b. Gamada that R. Jose b. Saul as reporting Rabbi said: That is [done] only where [on his arrival] he found comforters still present.[5] R. ‘Anan then enquired: What if they [the comforters] had just made ready[6] themselves to get up [and leave] but had not yet left? — This stands over [for a solution]. The fellow-collegiate of R. Abba b. Hiyya had it as a tradition from R. Abba — Who was that [fellow-collegiate]? — R. Zera; and some say that it was the fellow-collegiate of R. Zera who had heard it from R. Zera. — And who was that [fellow-collegiate]? — R. Abba son of R. Hiyya b. Abba — who reported R. Johanan [to have stated]: ‘The halachah is to follow R. Simeon b. Gamaliel's view on the point of terefoth[7] and the halachah is to follow R. Simeon on the point of mourning’. The view of R. Simeon on the point of mourning is this one which we have just cited; and the view of R. Simeon b. Gamaliel on terefoth is that which is taught:[8] ‘If intestines had become perforated and mucilage blocks the perforation, it [the animal's flesh] is kasher’.[9] What is ‘mucilage’? — Said R. Kahana: it is the viscous matter inside the intestines which comes away under pressure. Said someone; May I be granted to go up to [Palestine] and learn the legal dictum from the mouth of the Master himself! When he went up he came upon R. Abba son of R. Hiyya b. Abba. Said he to him: ‘Did you, sir, say that the halachah is to follow R. Simeon b. Gamialiel on the point of terefoth’? — He replied: ‘I said that the halachah is not so’! And what about the point of mourning’, [is the halachah in that case] to follow R. Simeon? — He replied: Opinions are divided on that, as it has been stated: ‘R. Hisda said, [R. Simeon's view is] the halachah, and R. Johanan said likewise; [but] R. Nahman said, [R. Simeon's view is] not the halachah. The [present] halachah however does not follow R. Simeon b. Gamaliel's view in terefoth; but as to the point of mourning. the halachah is like R. Simeon's, because of Samuel's dictum that in matters of mourn ing, the halachah is to follow the [view of the] lenient authority’.

[Our Rabbis taught]:[10] ‘[If] for all [other] dead one expedites [the departure of] the bier,[11] he is praiseworthy; but in the case of one's father or mother, he is blameworthy. If it was the day before the Sabbath or a festival,[12] [or if pouring rain was falling on it], he is praiseworthy, as he expedites [the interment] out of deference to his father or mother. For all [other] dead, if he desires, he minimizes his business[13] or if he does not desire,

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(1) Not necessarily the senior person of the family, but the person in charge of the affairs of the household.

(2) And was away for three days. Does he count on his return with the folks at home whose period of mourning commenced as soon as the cortege departed. or does he count from the time of interment?

(3) Cf. I Chron. IV, 3. Or were these Jewish converts of the Beni-Solibi clan of bedouin Arabs, hailing from the neighbourhood of Zulfa in N.E. Arabia? V. Enc. Brit. s.v. Bedouins, III, (11th ed.) p. 623h. [Obermeyer, p. 298, identifies it with Zalfiun near Sura, the seat of Rab.]

(4) [The cemetery was far removed from the town so as not to offend the susceptibilities of the Persians who disapproved of the burial of the dead; v. Obermeyer, p. 174].

(5) Lit., ‘at his side’.

(6) Lit., ‘bestirred themselves’.

(7) Plur. of trefa, a defect indicating a disease in animals or birds slaughtered for food. Cf. Hul. III, 1ff.

(8) תניא is more correct than תנן Cf. Hul. 50a.

(9) Fit for Jewish consumption, not rejected on account of some organic defect.

(10) So D.S. and many other texts. Cf. Sem. IX.

(11) I.e., hastens the interment.

(12) When delay involves keeping the body till the day after their termination.

(13) I.e., his business affairs (Rashi) before the funeral. Or, according to Han. quoting Palestinian Talmud, he minimizes the expenses of the funeral and lament. Cf. J.M.k. III, 8.

Talmud - Mas. Mo'ed Katan 22b

he does not minimizes it'; but for his father or mother he should minimize [his business].[1] For all [other] dead, if he desires, he bares [his shoulder] and if he does not desire he does not bare it; for his father or mother he must bare [his shoulder].[2] It happened once with a certain 'great man of the generation' whose father had died, that he desired to bare [his shoulder],[3] and [another] 'great man of the generation' that was with him desired to bare his too, and on that account he [the mourner] refrained and did not bare [his shoulder].[4]

Said Abaye, The 'great man of the generation' referred to was Rabbi, and the [other] 'great man of the generation' that was with him was R. Jacob b. Aha [the elder]. Some say that 'the great man of the generation' was R. Jacob b. Alia and the [other] great man of the generation' that was with him was Rabbi. Now it seems correct if Rabbi was the 'great man of the generation' that was with him [with the mourner], we understand why [R. Jacob b. Aha][5] refrained and did not bare [his shoulder and heart];[6] but according to the [other] report that Rabbi [was the mourner] and that R. Jacob b. Aha was the 'great man of the generation' that was with him, why did not he [Rabbi] bare [his shoulder and both hands] as Rabban Simeon b. Gamaliel [Rabbi's father] was the Nasi, and everybody should by rights have bared [their shoulders]![7] — This is difficult [to explain].

'For[8] all dead one has his hair trimmed after thirty days; for one's father or mother [one lets his hair grow long][9] until his companions rebuke him. For all dead one enters a house of rejoicing after thirty days; for his father and mother [not] till after twelve months'. Rabbah b. Bar Hanah[10] said:[11] 'And [one may go] to a joyous entertainment of comrades'.[12] An objection was raised: 'And [one may not go to a joyous [feast] as well as to [an entertainment of] rejoicing and to comrades [for] thirty days'![13] — This [divergence] presents difficulty.

Amemar taught [his comments] on that [same] Baraitha thus: Said Rabbah b. Bar Hanali, 'But [to go] to a joyous entertainment of comrades is allowed forthwith'.[14] But then [in another version] it is taught: '[One may go] to a joyous [feast] after thirty [days] and to an entertainment of comrades [after] thirty days'? — This [discrepancy] is not difficult [to explain]; the latter [version] refers to a first[15] [invitation to an] entertainment [of comrades], while the former [version] refers to a return entertainment[16] [of comrades].

'For all[17] [other] dead one makes a rent [in his tunic] of a handbreadth [in depth]; for one's father or mother [he rends his clothes] till he bares his heart [chest].' Said R. Abbahu, What text is there [which teaches this]? Then David took hold on his clothes and rent them,[18] and there is no taking hold [of anything] by less than a hand's breadth.[19]

'For all [other] dead one rends only the uppermost [garment] even though he be wearing [then] ten; but for one's father or mother one rends them all'. And [the rending of] one's undershirt is not indispensable, be it in man or woman; R. Simeon b. Eleazar says. 'A woman rends her undermost garment and turns it [front to] back and then again rends her uppermost garment,[20] For all [other] dead, if one desire he divides the [upper] selvage-border of his [garment],[21] and if he does not desire he does not divide it; for his father or mother he must divide, R. Judah says, Any rending [of a garment] that divides not the selvage-border thereof is mere make-believe. Said R. Abbahu: What is the reason for R. Judah's [statement]? — The text: [And Elisha saw it, and he cried, My father, my father, the chariots of Israel and the horsemen thereof! And he saw him no more] and he took hold of his own clothes and rent them in two pieces.[22] Once it says 'and he rent them' do I not know that he rent them in two? But [the addition of ‘in two’[23] implies] that [at the rent] the garments appeared as if torn into two [separate] pieces.[24]

‘For all [other] dead, one tacks[25] the rent together after seven [days] and [completely] reunites [the edges] after thirty [days]; for one's father or mother one tacks it together after thirty [days], but never reunites [the edges]; a woman tacks it together forthwith, out of the respect due to her. When R. Abin came [from Palestine] he said as citing R. Johanan: ‘For all [other] dead, if one desires, he rends [his garment] with the hand, or if he desires he rends by an instrument; for one's father or mother one rends with the hand’. And R. Hiyya b. Abba said, as citing R. Johanan: ‘For all [other] dead [one rends] inside;[26] for one's father or mother one rends outside’.[27]

R. Hisda observed: And the same rule obtains[28] on the [death of a] Nasi. An objection was raised: ‘[Those other dignitaries][29] were not deemed equal to one's father or mother save in regard to re-uniting [the edges of the rent] alone’. Does not this [inequality] hold also for the Nasi?[30] — No, the Nasi alone [is an exception].[30] The Nesi'ah[31] died. Said R. Hisda to R. Hanan b. Raba:[32] Turn the mortar[33] , upside down, stand on it and show the rending [of garmentsj to all the people!

For a Hakam [sage][34] one bares [the hand and shoulder] on the right; for the Ab Beth din, on the left, and for a Nasi on both sides’.

Our Rabbis taught: When a Hakam dies, his Beth Hamidrash is in vacation; when the Ab Beth din dies all the Colleges in his city are in vacation and [the people of the synagogue][35] enter the synagogue[s] and change their [usual] places: those that [usually] sit in the north sit in the south and those that [usually] sit in the south sit in the north. When a Nasi dies, all the Colleges are in vacation[36] and the people of the synagogue enter the synagogue[37]

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(1) I.e., even after the burial, during the thirty days of mourning. Han. and Hay Gaon, quoted Otz. Hag. no. 199.

(2) And also bares his heart (chest). Sem. IX.

(3) For a Hakam (doyen), the (shoulder and) right hand are bared; for the president of the Beth din, the (shoulder and) left hand are bared; for the Nasi both (shoulders and) hands are bared. It happened, when R. Eliezer died, that R. Akiba bared ‘both his hands’ (arms) and beat his breast till it was bleeding and he said: my father, my father, the chariots of Israel, and the horsemen thereof. (II Kings, II, 12). Sem. IX. Cf. infra 22b.

(4) Here the series of citations from Sem. IX is interrupted by an observation of historical interest.

(5) D.S. and many other texts.

(6) Out of deference to Rabbi who was the Nasi, and therefore for him it was infra dignitatem. This was no disrespect to R. Jacob's father, as this is provided for in the rules: ‘And if they (one's father or mother) seem not important (enough) for (the baring), he (the son) does lot bare himself even for his father or mother’. Sem. IX. It should be noted that R. Jacob's father was not a qualified Rabbi, and that if ‘Rabbi’ Judah, the Nasi did out of deference to R. Jacob b. Aha bare himself, it would cause adverse comment among those present at the funeral. On R. Jacob b. Aha's status, v. Shab. 31a and A. Hyman, Toledoth s.v. II, 774a.

(7) V. p. 140, n. 8.

(8) The quotation is resumed.

(9) So D.N. and other texts. V. Tosaf. s.v. עד .

(10) Var. lec. Rabbah b. R. Huna.

(11) [In commenting on the rule that one may enter a house of rejoicing after thirty days].

(12) שמחת מריעות . For the expression, cf. Judg. XIV, 10ff, where it is connected with a betrothal or marriage celebration. It is this taken by SBH p. 110. Generally, however, it is taken to denote an ordinary social repast shared with one's intimate friends. The import of Rabbah's observation is rather ambiguous and, accordingly, taken variously: — (a) A comrade's entertainment may not be attended until before the thirty days are over, as there is conviviality, eating and drinking; much less may one go to a joyous celebration, such as a betrothal, or marriage ceremony with music and singing. (b) That a comrade's entertainment which provides enjoyment for one's own boon companions should not be entered upon before thirty days; but at a religious ceremonious celebration, a marriage ceremony, a circumcision etc. one may attend sooner, especially if one does not join in the feasting. V. Tosaf., Asheri par. 41, Nahmanides (Torath ha-Adam) and Ritba.

(13) [This proves that the two phrases are not identical].

(14) At the termination of the seven days.

(15) There are various readings: D.S. reads — ארשיותא ; SBH: ארישותא — from רשא , ‘to begin with’. Cf Ber. 46a and Ritba: ** — a ‘voluntary’ entertainment, which can be fixed for a later date.

(16) I.e., when it is his turn to entertain or to attend and he cannot defer it or absent himself and therefore may hold his entertainment forthwith. So Han.

(17) The quotation is resumed. V. supra p. 141, n. 8.

(18) II Sam. I, 11.

(19) Cf. Suk. 32fr,and Nid. 26a.

(20) Thus avoiding exposure of her chest.

(21) About the neck and shoulders.

(22) II Kings, 11, 12.

(23) Lit., ‘And he rent them in two rent pieces’.

(24) So infra 26a (for parents or one's teachers). V. D.S. p. 76 n. 7.

(25) Roughly, large basting stitches.

(26) Privately, aside, turned away from the bystanders (Rashi); or, rending an interior garment (Giat). V. Ritba.

(27) Coram populo, demonstratively displaying his grief before all present.

(28) As in the case of a parent, to rend publicly.

(29) One's master, the Nasi, and the president of the Beth din. Cf. infra 26a (top).

(30) In regard to rending the garment publicly.

(31) The descendant-successors of R. Judah Ha-nasi were denominated Nesi'ah (Aramaic form of ha-Nasi).

(32) Var. lec. R. Nahman b. Ammi.

(33) The mortar was a large crib or trough (for pounding olives for the press or soaking barley for brewing beer) cf. A.Z. 8b and Keth. 8a.

(34) The official title of the consultative expert of a constituted Beth din, next in rank to the Ab Beth din, Vice President of the Court and the Nasi. V. Hor., Sonc. ed. p. 101, nn. 6 and 8.

(35) So Han; Asheri etc. read: and the people of his town.

(36) Cf. Keth. 103a-b.

(37) On the Sabbath day.

Talmud - Mas. Mo'ed Katan 23a

and seven persons read [the weekly portions of the Torah][1] and thereafter they come away. R. Joshua b. Korhah says, Not that they go and walk about in the street but they sit [at home] in silence.[2] Neither a halachic theme[3] nor an aggadah should be discussed in the house of mourning. It was related of R. Hananiah b. Gamaliel that he used to speak on halachic and aggadic themes in the house of mourning.

Our Rabbis taught: during the first week a mourner does not go out of the door of his house; the second week he goes out but does not sit in his [usual] place [in the synagogue];[4] the third week he sits in his [usual] place but does not speak; the fourth week he is like any other person. Says R. Judah: There was no need to say ‘In the first week he does not go out of the door of his house’, as then everybody comes into his house to comfort him; [what it should] rather [say is that] the second [week] he does not go out of the door of his house; the third [week] he goes out but does not sit in his [usual] place [in the synagogue]; the fourth [week] he sits in his place but does not speak; in the fifth [week] he is like any other person. Our Rabbis taught: For [the whole] thirty days [the mourner is debarred from] taking a wife. If his wife died, he is forbidden to take another until three Festivals have gone by. R. Judah says. [Until] the first festival and the second he is forbidden [to marry]; before the third he is allowed. If he have no children he may take a wife forthwith,[5] lest [otherwise][6] he may fail in [the duty of] procreation.[7] If she left him little children, he is allowed to take a wife forthwith to take care of them. It happened that the wife of Joseph the Priest died and he said on the burial ground to her sister: Go and take care of your sister's children: nevertheless he did not go in to her [as husband] till a long time after. What is [meant by] a ‘long time’? — R. Papa said, Alter thirty days.

Our Rabbis taught: [During the whole] thirty days [the mourner is debarred from donning] pressed[8] clothes: it makes no difference whether they be old or new clothes coming out of the press.[9] Rabbi says, They only forbade new clothes; R. Eleazar son of R. Simeon says, They only forbade new white linen clothes.

Abaye went out[10] in a worn sarbal,[11] in accordance with Rabbi.[12] Raba went out[13] in a new Roman re tunic,[14] in accordance with R. Eleazar son of R. Simeon.[15]

BECAUSE THEY [THE SAGES] SAID[16] THAT THE SABBATH ENTERS [INTO COUNT] BUT DOES NOT INTERRUPT; [WHIle FESTIVALS INTERRUPT, AND DO NOT ENTER INTO COUNT]. The Judeans and the Galileans [differed in regard to this Mishnah], the one party saying

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(1) But pray individually, not as a congregational service. So Rashi. This however is contradicted by a responsum of Natronai Otz. Hag. (Lewin) n. 91.

(2) Han. Alfasi, MS.M. etc. read: ‘sit in anguish’. Sem. X (end) enlarges: They sit or stand saddened and are like people who have Parnes (leader). When the time of rising arrives they minimize their affairs and rise’.

(3) שמועה — a novel exposition of the legal import of a Mishnah, Baraitha ‘heard’ from some prominent teacher. Aggadah, is a homiletical exposition of ethical import.

(4) Sem. X.

(5) If the date of nuptials had been fixed before the bereavement took place.

(6) Delay might lead to a cancellation of the match and loss of his only opportunity for a suitable spouse.

(7) V. Gen. I, 27-28; II, 24.

(8) I.e., ironed, or pressed smooth out of their creases. S. Krauss, TA I, 156, 581 translates, ‘bleaching’;

(9) After bleaching, the clothes were put in a press; v. Krauss, loc. cit.

(10) During the thirty days of mourning.

(11) גרדא דסרבלא: In Syrian grida means a worn garment, or piece of cloth. Is גרדא perhaps the Aramaic equivalent of the Greek ** or **? which means a shabby, rough cloak or cape. Sarbal means a mantle (and sometimes, Persian trousers). V. Kohut Ar. Compl. s.v. סרבל . Jast. renders, in a fresh scraped and smoothed cloak.

(12) [Who permitted freshly pressed or bleached clothes provided they were not new].

(13) During the thirty days of mourning.

(14) Or shirt.

(15) [Who forbade new pressed clothes only if white].

(16) In reference to the efficacy of festivals or the Sabbath to cancel or defer the observances of formal mourning. V. Mishnah, supra 19a.

Talmud - Mas. Mo'ed Katan 23b

that [some] mourning is to be observed[1] on the Sabbath and the others saying that there is no [observance of] mourning on the Sabbath. Those that said that [some] mourning is observed on the Sabbath based themselves on the wording in the Mishnah, [THE SABBATH] ENTERS [INTO COUNT]; the others who said that mourning is not observed on the Sabbath based their view on the wording [AND] DOES NOT INTERRUPT. For, [said they], should you assume that mourning is to be observed on the Sabbath, why need we have [the reservation] AND DOES NOT INTERRUPT? But surely it states [also], [THE SABBATH] ENTERS [INTO COUNT]! — Because he has to teach in the latter part that [FESTIVALS]. . . DO NOT ENTER INTO COUNT, he teaches also [for the sake of symmetry] in the former part [THE SABBATH] ENTERS [INTO COUNT]. And as to the other side who said that [some] mourning is to be observed on the Sabbath, surely it states AND

DOES NOT INTERRUPT? — Because he has to state in the latter part that [FESTIVALS] INTERRUPT [the mourning], he teaches also [for the sake of symmetry] in the former part [THE SABBATH. . .] DOES NOT INTERRUPT.

Might not one suggest that their disagreement goes back to the [divergent] views of [older] Tannaim [as set out in the following Baraitha]? For it has been taught: ‘One who has his dead laid out before him eats [his meals] in another house [room]; if he have not another house [room], he eats in his friend's house; if he have not a friend's house [available], he makes him a partition [ten handbreadths high];[2] if he have not the wherewithal to make a partition, he turns away his face as he takes his meals. And he does not recline[3] as he eats [nor does he eat his fill][4] — he eats not meat nor drinks wine, nor does he say the grace. nor does he invite others [partaking in the meal to join in grace with him][5] nor do others invite him;[6] and he is exempt from a recital of Shema’,[7] from Saying the Tefillah[8] or donning phylacteries, and [exempt] from the performance of any religious duties that are commanded in the Torah. [When do these said restrictions obtain? On weekdays];[9] but on Sabbath[10] he takes meals reclining, eats meat and drinks wine, recites grace, invites others [to join him] and others invite him and it is incumbent on him to recite the Shema’ and to say the Tefillah[11] and to perform all the religious duties commanded in the Torah. Rabban Gamaliel[12] says,[13] Since he re-enters into these several obligations [here mentioned] he enters into the obligation of all [religious duties].’ [And commenting on this] R. Johanan said that the actual difference between them is the question of ‘using the [marital] couch’.[14] Now, is not this the issue between them: One Master[15] takes the view that [some] mourning is to be observed on Sabbath and the other Master[16] that there is to be no mourning on Sabbath? Why [do you think so]? Perhaps there[17] the first Tanna might not have gone so far as to forbid,[18] save only because his dead is still laid out in front of him; but here,[19] he might not [forbid].[20] Again, Rabban Gamaliel there[21] would not have gone so far as to allow,[20] save only because there[21] the incidence of mourning has not yet occurred;[22] whereas here,[19] where the incidence of mourning has already occurred, he might also [forbid].[20]

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(1) privately, at home, e.g., covering the head, sleeping on an overturned couch, not occupying the marital couch, not greeting with ‘peace’. ‘In Judea they greeted mourners with "peace" on entering and leaving his house, to show that mourning did not obtain on Sabbath’. Sem. X (end.).

(2) This is a gloss — not found in the parallel texts — on the technical height of a partition. Cf. Shab. 6a — and Tosa, Suk. 5b s. v. עשרה .

(3) On a couch or seated round the table with others; that is, he does not have his meals in style.

(4) Sem. adds: ‘Nor does he eat all he requires’ — i.e., his fill.

(5) Three or more eating together should join as a group in saying grace. Cf. Ber. 45a.

(6) [Rashi Ber. 17b explains differently: He recites no benediction before meals, nor does he say grace after meals. Nor do others recite the benediction before meals on his behalf, nor does he join in the grace after meals.]

(7) ‘Hear, O Israel. . ., Dent. VI, 4ff Cf. P.B. pp. 30ff

(8) The ‘Amidah, or the ‘Eighteen Benedictions (19) Prayer’ for weekdays. V. P.B. p. 44ff.

(9) So Sem. X.

(10) Sem. ibid. adds, he eats according to his requirements.

(11) The ‘Amidah or Seven Benedictions for the Sabbath. MS. M. omits ‘phylacteries’, as these are never donned on Sabbath.

(12) So also Sem. and other texts. In Ber. 17b Rabban Simeon b. Gamaliel.

(13) Sem. inserts: A mourner on Sabbath is as if he were no mourner.

(14) I.e., marital intercourse during the Sabbath, which is otherwise forbidden during the week of mourning. Rabban Gamaliel's statement implies that he is permitted to use the marital couch on the Sabbath of the week of mourning. Conjugal rights are among the Scriptural obligations of a husband to his wife. Ex. XXI, 10 and cf. Keth. 61a.

(15) The first Tanna in the cited Baraitha.

(16) R. Gamaliel.

(17) In the Baraitha which deals with the case before burial.

(18) The conjugal couch on the Sabbath.

(19) In the Mishnah which deals with mourning after the burial.
(20) The conjugal couch on the Sabbath.
(21) In the Baraitha which deals with the case before burial.
(22) The observance of formal mourning does not begin till after the funeral.

Talmud - Mas. Mo'ed Katan 24a

Mar Yohani[1] enquired of Samuel, Was there [some] mourning [to be observed] on Sabbath or was there no mourning on the Sabbath? — He replied, There is no mourning [to be observed] on the Sabbath.

Some Rabbis sitting in the presence of R. Papa reported in the name of Samuel that a mourner who used the conjugal couch during the [seven] days of his mourning is guilty of a mortal offence. Said R. Papa to them, What was reported was that it is ‘forbidden’, not ‘a mortal offence’, and in the name of R. Johanan it was reported [and not in the name of Samuel]; and if you heard aught [condemned] in the name of Samuel [as a mortal offence] it was this: ‘Said R. Tahlifa b. Abimi, as reporting Samuel, A mourner who did not let his hair grow long and did not rend his clothes is guilty of a mortal offence. For it was said [to Aaron and his surviving sons]:[2] Let not the hair of your heads go loose neither rend your clothes, that ye die not. . . ,[3] which [clearly] implies that any [other] mourner if he has not let the hair [of his head] go loose and has not rent his clothes, is guilty of a mortal offence’.

Rafram[4] , b. Papa said, It is taught in the Ebel Rabbathi:[5] ‘A mourner is forbidden to use the [conjugal] couch during his [seven] days of mourning’; and it happened [once] with one who used his [conjugal] couch during the [seven] days of his mourning that swine hauled away his carcass.[6]

Samuel said, Pahaz,[7] are obligatory; Natar,[7] are optional [on the Sabbath] i.e., the unveiling of the head,[8] turning the rent side [of his garment] from front to back and tilting up the couch [into its normal position] are obligatory [on the mourner, in honour of the Sabbath]; donning sandals, the use of the conjugal bed and washing his hands and feet with warm water at [the approach of the] Sabbath even are optional.[9] But Rab says, The unveiling of his head is also optional. Now, what is the difference n the case of the donning of sandals [on the Sabbath] that Samuel treats it as optional? [presumably] because not everyone usually wears shoes;[10] is it not so likewise with the unveiling of the head, as not everybody generally goes about with head unveiled? — Samuel is consistent in this, as Samuel said, ‘Any rending [of clothes] not done in the flush [of grief][11] is not a [proper] rending, and any muffling [of the face] not alter the manner of the Ishmaelites,[12] is not a proper muffling [for a mourner]’. R. Nahman demonstrated it [by covering himself up in his mantle] right up to the sides of the beard.[13]

Said R. Jacob, as reporting R. Johanan: This statement was made [above][14] only in reference to one who has no shoes on his feet, but if he has shoes on his feet [on the Sabbath] his shoes give evidence about him.[15]

‘Any rending [of clothes] not done in the flush [of grief] is not a [proper] rending’. But yet [when] they said to Samuel, ‘Rab's soul has gone to rest’, he rent on account of him thirteen garments [and] said: ‘Gone is the man before whom I trembled’![16] When they told R. Johanan. ‘The soul of R. Hanina has gone to rest’, he rent on account of him thirteen robes[17] of Milesian wool and said: ‘Gone is the man before whom I trembled’![18] — Rabbis are in a different category, since their discussions are always recalled it is [for us] like ‘the first flush [of grief]’.[19]

Said Rabin b. Adda to Raba: Your disciple R. Amram said that it was taught, ‘A mourner [hearing of a fresh bereavement] at any time during the seven [days] rends his [clothes] in the forepart thereof, and if he has [occasion] to change [the garment]. he changes and rends afresh; on the Sabbath he rends [on hearing the news] in the hinder part [of the garment]. and if he has [occasion] to change it, he changes but tears not [afresh]'?[20] — That was taught only where [it was] in honour of one's father or mother, [but not for other near of kin].

Are such rents [to be] sewed up[21] or are they not [to be] sewed up? — On that, [Nahmani][22] father of R. Oshaia and Bar Kappara held different views, one saying that the rents are [to be] sewed up and the other saying that they are not [to be] sewed up. May it be inferred that it was the father of R. Oshaia that said that these were not [to be] sewed up, as R. Oshaia said that they were not [to be] sewed up; from whom had he heard this if not from his father? — Not [necessarily]: he [R. Oshaia] heard it from his master, [who was] Bar Kappara.

Raba said, A mourner may walk about in his [rent] wrap[23] indoors [on the Sabbath]. Abaye found R. Joseph going in and out of his house, his head covered with a sudarium[24] [on the Sabbath]. Said he to him:[25] Do you not, sir, hold the view that there is to be no [observance of] mourning on the Sabbath? — He replied: Thus said R. Johanan: 'Intimate [forms of] mourning may be maintained [on the Sabbath]'.

R. ELIEZER SAYS, SINCE THE SANCTUARY [AT JERUSALEM] WAS LAID IN RUINS [THE FEAST OF] 'AZERETH[26] [IS CONSIDERED] AS AN [ORDINARY] SABBATH, etc. Said R. Giddal b. Menashia as citing Samuel, The halachah follows the opinion of Rabban Gamaliel. And some attach this comment of R. Giddal b. Menashia to [the following Baraitha]: 'Any infant up to thirty days old is carried out in arms[27] and buried by one woman and two men, but not by one man and two women.[28]

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(1) According to older editions and MS.M. V. D.S. p. 78. n. מ R. Johanan in our text is corrupt. V. Tosaf. s.v. בעא . V. also Hyman, 'Toledoth, 653a who cites A.Z. 16b.

(2) When Nadab and Abihu died on the day of their induction.

(3) Lev. X, 6.

(4) An abbreviated form of R. Ephraim.

(5) אבל רבתי Major (tractate) on Mourning mentioned again infra 26b, identified with Sem. Reference is also made to a 'Minor Tractate on Mourning' — אבל זוטרתי by Salomo beli Hajathom (SBH) in his Commentary on M.K. (ed. H. P. Chajes, 1909, p. 125) who saw both at Rome. V. Strack's Einleitung in Talmud und Midrash (5th ed., 1921, p. 73, c).

(6) A liter: his membrum virile, as per talionem.

(7) Abbreviation used as a word of the rules that follow. P = Pri'ath ha-Rosh (unveiling of the head); H = Hazarath Keran' (turning of rent). Z = Zekifath ha-mittah (tilting up the couch); N = Ne'ilath Ha-sandal (donning sandals); T = Tashmish ha-mittah (Use of conjugal bed); R = Rehizath yadaim etc. (washing hands etc.).

(8) Ct infra n. 5.

(9) Opinion differed considerably on this also in Palestine. V. J.M.K. III, 5. Cf. n. 7 infra.

(10) On the Sabbath, and therefore the variation in honour of the Sabbath is not so marked after all.

(11) At the moment of death, or on first hearing the sad news.

(12) Samuel is speaking of the customs in Babylon where many Arabs had come to settle in constant streams from Arabia.

(13) That is, drawing the mantle together so as to enfold the forehead above and the chin and mouth below, leaving only nose and eyes exposed, as a mourner is to keep silence.

(14) In regard to the differences between Rab and Samuel about uncovering the head.

(15) That he is not observing mourning on the Sabbath.

(16) On account of his great learning.

(17) Stolae.

(18) On account of his great learning.

(19) I.e., each time when their discussions are recalled.

(20) Which shows that rending is not limited to the first flush of grief.
(21) Lit., ‘re-united’, properly mended.
(22) V. Hyman Toledoth I, 116a.
(23) Heb. אונקלי , probably the Latin amiculum, an upper cloak. Cf. Becker's Gallus (E.T. ed. 4) Exctirsus II on dress, p. 436ff.
(24) A square piece of cloth worn as a kerchief.
(25) Abaye was a disciple of R. Joseph.
(26) The Feast of Weeks. V. Mishnah and notes supra 19a.
(27) Lit., ‘bosom’.
(28) For reasons of propriety. Cf. Kid. 80b.

Talmud - Mas. Mo'ed Katan 24b

Abba Saul says, Even by one man with two women. And they [the people] do not stand in line[1] on the [immature] infant's account, nor do they [need] to recite the [usual] mourners’ benediction,[2] nor tender the [usual] condolence to the mourners. An infant thirty days old is taken forth [to burial] in a case.[3] R. Judah says: Not a case that is borne on the shoulder, but one that is borne in the arms; and the people stand in line[1] on its account, and recite the [additional] mourners’ benediction[2] and tender the [usual] condolence to the mourners. One twelve months old is taken forth [to burial] on a bier; R. Akiba says, If the infant is twelve months old and its limbs are like those of one two years old, or two years old and its limbs are like those of one twelve months old, it is carried out on a bier. R. Simeon b. Eleazar says, For any one that is taken out on a bier the public [should] show their distress;[4] for any one that is not taken out on a bier the public do not [need] to show their distress. R. Eleazar says, If he is known to the public at large, the public should participate in the proceedings; if he be not known to many [of the public] they do not [need] to participate. And what is the rule in respect of making lamentation for them? R. Meir in the name of R. Ishmael says: In the case of the poor lamentation is made for a child of three and in the case of the rich for a child of five.[5] R. Judah speaking in his [R. Ishmael's.] name says: With the poor [they make a lament] for children of five; with the rich for children of six. And [as for] the children of ‘elders’, they are [treated] in the same way as the children of the poor.[6] Said R. Giddal b. Menashia, as citing Rab,[7] The halachah is as stated by R. Judah in the name of R. Ishmael.

R. ‘Anani b. Sason[8] gave a discourse at the door of the Prince[9] [and said]: ‘One day [of mourning] before ‘Azereth[10] [the Feast of Weeks] with [one day of] ‘Azereth count as fourteen days [out of the thirty].’ R. Ammi heard of this and was indignant saying. Is that his own view? It is what R. Eleazar [b. Pedath] said as citing R. Oshaia! R. Isaac the smith gave a discourse at the marquee[11] of the Exilarch [and said]: ‘One day [of mourning] before ‘Azereth with the [one day of] ‘Azereth, count as fourteen days [out of the thirty]’. R. Shesheth heard of this and was indignant, saying, Is that his own view? It is what R. Eleazar said, as citing R. Oshaia! For R. Eleazar, citing R. Oshaia, said: Whence is derived the ruling that ‘Azereth [the Feast of Weeks] is allowed a supplementary extension to full seven days?[12] From what is said: Three times in a year shall all thy males appear before the Lord thy God in the place He shall choose: on the Feast of Unleavened Bread and on the Feast of Weeks and on the Feast of Tabernacles; and they shall not appear before the Lord thy God empty.[13] Just as the Feast of Un leavened Bread has a supplementary [period] to full seven days [for the celebration offerings],[14] the Feast of Weeks[15] has likewise a supplementary extension [for festive offerings] of full seven days.[16] R. Papa invited[17] the elder R. Awia [to act as expositor] and he expounded [the theme]: ‘One day [of mourning] before New Year and New Year's Day [together] account for fourteen [out of the thirty days]’. Said Rabina, According to this, then, one day [of mourning] before ‘the Feast’ [of Tabernacles] together with the [seven days of the] festival and ‘the Eighth Day’ [of ‘Solemn Assembly’] account [together] for twenty-one [out of the thirty days of mourning]. Rabina turned up at Sura-on the Euphrates[18] when R. Habiba of Sura-on-the Euphrates put the question to him: Did you, sir, say that one day[19] before New Year and New Year's Day [together] account for fourteen [out of the thirty days]? — He replied, I did say that, arguing on [the basis of] Rabban Gamaliel's view.[20]

MISHNAH. NONE REND [THEIR CLOTHES] NOR BARE [THEIR SHOULDER], NOR PROVIDE A REPAST [FOR THE MOURNERS][21] SAVE THOSE [WHO ARE] NEAR OF KIN TO THE DEAD; NOR DO THEY PROVIDE A REPAST SAVE [SEATED] ON AN UPRIGHT COUCH.[22]

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(1) To offer condolence to the mourners.

(2) V. Keth. 8b, foot-note.

(3) דלוסקמא (a Doric form of) **.

(4) מעציבין (פנים) מצהיבין (פנים) Cf. e.g., Gen, VI, 6; Neh. VIII, 9-10.

(5) [The grief of the poor at the loss of a child is greater than among the rich, since a child is the poor's only joy (Rashi)].

(6) For variations on the passage v. Sem. III, 2-4.

(7) Han. has, ‘As citing Samuel’.

(8) Identical with עניאל בר ששון and חנינא בר סיסי V. Zuri's שלטון הנשיאות (London, 1934) Voi I, book 3, sec. 2, pp. 36 and 142.

(9) Judah II.

(10) Pentecost, a one-day feast.

(11) Or castle.

(12) For making the prescribed ‘festive’ offering at the Temple. If one had been unable to make it on the festival itself, it may be done up to the seventh day after.

(13) Deut. XVI, 16.

(14) Cf. Hag. 9a.

(15) I.e., Azereth, though essentially a Feast of but one day.

(16) The same argument applies to the analogy with the Feast of Tabernacles which has a range of eight days; but this argument is logically questioned, as thereby the one-day Feast of Weeks would be entitled to a day more than the seven-day Feast of Mazzoth; besides, it is shown that the eighth day of Tabernacles is, by virtue of its special sacrificial tariff a distinct Feast by itself. Cf. Hag. 17a and note discussion that follows.

(17) אדבריה Lit., ‘took him along, brought or led him forward’. R. Papa, as Principal, invited him to act as Amora or Turgeman of the occasion (cf. supra p. 133, n. 10). probably on one of the two or four Sabbaths preceding a festival — שבתא דריגלא — when the theme was seasonal. Cf. Pes. 6a-b and more fully in Tosef. Meg. IV, 5: ‘And they enquire about the laws of Passover at Passover; the laws of Azereth at ‘Azereth; the laws of the Feast (of Tabernacles) at "the Feast" in the House of the Assembly (בבית הועד). And they enquire about the laws of Passover thirty days preceding the Festival’. And on the expression אדבריה v. Bez. 29a (Sonc. ed., p. III, n. 3).

(18) Cf. supra 20a, p. 127.

(19) ‘Even one hour's mourning before the festival’.

(20) V. Mishnah supra 19a.

(21) After the interment at the house of the mourners, and sometimes in the special forum on the burial ground, where the lament was held. Cf. supra 5b and the formal tendering of comfort with the first repast which followed. Cf. infra 27a. Shab. 105a (Rashi), and Keth. 8b.

(22) I.e., a couch in its normal position. J.M.K. and other texts read, ‘upright couches’, i.e., couches for both the comforters and the mourners. ‘Such was the custom; when they provided the mourners’ fare and wished to take the meal, they set up the couches erect, and after the comforters left (the house) they overturned (upset) them (again)’. V. B.M. Lewin, Otz. Ha;. IV, n. 132.

Talmud - Mas. Mo'ed Katan 25a

GEMARA. [NONE REND etc.] even though [the dead be] a recognized scholar.[1] But then, it is taught [otherwise]: If a scholar dies, all are his near of kin?[2] ‘All are his near of kin’, say you? — Rather All are like his near of kin. — All rend their clothes on his account and all bare [their shoulders] on his account and all provide a repast for those that mourn on his account in the broad space?[3] — It[4] is a necessary ruling where the deceased was not a scholar. But then if the deceased was a worthy person, one is [still] in duty bound to rend his clothes, as it is taught: ‘Wherefore do a person's sons and daughters die in infancy? That one should weep and mourn for a worthy person.’ — [You say]. ‘That one should weep and mourn [for a worthy person]’![5] What, levy a distress on one [in advance]?[6] — Say rather, ‘Because one has not wept and mourned for a worthy person’. — ‘For[7] whoever weeps and mourns for a worthy person, all his sins are forgiven him, on account of the honour he rendered to him [the deceased]’? — It is necessary[8] where the deceased is not a [particularly] worthy person. But yet if one stands here, at the time of a person breathing his last, one is [also] in duty bound [to rend his clothes]. as it is taught: R. Simeon b. Eleazar says, One who stands near the dying, at the time when he breathes his last, he is in duty bound to rend [his clothes]: To what is this like? To a scroll of the Law that is burnt,[9] when one is in duty bound to rend [his clothes]. — It is a necessary[10] ruling where one was not standing there at the time when the dying breathed his last.

When the soul of R. Safra[11] went into repose, the Rabbis did not rend [their clothes] on account of him,[12] since, they said, We have not learnt from him [directly].[13] Said Abaye, Is it taught: ‘When a Master died’? The teaching is: ‘When a scholar dies [all are his near-of-kin]’. Besides, we repeat daily the halachic interpretations reported [in his name] at the College! The [Rabbis of the College] then took the view that what was done was done.[14] Said Abaye to them, We learned: ‘If a scholar dies, as long as they are engaged in a lament for him they are in duty bound to rend [their clothes]’. They thought then of rending forthwith [their clothes].[15] Said Abaye to them, [No], it is taught: ‘A scholar is honoured at the lament held [on his account].[16]

When the soul of R. Huna[17] came to repose, they thought of Placing a scroll of the law on his bier.[18] Said it. Hisda to them: Should one do for him now something that he did not countenance in his life-time? For R. Tahlifa[19] said: I myself [once] saw R. Huna when he wanted to sit down on his couch, but there was a scroll of the law lying on it, so he put an inverted jar on the ground and put on it the scroll of the law. Obviously he thought that it was forbidden to sit on a couch when there was a scroll of the law lying thereon. Then the bier could not be got through the doorway[20] and they thought of letting it down from the roof. Said R. Hisda, I have learnt this from himself: ‘The honour of a scholar requires that his bier should pass through the door’. They then thought of transferring him from this bed to another, but said R. Hisda to them, l have learnt thus from himself: ‘The honour of a scholar requires that he should be taken out on the first bier’. For Rab Judah, as citing Rab, said, Whence is derived the lesson that the honour of a scholar requires that he should be borne on his first bier? From what is said: And they set the ark of God on a new cart[21] and brought it out of the house of Abinadab that was on the hill.[22] They then readied the gateway and brought it out.

R. Abba then opened [his funerary address]: ‘Our Master [said he] was worthy that the Shechinah[23] should abide with him, but [the fact of his being in] Babylon prevented it’.[24]

Thereupon R. Nahman, son of R. Hisda — some say it was R. Hanan, son of R. Hisda — referred to [the text]: The word of the Lord came expressly unto Ezekiel the priest, the son of Buzi in the land of the Chaldeans by the river Chebar.[25] His father tapped him with his sandal, saying to him: Have I not told you not to worry everybody [with this point]? What is meant by the [double expression] ‘Hayoh [hayah]’?[26] That it had been [had come] before [he came to Babylon].

When they brought him up thither [to Palestine, for burial] people told R. Ammi and R. Assi[27] that R. Huna had come. They said: ‘When we were there [in Babylon] we had not [a chance] of raising our heads because of him;[28] now that we have come here he is come after us’.[29] They then were told that it was his coffin that had arrived. R. Assi and R. Assi went out [to meet him]; R. Ela[30] and R. Hanina did not go out. Some say, R. Ela went out, R. Hanina did not go out. What was the reason of the one who went out? According to what is taught [in the following]: ‘If a coffin is passing [on its way] from place to place they stand in a row[31] on account of the deceased, and say the mourners' benediction on account of him and also offer condolence to the mourners'. What was the reason of the one who did not go out? — According to what is taught [in the following]: 'If a coffin is passing [on its way] from place to place, they do not stand in a row on account of it, nor say on his account the mourners' benediction, nor [offer] condolence to the mourners'. These citations contradict one another! — This is not difficult [to explain]; the former [ruling obtains] where the body is intact; the latter where the body is not intact, and R. Huna's body was intact. Why did one not go out [to meet it]? Because he had not been fully informed of this. Then they said, Where shall we lay him to rest? [Said some, Let us lay him at the side of R. Hiyya];[32] for R. Huna disseminated Torah in Israel[33] and R. Hiyya had likewise disseminated Torah[34] in Israel. Who will bring him into [the cave of] R. Hiyya? — Said R. Hagga 'I shall bring him in, because I sustained [revised] my studies [before him][35] when I was but eighteen years of age, never having experienced the effects of an unchaste dream[36] and he made me his attendant[37] and therefore I know of his [pious] deeds. For one day the strap of his phylacteries was [accidentally] reversed,[38] whereupon he sat fasting forty days'. He then brought him in [to the cave].[39] Judah was laid there at the right of his father [R. Hiyya] and on his left was his [twin brother][40] Hezekiah. Said Judah to Hezekiah: 'Rise from your place, for it is not good manners that R. Huna be left standing'. As he [Hezekiah] rose a column of fire rose with him[41] . R. Hagga, seeing that, was overcome with fear, set up the coffins and came away. And the reason that he came to no harm[42] [from the pillar of fire] was because he set up the coffin of R. Huna.[43]

When the soul of R. Hisda went to its rest they [the Collegiates] thought of placing a scroll of the law on his bier. Said R. Isaac to them: What he had disapproved of being done for his master, shall we now do to himself? They then thought that they should not stitch the rent in their garments, when R. Isaac b. Ammi said to them, It is taught:[44] In the case of a Scholar, [who died] as soon as they have turned away their faces, at the rear of the bier, they [may] stitch together [the rent]'.

When the soul of Rabbah[45] son of R. Huna went to its rest and [that of] R. Hamnuna, they took them [both] up thither.[46]

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(1) חכם an ordained Rabbi.

(2) The citation is here interrupted by a question and continues after the explanation.

(3) V. p. 153. n. 8.

(4) I.e., the ruling in our Mishnah, here.

(5) Again the citation is interrupted.

(6) I.e., give one cause to weep in anticipation that some worthy person shall die and not be fittingly mourned by the punished person. Cf. Rashi, Shab. 105b.

(7) Here the citation is resumed.

(8) I.e., the ruling in our Mishnah. So MS.M. and Shab. 105b. I.e., there is no contradiction between this citation and the ruling in our Mishnah.

(9) Cf. infra 26a and Rashi Shab. 105b. The divine Law is the inner Light that guides and at death it is as if the candle has been taken out of the lantern. Cf. Prov. VI, 33; XX, 27; and Sot. 21a.

(10) V. p. 154. n. 9.

(11) A great scholar, saint and merchant who used to go to and fro between Babylon and Palestine. Cf. supra 12a; Mak. 24a.

(12) At the news of his death.

(13) I.e., we are not really of his disciples.

(14) And nothing more is to be done.

(15) Without waiting for the holding of a lament for him.

(16) And it is on that occasion that the rending is proper to take place.

(17) Rab's great disciple and his successor in 247 as Principal of Sura. He died in 297, C.E.

(18) 'They laid a scroll of the law on his (King Hezekiah's) bier and said: This one maintained what is written in this (scroll)".' B.K. 17b.

(19) Cf. Me. 32b, where as here MS.M., SBH and other texts read R. Helbo who often cites R. Huna's dicta.
(20) Lit., ‘the gateway’.
(21) The same that had been provided originally by the Philistines. I Sam. VI, 7ff. Cf. Elijahu Rabbah (ed. Friedmann) XXIX (XXXI) p. 157: ‘All Israel were gathered and David with them, to bring up the ark. And the halachah had been forgotten by them; said (Ahitophel) and all, The ark came from the field of the Philistines in the cart, likewise in the cart let it come (back) to the house of David’.
(22) II Sam. VI, 3.
(23) The ‘Divine Presence’.
(24) Caused it to (be otherwise for) him.
(25) Ezek. I, 3. On this point cf. Mekilta Bo, Proemium s.v. (Ed. Friedmann 1b n. 21).
(26) Taken as pluperfect.
(27) Two Babylonians who had become leading scholars in Palestine. Cf. Keth. 17b.
(28) Being aware of his superiority and seniority. Cf. Meg. 22a(bottom).
(29) They thought we were still alive.
(30) Also a Babylonian who became very famous in Palestine. Cf. supra 3a.
(31) To condole with the mourners.
(32) So MS.M.
(33) Cf. Keth. 106a.
(34) Cf. B.M. 85b. He was accounted as a second Ezra or Hillel; Suk. 20a.
(35) For the expression cf. אוקימתון מסכת פלן Hor. 10b (Sonc. ed. p, 72.) It was customary for students to revise their studies by reciting alone before their master, periodically. Cf. Ber. 11a (R. Hiyya b. Ashi I before Rab). 38b (R. Hiyya b. Abba before R. Johanan), Hul. 86b and Ker. 27a. R. Ash did so every thirty days. (M.K. 28a). Resh Lakish did every forty days. Ta'an. 8a.
(36) A night pollution, cf. Ber. 10b about Elisha as a holy man.
(37) Cf. A.Z. 37a (of R. Simlai) and 58a (of R. Elyakim). Then he (Elisha) arose and went after Elijah and ministered unto him (I Kings XIX, 21). It is not said ‘and he (Elijah) taught him’, but ‘and he (Elisha) ministered unto him’; hence they said: Greater is (practical) ministration in (connection with) Torah than the teaching (or study) thereof. Elijahu Rabbah, V (ed. Friedmann, p. 23).
(38) Cf. Men. 3a-b.
(39) Cf. B.M. 85b. Like a second Ezra or Hillel. Suk. 20a. The family cave of R. Hiyya was probably at Tiberias.
(40) Yeb. 65b.
(41) Tilted it hastily in front of the fiery column. (Rashi); or set the coffin in its place (on stones or trestles).
(42) V. J. Kii. IX, 4, where it is stated that R. Hagga was then eighty years old and his years were doubled.
(43) This R. Huna II was one of the Exilarch's family. Moreover, Rab, Hiyya's nephew, had one of his daughters married into the Exilarch's family (Hul. 92a). Furthermore, the Exilarchs of Babylon were senior and held as superior both in civil authority and descent to the Nasi in Palestine, and admitted by Rabbi himself (J. Keth. XII, 3) by R. Hiyya (and his sons). Hor. 11b (Sonc. ed. p. 81) and Sanh. 5a (Sonc. ed. p. 15.) Cf. Bacher, J.E. s.v. Exilarch V, 289a.
(44) So MS.M.
(45) Son of the above R. Huna II.
(46) To Palestine for burial.

Talmud - Mas. Mo'ed Katan 25b

As they came to a bridge the camels[1] halted. Said a certain Arab[2] to those [who accompanied the cortege], What is that?[3] — They replied that the [deceased] Rabbis were doing honour to one another: one saying [as it were], ‘You, Sir, proceed first’, and the other saying, ‘You, Sir, proceed first’. Said he, [the Arab]: [In my judgment],[4] it is right that [a notable the son of a notable],[4] Rabbah son of R. Huna, should take precedence. The camel bearing Rabbah son of R. Huna then passed along first. The molars and teeth of that Arab fell out.[5] Then a certain child opened [his funerary oration] thus:

‘A scion of ancient stock from Babylon[6] came

With records of prowess in combat[7] and fame;

Twice numerous pelican and bittern[8] from far

Came for the ravage and ruin[9] in Shinear.[10]

When [God] views His world with displeasure,

He seizes [great] souls in exacting measure,

Awaiting their coming as new brides, with delight

And, riding on Araboth[11] in empyrean height,

He welcomes the souls of the pure and right’.[12] When the soul of Rabina went Into repose, a certain orator opened [his funerary oration] thus:

‘Ye Palms, sway your heads [and deplore]

A Saint, a noble Palm[13] that is no more

Who days and nights in meditation spent;

For him, day and night, let us lament.’

Said R. Ashi to Bar-Kipok,[14] What would you say on such a day [about me]? He responded thus:

‘If a flame among the Cedars fall

What avails the lichen[15] on the wall?[16]

If Leviathan[17] by hook be hauled to land,

What hope have fishes of a shallow strand?

If fish in rushing stream by hook[18] be caught

What death may in marshy ponds be wrought!’

Said Bar Abin[19] to him: ‘[God] forfend that I should talk of "hook" or "flame" in connection with the righteous’. Then what would you say? — I should say:

‘Weep ye for the mourners

Not for what is lost:

He found him rest;

‘Tis we are let distressed’.

R. Ashi was’ offended[20] with them,[21] and their feet[22] were turned.[23] On that day [of R. Ashi's demise] they did not come to make a lament for him, and that is what R. Ashi had said: ‘Neither shall Bar-Kipok[24] bare [his shoulder] nor shall Bar-Abin[24] bare[25] [his shoulder, for me]’.

When Raba once came to Dagleth [Tekrit],[26] he said to Barabin,[27] Get up and say something. He rose and said [the following]:[28]

When more than a ‘third’[29] wadeth in water deep Remember the covenant[30] and mercy keep.[31] We strayed from Thee as a wayward wife;[32] Leave us not: as at Marah[33] save our life. R. Honin[34] was a son-in-law in the Nasi's family. He had no children but he prayed for mercy and had [his wish granted]. On the day when the child was [born] unto him he himself went to his repose, and the funeral orator on that occasion opened [his lament] thus:

Joy is turned to sorrow and

Gladness linked with sadness.

When the time of joy[35] came nigh

The father heaved a dying sigh:

At [the birth of] his Gracious-little-son[36]

The Gracious-sire's life was done.

They gave the child the name of Hanan after his father.

When the soul of R. Pedath[37] went into repose, R. Isaac b. Eleazar[38] opened [his address] thus: This day is as hard for Israel as the day when the sun set at noon-tide, as it is written: And it shall come to pass in that day . . . that I will cause the sun to go down at noon and I will darken the earth in the clear day. And I will turn your feasts into mourning and all your songs into lamentation. . . as the mourning of an only so,[39] And, said R. Johanan, that was the day of King Josiah's death.[40]

When the soul of R. Johanan went into repose R. Ami observed [on his account] the seven [days of mourning] and the thirty. Said R. Abba son of R. Hiyya b. Abba: What R. Ammi did, he did but on his own initiative;[41] for thus said R. Hiyya b. Abba, as citing R. Johanan: ‘Even for his master who had taught him Wisdom[42] one sits but one day’. When the soul of R. Zera[43] went into repose the orator of that occasion opened [his address] thus:

‘The land of Shinear[44] was his home of birth

The land of Glory[45] reared her Darling[46] to fame;

"Woe is me!" saith Rakath[47] in lament,

For she hath lost her choicest ornament.’

When the soul of R. Abbahu went into repose the columns at Caesarea ran with tears.[48] At [the death of] R. Jose[49] the roof gutters at Sepphoris ran with blood. At that of R. Jacob [b. Aha],[50] Stars were visible in daytime. At that of R. Assi [all cedars][51] were uprooted; [at the death of R. Samuel b. Isaac][51] all trees were uprooted. At that of R. Hiyya [b. Abba][50] fiery stones came down from the sky; at that of R. Menahem [b. Simai][50] all images were effaced[52] and came to be [used] as stone rollers;[53] at that of Tanhum son of R. Hiyya [of Kefar Acco][51] all human statues were torn out of their position; at that of [R. Isaac, son of R.][51] Eliashib seventy houses were broken into [by theives] at Tiberias;[54] at that of R. Haninuna,[55] hail stones came down from the sky; at that of Rabbah and R. Joseph the rocks of the Euphrates kissed each other;[56] at that of Abaye and Raba the rocks of the Tigris kissed each other. When the soul of R. Mesharsheya went into repose the palms were laden with thorns.[57]

Our Rabbis taught:

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(1) Which were carrying the coffins.

(2) Tayi'a, the name of an Arab tribe which came to be used for Arabs in general.

(3) What does this strange thing indicate?

(4) The bracketed words which form the reading of MS.M. are here combined with the text of cur. edtl. to bring out the import of the Arab's remarks more fully.

(5) A proverbial expression. He received the meed for his irreverence.

(6) The Babylonian Exilarchs to which Rabbah b. R. Huna belonged traced their descent to Jehoiachim, King of Judah. V. JEV, 288ff.

(7) Referring to his prowess and triumphs at the Collegiates' discussions.

(8) An echo of Isa. XXXIV, 11; Zeph. II, 14.

(9) Cf. Isa. LI, 19 and Jer. XLVIII, 3.

(10) I.e., Babylon. Cf. Gen. XIV, 1.

(11) Ps. LXVIII, 5 is taken as 'High-Heavens'; cf. v. 34 and Deut. XXXIII. Hoffin. Mid. Tann. ad loc. p. 221 and Hag. 12b.

(12) With this thought, cf. Midr. Tehil. on Ps. CXVI, 15: Precious in the sight of the Lord is the death of His saints, a parable of a king who sent an eparchos (prefect) to a place which he directed well. Having completed his term, the king gave him another eparchia (province). In the place which he was leaving they praised him that he had directed them well, and in the place that he was entering they (also) praised him, that he was going to rule them well. Likewise, when the Holy One, blessed be He, sent a righteous man into the world to direct the age and he directed it well, on his departure from the world, people are distressed about him (leaving): for so long as the righteous man is among them he prevents tribulation from coming into the world while the Ministering Angels rejoice about his coming to abide among them. (Edition Buber, p. 478)

(13) Cf. Ps. XCII, 13.

(14) A noted orator.

(15) The hyssop is frequently associated with the cedar, the high and low in contrast. Cf. Lev. XIV, 51, 52 and I Kings V, 13. Cf. 'And he (Solomon) spake of trees, from the cedar that is in Lebanon even unto the hyssop that springeth out of the wall'.

(16) V. Elijahu Rabbah (ed. Fried.) XIV (XIII) p. 65.

(17) The monster fish. 'Canst thou draw out Leviathan with a fish hook, or press down his tongue with a cord?' Job XL, 25. Cf. Isa. XXVII, 1; Ps. CIV, 25-26.

(18) נפלה הכה Var. lec. (v. D.S. p. 86) נפלה הרבה: 'If rushing stream run dry What water may marshy ponds supply?' — Cf. Jer. XIV, 3: Ezek. XLVII, 11.

(19) A noted orator.

(20) Lit., 'his mind weakened', felt discouraged, disappointed.

(21) At their ill-chosen metaphors, such as a flame among the cedars (cf. Judg. IX, 15); hooking the Leviathan (cf. n. 5), or marshy shallows, or 'what is lost', implying as it were that all his life's best work, the encouragement of scholarship and the careful redaction of the Talmud, are of no lasting value.

(22) Lit., 'knees'.

(23) I.e., they turned about and fled in confusion, ashamed of their indiscreet and almost impudent poetic effusion. For the idiomatic use of this expression, cf. R. Johanan's similar utterance in a sharp disputation with Resh Lakish who was his junior: 'We cut off the legs of the youngster'. Me'ila 7b and also Bez. 25b. The traditional interpretation takes it literally, that they both became crippled. V. next notes.

(24) Yeb. 103a has בר קיפוף and בר אובא

(25) I.e., shall not attend my funeral nor bare their shoulder as is done at the lament of a Principal of an Academy. Cf.

supra p. 140, n. 7. The traditional explanation takes the above observation as referring to their ‘lameness’ in connection with a discussion between R. Ashi and Amemar on the possibility of effecting the rite of halizah, i.e., taking off the shoe, by the levir or brother of a deceased childless husband, if he is a cripple where the malformation of his foot is such as to render it impossible to walk or don or take off a shoe, as required by Scriptural law. Deut. XXV, 5-10. According to this interpretation the translation of the sentence is: ‘Neither Bar-Kipok nor Bar-Abin are fit to submit to the rite of halizah. V. Yeb., Sonc. ed. ‘ p. 709.

(26) דגלת . Tagrit, Tekrit or Tikrit (cf. Obermeyer p. 142). It could not be here the Tigris, as Mahoza itself lay on the Tigris. Tagrit or Tekrit lies higher up on the Tigris between Mosul and Baghdad and is often mentioned in Syrian literature.

(27) It seems doubtful whether it is the same Bar-Abin as above.

(28) The following poem seems to be part of a סליחה which had been composed by Bar-Abin on the occasion of a bad flooding of the Tigris in spring time, April-May, cf. Ta'an. 14a (bottom).

(29) A third of the country is flooded. Perhaps שלישית here refers to Israel, the Jewish quarter in the town. Cf. Isa. XIX, 24 and Shab. 88a.

(30) That a flood come not again. Cf. Gen. IX, 15, 16.

(31) Cf. Hab. III, 2 and P.B. P. 65.

(32) A faithless wife was tried by water, Num. V, 22. The flooding has made the waters undrinkable and caused many deaths.

(33) Var. lec. בזכות מי מרה by virtue of the old favour at Marah's water’, or, as our text: באות מי מרה . Deliver us now miraculously as when the bitter water was healed and sweetened for our forefathers at Marah, Ex. XV, 23-25.

(34) probably pronounced Honein. He may be identical with ‘Anani b. Sason mentioned supra 24b. R. Honein is cited infra 28a.

(35) The joyous birth of the child.

(36) הנינתו (from הנינה Grace) a diminutive form (fu'ailah) i.e., ‘Little Honein’ — a play on his father's name, from הנין (graced, favoured).

(37) So MS.M. and other texts; but cur. edd. R. Johanan, which seems however incorrect.

(38) Lived and taught at Caesarea.

(39) Amos VIII, 9-10.

(40) At Megiddo. V. Ii Chron. XXXV, 23-25; Rashi on v. 25; Targum on Lam. IV, 20; infra p. 188 and Ta'an. 22b.

(41) I.e., as his personal tribute to R. Johanan; but it is not to be taken as a rule to be followed generally.

(42) I.e., Torah.

(43) A great Babylonian sage highly esteemed for his learning, piety and noble character. Cf. supra 17a; Meg. 28a (twice) and Sanah. 14a (Sonc. ed., p. 65).

(44) Babylon.

(45) Palestine. Cf. Dan. XI, 16, 41.

(46) Cf. Jer. XXXI, 19.

(47) An ancient name identified with Sepphoris or Tiberias, both the seat of the Nasi. V. Meg. 6a (top).

(48) דמעתא (instead of מיא water, sweat). So MS. M., J.A.Z. III, 1 and other texts.

(49) Jose b. Halafta. J.A.Z. ibid. names Laodicea as the place.

(50) So MS.M.

(51) MS.M. and other texts, v. J.A.Z. ibid.

(52) As he refused to look even at the image of coins. Cf. J.A.Z. ibid. ‘At the death of R. Nahum b. Simai they covered all the images, saying that as he never looked at them in his lifetime he should not see them after he fell asleep’.

(53) Cf. supra 11a.

(54) So MS.M. CC. more correctly than Nehardea of cur. edd., as J.A.Z. ibid. states it happened in Galilee and Ta'an. 23b shows this R. Isaac b. El. to have been with R. Mani of Tiberias. Besides, Nehardea had been in ruins since 259 C.E.

(55) Mentioned supra p. 158.

(56) I.e., they were thrown together, probably referring to the tier rocks which carried the bridges of the river. Cf. B.M. 86a where it is related that at Rabbah's death there arose so violent a storm that an Arab with his camel were bodily carried across the Nehar Papa canal. Cf. Obermeyer pp. 166 and 238.

(57) [According to the Meiri (Jerusalem 1937), these were figures of speech introduced by orators as the funerary orations respectively on the deaths of the above-named scholars, describing the gravity of the loss.]

Talmud - Mas. Mo'ed Katan 26a

And these are rents that are not [to be] sewed up: One who rends [his clothes] for his father or mother; or his master who taught him Wisdom,[1] for a Nasi, or Ab Beth din;[2] or on hearing evil tidings or [hearing] God's name blasphemed, or when a scroll of the law has been burnt; or at the [sight of the ruined] cities of Judea, the Holy Temple or Jerusalem. And one rends [first] for the Temple and then enlarges [the rent] for Jerusalem.

‘For his father or mother or for his master who taught him Wisdom’. Whence derive we [these rulings]? — From what is written: And Elisha saw it and he cried: My father. my father, the chariots of Israel and the horsemen thereof.[3] ‘My father, my father’, that is, [to rend on the loss of] one's father or mother. ‘The chariots of Israel and the horsemen thereof’, that is [for] a Master who taught one Torah. How exactly does it convey this [meaning]? — As R. Joseph rendered it [in Aramaic]: ‘My master, my master, who was better [protection] to Israel with his prayer than chariots and horsemen’.

And whence that these rents are not [to be] reunited? — From what is written [in the same passage]: And he [Elisha] took hold of his own clothes and rent them in two pieces.[3] Once it says ‘and he rent then;’, do I not know that he rent them in two [asunder]? It must be meant to teach that the severed parts ever remain rent [apart] in two.[4] Said Resh Lakish to R. Johanan: Elijah [however] is alive![5] — He replied, Since it is written there ‘And he saw ‘him no more,’ he was as dead to him [to Elisha].

‘For a Nasi or Ab Beth din or on hearing evil tidings’. Whence do we derive [these rulings]? — From what is written: Then David took hold of his clothes and rent them,’ and likewise all the men that were with him. And they wailed and wept and fasted until even, for Saul and for Jonathan his son and for the people of the Lord and for the house of Israel, because they were fallen by the sword.[6] Now ‘Saul’, that is the Nasi [Prince]; ‘Jonathan’, that is the Ab Beth din. ‘And for the people of the Lord and for the house of Israel’, that refers to ‘evil tidings’ [that reached them].

Said Rab b. Shabba to R. Kahana: Might not one explain that [they did] not [rend their clothes] until [after hearing] all those misfortunes [that had then happened]?[7] He replied, The repetition of ‘for’ this ‘and for’ that ‘and for’ separate the items [from one another]. Yet do we [have to] rend [clothes] on hearing evil tidings? For when they informed Samuel that King Shapur had slain twelve thousand Jews at Caesarea-Mazaca,[8] he did not [then] rend his clothes? — They [the Sages] did not say [it should be done] save where the misfortune involves the larger part of the Community resembling the typical instance.[9] And is it a fact that King Shapur slew Jews? For [it is reported] that King Shapur said to Samuel,[10] ‘May [ill] befall me if I have ever slain a Jew!’ — For there, it was they [the Jews] that had brought it on themselves, as R. Ammi said, that the noise of the harp-strings[11] about Caesarea-Mazaca burst the wall of Laodicea.[12]

‘[Rents] on [hearing] God's name blasphemed’.[13] Whence do we derive this? — From what is written: Then came Eliakim the son of Hilkiah who was over the household and Shebna the scribe and Joah the son; of Asaph the recorder to Hezekiah with their clothes rent and told him the [blasphemous] words of Rabshakeh.[14]

Our Rabbis taught: ‘It makes no difference whether one hears it [himself] or hears it from another who had heard it, he is in duty bound to rend [his clothes], but the witnesses arc not in duty bound to rend [again on reporting] as they have already rent at the time they heard [the blasphemy]’. [You say], ‘as they have already rent at the time they heard [the blasphemy]’, what matters it, since they do hear it now [again in reporting]? — Do not imagine such a thing. For it is written, And it came to pass, when the King heard it, that he rent his clothes:'[15] the King [we are told], rent [his clothes], but they [who reported it] did not rend [again]. And whence [do we know] that these rents are not [to be] mended? — That is learnt from a comparison[16] between the 'rending' [here] by King Hezekiah and 'rending' [elsewhere].[17]

'[Rents] when a scroll of the law has been burnt'. What is the source for this? — What is written: And it came to pass when Jehudi had read three or four columns that he cut it with a penknife and cast it into the fire that was in the brazier.[18] What is the point of saying '[had read] three or four columns'? — They told [King] Jehoiakim that Jeremiah had written a book of Lamentations, [and] he said to them: What is written there? [They quoted] 'How doth the city sit solitary'.[19] — [The King] replied: I am the King.[20] They then cited to him [the second verse]: She weepeth sore in the night. He replied [again]: I am the King. [They then cited the third verse]: Judah is gone into exile because of affliction. [Again he replied]: I am the King. [They continued with verse four]: The ways of Zion do mourn. I am the King [he replied]. [They continued with the fifth verse]: Her adversaries are become the head. He asked: Who said that? — [They continued with that same verse]: For the Lord hath afflicted her for the multitude of her transgressions. Forthwith he [began to] cut out all the names of God mentioned therein and burnt them in the fire; hence it is written [in the report there]: Yet they were not afraid, nor rent their garments, neither the King, nor any of his servants that heard all these words,[21] which implies that the [bystanders] should have rent [their clothes]. Said Abaye to R. Papa: Might it not be suggested that the reason [why they should have rent was] for hearing evil tidings?[22] — He replied: [Hardly, for] were there at that time any evil tidings as yet?

Said R. Helbo, as citing R. Huna: One who witnesses a scroll of the law being torn[23] is in duty bound to make two rents: one on account of the [injury to the] parchment[24] and one for [the injury to] the writing, as [may be gathered] from what is said: Then the word of the Lord came to Jeremiah after that the King had burned the roll and the words which Baruch wrote at the mouth of Jeremiah.[25] 'The roll,' that is, the parchment and 'and the words', that is, the writing.[26]

R. Abba and R. Huna b. Hiyya were once sitting together. R. Abba got up to [go and] relieve himself. He took off his head phylactery and put it down on a pillow, when a young ostrich came and wanted to swallow it.[27] Said he [R. Abba]: [If that had been swallowed] I should now have had to make two rents.[28] Said the other:[29] Whence do you derive this? A similar thing happened to me and I came to R. Mattenah [asking for guidance] and he had none to give me. I then came to Rab Judah and he told me: Thus said Samuel: 'The [Rabbis] taught [that one should rend] only where [a sacred text is torn or burnt] by force majeure[30] and as in the example cited'.[31] 'Or at the [sight of the ruined] cities of Judea: the Holy Temple or Jerusalem'. Whence do we learn this? — From what is written: And it came to pass the second day after he[32] had slain Gedaliah and no man knew it that there come certain men from Shechem, front Shiloh and from Samaria, even fourscore men, having their beards shaven and their clothes rent and having cut themselves, with meal-offerings and frankincense in their hand to bring them in the house of the Lord.[33] Said R. Helbo. as citing 'Ulla of Berai who reported R. Eleazar: One who sees the cities of Judah in their [state of] ruin, recites the verse: Thy holy cities are become a wilderness,[34] and rends his garment. [On seeing] Jerusalem in its [state of] ruin, one recites: Our holy and our beautiful house, where our fathers praised Thee, is burned with fire and all our pleasant things are laid waste,[35] and rends his garment.

'He [first] makes a rent for the Holy Temple and then enlarges [the rent] for Jerusalem'. [In contrast to this] some cited [the following Baraitha]: 'It is all the same whether one hears [that Jerusalem is fallen into ruin][36] or sees [Jerusalem in ruin he is] in duty bound to rend [his garment].[36] As soon as he reaches the Scopus he rends; and he rends for the holy Temple separately and for Jerusalem separately'? — This [seeming discrepancy] is not difficult [to explain]. The former ruling obtains where he first [of all] encounters the site of the [ruined] Sanctuary[37] and the latter, where he encounters Jerusalem [ruins] first [and afterwards the Sanctuary].

Our Rabbis taught: ‘And all these [rents] they may tack together,[38] baste or pick up [the frayed edges][39] or with a ladderstitch, but may not reunite the edges [by a sewn seam]’.[40] Said R. Hisda:

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(1) I.e., Torah.
(2) V. Glos.
(3) II Kings II, 12.
(4) I.e., the two edges of the torn part remain as they are, apart. Cf supra 22b.
(5) He constantly reappears, from time to time, communing with saintly persons. Cf. B.M. 85b and Ta'an. 22a. How can this be the guiding instance for a ruling on a loss by death?
(6) II Sam. I, 11-12.
(7) The case of Saul and Jonathan.
(8) Shapur I (241-272) is said to have destroyed Caesarea-Mazaca, the capital of Cappadocia, a vital military post on the main roads leading to the East, in 260 C.E. after he defeated the Emperor Valerian. It is said that there were then four hundred thousand inhabitants. Cf. Enc. Brit. (11th ed.) IV, 943a. The date 260 however makes this statement rather difficult, as Samuel died in 252 and Papa bar Nasr of Palmyra (Odenath) destroyed Nehardea 259. The occasion must therefore have been earlier, after the murder of Gordian III at Zaitha in 244 when Philip the Arab (of Hauran) made the best terms he could with Shapur [V. Graetz MGWJ 1852, p. 512 and Hoffmann D. Mar Samuel, p. 48.]
(9) Of Saul and Jonathan.
(10) They were on very friendly terms.
(11) Played by the Jews rebelling against the Persians (Rashi).
(12) I.e., brought about the destruction of Laodicea. Laodicea Combusta lay further West.
(13) Resuming the discussion of the points quoted in the Baraitha.
(14) II Kings XVIII, 37.
(15) Ibid. XIX, 1.
(16) Gezerah shawah, v. Glos.
(17) In the case of Elisha as explained above from ‘and he rent them in two pieces’. II Kings II, 12.
(18) Jer. XXXVI, 23ff.
(19) Lam. I, 1ff.
(20) There is nothing in that verse about the King himself, but only lamentations about the city of Jerusalem.
(21) Jer. XXXVI, 24.
(22) And not for blasphemy.
(23) MS.M., Asheri and other texts read here burnt.
(24) Which is especially prepared as dedicated for a sacred text.
(25) Ibid. v. 27.
(26) So MS.M. and J.M.K.
(27) ‘R. Huna seized the bird and held it by the throat’. J.M.K. III, 7.
(28) If the ostrich had swallowed or destroyed it. for the parchment and also for the text.
(29) R. Huna b. Hiyya. In J.M.K. the names are reversed.
(30) An irresistible attack, lit., ‘by arm’.
(31) Blasphemously, as did Jehoiakim and his friends; but not when happening casually, as in this instance.
(32) Ishmael the son of Nethaniah.
(33) Jer. XLI. 4.5.
(34) Isa. LXIV, 9.
(35) Ibid. 10.
(36) Enlarged according to the version in J.M.K. III, which is merely condensed in our texts.
(37) Without somehow having caught sight of the ruins of Jerusalem on entering the city, travelling in a covered van, for instance or entering at dusk. He then rends first for the ruined Sanctuary and enlarges the rent on beholding the ruins of Jerusalem.
(38) Soon after, the next day.
(39) With a herringbone or cross stitch.

(40) Sew up permanently.

Talmud - Mas. Mo'ed Katan 26b

Nor may the Alexandrian[1] mending [be used]. Our Rabbis taught: One who rends [his garment] in a part that had been tacked together, basted, or [the edges] picked up by cross or ladderstitch, has not discharged his duty; if in a part which had been rejoined [in a seam], he has discharged his duty. Said R. Hisda: Also [if he rent] in a part [which had been done up] with the Alexandrian mending.

Our Rabbis taught: One is allowed to turn [a garment] upside down[2] and [then] completely mend the rent. R. Simeon b. Eleazar forbids complete mending of the rent. And just as the vendor [of the garment] is forbidden to reunite the rent [completely] the buyer too is forbidden to reunite it [completely] and accordingly the vendor is bound to inform the buyer of [the nature of the rent].

Our Rabbis taught: The initial rending is [to the extent of] a handbreadth,[3] and any extension thereof[4] is to be to the depth of three fingers: these are the words of R. Meir. R. Judah says: The initial rending is [to the extent of] three fingers and the extension may be as small as he cares.[5] Said ‘Ulla, The halachah; follows R. Meir in regard to the [initial] rending and in regard to the extension, the halachah follows R. Judah. It is likewise taught: R. Jose Says. The initial rending is [to the extent of] one handbreadth and the extension may be as little as one cares.[5]

Our Rabbis taught: If one was informed that his father died and he rent [his garment], [then] that his son died and he added thereto, the lower [inner portion] may be reunited; the upper parts is not to be reunited; that his son died and he rent his garment, [then] that his father died and he added thereto, the upper part may be reunited [and] the lower part[6] is not to be reunited. [If one was informed] that his father died, that his mother died, that his brother died, that his sister died,[7] he makes one rent for all. R. Judah b. Bathyra[8] says: For all [near of kin he makes] one rent; for his father and/or mother[9] [he makes] another rent: because a rent made for one's father or mother is not to be added to.[10] What is the reason [for this differentiation]? — Said R. Nahman b. Isaac, it is because there is no extension [of a rent] in their case.[11] Samuel said: The halachah follows the view of R. Judah b. Bathyra. But did Samuel say that? Inasmuch Samuel stated that the halachah in matters of mourning is to follow the view of the [more] lenient authority![12] — The [observance[13] of] mourning comes under one category and the [act of] rending[14] under another [category],

To what extent does one rend [his garment]? — To [exposing his breast down to] the [region of the] navel; some say, [only] down to the [region of the] heart — Although there is no [authentic] proof on this point, there is some [Scriptural] allusion to it, as it is said: And rend your hearts and not your garments.[15] Having reached to the navel, [on hearing another evil report] he moves away a space of three fingers [from the former rent] and rends [afresh]. If the forepart of his garment is become full [of rents], he turns the garment front to back and then rends [again]; if it become full [of rents] in the upper parts. he turns the garment [upside] down; but one who rends the lower part or on the sides [of the garment] has not discharged his duty, save the High Priest, who rends [his garment] below.

[On the extension rending] R. Mattenah and Mar ‘Ukba held different views and both advanced them in the names of [Abba] Samuel's father and R. Levi [b. Sisi]. One said: ‘Anytime during the seven days. one rends [anew for another bereavement] and after the seven he [merely] adds [to the first rent]’. The other said: ‘Anytime during the thirty. one rends [anew for another bereavement] and after the thirty he [merely] adds thereto’. To these statements R. Zera demurred. Now [said R. Zera], in regard to the one who says: ‘Anytime during the seven days one rends [anew for another bereavement]’,[16] why [rend anew]? Because the rent may not be tacked together;[17] then [in the case of a woman] in view of the Master's statement: ‘A woman [mourner] tacks the rent together forthwith' [may she not] just as well [add even to the first rent]?[17] — [No, because] there[18] it is [a concession merely] out of the respect due to a woman.[19] Again [said R. Zera], in regard to the one who says: ' Anytime during the thirty, one rends [anew for another],[16] why is that? Because the rent is not to be reunited;[20] then [in the case of] a rent made for a father or mother that is never to be reunited, [may he not] just as well [add to the rent]?[21] — [No, because] there [also the restriction is merely] out of the deference[22] due to one's father and mother.

Our Rabbis taught: One who goes forth before the dead with a garment already rent, robs the dead and the living [relatives of their due]. Rabban Simeon b. Gamaliel says: If a man says to his friend, 'Lend me your cloak and I shall go and visit my father who is ill', and he went and found him already dead, he rends it and then mends the rent. After returning home he returns the cloak and compensates him for the damage done by the rent; but if he had not informed him [of his intention to visit his sick father], he must not touch it.

Our Rabbis taught: If one who is ill sustains bereavement, they should not inform him thereof, lest he thereby become distracted in mind; nor do they direct to have any garments rent in his presence and they direct the women to keep silent [from lamenting] in his presence. Children may be made to rend their clothes in order to stir up sadness and garments are also rent for a father-in-law or mother-in-law, out of deference to one's wife. R. Papa said: It is taught in the Ebel Rabbathi:[23] 'A mourner should not set an infant on his knee, because the child may amuse him and he may thereby incur censure from his fellow men'.

NOR DO THEY PROVIDE A REPAST SAVE[24] [SEATED] ON UPRIGHT COUCHES.[25] Our Rabbis taught: 'One who goes to the house of a mourner, if he be on familiar terms with him, may provide the repast for him [to be taken][26] on overturned couches, but if not, he provides the repast for him [to be taken] on couches in erect position'.[27]

Raba suffered a misfortune and Abba b. Martha, who is the same as Abba b. Manyomi, went to the house [to provide the mourner's repast for him]. Raba sat on all upright couch while Abba b. Martha sat on an overturned one. Said Raba: How lacking in [good] sense[28] is that Associate of the Rabbis!

Our Rabbis taught: One who goes from place to place [and mourning befell him while being on the road],[29]

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(1) Neatly sewed together on the surface with the joined ends on the wrong side of the material, or darned invisibly, or a piece neatly let in. V. Tosaf. s.v. איחוי .

(2) I.e. , adapting the bottom part for the neck.

(3) Four fingers, the width of the palm.

(4) on the intermediate occurrence of another bereavement.

(5) Lit., 'whatever it be'.

(6) Of the rent made for a parent.

(7) I.e. , the news of their several deaths reached him simultaneously. J.M.K. III, 7 reads thus: 'Even if he heard of the death of his father and mother and of his Master who had taught him wisdom, he makes one rent for all'.

(8) J.M.K. III, 7 reads: 'R. Judah b. Tema says. 'He makes a rent for this one separately and for that one separately: only that he does not make that for his father and that for his mother as an extension". But is not this (latter part) to the same effect as the former part? Only, what he means is, that one shall make no extension on a rent made for a father or a mother'.

(9) Note the ambiguity indicated here by 'and/or', that is, either (a) a separate rent for father and mother jointly, quite apart from the rent made for the other near-of-kin on that occasion; or (b) a separate rent for each, even if the news of their deaths was communicated to him at the same moment. The former interpretation (with some reservations) is accepted by Ritba. V. infra n. 1.

(10) Cf. n. 1 suf'ra. Sem. IX reads as follows: One whose father and mother died (together) makes one rent for both; R. Judah b. Tema says: He makes a rent for this one separately and a rent for this one separately.
(11) Tosaf. s.v. אמר fails to see the purport of this remark of R. Nahman b. Isaac and favours the view that the last clause (‘because a rent made. . .’) is probably a gloss (and is in fact not found in Sem. I.e.). Rabad, however, cited by Asheri, n. 71, explains the comment thus: Since a rent for a parent extends to the region of the heart (or even to the navel), any extension of it (for another sorrow) would fail to be any indication thereof, as his friends would take the enlarged rent as the sign of the mourners excessive grief for his parent.
(12) Whereas R. Judah's view is in fact stricter than the first.
(13) I.e. , the period of seven or thirty days. which begins after the interment.
(14) Which is effected at the most poignant moment of grief, at witnessing the death of a beloved (even before the interment) or at the first intelligence of it. It is a tribute to the dead.
(15) Joel II, 13.
(16) It is the last part of the quotation on which the argument turns.
(17) Within the seven days.
(18) V. supra 22b, p. 142.
(19) V. ibid. Not the law, whereas rending the garment is a duty according to the law for all, it is a tribute she owes to the dead, and like everybody else she should act in the regular way for all, i.e., rend anew.
(20) During the thirty days. V. supra p. 143.
(21) Even during the thirty days; as, even after the thirty days he would, according to the view expressed above, act like any other person according to the law and merely add to the rent a little, in tribute of the fresh loss; otherwise there is no concession in the case of a son mourning for a parent until the end of the year.
(22) Not the law; hence after thirty days he merely adds to the rent.
(23) Cf. supra p. 148, n. 10.
(24) [MS.M. omits ‘save’, v. n. 6.]
(25) For the reading. v. supra p. 154, n. I.
(26) The one who provided the mourner's would also join him at the meal.
(27) [Our Mishnah accordingly speaks of one who is not on familiar terms with the mourner. Raabad and others (v. Asheri) explain the Mishnah as referring to festival week, when in no case is the meal provided on overturned couches. As, however, no couches are overturned on festival week, the word ‘SAVE’ is redundant and on this interpretation is to be omitted, v. n. 3.]
(28) As Raba and his visitor were not on intimate terms, it was presumptuous on the part of the visitor to sit low, while Raba out of deference to the visitor sat on the couch in its normal position.
(29) So MS.M. Asheri and other texts.

Talmud - Mas. Mo'ed Katan 27a

if he can reduce his business affairs, he should do so, and if not, let him carry on with them [as best he may].

Our Rabbis taught: When do mourners overturn the beds? From the moment [the corpse] is taken from the house: these are the words of R. Eliezer; R. Joshua Says, From the moment that the rolling slab[1] closes the tomb. It happened [when] Rabban Gamaliel the Elder[2] died, as soon as he was taken out of the door of his house, R. Eliezer said to them,[3] Overturn your beds. And after the ‘rolling slab’ had been placed [to close the tomb] R. Joshua said to them:[3] ‘Overturn your beds’. Said they to him, ‘We have already overturned them by order of the Elder’ [R. Eliezer].

Our Rabbis taught: When do they place the beds in erect position on the [approaching] eve of the Sabbath? From the time of the evening offering[4] onwards’. Said Rabbah son of Huna,[5] Nevertheless he [the mourner] does not sit down on it until it gets dark, and on the termination of the Sabbath, although he may have but one day [more] to sit [in mourning] he overturns it again.[6]

Our Rabbis taught: One who [has to] overturn his bed, over turns not his own bed alone, but all the beds he has in the house;[7] even though he has ten beds in ten places, he overturns them all.[8] And even if there be five brothers one of whom died, they all overturn [their beds].[9] If, however, it be a bed specially set apart for vestments,[10] that one need not be overturned. A dargesh[11] [couch] need not be overturned, but should be tilted up;[12] Rabban Simeon b. Gamaliel says, [In the case of] a dargesh [it is enough if] he loosens the bolster-frame and lets it drop [down] of its own accord. What is a dargesh? — Said ‘Ulla, It is a Couch of Fortune.[13] Said Rabbah to him: But then [how does that] meaning fit the ruling in reference to a king, for we learned:[14] ‘[And when they provide for him the mourner's repast] all the people recline [at the repast] on the ground while the king sits on the dargesh’.[15] Is there any reason why he should now be seated on [a special couch] which he had hitherto not been able to sit on?[16] To this question R. Ashi demurred, [saying]: What is this difficulty? It may be just as exceptional as eating and drinking [with the king], because heretofore they [the people] did not provide for him food and drink, whereas now [in his mourning] they do provide for him food and drink! But, if difficulty there be [in the offered explanation] it arises from what is taught: ‘There is no need to overturn a dargesh, but he [merely] tilts it up’. Now if dargesh be a ‘Couch of Fortune’ why is there no need to overturn it, surely it is taught: ‘One who [has to] overturn his bed overturns not his own bed alone but all the beds he has in his house! And what is this difficulty? Why, a dargesh is similar to a bed specially set apart for vestments,[17] as it is taught [there]: ‘If it be a bed specially set apart for vestments, that need not be overturned’. But if difficulty there be [in the explanation] it is this [from what is taught there]: ‘Rabban Simeon b. Gamaliel says, [In the case of] a dargesh [it is enough if] he unfastens the inner bolster-frame and lets it drop [down]’. Now if you suppose that dargesh means a ‘Couch of Fortune’ , what bolster-frame is there [at all]?

When Rabin came [home from Palestine] he said, One of the Rabbis whose name is R. Tahlifa the Palestinian, who used to frequent the leather-mart, told me: What is a dargesh? It is [said he] a couch covered with a hide.[18] It has also been stated: ‘R. Jeremiah said,[19] In a dargesh the interlacing[20] [of the girths] is on the inside; in a bed [couch] the interlacing [of the girths] is on the outside’. Said R. Jacob b. Aha as reporting R. Joshua b. Levi: The halachah follows the opinion of R. Simeon b. Gamaliel.[21] Also this, R. Jacob b. Ala is to have said as reporting R. Assi that where a couch has projecting lean-backs,[22] it is enough if he merely tilts it up.[23]

Our Rabbis taught: If he slept [during the seven days] on a chair, or on a large bench for water-jugs[24] or [even] on the ground. he has not discharged his duty.[25] Said R. Johanan: [He has not discharged his duty] because he has not conformed to [the practice of] overturning the bed.[26]

Our Rabbis taught: We may sweep or strew[27] [the floors] in a house of mourning and wash dishes, cups, jugs and wine-goblets[28] in a house of mourning; but do not bring perfumes[29] or spices into a house of mourning. But this is not [correct]? For Bar Kappara taught: One should not say a benediction for [enjoying the scent of] perfumery or spices in a house of mourning, which implies that while we do not say a benediction, they may yet be taken into the house? — That presents no difficulty: the former ruling is for the house of mourning,[30] while the latter ruling is for the house of comforters.[31]

MISHNAH. [PROVISIONS],[32] SHOULD NOT BE CONVEYED TO THE HOUSE OF MOURNING ON AN [ORNAMENTAL] TRAY,[33] SALVER,[34] OR FRUIT-BASKET,[35] BUT IN [PLAIN] BASKETS. AND THE MOURNERS BENEDICTION [IN GRACE AFTER MEALS] IS NOT SAID DURING THE FESTIVAL [WEEK]. BUT COMFORTERS MAY STAND IN A ROW AND COMFORT [THEM].[36] AND THE MOURNERS GIVE LEAVE OF DEPARTURE TO THE MANY [COMFORTERS]. THE BIER IS NOT SET DOWN IN THE BROADWAY [DURING THE FESTIVAL WEEK] SO AS NOT TO ENCOURAGE THE [FUNERARY] LAMENT; AND THE BIER OF WOMEN IS NEVER [SET DOWN IN THE BROAD WAY] FOR THE SAKE OF PROPRIETY.

GEMARA. Our Rabbis taught: Formerly they were wont to convey [victuals] to the house of mourning, the rich in silver and gold baskets and the poor in osier baskets of peeled willow twigs, and the poor felt shamed: they therefore instituted that all should convey [victuals] in osier baskets of peeled willow twigs out of deference to the poor.

Our Rabbis taught: Formerly, they were wont to serve drinks in a house of mourning, the rich in white glass vessels and the poor in coloured glass, and the poor felt shamed: they instituted therefore that all should serve drinks in coloured glass,[37] out of deference to the poor.[38] Formerly they were wont to uncover the face of the rich and cover the face of the poor, because their faces turned livid in years of drought and the poor felt shamed; they therefore instituted that everybody's face should be covered, out of deference for the poor.[38] Formerly. they were wont to bring out the rich [for burial] on a dargesh[39] aid the poor

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(1) גולל , a stone rolling in a groove to close a tomb.

(2) Rightly omitted in J. Ber. and J.M.K. (loc. cit.), as this could be only Rabban Gamaliel II (of Jabne). R. Eliezer's brother-in-law. Cf. B.M. 59b (Sonc. ed., p. 354, nn. 3 and 4.)

(3) To his wife Imma Shalom, Rabban Gamaliel's sister and others in the house. J. Ber. and J.M.K.: ‘To his disciples’.

(4) I.e., 3.30 p.m. The Minhah was a meal-offering which accompanied the ‘daily offerings’, morning and afternoon. Num. XXVIII, 5, 8.

(5) Asheri read, ‘Rabba b. ‘Ulla’.

(6) To remind him that he is still a mourner within the seven days. J.M.K. III, 5.

(7) ‘His own as well as those of his wife and children, who observe mourning in the house out of deference to him, but not those of strangers staying in the house’. Raabad, cited in Asheri.

(8) If he occupies any of those, even away from the place where the death had taken place (Asheri). Cf. Sem. XI.

(9) If they sleep in their own homes.

(10) A kind of sofa or couch like our ottomans, for clothes or coverlets; i.e., one not used for sleeping.

(11) An elaborate couch, explained and discussed below at length.

(12) To make it uncomfortable for sleeping or sitting on it.

(13) Among non-Jews. Among the Romans the lectus genialis was a symbolical, ornamental marriage-bed placed on the day of marriage in the front hall, the atrium, (as the bride's domain). ‘Genialis lectus, qui nuptiis sternitur in honorem genii’ quoted by Becker, Gallus, Excursus I (on Woman and Roman Marriage) p. 166. Cf. ibid. p. 154.

(14) Sanh. 20a.

(15) So that the king does not go down to the level of the people and sit with them.

(16) I.e., how call dargesh possibly mean a ‘Couch of Fortune’? It can only mean a couch other than the ordinary, for the king.

(17) Not for sleeping.

(18) I.e., a bedstead with a hide thrown on girths or stretched on the frame which serves as a mattress or bolster. So Han., v. Becker's Charicles, Scene VIII, n. 8 (Eng. Trans. p. 136).

(19) In J.M.K. III, 5 we have: ‘Where the interlacing (girths) are attached to the body (i.e., the frame of the bedstead itself) it is a bed; where the interlacing is not attached to the body (i.e., that the mattress-frame is a separate piece, the grabatus) it is a dargesh. Cf. further the notes on the discussion of the Mishnah.

(20) Horace's tenta cubilia.

(21) That it is enough, in the case of a dargesh, if he unfastens the inner bolsterframe and lets it drop down.

(22) נקליטי = **, lit. , ‘something to lean back on’; here are meant head-rests and the back of a couch to support the cushions as well as the poles, at the head and the foot of a bed, to support a curtain or net. Cf. Suk. 10b.

(23) To show that it is not in use and does not need to be overturned.

(24) The Roman urnariun, a low oblong bench or kitchen-table, used for keeping near to hand urns, water vessels and other earthenware utensils and out of the way of being broker. אורייני for אורנריי is the correct rendering and this meaning of the word fits all the parallel passages.

(25) J.M.K. III, 5 explains the context: ‘If he said, I am not going to up turn the bed, for behold, I shall sleep on a bench, they do not listen to him, because he said, "I am not going to upturn the bed"; but if he said, lo, I am going to upturn the bed . . . they do listen to him’.

(26) Cf. Sem. XI, (end). ‘But they say to him, There is the Mizwah (duty) of upturning’.

(27) With sawdust or said.

(28) and ** a Lacoman earthen drinking vessel or goblet.

(29) Spices to be burnt on ‘coals’ in fumigation pans.

(30) While the corpse is still in the house; it suggests that the dead is objectionable. Cf. Baraitha on the next Mishnah.

(31) I.e., after the burial, when comforters come in to visit and condole with the mourner.

(32) ‘The mourners fare’.

(33) Tabella or tabula.

(34) Scutella.

(35) Calathus.

(36) On the cemetery after the burial, during the festival week.

(37) Tosef. Nd. IX, 17 has: ‘Then they reverted to bringing (drink) in coloured or white (glass vessels)’.

(38) MS.M. inserts: Our Rabbis taught.

(39) דרגש a tall state bed, ornamented and covered with rich coverlets. V. Targum and Kimhi on Ezek. XXIII, 41 מטה כבודה . In Lewin, Otz. Hag. No. 208 it is explained by מטה משובחת and SBH explains it by מטה חשובה. Cf. Persius, Sat. III, 103, ‘tandemque beatulus alto Compositus lecto...,’ and at last our blessed (dead) little friend being laid out on a tall bier’. Cf. also Jos., Ant. XVII, 8, 3 (197) and War, XXXIII, 9 (671) about Herod's gorgeous bier.

Talmud - Mas. Mo'ed Katan 27b

on a plain bier,[1] and the poor felt shamed: they instituted therefore that all should be brought out on a plain bier, out of deference for the poor. Formerly they were wont to set a perfuming-pan under [the bed of] those that died of intestinal disorders, and the living suffering from intestinal disorders felt shamed: they instituted therefore that it should be set under all [alike], out of deference to the living that suffer from intestinal disorders. Formerly they were wont to subject to [ritual] ablution all utensils that had been used by [dying] menstruants,[2] and the living menstruant women felt thereby shamed: they instituted therefore that they should subject utensils used by all [dying] women alike, out of deference to the living menstruants. Formerly they were wont to subject to [ritual] ablution all utensils used by those suffering from a flux.[3] while dying, and the living suffering from a flux felt shamed: they therefore instituted that they should subject to ablution utensils used by all, out of deference to the living suffering from flux.[4] Formerly the [expense of] taking the dead out [to his burial] fell harder on his near-of-kin than his death so that the dead man's near-of-kin abandoned him and fled, until at last Rabban Gamaliel came [forward] and, disregarding his own dignity, came out [to his burial] in flaxen[5] vestments and thereafter the people followed his lead to come out [to burial] in flaxen vestments. Said R. Papa. And nowadays all the world follow the practice of [coming out] even in a paltry[6] [shroud] that costs but a zuz.

THEY SET NOT DOWN THE BIER IN THE BROADWAY. Said R. Papa,[7] in the case of a scholar [who died] no regard is paid to the festival [week].[8] and much less so during Hanukkah[9] or Purim,[10] and this ruling obtains only in his presence, but away from his presence no [lament is allowed]. But that is not [correct]? For R. Kahana did make a lament for R. Zebid of Nehardea at Pum-Nahara? — Said R. Papi,[11] it was on the day of [receiving] the tidings [of his death] and that is deemed the same as in his presence.

Said ‘Ulla: [The technical meaning of] a hesped[12] is [lamenting with striking] upon the breast, as it is written: [Tremble ye... strip you... and gird sackcloth upon your loins]. striking upon the breast.[13] [The technical meaning of] tippuah[14] is clapping one's hands [in grief], and that of killus[15] is [tapping] with the foot [in mourning].

Our Rabbis taught: One who does the tapping with the foot. should not do so when wearing either sandal or boot, because of the danger.[16]

Said R. Johanan, As soon as the mourner nods his head,[17] the comforters are no longer allowed to remain seated by him. R. Johanan said also, All are in duty bound to rise at the Presence of the Nasi,[18] save a mourner, or one who feels ill. And furthermore, said R. Johanan, To all we may say[19] ‘be seated’ save to a mourner or one who feels ill.[20]

Said Rab Judah, as citing Rab: A mourner is forbidden to eat of his own bread on the first day [of mourning].[21] as the AIl-Merciful said to Ezekiel: And eat thou not the bread of men.[22] Rabbah and R. Joseph alternately provided the repast to each other.

This also said Rab Judah as reporting Rab: When a person dies in town, all the townspeople are forbidden from doing work. R. Hamnuna once came to Daru-matha;[23] he heard the sound of the funerary-bugle[24] [and] seeing some people carrying on their work, he said: Let the people be under the shammetha [ban]! Is there not a person dead in town? They told him that there was an Association[25] in the town. If so, said he to them, it is allowed you [to work]. And furthermore, Rab Judah said, as citing Rab, Whoever indulges in grief to excess over his dead will weep for another. There was a certain woman that lived in the neighbourhood of R. Huna; she had seven sons one of whom died [and] she wept for him rather excessively. R. Huna sent [word] to her: ‘Act not thus’. She heeded him not [and] he sent to her: If you need my word it is well; but if not, are you anxious to make provision[26] for yet another? He [the next son] died and they all died. In the end he said to her, Are you fumbling with provision for yourself? And she died.

[Our Rabbis taught]:[27] ‘Weep ye not for the dead, neither bemoan him[28] [that is], ‘Weep not for the dead’ [that is] in excess, ‘neither bemoan him’ — beyond measure. How is that [applied]? — Three days for weeping and seven for lamenting and thirty [to refrain] from cutting the hair and [donning] pressed clothes; hereafter, the Holy One, blessed be He, says, ‘Ye are not more compassionate towards him [the departed] than I’.

Weep sore for him that goeth away.[28] Said Rab Judah [as reporting Rab],[29] that means, Weep for him who goes [to his long home] childless.[30] R. Joshua b. Levi would not go to [visit] a house of mourning save to that of one who had gone childless, for it is written [said he]: Weep sore for him that goeth away,[31] for he shall return no more nor see his native country.[28] R. Huna said this [verse refers to] one who committed a sinful act and repeated it again. R. Huna is here adhering to his own view, as he said: ‘As soon as a person has continued a sinful act and has repeated it, it has become unto him permissible’. [You say]. ‘Become unto him permissible’? Can you conceive such a thing? — Say rather that it has become unto him as though it were something permissible.

Said R. Levi: A mourner [during] the first three days should look upon himself as if a sword is resting between his shoulders;[32] from the third to the seventh, as if it stands in the corner facing him; thereafter as if it is moving alongside him in the [broad] market place.

AND THE BIER OF WOMEN IS NEVER [SET DOWN IN THE BROADWAY] FOR THE SAKE OF PROPRIETY. Said the Nehardeans:[33] This [Mishnah] was taught only

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(1) Or box.

(2) A menstruant's touch defiled persons, her bed, clothes and utensils. Cf. Lev. XV, 19-24.

(3) Lev. XV, 4-12.

(4) MS.M. inserts: Our Rabbis taught.

(5) That is, dressed in linen instead of woollen expensive vestments, as had been the custom heretofore.

(6) צרדא : This is the correct reading for צרדדא a popular pronunciation of the Latin word sordida which means cheap, poorly, mean, ragged. Cf. sordidn amictus and the Latin proverb: ‘Saepe est etiam sub palliolo sordido sapientia’

(Wisdom is often hidden under a ragged cloak). Also Juv. III, 149: Si toga sordidula est etc. (If the toga is somewhat threadbare...). This meaning fits also R. Papa's statement in B.M. 51b as cheap, slightly soiled (second-hand?) clothes dealers. Cf. also Hul. 105b רוח צרדא with רוח זוהמא Shab. 82a.

(7) MS.M. and other texts read: Rabbah b. R. Huna.

(8) I.e., lament may be made for a scholar even on festival week.

(9) The Maccabean Feast of Lights beginning on the 25th of Kislev. V. I Macc. IV; II Macc. X, 1ff.

(10) V. Esth. IX, 19ff.

(11) MS.M., R. Papa.

(12) הספד .

(13) Isa. XXXII, 11-12.

(14) טפוח , v. Tosaf.

(15) קלום , cf. Ezek. VI, 11.

(16) Of twisting the ankle or hurting another's foot.

(17) Thereby indicating to the comforters that they may retire, whatever his reason may be, whether his wish or necessity; he may not bid them farewell with the word ‘Peace’ — שלום .

(18) At his entry.

(19) E.g., to distinguished visitors or elderly persons.

(20) As this might be taken ill, as an ominous expression wishing one to ‘be seated’ as a mourner.

(21) I.e., after the funeral.

(22) Ezek. XXIV, 17. to be taken there as having been contrary to all regular practice, and done by the prophet to convey to his hearers the magnitude of the threatening calamities.

(23) Obermeyer, p. 197 suggests that this place is identical with Darukart, in the neighbourhood of Wasit. SBH reads: Dara (N. of Nisibis).

(24) Cf. Meg. 29a (top).

(25) A collegium that attended to burials.

(26) Provision for the long way, shrouds, etc.

(27) So Han. and SBH.

(28) Jer. XXII, 10.

(29) So MS.M. and Yalkut.

(30) Cf. B.B. 116a (Sonc. ed. p. 477.)

(31) ‘Goeth away’ also means ‘to die childless’. Cf. Gen. XV, 2.

(32) Close by and ready to slay him.

(33) R. Hama, R. Nahman and Samuel. V. Sanh. 17b and A. Hyman Toledoth III, 919b.

Talmud - Mas. Mo'ed Katan 28a

with reference to a woman who died in childbirth,[1] but [that of] other women may be set down [in the broadway]. R. Eleazar says: [The rule applies] even to other women, as it is written: And there Miriam died and was buried there,[2] which shows that her death was close to her [place of] burial. R. Eleazar also said that Miriam also died by the Divine kiss [like Moses]: We interpret the expression ‘there’ [used at Miriam's death] in the same sense as that of the expression ‘there’ used of Moses.[3] Wherefore then is it not said about her [that she died] by the mouth of the Lord?[3] Because it would be unbecoming to say so.

Said R. Ammi, Wherefore is the account of Miriam's death[4] placed next to the [laws of the] red heifer?[5] To inform you that even as the red heifer afforded atonement [by the ritual use of its ashes], so does the death of tie righteous afford atonement [for the living they have left behind].

R. Eleazar said, Wherefore is [the account of] Aaron's death closely followed by [the account of the disposal of] the priestly vestments?[6] [To inform you] that just as the priest's vestments were [means] to effect atonement,[7] so is the death of the righteous [conducive to procuring] atonement.

Our Rabbis taught: If one die suddenly, this is [reckoned] as being ‘snatched away’; if one is ill one day and dies, that is reckoned as being hustled away; R. Hanania b. Gamaliel says, That is death by a stroke, for it is said: Son of Man, behold I take away from thee the desire of thine eyes with a pestilential stroke,[8] and it is written [there. after], So I spoke unto the people in the morning and at even my wife died.[9] After two days’ [illness], it is a rather precipitous death.[10] [After] three — it is one of reproof; [after] four — it is one of rebuff [snubbing]; [after] five is the ordinary death of all men.[11] (Said R. Honin: What is the text [for this]? Behold thy days are approached that thou must die.[12] ‘Behold’ [accounts for] one;[13] ‘thy days’ accounts for two [more]; ‘are approached’ [gives us] two [more], which makes five. ‘Behold’ makes one because the word for ‘one’ in Greek is hen.)[13]

‘If one dies [under][14] fifty years [old] — that is death by kareth;[15] at fifty-two years — that is the death of Samuel of Ramah; at sixty — that is by the hand of Heaven’.[11] (Said Mar Zutra: What is the text [for this]? Thou shalt come to thy grave in ripe age,[16] as the [numerical value of the] word for ‘in ripe age’ yields sixty.) ‘At seventy, it is the death of the hoary head; at eighty it is the death of a vigorous [old man]. for it is written, The days of our years are three score and ten, or even by reason of strength four score years.[17] Said Rabbah,[18] From fifty to sixty years [of age]. that is death by kareth, and the reason why this has not been mentioned was out of deference to [the prophet] Samuel of Ramah. R. Joseph, on his attaining the age of sixty, made a festival day for the Rabbis [of the Academy] saying. ‘I have just passed beyond [the limit of] kareth’. Said Abaye to him: ‘Granted, Sir, that you have passed the [limit of] kareth as to years. but as to the [limit of sickening] days[19] have you escaped that’? He replied: ‘Nevertheless, hold on to the half’.[20] R. Huna's soul went into repose suddenly[21] and the Rabbis [of the academy] were perturbed [thereat] when Zoga[22] who hailed from Adiabene taught them:[23] ‘What we learned applies only when one has not attained the "age of strength" [eighty] but if one has attained the "age of strength" [eighty] a sudden death is dying by the kiss’.

Raba said: [Length of] life, children and sustenance depend not on merit but [rather on] mazzal.[24] For [take] Rabbah and R. Hisda. Both were saintly Rabbis; one master prayed for rain and it came, the other master prayed for rain and it came. R. Hisda lived to the age of ninety-two,[25] Rabbah[26] [only] lived to the age of forty. In R. Hisda's house there were held sixty marriage feasts, at Rabbah's house there were sixty[27] bereavements. At R. Hisda's house there was the purest wheaten bread for dogs, and it went to waste;[28] at Rabbah's house there was barley bread for human beings and that not to be had. This too, Raba said: These three requests I made of Heaven; two were granted me and one was not. [I prayed for] the scholarship of R. Huna and the wealth of R. Hisda which were granted me; but the modest disposition of Rabbah son of R. Huna,[29] that was not granted me.

R. Se'orim, Raba's brother, while sitting at Raba's bedside[30] saw him [Raba] going into sleep [dying],[31] when he [the invalid] said to his brother: ‘Do tell him,[32] Sir, not to torment me’. R. Se'orim replied: ‘Are you, Sir, not his intimate friend?’[33] Said Raba: ‘Since [my] mazzal[34] has been delivered [to him], he takes no heed of me’. R. Se'orim then said to the dying: ‘Do, Sir, show yourself to me [in a dream]’. He did show himself and when asked: ‘Did you, Sir, suffer [pain]?’ He replied: ‘As from the prick of the cupping instrument’.

Raba, while seated at the bedside[30] of R. Nahman, saw him sinking into slumber [death].[35] Said he to Raba: ‘Tell him,[36] Sir, not to torment me’. Said Raba: ‘Are you, Sir, not a man esteemed?’[37] Said [R. Nahman] to him, ‘Who is esteemed, who is regarded, who is distinguished [before the Angel of Death]?’ Said [Raba] to him: ‘Do, Sir, show yourself to me [in a dream]’. He did show himself. [Raba] asked him: ‘Did you suffer pain, Sir’? He replied: ‘As [little as] the taking of a hair from the milk; and were the Holy One, blessed be He, to say to me, Go back to that world as you were, I wish it not, for the dread thereof [of death] is great’.

R. Eleazar was eating some terumah [priest's holy food] when he[36] showed himself to him. Said he, Am I not [in the pious act of] eating terumah and is not that designated ‘holy [meat]’?[38] The [fatal] moment [thus] was past! R. Shesheth caught sight of him[36] in the market place. Quoth he: ‘Do you [seize me] in the market place like a beast? Come to [the] house’! R. Ashi[39] caught sight of him[36] in the market place. Quoth he: ‘Grant me thirty days’ respite and I shall revise my studies, inasmuch as you say [in Heaven above]: "Happy he that cometh hither [to Heaven] bringing his learning ready with him".’[40] he came [again] on the thirtieth day; quoth he, ‘What is the urgency?’ He replied: R. Huna[41] b. Nathan is close on your heels[42] and, ‘No sovereignty encroaches upon the sphere of another even to a hair's breadth’.

As for R. Hisda, he[36] could never overcome him as his mouth was never silent from [repeating] his learning by rote. So he went and settled on the cedar tree of the Schoolhouse. The tree cracked; R. Hisda stopped [and] he overcame him.

As for R. Hiyya. he[36] could not gain access to him. So one day he adopted the guise of a poor man and came and rapped at the gate, saying, ‘Bring me out some bread’. They [others] brought out some bread to him. Said he then to R. Hiyya: ‘Don't you, Sir, treat the poor kindly? Why not, Sir, [also] treat kindly this man [standing outside]?’[43] He [R. Hiyya] opened the door to him,[44] whereupon, showing him a fiery rod, he made him yield his soul.

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(1) For obvious reasons of delicacy; they might stain their clothing and bier.

(2) Num. XX, 1, ‘There’ being repeated twice.

(3) Deut. XXXIV, 5: So Moses the servant of the Lord died there in the land of Moab by the mouth of the Lord. In the is passage ‘there’ could have been omitted, and in the above passage we have also a superfluous ‘there’, which suggests the Gezerah shawah, v. Glos.

(4) Num. XX, I.

(5) Ibid. XIX. It is called a ‘sin-offering’ and the ritual use of its ashes afforded the means of purification as well as the desire to sanctification.

(6) Ibid. XX, 26, 28.

(7) Lev. XVI, 4, 24, 32, 33. Cf. Zeb. 88b.

(8) Ezek. XXIV, 16.

(9) Ibid. verse 18.

(10) Cf. P5. CXVIII, 13 ,דחה דחיתני and XXXVI, 13.

(11) Here the quotation is interrupted.

(12) Deut. XXXI. 14.

(13) The word הן , — hen — similar in sound to ** — hen — the Greek neuter for one. The quotation is now resumed.

(14) So Sem. III, 8.

(15) ‘Cut off’ for certain sins. E.g., Lev. XVIII. V. Mak. Chapter III, 13aff. (Sonc. ed., p. 90. n. 2). Cf. Tosaf. here, s.v.

(16) Job V, 26. בכלה = 2 + 20 + 30 + 8, in letter value.

(17) Ps. XC, 10.

(18) Raba is probably more correct, as Rabbah himself died at forty.

(19) I.e., there is yet the danger of dying suddenly without any warning as cited above.

(20) Take what you get, a proverbial phrase.

(21) 297 C.E. Cf. supra 25a.

(22) Or Zawa.

(23) I.e., cited to them a Baraitha on the point.

(24) ‘Destiny’. Cf. however, Shab. 156a.

(25) Died 309 C.E.

(26) 13. Nahmani, died 330 C.E.

(27) A proverbial number. The number sixty is a Babylonian unit, e.g., the hour and minute are divided into sixty.

(28) Lit., ‘was not wanted’.

(29) Died 322 C.E.

(30) Lit., ‘in front of R.’

(31) 252 C.E.
(32) The Angel of Death.
(33) Lit., ‘a bosom friend’, cf. Sanh. III, 5. As a teacher of Torah, he is God's messenger himself. V. Mal. II, 6-7.
(34) The guardian Angel.
(35) 320 C.E.
(36) The Angel of Death.
(37) To make your appeal direct to the Angel of Death; He would surely grant your request.
(38) Cf. Num. XVIII, 11-12. If he were to die just then the terumah would be defiled which is not a correct thing to do. Besides, ‘a pious deed acts as a shield against tribulation’. Cf. Aboth. IV, 11, P.B. p. 107 (top).
(39) Var. lec. Assi.
(40) Lit., ‘in his hand’. Cf. Pes. 50a.
(41) So MS.M. V. Git. 59a and Zeb. 19a. Var. lec. R. Huna b. Hisda,
(42) I.e., waiting to succeed you.
(43) Why not yourself befriend me, this poor man, and give me the bread with your own hand?
(44) Cf. A.Z. 58a (Sonc. ed., 11. 289). Here probably to be one word גליליה ‘he pushed the door aside’; cf. גילל for a slab used for closing the entrance to a tomb.

Talmud - Mas. Mo'ed Katan 28b

MISHNAH. WOMEN MAY RAISE A WAIL DURING THE FESTIVAL [WEEK], BUT NOT CLAP [THEIR HANDS IN GRIEF]; R. ISHMAEL SAYS, THOSE THAT ARE CLOSE TO THE BIER CLAP [THEIR HANDS IN GRIEF]. ON THE DAYS OF NEW MOON, OF HANUKKAH AND OF PURIM[1] THEY MAY RAISE A WAIL AND CLAP [THEIR HANDS IN GRIEF]. NEITHER ON THE FORMER[2] NOR ON THE LATTER OCCASIONS DO THEY CHANT A DIRGE. AFTER [THE DEAD] HAS BEEN INTERRED THEY NEITHER RAISE A WAIL NOR CAP [THEIR HANDS IN GRIEF]. WHAT IS MEANT BY RAISING A WAIL’ [‘INNUY]?[3] WHEN ALL SING IN UNISON. WHAT IS MEANT BY A DIRGE [KINAH]?[4] WHEN ONE SPEAKS[5] AND ALL RESPOND AFTER HER, AS IT IS SAID: AND TEACH YOUR DAUGHTERS WAILING AND ONE ANOTHER [EACH] LAMENTATION [KINAH].[6] BUT AS TO THE FUTURE [DAYS] TO COME, [THE PROPHET] SAYS: HE WILL DESTROY DEATH FOR EVER AND THE LORD GOD WILL WIPE AWAY TEARS FROM OFF ALL FACES.[7]

GEMARA. What say the women [in lament]? — Said Rab.[8] ‘Cry woe o'er him that is now departing! Cry woe o'er his wounds[9] [and smarting]!’ Raba[10] said, The women of Shoken-Zeb[11] speak thus:

‘Cry woe o'er him that is departing!

Cry woe o'er his wounds and smarting!’

Raba also said, The women of Shoken-Zeb speak thus:

‘Withdraw the bone from out the pot[12]

And the kettles[12] fill with water [hot]’.

Raba said this also: The women of Shoken-Zeb speak thus:

‘Be muffled,[13] ye high mountains,

[Clouds] covering your head;

Of high lineage and grand ancestry

Came he that is dead’.

Also this said Raba: The women of Shoken-Zeb speak thus:

‘Borrow [and buy] a Milesian[14] robe

To dress a free-born son;

[Give it free of charge] for

Provision left he none’.[15]

And furthermore said Raba: The women of Shoken-Zeb speak thus:

‘Comes hurrying and scurrying[16] Tumbling aboard the ferry

And having to borrow his fare’.

Again this said Raba: The women of Shoken-Zeb speak thus:

‘Our brothers are merchants who

At the custom houses[17] are searched’.

And again said Raba: The women of Shoken-Zeb speak thus:

‘This death or that death [is the end of the quest];

Our bruises are the rate of interest’.

It is taught: R. Meir was wont to say: ‘[It is written], It is better to go to the house of mourning than to go to the house of feasting; for that is the end of all men and the living will lay it to heart.[18] ["And the living will lay it to heart"], what is that? Things about death; if one makes lament, others will lament for him; if one assists at burial, others will bury him; if one bears the bier, others will bear him; if one raises [his voice][19] others will raise [their voice] for him’. Others read [the last]: ‘And he that raises not [himself with pride], others will raise him, as it is written: Glorify not thyself in the presence of the King and stand not in the place of great men; for better is it that it be said unto thee, Come up hither, than that thou shouldest be put lower in the presence of the prince.[20]

Our Rabbis taught: When the sons of R. Ishmael died, four Elders went into his house to comfort him. R. Tarfon, R. Jose the Galilean, R. Eleazar b. ‘Azaria and R. Akiba. Said R. Tarfon to them: ‘Know ye, he is a great sage and erudite in homiletic exposition, let none of you break in while another is speaking’. Said R. Akiba: ‘And I be last!’ R. Ishmael opened[21] [the conversation] and said: ‘His[22] sins were many, his sorrowful bereavements came in close succession; he[22] troubled his Masters once and a second time!’ R. Tarfon responded and said: ‘But your brethren, the whole house of Israel bewail the burning which the Lord hath kindled.[23] Is not this universal sorrow more due[24] now [even than there]? Why, if Nadab and Abihu who had performed but one office — as it is written: And the sons of Aaron presented the blood unto him[25] . . . were thus [universally mourned] — how much more clue to the sons of R. Ishmael’! R. Jose the Galilean then responded and said: It is written: And all Israel shall make lamentation for him and bury him.[26] Is not more due now? Why, if Abijah Jeroboam's son who had done but one good thing — as it is written: Because in him there is found some good thing towards the Lord God of Israel,[26] — was mourned in such universal manner, how much more is clue to the sons of Ishmael!

What was that ‘good thing’? R. Zeira and R. Hanina b. Papa [gave different explanations]: one Saying that he left his charge [post] and went on a festive pilgrimage [to Jerusalem]; the other saying that he removed the military guards[27] that his father had posted on the roads to prevent the Israelites from going on a pilgrimage [to Jerusalem].[28]

R. Eleazar b. ‘Azaria then responded and said: ‘Thou shalt die in peace and with the burning of thy fathers, the formaer kings that were before thee, so shall they make a burning for thee.[29] Is not more clue now? Why, if Zeclekiah King of Judah who had performed but one office in having had Jeremiah lifted from the mire,[30] was to be mourned thus, how much more is due to the sons of Ishmael’!

R. Akiba then responded and said: ‘In that day there shall be a great mourning in Jerusalem, as the mourning of Hadadrimmon in the valley of Megiddon’.[31] [On this] R. Joseph said, Had we not the [Aramaic Targum] rendering of that text, I would not have known what it said there: ‘In that time the mourning at Jerusalem will be as great as the lament over Ahab son of Omri whom Hadadrimmon son of Tabrimmon had slain[32] and as the lament over Josiah son of Amon whom Pharaoh the Lame[33] [Necho] had slain in the valley of Megiddon.[34] Is not more due now? Why, if Ahab King of Israel who had done but one good thing — as t is written: And the king was stayed up in his chariot against the Arameans [and died at even][35] — was lamented thus how much more is due to the sons of Ishmael’!

Said Raba to Rabbah b. Mari, It is written about Zedekiah: Thou shalt die in peace;[36] yet it is written [thereafter]: Moreover he [Nebuchadnezzar] put out Zedekiah's eyes?[37] — He replied that R. Johanan had explained it thus, [namely] that Nebuchadnezzar died in Zedekiah's lifetime.[38] Again said Raba to Rabbah b. Mari, it is written: Therefore, behold I will gather thee to thy fathers, and thou shalt be gathered to thy grave in peace;[39] yet it is written [about him elsewhere]: And the archers shot at King Josiah,’ [and the King said to his servants, Have me away for I am sore wounded;[40] And [on this last part] R. Judah citing Rab, commented: They riddled[41] his body like a sieve! — This, too he replied, R. Johanan explained that the Temple had not been destroyed [as threatened] in his lifetime.

Said R. Johanan:[42] Comforters are not permitted to say a word until the mourner opens [conversation], as it is said: So they sat down with him on the ground. . . and none spake a word unto him; for they saw that his grief was very great.[43] After this opened Job his mouth[44] . . . Then answered Eliphaz the Temanite.[45]

Said R. Abbahu: Whence [derive we the practice] that the mourner reclines in the foremost place[46] [at the mourners’ repast]? From what is said [by Job]: I chose out their way, and sat chief, and dwelt as a king it, the army, as one comforteth the mourners.[47] ‘As one comforteth the mourners’? Does not that convey [rather] that he was [at the head in] comforting others? — Said R. Nahman b. Isaac: [Not necessarily as] it is written Yenahem, it may be rendered, ‘as when one comforteth mourners’.[48]

Mar Zutra said: The rule might be [derived] from here:[49] And prince[50] be he who is embittered — distraught[51] among those stretched [on couches].[52] Said R. Hama b. Hanina, Whence [is derived the practice] that a bridegroom reclines in the foremost place [at the marriage feast]? From what is said: I will rejoice in the Lord . . . for He hath clothed me with the garments of salvation . . . as a bridegroom that ministers in his diadem as a priest.[53] Which means that just as a priest [with whom he is compared] is at the head, so is the bridegroom [placed] at the head. And whence have we this ruling about the priest himself? — From what is taught in [a Baraitha of] the School of R. Ishmael: And thou shalt sanctify him [the priest] for he offereth the bread of thy God,[54] which means, [sanctify him] in every matter appertaining to hallowed things, to be first to begin,[55] first to say grace, first to take a fair portion.

R. Hanina said: The dying gasps severely agitate the body

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(1) For these cf. supra p. 178, nn. 7 and 8.

(2) The festival week.

(3) I.e.. what is the technical meaning of the word used in the Mishnah, which literally means chanting, singing the lamenting words.

(4) The term for chanting a dirge used in the Mishnah.

(5) Or, leads.

(6) Jer. IX, 19.

(7) Isa. XXV, 8 cited here as a comforting conclusion to the lugubrious subject of the tractate.

(8) Died 247 C.E.

(9) Cf. P5. XVIII, 5-6; CXVI, 3; Micah II, 10. Aliter: ‘loss’.

(10) Died 309 C.E. half a century after Rab, who reported the same dirge.

(11) Identified by Obermeyer. 190ff as Askun — Zefia, two places in close proximity on the eastern bank of the Tigris, a parasanq (mile) from Sikara and, higher up. Mahoza, Raba's place.

(12) Reading מככבא instead of מככא as in our text (or D.S. מבבא) which means, ‘Withdraw the bone from the molar tooth’ which gives no sense, as the dying do not suck or gnaw a bone. It has hitherto defied all explanation. It is probably a misreading of ככבא from ** or Latin cacabus a three-legged cooking pot synonymous with cucuma — קומקום — associated here with אנטיכי = ** (V. Shab. 41a) meaning: He's dead, he needs no broth; fill now the pots and kettles with hot water to wash the dead instead.

(13) Cf. supra 24a about the mourner muffling himself in his cloak and covering his head. Han. and other commentators give other various interpretations.

(14) A robe of Milesian wool was the finest. V. Classical Dictionaries.

(15) Lit., ‘has come to an end’, has run out. Give him a decent funeral.

(16) Han. has different readings to the same effect — ‘Running and tumbling comes one with a wallet...’ Cf ‘a purse of denars’. B.M. 28b (Sonc. ed., p. 176) and v. Jast. 22a.

(17) Reading אזבזגי. Cf. Kohut, Ar. Compl. III, 264 s.v. זבזגי . His correction is confirmed by SBH p. 235. Kohut appropriately refers to Shab. 32a q.v. Han. gives another reading cited in Ar. Compl. l.c.: ‘Our brothers are merchants who are tested by the goods they sell’.

(18) Eccl. VII, 2.

(19) I.e., will cry aloud in his lament. Cf. Ber. 6b.

(20) Prov. XXV, 6-7.

(21) Comforters are not to speak until the mourner has acknowledged their presence by some word addressed to them. Cf. Job II, 11-13; III, 1ff

(22) Euphemistically altered by the Scribe, instead of saying. ‘My sins etc.’ ‘I troubled...’.

(23) Lev. X, 6.

(24) Lit., ‘is not this a fortiori?’

(25) Ibid. IX, 9, while assisting their father at the ceremony of their induction into the priestly office.

(26) I Kings XIV, 13.

(27) פרסדאות or פרזדאות = praesidia. V. Ar. Compl. VI, p. 418a. Var. lec. פריסתקאות cf. **

(28) Cf. B. B., Sonc. ed. p. 499.

(29) Jer. XXXIV, 5.

(30) Cf. Ibid. XXXVIII, 6.

(31) Zech. XII, 11. The quotation is interrupted by a comment.

(32) I Kings XXII, 34f.

(33) Translation of נכה — Necho. Cf. II Sam. IV, 4; IX, 3.

(34) II Kings XXIII, 29-20; II Chron. XXXV, 20ff.

(35) I Kings XXII, 35. The good deed consisted in the wounded king being propped up so as not to discourage the fighting men and not to give the enemy an advantage.

(36) Jer. XXXIV, 5.

(37) Ibid. XXXIX, 7.

(38) I.e., Zedekiah had the satisfaction to outlive his captor.

(39) II Kings XXII, 20 addressed to King Josiah.

(40) Il Chron. XXXV, 23.

(41) Taking the word החליתי (I have been made ill) as if it were from חלל (I am pierced, holed). Cf Num. XIX, 16. J. Kid. I, 7 adds: ‘They riddled him with three hundred arrows’,

(42) D.S., Han., Asheri and others have: Said Rab Judah, as citing Rab.

(43) Job. II, 13.

(44) Ibid. III, 1.

(45) Ibid. IV, 1.

(46) On the table etiquette of the ancients, both in Palestine and in Babylon, v. Ber. 46b, where both R. Naliman b. Isaac and Mar Zutra mentioned here are among the persons taking part in the discussion on this point.

(47) Job XXIX, 25. Possibly R. Abbahu and Mar Zutra (mentioned next) read into the terms ‘chief’ and ‘king’ the popular, familiar usage of these terms in Latin and Greek, by which they designated the person presiding over the toasts at the end of a feast, the rex convivii, basileus, or symposiarch. The following citation from Sem. XIV, (end), will make it clear: ‘Ten cups (toasts) they drink in the house of mourning; two before the meal, five during the meal and three after the meal (namely) one for the benediction of the mourners, one for comforting the mourners and one (in reference) to acts of loving-kindness (the merits of the deceased; the bearers of the biers and the orators at the funeral; cf. Sot. 14a). Then they added more cups — one (toast) for the "chief of the synagogue", one for the "administrator of the synagogue" and one to (the memory of) Rabban Gamaliel. But when the Beth din saw that some were coming away drunk they issued an inhibition (on the innovation) and made them go back to the old practice’. For considerable divergencies v. Keth. 8b. Cf. Ber. 46b. In J. Ber. III, 1 it is stated that the cup for Rabban Gamaliel had been introduced after his death. Seemingly it was introduced to commemorate his great social reform in directing the simplification of funerals. Cf. supra 27b, p. 177.

(48) Which is the equivalent of the passive ‘as when mourners are being comforted’. For other instances of this use of the third person singular in the passive sense v. Gen. XLVIII, 1-2 (someone told Joseph, one told Jacob). Cf. Gesenius, Hebrew Grammar, 144, 3a. Or, it may be pointed ינחם = as when ‘it being comforted’, i.e., when comfort is being tendered to mourners.

(49) Amos VI, 7. The rendering is here adapted to the requirements of the exposition. The prophet there threatens: Therefore now shall they (the callous revellers) go captive at the head of captives and the revelry (מרזח) of them that lay (סרוחים) stretching (on banqueting couches) shall pass away (סר). It is the three words, וסר מרזח סרוחים , in the second half of the sentence that are being strained to yield the sense required by Mar Zutra.

(50) וסר (and shall pass away) = ושר (and prince be).

(51) מרזח is divided into מר (bitter) and זח (moved, perturbed, distraught). Cf. Rashi on the parallel passage Keth. 69b. The term מרזח denotes solemn feasting, particularly a funerary repast, as seems clear from Jer. XVI, 5-8. Cf. Ar. Compl., a.v. Also, Kimhi on Jer. l.c. and on Amos, l.c.

(52) Cf. Amos VI, 4.

(53) Isa. LXI, 10.

(54) Lev. XXI, 8.

(55) The reading of the Law in the synagogue.

Talmud - Mas. Mo'ed Katan 29a

like the rigging[1] at the edge of the mast.[2] R. Johanan said, like the top-sail[3] at the edge of the mast.

R. Levi b. Hitha said: One bidding farewell to the dead should not say unto him ‘Go unto peace’, but ‘Go in peace’; one bidding farewell to the living [friend] should not say to him ‘Go in peace’. but ‘Go unto peace’. One bidding farewell to the dead should not say to him, ‘Go unto peace’, because it is said [unto Abraham]: But thou shalt go to thy fathers in Peace,’ thou shalt be buried.[4] One bidding farewell to the living [friend][5] should not say to him, ‘Go in peace’, but ‘Go unto peace’, because there was David [who] said to Absalom, ‘Go in peace,[6] and he went and was hanged.[7] Whereas, Jethro said to Moses, ‘Go unto peace,[8] [and] he went and succeeded.

And, said R. Levi:[9] Whoever comes out of the Synagogue and goes into the Beth Hamidrash, or from the Beth Hamidrash to the synagogue shall gain the privilege of being admitted into the Presence of the Shechinah,[10] as it is said: They go from strength to strength, every one of them appeareth before God in Zion.[11] R. Hiyya b. Ashi as citing Rab, said: The disciples of the Sages have no rest even in the world to come, as it is said: They go from strength to strength, every one of them appeareth before God in Zion.

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(1) So Rashi here (which is not of Rashi's authorship) and on Ber. 8b. In this naval simile we need not be surprised to find the terms used to be of Greek origin, just as we have many naval terms in English of Dutch origin. צפורי in the sense of ‘rigging’ is seemingly the Greek ** = cord, rope, especially a ship's cable. The term may mean the ‘top-sail’, ** Latin, siparum and supparum, which is defined by Festus as, Velum Minus in navi ut acation (acatium) majus; (v. Lewis and Short, Lat. Dict. s.v.).

(2) וושט, connected by Rashi with תורן (a mast) is the Greek **.

(3) פטורי is the Greek ** which means, anything suspended aloft or fluttering in mid-air, a top-mast or pennant.

(4) Gen. XV, 15.

(5) So Asheri and other texts.

(6) II Sam. XV, 9.

(7) Ibid. XVIII, 9ff.

(8) Ex. IV, 18.

(9) Ber. 64a has R. Levi b. Hiyya.

(10) The Divine Presence.

(11) Ps. LXXXIV, 8.

C H A P T E R I

MISHNAH. ALL ARE BOUND To APPEAR [AT THE TEMPLE],[1] EXCEPT A DEAF MAN [HERESH],[2] AN IMBECILE AND A MINOR,[3] A PERSON OF UNKNOWN SEX [TUMTUM],[4] A HERMAPHRODITE,[5] WOMEN, UNFREED SLAVES,[6] THE LAME, THE BLIND, THE SICK, THE AGED, AND ONE WHO IS UNABLE TO GO UP ON FOOT.[7] WHO IS [IN THIS RESPECT DEEMED] A MINOR?[8] WHOEVER IS UNABLE[9] TO RIDE ON HIS FATHER'S SHOULDERS AND GO UP FROM JERUSALEM TO THE TEMPLE MOUNT. [THIS IS] THE VIEW OF BETH SHAMMAI.

BUT BETH HILLEL SAY: WHOEVER IS UNABLE TO HOLD HIS FATHER'S HAND AND GO UP FROM JERUSALEM TO THE TEMPLE MOUNT, FOR IT IS SAID:[10] THREE REGALIM.[11]

BETH SHAMMAI SAY: THE PILGRIMAGE-OFFERING[12] MUST BE WORTH [AT LEAST] TWO PIECES OF SILVER[13] AND THE FESTAL OFFERING[14] ONE MA'AH OF SILVER.[15] BUT BETH HILLEL SAY: THE PILGRIMAGE-OFFERING MUST BE WORTH [AT LEAST] ONE MA'AH OF SIlver AND THE FESTAL SACRIFICE TWO PIECES OF SILVER.

GEMARA. What does [the word] ALL come to include?[16] — It comes to include one who is half a slave and half a freedman.[17] But according to Rabina, who says: One who is half a slave and half a freedman is exempt from appearing [at the Temple], what does [the word] ALL come to include? — It comes to include one who was lame on the first day [of the festival] and became well[18] on the second.

This will be right according to the one who says: All of them[19] can make good [the sacrifices] for one another;[20] but according to the one who says: All of them can make good [the sacrifices] of the first day [only],[21] what does ALL, come to include? — It comes to include a man who is blind in one eye; and it is contrary to the opinion of the following Tanna. For it is taught: Johanan b. Dahabai[22] said in the name of R. Judah: A man who is blind in one eye is exempt from appearing [at the Temple][23] as it is said:[24] Yir'eh [He will see], Yera'eh [He will be seen].[25]

As He comes to see, so he comes to be seen: just as [He comes] to see with both eyes, so also to be seen with both eyes. Alternatively, I could answer: Actually, it is as I said at first;[26] and as for your objection [arising] from the statement of Rabina, it is not a [valid] objection: the one [teaching][27] is according to the earlier Mishnah,[28] and the other[29] is according to the later Mishnah.[30] For we have learnt: One who is half a slave and half a freedman serves his master one day and himself the other day: this is the view of Beth Hillel. Said Beth Shammai to them:

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(1) I.e., at the Temple Court (עזרה), on the three Pilgrim Festivals of Passover, Pentecost and Tabernacles; cf. Ex. XXIII, 14, 17; Deut. XVI, 16. The word ראייה (rendered in our text, 'to appear') is understood by Rashi, Maimonides, Jastrow, Danby etc. in the sense of ראיית פנים, the personal appearance of the pilgrim in the Temple. But R. Tam (in Tosaf. a. l.) regards it as referring to the burnt-offering (v. Lev. I, 3f) brought by the pilgrim on his visit to the Temple i.e. it stands for עולת ראייה; cf. end of Mishnah, 4b, 6b et seq.

(2) Explained infra 2b as a 'deaf-mute'.

(3) The deaf man, imbecile and minor are exempted from the observance of this and other positive precepts on account of lack of intelligence. The reason for the exemption of others is explained in the Gemara.

(4) טומטום from טמם 'to fill up stop': one whose genitals are concealed or undeveloped.

(5) אנדרוגינוס Grk. **.

(6) Explained infra 4a as 'half free'; v. p. 2, n. 6.

(7) I.e., from Jerusalem to the Temple Mount.

(8) Ordinarily, a boy up to the age of thirteen years and a day is considered a minor

(9) I.e., is too young; but as soon as he is old enough he must visit the Temple, because, although exempt by the Law of the Torah till he reaches his majority (v. n. 8), the Rabbis imposed on the father the duty of training him in the observance of the precepts.

(10) Ex. XXIII, 14.

(11) רגלים (pl. of רגל) rendered in E.V. by 'times', occurs in this sense again only in Num. XXII, 28, 32, 33. On the basis of Ex. XXIII, 14, the Mishnah often uses רגלים of the three Pilgrim Festivals. But the usual meaning of רגל is 'foot', hence the quotation is understood in our Mishnah as 'three times on foot' i.e., the precept to appear at the Temple applies only to those who can walk.

(12) ראייה, the word translated above 'to appear' (v. p. 1, n. 1). Here it stands for עולת ראייה, the burnt-offering, which, it was inferred from Ex. XXIII,15 (end), the pilgrim had to bring on visiting the Temple.

(13) I.e., two ma'ahs, v. n. 4.

(14) הגיגה, whence our tractate derives its name. It was a peace-offering (cf. Lev. III,15) and was inferred from Lev. XXIII, 41; v. infra 9a.

(15) A sixth of a denar, v. Glos.

(16) The word 'ALL' is emphatic'; it implies that persons who might be thought exempt are subject to the commandment; hence the question.

(17) E.g., he belonged to two masters, and was freed by one of them.

(18) Lit., 'became straight' (in limb).

(19) I.e.,the seven individual days of the festival.

(20) I.e., if a man was unfit to bring his sacrifices on the first day of the festival (e.g.,if he was exempt on account of lameness) and during the festival he became fit (i.e., regained the use of his leg), it is his duty to make good his sacrificial dues on the day of the festival that he becomes fit.

(21) I.e., if he was unfit on the first day, he is completely exempt, though he becomes fit in the course of the festival.

(22) Probably the name means, 'Goldsmith'.

(23) Or, according to Tosaf. (v. p. 1, n. 1), 'exempt from bringing the pilgrimage- offering'; and so wherever the translation has 'appearing'.

(24) Ex. XXIII, 17.

(25) יראה may be vocalised יראה (Kal, 'He will see') or following the Massorah, יראה (Nif'al, 'He will be seen, appear); cf. Gen. XXII, 14. By combining both readings, it is deduced that the 'seeing' and 'being seen' must be alike in regard to fulness of vision i.e., in regard to the use of both eyes: just as God comes to see the pilgrim with both eyes (an anthropomorphism for full vision necessitated by the desired parallel in respect to man), so when the pilgrim comes to appear before God, he must be able to see with both eyes. So Rashi: but R. Tam (in Tosaf. a.l.) prefers to make man the subject, and construes thus; יראהתיראה just as the pilgrim is seen by God, Who has two eyes (i.e., full vision), so he must see Him (i.e., appear in the Divine presence) with both eyes.

(26) I.e., that the word all comes to include a half-slave.

(27) I.e., the statement that unfreed slaves are exempt from visiting the Temple, which Rabina interprets as inferring such as are half free.

(28) I.e., the Mishnah as it was formulated before the School of Hillel (whose ruling was authoritative against that of the Shammaite School cf. Ber. 36b and Gratz, vol. IV, p. 424, n. 4; Heb. edn. vol. II, p. 172, n. 1) came over to the view of the School of Shammai.משנה ראשונה (rendered, 'the earlier Mishnah') may refer either (a) to a single previous ruling later revised, or (b) to an entire compilation of the Mishnah, in which case it may be rendered, 'the first Mishnah'; cf. J.E. vol. VIII, P. 610f, and refs.

(29) V. note 4.

(30) I.e., representing the later opinion of the School of Hillel. Though this second opinion contradicts the first, the earlier ruling was not erased from the Mishnah, on the principle that a Mishnah (ruling) which had once been taught was not to be removed from its place; cf. Yeb. 30a et passim.

Talmud - Mas. Chagigah 2b

You have made it right for his master,[1] but you have not made it right for himself[2] He may not marry a bondwoman, nor may he marry a freewoman.[3] Should he abstain [from marriage]? But then was not the world created only for propagation?[4] as it is said:[5] ‘He created it not a waste, He formed it to be inhabited’. For the sake of the social order,[6] therefore, his master must be compelled to set him free, and the latter must give him a bond for the half of his value. Thereupon Beth Hillel retracted and gave their ruling in accordance with the view of Beth Shammai.

EXCEPT A DEAF MAN [HERESH], AN IMBECILE AND A MINOR etc. [Our Mishnah] speaks of HERESH similarly as of the IMBECILE and MINOR: just as the IMBECILE and MINOR lack understanding, so HERESH [means] one that lacks understanding. This teaches us in accordance with that which we have learnt:[7] ‘Wherever the Sages speak of HERESH,[8] [it means] one who can neither hear nor speak.[9] This [would imply] that he who can speak but not hear,[10] hear but not speak is obligated.[11] We have [thus] learnt that which our Rabbis taught.[12] One who can speak but not hear is termed HERESH: one who can hear but not speak is termed Illem [dumb]; both of these are deemed sensible in all that relates to them. And whence [is it deduced] that one who can speak but not hear is termed Heresh, and one who can hear but not speak is termed ‘Illem? — For it is written: But I am as Heresh [a deaf man], I hear not,’ and I am as Illem [a dumb man] that openeth not his mouth.[13] Alternatively, I could explain: As people say,[14] His words have been taken away.[15]

‘One that can speak but not hear, hear but not speak is obligated’. But surely it is taught: One that can speak but not hear, hear but not speak is exempt![16] — Said Rabina, and according to others, Raba: [Our Mishnah] is defective and should read thus: All are bound to appear [at the Temple] and to rejoice,[17] except a Heresh that can speak but not hear, [or] hear but not speak, who is exempt from appearing [at the Temple];[18] but though he is exempt from appearing, he is bound to rejoice. One, however, that can neither hear nor speak,[19] an imbecile and a minor are exempt even from rejoicing, since they are exempt from all the precepts stated in the Torah,[20] Likewise it is also taught: All are bound to appear [at the Temple] and to rejoice, except a Heresh that can speak but not hear, [or] hear but not speak, who is exempt from appearing; but though he is exempt from appearing

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(1) I.e., he gets the full benefit of his half-ownership.

(2) R. Meshullam (in Tosaf.) prefers the opposite reading. ‘You have made it right for himself, but you have not made it right at all for his master’; because the latter loses any possible share of the offspring.

(3) Being partly a freedman he may not marry a slave; being partly a slave he may not marry a freewoman; v. Deut. XXIII, 18 and Targum Onkelos a.l.

(4) Lit., ‘for fruitfulness and multiplication’, cf. Gen. I, 28.

(5) Isa. XLV, 18.

(6) Lit., ‘for the sake of the establishment (or improvement) of the world’; cf Git. IV, 2, 3, where Danby renders; ‘as a precaution for the general good’.

(7) Ter. I, 2.

(8) I.e., together with the Imbecile and Minor.

(9) Tosaf. quotes and explains exceptions to this rule: cf. Meg. 19b and Hul. 2a.

(10) E.g., he was able to hear when born and learnt to speak, but later became deaf.

(11) I.e., to fulfil the precept of appearing at the Temple.

(12) I.e., our Mishnah supports and thus gives validity to the following Baraitha. (11) This statement agrees, by implication, with our Mishnah, which puts only a deaf-mute in the same category as an imbecile.

(13) Ps. XXXVIII, 14.

(14) I.e., a popular proverb; v. J.E vol X, p. 226f.

(15) I.e., אלם (‘dumb’) is an abbreviation of אשתקיל מלליה (‘his words have been taken away’).

(16) I.e., from visiting the Temple; thus the Baraitha contradicts our Mishnah.

(17) V. Deut. XVI, 14. Ritually the rejoicing took the form of a sacrificial meal of peace-offerings; cf. infra 8b and Pes. 109a.

(18) And from bringing the accompanying burnt-offering.

(19) I.e.,the Heresh of our Mishnah. Thus the fully worded Mishnah would refer to two kinds of Heresh: (a) the partial

Heresh that can either speak or hear, who must ‘rejoice’, though he is exempt from visiting the Temple; (b) the complete Heresh, who is exempt from both.

(20) Torah primarily refers to the Pentateuch, but also has a wider meaning, which includes the whole Bible and even the entire range of Jewish teaching, both study and practice.

Talmud - Mas. Chagigah 3a

he is bound to rejoice. One, however, that can neither hear nor speak, an imbecile and a minor are exempt even from rejoicing, since they are exempt from all the precepts stated in the Torah. Why is it that in regard to appearing they are exempt, and in regard to rejoicing they are obligated? With regard to appearing, it is deduced by forming an analogy between the expressions for appearing[1] from [the section] ‘Assemble’,[2] for it is written: Assemble the people, the men and the women and the little ones;[3] and it is [further] written: When all Israel is come to appear.[4] But whence is it deduced for the latter?[5] — For it is written: That they may hear and that they may learn.[3] And it is taught: ‘That they may hear’, [this] excludes one that can speak but not hear; ‘and that they may learn’, [this] excludes one that can hear but not speak. Does this then mean to say that one that cannot talk cannot learn? But behold there were two dumb men in the neighbourhood of Rabbi, sons of the daughter of R. Johanan b. Gudgada, and according to others, sons of the sister of R. Johanan, who, whenever Rabbi entered the College, went in and sat down [before him], and nodded their heads and moved their lips. And Rabbi prayed for them[6] and they were cured,[7] and it was found that they were versed in Halachah,[8] Sifra,[9] Sifre[10] and the whole Talmud![11] Said Mar Zutra, Read, That they may teach.[12] R. Ashi said: Assuredly it is [to be read]: That they may teach.[13] For if you suppose [that it should be read]: That they may learn, and [argue that] if one cannot talk one cannot learn (and [obviously] if one cannot hear one cannot learn),[14] that follows from [the expression]: That they may hear.[15] Therefore, it must certainly be [read]: That they may teach.[16]

R. Tanhum said: One that is deaf in one ear is exempt from appearing [at the Temple], for it is said: In their ears.[17] But [this expression], ‘in their ears’,is required [to teach that it[18] must be] in the ears of all Israel![19] — That can be deduced from [the expression],[20] ‘before all Israel’. But if [it were deduced] from [the expression] ‘before all Israel’, I might say: Even though they did not hear;[21] therefore it is written in the Divine Law:[22] in their ears,’ they must be able to hear![23] — That call be deduced from [the expression], in order that they may hear.[24]

R. Tanhum said: One that is lame in one foot is exempt from appearing [at the Temple], as it is said: Regalim [on foot].[25] But this [word] Regalim is required to exclude people with wooden legs! — That follows from [the word] Pe'amim [steps].[26] For it is taught: ‘Pe'amim’; ‘Pe'amim’ means only feet;[27] and thus it is said: The foot shall tread it down, even the feet of the poor, and the steps of [pa'ame][28] the needy.[29] And it further says: How beautiful are thy steps [pe'amayik] in sandals, O prince's daughter.[30]

Raba expounded: What is the meaning of the verse: ‘How beautiful are thy steps in sandals, O prince's daughter’. [It means:] How comely are the feet of Israel when they go up on the festival pilgrimage. ‘Prince's daughter’: [means] daughter of Abraham our father, who is called prince, as it is said: The princes of the peoples are gathered together, the people of the God of Abraham.[31] ‘The God of Abraham’, and not the God of Isaac and Jacob? [It must mean], therefore, the God of Abraham, who was the first of the Proselytes.[32]

R. Kahana said: R. Nathan b. Minyomi expounded in the name of R. Tanhum:[33] What is the meaning of the verse: And the pit was empty, there was no water in it?[34] Since it says that the pit was empty, would I not know that there was no water in it? [It must mean] therefore, there was no water in it, but there were in it snakes and scorpions.

Our Rabbis taught: Once R. Johanan b. Beroka and R. Eleazar Hisma[35] went to pay their respects to R. Joshua at Peki'in.[36] Said he to them: What new teaching was there at the College to-day? They replied: We are thy disciples and thy waters do we drink.[37] Said he to them: Even so, it is impossible for a college session to pass without some novel teaching. Whose Sabbath[38] was it? — It was the Sabbath of R. Eleazar b. ‘Azariah, [they replied].-And what was the theme of his Haggadic[39] discourse to-day? They answered: The section ‘Assemble’.[40] And what exposition did he give thereon? ‘Assemble the people the men and the women and the little ones’. If the men came to learn, the women came to hear,[41] but wherefore have the little ones to come? In order to grant reward[42] to those that bring them. Said he to them: There was a fair Jewel in your hand, and you sought to deprive me of it.

He further expounded: Thou hast avouched the Lord this day . . . and the Lord has avouched thee this day.[43] The Holy One, blessed be He, said to Israel: You have made me a unique object of your love[44] in the world, and I shall make you a unique object of My love in the world.[45] You have made me a unique object of your love, as it is written: Hear, O Israel, the Lord our God, the Lord is One.[46] And I shall make you a unique object of My love, as it is said:

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(1) I.e., יראה (‘shall appear’) in Ex. XXIII, 17 and לראות (‘to appear’) in Deut. XXXI, 11.

(2) Deut. XXXI, 10-13. The name is derived from the introductory word in the verse that follows.

(3) Deut. XXXI, v. 12.

(4) Ibid. v.11

(5) I.e., how do we know that a Heresh that can hear or speak is exempt from the precept referred to in Deut. XXXI, 10-13.

(6) Lit., ‘he besought (God's) mercy on this behalf’.

(7) On the efficacy of prayer, v. J.E. vol. X, pp. 168-169.

(8) הלכה from הלך ‘to go, follow’, means literally ‘going’, ‘walking’ then figuratively: ‘the teaching which one follows, the rule or state by which one is guided,the categorical religious law’, (H. L. Strack, Intro. to the Talmud, p. 6 ¤ 7: v. whole section and refs.). The last meaning applies here. Cf. also the refs. to Halachah in R. T. Herford's The Pharisees, esp. Ch. III. V. Glos.

(9) ‘The Book’, also called Torath Kohanim (‘Law of the Priests’) is a halachic Midrash on Leviticus.

(10) ספרי or more fully, ספרי דבי רב (‘the Books of the School of Rab’) is a halachic Midrash on Numbers (commencing with Ch. 5) and on Deut. V. Glos.

(11) ש״ס Lit., ‘six orders’ into which the Mishnah, and consequently the Talmud, which is the commentary on it, is divided. [MS.M. reads, ‘Talmud’].

(12) I.e., ילמדו (Pi'el) for ילמדו (Kal). Such textual changes are not to be regarded as serious Biblical emendations, but as part of the exegetical method of the Rabbis for the purpose of halachic and Haggadic deduction.

(13) I.e., quite apart from the instance of the two dumb scholars, it can be proved that teach is the right reading.

(14) [MS.M. omits bracketed words which, in fact, are superfluous].

(15) The underlying reason for excluding the deaf is their inability to learn. If now you suppose that the dumb cannot learn, their exclusion can be inferred from the expression, ‘that they may hear’, which excludes the deaf, and similarly the dumb, and the words ‘that they may learn’ are superfluous.

(16) And the inference that a dumb person cannot learn falls away.

(17) Deut. XXXI, 11. The plural indicates that those present must be able to hear with both ears; and by analogy (v. supra p. 5, n. 9) we apply this rule also to the law of Ex. XXIII, 17.

(18) The public reading referred to in the section ‘Assemble’ (v. p. 5, n. 10); cf. Sot. 41a.

(19) I.e., in their hearing.

(20) Deut. ibid.

(21) I.e., were too far away; not that they were deaf.

(22) Lit., ‘The Merciful One wrote’, i.e., God revealed through Scripture. V. Bacher, Exeg. Term. II, 207f.

(23) This expression, therefore, cannot be used for the inference that a person deaf in one ear is exempt.

(24) Ibid. v. 12. Thus ‘in their ears’ is available for R. Tanhum's teaching.

(25) Ex. XXIII, 14. V. supra p. 5, n. 10. The word is probably read here רגלים (dual): the pilgrim must have use of both feet.

(26) Ex. XXIII, 17. פעמים E.V. ‘times’ (cf. supra p. 1, n. 11) is here understood in its root meaning of ‘steps’, i.e., only those having their own legs must visit the Temple.

(27) I.e., natural as opposed to artificial feet.

(28) פעמי (steps) being parallel to רגלי (feet) must mean the same as the latter.

(29) Isa. XXVI, 6.

(30) Cant. VII, 2. The word sandals is additional evidence that פעמים refers to natural feet.

(31) Ps. XLVII, 10.

(32) ‘Prince’ (נדיב) means lit., ‘one who offers himself willingly’ i.e., for God's service. Abraham was the first to confess and worship the Lord, and the reference to the ‘princes, the peoples’ is to the proselytes who, like Abraham, offer themselves to the service of God.

(33) The name of R. Tanhum is the link between the preceding and the following exposition.

(34) Gen. XXXVII, 24.

(35) In Tr. Soferim the reading is Eleazar b. Hisma. For the cognomen which is not adjectival (i.e., ‘muzzled’) but locative (prob. a native of Hismeh’) v. J.E. Vol. V, p. 99.

(36) Also Beki'in, modern Fukin, in S. Palestine between Lydda and Jabneh (Jast.). It was customary for pupils to visit their teacher on holy days; cf. R.H. 16b.

(37) I.e., disciples may not speak before their teacher (Rashi); or we cannot possibly have anything to teach you.

(38) R. Gamaliel used to lecture on two (or three) Sabbaths and R. Eleazar b. ‘Azariah on the third (or fourth) v. Ber. 28a.

(39) Haggadah (הגדה), a nomen actionis of הגיד (to tell), denotes all scriptural interpretation which is non-halachic (i.e., non-legal) in character (H. L. Strack). V. Glos.

(40) V. supra p. 5, n. 10.

(41) But not to study it fully; cf. J.T., Sot. III, 4. For the status of the woman in Judaism v. J.E. vol. XII, p. 556.

(42) For the Rabbinic conception of reward v. R. T. Herford, op. cit. pp. 123-24, 127-120.

(43) Deut. XXVI, 17-18.

(44) חטיבה אחת Jast. ‘the only object of your love’ (from root meaning ‘to fall in love, woo’); Levy, ‘Herrscher’ (ruler) comparing it, according to Bacher, with Pers. ‘Khedive’; Goldschmidt, ‘Verherrlichung’ (glorification); Rashi, ‘sole or unique object of praise’; Aruch, in the name of R. Hai Gaon, ‘Unique concept’ (ציור אחת); Maharsha (quoting Rashi to Deut. XXVI, 17) ‘separation. (from root meaning ‘to hew’).

(45) Aruch reads: ‘in this world . . . in the world to come’.

(46) Deut. VI, 4. For different renderings of this verse v. I. Abrahams, A companion to the Auth. Daily Prayer Book, p. LI.

Talmud - Mas. Chagigah 3b

And who is like unto Thy people Israel, a nation one in the earth.[1] And he[2] also took up the text and expounded: The words of the wise are as goads, and as nails well planted are the words of masters of Assemblies, which are given from one Shepherd.[3]

Why are the words of the Torah[4] likened to a goad? To teach you that just as the goad directs the heifer along its furrow in order to bring forth life to the world, so the words of the Torah direct those who study them from the paths of death to the paths of life. But [should you think] that just as the goad is movable so the words of the Torah are movable;[5] therefore the text says: ‘nails’.

But [should you think] that just as the nail diminishes[6] and does not increase, so too the words of the Torah diminish and do not increase; therefore the text says: ‘well planted’; just as a plant grows and increases, so the words of the Torah grow and increase.

‘The masters of assemblies’: these are the disciples of the wise, who sit in manifold assemblies and occupy themselves with the Torah, some pronouncing unclean and others pronouncing clean, some prohibiting and others permitting, some disqualifying[7] and others declaring fit.

Should a man say: How in these circumstances shall I learn Torah?[8] Therefore the text says: ‘All of them are given from one Shepherd’. One God gave them;[9] one leader[10] uttered them from the mouth of the Lord of all creation, blessed be He; for it is written: ‘And God spoke all these words’.[11] Also do thou make thine ear like the hopper[12] and get thee a perceptive heart to understand the words of those who pronounce unclean and the words of those who pronounce clean, the words of those who prohibit and the words of those who permit, the words of those who disqualify and the words of those who declare fit. He [then] spoke to them[13] in the following words: It is not an orphan generation in which R. Eleazar b. ‘Azariah lives. But they could have told him directly![14] — It was on account of a certain occurrence. For it is taught: Once R. Jose b. Durmaskith[15] went to pay his respects to R. Eliezer at Lod.[16] Said the latter to him: What new thing was taught in College today? He replied: They decided by vote that in Ammon and Moab[17] the tithe of the poor should be given in the seventh year.[18] Said [R. Eliezer] to him: Jose, stretch forth thine hands and lose thy sight.[19] He stretched forth his hands and lost his sight. R. Eliezer [then] wept and said: The counsel of the Lord is with them that fear Him,’ and His covenant, to make them know it.[20] He [then] said to him: Go, say to them: Be not concerned about your voting,[21] thus have I received a tradition from Rabban[22] Johanan b. Zakkai, who heard [it] from his teacher, and his teacher from his teacher, that it is a halachah of Moses from Sinai[23] that in Ammon and Moab the tithe of the poor is to be given in the seventh year. What is the reason? — Many cities were conquered by those who came up from Egypt, which were not conquered by those who came up from Babylon; since the first consecration[24] held [only] for the time,[25] but did not hold for the future [permanently],[26] therefore they were left[27] in order that the poor might be sustained upon them in the seventh year. It is taught: When his mind was calmed, he said: May it be granted that Jose's sight be restored.[28] And it was restored.

Our Rabbis taught: Who is [deemed] an imbecile? He that goes out alone at night[29] and he that spends the night in a cemetery, and he that tears his garments. It was taught: R. Huna said: They must all be [done] together.[30] R. Johanan said: Even if [he does only] one of them. What is the case? If he does them in an insane manner, even one is also [proof]. If he does not do them in an insane manner, even all of them [prove] nothing? — Actually [it is a case where] he does them in an insane manner. But if he spent the night in a cemetery, I might say: He did [it] in order that the spirit of impurity might rest upon him.[31] If he went out alone at night, I might say: He was seized by lycanthropy.[32] If he tore his garment, I might say: He was lost in thought. But as soon as he does them all,

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(1) I Chron. XVII, 21; for thought, cf. Midrash quoted in Tosaf. a.l.

(2) I.e., according to Rashi, R. Eleazar b. ‘Azariah; but according to Maharsha and Goldschmidt, R. Joshua.

(3) Eccl. XII, 11.

(4) The ‘words of the wise’ are identified with ‘the words of the Torah’.

(5) I.e., unstable and of impermanent authority.

(6) The nail driven into the wall makes a hole.

(7) To act as witness, or as priest.

(8) I.e., in view of the contradictory opinions held by the scholars.

(9) I.e., the various opinions do not emanate from different ‘Revelations’, but have their origin in the One Torah, given by the One God. Cf. Tanhuma to Num. XIX, 2, section 8; and ref. to Moses and Akiba Men. 29b.

(10) I.e., Moses. The term ‘Shepherd’ (רעה) is applied in the Bible both to God (e.g., Gen. XLVIII, 15; Ps. LXXX, 2) and to Moses (e.g., Isa. LXIII, 11). Maharsha.

(11) Ex. XX, 1.

(12) אפרכסת According to Jast. from root פרכס (to rub, grind), itself an extension of root פרך (to break). According to Levy, from the Greek. The hopper, being funnel-shaped, more enters it than issues from it, i.e., hear all views, and then sift them and accept the true.

(13) I.e., R. Joshua to his two disciples.

(14) I.e., why did they at first evade R. Joshua's request by saying: We are thy disciples etc.?

(15) I.e., woman of Damascus.
(16) Cf. I Chron. VIII, 12; afterwards Lydda and later Diospolis, near Joppa.
(17) According to Rashi, that part of Ammon and Moab which was subjugated by Sihon and Og, and later was captured from them by the Israelites (v. Num. XXI, 21-35. and Hul. 60b). But according to R. Tam (in Tosaf.), it refers to the rest of Ammon and Moab, not conquered by Sihon and Og.
(18) In Transjordania, which did not possess the sanctity of Palestine proper, the land did not have to be fallow in the seventh year (cf. Lev. XXV, 2f). Accordingly, the Rabbis ordained that the tithe of the poor, although given the preceding year, should again be given in the seventh year. V. Deut. XIV, 28-29 and Sifre a.l.; cf. also Lev. XXIII, 22 and Deut. XXIV, 19.
(19) Lit., 'receive thine eyes', a euphemism. He was vexed because R. Jose ascribed an old traditional law to the particular session in his college.
(20) Ps. XXV, 14.
(21) I.e., have no scruples concerning it.
(22) Lit., 'our teacher', the honorific title of several descendants of Hillel, and of R. Johanan b. Zakkai.
(23) A statute in immemorial usage. V. Strack, op. cit., p. 9 and nn. 17-21.
(24) I.e., under Joshua: the territory conquered by Israel became holy.
(25) I.e., till the first exile.
(26) But the territory occupied by those who returned from Babylon was consecrated for ever.
(27) I.e., Ammon and Moab were left unconsecrated after the Babylonian captivity.
(28) Lit., 'that Jose's eyes may return to their place'.
(29) Cf. Aboth III, 4.
(30) I.e., a person is not considered legally an imbecile till he performs all the above mentioned acts together. [Var. lec. rightly omit together'].
(31) I.e., he did it with full understanding for the purpose of conjuring up evil spirits for magical purposes (Rash); or to receive communications from them, cf. LXX in Isa. LXV, 4 (A. W. Streane).
(32) גנדריפום corruption of the Grk. ** or ** sub **: German, Wolfsmuth.

Talmud - Mas. Chagigah 4a

he becomes like [an ox] who gored an ox, an ass and a camel, and becomes [thereby] a mu'ad [forewarned gorer][1] in regard to all [animals]. R. Papa said: If R. Huna had heard of that which is taught: Who is [deemed] an imbecile? 'One that destroys all that is given to him'; he would have retracted.[2] The question was raised: When he would have retracted, would he have retracted only with regard to the [case of the] man who tore his garment, because it resembles this [case];[3] or would he have retracted with regard to all of them?[4] — It remains [undecided].

A PERSON OF UNKNOWN SEX [TUMTUM], A HERMAPHRODITE etc.: Our Rabbis taught: [The word] 'males'[5] [by itself] comes to exclude women;[6] [the expression]. 'thy males', comes to exclude the tumtum and hermaphrodite; 'all thy males' comes to include minors.

The Master said: [The word] 'males' comes to exclude women. But why do I need a verse for this? Consider: it is a positive precept dependent on a fixed time, and women are exempt from every positive precept dependent on a fixed time![7] — It is needed. You might say: We can make a deduction by forming an analogy between the expressions for appearing, from [the section] 'Assemble':[8] just as there women are obligated. so here women are obligated; it therefore teaches us [that it is not so].

The Master said: [The expression]. 'thy males', comes to exclude a tumtum and a hermaphrodite. Granted that with regard to the hermaphrodite it is necessary [for Scripture to exclude him]. You might say that since he has a male aspect, he is obligated; it therefore teaches us that he is sui generis.[9] But the tumtum is a dubious case;[10] is a Biblical text required to exclude a dubious case?[11] — Said Abaye: [It is required for the case] where his testicles are outside.[12]

The Master said: [The expression], ‘all thy males’, comes to include minors. But we have learnt: EXCEPT AN IMBECILE AND A MINOR! — Said Abaye: There is no contradiction. The one case [speaks] of a minor who is old enough to be initiated,[13] the other of a minor who is not old enough to be initiated. But a minor who is old enough to be initiated is obligated only by Rabbinic enactment![14] — Yes, it is so; and the Biblical text is merely a support.[15] What then is the purpose of the Biblical text?[16] — To intimate the teaching of ‘Others’.[17] For it is taught: Others say: The scraper.[18] the copper-smith[19] and the tanner are exempt from appearing [at the Temple], for it is said: ‘All thy males’: he that is able to go up [on the pilgrimage] with all thy males. These, therefore, are excluded, because they are not fit[20] to go up with all thy males.

WOMEN AND UNFREED SLAVES etc.: Granted as regards women, as we have said;[21] but as regards slaves, whence do we deduce [their exemption]? — Said R. Huna: Scripture says: before the Lord, God:[22] [this means] one that has one Lord; this one,[23] therefore, is excluded because he has another lord.[24] But why do I need a Biblical intimation for this? Consider: every precept which is obligatory on a woman is obligatory on a slave; every precept which is not obligatory on a woman is not obligatory on a slave; for this is deduced by analogy from [the case of] the woman, through the double occurrence of [the expression] unto her.[25] Said Rabina: It[26] is needed only for [the exemption of] one that is half a slave and half a freedman![27] This can also be proven; for [the Mishnah] speaks of WOMEN AND UNFREED SLAVES. What is meant by unfreed? Should I say that it means entirely unfreed, then it should simply say, ‘Slaves’! Surely, therefore [it must mean] slaves that have not been completely freed. And who are such? Those that are half slaves and half freedmen. Proven.

THE LAME, THE BLIND, THE SICK, THE AGED: Our Rabbis taught: ‘Regalim’ [on foot]:[28] this excludes people with wooden legs. Another interpretation:[29] Regalim: this excludes the lame, the sick, the blind, the aged, and one that cannot go up on foot. ‘And one that cannot go up on foot’: What does this come to include? — Said Raba: It comes to include

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(1) Lit., ‘forewarned’; an animal whose owner stands forewarned and consequently liable to full indemnity on account of three successive injuries (V. Ex. XXI, 36).

(2) I.e., he would have considered this action by itself as proof of imbecility.

(3) I.e., the case of the man who destroys whatever is given to him.

(4) I.e., he would have agreed entirely with R. Johanan's view.

(5) In the phrase ‘all thy males’. Ex. XXIII, 17.

(6) I.e., from obligation to visit the Temple; v. Mishnah, p. 1.

(7) The exemption of women from the performance of these precepts is not due to any inferiority of status, but to delicate consideration for their physical nature; cf. also Kid. 29a and 34af.

(8) V. supra p. 5, n. 10. This law likewise is dependent on a fixed time.

(9) And to be excluded.

(10) Even more dubious than that of the hermaphrodite, because the sexual organs of the former are concealed. Thus the tumtum may be a female and quite exempt from appearing at the Temple.

(11) It would in any case be exempt because obligation could not be proven. For another explanation and reading v. Tosaf. a.l., and Maharsha.

(12) And only the membrum is hidden: being certain of the sex, we might think that he is bound to appear; Scripture therefore prevents this conclusion.

(13) V. Mishnah p. 1, n. 9.

(14) And not by Biblical injunction; therefore the verse cannot refer to this case.

(15) I.e., a confirmation; or perhaps a mnemotechnical aid.

(16) I.e., the word ‘all’; for there are no superfluous expressions in the Bible.

(17) I.e., R. Meir, who is quoted under this term subsequent to the unsuccessful conspiracy by R. Nathan and himself against Rabban Simon b. Gamaliel; v. Hor. 13b.

[18] V. Keth. 77a, where this word (מקמץ) is explained as (a) one that collects dog's excrements (used, according to Rashi ibid., for steeping clothes prior to laundering, and according to Rashi here, for preparing cordwain); (b) a tanner on a small scale, in contr. to בורסי a tanner on a large scale.

[19] Explained ibid. as (a) a kettle-smith; (b) one that digs copper in the shaft.

[20] On account of the malodour resulting from these occupations.

[21] V. supra p. 13.

[22] Ex. XXIII, 17.

[23] I.e., the slave.

[24] I.e.,a human master in addition to his Divine Master.

[25] V. Deut. XXIV, 3 (of the woman), and Lev. XIX, 20 (of the bondwoman).

[26] I.e., the Biblical intimation.

[27] This is in accordance with ‘the earlier Mishnah’ (v. supra p. 3, nn. 6, 8), but according to ‘the later Mishnah’, the master is compelled to free the half slave, who is then bound to appear at the Temple.

[28] V. p. 7, n. 11.

[29] The first interpretation is not quite satisfactory, because the exclusion of people with wooden legs can be deduced from פעמים in Ex. XXIII, 17; cf. p. 7. n. 12.

Talmud - Mas. Chagigah 4b

a delicate person.[1] For it is written: When ye come to appear before Me, who hath required this at your hand, to trample[2] My courts?[3]

A Tanna taught: The uncircumcised[4] and the unclean[5] are exempt from [bringing] the pilgrimage-offering.[6] Granted as regards the unclean, for it is written: And thither thou shalt come,’ and thither ye shall bring.[7] To whomever ‘coming’ applies, ‘bringing’ applies; to whomever ‘coming’ does not apply, ‘bringing’ does not apply. But whence do we derive [the exemption of] the uncircumcised? — This will be according to R. Akiba, who includes the uncircumcised like the unclean. For it is taught: R. Akiba said: [the expression], what man soever,[8] comes to include uncircumcised.[9]

Our Rabbis taught: An unclean person is exempt from [bringing] the pilgrimage-offering, for it is written: ‘And thither thou shalt come; and thither ye shall bring’. To whomever ‘coming’ applies ‘bringing’ applies; to whomever ‘coming’ does not apply ‘bringing’ does not apply. R. Johanan b. Dahabai said in the name of R. Judah: A person who is blind in one eye is exempt from appearing [at the Temple]. for it is said: Yir'eh[10] [He shall see], Yera'eh [He shall be seen]; just as He comes to see, so He comes to be seen; as He comes to see with both eyes. so also to be seen with both eyes.

R. Huna, when he came to this verse, Yir'eh, Yera'eh,[11] wept. He said: The slave whom his Master longs to see should become estranged from him! For it is written: When ye come to appear[12] before Me, who hath required this at your hand, to trample My courts?[13]

R. Huna, when he came to the [following] verse, wept: And thou shalt sacrifice peace-offerings, and shalt eat there.[14] The slave at whose table his Master longs to eat should become estranged from him! For it is written: To what purpose is the abundance of your sacrifices unto Me? saith the Lord.[15]

R. Eleazar, when he came to the [following] verse, wept: And his brethren could not answer him, for they were affrighted at his presence.[16] Now if the rebuke of flesh and blood be such, how much more so the rebuke of the Holy One, blessed be He!

R. Eleazar, when he came to the [following] verse, wept: And Samuel said to Saul: Why hast thou disquieted me, to bring[14] me up?[17] Now if Samuel, the righteous, was afraid of the Judgment, how much more so should we be! How do we know this about Samuel?[18] — For it is written: And the woman said unto Saul: I see godlike beings coming up out of the earth.[19] ‘Coming up’[20] implies two: one was Samuel, but [who was] the other? Samuel went and brought Moses with him, Saying to him: Perhaps, Heaven forfend,[21] I am summoned to Judgment: arise with me,[22] for there is nothing that thou hast written in the Torah, which I did not fulfil.

R. Ami, when he came to the [following] verse, wept: Let him put his mouth in the dust, perhaps there may be hope.[23] He said: All this, and [only] perhaps![24]

R. Ami, when he came to the [following] verse, wept: Seek righteousness, seek humility, perhaps ye shall be hid in the day of the Lord's anger.[25] He said: All this, and [only] perhaps!

R. Assi, when he came to the [following] verse, wept: Hate the evil, and love the good, and establish justice in the gate, perhaps the Lord, the God of hosts, will be gracious.[26] All this, and [only] perhaps!

R. Joseph, when he came to the [following] verse, wept: But there is that is swept away without judgment.[27] [He said]:[28] Is there anyone who passes away before one's [allotted] time?[29] — Yes, as in the story [heard] by R. Bibi b. Abaye,[30] who was frequently visited by the Angel of death. [Once] the latter said to his messenger: Go, bring me Miriam, the women's hairdresser![31] He went and brought him Miriam, the children's nurse. Said he to him:[32] I told thee Miriam, the women's hairdresser. He answered: If so, I will take her back. Said he to him: Since thou hast brought her, let her be added.[33] But how were you able to get her?[34] She was holding a shovel in her hand and was heating

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(1) I.e., one that cannot walk barefoot; and it is forbidden to walk on the sacred Temple Mount with covered feet.

(2) I.e., with shod feet.

(3) Isa. I, 12.

(4) I.e., a Jew that was not circumcised because two of his brothers had died as a result of their circumcision; cf. Shab. 134a and Yeb. 64b.

(5) Cf. Num. XIX, 20.

(6) They are exempt even from sending the offering by a messenger; cf. also p. 1, n. 1.

(7) Deut. XII, 5,6. The verse continues: Your burnt-offerings etc.

(8) Lev. XXII, 4.

(9) I.e., if he is a priest, he is prohibited from eating Terumah (i.e., the priest's share of crop or dough) like a priest who has become unclean.

(10) Ex. XXIII, 17; v. p. 3, n. 3.

(11) Which implies (v. n. 1) that the Divine Master reciprocally comes to meet the human pilgrim.

(12) Lit., ‘to be seen’, as above.

(13) Isa. I, 12.

(14) Deut. XXVII, 7.

(15) Isa. I, 11.

(16) Gen. XLV, 3.

(17) I Sam. XXVIII, 15.

(18) I.e., that it was the Divine Judgment that he feared.

(19) Ibid. v. 13.

(20) Heb. עלים which is plural. The deduction cannot be made from אלהים (godlike beings) which is also plural in form, because its meaning is generally singular, viz. God.

(21) Lit., ‘forbearance and peace.’

(22) I.e., to testify on my behalf.

(23) Lam. III, 29.

(24) I.e., after so much suffering, hope of salvation is only problematical.

(25) Zeph. 11,3.
(26) Amos V, 15.
(27) Prov. XIII, 23.
(28) Rashi and Tosaf. delete the words: the question is then asked by the Gemara.
(29) I.e., although the person has committed no sin to merit shortening of life.
(30) An occultist; cf. Ber. 6a where he performed an experiment with the object of seeing demons.
(31) Supposed by Tosaf. to be the Mother of Jesus; cf. Shab. 104b in the earlier uncensored editions. [Her description megaddela (hairdresser) is connected by some with the name of Mary Magdalene whose name was confused with that of Mary, the mother of Jesus, v. Herford R.T. Christianity in Talmud and Midrash, pp. 40f].
(32) I.e., the Angel of death to his messenger.
(33) I.e., to the dead.
(34) Since it was not yet her time to die.

Talmud - Mas. Chagigah 5a

and raking[1] the oven. She took it and put it on her foot and burnt herself; thus her luck was impaired and I brought her. Said R. Bibi b. Abaye to him[2] : Have ye[3] permission to act thus? He answered him: Is it not written: 'There is that is swept away without judgment'? He countered: But behold it is written: One generation passeth away, and another generation cometh![4] He replied: I have charge of them[5] till they have completed the generation,[6] and then I hand them over to Dumah![7] He [then] asked him: But after all, what do you do with her years?[8] He replied: If there be a Rabbinic scholar who overlooks his hurt, I shall give them to him in her stead.[9]

R. Johanan, when he came to the [following] verse, wept: And thou didst incite Me against him, to destroy him without cause.[10] A slave whose Master, when they incite him yields,[11] is there any help for him?

R. Johanan, when he came to the [following] verse, wept: Behold, He putteth no trust in His holy ones.[12] If He does not put His trust in His holy ones, in whom will He put his trust? One day he was going on a journey and saw a man gathering figs; he was leaving those that were ripe and was taking those that were unripe. So he said to him: Are not those[13] better? He replied: I need those for a journey: these will keep, but the others will not keep. Said [R. Johanan] this is the meaning of the verse: Behold He putteth no trust in His holy ones.[14] But is it so? For behold there was a disciple In the neighbourhood of R. Alexandri, who died in his youth, and [R. Alexandri] said: Had this scholar wished, he could have lived![15] If now it be [as R. Johanan said] perhaps he was one of those of whom it is said: 'Behold He putteth no trust in His holy ones'! — That [scholar] was one who had rebelled against his teachers![16]

R. Johanan, when he came to the [following] verse, wept: And I will come near to you to judgment and I will be a swift witness against the sorcerers, and against the adulterers, and against false swearers, and against those that oppress the hireling in his wages.[17] A slave whose Master brings him near to judge him, and hastens to testify against him, is there any remedy for him?

Rabban Johanan b. Zakkai said: Woe unto us that Scripture weighs against us light like grave offences.[18]

Resh Lakish[19] said: Whoever wrests the judgment of the proselyte is as if he wrests the judgment of the All-High, for it is said:[20] And that turn aside the proselyte[21] from his right: the consonants [can be read]: And that turn Me aside.[22]

R. Hanina b. Papa said: Whoever does something [wrong] and repents of it, is forgiven at once,[23] for It is said: And [that] fear not Me.[24] But if they do fear Me, they are forgiven at once. R. Johanan, when he came to the [following] verse, wept: For God shall bring every work into the judgment concerning every hidden[25] thing.[26] A slave to whom his Master accounts errors[27] as wilful offences, is there any remedy for him? What is the meaning of, concerning every hidden thing? — Rab said: This refers to one who kills a louse in the presence of his neighbour, so that he feels disgust thereat. And Samuel said: This refers to one who spits in the presence of his neighbour so that he feels disgust thereat. What is the meaning of, whether it be- good or whether it be — evil?[28] — The School of R. Jannai said: This refers to one who gives alms to a poor person publicly,[29] like the story of R. Jannai. He [once] saw a man give a zuz[30] to a poor person publicly, so he said to him: It had been better that you had not given him, than now that you have given him publicly and put him to shame. The School of R. Shila said: This refers to one who gives alms to a woman secretly. for he brings her into suspicion. Raba said: This refers to one who is in the habit of sending his wife on the eve of the Sabbath meat that has not been cut up.[31] But Raba [himself] used to send! — The daughter of R. Hisda[32] is different, for he was sure of her that she was an expert![33]

R. Johanan, when he came to the [following] verse, wept: And it shall come to pass, when many evils and troubles are come upon them.[34] A slave whose Master brings many evils and troubles upon him, is there any remedy for him? What is the meaning of 'evils and troubles'?[35] — Rab said: Evils which become antagonists[36] to each other, as for instance the [bites of] a wasp and a scorpion.[37] And Samuel said: This refers to one who furnishes money to the poor person [only] in the hour of his extreme distress.[38] Raba said: This is the meaning of the proverb, For [purchasing] provision a zuz is not to be found, for hanging up [in the basket][39] it can be found.

Then My anger shall be kindled against them in that day, and I will forsake them, and I will hide My face from them.[40] R. Bardela b. Tabyumi said that Rab said: To whomever 'hiding of the face' does not apply is not one of them;[41] to whomever [the words] and they shall be devoured[42] does not apply

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(1) I.e., raked the fire in (Jast.); Rashi: raked it out.

(2) I.e., the Angel of death.

(3) I.e., the Angel of death and his messenger.

(4) Eccl. I, 4; implying that every generation is complete.

(5) Lit., 'shepherd them'.

(6) I.e., the years allotted to them.

(7) Lit., 'Silence', the Angel in charge of the dead.

(8) I.e., the remaining years which she should have continued to live.

(9) Cf. the ref. to Hezekiah in Yeb. 49a-50a.

(10) Job II, 3.

(11) Lit., 'allows himself to be incited'.

(12) Job XV, 15.

(13) I.e., the ripe ones.

(14) I.e., God fears that the righteous, like the ripe figs, may later lose their excellence; hence they die young. Cf. Aboth II, 4.

(15) I.e., if he had lived uprightly.

(16) Hence he could not have been one of the 'holy ones', and it was his sin that shortened his life. Cf. Kid. 33b on Eccl. XIII, 13.

(17) Mal. III, 5.

(18) In the verse quoted, the grave crimes of sorcery and adultery, for which the penalty is death, are mentioned side by side with the lighter offences of perjury and financial oppression.

(19) Abbrev. for R. Simon b. Lakish.

(20) Ibid.

(21) E.V. 'stranger'.

(22) ומטי for ומטי

(23) Cf. Yoma 85b-86a; also Shebu. 12b.
(24) Ibid.
(25) I.e., unwitting errors.
(26) Eccl. XII, 14.
(27) I.e., even the slightest offence.
(28) Ibid. I.e., one is punished for the good as well as for the bad one does.
(29) An apparently good deed which is really bad.
(30) A silver coin, one fourth of a shekel, and equal to a denar (denarius). V. Glos.
(31) I.e., unporged meat, the forbidden fat, blood vessels etc. not having been removed. The nearness of the Sabbath makes it a busy time for the housewife, who in her hurry may forget to porge the meat.
(32) I.e., Raba's wife, always referred to as R. Hisda's daughter.
(33) And would see that it was properly porged before the Sabbath.
(34) Deut. XXXI, 21.
(35) I.e., are they not synonymous?
(36) The Heb., צרות, is the same as for ‘troubles’ above, and is used of the rival wives of one husband; cf. I Sam. I, 6.
(37) In A.Z. 28b we are told that hot water must be used for a wasp's bite and cold for a scorpion's; the reverse is dangerous. When, therefore, both occur together there is no remedy.
(38) According to Rashi, this refers to Eccl. XII, 14 and is an example of an apparently good deed which is really bad; for at an earlier stage the help rendered would have been of far greater and more enduring benefit. But according to Tosaf. this is an explanation of Deut. XXXI, 21 and is an instance of added trouble, illustrated in the following proverb. V. n. 9.
(39) תליתא. Rashi renders: ‘food which one brings in a basket’, that is in time of distress; cf. Pes. III b. Tosaf. translates: ‘when one is about to be hanged’, and explains thus: A man is threatened with execution unless he offers a ransom; being poor, a small ransom would be accepted. But now the arrangement of a mortgage is offered him; this serves only to aggravate his misfortune, for the ransom price is raised. A third explanation is given by Maharsha a.l.
(40) Deut. XXXI, 17.
(41) I.e., the Children of Israel.
(42) Ibid.

Talmud - Mas. Chagigah 5b

is not one of them. Said the Rabbis to Raba: To [our] master ‘the hiding of the face’ does not apply, and [the words] ‘And they shall be devoured’ do not apply! Said he to them: Do ye know then how much I send secretly to the Court of King Shapur?[1] Even so the Rabbis directed their eyes upon him.[2] Meanwhile the Court of King Shapur sent [men], who plundered him.[3] He [then] said: This is it that is taught: Rabban Simeon b. Gamaliel said: Wherever the Rabbis direct their eyes there is either death or poverty.

And I will hide My face in that day.[4] Raba said: Although I hide My face from them, I shall speak to them[5] in a dream.[6] R. Joseph: said: His hand is stretched over us, as it is said: And I have covered thee in the shadow of My hand.[7]

R. Joshua b. Hanania was [once] at the court of Caesar.[8] A certain unbeliever[9] showed him [by gestures]: A people whose Lord has turned His face from them — He showed him [in reply]: His hand is stretched over us. Said Caesar to R. Joshua: What did he show thee?-A people whose Lord has turned His face from them. And I showed him: His hand is stretched over us.

They [then] said to the heretic:[10] What didst thou show him?A people whose Lord has turned His face from them. And what did he show thee? — I do not know. Said they: A man who does not understand what he is being shown by gesture should hold converse in signs before the king! They led him forth and slew him.

When the soul of R. Joshua b. Hanania was about to go to its rest, the Rabbis said to him: What will become of us at the hands of the unbelievers? He answered them: Counsel is perished from the children,[11] their wisdom is vanished.[12] So soon as counsel is perished from the children,[13] the wisdom of the peoples of the world is vanished.[14] Or I may derive it from here: And he said: Let us take our journey, and let us go, and I will go over against thee.[15]

R. Ila was once walking up the stairs of the house of Rabbi b. Shila, when he heard a child reading the verse: For, lo, He that formeth the mountains, and createth the wind, and declareth unto man what his conversation was.[16] He said: A slave Master declares to him his conversation, is there any remedy for him? — What is the meaning of [the expression] 'What his conversation was'? — Rab said: Even the superfluous conversation[17] between a man and his wife is declared to a person in the hour of his death. But is it so? Now behold R. Kahana once lay down beneath the bed of Rab,[18] and he heard him converse and jest and perform his needs. [Thereupon] he said: The mouth of Rab is like that of one who has not tasted any food.[19] Said [Rab] to him: Kahana, get out, this is unseemly! — There is no contradiction: In the one case [it is] where he has to procure her favour, in the other, where he has no need to procure her favour.

But if ye will not hear it, My soul shall weep in secret for the pride.[20] R. Samuel b. Inia said in the name of Rab: The Holy One, blessed be He, has a place and its name is 'Secret'. What is the meaning of [the expression] 'for the pride'?-R. Samuel b. Isaac said: For the glory[21] that has been taken from them and given to the nations of the world. R. Samuel b. Nahmani said: For the glory of the Kingdom of Heaven.[22] But is there any weeping in the presence of the Holy One, blessed be He? For behold R. Papa said: There is no grief in the Presence[23] of the Holy One blessed be He; for it is said: Honour and majesty are before Him; strength and beauty are it[20] His sanctuary![24] — There is no contradiction; the one case [refers to] the inner chambers,[25] the other case [refers to] the outer chambers. But behold it is written: And in that day did the Lord, the God of Hosts, call to weeping and to lamentation, and to baldness, and to girding with sackcloth![26] — The destruction of the Temple is different, for even the angels of peace wept [over it]; for it is said: Behold for their altar[27] they cried without; the angels of peace wept bitterly.[28]

And mine eye shall drop tears and tears, and run down with tears, because the Lord's flock is carried away captive.[29] R. Eleazar said: Wherefore these three [expressions of] 'tears'? One for the first Temple, and one for the second Temple, and one for Israel, who have become exiled from their place. But there are some who say: One for the neglect of [the study of] the Torah. This is all right according to the view that [one] is for Israel, who have become exiled from their place: this agrees with that which is written: 'Because the Lord's flock is carried away captive'. But according to the view that it was for the neglect of [the study of] the Torah, how do you explain [the text], 'Because the Lord's flock is carried away'? — Since Israel have become exiled from their place. you can have no greater neglect of [the study of] the Torah than this.

Our Rabbis taught: Over three the Holy One, blessed be He, weeps every day: over him who is able to occupy himself with [the study of] the Torah and does not; and over him who is unable to occupy himself with [the study of] the Torah and does; and over a leader who domineers over the community.

Rabbi was once holding the Book of Lamentations and reading therein: when he came to the verse, He hath cast down from heaven unto the earth,[30] it fell from his hands. He said: From a roof so high to a pit as deep![31]

Rabbi and R. Hiyya were once going on a journey. When they came to a certain town, they said: If there is a rabbinical scholar here, we shall go and pay him our respect. They were told: There is a rabbinical scholar here[32] and he is blind.[33] Said R. Hiyya to Rabbi: Stay [here]; thou must not lower thy princely dignity;[34] I shall go and visit him. But [Rabbi] took hold of him and went with him. When they were taking leave from him,[35] he said to them: Ye have visited one who is seen but does not see; may ye be granted to visit Him who sees but is not seen. Said [Rabbi to R. Hiyya]: If now [I had hearkened to you] you would have deprived me of this blessing. They [then] said to him: From whom didst thou hear this?[36] -I heard it at a discourse of R. Jacob's. For R. Jacob of Kefar Hitya,[37] used to visit his teacher every day. When he became old, the latter said to him: Let the master not trouble himself since he is unable. He replied: Is it a small thing that is written concerning the Rabbis? And he shall still live alway. he- shall not see the pit; when he seeth that wise man die.[38] Now if he who sees wise men at their death shall live, how much more so [he who sees them] in their life.

R. Idi, the father of R. Jacob b. Idi, used to spend three months on his journey and one day at the school;[39] and the Rabbis called him ‘One day scholar’. So he became dispirited, and applied to himself the verse: I am as one that is a laughing-stock to his neighbour etc.[40] Said to him R. Johanan: I beg of you. do not bring down punishment upon the Rabbis. R. Johanan then went forth to the College and delivered the [following] exposition: Yet they seek Me day by day, and delight to know My ways.[41] Do they then seek Him by day, and do not seek Him by might? It comes to tell you. therefore, that whoever studies the Torah even one day in the year, Scripture accounts it to him as though he had studied the whole year through. And similarly in the case of punishment, for it is written: After the number of the days in which you spied out the land.[42] Did they then sin forty years? Was it not forty days that they sinned? It must come to teach you, therefore, that whoever commits transgression even one day in the year, Scripture accounts it to him as though he had transgressed the whole year through.

WHO IS [IN THIS RESPECT DEEMED] A MINOR? WHOEVER IS UNABLE TO RIDE ON HIS FATHER'S SHOULDERS etc. R. Zera demurred thereto:

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(1) Also Sapor or Shapur II, son of Hormuzd, King of Persia C.E. 310-379. His accession preceded his birth; he warred against Rome. V. Gibbon, CC. 18, 24, 25; cf. also Ber. 56a, B.B. 115b and Pes. 54a.

(2) I.e., in suspicion; elsewhere in anger. cf. Ber. 38a, Shab. 34b.

(3) I.e., seized his property.

(4) Deut. XXXI, 18.

(5) Lit., ‘to him’ as in Num. XII, 6.

(6) According to Rashi, the inference is drawn from ‘in that day’; but at night, in dreams, God would speak to them; cf. ibid. Maharsha prefers this explanation: God would deny them His ‘face’, I.e., the direct communion of Moses which was ‘mouth to mouth’, but He would still speak to them in dreams; cf. ibid. 6-7.

(7) Isa. LI, 16.

(8) I.e., Hadrian, v.J.E. vol. VII, pp. 290-292.

(9) אפיקורוס. Levy and others derive it from ** Epicurus, an Epicurean; Maimonides and Jast. connect with Heb. הפקר from rt. פקר. A term applied to unbelievers generally, Jew or Gentile. MS.M.: ‘Min’ (v. next note), a Jewish sectary, probably a Judeo-Christian. V. J.E. vol. I, pp. 665-666 and Vol. VIII, pp. 594-595.

(10) מין, probably from meaning ‘species’, hence sectarian. V. preceding note

(11) Or ‘prudent’ (E.V.).

(12) Jer. XLIX, 7’ where it is a question.

(13) I.e.’ Children of Israel.

(14) I.e., the polemics of the unbelievers will cease. [A somewhat roundabout way of saying that the Jewish religion would never want a defender so long as it was attacked’] Herford op. cit, p. 266.

(15) Gen. XXXIII, 12. I.e., Esau (Gentiles and unbelievers generally) will keep abreast of Jacob (Israelites), but not gain advantage over him.

(16) Amos IV, 13. E.V. ‘thought’.

(17) The ‘jesting’ referred to in the following story.

(18) Not to spy. but to learn from the Master's conduct; v. Ber. 62a.

(19) I.e., he was ravenous in his desires like a newly-wed.

(20) Jer. XIII, 17.

(21) Lit., ‘pride’.

(22) Which suffers through Israel's downfall. Cf. Meg. 29 on Isa. II, 27, and Mekilta to Ex. XV, 2.

(23) Lit., ‘before’, a euphemism for ‘on the part of’.

(24) Ps. XCVI, 6.

(25) I.e.,in the innermost recesses called ‘Secret’ there is weeping, though outwardly (‘before him’ v. n. 4) there is no sign of grief, only ‘Honour etc.’

(26) Isa. XXII, 12. ‘Call’ denotes publicly; grief, therefore, is to be found in ‘the outer chambers’!

(27) אראלם (E.V. ‘their valiant ones cried without’) is here connected with אריאל (Isa. XXIX, 1), ‘the altar hearth’, Cf. Rashi to verse.

(28) Isa. XXXIII, 7.

(29) Jer. XIII, 17. E. V. ‘And mine eye shall weep sore and run down down etc.’

(30) Lam. II, 1.

(31) I.e., how great was Israel's downfall, for what could be higher than heaven and lower than earth!

(32) From root meaning ‘to learn’: lit., ‘one that has caught fire by associating with Rabbis’; cf. Aboth, II, 10 (Jastrow). Or from root meaning ‘to gather, establish’ sc. halachoth (Levy).

(33) Lit., ‘Light of the eyes’, a ‘euphemism.

(34) Rabbi was the Nasi (‘Prince’) i.e., the president of the Sanhedrin.

(35) I.e., the blind scholar.

(36) I.e., that to visit a scholar is so meritorious.

(37) Perhaps Hattin (Robinson, Bibl. Researches, iii, 34.) N.W. of Tiberias. V. also Neubauer, Geog. du Talmud, p. 207.

(38) Ps. XLIX, 10, 11.

(39) It took him six months to travel to the school and back; in order to be with his family for the festivals of Passover (essentially a home festival) and Tabernacles (cf. Deut. XVI, 14) he was able to remain at the school only one day.

(40) Job XII, 4.

(41) Isa. LVIII, 2.

(42) Num. XIV, 34. v. whole verse.

Talmud - Mas. Chagigah 6a

Who brought him thus far?[1] — Said Abaye to him: Thus far his mother brought him,[2] since she is bound to rejoice[3] [on the festival]; from here onward, if he is able to go up from Jerusalem to the Temple Mount holding his father's hand, he is obligated, and if not, he is exempt.

Rabbi objected on behalf of Beth Hillel to the view of Beth Shammai: But Hannah went not up; for she said unto her husband: Until the child be weaned, when I will bring him up.[4] Now Samuel was [already] able to ride on his father's shoulders![5] - — Said his father[6] to him: But according to thy own reasoning there is a difficulty: was not Hannah herself bound to rejoice [on the festival]?[7] The explanation, therefore, must be that Hannah saw that Samuel was exceptionally delicate, and she feared that the journey might unduly fatigue Samuel.[8] R. Simeon[9] asked: What [is the law], according to the view of Beth Shammai, respecting a minor who is lame,[10] and according to both views, respecting one who is blind?[11] — What is the case? Shall one say that it is a case of a lame child who will never be able to walk,[12] and of a blind child who will never be able to see? Now [in such cases] a major is exempt, can there be any question about a minor?[13] — No, [the question] is necessary with respect to a lame child who may [eventually] be able to walk[14] and with respect to a blind child who may [eventually] be able to see. What [is the law then]? — Abaye said: Wherever a major is obligated according to the law of the Torah, we also initiate a minor according to Rabbinic law; wherever a major is exempt according to the law of the Torah, a minor is also exempt according to Rabbinic law.

BETH SHAMMAI SAY: THE PILGRIMAGE-OFFERING MUST BE WORTH [AT LEAST]

TWO PIECES OF SILVER etc. Our Rabbis taught: Beth Shammai say: The pilgrimage-offering [must be worth at least] two pieces of silver and the festal-offering one ma'ah of silver, because the pilgrimage-offering is offered up entirely to God,[15] which is not the case with regard to the festal-offering;[16] furthermore, we find that for the Festival of Weeks[17] Scripture has enjoined more burnt-offerings than peace-offerings.[18] But Beth Hillel say: The pilgrimage-offerings [must be at least] one ma'ah of silver and the festal-offering two pieces of silver, because the festal-offering obtained prior to the Revelation,[19] which is not the case with regard to the pilgrimage-offering. Furthermore, we find that in the case of ‘the princes’,[20] Scripture enjoined more peace-offerings than burnt-offerings.

Now why do not Beth Hillel agree with Beth Shammai? — As for your saying that the pilgrimage-offering is more important because it is entirely offered up to God, on the contrary, the festal-offering is more important, because in it there are two meals.[21] And as for your saying that we should learn by analogy from the Feast of Weeks, [I contend that] we should form an analogy between the offering of an individual and the offering of an individual,[22] but we should not form an analogy between the offering of an individual and an offering of the community.[23] And why do not Beth Shammai agree with Beth Hillel? — As for your saying that the festal-offering is more important because it obtained prior to the Revelation, [I contend] that the pilgrimage-offering also obtained prior to the Revelation.[24] And as for your saying that we should learn by analogy from ‘the princes’. [I contend that] we have to form an analogy between something that applies to [future] generations[25] and something [else] that applies to [future] generations;[26] but we should not form an analogy between something that applies to [future] generations and something that does not apply to [future] generations.[27] Now according to Beth Hillel, why is the festal-offering singled out as obtaining prior to the Revelation? Because it is written: And they sacrificed sacrifices of peace-offerings.[28] Surely the pilgrimage-offerings must also [have been offered up then]; [for] behold, it is written: And they offered burnt-offerings![29] — Beth Hillel are of the opinion that the burnt-offering which the Israelites offered in the wilderness was the ‘continual burnt-offering’.[30] And Beth Shammai? — They are of the opinion that the burnt-offering that the Israelites offered in the wilderness was a pilgrimage-offering.[31]

Abaye said: Beth Shammai and R. Eleazar and R. Ishmael are all of the opinion that the burnt-offering which the Israelites offered in the wilderness was a pilgrimage-offering. And Beth Hillel and R. Akiba and R. Jose the Galilean are all of the opinion that the burnt-offering which the Israelites offered in the wilderness was the ‘continual burnt-offering’. ‘Beth Shammai’, as we have said [above]. ‘R. Ishmael’, for it is taught: R. Ishmael said: The general directions were given at Sinai,[32]

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(1) I.e., from his house to Jerusalem. The fact that he could travel to Jerusalem shows that he is old enough to do without his mother; at that age he is also old enough to be able to go up from Jerusalem to the Temple Mount by holding his father's hand. What point, therefore, is there in defining a minor as one that is unable even with the aid of his father to go up from Jerusalem to the Temple Mount, when the prior journey to Jerusalem shows that he is old enough to do this and therefore no longer a minor?

(2) Thus the assumption that he was old enough to do without his mother is wrong.

(3) I.e., in order to fulfil the commandment to rejoice she must go to Jerusalem (cf. Deut. XIV, 26); but she is not subject to the commandment to appear before the Lord on the Temple Mount.

(4) I Sam. I, 22. According to the Talmud a child is weaned at the end of 24 months.

(5) According to Rashi a child can do that at the end of a year. The Shammaite view, therefore, must be wrong.

(6) The other reading, Abaye, is an anachronism; [unless we read ‘Said Abaye’ omitting ‘to him’.]

(7) She ought therefore to have gone up to the Sanctuary (then at Shiloh) and taken Samuel with her even before he was weaned.

(8) Thus the case of Samuel cannot be regarded as a support for the Hillelite view.

(9) I.e., R. Simeon b. Lakish, v. Pes. 119a.

(10) Beth Shammai require a child to go up to the Temple (as part of his initiation or religious training) as soon as he can do so by riding on his father's shoulders. Since the lame child could go up to the Temple Mount in this manner, is he bound to do this? But the question is not applicable to Beth Hillel, because they require the child to be able to walk.

(11) This question is applicable to Beth Hillel, too, because the blind child could go up the Temple Mount by holding his father's hand.

(12) Lit., ‘become straight’.

(13) His initiation would serve no purpose, for even on becoming of age he will be exempt.

(14) I.e., before he becomes of age. The question is: must we train him now because when he grows up he will be fit and therefore bound to ‘appear’, or shall we exempt him on account of his present defects?

(15) Lit., ‘the Most-High’.

(16) Which is partly burnt, and partly eaten by pilgrims and priests.

(17) This is the Talmudic sense of עצרת; but in the Bible it means (a) a general assemblage (e.g. Jer. IX, 1) (b) a sacred assembly (e.g. Isa. I, 13), but especially the last day of Passover (Deut. XVI, 8) or of Tabernacles (Lev. XXIII, 36, Num. XXIX, 35).

(18) V. Lev. XXIII, 18, 19: the festal offering (חגיגה) belonged to the class of peace-offerings (שלמים); v. supra n. 2.

(19) V. Ex. XXIV, 5, which is taken to refer to a time prior to the Revelation though it occurs after the Decalogue; cf. Shab. 88a, where the building of the altar and the offering of sacrifices thereon by ‘the young men of the children of Israel’, (taken by the Rabbis to be the firstborn) is said to have taken place on the fifth Sivan, a day before the Revelation.

(20) I.e., the heads of the tribes mentioned at the dedication of the altar in Tabernacles; v. Num. VII, 87,88.

(21) For the altar and for man.

(22) I.e., the pilgrimage and festal-offerings which were private offerings should be compared with the offerings of ‘the princes’, which were also private offerings.

(23) I.e., the offerings prescribed for the Feast of Weeks, which were provided from the Temple treasury.

(24) V. Ex. XXIV, 5.

(25) I.e., the pilgrimage and festal-offerings.

(26) I.e., the public offerings of the Feast of Weeks.

(27) I.e., the prince's offerings.

(28) Ibid.

(29) Ibid. The pilgrimage-offering was a burnt-offering.

(30) V. Num. XXVIII, 2-6: this was a daily public offering from which no inference could be drawn regarding the pilgrimage-offerings.

(31) Because the expression ‘they saw God’ (Ex. XXIV, 11) which, being similar to the expression ‘shall appear’ (Ex. XXIII, 17). is taken to imply that it was offered as a pilgrimage celebration.

(32) I.e., many precepts were left vague at Sinai, which were explained in full detail after the erection of the Tabernacle; cf., for example, Ex. XX, 24 with the detailed instructions concerning the sacrifices in Lev. I-VII.

Talmud - Mas. Chagigah 6b

and the details in the Tent of Meeting.[1] But R. Akiba said: The general directions and the details were given at Sinai[2] and repeated in the Tent of Meeting and enjoined a third time in the Plains of Moab.[3] Now if you suppose that the burnt-offering which the Israelites offered in the wilderness was the [statutory] continual burnt-offering[4] , is it possible for a sacrifice not to require flaying and dissection at first[5] and later to require flaying and dissection?[6]

‘R. Eleazar’, for it was taught: It is it continual burnt-offering, which was offered in Mount Sinai.[7] R. Eleazar said: The manner of its offering was enjoined at Sinai, but it was not actually offered up.[8] R. Akiba said: It was offered up and was never discontinued. But how am I to explain [the verse]: Did you bring unto Me sacrifices and offerings in the wilderness forty years, O house of Israel?[9] — The tribe of Levi, who were not guilty of idol worship.[10] offered them up.[11]

‘Beth Hillel’, as we have said [above]. ‘R. Akiba’, also, as we have said [above]. ‘R. Jose the Galilean’,for it is taught: R. Jose the Galilean said: Three precepts are enjoined upon Israel when they make their pilgrimage at a festival: the pilgrimage-offering and the festal-offering and the rejoicing.[12] The pilgrimage-offering has something that the other two have not;[13] and the festal-offering has something that the other two have not; and the rejoicing has something that the other two have not. The pilgrimage-offering has something that the other two have not, for the pilgrimage-offering is offered entirely to God, which is not the case with the other two. The festal-offering has something that the other two have not, for the festal-offering obtained prior to the Revelation,[14] which was not the case with the other two. The rejoicing has something which the other two have not, for the rejoicing applies to both men and women,[15] which is not the case with the other two.[16]

With reference to R. Ishmael, why do you represent him as agreeing with Beth Shammai?[17] [Because you argue]: If it were supposed that the burnt-offering which the Israelites offered in the wilderness was the continual burnt-offering, is it possible for a sacrifice not to require flaying and dissection at first and later to require flaying and dissection? But behold R. Jose the Galilean said [distinctly][18] that the burnt-offering which the Israelites offered in the wilderness was the continual burnt-offering; [and yet he held that] at first it did not require flaying and dissection, and later it did require flaying and dissection. For it is taught: R. Jose the Galilean said: The burnt-offering which the Israelites offered in the wilderness did not require flaying and dissection, because flaying and dissection came into force only from [the erection of] the Tent of Meeting onward![19] — Strike out R. Ishmael from here.[20]

R. Hisda asked: How is this verse to be understood: And he sent the young men of the children of Israel, who offered burnt-offerings [namely] lambs, and sacrificed peace-offerings of oxen unto the Lord?[21] Or Perhaps both were oxen?[22] What difference does it make? Mar Zutra said: In regard to the punctuation.[23] R. Abba, the son of Raba, said: In regard to one who says: I vow [to offer] a burnt-offering like the burnt-offering which Israel offered in the wilderness. What [must he offer]? Were they oxen or lambs? — It remains [undecided].

We have learnt elsewhere:[24] The following things

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(1) Cf. Lev. I, 1.

(2) Though not mentioned in connection with the Revelation but in other parts of the Torah e.g.. Leviticus.

(3) Cf. Deut. I, 5f.

(4) Enjoined by God for all time, and not offered by individuals at their own discretion as pilgrimage-offerings.

(5) Since, according to R. Ishmael, the laws of flaying and dissection as details were laid down only at the Tent of Meeting.

(6) The burnt-offerings mentioned in Ex. XXIV, 5, before the Revelation at the Tent of Meeting, were offered up whole, whilst the continual burnt-offering. like all burnt-offerings, required flaying and dissection, v. Lev. I, 6; therefore it must be pilgrimage-offerings that are referred to in Ex. XXIV, which they offered on their own accord and which were consequently not subject to any of the detailed laws governing burnt-offerings (Rashi).

(7) Num. XXVIII, 6.

(8) Thus the burnt-offerings brought by the ‘young men’ (Ex. XXIV, 5) must have been pilgrimage-offerings.

(9) Amos V, 25. This implies, contrary to R. Akiba's view, that in the wilderness the regular public sacrifices were not offered, because Israel was under divine censure.

(10) Cf. Ex. XXXII, 26.

(11) I.e., they offered the continual burnt-offerings at their own expense (Rashi).

(12) The spirit of festive joy was expressed by a sacrificial feast; if the offerings brought in fulfillment of vows, as free-will gifts or as tithe, did not suffice for all, additional peace-offerings had to be brought as offerings of rejoicing.

(13) I.e., is superior in a certain respect to the other two.

(14) The peace-offerings which the ‘young men’ also offered at Sinai (Ex. XXIV,5) though not offered on a festival, are called festal-offerings (חגיגה) because they were the fulfilment of Ex. V, 1. As R. Jose holds that the pilgrimage-offerings were not prior to the Revelation, he is in agreement with Beth Hillel.

(15) V. Deut. XIV, 26. The Tosefta reading is: For the offerings of rejoicing can be offered during any of the seven days' שהשמחה יש לה תשלומין כל שבעה

(16) Which, being precepts not expressly enjoined upon women, and being dependent on a fixed time (v. p. 13, n. 4) are incumbent on men only.

(17) The question is against Abaye's statement above (p. 28): since the Hillelite view is the more authoritative, Abaye should avoid representing R. Ishmael as agreeing with Beth Shammai.

(18) I.e., it is clearly inferred from the Baraitha just quoted.

(19) Thus the reasoning which sought to make R. Ishmael agree with Beth Shammai is wrong.

(20) I.e., from the list of those who hold the Shammaite view.

(21) Ex. XXIV, 5.

(22) I.e., the burnt-offerings as well as the peace-offering.

(23) פיסוק טעמים. According to Rashi, the Neginoth or cantillation signs are referred to: the first interpretation would require the word עלות to have a disjunctive accent (e.g.. ethnahta, as in our texts), and the second would require a conjunctive accent (e.g.. Pashta or Rebia'). But actually the Neginoth are of Post-Talmudic origin; v. J.E. Vol. I p. 157, 6, prg. 7. For doubtful verse-division cf. also Yoma 5a-b. V. also Ned., Sonc. ed., p. 113, n. 5.

(24) Pe'ah. I, 1.

Talmud - Mas. Chagigah 7a

have no prescribed limit:[1] the [crop of the] corner of a field [to be left for the poor],[2] the first fruits,[3] the visiting of the Temple [Re'ayon],[4] deeds of loving-kindness,[5] and the study of the Torah. R. Johanan said: We were of the opinion that the visiting of the Temple [with an offering] had no maximum limit, but that it had a minimum limit,[6] till R. Oshaya Berabbi[7] came and taught that the visiting of the Temple [with an offering] has no maximum nor minimum limit.[8] But the Sages said: The pilgrimage-offering[9] must be worth [at least] one ma'ah of silver and the festal-offering two pieces of silver.

What is meant by Re'ayon? — R. Johanan says: [It means] appearing[10] in the Temple Court.[11] Resh Lakish says: [It means] appearing with a sacrifice.[12] Concerning the first day[13] of the Festival, all are agreed that the visit must be accompanied by an offering; they differ only with regard to the other days of the festival. [Further] if a man brings [an offering] every time that he comes, all are agreed that we are to accept it from him; they differ only with regard to a man who comes and does not bring [an offering]. R. Johanan is of the opinion that [Re'ayon means] appearing at the Temple Court; he need not therefore bring [an offering] whenever he comes. Resh Lakish says: [Re'ayon means] appearing with an offering; thus he must bring [an offering] whenever he comes.

Resh Lakish put an objection to R. Johanan. [It is written]: None shall appear before Me empty![14] — He replied to him: [This refers] to the first day of the Festival.[15]

He [again] put an objection to him: 'None shall appear before Me empty': [this means one must bring] animal sacrifices.[16] You say, animal sacrifices, but perhaps [it means] birds or meal-offerings? [Nay], you may deduce it by analogy. A festal-offering is prescribed for man[17] and a pilgrimage-offering is prescribed for God:[18] just as the festal-offering prescribed for man is an animal sacrifice,[19] so the pilgrimage-offering prescribed for God is an animal sacrifice. And what is meant by animal sacrifices? Burnt-offerings. You say burnt-offerings, but perhaps [it means] peace-offerings? [Nay], you may deduce it by analogy: a festal-offering is prescribed for man and a pilgrimage-offering is prescribed for God: just as the festal-offering which is prescribed for man is one that is fitting[20] for him, so the pilgrimage-offering which is prescribed for God must be one that is fitting[21] for Him. And so it is right, that your table should not be full and the table of the Master empty![22] — He replied: [This refers] to the first day of the festival.

[Again] he Put an objection to him: R. Jose son of R. Judah said: Three times in the year were the Israelites commanded to go on pilgrimage: on the Feast of Unleavened Bread, on the Feast of Weeks and on the Feast of Booths; and they must not appear in divisions,[23] for it is said: All thy males;[24] and they must not appear empty-handed for it is said: None shall appear before Me empty![25] — He replied: [This refers] to the first day of the festival.

R. Johanan put an objection to Resh Lakish: [It is written]: Yir'eh [He will see]. Yera'eh [He will be seen];[26] just as I [come] free,[27] so you [come] free! — All, therefore, must agree that if a person comes and does not bring [an offering] that he may enter [the Temple Court] and present himself and go out.[28] They differ only with regard to a person who comes and brings [an offering]. R. Johanan, who says [Re'ayon means] appearing in the Temple Court, [holds] that there is no limit to ‘appearing’, but that there is a limit to the offerings. And Resh Lakish says: [Re'ayon means] appearing with an offering; thus there is no limit to the offerings either. R. Johanan put an objection to him: [It is written]: Let thy foot be seldom in thy Friend's house![29] — There it refers to sin-offerings.[30] as R. Levi [taught]. For R. Levi pointed to a contradiction; it is written: ‘Let thy foot be seldom in thy Friend's house’, and it is written: I will come into Thy house with burnt-offerings![31] There is no contradiction: the one case refers to sin-offerings and trespass-offerings; the other case refers to burnt-offerings and peace-offerings. It has also been taught thus: ‘Let thy foot be seldom in thy Friend's house’: the verse speaks of sin-offerings and trespass-offerings. You say of sin-offerings and trespass-offerings, but perhaps it is of nought but burnt-offerings and peace-offerings? When it says: ‘I will come to Thy house with burnt-offerings, I will perform unto Thee my vows’, behold burnt-offerings and peace-offerings are mentioned; how now shall I explain [the verse]: ‘Let thy foot be seldom in thy Friend's house’? The verse speaks of sin-offerings and trespass-offerings.

‘And they must not appear in divisions etc.’ R. Joseph thought to explain it [thus]: If a man has ten sons, they should not make the pilgrimage five one day and five the next day.[32]

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(1) I.e., fixed by Scripture.

(2) V. Lev. XIX, 9 and XXIII, 22; the Rabbis fixed the minimum at a sixtieth of the field.

(3) Deut. XXVI, 1-11.

(4) ראיון , ראיון or ראיון lit., appearing’ sc. at the Temple Court; secondarily, it means the sacrifice brought on the occasion of the Temple visit; cf. end of page, and p. 1, n. 1.

(5) It includes all deeds of kindness; but for almsgiving the Rabbis prescribed a limit, v. Keth. 50a.

(6) prescribed by Scripture i.e., the ma'ah or two ma'ahs mentioned in the Mishnah.

(7) ברבי: According to Rashi, ‘great in his generation, i.e., eminent; according to Levy and Jastrow, ‘belonging to a school of an eminent teacher’ (contra. of בי רבי); a title of scholars, most frequently applied to disciples of R. Judah ha-Nasi and his contemporaries, but also to some of his predecessors and sometimes to the first Amoraim; v. Naz., Sonc. ed., p. 64, n. 1.

(8) V. p. 31. n. 7.

(9) Heb. ראייה v. n. 5, and p. 31, n. 10.

(10) The different form of the word implies a different meaning from ראייה; the latter in this context would mean ‘the (cost of the) pilgrimage burnt-offering’; the former signifies ‘appearing’ in the Temple.

(11) I.e., there is no limit to the number of visits, but only one sacrifice need be brought.

(12) I.e., however many visits are made to the Temple Court a sacrifice must be brought every time.

(13) Lit., ‘the essential part’.

(14) Ex. XXIII, 15. Thus the visitor to the Temple must always bring an offering.

(15) But on all subsequent visits no offering need be brought.

(16) זבחים signifies sacrifices slaughtered with a knife, i.e., בהמות (‘beasts’) in contradistinction to עופות (‘birds’), for which מליקה (‘pinching the neck with finger nail’) is prescribed.

(17) הדיוט Grk. ** a private man (as opposed to a priest, officer etc.), a commoner; ignoble, ignorant (Jast.). Here it means the pilgrim (as opposed to God), for whom the festal-offering was intended to provide the festive meal.

(18) Lit., ‘the Most High’. The words ‘before Me’ (in Ex. XXIII, 15) imply that the pilgrimage-offering was prescribed primarily as a sacrifice to God in contradistinction to the festal-offering which was to provide food for the worshipper.
(19) Cf. Ex. XXIII, 18 where חלב חגי (‘the fat of any festal-offering’) implies that it was an animal, for birds have no חלב, fat to be burnt on the altar.
(20) I.e., it provides him with meat for his feast.
(21) I.e., a burnt-offering.
(22) Thus an offering should be brought on each visit to the Temple, which refutes R. Johanan.
(23) Lit., ‘by halves’. Explained infra p. 34.
(24) Ex. XXIII, 17.
(25) This apparently supports Resh Lakish.
(26) V. p. 3, n. 3.
(27) I.e., without sacrifices.
(28) This new view of the controversy shows that the previous arguments between R. Johanan and Resh Lakish were not actually advanced by the Rabbis named but by later scholars, v. Tosaf. Bek. 4b, s.v. אלא,
(29) Prov. XXV, 17. I.e., one should not bring too many sacrifices to the House of God. There is possibly a play here on the word רגל which means ‘foot’ and also ‘pilgrimage-festival’. For the term ‘Friend’ understood of God, cf. the terms of endearment in Cant. which the Rabbis interpreted as expressing the loving relationship between Israel and God.
(30) I.e., the verse means: Avoid the necessity of bringing sin-offerings.
(31) Ps. LXVI, 13. Thus it is good to bring sacrifices.
(32) Taking לחצאין literally. i.e., ‘by halves’.

Talmud - Mas. Chagigah 7b

Said Abaye to him: This is obvious; which of them would you make transgressors and which of them would you make zealous?[1] What then is the purpose of the verse?[2] To intimate the teaching of ‘Others’.[3] For it is taught: ‘Others’ Say: The scraper, the copper-smith and the tanner are exempt from appearing [at the Temple]; for it is said, ‘All thy males’: he who is able to go on the pilgrimage with ‘all thy males’; these [then] are excluded, because they are unable to go up with all thy males.[4]

MISHNAH. BURNT-OFFERINGS DURING THE MID-FESTIVAL[5] ARE TO BE BROUGHT FROM [ANIMALS BOUGHT WITH] UNCONSECRATED MONEY,[6] AND PEACE-OFFERINGS,[7] [ALSO] FROM [ANIMALS BOUGHT WITH SECOND] TITHE MONEY.[8] ON THE FIRST FESTIVAL DAY OF PASSOVER, BETH SHAMMAI SAY: [THEY MUST BE BROUGHT] FROM [ANIMALS BOUGHT WITH] UNCONSECRATED MONEY; AND BETH HILLEL SAY: [THEY CAN BE BROUGHT ALSO] FROM [ANIMALS BOUGHT WITH SECOND] TITHE MONEY. ISRAELITES[9] MAY FULFIL THEIR OBLIGATION[10] WITH VOW-OFFERINGS, FREEWILL-OFFERINGS[11] AND TITHE OF CATTLE;[12] AND THE PRIESTS WITH SIN-OFFERINGS AND TRESPASS-OFFERINGS.[13] FIRSTLINGS,[14] THE BREAST AND THE SHOULDER,[15] BUT NOT WITH BIRD-OFFERINGS,[16] NOR MEAL-OFFERINGS.[17]

GEMARA. Accordingly, it is during the mid-festival only that burnt-offerings are brought from [animals bought with] unconsecrated money, but on the festival [they may be brought] also from [animals bought with Second] Tithe money. [But] why? It is obligatory, and everything that is obligatory must be brought from [animals bought with] unconsecrated money! And if you say: It comes to teach us this, [to wit,] that burnt-offerings can be brought during the mid-festival but not on the festival;[18] then this will be according to Beth Shammai![19] For we have learnt: Beth Shammai say. One may bring peace-offerings [on the festival][20] without laying the hands[21] upon them; but not burnt-offerings.[22] But Beth Hillel say, One may bring peace-offerings and burnt-offerings [on the festival] and lay the hands upon them![23] — [Our Mishnah] is defective, and it should read thus: Burnt-offerings, vow-offerings and freewill-offerings are brought during the mid-festival, but they may not be brought on the festival.[24] But the pilgrimage burnt-offering is brought even on the festival;[25] and when it is brought,[26] it must be brought only from [animals bought with] unconsecrated money; but the peace-offerings of rejoicing can be brought also from [animals bought with Second] Tithe money.[27] And regarding the festal-offering of the first festival day of Passover, Beth Shammai say: [It must be brought from animals bought with] unconsecrated money; and Beth Hillel say: [It can be brought] also from [animals bought with Second] Tithe money.[28] It has also been taught thus: Burnt-offerings, vow-offerings and freewill-offerings are brought during the mid-festival but not on the festival. But the pilgrimage burnt-offering is brought even on the festival; and when it is brought, it is brought only from [animals bought with] unconsecrated money; but the peace-offerings of rejoicing can be brought also from [animals bought with Second] Tithe money. And regarding the festal-offering of the first festival day of Passover,[29] Beth Shammai say: [It must be brought] from [animals bought with] unconsecrated money; but Beth Hillel say: [It can be brought] also from [animals bought with Second] Tithe money. Why is the festal-offering of the first festival day of Passover different?[30] — It comes to teach us this: Only the festival-offering of the fifteenth [of Nisan must be brought from animals bought with unconsecrated money] but not the festal-offering of the fourteenth [of Nisan].[31]

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(1) All the ten are bound to visit the Temple on the first day; if, now, five at a time went up, the first group would be doing their duty scrupulously and the second five would be remiss.

(2) ‘All thy males,’ teaching that they must not appear in divisions.

(3) V. p. 14, n. 5.

(4) ‘They must not appear in divisions’ means, therefore, that all the Israelites must form one group; if the scraper etc. were to go on the pilgrimage they would have to form, because of their malodour, a separate group, which is forbidden.

(5) מועד lit., ‘appointed time,’ i.e., the intermediate days of Passover and Sukkoth as opposed to יום טוב, festival days (called in the Bible מקרא קדש’holy convocation’). In the Bible מועד includes both festival and intermediate days, cf. e.g. Lev. XXIII, 4.

(6) As opposed to animals bought with Second Tithe money (v. infra, n. 8). All obligatory offerings had to be brought from unconsecrated animals (cf. Men. 82a and infra p. 36).

(7) Brought to provide sufficient meat for the pilgrim and his family so that they might keep the festival with rejoicing (cf. Deut. XIV, 26).

(8) Cf. Deut. XIV, 22f. The tithe was separated in the first, second, fourth and fifth year of the seven year cycle, after terumah (‘heave-offering’) had been given to the Priest and First Tithe to the Levite. It was to be consumed in Jerusalem or the money with which it was redeemed spent there (v. Danby, P. 73, n. 6).

(9) As opposed to priests.

(10) I.e., of ‘rejoicing’ on the festival by offering peace-offerings wherewith to provide themselves with meat for the feast. Thus it is unnecessary to bring special sacrifices for this purpose, if the vow-offerings etc. provide sufficient for the family's needs.

(11) Cf. Mishnah Meg. I, 6.

(12) V. Lev. VII, 31-39.

(13) Brought by pilgrims and of which only the priests may eat; v. Num. XVIII, 9f.

(14) V. ibid. 17-19.

(15) V. Lev. VII, 29f.

(16) They were sin-offerings.

(17) V. Lev. II, 1. The bird and meal-offerings would not provide a feast suited to the occasion of rejoicing.

(18) I.e., it is forbidden to offer the pilgrimage burnt-offerings on the festival (when all manner of work is prohibited), even though it is an obligatory offering of the festival, because there is time to bring the offering the next day.

(19) Whose opinion is invalid against that of Beth Hillel.

(20) Because they supply the pilgrim with his feast.

(21) Cf. Lev. III, 2 and infra 16a. The act of laying on of the hands, which causes the pilgrim to support himself on the animal, is forbidden by the Rabbis on Festival and Sabbath on account of shebuth (‘abstention, rest’, v. Glos.) i.e., it is an action out of keeping with the restful character of the holy day. though it is not actually included in one of the thirty-nine categories of labour (v. Mishnah Shab. VII, 2) and cf. Mishnah Bez. V, 2.

(22) Exceptions were the continual burnt-offerings and the additional offerings, which were permitted to be offered because they had an appointed time (cf. Num. XXVIII, 2 במועדו); otherwise, Beth Shammai explained ‘unto you’ in Ex. XII, 16 to mean: for yourselves offer sacrifices but not entirely for God.

(23) Since it is permitted to bring them, the laying on of the hands is also permitted. V. Bez. 19b.

(24) Even according to Beth Hillel.

(25) Though it could be brought during the mid-festival, Lev. XXIII, 4 (‘and ye shall keep it a feast’) is taken by Beth Hillel to imply that it should be offered on the first day of the festival.

(26) [Wilna Gaon emends ‘when they are brought’ referring to all the mentioned offerings].

(27) V. p. 36, n. 1, and infra p. 39.

(28) Explained infra.

(29) As distinct from the festal-offering of the fourteenth of Nisan; v. next note.

(30) I.e., why is it specifically mentioned?

(31) If the paschal lamb did not suffice for the company a festal-offering could be sacrificed in addition (cf. Sifre to Deut. XVI, 2 and Pes. 69b). This festival-offering was not obligatory, hence even Beth Shammai would agree that it could be brought from the Second Tithe.

Talmud - Mas. Chagigah 8a

Thus he holds that the festal-offering of the fourteenth [of Nisan] is not enjoined by the Torah.

The Master said [above]: ‘Beth Hillel say: [The festal-offering of the first day of the festival can be brought also] from [animals bought with Second] Tithe money’. Why? It is obligatory, and everything that is obligatory must be brought only from [animals bought with] unconsecrated money![1] — ‘Ulla said: When he supplements [the unconsecrated by that of the Second Tithe].[2] Hezekiah said: One animal may be supplemented by another animal, but money may not be supplemented by money. And R. Johanan said: Money may be supplemented by money, but one animal may not be supplemented by another animal. There is a teaching agreeing with Hezekiah and there is a teaching agreeing with R. Johanan. There is a teaching agreeing with R. Johanan: [it is written]: After the tribute;[3] this teaches that a man must bring his obligatory offering from [animals bought with] unconsecrated money. And whence [do we know] that if he desires to mix he may mix?[4] The text teaches: According as the Lord, thy God, shall bless thee.[5] There is a teaching agreeing with Hezekiah: [The expression] ‘after the tribute’ teaches that a man may bring his obligatory offering from [animals bought with] unconsecrated money. Beth Shammai say: The first [festival] day from [animals bought with] unconsecrated money.[6] thenceforward[7] [also] from [animals bought with Second] Tithe money. Beth Hillel say: The first meal[8] from [animals bought with] unconsecrated money. thenceforward[9] from [animals bought with Second] Tithe money. And the remaining days of Passover, a man may fulfil his obligation[10] [also] with the tithe of cattle.[11] Why may he not [do so] on the festival?[12] — R. Ashi said: Lest he come to separate tithe on the festival; and it is impossible to separate tithe on the festival on account of the [marking with] red paint.[13] What evidence is there that the [word] ‘tribute’ indicates that which is unconsecrated? — Because it is written: And the King Ahasuerus laid tribute upon the land.[14]

ISRAELITES MAY FULFIL THEIR OBLIGATION WITH VOW-OFFERINGS AND FREEWILL-OFFERINGS. Our Rabbis taught: [It is written], And thou shalt rejoice in thy feast.[15] This includes all kinds of rejoicings as [festival] rejoicing.[16] Hence the Sages said: Israelites may fulfil their obligation with vow-offerings, freewill-offerings and tithe of cattle; and the priests with sin-offering and guilt-offering, and with firstlings, and with the breast and the shoulder; one might [think] also with bird-offerings and meal-offerings, [therefore] Scripture teaches: ‘And thou shalt rejoice in thy feast’.

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(1) Cf. p. 36.

(2) If he has a large company and the festival-offering from his unconsecrated means (חולין) will not suffice, he is permitted to add thereto from the Second Tithe: according to Hezekiah, it means that he may purchase other festival-offerings with Second Tithe money; according to R. Johanan, he may add Second Tithe money in order to purchase a larger animal. The former deems it better that one should satisfy one's obligation to bring the festival-offering from unconsecrated means by bringing therefrom a complete offering i.e., the first, though by itself inadequate for the company; the latter prefers that every morsel of the festival-offering should contain a percentage purchased with unconsecrated money (Rashi). Tosaf. explains that R. Johanan objects to ‘dividing one's obligation’ by spreading it over two animals.

(3) Deut. XVI, 10.

(4) The expression ‘mix’ supports R. Johanan, because it is applicable to money and not to animals.

(5) Ibid. I.e., with both unconsecrated and consecrated means.

(6) Because it is obligatory then.

(7) Though still termed festival-offerings, they are really peace-offerings of rejoicing.

(8) I.e., the first festal-offering.

(9) Even on the same day.

(10) ‘To rejoice’.

(11) And also of course with offerings bought with Second Tithe money.

(12) I.e., satisfy his obligation after the first meal with tithe cattle, just as he may buy an offering with Second Tithe money.

(13) Every tenth animal was designated as tithe by being marked with red paint (Bek. IX, 7); on a holy day painting, being regarded as work, is prohibited.

(14) Esth. X, 1. The word used here מס, and מסת in Deut. XVI, 10 are from the same root.

(15) Deut. XVI, 14, which refers to Sukkoth, but by analogy is applicable to each of the three pilgrim festivals.

(16) I.e., the precept to rejoice can be fulfilled only by having meat at the feast (cf. Pes. 119a), but the flesh of any kind of sacrifice will do.

Talmud - Mas. Chagigah 8b

only with those [offerings] from which the festal-offering can be brought;[1] these, then, are excluded Since the festal-offering cannot be brought from them. R. Ashi said: It is to be deduced from [the expression]. ‘And thou shalt rejoice’; these, then, are excluded because there is no [festive] joy in them. But what does R. Ashi do with [the expression]. ‘in thy feast’.[2] — To intimate what R. Daniel b. Kattina learnt. For R. Daniel b. Kattina said that Rab said: Whence [is it derived] that marriages[3] may not take place during the mid-festival? Because it is said: ‘And thou shalt rejoice in thy feast’, but not in thy wife.[4]

MISHNAH. HE THAT HAS MANY TO EAT [WITH HIM] AND FEW POSSESSIONS,[5] OFFERS MANY PEACE-OFFERINGS AND FEW BURNT-OFFERINGS,[6] [HE THAT HAS] MANY POSSESSIONS AND FEW TO EAT [WITH HIM] BRINGS MANY BURNT-OFFERINGS[7] AND FEW PEACE-OFFERINGS. [HE THAT HAS] FEW OF EITHER, FOR HIM IS PRESCRIBED:[8] ONE MA'AH OF SILVER’, ‘TWO PIECES OF SILVER’.[9] HE THAT HAS MANY OF BOTH, OF HIM IT IS SAID: EVERY MAN SHALL GIVE AS HE IS ABLE, ACCORDING TO THE BLESSING OF THE LORD THY GOD, WHICH HE HATH GIVEN THEE.[10]

GEMARA. Whence shall he bring many peace-offerings? Behold He has not! — Said R. Hisda: He may supplement [unconsecrated money with Second Tithe money] and bring a large bull.[11] Said R. Shesheth to him: Behold they said: One may supplement beast with beast! What did he mean? Should one say he meant this: Behold they said: One may supplement beast with beast, but not money with money; then he should say to him: One may not supplement money with money![12] — He must, therefore, have meant this: Behold they said: One may also supplement beast with beast![13] According to whom will this be? It will be neither according to Hezekiah nor according to R. Johanan.[14] And should you say: It is only the Amoraim[15] who differ [about it],[16] but the Baraithas[17] do not differ;[18] but behold it says: The first meal must come from unconsecrated money![19] — The first meal means that the amount of the value of a first meal[20] must be from unconsecrated money.[21]

‘Ulla said that Resh Lakish said: If a man set aside ten beasts for his festal-offering [and] he offered up five on the first day of the festival, he may offer up the other five on the second day of the festival;[22] R. Johanan said: Since he has interrupted [the offer- above) and not leave R. Hisda to infer what is prohibited from a statement of what is permitted. ings]. he cannot offer any more. R. Abba said: But they do not differ: the one speaks of an instance where he did not declare his intention, and the other speaks of an instance where he did declare his intention.[23] What is the case of the one who had not declared his intention?[24] — Should one say that there is no time left in the day to offer them, then the reason for his not offering them was because there is no time left in the day![25] [Should one say], therefore, that he had no [more] people to eat with him![25] - — No, it refers to a case where there was time left in the day [to offer] and he had people to eat with him; seeing that he did not offer them on the first day [of the festival] it proves that he left them over [intentionally].[26] And so it stands to reason;[27] for when Rabin came [from Palestine] he said that R. Johanan said: If a man set aside ten beasts for his festal-offering, [and] he offered five the first day of the festival, he may offer the other five on the second day of the festival. [Now the two statements of R. Johanan] contradict one another! Surely, therefore, you must learn from this that in the one case he does not declare his intention and in the other he does declare his intention. Proven.

It is also reported:[28] R. Shaman b. Abba said that R. Johanan said:

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(1) V. p. 33, n. 3. Cf. also infra 10b.

(2) I.e., since Scripture has no redundant expressions, what teaching does he derive from it.

(3) Lit., ‘they may not take wives’.

(4) V. M.K. 8b.

(5) I.e., cattle (cf. Aramaic נכסין cattle, herd), which, in contradistinction to land (immovable property), originally constituted essential (movable) wealth. The root נכס means to slaughter; cf. Latin pecunia from pecus (Goldschmidt). Cf. also chattels from cattle. Jastrow offers a different explanation.

(6) Respectively for festal and pilgrimage sacrifices.

(7) In accordance with Deut. XVI, 17.

(8) By the Rabbis.

(9) V. p. 2, nn. 2, 4.

(10) Deut. XVI, 17.

(11) V. p. 38, the views of Hezekiah and R. Johanan.

(12) I.e., let R. Shesheth, who follows Hezekiah's view, say distinctly what is prohibited (exactly as Hezekiah does

(13) I.e., and not merely money with money.

(14) As neither of them permits the supplementing of both money with money and beast with beast.

(15) Lit., ‘speakers’: the Talmudic scholars who were active from the time of the conclusion of the Mishnah (C. 220 C.E.) to the end of the fifth century, and compiled almost the whole of the Gemara; v. Glos. s.v. Amora. Here Hezekiah and R. Johanan are referred to.

(16) I.e., regarding the permissibility of supplementing money with money and adding beast to beast.

(17) Lit., ‘extraneous (teachings)’: the generic term for Tannaitic teachings not included in the Mishnah, v. Glos.

(18) The Baraithas quoted above (pp. 38, 39) in support of Hezekiah and R. Johanan respectively do not contradict each other regarding the permissibility of adding money to money, only regarding the adding of beast to beast, which the first Baraitha prohibits and the second permits. Thus R. Shesheth will agree with the second Baraitha which permits the adding of beast to beast as well as money to money.

(19) This presumably means that the whole of the flesh of the first meal must come from unconsecrated money, which in turn shows that the Baraitha refers to the supplementing of beast with beast and not of money with money.

(20) [I.e..the amount required to constitute generally a first festal meal and not, as assumed, the whole of the first meal. The text is in slight disorder].

(21) Thus the Baraitha may refer both to animals and money.

(22) Rashi explains: One must not suppose that by offering the remaining beasts on the second day (i.e. , the first day of the mid-festival) he is transgressing the commandment to keep one day as a feast i.e., to offer his festal offerings on the first day (deduced infra p. 44 from Lev. XXIII, 41, 'and ye shall keep it (only) a feast'), for the second day he is merely 'compensating' for the dues of the first. But according to R. Hananel (quoted in Tosaf'. ד״ה חוזר) יום טוב שני('the second day') means, or should read, יום טוב אחרון ('the last day of the festival'); and he explains that one should not think that since vow-offerings and freewill-offerings cannot be brought on a festival day, therefore the remaining beasts may not be offered then; for these sacrifices are to be regarded as festal-offerings not as vow- or freewill-offerings, since in the first place they were set aside for that purpose. This interpretation is supported by the J.T.

(23) I.e., he said explicitly I set all of them aside for the first day; if then he offers some on the second day, they are merely 'compensation' for the first day.

(24) That you rule that he cannot offer them any more.

(25) But his intention was to offer them on the first day.

(26) In order to provide a feast for the second day.

(27) I.e.. that R. Johanan would grant that if he declared his intention to offer them all on the first day, he may offer the remaining beasts on the second.

(28) This is an Amoraic (v. p. 41, n. 3) corroboration to the effect that where it is evident that the pilgrim did not intend in the first instance to hold over some of the offerings for the second day, R. Johanan would agree with Resh Lakish.

Talmud - Mas. Chagigah 9a

They taught this[1] only [of a case] when it had not ended, but if it had ended, he may offer the rest [on the second day]. What does 'ended' mean? Shall one say [it means]: he had ended[2] his sacrifices? What [in that case] should he offer? It must mean, therefore, that the day had not ended,[3] but if the day had ended,[4] he may offer the rest [on the second day].

MISHNAH. HE WHO DID NOT BRING HIS FESTAL-OFFERING ON THE FIRST FESTIVAL, DAY OF THE FEAST [OF TABERNACLES], MAY BRING IT DURING THE WHOLE OF THE FESTIVAL, EVEN ON THE LAST FESTIVAL DAY[5] OF THE FEAST [OF TABERNACLES]. IF THE FESTIVAL, PASSED AND HE DID NOT BRING THE FESTIVAL OFFERING, HE IS NOT BOUND TO MAKE IT GOOD. OF SUCH A PERSON IT IS SAID: HE THAT IS CROOKED CANNOT BE MADE STRAIGHT AND THAT WHICH IS WANTING CANNOT BE RECKONED.[6] R. SIMEON B. MENASYA SAID: WHO IS IT 'THAT IS CROOKED' WHO 'CANNOT BE MADE STRAIGHT'? HE THAT HAS CONNECTION WITH A FORBIDDEN RELATION[7] AND BEGETS BY HER BASTARD ISSUE. SHOULD YOU SAY THAT IT APPLIES TO A THIEF OR ROBBER, BUT THEN HE IS ABLE TO MAKE RESTITUTION AND BE MADE STRAIGHT. R. SIMEON B. YOHAI SAID: ONLY HE CAN BE CALLED 'CROOKED' WHO WAS STRAIGHT AT FIRST AND BECAME CROOKED. AND WHO IS THIS? — A DISCIPLE OF THE SAGES WHO FORSAKES THE TORAH.

GEMARA. Whence do we know this?[8] — R. Johanan in the name of R. Ishmael said: [The expression] 'Azereth ['solemn assembly'] is used of the seventh day of Passover,[9] and [the expression] 'Azereth is used of the eighth day of the Feast [of Tabernacles].[10] Just as there it[11] intimates that one can make good [thereon the festal-offering due on the first day] so here[12] it intimates that one can make good [thereon the festal-offering of the first day]. And it is free [for interpretation];[13] for were it not free one might object: whereas [this[14] applies] to the seventh day of Passover which is not differentiated from the preceding [days], can you say this of the eighth day of the Feast [of Tabernacles] which is differentiated from the preceding [days].[15] But it is not so;[16] it is quite free [for interpretation]. Consider, what does 'Azereth mean? [Evidently it means], restrained ['Azur][17] in respect of doing work. But behold it is written: Thou shalt do no work;[18] wherefore, then, has the Divine Law written 'Azereth?[19] You must infer therefrom [that it is] in order to leave it free [for interpretation]. But the Tanna[20] [of the following Baraitha] deduces it from here. For it is taught: And ye shall keep it a feast unto the Lord seven days.[21] One might think that he must go on bringing festal-offerings the whole of the seven days. Scripture, therefore, says, ‘it’: on it [only] are you to offer festal-offerings, but you are not to offer festal-offerings on all the seven days. If so, why does it say, ‘seven’? To intimate that one may make good [the festal-offering during the seven days of the festival]. And whence [do we learn] that if he did not bring the festal-offering on the first festival day of the Feast [of Tabernacles] that he can go on bringing it during the course of the whole Festival, even on the last festival day? Scripture says: Ye shall keep it in the seventh month.[22] If, now, [it is to be kept] in the seventh month, one might think that one can go on bringing the festal-offering throughout the whole month, therefore Scripture says. ‘it’:[23] on ‘it’ [only] are you to offer festal-offerings, but you are not to offer festal-offerings outside it.

And what is the nature of this ‘making good’? — R. Johanan says: They[24] make up for the first day;[25] and R. Oshaiah says: They make up for one another.[26] What is the [practical] point at issue between them? — R. Zera said: [The case of] a man who was lame[27] on the first day [of the festival] and became well on the second day is the point of issue between them. R. Johanan says: They make up for the first day; since on the first day he was not qualified [to bring the festal-offering], he is not qualified on the second. And R. Oshaiah says: They make up for one another; although he was not qualified on the first day he is qualified on the second. But could R. Johanan have said this? For behold Hezekiah said: If [a Nazirite] became defiled during the day [of the eighth] he has to bring [a sacrifice], but during the night [preceding the eighth] he does not have to bring [a sacrifice].[28] But R. Johanan said: Also [if he was defiled] during the night, he must bring [a sacrifice]![29] — Said R. Jeremiah: The case of uncleanness is different,[30] because it can be made good [as is the case with the sacrifice] on the Second Passover.[31] R. Papa demurred to this: It is right according to the view that the Second Passover

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(1) I.e., the Baraitha quoted infra pp. 44-45 which deduces from Lev. XXIII, 41 that the festal-offering is to be offered on the first day only.

(2) גמר (‘he ended’) is both transitive and intransitive.

(3) And he refrained from offering the remaining beasts.

(4) And he had no opportunity of offering all his sacrifices.

(5) Which is regarded as a separate festival, nevertheless one can make good thereon the festal-offering due on the first day of Tabernacles.

(6) Eccl. I, 15.

(7) V. Lev. XVIII, 6-18.

(8) I.e., that if the festal-offering was not brought earlier, it can still be offered up on the last day of Tabernacles.

(9) Deut. XVI, 8.

(10) Lev. XXIII, 36; Num. XXIX, 35.

(11) I.e., in the case of the seventh day of Passover which is essentially part of the Passover Festival.

(12) I.e., in the case of the eighth day of Tabernacles, even though it has the status of a separate festival; v. infra 17a.

(13) I.e., the word עצרת is redundant; this makes the inference by analogy irrefutable.

(14) That one can make good on the last day the festal-offering of the first.

(15) Cf. Yoma 3a.

(16) לאו לא הי לאיי ‘No’, ‘it is not so’.

(17) Cf. A.V. Marg. ‘restraint’ in Deut. XVI, 8; Lev. XXIII, 36.

(18) Deut. XVI, 8.

(19) V. p. 7, n. 8.

(20) An authority quoted in Mishnah and Baraitha in contradistinction to Amora such as R. Johanan above. V. Glos.

(21) Lev. XXIII, 41.

(22) Ibid. I.e., you can bring the festal-offering on every festival day in the month.

(23) The second ‘it’ of the verse.

(24) I.e., the days of the festival following the first.

(25) I.e.,the first day of the festival is the specific day for the festival-offering. If a man was liable to bring it on the first day but did not, he may make it good on a subsequent day of the festival; but if he was exempt on the first day, he is no longer bound to bring the offering.

(26) I.e.. each day makes up for the preceding in the sense that it puts a new liability on the pilgrim; thus on whichever day of the festival he becomes qualified, he is bound to bring his offerings.

(27) And therefore exempt; v. p. 1.

(28) If a Nazirite (v. Num. VI, 2f) becomes defiled, he must wait seven days, and bring a sacrifice on the eighth, before he again begins to observe the days of his Naziritehood. One sacrifice will suffice for several defilements if the lapse between any two is less than eight days. But if he became defiled on the eighth day, he must bring a sacrifice for the previous defilement, since it was already due, and also for the subsequent defilement, since it occurred in a new period of eight days. If, however, the second defilement occurred on the night preceding the eighth, a second sacrifice has not to be brought, since the first cannot be offered till the morning, (for sacrifices are offered only during the day), the obligation to bring a sacrifice cannot be said to have yet fallen due and consequently the question of making good does not in his view arise. Cf. Ker. II, 3.

(29) Because he has already been purified by ritual immersion (טבילה) on the seventh day, and the sun of that day has set (הערב שמש). Now this statement seems to show that R. Johanan holds that though one is not qualified to bring a sacrifice (e.g., the Nazirite on the night preceding the eighth day), one may make up for it later.

(30) I.e., a sacrifice which cannot be offered on account of uncleanness is exceptional.

(31) Which is offered to make good the nonobservance of the First Passover sacrifice owing to a disqualification of uncleanness. V. Num. 10f. Thus those who are unfit to bring the paschal lamb on the First Passover may bring it on the Second, and similarly in other cases of uncleanness; but in all other cases of disqualification, R. Johanan would hold that an offering which could not be brought on one day cannot be made good.

Talmud - Mas. Chagigah 9b

makes up for the First;[1] but what is to be said according to the view that the Second [Passover] is a separate festival?[2] — Therefore, said R. Papa, R. Johanan must be of the opinion that the night [before the day on which the sacrifice is due] is not regarded as belonging to the preceding period.[3] But how could R. Johanan have said this?[4] For behold R. Johanan said: If [a zab][5] had one emission in the night and two in the [following] day, he must bring [a second offering];[6] but [if he had] two in the night and one in the day, he has not to bring [a second offering].[7] Now if you imagine that R. Johanan is of the opinion that the night [before the day on which the sacrifice is due] is not regarded as belonging to the preceding period, then even [if he had] two [emissions] at night and one in the day he must bring [a second offering]! — R. Johanan said this only according to the view that the night [before] is regarded as belonging to the preceding period.[8] But according to this view it is surely obvious![9] — It is required for the case where there are two [emissions] in the day and one the [preceding] night. You might have thought [the decision] to be according to the objection of R. Shisha son of R. Idi, it therefore teaches us that it is according to R. Joseph.[10]

IF THE FESTIVAL PASSED AND HE DID NOT BRING THE FESTIVAL OFFERING, HE IS NOT BOUND TO MAKE IT GOOD. OF SUCH A PERSON IT IS SAID: HE THAT IS CROOKED CANNOT BE MADE STRAIGHT AND THAT WHICH IS WANTING CANNOT BE RESTORED. Bar He-He[11] said to Hillel: [Instead of] the [expression] ‘to be reckoned’ it ought to be ‘to be filled’![12] It must refer, therefore, to one whose fellows reckoned him[13] for [the performance of] a religious act, but he would not be reckoned with them. It has also been taught thus: ‘He that is crooked cannot be made straight’: this refers to one who neglected to read the morning Shema’ or the evening Shema’,[14] or he neglected the morning prayer[15] or the evening prayer. And that which is wanting cannot be reckoned’; this refers to one whose fellows resolved[16] on [the performance of] a religious act and he would not be reckoned with them.

Bar He-He said to Hillel: Then shall ye again discern between the righteous and the wicked, between him that serveth God and him that serveth Him not.[17] ‘The righteous’ is the same as ‘he that serveth God’; ‘the wicked’ is the same as ‘he that serveth Him not’! — He answered him: He that serveth Him and he that serveth Him not both refer to such as are perfectly righteous; but he that repeated his chapter a hundred times is not to be compared with him who repeated it a hundred and one times.[18] Said [Bar He-He] to him: And because of once he is called 'he that serveth Him not'? — He answered: Yes, go and learn from the mule-drivers market; ten parasangs for one zuz,[19] eleven parasangs for two zuz.

Elijah[20] said to Bar He-He, and others say, to R. Eleazar: What is the meaning of the verse: Behold I have refined thee but not as silver; I have tried thee in the furnace of affliction?[21] It teaches that the Holy One, blessed be He, went through all the good qualities in order to give [them] to Israel, and He found only poverty.[22] Samuel said, and others say. R. Joseph: This accords with the popular saying: Poverty befits Israel like a red trapping a white horse.[23] R. SIMEON B. MENASYA SAID: WHO IS IT 'THAT IS CROOKED' WHO 'CANNOT BE MADE STRAIGHT'? HE THAT HAS CONNECTION WITH A FORBIDDEN RELATION AND BEGETS BY HER BASTARD ISSUE etc. Only if he begets, but not if he does not beget. But behold it is taught: R. Simeon b. Menasya said: If a man steal, he can return the theft and [so] become straight; but he that has connection with a married woman and makes her prohibited unto her husband is banished from the world and passes away.[24] (R. Simeon b. Yohai said: One does not say: Examine the camel, examine the pig,[25] Only examine the lamb.[26] And who is this? A disciple of the wise who has forsaken the Torah. R. Judah b. Lakish said: Any disciple of the wise who has forsaken the Torah, of him Scripture says: As a bird that wandereth from her nest, so is a man that wandereth from his place.[27] And it further says : What unrighteousness have your fathers found in me, that they are gone far from me?)[28] — There is no contradiction: the one case refers to his unmarried sister,[29] the other refers to a married woman.[30] Or I might say: Both are cases of married women; but there is no contradiction: in the one case

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(1) V. Pes. 93a.

(2) This excludes the explanation that a sacrifice, not offered in time owing to uncleanness, can be made good later.

(3) [Lit., 'is not (deemed as) wanting time'. I.e., the fact that one cannot bring an offering on the night preceding the day on which it is due, is not regarded as a disqualifying factor, and consequently in the case of a Nazirite the night preceding the eighth day completes the eight days' period, so that the sacrifice may be said to fall due thereon, though he is actually prevented from offering it because it is still night. For this reason the sacrifice which was not offered at night can be made good on the following morning, and should he in the meantime suffer a second defilement, he has to bring a second sacrifice, whereas in the case of the festival-offering where he was lame on the first day, there was no obligation whatsoever resting on him to bring a sacrifice and consequently this cannot be made good].

(4) I.e., that the night preceding the day on which a sacrifice is due is not regarded as belonging to the preceding period.

(5) זב, one who suffers from gonorrhoea (v. Lev. XV). After the first emission he is considered a בעל קרי and is unclean for the day; after the second, he is מטא, (unclean in the degree of zab), and has to count seven clean days, wash his garments, have ritual immersion and wait for sunset; after the third, he has, in addition, to bring sacrifices on the eighth day (cf. Ned. 43b). This zab had counted seven days and was to bring his offerings on the morrow, and in the meantime he saw further discharges.

(6) Because the first emission is counted with the two of the morning.

(7) Because the two nocturnal emissions make him unclean within the period of the first defilement, i.e., before the eighth day.

(8) But his own view is the reverse.

(9) As his own opinion the statement would have point in as much as it tells us his personal view; otherwise the teaching is an obvious corollary of the principle that the night before belongs to the preceding period.

(10) V. Ker. 8a, where R. Joseph seeks to prove R. Johanan's view that the first emission in the evening is counted with the two of the morning (cf. n. 1). and R. Shisha argues against the former's proof.

(11) V. Aboth, Sonc. ed, p. 77, n. 6. (Ch. V, 23).

(12) I.e., the expression 'that which is wanting' (חסרון) requires as its antonym 'to be filled' (להמלאות) not 'to be reckoned' להמנות lit., to be numbered'.

(13) I.e., asked him to join them.

(14) A biblical reading consisting of Deut. VI, 4-9 and an additional sentence; ibid. XI, 13-21; Num. XV, 37-41; the name is derived from its first word — שמע. V. P.B. pp. 40-42.

(15) The prayer par excellence, called also ‘Amidah (‘standing prayer’) and the ‘eighteen (really nineteen) blessings’. V. P.B. pp. 44f.

(16) Lit., ‘reckoned themselves’.

(17) Mal. III, 18.

(18) Possibly a pun is intended here: the initial letters of עבד אלהים לא,ר (‘he that serveth God and he’) = 101; and of לא עבדו (‘serveth Him not’) = 100. V. Marginal Gloss. in cur. edd.

(19) A silver coin, quarter of a shekel, and equal to a denar, v. Glos.

(20) For Elijah in Rabbinic literature v. J.E. vol. V, pp. 122f, espec. p. 124f. Cf. also supra pp. 17f. regarding the Angel of death.

(21) Isa. XLVIII, 10.

(22) The word for ‘affliction’ (עני) also means poverty.

(23) V. Lev. Rab. ss. 13 and 35 for parallel readings.

(24) I.e., the wrong they have done is irreparable. This statement of R. Simeon b. Menasya, which declares that connection with a prohibited relation, even if there be no issue, is irreparable, contradicts his statement in the Mishnah. The other dicta are quoted merely because they form part of the Baraitha (Tosef.).

(25) I.e., to see if they are without blemish and so fit for sacrifice, for they are unfit to start with. Likewise ‘made crooked’ can only refer to one who was originally worthy and later degenerated. V. R. Simeon b. Yohai's statement in Mishnah.

(26) Which is fit for sacrifice unless it becomes blemished.

(27) Prov. XXVII, 8.

(28) Jer. II, 5.

(29) The wrong then becomes irreparable only when there is issue.

(30) A stranger's connection with her, even if no issue results, makes her prohibited to her husband.

Talmud - Mas. Chagigah 10a

it was against her will,[1] in the other it was with her consent. Or you may say: in both cases it was against her will but there is no contradiction: the one case concerns a priest's wife[2] and the other an Israelite's wife.

Neither was there any peace to him that went out or came in,[3] Rab said: As soon as man goes forth from Halachic[4] to Scripture study he no longer has peace.[5] And Samuel said: It means one who leaves Talmud for Mishnah.[6] And R. Johanan said: Even [if he goes] from Talmud to Talmud.[7]

MISHNAH. [THE LAWS CONCERNING] THE DISSOLUTION OF VOWS[8] HOVER IN THE AIR AND HAVE NOUGHT TO REST ON.[9] THE LAWS CONCERNING THE SABBATH, FESTAL-OFFERINGS, ACTS OF TRESPASS[10] ARE AS MOUNTAINS HANGING BY A HAIR, FOR THEY HAVE SCANT SCRIPTURAL BASIS BUT MANY LAWS. [THE LAWS CONCERNING] CIVIL CASES AND [TEMPLE] SERVICES,[11] LEVITICAL CLEANNESS AND UNCLEANNESS, AND THE FORBIDDEN RELATIONS[12] HAVE WHAT TO REST ON,[13] AND IT IS THEY THAT ARE THE ESSENTIALS OF THE TORAH.

GEMARA. It is taught: R. Eliezer said: They[14] have something to rest on, for it is said: When one shall clearly utter[15] [a vow], when one shall clearly utter [a vow]:[15] one [intimates] an utterance to bind, and the other an utterance to dissolve. R. Joshua said: They have something to rest on, for it is said: Wherefore I swore in My wrath.[16] [It means,] I swore in My wrath,[17] but I retracted.[18] R. Isaac said: They have something to rest on, for it is said: Whosoever is of a willing heart.[19] Hanania, son of the brother of R. Joshua, said: They have something to rest on, for it is said: I have sworn, and I have confirmed it, to observe Thy righteous ordinances.[20] Rab Judah said that Samuel said: Had I been there I should have said to them: My [Scriptural proof] is better than yours, for it is said: He shall not break his word.[21] ‘He’ may not break it, but others may dissolve it for him. Raba said: To all these [proofs] objection can be made except to that of Samuel, against which no objection can be raised. For against R. Eliezer [it may be objected]: Perhaps [the verse is to be explained] according to R. Judah , who said it in the name of R. Tarfon. For it is taught: R. Judah said in the name of R. Tarfon: Indeed, neither of them becomes a Nazirite, because Naziriteship can be assumed only by clear utterance.[22] Against R. Joshua [it may be objected]: Perhaps this is the meaning of the verse: I swore in My wrath and did not retract'. Against R. Isaac [it may be objected]: Perhaps [the verse comes to] exclude the view of Samuel. For Samuel said: Though he determined in his heart,[23] he must still utter it with his lips.[24] And [the verse][25] teaches us that even though he did not utter it with his lips [it is binding]. Against Hanania, the son of the brother of R. Joshua [it may be objected]: Perhaps [the verse is to be explained] according to R. Giddal who said it in the name of Rab. For R. Giddal said that Rab said: Whence [is it to be deduced] that one may take an oath to fulfil a precept?[26] For it is said: ‘I have sworn, and I have confirmed it, to observe Thy righteous ordinances’.[27] But against Samuel's proof no objection can be raised. Raba, and some say, R. Nahman b. Isaac, said: This is the meaning of the popular saying: Better one grain of pungent pepper than a basketful of pumpkins.[28]

THE LAWS CONCERNING THE SABBATH. But they are written [in Scripture]![29] — No, it is necessary [to state this] for the teaching of R. Abba. For R. Abba said: He who digs a hole on the Sabbath and requires it only for the sake of its earth is not liable for it.[30] According to which authority [will this be]? According to R. Simeon, who said: one is not liable for work [performed on the Sabbath] which is not required for itself.[31] — You may even say that it is according to R. Judah:[32] there[33] one is improving.[34] here[35] one is spoiling.[36] But why does it say: AS MOUNTAINS HANGING BY A HAIR?[37]

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(1) In this case she may continue to live with her husband.

(2) In this case even if it was against her will she may no longer live with her husband (cf. Keth. 51b).

(3) Zech. VIII, 10.

(4) V. Glos. s.v. Halachah.

(5) Because the Halachah provides the ultimate ruling for conduct; cf. Hershon, Talmudic Miscellany, Ch. XI, No. 33, and the lines in Longfellow's ‘Golden Legend’ beginning: The Kabbala and Talmud lore, etc. (quoted in Streane's Chagigah).

(6) Without the Talmudic explanation and discussion the Mishnah may be misleading.

(7) According to Rashi, from the Palestinian Talmud (or Jerusalmi) to the Babylonian Talmud which was more difficult; cf. Sanh. 24a and B.M. 85b. But according to Tosaf., from either to the other before the first is properly understood.

(8) By a Sage, to whom the person who makes the vow explains his original intention which did not include the special circumstances that now cause him to regret the vow; thus a פתח חרטה (‘a way of retraction’) is found whereby the vow can be annulled. V. Ned. 9a, 10b.

(9) I.e., in Biblical teaching, and depend only on oral tradition; but cf. Num. XXX, 8-9.

(10) The misappropriation of holy things to secular use. V. Lev. V, 14-16.

(11) I.e., the offering of sacrifices.

(12) V. Lev. XVIII, 6f.

(13) [MS.M.: ‘have on whom to rest’, i.e., have good authority. V. Zeitlin, JQR. (N.S.) VII, p. 500].

(14) I.e., the laws concerning the dissolution of vows.

(15) Twice: in Lev. XXVII, 2 and Num. VI, 2.

(16) Ps. XCV, R.

(17) I.e., hastily, but in calmer mood I regretted the oath and retracted. The verse refers to God, of course; but the inference is drawn from the anthropomorphism for ill-considered human vows.

(18) The ‘change of mind’ attributed here to God with regard to the generation of the wilderness must be explained by reference to Sanh. 110b where the view is expressed that they have a share in the world to come, i.e., they were not permitted to enter Canaan, their earthly possession, but it was granted them to enter their Heavenly heritage.

(19) Ex. XXXV, 5. But if the heart be no longer willing it is possible for the vow to be dissolved (cf. discussion in Shab. 26b).

(20) Ps. CXIX, 106. But where instead of confirmation there is retraction, the person may be released from his vow.
(21) Num. XXX, 3.
(22) If the assumption of the state of Nazir (v. Num. VI) was made the forfeit of a wager between two, R. Tarfon holds that neither loser nor winner is a Nazir, because Naziriteship must be explicitly vowed and cannot be assumed conditionally. This he deduces from one of the two verses cited by R. Eliezer (cf. Nazir 32b Mishnah and 34a top).
(23) To swear a certain oath.
(24) Otherwise it is no oath and he is not liable.
(25) Cited by R. Isaac.
(26) I.e., it is meritorious to do this that he may fulfil the precept with greater zeal.
(27) V. Ned. 7b.
(28) I.e., a sharp mind is better than mere learning.
(29) Why then does the Mishnah say that there is little Scriptural basis for them?
(30) But if he required the hole itself, he would be guilty of building on the Sabbath, v. Shab. 73b.
(31) E.g., a hole dug for the sake of its earth. R. Simeon stated this principle in connection with carrying out the dead on the Sabbath (v. Shab. 93a).
(32) Who holds that one may not carry a corpse out on the Sabbath for burial (v. ibid.).
(33) I.e. , in the case of the corpse.
(34) I.e., burying the corpse and achieving something desired.
(35) I.e., in the case of the digging of a hole.
(36) The hole does not improve the ground nor is it desired for itself.
(37) Implying that some kind of support is afforded by the Torah.

Talmud - Mas. Chagigah 10b

— Because the Torah prohibited [on the Sabbath] purposed work,[1] yet purposed work is not mentioned in Scripture.[2] [LAWS CONCERNING] FESTAL-OFFERINGS. But they are written [in Scripture]![3] — No, it is necessary in the light of what R. Papa said to Abaye: Whence [do we know] that [the verse]: And ye shall keep it a feast to the Lord[4] signifies sacrifice? Perhaps the Divine Law means: Celebrate a Festival![5] — If so, when it is written, That they may hold a feast unto Me in the wilderness,[6] would that also mean: Celebrate a festival! And should you say that it indeed means that, surely it is written: And Moses said: 'Thou must also give into our hand beasts of killing and burnt-offerings'![7] — Perhaps the Divine Law means this: Eat ye and drink and celebrate a festival before Me![8] — Do not think of this; for it is written: Neither shall the fat of My feast remain all night until the morning.[9] If now you suppose that it means a festival[10] [only], has a festival fat? — But perhaps the Divine Law means this: the fat that is offered during the course of the festival should not remain overnight![11] — If so, then [it would imply] that only during the festival the fat may not remain overnight, but throughout the year[12] it may remain overnight; [but behold] it is written: All night unto the morning![13] — [But] perhaps from this [verse alone] one would know it merely as a positive precept, therefore Scripture wrote the other [verse to enjoin it] as a prohibition![14] — [To enjoin it] as a prohibition there is another verse: Neither shall any of the flesh, which thou sacrificest the first day at even, remain all night until the morning[15] — [But] perhaps [this was required] in order to impose upon him two prohibitions and one positive precept! — Rather, it can be deduced from [the word] 'wilderness' which occurs in two passages. Here it is written: That they may hold a feast unto Me in the wilderness.[16] And elsewhere it is written: Did ye bring unto Me sacrifices and offerings in the wilderness?[17] Just as in the latter verse [it means] sacrifices, so in the former [it means] sacrifices. Why then does it say: AS MOUNTAINS HANGING BY A HAIR?[18] — [Because] no inference may be drawn concerning statements of the Torah from statements of the Prophets.[19]

ACTS OF SACRILEGE. But they are written [in Scripture]! Rami b. Hama said: It is required only for that which we have learnt. If the agent did his errand [committing thereby an act of sacrilege],[20] the householder[21] is guilty of sacrilege;[22] if he did not do his errand, the agent is guilty of sacrilege. But why should he[23] be guilty if he did his errand? Shall one man sin and another become liable![24] That is why [the Mishnah says]: AS MOUNTAINS HANGING BY A HAIR. Raba said: But what is the objection? Perhaps sacrilege is different, since we compare it with terumah[25] through the analogous expressions for 'sin' [which occur in connection with both laws]:[26] just as there[27] the agent of a person is like himself[28] , so here the agent of a person is like himself. Rather, said Raba, it must be required for the [following] teaching; If the householder remembered,[29] but the agent did not remember, the agent is guilty of sacrilege. What has the poor agent done![30] That is why [the Mishnah says]: AS MOUNTAINS HANGING BY A HAIR. R. Ashi said: What is the objection? Perhaps it is like [every other] case where one spent [in error] sacred money for secular purposes![31] Rather, said R. Ashi, it must be required for that which we have learnt. If a man took away a stone or a beam from Temple property, he is not guilty of sacrilege; but if he gave it to his fellow,[32] he himself is guilty, but his fellow is not guilty.[33] See now, he has taken it, what difference does it make whether he or his fellow [keeps it]! Therefore it says: LIKE MOUNTAINS HANGING BY A HAIR. But what is the objection? Perhaps it is [to be explained] according to Samuel. For Samuel said: Here

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(1) Lit., 'work of thought' (cf, Ex. XXXV, 35 where it is rendered in E.V. 'skillful workmanship') i.e., work that achieves the purpose primarily intended; v. supra n. 9. The various kinds of work prohibited on the Sabbath are deduced from the different kinds of work involved in the Tabernacle; cf. Shab. 73a (Mishnah) Rashi a.l.

(2) It is only deduced from the juxtaposition of the section concerning the Sabbath and the section concerning the construction of the Tabernacle in Ex. XXXV.

(3) Ex. XII, 14; Lev. XXIII, 41.

(4) Ibid.

(5) I.e., without sacrifices. Tosaf. a.l. suggests: Celebrate it with dances, taking the rt. חוג to mean to dance'; cf. Ps. CVII, 27.

(6) Ex. V, 1.

(7) Ibid. X, 25.

(8) The 'beasts for killing' (Heb. זבחים, E.V. 'sacrifices') would thus not refer to sacrifices (i.e., 'peace-offerings) but to animals killed for meat only.

(9) But should be burnt on the altar before dawn. Ibid. XXIII, 18.

(10) Heb. חג, which can mean both festival and festal-offering; cf. חגיגה, the Rabbinic word for festal-offering, which is derived from the same root.

(11) But it does not follow that there is an obligation to bring a festal-offering.

(12) I.e., in the case of other sacrifices offered at non-festival times.

(13) Lev. VI, 2, which refers to all occasions, not just to festivals: it teaches us that the limbs and fat of sacrifices slaughtered during the day may be burnt on the altar all night but not thereafter.

(14) The neglect of an ordinary positive precept is not indictable; but the transgression of a prohibition entails the bringing of a sin-offering, if the offence was committed unwittingly, or the punishment of stripes (maximum thirty-nine), if the transgression was wittingly committed, unless a severer penalty is ordained by Scripture. Exceptions not involving stripes are (a) 'a prohibitive precept transformed into a mandatory law' i.e., when the transgression must be repaired by a succeeding act; (b) a prohibition the transgression of which involves no action. Hence, the prohibition here referred to does not involve stripes.

(15) Deut. XVI, 4.

(16) Ex. V,1.

(17) Amos V, 25.

(18) For deduction by analogy is considered support for a law.

(19) Heb. קבלה Lit., 'tradition', a designation for post-Pentateuchal books of the Bible, which are deemed of lesser authority than the Pentateuch or Torah. V. Bacher, Exeg. Term. I, 166, II, 185.

(20) E.g., sacred money was mixed with secular money, and not knowing of this, he asked the agent to buy a garment for him with the money.

(21) I.e.,the one who instructed the agent.

(22) I.e., he has to refund the value of the sacred property plus a fifth and bring a trespass-offering.

(23) I.e., the householder.

(24) It is a Talmudic principle that no one is considered an agent or messenger for the committal of sin, i.e., the transgressor is liable whether he commits the sin on his own behalf or for another.

(25) A portion of the produce, between a fortieth and a sixtieth, given to the priest. V. Glos.

(26) Lev. V, 15 (trespass), and Num. XVIII, 32 (terumah).

(27) I.e., in the case of terumah.

(28) Deduced from the words, ‘Ye also’, in Num. XVIII, 28.

(29) Before the agent committed sacrilege by spending the money for secular use.

(30) He did not know that he was misappropriating sacred money; why then should he be held responsible?

(31) Though a person committed sacrilege in error he is held responsible; so too here in the case of the agent.

(32) By this act he takes it out of the possession of the Temple.

(33) Derived from Lev. V, 16.

Talmud - Mas. Chagigah 11a

it refers to the treasurer [of the Sanctuary] to whom the building stones had been entrusted, so that wherever it is, it is in his possession![1] Rather [it can be explained] from the latter part [of the Mishnah]. If he built it into his house, he is not guilty of sacrilege until he dwells under it to the value of a perutah.[2] See now, he has effected a change therein,[3] what difference does it make whether he dwells [under it] or does not dwell [under it]![4] Therefore it says: LIke MOUNTAINS HANGING BY A HAIR. But what is the objection? Perhaps it is [to be explained] according to Rab. For Rab said: It refers to a case where he placed it over a roof-aperture,[5] [in which case] if he dwells in [the house] he is [guilty of sacrilege]. If he does not dwell in [the house] he is not [guilty]! — Therefore, it must be after all as Raba said: and as for your objection that the same applies to any person who spent [in error] sacred money for secular purposes, [one may answer]: There[6] he knew full well that he had sacred money, he should therefore have taken care; but here,[7] how could he know? Therefore [the Mishnah says]: AS MOUNTAINS HANGING BY A HAIR[8]

SCANT SCRIPTURAL BASIS BUT MANY LAWS. A Tanna taught: [The laws concerning defilement through] leprosy-signs[9] and tent-covering[10] have scant Scriptural basis and many laws. [You say] leprosy-signs have scant Scriptural basis? [On the contrary] leprosy-signs have considerable Scriptural basis! — R. Papa said: It means as follows: Leprosy-signs have considerable Scriptural basis and few laws, [defilement through] tent-covering has scant Scriptural basis and many laws. But what practical difference does it make? — If you are in doubt about anything concerning leprosy-signs search the Bible, but if you are in doubt about anything concerning [defilement through] tent-covering search the Mishnah.[11]

CIVIL CASES. But they are written [in Scripture]![12] — It is necessary only for the teaching of Rabbi. For it is taught: Rabbi said: Life for life[13] [means] monetary compensation. You say [it means] monetary compensation; but perhaps [it means] actual life? — ‘Giving’ is mentioned below,[14] and ‘giving’ is mentioned above:[15] just as in the latter case [it means] monetary compensation, so in the former case [it means] monetary compensation.

TEMPLE SERVICES. But they are written [in Scripture]! — It refers only to the carrying of the blood [to the altar]. For it is taught: And they shall present;[16] this [means] the receiving of the blood.[17] Now the Divine Law used for it an expression of ‘carrying’, as it is written: And the priest shall present[18] the whole and make it smoke upon the altar,[19] and the Master said: This [means] the carrying[20] of the pieces [of the offering] to the altar ramp.[21] This is to tell us that the ‘carrying’ [of the blood] is not to be excluded from the category of ‘receiving’ [the blood].[22]

[LAWS OF] LEVITICAL CLEANNESS. But they are written [in Scripture]! — It refers only to the measure of a ritual bath, which is not stated in Scripture. For it is taught: And he shall bathe in water,[23] [this means] in water of a ritual bath;[24] all his flesh: [this means in] water which covers all his body. And how much is this? A cubit[25] by a cubit to the height of three cubits; and the Sages fixed the measure of the ritual bath water at forty se'ahs.[26]

[LAWS CONCERNING LEVITICAL] UNCLEANNESS. But they are written [in Scripture]! — It refers only to [defilement caused by touching a part of a dead] creeping creature, which is the size of a lentil; this is not stated in Scripture. For it is taught: In them:[27] I might think [it means] all of them,[28] therefore Scripture teaches: ‘Of them’.[29] I might then think [it means] even a part of them;[30] therefore Scripture says: ‘in them’. How is this to be explained? [It means that he is not defiled] till he touches a part of one which is as the whole of one. The Sages fixed the measure at the size of a lentil, for a snail[31] is at first the size of a lentil. R. Jose b. R. Judah said: [It must be] the size of the tail of a lizard.[32]

FORBIDDEN RELATIONS. But they are written [in Scripture]!

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(1) Thus he does not commit sacrilege till he gives it (i.e., the stone or beam) into the possession of his fellow.

(2) A small coin. V. Glos.

(3) E.g., by chiselling the beam or stone and fixing it into the house: through this alteration it becomes his own property.

(4) He has already misappropriated sacred property.

(5) ארובה (cf. Hos. XIII, 3; II Kings VII, 2), an aperture in the roof leading to the ground floor (answering to the Greek hypaithron, Roman compluvium), contrad. from חלון a garret-window in the wall projecting above the flat roof (Jast.); cf. also Levy s.v. By placing the beam over the aperture he in no way alters it and can always restore it, and is thus not guilty of sacrilege till he dwells in the house and enjoys the use of it.

(6) I.e., in the case quoted in the objection.

(7) I.e., in the case of the agent.

(8) For though the agent could hardly avoid the sacrilege, he is deemed to have committed sacrilege in error and is held responsible.

(9) V. Lev. XIII-XIV.

(10) V. Num. XIX, 14, from which it is inferred that men and utensils under the same ‘tent’ (i.e., overshadowed by the same covering) as a corpse suffer corpse-defilement.

(11) I.e., oral tradition.

(12) I.e., why then does the Mishnah say that they merely have something to rest on?

(13) Ex. XXI, 23.

(14) I.e., in our own case.

(15) Ex. XXI, 22 (the preceding verse).

(16) Lev. I, 5.

(17) It is inferred from the fact that this clause comes immediately after the injunction to slaughter the animal; therefore it is taken to refer to the ‘receiving’ of the blood, for the blood cannot be ‘carried’ till it is ‘received’.

(18) E.V. ‘offer’, though it is the same verb as in verse 5.

(19) Lev. I, 13.

(20) It cannot mean the burning of the pieces, for that is distinctly mentioned afterwards.

(21) I.e., the inclined plane leading to the altar. Cf. Mid. III, 3.

(22) I.e., though it is a part of the offering-service that can be omitted (e.g., if the animal is slaughtered close to the altar, so that the blood can be sprinkled forthwith), nevertheless if it is not omitted, it is an essential part of the service and is subject to all its conditions.

(23) Lev. XV, 16. This is evidently the verse intended. The words את בשרו (‘his flesh’), which really belong to Lev. Xlv, 9 must be deleted.

(24) Lit., ‘gathering’ of water, which must contain water directly from a river or a spring, or rain water led directly to it; but מים שאובין (lit., ‘drawn water i.e., water from a receptacle) if added to the ritual bath above a certain measure, invalidates it.

(25) A measure equal to the distance from the elbow to the tip of the middle finger (cf. Kel. XVII, 9.10).

(26) Measure of capacity, equal to six kabs; v. Pes. 109a.

(27) Lev. XI, 31 בהם; E. V. '(whosoever doth touch) them'.
(28) I.e., he becomes unclean when he touches the whole of the unclean animal.
(29) Ibid. v. 32.
(30) I. e., however small.
(31) חמט (cf. ibid. 30). Rashi renders, 'snail'; Jast., 'lizard (chameleon)'; Levy, 'Bindschleiche' (slowworm, blindworm), or 'Eidechse' (lizard); Goldschmidt, 'Schnecke' (snail), 'skink' or 'Blindschleiche'; B.D.B., a kind of lizard. From Hul. 122a it seems to be a vertebrate. Danby translates it there 'land crocodile'.
(32) הלטאה (cf. ibid.) Jast. regards the first ה, as part of the word, except in Mishnah, Tosefta and Sifra, where it is the definite article attached to לטאה. The tail of the הלטאה writhes after being cut off, thus showing independent life; hence it meets the requirements of the verse by being a part of an unclean animal and yet an entire life by itself, and is suitable as a measure for defilement. It is bigger than a lentil.

Talmud - Mas. Chagigah 11b

— This refers only to his daughter by a woman whom he had forced; this case is not written [in Scripture]. For Raba said: R. Isaac b. Abdimi told me, It is to be deduced by analogy from [the words] 'they', 'they',[1] and from [the words] 'lewdness', 'lewdness'.[2]

IT IS THEY THAT ARE THE ESSENTIALS OF THE TORAH, These are and those are not![3] — Say, therefore, these and those are essentials of the Torah.

CHAPTER II

MISHNAH THE [SUBJECT OF] FORBIDDEN RELATIONS[4] MAY NOT BE EXPOUNDED IN THE PRESENCE OF THREE,[5] NOR THE WORK OF CREATION[6] IN THE PRESENCE OF TWO, NOR [THE WORK OF] THE CHARIOT[7] IN THE PRESENCE OF ONE, UNLESS HE IS A SAGE AND UNDERSTANDS OF HIS OWN KNOWLEDGE. WHOSOEVER SPECULATES UPON FOUR THINGS, A PITY[8] FOR HIM! HE IS AS THOUGH HE HAD NOT COME INTO THE WORLD, [TO WIT], WHAT IS ABOVE,[9] WHAT IS BENEATH,[10] WHAT BEFORE, WHAT AFTER.[11] AND WHOSOEVER TAKES NO THOUGHT FOR THE HONOUR OF HIS MAKER,[12] IT WERE A MERCY[13] IF HE HAD NOT COME INTO THE WORLD.

GEMARA. You say at first: NOR [THE WORK OF] THE CHARIOT IN THE PRESENCE OF ONE;[14] and then you say: UNLESS HE IS A SAGE AND UNDERSTANDS OF HIS OWN KNOWLEDGE! — This is the meaning: the forbidden relations may not be expounded to three,[15] nor the work of creation to two, nor [the work of] the chariot to one, unless he is a Sage and understands of his own knowledge.[16]

THE FORBIDDEN RELATIONS MAY NOT BE EXPOUNDED IN THE PRESENCE OF THREE. What is the reason? Shall one say, because it is written: Whosoever to any that is near of kin to him?[17] 'Whosoever'[18] [implies] two, 'near of kin to him' [implies] one; and the Divine Law said: Ye shall not approach to uncover their nakedness.[19] But then since it is written: Whosoever curseth his God,[20] Whosoever giveth of his seed unto Molech,[21] are these [passages] also [to be interpreted] thus! — These, therefore, must be required to make Gentiles subject to the prohibition concerning blasphemy[22] and idolatry like the Israelites; then this [verse][23] is also required to make Gentiles subject to the prohibition concerning the forbidden relations like the Israelites![24] It must be inferred, therefore, from the verse: Therefore shall ye keep My charge.[25] 'Ye shall keep' [implies] two,[26] 'My charge' [implies] one; and the Divine Law said: That ye do not any of these abominable customs.[27] But then since it is written: Ye shall keep the Sabbath therefore,[28] And ye shall observe the feast of unleavened bread,[29] And ye shall keep the charge of the holy things,[30] are these [passages] also [to be interpreted] thus! — Therefore, said R. Ashi, THE FORBIDDEN RELATIONS MAY NOT BE EXPOUNDED IN THE PRESENCE OF THREE must mean: the secrets[31] of the forbidden relations may not be expounded to three.[32] What is the reason? It is a logical conclusion:[33] when two sit before their master, one engages in discussion with his master and the other inclines his ear to the instruction; but [when there are] three, one engages in discussion with his master, and the other two engage in discussion with one another and do not know what their master is saying, and may come to permit that which is prohibited in the matter of the forbidden relations. If so, [the rule should apply to] the whole Torah also![34] The [subject of] forbidden relations is different, for the master said:[35] Robbery and the forbidden relations, a man's soul covets and lusts for them. If so, [the rule should apply to] robbery also! [In the case of] the forbidden relations, whether [the opportunity] be before him or not before him, a man's inclination is strong; [in the case of] robbery, if [the opportunity] is before him, his inclination is strong, but if it is not before him, his inclination is not strong.

NOR THE WORK OF CREATION IN THE PRESENCE OF TWO. Whence [do we infer] this? — For the Rabbis taught: For ask thou now of the days past;[36] one may inquire,[37] but two may not inquire. One might have thought that one may inquire concerning the pre-creation period, therefore Scripture teaches: Since the day that God created man upon the earth.[38] One might have thought that one may [also] not inquire concerning the six days of creation,[39] therefore Scripture teaches: The days past[40] which were before thee.[41] One might have thought one may [also] inquire concerning what is above and what is below, what before and what after, therefore the text teaches: And from one end of heaven unto the other.[42] [Concerning the things that are] from one end of heaven unto the other thou mayest inquire, but thou mayest not inquire what is above, what is below, what before, what after.

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(1) The word הנה ('they') occurs in Lev. XVIII, 17 in connection with a legitimate daughter, and ibid. v. 10 in connection with the grand-daughter of an illegitimate wife (v. Yeb. 97a). By analogy, we infer that an illegitimate daughter is also a forbidden relation.

(2) Having established an analogy between the legitimate and illegitimate daughter (v. n. 7), we go farther and say the word זמה ('lewdness'). which implies the penalty of burning (v. ibid. XX, 14) for connection with one's legitimate daughter, applies also to connection with one's illegitimate daughter; v. Yeb., Sonc. ed., p. 4, nn. 8-12.

(3) I.e., the laws explicitly stated in Scripture are essentials of the Torah, and those not so explicitly stated are not!

(4) V. p. 50, n. 8.

(5) I.e., it is forbidden to expound this subject in the presence of more than two.

(6) V. Gen. I, 1-3; J.E. vol. IV, pp. 280f,s. 'Cosmogony', and vol. VIII, p. 235. The term מעשה בראשית (Work of Creation) does not include the whole Talmudic cosmogony, only its esoteric aspects. The cosmogonic details mentioned infra in the Gemara (pp. 63f), such as the ten elements, the ten agencies etc., do not form part of the secret doctrine of Ma'aseh Bere'shith, for the Mishnah expressly forbids the teaching of the creation mysteries in public. The views recorded in the Talmud regarding the work of creation seem to belong chiefly to the realm of Aggadah. As regards their origin, they cannot with certainty be connected with the theosophic and cosmogonic doctrines of the Apocrypha and Pseudepigrapha, nor with Gnosticism; nor on the other hand can the mysticism of the Geonic period (e.g., as preserved in Sefer Yezirah with reference to the heavenly halls, angelology etc.) be regarded as a direct continuation of the Talmudic doctrines.

(7) V. Ezek. I, 4f, X, and Isa. VI; cf. Meg. IV, 10; and v. J.E. vol. VIII, p. 498. The mysteries of Creation and the Chariot were favourite themes with the mystics; for further information v. J.E. vol. III, p. 456f, s. 'Cabala'.

(8) Heb. רתוי or רתוי; but Mishnah ed., MS. M. and var. lec. in Aruch have ראוי ('he is looked upon as though'). Jastrow, who takes רתוי to mean 'relief, mercy, pity', renders as in text; Rashi translates: 'it were better for him', taking the root meaning to be 'mercy'; Levy translates: 'it were more advantageous for him'; Goldschmidt and Danby: 'it were better'.

(9) Sc., the sky stretching over the heads of the 'living creatures of the Chariot (Rashi).

(10) Sc., the 'living creatures'.

(11) I.e., beyond the sky eastward and westward (Rashi). This makes the reference spatial, and this explanation is supported by the use of the terms infra (p. 62); but from the Gemara 16a and the Tosef. it is clear that the terms have also a temporal significance. i.e., what happened before Creation and what will happen hereafter (Tosaf. a.l.).

(12) Explained infra 16a.
(13) V. p. 59, n. 5.
(14) This means, apparently, that a person is not permitted to study the mysteries of the Chariot even by himself, although the fact that he can study without the aid of a teacher shows that he is a Sage and understands of his own knowledge.
(15) I.e.,the number refers to the pupils and does not include the teacher.
(16) I.e., is able to speculate by himself. Such a disciple will not require to ask his teacher questions, for these mysteries may not be explained explicitly. D.S. omits the ‘and’; cf. p. 77.
(17) Lev. XVIII, 6.
(18) Heb. איש איש lit., ‘man man’, i.e., two men, as a minimum.
(19) Ibid. I.e., to reveal the reasons underlying the laws of the forbidden relations.
(20) Ibid. XXIV, 15.
(21) Ibid. XX, 2.
(22) Lit., ‘blessing of God’, a euphemism.
(23) Ibid. XVIII, 6.
(24) For the seven ‘Noachian Precepts’ which all humanity, Gentiles as well as Jews, must observe v. Sanh. 56a-b, (Sonc. ed. pp. 381-2 and nn. a.l.)
(25) Lev. XXIV v. 30.
(26) The plural (‘Ye’) implies at least two.
(27) Ibid. V. p. 60, n. 8.
(28) Ex. XXXI, 14.
(29) Ibid. XII, 17.
(30) Num. XVIII, 5.
(31) I.e., according to Rashi, such forbidden relations as are not explicitly mentioned in Scripture, but are inferred, e.g., a man's daughter by a woman he violated, the mother of his father-in-law, or the mother of his mother-in-law (v. Sanh. 75a); according to Maharsha, the secrets of the reasons for the prohibitions; according to Goldschmidt, the details and subtleties of the subject.
(32) לשלשה: this marginal correction is indubitably correct as against בשלשה (‘in the presence of three’), of cur. edd.
(33) I.e., it is founded on reason and not deduced from Scripture.
(34) I.e., that not more than two pupils may study with the master.
(35) Mak. 23b.
(36) Heb. lit., ‘the first days’, i.e., the days of creation; Deut. IV, 32.
(37) I.e., one pupil may study with the master.
(38) Ibid.
(39) I.e., up to the creation of man; for the verse quoted above permits inquiry only from the time of the creation of Adam, which occurred at the end of the sixth day.
(40) Heb. lit., ‘the first days’, i.e., even from the first day onward.
(41) Ibid.
(42) Ibid.

Talmud - Mas. Chagigah 12a

But now that this[1] is inferred from [the expression] ‘ From one end of heaven unto the other’,[2] wherefore do I need [the expression], ‘Since the day that God created man upon the earth’? — To intimate that which R. Eleazar taught. For R. Eleazar said: The first man [extended][3] from the earth to the firmament, as it is said: Since the day that God created man upon the earth;[4] but as soon as he sinned,[5] the Holy One, blessed be He, placed His hand upon him and diminished him,[6] for it is said: Thou hast fashioned me[7] after and before,[8] and laid Thine hand upon me.[9]

Rab Judah said that Rab said: The first man [extended][10] from one end of the world to the other,[11] for it is said: ‘Since the day that God created man upon the earth, and from one end of heaven to the other'; as soon as he sinned, the Holy One, blessed be He, placed His hand upon him and diminished him, for it is said: 'And laid Thine hand upon me'. If so, the verses[12] contradict one another! — They both [have] the same dimensions.[13]

Rab Judah further said that Rab said: Ten[14] things were created the first day, and they are as follows: heaven and earth, Tohu [chaos], Bohu [desolation],[15] light and darkness, wind and water, the measure of day and the measure of night.[16] Heaven and earth, for it is written: In the beginning God created heaven and earth.[17] Tohu and Bohu, for it is written: And the earth was Tohu and Bohu.[18] Light and darkness: darkness, for it is written: And darkness was upon the face of the deep;[18] light, for it is written: And God said, Let there be light.[19] Wind and water, for it is written: And the wind[20] of God hovered over the face of the waters.[21] The measure of day and the measure of night, for it is written: And there was evening and there was morning, one day.[22] It is taught: Tohu is a green line that encompasses the whole world, out of which darkness proceeds, for it is said: He made darkness His hiding-place round about Him.[23] Bohu, this means the slimy[24] stones that are sunk in the deep, out of which the waters proceed, for it is said: And he shall stretch over it the line of confusion [Tohu] and the plummet of emptiness [Bohu].[25]

But was the light created on the first day? For, behold, it is written: And God set them in the firmament of the heaven,[26] and it is [further] written: And there was evening and there was morning a fourth day[27] — This is [to be explained] according to R. Eleazar. For R. Eleazar said: The light which the Holy One, blessed be He, created on the first day, one could see thereby from one end of the world to the other; but as soon as the Holy One, blessed be He, beheld the generation of the Flood and the generation of the Dispersion,[28] and saw that their actions were corrupt, He arose and hid it from them, for it is said: But from the wicked their light is withholden.[29] And for whom did he reserve it? For the righteous in the time to come,[30] for it is said: And God saw the light, that it was good;[31] and 'good' means only the righteous, for it is said: Say ye of the righteous that he is good.[32] As soon as He saw the light that He had reserved for the righteous, He rejoiced, for it is said: He rejoiceth at the light of the righteous.[33] Now Tannaim [differ on the point]: The light which the Holy One, blessed be He, created on the first day one could see and look thereby from one end of the world to the other; this is the view of R. Jacob. But the Sages say: It[34] is identical with the luminaries;[35] for they were created on the first day, but they were not hung up [in the firmament] till the fourth day.[36]

R. Zulra b. Tobiah said that Rab said: by ten things[37] was the world created: By wisdom[38] and by understanding,[39] and by reason,[40] and by strength,[41] and by rebuke,[42] and by might,[43] by righteousness and by judgment,[44] by lovingkindness and by compassion.[45] By wisdom and understanding, for it is written: The Lord by wisdom founded the earth; and by understanding established the heavens.[46] By reason, for it is written: By His reason[47] the depths were broken up.[48] By strength and might, for it is written: Who by His strength setteth fast the mountains, Who is girded about with might.[49] By rebuke, for it is written: The pillars of heaven were trembling, but they became astonished at His, rebuke.[50] By righteousness and judgment, for it is written: Righteousness and judgment are the foundation of Thy throne.[51] By lovingkindness and compassion, for it is written: Remember, O Lord, Thy compassions and Thy mercies; for they have been from of old.[52] Rab Judah further said: At the time that the Holy One, blessed be He, created the world, it went on expanding like two clues[53] of warp, until the Holy One, blessed be He, rebuked it and brought it to a standstill, for it is said: 'The pillars of heaven were trembling, but they became astonished at His rebuke'. And that, too, is what Resh Lakish said: What is the meaning of the verse, I am God Almighty?[54] [It means], I am He that said to the world: Enough![55] Resh Lakish said: When the Holy One, blessed be He, created the sea, it went on expanding, until the Holy One, blessed be He, rebuked it and caused it to dry up, for it is said: He rebuketh the sea and maketh it dry, and drieth up all the rivers.[56]

Our Rabbis taught: Beth Shammai say: Heaven was created first and afterwards the earth was created, for it is said: In the beginning God created the heaven and the earth.[57] Beth Hillel say: Earth was created first and afterwards heaven, for it is said: In the day that the Lord God made earth and heaven.[58] Beth Hillel said to Beth Shammai: According to your view, a man builds the upper storey [first] and afterwards builds the house! For it is said: It is he that buildeth His upper chambers in the heaven,[59] and hath founded His vault upon the earth.[60] Said Beth Shammai to Beth Hillel: According to your view, a man makes the footstool [first], and afterwards he makes the throne![61] For it is said: Thus saith the Lord, The Heaven is My throne and the earth is My footstool.[62] But the Sages say: Both were created at the same time.[63] For it is said: Yea, Mine hand hath laid the foundation of the earth, and My right hand hath spread out the heavens: When I call unto them they stand up together.[64] And the others?[65] What is the meaning of 'together'? — [It means] that they cannot be loosened from one another.[66] However, the verses contradict one another! — Resh Lakish answered: When they were created, He created heaven [first], and afterwards He created the earth; but when He stretched them forth He stretched forth the earth [first], and afterwards He stretched forth heaven.

What does 'heaven' [Shamayim] mean? R. Jose b. Hanina said: It means, 'There is water'.[67] In a Baraitha it is taught: [It means], 'fire and water[68] ;' this teaches that the Holy One, blessed be He, brought them and mixed[69] them one with the other and made from them the firmament.

R. Ishmael questioned R. Akiba when they were going on a journey together, saying to him: Thou who hast waited[70] twenty-two years upon Nahum of Gimzo,[71] who used to explain the [particle] Eth[72] throughout the Torah, [tell me] what exposition did he give of [Eth] the heaven and [Eth] the earth?[73] Said [R. Akiba] to him: If it had said, 'heaven and earth', I could have said that Heaven and Earth[74] were names of the Holy One, blessed be He.[75] But now that it says: '[Eth] the heaven and [Eth] the earth', heaven [means] the actual heaven, and earth [means] the actual earth.

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(1) I.e., that inquiry may not go beyond the first day of creation.

(2) I.e., since one may not inquire beyond the extent of heaven, it follows that one may not inquire beyond the time of its existence, i.e., concerning what happened prior to the creation.

(3) I.e., in height: this is the usual explanation. But Goldschmidt suggests that the meaning might also be: his vision extended from earth to heaven. Cf. R. Eleazar's statement infra p. 63 and n. 2 a. l.

(4) The verse continues, (lit.,) 'and unto the end of heaven'.

(5) Lit., 'became of bad odour'.

(6) The Yalkut Shim'oni (S. 827, Deut. IV, 32) adds 'and brought him down to one hundred cubits'. This is probably derived from the word כפכה 'Thine hand' in the verse that follows, the numerical value of כף ('hand') being a hundred. Cf. also B.B. 75a (and Rashbam a.l.) and Sanh. 100a (and Rashi a.l.).

(7) Heb., צרתני lit., (as E.V.) 'Thou hast hemmed me in'. Here, however, it is taken to mean the same as יצרתני 'fashioned, created'.

(8) I.e., there were, so to speak, two creations of man: the first when he extended to heaven, the second when his stature was reduced.

(9) Ps. CXXXIX, 5.

(10) V. p. 62, n. 10.

(11) I.e., lying down, he stretched from east to west, which is calculated to be a journey of five hundred years; v, Tosaf.

(12) I.e., the parts of Deut. IV, 32 quoted by R. Eleazar and Rab Judah respectively.

(13) The distance from east to west is the same as from the earth to heaven, v. infra 13a. But in Tam. 31b-32a (the Scholars of the South, i.e., of Alexandria) are reported to have said, in reply to a question put to them by Alexander the Great, that the distance from east to west is greater than that from earth to heaven.

(14) The older schools refer to a lesser number of elements viz., eight, six, four, three, or even two. Cf. Gen. Rab. X, 1; Pirke R. Eliezer III; Ex. Rab. XIII; Jellinek, B.H. ii, 23-29, Intro. Xlii; also infra, where Tahu and Bohu are the two primal elements whence the other two, darkness and water, emanate. V. further, Slavonic Book of Enoch (24-30).

(15) A.V. 'without form, and void'; R. V., 'waste and void'; American Jewish Version, 'unformed and void' (Gen. I, 2).

(16) I.e., night and day comprising together twenty-four hours. (Rashi, Jast.). Goldschmidt trans. 'the nature of day etc.';

cf. Ber. 11b.
(17) Gen. I, 1,
(18) Ibid., v. 2.
(19) Ibid:, v. 3.
(20) E.V. ‘spirit’.
(21) Ibid., v. 2.
(22) Ibid.,v. 5.
(23) Ps. XVIII, 12.
(24) Heb., מפולמות, which Jastrow renders, ‘smooth (chaotic) stones’. Levy: ‘stones sunken in the primal mire, chaos’; cf. also Targ. to Job XXVIII, 3; Zeb. 54a, Bez. 24a.
(25) Isa. XXXIV, 11.
(26) Gen. I, 17.
(27) Ibid., v. 19.
(28) I.e., the generation which built the Tower of Babel, and in consequence God confounded their language and scattered them over the earth. V. Gen. XI, 9.
(29) Job. XXXVIII, 15.
(30) I.e., the Messianic era; cf. Aboth II, 16.
(31) Gen. I, 4.
(32) Isa. III, 10. E.V. ‘that it shall be well with him.
(33) Prov. XIII, 9. E.V. ‘the light of the righteous rejoiceth.’
(34) I.e., the light created on the first day.
(35) V. Gen. I, 14f (E.V. ‘lights’).
(36) Cf. Gen. Rab. I, 14, and Rashi to Gen. I, 14.
(37) I.e., potencies or agencies. A lesser number is mentioned by the older school (cf. p. 63, n. 5). Cf. Ab. V, 1; also the ‘Ten Sefirot’ in J. E. vol. XI, p. 154f.
(38) I.e., the ability to understand what one learns.
(39) I.e., deductive power.
(40) I.e., deliberative contemplation.
(41) I.e., physical strength.
(42) I.e.,the application of restraint or limitation.
(43) I.e., moral power.
(44) I.e., the enforcement of justice.
(45) I.e., the feeling which prompts the action of lovingkindness.
(46) Prov. III, 19.
(47) E.V. ‘knowledge’.
(48) Ibid. v. 20.
(49) Ps. LXV, 7.
(50) Job XXVI, 11. I.e., at first the pillars of heaven were weak and shaky, till God rebuked them, when, like a person taken aback by astonishment, they stiffened and hardened (V. Rashi on verse). E.V. renders tremble and are astonished etc.’
(51) Ps. LXXXIX, 15.
(52) Ibid, XXV, 6.
(53) A clue of thread, of rope, etc. (Jast.).
(54) Gen. XVII, 1; XXXV, 11.
(55) שדי ‘Almighty’, is explained as a compound of ש ‘who (said)’,די ‘Enough’.
(56) Nah. I, 4.
(57) Gen. I, 1.
(58) Ibid. II, 4.
(59) Thus heaven was the upper storey.
(60) Amos IX, 6.
(61) The size of the footstool cannot be determined till the throne has been made.
(62) Isa, LXVI, 1.

(63) C. Taylor in ‘Sayings of the Jewish Fathers’, p. 107. n. 40, points out that ‘the three views’ (of the Schools of Shammai and Hillel, and of the Sages) may be taken as texts for three philosophies, viz., idealism, evolutionism and dualism (quoted by Streane).
(64) Ibid. XLVIII, 13. From the word ‘together’ the inference is drawn that heaven and earth are coeval.
(65) I.e., what reply have the Schools of Shammai and Hillel to the argument of the Sages?
(66) Thus ‘together’ refers to their physical structure and not to their time of origin.
(67) I.e., שמים is explained as a compound of שם (‘there’) and מים (‘water’).
(68) I.e., שמים is explained as a compound of אש (‘fire’) and מים (‘water’), the א of אש being omitted.
(69) Lit., ‘mixed by beating’.
(70) I.e., hast been his disciple. Cf. Ber. 47b: ‘Even if one has studied the Bible, and the Mishnah, but has failed to wait upon scholars, he is considered an ‘Am ha-arez (ignoramus); The ministration (of the disciples to the doctors) of the Law is greater than the direct teaching thereof’.
(71) In Judea (v. G. A. Smith's ‘The historical Geography of the Holy Land’, p. 202, n. 1). Heb. גם זו, always in two words, and explained (Ta'an. 21a, J. Shek. V, 15) as a sobriquet given to the scholar on account of his motto גם זו לטובה (‘This, too, will be for the best’), with which he explained his trust in the goodness of Providence even in the most trying circumstances (v. Ta'an 21a). He interpreted the whole Torah according to the rule of רבוי ומיעוט (‘amplification and limitation’, v. Shebu. 26a).
(72) Heb. את, which is either (a) the sign of the defined object as in Gen. I, 1, or (b) the preposition meaning with. Nahum of Gimzo explained every instance of the accusative particle as indicating the inclusion in the object of something besides that which is explicitly mentioned. For the sole exception (Deut. X, 20), v. Pes. 22b, where ‘Nehemiah the Imsoni’ is an error for ‘Nahum the Gimsoni’ or man of Gimzo (v. Graetz in MGWJ., 1870, p. 527). The interpretation of את given here is grammatical rather than Midrashic or homiletical. For the רבוי explanation of את in this verse, which includes the sun and moon etc., v. Gen. Rab. I, 14.
(73) Gen. I, 1.
(74) This is the reading of Bah and Maharsha: cur. edd. omit the words, ‘and the earth’.
(75) And the subject of ברא (‘He created’).

Talmud - Mas. Chagigah 12b

But why do we have ‘[Eth] the earth’?[1] — To put heaven before earth.[2]

‘And the earth was unformed and void’.[3] Consider: [Scripture] began at first with heaven, why then does it proceed to relate [first] the work of the earth?[4] — The School of R. Ishmael taught: It is like a human king[5] who said to his servants: Come early to my door. He rose early and found women and men. Whom does he praise? The ones who are not accustomed to rise early but yet did rise early.[6]

It is taught: R. Jose says: Alas for people that they see but know not what they see, they stand but know not on what they stand. What does the earth rest on? On the pillars, for it is said: Who shaketh the earth out of her place, and the pillars thereof tremble.[7] The pillars upon the waters, for it is said: To Him that spread forth the earth above the waters.[8] The waters upon the mountains, for it is said: The waters stood above the mountains.[9] The mountains on the wind, for it is said: For, lo, He that formeth the mountains, and createth the wind.[10] The wind upon the storm, for it is said: The wind, the storm maketh its substance.[11] Storm is suspended on the arm of the Holy One, blessed be He, for it is said: And underneath[12] are the everlasting arms.[13] But the Sages say: [The world] rests on twelve pillars,[14] for it is said: He set the borders to the peoples according to the number [of the tribes] of the children of Israel.[15] And some say seven pillars, for it is said: She hath hewn out her seven piliars.[16] R. Eleazar b. Shammua’ says: [It rests] on one pillar, and its name is ‘Righteous’, for it is said: But ‘Righteous’ is the foundation of the world.[17]

R. Judah said: There are two firmaments, for it is said: Behold, unto the Lord thy God belongeth heaven, and the heaven of heavens.[18] Resh Lakish said: [There are] seven, namely, Wilon,[19] Rakia’,[20] Shehakim,[21] Zebul,[22] Ma'on,[23] Makon,[24] ‘Araboth.[25] Wilon serves no purpose except that it enters in the morning and goes forth in the evening[26] and renews every day the work of creation, for it is said: That stretcheth out the heavens as a curtain,[27] and spreadeth them out as a tent to dwell in.[28] Rakia’ is that in which sun and moon, stars and constellations are set, for it is said: And God set them[29] in the firmament [Rakia’] of the heaven.[30] Shehakim is that in which millstones stand and grind[31] manna for the righteous for it is said: And He commanded the skies [Shehakim] above, and opened the doors of heaven; and He caused manna to rain upon them for food etc.[32] Zebul is that in which [the heavenly] Jerusalem[33] and the Temple and the Altar are built, and Michael, the great Prince,[34] stands and offers up thereon an offering, for it is said: I have surely built Thee a house of habitation [Zebul], a place for Thee to dwell in for ever.[35] And whence do we derive that it is called heaven? For it is written: Look down from heaven, and see, even from Thy holy and glorious habitation.[36] Ma'on is that in which there are companies of Ministering Angels, who utter [divine] song by night, and are silent by day for the sake of Israel's glory,[37] for it is said: By day the Lord doth command His lovingkindness,[38] and in the night His song is with me.[39]

Resh Lakish said: Whoever occupies himself with [the study of] the Torah by night, the Holy One, blessed be He, draws over him a chord of lovingkindness[40] by day, for it is said: ‘By day the Lord doth command His lovingkindness’? Because ‘by night His song[41] is with me’. And there are some who say: Resh Lakish said: Whoever occupies himself with the study of the Torah in this world, which is like the night, the Holy One, blessed be He, draws over him a chord of lovingkindness in the world to come, which is like the day,[42] for it is said: ‘By day the Lord doth command His lovingkindness, for by night His song is with me’.

R. Levi said: Whoever leaves off the study of the Torah and occupies himself with idle talk, he is made to eat coals of broom,[43] for it is said: They pluck salt-wort through idle talk,[44] and the roots of the broom are their food.[45]

And whence do we derive that it[46] is called heaven? — For it is said: Look forth from Thy holy habitation [ma'on], from heaven.[47] Makon[48] is that in which there are the stores of snow[49] and stores of hail, and the loft of harmful dews and the loft of raindrops,[50] the chamber of the whirlwind and storm,[51] and the cave of vapour, and their doors are of fire, for it is said: The Lord will open unto thee His good treasure,[52] But are these to be found in the firmament? Surely, they are to be found on the earth, for it is written: Praise the Lord from the earth, ye sea-monsters, and all deeps; fire and hail, snow and vapour, stormy wind, fulfilling his word![53] — Rab Judah said in the name of Rab: David entreated concerning them, and caused them to come down to the earth. He said before Him: Lord of the universe, Thou art not a God that hath pleasure in wickedness; let not evil sojourn with Thee;[54] righteous art Thou, O Lord, let not evil sojourn in Thy abode.[55] And whence do we derive that it[56] is called heaven? For it is written: Then hear Thou in heaven, Thy dwelling place [Makon].[57]

‘Araboth is that in which there are Right and Judgment and Righteousness,[58] the treasures of life and the treasures of peace and the treasures of blessing, the souls of the righteous and the spirits and the souls[59] which are yet to be born, and dew wherewith the Holy One, blessed be He, will hereafter revive the dead. Right and Judgment, for it is written: Right[60] and judgment are the foundations of Thy throne.[61] Righteousness, for it is written: And He put on righteousness as a coat of mail.[62] The treasures of life, for it is written: For with Thee is the fountain of life.[63] And the treasures of peace, for it is written: And called it, ‘The Lord is peace’.[64] And the treasures of blessing, for it is written: he shall receive a blessing from the Lord.[65] The souls of the righteous, for it is written: Yet the soul of my lord shall be bound up in the bundle of life with the Lord thy God.[66] The spirits and the souls which are yet to be born, for it is written: For the spirit that enwrappeth itself is from Me, and the souls which I have made.[67] And the dew wherewith the Holy One, blessed be He, will hereafter revive the dead, for it is written: A bounteous rain didst Thou pour down, O God; when Thine inheritance was weary, Thou didst confirm it.[68] There [too] are the Ofanim[69] and the Seraphim,[70] and the Holy Living Creatures,[71] and the Ministering Angels,[72] and the Throne of God; and the King, the Living God, high and exalted, dwells over them in ‘Araboth, for it is said: Extol Him that rideth upon Araboth[73] whose name is the Lord.[74] And whence do we derive that it[75] is called heaven? From the word ‘riding’, which occurs in two Biblical passages. Here it is written: ‘Extol Him that rideth upon Araboth’. And elsewhere it is written: Who rideth upon the heaven as thy help.[76] And darkness and cloud and thick darkness surround Him, for it is said: He made darkness His hiding-place, His pavilion round about Him, darkness of waters, thick clouds of skies.[77] But is there any darkness before Heaven?[78] For behold it is written: He revealeth the deep and secret things; He knoweth, what is in the darkness, and the light dwelleth with Him.[79] — There is no contradiction: the one [verse][80]

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(1) I,e., the first Eth in the verse has been explained; but what is the purpose of the second?

(2) I.e., to show that the creation of the heaven preceded that of the earth. Had this second Eth been omitted, I might have thought that heaven and earth were created at the same time.

(3) Gen. I, 2.

(4) I.e., its development from a state of dark chaos to light and ordered life.

(5) Lit., ‘a king of flesh and blood’.

(6) Rashi explains the application of the parable thus: Since heaven was summoned to appear first, the earth was in the position of one not accustomed to rise early; furthermore, all the work of the earth is slow, whilst the work of heaven is swift. Nevertheless, the earth appeared equally early with heaven, for they were created at the same time (according to the view of the Sages, v. p. 66), therefore Scripture begins to relate the work of the earth first. But Maharsha explains that the earth obeyed God's will first and came into being before heaven (according to the view of Beth Hillel, ibid.) just as the women in the parable actually came before the men.

(7) Job IX, 6.

(8) Ps. CXXXVI, 6.

(9) Ibid. CIV, 6.

(10) Amos IV, 13. The mention of the mountains and the wind in the same verse shows that the former were dependent or suspended upon the latter.

(11) So Rashi. E.V., ‘Stormy wind, fulfilling His word. Ps. CXLVIII, 8.

(12) Sc. all creation.

(13) Deut. XXXIII, 27.

(14) The pillars here refer to those mentioned by R. Jose (v. supra), who, however, did not give their number.

(15) Deut. XXXII, 8.

(16) Prov. IX, 1.

(17) Ibid. X, 25. E.V., ‘But the righteous is an everlasting foundation’. Maharsha compares this discussion of the number of the pillars with the discussion of the number of the precepts in Mak., Sonc. ed., pp. 169f.

(18) Deut. X, 14.

(19) I.e., ‘Curtain’, from Lat. Velum.

(20) I.e., ‘Expanse, firmament’.

(21) Lit., ‘Clouds’, from שחק, ‘dust’ (cf. Isa. XL, 15).

(22) B.D.B.: ‘Elevation, height, lofty abode’; N.H., ‘Temple’. Jastrow: ‘(place of offering or entertainment) residence, especially Temple’.

(23) I.e., ‘Dwelling, habitation’.

(24) I.e., ‘Fixed or established place, foundation, residence’.

(25) V. Ps, LXVIII, 5. Levy: Perhaps from ערב, ‘to be dark’ (cf. ערב evening) and syn. with ערפל: (thick darkness, heavy cloud, in which God dwells; cf. Ex. XX, 18).

(26) According to Rashi, Wilon (‘Curtain’) draws in every morning, and thus causes the light of day to become visible; in the evening it draws out and hides the daylight. This process constitutes the renewal of the work of creation. But Tosaf. explains that Wilon produces the light of day, and when it withdraws at night darkness prevails.

(27) Thus there is a curtain-like heaven.

(28) Isa. XL, 22.

(29) I.e., the heavenly luminaries.

(30) Gen. I, 17.

(31) There is probably a play here on the meaning of שחק (the root of shehakim), which means ‘to rub away, pulverize, grind’ (cf. Ex. XXX, 36 and Job, XIV, 19).

(32) Ps. LXXVIII, 23, 24.

(33) Cf. Ta'an. 5a: ‘The Holy One blessed be He, said: I shall not enter the Jerusalem which is above, until I enter the Jerusalem which is below’.

(34) Michael is Israel's Guardian Angel; cf. Dan. XII, 1 and Yoma 77a. Num. Rab. s. 2, Hul. 40a.

(35) I Kings VIII, 13; the earthly Temple corresponds to the heavenly Sanctuary.

(36) Isa. LXIII, 15.

(37) Because Israel utters God's praise by day.

(38) By silencing the angels by day. God shows lovingkindness to the children of Israel, who are thus permitted to win divine grace by their prayer. Cf. also A.Z. 3b on the same verse.

(39) Ps. XLII, 9. I.e., by night the song of the angels joins mine (says Israel), which I uttered by day (Rashi).

(40) I.e., of His protection.

(41) I.e., the Torah.

(42) Cf. Aboth IV, 16,17.

(43) This is the punishment for slander and a figurative expression for Gehinnom; cf. Yal. Shim. s. 120, Midr. Till. to Ps. CXX, and Gen. Rab. 98.

(44) Heb. שיח, which may represent two totally different words of identical spelling: one means ‘shrub’ (or, according to some, ‘wormwood’) which is the natural meaning here, the other means ‘complaint, musing, talk’, which is the sense in which it is homiletically understood by R. Levi.

(45) Job. XXX, 4.

(46) I.e., Ma'on: the explanation of the seven heavens is here resumed.

(47) Deut. XXVI, 15.

(48) According to Rashi, this heaven contains stores of punishments, the snow etc. being employed not for the world's benefit, but for retribution, Tosaf., however, holds that the contents of Ma'on are used for good as well as evil, and compares Ta'an. 3b and Isa. LV, 10.

(49) For these stores cf. Job XXXVIII, 22f also Isa. XXIX, 6.

(50) Rashi: to smite down the produce.

(51) Omitted by R. Elijah of Wilna,

(52) Deut, XXVIII, 12; implying also the existence of a bad store, i.e., of punishments; but the "Ein Jacob’ reads here Jer. L, 25.

(53) Ps. CXLVIII, 7, 8.

(54) Ibid. V, 5.

(55) Note how the Talmudic explanation of the verse transforms the negative description of God into a positive one, and changes (‘with Thee’ into ‘in thy abode’ to prevent any misconception about God's perfection.

(56) I.e., Makon.

(57) I Kings VIII, 39.

(58) Heb. צדקה, which implies righteous actions and is often used in the sense of charity.

(59) Rashi explains that either ‘spirits’ and ‘souls’ are synonymous, or else ‘spirit’ means the soul that has bodily form (ectoplasm?).

(60) E.V. ‘Righteousness’.

(61) Ps. LXXXIX, 15.

(62) Isa LIX, 17.

(63) Ps.XXXVI, 10.

(64) Judg. VI, 24. Rashi renders: He (the Lord) called it (peace) unto Him.

(65) Ps. XXIV, 5.

(66) 1 Sam. XXV, 29.

(67) Isa. LVII, 1.

(68) Ps. LXVIII, 10. The verse refers to the Revelation at Sinai, when, according to the Midrash, the souls of the children of Israel momentarily left their bodies, but God with His bounteous rain or dew of resurrection revived them.

Cf. Cant. Rab. to Cant. V, 6.

(69) Lit., 'Wheels', i.e., wheel-like angels; v. Ezek. I, 15f.

(70) V. Isa. VI, 2; in Rabbinic literature they are understood to be angels of fire, cf. Deut. Rab. s. 11. But v. B. D. B. s.v.

(71) V. Ezek. I, 5f.

(72) Apparently distinct from those dwelling in Ma'on (v. p. 70).

(73) A.V. 'upon the heavens'; R.V. 'through the deserts'.

(74) Ps. LXVIII, 5.

(75) I.e., Araboth.

(76) Deut. XXXIII, 26.

(77) Ps. XVIII, 12.

(78) I.e., God.

(79) Dan. II, 22.

(80) I.e., the latter.

Talmud - Mas. Chagigah 13a

refers to the inner chambers,[1] the other to the outer chambers. And R. Aha b. Jacob said: There is still another Heaven above the heads of the living creatures, for it is written: And over the heads of the living creatures there was a likeness of a firmament, like the colour of the terrible ice, stretched forth over their heads above.[2] Thus far you have permission to speak, thenceforward you have not permission to speak, for so it is written in the Book of Ben Sira:[3] Seek not things that are too hard for thee,[4] and search not things that are hidden from thee. The things that have been permitted[5] thee, think thereupon; thou hast no business with[6] the things that are secret.[7]

It is taught: R. Johanan b. Zakkai said: What answer did the Bath Kol[8] give to that wicked one,[9] when he said: I will ascend above the heights of the clouds; I will be like the Most High?[10] A Bath Kol went forth and said to him: O wicked man, son of a wicked man, grandson[11] of Nimrod, the wicked, who stirred the whole world to rebellion against Me[12] by his rule. How many are the years of man? Seventy, for it is said: The days of our years are threescore years and ten, or even by reason of strength fourscore years.[13] But the distance from the earth to the firmament is a journey of five hundred years, and the thickness of the firmament is a journey of five hundred years, and likewise [the distance] between one firmament and the other.[14] Above them[15] are the holy living creatures: the feet[16] of the living creatures are equal to all of them [together];[17] the ankles of the living creatures are equal to all of them; the legs of the living creatures are equal to all of them; the knees[18] of the living creatures are equal to all of them; the thighs of the living creatures are equal to all of them; the bodies of the living creatures are equal to all of them; the necks of the living creatures are equal to all of them; the heads of the living creatures are equal to all of them; the horns of the living creatures are equal to all of them. Above them is the throne of glory; the feet of the throne of glory are equal to all of them; the throne of glory is equal to all of them. The King, the Living and Eternal God, High and Exalted, dwelleth above them. Yet thou didst say, I will ascend above the heights of the clouds, I will be like the Most High! Nay[19] , thou shalt be brought down to the nether-world, to the uttermost parts of the pit.[20]

NOR [THE WORK OF] THE CHARIOT IN THE PRESENCE OF ONE. R. Hiyya taught: But the headings of chapters[21] may be transmitted to him. R. Zera said: The headings of chapters may be transmitted only to the head of a court[22] and to one whose heart is anxious within him.[23] Others say: Only if his heart is anxious within him.[24] R. Amimi said: The mysteries of the Torah may be transmitted only to one who possesses five attributes, [namely], The captain of fifty, and the man of rank, and the counsellor, and the cunning charmer, and the skillful enchanter.[25] R. Ammi further said: The teachings of the Torah are not to be transmitted to an idolater,[26] for it is said: He hath not dealt so with any nation; and as for His ordinances, they have not known them.[27]

R. Johanan said to R. Eleazar: Come, I will instruct you in the ‘Work of the Chariot’.[28] He replied: I am not old enough.[29] When he was old enough, R. Johanan died.[30] R. Assi [then] said to him: Come, I will instruct you in the "Work of the Chariot’. He replied: Had I been worthy, I should have been instructed by R. Johanan, your master.

R. Joseph was studying the ‘Work of the Chariot’; the elders of Pumbeditha[31] were studying the ‘Work of Creation . The latter said to the former: Let the master teach us the ‘Work of the Chariot’. He replied: Teach me the ‘Work of Creation’. After they had taught him, they said to him: Let the master instruct us in the ‘Work of the Chariot’. He replied: We have learnt concerning it: Honey and milk are under thy tongue.[32] The things that are sweeter than honey and milk should be under thy tongue.[33] R. Abbahu said: [It[34] is inferred] from this verse: The lambs [Ke-basim] will be for thy clothing.[35] The things which are the mystery [Kibshono] of the world should be under thy clothing.[36] They[37] [then] said to him: We have already studied therein as far as, And He said unto me: ‘Son of man’.[38] He replied: This is the very [portion of the] ‘Work of the Chariot’.[39]

An objection was raised: How far does [the portion of] the ‘Work of the Chariot’ extend? Rabbi said: As far as the second And I saw.[40] R. Isaac said: As far as Hashmal[41] — As far as ‘I saw’[42] may be taught;[43] thenceforward, [only] the heads of chapters[44] may be transmitted. Some, however, say: As far as ‘I saw’, the heads of chapters may be transmitted; thenceforward, if he is a Sage able to speculate by himself, Yes; if not, No. But may one expound [the mysteries of] Hashmal? For behold there was once a child[45] who expounded [the mysteries of] Hashmal, and a fire went forth and consumed him! — [The case of] the child is different, for he had not reached the [fitting] age. Rab Judah said: That man be remembered for blessing,[46] namely, Hananiah b. Hezekiah: but for him, the Book of Ezekiel would have been withdrawn,[47] for its words contradict the words of the Torah.[48] What did he do? Three hundred garab[49] of oil were brought up to him, and he sat in an upper chamber and expounded it.

The Rabbis taught: There was once a child who was reading at his teacher's house the Book of Ezekiel, and he apprehended what Hashmal was,[50] whereupon a fire went forth from Hashmal and consumed him. So they[51] sought to suppress the Book of Ezekiel, but Hananiah b. Hezekiah said to them: If he was a Sage, all are Sages![52] What does [the word] Hashmal mean?-Rab Judah said:

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(1) Cf. supra p. 23, n. 5.

(2) Ezek. I, 22.

(3) Cf. Ecclesiasticus III, 21, 22. The author, whose full name seems to have been Jesus b. Simeon b. Eleazar b. Sira, is the only writer of the Old Testament or Apocrypha who signed his work (v. ibid. L, 27). His date falls in the first third of the second century B.C.E. He wrote in Hebrew, the Greek translation being made by his grandson, of whom it is known that he went to Egypt in 132; the greater part of the Hebrew original has been recovered from the Cairo Genizah. According to Tosef. Yad. II, 13, the writings of Ben Sira do not defile the hands, i.e., are uncanonical, and so rank the works of ‘Minim’ or heretics. Eccl. Rab. XII, 11 forbids one to have Ben Sira's book in the house. R. Akiba (J. Sanh. 28a) includes the readers of uncanonical writings such as those of Ben Sira among those who have no share in the world to come; v. further the discussion in Sanh., Sonc. ed., p. 680f and nn. a.l. on R. Akiba's prohibition. The exclusion of Ecclesiasticus from the canon and the prohibitions with which it was surrounded were probably due to its epicurean and Sadducean tendencies. Notwithstanding, the book remained popular with Jews, and is frequently quoted in early Jewish literature as well as in the Talmud and Midrash. V. J.E. vol. XI, pp. 388f.

(4) E.V. ‘that are above thy strength’.

(5) E.V. ‘commanded’.

(6) E.V. ‘no need of’.

(7) For a variant version of this quotation v. Gen. Rab. VIII, which contains two additional clauses.

(8) Lit., ‘daughter of a voice’. According to Lampronti, Levy, Kohut (Aruch Completum) and Jast., it means an echo’; but L. Blau holds (J.E. vol. II, pp. 588f) that it means ‘sound’, ‘resonance’. For its secular use, v. Ex. Rab. XXIX, end; bit in our passage and Rabbinic literature passim, it refers to a heavenly or divine voice.

(9) I.e., Nebuchadnezzar, who, in R. Johanan b. Zakkai's time, possibly suggested Titus.

(10) Isa. XIV, 14.

(11) As Tosaf. a.l. points out, this statement is not to be taken literally; Nebuchadnezzar is to be regarded as a spiritual descendant of Nimrod because of the similarity of their deeds (the latter persecuted Abraham — cf. Targ. pseudo-Jonathan to Gen. XIV, I; Gen. R. XLII, 5; Cant. R. VIII, 8 — and the former led into captivity Abraham's descendants) and of their place of origin (Babylon).

(12) Lit., ‘against himself’, an obvious emendation, dictated by a pious desire to avoid blasphemy, of ‘against Me’ i.e., God. In ‘Er. 53a the text has been ‘corrected’ as here; but in Pes. 94b, Gen. R. s. 26 etc., the original reading is preserved.

(13) Ps. XC, 10.

(14) V. p. 69.

(15) I.e., the seven heavens; v. n. 5.

(16) I.e., the thickness of the hooves.

(17) I.e., 15 (7 heavens and 8 interspaces) X 500 years. But in J. Ber. 13a the figure is given as 515, the numerical sum of ישרה, ‘upright’; cf. Ezek. I, 7 (Tosaf.).

(18) Properly, the knee and its surrounding parts; cf. Hul. 76a.

(19) E.V. ‘Yet’ etc.

(20) Isa. XIV, 14f.

(21) Probably, the leading words of each section or subject (cf. Rashi a.l. and Jast. s. פרק). Levy explains it as ‘the interpretations of single verses’. V. infra p. 77.

(22) Ab Beth din, lit., ‘Father of a Beth din’ (house of judgment). The Beth din consisted of three (according to another view, five) members for monetary cases, and of twenty-three for capital cases; whilst the Beth din ha-Gadol (‘High Court’), or Great Sanhedrin, was comprised of seventy elders and the Nasi, who acted as president. The Ab Beth din of the Sanhedrin was the vice-president and most important of the seventy members (cf. Sanh. I, 1-4, Sonc. ed. pp. 1-4; and J.E. vol. lii, pp. 114f).

(23) I.e., he is reverential and not given to levity.

(24) I.e., one must have both qualifications viz., be the head of a court and reverential.

(25) Isa. III, 3. For the explanation of these qualifications v. p. 85.

(26) This, and not Cuthean (substituted on account of the censorship), is undoubtedly the correct reading. Dicta of this kind were directed against heathens, and were inspired by the fear lest the knowledge of the Torah be unscrupulously used against Jews. Cf. the story of the Roman commissioners referred to in B.K., Sonc. ed., p. 215; also R. Johanan's statement in Sanh., Sonc. ed., p. 400 and Num. Rab. s. 13.

(27) Ps. CXLVII, 20,

(28) The ‘Work of the Chariot’ and the ‘Work of Creation’ mentioned in the next passage, were Baraithas (Rashi), which apparently, took the relevant passages of Genesis and Ezekiel as the basis of their expositions.

(29) Cf. p. 85, where the ‘captain of fifty’, mentioned supra as one of the qualifications of the man to whom the mysteries of the Torah may be transmitted, is explained as one who is fifty years of age.

(30) Lit., ‘R. Johanan's soul was at rest’ (cf. Isa. LVII, 2).

(31) Lit., ‘mouth of Beditha’ (a canal of the Euphrates). It was the seat of a great Jewish academy.

(32) Cant. IV, 11.

(33) I.e., the mysteries of the Chariot may not be taught, cf. our Mishnah (p. 59). The Rabbis considered the whole of Canticles as a figurative expression of the mystical relationship between God and Israel; thus the verse quoted, which the Bridegroom says to the Bride, is really the injunction of God to Israel.

(34) I.e.,the prohibition to teach the ‘Chariot’ mysteries.

(35) Prov. XXVII, 26.

(36) I.e., in thy bosom, a secret. The reading in MS.M. brings the Midrashic deduction out more clearly: Read not kebasim("lambs") but kebushim ("hidden things")things which are the mystery(kibshono) of the world must be kept under one's clothing’.

(37) I.e., the elders of Pumbeditha.

(38) Ezek. II, 1.

(39) I.e., if you have learnt thus far,you have learnt much , for this passage included the very verses(Ezek. I,27,28) the teaching of which the Rabbis prohibited.

(40) Ezek. I,27, excluding Hashmal;v. n. 12.

(41) Ibid.,including Hashmal(E.V. ‘electrum’). By Hashmal, the whole subject thereof, which is described in this verse, is meant, not merely the word itself, which already occurs in v. 4. The objection here raised is that the statements of Rabbi and R. Isaac apparently contradict the statement of R. Joseph above, which seemed to imply that the passage dealing with the ‘Work of the Chariot’ extended to Ezek. II, 1.

(42) I.e., ‘I saw’ according to Rabbi, or ‘Hashmal’ according to R. Isaac,

(43) I.e., Rabbi and R. Isaac indicated not how far the ‘Work of the Chariot extended, but how far therein it was permissible to teach.

(44) V. p. 75,n. 3.

(45) Aram. ינוקא, a term applicable to a boy from infancy to school age. Hot-tinger's view (De Incestu etc., p. 54, quoted by A. W. Streane) that not a child in years but in knowledge of Talmud is meant is unlikely. Cf. the frequent use of the term in the Zohar.

(46) Cf. Neh. V, 19.

(47) Heb.נגנז lit., ‘hidden, stored away’, i.e., declared un-canonical. The idea and name of the Greek ‘Apocrypha’ have often been traced to this technical significance of the verb גנז in the Talmud; but this is denied by G. F. Moore, v. J.E., vol. II, pp. 1-2 and 6.

(48) Cf. Ezek, XVIII, 4, 20 with Ex. XX, 5, XXIV, 7; Ezek. XLIV, 31 with Lev. XXII, 8; Ezek. XLIV, 22 with Lev. XXI, 14; also Ezek. XLV, 20, which mentions a sacrifice for the seventh day of the first month, entirely unknown from the Torah. V. Rashi to the above verses of Ezek., and Men. 45a, and Kid. 78a.

(49) ‘A bottle, keg’, as a ‘measure (Jast.); ‘an earthen jar’, (Levy). The oil was to provide light for study.

(50) Jast. translates: ‘speculated over the Hashmal’. Had the child drawn a picture of it? (V. J.E. vol. III, p. 148, s. 11).

(51) I.e., the Rabbis.

(52) I.e., the case of the child is exceptional: having a Sage's understanding of the mysteries of Hashmal, he endangered his life by his speculation; but ordinary readers of Ezekiel would not run any risk.

Talmud - Mas. Chagigah 13b

Living creatures speaking fire.[1] In a Baraitha it is taught: [Hashmal means], At times they are silent, at times they speak.[2] When the utterance goes forth from the mouth of the Holy One, blessed be He, they are silent, and when the utterance goes not forth from the mouth of the Holy One, blessed be He, they speak.

And the living creatures ran and returned as the appearance of a flash of lightning.[3] What is the meaning of ‘ran and returned’? — Rab Judah said: Like the flame that goes forth from the mouth of a furnace.[4] What is the meaning of ‘as the appearance of a flash of lightning’? — R. Jose b. Hanina said: Like the flame that goes forth from between the potsherds.[5]

And I looked, and, behold a stormy wind came out of the north, a great cloud with a fire flashing up, so that a brightness was round about it; and out of the midst thereof as the colour of electrum [Hashmal], out of the midst of the fire.[6] Whither did it[7] go? Rab Judah said that Rab said: It went to subdue the whole world under the wicked Nebuchadnezzar. And wherefore all this? — That the peoples of the world might not say: Into the hand of a low people the Holy One, blessed be he, delivered His children,[8] The Holy One, blessed be He, said: Who caused Me to be a servant to idol-worshippers? The iniquities of Israel, they caused Me.

Now as I beheld the living creatures, behold one wheel at the bottom hard by the living creatures.[9] R. Eleazar said: [It means] a certain angel, who stands on the earth and his head reaches unto the living creatures. In a Baraitha it is taught: His name is Sandalfon;[10] he is higher than his fellows by a [distance of] five hundred years’ journey, and he stands behind the Chariot and wreathes crowns[11] for his Maker. But is it so? Behold it is written: Blessed be the glory of the Lord from His place,’[12] accordingly, no one knows His place![13] — He[14] pronounces the [Divine] Name over the crown, and it goes and rests on His head.[15]

Raba said: All that Ezekiel saw Isaiah saw.[16] What does Ezekiel resemble? A villager who saw the king.[17] And what does Isaiah resemble? A townsman who saw the king.[18]

Resh Lakish said: What is the meaning of the verse: I will sing unto the Lord, for He is highly exalted?[19] [It means] a song to him who is exalted over the exalted ones.[20] For a Master said: The king of the wild animals is the lion; the king of the cattle is the ox; the king of the birds is the eagle; and man is exalted over them; and the Holy One, blessed be He, is exalted over all of then, and over the whole world.

One verse says: As for the likeness of their faces, they had the face of a man; and they four had the face of a lion on the right side,' and they four had the face of an ox on the left side etc.[21] And [elsewhere] it is written: And everyone had four, faces; the first face was the face of the cherub, and the second face was the face of a man, and the third the face of a lion, and the fourth the face of an eagle;[22] but the ox is not mentioned! — Resh Lakish said: Ezekiel entreated concerning it and changed it into a cherub. He said before Him:[23] Lord of the universe, shall an accuser[24] become an advocate![25] What is the meaning of cherub? — R. Abbahu said: Like a child [Rabia];[26] for so in Babylonia a child is called Rabia. R. Papa said to Abaye: But according to this, [what is the meaning of] the verse, 'The first face was the face of the cherub, and the second face was the face of a man, and the third the face of a lion, and the fourth the face of an eagle': are not the face of the cherub and the face of a man the same! — [The one is] a big face, and [the other is] a small face.[27]

One verse says: Each one had six wings;[28] and another verse says: And every one had four faces, and every one of them had four wings![29] — There is no contradiction: the one[30] refers to the time when the Temple was no longer standing,[31] [when] as it were,[32] the wings of the living creatures were diminished. Which of them were taken away? — R. Hananel said that Rab said: Those with which they utter song. [For] here[33] it is written: And with twain he did fly. And one called unto another and said;[34] and [elsewhere] it is written: Wilt thou set thine eyes upon it? It is gone.[35] But our Rabbis said: Those with which they cover their feet, for it is said: And their feet were straight feet,[36] and if [these wings] had not been taken away, whence could he have known![37] — Perhaps, [the feet] were exposed and he saw them. For if you do not say so, [then from the words], As for the likeness of their faces, they had the face of man,[38] [one might infer] likewise that [the wings covering them] were taken away! They[39] must therefore have been exposed, and he saw them; similarly here, they[40] were exposed, and he saw them. But how can they be compared? Granted that it is customary to expose one's face before one's master, but it is not customary to expose one's feet before one's master!

One verse says: Thousand thousands ministered unto Him, and ten thousand times ten thousand stood before Him;[41] and another verse says: Is there any number of His armies?[42] — There is no contradiction: the one[43] refers to a time when the Temple was standing, and the other refers to a time when the Temple was no longer standing; [when] as it were, the heavenly household[44] was diminished.

It is taught: Rabbi said in the name of Abba Jose b. Dosai: 'Thousand thousands ministered unto 'Him', — this is the number of one troop; but of His troops there is no number. But Jeremiah b. Aba said: 'Thousand thousand ministered unto Him' — at the fiery stream,[45] for it is said: A fiery stream issued and came forth from before Him; thousand thousands ministered unto Him and ten thousand times ten thousand stood before Him.[41] Whence does it come forth? — From the sweat of the 'living creatures', And whither does it pour forth? R. Zutra b. Tobiah said that Rab said: Upon the head of the wicked in Gehinnom,[46] for it is said: Behold, a storm of the Lord is gone forth in fury,[47] yea, a whirling storm; it shall whirl upon the head of the wicked.[48] But R. Aha b. Jacob said: Upon those who pressed forward,[49] for it is said: Who pressed forward[50] before their time, whose foundation was poured out as a stream.[51] It is taught: R. Simeon the Pious said: These are the nine hundred and seventy four generations who pressed themselves forward to be created[52]

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(1) I.e. חשמל is explained as an abbreviation of חיות אש ממללות

(2) I.e., Hashmal is an abbreviation of חשות ממללות, ‘silent, speaking’.

(3) Ezek. 1,14.

(4) I.e., a brick-kiln.

(5) I.e., perforated earthen pieces used in smelting gold. בזק (E.V. ‘flash of lightning’) is here explained in its Aramaic sense of ‘a fragment, piece of pottery’.

(6) Ibid. v. 4.

(7) I.e., the stormy wind coming out of the north.

(8) Cf. for the thought Git. 56b=Sanh. 104b, (Sonc. ed., p. 710), ‘Whoever distresses Israel becomes a chief’.

(9) Ezek. I, 15.

(10) Perhaps from Grk. ** == cobrother. Sandalfon is described as brother of Metatron; v. J.E. vol. XI, pp. 39-40; cf. also Longfellow's poem ‘Sandalphon’.

(11) I.e., offers up the prayers of the righteous.

(12) Ezek. III, 12.

(13) I.e., the vagueness of the expression ‘from His place’ indicates that God's place is unknown even to His angels.

(14) I.e., Sandalfon,

(15) [MS.M. ‘in its place : i.e., the prayer is effective.]

(16) V. Isa. VI, 1 ff: Despite the differences between the descriptions given by Isaiah and Ezekiel, they both saw identical visions of God's glory.

(17) According to Rashi, the point is that the rustic — to whom the sight of the king is a novelty — is naturally inclined to give his impressions at length. But Tosaf. explains that the villager has to give a detailed description of the royal splendour in order to convince his hearers that he actually saw the king. Likewise Ezekiel, to whom was granted the rare distinction, of prophecy outside Palestine, had to prove by a detailed account that he actually beheld the Divine Glory though he dwelt by the river Chebar.

(18) The townsman — to whom the king is a familiar sight is not inclined to indulge in any lengthy description (Rashi); nor does he have to go into details in order to convince his hearers of the truth of his statement (Tosaf.).

(19) Ex. XV, 1.

(20) This is an explanation of the words of the text, גאה גאה (E.V. ‘highly exalted’), which mean lit., ‘to be exalted he is exalted’.

(21) Ezek. I, 10.

(22) Ezek. X, 14.

(23) I.e., Ezekiel before God.

(24) The ox would be a reminder of Israel's sin in connection with the golden calf.

(25) Israel required the Divine Chariot to intercede for them. Cf. R.H. 26a.

(26) The word כרוב (‘Cherub’) is explained as composed of ,כ (‘like’) and רוב =רביא (‘a growing boy’). For modern suggestions regarding the root-meaning of the word v. B.D.B. s.v.

(27) I.e., the face of a man and the face of a boy.

(28) Isa. VI, 2.

(29) Ezek. I, 6. It is assumed that the ‘Seraphim’ of Isaiah and the ‘living creatures’ of Ezekiel had originally the same number of wings.

(30) I.e., Isa. VI, 2.

(31) I.e., the time for the destruction of the Temple had come. Ezekiel prophesied the event, and lived to learn of the fulfilment of his prophecy, as well as to foretell the rebuilding of the Sanctuary.

(32) Lit., ‘as though it were possible’, refers to an allegorical or anthropomorphous expression with reference to the Lord (Jast.), or, as here, to the celestial creatures.

(33) Ibid. vv. 2, 3.

(34) The juxtaposition of the two verses shows that with the wings with which they flew they also uttered God's praise.

(35) Lit., ‘cause to fly’; cf. also rest of verse, Prov. XXIII, 5. The occurrence of the word fly in the two passages shows that it is the wings with which the heavenly beings fly (i.e., utter their song to God) that are gone. This verse in Proverbs is understood by the Rabbis to refer to the neglect of the study of the Torah (cf. Rashi a. l., and Ber. 5a, Meg. 18a): the meaning would seem to be that when the Torah is neglected the divine song of the angels is silenced.

(36) Ezek. I, 7.

(37) l.e., that their feet were straight.

(38) Ibid. I, 10,

(39) I.e., their faces.

(40) I.e,, their feet.

(41) Dan. VII, 10.

(42) Job. XXV, 3.

(43) I.e., the verse in Job.

(44) Heb. פמליא from Lat. Familia.

(45) I.e, the verse gives the number only of those attending God at the fiery stream, but not of all His angels, which are innumerable.

(46) I.e., 'place of punishment of the wicked in the hereafter, hell' (Jast.). Cf. II Kings XXIII, 10; Jer. VII, 31, 32, etc.; II Chron. XXVIII, 3.

(47) Heb.חמה understood in the sense of חמה, 'hot', is taken as a reference to the fiery stream.

(48) Jer. XXIII, 19.

(49) So Jast. and Levy; v. infra n. 7. Goldschmidt trans., die verdrangt worden sind' (who were suppressed or displaced); Rashi trans., 'who were decreed (to be created)', MS.M. adds here, 'before their time'.

(50) E.V. 'who were snatched away'.

(51) Job XXII, 16. The word 'stream' is the link between this verse and Dan. VII, 10.

(52) According to the Rabbinic interpretation of Ps. CV, 8, the Divine Plan originally envisaged the creation of a thousand generations prior to the giving of the Torah, but foreseeing their wickedness, God held back nine hundred and seventy-four generations, and gave the Torah at the end of twenty-six generations from Adam (cf. Gen. V, XI, Ex. VI, 16-20, and Seder 'Olam Ch. 1). The translation here follows the text of MS. M. 2 (v. D.S. a.I. n. 20) viz. שקימטו עצמן להיבראות (pi'el) cur. edd.: שקומטו להיבראות(pu'al)

Talmud - Mas. Chagigah 14a

before the world was created, but were not created: the Holy One, blessed be He, arose and planted them[1] in every generation, and it is they who are the insolent[2] of each generation. But R. Nahman b. Isaac said: The words, Asher Kummetu,[3] indicate blessing: these are the scholars who wrinkle themselves[4] over the words of the Torah in this world, [wherefore] the Holy One, blessed be He, shall reveal a secret to them in the world to come, for it is said: 'To whom a secret[5] is poured out as a stream'. Samuel said to R. Hiyya b. Rab: O son of a great man,[6] come, I will tell thee something from those excellent things which thy father has said. Every day ministering angels are created from the fiery stream, and utter song, and cease to be,[7] for it is said: They are new every morning: great is Thy faithfulness.[8] Now he differs from R. Samuel b. Nahmani, for R. Samuel b. Nahmani said that R. Jonathan said: From every utterance that goes forth from the mouth of the Holy One, blessed be He, an angel is created,[9] for it is said: By the word of the Lord were the heavens made; and all the host of them by the breath of His mouth.[10]

One verse says: His raiment was as white as snow, and the hair of his head like pure wool;[11] and [elsewhere] it is written: His locks are curled and black as a raven![12] — There is no contradiction: one verse[13] [refers to God] in session,[14] and the other in war.[15] For a Master said: In session none is more fitting than an old man, and in war none is more fitting than a young man.

One passage says: His throne was fiery flames;[16] and another Passage says: Till thrones were places, and One that was ancient of days did sit![17] — There is no contradiction: one [throne] for Him, and one for David; this is the view of R. Akiba. Said R. Jose the Galilean to him: Akiba, how long wilt thou treat the Divine Presence as profane![18] Rather, [it must mean], one for justice and one for grace.[19] Did he accept [this explanation from him, or did he not accept it? — Come and hear:

One for justice and one for grace; this is the view of R. Akiba. Said R. Eleazar b. ‘Azariah to him: Akiba, what hast thou to do with Aggadah?[20] Cease thy talk, and turn[21] to [the laws concerning defilement through] leprosy-signs and tent-covering![22] Rather, [it must mean] one for a throne and one for a stool; the throne to sit upon, the stool for a footrest, for it is said: The heaven is My throne, and the earth is My foot-rest.[23]

When R. Dimi came,[24] he said: Eighteen curses did Isaiah pronounce upon Israel, yet he was not pacified[25] until he pronounced upon them this verse: The child shall behave insolently against the aged, and the base against the honourable.[26] Which are the eighteen curses? — It is written: For, behold, the Lord, the Lord of hosts, doth take away from Jerusalem and from Judah stay and staff every stay of bread, and every stay of water,’ the mighty man, and the man of war; the judge and the prophet, and the diviner, and the elder; the captain of fifty; and the man of rank, and the counsellor, and the wise charmer, and the skillful enchanter. And I will give children to be their princes, and babes shall rule over them.[27] ‘Stay’ — this means the masters of the Bible.[28] ‘Staff’ — this means the masters of the Mishnah, like R. Judah b. Tema and his colleagues. R. Papa and our Rabbis dispute therein: one says that there were[29] six hundred orders of the Mishnah, and the other that there were seven hundred orders of the Mishnah.[30] ‘Every stay of bread’ — this means the masters of Talmud,[31] for it is said: Come, eat of My bread, and drink of the wine which I have mingled.[32] ‘And every stay of water’ — this means the masters of Aggadah, who draw the heart of man like water by means of the Aggadah. ‘The ‘mighty man’ — this means the masters of traditions.[33] ‘And the man of war’ — this means one who knows how to dispute[34] in the warfare of the Torah. ‘The judge — this means a judge who passes judgment in strictest accord with truth — ‘The prophet’ — according to the literal meaning of the word. ‘The diviner’ — this means the King, for it is said: A divine sentence is in the lips of the King.[35] ‘The elder’ — this means one who is worthy to sit in session.[36] ‘The captain of fifty’: do not read ‘the captain of fifty’ but ‘the captain of the Pentateuch’;[37] it means one who knows how to argue in the five books of the Torah. Another explanation: ‘the captain of fifty’ — as R. Abbahu [taught]. For R. Abbahu said. From here [we learn] that a Methurgeman[38] may not be appointed over a congregation, who is less than fifty years of age. ‘And a man of rank’ — this means one for whose sake favour is shown to his [entire] generation, like R. Hanina b. Dosa,[39] for instance, on high;[40] [or] below,[41] like R. Abbahu at the court of Caesar.[42] ‘The counsellor’ — [this means] one who knows how to determine the intercalation of years[43] and the fixation of months.[44] ‘And the wise [man]’[45] -this means a disciple who makes his teachers wise. ‘Charmer’ — at the moment that he begins a Torah[46] — discourse, all become dumb. ‘And the skillful [‘man]’[47] — this means one who understands one thing from another.[48] ‘Enchanter’ — this means one who is worthy to have imparted to him the words of the Torah, which was given in a whisper.[49] ‘And I will give children to be their princes’: what is the meaning of [the words], ‘I will give children to be their princes’? R. Eleazar said: It means persons who are empty[50] of good deeds.[51] ‘And babes shall rule over them’. R. Aha[52] b. Jacob said: [It means] foxes sons of foxes.[53] ‘But he was not pacified[54] until he said to them: The child shall behave insolently against the aged’: — those persons who are empty of good deeds shall behave insolently against such as are filled with good deeds[55] as a pomegranate [with seeds]. ‘And the base against the honourable’: those to whom weighty [precepts] appear as light ones[56] will come and behave insolently against those to whom light [precepts] appear as weighty ones.[57]

R. Kattina said: Even at the time of Jerusalem's downfall honest men did not cease from among them, for it is said: For a man shall take hold of his brother of the house of his father: ‘Thou hast a mantle, be thou our ruler’![58] Matters on account of which men hide themselves as in a garment[59] thou hast ‘under thy hand’.[60] And this ruin:[61] what is the meaning of [the expression] ‘and this ruin’? — Matters which people do not grasp unless they stumble over them[62] are under thy hand’. In that day shall he take[63] [an oath], saying: I am not[64] a healer, for in my house is neither bread nor a mantle; ye shall not make me ruler of a people.[65] — Shall he take, ‘Take’ expresses an oath, for it is said: Thou shalt not take the name of the Lord thy God [in vain].[66] I am not a healer:’ I was[67] not of those who are bound to the Schoolhouse.[68] For in my house is neither bread not a mantle, — for I possess no knowledge of Bible or Mishnah or Gemara, But perhaps that case[69] is different; for had he said to them, I have knowledge, they would have said to him, Tell us then! — He could have answered that he had learnt but had forgotten; why then does it say: ‘I am not a healer’? [It must mean], I am not a healer at all.[70] But is it so? Behold Raba said: Jerusalem was not destroyed until honest men ceased therefrom, for it is said: Run ye to and fro through the streets of Jerusalem, and see now, and know, and seek in the broad places thereof, if ye can find a man, if there be any that doeth justly, that seeketh truth;[71] and I will pardon him.[72] — There is no contradiction:

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(1) I.e., distributed them over the later generations; cf. Yoma 38b, ‘The Holy One, blessed be He, saw that the righteous were few, so He arose and planted them in every generation’. Another reading has ‘banished them’, but the meaning remains unchanged (v. Tosaf. a.I.).

(2) Cf. Aboth V, 20, (Sonc. ed., p. 73f).

(3) Rendered above, ‘who pressed forward’.

(4) So Jast.: from the root meaning ‘to compress, curl’; hence it can be under-stood in the sense of ‘to wrinkle (the brow)’ as well as ‘to press forward’ (as above). Levy and Goldschmidt render by ‘sich zusammendrangen’ (press themselves together, limit themselves).

(5) יסודם, ‘their foundation’ is here taken to mean the same as סודם, ‘their secret

(6) Lit., ‘son of a lion’.

(7) Cf. the lines in Longfellow's Sandalphon (quoted by Streane): ‘The Angels of Wind and of Fire Chant only one hymn, and expire With the song's irresistible stress’,

(8) Lam. III, 23. I.e,, great is Thy praise on account of them (Rashi).

(9) But not from the fiery stream, as Rab holds.

(10) Ps. XXXIII, 6.

(11) Dan, VII, 9.

(12) Cant. V, 11.

(13) I.e., Dan. VII, 9.

(14) I.e., sitting in judgment; cf. ibid. v. 10.

(15) Canticles is interpreted by the Rabbis as referring in greater part to the Exodus (note that the book is read in the synagogue during Passover) when God appeared as a warrior (cf. Ex. XV, 3).

(16) Dan. VII, 9.

(17) Ibid., beginning of the verse. The plural implies two thrones, whereas the first passage speaks of only one.

(18) By asserting that David occupies a place next to God.

(19) Lit., ‘righteousness’, but used here, apparently, in the sense of ‘lovingkindness, grace’.

(20) For Haggadah v. Glos. s. Aggadah. R. Eleazar b. ‘Azariah regards even this explanation as dangerous, because it implies a duality of character on the part of God, and militates against the fundamental Jewish concept of God's perfect unity.

(21) The two verbs in the English are represented by one in the Hebrew viz.כלך which is really a combination of כלה ולך, ‘cease and go (elsewhere’).

(22) V. p. 56, nn. 5 and 6. R. Akiba's intellectual gifts were best suited to Halachah, not Haggadah. The laws relating to defilement by leprosy and tent-covering form two of the most difficult tractates of the Halachah.

(23) E. V. foot-stool’, Isa. LXVI, 1.

(24) I.e., from Palestine to Babylonia.

(25) Lit., ‘his mind was not cooled’.

(26) Ibid. III, 5.

(27) Ibid. vv. 1-4.

(28) The Bible being Israel's stay’. In this vein the Gemara explains the rest of the quotation.

(29) I.e., in the days of R Judah b. Tema and his colleagues.

(30) The Mishnah is now divided into six orders, V. J.E. vol, VIII, p, 615.

(31) This included the discussions ‘if the Amoraim added to the Mishnah. The decisions of the experts in Talmud could be relied upon, but those who gave decisions on the basis of the Mishnah only were called ‘destroyers of the world’ (Sot. 22a); cf. supra p. 50. Thus, the masters of the Talmud were, so to speak, as essential to Israel as bread itself.

(32) Prov. IX, 5.

(33) Lit., ‘things heard’ i.e., oral reports of a halachic character — legal decisions — which were carefully handed down by teacher to disciple. These tradents of legal traditions were veritable living ‘books of reference’.

(34) Lit., ‘to take up and give’. The expression is primarily a commercial term, denoting ‘buying and selling’ or any financial transaction. Here it is used in the transferred sense of being able to deal with the argumentation essential to the study of the Torah. A distinction is here drawn between the keen-minded debater (‘the man of war’) and the expert in traditions (‘the mighty man’): the latter is remarkable chiefly for his learning, the former is distinguished for his reasoning power and mental acumen.

(35) Ibid. XVI, 10.

(36) I.e., as counsellor.

(37) חמשים ‘fifty’, is explained as חומשים ‘fifths,, i.e.,the five books of the Pentateuch. V. Kid. 33a.

(38) Lit., ‘interpreter’, i.e.,the translator into Aramaic (or Greek) of the Biblical portion read at services, V. J.E. VIII, p. 521.

(39) Cf. Ta'an. 24b-25a: ‘Every day a Bath Kol goes forth and says: The whole world is fed for the sake of Hanina, my son; Yet is Hanina, my son, satisfied with a kab of carobs from Sabbath eve to Sabbath eve’. Cf. also Ber. V, 5.

(40) I.e., in heaven.

(41) I.e., on earth.

(42) I.e., the proconsular government. V. Sanh. 14a and Keth. 17a.

(43) The Jewish year consists ordinarily of twelve lunar months (v. n. 5). In order to prevent the festivals from falling in the wrong seasons, it was necessary periodically to adjust the lunar calendar to the solar year: this was achieved by introducing an intercalary month (Adar II) between Adar and Nisan. V., further, Sanh. 2a (Sonc. ed., p. 1) and 10a (p. 42f); also J.E. vol. III, p. 498f.

(44) I.e., determination of the beginning of a month by the first appearance of the new moon. As the moon revolves round the earth in approx. twenty-nine and a half days, the Jewish months consists, alternately, of twenty-nine or thirty days.

(45) The expression ‘wise (E. V. cunning") charmer’ is clearly intended in the verse to refer to one person; but the Gemara interprets ‘wise’ and ‘charmer’ as a composite phrase referring to two distinct types.

(46) Used here not in its restricted meaning of the Pentateuch, but in its wider connotation of Jewish teaching based on Scripture; cf. Aboth I, 1 (Sonc. ed., p. 1, n., 1).

(47) Here, as above (v. n. 6), Isaiah's description of one type of person is made to refer to two types.

(48) I.e., is able himself to draw conclusions on the basis of the knowledge imparted to him.

(49) On account of Satan (Aruch). But Jast. prefers the reading of MS.M.(cf. Rashi l.c.) which he renders: ‘that is he to whom are handed over the secrets of the Law which are communicated in a low voice’. Cf. p. 75 and nn. 4 and 5.

(50) The word נערים (‘children’) in the verse is explained as meaning מנוערים (‘empty’); literally, the latter means, shaken out, emptied’.

(51) Lit., ‘commandments’, precepts (of the Torah)’, hence religious or meritorious deeds.

(52) Var. lec.: but Bah reads R. Papa b. J.

(53) The word תעלולים (‘babes’) in the verse is explained as a derivative of תעלא (‘fox’), with the meaning, ‘double foxes i.e,, second generation of foxes.

(54) V. p. 84, n. 6.

(55) This is an explanation of the word זקן (aged) in the verse, which must necessarily have the opposite meaning of נער (‘child’ i.e., one empty of good deeds). Note also that zaken is explained elsewhere as one who is both learned (v. Sifra Kedoshim Par. 3’ Ch. VII, and Kid. 32b) and practised in the Torah and its precepts (v. Ber. 39a). Cf. also p. 109 (The Elder).

(56) The word נקלה (‘base’) in the verse is here explained as a derivative of קל(‘light’).

(57) There is a play here on the word נכבד (‘honourable’), the root of which also means, ‘heavy, weighty’.

(58) Isa. III, 6.

(59) I.e., feel ashamed in their ignorance of them — namely the teachings of the Torah — should be detected.

(60) I.e., knowest well; the expression is quoted from the end of v. 6 (ibid.).

(61) Lit., ‘and this stumbling’; ibid,

(62) I.e., which they learn only through their mistakes.

(63) E.V. ‘swear’.

(64) E.V. will not be'.
(65) Ibid. 7.
(66) Ex, XX, 7. The bracketed words are omitted in cur. edd. but not in the "Ein Jacob'.
(67) The Heb. verb in the verse, which, being in the imperfect form should ordinarily denote the future or at least the present tense, is here understood as having a past meaning, viz,, 'I used not to be',
(68) Lit., 'of those who bind (themselves) in the Schoolhouse'.
(69) I.e., the case referred to in Isaiah is no proof of real honesty, because (according to the argument which follows) falsehood could easily have been detected.
(70) I.e., I have never studied. This voluntary admission proves his honesty.
(71) Heb. אמונה which is only a slight variant of אמנה 'honesty'.
(72) Jer. V, 1.

Talmud - Mas. Chagigah 14b

the one [verse] refers to religious matters,[1] the other to business. In regard to religious matters, there were [honest men left]; in regard to business, there were no [honest men left].

Our Rabbis taught: Once R. Johanan b. Zakkai was riding on an ass when going on a journey, and R. Eleazar b. 'Arak was driving the ass from behind. [R. Eleazar] said to him: Master, teach me a chapter of the 'Work of the Chariot'.[2] He answered: Have I not taught you[3] thus: 'Nor [the work of] the chariot in the presence of one, unless he is a Sage and understands of his own knowledge'? [R. Eleazar] them said to him: Master, permit me to say before thee something which thou hast taught me.[4] He answered, Say on! Forthwith R. Johanan b. Zakkai dismounted from the ass, and wrapped himself up,[5] and sat upon a stone beneath an olive tree. Said [R. Eleazar] to him: Master, wherefore didst thou dismount from the ass? He answered: Is it proper that whilst thou art expounding the 'Work of the Chariot', and the Divine Presence is with us, and the ministering angels accompany us, I should ride on the ass! Forthwith, R. Eleazar b. 'Arak began his exposition of the 'work of the Chariot', and fire[6] came down from heaven and encompassed[7] all the trees in the field; [thereupon] they all began to utter [divine] song. What was the song they uttered? — Praise the Lord from the earth, ye sea-monsters, and all deeps . . . fruitful trees and all cedars . . . Hallelujah.[8] An angel[9] [then] answered[10] from the fire and said: This is the very 'Work of the Chariot'. [Thereupon] R. Johanan b. Zakkai rose and kissed him on his head and said: Blessed be the Lord God of Israel, Who hath given a son to Abraham our father, who knoweth to speculate upon, and to investigate, and to expound the 'Work of the Chariot' — There are some who preach well but do not act well, others act well but do not preach well, but thou dost preach well and act well. Happy art thou, O Abraham our father, that R. Eleazar b. 'Arak hath come forth from thy loins. Now when these things were told R. Joshua, he and R. Jose the priest[11] were going on a journey. They said: Let us also[12] expound the 'Work of the Chariot'; so R. Joshua began an exposition. Now that day was the summer solstice;[13] [nevertheless] the heavens became overcast with clouds and a kind of rainbow[14] appeared in the cloud, and the ministering angels assembled and came to listen like people who assemble and come to watch the entertainments[15] of a bridegroom and bride. [Thereupon] R. Jose the priest went and related what happened before R. Johanan b. Zakkai; and [the latter] said: Happy are ye, and happy is she that bore you;[16] happy are my eyes that have seen thus. Moreover, in my dream, I and ye were reclining[17] on Mount Sinai, when a Bath Kol[18] was sent to us,[19] [saying]: Ascend hither, ascend hither! [Here are] great banqueting chambers, and fine dining couches prepared for you; you and your disciples and your disciples' disciples are designated for the third class.[20] But is this so?[21] For behold it is taught: R. Jose b. R. Judah said: There were three discourses:[22] R. Joshua discoursed before R. Johanan b. Zakkai, R. Akiba discoursed before R. Joshua, Hanania b. Hakinai discoursed before R. Akiba; — whereas R. Eleazar b. 'Arak he does not count! — One who discoursed [himself], and others discoursed before him, he counts; one who discoursed [himself], but others did not discourse before him, he does not count. But behold there is Hanania b. Hakinai before whom others did not discourse, yet he counts him! — He at least discoursed before one who discoursed [before others].[23]

Our Rabbis taught: Four men entered the ‘Garden’,[24] namely, Ben ‘Azzai[25] and Ben Zoma,[26] Aher,[27] and R. Akiba. R. Akiba said to them: When ye arrive at the stones of pure marble,[28] say not, water, water![29] For it is said: He that speaketh falsehood shall not be established before mine eyes.[30] Ben ‘Azzai cast a look and died. Of him Scripture says: Precious in the sight of the Lord is the death of His saints.[31] Ben Zoma looked and became demented.[32] Of him Scripture says: Hast thou found honey? Eat so much as is sufficient for thee, lest thou be filled therewith, and vomit it.[33] Aher mutilated the shoots.[34] R. Akiba departed unhurt.

Ben Zoma was asked: Is it permitted to castrate a dog?[35] He replied: Neither shall ye do this in your land,[36] — [this means], to none that is in your land shall ye do thus.[37] Ben Zoma was [further] asked: May a high priest marry a maiden who has become pregnant?[38] Do we [in such a case] take into consideration Samuel's statement, for Samuel said,

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(1) Lit., ‘words of.the Torah’.

(2) V. p. 59, n. 4.

(3) Plural, i.e. R. Eleazar and his fellow-students.

(4) The fact that R. Johanan b. Zakkai had in the past taught the ‘Chariot’ mysteries to R. Eleazar is difficult to reconcile with the former's present refusal to teach his disciple. It seems best to omit, with the J.T., the word rendered ‘which thou hast taught me’. For two suggested explanations, if this word is retained, v. Maharsha a.I.

(5) I.e., put round him his tallith. The latter was a four-cornered garment (similar to the Roman pallium’) adorned with fringes (in accordance with Num. XV, 38f), which was worn in Talmudic times by scholars, distinguished persons, and those who led in prayers. Its use at prayers is still preserved, and has given rise to its popular designation of ‘prayer-shawl’. By wrapping himself in his tallith, R. Johanan b. Zakkai showed his sense of the holiness of the occasion. V. further J.E., vol. Xl, pp’ 67f and Elbogen, Der Jud, Gottesdienst pp. 499f.

(6) Cf. p. 77, n. 9.

(7) Var. lec.: covered; intertwined; hedged in,.

(8) Ps. CXLVIII, 7, 9, 14. This reference to trees is the clue which points to these verses as the trees’ psalm. The Jerusalem Talmud reads instead I Chron. XVI, 33.

(9) Another reading has ‘angel of death’, which Tosaf. rejects.

(10) I.e., spoke with reference to R. Eleazar's exposition of the ‘Chariot’ mysteries.

(11) For R. Johanan b. Zakkai's opinion of these two disciples and R. Eleazer v. Aboth, II, 8, 9.

(12) Being only two, they would not be infringing the Mishnah law concerning the study of the ‘chariot’ mysteries.

(13) Lit., ‘the cycle of Tammuz’ (fourth month). On such a day the sky in Palestine should be cloudless.

(14) Cf. Ezek. I, 28.

(15) Heb. מזמוטי. Levy deriving the word from the Greek ‘smiling’, especially ‘friendly smiling’, translates it, ‘Belustigungen’ (entertainments, merrymakings), which agrees with Rashi's explanation and the variant reading of the Jerusalem Talmud viz., ‘rejoicing’. Jast. gives the word a Hebrew origin (v.s.v.) and explains it to mean, music, sweet melodies’; he renders our passage — ‘the musical entertainments at a wedding.

(16) I.e., your respective mothers; they were not brothers.

(17) I.e. as at a banquet, when the guests used to recline on couches (cf. Ex. Rab 25).

(18) V. p. 73, n. 12.

(19) Lit., ‘given upon us’.

(20) Of the seven classes (v. Midr. Till. to Ps. XI, 7) admitted (after death) into God's presence.

(21) I.e., that R. Eleazar b. ‘Arak discoursed on the ‘Chariot’ mysteries before his master.

(22) I.e., only in three instances did disciples discourse on the ‘Work of the Chariot’ before their teachers.

(23) Hanina b. Hakinai has to be mentioned on account of R. Akiba, to show that the latter not only discoursed himself but that also another discoursed before him; but R. Eleazar b. ‘Arak did not discourse before a teacher who in his turn discoursed before others, nor did any one discourse before him, hence he is not counted.

(24) Paradise, Heb. פרדס (cf. Cant. IV, 13, Eccl. II, 5, Neh. II, 8), ‘enclosure, preserve, garden, park’ (v. B. D. B. s.v.). L. Blau (Alitjudisches Zauberwesen, pp, 115f) seeks to prove that this account of the entry of the four Rabbis into Paradise is to be understood literally (v. also J.E. vol. V, p. 683). This view is shared, among others, by J. Levy and L.

Ginzberg (v. J.E. vol. V, pp. 138f). On the other hand, M. Jast. (Dictionary) and Goldschmidt consider ‘Pardes’ a figurative expression for the mystical realm of theosophy. Rashi explains that the four scholars ascended to heaven, and Tosaf. adds that it only appeared to them that they did so. Similarly, R. Hai Gaon, who discusses the whole Baraitha in a responsum (quoted by Ha-Kotheb in ‘Ein Jacob), and R. Hananel explain that the entry of the Rabbis into the ‘Garden’ was only a vision. Both these authorities refer to the comment on the passage contained in the mystical works ‘Hekaloth Rabbathi’ and ‘Hekaloth Zutarthi’ (v. J.E. vol. VI, pp. 332-3). V. further J.E. vol. IX, pp. 515f.

(25) V. Ab. IV, 2, (Sonc. ed., p. 44, n. 1).

(26) V. ibid. Mishnah I, (Sonc. ed., P 43, n. 1).

(27) Lit. ‘another’, by which tern, Elisha b. Abuyah is referred to after his apostasy. V. J.E. vol. V, pp. 138f, and Ab. IV, 20 (Sonc. ed., p. 55 n. 1, where instead of ‘disciple of R. Meir’, read ‘teacher of R. Meir’). Cf. also the term ‘Others’ supra p. 14.

(28) Giving the illusion of water.

(29) I.e., how can we proceed!

(30) Ps. CI, 7.

(31) Ibid. CXVI, 15.

(32) Lit., ‘stricken’.

(33) Prov. XXV, 16,

(34) I.e., apostatized. Scholars differ greatly regarding the nature of Aher's defection: he has been variously described as a Persian, Gnostic or Philonian dualist; as a Christian; as a Sadducee; and as a ‘victim of the inquisitor Akiba’, in J.E., V. 183 and bibliography.

(35) Castrated animals may not be offered as sacrifices (v. n. 12,); therefore castration is forbidden in the case of animals of the type that can be offered up. But a dog may not only not be offered itself, but even its price or equivalent may not be used for offerings (v. Tem. 30a-b). Hence the question whether the prohibition of castration applies even to a dog. Cf. also Shab. 111a.

(36) Lev. XXII, 24. The beginning of the verse reads: ‘That which hath its stones bruised . . . or cut, ye shalt not offer unto the Lord’.

(37) l.e., even an animal like the dog, which cannot be offered as a sacrifice, may not be mutilated.

(38) The high priest may marry a virgin only (v. Lev. XXI, 13). The question here is: If the girl claims that despite her pregnant condition she is still a virgin, may the high priest marry her? Or if he married her without knowing of her pregnancy and actually found her to have the signs of virginity, but subsequently learnt that she was pregnant before marriage, may she remain his wife?

Talmud - Mas. Chagigah 15a

I can have repeated sexual connections without [causing] bleeding;[1] or is perhaps the case of Samuel rare?[2] He replied: the case of Samuel is rare, but we do consider [the possibility] that she may have conceived in a bath.[3] But behold Samuel said: A spermatic emission that does not shoot forth like an arrow cannot fructify! — In the first instance, it had also shot forth like an arrow.

Our Rabbis taught: Once R. Joshua b. Hanania was standing on a step on the Temple Mount, and Ben Zoma saw him and did not stand up before him.[4] So [R. Joshua] said to him: Whence and whither, Ben Zoma?[5] He replied: I was gazing between the upper and the lower waters,[6] and there is only a bare three fingers’ [breadth] between them, for it is said: And the spirit of God hovered over the face of the waters[7] — like a dove which hovers over her young without touching [them].[8] Thereupon R. Joshua said to his disciples: Ben Zoma is still outside.[9] See now, when was it that ‘the spirit of God hovered over the face of the water? On the first day [of Creation]; but the division took place on the second day, for it is written: And let it divide the waters from the waters!’ And how big [is the interval]? R. Aha b. Jacob said, As a hair's breadth; and the Rabbis said: As [between] the boards of a landing bridge. Mar Zutra, or according to others R. Assi, said: As [between] two cloaks spread one over the other; and others say, as [between] two cups tilted one over the other.[10]

Aher mutilated the shoots.[11] Of him Scripture says: Suffer not thy mouth to bring thy flesh into guilt.[12] What does it refer to? — He saw that permission was granted to Metatron[13] to sit and write down[14] the merits of Israel. Said he: It is taught as a tradition that on high[15] there is no sitting[16] and no emulation, and no back,[17] and no weariness.[18] Perhaps, — God forfend! — there are two divinities! [Thereupon] they led Metatron forth, and punished him with sixty fiery lashes,[19] saying to him: Why didst thou not rise before him when thou didst see him? Permission was [then] given to him to strike out the merits of Aher. A Bath Kol[20] went forth and said: Return, ye backsliding children[21] — except Aher.[22] [Thereupon] he said: Since I[23] have been driven forth from yonder world,[24] let me go forth and enjoy this world. So Aher went forth into evil courses.[25] He went forth, found a harlot and demanded her. She said to him: Art thou not Elisha b. Abuyah? [But] when he tore a radish[26] out of its bed on the Sabbath and gave it to her, she said: It is another [Aher].[27] After his apostasy, Aher asked R. Meir [a question], saying to him: What is the meaning of the verse: God hath made even the one as[28] well as the other?[29] He replied: It means that for everything that God created He created [also] its counterpart. He created mountains, and created hills; He created seas, and created rivers. Said [Aher] to him: R. Akiba, thy master, did not explain it thus, but [as follows]: He created righteous, and created wicked; He created the Garden of Eden,[30] and created Gehinnom.[31] Everyone has two portions, one in the Garden of Eden and one in Gehinnom. The righteous man, being meritorious,[32] takes his own portions and his fellow's portion in the Garden of Eden. The wicked man, being guilty,[33] takes his own portion and his fellow's portion in Gehinnom. R. Mesharsheya said: What is the Biblical proof for this? In the case of the righteous, it is written: Therefore in their land[34] they shall possess double.[35] In the case of the wicked it is written: And destroy them with double destruction.[36]

After his apostasy, Aher asked R. Meir: What is the meaning of the verse: Gold and glass cannot equal it; neither shall the exchange thereof be vessels of fine gold?[37] He answered: These are the words of the Torah, which are hard to acquire like vessels of fine gold, but are easily destroyed[38] like vessels of glass. Said [Aher] to him: R. Akiba, thy master, did not explain thus, but [as follows]: Just as vessels of gold and vessels of glass, though they be broken, have a remedy,[39] even so a scholar, though he has sinned, has a remedy.[40] [Thereupon, R. Meir] said to him: Then, thou, too, repent! He replied: I have already heard from behind the Veil:[41] Return ye backsliding children — except Aher.

Our Rabbis taught: Once Aher was riding on a horse on the Sabbath,[42] and R. Meir was walking behind him to learn Torah[43] at his mouth. Said [Aher] to him: Meir, turn back, for I have already measured by the paces of my horse that thus far extends the Sabbath limit.[44] He replied: Thou, too, go back! [Aher] answered: Have I not already told thee that I have already heard from behind the Veil: ‘Return ye backsliding children’ — except Aher. [R. Meir] prevailed upon him and took him, to a schoolhouse. [Aher] said to a child: Recite for me thy verse![45] [The child] answered: There is no peace, saith the Lord, unto the wicked.[46] He then took him to another schoolhouse.[47] [Aher] said to a child: Recite for me thy verse! He answered: For though thou wash thee with nitre, and take thee much soap, yet thine iniquity is marked before Me, saith the Lord God[48] . He took him to yet another schoolhouse, and [Aher] said

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(1) I.e., without the woman losing her virginity.

(2) Exceptional cases are not taken into account; the marriage, therefore, would be illegal.

(3) Into which a male had discharged semen.

(4) He was so lost in thought that he failed to show the respect of disciple to master. Cf. the parallel passage, Gen. Rab. II, 4, which contains interesting variants.

(5) I.e., what is the trend of your thoughts? The parallel passage (in Gen. Rab.) has מאין הרגלים, ‘whence the feet’?

(6) V. Gen. I, 6-7.

(7) Ibid. v. 2.

(8) Cf. the parallel passage in J. Hag. II, 1, where B. Zoma quotes Deut. XXXII, 11; and v. Rashi to this verse.

(9) I.e., out of his mind (R. Hai Gaon). The reading in Gen. Rab. is ‘is gone’. (12) Gen. I, 6.

(10) [For an attempt to explain the passage v. Weinstein Zur Genesis der Agada, p. 199, Ben Zoma in his view was an adherent of the view that water was the primordial matter out of which the world was created, V. also Graetz, Gnosticismus, pp. 57, 97. We have, however, lost the key to enable us to explain with certainty the thought-forms underlying this and similar Talmudic passages.]

(11) V. supra p. 91, n. 10.

(12) Eccl. V, 5. (A.V. 6); v. rest of verse.

(13) The name of one of the highest angels. Various derivations of the word have been suggested. Cf. Levy and Jast. s.v. For an illuminating article on the character, activities and identity of Metatron, v. J.E. vol. VIII, p. 519.

(14) The sentence may also be rendered thus: ‘He saw M. to whom permission was given to be seated while writing down etc.’ (Jast.).

(15) I.e., in heaven.

(16) MS.M. (v. Rabb. D.S. a.I.) reads: ‘no standing and no sitting’ i.e., no effort and no rest. This reading, in reverse order, was known to Maim. (Comm. on Mishnah Sanhedrin, ch. 10); but Rashi deletes the words ‘no standing’.

(17) I.e., the angels have faces in all directions (Rashi), Jast. explains i.e., everything is in sight. Maim. (loc. cit.) renders: ‘no division’.

(18) Maim. ‘no junction’.

(19) I.e., he was beaten with ‘heated disks or rings strung on a lash’ (Jast.). The purpose of the punishment was to show that M. had no more power than others (Tosaf.).

(20) V. p. 73, n. 12.

(21) Jer. III, 22.

(22) According to our passage, Aher was guilty of the heresy of dualism. L. Ginzberg (J.E. vol. V, pp. 138-139) denies all historic worth to the story given here, which, on account of its reference to Metatron — which he declares to be a specifically Babylonian idea — and its lack of connection with the introductory words, he declares to be of late origin. Ginzberg prefers the parallel account in J. Hag. II, l, where it is related that when Elisha saw a scholar he slew him, that he enticed the young from studying the Torah, and that he informed against the Jews when they sought to perform the work they were ordered to do on the Sabbath in a manner not to break the Law, These events undoubtedly refer to the period of the Hadrianic persecutions. In the J.T. two reasons are mentioned for his apostasy: according to some, he saw one man break the precept of Deut. XXII, 7, without coming to harm, and another observe it and get killed; according to others, he saw the tongue of the great scholar R. Judah Nahtum in the mouth of a dog. The J.T. also gives a different version of the verses discussed by Elisha with R. Meir, and of what R. Meir said on his master's death (v. J.E. vol. VIII, p. 434).

(23) Lit., ‘that man’, a frequent euphemism for I or thou (to avoid ominous speech or curse).

(24) I.e. ‘ he would have no share in the world to come (cf. Sanh. 90a (Sonc. ed., p. 601).

(25) Lit,, ‘evil growth’, hence, ‘evil rearing, manners, ways’. The stories that follow show the expression to mean here moral depravity and apostasy.

(26) Strictly, the soft tuber of the radish; cf. ‘Er. 28b.

(27) ‘Aher’ is thus explained to mean ‘another person’. Ginzberg (op. cit.) takes the view that it is a euphemism for a vile thing (cf. דבר אחר). V. p. 91, n. 3.

(28) Lit., ‘corresponding to’, or ‘over against’.

(29) Eccl. VII, 14.

(30) I.e., Paradise, for the righteous in the life hereafter.

(31) V. p. 82, n. 1; cf. J.E. vol. V, pp. 582f. Whereas R. Meir explains the verse as referring to physical counterparts of nature R. Akiba understands it to speak of moral contrasts with their consequent reward and punishment. Cf. n. 6.

(32) Lit., ‘having been declared innocent, i.e., In the Heavenly Court,

(33) Lit., ‘having been declared guilty’.

(34) I. e., Paradise.

(35) lsa. LXI, 7.

(36) Jer. XVII, 18.

(37) Job. XXVIII, 17.

(38) I.e., forgotten.

(39) I.e., can be repaired.

(40) I.e., can repent.

(41) Heb. פרגוד, from Latin paraganda = a garment ornamented with a border (so called because of its phrygian origin). For other derivations v. Levy s.v. Here pargod denotes the ‘curtain of heaven’ and corresponds to Wilon (v. p. 69, n. 5). V. also p. 101.
(42) V. Bez. V, 2.
(43) V. Glos.
(44) I.e., two thousand cubits (in all directions) from the place where a person makes his abode for the Sabbath, beyond which it is forbidden to go on the day of rest; cf. Shab. XXIV, 5; ‘Er. IV, 3; V, 7.
(45) I.e., the verse which thou hast studied today. The answer thus obtained was considered to have the authority of an oracle.
(46) Isa, XLVIII, 22.
(47) The expression used here and in the rest of this passage is בי כנישתא, lit., ‘House of Assembly, Synagogue’. But above, ‘schoolhouse’ translated בי מדרשא, lit., ‘House of study’. For the use of the Synagogue as a school and for the exact signification of the Aramaic terms v. S. Krauss, TA. III, p. 204f.
(48) Jer. II, 22.

Talmud - Mas. Chagigah 15b

to a child: Recite for me thy verse! He answered: And thou, that art spoiled, what doest thou, that thou clothest thyself with scarlet, that thou deckest thee with ornaments of gold, that thou enlargest thine eyes with paint? In vain dost thou make thyself fair etc.[1] He took him to yet another schoolhouse until he took him to thirteen schools: all of them quoted in similar vein. When he said to the last one, Recite for my thy verse, he answered: But unto the wicked God saith: ‘What hast thou to do to declare My statutes etc.?[2] That child was a stutterer, so it sounded as though he answered: ‘But to Elisha[3] God saith’. Some say that [Aher] had a knife with him, and he cut him up and sent him to the thirteen schools: and some say that he said: Had I a knife in my hand I would have cut him up.

When Aher died,[4] they said:[5] Let him not be judged, nor let him enter the world to come. Let him not be judged, because he engaged in the study of the Torah; nor let him enter the world to come, because he sinned. R. Meir said: It were better that he should be judged and that he should enter the world to come. When I die I shall cause[6] smoke to rise from his grave.[7] When R. Meir died, smoke rose up from Aher's grave. R. Johanan said: [What] a mighty deed to burn his master! There was one amongst us, and we cannot save him;[8] if I were to take him by the hand, who would snatch him from me! [But] said he:[9] When I die, I shall extinguish the smoke from his grave.[10] When R. Johanan died, the smoke ceased from Aher's grave. The public mourner[11] began [his oration] concerning him[12] thus: Even the janitor[13] could not stand before thee, O master!

Aher's daughter [once] came before Rabbi and said to him: O master, support me! He asked her: ‘Whose daughter art thou?’ She replied: I am Aher's daughter. Said he: Are any of his children left in the world? Behold it is written: He shall have neither son nor son's son among his people, nor any remaining in his dwellings.[14] She answered: Remember his Torah[15] and not his deeds. Forthwith, a fire came down and enveloped Rabbi's bench.[16] [Thereupon] Rabbi wept and said: If it be so on account of those who dishonour her,[17] how much more so on account of those who honour her!

But how did R. Meir learn Torah at the mouth of Aher? Behold Rabbah b. Bar Hana said that R. Johanan said: What is the meaning of the verse, For the priest's lips should keep knowledge, and they should seek the Law at his mouth; for he is the messenger of the Lord of hosts?[18] [This means that] if the teacher is like an angel of the Lord of hosts, they should seek the Law at his mouth, but if not, they should not seek the Law at his mouth! — Resh Lakish answered: R. Meir found a verse and expounded it [as follows]: Incline thine ear, and hear the words of the wise, and apply thy heart unto my knowledge.[19] It does not say, ‘unto their knowledge’, but ‘unto my knowledge’.[20] R. Hanina said, [he decided it] from here: Hearken, O daughter, and consider, and incline thine ear; forget also thine own people, and thy father's house etc.[21] The verses contradict one another![22] There is no contradiction: in the one case Scripture refers to an adult,[23] in the other to a child. When R. Dimi came [to Babylon] he said: In the West,[24] they say: R. Meir ate the date and threw the kernel[25] away.

Raba expounded: What is the meaning of the verse: I went down to the garden of nuts, to look at the green plants of the valley etc.?[26] Why are the scholars likened to the nut? To tell you that just as [in the case of] the nut, though it be spoiled with mud and filth, yet are its contents not contemned, so [in the case of] a scholar, although he may have sinned, yet is his Torah not contemned.

Rabbah b. Shila [once] met Elijah.[27] He said to him: What is the Holy One, blessed be He, doing? He answered: He utters traditions in the name[28] of all the Rabbis, but in the name of R. Meir he does not utter. Rabbah asked him, Why? — Because he learnt traditions at the mouth of Aher. Said [Rabbah] to him: But why? R. Meir found a pomegranate; he ate [the fruit] within it, and the peel he threw away! He answered: Now[29] He says: Meir my son says: When a man suffers,[30] to what expression does the Shechinah give utterance? ‘My head is heavy, my arm is heavy’.[31] If the Holy One, blessed be He, is thus grieved over the blood of the wicked, how much more so over the blood of the righteous that is shed. Samuel found Rab Judah leaning on the door-bolt weeping. So he said to him: O, keen scholar,[32] wherefore dost thou weep? He replied: Is it a small thing that is written concerning the Rabbis?[33] Where is he that counted, where is he that weighed? Where is he that counted the towers?[34] ‘Where is he that counted?’ — for they counted all the letters in the Torah. ‘Where is he that weighed?’ — for they weighed the light and the heavy[35] in the Torah. ‘Where is he that counted the towers?’ — for they taught three hundred halachoth[36] concerning a ‘tower which flies in the air’.[37] And R. Ammi said: Three hundred questions[38] did Doeg[39] and Ahitophel[40] raise concerning a ‘tower which flies in the air’. Yet we have learnt: Three kings and four commoners[41] have no share in the world to come. What then shall become of us? Said [Samuel] to him. O, keen scholar, there was impurity[42] in their hearts. — But what of Aher?[43] — Greek song did not cease from his mouth.[44] It is told of Aher that when he used to rise [to go] from the schoolhouse,[45] many heretical books[46] used to fall from his lap.

Nimos the weaver[47] asked R. Meir: Does all wool that goes down into the [dyeing] kettle come up [properly dyed]?[48] He replied: All that was clean on its mother[49] comes up [properly dyed], all that was not clean on its mother does not come up [properly dyed].

R. Akiba went up unhurt and went down[50] unhurt; and of him Scripture says: Draw me, we will run after thee.[51] And R. Akiba too the ministering angels sought to thrust away; [but] the Holy One, blessed be He, said to them: Let this elder be, for he is worthy to avail himself of My glory.

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(1) Ibid. IV, 30.

(2) Ps. L, 16.

(3) The child pronounced ולרשע (‘and unto the wicked’) like ולאלישע(‘and unto Elisha’). Note that א and ר are both gutturals.

(4) Lit,, ‘his soul rested’.

(5) I.e,, in heaven,

(6) By my prayer.

(7) I.e., as a sign that he was judged and punished for his sins.

(8) I.e., one scholar among us went astray, yet all of us together have not the power to save him!

(9) Var. lec. omit ‘said he’,

(10) I.e., as a sign that he was forgiven.

(11) V. S. Krauss, T.A. II, p. 68.

(12) I.e., R. Johanan.

(13) I.e., of hell.

(14) Job. XVIII, 19. The verse forms part of a description of the fate of the wicked; cf. v. 5. In the eyes of Bildad (v. I), Job was an infidel.

(15) I.e., his vast knowledge of the Torah. Though theory should not be divorced from practice, the study of the Torah is in itself a merit: cf. Ab. IV, 5.

(16) Cf. p. 89.

(17) I.e., the Torah.

(18) Mal. II, 7.

(19) Prov. XXII, 17.

(20) Since the heart may not be applied to their knowledge, it shows that the acts of the wise men referred to must be wicked. Nevertheless, their words may be listened to. Thus R. Meir could learn from Aher, provided he did not imitate the latter's deeds.

(21) Ps. XLV, 11. I.e., hearken to the words of the wise, but forget their actions, if they are wicked.

(22) I.e., the two verses contradict Mal. II,7 quoted above.

(23) An adult, unlike a child, can use discrimination, and avoid the teacher's wrongdoing; hence the last two verses permit him to learn even from a heretic.

(24) I.e., Palestine, which is west of Babylonia.

(25) So Rashi and Levy; Jast. trans., ‘peel’. V. D.5. a.I. n. 30.

(26) Cant. VI, 11.

(27) For Elijah in Rabbinic literature v. J.E. vol. V, pp. 122ff(especially p. 124).

(28) Lit., ‘from the mouth’.

(29) I.e., since you have pleaded for him,

(30) The passage refers to capital punishment, v. Sanh. 46a.

(31) Lit., ‘I am lighter than my head etc.’, a euphemistic expression for feeling heavy, giddy. weak; v. Sanh., Sonc. ed., pp. 304, 306. The anthropomorphism is intended to show how near God is to man and how real is His sorrow for him in the time of his trouble, even though he be a delinquent and fully deserve his punishment.

(32) Shinena, lit., ‘sharp one’; aliter ‘man with long (sharp) tooth’.

(33) I.e., about those who went astray into evil courses.

(34) Isa. XXXIII, 18.

(35) I.e., expounded the Torah according to the hermeneutical rule of קל (light, unimportant) וחומר (heavy, important) i.e., by arguing from minor to major and vice versa.

(36) I.e., fixed traditional laws, V. Glos.

(37) An obscure expression for which Rashi both here and Sanh. 106b (Sonc. ed., p. 727) offers several interpretations, The most likely explanations relate the ‘flying tower’ to the laws of defilement. It could then mean: (a) A portable turret-shaped conveyance, in which an Israelite entered heathen land, which is regarded as levitically unclean; v. Tosef. Oh. and Rashi to Sanh. l.c. ‘Flying’ will thus mean ‘moving’ i.e., being carried. (b) An open chest or cupboard containing a levitically unclean object, which stands in an open space; v, Oh. IV, If. In this case, it is best to read ‘open’, or, as in the Mishnah ‘standing’. The following are less plausible explanations: — (a) The upper stroke of the letter lamed, i.e., they taught three hundred traditions concerning so insignificant a matter. (b) The tower of Babel. (c) A tower suspended in mid-air by magic. Cf. Sanh. 68a (Sonc. ed., p. 462), concerning the planting of cucumbers by magic.

(38) An indication of their profound learning. V. the variant reading in Sanh, l.c.

(39) Cf. I Sam. XXI, 8 where ‘the chiefest of the herdmen’ is explained by Rashi as ‘the head of the Beth din’.

(40) Cf. II Sam. XVI, 23.

(41) The three kings are, Jeroboam, Ahab and Manasseh; the four commoners, Balaam, Doeg, Ahitophel and Gehazi, Thus their profound learning did not save Doeg and Ahitophel. V. Sanh. 90a, (Sonc. ed,, pp. 602f).

(42) Lit., ‘clay’, i.e., heathen sensuality (Jast.). Aliter: ‘gnawing worm’; ‘jealousy’, i.e., evil thoughts (Levy). Whatever the exact rendering, the meaning is: They were wickedly inclined from the beginning, hence their knowledge of the Torah could not protect them.

(43) I.e., why did not his study of the Torah save him?

(44) Rashi reads: ‘from his house’. Why Greek song should have been the cause of Aher's corruption is not clear. Rashi says that he transgressed the prohibition against music after the destruction of the Temple (v. Git. 7a; cf. Isa. XXIV, 9). Maharsha rightly objects that this does not explain the word Greek: the Gemara could have simply stated that song did not cease from his mouth. He suggests, therefore, that the Greek songs were tainted by heresy. Perhaps the simplest explanation is that Aher's devotion to Greek literature eventually led him to accept ideas which were contrary to Jewish teaching.

(45) I.e., before his apostasy.

(46) Lit., ‘books of Minim’ (v. Glos. s.v. Min).

(47) גרדי, Lat. gerdino. Cf. R. Isaac the Smith, R. Johanan the Sandalmaker etc. Being a weaver, the allegory employed by Nimos is appropriate. But Jast. holds that גדרי equals (by transposition) גדרי and means ‘of Gadara’. He also regards נימום as a shortened form of אבנימום (cf. Gen. Rab. s. 65), who, he thinks, is to be identified with the cynic philosopher Oenomaus.

(48) Rashi explains: does the study of the Torah serve to protect all students from sin? Jast.: i.e., does every student of mystic philosophy escape death or scepticism? (So too Aruch). Note Oenomaus was a cynic.

(49) I.e., when the sheep was sheared, i.e., all who begin the study of the Torah when they are free from sin; or (following Jast. and Aruch), all who engage in mystic speculation in perfect purity, like R. Akiba. Cf. Ab. III, 9 (Sonc. ed., p. 32).

(50) Cf. ‘entered . . . departed’ supra pp. 90-91.

(51) Cant. I, 4. I.e., R. Akiba was able to follow God right into Paradise, or (according to the other opinions) into the deepest mysteries of theosophy.

Talmud - Mas. Chagigah 16a

— By what Biblical exposition was he able to learn this?[1] Rabbah b. Bar Hanah said that R. Johanan said: And He came from the myriads holy[2] — He is the Sign[3] among His myriad. And R. Abbahu said: He is preeminent above ten thousand[4] — He is the Example[5] among His myriad. And Resh Lakish said: The Lord of hosts is His names[6] — He is the Lord among His host. — And R. Hiyya b. Abba said that R. Johanan said: But the Lord was not in the wind; and after the wind an earthquake; but the Lord was not in the earthquake; and after the earthquake a fire; but the Lord was ‘not in the fire; and after the fire a still small voice.[7] And behold, the Lord passed by.[8]

Our Rabbis taught: Six things are said concerning demons:[9] in regard to three, they are like the ministering angels; and in regard to three, like human beings. ‘In regard to three they are like the ministering angels’: they have wings like the ministering angels; and they fly from one end of the world to the other like the ministering angels; and they know what will happen like the ministering angels. [You say], ‘They know’ — you cannot mean that![10] — Rather, they hear from behind the Veil[11] like the ministering angels. ‘And in regard to three, they are like human beings’: they eat and drink like human beings; they propagate like human beings; and they die like human beings. Six things are said of human beings: in regard to three, they are like the ministering angels, and in regard to three, they are like beasts. ‘In regard to three, they are like the ministering angels’: they have understanding like the ministering angels; and they walk erect like the ministering angels; and they can talk in the holy tongue[12] like the ministering angels. ‘In regard to three, they are like beasts’: they eat and drink like beasts; and they propagate like beasts, and they relieve themselves like beasts.

WHOSOEVER SPECULATES UPON FOUR THINGS, IT WERE A MERCY IF[13] HE HAD NOT COME INTO THE WORLD etc. Granted as regards what is above, what is beneath,[14] what [will be] after,[15] that is well. But as regards what was before — what happened, happened![16] — Both R. Johanan and Resh Lakish say: It is like a human king who said to his servants: Build for me a great palace upon the dunghill.[17] They went and built it for him. It is not the king's wish [thenceforth] to have the name of the dunghill mentioned.

WHOSOEVER TAKES NO THOUGHT FOR THE HONOUR OF HIS MAKER, IT WERE A MERCY IF HE HAD NOT COME INTO THE WORLD. What does this mean? R. Abba said: It refers to one who looks at the rainbow. R. Joseph said: It refers to one who commits transgression in secret. ‘One who looks at a rainbow’, for it is written: As the appearance of the bow that is in the cloud in the day, so was the appearance of the brightness round about. This was the appearance of the likeness of the glory of the Lord.[18] R. Joseph said: ‘It refers to one who commits a transgression in secret', in accordance with R. Isaac's teaching. For R. Isaac said: When anyone commits a transgression in secret, it is as though he thrust aside the feet of the Divine Presence, for it is said: Thus saith the Lord: The heaven is My throne, and the earth is My footstool.[19] But is this so? For behold R. Elai the elder said: If a man sees that his [evil] inclination is prevailing upon him, let him go to a place where he is not known, and put on black garments,[20] and wrap himself up[21] in black garments, and let him do what his heart desires;[22] but let him not profane the Name of Heaven publicly! — There is no contradiction. The one case speaks of one who is able to overcome[23] his [evil] inclination; the other case of one who is not able to overcome his [evil] inclination.

R. Judah b. R. Nahmani, the speaker[24] of Resh Lakish expounded: Anyone who looks at three things, his eyes become dim; at the rainbow, and at the Prince,[25] and at the priests. At the rainbow, because it is written: As the appearance of the bow that is in the cloud in the day of rain . . . This was the appearance of the likeness of the glory of the Lord.[26] At the Prince, for it is written: And thou shalt put of thy honour upon him.[27] One who looks at the priests — at the time when the Temple existed, when they stood upon their platform[28] and blessed Israel with the Distinguished Name[29] [of God]. R. Judah son of R. Nahmani, the speaker of Resh Lakish expounded: What is the meaning of the verse: Trust ye not in a friend, put ye not confidence in a familiar friend.[30] If the evil inclination say to thee: Sin and the Holy One, blessed be He, will pardon, believe it not, for it is said: 'Trust ye not in a friend', and 'friend' [Rea'] means none other than one's evil inclination, for it is said: For the inclination[31] of man's heart is evil [Ra'].[32] And 'familiar friend' means none other than the Holy One, blessed be He, for it is said: Thou art the familiar friend of my youth.[33] Perhaps thou wilt say: Who testifies against me? The stones of a man's home and the beams of his house testify against him, for it is said: For the stone shall cry out of the wall, and the beam out of the timber shall answer it.[34] But the Sages say: A man's soul testifies against him, for it is said: Keep the doors of thy mouth from her that lieth in thy bosom.[30] What is it that lies in a man's bosom? You must say, it is the soul. R. Zerika said: Two ministering angels that accompany him testify against him, for it is said: For He will give His angels charge over thee, to keep thee in all thy ways.[35] But the Sages[36] say: A man's limbs testify against him, for it is said: Therefore ye are My witnesses,[37] saith the Lord, and I am God.[38]

MISHNAH. JOSE B. JO'EZER[39] SAYS THAT [ON A FESTIVAL-DAY] THE LAYING ON OF HANDS [ON THE HEAD OF A SACRIFICE][40] MAY NOT BE PERFORMED;[41] JOSEPH B. JOHANAN SAYS THAT IT MAY BE PERFORMED.[42] JOSHUA B. PERAHIA SAYS THAT IT MAY NOT RE PERFORMED; NITTAI THE ARBELITE[43] SAYS THAT IT MAY BE PERFORMED. JUDAH B. TARBAI SAYS THAT IT MAY NOT BE PERFORMED; SIMEON A. SHETAH SAYS THAT IT MAY BE PERFORMED. SHEMAIAH SAYS THAT IT MAY BE PERFORMED; ABTALION SAYS THAT IT MAY NOT BE PERFORMED.[44] HILLEL AND MENAHEM DID NOT DIFFER. MENAHEM WENT FORTH,[45] SHAMMAI ENTERED.[46] SHAMMAI SAYS THAT IT MAY NOT BE PERFORMED; HILLEL SAYS THAT IT MAY BE PERFORMED.

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(1) Lit., 'what did he expound'? i.e., from which verse did R. Akiba learn to distinguish God's Presence so as to avoid Aher's error of dualism, or (according to another interpretation of Rashi) so as not to look in the direction of the Shechinah (Divine Presence)?

(2) Deut. XXXIII, 2.

(3) ואתה ('and He came') is explained as ואתה ('and His sign'). Jast. translates: 'He is the ensign among his myriad'. Goldschmidt: 'He is distinguished among his myriads'.

(4) Cant. V, 10.

(5) Heb. דוגמא. There is a play here on the text דגול מרבבה ('pre-eminent among the thousand') from which דוגמא is derived. The expositions of the different Rabbis have the common object of showing that God's Presence could be distinguished from his myriad attendants; fine shades of difference are not necessarily to be sought. But for the thought underlying this particular homiletical play, cf. Lev. XIX, 2. Jast. translates: 'He is exemplified by His myriad (of angels)’, i.e., the Divine nature is recognized indirectly from the nature of His ministering angels, v. Cant. Rab. to V, 9. But this seems hardly in keeping with the line of thought demanded by the context. Goldschmidt: ‘He is marked out among his myriads’.

(6) Isa. XLVIII, 2.

(7) 1 Kings XIX, 11, 12. Thus the Divine Presence could be distinguished from the rest of the theophany.

(8) .Ibid. v. 11; in the Bible this clause precedes the previous quotation.

(9) V. J.E. vol. IV, pp. 514f, and Nachmanides on Lev. XVII, 7.

(10) Prescience is a divine attribute,

(11) V. p. 95, n. 10.

(12) The power of learning to speak the Hebrew language is common to all men.

(13) The wording here is slightly different from the Mishnah text (s.v.), but does not alter the meaning.

(14) Cf. p. 59, n. 7 and Deut. XXXIII, 27.

(15) I.e., in the hereafter.

(16) I.e., it is no longer a secret.

(17) The dunghill here represents the primordial chaos; the palace, ordered creation.

(18) Ezek. I, 28. Since the rainbow was symbolic of the Divine Glory, it was irreverent to gaze at it.

(19) Isa. LXVI, 1. But he that sins in secret denies this, for he implies that God has no access to his hiding-place.

(20) In the hope that exile and mourning clothes (cf. Shab. 114a, Jannai's request) would cool his passion and cause him to abandon his wicked intention.

(21) To produce a serious frame of mind; cf p. 88, n. 9.

(22) I.e., should his passion remain unmastered, let him at least commit the sin in secret. But R. Hananel deprecates the thought that the Talmud permits sin even in such circumstances and interprets our passage thus: certainly the effect of exile and dark garments will be to conquer the man's evil inclination, so that he will then be able to do what his heart truly desires, i.e., serve God.

(23) Lit., ‘bend’.

(24) Methurgeman. Lit., ‘interpreter’, used here in the sense of Amora, ‘speaker’; v. J.E. vol. VIII, p. 521.

(25) Heb. Nasi; v. infra p. 105, n. 6.

(26) Ezek. I, 28.

(27) Num. XXVII, 20. Moses’ face could not be gazed at; v. Ex. XXXIV, 29-35. A part of Moses’ honour belonged not merely to Joshua but to every Jewish leader.

(28) V. J.E. vol. V, p. 9 (s.v. Dukan).

(29) I.e., pronounced the Shem ha-meforash, the Tetragrammaton (יהוה), instead of the usual substitute אדני when uttering the sacerdotal blessing. Num. VI, 24-26. cf. Sot. VII, 6; and Sanh. 90a (Sonc. ed., p. 602). The exact meaning of the term Shem ha-meforash is obscure: v. Levy and Jast and J.E. vol. XI, pp. 262f. Tosaf, (a.l.) points out that outside the Temple too, e.g., in the provinces, it was forbidden to look at the priests during the pronouncement of the sacerdotal blessing, the reason according to the J.T. being to prevent the distraction of the people's attention.

(30) Mic. VII, 5.

(31) E.V. ‘imagination’.

(32) Gen. VIII, 21, Only the vowels differentiate רע(friend) from רע(evil).

(33) Jer. III, 4.

(34) Hab. II, 11.

(35) Ps. XCI, 11.

(36) In Ta'an. the reading is, ‘Some say’ = R. Nathan (v. Hor. 13b; cf. p. 14, n. 5).

(37) I.e., ye yourselves (sc. your very bodies) testify to your own sins.

(38) Isa. XLIII, 12.

(39) In Tem. 16a: Joseph b. Jo'ezer. For the successive generations of scholars mentioned here v. Aboth I, 4-12 (Sonc. ed., pp. 3-8 and nn. a.l.).

(40) Cf. Lev, 1, 4.

(41) The same restrictions regarding work applied to Festival-days as to the Sabbath, except in respect of work essential to the preparation of food, which was permitted on the Festivals (v. Bez. V, 2). Now the ‘laying on of the hands’ had to be performed with all one's strength, so that the weight of the person was supported by the animal; and this was considered an infringement of the Sabbath rule not ‘to make use’ of an animal. The point of the controversy, therefore, is this: Had the laying on of the hands to be done immediately prior to the slaughter, and consequently could be regarded as essential to the preparation of food, i.e., the sacrificial meal; or could this be done on the preceding day, so that the profanation of the holyday by this act became unnecessary, although the slaughtering took place on the Festival day? V. Bez. II, 4 and Bertinoro a.l.

(42) In the J. Hag. II, 2 we are told: At first there was no controversy in Israel except over the laying on of the hands alone. But Shammai and Hillel arose and made them four (in Bab. Shab. 14b, only three points of dispute are mentioned; cf. Tosaf. to our passage). When the disciples of the School of Hillel increased, and they did not study sufficiently under their masters (lit., 'did not sufficiently minister to their masters'), the controversies in Israel increased, and they became divided into two companies, the one declaring unclean, the other declaring clean. And (the Torah) will not again return to its (uncontroversial) place until the son of David (i.e., the Messiah) will come. For the meaning and importance of this controversy v. further Weiss, Dor I, 103f; Frankel, Hodegetica in Mischnam pp. 43-44; Jacob Levi, in Ozar Nehmod III, Vienna 1860. [The controversy has also been ingeniously interpreted as referring to the question of 'acceptance of authority' and not the laying on of hands. V. Zeitlin, JQR, (N.S.) VII, pp. 499ff; Sidon A, Gedenkbuck Kaufmann, pp. 355ff and Bornstein, A. Hatekufah IV, p. 396.]

(43) I.e., of Arbel, on the borders of Lake Galilee. V. Ab. I, 6 (Sonc. ed., p. 5, n. 3.).

(44) This pair is exceptional in so far as the first Sage permits and the second prohibits.

(45) V. p. 108.

(46) I.e., in the former's place as Head of the Court.

Talmud - Mas. Chagigah 16b

THE FORMER [OF EACH] PAIR WERE PRINCES[1] AND THE LATTER WERE HEADS OF THE COURT.[2]

GEMARA. Our Rabbis taught: The three of the former pairs[3] who said that the laying on of the hands may not be performed, and the two of the latter pairs who said that it may be performed, were Princes, and the others were Heads of the Court — this is the view of R. Meir. But the Sages say: Judah b. Tabbai was Head of the Court, and Simeon b. Shetah was Prince. Who taught the following teaching of our Rabbis? R.[4] Judah b. Tabbai said: May I see consolation,[5] if I did not have a Zomem[6] -witness put to death as a demonstration[7] against the Sadducees[8] who said that Zomemim-witnesses were not to be put to death unless [through their false evidence] the accused had [already] been put to death. Said Simeon b. Shetah to him: May I see consolation, if thou didst not shed innocent blood. For the Sages said: Zomemim-witnesses are not put to death until both of them have been proved Zomemim; and they are not flogged[9] until both of them have been proved Zomemim; and they are not ordered to pay money [as damages][10] until both of them have been proved Zomemim. Forthwith Judah b. Tabbai undertook never to give a decision except in the presence of Simeon b. Shetah.[11] All his days Judah b. Tabbai prostrated himself on the grave of the executed man, and his voice used to be heard. The people believed that it was the voice of the executed man; [but] he said to them: 'It is my voice. Ye shall know this [by the fact that] on the morrow [when] I die my voice will not be heard'.[12] R. Aha the son of Raba said to R. Ashi: But perhaps he[13] appeased him, or [the deceased] summoned him to judgment![14] — According to whom will this[15] be? Granted, if you say [it is according to] R. Meir, who said that Simeon b. Shetah was Head of the Court [and] R. Judah b. Tabbai was Prince, that is why he decided points of law in the presence of Simeon b. Shetah; but if you say [it is according to] the Rabbis, who say that Judah b. Tabbai was Head of the Court [and] Simeon b. Shetah was Prince, how may the Head of the Court decide points of law in the presence of the Prince![16] — No,'he undertook' is to be understood with reference to association. [He said]: I will not even join [with other judges to give a decision, unless Simeon b. Shetah is present].[17] MENAHEM WENT FORTH AND SHAMMAI ENTERED etc. Whither did he go forth? Abaye said: He went forth into evil courses.[18] Raba said: He went forth to the King's service. Thus it is also taught: Menahem went forth to the King's service, and there went forth with him eighty pairs of disciples dressed in silk.

R. Shimon b. Abba said that R. Johanan said: Never let [the principle] of Shebuth[19] [Rest] be unimportant in thy eyes. For the laying on of the hands [on a Festival-day] is [prohibited] only on account of Shebuth, yet the great men of the age differed thereon.[20] But is this not already quite clear![21] — It is required on account of a precept [the fulfilment of which is prohibited] as Shebuth.[22] But is not that too quite clear![23] — [It is required] to contradict the view that they differ regarding the laying on of the hands itself: thus he teaches us that it is in regard to Shebuth that they differ.[24]

Rami b. Hama said: You can deduce from this[25] that the laying on of hands must be done with all one's strength; for if you suppose that one's whole strength is not required, what [work] does one do by laying on the hands?[26] An objection was raised: [It is written]: Speak unto the sons of Israel . . . and he shall lay his hands.[27] The sons of Israel lay on the hands but the daughters of Israel do not lay on the hands. R. Jose and R. Simeon[28] say: The daughters of Israel lay on the hands optionally.[29] R. Jose said: Abba Eleazar told me: Once we had a calf which was a peace-sacrifice, and we brought it to the Women's Court,[30] and women laid the hands on it — not that the laying on of the hands has to be done by women, but in order to gratify the women.[31] Now if you suppose that we require the laying on of the hands to be done with all one's strength, would we, for the sake of gratifying the women, permit work to be done with holy sacrifices![32] Is it to be inferred, therefore, that we do not require all one's strength? — Actually, I can answer you that we do require [it to be] with all one's strength, [but the women] were told to hold their hands lightly.[33] If so, [what need was there to say], ‘not that the laying on of the hands has to be done by women’? He could [more simply] have pointed out that it was no laying on of the hands at all! R. Ammi said: His argument runs: Firstly and secondly. Firstly, it was no laying on of the hands at all, and secondly, it was [done] In order to gratify the women.[34]

R. Papa said: One may conclude from this[35] that it is forbidden [on a holy day to make use of] the sides [of an animal].[36] For if you suppose that it is permitted [to make use of] the sides, let the hands be laid on the side.[37] It must be concluded, therefore, that it is forbidden to make use of the sides.[38]

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(1) Heb. Nasi, i.e., President of the Sanhedrin. V. J.E. vol. IX, pp. 171-2; and Strack's Introduction to the Talmud and Midrash, p. 1072, n. 3.

(2) Heb. Ab beth din, Father of the Court; i.e., Vice-president of the Sanhedrin; cf. p. 75, n. 5.

(3) Heb. זוגות (Zugoth), Grk. **. The term is applied only to the five pairs of leading teachers mentioned in our Mishnah (cf. Pe'ah II, 6); they were followed by the period of the Tannaim (v. Glos.). V. Ab. I, 4 (Sonc. ed., p. 3. n. 8); and supra p. 105, n. 6.

(4) [Var. lec. rightly omit: ‘R’].

(5) A euphemistic form of oath, meaning, ‘may I not live to see the consolation of Zion’. According to this explanation (given by Tosaf. and Jast.), Judah b. Tabbai and his colleague looked forward to fuller restoration of Israel's glory than was achieved in their day, v. Mak., Sonc. ed., p. 27, n. 7. Levy, however, trans: ‘May I not behold the eternal salvation (ewige Heil) etc.’; and Rashi (Mak. 5b, the alternative explanation), interprets thus: He swore by the life of his children; might he receive condolences on their passing (if etc.).

(6) Lit., ‘planning (evil)’. with reference to Deut. XIX, 19; hence the technical name for false witnesses whose evidence has been refuted by other witnesses testifying that the former were with them at another place at the time of the crime, v. Mak. 5a (Sonc. ed., p. 19f). If the Zomemim secure by their false testimony the conviction (but not the punishment) of an innocent person, the Rabbis held them to be amenable to the law of retaliation; v. Deut. XIX, 21 and Mak. 5b (Sonc. ed., p. 25).

(7) Lit., ‘in order to remove (the false opinion) from their heart’.

(8) V. the usual works of reference, and R. Leszynsky, Die Sadduzaer.

(9) V. Deut. XXV, 2-3 and Mak. 22af(Sonc. ed., p. 155f, and notes a.l).

(10) Each of the three punishments referred to is retaliatory, i.e., the Zomemim-witness had intended to secure a false conviction involving the said penalty. The flogging of Zomemim-witnesses, however, may not always represent the carrying out of the lex talionis: lashes were sometimes inflicted as a substitute penalty; cf. Mak. I, If.

(11) Who would correct him, if necessary.

(12) The text is idiomatically in the third person.

(13) I.e., Judah b. Tabbai.

(14) R. Aha's point is that the cessation of the voice on Judah b. Tabbai's death is no proof that it was his. For the phenomenon might be explained in this way: whilst Judah was alive, the wrongfully executed man cried out his protest from the grave; but when Judah b. Tabbai died he ceased to call either because he had been appeased by him, or because he had now been able to summon him before the Heavenly Tribunal.

(15) I.e., the Baraitha about Judah b. Tabbai.

(16) Cf. the principle invoked against the youthful Samuel in Ber. 31b (Whoever decides a point of law in the presence of his teacher deserves death). Cf. also J. Hag. II, 2 ed. 77d, where historical evidence is cited in favour of the view that Judah b. Tammai was Prince, and also in support of the opposite opinion (Tosaf.).

(17) So Rashi; but Tosaf. explains that he undertook never to join in voting against R. Simeon b. Shetah's opinion. According to either interpretation, the purpose of the answer is to show that Judah b. Tabbai could have been the Head of the Court, for his vow did not imply that he ever gave or proposed to give a decision in the presence of his superior, the Nasi.

(18) V. p. 94 n. 3

(19) שבות, lit., ‘rest, abstention from secular occupation’, hence, ‘an occupation, on the Sabbath and Festivals, forbidden by the Rabbis as being out of harmony with the celebrations of the day’ (Jast.) Cf. Ex. X, 3, 15.

(20) V. Bez. V, 2. By laying on the hands on an animal with pressure, one ‘makes use of it’, and therefore infringes the principle of Shebuth, just as much, as by riding on it, which is prohibited in the above Mishnah.

(21) I.e., Shebuth is clearly mentioned in the Mishnah; v. n. 3.

(22) Otherwise one might have thought that the importance of the religious act would override the prohibition of Shebuth.

(23) I.e., from the Mishnah; v. n.3

(24) V. Bez. 20a, where the opinion of R. Jose b. R. Judah is mentioned, viz., that the point of difference between Shammai and Hillel is whether obligatory peace-offerings require laying on of hands, the view of Shammai being that only freewill-offerings require it.

(25) Lit., ‘hear from it!’, i.e., from R. Johanan's statement, which makes Shebuth the ultimate point of dispute in the Mishnah.

(26) All should agree, therefore, to permit it on the holy day.

(27) Lev. I, 2-4.

(28) This, and not ‘R. Ishmael’, is the correct reading; cf. ‘Er. 96b, and R.H. 33a, etc.

(29) I.e., it is neither an obligatory precept (חובה) nor a meritorious religious act (מצוה), but a religiously indifferent act which women are permitted to perform for their own gratification.

(30) V. Mid. II,5.

(31) So that they should feel that they have had a share, like men, in the sacrificial rites of their offering.

(32) Laying on the hands with all one's strength is work (cf. p. 108, n. 3), which must not be performed with animals once they have been dedicated to the Temple. (Cf. Deut. XV, 19 and Bek. II, 2-3).

(33) Lit., ‘cause to float’.

(34) [MS. M.: ‘Thus he says not that the laying on of hands by women is deemed valid, since there was no laying on of hands at all, but (the object was) to gratify the women’. A reading which is preferable to that of cur. edd. V. D.S.]

(35) V. p. 108, n. 8.

(36) Similarly of the sides of a tree etc.; v. Shab. 154b-155a, and p. 108, n. 3.

(37) [Rashi reads simply: ‘Let the hands be laid on’, i.e., since the head on which the laying on of the hands is done is like the sides of the animal.]

(38) Actually, the laying on of the hands had to be performed on the side, i.e., of the head.

Talmud - Mas. Chagigah 17a

R. Ashi said: You may even say that it is permitted [to use] the sides,[1] but all that is connected with the back[2] is as the back.[3]

MISHNAH; BETH SHAMMAI SAY: PEACE-OFFERINGS[4] MAY BE BROUGHT [ON THE FESTIVAL-DAY],[5] AND THE HANDS NOT LAID THEREON;[6] BUT NOT BURNT-OFFERINGS![7] AND BETH HILLEL SAY: BOTH PEACE-OFFERINGS AND BURNT-OFFERINGS MAY BE BROUGHT,[8] AND THE HANDS LAID THEREON. IF THE FESTIVAL OF WEEKS[9] FELL ON A FRIDAY,[10] BETH SHAMMAI SAY: THE DAY FOR SLAUGHTER[11] , IS AFTER THE SABBATH. AND BETH HILLEL SAY: THE DAY FOR SLAUGHTER IS NOT AFTER THE SABBATH.[12] THEY AGREE, HOWEVER, THAT IF IT FALL ON THE SABBATH, THE DAY FOR SLAUGHTER IS AFTER THE SABBATH.[13] THE HIGH PRIEST DOES NOT [IN THAT CASE] PUT ON HIS [SPECIAL] ROBES,[14] AND MOURNING[15] AND FASTING[16] ARE PERMITTED, IN ORDER NOT TO CONFIRM THE VIEW OF THOSE WHO SAY THAT THE FESTIVAL OF WEEKS [INVARIABLY] FOLLOWS THE SABBATH.[17]

GEMARA. R. Eleazar said that R. Oshaia said: Whence is it to be deduced that [the offerings of] the Feast of Weeks can be made good throughout seven days? It is said: On the Feast of Unleavened Bread, and on the Feast of Weeks, and on the Feast of Tabernacles;[18] thus [Scripture] compares the Feast of Weeks with the Feast of Unleavened Bread: just as [the offerings of] the Feast of Unleavened Bread can be made good throughout seven days,[19] so too [the offerings of] the Feast of Weeks can be made good throughout seven days. But let me say that [Scripture] compares [the Feast of Weeks] to the Feast of Tabernacles; just as [the offerings of] the Feast of Tabernacles can be made good throughout eight days, so too [the offerings of] the Feast of Weeks can be made good throughout eight days! — The eighth day is a festival by itself.[20] [But] is not[21] the statement that the eighth is a festival true only in regard to[22] the Balloting [by the watches],[23] [the recital of the benediction of] the Season,[24] [the name of] the Festival,[25] [the prescribed number of] Sacrifices,[26] the [Temple] Song,[27] and the Blessing;[28] but regarding the making good [of the offerings] it makes good for the first [day of Tabernacles].[29] For we have learnt: He who did not bring his festal offering on the first festival day of the Feast, may bring it during the whole of the Festival even on the last festival day![30] If you take hold of much, you do not hold it; but if you take hold of a little, you hold it.[31] For what legal instruction, then, did the Divine Law write [again here] the Feast of Tabernacles?[32] — To compare it with the Feast of Unleavened Bread: just as the Feast of Unleavened Bread requires [the pilgrim] to stay the night [in Jerusalem], So too, the Feast of Tabernacles requires [the pilgrim] to stay the night.[33] And whence do we deduce it in the case of the former?

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(1) As a matter of fact, R. Ashi holds the reverse view, i.e., he agrees with R. Papa (v. Shab. 155a); nevertheless he shows here that the conclusion cannot be drawn from R. Johanan's statement (Tosaf.).

(2) I.e.,is parallel with the back, like the head.

(3) Which may not be made use of on holy days.

(4) I.e., festal-offerings and offerings of rejoicings (v. pp. 2, n. 3 and 30. n. 1 and Pes. 119a).

(5) Because they are required for food (v. p. 104, n. 12). V. Bez. 19af; there Tosaf. points out, is the original and proper place of our passage, whereas here it is introduced only incidentally. The fuller discussion on the Mishnah found in Bez. further tends to show that the latter tractate was complete before Hag. (Tosaf.).

(6) V. p. 104 and nn. 11,12. Since Beth Shammai held that the slaughtering of the animal need not necessarily follow immediately upon the laying on of the hands, the latter rite could be performed on the eve of the Festival, and the former on the Festival-day itself.

(7) I.e., the pilgrimage burnt-offerings; v. p. 2, n. 1. By emphasizing the expression ‘unto you’ in Ex. XII, 16, it was deduced that only food for human needs could be prepared on the Festival, but not altar-food. Since burnt-offerings were wholly consumed on the altar and no part reserved for human consumption (as in the case of the sacrifices), they could not, according to the Shammaite view, be brought by individuals. The statutory public burnt-offerings, however, were permitted.

(8) For the reason v. Bez. 19a. The Hillelites agreed, however, that vow and freewill-offerings could not be offered up.

(9) Heb. עצרת, lit., ‘(sacred) assembly’; v. p. 27, n. 3.

(10) Lit., ‘eve of Sabbath’.

(11) I.e., of the pilgrimage burnt-offerings, which, according to Beth Shammai, could not be offered up on the Festival day and a fortiori on the Sabbath; hence the offering was postponed till Sunday, for the Pentecost sacrifices could be offered throughout seven days in the same way as the Passover and Sukkoth offerings (v. pp. 111f and cf.pp.43f).

(12) But on the Festival day. Var. lec., ‘it has no day for slaughter’ (omitting the words, ‘after the Sabbath’); v. p. 113, n. 6.

(13) No private offering, except the Passover sacrifice, could override the Sabbath.

(14) According to Rashi, this refers to his private festival garments worn by him at home and in the street; when people would see the High Priest in his ordinary clothes, they would realize that the day was not, as the Sadducees maintained (v. infra, n. 5) a holy day. But Tosaf. argues that the reference is to the High Priest's eight sacerdotal vestments, which he wore on Festivals when he would officiate at the Temple service (v. Yoma VII, 5)’ and adduces the J.T. in support of this view.

(15) Heb. הספד: for its exact signification v. S. Krauss, T.A. II, p. 68; cf. also Jast. and Levy, s.v.

(16) Both mourning and fasting are prohibited on a festival-day.

(17) I.e., the Sadducees, who understood the word ‘Sabbath’ in Lev. XXIII, 11, 15 literally, and hence maintained that Pentecost must always fall on a Sunday, for it is written: ‘And ye shalt count unto you from the morrow after the Sabbath . . . even unto the morrow after the seventh week shall ye number fifty days’ (Lev. XXIII, 15-16). But the Pharisees explained the word ‘Sabbath’ to mean ‘day of rest’, i.e., ‘holy day’ (cf. Lev. XXIII, 32, 39; Ibn Ezra to v. 11 (ibid.) and Men. 65a), and referred it to the first festival day of Passover. This same controversy formed part of the dispute between the Rabbanites and the Karaites some eight hundred years later.

(18) Deut. XVI, 16.

(19) Cf. pp. 43f.

(20) I.e., it does not form part of the Feast of Sukkoth.

(21) Lit., ‘say’.

(22) The following six points of difference are expressed in the original by the abbreviation פז״ר קש״ב, formed out of the initials of the Hebrew words; v. fol. nn.

(23) פיים; the ballot or allotment in regard to the Temple services decided by a show of fingers on the part of the priests present; cf. Yoma II, 1f. Throughout the seven days of Sukkoth, the public sacrifices were offered up by the priest-watches according to rota; but on the eighth day the offerings were allotted by ballot. (V. Suk. 55b).

(24) זמן (cf. Eccl. III, 1): the blessing at the end of the benediction recited on the entrance of a festival, which refers to the return of the festival season, viz., ‘Blessed art Thou, O Lord our God, King of the Universe, Who hast kept us alive, sustained us, and enabled us to reach this season’. The recital of this blessing on the eighth day of Sukkoth distinguishes it as an independent festival from the other days of Tabernacles. On the last day of Passover, on the other hand, it is not said, because the seventh day is regarded as an integral part of the Feast of unleavened Bread. V. also n. 6.

(25) רגל ‘pilgrimage-festival’. Three explanations of the meaning of the term have been suggested (v. Tosaf. a.I.). Rashi: It is a distinct festival in as much as it enjoys a special name, viz., Shemini ‘Azereth and not Sukkoth. R. Tam: It is a separate festival in the sense that it requires the pilgrim to spend the night following its termination in Jerusalem (Suk. 47a). R. Hananel: It is a separate festival in regard to the thirty days of semi-mourning for the dead. If the period of mourning began on the eve of Sukkoth, it is able to annul seven days out of the thirty in addition to the fourteen cancelled by the end of the first seven days of Tabernacles (cf. M.K. 24a).

(26) קרבן V. Num. XXIX, 12-38.

(27) שיר: Tosaf. (s. v. פז״ר) suggests that Ps. XII (note the caption) was said (cf. Sof. XIX and J.T.); and whereas the Psalms allocated for the different weekdays of Tabernacles were not completed each day but spread over two days (v. Suk. 55a), on the eighth day the psalm was completed.

(28) ברכה: according to Rashi, the people blessed the king on the eighth day, as it is written I Kings VIII, 66; according to R. Tam (l.c.) this refers to the special mention of Shemini ‘Azereth in the Grace after meals and in the ‘Amidah (v. Glos.); cf. Suk. 47a.

(29) I.e., Shemini 'Azereth is a continuation of Sukkoth, and if the private offerings due on the first could not be brought till the eighth day, they may still be offered up then.

(30) V. p. 43. Since in regard to making good the offerings the eighth day is an essential part of Sukkoth, then the question (p. 111). Why not compare Pentecost with Sukkoth instead of Passover, still stands.

(31) A popular proverb meaning that one can make sure of a little, but not of much, i.e., when one is confronted, as in our case, with two possibilities, one greater than the other, the smaller should be chosen for safety, for it is bound to be right in so far as it is included in the greater: thus we cannot go wrong by comparing Pentecost with the seven days of Passover, but we may err in comparing it with the eight of Tabernacles. For the proverb cf. 'every one who adds, lessens' (Talmud) and the French, 'qui trop embrasse mal etreint'.

(32) If it is not to teach us about Pentecost, It seems superfluous, for it has already been mentioned elsewhere; and it is a rule that nothing in the Torah is redundant.

(33) I.e., of the weekday of the Festival.

Talmud - Mas. Chagigah 17b

— It is written: And thou shalt turn in the morning, and go into thy tents.[1]

We have learnt: IF THE FEAST OF WEEKS FALL ON A FRIDAY, BETH SHAMMAI SAY: THE DAY FOR SLAUGHTER IS AFTER THE SABBATH. AND BETH HILLEL SAY: IT HAS NO DAY FOR SLAUGHTER. Surely [this means] that it has no day for slaughter at all![2] — No, [it means] that it does not require a [special] day for slaughter.[3] But what then does it teach us, that we can offer up [the sacrifice] on its proper day?[4] Behold they already dispute thereon once; for we have learnt: Beth Shammai say: Peace-offerings may be brought [on the Festival-day] and the hands not laid thereon; but not burnt-offerings. And Beth Hillel say: Both peace-offerings and burnt-offerings may be brought, and the hands laid thereon![5] — [Both statements are] required. For if [the Mishnah] had taught us [only that they differ] in the [latter] case,[6] [I might have thought] in that case [only] Beth Shammai hold this view, because it is possible [to bring the offerings] on the following day: but in the [former] case,[7] I might have thought that they agreed with Beth Hillel.[8] And if [the Mishnah] had taught us [only that they differ] in the [former] case, [I might have thought] in this case [only] Beth Hillel hold this view, because it is not possible [to bring the offering] on the following day; but in the [latter] case, I might have thought that they agree with Beth Shammai.[9] [Therefore both statements are] required.

Come and hear: He who does not bring his festal-offering during the seven days of Passover, or the eight days of Tabernacles, or on the first[10] festival-day of the Feast of Weeks, can no longer bring his offering. This must surely mean on the festival-day [proper] of the Feast of Weeks![11] — No, [it means] on the day for the slaughter.[12] If so, let us conclude therefrom that there is [only] one day for slaughter![13] — Read, 'on the days for slaughter'[14]

Come and hear: Rabbah b. Samuel learnt: Count the days,[15] and sanctify the New Moon Day;[16] Count the days,[17] and sanctity the Feast of Weeks.[18] Just as the New Moon Festival belongs to its class [of days] by which it is determined,[19] so the Feast of Weeks belongs to its class[20] by which it is determined. Surely [then the Feast of Weeks] is compared with the New Moon Festival because just as [the offerings of] the New Moon Festival [are to brought] on one day, so too [the offerings of] the Feast of Weeks [are to be brought] on one day![21] — Raba answered: How can you think so? Do we then count for the Feast of Weeks [only] the days and not the weeks? Behold Abaye said: It is a precept to count the days,[22] for it is written: Ye shall number fifty days;[23] and it is a precept to count the weeks,[24] for it is written: Seven weeks shalt thou number unto thee.[25] Furthermore, it is written: The Feast of Weeks.[26]

The School of R. Eleazar b. Jacob taught:[27] Scripture says: And ye shall make proclamation,[28] and And when ye reap.[29] Which is the Feast on which you proclaim and reap? You must say: It is the

Feast of Weeks.[30] [Now] when? Should one say on the Festival-day [itself], is reaping then permitted on the Festival-day! It must refer, therefore, to [the period after the Feast] when the offerings can still be made good.[31]

Now although the statement of R. Eleazar in the name of R. Oshaia has been quoted,[32] [the teaching] of R. Eliezer b. Jacob is also required. For if we had [only] the statement of R. Eleazar in the name of R. Oshaia, I might say: Just as [in the period] during which the offering can be made good in the case of the Feast of Unleavened Bread, it is forbidden to do work,[33] so too [in the period] during which the offering can be made good in the case of the Feast of Weeks, it is forbidden to do work; therefore we are told the teaching of R. Eliezer b. Jacob. And if we had [only] the teaching of R. Eliezer b. Jacob

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(1) Deut. XVI, 7. But the preceding night must be spent in Jerusalem.

(2) I.e.,if the sacrifice was not offered up on the festival-day. it cannot be made good later. This contradicts R. Oshaia's statement, p. 111.

(3) Since the offering can be brought on the festival-day; but actually the offering can be made good throughout seven days, as R. Oshaia taught.

(4) I.e., on the festival itself, that is, according to Beth Hillel.

(5) In view of this statement of the point at issue between Beth Shammai and Beth Hillel at the beginning of the Mishnah, why does the Mishnah teach us later that they differ in regard to Pentecost which fell on a Friday, if the point of dispute, according to the interpretation just given, is exactly the same?

(6) I.e., where a Festival does not fall on a Friday.

(7) I.e., where Pentecost falls on a Friday.

(8) Because, since the sacrifice could not be offered up the following day, which was the Sabbath, and consequently would have to be left over till the Sunday, there was the danger that the pilgrim might neglect to bring it altogether.

(9) Because it was possible to bring the offering the following day, and negligence, therefore, need not be feared.

(10) [Omitted in MS.M.]

(11) Thus the offerings of Pentecost cannot be made good after the festival, which refutes R. Oshaia.

(12) The festival sacrifices, therefore, can be made good on the day for slaughter; thus the objection against R. Oshaia's statement falls away.

(13) Whereas R. Oshaia argued that the Pentecost sacrifices could be made good throughout seven days.

(14) The plural could include seven days.

(15) The Torah nowhere actually enjoins the counting of the days of each month: the expression is an instance of Midrashic licence. The Hebrew months, being lunar, vary in length from twenty-nine to thirty days (v. J.E. s. Calendar).

(16) By the offering of ‘additional sacrifices’ (v. Num. XXVIII, 11-15).

(17) I.e., fifty, v. infra, n. 8.

(18) By offering the festival sacrifices.

(19) Lit., ‘belongs to its numbered ones, i.e., it is determined by numbering units of days, on one of which it falls.

(20) I.e., the period during which the festival sacrifices can be brought is equal to the class or unit by which it is determined. If the latter is a week, the sacrificial-period is a week; if it is a day, the offering-period is also a day; cf.R.H., Sonc.ed., p. 14, nn. 10 and 11.

(21) This would contradict the view that the Pentecost sacrifices can be made good the whole week.

(22) In order that we may sanctify the Feast of Weeks on the fiftieth day (Tosaf.).

(23) Lev. XXIII, 16.

(24) To teach us that the period in which the festival sacrifices may be made good is a full week.

(25) Deut. XVI, 9.

(26) Ibid. v. 10.

(27) I.e., derived the post-festal sacrificial period of the Feast of Weeks in the following way.

(28) Lev. XXIII, 21. I.e., proclaim a holy convocation or festival.

(29) Ibid, v. 22.

(30) To which the Biblical passage refers.

(31) Which supports R. Oshaia.

(32) V. p. 111.
(33) For the prohibition of work during the mid-festival period, v. infra and pp. 117f.

Talmud - Mas. Chagigah 18a

, I would not know how many [days];[1] therefore we are told the statement of R. Eleazar In the name of R. Oshaia.

Resh Lakish said: [It is written]: And the Feast of Harvest.[2] Which is the Feast on which you feast and harvest? You must say: It is the Feast of Weeks. [Now] when? Should one say on the festival-day [itself]? Is reaping then permitted on the festival-day? It must refer, therefore, to [the period after the Feast] when the offerings can still be made good. Said R. Johanan [to him]: Now accordingly, [since it is written], the Feast of Ingathering[3] [one can likewise argue thus]: ‘Which is the Feast on which there is ingathering? You must say: It is the Feast of Tabernacles. When? Should one say on the festival-day [itself]. is work then permitted on a festival-day! It must refer, therefore, to the mid-festival days’.[4] But is [work] then permitted on the mid-festival days? It must mean, therefore, the Feast that comes at the season of ingathering. Similarly here [it means] the Feast that comes at the season of reaping.[5]

It follows therefore that both[6] are of the opinion that on the mid-festival days it is forbidden to do work. Whence is this derived? — For our Rabbis taught: The Feast of Unleavened Bread shalt thou keep; seven days.[7] This teaches concerning the mid-festival days that work thereon is forbidden:[8] this is the view of R. Josiah. R. Jonathan says: This is unnecessary.[9] [It can be proved by] an argument a minore ad majus. If on the first and seventh days, which have no sanctity[10] before or after them, work is forbidden, how much more so is it right that work should be forbidden on the mid-festival days, which have sanctity before and after them. — But the six working days[11] disprove[12] [this argument] for they have sanctity[13] before them and after them, and yet work thereon is permitted! — [No], whereas [this applies] to the six working days which have no additional sacrifice, can you say [the same] of the mid-festival days which have an additional sacrifice?[14] — But the New Moon Day disproves this [argument]; for it has additional sacrifices, and yet work thereon is permitted! — [No], whereas [this applies] to the New Moon Day which is not called a ‘holy convocation’, can you say [the same] of the mid-festival days which are called ‘holy convocation’?[15] Since it is called ‘holy convocation’ it is only right that work thereon should be forbidden.

Another [Baraitha] taught: Ye shall do no matter of servile work[16] — this teaches that it is forbidden to do work on mid-festival days:[17] this is the view of R. Jose the Galilean. R. Akiba says: This is unnecessary. It is said: These are the appointed seasons of the Lord, etc.[18] Whereof does the verse speak? If of the first day, behold it has already been said: Solemn rest.[19] If of the seventh day,[20] behold, it has already been said: Solemn rest.[21] The verse, therefore, must speak only of the mid-festival days, to teach thee that it is forbidden to do work thereon.

Another [Baraitha] taught: Six days thou shalt eat unleavened bread; and on the seventh day shall be restraint [of work][22] unto to the Lord.[23] Just as the seventh day is under restraint [in respect of work],[24] so the six days are under restraint [in respect of work] — If [you should think that] just as the seventh day is under restraint in respect of all manner of work, so the six days are under restraint in respect of all manner of work; therefore Scripture teaches: ‘And on the seventh day shall be restraint [of work]’ — only the seventh day is under restraint in respect of all manner of work, but the six days are not under restraint in respect of all manner of work. Thus Scripture left it to the Sages[25] to tell you on which day [work] is forbidden, and on which day it is permitted;[26] which manner of work is forbidden, and which is permitted.[27]

AND MOURNING AND FASTING ARE PERMITTED, IN ORDER NOT TO CONFIRM THE VIEW OF THOSE WHO SAY THAT THE FESTIVAL OF WEEKS [INVARIABLY] FOLLOWS THE SABBATH: But behold it is taught:[28] It happened that Alexa[29] died at Lod, and all Israel assembled to mourn for him, but R. Tarfon did not permit them, because it was the festival-day of the Feast of Weeks. [Now] can you possibly suppose that it was [actually] the festival day? How could they come on the festival-day? You must say, therefore, because it was the day for slaughter![30] — There is no contradiction: in the one case,[31] the festival-day [of the Feast of Weeks] fell after the Sabbath;[32] in the other case,[33] the festival-day fell on the Sabbath.[34]

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(1) Sc. are allowed for making good the offerings of the Feast of Weeks.

(2) Ex. XXIII, 16.

(3) Ibid. and XXXIV, 22.

(4) Lit., ‘the profane part of the festival’, i.e., the six half-festive days between the first day of Tabernacles, which is a festival-day proper, and the Eighth Day of Solemn Assembly, which is likewise a festival-day. The same term applies also to the five intermediate days of Passover. This period would correspond to that after the Feast of Weeks when the offerings can still be made good.

(5) And not, as Resh Lakish would have it, a festival time at which feasting and reaping are combined.

(6) Since Resh Lakish does not object to R. Johanan's statement regarding the prohibition of work on the mid-festival days, it follows that he must agree.

(7) Ex. XXIII, 15.

(8) ‘Keep’ is taken invariably to imply prohibition of work. By connecting the words ‘seven days’ with the verb ‘keep’, the prohibition is extended to the mid-festival days.

(9) I.e.,the verse is not needed for the proof.

(10) I.e., holy days.

(11) Lit., ‘six days of the beginning of (creation)’; cf Ex. XX, 9-11.

(12) Lit., ‘prove’ sc. the contrary.

(13) I.e., the Sabbath.

(14) V. Num. XXVIII, 19-24, and XXIX, 13-16.

(15) V. Lev. XXIII, and Num. XXVIII and XXIX. ‘Holy’ implies the prohibition of work.

(16) Lev. XXIII, 7.

(17) This teaching is deduced by connecting the end of v. 7 with the words ‘seven days’ in the following verse.

(18) Ibid. v. 4 and 37.

(19) Lev. XXIII, v. 39.

(20) V. next note. The reading should be emended to the ‘eighth day’ (v. R. Hananel a.I.), for nowhere is the term ‘solemn rest’ applied to the seventh day of a festival.

(21) Ibid.

(22) E.V. ‘a solemn assembly’!

(23) Deut. XVI, 8.

(24) For the verse concludes: ‘Thou shalt do no work therein’.

(25) I.e., since the verse indicates only that the prohibition of work does not apply uniformly to all the days of the festival, it must be the intention of Scripture to let the Sages decide how the prohibition did apply.

(26) I. e., which day is a festival day proper, and which only a mid-festival day. For the fixing of the calendar, V. J.E. vol. III, pp. 498f.

(27) I.e., on mid-festival days: work which could not be postponed without incurring irretrievable loss was permitted.

(28) This is the correct reading viz.,והתניא (‘it is taught’ by the Tannaim), not והאיתמר (‘it is stated’ by the Amoriam).

(29) Abbreviated form of the name Alexander. (12) Lydda in South Palestine (Roman name, Diospolis).

(30) Thus R. Tarfon forbade mourning on the slaughtering day, which contradicts the Mishnah.

(31) I.e., the case of Alexa.

(32) I.e., in the middle of the week, so that the slaughtering day was not on a Sunday. Mourning, therefore, was prohibited in accordance with regular Jewish law.

(33) I.e., that of the Mishnah.

(34) Consequently the slaughtering day was on a Sunday, and, therefore, as a demonstration against the erroneous view of the Sadducees, the ordinary rule prohibiting mourning on the slaughtering day was waived.

Talmud - Mas. Chagigah 18b

MISHNAH. THE HANDS HAVE TO BE RINSED[1] FOR [EATING] UNCONSECRATED [FOOD],[2] AND [SECOND] TITHE,[3] AND FOR TERUMAH [HEAVE-OFFERING];[4] BUT FOR HALLOWED THINGS[5] [THE HANDS] HAVE TO BE IMMERSED.[6] IN REGARD TO THE [WATER OF] PURIFICATION,[7] IF ONE'S HANDS BECAME DEFILED, ONE'S [WHOLE] BODY IS DEEMED DEFILED.[8] IF ONE BATHED[9] FOR UNCONSECRATED [FOOD], AND INTENDED TO BE RENDERED FIT SOLELY[10] FOR UNCONSECRATED [FOOD], ONE IS PROHIBITED FROM [PARTAKING OF SECOND] TITHE.[11] IF ONE BATHED FOR [SECOND] TITHE, AND INTENDED TO BE RENDERED FIT SOLELY FOR [SECOND] TITHE, ONE IS PROHIBITED FROM [PARTAKING OF] TERUMAH. IF ONE BATHED FOR TERUMAH, AND INTENDED TO BE RENDERED FIT SOLELY FOR TERUMAH, ONE IS PROHIBITED FROM [PARTAKING OF] HALLOWED THINGS. IF ONE BATHED FOR HALLOWED THINGS, AND INTENDED TO BE RENDERED FIT SOLELY FOR HALLOWED THINGS ONE IS PROHIBITED FROM [TOUCHING THE WATERS OF] PURIFICATION. IF ONE BATHED FOR SOMETHING POSSESSING A STRICTER [DEGREE OF SANCTITY], ONE IS PERMITTED [TO HAVE CONTACT WITH] SOMETHING POSSESSING A LIGHTER [DEGREE OF SANCTITY]. IF ONE BATHED BUT WITHOUT SPECIAL INTENTION,[12] IT IS AS THOUGH ONE HAD NOT BATHED. THE GARMENTS OF AN AM HA-AREZ[13] POSSESS MIDRAS[14] -UNCLEANNESS FOR PHARISEES;[15] THE GARMENTS OF PHARISEES POSSESS MIDRAS-UNCLEANNESS FOR THOSE WHO EAT TERUMAH; THE GARMENTS OF THOSE WHO EAT TERUMAH POSSESS MIDRAS-UNCLEANNESS FOR [THOSE WHO EAT] HALLOWED THINGS; THE GARMENTS OF [THOSE

it yet does not render the person fit to eat food possessing any degree of sanctity. Similarly, in the cases that follow, intention for one degree of sanctity does not enable one to partake of food having a higher degree of sanctity. WHO EAT] HALLOWED THINGS POSSESS MIDRAS — UNCLEANNESS FOR [THOSE WHO OCCUPY THEMSELVES WITH THE WATERS OF] PURIFICATION. JOSE B. JO'EZER[16] WAS THE MOST PIOUS IN THE PRIESTHOOD, YET HIS APRON WAS [CONSIDERED TO POSSESS] MIDRAS-UNCLEANNESS FOR [THOSE WHO ATE] HALLOWED THINGS. JOHANAN B. GUDGADA USED ALL HIS LIFE TO EAT [UNCONSECRATED FOOD] IN ACCORDANCE WITH THE PURITY REQUIRED FOR HALLOWED THINGS, YET HIS APRON WAS [CONSIDERED TO POSSESS] MIDRAS-UNCLEANNESS FOR [THOSE WHO OCCUPIED THEMSELVES WITH THE WATER OF] PURIFICATION.

GEMARA. Do unconsecrated food and [Second] Tithe then require rinsing of the hands? Now we can show this to conflict with [the following Mishnah]: For terumah and first fruits[17] one may incur the penalty of death,[18] or [a fine of] an [added] fifth,[19] and they are prohibited to non-priests[20] and they are the property of the priest,[21] and are neutralized in one hundred and one [parts],[22] and require rinsing of the hands,[23] and sunset;[24] these [rules] apply to terumah and first fruits but not to [Second] Tithe.[25] How much less then to unconsecrated food. Thus there is a contradiction in regard to [Second] Tithe and a contradiction also in regard to unconsecrated food! Granted that in regard to [Second] Tithe [it can be shown that] there is no contradiction: the one [Mishnah][26] is according to R. Meir and the other is according to the Rabbis. For we have learnt: Whosoever requires immersion by enactment of the Scribes[27] defiles hallowed things[28] and invalidates terumah,[29] but is permitted[30] [to eat] unconsecrated food and [Second] Tithe — this is the view of R. Meir; but the Sages prohibit in the case of [Second] Tithe. In regard to unconsecrated food, however, there is a contradiction! — There is no contradiction: the one case[31] refers to eating [unconsecrated food] and the other to touching [it]. To this R. Shimi b. Ashi demurred: The Rabbis differ from R. Meir only in regard to the eating of [Second] Tithe, but in regard to the touching of [Second] Tithe and the eating of unconsecrated food they do not differ![32] — Both [Mishnahs], therefore, must refer to eating; but there is no contradiction: the one[33] refers to the eating of bread, the other[34] refers to the eating of fruit. For R. Nahman said: Whosoever rinses his hands for fruit belongs to the haughty of spirit.[35]

Our Rabbis taught: He who raises his hands, if he did so with intention,[36] his hands are [levitically] clean; but if he did so without intention, his hands are unclean. Similarly one who bathes[37] his hands, if he did so with intention, his hands are clean, but if he did so without intention his hands are unclean. — But behold it is taught: Whether he did it with intention or without intention, his hands are clean! — R. Nahman answered: There is no contradiction: the one [statement][38] refers to unconsecrated food,

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(1) I.e., in the manner prescribed in Yad. I, 1. Lit., ‘take for the hands’, an elliptical phrase for ‘take water for the hands’.

(2) As opposed to tithe etc.; cf. p. 35, n. 6.

(3) V. p. 35, n. 8.

(4) V. Glos.

(5) I.e., such as are offered in the Temple, and if not wholly devoted to the altar, have to be eaten in the Temple Court.

(6) I.e., in a valid immersion pool (Mikweh) containing not less than forty se'ahs of undrawn water (cf. Trac. Mikwa'oth).

(7) V. Num. VIII, 7 (A.V. ‘purifying’; R.V. ‘expiation’) and ibid. XIX.

(8) In regard to lesser degrees of sanctity, it is possible for the hands only to become defiled e.g., by touching unclean food etc.; but in this case the whole body would require ritual immersion.

(9) V. n. 11.

(10) The clause, ‘and intended . . . solely’ translates only one Heb. word הוחזק , denom. of חזקה (v. Dictionaries) = lit., ‘presumed or considered himself (to have taken the ritual bath) etc.’

(11) Actually, unconsecrated food does not require ritual immersion, unless one desires to eat it in purity, and even so the immersion does not require intention’; but even if there is definite intention to eat ordinary food in purity,

(12) I.e., merely for the sake of physical cleanliness: such an immersion does not fit one for any sanctified food.

(13) Lit., ‘people of the land’, hence generally ‘illiterate, ignorant’, (opp. to Talmid Hakam1, ‘a disciple of the wise’). Here it is used in a technical sense, and refers to one who is ignorant of the Torah and fails to observe the laws of purity and impurity, and is not scrupulous in setting aside the tithes from his produce (opp. to Haber, ‘an associate’, who strictly observes the Law). V. Glos.

(14) Lit., ‘place of treading or pressure’, denotes levitical impurity arising in an object from contact with gonorrhoeist who sits, lies, rides upon or leans against it; in general= אב הטומאה, the first degree of impurity. V. Lev. XII, 2; XV, 2-25; and cf. Nid. VI, 3 with explan. ibid. 49b. The reason for this Rabbinic enactment is the fear that the wife of the Am ha-arez may have sat on the garments when she was in a menstruous condition. V. Hul. 35 (and infra 19b. Tosaf. s. בגדי).

(15) Those who strictly observe the Mosaic Law and the Rabbinic regulations, particularly in regard to tithing and purity. To their body belong also the Haberim (Associates); v. Mishnah Dem. II, 3, and Moore III, 26. For further information, v. J.E. vol. IX, pp. 661f, and R. T. Herford's ‘The Pharisees’.

(16) V. Aboth I, 4 (Sonc. ed., p. 3, nn. 4-6).

(17) Deut. XXVI, 1ff. For the analogy between terumah and first fruits v. Mak. 17a (Sonc. ed., pp. 121-2).

(18) I.e., if a non-priest eats thereof of set purpose; v. Lev. XXII, 9, 10, the context of which refers particularly to terumah. Cf. also Hul. I, 9.

(19) I.e., if a non-priest eats thereof in error he must not only pay the value of the amount consumed but must also add thereto a fifth of the value by way of fine; v. ibid. v. 14. This fifth is not analogous to the added fifth that must be paid in redeeming Second Tithe in order that the produce may be eaten outside Jerusalem and the redemption money spent in food and drink in Jerusalem: hence the Mishnah excludes Second Tithe from all these rules.

(20) I.e., by a prohibitory law of the Torah.

(21) I.e., he may sell them and purchase with the money whatever he desires, e.g., land, slaves, unclean animals etc.; or he may betroth a woman therewith.

(22) E.g., if one se'ah of terumah fell into one hundred se'ahs of unconsecrated produce making one hundred and one in all, any one se'ah may be taken out and given to a priest and the rest is permitted to a non-priest. But if there are not at least one hundred se'ahs of terumah the whole produce becomes prohibited to non-priests.
(23) The hands are considered, by Rabbinic enactment, to suffer levitical impurity in the second degree, and therefore, unless washed, can invalidate terumah by defiling it with impurity in the third degree.
(24) If a priest became unclean through some defilement mentioned in the Torah, he not only requires ritual immersion, but he must also wait till sunset before he may partake of terumah. V. Yeb. 74b.
(25) Here the Mishnah ends, excluding explicitly from the above rules, which include the rinsing of the hands, Second Tithe and also by obvious implication — as the Gemara goes on to point out — ordinary food.
(26) I.e., the latter.
(27) I.e., although ritually clean from the point of view of the Biblical law. This category includes those who eat or drink what is unclean; vessels that have touched unclean liquids; and the hands: these are all unclean in the second degree. V. Zab. V, 12 and Shab. 14b.
(28) Being impure in the second degree he is able to impart impurity to hallowed things in the third degree: in turn the hallowed things are capable of disqualifying in the fourth degree.
(29) The terumah becomes itself disqualified but cannot disqualify anything else.
(30) This positive expression (as opposed to the negative formula 'but does not disqualify') implies permission to eat as well as touch,
(31) I.e., our Mishnah, which requires rinsing of the hands for ordinary food.
(32) V. supra, n. 6; similarly the phrase, 'but the Sages prohibit', refers only to eating Second Tithe but not to touching it. But regarding unconsecrated food there is no dispute: even the Sages agree that it may be eaten without rinsing of the hands. The original question, therefore, remains: the Mishnahs contradict one another!
(33) Our own Mishnah, which requires rinsing of the hands for unconsecrated food.
(34) The second Mishnah quoted, which excepts Second Tithe (and consequently unconsecrated food) from rinsing of the hands and the other regulations applying to terumah and first fruits.
(35) I.e.,is affectedly or ostentatiously scrupulous.
(36) Cf. our Mishnah p. 120, n. 1.
(37) I.e., in a ritual bath containing at least forty se'ahs of water: this represents a higher degree of purification.
(38) I.e., the second Baraitha, which does not require intention.

Talmud - Mas. Chagigah 19a

the other to [Second] Tithe. — And whence do you infer that unconsecrated food does not require intention?[1] — For we have learnt: If a wave was sundered [from the sea] and contained forty se'ahs[2] and it fell upon a person or upon vessels [that were unclean], they become clean. Thus a person is likened to vessels: just as vessels have no intention[3] so too [the Mishnah] speaks of a person who had no intention. But why so? Perhaps we are dealing with a case where one was sitting and waiting for the wave to become sundered, and so vessels are likened to a person; just as a person is capable of intention, so too in the case of the vessels one had intention with regard to them! And should you say: If it is a case of one who sits and waits [for the wave to be sundered], what need is there to teach it?[4] [I will answer]: You might have thought it should be prohibited, as a preventive measure, [to bathe in a detached wave] lest one come to battle in a torrent of rainwater,[5] or that we ought to prohibit, as a preventive measure, [immersion in] the ends[6] [of the wave] on account of the crest,[7] therefore [the Mishnah] teaches us that we make no such prohibition. — (And whence do you infer that one may not immerse [vessels] in the crest [of the wave]? — For it is taught: One may immerse [vessels] in the ends [of the wave] but not in the crest, because one may not immerse in the air.)[8] — Rather [is it[9] to be inferred] from that which we have learnt: If produce fell into a channel of water, and one whose hands were unclean put out [his hands] and took it, his hands became clean[10] and [the law], if [water] be put on,[11] does not apply to the produce;[12] but if [he did so] in order that[13] his hands should be rinsed, his hands become clean, but [the law], 'If [water] be put on', applies to the produce.[14]

Rabbah[15] put an objection to R. Nahman: IF ONE BATHED FOR UNCONSECRATED [FOOD], AND INTENDED TO BE RENDERED FIT SOLELY FOR UNCONSECRATED [FOOD], ONE IS PROHIBITED FROM [PARTAKING OF SECOND] TITHE.[16] [Thus] if one intended to be rendered fit [therefor], One may [eat unconsecrated food], but if one did not intend to be rendered fit [therefor], one may not [eat unconsecrated food]![17] — This is the meaning: Even though one had intention for unconsecrated, one is still prohibited from [partaking of Second] Tithe.[18]

He put [another] objection to him: IF ONE BATHED, BUT WITHOUT SPECIAL INTENTION, IT IS AS THOUGH ONE HAD NOT BATHED. Surely it means that he is as though he had not bathed at all![19] — No, [it means that] he is as though he had not bathed for [Second] Tithe, but did bathe for unconsecrated food. He[20] thought [at first] that he[21] was merely putting him off,[22] [but] he went forth, examined [the matter] and found that it is taught: If one bathed, but without special intention, one is prohibited [from partaking of Second] Tithe, but one is permitted [to partake of] unconsecrated [food].

R. Eleazar said: If a man bathed and came up,[23] he may intend to be rendered fit for whatever he pleases. An objection was raised: If he still has one foot in the water, and he had intended to be rendered fit for something of lesser [sanctity], he may intend to be rendered fit for something of higher [sanctity]; but once he has come up he can no longer have intention. Surely [it means that] he can no longer have any intention at all![24] — No, [it means that] if he still [has one foot in the water] even though he intended to render himself fit [for a lesser degree of sanctity], he may still intend to render himself [fit for a higher degree of sanctity];[25] but once he has come up, if he had no intention to be rendered fit [for anything at all], he may now intend to be rendered fit, but if he had intention to be rendered fit [for any particular degree of sanctity] he may no longer intend to be rendered fit [for any higher degree of sanctity].[26] — Who is the author of the teaching: ‘If he still has one foot in the water etc.’?[27] R. Pedath said: It is according to R. Judah. For we have learnt: If an immersion pool was measured and found to contain exactly forty se'ahs [of water], and two persons went down and immersed themselves therein one after the other, the first person is clean, but the second is unclean.[28] R. Judah said: If the feet of the first person were [still] touching the water [when the second person immersed himself] the second person is also clean.[29] R. Nahman said that Rabbi b. Abbuha said: The dispute[30] concerns [only] the Rabbinical degrees [of purity],[31] but in a case of purification from [real] uncleanness,[32] all would agree that the second person remains unclean. This then is in agreement with the view of R. Pedath.[33] Another version is: R. Nahman said that Rabbi b. Abbuha said: The dispute concerns purification from [real] uncleanness, but in regard to the Rabbinical degrees [of purity], all would agree that the second person too becomes clean. Thus he differs from the view of R. Pedath.[34]

‘Ulla said: I asked R. Johanan: According to R. Judah, is it permissible to immerse needles and hooks in the [wet] head of the first [bather]?[35] Does R. Judah accept [only] the principle of connecting downward,[36] but not of connecting upward;[37] or, perhaps, R. Judah accepts the principle of connecting upward as well? — He replied: Ye have learnt it; If a wady has three depressions, one at the top, one at the bottom and one in the middle, the one at the top and the one at the bottom containing twenty se'ahs each and the middle one forty se'ahs, and a torrent of rainwater passes between them,[38] R. Judah says: Meir used to say: One may immerse in the top one.[39]

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(1) On immersion.

(2) The minimum quantity required for ritual immersion. For se'ah, v. Glos.

(3) On being immersed.

(4) I.e., since the immersion was intentional, the case is ritually quite normal and requires no specific mention.

(5) Rashi gives two reasons for the unsuitability of a torrent of rainwater, containing forty se'ahs, for ritual immersion; (a) since the water flows down a steep incline, the forty se'ahs cannot be regarded as being in one place or connected (v. Toh. VIII, 9), and consequently the bather does not immerse himself in forty se'ahs of water at one and the same time;

(b) rain-water can be used for immersion only in the form of a stagnant pool but not when it forms a flowing current (v. Supra to Lev. XI, 36).

(6) Lit., 'heads' i.e., the lower part of the wave as it reaches the ground.

(7) Lit., 'arches, bows' i.e., caps of a wave, billow-crests, surf.

(8) Though the ends of the wave have touched the ground, the crest of the wave is regarded as still being suspended in the air, and consequently may not be used for immersion, for no immersion may take place in the air.

(9) That no intention is required for unconsecrated food.

(10) Though the person's intention was solely to take out the produce and not to purify the hands. Thus it is seen that unconsecrated food does not require intention.

(11) Lev. XI, 38.

(12) I.e., the produce does not become, through contact with the water, susceptible to defilement in accordance with law referred to in the verse. Only when the owner is pleased with the wetting of the produce does it become susceptible to defilement (v. Kid. 59b), which is not the case here. The Mishnah text (Maksh. IV, 7) reads 'are clean' for 'the law, "If water be put on ",does not apply to the produce'.

(13) The Mishnah text reads: 'he purposed, intended' for 'in order that'.

(14) Since he took the produce out of the water with the purpose of cleansing his hands, it is clear that he is pleased with the wetting of the produce, for he benefits by it; consequently, the produce becomes susceptible henceforward to defilement.

(15) Var. lec. Raba.

(16) The Hebrew here is identical with the Mishnayoth version, which differs very slightly from our own Mishnah reading.

(17) This shows, apparently, that intention is required even for unconsecrated food.

(18) But actually unconsecrated food does not require intention.

(19) I.e., he is not rendered fit even for unconsecrated food.

(20) I.e., Rabbah.

(21) I.e., R. Nahman.

(22) I.e., with casuistical arguments, which, in point of fact, were untrue.

(23) I.e., left the water completely. Some texts known to Tosaf. actually added the words, 'and is still wet'; but in any case it has to be understood in this sense.

(24) I.e., no new intention of his is of any effect.

(25) I.e., he may now decide for which degree of sanctity he wishes the immersion to serve.

(26) For with the completion of immersion the first intention becomes effective.

(27) V. p. 125 (end).

(28) Inevitably some water clings to the body of the first bather; consequently the second bather immerses himself in less than the prescribed minimum of forty se'ahs of water.

(29) On the principle that the water connects downward' (v. p. 127. n. 2), i.e., since the feet of the first bather are still in the immersion pool, the water on his body is regarded as forming part of the water in the pool, thus helping to restore the required volume of forty se'ahs.

(30) I.e., between R. Judah and the Rabbis.

(31) E.g., the specific degrees of purity discussed in our Mishnah.

(32) I.e., defilement according to the law of the Torah.

(33) Who explains the Baraitha, 'If he still has one foot etc.' to be according to R. Judah and not the Rabbis: thus he holds that the Rabbis reject the principle of 'connecting downward' even in regard to the Rabbinical degrees of purity, for the whole question of intention in regard to any specific degree of purity is based on Rabbinic enactment.

(34) For according to R. Nahman, the Baraitha 'If he still has one foot etc.', represents the view of the Rabbis as well as of R. Judah, for he holds that in regard to the Rabbinical degrees of purity, the Rabbis agree with R. Judah in accepting the principle of 'connecting downward'.

(35) Whilst he is still in the water.

(36) Lit., 'stretch, bring down'.

(37) I.e., does R. Judah accept the principle of connecting only in the downward direction, as in the case of the two bathers above, where the water on the body of the first bather is regarded as connected with the water in the pool; but not in the upward direction, so that the water in the pool should be considered as connected with the water on the bather's head, and thus enable needles etc. to be purified in the water clinging to the bather's head.

(38) Thus connecting them.

(39) And, of course, in the bottom one; for those who hold the principle of ‘connecting upward’, certainly accept the principle of ‘connecting downward’. Since R. Judah quoted R. Meir s view without contradicting it, the presumption is that he concurs in it. This explanation follows Rashi's text and interpretation. For a different reading and explanation v. Tosaf. s. רבי

Talmud - Mas. Chagigah 19b

— But it is taught: R. Judah said: Meir used to say: One may immerse in the top one, but I say: [One may immerse only] in the bottom one, but not in the top one! He[1] replied: If it is [expressly] taught, it is taught.[2]

IF ONE BATHED FOR UNCONSECRATED [FOOD] AND INTENDED TO BE RENDERED FIT SOLELY FOR UNCONSECRATED [FOOD] etc. According to whom will our Mishnah be? — [Presumably] it is according to the Rabbis, who distinguish between unconsecrated [food] and [Second] Tithe.[3] — But [then] how will you understand the second part [of the Mishnah]? THE GARMENTS OF AN ‘AM HA-AREZ POSSESS MIDRAS-UNCLEANNESS FOR PHARISEES; THE GARMENTS OF PHARISEES POSSESS MIDRAS-UNCLEANNESS FOR THOSE WHO EAT TERUMAH:[4] this will be according to R. Meir, who said that unconsecrated [food] and [Second] Tithe are [in this respect] the same. Thus the first part [of the Mishnah] will be according to the Rabbis and the second part according to R. Meir! — Indeed, the first part [of the Mishnah] is according to the Rabbis and the second part according to R. Meir. R. Aha b. Adda teaches [also] in the second part [of the Mishnah] five degrees[5] and attributes it all to the Rabbis. R. Mari said: It follows that unconsecrated [food] which was prepared according to the purity of hallowed things[6] is like hallowed things. Whence [is this to be inferred]? —

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(1) I.e., R. Johanan.

(2) I.e., I am prepared to retract.

(3) V. p. 122 (‘For we have learnt: Whosoever requires. . . Tithe’).

(4) But not Second Tithe, which shows that it belongs to the same category as unconsecrated food.

(5) I.e., he adds those who eat Second Tithe, as representing a separate degree of purity, in between the Pharisees and those who eat terumah.

(6) A person who is accustomed to eat hallowed things would make it a rule to eat even unconsecrated food according to the purity required by hallowed things, so that his household should be well-trained in the vigilance necessary for the higher degree of purity.

Talmud - Mas. Chagigah 20a

From the fact that [the Mishnah] does not teach it as a [special] degree [of purity].[1] — But perhaps the reason why [the Mishnah] does not teach it as a [special] degree of purity is because if it is like terumah, behold [the Mishnah] deals with terumah; and if it is like unconsecrated [food], behold [the Mishnah] deals with unconsecrated [food]![2] For it is taught:[3] Unconsecrated [food] which was prepared according to the purity of hallowed things is like unconsecrated [food]. R. Eleazar son of R. Zadok says: It is like terumah. — Rather [is it to be inferred] from the second part [of the Mishnah]. JOSE B. JO'EZER WAS THE MOST PIOUS IN THE PRIESTHOOD, YET HIS APRON WAS [CONSIDERED TO POSSESS] MIDRAS-UNCLEANNESS [FOR THOSE WHO ATE] HALLOWED THINGS. JOHANAN B. GUDGADA USED ALL HIS LIFE TO EAT [UNCONSECRATED FOOD] IN ACCORDANCE WITH THE PURITY REQUIRED FOR HAllowed THINGS, YET HIS APRON WAS [CONSIDERED TO POSSESS] MIDRAS-UNCLEANNESS FOR [THOSE WHO OCCUPIED THEMSELVES WITH THE WATER OF] PURIFICATION. [Only] for [those who occupied themselves with the water of] purification, but not for hallowed things; thus [the Mishnah] holds that unconsecrated [food] which was prepared according to the purity of hallowed things is like hallowed things.

R. Jonathan b. Eleazar said: If a man's wrap[4] fell from off him, and he said to his fellow,[5] ‘Give it to me’, and he gave it to him, it is unclean.[6] R. Jonathan b. Amram said: If by mistake a man put his Sabbath garments on instead of his weekday garments, they become unclean.[7] R. Eleazar b. Zadok said: Once two scholarly[8] women took one another's garments by mistake in the bathhouse, and the matter came before R. Akiba, and he declared them unclean. To this R. Oshaia demurred: If so, if a man stretched forth his hand to the basket with the intention of taking wheat bread and there came up in his hand barley bread, has it also become unclean? And should you say ‘It is so’; then behold it is taught: If one guards a jug on the assumption that it is [a jug] of wine, and it is found to be [a jug] of oil, it is clean so as not to defile! — But according to your reasoning, how do you understand the concluding clause [of the Baraitha]: But it may not be consumed? Why? — Said R. Jeremiah: It refers to a case where [the keeper] says: I guarded it against anything that might defile it,[9] but not against anything that might invalidate it.[10] But can anything be half-guarded? — Indeed; for it is taught: If a man stretched forth his hand into the basket, and the basket was on his shoulder and the shovel was in the basket, and his mind was on the basket but not on the shovel, the basket is clean and the shovel is unclean. [Now it says] ‘The basket is clean’? [Surely] the shovel should make the basket unclean! — One vessel does not make another unclean.[11] Then it should make the contents[12] of the basket unclean! — Rabina said: It refers to a case where [the keeper] says: I guarded it [the shovel] against anything that might defile it, but not against anything that might invalidate it.[13] In any case, there is a contradiction![14] And furthermore, Rabbah b. Abbuha raised an objection: Once a woman came before R. Ishmael and said to him: Master, I have woven this garment in purity,[15] but it was not in my mind to guard it in purity.[16] But as a result of the cross-examination to which R. Ishmael subjected her, she said to him: Master, a menstruous woman pulled the cord[17] with me. Said R. Ishmael: How great are the words of the Sages, who used to say: If one had the intention to guard a thing, it is clean; if one did not have the intention to guard it, it is unclean. There was another story of a woman who came before R. Ishmael. She said to him: Master, I wove this cloth in purity, but it was not in my mind to guard it. But as a result of the cross-examination to which R. Ishmael subjected her, she said to him: Master, a thread broke[18] and I tied it with my mouth.[19] Said R. Ishmael: How great are the words of the Sages who used to say: If it is in one's mind to guard a thing it is clean; if it is not in one's mind to guard it, it is unclean.[20]

Granted in regard to [the teaching of] R. Eleazar b. Zadok, [it can be explained that] each one [of the women] says [to herself]: ‘My companion is the wife of an ‘am ha-arez’; and [consequently] she takes her mind off it. In regard to [the teaching of] R. Jonathan b. Amram too [it can be explained that] since a man takes special care of Sabbath garments,[21] [it is as though] he took his mind off them. But in regard to [the teaching of] R. Jonathan b. Eleazar [it can be objected] that he could [still] guard it in the hand of his companion! — R. Johanan answered: It is a presumable certainty that one does not guard what is in the hand of his companion. — Indeed no?

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(1) Viz. that the garments of Pharisees who eat unconsecrated food in ordinary purity possess midras-uncleanness for those who eat unconsecrated food according to the purity required by hallowed things. The omission of this category proves, according to R. Mari, that it belongs to the same degree of purity as hallowed things themselves, which are already mentioned in the Mishnah.

(2) I.e., the fact that unconsecrated food prepared according to the purity of hallowed things is not mentioned in the Mishnah as a separate degree of purity does not necessarily prove that it is like hallowed things. On the contrary, it may belong to one of the other degrees of purity specified in the Mishnah, such as ordinary unconsecrated food or terumah.

(3) I.e., we actually find Tannaim disputing as to whether it is like ordinary food or like terumah; but no one takes the view that it is like hallowed things.

(4) So Jast.; Levy, ‘Hulle’; Goldschmidt, ‘Kopftuch’. Cf. אפר (‘headband’) in I Kings XX, 38, 41, which belongs to the same root as our word מעפרת, with interchange of א and ע.

(5) I.e., one as observant of the laws of purity as himself (R. Hananel).
(6) Even though the person, who picked it up was clean, for we cannot assume that he took it upon himself to guard it from impurity whilst he handled it, since the owner did not inquire whether he was clean or not; nor can we say that the owner guarded it against defilement whilst it was not in his possession (v. R. Johanan's answer p. 131).
(7) This apparently teaches the principle that if a man guards something on the assumption that it is one thing and finds it to be another, it is unclean.
(8) Lit.,’associates i.e., knowing and observing the Laws of purity. V. p. 120, n. 4.
(9) I.e., so that in turn it could make other things unclean.
(10) I.e., from being used, but would not make it capable of imparting impurity. This shows that although the keeper may be mistaken regarding the identity of the object guarded, his guarding nevertheless remains effective for the purpose intended, which, in this case, was that the oil should not be defiled.
(11) Although a vessel can defile food.
(12) Figs (Rashi).
(13) From being used at the outset in connection with clean foodstuffs. The shovel, being ‘a utensil’, can only be invalidated by unclean liquids (Tosaf). Rashi suggests, alternatively, that ‘it’ may refer to the food adhering to the shovel. — This Baraitha thus shows that a thing can be guarded ‘by half’.
(14) I.e., the statement in the Baraitha that the oil remains clean supports R. Oshaia and contradicts the view that a mistake in regard to the identity of an object serves to make it unclean.
(15) I.e., I know, as a matter of fact, that from the moment three fingers by three of cloth — the minimum area susceptible to defilement — were woven it was not made unclean.
(16) I.e., I did not actually intend to guard it against defilement.
(17) So that uncleanness may have been communicated through her shaking the web.
(18) Before she commenced to weave: the rules of uncleanness did not yet apply then.
(19) She had not yet purified herself by immersion from the impurity of her menstruous condition, so that her saliva possessed uncleanness in the first degree (אב הטומאה). Thus although to begin with the moistened thread could not affect the purity of the cloth (hence she paid no attention to it), nevertheless if the thread remained wet when the web was three fingers by three it would defile the cloth, although the woman had since purified herself by immersion. So Rashi; for another explanation v. Tosaf. s. v. נימא.
(20) From all this, It is clear that the deciding factor in keeping an object clean is the intention to guard it against uncleanness; but it is not necessary to know the identity of the object guarded.
(21) Whereas he thought them to be his week-day clothes.

Talmud - Mas. Chagigah 20b

But behold it is taught: If a man's ass-drivers and workmen[1] were laden with [levitically] clean goods, even if he withdrew from them more than a mil[2] his clean goods[3] remain clean.[4] But if he said to them: Go ye, and I shall come after you, then as soon as they are hidden from his sight, his clean goods become unclean. — In what respect is the first case different from the second?[5] R. Isaac Nappaha[6] said: In the first case he purifies his ass-drivers and workmen for this purpose.[7] — If so, [it applies to] the second case too! — An ‘am ha-arez does not mind another's touching.[8] — If so, [it applies to] the first case too! — It is a case where [the master] can come upon them [suddenly] by a roundabout path.[9] — If so [it applies to] the second case too! — Since he said to them, ‘Go ye, and I shall come after you’, their minds are at ease.[10]

CHAPTER III

MISHNAH. GREATER STRINGENCY APPLIES TO HALLOWED THINGS[11] THAN TO TERUMAH:[12] FOR VESSELS WITHIN VESSELS[13] MAY BE IMMERSED [TOGETHER] FOR TERUMAH, BUT NOT FOR HALLOWED THINGS. THE OUTSIDE AND INSIDE AND HANDLE[14] [OF A VESSEL ARE REGARDED AS SEPARATE] FOR TERUMAH,[15] BUT NOT FOR HALLOWED THINGS.[16] HE THAT CARRIES ANYTHING POSSESSING MIDRAS-UNCLEANNESS[17] MAY CARRY [AT THE SAME TIME] TERUMAH,[18] BUT NOT

HALLOWED THINGS. THE GARMENTS OF THOSE WHO EAT TERUMAH POSSES[15] MIDRAS-UNCLEANNESS FOR [THOSE WHO EAT] HALLOWED THINGS.[19] THE RULE [FOR THE IMMERSION OF GARMENTS][20] FOR [THOSE WHO WOULD EAT OF] TERUMAH IS NOT LIKE THE RULE FOR [THOSE WHO WOULD EAT OF] HALLOWED THINGS: FOR IN THE CASE OF HALLOWED THINGS, HE MUST [FIRST] UNTIE [ANY KNOTS[21] IN THE UNCLEAN GARMENT], DRY IT[22] [IF IT IS WET, THEN] IMMERSE IT, AND AFTERWARDS RETIE IT; BUT IN CASE OF TERUMAH, IT MAY [FIRST] BE TIED AND AFTERWARDS IMMERSED. VESSELS THAT HAVE BEEN FINISHED IN PURITY[23] REQUIRE IMMERSION [BEFORE THEY ARE USED] FOR HALLOWED THINGS, BUT NOT [BEFORE THEY ARE USED] FOR TERUMAH. A VESSEL UNITES ALL ITS CONTENTS [FOR DEFILEMENT] IN THE CASE OF HALLOWED THINGS,[24] BUT NOT IN THE CASE OF TERUMAH.[25] HALLOWED THINGS BECOME INVALID[26] [BY UNCLEANNESS] AT THE FOURTH REMOVE, BUT TERUMAH [ONLY BY UNCLEANNESS] AT THE THIRD REMOVE.[27] IN THE CASE OF TERUMAH, IF ONE HAND OF A MAN BECAME UNCLEAN,[28] THE OTHER REMAINS CLEAN, BUT IN THE CASE OF HALLOWED THINGS, HE MUST IMMERSE BOTH [HANDS], BECAUSE THE ONE HAND DEFILES THE OTHER FOR HALLOWED THINGS BUT NOT FOR TERUMAH. DRY FOODSTUFFS[29] MAY BE EATEN WITH UNWASHED HANDS,[30] WITH TERUMAH, BUT NOT WITH HALLOWED THINGS.[31]

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(1) Who belonged to the category of ‘am ha-arez.

(2) I.e., unbeknown, to them. A mil=two thousand cubits (Jast.).

(3) E.g., wine in earthenware jars.

(4) Because the men touch only the exterior of the vessels, which, being earthenware, are not defiled within by the contact of a defiling object on the outside (cf. Hul. 25a). The fear of their master who could arrive at any moment would deter the men from attempting to touch the contents of the vessels. This proves that, contrary to R. Johanan's statement, a man can guard what is in another's hand.

(5) Rashi prefers to delete this sentence. If it is retained, he interprets it as a continuation of the argument against R. Johanan, thus: — If you contend that a man cannot guard what is in another person's hand, then why is the first case decided differently from the second? Tosaf., however, explains it as a rejoinder in defence of R. Johanan's teaching: Granted that the first case of the Baraitha seems to contradict R. Johanan, but how can the second case be explained otherwise than as a support? One must answer, therefore, with R. Isaac Nappaha, that the first case too does not really contradict R. Johanan, because the men were specially purified for the purpose.

(6) I.e., the smith.

(7) Consequently the goods remain clean; for even if the men touch the goods they cannot defile then,. But if the men had not been specially purified, R. Johanan's principle that one cannot guard what is in another's hand would hold good.

(8) I.e., though the workmen, being clean, cannot defile the goods, they might allow them to be defiled by other people touching them.

(9) I.e., the fear that he might come upon them by surprise would deter them from permitting a stranger to touch the goods.

(10) That he will not surprise them, and thus whatever they do will not be observed by their master.

(11) I.e., sacrificial flesh, mealofferings and drink-offerings.

(12) In the eleven cases (according to Raba), or ten (according to R. Ela), that follow. For further differences, v. the Mishnah pp. 119-121. The latter are not included in our Mishnah because (according to Tosaf. s.v. חומר) they do not involve the risk of an eventual violation of the law of purity (דררא דטומאה).

(13) I.e., any articles susceptible to defilement. According to Rashi (a.l.), both the exterior and interior vessels are unclean; according to Tosaf. (22a, s.v. מאי) only the interior vessels re unclean.

(14) בית הצביטה ‘the place of holding’, v. infra p. 143, n. 13.

(15) I.e., if these parts can be used separately they are regarded, in the case of terumah, as distinct utensils, so that if one of them becomes defiled the others remain unaffected. This rule applies, as the Gemara explains, only in the case of Rabbinical degrees of uncleanness, v. Kel. XXV, 6f

(16) In the case of hallowed things, if one part becomes defied, the whole vessel is rendered unclean.

(17) E.g., if he wears the shoe of a gonorrhoeist. V. p. 120, n. 3.

(18) I.e., if the terumah is in an earthenware vessel, which he touches only from without. Cf. p. 132, nn. 1 and 2.

(19) V. p. 120, where the same statement is found.

(20) In respect of the law of חציצה ('Interposition, all intervening object'). Cf. 'Er. 4a.

(21) Because they resemble an intervening object.

(22) Here the moisture is deemed to resemble an intervening object.

(23) I.e., from the moment that they reached the stage when they could be termed vessels, and consequently became susceptible to defilement, they were carefully guarded from uncleanness.

(24) If an unclean person touched one portion of hallowed food in a vessel, all the other pieces, although not in contact with it, are rendered equally unclean by the unifying effect of the vessel.

(25) In the case of terumah, the portion to touched by the unclean person contracts uncleanness at the first remove (v. infra n. 7); if another portion touches it, the second contracts uncleanness at the second remove, and any portion touching the latter suffers uncleanness at the third remove; the rest remain clean.

(26) But cannot, In turn, render anything else invalid.

(27) If A is a 'Father of uncleanness' (i.e., suffers from primary uncleanness, which can convey uncleanness even to men and vessels; those that come in contact with it are termed 'offspring of uncleanness', and can convey uncleanness only to foodstuff and liquids) and touches B, and B to touches C, and C touches D, if D is a hallowed thing it becomes invalid; and if C is terumah it becomes invalid; but if D is terumah it does not become invalid (Danby, The Mishnah, p. 214. n. 9).

(28) I.e., contracted a Rabbinic (as opposed to Pentateuchal) grade of uncleanness, which defiles the hand without affecting the rest of the body.

(29) I.e., ordinary food which has never been rendered susceptible to uncleanness by coming in contact with water; v. p. 124, nn. 5-9.

(30) Lit., 'unclean hands'; though these suffer from levitical uncleanness, the food is not affected because it has never become susceptible to uncleanness.

(31) V. the explanation in the Gemara, pp. 154f(24b).

Talmud - Mas. Chagigah 21a

A MOURNER [PRIOR TO THE BURIAL OF THE DECEASED],[1] AND ONE WHO NEEDS TO BRING HIS ATONEMENT SACRIFICE [IN ORDER TO COMPLETE HIS PURIFICATION][2] REQUIRE IMMERSION FOR HALLOWED THINGS,[3] BUT NOT FOR TERUMAH.[4] GEMARA. Why not in the case of hallowed things?[5] R. Ela said: Because the weight of the [inner] vessel forms an interposition.[6] — But since the latter clause [of the Mishnah] is based on [the rule of] interposition.[7] For it is taught in the latter clause: THE RULE [FOR THE IMMERSION OF GARMENTS] FOR [THOSE WHO WOULD EAT OF] TERUMAH IS NOT LIKE THE RULE FOR [THOSE WHO WOULD EAT OF] HALLOWED THINGS: FOR IN THE CASE OF HALLOWED THINGS, HE MUST [FIRST] UNTIE [ANY KNOTS IN THE UNCLEAN GARMENT], DRY IT [IF IT IS WET, THEN] IMMERSE IT, AND AFTERWARDS RETIE IT; BUT IN THE CASE OF TERUMAH, IT MAY [FIRST] BE TIED AND AFTERWARDS IMMERSED! — Both the former clause and the latter clause are based on [the rule of] interposition, and they are both required. For if [the Mishnah] taught us the former clause [only], I might have thought that the reason why it is not [permitted to immerse vessels within vessels] for hallowed things is because of the weight of the vessel [which interposes], but in the latter clause where there is no weight of a vessel [to interpose], I might have thought that it would not be deemed an interposition even for hallowed things; and if [the Mishnah] taught us the latter clause, I might have thought that the reason why it is not [permitted] in the case of hallowed things is because

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(1) Heb. אונן , opposed to אבל , a mourner during the week following the burial. It is assumed here that the mourner had not become defiled by the corpse.

(2) E.g., a gonorrhoeist who, after duly immersing himself on the seventh day of his uncleanness, has awaited sunset on that day, and now has only to bring his sacrifice on the morrow in order to complete his purification.

(3) In the latter case after bringing the prescribed sacrifices.

(4) Which may be eaten not only without immersion, but even before the sacrifices marking the completion of purification have been brought.

(5) The question refers to the beginning of the Mishnah, i.e., why may not vessels within vessels be immersed for hallowed things just as for terumah?

(6) The weight of the inner vessel prevents the water from reaching every part of the vessels, thus invalidating the immersion both of the outer and inner vessels. V. infra p. 139.

(7) If the purpose of the two clauses is identical viz., to teach us that in the case of hallowed things even that which resembles interposition invalidates, but in the case of terumah only proper interposition, then the Mishnah should have contained one of the two clauses, not both.

Talmud - Mas. Chagigah 21b

a knot becomes tightened[1] in water, but in [the case of] the former clause, where the water causes the vessel to float, it would not be deemed an interposition; therefore [both clauses] are required.[2] R. Ela [in explaining the former clause to be based on the rule of interposition] is consistent in his view. For R. Ela said that R. Hanina b. Papa said: Ten distinctions [of hallowed things over terumah] are taught here.[3] The former five apply both to hallowed things and to unconsecrated [food] prepared according to the purity of hallowed things: the latter [five] apply to hallowed things, but not to unconsecrated [food] prepared according to the purity of hallowed things. What is the reason? — The former five, which involve the risk of eventual violation of the law of Impurity according to the Torah,[4] the Rabbis enacted both in regard to hallowed things and in regard to unconsecrated [food] prepared according to the purity of hallowed things. The latter [five], which do not involve the risk of the eventual violation of the law of purity according to the Torah, the Rabbis enacted in regard to hallowed things, but not in regard to unconsecrated [food] prepared according to the purity of hallowed things. Raba said: Since the latter clause is based on [the rule of] interposition, the former clause cannot be based on [the rule of] interposition; and as to the former clause, the reason is this: It is a Precautionary enactment so that one might not immerse needles and hooks in a vessel the mouth of which is not the size of the spout of a skin-bottle.[5] As we have learnt: The union of immersion pools [requires a connecting stream][6] the size of the spout of a skin-bottle in breadth

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(1) Thus approximating to interposition.

(2) Actually the latter clause is required because it also contains the rule: ‘He must dry it (if it is wet)’. But this is not taken into account in our argument either because, (a) even if it were based on the principle of interposition it was held to follow from the first clause, or (b) it may be based not on the principle of interposition but on the fact that the original moisture could re-defile the garment and so render the Immersion useless.

(3) Since eleven points of difference are actually mentioned in the Mishnah, two, according to It. Ela, must be clue to the same reason and hence are counted as one.

(4) I.e., as opposed to Rabbinic degrees of purity. For an explanation of how this violation of the Torah law of purity can come about v. Rashi s.v. דררא ; for a discussion of the latter five distinctions v. Tosaf. s.v. בתרייתא .

(5) In which case the immersion would be invalid, because the water in the vessel would not be regarded as connected with the water in the immersion pool, for the minimum size of the connecting stream (as explained in the following Mishnah) must be equivalent to the area of the tube of a skin-bottle.

(6) I.e., two adjoining pools can be combined to make up the prescribed quantity of forty se'ahs of water if there is an aperture in between allowing a stream (of the size mentioned) to flow between them.

Talmud - Mas. Chagigah 22a

and in area, [namely, One in which] two fingers can make a complete revolution. Thus he [Raba] agrees with R. Nahman who said that Rabbah b. Abbuha said: Eleven distinctions are taught here: the former six apply both to hallowed things and to unconsecrated [food] which was prepared according to the purity of hallowed things; the latter [five] apply to the hallowed things, but not to unconsecrated [food] prepared according to the purity of hallowed things. What is [the practical difference] between [the explanations of] Raba and R. Ela? There is [a practical difference] between them [in the case of] a basket or a net[1] which was filled with vessels and immersed. According to the view that [the former clause] is based on [the rule of] interposition, it applies [here too]; according to the view that [the former clause] is a Precautionary enactment lest one immerse needles and hooks in a vessel the mouth of which is not the size of the spout of a skin-bottle, [it does not apply here, because] there is no basket or net the mouth of which is not the size of a skin-bottle. Now Raba is consistent in his view. For Raba said: If one filled a basket or net with vessels and immersed them, they become clean;[2] but if an immersion-pool be divided by a basket or net, then whoever immerses himself therein, his immersion is not effective,[3] for the earth is wholly perforated,[4] nevertheless we require that there should be forty se'ahs [of undrawn water] in one place. Now this applies only to a clean vessel,[5] but' [in the case of] an unclean vessel,[6] since the immersion is effective for the entire vessel itself,[7] it is effective also for the vessels which are in it. For we have learnt:[8] If one filled vessels with vessels and immersed them, these [interior vessels also] become clean.[9] But if he did not immerse [the outer vessel], then the water [in it] mingled [with the water of the immersion-pool] does not count as mingled unless [the water in the outer vessel and immersion-pool] are mingled [by a stream] the size of the spout of a skin-bottle.[10] What is the meaning of 'But if he did not immerse [the outer vessel] etc.'? — This is the meaning: But if he did not require to immerse [the outer vessel],[11] then the water [in it] mingled [with the water of the immersion-pool] does not count as mingled unless [the water in the outer vessel and the immersion-pool] are mingled [by a stream] the size of the spout of a skin-bottle. Now the point of difference between Raba and R. Ela[12] is the subject of dispute between Tannaim. For it is taught: If a basket or net was filled with vessels and immersed, they become clear both for hallowed things and for terumah. Abba Saul says: For terumah, but not for hallowed things. If so, it should apply to terumah too![13] — For whom do we state this rule]?[14] For Associates.[15] Associates know [the rules of immersion] very well. If so, it should apply to hallowed things too![16] — An 'am ha-arez may see it and go and immerse [likewise]. In the case of terumah too an 'am ha-arez may see it, and go and immerse [likewise]![17] — We do not accept it from him.[18] Let us not accept hallowed things either from him! — He would bear animosity.[19] In the case of terumah too he will bear animosity! — [In the case of terumah], he does not mind, for he can go and give it to his fellow, a priest, who is an 'am ha-arez. And who is the Tanna who takes account of animosity? — It is R. Jose. For it is taught: R. Jose said: Wherefore are all trusted throughout the year in regard to the cleanness of the wine and oil [they bring for Temple Else]?[20] It is in order that every one may not go and give and build a high place[21] for himself, and burn a red heifer[22] for himself. R. Papa said: According to whom is it that we accept nowadays the testimony of an 'am ha-arez? According to whom? According to R. Jose.[23] But should we not apprehend [the contingency] of borrowing [by an Associate]?[24] For we have learnt:[25] An earthenware vessel protects everything [therein from contracting uncleanness from a corpse that is under the same roof]:[26] so Beth hillel. Beth Shammai say: It protects only foodstuffs and liquids and [other] earthenware vessels.[27] Said Beth Hillel to Beth Shammai: Wherefore? Beth Shammai answered: Because it is unclean on account of the 'am ha arez,[28] and an unclean vessel cannot interpose. Said Beth Hillel to them: But have ye not declared the foodstuffs and liquids therein clean? Beth Shammai answered: When we declared the foodstuffs and liquids therein clean,

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(1) A wicker or network in the wine or oil Press (Jast.), used for straining; cf. A.Z. 56b.

(2) Even for hallowed things.

(3) For the requisite forty se'ahs of water are to be found in neither division, and though, through the meshes of the network, the water flows from one part of the pool to the other, this is not considered a proper connection for the reason that follows.

(4) I.e., water flows through the hollows of the earth, and water appearing at any particular spot is bound to be connected underground to some big stream elsewhere, yet this connection is not valid, for we require (as the Gemara goes on to say) forty se'ahs of water in one place.

(5) I.e., the rule that the immersion of an article in a vessel with all aperture less than the size of the mouth of a skin-bottle is invalid applies only if the outer vessel is clean, and consequently does not itself require immersion.

(6) Which itself requires immersion.

(7) Even if the vessel's mouth is less than the prescribed size, its interior is nevertheless purified by the water of the immersion-pool, for we argue that in the same manner as it became defiled so it is also purified.

(8) Heb. דתנן i.e., we have learnt in a Mishnah viz., Mi!. VI, 2. But the Mishnah text differs somewhat from the quotation here, reading as follows: ‘If a bucket filled with vessels was in immersed, they (also) become clean; but if he did not immerse (the bucket), the water (in it) does not count as mingled unless etc.’. These var. lec. made R. Samson b. Abraham of Sens (in his commentary to Mik.) conclude that our quotation was not the actual Mishnah from Mik., but a Baraitha corresponding to it. Other var. lec. are ‘and immersed it’ for ‘and immersed them’, and ‘in the mingled water’ for ‘the mingled water’. Both R. Asher b. Jehiel and R. Abraham of Sens had the second reading, the latter referring the phrase specifically to the examples of ‘mingled waters’ enumerated in Mik. V, 6, the former explaining it more generally of all instances of reservoirs united by a connecting stream. The reacting ‘the water (in it) does not count as mingled’ is undoubtedly the smoothest.

(9) I.e.,irrespective of the size of the outer vessel's mouth. This immersion is valid for terumah only (v. the Mishnah p. 133).

(10) I.e., unless the outer vessel's mouth is that size.

(11) I.e., because it was levitically clean.

(12) I.e., Raba explains the first clause of the Mishnah to be based on the rule that the unification of immersion-pools requires a connecting stream at least the size of a skin-bottle spout in thickness, and consequently articles immersed in a basket or net, the mouth of which is invariably large, can be used even for hallowed things in accordance with the first view in the Baraitha. R. Ela explains the same clause with reference to the rule of interposition, and consequently articles immersed in a basket or net, just as those immersed in any other receptacle, may be used only for terumah in accordance with Abba Saul.

(13) I.e., the prohibition against immersing vessels within vessels, according to either explanation, should apply to terumah as well as hallowed things.

(14) Concerning the immersion of vessels within vessels.

(15) V. p. 120, n. 2. The ‘am ha-arez would not even wish to know the laws of immersion, let alone observe them.

(16) I.e.,if the Mishnah applies only to Associates, who observe all the laws meticulously, why are they not permitted to immerse vessels within vessels for hallowed things?

(17) And as he cannot be trusted to observe properly the rules of immersion, the hallowed contents of the vessels would become defiled!

(18) Terumah is accepted from an ‘am ha-arez only at the seasons of wine-presses and olive-vats (v.infra 24b, and Toh.IX, 4), when all purify their vessels Properly under associate supervision (according to Rashi). or when all are regarded for the time as Associates (according to Tosaf. s.v. לא; cf. infra 26a).

(19) For were they not Jews?

(20) Wine for libations, oil for the preparation of meal-offerings.

(21) When these were prohibited: v. J.E. vol. VI, pp. 387-389 (particularly the last section, p. 389, s. ‘Rabbinic attitude’).

(22) V. Num. XIX, 2ff; cf. also R. Judah's statement (quoted in Tosaf. a.l. s. שלא , as R. Jose's) in Tosef. Hagigah III, that all are to be trusted to look after the ashes of the red heifer.

(23) But not the other Rabbis; v. Pes. 42b.

(24) I.e., should we not prohibit the immersion of vessels within vessels for terumah even by Associates, lest the ‘am ha-arez see it and do likewise (but without observing all the prescribed laws). and an Associate go and borrow the vessels from him?

(25) I.e., that it is permitted to borrow vessels from an ‘am ha-arez.

(26) l.e., if its lid is fixed on; or if the corpse is in a room below and the earthen vessel covers the hatchway between the lower room and the upper room, it protects everything in the upper chamber. Cf. Num. XIX, 15, and Oh. V, 3.

(27) Kel. X, 1.

(28) Being the vessel of an ‘am ha-arez, it is unclean to begin with, before ever it is placed over the hatching or articles are put in it.

Talmud - Mas. Chagigah 22b

we declared them clean [only] for [the ‘am ha-arez]. himself;[1] but should we [therefore] declare [also] the vessel clean, which would make it clean for thee as well as for him?[2] It is taught: R. Joshua said: I am ashamed of your words, O Beth Shammai! Is it possible that if a woman [in the upper chamber] kneads [dough] in a trough,[3] the woman and the trough become unclean for seven days, but the dough remains clean; that if there is [in the upper room] a flask[4] full of liquid, the flask contracts seven-day uncleanness, but the liquid remains clean![5] [Thereupon] one of the disciples of Beth Shammai joined him [in debate] and said to him: I will tell thee the reason of Beth Shammai. He replied, Tell then! So he said to him: Does all unclean vessel bar [the penetration of uncleanness] or not? He replied: It does not bar it. — Are the vessels of an ‘am ha-arez clean or unclean? He replied: Unclean. — And if thou sayest to him [that they are] unclean, will he pay any heed to thee? Nay, more, if thou sayest to him [that they are] unclean, he will reply: Mine are clean and thine are unclean.[6] Now this is the reason of Beth Shammai. Forthwith, R. Joshua went and prostrated himself upon the graves of Beth Shammai. He said: I crave your pardon,[7] bones of Beth Shammai. If your unexplained teachings are so [excellent], how much more so the explained teachings. It is said that all his days his teeth were black by reason of his fasts. Now it says, ‘For thee as well as for him’;[8] accordingly we may borrow from them! — When we borrow [vessels] from them, we immerse them.[9] If so, Beth Hillel could have replied to Beth Shammai: When we borrow [vessels] from them, we immerse them! — That which is rendered unclean by a corpse requires sprinkling on the third and seventh day,[10] and people do not lend a vessel for seven days. — But are they not trusted in regard to immersion?[11] For behold it is taught: The ‘am ha-arez is trusted in regard to the purification by immersion of that which is rendered unclean by a corpse! Abaye answered: There is no contradiction: the one [teaching] refers to his body,[12] the other to his vessels. Raba answered: Both refer to his vessels; but there is no contradiction: the one refers to a case where he says: I have never immersed one vessel in another;[13] the other refers to a case where he says: I have immersed [one vessel in another], but I have not immersed in a vessel the mouth of which is not the size of the spout of a skin-bottle. For it is taught: An ‘am ha-arez is believed if he says: The produce has not been rendered susceptible [to uncleanness],[14] but he is not believed if he says: The produce has been rendered susceptible [to unclean ness], but it has not been made unclean.[15] — But is he trusted in regard to his body? For behold it is taught: If an Associate comes to receive sprinkling,[16] they at once sprinkle upon him; but if an ‘am ha-arez comes to receive sprinkling, they do not sprinkle upon him until he observes before us the third and seventh day! — Abaye answered: As a result of the stringency you impose upon him at the beginning,[17] you make it easier for him, at the end.[18] THE OUTSIDE AND THE INSIDE. What is meant by THE OUTSIDE AND THE INSIDE? — As we have learnt: If the outside of a vessel was rendered Unclean[19] by [unclean] liquid,[20] [only] its outside becomes unclean; but the inside, rim, hanger[21] and handles,[22] remain clean. But if the inside became unclean,[23] the whole is unclean. AND HANDLE. What is meant by the HANDLE? Rab Judah said that Samuel said: The part by which one hands[24] it; and thus it says: And they handed[25] her parched corn.[26] R. Assi said that R. Johanan said: The part where the fastidious hold[27] it. R. Bebai recited before R. Nahman: There is no differentiation [in the case of uncleanness] between the outside and the inside of any vessel,[28] be it [for] the hallowed things of the Sanctuary,[29] be it [for] the hallowed things of the provinces.[30] Said [the latter] to him: What is meant by ‘the hallowed things of the provinces’? Terumah. But we have learnt: THE OUTSIDE AND INSIDE AND HANDLE [ARE REGARDED AS SEPARATE] FOR TERUMAH! Perhaps you mean unconsecrated food prepared according to the purity of hallowed things. [Indeed], you have recalled something to my mind. For Rabbah b. Abbuha[31] said: Eleven distinctions are taught here [in our Mishnah]: the former six apply both to hallowed things and to unconsecrated [food] which was prepared according to the purity of hallowed things; the latter [five] apply to hallowed things, but not to unconsecrated [food] prepared according to the purity of hallowed things. HE THAT CARRIES ANYTHING POSSESSING MIDRAS-UNCLEANNESS MAY CARRY [AT THE SAME TIME] TERUMAH, BUT NOT HALLOWED THINGS. Why not hallowed things? — Because of a certain occurrence. For Rab Judah said that Samuel said: Once someone was conveying a jar of consecrated wine from one place to another

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(1) The foodstuffs and liquids of an ‘am ha-arez are unclean; hence Associates would eschew them in any case.

(2) I.e., all Associate may borrow the vessel of an ‘am ha-arez. The Mishnah text differs from our own in several details. The most important var. lec. is: ‘But when thou declarest the vessel clean, thou declarest it so for thyself as well as for him,. The Mishnah then concludes: ‘Beth Hillel retracted and gave their ruling according to Beth Shammai

(3) And the hatchway leading from it to the lower room in which the corpse is lying was covered by an earthen vessel.

(4) Heb. לוגין = לגין (the usual and correct form) of the Mishnah and MS.M.; larger than a כוס (cup) and smaller than a כד (jug) — cf. Bez. 15b. Here, it would be made of metal or wood.

(5) In accordance with your view that an earthenware vessel affords no protection to anything apart from foodstuffs, liquids and earthenwares. Cf. Oh. V, 4.

(6) Because of the intransigence of the ‘am ha-arez in regard to things which cannot be purified, e.g.. foodstuffs and earthenware vessels (the latter have to be broken), therefore Beth Shammai declared them clean i.e.,for the ‘am ha-arez, only; but vessels (like the trough and the flask) which can be purified by immersion are declared unclean, for the ‘am ha-arez will in such instance, where there is a remedy pay heed to Rabbinic injunction, and purify the vessels: so Rashi. But Tosaf. (s.v. כלום), holding the view that the ‘am ha-ares never conforms to Rabbinic ruling, explains the passage in the following lines: An Associate may never use food or drinks belonging to an ‘am ha-arez, for the latter does not observe the laws of purity; hence there is no need, in our case, to declare them impure, for they do not affect Associates. But immersible vessels may be borrowed from an ‘am ha-arez, for they can be purified by immersion; hence, In our case, they have to be declared unclean so that Associates should not use them without first purifying them.

(7) Lit., ‘I humble myself to you’.

(8) V. p. 141, and cf. n. 2.

(9) Lest the ‘am ha-arez immersed them In a vessel, without observing the prescribed rules.

(10) V. Num. XIX, 18ff.

(11) For Associates we are told have to immerse any vessels borrowed from an ‘am ha-arez.

(12) For which he is trusted.

(13) In this case he is believed.

(14) I.e., by being wetted; v. p. 124, nn. 6-9.

(15) This shows that he could not be relied on in a matter which required scrupulous care, and similarly in regard to the regulation relating to the size of the mouth of the immersing vessel.

(16) Declaring that he has duly waited the first three days. Sprinkling takes place on the third and seventh day after defilement by a corpse.

(17) By not believing that he waited three days.

(18) I.e., he is trusted in regard to the immersion following the sprinklings; for this he carries out with due care, as he is anxious to complete his purification.

(19) Only in the case of vessels made of wood or metal can the outside be defiled: earthen vessels are rendered unclean only from the inside (v. Lev. XI, 33).

(20) According to the laws of the Torah only ‘a father of uncleanness’ (v. p. 134, n. 7) can defile vessels; but the Rabbis enacted that all unclean liquids should defile vessels on account of fluid issuing from a gonorrhoeist, which is a ‘father of uncleanness’ (v. Nid. 7a). In order, however, to prevent terumah or hallowed things from being burnt in consequence of contact with vessels defiled by liquids, a distinction was made to mark the Rabbinic (as opposed to Torah) character of the defilement viz. that if the outside of a vessel became thus defiled, the inside etc. should remain clean (v. Bek. 38a).

(21) Lit., ‘ear’ i.e., ear-shaped handle.

(22) Lit., ‘its hands’ = ‘place of holding’ in our Mishnah, v. p. 133, n. 4. The different parts of the vessel enumerated here have a distinct use; hence they are treated as separate utensils, and remain clean, if the outside only of the vessel be defiled.

(23) Even according to Rabbinic law only.

(24) I.e., holds it and reaches it to another.

(25) E.V. ‘reached’.

(26) Ruth II, 14.

(27) I.e., the handle. Heb. (in edd.) צובעין, prob. denominative from אצבע , ‘finger’ (cf. Aramaic צבעא) i.e., grip with fingers (v. Levy s.v.). J.T. has בית הצביעא in the Mishnah instead of our בית הצביטה ; undoubtedly, R. Johanan, the editor of the Pal. Talmud, was explaining the J.T., rather than the Babylonian reading.

According to Rashi, צובעין = מטבילין i.e., dip the food: he explains that a cavity was made in the bottom (under the rim?) of the vessel where mustard or vinegar was placed, and the food dipped there. The MS.M. reading is צובטין ; the J.T. III,1 has, ‘By which the cleanly take hold of it’; Aruch: ‘. . . drink’; v. D.S. a.I.

(28) Lit., ‘all vessels have no outside’, i.e., if the outside became defiled, the whole vessel is rendered unclean.

(29) I.e., sacrifices.

(30) I.e., sacred gifts, like terumah, which can be eaten in any part of Palestine.

(31) R. Nahman's teacher.

Talmud - Mas. Chagigah 23a

, when the thong of his sandal[1] broke, and he took it and placed it on the mouth of the jar, and It fell into the hollow[2] of the jar, which was thus rendered unclean. At that time they enjoined: He that carries anything possessing midras-uncleanness may carry [at the same time] terumah, but not hallowed things. — If so, [it should be forbidden to carry] terumah too! — This is according to R. Hananiah b. Akabia who said: They Prohibited it only on the Jordan and in a ship and according to [the circumstances of] the occurrence.[3] What is this? — It is taught: A man shall not take water of purification or ashes of purification,[4] and convey them over the Jordan in a ship, nor stand on one side [of a river] and throw them to the other side, nor float them over the water, nor ride upon all animal or his fellow, unless his feet touch the ground;[5] but one may unhesitatingly convey them over a bridge, be it across the Jordan or any other river. R. Hananiah b. Akabia says: They prohibited it only on the Jordan and in a ship and according to [the circumstances of] the occurrence. What was the occurrence? — Rab Judah said that Rab said: Once someone was conveying water of purification on the Jordan in a ship, and a [piece of a] corpse the size of an olive was found stuck in the bottom of the ship.[6] At that time they enjoined: A man shall not take water of purification and ashes of purification and convey them over the Jordan in a ship. A question was raised: [It happened with] all unclean sandal; what of a clean sandal?[7] [It happened with] all open jar, what of a closed jar?[8] How is it if a man transgressed and carried [them thus]? — R. Ela said: If he transgressed and carried [them thus], they are unclean. R. Zera said: If he transgressed and carried [them thus] they are clean. VESSELS THAT HAVE BEEN FINISHED IN PURITY etc. Who finished them? Should one say that an Associate finished them, then why do they require immersion? If, on the other hand, an ‘am ha-arez, finished them, can they be called ‘finished in purity’? — Rabbah b. Shilah said that R. Mattenah said that Samuel said: Actually, [one can say] that an Associate finished them, yet [the vessel requires immersion] lest the spittle of an ‘am ha-arez[9] [fell upon it].[10] — When could it have fallen [upon it]? Should one say, before he finished it, then it is not yet a vessel![11] If, on the other hand, after he had finished it, then he would surely take good care of them! — Actually, [one can say that it fell upon it] before he finished it, but perhaps at the time when he finished it, it was still moist.[12] [It states:] It requires [only] immersion, but not sunset;[13] our Mishnah, therefore, is not according to R. Eliezer. For we have learnt: If a [reed] pipe[14] was cut[15] for [putting therein ashes of] purification, R. Eliezer says: It must be immersed forthwith; R. Joshua says: It must [first] be rendered unclean, and then immersed.[16] Now we raised the point: Who could have cut it? Should one say that an Associate cut it, then why is im mersion required?[17] If, on the other hand, an ‘am ha-arez cut it, how can R. Joshua, in such a case, say: It must [first] be rendered unclean, and then immersed? Behold,it is already unclean! Now Rabbah b. Shila said that R. Mattenah said that Samuel said: Actually, [you can say] that an Associate cut it, yet [immersion is required] lest the spittle of an ‘am ha-arez [fell upon it]. — [Again] when could it have fallen [upon it]? Should one say before he cut it, then it is not yet a vessel! If, on the other hand, after he had cut it, he would surely take good care of it! Actually, [you can say that it fell on the vessel] before he cut it, but perhaps at the time that he cut it, it was still moist. Granted [then] according to R. Joshua, a distinction is thus made, [as a demonstration] against the Sadducees.[18] For we have learnt: They used to render the priest that was to burn the [red] heifer unclean,[19] as a demonstration against the view of the Sadducees,[20] who used to say:[21] It must be performed [only] by those on whom the sun had set.[22] But according to R. Eliezer, granted if you say that in an other cases we do require sunset,[23] a distinction is thus made [as a demonstration] against the Sadducees, but if you say that in other cases [too] we do not require sunset, what distinction is there, [as a demonstration] against the Sadducees?[24] — Rab answered:

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(1) Which possessed midras-uncleanness. J.T.: ‘his sandal got torn off’ (v. Tosaf. s.v. ונפסקה).

(2) Lit., ‘air’.

(3) I.e., R. Hananiah, taught that a Rabbinic decree consequent upon a certain incident was always restricted to the actual circumstances of the incident. In our case, the occurrence was in connection with hallowed things; therefore the Rabbinic prohibition affects only hallowed things.

(4) V. Num. XIX.

(5) Since a person travelling in a ship does not touch the ground with his feet, the Rabbis enacted that anyone carrying water or ashes of purification may not journey with his feet lifted off the ground.

(6) The moment the piece of corpse was overshadowed by a person or object, it caused all under the same covering or overshadowing to become unclean for seven days: v. Num. XIX, 14 and Oh. II, 1.

(7) I.e., does the prohibition referred to in our Mishnah extend also to a person wearing a clean sandal?

(8) Into which nothing could fall.

(9) Who, we are afraid, may be suffering from gonorrhoea, in ‘which case any fluid coming from him is a ‘father of uncleanness;’ cf. p. 143, n.6.

(10) Unobserved by the Associate.

(11) And cannot, therefore, be defiled.

(12) In Nid. VII, I, we learn that spittle etc. convey uncleanness when wet, but not when dry.

(13) Otherwise it would be specifically mentioned. Cf p. 121, n. 9.

(14) Cf. Kel. XVIII, 7.

(15) I.e., from the ground, so that it was still clean.

(16) R. Eliezer and R. Joshua agree that being a vessel, and therefore subject to defilement, the reed pipe has to be immersed and then used for the ashes of the red heifer before sunset, the underlying motive being to demonstrate against the Sadducees, who held that any thing or person to be employed in connection with the red heifer must, if unclean, first be completely purified, i.e., must wait for sunset after immersion; whereas the Rabbis held that immersion without sunset was sufficient; and although the Sadducean view in this case was stricter than the Pharisaic, the Rabbis nevertheless demonstrated against the Sadducees in order to uphold the authority of the Oral Law, which the latter repudiated. The only difference between R. Eliezer and R. Joshua is as to whether the vessel should first be defiled (and thus rendered unclean according to the Law of the Torah, which the Sadducees also recognized), or immersed forthwith (being regarded as unclean by Rabbinic enactment only). Cf. the defilement of the priest referred to on p. 147, and another demonstration against the Sadducees mentioned on p. 111.

(17) Seeing that the reed pipe is actually clean, the fact that we require its immersion without the awaiting of sunset cannot be regarded as a demonstration against the Sadducees, who postulate sunset only for the unclean; the immersion, therefore, would be pointless.

(18) For Once the reed pipe is defiled, the Sadducees require sunset In addition to Immersion.

(19) Either (according to Tosaf. who quotes the Tosef. in support) by his fellow priests laying their hands on him (for compared with him all were unclean; v. p. 121), or (according to Rashi and Maimonides) he was defiled by means of a (dead) reptile or an equivalent source of uncleanness.

(20) Lit., ‘to bring forth (the false opinion) from the heart of the Sadducces’. The Mishnah, Par. III, 7’ from which this passage is quoted, has simply, ‘because of the Sadducees’.

(21) The Mishnah text has, ‘that they should not say’, and our reading as a var. lec.

(22) V. p. 146, n. 8.

(23) I.e., that an vessels finished in purity (in circumstances as described by Rabbah b. Shila) require sunset In addition to immersion before being used for hallowed things, and that only for the ashes of the red heifer is immersion alone sufficient.

(24) We must conclude, therefore, as suggested above, that our Mishnah is not according to R. Eliezer.

Talmud - Mas. Chagigah 23b

They rendered it as though defiled by a [dead] reptile.[1] — If so. it should not render a person unclean;[2] why then is it taught: He who cuts it and immerses it requires immersion? — [You must say], therefore, They rendered it as though defiled by a corpse.If so, it should require sprinkling on the third and seventh day; why then is it taught: He who cuts it and immerses it requires immersion? [implying only] immersion, but not sprinkling on the third and seventh day! — [You must say], therefore, They rendered it as though in its seventh day after defilement by a corpse.[3] But surely it is taught: They never introduced any innovation in connection with the [red heifer![4] — Abaye answered: [It means] that they never said that a spade. [for instance]. should be rendered unclean as a seat [on which a gonorrhoeist sat].[5] As it is taught: And he that sitteth on any thing:[6] I might [have thought] that if [the gonorrhoeist] inverted a se'ah [measure] and sat upon it, [or] a Tarkab[7] [measure] and sat upon it, it should become un clean, therefore the text teaches us: And he that sitteth on any thing whereon, [he that hath the issue] Sat ... shall become unclean;[8] [meaning] that which is appointed for sitting;[9] but that is excluded In regard to which we can say, Stand up that we may do our work.[10] A VESSEL UNITES ALL ITS CONTENTS [FOR DEFILEMENT] IN THE CASE OF HALLOWED THINGS, BUT NOT IN THE CASE OF TERUMAH. Whence is this deduced? R. Hanin said: Scripture says: One golden pan of ten shekels, full of incense:[11] thus, the verse made an the contents of the pan one. R. Kahana raised an objection: [We have learnt], R. Akiba added[12] [with regard to] the fine flour[13] and the incense, the frankincense and the coals,[14] that if one who had taken an immersion that day [but had not yet awaited sunset][15] touched a part thereof, he renders the whole in valid.[16] Now this is [an enactment] of the Rabbis![17] Whence [is this proven]? — Since it teaches in the first clause: R. Simeon b. Bathyra testified concerning the ashes of purification that if an unclean person touched a part thereof, he rendered the whole unclean; and then it teaches: R. Akiba added:[18] — Resh Lakish answered in the name of Bar Kappara

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(1) I.e., you can still say our Mishnah is according to R. Eliezer, even if he holds the view that in other cases too we do not require sunset for vessels finished in purity, for here the vessel is made to assume the uncleanness of an object defiled by a (dead) reptile (in respect of communicating defilement), which object in all other cases requires sunset. Thus a distinction is made, which clearly rejects the Sadducean view.

(2) Only a ‘father of uncleanness’ can defile a person; whereas a vessel defiled by a dead reptile would be an ‘offspring of uncleanness’.

(3) I.e., as though in its seventh day after the sprinkling: it would still require immersion and could defile a person.

(4) Whereas the actual defilement of the priest (v. p. 147) does not involve any change in the laws of levitical purity. the attribution of corpse-defilement to the reed cut in purity represents a complete Innovation.

(5) A gonorrhoeist defiles an object on which he sits, making it a ‘father of uncleanness’ provided (as the following Baraitha explains) it is an object appointed for sitting. Now the Rabbis never enacted a new law in connection with the red heifer, whereby an object on susceptible to a given type of uncleanness should become susceptible to it, e.g.. that a spade should become defiled as the seat of a gonorrhoeist: in this sense they introduced no innovations. But they did not refrain from attributing to a vessel the kind of uncleanness to which it was susceptible, even though it had not actually been defiled. Thus the reed pipe, though clean, could be regarded as though defiled by a corpse, since it could be subject to corpse-defilement.

(6) Lev. XV, 6.

(7) Grk. **, terkab (for another derivation v. Jastrow s.v.) == three kabs or a half se'ah, a dry measure.

(8) Heb. יטמא ; in the verse וטמא (‘and shall be unclean’).

(9) This is deduced apparently from the word ישב (‘sat’), which, being vocalized as the imperfect instead of the perfect (ישב), can imply repeated action i.e., that it did not just happen on this one occasion that someone sat on it, but that it was customary to use it as a seat (v. Rashi here and to Lev. XV, 4). B. Epstein in Torah Temimah (ibid. N. 20) explains the deduction to be drawn from the world כלי (E.V. ‘thing but really ‘vessel, article’) i.e., an article appointed for sitting.

(10) I.e., it excludes any article which has its own specific use and was not intended as a seat.

(11) Num. VII, 14 et passim.

(12) I.e., to R. Simeon b. Bathiyra's statement (quoted infra; v. ‘Ed. VIII, 1 (Sonc. ed., p. 47).

(13) Used for a meal-offering; cf. Lev. II, 1ff.

(14) Carried by the High Priest into the Holy of Holies for the purpose of producing the cloud of incense (cf. Lev. XVI, 12); this rule of defilement did not apply to the coals gathered every day by ordinary priests. It should be noted that though frankincense and coal are ordinarily not susceptible to uncleanness, they are rendered so in this case on account of their sanctity.

(15) Which would I have completed his purification; thus, he is still partially unclean and renders invalid (though he does not defile) Terumah and hallowed things.

(16) Because the vessel unites an its contents. The point in R. Akiba's addition is either (a) that a vessel is able to unite its contents even for invalidation and not for defilement only (Bertinoro); or (b) that even flat vessels, not hollowed like a receptacle, can unite their contents (Maim. following our Gemara; v. p. 150).

(17) Whereas R. Hanin derived the rule from the Torah.

(18) R. Simeon b. Bathyra's testimony is definitely of Rabbinic origin, for from the verse quoted above one could only deduce that the rule applied to offerings on the altar, but not to the ashes of the red heifer. Since R. Akiba's statement is an addition to a Rabbinic rule, it follows that it must itself be a Rabbinic enactment.

Talmud - Mas. Chagigah 24a

: It[1] refers only to the remains of the meal-offering,[2] for according to the Torah that which requires the vessel,[3] the vessel unites, that which does not require the vessel,[4] the vessel does not unite; and the Rabbis came and decreed that even though it does not require the vessel, the vessel should unite it. Granted with regard to the fine flour, but how are the incense and the frankincense to be explained?[5] — R. Nahman answered that Rabbah b. Abbuha said: For instance, if he heaped them upon a leather spread: according to the Torah, that which has an inside[6] can unite [its contents], that which has no inside, cannot unite [them]; and the Rabbis came and enacted that even that which has no inside should unite [its contents]. Now R. Hanin's teaching win conflict with that of R. Hiyya b. Abba, for R. Hiyya b. Abba said that R. Johanan said: This Mishnah[7] was taught as a resent of R. Akiba's testimony.[8] HALLOWED THINGS BECOME INVALID [BY UNCLEANNESS] AT THE FOURTH REMOVE. It is taught: R. Jose said: Whence [is it deduced] that hallowed things become invalid [by uncleanness even] at the fourth remove? Now it is [to be deduced by] conclusion ad majus: if one who [only] needs to bring his atonement sacrifice [in order to complete his purification][9] is, whilst being permitted [to partake] of terumah, [nevertheless] disqualified for hallowed things,[10] how much more so should uncleanness at the third remove, which renders terumah invalid,[11] produce in the case of hallowed things uncleanness at the fourth remove.[12] Thus, we learn uncleanness at the third remove in respect of hallowed things from the Torah, and uncleanness at the fourth remove by means of an a fortiori argument. Whence [do we deduce] from the Torah uncleanness at the third remove in respect of hallowed things? It is written: And the flesh that toucheth a thing unclean thing shall not be eaten;[13] we are surely dealing [here with a case] where it may have touched something suffering from uncleanness [even] at the second remove,[14] yet the Divine Law says it ‘shall not be eaten ‘Uncleanness at the fourth remove by means of? an a fortiori argument’; as we have said [above]. IN THE CASE OF TERUMAH, IF [ONE HAND OF A MAN] BECAME etc. R. Shezbi said: They taught [this only] of a case where [the hands] are connected,[15] but not where they are not connect ed.[16] Abaye put an objection to him: [It is taught]: A dry [unclean] hand renders the other unclean so as to render hallowed things unclean,[17] but not terumah this is the view of Rabbi. R. Jose son of R. Judah says: so as to render invalid,[18] but not unclean. Now granted, if you say that [it refers also to] a case where [the hands] are not connected, [then the fact that the hand is] ‘dry’ is in that case remarkable; but if you say that [it refers only to] a case where [the hands] are connected, but not where they are not connected, what is there remarkable about [the hand being] ‘dry’?[19] It is also[20] taught: Resh Lakish said: They taught [this only] of his [own hand], but not of the hand of his fellow.[21]

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(1) I.e., R. Akiba's testimony.

(2) I.e.,the rule to which R. Akiba testified is certainly of Rabbinic origin; but this does not conflict with the view of R. Hanin who derives our Mishnah teaching from the Bible, for R. Akiba refers only to the remains of the meal eaten by the

Priests (v. Lev. II, 3 et passim) to which the Biblical law (as the Gemara goes on to explain) does not apply.
(3) For the service in connection therewith, e.g., the incense; v. Num. VII, 14 quoted on p. 149.
(4) E.g., the remains of the meal-offering which are eaten by the priests.
(5) Since they require the vessel, the vessel unites them according to the law of the Torah: why then are they included in R. Akiba's testimony, which refers only to Rabbinical enactments?
(6) I.e., is hollowed like a receptacle.
(7) I.e., our Mishnah.
(8) I.e., it is of Rabbinic, not of Torah origin.
(9) V. p. 135, n. 4.
(10) V. Yeb. 74b (Sonc. ed., pp. 502-3).
(11) V. Sot. 29a (Sonc. ed., p. 143).
(12) Thus rendering the hallowed things invalid. For this method of argument cf. B.K. 24bff (Sonc. ed., p. 125ff). The principle of דיו לבא מן הדין להיות כנדון (‘It is quite sufficient that the law in respect of the thing inferred should be equivalent to that from which it is derived’) discussed ibid., does not apply here, for otherwise the ‘a fortiori’ argument becomes valueless, for we know from Scripture that uncleanness at the third remove invalidates hallowed things; and those, too, who hold the principle of ‘Dayyo’ even where the purpose of the ‘a fortiori’ argument is defeated, would nevertheless not apply it here, since we are dealing only with Rabbinical not Torah degrees of impurity.
(13) With reference to the flesh of peace-offerings; Lev. VII, 19.
(14) So that the hallowed flesh (of the peace-offering) is made to suffer uncleanness at the third remove. The Gemara assumes here that the term ‘unclean thing,’ can include something suffering from second-grade uncleanness, because we find that an object possessing uncleanness at the second remove is termed ‘unclean’ by Scripture; v. Lev. XI, 33, where the vessel possesses uncleanness at the first remove and its contents, therefore, uncleanness at the second remove.
(15) I.e., the rule in the Mishnah that one hand defiles the other for hallowed things applies only (according to Rashi) to a case where the unclean hand is actually touching the clean hand at the time when the latter is in contact with hallowed things, the reason for this Rabbinic enactment being the fear lest the unclean hand touch the hallowed things. But Tosaf. (s.v. בתי בורין) explains the case to be one where the clean hand is touching the unclean hand whilst the latter is in contact with a defiling object (e.g., a sacred Scroll), and we are afraid that the clean hand may also touch the defiling object.
(16) I.e., (according to Rash), if, after the unclean hand had been removed from the clean, the latter to touched hallowed things. these would remain clean, for one hand cannot convey to the other uncleanness even at the third remove so as to render, in turn, hallowed things invalid.
(17) I.e., at the third remove: third-grade uncleanness can, in turn, produce in hallowed things fourth grade uncleanness. Unwashed hands are generally regarded as possessing uncleanness at the second remove.
(18) I.e., the second hand can convey at the third remove to hallowed things a fourth-grade uncleanness, which disqualifies them but does not enable them to defile.
(19) If the case is one in which the hands are not connected, then the fact that the clean hand, through having been previously in contact with the dry unclean hand, is able to defile hallowed things constitutes a new point of Rabbinic law, viz., that one hand possessing uncleanness at the second remove can convey to the other hand, without the help of moisture, uncleanness of the same grade; were the unclean hand wet this would not, of course, be remarkable, for since second-grade uncleanness renders liquids, by Rabbinic enactment, unclean at the first remove, the moisture on the unclean hand would in turn convey to the other hand uncleanness at the second remove. But if the Mishnah refers only to a case where the hands are connected, the fact that the hand is dry is pointless. for the defilement of the hallowed things would in that in-stance perforce have to be accounted for as a preventive prohibition lest the unclean hand touch the hallowed things (v. p. 151, n. 6). and in that case it would make no difference whether the unclean hand were wet or dry, for since it possesses second-grade uncleanness, it can defile hallowed things with uncleanness at the third remove.
(20) [MS.M. omits ‘also’ which in fact is difficult to explain.]
(21) I.e., if he touched with his unclean hand another person's hand, the latter's hand is not defiled.

Talmud - Mas. Chagigah 24b

But R. Johanan said: Be it his [own] hand or the hand of his fellow; [and] with that[1] hand he can [defile the other hand][2] so as to render [hallowed things] invalid but not unclean.[3] Whence [is this deduced]? — From the fact that [the Mishnah] teaches in the second clause that the one hand defiles the other for hallowed things but not for terumah. Why am I told this again? Behold it has already been taught in the first clause![4] You must surely infer from this that it comes to include the hand of his fellow. And Resh Lakish, too, retracted; for R. Jonah said that R. Ammi said that Resh Lakish said: Be it his own hand or the hand of his fellow, with that hand [he can defile the other] so as to render [hallowed things] invalid but not unclean. Now [whether the second hand] renders [hallowed things] invalid but not unclean is [disputed by] Tannaim. For we have learnt: Whatsoever renders terumah invalid[5] defiles the hands with uncleanness at the second remove, and one hand renders the other unclean: this is the view of R. Joshua. But the Sages say: the hands possess uncleanness at the second remove, and that which possesses uncleanness at the second remove cannot convey uncleanness at the second remove to anything else.[6] Surely, [the meaning is], it cannot convey uncleanness at the second remove, but it can convey uncleanness at the third remove![7] — Perhaps, it does not convey uncleanness either at the second or the third remove![8] --Rather [is it disputed by] the following Tannaim. For it is taught: A dry [unclean] hand renders the other unclean so as to render unclean in the case of hallowed things, but not in the case of terumah: this is the view of Rabbi. R. Jose son of R. Judah says: That hand [can defile another] so as to render [hallowed things] invalid but not unclean. DRY FOODSTUFFS MAY BE EATEN WITH UNWASHED HANDS etc. It is taught: R. Hanina b. Antigonos said: Is there [a distinction in favour of] dryness in regard to hallowed things?[9] Does not then the honour[10] in which hallowed things are held render them fit [for uncleanness]?[11] It refers only to a case where his companion[12] inserted [the consecrated food] into his mouth,[13] or he himself picked it up with a spindle[14] or whorl,[15] and he wanted to eat unconsecrated horseradish or onion with it,[16] then in the case of hallowed things the Rabbis prohibited it,[17] in the case of terumah the Rabbis did not prohibit it.[18] A MOURNER [PRIOR TO THE BURIAL OF THE DECEASED] AND ONE WHO NEEDS TO BRING HIS ATONEMENT SACRIFICE [IN ORDER TO COMPLETE HIS PURIFICATION] etc. What is the reason? — Since up till now they were prohibited [from partaking of hallowed things],[19] the Rabbis required them to take an immersion. MISHNAH. GREATER STRINGENCY APPLIES TO TERUMAH [THAN TO HALLOWED THINGS], FOR IN JUDEA[20] THEY[21] ARE TRUSTED IN REGARD TO THE PURITY OF [HALLOWED] WINE AND OIL THROUGHOUT THE YEAR;[22] AND ONLY AT THE SEASON OF THE WINE-PRESSES AND OLIVE-VATS[23] IN REGARD TO TERUMAH. IF [THE SEASON OF] THE WINE-PRESSES AND OLIVE-VATS WAS PASSED, AND ONE[24] BROUGHT TO HIM[25] A JAR OF WINE OF TERUMAH, THE LATTER MAY NOT ACCEPT IT FROM HIM. HOWEVER, [THE ‘AM HA-AREZ] MAY LEAVE IT FOR THE COMING [SEASON] OF THE WINE-PRESS.[26] BUT IF HE SAID TO HIM,[27] ‘I HAVE SET APART THEREIN A QUARTER LOG[28] AS A HALLOWED THING’,[29] HE IS TRUSTED [IN REGARD TO THE PURITY OF THE WHOLE].[30] IN REGARD TO JUGS OF WINE AND JUGS OF OIL

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(1) I.e., the first hand.

(2) [So Rash. Tosaf. (s.v. אחד fol. 24a) on the basis of another reading refers it to the hand of his fellow: ‘Be it his own hand or the hand of his fellow (that hand can defile) so as to render invalid etc.’]

(3) Resh Lakish on the other hand, holds, it appears, that the hallowed things are rendered unclean; cf. his retraction ‘Infra (v. Tosaf. ibid.).

(4) I.e., that In the case of hallowed things he must immerse both hands.

(5) I.e., any-thing suffering from second-grade uncleanness; cf. Zab. V, 12.

(6) I.e., one hand cannot convey the same grade of uncleanness to the other; this shows that R. Joshua holds the opposite view. The text in the Mishnah, apart from minor differences, omits the words ‘the hands possess uncleanness at the second remove’.

(7) Thus enabling it to invalidate terumah.

(8) I.e., the Sages may hold that since, as they observe, the hand possesses second-grade uncleanness, it cannot defile the other hand at an, so that, unlike our own mishnah, they would not accept any distinction in this respect between terumah and hallowed things. In other words, possibly the Tannaim do not differ as to whether the second hand invalidates or defiles hallowed things, but as to whether the second hand does or does not become defiled at all; on the view however that it does, an may agree with R. Joshua that it is rendered unclean at the second remove.

(9) This distinction obtains only in the case of unconsecrated food, which does not become susceptible to uncleanness till it has been once wetted (cf. p. 124, nn. 6f). R. Hanina b. Antigonos assumes that the Mishnah refers to consecrated foods and that their ‘dryness’ means that they have not yet been fitted for uncleanness.

(10) Lit., ‘love’.

(11) Following is the Tosefta reading, which differs in several respects from our passage: ‘R. H b. A. said: Is there (a distinction in favour of) dry things in regard to hallowed things? (It must refer to a case), therefore, where he picks up the cake with a spindle or a chip of wood and he eats with it an (unconsecrated) olive or onion; (it is permitted) in the case of terumah but not in the case of hallowed things’. The version of the Tosefta quoted by Tosaf. (s.v. לא) corresponds more nearly to our own, but likewise omits the sentence, ‘Does not then the honour in which hallowed things are held render them fit for (uncleanness)?’, and makes the answer appear to be part of R. H. b. A.’s statement instead of a reply by others to his question.

(12) Whose hands were leviticany clean.

(13) Because the eater's hands were not clean.

(14) Jast.: reed, especially reed used as spindle (v. Ar. s.v.); also as fork.

(15) Heb. כרכר ; Levy reads, כרכד from Grk. ** == ** (shuttle). The spindle and whorl, being small flat pieces of wood, do not come within the category of ‘Kelim’ (vessels or articles), and consequently are not susceptible to defilement.

(16) For the hands, which possess second-grade uncleanness, do not defile dry unconsecrated foods, since the latter are not susceptible to uncleanness at the third remove (V. p. 155, n. 2).

(17) Lest his hands touch the consecrated food in his mouth, or defile it indirectly by rendering the saliva unclean.

(18) Though unclean hands can invalidate terumah, the Rabbis relied on the eaters of terumah taking due care, and imposed no prohibition in this case. According to the Gemara's explanation, therefore, the Mishnah does not refer to consecrated but to unconsecrated food; and ‘dry’ does not mean that the food had not become susceptible to uncleanness, but simply that it was dry at the moment for were it wet, then the hands would convey to the liquid uncleanness at the first remove (cf. P. 152, n. 4), which would render the unconsecrated food unclean at the second remove, and the latter in turn would disqualify the terumah by conveying to it uncleanness at the third remove (so Rashi here). Another view (refuted by Rashi here, although accepted by him apparently in his note to the Mishnah) takes ‘dry’ to mean that the unconsecrated food had not yet been fitted for uncleanness.

(19) And also of Second time, but lot of terumah, v. Yeb. 68b (Sonc. ed., p. 458).

(20) V. infra p. 156.

(21) The ‘amme ha-arez.

(22) If an ‘am ha-arez set aside wine and oil for Temple use (for libations and meal-offerings respectively) during the seasons of the winepresses and olive-vats, he may be trusted in regard to their purity throughout the year (for another explanation v. Tosaf. s.v. שביהודה). For though an ‘am ha-arez, could not be trusted in respect to terumah, he could be relied up on strictly to observe the laws of purity in respect to hallowed things.

(23) When everyone can be trusted to purify his vessels: cf. Toh. IX, .

(24) V. n. 5; lit., ‘they’.

(25) I.e.,an Associate priest.

(26) And then give it to the priest.

(27) I.e., the ‘am ha-arez owner to the priest.

(28) A log == six eggs.

(29) I.e., he had put a quarter log of wine in a vessel to be used as a drink-offering.

(30) For since he is trusted in regard to the hallowed things, i.e., the drink-offering, he is also trusted in regard to the terumah.

Talmud - Mas. Chagigah 25a

THAT ARE MIXED UP,[1] THEY ARE TRUSTED DURING THE SEASON OF THE WINE-PRESSES AND THE OLIVE-VATS AND PRIOR TO [THE SEASON OF] THE WINE-PRESSES SEVENTY DAYS.[2] GEMARA. In Judea but not In Galilee: what is the reason? Resh Lakish said: Because a strip of [land inhabited by] Cutheans[3] separates them.[4] — Let it be brought then in a box, chest or turret![5] — This is according to Rabbi, who said: A tent in motion is not to be considered a tent.[6] For it is taught: One who enters Gentile territory in a box, chest or turret, Rabbi declares to be unclean, and R. Jose b. Judah to be clean.[7] — But let it be brought in an earthenware vessel fitted with a close-bound covering![8] R. Eliezer[9] said: They teach:[10] Hallowed things are not protected[11] by a close-bound covering. — But it is taught: The [water of] purification is not protected by a close-bound covering. Surely this implies that hallowed things are protected! — No, it implies that water which is not yet sanctified[12] is protected by a close-bound covering.[13] — But 'Ulla said: The Associates prepare [their hallowed things][14] in purity in Galilee![15] — They let them remain; and when Elijah comes[16] he win purify them.[17] AND ONLY AT THE SEASON OF THE WINE-PRESSES AND OLIVE VATS IN REGARD TO TERUMAH. Now we shall point to a contradiction. He[18] who finished [gathering] his olives, let him leave[19] one basket [for terumah] and give it to a poor priest![20] — R. Nahman said: There is no contradiction: the one [Mishnah][21] refers to early-ripening [olives],[22] and the other refers to later ripening [olives].[23] Said R. Adda b. Ahaba to him: Which [are caned late-ripening]? Like those of your fathers. R. Joseph said: They taught this of Galilee.[24] Abaye put an objection to him: Transjordania and Galilee are like Judea: they are trusted [there] In regard to the wine during the wine-season, and in regard to the oil during the oil-season; but not in regard to the wine during the oil-season, and not in regard to the oil during the wine-season? — The best [explanation],[25] therefore, is that which was given at first.[26] IF [THE SEASON OF] THE WINE-PRESSES AND OLIVE-VATS WAS PASSED, AND ONE BROUGHT TO HIM A JAR OF WINE OF TERUMAH, THE LATTER MAY NOT ACCEPT IT FROM HIM. HOWEVER, [THE 'AM HA-AREZ,] MAY LEAVE IT FOR THE COMING [SEASON] OF THE WINE-PRESS. R. Shesheth was asked: If [the priest] transgressed and accepted It, may he leave it for the next [season of the] winepress?-He answered them: Ye have learnt it:

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(1) Explained in Gemara (p. 161) to mean that unconsecrated wine terumah and drink-offering are mixed together, though, as a rule, the expression is a technical term for the admixture of secular produce with terumah in proportions sufficient to make the whole prohibited to non-priests. המדומעות In ('mixed up') is f. pl. part. pu'al, from (pi'el), denom. of דמע == '(sacred) fruit', from rt דמע == 'flow, weep'; cf. Ex. XXII, 28.

(2) When it is customary to begin purifying the vessels for the wine. Though normally the 'am ha-ares is not trusted in regard to his jugs even during the vat-season, in this case he is trusted, because he is believed in regard to the drink-offering therein; v. p. 161, n. 1.

(3) I.e., Samari-tans; v. II Kings XVII, 24, 29, and J.E. vol. IV, p. 398. For the Talmudic attitude to Samaritans, v. /.E. vol. X, p. 672f (s. Religion). For censorial influence on word, v. last, s.v. כותי .

(4) The Sages declared heathen territory to be unclean, for fear of defilement by an undiscovered grave; v. Shab. 14b-15a. Thus even Associates could not bring sacred things (e.g., libations) from Galilee to the Temple, which was in Judah.

(5) I.e., a kind of chest or case. These receptacles, it is held, could protect their contents against defilement.

(6) I.e., such a receptacle. technically termed a tent, does not protect its contents from defilement.

(7) V. Naz. 55a (Sonc. ed., p. 204 notes).

(8) V. Nun,. XIX, 15.

(9) Read with MS.M.: R. Eleazar.

(10) Heb. שונין an unusual expression for a Baraitha teaching, for which the most common formula is תניא (it is taught).

(11) Lit., 'delivered', . sc. from defilement.

(12) I.e., the ashes of the red heifer had not yet been put in.

(13) And may afterwards be used with the ashes for sprinkling.

(14) I.e., their wine and oil for Temple use (Rashi).

(15) Which, Implies that there is a way of transporting them in purity to the Temple.

(16) Rashi reads, 'Maybe Elijah win come'. For the concept of Elijah as the solver of an religious controversies and legal disputes v. Men. 45b; Ab. R. N. xxxiv; Num. l lab. III, near the end. For the general Rabbinic concept of Elijah v. J.E. pp. 122-127.

(17) I.e., reveal a path by 'which the hallowed things can be brought, which does not lead through heathen territory. [The

Associates, accordingly, who lived during the Temple times and who were anxious to express their devotion, to it, would prepare their wine and oil in purity in the expectation that Elijah might come and direct them, through a clean path enabling them to bring these to the Temple. Rashi, Nid. 6b, refers this to the period after the Destruction of the Temple, when the Associates would follow this practice in the expectation that the Temple might be rebuilt in their days.]

(18) I.e., an ‘am ha-arez.

(19) Var. lec., ‘and left’.

(20) Heb. לעני (ה)כהן (this reading is supported by Maimonides) i.e., the ‘am ha-arez, must give the olives to the priest before they become susceptible to uncleanness, so that the priest may prepare the olive-oil himself in purity. A poor priest is mentioned, because a rich one would not accept such terumah, as he would not wash to bother himself with the pressing of a small quantity of olives. But ‘Aruk and Tosaf and so apparently Rashi (v. Tosaf.) read, לעיני הכהן , ‘in the presence of the priest , I.e., so that the priest may be sure that the olives have not been rendered susceptible to uncleanness. According to either reading this Mishnah snows that the ‘am ha-arez is not to be trusted even during the season, and thus contradicts our own Mishnah.

(21) I.e., our own.

(22) Which are gathered at the normal season: consequently the ‘am ha-arez is trusted.

(23) Since these are gathered after the normal season, the ‘am ha-ares is no longer trusted in regard to terumah.

(24) The second Mishnah (Toh. IX, 4), according to which the ‘an ha-arez not to be trusted at all, refers to Galilee, whereas our own Mishnah according to which the ‘am ha-ares is to be trusted during the proper season, expressly refers to Judah. Tosaf. a.I. explains that the Galileans were rich and produced so much olive oil that their season continued much later.

(25) Lit., ‘the white (explanation)’.

(26) I.e., R. Nahman's.

Talmud - Mas. Chagigah 25b

If an Associate and an ‘am ha-arez inherited [jointly] from their father, who was an ‘am ha-arez, [the Associate] may say to the other: ‘Take thou the wheat that is in one place, and I [shall take] the wheat that is In the other place; [or] take thou the wine that is in the one place, and I [shall take] the wine that is in the other’. But he may not say to him: ‘Take thou the liquid [produce] and I [shall take] the dry;[1] [or] take thou the wheat and I [shall take] the barley’,[2] And it is taught with , regard to this: That Associate burns the liquid [produce][3] and leaves the dry. Why now? Let him leave it for the coming [season of the] wine-press! — [It refers] to something which has no pressing [season].[4] — Let him leave it then for the [next] Festival![5] — [It refers] to something which cannot be kept till the Festival. BUT IF HE SAID TO HIM, I HAVE SET APART THEREIN A QUARTER LOG AS A HALLOWED THING’, HE IS TRUSTED [IN REGARD TO THE PURITY OF THE WHOLE]. We have learnt there: Beth Shammai and Beth Hillel agree that for the purpose of preparing the Passover sacrifice one may investigate [a field containing a ploughed grave],[6] but not for the purpose of eating terumah.[7] What is meant by ‘investigate’? — Rab Judah said that Samuel said: A man blows [on the ground][8] of a Beth ha-Peras[9] [grave area] and proceeds. But R. Hiyya b. Abbah in the name of ‘Ulla said: A Beth ha-peras which has been trodden is clean.[10] In the case of those who go to prepare the Passover sacrifice, [the Sages] did not maintain their enactment[11] where kareth [extinction][12] was involved; in the case of those who go to eat terumah, they maintained their enactment where death [at the hands of Heaven] was involved.[13] A question was asked: If one investigated [a Beth Peras] for his Passover sacrifice, may he [also] eat his terumah? Rabbah b. ‘Una said: If one investigated [a Beth Peras] for his Passover sacrifice, he may not [also] eat his terumah. Said an old [scholar] to him: Do not dispute with ‘Ulla, for we have learnt according to his view: BUT IF HE SAID TO HIM, ‘I HAVE SET APART THEREIN A QUARTER-LOG AS A HALLOWED THING’, HE IS TRUSTED [IN REGARD TO THE PURITY OF THE WHOLE]. Thus, since he is trusted in regard to hallowed things, he is trusted also in regard to terumah.[14] Likewise In our case, since he is credited [to be clean] in regard to the Passover sacrifice, he is credited [to be clean] also in regard to terumah. IN. REGARD TO JUGS OF WINE AND JUGS OF OIL etc. A Tannna taught: They are not trusted either in regard to the casks or in regard to the terumah. Casks of what? If they are casks of hallowed things, then since they are trusted in regard to the hallowed things, they are to be trusted also in regard to the casks! If, on the other hand, they are casks of terumah, this is obvious? For if they are not trusted in regard to terumah, are they to be trusted in regard to the casks! it must refer, therefore, to empty [casks] of hallowed things[15] at any time of the year,[16] or to full [casks] of terumah at the time of the vats.[17] We have learnt: IN REGARD TO JUGS OF WINE AND JUGS OF OIL THAT ARE MIXED UP: surely [it means] mixed up with, terumah![18] — The School of R. Hiyya said: [It means] mixed up with hallowed things. — But does 'mixing up' obtain in the case of hallowed things?[19] The School of R. Ila'i said: It is a case where he prepares his untithed produce[20] in purity in order to take therefrom drink-offerings.[21] PRIOR TO [THE SEASON OF] THE WINE-PRESSES SEVENTY DAYS. Abaye said: From this is to be deduced that it is obligatory on the aris [tenant][22] to see to the provision of the jugs seventy days before the pressing-season.

MISHNAH. FROM MODI'IM[23] INWARDS[24] [THE POTTERS] ARE TRUSTED IN REGARD TO EARTHENWARE VESSELS; FROM MODI'IM OUTWARDS THEY ARE NOT TRUSTED.[25] FOR INSTANCE: IF THE POTTER WHO SELLS THE POTS ENTERED[26] INWARDS OF MODI'IM, THEN THE SAME POTTER[27] IN REGARD TO THE SAME POTS[28] AND IN REGARD TO THE SAME BUYERS[29] IS TRUSTED. BUT IF HE WENT OUT [FROM MODl'IM OUTWARDS] HE IS NOT TRUSTED.

GEMARA. A Tanna taught: Modi'im [itself] is sometimes [considered] as inwards, sometimes as outwards. For instance: If the potter is going Out and the Associate is coming in,[30] it is [considered] as inwards.[31] If both are coming in

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(1) The former being susceptible to uncleanness, but not the latter.

(2) In regard to each kind of produce, the Associate may chose for himself the produce that has not been rendered susceptible to uncleanness, or which he knows still to be clean. But he is not entitled to exchange one kind of produce for another11 the heritage, and by so doing he would transgress Lev. XIX, 14, ('nor put a stumbling-block before the blind'). The principle (as Rashi explains) on which this Mishnah is based is that of ברירה (retrospective selection or designation; v. last. s.v.), which applies to different parts of the same produce, but not to different kinds of produce, because on the father's death a share in each kind of produce comprising the heritage falls in each heir.

(3) I.e., if he is a priest and inherits oil which is terumah, he nay use it for kindling his lamp.

(4) I.e., no special manufacturing season, e.g., beer or meat. According to this explanation, 'burn' means 'destroy'.

(5) When the produce of the 'am ha-arez, is considered clean: v. pp, 165-6.

(6) I.e., if a man who is going to prepare his Passover sacrifice must traverse a field containing a ploughed grave, he may walk through the field provided he investigates his path so as to avoid defilement by contact with splintered bones; for bones from the size of a barley grain (unless they comprise a quarter-kab of the larger bones or the greater number of the bones, when they defile in accordance with the law of tent-covering'; v. p , 56, n. 6 and Oh. II, 1) defile only when touched or carried.

(7) Investigation cannot be relied upon; v. p, 160, n. 5.

(8) In order to blow away from his path any bone-splinters large enough to de-file by contact (v. supra, n. 6): the bigger bones he would see and avoid.

(9) פרס == 'half' sc. furrow (cf Tosef. Neg. VII, 10, where Peras == 'half a loaf'. בית פרס (the area of, i.e., a square, Peras) is a technical term for a field, the area of fifty square cubits (a square halffurrow) rendered unclean on account of crushed bones carried over it from a ploughed grave; v. M.K. 5b and D.S. a.l. note; Oh. XVII, 1 where ten cubits represents the size of the full furrow; and Nid. 57a. The above explanation of Beth Peras follows Jastrow's view (v. Dict. s. פרס) and adopts the reading חצי מענה ('half a furrow') instead of the usual reading מלא מענה ('a full furrow') In M.K. 5b. I Rashi (to Nid. 57a) explains Peras from rt. meaning 'to break' i.e., an area of crushed bones; Maim. (to Oh. XVII) from rt. meaning 'to extend' i.e., area of extension; v. also Levy s.v.

(10) It should be investigated then by seeing whether it has been trodden or not.

(11) The uncleanness of a Beth Peras is a Rabbinic law.

(12) כרת = הכרת (Niph. infin.), 'to be cut off'; cf. the recurrent Pentateuchal formula, 'that soul shall be cut off from among his people’. It is a term for divine punishment (opp. to מיתה capital punishment) incurred for thirty-six kinds of transgression (v. Ker. I, 1), including neglect to offer the Passover sacrifice at the proper time; v. Num. IX, 13. The nature of the punishment is variously explained: (a) childlessness (Rashi to Shab. 25a, s. וכרת); (b) premature death (M .K. 28a); (c) extinction of soul (Sanh. 64b). Maim. (Teshubah Ch. VIII) holds that kureth means that the soul perishes completely; but this view is controverted by Nahmanides (Comm. to Pentateuch end of אחרי).

(13) E.g., for wittingly eating terumah when he was unclean. Kureith is the severer penalty; nevertheless the Rabbis waived their enactment regarding a Beth Peras in the case of the Passover sacrifice, because it has a fixed time. But in the case of terumah, for the eating of which there is no fixed time, the priest must either avoid the Beth Peras by taking a longer route, or else if he traverses it, he must purify himself in accordance with the law of corpse-defilement, before partaking of the terumah (cf. our passage in Pes. 92b with Rashi and Tosaf. a.l.).

(14) For it would be unseemly that part of the wine should be offered as a libation, whilst another part, intended as terumah, should be considered unclean.

(15) Once the hallowed contents have been emptied out, the ‘am ha-arez cannot be relied upon in regard to the purity of his vessels. —

(16) In regard to hallowed things, there is no distinction between the vat-seasons and the rest of the year.

(17) Though the ‘am ha-ares was trusted at the appropriate pressing-season in regard to the terumah, in order that the Associate priests might not be deprived of the greater part of their dues, he was not trusted in regard to the vessels (cf. p. 163, ‘And do not wonder, etc.’). Thus the priest could not accept the terumah in the original vessels, but had to empty it into his own.

(18) And yet he is trusted, the Mishnah tells us, in regard to the vessels! V. p. 156, n. 6.

(19) ‘Mixing up’ necessarily obtains in the case of terumah, because an untithed produce contains a part which must event many be set apart as terumah; but not so hallowed things, which have not perforce to be separated from the untithed produce. V. next note.

(20) Heb. tebel i.e., produces in that stage in which the separation of levitical and priestly shares respectively is required before one may partake of them; eatables forbidden pending the separation of sacred gifts. tebel, however, is not subject to tithes until it is brought home (Jast. s.v. טבל).

(21) I.e., unconsecrated produce, hallowed produce, and terumah are all mixed together; and since he is trusted in regard to the hallowed produce, he is also trusted in regard to both the terumah and the vessels on the principle explained on p. 161, n. 1.

(22) A sub-farmer who tills the owner's ground for a given share in the produce.

(23) In Mishnah edd., Modi'ith; also occurs as Moda'ith and Modi'im. V. I Macc. II,1. Described in pes. 93fi (q.v.) as fifteen mil — each of two thousand cubits or three thousand five hundred feet — from Jerusalem. Perhaps it is to be identified with the modern Amdiyeh, seventeen miles north-west of Jerusalem.

(24) I.e., towards Jerusalem.

(25) l.e., potters, who are ‘amme ha-arez are trusted within this radius from Jerusalem in regard to small, essential earthenware vessels like pots and cups, because no furnaces, whether for pottery or lime, were permitted in Jerusalem on account of the smoke.

(26) Note the var. lec. in the Gemara quotation (v. p. 163, n. 4).

(27) I.e., who brought the vessels inwards of Modi'im; but should be transfer them to another potter (who is an ‘am ha-ares) they may not be purchased.

(28) I.e., which the potter himself bought; but he is not trusted in regard to vessels he may have acquired from a local potter.

(29) I.e., only if the Associate buyers themselves saw the potter bring the vessels in, may they buy them from him.

(30) I.e.,if the potter enters Modi'im from inwards and the Associate from out-wards.

(31) As the potter is leaving the inward area, the Associate is permitted to buy from him, in order that he should not be left without vessels.

Talmud - Mas. Chagigah 26a

or both are going Out [it is considered] as outwards.[1] Abaye said: We have also learnt [accordingly]: IF THE POTTER WHO SOLD THE POTS ENTERED INWARDS OF MODI'IM.[2] Thus, it is only because it is inwards of Modi'im [that he is trusted], but in Modi'im itself he is not trusted. Consider now the latter part [of the Mishnah]: IF HE WENT OUT, HE IS NOT TRUSTED. THUS, IN MODI'IM ITSELF HE IS TO BE TRUSTED! It is clearly, then, to be deduced from this, that, in the one case,[3] the potter is going out and the Associate is coming in; In the other case, both are going out or both are coming in. Proven. A Tanna taught: They are trusted [only] in regard to small earthenware vessels for hallowed things.[4] Resh Lakish said: only if they can be taken in one hand. But R. Johanan said: Even if they cannot be taken in one hand. Resh rakish said: They taught this Only of empty [vessels], but not of fun ones. But R. Johanan said: Even of fun ones, and even if his head-covering[5] is in it. Raba said: But R. Johanan admits that the liquid itself is unclean.[6] And do not wonder at the [anomaly] for in the case of a jar full of liquid, the jar is unclean for seven days, but the liquid is clean.[7] MISHNAH. IF TAX-COLLECTORS ENTERED A HOUSE,[8] AND SIMILARLY IF THIEVES RESTORED [STOLEN] VESSELS[9] THEY ARE BELIEVED IF THEY SAY: WE HAVE NOT TOUCHED [ANYTHING]'.[10] AND IN JERUSALEM THEY[11] ARE TRUSTED IN REGARD TO HALLOWED THINGS,[12] AND DURING A FESTIVAL[13] ALSO IN REGARD TO TERUMAH.

GEMARA. Now we shall point to a contradiction: If tax collectors entered a house, the whole house is rendered unclean![14] — There is no contradiction: In the one case, a Gentile was with them;[15] in the other case, there was no Gentile with them. For we have learnt: If a Gentile is with them, they are believed if they say, 'We have not entered [at all]'; but they are not believed if they say, 'We entered but we did not touch [anything]'. — What difference does it make if a Gentile be with them? R. Johanan and R. Eleazar [explain it]: one says, They are afraid of the Gentile;[16] the other says. They are afraid of the Government.[17] What is the practical difference between then? — There is [a practical difference] between them when the Gentile is not of high standing.[18] AND SIMILARLY IF THIEVES RESTORED [STOLEN] VESSELS. Now we shall point to a contradiction: If thieves entered a house, It is not rendered unclean, except for the place where the feet of the thieves have trodden![19] — R. Phinehas said in the name of Rab:[20] [The Mishnah speaks of a case] when they have repented.[21] It is moreover to be deduced, for [the Mishnah] teaches: [If the thieves] restore the vessels.[22] Proven. AND IN JERUSALEM, THEY ARE TRUSTED IN REGARD TO HALLOWED THINGS. A Tanna taught: They are trusted in regard to large earthenware vessels for hallowed things.[23] Why an this?[24] — Because no furnaces were erected in Jerusalem.[25] AND DURING A FESTIVAL ALSO IN REGARD TO TERUMAH. Whence is this deduced? — R. Joshua b. Levi said: Scripture Says: So all the men of Israel were gathered against the city, associated[26] as one man:[27] thus the verse made them an Associates.[28] MISHNAH. IF [AN ASSOCIATE] OPENED HIS JAR [OF WINE] OR BROKE INTO HIS DOUGH [TO SELL THEM] ON ACCOUNT OF THE FESTIVAL,[29] R. JUDAH SAYS,[30] HE MAY FINISH [SELLING THEM AFTER THE FESTIVAL];[31] BUT THE SAGES SAY, HE MAY NOT FINISH.[32] GEMARA. R. Ammi and R. Isaac Nappaha[33] sat in the anteroom[34] of R. Isaac Nappaha. One began and said: May he leave it for another Festival?[35] — Said the other to him: The hands of an touch it, and you say, Leave it for another Festival! Said the former: Did not, till now, the bands of an touch it?[36] — [The other] replied to him: What a comparison! It is alright up to now, because the Divine Law purified the uncleanness of the 'am ha-arez a during the Festival, but now it is unclean [retrospectively].[37] Shall we say that Tannaim differ thereon?[38] For one [Baraitha] taught: He may leave it for another Festival; and another [Baraitha] taught: He may not leave it for another Festival. Sure]y, Tannaim differ thereon! — No; the one [Baraitha], which teaches that he may leave it, is according to R. Judah; the other which teaches that he may not leave it, is according to the Rabbis. But can you possibly think so! Behold, R. Judah said: He may finish [selling them]![39] — Rather, [the Baraitha] which teaches that he may not leave it is according to R. Judah, and the one that teaches that he may leave it is according to the Rabbis:[40] and 'he may not leave it' means that there is no need for him to leave it.

MISHNAH. AS SOON AS THE FESTIVAL WAS OVER, THEY CLEARED UP[41] FOR THE PURIFICATION OF THE TEMPLE COURT, IF THE FESTIVAL TERMINATED ON FRIDAY, THEY DID NOT CLEAR UP ON ACCOUNT OF THE HONOUR DUE TO THE SABBATH.[42] R. JUDAH SAID: NEITHER ON THURSDAY,[43] FOR THE PRIESTS WERE NOT [YET] FREE.[44] GEMARA. A Tanna taught: For the priests were not [yet] free from [the prior duty of] removing the ashes.[45] MISHNAH. HOW DID THEY CLEAR UP FOR THE PURIFICATION OF THE TEMPLE COURT? THEY IMMERSED THE VESSELS WHICH WERE IN THE TEMPLE, AND THEY USED TO SAY TO THEM:[46] ‘TAKE HEED

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(1) In the first case, the Associate must wait till the potter comes inwards of Modi'im; in the second case, since the Associate did not avail himself of the opportunity of buying before he reached the city, he may no longer do so. It follows, a foriori, that if the Associate is going outward and the potter coming inward, that the former must return and buy his vessels in the inward area.

(2) V. supra p. 162, n. 5.

(3) I.e., the latter.

(4) I.e.,the statement in the Mishnah that from Modi'im inwards the potters are trusted in regard to earthenware vessels, refers only to small vessels for hallowed things, which are essential to the pilgrims, but not to large vessels like wine jars, which may be bought only in Jerusalem itself (v. p. 165).

(5) אפיקרסותו ; also אפקרסותו אפקרסין ; cf. Peshita to Judg. XIV, 2 for Heb. סדינים , Goldschmidt trails: ‘Kopfhulle’; Levy, ‘Hulle’; Jast., ‘underwear’. Rashi annotates: Even if they are fun of his own liquid, which is not hallowed! Whatever the exact signification of the word, the general meaning is clear: even if his profane things are in it, the vessel is considered clean; (v. however, D.S. II. 40). MS.M. has: ‘Even if his head-covering fell therein

(6) Though the containing vessel is clean.

(7) V. p. 141, nn. 4-5.

(8) I.e., if Jewish tax-collectors, acting on behalf of a non-Jewish government. entered a Jewish house in order to seize pledges for the taxes due. Cf. Toh. VII, 6.

(9) Or simply ‘articles’.

(10) I.e., they are trusted in regard to hallowed things but not terumah; so Rashi, who regards the whole of our Mishnah as a further exemplification of leniency in regard to hallowed things as compared with terumah (v. p. 155f); the Tosef., that he quotes in support of his view, corresponds to the reading in our edd. Tosaf. (s.v. הגבאין), on the other hand, refers the Mishnah to terumah as well and quotes in support a different version of the same Tosef. statement.

(11) I. e., the ‘amme ha-arez.

(12) V. Gemara infra p. 165.

(13) When an are considered to be clean; cf. p. 165, n. 11 and p. 166.

(14) I.e., an the utensils are to be regarded as unclean, for it is to be presumed that the tax-collectors touched them.

(15) I.e., in the latter case, the tax-collectors are not believed if they say that they have not to touched, because they are bound, in the presence of the Gentile, to have searched everything.

(16) Lest he punish them.

(17) Lest the Gentile inform against them.

(18) In which case he himself has not the power to punish them, but he is able to inform against them.

(19) Now if the place on which they stood is unclean, then certainly the vessels they took and are now returning must be unclean!

(20) In Yeb. 22b, R. Papa; in B.M. 62a, Raba; in B.K. 94b and Sanh. 85a simply: As R. Phinehas said.

(21) I.e., only if, in consequence of their repentance, they restored the stolen vessels, are they believed, in accordance with our Mishnah, if they say that they have not been touched.

(22) Showing their repentance.

(23) And, a fortiori, in regard to small vessels. The J.T. distinctly states that they are trusted in regard to the purity of an vessels for hallowed things.

(24) The question refers also to the regulations regarding small vessels contained in the preceding Mishnah (p. 162).

(25) For making either small or large vessels. Consequently, permission was granted to buy vessels from the ‘am ha-arcs. In the case of small vessels, which were in greater demand, the permission was extended to a fifteen mile radius round Jerusalem; in the case of large vessels, purchase was permitted only in Jerusalem.

(26) E.V. ‘knit together’.

(27) Judg. XX, 11.

(28) Similarly, at Festivals when all the men of Israel were gathered', they were to be regarded as Associates.
(29) Although the goods are touched by 'amme ha-ares, they remain clean throughout the Festival (cf. p. 164, n. 6).
(30) The order of the disputants is reversed in Rashi.
(31) Otherwise the vendors win be discouraged from sending their goods, and the pilgrims will not have sufficient food; v. Bez. 11b.
(32) I.e., he may not send the goods, because they are considered unclean retrospectively (v. infra n. 8 and cf. next Mishnah).
(33) I.e., 'smith'.
(34) Lit., 'curtain'; 'curtained enclosure'.
(35) The question refers to the view of the Sages in the Mishnah, i.e., may the goods be kept till the following Festival, when again an are regarded as clean?
(36) I.e., during the Festival so many amme ha-arez touched it, and yet it is considered clean throughout the festive period.
(37) An Associate may never sell unclean goods; and although throughout the Festival the goods were held to be clean, immediately after the Festival the concession ceases, and the goods become retrospectively unclean, because they were touched by 'amme ha-arez.
(38) I.e., on the question raised above as to whether the wine etc. may be left for another Festival.
(39) After the Festival and need not leave them over for the next Festival.
(40) Rashi reverses the order of the disputants; cf. p. 165, n. 12.
(41) Lit., 'removed', sc. the utensils, which, having been touched during the Festival by 'amme ha-arez, now become retrospectively unclean.
(42) Every priest had to make preparations for the Sabbath, in his own home.
(43) But waited tin after the Sabbath.
(44) V. Gemara.
(45) Which, were piled up during the whole of the Festival in the centre of the altar, called Tappuah (Apple); v. Tam. II, 2.
(46) I.e., to the 'amme ha-arez priests who went to prostrate themselves in the Hekal (i.e., the Holy Hall where the golden altar etc. stood). Ordinary Israelites, on the other hand, were not permitted to pass even between the Entrance Hall and the altar.

Talmud - Mas. Chagigah 26b

THAT YE TOUCH NOT THE TABLE [AND THUS RENDER IT UNCLEAN]'.[1] ALL THE VESSELS THAT WERE IN THE TEMPLE HAD SECOND AND THIRD SETS, SO THAT IF THE FIRST WERE RENDERED UNCLEAN, THEY MIGHT BRING A SECOND SET IN ITS PLACE. ALL THE VESSELS THAT WERE IN THE TEMPLE REQUIRED IMMERSION,[2] EXCEPT THE ALTAR OF GOLD[3] AND THE ALTAR OF BRONZE,[4] FOR THEY WERE ACCOUNTED AS THE GROUND:[5] THIS IS THE VIEW OF R. ELIEZER. BUT THE SAGES SAY: BECAUSE THEY WERE OVERLAID [WITH METAL].[6]

GEMARA. A Tanna taught: 'Take heed lest ye touch the Table or the Candlestick'. — Why does not our Tanna mention the Candlestick? — In connection with the Table, there is written [the word] 'Tamid' [perpetual];[7] in connection with the Candlestick, there is not written [the word] 'Tamid'.[8] And the other [Tanna]?[9] — Since it is written: And the Candlestick over against the Table,[10] it is as though [the word] 'Tamid' were written in connection there-with.[11] And the other [Tanna]?[12] -That [verse] comes merely to fix its place. But I can, [on the contrary,] deduce it[13] from the fact that [the Table] is a wooden utensil made for resting [things on it],[14] and any wooden utensil made for resting [things on it] is not subject to uncleanness! — What is the reason? — We require it to be like a sack:[15] Just as a sack is movable both fun and empty, so everything that is movable both full and empty [is susceptible to uncleanness].[16] This, too, is movable both fun and empty. As Resh Lakish [said]: for Resh Lakish said: What is the meaning of the verse, Upon the clean, table?[17] , The inference is that it is susceptible to uncleanness. But why? It is a wooden utensil made for resting [things on it], and cannot, therefore, contract unclean ness! It teaches, therefore, that they used to lift it and show thereon to the Festival pilgrims the showbread, and to say to them: Behold the love in which you are held by the Omnipresent; it is taken away as [fresh as] it is set down. For R. Joshua b. Levi said: A great miracle was Performed in regard to the showbread: As [fresh as] It was when set down, so was it taken away. For it is said: To put hot bread it the day when it was taken away.[18] But I can deduce this[19] from the fact that it is overlaid![20] For behold we have learnt: If a table or a side-table[21] was damaged,[22] or was overlaid with marble,[23] but room was left[24] for setting cups thereon,it remains susceptible to uncleanness.[25] R. Judah said: There must be room [also] for Setting Portions [of food thereon].[26] And should you say, Acacia wood[27] is valuable and is not nullified [by the plating], this would be quite right according to Resh Lakish, who said: They taught this[28] only of utensils of common wood,[29] which come from overseas, but utensils of polished wood[30] are not nullified But what can one say according to R. Johanan, who said: Even vessels of polished wood become nullified [by the plating]? And should you say: The one [Mishnah] refers to a fixed[31] covering, the other to a covering that is not fixed,[32] behold Resh Lakish asked R. Johanan: [Does it[33] apply only] to a fixed covering, or [also] to a covering that is not fixed? [Only] to overlaid rims, or [also] if the rims are not overlaid? And he answered him: It makes no difference whether the covering is fixed or the covering is not fixed; whether the rims are overlaid or the rims are not overlaid! Rather, [must you say], the Table is different

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(1) I.e., the table of the showbread, which could not be removed for immersion since the showbread was to he on it continually, v. Gemara. Some texts add: ‘And the Candlestick’; but v. p. 168.

(2) On account of the uncleanness contracted during the Festival.

(3) V. Ex. XXX, 1ff.

(4) V. Ex. XXVII, 1ff and I Kings VIII,64.

(5) Utensils of earth are not susceptible to uncleanness;.v. pp. 170- 171 and cf. Sheb. X, 7; Uk, III, 10.

(6) Explained infra 27a; cf. Kel. XI, 2, 4, 6.

(7) V. Ex. XXV, 30 (‘always’).

(8) Actually, the word ‘Tamid’ is used of the Temple lamp (cf. Ex. XXVII, 20, ‘to cause a lamp to burn continually’); but, as Rashi points out, it has not the same meaning when applied to the Candlestick as when applied to the Table. In the case of the latter, ‘perpetual’ means ‘day and night’, for the showbread remained on the Table from Sabbath to Sabbath. In the case of the former, it merely means ‘every night’, as the expression from evening unto morning’ (ibid. XXVII, 21) indicates (v. Men. 89a); thus, the Candle-stick could be removed during the day. For a similar use of the word ‘Tamid’ cf. Ex. XXIX, 38 and Lev. VI, 13. For the difficulty raised by the statement in Tam. 30b that the western lamp of the Candlestick burned an day, v. Tosaf. a.I. (s.v.מנורה).

(9) I.e., why does the Tanna of the Baraitha include the Candlestick?

(10) Ex. XXVI, 35.

(11) I.e., the meaning of the verse is — so.long as the Table is there so long must the Candlestick be over against it.

(12) I.e., why does the Tanna of our Mishnah exclude the Candlestick?

(13) I.e., the insusceptibility of the Table to uncleanness.

(14) So Jast. and Levy; But Rashi explains: a wooden utensil intended to rest in one place; and Goldschmidt translates: ‘Ein ruhendes Holzger_t’.

(15) I.e., in order to be susceptible to uncleanness, we require a wooden utensil to be like a sack, for they are mentioned together in one verse (Lev. XI, 32) in respect of defilement.

(16) This would exclude wooden vessels not intended to be moved at all or such as cannot be moved when fun because of their liability to break i.e., a vessel containing forty se'ahs of liquid or two kors of dry goods.

(17) Lev. XXIV, 6.

(18) I Sam. XXI, 7. I.e., it was still ‘hot breath in the day when it was taken away’.

(19) I.e., that the Table was susceptible to uncleanness even though intended for resting things on it (or to rest in one place).

(20) With gold; since metal utensils are not likened to a sack, they are susceptible to defilement even if they are not intended to be moved.

(21) דולפקי (delphica, sub. mensa) a three-legged table used as a toilet table or a water, contrad. from שלחן (eating table); (last.).

(22) If it is so damaged as to be useless for its original purpose, it becomes insusceptible to uncleanness.

(23) Stone vessels are not susceptible to uncleanness.

(24) I.e., part of the table was left undamaged or uncovered with marble.

(25) Because it is still useful for its original purpose.

(26) Otherwise, it does not serve the purpose of a table, and consequently becomes insusceptible to uncleanness. For a fuller explanation of the principles involved, v. תפארת ישראל to the Mishnah, Kel. XXII, 1. According to either view, however, it is evident that an object's insusceptibility to uncleanness is dependent on the covering: if the marble can render a table unsusceptible to defilement, then a fortiori, the gold plating renders the Sanctuary Table susceptible to defilement.

(27) Of which the Table was made: v. Ex. XXV, 23.

(28) I .e., that the covering is an-important and nullifies the wood.

(29) Or foresters' apparel (i.e.,leather covers), Jast. Aliter (on basis of other reading): camping apparel', Jast.; Levy: eingewirkte Kleidungst_cke.

(30) Probably coral-wood (so Jast.). Levy 'Kostbare Holzart' (s.v. מסימם).

(31) Lit., 'standing', i.e., fixed e.g., with nails.

(32) The covering of the Temple Table (of which our Mishnah speaks) was not fixed.

(33) I.e., the Mishnah of the table and side-table, which teaches that the susceptibility of the table to uncleanness depends on the covering.

Talmud - Mas. Chagigah 27a

for the Divine Law cans it Wood.[1] For it is written: The altar, three cubits high, and the length thereof two cubits, was of food, and so the corners; the length thereof and the walls thereof, were also of wood; and he said unto me: 'This is the table that is before the Lord'.[2] — [The verse] begins with the altar and ends with the table! R. Johanan and Resh Lakish both explain: At the time when the Temple stood, the altar used to make atonement for a person; now a person's table makes atonement for him.[3] ALL THE VESSELS IN THE TEMPLE HAD SECOND SETS ETC. THE ALTAR OF BRONZE'[4] for it is written: An altar of earth[5] thou shalt make unto Me.[6] 'THE ALTAR OF GOLD', for it is written: The candlestick and the altars;[7] thus, the altars are likened one to another. BUT THE SAGES SAY: BECAUSE THEY WERE OVERLAID [WITH METAL]. On the contrary, since they were overlaid, they were susceptible to uncleanness![8] — Read: 'But the Sages declared them Unclean because they were overlaid'. Or, alternatively, I can explain: The Rabbis say it to R. Eliezer: What have you in mind?[9] The fact that they were overlaid?[10] But their Plating was quite nullified in regard to them.[11] R. Abbahu said that R. Eleazar said: The fire of Gehinnom[12] has no power over the Scholars. It is an ad majus conclusion [to be drawn] from the salamander.[13] If now [in the case of] the salamander, which is [only] an offspring of fire, he who anoints himself with its blood is not affected by fire, how much more so the Scholars, whose whole body is fire, for it is written: Is not My word like as fire? saith the Lord.[14] Resh Lakish said. The fire of Gehinnom has no power over the transgressors of Israel. It is an ad majus conclusion [to be drawn] from the altar of gold. If the altar of gold, on which there is only a denar thickness of gold,[15] is not affected through so many years by the fire, how much less so the transgressors of Israel, who are full of good deeds[16] as a pomegranate [is of seeds]; for it is written, Thy temples are like a pomegranate split open.[17] Read not 'thy temples' [rakkathek] but 'thy worthless ones' [rekanim shebak].[18]

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(1) Even when overlaid. Hence, it has to be regarded as a wooden utensil made for resting things on it, and, but for the fact that it used to be lifted to exhibit the showbread on it, would not be susceptible to uncleanness.

(2) Ezek. XLI, 22.

(3) Through the hospitality shown to poor guests. Cf. R. Johanan's statements about 'a mouthful of food' at the end of San. 103b (Sonc. ed., p. 705).

(4) Sc. is accounted as the ground.

(5) Understood here to refer to the altar of bronze; but v. Tosaf s.v. מזבח.

(6) Ex. XX, 24.
(7) Num. III, 31.
(8) For were they not overlaid with metal, they would belong to the category of wooden utensils made for resting things on them which are insusceptible to uncleanness (v. p. 168).
(9) I.e., what is your reason for declaring the altars to be insusceptible to uncleanness solely on the ground that Scripture terms them earth, but not because they are utensils made for resting things on them?
(10) And are consequently to be regarded as metal vessels, which are susceptible to uncleanness.
(11) Because Scripture terms them ‘wood’ (Ezek. XLI, 22; cf. p. 170).
(12) V. p. 82, n. 1.
(13) A fabulous animal generated in fire which, according to the Midrash, must burn incessantly for seven days and nights; but Rashi here postulates seven years, and the Aruch (s.v.) seventy years. For a fun account of the legend, v. J. E. vol. X, pp. 646-7.
(14) Jer. XXIII, 29.
(15) Denarius, v. Glos. For Moses wonder at the miracle, v. Tosaf. s.v. ושאין .
(16) Lit., ‘precepts’.
(17) Cant. IV, 3.
(18) Lit., ‘thy empty ones’. The thought is the reverse of Eccl. VII, 20; there is none in Israel that sinneth, and yet doeth not good, for even the transgressors, devoid of merit as they may seem, still have innumerable good deeds to their credit.

Talmud - Mas. Yevamoth 2a

CHAPTER I

MISHNAH. FIFTEEN [CATEGORIES OF] WOMEN EXEMPT THEIR RIVALS[1] AND THE RIVALS OF THEIR RIVALS[2] AND SO ON, AD INFINITUM,[3] FROM THE HALIZAH[4] AND FROM THE LEVIRATE MARRIAGE;[5] AND THESE ARE THEY: HIS DAUGHTER,[6] THE DAUGHTER OF HIS DAUGHTER[7] AND THE DAUGHTER OF HIS SON;[7] THE DAUGHTER OF HIS WIFE,[8] THE DAUGHTER OF HER SON AND THE DAUGHTER OF HER DAUGHTER; HIS MOTHER-IN-LAW,[9] HIS MOTHER-IN-LAW'S MOTHER,[10] AND HIS FATHER-IN-LAW'S MOTHER;[10] HIS MATERNAL SISTER,[11] HIS MOTHER'S SISTER,[11] HIS WIFE'S SISTER AND HIS MATERNAL BROTHER'S WIFE;[12]

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(1) Heb., zarah, צרה ‘rival’. Where a husband has move than one wife, each woman is a zarah in relation to the other. The term is derived from צרר which signifies oppression, hence ‘rival’, ‘adversary’, as in I Sam. I, 6 (cf. Kimhi a.l.). or ‘to tie up’, ‘to bind’, hence ‘associate’, ‘co-wife’.

(2) The co-wives of a rival through a second marriage.

(3) עד סוף העולם lit., ‘to the end of the world’.

(4) חליצה (rt. חלץ, ‘to take off’ or ‘to loosen’), the ceremony of drawing off the shoe of the brother of her husband who died without issue. According to Biblical law (v. Deut. XXV, 5-9) the brother-in-law must either marry the widow (v. following note) or be subjected to halizah.

(5) יבום, rt. יבם ‘to marry the levir’. Any woman coming under the fifteen categories enumerated below is not only herself exempt from halizah and yibbum but exempts also her own rivals as well as the rivals of her rivals, ad infinitum, as explained anon.

(6) Who had been married to his brother who subsequently died childless. Since he is forbidden to marry his daughter he is thereby also forbidden to marry any of her rivals, the widows of his deceased childless brother. ‘HIS DAUGHTER’ includes even one born to him as a result of outrage, v. infra.

(7) Cf. previous note. All the fifteen categories enumerated are among the near relatives whom a man is forbidden to marry in accordance with the explicit and implicit prohibitions in Lev. XVIII, 6ff.

(8) From a former husband.

(9) Who, after the death of her husband, had married his brother who subsequently died childless.

(10) The prohibition to marry in this case is derived in Sanhedrin 75a from Lev. XVIII, 17.

(11) Who was married to his paternal brother. The laws of the levirate marriage and halizah are applicable to a paternal, but not to a maternal brother.

(12) Who, after the death of her husband, had married his paternal brother.

Talmud - Mas. Yevamoth 2b

THE WIFE OF HIS BROTHER WHO WAS NOT HIS CONTEMPORARY,[1] AND HIS DAUGHTER-IN-LAW.[2] ALL THESE EXEMPT THEIR RIVALS AND THE RIVALS OF THEIR RIVALS, AND SO ON, AD INFINITUM, FROM THE HALIZAH AND FROM THE LEVIRATE MARRIAGE. IF, HOWEVER, ANY AMONG THESE[3] DIED,[4] OR MADE A DECLARATION OF REFUSAL,[5] OR WERE DIVORCED, OR WERE FOUND INCAPABLE OF PROCREATION, THEIR RIVALS ARE PERMITTED;[6] THOUGH, OF COURSE, ONE CANNOT SAY OF A MAN'S MOTHER-IN-LAW, OF THE MOTHER OF HIS MOTHER-IN-LAW AND OF THE MOTHER OF HIS FATHER-IN-LAW THAT THEY WERE FOUND INCAPABLE OF PROCREATION OR THAT THEY MADE A DECLARATION OF REFUSAL.[7]

HOW IS THE EXEMPTION OF THEIR RIVALS [BY THE WOMEN MENTIONED], TO BE UNDERSTOOD? IF A MAN'S DAUGHTER OR ANY OTHER OF THESE FORBIDDEN RELATIVES WAS MARRIED TO HIS BROTHER WHO HAD ALSO ANOTHER WIFE [AT THE TIME] WHEN HE DIED, THEN AS HIS DAUGHTER IS EXEMPT SO IS HER RIVAL

EXEMPT. IF HIS DAUGHTER'S RIVAL WENT AND MARRIED A SECOND BROTHER OF HIS,[8] WHO ALSO HAD YET ANOTHER WIFE WHEN HE DIED, THEN AS THE RIVAL OF HIS DAUGHTER IS EXEMPT SO IS ALSO HIS DAUGHTER'S RIVAL'S RIVAL EXEMPT, EVEN IF THERE WERE A HUNDRED [BROTHERS].[9]

HOW [IS ONE TO UNDERSTAND THE STATEMENT THAT] IF THEY HAD DIED, THEIR RIVALS ARE PERMITTED?[10] IF A MAN'S DAUGHTER OR ANY OTHER OF THESE FORBIDDEN RELATIVES WAS MARRIED TO HIS BROTHER WHO HAD ALSO ANOTHER WIFE, THEN, IF HIS DAUGHTER DIED OR WAS DIVORCED, AND HIS BROTHER DIED SUBSEQUENTLY, HER RIVAL IS PERMITTED.[10]

THE RIVAL OF ANY ONE WHO IS ENTITLED TO MAKE A DECLARATION OF REFUSAL[11] BUT DID NOT EXERCISE HER RIGHT, MUST PERFORM HALIZAH [IF HER HUSBAND DIED CHILDLESS], AND MAY NOT CONTRACT LEVIRATE MARRIAGE.[12]

GEMARA. Consider: All these[13] are deduced from the [exemption of] a wife's sister.[14] Why then was not HIS WIFE'S SISTER mentioned[15] first?[16] And if it be replied that the Tanna enumerated[17] [the forbidden relatives] in the order of the degrees of their respective severity,[18] and that it [our Mishnah] represents the view of R. Simeon who regards burning[19] as the severest,[20] [it may be retorted that], if that is the case,[21] HIS MOTHER-IN-LAW should have been mentioned[16] first, since [Scripture] enunciated the principle of burning in the case of a mother-in-law.[22] And, furthermore, HIS DAUGHTER-IN-LAW should have come[15] immediately after HIS MOTHER-IN-LAW, since, next to burning, stoning[23] is the severest penalty! — But [this in fact is the proper reply]: Since [the prohibition of intercourse with] ‘HIS DAUGHTER’[24] has been arrived at by exposition[25] it is given preference.[26]

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(1) Lit., ‘in his world’, i.e., who died before he was born. Such a brother's widow and her rivals etc. are exempt. If, for instance, C was born after his brother A had died childless, so that his widow, N married (in accordance with the laws of the levirate marriage) a contemporary brother of his, B, who had another wife, or wives, and B also died childless, all B's widows are exempt from halizah and yibbum as far as C is concerned on account of N who is forbidden to him.

(2) Who married his brother after the death of his son. The marriage of a daughter-in-law is forbidden for ever, even after the death of one's son.

(3) Lit., ‘(in the case of) all of them’.

(4) Prior to the death of her husband who subsequently died childless.

(5) Such a declaration, mi'un מיאון, may be made against her husband (without any further necessity for a divorce) by a wife, while she is a minor, or as soon as she becomes of age, prior to cohabitation, in cases where she was betrothed either (a) as an orphan, by her mother or brothers or (b) even in the lifetime of her father (v. infra 109a) if she was once divorced (after her father had contracted for her a betrothal) and was betrothed again while still a minor.

(6) I.e., levirate marriage may be contracted, or halizah must be performed.

(7) For, having given birth they must be of age.

(8) Whenever one of the surviving brothers is not related to either of the widows, but another brother is, it is his duty to perform the levirate marriage or to submit to halizah.

(9) Everyone of whom had also another wife or wives and the rival's rival married them in turn, ad infinitum.

(10) V. p. 2, n. 7.

(11) A minor (V. supra, p. 2, n. 6).

(12) V. Gemara infra.

(13) Exemptions enumerated in our Mishnah.

(14) V. infra.

(15) Lit., ‘let him teach’.

(16) In the list.

(17) Lit., ‘took’.

(18) The degree of the severity of the penalty incurred by sexual intercourse with one of these relatives.

(19) The death penalty incurred for sexual intercourse with one of the first eight categories enumerated in our Mishnah. V. Sanh. 75a.
(20) Of the four death penalties. V. Sanh. 49b.
(21) Lit., ‘if so’.
(22) Lev. XX, 14.
(23) The penalty for intercourse with one's daughter-in-law. V. Sanh. 53a.
(24) I.e., born as a result of outrage. V. supra p. 1, n. 6.
(25) V. infra.
(26) Lit., ‘beloved to him’.

Talmud - Mas. Yevamoth 3a

[The law, surely,] concerning all the others also was arrived at[1] by exposition![2] — Granted that in respect of [exemption from] the levirate marriage [the law in relation to them] was arrived at by exposition, the principle of prohibition [of sexual intercourse] with them has been explicitly enunciated in Scripture, [while as regards] his daughter[3] the very principle underlying the prohibition [of intercourse with her] has been arrived at by exposition; for Raba[4] stated: R. Isaac b. Abdimi told me, ‘Hennah[5] is derived from hennah[6] and zimmah[7] is derived from zimmah’.[8]

Now that it has been stated that preference is given to whatever is arrived at by exposition, the Tanna should have placed[9] HIS WIFE'S SISTER last![10] — As he was dealing with a prohibition due to sisterhood[11] he mentioned also HIS WIFE'S SISTER. Then let him relegate[9] the entire passage[12] to the end![13] — But [this is really the explanation]: The Tanna follows the order of the respective degrees of kinship. He, therefore, mentions [first] HIS DAUGHTER, THE DAUGHTER OF HIS DAUGHTER AND THE DAUGHTER OF HIS SON because they are his own next of kin; and since he enumerated three generations of his relatives in descending order he enumerated also three generations of her[14] relatives in descending order. Having enumerated three generations of her[14] relatives in descending order he proceeded to enumerate also three generations of her relatives in ascending order. He then mentions HIS SISTER and HIS MOTHER'S SISTER who are his blood[15] relatives;[16] and while dealing with prohibitions due to brotherhood he also mentions HIS WIFE'S SISTER. And it would indeed have been proper that HIS DAUGHTER-IN-LAW should be placed before THE WIFE OF HIS BROTHER WHO WAS NOT HIS CONTEMPORARY, since it is not on account of kinship[17] that the latter is forbidden, but as he was dealing with a prohibition due to brotherhood he mentioned also THE WIFE OF HIS BROTHER WHO WAS NOT HIS CONTEMPORARY and then mentioned HIS DAUGHTER-IN-LAW.

What argument can be advanced for using[18] the expression EXEMPT[19] and not that of[20] ‘prohibit’?[21] — If ‘prohibit’ had been used it might have been assumed that the levirate marriage only was forbidden but that halizah[22] must nevertheless be performed,[23] hence it was taught[24] [that halizah also need not be performed]. Let it then be stated,[25] ‘She is forbidden to perform halizah![26] — No harm, surely, is thereby done.[27] But why indeed should not [the expression of prohibition be applicable to halizah]? If you were to say that halizah is permissible, [one might say that] levirate marriage is also permitted![28] — As a rival[29] is forbidden only where the commandment [of the levirate marriage] is applicable but is permitted where the commandment is not applicable,[30] it was therefore necessary to use the expression, EXEMPT.[31]

What justification is there for stating, FROM THE HALIZAH AND FROM THE LEVIRATE MARRIAGE when it would have been sufficient to state[32] FROM THE LEVIRATE MARRIAGE only?[33] — If FROM THE LEVIRATE MARRIAGE only had been stated it might have been assumed that she must perform halizah[34] though she is exempt from the levirate marriage, hence it was taught[35] that whoever is subject[36] to the obligation of levirate marriage is also subject to halizah and whosoever is not subject to the obligation of the levirate marriage is not subject to halizah.

Let it [first] be stated,[37] FROM THE LEVIRATE MARRIAGE [and then] FROM THE HALIZAH,[38] or else only FROM THE HALIZAH?[39] — This Mishnah represents the view of Abba Saul who maintains that the commandment of halizah takes precedence over that of levirate marriage.[40]

What [was intended] to be excluded [by the] numeral at the beginning[41] and what [again was intended] to be excluded [by the] numeral at the end?[42]

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(1) In respect to their exemption from the levirate marriage.

(2) By deduction from the law of a wife's sister.

(3) V. n. 2.

(4) Others, ‘Rab’, who was a disciple of R. Isaac b. Abdimi, v. Tosaf. s.v. דאמר a.l.

(5) הנה (‘they’ or ‘theirs’) in Lev. XVIII, 10 which deals according to Talmudic interpretation with the daughter of his son, or of his daughter that was born from an outraged woman, but not with the daughter herself.

(6) Ibid. v. 17 which places a daughter on the same footing as a son's and a daughter's daughter. By this analogy the inference is arrived at that intercourse even with a daughter from an outraged woman is forbidden.

(7) זמה (‘lewdness’ or ‘wickedness’), ibid. where the penalty of burning is not mentioned.

(8) Ibid. XX, 14 where the penalty of burning with fire is explicitly stated. Thus it is shown that the very foundation of the prohibition of sexual intercourse with a daughter from an outraged woman, as well as the death penalty of burning which the crime involves, are entirely dependent on inferences arrived at by exposition, v. Sanh. 51a.

(9) Lit., ‘let him teach’.

(10) In the list in our Mishnah; since, as will be shewn infra, the exemption from levirate marriage in respect of all the others is derived by exposition from ‘his wife's sister’.

(11) ‘His mother's sister’, v. our Mishnah.

(12) Which deals with the prohibitions through sisterhood.

(13) Of the list.

(14) His wife's.

(15) Lit., ‘his own’.

(16) While a daughter-in-law is not consanguineous.

(17) A daughter-in-law should, consequently, receive priority.

(18) In our Mishnah.

(19) Which might imply that the levirate marriage in these cases is not obligatory but optional.

(20) v. supra p. 4, n. 13.

(21) Since, in fact, no marriage with a deceased brother's widow is permitted whenever the obligation of the levirate marriage does not exist.

(22) V. Glos.

(23) Since a prohibition could not very well apply to halizah which is a harmless act, the expression of ‘prohibit’ in respect of halizah would have been interpreted as a ‘prohibition to be married to anyone before halizah had been performed’.

(24) By the use of the expression, ‘exempt’.

(25) In our Mishnah.

(26) And, consequently, the expression ‘prohibit’ which is preferable to that of ‘exempt’ (v. supra notes 6 and 8) could well be used for the levirate marriage.

(27) Lit., ‘what does he do’, i.e., there is no reason why halizah should be forbidden. Hence the expression of ‘prohibit’ could not properly be used.

(28) The expression of ‘prohibit’ in relation to halizah could, consequently, properly have been used. Why then was ‘exempt’ preferred to ‘prohibit’?

(29) Of one's daughter, for instance.

(30) If his daughter, e.g., had married one who was not his near of kin, her rival, on the death of her husband, is not forbidden to marry the father; v. infra 13a.

(31) ‘Prohibit’ might have implied that a daughter, e.g., always causes her rival to be prohibited to her father whether the precept of the levirate marriage is applicable or not.

(32) Lit., 'let him teach'.

(33) It is obvious that if one is exempt from the levirate marriage there could be no question of being subject to halizah which is only the result of a refusal to contract the prescribed marriage.

(34) In order that the law of the levirate marriage be not entirely abrogated.

(35) By the use of the expression, exempt'.

(36) Lit., 'goes up' sc. to the gate, i.e., the court (cf. Deut. XXV, 7.)

(37) In our Mishnah.

(38) The marriage surely is of greater importance than the halizah, the latter being only an alternative of the former. V. Deut. XXV. 7.

(39) The exemption from the marriage being then self-evident.

(40) Infra 39b, 109a. And if only FROM THE HALIZAH had been stated, there would be no basis for this inference.

(41) Of our Mishnah, 'FIFTEEN'.

(42) Of the list; 'ALL THESE', implying the 'FIFTEEN' mentioned. If nothing were to be excluded, there would be no need for the addition of a cardinal at the beginning, or of a reference to it at the end of a list which presumably enumerated all possible cases.

Talmud - Mas. Yevamoth 3b

— [They were intended] to exclude the respective rulings of Rab and R. Assi.[1] What, [however, do the numerals] exclude according to Rab and R. Assi? — If they share each other's views, one numeral would serve to exclude the rival of one who made a declaration of refusal,[2] and the other to exclude the rival of a wife whom [her husband] remarried after having divorced her.[3] If they do not share the views of each other, [each would regard] one [numeral as serving] to exclude the ruling of his colleague;[4] and the other numeral, as serving to exclude either the rival of one who made a declaration of refusal[2] or the rival of a wife whom [her husband] remarried after having divorced her.[3]

According to Rab and R. Assi these[5] should have been enumerated in our Mishnah! — [This could not be done] because the law of the rival's rival[6] is not applicable [to these cases].[7]

Whence is this law[8] derived?[9] — [From] what our Rabbis taught: And thou shalt not take a woman to her sister, to be a rival to her, to uncover her nakedness, 'aleha [beside her] in her lifetime,[10] what need was there for the expression ''aleha'?[11] Because it was stated, Her husband's brother shall go in 'aleha [unto her],[12] it might have been imagined[13] that Scripture[14] speaks even of any of all the forbidden relatives enumerated in the Torah. Hence it was here[10] stated, ''aleha'[15] and elsewhere[12] it was also stated ''aleha'.[16] Just as elsewhere it is in the case of a precept[17] so here also it is in the case of a precept;[17] and yet did not the All Merciful say, Thou shalt not take.[18] We are thus in a position to know the law concerning herself;[19] whence do we derive the law concerning her rival? — From the Scriptural expression, To be a rival to her.[10] We have so far deduced the law concerning her rival only. Whence do we arrive at the law concerning her rival's rival? — From the fact that Scripture uses the expression li-zeror[20] and not that of la-zor.[21] Thus we have deduced the law concerning a wife's sister, whence is the law concerning the other forbidden relatives to be inferred? — It can be answered: As a wife's sister is singled out in that she is a forbidden relative, the penalty for presumptuous intercourse with her is kareth[22] and for unwitting intercourse a sin-offering, and she is forbidden to the levir, so also any woman who is a forbidden relative, and the penalty for presumptuous intercourse with whom is kareth[22] and for unwitting intercourse a sin-offering, is forbidden to the levir. Now we know the law concerning themselves only;[23] whence is the law con cerning their rivals deduced? — It may be answered: As a wife's sister is singled out in that she is a forbidden relative, kareth is incurred by presumptuous intercourse with her and a sin-offering for unwitting intercourse, and she is forbidden to the levir, and her rival is forbidden, so also in the case of any woman who is a forbidden relative, and for presumptuous intercourse with whom is incurred the penalty of kareth and for unwitting intercourse a sin-offering, and who is forbidden to the levir, her rival is forbidden. Hence have the Sages said: FIFTEEN [CATEGORIES OF] WOMEN EXEMPT THEIR RIVALS AND THEIR RIVALS' RIVALS, AND SO ON, AD INFINITUM, FROM THE HALIZAH AND FROM THE LEVIRATE MARRIAGE. One might assume that the six more rigidly forbidden relatives[24] are also included in the ruling,[25] so that their rivals also[26] are forbidden,[27] hence it must be stated:[28] As a wife's sister is singled out in that she is a forbidden relative, kareth is incurred for presumptuous intercourse with her and a sin-offering for unwitting intercourse, she may be married to the other brothers, but is forbidden to the levir, and her rival is forbidden, so also in the case of any woman who is a forbidden relative, for presumptuous intercourse with whom is incurred the penalty of kareth and for unwitting intercourse a sin-offering, who may marry one of the other brothers, but is forbidden to the levir, her rival also is forbidden; excluded, however, are the six more rigidly forbidden relatives. Since they may not be married to the other brothers, their rivals are permitted; for [the law of] 'rival'[29] is applicable only [to widows] of a brother.[30]

Thus we have deduced the prohibition. Whence, however, is the penalty inferred? — Scripture said, For whosoever shall do any of these abominations etc. [shall be cut off from among their people.][31]

The reason,[32] then, is because the All Merciful has written, ''aleha',[33] otherwise it would have been said that levirate marriage may be contracted with the wife's sister; what is the reason? Is it because we assume that a positive precept,[34] supersedes a negative precept?[35] Surely, it is possible that[36] the rule that a positive precept supersedes a negative precept applies only where the latter is a mere prohibition; does it, however, supersede a prohibition involving the penalty of kareth?[35] Furthermore, whence is it derived that it may supersede even a mere prohibition?

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(1) Infra 11a and 12a.

(2) A minor who was one of the wives of a deceased childless brother, on declaring her refusal to marry the levir, exempts thereby her rivals from the levirate marriage but not from halizah.

(3) If one of the widows of a deceased brother was divorced once, and then remarried to him after she had married another man, she causes the exemption of her rivals from the levirate marriage, v. infra 11b. The halizah, however, must be performed.

(4) According to Rab that of R. Assi, and vice versa.

(5) The subjects of their respective rulings, i.e., the sotah (v. Glos.) and the barren wife, who, they maintain, infra 11a, 11b, exempt their rivals both from the levirate marriage and from halizah.

(6) V. our Mishnah.

(7) Since neither a sotah nor a barren woman may marry any one of the brothers.

(8) Of our Mishnah, that forbidden relatives as well as their rivals and rivals' rivals, ad infinitum, are exempt from the levirate marriage and from halizah.

(9) Lit., 'whence these words'.

(10) Lev. XVIII, 18.

(11) Which does not add any point to the law enunciated.

(12) Deut. XXV, 5.

(13) Lit., 'I hear'.

(14) Since it drew no distinction between a brother's wife who was a forbidden relative and one that was not forbidden.

(15) I.e. , 'beside her'.

(16) I.e., 'unto her'. In both cases the respective terms 'beside her' and 'unto her' are expressed by the same Heb. word עליה.

(17) That of levirate marriage.

(18) Two sisters, Lev. XVIII, 18. The verse in Lev. thus means that the prohibition of marrying the wife's sister is in force even where she is his dead brother's widow, in regard to whom the precept, 'her husband's brother shall go in unto her', might apply.

(19) Lit., ‘there is not to me but she’, sc. the forbidden relative herself.
(20) לרור ‘to be a rival’,
(21) לצר ‘to oppress’, the longer form li-zeror implies many rivals, i.e., rivals of the rivals. The last question and answer are deleted by R. Tam and Nahmanides. Cf. הגהות הגר א
(22) V. Glos.
(23) The forbidden relatives.
(24) Enumerated infra 13a.
(25) Relating to the other forbidden relatives.
(26) If they and their rivals were married to a stranger.
(27) To marry the man whom the forbidden relatives themselves are not allowed to marry.
(28) Lit., ‘say’.
(29) I.e., the rival's exemption from the levirate marriage and halizah.
(30) Where one of the widows is a forbidden relative of one of the surviving brothers and no forbidden relative of the deceased. As the relative is forbidden to marry the brother, her rival also is forbidden to him as ‘his brother's wife’. Where the relative, however, is married to a stranger, her rival is permitted to those to whom the relative herself is forbidden.
(31) Lev. XVIII, 29.
(32) Why a wife's sister is forbidden the levirate marriage.
(33) V. the texts from Lev. and Deut. and the analogy supra.
(34) The commandment of the levirate marriage.
(35) The prohibition to marry one's wife's sister.
(36) Lit., ‘say’.

Talmud - Mas. Yevamoth 4a

— Because[1] it is written, Thou shalt not wear a mingled stuff . . .[2] Thou shalt make thee twisted cords,[3] and R. Eleazar said,[4] ‘Whence is the rule of proximity [of texts] derived from the Torah?[5] As it is said, They are established[6] for ever and ever, they are done in truth and uprightness.’[7] Furthermore, R. Shesheth stated[8] in the name of R. Eleazar who stated it in the name of R. Eleazar b. Azariah: Whence is it proved that a sister-in-law, who falls to the lot of a levir who is afflicted with boils, is not muzzled?[9] From the Biblical text, Thou shalt not muzzle the ox when he treadeth out the corn,[10] and in close proximity to it is written If brethren dwell together.[11] Furthermore R. Joseph said: Even he who does not base interpretations on the proximity [of Biblical texts] anywhere else does base them [on the texts] in Deuteronomy,[12] for R. Judah who does not elsewhere base any interpretations [on textual proximity], bases such interpretations on the Deuteronomic text.[13] And whence is it proved that elsewhere he[14] does not advance such interpretation?[15] — From what has been taught: Ben ‘Azzai said, It was stated, Thou shall not suffer a sorceress to live,[16] and it is also stated, Whosoever lieth with a beast shall surely be put to death;[17] one subject was placed near the other to indicate that as the man who lies with a beast is to suffer the death penalty of stoning so also is a sorceress to suffer the death penalty of stoning. Said R. Judah to him: Shall we, because one subject was placed in close proximity to the other, lead out a person[18] to be stoned? In truth[19] [the penalty of the sorceress is derived from the following]: The necromancer and the charmer were included among the sorcerers; why then were they mentioned separately?[20] In order that the others may be compared to them, and to tell you that as the necromancer and the charmer are subject to the death penalty of stoning,[20] so is a sorceress also subject to the penalty of stoning.

And whence is it proved that in Deuteronomy he[21] does advance such interpretation?[15] — From what we learned: A man may marry a woman who has been outraged or seduced by his father or his son. R. Judah prohibits in the case of a woman outraged or seduced by one's father.[22] And in connection with this, R. Giddal said in the name of Rab: What is R. Judah's reason? Because it is written, A man shall not take his father's wife, and shall not uncover his father's skirt,[23] the ‘skirt’ which his father saw he shall not uncover. And whence is it inferred that this is written with reference to an outraged woman? — From the preceding section of the text where it is written, Then the man that lay with her shall give unto the damsel's father fifty shekels of silver[24] near which it is stated, A man shall not take etc.[25] And the Rabbis?[26] — If one text had occurred in close proximity to the other the exposition would have been justified;[27] now, however, that it does not occur in close proximity[28] [it must be concluded that] the context speaks of a woman who is awaiting the decision of the levir[29] and that, [in marrying such a woman, a son][30] transgresses two negative precepts.[31]

And what is the reason why [R. Judah] derives laws [from the proximity of texts] in Deuteronomy? — If you wish I might say: Because [there the deduction][32] is obvious; and if you prefer I might say: Because [there the text] is superfluous.[33] 'If you prefer I might say: Because [there the deduction] is obvious' , for, otherwise,[34] the All Merciful should have written the prohibition in the section of forbidden relatives. 'And if you prefer I might say: Because [there the text] is superfluous', for otherwise[35] the All Merciful should have written, A man shall not take his father's wife.[25] what need was there for adding,[36] And shall not uncover his father's skirt?[25]

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(1) This is an answer to the second question. The first is answered infra 5b.

(2) Deut. XXII, 11.

(3) Ibid. 12.

(4) V. Ber. 10a.

(5) Heb. Semukim סמוכים (rt. סמך'to join'); i.e., the exegetical principle that we deduce laws from the proximity of Biblical texts.

(6) 'Semukim'.

(7) Ps. CXI, 8. The proximity of the two texts (Deut. XXII, 11 and 12) may consequently be taken to indicate that though the wearing of mingled stuff (linen and wool) is forbidden in ordinary cases (Deut. XXII, 11) it is nevertheless permitted in the case of the performance of a positive precept such as that of the making of 'twisted cords' or zizith (v. Glos.) on the four corners of a garment (ibid. v. 12).

(8) Mak. 23a.

(9) I.e., she is not prevented from objecting to the levirate marriage, and is entitled to halizah. 'Muzzled' (rt.חסם) is taken from Deut. XXV, 4 from which this law is derived.

(10) Deut. XXV, 4.

(11) Ibid. v. 5, forming the introduction to the law of halizah. Thus it has been shewn that a law may be based on the proximity of Biblical texts, and this confirms the conclusion in respect of 'mingled stuff' in zizith (v. Deut. XXII, 11).

(12) Where the texts of 'mingled stuff' and zizith occur.

(13) Ber. 21b. Cf. Pes. 67b.

(14) R. Judah.

(15) Interpretations based on semukim or proximity of texts.

(16) Ex. XXII, 17.

(17) Ibid. 18.

(18) Lit., 'this' sc. the sorceress.

(19) Lit., 'but'.

(20) V. Lev. XX, 27.

(21) R. Judah.

(22) Ber. 21a, infra 97a.

(23) Deut. XXIII, 1.

(24) Deut. XXII, 29.

(25) Deut. XXIII, 1.

(26) Represented by the view of the first Tanna who differs from R. Judah. How do they, in view of R. Judah's exposition, allow the marriage of a woman outraged or seduced by one's father?

(27) Lit., 'as you said'.

(28) Cur. edd. contain within parentheses: 'Since the text, A man shall not take his father's wife is written between them'.

(29) Whether he will marry her or consent to halizah.

(30) Of the levir for whose decision the woman is waiting.

(31) Infra 97a. One is that of marrying a woman who is virtually his father's wife being subject still to the levirate marriage, and the other is that of marrying an aunt, the wife of his father's deceased brother.

(32) From the proximity of the texts.

(33) Lit., ‘free’, ‘disengaged’. i.e., unnecessary for the contexts and consequently free for interpretation and exposition.

(34) Lit., ‘if so’, i.e., if the text was meant to convey its plain meaning only.

(35) Cf. previous note.

(36) Lit., ‘wherefore to me’.

Talmud - Mas. Yevamoth 4b

Hence it must be concluded that the text was meant to provide a superfluous text.[1]

Similarly in the case of zizith,[2] if you wish I might reply:[3] Because [there[4] the deduction] is obvious. And if you prefer I might reply:[5] Because [there[6] the text] is superfluous.[7] ‘If you prefer I might say: Because [there the deduction] is obvious’, for otherwise,[8] the All Merciful should have written [the precept] in the section of zizith;[9] with what other practical rule in view has he written it here?[10] ‘And if you prefer, I might reply: Because [there the text] is superfluous’, for observe: It is written, Neither shall there come upon thee a garment of two kinds of stuff mingled together.[11] What need then was there for stating, Thou shalt not wear a mingled stuff?[12] Hence it must be concluded that the object was to provide a superfluous text.[13]

But [surely] both these texts[14] are required? For if the All Merciful had only written, Neither shall there come upon thee[15] it might have been assumed that all kinds of ‘putting on’ were forbidden by the All Merciful, even that of clothes dealers,[16] hence the All Merciful, has written, Thou shalt not wear a mingled stuff,[17] [shewing that the ‘putting on’ must be] of the same nature as that of wearing for personal comfort. And if the All Merciful had only written, Thou shalt not wear[18] it might have been assumed that only wear [is forbidden] because the pleasure derived therefrom is great, but not mere ‘putting on’, hence the All Merciful has written, Neither shall there come upon thee![19] — If so,[20] the All Merciful should have written, ‘Thou shalt not wear a mingled stuff’ what need was there for adding, ‘Wool and linen’? For[21] observe: It is written, Neither shall there come upon thee a garment of two kinds of stuff mingled together,[15] and in connection with this a Tanna of the School of R. Ishmael taught: Whereas garments generally[22] were mentioned in the Torah, and in one particular case[23] Scripture specified wool and linen,[23] all must consequently be understood as having been made of wool and linen, what need, then, was there for the All Merciful's specific mention of wool and linen? Consequently it must be concluded that its object was to provide a superfluous text.[24]

But the text[25] is still required [for another purpose]! For it might have been assumed [that the limitation[26] applies] only to ‘putting on’, where the benefit is not great, but that in respect of wear, the benefit from which is great, any two kinds were forbidden by the All Merciful, hence has the All Merciful written, ‘wool and linen’![27] — If so, Scripture should have omitted it altogether[28] and [the law[29] would have been] deduced [by analogy between] ‘mingled stuff’[30] and ‘mingled stuff’[31] [the latter of which occurs in connection with the law] of ‘putting on’.[32]

As to the Tanna of the School of R. Ishmael, is the reason [why ‘mingled stuff’ is permitted in zizith] because the All Merciful has written ‘wool and linen’, but if He had not done so, would it have been assumed that the All Merciful had forbidden two kinds of stuff in the zizith? But, surely. it is written, And they shall make them fringes in the corners of their garments[33] and a Tanna of the School of R. Ishmael [taught]: Wherever ‘garment’ [is written] such as is made of wool or flax [is meant], and yet the All Merciful said that in them ‘purple’ shall be inserted, and purple, surely, is wool. And whence is it deduced that purple is wool? Since linen[34] is flax, purple must be wool.[35] —

[The text] was necessary; for it might have been assumed [that the interpretation is] according to Raba. For Raba pointed out a contradiction: It is written, the corner,[36] [which implies that the fringes must be of the same] kind of [material as that of the] corner,[37] but then it is also written, wool and linen.[38] How then [are these texts to be reconciled?] Wool and linen discharge [the obligation to provide fringes] both for a garment of the same, as well as of a different kind of material, while other kinds [of material][39] discharge [the obligation for a garment made] of the same kind [of material] but not for one made of a different kind [of material].[40]

But the Tanna of the School of R. Ishmael,[41] surely, does not hold the same view as Raba![42] — [The text][43] is still necessary; for it might have been assumed that Raba's line of argument[44] should be followed: ‘The corner’ [implies that the fringes must be made of the same] kind of [material as the] corner, and that what the All Merciful meant was this: ‘Make wool [fringes] for wool [garments] and linen ones for linen; only when you make wool fringes for wool garments you must dye them’; but no wool fringes may be made for linen or linen fringes for wool, hence the All Merciful has written ‘wool and linen’ [to indicate] that even wool fringes [may be] made for linen garments or linen fringes for woollen garments.[45]

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(1) V. supra note 10.
(2) V. Glos.
(3) To the question why R. Judah expounds semukim in Deuteronomy.
(4) In Deuteronomy.
(5) To the question why R. Judah expounds semukim in Deuteronomy.
(6) In Deuteronomy.
(7) V. p. 12, n. 10.
(8) Lit., ‘if so’, i.e., if the text was meant to convey its plain meaning only.
(9) V. Glos.
(10) None. Consequently it must have been intended for a deduction on the basis of semukim.
(11) Lev. XIX, 19.
(12) Deut. XXII, 11.
(13) V. p. 12, n. 10.
(14) Lev. XIX, 19 and Deut. XXII, 11.
(15) Lev. XIX, 19.
(16) Who put on garments for mere business display or transport and not for bodily comfort or protection.
(17) Deut. XXII, 11, emphasis on wear.
(18) Ibid.
(19) Since both texts, then, are required for the purpose mentioned, how could they be employed for the deduction of a new law?
(20) That the texts were required only for the purpose mentioned.
(21) Should it be suggested that the text was required to indicate that the ‘mingled stuff’ forbidden was that of wool and linen.
(22) Without specifying the material they are made of.
(23) With reference to plagues in garments, Lev. XIII, 47, 48.
(24) V. p. 12, n. 10, supra.
(25) ‘Wool and linen’ (Deut. XXII, 11).
(26) Of the materials to wool and linen.
(27) How, then, could this text which is required for another purpose be expounded on the basis of semukim?
(28) Lit., ‘kept silence from it’.
(29) Which has just been enunciated, i.e., that only wool and linen are forbidden.
(30) Deut. XXII, 11.
(31) Lev. XIX, 19.
(32) As the latter applies to wool and linen only, so also the former.
(33) Num. XV, 38.

(34) In the description of the materials of the High Priests' garments (Ex. XXXIX, 1ff).

(35) As the garments were either of wool or flax, and linen (flax) was specified in the case of one, all the others must have been wool. Now since it has been shewn that purple is wool, it obviously follows that woollen zizith or fringes are permissible in a garment of flax. What was the need, then, for a specific text to prove the permissibility of mingling wool and flax in zizith?

(36) Num. XV, 38.

(37) I.e., if the material of the corner is wool the fringes must be wool; if of flax the fringes must be of flax.

(38) Cf. Deut. XXII, 11f: Mingled stuff, wool and linen thou shalt make the twisted cords, which shews that the fringes may be made either of wool or of flax whatever the material of the corner might be.

(39) Silk for instance.

(40) So also according to the Tanna of R. Ishmael's school, (as will be explained in the Gemara anon) if Scripture had not specified 'wool and linen' it might have been assumed that in a woollen garment the fringes must be made of wool while in a garment of flax they must be made of flax, hence wool and linen were specified to shew on the basis of semukim that mingled stuffs also are allowed in zizith.

(41) At the moment it is assumed that the suggestion is that he is in agreement with Raba's argument in all respects.

(42) For, according to him, since 'garment' denotes only such as is made of wool and linen, garments made of other materials require no fringes (zizith). What need, then, was there for the expression of wool and linen to differentiate these from other materials?

(43) Wool and linen.

(44) Though not his view, applying his method of reasoning only in regard to a garment made of wool or linen.

(45) I.e., that mingled stuffs are permissible in the performance of the precept of zizith.

Talmud - Mas. Yevamoth 5a

This[1] is satisfactory according to the view of the Tanna of the School of R. Ishmael;[2] as to the Rabbis,[3] however, how do they arrive at the deduction?[4] — They derive it from his head;[5] for it was taught: [Scripture stated], 'His head';[5] what need was there for it?[6] — Whereas it has been stated, Ye shall not round the corners of your head,[7] one might infer that [this law[8] applies to] a leper also, hence it was explicitly stated, his head;[9] and this Tanna is of the opinion that rounding all the head is also regarded as 'rounding'.[10] This [conclusion, however,] may be refuted: The reason why the prohibition of[11] 'rounding' [may be superseded is] because it is not applicable to everybody![12] — But [the inference] is derived from his beard;[13] as it was taught: 'His beard';[13] what need was there for stating it?[14] — Whereas it was said, Neither shall they shave off the corners of their beard,[15] one might infer that this prohibition applies also to a leprous priest,[16] hence it was explicitly stated, 'his beard'.[17] And since there is no object in applying it to a prohibition which is not incumbent upon everybody,[18] let it be applied to a prohibition which is incumbent upon all.[19] But this[20] is still required [for its own context]! For since it might have been assumed that as priests are different from [other people]. Scripture having imposed upon them additional commandments, and so even a prohibition which does not apply to everybody is not superseded in their case; [therefore] it was necessary to teach us that it does supersede.[21] — In truth the inference comes from 'his head' [in the manner deduced by] the following[22] Tanna. For It was taught: His head:[23] what need was there for mentioning it?[24] Whereas Scripture had stated, There shall no razor come upon his head,[25] one might infer that the same prohibition is applicable to a leprous nazirite[26] also, hence it was explicitly stated, 'his head'.[27] This,[28] however, may be refuted: The reason why a [leprous] nazirite [may shave his head] is because he is also in a position to obtain absolution.[29] For, were not this the reason,[30] what then of the accepted rule,[31] that no positive precept may supersede a negative and positive precept combined; why not deduce the contrary from the law[32] of the [leprous] nazirite?[33] Consequently, [it must be conceded that] the reason why no deduction may be made [from the law of the nazirite is] because it may be refuted [on the grounds] that in his case absolution is possible; so here also the refutation may be advanced, 'Since in his case absolution is possible'![34] — The deduction, in fact, is made

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(1) The deduction from semukim that a positive precept supersedes a negative one.

(2) Since on the lines of his interpretation the text, ‘wool and linen’ is superfluous and consequently free for the deduction mentioned.

(3) Who do not interpret ‘garment’ as denoting such as is of wool and flax.

(4) The text, ‘wool and linen’, being required for the completion of the plain meaning of the text, there remains no superfluous expression for the deduction. V. supra n. 2.

(5) Lev. XIV, 9, dealing with the purification of the leper.

(6) It was previously stated, and shave off all his hair (Lev. XIV, 8) which obviously includes that of the head.

(7) Lev. XIX. 27.

(8) The prohibition to round the corners of the head.

(9) Indicating that, despite the general prohibition, it is the leper's duty to round his head.

(10) Though the text speaks of rounding the corners. Such a rounding then, though generally forbidden, is in the case of a leper, permitted, because Scripture explicitly stated ‘shave all the hair of his head’ (Lev. XIV, 9). Thus it has been proved that the positive precept of the shaving of the leper supersedes the prohibition of rounding off one's head. Similarly, in the case of the levirate marriage, it might have been assumed that the positive precept of marrying the deceased brother's widow supersedes the prohibition of marrying a wife's sister; hence the necessity for a special text (v. supra 3b end and p. 10, n. 7) to prove that it does not.

(11) Lit., ‘what as to the negative (command)’.

(12) Lit., ‘equal in all’; women being exempt. (V. Kid. 35b). The prohibition of the marriage of a wife's sister, however, is applicable to the man and to the woman, the brother-in-law as well as the sister-in-law.

(13) Which also occurs in the regulations for the purification of the leper. (V. Lev. XIV, 9).

(14) Seeing that it was previously mentioned (Lev. XIV, 8) that the leper must ‘shave off all his hair’, which obviously includes that of his beard.

(15) Lev. XXI, 5.

(16) The prohibition of shaving the corners of one's head having been addressed to the priests. V. Lev. XXI, 1ff.

(17) Indicating that in the case of a leprous priest the precept of shaving supersedes the prohibition of ‘shaving’.

(18) That such a prohibition is superseded by a positive precept having been deduced supra from ‘his head’.

(19) Thus it has been proved that a positive precept supersedes any prohibition even if the latter is generally applicable. Marriage between a levir and his deceased brother's widow who is his wife's sister might, consequently, have been assumed to be permitted had not an explicit text pointed to its prohibition.

(20) The text, ‘his beard’.

(21) How, then, can the same text which is required for the purpose mentioned also be used for a general deduction.

(22) Lit., ‘(manner) of that’.

(23) Lev. XIV, 9.

(24) Cf. supra, p. 16, n. 7.

(25) Num. VI, 5 dealing with the laws of the nazirite.

(26) So Rashal. Cur. edd. read, ‘leper and nazirite’.

(27) Thus it is proved that a positive precept supersedes a prohibition. Cf. supra, note 7.

(28) The deduction from the nazirite.

(29) Heb. she'elah שאלה ‘request’, i.e., the nazirite may request a qualified person to disallow his vow and thus avoid the prohibition of shaving.

(30) Lit., ‘if you will not say so’.

(31) Lit., ‘that which is established for us’.

(32) Lit., ‘let it be deduced’.

(33) The shaving of a nazirite's head is forbidden (a) by the precept that he must grow his hair long and (b) by the prohibition of allowing a razor to come upon his head.

(34) Whence, then, is it proved that a positive precept supersedes a prohibition?

Talmud - Mas. Yevamoth 5b

from the first cited text:[1] Since[2] Scripture could have used the expression, Thou shalt make thee fringes,[3] what need was there for that of ‘twisted cords’? Consequently it must have been intended for the purpose of allowing that text to be used for the deduction.[4] But this[5] is required for the determination of the number [of threads, thus]:[6] ‘Twisted cord’ implies two threads,[7] [and so] ‘twisted cords’[8] implies four threads, therefore,[9] one twisted cord is to be made [of the four] and from the middle of it separate threads[10] are to hang down![11] — If so,[12] Scripture should have stated, Thou shalt not wear a mingled stuff wool and linen:[13] what need was there to add ‘together’?[13] Consequently it must have been intended for the purpose of allowing a free text for the deduction.[14] But this text too[15] is required for the deduction that two stitches[16] form a combination[17] and that one stitch does not! — If so, the All Merciful should have written, Thou shalt not wear wool and linen together; what need was there for inserting ‘mingled stuff’? Hence it must be concluded that the purpose was to allow a free text for deduction.[18] But is not this text[19] still required [for the deduction that ‘mingled stuff’[20] is not forbidden] unless it was hackled, spun and twisted?[21] — But [the fact is that] all this is deduced from the expression of ‘mingled stuff’.[22]

So far it has been shewn that a positive precept supersedes a mere prohibition;[23] where, however, do we find that it supersedes also a prohibition involving kareth,[24] and that in consequence [the explicit expression] ‘’aleha’[25] should be required to forbid it?[26] And if it be replied that this[26] might be deduced from circumcision,[27] [it may be retorted]: Circumcision stands in a different category,[28] for concerning it thirteen covenants[29] were made![30] From the paschal lamb?[31] — The paschal lamb also stands in a different category[32] since it too involves kareth![30] From the daily offering?[31] — The daily offering also stands in a different category[33] since it is also a regular [offering]![30] [Now though] it[34] cannot be derived from one[35] it might be derived from two. From which shall it be derived? [If the reply is]: Let it be derived from circumcision and the paschal lamb, [it may be retorted]: These also involve kareth.[36] From the paschal lamb and the daily offering? — Both are also intended for the Most High.[37] From circumcision and the daily offering? — Both were also in force before the giving of the law,[38] this being according to the view of him who holds that the burnt-offering which Israel offered in the wilderness was the daily burnt-offering.[39] Nor [can the derivation be made] from all of them, since they were all in force before the giving of the law.[40]

But [this is the reason for] the need of a special text:[41] It might have been assumed[42] that this[43] should be derived from the precept of honouring one's father and mother; for it was taught: Since one might have assumed that the honouring of one's father and mother should supersede the Sabbath, it was explicitly stated, Ye shall fear every man his mother and his father, and ye shall keep My Sabbaths,[44] it is the duty of all of you[45] to honour Me. Now is not the case in point one where the parent said to him, ‘Slaughter for me’,[46] or ‘Cook for me’;[46] and the reason [why the parent must not be obeyed is] because the All Merciful has written, ‘Ye shall keep my Sabbaths’,[44] but had that not been so[47] it[48] would have superseded?[49] — No;

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(1) ‘Mingled stuff’ in the case of zizith. (V. Deut. XXII, 11, 12 and supra p. 15, n. 3).

(2) Lit., ‘if so’, i.e., if according to the Rabbis the expression, ‘wool and linen’, is required for its own context and that text, therefore, is not available for deduction.

(3) The expression used in Num. XV, 38 in the section dealing with the precept of the fringes.

(4) That a positive precept supersedes a prohibition. Cf. supra, p. 10, n. 13.

(5) The expression of ‘twisted cords’, גדילים, Deut. XXII, 12.

(6) In the fringes.

(7) The twisted cord cannot be made of less than two threads.

(8) The plural, i.e., twice two.

(9) To harmonize this text (Deut. XXII, 12) which implies twisted cords, with that of Num. XV, 38, and that they put with the fringe of each corner a thread of blue, which implies only twisted threads.

(10) The four threads are inserted into the corner of the garment and, having been folded to form a fringe of eight threads, they are joined (by winding one of the threads round the others) into one twisted cord which extends over a section of length and is then separated again into eight separate threads.

(11) Men. 39b. Now, since the expression, ‘twisted cords’, is required for the determination of the number of the threads, how could the Rabbis deduce from it the law of ‘mingled stuff’ in the fringes?

(12) That the law of ‘mingled stuff’ in the fringes was not to be deduced from the text cited.

(13) Deut. XXII, 11.

(14) Cf. supra p. 18, n. 10.

(15) Together, in Deut. XXII, II.

(16) Combining a material made of wool with one made of flax.

(17) Of ‘mingled stuff’ which is forbidden.

(18) Cf. supra p. 18, n. 10.

(19) Mingled stuff, Deut. XXII, 11.

(20) Of wool and flax.

(21) An etymological explanation of, or a play upon, the words ‘mingled stuff’ שעטנז, in Deut. XXII, 11. שעטנז is assumed to be an abbreviation of שוע טווי ונוז.

(22) The use of the peculiar expression, שעטנז, and not the usual כלאים, implies both (a) the deduction mentioned, (v. previous note) and (b) the deduction that a positive precept supersedes a prohibition (v. supra p. 10, n. 13).

(23) Cf. 3b end and p. 10, n. 7.

(24) V. Glos.

(25) Lev. XVIII, 18.

(26) The marriage by the levir of the widow of his deceased childless brother, when she happens to be a forbidden relative. V. p. 8, n. 9.

(27) Which must be performed on the eighth day of the child's birth even though that day happens to be a Sabbath when manual work is forbidden under the penalty of kareth.

(28) Lit., ‘what in respect of circum-cision’.

(29) The expression ‘covenant’ (in various grammatical forms) occurs thirteen times in Gen. XVII, the section dealing with the precept of circumcision, v. Ned. 31b.

(30) Hence it may also supersede the Sabbath. It supplies, however, no proof that a positive precept which is not so stringent (such as the marriage with the levir) also supersedes a prohibition involving kareth.

(31) The slaughtering of which (a positive precept) supersedes the Sabbath though slaughtering is manual work which is forbidden on the Sabbath under the penalty of kareth.

(32) Lit., ‘what in respect of the paschal lamb’.

(33) Lit., ‘what in respect of the daily offering’.

(34) V. p. 19, n. 16.

(35) Circumcision, the paschal lamb, or the daily offering alone.

(36) Cf. supra n. 1.

(37) They are offered on the altar. Cf. supra n. 1.

(38) On Mount Sinai. Lit., ‘speech’ i.e., of the Deity. ‘revelation’, and as such are deemed of greater stringency.

(39) V. Ex. XXIV, 5 and Hag. 6a. Circumcision was ordained in the time of Abraham. V. Gen. XVII.

(40) V. supra nn. 9 and 10. The law of the paschal lamb also was given in Egypt prior to the date of the Revelation. V. Ex. XII.

(41) Beside her (Lev. XVIII, 18), to indicate that levirate marriage is forbidden when the widow of the deceased brother is the surviving brother's forbidden relative.

(42) Had not that text (in Lev. XVIII, 18; v. previous note) been written.

(43) That a positive precept supersedes a prohibition involving kareth and that consequently a levir may marry his deceased childless brother's widow even if she happens to be a forbidden relative of his.

(44) Lev. XIX, 3.

(45) Parents and children.

(46) I.e., to desecrate the Sabbath by an action the penalty for which is kareth.

(47) Had no such text been available.

(48) A parent's order, (the positive precept of honouring one's parents.)

(49) The prohibition of work on the Sabbath, though it is one involving kareth. Similarly in the case of the levirate marriage. Cf. supra p. 20, n. 14.

Talmud - Mas. Yevamoth 6a

this is a case[1] of ass driving.[2] And [you say that] it does not supersede[3] even in such a case?[4] But then what of the generally accepted rule that a positive precept supersedes a prohibition. Should it not be inferred from this case that it does not supersede![5] And if it be replied that the prohibitions of the Sabbath are different[6] because they are more stringent,[7] surely the following Tanna, [it may be pointed out,] speaks of prohibitions generally[8] yet no one advances any objection.[9] For it was taught: Since it might have been assumed that if his father had said to him,[10] 'Defile yourself',[11] or if he said to him, 'Do not restore,'[12] he must obey him, it was explicitly stated, Ye shall fear every man his mother, and his father, and ye shall keep my Sabbaths,[13] it is the duty of all of you to honour Me![14] — The real reason[15] is because this objection may be advanced: Those[16] are in a different category[17] since they are also essentials in the execution of the precept.[18]

But [the reason[19] is because] it might have been assumed that this[20] should be derived from the precept of the building of the Sanctuary. For it was taught: Since it might have been assumed that the building of the Sanctuary should supersede the Sabbath, it was explicitly stated, Ye shall keep My Sabbaths, and reverence My Sanctuary;[21] it is the duty of all of you to honour Me. Now is not the case in point one of [a father's order to his son to] build or to demolish,[22] and yet the reason [why it does not supersede the Sabbath is] because the All Merciful has written, 'Ye shall keep My Sabbaths',[23] but had that not been written it would have superseded?[24] — No; the case in point is one of ass driving.[25]

And [you say] that it[26] does not supersede a prohibition even in such a case?[27] But what of the generally accepted rule that a positive precept supersedes a prohibition? Should we not infer from this case that it does not supersede! And if it be replied that the prohibitions of the Sabbath are different[28] because they are of a more stringent nature,[29] surely the following Tanna [it may be pointed out] speaks of prohibitions generally[30] yet no one advances any refutation.[31] For it was taught: Since it might have been assumed that if his father had said to him,[32] 'Defile yourself',[33] or if he said to him, 'Do not restore,'[34] he must obey him, hence it was explicitly stated, Ye shall fear every man his mother, and his father etc.,[35] it is the duty of all of you to honour Me![36] — The true reason[37] is because this objection may be advanced: Those[38] are in a different category[39] since they are also essentials in the execution of the precept.[40] [But the law relating to] essentials in the execution of a precept could be derived from the previously cited text![41] — That is so indeed. What need, then, was there for the text, Ye shall keep My Sabbaths, and reverence My Sanctuary?[23] — It is required for the following deduction:[42] As it might have been imagined that a man should reverence the Sanctuary, it was explicitly stated in the Scriptures, Ye shall keep My Sabbaths, and reverence My Sanctuary;[23] the expression of 'keeping' was used in relation to the Sabbath and [in the same verse] that of 'reverence' in relation to the Sanctuary [in order that the following comparison may be made]: As in the case of 'keeping' used in relation to the Sabbath

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(1) Lit., 'negative precept'.

(2) I.e, where a father ordered his son to desecrate the Sabbath by driving an ass; a prohibition which, unlike slaughtering or cooking, does not involve the penalty of kareth. V. Shab. 154a.

(3) Lit., 'and even thus', sc. even the mere prohibition of ass driving.

(4) A mere prohibition not involving the penalty of kareth.

(5) Even a mere prohibition which does not involve the penalty of kareth.

(6) From other prohibitions.

(7) Since the infringement of any one of the laws of the Sabbath is regarded as the sin of idolatry (v. 'Er. 69b), even a mere prohibition which does not involve kareth, cannot be superseded by a positive precept.

(8) Lit., 'stands in the world', i.e., he compares with the prohibitions of the Sabbath others which have no connection with it.

(9) That the prohibitions of the Sabbath being more stringent than others should not be compared with them.

(10) His son who was a priest.
(11) For the dead, which is forbidden to a priest. V. Lev. XXI, 1ff.
(12) A lost animal. V. Deut. XXII, 1.
(13) Lev. XIX, 3.
(14) Thus it has been shewn that prohibitions generally may be compared with those of the Sabbath. The suggestion, therefore, that the parents' order supra concerned the performance of the act of ass driving is untenable. If, consequently, the order must have consisted of a request to perform an act involving the penalty of kareth, that case well supplies a satisfactory answer to the question (supra 5b) as to what need was there for the text, ‘’aleha’, in Lev. XVIII, 18.
(15) Why no satisfactory reply to the question, what need is there for the text ‘’aleha’, may be obtained from the precept of honouring one's parents.
(16) A father's orders to his son to slaughter or to cook on the Sabbath.
(17) From such a precept as the levirate marriage.
(18) Lit., ‘it is a preparation of the precept’. The precept of honouring a father cannot possibly be performed by the son unless he actually executes the act of slaughtering or of cooking, which he has been ordered by his father to do, so that the fulfilment of the positive precept (honouring one's parents) is entirely dependent on its superseding the prohibition (that, e.g., of cooking). Hence it was necessary to have an explicit text to indicate that, even in such a case, a positive precept does not supersede a prohibition. In the case of the levirate marriage, however, the infringement of the prohibition is not absolutely essential to the fulfilment of the precept, since, instead of the marriage, halizah may be arranged, and the question remains, what need is there of the verse ‘’aleha’.
(19) Why the text, ‘’aleha’ (Lev. XVIII, 18) was needed to indicate that wherever the deceased childless brother's widow was the living brother's forbidden relative no levirate marriage must take place.
(20) That a positive precept supersedes a prohibition involving kareth and consequently that the levirate marriage may take place even in such a case (v. previous note).
(21) Lev. XIX, 30.
(22) Actions which are among the principal classes of labour that are forbidden on the Sabbath under the penalty of kareth.
(23) Lev. XIX, 30.
(24) Thus it follows that a positive precept does supersede a prohibition even though the latter involves kareth.
(25) Which does not involve kareth.
(26) A positive precept.
(27) Which does not involve kareth.
(28) From other prohibitions.
(29) Cf. supra p. 21, n. 13.
(30) Cf. supra p. 21, n. 14.
(31) Cf. supra p. 21, n. 15.
(32) His son who was a priest.
(33) Cf. supra p. 21, n. 17.
(34) Cf. supra p. 21, n. 18.
(35) Lev.XIX, 3.
(36) Cf. supra p. 22, n. 2.
(37) Cf. supra p. 22, n. 3.
(38) Cf.supra p. 22, n. 4,
(39) Cf.supra p. 22, n. 5.
(40) Cf. supra p. 22, n. 6.
(41) Lit., ‘from there’, from Lev. XIX, 3, and this superfluous text serves to extend the principle of a positive precept superseding a negative precept involving kareth to a case such as levirate marriage. Hence the need of the text ‘’aleha’.
(42) Lit., ‘for as it was taught’.

Talmud - Mas. Yevamoth 6b

one does not reverence the Sabbath but Him who ordered the observance of the Sabbath, so in the case of ‘reverence’ used in relation to the Sanctuary, one is not to reverence the Sanctuary but Him who gave the commandment concerning the Sanctuary. And what is regarded as the 'reverence of the Sanctuary'? — A man shall not enter the Temple mount[1] with his stick, shoes or money bag[2] or with dust upon his feet, nor may he use it for making a short cut;[3] and spitting [is there forbidden] by inference a minori ad majus.[4] This, however, might apply[5] only to the time when the Sanctuary was in existence; whence is it deduced that the same holds good of the time when the Sanctuary no longer exists? It was expressly stated in Scripture, Ye shall keep My Sabbaths, and reverence My Sanctuary;[6] as the 'keeping' that was used in relation to the Sabbath holds good forever, so also the 'reverence' used in relation to the Sanctuary must hold good forever.[7]

Really [the reason[8] is because] it might have been assumed that this[9] should be derived from the prohibition of kindling a fire [on the Sabbath]. For a Tanna of the School of R. Ishmael taught: Wherefore was it stated, Ye shall kindle no fire throughout your habitations?[10] 'Wherefore 'was it stated'![11] Surely if one is to follow R. Jose, it was to intimate that [kindling a fire on the Sabbath is] a prohibition only;[12] and, if one is to follow R. Nathan, it was to intimate that even a single transgression involves one in the prescribed penalties;[13] for it was taught: 'The prohibition of kindling a fire [on the Sabbath] was mentioned separately[14] in order to [indicate that its transgression is] a prohibition only;[15] so R. Jose, while R. Nathan maintains that the intention was to intimate that even a single transgression involves the offender in the prescribed penalties'![13] And Raba explained that the Tanna[16] found difficult the expression of habitations,[17] [arguing thus]: What need was there for Scripture to state 'habitations'? [Is not this[18] obvious?] For consider: The observance of the Sabbath is a personal obligation, and any personal obligation is valid both in the Land [of Israel] and outside the land;[19] what need, then, was there for the All Merciful to write it[20] in connection with the Sabbath? This was explained by a disciple in the name of R. Ishmael: Whereas it was stated in the Scriptures, And if a man have committed a sin worthy of death, and he be put to death,[21] one might infer [that the death penalty may be executed] both on week-days and on the Sabbath and, as regards the application of the text, Everyone that profaneth it[22] shall surely be put to death,[23] this might be said to refer to the several kinds of labour other than the execution of a judicial death sentence; or again it might be inferred[24] that it[25] refers even to a judicial execution of a death sentence and, as regards the application of He shall surely be put to death[23] [this might be said to refer] to week-days but not to the Sabbath; or again it might be thought[26] to apply also to the Sabbath; hence it was expressly stated, Ye shall kindle no fire throughout your habitations,[27] and further on it is stated, And these things shall be for a statute of judgment unto you throughout your generations in all your habitations;[28] as the expression of 'habitations' mentioned below[28] refers to the Beth din, so the expression 'habitations' mentioned here[27] refers also to the Beth din, and concerning this the All Merciful said, 'Ye shall kindle no fire'.[29] Now, are we not to assume this statement to be in agreement with the view[30] of R. Nathan who holds that the object was to intimate that even a single transgression involves the offender in the prescribed penalties,[31] and the reason[32] is because the All Merciful has written, Ye shall kindle no fire,[27] but had that not been the case it would have superseded the [Sabbath]![33] — No; this may be according to R. Jose.[34]

Granted, however, [that it is according to the view of] R. Jose, might it not be suggested that R. Jose said that 'kindling a fire [on the Sabbath] is mentioned separately in order to indicate that it is a mere prohibition' [in the case only of] ordinary burning; the burning by the Beth din,[35] [however, is surely a case of] boiling of the metal bar[36] concerning which R. Shesheth said that there is no difference between the boiling of a metal bar and the boiling of dyes?[37] — R. Shimi b. Ashi replied: This Tanna[38] [requires Scriptural texts] not because elsewhere he holds that a positive precept supersedes a prohibition, but because this[39] might have been obtained by inference a minori ad majus; and it is this that he meant to say: 'As regards the application of the text, Every one that profaneth it[40] shall surely be put to death,[41] it might have been said to apply to the several kinds of labour other than that of the execution of a judicial death sentence, but that a judicial death sentence does supersede the Sabbath, by inference a minori ad majus:

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(1) On which the Sanctuary stood.
(2) פונדה, Lat. funda. Others, ‘a hollow girdle in which money is kept’.
(3) קפנדריא, cf. compendiaria.
(4) Bet. 54a. For an explanation of the inference, v. ibid. 62b.
(5) Lit., ‘it is not (known) to me’.
(6) Lev. XIX, 30.
(7) And since there is no superfluous verse to extend the principle in such a case as levirate marriage, the question remains, what need was there for the text ‘’aleha’.
(8) Cf. supra p. 22, n. 7.
(9) Cf. supra p. 22, n. 8.
(10) Ex. XXXV, 3.
(11) The prohibition of kindling a fire, surely, is included in the general prohibition of labour on Sabbath.
(12) I.e., only a negative commandment the transgression of which does not, like the other Sabbath offences, involve the penalties of stoning or kareth. The former, if the offender was warned beforehand of the consequence of his offence, the latter, where no such warning had been given.
(13) Lit., ‘to divide’, i.e., one of the thirty-nine kinds of labour that are forbidden on the Sabbath was singly specified in order to indicate that to incur the prescribed penalties it is not necessary to commit all the thirty-nine transgressions (as the one general, all-embracing prohibition of about might have seemed to imply). The mention of one prohibition (kindling of fire) separately breaks up, so to speak, (divides), all the others into single units, indicating that, as in its own case, so in that of all the others first mentioned together with it, every single transgression involves the penalty of stoning, kareth, or a sin-offering.
(14) Lit., ‘went out’.
(15) V. p. 24, n. 12.
(16) Who asked, supra, ‘wherefore was it stated?’
(17) Ex. XXXV, 3.
(18) That the prohibition is in force in all ‘habitations’.
(19) I.e., throughout all habitations.
(20) The phrase, ‘throughout your habitations’, Ex. XXXV, 3.
(21) Deut. XXI, 22.
(22) The Sabbath.
(23) Ex. XXXI, 14 which prohibits all kinds of about on the Sabbath.
(24) Lit., ‘or it is not but’.
(25) The prohibition of labour.
(26) Lit., ‘or it is not but’.
(27) Ex. XXXV, 3.
(28) Num. XXXV, 29, referring to the death penalties of murderers.
(29) I.e., execute no death penalty of burning on the Sabbath. The death penalty of ‘burning’ was executed by pouring molten lead through the condemned man's mouth into his body, thus burning his internal organs.
(30) Lit., ‘what, (is it) not?’
(31) Of death or kareth. V. supra p. 25, n. 1.
(32) Why the death penalty of burning — a kind of work — which according to R. Nathan would involve kareth must not be executed on the Sabbath.
(33) Though the penalties involved include that of kareth. Thus it follows that a positive precept may supersede even such a prohibition. So also in the case of the levirate marriage it might have been assumed that the precept of marrying one's deceased childless brother's widow supersedes the prohibition of marrying a consanguineous relative despite the fact that such a transgression involves elsewhere the penalty of kareth; hence it was necessary for Scripture to add, ‘’aleha’ (Lev. XVIII, 18), to indicate that even a levirate marriage is in such a case forbidden. (V. supra 3b and 5b).
(34) V. supra p. 24, n. 12.
(35) The death penalty of burning.
(36) Cf. supra note 4.
(37) Lit., ‘what (difference is it) to me’, Shab. 106a. The dyes were boiled in connection with the construction of the Tabernacle that was made by Moses, and any kind of labour that was there performed is included among the thirty-nine

principal kinds of labour which are forbidden on the Sabbath (v. Shab. 73a) and involve the penalty of kareth. Cf. supra p. 26, n. 8.

(38) Who deduced from Scriptural texts that a judicial death sentence may not be executed on the Sabbath.

(39) The assumption that the execution of a judicial death sentence might supersede the Sabbath.

(40) The Sabbath.

(41) Ex. XXXI, 14.

Talmud - Mas. Yevamoth 7a

If the Temple service which is of high importance and supersedes the Sabbath[1] is itself superseded by [a death sentence for] murder, as it is said, Thou shalt take him from Mine altar, that he may die,[2] how much more reasonable is it that the Sabbath which is superseded by the Temple service should be superseded by [a death sentence for] murder'. How, then, could it be said, 'Or it might rather [etc.]'?[3] — He means this: The burial of a meth mizwah[4] might prove [the contrary], since it supersedes the Temple service[5] and does not nevertheless supersede the Sabbath.[6] Then[7] he argued: It might be inferred a minori ad majus that the burial of a meth mizwah should supersede the Sabbath, [thus]: If the Temple service which super sedes the Sabbath is superseded by the burial of a meth mizwah, by deduction from Or for his sister,[8] how much more should the Sabbath which is superseded by the Temple service be superseded by the burial of a meth mizwah; hence it was explicitly stated, Ye shall kindle no fire.[9] [etc].[10]

According to our previous assumption, however, that a positive precept supersedes a prohibition, what is meant by, 'Or it might rather [etc.]'?[11] — It is this that was meant: 'As regards the application of the text, Every one that profaneth it[12] shall surely be put to death,[13] it might have been said to apply to the several kinds of labour other than the execution of a judicial death sentence, but that a judicial death sentence does supersede the Sabbath, for a positive precept[14] supersedes the prohibition. Then[15] he argued: It might be suggested that a positive precept supersedes a prohibition in the case of a mere prohibition only; has it, however, been heard to supersede a prohibition which involves kareth? Then he concluded: 'Even where[16] a positive precept supersedes a prohibition, is not the prohibition of a more serious nature than the precept?[17] And yet the positive precept comes and supersedes the prohibited; on what grounds, then, should a distinction be made between a minor and a major prohibition?[18] Hence it was explicitly stated, Ye shall kindle no fire[9] [etc.].'[19]

But[20] [this is the reason why a specific text] was needed:[21] It might have been assumed that this [case of a] brother's wife should be regarded as a subject which was included in a general proposition[22] and was subsequently singled out in order to predicate another law,[23] the predication of which is not intended to apply to itself alone but to the whole of the general proposition. For it was taught: 'A subject which was included in a general proposition and was subsequently singled out, etc. How [is this to be understood]? But the soul that eateth of the flesh of the sacrifice of peace-offerings [that pertain unto the Lord], having his uncleanness upon him;[24] were not peace-offerings included among the other holy things?[25] Why, then, were they subsequently singled out? In order that [the others] may be compared to them, and in order to tell you that as peace-offerings are distinguished by being consecrated objects of the altar so must also all other things[26] be consecrated objects of the altar, the objects consecrated for Temple repair only being excluded.'[27] Similarly here it might have been argued:[28] Since a brother's wife was included among all the other forbidden relatives, why was she singled out? In order that [the others] may be compared to her, and in order to tell you that as a brother's wife is permitted[29] so also are all the other forbidden relatives permitted.[30]

Are these, however, similar? There,[31] both the general proposition[32] and the particular specification[24] relate to a prohibition, but here[33] the general proposition relates to a prohibition while the particular specification relates to something which is permitted![34] This, surely, is rather to be compared to an object that was included in a general proposition and was subsequently singled out in order to be made the subject of a fresh statement, which you cannot restore to the restrictions of the general proposition unless Scripture specifically restores it; for it was taught: Anything which was included in a general proposition and was subsequently excluded in order to be made the subject of a fresh statement, cannot be restored to the restrictions of the general proposition unless Scripture has explicitly restored it.[35] How[36] [may this principle be illustrated]? And he shall kill the he-lamb in the place where they kill the sin-offering and the burnt-offering in the place of the Sanctuary; for as the sin-offering is the priest's so is the guilt-offering.[37] Now since there was no need to state, ‘As the sin-offering so is the guilt-offering.’[38] why did Scripture explicitly state. As the sin-offering so the guilt-offering? Because seeing that the guilt-offering of the leper was singled out[39] in order to impart a new law concerning the thumb of the right hand and the great toe of the right foot,[40] it might have been assumed that it required no application of blood to, and no burning of the prescribed portions of the sacrifice upon the altar;

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(1) Labour prohibited on the Sabbath may be performed in connection with the service of the Temple.

(2) Ex. XXI, 14. This is taken to mean that he may he removed from the altar even if he has to perform service thereon.

(3) Supra 6b. Since the inference was made a minori ad majus how could anyone dispute it?

(4) V. Glos.

(5) A priest may defile himself by the burial of a meth mizwah though he thereby becomes disqualified from performing the Temple service. V. Meg. 3b.

(6) Burial is forbidden on the Sabbath. So also, it could be argued, the execution of a death sentence, though it supersedes the Temple service, need not necessarily supersede the Sabbath.

(7) Saying again, ‘Or it might rather etc.’, supra 6b.

(8) Num. VI, 7; v. Meg. 3b.

(9) Ex. XXXV, 3.

(10) For the continuation, v. supra 6b.

(11) Cf. supra p. 27, n. 8. How, in view of this assumption, could any other conclusion be arrived at?

(12) The Sabbath.

(13) Ex. XXXI, 14.

(14) That the man worthy of death be put to death (v. Deut. XXI, 22).

(15) By saying again, ‘Or it might rather’, supra 6b.

(16) Cf. Bah, a.l.

(17) A transgression of the prohibition involves the serious penalty of flogging, while the non-performance of the precept is no punishable offence.

(18) As a positive precept supersedes an ordinary prohibition so it should also supersede one which involves kareth.

(19) V. supra note 3.

(20) Now that it is concluded that the need of the Scriptural text prohibiting the execution of a death sentence on Sabbath is because otherwise the permissibility thereof might have been argued a minori, and not on the ground of the principle that a positive command supersedes a prohibition, there is no proof available for the assumption that a positive precept supersedes a prohibition which involves kareth, and thus the original question again arises: What need was there for the specific text of Lev. XVIII, 18, ‘’aleha’ (supra p. 8), to indicate the obvious? (i.e., that the positive precept of the levirate marriage does not supersede the prohibition of marrying a consanguineous relative).

(21) V. previous note.

(22) The prohibition of incest, Lev. XVIII, 29.

(23) The marriage of the widow of a deceased childless brother.

(24) Lev. VII, 20.

(25) Lev. XXII, 3, where the penalty of kareth is pronounced for eating consecrated things during one's uncleanness.

(26) For the eating of which during one's uncleanness the penalty of kareth is incurred.

(27) Ker. 2b. If these were eaten by one in a state of uncleanness no obligation is incurred.

(28) Reading with Bah ה א (הוה אצינא). Cur. edd. retain הא with no sign of abbreviation.

(29) To be married to the levir if her husband died childless.

(30) Cf. previous note. A text was consequently needed to intimate that the law was not so,

(31) The case of consecrated objects.

(32) Lev. XXII, 3.

(33) Levirate marriage and forbidden relatives.

(34) How, then, could the two be compared?

(35) Now, as the case of a brother's wife has not been restored to the general proposition, what need was there for the specific text of Lev. XVIII, 18?

(36) This is the continuation of the quotation.

(37) Lev. XIV, 13, dealing with the leper's guilt-offering.

(38) Since the place of killing was indicated at the beginning of the verse while the other regulations concerning this sacrifice are found in the laws of the guilt-offering in Lev. VII, 1ff.

(39) From the laws relating to other guilt-offerings.

(40) V. Lev. XIV, 14.

Talmud - Mas. Yevamoth 7b

hence it was explicitly stated, ‘As the sin-offering so is the guilt-offering’: As the sin-offering[1] requires application of the blood to, and burning of the prescribed portions upon the altar, so does the guilt-offering also require application of the blood to, and burning of the prescribed portions upon the altar.[2] Had Scripture not restored it,[3] however, it would have been assumed that it was singled out only in respect of what was explicitly specified but not in any other respect;[4] so also here,[5] I would assume, only a brother's wife who was explicitly mentioned [can be said] to be permitted[6] but not any of the other forbidden relatives![7]

But[8] it might have been assumed that the law of a wife's sister[9] should be deduced from what has been found in the case of a brother's wife; as a levir may marry his brother's wife so he may also marry his wife's sister.[10]

Are, however, the two cases[11] similar? In the one case[12] there is only one prohibition; in the other[13] there are two prohibitions![14] — It might have been assumed that since she[15] was permitted[16] [in respect of one prohibition][17] she was also permitted [in the case of the other].[18] And whence is it derived that we assume that ‘since something was permitted [in one respect] it was also permitted [in the other]’? — From what was taught: In the case of a leper whose eighth day [of purification][19] fell on the Passover eve,[20] and who, having observed a discharge of semen on that day,[21] had taken a ritual bath, the Sages said: Although no other tebul yom[22] may enter [the Temple mount],[23] this one[24] may enter, for it is better that the positive precept,[25] the non-observance of which involves kareth, shall supersede a positive precept[26] the infringement of which involves no kareth.[27] And in connection with this R. Johanan said: According to the Torah, not even [the infringement of] a positive precept is involved,[28] for it is said, And Jehoshaphat stood in the congregation of Judah . . . before the new court.[29] What is meant by the new court? Rabbi[30] replied: That they enacted therein new laws, ordaining that a tebul yom[31] must not enter the camp of the Levites.[32] And ‘Ulla said: ‘What is the reason?’[33] Since he was given permission[34] in respect of his leprosy,[35] permission was also given to him in respect of his discharge of the semen.[36] But is this case[37] similar to that of ‘Ulla?

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(1) Of a leper.

(2) Zeb. 49a.

(3) The leper's guilt-offering and brought it into line with other guilt-offerings.

(4) Lit., ‘to what it went out, it went out; and to what it did not go out, it did not go out’.

(5) The case of the levirate marriage.

(6) Lit., ‘that was permitted is permitted’.

(7) The question consequently arises again: What need was there for ‘’aleha’ in Lev. XVIII, 18. (Cf. supra p. 30, n. s).

(8) The reason why a superfluous text (v. previous note) was needed.

(9) For this reading v. Bah.
(10) Hence it was necessary to have the superfluous text, ‘’aleha’ (v. supra n. 4) to shew that the law was not so.
(11) Brother's wife and wife's sister.
(12) Lit., ‘there’, a brother's wife.
(13) Lit., ‘here’, a wife's sister.
(14) The prohibitions to marry (a) a brother's wife and (b) a wife's sister. How then could the one be deduced from the other?
(15) A brother's wife who is also one's wife's sister and whose husband died childless.
(16) By the positive precept of the levirate marriage.
(17) That of marrying a brother's wife.
(18) The prohibition of marrying one's wife's sister. Hence etc. V. supra note 7.
(19) On which he completes the days of his purification and brings the prescribed sacrifices, presenting himself (whither as a leper he was till that day forbidden to enter) on the Temple mount at the entrance to the Nikanor gate of the Sanctuary, from where he extends his thumb and great toe into the Sanctuary (whither he is not yet allowed to enter) for the priest to apply to them some of the sacrificial blood, v. Nazir, Sonc. ed. p. 165ff.
(20) When the paschal lamb is sacrificed to be eaten in the evening.
(21) Such a discharge ordinarily disqualifies a man from entering the Temple mount.
(22) טבול יום one who has had his ritual bath and is awaiting nightfall for the completion of his purification.
(23) Before nightfall.
(24) The leper in the circumstances mentioned.
(25) That of the paschal lamb.
(26) That a leper like certain other unclean persons must be sent out from the Levitical camp in which the Temple mount is included.
(27) If he were not allowed to enter the Temple mount his purification from leprosy could not have been completed (cf. supra p. 31, n. 16) and he would in consequence have been prevented from participating in the paschal lamb. By allowing him to enter he is enabled to complete his purification, while nightfall would also terminate the uncleanness due to the discharge, and thus he is in a position to participate in the evening in the paschal lamb which during the day is prepared for him by a deputy.
(28) In allowing the leper in the conditions mentioned to enter the Temple court.
(29) II Chron. XX, 5, referring to a day when Israel completed a period of purification.
(30) This is the reading also in Zeb. 32b. Cur. edd. enclose in parentheses ‘R. Johanan’.
(31) V. Glos.
(32) Which proves that the prohibition for a tebul yom to enter the Levitical camp was not of Pentateuchal origin, having been first enacted in the days of Jehoshaphat.
(33) Why was a leper in the circumstances mentioned permitted to extend his hands into the Sanctuary whither an unclean person, according to ‘Ulla, may not project even part of his body?
(34) To project his hands into the Sanctuary.
(35) Despite the prohibition for an unclean person, though the days of his purification have been duly observed, to enter the Sanctuary even partially, prior to the offering of the prescribed sacrifices.
(36) Thus it is proved that since something was permitted in one respect the permission remains in force even when another prohibition may be involved in another respect. The same argument might have also applied to a wife's sister or widow of a deceased brother. Hence the need of the text, ‘’aleha’.
(37) A brother's wife who is also one's wife's sister.

Talmud - Mas. Yevamoth 8a

[The comparison] might well be justified where the deceased brother married [first][1] and the surviving brother married [his brother's wife's sister] afterwards,[2] for, in this case, since the prohibition of brother's wife was removed,[3] that of wife's sister[4] is also removed; but where the surviving brother had married [first] and the deceased brother had married subsequently, the prohibition of wife's sister was Surely in force first![5] Furthermore, even where the deceased had married [first], [the comparison] would be justified in the case where the deceased had married and died, and the surviving brother had married afterwards so that [the widow] was eligible in the interval;[6] where, however, the deceased had married, and before he died his wife's sister was married by his surviving brother, [his widow] was never for a moment eligible for his brother! Does not ‘Ulla admit that if the leper observed semen on the night preceding the eighth day[7] of his purification he must not project his hand into the Sanctuary on account of his thumb[8] because at the time he was eligible to bring the sacrifice [of the cleansed leper][9] he was not free from uncleanness?[10]

But [this is really the explanation]: If ‘’aleha’ was at all needed, [it was for such a case as] where the deceased brother had married [first] and died, and the surviving brother married [the widow's sister] subsequently.[11]

If you prefer I can say [that the reason[12] is because] it[13] might have been deduced by means of R. Jonah's analogy. For R. Jonah — others say, R. Huna son of R. Joshua — said: ‘Scripture stated: For whosoever shall do any of these abominations shall be cut off,[14] all forbidden relatives were compared to a brother's wife’;[15] [so in this case also it might have been said], as a brother's wife is permitted[16] so also are all other forbidden relatives permitted; hence the All Merciful has written, ‘’aleha’.[17]

Said R. Aha of Difti[18] to Rabina: Consider! All forbidden relatives[19] might be compared to a brother's wife[20] and might equally be compared to a wife's sister,[21] what reason do you see for comparing them to a wife's sister?[21] Compare them rather to a brother's wife![20] — If you wish I might say: When a comparison may be made for increasing as well as for decreasing restrictions, that for increasing restrictions must be preferred. If you prefer, however, I might say: In the former cases[22] there are two prohibitions in the one as well as in the other,[23] and a double prohibition may justly be inferred from a double prohibition; in the latter case, however,[24] only one prohibition is involved,[25] and a double prohibition may not be inferred from a single one.

Raba said: [That] a forbidden relative herself[26] [may not contract the levirate marriage] requires no Scriptural text to prove it, since no positive precept can supersede a prohibition which involves kareth; if a Scriptural text was at all needed it was for the purpose of forbidding a rival.

And in the case of a forbidden relative is no Scriptural text required [to prohibit her levirate marriage]? Surely it was taught, ‘Thus we are in a position to know the law concerning herself’![27] — On account of her rival.[28] Was it not taught, however, ‘Now we know the law concerning themselves’?[29] — On account of their rivals.[30]

Come and hear: Rabbi said: [Instead of] and take, [Scripture stated], and take her,[31] [and instead of] and perform the duty of a husband's brother [Scripture stated], and perform the duty of a husband's brother unto her,[31] in order to prohibit[32] [the levirate marriage of] forbidden relatives and their rivals![33] — Read, ‘To forbid [the levirate marriage of] the rivals of the forbidden relatives’. But two texts, surely, were mentioned;[34] was not one for the forbidden relative and the other for her rival? — No; both were for the rival, but one indicates prohibition[35] of a rival where the precept[35] is applicable, and the other indicates permission to marry the rival where the precept[35] is not applicable.[36] What is the reason? — [Because instead of] ‘And perform the duty of a husband's brother’ [Scripture stated] And perform the duty of a husband's brother UNTO HER, [which indicates that] only where levirate marriage is applicable is a rival forbidden[37] but where levirate marriage is not applicable[36] a rival is permitted.[37] R. Ashi said: [This[38] may] also be inferred from our Mishnah where it was stated, FIFTEEN [CATEGORIES OF] WOMEN EXEMPT THEIR RIVALS, but it was not stated, ‘are exempt[39] and exempt [their rivals]’. This proves it.

In what respect does the case of a forbidden relative differ[40] that it should require no text?[41] Obviously because no positive precept may supersede a prohibition which involves kareth. But then the case of a rival also should require no text,[41] since no positive precept may supersede a prohibition which involves kareth![42] — Said R. Aha b. Bebai Mar to Rabina, Thus it has been stated in the name of Raba: In the case of a rival also no Scriptural text[41] was needed; if a text was needed at all

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(1) His wife thus becoming a forbidden relative to his brother as ‘brother's wife’.

(2) Thus adding to the one prohibition (v. previous note) the other of ‘wife's sister’.

(3) By the precept of the levirate marriage, owing to the childlessness of the deceased.

(4) Since it was added subsequently.

(5) And could not consequently be removed by the removal of a prohibition which took effect subsequent to it.

(6) Between the death of her husband and the marriage of her sister by his surviving brother. This case would be analogous to that of the leper who was eligible to bring his sacrifices on the eighth day of his purification during the interval between the beginning of the day and the hour on that day he contracted a new uncleanness by his discharge.

(7) The night is reckoned as the beginning of the day following it.

(8) V. supra p. 31, n. 16.

(9) The eighth day of his purification.

(10) Owing to the discharge of the semen which occurred in the night. As a sacrifice must be brought in the day time only, there was not a single moment during which he was eligible to bring the sacrifices as being clean in all respects. The prohibition consequently remains in force. So also in the case of a wife's sister as regards the levirate marriage. The question, therefore, arises again, what need was there for the superfluous text of Lev. XVIII, 18. V. supra p. 30, n. 2.

(11) So that there was an interval during which he was permitted to marry the widow. V. p. 33. n. 11.

(12) Why the superfluous ‘’aleha’ in Lev. XVIII, 18 was required.

(13) The law that forbidden relatives may be married in the case of a levirate marriage.

(14) Lev. XVIII, 29.

(15) Having been grouped together in this text.

(16) In the case of a levirate marriage.

(17) Lev. XVIII, 18; to intimate that they are not permitted.

(18) Dibtha, below the Tigris, S.W. of Babylon.

(19) That were enumerated in our Mishnah.

(20) And levirate marriage with all of them would thus be permitted.

(21) With whom the levirate marriage is forbidden by the text ‘’aleha’ (v. supra).

(22) Lit., ‘here’, (a) in that of a wife's sister and (b) all the other forbidden relatives (other than a brother's wife).

(23) Lit., ‘and here two prohibitions’, (a) forbidden relatives and (b) brother's wife.

(24) Lit., ‘but here,’ a brother's wife who is not a consanguineous relative.

(25) That of a brother's wife.

(26) So Bah.

(27) I.e., the forbidden relative, supra 3b.

(28) Whose case had to be proved, it was necessary to begin with this introduction.

(29) I.e., the forbidden relatives.

(30) Cf. supra n. 3.

(31) Deut. XXV, 5.

(32) By the use of ‘her’ and ‘unto her’ which implies ‘but no other’.

(33) Which shews that a Scriptural text is required, even in the case of forbidden relatives themselves, to prove that levirate marriage is prohibited.

(34) Lit., ‘he took.’

(35) Of the levirate marriage.

(36) As, for instance, in the case of a rival of a forbidden relative who married a stranger, v. infra 13a.

(37) To be married by the man to whom the relative herself is forbidden.

(38) Raba's statement that the prohibition to contract levirate marriage with a forbidden relative is so obvious that no Scriptural text is required to prove it.

(39) Which shews that the exemption of the forbidden relatives themselves from the levirate marriage (i.e., the prohibition ever to marry them) was taken in our Mishnah for granted.

(40) From the case of her rival.
(41) To prove its prohibition even in the case of the levirate marriage.
(42) Kareth being the penalty in both cases.

Talmud - Mas. Yevamoth 8b

it was for the purpose of permitting a rival where the precept[1] is not applicable. What is the reason?[2] — Scripture stated, ‘’aleha’,[3] to indicate that only in the case of ‘unto her’[4] is she[5] forbidden,[6] where the other, however, may not, she is permitted.

Said Rami b. Hama to Raba: Might it not be suggested[7] that the forbidden relative[8] herself is permitted[9] where the precept[10] is not applicable? — Is not [such an argument contrary to the principle of inference] a minori ad majus? Being forbidden where the precept[10] is applicable, would she be permitted where the precept is not applicable? — [‘The case of a] rival’, the first replied, ‘could prove it, since she is forbidden[9] where the precept[10] is applicable, and is permitted[9] where the precept[10] is not applicable’. ‘It is for your sake,’ the other replied, ‘that Scripture states, In her life-time,[11] so long as she[12] lives’.[13] But is not the expression,[14] In her life-time,[11] required for the exclusion [of the prohibition of marriage] after her[12] death?[15] — This is deduced from the text, And a woman to her sister.[11] If [the deduction were only] from the text. ‘And a woman to her sister’,[11] it might have been said that if she[16] was divorced the sister would be permitted, hence it was expressly stated, ‘In her life-time.’[11] So long as she[16] is alive, even though she has been divorced, [her sister must] not [be married]![17] — But, said R. Huna b. Tahlifa in the name of Raba, two Scriptural texts are available; it is written, Thou shalt not take a woman to her sister, to be a rival to her[18] [implying two],[19] and it is also written, To uncover her nakedness,[20] which implies that only one is forbidden; how then [are the two texts to be reconciled]? Where the precept[21] is applicable both are forbidden;[22] where the precept[21] is not applicable she[23] is forbidden but her rival is permitted. Might not the deduction be reversed: Where the precept[21] is applicable she[23] is forbidden but her rival is permitted, but where the precept is not applicable both are forbidden![22] — If so, ‘’aleha’ should not have been stated.[24]

Said R. Ashi to R. Kahana: Whence is it derived that the expression ‘’aleha[25] indicates prohibition? Is it not possible that it implies permission, and that it is this that the All Merciful meant to imply: Thou shalt not take a woman to her sister, to be a rival to her,[25] neither herself nor her rival where ‘unto her’[26] is not applicable,[27] but where ‘unto her’[26] is applicable[28] both are permitted![29] — If so, how could the ‘uncovering of the nakedness’ of one[30] be possible? If in the case where the precept[31] is applicable, both are permitted;[32] and if where the precept is not applicable both are forbidden![33]

[Reverting to] the [above] text, Rabbi said: Instead of And take, Scripture stated, ‘And take her’ and instead of ‘And perform the duty of a husband's brother’, Scripture stated, ‘And perform the duty of a husband's brother unto her’,in order to prohibit [the levirate marriage of] forbidden relatives and their rivals. Are, then, rivals mentioned here at all? And, furthermore, the law of rivals has been derived from the expression To be her rival![34] — The expression To be her rival is employed by Rabbi for R. Simeon's deduction.[35] Where,[36] however, is the rival mentioned?[37] — What he meant is this: If so,[38] Scripture should have stated, And take; why then did it state, ‘And he shall take her’?[39] To indicate that wherever there are two to be taken,[40] he[41] having the choice of marrying whichever he prefers[42] both are permitted,[43] but if not,[44] both are forbidden; And perform the duty of a husband's brother unto her,[45] indicates that where levirate marriage is applicable there is the rival forbidden, where, however, levirate marriage is not applicable the rival is permitted.

As to the Rabbis,[46] to what do they apply the verse ‘And he shall take her’? — They require it for the deduction of R. Jose b. Hanina. For R. Jose b. Hanina said: ‘And he shall take her’[45] teaches that he[47] may divorce her with a letter of divorce[48] and that he may remarry her;[49] And he shall perform the duty of a husband's brother unto her, even against her will.[50] And Rabbi?[51] — The law of R. Jose b. Hanina is deduced from To a wife,[45] and that the marriage may take place against her will is deduced from Her husband's brother shall go in unto her.[45]

What does Rabbi do with [the expression], ‘’aleha’? — He requires it [for another deduction], as we learnt: The Beth din[52] are under no obligation[53] unless [they ruled] concerning a prohibition the punishment for which is kareth, if the transgression was wilful, and a sin-offering if the transgression was unwitting; and so it is with the anointed High priest.

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(1) Of the levirate marriage.
(2) I.e., how is the permissibility deduced?
(3) Lev. XVIII, 18.
(4) Lit., ‘in the place of עליה with reference to the verse ‘Her husband's brother shall go in unto her’ (v. supra p. 8, n. 9) i.e., where the command of levirate marriage would otherwise apply.
(5) The rival.
(6) To be married, cf. supra p. 35, n. 12.
(7) On the lines of the argument just advanced.
(8) I.e., the wife's sister.
(9) To be married.
(10) Of the levirate marriage.
(11) Lev. XVIII, 18.
(12) One's wife.
(13) Her sister must not be married. (Other forbidden relatives, as has been shewn supra, are deduced from one's wife's sister).
(14) Lit., ‘that’.
(15) I.e., that the prohibition of a wife's sister which on the present assumption is limited to cases where the precept of levirate marriage is applicable, applies only during the lifetime of one's wife.
(16) The wife.
(17) But it can still be maintained that where no levirate marriage is applicable, there is no prohibition of marrying the wife's sister.
(18) Lev. XVIII, 18.
(19) I.e., that both the wife's sister and her rival are forbidden to be married. (This, as will be shewn infra, is deduced from the expression li-zeror.)
(20) Lev. XVIII, 18, emphasis on her (sing.).
(21) Of the levirate marriage.
(22) To be married.
(23) The forbidden relative herself.
(24) Since even without this additional phrase the two contradictory texts would have been naturally reconciled by applying the former (prohibition of both) to a case where the precept of the levirate marriage is inapplicable, and the latter (permission of the rival) to a case where it is applicable. The addition of the phrase must consequently have been intended to impart a new law, viz. that a rival is forbidden, like the forbidden relative herself, where the precept of the levirate marriage is applicable.
(25) Lev. XVIII, 18.
(26) V. supra p. 8, n. 9.
(27) I.e., where the law of the levirate marriage does not apply.
(28) Where levirate marriage does apply.
(29) The concluding part of the verse עליה בחייה meaning where he has to go ‘unto her’, the sister of his wife who is the widow of his brother, he may do so even in her (his wife's) life-time.
(30) V. Lev. XVIII, 18, implying, as explained supra, the prohibition of one only.
(31) Of the levirate marriage.
(32) So that there are two, not only one.

(33) And there is none.
(34) Heb. li-zeror (Lev. XVIII, 18), supra 3b. How then could it be said to be derived from a different text?
(35) V. infra 28b.
(36) V. Emden a.l. Cur. edd. read ‘here’.
(37) In Deut. XXV, 5, the text cited by Rabbi. Clearly, it was not mentioned at all; how then could Rabbi derive from the text a law concerning a subject of which no mention was made?
(38) That the text refers to the forbidden relative only and not to a rival.
(39) Deut. XXV, 5.
(40) Lit., ‘takings’, i.e., when the deceased childless brother is survived by two widows, and the levir has to decide which of them to marry.
(41) The levir.
(42) I.e., when neither of the two is a forbidden relative.
(43) The emphasis on ‘her’ in And take her implies that there is a choice between two, and the phrase ‘and take her’ is taken to imply that the levir is in a position to choose whichever he pleases, since either of them must be capable of having the phrase ‘and take her applied to her.
(44) If one cannot be married by him on account of her being his forbidden relative.
(45) Deut. XXV, 5.
(46) Who made the deduction from li-zeror.
(47) The levir.
(48) After he married her; and she requires no halizah.
(49) Though the precept of the levirate marriage has been fulfilled and she might have been assumed to be forbidden to him as a brother's wife. The text is interpreted as follows: And he takes her to him to wife, as soon as he has taken her, she is regarded henceforth in all respects as his wife, i.e., as if she had never been forbidden to him as a brother's wife.
(50) Emphasis on ‘unto her’ (v. Tosaf).
(51) Whence does he derive the law deduced by R. Jose b. Hanina?
(52) Who are guilty of an erroneous ruling.
(53) To bring the sacrifice prescribed in Lev. IV, 13ff.

Talmud - Mas. Yevamoth 9a

Nor [are they liable] in respect of idolatry unless [they ruled] concerning a matter the punishment for which is kareth, if it was committed wilfully and a sin-offering if committed unwittingly;[1] and we also learnt: [For the unwitting transgression of any] commandment in the Torah the penalty for which, if committed wilfully, is kareth and, if committed unwittingly a sin-offering, the private individual brings a sin-offering of a lamb or a she-goat; the ruler brings a goat; and the anointed High Priest and the Beth din bring a bullock. In the case of idolatry the individual and the ruler and the anointed High Priest bring a she-goat while the Beth din[2] bring a bullock and a goat, the bullock for a burnt-offering and the goat for a sin-offering. Whence is this deduced? From the following. For our Rabbis taught: When the sin wherein they have sinned is known:[3] Rabbi said, here[4] we read ‘aleha[5] and further on[6] we also read ‘aleha;[7] as further on[6] the prohibition involves the penalty of kareth if the transgression was wilful and that of a sin-offering if it was unwitting, so here[8] also, [the ruling must be concerning] a prohibition which involves the penalty of kareth if the transgression was wilful and that of a sin-offering if it was unwitting.[9]

Proof has thus been adduced for the case of the congregation; whence for that of the anointed High Priest? — It is written in relation to the High Priest, So as to bring guilt upon the people;[10] this shews that the anointed High Priest is like the congregation. And for an individual and a ruler? — The inference is made by a comparison of Things[11] with Things.[12] ‘Nor [are they liable] in respect of idolatry unless [their ruling] concerned a matter the punishment for which is kareth if it was committed wilfully, and a sin-offering if committed unwittingly’. As regards the congregation in the matter of idolatry, deduction[13] is made by comparison between From the eyes[14] and From the eyes.[15] [The law[16] of] a private individual, a ruler and an anointed High Priest [is deduced] from, And if one soul[17] which implies that there is no distinction between a private individual, a ruler and an anointed High Priest, while the waw[18] connects them with the previous subject,[19] and consequently the latter[20] may be deduced from the former.[21]

Whence, however, do the Rabbis[22] arrive at this inference?[23] — They deduce it from the Biblical interpretation which R. Joshua b. Levi taught to his son: Ye shall have one law for him that doeth aught in error. But the soul that doeth aught with a high hand etc.,[24] all the Torah is compared to the prohibition of idolatry;[25] as in regard to idolatry [obligation is incurred only where] the offence involves the punishment of kareth[26] when it was committed wilfully and a sin-offering[27] when committed unwittingly, so also in the case of any other transgression [it must be such] as involves kareth when committed wilfully and a sin-offering when committed unwittingly.

Proof has thus been found for the case of a private individual, a ruler and an anointed High Priest[28] both in regard to idolatry and the rest of the commandments; whence, however, [is it proved that the same law applies also to] the congregation in the case of idolatry? — Scripture said, And if one soul,[29] and the former[30] may be deduced from the latter.[31] Whence, however, [is it deduced that the same law applies to] the congregation in the case of the other commandments? — Deduction is made by comparison between ‘From the eyes’ and ‘From the eyes’.[32]

And what does Rabbi do with the text of One law?[33] — He applies it to the following.[34] Whereas we find that Scripture made distinction between individuals and a group,[35] individuals being punished by stoning and their money, therefore, being spared, while a group are punished by the sword and their money is consequently destroyed, one might also assume that a distinction should be made in respect of their sacrifices; hence it was explicitly stated, Ye shall have one law.[33]

R. Hilkiah of Hagronia[36] demurred: Is the reason[37] because the All Merciful has written, Ye shall have one law,[33] so that had it not so been written it might have been thought that a distinction should be made [in respect of their sacrifices]? What, however, could they bring! Should they bring a bullock? The congregation,[38] surely, brings a bullock for the transgression of any one of all the other commandments![39] [Should they bring] a lamb? An individual, surely, brings a lamb if he transgressed any of the other commandments![40] A he-goat? A ruler brings one in the case of transgression of any of the other commandments![40] A bullock for a burnt-offering and a goat for a sin-offering? Such, surely, are brought by the congregation in the case of idolatry![40] Should they, then, bring a she-goat? This, surely, is also the sin-offering of a private individual![41] — [The text][42] was required, because it might have been suggested that whereas the congregation, in the case of an erroneous ruling, brings a bullock for a burnt-offering and a he-goat for a sin-offering, these[43] should also bring the same sacrifices, but] in the reverse order;[44] or [it might have been assumed to be] necessary[45] but that there was no remedy;[46] hence it was necessary to teach us.[47]

Said Levi to Rabbi: What ground is there for stating[48] FIFTEEN? Sixteen should have been stated! — The other replied: It seems to me that this man has no brains in his head. ‘Do you mean’, he continued, ‘a man's mother who had been outraged by his father?[49] The case of a man's mother who has been outraged by his father is a matter in dispute between R. Judah and the Rabbis,[50] and the author of our Mishnah does not deal with any controversial matter’. But does he not? Surely, the prohibition due to a Rabbinical ordinance and the prohibition due to the levir's sanctity,[51] concerning which R. Akiba and the Rabbis are in dispute,[52] are mentioned! — We mean, in our chapter. But, surely it was taught,[53] ‘Beth Shammai permit rivals to the other brothers and Beth Hillel prohibit them’![54] — The view of Beth Shammai where it is in contradiction to that of Beth Hillel is of no consequence.[55]

Is there not the case of the wife of a man's brother who was not his contemporary.[56]

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(1) Hor. 8a.
(2) So in Hor. 9a. Cur. ed. ‘congregation’.
(3) Lev. IV, 14.
(4) Concerning an erroneous ruling of the Beth din.
(5) עליה, Lev. loc. cit. (‘wherein’).
(6) Concerning marrying two sisters.
(7) Ibid. XVIII, 18, E.V., ‘Beside the other’.
(8) Concerning an erroneous ruling of the Beth din.
(9) Thus it has been shewn that Rabbi requires the text Beside the other for another deduction.
(10) Lev. IV, 3.
(11) Heb. mizwoth מצות ‘commandments’.
(12) Lev. IV, 22 and IV, 13.
(13) That the transgression must be one which involves kareth if done wilfully, and a sin-offering if done unwittingly.
(14) Num. XV, 24, dealing with idolatry.
(15) Lev. IV, 13, referring to an erroneous ruling.
(16) V. note 12.
(17) Num. XV, 27.
(18) ‘And’, in we'im (ואם, and if).
(19) The congregation.
(20) Individual, ruler and High Priest.
(21) The congregation, concerning whom deduction has previously been made from the law relating to an erroneous ruling.
(22) Who, unlike Rabbi, require the expression ‘aleha (beside her) for deduction in connection with the laws of incest and rival wives, supra 3b.
(23) That obligation is incurred only where the prohibition involves kareth where it was transgressed wilfully and a sin-offering when transgressed unwittingly.
(24) Num. XV, 29, 30.
(25) The text, according to Rabbinical exposition, refers to idolatry and in relation to it the expression Law (Torah) is used.
(26) E.g., offering of a sacrifice.
(27) V. Num. XV, 30. Where wilful transgression involves kareth, unwitting transgression is atoned for by a sin-offering.
(28) By deduction from soul (nefesh, Num. XV, 27) which includes all ranks of individuals.
(29) Num. XV, 27, referring, as has just been pointed out, to individuals of all ranks.
(30) Congregation.
(31) Individuals.
(32) V. supra p. 40, n. 13 and p. 40, n. 14.
(33) Num. XV, 29.
(34) Lit., ‘requires it for as it was taught’.
(35) Lit., ‘many’, i.e., the inhabitants of a city condemned for idolatry (Deut. XIII, 13ff).
(36) A suburb of Nehardea.
(37) Why the sin-offerings of a group and of individuals are the same in the case of idolatry (v. previous note).
(38) I.e., a majority of all the tribes of Israel.
(39) What distinction, then, would there be between the sin-offerings of a ‘condemned city’ and those of the ‘congregation’? (V. previous note). If a distinction is to be made between the sacrifices of a ‘condemned city’ and those of individuals, how much more should such a distinction be made between the former and those of the ‘congregation’!
(40) Cf. n. 7, supra.
(41) Now, since no distinction in the sacrifice could possibly be made, what need was there for the text of Num. XV, 29?
(42) V. previous note.
(43) The men of a ‘condemned city’.
(44) A bullock for a sin-offering and a he-goat for a burnt-offering.
(45) For the men of a ‘condemned city’ to bring a special sin-offering.

(46) If the sin was committed unwittingly since an offering peculiar to themselves is an impossibility.

(47) That the sacrifices are the same (cf. supra p. 42, n. 5) as deduced from Num. XV, 27. For further notes v. Hor., Sonc. ed. pp. 53ff.

(48) In our Mishnah, supra 2a.

(49) I.e., that the Mishnah should have included as a sixteenth forbidden relative, a man's mother who was not the lawful wife of his father, and who, having been subsequently married by his paternal brother who died childless, is now subject to the levirate marriage or halizah of her own son, the brother of her second husband.

(50) Whether she may be married to his paternal brother, supra 4a.

(51) איסור מצוה a prohibition not included in the Biblical laws of incest, but ordained by the Rabbis. איסור קדושה a prohibition due to sanctity in the case, e.g., of a widow whose levir is a High Priest. (For this and an alternative explanation v. infra 20a).

(52) Infra loc. cit.

(53) In our very chapter, infra 13a.

(54) Which shews that even laws which are in dispute are recorded in the chapter.

(55) Lit., ‘is not a teaching’; the view of Beth Hillel is accepted as law, and can consequently be included in our chapter.

(56) Lit., ‘in his world’, i.e., who was born after the death of his childless brother.

Talmud - Mas. Yevamoth 9b

concerning which R. Simeon and the Rabbis are in dispute,[1] and which is nevertheless mentioned? — R. Simeon does not dispute the case where the birth[2] was first, and the levirate marriage[3] later.[4] Did not R. Oshaia, however, say[1] that R. Simeon disputed the first case also?[5] — Surely. R. Oshaia's view was refuted.

Did not, however, Rab Judah state in the name of Rab, and R. Hiyya also taught: In the case of all these[6] it may happen that she who is forbidden to one brother may be permitted to the other[1] while she who is forbidden to the other brother may be permitted to the one, and that her sister who is her sister-in-law may be subject either to halizah or to the levirate marriage.[7] And Rab Judah interpreted [it[8] as referring to those][9] from one's MOTHER-IN-LAW onwards but not to the first six categories. What is the reason? Because in the case of a daughter this[10] is possible only [with one born] from a woman who had been outraged but not [with one born] from a legal marriage,[11] [and the author of our Mishnah] deals only with cases of legal matrimony and not with those of outraged women.[12] And Abaye interpreted it[8] [as referring] also to a daughter from a woman who had been out raged, because, since [the application of Rab's statement] is quite possible in her case, it matters not whether she was born from a woman who was legally married or from one that had been outraged; but not to the wife of a brother who was not his contemporary. What is the reason? Because [the application of Rab's statement in this case] is possible only according to the view of R. Simeon and not according to that of the Rabbis, [the author of our Mishnah] does not deal with any matter which is in dispute. And R. Safra interprets it[13] as referring also to the wife of a brother who was not his contemporary, and [in his opinion] it[13] is possible in the case of six brothers in accordance with the view of R. Simeon.[14]

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(1) Infra 18b.

(2) Of a third brother. (V. infra n. 4).

(3) Between the second brother and the widow of the first brother who died without issue (V. following note).

(4) In such a case, R. Simeon agrees that the third brother must not marry the widow, because at the time when he was born the widow was forbidden to him as ‘the wife of his brother who was not his contemporary’. R. Simeon's disagreement with the Rabbis is limited to the case where the first brother, A, died childless and his widow was married to the second brother, B, prior to the birth of the third brother, C. If subsequently B died also childless, R. Simeon, contrary to the opinion of the Rabbis, allows the levirate marriage between the widow and C, because when C was born the widow was already the wife of B, and C's levirate marriage now is not due to A whose widow was a married woman when he was born, but to B whose contemporary he is.

(5) I.e., where C (v. note 4) was born before the levirate marriage between A's widow and B took place.
(6) The fifteen forbidden categories enumerated in our Mishnah, supra 2af.
(7) For full explanation of this statement V. infra 26a and 28b.
(8) Rab's statement.
(9) Forbidden categories.
(10) The full application of Rab's statement.
(11) Who would be forbidden to all the brothers.
(12) And since the case of a daughter could not be included, the other five cases also, bearing on a daughter, were excluded.
(13) Rab's statement.
(14) V. infra 28b for explanation.

Talmud - Mas. Yevamoth 10a

And your mnemonic is, ‘Died, born, and performed the levirate marriage; died, born, and performed the levirate marriage’![1] — Rabbi[2] does not accept these rules.[3]

R. Adda Karhina stated before R. Kahana in the name of Raba: Rabbi, in fact, does accept these rules,[4] but it was this that he meant to say to [Levi]:[5] [The application of the statement[4] to] a woman outraged by one's father is possible only in one [of its parts]; it is impossible, however, to apply it in [both its parts], for if Jacob outraged his two sisters,[6] it is possible [to apply that part of the statement relating to] ‘her sister who is her sister-in-law’,[7] but not that of ‘she who is forbidden to one brother may be permitted to the other’;[8] and if be outraged two strangers,[9] it is possible [to apply the statement], ‘she who is forbidden to one brother may be permitted to the other’[10] but not that of ‘her sister who is her sister-in-law’.[11]

R. Ashi said: Rabbi, in fact, does not accept these rules[12] and [our Mishnah] does deal with matters in dispute, and as to the meaning[13] of ‘It seems to me that this man has no brains in his head’ which he[14] addressed to him,[15] what he meant was this: ‘Why did you not carefully consider our Mishnah? For our Mishnah represents the view of R. Judah who forbids the marriage of a woman that was outraged by one's father,[16] as it was taught: Six forbidden relatives come under greater restrictions,[17] since they are to be married to strangers only,[18] and their rivals are permitted.[19] [These are:] his mother, his father's wife and his father's sister [etc.].[20] Now, what is meant by "his mother"? If it be assumed to mean one who was legally married to his father, such a woman surely is "his father's wife".[21] Must it not consequently mean one who was outraged by his father? And yet it was stated, "since they are to be married to strangers only", implying "to strangers only but not to the brothers". Now, who has been heard to hold such an opinion? Surely it was R. Judah who forbids marriage with a woman who was outraged by one's father.[22] Hence[23] it was not included in our Mishnah.’[24]

Said Rabina to R. Ashi: [Such a levirate relationship][25] is possible even according to R. Judah if and when one had married[26] illegally![27] — The author of the Mishnah is not concerned with an ‘if’.[28] Said R. Ashi to R. Kahana: This[29] is also possible without the ‘if’,[30] where Jacob[31] outraged his daughter-in-law, begat from her a son, and then Reuben[32] died without issue, and she thus came into levirate relationship with her son;[33] and since she is forbidden to him,[34] her rival also is likewise forbidden![35] — The other replied: [The author of our Mishnah] deals only with lawful brotherhood but not with brotherhood which is due to a forbidden act.

Levi nevertheless[36] inserted it[37] in his Mishnah. For Levi taught: One's mother sometimes exempts her rival[38] and sometimes she does not exempt her. If his mother, for instance,[39] was lawfully married to his father, and then she was married[40] to his paternal brother[41] who subsequently died, such a mother does not exempt her rival.[42]

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(1) Now, since in the case of ‘the wife of a brother who was not his contemporary’ the application of Rab's statement is only possible according to the view of R. Simeon but not according to that of the Rabbis, and since the statement is based on our Mishnah, it is obvious that our Mishnah deals also with a case which is in dispute.

(2) Cf. Bah. Cur. edd. insert, ‘but’.

(3) Of Rab and R. Hiyya. Our Mishnah consequently deals only with that case in which R. Simeon and the Rabbis are in agreement. (V. supra 9b top).

(4) Of Rab and R. Hiyya, supra 9b.

(5) Whom he addressed supra 9a.

(6) And after one of them had given birth to a child, C, and the other to one, D, the first was married by A and the second by B, two of Jacob's sons from another wife.

(7) For should A and B die childless their wives who are sisters as well as sisters-in-law come under the law of the levirate marriage in relation to C and D the brothers of A and B.

(8) Both being forbidden to C as well as to D. The mother of C is forbidden to C as mother and to D as mother's sister, and the mother of D is similarly forbidden to D and C.

(9) Cf.n.8.

(10) Since the women are strangers and the restrictions mentioned in note 10 do not apply.

(11) The women being sisters-in-law only but not sisters. Thus it has been shewn that the statement could not be applied in its entirety to the case of an outraged woman. Hence it was excluded from the enumeration in our Mishnah.

(12) Of Rab and Hiyya.

(13) Lit., ‘and what’.

(14) Rabbi.

(15) Levi, supra 9a.

(16) Hence it is impossible for a mother, whether legally married or outraged, ever to come into levirate relationship with her son. (Cf. supra p. 45, n. 8.)

(17) Than those relating to the fifteen enumerated in our Mishnah.

(18) No paternal brother of the person concerned may ever marry them.

(19) To marry the brother of their deceased husband who had been married to their rival (one of the six relatives) illegally (Maimonides). If the marriage was with a stranger the permissibility of marriage is obvious since the laws of rivals apply only to a brother's widow.

(20) Infra 13a.

(21) Who was specifically mentioned.

(22) So that it is impossible for one ever to be subject to levirate marriage with his brother's wife whose legitimate or illegitimate son he is.

(23) Since R. Judah holds such an opinion and the Mishnah represents his view.

(24) Lit., ‘he did not teach it’.

(25) Cf. supra p. 46, n. 13.

(26) The woman his father had outraged and who is also the mother of his brother.

(27) Infra 78a. In such a case it is surely possible for a mother to come into the levirate relationship with her son.

(28) Lit., ‘when if he does not teach’, i.e., he is not concerned with a levirate relationship that may arise out of a possible and unlikely breach of the law.

(29) Levitate relationship with a mother. Cf. supra p. 46, n. 13.

(30) I.e., even if the deceased brothers did not transgress the law.

(31) The father of the deceased.

(32) Her husband, Jacob's son.

(33) Lit., ‘and she fell before her son’, who is the paternal brother of her deceased husband, Reuben.

(34) As his mother.

(35) Why then was not this case included in our Mishnah?

(36) Despite Rabbi's abusive reply, supra 9a.

(37) בדקה lit., ‘examined it’, i.e., revised our Mishnah and added the case under discussion. [Levi drew up a collection of teachings like those of R. Hiyya and R. Oshaia, v. B.B., Sonc. ed. p. 216].

(38) From halizah and the levirate marriage.

(39) Lit., ‘how so?’.
(40) Unlawfully.
(41) Which is a marriage forbidden under the penalty of kareth and is, therefore, illegal and invalid.
(42) The marriage having been invalid, the woman is not regarded as his brother's wife.

Talmud - Mas. Yevamoth 10b

If his mother, however, was a woman that had been outraged by his father and was then married to his paternal brother who subsequently died, such a mother does exempt her rival.[1] And though the Sages taught in our Mishnah FIFTEEN we must add a case like this as a sixteenth.

Resh Lakish said to R. Johanan: According to Levi who maintains that an ‘if’[2] is also included,[3] let our Mishnah also include[4] the case of a levir who gave halizah to his sister-in-law[5] and later betrothed[6] her and died without issue, for since [the widow of such a one] is forbidden,[7] her rival also is forbidden![8] — The other replied: Because in this case the law of the rival of the rival[9] cannot be applied.[10] But could he[11] not have answered[12] him[13] [that the brothers] are only subject to the penalties of a negative precept,[14] and that those who are subject to the penalties of a negative precept are[15] under the obligations of halizah and the levirate marriage?[16] — He[17] answered him[18] in accordance with the view he[18] holds. ‘According to my view,’ he[19] argued, [the brothers] are only subject to the penalties of a negative precept,[20] and those who are subject to the penalties of a negative precept are[21] under the obligations of halizah and the levirate marriage,[22] but even according to your view that they are subject to the penalty of kareth [the case could not have been included in our Mishnah] because the law of the rival's rival cannot be applied’.[23]

It has been stated: Where [a levir] had performed the ceremonial of halizah with his sister-in-law, and then betrothed her, Resh Lakish holds that he is not subject to the penalty of kareth for the haluzah,[24] but the other brothers are subject to kareth for the haluzah.[25] In the case of the rival,[26] both he[27] and the other brothers are subject to kareth for a rival.[28] R. Johanan, however, holds that neither he[27] nor the other brothers are subject to kareth either for the haluzah or for her rival.[29] What is the reason of Resh Lakish? — Scripture stated, That doth not build,[30] since he has not built he must never again build.[31] He himself is thus placed under the prohibition of building no more,[32] but his brothers remain in the same position in which they were before.[33] Furthermore, the prohibition to build no more applies only to herself,[34] her rival, however, remains under the same prohibition as before.[33] And R. Johanan?[35] — Is it inconceivable[36] that at first halizah should be allowed to be performed by any one of the brothers[37] and with either of the widows of the deceased brother[38] and that now one or other of these persons should[39] be involved in kareth![40] But [in point of fact] he[41] merely acts as agent for the brothers while she[42] acts as agent for her rival.[43]

R. Johanan pointed out to Resh Lakish the following objection: ‘If a levir who submitted to halizah from his sister-in-law, later betrothed her and died,[44] [the widow] requires halizah from the surviving brothers’. Now, according to me who maintains that [the surviving brothers][45] are subject to the penalties of a negative precept only, one can well understand why she requires halizah from the other brothers.[46] According to you, however, why should she require halizah?[47] — Explain, then, on the lines of your reasoning, the final clause, ‘If one of the brothers[48] actually[49] betrothed her, she has no claim upon him’![50] R. Shesheth replied: The final clause represents the opinion of R. Akiba who holds that a betrothal with those who are subject thereby to the penalties of a negative precept is of no validity.[51] Should it not then have been stated, ‘according to the view of R. Akiba she[52] has no claim upon him’![53]

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(1) Since her marriage with the deceased brother was not unlawful, her rival (any other wife of her husband) is subject to the same laws as any other rival in the case of the fifteen relatives of our Mishnah.
(2) Cf. p. 47, n. 4, supra.

(3) By R. Judah who, as has been shewn supra, is the author of our Mishnah. Though he prohibits the marriage of a woman that was outraged by one's father, he nevertheless, according to Levi's recital, included the case in our Mishnah.

(4) Lit., ‘teach’.

(5) Whom he is in consequence forbidden to marry.

(6) Since the marriage in such a case is forbidden under a negative precept the transgression of which does not involve the penalty of kareth, the betrothal is legally valid.

(7) To the brothers of the levir who gave the halizah: this prohibition, according to Resh Lakish infra involving the penalty of kareth.

(8) To the brothers. Why then was not this case also added to the fifteen?

(9) V. our Mishnah.

(10) Her rival (as well as herself), being forbidden to all the other brothers (as brother's wife or as the haluzah of one of the brothers), can never have any of the wives of the brothers as her rival. In the case of the forbidden relatives in our Mishnah, they are forbidden to one of the brothers only, hence they or their rivals are not otherwise precluded from marrying one of the other brothers.

(11) R. Johanan.

(12) Lit., ‘and he should say’.

(13) Resh Lakish.

(14) If they married the haluzah, their deceased brother's widow, with whom halizah had been performed by one of them. According to R. Johanan, infra, contrary to the view of Resh Lakish, no penalty of kareth is involved in such a marriage, whether the transgressor be the brother who performed the halizah or any of the other brothers.

(15) Unlike those subject to the penalty of kareth who are exempt from halizah and from the levirate marriage.

(16) I.e., though the marriage with them is forbidden by a negative precept, they remain nevertheless under the obligations of the levirate relationship and must, therefore, undergo the ceremonial of halizah. Why, then, did not R. Johanan give Resh Lakish this reply which would well account for the omission from our Mishnah of the case he mentioned?

(17) R. Johanan.

(18) Resh Lakish.

(19) R. Johanan.

(20) V. p. 48, n. 13.

(21) V. p. 48, n. 14.

(22) Cf. previous note.

(23) Cf. supra p. 48, n. 9.

(24) V. Glos. I.e., for having intercourse with her. Consequently the betrothal is valid.

(25) Consequently should any of the other brothers betroth the haluzah, the betrothal is invalid.

(26) Of a haluzah (v. previous note). A rival is exempt from halizah and the levirate marriage by the action of the haluzah.

(27) The levir who participated in the halizah.

(28) V. infra 53a.

(29) Infra 40b and l.c.

(30) Deut. XXV, 9.

(31) The imperfect יבנה may be rendered as a present as well as a future.

(32) I.e., under a negative precept only which involves no kareth.

(33) I.e., under the prohibition to marry a brother's wife, which involves the penalty of kareth.

(34) The haluzah.

(35) What reason does he advance for his opinions?

(36) Lit., ‘is there (such) a thing’?

(37) Lit., ‘if he prefers, this one participates in the halizah and if he prefers etc.’

(38) Lit., ‘and if he prefers he performs the halizah with that one and if he prefers etc’.

(39) In case of a betrothal.

(40) Though the others are not.

(41) The brother who participated in the halizah.

(42) The widow who performed the halizah ceremonial.

(43) Hence all the brothers as well as all the rivals are in this respect in exactly the same position. As the brother and the widow who between them carried out the halizah ceremonial are in a case of subsequent marriage exempt from kareth and are subject only to the penalties of a negative precept, so also are all the others on whose behalf they acted.
(44) Without issue.
(45) In subsequently marrying the haluzah.
(46) Since the negative precept which bars them from the levirate marriage does not supersede halizah.
(47) Marriage with them would involve the penalty of kareth, and whenever such a penalty is involved the parties are not subject to the laws of halizah!
(48) Other than the one who participated in the halizah.
(49) Lit., ‘stood’.
(50) I.e., the betrothal is invalid, she receives no kethubah, and no divorce is needed. This obviously proves that the penalty for such an ensuing marriage is kareth, as Resh Lakish maintains; for had it been, as R. Johanan asserts, that of a negative precept only, the betrothal should have been valid.
(51) Keth. 29b, Kid. 64a, 68a, Sot. 18b, infra 52b, 69a.
(52) So Bah, a.l. Cur. edd., ‘he’.
(53) Since it is the general opinion that such a betrothal is valid.

Talmud - Mas. Yevamoth 11a

— This is rather a difficulty.

R. Ashi holds the same opinion as Resh Lakish[1] and explains it[2] in accordance with the ruling of R. Simeon.[3] Rabina holds the same opinion as R. Johanan[4] and explains it[5] in accordance with the ruling of the Rabbis.[6] ‘R. Ashi holds the same opinion as Resh Lakish and explains it in accordance with the ruling of R. Simeon’, thus: If [a levir] who submitted to halizah from his sister-in-law had subsequently betrothed her, she[7] requires halizah from the brothers. Who are these brothers? Those born [subsequently].[8] According to whose view? According to that of R. Simeon.[9] If one of the previously born[10] brothers, however, betrothed her, she has no claim upon him.[11] According to whose view? According to that of Resh Lakish.[11]

‘Rabina holds the same opinion as R. Johanan and explains it in accordance with the ruling of the Rabbis’, thus: If [a levir] who submitted to halizah from his sister-in-law had subsequently betrothed her, she requires halizah from the brothers. Who are these brothers? Those born [prior to the halizah]. According to whom? According to R. Johanan.[12] If one of the subsequently[13] born brothers, however, betrothed her, she has no claim upon him. According to whose view? According to that of the Rabbis.[14]

It has been stated: In the case where [the Ievir] had intercourse with his sister-in-law[15] and one of the other brothers had intercourse with her rival, there is a difference of opinion between R. Aha and Rabina. One said: [It involves[16] a transgression subject] to kareth and the other said: [The transgression] of a positive precept.[17] He who said, ‘[A transgression subject] to kareth’ follows Resh Lakish;[18] and he who said, ‘[The transgression] of a positive precept’ follows R. Johanan.[19]

Rab Judah said in the name of Rab: The rival of a sotah[20] is for bidden.[21] What is the reason?[22] — Because uncleanness is ascribed to her[23] as to the cases of incest.[24] R. Hisda raised an objection:[25] R. Simeon[26] said, the intercourse[27] or halizah of the brother of the first husband exempts her rival![28] — Rab can answer you, ‘I speak of a sotah that is Biblically forbidden,[29] and you talk of a sotah that is only Rabbinically forbidden’.[30]

But as to him who raised this objection, what did he imagine?[31] — He thought that Rabbinical provisions were given the same force as Biblical laws.[32]

R. Ashi raised an objection: If she[33] entered with the man into a private place and remained with him for a period sufficient for the consummation of defilement, she is forbidden to her house,[34] she may not eat of terumah,[35] and if he died she must undergo the ceremony of halizah

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(1) That any brother, other than the one who submitted to the halizah, who married the widow after she had performed the halizah is subject to the penalty of kareth (v. supra 10b).

(2) The first clause of the statement cited in the discussion between R. Johanan and Resh Lakish, according to which halizah is required.

(3) Who maintains that a brother born after the levirate marriage of his elder brother is not subject, in relation to the deceased brother, to the restriction of a ‘brother who was not his contemporary’. The first clause then, which requires halizah, may consequently refer to brothers born after both the halizah and the betrothal had taken place. The widow of the levir not being forbidden to them on account of her first deceased husband, is subject to halizah on account of the second. (The final clause which clearly agrees with the view of Resh Lakish requires of course no explanation).

(4) Who maintains that the brother who performed the halizah as well as all the other brothers are forbidden to marry the widow subsequent to the halizah, not under the penalty of kareth but under that of a negative precept. Hence the ruling in the first clause that halizah is required.

(5) The final clause. (Cf. n. 2 supra).

(6) Who hold that even a brother born after the levirate marriage (v. n. 3 supra) is subject to the restrictions of ‘a brother who was not his contemporary’. The final clause may accordingly refer to such brothers to whom the widow is forbidden for this reason (not on account of the halizah that had been performed) and the marriage or betrothal with whom is consequently invalid. (The first clause obviously is in agreement with R. Johanan).

(7) In the case where the levir who betrothed her also died without issue.

(8) After the halizah and the betrothal. Having been born after the halizah they have never been subject to the levirate relationship on account of the first deceased brother and the halizah of the levir had, therefore, imposed no restrictions upon them in relation to the widow.

(9) V. supra n. 3. Hence it is the duty of one of these brothers to submit to halizah which is incumbent upon them as brothers of the levir who also died without issue.

(10) Prior to the performance of the halizah.

(11) Since according to Resh Lakish the performance of the halizah by one of the brothers had caused the prohibition of the widow upon all other contemporary brothers under the penalty of kareth, such a betrothal is invalid.

(12) V. supra p. 51, n. 4.

(13) After the performance of the halizah.

(14) V. supra p. 51, n. 6.

(15) The widow of his deceased childless brother.

(16) For the other brother.

(17) The precept is to perform one levirate marriage but not more than one, a transgression to which no penalty is attached.

(18) In whose view (supra 10b) the levir who marries, or participates in halizah with the widow, does not act as the agent of the other brothers. Hence, despite the fact that in the levir's own case the prohibition to marry the rival is regarded as having the force of a positive precept, in that of the other brothers the original prohibition to marry a brother's wife remains in force and marriage with her involves, therefore, the penalty of kareth.

(19) Who regards the levir as the agent of the brothers (supra 10b). Hence they are subject to the same prohibition. As in the levir's own case so in that of the other brothers the levirate obligations supersede the prohibition of marrying a brother's wife, and with it the original penalty of kareth.

(20) סוטה, a married woman suspected of adultery, who is subject to the ordeal prescribed in Num. V, 12ff. V. Glos.

(21) To the levir; in the case where there are witnesses that the sotah had committed the crime and her husband subsequently died childless. The rival and certainly the sotah herself are in such a case exempt from both the levirate marriage and the halizah.

(22) So Bah. Cur. edd. omit.

(23) She being defiled. Num. V, 13.

(24) Defile ye not yourselves. Lev. XVIII, 24. As the rival in the latter case is forbidden, so is she in the former.

(25) The following refers to a case where a woman married a second husband on the basis of a report by one witness that her first husband had died in a foreign country. If later it was discovered that her first husband was alive, she must be divorced by both. If both died childless prior to the divorce she requires halizah from a brother of each but may not, according to the Rabbis, marry either of them.

(26) Disagreeing with the Rabbis in one point.

(27) Her second marriage having been entered into through an innocent error, no penalty is incurred by her as far as her relationship with the levir from the first marriage is concerned. Hence, in the opinion of R. Simeon, either marriage or halizah is permitted, v. infra 87a.

(28) From this it follows that the rival of a married woman who had intercourse with another husband is permitted to the levir both according to R. Simeon and according to the Rabbis (the latter having only disputed the case of the married woman herself). Why, then, did Rab state that the rival of a sotah is forbidden?

(29) A woman that was faithless to her husband. (Num. V, 12ff).

(30) The woman who married a second husband under an honest misapprehension. Biblically she is permitted to live again with her husband since her second marriage was entered into on the basis of a report by a witness, on the strength of which she was by Biblical law fully permitted to contract the marriage.

(31) He must surely have known that the one was Biblical and the other only Rabbinical! ודקארי לה מאי קארי rt. ארי or ארא (cf. Gr. **) ‘to speak’, ‘enquire’, ‘argue’.

(32) Lit., ‘all that the Rabbis provided, like that of the Torah they provided’.

(33) A woman suspected by her husband who warned her not to seclude herself with a certain man.

(34) I.e., to her husband.

(35) V. Glos.; in the case where the husband is a priest.

Talmud - Mas. Yevamoth 11b

though she may not marry the levir![1] — Rab can answer you. ‘I speak of a definite sotah, and you speak of a doubtful one’. But why should a definite sotah be different? Obviously because in relation to her the expression of ‘uncleanness’ is used;[2] is not, however, the expression of ‘uncleanness’ also used in relation to a doubtful sotah! For it was taught: R. Jose b. Kipper said in the name of R. Eleazar, The remarriage by a husband of his divorced wife is forbidden after marriage[3] and permitted after betrothal,[4] because it is stated in the Scriptures. After that she is defiled.[5] The Sages, however, say, the one as well as the other[6] is forbidden,[7] and the expression[8] ‘After that she is defiled’ implies the inclusion of a sotah who secluded herself with a man![9] — The underlying meaning of ‘secluded herself’ is ‘sexual intercourse’. Why then did he say ‘secluded herself’? — In order to employ a euphemism.[10] But in relation to sexual intercourse, [surely,] uncleanness was actually mentioned in the Scriptures. She being defiled secretly![11] — To subject the offence[12] to a negative precept.[13] And R. Jose b. Kipper?[14] — He does not hold the view that a negative precept is applicable to a sotah, even in the case where she had actually committed adultery. What is the reason? — [Because in reference to the remarriage of a divorced wife] Scripture uses the expression of[15] becoming[16] as well as that of matrimony.[17]

Rab Judah inquired of R. Shesheth: What is the law in regard to the rival of a woman whom her former husband remarried after her second marriage and died?[18] According to the view of R. Jose b. Kipper the question does not arise. For R. Jose b. Kipper having stated that ‘uncleanness’ is mentioned in the case of him who remarried his divorced wife, it follows that her rival is subject to the very same restrictions. And if [objection be raised] from the Scriptural text, She is an abomination,[19] [it may be replied that the implication is] that she is an abomination and not her children,[20] her rival, however, being an abomination. The question, however, arises on the view of the Rabbis: Does the Scriptural text,[21] despite the fact that the Rabbis had applied the expression ‘uncleanness’ to the sotah, also bear its ordinary meaning,[22] or since it[23] was once torn away [from its ordinary meaning] it must in all respects so remain?[24] Others say: According to the Rabbis no question arises, for since the text has once been torn away [from its ordinary meaning] it must in all respects so remain. The question, however, arises according to the view of R. Jose b. Kipper: What is the law? [Is it assumed that] although R. Jose b. Kipper stated that the expression of ‘uncleanness’ refers to the remarriage of a divorced wife, the All Merciful has written ‘She is an abomination’ to indicate that ‘she’ is an abomination but not her rival,[25] or is the implication, perhaps, that ‘she’ is an abomination, but her children are not; a rival, however, being an abomination?[26] — The other replied: You have learnt it, ‘If one of them[27] was a permitted wife and the other a forbidden one; if he[28] submit to halizah he must submit to that of the forbidden one;[29] and if he marries he marries the permitted one.’[29] Now what is meant by ‘permitted’ and ‘forbidden’? If it be suggested that ‘permitted’ means permitted for all the world,[30] and ‘forbidden’ means forbidden for all the world,[31] what practical difference, in view of the fact that she is In either case suitable for him,[32] could this make to him? Consequently ‘permitted’ must mean permitted to him, and ‘forbidden’, forbidden to him; and this may happen where[33] he[34] remarried his divorced wife;[35] and yet it was taught, ‘and if he marries he marries the permitted one’![36] — No; ‘permitted’ may still mean permitted to all the world[30] and ‘forbidden’, forbidden for all the world;[31] and as to your question, ‘what practical difference, in view of the fact that she is in either case suitable for him, could this make’, one must take into account the moral lesson[37] of R. Joseph. For R. Joseph stated: Here[38] Rabbi taught that a man shall not pour the water out of his cistern so long as others may require it.[39]

Come and hear: ‘Where a man remarried his divorced wife after she had been married,[40] she and her rival are to perform the halizah.’ Is it possible to say ‘she and her rival’?[41] Consequently it must mean, ‘Either she or her rival.’[42] Did you not, however, have recourse to an interpretation?[43] [You might as well] interpret thus: She is to perform halizah, while her rival may either perform halizah or be married by the levir.

R. Hiyya b. Abba said: R. Johanan inquired as to what is the law[44] in regard to a rival of a divorced woman whom her former husband remarried after her second marriage. Said R. Ammi to him: Enquire rather regarding herself![45] — Concerning herself I have no question since her case may be inferred a minori ad majus: If she is forbidden to him[46] to whom she was originally[47] permitted, how much more so to the man[48] to whom she was originally[47] forbidden![49] The question, however, remains concerning her rival: Is the inference a minori ad majus strong enough to exclude a rival[50] or not?

R. Nahman b. Isaac taught as follows: R. Hiyya b. Abba said, R. Johanan enquired as to what is the law[44] in regard to a divorced woman whom her husband remarried after her second marriage. Said R. Ammi to him: Enquire rather regarding her rival! — Concerning her rival I have no question, for an inference a minori ad majus[51] is not strong enough to exclude a rival;[50] the question, how ever, remains regarding herself. Is the inference a minori ad majus strong enough [to be acted upon] where a precept[52] is involved or not?

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(1) If the sotah herself must go through the ceremony of halizah, much more so her rival; how then could Rab state that the rival of a sotah (and much more so the sotah herself, v. supra p. 53, n. 1) is exempt from halizah?

(2) Num. V, 13.

(3) With a second husband who subsequently died or divorced her.

(4) Where no marriage with the second man took place, and he died.

(5) Deut. XXIV, 4, referring, in the opinion of R. Eleazar, to a divorced woman who had married a second husband.

(6) Married or betrothed.

(7) This is deduced by the Sages from And goeth and becometh another man's wife (Deut. XXIV, 2) which, they maintain, implies betrothal as well as marriage.

(8) Lit., ‘but what do I establish’.

(9) That the husband must not take her back. This clearly shews that the expression of ‘uncleanness’ was also used concerning a doubtful sotah.

(10) Lit., ‘he took a nice (or superior) expression’.

(11) Num. V, 13; what need, then, was there for the implication of the text of Deut. XXIV, 4?

(12) Of remarrying a sotah.

(13) Lit., ‘to cause to stand concerning it in a negative (prohibition)’; the negative can only be derived from Deut. XXIV, 4: May not take her again to be his wife.

(14) Who applies the entire text to the remarriage of a divorced wife, whence does he derive the law concerning the sotah?

(15) Lit., ‘it is written concerning it’.

(16) Deut. XXIV, 2, And she departeth out of his house, and goeth and becometh (ותיתה) another man's wife.

(17) Ibid., Or if the latter husband (האיש) die, implying that the divorced woman's connection with the second man must be that of ‘husband and wife’, i.e., lawful matrimony. In the case of the sotah the intercourse was unlawful and cannot come, therefore, under the prohibition of Deut. XXIV, 4.

(18) Is the rival subject to the levirate marriage and halizah?

(19) Deut. XXIV, 4, dealing with a woman remarried after divorce. The text She is an abomination. תועבה היא might be taken to imply that the designation, and consequently the restrictions, refer to the woman only (היא= she) and not to her rival.

(20) I.e., the exclusion of היא may refer not to her rival but to her children who, unlike their mother who is regarded as an ‘abomination’, may marry into priestly families.

(21) Describing the woman (or the act of remarrying the first husband after divorce and second marriage) as ‘uncleanness’.

(22) I.e., its bearing on the woman remarried (v. previous note), with whose case the text in its ordinary meaning is concerned, and consequently on her rival also.

(23) The expression of uncleanness.

(24) Lit., ‘that it was uprooted it was uprooted’, i.e., since it was removed from its context and applied to the sotah, it can never be re-applied to its original case. Hence a rival would not come under the same restrictions as the sotah herself.

(25) To whom, consequently, the restrictions would not apply.

(26) And consequently subject to the same restrictions as the woman herself.

(27) Two widows of a brother who died without issue.

(28) The levir.

(29) Infra 44a, and thereby liberates also the other widow, her rival.

(30) I.e., even to priests.

(31) In case she was once, e.g., a divorced woman and is thus forbidden to marry a priest.

(32) He being an ordinary Israelite.

(33) Lit., ‘and what is it’.

(34) The deceased brother.

(35) In which case the woman who was remarried is forbidden to the levir as she was forbidden to his deceased brother who had married her unlawfully, while her rival, having been lawfully married, is permitted to the levir.

(36) Which clearly shews that the rival of a woman remarried by her former husband is subject to the levirate marriage.

(37) Lit., ‘because of’.

(38) In the Mishnah cited where it is stated that halizah is to be performed with the forbidden one.

(39) A man should not destroy anything which may be of use to others though it is of no use to him. In the case under discussion, the levir submits to halizah from the forbidden one and thus liberates the permitted one to marry even a priest to whom she would have been forbidden had the halizah been performed by her.

(40) To a second husband who divorced her or died.

(41) Halizah surely is performed by one of the widows only!

(42) Which supplies an answer to the enquiry addressed by Rab Judah to R. Shesheth.

(43) ‘He and her rival’ was interpreted as ‘Either etc.’

(44) In respect of the levirate marriage.

(45) The remarried woman.

(46) Her first husband.

(47) Before she married her second husband.

(48) The levir.

(49) As brother's wife.

(50) From the levirate marriage.

(51) V. previous paragraph.

(52) The levitate marriage.

Talmud - Mas. Yevamoth 12a

— The other replied,[1] You have learned it: If one of them was a permitted wife and the other a forbidden one; if she submits to halizah he must submit to that of the forbidden one; and if he marries, he marries the permitted one. Now, what is meant by 'permitted' and 'forbidden'? If it be suggested that 'permitted' means permitted to all the world and 'forbidden' means forbidden to all the world, what practical difference, in view of the fact that she is in either case suitable for him, could this make to him? Consequently 'permitted' must mean permitted to him, and 'forbidden', forbidden to him; and this may happen where he remarries his divorced wife; and yet it was taught. 'If he marries he marries the permitted one'![2] — No; 'permitted' may still mean permitted to all the world, and 'forbidden', forbidden to all the world; and as to your question. 'What practical difference, in view of the fact that she is in either case suitable for him, could this make'? One must take into account the moral lesson of R. Joseph. For R. Joseph said: Here, Rabbi taught that a man shall not pour the water out of his cistern so long as others may require it.[3]

Come and hear: 'Where a man remarried his divorced wife after she had been married, she and her rival are to perform halizah.' Is it possible to say 'she and her rival'? Consequently it must mean, 'either she or her rival.'[4] Did you not, however, have recourse to an interpretation? [You might as well] interpret thus: She is to perform halizah, while her rival may either perform halizah or be married by the levir.

R. Levi b. Memel said in the name of Mar 'Ukba in the name of Samuel: The rival of a mema'eneth[5] is forbidden. To whom [is she forbidden]? If it be suggested, to the brothers,[6] [it may be retort ed], now that she herself[7] is permitted,[8] for Samuel said, 'If she refused one brother she is permitted to marry the other',[9] is there any question that her rival is permitted![8] Hence [it means] to himself.[10] Wherein, however, does the mema'eneth[11] differ[12] that she is in consequence permitted to the other brothers? Obviously, in that she had taken no action in relation to them;[13] but her rival also had taken no action in relation to them![14] — It is an enactment made to prevent marriage with the rival of one's daughter[15] who was a mema'eneth.[16]

Is, however, the rival of one's daughter who is a mema'eneth forbidden? Surely we learned, IF, HOWEVER, ANY AMONG THESE DIED, OR MADE A DECLARATION OF REFUSAL, OR WERE DIVORCED[17] [etc.] THEIR RIVALS ARE PERMITTED. Now, against whom was the declaration of refusal made? If it be suggested that she refused the husband, then this case is identical with that of a divorced woman.[18] Consequently it must refer to refusal of the levir![19] — No; it may, in fact, refer to the refusal of a husband, but there are two kinds of divorce.[20]

Wherein, however, does the refusal of a husband differ?[21] Obviously in that she thereby annuls the original marriage; but when she refused the levir she has also annulled the original marriage! — [It differs] in respect of what Rami b. Ezekiel had learnt. For Rami b. Ezekiel learnt: If she[22] declared her refusal against the husband she is permitted to marry his father;[23] if against the levir, she is forbidden to his father.[24] From this it clearly follows that from the moment she becomes subject to the levirate marriage[25] she is looked upon as his[26] daughter-in-law; similarly here also[27] she is looked upon as the rival of his daughter from the moment she[28] becomes subject to the levirate marriage.

Said R. Assi: The rival of a woman incapable of procreation is forbidden;[29] for it is said in the Scriptures, And it shall be that the firstborn that she beareth,[30] which excludes a woman incapable of procreation, since she does not bear.[31] R. Shesheth raised an objection: In the case where three brothers were married to three women who were strangers to one another, and one of them having died, the second brother addressed to her[32] a ma'amar[33] and died, behold these[34] must perform the halizah but may not marry the levir; for it is said, And one of them die [etc.] her husband's brother shall go in unto her,[35] only she[36] who is tied to one levir[37] but not she who is tied to two levirs;[38] and concerning this it was taught: R. Joseph said, ‘This is the rival of a paternal brother's wife whose prohibition[39] is due to her double subjection to the levirate marriage,[40] a case the like of which we do not find through out the Torah’.[41] Now, what does the expression ‘This is’ exclude? Does it not exclude the rival of a woman incapable of procreation, who is permitted![42] — No; it excludes the rival of a woman incapable of procreation who is forbidden. What, then, is meant by the expression, ‘This is’?[43] — It is that in this case, where the subjection to the levirate marriage has caused the prohibition, her rival requires halizah; in the case, however, of a woman incapable of procreation even halizah is not required. What is the reason? — The prohibition of the one[44] is Pentateuchal;[45] that of the other only Rabbinical.[46]

We learnt; IF, HOWEVER, ANY AMONG THESE DIED, OR MADE A DECLARATION OF REFUSAL, OR WERE DIVORCED, OR WERE FOUND INCAPABLE OF PROCREATION, THEIR RIVALS ARE PERMITTED![47] — This is no difficulty; the one[48] is a case where he[49] knew her defect[50] while the other[51] is a case where[52] he did not know of it.[53] The inference from our Mishnah also proves this; for it was stated WERE FOUND[54] and not ‘were’. This proves it.

Raba said:

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(1) This reply applies to both versions of the inquiry.

(2) Which shews that for the rival levirate marriage is permitted while for the remarried woman herself it is forbidden. For further notes v. supra p. 56.

(3) For notes v. supra p. 56f.

(4) Which supplies answers to the enquiries raised by R. Johanan in both versions.

(5) A minor who declared her refusal to marry the levir. V. Glos. s.v. mi'un.

(6) Of the levir.

(7) The minor who refused to marry the levir.

(8) To marry the other brothers.

(9) Infra 107b.

(10) To the levir whom the minor had refused. The refusal removes the precept of the levirate marriage and in respect of the rival the prohibition of marrying a brother's wife comes again into force.

(11) V. p. 58, n. 6.

(12) From her rival.

(13) Her refusal having been confined to one of the brothers only.

(14) Not even against one of them. Why then is she forbidden to the levir?

(15) Who comes in the category of forbidden relatives whose rivals also are forbidden. On the possibility of mi'un during a father's lifetime, v. supra p. 2, n. 6.

(16) If the one were permitted the other also might erroneously be married.

(17) So Bah. Cur. edd. omit.

(18) Which was already mentioned.

(19) And yet, as our Mishnah shews, her rival is permitted in all cases enumerated, i.e., even in that of one's daughter.

(20) Actual divorce and one by mi'un.

(21) From that of the levir.

(22) A minor who was married to a stranger.

(23) Her declaration of refusal having completely annulled the original betrothal, she is no more his daughter-in-law.

(24) Her former marriage having once subjected her to levirate relationship, she must be regarded as the levir's father's daughter-in-law. V. infra 13a.

(25) Lit., ‘falling’.

(26) The levir's father's.

(27) In the case of the rival of one's daughter who made the declaration of refusal.

(28) The daughter.
(29) I.e., if one of the widows of the brother who died without issue is such the other also is forbidden.
(30) Deut. XXV, 6.
(31) Hence she herself is forbidden as a brother's wife, and her rival as the rival of a forbidden relative.
(32) The widow of the deceased.
(33) V. Glos.
(34) The widows of the two dead brothers.
(35) Deut. XXV, 5.
(36) May marry the levir.
(37) I.e., where the second brother had actually married her and has thus severed all her connections with the first. In such a case as in that of the usual levirate she would stand in relation to the third brother as the widow of one brother only.
(38) The formula of betrothal or ma'amar addressed to her by the second brother has only partially attached her to him and has not completely severed her connection with her husband, the first brother. She thus remains tied to the two, and consequently entirely forbidden the levirate marriage.
(39) Of the levirate marriage.
(40) Lit., ‘falling’. Her levirate relationship with the third brother being due to her partial connection with each of the two dead brothers.
(41) The widow not being one of the relatives forbidden by the Torah. The prohibition of the levirate marriage in her case is only Rabbinical, the Biblical text cited being a mere asmakta.
(42) How, then, could R. Assi state that a rival of one incapable of procreation is forbidden?
(43) Which seems to imply that only this case is forbidden but not the other.
(44) A woman incapable of procreation.
(45) The prohibition being derived from Deut. XXV, 6 supra.
(46) V. supra n. 1.
(47) V. supra n. 2.
(48) Lit., ‘here’, in R. Assi's statement.
(49) The husband now deceased.
(50) At the time their marriage took place. Having known her defect he was not in any way misled, and the marriage, therefore, is valid. Her rival is consequently the rival of a legally married wife who is incapable of procreation and is forbidden by the deduction from Deut. XXV, 6.
(51) Our Mishnah.
(52) The husband now deceased.
(53) At the time he married her. Since her defect was unknown to him the marriage which had taken place under a misapprehension is invalid. The woman, therefore, is not his lawful wife, and her rival cannot be regarded as a legal rival. Hence the statement in our Mishnah that such a rival is permitted.
(54) Implying discovery after the event, i.e., after the marriage.

Talmud - Mas. Yevamoth 12b

The law is that the rival of a woman incapable of procreation is permitted, even though he[1] knew her defect,[2] and even the rival of one's own daughter who was incapable of procreation [is permitted].[3] But what about the expression WERE FOUND[4] in our Mishnah? — Read, ‘were’.

When Rabin came[5] he stated in the name of R. Johanan: The rival of a mema'eneth,[6] the rival of a woman incapable of procreation, as well as the rival of a divorced woman who had been remarried to her former husband,[7] are all permitted.

R. Bebai recited before R. Nahman: Three [categories of] women may[8] use an absorbent[9] in their marital intercourse:[10] A minor, a pregnant woman and a nursing woman. The minor,[11] because [otherwise] she might[12] become pregnant, and as a result[13] might die. A pregnant woman,[11] because [otherwise]. she might[12] cause her foetus to degenerate into a sandal.[13] A nursing woman,[11] because [otherwise] she might[12] have to wean her child prematurely[14] and this would result in his death. And what is the age of such a minor?[15] From the age of eleven years and one day until the age of twelve years and one day. One who is under,[16] or over this age[17] must carry on her marital intercourse in the usual manner. This is the opinion of R. Meir. The Sages, however, say: The one as well as the other carries on her marital intercourse in the usual manner, and mercy will be vouchsafed from heaven,[18] for it is said in the Scriptures. The Lord preserveth the simple.[19]

Since it has been stated, ‘because she might become pregnant and as a result might die’ it may be implied that it is possible for[20] a minor to be pregnant and not die. But, if so, one could imagine a case where[21] a mother-in-law should be in a position to make a declaration of refusal,[22] whereas we learned, ONE CANNOT SAY OF A MAN'S MOTHER-IN-LAW, THE MOTHER OF HIS MOTHER-IN-LAW AND THE MOTHER OF HIS FATHER-IN- LAW THAT THEY WERE FOUND INCAPABLE OF PROCREATION OR THAT THEY MADE A DECLARATION OF REFUSAL! — Read, ‘because she might become pregnant and die’;[23] for Rabbah b. Liwai said: She[24] is subject to an age limitation. Prior to that period[25] she does not conceive at all; during that period[25] she dies and her embryo dies; after that period[25] both she and her embryo survive. But is it really so? Surely, Rabbah b. Samuel recited: One cannot say of a man's mother-in-law, the mother of his mother-in-law and the mother of his father-in-law that they were found incapable of procreation or that they made a declaration of refusal, since they have already given birth to children![26] — But [the reading], in fact, is, ‘because she might become pregnant and as a result might die’. But, [then, the previously mentioned] difficulty remains![27] — R. Safra replied: Children are like marks of puberty.[28] Others Say: Children are more conclusive proof than the marks of puberty. What practical difference is there between the two statements? — [It is this: That] even he who follows R. Judah who stated, ‘[a girl may exercise the right of refusal] until the black[29] predominates’[30] admits in the case of children.[31]

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(1) The deceased brother, at the time when he married.

(2) And nevertheless consented to the marriage, which is consequently valid, and the woman is his lawful wife.

(3) The rival of a forbidden relative is forbidden only where the latter would have been subject to the precept of the levirate marriage if she had been no relative. In the case of a wife incapable of procreation, however, since she is not subject to the levirate marriage even where she is no relative at all, her rival even where she (the wife) is a forbidden relative, is regarded as the rival of one in relation to whom the precept of levirate marriage is not applicable at all. Cf. הלכות גדולות quoted by Rashi.

(4) V. p. 61, n. 14.

(5) From Palestine to Babylon.

(6) V. Glos. s.v. mi'un. In this case it refers to one who refused the levir (V. Rashi a.l.).

(7) After she had been married by a second husband who divorced her or died.

(8) [So Rashi. R. Tam: Should use, v. Tosaf s.v. שלש.]

(9) מוך, hackled wool or flax.

(10) To prevent conception.

(11) May use the absorbent.

(12) Lit., ‘perhaps’.

(13) סנדל lit., ‘a flat fish’, i.e., a flat, fish-shaped abortion due to superfetation.

(14) Owing to her second conception.

(15) Who is capable of conception but exposed thereby to the danger of death.

(16) When no conception is possible.

(17) When pregnancy involves no fatal consequences.

(18) To save her from danger.

(19) Ps. CXVI, 6; those who are unable to protect themselves.

(20) Lit., ‘there is’.

(21) Lit., ‘we found’.

(22) In the case, for instance, where the minor gave birth to a child in her twelfth year and that child was betrothed before the year was over. The minor who thus becomes a mother-in-law is entitled to make a declaration of refusal before, and until she enters her thirteenth year.

(23) I.e., while conception is a matter of doubt, death is a certainty whenever conception happened to take place.

(24) A minor.

(25) The age of eleven years and one day to the age of twelve and one day.

(26) Rabbah does not state, ‘since they already grew up’ but ‘gave birth’, which proves that even a minor (not yet grown up) is capable of bearing living children.

(27) From here it appears that a minor can bear children while from our Mishnah it follows that she cannot.

(28) As soon, therefore, as she gave birth to a child the minor is assumed to have passed out of the age of minority into that of puberty. Hence it is impossible for a mother, whatever her age, ever to make a declaration of refusal to which a minor only is entitled.

(29) I.e., the pubic hair.

(30) The growth of two hairs which the Rabbis regard as a definite mark of puberty not being considered by R. Judah as conclusive proof. Keth. 36a, B.B. 156a, Nid. 52a.

(31) That they provide definite proof of puberty irrespective of the state of the hair.

Talmud - Mas. Yevamoth 13a

R. Zebid, however, stated: No children are possible prior to the appearance of the marks of puberty.[1] Then let an examination be held![2] — There is the possibility that they might have fallen off.[3] This reply is perfectly satisfactory according to him who holds that such a possibility is taken into consideration;[4] what, however, can be said according to him who holds that no such contingency need be considered? — Even according to him who holds that no such contingency need be considered, the possibility must be taken into consideration in this case on account of the pains of birth.[5]

HOW IS THE EXEMPTION OF THEIR RIVALS [BY THE WOMEN MENTIONED] TO BE UNDERSTOOD? Etc. Whence is this law[6] deduced? — Rab Judah replied: [From] Scripture which stated, li-zeror,[7] [implying that] the Torah included many rivals.[8] R. Ashi replied. ‘It[9] is arrived at by reasoning: Why is a rival forbidden? Surely because she takes the place of the forbidden relative; the rival's rival also takes the place of the forbidden relative’.

HOW [IS ONE TO UNDERSTAND THE STATEMENT THAT] IF THEY HAD DIED etc. Even if he[10] married[11] first and then divorced?[12] This, then, would be contradictory [to the following Mishnah]: ‘[The case of] three brothers two of whom were married to two sisters and the third was married to a stranger, and one of the husbands of the sisters divorced his wife while the one who married the stranger died, and he who had divorced his wife then married the widow[13] and died, is one concerning which it has been said, that if they died or were divorced, their rivals are permitted’.[14] The reason, then,[15] is because the divorce[16] took place first and the marriage[17] was subsequent to it, but had the marriage[17] taken place first and the divorce[16] after it, [the rival would] not [have been permitted]![18] — R. Jeremiah replied: Break it up:[19] He who taught the one did not teach the other. The one Tanna[20] is of the opinion that it is the death[21] which subjects the widow to the levirate marriage[22] while the other[23] holds the opinion that it is the original marriage that subjects her to the levirate marriage.[24] Raba said: [Both statements] may, in fact, represent the views of [one Tanna,] it[25] being a case of ‘this; and there is no need to state that’.[26]

WHOSOEVER IS ENTITLED TO MAKE A DECLARATION OF REFUSAL [etc.]. Then let her[27] declare her refusal now[28] and thus enable [her rival] to be married to the levir![29] May it then[30] be suggested that this supports R. Oshaiah? For R. Oshaiah said: She[31] may annul [the levir's] ma'amar[32] by her declaration of refusal,[33] but may not sever by such a declaration the levirate bond![34] — No;[35] the case of the rival of a forbidden relative is different;[36] for Rami b. Ezekiel learnt: If a minor made a declaration of refusal against her husband she is permitted to marry his father.[37] If, however, she made her declaration of refusal against the levir[38] she is forbidden to marry his father.[39] From this it clearly follows that from the moment she becomes subject to the levirate marriage[40] she is looked upon as his[41] daughter-in-law; similarly here also[42] she is looked upon as the rival of his daughter from the moment she becomes subject to the levirate marriage.[43] MISHNAH. [IN THE CASE OF THE FOLLOWING] SIX RELATIVES, MARRIAGE WITH WHOM IS MORE RESTRICTED THAN WITH THESE,[44] IN THAT THEY MAY ONLY BE MARRIED TO STRANGERS,[45] MARRIAGE WITH THEIR RIVALS IS PERMITTED:[46] HIS MOTHER.[47] HIS FATHER'S WIFE,[48] HIS FATHER'S SISTER,[48] HIS PATERNAL SISTER.[48] HIS FATHER'S BROTHER'S WIFE[48] AND HIS PATERNAL BROTHER'S WIFE.[48]

BETH SHAMMAI PERMIT THE RIVALS[49] TO THE SURVIVING BROTHERS, AND BETH HILLEL PROHIBIT THEM.

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(1) Should an apparent minor, whatever her age, ever give birth to a child it must be taken for granted that the marks of puberty had already appeared, and the age of minority had passed.

(2) Why should the existence of the marks be left to conjecture when an examination would definitely determine the facts?

(3) And the examination would prove nothing.

(4) This is a question in dispute in Nid. 46a.

(5) Which may have caused the falling off of the hair.

(6) Lit., ‘these words’. That a rival's rival is also exempt.

(7) Lev. XVIII, 18, to be a rival. V. supra 3b.

(8) For explanation, v. p. 12, n. 8.

(9) The exemption of a rival's rival.

(10) The brother now deceased.

(11) The rival.

(12) His first wife, the forbidden relative. In such a case, is the rival, though the two were rivals prior to the divorce, permitted to the levir wherever the forbidden relative was dead or divorced at the time their husband died and the question of the levirate marriage arose?

(13) Lit., ‘her’,

(14) Infra 30a.

(15) Why the rival in this case is permitted.

(16) Of one of the sisters.

(17) Of the widow.

(18) How, then, could this be reconciled with our Mishnah from which it has been inferred that ‘even if he married first and then divorced’ the rival is permitted?

(19) תרבא, rt. תבר, Heb. שבר ‘break’, ‘divide’.

(20) Of our Mishnah.

(21) Of the husband.

(22) And if at that time the women were no longer rivals it matters little whether marriage or divorce (cf. supra nn. 5 and 4) took place first.

(23) The Tanna of the Mishnah cited from 30a infra.

(24) Consequently, if the marriage of the second took place after the divorce of the first, levirate marriage is permitted since the two have never been real rivals. If, however, the marriage preceded the divorce, even if only by a fraction of time, the two have become rivals, and the rival of a forbidden relative is forbidden for ever, even after the rivalry had ceased.

(25) The statements and arrangement of our Mishnah and that cited from 30a infra

(26) זו ואין צריך לומר זו, one of the systems adopted in arranging legal statements. Our Mishnah permits ‘this’, the case of the rival whose marriage preceded the divorce of the forbidden relative, and consequently ‘there is no need to state that’, the case (infra 30a) of a rival whose marriage followed the divorce of the forbidden relative. (Cf. supra n. 12).

(27) The forbidden relative who is still a minor.

(28) And thus annul the original marriage.

(29) Since as a result of the annulment of the marriage the other would no more be the rival of a forbidden relative.

(30) As such a declaration is not allowed.

(31) A minor.

(32) V. Glos. Since the actual marriage had not yet taken place.

(33) She has only to perform the halizah; but there is no need for a divorce which would have been required had she been of age (v. infra 50b).

(34) I.e., she has no power to annul the original marriage in order to be exempt thereby from halizah also. Similarly here (v. note 4) the declaration of the minor has no force to annul the original marriage and thus (v. supra note 3) to enable her rival to marry the levir.

(35) The inference from our Mishnah provides no support for R. Oshaia.

(36) The prohibition of a minor's declaration in this case is not Biblical, but a Rabbinical enactment made in order to prevent laxity in the law of rivals of forbidden relatives (cf. infra n. 17).

(37) The refusal having completely annulled the marriage, the minor and her former father-in-law are now mere strangers.

(38) I.e,, after the death of her husband, when she became subject to the levirate marriage of his brother.

(39) Her former father-in-law who is also the father of the levir whom she refused.

(40) Lit., ‘falling’.

(41) The levir's father's.

(42) The case of a rival of one's daughter.

(43) Had the original marriage been allowed to be annulled by the daughter's present declaration, and had her rival in consequence been permitted to marry the minor's father, any rival of one's daughter might similarly be allowed and thus an important restriction against incest would be broken down. (V. supra n. 10 and cf. text and notes, supra 12a).

(44) The fifteen enumerated in the previous Mishnah, supra 2af.

(45) But never to one's paternal brothers.

(46) Though they themselves ate forbidden. Their husbands having been strangers, the law prohibiting the marriage of rivals, which is only applicable in connection with the levirate marriage, does not apply. Should one's brother unlawfully marry one of these six relatives his marriage would be regarded as null and void and the law relating to the rivals would still be inapplicable. (Cf. Maimonides, Commentary on the Mishnah a.l.).

(47) Who is also forbidden to his paternal brother as ‘his father's wife’.

(48) Who obviously stands in the same relationship to his paternal brother.

(49) In respect of the levirate marriage.

Talmud - Mas. Yevamoth 13b

IF THEY[1] PERFORM THE HALIZAH,[2] BETH SHAMMAI DECLARE THEM INELIGIBLE TO MARRY A PRIEST,[3] AND BETH HILLEL DECLARE THEM TO BE ELIGIBLE.[4] IF THEY WERE MARRIED TO THE LEVIRS, BETH SHAMMAI DECLARE THEM ELIGIBLE [TO MARRY A PRIEST],[5] AND BETH HILLEL DECLARE THEM INELIGIBLE.[6] THOUGH THESE FORBADE WHAT THE OTHERS PERMITTED, AND THESE REGARDED AS INELIGIBLE WHAT THE OTHERS DECLARED ELIGIBLE, BETH SHAMMAI, NEVERTHELESS, DID NOT REFRAIN FROM MARRYING WOMEN FROM [THE FAMILIES OF] BETH HILLEL, NOR DID BETH HILLEL [REFRAIN FROM MARRYING WOMEN] FROM [THE FAMILIES OF] BETH SHAMMAI. [SIMILARLY, IN RESPECT OF] ALL [QUESTIONS OF RITUAL] CLEANNESS AND UNCLEANNESS, WHICH THESE DECLARED CLEAN WHERE THE OTHERS DECLARED UNCLEAN, NEITHER OF THEM ABSTAINED FROM USING THE UTENSILS OF THE OTHERS FOR THE PREPARATION OF FOOD THAT WAS RITUALLY CLEAN.[7]

GEMARA. R. Simeon b. Pazzi said: What is Beth Shammai's reason?[8] — Because it is written, The outside[9] wife of the dead shall not be married unto one not of his kin;[10] ‘outside’[11] implies that there is also an internal,[12] and the All Merciful said, She shall not marry [unto one not of his kin].[13]

And Beth Hillel?[14] — They require the text for the exposition which Rab Judah reported in the name of Rab. For Rab Judah stated in the name of Rab: Whence is it deduced that betrothal [by a stranger] is of no validity in the case of a sister-in-law?[15] For it is said in the Scriptures, The wife of the dead shall not be married[16] outside[17] unto one not of his kin;[18] there shall be no validity in any marriage of a stranger with her.[19] And Beth Shammai? — Is it written 'la-huz'?[20] Surely 'huzah'[21] was written. And Beth Hillel? — Since the expression used was huzah[22] it is just the same as if la-huz had been written; as it was taught: R. Nehemiah said, 'In the case of every word which requires a 'lamed' at the beginning[23] Scripture has placed a 'he'[24] at the end; and at the School of R. Ishmael the following examples were given:[25] Elim, Elimah;[26] Mahanayim, Mahanayimah;[27] Mizrayim, Mizraimah;[28] Dibelathaimah;[29] Yerushalaimah;[30] midbarah.[31]

Whence do Beth Shammai derive the deduction made by Rab Judah in the name of Rab? — It is derived from Unto one not of his kin.[32] Then let Beth Hillel also derive it from 'Unto one not of his kin'! — This is so indeed. What need, then, was there for 'huzah'? — To include one who was only betrothed.[33] And the others? — They derive it from the use of ha-huzah where huzah could have been used.[34] And the others? — A deduction from huzah ha-huzah does not appeal to them.

Raba said: Beth Shammai's reason[35] is that one prohibition[36] cannot take effect on another prohibition.[37] This explanation is satisfactory in the case where the deceased had married first and the surviving brother married[38] afterwards, since the prohibition of marrying a wife's sister[39] could not come and take effect on the prohibition of marrying a brother's wife;[40] where, however, the surviving brother had married first[41] and the deceased married later,[42] the prohibition of 'wife's sister' was, surely, first![43] — Since the prohibition of a 'brother's wife' cannot take effect on the prohibition of 'wife's sister', [any of the other widows] is the rival of a forbidden relative to whom[44] the precept of the levirate marriage is inapplicable, and is consequently permitted.[45]

IF THEY HAD PERFORMED THE HALIZAH, BETH SHAMMAI DECLARE THEM INELIGIBLE etc. Is not this obvious?[46] — [It had to be stated] in order to exclude [the instruction] of R. Johanan b. Nuri who said: Come and let us issue an ordinance that the rivals[47] perform the halizah but do not marry the levir.[48] Hence it was taught that Beth Hillel declare them eligible.[49]

IT THEY WERE MARRIED TO THE LEVIRS etc. BETH HILLEL DECLARE THEM INELIGIBLE. What need again was there for this? — Because it was taught, IF THEY PERFORM THE HALIZAH[50] it was also taught, IF THEY WERE MARRIED TO THE LEVIRS.[51]

We learned elsewhere: The Scroll of Esther[52] is read on the eleventh, the twelfth, the thirteenth, the fourteenth or the fifteenth [of Adar].[53] but not earlier[54] or later.[55] Said Resh Lakish to R. Johanan: Apply here the text of Lo tithgodedu,[56] you shall not form separate sects![57] (Is not Lo tithgodedu required for its own context, the All Merciful having said, 'You shall not inflict upon yourselves any bruise for the dead'?[58] — If so, Scripture should have said, Lo tithgodedu,[59] why did it say 'Lo tithgodedu'?[60] hence it must be inferred that its object was this.[61] Might it not then be suggested that the entire text refers to this only?[62] — If so, Scripture should have said, Lo thagodu;[63] why did it say 'Lo tithgodedu'? Hence the two deductions.)[64] — The former answered: Have you not yet learned,[65] 'Wherever it is customary to do manual labour on the Passover Eve until midday it may be done; wherever it is customary not to do any work it may not be done'?[66] The first said to him: I am speaking to you of a prohibition, for R. Shaman b. Abba said in the name of R. Johanan: 'Scripture having said, To confirm these days of Purim in their appointed times,[67] the Sages have ordained for them different times,[68] and you speak to me of a custom![69] But is there no prohibition there?[70] Surely we learned, 'Beth Shammai prohibit work during the night[71] and Beth Hillel permit it'![72] — The other said to him: In that case,[73] anyone seeing [a man abstaining from work] would suppose him to be out of work.[74] But do not BETH SHAMMAI PERMIT THE RIVALS TO THE OTHER BROTHERS AND BETH HILLEL FORBID THEM![75]

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(1) The rivals.

(2) With the brothers.

(3) In the opinion of Beth Shammai the halizah is legal and any woman who performed legal halizah is, like one divorced, forbidden to marry a priest.

(4) In their opinion the halizah was unnecessary and may, therefore, be treated as if it had never taken place.

(5) When their husbands die.

(6) Because having married persons to whom they are forbidden they are regarded as harlots who are ineligible ever to marry a priest.

(7) Lit., ‘do clean things, these upon these’.

(8) For permitting the rivals to marry the other brothers.

(9) החוצה is rendered, ‘the one who is the outside one’, the word being regarded as an adjective fem. with the relative. E.V., ‘abroad’.

(10) Deut. XXV, 5.

(11) I.e., the one who is not otherwise related to the levir.

(12) Related to the levir.

(13) But only unto her husband's brother (Deut. XXV, 5), which shews that a rival is permitted to the other brothers.

(14) Who prohibit the rival to the brothers, how do they explain this text?

(15) Before halizah had been performed.

(16) Lit., ‘she shall not be’, לא תהיה (rt. היה).

(17) Cf. E.V. for החוצה, supra note 3.

(18) Deut. XXV, 5.

(19) Lit., ‘a stranger shall have no being (הויה of the root היה) in her’.

(20) לחוץ, lit., ‘to the outside’.

(21) החוצה, v. supra note 3.

(22) חוצה.

(23) To indicate direction.

(24) The he being the he local.

(25) Lit., ‘he recited’ or ‘taught’.

(26) ‘To אילם appears as אילמה (Ex. XV, 27) instead of לאילם.

(27) ‘To מחנים’ appears as מחמימה (II Sam. XVII, 24) instead of למחמים.

(28) ‘To מצרים’, מצרימה, Gen. XII, 10.

(29) ‘To דבלתים, דבלתימה (Num. XXXIII, 47).

(30) ‘To ירושלים’ (Jerusalem) ירושלימה (Ezek. VIII, 3).

(31) ‘To מדבר (wilderness or place-name) מדברב (I Chron. V, 9).

(32) Deut. XXV, 5.

(33) To the deceased brother. Such a widow also is subject to the levirate marriage as if she had been actually married. ‘Huzah’ implies (cf. supra p. 68, n. 3) ‘outside’, i.e., one who is not within the marriage bond.

(34) The addition of the ‘he’ in החוצה where חוצה would have conveyed the same meaning implies the inclusion of the betrothed. (V. n. 6.)

(35) V. p. 68, n. 2, supra.

(36) That, e.g., of marrying a brother's wife.

(37) That of marrying a forbidden relative (e.g., a daughter). Since the latter prohibition takes no effect in such a case, the forbidden relative whom the levirate bond does not consequently affect may be regarded as non-existent, so far as her levirate obligations are concerned. Her rivals, therefore, come under the category of complete strangers and are consequently permitted to the brothers.

(38) A sister of his brother's wife.

(39) Which arose later.

(40) As legally the widow is only ‘his brother's wife’ but not ‘his wife's sister’, her rivals may justly be regarded as strangers who are permitted.

(41) And his wife's sister has in consequence become forbidden to him.

(42) When the prohibition of a brother's wife arose.

(43) And consequently had taken effect; why then are her rivals permitted? This objection is based on the assumption that Raba, in stating the prohibition of marrying a forbidden relative cannot take effect owing to the prohibition of ‘brother's wife’, was referring only to such prohibitions as are due to a marriage contract, e.g., a wife's sister.

(44) Lit., ‘in the place’.

(45) V. supra p. 69, n. 10.

(46) What need then was there for stating it.

(47) Of forbidden relatives.

(48) And being subject to halizah, even though on account of a Rabbinical ordinance only, it might have been assumed that they are ineligible for marriage with a priest. (Cf. supra p. 67, n. 9.)

(49) Indicating that the rivals in such a case are not even Rabbinically subject to the halizah.

(50) For the reason given supra. V. previous note.

(51) Halizah and marriage usually being the only alternatives.

(52) מגילה ‘scroll’, always signifies in Rabbinical literature the Scroll of Esther, unless the context explicitly or implicitly points to any other scroll.

(53) According to whether the readers live in a village, a town, or a town that had been walled in the days of Joshua, and according to the day of the week on which the feast of Purim occurs.

(54) Than the eleventh.

(55) Than the fifteenth. Meg. 2a.

(56) לא תתגודדו (Deut. XIV, 1), rendered by E.V. Ye shall not cut yourselves, is here taken as a form of the root אגד, ‘to bind’, implying the formation of separate groups, sects, factions.

(57) Why, then, was the Scroll allowed to be read on different days by different classes of people?

(58) Cf. supra n. 13 for the rendering of E.V.

(59) Which would have implied the prohibition of cutting or bruising the body. (V. p. 70, n. 13.)

(60) The longer form, the Hithpael.

(61) Lit., ‘for this it came’, to imply both ‘cutting the body for the dead’, and ‘the formation of sects’.

(62) The formation of sects.

(63) Which would have been understood to refer to the undesirable formation of sects.

(64) It has thus been shewn that the formation of sects is undesirable; why then was it allowed to form separate groups to read the Scroll of Esther on different dates?

(65) Or ‘You should have replied’ (Rashi).

(66) Which shews that, despite the undesirability of forming separate groups, different customs are allowed.

(67) Esth. IX, 31, emphasis on ‘appointed times’, בזמניהם.

(68) I.e., a group who were ordained to read the Scroll on a particular date must not read it on any other date.

(69) Manual labour on the Passover Eve is universally permitted, and its prohibition in certain places is not a matter of law but merely a question of custom.

(70) In the case of work on the Passover Eve. (Both the day and the night preceding the Passover are designated ערב פסח Passover Eve).

(71) Preceding the first Passover night.

(72) Which shews, since some would be acting in accordance with the ruling of Beth Shammai while others would follow Beth Hillel, that even in the case of a prohibition the formation of sects is allowed.

(73) Lit., ‘there’, where some people do no work though permitted.

(74) The question of sects does not arise in such a case.

(75) A dispute which creates faction, some following the ruling of the one authority and others that of the other.

Talmud - Mas. Yevamoth 14a

— Do you imagine that Beth Shammai acted in accordance with their views? Beth Shammai did not act in accordance with their views.

R. Johanan, however, said: They certainly acted [in accordance with their views]. Herein they[1] differ on the same point as do Rab and Samuel. For Rab maintains that Beth Shammai did not act in accordance with their views, while Samuel maintains that they certainly did act [in accordance with their views]. When?[2] If it be suggested, prior to the decision of the heavenly voice,[3] then what reason has he who maintains that they did not act [in accordance with their own view]? If, however, after the decision of the heavenly voice, what reason has he who maintains that they did act [in accordance with their views]? — If you wish I could say, prior to the decision of the heavenly voice; and if you prefer I could say, after the heavenly voice. 'If you wish I could say, prior to the heavenly voice', when, for instance, Beth Hillel were in the majority: One maintains[4] that they[5] did not act [according to their view] for the obvious reason that Beth Hillel were in the majority; while the other maintains[6] that they did act [according to their view, because] a majority is to be followed only where both sides are equally matched;[7] in this case, however, Beth Shammai were keener of intellect. 'And if you prefer I could say, after the heavenly voice'; one maintains that they[5] did not act [according to their view] for the obvious reason that the heavenly voice had already gone forth;[8] while the other who maintains that they did act [according to their view] is [of the same opinion as] R. Joshua who declared that no regard need be paid to a heavenly voice.[9]

Now as to the other who 'maintains that they did act [according to their views]'[10] — should not the warning, 'Lo tithgodedu, you shall not form separate sects'[11] be applied? — Abaye replied: The warning against opposing sects is only applicable to such a case as that of two courts of law in the same town, one of whom rules in accordance with the views of Beth Shammai while the other rules in accordance with the views of Beth Hillel. In the case, however, of two courts of law in two different towns [the difference in practice] does not matter. Said Raba to him: Surely the case of Beth Shammai and Beth Hillel is like that of two courts of law in the same town! The fact, however, is, said Raba, that the warning against opposing sects is only applicable to such a case as that of one court of law in the same town, half of which rule in accordance with the views of Beth Shammai while the other half rule in accordance with the views of Beth Hillel. In the case, however, of two courts of law in the same town [the difference in practice] does not matter.

Come and hear: In the place of R. Eliezer, wood was cut on the Sabbath wherewith to produce charcoal on which to forge the iron.[12] In the place of R. Jose the Galilean the flesh of fowl was eaten with milk.[13] In the place of R. Eliezer only[14] but not in the place of R. Akiba; for we learnt: R. Akiba laid it down as a general rule that any labour which may be performed on the Sabbath Eve[15] does not supersede the Sabbath![16] — What an objection is this! The case, surely, is different [when the varied practices are respectively confined to] different localities. What then did he who raised this question imagine?[17] — It might have been assumed that owing to the great restrictions of the Sabbath [different localities are regarded] as one place, hence it was necessary to teach us [that the law was not so].

Come and hear: R. Abbahu, whenever he happened to be in the place of R. Joshua b. Levi, carried[18] a candle,[19] but when he happened to be in the place of R. Johanan[20] he did not carry a candle![21] — What question is this! Has it not been said that the case is different [when the varied practices are respectively confined to] varied localities? — This is the question:[22] How could R. Abbahu act in one place in one way and in another place in another way?[23] — R. Abbahu is of the same opinion as R. Joshua b. Levi,[24] but when he happened to be in R. Johanan's place he did not move a candle out of respect for R. Johanan. But his attendant,[25] surely was also there![26] — He gave his attendant the necessary instructions.

Come and hear: THOUGH THESE FORBADE WHAT THE OTHERS PERMITTED . . . BETH SHAMMAI, NEVERTHELESS, DID NOT REFRAIN FROM MARRYING WOMEN FROM THE FAMILIES OF BETH HILLEL, NOR DID BETH HILLEL [REFRAIN FROM MARRYING WOMEN] FROM THE FAMILIES OF BETH SHAMMAI. Now, if it be said that they[27] did not act [in accordance with their own view] one can well understand why THEY DID NOT REFRAIN [from intermarrying with one another].[28] If, however, it be said that they[27] did act [in accordance with their own view], why did they not refrain? That Beth Shammai did not refrain from marrying women from the families of Beth Hillel may well be justified because such[29] are the children of persons guilty only of the infringement of a negative precept;[30] but why did not Beth Hillel refrain from [marrying women from the families of] Beth Shammai? Such,[31] surely, being children of persons who are guilty of an offence involving kareth, are bastards![32] And if it be suggested that Beth Hillel are of the opinion that the descendant of those who are guilty of an offence involving kareth is not a bastard,[33] surely, [it may be retorted], R. Eleazar said: Although Beth Shammai and Beth Hillel are in disagreement on the questions of rivals, they concede that a bastard is only he who is descended from a marriage which is forbidden as incest and punishable with kareth! Does not this then conclusively prove that they[27] did not act [in accordance with their own view]? — No; they[27] acted, indeed, [in accordance with their own view], but they[27] informed them[34] [of the existence of any such cases] and they[34] kept away.

This[35] may also be proved by logical inference; for in the final clause it was stated. [SIMILARLY IN RESPECT OF] ALL [THE QUESTIONS OF RITUAL] CLEANNESS AND UNCLEANNESS, WHICH THESE DECLARED CLEAN WHERE THE OTHERS DECLARED UNCLEAN, NEITHER OF THEM ABSTAINED FROM USING THE UTENSILS OF THE OTHERS FOR THE PREPARATION OF FOOD THAT WAS RITUALLY CLEAN.

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(1) R. Johanan and R. Lakish.

(2) I.e., to what period does the dispute just mentioned refer?

(3) בת קול (v. Glos. s.v. Bath Kol), which decided that the law in practice was always to be in accordance with the rulings of Beth Hillel (v. ‘Er. 13a).

(4) Lit., ‘according to him who said’.

(5) Beth Shammai.

(6) Lit., ‘and he who said’.

(7) In qualifications and attainments.

(8) And decided the issue in favour of Beth Hillel.

(9) B.M. 59b, Ber. 52a, ‘Er. 7a, Pes. 114a.

(10) Even after the heavenly voice.

(11) Cf. supra p. 70, n. 13.

(12) The knife required for the performance of circumcision. The circumcision of a child, his health permitting, must take place on the eighth day of his birth (v. Gen. XVII, 12) even though it happened to fall on a Sabbath when manual labour is prohibited. And since the precept itself supersedes the Sabbath, all its requisites such as the wood and coals (for the preparation of warm water) and the knife may also be performed on the Sabbath.

(13) Though it is forbidden to eat meat, or any dishes made of meat, together with milk or any preparation of milk. R. Jose exempts the flesh of fowl from the general prohibition of the consumption of meat and milk. Shab. 130a, Hul. 116a.

(14) Lit., ‘yes’; only there was the preparation of the requisites of circumcision permitted on the Sabbath.

(15) Such as the cutting of wood, the production of coals and the forging of the knife.

(16) Now, in view of the undesirability of creating different sects, why were all these varied practices allowed?

(17) It should have been obvious to him that different localities may differ in their custom. (Cf. supra p. 53, n. 11.)

(18) Lit., ‘moved’.

(19) On the Sabbath. A candle, though it was burning when Sabbath set in may, according to R. Joshua who follows R. Simeon in permitting mukzeh (v. next note), be moved on the Sabbath after the flame has gone out.

(20) R. Johanan, following R. Judah, forbids the carrying or moving of a candle that had been burning when the Sabbath set in though it had subsequently gone out. As it was burning at the commencement of the Sabbath it was at that time fit for no other use and is regarded, therefore, as mukzeh, i.e., ‘something set aside’, that is not to be used for any other purpose. Anything that was mukzeh when the Sabbath began remains so until it ends.

(21) Is not the practice of carrying a candle in one place and not carrying it in another as undesirable as the formation of opposing sects?

(22) Lit., ‘we say thus’.

(23) Lit. , ‘how did he do here thus’ (bis).

(24) V. supra note 3.

(25) Who well knew that his master was of the same opinion as R. Joshua b. Levi. The שמעא was in many cases both an attendant on the master and also one of his learned disciples.

(26) And might move such a candle on the Sabbath even in R. Johanan's place.

(27) Beth Shammai.

(28) Since, in practice, both schools followed the same principles.

(29) The descendants from the marriages with strangers contracted by the rivals who, in accordance with the ruling of Beth Hillel, performed no halizah.

(30) Even Beth Shammai who require the rivals to perform the halizah regard such marriages as the infringement of a prohibition only (‘The wife of the dead shall not be married abroad’, Deut. XXV, 5), which does not involve kareth. The children of such marriages are consequently not deemed to be bastards.

(31) Descendants from marriages between rivals and brothers-in-law. Such marriages, which are permitted by Beth Shammai, are regarded by Beth Hillel as forbidden under the prohibition of marrying one's brother's wife, which involves the penalty of kareth.

(32) How, then, did they intermarry with families containing such members?

(33) A bastard being the descendant only of such marriages as are subject to one of the capital punishments that are carried out under the jurisdiction of a court.

(34) Beth Hillel.

(35) That Beth Shammai duly informed Beth Hillel of any families contracting marriages which according to the ruling of the latter were forbidden.

Talmud - Mas. Yevamoth 14b

Now, if it be agreed that the required information was supplied[1] one well understands why they[2] did not abstain.[3] If, however, it be assumed that no such information was supplied, one can still understand why Beth Shammai did not abstain from using the utensils of Beth Hillel, since that which was regarded by Beth Hillel as ritually unclean was deemed by Beth Shammai to be ritually clean; but why did not Beth Hillel abstain from using the utensils of Beth Shammai when that which was deemed clean by Beth Shammai was regarded as unclean by Beth Hillel? Must it not, then, be concluded that they supplied them with the required information! Our point is thus proved.

In what respect is the one[4] more conclusive proof[5] than the other?[6] — It might have been thought that the case of a rival[7] receives due publicity,[8] hence it was necessary [for the inference from the final clause] to be cited.

[Reverting to] the previous text, ‘R. Eleazar said: Although Beth Shammai and Beth Hillel are in disagreement on the question of rivals they concede that a bastard is only he who is descended from a marriage forbidden as incest and punishable by kareth’. Who concedes? If it be said, Beth Shammai to Beth Hillel;[9] this, surely, is obvious, since the children of those who are guilty of the infringement of a negative precept[10] are deemed legitimate.[11] Must it not consequently be the case that Beth Hillel conceded to Beth Shammai;[12] but this very case is subject to the penalty of kareth! — The fact is that Beth Shammai conceded to Beth Hillel; and the purpose was to exclude the opinion of R. Akiba, who maintains that a descendant from persons guilty of the infringement of a negative precept is deemed a bastard.[13] Hence it was taught[14] that a descendant from persons guilty of the infringement of a negative precept is not deemed a bastard.

Come and hear: Although Beth Shammai and Beth Hillel are in disagreement on the questions of rivals, sisters,[15] an old bill of divorce,[16] a doubtfully married woman,[17] a woman whom her husband had divorced[18] and who stayed with him over the night in an inn,[19] money, valuables, a perutah and the value of a perutah,[20] Beth Shammai did not, nevertheless, abstain from marrying women of the families of Beth Hillel, nor did Beth Hillel refrain from marrying those of Beth Shammai. This is to teach you that they shewed love and friendship towards one another, thus putting into practice the Scriptural text, Love ye truth and peace.[21] R. Simeon said: They abstained [from marrying] in cases of certainty but did not abstain in doubtful cases.[22] Now, if you agree that they[23] acted [in accordance with their own views] one can well understand why they abstained. If, however, you assume that they did not so act, why did they abstain? — And how do you understand this? Even if it be granted that they did act (in accordance with their own views], one can only understand why Beth Hillel abstained from intermarrying with Beth Shammai, because the latter, in the opinion of Beth Hillel, were guilty of offences involving kareth and their descendants were consequently bastards; as to Beth Shammai, however, why did they abstain from intermarrying with Beth Hillel, when they were [even in the opinion of Beth Shammai] only guilty of the infringement of a negative precept and [their descendants] were consequently legitimate? — As R. Nahman said elsewhere that the statement was required only for the case of the rival herself, so here also the Statement is required for the case of the rival herself.[24]

Why is a doubtful case different from a case of a certainty? Obviously because it is forbidden. Is not a doubtful case also forbidden? — Do not read, ‘from a doubtful case’, but ‘from a case unknown’, since when they received the information they kept away.[25] And what does he teach us thereby? That they shewed love and friendship to one another? But this is exactly the same as the first clause![26] — He teaches us this: That the entire Mishnah represents the views of R. Simeon.

Come and hear: R. Johanan b. Nuri said: ‘How is this law[27] to be promulgated in Israel? Were we to act in accordance with the ruling of Beth Shammai,[28] the child would, in accordance with the ruling of Beth Hillel, be a bastard.[29] And were we to act in accordance with the ruling of Beth Hillel,[30] the child, according to the ruling of Beth Shammai, would be tainted;[31] come, then, and let us issue an ordinance that the rivals

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(1) By Beth Shammai.

(2) Beth Hillel, who were the more rigorous in matters of ritual cleanness.

(3) From using the utensils of Beth Shammai. The fact that any vessel was not clean according to Beth Hillel would have been, they knew, duly communicated to them.

(4) The inference from the final clause of our Mishnah relating to ritual cleanness and uncleanness.

(5) That the required information was supplied.

(6) The first clause dealing with the marriages of rivals.

(7) Who married one of the brothers.

(8) And no special report on such a case is needed.

(9) Where a rival married a stranger without previously performing the halizah (v. our Mishnah).

(10) V. supra p. 75, n. 4.

(11) And the question of legitimacy does not at all arise in the dispute.

(12) In respect of a rival who married one of the brothers.

(13) Infra 49a.

(14) In our Mishnah.

(15) Who married their brothers; infra 26a.

(16) Git. 79b.

(17) I.e., where the validity of her marriage is in doubt. V. infra 107a.

(18) Lit., ‘and about him who divorced his wife’.

(19) Git. 81a.

(20) The last four deal with the question of what constitutes legal betrothal. Kid. 2a and 11a.

(21) Zech. VIII, 19.

(22) Tosef. Yeb. I.

(23) Beth Shammai.

(24) Whom Beth Shammai abstained from marrying before she performed the halizah.

(25) So long, therefore, as no report had been received the unknown case was assumed to belong to the pure families.

(26) Why then should there be a repetition of the same thing?

(27) Relating to the marriages of rivals.

(28) Who permit the rivals to marry the brothers.

(29) Having been born from a forbidden marriage (that of a brother's wife) which involves kareth.

(30) Permitting rivals to marry strangers without previous halizah.

(31) Though not actually a bastard, he would, were he a kohen, be disqualified from the priesthood.

Talmud - Mas. Yevamoth 15a

perform the halizah[1] but do not marry any of the brothers'.[2] They had hardly time to conclude the matter before confusion set in. Said R. Simeon b. Gamaliel to them, 'What now could we do with previous rivals'![3] Now, if you assume that they[4] acted [in accordance with their own rulings] one can understand why he said, 'What shall we do'.[5] If, however, you assume that they did not so act, what is the meaning of 'What shall we do'?[6] — R. Nahman b. Isaac replied: This[7] was required only in the case of the rival herself;[8] and this is the meaning of the objection 'what shall we do': 'How shall we, according to Beth Shammai, proceed with those rivals [who married[9] in accordance with the rulings] of Beth Hillel? Should they be asked to perform the halizah, they would become despised by their husbands; and should you say, "Let them be despised", [it could be retorted]. Her ways are ways of pleasantness and all her paths are peace'.[10]

Come and hear: R. Tarfon[11] said: Would that the rival of [my] daughter[12] were to fall to my lot[13] so that I could marry her![14] — Read, 'that I could make her marry [another]'.[15] But he said, 'Would'![16] — It[17] implies objection to the ordinance[18] of R. Johanan b.Nuri.[19]

Come and hear: It happened that R. Gamaliel's daughter was married to his brother Abba who died without issue, and that R. Gamaliel married her rival![20] — But how do you understand this? Was R. Gamaliel[21] one of the disciples of Beth Shammai![22] But [this is the explanation]: R. Gamaliel's daughter was different because she was incapable of procreation.[23] Since, however, it was stated in the final clause, 'Others say that R. Gamaliel's daughter was incapable of procreation' it may be inferred that the first Tanna is of the opinion that she was not incapable of procreation! — The difference between them[24] is the question whether he[25] knew her[26] defect[27] or not.[28] And if you wish I might say that the difference between them[24] is the case where he[25] married [the rival] first and subsequently divorced [his wife].[29] And if you wish I might say that the difference between them[24] is whether a stipulation[30] in the case of matrimonial intercourse is valid.[31]

R. Mesharsheya raised an objection: It once happened that R. Akiba gathered the fruit of an ethrog[32] on the first of Shebat[33] and subjected it to two tithes,[34] one[35] in accordance with the ruling of Beth Shammai[36] and the other[37] in accordance with the ruling of Beth Hillel.[38] This proves that they[39] did act [in accordance with their rulings!] — R. Akiba was uncertain of his tradition, not knowing whether Beth Hillel said the first of Shebat[40] or the fifteenth of Shebat.[40]

Mar Zutra raised an objection: It once happened that Shammai the Elder's daughter-in-law was confined with child[41] and he[42] broke an opening through the concrete of the ceiling and covered it above the bed with the proper festival roofing[43] for the sake of the child.[44] Does not this prove that they[39] did act [in accordance with their rulings]?[45] — In that case, any onlooker might assume that it was done in order to increase the ventilation.[46]

Mar Zutra raised an objection: It once happened with Jehu's Trough in Jerusalem, which was connected by means of a hole with a ritual bathing pool,[47] and in which[48] all ritual cleansing in Jerusalem was performed, that Beth Shammai sent and had the hole widened; for Beth Shammai maintain that the greater part [of the intervening wall] must be broken through.[49] But we have also learned that the combination of bathing pools[50] may be effected by a connecting tube of the size of the mouth-piece of a leather bottle in diameter and circumference,[51] viz., a tube in which two fingers may conveniently be turned round.[52] Does not this prove that they[53] did act [in accordance with their rulings]?[54] — There

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(1) So that any stranger might be permitted to marry them, even according to Beth Shammai.
(2) And thus prevent their children from being branded bastards according to Beth Hillel. (V. supra note 6).
(3) Tosef. Yeb, I; the rivals who, relying on Beth Shammai, married brothers-in-law, prior to the ordinance, whose children would, were the ordinance of R. Johanan b. Nuri to be accepted, become bastard.
(4) Beth Shammai.
(5) Since some may have married brothers-in-law. V. supra n. 1.
(6) No such marriage could possibly have taken place.
(7) R. Simeon b. Gamaliel's precaution.
(8) Who may have married a stranger without previous halizah, in accordance with the ruling of Beth Hillel. It has no reference at all to the children, who would not be regarded bastards even according to Beth Shammai.
(9) Strangers, previously performing the halizah.
(10) Prov. III, 17. The ways of the law must lead to no unpleasantness for the innocent.
(11) A disciple of Beth Shammai.
(12) Who was married to a brother of his.
(13) As levir.
(14) Which shews that Beth Shammai acted in accordance with their ruling that the rival of a forbidden relative is permitted to the brothers.
(15) Which is, of course, permitted according to Beth Hillel. The Heb. אשאנה ‘I will marry her’ (verb. neut. Kal) may be easily mistaken for אשיאנה’I will cause her to marry another’ (verb. act. Hif.).
(16) Which implies a desire to shew something novel. Marrying a stranger, in accordance with the ruling of Beth Hillel, is the usual practice.
(17) The expression ‘would’.
(18) Lit., ‘to bring out’, ‘to exclude (the view)’.
(19) Who desired to institute for rivals halizah to enable them to marry strangers, though prohibiting their marriage with the brothers
(20) Thus acting in accordance with the ruling of Beth Shammai. (V. p. 79, n. 12.)
(21) A descendant of the house of Hillel.
(22) Obviously not. How, then, could it he assumed that he acted in accordance with a ruling of Beth Shammai?
(23) And the rival of such a woman is permitted to the brothers. V. Mishnah supra 2b.
(24) The ‘Others’ and the first Tanna.
(25) The husband, R. Gamaliel's brother.
(26) R. Gamaliel's daughter's.
(27) At the time of their marriage.
(28) V. supra 12a. According to the first Tanna, the rival of R. Gamaliel's daughter was permitted only because her husband was unaware of her defect, and their marriage consequently took place under a misconception. Such a marriage being invalid, R. Gamaliel's daughter was not a legal wife, and her rival consequently was a mere stranger to her father. According to the ‘Others’, who use the expression ‘was incapable’ and not ‘was discovered to be incapable’, the rival was permitted to R. Gamaliel irrespective of whether his daughter's defect had or had not been known, to her husband.
(29) V. supra 13a. Such as was the case with R. Gamaliel's daughter. The first Tanna is of the opinion that the rival was permitted to R. Gamaliel because at the time his brother died she was no more his daughter's rival. The ‘Others’, however, maintain that so long as the two were rivals for any length of time (in this case, between the time of the marriage with the rival and the divorce of R. Gamaliel's daughter) they remain legally as rivals for all time, and the only reason why R. Gamaliel was allowed to marry the rival of his daughter was because his daughter had the defect of being incapable of procreation, and the rival of such a woman is permitted to the brothers. V. supra 2b.
(30) That the woman, e.g., suffers from no illness or that she is not afflicted with any infirmity.
(31) Such a stipulation was made by the husband in the case of R. Gamaliel's daughter. The first Tanna is of the opinion that the stipulation is valid, and since an infirmity was subsequently discovered, the marriage is null and void and the rival as a mere stranger is consequently permitted. The ‘Others’, however, regard a stipulation in connection with marital intercourse as invalid. R. Gamaliel's marriage with the rival was consequently permitted only because his daughter was incapable of procreation.

(32) V. Glos.

(33) The eleventh month in the Hebrew calendar, the first day of which is regarded by Beth Shammai as the New Year for trees. The period of the gathering was about the end of the second year of the septennial cycle and the beginning of the third.

(34) The 'second tithe' which is due in the second year of the septennial cycle, and the 'tithe for the poor' which is due in the third year of the cycle.

(35) The 'tithe for the poor'.

(36) According to whom, the first of Shebat being regarded as the beginning of the New Year for trees, the third year of the cycle had already begun, and the tithe due is, therefore, that of the poor.

(37) The 'second tithe'.

(38) Who, maintaining that the new year for trees does not begin until the fifteenth of Shebat, regard the first day of the month as still belonging to the concluding year, i.e., the second of the cycle in which the 'second tithe' is due. 'Er. 7a, R.H. 14a.

(39) Beth Shammai.

(40) Was the new year. Cf. supra nn. 5-7.

(41) During the Festival of Tabernacles when it is obligatory upon all males to dwell in booths (Lev. XXIII, 42), the roof of which must consist of branches or leaves or any similar material which grows from the ground (v. Suk. 2aff).

(42) Shammai.

(43) V. supra n. 10.

(44) Who was a male and, in the opinion of Beth Shammai, a male child, though still dependent on his mother, is like any male adult subject to the obligation of dwelling in a booth during the festival. Suk. 28a.

(45) Since according to Beth Hillel the child, being dependent upon his mother, is exempt from the obligation.

(46) The action, therefore, did not in any way demonstrate a disregard for the ruling of Beth Hillel.

(47) מקוה 'a gathering together', applied to a bath or pool containing forty se'ah of water, which is the prescribed minimum for a ritual bath.

(48) The trough, though containing less than the required minimum, was rendered ritually fit through fusion with the larger pool by means of the connecting hole.

(49) Mik. IV, 5.

(50) Which renders the smaller one, containing less than the prescribed minimum, ritually fit.

(51) Lit., 'like the tube of a leather bottle in its thickness and hollow space'.

(52) Hag. 21b, Mik. VI, 7; lit., 'as two fingers returning to their place'.

(53) Beth Shammai.

(54) Since the original tube, according to Beth Hillel, was quite sufficient, and they had nevertheless ordered its extension.

Talmud - Mas. Yevamoth 15b

the onlooker might assume that the extension was made in order to increase the volume of the water.[1]

Come and hear: R. Eleazar b. Zadok said: When I was learning Torah with R. Johanan the Horonite[2] I noticed that in the years of dearth he used to eat dry bread with salt. I went home and related it to my father, who said to me, 'Take some olives to him'. When I brought these to him and he observed that they were moist[3] he said to me, 'I eat no olives'.[4] I again went out and communicated the matter to my father, who said to me, 'Go tell him that the jar was broached,[5] only the lees had blocked up the breach';[6] and we learned: A jar containing pickled olives, Beth Shammai said, need not be broached;[7] but Beth Hillel say: It must be broached.[8] They admit, however, that where it had been broached and the lees had blocked up the holes, it is clean.[9] And though he[10] was a disciple of Shammai, he always conformed in practice[11] to the rulings of Beth Hillel. Now, if it be conceded that they[12] did act in accordance with their own rulings, one can well understand why his[10] action was worthy of note;[13] if, however, it were to be contended that they did not so act, in what respect was his conduct noteworthy![14]

Come and hear: R. Joshua was asked, ‘What is the law in relation to the rival of one's daughter’? He answered them, ‘It is a question in dispute between Beth Shammai and Beth Hillel’. — ‘But [he was asked] in accordance with whose ruling is the established law’? ‘Why should you,’ he said to them, ‘put my head between two great mountains, between two great groups of disputants, aye, between Beth Shammai and Beth Hillel? I fear they might crush my head! I may testify to you, however, concerning two great families who flourished in Jerusalem, namely, the family of Beth Zebo'im of Ben ‘Akmai and the family of Ben Kuppai of Ben Mekoshesh,[15] that they were descendants of rivals[16] and yet some of them were High Priests who ministered upon the altar’. Now, if it be conceded that they[17] acted [in accordance with their own rulings] it is quite intelligible why he said, ‘I fear’.[18] If, however, it be suggested that they[17] did not so act, why did he say, ‘I fear’![19] But even if it be granted that they did act [according to their rulings], what [cause had he for saying,] ‘I fear’? Surely R. Joshua said that a bastard was only he who was a descendant of one of those who are subject to capital punishments which are within the jurisdiction of the Beth din![20] — Granted that he[21] was not a bastard, he is nevertheless tainted;[22] as may be deduced by inference a minori ad majus from the case of the widow: If the son of a widow[23] who is not forbidden to all[24] is nevertheless tainted,[25] [how much more so the son of a rival][26] who is forbidden to all.[27]

They asked him concerning rivals and he answered them about the sons of the rivals! — They really asked him two questions: ‘What is the law concerning the rivals? And if some ground could be found in their case in favour of the ruling of Beth Hillel, what is the law according to Beth Shammai in regard to the sons of the rivals, [who married][28] in accordance with the ruling of Beth Hillel’?[29] What practical difference is there?[30] — That a solution may be found, according to Beth Hillel, for the question of the child[31] of a man who remarried his divorced wife.[32] Do we[33] apply the inference a minori ad majus, arguing thus: ‘If the son of a widow who was married to a High Priest, who is not forbidden to all,[34] is nevertheless tainted,[35] how much more so the son of her[36] who is forbidden to all’;[37] or is it possible to refute the argument, thus: ‘The case of the widow is different because she herself is profaned’?[38] And he said to them, ‘With reference to the rivals I am afraid;[39]

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(1) V. note 2.

(2) [Cf. Hauran, mentioned in Ezek. XLVII, 18, south of Damascus, the Auranitis of the Graeco-Roman times.]

(3) Moisture renders fruit susceptible to Levitical uncleanness.

(4) He hesitated to eat them owing to the possibility (Rashi) or the certainty (Tosaf. a.l. s.v. אמר) that the earthen jar in which they were kept had been touched by an ‘am ha-arez and, being moist, received the uncleanness imparted to them by the jar which, by Rabbinical enactment, had become unclean by the touch of the ‘am ha-arez.

(5) Keeping olives in a broached container is clear evidence that the owner had no desire to retain the sap that exudes from the olives; and only liquids which are desired by the owner render the fruit susceptible to Levitical uncleanness.

(6) And thus the undesired ‘moisture remained on the olives. As such moisture does not render the fruit susceptible to uncleanness (v. previous note) the olives may safely be eaten even by the scrupulous.

(7) Because in their opinion the moisture that exudes from the olives is regarded as a fruit juice which does not render food susceptible to Levitical uncleanness.

(8) The moisture is regarded by them as actual oil which does render food susceptible to uncleanness. Broaching is consequently necessary in order to indicate thereby that the owner had no desire to preserve the liquid.

(9) I.e., the liquid, having clearly been shewn to be unwanted, does not render the olives susceptible to Levitical uncleanness. ‘Ed. IV, 6.

(10) R. Johanan the Horonite.

(11) Lit., ‘all his deeds he only did’.

(12) Beth Shammai.

(13) Lit., ‘that is his greatness’; i.e., his conduct was remarkable and worthy of note in that he acted according to the ruling of Beth Hillel despite the practice of his colleagues of acting in accordance with the rulings of their own School.

(14) Lit., ‘what was his greatness’; he only acted on the same lines as the other disciples of Beth Shammai. Consequently it must be concluded that Beth Shammai did act in accordance with their own rulings.

(15) [A locality in Judaea; on the identification of the other names, v. Klein MGWJ 1910, 25ff, and 1917, 135ff and Buchler Priester, p. 186.]
(16) Who, in accordance with the ruling of Beth Hillel, married strangers without previously performing halizah with the levirs.
(17) Beth Shammai.
(18) As the rivals, acting on the ruling of Beth Shammai, might have married the brothers, their children who, according to Beth Hillel, would thus be descendants of marriages forbidden under the penalty of kareth, would be deemed to be bastards. These would certainly resent R. Joshua's declaration in favour of Beth Hillel, and his life would thus be in danger.
(19) No one could possibly resent his decision since no one would be adversely affected by it. Cf. supra p. 83 , n. 10, final clause.
(20) Infra 49a. Now, even if he had decided in favour of Beth Hillel no one would have been degraded thereby to the level of a bastard. Why then was he afraid?
(21) A descendant from a marriage punishable by kareth.
(22) Though not actually a bastard, he would, were he a kohen, he disqualified from the priesthood.
(23) Born from her marriage with a High Priest.
(24) A widow is forbidden only to a High Priest. V. Lev. XXI, 14.
(25) V. note 8.
(26) Cur. edd., ‘etc.’
(27) A rival is forbidden to Israelites as well as priests.
(28) Strangers without previous halizah with the levirs.
(29) Are the children of such marriages, which are forbidden by a negative precept, disqualified from the priesthood?
(30) Since the halachah is according to Beth Hillel.
(31) A daughter.
(32) After she had been married to another man. Such remarriage is also forbidden (v. supra note 2) by a negative precept (V. Deut. XXIV, 1-4.)
(33) In this case according to Beth Hillel, as in the case of a rival's son according to Beth Shammai; both cases coming under the prohibition of a negative precept.
(34) V. p. 84, n. 10.
(35) V. p. 84, n. 8.
(36) A rival.
(37) A rival is forbidden to Israelites as well as to priests.
(38) On the death of the High Priest to whom she was unlawfully married she may not marry any more even an ordinary priest, and as she was a priest's daughter she is henceforth forbidden to eat terumah. On a woman, however, who was remarried after divorce no new restrictions are imposed.
(39) V. supra p. 84, n. 4.

Talmud - Mas. Yevamoth 16a

as to the sons of the rivals[1] I may testify to you’.[2]

Come and hear: In the days of R. Dosa b. Harkinas the rival of a daughter was permitted to marry the brothers.[3] From this it may be inferred that [Beth Shammai] acted [in accordance with their own rulings].[4] This proves the point.

[To turn to] the main text. In the days of R. Dosa b. Harkinas, the rival of a daughter was permitted to marry the brothers. This ruling was very disturbing to the Sages, because he[5] was a great scholar[6] and his eyes were dim so that he was unable to come to the house of study.[7] When a discussion took place as to who should go and communicate with him, R. Joshua said to them, ‘I will go’. ‘And who after him?’ — ‘R. Eleazar b. Azariah.’ ‘And who after him?’ — ‘R. Akiba’. They went and stood at the entrance of his house. His maid entered and told him, ‘Master, the Sages of Israel are come to you’. ‘Let them enter’, he said to her; and they entered. Taking hold of R. Joshua he made him sit upon a golden couch. The latter said to him, ‘Master, will you ask your other disciple to sit down’? ‘Who is he?’ [the Master] enquired. — ‘R. Eleazar b. Azariah’. ‘Has our friend Azariah a son?’ [the Master] exclaimed, and applied to him this Scriptural text, I have been young and now I am old; yet have I not seen the righteous forsaken, nor his seed begging bread;[8] and so took hold of him also and made him sit upon a golden couch. ‘Master’, said he,[9] ‘will you ask your next disciple also to sit down’? ‘And who is he?’ [the Master] asked. — ‘Akiba the son of Joseph’. ‘You are,’ [the Master] exclaimed, ‘Akiba son of Joseph whose name is known from one end of the world to the other! Sit down, my son, sit down. May men like you multiply in Israel’. Thereupon they began to address to him all sorts of questions on legal practice[10] until they reached that of the daughter's rival. ‘What is the halachah’, they asked him, ‘in the case of a daughter's rival?’ ‘This,’ he answered them, ‘is a question in dispute between Beth Shammai and Beth Hillel.’ ‘In accordance with whose ruling is the halachah?’ — ‘The halachah,’ he replied, is in accordance with the ruling of Beth Hillel’. ‘But, indeed,’ they said to him, ‘it was stated in your name that the halachah is in accordance with the ruling of Beth Shammai!’ He said to them: ‘Did you hear, "Dosa"[11] or "the son of Harkinas?"’[12] — ‘By the life of our Master.’ they replied. ‘We heard no son's name mentioned.’[13] ‘I have,’ he said to them, ‘a younger brother who is a dare-devil[14] and his name is Jonathan and he is one of the disciples of Shammai.[15] Take care that he does not overwhelm you on questions of established practice, because he has three hundred answers to prove that the daughter's rival is permitted. But I call heaven and earth to witness that upon this mortar[16] sat the prophet Haggai[17] and delivered the following three rulings: That a daughter's rival is forbidden, that in the lands of Ammon and Moab the tithe of the poor is to be given in the Seventh Year,[18] and that proselytes may be accepted from the Cordyenians and the Tarmodites.’[19]

A Tanna taught: When they came[20] they entered through one door; when they went out they issued through three different doors.[21] He came upon R. Akiba, submitted his objections to him and silenced him.[22] ‘Are you’, he called out, ‘Akiba whose name rings from one end of the world to the other? You are blessed indeed to have won fame while you have not yet attained the rank of oxherds.’ ‘Not even,’ replied R. Akiba, ‘that of shepherds.’

‘In the lands of Ammon and Moab the tithe of the poor is given in the Seventh Year,’ because a Master said: Those who came up from Egypt[23] had conquered many cities which those who came up from Babylon[24] did not conquer, and the first sanctification[23] was intended for that time only but not for the future.[25] Hence they were allowed [cultivation][26] in order that the poor[27] might find their support there in the Seventh Year.[28]

‘And that proselytes may be accepted from the Cordyenians and the Tarmodites’. But [the law, surely,] is not so! For Rami b. Ezekiel learnt: No proselyte may be accepted from the Cordyenians. — R. Ashi replied: The statement was Kartuenians,[29] as people, in fact, speak of ‘disqualified Kartuenians’.

Others say: Rami b. Ezekiel learnt, ‘No proselytes are to be accepted from the Kartuenians’. Are not Kartuenians the same as Cordyenians? — R. Ashi replied: No; Kartuenians are a class by themselves, and Cordyenians are a class by themselves, as people, in fact, speak of ‘disqualified Kartuenians’.[30]

Both R. Johanan and Sabya maintain that no proselytes may be accepted from the Tarmodites. Did R. Johanan. however, say such a thing? Surely we learned: All blood stains [on women's garments] that come from Rekem[31] are levitically clean,[32] and R. Judah declares them unclean because [the people there] were proselytes though misguided;[33] [those that come] from the heathens[34] are levitically clean.[35] And the difficult point was raised

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(1) Whether they are tainted or not.

(2) V. supra 15b, which shews that they were not tainted, since they were permitted to occupy the highest office in the priesthood.

(3) Of the father of that daughter.

(4) Since the permission to marry was issued by a brother of R. Dosa (v. infra) who was a member of Beth Shammai.

(5) R. Dosa, who was thought to be the author of the ruling.

(6) And they did not venture to act against his decision without first consulting him.

(7) And was thus unaware that the general opinion at the College was against the ruling.

(8) Ps. XXXVII, 25.

(9) R. Joshua.

(10) Lit., ‘surrounded him with halachoth’.

(11) I.e., that Dosa permitted the rival.

(12) Without the mention of the name of the son.

(13) Lit., ‘not specifically’, ‘undefined’.

(14) בכור שטן lit., ‘the first-born of Satan’, first in obstinate dispute (Jast.); Satansjunge similar to Teufelskerl (Golds.); keen and obstinate (Rashi). Some suggest בחור שונן ‘keen — witted youth’. R. Dosa appears to have been playing upon the rhyme of ah katan, bekor satan, and Jonathan.

(15) And it must have been Jonathan who dared to issue a ruling in accordance with the views of his school against those of Beth Hillel.

(16) מדוכה or mortar-shaped seat.

(17) [That does not mean that he was a contemporary of Haggai the prophet, but that he had an incontrovertible tradition on the matter, Me'iri.]

(18) Of the septennial cycle. The countries of Ammon and Moab, though conquered by Moses and included in the boundary of the Land of Israel, were in the days of the Second Temple excluded. The laws of the Seventh or Sabbatical year, which apply to the Land of Israel, were consequently inapplicable to the lands of Ammon and Moab. Any Jews living in those countries, it was ordained by the Rabbis, were to be allowed to cultivate their fields in this year, but besides the ‘first tithe’ which is due in all other years, they were to give the tithe of the poor also.

(19) Despite the opinion of some Rabbis that they were to be regarded as bastards. Cordyene or Kardu was in Babylon; Tarmod or Tadmor, (Palmyra) lay in an oasis of the desert of Syria. [According to Obermeyer (p. 133) the question as to the legitimacy of the offering of the Kardu was on account of the possible intermarriage of the non-Jewish inhabitants with the Jewish converts, won over to Christianity by the Christian missions from Edessa in the first century.]

(20) To interview R. Dosa.

(21) Either in order not to attract Jonathan's attention, or, on the contrary, in the hope that one of them at least might meet him.

(22) Lit., ‘and made him stand’.

(23) In the days of Joshua.

(24) In the days of Ezra.

(25) Hag. 3b.

(26) In the Sabbatical year.

(27) Of the Land of Israel where no cultivation was permitted and where consequently no poor-tithe was given in that year.

(28) By obtaining employment in the fields or by receiving the tithes and the other gifts of the poor.

(29) Mountaineers of Media. The Gr. ** natives of Karta are mentioned by Polybius and Strabo.

(30) The Cordyenians, however, are not tainted.

(31) Place on the borders of Palestine. Perhaps Petra or the Biblical Sela in Edom, v. Git., Sonc. ed. p. 1, n. 2.

(32) Only the menstrual blood of the daughters of Israel is levitically unclean; and no pure Israelites lived at Rekem.

(33) Though they no longer observed the religious laws of Judaism they were once proselytes and as such their menstrual blood is levitically unclean as is the case with that of Israelites.

(34) I.e., from localities where no Israelites live.

(35) Nid. 56b, Bek. 38b.

Talmud - Mas. Yevamoth 16b

that having stated categorically,[1] ‘[those that came] from the heathens’ [he must also imply,] ‘even those from Tarmod’![2] And R. Johanan replied: This proves that proselytes may be accepted from Tarmod.[3] And if it be replied [that R. Johanan only said], ‘This’,[4] but he himself does not hold this view,[5] surely R. Johanan said, ‘The halachah is in accordance with an anonymous Mishnah’![6] — It is a question in dispute between Amoraim as to what was actually the view of R. Johanan.

Why are no [proselytes to be accepted] from Tarmod? — R. Johanan and Sabya give different reasons. One says, ‘On account of the slaves of Solomon,’[7] and the other says, ‘On account of the daughters of Jerusalem.’[8]

According to him who Says. ‘On account of the slaves of Solomon,’ the reason is quite intelligible, because he may hold the opinion that the child of a heathen or a slave who had intercourse with a daughter in Israel is a bastard. According to him, however, who said, ‘On account of the daughters of Jerusalem’, what is the reason? — R. Joseph and the Rabbis dispute the point, and both of them in the name of Rabbah b. Bar Hana. One maintains that [the number was] twelve thousand [foot]men and six thousand archers, and the other maintains that there were twelve thousand men and, of these, six hundred archers. At the time when the heathens entered the Temple, everyone made for the gold and the silver, but they made for the daughters of Jerusalem; as it is said in the Scriptures. They have ravished the women in Zion, the maidens in the cities of Judah.[9]

R. Samuel b. Nahmani said in the name of R. Jonathan: The following verse was uttered by the Genius of the Universe:[10] I have been young and now I am old[11] For who else could have said it! If the Holy One, blessed be He, be suggested, is there any old age in his case? Then David must have said it? But was he so old? Consequently it must be concluded that the Genius of the Universe had said it.

R. Samuel b. Nahmani further said in the name of R. Jonathan: What is [the meaning of] the Scriptural text,[12] The adversary hath spread out his hand upon all her treasures?[13] — This [refers to] Ammon and Moab. At the time when the heathens entered the Temple all made for gold and silver, but they turned to the Scroll of the Law, saying, ‘That in which it is written, An Ammonite or a Moabite shall not enter into the assembly of the Lord,[14] shall be burned with fire.’

The Lord hath commanded concerning Jacob that they that are round about him should be his adversaries.[15] Rab said: As, for instance, Humania towards Pum Nahara.[16]

Rab Judah said in the name of R. Assi: If at the present time a heathen betroths [a daughter in Israel], note must be taken of such betrothal since it may be that he is of the ten tribes.[17] But, surely, anything separated [from a heterogeneous group] is re garded as having been separated from the majority![18] — [R. Assi's statement refers] to places where they have settled;[19] for R. Abba b. Kahana said: And he put them in Halah and in Habor, on the river of Gozan, and the cities of the Medes;[20] Halah is Halwan,[21] and Habor

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(1) Lit., ‘he decides and teaches’.

(2) But can that be so in view of the doubtful character of the admixture of Jewish stock of its inhabitants?

(3) Nid. 56b. I.e., they are not regarded as an admixture of Jewish stock and tainted from birth and disqualified. How then could it be said supra that R. Johanan maintains that proselytes may not be accepted from the Tarmodites?

(4) ‘This proves etc.’ supra.

(5) I.e., he disagrees with the Mishnah.

(6) Which, as has been shewn, implies that proselytes may be accepted from Tarmod.

(7) Who married Jewish women.

(8) This is explained immediately.

(9) Lam. V, 11.

(10) Or ‘Prince of the world’; identified by some writers with Metatron ‘whose name is similar to that of his master’; v. Sanh., Sonc. ed. p. 245, nn. 11 and 12 and cf. op. cit. p. 246, n. 6. V. also ‘A.Z., Sonc. ed. p. 10, n. 6.
(11) Ps. XXXVII, 25, referred to by R. Dosa supra 16a.
(12) Lit., ‘what of that which was written?’
(13) Lam. I, 10.
(14) Deut. XXIII, 4.
(15) Lam. I, 17.
(16) Both were localities in Babylon. The former, inhabited by Greeks, was a constant source of annoyance to the latter the inhabitants of which were poor Israelites. Humania was below the city of Ctesifon and near it was Pum Nahara.
(17) Whom Shalmaneser had carried away into captivity (II Kings XVIII, 11) where they intermarried with the heathens. Children born from such marriages are bastards, and R. Assi holds that a bastard's betrothal is valid.
(18) I.e., if it is not known to which group or class a person or object that comes from a mixed multitude belongs, it is always assumed that the unit came from the majority. Now, since the ten tribes represent only a minority of the heathens, it should be assumed that the betrothal was not made by one of the ten tribes but by a heathen.
(19) And formed a majority of the inhabitants (Tosaf. s.v. בדוכתא a.l.). Rashi: A group which is in a settled condition, (kabu'a, v. Keth. 15a and Glos.), though it is a minority, is deemed to represent a half of the whole multitude.
(20) II Kings XVIII, 11.
(21) So Kid. 72b. Cur. edd., חלזון. Halwan is a locality in Assyria. V. Kid., Sonc. ed. p. 367, n. 4.

is Hadyab,[1] the river Gozan is Ginzak,[2] and the cities of the Medes are Hamdan[3] and its neighbouring towns; others say, Nihar[4] and its neighbouring towns. Which are its neighbouring towns? — Samuel replied: Karak,[5] Moshki,[6] Hidki[7] and Dumkia.[8] R. Johanan said: All these[9] [were enumerated] in order to declare them as being unfit.[10] When, however, I[11] mentioned the matter[12] in the presence of Samuel he said to me: Thy son,[13] implies that he who is descended from an Israelitish woman may be called thy son, but thy son who is descended from a heathen woman is not called thy son but her son.[14] But, surely, there were also daughters,[15] and Rabina had said, ‘From this it may be inferred that thy daughter's son born from [a union with] a heathen is called thy son’![16] — There is a tradition that the women of that generation were sterilized.[17]

Others read: When I mentioned the matter[18] in the presence of Samuel he said to me, ‘They did not move from there until they had declared them[19] to be perfect heathens; as it is said in the Scriptures, They have dealt treacherously against the Lord, for they have begotten strange children.’[20]

R. Joseph sat behind R. Kahana while R. Kahana sat before Rab Judah, and while sitting he made the following statement: ‘Israel will make a festival when Tarmod will have been destroyed’.[21] But, surely, it was destroyed! — That[22] was Tammod.[23]

R. Ashi said: Tarmod and Tammod are identical, but the city was rebuilt;[24] when it was destroyed on one side it was settled on the other side, and when the other side was destroyed it was settled on the first side.[25]

R. Hamnuna sat before ‘Ulla and was engaged in discussing a traditional law when the latter remarked,[26] ‘What a man! And how much more important would he have been[27] had not Harpania[28] been his [native] town’! As the other was embarrassed, he said to him, ‘Where do you pay poll tax’? — ‘To Pum Nahara’, the other replied. ‘If so’, ‘Ulla said, ‘You belong to Pum Nahara’. What [is the meaning of] Harpania? — R. Zera replied: A mountain whither everybody[29] turns.[30] In a Baraitha it was taught: Whosoever did not know his family and his tribe[31] made his way thither. Raba said: And it was deeper than the nether-world,[32] for in the Scripture it is said, I shall ransom them from the power of the nether-world; I shall redeem them from death,[33] but for the unfitness of these there is no remedy at all; the unfit of Harpania on account of the unfit of Meshan,[34] and the unfit of Meshan on account of the unfit of Tarmod,[35] and the unfit of Tarmod on account of the slaves of Solomon.[36] Thus it is that people say, ‘The small kab and the big kab[37] roll down to the nether-world, from the netherworld to Tarmod,[38] from Tarmod to Meshan, and from Meshan to Harpania.[39]

CHAPTER II

MISHNAH. HOW [IS THE EXEMPTION OF HER RIVAL BY] THE WIFE OF HIS BROTHER WHO WAS NOT HIS CONTEMPORARY’[40] [TO BE UNDERSTOOD]?- IF THERE WERE TWO BROTHERS ONE OF WHOM DIED, AND AFTER A THIRD[41] BROTHER WAS BORN[42] THE SECOND[43] TOOK IN LEVIRATE MARRIAGE HIS DECEASED BROTHERS WIFE AND THEN DIED HIMSELF, THE FIRST WOMAN[44] IS EXEMPT[45] AS ‘THE WIFE OF HIS BROTHER WHO WAS NOT HIS CONTEMPORARY’, AND THE SECOND[46] [IS EXEMPT][45] AS HER RIVAL. IF HE[47] ADDRESSED TO HER A MA'AMAR[48] AND DIED,[49] THE SECOND[50] , MUST PERFORM HALIZAH[51] BUT MAY NOT ENTER INTO THE LEVIRATE MARRIAGE.[52]

GEMARA. R.Nahman said: He who uses the expression FIRST[53] commits no error and he who uses the expression SECOND[53] also commits no error. ‘He who uses the expression

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(1) Adiabene, a region between the rivers Caprus and Lycus in Assyria.

(2) Ganzaka, identified with Shiz, S.E. of Urmia Lake, N.W. of Persia, v. ibid. n. 8.

(3) Hamadan, the capital of Media, otherwise known as Ekbatana. V. Schrader, Keilinschriften, p. 378.

(4) Nahawand, a town on the south of Ekbatana (v. previous note). V. ibid. n. 4.

(5) כרך, Others read, כרך (fort) in the construct, and connect it with the following nouns.

(6) Or Kerak Moshki, the Fort of Moshki. The land of the Moshki lay on the southern side of Colchis.

(7) A locality in Assyria, variously described as Hudki, Hirki, Hizki and Huski.

(8) Rumki, Ruthki, or the Fort of Rumki in Media. On all these localities v. Kid., Sonc. ed. pp. 365ff notes.

(9) Localities mentioned.

(10) Most of their inhabitants being deemed bastards, since the women had intermarried with the heathens, and their descendants, furthermore, married forbidden relatives.

(11) This is the continuation of Rab Judah's statement.

(12) R. Assi's ruling, supra 16b.

(13) V. Deut. VII, 4 and Kid. 68b.

(14) I.e., is regarded as a perfect heathen and his betrothal has no validity.

(15) Of the ten tribes who married heathens.

(16) V. infra 23a. The children of such unions, then, being deemed Israelites though unfit, should have the right of betrothal. How then could Samuel contend that they are deemed to be perfect heathens? (V. supra p. 91, n. 18).

(17) אצטרויי אצטרו (root, צרי or צרא. Ithpa., ‘to tear’, ‘split’. Lit., ‘they were split’, i.e., an operation for sterilization was performed on them.

(18) Of R. Assi's ruling supra 16b.

(19) The ten tribes.

(20) Hos. V, 7.

(21) Being of tainted birth they contaminated many pure families in Israel by their intermarriages.

(22) The destroyed city.

(23) [According to Obermeyer. p. 199, the district between Medina and Syria inhabited by the Arab tribe Thamod, mentioned by Plinius and which, according to the Koran (VII, 76) has been destroyed by earthquake.]

(24) Lit., ‘redoubled’.

(25) This explains the destruction and existence of the same city.

(26) Referring to R. Hamnuna.

(27) Lit., ‘his strength’ (Bah). Cur. edd., repeat ‘what a man’.

(28) Hipparenum, a wealthy industrial town in the Mesene district, inhabited by a Jewish community of tainted birth.

(29) Of spurious or tainted descent who cannot obtain a wife anywhere else.

(30) הר שהכול פונין בו a play upon the word הרפנחא, the Aleph in הרפניא taking the place of the waw in בו.

(31) V. n. 1.

(32) Sheol, Hell.

(33) Hos. XIII, 14.

(34) Mesene, the island territory lying between the Tigris, the Euphrates and the Royal Canal. Its inhabitants were of spurious descent (v. Kid. 71b) and Harpania was situated near it.

(35) [Palmyrean merchants would make with their caravans across the wilderness direct for Mesene and there intermarry with the inhabitants, v. Obermeyer, p. 198.]

(36) V. supra, 16b.

(37) I.e., both measures are false. This saying is a metaphor for all sorts of people who in a minor or major degree are of spurious descent.

(38) Tarmod being deeper and lower than Hell itself.

(39) Harpania lying in the lowest depths of immorality and tainted descent.

(40) V. Mishnah supra 2b top.

(41) Lit., ‘to them’.

(42) And thus found his deceased brother's widow subject to the marriage with his elder brother and forbidden to himself as ‘the wife of his brother who was not his contemporary’.

(43) Of the two elder brothers who was already a married man.

(44) The widow of the first deceased brother who is now also the widow of the second brother.
(45) From levirate marriage with the third brother.
(46) Her rival, the widow of the second brother, who in ordinary circumstances would have been subject to levirate marriage with the third brother since he was a contemporary of her husband.
(47) The second brother.
(48) I.e., said to her in the presence of witnesses, ‘Be thou betrothed unto me’.
(49) Prior to the consummation of the marriage.
(50) V. note 7.
(51) With the third brother. Since her husband's union with his deceased brother's widow was not consummated he never was her legal husband, and as she is consequently not her rival she cannot be exempt from the halizah.
(52) Because the ma'amar that the husband of the second addressed to the first widow has partially attached that woman to him, and the second has, in consequence, become the partial rival of a forbidden relative and is, therefore, Rabbinically forbidden to enter into the levirate marriage.
(53) In describing the widow of the first deceased brother.

Talmud - Mas. Yevamoth 17b

FIRST commits no error’, since ‘first’ may signify[1] ‘first to be subject [to the levirate marriage]’; and ‘he who uses the expression SECOND also commits no error’, since ‘second’ may signify ‘second to marry’,[2] Does not our Mishnah, however, include also[3] the case of one who contracted the levirate marriage first and subsequently married his other wife?[4] What, then, is meant by ‘second’? Second in respect of her marriages.[5]

Where [in the Scriptures] is [the prohibition of marrying] ‘the wife of his brother who was not his contemporary’ written? — Rab Judah replied in the name of Rab: Scripture states, If brethren dwell together,[6] i.e., dwell in the world at the same time; the wife of one's brother who was not his contemporary is consequently excluded; ‘together’ implies who are together in respect of inheritance,[7] a maternal brother is, therefore, excluded.

Rabbah said: [That legal] brothers [are only those who are descended] from the same father is deduced by a comparison of this ‘brotherhood’[8] with the ‘brotherhood’ of the sons of Jacob;[9] as there [the brotherhood was derived] from the father[10] and not from the mother,[11] so here also [the brotherhood spoken of is that] from the father and not from the mother.[12]

Let him rather deduce this ‘brotherhood’[8] from the ‘brotherhood’ of forbidden relatives![13] — Brethren[8] may be deduced from brethren,[9] but not brethren[8] from thy brother.[14] What practical difference is there [between the two expression]? Surely the School of R. Ishmael taught: And the priest shall return,[15] and the priest shall come,[16] ‘returning’ and ‘coming’ are the same thing![17] — Such an analogy is drawn only[18] where there is no other identical word; when, however, there occurs another word which is identical, the analogy is made only with that which is identical.

Let him, then, deduce this ‘brotherhood’[19] from the ‘brotherhood’ in the case of Lot, since it is written in the Scriptures. For we are brethren![20] -It stands to reason that the deduction should be made from the sons of Jacob. because the [analogous expression] is available for the purpose;[21] for it could have been written, Thy servants are twelve sons of one man[22] and yet ‘brethren’ also was written. Hence it must be inferred that the word was made available for the deduction.[23]

It was necessary for Scripture to write brethren,[24] and it was also necessary to write together.[24] For had the All Merciful written ‘brethren’ only, it might have been suggested that this ‘brotherhood’ should be deduced from the ‘brotherhood’ in the case of Lot. And were you to reply that [the analogous word][25] , is not available for deduction,[21] your statement would be negatived,[26] [the analogous word] being indeed available; for whereas he could have written ‘friends’ and yet wrote ‘brethren’, the inference must be that the object was to render it available for analogous deduction; hence the All Merciful has written ‘together’, implying only those who are together in respect of inheritance.[27] If, [on the other hand,] the All Merciful had only written ‘together’, it might have been said to refer to such as have the same father and mother; [hence both expressions were] required.

But how could you have arrived at such an opinion?[28] The All Merciful has, surely, made[29] the levirate marriage dependent on inheritance,[30] and inheritance[31] is derived from the father and not from the mother![32] -It[33] was necessary. For it might have been assumed that whereas this[34] is an anomaly,[35] a forbidden relative[36] having been permitted, the brotherhood must, therefore, be both paternal and maternal; [hence it was] necessary [to teach us that the law was not so].

R. Huna said in the name of Rab: If a woman awaiting the decision of the levir![37] died, [the levir] is permitted to marry her mother. This obviously shews that he![38] is of the opinion that no levirate bond[39] exists[40] let him then say, the halachah is in accordance with the view of him who said no levirate bond exists![41] — If he had said so, it might have been suggested that this applied only to the case of two[42] but that in the case of one[43] a levirate bond does exist. Then let him say, ‘The halachah is in accordance with him who said no levirate bond exists even in the case of one levir’![44] — If he had said so it might have been assumed even where she[45] is alive;[46] hence he taught us that only after death and not when she is still alive, because it is forbidden to abolish the commandment of levirate marriages.

We learned, ‘If his deceased brother's wife died he may marry her sister’,[47] which implies that her sister only may be married but not her mother! — The same law applies even to her mother; only because he taught in the earlier clause ‘if his wife died he is permitted to marry her sister’ in which case only her sister is meant and not her mother, since the latter is Biblically prohibited, he also taught in the latter clause ‘he is permitted to marry her sister’.[48]

Rab Judah, however, said: If a woman awaiting the decision of the levir[49] died, the levir is still forbidden to marry her mother. This[50] obviously implies that he[51] is of the opinion that a levirate bond exists,[52] let him then say, the halachah is in accordance with the view of him who said a levirate bond exists![53] -If he had said so it might have been suggested that this applied only to the case of one,[54] but in the case of two[55] no levirate bond exists. But the dispute,[56] surely, centered round the question of two![57] — But [this is really the reply]: If he[51] had said so[58]

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(1) Lit., ‘what is first?’

(2) The second brother who was already a married man when he contracted the levirate marriage with her. V. supra p 94. n. 4.

(3) Lit., ‘are we not engaged on’.

(4) In which case the widow was also the first to marry him.

(5) The first marriage with her husband and the second with the levir.

(6) Deut. xxv, 5.

(7) I.e., entitled to inherit from one another.

(8) The expression ‘brethren’ in Deut. xxv, 5’ in relation to the levirate marriage.

(9) the thy servants are twelve brethren (Gen. XLII, 13).

(10) Jacob.

(11) Since they were born from different mothers.

(12) B.B. 110b, infra 22a.

(13) The nakedness of thy brother's wife (Lev. XVIII, 26) which includes (v. infra 55a) the wife of a maternal brother.

(14) In the case of the levirate marriage (Deut. xxv, 5) as well as that of Jacob's sons (Gen. XLII, 13) the expression is אחים ‘brethren’; In that of Lev. XVIII, 16 it is אחיך ‘thy brother’.

(15) Lev. XIV, 39.

(16) Ibid. v. 44.

(17) And an analogy between them may be drawn. Though in that case the expressions וישב and ובא, are derived from different roots they are nevertheless, owing to their similarity in meaning. employed for the purposes of an analogy (‘Er. 51a, Yoma 2b, Naz. 5a, Mak. 13b, Hor. 8b et a.l.), how much more so should an analogy be justified between the same nouns which differ only (v. supra p. 95’ n. 14) in their suffixes!

(18) Lit., ‘these words’.

(19) The expression ‘brethren’ in Deut. xxv, 5 in relation to the levirate marriage.

(20) Gen. Xlii, 8. Lot having been Abraham's nephew the deduction would establish a novel law of marriage with a deceased uncle's or nephew's widow.

(21) Lit., ‘vacant’.

(22) Gen. XLII, 23. Cur. edd., read, in. stead of ‘one man’, ‘our father’, which occurs in v. 32. If the reference were to the latter verse ‘thy servants’ which does not occur there would have to be deleted here. Several MSS. support the reading here adopted.

(23) Lit., ‘to make it vacant.

(24) Deut. xxv, 5.

(25) In the case of Lot.

(26) לאיי (cf. Jast.) or לאיי (cf. Levy). Contract. of לא הי’not it’. Aruk: derivation is from לא + Gr. ** ‘not so my son’.

(27) V. supra p. 95, n. 7.

(28) Lit., ‘and this, whence does it come’, i.e., how could any one have assumed that the levirate marriage should only apply to brothers from the same father and mother?

(29) Lit ‘hung’.

(30) [Infra 24a.

(31) Of one's brother.

(32) What need then was there for the expression ‘brethren’?

(33) The expression ‘brethren,.

(34) Levirate marriage.

(35) Lit., ‘something novel’.

(36) A brother's wife.

(37) שומרת יבם a woman during the period between the death of her husband and the levirate marriage or halizah.

(38) Rab.

(39) Zikah זיקה v. Glos.

(40) Between the widow of the deceased brother and the levir, prior to the levirate marriage. Had such a bond existed, her mother would have been forbidden to the levir as his mother-in. law.

(41) V. infra 41a.

(42) Brothers. Since it is not known which of them will actually marry her, the levirate bond is necessarily weak.

(43) Who alone is entitled to marry her,

(44) Infra 29b.

(45) The widow.

(46) Her mother is permitted to the levir. Consequently she would be exempted from halizah as ‘his wife's daughter’.

(47) Infra 49a.

(48) Her mother, however, is equally permitted.

(49) V. supra, p. 97’ n. 11.

(50) The prohibition to marry her mother prior to the levirate marriage as if she had already been his actual mother-in-law.

(51) Rab Judah.

(52) Between the widow of the deceased brother and the levir, before levirate marriage takes place.

(53) Infra 41a.

(54) Brother, who is the only one entitled to marry the widow, and may consequently be regarded as the actual husband.

(55) v. supra p. 97’ n. 16.

(56) Between R. Judah and the Rabbis, infra 41a.

(57) Brothers. How then could it possibly have been assumed that the halachah referred to the case of one brother only?

(58) That the halachah was in accordance with the view of him who said that a levirate bond exists between the widow and the levir prior to the levirate marriage.

Talmud - Mas. Yevamoth 18a

it might have been assumed [that this holds good only] while she is alive but that after death the bond is broken,[1] hence it was taught that the levirate bond is not automatically[2] dissolved.

May it be suggested that the following supports his view: 'If his deceased brother's wife died, the Ievir is permitted to marry her sister', which implies her sister Only but not her mother?[3] — The same law may apply even to her mother; but because he taught in the earlier clause, 'if his wife died he is permitted to marry her sister', in which case her sister only is permitted and not her mother, the latter being forbidden Biblically, he also taught in the latter clause, 'he is permitted to marry her sister'.

R. Huna b. Hiyya raised an objection: IF HE ADDRESSED THE MA'AMAR TO HER AND DIED, THE SECOND MUST PERFORM HALIZAH BUT MAY NOT ENTER INTO THE LEVIRATE MARRIAGE.[4] The reason then[5] is because he addressed to her[6] the ma' amar, but had he not addressed a ma'amar to her,[5] the second also would have been permitted to enter into the levirate marriage with him. Now, if it be maintained that the levirate bond does exist,[7] the second, owing to this bond, would be the rival of the 'wife of his brother who was not his contemporary'![8] — Rabbah replied: The same law, that the second must perform the halizah with, but may not be married to the levir, applies even to the case where no ma'amar was addressed to her;[6] and the ma'amar was mentioned only in order to exclude the view of Beth Shammai. Since they maintain that the ma'amar effects a perfect contract,[9] he teaches us [that it was not so].

Abaye pointed out the following objection to him:[10] In the case of two [contemporary] brothers one of whom died without Issue, and the second determined[11] to address a ma'amar to his deceased brother's wife[12] but before he managed to address a ma amar to her a third[13] brother was born and he himself died, the first[14] is exempt[15] as 'the wife of his brother who was not his contemporary' while the second[16] either performs the halizah or enters into the levirate marriage.[17] Now, if it be maintained that a levirate bond does exist,[18] the second, owing to this bond, would be the rival of 'the wife[19] of his brother who was not his contemporary'![20] Whose view is this? It is that of R. Meir, who holds that no levirate bond exists.

Does R. Meir, however, maintain that no Ievirate bond exists?[18] Surely we have learned: In the case of four brothers two of whom were married to two sisters, if those who were married to the sisters died, behold their widows perform the halizah but may not be taken in levirate marriage [by either of the levirs].[21] Now, if R. Meir is of the opinion that no levirate bond exists,[22] these would come from two different houses,[23] and one brother could marry the one while the other could marry the other! — The fact is that [R. Meir maintains that] no levirate bond exists; [but the levirate marriage is nevertheless forbidden] because he is of the opinion that it is forbidden to annul the precept of levirate marriages, it being possible that while one of the brothers married [one of the widowed sisters] the other brother would die,[24] and thus the precept of levirate marriages would be annulled.[25]

If, however, no Ievirate bond exists, let [also the precept of the levirate marriage] be annulled! For R. Gamaliel who holds that no levirate bond exists[26] also [maintains that] the precept of the levirate marriage may be annulled; as we learned; R. Gamaliel said, 'If she[27] made a declaration of refusal[28] well and good;[29] if she did not make a declaration of refusal let [the elder sister] wait until [the minor] grows up[30] and this one[31] is then exempt as his wife's sister'![32] -The other[33] said to him: Are you pointing out a contradiction between the opinion of R. Meir and that of R. Gamaliel?[34] No [replied Abaye]; we mean to say this: Does R. Meir provide even against a doubtful annulment[35] and R. Gamaliel does not provide even against a certainty![36] — It is quite possible that he who does not provide[37] makes no provision even against a certain annulment, while he who does provide[37] makes provision even against a doubtful annulment.[38]

Said Abaye to R. Joseph: Rab Judah's statement[39] is Samuel's;[40] for we learnt:

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(1) Lit., 'burst', 'split'.

(2) Lit., 'by nothing', 'without formality', i.e., without the due performance of the halizah.

(3) Because she is presumably regarded as his mother-in-law.

(4) Supra 17a, q.v. for notes.

(5) Why the levirate marriage is forbidden to the second

(6) The first, the widow of the first deceased brother.

(7) Between the widow and the levir, from the moment her husband, the first brother, died.

(8) With whom levirate marriage is forbidden.

(9) Lit., 'acquires perfect possession', i.e., the widow is regarded as the legal wife of the second brother, and his own wife thus becomes her rival and is consequently exempt even from the halizah.

(10) To Rabbah.

(11) Lit., 'stood'.

(12) The widow of the first deceased brother.

(13) Lit., 'to him'.

(14) The widow of the first deceased brother.

(15) From the halizah and levirate marriage of the third brother.

(16) Her rival, the widow of the second deceased brother.

(17) With the third brother. Infra 19a.

(18) v. supra p. 99' n. 5.

(19) The bond being regarded to be just as binding as actual marriage.

(20) And she should be exempt.

(21) 'Ed. V, 5' infra 23b, 26a, 7b; because, obviously, both are bound by a levirate bond to both surviving brothers and each is the sister of a woman who is connected with either of the brothers by such a levirate bond.

(22) V. supra p. 99' n. 5.

(23) None of them standing in any marital relationship with either of the surviving brothers.

(24) And be prevented from marrying the other widow.

(25) Since the surviving brother would not be able to marry (or to participate in the halizah of) the second widow who is now his wife's sister.

(26) Infra 51a.

(27) A minor who was married to one brother while her sister had been married to another brother who died without issue.

(28) A minor may refuse to live with her husband and no divorce is needed in her case. V. Glos. s.v. m1 un.

(29) Lit., 'she refused'. By her declaration of refusal her marriage becomes null and void retrospectively. As she has thus never been the legal wife of the Ievir, her sister (being no more his 'wife's sister') may contract the levirate marriage with him.

(30) And becomes the legal wife of the surviving brother.

(31) l.e., the elder sister.

(32) Infra 79b, 109a; which shews that R. Gamaliel permits the annulment of the law of the levirate marriage. Similarly, if R. Meir maintains, like R. Gamaliel, that no levirate bond exists, he should also permit the annulment of the precept of the levirate marriage.

(33) Rabbah.

(34) Though they may agree on the question of the levirate bond, it does not necessarily follow that they agree also on the question of permission to annul the precept of the levirate marriage.

(35) Supra; the possibility that one of the brothers might die.

(36) It is a certainty that when the minor becomes of age the elder sister will be precluded from both marriage and halizah. This wide divergence of opinion is unlikely. Hence the fear of annulling the levirate marriage cannot be the reason for R. Meir's ruling in the above cited Mishnah; and consequently R. Meir cannot be of the opinion that no levirate bond exists.

(37) Against the annulment of the precept of the levirate marriage.

(38) So that R. Meir need not necessarily agree with R. Gamaliel on this point though he will agree with him on the question of the levirate bond.

(39) That if a woman awaiting the decision of the levir died, the levir is still forbidden to marry her mother (supra 17b end).

(40) Not Rab's who also was his teacher.

Talmud - Mas. Yevamoth 18b

If the brother of the levir had betrothed the sister of the widow who was awaiting the levir's decision,[1] he is told, so it has been stated in the name of R. Judah b. Bathyra, ‘Wait[2] until your brother has taken action;’[3] and Samuel said, ‘The halachah is in accordance with the ruling of R. Judah b. Bathyra’.[4] The other[5] asked him: ‘What [objection could there be] if the statement[6] be attributed to Rab?[7] Is it the contradiction between the two statements of Rab?[8] Surely it is possible that these Amoraim[9] are in dispute as to what was the opinion of Rab!’ — Since this ruling was stated with certainty in the name of Samuel, while as to Rab's view [on the matter] Amoraim differ, we do not ignore[10] the statement attributing it with certainty to Samuel in favour of the one[11] which involves Amoraim In a dispute as to the opinion of Rab.

Said R. Kahana: I reported the statement[12] in the presence of R. Zebid of Nehardea, when he said: You teach it thus;[13] our version is explicit:[14] ‘Rab Judah stated in the name of Samuel, "If a woman awaiting the decision of the levir died, [the levir] is forbidden to marry her mother", from which it naturally follows that he is of the opinion that a levirate bond exists’.[15] Samuel is here consistent; for Samuel said, ‘The halachah is in accordance with the view of R. Judah b. Bathyra’.

Said [both statements[16] are] necessary. For had he only stated, ‘A levirate bond exists’, it might have been assumed to refer to the case of one levir only[17] but not to that of two,[18] hence we are taught[19] [that the Same law applies also to two]. And if it had only been stated, ‘The halachah is in accordance with the opinion of R. Judah b. Bathyra’,it might have been assumed [that the levirate bond is in force] while the widow[20] is alive but that after her death the bond is dissolved, hence we are taught[21] that the levirate bond Is not dissolved automatically.[22]

MISHNAH. IF THERE WERE TWO BROTHERS AND ONE OF THEM DIED,[23] AND THE SECOND PERFORMED THE LEVIRATE MARRIAGE WITH HIS [DECEASED] BROTHER'S WIFE, AND AFTER A [THIRD] BROTHER WAS BORN THE SECOND DIED,[23] THE FIRST[24] IS EXEMPT[25] ON ACCOUNT OF HER BEING THE WIFE OF HIS BROTHER WHO WAS NOT HIS CONTEMPORARY’, WHILE THE SECOND IS EXEMPT AS HER RIVAL.[26] IF HE[27] ADDRESSED TO HER[28] A MA'AMAR AND DIED,[29] THE SECOND MUST PERFORM THE HALIZAH[30] BUT SHE MAY NOT BE TAKEN IN LEVIRATE MARRIAGE. R. SIMEON SAID:[31] HE[32] MAY EITHER TAKE IN LEVIRATE MARRIAGE WHICHEVER OF THEM HE DESIRES[33] OR HE MAY PARTICIPATE IN THE HALIZAH WITH WHICHEVER OF THEM HE DESIRES.[33]

GEMARA. R. Oshaia said: R. Simeon disputed the first case also’[24] Whence is this inferred?From the existence Cf a Super. fluous Mishnah. For in accordance with whose view was it necessary to teach the clause of the first [Mishnah]? If it be suggested, [according to that] of the Rabbis, [it may be retorted]: If when the levirate marriage had taken place first and the birth[34] occurred afterwards, in which case he,[35] found her[36] permitted,[37] the Rabbis nevertheless forbade her,[38] is there any need [for them to specify prohibition in the case where] the birth[34] occurred first and the marriage took place afterwards![39] Consequently[40] it must have been required [in connection with the view] of R. Simeon; and the first [Mishnah] was taught in order to point out to you how far R. Simeon[41] is prepared to go[42] while the last Mishnah was taught in order to show you how far the Rabbis[43] are prepared to go. It would, indeed, have been logical for R. Simeon to express his dissent in the first case, but he waited for the Rabbis to conclude their statement and then he expressed his dissent with their entire statement.[44]

How, in view of what has been said,[45] is it possible according to R. Simeon to find a case of ‘a wife of his brother who was not his contemporary’?[46] — In the case of one brother who died and a second brother was subsequently[47] born;[48] or also in the case of two brothers[49] where the second has neither taken the widow in the levirate marriage nor died.[50]

One can well understand [R. Simeon's reason][51] where the levirate marriage[52] took place first and the birth[53] afterwards, for in this case he found her permitted;[54] where, however, the birth occurred first and the levirate marriage took place afterwards,[55] what [reason [could be advanced]?[56] -He holds the opinion that a levirate bond exists[57] and that such a bond is like actual marriage.[58]

R. Joseph demurred: If R. Simeon is in doubt as to whether in the case of a ‘levirate bond’ and a ‘ma amar’ combined the widow should or should not be regarded as married, need there be any [doubt in the case of] a ‘levirate bond’ alone?[59] Whence is this known?[60] — We have learned: In the case where three brothers were married to three women who were strangers [to one another] and, one of the brothers having died, the second brother addressed to her[61] , a ma'amar and died, behold these[62] must perform halizah with, but may not marry the [surviving] levir; for it is said in the Scriptures, And one of then die [etc.], her husband's brother shall go in unto her,[63] only she[64] who is tied to one levir,[65] but not she who is tied to two levirs.[66] R. Simeon said: He[67] may take in levirate marriage whichever of them he pleases[68] and submits to the halizah of the other.[69] He must not take both widows in levirate marriage since it is possible that a levirate bond exists[70] and thus the two sisters-in-law[71] would be coming

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(1) Her sister being forbidden to him as the sister of the woman connected with him by a Ievirate bond.

(2) With the consummation of the marriage.

(3) I.e., married the widow, when the Ievirate bond between her and the third brother will have been severed, and her sister will consequently be permitted to marry him.

(4) Infra 410. Meg. 18b. This shews that in the opinion of Samuel a levirate bond exists between a widow and the brothers-in-law whose decision she is awaiting. (V. previous note).

(5) R. Joseph.

(6) Cf. supra p.101, n.13.

(7) Cf. p.101, n. 14.

(8) Lit., ‘that of Rab upon Rab’, i.e., Rab's presumed statement reported by Rab Judah is contradictory to the statement made in his name by R. Huna, supra 17b.

(9) R. Huna and Rab Judah, both of whom were disciples of Rab.

(10) Lit., ‘leave aside’.

(11) Lit., ‘and establish it’.

(12) Rab Judah's.

(13) Attributing the ruling to Rab Judah without mentioning the authority from whom it originated.

(14) I.e., specifically indicating the reported authority.

(15) V. supra p. 99, n. 5.

(16) Of Samuel.

(17) Cf. supra p. 98, n. 8.

(18) Cf. supra . gin. 16.

(19) By the statement that the halachah is in accordance with R. Judah b. Bathyra.

(20) The sister.in.law awaiting the levir's decision.

(21) By the statement, ‘a levirate bond exists’.
(22) V. supra p. 98, n. 24.
(23) Without issue.
(24) The widow of the first deceased brother who is now also the widow of the second.
(25) From halizah and marriage with the third brother.
(26) Both having been the wives of the second brother.
(27) The second brother.
(28) The first brother's widow.
(29) Before marriage took place.
(30) With the third brother.
(31) With reference to the first case of our Mishnah.
(32) The third brother.
(33) And thereby exempt the other. (16) That mentioned in the previous Mishnah (supra 17a ad fin.). In his opinion the third brother may marry or submit to halizah from either of the two widows, even if he was born before the second brother had married the first brother's widow. (17) Lit., ‘that which was taught’.
(34) Of the third brother.
(35) The third brother on the date of his birth.
(36) The widow of the first brother.
(37) As an ordinary sister-in-law; she being no more the ‘wife of his brother who was not his contemporary’. Lit., ‘for when he found her he found her in a permitted state’.
(38) To marry the third brother.
(39) In which case the third brother's birth took place during the period when she was forbidden him as the ‘wife of his brother who was not his contemporary.
(40) Lit., ‘but not?’
(41) Who permits marriage with the third brother even where his birth occurred prior to the widow's marriage. v. supra note 6.
(42) Lit., ‘the strength of R. Simeon’.
(43) Who forbid the marriage even when the birth followed the marriage. Cf ‘pro note 4.
(44) Lit., ‘against them’.
(45) Lit., ‘but’; if R. Simeon permits marriage in both cases.
(46) To be forbidden the levirate marriage in accordance with the statement in the first Mishnah of the Tractate, supra 2b ab init.
(47) Lit., ‘to him’.
(48) The levirate relationship here is entirely due to the deceased brother who was not the surviving brother's contemporary; and marriage is. therefore, rightly forbidden.
(49) The first of whom died without issue.
(50) The third brother, who was born after the death of the first, is forbidden to marry the widow whose connection with the first brother has never been severed, since the second has neither married her nor submitted to her halizah.
(51) For permitting the third brother to marry either of the widows.
(52) With the second brother.
(53) Of the third brother.
(54) V. supra p. 104, on 2-4.
(55) v....supra p. 104, n. 6.
(56) For R. Simeon's permission of marriage.
(57) Between widow and living levir.
(58) The widow is consequently regarded as the wife of the second brother from the moment the first died. When the third brother is subsequently born the widow has no longer any connection with the deceased brother and cannot any more be regarded in relation to the third, as ‘the wife of his brother who was not his contemporary’.
(59) Obviously not. How then could it be said that R. Simeon definitely regards the ‘levirate bond’ alone as actual marriage?
(60) Lit., ‘what is it?’ where did R. Simeon express such doubt?
(61) The widow of the deceased brother.

(62) The widows of the two deceased brothers.
(63) Deut. XXV, 5.
(64) May be taken in levirate marriage.
(65) v. supra p. 98, n. 8.
(66) V. supra p’ 97’ n. 16.
(67) The levir.
(68) R. Simeon does not recognize a double bond. If the ma'amar addressed by the second brother was binding. the bond with the first brother, he maintains, was thereby severed, and there remains only the bond with the second; and if it was not binding then again only one bond exists, that with the first brother.
(69) Infra 31b. For the reason given anon.
(70) Between the levir (the second brother) and the first widow.
(71) The second brother's actual wife and the widow of the first to whom he addressed a ma'amar and who is his virtual wife.

Talmud - Mas. Yevamoth 19a

from one house.[1] Nor must he take one In levirate marriage and thereby exempt the other, for it is possible that the levirate bond is not as binding as actual marriage, and the two sisters-in-law would thus be coming from two houses.[2] From this it clearly follows that he[3] is in doubt.[4] And should you reply that Biblically one of the widows may indeed be taken in levirate marriage and the other is thereby exempt, but that this procedure had Rabbinically been forbidden as a preventive measure against the possibility of the assumption that where two sisters-in-law came from two houses[5] one may be taken in levirate marriage and the other is thereby exempt without any further ceremonial;[6] surely [it may be pointed out] R. Simeon's reason is because of his doubt as to the validity of the levir's ma'amar![7] For it was taught: R. Simeon said to the Sages, ‘If the ma'amar of the second brother is valid he[8] is marrying the wife of the second; and if the ma'amar of the second is invalid he is marrying the wife of the first’! — Said Abaye to him:[9] Do you not make any distinction between the levirate bond with one levir and the levirate bond with two levirs? It is quite possible that R. Simeon said the levirate bond is like actual marriage in the case of one levir only[10] but not in that of two levirs.[11]

Does R. Simeon, however, recognize such a distinction?[12] Surely it was taught: R. Simeon has laid down a general rule that wherever the birth[13] preceded the marriage[14] the widow is neither to perform halizah nor to be taken in levirate marriage. If the marriage[14] preceded the birth[13] she may either perform the halizah or be taken In levirate marriage. Does not this apply to one levir?[15] And yet It is stated ‘she is neither to perform halizah nor to be taken in levirate marriage’![16] — No; it applies to two levirs.[17] But in the case of one levir,[17] may she in such circumstances also[18] either perform halizah or contract levirate marriage? If so, instead of stating, ‘If the marriage preceded the birth she may either perform halizah or be taken in levirate marriage’ the distinction should have been drawn in this very case itself,[19] thus: ‘This applies only to the case of two brothers.in.law but with one brother-in-law she may either perform halizah or be taken in levirate marriage’! — The entire passage dealt with two brothers-in-law.[20]

What, then, is meant by the general rule?[21] And a further objection[22] was raised by R. Oshaia: If there were three brothers and two of them were married to two sisters, or to a woman and her daughter, or to a woman and her daughter's daughters or to a woman and her son's daughter, behold these[23] must[24] perform the halizah[25] but may not be taken in levirate marriage.[26] R. Simeon, however, exempts them.[27] Now, if it be assumed that R. Simeon is of the opinion that the ‘levirate bond’ has the same force as actual marriage, let [the third brother] take the first widow[28] In levirate marriage and let the other[29] be thereby exempt.[30] R. Amram replied: The meaning of ‘exempt’[31] is that he exempts the second widow,[32] But has it not been taught: R. Simeon exempts them both’?[33] -Raba replied: The second of the one pair and the second of the other pair.[34] Raba, however, was mistaken [in the interpretation] of the four pairs.[35] For, in the first instance, we have twice the word ‘or’,[36] and, furthermore, [if Raba's interpretation were the correct one][37] it should [have read], ‘R. Simeon exempts the four’.[38] Furthermore, it was taught: R. Simeon exempts both[39] from the halizah and from the levirate marriage, for it is said in the Scriptures, And thou shalt not take a woman to her sister, to he a rival to her,[40] when they become rivals to one another[41] you may not marry even one of them![42] But, said R. Ashi: If they[43] had become subject [to the levir] one after the other, the law would indeed have been so.[44] Here,[45] however, we are dealing with the case where both become subject to him at the same time; and R. Simeon shares the view of R. Jose the Galilean who stated, ‘It is possible to ascertain simultaneous occurrence’.[46]

R. Papa[47] said: R. Simeon differs[48] only where the levirate marriage[49] took place first, and the birth[50] afterwards; he does not differ, however, when the birth[50] occurred first, and the marriage[49] took place afterwards; and both these cases[51] are required on account of the Rabbis,[52] and[53] [a stronger case is given after a weaker] ‘not only this[54] but also that’.[55]

It was taught in agreement with R. papa[56] and in contradiction to R. Oshaia: If one of two contemporary brothers died without Issue, and the second intended to address a ma ‘amar to his deceased brother's wife but before he was able to do so a third brother was born and he himself died, the first widow is exempt[57] as ‘the wife of the brother who was not his contemporary’, and the second[58] may either perform the halizah or be taken in levirate marriage. If, however, he[59] addressed a ma'amar to the widow and subsequently a third brother was born, or if a third brother was born first and he[59] addressed the ma'amar to the widow subsequently, and died, the first widow is exempt[57] as ‘the wife of his brother who was not his contemporary’ while the second[58] must perform the halizah,[60] though she may not be taken in levirate marriage.

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(1) One as actual, the other as virtual wife of the same husband, the second brother. The Torah required the levir ‘to build up his brother's house’ (Deut. XXV, 9) from which it is inferred that it is his duty to build up only a house but not houses, i.e., to marry his brother's one wife but not his two wives.

(2) Both of whom are subject to the levirate marriage. and one of whom cannot exempt the other.

(3) R. Simeon.

(4) As to whether a levirate bond exists. Cf. supra p. 105, n. 9.

(5) Where two brothers died simultaneously; when the one widow is as much tied to him as the other.

(6) Lit., ‘with nothing’.

(7) Lit., ‘saying and not saying’ or ‘ma'amar and not ma'amar’.

(8) The third brother.

(9) R. Joseph.

(10) As in our Mishnah where the first brother was survived by one brother only. The subsequent birth of a third brother does not affect the levirate any more than it can affect an actual marriage.

(11) Of which the cited Baraitha speaks. There, when the first brother died he was survived by two brothers.

(12) Between one levir and two.

(13) Of a third brother.

(14) Of the second brother with the widow of the first.

(15) Who survived the first deceased brother after whose death the third brother was born.

(16) Which proves that even in the case of one levir R. Simeon does not recognize the existence of a levirate bond.

(17) Cf. supra note 4.

(18) Where the birth of the third preceded the marriage of the second.

(19) Where birth preceded marriage.

(20) The Tanna preferred to draw a distinction between two sets of circumstances both of which relate to the brothers-in-law rather than to draw a distinction between one brother-in-law and two brothers-in-law in the same set of circumstances.

(21) According to which neither halizah nor levirate marriage is allowed whenever the birth preceded the marriage. Both, according to what has just been said, are permissible in the case of one levir.

(22) Against the statement that R. Simeon regards the levirate bond as actual marriage.

(23) The women enumerated.

(24) If their husbands, the two brothers, died without issue.

(25) With the third surviving brother.

(26) By that brother; since both are equally related to him by the same ‘levirate bond’ and each is forbidden to him as the consanguineous relative of the woman connected with him by such bond.

(27) Infra 28b; even from the halizah.

(28) I.e., the widow whose husband bad died first, and who, through the ‘levirate bond’,is regarded as the levir's virtual wife even before he married her.

(29) Her consanguineous relative, the widow of the second deceased brother.

(30) As a forbidden relative; being consanguineous with his virtual wife.

(31) In R. Simeon's statement.

(32) Whose husband died last. The first, however, is to be taken in levirate marriage.

(33) Infra 28b, Rid. 50b.

(34) ‘Both’ used by R. Simeon refers to the second of each pair. Raba assumed that the two brothers had married two sisters and also a mother and her daughter. One of the first is taken in levirate marriage and the others are thereby exempt either as ‘forbidden relatives’ or ‘rivals’.

(35) Enumerated in the cited Mishnah, assuming as he did that it meant marriage by the. two brothers of more than one pair (v. previous note).

(36) ‘Or’ occurs after the enumeration of each pair.

(37) Viz., that R. Simeon's exemption refers to the second of each pair.

(38) Since four pairs were enumerated.

(39) Widows of the first brother.

(40) Lev. XVIII, 18.

(41) As in the case cited, where each of the two brothers was married to one of each pair, and when the first brother died all his widows became subject to levirate marriage with the second brother and thus become rivals.

(42) Even the first widow. Consequently R. Simeon's exemption applies to all, which shews that he recognizes no distinction on the question of the levirate bond between one levir and two levirs!

(43) The widows.

(44) That the ‘levirate bond’ in the case of one levir being recognized even by R. Simeon as being as forcible as actual marriage. the levir (the third brother) marries the first while the other is exempt, though her husband (the second brother) died before he actually married the first.

(45) In the Mishnah cited by R. Oshaia in objection against the view attributing to R. Simeon a distinction between one levir and two levirs.

(46) I.e., to ascertain that two things occur exactly at one and the same moment, Bek. 17a. Hence it may happen that both brothers die simultaneously and both widows simultaneously become subject to the third brother and consequently, on the view of R. Simeon, both exempt from halizah and levirate marriage.

(47) Disagreeing with R. Oshaia, supra 18b.

(48) From the Rabbis of our Mishnah.

(49) With the second brother.

(50) Of the third brother.

(51) ‘Marriage before birth’ in our Mishnah and ‘birth before marriage’ in the previous one.

(52) To shew that they exempt not only in the one case but also in the other. Cf. infra notes 11-12

(53) As to the objection raised (supra 18b): Since they exempt in the second case, what need was there to mention the first which could have been inferred from it a minori ad majus?

(54) The case in the first Mishnah, the birth of the third brother before the marriage of the second, where the birth occurred while the widow was still under a prohibition to marry him.

(55) The case in the second Mishnah, where the birth of the third brother occurred when the widow was already permitted to him.

(56) That when the birth of the third brother occurred prior to the marriage of the second with the widow of the first, R. Simeon agrees with the Rabbis.

(57) From marriage and halizah with the third brother.

(58) The widow of the second brother.

(59) The second brother.

(60) The ma'amar addressed to the first widow not having ‘the same force as actual marriage to render the second brother's wife her rival to be exempt from halizah as well as from the levirate marriage with the third brother.

Talmud - Mas. Yevamoth 19b

R. Simeon said: Intercourse or halizah with the one of them[1] exempts her rival.[2] If, however, he[3] participated in halizah with her to whom [the second brother had] addressed the ma'amar, her rival is not exempt.[4] If he[1] married her[5] and died, and a [third] brother was subsequently born, or if a [third] brother was born, and subsequently he married her[5] and died, both [widows] are exempt from the halizah and the levirate marriage. If he married her[5] and [after that a third] brother was born and then he himself died, both widows are exempt from the halizah and the levirate marriage; this is the opinion of R. Meir. R. Simeon, however, said: Since, when he[6] came [into the world] he found her[7] permitted to him,[8] and she was never forbidden to him even for one moment, he[6] may take in levirate marriage whichever of them he desires or he may participate in the halizah with whichever of them he desires. Now, in accordance with whose view was the case in the latter clause[9] taught?[10] If it be suggested that it was taught in accordance with the view of R. Meir,[11] it might be observed that, as R. Meir draws no distinction between marriage that was followed by birth and birth that was followed by marriage, all these cases should have been combined in one statement![12] Consequently it must have been in accordance with the view of R. Simeon who thus differs[13] only in the case where the levirate marriage was followed by birth’[14] but does not differ[13] where birth was followed by levirate marriage.[15] Our point is thus proved.

The Master said, ‘[If] the second intended to address a ma'amar to his deceased brother's wife but before he was able to do so, a third brother was born while he himself died, the first widow is exempt as "the wife of the brother who was not his contemporary and the second may either perform halizah or be taken in levirate marriage’. What is meant by ‘he intended’ and what by ‘he was not able’? If he did it, it is an accomplished fact;[16] and if he did not do it, it is not an accomplished fact![16] -In fact [this is the meaning:] ‘He intended’ with her consent and ‘he was not able’ with her consent but against her wish.[17]

This,[18] however, is not in agreement with the view of Rabbi. For it was taught: If a man addressed a ma'amar to his deceased brother's wife against her consent, Rabbi regards this as legal [betrothal].[19] But the Sages say, This is not a legal [betrothal]. What is Rabbi's reason?-He deduces [this form of betrothal] from the intercourse with the wife of a deceased brother; as the Intercourse with the wife of a deceased brother may be effected against her will[20] so may the betrothal of the wife of a deceased brother be effected against her will. And the Rabbis?-They deduce it from the usual form of betrothal;[21] as the usual betrothal can be effected with the woman's consent only so may the betrothal of a yebamah[22] be effected with her consent only. On what principle do they differ? — One Master[23] is of the opinion that matters relating to a yebamah should be inferred from matters relating to a yebamah and the Masters[24] are of the opinion that matters of betrothal should be inferred from matters of betrothal.[25]

‘If, however, he addressed a ma'amar to the widow, and subsequently a third brother was born, or if a third brother was born first and he[26] addressed the ma'amar to the widow subsequently and died, the first widow is exempt as "the wife of his brother who was not his contemporary" while the second must perform the halizah, though she may not be taken in levirate marriage. R. Simeon said: Intercourse or halizah with the one of them exempts her rival’.[27] What is R. Simeon referring to?[28] If it should be suggested, ‘To the case where the third brother was born first and he[26] addressed the ma'amar subsequently's surely it has been stated, that where birth preceded marriage R. Simeon does not differ from the Rabbis![29] — But [the reference is] to the case where the ma'amar was addressed first and the third brother was born subsequently. Hence, ‘if he participated in halizah with her to whom [the second brother had] addressed the ma amar, her rival is not exempt’, because[30] the [subjection of the] rival[31] is a certainty[32] while [the subjection of her] to whom the ma'amar had been addressed is doubtful,[33] and no doubt may over-ride[34] a certainty.

R. Manasseh b. Zebid sat in the presence of R. Huna, and in the course of the session he said: What is R. Simeon s reason?[35] — ‘What is R. Simeon's reason’! [Surely it is] as it has been stated: The reason is ‘because when he was born he found her permitted to him, and she was never forbidden him even for one moment’![36] But [the question rather is] what is the reason of the Rabbis?[37] -Scripture said, A/Id take her to him to wife, and perform the duty of a husband's brother unto her,[38] the former levirate attachment still remains with her.[39] But then what of the following[40] where we learned, ‘If he[41] married her[42] she is regarded as his wife in every respect’[43] and [in connection with this] R. Jose b. Hanina said, ‘This teaches

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(1) I.e., the second widow.

(2) As will be explained infra this applies to the case where the ma'amar was addressed to the first widow and the third brother was born subsequently, R. Simeon being of the opinion that it is uncertain whether the ma'amar has the same force as actual marriage or not. The rival is in either case exempt: If the ma'amar was binding, then even the first widow is according to R. Simeon permitted to the third brother, since it is a case of ‘marriage prior to birth’, and the halizah with the second consequently exempts the first as her rival, both having been married to the same husband; and if the ma'amar was not binding, the first widow is forbidden to the third brother as the widow of ‘the brother who was not his contemporary’ while the second is not her rival and may be taken in levirate marriage or perform the halizah.

(3) The third brother.

(4) Since it is possible that the ma'amar is not binding and she is in consequence forbidden to him as ‘the wife of his brother who was not his contemporary’ and her halizah has no validity.

(5) The first widow.

(6) The third brother.

(7) The first widow.

(8) Having been born after her marriage with the second brother had entirely severed her connection with the first brother.

(9) Marriage between the second brother and the first widow, followed by the birth of the third brother, which again was followed by the death of the second.

(10) I.e., in accordance with whose view was it necessary to have the case of marriage prior to birth separated from that of marriage after birth?

(11) To indicate that even in such a case he forbids marriage.

(12) Lit., ‘let him mix them and teach them’; the third case, ‘if he married her and (after that a third) brother was born and then he himself died’ should not have been separated from the previous two cases, since according to R. Meir it matters little whether marriage of the second brother with the first widow preceded or followed the birth of the third brother.

(13) From the Rabbis.

(14) As R. Papa stated. V. supra note 7.

(15) Contrary to the opinion of R. Oshaia.

(16) And the intention is of no consequence.

(17) The object of the statement being that the ma'amar has not even partially the force of marriage if it was made against the woman's will. The second widow may, therefore, be taken in levirate marriage.

(18) That the ma'amar addressed to the wife of a deceased brother (Yebamah. v. Glos.) is invalid unless she consented to the betrothal.

(19) Lit., ‘he acquired’.

(20) V supra 8b.

(21) The betrothal of a stranger.

(22) The wife of a deceased brother.

(23) Rabbi.

(24) The Sages.
(25) Rid. 440.
(26) The second brother.
(27) Supra 19a-b, q.v. for notes.
(28) In differing from the Rabbis. Lit.,'on what does he stand'.
(29) But agrees that the first widow in relation to the third brother is to be regarded as 'the wife of his brother who was not his contemporary'. Now, since it is possible that the ma'amar is as valid as actual marriage, how could R. Simeon have permitted the rival of a forbidden relative? Furthermore, the expression 'she exempts her rival' would be unsuitable, since her rival has all the time been exempt as the 'wife of the brother who was not his contemporary'.
(30) Lit., 'what is the reason'.
(31) To the third brother.
(32) If the ma'amar was valid both widows are subject to the third brother, since it is a case of marriage before birth; if the ma'amar is invalid, the second is still subjected to the levir since, no marriage having taken place, she is not the rival of a forbidden relative.
(33) It being possible that the ma'amar is not valid, and the first widow thus remains forbidden to the third brother as 'the wife of his brother who was not his contemporary'. Halizah with her is, therefore, of no validity and cannot exempt the second widow.
(34) Lit., 'puts out'.
(35) For permitting levirate marriage with the third brother in the case where the second brother had married the first widow prior to the birth of the third brother.
(36) Supra, q.v. for notes.
(37) Why do they forbid the levirate marriage between the first widow and the third brother, where the only relationship between them is through the second brother, the relationship through the first brother having ceased with the levirate marriage of the widow by the second brother prior to the birth of the third?
(38) Deut. XXV, 5.
(39) ולקחהץץץץויבמה 'taking her to wife', ולקחה, does not remove from her the designation of 'brother's wife' יבמה
(40) Lit., 'but that'.
(41) A brother-in-law.
(42) The widow of his deceased childless brother.
(43) Infra 38a. Keth. 80b.

Talmud - Mas. Yevamoth 20a

that he may divorce her with a letter of divorce and that he may remarry her' ,[1] let it there also be said, 'And perform the duty of a husband's brother unto her,[2] the former levirate attachment still remains with her' and, consequently, she should require halizah [also]! — There the case is different; since Scripture stated, 'And take her to him to wife',[2] as soon as he married her she becomes his wife in every respect. If so, [the same deduction should be applied] here also! — Surely the All Merciful has written, 'And perform the duty of a husband's brother unto her'.[2] And why the differentiation?[3] - It stands to reason that permission[4] should be applied to that which is [also otherwise] permitted,[5] and that prohibition[6] should be applied to that which is [also otherwise] prohibited.[7]

According to R. Simeon, however, who stated, 'Because when he was born he found her permitted, and she was never forbidden to him even for one moment',[8] a brother, if this reason is tenable,[9] should be allowed to take in levirate marriage his maternal sister whom his paternal brother had married prior to his birth, dying subsequently, since, when he was born, he found her permitted.[10] — Whither did the 'prohibition of sister' vanish?[11] — Here, also, whither did the prohibition of 'the wife of the brother who was not his contemporary' vanish! — The one[12] is a prohibition which can never be lifted; the other[13] is a prohibition which may be lifted.[14]

MISHNAH. A GENERAL RULE HAS BEEN LAID DOWN[15] IN RESPECT OF THE DECEASED BROTHER'S WIFE:[16] WHEREVER SHE IS PROHIBITED[17] AS A FORBIDDEN RELATIVE, SHE[18] MAY NEITHER PERFORM THE HALIZAH NOR BE TAKEN IN LEVIRATE MARRIAGE. IF SHE IS PROHIBITED BY VIRTUE OF A COMMANDMENT[19] OR BY VIRTUE OF HOLINESS,[20] SHE MUST PERFORM THE HALIZAH AND MAY NOT BE TAKEN IN LEVIRATE MARRIAGE. IF HER SISTER IS ALSO HER SISTER-IN-LAW,[21] SHE[22] MAY PERFORM THE HALIZAH OR MAY BE TAKEN IN LEVIRATE MARRIAGE.[23]

PROHIBITED BY VIRTUE OF A COMMANDMENT' [REFERS TO] THE SECONDARY DEGREES IN RELATIONSHIP FORBIDDEN BY THE RULING OF THE SCRIBES. 'PROHIBITED BY VIRTUE OF HOLINESS' [REFERS TO THE FOLLOWING FORBIDDEN CATEGORIES]: A WIDOW TO A HIGH PRIEST;[24] A DIVORCED WOMAN, OR ONE THAT HAD PERFORMED HALIZAH TO A COMMON PRIEST;[25] A FEMALE BASTARD OR A NETHINAH[26] TO AN ISRAELITE;[27] AND A DAUGHTER OF AN ISRAELITE,[27] TO A NATHIN[28] OR A BASTARD.

GEMARA. What was the GENERAL RULE meant to include?[29] — Rafram b. papa replied: TO include the rival of a woman who was incapable of procreation, In agreement with the view of R. Assi.[30]

Some there are who say:[31] 'Whenever her prohibition is that of a forbidden relative then only is her rival forbidden; when, however, her prohibition is not that of a forbidden relative, her rival is not forbidden'. What was this meant to exclude? — Rafram replied: To exclude the rival of one incapable of procreation, contrary to the view of R. Assi.[30]

IF HER SISTER IS ALSO HER SISTER-IN-LAW [etc.]. Whose sister? If the sister of her who is forbidden by Virtue of an ordinance of the Scribes be suggested, fit may be objected,] since, pentateuchally, she[32] is subject to the levir, he would[33] come in marital contact with the sister of her who is connected with him by the levirate bond! — It means the sister of her who is prohibited to him as a forbidden relative.

PROHIBITED BY VIRTUE OF A COMMANDMENT', [REFERS TO] THE SECONDARY DEGREES. Why are these designated, PROHIBITED BY VIRTUE OF A COMMANDMENT'?-Abaye replied: Because it is a commandment to obey the rulings of the Sages.

PROHIBITED BY VIRTUE OF HOLINESS'... A WIDOW TO A HIGH PRIEST; A DIVORCED WOMAN, OR ONE WHO HAD PERFORMED THE HALIZAH, TO A COMMON PRIEST. Why are these designated 'PROHIBITED BY VIRTUE OF HOLINESS'?-Because It is written in the Scriptures, They shall be holy onto their God.[34]

It was taught: R. Judah reverses the order: prohibited by virtue of a commandment [refers to the following prohibited categories:] a widow to a high priest; a divorced woman or one that had performed halizah, to a common priest. And why are these designated, prohibited by virtue of a commandment? — Because it is written in the Scriptures, These are the commandments.[35] prohibited by virtue of holiness [refers to] the secondary degrees of relationship forbidden by the rulings of the scribes. And why are these designated, prohibited by virtue of holiness?-Abaye replied: Because whosoever acts in accordance with the rulings of the Rabbis is called a holy man. Said Raba to him: Then he who does not act in accordance with the rulings of the Rabbis is not called a holy man; nor is he called a wicked man either?[36] — No, said Raba: 'Sanctify yourself by that which is permitted to you'.[37]

A WIDOW TO A HIGH PRIEST. An unqualified ruling is laid down making no distinction between a nissu'in[38] widow and an erusin[38] widow. Now, one can well understand the reason the case of a nissu'in widow [since marriage with her is forbidden by] a positive[39] and a negative precept ,[40] and no positive precept[41] may override both a negative and a positive precept. In the case, however, of an erusin widow [marriage with whom is forbidden by] a negative precept only,[42] let the positive precept[41] override the negative[40] one? — R. Giddal replied in the name of Rab: Scripture stated, Then his brother's wife shall go up to the ‘gate,[43] where there was no need to state his brother's wife;[44] why then was ‘his brother's wife’ specified? [To indicate that] there is a case of another[45] brother's wife who goes up for halizah but does not go up for levirate marriage.[46] And who is she? One of those prohibited[47] by a negative precept.[48]

Might it[49] not be said [to include also] such as are subject to the penalty of kareth?[50] — Scripture said, If the man like not to take,[51] if he likes, however, he may take her in levirate marriage, [hence it is to be inferred that] whosoever may go up to enter into levirate marriage may also go up to perform halizah and whosoever may not go up to enter into levirate marriage[52] may not go up to perform halizah either. If so, the same should apply also to those forbidden by a negative Precept! — But, surely, the All Merciful has included them [by the expression] ‘His brother's wife’. What ground is there for such differentiation?[53]

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(1) Supra 8b, q.v. for notes, infra 39a.

(2) Deut. XXV, 5’

(3) Lit., ‘and what did you see’, i.e., why apply the first part of the text to one case and the second part of the same text to the other?

(4) To give ordinary divorce without submitting to halizah. and to remarry, which is derived from And take her to him to wife.

(5) Ordinary levirate.

(6) Implied in the words ‘And perform the duty of a husband's brother unto her’.

(7) I.e., ‘the wife of his brother who was not his contemporary’.

(8) Supra 19b, q.v. for notes.

(9) Lit., ‘but from now’.

(10) When he was born she was already his ‘brother's wife’.

(11) Lit., ‘whither did it go?’

(12) Prohibition of a sister.

(13) A brother's wife.

(14) Where the brother died without issue. When the first brother died childless the prohibition of ‘brother's wife’ was removed and thus the widow was permitted to the second brother. Her connection with the first thus having come to an end, the third brother, as her legitimate levir through the second brother, may consequently marry her.

(15) Lit., ‘they said’.

(16) Whose husband died without issue.

(17) To marry the levir.

(18) The rival, and much more so the forbidden relative herself.

(19) Or ‘an ordinance of the Scribes’. The term איסור מצוה is discussed infra.

(20) איסור קדושה v. infra.

(21) In the case where two sisters were married to two brothers who died childless, and both widows become subject to levirate marriage with a third brother towards whom one of them stood in any kind of forbidden relationship as, say. that of mother-in-law or daughter-in-law.

(22) The sister of the forbidden relative.

(23) Since the forbidden relative may never marry the levir, her sister does not come under the prohibition of ‘the sister of his zekukah’ i.e., of ‘the woman related to him by the levirate bond’.

(24) Whose holy status precludes him from marrying a widow. V. Lev. XXI, 13f.

(25) Where his brother unlawfully married such a woman and died without issue. The levir must not marry her on account of his holy status. v. Lev. XXI, 7.

(26) V. Glos.

(27) Who is forbidden on the ground of the sanctity of Israel to marry such types.
(28) V. Glos.
(29) In addition to the forbidden relatives actually enumerated.
(30) Who stated (supra 12a) that such a woman may neither perform halizah nor be taken in levirate marriage.
(31) In interpretation of our Mishnah.
(32) The woman forbidden by the ordinance of the Scribes.
(33) Should he marry her sister.
(34) Lev. XXI, 6.
(35) Lev. XXVII, 34 which refers to all the priestly commandments laid down in that book.
(36) Surely, a person disobeying the Rabbis is indeed a wicked man!
(37) I.e., marriages forbidden by the rulings of the scribes are designated as ‘prohibited by virtue of holiness’ because these restrictions are designed to promote self-sanctification and as a barrier and a safeguard against marriage with those who are Pentateuchally forbidden.
(38) V. Glos.
(39) Lev. XXI, 13. And he shall take a wife in her virginity.
(40) Ibid. v. 14, A widow... shall he not take.
(41) That of the levirate marriage.
(42) V. supra n. 6. The positive precept (v. n. 5) is not infringed since she is still a virgin.
(43) Deut. XXV, 7.
(44) Since the pronoun implied in ועלתה (then she shall go up) sufficiently indicates the subject which has been previously mentioned.
(45) Cf. Bah a.l. Cur. edd., ‘one’.
(46) I.e., a brother's wife not coming under the obligation of levirate marriage as the one spoken of previously in the text.
(47) Lit., ‘guilty of’.
(48) A widow to a High Priest. V supra p. 117, n. 6.
(49) The text, His brother's wife.
(50) And so subject them also to halizah.
(51) Deut. xxv, 7’
(52) Such as those who are subject to kareth.
(53) Lit., ‘what did you see’, i.e., why include the one and exclude the other?

Talmud - Mas. Yevamoth 20b

— This[1] stands to reason, since betrothal of those forbidden by a negative precept is valid while the betrothal of those subject to kareth is not valid.

Raba raised an objection: In the case of one forbidden by virtue of a commandment or by virtue of holiness, with whom the Ievir bad intercourse or participated in halizah, her rival is thereby exempt. Now, if one is to assume that those forbidden by a negative precept are Pentateuchally subject to halizah but not to the levirate marriage, why should her rival be exempt when he had intercourse with her? He raised the objection and he also supplied the answer: This is to be understood respectively;[2] ‘he had intercourse with her’ refers to one prohibited by virtue of a commandment,[3] ‘participated in halizah with her’ refers to the one forbidden by virtue of holiness.[4]

Raba raised an objection: He who is wounded in the stones or has his privy member cut off, a man-made saris,[5] and an old man, may either participate in halizah,ah or contract levirate marriage. How?[6] If these died and were survived by brothers and by wives, and those brothers arose and addressed a ma'amar to the widows, or gave them letters of divorce, or participated with them in halizah, their actions are legally valid;[7] if they had intercourse with them, the widows become their lawful wives.[8] If the brothers died and they[9] arose and addressed a ma'amar to their wives, or gave them divorce, or participated with them in halizah, their actions are valid,[7] and if they had intercourse with them, the widows become their lawful wives but they[10] may not retain them, because it is said in the Scriptures — He that is wounded in the stones or hath his privy member cut off shall not enter [into the assembly of the Lord] .[11] Now, if it could be assumed that those forbidden by a negative precept are Pentateuchally subject to halizah and not to levirate marriage, why should the widows become their lawful wives if they[12] had intercourse with them?[13]

But, said Raba, [say rather that] an erusin widow is forbidden[14] by both a positive and a negative precept, for it is written in the Scriptures, They shall be holy unto their God.[15] What, however, can be said in respect of a bastard or a nethinah?[16] — It is written, And sanctify yourselves.[17] If so,[18] all the [negative precepts of the] Torah should be regarded as positive and negative since it is written in the Scriptures, And sanctify yourselves![17] But, said Raba, [the fact is that][19] an erusin widow is forbidden[20] as a preventive measure against the marriage of a nissu'in widow.[21] What, however, can be replied in respect of a bastard and a nethinah?[22] — [The prohibition in] the case where a precept is applicable[23] is a preventive measure against [a marriage] where no precept is applicable. If so, let one's paternal brother's wife not be allowed levirate marriage as a preventive measure against marriage with the wife of his maternal brother! — ‘We All Merciful made levirate marriage dependent on inheritance[24] [and the relationship] is, therefore, well known.[25] A woman, then, who has no children should not be taken in levirate marriage as a preventive measure against the marriage of a woman who has children! — The All Merciful made levirate marriage dependent on [the absence of] children, [and the fact[26] would be] well known. The wife of one's contemporary brother should not be taken in levirate marriage as a preventive measure against marriage with the wife of one's brother who was not one's contemporary! — The All Merciful has made it[27] dependent on dwelling together[28] [and the fact][29] is well known. All women should not be taken in levirate marriage as a preventive measure against the marriage of a woman incapable of procreation! — This[30] is unusual.[31] A bastard and a nethinah also are unusual![32] — But, said Raba, [this is the reason]: The first act of Intercourse[33] is forbidden[34] as a preventive measure against a second act of intercourse.[35]

It has been taught likewise: If they[36] had intercourse [with any of the forbidden women] they acquire [her as wife] by the first act of intercourse, but may not keep her for a second act of intercourse.[37]

Subsequently Raba, others say R. Ashi, said: The statement I made[38] is valueless,[39] for Resh Lakish said, ‘Wherever you come upon a combination of a positive and a negative precept and[40] you are able to act in conformity with both, well and good; but if not, the positive precept must override the negative’.[41] Similarly here[42] it is possible to perform halizah, whereby one is enabled to keep the positive as well as the negative precept.

An objection was raised: If they[36] had intercourse [with any of the forbidden women] they acquire [her as wife]![43] — This is indeed a refutation.

It was stated: Concerning an act of intercourse between a High Priest and a widow[44] [there is a difference of opinion between] R. Johanan and R. Eleazar. One maintains that it does not exempt her rival,[45] and the other maintains that it does exempt her rival.[46])

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(1) The inclusion of the one who is prohibited by a negative precept and the exclusion of those who are subject to kareth.

(2) Lit., ‘he taught to sides’.

(3) As defined in our Mishnah. I.e., a woman forbidden by Rabbinic ordinance but who is Pentateuchally permitted and subject to levirate marriage. Intercourse with her consequently exempts her rival.

(4) With whom marriage is forbidden, and her halizah only exempts her rival.

(5) Lit., ‘eunuch of man’, opp. to natural castration due to a disease etc. V. notes on the Mishnah, infra 79b.

(6) I.e.,in what circumstances is the law mentioned applicable.

(7) Lit., ‘what they have done is done’; a divorce is required in respect of the ma'amar; no marriage may take place after the divorce, though no ma'amar preceded it, and the halizah is valid.

(8) Lit., ‘they acquired’.

(9) I.e., the maimed persons mentioned, or the old man.

(10) I.e., those that are maimed. The old man is excluded. V. infra.

(11) Deut. XXIII, 2. V. Tosef. Yeb. XI, infra 79b.

(12) Who are crushed or maimed in their privy parts and who are, therefore, forbidden by a negative precept to marry an Israelite's daughter.

(13) This proves that those forbidden by negative precept are subject to levirate marriage no less than to halizah, and thus the question remains, why should an erusin widow be forbidden in levirate marriage to a High Priest?

(14) To a High Priest.

(15) Lev. XXI, 6. This text adds a positive precept to the negative one of ibid. 14, and for this reason an erusin widow is forbidden in levirate marriage to a High Priest.

(16) Marriage with whom is forbidden by a negative precept only and yet may not be superseded by the positive precept of the levirate.

(17) Lev.XI, 44cf. p. 119,n. II.

(18) That Lev. XI, 44 provides a text from which a positive precept may be deduced and added to the negative one.

(19) Raba's answer thus being rebutted, there remains the question, why should an erusin widow be forbidden in levirate marriage to a High Priest.

(20) To a High Priest.

(21) Not because those forbidden by a negative precept may not contract levirate marriage. Pentateuchally, in fact, they may; and this is the reason why marital intercourse with such consummates marriage, as stated supra.

(22) Why are these forbidden levirate marriage?

(23) Such as the precept of the levirate marriage.

(24) Supra 17b, infra 240.

(25) Everybody knows whether the brother is paternal or only maternal.

(26) That there are children, or that there are not. as the case may be.

(27) Levirate marriage.

(28) I.e., that the brothers must be contemporaries. v. supra.

(29) That the levir was, or was not ‘dwelling together with the deceased’.

(30) That a woman should be incapable of procreation.

(31) And there is no need to provide against rare cases.

(32) And yet they were forbidden as a preventive measure.

(33) In the levirate marriage, Pentateuchally permissible even in the case of one forbidden by a negative precept, the positive precept overriding the negative.

(34) In the case of an erusin widow.

(35) When only the prohibition under the negative precept remains, the positive precept of the levirate marriage having been fulfilled with the first act of intercourse.

(36) Those who are forbidden marriage by a negative precept.

(37) Sanh. 19a.

(38) That the first act of intercourse is Pentateuchally permitted.

(39) Lit., ‘it is nothing’.

(40) Lit., ‘if’.

(41) Shab. 133a, Naz. 41a, Men. 56a.

(42) The case of the erusin widow of a brother of a High Priest who died after betrothal and before marriage.

(43) Which shews that Pentateuchally the positive precept of levirate marriage does supersede the prohibition of marrying a widow. Had that not been the case, the levir's Pentateuchal illegitimate intercourse could not have constituted a legal bond of marriage.

(44) Whose deceased husband, the High Priest's brother, died without issue.

(45) From the levirate marriage or halizah.

(46) As well as herself, who would, as a result, require a divorce but no halizah.

Talmud - Mas. Yevamoth 21a

Talmud - Mas. Yevamoth 21a

In the case of a nissu'in widow they both agree[1] that it does not exempt, since no positive precept may override a combination of a positive and a negative precept.[2] They differ, however, in the case of an erusin widow. He who maintains that it[3] exempts [does so because] a positive precept supersedes a negative one; and he who maintains that it[3] does not exempt holds that the positive precept here does not supersede the negative one since [in this case] halizah is possible.[4]

An objection was raised: If they[5] had intercourse [with any of the forbidden women] they acquire [her as wife]![6] -This is indeed a refutation. May this[7] be assumed to provide a refutation of the view of Resh Lakish also?[8] -Resh Lakish can answer you: I said it only in the case where the precept is fulfilled; here, however, halizah as a substitute for the levirate marriage is not a fulfilment of the precept.[9]

Raba said: Where in the Torah may an allusion be found to [the prohibition of] relations in the second degree?[10] It is said, For all these abominations have the men of the land done;[11] the expression, these[12] implies grave abominations, from which it may be inferred that there are milder ones. And what are these? The cases of incest of the second degree. What proof is there that ‘these’[12] is an expression of gravity? — Because it is written in the Scriptures, And the mighty[13] of the land he took away.[14] May it be assumed that this view[15] differs from that of R. Levi? For R. Levi said: The punishments for [false] measures are more rigorous than those for [marrying] forbidden relatives; for in the latter case the word used is El,[12] but in the former Eleh.[16] — El implies rigour, but Eleh implies greater rigour than El.[17] Is not Eleh written also In connection with forbidden relatives?[18] -That [Eleh has been written] to exclude [the sin of false] measures from the penalty of kareth.[19] In what respect, then,[20] are they[21] more rigorous? — In the case of the former,[22] repentance is possible; in that of the latter[23] repentance is impossible.[24]

Rab Judah said: It[25] may be derived from the following: Yea he pondered, and sought out, and set in order many proverbs,[26] in relation to which ‘Ulla said in the name of R. Eleazar, ‘Before Solomon appeared, the Torah was like a basket without handles; when[27] Solomon came he affixed handles[28] to it.

R. Oshaia said: It[25] may be derived from the following: Avoid it, pass not by it; turn from it, and pass on.[29]

Said R. Ashi: R. Oshaia's interpretation may be represented by the simile[30] of a man who guards an orchard. If he guards it from without, all of it is protected. If, however, he guards it from within, only that, section in front of him is protected but that which is behind him is not protected. This statement of R. Ashi, however, is mere fiction.[31] There,[32] the section in front of him, at least, is protected; while here were it not for the prohibition of incest of the second degree, one would have encroached upon the very domain of incest.

R. Kahana said, it may be derived from here: Therefore shall ye keep My charge,[33] provide a charge to my charge.[34]

Said Abaye to R. Joseph: This,[35] surely, is Pentateuchal![36] — It is Pentateuchal’ but the Rabbis have expounded it.[37] All the Torah, surely- was expounded by the Rabbis![38] But [the fact is that the prohibition[39] is] Rabbinical, while the Scriptural text is [adduced as] a mere prop.[40]

Our Rabbis taught: Who are the forbidden relatives in the second degree?[41] — His mother's mother, his father's mother, his father's father's wife, his mother's fathers wife, the wife of his father's maternal brother, the wife of his mother's paternal brother, the daughter-in-law of his son daughter-in-law his daughter. A man is permitted to marry the wife of his father-in-law and the wife of his step-son but is forbidden to marry the daughter of his step-son. His step-son is permitted to marry his[42] wife and his[42] daughter. The wife of his step-son may say to him, ‘I am permitted to you though daughter is forbidden to you’.

Is not the daughter of, his step-son forbidden, it being written in the Scriptures, Her son's daughter or her daughters daughter?’[33] — As he wished to state in the latter clause, ‘The wife of his step-son may say to him, "I am permitted to you though my daughter is forbidden to you", and though my daughter is forbidden to you Pentateuchally the Rabbis did not forbid me as a preventive measure’, he stated in the previous clause also ‘the daughter of his step-son’. If so,[43] could not the wife of his father-In-law also say, ‘I am permitted to you and my daughter is forbidden to you’, since she is his wife's sister?[44] -The prohibition of the one[45] is permanent;[46] that of the other is not.[47]

Rab said: Four [categories of] women [forbidden in the second degree] are subject to a limitation.[48] Of these Rab knew[49] three: The wife of a mother's[50] paternal brother, the wife of a father's[51] maternal brother, and one's daughter-in-law.[52] Ze'iri, however, adds also the wife of his mother's father. Said R. Nahman b. Isaac: Your mnemonic sign is, ‘Above that of Rab’.[53] Why does not Rab include it?[54] — Because she[54] might be mistaken for the wife of one's father's father.[55] And Ze'iri?-Thither[56] one usually goes,[57] but hither[58] one does not usually go.[59]

Is not the prohibition of one's daughter-in-law

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(1) Lit., ‘all the world do not differ’.

(2) The levirate marriage is consequently illegal.

(3) The act of intercourse.

(4) Which would not conflict with the negative precept, while the requirements of the positive one would also be complied with.

(5) V. supra p. 121, n. 5.

(6) V. supra p. 121 , n. 12.

(7) The Baraitha cited.

(8) Who stated (supra 20b) that whenever it is possible to observe the positive, as well as the negative precept, the rule of the abrogation of the one by the other is not to be applied.

(9) It is only a ritual to be observed where levirate marriage cannot take place. The precept of levirate marriage, however, is not thereby fulfilled.

(10) Lit., ‘whence an allusion to seconds from the Torah’.

(11) Lev. XVIII, 27, dealing with incest.

(12) האל

(13) אילי which is analogous to האל

(14) Ezek. XVII, 13. describing the serious and grave position of Judah

(15) Of Raba.

(16) אלה Deut. XXV, 16. This implies that the sin of incest is of a milder nature.

(17) El and Eleh have the same meaning, but the additional eh (הי) at the end of the latter is taken to imply additional punishment.

(18) Lev. XVIII, 26. האלה

(19) Since the expression of ‘abomination’ has been applied in the Pentateuchal text to both false measures and forbidden relations, it might have been assumed that the sin of the former is, like the latter, subject to kareth. Hence the need for the excluding word.

(20) If the penalty of kareth is inflicted for the sin of incest only and not for that of false measures.

(21) The punishments for false measures.

(22) Incest, so long as there was no Issue.

(23) False measures.

(24) V. B.B. 88b. One cannot by mere repentance make amends for robbing. The return of the things robbed must precede penitence. In the case of false measures it is practically impossible to trace all the individual members of the

public that were defrauded.
(25) An allusion to the prohibition of relations in the second degree.
(26) Eccl. XII, 9.
(27) Lit., ‘until’.
(28) אזנים, sing. אזן, ‘ear’ or ‘handle’. The Heb. אזן (E.V. he pondered) is regarded as denominative of אזן, ‘he made handles’, i.e., he added restrictions to the commandments of the Torah, such as the prohibitions of incest of the second degree, which helped to preserve the original precepts of the Torah as handles are an aid to the preservation of the basket.
(29) Prov. IV, 15; an allusion to the Torah. One must add restrictions to its precepts, such as those of incest of the second degree, in order to keep away from any possible infringement of its original precepts.
(30) Lit., ‘the parable of R. Oshaia, to what may the thing be compared?’
(31) בדותא v.B.M., Sonc. ed. p.47, n.1.
(32) The orchard.
(33) Lev. XVIII, 30, dealing with incest.
(34) Or ‘make a keeping to my keeping’, a protection to my protection’, i.e., ‘add restrictive measures to safeguard my original precept’.
(35) R. Kahana's text.
(36) Why then is this class of incest described as of the ‘second’ degree?
(37) Hence it must come under the second degree.
(38) And yet no one would describe those laws as of the second degree!
(39) Of incest of the second degree.
(40) Heb., Asmakta, v. Glos.
(41) Of incest.
(42) The step-father's. (13) Lev. XVIII, 17. Why include it among incest of the second degree?
(43) [If this is the reason for including Pentateuchal prohibition in this list].
(44) [And thus let him also include the daughter of his mother-in-law.]
(45) Lit., that’, the daughter of his step-son.
(46) Lit., ‘it is definite to him’.
(47) The daughter of his mother-in-law is permitted to him after the death of her sister, his wife.
(48) Lit., ‘break’ i.e., only they themselves are forbidden but not their descendants or ancestors in the descending or ascending line. In the case of the other relatives in the second degree of incest the prohibition extends throughout all generations in the ascending. and descending lines.
(49) Lit., ‘held in his hand’.
(50) But not, e.g., of a mother's mother's.
(51) Not of a father's father's.
(52) This case is discussed infra.
(53) Ze'ri's addition to the limitations is one generation above that of Rab. While the latter stops at the second generation (that of father and mother) the former goes as far as the third (mother's father).
(54) Ze'ri's addition, a mother's father's wife.
(55) Who is Pentateuchally forbidden. Were a limit to be set in the case of the former, a similar limit would erroneously be set to the latter.
(56) To the family of one's father.
(57) I.e., there is frequent social intercourse between the members of the family on the paternal side.
(58) One's mother's family.
(59) No mistake, therefore, could occur between a mother's father and a father's father. Hence no preventive measure is necessary.

Talmud - Mas. Yevamoth 21b

Pentateuchal, it being written in the Scriptures, Thou shalt not uncover the nakedness of thy daughter-in-law?[1] — Read, ‘the daughter-in-law of his son’. But is there any limitation[2] for the daughter-in-law of one's son? Surely it was taught: His daughter-in-law is a forbidden relative, and the daughter-in-law of his son is a forbidden relative of the second degree; and the same principle is to be applied to one's son and son's son to the end of all generations![3] — But read, ‘the daughter-in-law of his daughter’ for R. Hisda said: I heard from a great man-And who is he? R Ammi- [the following statement]: ‘The daughter-in.law was forbidden only on account of the daughter-in-law’; and when the soothsayers[4] told me, ‘You will be a teacher’, I thought , ‘If I would be a great man[5] I would explain it[6] on my own; and should I be a Scripture teacher of little children I would ask the Rabbis who come to the school house.[7] Now I am in a position to explain it on my own: The daughter-in-law of one's daughter was forbidden only on account of the daughter-in-law of one's son.

Said Abaye to Raba: I can explain it to you: Take as an example a daughter-in-law of the house of Bar Zithai.[8] R. Papa said: As for example a daughter-in-law in the house of R. Papa b. Abba.[9] R. Ashi said: As for example a daughter-in-law of the house of Mari b.Isak.[9]

An inquiry was made: What [is the law in respect of] the wife of a mother's maternal brother? Did the Rabbis forbid as a preventive measure only the wife. of a father's maternal brother and the wife of a mother's paternal brother because in these cases there is a paternal strain,[10] but where there is no paternal strain[11] the Rabbis did not pass any preventive measure, or is there no difference?R. Safra replied: She herself[12] is forbidden as a preventive measure; shall we come and superimpose a preventive measure upon a preventive measure! Said Raba: Are not others[13] forbidden as a preventive measure to a preventive measure? His mother, e.g., Is a forbidden relative, his mother's mother is a forbidden relative of the second degree, and yet was his father's mother forbidden as a preventive measure against his mother's mother[13] And what is the reason? Because they are both called ‘grandmother’[14] His father's wife is a forbidden relative, his father's father's wife is a forbidden relative of the second degree, and yet was his mother's father's wife forbidden as a preventive measure against his father's father's wife! And what is the reason? Because they are both called ‘grandfather’.[15] The wife of his father's paternal brother is a forbidden relative, the wife of his father's maternal brother is a forbidden relative of the second degree, and yet was the wife of his mother's paternal brother forbidden as a preventive against the wife of his father's maternal brother! And what is the reason? Because they are both called uncle![15] What, then, is the law?[16] Come and hear: When R. Judah b. Shila came[17] he stated that In the West[18] the rule was laid down[19] that whenever a female[20] is a forbidden relative the wife of the male[21] is forbidden in the second degree as a preventive measure; and Raba remarked: ‘Is this a general rule? Surely one's mother-in-law is a forbidden relative and yet is one's father-in-law's wife permitted, the daughter of his mother-in-law is a forbidden relative and yet is the wife of the son of his mother-in-law permitted, his step-daughter is a forbidden relative and yet is the wife of his step-son permitted, the daughter of his step-daughter is a forbidden relative and yet is the wife of the son of his step-son permitted’; what, then, does R. Judah b. Shila's [reported rule] include? Does it not then include the case of the wife of a mother's maternal brother, since ‘wherever a female[22] as a forbidden relative[23] the wife of the male[24] is forbidden in the second degree as a preventive measure’![25]

What is the difference between those[26] and this?[27] — In this case[27] she becomes related to him by one act of betrothal;[28] in those cases[29] they do not become related to him until two acts of betrothal have taken place.[30]

R. Mesharsheya of Tusaneya[31] sent to R. Papi: Will our Master instruct us as to what is the law concerning the wife of the father's father's [paternal][32] brother, and a father's father's sister?[33] Seeing that the degree below is incest,[34] has a preventive measure been issued in respect also of the degree above,[35] or perhaps [not]. since the relationship has branched off?[36] Come and hear: Who are the forbidden relatives of the second degree [etc.];[37] and these[35] were not enumerated among them![38] — Some might have been mentioned and others omitted.[39] What other omissions were made such as to justify this omission also? — The forbidden relatives of the second degree, of the School of R.

Hiyya,[40] were also omitted.

Amemar permitted the wife of one's father's father's brother and one's father's father's sister. Said R. Hillel to R. Ashi:[41] ‘I saw the [list of] forbidden relatives of the second degree of Mar the son of Rabana[42] and sixteen were written down as forbidden cases. Would they not be the eight of the Baraitha,[43] the six of the School of R. Hiyya,[44] and these two,[45] in all sixteen?-But according to your view there should be seventeen, since there is also the case of the wife of a mother's maternal brother, who in accordance with our decision is forbidden!’ — ‘This is no difficulty.

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(1) Lev. XVIII, 15; why then did Rab include her among those of the second degree?

(2) V. supra p. 125, n. 6.

(3) Ker. 14b.

(4) כלדאי lit., ‘Chaldeans’, known for their extensive practice of divination and soothsaying.

(5) I.e., if ‘teacher’ implied a teacher of scholars at the academy.

(6) R. Ammi's vague statement.

(7) [Lit., ‘House of Assembly’, the synagogue to which was attached the school for children.]

(8) In that family there were both a daughter-in-law of Bar Zithai's son and a daughter-in-law of his daughter, and permission to marry the latter might easily have led to the erroneous conclusion that the former also was permitted.

(9) Cf. n. 7’ mutatis mutandis.

(10) Lit., ‘side of father’.

(11) As in the case of the wife of a mother's maternal brother, here under discussion.

(12) The wife of a mother's paternal brother.

(13) Lit., ‘all of them’. v. Rashi, a.l.

(14) Lit., ‘all of them call her of the house of grandmother’. Hence the necessity for a preventive measure.

(15) Cf. previous note mutatis mutandis. All of which shews that we do superimpose a Preventive measure upon a preventive measure.

(16) With respect to the wife of a mother's maternal brother.

(17) From Palestine to Babylon.

(18) Palestine.

(19) Lit., ‘they said’.

(20) In any degree of relationship.

(21) In the same degree of relationship as the female.

(22) In any degree of relationship.

(23) Such as a mother's maternal sister.

(24) In the same degree of relationship as the female.

(25) Hence the wife of a mother's maternal brother must be forbidden as a relative in the second degree.

(26) The cases pointed out by Raba.

(27) The wife of a mother's maternal brother. v. n. 4.

(28) The betrothal of the woman by his mother's maternal brother.

(29) Pointed out by Raba.

(30) In the case of the wife of his father-in-law, for instance, her relationship to him is dependent on (a) his betrothal of his own wife whereby her father becomes his father-in-law, and (b) the betrothal by his father-in-law of his wife; and similarly in all the other cases pointed out by Raba.

(31) [Prob. for Astunia near Pumbeditha (Obermeyer p. 229. n’ 1.); cf. Keth., Sonc. ed. p. 715, n. 4.

(32) Cf. Rashi a.l.

(33) Paternal or maternal.

(34) The wife of a father's paternal brother, and a father's paternal or maternal sister.

(35) The cases cited in the inquiry, which are a generation higher.

(36) Lit., ‘divided’ or ‘removed’.

(37) Supra 21a.

(38) Which seems to prove that these were not forbidden.

(39) Lit. , ‘he taught and left over’; though the others might be equally forbidden.

[40] Infra 22a.
[41] Who held the same opinion as Amemar. V. Tosaf. a.l. s.v. אמימר.
[42] Or Rabina.
[43] Supra 21a.
[44] Infra 22a.
[45] Those of Amemar, agreed to by R. Ashi. V. supra p. 128. n. 20.

Talmud - Mas. Yevamoth 22a

Those two which resemble one another[1] are reckoned as one, and thus [the total is] sixteen.' 'But, after all, I saw that these were written down as forbidden!'[2] The other said to him: 'Granted that this is so, would you have relied upon that list, if the cases had been written down as permitted? "Has Mar the son of Rabana signed them?" [you would have argued]. Now then that they have been written down as forbidden, [you might also argue]. "Mar the son of Rabana has not signed them".

It was taught at the School of R. Hiyya: The third generation of his son,[3] of his daughter.[4] of the son of his wife[5] or of the daughter of his wife[6] [is forbidden as incest of the] second degree; the fourth generation[7] through his father-in-law[8] or his mother-in-law[9] [is forbidden as incest of the] second degree.

Said Rabina to R. Ashi: Why is the wife included in the ascending line[10] and not included in the descending line?[11] -In the case of the ascending line, where the prohibition is due to his wife, she is included; in the descending line, where the prohibition is not due to his wife,[12] she is not included. But, surely, there is the case of the son of his wife and the daughter of his wife whose prohibition is due to his wife who is, nevertheless, not included! — As he enumerated three generations in the descending line on his side[13] and did not include her, he also enumerated three generations in the descending line on her side[14] and did not include her.

Said R. Ashi to R. Kahana: Are the second degrees of incest of the School of R. Hiyya subject to the limitation[15] or not?Come and hear what Rab said: 'Four [categories of forbidden] women are subject to a limitation',[16] but no more. But is it not possible that Rab was only referring to that Baraitha![17]

Come and hear: 'The third' and 'the fourth' ,[18] which implies the third and fourth generations only but no further. But is it not possible [that this meant] from the third generation onwards[19] and from the fourth generation onwards![19]

Raba said to R. Nahman, 'Has the Master seen the young scholar who came from the West[20] and stated: The question was raised in the West whether the second degrees of incest were forbidden as a preventive measure among proselytes or not'? — The other replied: Seeing that even in respect of actual incest ' but for the fear that they might be said to have exchanged a [religion of] stricter for [one of] more easy-going sanctity, the Rabbis would not have imposed upon them any preventive measures,[21] is there any question [that they should have done so in respect of] the second degrees?

Said R. Nahman: As the subject of proselytes has come up,[22] let us say something about them: Maternal brothers may not tender evidence;[23] if, however, they did, their evidence is valid.[24] Paternal brothers may tender evidence without challenge.[25]

Amemar said: Even maternal brothers may tender evidence without challenge. And why is this case different from incest?[26] — Matters of incest lie in everybody's hands;[27] evidence is entrusted to Beth din, and [they know that] one who has become a proselyte is like a child newly born.[28]

MISHNAH. IF ONE HAS ANY KIND OF BROTHER,[29] [THAT BROTHER] IMPOSES UPON HIS BROTHER'S WIFE THE OBLIGATION OF THE LEVIRATE MARRIAGE AND IS DEEMED TO BE HIS BROTHER IN EVERY RESPECT. FROM THIS IS EXCLUDED A BROTHER BORN FROM A SLAVE OR A HEATHEN.[30]

IF ONE HAS ANY KIND OF SON, [THAT SON] EXEMPTS HIS FATHER'S WIFE FROM THE LEVIRATE MARRIAGE, IS LIABLE TO PUNISHMENT FOR STRIKING OR CURSING [HIS FATHER]. AND IS DEEMED TO BE HIS SON IN EVERY RESPECT. FROM THIS IS EXCLUDED THE SON OF A SLAVE OR A HEATHEN.[31] GEMARA. What does the expression ANY KIND include?Rab Judah said: It includes a bastard. Is not this obvious? Surely, he is his brother! — It might have been assumed that ‘brotherhood’[32] here should be deduced from ‘brotherhood’ in the case of the sons of Jacob;[33] as there they were all legitimate and untainted, so here also [the brothers must be] legitimate and untainted; hence we were taught [that it is not so]. [Might we still suggest that it is so?] — Since he[34] has at any rate the power to confer exemption from the levirate marriage[35]

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(1) Amemar's cases, both of whom are related to one through one's father (paternal grandfather's brother's wife, and paternal grandfather's sister) and both are one degree above that of actual incest.

(2) While according to Amemar and R. Ashi (v. supra p. 128, n. 20) these are permitted! [The text is difficult. Read with MS.M.: But after all I saw (the list) and sixteen were written down as forbidden.]

(3) I.e. , his son's son's daughter, his son's daughter being forbidden as actual incest, v. Lev. XVIII, 10.

(4) His daughter's son's daughter; his daughter's daughter coming under the prohibition of actual incest. Cf. n. 7.

(5) Cf. note 7, mutatis mutandis.

(6) Cf. note 8, mutatis mutandis.

(7) From his wife.

(8) His father-in-law's mother's mother who Is the fourth generation from his wife. (A father-in-law's mother comes under the prohibition of actual incest).

(9) His mother-in-law's mother's mother. Cf. previous note.

(10) V. previous three notes.

(11) Regarding, for instance, his son's son's daughter as of the third generation and not of the fourth, as would have been the case had his wife (his son's mother) been included.

(12) Since, as has been explained supra 40, Lev. XVIII, 10 refers to a son born from a woman whom he had outraged.

(13) The third generation of his son or daughter born from a woman he had outraged.

(14) The third . generation of the son or daughter of his wife.

(15) V. supra P. 125, n. 6.

(16) Supra 21a.

(17) Which enumerated (supra 1.c.) eight cases only of the second degrees of incest, but none of those of the School of R. Hiyya.

(18) I.e., the School of R. Hiyya supra included in the second degree only the third generation in the descending, and the fourth generation in the ascending line.

(19) Are forbidden in the second degree of incest; but those of the nearer generations are forbidden as actual incest.

(20) Palestine.

(21) Biblically, the proselyte is regarded as a newborn child and all his previous family ties are severed. It is only Rabbinically that he was subjected to the laws of incest.

(22) Lit., ‘to our hand’.

(23) Since the family relationship in their case is a certainty, and a relative is ineligible as a witness.

(24) As, Biblically, the proselyte is deemed to be a newborn child without any relatives. V. supra p. 130, n. 10.

(25) Lit., ‘as from the start’, since in: their case no brotherly relationship is recognized, the heathens having been known to indulge in promiscuous Intercourse.

(26) Which is applicable to a proselyte also. If he married, for instance, his maternal sister he must divorce her (infra 98a).

(27) Marriages are not, as a rule, arranged with the aid of the Beth din, and, should a proselyte be permitted to live with his sister, some people might infer that such a marriage was permitted to an Israelite also. Hence the prohibition.

(28) The Beth din who know this law would not allow a brother of an Israelite to give evidence though this would be allowed to a brother of a proselyte.

(29) This is explained in the Gemara. Lit., ‘from any place’.

(30) Such children assume their mother's status of inferiority, and are not regarded as one's paternal brothers.

(31) Cf. n. 9.

(32) Brethren in the context of the levirate relationship, Deut. XXV, 5.

(33) Gen. XLII, 13, twelve brethren.

(34) A bastard.

(35) A woman whose husband died without leaving any issue from their union may. nevertheless, be exempt from the requirements of the levirate marriage if that husband had a bastard son.

Talmud - Mas. Yevamoth 22b

he also has the power to impose the obligation of the levirate marriage.[1]

AND IS DEEMED TO BE HIS BROTHER IN EVERY RESPECT. In respect of what, in actual practice?-That he is to be his heir and that he[2] may defile himself for him. Is not this obvious, he being his brother! — Whereas it is written, Except for his kin, that is near unto him,[3] and a Master had said that ‘his kin’ refers to his wife, while [on the other hand] it is written, A husband among his people shall not defile himself, to profane himself,[4] [which verses taken together mean],[5] some kind of husband may defile himself and some kind of husband may not, and how [is this to be understood]? He may defile himself for his lawful wife but may not defile himself for his unlawful wife; and so here it might have been assumed that he may defile himself for a legitimate brother but may not defile himself for an illegitimate brother; hence it was taught [that it is hot so]. Might we still suggest that it is so?In that case she is liable at any moment to be sent away,[6] but here he is his brother.

FROM THIS IS EXCLUDED A BROTHER BORN FROM A SLAVE OR A HEATHEN. What is the reason? Scripture stated, The wife and her children shall be the master's.[7]

IF ONE HAS ANY KIND OF SON, [THAT SON] EXEMPTS etc. What does ANY KIND include?-Rab Judah said: It includes a bastard. What is the reason? — Because Scripture stated, And have no [en lo] child[8] which implies ‘hold an inquiry[9] concerning him.’[10]

AND IS LIABLE TO PUNISHMENT FOR STRIKING [HIM]. But why? One should apply here the Scriptural text , Nor curse a ruler of thy people.[11] only when he practises the deeds of thy people![12] — As R. Phinehas in the name of R. Papa said [elsewhere] ‘When he repented’, so here also it is a case where he repented. Is such a persona however, capable of penitence? Surely we learnt: Simeon b. Menasya said, That which is crooked cannot be made straight.[13] refers to him who had intercourse with a forbidden relative and begot from her a bastard! — Now, at any rate. he is practising ‘the deeds of thy people’.[14]

Our Rabbis taught : He who has intercourse with his sister who is also the daughter of his father's wife[15] is guilty[16] on account of both his sister and his father's wife's daughter. R. Jose son of R. Judah said: He is only guilty on account of his sister but not of the daughter of his father's wife.

What is the Rabbis’ reason? Observe, they would say, it is written, The nakedness of thy sister, the daughter of thy father, or the daughter of thy mother,[17] what need was there for The nakedness of thy father's wife's daughter, begotten of thy father, she is thy sister?[18] In order to intimate that he is guilty on account of both his sister and his father's wife's daughter. And R. Jose son of R. Judah? — Scripture stated, She is thy sister,[19] you can hold him guilty on account of his sister, but you cannot hold him guilty for his father's wife's daughter. And to what do the Rabbis apply the expression, ‘She is thy sister’?-They require it [for the deduction] that a man is guilty on account of his sister who is the daughter of his father and the daughter of his mother,[20] thus indicating that no prohibition[21] may be deduced by logical argument.[22] And R. Jose son of R. Judah?[23] -If so, the All Merciful should have written ‘thy sister’, what need was there for ‘she is’? To indicate that you may hold him guilty on account of ‘thy sister’ but you cannot hold him guilty on account of ‘his father's wife's daughter’. And the Rabbis? Although ‘thy sister’ was written, It was also necessary to write ‘she is’; in order that no one should suggest that elsewhere a prohibition may be deduced by logical argument and that the All Merciful has written here, ‘thy sister[24] because Scripture takes the trouble to write down any law that may be deduced a minori ad majus; hence did the All Merciful write ‘she is’.[25]

And R. Jose son of R. Judah?-If so, the All Merciful should have written [the expression], ‘She is ‘thy sister’ in the other verse.[26]

And to what does R. Jose son of R. Judah apply the phrase Thy father's wife's daughter?[27] — He requires it for [the deduction]: Only she with whom your father can enter Into marital relationship, but a sister born from a slave or a heathen[28] is excluded, since your father cannot enter with her into marital relationship.[29]

Might it not be said to exclude a sister born from one whom his father had outraged? — You cannot say this owing to Raba's statement. For Raba pointed out a contradiction: It is written In Scripture, The nakedness of thy son's daughter, or of thy daughter's daughter, even their nakedness thou shalt not uncover,[30] thus it follows that her[31] son's daughter and her daughter's daughter are permitted; but [below] it is written, Thou shalt not uncover the nakedness of a woman and her daughter; [thou shalt not take] her son's daughter or her daughter's daughter.[32] How then [are these to be reconciled]? The one[33] refers to a case of outrage,[34] the other[32] to that of lawful marriage.

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(1) Upon the wife of any son of his father. However, since he is debarred from marrying her, he frees her by halizah, v. supra 20a.

(2) Even if he is a priest. Cf. Lev. XXI, 1ff.

(3) Ibid. v. 2.

(4) Ibid. v. 4. The Talmudic rendering of the verse differs slightly from E.V. which render husband בעל as ‘chief’,

(5) In order to remove the apparent contradiction.

(6) The husband is not allowed to live with her. Hence she cannot be regarded as his wife.

(7) Ex. XXI, 4, referring to a slave. The case of the heathen is explained infra.

(8) Deut. XXV, 5. ובן אין לו.

(9) עין ‘examine’ , ‘search’, ‘investigate’ . The Aleph (א) of אין is interchangeable with the ‘Ayin (ע) of עין

(10) I.e., inquire whether he has been survived by ANY KIND OF SON. Cf. B.B. 115a, Sonc. ed.. p. 474 nn. 6ff.

(11) Ex. XXII. 27.

(12) This father, however, who is guilty of incest did not practise the deeds of his people! Why then should his son be punished for his action against such a man?

(13) Eccl. I, 15.

(14) Though he cannot clear his past he may turn over a new leaf.

(15) I.e., the offspring of a lawful marriage.

(16) V. infra p. 201, n.16. and Mak. 13a.

(17) Lev. XVIII, 9, referring to the offspring of an intercourse, whether as a result of marriage or outrage.

(18) Ibid. v. II. This, surely. is only are petition of one of the cases dealt with in v.9.

(19) Lev. XVIII, 11.

(20) Who was not his father's lawful wife; in the case, for instance, when he and his sister were born from one whom their father had outraged. This case could not be deduced from Lev. XVIII, 9, since the sister born as a result of outrage,’ spoken of there, is one who is the daughter of the father or of the mother, while the expression Thy father's wife's daughter refers to one born from a lawful marriage.

(21) Such, e.g.. as intercourse with a sister born from the same woman whom their father had outraged.

(22) If a sister who is the daughter of only one of his parents is forbidden, how much more so a sister who is the daughter of both his parents. V. Mak., Sonc. ed. pp. 18 and 26.

(23) How does he meet the argument of the Rabbis?

(24) Lit., 'and if you would say what need was there for "thy sister" what the All Merciful has written'.

(25) Only she is, i.e., only in this case, where Scripture had explicitly stated it, is the prohibition in force; but elsewhere, where Scripture has not explicitly stated the prohibition, the inference a minori ad majus cannot bring a prohibition into force.

(26) In Lev. XVIII, 9' which speaks of a sister born from a woman his father had outraged. Since, however, it was inserted in v.11 which speaks of a sister born from a marriage it must have been meant to imply. as R. Jose said supra, that one 'is only guilty of incest with his sister but not with that of the daughter of his father's wife'.

(27) Lev. XVIII, II.

(28) The betrothal of either of whom is not considered valid.

(29) V. Kid. 68a.

(30) Lev. Xviii, 10.

(31) One's wife's.

(32) Lev. XVIII, 17.

(33) Lit., 'here'; Lev. XVIII. 10.

(34) In which case a man may not marry the daughter of his own son or the daughter of his own daughter, and may marry the daughter of the son or the daughter of the daughter whom the outraged woman had from another husband; since he himself is not her lawful husband. As in the case of one's own son and one's own daughter, though the offspring of a woman he outraged, they are legally regarded as son and daughter. so is the sisterhood and brotherhood of such children regarded as legal.

Talmud - Mas. Yevamoth 23a

Might it not be suggested that it excludes those who are subject to the penalties of negative precepts?[1] -R. Papa[2] replied: The betrothal of those forbidden under negative precept is valid,[3] for it is written in the Scriptures, If a man have two wives, the one beloved and the other hated;[4] can it be said that the Omnipresent loves the one[5] or hates the other?[6] But 'beloved' means beloved in her marriage;[7] 'hated' means hated in her marriage;[8] and yet the All Merciful has said if ... have.[9] Might it be taken to exclude those who are liable to kareth?[10] — Raba replied: Scripture said, The nakedness of thy sister, the daughter of thy father, or the daughter of thy mother, whether born at home, or born abroad,[11] whether your father is told, 'You may keep her' or whether your father is told, 'Let her go',[12] the All Merciful said, 'She is thy sister'.

Will you suggest [that what is meant is]: Whether your father is told, 'You may keep her' or whether your father is told, 'Let her go'. the All Merciful said, 'She is thy sister', to include his sister from a slave and a heathen! — Scripture stated, The father's wife's daughter,[13] only she with whom your father can enter into marital relationship, but a sister from a slave or a heathen is excluded.[14] And what ground is there for this?[15] — It is logical to include those subject to kareth since generally[16] their betrothal is valid.[17] On the contrary! A slave and a heathen should have been included since on embracing the Jewish faith, betrothal with himself is also valid! — When any of these adopts the Jewish faith she becomes a different person.[18]

Whence do the Rabbis deduce the exclusion of a slave and a heathen?-They deduce it from The wife and her children shall be her master's.[19] And R. Jose son of R. Judah?- One text refers to a slave and the other to a heathen. And both are required; for had we been informed [concerning the exclusion of the] slave, it might have been thought [that this was so in her case] because she has no recognized ancestry, but not in that of a heathen who has recognized ancestry. And had we been informed [of the exclusion of the] heathen,it might have been assumed [that this was so In her case] because she stands under no obligation In relationship to the observance of commandments,[20] but not In that of a slave who is [in some respects] attached to the observance of the commandments.[21] Hence both were required.

With reference to the Rabbis, we have discovered [the reason for the exclusion of a] slave; whence do they derive [the exclusion of the] heathen? And should you suggest that we might derive it by inference from the slave, those[22] were surely needed![23] R. Johanan replied in the name of R. Simeon b. Yohai: Scripture stated, For he will turn away thy son from following Me;[24] 'thy son born from an Israelitish woman is called thy son[25] but 'thy son who was born from a heathen is not called thy son[25] but her son.[26] Said Rabina: From this it follows[27] that the 'son of your daughter' who derives from a heathen is called 'thy son'.[28] Does this imply that Rabina is of the opinion that if a heathen or a slave had intercourse with a daughter of Israel the child is considered fit![29] -Though he is admittedly no bastard neither is he considered fit; he is rather regarded[30] as a tainted Israelite.[31]

But does not that text[32] occur in connection with the seven nations?[33] — For he will turn away[32] includes all who turn away. This is satisfactory if we follow R. Simeon who expounds[34] his own reasons for Scriptural precepts;[35] whence, however, do the Rabbis[36] derive it according to their view?[37] — Who is the Tanna[38] who disputes the opinion of R. Jose son of R. Judah? It is R. Simeon.

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(1) If his father, e.g.. had married a bastard, who is forbidden by a negative Precept. the daughter from such a union should not be regarded as his legitimate sister.

(2) Aruch reads, 'Raba'.

(3) Hence the sisterhood must also be deemed legal.

(4) Deut. XXI, 15.

(5) Lit., 'is there a loved one before the Omnipresent'.

(6) I.e., the husband's love or hatred could not obviously influence a divine law; why then should his love or hatred be mentioned at all?

(7) l.e., permitted to marry him.

(8) I.e., forbidden to marry.

(9) תהיין (rt. היה 'to be'). i.e., the betrothal is Sc. remains valid.

(10) I.e., a daughter from such a marriage which is legally invalid should not be deemed one's legal sister.

(11) Lev. XVIII, 9.

(12) Whether he is permitted to live with her (בית at home) or not (חוץ abroad).

(13) Lev. XVIII, 11.

(14) Since betrothal or marriage with either is invalid.

(15) Lit., 'and what do you see', to apply the excluding text to a slave and a heathen. and the including one to those subject to kareth. Why not reverse the application?

(16) Lit., 'to the world', to those who are not forbidden relatives.

(17) The betrothal of a slave or a heathen, however, is always invalid.

(18) And is no longer regarded as a heathen or slave.

(19) Ex. XXI, 4.

(20) A heathen is under no obligation to observe the precepts of the Torah.

(21) A slave must observe certain commandments. V. Hag. 40.

(22) The texts speaking of the slave and the heathen, supra.

(23) In connection with their own context. They are not available for any deduction.

(24) Deut. VII, 4. The pronoun he in this clause must, according to Talmudic exposition, refer to the antecedent son in v. 3' thy daughter thou shalt not give unto his son, and not to son in the clause, nor his daughter shalt thou take unto thy son. Had the reference been to the latter the reading in v. 4 would have been, for SHE (i.e., the heathen woman) will turn away thy son. 'He' must consequently refer to the heathen husband of the Israelitish woman who would turn away the son of his Israelitish wife, the (grand)son of her father. The son of his son born from the heathen. however, is obviously not called his (grand)son since, 'For he will turn etc.' does not apply to him.

(25) בנך thy son or grandson.

(26) I.e., he is a heathen like his mother.

(27) Cf. supra n. 5.
(28) V. kid.. Sonc. ed. p. 345 nn. 5.6.
(29) This is a question in dispute, infra 450. [Cf. parallel passage in Kid. 68b where the reading is, the child is a mamzer, a reading to which Tosaf. (s.v. קסבר) gives preference.]
(30) Lit., ‘called’.
(31) For further notes, v. Kid., Sonc. ed. p. 345ff
(32) Deut. VII, 4, from which deduction has just been made.
(33) Enumerated in Deut. VII, I. How, then, could the same text be applied to other nations?
(34) Even where Scripture assigns no reason.
(35) V. B.M. 115a; the explicit reason, For he will turn etc. given here is consequently superfluous and may be used for the deduction mentioned.
(36) Who do not assign reasons for Biblical precepts t,unless Scripture itself supplies them.
(37) The text, For he will turn etc. being required as a reason for the precepts enunciated in that context itself.
(38) Designated supra as ‘the Rabbis’.

Talmud - Mas. Yevamoth 23b

MISHNAH. IF A MAN BETROTHED ONE OF TWO SISTERS AND DOES NOT KNOW WHICH OF THEM HE HAS

BETROTHED, HE MUST GIVE A LETTER OF DIVORCE TO THE ONE AS WELL AS TO THE OTHER.[1] IF HE DIED,[2] LEAVING A BROTHER,[3] THE LATTER MUST PARTICIPATE IN THE HALIZAH WITH BOTH OF THEM.[4] IF HE HAD TWO BROTHERS,[3] ONE IS TO PARTICIPATE IN THE HALIZAH[5] AND THE OTHER MAY CONTRACT THE LEVIRATE MARRIAGE.[6] IF THEY ANTICIPATED [THE BETH DIN] AND MARRIED THEM[7] THEY ARE NOT TO BE [PARTED FROM] THEM.[8]

IF TWO MEN BETROTHED TWO SISTERS AND THE ONE DOES NOT KNOW WHOM HE BETROTHED AND THE OTHER DOES NOT KNOW WHOM HE BETROTHED, THE ONE MUST GIVE TWO LETTERS OF DIVORCE AND THE OTHER MUST ALSO GIVE TWO LETTERS OF DIVORCE. IF THEY DIED AND THE ONE LEFT A BROTHER AND THE OTHER ALSO LEFT A BROTHER, THE ONE BROTHER MUST PARTICIPATE IN THE HALIZAH WITH THE TWO WIDOWS AND THE OTHER ALSO MUST PARTICIPATE IN THE HALIZAH WITH THE TWO WIDOWS.[9] IF ONE[10] LEFT ONE BROTHER AND THE OTHER LEFT TWO, THE ONE BROTHER MUST PARTICIPATE IN THE HALIZAH WITH THE TWO WIDOWS[11] AND [AS REGARDS] THE TWO, ONE PARTICIPATES IN THE

HALIZAH[12] AND THE OTHER MAY CONTRACT THE LEVIRATE MARRIAGE.[13] IF THEY ANTICIPATED [THE BETH DIN] AND MARRIED THEM,[14] THEY ARE NOT TO BE DEPRIVED OF THEM.[15] IF ONE[10] LEFT TWO BROTHERS AND THE OTHER[13] ALSO LEFT TWO, ONE BROTHER OF THE ONE PARTICIPATES IN THE HALIZAH WITH ONE WIDOW AND ONE BROTHER OF THE SECOND PARTICIPATES IN THE HALIZAH WITH THE OTHER WIDOW, [AND THEN THE OTHER] BROTHER OF THE FIRST MAY CONTRACT LEVIRATE MARRIAGE WITH THE HALUZAH OF THE SECOND[16] AND [THE OTHER] BROTHER OF THE SECOND MAY CONTRACT THE LEVIRATE MARRIAGE WITH THE HALUZAH OF THE FIRST. IF BOTH[17] ANTICIPATED [THE BETH DIN] AND PARTICIPATED IN THE HALIZAH,[18] THE [OTHER] TWO MUST NOT BOTH CONTRACT THE LEVIRATE MARRIAGE,[19] BUT ONE MUST PARTICIPATE IN THE HALIZAH[20] AND THE OTHER MAY THEN CONTRACT THE LEVIRATE MARRIAGE.[21] IF BOTH[22] ANTICIPATED [THE BETH DIN][23] AND MARRIED[24] THEY ARE NOT TO BE DEPRIVED OF THEM.[25]

GEMARA. Is it to be inferred from here that even betrothal which cannot culminate in connubial intercourse[26] is also valid?[27] — Here we are dealing with the case where they were known[28] but were later confused. This may also be proved by deduction, since it was stated, AND HE DOES NOT KNOW[29] and it was not stated 'and it was not known'[30] This proves it.

What, then, does our Mishnah teach us?[31] — The second clause was necessary:[32] IF HE DIED AND LEFT A BROTHER, THE LATTER MUST PARTICIPATE IN THE HALIZAH WITH BOTH OF THEM. IF HE HAD TWO BROTHERS, ONE IS TO PARTICIPATE IN THE HALIZAH AND THE OTHER MAY CONTRACT THE LEVIRATE MARRIAGE, only halizah must be first and the levirate marriage afterwards, but not the levirate marriage first, since, thereby, he might infringe [the interdict against] the sister of her who is connected with him by the levirate bond.[33]

IF TWO MEN BETROTHED TWO SISTERS etc. Does this imply that a betrothal which cannot culminate in connubial intercourse is also valid?[34] — Here also it is a case where they were known.[35] but were subsequently confused. This may also be proved by deduction, since it was stated, AND THE ONE DOES NOT KNOW,[36] and it is not stated 'and it is not known'.[37] This proves it.

What, then, does our Mishnah teach us?[38] — It was necessary to have the latter clause,[39] IF THEY DIED ... AND ONE LEFT ONE BROTHER AND THE OTHER LEFT TWO, THE ONE BROTHER MUST PARTICIPATE IN THE HALIZAH WITH THE TWO WIDOWS AND, [As REGARDS] THE TWO, ONE PARTICIPATES IN THE HALIZAH AND THE OTHER MAY CONTRACT THE LEVIRATE MARRIAGE.[40] Is not this obvious, being in the same case as the first clause?[41] -It might have been assumed that [levirate marriage should be forbidden in the case of] two brothers as a preventive measure against the case Of one, hence we were taught [that it was not so], and also that halizah must be first and the levirate marriage afterwards, but the .levirate marriage must not take place first, for thereby, one might infringe [the interdict against] a yebamah's marriage to a stranger.

IF ONE LEFT TWO BROTHERS AND THE OTHER ALSO LEFT TWO etc. What need was there again for this statement? It is, surely. the same![42] — It might have been assumed that [the marriage should be forbidden] as a preventive measure against marrying without previous (halizah,[43] hence we were taught [that no such measure Was enacted].[44] Wherein does this case differ from the following in which we learned: In the case of four brothers two of whom were married to two sisters, and those who were married to the sisters died, behold their widows may only perform the halizah but may not be taken in levirate marriage [by either of the levirs]?[45] -What a comparison![46]

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(1) He is forbidden to live with either since each might be 'his wife's sister'.

(2) Without issue.

(3) Who survived him.

(4) Since it is not known which is his sister-in-law. He may not marry the one and submit to halizah from the other, because the sister of a haluzah (v. Glos.) is Rabbinically forbidden. Even prior to the halizah with the one he may not marry the other; for if she is not his sister-in-law she is still forbidden to him as the sister of his zekukah (v. Glos.)

(5) With one of the widows.

(6) With the other, subsequent to the halizah of the first. This procedure is safe in either ease; if the second widow is really his sister-in-law he is legally entitled to marry her. But even if she is not, she is no longer forbidden as the sister of the first who was his zekukah since the halizah has severed the bond.

(7) Each brother married one of the sisters.

(8) Since each of them is entitled to marry one of the widows either as his yebamah (v. Glos.) or as a stranger. The question of the forbidden marriage of the sister of a zekukah does not arise, since both are now married, and the marriage of the zekukah to the one brother has severed her levirate bond with the other.

(9) Neither may marry any of the widows since either might happen to be the sister of his zekukah.

(10) Of the deceased.

(11) For the reasons explained supra p. 138, n. 9.

(12) And thus, in case she is the actual yebamah, severs the levirate bond between her and the brothers. Her sister may then be married by the other brother in any ease: If she is the sister-in-law he may rightly marry her; and if not, she is no longer forbidden as the sister of a zekukah in view of the fact that the halizah of the other had severed that bond.

(13) V. previous note.

(14) Each brother married one of the sisters.

(15) V. p. 138. n. 13.

(16) This Procedure enables both widows to marry. because in the case of each it may be said: If she is his yebamah, he may marry her since his brother did not participate in the halizah with her but with her sister who was a Perfect stranger to him, and the halizah with her is of no legal value. If, on the other hand, she is not his yebamah, he may certainly marry her as a stranger. The question of the ‘sister of a zekukah’ does not arise, since that bond has in any case been severed by the halizah in which his brother had participated with her sister.

(17) Brothers of one of the deceased.

(18) With both widows.

(19) One brother with the one widow and the other with the other widow; because whichever widow any one of them would desire to marry might be the sister of his .zekukah.

(20) With one ‘of the widows.

(21) With the other sister. For the reason cf. supra p. 139, n. 4.

(22) The second two brothers.

(23) After halizah was performed with the first.

(24) Each one of them one of the sisters.

(25) Cf. supra p. 138. n. 13.

(26) It is now assumed that even at the time of the betrothal it was not known which of the sisters was betrothed; when, for instance, the man said ‘I betroth one of you’ and both appointed an agent to receive on their behalf the token of betrothal. In such a case the man may have no connubial intercourse with either of the women since each might be his wife's sister.

(27) Since our Mishnah requires him to give a letter of divorce to each. Why then did this question remain a matter in dispute between Abaye and Raba in Kid. 51a?

(28) At the time of the betrothal, as to which was, and which was not the betrothed one. Hence it was a betrothal which could culminate in connubial intercourse.

(29) I.e, now.

(30) Which would have implied that the identity of the betrothed was never known.

(31) If the betrothal was valid and the man does not know now whom he betrothed it is self-evident that both women must be divorced!

(32) And because of the second the first also had to be stated.

(33) His zekukah. V. supra . 138, n. 11,

(34) Cf.supra p. 140, n.11.

(35) V.p. 140. n.12.

(36) I.e., now,

(37) V. p.140, n. 14.

(38) V.p. 140, n. 15.

(39) And because of the second the first also had to be stated.

(40) This indicates that halizah must take place first.

(41) Where it was stated that if there were two brothers one submits to halizah first while the other may subsequently contract the levirate marriage. (10) Lit., ‘a yebamah for the street’. A yebamah who is subject to the levirate marriage may not be married by a stranger before the levir has submitted to halizah. For further notes on the whole passage v. Kid., Sonc. ed. pp. 26off.

(42) As the one already made earlier in our Mishnah: ONE PARTICIPATES IN THE HALIZAH AND THE OTHER MAY CONTRACT THE LEVIRATE MARRIAGE. There it is a case of two brothers and here also of two groups of two, one of each participating in halizah and the other contracting levirate marriage.

(43) And each of the two brothers so marrying would infringe the prohibition against marriage of a doubtful yebamah and the sister of a zekukah.

(44) This could not have been inferred from the previous clause where only one marriage takes place. The fact that at least one of the sisters may not be married and must perform halizah only, would sufficiently indicate that in the case of the other also halizah by one brother must precede the marriage by the other. Where, however, as here, both sisters are married it might well have been considered likely that the law requiring previous halizah might be overlooked.

(45) ‘Ed. V, 5, infra 26a. [According to Rashi (he question is from the concluding part of that Mishnah which reads, ‘If they had forestalled (the Beth din) and married them, they must put them away’, whereas in our Mishnah it is ruled that they are not to be parted. Aliter: In our Mishnah levirate marriage may take place after halizah had been performed, whereas in the other Mishnah no levirate marriage is allowed at all for fear it is contracted before halizah. v. Tosaf. ha-Rosh.]

(46) Lit., ‘thus now’.

Talmud - Mas. Yevamoth 24a

There,[1] if one is to follow the view of him who said that a levirate bond does exist,[2] a levirate bond exists;[3] and if one is to follow him who said[4] that it is forbidden to annul the precept of levirate marriage,[5] well, it is forbidden to annul the precept of levirate marriage. Here, however, it is possible to assume that every one will happen to get his own.[6]

IF BOTH ANTICIPATED [THE BETH DIN] AND MARRIED THEY ARE NOT TO BE PARTED FROM THEM etc. Shila recited:

Even if both were priests.[7] What is the reason?[8] — Because a haluzah is only Rabbinically forbidden,[9] and in the case of a doubtful haluzah[10] the Rabbis enacted no preventive measures.[11] But is a haluzah only Rabbinically forbidden? Surely it was taught: From Put away[12] one might only infer the prohibition concerning a divorced woman; whence that of a haluzah? Hence it was explicitly stated, And a woman![13] The prohibition is really Rabbinical, and the Scriptural text is a mere prop.[14]

MISHNAH. THE COMMANDMENT OF THE LEVIRATE MARRIAGE DEVOLVES UPON THE [SURVIVING ELDER BROTHER]. IF A YOUNGER BROTHER, HOWEVER, FORESTALLED HIM, HE IS ENTITLED TO ENJOY THE PRIVILEGE.

allowed to marry one of the widows he would not be able either to contract levirate marriage or to participate in halizah with the other widow (she being forbidden to him as ‘his wife's sister’), should the other brother happen to die before he married that widow; and thus the entire precept of levirate marriage would in such a case be annulled. GEMARA. Our Rabbis learned: And it shall be, that the firstborn[15] implies[16] that the commandment of the levirate marriage devolves upon the [surviving elder brother];[17] that she beareth[15] excludes a woman who is incapable of procreation, since she cannot bear children: shall succeed in the name of his brother,[15] in respect of inheritance.[18] You say, ‘in respect of inheritance’;[19] perhaps it does not [mean that]. but, ‘in respect of the name’:[20] [If the deceased, for Instance, was called] Joseph [the child] shall be called Joseph; If Johanan he shall be called Johanan! — Here it is stated, shall succeed in the name of his brother[15] and elsewhere it is stated, They shall be called after the name of their brethren in their inheritance,[21] as the ‘name’ that was mentioned there [has reference to] inheritance, so the ‘name’ which was mentioned here [has also reference] to inheritance. That his name be not blotted out[15] excludes a eunuch[22] whose name is blotted out.

Said Raba: Although throughout the Torah no text[23] loses its ordinary meaning, here the :gezerah shawah[24] has come and entirely deprived the text of its ordinary meaning.[25]

But apart from the gezerah shawah, would it have been thought that ‘name’ actually signifies ‘a name'? To whom, then, does the All Merciful address the instruction![26] If to the levir, the wording should have been. 'shall succeed in the name of thy brother'; if to the Beth din, the wording should have been, 'shall succeed in the name of his father's brother'![27] — It is possible that the All Merciful thus addressed the Beth din: Tell the levir, 'He[28] shall succeed to the name of his[29] brother'; but the gezerah shawah has come and deprived the text entirely [of its ordinary meaning].

Now that it has been stated that Scripture speaks of the elder brother only, why not assume that the firstborn must perform the duty of the levirate marriage and that any ordinary brother may not contract a levirate marriage at all![30] — If so, what need[31] was there for the All Merciful to have excluded the 'wife of his brother who was not his contemporary'?[32]

R. Aha objected: Might it not be suggested that the exclusion[33] had reference to a mother's firstborn son![34] -You could not possibly have assumed that,[35] since the All Merciful has made levirate marriage dependent on inheritance, and the right of inheritance derives from the father and not from the mother.[36] But might It not be suggested that where there is a firstborn the commandment of the levirate marriage shall be observed;[37] where, however, there is no firstborn the commandment of the levirate marriage shall not be observed?[38] Scripture stated, And one of them died;[39] does not this include also the case where the firstborn died,[40] and so the All Merciful has said that the younger shall perform the duty of the levirate marriage?

But perhaps[41] [the text speaks of a case] where the younger died, and the All Merciful says that the firstborn shall perform the duty of the levirate marriage?-Surely, the All Merciful has excluded the wife of his brother who was not his contemporary![42]

May it be suggested that where there is no firstborn the younger brother, if he forestalled [the Beth din],[43] is entitled to the privilege,[44] but that where there is a firstborn the younger brother, even if he forestalled him, is not entitled to the privilege? — Scrip. stated, If brethren dwell together,[45] the dwelling of one brother was compared to that of the other.[46] May it be suggested that where there is a firstborn one turns to the eldest[47] but where there is no firstborn one does not turn to the eldest?[48] Why, then, did Abaye the Elder teach that the commandment to perform the duty of the levirate marriage is incumbent Upon the elder brother; if he refuses, the younger brother is approached;[49] if he also refuses,[50] the elder is approached again![51] — [Scripture has designated him] as the firstborn;[52] as with the firstborn the cause is his birthright, so with the elder brother the cause is his Seniority. Might it be said that when the firstborn performs the duty of the levirate marriage he also takes the inheritance[53] but when an ordinary brother performs the duty of the levirate marriage, he[54] does not take the inheritance?[53] Scripture stated, Shall succeed in the name of his brother[55] and behold he has succeeded![56]

But since the All Merciful called him the firstborn;[57]

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(1) Where both sisters are bound by the levirate tie.

(2) Between the levir and his deceased brother's widow from the moment death took place.

(3) Consequently both widows are forbidden in levirate marriage, each being in relation to the other a sister of one's zekukah. But such prohibition is never removed even when one of them subsequently performed the halizah with one of the brothers and has thus severed her levirate bond, for once a yebamah is prohibited to her deceased husband's brother for a single moment, she is in the same category as a widow of a brother who died with issue.

(4) The reason why none of the surviving brothers may marry one of the two widows.

(5) Were one brother to be

(6) Now, if the widow whom one of them bad married was really his yebamah. the other must be a total stranger to him and to the other brother; and since this might be said in the case of each pair of brothers where the marriage had already taken place. They are not, in the face of such a possibility. to be parted (Rashi). [According to the alternative interpretation (supra p. 142, n. 4.) in face of such a possibility the Rabbis saw no reason for enacting the preventive measure forbidding levirate marriage after halizah had been performed.]

(7) Who are forbidden to marry a haluzah.

(8) One of them, surely, must inevitably have married a haluzah since, In case she is not his yebamah, she is the betrothed of the stranger with whose brother (v. our Mishnah) she had performed halizah’

(9) To marry a Priest.

(10) As here where each brother can claim that the one he married was his yebamah.

(11) The prohibition consequently does not apply. Hence they may continue to live with the widows they had married.

(12) Lev. XXI, 7, speaking of priests.

(13) Ibid.. which proves that the prohibition is Pentateuchal.

(14) Asmakta, v. Glos.

(15) Deut. XXV, 6.

(16) Lit., ‘from here (it is deduced)’.

(17) The text of Deut. XXV, 6. being connected with v. 5 preceding it, thus: Her husband's brother shall ... take her to him to wife (v. 5) and he shall be the firstborn (ibid. v. 6). והיה in והיה הבכור may be rendered either, and it shall be (as E.V.) or and he (i.e., the levir) shall be as the Talmud here renders it.

(18) Only the brother who marries the widow, and no other brother, is entitled to the inheritance of the deceased.

(19) Taking the ‘brother’ who marries the widow as the subject of ‘shall succeed’. (Cf. supra n. 3)’

(20) The subject of ‘shall succeed’ being ‘the child’ that will be born from the levirate union.

(21) Gen. XLVIII, 6.

(22) Since he 15 Incapable of procreation. his wife is exempt alike from yibbum and halizah.

(23) Though it had been given a Midrashic interpretation.

(24) V. Glos. גזרה שוה the word analogy between the expression ‘name’ in the two cited texts.

(25) So that despite the ordinary meaning of the text, the child born from the levirate union need not be named after the deceased.

(26) About the name.

(27) Consequently. name in this text could not possibly have borne its ordinary meaning, but must have that given to it in the exposition supra. viz., that Beth din are instructed to hand over the inheritance Of the deceased to the levir who married his widow. An objection against Raba!

(28) The child that will be born.

(29) The levir's.

(30) Neither when there is, nor when there is not, a firstborn.

(31) Lit., ‘why to me’.

(32) He would in any case have been excluded since he was not the firstborn.

(33) Of the ‘wife of a brother who was not his contemporary’.

(34) Who was the paternal brother of the deceased.

(35) That a mother's firstborn should be regarded as the legal firstborn in respect of the levirate marriage.

(36) Hence there was no need to exclude him. The exclusion consequently indicates that by firstborn, in this context, any elder brother was meant.

(37) Either by the firstborn or by any other of the brothers, and that for this reason the exclusion of ‘a brother who was not his contemporary’ was necessary.

(38) At all; by any brother.

(39) Deut. XXV, 5, which refers to all cases, even to that where there were Only two brothers.

(40) Since the text does not specify any particular case.

(41) Lit., ‘and say’.

(42) Were it as suggested this exclusion would be unnecessary. Cf. supra p. 145, nn. 6 and 13.

(43) Married before the Beth din could prevent him.

(44) Of the levirate marriage.

(45) Deut. XXV. 5.

(46) All brothers must be equal in respect of the levirate marriage.

(47) If the other brothers refused to marry the widow it should be his duty to marry her.

(48) Not being the firstborn it is no more his duty to marry the widow than it is that of his brothers.

(49) I.e., all the brothers are approached in the order of seniority. V. Tosaf. s.v. ה ג, a.l., and cf. Rashi a.l.

(50) I.e., when the youngest of all has also refused to marry the widow.

(51) Now, since the brothers are approached. in the order of seniority. it is obvious that it is always the eldest, not necessarily the firstborn, upon whom the duty of the levirate marriage devolves!

(52) V. supra p. 144, n. 3.

(53) Of his deceased brother.

(54) The ordinary brother.

(55) Deut. XXV, 6.

(56) Hence any brother who marries the widow is entitled to the inheritance of the deceased.

(57) And not merely 'the elder' or 'the eldest'.

Talmud - Mas. Yevamoth 24b

what practical ruling was thereby intended?[1] — To impair his rights; As a firstborn does not take a double portion in his father's prospective property[2] in the same way as he does in that which is already In his possession,[3] so does this one[4] take no [double][5] portion In [his father's] prospective property[6] as he does in that which is already in his possession.[7]

MISHNAH. IF A MAN IS SUSPECTED OF [INTERCOURSE][8] WITH A SLAVE WHO WAS LATER EMANCIPATED, OR WITH A HEATHEN WHO SUBSEQUENTLY BECAME A PROSELYTE, LO, HE MUST NOT MARRY HER.[9] IF, HOWEVER, HE DID MARRY HER THEY NEED NOT BE PARTED.[10] IF A MAN IS SUSPECTED OF INTERCOURSE[8] WITH A MARRIED WOMAN[11] WHO, [IN CONSEQUENCE,] WAS TAKEN AWAY FROM HER HUSBAND,[12] HE MUST LET HER GO EVEN THOUGH HE HAD MARRIED HER.[13]

GEMARA. This implies that she may become a proper prose lyte.[14] But against this a contradiction is raised. Both a man who became a proselyte for the sake of a woman and a woman who became a proselyte for the sake of a man, and, similarly, a man who became a proselyte for the sake of a royal board, or for the sake of joining Solomon's servants,[15] are no proper proselytes. These are the words of R. Nehemiah, for R. Nehemiah used to Say: Neither lion-proselytes,[16] nor dream-proselytes[17] nor the proselytes of Mordecai and Esther[18] are proper proselytes unless they become converted at the present time. How can it be said, 'at the present time'?-Say 'as at the present time'![19] -Surely concerning this it was stated that R. Isaac b. Samuel b. Martha said in the name of Rab: The halachah is in accordance with the opinion of him who maintained that they were all proper proselytes. If so, this[20] should have been permitted altogether![21] - On account of [the reason given by] R. Assi. For R. Assi said,[22] Put away from thee a froward mouth, and perverse lip's etc.[23]

Our Rabbis learnt: No proselytes will be accepted in the days of the Messiah.[24] In the same manner no proselytes were accepted in the days of David nor in the days of Solomon.[25] Said R. Eleazar: What Scriptural [support is there for this view]?-Behold he shall be a proselyte who is converted for my own sake,'[26] he who lives with you shall be settled among you,[27] he only who 'lives with you' in your poverty shall be settled among you; but no other.

IF A MAN IS SUSPECTED OF INTERCOURSE WITH A MARRIED WOMAN etc. Rab said: [This[28] must be confirmed] by witnesses.[29] Said R. Shesheth: It seems[30] that Rab made this statement while he was sleepy and about to doze off;[31] for it was taught: 'If a man is suspected of intercourse with a married woman who, in consequences was taken away from her husband[32] and was subsequently divorced by another man,[33] he[34] need not part with her once he has married her'. Now, how is this to be understood? If it is a case where witnesses[35] are available, of what avail is it that another man stepped in and checked the rumour?[36] [Must we] not then [conclude that this is a case] where there were no witnesses;[35] and the reason[37] is because another man stepped in and checked the rumour, but had that not happened she would have been taken away from him?[38] — Rab can answer you: The same law, that where witnesses[35] are available she is taken away from him and that where no witnesses are available she is not taken away, applies also to the case where no other man stepped in and checked the rumour, but this it is that was meant: ‘Even if another man stepped in and checked the rumour it is not proper for him[39] to marry her’.[40]

An objection was raised: This[41] has been said in the case only where she had no children,[42] but if she has children[42] she must not be divorced.[43] If, however, witnesses to the seduction[44] presented themselves, she must go away from him[45] even if she had ever so many children![46] -Rab explains our Mishnah as dealing with the case where she has children and witnesses against her are available.

What, however, impels Rab to explain our Mishnah as dealing with a case where she has children and where witnesses against her are available, and to give as the reason why she is to be taken away, because witnesses are available, and [to imply that] if witnesses are not available she is not taken away; let him rather explain [our Mishnah as dealing with the case] where she has no children [and has to be taken away] even though no witnesses are available! Raba replied: Our Mishnah presented a difficulty to him. What point was there [he argued] for using the expression ‘WAS TAKEN AWAY’?[47] It should have been stated ‘he parted from her’;[48] but any such expression as ‘was taken away’ implies ‘by the Beth din’ and the Beth din take away Only where witnesses are available.[49]

If you prefer I may say that that Baraitha[50] represents the view of Rabbi;[51] for It was taught: When a pedlar[52] leaves a house and the woman within is fastening her sinnar,[53] since the thing is ugly she must, said Rabbi, go.[54] If spittle is found[55] on the upper part of the curtained bed, since the thing is ugly,[56] she must, said Rabbi, go.[54]

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(1) For all practical purposes. as it has been shewn, the elder or eldest brother has the same privileges as the firstborn; why, then, was the expression בכור, (firstborn) used instead of גדול(elder or eldest) which would have included the firstborn?

(2) Property which was not in his father's possession at the time of his death.

(3) At the time he died.

(4) The levir who marries the widow and is given a double share (his and that of the deceased) in the inheritance of their father.

(5) Rashi. [Aliter: the levir inherits only such property of the deceased brother as had been in the latter's possession at the time of his death. Any property that fell into his possession subsequent thereto he shares equally with the other brothers. On this view the levir has no claim to the share which the deceased brother would have been entitled to in the property of their father had he survived the father, v. Nimmuke Joseph and Me'iri.]

(6) V. supra note 3.

(7) V. note 4.

(8) נטען lit., ‘spoken against’ ‘having to be a defendant’. Rt. טען ‘to plead’, ‘sue’.

(9) Since such a marriage might confirm the rumour.

(10) Lit., ‘they do not take out of his hand’.

(11) Lit., ‘the wife of a man’.

(12) Lit., ‘and they (i.e., Beth din) took her out from under his hand’. He was ordered to divorce her.

(13) Because the woman is Biblically forbidden to both husband and seducer. (V. Sot. 27b).

(14) Even though her conversion was solely due to her desire to contract the marriage.

(15) To enter the king's employ.

(16) גרי אריות’proselytes of lions’, those who, like the Samaritans (II Kings XVII, 25), were converted to Judaism by the fear of divine visitation.

(17) גרי חלומות ‘proselytes of dreams’, those who embraced Judaism in response to a dream or the advice of a dreamer.

(18) V. Esth. VIII, 17. Those who from similar motives of expediency adopt the Jewish faith.

(19) In the dire days after the Hadrianic Wars, when the proselyte 15 not actuated either by motives of fear or of gain. Now, how is this Baraitha to be reconciled with Our Mishnah?

(20) The marriage of the proselyte spoken of in our Mishnah.

(21) Lit., ‘even as at the start’. Why then was it stated, HE MUST NOT HARRY HER?

(22) In explaining the reason for the prohibition of marrying the proselyte. (Rashi); v. Keth., Sonc. ed. p. 123. n. 5’

(23) Prov. IV, 24. Owing to the rumour of Previous Intercourse one should not contract such a marriage. V. supra p. 147, n. 10.

(24) When Israel will be Prosperous and Prospective proselytes will be attracted by worldly considerations.

(25) During Israel's heyday. V. previous note.

(26) Or who is converted while I am not with you (v. Rashi, a.l.) i.e., while Israel is in exile and forsaken by God.

(27) Isa. LIV, 15, according to the Midrashic interpretation of R. Eleazar. The rt. גור which E.V. renders ‘to gather’ is here interpreted ‘to become a proselyte’, ‘to be converted’.

(28) The suspicion.

(29) Who were present during the misconduct.

(30) Lit., ‘I would say’.

(31) Lit., ‘dozing and lying’.

(32) V. supra p. 147. nn. 9’ 12 and 13.

(33) To whom she was married after her first husband had divorced her.

(34) The paramour.

(35) V. supra note 3.

(36) By his marriage. The testimony of the witnesses surely caused her to be permanently prohibited to the paramour.

(37) Why the paramour need not divorce her once he has married her.

(38) How then could Rab maintain that she is taken away Only where there are witnesses?

(39) The paramour.

(40) Only if he already married her may she in this case remain with him.

(41) That the paramour must divorce her.

(42) From the first husband.

(43) A divorce would be regarded as a confirmation of the suspicion, and the children would thereby be tainted as bastards.

(44) Lit., ‘uncleanness’.

(45) The paramour.

(46) Which shews, contrary to the Opinion of Rab, that when see has no children ‘she is to part from her paramour even where witnesses are not available.

(47) הוציאה lit., ‘they (i.e. Beth din) took her away’.

(48) הוציאה, lit., ‘he (i.e., the husband) brought her out’.

(49) No wife may be taken away from her husband because of a mere rumour or suspicion.

(50) Which requires a wife who had no children to leave her husband even where no witnesses are available.

(51) Who forbids a wife to her husband even on the grounds of a rumour or suspicion. According to the other Rabbis, however, who are the majority, the woman, as Rab said, need not be taken away where no witnesses are available, even if she has no children.

(52) רוכל Rashi explains rokel as dealer in women's perfumes.

(53) The סינר was a kind of breech-cloth or petticoat women wore as a matter of chastity (v. Rashi, a.l.).

(54) Even if there were no witnesses that misconduct took place.

(55) After the pedlar had left the house.

(56) Only the woman lying face upwards could have spat on that spot Intercourse may. therefore, be suspected.

Talmud - Mas. Yevamoth 25a

if shoes[1] lie under the bed, since the thing is ugly,[2] she must, said Rabbi, go.[3] ‘Shoes’?[4] One can surely see whose they are! — Say rather the marks[5] of shoes.[6]

The law is in accordance with the view of Rab,[7] and the law is in accordance with the view of Rabbi.[8]

This, then, represents a contradiction between one law and the other! — There is no contradiction. One[9] refers to a rumour that had ceased;[10] the other, to a rumour that had not ceased. Where the rumour has not ceased, though no witnesses are available, [the law is] according to Rabbi; where the rumour has ceased but witnesses are available [the law is] according to Rab.

For how long [must a rumour continue in order to be regarded] as uninterrupted? Abaye replied: Mother[11] told me that a town rumour[12] [must remain uncontradicted for] a day and a half. This has been said Only in the case where It was not interrupted in the meantime. If, however, it was interrupted in the meantime, well, it was interrupted.[13] This, however, is only when the interruption was not due to intimidation, but if it was due to intimidation, well, it was due to intimidation.[14] This,[15] however, has been said only in the case where no enemies are about, but where enemies are about, well, it must have been the enemies who published the rumour.[13]

We learned elsewhere: If a man divorced his wife because of a bad name,[16] he must not remarry her; if on account of a vow he must not remarry her.[17] Rabbah son of R. Huna[18] sent to Rabbah son of R. Nahman: Will our Master Instruct us as to whether he[19] must part with her if he did remarry her? The other replied: We have learnt It: IF A MAN IS SUSPECTED OF INTERCOURSE WITH A MARRIED WOMAN WHO [IN CONSEQUENCE] WAS TAKEN AWAY FROM HER HUSBAND[20] HE MUST LET HER GO EVEN THOUGH HE HAS MARRIED HER![21] He said to him: Are these two cases at all alike? There[22] she was taken away;[23] here he[24] had let her go.[25]

And Rabbah son of R. Nahman?[26] — In our Mishnah also we learned, ‘He let her go’.[27] But even now, are they at all alike? Here[28] it is the husband;[29] there[30] it is the seducer![31] — The other replied: They are indeed alike.[32] For here[30] the Rabbis said, ‘he[33] must not marry her, and if he did marry he must let her go’ and there[27] also the Rabbis would Say, ‘he[34] must not remarry her and if he did remarry he must let her go’. This, however, is not [much of an argument]. There[30] he lends colour to the rumour,[35] while here it might well be assumed that he[34] investigated the rumour and found it to be groundless. MISHNAH. A MAN WHO BRINGS A LETTER OF DIVORCE FROM A COUNTRY BEYOND THE SEA[36] AND STATES, ‘IT WAS WRITTEN IN MY PRESENCE AND IT WAS SIGNED IN MY PRESENCE’, MUST NOT MARRY THE [DIVORCER'S] WIFE.[37] [SIMILARLY, IF HE STATES]. ‘HE DIED’, ‘I KILLED HIM’, OR ‘WE KILLED HIM’, HE MUST NOT MARRY HIS WIFE. R. JUDAH SAID:

[IF THE STATEMENT IS], ‘[36] KILLED HIM’, THE WOMAN MAY NOT MARRY [ANY ONE];[38] [IF, HOWEVER, IT IS], ‘WE KILLED HIM’,

THE WOMAN MAY MARRY AGAIN.[39]

GEMARA. The reason then[40] is because he came FROM A COUNTRY BEYOND THE SEA, in which case we have to entirely upon him;[41] but [had he come] from the Land of Israel, in which case we need not depend upon him,[42] would he have been allowed to marry the divorcer's wife? But, surely, when the Statement is, ‘HE DIED’, in which case we do not depend entirely upon him since a Master said, ‘a woman[43] makes careful inquiry before she marries’[44] and yet it was stated, HE MUST NOT MARRY HIS WIFE! — There,[45] no document exists, but here[46] a document[47] does exist. For thus we have learned: Wherein lies the difference between [the admissibility of] a letter of divorce and [that of evidence of] death?[48] In that the document[47] supplies the proof.[49]

[SIMILARLY, IF HE STATES], ‘HE DIED’, ‘I KILLED HIM’, OR ‘WE KILLED HIM’, HE MUST NOT MARRY HIS WIFE. Only he, then, must not marry his wife, she, however, may be married to another man? But, surely, R. Joseph said: [If a man stated], ‘So-and-so committed pederasty with me against my will’, he and any other witness may be combined[50] to procure his execution; [if, however, he said], ‘with my consent’,[51] he is a wicked man concerning whom the

Torah said, Put not thy hand with the wicked to be an unrighteous witness![52] And were you to reply that matrimonial evidence[53] is different because the Rabbis have relaxed the law in its case,[54] surely, [it may be pointed out], R. Manasseh stated:

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(1) So MSS. Cur. edd. add. ‘overturned’.

(2) The shoes indicating the presence of an unknown stranger on the bed.

(3) Even if there were no witnesses that misconduct took place.

(4) So MSS. Cur. edd. add. ‘overturned’.

(5) Lit., ‘place of’, i.e., the shoes have left marks on the floor.

(6) Cur. edd. contain the following addition. ‘Overturned under the bed, said Rabbi, since the thing is ugly she shall go’. All this with the exception of the first word is enclosed in parentheses. Cf. Rashal.

(7) That no rumour or suspicion is to be relied upon in forbidding a wife to her husband. Only the evidence of witnesses may be acted upon.

(8) Cf. supra p. 150, n. 7.

(9) The law according to Rab.

(10) I.e., when a contradictory rumour obtained currency.

(11) His foster-mother. V. Kid. 31b.

(12) דומי, ‘suspicion’ or ‘gossip’.

(13) And it cannot any more be regarded as ‘an uninterrupted rumour’.

(14) The force of the rumour is not thereby impaired.

(15) That an uninterrupted rumour is relied upon.

(16) Suspected immorality.

(17) V. Git., Sonc. ed. pp. 200ff, q.v. notes.

(18) So Emden. Cur. edd: Omit ‘R’.

(19) Who divorced his wife ‘because of a bad name’.

(20) [So MS.M. in conformity with the text of our Mishnah. Cur. edd.: and he had let her go.]

(21) So also in the case under discussion, though he married her, he must part from her.

(22) In our Mishnah.

(23) By the Beth din acting on the evidence of witnesses.

(24) Her husband at his own discretion.

(25) And the prohibition to remarry her is only Rabbinical. Hence it is possible that once he has remarried her he need not part from her.

(26) How can he draw a comparison between two dissimilar cases?

(27) Though there were no witnesses. Consequently, the woman is forbidden to her paramour Rabbinically only on the ground of suspicion (cf. supra p. 148. n. 10) and yet it was stated that he must part with her, which proves that even where the prohibition to marry is Rabbinical only (cf. supra note 9) the woman must be parted from the man.

(28) Rabbah b. R. Huna's enquiry.

(29) Whose remarriage of his former wife is obviously not suggestive of any immorality.

(30) Our Mishnah.

(31) Whose marriage with the woman undoubtedly lends colour to the rumoured suspicion. In such circumstances it is quite reasonable to order their separation. How can this, however, be used as an example for the case in the enquiry? (Cf. supra n. 13).

(32) Since the prohibition in both cases is only Rabbinical.

(33) Her paramour.

(34) The woman's former husband.

(35) Lit., ‘he enforces the rumour’. Cf. supra n. 15.

(36) מדינת הים, lit., ‘country of the sea’, a term applied to all countries of the world exclusive of Palestine and Babylonia.

(37) Since the validity of the divorce 15 entirely dependent on his word (v. infra n. 6) he may be suspected of giving false evidence with a view to marrying the woman himself. As, however, a woman 15 permitted to marry even if only a single witness had testified to the death of he husband, she is allowed to marry any other man.

(38) Having admitted murder he cannot any longer be regarded as a reliable witness.

(39) This is explained infra.
(40) Why the man who brings the letter of divorce may not marry the divorcer's wife.
(41) The divorce not being valid unless the carrier of the letter of divorce can testify that it was written and signed in his presence. (V. Git. 20).
(42) Reliance being placed on the qualified scribes of Palestine, there is no need for the carrier of a letter of divorce to declare that he witnessed the writing and the signing of it.
(43) Ab death of whose husband is attested by one witness Only.
(44) And for this reason is allowed to remarry. Infra 53 b, 115a. 116b.
(45) In the case of evidence of death.
(46) Divorce.
(47) The letter of divorce.
(48) I.e., why are certain relatives accepted as legally qualified. carriers of a letter of divorce but not as witnesses to the death of a husband?
(49) V. Git. 23b, infra 117a.
(50) The two together forming a pair of witnesses, the minimum required for bringing about a man's condemnation by a court of law.
(51) Was the crime committed.
(52) Ex. XXIII, which shews that a man who admitted a criminal offence may not act as a witness at all!
(53) In allowing a woman to marry on the evidence of the death of her husband.
(54) In other cases two witnesses are required and in this case one is sufficient.

Talmud - Mas. Yevamoth 25b

‘One who is Rabbinically regarded as a robber[1] is eligible to be a witness in matrimonial matters;[2] one, however, who is Biblically regarded as a robber is ineligible to act as witness in matrimonial matters;[3] would it then be necessary to assume that R. Manasseh holds the same opinion as R. Judah?[4] - R. Manasseh can answer you: My statement may be reconciled even with the view of the Rabbis, but the reason of the Rabbis[5] here is the same as that of Raba. For Raba said, ‘A man is his own relative and consequently[6] no man may declare himself wicked’.

Must it then be assumed that R. Joseph[7] is of the same opinion as R. Judah?[8] — R. Joseph can answer you: ‘My Statement may be in agreement even with the view of the Rabbis, but matrimonial evidence[9] is different, since the Rabbis relaxed the law in its case;[10] and it is R. Manasseh who adopted the view of R. Judah’.

‘I KILLED HIM’ etc., ‘WE KILLED HIM ... MAY MARRY etc. What is the practical difference between ‘I killed him’ and ‘we killed him’?[11] — Rab Judah said: [Our Mishnah speaks of the case] where he said, ‘I was present together with his murderers’ —[12] Has it not, however, been taught: They said to R. Judah, ‘It once happened that a robber when led out to his execution in the Cappadocian Pass[13] said to those present,[14] "Go and tell the wife of Simeon b. Kohen that I killed her husband when I entered Lud" [others Say: When he entered Lud], and his wife was permitted to marry again’![15] He answered them: Is there any proof from there? [It was a case] where he said, ‘I was present together with his murderers’.[12] But it was stated, ‘a robber’! — He was apprehended on account of robbery.[16] But it was stated, ‘led out to his execution’! — [He was sentenced by] a heathen court of law who executed without due investigation.[17]

MISHNAH. A SAGE WHO HAS PRONOUNCED A WOMAN FORBIDDEN TO HER HUSBAND BECAUSE OF A VOW[18] MUST NOT MARRY HER HIMSELF.[19] IF, HOWEVER, A WOMAN MADE A DECLARATION OF REFUSAL[20] OR PERFORMED HALIZAH IN HIS PRESENCE, HE MAY MARRY HER, SINCE HE [WAS BUT ONE OF THE] BETH DIN.[21]

GEMARA. This implies that if he had disallowed her vow, be would have been permitted to marry her![22] What then are the circumstances?[23] If [he acted] alone, could one disallow a vow? Surely[24] R. Hiyya b. Abin said in the name of R. Amram that it was taught: The disallowance of vows is to be carried out by three! If, however, three were Present, would they be suspected? Surely we learned, IF, HOWEVER, A WOMAN MADE A DECLARATION OF REFUSAL OR PERFORMED HALIZAH IN HIS PRESENCE, HE MAY MARRY HER, SINCE HE [WAS BUT ONE OF THE] BETH DIN!-The fact is that [he acted] alone, and[25] as R.

Hisda said in the name of R. Johanan, ‘By a fully qualified individual’,[26] so here also it is a case of one fully qualified individual.[26]

IF A WOMAN MADE A DECLARATION OF REFUSAL, OR PERFORMED HALIZAH etc. The reason, then,[27] is because [he was one of a] Beth din,[28] but had he been one of a group of two only. would he not [have been permitted]? Wherein, then, does this case differ from the following concerning which it was taught:[29] If witnesses signed on [a document relating to] a purchased field or on a letter of divorce, the Rabbis do not apprehend such collusion![30] — It is this very thing that he taught us,[31] viz., that the opinion of him who said that a declaration of refusal may be made in the presence of two is to be rejected and that one is to infer[32] that a declaration of refusal must be made in the presence of three.[33]

The question was raised: If he[34] married her[35] must he part from her? R. Kahana said: Though he married, he must part from her. R. Ashi said: Once he has married, he need not part from her.

R. Zuti at the School of R. Papa recited [a teaching] in accordance with the opinion of him who said that if he[34] married her[35] he need not part from her. Said the Rabbis to R. Ashi: Is this[36] a tradition or a matter of opinion? He answered them: It is a Mishnah: If a man is suspected of intercourse with a slave who was subsequently emancipated, or with a heathen who subsequently became a proselyte, lo, he must not marry her; if, however, he did marry her the marriage need not be dissolved. Which proves

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(1) A gambler, for instance, who is not Biblically forbidden to act as a witness. V. R.H. 220.

(2) V. note 4.

(3) Which proves that even in matrimonial matters a murderer (a man Biblically regarded as wicked) is not eligible as a witness.

(4) Who in our Mishnah rejected the evidence of the man who admitted murder. The halachah being according to the Rabbis who are the majority, would R. Manasseh ignore the majority in favour of a minority?

(5) For admitting the evidence of a man who announced himself as a murderer.

(6) As no relative is admitted as witness.

(7) Who does not admit the evidence of the man who declared himself a murderer, (supra 25a).

(8) V.p. 154, n. 9.

(9) V. p. 154, n. 4.

(10) V. supra p. 154, n. 5. Hence they also admitted the evidence of one who declared himself to be a murderer.

(11) In either case he admitted murder.

(12) But did not himself participate in the crime.

(13) Or ‘ford’.

(14) Lit., ‘to them’.

(15) Tosef. Yeb. IV; which proves that the evidence of a murderer is accepted.

(16) V. n. 10. He was Only present during the robbery.

(17) The condemned man, however, was not a murderer.

(18) Which the woman made. If she vowed, for instance, to derive no benefit from her husband, and he did not annul her vow; and on consulting the Sage and finding no ground for the remission of her vow (v. Ned. 22b), her vow was not disallowed and her husband was consequently forbidden to her.

(19) To avoid the suspicion that his motive in forbidding the woman was to marry her himself.

(20) V. Glos. s.v. mi'un.
(21) Declarations of refusal and the performance of halizah, unlike the disallowance or confirmation of vows, must always take place in the presence of a court of three; and a court of three would not be suspected.
(22) If her husband subsequently divorced her or died.
(23) Lit., 'in what are we engaged'.
(24) Cur. edd. add in parentheses. 'Rab said'.
(25) As to the difficulty of the implication that one individual should be in a position to disallow vows.
(26) A mumhe (v. Glos.) who, like a lay court of three, is empowered to disallow vows by himself. Ned. 78b, B.B. 120b, 121a.
(27) Why the Sage may marry the woman in question.
(28) Which consists of no less than three members.
(29) Cur. edd., we learned'.
(30) Lit., 'this thing'. They do not, as a precaution against collusion, forbid the witnesses the subsequent purchase of the field from the buyer. or the marriage with the woman n whose divorce they assisted. This obviously shews that even a group of two is not to be suspected!
(31) By mentioning Beth din which implies three members.
(32) From the mention of Beth din in our Mishnah.
(33) And not, as has been assumed, that only three are not to be suspected. Two also are above suspicion.
(34) The Sage referred to in our Mishnah (Rashb. and Asheri). The Sage or the man who delivered a letter of divorce mentioned in the previous Mishnah (Rashi and Maimonides). V. Wilna Gaon, Glosses, a.l.
(35) The woman who was forbidden to her husband or the one divorced (v. previous note).
(36) The statement R. Ashi made.

Talmud - Mas. Yevamoth 26a

that [once a woman was married she] is not taken away because of a mere rumour; and so here also [the woman married] is not to be taken away because of a rumour.

MISHNAH. IF ALL THESE[1] HAD WIVES[2] WHO [SUBSEQUENTLY] DIED, [THE OTHER WOMEN][3] ARE PERMITTED TO MARRY THEM.[4] IF THEY[3] WERE MARRIED TO OTHERS[5] AND WERE [SUBSEQUENTLY] DIVORCED,[6] OR WIDOWED, THEY MAY BE MARRIED TO THESE.[7] THESE[8] ARE ALSO PERMITTED TO THEIR[6] SONS OR BROTHERS.[9]

GEMARA. Only if they[10] died[11] but not if they were divorced.[12] Said R. Hillel to R. Ashi: Surely, it was taught: Even if they were divorced! — This is no difficulty: The one[13] refers to the case where they led[14] a quarrelsome life;[15] the other,[16] where they[17] had no quarrels.[18] If you prefer I might say that the one as well as the other [refers to the case] where there were no quarrels, and yet there is no difficulty: The former[16] is a case where the husband had led on [to the divorce];[19] in the latter,[20] she led on to the divorce.

IF THEY WERE MARRIED etc. It was now assumed that death[21] has reference to the case of death,[22] and divorce[23] to that of divorce.[24] Must it then be said that our Mishnah[25] is in disagreement the delivery of the letter of divorce by the messenger, or the evidence of the man who testified to their husbands' deaths. with the view of Rabbi? For had it been in agreement with Rabbi, [a third marriage would not have been allowed], for he said that two occurrences constitute a hazakah.[26] — No;[27] death[28] [has reference] to divorce,[29] and divorce[28] to death.[30]

THESE ARE ALSO PERMITTED TO THEIR SONS OR BROTHERS. Wherein is this different from the following where it was taught:[31] A man who is suspected of intercourse with a woman is forbidden to marry her mother, her daughter and her sister.[32] -It is the usual thing for women to pay frequent visits to other women;[33] it is not usual, however, for men to pay frequent visits to other men.[34] Or [this] also:[35] Women who do not cause one another to be forbidden by their cohabitation[36] do not particularly mind one another;[37] men, however, who do cause one another to be forbidden by their cohabitation[38] do mind one another.[34] If so,[39] [the same law[40] should] also [apply to] one's father![41] -The meaning is, ‘There is no need’,[42] [thus]: There is no need [to state that the law[40] is applicable to] one's father before whom a son is shy;[43] but [in the case of] one's son[44] before whom a father[44] is not shy it might have been assumed [that this law was] not [to be applied], hence we were informed [that the same law was applicable to a son also].

CHAPTER III

MISHNAH. [IN THE CASE OF] FOUR BROTHERS, TWO OF WHOM WERE MARRIED TO TWO SISTERS, IF THOSE WHO WERE MARRIED TO THE SISTERS DIED, BEHOLD. THESE[45] MUST PERFORM HALIZAH BUT MAY NOT BE TAKEN IN LEVIRATE MARRIAGE [BY THE BROTHERS].[46] IF THEY HAD ALREADY[47] MARRIED THEM, THEY MUST DISMISS THEM. R. ELIEZER SAID: BETH SHAMMAI HOLD THAT THEY MAY RETAIN THEM, AND BETH HILLEL HOLD THAT THEY MUST DISMISS THEM.

IF ONE OF THE SISTERS[48] WAS FORBIDDEN TO ONE [OF THE BROTHERS] UNDER THE PROHIBITION OF INCEST,[49] HE IS FORBIDDEN TO MARRY HER BUT MAY MARRY HER SISTER,[50] WHILE TO THE SECOND BROTHER BOTH ARE FORBIDDEN.

[IF ONE SISTER,][48] WAS FORBIDDEN BY VIRTUE OF A COMMANDMENT[51] OR BY VIRTUE OF HOLINESS[51] SHE MUST PERFORM THE HALIZAH BUT MAY NOT BE TAKEN IN LEVIRATE MARRIAGE.

IF ONE OF THE SISTERS[48] WAS FORBIDDEN TO ONE BROTHER UNDER THE LAW OF INCEST AND THE OTHER SISTER WAS FORBIDDEN TO THE OTHER UNDER THE LAW OF INCEST, SHE WHO IS FORBIDDEN TO THE ONE IS PERMITTED TO THE OTHER AND SHE WHO IS FORBIDDEN TO THE OTHER IS PERMITTED TO THE FIRST. THIS IS THE CASE CONCERNING WHICH IT HAS BEEN SAID: WHEN HER SISTER IS HER SISTER-IN-LAW[52] SHE MAY EITHER PERFORM HALIZAH OR BE TAKEN IN LEVIRATE MARRIAGE.[53]

GEMARA. This then[54] implies that a levirate bond exists;[55] for if no levirate bond exists, observe this point: These widows come from two different houses,[56] let one brother take in levirate marriage the one and the other brother the other![57] — As a matter of fact it may still be assumed that no levirate bond exists[55] [but the levirate marriage is nevertheless forbidden] because he[58] is of the opinion that it is forbidden to annul the precept of levirate marriage, it being possible that while one of the brothers married [one of the widowed sisters] the other brother would die,[59] and the precept of levirate marriage would be annulled.[60] If so,[61] [the same applies to] three [brothers] also![62] — This may be regarded as the case of ‘There is no need etc.’;[63] thus: There is no need to state three,[64] since the precept of levirate marriage would inevitably have to be annulled;[65] but [in the case of] four[66] [it might have been assumed that] one need not take precautions against [possible] death,[67] hence we were informed [that even in such a case levirate marriage is forbidden].[68] If so,[69]

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(1) Lit., ‘and all of them’. The Sage, the messenger who brought a letter of divorce and the man who testified to the death of a husband. (V. previous two Mishnahs, supra 250, 25b).

(2) At the time of their action which resulted in enabling the women there mentioned to marry.

(3) I.e. the women concerned in their respective actions. V. previous note.

(4) Having had their own wives at the time they were engaged in the other women's affairs they are not to be suspected of any ulterior motives. Cf. supra p. 153, n. 2 and p. 155. n. 12.

(5) After the decision of the Sage,

(6) By their second husbands.

(7) Cf. supra p. 157, n. 6.
(8) V. p. 157, n. 8.
(9) The prohibition being limited to themselves.
(10) The wives of the Sage, messenger and witness (cf. supra p. 157, n. 6).
(11) Lit., ‘they died, yes’; only then is it permissible for the husbands to marry the women whom they had helped to obtain permission to marry.
(12) It being possible that their action in favour of the women and the subsequent divorces were dictated by the same ulterior motive.
(13) The Baraitha quoted by R. Hillel.
(14) Before their respective husbands had acted in favour of the other women.
(15) With their husbands. It is consequently obvious that the divorces were due to the domestic differences, and that the husband's subsequent actions were not dictated by ulterior motives.
(16) That implied in our Mishnah.
(17) V. supra note 5.
(18) As husbands and wives lived in peace until the former had met the other women, there is good reason to suspect that the divorces were due to these meetings.
(19) Hence there is cause for suspicion.
(20) V. supra note 8.
(21) Of the second husbands with whom marriage had taken place In the meanwhile.
(22) In the second clause of the Previous Mishnah but one (supra 25a), where evidence was given that the woman's first husband had died or was killed.
(23) Cf. supra n. 16.
(24) Where a letter of divorce was brought by a messenger, (v. the first clause of the Mishnah supra 25a).
(25) Which allows a woman to marry a third husband though her first two husbands had died or divorced her.
(26) V. Glos. An established characteristic or defect in the woman, physical or moral, which confirms her as the cause of the death of her husbands or as the cause of the divorces. Hence, she should not have been permitted ever to marry again.
(27) Our Mishnah does not differ from Rabbi.
(28) V. p. 158, n.16. .
(29) V. p.158,n.19.
(30) V. supra p. 158. n. 17. Hence no two husbands died or divorced the same woman, and no hazakah could, therefore, have been constituted.
(31) Cur. edd., ‘we learned’.
(32) Because there is reason to suspect that the marriage was planned by the man as a mere means of bringing him into closer association and intimacy with his paramour. Why, then, is this suspicion disregarded in the case of our Mishnah?
(33) Misconduct may, therefore, occur and suspicion (v. previous note) is justified.
(34) And suspicion that any intimate intercourse might take place would, therefore, be groundless.
(35) May be said in reply.
(36) With one another's husbands. The husband is not forbidden to his wife if cohabitation occurred between him and another woman.
(37) V. note 8.
(38) With one another's wives. The wife of one with whom the other cohabited is forbidden to her husband.
(39) That men are watchful of one another, and that consequently there is no ground for suspicion.
(40) Permitting the marriage of any of the women in question.
(41) Why, then, does our Mishnah mention sons and brothers only?
(42) Lit., ‘it is not required he said’.
(43) And would not venture to be too intimate with his wife.
(44) Or brother.
(45) The sisters.
(46) The reason is explained in the Gemara, infra.
(47) Lit., ‘anticipated’ (the ruling of the court).
(48) In the case mentioned in the first paragraph of our Mishnah.
(49) E.g., as a mother-in-law.

(50) Who is not forbidden on account of her rival since the latter is biblically forbidden to the levir and cannot be regarded as his zekukah (v. Glos.).
(51) The term is used in the Mishnah supra 20a and discussed in the Gemara loc. cit.
(52) The wife of her husband's brother.
(53) V. supra 20a. Cf. supra p. 162, n. 6.
(54) The first clause of our Mishnah.
(55) Between the widow of a deceased childless brother and his surviving brothers, in consequence of which each widow being a zekukah (v. Glos.), is forbidden as the sister of a zekukah.
(56) They are the widows of two different husbands and neither of them stands in any marital relationship with any of the surviving brothers (v. previous note).
(57) A levirate bond then obviously does exist. That being so, why has the question of the existence of a levirate bond remained a matter of dispute in Ned. 742 and supra 17b?
(58) The author of our Mishnah.
(59) And thus be prevented from marrying the other widow.
(60) Because the surviving brother would then not be able either to marry, or to participate in the halizah with the second widow who by that time will have become his wife's sister. If, however, halizah only is performed with one brother and the death of the other should occur before the second widow had performed halizah with him, no difficulty would arise, since the first brother may then participate in the halizah of the second also.
(61) That the reason for the prohibition of the levirate marriage with the widowed sisters is not the existence of a levirate bond but the endeavour to prevent the annulment of the precept of levirate marriage.
(62) If two of them died childless and both their widows become subject to the levirate marriage or halizah of the third. In this case too the third brother must only participate in halizah; for, should he marry one of the sisters, the other would be forbidden, as the sister of his wife, either to marry him or to perform halizah with him.
(63) Lit., ‘it is not required, do we say’.
(64) That where one of three brothers survived, no levirate marriage must take place.
(65) Were he to marry one of the widows. Cf. supra p. 162, n. 8.
(66) Brothers, two of whom survived.
(67) And that consequently one brother should marry one of the widows and the other brother the other.
(68) Because provision must always be made against possible death.
(69) v. previous note.

Talmud - Mas. Yevamoth 26b

the same applies to five brothers also![1] -The possibility that two might die[2] need not be taken into consideration.

Rabbah[3] son of R. Huna said in the name of Rab:If three sisters who are sisters-in-law fell to the lot of two brothers who are their brothers-in-law, one of the brothers participates in her halizah with one, and the other brother participates in the halizah with the other, but the third,[4] requires halizah from both. Said Rabbah to him: Since you say that the third widow requires submission to halizah by both brothers, you must be holding the opinion that a Ievirate bond exists[5] and that the halizah is of an impaired character,[6] and that as an impaired halizah it must go the round of all the brothers;[7] but if so, [the same should apply to] the first [two sisters] also![8] — If they[9] had become subject [to the levirs] at the same time the law would indeed have been so;[10] [the statement of our Mishnah, however,] was required only in the case where they become subject [to the Ievirs] one after another. When the first sister became subject to the obligation of the levirate marriage. Reuben[11] participated in her halizah;[12] when the second came Under the obligation. Simeon[13] participated in her halizah;[14] when the third came under the obligation.[15] if the one brother participated in her halizah he removed his own levirate bond,[16] and when the other participated in the halizah he likewise removed his own levirate bond. But, surely. Rab said that no levirate bond exists![17] — This statement[18] he made in accordance with the opinion of him who maintains that a levirate bond does exist.

Samuel, however, stated that one brother participates in the halizah with all of them. But consider: We have heard Samuel say that a proper halizah is required for Samuel said:

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(1) Two of whom who were married to two sisters died and three survived. In this case also, if provision is to be made against the possibility of death, no levirate marriage should be allowed to any of the three survivors, since it might happen that two of the survivors would also die and the last and only surviving brother would be precluded from levirate marriage and halizah because the widows would then be his wife's sisters.

(2) Lit., 'for the death of two'.

(3) So Emden. Cur. edd., 'Raba'.

(4) Lit., 'the middle one'.

(5) V. supra p. 162, n. 3'

(6) Since each brother may only participate in halizah with the widow but may not, as she is the sister of his haluzah (v. Glos.). marry her. Such a halizah is not of the same validity as one which is the alternative of a permitted levirate marriage.

(7) The levirate bond between the widow and the other brothers cannot be dissolved by such a halizah with one of them. [Me'iri seems to have had a shorter and smoother text: . . . that a levirate bond exists and that an impaired halizah must go the round of all the brothers'.]

(8) Since they, like the third, are subject to the Ievirate bond, and with them also only halizah, but not levirate marriage may take place, and their halizah also is consequently of an impaired character.

(9) All the three sisters.

(10) Halizah would have had to be performed by every one of them with every brother.

(11) I.e., the first brother. Reuben was Jacob's first son (Gen. XXIX, 32).

(12) This was a proper halizah since at that time he could have married her if he wished.

(13) I.e., the second brother. Simeon was the second son of Jacob. (Cf. Gen. XXIX, 33)'

(14) This also was a proper halizah since he could marry her if he wished. She is no longer the sister of his zekukah (v. Glos.) since the first brother had already performed with that zekukah proper halizah and had thereby severed the levirate bond between her and Simeon as well as between her and himself.

(15) Levirate marriage is no more possible since, in the case of each brother, she is the sister of his haluzah, while exemption from !halizah cannot be granted because the prohibition to marry the sister of one's haluzah is only Rabbinical and cannot supersede the Biblical precept which requires halizah where no levirate marriage takes place.

(16) Which otherwise could not have been severed. V. previous note.

(17) Supra 17b.

(18) Reported supra by Rabbah b. R. Huna.

Talmud - Mas. Yevamoth 27a

if he[1] participated in the halizah with the sisters, the rivals are not exempt;[2] how then should Reuben,[3] where the halizah of Simeon[4] has the force of a valid halizah,[5] participate in an impaired halizah?[6] — By saying. 'One brother participates in the halizah with all of them' he also meant 'the third widow'.[7] But surely, 'All of them' was stated![8] -As the majority is on his side[9] it may be described as 'All of them'. If you prefer I might say: Only in respect of exempting one's rival[10] did Samuel say that proper halizah was required; as regards exempting herself, however, [any halizah][11] sets her free.[12]

[To turn to] the main text ,[13] Samuel said: If he[14] participated in the halizah with the sisters, the rivals are not exempt;[15] ff with the rivals. the sisters are exempt.[16] If he[17] participated in the halizah with the one[18] who had been divorced,[19] her rival is not thereby exempt;[20] if with the rival[21] the divorced woman is exempt —[22] If he[17] participated in the halizah with one[18] to whom he addressed a ma'amar, her rival is not thereby exempt;[23] if with the rival,[24] the widow to whom the ma'amar had been addressed is exempt.[25]

In what respect are the sisters different that [by their halizah] the rivals should not be exempted?

Apparently because [each one of them] is ‘his wife's sister’ through the levirate bond;[26] [but for this very reason] the sisters also, if he participated in the halizah with their rivals, should not be exempt, since those are the rivals of ‘his wife's sister’ through the levirate bond![27] — Samuel holds the opinion that no Ievirate bond exists. But, surely, Samuel said that a levirate bond did exist![28] -He was here speaking in accordance with the view of him who maintains that a levirate bond does not exist. If so,[29] why are not the rivals exempt when he participated In the halizah with the sisters? One can well understand why Rachel's[30] rival is not exempt; for, as he had already participated in the halizah of Leah[31] and only subsequently participated in the halizah of Rachel, Rachel's halizah is a defective one;[32] but Leah's rival should be exempt![33] -When he[34] said that ‘The rivals are not exempt’, he meant indeed the rival of Rachel. But, surely, he used the expression ‘rivals’![35] -Rivals generally. If so,[36] how could the sisters be exempt if he participated in the halizah with their rivals? Is Rachel exempt by the halizah of her rival![37] Surely we learned: A man is forbidden to marry the rival of the relative of his halizah[38] — Samuel also [is of the same opinion] but draws a distinction according to the manner In which[39] one began or did not begin: If one began with the sisters[40] he must not finish with the rivals,[41] for we learned, ‘A man is forbidden to marry the rival of the relative of his haluzah’;[42] but if he began with the rivals[43] he may finish even with the sisters,[44] for we learned, ‘A man is permitted to marry the relative of the rival of his haluzah’.[45]

R. Ashi said: Your former assumption[46] may still be upheld, and [yet no difficulty[47] arises] because the levirate bond is not strong enough to make the rival equal to the forbidden relative herself.[48]

It was taught in agreement with the view of R. Ashi: If the levir participated in the halizah with the sisters, their rivals are not thereby exempt; but if with the rivals, the sisters are thereby exempt. What is the reason? Obviously[49] because he is of the opinion that a levirate bond exists and that that bond is not strong enough to make the rival equal to the forbidden relative herself.

R. Abba b. Memel said: Who is the author of this?[50] Beth Shammai; for we learned: Beth Shammai permit the rivals to the [surviving] brothers.[51] If so,[52] let them[53] be taken in levirate marriage also![54] [This is] in agreement with R. Johanan b. Nuri who said: Come, let us issue an ordinance that the rivals perform the halizah but do not marry the levir.[55] But did not a Master say that they had hardly time to conclude the matter before confusion set in?[56] — R. Nahman b. Isaac replied: After him[57] they re-ordained it.

The question was raised:

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(1) A levir whose two deceased childless brothers were survived by two widows who were sisters, each of whom had also a rival.

(2) Because the halizah with the sisters is defective, the levir not being in a position to marry either of them. Cf. supra p. 263, n. 11,

(3) Cf. supra note 2,

(4) cf. note 4.

(5) Simeon, having participated in no halizah, the second sister is not the sister of his haluzah.

(6) In the case of Reuben who had already participated in the halizah of one sister, the halizah with the second is a halizah performed by the sister of his haluzah, which is not a completely valid operation.

(7) I.e., the second brother, after he participated in the halizah with the second widow, also participates in the halizah with he third (who is now the sister of his as well as of his brother's haluzah): and there is no need, according to Samuel, for a defective halizah to go the round of all the surviving brothers.

(8) How- then could the expression ‘all’ refer to the second and third widows only?

(9) Simeon having participated in the halizah of two widows out of the three.

(10) As he actually said, ‘The rivals are not exempt’.

(11) Even a defective one.

(12) In the case of the three widows mentioned above, where there are no rivals, the defective halizah is, therefore, valid even according to Samuel.

(13) A passage from which was cited supra top of page.

(14) V.p. 164,n. 10.

(15) V.p. 164, n.11.

(16) As the prohibition to marry the rivals is not so severe as that of the sisters, the halizah with the former is of greater validity and force than that with the latter. Cf. supra p. 163,n.11.

(17) The levir.

(18) Of two sisters-in-law, widows of the same brother.

(19) By the levir prior to the halizah.

(20) A halizah after a divorce is defective, since the levirate bond had already been partially severed by the divorce that preceded it.

(21) Since no letter of divorce was given to her.

(22) Infra 51a.

(23) Since the halizah alone does not in this case exempt the widow; a divorce also, owing to the ma'amar, being required.

(24) To whom no ma'amar had been addressed.

(25) infra 53a.

(26) In consequence of which he may marry neither of them and the halizah in which he participates is for this reason of a defective character.

(27) A rival taking the place of a forbidden relative, being subject to the same restrictions as the relatives, is also forbidden to be taken in levirate marriage.

(28) Supra 18b.

(29) That no levirate bond exists and the halizah with the sisters is consequently perfectly valid.

(30) I.e., the sister who was second to perform the halizah. Rachel was Jacob's second, Leah his first wife (v. Gen. XXIX, 23-28).

(31) I.e., the first sister. Cf. previous note.

(32) Because Rachel cannot any more be married to him owing to her being the sister of his haluzah.

(33) Leah's halizah having been perfect, since the levir could have married her if he wished.

(34) Samuel.

(35) The plural.

(36) That the expression of ‘rivals’ refers only to rivals of the sister who was second to perform the halizah and not to those of the first also.

(37) Would the sister of a haluzah be exempt by the halizah of her rival?

(38) Infra 40b. As he cannot marry the rival of Rachel who is his haluzah's sister, his halizah with her would be of a defective character which, consequently, could not exempt Rachel.

(39) Lit., ‘he said’.

(40) Participated in the halizah with one of them.

(41) By participating in the halizah with the rival of the second sister. Such halizah would not exempt the sister.

(42) Much more so the relative herself. The halizah, therefore, being defective, would have to be performed by both the second sister and her rival.

(43) If he participated in the halizah with the rival of the first sister.

(44) He may participate in halizah not only with the rival of the second sister and thus exempt the sister herself, but also with the second sister and thus exempt her rival.

(45) Rachel (the second sister), being the relative of Leah (the first sister) who is the ‘rival’ of the haluzah, is consequently permitted to marry the levir, and her halizah is, therefore, perfectly valid and exempts also her rival.

(46) That the rivals are not exempted by the halizah of the sisters, owing to its defectiveness which is due to the existence of the levirate bond (cf. supra p. 164, n. 21).

(47) As to why the halizah of the rival of the relative of a haluzah should be more valid than that of the relative of the haluzah herself (v. supra p. 266, n. 2).

(48) The Rabbis who forbade the marriage of a zekukah owing to the levirate bond did not extend the prohibition to her rival. The halizah of the latter is, therefore, more valid and exempts also the former.

(49) Lit., ‘not’?
(50) The Baraitha quoted.
(51) Supra 132, ‘Ed. Iv, 8; as marriage with the rivals is permitted, their halizah also (cf. supra p. 163, n. 11) is perfectly valid.
(52) That the Baraitha quoted represents the view of Beth Shammai.
(53) The rivals.
(54) Why then was only halizah mentioned?
(55) Supra 13b, 14b.
(56) Supra15a, q.v. notes.
(57) R. Johanan b. Nuri.

Talmud - Mas. Yevamoth 27b

Between the one[1] who was given[2] a letter of divorce and the other[1] to whom a ma'amar had been addressed[2] who is to be preferred?[3] Is she who was divorced to be preferred.[4] or is, perhaps, she to whom the ma'amar had been addressed to be preferred since she is nearer to him in respect to intercourse? — R. Ashi replied, Come and hear: R. Gamaliel, however, admits[5] that a letter of divorce[6] after a ma'amar,[7] and a ma'amar[6] after a letter of divorce[8] is valid.[9] Now, if a letter of divorce has the preference.[10] the ma'amar after it should have no validity; and if the ma'amar has the preference, the divorce after it should have no validity. Consequently it must be concluded that they have both equal validity. This proves it.

R. Huna[11] said in the name of Rab: If two sisters who were sisters-in-law became subject to one levir, the one is permitted[12] when he[13] has participated in her halizah; and the other is permitted[14] when he has participated in her halizah. If the first[15] died[16] he[17] is permitted [to marry] the second,[18] and there is no need to state that if the second[19] died[16] the first is permitted,[14] since, as a sister-in-law who was permitted,[20] then forbidden[21] and then again permitted,[22] she returns to her former state of permissibility. R. Johanan, however, said: If the second[19] died[16] he[17] is permitted to marry the first,[23] but if the first[24] died he is forbidden to marry the second.[19] What is the reason? Because any sister-in-law to whom the injunction. Her husband's brother shall go in unto her[25] cannot be applied at the time of her coming under the obligation of the levirate marriage[26] is, indeed,[27] like the wife of a brother who has children and is, consequently, forbidden. But does not Rab hold the same view?[28] Surely Rab said: Any woman to whom the injunction, Her husband's brother should go in unto her[25] cannot be applied at the time of her coming under the obligation of the levirate marriage is, indeed, like the wife of a brother who has children and is, consequently, forbidden![29] -That statement[30] applies only to the case where the woman is faced with the prohibition of ‘a wife's sister’, which is Pentateuchal;[31] here, however, [the prohibition due to] the levirate bond is only Rabbinical.[32]

R. Jose b. Hanina raised the following objection against R. Johanan:[33] IN THE CASE OF FOUR BROTHERS, TWO OF WHOM WERE MARRIED TO TWO SISTERS, IF THOSE WHO WERE MARRIED TO THE SISTERS DIED, BEHOLD, THESE MUST PERFORM HALIZAH BUT MAY NOT BE TAKEN IN LEVIRATE MARRIAGE. But why? Let one of the brothers take on the duty of participating in the halizah with the second widow, and thus place the first widow, in relation to the second, in the category of a deceased brother's wife that was permitted- then forbidden, and then again permitted,[34] and thus she would return to her former state of permissibility! — The other replied: I do not know who was the author of the statement concerning the sisters.[35] But let him rather reply that the meaning of the expression of MUST PERFORM THE HALIZAH, which had been used, indeed signifies that only one is to perform the halizah![36] -The expression used was THEY MUST PERFORM THE HALIZAH.[37] Then let him reply that the expressions THEY MUST PERFORM THE HALIZAH[37] refers to women generally[38] who perform the halizah!-It was stated, BEHOLD THESE.[39] Let him, then, reply that [this is a case] where halizah was already performed by the first![40] -[The expression] THESE MUST PERFORM HALIZAH

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(1) Of two widows of the same husband who was survived by one brother.

(2) By the surviving brother.

(3) In respect of the halizah, if that halizah is to exempt the rival. None of these widows may be taken in levitate marriage: the one, because a letter of divorce was given to her, and the other, because she is the rival of the former. The only question is, which of the two should perform the halizah and which should thereby be exempt.

(4) I.e., shall she perform the halizah and thus exempt her rival? Cur. edd. add., ‘because he began with her with halizah’. Rashal (Glosses. a.l.) reads, ‘divorce’ for ‘halizah’. Both additions are absent in MSS, v. Tosaf. s.v. בעלה)-

(5) Though he holds that a divorce to one of the widows of his deceased brothers after a divorce to her rival is invalid (infra 50a).

(6) To one of the widows of his deceased childless brother.

(7) That had been first addressed to the other widow, her rival.

(8) Given first to the other.

(9) Infra 51a. Lit., ‘there is’. If the ma'amar was made first, the subsequent divorce forbids the marriage of the second and also that of the first, the ma'amar to her not being regarded as actual marriage, and if the divorce was first and the ma'amar afterwards, the second widow also requires a divorce, the divorce of the first not having the force of halizah to invalidate the ma'amar addressed to the second.

(10) Over the ma'amar.

(11) Asheri: Judah.

(12) To marry any stranger.

(13) The levir.

(14) To marry any stranger.

(15) Widow; the one whose husband died first, and who became subject to the levirate marriage before the other.

(16) Before she had performed the halizah with the levir.

(17) The levir.

(18) Since death had severed his levirate bond with the first, and the surviving widow is no longer the sister of a zekukah.

(19) The widow of the brother who died after the first, and who became subject to the levirate marriage after the subjection of the first.

(20) To the levir. At the time she became subject to him there was no other zekukah.

(21) When her sister's husband died.

(22) When her sister died.

(23) V. note 2, because at the time she became subject to the levirate marriage she was permitted to him.

(24) V. note 2.

(25) Deut. XXV, 5.

(26) As in this case where she was forbidden to the levir, as ‘the sister of his zekukah’, at the time she came under the obligation of the levirate marriage through her husband's death.

(27) Lit., ‘behold’.

(28) That had been advanced by R. Johanan.

(29) Infra 30a, 111b.

(30) Of Rab, just quoted.

(31) As in the case of three brothers two of whom were married to two sisters (infra 30a) in connection with which Rab made his statement.

(32) And is, therefore, removed as soon as one of the sisters dies.

(33) The same objection applies to Rab also (Rashi). Cf. however, Tosaf. s.v. איתיביה a.l.

(34) V. supra2 p. 169, nn. 7, 11.

(35) I.e., the Mishnah is not authoritative. —

(36) Lit., ‘she performs the halizah, (namely) one’, i.e., the second widow.

(37) חולצות the pr. particip. Plural.

(38) In similar circumstances.

(39) Which implies the two spoken of.

(40) So that the other, who is not exempted by that of the first, must also perform halizah.

Talmud - Mas. Yevamoth 28a

is an instruction as to what it is the proper thing to do.[1] Let him reply that it[2] was a preventive measure against the possibility of the levir's participating first in the halizah of the first![3] — It was stated, BUT MAY NOT BE TAKEN IN LEVIRATE MARRIAGE, i.e., the law of the levirate marriage is not applicable here at all.[4] Let him, then, reply that it[5] was a preventive measure in case he[6] might die,[7] it being forbidden to annul the precept of levirate marriage![8] — R. Johanan makes no provision against possible death.[9] Then let him reply that it[5] is the ruling of R. Eleazar[10] who said that so long as she remained forbidden to him for one moment she is forbidden to him for ever![11] — Since the latter clause [represents the view of] R. Eleazar,[12] the first clause cannot represent his view. Then let him reply that it[13] is a case where they[14] fell under the obligation[15] at the same time, and that it represents the opinion of R. Jose the Galilean who maintains that it is possible to ascertain simultaneity![16] — The Tanna would not have recorded an anonymous Mishnah in agreement with the view of R. Jose the Galilean. Let him reply [that it[13] is a case] where it is not known which[17] came under the obligation[15] first![18] — If that were the case[19] how could it have been stated,[20] EVEN IF THEY HAD ALREADY MARRIED THEM THEY MUST DISMISS THEM! In the case of the first,[21] at least, one can understand [the reason].[22] since he can be told, ‘Who permitted her to you’?[23] In the case, however, of the second,[24] the levir[25] could surely claim, ‘My friend[26] has taken the second in levirate marriage[27] and I take the first ‘[28] This, then,[29] is the reason why he[30] said to him,[31] ‘I do not know who was the author of the statement concerning the sisters’.[32]

We learned: IF ONE OF THE SISTERS WAS FORBIDDEN TO ONE [OF THE BROTHERS] UNDER THE PROHIBITION OF INCEST,[33] HE IS FORBIDDEN TO MARRY HER BUT MAY MARRY HER SISTER, WHILE TO THE SECOND BROTHER BOTH ARE FORBIDDEN. It was now assumed that his mother-in-law[34] came under the obligation[35] first.[36] Now, why [should both sisters be forbidden]?[37] Let the son-in-law undertake the duty of marrying first that sister who is not his mother-in-law,[38] and his mother-in-law, in relation to the other levir, would thereby come into the same category as a sister-in-law that was permitted,[39] then forbidden,[40] and then permitted again,[41] who returns to her former state of permissibility! R. Papa replied: [They are forbidden] in a case where she who was not his mother-in-law came under the obligation[42] first.[43]

R. ELIEZER SAID: BETH SHAMMAI HOLD etc. The following was taught: R. Eliezer said: Beth Shammai hold that they may retain them, and Beth Hillel hold that they must dismiss them. R. Simeon said: They may retain them. Abba Saul said: Beth Hillel uphold in this matter the milder rule, for it was Beth Shammai who said that the women must be dismissed while Beth Hillel said they may be retained.[44]

Whose view does R. Simeon represent?[45] If that of Beth Shammai,[46] he is merely repeating R. Eliezer; if that of Beth Hillel,[46] he is repeating Abba Saul! It was this that he meant: In this matter there is no dispute at all between Beth Shammai and Beth Hillel.

IF ONE OF THE SISTERS etc. But we have learned this already: When her sister is her sister-in-law she may either perform halizah or be taken in levirate marriage![47] — [Both are] necessary. For had the law been stated there[48] it might have been assumed [to apply to that case alone],[49] because there is no need to enact a preventive measure against a second brother,[50] but not [to the case] here where it might be advisable to issue a preventive measure against a second brother.[50] And had the law been stated here,[51] it might have been assumed [to apply to this case alone] because there is a second brother who proves it[52] but not [to that case] where no second brother exists.[53] [Hence were both] required.

BY VIRTUE OF A COMMANDMENT etc. But we have [already] learned this also:

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(1) And not as to what is to be done in certain eventualities. Lit., ‘for as at the beginning, it was taught’.

(2) The provision that both widows are to perform halizah and that none may be taken in levirate marriage.

(3) And then he would marry the second, in his erroneous assumption that, as he may participate in the halizah of the second and marry the first, so he may participate in the halizah of the first and marry the second. This, however, does not imply that if he already did participate in the halizah of the second he may not, after her death, marry the first. In this latter case the reason for the marriage with the first would be obvious and would leave no room for erroneous conclusions.

(4) Even if halizah was first performed by the second.

(5) The provision in our Mishnah that both widows must perform halizah and none of them may be taken in levirate marriage.

(6) One of the surviving brothers who intended to marry one of the widowed sisters.

(7) After the second brother had married the second widow and had thus become disqualified from marrying or participating in the halizah of the other — who is now forbidden to him as the sister of his wife.

(8) And this only is the reason for the prohibition of the levirate marriage with either of the sisters. Had this prohibition been due to the levirate bond, as suggested, the first would certainly have been permitted to marry the levir after halizah with the second, which had severed the levirate bond, had taken place. Consequently, in the case discussed by R. Johanan, where the second died, and the preventive measure is not applicable. the first may indeed be taken in levirate marriage!

(9) The ruling in our Mishnah could not, therefore, be due to a preventive measure.

(10) Bah a.l. reads, ‘Eliezer’ throughout the context.

(11) Infra 1092; while R. Johanan, agreeing with the Rabbis, may disregard this individual opinion.

(12) His authorship being specifically stated there.

(13) V. note 2, supra

(14) Both sisters.

(15) Of the levirate marriage.

(16) supra 19a, Bek. 92a

(17) Of the two widowed sisters.

(18) So that there is no known ‘second’ widow with whom to participate in the halizah

(19) That the prohibition in our Mishnah to marry the two widowed sisters is entirely due to the fact that it is not known which of them was the first to become a widow and which was second; and that, had the fact been known, the first would have been permitted to be taken in the levirate marriage.

(20) Lit., ‘(is it) that why it was stated’!

(21) I.e., the levir who married first, Cf. Bah a.l. Cur. edd. read, ראשומה for ראשון

(22) Why the woman must be dismissed.

(23) Before the marital bond between him and her sister was severed she was forbidden to him as the sister of his zekukah. Hence he must rightly dismiss her.

(24) Levir (v. Bah) who married after his brother had married one of the widows. Cur. edd. שניב for שני.

(25) When he is ordered to divorce the woman.

(26) The levir who married first.

(27) I.e., the sister who became widow second; and naturally no one could disprove his contention.

(28) Who became permitted to him owing to the previous marriage of her sister who, he claims, was the second widow. The marriage of the second severs the marital bond between the sister and the levirs, and thus liberates the first from the prohibition of ‘the sister of one's zekukah’ and brings her under the category of ‘permitted, forbidden and permitted again’.

(29) Since this last suggested answer is also untenable.

(30) R. Johanan, supra 27b.

(31) R. Jose.

(32) Cf. supra p. 170. n. 3’

(33) If she was, for instance, his mother-in-law.

(34) V. previous note. ‘Mother-in-law’ is taken as an instance of any forbidden relative.

(35) Of the levirate marriage.
(36) I.e., her husband died before the other brother.
(37) To marry the other levir.
(38) That widow is permitted to him, because she is neither his forbidden relative nor the sister of his zekukah, since a forbidden relative is not a zekukah.
(39) Since at the time she became subject to the levirate marriage she was not the sister of a zekukah.
(40) When her sister became the zekukah of the surviving levirs by the death of her husband.
(41) ‘When his brother had contracted with her the levirate marriage.
(42) Of the Ievirate marriage.
(43) So that his mother-in-law who came under the obligation next was never for one moment permitted even to the other levir.
(44) Tosef. v.
(45) Lit., ‘R. Simeon like whom’. He could not possibly advance a view of his own, since he is not sufficiently great to disagree either with Beth Shammai or with Beth Hillel.
(46) I.e., if he maintains that what he said was their view.
(47) Supra 20a, which Implies the law here stated, viz, that he is forbidden to marry the forbidden relative but may marry her sister.
(48) And not here.
(49) Where one brother only is involved.
(50) Who might marry a sister of his zekukah by mistaking the reason for the levirate marriage of his brother.
(51) And not there.
(52) That there is a special reason why his brother may marry one of the sisters. The fact that he himself does not marry either of the sisters is sufficient proof that the sister of a zekukah is forbidden.
(53) And people might erroneously infer that the sister of a zekukah is always permitted.

Talmud - Mas. Yevamoth 28b

If she is forbidden by virtue of a commandment or by virtue of holiness she must perform halizah and may not be taken in levirate marriage![1] -There[1] it is a question of one forbidden by virtue of a commandment alone,[2] but here [it is a case of one] forbidden by virtue of a commandment and [by virtue of] her sister.[3] Since it might have been assumed that the prohibition by virtue of a commandment shall take the same rank as the prohibition by the law of incest[4] and [her sister] should, therefore, be taken in levirate marriage, hence we were taught [that the law is not so].

But how could she[5] possibly be taken in levirate marriage? Since Pentateuchally she[6] is to submit to him,[7] he would come in contact with the sister of his zekukah[8] -It might have been thought that such provision[9] was made by the Rabbis for the sake of the precept,[10] hence we were taught [that it was not so].

IF ONE OF THE SISTERS etc. What need was there again for this statement? Surely, it is precisely identical [with the one before]![11] For what difference is there whether [a woman is forbidden] to one or to two?- [Both are] required. For had the former only[12] been stated, it might have been assumed [that the law was applicable there only] because there exists a second brother to indicate the cause,[13] but not here where there is no second brother to indicate it.[14] And if the statement had been made here only it might have been assumed on the contrary that both brothers afford proof in regard to each other,[15] but not in the other case;[16] [hence both were] required.

THIS IS THE CASE CONCERNING WHICH IT HAS BEEN SAID etc. What is the expression, THIS IS intended to exclude?[17] -To exclude the case [where one sister was forbidden by] Virtue of a commandment to the one [brother]. and [the other sister was forbidden] by virtue of a commandment to the other. But what need was there for this [additional statement]? Surely it is precisely identical [with that mentioned before];[18] for what difference is there whether it relates to one or to two! — It might have been thought that only where there is the necessity of providing for a preventive measure against a second brother do we not say that the prohibition by a commandment takes the same rank as a prohibition by the law of incest,[19] but that where there is no necessity to provide against a second brother we do say that in the case of the one brother the prohibition by a commandment is to be given the same force as the prohibition by the law of incest, and that also in the case of the other brother the prohibition by a commandment is to be given the same force as the prohibition by the law of incest, and that the sisters may consequently be taken in levirate marriage; hence we were taught [that such an assumption is not to be made].

Rab Judah said in the name of Rab and so did R. Hiyya teach: In the case of all these[20] it may happen that she who is forbidden to one brother[21] may be permitted to the other,[22] and that her sister who is her sister-in-law may either perform the halizah or be taken in the levirate marriage;[23] and Rab Judah interpreted it[24] [as referring to those][25] from one's mother-in-law onward but not to the first six categories. What is the reason? Because this[26] is only possible in the case of a daughter born from a woman who had been outraged.[27] but not in that of a daughter born from a legal marriage.[28] [and the author of that Mishnah][29] deals only with cases of legal matrimony and not with those of outraged women.[30]

Abaye. however, Interprets it[24] as referring also to a daughter from a woman that had been outraged. because, since [the application of Rab's statement][31] is quite possible in her case, it matters not whether she was born from a woman who was legally married or from one that had been outraged; but not to the ‘wife of a brother who was not his contemporary’ since this[31] is possible only according to the view of R. Simeon[32] and not according to that of the Rabbis and he[33] does not deal with any matter which is a subject of controversy. But R. Safra interprets [it[34] as referring] also to the ‘wife of a brother who was not his contemporary’, and this[34] is possible in the case of six brothers in accordance with the view of R. Simeon.[35] And your mnemonic is, ‘died, born, and performed the levirate marriage; died, born, and performed the levirate marriage’.[36] [Suppose. for instance]. Reuben and Simeon[37] were married to two sisters, and Levi and Judah were married to two strangers. When Reuben died, Issachar was born and Levi took the widow in levirate marriage. When Simeon died, Zebulun was born and Judah took [the second widow] in levirate marriage. When Levi and Judah subsequently died without issue and their widows fell under the obligation of the levirate marriage before Issachar and Zebulun, she[38] who is forbidden to the one[39] is permitted to the other[40] while she[41] who is forbidden to the other[42] is permitted to the first.[43]

In the example of ‘her sister who is her sister-in-law’,[44] what need was there[45] for Judah to contract the levirate marriage? Even if Judah did not contract any levirate marriage it is also possible![46] — Owing to the rival.[47] This[48] satisfactorily explains the case of the rival; what can be said, however, in respect of the rival's rival?[49] — If, for instance, Gad and Asher also subsequently married them.[50]

MISHNAH. IF TWO OF THREE BROTHERS WERE MARRIED TO TWO SISTERS, OR TO A WOMAN AND HER DAUGHTER, OR TO A WOMAN AND HER DAUGHTER'S DAUGHTER, OR TO A WOMAN AND HER SON'S DAUGHTER, BEHOLD, THESE[51] MUST[52] PERFORM THE HALIZAH[53] BUT MAY NOT BE TAKEN IN LEVIRATE MARRIAGE.[54] R. SIMEON, HOWEVER, EXEMPTS THEM.[55]

IF ONE OF THEM[56] WAS FORBIDDEN TO HIM BY THE LAW OF INCEST, HE IS FORBIDDEN TO MARRY HER BUT IS PERMITTED TO MARRY HER SISTER. IF, HOWEVER, THE PROHIBITION IS DUE TO A COMMANDMENT OR TO HOLINESS, THEY MUST PERFORM THE HALIZAH BUT MAY NOT BE TAKEN IN LEVIRATE MARRIAGE.

GEMARA. It was taught: R. Simeon exempts both from the halizah and the levirate marriage. for it is said in the Scriptures, And thou shalt not take a woman to her sister, to be a rival to her:[57] when they become rivals to one another,[58] you may not marry even one of them.

IF ONE OF THEM WAS etc. What need was there again for this statement? Surely it is the same![59] -It was necessary because of the opinion of R. Simeon: As it might have been assumed that, since R. Simeon had said that two sisters were neither to perform halizah nor to be taken in levirate marriage. A preventive measure should be enacted[60] against two sisters generally.[61] hence we were taught[62] [that it was not so].[63]

IF, HOWEVER, THE PROHIBITION IS DUE TO A COMMANDMENT etc.

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(1) Supra 202, Sanh. 532.

(2) Only one sister-in-law being concerned.

(3) Since two sisters, the widows of the two brothers, are here involved, and one of them is forbidden not only as the sister of his zekukah but also by virtue of a commandment.

(4) As the one is not regarded as a zekukah so neither is the other.

(5) The sister of one forbidden by virtue of a commandment.

(6) The sister-in-law forbidden by virtue of a commandment.

(7) To levirate marriage; her prohibition being only Rabbinical.

(8) Which cannot obviously be permitted. What need, then. was there for a law that is so obvious.

(9) The permission to marry the sister of his zekukah.

(10) Of the levirate marriage. In order that this precept may be fulfilled they may have removed the prohibition of the marital bond, which is only Rabbinical, in cases where the woman is not forbidden by the law of incest but by virtue of a commandment only.

(11) Where one sister-in-law is similarly forbidden to one levir, and he is permitted to marry her sister.

(12) Lit., ‘there’.

(13) Since one brother is forbidden to marry either sister it will be obvious that the brother was permitted to marry one of the sisters for a special reason.

(14) Since both brothers marry respectively the two sisters, it might be assumed that any levir may marry the sister of his zekukah.

(15) Since each brother is permitted to marry only one particular sister and not the other, it is obvious that the other is forbidden to him. The law of zekukah could not consequently be mistaken.

(16) Where there is only one brother, and no other brother to indicate that there is a special reason why the sister of his apparent zekukah. should be permitted to be taken in Ievirate marriage.

(17) THIS IS implies this and no other.

(18) In our Mishnah: [IF ONE SISTER] WAS FORBIDDEN BY VIRTUE OF A COMMANDMENT... SHE MUST PERFORM THE HALIZAH AND MAY NOT BE TAKEN IN LEVIRATE MARRIAGE.

(19) V. supra p. 174. n. 6.

(20) The fifteen forbidden categories enumerated in the Mishnah, supra 2af.

(21) As a forbidden relative under the law of incest.

(22) With whom she is not so closely related.

(23) The prohibition of the one under the law of incest removes the marital bond, and her sister who, in consequence, is no longer the ‘sister of a zekukah’, may, therefore, be married to, or perform the halizah with the levir to whom the former is forbidden.

(24) Rab's statement.

(25) Of the fifteen relatives enumerated in the Mishnah mentioned.

(26) That two sisters shall be the daughters of two brothers, and that the one forbidden to one brother shall be permitted to the other brother. V. n. 8.

(27) If, of four brothers, A, B, C and D, A had a daughter from a woman he had outraged. and B had a daughter from the same woman whom he outraged after A, and these daughters of A and B, who are maternal sisters, married their father's brothers, C and D, who subsequently died without issue, A's daughter is permitted to B (who is her brother-in-law but otherwise a complete stranger) and is forbidden to A her father. For similar reasons A's daughter is permitted to A and forbidden to B. Thus it is possible for two sisters to marry the two levirs respectively because each one of them is a daughter of the other levir to whom she is forbidden by the law of incest.

(28) Since the mother of such a daughter would be forbidden to marry her husband's brother, even though she had been divorced by her husband after the birth of that daughter.

(29) Supra 2a, which is now under discussion.

(30) And since the case of a daughter could not be included (v. supra nn. 8 and 9), the other five cases which also bear on a daughter had equally to be excluded.

(31) V. supra p. 176. n. 7.

(32) Supra 18b. V. also R. Safra's interpretation and notes, Infra.

(33) Rab or R. Hiyya.

(34) Rab's statement.

(35) Who in certain circumstances permits the marriage of the ‘widow of a brother who was not his contemporary’. V. supra 18b.

(36) v. infra, when (a) death, (b) birth and (c) marriage occurred in this order in the case of both groups of brothers.

(37) Jacob's sons, the sequence of whose births is known (v. Gen. XXIX. 32-XXX, 20), are taken here as an illustration of the possibility of the application of Rab's statement in certain circumstances of birth, death and marriage.

(38) The widow of Levi.

(39) To Issachar, because he was born before the marriage of Levi had removed the levirate bond between Reuben's widow and the other brothers, and thus came under the prohibition of marrying ‘the wife of his brother who was not his contemporary’.

(40) To Zebulun who was born after she had married Levi and the levirate bond between her and the other brothers had been removed.

(41) The wife of Judah.

(42) To Zebulun, to whom the widow of Simeon stands in the same relation as the widow of Reuben to Issachar. (V. supra note 9).

(43) Issachar who was Simeon's contemporary.

(44) Supra.

(45) In R. Safra's interpretation.

(46) For one sister to be forbidden to one brother and permitted to the other, and vice versa. Suppose Reuben died, and then Issachar was born, and Levi married the widow; then Simeon died, Zebulun was born, and Levi died; and the widows of Simeon and Levi came under the obligation of the levirate marriage with Issachar and Zebulun. Levi's widow is forbidden to Issachar owing to the levirate bond originating from her first husband, Reuben, (v. supra p. 177, n. 9) and is permitted to Zebulun (v. p. 177, n. 10), while Simeon's widow is forbidden to Zebulun (v. p. 177, n. 12) and permitted to Issachar (v. p. 177. n. 13). Now, since the point may be illustrated by five brothers, why was it necessary to bring in six?

(47) As the Mishnah under discussion (supra 2af) speaks of the rivals it was desired to give an illustration which may be applicable to rivals as well as to the forbidden relatives, and this could only be done by assuming that Judah married Simeon's widow. Had he not married her, the rival would have had to be not Judah's but Simeon's wife who would thus be forbidden to Zebulun not as ‘rival’ but as ‘the wife of his brother who was not his contemporary’.

(48) The illustration with the six brothers.

(49) How is it possible that one rival's rival shall be forbidden to one brother and permitted to the other while the other rival's rival should be forbidden to the other brother and permitted to the first?

(50) The first wives of Levi and Judah (the rivals of their second wives, the widows of Reuben and Simeon). If Gad who married, say. the widow of Judah, and Asher who married, say. the widow of Levi died subsequently without issue and were survived by their wives who are now subject to the levirate marriage with Issachar and Zebulun the surviving brothers, Gad's first wife, the rival of his second wife (the widow of Judah) who was the rival of Simeon's wife, is forbidden to Zebulun as the rival's rival of the wife of Simeon who was not his contemporary, but is permitted to Issachar. Similarly Asher's first wife is forbidden to Issachar and permitted to Zebulun.

(51) The women enumerated.

(52) If their husbands, the two brothers, died without issue.

(53) With the third surviving brother.

(54) By that brother; since both are related to him by the ‘levirate bond’ and each is forbidden to him as the consanguineous relative of the woman connected with him by such bond.

(55) Even from the halizah. V. Gemara infra.

(56) The sisters.

(57) Lev. XVIII, 18.

(58) The Ievirate bond which subjects both to the same levir causing them to be rivals.

(59) As that which had been taught in an earlier Mishnah in the case of four brothers, supra 26a.

(60) Forbidding levirate marriage even where the prohibition of one is due to the law of incest.

(61) Lit., ‘of the world’. If permission to marry one of the sisters were given where one is forbidden by the law of incest, it might be mistakenly concluded that levirate marriage is allowed even when none was forbidden by the law of incest.

(62) By the statement in our Mishnah that one IS PERMITTED TO MARRY HER SISTER.

(63) The similar statement in the earlier Mishnah (supra 262) does not prove this point as far as R. Simeon is concerned, since it refers to the view of the Rabbis according to whom the marriage of the sister of a zekukah is only Rabbinically forbidden and no preventive measure is obviously required against a possible infringement of such a prohibition. According to R. Simeon, however, who regards the marriage of a sister of a stekukab as incest, a preventive measure might have been expected had not our Mishnah proved the contrary.

Talmud - Mas. Yevamoth 29a

But did not R. Simeon state that two sisters[1] are neither to perform the halizah nor to be taken in levirate marriage![2] — This[3] is a preventive measure against any other case where the prohibition is due to a commandment —[4] This is a satisfactory explanation in respect of herself;[5] what, however, can be said in respect of her sister?[6] -The provision was made in the case of her sister as a preventive measure against herself.[7] But, surely. no such preventive measures were made in the case where one was forbidden as incest![8] — A case of incest is different because people are well acquainted with it[9] and it[10] is well known.[11]

MISHNAH. IF TWO OF THREE BROTHERS WERE MARRIED TO TWO SISTERS AND THE THIRD WAS UNMARRIED,[12] AND WHEN ONE OF THE SISTERS HUSBANDS DIED, THE UNMARRIED BROTHER ADDRESSED TO HER[13] A MA'AMAR,[14] AND THEN HIS SECOND BROTHER DIED, BETH SHAMMAI SAY: HIS WIFE[15] [REMAINS] WITH HIM WHILE THE OTHER IS EXEMPT[16] AS BEING HIS WIFE'S SISTER.[17] BETH HILLEL, HOWEVER, MAINTAIN THAT HE MUST DISMISS HIS WIFE[18] BY A LETTER OF DIVORCE[19] AND BY HALIZAH,[20] AND HIS BROTHER'S WIFE BY HALIZAH.[21] THIS IS THE CASE IN REGARD TO WHICH IT WAS SAID: WOE TO HIM BECAUSE OF HIS WIFE, AND WOE TO HIM BECAUSE OF HIS BROTHER'S WIFE.[22]

GEMARA. What was THIS IS meant to exclude?[23] — To exclude the statement[24] of R. Joshua,[25] [and to indicate] that we do not act In accordance with his view but either in accordance with that of R. Gamaliel or that of R. Eliezer.

R. Eleazar said: It must not be assumed that a ma'amar according to Beth Shammai constitutes a perfect kinyan,[26] so that,if he[27] wishes to dismiss her, a letter of divorce is sufficient; but rather that, according to Beth Shammai, a ma'amar constitutes a kinyan only so far as to keep out the rival.[28] Said R. Abin: We also have learned the same thing: Beth Shammai said, ‘They may retain them’,[29] which implies that they may only retain them[30] but [that they may] not [marry them] at the outset.[31]

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(1) Who are both subject to Ievirate marriage.

(2) Owing to the levirate bond which Pentateuchally binds both sisters to the levir. Why, then, should halizah be performed here where Pentateuchally both sisters are subject to the levirate marriage and each is, consequently, forbidden as the sister of a zekukah?

(3) The provision that halizah shall be performed.

(4) Were halizah to be discarded in this case, an erroneous conclusion might be formed that it is to be discarded in all cases where the prohibition is due to a commandment (as if it had been due to the Pentateuchal laws of incest). even if the question of the sister of a zekukah did not arise.

(5) The sister forbidden by a commandment.

(6) Why is she not exempt from the halizah as the sister of a zekukah?

(7) לתא דידה לתא ‘her ill-luck’. Others render, ‘company’. As the sister who is forbidden by a commandment is subject to halizah (as a preventive measure, for the reason previously stated) so must her sister (so that one case be not mistaken for the other) be also subject to the same measure.

(8) V. our Mishnah: HE IS FORBIDDEN TO MARRY HER BUT IS PERMITTED TO MARRY HER SISTER, and no preventive measure against the sister was enacted.

(9) And would know that one sister was forbidden because of incest.

(10) The cause why the second sister is taken in levirate marriage.

(11) Lit., ‘it has a voice’. And no one would in consequence permit elsewhere the marriage of the sister of another zekukah who is not forbidden by the laws of incest.

(12) מונח ‘empty’.

(13) The widow.

(14) V. Glos.

(15) The sister-in-law to whom he addressed the ma'amar though he had not actually married her. A ma'amar, according to Beth Shammai, constitutes legal marriage in this respect. V. infra.

(16) From levirate marriage and halizah.

(17) Since her sister is regarded as legally married she is no more the sister of the levir's zekukah but of his wife.

(18) Cf. supra n. 4.

(19) Since the ma'amar is partially regarded as marriage.

(20) A ma'amar, according to Beth Hillel, does not constitute a proper marriage, and she is now the sister of a zekukah. V. following note.

(21) v. previous note. As the ma'amar did not constitute a proper marriage with her sister she is the sister of a zekukah who may not contract levirate marriage but must perform halizah.

(22) V. infra 109a. The second widow who becomes subject to him through the levirate law is not only herself forbidden to marry him (cf. note 10) but deprives him also of the first widow, his virtual wife. (Cf. note 9)-

(23) THIS IS implying this but not other cases.

(24) Lit., ‘that’.

(25) Infra 109a.

(26) V. Glos., i.e., perfect marriage.

(27) The levir.

(28) I.e., her rival who is her sister does not cause her to be forbidden to the levir as the ‘sister of a zekukah’.

(29) Supra 26a, in the case where the levirs married the sisters-in-law before consulting the Beth din as to the permissibility of their action.

(30) If they had already married them.

(31) Because each one is the sister of a zekukah. Lit., ‘they may retain, yes; for as at the start, not’.

Talmud - Mas. Yevamoth 29b

Now, if it could be assumed that a ma'amar, according to Beth Shammai, constitutes a perfect kinyan, let the one levir address a ma'amar[1] and constitute thereby a kinyan,[2] and let the other also address a ma amar[1] and thereby constitute a kinyan.[3] What then! [Is it your inference that] it[4] keeps the rival completely out?[5] Let then one levir address a ma'amar[1] and keep her out[6] and let the other levir also address a ma'amar[1] and keep her out![7] What, however, may be said in reply? That a permitted ma'amar[8] does keep the rival out, while a forbidden ma'amar[9] does not keep her out; so also here, even according to him who maintains that a ma'amar constitutes a perfect kinyan, only a permitted ma'amar[10] constitutes a kinyan. but a forbidden one[8] does not.

R. Ashi taught it[11] in the following manner: R. Eleazar said: It must not be assumed that a ma'amar, according to Beth Shammai, keeps the rival[12] completely out, and that she does not require even halizah; but rather it[13] keeps her out[14] and still leaves [a partial bond].[15] Said R. Abin: We also have learned the same thing: Beth Shammai said, ‘they may retain them’,[16] which implies that they may only retain them[16] but [that they may] not [marry them] at the outset.[17] Now, if it could have been assumed that a ma amar, according to Beth Shammai, keeps a rival out completely. let the one levir address a ma'amar,[18] and thus keep her out.[19] and let the other also address a ma'amar[18] and so keep her out.[20] But. surely. it was taught. BETH SHAMMAI SAY: HIS WIFE [REMAINS] WITH HIM WHILE THE OTHER IS EXEMPT AS HIS WIFE'S SISTER![21] — The fact is, a yebamah who is eligible for all[22] is also eligible for a part;[23] a yebamah who is not eligible for all[24] is not eligible for a part.[25]

Rabbah inquired: Does a ma'amar, according to Beth Shammai, constitute marriage or betrothal? — Said Abaye to him: On what practical issue [does this question bear]? Shall I say on [the issue] of inheriting from her,[26] defiling himself to her[27] or annulling her vows?[28] surely. [it could be answered that] seeing that in the case of[29] ordinary betrothal[30] R. Hiyya taught, that where the wife has only been betrothed[31] [the husband] is neither subject to the laws of onan[32] nor may he defile himself for her.[27] and she in his case is likewise not subject to the laws of onan[33] nor may she defile herself for him,[34] and that if she dies he does not inherit from her though if he dies she collects her kethubah;[35] is there any need [to speak of the case where] a ma'amar had been addressed![36] Rather. [the question is] in respect of introduction into the bridal canopy: Does it[37] constitute a marriage and, therefore. no introduction Into the bridal canopy is required.[38] or does it perhaps constitute betrothal and, consequently, introduction into the bridal canopy is required? The other replied: If where he did not address to her any ma'amar it is written [in Scripture]. Her husband's brother shall go in unto her,[39] even against her will, is there any need [to speak of the case where] he has addressed to her a ma'amar![40] The former retorted: Yes;[41] since I maintain that whenever a levir has addressed a ma'amar to his sister-in-law, the levirate bond disappears and she comes under the bond of betrothal. What [then is the decision]? — Come and hear: In the case of a widow awaiting the decision of the levir.[42] whether there be one levir or two levirs, R. Eliezer said. he[43] may annul [her vows]. R. Joshua said: [Only where she is waiting] for one and not for two.[44] R. Akiba said: Neither when she [is waiting] for one nor for two.[45] Now we pondered thereon: One can well understand R. Akiba, since he may hold that no levirate bond exists even in the case of one;[46] according to R. Joshua, the levirate bond may exist where there is one levir but not where there are two levirs.[47] According to R. Eliezer, however, granted that a levirate bond exists, one can understand why, in the case of one, he may annul, but why also in the case of two?[48] And R. Ammi[49] replied: Here it is a case where he addressed to her a ma'amar, and the statement represents the opinion of Beth Shammai who maintain that a ma'amar constitutes a perfect kinyan.[50] Now, if it be granted that it[51] constitutes a marriage, it is quite intelligible why he may annul her vows. If. however, it be assumed that it constitutes only a betrothal, how could he annul her vows? Surely we learned: The vows of a betrothed girl may be annulled by her father in conjunction with her husband![52] -Said R. Nahman b. Isaac: What is meant by annulment? Jointly.[53]

According to R. Eleazar, however, who holds that a ma'amar, In the opinion of Beth Shammai, constitutes a kinyan only so far as to keep out the rival, how[54] could the annulment be effected even jointly?[55] — R. Eleazar can answer you: When l said that it[51] constitutes a kinyan so far only as to keep out the rival, [I meant to indicate] that a letter of divorce was not sufficient[56] but that halizah also was required;[57] did l say anything. however, as regards the annulment of vows! And if you prefer l might say. R. Eleazar can answer you: Is it satisfactorily explained according to R. Nahman b. Isaac?[58] Surely it was not stated ‘they may annul’ but ‘he may annul’![59] Consequently this must be a case where he[60] appeared before a court[61] and[62] a specified sum for alimony was decreed for her out of his estate; and [this is to be understood] In accordance with the statement R. Phinehas made in the name of Raba. For R. Phinehas stated in the name of Raba: Any woman that utters a vow does so on condition that her husband will approve of it.[63]

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(1) To one of the sisters-in-law; since such an action is not forbidden.
(2) v. Glos. i.e., perfect marriage.
(3) The prohibition ‘as sister of a zekukah’ would consequently be removed and both levirs could properly marry the respective sisters-in-law.
(4) The ma'amar.
(5) V. supra p. 181, n. 17.
(6) v. p. 181, n. 17.
(7) V. supra p. 181, n. 17, and supra n. 6. Why, then, was levirate marriage with the two sisters forbidden!
(8) One addressed to a sister-in-law in a case where levirate marriage with her was permissible at the time.
(9) When two sisters were subject to the levirate marriage before the ma'amar had been addressed.
(10) V. note 11.
(11) The previous statement of R. Eleazar and R. Abin etc.
(12) The sister-in-law who, like her sister (the other sister-in-law), is subject to the levirate bond.
(13) The ma'amar.
(14) So that she cannot cause the prohibition of the other to whom the ma'amar had been addressed.
(15) Which necessitates her performing the halizah if she wishes to marry a stranger before he levir had properly married her sister.
(16) V. supra p, 182, n. 1.
(17) V. supra p. 182, n. 3.
(18) v. supra p. 182, n. 4.
(19) Cf. supra p. 181, n. 17.
(20) Consequently it must be concluded that a ma'amar still leaves a partial bond, and that before the other sister had performed the halizah the first is forbidden as the sister of one's zekukah.
(21) Which shews that no halizah at all is required!
(22) For both levirate marriage and halizah, as in the case of our Mishnah where the ma'amar was addressed to one sister before the death of the husband of the other had subjected that other also to the same levir.
(23) To the ma'amar which, in such circumstances. completely keeps out the other when she also, through her husband's subsequent death, comes under the obligation.
(24) As in the Mishnah, supra 26a, where both widows were equally subject to the levirs at the time the ma'amar had been addressed, and none was eligible for both the levirate marriage and the halizah.
(25) I.e., for the ma'amar which, in such a case, does not keep out the sister.
(26) As a husband who is the heir of his wife.
(27) If he is a priest who may defile himself by attending on the dead bodies of certain relatives of whom a wife is one.
(28) A husband may annul the vows of his wife. v. Num. XXX. 7ff
(29) Lit.. ‘now’.
(30) Lit., ‘a betrothed in the world’, i.e., ordinary betrothal which is pentateuchally valid.
(31) But not yet married.
(32) A mourner prior to the burial of certain relatives is called onan (v. Glos.) and is subject to a number of restrictions. If his betrothed died he may, unlike one whose married wife died, partake of holy things.
(33) She also is allowed to partake of holy things.
(34) During a festival when not only priests but also Israelites and women are forbidden to attend on the corpses of those who are not their near relatives. (V. R.H. 16b). Others render. ‘nor need she defile etc’. Cf. Tosaf. a.l., s.v. לא
(35) v. Glos.,in a case where such a document was given to her at the betrothal, prior to the marriage (v. Keth. 89b).
(36) A ma'amar is only a Rabbinical enactment. If Pentateuchal betrothal has not the force of a marriage in respect of the laws mentioned, how much less the Rabbinical ma'amar!
(37) The ma'amar.
(38) She being regarded as his wife even if connubial intercourse took place against her will, and should he wish to part with her, a Get will suffice without additional halizah.
(39) Deut. XXV, 5-
(40) Where there is, in addition to his claim as Ievir, the force of the ma'amar.
(41) So Bah. a.l.
(42) שומרת יבם V. Glos. s.v. shomereth yabam.

(43) Any one of the levirs.

(44) In the latter case neither of the levirs is entitled to annul her vows.

(45) Ned. 74a.

(46) Hence a levir is never entitled to the privilege of a husband in respect of the annulment of vows.

(47) Since it is not known to which of them she is really subject, the bond between them and the widow is necessarily a weak one.

(48) Only both together. but not one only, should be allowed to annul her vows.

(49) Cur. edd. enclose in parentheses ‘b. Ahabah’.

(50) Ned. loc. cit.

(51) The ma'amar.

(52) But not by her husband alone. And, since the levir alone may here annul, a ma'amar must have the force of marriage.

(53) The levir and her father, as in the case of a betrothal. Hence no proof may be adduced from here as to whether a ma'amar has the force of a marriage or of a betrothal.

(54) Not having the force even of a betrothal.

(55) Cf. supra note 8.

(56) In the case of a yebamah to whom a ma'amar had been addressed.

(57) If he did not wish to marry her.

(58) Who holds that the father and husband jointly annul the vows of the widow to whom a ma'amar has been addressed.

(59) The reading is יפר (sing.). not יפרו (plur.). How, then, could he state that two jointly annul her vows!

(60) The levir. So Bah a.l. Cur. edd., ‘she’.

(61) Either before he addressed the ma'amar (according to R. Nahman b. Isaac) or after the ,na'amar (according to R. Ammi).

(62) As he refused either to marry, or to submit to her halizah.

(63) Since she is maintained out of his estate he is regarded by her as husband and her vows are subject to his will. Hence he may also annul them. With the whole passage cf. Ned. 74a. Sonc. ed. pp. 233ff, q.v. notes.

Talmud - Mas. Yevamoth 30a

MISHNAH.IF TWO OF THREE BROTHERS WERE MARRIED TO TWO SISTERS AND THE THIRD WAS MARRIED TO A STRANGER, AND ONE OF THE SISTERS’ HUSBANDS DIED AND THE BROTHER WHO WAS MARRIED TO THE STRANGER MARRIED HIS WIFE AND THEN DIED HIMSELF, THE FIRST[1] IS EXEMPT[2] AS BEING A WIFE'S SISTER, AND THE SECOND IS EXEMPT[2] AS BEING HER RIVAL. IF, HOWEVER, HE HAD ONLY ADDRESSED TO HER[3] A MA'AMAR AND DIED, THE STRANGER IS TO PERFORM THE HALIZAH BUT MAY NOT CONTRACT THE LEVIRATE MARRIAGE.[4]

GEMARA. The reason[5] is because he had addressed to her[3] a ma'amar;[6] had he, however, not addressed a ma'amar to her,[3] the stranger also would have had to be taken in levirate marriage.[7] This proves, said R. Nahman, that no levirate bond exists[8] even in the case of one brother.[9]

MISHNAH. IF TWO OF THREE BROTHERS WERE MARRIED TO TWO SISTERS AND THE THIRD WAS MARRIED TO A STRANGER, AND WHEN THE BROTHER WHO WAS MARRIED TO THE STRANGER DIED, ONE OF THE SISTERS’ HUSBANDS MARRIED HIS WIFE AND THEN DIED HIMSELF, THE FIRST[10] IS EXEMPT[11] IN THAT SHE IS HIS WIFE'S SISTER, AND THE OTHER[12] IS EXEMPT AS HER RIVAL. IF, HOWEVER, HE HAD ONLY ADDRESSED TO HER[13] A MA'AMAR AND DIED, THE STRANGER MUST PERFORM HALIZAH[14] BUT MAY NOT BE TAKEN IN LEVIRATE MARRIAGE.

GEMARA. What need was there again [for the law in this Mishnah]? Surely it is the same:[15] If there,[16] where the wife's sister is only a rival to the stranger[17] it has been said that the stranger is forbidden,[18] how much more so[19] here where the stranger is the rival to a wife's sister![20] -The Tanna had taught first this,[21] while the other[22] was regarded by him as a permissible case, and so he permitted her.[23] Later, however, he came to regard it as a case that was to be forbidden;[24] and, as it was dear to him,[25] he placed it first; while the other Mishnah[26] was allowed to stand in its original form.[27]

MISHNAH. IF TWO OF THREE BROTHERS WERE MARRIED TO TWO SISTERS AND THE THIRD WAS MARRIED TO A STRANGER, AND WHEN ONE OF THE SISTERS' HUSBANDS DIED THE BROTHER WHO WAS MARRIED TO THE STRANGER MARRIED HIS WIFE, AND THEN THE WIFE OF THE SECOND BROTHER DIED, AND AFTERWARDS THE BROTHER WHO WAS MARRIED TO THE STRANGER DIED ALSO, BEHOLD,SHE[28] IS FORBIDDEN TO HIM[29] FOR ALL TIME, SINCE SHE WAS FORBIDDEN TO HIM FOR ONE MOMENT.[30]

GEMARA. Rab Judah said in the name of Rab: Any yebamah to whom the instruction Her husband's brother shall go in unto her[31] cannot be applied at the time she becomes subject to the levirate marriage, is indeed like the wife of a brother who has children, and is consequently forbidden.[32] What new thing does he[33] teach us? Surely we have learned, SHE IS FORBIDDEN TO HIM FOR ALL TIME SINCE SHE WAS FORBIDDEN TO HIM FOR ONE MOMENT! — It might have been assumed that this[34] applies only to the case where she[35] was not suitable for him[36] at all during the period of her first subjection;[37] but that where she[38] was at all suitable for him[39] during her first subjection[40] it might have been assumed that she[38] should be permitted, hence, he[41] taught us [that It was not so].

But we have learned this also: If two brothers were married to two sisters, and one of the brothers died and afterwards the wife of the second brother died, behold, she[42] is forbidden to him for all time, since she was forbidden to him for one moment![43] — It might have been assumed [that this law is applicable] only there because she was completely forced out of that house;[44] but here, where she was not entirely forced out of that house,[45] it might have been said that as she is suitable for the brother who married the stranger she is also[46] suitable for the other brother,[47] hence he[41] taught us [that she was not].

MISHNAH. IF TWO OF THREE BROTHERS WERE MARRIED TO TWO SISTERS AND THE THIRD WAS MARRIED TO A STRANGER, AND ONE OF THE SISTERS' HUSBANDS DIVORCED HIS WIFE, AND WHEN THE BROTHER WHO WAS MARRIED TO THE STRANGER DIED HE WHO HAD DIVORCED HIS WIFE MARRIED HER AND THEN DIED HIMSELF- THIS IS A CASE CONCERNING WHICH IT WAS SAID: AND IF ANY OF-THESE DIED OR WERE DIVORCED. THEIR RIVALS ARE PERMITTED.[48] GEMARA. The reason[49] is because he[50] had divorced [his wife first] and [his brother][51] died afterwards,[52] but [if the other][51] had died [first] and he[50] divorced [his wife] afterwards,[53] she[54] is forbidden.[55] Said R. Ashi: This proves that a levirate bond exists,[56] even where two brothers are involved.[57]

But as to R. Ashi's [inference] does not that of R. Nahman[58] present a difficulty?-R. Ashi can answer you: The same law, that the stranger is to perform the halizah and that she is not to be taken in levirate marriage.is applicable[59] even to the case where no ma' amar had been addressed; and the only reason why ma'amar was at all mentioned[60] was in order to exclude the ruling of Beth Shammai. Since they maintain that a ma'amar constitutes

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(1) Widow, who is now also the widow of the second deceased brother.

(2) From levirate marriage and halizah with the surviving brother.

(3) The first widow.

(4) With the surviving brother.

(5) Why the stranger is not to be taken in levirate marriage.

(6) Since our Mishnah makes the stranger's exemption dependent on the ma'amar, whereby she became the first widow's rival.

(7) Despite the fact that the first widow is also subjected to the levir for the levirate marriage.

(8) Between the widow of the deceased brother and the levirs.

(9) As here, where only one brother could possibly marry her, she being forbidden to the other as his wife's sister. Even in such a case the mere subjection of the widow to the levir (to be taken in levirate marriage or to perform the halizah) does not constitute a levirate bond to attach her to him as if she had been his actual wife.

(10) Wife of the second deceased brother.

(11) From marriage and halizah with the surviving brother.

(12) The stranger. whom the second deceased brother had taken in levirate marriage.

(13) To the stranger.

(14) With the surviving brother.

(15) As the law implied in the previous Mishnah.

(16) In the previous Mishnah.

(17) Who was the first and proper wife.

(18) To be taken in levirate marriage.

(19) Should the stranger be forbidden to be taken in levirate marriage.

(20) Who was the first and proper wife.

(21) The second Mishnah.

(22) Mishnah, which is now the first.

(23) l.e., allowed the stranger to be taken in levirate marriage by the surviving brother, because the prohibition that arose from her husband's ‘wife's sister’ was imposed upon her later, after she had been lawfully married to her husband and after a period during which, had he died without issue, she would have been permitted to be taken in levirate marriage by his brother. It was not the Tanna's Intention, therefore, to include this case in a Mishnah at all.

(24) Since her rival was, after all, the surviving brother's wife's sister.

(25) Owing to its novelty.

(26) The second Mishnah.

(27) Lit., ‘did not move from its place’. though in the light of the newly added Mishnah it had obviously become superfluous.

(28) The wife of the first brother.

(29) The surviving brother.

(30) Lit., ‘hour’. When her husband died she was forbidden to his brother who was married to her sister as his ‘wife's sister’. This prohibition remains permanently in force and is not removed even when her sister subsequently dies and she is no longer the levir's ‘wife's sister’.

(31) Deut. XXV, 5’

(32) Even later when the cause of the prohibition is removed. Cf. our Mishnah.

(33) Rab.

(34) The law in our Mishnah.

(35) The widow of the first brother.

(36) The brother who was married to the second sister.

(37) I.e., if her sister, the wife of the second brother, did not die until after she had married the brother whose wife was the stranger.

(38) The widow of the first brother.

(39) The brother who was married to the second sister.

(40) If her sister died before she (the first widow) had married the other brother.

(41) Rah.

(42) The widow of the first brother.

(43) Infra 32a.

(44) When her husband died and she was not permitted to marry his only surviving brother whose wife's sister she was, her connection with her husband's family had been completely severed, she remaining free to marry any stranger.

(45) Since she was still under the obligation of marrying the third brother who was married to the stranger.

(46) Thanks to the levirate bond with a member of her deceased husband's family.

(47) Who was the husband of her sister, now that the latter is dead.

(48) The stranger who was taken in levirate marriage was never the rival of the sister of the wife of the surviving brother, since the sister had been divorced before the levirate marriage with the stranger had taken place.

(49) Why the stranger who was taken in levirate marriage by one of the husbands of the sisters is permitted to the last surviving brother.

(50) The brother who divorced his wife.

(51) The first husband of the stranger.

(52) So that the stranger was not even for one moment the rival of one of the sisters, either through marriage or through the levirate bond of subjection.

(53) In which case the stranger came for a certain period under the levirate bond in respect of the husbands of the two sisters.

(54) The stranger.

(55) To marry the last surviving brother. Since she was, for a period at least, the rival of one of the sisters, through the levirate bond, she may never be married to the husband of that sister's sister (being forbidden to him as the rival of his wife's sister) even if the sister whose rival she was had been subsequently divorced and ceased to be her rival.

(56) Between the widow of a deceased childless brother and the levirs.

(57) Since, in the case under discussion, the widow whose husband died before one of the sisters had been divorced was subject to two levirs and is, nevertheless, regarded as the rival of the divorced sister, in consequence of which she is forbidden to the last surviving brother.

(58) From a Mishnah supra, that no levirate bond exists even in the case of one brother.

(59) Contrary to R. Nahman's inference.

(60) In that Mishnah.

Talmud - Mas. Yevamoth 30b

a perfect kinyan,[1] he taught us[2] that [the halachah is] not in accordance with Beth Shammai.

But then as to R. Nahman's [inference] does not that of R. Ashi present a difficulty? And should you reply that the same law, that her rival is permitted,[3] is also applicable to the case where he[4] died first and the other brother[5] divorced his wife afterwards,[6] what [it could be objected] would THIS IS exclude? It might exclude the case where he[5] married her[7] first and then divorced his wife.[8] This might be a satisfactory explanation if he[9] holds the view of R. Jeremiah who said, ‘Break it up: He who taught the one did not teach the other,’[10] [for, if this is so]. one Tanna may hold the opinion that it is death[11] that causes the subjection[12] while the other might be of the opinion that it is the original marriage[11] that causes the subjection,[13] and THIS IS would thus exclude the case where he first married[7] and then divorced;[14] if, however, he is of the same opinion as Raba who said, ‘Both statements may in fact represent the views of one Tanna, it being a case of "this and there is no need to state that"’,[15] what does THIS IS exclude?[16] — He[9] has no alternative but to adopt the view of R. Jeremiah.

And according to Raba,[17] the explanation would be satisfactory if he held the View of R. Ashi,[18] for then, THIS IS would exclude the case of one who died without first divorcing his wife;[19] if, however, he holds the same view as R. Nahman,[20] what would THIS IS exclude?[21] -He[22] has no alternative but to accept the view of R. Ashi. MISHNAH. [IF IN THE CASE OF ANY ONE OF] ALL THESE[23] THE BETROTHAL OR Dlvorce[24] WAS IN DOUBT, BEHOLD, THESE RIVALS MUST PERFORM THE HALIZAH[25] BUT MAY NOT BE TAKEN IN LEVIRATE MARRIAGE.[26] WHAT IS MEANT BY DOUBTFUL BETROTHAL? IF WHEN HE THREW TO HER A TOKEN OF BETROTHAL[27] IT WAS UNCERTAIN WHETHER IT FELL NEARER TO HIM[28] OR NEARER TO HER,[29] THIS IS A CASE OF DOUBTFUL BETROTHAL. DOUBTFUL DIVORCE? IF HE WROTE A LETTER OF DIVORCE IN HIS OWN HANDWRITING AND IT BORE NO SIGNATURES OF WITNESSES,[30] OR[31] IF IT BORE SIGNATURES BUT NO DATE, OR IF IT BORE A DATE BUT THE SIGNATURE OF ONLY ONE WITNESS, THIS IS A CASE OF

DOUBTFUL DIVORCE.

GEMARA. In the case of divorce, however, It is not stated IT WAS UNCERTAIN WHETHER IT FELL NEARER TO HIM OR NEARER TO HER; what is the reason?[32] -Rabbah replied: This woman[33] is in a state of permissibility to all men;[34] would you forbid her [marriage] because of a doubt?[35] You must not forbid her because of a doubt![36] Said Abaye to him: If so, let us also in the matter of betrothal say: This woman[37] is in a state of permissibility to the levir;[38] would you forbid her[39] because of a doubt? You must not forbid her because of a doubt! — There[40] [it leads] to a restriction.[41] But it is a restriction which may lead to a relaxation! For, sometimes, he would betroth her sister[42] by betrothal that was not uncertain, or it might occur that another man would betroth her also by a betrothal that was not uncertain and, as the Master has forbidden her rival to be taken in levirate marriage. it would be assumed that the betrothal of the first[43] was valid and that that of the latter was not![44]

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(1) And not even halizah is required.

(2) By stating that halizah must be performed.

(3) To the third surviving brother.

(4) The first husband of the stranger.

(5) The brother who divorced his wife.

(6) The levirate bond with the stranger, prior to the divorce of his wife, not constituting the one woman a rival of the other.

(7) The stranger.

(8) In such a case, since she was actually married, the stranger is regarded as the rival of the third brother's wife's sister, though at the time she becomes subject to him she and his wife's sister have ceased to be rivals.

(9) R. Nahman.

(10) Supra 13a.

(11) Of the childless brother.

(12) Of the widow to the levir.

(13) v. previous note and supra p. 65, n. 7.

(14) His wife.

(15) V. supra p. 65, n. 14 and cf. p. 65, n. 12, so that even if marriage of the stranger took place prior to the divorce of the other, the former, after divorce had taken place, is permitted, even according to the Tanna of our Mishnah.

(16) When the levirate marriage is permitted in both these cases.

(17) Who holds that the subjection to the levirate marriage is caused by the death of the childless brother, and that the rival is permitted to the surviving levir even if the deceased had married her prior to his divorcing his wife, who is the sister of the surviving levir's wife.

(18) That a levirate bond exists.

(19) And without marrying the stranger who would, nevertheless, be forbidden to the surviving third brother on account of the levirate bond.

(20) That no levirate bond exists.

(21) In view of the fact that levirate marriage is permitted in all cases except one, where the second brother took the stranger in levirate marriage and did not divorce his wife, a case which was explicitly stated and required no expression like THIS IS to exclude it.

(22) Raba.

(23) Fifteen relatives enumerated in the first Mishnah of the Tractate, supra 2af.

(24) On the part of the deceased childless brother.

(25) Since it is possible that the betrothal was, or that the divorce was not valid, and they are consequently the rivals of a forbidden relative.

(26) It being possible that the betrothal was not, or that the divorce was valid and they are, therefore, not rivals of a forbidden relative.

(27) While they were both standing in a public domain and a distance of exactly eight cubits intervened between them.

(28) I.e., within the four cubits nearest to him.

(29) Within her four cubits. The person within whose four cubits the object rested is deemed to be the legal possessor.

(30) A document in one's own handwriting. even though it is not signed by witnesses, is within certain conditions and limitations deemed to be valid. V. B.B. 175b.

(31) Where it is not in his own handwriting.

(32) Why should not even halizah on the part of the rival, be required in such a case?

(33) The rival.

(34) Lit., 'to the market', i.e., the public. The rival of a forbidden relative, not being subject to levirate marriage or halizah. is permitted to marry any one she desires.

(35) The possibility that the forbidden relative's divorce was valid.

(36) The doubt here being whether the forbidden relative was divorced at all. In the three cases of divorce mentioned in our Mishnah, however, the prohibition Is not due to doubtful divorce but to a defect or an irregularity in the document itself.

(37) The rival.

(38) Had her husband died childless before he married the forbidden relative.

(39) To be taken in levirate marriage.

(40) The case of doubtful betrothal.

(41) The prohibition to marry the levir.

(42) The sister of the one whose betrothal was doubtful.

(43) Since her rival is forbidden.

(44) Because, in the first case, he betrothed his wife's sister; and, in the second, he betrothed a married woman. In the latter case, the betrothal being regarded as invalid, the woman might illegally marry another man. In the former case, should he die without issue, his maternal brother might illegally marry her, believing her never to have been the wife of his brother.

Talmud - Mas. Yevamoth 31a

— Since she is required to perform halizah it is sufficiently known that it[1] is a mere restriction.[2] If so, let him, in the case of divorce also,[3] state it,[4] and require her to perform halizah, and it will be sufficiently known that it[5] Was a mere restriction![6] — Were you to say that she was to perform halizah it might also be assumed that she may be taken in levirate marriage.[7] But here also,[8] were you to say that she is to perform halizah, she might also be taken in levirate marriage![7] -Well, let her be taken in levirate marriage and it will not matter at all since thereby she only retains her former status.[9]

Abaye raised the following objection against him:[10] If the house collapsed upon him[11] and upon his brother's daughter.[12] and it is not known which of them had died first, her rival must perform halizah[13] but may not contract the levirate marriage.[14] But why? Here also it may be said, 'This woman finds herself in the status of permissibility to all,[15] would you forbid her [marriage on the basis] of a doubt? You must not forbid her [on the basis] of a doubt'! And should you suggest that here also the prohibition is due to a restriction, [it may be retorted that] it is a restriction which may result in a relaxation, for should you say that she is to perform the halizah she might also be taken in levirate marriage! — In respect of divorce which is of frequent occurrence the Rabbis enacted a preventive measure;[16] in respect of the collapse of a house which is not of frequent occurrence the Rabbis did not enact any preventive measure. Or else:[17] In the case of divorce, where the forbidden relative is demonstrably alive, were her rival to be required to perform halizah, it might have been thought that the Rabbis[18] had ascertained that the letter of divorce was a valid document,[19] and the rival might, therefore, be taken in levirate marriage. In the case of a house that has collapsed. however, could the Rabbis[18] have ascertained [who was first killed] in the ruin![20]

Have we not learned a similar law in the case of divorce? Surely we learned: If she[21] stood in a public domain, and he[22] threw it[23] to her, she is divorced if it fell nearer to her; but if nearer to him she is not divorced. If it was equidistant,[24] she is divorced and not divorced. And when it was asked, ‘What is the practical effect of this’,[25] [the reply was] that if he was a priest she is forbidden to him;[26] and if she is a forbidden relative, her rival must perform the halizah.[27] We do not say, however, that were you to rule that she must perform halizah she might also be taken in levirate marriage![28] -Concerning this statement, surely, it was said: Both Rabbah and R. Joseph maintain that here we are dealing with two groups of witnesses, one of which declare that it[23] was nearer to her and the other declares that it[23] was nearer to him, which creates a doubt involving a Pentateuchal [prohibition] —[29] Our Mishnah, however, speaks of one group.[30] where the doubt involved is only Rabbinical.[31]

Whence is it proved that our Mishnah speaks of one group? — On analogy with betrothal:[32] As in betrothal only one group is involved so also in divorce[33] one group only could be involved. Whence is it known that in betrothal itself only one group is involved? Is it not possible that it involves two groups of witnesses! — If two groups of witnesses had been involved, she would have been allowed to contract the levirate marriage, and no wrong would have been done.[34] Witnesses stand and declare that it[35] was nearer to her,[36] and you say that she may be taken in levirate marriage and no wrong will be done![37] Furthermore, even where two groups of witnesses are involved the doubt is only Rabbinical, since it might be said ‘Put one pair against the other and let the woman retain her original status’![38] This indeed is similar to [the incident with] the estate of a certain lunatic. For a certain lunatic once sold some property. and a pair of witnesses came and declared that he had effected the sale while in a sound state of mind, and another pair came and declared that the sale was effected while he was in a state of lunacy. And R. Ashi said: Put two against two

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(1) The prohibition to take her in levirate marriage.

(2) And is not due to the fact that the betrothal of the forbidden relative was valid.

(3) As in the case of betrothal.

(4) The case of uncertainty as to whether the letter of divorce rested nearer to the husband or nearer to the wife (v. our Mishnah).

(5) The halizah.

(6) Seeing that levirate marriage was forbidden to her.

(7) And by marrying the rival of a forbidden relative one might become subject to the penalty of kareth.

(8) In the case of doubtful betrothal.

(9) Of being permitted to marry the levir.

(10) Rabbah.

(11) Who was childless.

(12) To whom he had been married.

(13) With the daughter's father, the brother of the deceased. Though the dead woman was his forbidden relative, since it is possible that she had been killed before the man, her rival becomes subject to the obligation of performing halizah.

(14) Infra 67b. Since it is also possible that the man was killed first and the rival remained forbidden to the levir as the rival of his daughter.

(15) v. supra p. 192, n. 12.

(16) That wherever the divorce is doubtful the rival must not perform halizah in order that this performance might not lead also to levirate marriage.

(17) It may be replied.

(18) The scholars or experts who dealt with the case.

(19) And the forbidden relative was no more the wife of the deceased.

(20) It would be obvious, therefore, that the requirement of halizah was a mere restriction.

(21) The wife.

(22) The husband.

(23) The letter of divorce.

(24) Lit., ‘half on half’.

(25) The statement that she is divorced and not divorced.

(26) A priest must not marry or continue to live with a divorced woman.

(27) Git. 78a.
(28) Which shews that even in the case of divorce no preventive measure has been enacted.
(29) As two witnesses declare that the letter of divorce was nearer to the woman, and as evidence of two witnesses is Pentateuchally valid, the possibility that her rival is no more the rival of a forbidden relative must be taken into consideration, and she cannot be permitted to marry a stranger without previous halizah with the levir.
(30) One witness of which is contradicting the other.
(31) Hence, in the matter of betrothal, where the rival enjoyed the status of permissibility to the levir, the law that halizah is required in the case of such contradictory evidence could well be applied, since she cannot be deprived of her status by the evidence of the single witness who states that the token of betrothal was nearer to her. In the case of divorce, however, where the rival has the status of permissibility to marry any stranger, the law that halizah is required in the case of contradictory evidence of two single witnesses could not be applied. since the evidence of one witness is not sufficient to deprive her of that right. particularly as it can also be claimed that were she required to perform halizah she might be taken in levirate marriage also.
(32) Divorce and betrothal being mentioned side by side in this Mishnah.
(33) Had it been included in our Mishnah.
(34) Since the evidence of one pair would have been sufficient to confirm the rival in her status of permissibility to the levir. Hence, as levirate marriage was forbidden it cannot be a case of two groups of witnesses.
(35) The token of betrothal.
(36) Thus presenting a Pentateuchal doubt (cf. supra p. 195. n. 9).
(37) This, surely. might result in the breach of a Pentateuchal law!
(38) Why. then, even in the case of divorce itself, when the two groups of witnesses cancel each other, should the rival, who was hitherto in a state of permissibility to marry anyone. be required to perform halizah!

Talmud - Mas. Yevamoth 31b

and let the land remain in the possession of the lunatic! — Rather, said Abaye. Its friend telleth concerning it:[1] that which was taught in connection with betrothal[2] is also to be applied to divorce,[3] and what was taught in connection with divorce[4] is also to be applied to betrothal.

Said Raba to him: If its friend telleth concerning it' what was the object of stating THIS IS?[5] -Rather, said Raba, whatever is applicable to betrothal[6] is also to be applied to divorce, but certain points are applicable to divorce,[7] which cannot be applied to betrothal. And THIS IS[8] which was mentioned in the case of divorce is not to be taken literally. as THIS IS was used in connection with betrothal[9] only because it was also used in connection with divorce.

What was THIS IS mentioned in connection with betrothal meant to exclude? — To exclude the question of date which is inapplicable to betrothal.[10] And wherefore was no date ordained to be entered in [documents of] betrothal? This[11] may well be satisfactorily explained according to him who holds [that the date is required In a letter of divorce][12] on account of the usufruct ,[13] since a betrothed woman has no [need to reclaim] usufruct —[14] According to him, however, who holds [that it[15] was ordained] on account of one's sister's daughter.[16] the insertion of a date should have been ordained [in the case of betrothal also]![17] — Since some men betroth with money[18] and others betroth with a document the Rabbis did not ordain the inclusion of a date.

Said R. Aha son of R. Joseph to R. Ashi: What about the case of a slave of whom some acquire possession by means of money and others by means of a deed, yet the inclusion of a date has nevertheless been ordained by the Rabbis! — In that case[19] acquisition is generally by means of a deed; here,[20] it is generally by means of money. If you prefer I might say: Because it is impossible.[21] For how should one proceed? Were it[22] to be left with her, she might erase it.[23] Were it[22] to be left with him, it might happen that the betrothed might be his sister's daughter and he would shield her.[24] Were it to be left with the witnesses-well, if they remember[25] they could come and tender their evidence;[26] and if they do not,[27] they may sometimes consult the document and then come and tender evidence, while the All Merciful said, ‘out of their mouth’[28] but not out of their writing. If so, let the same argument[29] be applied to divorce also! — There,[30] it[31] comes to save her,[32] here,[33] it[31] comes to condemn her.[34]

MISHNAH. IN THE CASE WHERE THREE BROTHERS WERE MARRIED TO THREE WOMEN WHO WERE STRANGERS [TO ONE ANOTHER]. AND ONE OF THEM HAVING DIED[35] THE SECOND BROTHER ADDRESSED TO HER[36] A MA'AMAR[37] AND DIED, BEHOLD, THESE[38] MUST PERFORM HALIZAH[39] BUT MAY NOT BE TAKEN IN LEVIRATE MARRIAGE; FOR IT IS SAID. AND ONE OF THEM DIED [ETC.] HER HUSBAND'S BROTHER SHALL GO IN UNTO HER.[40] ONLY SHE WHO IS BOUND TO ONE LEVIR[41] BUT NOT SHE WHO IS BOUND TO TWO LEVIRS.[42] R. SIMEON SAID: HE MAY TAKE IN LEVIRATE MARRIAGE WHICHEVER OF THESE HE WISHES[43] AND THEN PARTICIPATE IN THE HALIZAH WITH THE OTHER.[44]

GEMARA. If, however, the levirate bond with two levirs[45] is Pentateuchal,[46] even halizah should not be required! — But it[47] is only Rabbinical,[48] a preventive measure having been enacted against the possible assumption that two sisters-in-law coming from the same house[49] may both be taken in levirate marriage. Then let one be taken in levirate marriage and the other be required to perform halizah! — A preventive measure has been enacted against the possible assumption that one house was partially built

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(1) Job XXXVI, 33.ריעו, (E.V., the noise thereof) is here rendered its friend. The text is taken to imply that passages in close proximity are to be compared to one another and what is applicable to one is to be applied to the other also.

(2) The case of uncertainty as to whether the token of betrothal fell nearer to the man or nearer to the woman.

(3) When a similar doubt has arisen with reference to a letter of divorce that had been thrown in, similar circumstances.

(4) IF A MAN WROTE IN HIS OWN HANDWRITING etc. (V. our Mishnah).

(5) Which implies some exclusion.

(6) UNCERTAIN WHETHER IT WAS NEARER TO HIM etc. (V. our Mishnah).

(7) v. infra for further explanation.

(8) Which implies that only that which was specified and no other doubt is applicable, v. supra p. 196, n. 10.

(9) Where THIS IS excludes the question of date, which is not applicable to it but to divorce only.

(10) The date does not matter in a document whereby betrothal is effected. V. infra.

(11) Why no date was required.

(12) v. Git. 26b.

(13) Which the wife is entitled to reclaim from her husband, in respect of her estate, from the date of her letter of divorce, though the document itself may not have been delivered to her until a much later date. v. Git. 17a.

(14) The man who betrothed her having no right whatsoever to the usufruct of her estate until actual marriage has taken place. Cf. Keth. 51a.

(15) The insertion of a date 10 a letter of divorce.

(16) Who was his wife and had committed adultery. Her uncle, in his desire to protect her, might supply her with an undated letter of divorce which would enable her to escape her due punishment by pleading that the offence had been committed after she had been divorced.

(17) Since a betrothed woman also possessing an undated document of betrothal could protect herself against punishment for adultery. by pleading that the offence had been committed prior to the betrothal.

(18) Where a date is, of course, inapplicable.

(19) A slave.

(20) Betrothal.

(21) Usefully to insert a date in a deed of betrothal.

(22) The deed.

(23) The date. V. supra p. 197, n. 12 and cf. p.197,n.11.

(24) By erasing the date. V. previous note.

(25) The date of the betrothal.

(26) Of what use, then, is the deed?
(27) Remember the date.
(28) Cf. Deut. XVII, 6, At the mouth of two witnesses etc., which is taken to imply that evidence must be given from memory (the witnesses’ own mouth) and not from information obtained from a written document. V. Git. 71a.
(29) Used in respect of betrothal, that there is no safe or proper place to keep the deed.
(30) In the case of divorce.
(31) The document.
(32) Unless she produced it, were she ever to be accused of adultery. she would certainly be condemned since she was known as a married woman. The letter of divorce being her sole protection, it being the sole proof that her married state had ended, she should in her own interest carefully preserve it intact for fear that should she tamper with it, the deed may be declared invalid. (Cf. Tosaf. s.v. להצלה, a.l.).
(33) The case of betrothal.
(34) The document is proof that she had passed out of her unmarried state and that henceforward she is forbidden to all men except her betrothed. She (or any friend of hers) is not anxious to preserve such a document; and, should an accusation of adultery ever be brought against her, she could either destroy it or erase the date and claim her previously confirmed status of an unmarried woman. Hence no date was ordained to be included.
(35) Without issue.
(36) The widow of the deceased brother.
(37) v. Glos.
(38) The two widows.
(39) With the surviving brother.
(40) Deut. xxv, 5.
(41) Is to be married by him.
(42) The first to whom she was bound by the levirate tie and the second to whom she is bound by the ma'amar. A ma'amar of a levir, unlike his levirate marriage. cannot sever the bond between the widow and her deceased husband-the levirate tie.
(43) v. supra 19a. If the ma'amar has the validity of marriage, the surviving levir is marrying his second brother's wife, and if a ma'amar is invalid he is marrying either the wife of his first brother or the wife of the second.
(44) The levirate marriage of the one cannot exempt the other from the halizah, since it is possible that a ma'amar is invalid and the two widows are consequently of different brothers. He may not marry the two, since a ma'amar may be valid and he would thus be marrying two widows of the same brother.
(45) According to the Rabbis of our Mishnah.
(46) Since they forbade the levirate marriage in such a case.
(47) The levirate bond with two levirs.
(48) Pentateuchally a ma'amar is not binding. and the two widows consequently are of two different brothers and may both be married.
(49) I.e., widows of the same brother.

and partially pulled down.[1] Well, let the assumption be made![2] — Had he first contracted the levirate marriage and then participated in the halizah, no objection could be raised —[3] The preventive measure, however, has been enacted against the possibility of his participating in the halizah first and contracting the levirate marriage afterwards and thus placing himself under the prohibition of That doth not build up,[4] the All Merciful having said, ‘Since he had not built[5] he must never again build’.[6]

Raba said: If he[7] gave a letter of divorce in respect of his ma'amar, her rival[8] is permitted;[9] but she herself is forbidden, because she might be mistaken for one who is the holder of a letter of divorce.[10] Others say that Raba said: If he[11] gave a letter of divorce in respect of his ma'amar even she herself becomes permitted.[12] What is the reason? — Because what he has done to her he has taken back.[13]

MISHNAH. IF TWO BROTHERS WERE MARRIED TO TWO SISTERS, AND ONE OF THE BROTHERS DIED, AND AFTERWARDS THE WIFE OF THE SECOND BROTHER DIED, BEHOLD, SHE[14] IS FORBIDDEN TO HIM[15] FOREVER, SINCE SHE WAS FORBIDDEN TO HIM FOR ONE MOMENT.[16] GEMARA. Is not this obvious? If there,[17] where she[18] was not entirely excluded from that house[19] it has been said, ‘No’,[20] how much more so here[21] where the widow is completely excluded from that house![22] -The Tanna had taught first this,[21] while the other[23] was regarded by him as a permissible case,[24] and so he permitted it —[25] Later, however, he came to regard it as a case that was to be forbidden;[26] and, as it was dear to him[27] he placed it first; while our Mishnah was allowed to remain in its original form.[28]

Our Rabbis learned: If he[29] had intercourse with her ,[30] he is guilty on account of both ‘his brother's wife’[31] and ‘his wife's sister’;[32] so R. Jose. R. Simeon said: He is guilty on account of ‘his brother's wife’ on]y. But, surely. it was taught that R. Simeon said: He is guilty on account of ‘his wife's sister’ only! — This is no difficulty: There, it is a case where the surviving brother had married first[33] and the deceased had married afterwards;[34] here it is a case where the deceased had married first and the surviving brother afterwards.[35] As to R. Simeon, in the case where the deceased had married first and the surviving brother married afterwards, let her, since the prohibition of wife's sister cannot take effect, be permitted even to contract the levirate marriage! — R. Ashi replied: The prohibition of wife's sister remains suspended, and as soon as the prohibition of brother's wife is removed[36] the prohibition of wife's sister comes into force; hence It cannot be treated as non-existent.[37]

Does, then, R. Jose hold the view that one prohibition may be imposed upon another? Surely, it was taught: A man who committed a transgression which involves two death penalties[38] is punished by the severer one. R. Jose said: He is to be dealt with In accordance with that prohibition which came into force first.[39] And it was taught: How is one to understand R. Jose's statement that sentence must be in accordance with the prohibition which came into force first? [If the woman was first] his mother-in-law[40] and then became also a married women, he is to be sentenced for [an offence against] his mother-in-law; if she was first a married woman and then became his mother-in-law, he is to be sentenced for [an offence against] a married woman![41]

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(1) And the same procedure would unlawfully be followed in the case of two widows of the same brother.

(2) What objection can be raised against it?

(3) Lit., ‘thus also’, the assumption would not have mattered.

(4) אשר לא יבנה Deut. XXV, 9.

(5) I.e., refused to marry his brother's widow, but participated in her halizah.

(6) Must never marry the other widow. The imperfect יבנה may be rendered as a past, present or future.

(7) The second brother who had addressed a ma'amar to the first brother's widow. V. our Mishnah.

(8) I.e., his first wife.

(9) To the third surviving brother if the second also died without issue. The two widows are no longer rivals since the divorce has annulled the ma'amar, and they. being the widows of two different brothers, are now coming from two different houses.

(10) . That was given to her in respect of the levirate bond as well as of the ma'amar, v. infra 52b. Such a sister-in-law is forbidden under the prohibition of That doth not build up (v. supra and notes 3, 4 and 5)' since in her case the levirate bond also had been severed.

(11) V. note 6.

(12) And she is thus subject to the third brother as the widow of the first.

(13) The ma'amar by which he bound her he has himself annulled.

(14) The widow.

(15) The surviving brother.

(16) Prior to his wife's death and after the death of her husband, however short that period may have been, she was forbidden to him as his wife's sister.

(17) The third Mishnah, on fol. 30a supra, where there were three brothers involved, two of whom were married to two sisters and one to a stranger.

(18) The widow of the first brother.

(19) For though she had been forbidden to the second brother, who was married to her sister, she was permitted to the third and she remained in the family.

(20) I.e:, she has been forbidden to the second brother, after the death of the third brother who had married her, owing to the original prohibition which may have lasted one moment only. even after his wife (her sister) had died.

(21) Our Mishnah where only two brothers are involved.

(22) When her husband died there was not a single brother whom she was permitted to marry. What need, then, was there for our Mishnah?

(23) v. note 1.

(24) Since, there, she was not entirely forced out of the family.

(25) Hence he did not consider it necessary to enunciate It 10 a Mishnah.

(26) As, after all, in the case of the second brother, the levirate marriage was for a time forbidden to her.

(27) Owing to its novelty and its wider range.

(28) Lit. — 'did not move from its place'. Though in the presence of the other Mishnah it is indeed superfluous.

(29) The levir.

(30) The widow (v. our Mishnah), while his wife was still alive.

(31) Since she is exempt from the levirate marriage she is forbidden to the levir as any widow of a brother who has issue.

(32) So that if the offence was committed unwittingly he is liable to bring two sin.offerings.

(33) One of the sisters; and thus the prohibition of 'wife's sister' came into force first.

(34) The other sister. The added prohibition of 'brother's wife' could not take effect where one prohibition was already in force.

(35) Cf. previous two notes mutatis mutandis.

(36) פקע, lit., 'to split', hence removed'.

(37) Lit., 'it is not removed'. The levirate marriage is consequently forbidden.

(38) Intercourse, for instance, with a mother-in.law (which is punishable by burning) who was at the time a married woman (the penalty for which Is strangulation).

(39) Tosef. Sanh. XII, Sanh. 81a.

(40) Having been a widow or divorcee at the time of his marriage.

(41) Though the penalty in this case (strangulation) is lighter than that for an offence against a mother-in-law (burning). This proves that one prohibition may not be imposed upon another. Had it been otherwise, the severer penalty should have been inflicted though the prohibition which had caused it came into force later.

Talmud - Mas. Yevamoth 32b

— R. Abbahu replied: R. Jose admits[1] where the latter prohibition is of a wider range.[2]

This is satisfactory in the case where the surviving brother had married[3] first and the deceased had married[4] afterwards, since the prohibition. having been extended in the case of the brothers, had also been extended in his own case.[5] What extension of the prohibition is there, however, where the deceased had married[3] first[6] and the surviving brother had married[4] afterwards?[7] And were you to reply: Because thereby[8] he is forbidden to marry all the sisters,[9] [it may be retorted that] such is only a comprehensive prohibition![10]

The fact is, said Raba, he is deemed[11] to have committed two offences,[12] but is liable for one only.[13]

Similarly when Rabin came[14] he stated in the name of R. Johanan: The offender is deemed[11] to have committed two offences, but he is only liable for one. What practical difference does thisl[5] make?- That he must be buried among confirmed sinners.[15]

This[16] is a question on which opinions differ. For It was stated: A common man[17] who performed some Temple service on the Sabbath, is. R. Hiyya said, liable for two offences.' Bar Kappara said: He is only liable for one.[18] R. Hiyya jumped up and took an oath. 'By the Temple',[19] [he exclaimed]. 'so have l heard from Rabbi:[20] two'! Bar Kappara jumped up and took an oath, 'By the Temple. thus have I heard from Rabbi:[20] one'! R. Hiyya began to argue the point thus: Work on the Sabbath was forbidden to all [Israelites,] and when it was permitted in the [Sanctuary], it was permitted to the priests, hence it was permitted to the priests only, but not to common men. Here, therefore, is involved the offence of Temple service by a common man, and that of the desecration of the Sabbath. Bar Kappara began to argue his point thus: Work on the Sabbath was forbidden to all [Israelites]. but when it was permitted in the Sanctuary, it was permitted [to all], hence only the offence of Temple service by a common man is here involved.

A priest having a blemish who performed [some Temple] services[21] while unclean is. R. Hiyya said, guilty of two offences. Bar Kappara said: He is guilty of one offence only. R. Hiyya jumped up and took an oath, 'By the Temple. thus have I heard from Rabbi: two'! Bar Kappara jumped up and took an oath, 'By the Temple, thus have I heard from Rabbi: one'! R. Hiyya began to reason: [Temple service during one's] uncleanness was forbidden to all; and when it was permitted in the Sanctuary,[22] it was permitted to priests who had no blemish — Hence it must have been permitted only to priests who had no blemish, but not to those who had. Consequently. both the offence of service being done by one with a blemish and that of service during one's uncleanness are here involved. Bar Kappara began to reason thus: [Temple service during] uncleanness was forbidden to all. When it was permitted at the Sanctuary.[23] was [universally] permitted.[24] Consequently. only one offence, that of service by one who had a blemish, is involved.

A common man who ate melikah[25] is. R. Hiyya said, guilty of two offences. Bar Kappara said: He is guilty only of one. R. Hiyya jumped up and took an oath, 'By the Temple. so l heard from Rabbi: two'! Bar Kappara jumped up and took an oath, 'By the Temple. so I heard from Rabbi: one'! R. Hiyya began to reason thus: Nebelah[26] was forbidden to all; and when it was permitted in the Sanctuary[27] it was permitted in the case of the priests. Hence it must be permitted to priests only and not to common men. Consequently. both the offence of consumption[28] by a common man, and that of melikah are here involved. Bar Kappara began to reason: Nebelah[26] was forbidden to all; and when it was permitted in the Sanctuary[27] it was [universally] permitted — Consequently. only the offence due to consumption[28] by a common man is here involved.

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(1) That one prohibition may be imposed upon another.

(2) 1I'אסור מוסיף' lit., 'a prohibition which adds', i.e., one which causes an object (or a person) to be forbidden to others to whom it was not previously forbidden. Hence he admits the imposition of the prohibition of 'brother's wife' upon that of 'wife's sister', even where the latter prohibition was already in force, because the former, unlike the latter, is applicable not only to him alone but to the other brothers also. In the case, however, of a married woman who became his mother-in-law where the first prohibition was of a wider range (the woman being forbidden to all men except her husband) and the later one (forbidden to him only) of a restricted range, the second prohibition cannot be imposed upon the first. The reason why in the case of a mother-in-law who became a — married woman the sentence is to be that for an offence against a mother-in-law is not because the latter (which is of a wider range) cannot be imposed upon the former, but because wherever two penalties are to be inflicted the severer one (burning) supersedes the lighter one (strangulation).

(3) One of the sisters.

(4) The other sister.

(5) V. supra p. 202, n. 9.

(6) Bringing Into force the prohibition of brother's wife which is applicable to all brothers.

(7) Adding the prohibition of wife's sister which, being applicable to himself only, is of a more restricted range, and cannot consequently be imposed on that of brother's wife, which preceded it.

(8) By marrying the other sister.

(9) While before this marriage the widow only was forbidden.

(10) איסור כולל lit., ‘a prohibition which includes’. The additional prohibition includes the widow in the same manner only as it does the other sisters but, unlike an issur mosif (the prohibition of the wider range, v. supra p. 202, n. 9), it does not place any additional restriction as far as the widow herself is concerned upon any other men.

(11) Lit., ‘I bring upon him’.

(12) I.e., in this sense only is R. Jose's statement, that he is guilty of two offences (supra 32a), to be understood.

(13) Because R. Jose. in fact, does not admit the imposition of one prohibition upon another.

(14) From Palestine to Babylon. (13) The fact that he is theoretically guilty of two offences.

(15) The Beth din had at its disposal two burial places, and offenders who were executed or died were buried in the one or the other according to the degree of their respective offences. (V. Sanh. 46a). The reference here will consequently be to an intentional transgression.

(16) Whether one act involving two transgressions is deemed to be one offence or two offences.

(17) זר lit., ‘a stranger’, I.e., a non-priest.

(18) This is explained infra.

(19) Lit., ‘the (Temple) service’.

(20) R. Judah the Prince, compiler of the Mishnah.

(21) Such as that connected with the rites of a congregational offering which may be performed in certain circumstances by priests (v. Yoma 6b). even when they are unclean, provided they are physically fit.

(22) Cf. previous note.

(23) v. p. 204, n’ 7.

(24) Even to a priest afflicted with a blemish.

(25) מליקה (rt. מלק ‘to pinch’), applied to the meat, of a fowl whose head was ‘pinched off’, in accordance with Lev. I, 15.

(26) נבלה ‘a corpse’. ‘carrion’, applied also to animals that have not been ritually slaughtered and the consumption of which is forbidden.

(27) Melikah being permitted to the priests.

(28) Of sacrificial meat.

Talmud - Mas. Yevamoth 33a

What is the point at issue between them?[1] -R. Jose's view[2] with regard to a comprehensive prohibition.[3] R. Hiyya is of the opinion that in the case of a comprehensive prohibition R. Jose deems the transgressor guilty of two offences,[4] while Bar Kappara is of the opinion that he deems him guilty of one offence only.[5] But what comprehensive prohibition. is here involved? In the case of a common man[6] this[7] may well be understood, since at first[8] he was permitted to do ordinary work though forbidden to perform the Temple service, and when Sabbath came in, as he was now forbidden to do any other work,[9] so he was also forbidden to perform the Temple service.[10] [Similarly with a priest] who had a blemish,[11] since he was at first[12] permitted to eat [of sacrificial meat] though forbidden to perform the Temple service, now that he became defiled, as he was forbidden to eat of sacrificial meat[13] so he was also forbidden to perform the Temple service.[14] Mehkah. however, is only an illustration[15] of prohibitions that set in simultaneously[16] but not of a comprehensive prohibition![17] -Rather, the point at issue between them[18] is that of simultaneous prohibitions’ and R. Jose's view[19] regarding them. R. Hiyya is of the opinion that in the case of simultaneous prohibitions R. Jose deems the transgressor guilty of two offences,[20] while Bar Kappara is of the opinion that he deems him guilty of one offence only.[21] But how are here simultaneous prohibitions possible?[22] — In the case of a common man who performed the Temple service on the Sabbath, when, for instance, he grew two hairs[23] on the Sabbath, so that the prohibitions of Temple service by a common man and of work on the Sabbath have simultaneously arisen.[24] [In the case of a priest] who had a blemish, also, when, for instance, he grew two hairs,[23] while he was unclean, so that [his disability as] a man with a blemish and his uncleanness[25] have simultaneously arisen.[26] Or else, if a man cut his finger with an unclean knife.[27]

Now according to [the statement of] R. Hiyya it is quite possible to explain[28] that he[29] was taught[30] in accordance with the view of R. Jose, and that Bar Kappara was taught in accordance with the view of R. Simeon.[31] According to [the statement of] Bar Kappara, however,[32] did R. Hiyya swear falsely?[33] -Rather, the question at issue between them[34] is that of simultaneous prohibitions, and the view of R. Simeon[35] on the subject.

One can well understand why R. Hiyya took an oath. He did it in order to weaken the force[36] of R. Simeon s view.[37] What need, however, was there for Bar Kappara to take an oath? — This is a difficulty.

Now according to [the statement of] Bar Kappara. it is possible to explain[38] that when Rabbi taught him he was enunciating the opinion of R. Simeon,[39] and that when he taught R. Hiyya he was enunciating the opinion of R. Jose.[40] According to [the statement] of R. Hiyya. however,[41] did Bar Kappara[42] tell a lie?[43] R. Hiyya can answer you:[44] When Rabbi taught him, he taught him two instances[45] only where the transgressor is exempt[46]

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(1) R. Hiyya and Bar Kappara.

(2) Who maintains supra that in certain circumstances a prohibition may be imposed upon a prohibition which is already in force.

(3) איסור כולל Cf. supra p. 203. n. 8.

(4) Nebelah and melikah. V. supra. no. 3 and 4.

(5) And R. Jose's statement supra that the transgressor is guilty of two offences is, according to Bar Kappara, applicable only where the surviving brother had married one of the sisters before the deceased had married the other. (V. supra p. 203. nn.1ff and relevant text). R. Simeon's statement, (supra 32a) that ‘he is guilty on account of brother's wife only’, which has been interpreted as referring to the case where the deceased had married prior to the surviving brother, is according to Bar Kappara, to be deleted from the Baraitha.

(6) Who performed some Temple service on the Sabbath.

(7) That a comprehensive prohibition is involved.

(8) Before the Sabbath.

(9) Owing to Sabbath.

(10) The prohibition being ‘comprehensive’ in that it included both ordinary work and Temple service. It is not a ‘prohibition of a wider range’ since the prohibition of Temple service itself was in no way extended.

(11) Cf. supra, n. 2.

(12) Prior to his defilement.

(13) Owing to his uncleanness.

(14) The prohibition comprehending the Temple service as well as the consumption of sacrificial meat. Cf. supra. n’ 5’

(15) Lit., ‘it is found’.

(16) בת אחת ‘at once’, ‘at the same moment’. Before the head of the fowl was pinched off there was only the prohibition of nebelah (v. Glos.) which included also priests. The two prohibitions of nebelah and melikah as far as common men are concerned had set in simultaneously at the moment of the pinching off of the fowl's head.

(17) Since both have been simultaneous. How then could the dispute on melikah be dependent on the principle of a ‘comprehensive prohibition’?

(18) R. Hiyya and Bar Kappara.

(19) V. supra p. 205. n. 8.

(20) R. Jose's statement (supra 32a). that the transgressor is guilty of the offences of (a) brother's wife and (b) wife's sister, is taken to refer to the case where the two brothers appointed an agent to betroth for them the two sisters, who in turn appointed an agent to act on their behalf. At the moment the agents carried out their mission both prohibitions had set in.

(21) Cf. supra p. 205, n. 11.

(22) As has been shewn, the instances mentioned, with the exception of melikah, are ‘comprehensive prohibitions!’

(23) The marks of puberty.

(24) In this particular case, since prior to the manifestation of the marks of puberty he was considered a minor, and not subject to legal penalties.

(25) l.e., his liability to penalties for performing Temple service under such conditions.

(26) Cf. note 4, mutatis mutandis.

(27) Which act caused both the blemish and the uncleanness to set In at the very same Instant.

(28) To reconcile the contradictory statements made by R. Hiyya and Bar Kappara both in the name of Rabbi.

(29) R. Hiyya.

(30) By Rabbi. Lit., ‘when he taught him (it was)’.

(31) And that Bar Kappara may have misunderstood Rabbi to give him the opinion of R. Jose.

(32) Who asserts that Rabbi recognizes one offence only according to R. Jose.

(33) If R. Jose allows the lighter punishment, how much more so R. Simeon. If R. Hiyya. then, made the statement that Rabbi taught him that a double offence had been committed he could not have spoken the truth since according to Bar Kappara no authority ever held such a view.

(34) R. Hiyya and Bar Kappara.

(35) R. Hiyya maintains that R. Simeon subjected the transgression to one offence only in the case of a ‘comprehensive prohibition’; but that in a ‘simultaneous prohibition’ he admits, like R. Jose, a double offence. Bar Kappara, on the other hand, maintains that R. Simeon disagrees with R. Jose even in regard to simultaneous prohibitions, always admitting one offence only.

(36) By his oath he affirmed that R. Simeon is in favour of the lighter course only in the case of a ‘comprehensive prohibition’ but not in that of ‘simultaneous prohibitions’.

(37) Which is known to favour the lighter penalty.

(38) I.e., to reconcile the contradictory statements. v. supra, p. 207. n. 8.

(39) Favouring the lighter penalty.

(40) Who imposes the heavier penalty; but R. Hiyya mistook him to be reporting R. Simeon and thus the discrepancy arose.

(41) Who submitted that the heavier penalty was imposed even by R. Simeon, much more so by R. Jose.

(42) Who submitted that Rabbi taught him that the lighter penalty only was to be imposed.

(43) He could not have spoken the truth if R. Hiyya's report was at all correct. v. note 6.

(44) Bar Kappara did not tell a lie.

(45) The first two-that of a non-priest who performed the Temple service on the Sabbath and that of a priest who had a blemish and performed the Temple service while he was unclean.

(46) From one of the penalties.

Talmud - Mas. Yevamoth 33b

. and [thereby he, in fact.] taught him the law of comprehensive prohibition[1] in accordance with the view of R. Simeon. Bar Kappara. however, considered the case of a common man who ate melikah and, as it seemed to be similar to the others, he treated it like the others.[2] When, later, he examined it[3] and found it to be possible only as a case of simultaneity of prohibitions. he imagined that as this one[3] is a case of simultaneity so are also the others cases of simultaneity;[4] and as the others are cases where the transgressor is exempt[5] so [he assumed] is this also one in which the transgressor is exempt.[5]

An objection was raised: If a common man performed some Temple service on the Sabbath, or if a priest having a blemish performed Temple service while he was levitically unclean, the offences of service by a common man and the desecration of the Sabbath or those of service by a man with a blemish and levitical uncleanness are here respectively involved. These are the words of R. Jose. R. Simeon who said: Only the offence of service by a common man or that of service by a man with a blemish respectively is here involved.[6] [The case of] melikah, however, is here omitted.[7] Now, on account of whom was it omitted?[8] If it be suggested. on account of R. Jose[9] [it may be retorted]. if[10] R. Jose subjects one to two penalties where the prohibition is comprehensive, how much more so[11] when it is simultaneous. Consequently It must have been[12] on account of R. Simeon[13] who thus grants exemption only where the prohibition is comprehensive[14] but imposes both penalties when the prohibitions are simultaneous —[15] This, then, is a refutation against Bar Kappara![16] This is indeed a refutation.

'If a common man performed some Temple service on the Sabbath'. Of what nature? If slaughtering, slaughtering is permitted by a common man.[17] If reception[18] or carriage.[19] this involves only a mere movement.[20] If burning,[21] surely R. Jose said, 'The prohibition of kindling a fire [on the Sabbath][22] was mentioned separately[23] in order to [indicate that its transgression is] a prohibition only'![24] — R. Aha b. Jacob replied: The slaughtering of the bullock of the High Priest ,[25] and in accordance with the view of him who stated that the slaughtering of the bullock of the High priest on the Day of Atonement by a common man Is Invalid.[26] If so, what reason is there for mentioning a common man? EVen a common priest would have been equally forbidden![27] -What was meant was one who is a common man as far as It Is concerned.[28]

R. Ashi demurred: Was any mention made of sin-offerings or of negative precepts?[29] Surely, only forbidden acts were spoken of![30] — The point at issue is whether he is to be buried among confirmed sinners.[31]

MISHNAH. IF TWO MEN BETROTHED TWO WOMEN, AND AS THESE WERE ENTERING INTO THE BRIDAL CHAMBER, THEY EXCHANGED THE ONE FOR THE OTHER, BEHOLD, THEY[32] ARE GUILTY OF AN OFFENCE AGAINST A MARRIED WOMAN. IF THEY[32] WERE BROTHERS THEY ARE GUILTY ALSO OF AN OFFENCE AGAINST A BROTHER'S WIFE. IF [THE BETROTHED WOMEN] WERE SISTERS, THEY[33] ARE GUILTY ALSO ON ACCOUNT OF THE PROHIBITION, [AND THOU SHALT NOT TAKE] A WOMAN TO HER Slster.[34] IF THESE[35] WERE MENSTRUANTS [THEY[33] ARE GUILTY ALSO] ON ACCOUNT OF [THE LAW OF THE] MENSTRUANT.[36]

THEY[35] MUST BE KEPT APART[37] FOR THREE MONTHS, SINCE IT IS POSSIBLE THAT THEY ARE PREGNANT.[38] IF THEY[35] WERE MINORS INCAPABLE OF BEARING CHILDREN, THEY MAY BE RESTORED[39] AT ONCE. IF THEY[35] WERE PRIESTLY WOMEN THEY ARE DISQUALIFIED FROM THE PRIESTHOOD.[40]

GEMARA. THEY EXCHANGED?[41] Are we discussing wicked men![42] Furthermore, [there is the difficulty] of the statement made by[43] R. Hiyya. that[44] sixteen sin-offerings[45] are here [involved]. Is any sacrifice brought[46] where the act[47] was wilful?[48] Rab Judah replied: Read THEY WERE EXCHANGED.[49] This[50] may also be proved by logical reasoning. For in the latter clause it was stated, IF THEY WERE MINORS INCAPABLE OF BEARING CHILDREN THEY MAY BE RESTORED AT ONCE. Now, if the act[47] had been willful, would [this[51] have been] permitted! — This is no difficulty. The seduction of a minor is deemed to be an outrage, and an outraged woman is permitted to an Israelite.[42] But, then, what of that which is stated, that THEY MUST BE KEPT

APART FOR THREE MONTHS, SINCE IT IS POSSIBLE THAT THEY ARE PREGNANT, implying that if they were not pregnant they would be permitted. Now if the act[52] had been wilful would she be permitted! Consequently[53] the reading must have been[54] THEY WERE EXCHANGED.[55] This may be taken as proved.

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(1) Though when the prohibitions in these cases should happen to be simultaneous, the double penalty would undoubtedly be imposed.

(2) Lit., ‘mixed it up with them’; as those are cases where the transgressor is exempt from one of the penalties, so’ he thought. was that of melikah.

(3) Melikah.

(4) I.e., the same law is applicable to them whether the case is that of a comprehensive prohibition’ or, like melikah, one of ‘simultaneous prohibitions’.

(5) From one of the penalties.

(6) Tosef. Yeb. V.

(7) Implying that there is no difference of opinion regarding the case where a common man ate of melikah.

(8) I.e., who agrees with whom in this case that it should be excluded from the dispute.

(9) I.e., that R. Jose agrees in the case of melikah with R. Simeon.

(10) Lit., ‘now’.

(11) Lit., ‘is it required (to be stated)’?

(12) Lit., ‘but (is it) not’.

(13) Who, despite his opinion that in the two cases mentioned only one penalty is involved, agrees with R. Jose that in melikah two penalties are involved.

(14) As in the two cases mentioned.

(15) As in melikah, v. supra.

(16) Who maintained supra that even in simultaneous prohibitions R. Simeon exempts from one of the penalties.

(17) Hence no prohibition of ‘service by a common man’ is here involved.

(18) Of the sacrificial blood in a basin for sprinkling purposes.

(19) Bringing the blood near the altar.

(20) טלטול ‘moving an object from place to place’; and such movement on the Sabbath is no punishable offence.

(21) Of the sacrifices.

(22) In Ex. XXXV, 3.

(23) Lit., ‘went out’.

(24) Shab. 702, Sanh. 35b, 62a, supra 6b. A ‘prohibition’, i.e., a negative commandment that does not involve any of the death penalties of stoning or of kareth.

(25) On the Day of Atonement (v. Lev. XVI, 3ff) which happened to fall on a Sabbath.

(26) V. Yoma 42a. As it is invalid it is also forbidden on the Sabbath under the death penalties of stoning or kareth which are incurred by the performance of certain kinds of manual labour on the Sabbath.

(27) Lit., ‘also’, since the opinion that disqualifies the common man for this service disqualifies also the common priest.

(28) Lit., ‘who is a stranger to it , i.e., the particular service, including here even a common priest.

(29) Which entail flagellation.

(30) Since no actual penalty. either of a sin offering or flagellation, is involved, what matters it whether the two offences are regarded as one or as two? V. next note.

(31) V. supra p. 204, n. 1. [Aliter: Since no actual penalty is involved the reference might indeed be to ‘burning’, the practical point at issue being whether he is to be buried among confirmed sinners.]

(32) The men if they had intercourse with the women.

(33) The men if they had intercourse with the women.

(34) Lev. XVIII, 18.

(35) The women.

(36) Lev. XVIII, 19.

(37) Away from their husbands.

(38) Children from such a union are bastards and precaution must be taken that they are not allowed to pass as legitimate children.

(39) To their husbands.
(40) So Rashal. Cur. edd. ‘terumah’.
(41) החליפו Hif., 3rd plural.
(42) Who had deliberately exchanged their wives.
(43) Lit., ‘that which he taught’.
(44) Lit., ‘behold’.
(45) Four offerings, (one for each transgression enumerated) by each of the four persons mentioned.
(46) Lit., ‘is there?’
(47) In this case the exchange.
(48) V. supra notes 9 and 10. For wilful transgression other penalties are prescribed!
(49) הוחלפן (B.H. החלפו), Hof., i.e., accidentally.
(50) That the exchange was not a wilful act.
(51) The immediate restoration of the minors to their husbands. (20) Her husband. V. Keth. 51b.
(52) In this case the exchange.
(53) Lit., ‘but not’.
(54) Lit., ‘infer from this’.
(55) v. supra p. 211, n. 17.

Talmud - Mas. Yevamoth 34a

And who is this Tanna[1] that admits the force[2] of a ‘comprehensive prohibition’, a ‘prohibition of a wider range’ and ‘simultaneous prohibitions’?[3] -Rab Judah replied in the name of Rab: It is R. Meir; for we learnt:[4] A man may sometimes consume one piece of food[5] and incur thereby the penalty of four sin-offerings and one guilt.offering. [If. e.g., a man levitically] unclean ate suet[6] that remained over from holy sacrifices,[7] on the Day of Atonement[8] R. Meir said: If this happened on[9] the Sabbath and [the consumer] carried out [the suet] in his mouth, liability is incurred [for this act[10] also].[11] They said to him: This[10] is an offence of a different character.[12]

Whose view, however, IS R. Meir[13] following? If he follows R. Joshua.[14] surely the latter had said that he who made a mistake in respect of a commandment[15] is exonerated![16] — Rather he follows the view of R. Eliezer.[17] If you prefer I might say: He may. in fact, follow the view of R. Joshua, for R. Joshua's statement, that he who made a mistake in respect of a commandment is exonerated, may only be applicable to the case of the children,[18] where one is pressed for time.[19] but not in such a case as this,[20] where time is not pressing.[21]

What about terumah,[22] where one is not pressed for time, and he[23] nevertheless exonerates! For we learnt: In the case of a priest who was In the habit of eating terumah and it then transpired that he was the son of a divorced woman or of a haluzah,[22] R. Eliezer imposes payment of the principal and of a fifth,[24] and R. Joshua exonerates![25] — Surely, in relation to this it was stated that R. Bibi b. Abaye said: We are here speaking of terumah[26] on the Eve of Passover when time is pressing.[27] If you prefer I might say: [Our Mishnah speaks] of simultaneous prohibitions, and may represent even the View of R. Simeon.[28]

All these,[29] it may well be conceded, may occur [simultaneously] where [the brothers] appointed an agent[30] and [the sisters also] appointed an agent[31] and one agent met the other;[32] but how could such [simultaneity] occur with menstruation?[33] - R. Amram in the name of Rab replied: When the women's menstrual discharge continued from [the men's] thirteenth, until after their thirteenth [birthday], when these become subject to legal punishments; and from their own twelfth, until after their twelfth [birthday], when they themselves become subject to punishments.[34]

THEY MUST BE KEPT APART. Surely, no woman conceives from the first contact.[35] R. Nahman replied in the name of Rabbah b. Abuha: Where contact was repeated. Why, then, did R.

Hiyya state, ‘Behold sixteen offerings are here involved’,[36] when, in fact,[37] there should be thirty-two?[38] And according to your line of reasoning, following the opinion of R. Eliezer who deems they are guilty for every sexual effort, are there not more?[39] But [your own answer would be] that he only takes into consideration the first effort. Well, here also, only the first contact is taken into consideration.

Said Raba to R. Nahman:

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(1) In our Mishnah.

(2) Lit., ‘to whom there is’.

(3) Wherever they can all be applied to the same person. If, e.g., A the brother of B betrothed C the sister of D, C is forbidden to B as ‘his brother's wife’ and as ‘a married woman’, both prohibitions having come into force simultaneously. If B subsequently betrothed D, her sister C becomes forbidden to him, by the comprehensive prohibition of ‘his wife's sister’, (comprehending all the sisters of D inclusive of C). When C becomes a menstruant she is forbidden to B as a menstruant also, this last being a prohibition of a wider range extending as it does the prohibition of the woman to A also.

(4) Cur. edd., ‘it was taught’.

(5) Lit., ‘there is one eating’.

(6) Forbidden fat.

(7) Nothar, v. Glos.

(8) The four sin-offerings are due for the eating of (a) holy food while the man is levitically unclean, (b) forbidden fat, (c) nothar and (d) food on the Day of Atonement; while the guilt-offering (asham me'iloth) is incurred for the benefit the consumer (even though he were a priest) had from holy things which were to be burnt on the altar.

(9) Lit., ‘it was’.

(10) Carrying on the Sabbath.

(11) Thus it is shewn that R. Meir recognizes the validity of the three kinds of prohibition: When the animal was consecrated, the prohibition of having any benefit from any part of it has been added to that of eating its suet (wider range). and when a piece of the suet became nothar (since it is thereby forbidden to be offered up on the altar, which is an added restriction) the prohibition of nothar has also been imposed in respect of its consumption by the priests (again wider range). When the priest becomes unclean and is consequently forbidden to consume any holy meat he is also forbidden to consume the nothar (comprehensive), and with the advent of the Day of Atonement the prohibition of the consumption of food generally on that day falls also on the nothar (again comprehensive). Finally, at the moment Sabbath sets in two more prohibitions are imposed (simultaneous) that of carrying on the Sabbath and that of eating on the Day of Atonement (Rashi) or those of carrying on the Sabbath and on the Day of Atonement (Tosaf., s.v. והוצתאו a.I.).

(12) Lit., ‘it is not from the (same) designation’. Shab. 102a, Shebu. 24b, Ker. 13b.

(13) Who, as has been shown, is represented by the Tanna of our Mishnah who admits the imposition of one prohibition upon another even where the performance of a commandment (e.g.. marriage) was intended.

(14) Who is at variance on a similar question with R. Eliezer (Shab. 1370). Both R. Joshua and R. Eliezer were R. Meir's teachers.

(15) I.e., if his intention was to fulfil a precept and, through an error, his act resulted in a transgression. Cf. the case in our Mishnah and v. supra n. 1 —

(16) While our Mishnah declares the men guilty!

(17) v. supra. n. 2.

(18) One of whom had to be circumcised on the Sabbath and by mistake another child was circumcised who was born a day later. Only circumcision which takes place on the eighth day of birth is permitted on the Sabbath. Any other is forbidden like all manual labour.

(19) One is anxious to perform the commandment at its proper time, and one's anxiety that the day shall not pass without its performance may easily result In an error.

(20) Marriage. spoken of in our Mishnah.

(21) One may contract marriage during any time of his life.

(22) V. Glos.

(23) R. Joshua.
(24) The disqualified priest. having consumed terumah which was forbidden to him, must pay compensation as any layman, as prescribed in Lev. V, 16.
(25) Ter. VIII, 1; Pes. 72b, Mak. 11b.
(26) Containing 'leaven' or any other hamez.
(27) After a certain hour on that day all hamez, would have to be burnt.
(28) Who agrees with R. Meir that simultaneous prohibitions do rank as equal in force, and both may be imposed.
(29) Prohibitions, enumerated in our Mishnah.
(30) To betroth the women on their behalf.
(31) To accept on their behalf the tokens of betrothal.
(32) So that all prohibitions took effect at the very same moment.
(33) Which would naturally occur either before, and thus prevent the other three prohibitions from coming into force; or after, and thus be prevented itself from coming Into force.
(34) A male becomes legally liable to punishments on the termination of his thirteenth, and a female on that of her twelfth year of age. If the respective agents of the two parties who were of the same age to a day. met sometime prior to the conclusion of the last day of the year (twelfth of the females and thirteenth of the males), and arranged for the betrothals to take effect on the following day when both parties become 'of age' (as otherwise the betrothals would not be valid) the betrothals and the prohibitions simultaneously come into force.
(35) What, then, is the need for the precaution?
(36) Supra 33b.
(37) Since our Mishnah represents the view of R. Eliezer (or Eleazar).
(38) Sixteen for each contact. V. infra 92a, Ker. 15a.
(39) Sin-offerings involved.

Talmud - Mas. Yevamoth 34b

Surely Tamar[1] conceived from a first contact! The other answered him: Tamar exercised friction with her finger;[2] for R. Isaac said: All women of the house of Rabbi who exercise friction[3] are designated Tamar. And why are they designated Tamar? — Because Tamar exercised friction with her finger. But were there not Er and Onan?[4] — Er and Onan indulged in unnatural intercourse.

An objection was raised: During all the twenty-four months[5] one may thresh within and winnow without;[6] these are the words of R. Eliezer. The others said to him: Such actions are only like the practice of Er and Onan![7] -Like the practice of Er and Onan, and yet not [exactly] like the practice of Er and Onan: 'Like the practice of Er and Onan', for it is written in Scripture, And it came to pass, when he went in unto his brother's wife, that he spilt it on the ground;[8] and 'not [exactly] like the practice of Er and Onan', for whereas there it was an unnatural act, here it is done in the natural way.

[The source for] Onan's [guilt] may well be traced, for it is written in Scripture, That he spilt it on the ground;[8] whence however, [that of] Er?-R. Nahman b. Isaac replied: It is written, And He slew him also,[9] he also died of the same death.[10]

[The reason for] Onan's [action] may well be understood, because he knew That the seed would not be his;[8] but why did Er act in such a manner? — In order that she might not conceive and thus lose some of her beauty.

Our Rabbis taught [The woman also] with whom [a man shall lie],[11] excludes a bride;[12] so R. Judah. But the Sages say: This excludes unnatural intercourse.

Said Hon son of R. Nahman to R. Nahman: Does this imply that R. Judah is of the opinion that the Torah had consideration for the bride's make-up?[13] — The other replied: Because no woman conceives from her first contact —[14] On what principle do they differ? — The Rabbis are of opinion that ‘carnally’[11] excludes the first stage of contact, and ‘with whom’[11] excludes unnatural intercourse; but R. Judah is of the opinion that the exclusion of unnatural intercourse and the first stage of contact may be derived from ‘carnally’.[11] while ‘with whom’[11] excludes a bride.

When Rabin came[15] he stated in the name of R. Johanan: A woman who waited ten years after [separation from] her husband, and then remarried, would bear children no more. Said R. Nahman: This was stated only in respect of one who had no Intention of remarrying: if, however, one's intention was to marry again she may conceive.

Raba said to R. Hisda's daughter:[16] The Rabbis are talking about you. She answered him: I had my mind on you.

A woman once appeared before R. Joseph, and said to him: Master, I remained unmarried after [the death of] my husband for ten years and now I gave birth to a child — He said to her: My daughter, do not discredit the words of the Sages. She thereupon confessed, ‘I had intercourse with a heathen’.[17]

Samuel said: All these women,[18] with the exception of a proselyte and an emancipated slave who were minors, must wait three months.[19] An Israelitish minor, however, must wait three months. But how [was she separated]?[20] If by a declaration of refusal,[21] surely. Samuel said that she[22] need not wait![23] And if by a letter of divorce, surely Samuel has already stated this once! For Samuel said: If she’ formally refused him[21] she need not wait three months; if he gave her a letter of divorce she must wait three months![24] -[It[25] was] rather in respect of unlawful intercourse,

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(1) V. Gen. XXXVIII, 15, 18, 24ff.

(2) Having thus destroyed her virginity she was capable of conception from a first contact.

(3) To destroy their virginity.

(4) Who were married to Tamar prior to the incident with Judah (v. Gen. XXXVIII, 6ff) and her virginity would presumably have been destroyed then.

(5) After the birth of a child, i.e., during the period in which the mother is expected to breast-feed her child.

(6) Euphemism. This would prevent possible conception which might deprive the young child of the breast feeding of his mother.

(7) Which implies that there was natural contact. Cf. supra note 5.

(8) Gen. XXXVIII, 9.

(9) Ibid. 10.

(10) For the same offence.

(11) Lev. XV, 18.

(12) She does not become unclean by the first contact and does not require. therefore, any ritual bathing.

(13) Which would be spoiled by the water were she required to perform ritual ablution.

(14) Scripture speaking only of intercourse which may result in conception. V. Lev. ibid.

(15) From Palestine to Babylon.

(16) Whom he married after a period of ten years had passed since the death of her husband, Rami b. Hama.

(17) During the ten years.

(18) Enumerated infra 41a, 42b.

(19) Before they marry again.

(20) From her former husband.

(21) Mi'un, v. Glos.

(22) A minor.

(23) Three months.

(24) Keth. 100b; why, then, should he repeat it here?

(25) Samuel's statement.

Talmud - Mas. Yevamoth 35a

the Rabbis having made the provision[1] in the case of a minor[2] as a precaution against one who is of age.[3] But is provision made in the case of a minor as a precaution against one who is of age? Surely we learnt, IF THEY WERE MINORS INCAPABLE OF BEARING CHILDREN THEY MAY BE RESTORED AT ONCE! — R. Giddal replied: This[4] was a special ruling.[5] Does this imply that such a case had actually occurred![6] — Rather [this is the meaning:] It[4] was like a special ruling, since the exchange of brides is an unusual occurrence.[7]

[Others adopt] a different reading: Samuel said: All these women,[8] with the exception of a proselyte and an emancipated slave who were of age. must wait three months.[9] An Israelitish minor, however, need not wait three months. But how [was she separated]? If by a declaration of refusal, Surely Samuel has already stated this one! And if by a letter of divorce, Samuel surely stated that she' must wait! For Samuel said: If she exercise her right of refusal against him, she need not wait three months; if he gave her a letter of divorce she must wait three months! [It was] rather in respect of harlotry. and harlotry with a minor[8] an unusual occurrence.[7]

Let, however, a preventive measure[10] be made in respect of a proselyte and an emancipated slave with whom harlotry is not unusual! — He holds the same view as R. Jose. For it was taught: Proselytes,[11] captivesl or slaves[11] who were redeemed, or embraced the Jewish faith or were emancipated, must wait three months; so R. Judah. R. Jose permits immediate betrothal and marriage.[12] Rabbah said: What is R. Jose's reason? He is of the opinion that a woman who plays the harlot makes use of an absorbent in order to prevent conception.[12]

Said Abaye to him: This[13] is intelligible in the case of a proselyte; as her intention is to embrace the Jewish faith she is careful[14] in order to know the distinction between the seed that was sown in holiness and the seed that was sown in unholiness. It[13] is also [intelligible In the case of] a captive and a slave; since on hearing from their masters[15] they exercise care.[16] How is this[13] to be applied. however, in the case of one who is liberated through the loss of a tooth or an eye?[17] And were you to suggest that wherever something unexpected happens[18] R. Jose admits,[19] surely it was taught:[20] A woman who had been outraged or seduced must wait three months; so R. Judah. R. Jose permits immediate betrothal and marriage![21] — Rather, said Abaye,[22] a woman playing the harlot turns over In order to prevent conception.[23] And the other?[24] -There is the apprehension that she might not have turned over properly.[25]

IF THEY WERE PRIESTLY WOMEN etc. Only[26] priestly women but not an Israelitish woman?[27] -Read, 'If they were the wives of priests'.[28] Only' 'priests' wives,'[29] but not Israelites' wives?[30] Surely R. Amram said, 'The following statement was made to us by R. Shesheth who threw light on the subject[31] from our Mishnah:[32] An Israelite's wife[33] who was outraged, though she is permitted to her husband, is disqualified from the priesthood.[34] — Raba replied: It is this that was meant:[35] IF THEY WERE PRIESTLY WOMEN[36] married to Israelites THEY ARE DISQUALIFIED from eating terumah at their parents' home.[37] [

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(1) That three months must be allowed to pass.

(2) Though she is not capable of conception.

(3) A proselyte and an emancipated slave who were minors are, however, exempt. because, being cases of rare occurrence, no preventive measure is required.

(4) The ordinance in our Mishnah.

(5) הוראת שעה lit., 'a ruling of the hour'.

(6) But our Mishnah, 'IF THEY WERE MINORS etc. Obviously speaks of a contingency and not of a fact.

(7) And no preventive measure is. therefore, necessary.

(8) Enumerated infra 41a, 42b.

(9) Before they are allowed to marry again. (17) That in such circumstances she need not wait three months.
(10) To avoid conception and the mingling of legitimate with illegitimate children.
(11) In the original the noun is in the sing.
(12) Keth. 372.
(13) Rabbah's explanation.
(14) Cf. supra note 1; and has always some absorbent in readiness.
(15) Of their impending liberation.
(16) Cf. supra notes 1 and 5.
(17) V. Ex. XXI, 26, where the liberation of the slave comes suddenly. and no previous care would have been exercised by her.
(18) Lit., ‘of itself’, when the woman was not likely to have been prepared with an absorbent.
(19) That a waiting period of three months must be allowed.
(20) Cur. edd., ‘we learned’.
(21) Which shews that even when the unexpected happens R. Jose requires no waiting period!
(22) The reading in Keth. 372 is ‘Rabbah’. Others, ‘Raba’ (v. Alfasi).
(23) Keth. loc. cit. No absorbent is needed. Similarly in the case of a liberated captive or slave. Hence no waiting period is required.
(24) Why then does he require a waiting period?
(25) And conception might have taken place. V. Keth. loc. cit.
(26) Lit., ‘yes’.
(27) The wife of a priest. Surely she also is forbidden to her husband!
(28) V. previous note.
(29) Are forbidden to marry priests.
(30) Who were priests’ daughters.
(31) Lit., ‘and lit up our eyes’.
(32) I.e., the Mishnah infra 53b which was under discussion.
(33) A priest's daughter who on the death of her husband returns to her father's house and is permitted again to eat terumah. V. Lev. XXII, 12-13.
(34) Infra 56af. She may not marry a priest even after the death of her husband.
(35) By our Mishnah.
(36) l.e., daughters of priests.
(37) PRIESTHOOD in our Mishnah referring to the right of eating terumah on their return to their parents’ home in their widowhood (v. Lev. XXII, 13). V. supra n. 8, and the reading of cur. edd. supra p. 211, n. 8.

Talmud - Mas. Yevamoth 35b

CHAPTER IV

MISHNAH. IF A LEVIR PARTICIPATED IN HALIZAH WITH HIS DECEASED BROTHER'S WIFE[1] WHO WAS SUBSEQUENTLY FOUND TO BE PREGNANT, AND SHE GAVE BIRTH, HE IS, WHEREVER THE CHILD IS VIABLE,[2] PERMITTED TO MARRY HER RELATIVES AND SHE IS PERMITTED TO MARRY HIS RELATIVES,[3] AND HE DOES NOT RENDER HER UNFIT FOR THE PRIESTHOOD;[4] BUT WHEREVER THE CHILD IS NOT VIABLE,[5] THE LEVIR IS FORBIDDEN TO MARRY HER RELATIVES AND SHE IS FORBIDDEN TO MARRY HIS RELATIVES, AND HE RENDERS HER UNFIT TO MARRY A PRIEST.

IF A LEVIR MARRIED HIS DECEASED BROTHER'S WIFE[1] WHO IS FOUND TO HAVE BEEN PREGNANT,[6] AND SHE GAVE BIRTH, HE, WHEREVER THE CHILD IS VIABLE, MUST[7] DIVORCE HER. AND BOTH ARE UNDER THE OBLIGATION OF BRINGING AN OFFERING;[8] BUT IF THE CHILD IS NOT VIABLE, HE MAY RETAIN HER. IF IT IS DOUBTFUL WHETHER IT IS A NINE-MONTHS CHILD OF THE FIRST [HUSBAND] OR A SEVEN-MONTHS CHILD OF THE SECOND [HUSBAND]. SHE MUST BE DIVORCED, AND

THE CHILD IS LEGITIMATE,[9] BUT THEY ARE UNDER THE OBLIGATION OF AN ASHAM TALUI.[10] GEMARA. It was stated: In the case of a levir who participated In halizah with a pregnant woman who subsequently miscarried, R. Johanan said, She need not perform the halizah with the brothers; and Resh Lakish said: She must perform halizah with the brothers. 'R. Johanan said, She need not perform halizah with the brothers', because the halizah of a pregnant woman[11] is deemed to be proper halizah and marital contact with a pregnant woman is deemed to be proper marriage.[12] 'Resh Lakish said: She must perform halizah with the brothers', because the halizah with a pregnant woman is not deemed to be a proper halizah, nor is marital contact with a pregnant woman deemed to be a proper marriage. On what principle do they[13] differ? — If you wish I might say: In the interpretation of a Scriptural text. And if you prefer I might say: On a logical point. 'If you wish I might say: In the interpretation of a Scriptural text';[14] R. Johanan is of the opinion that the All Merciful said, And have no child,[15] and this man[16] surely has none; while Resh Lakish is of the opinion that And have no [en lo] child[17] implies. 'Hold an inquiry[18] concerning him'.[19] 'And If you prefer I might say: On a logical point'; R. Johanan argues: Had Elijah[20] appeared and announced that the woman would miscarry. would she not have been subject to halizah or levirate marriage?[21] Now also[22] the fact is established retrospectively. And Resh Lakish maintains that a fact cannot be said to have been established retrospectively.

R. Johanan raised an objection against Resh Lakish: WHEREVER THE CHILD IS NOT VIABLE THE LEVIR IS FORBIDDEN TO MARRY HER RELATIVES AND SHE IS FORBIDDEN TO MARRY HIS RELATIVES, AND HE RENDERS HER UNFIT TO MARRY A PRIEST. This is quite correct according to my view: Since I maintain that the halizah of a pregnant woman is a proper halizah he, consequently, renders her unfit. According to you, however, who maintain that the halizah of a pregnant woman is not proper halizah, why does he render her unfit to marry a priest? — The other answered him: It[23] is only Rabbinical and it is a mere restriction.[24]

Others say: Resh Lakish raised an objection against R. Johanan: WHEREVER THE CHILD IS NOT VIABLE THE LEVIR IS FORBIDDEN TO MARRY HER RELATIVES AND SHE IS FORBIDDEN TO MARRY HIS RELATIVES, AND HE RENDERS HER UNFIT TO MARRY A PRIEST. This is quite correct according to my view; since I maintain that the halizah of a pregnant woman is not a proper halizah it was justly stated as a restriction,[25] that HE RENDERS HER UNFIT TO MARRY A PRIEST but not that 'she requires no halizah from the brothers';[26] according to you, however,[27] it should have been stated that 'she requires no halizah from the brothers'![28] — The other replied: It should have been indeed;[29] only because in the first clause it was stated, HE DOES NOT RENDER HER UNFIT[30] it was also[31] stated in the latter clause, HE RENDERS HER UNFIT.[32]

R. Johanan raised an objection against Resh Lakish: IF THE CHILD IS NOT VIABLE, HE MAY RETAIN HER. This is quite correct according to my view; since I maintain that the halizah of a pregnant woman is a proper halizah and marital contact[33] with a pregnant woman is a proper marriage. it was rightly stated HE MAY RETAIN HER.[34] According to you, however, who maintain that the halizah of a pregnant woman is not a valid halizah and the marital contact[35] with a pregnant woman is not a valid marriage, it should have been stated, 'He must repeat contact and only then he may retain her'! — The meaning of HE MAY RETAIN HER is that he must repeat contact and then HE MAY RETAIN HER, but not otherwise.[36]

Others say: Resh Lakish raised an objection against R. Johanan: IF THE CHILD IS NOT VIABLE HE MAY RETAIN HER. This is quite correct according to my view; since I maintain that the halizah of a pregnant woman is not a valid halizah and marital contact with a pregnant woman is not a valid marriage, it was rightly stated HE MAY RETAIN HER, [meaning that] he must repeat contact and then HE MAY RETAIN HER, since otherwise this[37] would not have been permitted.[38] According to you,[39] however, it should have been stated, 'If he wishes he may divorce her and if he prefers he may continue to live with her'! — It should have been indeed;[40] only because in the earlier clause it was stated HE MUST DIVORCE HER, it was also stated in the latter clause HE MAY RETAIN HER.

An objection was raised: ‘Where a levir married his yebamah who was found to be pregnant, her rival may not be married, since it is possible that the child would be viable’. On the contrary! If the child were viable her rival would be exempt![41] — But read: Since it is possible that the child would not be viable.[42] Now, if it could be imagined that marital contact with a pregnant woman is to be regarded as a valid marriage, why may not her rival be married? She should be exempted through the marital contact of her associate! — Abaye replied: Both[43] agree that by marital contact she does not exempt [her rival]; they differ only on the question of halizah. R. Johanan is of the opinion that the halizah of a pregnant woman is a valid halizah, though marital contact with a pregnant woman is not a valid marriage, while Resh Lakish is of the opinion that marital contact with a pregnant woman is no valid marriage, nor is halizah with a pregnant woman a valid halizah. Said Raba: Whatever is your opinion? If marital contact with a pregnant woman is a valid marriage. the halizah of a pregnant woman should be a valid halizah; or if marital contact with a pregnant woman is no valid marriage, the halizah of a pregnant woman also should be no proper halizah; for we have an established rule

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(1) Whose husband died without issue.

(2) Although the child died soon after.

(3) Since a viable child was born the halizah is rendered void.

(4) She, unlike any other haluzah, may marry a priest. V. n. 3 supra.

(5) I.e., if it was of a premature birth.

(6) Prior to the levirate marriage.

(7) Since the levirate marriage should not take place where the deceased brother has had any issue.

(8) A sin-offering for their unwitting transgression in contracting a forbidden marriage (one's brother's wife) where the precept of the levirate marriage did not apply. V. supra n. 7.

(9) Since in either case he has been born from a lawful union: If he is a nine-months child he is the legitimate offspring of the deceased brother; and if he is a seven-months child of the surviving brother, the deceased had died without issue and the marriage between the widow and the surviving brother was accordingly lawful.

(10) The offering prescribed for doubtful trespass. V. Lev. V, 17ff and cf. Ker. 17b.

(11) Who miscarried.

(12) The miscarriage proved that the previous halizah or marriage were lawful.

(13) R. Johanan and Resh Lakish.

(14) V.Bah a.l. Cur. edd. reverse the order.

(15) Deut. XXV, 5.

(16) The deceased whose widow has now miscarried.

(17) ובין אין לו.

(18) עיין ‘consider’, ‘investigate’. The ‘Ayin (ע) of עיין is interchanged with the Aleph (א) of אין.

(19) Inquire whether the deceased has been survived by any kind of child. Even a miscarriage is deemed to be a child. Cf. B.B., Sonc. ed., p. 474. nn. 6ff.

(20) The prophet, who could predict the future.

(21) Of course she would.

(22) That she has actually miscarried, though after the halizah or levirate marriage.

(23) The prohibition for the woman to marry a priest.

(24) One not knowing the circumstances of this particular case would erroneously assume that any other haluzah may also be married to a priest.

(25) V. supra n. 2. Had not this been specifically stated it might have been assumed that, as the halizah is invalid, she is not rendered unfit at all.

(26) Because she does.

(27) Who regard the halizah as valid.

(28) And the prohibition to marry each other's relatives and his rendering her unfit for a priest would be inferred as self-evident.

(29) Lit., yes, thus also'.
(30) The ruling concerning halizah not being applicable in this context, since a viable child was born.
(31) So in old editions. Cur. edd. omit 'also'.
(32) Thus, as in the first clause, omitting all reference to halizah.
(33) Of the levir.
(34) Emphasis on MAY. No second contact is necessary after the miscarriage, (since the first was valid) and the levir may also, if he wishes, divorce her.
(35) Of the levir.
(36) Lit., 'it is not enough without such'. V. Emden, a.l. Cur. edd. omit the last two words.
(37) The option of either retaining or divorcing her.
(38) Cf. n. 3 supra.
(39) Who deem the marriage to be valid.
(40) Lit., 'yes thus also'.
(41) And free to marry. since her deceased husband is now survived by a living child, and neither she nor the other widow is subject to halizah or levirate marriage.
(42) So that his mother as well as her rival would be subject to the levir, the former's previous marital contact, during her pregnancy. being invalid.
(43) R. Johanan and Resh Lakish.

Talmud - Mas. Yevamoth 36a

that whosoever is subject to the obligation of levirate marriage is also subject to halizah, and whosoever is not subject to the obligation of the levirate marriage is not subject to halizah![1] Rather, said Raba, it is this that was meant:[2] Where a levir married his yebamah who was found to be pregnant, her rival may not be married, because it is possible that the child would be viable, and marital contact with a pregnant woman is no proper marriage nor is the halizah of a pregnant woman proper halizah, while the child does not bring exemption until he is actually born.[3]

It was taught in agreement with the view of Raba: Where a levir married his yebamah who was found to be pregnant, her rival may not be married, because it is possible that the child would be viable, and neither marital contact nor halizah but only the child brings exemption; and the child brings exemption only after he is born.

The reason, then,[4] is because it is possible that the child might be viable, but where the child is not viable her rival is exempt;[5] does this imply an objection against Resh Lakish?[6] — Resh Lakish can answer you [that the Baraitha] is thus to be interpreted:[7] Where a levir married his yebamah who was found to be pregnant, her rival may not be married; since it is possible that the child may not be viable, and the halizah of a pregnant woman is no valid halizah nor is the marital contact with a pregnant woman a proper marriage; and were you to suggest that one should be guided by the majority of women, and the majority of women bear healthy children, [it could be retorted that] a child brings no exemption until he is actually born.[8]

Said R. Eleazar: Is it possible that there should exist [such a ruling as] that of Resh Lakish and that we should not have learnt it in a Mishnah? When he went out he carefully considered the matter and found one. For we learned: If people came to a woman whose husband and rival had gone to a country beyond the sea and told her, 'Your husband is dead',[9] she may neither be married[10] nor be taken in levirate marriage[11] until she has ascertained whether her rival[12] is pregnant.[13] One can well understand why she may not be taken in levirate marriage, since it is possible that the child[14] may be viable and [the levir] would thus[15] infringe the Pentateuchal prohibition against [marrying] a brother's wife: but why should she not perform the halizah? It is possible to understand the reason why she must not perform the halizah within the nine months[16] and also contract a marriage within nine months,[16] since such [procedure would naturally be forbidden on account of the] doubt;[17] but let her perform the halizah within the nine months[16] and be married after the nine months![18] — But even in accordance with your view,[19] let her perform the halizah and be married after the nine months![20] The fact, however, is that nothing may be inferred from this;[21] for both Abaye b. Abin[22] and R. Hinena b. Abin[22] stated:[23] It is possible that the child[24] might be viable[25] and you would then subject her to the necessity of an announcement[26] in respect of the priesthood.[27] — Well, let her be subjected![28] — It may happen that someone would be present at the halizah and not at the announcement,[26] and would form the opinion that a haluzah was permitted to a priest.

Said Abaye to him: Was it stated, 'She shall neither perform halizah nor be taken in levirate marriage'? The statement, surely, was, 'She shall neither be married nor be taken in levirate marriage'[29] without halizah; if halizah, however, had been performed[30] she would indeed have been permitted![31]

It was taught in agreement with Resh Lakish: Where a levir participated in the halizah with a pregnant woman who subsequently miscarried, she is required to perform halizah with the brothers.

Raba said: The law is in accordance with the views of Resh

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If on the other hand, a viable child had been born, exemption took effect at his birth, and subsequent marriage would consequently be lawful. As the Mishnah, however, forbids halizah and marriage even after the nine months, unless definite information about the rival had been received, it must be assumed to represent the view of Resh Lakish who deems a halizah invalid wherever the child is not viable and the ceremony took place during pregnancy. Lakish in the following three rulings.[32] One is the ruling just spoken of. Another is his ruling in connection with the following Mishnah:[33] If a man[34] distributed his property verbally[35] and gave to one [son] more and to another less, or if he assigned to the firstborn a share equal to that of his brothers,[36] his arrangements are valid.[37] If, however, he said, 'As an inheritance',[38] his instructions are disregarded.[39] If he wrote[40] either at the beginning or the end or the middle, 'as a gift',[41] his instructions are valid.[42]

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(1) Supra 3a.

(2) By the Baraitha cited.

(3) Lit., 'he went forth into the air of the world'.

(4) Why the rival is not exempt.

(5) On the strength of the marital contact which took place prior to the miscarriage of the child, no repeated contact being necessary.

(6) Who does not regard the marital contact of a pregnant woman as a valid marriage

(7) Lit., 'thus he taught'.

(8) Lit., 'he went forth unto the air of the world'.

(9) And has left no issue.

(10) To a stranger.

(11) By the levir.

(12) Who went together with her husband.

(13) Infra 119a. Only if she learns that her rival is not pregnant may she contract the levirate marriage.

(14) That might be born from the rival.

(15) By marrying the widow of his brother who did not die without issue.

(16) After the death of her husband.

(17) It being uncertain whether the child would be viable or not. Should he be viable, neither the halizah nor the marriage would be valid, while exemption on his account would not come into force until his actual birth.

(18) This should be permitted according to the view of R. Johanan at all events: If the rival had been pregnant and miscarried or had not been pregnant at all, the halizah was, surely, valid.

(19) That halizah is forbidden because of the possibility that the rival was pregnant at the time halizah took place.
(20) When all doubt as to pregnancy would have been removed. Why, then, has it been stated that she may not marry until she had ascertained (even though many years have passed), whether her rival had been pregnant.
(21) Mishnah. Lit., 'but outside of that'. No support to the view of Resh Lakish may be derived from it.
(22) Cur. edd., 'Abaye'.
(23) The reason why no halizah may take place.
(24) Of the rival.
(25) The birth of a viable child renders the halizah invalid and the woman is consequently permitted to marry a priest.
(26) That the halizah was unnecessary and therefore invalid.
(27) V. supra n. 7.
(28) Lit., 'required'.
(29) [Rashi apparently omits this and reads: 'She shall neither be married' without halizah].
(30) Even within nine months.
(31) To marry at the end of that period; the Baraitha will then afford no support to Resh Lakish.
(32) B.B. 129b, Hul. 77a.
(33) Lit., 'because we learned'.
(34) Lying on his death-bed.
(35) I.e., explicitly intimated his desire and did not die intestate (v. Rashi, a.l.).
(36) Lit., 'he made the firstborn equal to them', though Biblically he is entitled to a double portion.
(37) Lit., 'his words stand', because a man is entitled to dispose of his property, as a gift, in any manner that may appeal to him.
(38) I.e., if he distributed the shares as portions of an inheritance and not as gifts.
(39) Lit., 'he said nothing'. One has no right to give instructions which are contrary to the law of the Torah which entitled every son to a portion and the firstborn to a double portion in the father's estate.
(40) In disposing of his property in a written will.
(41) I.e., used an expression denoting 'gift', even though it was accompanied by one denoting 'inheritance'. If he wrote, for instance, let a certain field (a) be presented to X that he may inherit it (beginning), or (b) inherited by X and be presented to him that he may inherit it (middle), or (c) be inherited by X and be presented to him (end).
(42) B.B. 126b. V. supra note 6. So long as the expression of 'gift' was used, the other expression of 'inheritance' that may have been coupled with it, does not in any way affect the validity of the testator's instructions.

Talmud - Mas. Yevamoth 36b

And [in connection with this] Resh Lakish stated: No possession is ever acquired,[1] unless the testator had said, 'Let X and Y inherit this and that particular field which I have assigned to them as a gift, so that they may inherit them'.[2] And the third[3] is his ruling in connection with the following Mishnah:[4] If a man assigned all his estate, in writing, to his son[5] [to be his][6] after his[7] death, the father may not sell it[8] because it is assigned to the son, and the son may not sell it because it is in the possession of the father. If the father sold the estate, the sale is valid until his death.[9] If the son sold it, the buyer has no claim whatsoever upon it until the father's death.[10] And it was stated: If the son sold the estate[11] during the lifetime of his father, and died while his father was still alive, R. Johanan said: The buyer does not acquire ownership;[12] and Resh Lakish said: The buyer does acquire ownership.[13] R. Johanan said that 'the buyer does not acquire ownership', because possession of usufruct is like possession of the capital;[14] and Resh Lakish said that 'the buyer does acquire ownership', because possession of usufruct is not like possession of the capital.[15]

BUT IF THE CHILD IS NOT VIABLE etc. A Tanna taught: It has been said in the name of R. Eliezer that[16] he must put her out by means of a letter of divorce.[17]

Said Raba: R. Meir and R. Eliezer taught the same law.[18] R. Eliezer, in the ruling just mentioned, R. Meir [in the following Baraitha] wherein it was taught: A man shall not marry the pregnant, or nursing wife of another;[19] and if he married, he must put her out and never remarry her; so R. Meir.

But the Sages said: He shall let her go.[20] and at the proper time[21] he may marry her again.[22]

Abaye said to him:[23] How do you arrive at such a conclusion which may possibly be wrong?[24] R. Eliezer's ruling might extend to the present case[25] only because the levir is encroaching[26] upon the prohibition of ‘brother's wife’, which is Pentateuchal,[27] but there,[28] where the prohibition is only Rabbinical,[29] he may hold the same view as the Rabbis. Alternatively, it is possible that R. Meir's ruling extends only to that case because the prohibition is Rabbinical,[29] and the Sages have given more force to their provisions than to those which are Pentateuchal,[30] but not to the case here,[31] where the prohibition is Pentateuchal,[26] and people as a rule keep away from it.[32]

Raba said: Even according to the ruling of the Rabbis[33] he must let her go from him by means of a letter of divorce.[34] Said Mar Zutra: This may also be deduced, since the expression used was ‘he shall put her out’[35] and not ‘he shall let her part’.[36] This proves it.

R. Ashi said to R. Hoshaia son of R. Idi: ‘Elsewhere it was taught.[37] "R. Simeon b. Gamaliel said: Any human child[38] that survived for thirty days cannot be regarded as a miscarriage.[39] Had he not lived so long,[40] however, he would have been a doubtful case.[41] But it was also stated: Where he[42] died within thirty days[43] and she[44] was subsequently[45] betrothed,[46] Rabina said in the name of Raba that if she[44] was the wife of an Israelite[47] she must perform the halizah[48] and if she was the wife of a priest[49] she must not perform the halizah.[50] R. Mesharsheya[51] said in the name of Raba: The one as well as the other must perform the halizah. Said Rabina to R. Mesharsheya:[51]

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(1) Where two fields were given to two persons and the expression of ‘inheritance was used together with that of ‘gift’.

(2) Both acquire possession of the respective fields because the testator had used the expression, ‘which I have assigned to them as a gift’, implying that the gift was made before it was assigned as an ‘inheritance’ (v. R. Gershom, B.B. 129a).

(3) Lit., ‘and the other’, the third ruling of Resh Lakish, which is an accepted halachah.

(4) Lit., ‘because we learned’.

(5) Inserting the formula ‘From this day and after my death’. The law that follows applies also to a gift made by any other person.

(6) The sons.

(7) The testator's.

(8) Either the land or its produce.

(9) Lit., ‘sold until he dies’. Until then only may the buyer enjoy its usufruct.

(10) B.K. 88b, B.B. 1362.

(11) Assigned to him by his father for possession after his death.

(12) Even after the father's death, since the estate has never come into the son's possession.

(13) After the death of the father, as the representative of the son, who, were he alive, would have been entitled to the inheritance.

(14) Since the usufruct was in the ownership of the father, the capital, i.e., the soil, is also regarded as being in his possession, and the son, therefore, during the lifetime of his father is not entitled to transfer it to the buyer.

(15) B.K. l.c., B.B. 136af. The soil, therefore, was the undisputed property of the son who, consequently. was fully entitled to transfer it to the buyer.

(16) Contrary to the law of our Mishnah which allows the levir to continue his connubial association with his sister-in-law wherever the child is not viable.

(17) Though the death of the child has proved retrospectively that the levirate marriage was lawful, divorce is imposed upon such a union as a penalty for contracting it at a time when, owing to the uncertainty of the result of the pregnancy, it was of doubtful legality.

(18) Lit., ‘said one word’, that the penalty of divorce is imposed upon any union the legality of which was doubtful at the time the marriage was contracted.

(19) Though she is now a widow or divorced.

(20) V. infra for meaning.

(21) Lit., ‘and when his time to marry arrives’, i.e. at the end of the period of twenty-four months allowed for the nursing of a child.

(22) Sot. 262.

(23) Raba.

(24) Lit., ‘from what? perhaps it is not (so)’.

(25) Lit., ‘R. Eliezer did not so far say (his ruling) here’.

(26) It being possible that the child would be viable.

(27) For such a serious offence a penalty is rightly imposed.

(28) Marriage with an expectant. or nursing mother.

(29) Biblically one need not wait twenty-four months before marrying her.

(30) As people might be lax in the observance of a Rabbinical law it was necessary to impose a penalty for its non-observance.

(31) Marriage with an expectant yebamah.

(32) Or ‘her’, i.e., from marrying an expectant yebamah. No penalty. therefore, need be imposed upon an occasional offender.

(33) Who permit marriage after the period of twenty-four months had elapsed.

(34) Mere separation is not enough.

(35) יוציא Hif. of יצא ‘to go out’.

(36) יפיש Hif. of פרש ‘to separate’.

(37) Cf. Tosaf. Hul. 87b, s.v. תנן and Bek. 49a s.v. מת. Cur. edd., ‘we learned’.

(38) Of doubtful premature birth. Lit., ‘among man’, opp. to cattle mentioned in the final clause.

(39) Tosef. Shab. XVI, Shab. 135b, Nid. 44b, infra 80b; and consequently exempts his mother from levirate marriage and halizah. In the case of a mature birth (cf. prev. note) the child exempts his mother on the first day of his birth. (V. Nid. 43b).

(40) [Rashi: By dying a natural death; Tosaf. If he was killed; for if he died a natural death within thirty days even the Rabbis would regard him as a miscarriage, v. Tosaf, s.v. אה].

(41) And his mother would have had to perform halizah only, but would not have been allowed to contract the levirate marriage.

(42) The child of a sister-in-law whose husband had died without having left any other issue.

(43) Of his birth.

(44) His mother, the widow of his deceased father.

(45) Lit., ‘stood up.’

(46) To a stranger; believing that the birth of the child was sufficient to exempt her from the obligations of the levirate marriage and the halizah.

(47) I.e., if the man who betrothed her was an Israelite who may marry a haluzah.

(48) With the levir.

(49) Cf. supra 8. A priest may not marry a haluzah.

(50) Were she to perform it. her husband could not subsequently be allowed to live with her. Hence she is granted exemption from halizah by virtue of the child's birth alone.

(51) Var. lec. ‘Sherabya’, v. Shab. 136b.

Talmud - Mas. Yevamoth 37a

Raba said so[1] in the evening, but on the following morning he retracted.[2] The other exclaimed, "So you have permitted;[3] would that you permitted also abdominal fat!"[4] Now, what is the law here in respect of the pregnant, or nursing wife of another man who was married to a priest? Did the Rabbis make any provision for a priest[5] or not?’ — The other[6] replied:[7] What a comparison![8] [The distinction][9] is well justified there;[10] since the Rabbis differ from R. Simeon b. Gamaliel in maintaining that the child is deemed to be sound even though he did not live long enough,[11] we may, in the case of a priest's wife, where no other course is open,[12] act in accordance with the view of the Rabbis.[13] Here,[14] however, in accordance with whose view could we act? If in accordance with that of R. Meir, he surely stated that he[15] must put her out and never remarry her! And if in accordance with the view of the Rabbis, they, surely, stated [that she must be sent away] by means of a letter of divorce![16]

It was stated: [The case of the man who] betrothed a woman[17] within the three [months][18] and fled, is one concerning which R. Aha and Rafram are at variance. One holds that the man is to be placed under the ban,[19] but the other holds that his flight is sufficient.[20] Such an incident once happened, and Rafram ruled,[21] ‘His flight is sufficient’.[20]

IF IT IS DOUBTFUL WHETHER IT IS A NINE-MONTHS CHILD etc. Said Raba to R. Nahman. Let the ruling be that one is to go by the majority of women, and the majority of women bear at nine months![22] — The other replied: Our women bear at seven months. ‘Are your women’, the first retorted, ‘the majority of the world’! — ‘What I mean’, the other replied, ‘is this: Most women bear at nine months and a minority at seven, and the embryo in the case of every woman who bears at nine is recognizable after a third of the period of her pregnancy;[23] and in the case of this woman, since her embryo was not recognized after a third of the period of her pregnancy[23] [her presumption to belong to] the majority is impaired’.

If in the case of every woman, however, who bears at nine the embryo is recognizable after a third of the period of her pregnancy. it is obvious that with this [woman], since her embryo had not been recognized after a third of the period of her pregnancy, it must be a seven-months child of the second[24] husband! — But say rather: When a woman bears at nine months, her embryo in most cases is recognizable after a third of her pregnancy. and with this woman, since her embryo was not recognized after a third of the period of her pregnancy, [her presumption to belong to] the majority is impaired.

Our Rabbis taught: The first [child][25] is fit to be a High priest,[26] and the second[27] is deemed a bastard owing to his doubtful origin.[28] R. Eliezer b. Jacob said: He is not of doubtful bastardy.[29] What does he[30] mean?[31] — Abaye replied: It is this that he meant, ‘The first child[25] is fit to be a High priest[26] while the seconds is one of doubtful bastardy[29] and is consequently forbidden to marry a bastard.[32] R. Eliezer b. Jacob said: He is not one of doubtful bastardy but an assured bastard, and is consequently permitted to marry a bastard’. Raba replied: It is this that was meant: ‘The first[33] is fit to be a High priest[34] and the second,[35] on account of his doubtful origin,[36] is deemed to be an assured bastard and is consequently permitted to marry a bastard; but R. Eliezer b. Jacob said: He cannot be deemed an assured bastard on account of his doubtful origin;[36] he is, however, regarded as one of doubtful bastardy and is consequently forbidden to marry a bastard.[37] And they[38] differ in [the interpretation of a ruling] of R. Eleazar. For we learned: ‘R. Eleazar said, persons of confirmed illegitimacy may [intermarry] with others of confirmed illegitimacy, but those of confirmed illegitimacy may not intermarry with those of doubtful illegitimacy;[39] nor those of doubtful, with those of confirmed illegitimacy; nor those of doubtful, with others of doubtful illegitimacy. And the following are of doubtful legitimacy: The shethuki,[40] the asufi[41] and the Samaritan.[42] And [in connection with this] Rab Judah stated in the name of Rab, ‘The halachah is in accordance with the ruling of R. Eleazar, but when I stated this in the presence of Samuel[43] he said to me, "Hillel taught that the following ten different genealogical classes went up from Babylon:[44] priests, Levites, Israelites, profaned priests,[45] proselytes, emancipated slaves, bastards, nethinim,[46] shetkuki[40] and asufi,[41] and all these may inter marry",[47] and you state that the halachah is in accordance with the ruling of R. Eleazar’![48] Now Abaye upholds the opinion of Samuel who stated that the halachah is in agreement with the ruling of Hillel and consequently brings the ruling of R. Eliezer b. Jacob into harmony with the halachah so that there may be no contradiction between the one halachah and the other.[49] Raba, on the other hand, upholds the opinion of Rab who stated that the halachah is in agreement with the ruling of R. Eleazar, and so he brings the ruling of R. Eliezer b. Jacob into harmony with the halachah in order that there may be no contradiction

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(1) That halizah must be performed even where the husband is a priest (R. Mesharsheya's version).

(2) Exempting the widow from halizah where a priest is involved (Rabina's version).
(3) Var. lec. ‘permitted it’.
(4) Shab. 136af.
(5) That temporary separation until the twenty. four months had elapsed shall suffice and that, unlike an Israelite, the priest shall not be required to give a divorce. If an Israelite gives a divorce in such circumstances he may remarry the woman after the lapse of the forbidden period. A priest, however, being forbidden to marry a divorced woman, would never again be allowed to remarry her once she had been divorced.
(6) R. Hoshaia.
(7) To R. Ashi.
(8) Lit., ‘thus now’.
(9) Between an Israelite and a priest.
(10) Where the child died within the first thirty days of his life and his mother was betrothed to a stranger.
(11) The full thirty days.
(12) Since a priest is forbidden to marry a divorced woman.
(13) In regarding the child as viable and thus exempting the mother from the levirate marriage and halizah.
(14) Where the levir married his sister-in-law while she was an expectant, or nursing mother.
(15) The levir.
(16) V. supra 36b and cf. p. 229, nn. 16 and 17.
(17) An expectant, or nursing mother who was a widow or divorcee.
(18) After she became a widow or divorcee.
(19) Until he consents to divorce the woman.
(20) He need not be compelled to give her a divorce, and no penalty need be imposed upon him, since his flight may be taken as an indication that it was not his intention to live with her before the lapse of a period of twenty-four months after the birth of a child.
(21) Lit., ‘said to them’.
(22) The child would consequently be deemed to be the son of the first husband, and the marriage of his mother with the levir would be a forbidden union. The levir who thus married unlawfully his brother's wife should bring a sin-offering and not, as stated in our Mishnah, an asham talui.
(23) Lit., ‘her days’.
(24) Lit., ‘last’.
(25) Born from the levirate marriage, and in respect of whom it is doubtful whether he is a nine-months child of the deceased or a seven-months one of the levir.
(26) His legitimacy is beyond all doubt. If he is the son of the deceased brother he is legitimate. though the subsequent levirate marriage is a forbidden one; and if be is the son of the levir, the levirate marriage itself is a lawful union.
(27) Any child after the first, born from the levirate marriage.
(28) It being possible that the first child was the son of the deceased, and that the levirate marriage was consequently forbidden under the penalty of kareth. Children born from such a union are bastards.
(29) Cur. edd., ‘There is no bastard on account of doubt’.
(30) R. Eliezer b. Jacob.
(31) Does he imply that one cannot be described as a bastard unless his illegitimacy is a certainty?
(32) Since it is equally possible that he himself is not a bastard. (11) So Bah a.l. cur. edd. omit the last two words.
(33) V. supra p, 232, n. 3.
(34) V. loc. cit. n. 4.
(35) V. loc. cit. n. 5.
(36) V. loc. cit. n. 6.
(37) Since it is equally possible that he himself is not a bastard.
(38) Abaye and Raba in their differing explanations of the Baraitha cited.
(39) Since it is possible that a person of doubtful legitimacy may in fact be legitimate, and by marrying one whose illegitimacy is established a bastard, contrary to Pentateuchal law, would be ‘admitted into the congregation’. (V. Deut. XXIII, 3).
(40) שתוקי (rt. שתק ‘to be silent’), he who knows his mother but does not know who was his father (v. Kid. 6); who ‘keeps silent’ about his origin.

(41) אסופי (rt. אסף 'to gather') a child picked up in the street, and whose fatherhood and motherhood are unknown (v. Kid. l.c.); 'a foundling'.
(42) Kid. 74a. In all these cases the legitimacy is doubtful: in the first two, because the father is unknown; and in the last, because the Samaritans did not observe all the laws of betrothal, and any Samaritan might be the issue of an illicit union between his father and a woman who had been legally betrothed to another man.
(43) After Rab's death, where Rab Judah joined Samuel's academy for a short period.
(44) To Judaea, in the days of Ezra.
(45) Priests born from a forbidden union (cf. Lev. XXI, 7).
(46) נתינים, plur. of nathin, v. Glos.
(47) I.e., each class may intermarry with at least one other class.
(48) Kid. 75a. How, in view of Hillel's ruling (v. supra n. 1), could the halachah be said to be in agreement with the view of R. Eleazar according to whom certain classes, not being of confirmed illegitimacy, could never intermarry!
(49) The halachah is always determined by the teachings of R. Eliezer h. Jacob whose information was well sifted and authoritative. (V. Git. 67a).

Talmud - Mas. Yevamoth 37b

between one halachah and the other.

Said Abaye: Whence do I infer that R. Eliezer b. Jacob treats any doubtful case as a certainty? — [From] what was taught: R. Eliezer b. Jacob said, 'Behold, when a man has intercourse with many women and does not know with which particular woman[1] he had intercourse, and, similarly, when a woman with whom many men had intercourse does not know to which particular man her conception is due, the consequences are that a father will be marrying his daughter and a brother his sister, and the whole world will be filled with bastards,[2] and concerning this it was said, And the land became full of lewdness'.[3] And Raba?[4] — He can answer you: It is this that was meant, 'What might be the result'?[5]

More than that[6] was said by R. Eliezer b. Jacob: A man shall not marry a wife in one country and then proceed to marry one in another country, since [their children][7] might marry one another and the result might be that a brother would marry his sister.[8]

But, surely, this could not be [the accepted ruling], for Rab, whenever he happened to visit Dardeshir,[9] used to announce, 'Who would be mine[10] for the day'! So also R, Nahman, whenever he happened to visit Shekunzib,[11] used to announce, 'Who would be mines for the day'![12] — The Rabbis came under a special category since they are well known.[13]

But did not Raba say: A woman who had an offer of marriage and accepted must allow a period of seven ritually clean days to pass![14] — The Rabbis sent their representatives and these presented the announcements to the women.[15] And if you prefer I might say: The Rabbis only had them[16] in their private rooms;[17] for the Master said, 'He who has bread in his basket cannot be compared to him who has no bread in his basket'.[18]

A Tanna taught: R. Eliezer b. Jacob said: A man must not marry a woman if it is his intention to divorce her, for it is written, Devise not evil against thy neighbour, seeing he dwelleth securely by thee.[19]

If the 'doubtful son'[20] and the levir came to claim a share[21] in the estate of the deceased,[22] the 'doubtful son' pleading, 'I am the son of the deceased and the estate is mine', while the levir pleads, 'You are my son and you have no claim whatsoever upon the estate',it is a case of money of doubtful ownership,[23] and money the ownership of which is doubtful must be divided.[24]

Where the ‘doubtful son’[20] and the sons of the levir came to claim their share[21] in the estate of the deceased, the ‘doubtful son’ pleading, ‘I[25] am the son of the deceased and the estate is mine while the sons of the levir plead, ‘You are our brother and you have only a share equal to ours’, it was the intention of the Rabbis to submit to R. Mesharsheya that this was a case [identical with that] of a Mishnah wherein we learned, ‘He[26] does not inherit from them[27] but they inherit from him’,[28] since here the case is just the reverse:[29] There they tell him, ‘produce proof and take [your share]’[30] while here he tells them, ‘produce proof and take your share’.[31] R. Mesharsheya, however, said to them, ‘Are [the two cases] equal? There, their claim is a certainty[32] while his is doubtful,[33] while here both are doubtful![34] If, however, a case is to be compared to a Mishnah it is to the following: That of a ‘doubtful son’[35] and the sons of the levir who came to claim[36] shares in the estate of the levir himself, where they can say to him: produce proof that you are our brother and take your share’.[37]

If a ‘doubtful son’[35] and the sons of the levir came to claim[36] their shares in the estate of the levir after the levir had received his share in the estate of the deceased, the sons of the levir pleading, ‘produce proof that you are our brother and you will receive [your share]’, the ‘doubtful son’ can tell them, ‘Whatever you wish: If I am your brother, give me a share among you;[38] and if I am the son of the deceased, return to me the half which your father received when he shared the estate with me’.

Said R. Abba in the name of Rab: The judgment must stand.[39] R. Jeremiah said: The judgment is to be reversed.[40]

May it be suggested that they[41] differ on the same principle as that which underlies the dispute between Admon and the Rabbis? For we learned: If a man went to a country beyond the sea and [in his absence] the path to his field was lost,[42] he shall, Admon said, use the shortest cut;[43] but the Sages said: He must purchase a path even though it will cost him a hundred maneh or else fly in the air.[44] And in discussing this [Mishnah it was pointed out] against the Rabbis that Admon was perfectly right; and Rab Judah replied in the name of Rab that here it is a case where [the fields of] four persons surrounded it on its four sides.[45] But [it was asked] what is Admon's reason? And Raba replied: Where four persons[46] derive their rights of possession from four persons[47] or where four persons derive it from one[45] all agree that these[48] can refuse[49] him; the dispute only concerns one person who derived his rights from four. Admon is of the opinion that he[50] can tell him, ‘At all events[51] my path is in your fields’,[52] while the Rabbis hold that the other can answer him, ‘If you will keep quiet, well and good;[53] and if not, I will return the deeds to their original owners whom you will have no chance to call to law’.[54] May it, then, be suggested that R. Abba[55] holds the view of the Rabbis[56] and R. Jeremiah[57] that of Admon?[58] R. Abba can tell you: I may even hold the view of Admon; he made his ruling there[59] only because he[60] can say to him,[61] ‘Whatever you wish to plead,

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(1) Among those who had issue from their unlawful connection.

(2) Thus it has been shewn that, according to R. Eliezer b. Jacob, even persons of doubtful illegitimacy are described as ‘bastards’.

(3) זמה Lev. XIX, 29, Tosef. Kid. I.

(4) How could he maintain a ruling which is contrary to the statement of R. Eliezer b. Jacob just quoted?

(5) מה היא Lit., ‘this, what is it’, a play on the word זמה (cf. Ned. 51a), i.e., R. Eliezer b. Jacob implies the possibility that the consequences might be the bringing of bastards into the world; not that all the issue would be deemed confirmed bastards.

(6) I.e., not only did he denounce indiscriminate intercourse, as has just been shewn, but he also forbade lawful marriage wherever its consequences might lead to moral chaos.

(7) Born in different parts of the world and knowing nothing of each other's parentage.

(8) Yoma 18b.

(9) [Ardashir, a town near Mahuza. V. Obermeyer pp. 164ff and 175, n, 1.].

(10) By marriage.

(11) [A town on the eastern bank of the Tigris, v. op. cit. p. 190].

(12) Yoma l.c. [Rashi: ‘for the days’ (plur.). He was anxious to establish a home in Shekunzib which he often visited on business affairs and consequently wished to secure a wife to bless his home whenever he would stay there, v. Obermeyer, p. 191].
(13) Should there be any issue from their marriages, in whatever part of the world this might happen, it will be well known to everybody who the father is.
(14) Nid. 662; because it is possible that the excitement of the proposal and its acceptance has produced menstrual flow, and the woman has thus become levitically unclean. How, then, could the Rabbis mentioned marry on the very day on which their announcements were made?
(15) Seven days prior to the Rabbis’ arrival.
(16) The women they married for the day.
(17) Rt. יחד B.H. אחד, ‘to be alone with one other person’; but no connubial intercourse took place.
(18) Yoma loc. cit., Keth. 62b. The consciousness of having no bread at all intensifies the pangs of hunger, while the presence of bread in the basket, and the knowledge that it may be enjoyed at any moment, mitigates the craving. Similarly, the consciousness of the presence of one's own wife mitigates the sensual desires.
(19) Prov. III, 29; v. Git. 90a.
(20) A son of whom it is not known whether he was a nine-months child of the deceased, or a seven-months one of the levir. (V. our Mishnah).
(21) Lit., ‘to divide’, or ‘to dispute’.
(22) Who died without issue and whose expectant wife had married the levir and bore this ‘doubtful son’.
(23) Lit., ‘which is thrown into doubt’; none of the disputants has any claim superior to that of the other.
(24) Between the claimants.
(25) Lit., ‘that man’.
(26) The son concerning whom it is uncertain whether he was a nine months child of his mother's first, or a seven-months child of her second husband. Cf. supra n. 2.
(27) Neither from the sons of his mother's first, nor from those of her second husband. As his claim is indefinite, since he cannot possibly know who his father really was, each group of heirs, whose claim to the estate of their respective fathers is definite and certain, can plead that he is not the son of their father.
(28) Infra 100b. When he dies, the two groups of brothers, since they have exactly equal claims upon his estate, are entitled to equal shares in it.
(29) While in the Mishnah cited their claim is certain and his is not, in this case his claim is certain while theirs is not. His claim is certain since at all events he is entitled either to all the estate (if he is the son of the deceased) or to a part at least (if he is the son of the levir), their claim, however, is doubtful since it is possible that he is the son of the deceased and they, as the sons of the levir, have no claim whatsoever upon the estate.
(30) Cf. supra note 9.
(31) Cf. supra p. 236, n. 11.
(32) They know exactly whose children they are and by virtue of whose rights they advance their claims.
(33) He is not sure whose son he is.
(34) He himself whose claim to heirship is certain is also in doubt as to who exactly his father was and by virtue of whose rights he is entitled to the estate.
(35) V. supra p. 236, n. 2.
(36) V. loc. cit. n. 3.
(37) Here, as in the Mishnah, one claim is a certainty (that of the sons of the levir) while the other (that of the ‘doubtful son’) is not.
(38) And the half he already received he would return. This, of course, applies to the case only where one share in the levir's estate exceeds half the estate of the first deceased brother.
(39) Once the levir received a half of the estate of his deceased brother it cannot again be taken away from his heirs. The second claim of the ‘doubtful son’ is, therefore, invalid.
(40) The sons of the levir must either return to the ‘doubtful son’ the half which their father had received or allow him in their father's estate a share equal to theirs.
(41) R. Abba and R. Jeremiah.
(42) It being unknown in which of the surrounding fields it lay.
(43) He must be allowed a short path through one of the surrounding fields. V. infra for further explanation.

(44) Keth. 109b.
(45) So that each person can plead that it was not in his field, but in one of the others, that the lost path lay.
(46) The respective owners of the four surrounding fields.
(47) Who presented or sold the fields to them.
(48) The present four owners.
(49) Lit., ‘reject’.
(50) Whose path was lost.
(51) In whichever field it was lost,
(52) Hence he is entitled to the short cut.
(53) Lit., ‘you will keep quiet’. He will sell him a path at a reasonable price (Rashi). Cf., however, Tosaf. s.v. דאמר.
(54) Lit., ‘and you will not be able to talk law with them’. V. supra note 3.
(55) Who does not allow the alternative claim of the ‘doubtful son’.
(56) Who also disallow the alternate claim of the loser of the field.
(57) Who admits the alternative claim of the ‘doubtful son’.
(58) Who also admits the alternative claim in the case of the lost path.
(59) The case of the lost path.
(60) The loser of the path.
(61) The present owner of the fields.

Talmud - Mas. Yevamoth 38a

my only path lies in your fields’, but could such a plea be advanced here! And R. Jeremiah can tell you: I may uphold even the view of the Rabbis, for the Rabbis made their ruling there only because he can tell him, ‘If you keep silence, well and good, and if not I will return the deeds to their original owners and you will have no chance to call them to law’, but could such a plea be advanced here!

Where a ‘doubtful son’[1] and a levir came to claim their shares[2] in the estate of the grandfather,[3] the former[4] pleading, ‘I am[5] the son of the deceased and half of the estate belongs, therefore, to me’, while the levir pleads, ‘You are my own son and you have, therefore, no share whatsoever’, the levir's claim being a certainty[6] and that of the ‘doubtful son’ a doubtful one,[7] doubt may not supersede[8] a certainty.

Where the ‘doubtful son’[1] and the sons of the levir came to claim their shares[2] in the estate of their grandfather,[9] the former[4] pleading. ‘I am[5] the son of the deceased and half of the estate is, therefore, mine’[10] while the sons of the levir plead, ‘You are our brother and you have a share like one of us’,[11] they receive the half which he concedes to them while he receives the third[12] which they concede to him, and thus a sixth[13] remains,[14] which, being property[15] of uncertain ownership, is to be equally divided.[16]

Where the grandfather[17] and the levir [claim their shares] in the estate of the ‘doubtful son’ or where the grandfather[17] and the ‘doubtful son’ [claim their shares] in the estate of the levir, the estate is to be regarded as money of uncertain ownership and is to be equally divided.[16] MISHNAH. IF A WOMAN AWAITING [THE DECISION OF] THE LEVIR[18] CAME INTO THE POSSESSION OF[19] PROPERTY,[20] BETH SHAMMAI AND BETH HILLEL AGREE THAT SHE MAY SELL IT OR GIVE IT AWAY, AND THAT HER ACT IS LEGALLY VALID. IF SHE[21] DIED, WHAT SHALL BE DONE WITH HER KETHUBAH[22] AND WITH PROPERTY THAT COMES IN AND GOES OUT WITH HER?[23] BETH SHAMMAI SAID: THE HEIRS OF HER HUSBAND[24] ARE TO SHARE IT[25] WITH THE HEIRS OF HER FATHER;[26] AND BETH HILLEL SAID: THE PROPERTY IS TO REMAIN WITH THOSE IN WHOSE POSSESSION IT IS, [HENCE] THE KETHUBAH IS TO REMAIN IN THE POSSESSION OF THE HEIRS OF THE HUSBAND WHILE THE PROPERTY WHICH COMES IN AND GOES OUT WITH HER[23] REMAINS IN THE POSSESSION OF THE HEIRS OF HER FATHER.[27] WHERE HE MARRIED HER,[18] SHE IS

DEEMED TO BE HIS WIFE IN EVERY RESPECT SAVE THAT HER KETHUBAH REMAINS A CHARGE ON HER FIRST HUSBAND'S ESTATE.

GEMARA. Wherein does the first clause[28] in which there is no dispute between them[29] differ from the final clause[30] in which they[29] do dispute?[31] 'Ulla replied: The first clause deals with a woman who became subject to the levirate marriage[32] while betrothed, and the final clause with one who became subject to the levirate marriage[32] while married. And 'Ulla is of the opinion that the levirate bond[33] of a betrothed woman renders her 'doubtfully betrothed'[34]

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(1) V. supra p. 236, n. 2.

(2) V. loc. cit. n. 3.

(3) Of the 'doubtful son', the father of the levir and the deceased.

(4) Lit., 'the doubtful'.

(5) Lit., 'that man'.

(6) He knows exactly by virtue of whose, and by virtue of what rights he advances his claim, and he may consequently be regarded as being in actual possession of the estate.

(7) He cannot in any way be sure whose son he is and by virtue of whose rights his claim is advanced.

(8) Lit., 'take out'.

(9) Cf. supra note 3.

(10) Since it is to be divided into two equal shares between the two sons of the deceased.

(11) If for instance, the total number of brothers was three, he is entitled, they claim, to a third of the estate only, and not to a half,

(12) V. note 13 supra.

(13) דנקא, a sixth of a denar, hence a 'sixth' generally.

(14) 1 — (1/2 + 1/3) = 1/6.

(15) Lit., 'money'.

(16) Between the claimants.

(17) V. supra note 3.

(18) שומרת יבם the widow of a deceased brother during the period intervening between the death of her husband and the halizah or marriage with the levir.

(19) Lit., 'there fell to her'. The assumption now is that this occurred during her 'waiting period'. v. supra n. 1,

(20) Bequeathed to her by her father or presented to her as a gifts

(21) V. supra note 1.

(22) V. Glos.

(23) Her melog property. v. Glos.

(24) Who is heir to his wife. Husband in this context _ levir.

(25) In the Gemara it is explained that this refers to the melog property only. In respect to the kethubah Beth Shammai agree with Beth Hillel.

(26) It being a matter of doubt whether the levirate bond with the levir constitutes such a close relationship as that of an actual marriage, the right of heirship as between her husband's heirs and hers cannot be definitely determined and the property must, therefore, be equally divided between them.

(27) For further notes v. Keth., Sonc. ed. pp. 507 ff.

(28) The case where the widow is alive.

(29) Beth Shammai and Beth Hillel.

(30) Where the widow had died.

(31) Why is the widow in the first case regarded as the confirmed possessor of the property and allowed to dispose of it in any manner she desires, while in the second case her right of possession is in dispute, her rightful heirs not being regarded as the lawful and undisputed successors to her property?

(32) Lit., 'when she fell'.

(33) Between the widow and the levir, due to the obligations of the levirate.

(34) The levirate bond not carrying the same force as actual betrothal.

Talmud - Mas. Yevamoth 38b

and the levirate bond of a married woman renders her ‘doubtfully married’.[1] ‘The levirate bond of a betrothed woman renders her doubtfully betrothed’, for were we to assume that she is regarded as definitely betrothed, [how could both] BETH SHAMMAI AND BETH HILLEL AGREE THAT SHE MAY SELL IT OR GIVE IT AWAY AND THAT HER ACT IS LEGALLY VALID when we learned: If she came into the possession of property while she was betrothed, Beth Shammai said, she may sell it, and Beth Hillel said, she may not sell it, but both agree that if she had sold or had given it away her act is legally valid![2] Consequently[3] it must be inferred that the levirate bond of a betrothed woman renders her ‘doubtfully betrothed’.[4] ‘The levirate bond of a married woman renders her doubtfully married’, for had it been possible to assume that she is regarded as definitely married, [how could] Beth Shammai state that THE HEIRS OF HER HUSBAND ARE TO SHARE IT WITH THE HEIRS OF HER FATHER when we learned: If she came into the possession of property while she was married, both[5] agree that, if she had sold or given it away, her husband may seize it from the hand of the buyers![6] Consequently it must be inferred that the levirate bond of a married woman renders her ‘doubtfully married’.[7]

Said Rabbah to him:[8] Why, then, do they[9] dispute on [the question of the estate] itself after the death [of the widow]? Let them rather dispute on the question of the usufruct while she is alive! No, said Rabbah, both clauses deal with property which came into her possession while she was married; and the levirate bond of a married woman stamps her as doubtfully married. In the first clause, therefore, where she is alive, she is the certain possessor[10] while they are only doubtful possessors, and doubt cannot override a certainty.[11] In the final clause, however, where she is dead, both groups come equally as heirs[12] and are, therefore,[13] to take equal shares.[14]

Abaye pointed out an objection against him:[15] Cannot a doubt, in accordance with the view of Beth Shammai, override a certainty? Surely we learned: [In the case where] a[16] house collapsed upon a man[17] and his father or upon a man[17] and those whose heir he was,[18] and that man had against him the claim of his wife's kethubah[19] or that of a creditor,[20] [and in the first case], the heirs of the father plead that the son died first and the father afterwards,[21] while the creditor pleads that the father died first and the son afterwards,[22] Beth Shammai hold [that the amount in dispute is] to be divided,[23] and Beth Hillel hold that the estate is to remain in its former status.[24] Now here, surely, [the claim of] the heirs of the father is a certainty[25] and that of the creditor is only a doubt[25] and yet[26] the doubtful claim overrides the certainty![27] — Beth Shammai are of the opinion that a bond of indebtedness which is due for repayment is regarded as [already] repaid![28]

And whence do you derive this?[29] — [From] what we learned: If their husbands[30] died before they drank,[31] Beth Shammai rule that they are to receive their kethuboth[32] and that they need not drink,[33] and Beth Hillel rule that they either drink[33] or they do not receive their kethuboth.[34] [But how can it be ruled,] ‘They either drink’, when the All Merciful said, Then shall the man bring his wife[35] and he is not there! Consequently [the meaning must be that] as they do not drink they are not to receive their kethuboth.[32] Now here, surely, it is a matter of doubt, it being uncertain whether she did play the harlot[36] or not,[37] and yet the doubt overrides the certainty.[38] Consequently[39] it must be inferred that a bond of indebtedness which is due for repayment is regarded as already repaid.[40]

Abaye,[41] then,[42] should have raised his objection from this![43] — [The law of] a wife's kethubah might be different owing to considerations of courtesy.[44]

Then let him[45] raise his objection from the law of the kethubah in our Mishnah![46] They[47] do not dispute this point.[48]

But do they not? Surely we learned,[49] IF SHE DIED, WHAT SHALL BE DONE WITH HER

KETHUBAH AND WITH PROPERTY THAT COMES IN AND GOES OUT WITH HER? BETH SHAMMAI SAID: THE HEIRS OF HER HUSBAND ARE TO SHARE IT WITH THE HEIRS OF HER FATHER; BETH HILLEL SAID: THE PROPERTY IS TO REMAIN WITH THOSE IN WHOSE POSSESSION IT IS! — It is this that was meant: IF SHE DIED, WHAT SHALL BE DONE WITH HER KETHUBAH? and then [the enquiry] was abandoned. As to PROPERTY THAT COMES IN AND GOES OUT WITH HER, BETH SHAMMAI SAID: THE HEIRS OF HER HUSBAND ARE TO SHARE WITH THE HEIRS OF HER FATHER AND BETH HILLEL SAID: THE PROPERTY IS TO REMAIN WITH THOSE IN WHOSE POSSESSION IT IS.

Said R. Ashi: The inference from the expressions in our Mishnah leads to the same conclusion;[50] for it was stated, THE HEIRS OF HER HUSBAND ARE TO SHARE WITH THE HEIRS OF HER FATHER[51] and it was not stated ‘the heirs of the father [are to share it] with the heirs of the husband’.[52] This proves it.

[Reverting to the previous question,][53] Abaye replied: The first clause [deals with property] that came into her possession while she was awaiting [the decision of] the levir,[54] and the latter clause [with such] as came into her possession while she was still with her husband.

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(1) Cf. supra n. 3.

(2) Keth. 78a., Sonc. ed. pp. 490ff q.v.

(3) Since in the case of a definite betrothal Beth Hillel, contrary to the opinion of Beth Shammai do not allow the widow the right of sale or gift, while in the first clause of our Mishnah they do.

(4) Hence Beth Shammai, who concede to the widow the right to sell and to give away even where her betrothal was certain, with all the more reason concede such rights to the widow spoken of in the first clause of our Mishnah where her betrothal is only doubtful. Beth Hillel, too, since in the case of a definite betrothal they agree that a sale or gift that had already taken place is valid, may rightly concede to the widow in the case of doubtful betrothal the full rights of selling and giving away.

(5) Beth Shammai and Beth Hillel.

(6) Keth. loc. cit.

(7) And so both Beth Shammai and Beth Hillel, who in the case of a definite marriage recognize the husband's right to seize from the buyers even property that his wife had already sold, agree that in the case of our Mishnah, the status of marriage being a matter of doubt, the husband's rights are also a matter of doubt. Hence Beth Shammai might well maintain that the property which is of doubtful ownership should be equally divided between the rival claimants, while Beth Hillel may maintain that the widow's right of possession is to be given priority since she came into the possession of the property at a time when her married status was a matter of uncertainty.

(8) ‘Ulla.

(9) Beth Shammai and Beth Hillel.

(10) Since the property is in any case hers.

(11) Hence Beth Shammai as well as Beth Hillel agree that she is fully entitled to sell the property or to give it away.

(12) Lit., ‘those come to inherit’ (bis). Had the levirate bond borne the same force as marriage the estate would undoubtedly have become the property of the levir only. Had it not borne the same force as marriage the estate would have been given to her father's heirs only, and the levir would have had no claim whatsoever. The claims of either group are consequently evenly balanced.

(13) Since the claim of either is equally doubtful.

(14) According to Beth Shammai. Beth Hillel's view, on the other hand, may be justified on the ground that the widow's father's heirs are her certain relatives and are, therefore, entitled to inherit that which was in her possession. No such claim, however, could be advanced by the husband's relatives since the husband himself was never for one moment in definite and undisputed possession of the property in question.

(15) Rabbah.

(16) Lit., ‘the’.

(17) Lit., ‘upon him’.

(18) Brothers, for instance, or other relatives, who had no other heirs but him.

(19) V. Glos.

(20) And he left no other money or possessions wherewith to meet his obligations, while those whose heir he was did leave possessions.

(21) The son did not consequently inherit from his father whose estate would, therefore, belong to the surviving heirs.

(22) And the son had, therefore, inherited his father's estate which may consequently be seized in payment of the son's debts.

(23) Between the creditor and the heirs, their respective claims being regarded by Beth Shammai as of equal force.

(24) B.B. 157a; With the heirs of the father. The claim of the heirs is regarded by Beth Hillel as a certainty, since they are in possession of the estate either as heirs of the father or as heirs of the son, while the claim of the creditor, being dependent on his being put into possession of the estate by the court, is of doubtful validity, and ‘doubt cannot override a certainty’.

(25) v. supra n. 8.

(26) According to Beth Shammai.

(27) Lit., ‘and doubt comes and takes away from the hands of certainty’. V. supra n. 8.

(28) Sot. 25a. The amount of the debt is deemed to be in the virtual possession of the creditor. The claims respectively of the heirs and the creditor are, consequently, of equal force. If the father died first his son inherited his estate and the creditor had immediately come into the legal possession of a share of the estate equal to the amount of his debt. If the son died first the heirs come into possession of the entire estate. As it is not known who died first the claims of the two parties are equally doubtful and of equal validity.

(29) That Beth Shammai hold the opinion just attributed to them.

(30) Of women suspected of illicit intercourse with strangers after they had been warned by their husbands. V. Glos. s.v. sotah.

(31) The water of bitterness. V. Num. V, 24.

(32) Pl. of kethubah, v. Glos.

(33) The water of bitterness. V. Num. V, 24.

(34) Sot. 24a, Keth. 81a.

(35) Num. V, 15; emphasis on man.

(36) And has, therefore, lost the right to her kethubah.

(37) And is consequently entitled to receive it.

(38) Cf. supra p. 243, n, 12. Despite the doubt as to whether she is entitled to her kethubah she receives it, according to Beth Shammai; and she thus takes away the amount of her kethubah from the heirs of her husband who are the undoubted successors to his property.

(39) Since the rule is that ‘doubt cannot override certainty's

(40) The kethubah is, therefore, deemed to have been collected as soon as the husband died, and the widow is consequently deemed to be the virtual possessor of such a portion of his estate as would cover the amount of her kethubah.

(41) Whose objection to Rabbah, supra, was based on a Mishnah from Baba Bathra.

(42) Since the principle of virtual possession did not occur to him as the reason for allowing a doubtful claim in face of certain one.

(43) The Mishnah just cited which is embodied in the Tractates of Sotah and Kethuboth both of which belong to the same order as our Tractate. Since the principles in both Mishnahs are identical, why did Abaye resort to a Mishnah in another order when one was available in our order of Nashim.

(44) חינא ‘gracefulness’, ‘loveliness’. It is possible that in order that pleasant and cordial relations may exist between husband and wife the law has been enacted that, despite the general rule that ‘doubt cannot override a certainty’, a woman shall be privileged to collect her kethubah even when her own claim is of a doubtful character and that of her litigants is a certain one. No objection could, therefore, be put forward from such a special case; and Abaye had consequently to resort to a Mishnah in Nezikin. Other explanations of משום חינא(v. Jast.): ‘In order to make her attractive’, ‘that women may be willing to marry’.

(45) Abaye.

(46) Where, according to Beth Shammai, the heirs of the father (by virtue of his being heir to his daughter, the widow), though their claim is of a doubtful nature, share the amount of the kethubah with the heirs of the husband whose rights to the amount of the kethubah (as the heirs of the husband) are certain. At the moment it is assumed that Beth Shammai's disagreement with Beth Hillel extends to the KETHUBAH as well as to the PROPERTY THAT COMES IN AND GOES OUT WITH HER; and 'considerations of courtesy' could not, of course, apply when the woman is dead and the claimants are her male heirs. Cf. Keth. 97b.

(47) Beth Shammai.

(48) They agree with Beth Hillel that the KETHUBAH IS TO RETAIN IN THE POSSESSION OF THE HEIRS OF THE HUSBAND. V. supra p. 240, n. 8.

(49) So MS.M. Cur. edd. 'it was taught'.

(50) That Beth Shammai's disagreement with Beth Hillel does not extend to the question of the kethubah.

(51) I.e., the former take a share in that which is virtually in the possession of the latter, viz., the melog property which belongs to the heirs of the wife's father.

(52) Which would have referred to the kethubah which is in the virtual possession of the husband's heirs,

(53) Supra 38a, 'Whereby does the first clause etc.

(54) As the levirate bond is not strong enough to give the levir any right over that property, it is generally agreed that she and, in case of her death, her heirs also are entitled to dispose of it in any manner they like.

Talmud - Mas. Yevamoth 39a

And Abaye[1] maintains that a husband's rights[2] have the same force as his wife's.[3] Said Raba to him:[4] If she came into possession of property while she was still With her husband, no one[5] would dispute the view that his rights are superior to hers.[6] Both [clauses of our Mishnah], however, [deal with property] which came into her possession while she was awaiting [the decision of] the levir; the first clause speaking of one to whom a ma'amar had not been addressed,[7] and the final clause, of one to whom a ma'amar had been addressed.[8] And Raba is of the opinion that a ma'amar, according to Beth Shammai, renders [the widow] definitely betrothed and doubtfully married. She is deemed to be definitely betrothed in respect of excluding her rival;[9] and she is deemed to be doubtfully married in respect of taking a share in the property.[10]

A statement was made in the name of R. Eleazar in agreement with Raba and a statement was made in the name of R. Jose son of R. Hanina in agreement with Abaye. Could R. Eleazar, however, have made such a statement? Surely R. Eleazar said: A ma'amar, according to Beth Shammai, constitutes a kinyan in so far only as to keep out the rival![11] — Reverse [the statements]. If you prefer I might say: There is really no need to reverse [them, for] R. Eleazar can tell you, 'What I said [amounted to this]: that a letter of divorce alone is not enough[12] but that she requires also halizah; did I state, however, that the ma'amar constitutes no kinyan even in respect of taking a share in her property'![13]

Said R. Papa: The inference from our Mishnah is in agreement with the opinion of Abaye,[14] although 'IF SHE DIED' presents a difficulty.[15] Seeing that it was stated PROPERTY THAT COMES IN AND GOES OUT WITH HER, what is meant by COMES IN and what by GOES OUT? Obviously,[16] 'COMES INTO the possession of her husband'[17] and 'GOES OUT from the possession of her husband into the possession of her father'.[18]

'Although IF SHE DIED presents a difficulty': Why should they[19] dispute [on the question of the property] itself, which can arise only in the event of the woman's death[20] , let them rather dispute on the question of the usufruct which arises even when the woman is still alive![21] The fact is that no further objection [can be raised].[22]

WHERE HE MARRIED HER, SHE IS DEEMED etc. For what practical law [was this statement needed]? — R. Jose b. Hanina replied: To indicate that he may divorce her by means of a letter of divorce[23] and that he may remarry her.

'He may divorce her by means of a letter of divorce'; Is not this obvious?[24] — It might have been assumed that, since the All Merciful said[25] And perform the duty of a husband's brother unto her,[26] she retains the obligation of the first levirate relationship[27] and so may be set free[28] only through halizah but not through a letter of divorce, hence it was necessary to teach us [that the law is not so].

‘He may remarry her’; Is not this obvious?[29] — It might have been assumed that since he[30] has already performed[31] the commandment which the All Merciful has imposed upon him, she shall now be forbidden to him as the wife of his brother, hence it was necessary to teach us [that he may nevertheless remarry her]. Might it not be suggested that the law is so indeed?[32] — Scripture stated, And take her to him to wife;[33] as soon as he has taken her she is deemed to be his wife in every respect.

SAVE THAT HER KETHUBAH etc. What is the reason? — A wife has been given[34] to him[35] from heaven.[36] If, however, she is unable nothing more’. The inference from our Mishnah is undoubtedly in agreement with the view of Abaye, the only difficulty being the one mentioned. to obtain her kethubah from her first [husband], provision was made that she [is to receive it] from the second[37] in order that it may not be easy for him to divorce her.[38]

MISHNAH. THE DUTY OF THE LEVIRATE MARRIAGE IS INCUMBENT UPON THE ELDEST [OF THE SURVIVING BROTHERS].[39] IF HE DECLINES, ALL THE OTHER BROTHERS ARE APPROACHED IN TURN.[40] IF THEY ALL DECLINE, THE ELDEST IS AGAIN APPROACHED AND HE IS TOLD, ‘THE DUTY IS INCUMBENT UPON YOU; EITHER SUBMIT TO HALIZAH OR PERFORM THE LEVIRATE MARRIAGE.

IF HE[41] WISHED TO SUSPEND ACTION[42] UNTIL A MINOR[43] BECOMES OF AGE, OR UNTIL THE ELDEST[43] RETURNS FROM A COUNTRY BEYOND THE SEA OR [UNTIL A BROTHER WHO WAS] DEAF[44] OR AN IMBECILE [SHOULD RECOVER],[45] HE IS NOT TO BE LISTENED TO, BUT IS TOLD, ‘THE DUTY IS INCUMBENT UPON YOU; EITHER SUBMIT TO HALIZAH OR PERFORM THE LEVIRATE MARRIAGE.

GEMARA. It was stated: [On the relative importance of] the intercourse of a younger, and the halizah of an elder brother there is a difference of opinion between R. Johanan and R. Joshua b. Levi. One holds that the intercourse of the younger is preferable and the other holds that the halizah of the elder is preferable. ‘One[46] holds that the intercourse of the younger is preferable,’ because the commandment, surely, is to perform the levirate marriage;[47] and ‘the other[46] holds that the halizah of the elder is preferable’, because in the presence of an elder brother the intercourse of the younger is valueless.[48]

We learned, IF HE DECLINED, ALL THE OTHER BROTHERS ARE APPROACHED IN TURN. Does not this mean that he declined to contract the levirate marriage but [was willing] to submit to the halizah? And yet it was stated, ALL THE OTHER BROTHERS ARE APPROACHED IN TURN, which proves[49] that the intercourse of a younger brother is preferred! — No; he wished neither to submit to halizah nor to perform the levirate marriage. Similarly, then, in the case of the other brothers, [the meaning is that] they declined both halizah and levirate marriage;[50] why, then, is THE ELDEST AGAIN APPROACHED with the object of bringing pressure upon him? Let pressure be brought to bear upon them![51] — As the duty[52] is incumbent upon him, pressure also must be used against him.

We learned, IF HE WISHED TO SUSPEND ACTION UNTIL A MINOR BECOMES OF AGE ... HE IS NOT TO BE LISTENED TO. But if the intercourse of a minor is to be preferred, why IS HE NOT TO BE LISTENED TO? Let us rather wait, since on becoming of age he might contract the levirate marriage! — Following your view [it might similarly be objected], why [if he wished to wait] UNTIL THE ELDEST RETURNS FROM A COUNTRY BEYOND THE SEA . . . HE IS

NOT TO BE LISTENED TO? Let us rather wait, since on his return he might contract the levirate marriage![53] The fact is that the performance of a commandment must not be delayed.[54]

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(1) Since he explains the latter clause to be dealing with property that came into the wife's possession while her husband was still alive.

(2) To his wife's melog property.

(3) Lit., ‘his hand is like her hand’. The husband's rights, according to Beth Hillel, he maintains, are in no way superior to those of his wife. Hence, when he dies and the widow comes only under the levirate bond, the levir's rights, which cannot have the same force as those of a husband, are inevitably inferior to those of the widow. The property, therefore, must remain in the possession of herself or her heirs. Beth Shammai, on the other hand, maintain that a husband's rights have more force than those of his wife. When he dies and the levir steps in by virtue of the levirate bond, the latter's rights, though inferior to those of the husband, are of equal force with those of the widow whose rights also are inferior to those of her husband.

(4) Abaye.

(5) Lit., all the world’, even Beth Hillel.

(6) Lit., ‘his hand is better than her hand’, and the husband's heirs would consequently have been entitled to the property.

(7) By the levir, before the property came into her possession. The levirate bond alone is not sufficient to effect a transfer of the property to the levir.

(8) And after that the property came into her possession. As the ma'amar, according to Beth Shammai, is regarded as virtual marriage (v. supra 29a), the levir also is entitled to the property. Hence it must be divided. Beth Hillel, on the other hand, not regarding a ma'amar as marriage, deny the levir all rights upon the property which is, therefore, to remain with the heirs of the woman.

(9) Her sister who does not cause her to be forbidden to the levir as ‘his zekukah's sister’. V. supra 29a.

(10) The levir is not entitled to all the property as if he had actually married the widow, but only to a share of it.

(11) Supra 29a, Ned. 74a.

(12) When a ma'amar had been addressed to the widow.

(13) Certainly not. Consequently his statement in agreement with the view of Raba may be perfectly authentic.

(14) That the final clause deals with property that came into the woman's possession while she was still living with her husband.

(15) This is explained infra.

(16) Lit., ‘not?’

(17) At the time they came into her possession.

(18) When she dies. The property must consequently have come into her possession when she was still living with her husband, as Abaye maintains.

(19) Beth Shammai and Beth Hillel.

(20) Lit., ‘and after death’.

(21) Lit., ‘in her life and concerning the fruit’.

(22) Lit., ‘and

(23) And no halizah is required.

(24) Since with the levirate marriage she assumes the status of a married woman.

(25) So MS.M. Cur. edd., add, ‘It is written, And take her to wife’.

(26) Deut. XXV, 5; although it was already stated in the same verse, and take her to wife.

(27) So MS.M., cur. edd., ‘the levirate relationship of the first’.

(28) Lit., ‘yes’.

(29) Cf. supra n. 2.

(30) The levir.

(31) By his first marriage.

(32) That a brother's widow with whom levirate marriage was performed still requires halizah and may not be remarried by the levir after he had divorced her.

(33) Deut. XXV, 5; where only the latter part of the verse, And perform the duty of a husband's brother unto her would have been sufficient. V. supra 8a.

(34) Lit., ‘they caused him to acquire’.

(35) The levir.

(36) He has neither chosen her nor has he undertaken any obligations towards her. She was imposed upon him by the divine law of the levirate marriage. The claim of her kethubah must, therefore, be a charge upon the estate of her first husband whose choice she had been.

(37) The levir.

(38) Lit., ‘that she may not be easy in his eyes to cause her to go out’.

(39) V. supra 24a.

(40) In the descending order of age.

(41) The eldest brother present on the spot. (Rashi).

(42) Lit., ‘he hung’ or ‘suspended’. [Aliter. He referred (the action) to; v. n. 9].

(43) Brother.

(44) in Rabbinic literature usually signifies one who is deaf from birth. Hence ‘a deaf-mute’.

(45) [Tosaf.: He referred her to a deaf brother etc.].

(46) Lit., ‘he who’.

(47) Halizah being merely a substitute for it.

(48) Since the duty is, in the first instance, incumbent upon the elder.

(49) Since the younger brothers are asked to contract the levirate marriage when the elder expressed his willingness to submit to halizah.

(50) Since the same expression of unwillingness is used.

(51) If the eldest had only refused marriage but was willing to submit to halizah, as has first been assumed, one could explain our Mishnah to mean that ‘THE ELDEST IS AGAIN APPROACHED with a view to halizah’; he being the eldest, halizah also is first offered to him. If, however, he refused both halizah and marriage, as has now been explained, and the object of approaching him is coercion, why should the Beth din be troubled to summon him again in order to coerce him when any of the brothers who happens to be near at hand might just as well be coerced?

(52) Of the levirate marriage. V. our Mishnah.

(53) So marginal gloss. Cur. edd., ‘and submits to halizah’.

(54) And this is the only reason why his request is not granted.

Talmud - Mas. Yevamoth 39b

Some say: As regards intercourse all agree that the intercourse of a younger brother is preferred.[1] They only differ on the halizah of a younger brother. And the statement[2] ran thus: [On the relative importance of] the halizah of a younger, and the halizah of an elder brother there is a difference of opinion between R. Johanan and R. Joshua b. Levi. One holds that the halizah of the elder is preferable, and the other holds that both are of equal importance. ‘One[3] holds that the halizah of the elder is preferable’[4] because the commandment surely, is incumbent upon the elder. And the other [maintains that] the statement, ‘the commandment is incumbent upon the elder’, [was made] in respect of the levirate marriage; in respect of the halizah, however, they are both of equal importance.

We learned, IF THEY ALSO DECLINE, THE ELDEST IS AGAIN APPROACHED. Does not this mean that they declined to contract the levirate marriage but [were willing] to submit to halizah? And yet it was stated, THE ELDEST IS AGAIN APPROACHED, which proves that the halizah of the elder is preferred! — No; they declined the halizah as well as the levirate marriage.

Similarly, in the case of the eldest brother, he declined the halizah as well as the levirate marriage;[5] why, then, IS THE ELDEST AGAIN APPROACHED with the object of coercing him? Let coercion be used against them![6] — As the duty[7] is incumbent upon him, coercion also must be used against him.

Come and hear: IF HE WISHES TO SUSPEND ACTION . . . UNTIL THE ELDEST RETURNS FROM A COUNTRY BEYOND THE SEA . . . HE IS NOT TO BE LISTENED TO. But if the halizah of the eldest is preferable why IS HE NOT TO BE LISTENED TO? Let us rather wait, since it is possible that when he returns he will submit to halizah! — Following your view [it might similarly be objected], why [if he wishes to postpone action] UNTIL A MINOR BECOMES OF AGE . . . HE IS NOT TO BE LISTENED TO? Let us rather wait, since, on becoming of age, he might contract the levirate marriage![8] The fact is that the performance of a commandment must not be delayed.[9]

We learned elsewhere: At first, when the object was the fulfilment[10] of the commandment, the precept of the levirate marriage was preferable to that of halizah; now, however, when the object is not the fulfilment of the commandment, the precept of halizah, it was laid down, is preferable to that of the levirate marriage.[11] Rab said: But no coercion[12] may be used.[13]

When they[14] came before Rab he addressed them thus: ‘If you[15] wish, submit to halizah; if you prefer, contract the levirate marriage; the All Merciful has given you the choice:[16] And if the man like not to take his brother's wife,[17] implying, if he likes he may, whenever he wishes, submit to halizah or, if he prefers, contract the levirate marriage.’

Rab Judah also is of the opinion that no coercion may be applied; since Rab Judah has ordained [the following formula] for a deed of halizah: ‘[We certify] that So-and-so daughter of So-and-so brought before us into court her brother-in-law So-and-so, and we have ascertained him to be the paternal brother of the deceased. We told him, "If you wish to contract the levirate marriage, contract it, and if not, incline[18] towards her your right foot". He inclined[19] towards her his right foot and she removed his shoe from off his foot and spat out before him, a spittle which has been seen by the court upon the ground’.

R. Hiyya b. Iwya in the name of Rab Judah concluded[20] as follows: ‘And we read before them [the relevant passage] that is written in the Book of the Law of Moses’.

‘We ascertained him’. On this, R. Aha and Rabina are in dispute. One says: Through [qualified] witnesses. The other says: Even a relative and even a woman[21] [may tender the evidence].

The law is that it[22] is a mere intimation, and that even a relative and even a woman [may tender the evidence].

‘At first, when the object was the fulfilment of the commandment, the precept of the levirate marriage was preferable to that of halizah; now, however, when the object is not the fulfilment of the commandment, the precept of halizah, it was laid down, is preferable to that of the levirate marriage’. Said Rami b. Hama in the name of R. Isaac: It was re-enacted that the precept of the levirate marriage is preferable to that of halizah.

Said R. Nahman b. Isaac to him: Have the generations improved in their morals? — At first they held the opinion of Abba Saul, and finally they adopted that of the Rabbis. For it was taught: Abba Saul said, ‘If a levir marries his sister-in-law on account of her beauty, or in order to gratify his sexual desires or with any other ulterior motive, it is as if he has infringed the law of incest; and I am even inclined to think that the child [of such a union] is a bastard’. But the Sages said, ‘Her husband's brother shall go in unto her,[23] whatever the motive’.[24]

Who is the Tanna of the following statement which our Rabbis taught: ‘Her husband's brother shall go in unto her,[23] is a commandment; for originally[25] she stood in relation to him in the status of permissibility, then[26] she was forbidden to him, and then again[27] permitted; consequently it might have been assumed that she reverts to her original status of permissibility, hence it was specifically stated, Her husband's brother shall go in unto her,[23] it is a commandment’. — Who, now, is the

Tanna? — R. Isaac b. Abdimi replied. It is [the statement of] Abba Saul, and it is this that he meant: Her husband's brother shall go in unto her,[23] is a commandment; for originally[25] she stood in relation to him in the status of permissibility; he could have married her, if he wished, on account of her beauty and he could have married her, if he wished, in order to gratify his sexual desires; then[28] she was forbidden to him, and then again[29] permitted; consequently it might have been assumed that she reverts to her original status of permissibility,[30] hence it Was specifically stated, Her husband's brother shall go in unto her[31] only with the intention of performing the commandment.[32]

Raba said: You may even say [that the authorship[33] is that of] the Rabbis,[34] and it is this that was meant: Her husband's brother shall go in unto her,[31] is a commandment; for originally[35] she was in the status of permissibility; he could have married her if he wished and, if he preferred, he could have abstained from marrying her; then[28] she was forbidden to him, and then again[29] permitted; consequently it might have been assumed that she was to revert to her original status of permissibility, so that, if he wished, he might marry her and, if he preferred, he could abstain from marrying her. [You say,] ‘If he preferred he could abstain from marrying her’? Surely she is tied to him;[36] can she be set free by no act whatever! — Say rather: [It might have been assumed that] if he wished he might marry her, and, if he preferred, he might submit to halizah, hence it was specifically stated her husband's brother shall go in unto her,[31] it is a commandment.[37]

Read, then,[38] the first clause: ‘It shall be eaten without leaven in a holy place,[39] is a commandment;

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(1) To the halizah of an elder brother.

(2) Of the dispute supra 39a.

(3) Lit., ‘he who’.

(4) To the halizah of a younger one.

(5) V. p. 250, n. 3. supra.

(6) V. p. 250, n. 4.

(7) Of the levirate marriage. V. our Mishnah.

(8) Cur. edd. enclose the following in parentheses. ‘Or also he might come and contract with her the levirate marriage’.

(9) V. supra p. 250, n. 7.

(10) Lit., ‘they had the intention for the name etc.’

(11) Bek. 13a. Keth. 64a.

(12) To perform or to submit to halizah.

(13) If both parties consent to contract the levirate marriage.

(14) Levirate cases.

(15) Speaking to the levir.

(16) Lit., ‘hung upon you’.

(17) Deut. XXV, 7.

(18) Af. of טלע, ‘to halt’ (Heb. צלע). hence ‘incline’. Others: Ethp. of טלע =שלף and חלץ (cf. Targ. Ruth IV, 7, 8; Lam. IV, 3)’ hence ‘allow . . . to be removed or untied’. ‘Turn thy right foot towards her’ (Jast.). ‘Allow the shoe of your right foot to be removed by her’ (Aruk.).

(19) Cf. supra n. 11.

(20) The formula of the certificate of halizah.

(21) Who are, as a rule, ineligible as witnesses.

(22) The insertion of ‘we ascertained him’.

(23) Deut. XXV, 5.

(24) Tosef. Yeb. VI,

(25) Before she married his brother.

(26) When she married his brother.

(27) When his brother died childless.

(28) When she married his brother.

(29) When his brother died childless.
(30) So that he may marry her with any ulterior motive.
(31) Deut. XXV, 5.
(32) למצוה lit., 'for the commandment', i.e., the fulfilment of the Scriptural text.
(33) Of the above cited teaching.
(34) The Sages who oppose Abba Saul, supra.
(35) Before she married his brother.
(36) By the levirate bond.
(37) מצוה, a mere commandment, no intention at the performance thereof being particularly essential (cf. n. 5). The duty to contract the levirate marriage far exceeds that of halizah which is only a substitute to be resorted to as a last expedient.
(38) If the interpretation of R. Isaac b. Abdimi of the final clause of the Baraitha cited is tenable.
(39) Lev. VI, 9, dealing with the laws of the meal-offering and the consumption thereof by the priest who performed the rite.

Talmud - Mas. Yevamoth 40a

for originally[1] its status in relation to him was one of permissibility; then[2] it was forbidden, and again[3] permitted; consequently one might assume that it reverts to its first status of permissibility, hence it was specifically stated, It shall be eaten without leaven in a holy place,[4] it is a commandment'. Now, according to Raba who said that it[5] represents the view of[6] the Rabbis, one could well explain that what is meant here[7] is this: It shall be eaten without leaven in a holy place[4] is a commandment, for at first[8] its status in relation to him was one of permissibility since, if he desired, he could eat it and, if he preferred, he could abstain from eating it; then[9] it was forbidden, and again[3] permitted; consequently it might be assumed that it reverts to its first status of permissibility[10] so that, if he wished, he could eat it and, if he preferred, he could abstain from eating it. — [You say,] 'If he preferred he could abstain from eating it'? Surely it is written in the Scriptures, And they shall eat those things wherewith atonement was made[11] which teaches that the priests must eat them, and that the owner attains thereby atonement! Say rather: [it might be assumed that] if he wished, he[12] may eat it[13] himself and, if he preferred, another priest may eat it, hence it was specifically stated, It shall be eaten' without leaven in a holy place,[14] it is a commandment.[15] According to R. Isaac b. Abdimi, however, who said that it[16] [represents the view of] Abba Saul, what two alternatives[17] exist here?[18] And were you to suggest[19] that if he wished he could eat it[13] to appease his appetite and, if he preferred, he could devour it gluttonously can eating gluttonous]y [it may be retorted] be described as proper eating? Surely Resh Lakish said, 'He who eats gluttonously on the Day of Atonement[20] is exempt [from kareth],[21] since [Scripture has stated], Shall not be afflicted'![22] [Were you to suggest], however,[23] that if he wished he could eat it[24] unleavened and, if he preferred, he could eat it leavened, surely [it might be retorted] it is written in Scripture, It shall not be baked with leaven their portion[25] from which Resh Lakish inferred that even their portion[26] must not be baked with leaven! Again [Were you, to suggest,][23] that if he wished he could eat it[24] unleavened and, if he preferred, he could eat it as a dumpling,[27] how [it could be retorted] is one to imagine [such a dumpling]? If it is unleavened, well, then it is unleavened;[28] and if it is not unleavened, the All Merciful, surely, has said without leaven![29] — No;[30] it[31] may indeed be assumed to be unleavened; but the object of the exposition of the Scriptural text[32] was to forbid it.[33] In respect of what practical issue, then,[34] has it been stated that a dumpling may be regarded as unleavened bread? — [The statement was made] to indicate that a man may perform with it[31] his duty[35] on the Passover. Though he made it first into a dumpling, it is nevertheless designated the 'bread of affliction', since he subsequently baked it in an oven. Consequently a man may perform with it his duty[35] on the Passover. MISHNAH. IF A LEVIR PARTICIPATED IN HALIZAH WITH HIS DECEASED BROTHER'S WIFE HE IS REGARDED AS ONE OF THE OTHER BROTHERS IN RESPECT OF INHERITANCE.[36] IF, HOWEVER, THE FATHER[37] WAS LIVING,[38] THE ESTATE BELONGS TO THE FATHER.[39]

HE WHO MARRIES HIS DECEASED BROTHER'S WIFE GAINS POSSESSION OF HIS BROTHER'S[37] ESTATE. R. JUDAH SAID: IN EITHER CASE,[40] IF THE FATHER[37] WAS LIVING[38] THE ESTATE BELONGS TO THE FATHER.

GEMARA. Is not this[41] obvious? — It might have been presumed that halizah takes the place of the levirate marriage and he receives, therefore, all the estate, hence it was taught [that he does not].[42] If so,[43] why was it stated that HE IS REGARDED AS ONE OF THE OTHER BROTHERS when it should have been stated, he is to be regarded only as one of the brothers! — In truth [this is the purpose of our Mishnah]: It might have been assumed that because he deprived her [of levirate marriage][44] he shall be penalized,[45] hence we were taught [that he does receive a share].

IF, HOWEVER, THE FATHER WAS LIVING, [THE ESTATE BELONGS TO HIM], for a Master said that a father takes precedence over all his lineal descendants.[46]

HE WHO MARRIES HIS DECEASED BROTHER'S WIFE etc. What is the reason? — The All Merciful said, Shall succeed in the name of his brother,[47] and behold he[48] has succeeded.

R. JUDAH SAID etc. Said ‘Ulla: The halachah is in agreement with R. Judah, and R. Isaac Nappaha likewise said: The halachah is in agreement with R. Judah.

‘Ulla, furthermore, (others say, R. Isaac Nappaha) said: What is R. Judah's reason? — Because it is written in Scripture, And it shall be, that the firstborn that he beareth,[49] [he is] like the firstborn; as the firstborn has nothing while his father is alive, so has this one[50] also nothing while his father is alive. If [one were to suggest that] as the firstborn receives a double portion after his father's death so shall this one also receive a double portion[51] after his father's death, [it might be retorted]: Is it written, ‘Shall succeed in the name of his father’? It is written, surely, Shall succeed in the name of his brother,[52] not ‘in the name of his father’.[53] Might it be suggested that, where the father is not alive to receive the inheritance,[54] the law of the levirate marriage should be carried out, but where the father is alive [and the levir] does not receive the inheritance the law of the levirate marriage shall not be carried out? — Has the All Merciful in any way made the levirate marriage dependent on the inheritance? The levir must contract the levirate marriage in any case, and if any inheritance is available he receives it; if not, he does not receive it.

The Bible teacher, R. Hanina, once sat before R. Jannai, and as he sat there he stated: The halachah is in agreement with R. Judah. The other called out to him: Go out, read Biblical verses outside;[55] the halachah is not in agreement with R. Judah.

A tanna recited in the presence of R. Nahman: The halachah is not in agreement with R. Judah. The other said to him: In agreement with whom, then? In agreement with the Rabbis? This is surely obvious, [since in a dispute between] one individual and a majority the halachah is in agreement with the majority! — ‘Shall I’, the first asked him, ‘reject it’?[56] ‘No’, the other replied, ‘you were taught [that] the halachah is [in agreement with R. Judah] which, presenting to you a difficulty,[57] you reversed;[58] and in so far as you reversed it your wording is well justified.[59]

MISHNAH. IF A LEVIR PARTICIPATED IN HALIZAH WITH HIS DECEASED BROTHER'S WIFE HE IS FORBIDDEN TO MARRY HER RELATIVES AND SHE IS FORBIDDEN TO MARRY HIS RELATIVES:[60]

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(1) Before its ingredients were consecrated.

(2) When its ingredients were consecrated as a meal-offering,

(3) When the ‘handful’ (v. Lev. VI, 8) had been offered up upon the altar.

(4) V. p. 254, n. 1 2.
(5) The first clause of the Baraitha cited.
(6) Lit., ‘this, whose’.
(7) In the second clause which presumably represents the views of the same authors.
(8) Before its ingredients were consecrated.
(9) When its ingredients were consecrated as a meal-offering.
(10) Cur. edd. enclose ‘then it was forbidden . . . permissibility’ in parentheses.
(11) Ex. XXIX, 33.
(12) The priest who performed the ceremonial.
(13) The meal-offering.
(14) Lev. VI, 9, dealing with the laws of the meal-offering.
(15) מצוה That the first priest (v. supra n. 10) shall eat it.
(16) The first clause of the Baraitha cited.
(17) Analogous to those in the first clause.
(18) Acting (a) with, and (b) without the intention of fulfilling the commandment, which are the alternatives in the case of the levirate marriage in the first clause, are obviously inapplicable here, since whatever be the motive of one's eating, no prohibition, such as is the case with levirate marriages, is thereby infringed.
(19) As the two alternatives.
(20) When eating is prohibited.
(21) V. Glos.
(22) And whatsoever soul it be that shall not be afflicted in that same day, he shall be cut off from his people (Lev. XXIII, 29). An excessive meal being injurious to the body is deemed to be an affliction. Now, since such a meal is not regarded as eating in the case of the Day of Atonement, how could it be regarded as proper eating in the case of a meal offering?
(23) As the two alternatives.
(24) The meal-offering.
(25) Lev. VI, 20.
(26) That of the priests, the remnants of the meal-offering.
(27) חלוט(rt. to mix’), a paste prepared by stirring flour in hot water.
(28) And is not forbidden at all.
(29) Take the meal-offering . . . and eat it without leaven (Lev. X, 12); what need then was there for repeating the same prohibition in Lev. VI, 9?
(30) The eating of the meal-offering with leaven is not one of the alternatives.
(31) The dumpling.
(32) In the first clause of the Baraitha cited.
(33) Lit., ‘to prevent’. A meal-offering may not be prepared in the form of a dumpling even though that paste is unleavened.
(34) Since a meal-offering which must be unleavened may not be prepared in the form of a dumpling.
(35) Of eating unleavened bread. Cf. Ex. XII, 18.
(36) Of the estate of the deceased brother.
(37) Of the deceased brother.
(38) Lit., ‘if there is’.
(39) A father takes precedence over a brother in respect of inheritance. V. B.B. 115a and infra.
(40) Whether the levir married, or submitted to the halizah from his sister-in-law.
(41) That participation in the halizah does not deprive the levir of his share in his brother's estate.
(42) The object of our Mishnah is not to state that the levir is entitled to a share but that he is not entitled to all the estate.
(43) That the object of our Mishnah is to indicate his disadvantage. V. supra n. 7.
(44) Halizah with him has placed the widow under the prohibition of marrying any of the brothers.
(45) And shall receive no share at all.
(46) B.B. 115a. V. supra note 4.
(47) Deut. XXV, 6.
(48) The levir who, according to Rabbinic interpretation (v. supra 24a), is the subject of shall succeed.

(49) Deut. XXV, 6.
(50) The levir.
(51) His own and his brother's.
(52) Ibid.
(53) And since he is not entitled to a double portion at the time he steps into the place of his brother he cannot subsequently claim such a portion when he ultimately becomes entitled to a share in the same estate only by virtue of his succession to his father.
(54) Which consequently passes over into the possession of the levir.
(55) V. Keth., Sonc. ed. p. 328, n, 7.
(56) As a superfluous addition.
(57) How could the halachah be in agreement with an individual against the rule of a majority?
(58) Stating, 'the halachah is not in agreement with R. Judah.
(59) Lit., 'you reversed well'. [He, however, forgot that he had reversed it; cf, supra 33b, v. Strashun].
(60) All relatives that are Biblically forbidden to husband and wife respectively are Rabbinically forbidden to levir and haluzah respectively.

Talmud - Mas. Yevamoth 40b

HE IS FORBIDDEN TO MARRY HER MOTHER, HER MOTHER'S MOTHER AND HER FATHER S MOTHER; HER DAUGHTER, HER DAUGHTER'S DAUGHTER AND HER SON'S DAUGHTER; AND ALSO HER SISTER WHILE SHE[1] IS ALIVE. THE OTHER BROTHERS, HOWEVER, ARE PERMITTED.[2] SHE[1] IS FORBIDDEN TO MARRY HIS FATHER AND HIS FATHER'S FATHER;[3] HIS SON AND HIS SON'S SON; HIS BROTHER AND HIS BROTHER'S SON.

A MAN IS PERMITTED TO MARRY THE RELATIVE OF THE RIVAL OF HIS HALUZAH BUT IS FORBIDDEN TO MARRY THE RIVAL OF THE RELATIVE OF HIS HALUZAH.

GEMARA. The question was raised: Were relatives of the second degree[4] forbidden[5] in the case of a haluzah as a preventive measure,[6] or not? Did the Rabbis forbid marriage with relatives of the second degree, as a preventive measure,[6] only in respect of a relative who is pentateuchally forbidden,[7] but in respect of a haluzah[8] the Rabbis did not forbid relatives of the second degree as a preventive measure, or is there perhaps no difference?[9] — Come and hear: HE IS FORBIDDEN TO MARRY HER MOTHER AND HER MOTHER'S MOTHER, but 'her mother's mother's mother' is not mentioned![10] [No.] It is possible that the reason why this relative was omitted[11] is because it was desired to state in the final clause, THE OTHER BROTHERS, HOWEVER, ARE PERMITTED, and, were 'her mother's mother's mother' also mentioned it might have been presumed that the brothers are permitted [to marry] her mother's mother's mother only[12] but not her mother's mother or her mother.[13] Then let 'her mother's mother's mother' be mentioned, and let it also be stated: The brothers are permitted to marry all of them![14] — This is a difficulty.

Come and hear: SHE IS FORBIDDEN TO MARRY HIS FATHER AND HIS FATHER'S FATHER. 'His father's father,' at any rate, was mentioned. Is not this[15] due to[16] the levir who participated in the halizah, through whom she is the daughter-in-law of his[17] son?[18] — No; this[19] is due to the deceased through whom she is the daughter-in-law of his[20] son.[21]

Come and hear: AND HIS SON'S SON, Is not this[19] due to the levir who participated in the halizah through whom she is the wife of his[22] father's father?[18] — No; it[19] is due to the deceased through whom she is his[22] father's father's brother's wife.[21] But, surely, Amemar permitted the marriage of one's father's father's brother's wife![23] — Amemar interprets that[24] to refer to the son of the grandfather.[25] If so, [HIS SON, AND SON'S SON] are the same as HIS BROTHER AND HIS BROTHER'S SON![26] — Both his paternal brother and his maternal brother were specified.[27]

Come and hear what R. Hiyya taught:[28] Four [categories of relatives are forbidden][29] Pentateuchally[30] and four Rabbinically.[31] His[32] father and his[33] son, his[34] brother and his[35] brother's son are Pentateuchally forbidden;[30] his father's father[36] and his mother's father,[37] his son's son[38] and his daughter's son[39] are forbidden Rabbinically.[40] ‘His father's father’, at any rate, is mentioned here. Is not this[41] due to the levir who participated in the halizah through whom she is his son's daughter-in-law?[42] — No; it[41] is due to the deceased[43] whose son's daughter-in-law she is.

Come and hear: ‘His mother's father’.[44] Is not this[41] due to the levir who participated in the halizah through whom she is his[45] daughter's daughter-in-law?[46] — No; it[41] is due to the deceased[47] through whom she is his[45] daughter's daughter-in-law.

Come and hear: ‘And his son's son’.[48] Is not this[41] due to the levir who participated in the halizah through whom she is his father's father's wife?[42] — No; it[41] is due to the deceased[47] through whom she is his father's father's brother's wife. But, surely, Amemar permitted the marriage of one's father's father's brother's wife![49] — Amemar explains that[50] to be due to the levir who participated in the halizah,[51] but is of the opinion that relatives of the second degree were forbidden as a preventive measure even in respect of a haluzah.[52]

Come and hear: ‘And the son of his daughter’.[48] Is not this[41] due to the levir who participated in the halizah through whom she is his mother's father's wife?[42] — No; it[41] is due to the deceased[47] through whom she is his mother's father's brother's wife. But, surely, no prohibition as a preventive measure was made in respect of the second degrees of incest![53] Consequently[54] it must be due to the levir who participated in the halizah,[55] and thus it may be inferred that relatives of the second degree were forbidden as a preventive measure even in the case of a haluzah. This proves it.

A MAN IS PERMITTED etc. R. Tobi b. Kisna said in the name of Samuel: Where a man had intercourse with the rival of his haluzah the child [born from such a union] is a bastard. What is the reason? — Because she[56] remains under her original prohibition.[57]

Said R. Joseph: We also have learned [to the same effect]: A MAN IS PERMITTED TO MARRY THE RELATIVE OF THE RIVAL OF HIS HALUZAH. Now, if you grant that the rival is excluded[58] one can well understand why the man is permitted to marry her sister.[59] If it be maintained, however, that the rival has the same status as the haluzah, why [should her sister] be permitted [to him]?[60]

May it be suggested that this[61] furnishes an objection against R. Johanan who stated: Neither he[62] nor the other brothers are subject to kareth either for [the betrothal of] a haluzah or for [the betrothal of] her rival?[63] — R. Johanan can answer you: Do you understand it![64] Is the sister of a haluzah Pentateuchally forbidden?[65] Surely Resh Lakish said: Here[66] it was taught by Rabbi that the prohibition to marry the sister of a divorced wife is Pentateuchal and that that of the sister of a haluzah is Rabbinical![67]

Why is there a difference [in the law] between the one and the other?[68]

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(1) The haluzah (v. Glos.).

(2) To marry the enumerated relatives of the haluzah.

(3) Bomberg ed. adds, ‘and his mother's father’.

(4) E.g., the haluzah's mother's mother's mother or her father's mother's mother (Rashi). Cf. supra 21a.

(5) Rabbinically.

(6) Against marriage with relatives of the first degree.

(7) I.e. ‘ a wife's relatives whose prohibition is specifically stated in the Pentateuch.

(8) Whose relatives, even of the first degree, are only Rabbinically forbidden.

(9) In respect of the law of incest, between the relatives of a wife who are Pentateuchally forbidden and those of a haluzah who are only Rabbinically forbidden.

(10) V. supra p. 259, n. 9.

(11) Lit., ‘that he did not teach’.

(12) Because even in the case of one's wife she is not Biblically forbidden.

(13) Who, in the case of one's wife, are Pentateuchally prohibited.

(14) And the possible misinterpretation would thus be avoided.

(15) Prohibition to marry a father's father.

(16) Lit., ‘what not, owing to’.

(17) The father's father.

(18) I.e., a relative of the second degree, which proves that even such relatives were forbidden in respect of a haluzah.

(19) V. supra note 9.

(20) V. supra n. 20.

(21) In whose case the prohibition is Pentateuchal and provides no answer to our enquiry.

(22) The son's son.

(23) Supra 21b. How, then, according to Amemar, could this case be included among forbidden relatives?

(24) The SON'S SON in our Mishnah.

(25) The father of both the deceased and of the levir who submitted to the halizah. Our Mishnah is thus interpreted: HIS FATHER is the father of the deceased and of the levir who participated in the halizah; HIS SON, i.e., the son of the FATHER mentioned, who is the brother of the deceased and of the levir who participated in the halizah; and HIS SON'S SON is the son of the son of the father mentioned, to whom the haluzah is forbidden as the wife of his father's brother.

(26) V. supra n. 1.

(27) The former by HIS SON AND HIS SON'S SON (v. supra n. 1) and the latter by HIS BROTHER AND HIS BROTHER'S SON, the prohibitions being Pentateuchal since they are due to the woman's relationship with the deceased as his wife, and not to her relationship with the levir as haluzah, the prohibitions resulting from which could only be Rabbinical.

(28) In respect of a haluzah.

(29) To marry her.

(30) Lit., ‘from the words of the Torah’, i.e., owing to their relationship to the haluzah as the wife of the deceased, and the prohibition to marry whom is specifically mentioned in the Pentateuch.

(31) Lit., ‘from the words of the Scribes’.

(32) The levir's (who participated in the halizah). The prohibition is Pentateuchal, it being due to his brother, the deceased, whose wife and whose father's daughter-in-law the haluzah was.

(33) The levir's (v. supra n. 8). The haluzah is forbidden to him Pentateuchally as the wife of his father's brother.

(34) The levir's (v. supra n. 8), who is also the brother of the deceased, and the haluzah is forbidden to him Pentateuchally.

(35) The levir's (v supra n. 8), the deceased also having been his father's brother, and the prohibition is consequently Pentateuchal.

(36) To whom the haluzah is forbidden as his son's daughter-in-law.

(37) The prohibition being that of one's daughter's daughter-in-law.

(38) It is now assumed that the prohibition to marry this relative is due to the levir who participated in the halizah through whom she is his father's father's wife.

(39) Whose mother's father's wife she was.

(40) Cf. supra note 7, all being cases of the second degree, forbidden by a provision of the Rabbis only.

(41) The prohibition to marry this relative.

(42) Which proves that, even in respect of a haluzah, relatives of the second degree are prohibited.

(43) In whose case the prohibition is Pentateuchal, and supplies no answer to our enquiry.

(44) This is a citation from R. Hiyya's Baraitha supra.

(45) His mother's father's.

(46) V. supra n. 2.

(47) The prohibition being a preventive measure against the infringement of a Pentateuchal law. Consequently it supplies no proof in respect of our enquiry which is concerned with a preventive measure against an infringement of a Rabbinical law.

(48) V. supra n. 4.

(49) How then could such a case be included among forbidden relatives?

(50) ‘Son's son’ in R. Hiyya's Baraitha.

(51) The prohibition being that of ‘his father's father's wife’, as first assumed.

(52) According to those, however, who, contrary to the opinion of Amemar, forbid marriage with a father's father's brother's wife, the prohibition in R. Hiyya's Baraitha might still be attributed to the deceased (v. supra n. 7), and the original enquiry as to whether relatives of the second degree were forbidden in the case of a haluzah still remains unanswered.

(53) How then could it be suggested that the prohibition is due to the fact that the haluzah is the ‘wife of the mother's father's brother’ of the deceased?

(54) Lit., ‘what, not’?

(55) The prohibition being that of ‘his mother's father's wife’ who is a relative of the second degree.

(56) The rival.

(57) Of ‘brother's wife’, which is subject to the penalty of kareth. Children born from a union that is forbidden under such a penalty are deemed to be bastards.

(58) [Lit., ‘outside’. Rashi reads: ‘Stands outside’.] From the restrictions of the haluzah, the latter not being regarded as her agent or representative.

(59) Since she herself remains forbidden to the levir as ‘brother's wife’, her sister is not the ‘sister of a haluzah’.

(60) She should be forbidden as the sister of a haluzah! As she is permitted, however, it must be granted that the rival of a haluzah remains under the original prohibition of ‘brother's wife’, which entails the penalty of kareth. (V. supra n. 5).

(61) The inference from our Mishnah. (V. supra n. 8 second clause).

(62) The levir who submitted to halizah.

(63) Supra 10b; while from the inference of our Mishnah, as has been proved, the penalty for contracting a union with the rival of a haluzah is kareth!

(64) R. Joseph's argument.

(65) As R. Joseph implies by his assumption that if the rival had the same status as the haluzah her sister would be forbidden.

(66) In the following Mishnah to which he refers.

(67) The reason why the sister of a rival of a haluzah is permitted is not that assumed by R. Joseph. but the following: As the prohibition of the sister of a haluzah herself is only Rabbinical, the prohibition was not extended to the sister of the rival of the haluzah also.

(68) The first and second case of the final clause of our Mishnah. THE RIVAL OF THE RELATIVE OF HIS HALUZAH is surely as much of a stranger to him as THE RELATIVE OF THE RIVAL OF HIS HALUZAH.

Talmud - Mas. Yevamoth 41a

— The Rabbis have enacted a preventive measure[1] in respect of her who accompanies the haluzah to court;[2] in the case, however, of her who does not accompany her to court[3] the Rabbis enacted no preventive measure.[4]

MISHNAH. WHERE HE PARTICIPATED IN A HALIZAH WITH HIS DECEASED BROTHER'S WIFE, AND HIS BROTHER MARRIED HER SISTER AND DIED,[5] THE WIDOW[6] MUST PERFORM HALIZAH BUT MAY NOT BE TAKEN IN LEVIRATE MARRIAGE.[7]

SIMILARLY[8] WHERE A MAN DIVORCED HIS WIFE AND HIS BROTHER MARRIED HER SISTER AND DIED[5] THE WIDOW IS EXEMPT.[9]

IF A BROTHER OF THE LEVIR HAD BETROTHED THE SISTER OF THE WIDOW WHO WAS AWAITING THE LEVIR S DECISION, HE IS TOLD, SO IT HAS BEEN STATED IN THE NAME OF R. JUDAH B. BATHYRA, WAIT[10] UNTIL YOUR BROTHER HAS ACTED’.[11] IF

HIS BROTHER HAS PARTICIPATED WITH THE WIDOW IN THE HALIZAH OR CONTRACTED WITH HER THE LEVIRATE MARRIAGE, HE MAY MARRY HIS [BETROTHED] WIFE. IF THE SISTER-IN-LAW DIED HE MAY ALSO MARRY HIS [BETROTHED] WIFE. BUT IF THE LEVIR DIED, HE[12] MUST RELEASE HIS [BETROTHED] WIFE BY A LETTER OF DIVORCE AND HIS BROTHER'S WIFE BY HALIZAH.[13]

GEMARA. What [is meant by] SIMILARLY?[14] — Read: BUT WHERE A MAN DIVORCED.

Resh Lakish said: Here[15] it was taught by Rabbi[16] that [the prohibition to marry the] sister of a divorced wife is pentateuchal [and that of] the sister of a haluzah is Rabbinical.

HAD BETROTHED [THE SISTER OF THE] WIDOW WHO WAS AWAITING THE LEVIR'S DECISION etc. Samuel said: The halachah is in agreement with the view of R. Judah b. Bathyra.[17]

The question was raised: If his wife[18] died may he marry his sister-in-law?[19] — Both Rab and R. Hanina stated: If his wife died he is permitted to marry his sister-in-law. But both Samuel and R. Assi stated: If his wife died he is forbidden to marry his sister-in-law. Said Raba: What is Rab's reason? — Because she is a deceased brother's wife who was permitted[20] then forbidden[21] and then again permitted[22] and who consequently reverts to her first state of permissibility.

R. Hamnuna raised an objection: If two of three brothers were married to two sisters and the third was unmarried, and when one of the sisters’ husbands died the unmarried brother addressed to the widow a ma'amar, and then the second brother[23] died,[24] and after him his wife also died,[25] that sister-in-law must perform halizah but may not be taken in levirate marriage.[26] But why?[27] Let her be regarded[28] as a deceased brother's wife who was permitted[29] then forbidden,[30] and then again permitted[22] who reverts to her former state of permissibility![31] He remained silent. After the other went out he said: I should have told[32] him that it[33] represents the view of R. Eleazar who maintains that once she has been forbidden to him for one moment she is forbidden to him for ever! Subsequently he remarked: It might be contended that R. Eleazar held that view only where she was not fit[34] at the time she became subject to the levirate marriage;[35] did he express such an opinion, however, in the case where she was fit[34] at the time she became subject to the levirate marriage?[36] Subsequently however, he said: Yes,[37] for, surely, it was taught: R. Eleazar said: If his[38] yebamah died, his wife is permitted to him; if his wife died, that yebamah must perform halizah but may not be taken in levirate marriage.

Must it then be assumed that Samuel and R. Assi are of the same opinion as R. Eleazar?[39] — The may be said to be in agreement even with the Rabbis. For the Rabbis differed from R. Eleazar[40] only because from the time she became subject to the levirate marriage and onward she was no longer forbidden to him.[41] Here,[42] however,where she was so forbidden[43] even the Rabbis agree.[44]

MISHNAH. THE DECEASED BROTHER'S WIFE[45] SHALL NEITHER PERFORM THE HALIZAH NOR CONTRACT LEVIRATE MARRIAGE BEFORE THREE MONTHS HAVE PASSED.[46] SIMILARLY ALL OTHER WOMEN[47] SHALL BE NEITHER BETROTHED NOR MARRIED BEFORE THREE MONTHS HAVE PASSED[46] WHETHER THEY WERE VIRGINS OR NON-VIRGINS, WHETHER DIVORCEES OR WIDOWS,[48] WHETHER MARRIED OR BETROTHED.

R. JUDAH SAID: THOSE WHO WERE MARRIED MAY BE BETROTHED [FORTHWITH], AND THOSE WHO WERE BETROTHED MAY EVEN BE MARRIED [FORTHWITH], WITH THE EXCEPTION OF THE BETROTHED WOMEN IN JUDAEA, BECAUSE THERE THE BRIDEGROOM WAS TOO INTlmate[49] WITH HIS BRIDE.[50]

R. JOSE SAID: ALL [MARRIED] WOMEN[51] MAY BE BETROTHED [FORTHWITH] EXCEPTING THE WIDOW[52]

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(1) The prohibition to marry the rival of the relative of one's Haluzah.
(2) I.e., her sister whom she takes with her to court when she goes to perform the halizah. The public, not being aware which of the sisters is the haluzah, might subsequently mistake the one for the other. Hence the rival of the sister was forbidden to the levir who participated in the halizah in order that people might not think that he married the rival of the haluzah herself.
(3) The widow does not take her rival with her when she goes to court to perform halizah.
(4) Since no one is likely to mistake the rival for the haluzah. Hence the law that the relative of the rival is permitted.
(5) Without issue.
(6) Being the sister of a haluzah.
(7) The sister of a haluzah is (a) Pentateuchally permitted but (b) Rabbinically forbidden. Because of (a) she is subjected to the levirate bond and requires halizah, and because of (b) she is forbidden to contract the levirate marriage.
(8) This expression is discussed in the Gemara infra.
(9) From the halizah as well as from the levirate marriage. The sister of a divorced wife is Pentateuchally forbidden to the divorcee.
(10) With the consummation of the marriage.
(11) I.e., until he had either contracted the levirate marriage or submitted to halizah. Before such action the sister of the widow is forbidden to him, as to all the other brothers, as the sister of their zekukah.
(12) Being the only surviving brother and, consequently, the only one to whom the widow is subject.
(13) Being the sister of his divorced wife she is not permitted to contract with him the levirate marriage. (Cf. supra p. 264, n. 11.
(14) Seeing that the clause introduced by this expression is not at all similar to the previous one.
(15) In the first two clauses of our Mishnah,
(16) R. Judah the Prince, Redactor of the Mishnah.
(17) That the levirate bond between the widow and all the surviving brothers remains in force until one of the brothers has contracted the levirate marriage or has submitted to halizah.
(18) The sister of the widow of his deceased brother.
(19) I.e., the widow whose deceased sister is now no more his wife.
(20) When her husband died without issue.
(21) When the brother had betrothed her sister.
(22) When her sister died.
(23) Of the two who married the two sisters.
(24) And his widow, the sister of the first widow to whom the ma'amar had been addressed by the third brother, had thus come under the levirate bond and consequently caused her sister's prohibition to the third brother as ‘the sister of his zekukah’.
(25) When the first widow, the surviving sister, is no more the ‘sister of his zekukah’.
(26) Cf. supra 29a.
(27) If Rab's reason as given by Raba is to be accepted, why should not the widow, now that her sister had died, be permitted to enter into levirate marriage?
(28) On the analogy of Rab's reasoning.
(29) When her husband died and the unmarried brother addressed a ma'amar to her.
(30) When the second brother, the husband of the other sister, died.
(31) Why then was it stated that she may not contract the levirate marriage and that she is restricted to halizah only?
(32) Lit., ‘why did I not tell’.
(33) The Baraitha cited by R. Hamnuna.
(34) To be married by the levir.
(35) R. Eleazar's view was expressed in connection with a woman who had been divorced (and had thus become forbidden to the levir as the ‘divorcee of his brother’), and then was remarried, and finally, on the death of her husband, became subject to the levir as the wife of his deceased childless brother (v. infra 108bf). In this case, when the widow became subject to the levirate obligations, she had been already, for a time, forbidden to the levir as the ‘divorcee of his

brother'.

(36) As is the case in the Baraitha cited by R. Hamnuna. The prohibition there arose after she had become subject to the obligations of the levirate.

(37) I.e., R. Eleazar forbids levirate marriage for ever, if the widow was unfit for such a marriage for one single moment, even if at the time when she became subject to the levirate obligations she (the widow) was quite fit to contract the carriage.

(38) The levir's, who betrothed the sister of his yebamah.

(39) Who is in a minority, against that of the Rabbis. Would they agree with a minority against the ruling of the majority?

(40) In the case of a woman who had been divorced and then remarried and then became subject to the levirate obligation, infra 108b. Cf. supra p. 266, n. 16.

(41) The prohibition having ceased with the death of her husband when the obligation of the levirate had arisen.

(42) The case cited by R. Hamnuna.

(43) Because after she became subject to the levirate obligations he was for a time, owing to the death of his second brother, forbidden to him as the sister of his zekukah.

(44) That only halizah must be performed, levirate marriage being forbidden.

(45) Whose husband died without issue, and who became subject to the levirate obligations.

(46) From the date of her husband's death. The reasons are discussed in the Gemara infra.

(47) Whose husbands have died.

(48) The distinctions between these classes are discussed in the Gemara.

(49) Lit., 'his heart is bold', and cohabitation might have taken place.

(50) Cf. Keth. 12a,

(51) Whose husbands have died.

(52) Who must allow a period of thirty days to pass.

Talmud - Mas. Yevamoth 41b

OWING TO HER MOURNING.[1]

GEMARA. It is quite reasonable that she[2] shall not be taken [forthwith] in levirate marriage, since the child [whom she might bear] may be viable,[3] and the levir would thus infringe the prohibition of marrying a brother's wife, which is Pentateuchal; but why should she not [forthwith] perform the halizah?[4] Does this,[5] then, present an objection against R. Johanan who said that the halizah of a pregnant woman is deemed to be a valid halizah?[6] But has not an objection against R. Johanan once been raised?[7] — [The question is whether] it may be assumed that an objection arises from here also?[8] — No; here, the reason[9] is this: The child might be viable;[10] and you would in consequence subject her to the need for an announcement[11] in respect of the priesthood.[12] Well, let her be subjected![13] — It may happen that some people would be present at the halizah but would not be present at the announcement, and they would consider her ineligible to marry a priest.

This quite satisfactorily explains the case of a widow; what can be said, however, in respect of a divorced woman?[14] — Because she would thereby[15] lose her maintenance.[16] This provides a quite satisfactory explanation in the case of a married woman; what can be said, however, in respect of a betrothed divorcee?[17] — The reason[18] is rather the ruling of[19] R. Jose. For it was taught: A man once appeared before R. Jose and said to him; 'May halizah be performed within three months'? The master replied, 'She must not perform the halizah'. — 'Let her perform the halizah! What would she lose'?[20] Thereupon he recited for him this Scriptural text: If the man like not,[21] [implying] that if he likes he may contract the levirate marriage; whosoever may go up[22] to contract the levirate marriage may also go up to perform the halizah etc.[23]

R. Hinena raised an objection: In doubtful cases halizah is performed and no levirate marriage may be contracted. Now, what is meant by 'doubtful cases'? If it be assumed to mean doubtful betrothal;[24] why, indeed, should no levirate marriage be contracted? Let the widow be taken in levirate marriage since no objection could possibly be raised![25] Consequently,[26] the doubt must consist in the betrothal of two sisters when the man is uncertain which of them he betrothed;[27] and yet it was stated that halizah was to be performed![28] — How now! There,[29] if Elijah were to come and point out the sister that was betrothed, she would be eligible for both halizah and levirate marriage;[30] here,[31] however, were Elijah to come and declare that the widow was not pregnant, would anyone heed him and allow her to contract the levirate marriage? Surely even a minor who is incapable of pregnancy must wait three months![32]

Our Rabbis taught: A yebamah[33] is maintained during the first three months out of the estate of her husband. Subsequently[34] she is not to be maintained either out of the estate of her husband or out of that of the levir. If, however, the levir appeared in court[35] and then absconded, she is maintained out of the estate of the levir. If she became subject to a levir who was a minor she receives nothing from the levir. Does she, however, [receive her maintenance] from her husband's estate? — On this question, R. Aha and Rabina are in dispute. One holds that she receives and the other holds that she does not. And the law is that she receives nothing; for her penalty comes from heaven.

Our Rabbis learned: A yebamah,[36] with whom the brothers had participated in halizah within the three months, must wait three months.[37]

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(1) Which terminates on the thirtieth day.

(2) The deceased brother's wife spoken of in our Mishnah.

(3) And the levirate obligations would thereby be removed.

(4) Marriage with an outsider could thus take place after three months, if she is found to be without child or if she miscarried.

(5) The implication that halizah is forbidden because it is possible that the woman will miscarry after the ceremony and, believing the halizah to have been valid, would remarry without performing the ceremony again while, in fact, the law is that the halizah of a pregnant woman is not valid.

(6) Supra 35b.

(7) V. n. 11; why then doubt it?

(8) So that if the first objection should ever be removed the second would still remain.

(9) Why halizah also must be postponed until three months have passed.

(10) And his birth would render the halizah invalid, and his mother would consequently be permitted to marry a priest whom, as a haluzah, she would not have been allowed to marry.

(11) That the halizah was invalid and that the widow is eligible to marry a priest.

(12) V. p. 268 n. 15.

(13) To the necessary announcement. What loss could such an announcement cause her?

(14) I.e., who had been a divorcee prior to her marriage with the deceased brother. Having been divorced once, she is for ever ineligible to marry a priest, even though she were no haluzah. Why, then, should she be forbidden to perform the halizah forthwith?

(15) By performing the halizah before the three months have passed.

(16) Which she receives from her deceased husband's estate for a period of three months. This would cease with the performance of the halizah. [On this view the Mishnah does not state a prohibition but a piece of sound advice (Tosaf.)]

(17) A woman who has been betrothed whilst she was a divorcee and became a widow before the marriage took place. As a betrothed she is not entitled to maintenance from the dead man's estate, and as a divorcee she is not eligible to marry a priest. Why, then, should she not be allowed forthwith to perform the halizah?

(18) V. supra p. 268, n. 14.

(19) Lit., ‘because of’.

(20) Lit., ‘and what in it’.

(21) Deut. XXV, 7.

(22) Sc. to the gate (cf. loc. cit.) i.e., to court.

(23) ‘And whosoever may not go up to contract the levirate marriage may not go up to perform the halizah’ (v. supra

20a, 36a, infra 44a). Since the widow may not contract levirate marriage within three months, she may not perform halizah either. This,’ however, presents no objection to R. Johanan's ruling since, though it is improper to arrange a halizah within the three months, if halizah had actually taken place it is valid.

(24) Such as are dealt with in the Mishnah and subsequent Gemara supra 30b.

(25) Lit., ‘and there is nothing in it’. If the widow's betrothal by the deceased was valid, the levirate marriage is also valid; and if it was not valid, the so-called widow is in reality an unmarried woman and may be married as a stranger.

(26) Lit., ‘but not?’

(27) And he died without issue.

(28) Though no levirate marriage may be contracted owing to the doubt in the case of each sister that she might be the ‘sister of a zekukah’. How, then, could it be said that halizah may be performed only where levirate marriage also is possible?

(29) Where it is uncertain which sister was betrothed.

(30) Each sister may consequently be regarded as virtually fit for the levirate marriage.

(31) A widow within the first three months after her husband's death.

(32) As levirate marriage is thus absolutely forbidden for the time being, the halizah also must be postponed until the time when levirate marriage would be permitted. [Where, however, the prohibition to contract levirate marriage is absolute, as, for example, in the case of a sister of a haluzah (supra 41a) halizah may be performed (Rashi).]

(33) Who awaits halizah or levirate marriage which is not to take place before three months have passed.

(34) Lit., ‘from now and onwards’.

(35) In response to the widow's claim that he should contract levirate marriage or submit to halizah.

(36) V. p. 270, n. 10.

(37) Dating from her husband's death, and may contract marriage after that period.

Talmud - Mas. Yevamoth 42a

If [the halizah was performed] after the three months, she need not wait three months.[1] Thus it may be inferred that the three months spoken of are [to be dated] from the time of the husband's death and not from the time of the levir's halizah.

Why [is the law here][2] different from that of a letter of divorce where Rab maintains [that the waiting period is to date] from the time of the delivery[3] and Samuel maintains [that it is to date] from the time of writing?[4] — Raba replied: A minori ad majus, if you permitted marriage[5] where a prohibition under the penalty of kareth is involved,[6] how much more so [should marriage be permitted[5] where only] an ordinary prohibition[7] [is involved]![8]

SIMILARLY ALL OTHER WOMEN. The case of a sister-in-law[9] one can well understand, as has just been explained,[10] but why ALL OTHER WOMEN?[11] — R. Nahman replied in the name of Samuel: Because Scripture said, To be a God unto thee and unto thy seed after thee,[12] a distinction must be made between the seed of the first husband and the seed of the second.

Raba raised an objection: Hence must a male proselyte and a female proselyte[13] wait three months.[14] Now, what distinction is there to be made here? — Here also there is the distinction to be made between seed that was sown in holiness and seed that was not sown in holiness.

Raba said: This[15] is a preventive measure against the possibility of his[16] marrying his paternal sister,[17] contracting levirate marriage with the wife of his maternal brother,[18] setting his mother free to marry anybody[19] and releasing his sister-in-law to all the world.[20]

R. Hanania raised an objection: In all these[21] I read a provision against incest, but here[22] it is a provision in favour of the child.[23] Now, if this[24] is tenable, all[25] would be due to a provision against incest! — The meaning of ‘a provision in favour of the child’ is that the child might not infringe a prohibition of incest’.[26]

It is easy to understand why [a divorcee or widow] shall not marry after waiting a period of just two months because that would create a doubt as to whether the child is a nine-months one of the first[27] or a seven-months one of the second.[27] Let her wait, however, one month only and then marry, so that, should she give birth at seven months, the child would be a seven-months one of the last husband;[28] and should she give birth at eight months the child would obviously be a nine-months one of the first![27] — Even if she gave birth at eight months it might still be assumed to be the child of the last husband since it may be that her conception was delayed one month.[29]

Let her, then, wait two months and a half and marry, so that, were she to give birth at seven months, the child would obviously be a seven-months one of the last,[27] and were she to give birth at six months and a half, the child would naturally be a nine-months one of the first;[30] for had he been the son of the last he would not be viable as a six-and-a-half-months child. — Even if she gave birth at six and a half months it is still possible to assume the child to be that of the last husband, for Mar Zutra stated: Even according to him who said that a woman who bears at nine months does not give birth before the full number of months had been completed,[30] a woman who bears at seven months ‘does give birth before the full number of months has been completed;[30] for it is stated in Scripture, And it came to pass, after the cycles of days,’[31] the minimum of ‘cycles’[32] is two, and the minimum of ‘days’ is two.[33] Let her, then, wait a little[34] and marry, and when the three months[35] will have been fulfilled she might be examined![36] — R. Safra replied: Married women are not examined, in order that they may not become repulsive to their husbands. Then let her be examined by her walk![37] — Rami b. Mama replied: A woman conceals the fact[38] in order that her child may inherit his share in her [second] husband's estate. Where, however, it has been ascertained that she[39] was pregnant, let her be permitted to marry! Why then was it taught: A man shall not marry the pregnant, or nursing wife of another;[40] and if he married, he must divorce her and never again remarry her! — This[41] is a preventive measure against the possibility of turning the foetus into a sandal.[42] If so, [this should apply in the case] of one's own wife also![43] — If according to him who said, ‘With an absorbent’,[44] she uses[45] an absorbent; and if according to him who said, ‘Mercy will be shewn from heaven’,[46] mercy will be shewn from heaven. Here also[47] [it could be argued]: If according to him who said, ‘With an absorbent’, she uses an absorbent; if according to him who said, ‘Mercy will be shewn from heaven’, mercy will be shewn from heaven! — [The prohibition][48] is due, rather, to [the danger of abdominal] pressure.[49] If so, [this[50] applies in the case] of one's own wife also![51] — A man has consideration for his own.[52] Here also[53] one would have consideration for the child![54] — [The reason is][55] rather because a pregnant woman is usually expected to breast-feed her child [and were she to marry during pregnancy] she

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(1) From the date of the halizah.

(2) Halizah.

(3) Of the letter of divorce to the woman.

(4) Git. 18a. Why, then, should not here also a period of three months after halizah be required to pass before the widow is allowed to remarry?

(5) Three months after the death of the husband.

(6) The marriage with the levir, where the widow gives birth to a viable child, is an act of incest which is punishable by kareth.

(7) Marriage by the widow with a stranger during pregnancy.

(8) Hence, whenever the halizah was performed three months after the husband's death, the widow may forthwith be permitted to marry.

(9) The reason why she must not marry before three months from the date of her husband's death have passed

(10) Supra 41b.

(11) Why must they also wait three months?

(12) Gen. XVII, 7 emphasis on ‘thy’.

(13) Husband and wife (Rashi). Cf. however, Tosaf. s.v. גר a.l.

(14) After their conversion, before resuming connubial relations.

(15) That any widow or divorced woman shall not marry before three months have passed after her husband's death or divorce respectively.

(16) The son born from a widow or divorcee who married within the three months, and who is a nine-months child of her first husband but is assumed to be a seven-months child of the second.

(17) A daughter of the first husband from another wife, believing her to be a stranger.

(18) He, if his mother bore a son to her second husband, and that son died childless, would be contracting levirate marriage with his widow in the belief that he is the paternal brother while in fact he is his maternal brother whose wife is, therefore, forbidden to him under the penalty of kareth.

(19) Lit., ‘to the market’. Should his mother's second husband die without having had any other children his mother would be deemed to be free from the levirate obligations on the assumption that he was the son of the second husband.

(20) Lit., ‘to the market’. If his brother (the son of his mother's first husband from another wife) dies childless and is survived by no other known brother his widow would be released to marry any stranger on the assumption that he had no surviving brother, while in reality the widow is bound to him by the levirate bond.

(21) prohibitions to marry or to contract levirate marriage.

(22) The law of a three months’ period of waiting before any widow or divorcee is permitted to marry.

(23) This is assumed to mean: In order that it be known whose child he is.

(24) Raba's explanation.

(25) Prohibitions to marry or to contract levirate marriage.

(26) In the other cases the man and the woman themselves might encroach on the prohibition of incest.

(27) Husband.

(28) Had he been an eight-months child of the first husband he would not have been viable.

(29) And the child is one of seven months.

(30) למקיטעין (rt. קטע ‘lop off’) ‘incomplete number of months’.

(31) I Sam. I, 20. E.V., When the time was come about.

(32) תקופותpl. of תקופה. The year is divided in four cycles (tekufoth), each consisting of three months. The pl.תקופות represents no less than two, hence six months.

(33) The text, speaking of Hannah's conception and the birth of Samuel, implies that a viable child may be born after a pregnancy of six months and two days.

(34) A week or two.

(35) Dating from the time of her first husband's death or divorce.

(36) If she is found to be pregnant it will be obvious that the child's father was the first husband; if not, the father of the child born subsequently will be the second husband. After three months of conception the marks of pregnancy may be distinguished.

(37) A pregnant woman, walking on soft soil or loose earth, leaves a deeper impression than a non-pregnant woman (Responsa of the Geonim, Cf. Rashi a.l.).

(38) Lit., ‘covers herself’. She makes every effort to conceal all signs of pregnancy which might lead to the discovery that the child's father was her first husband.

(39) A divorced woman or a widow.

(40) Though she had been divorced or widowed.

(41) The reason why no expectant mother may be married.

(42) סנדל ‘a flat fish’, hence an abortion that has the shape of a flat fish, assumed to be caused by intercourse during pregnancy.

(43) During pregnancy. V. supra n. 7.

(44) That a woman during pregnancy may use an absorbent to prevent a second conception. V. supra 12b.

(45) Lit., ‘with’.

(46) No artificial means of contraception may be used. The woman must have implicit confidence in divine protection.

(47) A divorced woman or a widow.

(48) To marry an expectant mother.

(49) Which may cause the death of the foetus.

(50) The reason why no expectant mother may be married.

(51) During pregnancy. V. supra note 7.

(52) And takes every possible precaution to-avert danger.
(53) With a divorced woman or a widow.
(54) A man would surely take care not to destroy any life.
(55) The reason why no expectant mother may be married.

Talmud - Mas. Yevamoth 42b

might conceive again, her milk would become turbid, and she might thereby[1] cause the death of the child. If so, [this applies in the case] of the man's own child also! — His own child she would sustain with eggs and milk. Would she not sustain her own child also with eggs and with milk? — Her husband would not give her the means. Let her claim it[2] from the heirs![3] — Abaye replied: A woman would shrink from going to court[4] and would rather let her child die.

WHETHER THEY WERE VIRGINS OR NON-VIRGINS. Who are the VIRGINS and who are the BETROTHED?[5] Who are NON-VIRGINS and who are MARRIED women?[6] — Rab Judah replied, It is this that was meant: WHETHER VIRGINS OR NON-VIRGINS who became widows or were divorced[7] either after betrothal or after marriage.[8]

R. Eleazar did not go one day[9] to the Beth Hamidrash. On meeting R. Assi he asked him, ‘What did the Rabbis discourse at the Beth Hamidrash’? The other replied ‘Thus said R. Johanan: The halachah is in agreement with R. Jose’.[10] — Does this, then, imply that only individual opinion[11] is against him?[12] — Yes; and so it was taught: A [married woman] who was always anxious[13] to spend her time[14] at her paternal home,[15] or who had some angry quarrel at her husband's home,[16] or whose husband was in prison[17] or was old or infirm,[16] or who was herself infirm,[18] or had miscarried after the death of her husband, or was barren, old, a minor, incapable of conception or in any other way incapacitated from procreation, must[19] wait three months.[20] These are the words of R. Meir. R. Judah[21] permits immediate betrothal and marriage.[22]

R. Hiyya b. Abba said: R. Johanan retracted.[23] Said R. Joseph: If he retracted, he did so on account of what has been taught at the Vineyard.[24] For it was taught: R. Ishmael son of R. Johanan b. Beroka said: I heard from the mouth of the Sages in the Vineyard of Jabneh that all women must wait three months.[25]

Said R. Jeremiah to R. Zerika: When you visit R. Abbahu point out to him the following contradiction: Could R. Johanan have said, ‘The halachah is in agreement with R. Jose’ seeing that he stated elsewhere ‘the halachah is in agreement with the anonymous Mishnah’,[26] and we learned, ALL OTHER WOMEN SHALL BE NEITHER MARRIED NOR BETROTHED BEFORE THREE MONTHS HAVE PASSED, WHETHER THEY WERE VIRGINS OR NON-VIRGINS![27] The other replied, ‘The one who pointed out to you this contradiction did not care much for [the quality of] flour.[28] This is an anonymous Mishnah that was followed by a dispute,[29] where the halachah does not agree with the anonymous Mishnah; for R. Papa or, some say, R. Johanan stated: When a disputed ruling is followed by an anonymous one,[30] the halachah is in agreement with the anonymous ruling; when, however, an anonymous ruling is followed by a dispute,[31] the halachah is not in agreement with the anonymous ruling.

R. Abbahu once walked leaning upon the shoulder of his attendant,[32] R. Nahum, whilst gathering from him information as to traditional rulings.[33] He inquired of him: What [is the halachah] where a dispute is followed by an anonymous statement? The other replied: The halachah is in agreement with the anonymous statement, ‘What [is the halachah’, the first enquired, ‘when] an anonymous statement is followed by a dispute’? The other replied: The halachah is not in agreement with the anonymous statement. ‘What if the anonymous statement occurs in a Mishnah and the dispute in a Baraitha’? The other replied: The halachah is in agreement with the anonymous statement. ‘What if the dispute is in the Mishnah and the anonymous statement in the Baraitha'? The other replied:

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(1) Since she would either feed him with contaminated milk or deprive him altogether of her breast milk.
(2) The extra cost of the maintenance.
(3) Of her first husband.
(4) To litigate with the heirs.
(5) Both are identical. No virgin can possibly be subject to the levirate obligations unless she has been previously betrothed!
(6) Cf. supra n. 9, mutatis mutandis.
(7) This is the meaning of WHETHER DIVORCEES OR WIDOWS.
(8) This has been expressed by WHETHER MARRIED OR BETROTHED. The last four terms are interpretations of the first two.
(9) Lit., 'enter'.
(10) That women who were married may be betrothed forthwith, and those who were betrothed may even be married forthwith, with the exception of the betrothed in Judaea (as R. Judah, with whom R. Jose is in agreement, has stated in our Mishnah) and with the exception of married women that became widows who must allow the period of thirty days of mourning to pass before remarriage or betrothal (v. our Mishnah).
(11) That of the first Tanna in our Mishnah, SIMILARLY ALL OTHER WOMEN etc.
(12) Otherwise the halachah should be in agreement with the view of the majority.
(13) Pas. particip. of רדף 'to pursue', 'be anxious'.
(14) Lit., 'to go'.
(15) And was there when her husband died.
(16) At the time of his death.
(17) Tosef. J. and Babli in Keth. 60b add, 'or if her husband had gone to a country beyond the sea'. Cf. Wilna Gaon, Glosses, a.l.
(18) When her husband's death occurred.
(19) Though in all these cases it is obvious that the woman is not pregnant.
(20) Before remarriage or betrothal, as a precaution against such marriage or betrothal on the part of a normal woman who might be pregnant.
(21) So in Tosef. In 'Er.47a, Keth. (v. n. 12) and She'iltoth, however, the reading is R. Jose.
(22) Tosef. VI, 6; 'Er. 47a, Keth. 60b. Thus it has been shewn that the opinion of the first Tanna who disagrees with R. Jose (or R. Judah) is that of R. Meir alone, and is, therefore, only that of an individual.
(23) And ruled that the halachah is not in agreement with R. Jose.
(24) כרמא, designation of the academy at Jabneh or Jamnia where the students' seats on the ground were arranged in tows like vines in a vineyard.
(25) After their divorce or the death of their husbands, before they may remarry or accept betrothal (v. supra note 10). Tosef. VI.
(26) Shab. 46a.
(27) And this Mishnah is anonymous!
(28) 'What kind of flour he grinds'. He was careless in his arguments.
(29) The anonymous statement of the first Tanna in our Mishnah is immediately followed by the dispute of R. Judah and of R. Jose.
(30) Either in the same Tractate or in the same Order.
(31) As in our Mishnah.
(32) שמחי Many of the Rabbis had a שמעא, sham'a, who was both attendant and disciple of the Master and himself a scholar.
(33) Or halachoth.

Talmud - Mas. Yevamoth 43a

If Rabbi[1] has not taught it,[2] whence would R. Hiyya[3] know it! The first said to him: Surely we learned: A hackle for flax, whose teeth were broken off and two remained, is [susceptible to levitical] uncleanness, but [if only] one [tooth remained,[4] it is levitically] clean.[5] All the teeth, however, if they were removed one by one are individually [susceptible to levitical] uncleanness.[6] A wool [comb] whose alternate teeth[7] are broken off is levitically clean.[8] If three consecutive[9] teeth, however, remained, it is susceptible to levitical uncleanness. If one of these was a side tooth,[10] [the comb] is levitically clean.[11] If two [teeth] were removed and someone used them as pincers, they are susceptible to levitical uncleanness. One [tooth also] that was adopted for [snuffing] the light,[12] or as a spool,[13] is susceptible to levitical uncleanness.[14] And we have it as a traditional ruling that the halachah is not in agreement with this Mishnah![15] — The other replied, 'With the exception of this;[16] for both R. Johanan and Resh Lakish stated: This is not [an authoritative] Mishnah'.

What is the reason? — R. Huna b. Manoah replied in the name of R. Idi son of R. Ika: Because the first clause is in contradiction to the second one. For at first it was stated that 'a wool comb whose alternate teeth are missing is levitically clean' from which it follows that if two consecutive teeth did remain it would be susceptible to uncleanness, while immediately afterwards it was stated, 'If three consecutive teeth, however, remained it is susceptible to levitical uncleanness' from which it follows that only three but not two! — What difficulty is this? It is possible that one[17] refers to the internal,[18] and the other[19] the external teeth![20]

The contradiction, however, arises from the following.[21] It was taught first, 'all the teeth, however, if they were removed one by one are individually susceptible to levitical uncleanness' [implying], even though each tooth was not adapted [for the purpose] . Now read the final clause: 'One tooth that was adapted for snuffing the light, or as a spool, is susceptible to levitical uncleanness', [implying,] only when he adapted it but not when he did not adapt it! — Abaye replied: What is the difficulty? It is possible that the one [refers to a tooth] with a handle[22] and the other [to a tooth] without a handle! R. Papa replied: What is the difficulty? It is possible that the one refers to small,[23] and the other to thick teeth.[24] [The reason][25] is rather because accurate scholars add this conclusion: 'These are the words of R. Simeon'.[26]

R. Hiyya b. Abin sent the following message: Betrothal may take place within the three months, and the practice [of the Sages][27] is also in accordance with this ruling. And R. Eleazar, too, taught us the same law in the name of R. Hanina the Great: The greater part of the first month, the greater part of the third one, and the full middle month.[28]

Amemar permitted betrothal on the ninetieth day.[29] Said R. Ashi to Amemar: But, surely, both Rab and Samuel stated that the widow must wait three months exclusive of the day on which her husband died and exclusive of the day of her betrothal! — This ruling was stated in connection with a nursing mother; for both Rab and Samuel stated: She must wait twenty-four exclusive of the day on which the child was born and exclusive of the day of her betrothal.[30] Did not, however, a man once arrange a betrothal feast on the ninetieth days[31] and Raba spoilt his feast![32] — That was a wedding feast.

The law is that [a nursing mother] must wait twenty-four months, exclusive of the day on which the child was born and exclusive of the day on which she is to be betrothed. Similarly. One [who is not a nursing mother] must wait three months, exclusive of the day on which her husband died and exclusive of the day on which she is to be betrothed.

EXCEPTING THE WIDOW etc. R. Hisda said: [Cannot the law[33] be deduced by inference] from major to minor?[34] If when washing of clothes is forbidden,[35] betrothal is permitted, how much more should betrothal be permitted when the washing of clothes is permitted![36] What is it?[37] — We learned: During the week in which the Ninth of Ab occurs it is forbidden to cut the hair and to wash clothes. On the Thursday, however, this is permitted in honour of the Sabbath.[38] And [in connection with this Mishnah] it was taught: Before this time[39] the public must restrict their activities in commerce, building and plantings but it is permissible to betroth though not to marry, nor may any betrothal feast be held![40] — That was taught in respect of the period before that time.[41] Said Raba, Even in respect of the 'period before that time'[42] [the law might be arrived at by inference from] major to minor: If where it is forbidden to trade it is permitted to betroth,how much more should betrothal be permitted where trade also is permitted! — Do not read, R. JOSE SAID: ALL [MARRIED] WOMEN[43] MAY BE BETROTHED but read, 'ALL MARRIED WOMEN[43] may be married'.[44]

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(1) The Redactor of the Mishnah and teacher of R. Hiyya.

(2) As an anonymous ruling which is to represent the established halachah.

(3) Rabbi's disciple, who compiled Baraithas and the reputed author of the Tosefta. (11) Since the hackle can still be used even though only two teeth remained. כלים 'vessels' (v. Lev. XI, 32ff) by which all kinds of implements and instruments are understood, are susceptible to levitical uncleanness so long only as they are useable. Broken 'vessels' which cannot be put to any further use ate always levitically clean.

(4) The hackle thus becoming unusable.

(5) V. supra p. 277. n. 11 last clause.

(6) Since each single broken tooth can be used for some purpose. V. infra.

(7) Lit., 'one from between', i.e. , one tooth between every three.

(8) Its teeth are far apart. and the absence of every alternate tooth renders the instrument useless.

(9) Lit., 'in one place'.

(10) Which serves as a protection for the other teeth but is in itself useless for combing purposes.

(11) V. supra p. 277. n. 11 .

(12) V. Jast.; or 'for picking a candlestick', v. Rashi a.l.

(13) Lit. , 'for stretching'. V. Jast.

(14) Kelim XIII, 8.

(15) Though it is anonymous.

(16) Only here has the anonymous Mishnah been disregarded.

(17) The first clause which implies that if only two teeth remained the comb is still susceptible to uncleanness.

(18) With two teeth of which the comb may still be used.

(19) The final clause, implying that if only two teeth remained the comb is no more susceptible to uncleanness.

(20) Two of which are useless. A wool comb had two sets of teeth, external and internal. The former were used for the main work, and no less than three were required. The latter served only the purpose of holding up the wool, and two of these were quite sufficient for that purpose. It should be noted that the 'side tooth' mentioned in the Baraitha does not refer to these but to the first or last tooth of the row (v. supra p. 278, n. 7).

(21) Lit., 'but from here'.

(22) When a part of the wooden base of the comb was broken off together with the tooth. In this case no adaptation is necessary.

(23) Small teeth require a handle without which they cannot be used.

(24) Which can be used without any adaptation.

(25) Why the halachah is not in agreement with that Mishnah.

(26) The Mishnah thus is not at all anonymous.

(27) Which he witnessed (v. Rashi a.l.).

(28) Constitute the required period of three months. Three full months are not necessary.

(29) After divorce or husband's death.

(30) Keth. 60b.

(31) After divorce or husband's death.

(32) By forbidding the betrothal on that day.

(33) On a widow's betrothal within the period of the thirty days of mourning.

(34) In a way contrary to the ruling of R. Jose.

(35) During the week in which the fast of the Ninth of Ab occurs.

(36) A mourner may wash his clothes before the period of the thirty days of mourning has passed- the prohibition extending to the first week of mourning only.

(37) I.e., where does the law concerning washing and betrothal occur.
(38) Ta'an. 26b.
(39) This is now assumed to mean, before the Ninth of Ab and during the week in which the fast occurs.
(40) Which shews that betrothal is permitted even when washing of clothes is forbidden. How, then, could R. Jose forbid betrothal where even washing was permitted? (V. supra note 7).
(41) Lit., 'before of before', prior to the week in which the fast occurs, when washing also is permitted. During the week itself, however, betrothal as well as washing is forbidden.
(42) V. supra p. 280, n. 12.
(43) Whose husbands died.
(44) R. Jose's disagreement with R. Judah has no bearing on the question of marriage during mourning on which R. Judah and R. Jose are in agreement, the former also admitting that no marriage may be celebrated during the mourning period. R. Jose's disagreement relates to the general question of the remarriage of a married woman within three months after her husband died (or divorced her). While R. Judah permits a married woman within three months betrothal only, but not marriage, R. Jose permits marriage also.

Talmud - Mas. Yevamoth 43b

Does not R. Jose, then, hold the view that it is necessary to make a distinction?[1] — If you wish I might say[2] that he does not. And if you prefer I might say that he does,in fact, hold [this view],[3] but read, 'R. Jose said: All betrothed women who were divorced may be married'.[4] If so, it[5] is the same view as that of R. Judah![6] — The point at issue between them is the question of the betrothal[7] of a married woman. R. Judah maintains that a married woman may be betrothed,[7] while R. Jose maintains that a married woman may not be betrothed.[7] But is R. Jose of the opinion that a married woman is forbidden betrothal?[7] Surely it was taught, 'R. Jose said: All women[8] may be betrothed,[7] excepting the widow, owing to her mourning. And how long does her mourning continue? Thirty days. And all these must not marry before three months have passed'! — What an objection is this![9] If it be argued: Because it was stated, 'R. Jose said: All women may be betrothed', is this [it may be retorted] of greater force than our Mishnah? As that was interpreted to mean that 'betrothed women who were divorced may be married' so here also [it might be interpreted to mean], 'All betrothed women who were divorced may be married'! — [The objection,] however, [arises from] the final clause where it was stated, 'And all these must not marry before three months have passed', [implying that] only marriage is forbidden to them but they may well be betrothed![10] — Raba replied: Explain and reconstruct it[11] as follows:[12] R. Jose said: Betrothed women who were divorced may be married, excepting the widow owing to her mourning. And how long does her mourning continue? Thirty days. And married women may not be betrothed before three months have passed.[13] But is any mourning to be observed by an erusin[14] widow? Surely R. Hiyya b. Ammi taught: In the case of a betrothed wife,[15] the husband is neither subject to the laws of onan[16] nor may he defile himself[17] for her;[18] and she, [in his case,] is likewise not subject to the laws of onan[16] nor may she defile herself for him;[19] if she dies he does not inherit from her, though if he dies she collects her kethubah![20] — The fact, however, is that this[21] is a question in dispute between[22] Tannaim. For it was taught: From the first day of the month[23] until the fast,[24] the public must restrict their activities in trade, building and planting, and no betrothals or marriages may take place.[25] During the week in which the Ninth of Ab occurs it is forbidden to cut the hair, to wash clothes;[26] and others say that this is forbidden during the entire month.[27] R. Ashi demurred: Whence is it proved that betrothal means actual betrothal! Is it not possible that it is only forbidden to give[28] a betrothal feast but that betrothal itself is permitted?[29] — If so, does 'no marriage may take place' also mean that the giving of a wedding feast is forbidden but marriage itself is permitted! — How now! In the case of a marriage without a feast there is still sufficient rejoicing;[30] in the case of betrothal, however, is there any rejoicing when no feast is held?[31] The fact is, said R. Ashi, that recent mourning[32] is different from ancient mourning,[33] and public mourning[33] is different from private mourning.[34] MISHNAH. WHERE FOUR BROTHERS WHO WERE MARRIED TO FOUR WOMEN DIED, THE ELDEST[35] MAY, IF HE DESIRES, CONTRACT LEVIRATE MARRIAGE WITH ALL OF

THEM.

WHERE A MAN WHO WAS MARRIED TO TWO WOMEN DIED, COHABITATION OR HALIZAH WITH ONE OF THEM EXEMPTS HER RIVAL.

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(1) Between a child of the first, and one of the second husband. (V. supra 42a). If he does, how could he permit marriage within the three months?

(2) V. Bah a.l. Wanting in cur. edd.

(3) He admits the necessity for a distinction between the children of the two husbands.

(4) Forthwith. In such cases the question of pregnancy does not arise. Hence, immediate marriage is permitted except in the case of mourning (v. our Mishnah final clause).

(5) R. Jose's view.

(6) Who stated, THOSE WHO WERE BETROTHED MAY EVEN BE MARRIED FORTHWITH.

(7) Forthwith.

(8) Even married women.

(9) The point of the objection is explained infra.

(10) How, then, could R. Jose say here that betrothal is forbidden.

(11) The second Baraitha cited.

(12) Lit., ‘and say thus’.

(13) R. Jose in the Baraitha, in thus forbidding betrothal, advances the same opinion as R. Jose in our Mishnah in accordance with the interpretation supra.

(14) V. Glos.

(15) Before her marriage has taken place.

(16) A mourner for certain relatives prior to their burial (v. Glos.) who is subject to a number of restrictions.

(17) If he is a priest who is forbidden to come in contact with dead bodies except those of very near relatives among whom a wife is included. Aliter: ‘nor need he defile himself’; v. supra 29b.

(18) A ‘betrothed wife’ not being regarded as being as near of kin as a married wife.

(19) During a festival when Israelites and women (and not only priests) are forbidden to attend on a dead body (unless they are engaged in its burial) if they are not near relatives (cf. R.H. 16b). Others render, ‘nor need she . . . him’. (V. Rashi a.l. and Tosaf. supra 29b s.v.).

(20) V. Glos. in a case where the document was given to her at the betrothal. Supra 29b, B.M. 18a, Keth. 53a. The reference in the Mishnah hence cannot be to an erusin widow but to the prohibition of the betrothal of a widow within thirty days, which brings us back to the original question of R. Hisda.

(21) Whether betrothal is forbidden or permitted before the Fast of Ab.

(22) Lit., ‘but it’.

(23) Of Ab.

(24) On the ninth of the month.

(25) Ta'an. 26b.

(26) Cut. edd. insert in parentheses, ‘and it is forbidden to betroth’.

(27) Ta'an. 29b. The Tanna of this Baraitha thus forbids betrothal before the Ninth of Ab though the Tanna of the Baraitha previously cited (supra 43a) permits it. The objection against R. Jose raised by R. Hisda from the first Baraitha is, therefore, untenable, since R. Jose may disagree with that Tanna and follow the view of the one in the second Baraitha, who forbids betrothal. R. Jose's statement in our Mishnah may consequently be read and interpreted as originally assumed, viz., that ALL (MARRIED) WOMEN MAY BE BETROTHED, the point at issue between him and R. Judah being the question of mourning during which in the opinion of the first betrothal is, and in the opinion of the latter is not forbidden.

(28) Lit., ‘to make’.

(29) Cf. infra note 10.

(30) Hence it is quite conceivable that marriage, even though no wedding feast is held, should be forbidden.

(31) It is quite possible, therefore, that the ‘betrothal’ forbidden is only one celebrated with the holding of a festive meal, while betrothal alone is permitted. The second Baraitha would thus be in agreement with the first. How, then, could R. Jose, contrary to the rulings of the two Baraithas maintain that betrothal during mourning is forbidden?

(32) After a personal bereavement.
(33) That before the Fast of Ab in commemoration of historical events.
(34) Personal and recent grief is more poignant, and is subject to more stringent regulations than those of public mourning which is less rigid. Hence there need be no contradiction between R. Jose's ruling concerning the prohibition of betrothal during the widow's personal mourning and the permission of betrothal in the Baraithas which speak of public mourning. Consequently the assumption that the two Baraithas are in disagreement and that R. Jose follows the latter is no longer necessary. Both Baraithas, in fact, may permit betrothal before the Fast of Ab, and R. Jose also may share the same view.
(35) Surviving brother; v. Gemara.

Talmud - Mas. Yevamoth 44a

IF ONE OF THESE, HOWEVER, WAS ELIGIBLE[1] AND THE OTHER INELIGIBLE,[1] THEN IF HE[2] SUBMITS TO HALIZAH IT MUST BE FROM HER WHO IS INELIGIBLE,[3] AND IF HE CONTRACTS LEVIRATE MARRIAGE IT MAY BE EVEN WITH HER WHO IS ELIGIBLE.

GEMARA. FOUR BROTHERS? Is this conceivable![4] — Read, FOUR of the BROTHERS.

MAY. And is he allowed?[5] Surely it was taught: Then the elder's of his city shall call him,[6] ‘they’ but not their representative; ‘and speak unto him’[6] teaches that he is given suitable advice. If he,[2] for instance, was young and she[7] old, or if he was old and she was young, he is told, ‘What would you with[8] a young woman’? or ‘What would you with an old woman’? ‘Go to one who is [of the same age] as yourself and create no strife in your house’![9] — This is applicable to that case only where he can afford it.[10] If so, even more wives also![11] — Sound advice was given: Only four but no more, so that each may receive one marital visit a month.[12]

WHERE A MAN WHO WAS MARRIED etc. Let him contract levirate marriage with both! — R. Hiyya b. Abba replied in the name of R. Johanan: Scripture stated, That doth not build up his brother's house,[13] he builds one house[14] but does not build two houses. Then let him submit to halizah from both of them! — Mar Zutra b. Tobia replied: Scripture stated, The house of him who had his shoe drawn off,[15] he submits to the drawing off of the shoe in respect of one house but must not submit to the drawing off of the shoe in respect of two houses. Then let him submit to halizah[16] from one and contract levirate marriage with the other! — Scripture stated, That doth not build,[17] as he has not built[18] he must never again build. Then let him contract levirate marriage with one and submit to halizah from the other! — Scripture states, If he like not,[19] if, however, he liked, he may contract levirate marriage; whosoever may go up[20] to contract levirate marriage, may also go up to perform halizah and whosoever may not go up[17] to contract levirate marriage[21] may not go up to perform halizah. Furthermore, in order that it be not said that the same house[22] is partially ‘built’ and partially ‘drawn off’. But let them say! — If he had first contracted levirate marriage and then submitted to halizah this would have been so indeed;[23] it is possible, however, that he may submit to halizah and subsequently contract levirate marriage and thus place himself under the prohibition of that doth not build.[24]

Might it be suggested that where there is only one,[25] the law of the levirate marriage shall be observed, but that where there are two, the law of levirate marriage shall not be observed! — If so, what need was there for the All Merciful to prohibit marriage with the rival of a forbidden relative? If any two rivals,it has been said, are not both subject to halizah and the levirate marriage, was there any need [to mention the exemption of] a rival of a forbidden relative! Why not? It is certainly needed! For it might have been assumed that the forbidden relative stands excluded, and her rival may, therefore, be taken in levirate marriage, hence it was taught that she also was forbidden! — But in fact [this is the proper explanation:] The repetition of his brother's wife[26] widened the scope.[27]

IF ONE OF THEM, HOWEVER, WAS ELIGIBLE. Said R. Joseph: Here[28] it was taught by Rabbi[29] that a man should not pour the water out of his cistern while others may require it.[30]

MISHNAH. A MAN WHO REMARRIED HIS DIVORCED WIFE,[31] OR MARRIED HIS HALUZAH, OR MARRIED THE RELATIVE OF HIS HALUZAH MUST DIVORCE HER, AND THE CHILD[32] IS A BASTARD; THESE ARE THE WORDS OF R. AKIBA. BUT THE SAGES SAID: THE CHILD IS NOT A BASTARD. THEY AGREE, HOWEVER, THAT WHERE A MAN MARRIED THE RELATIVE OF HIS DIVORCEE THE CHILD[32] IS A BASTARD.

GEMARA. Does R. Akiba hold the view that the child of a man who MARRIED THE RELATIVE OF HIS HALUZAH is a bastard? Surely Resh Lakish stated: Here[33] it was taught by Rabbi[34] [that the prohibition to marry] the sister of a divorced wife is Pentateuchal and that that of the sister of a haluzah is Rabbinical![35] — Read,[36] THE RELATIVE OF HIS divorcee. This view may also logically be supported. For it was stated in the final clause, THEY AGREE, HOWEVER, THAT WHEN A MAN MARRIED THE RELATIVE OF HIS DIVORCEE THE CHILD IS A BASTARD. Now, if you grant that her case[37] was under discussion one can well see the reason why the expression of THEY AGREE had been used; if you contend, however, that her case[37] was not under discussion what is the purport of THEY AGREE?[38]

Is it not possible that we were informed[39] that the [offspring of a union] of those who are subject to the penalty of kareth is a bastard?[40] — This surely is taught below: ‘Who is a bastard? [The offspring of a union with] any consanguineous relative with whom cohabitation is forbidden; so R. Akiba. Simeon[41] the Temanite said: [The offspring of any union] the penalty for which is kareth at the hands of heaven. And the halachah is in agreement with his view.[42] But is it not possible that the Tanna[43] intended to indicate by his anonymous statement that the halachah is according to Simeon[41] the Temanite?[44] — If so, he should have stated, ‘Others who are subject to the penalty of kareth’, why then [specify] THE RELATIVE OF HIS DIVORCEE? Consequently it must he inferred that this case[45] was under discussion. But is it not indeed possible to maintain that it[45] was not under discussion, but because THE MAN WHO REMARRIED HIS DIVORCED WIFE OR MARRIED HIS HALUZAH OR THE RELATIVE OF HIS HALUZAH was spoken of,[46] he also introduced THE RELATIVE OF his divorcee’?[47]

Would consequently [the offspring of a union with] the RELATIVE OF HIS HALUZAH, according to R. Akiba,[48] be a bastard![49] — R. Hiyya b. Abba replied in the name of R. Johanan, This is R. Akiba's reason: Because Scripture stated, The house of him that had his shoe drawn off;[50] Scripture thus called it his house.[51]

R. Joseph stated in the name of R. Simeon b. Rabbi: All agree that, where a man remarried his divorced wife,

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(1) To marry a priest. V. Lev. XXI, 7.

(2) The levir.

(3) So that the halizah shall not disqualify the eligible widow from marrying a priest.

(4) If there were only four brothers and all of them died, how could levirate marriage take place?

(5) To marry four wives.

(6) Deut. XXV, 8.

(7) The widow, his sister-in-law.

(8) Lit., ‘what to thee at’.

(9) Infra 101b. Similarly in the case of our Mishnah also the levir should have been advised not to undertake the responsibility of maintaining four wives.

(10) When he possesses the means.

(11) Should be allowed. Why then were FOUR only mentioned.

(12) Once a week, on Friday evenings, is the time when scholars in moderate health should pay their marital visits (Keth 62b). More than four wives would reduce each one's visits to less than one per month.
(13) Deut. XXV, 9: emphasis on ‘house’ (sing.).
(14) I.e., marries one widow.
(15) E.V., loosed, ibid. 10, emphasis on ‘house’.
(16) For this insertion v. Bah a.l.
(17) Ibid. 9, emphasis on ‘not build’.
(18) I.e., did not contract levirate marriage.
(19) Ibid. 7.
(20) Sc. to the gale (ibid.), i.e., the court.
(21) As is the case with the rival who may not contract levirate marriage, for the reason given supra, ‘he builds one house but does not build two houses’.
(22) Of the one brother.
(23) What people might say about ‘partially built’ etc. would not have mattered.
(24) V. supra note 5, ‘as he has not built he must never again build’.
(25) Widow.
(26) Deut. XXV, 7.
(27) Indicating that even where there are two rivals the precept of levirate marriage is to be observed.
(28) By the instruction that halizah is to be performed by the ineligible, and not by the eligible widow.
(29) R. Judah the Prince, Redactor of the Mishnah.
(30) Though the levir himself would lose nothing by disqualifying the widow from marriage with a priest, he must not be the cause of her disqualification out of consideration for a priest who might wish to marry her.
(31) After she had been married to another man.
(32) The offspring of any such union.
(33) In the Mishnah supra 41a to which Resh Lakish refers.
(34) The Redactor of the Mishnah.
(35) Supra 40b, 41a. The offspring of a union that is only Rabbinically forbidden would not be a bastard.
(36) In R. Akiba's statement in our Mishnah.
(37) That of the relative of a divorcee.
(38) One does not AGREE in respect of a case that never was in dispute!
(39) By the use of the expression AGREE.
(40) I.e., the Rabbis AGREE in this case because it involves kareth, though they maintain that the offspring of those who are subject to the penalty of flogging only is not a bastard, AGREE would consequently provide no proof that R. Akiba spoke of the relative of a divorcee!
(41) Cur. edd. add ‘R’.
(42) Infra 49a. The halachah must obviously be in agreement with the Rabbis who form the majority. Consequently there was no need for the Rabbis to state the same halachah in our Mishnah also. THEY AGREE must, therefore, imply that R. Akiba also spoke of the relative of a divorcee.
(43) Of our Mishnah.
(44) Hence the repetition in Our Mishnah of the one infra 49a. Cf. supra n. 5 second clause.
(45) The case of the relative of one's divorcee.
(46) And on which the Rabbis disagreed with R. Akiba. In the case of the RELATIVE OF HIS HALUZAH, however, R. Akiba, it might still be contended, regards the child as a bastard.
(47) In whose case the Rabbis agree with R. Akiba.
(48) Since the expression RELATIVE OF HIS HALUZAH in R. Akiba's statement is not amended to ‘RELATIVE OF HIS divorcee’.
(49) On what ground could R. Akiba maintain such an opinion?
(50) Deut. XXV, 10.
(51) The relative of a haluzah, according to R. Akiba, is consequently, like that of a divorcee, forbidden Pentateuchally. The offspring of a union with such a relative is, therefore, a bastard.

Talmud - Mas. Yevamoth 44b

the child[1] is tainted in respect of the priesthood.[2] Who [is meant by] ‘All agree’? — Simeon the Temanite. For although Simeon the Temanite stated that the offspring of a union forbidden under the penalty of flogging is not a bastard, he agrees that, though he is not a bastard, he is nevertheless tainted.[3] This is deduced a minori ad majus from the case of a widow: If in the case of a widow married to a High Priest, the prohibition of whom is not applicable to all,[4] her son[1] is tainted,[3] how much more should the son of a divorcee be tainted, whose prohibition is equally applicable to all.[5] [This argument, however], may be refuted: A widow's case may well be different[6] because she herself becomes profaned and;[7] and, furthermore, it is written in Scripture, She is an abomination,[8] ‘she’[9] only is an abomination but her children are not an abomination. — Furthermore, it was taught: Where a man remarried his divorced wife, or married his haluzah, or married the relative of his haluzah, R. Akiba said, his betrothal of her is not valid,[10] she requires no divorce from him, she is disqualified,[11] her child is disqualified,[12] and the man is compelled to divorce her. And the Sages said: His betrothal of her is valid, she requires a divorce from the man, she is fit, and her child is fit. Now, in respect of what?[13] Obviously in respect of the priesthood![14] — No; in respect of entering the congregation.[13]

If so, in respect of whom is she[15] fit? If it be suggested ‘in respect of entering the congregation’, is not this [it may be retorted] obvious? Has she become ineligible to enter the congregation because she played the harlot![16] Consequently it must mean in respect of the priesthood. Now, since she is [untainted] in respect of the priesthood, her child also must be [untainted] in respect of the priesthood![14] — Is this an argument? The same term may bear different interpretations in harmony with its respective subjects.[17] This[18] is also logically sound. For in the first clause[19] it was stated, ‘She is disqualified and her child is disqualified’. Now, in respect of what is ‘she disqualified’? If it be suggested, ‘in respect of entry into the congregation’, does she [it may be retorted] become disqualified for entry into the congregation because she played the harlot![20] Consequently it must mean ‘in respect of the priesthood!’ Now, again, in respect of what is ‘her child disqualified’? If it be suggested, ‘in respect of the priesthood’ thus implying that he is permitted to enter the congregation, surely [it may be objected] R. Akiba stated that the child is a bastard![21] Obviously then ‘in respect of entry into the congregation’.[22] And, as in the first clause the same term bears different interpretations in harmony with its respective subjects, so may the same term in the final clause bear different interpretations in agreement with its respective subjects.[23] Also as to the expression[24] , This is an abomination it [may be interpreted]: ‘She is an abomination but her rival is no abomination’.[25] Her children, however, are an abomination.[26]

The objection. however, from the ‘widow’ [still remains, thus]: ‘A widow's case may well be different[27] because she herself becomes[28] profaned’![29] — But [the fact is that] if any statement was made[30] it was as follows:[31] R. Joseph stated in the name of R. Simeon b. Rabbi, ‘All agree that where a man cohabited with any of those who are subject to the penalty of kareth[32] the child[33] is tainted’.[34] Who [is referred to by] ‘All agree’? — R. Joshua. For although R. Joshua stated that the offspring of a union forbidden under the penalty of kareth is not a bastard, he agrees that, though he is no bastard, he is nevertheless tainted.[35] This is deduced a minori ad majus from the case of a widow: If in the case of a widow married to a High Priest, the prohibition of whom is not applicable to all,[36] her son[37] is tainted,[35] how much more should the son of this woman be tainted whose prohibition is equally applicable to all.[38]

And were you to object: A widow's case may be different[39] because she herself becomes profaned,[40] [it may be retorted that], here also, as soon as the man had any connubial relations with her he stamped her as a harlot.[41]

Rabbah b. Bar Hana said in the name of R. Johanan: All agree that where a slave or an idolater had intercourse with a daughter of an Israelite the child is a bastard. Who is meant by ‘All agree’? —

Simeon the Temanite. For although Simeon the Temanite stated that the offspring of a union forbidden under the penalty of flogging is not a bastard, his statement applies only

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(1) The offspring of such a union.

(2) פגום defective, inferior (in status). If a male he is disqualified from the priesthood: and if a female she is ineligible to marry a priest. [Rashi reads simply: ‘the child is tainted’, so MS.M.]

(3) And disqualified for the priesthood.

(4) A widow is forbidden to a High Priest only, but not to an ordinary priest or an Israelite.

(5) No one, priest or Israelite, may remarry his divorced wife after she had been married to another man.

(6) I.e., her son may indeed be tainted.

(7) Having once married a High Priest unlawfully, she may not marry after his death even an ordinary priest (v. Kid. 77a), and if she is a priest's daughter she loses her privilege to eat terumah (v. infra 68a). In the case of a remarried divorcee these restrictions do not apply, since she is permitted to eat terumah if she is a priest's daughter (v. infra 69a) while her prohibition to marry a priest is not due to her remarriage, but to her previous divorce.

(8) Deut. XXIV, 4.

(9) היא rendered by E.V., it; lit, ‘she’, is taken to refer to the woman. The Talmudic text here is not very clear. (V. supra 11b for a smoother text and further notes, and cf. Bah a.l.).

(10) Unions subject to the penalty of flogging are in his opinion invalid.

(11) May not marry a priest.

(12) Being deemed a bastard.

(13) Is the child regarded as fit. I.e. fit to marry a proper Israelite; v, Deut. XXIII, 1ff.

(14) Which is contrary to the conclusion arrived at by the argument a minori ad majus!

(15) The remarried divorcee.

(16) I.e., contracted a forbidden marriage.

(17) Lit., ‘that as it is and that etc,’. The term ‘untainted’ in the case of the woman may have reference to priesthood, but in the case of the child it may refer to entry into the congregation; while in respect of the priesthood the child may well be regarded as tainted.

(18) The thesis that the interpretation of the same term may vary in harmony with its respective subjects though both appear in the same context.

(19) Of the cited Baraitha.

(20) I.e., contracted a forbidden marriage.

(21) Who may not enter into the congregation. (V. Deut. XXIII, 3).

(22) Although the same term, in the same context, when applied to the mother, referred to the priesthood.

(23) V. supra p. 289. n. 10, for lit. meaning.

(24) From which it has been sought to prove supra that the inference from the case of a widow married to a High Priest cannot be upheld.

(25) I.e., the exclusion refers to her rival who may contract levirate marriage.

(26) I.e., disqualified from the priesthood. as has been inferred supra.

(27) I.e., her son may indeed be tainted.

(28) V. supra p. 288, n. 13.

(29) Which leads to the conclusion that no inference a minori ad majus may be drawn from the case of the widow. How, then, could R. Joseph state in the name of R. Simeon, supra, that all agree that the child is disqualified?

(30) By R. Joseph in the name of R. Simeon, on the subject under discussion.

(31) Lit., ‘thus it was said’.

(32) For that cohabitation.

(33) The offspring of such a union.

(34) V. supra p. 282, no. 8ff.

(35) And disqualified for the priesthood.

(36) A widow is forbidden to a High Priest only, but not to an ordinary priest or Israelite.

(37) The offspring of such a union.

(38) No one, priest or Israelite, may remarry his divorced wife after she had been married to another man.

(39) I.e., her son may indeed be tainted.

(40) V. supra p. 288, n. 13.

(41) Because of the forbidden union, and she, like the widow who was married to a High Priest, is in consequence forbidden to marry even a common priest.

Talmud - Mas. Yevamoth 45a

to the offspring of a union forbidden under the penalty of flogging, since the betrothal in such a case is valid[1] but here, in the case of an idolater and a slave, since betrothal in their case is invalid,[2] they are like those whose union is subject to the penalty of kareth.[3]

An objection was raised: If a slave or an idolater had intercourse with the daughter of an Israelite the child [born from such a union] is a bastard. R. Simeon b. Judah said: A bastard is only he who [is the offspring of a union which] is forbidden as incest and is punishable by kareth![4] — No, said R. Joseph, who [is referred to by] 'all cable only according to the view of R. Akiba who regards a haluzah as a forbidden relative',[5] while he himself does not share the same view,[6] he agrees[7] in the case of an idolater and a slave. For when R. Dimi came[8] he stated in the name of R. Isaac b. Abudimi in the name of our Master,[9] 'If an idolater or a slave had intercourse with the daughter of an Israelite the child [born from such a union] is a bastard'.

R. Aha, the governor of the castle,[10] and R. Tanhum son of R. Hiyya of Kefar Acco[11] once redeemed some captives who were brought from Armon to Tiberias,[12] [Among these] was one who had become pregnant from an idolater. When they came before R. Ammi he told them: It was R. Johanan and R. Eleazar and R. Hanina who stated that if an idolater or a slave had intercourse with the daughter of an Israelite the child born is a bastard.

Said R. Joseph: Is it a great thing to enumerate persons?[13] Surely it was Rab and Samuel in Babylon and R. Joshua b. Levi and Bar Kappara in the Land of Israel — (others say, 'Bar Kappara' is to be altered to[14] the 'Elders of the South')[15] — who stated that if an idolater or a slave had intercourse with a daughter of an Israelite, the child born is untainted! — No, said R. Joseph, it[16] is [the opinion of] Rabbi.[17] For when R. Dimi came[8] he stated in the name of R. Isaac b. Abudimi that it was reported in the name of our Masters that if an idolater or a slave had intercourse with the daughter of an Israelite the child [born from such a union] is a bastard.

R. Joshua b. Levi said: The child[18] is tainted. In respect of what?[19] If it be suggested in respect of entry into the congregation, surely [it may be retorted] R. Joshua b. Levi stated that the child was fit! It must be then in respect of the priesthood;[19] for all Amoraim who declare the child[18] fit admit that he is ineligible for the priesthood.[20] This is inferred by deduction from the case of a widow a minori ad majus. If in the case of a widow who was married to a High priest whose prohibition is not equally applicable to all[21] her son[22] is tainted,[23] how much more should the son of this woman[24] be tainted whose prohibition is equally applicable to all.[25] The case of a widow who was married to a High Priest may be different, since she herself becomes profaned![26] — Here also,[27] as soon as cohabitation occurred the woman is disqualified;[28] for R. Johanan stated in the name of R. Simeon:[29] Whence is it inferred that if an idolater or a slave had intercourse with the daughter of a priest, of a Levite or of an Israelite, he disqualified her?[30] It was stated But if a priest's daughter be a widow, or divorcee;[31] Only in the case of a man in relation to whom widowhood or divorce is applicable;[32] an idolater and a slave are consequently excluded since in relation to them no widowhood or divorce is applicable.[33]

Said Abaye to him:[34] What reason do you see for relying upon R. Dimi?[35] Rely rather on Rabin![36] For when Rabin came[37] he reported that R. Nathan and R. Judah the Prince ruled that such a child is legitimate;[38] and[39] R. Judah the Prince is, of course, Rabbi!

And Rab also ruled that the child is legitimate.[40] For once a man[41] appeared before Rab and asked him, ‘What [is the legal position of the child] where an idolater or a slave had intercourse with the daughter of an Israelite’? ‘The child is legitimate’, the Master replied. ‘Give me then your daughter’ said the man. ‘I will not give her to you’ [was the Master's reply]. Said Shimi b. Hiyya to Rab. ‘People say that in Media[42] a camel can dance on a kab;[43] here is the kab, here is the camel and here is Media, but there is no dancing’![44] ‘Had he been[45] equal to Joshua the son of Nun I would not have given him my daughter’, the Master replied. ‘Had he been like Joshua the son of Nun’, the other retorted, ‘others would have given him their daughters, if the Master had not given him his; but with this man, if the Master will not give him, others also will not give him’.[46] As the man refused to go away he fixed his eye upon him and he died. R. Mattena also ruled that the child is legitimate.[47] Rab Judah also ruled that the child is legitimate.[47] For when one[48] came before Rab Judah, the latter told him, ‘Go and conceal your identity[49] or marry one of your own kind’.[50] When such a man[51] appeared before Raba he told him, ‘Either go abroad or marry one of your own kind’.[52]

The men of Be-Mikse[53] sent [the following enquiry] to Rabbah: What [is the law in respect of the legitimacy of the child of] one who is a half slave and half freed man[54] who cohabited with the daughter of an Israelite? — He replied: If [the child of] one who is fully a slave has been declared legitimate, is there any need [to question the case of the child of one who is only] a half slave!

R. Joseph said: The author of this traditional ruling[55]

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(1) V. supra 23a.

(2) V. Kid. 68b.

(3) The offspring from which is a bastard.

(4) Now this Tanna, whose view is exactly the same as that of Simeon the Temanite, indicates quite clearly that the offspring of a union with an idolater or slave is not a bastard! (V. supra n. 10). (12) That cohabitation with a deceased brother's wife after halizah with her rival has not the force of marriage and no divorce is required. The child from such a union would consequently be deemed a bastard.

(5) Infra 52b.

(6) But maintains that the child of such a union is no bastard.

(7) With R. Akiba; and the child is consequently a bastard.

(8) From Palestine to Babylon.

(9) Rabbi, R. Judah the Prince.

(10) Cf. Neh. VII, 2.

(11) כפר עכו in lower Galilee, v. Sanh., Sonc. ed. p. 484, n. 7.

(12) [Rashi reads: Antioch. Armon has not been identified. V. Horowitz I.S. Palestine, s.v.].

(13) Just as a string of names could be quoted in support of the view that the child is a bastard, an equally imposing number could be quoted in opposition.

(14) Lit., ‘and bring in’.

(15) [With particular reference to the scholars of Lydda among whom Bar Kappara and R. Joshua b. Levi were included.]

(16) The ruling that the child is a bastard.

(17) And it is Rabbi's fame and position, and not the number of comparatively minor authorities (v. supra n. 9), that imparted the force of law to this view.

(18) Born from a union between a Jewish woman and an idolater or a slave.

(19) Is the child deemed tainted. This applies to a female child who is disqualified from marrying a priest. A male child, being the son of an idolater or slave, cannot obviously ever be himself a priest.

(20) V. supra note 2.

(21) A widow is only forbidden to marry a High Priest but not an Israelite or an ordinary priest.

(22) Born from her union with the High Priest.

(23) If a male; and if a female she is ineligible to marry a priest.

(24) Who had intercourse with an idolater or a slave.

(25) The daughters of priests, of Levites and of Israelites are all equally forbidden to marry an idolater or a slave.
(26) V. supra p. 288, n. 23.
(27) Where intercourse took place between a Jewess and an idolater or a slave.
(28) From ever marrying a priest.
(29) Others, ‘Ishmael’. V. Bah. a,l.; and Tosaf., infra 68b, s.v. כמאן.
(30) From eating terumah if she is the daughter of a priest. If the daughter of a Levite or an Israelite who was married to a priest and left with children after her husband's death, she loses her right to the eating of terumah (to which she was entitled by virtue of her children) and, of course, becomes ineligible to marry a priest, as soon as Intercourse with the idolater or slave had taken place.
(31) Lev. XXII, 13. The conclusion of the verse reads, And is returned unto her father's house . . . she shall eat of her father's bread (i.e., terumah),
(32) I.e., an Israelite. Only then does she regain her right of eating her father's bread. V. n. 14.
(33) Their very betrothal and marriage having no validity.
(34) R. Joseph.
(35) Who, on the authority of Rabbi supra, declared the child to be a bastard.
(36) Who, also on the authority of Rabbi, does not regard such a child as a bastard.
(37) From Palestine to Babylon.
(38) Lit., ‘rule concerning it towards permissibility’.
(39) Lit., ‘and who’.
(40) Cf. supra n. 6.
(41) The offspring of union between a Jewess and an idolater.
(42) I.e., in foreign lands where wonders occur, (Golds.).
(43) The kab is a small measure of capacity equal to four log or a sixth of a se'ah.
(44) I.e., Rab had displayed originality and marvelous courage by his ruling, and yet stops short of carrying it into practice.
(45) V. Bah a.l.
(46) They would regard the Master's refusal as an indication that the man is really illegitimate.
(47) Lit., ‘rule concerning it towards permissibility’.
(48) The issue of a union between a Jewess and an idolater.
(49) I.e., ‘go to a place where you are unknown and where you might in consequence pass as a legitimate Israelite and be allowed to marry a Jewess’. Since Rab Judah counselled him to marry a Jewess if he could, by concealing his origin, it is obvious that in his opinion the man was legitimate. A bastard would not have been allowed marriage with a Jewess under any circumstances.
(50) V. infra n. 3.
(51) Cf. supra p. 294, n. 7.
(52) I.e., a woman born from a similar union. Raba did not allow him, however, to marry a bastard or a slave; which proves that in his opinion the man was legitimate and therefore forbidden to marry either a bastard or a slave,
(53) [A frontier town between Babylon and Arabia, v, Obermeyer, p. 334].
(54) V. Git., Sonc. ed. pp, 175ff.
(55) That the offspring of a union between a Jewess and an idolater or slave is legitimate.

Talmud - Mas. Yevamoth 45b

is, of course,[1] Rab Judah.[2] But surely Rab Judah had explicitly stated: Where one who is a half slave and half freed man cohabited with the daughter of an Israelite the child born from such a union can have no redress![3] — Rab Judah's ruling[4] was made only in the case where he[5] betrothed[6] the daughter of an Israelite,[7] in consequence of which his partial slavery cohabits with a married woman.[8]

But did not the Nehardeans state in the name of R. Jacob that according to him who regards [the offspring][9] as illegitimate, the child is so regarded even [where cohabitation had taken place] with an unmarried woman; and according to him who regards [the child] as legitimate, the child is so regarded even [if the cohabitation had taken place] with a married woman! And the deduction by both[10] was made from none other than the wife of one's father.[11] He who regards the child[9] as illegitimate is of the opinion that as with the wife of one's father, betrothal with whom is invalid, the child is a bastard. So is the child a bastard in the case of all those[12] betrothal with whom is invalid. And he who regards the child as legitimate is of the opinion [that the comparison is]: As with the wife of one's father, betrothal with whom is invalid in the case of the son only,[13] but is valid in the case of others;[14] an idolater and a slave betrothal with whom is in all cases invalid are consequently excluded![15]

Hence the statement of R. Judah[16] must have been made in respect of one[17] who had intercourse with a married woman, so that his emancipated side[18] cohabits with a married woman.[19]

Rabina said: R. Gaza told me, 'R. Jose b. Abin happened to be at our place when an incident[20] occurred with an unmarried woman and declared the child to be legitimate: [and when it occurred] with a married woman he declared the child to be illegitimate'.

R. Shesheth said: R. Gaza told me that it was not R. Jose b. Abin but R. Jose son of R. Zebida, and that he declared the child to be legitimate, both in the case of the married, as well as in that of the unmarried woman.[21]

R. Aha son of Raba[22] said to Rabina: Amemar once happened to be in our place and he declared the child[23] to be legitimate in the case of a married, as well as in that of an unmarried woman.

And the law is that if an idolater or a slave had cohabited with the daughter of an Israelite the child [born from such a union] is legitimate, both in the case of a married, and in that of an unmarried woman.[21]

Raba declared R. Mari b. Rachel[24] to be a legitimate Israelite and appointed him among the pursers[25] of Babylon. And although a Master said: Thou shalt in any wise set him king over thee . . . one from among thy brethren,[26] all appointments which you make must be made only 'from among thy brethren', [means that] such a man,[27] since his mother was a descendant of Israel, may well 'be regarded as 'one from among thy brethren'.

The slave of R. Hiyya b. Ammi once made a certain idolatress bathe for a matrimonial purpose.[28] Said R. Joseph: I could declare her to be a legitimate Jewess[29] and her daughter[30] to be of legitimate birth.[31] In her case, in accordance with the view of R. Assi; for R. Assi said, 'Did she not bathe for the purpose of her menstruation'?[32] In the case of her daughter, because when an idolater or a slave has intercourse with a daughter of an Israelite, the child [born of such a union] is legitimate.[33]

A certain person was once named 'son of the female heathen'.[34] Said R. Assi, 'Did she not bathe for the purpose of her menstruation'?'

A certain person was once named 'son of the male heathen'.[35] Said R. Joshua b. Levi, 'Did he[36] not bathe in connection with any mishap[37] of his'?[38]

R. Hama b. Guria said in the name of Rab: If a man bought a slave from an idolater and [that slave] forestalled him and performed ritual ablution with the object of acquiring the status of a freed man, he acquires thereby his emancipation. What is the reason?

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(1) Lit., 'who is it'?

(2) So that Rabbah's decision in the case of the half slave is based on a ruling of Rab Judah.

(3) I.e., he is a bastard, and may never marry a Jewess, How, then, could Rabbah regard the child of such a union as legitimate?

(4) That he can have no redress.

(5) The half slave,

(6) Not merely cohabited without betrothal.

(7) The betrothal, as far as his partial status of a slave is concerned, is invalid, while in respect of his partial state of emancipation it is valid. The Jewess is consequently his legal wife.

(8) The slave in him having cohabited with the woman who is legally betrothed to the emancipated part of him causes the offspring of the union to be deemed a bastard, as is the case with the offspring of any union between a betrothed or married woman and a stranger, be the latter Israelite, idolater or slave. If, however, cohabitation only between the half slave and a Jewess took place, ‘without previous betrothal, the woman is not the legal wife of the ‘half freed man’ and the child born from the union is the child of an unmarried woman and is consequently legitimate, as Rabbah ruled. In the case of a full slave the question of betrothal does not arise since even if betrothal did take place it is invalid and the woman is legally deemed to be unmarried.

(9) Of a union between a Jewess and an idolater or a slave.

(10) He who regards the child as legitimate and the other who regards him as illegitimate.

(11) Betrothal of whom by the son is invalid and the offspring of any union between them is a bastard.

(12) Such as an idolater or a slave,

(13) Lit,, ‘to him’.

(14) So in all such cases, A child born from such unions only is illegitimate.

(15) The cases of these being different from that of ‘father's wife’, the child born from a union between a Jewess and any of these must be deemed to be legitimate. The father is entirely eliminated and the child is ascribed to the mother. Now, since the statement of the Nehardeans proves that there is no difference between an unmarried and a married (or betrothed) woman, the distinction drawn supra between cohabitation after a betrothal and one in the absence of betrothal is obviously untenable. The objection then against Rabbah's ruling remains!

(16) That the child has no redress.

(17) The half slave and half freed man spoken of.

(18) Which has the same status as that of an Israelite,

(19) Cf. supra p. 295, n. 14. As the offspring of a union between an Israelite and a married woman is a bastard, so is that of the union between the semi-emancipated (cf. supra n. 10) and a married woman.

(20) A child was born from a union between a slave and a Jewess.

(21) For the reason given supra Cf. supra p. 296, nn. 6. 7 and text.

(22) So Emden a.l, Cur. edd., ‘Rabbah’.

(23) Cf. supra n. 1.

(24) Rachel was one of Mar Samuel's captive daughters, who, while in captivity, was married to an idolater and gave birth to Mari, Issur, the father of the child, embraced Judaism while Rachel was still in her pregnancy, and he is several times referred to in the Talmud as Issur the proselyte. (V. Keth. 23a; B.B. 149a. Sonc. ed. p. 644, and notes a.l.).

(25) פורסי, sing. פורסא cf. Gr. **, ‘supervisor’, ‘purser’ or ‘collector’. The appointment gave its holder authority over the Jews under its jurisdiction.

(26) Deut. XVII, 15. Cf. Bah a.I.

(27) R. Mari.

(28) The slave wished to take her as wife. Lit,, ‘wife’, or ‘wifehood’. He made her take a ritual bath in accordanee with the requirements prescribed for the menstruant before she can be permitted connubial intercourse.

(29) Though the bath was taken for menstrual purification yet since an idolatress takes no such baths, it may be regarded as one for the purpose of her conversion also. Usually, before he may be admitted as a legitimate proselyte, the convert most both be circumcised and bathe in a ritual bath for the specific purpose of the conversion. V, infra 46b.

(30) Born from the slave and herself,

(31) Though she is the offspring of a union between a slave and a woman who, at the time of giving birth to her, had already enjoyed the status of a Jewess.

(32) So long as she bathed for one purpose she may be deemed to have bathed for the other also. (V. infra).

(33) For the reason given supra. Cf. supra p. 296. on. 6, 7 and text.

(34) Because his mother did not take a ritual bath at the time of her conversion to Judaism.

(35) Cf. note 6 mutatis mutandis.

(36) The father.
(37) Keri, the emission of semen,
(38) V. supra note 4.

Talmud - Mas. Yevamoth 46a

— The idolater has no title to the person [of the slave][1] and he can transfer to the Israelite only that which is his. And [the slave], since he forestalled him and performed ritual ablution for the purpose of acquiring the status of a freed man, has thereby cancelled the obligations of his servitude, in accordance with the ruling of Raba. For Raba stated: Consecration,[2] leavened food[3] and manumission[4] cancel a mortgage.[5]

R. Hisda raised an objection: It happened with the proselyte Valeria[6] that her slaves forestalled her and performed ritual ablutions[7] before her. And when the matter came before the Sages they decided that the slaves had acquired the status of freed men.[8] [From here it follows that] only if they performed ablution before her,[9] but not if after her![10] — Raba replied: 'Before her' they acquire their emancipation whether the object of their bathing had, or had not been specified;[11] 'after her' emancipation is acquired only when the object had been specified,[12] but not when it had not been specified.[13]

R. Iwya said: What has been taught[14] applies only to one[15] who buys[16] from an idolater; but the idolater himself[17] may well be acquired;[18] for it is written in Scripture, Moreover from the children of the strangers that do sojourn among you, of them may ye buy:[19] you may buy of them but they may not buy of you, nor may they buy of one another.[20] 'But they may not buy of you'. — What can this refer to? If it be suggested [that it refers] to one's manual labour, may not an idolater, [it may be asked,] buy an Israelite to do manual labour? Surely it is written, Or to the offshoot of a stranger's family,[21] and a Master said that by 'stranger's family' an idolater was meant?[22] Consequently it must refer to his person;[23] and the All Merciful said, 'You may buy of them,[24] even their persons'. R. Aha objected: It[25] might be said [to refer to acquisition] by means of money and ritual ablution![26] — This is a difficulty.

Samuel said: He[27] must be firmly held[28] while he is in the water;[29] as [was done with] Menjamin, the slave of R. Ashi who wished to perform ritual ablution,[30] and was entrusted to Rabina and R. Aha son of Raba. 'Note', [R. Ashi] said to them, 'that I shall claim him from you'.[31] They put a chain[32] round his neck, and loosened it and again tightened it. They loosened it in order that there might be no interposition.[33] They then tightened it again in order that he might not forestall them and declare,[34] 'I perform the ablution in order to procure thereby the status of a freed man'. While he was raising his head from the water they placed upon it a bucket full of clay and told him, 'Go, carry it to your master's house.

R. Papa said to Raba: The master must have observed the men of Papa b. Abba's house who advance sums of money on people's accounts in respect of their capitation taxes,[35] and then force them into their service. Do they,[36] when set free, require a deed of emancipation or not? He replied: Were I now dead I could not have told you of this ruling. Thus said R. Shesheth: The surety for these people[37] is deposited in the king's archive, and the king has ordained that whosoever does not pay his capitation tax shall be made the slave of him who pays it for him.[38]

R. Hiyya b. Abba once came to Gabla[39] where he observed Jewish women who conceived from proselytes who were circumcised but had not performed the required ritual ablution;[40] he also noticed that idolaters were serving[41] Jewish wine and Israelites were drinking it,[42] and he also saw that idolaters were cooking lupines and Israelites ate them;[43] but he did not speak to them on the matter at all. He called, however, upon R. Johanan who instructed him: Go and announce that their children are bastards; that their wine is forbidden as nesek wine;[44] and that their lupines are forbidden as food cooked by idolaters, because[45] they[46] are ignorant of the Torah.

'That their children are bastards', R. Johanan ruling in accordance with his view. For R. Hiyya b. Abba stated in the name of R. Johanan: A man cannot become a proper proselyte unless he has been circumcised and has also performed ritual ablution; when, therefore, no ablution has been performed he is regarded as an idolater; and Rabbah b. Bar Hana stated in the name of R. Johanan that if an idolater or a slave cohabited with the daughter of an Israelite the child [born from such a union] is a bastard.

'That their wine is forbidden as nesek wine', because a nazirite[47] is told, 'Keep away; go round about; approach not the vineyard'.[48]

'That their lupines are forbidden as food cooked by idolaters, because they are ignorant of the Torah'. [Would their lupines have been] permitted if the men had been acquainted with the Torah? Surely R. Samuel b. R. Isaac stated in the name of Rab, 'Any foodstuff that may be eaten raw does not come under the prohibition of food cooked by idolaters', and since lupines cannot be eaten raw the prohibition of food cooked by idolaters should apply![49] — R. Johanan holds the view as expressed in a second version. For R. Samuel b. R. Isaac stated in the name of Rab, 'Whatever is not served on a royal table as a dish to be eaten with bread is not subject to the prohibition of food cooked by idolaters The reason, therefore,[50] is because they were ignorant of the Torah;[51] for had they been acquainted with the Torah [their lupines would have been] permitted.

Our Rabbis taught: 'If a proselyte was circumcised but had not performed the prescribed ritual ablution, R. Eliezer said, 'Behold he is a proper proselyte; for so we find that our forefathers[52] were circumcised and had not performed ritual ablution'. If he performed the prescribed ablution but had not been circumcised, R. Joshua said, 'Behold he is a proper proselyte; for so we find that the mothers[53] had performed ritual ablution but had not been circumcised'. The Sages, however, said, 'Whether he had performed ritual ablution but had not been circumcised or whether he had been circumcised but had not performed the prescribed ritual ablution, he is not a proper proselyte, unless he has been circumcised and has also performed the prescribed ritual ablution.

Let R. Joshua also infer from the forefathers, and let R. Eliezer also infer from the mothers! And should you reply[54] that a possibility[55] may not be inferred from an impossibility,[56] surely [it may be retorted] it was taught: R. Eliezer said, 'whence is it deduced that the paschal lamb[57] of later generations[58] may be brought from hullin[59] only? Those in Egypt were commanded to bring[60] a Paschal lamb and those of later generations were commanded to bring a Paschal lamb; as the Paschal lamb spoken of in Egypt could be brought from hullin[59] only, so may also the paschal lamb which had been commanded to later generations be brought from hullin only'. Said R. Akiba to him, 'may a possibility be inferred from an impossibility!'[61] The other replied. 'Although an impossibility, it is nevertheless a proof of importance and deduction from it may be made'![62] — But

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(1) As will be explained infra, no idolater may acquire the person of another idolater.

(2) For the altar, of a pledged animal,

(3) Which is pledged to a non-Israelite but kept in the possession of an Israelite when the time for its destruction on the Passover Eve arrived. No leavened food may be kept in Jewish possession (though pledged to a non-Jew) from midday of Passover Eve until the conclusion of the Passover festival.

(4) Of a mortgaged slave, v, Git. 40b.

(5) Similarly here, the ritual ablution of the slave, for the purpose of procuring his manumission, cancelled his obligations to his idolatrous master, and ipso facto to his Jewish master who is only the representative of the former and can lay no greater claim to the slave than he.

(6) Heb. בלוריא.

(7) For the purpose of conversion to Judaism, and thereby procuring their manumission.

(8) Infra 66b, Keth, 59b, Git, 40b, Ned, 86b, B.K. 89b.

(9) Are they manumitted; because, in that case, they were already proselytes while she was still an idolatress with no title to them.

(10) Lit,, ‘before her, yes: after her, no’. Thus it has been shewn that if the owner is an Israelite, ritual ablution does not procure the slave's manumission, which is in contradiction to what R. Hama stated in the name of Rab!

(11) Lit., ‘whether specified or unspecified’.

(12) When the slave specifically stated that his ablution was performed for the purpose of procuring his manumission: cf. the statement of R. Hama b. Guria.

(13) Lit., ‘by specified, yes: by unspecified. no’.

(14) That by ritual ablution a slave procures his emancipation.

(15) Lit., ‘they did not teach but’.

(16) A slave.

(17) If he sold his own person.

(18) And a ritual ablution does not procure his liberation.

(19) Lev, XXV, 45.

(20) Git. 37b.

(21) Lev. XXV, 47.

(22) How then could it be suggested that an Israelite may not sell his manual labour to an idolater!

(23) An idolater cannot acquire the person of an Israelite,

(24) Of then, may ye by, Lev, XXV, 45.

(25) The authorization to buy the person of an idolater.

(26) As a slave of a Jew. A heathen, bought as a slave by a Jew, had to submit to circumcision and ritual ablution and thereby acquired partly the status of a Jew: in respect of observances he was on the same footing as Jewish women and minor sons. What proof, however, is there that an idolater does not acquire his freedom if he performed ritual ablution with the specific object of procuring thereby his manumission?

(27) An idolatrous slave who is performing his ablution on his initiation into Judaism as a slave of a Jew.

(28) To indicate that he is performing his ablution as a slave.

(29) Unless some outward mark of slavery accompanied the ablution the slave can procure his manumission by making a declaration, while he is still in, the water, that he performs his ablution for the purpose of procuring thereby his freedom.

(30) On his initiation as the slave of a Jew.

(31) If, while in the water, he will declare that his ablution was performed for the purpose of procuring his emancipation.

(32) ארויסא ‘chain’ (Aruk): — Persian arvis, ‘rope’ (Perles, Ety. Stud.); ‘halter’ (Jast.); v. Levy.

(33) Between his body and the water. In all cases of ritual ablution the water must come in direct contact with every external part of the body.

(34) So Bah. Cur. edd., add, ‘to them’.

(35) Which they themselves are unable to pay to the government when due.

(36) These temporary slaves who were heathens.

(37) מוהרקייהן v. Jast מוהרקי’signatures’ (Rashi) or ‘registers of tax payers’ (V. Aruk), ‘written document V. Levy.

(38) The temporary service is consequently regarded as proper slavery, and a deed of emancipation is necessary should such slaves ever desire to embrace Judaism and to be permitted to marry a Jewess.

(39) Gebal of Ps. LXXXIII, 8. i.e. , the northern part of Mt. Seir.

(40) Ritual ablution is an essential part of the ceremonial of initiation into Judaism.

(41) The verb מזג (cf. Gr. ** Lat. misceo). lit., ‘to mix’, sc. wine with water or spices, also signifies ‘to fill the cup, ‘to serve’.

(42) Wine that has been touched by an idolater suspected of dedicating it to idolatrous purposes is forbidden to an Israelite.

(43) Although an Israelite is forbidden to eat of the food which an idolater has cooked.

(44) יין נסך ‘wine of libation’, applied to wine that has been, or is suspected of having been dedicated as a ‘drink offering’ to an idol or idolatrous purpose.

(45) The reason applies to the prohibition of the lupines. v. infra.

(46) The men of Gabla.

(47) V. Num. VI, 2ff.

(48) I.e,, a man must be so careful in the observance of a commandment that he must not only keep away from a prohibition itself but also from that which is permitted but might lead to an infringement of a prohibition, A nazirite who is forbidden to drink wine must not even approach a vineyard. Similarly nesek wine is forbidden only when an idolater has actually touched it; but as a preventive measure it has been forbidden, as here, even when contact was indirect.

(49) What need then was there to give as a reason, ‘because they are ignorant of the Torah’?

(50) Why the lupines of the men of Gabla were forbidden,

(51) The restriction having been imposed upon them as a preventive measure against their possible laxity in the general laws concerning food cooked by idolaters; cf. parallel passage ‘A.Z. 59a.

(52) Those who departed from Egypt as heathens and received the Torah on Mount Sinai when they were, so to speak. converted to Judaism.

(53) V. supra p. 302, n. 6.

(54) To the second query.

(55) It is possible to circumcise a male proselyte.

(56) The mothers who left Egypt may have been admitted to Judaism by ritual ablution only because the other rite was in their case an impossibility.

(57) V. Ex. XII, 3ff.

(58) Subsequent to the generation that brought the first Paschal lamb in Egypt.

(59) חולין ‘profane’, animals that had not previously been consecrated. In the case of the Paschal lamb consecrated animals could only be such as had been set aside as ‘second tithe’ the law of which had not been promulgated till after the Exodus.

(60) Lit., ‘it was said’.

(61) The Paschal lamb in Egypt could not possibly have been brought from consecrated animals. V. supra n. 7, second clause.

(62) Men. 82a, which proves that even from an impossibility an inference may be drawn. The difficulty, therefore, remains, why does not R. Eliezer, like R. Joshua, infer from the mothers?

Talmud - Mas. Yevamoth 46b

all agree[1] that ritual ablution without circumcision is effective; and they differ only on circumcision without ablution. R. Eliezer infers from the forefathers,[2] while R. Joshua [maintains that] in the case of the forefathers also ritual ablution was performed. Whence does he[3] deduce it?[4] If it be suggested, ‘From that which is written, Go unto the people, and sanctify them to-day and to-morrow, and let them wash their garments,[5] if where washing of the garments is not required[6] ablution is required,[7] how much more should ablution be required where washing of the garments is required’,[8] [it may be retorted that] that[9] might have been a mere matter of cleanliness.[10] — It is rather from here:[11] And Moses took the blood, and sprinkled it on the people,[12] and we have a tradition that there must be no sprinkling without ritual ablution.[13]

Whence does R. Joshua infer that the mothers performed ritual ablution? — It is a logical conclusion, for, otherwise,[14] whereby did they enter under the wings of the Shechinah![15]

R. Hiyya b. Abba stated in the name of R. Johanan: A man can never become a proselyte unless he has been circumcised and has also performed the prescribed ritual ablution.[16] Is not this obvious? [In a dispute between] an individual and a majority the halachah is, surely, in agreement with the majority![17] — The expression ‘Sages’ is in fact meant for[18] ‘R. Jose’. For it was taught: If [a proselyte] came and stated, ‘I have been circumcised but have not performed ritual ablution’ he is ‘permitted to perform the ablution[19] and [the proper performance of the previous circumcision] does not matter;[20] so R. Judah.

R. Jose said: He is not to be allowed ablution,[21] Hence[22] it is permissible for a proselyte[23] to perform the prescribed ablution on the Sabbath;[24] so R. Judah. R. Jose, however, said: He is not to be allowed to perform the ablution.[25]

The Master said, 'Hence it is permissible for a proselyte to perform the prescribed ablution on the Sabbath; so R. Judah'.[26] Seeing that R. Judah stated that one[27] suffices is it not obvious that, if circumcision has been performed in our presence, he is permitted to perform ablution! Why then, 'Hence'?[28] — It might have been assumed that in the opinion of R. Judah, ablution forms the principal [part of the initiation],[29] and that ablution is not to take place on the Sabbath because, thereby, a man is improved;[30] hence we were taught[31] that R. Judah requires either the one or the other.[32]

'R. Jose, however, said: He is not to be allowed to perform the ablution'. Is not this obvious? Since R. Jose said that both[33] are required [ablution must be forbidden as] the improvement of a man[34] may not be effected on the Sabbath! — It might have been assumed that in the opinion of R. Jose circumcision forms the principal [part of the initiation] and that the reason there[35] is because the circumcision had not been performed in our presence[36] but where the circumcision had taken place in our presence[37] it might have been assumed that a proselyte in such circumstances[38] may perform the prescribed ablution even on the Sabbath, hence we were taught[39] that R. Jose requires both.[33]

Rabbah stated: It happened at the court of R. Hiyya b. Rabbi(and R. Joseph taught: R. Oshaia b.[40] Rabbi;[41] and R. Safra taught: R. Oshaia b. Hiyya)[41] — that there came before him a proselyte who had been circumcised but had not performed the ablution.[42] The Rabbi told him, 'Wait here until tomorrow[43] when we shall arrange for your ablution'. From this incident three rulings may be deduced. It may be inferred that the initiation of a proselyte requires the presence of three men;[44] and it may be inferred that a man is not a proper proselyte unless he had been circumcised and had also performed the prescribed ablution; and it may also be inferred[45] that the ablution of a proselyte may not take place during the night.

Let it be said that from this incident it may also be inferred that qualified scholars are required![46] — Their presence might have been a mere coincidence.[47]

R. Hiyya b. Abba stated in the name of R. Johanan: The initiation of a proselyte requires the presence of three men; for law[48] has been written in his case.[49]

Our Rabbis taught: As it might have been assumed that if a man came and said, 'I am a proselyte' he is to be accepted,[50] hence it was specifically stated in the Scriptures With thee,[51] only when he is well known to thee. Whence is it inferred that if he came, and had his witnesses with him, [that his word is accepted]? — It was specifically stated in Scripture, And if a proselyte sojourn . . . in your land.[52]

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(1) Even R. Eliezer.

(2) Who, he maintains, did not perform any ritual ablution when they were admitted to Judaism.

(3) R. Joshua.

(4) That the forefathers had performed ritual ablution.

(5) Ex. XIX, 20,

(6) E.g.. after nocturnal pollution; keri. v. Glos.

(7) V. Lev. XV, 26,

(8) As was the case when Israel received the Torah and were thus admitted into Judaism. (V. Ex, XIX, 10).

(9) The washing of the garments.

(10) And had no reference to Levitical purity. Such washing, therefore, can have no bearing on the question of the ritual ablution of proselytes.

(11) Is R. Joshua's deduction made.

(12) Ex. XXIV, 8.

(13) Ker, 9a.

(14) Lit,, ‘for if so’, if even ablution was not performed.

(15) V. Glos. They could not have been initiated without any ceremonial whatsoever.

(16) Ber. 47b.

(17) And this view is held (supra 46a) by the Sages who obviously form a majority against the individual or joint opinions of R. Eliezer and R. Joshua.

(18) Lit,, ‘who are the Sages’?

(19) And by this act alone he is admitted as a proper proselyte.

(20) Lit., ‘and what is there in it’. Whether the circumcision had been valid, having been performed for the specific ritual purpose of the proselyte's initiation into Judaism, or whether it had been invalid because it was carried out as a mere surgical operation or as a non-Jewish sectarian rite, is of no consequence, since the present performance of the ritual ablution is alone sufficient for the initiation.

(21) Because both circumcision and ablution are required. As the validity of the former is in doubt (v. supra note 1) the latter most nut be allowed unless some act of circumcision (causing a few drops of blood to flow) had again been carried out specifically for the purpose of the initiation.

(22) Since according to R, Akiba one act, either ablution or circumcision, suffices.

(23) Who had been circumcised on Sabbath Eve in the ritually prescribed manner.

(24) The ablution being of no consequence (v. supra on. 3 and 4), the proselyte's person in no way being improved by it, it is an act which is permitted on the Sabbath.

(25) The ablution completes the initiation and thus effects the proselyte's improvement, which is an act forbidden on the Sabbath. Thus it has been shewn that the author of the view that both ablution and circumcision are required, given supra as the opinion of ‘the Sages’, is in fact R. Jose.

(26) V, Bah. Cur. edd. omit the last three words.

(27) Either circumcision or ablution.

(28) — Hence etc.’. There is no need, surely, to state the obvious.

(29) Since circumcision he stated supra does not matter.

(30) V. supra note 6.

(31) By the addition of ‘Hence etc,’.

(32) Either circumcision or ablution.

(33) Circumcision and ablution,

(34) Which is completed by the ablution (v. supra p. 305, n. 6).

(35) Supra. Where a proselyte who declared, ‘I have been circumcised but have not performed ritual ablution’ is not to be allowed ablution.

(36) And may be presumed to have been invalid.

(37) And is known to us to have been carried out in accordance with the requirements of the law.

(38) Lit., ‘this’.

(39) By R. Jose's apparently superfluous statement,

(40) Alfasi: Berabbi, v. Nazir Sonc. ed. p. 64, n. 1.

(41) Was also present.

(42) Requesting that he be allowed to perform the prescribed ablution, so as to complete his initiation.

(43) The incident having occurred during the night.

(44) Since R. Safra insisted that three scholars (R. Hiyya and the two R. Oshaias) were present at the time the proselyte's request for his initiation was dealt with.

(45) Since the ablution was postponed till the following morning.

(46) To witness the initiation of a proselyte, as was the ease here where all the three were qualified men, v, Glos. s.v. Mumhe.

(47) And provides no proof that in all other cases the presence of qualified scholars is essential.

(48) Num, XV, 16, One law . . . for the proselyte גר (E.V. ‘Stranger’).

(49) As no point of law can be authoritatively decided by a court of less than three men who constitute a Beth din, so may no initiation of a proselyte take place unless it is witnessed by three men.

(50) As a legitimate proselyte, and he should require no [initiation ceremonial.

(51) Lev. XIX, 33. And if a proselyte (גר E.V., ‘stranger’) sojourn with thee.

(52) Ibid., i.e., as lung as he is in your land even if he is not well known to you. Cf. n. 4, supra. Cur. edd. include here ‘with thee’ which should be omitted since the phrase has been previously employed as proof to the contrary that the proselyte must be well known.

Talmud - Mas. Yevamoth 47a

From this I only know [that the law is applicable] within the Land of Israel, whence is it inferred [that it is also applicable] within the countries outside the Land? — It was specifically stated in Scripture, With thee, i.e., 'wherever he is with thee'.[1] If so, why was the Land of Israel specified? — In the Land of Israel[2] proof must be produced;[3] outside the Land of Israel[4] no such proof need be produced; these are the words of R. Judah. But the Sages said: Proof must be produced both within the Land of Israel and outside the Land.

'If he came and had witnesses with him,' what need is there for a Scriptural text?[5] R. Shesheth replied: Where they[6] state, 'We heard that he be came a proselyte at a certain particular court'. As It might have been taught that we are not to believe them,[7] we were taught [that we do believe them].

'In your land;[8] from this I only know [that the law is applicable] within the Land of Israel, whence is it inferred [that it is also applicable] within the countries outside the Land? — It was specifically stated in Scripture, With thee, i.e., wherever he is with thee'. But this,[9] surely, had been expounded already![10] — One is derived from With thee[11] and the other from With you.[12]

'But the Sages said: Proof must be produced both within the Land of Israel and outside the Land'. But, it is written, surely, in your land![13] — That expression is required [for the deduction] that proselytes may be accepted even in the Land of Israel. As it might have been assumed that there they become proselytes only on account of the prosperity of the Land of Israel, and at the present time also, when there is no prosperity, they might still be attracted[14] by the Gleanings,[15] the Forgotten Sheaf,[16] the Corner[17] and the Poor Man's Tithe,[18] hence we were taught [that they may nevertheless be accepted].

R. Hiyya b. Abba stated in the name of R. Johanan, 'The halachah is that proof must be produced[19] both in the Land of Israel and outside the Land'. Is this not obvious? [In a dispute between] an individual and a majority the halachah is, of course, in agreement with the majority![20] — It might have been suggested that R. Judah's view is more acceptable since he is supported by Scriptural texts, 'A hence we were taught [that the halachah is in agreement with the Sages].

Our Rabbis taught: And judge righteously between a man and his brother, and the proselyte that is with him;[21] from this text[22] did R. Judah deduce that a man who becomes a proselyte[23] in the presence of a Beth din is deemed to be a proper proselyte; but he who does so privately is no proselyte.[24]

It once happened that a man came before R. Judah and told him, 'I have become a proselyte privately'. 'Have you witnesses'? R. Judah asked. 'No', the man replied. 'Have you children'? — 'Yes', the man replied. 'You are trusted', the Master said to him, 'as far as your own disqualification is concerned but you cannot be relied upon to disqualify your children.[25]

Did R. Judah, however, state that a proselyte is not trusted in respect of his children? Surely it was taught: He shall acknowledge[26] implies, 'he shall be entitled to acknowledge him before others?[27] From this did R. Judah deduce that a man is believed when he declares, 'This son of mine is firstborn',[28] And as a man is believed when he declares, 'This son of mine is firstborn' so is he believed when he declares, 'This son of mine is the son of a divorced woman' or 'the son of a haluzah'.[29] But the Sages say: He[30] is not believed![31] — R. Nahman b. Isaac replied: It is this that he[32] really told him,[33] 'According to your own statement you are an idolater, and no idolater is eligible to tender evidence'.[34]

Rabina said: It is this that he[35] really told him,[36] 'Have you children'? [And when the other replied] ‘Yes’ [he asked] ‘Have you grandchildren’. [The reply being again] ‘Yes’, he told him ‘You are trusted so far as to disqualify your own children[37] but you cannot be trusted so far as to disqualify your grandchildren’.

Thus it was also taught elsewhere: R. Judah said, ‘A man is trusted in respect [of the status of] his young son but not in respect of that of his grown-up son; and R. Hiyya b. Abba explained in the name of R. Johanan that ‘young’ does not mean actually a minor and ‘grown-up’ does not mean one who is actually ‘of age’, but any young son who has children is regarded as of age while any grown-up son who has no children is deemed to be a minor. And the law is in agreement with R. Nahman b. Isaac.[38] But, surely, [a Baraitha] was taught in agreement with Rabina![39] — That statement was made with reference to the law of acknowledgement.[40]

Our Rabbis taught: If at the present time a man desires[41] to become a proselyte, he is to be addressed as follows: ‘What reason have you for desiring[42] to become a proselyte; do you not know that Israel at the present time are persecuted and oppressed, despised, harassed and overcome by afflictions’? If he replies, ‘I know and yet am unworthy’,[43] he is accepted forthwith, and is given instruction in some of the minor and some of the major commandments. He is informed of the sin [of the neglect of the commandments of] Gleanings,[44] the Forgotten Sheaf,[45] the Corner[46] and the Poor Man's Tithe.[47] He is also told of the punishment for the transgression of the commandments. Furthermore, he is addressed thus: ‘Be it known to you that before you came to this condition, if you had eaten suet[48] you would not have been punishable with kareth, if you had profaned the Sabbath you would not have been punishable with stoning; but now were you to eat suet[48] you would be punished with kareth; were you to profane the Sabbath you would be punished with stoning’. And as he is informed of the punishment for the transgression of the commandments, so is he informed of the reward granted for their fulfilment. He is told, ‘Be it known to you that the world to come was made only for the righteous, and that Israel at the present time are unable to bear

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(1) Even outside the Land of Israel. This exposition is discussed infra.

(2) Where it is an advantage to be a proselyte.

(3) By the proselyte, that his circumcision was duly performed at the Beth din for the specific purpose of his initiation. Otherwise he is not to be trusted.

(4) Where no material advantage is to be gained in claiming to be a proselyte.

(5) To prove that the proselyte is accepted.

(6) The witnesses.

(7) Since they were not eye witnesses.

(8) V. Bah. Cur. edd., ‘in the land’.

(9) The Scriptural expression, with thee.

(10) Lit., ‘thou hast brought it out’, supra, to exclude the acceptance of a proselyte when not well known. How then could the same phrase be used for two different expositions?

(11) אתך Lev. XIX, 33.

(12) אתכם ibid. 34. V.הגות הגר א a.l. and Torath Kohanim. Cur. edd. read, מעמך ‘from with thee’ which occurs in Lev, XXV, 47.

(13) Lev. XIX, 33. (Cf. Bah. Cur. edd., ‘in the land’) which excludes other countries.

(14) Lit., ‘there is’.

(15) לקט ‘gleaning’: the gleanings of the harvest which must be left for the poor. V. Lev. XIX, 9, XXIII, 22, Peah IV, 10f.

(16) שכחה ‘forgetting’; any sheaf forgotten when a field is reaped belongs to the pour. V. Deut. XXIV, 19, Peah V, 7f, VIf.

(17) פאה, ‘corner’, sc. of the field, the produce of which most nut be harvested by the owner, it being the portion of the poor. V. Lev. XIX, 9, XXIII, 22, Peah 1ff.

(18) מעשר עני given to the poor in the third and sixth years of the septennial cycle.

(19) By a man who claims to have been properly initiated as a proselyte.

(20) In the law under discussion the Sages are in the majority against R. Judah's individual opinion. (14) With thee’ and ‘In your land’. V. supra.
(21) Deut. I, 16. גר ‘proselyte’ (E.V. ‘stranger’).
(22) Since ‘proselyte’ was mentioned in the same context as ‘judge’.
(23) I.e., who had been circumcised and performed the prescribed ablution.
(24) As a judicial matter requires a Beth din so does the initiation of a proselyte.
(25) [As children of a heathen father they would be disqualified, even if the mother was a Jewess, R. Judah being of the opinion that the offspring of the union of a heathen with a Jewess is mamzer, v. Tosaf. s.v. נאמן.
(26) Sc. the firstborn (Deut. XXI, 17).
(27) יכיר E.V., he shall acknowledge, being a Hif., may also be rendered as here, ‘he shall make known’, viz., to others.
(28) Though another was hitherto reputed to be his firstborn son.
(29) V. Glos.
(30) If another son of his was reputed to be the firstborn.
(31) Kid. 74a. 78b, B.B. 127b. Thus it has been shown that, according to R. Judah, a father's word is accepted in respect of the status of his children. How, then, could it be stated here that the word of a proselyte was not to be relied upon as far as the eligibility of his children is concerned?
(32) R. Judah.
(33) The proselyte.
(34) As his children have hitherto been reputed to be legitimate, his ineligible evidence cannot disqualify them.
(35) R. Judah.
(36) The proselyte.
(37) In accordance with the deduction from ‘He shall acknowledge’ in the Baraitha cited from Kid. and B.B. supra.
(38) Who regarded the proselyte, on the strength of his own testimony, as an idolater whose evidence is inadmissible even in the case of his own children.
(39) That a father is to be trusted in respect of a son of his who has no children. The assumption at the moment is that this referred to the case of a proselyte.
(40) Lit., ‘he shall acknowledge’ (Deut. XXI, 17), i.e., the reference is nut to a proselyte but to an Israelite whose word is accepted when he testifies that his sun is either a firstborn, or the sun of a divorced woman or the son of a haluzah. It is in connection with this only that it was stated that the father, being believed in respect of his children, but not his grandchildren, is trusted in the case of his son who has no children, but not in the case of one who has children.
(41) Lit., ‘who comes’.
(42) Lit., ‘what have you seen that you came’.
(43) Of the privilege of membership of Israel.
(44) V. supra p. 308. n. 8.
(45) V. loc. cit. n. 9.
(46) V. loc. cit. n. 10.
(47) V. loc. cit. n. 11.
(48) I.e., forbidden fat.

Talmud - Mas. Yevamoth 47b

either too much prosperity. or too much suffering’. He is not, however, to be persuaded or dissuaded too much.[1] If he accepted,[2] he is circumcised forthwith. Should any shreds[3] which render the circumcision invalid remain, he is to be circumcised a second time. As soon as he is healed arrangements are made for his immediate ablution, when two learned men must stand by his side and acquaint him with some of the minor commandments and with some of the major ones.[4] When he comes up after his ablution he is deemed to be an Israelite in all respects.

In the case of a woman proselyte, women make her sit in the water up to her neck, while two learned men stand outside and give her instruction in some of the minor commandments and some of the major ones.

The same law[5] applies to a proselyte and to an emancipated slave; and only where a menstruant may perform her ablution[6] may a proselyte and an emancipated slave perform this ablution;[7] and whatever is deemed an interception in ritual bathing[8] is also deemed to be an interception in the ablutions of a proselyte, an emancipated slave and a menstruant.[9]

The Master said, ‘If a man desires to become a proselyte . . . he is to be addressed as follows: "What reason have you for desiring to become a proselyte . . ." and he is made acquainted with some of the minor, and with some of the major commandments’. What is the reason? — In order that if he desire to withdraw let him do so;[10] for R. Helbo said: Proselytes are as hard for Israel [to endure] as a sore,[11] because it is written in Scripture. And the proselyte[12] shall join himself with them, and they shall cleave[13] to the house of Jacob.[14]

‘He is informed of the sin [of the neglect of the commandment of] Gleanings, the Forgotten Sheaf, the Corner and the Poor Man's Tithe’. What is the reason? — R. Hiyya b. Abba replied in the name of R. Johanan: Because a Noahide[15] would rather be killed than spend so much as a perutah[16] which is not returnable.[17]

‘He[18] is not, however, to be persuaded, or dissuaded too much’. R. Eleazar said: What is the Scriptural proof? — It is written, And when she saw that she was steadfastly minded to go with her, she left off speaking unto her.[19] ‘We are forbidden’, she[20] told her,[21] ‘[to move on the Sabbath beyond the] Sabbath boundaries’![22] — ‘Whither thou goest’ [the other replied] ‘I will go’.[23]

‘We are forbidden private meeting between man and woman’![24] — ‘Where thou lodgest. I will lodge’[23]

‘We have been commanded six hundred and thirteen commandments’! — ‘Thy people shall be my people’.[23]

‘We are forbidden idolatry’! — ‘And thy God my God’.[23]

‘Four modes of death[25] were entrusted to Beth din’![26] — ‘Where thou diest, will I die’.[27]

‘Two graveyards[28] were placed at the disposal of the Beth din’! — ‘And there will I be buried’.[27] Presently she saw that she was steadfastly minded etc.[19]

‘If he accepted, he is circumcised forthwith’. What is the reason? — The performance of a commandment must not in any way be delayed.

‘Should any shreds which render the circumcision invalid remain etc.’, as we learned: These are the shreds which render the circumcision invalid: Flesh which covers the greater part of the corona,[29] [a priest having been so circumcised] is not permitted to eat terumah; and R. Jeremiah b. Abba explained in the name of Rab: Flesh which covers the greater part of the height of the corona.[30]

‘As soon as he is healed arrangements are made for his immediate ablution’. Only after he is healed but not before![31] What is the reason? — Because the water might irritate the wound.

‘When two learned men must stand by his side’. Did not R. Hiyya, however, state in the name of R. Johanan that the initiation of a proselyte requires the presence of three? — But, surely. R. Johanan told the tanna:[32] Read, ‘three’.

‘When he comes up after his ablution he is deemed to be an Israelite in all respects’. In respect of what practical issue? — In that if he retracted and then betrothed the daughter of an Israelite he is regarded as a non-conforming Israelite and his betrothal is valid.[33]

‘The same law applies to a proselyte and to an emancipated slave’. Assuming this[34] to apply to the acceptance of the yoke of the commandments,[35] the following contradiction may be pointed out: This[36] applies only to a proselyte. but an emancipated slave need not accept![37] — R. Shesheth replied: This is no contradiction, One statement is that of R. Simeon; the other, that of the Rabbis. For it was taught: And bewail her father and her mother etc.[38] This only applies when she did not accept,[39] but if she did accept,[39] her ablution may be arranged, and he is permitted to marry her forthwith. R. Simeon b. Eleazar said: Even though she did not accept[39] he may force her to perform one ablution as a mark of her slavery and a second ablution as a mark of her emancipation, and having liberated her

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(1) Lit., ‘and they do not increase upon him nor do they enter with him in details’.

(2) All the restrictions and disabilities pointed out to him.

(3) Round the corona of the membrum virile.

(4) With the ablution the proselyte completes his ritual initiation. Hence it is necessary that at that moment he shall submit to the ‘yoke of the commandments’.

(5) This is explained infra.

(6) I.e. — a ritual bath containing no less than forty se'ah of water.

(7) Though the ablutions of the latter are not in connection with levitical uncleanness.

(8) The water most come in direct contact with the bather. Should any foreign matter intervene between his body and the water the ablution is thereby rendered invalid.

(9) Although the purpose of these ablutions is not, like that of the usual ablutions, to qualify for the eating, or the handling of, levitically clean things. The ablutions of the proselyte and the slave are only a part of their initiation ceremonial, while that of the menstruant has for its object the woman's permissibility to her husband.

(10) Lit., ‘that if he separates let him separate’.

(11) ספחת cf. Lev. XIII, 2.

(12) הגר (E.V., ‘stranger’).

(13) ונספחו of the same rt. as ספחת (v. supra note 7), ‘they will be like a sure’.

(14) 15a. XIV, 1. Cf. Kid. 70b, Nid. 13a. infra 109b. An influx of proselytes tends to lower the moral standards of Judaism.

(15) A descendant of Noah, i.e., all idolaters.

(16) The smallest coin.

(17) Hence he is informed of the laws of the yearly gifts to the poor. On learning of the Israelite's financial obligations to the causes of charity he would either resign himself to the inevitable or withdraw altogether from his intended conversion. For another interpretation of this dictum, v. ‘A.Z. Sonc. ed. p. 343.

(18) V. Rashal a.l. Cur. edd. contain in parentheses: ‘And he is informed of the sin of the Forgotten Sheaf and the Corner’.

(19) Ruth I, 18.

(20) Naomi.

(21) Ruth.

(22) תחום שבת a distance of two thousand cubits in every direction from one's town, abode or resting place, within which alone one is permitted to move on the Sabbath.

(23) Ruth I, 16.

(24) יחוד lit., ‘uniting’. Unless married, man and woman may not remain in privacy with one another for any length of time.

(25) Penalties for various offences.

(26) V. Sanh. 49b.

(27) Ruth I, 17.

(28) One for the gravest offenders who suffered the death penalties of stoning or burning, and another for such as were executed by decapitation or strangulation.

(29) Of the membrum virile.
(30) I.e., even if only on a minor portion of the circumference.
(31) Lit., ‘he was healed, yes; he was not healed, no’.
(32) Who recited before him the Baraitha under discussion.
(33) Separation cannot be effected except by means of a letter of divorce. The betrothal of an idolater is of no validity at all and no divorce is required.
(34) The comparison between the proselyte and the slave.
(35) As the proselyte who must at the time of his ablution accept the yoke of the commandments is made acquainted with some of them so must an emancipated slave when he performs ablution on the occasion of his emancipation.
(36) That at the ablution a declaration of acceptance most be made.
(37) His duty to observe the commandments having commenced at the moment he had performed his first ablution on the occasion of his initiation as the slave of an Israelite.
(38) Deut. XXI, 13.
(39) The obligations of a proselyte.

Talmud - Mas. Yevamoth 48a

he is permitted to marry her forthwith.[1]

Raba said: What is R. Simeon b. Eleazar's reason?[2] — Because it is written, Every man's slave that is bought for money;[3] [could it mean] the slave of a man and not the slave of a woman?[4] But [this is the implication]: The slave[5] of a man may be forcibly circumcised but no son of a man[6] may be forcibly circumcised. And the Rabbis?[7] — ‘Ulla replied: As you, admittedly, may not by force circumcise the son of a man[8] so you may not forcibly circumcise the slave of a man. But, surely, there is the Scriptural text, Every man's slave![9] — That text is required for a deduction made by Samuel. For Samuel stated: If a man declared his slave to be ownerless that slave acquires thereby his freedom and requires no deed of emancipation; for it is stated in Scripture. Every man's slave that is bought for money,[3] [could it mean] the slave of a man and not the slave of a woman?[10] But [the meaning is that] a slave who is under his master's control is a proper[11] slave but he who is not under his master's control is not a proper[11] slave.[12]

R. Papa demurred: It might be suggested that the Rabbis were heard[13] in respect of a woman of goodly form[14] only,[15] because she[16] is under no obligation to observe the commandments; but that in respect of a slave,[17] who is under the obligation of observing commandments, even the Rabbis agree![18] For it was indeed taught. ‘Both a proselyte and a slave bought from an idolater must make[19] a declaration of acceptance’.[20] Thus it follows[21] that a slave bought from an Israelite need not make a declaration of acceptance.[20] Now, whose view is this? If that of R. Simeon b. Eleazar, he, surely, had stated that even a slave bought from an idolater need make no declaration of acceptance![22] Consequently it must be the view of the Rabbis; and so it may be inferred that only a slave bought from an idolater is required to make a declaration of acceptance[20] but a slave bought from an Israelite is not required to make a declaration of acceptance.[23] But then the contradiction from the statement ‘The same law applies to a proselyte and to an emancipated slave’[24] remains! — That[25] was taught only with reference to the ablution.[26]

Our Rabbis taught: And she shall shave her head, and do[27] her nails,[28] R. Eliezer said, ‘She shall cut them’.[29] R. Akiba said, ‘She shall let them grow’. R. Eliezer said:[30] An act[31] was mentioned in respect of the head, and an act was mentioned in respect of the nails;[32] as the former signifies removal, so does the latter also signify removal. R. Akiba said:[30] An act[31] was mentioned in respect of the head and an act was mentioned in respect of the nails;[32] as disfigurement is the purpose of the former so is disfigurement the purpose of the latter. The following, however, supports the view of R. Eliezer: And Mephibosheth the son of Saul came down to meet the king, and he had neither dressed his feet, nor had he done[33] ‘his beard;[34] by ‘doing’[35] removal was meant.

Our Rabbis taught: And bewail her father aid her mother;[36]

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(1) Thus it has boon shown that while the first Tanna requires the slave's acceptance of the obligation of Judaism, R. Simeon maintains that acceptance is not required, the ablution for the purpose of the emancipation is alone sufficient, even though its performance had been forced upon the slave.
(2) That compulsion is permitted. Cf. p. 324, n. 10.
(3) Ex. XII. 44.
(4) Is not a woman's slave subject to the same laws!
(5) The emphasis in man's slave is not on ‘man’ but on slave.
(6) The sun of an idolater who is not a slave, or the sun of a proselyte if he is of age.
(7) How could they oppose R. Simeon b. Eleazar's view which has Scriptural support!
(8) V.supra n. 6 since there is no Biblical authority for such force.
(9) From which forcible circumcision has been deduced supra.
(10) Is not a woman's slave subject to the same laws!
(11) Lit., ‘called’.
(12) V. Git. 38a.
(13) To forbid forcible conversion to Judaism.
(14) V. Deut. XXI, 11.
(15) The text from Deut. XXI, 23. cited supra deals with such a woman.
(16) Prior to conversion.
(17) Who has been with an Israelite for some time and has in consequence become subject to the commandments that are incumbent upon such a slave.
(18) That no acceptance is needed, and that the slave may be forced into observance of the commandments.
(19) At the time of his ablution as proselyte or slave respectively.
(20) Of the observance of the commandments.
(21) Since ‘slave’ is qualified by the condition of ‘bought from an idolater’.
(22) He can be forced into the observance of the commandments.
(23) Having previously served an Israelite he has oven without any declaration on his part become subject to the laws of Judaism. (Cf. supra p. 315, n. 16). This confirms R. Papa's contention that the Rabbis’ view had reference only to the woman spoken of in Deut. XXI, 11ff, but not to the slave of an Israelite.
(24) Supra 47b.
(25) The comparison between the proselyte and the slave. Lit., when that was taught’.
(26) Both require ablution on their admission as a proselyte and as a slave of an Israelite respectively. In respect of acceptance of the laws of Judaism, however, they come under different categories. While the former's initiation is not complete without his formal acceptance of the laws of Judaism, that of the latter (v. supra p. 323. n. 16) requires no acceptance at all on his part, the ablution alone being sufficient.
(27) ועשתה. E.V. ‘pare’.
(28) Deut. XXI, 22.
(29) Her nails.
(30) In explanation of his view.
(31) She shall shave, ibid.
(32) And do, v. supra note 8.
(33) עשה E.V. ‘trimmed’.
(34) II Sam, XIX, 25.
(35) עשיה v. supra n. 1.
(36) Deut. XXI, 23.

Talmud - Mas. Yevamoth 48b

R. Eliezer said: ‘Her father’ means her actual father; ‘Her mother’, her actual mother. R. Akiba said: ‘Her father and her mother’ refer to idolatry; for so Scripture says, Who say to a stock;[1] ‘Thou art my father', etc.[2] A full month, 'month' means thirty days. R. Simeon b. Eleazar said: Ninety days. For 'month' means thirty days; 'full',[3] thirty days; 'and after that' thirty days. Rabina demurred: Might it not be suggested that 'month' means thirty days; 'full', thirty days; 'and after that' as many again![4] — This is a difficulty.

Our Rabbis taught: Uncircumcised slaves may be retained; this is the opinion of R. Ishmael. R. Akiba said: They may not be retained.[5] Said R. Ishmael to him: Behold it is written, And the son of thy handmaid may be refreshed![6] 'This text', the other replied. speaks of a slave that has been bought at twilight,[7] when there was not time enough to circumcise him.[8]

All at any rate agree that And the son of thy handmaid may be refreshed[6] was written in respect of an uncircumcised slave; whence may this be inferred? — From what has been taught: And the son of thy handmaid may be refreshed,[6] Scripture speaks of an uncircumcised slave. You say. 'Of an uncircumcised slave'; perhaps it is not so[9] but of a circumcised slave? Since it has been stated 'That thy man-servant and thy maid-servant may rest as well as thou,[10] the circumcised slave has already been spoken of; to what then is one to apply 'And the son of thy handmaid may be refreshed?'[11] Obviously to an uncircumcised slave. And the stranger[12] refers to a domiciled proselyte.[13] You say. 'It refers to a domiciled proselyte'; perhaps it is not so,[14] but to a true proselyte?[15] Since it was stated, No' thy strange' that is with its thy gates,[10] the true proselyte has already been mentioned; to what then is one to apply, and the stranger?[12] Obviously, to the domiciled proselyte.

R. Joshua b. Levi said: If a man bought a slave from an idolater, and the slave refused to be circumcised, he may bear with him for twelve months. [If by that time he had] not been circumcised, he must re-sell him to idolaters.

The following was said by the Rabbis in the presence of R. Papa: In accordance with whose view?[16] Obviously not in accordance with that of R. Akiba, since he[17] stated [that uncircumcised slaves] may not be retained.[18] R. Papa answered them: It may be said to be the view even of R. Akiba; for this[19] applies when no definite consent has ever been given;[20] but where definite consent[21] had once been given,[22] his original decision is taken into consideration.[23]

R. Kahana stated: I mentioned this reported discussion in the presence of R. Zebid of Nehardea and he said to me: If so, instead of R. Akiba replying[24] that '[the text speaks] of a slave that has been bought at twilight'. he should rather have given this reply![25] — He gave him one of the two available solutions.

Rabin sent a message in the name of R. Il'ai, [adding]. 'All my masters have so reported in his name': Who is an uncircumcised slave that may be retained? He who was bought by his master with the intention of not having him circumcised.

The Rabbis argued the following in the presence of R. Papa; In accordance with whose view?[26] Obviously not in accordance with that of R. Akiba, since he[27] stated that [uncircumcised slaves] may not be retained! R. Papa answered: It may be said to be the view even of R. Akiba, for this[28] applies where he had made no stipulation with him,[29] but where a stipulation[29] was made, that stipulation must be taken into consideration.[30]

R. Kahana said: When I mentioned the reported discussion in the presence of R. Zebid of Nehardea, he said to me: If so, instead of R. Akiba having recourse to the answer[31] [that 'the text speaks] of a slave who has been bought at twilight when there was not time enough to circumcise him' he should rather have given this reply![32]

But even if your argument is admitted he should rather have given that reply![33] But [the fact is], he mentioned one of two or three solutions.

R. Hanina b. Papi. R. Ammi, and R. Isaac Nappaha once sat in the ante-chamber[34] of R. Isaac Nappaha, and while there, they related: There was a certain town in the Land of Israel where slaves refused to be circumcised, and after bearing with them for twelve months they re-sold them to idolaters. In accordance with whose view? — In accordance with that of the following Tanna. For it was taught: If one bought a slave from an idolater, and the slave refused to be circumcised, he bears with him for twelve months. [If by that time] he has not been circumcised, he re-sells him to idolaters. R. Simeon b. Eleazar said: In the Land of Israel he must not be kept owing to [possible] damage to levitically clean foodstuffs,[35] and in a town which is near the frontier[36] he must not he kept at all, since he might overhear some secret and proceed to report it to a fellow idolater.[37]

It was taught: R. Hanania son of R. Simeon b. Gamaliel said: Why are proselytes at the present time oppressed and visited with afflictions? Because they had not observed the seven Noahide[38] commandments.[39]

R. Jose said: One who has become a proselyte is like a child newly born.[40] Why then are proselytes oppressed? — Because they are not so well acquainted with the details of the commandments as the Israelites.[41]

Abba Hanan said in the name of R. Eleazar: Because they do not do it[42] out of love[43] but out of fear.[44] Others said: Because they delayed their entry under the wings of the Shechinah. Said R. Abbahu, or it might be said R. Hanina: What is the Scriptural proof?[45] — The Lord recompense thy work, and be thy reward complete from the Lord, the God of Israel, under whose etc. thou art cone to take refuge.[46]

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(1) The idol.

(2) Jer. II, 27.

(3) ימים lit., ‘days’.

(4) Lit., ‘like these’, i.e., equal to the sum of these two numbers, sixty: the meaning of the text being: And after another one like that, i.e., after the completion of another period equal in duration to the former (a total of a hundred and twenty days) thou mayest go in unto her etc. (Deut. XXI, 23).

(5) Even for one day.

(6) Ex. XXIII, 12. This text, as will be explained infra, deals with an uncircumcised slave.

(7) On the Sabbath Eve.

(8) Circumcision in such a case being forbidden on the Sabbath. Only a circumcision which takes place on the eighth day of a child's birth, מילה מזמנה may be performed on the Sabbath. Since circumcision of the slave could not be performed until after the Sabbath, Scripture indicated by the injunction And the son of thy handmaid may be refreshed that oven on the first Sabbath on which he is still uncircumcised he must observe the Sabbath rest.

(9) Lit., ‘or it is not’.

(10) Deut. V, 24.

(11) V. p. 317, n. 10.

(12) Ex. XXIII, 22,והגר.

(13) Or, resident alien. גר תושב, a non Israelite domiciled in Palestine who renounces idolatry and observes also the other six of the seven Noahide commandments (V. Sanh. 56a). Opp. to גר צדק infra. Working on the Sabbath while in the employ of an Israelite (v. Tosaf. s.v. זה a.l.) is regarded as idolatry (Rashi a.l.); hence it is forbidden even to the domiciled proselyte.

(14) Lit., ‘or it is not’.

(15) גר צדק ‘the proselyte of righteousness’ who accepts all the obligations of an Israelite.

(16) Was R. Joshua b. Levi's statement made,

(17) Lit., ‘for if R. Akiba, surely’.

(18) Even for one day.

(19) R. Akiba's ruling that an uncircumcised slave may not be kept at all.
(20) By the slave. He never agreed to the circumcision and to the adoption of the obligations of an Israelite slave.
(21) Cf.supra n. 22.
(22) Lit., ‘the thing was not definitely decided’. If at the time he was bought he consented, though he subsequently retracted,
(23) Lit., it was definitely decided’. Once he has consented he may be kept for twelve months in the expectation that he will consent again. (Cf. Rashi and Tosaf. s.v.היכא and תוספות ישנים a.l. for other interpretations).
(24) To R. Ishmael's objection supra.
(25) That the text speaks of a slave who has once consented. (V. p. 328, n. 23).
(26) Was the ruling in the name of R. Il'ai made.
(27) Lit., ‘for if R. Akiba surely’.
(28) V. supra p. 318, n. 20.
(29) That he would not circumcise him.
(30) Lit., ‘surely he had made a stipulation.’
(31) To R. Ishmael's objection supra.
(32) That the text refers to a slave with whom his master had stipulated not to circumcise him.
(33) The first answer of R. Papa. V. supra note 2.
(34) קילעא ‘curtained enclosure’ (Jast.). ‘door’ (Golds.).
(35) E.g., terumah which would be defied by the touch of the idolater who is always deemed to be levitically unclean.
(36) Of the Land of Israel.
(37) Across the frontier.
(38) V. Sanh. 56a.
(39) While they wore still idolaters. Though they have now embraced Judaism they have yet to atone by their sufferings for their sins of the past.
(40) All his previous sins are forgiven.
(41) And cannot properly observe them.
(42) The performance of the commandments.
(43) Of the faith and the commandments.
(44) Of divine punishment.
(45) For the opinion advanced by the ‘Others’.
(46) Ruth II, 22. ‘Thou art come’ before ‘to take refuge’ implies haste. Ruth was given credit for the haste she made in entering under the divine wings. Delay in such action is culpable.

Talmud - Mas. Yevamoth 49a

MISHNAH. WHO IS DEEMED TO BE A BASTARD?[1] [THE OFFSPRING OF A UNION WITH] ANY CONSANGUINEOUS RELATIVE WITH WHOM COHABITATION IS FORBIDDEN;[2] THIS IS THE RULING OF R. AKIBA. SIMEON THE TEMANITE SAID: [THE OFFSPRING OF ANY UNION] THE PENALTY FOR WHICH IS KARETH AT THE HANDS OF HEAVEN; AND THE HALACHAH IS IN AGREEMENT WITH HIS VIEW, AND R. JOSHUA SAID: [THE OFFSPRING OF ANY UNION]. THE PENALTY FOR WHICH IS DEATH AT THE HANDS OF BETH DIN.

SAID R. SIMEON B. ‘AZZAI: I FOUND A ROLL OF GENEALOGICAL RECORDS IN JERUSALEM, AND THEREIN WAS WRITTEN, SO-AND-SO IS A BASTARD [HAVING BEEN BORN] FROM [A FORBIDDEN UNION WITH] A MARRIED WOMAN’,[3] WHICH CONFIRMS THE VIEW OF R. JOSHUA.

IF A MAN'S WIFE DIED, HE IS PERMITTED TO MARRY HER SISTER. IF HE DIVORCED HER AND THEN SHE DIED HE IS PERMITTED TO MARRY HER SISTER. IF SHE WAS[4] MARRIED TO ANOTHER MAN AND DIED, HE IS PERMITTED TO MARRY HER SISTER.

IF A MAN'S SISTER-IN-LAW[5] DIED, HE MAY MARRY HER SISTER. IF HE SUBMITTED TO HER HALIZAH AND THEN SHE DIED, HE IS PERMITTED TO MARRY HER SISTER. IF SHE WAS MARRIED[6] TO ANOTHER MAN AND THEN DIED HE IS PERMITTED TO MARRY HER SISTER.

GEMARA. What is R. Akiba's reason? — Because it is written A man shall not take his father's wife and shall not uncover his father's skirt,[7] he shall not uncover the skirt which his father saw; and he[8] holds the same opinion as R. Judah who said that this Scriptural text[7] speaks of a woman whom his father had outraged,[9] and who is classed among those forbidden to him under the penalty for a negative precept;[10] and since close to this [text occurs the commandment], A bastard shall tot enter the assembly of the Lord,[11] it is obvious that the offspring of any such union[12] is deemed to be a bastard. According to R. Simai also who includes[13] [the offspring of] any other union that is forbidden by a negative precept even though [the offenders are] not consanguineous relatives,[14] and according to R. Yeshebab who includes[13] even the offspring of a union forbidden under a positive commandment,[15] the deduction[16] is made from And . . . not.[17]

And Simeon the Temanite?[18] — He holds the same opinion as the Rabbis who stated that the text[17] speaks of a woman[19] awaiting the levirate decision of his father,[20] the union with such a woman[21] being forbidden under the penalty of kareth; and since close to this text appears. A bastard shall not enter,[11] it proves that the offspring of a union forbidden under the penalty of kareth is deemed to be a bastard.

And R. Joshua?[22] — The All Merciful should have written[23] ‘Shall not uncover’ only![24] What need was there for ‘Shall not take’?[25] Must it not, consequently. be concluded that it is this that was meant:[26] [The offspring] of [a union with her who is explicitly mentioned between] ‘Shall not take’ and ‘Shall not uncover’[27] is deemed to be a bastard, but no others[28] are to be regarded as bastards.[29]

Abaye said: All agree that if one cohabited with a menstruant

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(1) V. Deut. XXIII, 2.

(2) Under the penalty of flogging (incurred for the infringement of a negative precept).

(3) Such a union is punishable by death at the hands of Beth din,

(4) After her divorce.

(5) The widow of his brother who died without issue.

(6) After the halizah.

(7) Deut. XXIII, 1.

(8) R. Akiba.

(9) Not his lawful wife. Infra 97a.

(10) Flogging (v. supra note 1).

(11) Deut. XXIII, 3.

(12) Forbidden under the penalty for a negative precept (v. supra p. 321, n. 1).

(13) In R. Akiba's category of bastards.

(14) Keth, 29b, Kid. 68a, the marriage, e.g., with one's divorced wife.

(15) The union, e.g., with an Edomite or an Egyptian (v. Deut. XXIII, 8-9) the prohibition of which is derived from the positive precept. The third generation that are born unto then, may enter into the assembly of the Lord (ibid. 9) from which it follows that only the third generation may enter; but not the first, or the second generation. Any prohibition that is derived from a positive precept has only the force of a positive precept and dues not involve the penalty of flogging, much less that of kareth. V. Keth. 29b.

(16) That these categories are also classed as bastards.

(17) Deut. XXIII, 1b.

(18) Whence, in view of R. Akiba's deduction, dues he derive his ruling in our Mishnah?

(19) Whose husband died without issue.

(20) Who most decide whether to contract with her the levirate marriage or to submit to halizah from her.
(21) As one's father's brother's wife.
(22) Whence does he derive his ruling in out Mishnah?
(23) If the text of Deut. XXIII, 1b speaks of a woman outraged by one's father (as R. Judah maintains) or of a widow awaiting the decision of the levir (as Simeon the Temanite asserts).
(24) From which text alone R. Judah and the Rabbis could have deduced their respective rulings, while the case of one's father's wife would follow logically by inference a minori ad majus.
(25) Cf. Rashal. Cur. edd. insert in parentheses, ‘And shall not uncover.
(26) By the addition of the text Shall not take.
(27) I.e., one's father's wife, forbidden under the death penalty at the hands of Beth din.
(28) The offspring of unions which are forbidden under the penalty of kareth or flogging.
(29) The proximity of Deut, XXIII, 3 (the text relating to the bastard) to that of v. 1, according to R. Joshua, beats on the case of a father's wife only (v. 2a). The mention of ‘shall not uncover’ (v. 1b) implies, if it refers to one's father's brother's widow awaiting the levir's decision (the view of the Rabbis and Simeon the Temanite), that cohabitation with her is forbidden to the levir's sun by two negative precepts, those of Lev. XVIII, 24 and Deut. XXIII, 1b; and if it refers to a woman whom one's father has outraged (the view of R. Akiba and R. Judah). the text is required to lay down this very prohibition.

Talmud - Mas. Yevamoth 49b

or with a sotah,[1] the child [born from either union] is no bastard.[2] ‘A menstruant’, since betrothal with her is valid because it is said, And her impurity be upon him,[3] even at the time of her menstruation betrothal with her is valid.[4] ‘A sotah’ also, since her betrothal is valid.[5] It has been taught likewise: All agree that if one cohabited with a menstruant or with a sotah or with a widow awaiting the decision of a levir, the child [born from any such union] is no bastard.[6] And Abaye?[7] — He was in doubt in the case of a widow awaiting the decision of the levir as to whether [the law[8] is] in agreement with Rab or with Samuel.[9]

SAID R. SIMEON B. AZZAI etc. [A tanna] recited: Simeon b. ‘Azzai said, ‘I found a roll of genealogical records in Jerusalem and therein was written "So-and-so is a bastard [having been born] from a forbidden union with] a married woman" and therein was also written "The teaching of R. Eliezer b. Jacob is small in quantity[10] but thoroughly sifted".[11] And in it was also written, "Manasseh slew Isaiah"’.

Raba said: He[12] brought him to trial and then slew him. He[12] said to him: Your teacher Moses said, ‘For men shall not see Me and live’[13] and you said, ‘I saw the Lord sitting on a throne, high and lifted up’.[14] Your teacher Moses said , ‘For what [great nation is there, that hath God so nigh unto them], as the Lord our God is whensoever we call upon him’,[15] and you said, ‘Seek ye the Lord when he may be found’.[16] Your teacher Moses said, ‘The number of thy days I will fulfil’[17] but you said, ‘And I will add on to your days fifteen years’.[18] ‘I know’, thought Isaiah, ‘that whatever I may tell him he will not accept; and should I reply at all, I would only cause him to be a wilful [homicide]’. He thereupon pronounced [the Divine] Name and was swallowed up by a cedar. The cedar, however, was brought and sawn asunder. When the saw reached his month he died. [And this was his penalty] for having said, ‘And I dwell in the midst of a people of unclean lips’.[19]

[Do not] the contradictions between the Scriptural texts, however, still remain? — ‘I saw the Lord’,[20] [is to be understood] in accordance with what was taught: All the prophets looked into a dim glass,[21] but Moses looked through a clear glass.[22] As to ‘Seek ye the Lord when he may be found [etc.’] one [verse][16] applies to an individual,[23] the other[24] to a congregation. When [is the time for] an individual? — R. Nahman replied in the name of Rabbah b. Abbuha: The ten days between the New Year[25] and the Day of Atonement.[25] Concerning the number of thy days I will fulfil,[26] Tannaim are in disagreement. For it was taught: The number of thy days I will fulfil[26]

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(1) סוטה a woman known to be, or suspected of being faithless to her husband. V. Num. V, 22ff. Such a woman is forbidden to her husband under the penalty of flogging. (V. supra 11b).

(2) Even R. Akiba admits in the latter case though the penalty is flogging (v. supra n. 5), and even Simeon the Temanite admits in the former case though the penalty is kareth.

(3) Lev. XV, 24; emphasis on him.

(4) The offspring of a forbidden but valid union cannot be considered a bastard.

(5) Her certain or suspected adultery does not annul her original betrothal to her husband (Rashi) or alternatively, the betrothal of a sotah by her husband after he had divorced her is valid (Tosaf. s.v. סוטה a.l.).

(6) Kid. 68a.

(7) Why did he omit the mention of the third case?

(8) As to the validity of her betrothal by a stranger.

(9) The former regards such betrothal as in. valid and maintains that no divorce is required, while the latter holds that a divorce is necessary (infra 92b). Being uncertain of the validity of such betrothal Abaye could not determine the legitimacy of the child,

(10) קב a small measure of capacity (v. Glos.). His rulings in the Mishnah and Baraitha ate only few.

(11) נקי lit., ‘clean’, ‘pure’. The halachah is always in agreement with R. Eliezer b. Jacob's rulings.

(12) Manasseh.

(13) Ex. XXXIII, 20.

(14) Isa. VI, 1.

(15) Deut. IV, 7, implying ‘at all time’.

(16) Isa. LV, 6 which implies ‘but not always’.

(17) Ex. XXIII, 26, but will not make any additions.

(18) II Kings XX, 6.

(19) Isa. VI. 5.

(20) Isa. VI, 2.

(21) In their prophetic visions they, like Isaiah, only imagined that they saw the deity. In reality they did not (v. Rashi).

(22) In his prophetic insight he knew that the deity could not be seen with mortal eye.

(23) Who may seek the Lord at stated periods only.

(24) Deut. IV, 7, implying ‘at all time’.

(25) V. Glos.

(26) Ex. XXIII, 26, but will not make any additions.

Talmud - Mas. Yevamoth 50a

refers to the years of the generations.[1] If one is worthy one is allowed to complete the full period; if unworthy. the number is reduced; so R. Akiba. But the Sages said: If one is worthy years are added to one's life;[2] if unworthy, the years of his life are reduced. They said to R. Akiba: Behold, Scripture says,[3] And I will add unto your days fifteen years![4] He replied: The addition was made of his own,[5] You may know [that this is so][6] since the prophet[7] stood up and prophesied: Behold, a son shall be born to the house of David, Josiah by name,[8] while Manasseh[9] had not yet been born.[10] And the Rabbis![11] — Is it written ‘from Hezekiah’? It is surely written, ‘To the house of David’;[8] he[12] might be born either from Hezekiah or from any other person.[13]

IF A MAN'S WIFE DIED etc. IF A MAN'S SISTER-IN-LAW DIED etc. R. Joseph said: Here Rabbi taught an unnecessary Mishnah.[14]

CHAPTER V

MISHNAH. R. GAMALIEL SAID: THERE IS NO [VALIDITY IN A] LETTER OF DIVORCE AFTER ANOTHER LETTER OF DIVORCE,[15] NOR IN A MA'AMAR AFTER ANOTHER MA'AMAR[16] NOR IN AN ACT OF COHABITATION AFTER ANOTHER ACT OF

COHABITATION,[17] NOR IN A HALIZAH AFTER ANOTHER HALIZAH.[18] THE SAGES, HOWEVER, SAID: A LETTER OF DIVORCE HAS VALIDITY AFTER ANOTHER LETTER OF DIVORCE,[19] AND A MA'AMAR AFTER ANOTHER MA'AMAR;[20] BUT THERE IS NO VALIDITY IN ANY ACT AFTER COHABITATION OR HALIZAH.[21]

HOW [IS THE RELEASE FROM THE LEVIRATE BOND[22] EFFECTED]? — IF A LEVIR ADDRESSED A MA'AMAR TO HIS SISTER-IN-LAW AND SUBSEQUENTLY GAVE HER A LETTER OF DIVORCE, IT IS NECESSARY FOR HER TO PERFORM THE HALIZAH WITH HIM.[23] IF HE ADDRESSED TO HER A MA'AMAR AND PARTICIPATED IN THE HALIZAH, IT IS NECESSARY FOR HER TO OBTAIN FROM HIM A LETTER OF DIVORCE.[24] IF HE ADDRESSED TO HER A MA'AMAR AND THEN COHABITED WITH HER, BEHOLD THIS IS IN ACCORDANCE WITH THE PRESCRIBED PRECEPT.[25]

IF THE LEVIR GAVE HER A LETTER OF DIVORCE AND THEN ADDRESSED TO HER A MA'AMAR, IT IS NECESSARY FOR HER TO OBTAIN [A SECOND] LETTER OF DIVORCE[26] AND TO PERFORM THE HALIZAH.[27] IF HE GAVE HER A LETTER OF DIVORCE AND THEN COHABITED WITH HER, IT IS NECESSARY FOR HER TO OBTAIN A LETTER OF DIVORCE AND TO PERFORM THE HALIZAH.[28] IF HE GAVE HER A LETTER OF DIVORCE AND THEN SUBMITTED TO HALIZAH, THERE IS NO VALIDITY IN ANY ACT[29] AFTER HALIZAH HAD BEEN PERFORMED.

IF THE LEVIR SUBMITTED TO HALIZAH AND THEN ADDRESSED TO HER A MA'AMAR, GAVE HER A LETTER OF DIVORCE, OR COHABITED WITH HER; OR IF HE COHABITED WITH HER AND THEN ADDRESSED TO HER A MA'AMAR, GAVE HER A LETTER OF DIVORCE, OR SUBMITTED TO HER HALIZAH, NO ACT IS VALID AFTER HALIZAH[30]

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(1) The span of life allotted to every human being at his birth.

(2) The meaning of fulfil is addition to the allotted span of life.

(3) II Kings XX, 6.

(4) Emphasis on add.

(5) Years which were originally allotted to him and then curtailed.

(6) That the years added were only those allotted to Hezekiah at his birth and reduced at his illness.

(7) In the days of Jeroboam, long before the birth of Hezekiah.

(8) I Kings XIII, 2.

(9) From whom Josiah descended.

(10) At the time of Hezekiah's illness. Manasseh, in fact, was born three years after his father's illness (v. II Kings XXI, 2); and since the birth of his sun Josiah was prophetically announced long before the birth of his father Hezekiah, it is obvious that the years allotted to Hezekiah at his birth extended beyond the year of his illness (to include the year of Manasseh's birth). Consequently, the original number must have been reduced at his illness; and, at his recovery, only that was added which was first reduced.

(11) How could they, in view of the argument advanced, maintain that view years were added to Hezekiah's life?

(12) Josiah.

(13) Of the house of David.

(14) Since the laws therein enumerated are self-evident. Lev. XVIII, 18, from where the prohibition of marrying the sister of one's wife originates, distinctly limits the prohibition to the wife's life-time: And thou shalt not take a woman to her sister . . . in her life-time. V. Rashi a.l. According to Tosaf (s.v. שנה a.l. q.v.) the unnecessary Mishnah is only that portion which relates to the sister-in-law whose case could be inferred from that of the wife a minori ad majus.

(15) Given in succession by one levir to two sisters-in-law, i.e., the widows of a deceased childless brother, or by two levirs to one sister-in-law. (The term sister-in-law used throughout this chapter is to be understood in the sense defined). The second divorce is invalid and the relatives of the second widow are, therefore, permitted to the levir, and so are the relatives of the one widow to the second levir. Whether the first divorce is valid or not, the second is at all events valueless. For if the first is valid the levirate bond with both the widows is thereby severed and the second widow (in the case of one levir) or the one widow (in the case of two Levirs) when receiving the second letter of divorce, is a complete stranger to the levir. If, on the other hand, the first divorce was invalid, the second also, for the same reason, is invalid.

(16) Addressed in succession (a) by one levir to two sisters-in-law or (b) by two levirs to one sister-in-law. The first ma'amar has satisfied all the requirements of the levirate obligations and, consequently, (a) the second widow, or (b) the one widow to whom the second ma'amar was addressed, requires no letter of divorce from (a) the one levir or (b) the second levir respectively. The second widow, moreover, does nor cause the prohibition to the levir of the first widow, and her relatives also are permitted to the levir as are those of the one widow to the second levir.

(17) The second act by the one levir with the second widow or by the second levir with the one widow respectively, is deemed to be one of mere adultery and has no matrimonial validity to cause the prohibition of her relatives to the levir.

(18) Cf. supra n. 2. The first halizah has finally severed the levirate bond between the levir or the levirs and the widow or the widows. The second halizah is, therefore, valueless.

(19) The relatives of the second widow are, therefore, forbidden to the levir (as relatives of his legal divorcee), and the relatives of the one widow are similarly forbidden to the second levir. The first letter of divorce, the Sages maintain, is only partially valid since halizah also is required. The levirate bond consequently is not thereby completely severed and the second divorce brings the widow under the category of a divorced woman. Cf supra 327 n. 1.

(20) The first ma'amar effected only partial matrimony and the levirate obligations were not fully satisfied before the consummation of the marriage took place. The second ma'amar, since it was made before consummation had taken place, is, therefore, valid.

(21) Either of these acts satisfies fully all the requirements of the levirate obligations. The former effected complete union; the latter final severance. No act in connection with the levirate obligations that follows either of these can, therefore, have any validity.

(22) Between one levir and one sister-in-law. This section has no reference to the dispute in the previous section. V. Gemara infra.

(23) But no levirate marriage may now he contracted. The ma'amar alone has not completely satisfied the requirements of the levirate obligations (cf. supra n. 1), hence the need for halizah. Since, however, a divorce had been given the levir had placed himself under the prohibition of Deut. XXV, 9 ‘That doth not build’: if he once refused to build he must never again build (v. supra 10b), hence the prohibition of the levirate marriage.

(24) To annul the ma'amar which, in some respects, has the force of a betrothal. The halizah alone is not enough since it only severs a levirate bond but does not annul a ma'amar.

(25) This is discussed in the Gemara infra.

(26) Even according to R. Gamaliel. The divorce is required to annul the ma'amar since it is possible that the first divorce was invalid and the ma'amar had, therefore, been valid. According to the Sages, who regard the divorce as partially valid, the ma'amar also is partially valid and a divorce is required to annul that part.

(27) In order to sever thereby the levirate bond. Levirate marriage, however, must not take place now after the delivery of the first letter of divorce (v. supra p. 325, n. 4 final clause).

(28) Levirate marriage is forbidden owing to the first divorce (v. supra p. 325, n. 4, final clause), a letter of divorce is required owing to the act of cohabitation, while halizah is necessary to sever the levirate bond.

(29) Whether it be the addressing of a ma'amar or cohabitation. The levirate bond has completely disappeared.

(30) Cf. supra n. 3. This refers to the cases where halizah was performed first. With reference to the last three cases, where cohabitation took place first, the expression should be ‘no act is valid after cohabitation’. V. Gemara infra.

Talmud - Mas. Yevamoth 50b

AND THE LAW IS THE SAME WHETHER THERE IS ONE SISTER-IN-LAW TO ONE LEVIR OR TWO SISTERS-IN-LAW TO ONE LEVIR.

HOW?[1] — IF THE LEVIR ADDRESSED A MA'AMAR TO THE ONE[2] AND A MA'AMAR TO THE OTHER,[2] TWO LETTERS OF DIVORCE[3] AND ONE HALIZAH[4] ARE REQUIRED.[5] IF HE ADDRESSED A MA'AMAR TO ONE AND GAVE A LETTER OF DIVORCE TO THE OTHER, [THE ONE] REQUIRES A LETTER OF DIVORCE[6] AND [THE OTHER MUST PERFORM] THE HALIZAH.[7] IF HE ADDRESSED A MA'AMAR TO ONE AND COHABITED WITH THE

OTHER, BOTH REQUIRE LETTERS OF DIVORCE[8] AND [ONE MUST PERFORM] THE HALIZAH.[9] IF HE ADDRESSED A MA'AMAR TO ONE AND SUBMITTED TO HALIZAH FROM THE OTHER, IT IS NECESSARY FOR THE FIRST TO OBTAIN A LETTER OF DIVORCE.[10]

IF THE LEVIR GAVE A LETTER OF DIVORCE TO ONE AS WELL AS TO THE OTHER, HALIZAH IS NECESSARY FOR BOTH.[11] IF HE GAVE A LETTER OF DIVORCE TO ONE AND COHABITED WITH THE OTHER, [THE SECOND] REQUIRES A LETTER OF DIVORCE[12] AND MUST ALSO PERFORM THE HALIZAH.[13] [IF HE GAVE] A LETTER OF DIVORCE TO ONE AND ADDRESSED A MA'AMAR TO THE OTHER, [THE SECOND] REQUIRES A LETTER OF DIVORCE AND [ONE OF THEM MUST PERFORM] THE HALIZAH. [IF HE GAVE] A LETTER OF DIVORCE TO ONE AND SUBMITTED TO HALIZAH FROM THE OTHER, THERE IS NO VALIDITY IN ANY ACT THAT FOLLOWS THE HALIZAH.[14]

IF THE LEVlr SUBMITTED TO HALIZAH FROM THE ONE AND FROM THE OTHER, OR SUBMITTED TO HALIZAH [FROM ONE] AND ADDRESSED [TO THE OTHER] A MA'AMAR, GAVE HER A LETTER OF DIVORCE, OR COHABITED WITH HER; OR IF HE COHABITED WITH THE ONE AND WITH THE OTHER, OR COHABITED [WITH THE ONE] AND ADDRESSED [TO THE OTHER] A MA'AMAR, GAVE HER A LETTER OF DIVORCE, OR SUBMITTED TO HER HALIZAH, NO ACT IS VALID AFTER THE HALIZAH.[15] [THERE IS NO DIFFERENCE IN THE LAW] WHETHER THERE WAS ONE LEVIR TO TWO SISTERS-IN-LAW OR TWO LEVIRS TO ONE SISTER-IN-LAW.[16]

[IF THE LEVIR][17] SUBMITTED TO HALIZAH AND THEN ADDRESSED TO HER[18] A MA'AMAR, GAVE HER A LETTER OF DIVORCE, OR COHABITED WITH HER; OR IF HE COHABITED WITH HER AND THEN ADDRESSED TO HER A MA'AMAR, GAVE HER A LETTER OF DIVORCE, OR SUBMITTED TO HALIZAH, NO ACT IS VALID AFTER THE HALIZAH, WHETHER [IT WAS PERFORMED] IN THE BEGINNING, IN THE MIDDLE,[19] OR AT THE END.[20] IN THE CASE OF COHABITATION, IF IT TOOK PLACE FIRST NO ACT THAT FOLLOWS IT HAS ANY VALIDITY; IF IT OCCURRED, HOWEVER, IN THE MIDDLE[21] OR AT THE END[22] SOMETHING VALID[23] STILL REMAINS.[24] R. NEHEMIAH SAID: WITH COHABITATION AS WITH HALIZAH, WHETHER IT TOOK PLACE IN THE BEGINNING, IN THE MIDDLE, OR AT THE END, THERE IS NO VALIDITY IN ANY ACT THAT FOLLOWS IT.[25]

GEMARA. Their difference[26] concerns only a letter of divorce after another letter of divorce and a ma'amar after another ma'amar, but one letter of divorce to one sister-in-law or one ma'amar to one sister-in-law is valid.[27]

Why did the Rabbis say that a letter of divorce to one sister-in-law is valid?[28] — Because it is also valid elsewhere.[29] For should you suggest that it is not valid,[30] it might be argued that since a letter of divorce serves to release a woman and halizah serves to release a woman, as the letter of divorce is of no effect,[31] so is the halizah also of no effect, and thus one would come to consummate marriage after halizah.[32]

And why did the Rabbis say that a ma'amar with one sister-in-law is valid?[33] — Because it is valid elsewhere.[34] For should you say that it is not valid,[35] it might be argued that since a ma'amar serves the purpose of acquisition[34] and cohabitation serves the purpose of acquisition,[36] as a ma'amar is of no effect,[37] so is cohabitation also of no effect[38] and one would thus consummate marriage[39] after an act of cohabitation.[40]

And why did the Rabbis say that after an invalid cohabitation something[41] lingers?[42] — It might be replied that if it is a cohabitation[43] after a letter of divorce,[44] a preventive measure was made[45] against cohabitation after halizah;[46] and if it is a cohabitation[43] after a ma'amar[44] a preventive measure had to be made[47] against cohabitation after cohabitation.[48]

And why did the Rabbis say that after the invalid halizah[49] nothing lingers?[50] — It may be replied: What kind of preventive measure could have been enacted! Should halizah after a letter of divorce be forbidden as a preventive measure against halizah after halizah?[51] Under such circumstances, surely, halizah might well be indefinitely continued![52] And should halizah after a ma'amar be forbidden as a preventive measure against halizah after cohabitation?[53] Surely [it may be replied] is not in the case of halizah after a ma'amar, a letter of divorce required in respect of one's ma'amar? So also in the case of halizah after cohabitation, a letter of divorce is required in respect of one's cohabitation.[54]

Raba said:

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(1) How are the obligations of the levirate carried out where there is one levir and two sisters-in-law?

(2) Sister-in-law.

(3) One for each woman, in accordance with the view of the Sages in our Mishnah that a ma'amar after a ma'amar is valid.

(4) With either. The halizah with one exempts her rival.

(5) Levirate marriage, however, is now forbidden since one must not build two houses'. V. supra.

(6) Marriage with her must not be consummated on account of the divorce of the second; hence the necessity for a divorce to annul the ma'amar which the halizah cannot do.

(7) To sever thereby the levirate bond which a letter of divorce cannot do.

(8) On account of the ma'amar and the cohabitation respectively. The second widow may not be retained in matrimony owing to the bond of the ma'amar with the first.

(9) The other becoming thereby exempt from the levirate obligations. The divorce alone does not set the second free because the cohabitation with her was not the performance of a legal commandment but an unlawful act.

(10) The halizah of this second cannot annul the force of the ma'amar of the first.

(11) The halizah is performed by one who thereby exempts the other. V. Gemara infra.

(12) She is forbidden to the levir on account of the divorce of the first.

(13) Divorce alone is not enough since the cohabitation was unlawful (cf. supra note 3).

(14) The halizah of the second sets both widows free; and the divorce of the first is of no consequence.

(15) Cf p. 329, n. 4. The relatives of the second widow are permitted to him as if he had not acted at all after the first halizah.

(16) And the two levirs performed the above mentioned acts with the same widow.

(17) Where there was only one levir and one sister-in-law.

(18) The same sister-an-law.

(19) Between a ma'amar and a divorce. If, e.g., he gave a letter of divorce to one, submitted to halizah from the other and then addressed a ma'amar to one of them.

(20) After a ma'amar and a divorce. The halizah is invariably valid, and any ma'amar addressed subsequently has no validity at all, and the widow requires no divorce.

(21) If. e.g.. he divorced one, cohabited with the other and addressed a ma'amar to a third, in which case the cohabitation, owing to the previous divorce, was unlawful.

(22) If he divorced one, addressed a ma'amar to the other, and then cohabited with one of them. V. supra n. 7.

(23) Of the levirate bond.

(24) Hence, in the first case (v. supra n. 7), the relatives of the last widow are forbidden to him, and in the second case (v. supra n. 8), halizah is required, since the levirate bond cannot be severed by a letter of divorce.

(25) After cohabitation a letter of divorce without halizah is enough, and betrothal of the other after cohabitation with the first is invalid.

(26) That of R. Gamaliel and the Sages in our Mishnah.

(27) The divorce prevents subsequent levirate marriage under the prohibition of ‘that doth not build’ etc. (v. supra p. 328, n. 4, second clause); and the ma'amar prevents the levirate marriage of a rival under the injunction, ‘a levir may build one house but not two houses’, and necessitates also a letter of divorce should it be desired to cancel the ma'amar.
(28) In the Pentateuch, surely, only halizah was prescribed and the prohibition under ‘that doth not build’ should apply to the prescribed ceremony only!
(29) In the release of all married women.
(30) And that the levir may marry the widow even after he gave her a letter of divorce.
(31) v. supra n. 4.
(32) And thus infringe a Pentateuchal prohibition.
(33) Forbidding levirate marriage with her rival. Since, according to the Pentateuch, acquisition of the sister-in-law is effected by the consummation of the levirate marriage, that consummation only should have had the force of forbidding marriage with the rival.
(34) The usual betrothal between man and woman, which is as binding as the consummation of marriage.
(35) And that after a ma'amar had been addressed to a sister-in-law her rival may be married.
(36) Cf. supra n. 7.
(37) Without subsequent cohabitation.
(38) Unless there was also a ma'amar.
(39) With a rival.
(40) With one of the widows. Such a marriage. however, would infringe (v. supra note 1) a Pentateuchal prohibition.
(41) Of the levirate bond.
(42) Halizah being required in the case of the second widow in addition to the letter of divorce. V. supra p. 330, nn. 6 and 7.
(43) With one sister-in-law.
(44) To the other.
(45) V. p. 332. n. 16.
(46) Were a letter of divorce alone, without halizah, permitted, it might have been assumed that as unlawful cohabitation is so effective it might also be effective enough to annul a previous halizah.
(47) Cf. p. 332, n. 26, and p. 330, nn. 2 and 3.
(48) It might have been assumed that as unlawful cohabitation has the force of validity even after a ma'amar which is a legal kinyan, it has also the same force after a kinyan that had been effected through lawful cohabitation. Acting on this argument one would infringe the prohibition of marriage with one's brother's wife.
(49) Performed after a divorce or a ma'amar.
(50) Should the levir subsequent to such a halizah address a ma'amar or give a letter of divorce to a third sister-in-law his act would have no validity whatsoever.
(51) So that a levir does not submit to the halizah of two sisters-in-law in succession, and two levirs do not submit in succession to the halizah of one sister-in-law.
(52) And none will be the worse for it.
(53) That it be not assumed that halizah without a letter of divorce is sufficient after an act of cohabitation.
(54) The implication of ‘nothing lingers after an unlawful halizah’ is the invalidity of all subsequent acts. Any previous act such as ma'amar or cohabitation is valid, and a letter of divorce to annul it is certainly required.

Talmud - Mas. Yevamoth 51a

What is R. Gamaliel's reason?[1] — Because he was in doubt whether a letter of divorce does, or does not set aside [the levirate bond, and whether] a ma'amar does, or does not effect a kinyan.[2] ‘ Whether a letter of divorce does, or does not set aside the levirate bond’: If the first[3] does set aside [the levirate bond], what purpose could the latter serve?[4] If the first[3] does not set aside [the levirate bond] , the latter also does not set it aside. ‘Whether a ma'amar does, or does not effect a kinyan’: if the first[5] does effect a kinyan, what purpose could the latter serve?[4] And if the first[5] effects no kinyan, the latter also does not.

Abaye raised the following objection against him: R. Gamaliel, however, admits that ‘there is [validity in] a letter of divorce after a ma'amar,[6] in a ma'amar after a letter of divorce,[7] in a letter of divorce after cohabitation and a ma'amar,[8] and in a ma'amar after cohabitation and a letter of divorce'.[9] Now, if R. Gamaliel was in doubt,[10] the cohabitation[11] should be regarded as if it had taken place at the beginning,[12] and thus constitute a kinyan; for surely we have learnt, IN THE CASE OF COHABITATION, IF IT TOOK PLACE FIRST, NO ACT THAT FOLLOWS IT HAS ANY VALIDITY!

But, said Abaye, though obvious to R. Gamaliel that a letter of divorce does set aside the levirate bond and that a ma'amar does effect a kinyan,[13] the Rabbis have nevertheless ruled that with the sister-in-law a letter of divorce is partially valid and a ma'amar is partially valid. Consequently, a letter of divorce after another letter of divorce does not set aside the levirate bond since this[14] was already set aside by the first,[15] and a ma'amar after a ma'amar does not constitute a kinyan since this kinyan[16] has already been constituted by the first;[15] with a letter of divorce after a ma'amar, and a ma'amar after a letter of divorce, however, the one act[17] sets aside[18] while the other[19] effects a kinyan.[20] (And the Rabbis?[21] — [They hold that] the Rabbis have instituted for every levir a letter of divorce and a ma'amar in respect of every sister-in-law.)[22]

But as to an invalid cohabitation[23] [according to R. Gamaliel][24] it is [in one respect] of superior force to a ma'amar and [in another respect] of inferior force to a ma'amar. It is superior to a ma'amar, since whereas a ma'amar after another ma'amar is not effective,[25] an act of cohabitation after a ma'amar is effective.[26] It is inferior to a ma'amar, for whereas a ma'amar after a letter of divorce constitutes a kinyan of all that the letter of divorce has left,[27] cohabitation after a letter of divorce does not constitute a kinyan of all that the divorce has left.[28]

Our Rabbis taught; How [are we to understand] R. Gamaliel's statement that there is [no validity in] a letter of divorce after another letter of divorce? If two sisters-in-law have fallen to the lot of one levir, and he gave a letter of divorce to one as well as to the other, he submits, in accordance with R. Gamaliel's statement, to halizah from the first,[29] and is forbidden to marry her relatives,[30] though the relatives of the second one are permitted to him.[31] But the Sages said: If he gave a letter of divorce to one and to the other, he is forbidden to marry the relatives of both[32] and he submits to halizah from either of them. And the same law applies where there are two Ievirs[33] and one sister-in-law.

What did R. Gamaliel mean by his statement that[34] there is no [validity in] a ma'amar after another ma'amar'? If two sisters-in-law have fallen to the lot of one levir, and he addressed a ma'amar to the one as well as to the other, he gives, according to R. Gamaliel, a letter of divorce to the first, submits also to her halizah, and is in consequence forbidden to marry her relatives,[35] though the relatives of the second are permitted to him.[36] The Sages, however, said: He gives letters of divorce to both, and the relatives of both are forbidden to him,[32] while he submits to halizah from one of them. And the same law is to be applied where there are two levirs and one sister-in-law.[37]

The Master said, 'If he gave[38] a letter of divorce to one as well as to the other, he submits, according to R. Gamaliel's statement, to halizah from the first and is forbidden to marry her relatives, though the relatives of the second are permitted to him'. Must this be assumed to present an objection against a ruling of Samuel, since Samuel stated, 'If he submitted to halizah from the one[39] who had been divorced,[40] her rival[41] is not thereby exempt'![42] — Samuel can answer you: What I said was in agreement with him who maintains that a levirate bond exists,[43] while R. Gamaliel holds the opinion that no levirate bond exists.[44]

Since R. Gamaliel, however, is of the opinion that no levirate bond exists,

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(1) In our Mishnah, v. supra p. 327, nn. 1 and 2.

(2) To constitute a legal marriage.

(3) Letter of divorce.

(4) Obviously none. Consequently it is valueless.

(5) Ma'amar.

(6) If the ma'amar was addressed to one of the widows and the letter of divorce was subsequently given to the other, the first also is forbidden levirate marriage, while the relatives of both are forbidden to the levir.

(7) If a letter of divorce was given to one of the widows first, and a ma'amar was subsequently addressed to the second, a letter of divorce must also be given to the second in order to annul thereby the force of the ma'amar.

(8) Which was addressed to one of the widows prior to the cohabitation with the second that preceded the letter of divorce to the third. The validity of the letter of divorce causes the prohibition to the levir of the relatives of the third widow.

(9) Given to one of the widows prior to the cohabitation with the second that preceded the ma'amar addressed to the third. The ma'amar constitutes a kinyan, and the relatives of the third widow are forbidden to the levir, while she herself can be released by a letter of divorce only.

(10) As to the validity of a letter of divorce and a ma'amar given or addressed respectively to a sister-in-law.

(11) Which took place between the other two acts.

(12) And the act that follows it, whether it be the delivery of a letter of divorce or the addressing of a ma'amar, should in any case be invalid: In the case of a ma'amar, cohabitation, and divorce, if the ma'amar with the first was valid and effected kinyan, the cohabitation with the second was obviously invalid and much more so the letter of divorce that was given to the third. If, on the other hand, the ma'amar to the first was invalid, the cohabitation with the second widow that followed was obviously valid and there could consequently be no validity in the letter of divorce that was subsequently given to the third. Similarly in the case of divorce, cohabitation and ma'amar, if the letter of divorce given to the first widow was valid the cohabitation that followed had no validity and much more so the ma'amar that came last. If, on the other hand, the letter of divorce given to the first widow was invalid, the cohabitation with the second widow that followed was obviously valid and consequently there could be no validity in the ma'amar that was subsequently addressed to the third widow. In both cases, then, cohabitation which took place between the other two acts should be as valid as if it had taken place at the beginning.

(13) Cohabitation, therefore, that follows either of these acts cannot have the same force as cohabitation that takes place first.

(14) Whatever part of the levirate bond a divorce can set aside.

(15) And the second can add nothing to it.

(16) As far as a ma'amar has the force of constituting it.

(17) The divorce.

(18) Partially.

(19) The ma'amar.

(20) V. supra n. 4. In the case of a divorce after a ma'amar, that part of the levirate bond with the first widow which the ma'amar did not effect is set aside by the letter of divorce that was given to the second. Similarly, where there are two levirs and one widow, whatever was not covered by the kinyan of the ma'amar of the first levir is set aside by the letter of divorce of the second. So also in the case of a ma'amar after a letter of divorce, whatever part of the levirate bond remained after the letter of divorce had been given to the first widow (or to one widow by the first levir) is brought under the kinyan constituted by the ma'amar that has been addressed to the second widow (or to the one widow by the second levir).

(21) The Sages in our Mishnah. How, in view of what has just been explained — can they maintain that A LETTER OF DIVORCE HAS VALIDITY AFTER ANOTHER LETTER OF DIVORCE, AND A MA'AMAR AFTER ANOTHER MA'AMAR?

(22) The divorce or ma'amar of one levir does not in any way affect the validity of that of any other levir, nor does any of these acts, performed by a levir in respect of one sister-in-law, affect his performance of these acts in respect of another sister-in-law. The divorce or ma'amar in respect of the first sister-in-law does not, therefore, affect that of the second, and the performance of the same acts by the first levir in respect of one sister-in-law does not invalidate the performance of these acts in respect of the same sister-in-law by the other levir. Hence the opinion of the Rabbis in our Mishnah.

(23) That which was preceded by divorce or ma'amar.

(24) Who stated that a letter of divorce following a cohabitation which followed a ma'amar, and a ma'amar following a cohabitation which followed a letter of divorce are valid.

(25) As has been stated supra.

(26) As may be inferred from the ruling concerning ‘a letter of divorce after cohabitation and a ma'amar’, which implies that cohabitation after a ma'amar is valid (Rashi). Cf. Tosaf. s.v. עדיפא, and תוספות ישנים a.l.

(27) For should a ma'amar, subsequent to the first, be addressed to a third widow it would be altogether invalid, R. Gamaliel invariably admitting no ma'amar after another ma'amar whether the first one was, or was not preceded by a letter of divorce.

(28) A ma'amar being valid even if it was addressed after an act of cohabitation that followed a letter of divorce.

(29) Though he could certainly submit to halizah from the second, the letter of divorce to whom is invalid, and thereby exempt the first also. He is advised, however, to submit to halizah from the first because by so doing he averts the prohibition to him of the second widow's relatives who, had he submitted to her halizah, would have become forbidden to him as the ‘relatives of his haluzah’. The prohibition to him of the relatives of the first as ‘relatives of his haluzah’ is of no practical consequence since they are already, owing to the divorce he had given her forbidden to him as the ‘relatives of his divorcee.

(30) They being the relatives of both his divorcee and his haluzah. Cf. supra p. 336, n. 7.

(31) Because she is neither his haluzah nor his divorcee, the halizah not having been performed by her and the letter of divorce that was given to her being invalid.

(32) Both divorces being valid.

(33) And each of them gave a letter of divorce to the one sister-in-law. According to R. Gamaliel, halizah is performed with the first levir and the second levir is permitted to marry her relatives; while according to the Rabbis her relatives are forbidden to both levirs and the halizah is performed with either of them.

(34) Lit., ‘how’.

(35) As the ‘relatives of his haluzah’.

(36) Since she is neither his wife nor his haluzah nor his divorcee.

(37) Cf. supra n. 4.

(38) The Heb. uses here the present participle instead of the perfect used supra in the original.

(39) Of two sisters-in-law, the widows of his deceased childless brother.

(40) By him, prior to the performance of the halizah.

(41) Who had not been divorced and whose levirate bond has consequently still its full force.

(42) Supra 27a. A halizah performed by one whose levirate bond had been weakened by divorce cannot sever the levirate bond of the other which had never been weakened by divorce and had retained therefore its full force (v. supra n. 2). This is contradictory to R. Gamaliel's view according to which the halizah of the first, though it followed her divorce which had weakened her levirate bond, is effective enough to exempt her rival whose levirate bond retained its full force, since her divorce was invalid and might be regarded as never having taken place.

(43) Between the levir and the sister-in-law. This levirate bond can only be severed by a halizah which is free from all objection.

(44) v. infra 109a. Hence, even a halizah which is not free from objection is effective enough to sever it.

Talmud - Mas. Yevamoth 51b

the Rabbis are presumably of the opinion that a]levirate bond does exist,[1] and yet it was stated in the final clause, ‘And the same law applies where there are two levirs and one sister-in-law’![2] Must it then be said that this represents an objection to a statement made by Rabbah son of R. Huna in the name of Rab? For Rabbah son of R. Huna stated in the name of Rab: A halizah of an impaired character must go the round of all the brothers![3] — Rabbah son of R. Huna can answer you: Both according to the view of R. Gamaliel and that of the Rabbis no levirate bond exists,[4] and their difference here extends only to the question of a divorce that followed another divorce and a ma'amar that followed another ma'amar.

The Master said, ‘If he addressed a ma'amar to the one as well as to the other, he gives, according to R. Gamaliel, a letter of divorce to the first, submits also to her halizah, and is in consequence forbidden to marry her relatives, though the relatives of the second are permitted to him’. Now, consider! Since R. Gamaliel holds that there is no [validity in a] ma'amar that follows another ma'amar, the first [sister-in-law] should even be permitted to contract the levirate marriage![5] — A preventive ordinance had to be made[6] against the possibility of the levir's marrying the second.

R. Johanan said: R. Gamaliel, Beth Shammai, R. Simeon b. ‘Azzai and R. Nehemiah are all of the opinion that a ma'amar constitutes a [fairly][7] perfect kinyan:[8]

As to R. Gamaliel, there is the statement already mentioned.[9]

Beth Shammai? — For we learned: If two of three brothers were married to two sisters and the third was unmarried, and when one of the sisters’ husbands died, the unmarried brother addressed to her a ma'amar and then his second brother died, Beth Shammai say: His wife[10] [remains] with him[11] while the other is exempt[12] as being his wife's sister.[13] cannot have any validity[14] if, however, the cohabitation of the first has no validity, then that of the second also has no validity.[15] Now, the cohabitation of one who is nine years of age has been given by the Rabbis[15] the same force as that of a ma'amar[16] and yet R. Simeon stated that such cohabitation[17] has no validity.[18]

Ben ‘Azzai? — For it was taught: Ben ‘Azzai stated, ‘A ma'amar is valid after another ma'amar where it concerns two levirs[19] and one sister-in-law,[20] but no ma'amar is valid after a ma'amar where it concerns two sisters-in-law and one levir’.[21]

R. Nehemiah? — For we learned, R. NEHEMIAH SAID: WITH COHABITATION AS WITH HALIZAH WHETHER IT TOOK PLACE AT THE BEGINNING, IN THE MIDDLE, OR AT THE END, THERE IS NO VALIDITY IN ANY ACT THAT FOLLOWS IT. Now, an invalid cohabitation has been given by the Rabbis the same force as a ma'amar,[22] and yet it was stated, THERE IS NO VALIDITY IN ANY ACT THAT FOLLOWS IT.[23]

HOW . . . IF A LEVIR ADDRESSED A MA'AMAR etc.

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(1) It is now assumed that, as the Rabbis disagreed with R. Gamaliel on the question of a divorce that followed another divorce, they disagreed also on that of the levirate bond.

(2) According to which the Rabbis maintain that either levir may submit to the halizah (v. supra p. 337, n. 4) and the performance of this impaired halizah exempts the other brother,

(3) V. supra 26b. The performance of it by one brother does not exempt any of the others!

(4) While Rabbah son of R. Huna himself does not follow this view but that of the authority who maintains that a levirate bond does exist.

(5) Since the ma'amar to the second had no validity at all.

(6) That levirate marriage shall not be contracted with the first.

(7) V. Rashi, a.l.

(8) I.e., it is regarded as a perfect kinyan in some, though not in all respects. Cf. Tosaf. s.v. דתניא supra 19a.

(9) Supra, that a ma'amar is invalid after another ma'amar, because the first had already constituted an kinyan.

(10) I.e., the widow to whom he had addressed the ma'amar.

(11) Because the ma'amar he had addressed to her constituted a kinyan and she is regarded as his wife. Her sister, when she subsequently became subject to the levirate marriage through the death of her husband, could no more be married to him since at that time she was already ‘his wife's sister’.

(12) Even from halizah.

(13) ‘Ed. IV, 9, supra 29a. (10) Of two young levirs of the ages of nine years and one day. According to the Rabbis, if two levirs of such an age cohabited successively with their sister-in-law, the widow of their deceased brother, their acts have the same force as that of a ma'amar that followed a ma'amar. As with a ma'amar the second has also the validity of a betrothal and causes the prohibition of the sister-in-law to the first, so with cohabitation, the act of the second levir causes the sister-in-law to be forbidden to the first levir also. R. Simeon, however, regards the first act only as a valid kinyan. The other consequently is invalid. V. infra 96b. (11) Effecting a kinyan.

(14) The kinyan of the first would not admit it.
(15) Infra 96b.
(16) V. supra p. 339, n. 10.
(17) By the second levir.
(18) Obviously because the kinyan had been effected by the cohabitation of the first. Thus it follows that a ma'amar also (cohabitation and ma'amar having equal validity) effects kinyan.
(19) Each one of whom had addressed to the widow only one ma'amar.
(20) Since each levir is entitled to a ma'amar. V. supra 51a.
(21) The second ma'amar has no validity, because by the first ma'amar the levir had already effected the k,in;/an of the sister-in-law to whom he had addressed it.
(22) Since in both cases, divorce alone is not enough to sever the levirate bond, halizah also being required.
(23) Obviously because the cohabitation like a ma'amar had constituted a kinyan.

Talmud - Mas. Yevamoth 52a

Is this an illustration of a letter of divorce after a letter of divorce?[1] Rab Judah replied it is this that was meant: [The illustration of] A LETTER OF DIVORCE AFTER ANOTHER LETTER OF DIVORCE and OF A MA'AMAR AFTER AN OTHER MA'AMAR is as stated;[2] but[3] HOW IS THE RELEASE [FROM THE LEVIRATE BOND EFFECTED] where there is one levir and one sister-in-law? — IF A LEVIR ADDRESSED A MA'AMAR TO HIS SISTER-IN-LAW AND SUBSEQUENTLY GAVE HER A LETTER OF DIVORCE, IT IS NECESSARY FOR HER TO PERFORM THE HALIZAH WITH HIM.[4]

IF HE ADDRESSED TO HER A MA'AMAR AND THEN COHABITED WITH HER, BEHOLD THIS IS IN ACCORDANCE WITH THE PRESCRIBED PRECEPT. Might it be suggested that this provides support for R. Huna? For R. Huna stated: The precept of marriage with a sister-in-law is properly performed when the levir first betroths, and then cohabits with her.[5] — One might read,[6] THIS IS also IN ACCORDANCE WITH THE PRESCRIBED PRECEPT. Is not this obvious? — It might have been presumed that since a Master stated, ‘If the levir addressed a ma'amar to his sister-in-law, the levirate bond disappears, and he comes under the bond of betrothal and marriage’,[7] he[8] is not performing the commandment,[9] hence we were taught [that he does].

[To turn to] the main text. ‘R. Huna said: The precept of marriage with a sister-in-law is properly performed when the levir first betroths and then cohabits with her. If he cohabited with her, and then addressed to her a ma'amar a kinyan is nevertheless constituted.’ ‘If he cohabited with her and then addressed to her a ma'amar is so obvious,[10] since he had acquired her by the cohabitation![11] — Read, rather, ‘If he cohabited with her without previously addressing to her a ma'amar a kinyan is nevertheless constituted’. But was it not taught that the penalty of flogging[12] is inflicted upon him?[13] — Chastisement[14] was meant, which is a Rabbinical penalty.[15] For Rab ordered the chastisement[16] of any person who betrothed by cohabitation,[17] who betrothed in the open street,[18] or who betrothed without previous negotiation;[19] who annulled a letter of divorce,[20] or who made a declaration against a letter of divorce;[21] who was insolent[22] towards the representative of the Rabbis,[23] or who allowed a Rabbinical ban upon him to remain for thirty days and did not come to the Beth din to request the removal of that ban; and of a son-in-law who lives in his father-in-law's house. [You say,] only if he lives,[24] but not if he only passes by? Surely, a man once passed by the door of his father-in-law's house, and R. Shesheth ordered his chastisement! — That man was suspected of immoral relations with his mother-in-law. The Nehardeans stated: Rab ordered the chastisement of none of these[25] except him who betrothed by cohabitation without preliminary negotiation. Others say: Even with preliminary negotiation; because [such a practice is sheer] licentiousness. Our Rabbis taught: How is betrothal effected with a ma'amar? — If he gave her[26] some money or anything of value.[27] And how is it effected by a deed? — ‘How is it effected by a deed’? Surely as has been stated:[28] If he wrote for her on a piece of paper or on a sherd, although it was not worth even a perutah,[29] ‘Behold thou art be trothed unto me'![30] Abaye replied, It is this that was meant: How is the deed of the kethubah[31] in a levirate marriage [to be drawn up]? He writes for her. 'I, So-and-so, son of So-and-so, undertake to feed and maintain in a suitable manner my sister-in-law So-and-so, provided that her kethubah remains a charge upon the estate of her first husband'.[32] If, however, she is unable to obtain it from her first husband, provision was made by the Rabbis [that she is to receive it] from the second,[33] in order that it may not be easy for him to divorce her.[34]

Abaye enquired of Rabbah: What is the law if he gave her[35] a letter of divorce and said, 'Behold thou art divorced from me, but thou art not permitted to any other man'?[36] The divorce of a sister-in-law being Rabbinically valid, [shall I say that] only a divorce which is valid in the case of a married woman is valid in the case of a sister-in-law, but a divorce which is invalid in the case of a married woman is also invalid in the case of a sister-in-law,[37] or [had provision to be made here[38] against] the possibility of mistaking it for an unqualified divorce?[39] — The other replied: Provision has to be made against the possibility of mistaking it for an unqualified divorce.[34] Rabbah b. Hanan demurred: Now then,[40] had he given her a mere scrap of paper would he also have disqualified her?[41] The other replied: There [the scrap of paper] does not cause the woman to be unfit for a priest;[42] here, however, [the qualified divorce] does cause the woman to become unfit for a priest[43] , for it was taught, Neither shall they take a woman put away from her husband,[44] even if she was only divorced from her husband[45] they may not take her,[46] and that is what was meant by the 'scent of the divorce' that causes a woman's unfitness for a priest.[47]

Rami b. Hama said: It has been definitely[48] stated that if a man said to a scribe , 'Write a letter of divorce for my betrothed so that when I have married her I may divorce her' the letter of divorce is valid,[49] because it was in his power[50] to divorce her;[51]

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(1) The Sages speak of a letter of divorce another letter of divorce, while the illustration which follows describes a ma'amar that was followed by a letter of divorce!

(2) In the Baraitha supra 51a, 'Our Rabbis taught: How . . . R. Gamaliel's statement etc.' The Mishnah, however, provides no explanation of illustration of these cases, and proceeds to another point.

(3) This is the meaning of what follows.

(4) V. supra p. 325, n. 4.

(5) And ma'amar and betrothal are essentially the same form of kinyan

(6) In our Mishnah.

(7) Supra 29b. It will be noted that the text there slightly differs from the text here.

(8) Because of the ma'amar he had addressed.

(9) Of the levirate marriage, even though cohabitation had taken place subsequently.

(10) That a kinyan had been effected.

(11) What need then was there to state the obvious?

(12) Malkoth (v. Glos.) inflicted for the transgression of Pentateuchal negative precepts.

(13) For the omission of the ma'amar, prior to his cohabitation, A ma'amar is consequently (v. supra n. 9) a Pentateuchal requirement. How, then, could it be said that a kinyan may be constituted though the ma'amar had been omitted!

(14) Makkath marduth, v. Glos.

(15) For offences that are not Pentateuchal.

(16) Makkath marduth, v. Glos.

(17) Regarding such a practice as immoral.

(18) V. supra note 3, even if in a legal manner,

(19) Regarding such a practice as immoral.

(20) Such an act might lead a divorced woman, who was unaware of the annulment, to an illegal marriage.

(21) That it was invalid. If he stated, e.g., that he gave it under compulsion.

(22) Cf. Rashi a.l. Or, 'who offends'. V. Tosaf. s.v. דמתפקר a.l.

(23) A messenger (a) of the Beth din (Rashi); (b) of any Rabbi (Tosaf.).

(24) At his father-in-law's.

(25) Cases, enumerated supra.
(26) The levir to the sister-in-law.
(27) And addressed to her the ma'amar in the prescribed form: ‘Be thou betrothed unto me by this levirate ma'amar. Though betrothal with money in the case of an ordinary union constitutes perfect kinyan, in the case of betrothal by a levir (to whom a sister-in-law is ordinarily forbidden, and betrothal with whom is consequently invalid) betrothal alone, even when it concerns a levirate union, is not sufficient to constitute a kinyan until consummation of the marriage has taken place.
(28) In the case of any other betrothal that is effected by means of a deed.
(29) V. Glos.
(30) Kid. 9a. As betrothal by money in the case of a levirate union takes the same form as that of an ordinary betrothal so should betrothal by deed!
(31) By ‘deed’ the kethubah (v. Glos.) was meant and not the ‘deed of the ma'amar’.
(32) The deceased brother (supra 38a) because ‘a wife has been given to him from heaven’ (v. supra 39a and notes).
(33) The levir who married her.
(34) Cf. supra 39a.
(35) The levir to the sister-in-law.
(36) Does such a qualified divorce effect the prohibition of the widow to the levir and to his brother as if an unqualified divorce had been given to her? In the case of a married woman no divorce can release her unless it was free from all qualifying conditions.
(37) Hence there is no validity in this divorce, and the sister-in-law remains permitted to the levirs as if no divorce had ever been given.
(38) That the divorce is valid despite its qualification (v. supra n. 7).
(39) Were the widow to be permitted to the levir after a qualified divorce she might erroneously be permitted even after an unqualified, and valid, divorce.
(40) If provision has to be made against mistaking a valid, for an invalid document.
(41) From subsequently marrying the levir.
(42) Having no validity whatsoever it could never be mistaken for a proper divorce.
(43) A priest causes his wife to be forbidden to him even if the divorce he gave her was only a qualified one.
(44) Lev. XXI, 7.
(45) I.e., if she was given a qualified divorce which does not set her free to marry any other man.
(46) Since such a divorce has the validity of causing the woman's prohibition to her husband who is a priest it might easily be mistaken for a valid divorce. Hence the provision mentioned.
(47) Git. 82b, infra 94a.
(48) Lit., ‘behold’.
(49) If he gave it to her after marriage.
(50) At the time the letter of divorce was written.
(51) As his betrothed.

Talmud - Mas. Yevamoth 52b

if[1] for any other woman, the letter of divorce has no validity,[2] because it was not in his power to divorce her.[3] Rami b. Hama inquired, however, what is the law if[4] for one's sister-in-law?[5] Is she, because she is bound to him,[6] regarded as his betrothed[7] or perhaps, since he addressed no ma'amar to her, she is not so regarded. This is undecided.[8]

R. Hanania inquired: What is the law if he[9] wrote a letter of divorce in respect of his levirate bond but not in respect of his ma'amar, or in respect of his ma'amar and not in respect of his levirate bond?[10] Is the ma'amar imposed upon the levirate bond,[11] so that the levir's action[12] is like that of divorcing half a woman,[13] and when a man divorces half a woman his action, surely, has no validity at all; or do they remain independent of one another?[14] — Might not this enquiry be solved by reference to Raba's ruling? For Raba ruled: If he[15] gave her a letter of divorce in respect of his ma'amar, her rival[16] is permitted![17] — This was obvious to Raba; to R. Hanania, however, it was a matter of doubt. What, then, is the decision? — This remains undecided.[18]

IF THE LEVIR SUBMITTED TO HALIZAH AND THEN ADDRESSED TO HER A MA'AMAR. Rab Judah said in the name of Rab: This[19] is the view of R. Akiba who holds that betrothal with those whose intercourse involves the penalties of a negative precept is of no validity; the Sages, however, maintain that there is some validity in acts after halizah. But how can you ascribe it[20] to R. Akiba? In the first section, surely, it was stated, IF THE LEVIR GAVE HER A LETTER OF DIVORCE AND THEN ADDRESSED TO HER A MA'AMAR, IT IS NECESSARY FOR HER TO OBTAIN [A SECOND] LETTER OF DIVORCE AND TO PERFORM THE HALIZAH, while if [this Mishnah represented the view of] R. Akiba would a ma'amar to her be valid after a letter of divorce had already been given to her? Surely it was taught: R. Akiba said, ‘Whence is it deduced that if a man gives a letter of divorce to his sister-in-law she is thereby forbidden to him for ever? Because it was stated Her former husband, who sent her away, may not [take her again to be his wife],[21] [i.e., immediately] after sending her away’![22] R. Ashi replied: A divorce given by levirs is only Rabbinically valid,[23] and the Scriptural text is a mere prop.[24] Likewise it was also taught: Rabbi said, this statement[25] was made only in accordance with the view of R. Akiba who treated a haluzah as a forbidden relative;[26] the Sages, however, maintain that there is some validity in acts after halizah; and I say, ‘When [is betrothal after halizah valid]? Only when he betrothed her as in ordinary matrimony,[27] but if he betrothed her for levirate union,[28] there is no validity in any such act after the halizah.[29] It was taught elsewhere: If a man submitted to halizah from his sister-in-law and then betrothed her, Rabbi said, ‘If he betrothed her as in ordinary matrimony it is necessary for her to obtain from him a letter of divorce, but if as for a levirate union there is no need for her to obtain from him a letter of divorce’. The Sages, however, said: ‘Whether he betrothed her as in ordinary matrimony or as for the levirate union it is necessary for her to obtain from him a letter of divorce’.

Said R. Joseph: What is Rabbi's reason?[30] — It was given the same legal force as that of the action of a person digging in the estate of a proselyte[31] believing it to be his own,[32] which constitutes no kinyan.[33] Said Abaye to him:[34] Are the two cases alike? There[35] he[36] had no intention at all of acquiring possession,[37] but here[38] his intention, surely, was to acquire possession![39] This, indeed, could only be compared to the case of a person who digs in the estate of one proselyte and believes it to be that of another, where he does acquire possession![40] No, explained Abaye, here we are dealing with a case where the levir said to her, ‘Be thou betrothed to me by the ma'amar of the levirate union’. Rabbi is of the opinion that the ma'amar can only be imposed upon the levirate bond,[41] but here[42] the halizah had already previously removed the levirate bond.[43] The Rabbis, however, are of the opinion that the one is independent of the other.[44] If, then, the levir had said to her at first,[45] ‘Be thou betrothed unto me by this ma'amar of the levirate union’, would not his kinyan have been valid?[46] Consequently it is now also valid.

Raba said: Had he said to her,[47] ‘By the ma'amar of the levirate union’, there would be no disagreement [among the authorities] that it is valid; but here[48] we are dealing with a case where the levir said, ‘Be thou betrothed unto me by the bond of the levirate’. Rabbi is of the opinion

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(1) The scribe was asked to write the letter of divorce.

(2) Even if it was given to the woman after he had married her.

(3) Since at that time she was to him a complete stranger.

(4) The scribe was asked to wrote the letter of divorce.

(5) The letter of divorce having been written before the levirate marriage, and delivered to the widow after it had taken place.

(6) By the levirate bond.

(7) And the divorce is consequently valid.

(8) Teku, v. Glos.

(9) A levir after he addressed a ma'amar to his sister-in-law.

(10) Is she thereby forbidden to him as if a valid divorce had been given to her?

(11) And becomes united with, and inseparable from it.

(12) In severing the bond or annulling the ma'amar.

(13) Since the divorce in respect of his one connection with the woman has no validity in respect of his other connection which forms together with the first one complete whole.

(14) Lit., ‘that stands alone’ (bis). The ma'amar and the levirate bond constitute separate and independent connections between the levir and the widow. Hence, if the divorce was for the levitate bond alone, the widow is forbidden to the levir who gave her the divorce (under the prohibition ‘that doth not build etc.’) as well as to his brothers (the levirate bond saving been severed); and if the divorce was for the ma'amar only, the widow, though forbidden to the levir who gave her the divorce (for the reason stated), is nevertheless permitted to his brothers, since the levirate bond has never been severed.

(15) The second of three brothers who had addressed a ma'amar to the first brother's widow. V. Mishnah supra 31b.

(16) The second brother's first wife who, while the ma'amar remained in force, was forbidden to the third brother.

(17) To the third surviving brother if the second brother also died without issue. The two widows, owing to the divorce which had annulled the ma'amar, are no longer rivals; and being now the widows of two different brothers, are in fact both permitted to the third brother. The widow to whom the divorce had been given is forbidden only as a preventive measure (v. supra 32b). From the fact, however, that the second brother's first wife is permitted to the third surviving brother it follows that the divorce (a) annuls the ma'amar and (b) does not sever the levitate bond. Had it not annulled the ma'amar, the widow would have been forbidden owing to the levitate bond emanating from two levirs; while if the levirate bond also had been severed she would have been forbidden to the third brother as ‘brother's wife’. Why then was R. Hanania doubtful on the point?

(18) Teku, v. Glos.

(19) That no act is valid after halizah.

(20) The quoted section of our Mishnah, and presumably all our Mishnah.

(21) Deut. XXIV, 4.

(22) Even before she had been married to a second husband. (V. Deut, XXIV, 2-4). The superfluous expression ‘who sent her away’ implies that divorce in a certain case, viz., in that of a sister-in-law, causes the permanent prohibition of the divorced woman to the man who divorced her immediately after divorce had taken place. Now, since betrothal of a sister-in-law by a levir who divorced her is forbidden by the negative precept of Deut. XXIV, 4, how could a ma'amar addressed to her after divorce have any validity?

(23) Pentateuchally it has no validity at all.

(24) Since the prohibition is not Pentateuchal the ma'amar is obviously valid.

(25) That no act is valid after halizah.

(26) As no act of betrothal is valid in the case of the latter so is no such act valid in that of the former.

(27) By a form of betrothal prescribed in ordinary cases other than those of a levir. Such betrothal is valid even where it involves the transgression of a negative precept.

(28) By addressing to her a ma'amar.

(29) The halizah having severed the levirate bond, there is no room any more for the levirate betrothal. The action of any levir using it is consequently null and void.

(30) For regarding as invalid a betrothal for a levirate union, when ordinary betrothal with the same woman would have been valid.

(31) Who was survived by no Jewish heirs. Anyone digging in such ownerless property with the intention of acquiring it gains thereby full legal title thereto.

(32) It having been situated in close proximity to his own estate.

(33) As the digging (though a legal form of kinyan) is invalid because there was no intention to constitute a kinyan thereby, so also betrothal (though a legal kinyan) is invalid because the levir's intention was not to constitute an ordinary betrothal (which would indeed have been valid) but a levirate betrothal which after a halizah has no validity.

(34) R. Joseph.

(35) Digging in the estate of a proselyte.

(36) The digger.

(37) Since he believed the field to be his own.

(38) Betrothal by the levirate formula.
(39) Of his sister-in-law as his legal wife.
(40) Since his intention was to execute by his act a legal kinyan, the mistake he made as to its owner is of no consequence. Similarly, here, the mistake in the nature of the union he was contracting should not affect the legality of the kinyan which he at all events intended.
(41) Only where the levirate bond is still in force has the ma'amar the required validity.
(42) Where halizah had been performed.
(43) Hence the invalidity of the ma'amar.
(44) A ma'amar is consequently valid even where no levirate bond exists.
(45) Before the performance of the halizah.
(46) Certainly it would. The force of the ma'amar irrespective of the levirate bond (v. supra n. 2) would have executed the kinyan.
(47) After the introductory formula, ‘Be thou betrothed unto me’.
(48) The dispute between Rabbi and the Rabbis.

Talmud - Mas. Yevamoth 53a

that a levirate bond does exist[1] but the halizah had previously removed that [levirate] bond.[2] The Rabbis, however, hold that no levirate bond exists.[3] If, then, he had said to her at first,[4] ‘Be thou betrothed unto me by the bond of the levirate’ would not his word have been valid?[5] Consequently it is now also valid.

R. Sherabia said: Had a proper halizah been performed all would agree that if he said to her,[6] ‘Be thou betrothed unto me by the bond of the levirate’, there is no validity in his betrothal. Here, however, the dispute relates to a halizah of an impaired character. One Master[7] holds that a halizah of an impaired character provides [all the necessary] exemption,[2] and the Masters hold that a halizah of an impaired character provides no exemption.[8]

R. Ashi said: [No;] All agree that a halizah of an impaired character provides no exemption. Here,[9] however, the dispute centres round the question whether a condition[10] may affect the validity of halizah.[11] The Masters hold that a condition[11] does affect the validity of a halizah[12] and the Master[13] holds that no condition may affect the validity of a halizah.[14]

Rabina said: [No;] All agree that a condition does affect a halizah. Here,[9] however, the dispute is dependent on the question of the doubled condition.[15] The Master[13] holds that a doubled condition is essential[16] and the Masters hold the opinion that a doubled condition is unnecessary.[17]

IF THE LEVIR SUBMITTED TO HALIZAH AND THEN ADDRESSED TO HER A MA'AMAR, GAVE HER A LETTER OF DIVORCE, OR COHABITED WITH HER etc. It should also have been stated, ‘No act is valid after cohabitation’![18] — Both Abaye and Raba replied: Read,[19] ‘NO ACT IS VALID AFTER cohabitation’. But our Tanna?[20] — [The statement regarding] the permissibility of the sister-in-law to marry anyone[21] was preferred by him.[22]

THE LAW IS THE SAME WHETHER THERE IS ONE SISTER-IN LAW . . . OR TWO SISTERS-IN-LAW. Our Mishnah[23] is not in agreement with the ruling of Ben ‘Azzai. For it was taught: Ben ‘Azzai stated: A ma'amar is valid after another ma'amar where it concerns two levirs[24] and one sister-in-law,[25] but no ma'amar is valid after a ma'amar where it concerns two sisters-in-law and one levir.[26] HOW? . . . A MA'AMAR TO THE ONE etc. May it be suggested that this[27] provides support to a ruling of Samuel, Samuel having stated that if the levir had participated in the halizah with her to whom he addressed a ma'amar, her rival was not thereby exempt; and an objection to the ruling of R. Joseph?[28] — Does it state: He may participate in the halizah? What it states is ‘had participated’, implying a fait accompli.[29]

A LETTER OF DIVORCE TO THE ONE AS WELL AS TO THE OTHER etc. May it be suggested that this[30] provides support to Rabbah son of R. Huna. For Rabbah son of R. Huna stated, ‘A halizah of an impaired character must go the round of all the brothers’?[31] — By IT IS NECESSARY FOR BOTH, widows generally[32] were meant.[33]

IF HE GAVE A LETTER OF DIVORCE TO ONE AND SUBMITTED TO HALIZAH FROM THE OTHER. May it be suggested that this[34] provides support to the ruling of Samuel[35] and presents an objection against the ruling of R. Joseph?[36] — Does it state: He may participate in the halizah? What it states is ‘had participated’, implying a fait accompli.[37]

IF THE LEVIR SUBMITTED TO HALIZAH FROM THE ONE AND FROM THE OTHER, OR SUBMITTED TO HALIZAH etc. It should also have been stated, ‘No act is valid after cohabitation’![38] Both Abaye and Raba replied: Read,[39] ‘no act is valid after cohabitation’.

But our Tanna?[40] — [The statement on] the permissibility of the sister-in-law marrying anyone[41] was preferred by him.[42]

THERE IS NO DIFFERENCE IN THE LAW WHETHER THERE WAS ONE LEVIR TO TWO SISTERS-IN-LAW etc. According to R. Johanan who ruled that the whole house[43] stands under the prohibition of a negative precept,[44] it is intelligible why it was necessary to inform us[45] that betrothal with those whose intercourse involves the penalties of a negative precept is invalid;[46] according to Resh Lakish, however, who ruled that all the house[47] is subject to the penalty of kareth,[48] was there any need to inform us that betrothal with those whose intercourse involves kareth is invalid?[49] — Resh Lakish can answer you: And even according to your conception was it necessary to tell us in the final clause, which speaks of the case where the LEVIR COHABITED WITH HER AND THEN ADDRESSED TO HER A MA'AMAR, that there was no validity in a betrothal with a married woman?[49] But the fact is that as he taught concerning the permissibility[50] of one levir and one sister-in-law,[51] he also taught concerning two sisters-in-law and one levir. And since he taught concerning two sisters-in-law and one levir, he also taught concerning two levirs and one sister-in-law.

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(1) I.e., the validity of such a formula elsewhere is absolutely dependent on the existence of the levirate bond.

(2) Hence the invalidity of the formula that followed it.

(3) The levirate bond does not in any way add to, or subtract from the force of the formula.

(4) Before the performance of the halizah.

(5) V. supra note 4.

(6) After the halizah, for instance, which has been performed after a divorce.

(7) Rabbi.

(8) The original bond remains and the halizah is altogether disregarded. Hence the validity of the formula after an improper halizah.

(9) The dispute between Rabbi and the Rabbis.

(10) Made by the levir. If, e.g., he submitted to the halizah on the understanding that the widow would give him a certain sum of money or render him some service.

(11) Where the condition had not been fulfilled.

(12) As the halizah is invalid (v. supra n. 3) the original bond remains and the formula is consequently valid.

(13) Rabbi.

(14) Even if the condition was not fulfilled the halizah remains valid. Hence there could be no force in the formula that follows it.

(15) תנאי כפול a stipulation and its alternative. The classical example is the condition made by Moses with the children of Gad and Reuben: If they passed the Jordan, the land of Gilead would be given to them; if they did not pass the Jordan, they would take their share in the land of Canaan. V. Num. XXXII, 29f.

(16) As the levir's condition was not a ‘doubled one’ it has no validity. The halizah is consequently valid and the formula following it is invalid.

(17) The condition being valid, the halizah depending on it, where it is unfulfilled, is invalid. Hence the validity of the levirate formula.

(18) Since that section of our Mishnah deals not only with (a) certain acts after halizah but also with (b) certain acts after cohabitation.

(19) [Var. lec., ‘Both Abaye and Raba read’. The reading that follows actually occurs in Tosef. Yeb. VII. Cf. תוספות ישנים]

(20) Why did he omit the mention of cohabitation?

(21) I.e., the permissibility though halizah.

(22) Hence halizah only was mentioned. After cohabitation the sister in-law is permitted to one man (the levir) only. As the Tanna preferred the case of halizah to that of cohabitation and as the invalidity of any acts after cohabitation may be inferred from the invalidity of those after halizah, the Tanna did not consider it necessary to mention cohabitation at all.

(23) Which admits the validity of a ma'amar after another ma'amar in the case of two sisters-in-law and one levir,

(24) Each one of whom in turn addressed a ma'amar to the sister-in-law.

(25) Each levir being entitled to a ma'amar. V. supra 51a.

(26) The second ma'amar, contrary to the ruling of our Mishnah, has no validity because by the first ma'amar, in the opinion of Ben ‘Azzai, the levir had exhausted all his rights.

(27) The statement, THE ONE REQUIRES A LETTER OF DIVORCE AND THE OTHER, but not the first to whom the ma'amar had been addressed, MUST PERFORM THE HALIZAH because, obviously, halizah with the first does not exempt the second, her rival.

(28) ‘Who stated, supra 44a, ‘A man should not pour the water out of his cistern while others may require it’, i.e., a levir shall not cause the disqualification, by halizah, of the widow who is not otherwise disqualified, when the halizah could well be performed by the other widow who was in any case disqualified. In our Mishnah, contrary to R. Joseph's ruling, halizah is performed by the second who would in consequence be disqualified from marrying a priest, and not by the first who is already disqualified by the divorce she had been given.

(29) The proper procedure, however, might still be for the halizah to be performed by the widow to whom the ma'amar had been addressed.

(30) The statement in our Mishnah that HALIZAH IS NECESSARY FOR BOTH, which seems to imply that each widow must perform halizah where there is only one levir and, since the Mishnah also stated THAT THERE IS NO DIFFERENCE IN THE LAW WHETHER THERE WAS ONE LEVIR AND TWO SISTERS-IN-LAW OR TWO LEVIRS AND ONE Slster-IN-LAW, that where there are two levirs and one sister-in-law halizah must be performed with both levirs.

(31) Supra 26b, 51a.

(32) In similar circumstances,

(33) But in every case the halizah is performed by one widow only and the other is thereby exempt. V. supra p. 330, n. 5.

(34) The ruling that halizah is performed by the second widow and not by the first to whom the divorce had been given.

(35) Who stated, supra 27a, that if the levir had participated in the halizah with her whom he had divorced, her rival is not thereby exempt. Consequently, as was stated in our Mishnah, the halizah is to be performed by the second.

(36) V. p. 350, n, 6.

(37) Cf. supra p. 350, n. 7.

(38) Cf. p. 350, n. 6.

(39) Cf. p. 349, n. 11.

(40) Cf. p. 349. n. 12.

(41) Cf. p. 349, n. 13.

(42) Cf. p. 349, n. 14.

(43) I.e., all the brothers of the deceased including the levir who submitted to the halizah.

(44) Both the levir and the other brothers (v. supra n. 13) are forbidden by the negative precept ‘that doth not build’ to marry the halizah or her rival. V. supra 10b.

(45) By the statement that a ma'amar is invalid after halizah.

(46) Had not this been indicated it might have been assumed that a betrothal of a woman forbidden only by a mere negative precept is legally valid.

(47) V. supra p. 351, n. 13.

(48) If any one of the brothers married the rival of the haluzah, or if any of them (other than the levir who participated in the halizah) married the haluzah herself; the prohibition in all these cases being that of marriage with ‘a brother's wife’ which is punishable by kareth. The prohibition of the levir who participated in the halizah to marry the haluzah herself is, of course, even according to Resh Lakish, only that of a negative precept (v. supra 10b).

(49) Such a ruling is surely obvious!

(50) I.e., that there is no validity in the betrothal.

(51) A ruling which was necessary, even according to Resh Lakish, since he also, like R. Johanan, subjects the marriage between the levir who submitted to the halizah and the haluzah to the penalty of a negative precept only (v. supra n. 3).

Talmud - Mas. Yevamoth 53b

IF THE LEVIR SUBMITTED TO HALIZAH AND THEN ADDRESSED TO HER A MA'AMAR [and] GAVE etc. One can well understand why it was necessary [to lay down a rule[1] where] THE LEVIR SUBMITTED TO HALIZAH AND THEN ADDRESSED TO HER A MA'AMAR; since it might have been assumed that provision was to be made[2] for a ma'amar that followed halizah[3] as a preventive measure against a ma'amar that preceded halizah,[4] it was consequently necessary to tell us that no such preventive measure was to be made. What need, however, was there for the ruling[5] where THE LEVIR SUBMITTED TO HALIZAH AND THEN GAVE HER A LETTER OF DIVORCE?[6] — Read, then, according to your own view, the final clause, IF HE COHABITED WITH HER AND THEN ADDRESSED TO HER A MA’ AMAR or if he cohabited with her and then GAVE HER A LETTER OF DIVORCE. One can well understand [it might be argued here also] why it was necessary [to lay down a ruling[7] where] the levir cohabited with her and then GAVE HER A LETTER OF DIVORCE; since it might have been assumed that provision was to be made for a divorce that followed cohabitation[8] as a preventive measure against a divorce that preceded cohabitation,[9] it was consequently necessary to tell us that no such preventive measure was required. But what need was there [for the ruling[10] where] HE COHABITED WITH HER AND THEN ADDRESSED TO HER A MA'AMAR?[11] But [the fact is that] as he taught, IF THE LEVIR SUBMITTED TO HALIZAH AND THEN ADDRESSED TO HER A MA'AMAR,[12] he also taught: IF HE COHABITED WITH HER AND THEN ADDRESSED TO HER A MA'AMAR. And since he desired to teach the rule where ‘he cohabited with her and then GAVE HER A LETTER OF DIVORCE’ he also taught, IF THE LEVIR SUBMITTED TO HALIZAH and then GAVE HER A LETTER OF DIVORCE.

IF IT TOOK PLACE[13] etc. Our Mishnah cannot be reconciled with the opinion of the following Tanna: For it was taught: Abba Jose b. Johanan of Jerusalem reported in the name of R. Meir, ‘Alike in the case of cohabitation or of halizah, [if it took place] first,[14] no act that follows has any validity; but if it occurred in the middle[14] or at the end,[14] something valid still remains’. On this question, in fact, three different views have been expressed. The first Tanna is of the opinion that in the case of cohabitation, where a preventive measure is required,[15] a preventive measure was made,[16] but in the case of halizah where no preventive measure is called for[17] no preventive measure was made. R. Nehemiah, on the other hand, is of the opinion that in the case of cohabitation also no preventive measure is called for.[18] And as to your possible objection that provision should be made where cohabitation followed a letter of divorce as a preventive measure against cohabitation that followed a halizah,[19] [it may be replied that] as halizah is a Pentateuchal law it is well known.[20] And as to your objection that provision should be made where cohabitation followed a ma'amar as a preventive measure against cohabitation that followed another cohabitation, [it may also be replied that] as kinyan by cohabitation is a Pentateuchal law it is certainly well known.[20] And Abba Jose b. Hanan,[21] again, holds the same view as the Rabbis[22] who ordained a preventive measure in the case of cohabitation,[23] and he made similar provision in the case of halizah as a preventive measure against cohabitation.

CHAPTER VI

MISHNAH. IF A MAN COHABITED WITH HIS DECEASED BROTHER'S WIFE,[24] WHETHER IN ERROR[25] OR IN PRESUMPTION,[26] WHETHER UNDER COMPULSION OR OF HIS OWN FREE WILL, EVEN IF HE ACTED IN ERROR AND SHE IN PRESUMPTION, OR HE IN PRESUMPTION AND SHE IN ERROR, OR HE UNDER COMPULSION AND SHE NOT UNDER COMPULSION, OR SHE UNDER COMPULSION AND HE NOT UNDER COMPULSION, WHETHER HE PASSED ONLY THE FIRST, OR ALSO THE FINAL STAGE OF CONTACT, HE CONSTITUTES THEREBY A KINYAN,[27] IRRESPECTIVE OF THE NATURE[28] OF THE INTERCOURSE.[29]

SIMILARLY, IF A MAN HAD INTERCOURSE[30] WITH ANY OF THE FORBIDDEN RELATIVES ENUMERATED IN THE TORAH, OR WITH ANY OF THOSE WHO ARE INELIGIBLE TO MARRY HIM AS, FOR INSTANCE, A WIDOW WITH A HIGH PRIEST, A DIVORCED WOMAN OR A HALUZAH WITH A COMMON PRIEST, A BASTARD OR A NETHINAH[31] WITH AN ISRAELITE OR THE DAUGHTER OF AN ISRAELITE WITH A BASTARD OR A NATHIN, HE HAS THEREBY RENDERED HER INELIGIBLE,[32] IRRESPECTIVE OF THE NATURE OF THE INTERCOURSE.[29] GEMARA. What is the purport of EVEN? — [The formula of] ‘It is not necessary’ is thereby to be understood: It is not necessary [to state that a kinyan is constituted where] he acted in error[33] and her intention was the performance of the commandment[34] or where he acted in presumption and her intention was the performance of the commandment,[35] but even if he acted in error and she in presumption,[36] or[37] he in presumption and she in error, so that the intention of neither of them was the fulfilment of the commandment,[38] a kinyan is nevertheless effected.

R. Hiyya taught: Even if both acted in error, both in presumption, or both under compulsion.[39] How is one to understand the action UNDER COMPULSION in our Mishnah? If it be suggested [that] idolaters compelled him to cohabit with her, surely [it may be pointed out] Raba stated: There can be no compulsion in sexual intercourse since erection depends entirely on the will! But when he slept?[40] Surely Rab Judah ruled

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(1) That there is no validity in the ma'amar.

(2) Even according to R. Akiba.

(3) By giving to the ma'amar the force of a valid betrothal and by subjecting the sister-in-law, in consequence, to the necessity of a divorce.

(4) Were the former to be regarded as invalid, the latter also might erroneously be so regarded.

(5) That there is no validity in the divorce where there is only one levir and one sister-in-law. (V. supra p. 331, n. 3).

(6) What possible consequences could ensue from the presumed validity of such a divorce that are not already in force as a result of the halizah? The halizah, like a divorce, causes the prohibition of the widow to the levir, and her relatives also are thereby forbidden as the relatives of his haluzah’!

(7) That nothing of the levirate bond remains after cohabitation and that, consequently. the divorce alone is a valid act and there is no need for halizah also.

(8) By requiring halizah in addition to the divorce.

(9) Were halizah to be dispensed with in the former case it might erroneously be presumed that as a letter of divorce alone is valid enough in this case it is also valid in the latter case, and thus divorce might be allowed to supersede the halizah of any sister-in-law.

(10) That there is no validity in the ma'amar.

(11) Of what consequence could the ma'amar be after cohabitation whereby the woman had become the levir's proper wife?

(12) Which was certainly necessary, as has just been explained.

(13) Lit., ‘in the time when it is’.

(14) For an explanation of this term v. notes on our Mishnah supra.

(15) Since something of the levirate bond remains after an improper cohabitation.
(16) Hence he ruled that only when cohabitation had taken place at the beginning (but not when in the middle or at the end) does the levirate bond completely disappear.
(17) Because in his opinion even an improper halizah is valid in all respects.
(18) Maintaining as he does that nothing of validity remains either after halizah or after cohabitation.
(19) Were the former to be regarded as valid the latter also might be so regarded.
(20) And no one would draw comparisons between the two.
(21) Abbreviation of ‘Johanan’.
(22) In our Mishnah.
(23) V. supra 50b.
(24) The widow of his deceased childless brother.
(25) Not knowing that she was his sister-in-law.
(26) To gratify his passions and with no intention of fulfilling the precept of the levirate marriage.
(27) Lit., ‘he acquires her’. The widow is deemed to be his legal wife. He is entitled to the heirship of her estate; and she can be released only by a letter of divorce.
(28) Lit., ‘and he made no distinction’.
(29) Whether it was natural or unnatural.
(30) In any of the circumstances mentioned.
(31) Fem. of nathin, v. Glos.
(32) To marry a priest, and to eat terumah even if she had previously been eligible to eat of it. This, of course, does not apply to the bastard and nethinah who are from birth ineligible either to marry a priest or to eat terumah. Their inclusion among the others merely serves the purpose of indicating that in their case also the penalty for illicit intercourse is imposed whether it was ONLY IN THE FIRST, OR ALSO IN THE FINAL STAGE.
(33) Not knowing that she was his sister-in-law.
(34) Of the levirate marriage.
(35) In such cases the validity of the kinyan is obvious.
(36) Cf. supra p. 355, n. 3.
(37) So Bah a.l. Cur. edd. omit ‘or he . . . error’.
(38) Of the levirate marriage.
(39) Kinyan is nevertheless constituted.
(40) COMPULSION implying unconsciousness of action.

Talmud - Mas. Yevamoth 54a

that one in sleep cannot acquire his sister-in-law![1] But when accidental insertion occurred?[2] Surely Rabbah stated: One who fell from a roof and his fall resulted in accidental insertion, is liable to pay an indemnity[3] , for four things,[4] and if the woman was his sister-in-law no kinyan is thereby constituted![5] — It is[6] when, for instance, his intention was intercourse with his wife and[7] his sister-in-law seized him and he cohabited with her.

How is one to understand, ‘Both under compulsion’, taught at the School of R. Hiyya? — When, for instance, his intention was intercourse with his wife and idolaters seized him,[8] brought him and her[9] into close contact and he cohabited with her.

Whence these words?[10] — From what our Rabbis taught: Her husband's brother shall go in unto her[11] is a commandment.[12] Another interpretation: Her husband's brother shall go in unto her whether in error or in presumption, whether under compulsion or of his own free will.[13] But, surely, deduction has already been made from this text that it[14] is a commandment![15] — That it[14] is a commandment[16] may be inferred from And if the man like not[17] which implies that if he likes he contracts the levirate marriage;[16] so that the other text[11] may serve the purpose of deducing,[18] ‘whether in error or in presumption, whether under compulsion or of his own free will’.[19]

Another [Baraitha] taught: Her husband's brother shall go in unto her,[11] in the natural way; and take her,[11] even though in an unnatural way;[20] and perform the duty of a husband's brother unto[21] her,[11] only the cohabitation consummates her marriage, but neither money[22] nor deed[22] can consummate her marriage; and perform the duty of a husband's brother unto her,[11] even against her will.[23]

The Master said:[24] 'Another interpretation: Her husband's brother shall go in unto her whether in error etc.' But, surely, deduction has been made from this text[11] that it[25] must be in the natural way! — This may be deduced from To raise up unto his brother a name,[17] [i.e.,] only where a name is raised up;[26] so that the other text[11] may be employed for the deduction,[27] 'whether in error or in presumption, whether under compulsion or of his own free will.'[28]

[To turn to] the main text. 'Rab Judah ruled that one in sleep cannot acquire his sister-in-law, for Scripture stated, Her husband's brother shall go in unto her,[29] only when the cohabitation was intentional'.[30] But, surely, it was taught: Whether he was awake or asleep! — Read: Whether she was awake or asleep. But, surely, it was taught: Whether he was awake or asleep; or whether she was awake or asleep! — This statement refers to one who was in a state of drowsiness. What state of drowsiness is hereby to be understood? R. Ashi replied: When a man is half asleep and half awake[31] as, for instance, when he answers on being addressed but is unable to give any sensible reply, and when he is reminded of anything he can recall it.

[To turn to] the main text. Rabbah stated: One who fell from a roof, and his fall resulted in accidental insertion, is liable to pay an indemnity for four things, and if the woman was his sister-in-law no kinyan is thereby constituted. [He must pay her for] bodily injury, for pain inflicted, for enforced unemployment, and for medical expenses; but he is not liable to indemnify her for indignity, for a Master said, 'One is not liable to pay any indemnity for indignity unless it was intentionally caused'.[32]

Raba said: If a levir's intention was to shoot[33] against a wall and he accidentally shot at his sister-in-law, no kinyan is thereby constituted;[34] if he intended, however, to shoot at a beast and he accidentally shot at his sister-in-law, kinyan is thereby constituted, since some sort of intercourse had been intended.

WHETHER HE PASSED ONLY THE FIRST . . . STAGE. 'Ulla stated: Whence is it proved that the first stage of contact is pentateuchally forbidden?[35] — It is said, And if a man shall lie with a menstruant woman,[36] and shall uncover her nakedness, he hath made naked her fountain[37] it is deduced from this text that the first stage of contact[38] is pentateuchally forbidden. Thus the case of a menstruant has been arrived at; whence that of other forbidden unions?[39] And were you to suggest that [their case] might be inferred from that of the menstruant, [it might be retorted] the menstruant is different since she causes the defilement of the man who cohabited with her.[40] — Rather the deduction[39] is made from 'a brother's wife' concerning whom it is written, And if a man shall take his brother's wife, she is a menstruant.[41] Now is a brother's wife always menstruant?[42] But [the meaning is] 'like a menstruant as with a menstruant the first stage constitutes the offence, so does the first stage constitute an offence with a brother's wife. But a brother's wife [it may be objected] is different since it is in his[43] power to increase the number, for should he wish, he could go on betrothing as many as a thousand![44] — The deduction[45] is rather made from the 'father's sister' and 'the mother's sister'. For it is written in Scriptures And thou shalt not uncover the nakedness of thy mother's sister, nor of thy father's sister, for he hath made naked his near kin.[46] But it may be objected that a father's sister and a mother's sister come under a different category, since the prohibition in their case is natural.[47] — If it[45] cannot be deduced from one category[48] then let it[49] be deduced from the two categories.[50]

From which[51] however shall deduction be made? Were it made from a brother's wife[52] and a father's sister[53] and a mother's sister,[53] [it might be objected that] those stand in a different category, since the prohibition of these is due to relationship![54] — Deduction is rather made[55] from the menstruant[56] and a father's sister and a mother's sister. Those however [it may be objected] are in a different category since the prohibition is natural![57] — The deduction[55] is rather made from the menstruant and a brother's wife; since no[58] objection can be raised [against the two].[59]

R. Aha son of R. Ika demurred: A menstruant and a brother's wife are different,[60] since marriage with them cannot be permitted during the lifetime of the man who caused their prohibition! Would you, then, apply [their restrictions] to a married woman who might be permitted to marry even during the lifetime of the man who caused her prohibition?[61]

Said K. Aha of Difti to Rabina: Are a menstruant and a brother's wife forbidden to marry only during the lifetime of the man who caused their prohibition but permitted after that?[62] With a menstruant, surely,

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(1) An unconscious act having no legal validity.

(2) When in a state of erection the levir fell from a raised bench upon his sister-in-law who happened to be below (v. Rashi).

(3) To the woman with whom the accidental contact had taken place.

(4) Bodily injury, pain, medical expenses and unemployment during illness. The damages or indemnity must be paid even if the injury was inflicted accidentally or under compulsion (v. B.K. 85b). An indemnity for the indignity caused by the injury is payable only when the act was wilful. V. infra.

(5) By the accidental contact. She does not thereby become his lawful wife.

(6) Intercourse under compulsion is possible.

(7) While he was in the state of erection.

(8) While he was in the state of erection.

(9) His sister-in-law'.

(10) The statement in the first clause of our Mishnah.

(11) Deut. XXV, 5.

(12) Halizah is a substitute only, and preference must always be given to levirate marriage.

(13) Whatever the circumstances the kinyan is valid.

(14) The levirate marriage. v. supra note 5.

(15) How then may a second deduction be made from the same text?

(16) V. supra note 5.

(17) Deut. XXV, 7.

(18) Lit., 'comes'.

(19) Whatever the circumstances the kinyan is valid.

(20) Whatever the nature of the intercourse the sister-in-law is thereby acquired by the levir as his lawful wife.

(21) v. Emden, a.l. and cf. M.T.

(22) Whereby kinyan of betrothal is usually executed.

(23) V. Kid. 14a.

(24) So Bah a.l. Cur. edd. omit.

(25) The cohabitation.

(26) From unnatural intercourse there is no issue and no name, of course, can be raised.

(27) Lit., 'comes'.

(28) Whatever the circumstances the kinyan is valid.

(29) Deut. XXV, 5.

(30) Emphasis on 'shall go in'.

(31) Lit., 'asleep and not asleep, awake and not awake'.

(32) Which was not the case here.

(33) A euphemism.

(34) The act of the intercourse having been accidental and unintentional.
(35) In the case of forbidden unions.
(36) דוה rendered by E.V. ibid., having her sickness.
(37) Lev. XX, 18.
(38) העראה (first stage) is of the same rt. as הערה he hath made naked (ibid.).
(39) That with the other relatives also, or with any woman one is forbidden to marry, the first stage constitutes the offence.
(40) He, like herself, remains levitically unclean for seven days (v. Lev. XV, 24). As the restrictions of the menstruant are more rigid in respect of the defilement of the man they may also be more rigid in respect of the first stage of contact. What proofs however, is this that prohibition of the first stage of contact extends to other forbidden unions?
(41) Lev. X, 21. נדה E.V., it is impurity.
(42) Surely not. Why then was she so described?
(43) The brother's.
(44) The number of relatives forbidden through marriage may be indefinitely increased. Hence only such relatives (e.g., a father's wife, daughter-in-law, mother-in-law) may be inferred from a brother's wife who also is a relative forbidden through marriage. What proof, however, does this provide that restrictions applicable to these are also applicable to relatives forbidden from birth (e.g, a mother, sister, daughter) whose number it is not in one's power to increase?
(45) v. supra note 3.
(46) Lev. XX, 19.
(47) I.e., they are relatives forbidden from birth. What proof, however, does this supply in the case of relatives by marriage? (Cf. supra p. 359, n. 8).
(48) Either from that of relatives from birth or from that of relatives by marriage.
(49) Cur. edd. insert in square brackets ‘one’.
(50) Any objection that might be raised against the one could not possibly apply to the other. (Cf. p. 359, nn. 8 and 11).
(51) Particular case or cases in the categories mentioned.
(52) A relative by marriage.
(53) A relative from birth.
(54) No proof would consequently be available that the same restriction is applicable to intercourse, for instance, with any married woman who is neither a relative from birth nor by marriage.
(55) V. supra p. 359, n. 3.
(56) Who may be a stranger.
(57) It is not due to any human act.
(58) Lit., ‘for what’.
(59) A brother's wife is a relative forbidden through marriage and consequently the second objection (v. supra p. 359. n. 1) cannot be advanced; while the first objection (v. supra p. 359, n. 8) and the third objection (v. supra n. 7) cannot be raised in view of the law of the menstruant.
(60) From the other women one is forbidden to marry.
(61) I.e., her husband, if he divorced her.
(62) When the man died.

Talmud - Mas. Yevamoth 54b

the prohibition depends on the number of days,[1] and with a brother's wife the All Merciful made her prohibition dependent on the birth of children![2] — But the objection may be raised thus: A menstruant and a brother's wife are different,[3] since the man who caused them to be forbidden cannot cause them to be permitted.[4] Would you [then] apply their restrictions to a married woman whose permissibility is brought about[5] by the man who caused her to be forbidden? But, said R. Johanan, or as some say, R. Huna son of R. Joshua, Scripture stated, For whosoever shall do any of these abominations, even the souls that do them shall be cut off,[6] all forbidden unions were compared to the menstruant;[7] as the first stage constitutes the offence with the menstruant so does the first stage constitute the offence with all the others.

What need, then, was there[8] to mention the menstruant in the context of brother's wife?[9] — For an inference like that of R. Huna. For R. Huna stated: Whence in the Torah may an allusion to the sister-in-law[10] be traced? [You ask,] ‘Whence’? Surely it is written in Scripture, Her husband's brother shall go in unto her![11] — [The query is] rather, whence the allusion that a sister-in-law is forbidden[12] during the lifetime of her husband?[13] But surely this is a logical inference: Since the All Merciful said that she[14] is permitted to marry after the death of her husband, it may be inferred that during the lifetime of her husband[13] she is forbidden! — [No] for is it not possible [to maintain] that after the death of her husband it[15] is a commandment, and during the lifetime of her husband it[15] is only optional? Or else, [though] indeed,[16] only after the death of the husband,[17] and not during the lifetime of her husband; yet being a negative commandment[18] that is derived from a positive one[19] it has only the force of a positive commandment![20] — Scripture stated: And if a man shall take his brother's wife, she is a menstruant.[21] Now is a brother's wife always a menstruant?[22] But the meaning is, ‘like a menstruant’: as a menstruant, although permitted afterwards,[23] is forbidden under the penalty of kareth during the period of her prohibition, so also a brother's wife, though permitted afterwards,[24] is forbidden under the penalty of kareth during the lifetime of her husband.

What need, however, was there to mention the first stage in connection with a father's sister or a mother's sister?[25] — For an inference like that mentioned in the following question which Rabina addressed to Raba: What is the law if a man passed the first stage in pederasty? [You ask,] ‘What is the law in pederasty’? Surely it is written, As with womankind![26] — But [the query is] what is the law when one passed the first stage with a beast? The other replied: No purpose is served by the text[27] in [forbidding] the first stage in the case of a father's sister and a mother's sister, since in their case the prohibition is arrived at by the comparison of R. Jonah, apply that text to the first stage with a beast.

Observe! Intercourse with a beast is among the offences subject to the death penalties of a Beth din; why then was the first stage in relation to it enumerated among offences that are subject to the penalty of kareth?[28] It should rather have been written among those which are subject to the death penalty of the Beth din,[29] and thus one offence that is subject to the death penalty of a court would be inferred[30] from a similar offence that is subject to the death penalty of a court! — Since the entire context[31] was to serve the purpose of exposition,[32] this thing[33] was also included that it may serve the purpose of exposition.

What is the exposition?[34] — It was taught, Thou shalt not uncover the nakedness of thy father's sister,[35] whether she is paternal or maternal. You say, ‘Whether she is paternal or maternal’, perhaps it is not so, but only when she is paternal and not when maternal? — This[36] is only logical: A man is subject to a penalty[37] in this case and he is also subject to penalty[37] in the case of his sister; as with his sister it is the same whether she is paternal or maternal, so here also[38] it is the same whether she is paternal or maternal. But might it not be argued[39] in this way: A man is subject to a penalty[37] in this case and is also subject to a penalty[37] in the case of his aunt;[40] as his aunt is forbidden only when she is paternal[41] but not when maternal,[42] so here also[38] when she is paternal and not when maternal! — Let us consider whom it more closely resembles. A prohibition which is natural[43] ought to be inferred from a prohibition which is also natural[44] but let no proof be adduced from an aunt whose prohibition is not natural.[45] But might it not be argued[46] thus: The relatives of a father[47] should be inferred from the relatives of a father[40] but let no proof be adduced from a sister who is one's own relative! Hence it was stated,[48] Thou shalt not uncover the nakedness of thy father's sister,[49] implying[50] whether paternal or maternal, and Thou shalt not uncover the nakedness of thy mother's sister,[51] implying also whether paternal or maternal.

What need was there to write it[52] in respect of a father's sister and also in respect of a mother's sister?[53] — R. Abbahu replied: Both are required. For had the All Merciful written it[52] in respect of a father's sister [it might have been assumed to apply to her alone] because her relationship is legally recognized,[54] but not to a mother's sister.[55] And had the All Merciful written it[56] in respect of a mother's sister [it might have been assumed to apply to her alone] because her relationship is certain, but not to her father's sister.[57] [Hence both were] required.

As to one's aunt concerning whom the Tanna had no doubt that she must be paternal[58] and not maternal, whence does he derive it? Raba replied: It is arrived at by a comparison between the words ‘His uncle’ [in two passages]: Here it is written, He hath uncovered his uncle's nakedness,[59] and there it is written, Or his uncle or his uncle's son may redeem him,[60] as there he must be paternal and not [necessarily] maternal[61] so here also, he[62] must be paternal[63] and not [necessarily] maternal. And whence is it[64] proved there? — Scripture stated, Of his family may redeem him,[60] and only a father's family may be called the proper family, but the mother's family cannot be called the proper family.[65]

But surely we learned: If a man was told, ‘Your wife is dead’, and he married her paternal sister; [and when he was told] ‘She[66] also is dead’, he married her maternal sister; ‘She[67] too is dead’, and he married her paternal sister; ‘She[68] also is dead’, and he married her maternal sister, he is permitted[69] to live with the first,[70] third[71] and fifth[72] who also exempt their rivals;[73] but he is forbidden to live with the second and the fourth,[74] and cohabitation with one of these does not exempt her rival. If, however, he cohabited with the second after the death of the first, he is permitted to live with the second[75] and with the fourth[76] who also exempt their rivals,[73] but he is forbidden to live[77] with the third and with the fifth.[78]

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(1) Even after the death of her husband she remains forbidden to marry anyone until the prescribed number of seven unclean days has passed.

(2) If she gave birth to any child she remains forbidden to her husband's brothers even after his death.

(3) From the other women one is forbidden to marry.

(4) The former is dependent on the prescribed number of days and the latter on the absence of any issue. And thus the original question remains: Whence is deduced the prohibition of the first stage of contact in the ease of all forbidden unions?

(5) Through divorce.

(6) Lev. XVIII, 29.

(7) who also was mentioned in the same Scriptural section.

(8) If all forbidden unions are compared with one another and are consequently equal in their restrictions.

(9) From which it was inferred supra that these two were to be compared with one another in respect of the first stage.

(10) The brother's wife.

(11) Deut. XXV, 5.

(12) To marry her husband's brother.

(13) Even if he had divorced her.

(14) The sister-in-law.

(15) Marriage by the levir.

(16) Lit., yes.

(17) May the levir marry her.

(18) Not to marry one's sister-in-law during the lifetime of her husband, his brother.

(19) Her husband's brother shall go in unto her after the death of his brother.

(20) The penalty for the transgression of which is not that of kareth. Whence therefore can he traced in the Bible that the penalty involved is kareth?

(21) V. supra p. 359, n. 5.

(22) V. supra p. 359, n. 6.

(23) When the days of her uncleanness are over.

(24) After her husband's death.

(25) Who also are included among the others and subject, therefore, to the same restrictions and penalties. Cf. supra p. 362, n. 8.

(26) Lev. XVIII, 22. Since pederasty is compared to natural intercourse it is obviously subject to the same restrictions and penalties, including that of the first stage!

(27) Lev. XX, 19.

(28) Such as intercourse with a father's sister or a mother's sister.

(29) As, for instance, intercourse with a mother and a mother-in-law.

(30) As supra by R. Jonah's comparison.

(31) In which the cases of father's sister and mother's sister were enumerated.

(32) As will be shewn infra.

(33) The text from which the first stage with a beast is inferred.

(34) Just referred to.

(35) Lev. XVIII, 12.

(36) That a maternal sister is subject to the same restrictions as a paternal one.

(37) For intercourse.

(38) With one's father's sister.

(39) כלך ==כלה ולך ‘cease and go’, similar to apage, GR.**.

(40) The wife of his father's brother.

(41) When her husband is his father's paternal brother.

(42) If her husband was his father's maternal brother she is not forbidden under this category.

(43) Due to birth. A father's sister is forbidden from birth.

(44) One's own sister, whose prohibition also begins at birth.

(45) Her prohibition being due to the marriage with his father's brother.

(46) Cf. supra note 11.

(47) A father's sister, for instance.

(48) In addition to the prohibition in Lev. XX, 19, And thou shalt not uncover the nakedness of thy mother's sister nor of thy father's sister.

(49) Lev. XVIII, 12.

(50) By the repetition.

(51) Ibid. 13.

(52) The repetition.

(53) Even if one only had been repeated, the other could have been inferred from it.

(54) Children are legally ascribed to their paternal ancestry.

(55) Whose relationship is not legally recognized. V. supra note 7.

(56) The repetition.

(57) Who might not be his sister at all. There is no absolute proof that his father is also her father.

(58) The wife of his father's paternal brother.

(59) Lev. X, 20.

(60) Ibid. XXV,49.

(61) As will be shewn anon.

(62) The husband of his aunt.

(63) His father's paternal brother.

(64) That the relationship must be paternal.

(65) V. supra note 7.

(66) His second wife.

(67) His third wife.

(68) The fourth.

(69) If it is found that all these are alive.

(70) Since the marriage with her was valid.

(71) As the union with the second was unlawful, on account of her being his wife's sister, the marriage with her had no validity. As she is not his wife, her sister is a perfect stranger to the man who married them both in succession. The marriage with her sister (his third wife) is consequently valid.

(72) The union with the fourth being unlawful, owing to the legal marriage with her sister (the third wife) the marriage with the fifth is consequently legal. Cf. note 5.

(73) If he died without issue, and one of his brothers submitted to halizah from one of them.

(74) Because the legality of his marriage with the first and third renders them respectively forbidden as ‘his wife's sister’. Cf. note 5.
(75) As the death of the first has removed from her the prohibition of ‘wife's sister’, the marriage with her is legal.
(76) As the marriage with the second was legally valid, that with the third (as wife's sister) was invalid. The fourth (sister of the third) being in consequence a mere stranger is therefore permitted to be married. Cf. supra note 5.
(77) Cf. previous notes mutatis mutandis.
(78) Infra 96a.

Talmud - Mas. Yevamoth 55a

From this it clearly follows that a wife's sister, whether she is paternal or maternal, is forbidden.[1] Whence, however, is this derived? — Deduction is made from one's sister; as a sister [is forbidden] whether she is paternal or maternal, so here also[2] whether she is paternal or maternal. But let the deduction[3] be made from one's aunt; as one's aunt [is forbidden only when she is] paternal[4] and not when maternal, so here[3] also [the prohibition should apply when she is] paternal and not when maternal! — It stands to reason that the deduction should be made from one's sister, since [laws concerning] his own relatives[5] [should be inferred] from [laws concerning others of] his own relatives.[6] On the contrary! Deduction[7] should have been made from one's aunt, since a relationship effected through betrothal[8] [should be inferred] from one effected through betrothal![9] — The deduction[7] is rather made from a brother's wife, since her relationship[10] is through betrothal, and she is of his own relatives.

Whence, however, is [the law concerning] a brother's wife herself derived? — From what was taught: Thou shalt not uncover the nakedness of thy brother's wife,[11] whether he is paternal or maternal. You say, ‘Whether he is paternal or maternal’, perhaps it is not so, but only when paternal and not when maternal? This is a matter of logical argument: He is subject to a penalty here[12] and he is also subject to penalty [for intercourse] with his sister; as [the prohibition of] his sister applies whether she is paternal or maternal, so here also[12] [the prohibition applies] whether he[13] was paternal or maternal. But might it not be argued[14] thus: He is subject to a penalty here[12] and he is also subject to penalty [for intercourse] with his aunt. As therefore [the prohibition of] his aunt applies only when she is paternal[15] and not when only maternal, so here[12] also [the prohibition applies only when he[13] is] paternal and not when only maternal! Let us observe whom the case[16] more closely resembles. Deduction concerning one's own relatives should be made from one's own relatives, and let no proof be adduced from one's aunt whose relationship is due to his father. But might it not be argued as follows:[14] Deduction should be made concerning a relationship which is due to betrothal[16] from a relationship that is due to betrothal,[17] but let no proof be adduced from a sister the prohibition of whom is natural![18] — For this reason[19] it was specifically stated in Scriptures, It is thy brother's nakedness,[20] implying[21] whether he is paternal or only maternal.

Might it not be suggested that the one as well as the other[22] speaks of the wife of a paternal brother, the one referring to a brother's wife who had children during the lifetime of her husband,[23] while the other refers to a brother's wife who had no children during the lifetime of her husband! — The case of one who had no children during the lifetime of her husband may be deduced from the statement of R. Huna.[24]

Might not both[25] still speak of the wife of a paternal brother, the one referring to a brother's wife who had children during the lifetime of her husband and the other to one who had children after the death of her husband! — The case of one who had children after the death of her husband requires no Scriptural text; for since the All Merciful said that she who had no children was permitted, it is obvious that if she had children she is forbidden.

Is it not possible that she who has no children is forbidden to all men but permitted to the levir while she who has children is permitted both to all men and to the levir! Or else: If she has no children it is a commandment[26] but if she has children it is optional! Or else: [Though indeed] the levir may marry her if[27] she has no children but he may not if she has children, yet [as the prohibition[28] is] a negative commandment that is derived from a positive one[29] it has only the force of a positive commandment![30] — For this reason Scripture wrote another text,[31] He hath uncovered his brother's nakedness.[32] But might it be said that the wife of a maternal brother is like the wife of a paternal brother, and that as the wife of a paternal brother is permitted[33] after the death of her husband, so is also the wife of a maternal brother[34] permitted after the death of her husband! — Scripture said, She is,[35] she retains her status.[36]

What need was there to specify the penalty of kareth for intercourse with one's sister?[37] — To infer a ruling like that of R. Johanan. For R. Johanan stated: If one committed all these offences[38] in one state of unawareness, he is liable for every one of them.[39] According to R. Isaac, however, who stated, ‘All those who are subject to the penalty of kareth were included in the general rule; and why was the penalty of kareth for [intercourse with] a sister stated separately? In order to indicate that his[40] penalty is kareth and not flogging’,[41] whence is the division[42] deduced? — It is deduced from, And unto a woman . . . as long as she is impure by her uncleanness,[43] that guilt is incurred for every single woman.[44]

For what purpose did the All Merciful write, They shall be child less[45] in the case of one's aunt?[46] — It is required for an exposition like that of Rabbah. For Rabbah pointed out the following contradiction: It is written, They shall be childless,[45] and it is also written, They shall die childless![47] How [are these two versions to be reconciled]? If he has children he will bury them; if he has no children, he will be childless.[48]

And it was necessary to write They shall be childless,[45] and it was also necessary to write, They shall die childless.[47] For had the All Merciful written only, They shall be childless,[45] it might have been assumed to refer to children born before the offence[49] but not to those born subsequent to the offence,[50] hence the All Merciful wrote, They shall die childless.[47] And had the All Merciful written, They shall die childless,[47] it might have been assumed to refer to those born subsequent to the offence,[51] but not to those who were born previously,[50] [hence both texts were] required.

Whence [is the prohibition of] the first stage among those who are subject to the penalty of negative commandments[52] to be inferred? — As the All Merciful specified carnally[53] in the case of a designated[54] bondmaid,[55] it may be inferred that among all the others who are subject to the penalty of negative commandments,[56] the first stage by itself constitutes the offence.[57] On the contrary! As the All Merciful specified the first stage in the case of those who are subject to the penalty of kareth,[58] it may be inferred that among those who are subject to the penalty of negative commandments consummation only constitutes the offence! — R. Ashi replied: If so,[59] Scripture should have omitted [the reference][60] in the case of the designated handmaid.[61]

Whence [is the prohibition of] the first stage inferred in the case of offences for which priests alone are subject to the penalty of negative commandments?[62] — This is arrived at by an analogy between the expressions of ‘taking’.[63]

Whence [is the prohibition[64] in respect of] those who are subject[65] to the penalty of a positive commandment[66] inferred?

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(1) Since the third, the maternal sister of the second, is permitted only on account of the illegality of the marriage of the second, but is forbidden where the marriage with the second is legal.

(2) A wife's sister is forbidden.

(3) In respect of a wife's sister.

(4) When her husband is his father's paternal brother.

(5) A wife's sister whose relationship to him is due to his own (and not his father's) act of marriage with her sister.

(6) His sister. An aunt's relationship, however, is due not to his own, but his father's relationship with her husband. V. supra.

(7) In respect of a wife's sister.

(8) A man's wife's sister is related to him through betrothal of her sister (his wife).

(9) The aunt whose relationship to him is due to her betrothal by his uncle.

(10) Like that of his wife's sister.

(11) Lev. XVIII, 16.

(12) For intercourse with a brother's wife.

(13) The brother.

(14) V. supra p. 363, n. 11.

(15) When her husband is his father's paternal brother.

(16) A brother's wife.

(17) V. supra note 5.

(18) It is due to vicissitudes of birth and not to any act of his.

(19) To exclude this argument.

(20) Lev. XVIII, 16b.

(21) Since, in view of Lev. XVIII, 16a, it is superfluous.

(22) The two sections of the verse cited.

(23) Who divorced her.

(24) Supra 54b; and no special text is needed for the purpose.

(25) The two sections of the verse cited.

(26) That the levir marries her.

(27) Lit.,’yes’.

(28) Not to marry a wife of a deceased brother if she has children.

(29) Her husband's brother shall go in unto her if she has no children.

(30) The penalty for the transgression of which is not that of kareth!

(31) Which, in view of the texts from Lev. XVIII, 16a and b, is superfluous.

(32) Lev. XX, 21, to indicate that the prohibition is to apply to all cases whether that of a paternal or only that of a maternal brother.

(33) To marry the levir if her husband died without issue.

(34) Who died childless.

(35) E.V. ‘it is’. Lev. XVIII, 16, which speaks also, as deduced supra, of the wife of a maternal brother.

(36) As she was forbidden to the levir during the lifetime of her husband she remains so after his death.

(37) Her case, surely, is included in Lev. XVIII, 29, among all the others with whom intercourse is forbidden under the penalty of kareth!

(38) Of forbidden intercourse.

(39) Mak. 14a, Ker. 2b. Because the penalty of kareth was specifically mentioned in the case of intercourse with a sister who is taken as an example for all the others included in the general statement in Lev. XVIII, 29. This is in accordance with the principle that if any case is included in a general rule and is then made the subject of a special statement, that which is predicated of it is to be applied to the whole of the general rule. Had not the sister been mentioned separately it might have been assumed that as all the offences were included in the general prohibition, and as they were all committed in one state of unawareness, one liability only is incurred for all.

(40) The brother's.

(41) Even though he had been duly warned.

(42) That liability is incurred for every single offence even though all were committed in one state of unawareness.

(43) Lev. XVIII. 19, emphasis on woman. Since, instead of the longer expression ‘A woman . . . as long as she is impure by her uncleanness’, the shorter one, ‘a menstruant could have been used.

(44) With whom intercourse took place; v. Mak. Sonc. ed. pp. 97ff.

(45) Lev. XX, 21.

(46) By childless ערירים the penalty of kareth is understood: Not only the offender but his children also are thereby cut off.

(47) Ibid. 20.

(48) V. infra nn. 5ff.

(49) The expression shall be childless would have been taken to imply that the children born prior to the offence would die as a result of the offence. The parents, however, would not die childless because the children born after the offence would live.

(50) Who would live. V. supra note 5.

(51) Shall die childless, being preceded by They shall bear their sin (Lev. XX, 20), implying that the penalty would affect only those children who were born after the sin had been committed.

(52) I.e., to flogging but not to kareth.

(53) Lev. XIX, 20, implying the second stage of consummation.

(54) חרופה This form of the kinyan by a Jewish slave of a Canaanitish bondwoman takes the place of the ordinary betrothal of a free woman.

(55) Intercourse with whom is forbidden by a negative commandment and is consequently subject to the penalty of flogging, in addition to the prescribed guilt-offering (v. Lev. XIX, 21f).

(56) Such as a bastard and an undesignated bondmaid.

(57) As only the designated bondmaid must pass the second stage in order to constitute an offence for which liability to a guilt-offering is incurred, it follows that in all the other cases, where no guilt-offering is ever incurred, the offence is constituted with the first stage alone.

(58) In Lev. XVIII, 29.

(59) That with all the others who are subject to the penalty of negative commandments the offence is not constituted unless, as with the designated bondmaid, the second stage was passed.

(60) ‘Carnally’. Lit., ‘let the text keep silence.’

(61) Since, however, the second stage was specifically postulated in her case, it follows that with all the others the first stage by itself constitutes the offence.

(62) From the designated maid supra only such prohibitions may he inferred as are applicable to all and not to priests only.

(63) The expression of ‘taking’ is used in the case of intercourse with a sister (Lev. XX, 17) which is punishable by kareth, and a similar expression is used in the case of marriages forbidden to priests under the penalty of a negative commandment (Lev. XXI, 7).

(64) Of the first stage.

(65) For intercourse with an Israelite's daughter.

(66) An Egyptian or an Edomite, for instance, (v. Deut. XXIII, 8, 9) whose prohibition to marry an Israelite's daughter is based on the positive precept, The third generation . . . shall (E.V. may) enter into the assembly of the Lord, which implies that the first and second generations must not. A negative precept derived from a positive one has the force of a positive precept.

Talmud - Mas. Yevamoth 55b

— It is arrived at by an analogy between the two expressions of ‘coming’.[1]

Whence [the prohibition of a yebamah][2] to a stranger?[3] — If [one follows] him who holds that it[4] is a negative precept,[5] [it would be subject to the same restrictions as any other] negative precept;[6] if [one follows] him who holds that it[7] is a positive precept,[8] [it would be subject to the same restrictions as any other] positive precept.[6] Whence, however, [its[9] force[10] in respect of] the yebamah and the levir? — It is arrived at by the analogy between the two expressions of ‘coming’.[11]

Whence [its[9] force[12] in respect of the kinyan], between husband and wife? — It is arrived at by comparison between the expressions of ‘taking’.[13]

Raba said: For what purpose did the All Merciful write ‘carnally’ in connection with the designated bondmaid,[14] a married woman,[15] and a sotah?[16] That in connection with the designated bondmaid [is required] as has just been explained.[17] That in connection with a married woman excludes intercourse with a relaxed membrum.[18] This is a satisfactory interpretation in accordance with the view of him who maintains that if one cohabited with forbidden relatives with relaxed membrum he is exonerated;[19] what, however, can be said, according to him who maintains [that for such an act one is] guilty? — The exclusion is rather that of intercourse with a dead woman.[20] Since it might have been assumed that, as [a wife], even after her death, is described as his kin,[21] one should be guilty for [intercourse with] her [as for that] with a married woman, hence we were taught [that one is exonerated]. What was the object of that[22] of the sotah? — Such as was taught: Carnally[22] excludes [the case where the husband's warning was] concerning something else. What is meant by ‘something else’? R. Shesheth replied: The exclusion is the case where he warned her concerning unnatural intercourse. Said Raba to him: The text reads, As with womankind![23] — Rather, said Raba, the exclusion is the case where the husband's warning concerned lecherous contact of her limbs. Said Abaye to him: Has the All Merciful forbidden [a wife to her husband] because of obscenity?[24] — Rather, said Abaye, the exclusion is the case where the husband's warning was concerning superficial contact.[25] This is a satisfactory explanation according to him who maintains that the first stage of contact[26] is the insertion of the corona;[27] what can be said, however, according to him who maintains that it[28] is the superficial contact![29] — The exclusion is rather the case where he warned her concerning lecherous contact of her limbs; but[30] it was necessary [to state it, because] it might have been assumed that, as the All Merciful has made the prohibition[31] dependent on the objection of the husband,[32] [the woman should here be forbidden] since he objected,[33] hence we were taught [that such a case is excluded].

Samuel stated: The first stage is constituted by superficial contact.[25] This may be compared to a man who puts his finger to his mouth; it is impossible for him not to press down the flesh. When Rabbah b. Bar Hana came[34] he stated in the name of R. Johanan: Consummation in the case of a designated bondmaid is constituted by the insertion of the corona.

R. Shesheth raised an objection: ‘Carnally[35] implies that guilt is incurred only when intercourse was accompanied by friction’;[36] does not this refer to friction of the membrum! — No; friction of the corona.

When R. Dimi came[34] he stated in the name of R. Johanan: The first stage is constituted by the insertion of the corona. They said to him: But, surely, Rabbah b. Bar Hana did not say so! — He replied: Then either he is the story-teller[37] or I.[38]

When Rabin came[34] he stated in the name of R. Johanan, ‘The first stage is constituted by the insertion of the corona’. He is certainly in disagreement with the report of Rabbah b. Bar Hana.[39] Must it be said, however, that he differs also from Samuel?[40] — No; [the entire process] from the superficial contact until the insertion of the corona is described as the first stage.[41]

When R. Samuel b. Judah came[34] he stated in the name of R. Johanan, ‘The first stage is constituted by the insertion of the corona; and the final stage, by actual consummation.

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(1) The expression of ‘coming’ is used with a case that is forbidden by a negative precept (Deut. XXIII, 3) as well as with those whose prohibition is derived from a positive precept (ibid. 9) and whose penalty is kareth. Cf. note 9 supra.

(2) Prior to halizah.

(3) Lit., ‘to the street’.

(4) The marriage with a stranger before halizah had been performed.

(5) Derived from Deut. XXV, 5, Shall not be married abroad.

(6) And, as has been shewn supra, the first stage is included in the restrictions.

(7) The marriage with a stranger before halizah had been performed.

(8) From Deut. XXV, 5, it follows that the levir shall marry her (positive); hence no other (negative); and a negative precept derived from a positive one has the force of the positive.

(9) Of the first stage.

(10) To constitute levirate marriage as if actual cohabitation had taken place.

(11) Cf. supra p. 370, n. 10. The expression of ‘coming’ is also used in respect of the levir (v. Deut. XXV, 5).

(12) Cf. supra note 5.

(13) Used in the case of husband and wife (Deut. XXIV, 1) as well as in that of those whose penalty is kareth. Cf. supra p. 370, n. 10.

(14) Lev. XIX, 20.

(15) Ibid. XVIII, 20.

(16) Num. V, 13.

(17) Supra 55a.

(18) Since no fertilisation can possibly result.

(19) Shebu. 18a, Sanh. 55a.

(20) Even though she died as a married woman.

(21) In Lev. XXI, 2, where the text enumerates the dead relatives for whom a priest may defile himself. As was explained, supra 22b, his kin refers to one's wife.

(22) The expression ‘carnally’ in Num. V, 13.

(23) Lev. XVIII, 22, in which natural and unnatural intercourse are regarded as analogous (v. Sanh. 54a). What matters it then for which she was warned!

(24) Surely not. For mere laxity, in the absence of adultery, a wife would not have been subjected to such a severe penalty. What need then was there to state the obvious?

(25) Lit., ‘kissing’.

(26) Which is forbidden.

(27) Infra. As this stage only constitutes cohabitation and causes the prohibition of the woman to her husband, it is possible to exclude from such prohibition the earlier stage of superficial contact.

(28) The ‘first stage’ that is forbidden.

(29) How can this be excluded from the prohibition in view of the ruling that the first stage does constitute cohabitation!

(30) Despite Abaye's objection (v. supra note 3).

(31) Of a sotah to her husband.

(32) The laws of the sotah apply only where such an objection or warning has been expressed.

(33) By his warning.

(34) From Palestine to Babylon.

(35) Lev. XIX, 20, dealing with a designated bondmaid.

(36) מירוק ‘friction’, Syr.-Aram. rt. מרק So Golds. against Levy's (III, p. 260) Ergiessung which he regards as an error based on a misunderstanding of Rashi.

(37) Lit., ‘liar’. Rabbah h. Bar Hana was a well known teller of hair-raising stories (Cf. B.B. 73aff). and sometimes made self-contradictory statements on questions of halachah also (cf. Hul. 97a, Kid. 75b).

(38) Lit., ‘I lied’, i.e., they had his word against Rabbah b. Bar Hana's, and it was for them to decide the report of which of them was the more reliable.

(39) Who regards this act as consummation.

(40) Who reported that superficial contact alone constitutes the first stage.

(41) On this both Samuel and Rabin agree; the one mentioning the beginning of the process and the other the conclusion.

Talmud - Mas. Yevamoth 56a

Beyond this, the act is no more than superficial contact and one is exonerated in regard to it’. He thus differs from Samuel.

WHETHER HE PASSED ONLY THE FIRST, OR ALSO THE FINAL STAGE OF CONTACT HE CONSTITUTES THEREBY A KINYAN. In what respect is kinyan constituted? — Rab replied: Kinyan is constituted in all respects;[1] and Samuel replied: Kinyan is constituted only in respect of the things specified in the section,[2] viz., to inherit the estate of his brother[3] and to exempt her[4] from the levirate marriage.[5] If [she[6] became subject to the levir] after her marriage[7] she may, according to the view of all,[8] eat [terumah],[9] since she has been eating it before.[10] They differ only [where she became subject to the levir] after betrothal.[7] Rab maintains that she may eat, since the All Merciful has included cohabitation in error, [giving it the same validity] as when done presumptuously. But Samuel maintains that the All Merciful has included it[11] in so far only as to put him[12] in the same position as the husband,[13] but not to confer upon him more power than upon the husband.[14] And [in giving this ruling] Samuel is consistent with his own view, for R. Nahman stated in the name of Samuel: wherever the husband entitles her to eat, the levir also entitles her to eat; and wherever the husband does not entitle her to eat the levir also[15] does not entitle her to eat.

An objection was raised: 'If the daughter of an Israelite, capable of bearing, was betrothed to a priest capable of hearing, who became deaf before he had time to marry her, she may not eat [terumah].[16] If he died[17] and she became subject to a deaf levir, she may eat;[18] and in this respect the power of the levir is superior to that of the husband'. Now, according to Rab, this statement is perfectly satisfactory.[19] According to Samuel, however, a difficulty arises![20] Samuel can answer you: Read thus . . . who became deaf before he had time to marry her, she may not eat [terumah]; if, however, he married her and then became deaf she may eat it; if he died and she became subject to a deaf levir, she may eat it'.[21] 'Then what is meant by 'in this respect'?[22] — While if the husband had been deaf before,[23] she would not have been entitled to eat, if the levir had been deaf before[23] she may eat.

Others say: If [she[24] became subject to the levir] after her betrothal[25] all[26] agree that she may not eat [terumah], since 'she was not allowed to eat it during the lifetime of her husband. They differ only [when she became subject to the levir] after her marriage.[25] Rab maintains that she may eat, since she has been eating before; but Samuel maintains that she may not eat, because the All Merciful has included cohabitation in error, [giving it the same force] as cohabitation in presumption, only in respect of the things that were enumerated in the section,[27] but not in all other respects. But surely R. Nahman stated in the name of Samuel, 'Wherever the husband entitles her to eat the levir also entitles her to eat'![28] — Read: Every cohabitation whereby a husband entitles her to eat also entitles her to eat if performed by the levir, and every cohab itation whereby the husband does not entitle her to eat, does not entitle her to eat if performed by the levir.

An objection was raised: 'If the daughter of an Israelite capable of hearing was betrothed to a priest capable of hearing, who became deaf before he had time to marry her, she may not eat [terumah].[29] If he died[30] and she became subject to a deaf levir she may eat;[31] and in this respect the power of the levir is superior to that of the husband'. Now, according to Rab,[32] this[33] might well be explained as was explained above;[34] according to Samuel, however, a difficulty arises![35] — This is indeed a difficulty.

Our Rabbis taught: If the daughter of an Israelite capable of hearing was betrothed to a priest capable of hearing, who became deaf before he had time to marry her, she may not eat [terumah].[36] If a son was born to her she may eat.[37] If the son died,[38] R. Nathan said, she may eat;[39] but the Sages said: She may not eat. What is R. Nathan's reason?[40] Rabbah replied: Because she was eating[41] before. Said Abaye to him: What now? would the daughter of an Israelite who was married to a priest who subsequently died[42] be entitled to eat [terumah] because she was eating it before? But[43] [the fact is that] as soon as [her husband] died his sanctity is withdrawn from her; so here also as soon as [the son] died his sanctity is withdrawn from her![44] — Rather, said R. Joseph, R. Nathan holds that marriage with a deaf [priest][45] does entitle the woman to eat terumah,[46] and that no prohibition[47] is to be made in respect of the marriage of a deaf priest[48] as a preventive measure against the betrothal of a deaf priest.[49] Said Abaye to him: If so,[50] what need was there [to state] 'If a son was born to her'? — Because of the Rabbis.[51] Then[52] R. Nathan should have expressed his disagreement with the Rabbis in the first clause![53] — He allowed the Rabbis to finish their statement and then expressed his disagreement with them.[54] If so,[55] the statement should have read, ‘If the son died she may not eat;[56] R. Nathan said: She may eat’?[57] — This is a difficulty.

SIMILARLY, IF A MAN HAD INTERCOURSE WITH ANY OF THE FORBIDDEN RELATIVES. R. Amram said: The following statement was made to us by R. Shesheth

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(1) The yebamah may even eat of terumah if the levir was a priest.

(2) Deut. XXV, 5ff, which deals with the obligations and privileges of the levir and the yebamah.

(3) Inferred from v. 6 in the section.

(4) If he died without issue from her but had children from another wife, or if he divorced her.

(5) The first stage having the same validity as actual marriage.

(6) The sister-in-law upon whom one of the forms of kinyan, including cohabitation in error, spoken of in our Mishnah had been executed.

(7) With her husband, the levir's deceased brother.

(8) Rab and Samuel.

(9) If the levir was a priest.

(10) While she was still with her husband.

(11) Cohabitation in error.

(12) The levir.

(13) He is entitled to confer upon his sister-in-law the same rights that had been conferred upon her by her husband. Hence, if she was married and entitled to eat terumah the levir also may confer upon her this privilege.

(14) As her husband's priesthood did not entitle her to eat terumah during the period of their betrothal, since only actual marriage can confer this privilege, the levir also cannot now confer this privilege upon her.

(15) If the kinyan was in one of the imperfect forms spoken of in our Mishnah.

(16) Even after their marriage. The reason will be explained infra.

(17) After the marriage.

(18) After the levirate marriage. The cohabitation of a deaf levir is considered to be no less valid to constitute a kinyan than the imperfect forms of kinyan mentioned in our Mishnah which constitute kinyan in the case of any levir.

(19) Because he regards an imperfect cohabitation which in ordinary cases constitutes no kinyan as valid in the case of the levir.

(20) According to him, imperfect cohabitation confers no more rights through the levir than through the husband; and here it is stated that the levir entitles her to eat terumah though her husband could not confer this privilege upon her!

(21) Because she was entitled to the same privilege during the lifetime of her husband,

(22) If she is only entitled to the privilege she enjoyed during the lifetime of her husband, in what respect is ‘the power of the levir superior to that of the husband’?

(23) He married her.

(24) V. supra p. 374, n. 6.

(25) V. loc. cit., n. 7.

(26) V. loc. cit., n. 8.

(27) V. loc. cit., n. 2.

(28) How then could Samuel maintain that ‘she may not eat’ even though she had enjoyed that privilege while her husband was alive?

(29) V. supra p. 374, n. 16.

(30) V. loc. cit., n. 17.

(31) V. p. 375, n. 1.

(32) Though he maintains (according to the second version) that the levir does not confer any privileges that were not previously conferred by the husband.

(33) The statement just cited that she may eat terumah if the levir is deaf though she was not permitted to eat it while her husband was alive.

(34) I.e., the explanation given supra, in reply to the objection raised against Samuel, may now be given as a reply to the objection against Rab, viz., that the clause, ‘If however, he married her and then became deaf she may eat it’, is to be inserted before ‘If he died and she became subject to a deaf levir, she may eat’, the last clause thus referring to a married woman that was permitted to eat terumah during the lifetime of her husband.

(35) Since, in his opinion (according to the second version), the deaf levir (whose kinyan has the same validity as that effected through the imperfect forms mentioned in our Mishnah) does not confer the privilege of eating terumah even if the woman had enjoyed the privilege while her husband was alive.

(36) V. supra p. 374. n. 16.

(37) The terumah; by virtue of her son, as deduced from Lev. XXII, 11, infra 67a.

(38) But was survived by his father.

(39) By virtue of her husband.

(40) Why may she eat now by virtue of her husband while in the previous case, where she never had a son, her husband could not confer that privilege upon her?

(41) V. supra note 9.

(42) Not being survived by any son.

(43) Since the law is that she may not.

(44) How, then, could R. Nathan allow her to continue to eat terumah?

(45) Where the betrothal took place while he was still capable of hearing.

(46) Because Pentateuchally the betrothal confers the privilege upon her. Its postponement until after the marriage is merely a preventive measure Rabbinically instituted (v. Keth. 57b). which is, of course, not applicable here where marriage with the deaf man had already taken place.

(47) Against the woman's eating of terumah.

(48) V. supra note 3.

(49) There is no need to provide against the possibility of mistaking betrothal for marriage and for thus allowing a woman to eat terumah immediately after betrothal, since it is well known that the betrothal of a deaf man has no validity. The Rabbis who forbid the woman to eat terumah even after the marriage, it may be explained, provided against the possibility of mistaking such a marriage which followed a betrothal that took place while the priest was still capable of hearing (which Pentateuchally entitles the woman to the privilege) for one which followed a betrothal that took place when he was already deaf and which is Pentateuchally invalid.

(50) If according to R. Nathan it is the marriage, even though there was no son, that entitles the woman to the terumah.

(51) Who in such a case only agree with R. Nathan that the woman may eat terumah.

(52) Since he maintains that after the marriage, though there was no son, the woman is entitled to the privilege.

(53) Where the woman is prohibited to eat terumah even after the marriage.

(54) With their views in both the first and the final clause.

(55) That R. Nathan reserved his opinion until the Rabbis had finished their full statement.

(56) Which would have concluded the statement of the Rabbis.

(57) I.e., R. Nathan's view would thus have come at the very end. As, however, his opinion is inserted before ‘she may not eat’ which is the statement of the Rabbis, it cannot he maintained any more that he was waiting until they had concluded their full statement, and the original difficulty consequently arises again.

Talmud - Mas. Yevamoth 56b

who enlightened us on the subject[1] from our Mishnah. ‘An Israelite's wife who was outraged, though she is permitted to her husband, is disqualified from the priesthood;[2] and so it was taught by our Tanna:[3] SIMILARLY, IF A MAN HAD INTERCOURSE WITH ANY OF THE FORBIDDEN RELATIVES ENUMERATED IN THE TORAH, OR WITH ANY OF THOSE WHO ARE INELIGIBLE TO MARRY HIM; now, what is the purport of SIMILARLY? Does it not mean, WHETHER IN ERROR OR IN PRESUMPTION, WHETHER UNDER COMPULSION OR OF HIS OWN FREE WILL? And yet it was stated, HE HAS THEREBY RENDERED HER INELIGIBLE’.[4] — No; SIMILARLY might refer[5] to the FIRST STAGE.[6] ‘To the first stage’ with whom? If it be suggested, ‘With one of the forbidden relatives’, does this then imply [it might be retorted] that the case of the forbidden relatives is derived from that of the sister-in-law?[7] On the contrary, the case of the sister-in-law was derived from the forbidden relatives, since the original prohibition of the first stage was written in connection with the forbidden relatives! — Rather, SIMILARLY refers[8] to Unnatural intercourse with forbidden relatives.[9] On the contrary; the original prohibition of the various forms of intercourse with a woman was written in connection with the forbidden relatives![10] — Rather, SIMILARLY refers[8] to unnatural intercourse with those [cohabitation with whom is] subject to the penalty of negative precepts.[11]

Rabbah[12] stated: If the wife of a priest had been outraged, her husband suffers the penalty of flogging on her account[13] for [cohabiting with] a harlot.[14] Only for [cohabiting with] a harlot, but not for 'defilement'?[15] — Read, 'Also for [cohabitation with] a harlot'.[16]

R. Zera raised an objection: And she be not seized,[17] she is forbidden; if, however, she was seized[18] she is permitted.[19] But there is another woman who is forbidden[19] even though she was seized.[18] And who is that? The wife of a priest. Now, a negative precept[20] that is derived from a positive one[21] has only the force of a positive precept![22] — Rabbah replied: All[23] were included in the category of harlot.[24] When, therefore, Scripture specified in the case of the wife of an Israelite that only if she be not seized[17] she is forbidden but if she was seized[18] she is permitted, it may be inferred that the wife of a priest retains her forbidden status.[25]

Others say: Rabbah stated, If the wife of a priest had been outraged, her husband suffers for her the penalty of flogging[26] on account of 'defilement'.[27] Only on account of 'defilement' but not for [connubial relationship with] a harlot. Thus it is obvious that [when the woman acted] under compulsion she is not to be regarded as a harlot. R. Zera raised an objection: 'And she be not seized,[28] she is forbidden; if, however, she was seized[29] she is permitted. But there is another woman who is forbidden[30] even though she was seized.[29] And who is that? The wife of a priest'. Now, a negative precept[31] that is derived from a positive one[32] has only the force of a positive precept![33] — Rabbah[34] replied: All[35] were included in [the prohibition to live with her] after that she is defiled.[36] When, therefore, Scripture specified in the case of the wife of an Israelite that only when she be not seized[37] she is forbidden, but if she was seized[38] she is permitted, it may be inferred that the wife of a priest retains her forbidden status.[39]

MISHNAH. THE BETROTHAL OF A WIDOW TO A HIGH PRIEST AND OF A DIVORCED WOMAN OR A HALIZAH TO A COMMON PRIEST[40] DOES NOT CONFER UPON THEM THE RIGHT TO EAT TERUMAH.[41] R. ELEAZAR AND R. SIMEON, HOWEVER, DECLARE THEM ELIGIBLE.[42] IF THEY BECAME WIDOWS OR WERE DIVORCED AFTER MARRIAGE THEY REMAIN INELIGIBLE;[43] IF AFTER BETROTHAL THEY BECOME ELIGIBLE.[44]

GEMARA. It was taught: R. Meir said, [this[45] may be arrived at by an inference] a minori ad majus: If permissible betrothal[46] does not confer the right of eating terumah, how much less forbidden betrothal.[47] They, however, replied: No; if you have said it[48] in respect of permissible betrothal[46] where the man may never confer the right of eating,[49] would you also say it[48] in respect of sinful betrothal[47] where the [priest], in other circumstances,[50] is entitled to confer the right of eating?[51]

R. Eleazar stated in the name of R. Oshaia: In the case where a priest who was wounded in the stones[52] betrothed a daughter of an Israelite,[53] we have a difference of opinion between R. Meir and R. Eleazar and R. Simeon. According to R. Meir who holds that a woman awaiting a pentateuchally forbidden cohabitation[54] may not eat terumah, this woman also[55] may not eat; but according to R. Eleazar and R. Simeon who maintain that a woman awaiting a pentateuchally forbidden cohabitation[54] may eat

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(1) Lit., 'and lit up our eyes'.

(2) Supra 35a. She may not marry a priest even after the death of her husband.

(3) In our Mishnah תונא == our Tanna (Rashi). ותנא תונא == and our Tanna also taught so. Others render תונא 'confirmation: ותוא תונא == and the Tanna is (or provides) confirmation (v. Jast.). [Or, ותוא תונא

‘The Tanna teaches’, v. Epstein, Schwarz-Festschrift pp. 319ff].

(4) To marry a priest. Since a married woman is subject to the same restrictions as the ‘forbidden relatives’, she being included in the penalty of incestuous unions in Lev. XVIII (v. verse 20), it follows that whatever renders the forbidden relatives in our Mishnah ineligible to marry a priest renders a married woman also ineligible. As ‘outrage’ or ‘intercourse under compulsion’ is included, our Mishnah must be in agreement with the ruling of R. Shesheth.

(5) Lit., ‘what’.

(6) I.e., as in the previously mentioned cases so in the following, the first stage has the same force as consummation. The ineligibility of an outraged woman, therefore, does not at all come within the purview of our Mishnah.

(7) Since the law in the latter is made to apply by comparison also to the former.

(8) Lit., ‘what’.

(9) The meaning being that as with the sister-in-law so with the other forbidden relatives kinyan is constituted IRRESPECTIVE OF THE NATURE OF THE INTERCOURSE, even if it was unnatural. Cf. supra p. 378, n. 6 second clause.

(10) The case of the sister-in-law is derived from them; not theirs from hers.

(11) Cf. supra p. 378, n. 6 and supra n. 2 mutatis mutandis.

(12) Cur. edd., ‘Raba’.

(13) If he has intercourse with her.

(14) Who is forbidden to a priest (v. Lev. XXI, 7) whether her adultery was committed willingly or under compulsion. It is in the case of an Israelite only that a distinction is made between a woman's voluntary and compulsory adultery.

(15) If to an Israelite she is forbidden on account of her defilement when her act was voluntary (v. supra 11b), she should be forbidden to a priest on the same account even when her act was under compulsion!

(16) He suffers for both.

(17) Num. V, 13. E.V., neither she be taken in the act.

(18) I.e., if she acted under compulsion.

(19) To her husband.

(20) That a priest must not live with his outraged wife.

(21) An Israelite only may live with such a wife.

(22) It is not punishable by flogging. How then could Rabbah subject the husband to such a penalty?

(23) Married women who played the harlot whether willingly or under compulsion.

(24) Who is forbidden to her husband by a negative precept.

(25) Her prohibition to the priest, even if she acted under compulsion, is consequently derived from the original negative precept, and not, as had been assumed, from the positive precept relating to an Israelite.

(26) If he has intercourse with her.

(27) V.supra p. 379, n.8.

(28) Num. V, 13. E.V., neither she be taken in the act.

(29) I.e., if she acted under compulsion.

(30) To her husband.

(31) Cf. supra p. 379, n. 13 mutatis mutandis.

(32) An Israelite only may live with such a wife.

(33) V. supra p. 379, n. 15.

(34) So Bah. Cur. edd., ‘Raba’.

(35) V. supra p. 379, n. 16.

(36) Deut. XXIV, 4.

(37) Num. V, 13, E.V., neither she be taken in the act.

(38) I.e., if she acted under compulsion.

(39) Cf. supra note 1.

(40) Since such betrothal is unlawful.

(41) If they were the daughters of Israelites. If they were the daughters of priests, their right to the eating of terumah which they enjoyed prior to their betrothal, ceases with the forbidden betrothal. (V. Rashi s.v. לשון אחר a.l.) According to Tosaf. (s.v. מן a.l.) the Mishnah refers to the daughters of priests only. Cf. also תוספות ישנים a.l.

(42) During the period of betrothal, so long as actual marriage has not taken place.

(43) Since, in the case of priests’ daughters, marriage caused their permanent profanation, and in that of others the privilege had never been conferred upon them.

(44) Even according to the first Tanna. Priests' daughters lose the privilege only during the period of betrothal. As soon as the betrothal period ends either through death or divorce they may again eat terumah; and in the case of widowhood they may also marry a common priest. Daughters of Israelites are entitled to the same privileges except that of eating of terumah to which, of course, they had never been entitled.

(45) The ruling that the betrothals spoken of in our Mishnah do not confer upon the daughter of an Israelite the privilege of eating terumah (v. Rashi, second explanation).

(46) When an Israelite betroths the daughter of an Israelite.

(47) Of which our Mishnah speaks. [Var. lec.: 'If permissible betrothal renders her ineligible (a priest's daughter is not allowed to eat terumah after her betrothal to an Israelite), how much more forbidden betrothal'. This reading — a reading which it must be confessed appears more feasible — is adopted by Tosaf. in view of their interpretation (v. supra p. 380, n. 17) that the Mishnah refers only to daughters of priests].

(48) That betrothal does not confer the privilege of eating terumah.

(49) An Israelite is neither himself entitled to the eating of terumah nor can he confer the right upon others.

(50) If he married a woman permitted to him.

(51) Obviously not. Hence the ruling in our Mishnah that the betrothals confer the privilege.

(52) One so incapacitated is not permitted to marry even the daughter of an Israelite, v. Deut. XXIII, 2.

(53) [Var. lec.: 'a daughter of a priest'. A reading adopted by Tosaf. on their interpretation (cf. n. 6)].

(54) I.e., if she was betrothed to a man whom she is forbidden to marry.

(55) Who married the incapacitated priest.

Talmud - Mas. Yevamoth 57a

this woman also may eat.[1]

Whence [is this[2] proved]? Is it not possible that R. Eleazar and R. Simeon maintain [their opinion] only there because in other circumstances[3] he is entitled to confer the right of eating, but not here where he is never entitled to confer the right of eating![4] And were you to reply that here also he[5] is entitled to confer upon the daughter of proselytes[6] the right of eating, surely [it may be retorted] this very question was addressed by R. Johanan to R. Oshaia[7] who gave him no answer![8]

It was stated:[9] Abaye said,[10] Because[11] he is entitled to confer upon [his wife][12] the right to eat [terumah] so long as he does not cohabit with her.[13] Raba said,[10] Because[11] he may confer the right of eating[14] [terumah] upon his Canaanitish bondmen and bondwomen.[15]

Abaye did not give the same explanation as Raba because matrimonial kinyan may be inferred from matrimonial kinyan, but matrimonial kinyan may not be inferred from the kinyan of slaves. And Raba does not give the same explanation as Abaye because there[16] it is different, since she has already been eating it previously.[17] And Abaye?[18] — [The argument], 'since she has already been eating' cannot be upheld;[19] for should you not admit this,[20] a daughter of an Israelite who was married to a priest who subsequently died should also be allowed to eat terumah since she has already been eating it![21]

And Raba?[22] — There,[23] his kinyan had completely ceased;[24] here, however, his kinyan did not cease.[25]

[To turn to] the main text. R. Johanan enquired of R. Oshaia: If a priest who was wounded in the stones married the daughter of proselytes does he confer upon her the right of eating terumah? The other remained silent and made no reply at all. Later, another great man came and asked him a different question which he answered. And who was that man? Resh Lakish. Said R. Judah the Prince to R. Oshaia: Is not R. Johanan a great man?[26] The other replied: [No reply could be given] since he submitted a problem which has no solution.

In accordance with whose view?[27] If according to R. Judah,[28] she is not entitled to eat terumah whether he[29] does or does not retain his holiness. For if he retains his holiness she may not eat since the Master said[30] , ‘The daughter of a male proselyte is like the daughter of a male who is unfit for the priesthood’;[31] and if he does not retain his holiness,[32] she may not eat either, since it has been said that the assembly of proselytes is called an ‘assembly’![33] If, however, according to R. Jose,[34] she is entitled to eat terumah whether he does or does not retain his holiness. For if he retains his holiness she may eat, since he[35] stated that even when a proselyte married a proselyte his daughter is eligible to marry a priest;[36] and if he does not retain his holiness, she may also eat since he[35] said that the assembly of proselytes is not called an ‘assembly’![37] It must rather be[38] in accordance with the view of the following Tanna. For we learned: R. Eliezer b. Jacob said, ‘A woman who is the daughter of a proselyte must not be married to a priest unless her mother was of Israel’,[39] And it is this that his question amounts to: Has only her eligibility[40] increased[41] and consequently she is entitled to eat terumah[42] or has perhaps her sanctity also increased[43] and consequently she is not permitted to eat?[44]

Come and hear: When R. Aha b Hinena arrived from the South, he came and brought a Baraitha with him: Whence is it deduced that if a priest, who is wounded in the stones, married the daughter of proselytes, he confers upon her the right to eat terumah? For it was stated, But if a priest buy any soul, the purchase of his money[45] etc.,[46] he may eat of it. Now, in accordance with whose view?[47] If it be suggested, ‘according to R. Judah’, surely [it may be retorted] he stated that whether he[48] does or does not retain his holiness she[49] is not permitted to eat.[50] And if[51] ‘in accordance with the view of R. Jose’, what need [it may be asked] was there for a Scriptural text? Surely, he[52] stated that whether he[48] does or does not retain his holiness she[49] is permitted to eat! Must it not [consequently be assumed that it[53] is] in accordance with the view of R. Eliezer b. Jacob? And so it may be inferred that only her eligibility[54] had been increased and that she is consequently permitted to eat. This proves it.

It was stated: Rab said,

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(1) Since through the kinyan of the betrothal the woman becomes the priest's acquisition and is, therefore, like himself, entitled to eat terumah so long as she does not become profaned (a halalah) through actual marriage.

(2) The ruling according to R. Eleazar and R. Simeon just deduced.

(3) If he married a woman permitted to him.

(4) Since he is not permitted to marry any woman.

(5) The incapacitated priest, since he is only forbidden to enter into the assembly of the Lord (Deut. XXIII, 2), i.e., to marry a Jewess, but he is permitted to marry a proselyte.

(6) Who is not included in the assembly of the Lord. V. supra n. 7.

(7) Infra.

(8) As to whether such an incapacitated priest may confer upon the daughter of a proselyte the right of eating terumah. Since no answer was given, there is no proof that the right may be conferred at all. The difficulty consequently remains: How could the case of the incapacitated priest who can never confer the right upon others be inferred from the case of one who is, in certain circumstances, entitled to confer such a right?

(9) In reply to the difficulty raised. V. supra n. 10.

(10) The incapacitated priest is entitled to confer upon the woman he betrothed the right to eat terumah.

(11) In certain other circumstances.

(12) Whom he married before he had been incapacitated.

(13) After becoming incapacitated (v. infra 70a). Since he may confer the privilege of eating terumah in this case he may also confer it where the betrothal was unlawful, so long as the woman had not been profaned by him through marriage.

(14) מאכיל so MS.M. (Cur. edd מאכילה ‘enables her to eat’).

(15) As he may confer the privilege in that case he may also confer it upon the woman he betrothed.

(16) Where the incapacity occurred after marriage.

(17) Prior to the man's incapacity. This, therefore, provides no proof that a man who is already incapacitated can also confer the privilege.
(18) How does he reconcile the difference in two cases?
(19) Lit., ‘we do not say’.
(20) But insist on upholding Raba's distinction.
(21) Prior to her husband's death. As in this case the argument is obviously untenable so it is untenable in the case of the incapacitated priest.
(22) How can he advance an argument that is untenable in the case cited?
(23) Where the priest died.
(24) As soon as the priest died, leaving no sons, their marital relationship was completely severed.
(25) He is still her husband.
(26) And so entitled to a reply.
(27) Did R. Johanan ask his question.
(28) Who, in Kid. 77a, differs from R. Jose on the question of the daughter of a proselyte.
(29) The incapacitated Priest.
(30) R. Judah.
(31) חלל halal. As he may not consequently marry a proselyte's daughter she is obviously forbidden to eat of the terumah.
(32) And the priestly sanctity is consequently no reason for her prohibition to marry a halal.
(33) An ‘assembly of the Lord’ into which an incapacitated person may not enter. (Cf. supra p. 382, nn. 7 and 8). The marriage is consequently forbidden and, therefore, confers upon the woman no right to the eating of terumah.
(34) Did R. Johanan ask his question.
(35) R. Jose. [So MS.M. cur. edd.,’a Master said’].
(36) Kid. 77a. Hence she is not inferior in this respect to the daughter of an Israelite.
(37) The marriage with her being consequently permissible, the right of eating terumah should obviously be conferred upon her.
(38) R. Johanan raised his question.
(39) Bik. I,5.
(40) Where her mother was of Israel.
(41) I.e., is she, if her mother was of Israel, thereby only enabled to marry a priests but is not regarded as a proper daughter of Israel to be included in the ‘assembly of the Lord’, so as to be forbidden to one incapacitated.
(42) In any ease. Even if the incapacitated priest is holy he may marry her. And, as she is not included in the ‘assembly’ (v. supra n. 13), she is not forbidden to marry him.
(43) And she is thus included in the ‘assembly’ and hence forbidden to marry one incapacitated.
(44) Since the marriage was a forbidden one.
(45) Lev. XXII, 11.
(46) The Heb. וגו' in the original seems to be a mistake for הוא which is the only word omitted from the Scriptural quotation.
(47) Was R. Aha's Baraitha necessary.
(48) A priest suffering from the incapacity mentioned in the Baraitha.
(49) The woman who married him.
(50) Which is contrary to the Baraitha which permits it.
(51) Cf. supra n. 3.
(52) R. Jose.
(53) R. Aha's Baraitha,
(54) V. supra p. 384, nn 13 and 14.

Talmud - Mas. Yevamoth 57b

‘The bridal chamber[1] constitutes kinyan[2] with ineligible women’[3] and Samuel said, ‘The bridal chamber[4] does not constitute kinyan[2] with ineligible women’.[3] Said Samuel: Abba[5] agrees with me in the case of a girl who is under three years of age and one day; since cohabitation with her constitutes no kinyan,[6] the bridal chamber[7] also constitutes no kinyan.[6]

Raba said, We also learned a similar Baraitha:[8] A girl who is three years of age and one day may be betrothed by cohabitation; if a levir cohabited with her, he has thereby acquired her;[9] one incurs through her the guilt of intercourse with a married woman; she[10] defiles her cohabitor in respect of his imparting defilement to the lower, as well as to the upper couch;[11] if she was married to a priest she may eat terumah, and anyone ineligible[12] who cohabited with her causes her ineligibility.[13] Thus only a girl of the age of three years and one day, who is rendered ineligible by cohabitation, is also rendered ineligible through the bridal chamber; but a girl younger than three years and one day, who is not rendered ineligible by cohabitation, is not rendered ineligible through the bridal chamber either.[14] This proves it.

Rami b. Hama stated: [In regard to the question whether] the bridal chamber[15] constitutes kinyan[16] with ineligible women,[17] we arrive at a difference of opinion between R. Meir and R. Eleazar and R. Simeon.

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(1) Lit., 'there is huppah' (v. Glos.), even if it was unaccompanied by any other form of betrothal such as money, deed, or cohabitation (Rashi). On huppah v. Kid., Sonc. ed. p. 5, n. 7,

(2) To deprive the woman of her right to eat terumah where, as the daughter of a priest, she had previously been entitled to this privilege.

(3) Whom one is not permitted to marry; a widow, e.g., to a High Priest or a divorcee to a common priest. [On Rashi's interpretation which is followed here, both Rab and Samuel hold with R. Huna (v. Kid. 3a) that huppah by itself constitutes kinyan. They differ, however, in the case of ineligible women, Samuel being of the opinion that huppah with them constitutes no kinyan, since it does not allow them to enter into marital union. Rabbenu Tam, on the other hand, explains huppah here as having been preceded by kiddushin and with reference to the last clause of our Mishnah, the point at issue being whether with ineligible women it is considered nissu'in disqualifying the widow, or erusin; v. Tosaf s,v. רב].

(4) If unaccompanied by any other forms of matrimonial kinyan. V. supra n. 11.

(5) I.e., Rab, whose proper name was Abba. The former name (Rab == Master) was a title of honour conferred upon him as the Master par excellence of his time. According to Rashi, a.l., 'Abba' was a term of respect synonymous with 'prince' and 'master' by which Samuel, his younger contemporary, referred to Rab.

(6) V. supra p. 385, n. 12.

(7) Which constitutes kinyan only where cohabitation is possible, but which is not the case with a child under the age mentioned.

(8) From which the ruling on which Rab and Samuel are in agreement may he inferred.

(9) She is deemed to be his legal wife,

(10) During her period of menstruation.

(11) If he lies on a number of couches (coverlets, bed-spreads, and the like) resting one upon the other, he imparts levitical defilement to all, though he comes in direct contact with the uppermost one only.

(12) A bastard, for instance,

(13) V, supra p. 385, n, 12. Cf. Kid. 10af, v. Sanh. Sonc. ed. p. 376, n. 2.

(14) Cf. supra note 3.

(15) V. p. 385, n, 11.

(16) V. loc. cit., n. 12.

(17) V. loc. cit., n. 13.

Talmud - Mas. Yevamoth 58a

According to R. Meir who holds that the betrothal causes ineligibility, the bridal chamber[1] also causes ineligibility, while according to R. Eleazar and R. Simeon who maintain that betrothal causes no ineligibility the bridal chamber also causes no ineligibility. But whence [is this proved]? Is it not possible that R. Meir advanced his view only there, in respect of betrothal, whereby kinyan is effected, but not in respect of the bridal chamber whereby no kinyan is effected![2] Or else: R. Eleazar and R. Simeon may have advanced their view there only, in respect of betrothal, since it is not close to the act of intercourse; but the bridal chamber which is close to the act of intercourse, may well cause ineligibility.

But if anything can be said[3] [it is, that the question[4] depends] on the dispute between the following Tannaim: For it was taught, ‘This class or that, [viz.,] eligible or ineligible women, who were married [to a priest], or who only entered [with him] into the bridal chamber without any intercourse having taken place, are entitled to sustenance from his estate and are also permitted to eat terumah’. ‘Who only entered [etc.]’ implies that ‘were married’ means that they were actually married![5] Must it not [consequently be concluded that the meaning is], ‘as, for instance,[6] when they entered the bridal chamber without any intercourse having taken place’? And yet it was stated that ‘they are entitled to sustenance from his estate and are also permitted to eat terumah’.[7] R. Ishmael son of R. Johanan b. Beroka said: Any woman whose cohabitation entitles her to the eating of terumah is also entitled to the eating of it through her entry into the bridal chamber, and any woman upon whom cohabitation does not confer the right to eat terumah is not entitled through her entry into the bridal chamber also to the eating of it.[8]

Whence, [however, the proof]? Is it not possible that R. Ishmael son of R. Johanan b. Beroka is of the same opinion as R. Meir, who maintains that through betrothal alone a woman is not entitled to eat! — Instead, then, of the statement ‘Any woman upon whom cohabitation does not confer the right to eat terumah is not entitled through her entry into the bridal chamber also to the eating of it’, the statement should have run, ‘Any woman upon whom cohabitation does not confer the right to eat terumah, is not entitled through her money[9] also to the eating of terumah’. But is it not possible that as the first Tanna spoke of the bridal chamber he also spoke of the bridal chamber!

R. Amram stated, The following ruling was given to us by R. Shesheth and he threw light on the subject[10] from a Mishnah: The bridal chamber constitutes kinyan with ineligible women.[11] And the following Tanna taught the same thing:[12] ‘Amen[13] that I[14] have not gone aside[15] as a betrothed, as a married woman, as one awaiting the decision of the levir or as one taken [by the levir]’.[16] Now, how is one to imagine the case of the ‘betrothed’? If it be suggested that she was one who was warned[17] while she was betrothed, and then she secluded herself[18] and is now made to drink[19] while she is still only betrothed; is a betrothed [it may be asked] subject to the drinking? Surely we learned: A betrothed or one awaiting the decision of a levir neither drinks[20] nor receives a kethubah![21] Should it, however, [be suggested that she is one] who was warned while she was betrothed, and then she secluded herself,[22] and is now made to drink when she is already married; do the waters [it may be asked] test her? Surely it was taught: And the man shall be clear from iniquity,[23] only when the man is ‘clear from iniquity’ do the waters test his wife; when, however, the man is not ‘clear from iniquity’[24] the waters do not test his wife![25] Consequently [she[26] must be one] who was warned while she was betrothed and then she secluded herself,[22] and subsequently entered the bridal chamber but there was no cohabitation. Thus[27] it may be inferred that the bridal chamber alone constitutes kinyan[28] with ineligible women.[29] Said Raba: Do you think that this[30] is an authenticated statement?[31] Surely when R. Aha b. Hanina[32] arrived from the South, he came and brought a Baraitha with him: Besides thy husband,[33] only when the cohabitation of the husband preceded that of the adulterer, but not when the cohabitation of the adulterer preceded that of the husband! Rami b. Hama replied: This[34] is possible where, for instance, he[35] cohabited with her while she was only betrothed and still in the house of her father. Similarly in respect of the woman awaiting the decision of the levir[36] [it must obviously be a case] where the man cohabited with her in the house of her father-in-law![37]

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(1) Even in the absence of betrothal.

(2) The bridal chamber alone without the additional kinyan of money, deed, or cohabitation is of no validity. V. Kid. 5a.

(3) On the lines of Rami b. Hama's statement.

(4) Whether the bridal chamber constitutes kinyan with ineligible women. (Cf. supra p. 385, nn. 11 and 13).

(5) Otherwise both expressions would have meant exactly the same classes. But this meaning is impossible in view of the fact that after actual marriage it is unanimously agreed that the woman is ineligible to eat terumah!

(6) I.e., the expression ‘or’, או is to be understood as the equivalent of ‘as for instance’ כגון , and the clause following is an illustration of the preceding one.

(7) Which proves that, even where the union was a forbidden one, the entry into the bridal chamber alone does not deprive a woman of the right of eating terumah if she was previously entitled to it.

(8) If she was the daughter of an Israelite (v. Keth. 57a). As the bridal chamber and cohabitation are in this case placed on the same level, it follows that in the case of the daughter of a priest also, if she loses her right to the terumah by cohabitation, she also loses it by entry into the bridal chamber. Thus it has been shewn that the question referred to by Rami b. Hama is a matter of dispute between the first Tanna and R. Ishmael son of R. Johanan b. Broka.

(9) The token of betrothal.

(10) Lit., ‘and he lit up our eyes’.

(11) Cf. supra p. 385, nn. 11 and 13.

(12) ותנא תונא v. supra p. 378, n. 3.

(13) As the term was repeated (v. Num. V, 22) it includes all the following.

(14) I.e., the sotah who confirms the declaration (v. Num. V, 19).

(15) ‘Have not been faithless’. Cf. ibid. vv. 19, 20.

(16) Where the levir suspects her of infidelity, v. Sotah 18a, Kid. 27b.

(17) That she must not hold secret meetings with a certain man.

(18) With the man. V. Bah. Cur. edd. omit, ‘and then . . . herself’.

(19) The ‘water of bitterness (cf. Num. V, 18 and ibid. 17).

(20) The ‘water of bitterness’ (cf. Num. V, 18 and ibid. 17.

(21) If she secluded herself with the suspected man and if, in consequence of this, she is divorced by her husband. V. Sotah 23b, Kid. 27b, Sifre, Nasso,

(22) With the suspected man, during the period of her betrothal.

(23) Num. V, 31.

(24) As in this case where he married her, despite her intimacy with the suspected man during her betrothal which had caused her prohibition to him.

(25) Sotah 28a, 47b, Shebu. 5a, Kid. 27b.

(26) The betrothed spoken of,

(27) Since the woman is subjected to the test of the water though no cohabitation had taken place.

(28) In the absence of cohabitation. Had not the bridal chamber constituted the kinyan, which brought the woman within the category of marriage, she would not have been subject to the test to which a married woman only must submit. (Cf. Num. V, 19, being under thy husband).

(29) Among whom the Sotah is, of course, included. Cf. supra n. 5.

(30) The Mishnah cited by R. Shesheth.

(31) מתרצתא (rt. תריץ, ‘to be right’), a version the correctness of which has been upheld by refuting all objections raised against it.

(32) Cf. supra 57a where the reading is ‘Hinena’.

(33) Num. V, 20.

(34) The Mishnah cited by R. Shesheth.

(35) The husband.

(36) Since in her case also the cohabitation of the levir must precede that of the adulterer. Alternatively: Since she also is not subject to the test of the water.

(37) So that his cohabitation took place prior to that of the suspected adulterer, which was also preceded by the warning of the levir and followed by the bridal chamber but by no cohabitation; and the woman is submitted to the test of the water of bitterness in respect of her suspected act during her betrothal! Alternatively: Since in her case, unlike that of the betrothed, the kinyan of the bridal chamber is not applicable.

Talmud - Mas. Yevamoth 58b

Why then, do you call her ‘a woman awaiting the decision of the levir’ [when such a woman] is in fact his proper wife, since Rab had stated, ‘kinyan is constituted in all respects’?[1] — [The Mishnah is] in accordance with the view of Samuel who stated, ‘Kinyan is constituted only in respect of the things specified in the section’ .[2]

Is not this[3] adduced only as a reason and support for the opinion of Rab?[4] And Rab, surely, had said that ‘Kinyan is constituted in all respects’![5] — Here we are concerned with a case where for instance he[6] addressed to her a ma'amar,[7] and it[3] represents the view of Beth Shammai who maintain that a ma'amar constitutes a perfect kinyan.[8] If so, she would be identical with the ‘betrothed woman’![9] — And according to your view, has not a ‘married woman’ and ‘one taken [by the levir]’ the same status?[10] But [the explanation must be that] ‘a married woman’ refers to one's own wife, and ‘one taken [by the levir]’ refers to that of another man.[11] So here also ‘betrothed’ means his own and ‘a woman awaiting the decision of the levir’, that of another.[11]

R. Papa said: It[12] represents the view of the following Tanna.[13] For it was taught: It is not permissible to warn a betrothed woman in order that she may be made to drink[14] while she is betrothed. She may, however, be warned in order that she may be made to drink when she is already married.[15] R. Nahman b. Isaac explained: By implication.[16]

R. Hanina sent [an instruction] in the name of R. Johanan: A levir who addressed a ma'amar to his yebamah, while he has a living brother, causes her disqualification from the eating of terumah[17] even if he is a priest and she the daughter of a priest.[18] According to whom?[19] If it be suggested, according to R. Meir, it is possible [it might be objected that] R. Meir said that one that is subject to an illegitimate cohabitation[20] is not permitted to eat terumah [only when the cohabitation is] Pentateuchally forbidden;[21] did he, however, say [that the same law holds when the prohibition is only] Rabbinical? [Is it], however, [suggested that it was made] according to R. Eleazar and R. Simeon? [It may be objected]: If the eating of terumah is permitted to one who is subject to a cohabitation which is pentateuchally forbidden, is there any need to speak of one which is only Rabbinically forbidden! When Rabin, however, came[22] he stated: Where a levir addressed a ma'amar to his yebamah, all[23] agree that she is permitted to eat terumah. If he has a profaned brother,[24] all[23] agree that she is not permitted to eat.[25] They only differ where he[26] gave her[27] a letter of divorce:[28] R. Johanan maintains that she may eat, and Resh Lakish maintains that she may not eat. ‘R. Johanan maintains that she may eat’,for even the statement of R. Meir who holds that she may not eat applies only to one subject of a Pentateuchally forbidden cohabitation; where, however, it is only Rabbinically forbidden she may eat. ‘And Resh Lakish maintains that she may not eat’ for even the statement of R. Eleazar and R. Simeon, who hold that she may eat, applies only to one who has elsewhere the right[29] to confer the privilege of eating, but not in this case,[30] since he has no right[31] to confer the privilege elsewhere. And should you suggest that here also he has the right[31] to confer the privilege of eating in the case where she returns,[32] [it may be retorted that] one who returns[32] severs her connection with him and resumes her relationship with her father's house;[33] but this woman[34] remains bound to him.[35]

IF THEY BECAME WIDOWS OR WERE DIVORCED etc. R. Hiyya b. Joseph enquired of Samuel: If a High priest betrothed a minor, who became adolescent[36] during her betrothal with him,[37]

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(1) Supra 56a, and the woman is regarded as his wife even if the cohabitation was not intended to serve as a legal matrimonial kinyan.

(2) Cf. loc. cit. and notes.

(3) The Mishnah cited by R. Shesheth.

(4) Who, contrary to the opinion of Samuel, maintains that the bridal chamber does constitute kinyan with ineligible women (supra 57b).

(5) V. supra note 3.

(6) The levir.

(7) And then cohabited with her adulterously in her father-in-law's house, with no intention of effecting a legal kinyan. Alternatively: Only a ma'amar was addressed to her but no cohabitation at all took place. The cohabitation of the adulterer which, according to this interpretation, precedes that of the levir does not affect the legality of the water test since in any case the cohabitation of the first husband (the deceased brother) preceded.

(8) Supra 29b. The sister-in-law thus loses entirely her former status of ‘widow of a deceased brother’ and assumes that of a ‘betrothed woman’. Subsequent intercourse with her unless accompanied by the entry into the bridal chamber does not, therefore, change her status, as is the case where no ma'amar had been addressed, to that of a married woman. Her description, consequently, can only be that of ‘one awaiting the decision of the levir’.

(9) Whose case had been specifically mentioned. Why should the same law be mentioned twice?

(10) And both were nevertheless specified.

(11) I.e., his brother's widow whom he married.

(12) The Mishnah cited by R. Shesheth.

(13) It being a case where the warning was given during betrothal, and the seclusion with the man took place after marriage and cohabitation. The water test is applied on the basis of that warning. Alternatively: The warning was given during betrothal and it was followed by the seclusion with the man, the test being applied after marriage. The previously cited deduction, that when the husband is not clear from iniquity the test is not admissible, is not accepted by this authority.

(14) The water of bitterness.

(15) Sotah 25a. The man in such a case is clear from iniquity. No proof may consequently be adduced from the Mishnah cited by R. Shesheth that the bridal chamber constitutes kinyan. Alternatively: This Tanna does not accept the deduction in respect of the husband's clearness from iniquity. (V. supra n. 4, end).

(16) גלגול , v. Kid. 27b. The oath the woman is made to take at the drinking of the water of bitterness in respect of the days of her betrothal is not a direct oath but one added to that which she takes in connection with a suspected act after her marriage.

(17) Until marriage had been consummated.

(18) Because (v. infra) his brother might cohabit with her and thus cause her prohibition to marry either of them (v. supra 50b).

(19) Was R. Johanan's statement made.

(20) As, e.g., in this case, where either brother might marry her, while the cohabitation of one of them is Rabbinically forbidden.

(21) E.g., a widow to a High Priest.

(22) From Palestine to Babylon.

(23) R. Johanan as well as Resh Lakish.

(24) Halal (v. Glos.) whose cohabitation would disqualify her.

(25) Even though she is the daughter of a priest and even where the ma'amar had been addressed to her by a qualified priest, she is forbidden to eat terumah, owing to her being subject at least to one Pentateuchally forbidden cohabitation. Even R. Eleazar and R. Simeon who allow terumah in the case of a widow to a High priest do not allow it here since, unlike the High Priest who in cases other than that of the widow and the like is entitled to confer the right, the halal can never confer such a privilege upon anyone.

(26) A levir who was a priest.

(27) His yebamah who was the daughter of a priest.

(28) Which Rabbinically causes her prohibition to the levir, while Pentateuchally she is still awaiting cohabitation with him. She is thus awaiting a cohabitation which is Rabbinically forbidden.

(29) Through a similar act of betrothal.

(30) Where a letter of divorce was given.

(31) By means of a similar act of divorce.

(32) To the house of her father, if she was the daughter of a priest. Cf. Lev. XXII, 13.

(33) Her regaining the privilege of eating terumah is due to her relationship not with him but with her father's family.

(34) To whom the letter of divorce was given.

(35) Since a letter of divorce does not sever the levirate bond.

(36) בגרה v. infra p. 394 n. 7; perhaps of advanced age, when she is no more in possession of her full virgin powers (cf. Golds. a.l.). Such a woman is forbidden to a High priest by deduction from Lev. XXI, 13 And he shall take a wife in her virginity.

(37) Lit., 'under him'.

Talmud - Mas. Yevamoth 59a

what [is the law]:[1] Are we guided by the marriage[2] or by the betrothal?[3] — The other replied to him: You have learned it: IF THEY BECAME WIDOWS OR WERE DIVORCED AFTER MARRIAGE THEY REMAIN INELIGIBLE; IF AFTER BETROTHAL THEY BECOME ELIGIBLE.[4] The first said to him: With reference to rendering her a halalah,[5] I have no doubt that it is the forbidden cohabitation[6] that causes her to be a halalah. My question is only: What is implied by, And he shall take a wife in her virginity:[7] Is the 'taking' of betrothal required,[8] or is it the 'taking' of marriage that is required?[9] The other replied, You have learned this also: [A priest who] betrothed a widow, and was subsequently appointed to be a High Priest, may consummate the marriage![10] — There it is different because it is written, Shall he take to wife.[11] Here also it is written wife![12] — Only one[13] but not two. And what is the reason?[14] — In the case of the one,[15] her body has undergone a change;[16] in that of the other her body underwent no change.

MISHNAH. A HIGH PRIEST SHALL NOT MARRY A WIDOW[17] WHETHER SHE BECAME A WIDOW AFTER A BETROTHAL OR AFTER A MARRIAGE. HE SHALL NOT MARRY ONE WHO IS ADOLESCENT.[18] R. ELEAZAR AND R. SIMEON PERMIT HIM TO MARRY ONE WHO IS ADOLESCENT,[18] BUT HE MAY NOT MARRY ONE WHO IS WOUNDED.[19]

GEMARA. Our Rabbis taught: A widow . . . shall he not take,[17] whether she became a widow after a betrothal or after a marriage. Is not this obvious?[20] — It might have been assumed that [the meaning of] widow[21] is to be inferred from widow[22] in the case of Tamar; as there[22] it was one after marriage, so here[21] also it is one after marriage; hence we were taught [that any widow was meant]. But might it not be suggested that it is indeed so?[23] — [It is compared] to a divorced woman:[24] As 'divorced woman'[24] [includes any divorcee] whether after betrothal or after marriage,[25] so also 'widow'[24] [includes any widow] whether after betrothal or after marriage.

HE SHALL NOT MARRY ONE WHO IS ADOLESCENT. Our Rabbis taught: And he shall take a wife in her virginity[26] excludes one who is adolescent, whose virginity is ended; so R. Meir. R. Eleazar and R. Simeon permit the marriage of one who is adolescent. On what principle do they differ? — R. Meir is of the opinion that virgin[27] implies even [one who retains] some of her virginity; her virginity[28] implies only one who retains all her virginity;[29] in her virginity[30] implies only [when previous intercourse with her took place] in the natural manner,[31] but not when in an unnatural manner.[32] R. Eleazar and R. Simeon, however, are of the opinion that virgin would have implied a perfect virgin; her virginity implies even [one who retains] only part of her virginity;[33] in her virginity implies only one whose entire virginity is intact,[34] irrespective of whether [previous intercourse with her was] of a natural or unnatural character.[35]

Rab Judah stated in the name of Rab: A woman who was subjected to unnatural intercourse is disqualified from marrying a priest.[36] Raba raised an objection: And she shall be his wife,[37] applies to a woman eligible to marry him. This excludes [the marriage of] a widow[38] to a High Priest,[39] of a divorced woman[38] and a haluzah[38] to a common priest. Now, how is one to understand [the outrage]?[40] If it be suggested that it was one of natural intercourse, what [it may be asked] was the object of pointing to her widowhood[41] when [her prohibition] could be inferred from the fact that she had had carnal intercourse with a man?[42] Must it not consequently [be assumed to be] a case of unnatural intercourse; and the only reason[43] [why the woman is forbidden[44] is] because she is a widow, and not because she had had carnal intercourse![45]

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(1) May he marry her despite her advanced age?
(2) When she was already of age and consequently forbidden to him.
(3) When she was still permitted.
(4) From which it appears that, in respect of those who are ineligible to marry priests, marriage is the main factor. Had not the marriage to be taken into consideration a widow, for instance, who was betrothed to a High Priest would also be ineligible after his death.
(5) ‘Profaned’ and forbidden to a priest.
(6) I.e., the consummation of marriage.
(7) Lev. XXI, 13.
(8) And as at that time she was eligible he may now marry her.
(9) As by that time she is already forbidden, he may not marry her, despite their permitted betrothal.
(10) Infra 61a, which proves that betrothal is the main factor.
(11) Lev. XXI, 14. From the superfluous word wife it is deduced (v. infra 61a) that in the case mentioned the High Priest may consummate the marriage. This, however, supplies no answer to the question under consideration.
(12) Lev. XXI, 13.
(13) Deduction may be made from the term ‘wife’.
(14) Lit., ‘what do you see’? Why should the deduction be made to permit the marriage of the widow to a High Priest and not that of the minor who became adolescent?
(15) The minor who became of age.
(16) And she may, therefore, be regarded as a different person.
(17) V. Lev. XXI, 14.
(18) בוגרת, one over twelve years and six months of age. Cf. supra p. 393, n. 5.
(19) מוכת עץ lit., ‘struck by wood’, one who lost her hymen as the result of a blow.
(20) The expression widow surely does not imply any distinction between the one and the other!
(21) Spoken of in connection with a High Priest (Lev. XXI, 14).
(22) Gen. XXXVIII, 11.
(23) That only one after marriage was meant, as in the case of Tamar.
(24) Spoken of in the same context in connection with a High Priest (Lev. XXI, 14).
(25) So Yalkut. Cur. edd. reverse the order.
(26) Lev. XXI,13.
(27) בתולה .
(28) בתוליה .
(29) Which excludes the one who is adolescent, whose virginity has ended.
(30) בבתוליה , (Lev. XXI, 13).
(31) Is she forbidden to a High Priest.
(32) The superfluous ב (= in), in בבתוליה excludes unnatural intercourse, whereby ‘virginity’ is not affected.
(33) Which includes the one who is adolescent.
(34) Is permitted to be married by a High priest.
(35) Even if it was unnatural she is forbidden, unless her virginity remained completely intact. Cf. supra n. 7. As, according to R. Eleazar and R. Simeon, one who is adolescent is permitted it was necessary to have the Scriptural text to exclude this case. According to R. Meir, however, who excludes one who is adolescent, there is no need any more to exclude this case which is easily inferred a minori ad majus from the former.
(36) I,e., a High Priest who is permitted to marry a virgin only.
(37) Deut. XXII, 29, referring to a virgin who had been outraged.
(38) After her betrothal.
(39) If it was he who committed the outrage.
(40) If committed by a High Priest.
(41) Lit., ‘on account of widow’.
(42) With the High Priest himself, who is forbidden to marry an outraged or seduced woman even if he himself had committed the offence.

[43] Lit., ‘yes’.

[44] To the High Priest.

[45] Which proves that unnatural intercourse does not cause a woman to be forbidden to marry a High Priest. How then could Rab state that a woman in such circumstances is forbidden?

Talmud - Mas. Yevamoth 59b

— This[1] represents the view of[2] R. Meir,[3] while Rab holds the same view as R. Eleazar.[4] If [Rab holds the same view] as R. Eleazar, what was the object of pointing to her previous carnal intercourse[5] when [her prohibition] could have been inferred from the fact that she was a harlot,[6] R. Eleazar having stated that an unmarried man who cohabited with an unmarried woman with no matrimonial intention renders her thereby a harlot![7] — R. Joseph replied:[8] When, for instance, the woman was subjected to intercourse with a beast, where the reason of ‘previous carnal intercourse may be applied but not that of harlot.[9] Said Abaye to him: Whatever you prefer [your reply cannot be upheld], If she is a be'ulah[10] she must also be a harlot; and if she is not a harlot[11] she cannot be a be'ulah either! And were you to reply: This case is similar to that of a wounded woman,[12] [it may be pointed out] that if [the disqualification should be extended to] unnatural intercourse also,[13] you will find no woman eligible to marry a [High Priest [since there is not one] who has not been in some way wounded[14] by a splinter! No, said R. Zera,[15] in respect of a minor who made a declaration of refusal.[16]

R. Shimi b. Hiyya stated: A woman who had intercourse with a beast is eligible to marry a priest.[17] Likewise it was taught: A woman who had intercourse with that which is no human being,[18] though she is in consequence subject to the penalty of stoning,[19] is nevertheless permitted to marry a priest.[20]

When R. Dimi came[21] he related: It once happened at Haitalu[22] that while a young woman was sweeping the floor[23] a village dog[24] covered her from the rear,[25] and Rabbi permitted her to marry a priest. Samuel said: Even a High Priest. But was there a High Priest in the days of Rabbi?[26] — Rather, [Samuel meant]: Fit for a High Priest.

Raba of Parzakaia[27] said to R. Ashi: Whence is derived the following statement which the Rabbis made: Harlotry is not applicable to bestial intercourse? — It is written, Thou shalt not bring the hire of a harlot, or the price of a dog,[28] and yet we learned that the hire of a dog[29] and the price of a harlot[30] are permitted[31] because it is said, Even both these,[28] two only but not four.

Our Rabbis taught: [A High Priest] shall not marry the woman he himself has outraged or seduced.[32] If, however, he married her, the marriage is valid.[33] He shall not marry a woman whom another man has outraged or seduced. If he did marry her, the child, said R. Eliezer b. Jacob, is profaned:[34] but the Sages said: The child is legitimate.[35]

‘If, however, he married her, the marriage is valid’. Said R. Huna in the name of Rab: But he must put her aside by a letter of divorce. What, then, [is the explanation] of the statement ‘If, however, he married her, the marriage is valid’? — R. Aha b. Jacob replied: It was meant to imply

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[1] The Baraitha cited by Raba.

[2] Lit., ‘this, according to whom’?

[3] Cf. supra p. 395, n. 7.

[4] Cf. supra p. 395, n. 10.

[5] As a reason for prohibition.

[6] Who is forbidden not only to a High Priest but also to a common priest (v. Lev. XXI, 7). Why, then, did Rab refer to a High Priest only?

(7) Infra 61b, 76a, Sanh. 51a, Tem. 30a.
(8) Rab's reason of ‘previous carnal intercourse was necessary.
(9) A term which is not applicable to bestial intercourse. V. infra.
(10) בעולה one who had experienced carnal intercourse.
(11) Presumably because her act cannot be regarded as ‘sexual intercourse’.
(12) V. supra p. 394, n. 8. As in her case marriage with a High Priest is forbidden (v. our Mishnah), though she is no harlot, so also in the case of bestial intercourse.
(13) I.e., if injury to the anus is to be subject to the same restrictions as injury to the hymen.
(14) Cf. supra p. 394, n. 8.
(15) Rab's reason of ‘previous carnal intercourse’ was necessary.
(16) Mema'eneth, v. Glos. Unnatural intercourse with her by her husband places the minor in the status of be'ulah (v. Glos.) but not in that of harlot, while her refusal to live with him does not give her the status of divorcee or widow but that of mema'eneth. Hence the necessity for Rab's statement that such a minor also is forbidden to marry a High Priest.
(17) Even a High Priest, The result of such intercourse being regarded as a mere wound, and the opinion that does not regard an accidentally injured hymen as a disqualification does not so regard such an intercourse either.
(18) A beast.
(19) If the offence was committed in the presence of witnesses after due warning.
(20) In the absence of witnesses and warning.
(21) From Palestine to Babylon.
(22) [Babylonian form for Aitalu, modern Aiterun N.W. of Kadesh, v, S. Klein, Beitrage p. 47].
(23) Lit., ‘house’.
(24) Or ‘big hunting dog’ (Rashi), ‘ferocious dog’ (Jast.), ‘small wild dog’ (Aruk).
(25) A case of unnatural intercourse.
(26) Judah ha-nasi (the Prince or Patriarch) I, who flourished 170-217 C.E., above a hundred years after the destruction of the second Temple.
(27) So Bomberg ed.; MS.M., ‘Parazika’ (cf. Golds.); Cur. edd., ‘Parkin’.
(28) Deut. XXIII, 19.
(29) The beast which a harlot receives for her intercourse with a dog.
(30) A beast received as the price of a harlot who has been sold.
(31) To be consecrated to the altar.
(32) Cf. Lev. XXI, 14: But a virgin . . . shall he take, i.e., she must be a virgin at the time he marries her.
(33) Lit., ‘he is married’.
(34) Halal, v. Glos.
(35) He is not subject to any disabilities, religious or civil,

Talmud - Mas. Yevamoth 60a

that he pays no fine[1] in the case of a seduced woman.[2]

R. Gebiha of Be Kathil[3] came and repeated the reported ruling[4] in the presence of R. Ashi, whereupon the other said to him: Surely both Rab and R. Johanan stated ‘[a High Priest] must not marry a woman who is adolescent[5] or "wounded",[6] but if he married her, the marriage is valid’,which clearly proves [that he may continue to live with the woman because in any case] she would ultimately have become adolescent and would ultimately have been ‘wounded’ by living with[7] him; here also[8] [she should be permitted to live with him because] ultimately she would have become a be'ulah by living with[7] him! — This is a difficulty.

‘He shall not marry a woman whom another man has outraged or seduced. If he did marry her, the child, said R. Eliezer[9] b.Jacob, is profaned; but the Sages said: The child is fit’.[10] Said R. Huna in the name of Rab: The halachah is in agreement with R. Eliezer b. Jacob; and so said R. Giddal in the name of Rab: The halachah is in agreement with R. Eliezer b. Jacob. Others say: R. Huna stated in the name of Rab. What is R. Eliezer b. Jacob's reason?[11] — He is of the same opinion as R.

Eleazar.[12] But is the former of the same opinion as the latter? Surely we have an established tradition that ‘the teaching of R. Eliezer b. Jacob is small in quantity, but select’,[13] while in this case R. Amram[14] stated that the halachah is not in accordance with R. Eleazar![15] — This is a difficulty.

R. Ashi explained: They[16] differ [on the question whether the offspring] of a union forbidden by a positive commandment[17] is deemed to be a halal. R. Eliezer b. Jacob is of the opinion [that the offspring] of a union forbidden by a positive commandment is deemed to be a halal while the Rabbis are of the opinion that the offspring of a union forbidden by a positive commandment is no halal. What is R. Eliezer b. Jacob's reason? — Because it is written, A widow, or one divorced, or a profaned woman, or a harlot, these shall he not take,’ but a virgin etc.,[18] and this is followed by the Scriptural injunction, And he shall not profane[19] his seed among his people,[20] which refers to all.[21] And the Rabbis?[22] — [By the expression] these[18] the context is broken up.[23] But R. Eliezer b. Jacob maintains that the expression, these,[18] serves the purpose of excluding the menstruant.[24]

Whose view is represented in the following statement wherein it was taught: [Only the offspring] of these[25] is to be regarded a halal but no offspring of a menstruant is to be deemed a halal.[26] — Whose view? That of R. Eliezer b. Jacob. But on the view of R. Eliezer b. Jacob, the expression these[26] should have been written at the end![27] — This is a difficulty.[28]

Our Rabbis taught: For a betrothed sister,[29] R. Meir and R. Judah said, [a common priest][30] may defile himself.[31] R. Jose and R. Simeon said: He may not defile himself for her. For [a sister who was] outraged or seduced, all agree that he may not defile himself.[31] As to one ‘wounded’,[32] R. Simeon says he may not defile himself for her; for R. Simeon maintains that he may defile himself for one who is fit for a High Priest,[33] but he may not defile himself for one who is not fit for a High Priest.[34] For one who is adolescent, all agree[35] that he may defile himself.[36]

What is R. Meir's and R. Judah's reason? — They make the following exposition: And for his sister a virgin,[37] excludes one who had been outraged or seduced.[38] It might be assumed that one who was ‘wounded’ is also to be excluded.[39] Hence it was specifically stated, That hath had no husband,[37] only she whose condition is due to a man [is excluded][39] but not one[40] whose condition is not due to a man. That is near,[37] includes a betrothed [sister]; unto him,[37] includes a sister who is adolescent.

What need was there for a Scriptural text in this case?[41] Surely R. Meir stated, ‘virgin implies even [one who retains] some of her virginity’![42] — It was required, because it might have been assumed that the expression of virgin[43] shall be deduced from virgin elsewhere;[44] as there it refers to a na'arah[45] only, so here also it refers to a na'arah[45] only, hence we were taught [that the case here is different]. And what are the reasons of R. Jose and R. Simeon? — They make the following exposition: And for his sister a virgin,[43] excludes one who has been outraged, seduced or wounded;[46] that hath had no,[43] excludes one who is betrothed; that is near,[43] includes a betrothed who had been divorced; unto him,[43] includes one who is adolescent. ‘That is near, includes a betrothed who had been divorced’;

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(1) Prescribed in Ex. XXII, 16.

(2) The marriage exempts him from the fine (v. ibid. 15-16).

(3) [On the Tigris N. of Bagdad, v. Obermeyer, pp. 143 ff].

(4) That of R. Huna in the name of Rab, supra 59b ad fin.

(5) Bogereth, v. Glos.

(6) V. our Mishnah.

(7) Lit., ‘under’.

(8) Cf.supra note 8.

(9) Cur. edd., ‘Eleazar’ is apparently a misprint.

(10) Supra 59b.
(11) For declaring the child to be a halal.
(12) Who stated, infra 61b, that intercourse for a non-matrimonial purpose between an unmarried man and an unmarried woman renders the latter a harlot, cohabitation with whom is forbidden by a negative commandment, and any issue therefrom is deemed to be a halal.
(13) Supra 49b, q.v. for notes.
(14) V. Bah. Cur. edd. add, ‘in the name of Rab’.
(15) V. infra 61b.
(16) R. Eliezer b. Jacob (who in fact is in disagreement with R. Eleazar), and the Rabbis.
(17) Such as that between a High Priest and a be'ulah which is forbidden owing to the positive commandment that he must marry a virgin.
(18) Lev. XXI, 14.
(19) I.e., cause the child to be a halal.
(20) Ibid. 15.
(21) That were previously enumerated, including the prohibition to marry a be'ulah, which is derived from the positive commandment a virgin . . ‘ shall he take to wife’.
(22) Why, in view of this Scriptural proof do they not regard such offspring as a halal?
(23) Thus separating those subject to the penalty of a negative commandment from those who are subject to the penalty of a positive commandment. The reference to profanation (halal) applies only to the former.
(24) If a priest cohabited with his wife while she was in such a condition, the child is not to be regarded as a halal.
(25) Those enumerated in Lev. XXI, 14.
(26) Lev. XXI, 14.
(27) Of Lev, XXI, 14, since in his opinion it was not meant to break up the text. Cf. supra p. 399, n. 13.
(28) According to R. Ashi who explained the dispute to be dependent on the interpretation of Lev. XXI. 14, 15.
(29) Who died,
(30) Who is forbidden to defile himself for his married sister. V. Lev. XXI, 3,
(31) The reason is given infra.
(32) V. our Mishnah,
(33) I.e., a virgin.
(34) Since virgin was mentioned in both cases (v. Lev. XXI, 3 and 14). As the ‘wounded’ is not permitted to a High Priest she is obviously not deemed to be a virgin. Hence she can no longer be regarded as a virgin in the matter of a priest's defilement either.
(35) Even R. Meir who forbids a High Priest to marry her.
(36) The reason is given infra.
(37) Lev. XXI, 3.
(38) Who cannot be regarded as a virgin.
(39) From the term of virgin. Since she also has lost her virginity.
(40) Lit., ‘this went out’.
(41) To include one who is adolescent.
(42) Supra 59a and notes. Since virgin includes one who is adolescent, what need was there again for the text of ‘unto him’ to include her?
(43) Lev. XXI, 3.
(44) Deut, XXII, 28, dealing with a case of outrage.
(45) נערה one of the age of twelve to twelve and a half years.
(46) V. our Mishnah.

Talmud - Mas. Yevamoth 60b

but, surely, R. Simeon said, ‘He may defile himself for one who is fit for a High Priest, but may not defile himself for one who is not fit for a High Priest’![1] — There[2] it is different, because the All Merciful has included her [by the expression] near.[3] If so, the ‘wounded’ also should be included! — Near[3] implies one and not two. And what [reason for this][4] do you see? — To the body of the one something had been done while to that of the other nothing had been done.

As to R. Jose, since his colleague[5] had left him,[6] it may be inferred that in respect of the ‘wounded’, he himself is of the same opinion as R. Meir.[7] Whence, however, does he derive it? — From That hath had no man. But deduction,[8] surely, had already been made[9] from this text! — One[8] is deduced from That hath had no and the other[10] from man.[11]

‘"Unto him", includes one who is adolescent’. But surely R. Simeon stated that ‘virgin’ implied a perfect virgin![12] — His reason there is also derived from here, because he makes the following exposition: since [the Scriptural text], ‘unto him’, was required to include one who is adolescent, it is to be inferred that ‘virgin’ implies a perfect virgin.

It was taught: R. Simeon b. Yohai stated: A proselyte who is under the age of three years and one day is permitted to marry a priest,[13] for it is said, But all the women children that have not known man by lying with him, keep alive for yourselves[14] , and Phinehas[15] surely was with them. And the Rabbis?[16] — [These were kept alive] as bondmen and bondwomen.[17] If so,[18] a proselyte whose age is three years and one day[19] should also be permitted! — [The prohibition is to be explained] in accordance with R. Huna. For R. Huna pointed out a contradiction: It is written, Kill every woman that hath known man by lying with him,[20] but if she hath not known, save her alive; from this it may be inferred that children are to be kept alive whether they have known or have not known [a man]; and, on the other hand, it is also written, But all the women children, that have not known man by lying with him, keep alive for yourselves,[14] but do not spare them if they have known. Consequently[21] it must be said that Scripture speaks of one who is fit[22] for cohabitation.[23]

It was also taught likewise: And every woman that hath known man;[20] Scripture speaks of one who is fit[23] for cohabitation. You say, ‘Of one who is fit for cohabitation’; perhaps it is not so but of one who had actual intercourse? — As Scripture stated, But all women children, that have not known man by lying with him,[24] it must be concluded that Scripture speaks of one who is fit for cohabitation.[23]

Whence did they know?[25] — R. Hana[26] b. Bizna replied in the name of R. Simeon the Pious: They were made to pass before the frontplate.[27] If the face of anyone turned pale[28] it was known that she was fit for cohabitation; if it did not turn pale[28] it was known that she was unfit for cohabitation.

R. Nahman said: Dropsy is a manifestation of lewdness.

Similarly, it is said, And they found among the inhabitants of Jabesh-gilead four hundred young virgins, that had not known man by lying with him;[29] whence did they know it?[30] R. Kahana replied: They made them sit upon the mouth of a wine-cask. [Through anyone who had] had previous intercourse, the odour penetrated; through a virgin, its odour did not penetrate. They should have been made to pass before the frontplate![31] — R. Kahana son of R. Nathan replied: It is written, for acceptance,[32] for acceptance but not for punishment. If so, the same should have applied at Midian also![33] R. Ashi replied: It is written, ‘unto them’, implying unto them[34] for acceptance but not for punishment; unto idolaters,[35] however, even for punishment.[36]

R. Jacob b. Idi stated in the name of R. Joshua b. Levi: The halachah is in agreement with R. Simeon b. Yohai.[37] Said R. Zera to R. Jacob b. Idi: Did you hear this[37] explicitly or did you learn it by a deduction? What [could be the] deduction? — As R. Joshua b. Levi related: There was a certain town in the Land of Israel the legitimacy of whose inhabitants was disputed, and Rabbi sent R. Romanos who conducted an enquiry and found in it the daughter of a proselyte who was under the age of three years and one day,[38] and Rabbi declared her eligible to live with a priest.[39] The other[40] replied:[41] I heard it explicitly. And what [matters it] if it[42] was learned by deduction?[43] — It is possible that there[44] it was different; since the marriage had already taken place he sanctioned it; for, indeed, both Rab and R. Johanan stated: A priest may not marry one who is adolescent or ‘wounded’, but if already married, he may continue to live with her. How now! There it is quite correct [to sanction the marriage since in any case] she would ultimately become adolescent while she[45] will be with him,[46] and she would also ultimately become a be'ulah while with him;[46] but here, would she ultimately become a harlot[47] while with him?[48] R. Safra taught [that he[40] arrived at it][42] by deduction, and, having raised the difficulty,[49] answered it in the same way.[50]

A certain priest married a proselyte who was under the age of three years and one day. Said R. Nahman b. Isaac to him: What [do you mean by] this?[51] — The other replied: Because R. Jacob b. Idi stated in the name of R. Joshua b. Levi that the halachah is in agreement with R. Simeon b. Yohai.[52] ‘Go’, the first said, ‘and arrange for her release, or else I will pull R. Jacob b. Idi out of your ear’.[53]

It was taught: And so did R. Simeon b. Yohai state

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(1) One divorced is not fit for a High Priest!

(2) Defilement by a common priest.

(3) קרובה sing.

(4) To exclude the one and include the other.

(5) R. Simeon who, in respect of the betrothed, expressed the same opinion as R. Jose (supra 60a).

(6) So Bah. Cur. edd., ‘since he left his colleague’. R. Simeon only is mentioned in the case of the wounded.

(7) That the priest may defile himself for her.

(8) The exclusion of the betrothed.

(9) By R. Jose.

(10) Permission to marry the wounded.

(11) Only when her condition was due to the action of a man is she forbidden.

(12) Supra 59a. One who is adolescent is no more a perfect virgin.

(13) She is not regarded as a harlot.

(14) Num. XXXI, 18.

(15) Who was a priest.

(16) How could they, contrary to the opinion of R. Simeon b. Yohai, which has Scriptural support, forbid the marriage of the young proselyte?

(17) Not for matrimony.

(18) That, according to R. Simeon, Num. XXXI, 18 refers to matrimony.

(19) So long as she has ‘not known man’.

(20) Num. XXXI, 17.

(21) To reconcile the contradiction.

(22) I.e., one who had attained the age of three years and one day.

(23) Not one who had actually experienced it.

(24) Implying that any grown-up woman is not to be spared, even if she hath not known man.

(25) Which of the Midianite women, referred to in the texts quoted, was, or was not fit for cohabitation.

(26) Cur. edd., ‘Huna’.

(27) ציץ the gold plate which was worn by the High Priest on his forehead. V, Ex. XXVIII, 36ff.

(28) Lit., ‘(sickly) green’.

(29) Judges XXI, 12.

(30) Cf. supra n. 1 mutatis mutandis.

(31) As was done in the case of the Midianites (v. supra).

(32) Ex. XXVIII, 38, referring to the front-plate.

(33) Why then was the test there performed before the plate?

(34) Israelites, as were the inhabitants of Jabesh-gilead.

(35) As were the Midianites.

(36) By the front-plate.
(37) That a proselyte under the age of three years and one day may be married by a priest.
(38) And was married to a priest.
(39) I.e., permitted her to continue to live with her husband.
(40) R. Jacob b. Idi.
(41) To R. Zera.
(42) V. supra p. 403. n. 13.
(43) From the incident in the Palestinian city. Why then was R. Zera anxious to ascertain the manner whereby the ruling was obtained?
(44) The incident in Palestine.
(45) Even if she were now virgo intacta.
(46) The union is consequently allowed to remain.
(47) Which is the prohibition under which a priest may not marry the proselyte mentioned.
(48) Obviously not. Hence, it may well be concluded that were she not allowed to marry a priest, the union would have had to be dissolved even after marriage had taken place.
(49) Mentioned supra. that an ex post facto may be different.
(50) Had it not been permitted originally the marriage would have had to be annulled even ex post facto.
(51) I.e., on what authority did you contract the marriage.
(52) V. supra p. 403. n. 13.
(53) He would place him under the ban and thus compel him to carry out his decision which is contrary to that of R. Jacob b. Idi.

Talmud - Mas. Yevamoth 61a

that the graves of idolaters do not impart levitical uncleanness by an ohel,[1] for it is said, And ye My sheep the sheep of My pasture, are men;[2] you are called men[3] but the idolaters are not called men.[3]

An objection was raised: And the persons were sixteen thousand![4] — This is due to [the mention of] cattle.[5] Wherein are more than six-score thousand persons that cannot discern between their right and their left hand![6] — This is due [to the mention of] cattle.[7] Whosoever hath killed any person, and whosoever hath touched any slain, purify yourselves![8] — One of the Israelites might have been slain. And the Rabbis?[9] — [Scripture states]. There lacketh not one man of us.[10] And R. Simeon b. Yohai? — There lacketh not one man of us, through indulgence in sin.

Rabina replied: Granted that Scripture excluded them[11] from imparting uncleanness through an ohel,[12] because of the written text, When a man dieth in the tent,[13] did Scripture also exclude them from [imparting uncleanness by] touch and carriage?[14]

MISHNAH. [A PRIEST WHO] BETROTHED A WIDOW, AND WAS SUBSEQUENTLY APPOINTED HIGH PRIEST, MAY CONSUMMATE THE MARRIAGE. IT ONCE HAPPENED WITH JOSHUA B. GAMALA THAT HE BETROTHED MARTHA THE DAUGHTER OF BOETHUS, AND THE KING APPOINTED HIM HIGH PRIEST, AND HE, NEVERTHELESS, CONSUMMATED THE MARRIAGE.

IF ONE AWAITING THE DECISION OF THE LEVIR[15] BECAME SUBJECT TO A COMMON PRIEST WHO WAS SUBSEQUENTLY APPOINTED HIGH PRIEST, [THE LATTER], THOUGH HE ALREADY ADDRESSED TO HER A MA'AMAR, MUST NOT CONSUMMATE THE MARRIAGE.

GEMARA. Our Rabbis taught: Whence is it deduced that [a priest] who betrothed a widow and was afterwards appointed High Priest may consummate the marriage? It is specifically stated in Scripture, Shall he take to wife.[16] If so, [the same law should apply to] a yebamah awaiting the decision of the levir also! — A ‘wife’ but not a yebamah.

IT ONCE HAPPENED TO JOSHUA etc. He APPOINTED HIM[17] but he was not elected![18] Said R. Joseph: I see here a conspiracy;[19] for R. Assi, in fact, related that Martha the daughter of Boethus brought to King Jannai[20] a tarkab[21] of denarii before he gave an appointment to Joshua b. Gamala among the High Priests.[22]

MISHNAH. A HIGH PRIEST WHOSE BROTHER DIED[23] MUST SUBMIT TO HALIZAH BUT MAY NOT CONTRACT THE LEVIRATE MARRIAGE.[24]

GEMARA. He lays down a general rule implying[25] that there is no difference whether [the yebamah became a widow] after betrothal or after marriage! One can well understand [the case of the widow] after marriage, [since marriage with her is forbidden by] a positive[26] as well as by a negative commandment,[27] and no positive commandment[28] may override a negative and a positive commandment;[29] but [in the case of a widow] after betrothal, the positives should override the negative commandment![30] — The first act of cohabitation[31] was forbidden as a preventive measure against the second act of cohabitation.[32]

MISHNAH. A COMMON PRIEST SHALL NOT MARRY A WOMAN INCAPABLE OF PROCREATION,[33] UNLESS HE HAD ALREADY A WIFE[34] OR CHILDREN.[35] R. JUDAH SAID: EVEN THOUGH HE HAS HAD A WIFE AND CHILDREN HE SHALL NOT MARRY A WOMAN INCAPABLE OF PROCREATION, SINCE SUCH[36] [IS INCLUDED IN THE TERM OF] HARLOT MENTIONED IN THE TORAH.[37] BUT THE SAGES SAID: THE TERM HARLOT IMPLIES ONLY A FEMALE PROSELYTE,[38] FREED BONDMAID[38] AND ONE WHO HAS BEEN SUBJECTED TO MERETRICIOUS INTERCOURSE. GEMARA. Said the Exilarch[39] to R. Huna: What is the reason?[40] Obviously because of the duty of the propagation of the race; are, then, only priests commanded concerning the propagation of the race while Israelites are not commanded?[41] The other replied:[42] Because it was desired to state in the final clause, R. JUDAH SAID: EVEN THOUGH HE HAS HAD A WIFE

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(1) אהל , lit., ‘tent’, i.e., on the man who stands on, or bends over such a grave, constituting his body, as it were, a tent.

(2) Ezek. XXXIV, 31.

(3) אדם (Adam), in respect of levitical uncleanness by ohel. The expression אדם is also used in the Pentateuchal text dealing with the laws of the uncleanness of objects found in a tent in which lay a corpse. V. Num, XIX, 14ff. [This is held by R. Simeon b. Yohai to denote, as distinct from the other terms for ‘man’ (אנוש , גבר , איש), only an Israelite who, as a worshipper of the true God, can be said to have been like Adam created in the image of God. (Cf. Gen. I, 27 and V, I, where the Heb. text has in each case Adam for ‘man’). Idol worshippers having marred the Divine image forfeit all claim to this appelation. V. also B.M. Sonc. ed. p. 651, n. 6].

(4) Num. XXXI, 40. Here also the Heb. equivalent for persons is אדם though it refers to the Midianites who were idolaters.

(5) V, ibid. 37ff. In contrast to cattle, idolaters also may be described as Adam (men).

(6) Jonah IV, 11. Cur, edd. add in parentheses ‘and much cattle’, Here also אדם is the original word rendered persons, though it refers to the idolaters of Nineveh.

(7) The conclusion of the verse reads, and also much cattle. Cf, supra n. 4.

(8) Num. XXXI, 19, speaking of the slain Midianites; which proves that the corpses of idolaters also impart levitical uncleanness!

(9) How could they infer from this text that idolaters also impart levitical uncleanness?

(10) Num. XXXI, 49, so that the verse cannot refer to the corpses of Israelites.

(11) Idolaters.

(12) V. Glos.

(13) Num. XIX, 14. V. supra note 2.

(14) Of a corpse. Certainly not. Hence no objection may be raised from texts which may refer to uncleanness through carriage or touch.

(15) Shomereth yabam, v. Glos.

(16) Lev. XXI, 14. The word ‘wife’ is superfluous; hence the deduction.

(17) מוהו Piel of מנה is the form of the verb used for an appointment by the State without previous nomination by the religious authorities. Such appointments were not made on the merits of the candidates but were procured by bribe or political intrigue.

(18) נתמוה Nithpael of מנה is the form of the verb usually used for the appointment of High Priests who were duly nominated by the priests and the Sanhedrin.

(19) Political intrigue against the wishes of the religious authorities.

(20) [Jannai is often employed in the Talmud as a general patronym for Hasmonean and Herodian rulers. Here it stands for Agrippa II, v. Josephus Antiquities XX, 9, 4, and Derenbourg, Essai, pp. 248ff].

(21) A measure of capacity. V, Glos.

(22) Yoma 18a.

(23) Without issue,

(24) His sister-in-law, being a widow, is forbidden to him.

(25) Lit., ‘he cuts off (decides) and teaches’.

(26) And he shall take a wife in her virginity, Lev. XXI, 13.

(27) A widow . . . shall he not take, ibid. 14.

(28) That of the levirate marriage, v. Deut, XXV, 5.

(29) V. supra nn. 3 and 4.

(30) V. supra n. 4. The positive commandment that ‘he must marry a virgin’ (v. supra n. 3) is not thereby infringed!

(31) Which is indeed Pentateuchally permitted. Cf. supra n. 5.

(32) Which is not required for the fulfillment of the precept of the levirate marriage.

(33) אילונית v. Glos. s.v. Ilonith.

(34) So Maimonides. Rashi seems to omit ‘wife’.

(35) Because it is one's duty to propagate the race. V. Gemara infra.

(36) A woman one marries for the gratification of one's passions and not for the propagation of the race.

(37) V. Lev. XXI, 7.

(38) Who is disqualified through her presumed intercourse with idolaters and slaves.

(39) ריש גלותא .

(40) Why a priest may not marry a woman incapable of procreation?

(41) Why then was only the priest mentioned?

(42) Priest only had to be mentioned.

Talmud - Mas. Yevamoth 61b

AND CHILDREN HE SHALL NOT MARRY A WOMAN INCAPABLE OF PROCREATION, SINCE SUCH [IS INCLUDED IN THE TERM OF] HARLOT MENTIONED IN THE TORAH. Since priests only were commanded concerning the harlot while Israelites were not so commanded, therefore PRIEST only was mentioned.

Said R. Huna: What is R. Judah's reason? — Since it is written, And they shall eat, and not have enough, they shall commit harlotry and shall not increase,[1] any cohabitation which results in no increase is nothing but meretricious intercourse.

It was taught: R. Eliezer stated, A priest shall not marry a minor. Said R. Hisda to Rabbah: Go and consider this matter,[2] for in the evening R. Huna will question you on the subject. When he went out he considered the point [and came to the conclusion that] R. Eliezer was of the same opinion as R. Meir and also of the same Opinion as R. Judah. ‘He is of the same opinion as R. Meir’ who takes exceptional cases[3] into consideration;[4] and ‘also of the same opinion as R. Judah’, who holds that a woman incapable of procreation is regarded as a harlot.[5] But does he[6] hold the same opinion as R. Meir? Surely it was taught: A minor, whether male or female, may neither perform, nor submit to halizah, nor contract levirate marriage; so R; Meir. They said to R. Meir: You spoke well [when you ruled], may neither perform, nor submit to halizah', since in the Pentateuchal section[7] man was written,[8] and we also draw a comparison between woman and man.[9] What, however, is the reason why they may not contract levirate marriage? He replied: Because a minor male might be found to be a saris;[10] a minor female might be found to be incapable of procreation; and thus the law of incest would be violated.[11] And it was also taught: A minor female may contract the levirate marriage[12] but may not perform halizah;[13] so R. Eliezer![14]

And does he hold the same opinion as R. Judah? Surely it was taught: Zonah[15] implies, as her name [indicates, a faithless wife];[16] so R. Eliezer. R. Akiba said: Zonah implies one who is a prostitute.[17] R. Mathia b. Heresh said: Even a woman whose husband, while going[18] to arrange for her drinking,[19] cohabited with her on the way,[20] is rendered a zonah. R. Judah said: Zonah implies one who is incapable of procreation.[21] And the Sages said: Zonah is none other than a female proselyte, a freed bondwoman, and one who has been subjected to any meretricious intercourse. R. Eleazar[22] said: An unmarried man who had intercourse with an unmarried woman, with no matrimonial intent, renders her thereby a zonah![23] No, said R. Adda b. Ahabah, the reference here[24] is to[25] a High Priest. For when does he acquire her [as his lawful wife]? Only when she grows up;[26] but, then, she is already a be'ulah.[27] Said Raba:[28] What thoughtlessness![29] If her father had arranged her betrothal, then [the High Priest] would have acquired her from that very moment;[30] and if she herself had accepted the betrothal, is this[31] then the view of R. Eliezer only[32] and not that of the Rabbis![33] No, explained Raba, it[34] refers indeed to a common priest, but [the prohibition to marry the minor] is a precaution against the possibility of her seduction[35] while living with him. If so, [the same should apply to] an Israelite also! — The seduction of a minor is regarded as an outrage, and an outraged woman is permitted in the case of an Israelite.[36] R. Papa replied: [It[34] speaks] of a High Priest, and it represents the opinion of the following Tanna. For it was taught: A virgin;[37] as one might assume it to mean a minor, it was explicitly stated wife. If only 'wife' [had been written], it might have been assumed to mean one who is adolescent,[38] hence it was explicitly stated, 'a virgin'. How, then [is the text to be understood]? One who has emerged from her minority but has not yet attained adolescence.[39]

R. Nahman b. Isaac explained:[40] It is the opinion of the following Tanna. For it was taught: A virgin;[37] the only meaning of 'virgin' is damsel;[41] and so it is said in Scripture, And the damsel[42] was very fair to look upon, a virgin.[43] 'R. Eleazar said: An unmarried man who had intercourse with an unmarried woman, with no matrimonial intent, renders her thereby a zonah.' R. Amram said: The halachah is not in agreement with the opinion of R. Eleazar.

MISHNAH. A MAN SHALL NOT ABSTAIN FROM THE PERFORMANCE OF THE DUTY OF THE PROPAGATION OF THE RACE[44] UNLESS HE ALREADY HAS CHILDREN. [AS TO THE NUMBER]. BETH SHAMMAI RULED: TWO MALES, AND BETH HILLEL RULED: MALE AND A FEMALE, FOR IT IS STATED IN SCRIPTURE, MALE AND FEMALE CREATED HE THEM.[45]

GEMARA. [This implies] if he has children, he may abstain from performing the duty of propagation but not from that of living with a wife.[46] This provides support for a statement R. Nahman made in the name of Samuel who ruled that although a man may have many children he must not remain without a wife, for it is said in the Scriptures, It is not good that the man should be alone.[47]

Others read: [This[48] implies] if he has children he may abstain from performing the duty of propagation and also from that of living with a wife. May it, then, be said that this presents an objection against the statement R. Nahman made in the name of Samuel?[49] — No; if he has no children he must marry a woman capable of procreation; and if he has children he may marry a woman who is incapable of procreation. What is the practical difference?[50] — In respect of selling a Scroll of the Law for the sake of children.[51] BETH SHAMMAI RULED: TWO MALES. What is Beth Shammai's reason? We make an inference from Moses, in connection with whom it is written, The sons of Moses: Gershom and Eliezer.[52] And Beth Hillel? — We infer from the creation of the world. Let Beth Shammai also infer from the creation of the world! — The possible cannot be inferred

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(1) Hos. IV, 10.

(2) Why R. Eliezer ruled a priest shall not marry a minor.

(3) Lit., ‘minority’.

(4) It is possible,though not usual, that the minor would be found to be sterile.

(5) If she marries. Cf. supra p.407, n.13, and text.

(6) R. Eliezer.

(7) Dealing with halizah.

(8) V. Deut. XXV, 7.

(9) As the male must be a grown-up man and not a minor so must the female be a grown-up woman.

(10) Wanting in generative powers. V. Glos.

(11) Bek. 19b, infra 119a; they not being capable of procre- ation, there would be no offspring to succeed to the name of the deceased brother. The woman, therefore, is forbidden to the man as ‘his brother's wife’.

(12) Though the act of a minor has no validity, she may contract the marriage, since the commandment of the levirate marriage will be fulfilled as soon as she becomes of age.

(13) Since her action has no validity and cannot, therefore, set her free to marry a stranger.

(14) How then, could R. Eliezer be said to hold the same view as R. Meir?

(15) E.V. harlot (Lev. XXI, 7) who is forbidden to marry a priest (ibid.).

(16) V. Rashi. זונה from rt. זנה ‘to go astray’, ‘to run away’ sc. from her husband.

(17) Though unmarried.

(18) To the supreme court in Jerusalem.

(19) Of the water of bitterness; v. Num. V, 8.

(20) When she is forbidden to him. From the moment of her seclusion with a stranger, after her husband had warned her to hold no secret meetings with that man, until after the test of the water, cohabitation between husband and wife is forbidden.

(21) If she marries. Cf. supra p. 407, n. 13 and text.

(22) Cur. edd. ‘Eliezer’.

(23) How, then, could it be said that R. Eliezer is of the same opi- nion as R. Judah?

(24) The statement of R. Eliezer supra.

(25) Lit., ‘here we are engaged in’.

(26) While she is a minor, her betrothal has no validity.

(27) V. Glos. Owing to his own cohabitation which had no lawful sanction and was in the nature of an outrage or seduction.

(28) With reference to R. Adda b. Ahabah's reply.

(29) מכלי לב == מבלי לב (v. Rashi) without heart. מכלי לב may perhaps mean ‘consumption of the heart’, i.e., ‘what annoyance’ to hear such an illogical explanation!

(30) A father is fully entitled to arrange the betrothal of his minor daughter (v. Kid. 3b).

(31) The ruling that a High Priest may not marry her.

(32) As seems to be implied by the statement supra where only R. Eliezer is mentioned as if the Rabbis differed from him.

(33) In such a case, surely, even the Rabbis agree.

(34) The statement of R. Eliezer supra.

(35) Owing to her youth and inexperience.

(36) To a priest, however, she is forbidden. Hence R. Eliezer's restriction of his ruling to the priest only:

(37) Lev. XXI, 4.

(38) A bogereth (v. Glos.).

(39) A minor is thus forbidden, and R. Eliezer's ruling is based on a Pentateuchal deduction.
(40) Following the line of R. Papa.
(41) נערה , one between twelve and twelve and a half years of age.
(42) והנערה.
(43) בתולה, Gen. XXIV, 16.
(44) פריה ורביה. V, Gen. I, 28: פרו ורבו , be fruitful and multiply.
(45) Gen. V, 2.
(46) Since our Mishnah mentions only the exemption from the former and not from that of the latter.
(47) Gen. II, 18.
(48) [Since the Mishnah does not state, A man shall not marry a woman who is incapable of bearing children unless he already has children (Tosaf.)].
(49) Supra, that a man must never remain unmarried.
(50) As regards the duty of marriage. In either case one must not remain single.
(51) Only a man who has no children must sell even such a precious object if thereby he is enabled to marry a woman capable of procreation. If he has children such a sale is forbidden, and he must contract a less expensive marriage with an old or sterile woman.
(52) I Chron. XXIII, 15.

from the impossible.[1] Let Beth Hillel, then, make the inference from Moses! — They can answer you: Moses did it with His consent.[2] For it was taught: Moses did three things on his own initiative and his opinion coincided with that of the Omnipresent. He separated himself from his wife,[3] broke the Tables of Testimony[4] and added one day.[5]

'He separated himself from his wife'; what exposition did he make?[6] — He said, 'If to the Israelites, with whom the Shechinah spoke only for a while and for whom a definite time was fixed, the Torah nevertheless said, Come not near a woman,[7] how much more so to me, who am liable to be spoken to at any moment and for whom no definite time has been fixed'. And his view coincided with that of the Omnipresent; for it is said, Go say to them: Return ye to your tents; but as for thee, stand thou here by Me.[8]

'He broke the Tables of Testimony'; what exposition did he make?[6] — He said, 'If of the Paschal lamb, which is only one of the six hundred and thirteen commandments, the Torah said, There shall no alien eat thereof,[9] how much more should this apply to the entire Torah when all Israel are apostates'. And his view coincided with that of the Omnipresent; for it is written, Which thou didst break[10] and Resh Lakish explained: The Holy One, blessed be He, said to Moses, 'I thank you for breaking them'.[11]

'He added one day' on his own initiative. What exposition did he make?[12] — 'As it is written, And sanctify them to-day and to-morrow[13] [It implies that] to-day shall be the same as to-morrow; as to-morrow includes the previous night[14] so to-day must include the previous night. As, however, to-day's previous night has already passed away,[15] it must be inferred that two days exclusive of to-day must be observed'. And his view coincided with that of the Omnipresent, for the Revelation did not take place[16] before the Sabbath.[17]

It was taught: R. Nathan stated: Beth Shammai ruled: Two males and two females;[18] and Beth Hillel ruled: A male and a female.[18] Said R. Huna: What is the reason which R. Nathan assigns for the opinion of Beth Shammai? Because it is written, And again she bore his brother Abel[19] [which[20] implies:] Abel and his sister; Cain and his sister.[21] And it is also written, For God hath appointed me another seed instead of Abel;[22] for Cain slew him.[23] And the Rabbis? She was merely expressing her gratitude.[24]

Elsewhere it was taught: R. Nathan stated that Beth Shammai ruled: A male and a female;[25] and Beth Hillel ruled: Either a male or a female.[25]

Said Raba: What is the reason which R. Nathan assigns for the view of Beth Hillel? — Because it is said, He created it not a waste, He formed it to be inhabited,[26] and he[27] has obviously helped it to be inhabited.

It was stated: If a man had children while he was an idolater and then he became a proselyte, he has fulfilled, R. Johanan said, the duty of propagation of the race; and Resh Lakish said: He has not fulfilled the duty of propagation of the race. 'R. Johanan said: He has fulfilled the duty of propagation', since he had children. 'And Resh Lakish said: He has not fulfilled the duty of propagation' because one who became a proselyte is like a child newly born.

And they[28] follow their views.[29] For it was stated: If a man had children while he was an idolater and then he became a proselyte, he has, R. Johanan said, no firstborn in respect of inheritance,[30] since he already had[31] the first-fruits of his strength.[32] Resh Lakish, however, said: He has a firstborn son in respect of inheritance, for a man who became a proselyte is like a child newly born.

And [both statements[33] were] necessary. For if the first only had been stated [it might have been assumed that] only in that statement did R. Johanan maintain his view, since formerly he[34] was also subject to the obligation of propagation,[35] but in respect of inheritance, since [the proselyte's former children] are not entitled to heirship, it might have been presumed that he agrees with Resh Lakish. And were only the second stated [it might have been assumed that] only in that did Resh Lakish maintain his view but that in the former he agrees with R. Johanan. [Hence both were] necessary.

R. Johanan raised an objection against Resh Lakish. At that time Berodach-baladan the son of Baladan, King of Babylon etc.![36] — The other replied: While they are idolaters they have legally recognized ancestry, but when they become proselytes they have no longer any legally recognized ancestry.

Rab[37] said: All agree that a slave has no legally recognized relatives, since it is written, Abide ye here with[38] the ass,[39] people who are like the ass.[40]

An objection was raised: Now Ziba had fifteen sons and twenty servants![41] — R. Aba b. Jacob replied: Like a young bullock.[42] If so, [the same reply could be given] there also![43] — There it is different, since Scripture mentioned his[44] own name as well as his father's[45] name, while here[46] [the son's names] were not specified. If you prefer I might say: They[47] were elsewhere ascribed to their father and their father's father; as it is written, And King Asa sent them to Ben-hadad, the son of Tabrimmon, the son of Hezion, the King of Aram, that dwelt at Damascus, saying.[48]

It was stated: If a man had children and they died, he has fulfilled, said R. Huna, the duty of propagation. R. Johanan said: He has not fulfilled it. ‘R. Huna said: He fulfilled’ because [he follows the tradition] of R. Assi. For R. Assi[49] stated: The Son of David[50] will not come before all the souls in Guf[51] will have been disposed of, since it is said, For the spirit that unwrappeth itself is from Me etc.[52] And ‘R. Johanan said: He has not fulfilled the duty of propagation’ because we require [the fulfilment of the text] He formed it to be inhabited,[53] which is not the case here.[54] An objection was raised:

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(1) It would have been impossible for the human race to propagate had not one of each sex been created. For the preservation of the race, however, it is not necessary for every man to have children of both sexes.

(2) God approved of Moses’ action. No inference for other people may be drawn from an exceptional case.

(3) Though no daughter had been born from their union.

(4) When, on descending from the mountain, he found the people worshipping the golden calf (v. Ex. XXXII, 19).

(5) To the prescribed period of sanctification that preceded the revelation on Sinai (v. Ex. XIX, 10 and 15).

(6) In support of his action.

(7) Ex. XIX, 15.

(8) Deut. V, 27f.

(9) Ex. XII, 43.

(10) Ibid. XXXIV, 1, אשר שברת .

(11) יישר כחך , lit., ‘may thy strength be firm’. יישר and אשר are regarded as coming from the same rt. אשר .

(12) In support of his action.

(13) Ex. XIX, 10.

(14) The day always beginning after the sunset of the previous day.

(15) At the time Moses received his instructions.

(16) Lit., ‘the Shechinah did not dwell’.

(17) The sanctification began on Wednesday. They observed all Thursday and Friday; and the Shechinah descended on the Sabbath which was the third of the two complete days (V. Shab. 86a), thus, as Moses expected, disregarding the first

day which was incomplete.
(18) Are the minimum required to fulfil the duty of the propagation of the race. V. Tosef. Yeb. VIII.
(19) Gen. IV, 2.
(20) את , (the sign of the defined accusative) which could be omitted (as in many other instances), appearing both before brother and before Abel.
(21) Two males and two females.
(22) Obviously to make up the minimum.
(23) Gen. IV, 25.
(24) The duty of propagation, however, would have been fulfilled without the additional birth.
(25) V. supra note 8.
(26) Isa. XLV, 18. It is the duty of man to assist in making the world inhabited.
(27) The man who has even only one son or one daughter.
(28) R. Johanan and Resh Lakish.
(29) Expressed elsewhere.
(30) The first son born after his conversion is not entitled to the double portion of the firstborn.
(31) Before his conversion.
(32) V. Deut. XXI, 17.
(33) That relating to the duty of propa- gation and that in respect of the firstborn.
(34) Lit., ‘they’, sc. idolaters.
(35) It being one of the seven Noahide commandments. V. Gen. IX, 7.
(36) II Kings, XX, 12; which shews that an offspring of an idolater is also described as a son!
(37) Others, ‘R. Abba’, v. Alfasi and ראש.
(38) עם , the same consonants as עם ‘a people’.
(39) Gen. XXII, 5.
(40) With reference to Abraham's slaves v. Gen. ibid. The slave, like the ass, is considered the chattel of the master.
(41) II Sam. IX, 10. Ziba was a slave (v. ibid. 9) and yet he is described as having sons.
(42) פר בן בקר , lit., ‘a bullock the son of a herd’. The expression of son in the case of the slave Ziba had no greater significance than the expression of ‘son’ in the case of cattle.
(43) In the description of Berodach in II Kings XX, 12.
(44) Cf. supra p. 414, n. 9.
(45) Which may indeed be taken as proof that idolaters’ children are legal descendants and may be described as ‘sons’.
(46) Ziba's descendants.
(47) Idolaters.
(48) I Kings XV, 18. Cf. supra n. 9.
(49) Others, ‘Jose’. V. ‘A.Z. 5a, Nid. 13b.
(50) The Messiah.
(51) Lit., ‘body’, the region inhabited by the souls of the unborn.
(52) Isa. LVII, 16. This being the reason for the duty of propagation, the duty is fulfilled as soon as a child is born, i.e., as soon as his soul has left the region of Guf irrespective of whether he survives or not.
(53) Isa. XLV, 18.
(54) The children being dead.

Talmud - Mas. Yevamoth 62b

Grandchildren are like children![1] — This was taught only in respect of supplementing.[2]

An objection was raised: Grandchildren are like children. If one of them died or was found to be a saris[3] the father has not fulfilled the duty of propagation.[4] Is not this a refutation against R. Huna?[5] — It is indeed a refutation.

‘Grandchildren are like children’. Abaye intended to say: A grandson for a son and a granddaughter for a daughter, and certainly a grandson for a daughter; but not a granddaughter for a son.[6] But Raba said to him: We only require [the fulfilment of the text] He formed it to be inhabited,[7] which is the case here.

All, at any rate, agree[8] that two children of one[9] are not sufficient. But [are they] not? The Rabbis surely said to R. Shesheth,[10] 'Marry a wife and beget children', and he answered them, 'My daughters' children are mine'! — There he was merely putting them off, because R. Shesheth became impotent owing to the long discourses of R. Huna.[11]

Said Rabbah to Raba b. Mari: Whence the statement made by the Rabbis that grandchildren are like children? If it be suggested that it is deduced from the Scriptural text, The daughters are my daughters and the children are my children,[12] would then [it may be objected] the same [meaning be given to the text] And the flocks are my flocks?[12] But [the meaning there is obviously] 'which you have acquired from me', so here also [the meaning may be], 'which you have acquired from me'! The deduction is rather made from the following:[13] And afterwards Hezron went to the daughter of Machir the father of Gilead; . . . and she bore him Segub,[14] and it is also written, Out of Machir came down lawgivers,[15] and furthermore it is written, Judah is my lawgiver.[16]

Our Mishnah[17] cannot represent the opinion of R. Joshua. For it was taught: R. Joshua said, If a man married in his youth, he should marry again in his old age; if he had children in his youth, he should also have children in his old age; for it said, In the morning[18] sow thy seed and in the evening[19] withhold not thine hand; for thou knowest not which shall prosper, whether this or that, or whether they shall both be alike good.[20] R. Akiba said: If a man studied Torah in his youth, he should also study it in his old age; if he had disciples in his youth, he should also have disciples in his old age. For it is said, In the morning sow thy seed etc.[20]

It was said that R. Akiba had twelve thousand pairs of disciples, from Gabbatha[21] to Antipatris;[22] and all of them died at the same time because they did not treat each other with respect. The world remained desolate[23] until R. Akiba came to our Masters in the South and taught the Torah to them. These were R. Meir, R. Judah, R. Jose, R. Simeon and R. Eleazar b. Shammua; and it was they who revived the Torah at that time. A Tanna taught: All of them[24] died between Passover and Pentecost. R. Hama b. Abba or, it might be said, R. Hiyya b. Abin said: All of them died a cruel death. What was it?-R. Nahman replied: Croup.[25]

R. Mattena stated: The halachah is in agreement with R. Joshua.[26]

R. Tanhum stated in the name of R. Hanilai: Any man who has no wife lives without joy, without blessing, and without goodness. 'Without joy'. for it is written. And thou shalt rejoice, thou and thy house.[27] 'Without blessing', for it is written, To cause a blessing to rest on thy house.[28] 'Without goodness', for it is written, It is not good that the man should be alone.[29]

In the West[30] it was stated:[31] Without Torah and without a [protecting] wall. 'Without Torah', for it is written. Is it that I have no help[32] in me, and that sound wisdom[33] is driven quite from me.[34] 'Without a [protecting] wall', for it is written, A woman shall encompass a man.[35]

Raba b. 'Ulla said:[31] Without peace, for it is written, And thou shalt know that thy tent[36] is in peace; and thou shalt visit thy habitation and shalt miss nothing.[37]

R. Joshua b. Levi said: Whosoever knows his wife to be a God-fearing woman and does not duly visit her is called a sinner; for it is said, And thou shalt know that thy tent is in peace[38] etc.[39]

R. Joshua b. Levi further stated: It is a man's duty to pay a visit to his wife when he starts on a journey; for it is said, And thou shalt know that thy tent is in peace etc.[37] Is this[40] deduced from here? Surely it is deduced from the following:[41] And thy desire shall be to thy husband[42] teaches that a woman yearns for her husband when he sets out on a journey! — R. Joseph replied: This[43] was required only in the case where her menstruation period was near.[44] And how near? Rabbah[45] replied: Twelve hours.[46] And this[47] applies only [when the journey is] for a secular purpose, but when for a religious purpose [it does not apply, since then] people are in a state of anxiety.[48] Our Rabbis taught: Concerning a man who loves his wife as himself, who honours her more than himself, who guides his sons and daughters in the right path and arranges for them to be married near the period of their puberty, Scripture says, And thou shalt know that thy tent is in peace.[49] Concerning him who loves his neighbours, who befriends his relatives, marries his sister's[50] daughter,

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(1) Infra 70a. It is now assumed that whenever one's own child died the grandchild may take his place in exempting his grandfather from the duty of propagation. From this it follows that only living children or grandchildren exempt a man from the duty of further propagation. How then could R. Huna maintain that dead children also exempt one from this duty?

(2) If a man had only one son he is exempt from the duty of propagation if his son had a daughter. If, however, he once had a male and a female who subsequently died he is in any case exempt.

(3) V. Glos.

(4) Tosef. Yeb. VIII.

(5) Cf. supra note 1, final clause.

(6) I.e., a granddaughter cannot take the place of a son to exempt one from the duty of further propagation.

(7) Isa. XLV, 18.

(8) Lit., ‘all the world’, i.e., Abaye and Raba.

(9) Son or daughter.

(10) Others, ‘Abba b. Zabda’. V. She'iltoth. Sec. ha-Berakah.

(11) The discourses being long, R. Shesheth, in his desire not to interrupt them, suppressed his needs and thus impaired his generative organs. V. Bek. 44b.

(12) Gen. XXXI, 43.

(13) Lit., ‘from here’.

(14) I Chron. II, 21.

(15) Judges V, 14.

(16) Ps. LX, 9. As this text implies that the lawgivers were descendants of Judah, Machir (Judges V, 14), a descendant of Manasseh, could not have been the paternal, but only the maternal ancestor of the lawgivers that descended from him. The lawgivers were thus the offspring of the union mentioned in I Chron. II, 21, between Hezron, a descendant of Judah, and a daughter of Machir. This then proves that the sons of one's daughter are also regarded as one's own sons.

(17) Which permits abstention from further propagation after the birth of the prescribed number of children.

(18) I.e., ‘the morning of life’, youth.

(19) I.e., ‘old age’. V. supra n. 5.

(20) Eccl. XI, 6.

(21) Gibbethon, in the territory of Dan.

(22) N.N.W. of Jerusalem.

(23) Through lack of learning.

(24) The disciples of R. Akiba.

(25) אסכרה (rt. סכר , ‘stop’, ‘choke’).

(26) Supra, that the duty of propagation never ceases.

(27) Deut. XIV, 26. House, בית refers to one's wife. Cf. Yoma 2a.

(28) Ezek. XLIV, 30. Cf. supra n. 3.

(29) Gen. II, 18.

(30) Palestine.

(31) Concerning the unmarried man.

(32) I.e., ‘a wife’. Cf. A help meet for him, Gen. II, 18.

(33) תושיה , the Torah.

(34) Job VI, 13.

(35) Jer. XXXI, 22. Cf. R.V.
(36) I.e., wife. Cf. M.K. and supra note 3.
(37) Job V, 24.
(38) I.e., 'that thy wife is in peace with God' sc. 'chaste', or. reading שלום as שלם , 'perfect'.
(39) Ibid., then thou shalt visit etc.
(40) The duty of visiting prior to setting out on a journey.
(41) Lit., 'from there'.
(42) Gen. III, 16.
(43) The statement as to the duty of visiting.
(44) At the time he sets out on his journey. When no journey is contemplated one must keep away from his wife when the menstruation period is near. V. Shebu. 18b.
(45) Cur. edd., 'Raba'.
(46) עונה lit., 'period'. i.e., a whole day or a whole night. If the menstruation occurs during the day, he must keep away throughout that day, and if during the night, he must keep away during all that night.
(47) The duty of visiting prior to setting out on a journey.
(48) Or, 'they might be preoccupied' and thus delay the journey and neglect the performance of the religious act.
(49) Job V, 24.
(50) This is a meritorious act, because the affection a man has for his sister will be extended to her daughter, his wife.

Talmud - Mas. Yevamoth 63a

and lends a sela'[1] to a poor man in the hour of his need, Scripture says, Then shalt thou call, and the Lord will answer; thou shalt cry and He will say: 'Here I am'.[2]

(Mnemonic: Woman and land help this two shoots, tradesmen inferior.)[3]

R. Eleazar said: Any man who has no wife is no proper man; for it is said, Male and female created He them and called their name Adam.[4]

R. Eleazar further stated: Any man who owns no land is not a proper man; for it is said, The heavens are the heavens of the Lord; but the earth hath he given to the children of men.[5]

R. Eleazar further stated: What is the meaning of the Scriptural text, I will make him a help meet for him?[6] If he was worthy she is a help to him;[7] if he was not worthy she is against him.[8] Others say: R. Eleazar pointed out a contradiction: It is written kenegedo[9] but we read kenegedo![10] — If he was worthy she is meet for him;[10] if he was not worthy she chastises him.[9]

R. Jose met Elijah and asked him: It is written, I will make him a help;[11] how does a woman help a man? The other replied: If a man brings wheat, does he chew the wheat? If flax, does he put on the flax?[12] Does she not, then, bring light to his eyes and put him on his feet!

R. Eleazar further stated: What is meant by the Scriptural text, This is now bone of my bones, and flesh of my flesh?[13] This teaches that Adam had intercourse with every beast and animal but found no satisfaction until he cohabited with Eve.

R. Eleazar further stated: What is meant by the text, And in thee shall the families of the earth be blessed?[14] The Holy One, blessed be He, said to Abraham, 'I have two goodly shoots to engraft[15] on you: Ruth the Moabitess and Naamah the Ammonitess'.[16] All the families of the earth,[14] even the other families who live on the earth are blessed only for Israel's sake. All the nations of the earth,[17] even the ships that go from Gaul to Spain are blessed only for Israel's sake.

R. Eleazar further stated: There will be a time when all craftsmen will take up agriculture;[18] for it is said, And all that handle the oar, the mariners, and all the pilots of the sea, shall come down from their ships; they shall stand upon the land.[19]

R. Eleazar further stated: No[20] occupation is inferior to that of agricultural labour; for it is said, And they shall come down.[21]

R. Eleazar once saw a plot of land that was ploughed across its width.[22] 'Wert thou to be ploughed along thy length also',[23] he remarked, 'engaging in business would still be more profitable'. Rab once entered among growing ears of corn. Seeing that they were swaying[24] he called out to them, 'Swing as you will,[25] engaging in business brings more profit than you can do'.

Raba said: A hundred zuz[26] in business means meat and wine every day; a hundred zuz in land, only salt and vegetables.[27] Furthermore it causes him to sleep on the ground[28] and embroils him in strife.[29]

R. Papa said, 'Sow[30] but do not buy,[31] even if the cost is the same; there is a blessing in the former. Sell out[32] to avoid disgrace;[33] but only mattresses, [not] however, a cloak, [since one] might not always again obtain [a suitable one].[34] Stop up[35] and you will need no repair;[36] repair[37] and you will not need to rebuild; for whosoever engages in building grows poor. Be quick in buying land; be deliberate in taking a wife. Come down a step in choosing your wife;[38] go up a step in selecting your shoshbin.[39]

R. Eleazar b. Abina[40] said: Punishment comes into the world only on Israel's account; for it is said, I have cut off nations, their corners are desolate; I have made their streets waste,[41] and this is followed by the text, 'I said: Surely thou wilt fear Me, thou wilt receive correction'.[42]

Rab was once taking leave of R. Hiyya. The latter said to him, 'May the All Merciful deliver you from that which is worse than death'. 'But is there' [Rab wondered] 'anything that is worse than death'? When he went out he considered the matter and found [the following text]: And I find more bitter than death the woman etc.[43]

Rab was constantly tormented by his wife. If he told her, 'Prepare me lentils', she would prepare him small peas; [and if he asked for] small peas, she prepared him lentils. When his son Hiyya grew up he gave her [his father's instruction] in the reverse order.[44] 'Your mother', Rab once remarked to him, 'has improved'![45] 'It was I', the other replied, 'who reversed [your orders] to her'. 'This is what people say', the first said to him, 'Thine own offspring teaches thee reason';[46] you, however, must not continue to do so' for it is said, They have taught their tongue to speak lies, they weary themselves etc'.[47]

R. Hiyya was constantly tormented by his wife. He, nevertheless, whenever he obtained anything suitable wrapped it up in his scarf and brought it to her. Said Rab to him, 'But, surely, she is tormenting the Master!' — 'It is sufficient for us', the other replied, 'that they rear up our children and deliver us

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(1) A coin. V. Glos.

(2) Isa. LVIII, 9. This refers to the preceding text: If then thou seest the naked, that thou cover him (ibid. 7), i.e., helping the poor at the hour of his need; and that thou hide not thyself from thine own flesh (ibid.) implies benefiting relatives including the marriage of a sister's daughter and loving one's neighbours who are regarded as relatives.

(3) The words in the mnemonic correspond to terms outstanding in the respective statements of R. Eleazar, that follow.

(4) Gen. V, 2. Adam == man. Only when the male and female were united were they called Adam.

(5) Ps. CXV, 16, emphasis on man and earth.

(6) Gen. II, 18.

(7) עזר , ‘help’.
(8) כנגדו , meet for him may also be rendered ‘against him’.
(9) כנגדו (rt. נגד , ‘to strike’).
(10) כנגדו meet for him.
(11) Gen. II, 18.
(12) Obviously not. His wife grinds the wheat and spins the flax.
(13) Gen. II, 23, emphasis on This is now.
(14) Ibid. XII, 3, ונברכו.
(15) להבריך in Hif. is of the same rt. (ברך) as ונברכו in Nif.
(16) Both belonged to idolatrous nations and were ‘grafted’ upon the stock of Israel. The former was the ancestress of David (V. Ruth IV, 13ff), and the latter the mother of Rehoboam (v. I Kings XIV, 31) and his distinguished descendants Asa, Jehoshaphat and Hezekiah.
(17) Gen. XVIII, 18.
(18) Lit., ‘they shall stand upon the land’.
(19) Ezek. XXVII, 29.
(20) Lit., ‘not to thee’.
(21) V. supra note 11, emphasis on down.
(22) Apparently as a measure of economy.
(23) I.e., were it to be ploughed ever so many times.
(24) Suggestive of a swaggering motion; pride.
(25) Other readings and interpretations: ‘Eh! thou desirest to be winnowed with the fan’; ‘Thou swingest thyself like a swing’; ‘Swing thyself’ i.e., ‘be as proud as thou wilt’ (v. Aruk and Jast.).
(26) A coin. V. Glos.
(27) חפורה may be compared with Arab. hafire ‘the beginning of a thing’, hence the first stage in the ripening of the corn (cf. Levy), ‘unripe ears’ (v. Rashi); ‘grass’ (Golds.); ‘common vegetables’ (Jast.).
(28) Since he must remain in his field during the night to watch the crops.
(29) With the owners of adjoining fields.
(30) Crops for the requirements of one's household.
(31) Corn in the market.
(32) Possessions or household goods.
(33) Of starvation or begging (v. Rashi). Other readings and interpretations: ‘Buy ready-made cloth and do not wind skeins’ (read תידויל for תיזול); ‘Buy etc. and do not spin’ (v. Jast. and Aruk).
(34) V. Bah. a.l.
(35) A small hole in a building.
(36) Cf., ‘a stitch in time saves nine’ (Eng. prov.).
(37) If it is too late to stop up the cracks.
(38) A wife of superior position or rank might put on airs. or not be contented with her husband's social or financial position.
(39) The bridegroom's best man. By associating with superior men one has a good example to emulate.
(40) The last two words are missing in Yalkut.
(41) Zeph. III, 6.
(42) Ibid, 7.
(43) Eccl. VII, 26.
(44) So that when his mother, as usual, did the reverse of what she was requested by Hiyya in the name of his father, Rab had exactly what he had wished for.
(45) Lit., ‘improved for you’, (dative of advantage).
(46) The expedient had not occurred to him before his son had thought of it.
(47) Jer. IX, 4.

Talmud - Mas. Yevamoth 63b

from sin’.

Rab Judah was reading with his son R. Isaac the Scriptural text, And I find more bitter than death the woman. When the latter asked him, 'Who, for instance'? — 'For instance, your mother'. But,[1] surely, Rab Judah taught his son R. Isaac, 'A man finds happiness[2] only with his first wife; for it is said, Let thy fountain be blessed and have joy of the wife of thy youth';[3] and when the latter asked him, 'Who for instance?' [he answered:] 'For instance, your mother'![4] — She was indeed irascible but could be easily appeased with a kindly word.[5]

How is one to understand the term a 'bad wife'? Abaye said: One who prepares for him[6] a tray[7] and has her tongue[8] also ready for him. Raba said: One who prepares for him[6] the tray and turns her back upon him.[9]

R. Hama b. Hanina stated: As soon as a man takes a wife his sins are buried;[10] for it is said: Whoso findeth a wife findeth a great good and obtaineth[11] favour of the Lord.[12]

In the West,[13] they used to ask a man who married, 'findeth or find?'[14] Findeth, because it is written, Whoso findeth a wife, findeth a great good;[12] Find, because it is written, And I find more bitter than death the woman.[15]

Raba said: [If one has] a bad wife it is a meritorious act to divorce her,[16] for it is said, Cast out[17] the scoffer, and contention will go out; yea, strife and shame will cease.[18]

Raba further stated: A bad wife, the amount of whose kethubah[19] is large,[20] [should be given] a rival at her side; as people say, 'By her partner rather than by a thorn'.[21]

Raba further stated: A bad wife is as troublesome as a very rainy day; for it is said, A continual dropping in a very rainy day and a contentious woman are alike.[22]

Raba further stated: Come and see how precious is a good wife and how baneful is a bad wife. 'How precious is a good wife', for it is written: Whoso findeth a wife findeth a great good.[12] Now, if Scripture speaks of the woman herself, then how precious is a good wife whom Scripture praises. If Scripture speaks of the Torah, then how precious is a good wife with whom the Torah is compared. 'How baneful is a bad wife', for it is written, And I find more bitter than death the woman.[23] Now, if Scripture speaks of herself, then how baneful is a bad wife whom Scripture censures. If Scripture speaks of Gehenna, then how baneful is a bad wife with whom Gehenna is compared.

Behold I will bring evil upon them, which they shall not be able to escape.[24] R. Nahman said in the name of Rabbah b. Abbuha: This refers to a bad wife, the amount of whose kethubah[25] is large.[26]

The Lord has delivered me into their hands against whom I am not able to stand.[27] R. Hisda said in the name of Mar 'Ukba b. Hiyya: This refers to a bad wife the amount of whose kethubah[25] is large.[26] In the West[28] it was said: This refers to one whose maintenance depends on his money.[29]

Thy sons and thy daughter's shall be given unto another people.[30] R. Hanan b. Raba stated in the name of Rab: This refers to one's father's wife.[31]

I will provoke them with a vile[32] nation.[33] R. Hanan b. Raba stated in the name of Rab: This refers to a bad wife the amount of whose kethubah[25] is large.[34] R. Eliezer stated: This refers to the Sadducees;[35] for so it is said, The fool[32] has said in his heart: 'There is no God' etc.[36] In a Baraitha it was taught: This refers to the people of Barbaria[37] and the people of Mauretania[38] who go naked in the streets; for there is nothing more objectionable and abominable to the Omnipresent than the man who goes naked in the streets. R. Johanan said: This refers to the Parsees.[39]

When R. Johanan was informed that the Parsees[40] had come to Babylon, he reeled and fell.[41] When however he was told that they accepted bribes he recovered[42] and sat down again.[43]

They[44] issued three decrees as a punishment for three [transgressions]:[45] They decreed against [ritually prepared] meat,[46] because the priestly gifts[47] [were neglected]. They decreed against the use of baths, because ritual bathing [was not observed]. They exhumed the dead,[48] because rejoicings were held on the days of their[49] festivals; as it is said, Then shall the hand of the Lord be against you, and against your fathers,[50] and Rabbah b. Samuel said that that[51] referred to the exhumation of the dead, for the Master said, ‘For the sins of the living the dead are exhumed’.

Said Raba to Rabbah b. Mari: It is written, They shall not be gathered, nor be buried, they shall be for dung upon the face of the earth,[52] but it is also written,[53] And death shall be chosen rather than life![54] — The other replied: ‘Death shall be chosen’ for the wicked, in order that they may not live in this world and thus sin and fall into Gehenna.[55] It is written in the book of Ben Sira: —[56]

A good wife is a precious gift;[57] she will be put in the bosom of the God-fearing man.[58] A bad wife is a plague to her husband. What remedy has he? — Let him give her a letter of divorce and be healed of his plague.

A beautiful wife is a joy to her husband;[59] the number of his days shall be double.[60]

Turn away thy eyes from [thy neighbour's] charming wife lest thou be caught in her net. Do not turn in to her husband to mingle with him wine and strong drink; for, through the form of a beautiful woman, many were destroyed and a mighty host are all her slain.[61]

Many were the wounds of the spice-peddler,[62] which lead him on to lewdness like a spark that lights the coal.[63]

As a cage is full of birds so are [the harlots’] houses full of deceit .[64]

Do not worry about to-morrow's trouble, for thou knowest not what the day may beget. To-morrow may come and thou[65] wilt be no more and so thou hast worried about a world which is not thine.[66]

Keep away many from thy house; and do not bring everyone into thy house.

Many be they that seek thy welfare; reveal thy secret only to one of a thousand.

R. Assi stated: The son of David[67] will not come before all the souls in Guf[68] are disposed of; since it is said, For the spirit that enwrappeth itself is from Me, and the souls which I have made.[69]

It was taught: R. Eliezer stated, He who does not engage in propagation of the race is as though he sheds blood; for it is said, Whoso sheddeth man's blood by man shall his blood be shed,[70] and this is immediately followed by the text, And you, be ye fruitful and mul tiply.[71] R. Jacob said: As though he has diminished the Divine Image; since it is said, For in the image of God made he man,[72] and this is immediately followed by, And you, be ye fruitful etc.[71] Ben ‘Azzai said: As though he sheds blood and diminishes the Divine Image; since it is said,[73] And you, be ye fruitful and mutltiply.[71]

They said to Ben ‘Azzai: Some preach well and act well, others act well but do not preach well; you. however, preach well but do not act well![74] Ben ‘Azzai replied: But what shall I do, seeing that my soul is in love with the Torah; the world can be carried on by others.

Another [Baraitha] taught : R. Eliezer said, Anyone who does not engage in the propagation of the race is as though he sheds blood; For it is said, Whoso sheddeth mans's blood,[72] and close upon it follows, And you, be ye fruitful etc.[71] R. Eleazar b. Azariah said: As though he diminished the Divine Image. Ben ‘Azzai said etc.[75] They said to Ben ‘Azzai: Some preach well etc.[75]

Our Rabbis taught: And when it rested, he said: ‘Return O Lord unto the ten thousands and[76] thousands of Israel’,[77]

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(1) Bah inserts, ‘it is not so’.
(2) Or ‘satisfaction’, ‘contentment’.
(3) Prov. V, 18.
(4) Sanh. 22b. Which is apparently contradictory to the former character attributed to her!
(5) Cf. Jast. and Golds.
(6) Her husband.
(7) His meal.
(8) Lit., ‘mouth’.
(9) Euphemism.
(10) מתפקקין lit., ‘stopped up’.
(11) ויפק regarded to have the same meaning as מתפקקין supra n. 7.
(12) Prov, XVIII, 22.
(13) Palestine.
(14) Hebr. Moze or Maza.
(15) Eccl. VII, 26.
(16) לגרשה rt. גרש v. infra.
(17) גרש of the same rt. as supra n. 13.
(18) Prov. XXII, 10.
(19) V. GIos.
(20) Which the husband, should he desire to divorce her, cannot afford to pay.
(21) I.e., a bad wife is more easily corrected by subjecting her to the unpleasantness of a rival than by chastising her with thorns.
(22) Prov. XXVII, 15.
(23) Eccl, VII, 26.
(24) Jer. XI, 11.
(25) V. Glos.
(26) Which the husband, should he desire to divorce her, cannot afford to pay.
(27) Lam, I, 14.
(28) Palestine.
(29) Having no land of his own from which to obtain his food, he is subject to the extortionate prices of unscrupulous dealers upon whom he must depend for the supply of his daily food.
(30) Deut. XXVIII, 32.
(31) A stepmother.
(32) נבל .
(33) Deut. XXXII, 21.
(34) Which the husband, should he desire to divorce her, cannot afford to pay.
(35) Bomberg ed., Minim, ‘heretics’.
(36) Ps. XIV, 1.
(37) Tunis.
(38) Britannia? v. Jast.
(39) The followers of an expanded Zoroastrian ritual who, under the guidance of the Magians, in the reign of Ardashir I (226-241), severely oppressed the adherents of other creeds.
(40) V. p. 424, n. 17.

(41) Knowing as he did their intolerance and cruel religious fanaticism.
(42) Lit., ‘made (himself) straight’.
(43) All hope, he felt, was not lost when concessions might be obtained by paying for them.
(44) The Parsees who were accepted by Israel as a visitation sent by the divine will for their neglect of the Torah and its commandments.
(45) Of Israel in Babylon.
(46) Under a decree that any animal killed for human consumption must not be eaten unless certain parts of it were first offered on the Parsee altars, Jews were practically excluded from the eating of meat.
(47) Prescribed in Deut. XVIII, 3.
(48) One of the religious laws of the Parsees forbade the pollution of the earth by the burial of corpses. As a result, the graves in the Jewish cemeteries were broken open, and the dead exhumed and thrown to the beasts and birds of prey.
(49) The idolaters’.
(50) I Sam, XII, 15.
(51) The hand of the Lord against the fathers who were no more alive.
(52) Jer. VIII, 2.
(53) Immediately following this text.
(54) Jer. VIII, 3. How could it be said that such an ignominious death as described (ibid. 2) would be chosen rather than life?
(55) The choice of death will not be made, as was assumed, by the sufferers. It is the prophet's oracle on the destiny of the wicked.
(56) Ecclesiasticus,
(57) So Bah. Cur. edd. add, ‘to her husband; and it is written, good’.
(58) Cf. Ecclesiasticus XXVI, 3.
(59) Lit., ‘happy is her husband’. Cf. Ps. I, 1.
(60) Cf. Ecclesiasticus XXVI, 1. Every happy day is as good as two (v. Rashi).
(61) Cf. Ben Sira (Ben Zeeb ed.) IX, 8, 10, 11.
(62) His business of selling spices and perfumes to women leads him to much temptation.
(63) Cf. Ben Sira (Ben Zeeb ed.) IX suppl. to v. 12.
(64) Cf. Jer. V, 27 and op. cit., second suppl. loc. cit,
(65) Lit., ‘he’.
(66) Lit., ‘his’. Cf. Ben Sira, op. cit., XXX, 23. 24.
(67) The Messiah,
(68) Lit., ‘body’, the region inhabited by the unborn souls.
(69) Isa LVII, 16. The previous section of the verse speaks of the redemption (Rashi). Hence the deduction that the redemption that is to come through the Messiah will not take place before all the unborn souls have been made, i.e., passed through the life of this world.
(70) Gen. IX, 6.
(71) Gen. IX, 7.
(72) Ibid. 6.
(73) After both Whoso sheddeth man's blood and In the image of God made he man. (Gen. IX, 6).
(74) He remained a bachelor.
(75) V. supra.
(76) E.V. ‘of the’.
(77) Num. X, 36.

Talmud - Mas. Yevamoth 64a

teaches that the Divine Presence does not rest on less than two thousand and two myriads of Israelites.[1] Should the number of Israelites happen to be two thousand and two myriads less one, and any particular person has not engaged in the propagation of the race, does he not thereby cause the Divine Presence to depart From Israel! Abba Hanan said in the name of R. Eliezer: He deserves the penalty of death; for it is said, And they had no children,[2] but if they had children they would not have died. Others say: He causes the Divine Presence to depart from Israel; for it is said, To be a God unto thee and to thy seed after thee;[3] where there exists 'seed after thee' the Divine Presence dwells [among them]; but where no 'seed after thee' exists, among whom should it dwell! Among the trees[4] or among the stones? MISHNAH. IF A MAN TOOK A WIFE AND LIVED WITH HER FOR TEN YEARS AND SHE BORE NO CHILD, HE MAY NOT ABSTAIN [ANY LONGER FROM THE DUTY OF PROPAGATION].[5] IF HE DIVORCED HER SHE IS PERMITTED TO MARRY ANOTHER, AND THE SECOND HUSBAND MAY ALSO LIVE WITH HER [NO MORE THAN] TEN YEARS.[6] IF SHE MISCARRIED [THE PERIOD OF TEN YEARS] IS RECKONED FROM THE TIME OF HER MISCARRIAGE.

GEMARA. Our Rabbis taught: If a man took a wife and lived with her for ten years and she bore no child, he shall divorce her and give her her kethubah,[7] since it is possible that it was he who was unworthy to have children from her.[8] Although there is no definite proof for this statement[9] there is nevertheless a [Scriptural] allusion to it: After Abram had dwelt ten years in the land of Canaan.[10] This[11] teaches you that the years of his stay outside the Land[12] were not included in the number.[13] Hence, if the man or the woman was ill, or if both were in prison, [these years] are not included in the number.[14]

Said Raba to R. Nahman: Let deduction be made from Isaac, concerning whom it is written, And Isaac was forty years old when he took Rebecca etc.[15] and it is also written, And Isaac was threescore years old when she bore them![16] — The other replied: Isaac was barren.[17] If so,[18] Abraham also was barren![19] — That text[20] is required For a deduction in accordance with the statement of R. Hiyya b. Abba. For R. Hiyya b. Abba stated in the name of R. Johanan: Why were the years of Ishmael counted? In order to determine thereby the years of Jacob.[21]

R. Isaac stated: Our father Isaac was barren; for it is said, And Isaac entreated the Lord opposite[22] his wife.[23] It does not say 'for his wife' but opposite. This teaches that both were barren.[24] If so, And the Lord let Himself be entreated of him[23] should have read, And the Lord let Himself be entreated of them![25] — Because the prayer of a righteous man the son of a righteous man is not like the prayer of a righteous man the son of a wicked man.[26]

R. Isaac stated: Why were our ancestors barren? — Because the Holy One, blessed be He, longs to hear the prayer of the righteous.

R. Isaac further stated: Why is the prayer of the righteous compared to a pitchfork?[27] As a pitchfork turns the sheaves of grain from one position to another, so does the prayer of the righteous turn the dispensations of the Holy One, blessed be He, from the attribute of anger to the attribute of mercy.

R. Ammi stated: Abraham and Sarah were originally of doubtful sex;[28] for it is said, Look unto to the rock

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(1) The pl. number, רבבות (myriads) and אלפי (thousands), having been used in both cases. The pl. signifies not less than two.

(2) Num. III, 4, referring to the deaths of Nadab and Abihu.

(3) Gen. XVII,7.

(4) Or 'wood'.

(5) He must take another wife.

(6) If she had no issue from him also.

(7) V. Glos.

(8) She, therefore, must not be deprived of her kethubah,

(9) As to the period of ten years.

(10) Gen. XVI, 3, with reference to Abram's marriage to Hagar.
(11) The explicit statement, dwelt...in the land.
(12) Palestine.
(13) Living outside Palestine being a sin, it is presumed that this might have been the cause of ‘their childlessness.
(14) Since no propagation was possible in such circumstances.
(15) Gen. XXV, 20.
(16) Ibid. 26, which shews that he waited (60 — 40 ==) twenty years!
(17) Knowing that the disability was due to his weakness he waited ten years longer than Abraham.
(18) V. supra n. 13.
(19) Why then did he not wait more than ten years?
(20) The age of Isaac, Gen, XXV, 20.
(21) And for the same reason was it necessary to give the age of Isaac. V. Meg. 17a. As the text is required for this purpose, no other deduction may be made from it. The text of the ten years of Abraham's waiting, however, as it is required for no other deduction, rightly serves the purpose of the allusion mentioned.
(22) So lit., E.V. ‘for’.
(23) Gen. XXV, 21.
(24) He had to pray not only for her but for himself also.
(25) Since Isaac's prayer was not on behalf of his wife only but on behalf of himself as well.
(26) Rebekah's father, Bethuel, was a wicked man. The implication of ‘him’ in ‘entreated of him’ is that Isaac's prayer was accepted before Rebekah's.
(27) עתר or עתר of the same rt. as ויעתר and he entreated.
(28) טומטומין v, Glos, s.v. tumtum.

Talmud - Mas. Yevamoth 64b

whence you were hewn[1] and to the hole of the pit[2] whence you were digged,[3] and this is followed by the text, Look unto Abraham your father, and unto Sarah that bore you.[4]

R. Nahman stated in the name of Rabbah b. Abbuha: Our mother Sarah was incapable of procreation; for it is said, And Sarai was barren; she had no child,[5] she had not even a womb.[6]

Rab Judah son of R. Samuel b. Shilath stated in the name of Rab: That[7] was taught only in respect of the early generations who lived many years. In respect of the later generations, however, whose years of life are few, only two years and a half, corresponding to three periods of pregnancy[8] [are allowed].[9]

Rabbah stated in the name of R. Nahman: Three years [must elapse],[9] corresponding to three remembrances;[10] For a Master said: Sarah, Rachel and Hannah[11] were remembered on New Year's Day.[12]

Rabbah ruled: These general principles[13] are to be disregarded.[14] For consider: Who compiled our Mishnah? Rabbi, of course; but the years of life were already reduced in the days of David. For it is written, The days of our years are threescore years and ten.[15]

With regard to the assumption that ‘it is possible that it was he who was unworthy to have children from her’,[16] is it not possible that it was she who was unworthy?[17] — Since she is not commanded to fulfil the duty of propagation she is not so punished.[18] But surely it is not so![19] For the Rabbis once said to R. Abba b. Zabda, ‘Take a wife and beget children’, and he answered them, ‘Had I been worthy I would have had them from my first wife’! — There he was merely evading the Rabbis; for, in fact, R. Abba b. Zabda became impotent through the long discourses of R. Huna.[20]

R. Giddal became impotent through the discourses of R. Huna,[20] R. Helbo became impotent through the discourses of R. Huna,[20] and R. Shesheth also became impotent through the discourses of R.Huna.[20]

R. Aha b. Jacob was once attacked by dysuria,[21] and when he was supported on the college cedar tree a discharge issued like a green palm shoot.

R. Aha b. Jacob stated: We were a group of sixty scholars, and all became impotent through the long discourses of R. Huna;[20] with the exception of myself who followed the principle, Wisdom preserveth the life of him that hath it.[22]

IF HE DIVORCED HER SHE IS PERMITTED etc. Only a second husband[23] but not a third;[24] whose view, then, is represented by our Mishnah? — It is that of Rabbi. For it was taught: If she circumcised her first child and he died,[25] and a second one who also died,[25] she must not circumcise her third child; so Rabbi. R. Simeon b. Gamaliel, however, said: She circumcises the third, but must not circumcise the fourth child. But, surely, the reverse was taught;[26] now which of these is the latter?[27] — Come and hear what R. Hiyya b. Abba stated in the name of R. Johanan: It once happened with four sisters at Sepphoris that when the first had circumcised her child he died; when the second [circumcised her child] he also died, and when the third [circumcised her child] he also died. The fourth came before R. Simeon b. Gamaliel who told her, 'You must not circumcise [the child]' .[28] But is it not possible that if the third sister had come he would also have told her the same![29] — If so,[30] what could have been the purpose of the evidence of R. Hiyya b. Abba? [No]. It is possible that he meant to teach us the following: That sisters also establish a presumption![31]

Raba said: Now that it has been stated that sisters also establish a presumption, a man should not take a wife either from a family of epileptics, or from a family of lepers. This applies. however, only when the fact had been established by the occurrence of three cases.[32]

What is the decision?[33] — When R. Isaac b. Joseph came he related: Such a case was once submitted to R. Johanan in the Synagogue of Ma'on[34] on the Day of Atonement which fell on a Sabbath. A woman, it happened, had circumcised her child[35] who died; her second [sister circumcised her child] and he also died, and her third sister appeared before him. He said to her, 'Go and circumcise him'. Said Abaye to him:[36] See, you have permitted[37] a forbidden[38] and a dangerous[39] act.

Abaye, however, relying upon this statement[40] married Homa the daughter of Isi son of R. Isaac the son of Rab Judah, although Rehaba of Pumbeditha had married her and died, and R. Isaac son of Rabbah b. Hana had subsequently married her and also died. And after he had married her, he himself died also.

Said Raba: Would any one else have exposed himself to such danger? Surely he himself had said that Abin was reliable[41] but that Isaac the Red was not a person to be relied upon;[41] that Abin was well acquainted with any change[42] [in the views of R. Johanan] but Isaac the Red was not acquainted with any such changes! Furthermore, it might be said that their dispute[43] extended only to the case of circumcision; do they, however, differ also in the case of marriage? — Yes; for so it was taught: If a woman was married to one husband[44] who died, and to a second one who also died, she must not be married to a third; so Rabbi. R. Simeon b. Gamaliel said: She may be married to a third, but she may not be married to a fourth.[45]

In the case of circumcision, one can well understand [why the operation is dangerous with some children and not with others] since the members of one family may bleed profusely[46] while those of another family may bleed little;[47] what, however, is the reason in the case of marriage?[48] — R. Mordecai answered R. Ashi: Thus said Abimi from Hagronia in the name of R. Huna, 'The source[49] is the cause'.[50] But R. Ashi stated: '[The woman's] ill luck is the cause'.[50] What practical difference is there between them?[51] — The difference between them is the case where the man only betrothed her and died,[52] or also when he fell off a palm-tree and died.[52]

SAID R. JOSEPH SON OF RABA to Raba: I enquired of R. Joseph whether the halachah is in agreement with Rabbi, and he replied in the affirmative. [I asked] whether the halachah is in agreement with R. Simeon b. Gamaliel, and he again replied in the affirmative. Was he thereby merely ridiculing me?' — The other replied: No; there are several anonymous statements [in the Mishnah] and he informed[53] you [that in the matter of] marriage and flogging [the anonymous Mishnah][54] agrees with Rabbi, and that in the matter of menstrual periods and the ox [whose owner has been] fore-warned[55] [the anonymous Mishnah] agrees with R. Simeon b. Gamaliel.

As to marriage, there is the statement just discussed.[56] 'Flogging'? — As we learned: A man upon whom the penalty of flogging had been repeatedly inflicted is to be placed[57] under confinement[58] and fed on barley, until his stomach bursts .[59]

'The menstrual periods'? — As we learned: A woman may not

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(1) Allusion to the male organ. It was hewn but was not there originally.

(2) Allusion to that of the female. Cf supra n. 9. Here the deduction is from digged.

(3) Isa. LI, 1.

(4) Ibid. 2. This verse explains to whom v. 1 alludes.

(5) Gen. XI, 30.

(6) As the second section of the verse is superfluous, child, ולד is taken to imply בית ולד the uterus or womb.

(7) The period of ten years spoken of in our Mishnah,

(8) Each period extending over nine months with the addition of one month after each period to cover the days of levitical uncleanness to which a woman after a confinement is subjected.

(9) Before the husband must take another wife.

(10) Three Rosh Hashanah festivals. The first two days of the new year are a time of prayer on which God remembers the childless women. The festival is also known as the Day of Memorial יום הזכרון

(11) Who were originally barren. (Cf. Gen. XI, 30, XXIX, 31,I Sam. I, 2, 5).

(12) R.H. 11b, Ber. 29a.

(13) Which reduce the period of ten years in the case of later generations.

(14) Lit., 'are not'.

(15) Ps, XC, 10.

(16) Supra 64a.

(17) Why then is she entitled to receive her kethubah?

(18) By barrenness,

(19) This refers to the implication of the statement, supra, that the husband must take another wife, because it is possible that he was unworthy to have children from the first but may have them from the second.

(20) V. supra p. 416, n. 11.

(21) סוסכינתא a painful or difficult discharge of the urine, occasioned by his suppression of his needs. Aruk reads, ססגוניתא 'uratic stone'. Cf. Jast.

(22) Eccl. VII, 12.

(23) Lit., 'second, yes'.

(24) Because, having remained barren after living with two husbands for a period of twenty years, her sterility is regarded as established.

(25) As a result of the operation.

(26) Rabbi's opinion was attributed to R. Simeon and vice versa.

(27) The latter version of a statement is regarded as the more reliable, since the author may have recognized his error and changed his view.

(28) This incident must have occurred in the latter days of R. Simeon b. Gamaliel, since it was witnessed by R. Johanan who already belonged to the first generation of Amoraim. As the ruling in this incident clearly shews, R. Simeon b. Gamaliel held at that time the view attributed to him in the first cited Baraitha which must consequently be regarded as representing the later, and the more reliable version.

(29) And, consequently, the second Baraitha might represent the later version!

(30) That R. Hiyya b. Abba's statement was not intended to testify that a presumption can only be established by the threefold repetition of an act.

(31) I.e., not only is presumption established when the act or incident is repeated three times in the case of one woman, but also when it is so repeated in the case of three sisters (women).

(32) Lit., ‘three times’,

(33) Lit., ‘what about it’.

(34) [Tell Ma'un, west of Tiberias, v, Klein, S. Beitrage, p. 60].

(35) Lit., ‘and the first circumcised’.

(36) To R. Isaac b. Joseph.

(37) [I.e., by reporting R. Johanan's ruling. Var. lec., ‘the Master permits a forbidden’ etc., referring probably to R. Johanan].

(38) As the third child was not permitted to be circumcised, the operation constituted manual labour which is forbidden on the Sabbath.

(39) The child might have died as a result of the operation as did the other two.

(40) Of R. Isaac in the name of R. Johanan, that a presumption can only be established when an incident has occurred three times.

(41) In the reports he made in the name of R. Johanan. Both Abin and R. Isaac the Red reported rulings in the name of R. Johanan.

(42) חזרה lit., ‘retraction’. חזרה may also signify repetition’, i.e., Abin is reliable ‘because he repeated and revised what he heard’ while R. Isaac the Red did not. [Hyman,Toledoth p.794 explains it as: ‘return’. Abin had proved reliable and hence entrusted by Babylonian scholars with traditional teachings for him to repeat on his ‘return’ to Palestine, which was not the case with R. Isaac].

(43) That of Rabbi and R. Simeon b. Gamaliel.

(44) Lit., ‘to the first’.

(45) Nid. 64a.

(46) Lit., ‘the blood is loose’.

(47) Lit., the blood is held fast’.

(48) Why is marriage with certain women a danger?

(49) Some malignant disease in the womb.

(50) Of the death of successive husbands.

(51) R. Ashi and Abimi.

(52) Here the source cannot have been the cause and the deaths can only be attributed to ill luck. According to the former view, therefore, no presumption would thereby be constituted.

(53) Lit., ‘solved’, ‘made clear’.

(54) The halachah is always in agreement with the anonymous Mishnah.

(55) Mu'ad (מועד) v. Glos.

(56) Supra. Since our Mishnah permits the woman to marry a second husband but not a third, it must obviously represent the view of Rabbi.

(57) If he commits an offence for the third time.

(58) Lit., ‘they bring him into a vaulted chamber’.

(59) Sanh. 81b.

Talmud - Mas. Yevamoth 65a

regard her menstrual periods as regular[1] unless the recurrence had been regular three times. Nor is she released from the restrictions of an established regular period unless it has varied three[2] times.[3]

‘And the ox [whose owner has been] forewarned’? — As we learned: An ox is not deemed a mu'ad unless [its owner] has been forewarned three times.[4] Our Rabbis taught: A woman who had been married to one husband and had no children and to a second husband and again had no children, may marry a third man only if he has children. If she married one who has had no children she must be divorced without receiving her kethubah.

The question was raised: Where she married a third husband and bore no children, may her first two husbands reclaim [the respective amounts of her kethubah]?[5] Can they plead, ‘It has now been proved that you were the cause’,[6] or can she retort, ‘It is only now that I have deteriorated’? — It stands to reason that she may plead, ‘It is only now that I have deteriorated’.

The question was raised: If she married a fourth husband and gave birth to children, may she claim her kethubah from her third husband? — We advise her: ‘Your silence is better than your speech’; for[7] he[8] could tell her, ‘I would not have divorced you in such circumstances’.[9] R. Papa demurred: Even if she keeps silence, should we remain silent? The divorce, surely,[10] is annulled,[11] and her children are bastards! In truth,[12] the fact is,[13] that it is assumed that she has now been restored to health.[14]

If the husband[15] pleads, ‘The fault is hers’[16] and the wife pleads, ‘The fault is his’,[17] R. Ammi ruled: In private matrimonial affairs[18] the wife is believed. And what is the reason? — She is in a position to know whether emission is forceful,[19] but he is not in a position to know it.

If the husband states that he intends taking another wife to test his potency.[20] R. Ammi ruled: ‘He must in this case also divorce [his present wife] and pay her the amount of her kethubah; for I maintain that whosoever takes in addition to his present wife another one must divorce the former and pay her the amount of her kethubah.’

Raba said: A man may marry wives in addition to his first wife; provided only that he possesses the means to maintain them.

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(1) To be deemed levitically clean until that period actually arrives. A woman of irregular periods is regarded as unclean for twenty-four hours prior to the monthly date on which her previous discharge occurred (v. Nid. 2a). Should a woman, the regularity of whose periods had been established omit to examine her body when menstruation is due, and subsequently find a discharge, we assume her retrospectively to have become unclean at the beginning of her period, while a woman whose periods are irregular cannot, of course, be subject to such restriction.

(2) If the change of date occurred no more than twice the restrictions remain in force (v. supra n. 8 last clause).

(3) Nid. 63b.

(4) B.K. 23b.

(5) Which each of them paid her when their respective divorces had taken place.

(6) Of the absence of any issue.

(7) Should she persist in her claim.

(8) Her third husband.

(9) That she was not really barren. By advancing such a plea the husband might retrospectively annul the divorce altogether.

(10) If the third husband's plea is tenable.

(11) Since it was given under a misapprehension.

(12) The third husband's plea is really untenable. Once he has determined to divorce her, at a time when her sterility was a matter of doubt, he cannot again retract.

(13) The reason why she cannot claim her kethubah.

(14) But was incapable of conception at the time of her divorce; and this is the reason why she has no claim for her kethubah upon the third man.

(15) Refusing to pay his wife's kethubah.

(16) That their union had produced no issue. Lit., from her’.

(17) Lit., 'from him' (cf. supra n. 12).
(18) Lit., 'things which are between him and her'.
(19) Lit., 'shoots like an arrow', which is an essential in fertilization. V. Hag. 15a.
(20) To beget children.

Talmud - Mas. Yevamoth 65b

If the husband pleads[1] that his wife had miscarried within the ten years.[2] and she states, 'I had no miscarriage', '[3] R. Ammi ruled: She is believed in this case also; for if she had really miscarried she would not herself have sought to acquire the reputation of a barren woman.

A woman who miscarried, and then miscarried a second, and a third time,is confirmed as one subject to abortions.[4]

If he[5] said, 'She miscarried two'[6] and she said, 'three'?[7] — R. Isaac b. Eleazar stated: Such a case was dealt with at the college, and it was ruled that she was to be believed; for if she had not miscarried[8] she would not herself have sought to acquire the reputation of producing only miscarriages.

MISHNAH. A MAN IS COMMANDED CONCERNING THE DUTY OF PROPAGATION BUT NOT A WOMAN. R. JOHANAN B. BEROKA, HOWEVER. SAID: CONCERNING BOTH OF THEM[9] IT IS SAID, AND GOD BLESSED THEM; AND GOD SAID UNTO THEM: 'BE FRUITFUL, AND MULTIPLY.'[10] GEMARA. Whence is this[11] deduced? R. Ile'a replied in the name of R. Eleazar son of R. Simeon: Scripture stated, And replenish the earth, and subdue it;[12] it is the nature of a man to subdue but it is not the nature of a woman to subdue. On the contrary! And subdue it[13] implies two![14] R. Nahman b. Isaac replied: It is written, And thou subdue it.[15]

R. Joseph said: Deduction[16] is made from the following. I am God Almighty, be thou fruitful and multiply,[17] and it is not stated, 'Be ye fruitful and multiply'.[18]

R. Ile'a further stated in the name of R. Eleazar son of R. Simeon: As one is commanded to say that which will be obeyed,[19] so is one commanded not to say that which will not be obeyed.[20] R. Abba stated: It[20] is a duty; for it is said in Scripture, Reprove not a scorner, lest he hate thee; reprove a wise man and he will love thee.[21]

R. Ile'a further stated in the name of R. Eleazar son of R. Simeon: One may modify a statement in the interests of peace; for it is said in Scripture, Thy father did command etc. so shall ye say unto Joseph: Forgive, I pray thee now, etc.[22] R. Nathan said: It[23] is a commandment; for it is stated in Scripture, And Samuel said: 'How can I go? If Saul hear it, he will kill me', etc.[24]

At the School of R. Ishmael it was taught: Great is the cause of peace. Seeing that for its sake even the Holy One, blessed be He, modified a statement; for at first it is written, My lord being old,[25] while afterwards it is written, And I am old.[26]

R. JOHANAN B. BEROKA, HOWEVER, SAID. It was stated: R. Johanan and R. Joshua b. Levi [are at variance]. One stated that the halachah is in agreement with R. Johanan b. Beroka, and the other stated that the halachah is not in agreement with R. Johanan b. Beroka. It may be proved that it was R. Johanan who stated that the halachah is not [in agreement etc.]. For R. Abbahu was once sitting [at the college] and reported in the name of R. Johanan that the halachah [was in agreement etc.], and R. Ammi and R. Assi turned away their faces.[27] Others say: R. Hiyya b. Abba made the report,[28] and R. Ammi and R. Assi turned away their faces. Said R. Papa: According to him who maintains that R. Abbahu made the statement[28] it is easy to understand that it was out of respect for the royal house that they[29] said nothing to him.[30] According to him, however, who maintains that R. Hiyya b. Abba made the statement,[28] they[29] should have told him that R. Johanan did not say so!

Now, what is the decision?[31] — Come and hear what R. Aha b. Hanina stated in the name of R. Abbahu in the name of R. Assi: Such a case[32] once came before R. Johanan at the Synagogue of Caesarea, and he decided that the' husband must divorce her and also pay her the amount of her kethubah. Now, if it be suggested that a woman is not subject to the commandment ,[33] how could she have any claim to a kethubah? — It is possible that this was a case where she submitted a special plea; as was the case with a certain woman who once came to R. Ammi and asked him to order the payment of her[34] kethubah. When he replied, ‘Go away, the commandment[35] does not apply to you’,[36] she exclaimed, ‘What shall become of a woman like myself[37] in her old age!’[38] ‘In such a case’, the Master said, ‘we certainly compel [the husband]’.[39]

A woman once came [with a similar plea][40] before R. Nahman. When he told her, ‘The commandment[35] does not apply to you’, she replied, ‘Does not a woman like myself[37] require a staff in her hand and a hoe for digging her grave’![41] ‘In such a case’, the Master said, ‘we certainly compel [the husband]’ ,[39]

Judah and Hezekiah were twins. The features of the one were developed at the end of nine months, and those of the other were developed at the beginning of the seventh month .[42] Judith,[43] the wife of R. Hiyya, having suffered in consequence agonizing pains of childbirth, changed her clothes [on recovery] and appeared[44] before R. Hiyya. ‘Is a woman’, she asked, ‘commanded to propagate the race’? — ‘No’, he replied. And relying on this decision,[45] she drank a sterilizing potion. When her action finally became known, he exclaimed, ‘Would that you bore unto me only one more issue of the womb!’[46] For a Master stated: Judah and Hezekiah were twin brothers and Pazi and Tawi

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(1) When, having lived with his wife for ten years without begetting any issue, he is ordered to divorce her and to pay her the amount of her kethubah. V. supra.

(2) And, consequently, he claims the right to continue to live with her until a period of ten years has passed from the date of the miscarriage (v. our Mishnah).

(3) I.e., she was always sterile.

(4) And, consequently, she must be divorced; but is entitled to her kethubah.

(5) Refusing to pay her kethubah.

(6) And, consequently, her proneness to miscarry is not established.

(7) I.e., that she miscarried three times and has thus established a reputation for miscarriage.

(8) Three times, as she pleaded.

(9) Adam and Eve, i.e., man and woman.

(10) Gen. I, 28.

(11) That only the man, and not the woman, is subject to the duty of propagation.

(12) Gen. I, 28.

(13) וכבשה ibid.

(14) Since וכבשה is the plural of the sec. person imperative.

(15) The written form is וכבשה which, without the M.T. vowels, may also be read וכבשה the imper. sing. with pron. suffix.

(16) V. supra note 1.

(17) Gen. XXXV, 11 פרה ורבה (sing.).

(18) פרו ורבו the sec. masc. pl.

(19) Cf. Lev. XIX, 17, Thou shalt surely rebuke thy neighbour. הוכח תוכיח the repetition of the vb. implies ‘rebuke only where rebuke will be effective’. (V. Rashi).

(20) No rebuke should be addressed to one who is sure to ignore it.

(21) Prov. IX, 8.

(22) Gen. L, 16f. It is nowhere found that Jacob commanded it; but the brothers attributed the request to him for the sake

of preserving the peace between themselves and Joseph.
(23) Modification of a statement in the interests of peace.
(24) I Sam. XVI, 2. In response to this, Samuel was advised by God to say that he came to sacrifice to the Lord (ibid.) though his mission, in fact, was the anointing of David (v. ibid. 1 and 13).
(25) Gen. XVIII, 12, a slight on Abraham,
(26) Ibid. 13. Thus God, when speaking to Abraham, modified Sarah's expression concerning him, which he might have resented, to one in which the slight of ‘crabbed old age’ was directed towards Sarah herself; v. B.M. Sonc. ed. p. 502, n. 4.
(27) Because they knew that R. Johanan said the reverse. Out of respect, however, for the Master they refrained from a direct contradiction.
(28) In the name of R. Johanan.
(29) R. Ammi and R. Assi.
(30) R. Abbahu. He was one of the most prominent men of his time and persona grata with the government. Cf. Hag. 14a, Keth. 17a, Sanh. 14a.
(31) Lit., ‘what was (the decision) about it’. V. following note.
(32) Where a woman desired to be divorced on the ground that she had borne no issue from her husband.
(33) Of the propagation of the race.
(34) Lit., ‘give me’.
(35) Of the propagation of the race.
(36) Hence divorce in her case was unnecessary and consequently she can lay no claim to her kethubah.
(37) Lit., ‘this’.
(38) If there will be no children to provide for her.
(39) To give a divorce and to pay also the kethubah.
(40) V. supra p. 438. n. 8.
(41) I.e., children who would maintain her during her lifetime and provide for her burial when she died.
(42) The former was born three months before the latter. Cf. Nid. 27a.
(43) Their mother.
(44) In her disguise.
(45) Lit., ‘she went’.
(46) One other pair of twin sons at least.

Talmud - Mas. Yevamoth 66a

twin sisters.[1]

But does not the commandment apply to women? Surely, R. Aha b. R. Kattina related in the name of R. Isaac: It once happened in the case of a woman who was half slave and half free, that her master was compelled to emancipate her![2] R. Nahman b. Isaac replied: People were taking liberties with her.[3]

CHAPTER VII

MISHNAH. IF A WIDOW [WHO MARRIED] A HIGH PRIEST,[4] OR IF A DIVORCED WOMAN OR A HALUZAH [WHO MARRIED] A COMMON PRIEST BROUGHT IN TO HER HUSBAND MELOG[5] SLAVES AND ZON BARZEL[5] SLAVES. THE MELOG SLAVES MAY NOT EAT TERUMAH BUT THE ZON BARZEL SLAVES MAY EAT OF IT.[6]

THE FOLLOWING ARE MELOG SLAVES: THOSE WHO, IF THEY DIE, ARE THE WIFE'S[7] LOSS AND, IF THEIR VALUE INCREASES, ARE HER PROFIT. THOUGH IT IS THE HUSBAND'S DUTY TO MAINTAIN THEM, THEY MAY NOT EAT TERUMAH.[6]

THE FOLLOWING ARE ZON BARZEL SLAVES: IF THEY DIE, THEY ARE THE LOSS OF

THE HUSBAND AND, IF THEIR VALUE INCREASES, ARE A PROFIT TO HIM. SINCE HE IS RESPONSIBLE FOR THEM,[8] THEY ARE PERMITTED TO EAT TERUMAH.

IF THE DAUGHTER OF AN ISRAELITE WAS MARRIED TO A PRIEST, AND SHE BROUGHT HIM IN SLAVES, THEY ARE PERMITTED TO EAT TERUMAH WHETHER THEY ARE MELOG SLAVES, OR ZON BARZEL SLAVES.[6] IF THE DAUGHTER OF A PRIEST, HOWEVER, WAS MARRIED TO AN ISRAELITE AND SHE BROUGHT HIM IN SLAVES, THEY MAY NOT EAT TERUMAH WHETHER THEY ARE MELOG SLAVES OR ZON BARZEL SLAVES.[6]

GEMARA. And MELOG SLAVES MAY NOT EAT TERUMAH! What is the reason? Let them rather be regarded as a possession that was acquired by one in his possession [who is permitted to eat terumah]. for it was taught: Whence is it deduced that the wife whom a priest married or the slaves which he purchased may eat terumah.? It is said, But if a priest buy any soul the purchase of his money, he may eat of it.[9] And whence is it deduced that if a woman[10] purchased slaves[11] or if a priest's slaves purchased[12] other slaves, these may eat terumah? It is said, But if a priest buy any soul, the purchase of his money, he may eat of it;[9] a possession which his possession has acquired may eat![13] — Whosoever may himself eat may confer the right of eating upon others but whosoever may not himself eat may not confer the right of eating upon others.[14] May he not, indeed?[15] There is, surely, the case of[16] an uncircumcised man and that of all levitically unclean persons who may not themselves eat terumah and yet confer the right of eating it upon others![17] — In those cases[18] they are merely suffering pain in their mouths.[19] But there is, surely, the case of[16] the bastard[20] Who may not eat terumah himself[21] and yet may confer the right of eating it upon others![22] — Rabina replied. He speaks of an acquisition[23] that is permitted to eat: Any acquisition that may eat may confer the right of eating upon others, and any acquisition that may not eat may not confer the right upon others.

Raba, however, stated[24] that pentateuchally they[23] may in fact eat terumah; but it is the Rabbis who instituted the prohibition in order that the woman might complain, ‘I am not allowed to eat; my slaves are not allowed to eat; I am only his mistress!’, in consequence of which he would be likely to divorce her. R. Ashi stated:[24] The prohibition is a preventive measure against the possibility of her feeding them[25] with terumah after the death [of her husband].[26] Now, then,[27] a daughter of an Israelite who was married to a priest should also be forbidden to feed [her melog slaves with terumah] as a preventive measure against her feeding them after [her husband's] death![28] — But, said R. Ashi, [our Mishnah refers to] a priestly widow[29] who[30] might draw the following conclusion:[31] ‘At first[32] they[33] ate terumah at my paternal home;[34] and when I married this man[35] they[33] ate[36] of the terumah of my husband; they[33] should now,[37] therefore, revert to their former condition’,[38] and she would not know that at first[39] she had not made of herself a profaned woman[40] while now[41] she has made herself a profaned woman.[40] This explanation is quite satisfactory in the case of a priestly widow;[42] what explanations however, is there in the case of a widow who is the daughter of an Israelite?[43]

The Rabbis made no distinction between one widow and another.[44]

It was stated: If a wife: who brought to her husband[45] appraised goods,[46] demands,[47] ‘I will accept only my own goods’,[48] and he replies ‘I am only paying their value’[49] — in whose favour is judgment to be given? Rab Judah said:

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(1) The two pairs of twins were children of R. Hiyya from Judith.

(2) So that she might be permitted to marry a free man, As a half slave she was not allowed to contract such a marriage. Now, since her master was compelled to give her the opportunity of marrying, it is obvious that the commandment of propagation applies to women also!

(3) And marriage was her only protection; and this was the reason why her master was compelled to emancipate her.

(4) Contracting thereby a forbidden union.

(5) V. infra and Glos.

(6) The reason is given in the Gemara.

(7) Lit., ‘died for her’.

(8) He or his heirs must restore them to his wife in a healthy condition should he divorce her or die.

(9) Lev. XXII, 11.

(10) The daughter of an Israelite, who married a priest.

(11) Out of her melog property the principal of which is hers.

(12) With a sum of money that was given to them as their absolute property. on the condition that their master was to have no claim whatsoever upon it.

(13) The expression, ‘the purchase of his money is superfluous’ and the text is, therefore, expounded thus: If the purchase of his money, i.e., a priest's wife or slave (who is the priest's acquisition) buy any soul, he (i.e., the one purchased) ‘may eat of it’. Why then are not melog slaves, being an acquisition of the priest's wife, permitted to eat terumah?

(14) The priest's wife in this case is not herself permitted to eat terumah, since her union with this priest is a forbidden one. V. Lev. XXI, 7,13 and supra p. 441, n. 1.

(15) Lit., ‘and not’?

(16) Lit., ‘and behold’.

(17) Their slaves, e.g., are permitted to eat terumah. Cf. infra 70a.

(18) Lit., ‘there’.

(19) I.e., their disability is restricted to their mouth alone. They are only temporarily forbidden to eat the terumah. At the moment their unclean period is over or circumcision is performed their rights are fully restored. In the case of the priest's wife in our Mishnah, however, the disability is permanent, since by her forbidden marriage she remains for ever a profaned woman.

(20) I.e., mamzer, (v. Glos.) the issue of a union between a slave or idolater and a woman who was the issue of a marriage between a priest and the daughter of an Israelite.

(21) Since he is neither priest nor even a legitimate Israelite.

(22) His grandmother, the wife of the priest, may continue to eat terumah even after the death of her husband so long as the bastard (being a descendant of her husband through their daughter) is alive. As the widow of a priest she would have lost the privilege of eating terumah on her husband's death had there been no surviving descendants. V. infra 69b.

(23) Not of a descendant.

(24) In explaining the reason why MELOG SLAVES MAY NOT EAT TERUMAH.

(25) The melog slaves.

(26) Believing that, as she was allowed to feed them with terumah during the lifetime of her husband though they were her property, she may continue to do so even after his death. In the case of zon barzel slaves, however, no such error need be feared since the slaves are not hers, but his absolute property until the moment when it is surrendered to her by her husband or heir, v. infra.

(27) If such an error as suggested is to be feared.

(28) But our Mishnah distinctly states that her melog slaves also may eat terumah!

(29) The daughter of a priest who, as a widow, married a High Priest, and thus became profaned through their forbidden marriage.

(30) If her melog slaves were permitted to eat terumah while she lived with the High Priest.

(31) After the High Priest's death.

(32) During her first widowhood.

(33) The melog slaves.

(34) As a widow she then returned to her father's priestly house and was again entitled to eat terumah herself and to feed her slaves with it.

(35) The High Priest.

(36) Cf. supra n. 8.

(37) When the High Priest died, though she remained a profaned widow who is, in fact, forbidden to eat terumah.

(38) To be allowed again. as before, to eat terumah.

(39) During her first widowhood.
(40) Halachah (v. Glos.) through ber forbidden marriage.
(41) Having married a High Priest to whom a widow is forbidden.
(42) V. supra p. 443, n. 7.
(43) The error mentioned cannot occur in her case; but as our Mishnah draws no distinction between the two, the question remains: Why should not her melog slaves be permitted to eat terumah?
(44) Lit., 'in her widowhood'. Were the feeding permitted in the case of the one, the other might erroneously be presumed to come under the same law.
(45) As zon barzel property (v. Glos.).
(46) Shum (v. Glos.). V. Ket. Sonc. ed. p 401. n. 11. In consideration of which he guarantees her a specified sum in her kethubah, which is recoverable by her at his death, or earlier if she is divorced.
(47) When she claims her kethubah. v. supra n. 9.
(48) I.e., the actual objects she had brought to her husband.
(49) In accordance with the appraisement in the kethubah.

Talmud - Mas. Yevamoth 66b

Judgment is to be given in her favour;[1] and R. Ammi said: Judgment is to be given in his favour. 'Rab Judah said: Judgment is to be given in her favour because [they represent] assets of her paternal property [which] belong to her. R. Ammi said: Judgment is to be given in his favour' for, as the Master said, [THE FOLLOWING ARE ZON BARZEL SLAVES:] IF THEY DIE, THEY ARE THE LOSS OF THE HUSBAND AND, IF THEIR VALUE INCREASES- ARE A PROFIT TO HIM; [AND] SINCE HE IS RESPONSIBLE FOR THEM THEY ARE PERMITTED TO EAT TERUMAH [they are therefore obviously regarded as his own].[2] R. Safra said: Was it stated, 'and they belong to him? The statements surely. only reads, SINCE HE IS RESPONSIBLE FOR THEM! In fact, then, they may not belong to him at all. But [is it a fact that] those for whom he[3] is responsible invariably eat terumah? Surely we learned: An Israelite who hired a cow from a priest may feed her on vetches of terumah. A priest, however, who hired a cow from an Israelite, though it is his duty to supply her with food,[4] must not feed her on vetches of terumah![5] — How could you understand it thus! Granted that he is liable for theft or loss,is he also liable for accidents, emaciation or reduction In value![6] [The case[7] in our Mishnah], surely, can only be compared to that in the final clause:[8] An Israelite who hired a cow from a priest, guaranteeing him its appraised value,[9] may not feed it on vetches of terumah. A priest, however, who hired a cow from an Israelite, guaranteeing him its appraised value,[9] may feed it on vetches of terumah.[10]

Rabbah and R. Joseph were sitting at their studies at the conclusion of R. Nahman's school session, and in the course of their sitting they made the following statement: [A Baraitha] was taught in agreement with Rab Judah; and [another Baraitha] was taught in agreement with R. Ammi. ['A Baraitha] was taught in agreement with Rab Ammi': Zon barzel slaves procure their freedom when the man,[11] but not when the woman [struck out] a tooth or an eye.[12] ['A Baraitha] was taught in agreement with Rab Judah': If a wife brought in to her husband appraised goods,[13] the husband may not sell them even if it is his desire to do so.[14] Furthermore, even if he brought in to her appraised goods of his own,[15] he may not sell them even if he desired to do so. If either[16] of them sold [any of the appraised goods] for their maintenance. Such an incident was once dealt with by R. Simeon b. Gamaliel, who ruled that the husband[17] may seize them from the buyers.[18]

Raba[19] stated in the name of R. Nahman: The law is in agreement with Rab Judah. Said Raba to R. Nahman: But surely [a Baraitha] was taught in agreement with R. Ammi! Although [a Baraitha] was taught in agreement with R. Ammi, Rab Judah's view is more logical, since any asset of a woman's paternal property [should rightly belong to her].

A woman once brought[20] in to her husband a robe of fine wool [which was appraised and included] in her kethubah. When the man died it was taken by the orphans and spread over the corpse. Raba ruled that the corpse had acquired it.[21]

Said Nanai son of R. Joseph son of Raba to R. Kahana: But, surely, Raba[22] stated in the name of R. Nahman that the law is in agreement with Rab Judah![23] The other replied: Does not Rab Judah admit that the robe had still to be collected [by the wife]?[24] Since it had still to be collected it remained in the husband's possession.[25] [In this ruling] Raba acted in accordance with his view [elsewhere expressed]. For Raba stated:[26] Consecration,[26] leavened food[26] , and

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(1) Her own objects must be returned to her.

(2) Cf. Bomberg ed. where an amplified version of this text is given including the clause enclosed here in square brackets.

(3) A priest.

(4) And though he is also responsible for the loss, or theft of the animal.

(5) ‘A.Z. 15a; which shews that even an animal for which a priest is responsible (v. supra n. 2) is not permitted to eat terumah. How, then, could it be said, SINCE HE IS RESPONSIBLE FOR THEM THEY ARE PERMITTED TO EAT?

(6) Certainly not. Such a restricted responsibility, therefore, is incomplete and does not confer the right to terumah.

(7) Of zon barzel.

(8) Of the Baraitha cited.

(9) Lit., ‘if an Israelite appraised a cow from’. I.e., he undertook to make good to the owner any loss in the value of the animal between the date of hire and the date of the return.

(10) The animal being regarded as the priest's own property, in respect of its feeding on terumah, owing to his responsibility for the return of its full value. Thus it follows that, though an animal would be returned in body, should its value on the day of its return be equal to that of its appraised value, it is nevertheless, owing to the priest's complete responsibility, deemed to be the priest's property so long as it remains in his possession; so also in the case of zon barzel slaves: though they would ultimately be returned to the woman in body, they are regarded, in respect of terumah, as the property of the priest, who accepted full responsibility for them, so long as they remain with him.

(11) The husband, who is regarded, in agreement with R. Ammi, as the owner of the slaves.

(12) Cf. Ex. XXI, 26.

(13) Which the husband includes in her kethubah, and undertakes to return to her at their appraised value should he divorce her or die.

(14) It is his duty to keep them intact so that the objects themselves, not merely their value, may be returned to the woman in due course.

(15) Included them in the amount of her kethubah.

(16) Lit., ‘both’. V. Rashi a.l.

(17) I.e., even he.

(18) If the woman died; the sale being deemed invalid. That the woman, when her husband dies or divorces her, may seize such property, in the event of a sale by him, is obvious.

(19) Wanting in MSS. which read ‘R. Nahman stated’.

(20) In her dowry, as zon barzel.

(21) The shroud, wraps. or any article of dress that has covered the body of a corpse is deemed to be the dead man's property, and no living person may derive any benefit from it. V. Sanh. 47b.

(22) Cf. supra n. 7.

(23) That zon barzel property, such as the robe was, belongs to the wife’!

(24) Of course he does. The robe does not come into the actual possession of the woman until her claim is proved and the robe surrendered to her by the husband or his heirs.

(25) The orphans were, therefore, entitled to use it as part of the dead man's shroud. The woman's claim upon it is undoubtedly valid, but has not any greater force than that of the holder of a mortgage. V. infra note 3.

(26) Supra 46a q.v. for notes. V. also Keth. 59b, Git. 40b, B.K. 89b.

Talmud - Mas. Yevamoth 67a

manumission cancel a mortgage.[1]

Rab Judah stated: If a wife brought to her husband[2] two articles worth a thousand zuz, and their value increased to two thousand, she receives one[3] in settlement of her kethubah;[4] and for the other[5] she pays its price and receives it, since it represents assets of her paternal property.[6]

What are we taught by this[7] statement! That assets of her paternal property belong to her? This, surely, has already been stated by Rab Judah![8] — It might have been assumed that that statement[8] applied only where she came to claim [paternal property] as part of her kethubah, but not where she desired to take it in return for payment of its value, hence we were taught [that she may also pay its price and receive it].

MISHNAH. IF THE DAUGHTER OF AN ISRAELITE WAS MARRIED TO A PRIEST WHO DIED AND LEFT HER PREGNANT, HER SLAVES MAY NOT EAT TERUMAH[9] IN VIRTUE OF THE SHARE OF THE EMBRYO,[10] SINCE AN EMBRYO MAY DEPRIVE[11] [ITS MOTHER][12] OF THE PRIVILEGE [OF EATING TERUMAH][13] BUT HAS NO POWER TO BESTOW IT UPON HER;[14] SO R. JOSE. THEY[15] SAID TO HIM: SINCE YOU HAVE TESTIFIED TO US IN RESPECT OF THE DAUGHTER OF AN ISRAELITE WHO WAS MARRIED TO A PRIEST,[16] THE SLAVES OF THE DAUGHTER OF A PRIEST, WHO A MARRIED TO A PRIEST WHO DIED AND LEFT HER WITH CHILD, SHOULD ALSO BE FORBIDDEN TO EAT TERUMAH ON ACCOUNT OF THE SHARE OF THE EMBRYO![17]

GEMARA. A question was raised: Is R. Jose's reason[18] because he is of the opinion that an embryo in the womb of a lay woman[19] is regarded as a nonpriest,[20] or is his reason because only the born may bestow the right of eating but the unborn may not? — In what respect could this difference matter?[21] — In respect of an embryo in the womb of a priest's daughter.[22] Now, what is the reason? Rabbah replied: R. Jose's reason is this. He is of the opinion that an embryo in the womb of a lay woman[19] is regarded as a non-priest.[20] R. Joseph replied: The born may bestow the privilege of eating while the unborn may not.

An objection was raised: They said to R. Jose: Since you have testified to us in respect of the daughter of an Israelite who was married to a priest, what is the law in respect of the daughter of a priest who was married to a priest? ‘The first’,[23] he replied, ‘I heard;[24] but the other[25] I have not heard’.[26] Now, if you agree [that R. Jose's reason is because] an embryo in the womb of a lay woman[27] is regarded as a non-priest,[28] it was correct for him to say, ‘The first I heard, but the other I did not’. If you maintain, however, [that R. Jose's reason is because] the born may bestow the right of eating and the unborn may not, what [could he have meant by] ‘The first I have heard but the other I have not heard’, when the principle is the same! — This is indeed a difficulty.

Said Rab Judah in the name of Samuel: This[29] is the opinion of R. Jose; but the Sages said: If he[30] has children,[31] they[32] may eat [terumah] by virtue of his children;[33] if he has no children, they[32] may eat by virtue of his[34] brothers, and if he has no brothers they[32] may eat by virtue of the entire family.[35] ‘This’,[36] would imply that he[37] himself does not share the view;[38] but, surely, Samuel said to R. Hana of Bagdad, ‘Go bring me a group of ten men that I may tell you in their presence[39] that if title is conferred upon an embryo [through the agency of a third party], it does acquire ownership’![40] The fact is that ‘this’ here denotes that he[41] also holds the same opinion. What, then, does he[41] teach us?[42] That the Rabbis disagree with R. Jose! But do they, in fact, disagree? Surely R. Zakkai stated:[43] This evidence[44] was submitted by R. Jose in the name of Shemaiah and Abtalion and they[45] agreed with him! — R. Ashi replied: Does it read, ‘and they accepted’? It was only said, ‘and they agreed’, [which may only mean] that his view is logical.[46]

Our Rabbis taught: If he[47] left children,[48] both these and the others[49] may eat terumah.[50] If he[51] left his widow with child,[52] neither these nor the others[49] may eat it.[53] If he left children and also left his widow with child, the melog slaves may eat as she may eat;[54] but the zon barzel slaves may not eat, on account of the share of the embryo which may deprive [its mother][55] of the privilege [of eating terumah] but has no power to bestow it;[56] so R. Jose. R. Ishmael son of R. Jose stated in the name of his father: A daughter may bestow the right of eating; a son may not.[57] R. Simeon b. Yohai said: [If the children[58] are] males, all [the slaves] may eat.[59] [If however they are] females, [the slaves] are not permitted to eat, since it is possible that the embryo might be a male;[60] and daughters, where there is a son, have no share at all.[61] What need was there to point[62] to the possibility that the embryo might be a male when this[63] might be equally deduced [from the fact] that [even when the embryo is] a female it deprives them of the privilege![64] — He meant to say: There is one reason and also an additional one. 'There is the one reason' that a female embryo also deprives [the slaves] of the privilege; and, furthermore,[65] 'it is possible that the embryo might be a male and daughters, where there is a son, have no share at all'.

'[If the children are] males, [the slaves] may eat'. But, surely, there is an embryo in existence![66] — He is of the opinion

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(1) The prohibition against the use of a dead man's shroud has the same force as that of consecrated objects and invalidates, therefore, the legal force of the wife's mortgage. V. supra note 1.

(2) In her dowry as zon barzel.

(3) Which is now worth one thousand zuz.

(4) Which entitles her only to the one thousand zuz which was the sum at which the two articles were appraised at the time she transferred them to her husband.

(5) The value of the second article, now belonging to the husband since the appreciation took place while the articles were in his possession.

(6) Which property belongs to her.

(7) R. Judah's.

(8) Supra 66b, top.

(9) Even if she had other children by virtue of whom she herself is entitled to the eating of terumah.

(10) A portion of each slave belonging to the embryo who is one of the heirs.

(11) The reasons are explained infra.

(12) If she is the daughter of a priest who was married to an Israelite who died.

(13) Even though there are no other children from that union to deprive her of the right of returning to the priestly house of her father and to enjoy the privilege again.

(14) If she is an Israelite's daughter married to a priest who died leaving her with no children but the embryo. As it cannot bestow such right upon its mother so it cannot bestow it upon its slaves.

(15) The Sages who disagreed with him.

(16) That an embryo does not entitle one (either its mother or slaves) to the privilege of eating terumah.

(17) V. p. 447, n. 12.

(18) In forbidding in our Mishnah the eating of terumah by zon barzel slaves.

(19) The daughter of an Israelite, belonging to no priestly family.

(20) Even if his father was a priest.

(21) Since, whatever the reason, the embryo does not bestow the privilege.

(22) Who had been married to a priest. The first reason does not apply, while the second, does

(23) Lit.. 'this'.

(24) That the slaves are forbidden to eat terumah.

(25) Lit., 'this'.

(26) V. supra p. 448, n. 13. Consequently they are allowed to eat terumah.

(27) V. p. 448,n.8.

(28) V. p. 448,n.9.

(29) The ruling in our Mishnah.

(30) The deceased priest.

(31) Besides the embryo.
(32) The zon barzel slaves.
(33) The embryo is entirely disregarded.
(34) The deceased priest's.
(35) Among the entire family of the priest there must be at least one who is entitled to be his heir; and so long as the embryo is unborn, that born heir, as the owner of the slaves, is fully entitled to confer upon them the right of eating terumah.
(36) The expression, ‘This is the opinion of R. Jose’.
(37) Samuel.
(38) That an embryo acquires ownership.
(39) Thus giving the matter due publicity.
(40) B.B. 142b, Keth. 7b, Zeb. 95a.
(41) Samuel.
(42) By pointing out that the statement is that of R. Jose.
(43) V. Bah. Cur. edd., ‘R. Zakkai raised an objection’.
(44) Recorded in our Mishnah.
(45) The Rabbis.
(46) They, however, did not accept it.
(47) A deceased priest.
(48) And his widow was not pregnant.
(49) The melog and the zon barzel slaves.
(50) The melog slaves are entitled to the privilege by virtue of the rights of the widow who is entitled to it by virtue of her surviving children; and the son barzel slaves are entitled to the privilege by virtue of the priest's living children who are now their owners.
(51) The deceased priest.
(52) And he is not survived by any other children.
(53) Since the embryo cannot bestow the privilege (cf. supra n. 4) either upon his mother or upon the slaves.
(54) The melog's slaves being the property of the widow and the embryo having no share in them. As by virtue of her living sons the widow is herself entitled to eat terumah she may also feed her slaves on it, Cf. supra n’ 4.
(55) V, supra p. 448, n. 1.
(56) v. supra p. 448, n. 3.
(57) This is explained infra.
(58) Who survived the deceased priest.
(59) On their account because the chances that the embryo will be a viable male and thus have a share in the slaves are so uneven that they may be disregarded. For, in the first instance, it is likely that the embryo will be a female and thus have no share at all in the slaves. And secondly, were it to be a male, it might yet be a miscarriage, which again would have no share in the slaves (v. infra).
(60) Who, when born, will become the owner of the slaves.
(61) The slaves, therefore, would be the property of the embryo which cannot bestow upon them the right of eating terumah.
(62) As a reason why the slaves are forbidden to eat terumah in the latter case.
(63) The prohibition upon the slaves.
(64) Since the female embryo, when born, would be entitled to a share among the other daughters and now, therefore, as an embryo, deprives the slaves of the privilege.
(65) Which is the other reason.
(66) And it, owing to its share in them, should deprive the slaves of the privilege.

Talmud - Mas. Yevamoth 67b

that no provision need be made against the less usual cases.[1] Or if you prefer I might say that he[2] is of the opinion that provision in fact must be made against the less usual cases also, [but here] a special arrangement might be made[3] in accordance with a ruling of R. Nahman in the name of

Samuel. For R. Nahman stated in the name of Samuel: Where orphans[4] wish to divide the property of their [deceased] father, Beth din appoint a guardian for [every one of] them, and [each guardian] chooses for his ward a suitable portion. As soon, however, as they reach their majority they are entitled to enter a protest.[5] In his own name, however, R. Nahman stated: Even when they reach majority they are not entitled to protest, for otherwise what validity is there in the authority of a Beth din![6]

Must it be assumed that R. Nahman's ruling is a matter of dispute between Tannaim![7] — No; all accept R. Nahman's [arrange. ment],[8] but the dispute here[9] centres on the question whether[10] provision was to be made against the less usual cases.[11]

‘R. Ishmael], son of R. Jose, stated in the name of his father: A daughter may bestow the right of eating; a son may not.[12] Wherein lies the difference [between the son and the daughter]? If a son may not bestow the right of eating on account of the share of the embryo, a daughter also should not be entitled to bestow the right of eating on account of the share of the embryo! — Abaye replied: Here[13] we are dealing with a small estate[14] and in a case where there is a son[15] as well as a daughter, [so that the slaves may eat the terumah] whatever be the assumption [as to the sex of the embryo]. If the embryo is a son then he is not better than the one who is already born.[16] And if it is a daughter, then why does a daughter eat at all?[17] Surely by virtue of an ordinance of the Rabbis.[18] But so long as she has not seen the light[19] no provision for her has been made by the Rabbis.[20] If you take it[21] to refer[22] to a small estate, [how will you] explain the final clause,[23] ‘since it is possible that the embryo might be a male, and daughters, where there is a son, have no share at all’? On the contrary; a small estate belongs to the daughters! — The final clause refers to a large estate. But does a small estate belong to the daughters? Surely, R. Assi stated in the name of R. Johanan: Where male orphans forestalled [the ruling of Beth din] and sold a small estate, their sale is valid![24] — But the fact is that by the mention of daughter ‘the mother’ is to be understood.[25] If so, this is exactly the same statement as that of R. Jose! — The entire statement was made by R. Ishmael son of R. Jose.

MISHNAH. AN EMBRYO,[26] A LEVIR,[27] BETROTHAL,[28] A DEAF-MUTE,[29] AND A BOY WHO IS NINE YEARS AND ONE DAY OLD,[30] DEPRIVE [A WOMAN][31] OF THE RIGHT [OF EATING TERUMAH], BUT CANNOT BESTOW THE PRIVILEGE UPON HER,[32] [EVEN WHEN] IT IS A MATTER OF DOUBT WHETHER THE BOY IS NINE YEARS AND ONE DAY OLD OR NOT,[33] OR WHETHER HE[34] HAS PRODUCED TWO HAIRS[35] OR NOT.

IF A HOUSE COLLAPSED UPON A MAN AND UPON HIS BROTHER'S DAUGHTER,[36] AND IT IS NOT KNOWN WHICH OF THEM DIED FIRST, HER RIVAL MUST PERFORM HALIZAH[37] BUT MAY NOT CONTRACT LEVIRATE MARRIAGE.[38]

GEMARA. AN EMBRYO, for if [its mother] is the daughter of a priest [who was married] to an Israelite [the embryo] deprives her of the privilege,[39] [for it is written]. As in her youth,[40] which excludes one who is with child.[41] And if she is the daughter of an Israelite [who was married] to a priest, the embryo does not bestow the privilege[39] upon her, because the living child does bestow the privileged but not the unborn.[42]

A LEVIR, for if [his yebamah] is the daughter of a priest who was married to an Israelite, [the Ievir] deprives her of the privileged [for it is written], And is returned unto her father's house,[40] which excludes one who is awaiting the decision of the levir;[43] and if she is the daughter of an Israelite [who was married] to a priest [the levir] does not bestow the privilege upon her, because the All Merciful said, The purchase of his money.[44] while she is the purchase of his brother. BETROTHAL, for if [the woman] is the daughter of a priest [who was betrothed] to an Israelite, [betrothal] deprives her of the privilege,

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(1) Lit., ‘a minority’. I.e., against the possibility that the embryo might be born a viable male. Against the possibility of male births there is the equal possibility of female births, and by adding the minority of miscarrying women to the half of female births, the male births are found to form only a minority.

(2) R. Simeon.

(3) The embryo is allotted as his share a portion of the estate exclusive of the slaves, who consequently form a portion of the shares of the living brothers, who, as their owners, bestow upon the slaves the right of eating terumah. Where, however, there are only daughters, such an arrangement cannot be made, since in such a case the embryo, in case he is born a viable male, is the sole heir and owner.

(4) Who are minors.

(5) Against the original division, and to demand a new one. The validity of acceptance of the shares by the guardians extends only to the produce or yield of the estate up to the date of the protest.

(6) V. Kid. Sonc. ed., p. 210, notes.

(7) That R. Simeon, who permits the slaves to eat, in the case of sons, by adopting the arrangement mentioned, is of the same opinion as R. Nahman; while R. Jose, who forbids terumah to the slaves, maintaining as he evidently does that the arrangement is of no avail and that the division must be postponed until the heirs reach majority, is in disagreement with R. Nahman.

(8) Wherever such had been made,

(9) Between R. Jose and R. Simeon, supra 6a.

(10) Where R. Nahman's arrangement had not been made,

(11) R. Simeon permits the slaves to eat terumah, because he holds that no provision has to be made against the less usual cases (v. supra p. 451, n. 3) while R. Jose forbids them to eat it, because he maintains that provision must be made even against the less usual case.

(12) This is now assumed to mean that where there is a daughter but no son, she bestows the right of eating terumah upon the slaves, but where there is a son, the slaves are not permitted to eat the terumah.

(13) R. Ishmael's statement.

(14) Which, by an ordinance of the Rabbis, must be handed over to the daughters for their maintenance while the sons receive nothing. v. B.B, 139b.

(15) To whom the estate belongs in accordance with the Pentateuchal law.

(16) Lit., ‘exists’, ‘stands’. Since the Rabbis deprived the living son of his share and gave it to the daughters. they have, even more so, deprived the embryo of its share.

(17) From her father's estate, though he is also survived by sons’

(18) Pentateuchally she has no claim at all in the presence of a son.

(19) Lit., ‘came out into the air of the world’.

(20) The embryo, consequently, cannot possibly have a share in the slaves, who may. therefore, eat terumah by virtue of the rights of the living children. Had there been a daughter only and no son, the slaves would not have been permitted to eat terumah on account of the embryo, which, were it a female, would have had in the slaves an equal share with their sister.

(21) R. Ishmael's statement.

(22) Lit., ‘in what did you place it’.

(23) Which presumably deals with a similar case.

(24) Keth. 103a, Sotah 21b, B.B. 140a. Which proves that the estate, even when small, belongs to the sons also. How then could the slaves be permitted to eat terumah?

(25) I.e., the mother of the embryo may feed her melog slaves with terumah as she herself is permitted to eat it by virtue of her living sons. A son, however, may not feed the zon barzel slaves with terumah owing to the share of the embryo.

(26) Whose mother was (a) the daughter of a priest married to an Israelite, or (b) the daughter of an Israelite married to a priest, and whose father died before he (the embryo) was born.

(27) The widow of whose deceased brother was (a) the daughter of a priest (he and his brother being Israelites), or (b) the daughter of an Israelite (he and his brother being priests).

(28) Of (a) the daughter of a priest to an Israelite, or (b) the daughter of an Israelite to a priest.

(29) Who is (a) an Israelite married to the daughter of a priest, or (b) a priest married to the daughter of an Israelite.

(30) This is explained in the Gemara, infra.

(31) If she is (a) the daughter of a priest (cf. last four notes).

(32) If she is (b) the daughter of an Israelite (cf. supra notes 6-9).
(33) This has no reference to what follows and is explained in the Gemara.
(34) Who betrothed the woman.
(35) Which are the marks of puberty, when he becomes legally entitled to contract a marriage.
(36) To whom he had been married and who, like himself, died childless.
(37) With the daughter's father, the brother of the deceased. Though the dead woman was his forbidden relative, her rival becomes subject to the halizah because it is possible that the woman had been killed before the man, and when the man died her former rival was no longer related to her. V. infra note 6.
(38) Because it is also possible that the man was killed first and that the rival consequently remained forbidden to the levir as the rival of his daughter.
(39) Of eating terumah.
(40) Lev. XXII, 13.
(41) Only when she returned unto her father's house as in her youth (v. ibid.), i.e., if, like a virgin, she has no child at all, not even an embryo, may she eat of her father's bread (ibid.) i.e., terumah.
(42) This is deduced from Such as are born in his house etc. (Lev. XXII, 11) by taking the Kal יאכל in the sense of Hif. יאכיל V Torath Kohanim, a.l., (v. Rashi).
(43) Being dependent on the levir's will she cannot without his release, return to her father's house.
(44) Lev. XXII, 11 emphasis on ‘his.’

Talmud - Mas. Yevamoth 68a

since he acquires her by the betrothal;[1] and if she is the daughter of an Israelite [who was betrothed] to a priest, the betrothal cannot bestow the privilege upon her, owing to the ruling of ‘Ulla.[2]

A DEAF-MUTE, for if [the woman] is the daughter of a priest [who was married] to [him[3] who is] an Israelite, he deprives her of the privilege, since he[4] acquired her by virtue of a Rabbinical enactment;[5] and if she is the daughter of an Israelite [who was married] to [him[3] who is] a priest, he cannot bestow the privilege upon her, because the All Merciful said, The purchase of his money,[6] while he[3] is not eligible to execute any kinyan.

AND A BOY WHO IS NINE YEARS etc. This was assumed[7] to refer to the case of a yebamah who was awaiting the decision of a levir who was nine years and one day old.[8] Now, in what respect?[9] If in respect of depriving her[10] of the privilege,[11] a younger child would also equally deprive her of the privilege! And if in respect of bestowing the privilege,[12] a grownup levir also cannot bestow this privilege![13] — Abaye replied: We are dealing here with a levir of the age of nine years and one day, who cohabited with his yebamah[14] who, according to Pentateuchal law, becomes his kinyan. Since it might have been assumed that, as Pentateuchally she becomes his kinyan, and his cohabitation also is legal, he should be entitled to bestow the privilege upon her, hence we were taught that the cohabitation of a boy who is nine years and one day old has been given the same validity only as that of a ma'amar by an adult.[15] Said Raba to him: If so,[16] [why] is it stated in the final clause, [EVEN WHEN] IT IS A MATTER OF DOUBT WHETHER THE BOY IS NINE YEARS AND ONE DAY OLD, OR NOT? If a boy who is certainly of the age of nine cannot bestow the privilege, is there any need to speak of a boy whose age is in doubt! — No, said Raba, [the Mishnah] deals with a boy of the age of nine years and one day belonging to one of the classes of disqualified persons who, by their cohabitation, deprive a woman[17] of the privilege of eating terumah;[18] as it was taught: An Ammonite,[19] a Moabite,[19] an Egyptian,[20] or an Idumean[20] proselyte, a Cuthean[21] , a nathin,[21] a halal[21] or a bastard, of the age of nine years and one day, who cohabits with the daughter of a priests of a Levite or of an Israelite, disqualifies her.[22] But since it is stated in the final clause,[23] ‘If they are not fit to enter the assembly of Israel they render [a woman] unfit’,it may be inferred that the first clause does not deal with such disqualified persons! — The first clause speaks of those who are disqualified to enter the assembly, while the latter clause speaks of those who are disqualified to marry the daughter of a priest.[24]

[To turn to] the main text:[25] An Ammonite,[26] a Moabite,[26] an Egyptian or an Idumean[27] proselyte, a Cuthean,[28] a nathin,[28] a halal[28] or a bastard, of the age of nine years and one day, who cohabits with the daughter of a priest, of a Levite or of an Israelite disqualifies her.[29] R. Jose said: Anyone whose children are disqualified causes disqualification;[30] he whose children are not disqualified does not cause disqualification.[30] R. Simeon b. Gamaliel said: Whenever you may marry his daughter you may marry his widow,[30] and whenever you may not marry his daughter you may not marry his widow.[31]

Whence are these rulings[32] deduced? — Rab Judah replied in the name of Rab: Scripture stated, And if a priest's daughter be married unto to a strange man,[33] as soon as she has had connubial relations with a disqualified person[34] the latter disqualified her. But the text cited is surely required [for another] purpose, viz., that the All Merciful ordained that the daughter of a priest who was married to a layman[35] may not eat terumah! — That[36] may be deduced from the text, And is returned unto her father's house, as in her youth, she may eat of her father's bread.[37] Since the All Merciful ordained, And is returned unto her father's house . . . she may eat,[37] it follows that prior to that[38] she was not permitted to eat. But if [deduction were to be made] from that text,[37] [it may be objected] one might have assumed that as a negative precept[39] which is derived from a positive one[40] it has only the force of a positive precept,[41] hence did the All Merciful write the other text[42] to [indicate that it is] a negative precept! — [That it is] a negative precept may be deduced from, There shall no strange man[43] eat[44] of the holy things.[45]

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(1) And being, therefore, deemed to be his legal wife she is forbidden to eat terumah. V. Lev. XXII, 12.

(2) Though Pentateuchally a woman who is betrothed to a priest is entitled to the privilege of eating terumah, she has been forbidden to eat it during the period of betrothal, when she is still in her father's house, as a preventive measure against the possibility of her treating to it a brother or a sister of hers. V. Keth. 57b.

(3) The deaf-mute.

(4) Though mentally defective and, therefore, Pentateuchally ineligible to execute any kinyan.

(5) V. infra 112b.

(6) Lev. XXII, 11, emphasis on purchase (kinyan).

(7) By him who raised the following objection.

(8) And with whom no connubial intercourse had taken place.

(9) Is the age mentioned of any consequence.

(10) If she is the daughter of a priest, and the levir is an Israelite.

(11) Of the eating of terumah; the purpose of the ruling being to indicate that the levirate bond comes into force simultaneously with the levir's capability of cohabitation.

(12) When he is a priest and she is the daughter of an Israelite; the purpose being to indicate that, though he is capable of cohabitation, his levirate bond is not powerful enough to bestow upon his yebamah the privilege of eating terumah.

(13) As was explicitly stated earlier in out Mishnah.

(14) An act which in the case of a levir who is of age is valid.

(15) Which does not constitute complete kinyan (cf. supra 50a). The boy of the age of nine years and one day CANNOT consequently BESTOW THE PRIVILEGE any more than the others enumerated in our Mishnah. The ruling as to ‘depriving a woman of the privilege’ applies only to the cases of the EMBRYO, THE LEVIR, BETROTHAL AND THE DEAF-MUTE but not to that of the boy of the age mentioned.

(16) That the boy of the age of nine years and one day was included only because of the ruling that he CANNOT BESTOW THE PRIVILEGE, and that the ruling of ‘depriving a woman of the privilege’ does not apply to him, cf. supra n. 2.

(17) If she is the daughter of a priest.

(18) The boy of the age of nine years and one day accordingly deprives a woman of the privilege; and it is because of this ruling that the case of the boy was included in our Mishnah. The second ruling that certain persons CANNOT BESTOW THE PRIVILEGE is not, of course, necessary in his case and applies only to the others enumerated, vi., THE EMBRYO, THE LEVIR, BETROTHAL AND A DEAF-MUTE.

(19) Who is forbidden to enter the congregation of the Lord. Cf. Deut. XXIII, 4.
(20) Who, to the third generation, is forbidden to enter the congregation of the Lord. Cf. ibid. 9f.
(21) V. Glos.
(22) Kid. 74b. If the woman is the daughter of a Levite or an Israelite she is forbidden to marry a priest, and if she is the daughter of a priest she may neither marry a priest nor may she continue to eat terumah.
(23) In the continuation of our Mishnah infra 6.
(24) As e.g., a halal who is permitted to enter the assembly (i.e., to marry the daughter of an Israelite), but is forbidden to marry the daughter of a priest. (Cf. supra 37a). Though the expression ‘not fit to enter the assembly of Israel’ was used in the final clause also, it only implies marriage with the daughter of a priest, since otherwise this part of the Mishnah would have been a mere repetition of the first and, consequently, superfluous.
(25) The full text of the previous citation.
(26) V. supra p. 456, n. 6.
(27) V. loc. cit. n. 7.
(28) V. Glos.
(29) V. p. 456, n. 9.
(30) For explanation v. Gemara infra.
(31) Tosef. Nid. VI.
(32) Concerning the disqualifications enumerated in the cited Baraitha.
(33) So literally. (a) ‘one who is not a priest’; (b) ‘one strange to her’, ‘a disqualified person’, E. V. a common man’. Lev. XXII, 12.
(34) ‘Strange man’ is taken in sense (b).
(35) Non-priest, an Israelite. V. supra n. 11.
(36) That a priest's daughter who was married to an Israelite loses the privilege of eating terumah.
(37) Lev. XXII, 13.
(38) Before she returned to her father's house, i.e., while she was still a married woman, ‘living with her husband.
(39) Not to eat terumah.
(40) ‘When she returned to her father's house she may eat terumah’.
(41) Which is not punishable by flogging.
(42) Lev. XXII, 12.
(43) Non.priest, an Israelite. V. supra p. 457. n. 11.
(44) It is now presumed that as the woman married a stranger she assumes his status and is consequently, like her husband, forbidden to eat terumah.
(45) Lev. XXII, 10.

Talmud - Mas. Yevamoth 68b

But that text is required for its own purpose![1] The expression, ‘There shall no strange man’, is written twice.[2] But still is not this[3] required for the exposition of R. Jose b. Hanina? For R. Jose b. Hanina stated: There shall no strange man[3] implies, ‘I have imposed upon you a prohibition concerning non-priests only but not concerning onan’![4] — R. Jose b. Hanina's exposition may be deduced from the Scriptural use of the longer expression ‘And there shall no strange man’ instead of ‘strange man’.[5]

But still is not this,[6] required for the following which was taught:[7] When she[8] returns,[9] she returns only to [the privilege of eating] terumah, but does not return to [the privilege of eating] the breast and shoulder.[10] And[11] R. Hisda stated in the name of Rabina b. R. Shila, ‘What Scriptural text proves this? It is written, but if a priest's daughter be married unto a strange man, she shall not eat of the terumah of the holy things,[12] she must not eat of that which is set apart[13] from the holy things’![14] — If so,[15] Scripture should have written. She shall not eat of the holy things’. why [then the longer expression], of the terumah of the holy things? Two deductions[16] may, consequently be made.

We have now deduced[17] [the law relating to] a priest's daughter;[18] whence, however, is this deduced in respect of the daughter of a Levite or an Israelite? — As R. Abba stated in the name of Rab [that deduction is made from the Scriptural use of] ‘But a daughter’ [where only] ‘daughter’ [could have been used].[19] so here also [deduction is made from the use of] ‘and a daughter’ [where only] ‘daughter’ [could have been used].[20] In accordance with whose view?[21] Is it Only in accordance with that of R. Akiba who bases expositions on [superfluous] Wawin![22] — It[23] may be said to have been made even according to the view of the Rabbis, because the entire Scriptural expression, And a daughter[24] is superfluous.[25] [Thus the disqualification] in respect of terumah has been proved;[26] whence, [however, is it deduced that the disqualification extends also] to the prohibition of marrying a priest?[27] — Has not the daughter of a Levite or of an Israelite been included[28] in respect of priestly marriage only? For, as regards terumah, neither of them is ever eligible to eat it.[29]

Are they never eligible?[30] Such eligibility surely occurs when [a mother][31] eats terumah[32] by virtue of the rights of her son![33] — [The case of a mother, who eats terumah] by virtue of the rights of her son, may be deduced by inference a minori ad majus: If the daughter of a priest who eats the terumah by virtue of her own sanctity becomes disqualified[34] how much more so the daughter of a Levite or of an Israelite who eats it only by virtue of the rights of her son.[35] [On the contrary], this [very point][36] provides the reason:[37] A priest's daughter whose body is sacred is rightly disqualified,[34] this woman, however, whose own body is not sacred might not become disqualified![38] — The fact is rather, that the prohibition[39] to marry a priest may be deduced a minori ad majus from a divorced woman: If a divorced woman who is permitted to eat terumah is nevertheless forbidden to marry a priest, how much more reason is there that such a woman[40] who is forbidden to eat terumah should be disqualified from marrying a priest.[35]

May a prohibition, however, be deduced by logical argument![41]

This[42] is a mere elucidation [of the law].[43]

Might it not be suggested [that the statement,] ‘she had connubial relations with a disqualified person’[44] [refers to persons cohabitation with whom is] subject to the penalty of kareth![45] — The All Merciful said, If. . . be married,[46] only those with whom marriage is valid;[47] with those who are subject to the penalty of kareth marriage is not valid.[48] If so,[49] no idolater or slave should cause disqualification![50] — These cause disqualification in accordance with a ruling of R. Ishmael. For R. Johanan stated in the name of R. Ishmael: Whence is it deduced that if an idolater or a slave cohabits with the daughter of an Israelite, of a priest or of a Levite, he disqualifies her?[51] — It was stated in, But if a priest's daughter be a widow or divorced etc.,[52]

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(1) For the law concerning a non-priest. What proof then is there that a priest's daughter who married such a man is also subject to the same law?

(2) Once in Lev. XXII, 10, which refers to any non-priest; and a second time, ibid. 13. which speaks of the daughter of a priest who returns to her father's house, and concludes with the expression, There shall no strange etc. referring to the priest's daughter who is married to such a man.

(3) The second text, Lev. XXII, 13.

(4) Infra 70b, 71a. אנינות the mourning of an onan, v. Glos.

(5) The superfluous and serves the purpose of R. Jose's deduction, and the remainder of the clause, therefore, indicates the negative precept.

(6) The text of Lev. XXII, 12.

(7) Infra 87a.

(8) The daughter of a priest who was divorced or became a widow and had no child.

(9) To her father's house.

(10) Which are also among the priestly gifts. Cf. Ex. XXIX, 27. Lev. VII, 34. X, 14.

(11) In explanation of the Baraitha.

(12) Lev. XXII, 12. תרומת הקדשים

(13) מורם of the same rt. as צרומת. V. supra n. 3.

(14) From the sacrifices, i.e., the breast and the shoulder. V. supra n. 1.

(15) That only one of the deductions mentioned is to be made from this text.

(16) That (a) a disqualified person disqualifies a priest's daughter with whom he cohabited (supra 68a), and (b) that when a priest's daughter returns as a widow or a divorcee to her father's house she is not permitted to eat of the breast and the shoulder of the peace-offerings.

(17) Lit., ‘we found’.

(18) V. supra n. 7 (a).

(19) Infra 6a, 87a.

(20) The superfluous ‘and’ indicates a comparison between the daughter of the priest and the daughter of a Levite or of an Israelite.

(21) Is the deduction made (v. n. 11).

(22) Plur. of waw ‘and’. And not in accordance with the Rabbis who are in the majority? V. Sanh. 51b.

(23) The deduction from ‘and a daughter’.

(24) Not only the jaw.

(25) Since the context, But if a priest . . . and such as are born in his house (Lev. XXII, 11) speaks of the relatives of a priest, it would have been obvious to whom v. 12 referred even if a priest's daughter were omitted, reading only. If she be married etc.

(26) Since Scripture mentions it. Lit., ‘we found’.

(27) If a disqualified person cohabited with her. V. supra 68a.

(28) In the prohibition.

(29) Lit., ‘for if for terumah, are they subjects of eating terumah?’ As they are never allowed to eat terumah there is obviously no need to forbid it to them.

(30) To eat terumah. Lit., ‘why not’.

(31) The daughter of a Levite or of an Israelite.

(32) After the death of her husband who was a priest.

(33) Who survived his father. A Scriptural text might consequently have been required to forbid a woman in such circumstances from eating terumah if she cohabited with a disqualified person!

(34) Lit., ‘he (i.e., the disqualified man who cohabited with her) disqualifies her’.

(35) Hence no Scriptural text was needed to exclude her.

(36) The sacredness of the body of the priest's daughter.

(37) Why a priest's daughter only should be disqualified.

(38) Cf. supra notes 7 and 8 second clause.

(39) On the part of the daughter of a priest who cohabited with one of the disqualified persons mentioned.

(40) Cf. supra n. 13.

(41) A prohibition, which involves the penalty of flogging. must be derived from an explicit Scriptural text. V. Mak. 17b.

(42) The inference a fortiori mentioned.

(43) The actual prohibition, how ever, is based on the fact that she is forbidden to eat terumah; as she is forbidden to eat it owing to the loss of her sanctity, so is she forbidden to marry a priest.

(44) Who, as has been inferred, supra 68a, from a Scriptural text, causes her disqualification.

(45) A brother, for instance, betrothal with whom is invalid. What proof, however, is there that persons, such as a Cuthean, a nathin or a bastard, cohabitation with whom is subject to flogging only and betrothal with whom is valid, also disqualify a priest's daughter from marrying a priest?

(46) Lev. XXII, 12.

(47) Cause disqualification.

(48) Hence there was no need for a Scriptural text to exclude them. The text consequently refers to those who are subject to the penalty of flogging.

(49) That Scripture refers only to those with whom marriage is valid.

(50) But, as stated infra 69b, a slave does cause disqualification.

(51) From (a) marrying a priest; and (b) eating terumah in the case of the daughter of a priest, or in the case of the daughter of a Levite or an Israelite who was married to a priest who left her with children by virtue of whom she was entitled to the privilege of eating terumah.

(52) Lev. XXII, 13 which concludes, and is returned unto her father's house . . . she may eat of her father's bread, i.e., terumah.

Talmud - Mas. Yevamoth 69a

only in the case of a man in relation to whom widowhood or divorce is applicable;[1] an idolater and a slave, however, are excluded, since in relation to them no widowhood or divorce is applicable.[2]

Thus we have found [the law concerning] the daughter of a priest;[3] whence, however, [is the law concerning] the daughter of a Levite and of an Israelite to be inferred? — As R. Abba stated in the name of Rab [that deduction is made from the Scriptural use of] ‘And a daughter’, [where only] ‘daughter’ [could have been used],[4] so here also [deduction is made from the use of] ‘And a daughter’, [where only] ‘daughter’ could have been used.[5] In accordance with whose view?[6] Is it only in accordance with that of R. Akiba, who bases expositions on [superfluous] Wawin![7] — It[8] may be said to have been made even according to the view of the Rabbis, because the entire [Scriptural expression] And a daughter[9] is a superfluous text.[10] But might it be suggested that in the case of a man in relation to whom widowhood and divorce is possible,[11] [the woman][12] may eat terumah if she[13] has no children,[14] and may not eat if she has children, but in the case of a man in relation to whom widowhood and divorce are not possible[15] she may eat terumah even if she[13] has children?[16] — If so,[17] what need was there to include the daughter of a Levite and of an Israelite![18]

According to R. Akiba, however, who stated that betrothal with those whose intercourse involves the penalty of a negative commandment has no validity and that the meaning of[19] If . . . be married[20] to a strange man[21] is ‘if she cohabits’,[22] what need was there[23] [for] ‘widow or divorced’?[24] — The widow was stated[25] in order to restrict her privilege;[26] and the divorced woman, in order to relax her restrictions.[27] And [both[28] were] required. For had only the widow been mentioned it might have been assumed that only a widow may eat terumah if she has no children because she is eligible to marry a priests but, a divorced woman who is ineligible to marry a priest may not eat it even if she has no children. And had the divorced woman only been mentioned it might have been suggested that only a divorced woman may not eat terumah if she has children because she is ineligible to marry a priest, but a widow who is eligible to marry a priest may eat it even if she has children. [Hence both were] necessary.

Might it not be suggested [that the statement], ‘She had connubial relations with a disqualified person’[29] refers also to one who remarried his divorced wife![30] — The All Merciful said, To a strange man, only one who was formerly a stranger to her.[31] Her former husband[32] is excluded since he was not formerly a stranger to her.

If so, a halal,[33] who is not a stranger[34] to her,[35] should not cause her disqualification! Scripture stated, He shall not profane his seed among his people;[36] ‘his seed’[37] is compared to himself, as he disqualifies[38] so does his seed disqualify.[39]

Might it be suggested [that the disqualification[40] is effected] from the moment of betrothal?[41] — [His case[42] must be] similar to that of a High Priest with a widow. As a High Priest, in the case of a widow, [causes her disqualification] by cohabitation only,[43] so does this [person[44] cause disqualification] by cohabitation only.

Might it be suggested [that disqualification[40] is effected] only where there was betrothal as well as cohabitation? — His case[42] must be similar to that of a High Priest with a widow. As the High Priest, [when he marries] a widow, [causes her disqualification] by cohabitation alone[45] so does this [person[46] cause disqualification] by cohabitation alone.

‘R. Jose however said: ‘Anyone whose children are disqualified causes disqualification, but he whose children are not disqualified does not cause disqualification’. What is the practical difference between the first Tanna and R. Jose? — R. Johanan replied: The difference between them is the case of an Egyptian proselyte of the second generation and an Idumean proselyte of the second generation.[47] And both of them[48] deduced their respective views from none other than [the disqualification] of a widow by a High Priest. The first Tanna reasons: As a High Priest whose cohabitation with a widow is forbidden causes her disqualification, so does this person[49] also cause disqualification. R. Jose, however, reasons thus: Like a High Priest. As a High Priest whose seed is disqualified causes disqualification, so does any other person cause disqualification only when his seed is disqualified; an Egyptian proselyte of the second generation is thus excluded, since his children are not disqualified, for it is written, The children of the third generation that are born unto them may enter into the assembly of the Lord.[50]

‘R. Simeon b. Gamaliel said: Whenever you may marry his daughter, you may marry his widow etc.’ What is the practical difference between R. Jose and R. Simeon b. Gamaliel? ‘Ullah replied: The difference between them is the case of an Ammonite and a Moabite proselyte.[51] And both of them[52] derived their respective views from none other than [the disqualification] of a widow by a High Priest. R. Jose reasons thus: As with a High Priest who married a widow, his seed is disqualified and he himself causes disqualification, so does any other person cause disqualification only when his seed is disqualified. R. Simeon b. Gamaliel, however, reasons thus: As with a High Priest who married ,a widow, all his seed[53] is disqualified and he himself causes disqualification, so does only such a person cause disqualification, all whose seed is disqualified; an Ammonite and a Moabite are, therefore, excluded since not all their seed are disqualified.[54] For a Master said: An Ammonite,[55] but not an Ammonitess; a Moabite,[55] but not a Moabitess.[56] MISHNAH. THE VIOLATOR, THE SEDUCER AND THE IMBECILE[57] CAN NEITHER DEPRIVE A WOMAN[58] OF THE RIGHT OF EATING TERUMAH NOR CAN THEY BESTOW THE RIGHT UPON HER.[59] IF THEY ARE, HOWEVER, UNFIT TO ENTER INTO THE ASSEMBLY OF ISRAEL[60] THEY DO DEPRIVE A WOMAN[58] OF HER RIGHT TO THE EATING OF TERUMAH.[61] HOW? IF[62] AN ISRAELITE HAD INTERCOURSE WITH THE DAUGHTER OF A PRIEST[63] SHE MAY STILL CONTINUE TO EAT TERUMAH.

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(1) Viz., a legitimate Israelite. Only in such a case does the widow or divorced woman regain her right of eating terumah.

(2) Their betrothal and marriage having no validity.

(3) That intercourse with a slave or an idolater causes her disqualification.

(4) Supra 68b, infra 87b.

(5) Supra 68b, p. 459, n. 11.

(6) Was the deduction made.

(7) V. supra p 459, O. 13.

(8) The deduction from ‘And a daughter.’

(9) Lev. XXII, 13.

(10) As Lev. XXII, 13 follows v. 12 which deals with the daughter of a priest, the subject, ‘a priest's daughter’, of v. 13, could have been omitted as self-evident.’

(11) A legitimate Israelite or Levite.

(12) A priest's daughter after she had been divorced by her husband or become a widow.

(13) Cf. Rashi, Cur. edd., ‘to him’.

(14) From that husband. V. supra n. 8.

(15) An idolater, for instance, or a slave.

(16) The cohabitation with such a person having no legal effect whatsoever.

(17) That from the Scriptural text mentioned a relaxation of the law is to be deduced, its purpose being the indication that a priest's daughter is not disqualified even where she has issue from an idolater or a slave.

(18) If a priest's daughter is not disqualified, how much less the daughter of a Levite or of an Israelite. The purpose of the Scriptural text, therefore, must be taken to be the disqualification of the daughter of a priest. The inclusion of the daughter of a Levite and of an Israelite was, therefore, necessary to indicate that even if either of those was enjoying the privilege of eating terumah, by virtue of the rights of the children she had from a priest, she loses that privilege if she cohabited with an idolater or a slave even though the act resulted in no issue.

(19) Lit., ‘and what’.

(20) תהיה lit., ‘shall be’.

(21) Lev. XXII, 12.

(22) Since no legal marriage with any of the disqualified persons is at all possible.

(23) When cohabitation with an idolater or a slave had taken place.

(24) To exclude, as stated supra an idolater and slave, in relation to whom no widowhood or divorce is possible since they are surely included among the other disqualified persons betrothal or marriage with whom is invalid!

(25) Not for the purpose of the deduction made by R. Ishmael.

(26) To indicate that a priest's daughter who was the widow of an Israelite may not eat terumah if she has children, even after the death of her husband. Had no Scriptural text indicated this law it might have been assumed that she may eat terumah even if she had children from the Israelite.

(27) To allow her (cf. supra n. 4) to eat terumah where she has no issue from the Israelite. Had not Scripture indicated this law it might have been assumed that as the divorcee was forbidden to marry a priest so she was forbidden to eat terumah even if her union with the Israelite produced no issue.

(28) Widow and divorcee.

(29) Who, as deduced from a Scriptural text, supra 68a, causes the disqualification of the woman with whom he cohabited.

(30) After she had been married to another man. Such a marriage being forbidden (v. Deut. XXIV, 4), the first husband should be regarded as a ‘strange man’ (Lev. XXII, 12) and consequently included among the persons who cause a woman's disqualification. Why, then, was it stated (supra 44b) that a woman so remarried to her first husband is permitted to marry a priest and, all the more, to eat terumah! (V. Rashi a.l. Cf., however, Tosaf s.v. היא supra 44b).

(31) Who was never allowed to marry her.

(32) Lit., that’.

(33) V. Glos.

(34) V. Rash and Bah. Cut. edd. insert, ‘formerly’.

(35) He may marry’ a priest's daughter.

(36) Lev. XXI, 15, referring to a High Priest.

(37) I.e., a halal

(38) A widow whom he married from the eating of terumah (v. Kid. 77a).

(39) Any woman he marries.

(40) Of a woman by marrying a ‘strange man’ , a disqualified person.

(41) הויה havayah as implied in the expression תהיה tihyeh ‘(she shall) be’ Lev. XXII, 12 (of the same rt. היה), the woman remaining disqualified even if, owing to the death of the disqualified person no cohabitation took place.

(42) That of the disqualified person. deduced from the text mentioned.

(43) Since the text specifically mentions his seed (Lev. XXI, 15). V. also supra 56b.

(44) The disqualified person, V. supra n. 10.

(45) Since the disqualification is effected even if there was no betrothal.

(46) V. supra note 10.

(47) Who are themselves forbidden to marry into the congregation (v. Deut. XXIII, 8) but their children, being of the third generation, are permitted. (Ibid. 9). According to the first Tanna one of the second generation causes the disqualification of the woman he marries; while according to R. Jose he does not, because his children are not disqualified.

(48) R. Jose and the first Tanna.

(49) An Ammonite or a Moabite proselyte of the second generation, cohabitation with whom is forbidden. Cf. p. 464, n. 15.

(50) Deut. XXIII, 9.

(51) According to R. Jose such a proselyte causes disqualification; according to R. Simeon b. Gamaliel he does not. V. Gemara infra.
(52) R. Simeon b. Gamaliel and R. Jose.
(53) Daughters as well as sons.
(54) Their daughters being permitted to marry into the congregation.
(55) Shall not enter into the assembly of the Lord. Deut. XXIII, 4.
(56) Infra 76b, Kid. 67b, Keth. 7b, Hul. 62b.
(57) Even if betrothal took place. The action of an imbecile has no legal force.
(58) If she is a priest's daughter entitled to eat terumah.
(59) If they are priests and she is the daughter of an Israelite.
(60) Those, e.g., who are enumerated in Deut. XXIII, 2ff.
(61) Since she becomes profaned through their intercourse with her.
(62) Cur. edd. insert in parenthesis, ‘he was’. Bah reads instead, ‘behold’.
(63) Against her will or with her consent, but with no matrimonial intention.

Talmud - Mas. Yevamoth 69b

IF SHE BECOMES PREGNANT SHE MAY NO LONGER EAT TERUMAH.[1] IF THE EMBRYO WAS CUT IN HER WOMB SHE MAY EAT.[2] IF[3] A PRIEST HAD INTERCOURSE WITH THE DAUGHTER OF AN ISRAELITE, SHE MAY NOT EAT TERUMAH. [EVEN IF] SHE BECOMES PREGNANT SHE MAY NOT EAT.[4] IF, HOWEVER, SHE GAVE BIRTH TO A CHILD SHE MAY EAT.[5] THE POWER OF THE SON IS THUS GREATER THAN THAT OF THE FATHER.[6]

A SLAVE, BY HIS COHABITATION, DEPRIVES A WOMAN[7] OF THE PRIVILEGE OF EATING TERUMAH[8] BUT NOT AS HER OFFSPRING.[9] HOW? — IF THE DAUGHTER OF AN ISRAELITE WAS MARRIED TO A PRIEST OR THE DAUGHTER OF A PRIEST WAS MARRIED TO AN ISRAELITE, AND SHE BORE A SON BY HIM, AND THE SON WENT AND VIOLATED A BONDWOMAN WHO BORE A SON BY HIM, SUCH A SON IS A SLAVE;[10] AND IF HIS FATHER'S MOTHER WAS AN ISRAELITE'S DAUGHTER WHO WAS MARRIED TO A PRIEST, SHE MAY NOT EAT TERUMAH;[11] BUT IF SHE WAS A PRIEST'S DAUGHTER AND MARRIED TO AN ISRAELITE SHE MAY EAT TERUMAH.[12]

A BASTARD DEPRIVES A WOMAN[13] OF THE PRIVILEGE OF EATING TERUMAH AND ALSO BESTOWS THE PRIVILEGE UPON HER.[14] HOW? IF AN ISRAELITE'S DAUGHTER WAS MARRIED TO A PRIEST OR A PRIEST'S DAUGHTER WAS MARRIED TO AN ISRAELITE, AND SHE BORE A DAUGHTER BY HIM, AND THE DAUGHTER WENT AND MARRIED A SLAVE OR AN IDOLATER AND BORE A SON BY HIM, SUCH A SON IS A BASTARD; AND IF HIS MOTHER'S MOTHER WAS AN ISRAELITE'S DAUGHTER WHO WAS MARRIED TO A PRIEST, SHE MAY EAT TERUMAH; BUT IF SHE WAS A PRIEST'S DAUGHTER WHO WAS MARRIED TO AN ISRAELITE SHE MAY NOT EAT TERUMAH.

A HIGH PRIEST SOMETIMES DEPRIVES A WOMAN[13] OF HER RIGHT TO EAT TERUMAH. HOW? IF A PRIEST'S DAUGHTER WAS MARRIED TO AN ISRAELITE AND SHE BORE A DAUGHTER BY HIM, AND THE DAUGHTER WENT AND MARRIED A PRIEST AND BORE A SON BY HIM, SUCH A SON IS FIT TO BE A HIGH PRIEST, TO STAND AND MINISTER AT THE ALTAR. HE ALSO BESTOWS UPON HIS MOTHER[15] , THE PRIVILEGE OF EATING TERUMAH, BUT DEPRIVES[16] HIS MOTHER'S MOTHER[17] OF THIS PRIVILEGE. THE LATTER[18] CAN RIGHTLY SAY, ‘[MAY THERE] NOT [BE ANOTHER] LIKE MY GRANDSON THE HIGH PRIEST WHO DEPRIVES ME OF THE PRIVILEGE OF EATING TERUMAH.

GEMARA. [Here][19] we learn what the Rabbis taught: If an imbecile or a minor married and died, their wives are exempt from halizah and from levirate marriage.[20]

IF AN ISRAELITE HAD INTERCOURSE WITH THE DAUGHTER OF A PRIEST SHE MAY STILL CONTINUE TO EAT TERUMAH. IF SHE BECOMES PREGNANT SHE MAY NO LONGER EAT. Since she may not eat when she is definitely with child, precaution should be taken against the possibility that she might be with child![21] Did we not learn, 'They[22] must be kept apart[23] for three months, since it is possible that they are pregnant'?[24] Rabbah son of R. Huna replied: In respect of genealogy[25] precautions were taken;[26] in respect of terumah no such precautions were considered necessary. But was no such precaution considered necessary in respect of terumah? Surely, it was taught: [If a priest said][27] 'Here is your letter of divorce [which shall become effective] one hour before my death', she is forbidden to eat terumah at once![28] — In fact,[29] said Rabbah son of R. Huna, precautions were taken in respect of legitimate marriage,[30] but in respect of illegitimate intercourse[31] no such precaution was considered necessary.[32] But was such precaution, taken in respect of legitimate marriage? Surely, it was taught: If a priest's daughter was married to an Israelite who died,[33] she may perform her ritual immersion[34] and eat terumah the same evening![35] — R. Hisda replied: She performs the immersion but may eat terumah only until the fortieth day. For if she is not found pregnant[36] she never was pregnant;[37] and if she is found pregnant,[38] the semen, until the fortieth day, is only a mere fluid.[39] Said Abaye to him: If so,[40] read the final clause: If the embryo in her womb can be distinguished she is considered to have committed an offence[41] retrospectively![42] — The meaning is that[43] she is considered to have committed an offence[41] retrospectively[44] to the fortieth day.[45]

It was stated: Where a man cohabited with his betrothed in the house of his [future] father-in-law, Rab said: The child is a bastard; and Samuel said: The child is a shethuki.[46] Raba said: Rab's view is reasonable in the case where the betrothed woman was suspected of illicit relations with strangers.[47] Where, however, she is not suspected of illicit relations with strangers the child is ascribed to him.[48] Said Raba: Whence do I infer this? From the statement, IF, HOWEVER, SHE GAVE BIRTH TO A CHILD SHE MAY EAT. For how is this to be understood? If it be suggested to refer to a woman who is suspected of illicit relations with strangers, why should she be allowed to eat terumah when she bore a child![49] Consequently it must refer to a woman[50] who was suspected of illicit relations with him only but not with strangers. Now, if there[51] where she is forbidden to the one as well as to the other,[52] the child is regarded as his[53] how much more so[54] here[55] where she is forbidden to all other men and permitted to him. Said Abaye to him: It may still be maintained that Rab is of the opinion that wherever she is suspected of illicit relations with him,[56] the child is deemed to be a bastard even where she is not suspected of such relations with others. What is the reason? Because it is assumed that as she exposed herself to the man who betrothed her so she exposed herself to others also; but our Mishnah[57] deals with the case where both of them[58] were imprisoned in the same gaol.[59]

Others say: Where he[56] cohabited with her, no one disputes that the child is regarded as his; but the statement made was in the following form. Where a betrothed woman became pregnant, Rab ruled: Such a child is a bastard; and Samuel ruled: The child is a shethuki.[60] Raba said: Rab's view is reasonable where the woman was not suspected of illicit relations with him,[56] but was suspected of such relations with others,[61]

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(1) The embryo causes its mother's disqualification. V. supra 67b.

(2) Immediately. And the same law applies where the embryo was born dead.

(3) Cur. edd., 'he was'; Bah, 'behold'.

(4) An embryo in the womb cannot confer upon its mother the privilege of eating terumah, as deduced from born in his house (Lev. XXII. 11). V. supra 67b.

(5) By virtue of the existence of a son, though he is illegitimate.

(6) While the latter, as a violator or seducer, cannot confer the privilege, the son can.
(7) If she is a priest's daughter entitled to eat terumah.
(8) As explained supra 68b.
(9) If the slave is the offspring of a priest's daughter who was married to an Israelite now dead, he does not deprive her of the right of returning to the house of her father again to eat terumah. V. infra for further explanation.
(10) The child of a bondwoman, though of an Israelite father, is deemed a slave, as deduced from Ex. XXI, 4.
(11) If her husband and her son (the father of the slave) are dead. Though the son of a son (like a son) confers upon his grandmother the right of eating terumah (v. infra 70a), the offspring of a union between an Israelite and a bondwoman is not regarded as the legitimate son of his father but as the child of his mother.
(12) The slave not being regarded as legitimate offspring (cf. supra n. 2) to deprive her of the privilege.
(13) If she is a priest's daughter entitled to eat terumah.
(14) If she was the daughter of an Israelite who was married to a priest now dead.
(15) Even after the death of his father.
(16) As the living offspring of an Israelite.
(17) Though his own mother is dead. Were it not for his existence, his grandmother would have regained her original right of eating terumah on the death of her daughter. V. infra 87a.
(18) Lit., ‘this’.
(19) In the statement that an imbecile's betrothal neither confers upon a woman, nor deprives her of the right of eating terumah (v. our Mishnah), thus affirming that an imbecile's kinyan has no validity.
(20) Tosef. Yeb. XI, infra 96b, 2b; because there is no validity whatsoever in the kinyan of his marriage.
(21) And should, in consequence. be forbidden to eat terumah immediately after intercourse had taken place. Why then was it stated, IF AN ISRAELITE HAD INTERCOURSE. . . SHE MAY STILL CONTINUE TO EAT TERUMAH?
(22) Women who have been exchanged for one another. (V. the Mishnah, supra 33b).
(23) I.e., they are forbidden to cohabit with their husbands.
(24) Supra 33b. Similar precaution, then, should have been taken here also!
(25) The Mishnah cited is concerned with safeguarding the status of a legitimate child by taking the necessary precautions to distinguish him from the illegitimate.
(26) In the interests of the purity of family life special precautions were necessary.
(27) To his wife, the daughter of an Israelite.
(28) Suk. 23b, Git. 28a, Ned. 3b; since the priest might die at any moment while the woman was indulging in the consumption of terumah. This proves that in respect of terumah also precautions were taken.
(29) Withdrawing from his first reply.
(30) Of which the Mishnah (supra 33a) cited speaks.
(31) The subject of the section of our Mishnah under consideration.
(32) V. supra 35a.
(33) On the same day, after one act of cohabitation.
(34) Prescribed in Lev. XV, 18.
(35) No precaution being taken against the possibility that the woman may have conceived and thereby remained forbidden to eat terumah.
(36) On the fortieth day.
(37) And is allowed to eat terumah after that day also.
(38) On the fortieth day.
(39) And cannot be regarded as a child.
(40) That prior to the fortieth day the woman is not regarded as pregnant.
(41) Lit., ‘injured’.
(42) She pays compensation for any terumah she may have consumed by returning to the priest the principal plus a fifth. V. Lev. XXII, 14.
(43) Lit., ‘what’.
(44) If she ate terumah at any time after the fortieth day.
(45) But not earlier. She pays no compensation for any terumah she may have consumed prior to the fortieth day.
(46) Only a doubtful bastard. V. Glos. and Kid. 6.
(47) Lit., ‘when she is spoken of in a low voice from (by) the world’.

(48) The man who betrothed her.
(49) There is no proof that the priest was the child's father.
(50) Lit., ‘but no’.
(51) In our Mishnah.
(52) To the violator and seducer as well as to any other man, for it is forbidden to have intercourse with a woman without betrothal.
(53) The violator's or seducer's.
(54) Should the child be regarded as the son of the man who betrothed her.
(55) The case where the man cohabited with his betrothed.
(56) The man who betrothed her.
(57) Which regards the child as the son of the violator or seducer.
(58) The man and the woman.
(59) Where no intercourse with any other man was possible.
(60) Only a doubtful bastard. V. Glos. and Kid. 6.
(61) These being in the majority, the child is deemed to be the son of one of the strangers.

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, but where she is suspected of illicit relations with him, the child is regarded as his, although she is also suspected of such relations with others. Said Raba: Whence do I derive this? From the Statement, IF, HOWEVER, SHE GAVE BIRTH TO A CHILD, SHE MAY EAT. For how is this to be understood? If it be suggested to refer to a woman who is suspected of illicit relations with him but not with strangers, was it at all necessary to state that she may eat terumah?[1] Consequently it must refer to a woman[2] who was suspected of illicit relations with strangers also. Now, if there,[3] where she is forbidden to the one as well as to the other,[4] the child is regarded as his,[5] how much more so[6] here[7] where she is forbidden to any other man and is permitted to him.[8] Said Abaye to him: It may still be maintained that Rab is of the opinion that wherever she is suspected of illicit relations with strangers the child is deemed to be a bastard even if she is also suspected of such relations with him; and our Mishnah deals with one who had not been suspected at all.[9]

A SLAVE, BY HIS COHABITATION, DEPRIVES A WOMAN OF THE PRIVILEGE OF EATING TERUMAH etc. What is the reason?[10] — Scripture stated, The wife and her[11] children shall be etc.[12]

A BASTARD DEPRIVES A WOMAN OF THE PRIVILEGE OF EATING TERUMAH AND ALSO BESTOWS THE PRIVILEGE UPON HER. Our Rabbis taught: And have no child.[13] So far I only know[14] of her own child; whence her child's child? It was consequently stated, And have no child,[13] implying ‘any child whatsoever’.[15] So far I only know of a legitimate child; whence the illegitimate child? It was stated, And have no [en lah][16] child,[13] which implies, ‘hold an enquiry[17] concerning her.’[18] But from this text,[13] surely, the deduction concerning a child's child was made! — No Scriptural text is really required for the inclusion of one's child's child, since children's children are like children;[19] if a text is at all required it is for the inclusion of an illegitimate child.

Said Resh Lakish to R. Johanan: In accordance with whose view?[20] Is it only in accordance with that of R. Akiba who maintains that the offspring of a union between such whose intercourse involves them in the penalty of a negative precept is regarded as a bastard![21] — It may even be said to represent the view of the Rabbis, since in respect of an idolater and a slave they agree.[22] For when R. Dimi came[23] he stated in the name of R. Isaac b. Abdimi in the name of our Master:[24] If an idolater or a slave cohabited with the daughter of an Israelite, the child born from such a union is deemed a bastard.

A HIGH PRIEST SOMETIMES DEPRIVES A WOMAN OF HER RIGHT. Our Rabbis taught:

[The grandmother might justly say], ‘I would [willingly] be an atonement[25] for my grandson, the little cruse[26] who bestows upon me the privilege of eating terumah,[27] but would not be an atonement for my grandson, the big jar[28] who deprives me of the privilege of eating terumah.[27]

CHAPTER VIII

MISHNAH. AN UNCIRCUMCISED [PRIEST][29] AND ALL LEVITICALLY UNCLEAN PERSONS MAY NOT EAT TERUMAH. THEIR WIVES AND SLAVES, HOWEVER, MAY EAT TERUMAH.[30] [A PRIEST WHO IS] WOUNDED IN HIS STONES[31] AND ONE WHOSE MEMBRUM IS CUT OFF,[32] AS WELL AS THEIR SLAVES, MAY EAT TERUMAH, BUT THEIR WIVES MAY NOT.[33] IF, HOWEVER, NO COHABITATION TOOK PLACE AFTER THE MAN WAS WOUNDED OR HAD HIS MEMBRUM CUT OFF, THE WIVES[34] ARE PERMITTED TO EAT.[35]

WHO IS TERMED A PEZU’ A DAKKAH?[31] A MAN WHO IS WOUNDED EITHER IN BOTH HIS STONES, OR EVEN ONLY IN ONE OF THEM. AND A KERUTH SHOFEKAH ? A MAN WHOSE MEMBRUM IS CUT OFF. IF, HOWEVER, [ANY PART] OF THE CORONA REMAINED, EVEN SO MUCH AS A HAIR'S BREADTH, THE MAN IS REGARDED AS FIT.

GEMARA. It was taught: R. Eliezer[36] stated, Whence is it deduced that an uncircumcised [priest] may not eat terumah? A sojourner and a hired servant were mentioned in connection with the paschal lamb,[37] and A sojourner and a hired servant were also mentioned in respect of terumah,[38] as the paschal lamb, in connection with which ‘A sojourner and a hired servant’ were mentioned, is forbidden to the uncircumcised,[39] so is terumah, in respect of which ‘A sojourner and a hired servant’ were mentioned, forbidden to the uncircumcised. R. Akiba stated: This deduction is unnecessary. Since it was stated, What man soever,[40] the uncircumcised also is included.[41]

The Master said, ‘R. Eliezer stated, "A sojourner and a hired servant were mentioned in connection with the paschal lamb, and "A sojourner and a hired servant" were also mentioned in respect of terumah,’[42] as the paschal lamb, in connection with which "A sojourner and a hired servant" were mentioned, is forbidden to the uncircumcised, so is terumah, in respect of which "A sojourner and a hired servant were mentioned, forbidden to the uncircumcised’. Is it[43] free for deduction?[44] For if it is not free, the objection might be raised[45] that the paschal lamb may be different[46] since in connection with it one may also incur penalties[47] for pigul,[48] nothar[48] and uncleanness![49] — It is certainly free for the deduction. Which expression[50] is free? Is it that of terumah? Surely it is required for its own purpose. For it was taught: A sojourner[51] means one who is acquired for life[52] and a hired servant[51] means one who is acquired for a number of years.[53] But let ‘sojourner’ only be mentioned and a ‘hired servant’ be omitted and one would infer: If one who is acquired for life[54] is not permitted to eat terumah how much less one who is acquired only for a number of years! If so,[55] it might have been assumed that ‘a sojourner’ means one who is acquired for a number of years [and that only he may not eat terumah],[56] but that one who is acquired for life may eat,[57] hence the insertion of the expression, ‘a hired servant’, which explains the meaning of sojourner,[58] [viz.,] that it signifies one who, though acquired for life, may not eat![59] — But [in fact] the one[60] mentioned in respect of the paschal lamb is free for deduction. For what could be the meaning of ‘A sojourner and a hired servant’ which the All Merciful wrote in connection with the paschal lamb?[61] If it be suggested that it means the actual sojourner and hired servant,[62] [could it have been imagined] that [an Israelite][63] is exempt from the Paschal lamb because he is a sojourner or a hired servant? Surely, we have it as an established law in regard to terumah that such a person is not permitted to eat it,[64]

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(1) Certainly not; since the child is obviously the son of the priest.

(2) Lit., ‘but no’.

(3) In our Mishnah.

(4) To the violator and seducer as well as to any other man.

(5) The violator's or seducer's.

(6) Should the child be regarded as the son of the man who betrothed her.

(7) The case of the betrothed.

(8) The man who betrothed her.

(9) Either in respect of the violator or seducer on the one hand or in respect of any others. All that our Mishnah teaches is that if cohabitation with the former took place, even if only once, the child is regarded as his.

(10) Why is he not regarded as the offspring of the priest? V. our Mishnah and supra p. 466, n. 16.

(11) Emphasis on her.

(12) Shall be her master's (Ex. XXI, 4), i.e., they are regarded (a) as slaves, and (b) as the offspring of the bondwoman. Hence they cannot be regarded as the offspring of the priest.

(13) וזרע אין לה Lev. XXII, 13.

(14) Had לה been omitted.

(15) Lit., ‘from all (any) place’.

(16) אין לה.

(17) עיין ayayn ‘examine’, ‘investigate’. The Aleph of אין is interchangeable with the ‘Ayin of עיין.

(18) An enquiry is to be made whether she has any kind of son, i.e., even if only a bastard. Thus a bastard also is deemed to be her child. Cf. supra 22b.

(19) Supra 62b.

(20) Was it stated in our Mishnah that the offspring of a union between the daughter of an Israelite and an idolater or a slave (a union which is forbidden by a negative precept only, no kareth being involved, cf. supra 45a) is regarded as a bastard.

(21) Does our Mishnah, then, represent the view of an individual, which is contrary to the expressed view of the majority.

(22) With R. Akiba.

(23) From Palestine.

(24) Rabbi, Judah the Prince, the Master par excellence of his time. Cf. supra 45a.

(25) הריני כפרת an expression of respect or affection. Cf. Kid. 31b.

(26) Metaph. for bastard. כוזה cf. כום.

(27) As stated in our Mishnah.

(28) The High Priest. Cf. the colloquial expres. ‘big pot’.

(29) Though the uncircumcision was not due to any fault of his. If, e.g.. he was forbidden circumcision because his brothers died as a result of such an operation. Cf. supra 64b.

(30) By virtue of the rights of their husband and master. Uncircumcision and uncleanness are only temporary disqualifications which prevent the priest from eating terumah, while they continue. His sanctity and privileges, however, remain in force.

(31) פצוע דכה

(32) כרות שפכה

(33) Because the cohabitation with these maimed priests causes the profanation of the women.

(34) Who were married to them before they were maimed.

(35) Terumah.

(36) Cur. edd. ‘Eleazar’. Cf. Tosaf. Sotah 240 s.v. ורבי , and Men. 17b s.v. מאי.

(37) Ex. XII, 45.

(38) Lev. XXII, 10.

(39) Ex. XII, 48.

(40) Lev. XXII, 4.

(41) In the prohibition; the text, according to Rabbinical interpretation, referring to the prohibition of eating terumah.

(42) V. supra p. 473 notes.

(43) The expression. ‘A sojourner and a hired servant’.

(44) I.e., is not the expression required in connection with the subject spoken of in the context.

(45) Against deducing terumah from the Paschal lamb.

(46) From terumah, i.e., subject to greater restrictions.

(47) Kareth if the transgression was wilful, and a sin-offering if unwitting.

(48) V. Glos.

(49) How then could terumah which is not surrounded by such restrictions be deduced from it?

(50) Of the two expressions, ‘A sojourner and a hired servant’.

(51) Lev. XXII, 20.

(52) Lit., ‘an everlasting possession’, i.e., a Hebrew servant who, on refusing to go out free, has had his ear bored. (Cf. Ex. XXI, 5f).

(53) The ordinary Hebrew servant who remains the property of his master for six years only, after which he goes out free for nothing (v. Ex. XXI, 2).

(54) Who is in fact his master's absolute property.

(55) If only the sojourner had been mentioned.

(56) Since he is not his master's absolute possession.

(57) Since he is the absolute property of his master.

(58) Since a hired servant implies one who is acquired for a period, the other expression cannot refer to the same class of servant, but to one acquired for life. תושב E.V. a sojourner (rt. ישב ‘to abide’) implies longer service than that of the שכיר E.V., hired servant.

(59) How, then, since the expression is required for the laws of terumah, could it be suggested that the expression, ‘a sojourner and a hired servant’, mentioned in connection with terumah, is free for deduction?

(60) The expression ‘A sojourner and a hired servant’.

(61) Ex. XII, 45, a sojourner . . . shall not eat thereof.

(62) I.e., a Hebrew servant who (a) serves his master for life or (b) for a period of years. Cf. supra p. 474, nn. 14 and 15.

(63) Who is subject to the fulfilment of the commandments.

(64) Though his master is a priest.

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which proves[1] that his master does not acquire his person[2] so that here also[3] his master does not acquire his person![4] [The expression][5] must consequently [have been written] for the purpose of the deduction.[6]

But is it[7] not free in one direction only,[8] while R. Eliezer[9] was heard to state [that an analogy between expressions of which only] one[10] is free[11] may be drawn, but may also be refuted![12] — Since [the expressions][13] are not required [for their own context][14] one of them is allotted to the law[15] in respect of which the inference is made[16] and the other is allotted to the law from which the inference is made,[17] so that a word analogy is obtained which is free in both directions.

Might[18] [not the deduction be made:][19] As the paschal lamb is forbidden to an onan[20] so is terumah forbidden to an onan[21] — R. Jose son of R. Hanina replied: Scripture stated, ‘There shall no common man,[22] I commanded you concerning its prohibition to the common man[23] but not concerning that of the onan. But might it be suggested: But not the uncircumcised![24] Surely ‘A sojourner and a hired servant’[25] was written.[26] And what reason do you see?[27] — It is logical to infer that the case of the uncircumcised is to be included, since[28] it involves the absence of an act[29] and that act is one affecting the man's own body; [the uncircumcised] is punishable by kareth;[30] the law[29] was in force before the Revelation;[31] and the [non]-circumcision of one's male children and slaves debars [one from eating of the paschal lamb].[32] On the contrary; the case of the onan should have been included,[33] since mourning is an ever- present possibility,[34] is common to men as well as to women, and no man has the power to cure himself of it![35] — Those[36] are more in number.

Raba said: Even if those[36] were not more in number, you could not suggest that uncircumcision, which is actually mentioned in respect of the Paschal lamb, should be excluded[37] while the mourning of an onan, which in the case of the paschal lamb itself was deduced from that of the tithe,[38] should be deduced from it.

Might[39] [it not be said:][40] As the [non]-circumcision of one's male children and slaves debars one from the eating of the paschal lamb, so should the [non]-circumcision of one's male children and slaves debar one from the eating of terumah! — Scripture stated, When thou hast circumcised him, then shall he eat thereof,[41] the [non]-circumcision of one's male children and slaves debars one from the eating thereof, of the Paschal lamb only; the [non]-circumcision of one's male children and slaves does not, however, debar one from the eating of terumah. If so,[42] [why not] say, But no uncircumcised person shall eat thereof[43] [also implies:] He may not eat ‘thereof’ only but may eat terumah![44] — Surely it was written A sojourner and a hired servant.[45] And what reason do you see?[46] — It is only logical to include a man's own circumcision, since the act is performed on his own person and its neglect is punishable by kareth. On the contrary; the circumcision of one's male children and slaves should have been excluded because it may occur at any time! — The former restrictions are more in number. And if you prefer I might say that even if those were not more in number your suggestion could not be entertained; for is there anything which is not debarred by his own state of uncircumcision but is debarred by that of the other!

Now that it has been said that the expression. ‘Thereof,’ was introduced for expository purposes. what[47] was the purpose of the text, There shall no alien eat of it?[48] — Only with regard to it[49]

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(1) Since a Canaanite slave, whose body is acquired by the master, may eat of his terumah.

(2) The Hebrew servant sells only his labour, while he himself remains a free man.

(3) In respect of the Paschal lamb.

(4) As he is thus a free man, it is obviously his duty to observe the commandment of the Paschal lamb. What need then was there for the specification of A sojourner and hired servant?

(5) A sojourner and a hired servant. Ex. XII, 45.

(6) [The verse would then be referring to a non-jew, ‘a sojourner’ denoting a resident alien and ‘a hired servant’ an idolater. This, however, would be included in uncircumcised’ (Ex. Xli, 48) and ‘alien’ (verse 43). Consequently the verse must have been written for deduction (Tosaf.)].

(7) The expression. A sojourner and a hired servant.

(8) That of the Paschal lamb.

(9) Cur. edd. ‘Eleazar’.

(10) Lit., ‘from one side’.

(11) For interpretation or deduction.

(12) Infra 104a. The analogy in the present instance might be refuted by the objection raised supra 70a.

(13) (a) sojourner and (b) hired servant.

(14) Both being superfluous and free for deduction.

(15) That of terumah.

(16) That terumah may not be eaten by the uncircumcised.

(17) Paschal lamb.

(18) Lit., ‘if (you say)’.

(19) Since a word analogy has been established.

(20) V. Glos.

(21) If the two are compared as regards the uncircumcised they should also be compared in respect of the onan!

(22) Lev. XXII, 10.

(23) The non-priest.

(24) I.e., the uncircumcised might have been excluded by the text cited, not the onan.

(25) Ex. XII, 45.

(26) Which includes the uncircumcised in the prohibition.

(27) For excluding onan and including the uncircumcised.

(28) Cur. edd. insert in parenthesis the following mnemonic as an aid to the recollection of the characteristics which distinguish the uncircumcised from the onan: Acts cut (kareth) in the Word (Revelation) of the servant.

(29) Circumcision.
(30) If he wilfully neglects the fulfilment of the precept.
(31) On Sinai. Lit., ‘and it is before (divine) speech’. The commandment concerning circumcision was given to Abraham. V. Gen. XVII, 9ff.
(32) A man is forbidden to participate in the eating of the Paschal lamb if any of his sons or slaves who are liable to circumcision remain uncircumcised. Cf. Ex. XII, 44, 48.
(33) In the prohibition to eat terumah.
(34) Lit., ‘it is at all hours’; one may have more than one bereavement in his lifetime, but can be circumcised once only.
(35) The cause of an onan's mourning is not controlled by human action. To make oneself fit by circumcision is within man's own power.
(36) The restrictions of circumcision.
(37) Lit.,’leave out’ from the prohibition.
(38) v. infra 73a.
(39) Lit., ‘if (you say)’.
(40) Since a word analogy has been established.
(41) Ex. XII, 44, emphasis on thereof.
(42) Since the expression ‘thereof ‘is made the basis of an exposition.
(43) Ibid. 48.
(44) Which, of course, would be contrary to the deduction supra.
(45) From which deduction was made that an uncircumcised person may not eat terumah.
(46) For including in the prohibition one's own circumcision and excluding that of one's sons and slaves.
(47) Bah emends the following version by some transpositions and additions.
(48) Ex. XII, 43. emphasis on the last word, בו of it (E.V. thereof).
(49) בו (cf. supra n. 2). the Paschal lamb.

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does apostasy disqualify,[1] but in respect of tithe, apostasy does not disqualify.

What was the purpose of, But no uncircumcised person shall eat thereof?[2] — ‘Thereof’[3] only may he not eat, but he may eat of the unleavened bread and bitter herbs.[4] And it was necessary for Scripture to specify[5] both ‘Uncircumcised’ and ‘There shall no alien.’ For had the All Merciful mentioned the ‘uncircumcised’ only it might have been assumed [that the prohibition applies only to him], because he is repulsive. but not to an alien who is not repulsive. And had the All Merciful written only ‘There shall no alien’ it might have been assumed [that only he is subject to the prohibition]. because his heart is not directed towards heaven, but not the uncircumcised whose heart is directed towards heaven. [Hence both were] required.

What[6] was the purpose of repeating the expression. ‘Of it’,[7] twice? — As expounded by Rabbah in the name of R. Isaac.[8]

The Master said, ‘R. Akiba stated: This deduction is unneces sary. Since it was stated, What man soever,[9] the uncircumcised also was included’.[10] Might it be suggested that it[11] includes the onan?[12] R. Jose b. Hanina replied: Scripture stated, There shall no common man,[13] I commanded you concerning its prohibition to a common man[14] but not concerning that of an onan.[12] Might it be suggested: But not the uncircumcised?[15] — Surely, what man soever’ was written.[16] And what reason do you see?[17] — It is logical that the case of the uncircumcised should be included, since[18] it involves the absence of an act[19] and that act is one affecting the man's own body; [the uncircumcised] is punishable by kareth;[20] the law[21] was in force before the Revelation;[22] and the [non]-circumcision of one's male children and slaves debars [one from eating the paschal lamb].[23] On the contrary; the case of the onan should have been included,[24] since mourning is an ever-present possibility,[25] is common to men as well as women, and no man has the power to cure himself of It![26]

— Those[27] are more in number. Raba said: Even if those[27] were not more in number, you could not make your suggestion.[28] For Scripture stated, What man soever.[29] Now what disability is it that is applicable to a man and not to a woman? You must, of course, say that it is uncircumcision.

What expository use does R. Akiba[30] make of the expression A sojourner and a hired servant?[13] R. Shemaia replied: To include[31] a circumcised Arab and a circumcised Gibeonite.[32] Are these, however, regarded as circumcised at all? Surely we learned: [If a man said]. ‘Konam[33] , if I benefit from the uncircumcised’, he may benefit from uncircumcised Israelites[34] but is forbidden to benefit from circumcised idolaters.[35] [If he said]. ‘Konam’, if I benefit from the circumcised’, he is permitted to benefit from circumcised idolaters but is forbidden to benefit from uncircumcised Israelites![36] — But In truth [the text referred to] includes[37] a proselyte who had been circumcised but did not perform the prescribed ritual immersion,[38] and a child who was born circumcised,[39] he[40] holding that it is necessary to provide for a few drops of the blood of the covenant[41] to flow;[42] while R. Eliezer[43] follows his own view, he having stated that ‘A proselyte who has been circumcised, though he has not performed his ritual immersion, is regarded as a proper proselyte’.[44] and he is also of the opinion that it is not necessary to provide for any drops of the blood of the covenant[41] to flow where a child was born circumcised.[39]

What expository use, however, does R. Eliezer make of the expression. What man soever?[45] — The Torah, [he maintains], speaks in the language of [ordinary] men.[46]

R. Hama b. Ukba inquired: May an uncircumcised child[47] be anointed with the oil of terumah?[48] Does non-circumcision in the pre-circumcision period[49] constitute a bar[50] or not? — R. Zera replied: Come and hear: I only know [of the command][51] concerning the circumcision of the male children [which he has] at the time of the preparation[52] [of the paschal lamb].[53] and concerning the slaves [which he has] at the time of the eating thereof;[54] whence, however, is it deduced that the restriction mentioned in respect of this category is to be applied to the other, and that of the other to this one?[55] Then[56] was specifically stated in both categories[57] so that an analogy between the two might be drawn.[58] Now, it is quite possible to imagine a man's slaves as being with him at the time of the eating of the paschal lamb but not at the time of its preparation,[59] when, for instance, he bought them in the meantime.[60] How is it possible, however, that a person's male children should be in existence during the eating and not during the preparation? Obviously only when birth occurred in the interval between the preparation and the eating.[61] Thus it may be inferred that uncircumcision in the pre-circumcision period[62] constitutes a legal status of uncircumcision.[63] Said Rabbah:[64] Do you understand this? The All Merciful said, Let all his males be circumcised, and then let him come near and keep[65] it; but such a child is not fit to be circumcised![66] But what are we dealing with here? With a child[67] who recovered from a fever.[68] Then[69] let him be granted [a period of convalescence of] full seven days.[70] for[71] Samuel said that a child who recovered from a fever must be allowed a period of convalescence of full seven days![72] — Where he was already granted the seven days’ period.[73] He should, then,[74] have been circumcised in the morning![75] — We require

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(1) An apostate may not participate in the eating of the Paschal lamb.

(2) Ex. XII, 48, emphasis on ‘3. Cf. supra note 2.

(3) בו (cf. note 2) the Paschal lamb.

(4) Which were served with the Paschal lamb. V. Ex. XII, 8.

(5) Lit., ‘to write’, in regard to the prohibition of eating the Paschal lamb.

(6) Since the expression. ‘Thereof’. is made the basis of an exposition.

(7) Ex. XII, 9, 10; also mentioned in respect of the Paschal lamb.

(8) Infra 74a. Pes. 96a.

(9) Lev. XXII, 4.

(10) In the prohibition against eating terumah, supra 70a, q.v. for notes.

(11) The Scriptural text cited.

(12) V Glos.

(13) Lev. XXII, 10.

(14) The non-priest.

(15) Cf. supra p. 476. n. 18.

(16) Which includes the uncircumcised in the prohibition.

(17) For including the uncircumcised and excluding the onan.

(18) V. supra p. 476. n. 22, where the mnemonic also is explained.

(19) The circumcision.

(20) V. supra p. 476. n. 24.

(21) Of circumcision.

(22) V. supra p. 476. n. 25.

(23) V. supra p. 477. n. 1.

(24) In the prohibition of eating terumah.

(25) V. supra p. 477. n. 3.

(26) V. supra p. 477, n. 4.

(27) The restrictions of circumcision.

(28) To include the onan and exclude the uncircumcised.

(29) Lev. XXII, 4, איש איש (lit., ‘man man’). emphasis on man.

(30) Who deduces the prohibition of the uncircumcised, in respect of terumah, from What man soever.

(31) In the prohibition to eat of the Paschal lamb.

(32) גבעוני (Cf. Josh. IX, 3ff); synonymous with nathin (v. Glos.). Aruk and MSS. read גבנוני ‘highlander’. Cf. ‘A.Z. 27a. The circumcision of these men was not performed in fulfilment of the Pentateuchal commandment and had, therefore, no religious value.

(33) קונם an expression used in a vow of abstinence. V. Ned. 3lb.

(34) In ordinary speech (the usages of which are the determining factor in vows), even such Israelites are never described as uncircumcised’.

(35) Since such idolaters also are in ordinary speech described as ‘uncircumcised’.

(36) V. supra note 2. Now, since circumcised idolaters are never regarded as ‘circumcised’, they are obviously forbidden to eat of the Paschal lamb; what need then was there for a special text to include them in the prohibition?

(37) In the prohibition to eat of the Paschal lamb.

(38) He may not eat of the Paschal lamb before he has performed the immersion.

(39) I.e., without his foreskin.

(40) R. Akiba.

(41) ברית. V. Gen. XVII, 10.

(42) Though no proper circumcision is necessary. Cf. supra n. 6.

(43) Who does not include these in the prohibition to eat the Paschal lamb.

(44) Supra 46a.

(45) V. supra p. 479. n. 21.

(46) In ordinary speech people repeat certain words. The repetition of the term man (v. supra p. 479. n. 21) has, therefore, no expository significance.

(47) During the days preceding the child's circumcision which is normally due on the eighth day of his birth, v. Gen. XVII, 12.

(48) Anointing with the oil of terumah is forbidden wherever its consumption is forbidden. V. Shab. 86a.

(49) v. p. 480. n: 15.

(50) Against the consumption etc. (v. supra n. 1) of terumah.

(51) In regard to the eating of the Paschal lamb.

(52) Its ritual slaying.

(53) Scripture states, Let all his males (i.e.. his children) be circumcised, and then let him (i.e.. the master) . . . keep it (Ex. XII, 48); one's own keeping (v. supra n. 5) is thus made dependent on the circumcision of one's children.

(54) Since Scripture stated, Every man's servant...when...circumcised. then shall he (i.e., his master) eat (Ex. XII, 44); one's own eating of the lamb is thus dependent on the circumcision of one's slaves.

(55) I.e., that the non-circumcision of a person's children born to him subsequent to the preparation of the Paschal lamb debars him from the eating of it, and that the non-circumcision of his slave debars him not only from the eating of it but also from its preparation.

(56) אז

(57) In Ex. XII, 44. and ibid. 48.

(58) V. supra note 8.

(59) Its ritual slaying.

(60) Between the preparation and the consumption.

(61) I.e., on the same day. viz., on the fourteenth of Nisan, the Passover Eve.

(62) The child being only one day old (v. supra n. 24).

(63) The answer to R. Hama's enquiry is consequently in the negative.

(64) Cur. edd., ‘Raba’.

(65) Ex XII, 48, i.e., in order that a man shall be enabled to observe the commandment of the Paschal lamb he is advised, or instructed, to circumcise all his males.

(66) How, then, could the text possibly have referred to his case!

(67) Over the age of eight days (cf. supra p. 480, n. 15).

(68) Lit., ‘fever released him’. The fever from which he suffered during the time of the preparation of the Paschal lamb. While in his fever he was physically unfit for, and hence exempt from circumcision. Now that he has recovered he is, at the time of consumption of the Paschal lamb, physically fit, and consequently subject to circumcision.

(69) If the child recovered from an illness.

(70) Before circumcision is allowed.

(71) Cur. edd. encloses in parenthesis ‘for . . . seven days’.

(72) Before the seven days are passed the child remains unfit for circumcision. How, then, could his state of lawful uncircumcision debar his father from the consumption of the Paschal lamb?

(73) And it expired on the Passover Eve.

(74) V. supra n. 9.

(75) I.e., before the time of the preparation of the Paschal lamb; and, since that was not done, the child was in a legal state of uncircumcision not only during the time of eating, but also during the time of the preparation. The difficulty then arises again: What need was there for a Scriptural text to include the prohibition of eating the Paschal lamb while such a child remained uncircumcised, when the preparation that must precede the eating is already forbidden!

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a full period of seven days.[1]

But, surely, Luda'ah learned, ‘The day of a child's recovery is like the day of his birth’.[2] Does not this mean that as in respect of the day of his birth no full period is required[3] so is no full period required in respect of the day of his recovery? — No; the day of his recovery is superior to the day of his birth. For, whereas in respect of the day of his birth no full period is required.[3] in respect of the day of his recovery a full period is required.[1] R. Papa replied:[4] Where, for instance, the child had a pain in his eye and recovered[5] in the meantime.[6] Raba replied:[7] Where, for instance, his father and mother were confined in prison.[8] R. Kahana son of R. Nehemiah replied:[7] Where, for instance, the child was a tumtum[9] who in the meantime[10] was operated upon and was found to be a male. R. Sherabia replied:[7] ‘Where, for instance, the child put forth his head out of the forechamber [of the uterus]’.[11] But can such a child survive? Surely it was taught: As soon as the child emerges into the air of the world the closed organ[12] is opened and the opened[13] is closed,[14] for otherwise he could not survive even for one hour![15] — Here we deal with a case where the heat of the fever sustained him. Whose fever? If ‘his own fever’ be suggested, he should, if such was the case, be allowed a full period of seven days![16] — It means, where the fever of his mother sustained him. And if you prefer I might say that the statement[17] applies only when the child does not cry. When, however, it cries it undoubtedly survives.

R. Johanan stated in the name of R. Bana'ah: An uncircumcised [Israelite] is eligible to receive sprinkling;[18] for so we find that our ancestors[19] received sprinkling[20] while they were still uncircumcised, since it is said, And the people came up out of the Jordan on the tenth day of the first month,[21] but on the tenth they were not circumcised owing to the fatigue of the journey; when, then, [could the sprinkling] have been performed?[22] Obviously[23] while they were still uncircumcised.[24] But is it not possible that they prepared no Paschal lamb at all? — This suggestion cannot be entertained at all, since it is written, And they kept the Passover.[25] Mar Zutra demurred: It is possible that it[26] was a paschal lamb that was prepared in uncleanness![27] — R. Ashi retorted: It was explicitly taught: They were circumcised, they performed their ritual ablutions, and they prepared their paschal lambs in a state of cleanness.

Rabbah b. Isaac stated in the name of Rab: The commandment of uncovering the corona at circumcision[28] was not given to Abraham; for it is said, At that time the Lord said unto Joshua: ‘Make thee knives of flint etc.’ [[19] But is it not possible [that this applied to] those who were not previously circumcised; for it is written, For all the people that came out were circumcised,[29] but all the people that were born etc.?[29] — If so,[30] why the expression. ‘Again!’ Consequently[31] it must apply to the uncovering of the corona.[32] Why, then,[33] the expression, ‘A second time?’[34] — To compare the termination of the circumcision with its commencement; as the commencement of the circumcision is essential[35] so is the termination of circumcision[36] essential;[37] for we learned, ‘These are the shreds which render circumcision invalid: Flesh which covers the greater part of the corona; and [a priest whose circumcision was so defective] is not permitted to eat terumah’; and Rabina, or it might be said, R. Jeremiah b. Abba, stated in the name of Rab: Flesh which covers the greater part of the height of the corona.[38]

Why were they not circumcised in the wilderness? — If you wish I might say: Because of the fatigue of the journey;

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(1) Lit., ‘from time to time. If the child, for instance, recovered in the afternoon, circumcision may not be performed before the same hour on the afternoon of the eighth day. If this day happens to be the Passover Eve, the child is not fit for circumcision at the time of the preparation though he may be fit at the time of eating.

(2) Shab. 137a.

(3) Circumcision may be performed at any hour on the eighth day of a child's birth without any regard to the hour at which he was born.

(4) It is possible for a child to be unfit for circumcision at the time of the preparation of the Paschal lamb and yet be fit at the time of eating.

(5) On the Passover Eve.

(6) Between the preparation and the eating. At the preparation the child was still unfit for circumcision; at the eating. however, he was fit, since no period of seven days’ convalescence is allowed after recovery from such a minor ailment.

(7) V. supra note 1.

(8) At the time the Paschal lamb was prepared for them by an agent. At the time of eating. however, they were free. While in prison they were unable to perform, and consequently were exempt from the duty of circumcising their child. When they were set free they came under the obligation.

(9) V. Glos.

(10) Between the preparation and the eating of the Paschal lamb.

(11) Seven days prior to the Passover Eve; while birth was completed on the Passover Eve between the time of the preparation and the time of the eating. As the protrusion of the head constitutes birth in respect of circumcision (v. Nid. 29a) the operation must be performed as soon as birth is completed.

(12) The mouth.

(13) The navel.

(14) In the embryonic state the mouth is closed and the navel, by means of which it draws sustenance, open.

(15) Nid. 30b. Since it has no means whereby to draw sustenance.

(16) Like any other child recovering from a serious illness.

(17) That the child cannot survive.

(18) Of the water of purification (cf. Num. XIX. 2f) if he was levitically unclean. He is, thereby, enabled to eat holy food, immediately after the circumcision, no other sprinkling being required.
(19) Who were born in the wilderness and were not circumcised until they entered Canaan (cf. Josh. V. 4ff).
(20) To enable them to eat of the Paschal lamb. They were all levitically unclean owing to contact with the dead in the wilderness. Such persons remain unclean for seven days and, before they are allowed to eat of the Paschal lamb, must, on the third and the seventh day, be sprinkled upon with the water of purification.
(21) Josh. IV. 19.
(22) It could not have been performed on the eleventh, since that would not allow a period of four days (v. supra n. 3) between the first and the second sprinkling if they were to participate in the meal of the Paschal lamb which is prescribed for the fourteenth.
(23) Lit., ‘not’?
(24) I.e., either on the tenth, when they were still uncircumcised, or earlier. In either case it follows that the sprinkling which was performed while they were still uncircumcised enabled them to eat of the Paschal lamb.
(25) Josh. V, 10.
(26) The Paschal lamb spoken of in the text cited.
(27) As is permitted when the majority of the congregation is in a state of uncleanness; v. Yoma 6b.
(28) פריעת מילה uncovering the corona of the membrum by splitting the membrane that covers it and drawing it towards its base. (12) And circumcise again (Josh. V. 2). Since a second circumcision was necessary (emphasis on ‘again’) it is assumed that the previous circumcisions performed in accordance with the law given to Abraham, without uncovering the corona, were made invalid in the days of Joshua.
(29) In the wilderness . . . had not been circumcised, Josh. V, 5.
(30) If the instruction to circumcise applied to the non-circumcised only.
(31) Lit., ‘but not’?
(32) I.e., a second circumcision for those who were already, but not properly, circumcised.
(33) Since the expression, ‘Again’, is used for the purpose of an exposition.
(34) Josh. V, 2. As ‘Again’, so should ‘A second time’ also he expounded.
(35) Lit., ‘prevents’; unless circumcision was performed the Paschal lamb may not be eaten.
(36) The uncovering of the corona.
(37) Cf. supra n. 7.
(38) Shab. 137a and supra 47b q.v. for notes.

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and if you prefer I might say: Because the North wind[1] did not blow upon them. For it was taught: In all the forty years during which Israel was in the wilderness the North wind did not blow upon them. What was the reason? — If you wish I might say: Because they were under divine displeasure.[2] And if you prefer I might say: In order that the clouds of glory[3] might not be scattered.

R. Papa said: Hence, no circumcision may be performed on a cloudy day or on a day when the South wind[4] blows; nor may one be bled[5] on such a day. At the present time, however, since many people are in the habit of disregarding these precautions,[6] The Lord preserveth the simple.[7]

Our Rabbis taught: In all the forty years during which Israel was in the wilderness[8] there was not a day on which the North wind[9] did not blow at the midnight hour; for it is said, And it came to pass at midnight, that the Lord smote all the firstborn etc.[10] How is the deduction arrived at? — By this we were taught that an acceptable time[11] is an essential.[12]

R. Huna said: A mashuk[13] is Pentateuchally permitted to eat terumah but has been forbidden to do so by Rabbinical ordinance, because he appears to be like one uncircumcised.

An objection was raised: The mashuk requires to be [re-] circumcised![14] — Only by Rabbinical ordinance.

But he who raised the objection on what ground did he raise it, when it was definitely stated ‘requires’![15] — He misunderstood the final clause: R. Judah said, He[16] should not be circumcised because such an operation is dangerous in his case.[17] They said to him: ‘Surely many were circumcised in the days of Ben Koziba[18] and yet gave birth to sons and daughters, [such circumcision being lawful] as, in fact, it is said in Scripture, Must needs be circumcised,[19] even a hundred times. And, furthermore, it is said, He hath broken My covenant,[20] which includes the mashuk’.[21] What need was there for the additional text? — In case you might argue that Must needs be circumcised[22] includes only the shreds which render a circumcision invalid[23] [so he added]. Come and hear, He hath broken My covenant[20] which includes the mashuk.[24] He[25] consequently thought that, as the Talmud[26] made use of a Scriptural text, the law[27] must be pentateuchal; but the fact is that it is only[28] Rabbinical, and the Scriptural text is a mere prop.

An objection was raised: A tumtum[29] may not eat terumah,[30] but his women[31] and slaves may eat of it. A mashuk[32] and one born circumcised[33] may eat of it. The hermaphrodite[34] may eat terumah but not holy food[35] while the tumtum may eat neither terumah nor holy food.[36] At all events, it was taught here that the mashuk and one born circumcised may eat terumah; is not this a refutation against R. Huna![37] — It is indeed a refutation.[38]

The Master said,’A tumtum may not eat terumah, but his women[39] and slaves may eat of it’. By what legal act could a tumtum acquire his wives?[40] If it be suggested, by betrothing them; for it was taught. ‘If a tumtum betrothed a woman, his betrothal is valid and if he was betrothed by a man his betrothal is also valid’,[41] it might be retorted that the validity was intended only as a restrictive measure;[42] was it, however, intended also as a relaxation of a law?[43] He[44] is possibly a woman, and no woman, surely, may betroth a woman! — Abaye replied: Where his testes can be distinguished externally. Raba replied: ‘What is the meaning of "his women"? — His mother’. But [is not the case of his mother] self-evident?It might have been presumed that only one capable of procreation bestows the privilege of eating terumah, but one who is incapable does not bestow it, hence we were taught [that even a tumtum may bestow the privilege].

Come and hear: A tumtum may eat neither terumah nor holy food.[45] According to Abaye, this[46] is quite correct, since the first clause speaks of the certainly non-circumcised person[47] while the final clause speaks of the doubtful one; according to Raba, however, what need was there for the mention of the tumtum in the final clause? — The meaning of[48] tumtum[49] is ‘the uncircumcised’.[50] If, however, one whose status as a non-circumcised person is in doubt is not permitted to eat terumah,[51] would any one who is definitely an uncircumcised person be permitted to eat it?[52] — The final clause is an interpretation of the first:[53] Why may not ‘a tumtum eat terumah’? Because he might have the status of an uncircumcised person,[54] and a man who is uncircumcised ‘may eat neither terumah nor holy food’.

May it be assumed that this[55] is a question in dispute among Tannaim: A mashuk,[56] and[57] a proselyte whose conversion took place while he was already circumcised,[58] and a child, the proper time of whose circumcision had passed,[59] and all other circumcised persons, this means to include one who has two foreskins, may be circumcised in the daytime only. R. Eleazar b. Simeon, however, said: At the proper time[60]

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(1) Which in that part of the world brings fine, mild and wholesome weather.

(2) On account of the sin of the golden calf (Rashi). v. Ex. XXXII; or that of the spies (Tosaf. a.l. s.v. נזופין), v. Num. XIII.

(3) Which surrounded Israel. Cf. Ex. XIII. 21f.

(4) Which brings unwholesome weather.

(5) By blood-letting.

(6) Lit., ‘they tread in it’.

(7) .Ps. CXVI, 6. Providence protects those who are unable to protect themselves.

(8) Though they were in disgrace. (Cf. supra p. 485. n. 22).

(9) Which in that part of the world brings fine, mild, and wholesome weather.

(10) Ex. XII, 29.

(11) Midnight.

(12) In respect of the plague of the firstborn which brought deliverance to the oppressed; and so also in respect of the blessings of the North wind without which life would be intolerable. Cf. Rashi, a.l.

(13) משוך (rt. משך ‘to draw’). a circumcised person whose prepuce has been drawn forward to cover up the corona. V. Glos.

(14) Tosef. Shah. XVI; presumably in accordance with Pentateuchal law.

(15) Which implies a Rabbinical provision only. A Pentateuchal law would have read, ‘the mashuk is regarded as an uncircumcised person’.

(16) The mashuk.

(17) It might fatally injure him.

(18) Or Bar Kokeba, the leader of the Judean revolt against Rome in 132 C.E. In the course of the persecutions that preceded the revolt, many had their prepuces forcibly drawn in order to obliterate the sign of the Abrahamic covenant, and when liberation came they were again circumcised.

(19) Gen. XVII, 13, המול ימול , repetition of the verb.

(20) Gen. XVII. 14.

(21) V. supra p. 486. n. 8.

(22) Gen. XVII. 13. המול ימול repetition of the verb.

(23) A second circumcision being required only when such shreds remained.

(24) Since the former case is covered already by the previous text.

(25) The student who raised the objection against R. Huna, supra.

(26) [So MS. M. Cur. edd.(שש הסדרים) ‘Six orders’. The term Talmud here denotes the discussion of a halachic statement with a view to elucidating the basis on which it is based. V. Strack. Introduction, p. 5].

(27) In respect of the mashuk.

(28) Lit., ‘and it is not (so)’.

(29) One whose sex is uncertain. V. Glos.

(30) Though he is a priest. It is possible that an operation would reveal him to be a male who, prior to his circumcision, is forbidden to eat terumah.

(31) At present this is assumed to mean wives .

(32) V. supra p. 486, n. 8.

(33) I.e., without a prepuce.

(34) If he is a circumcised priest.

(35) This refers to the highest grade of holy food such, for instance, as the sin, and guilt-offerings which may be eaten by priestly males only. The hermaphrodite cannot be regarded as a male.

(36) Tosef. Yeb. X.

(37) Who stated that these are, at least Rabbinically, forbidden to eat of it.

(38) According to another reading (v. Rashi). the Baraitha is cited in support for R. Huna's view, it being interpreted that ‘the mashuk etc. may eat by Pentateuchal law only’ but is Rabbinically forbidden.

(39) At present assumed to mean wives.

(40) Lit., ‘whence to him, to the tumtum, his wives’?

(41) In the latter case the man is forbidden to marry the tumtum's mother or sister; and in either case the betrothal may be annulled by a letter of divorce only. Tosef. Yeb. XI. Bek. 42b.

(42) To require, for instance, a letter of divorce. Cf. supra note 1.

(43) To allow an Israelite woman to eat terumah by virtue of the tumtum's doubtful manhood.

(44) The tumtum.

(45) Tosef. Yeb. X.

(46) The mention of the tumtum in this, as well as in the first clause.

(47) Where the testes may be externally distinguished.

(48) Lit.,’what is’.
(49) In the final clause.
(50) The rt. of tumtum, טמטם also signifies ‘stop up’. ‘closing up’. sc the foreskin.
(51) The case referred to in the first clause.
(52) Obviously not. What need then was there for the final clause!
(53) Lit., ‘what is the reason, he said’.
(54) Lit, ‘doubtfully uncircumcised’.
(55) The law concerning the mashuk in R. Huna's statement supra.
(56) V. Glos.
(57) V. Rashal. Cur. edd. insert here in parenthesis. ‘and one born circumcised’.
(58) While he was still an idolater, the operation having been performed with no religious motive.
(59) I.e., after the eighth day of his birth. V. Gen. XVII, 12.
(60) On the eighth day. Cf. supra note 4.

Talmud - Mas. Yevamoth 72b

children may be circumcised in the daytime only; and if not at the proper time they may be circumcised both by day and by night,[1] Do they not differ on the following principle: While one Master[2] is of the opinion that the circumcision of a mashuk is a pentateuchal law, the other Master[3] is of the opinion that the circumcision of the mashuk is only a Rabbinical ordinance?[4] — And can you understand this?[5] Is there any authority who maintains that the duty to circumcise a child whose proper time of circumcision had passed[6] is only Rabbinical![7] But the fact is that both[8] agree that the circumcision of a mashuk is a Rabbinical ordinance,[9] and that the duty to circumcise a child whose proper time of circumcision had passed, is Pentateuchal. Here,[10] however, their difference depends on the following principle: One Master[11] holds that [the conjunctive in the expression]. And in the day[12] is to be expounded;[13] and the other Master[3] is of the opinion that [the conjunctive in] And in the day[12] is not to be expounded.[14] [The exposition here is of the same nature] as the following:[15] When R. Johanan was once sitting [at his studies] and expounding that ‘nothar[16] at its proper time[17] may be burned in the daytime only,[18] and if not at its proper time,[19] it may be burned either in the day or in the night’. R. Eleazar raised an objection: I only know that a child whose circumcision takes place on the eighth day must be circumcised in the daytime only; whence, however, is it deduced that the case of a child whose circumcision takes place on the ninth, tenth, eleventh or twelfth[20] is also included? Because it was expressly stated, ‘And in the day’;[21] and even he[22] who bases no expositions on a Waw does base his exposition on the basis of a Waw and a He![23] The other remained silent. After he went out, R. Johanan said to Resh Lakish: I observed that the son of Pedath[24] was sitting and making expositions like Moses in the name of the Almighty. ‘Was this his’? Resh Lakish replied.’It is really a Baraitha’. ‘Where’, the first asked. ‘was it taught’? — ‘In Torath Kohanim’.[25] He went out and learned it[26] in three days; and was engaged in making deductions and drawing conclusions from it for a period of three months.

R. Eleazar stated: The sprinkling[27] performed[28] by an uncircumcised person is valid, for his status is similar to that of a tebul yom[29] who, though forbidden to eat terumah, is permitted to prepare[30] the red heifer.[31]

The case of the tebul yom,[29] however, might be different, since he is also permitted to eat tithe![32] — Are we speaking of eating?[33] We speak only of touching: If a tebul yom who is forbidden to touch terumah is permitted [to occupy himself] with the red heifer,[30] how much more so the uncircumcised who is permitted to touch terumah!

The same [law] was also taught [elsewhere]: The sprinkling[34] performed[35] by an uncircumcised man is valid; and such an incident once happened, and the Sages declared his sprinkling to be valid.

An objection was raised: If a tumtum[36] performed sanctification,[37] his sanctification is invalid, because he [has the status of the person whose uncircumcision is a matter of] doubt, and such a person is forbidden to perform sanctification.[37] If an hermaphrodite.[38] however, performed sanctification,[37] his sanctification is valid. R. Judah said: Even if an hermaphrodite performed sanctification his act has no validity. because [his sex might] possibly be that of a woman, and a woman is ineligible to perform sanctification.[39] At all events it was taught here that the uncircumcised or the person whose uncircumcision is a matter of doubt is forbidden to perform sanctification![39] R. Joseph replied: This Tanna is one of the school of R. Akiba who include the uncircumcised in the same prohibition as that of the unclean; as it was taught: R. Akiba said, ‘What man soever[40] includes also the uncircumcised’.[41]

Raba related: I was once sitting before R. Joseph when I raised the following difficulty: Then[42] the Tanna[43] should not have omitted to state.[44] ‘The uncircumcised and the unclean’, and one would at once suggest that the author was R. Akiba![45] — But does he not?[46] Surely it was taught: The uncircumcised and the unclean are exempt from appearing at the Festivals![47] — There [the case is different], because he is a repulsive person.[48]

They[49] follow their own respective views. For it was taught: All[50] are permitted to perform sanctification,[51] with the exception of the deaf, the imbecile and the minor. R. Judah permits in the case of the minor but regards a woman and an hermaphrodite as unfit.[52] What is the Rabbi's reason? — Because it is written, And for the unclean they shall take of the ashes of the burning of the purification from sin,[53] those who are ineligible[54] for the gathering[55] are also ineligible for the sanctification,[56] but those who are eligible[57] for the gathering[55] are also eligible for the sanctification.[58] And R. Judah?[59] — He can answer you: If so,[60] Scripture should have used[61] the expression ‘He shall take’,[62] why then, And they shall take?[63] To indicate that even those who are ineligible there[64] are eligible here. If so, a woman also should be eligible![65] Shall he put[66] but not ‘Shall she put’. And the Rabbis? — Had it been written, ‘He shall take’[67] and ‘Shall he put’.[67] it might have been assumed that only one individual must take[68] and only one must put,[69] hence did the All Merciful write, And they shall take.[70] And had the All Merciful written, ‘And they shall take’ and also ‘Shall they put’.[70] it might have been assumed that two must take[68] and two must put,[69] hence did the All Merciful write, And they shall take[67] and Shall he put.[67] [to indicate that the rites are duly performed] even if two take[68] and one put.[69]

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(1) Tosef. Shab. XVI.

(2) The first Tanna who restricts the time of the circumcision to the day only.

(3) R. Eleazar b. Simeon.

(4) Hence he permits its performance during the night also. Would then R. Huna's ruling agree with the view of one Tanna only!

(5) That the point at issue should be the one suggested.

(6) V. supra note 4.

(7) Certainly not. Being obviously a Pentateuchal law, the point at issue in the Baraitha cited cannot be the one suggested.

(8) Lit., ‘but, that all the world’, i.e., the first Tanna and R. Eleazar b. Simeon.

(9) In agreement with R. Huna's ruling.

(10) In the Baraitha cited.

(11) V.supra note7.

(12) The Wow (and) in וביום Lev. XII, 3.

(13) Since the statement, In the eighth day the flesh of his foreskin shall be circumcised (ibid.) would have sufficiently indicated that circumcision must be performed in the daytime, the addition of the conjunction waw is regarded as an indication that even a circumcision that takes place after its proper time must be performed in the daytime only. And the case of the mashuk was, by Rabbinical ordinance. given the same force as that of the child.

(14) Nothing may be inferred from the use of the conjunctive Waw, not even the case of the child whose proper time of circumcision had passed, much less that of the circumcision of the mashuk, which is altogether a Rabbinical enactment. The circumcision of either may consequently be performed in the night also.

(15) In the objection raised by R. Eleazar infra.

(16) V. Glos.

(17) On the third day. V. Lev. VII. 17.

(18) Since the expression day was explicitly used.

(19) After the third day. V. supra n. 5.

(20) Day of its birth. V. Shab. 137a.

(21) Lev. XII. 3.

(22) R. Eleazar b. Simeon. supra.

(23) Both these letters are found in the word והנותר And that which remaineth (ibid. VII. 17), and both are superfluous; which proves that even when burning takes place after the proper time it must be done in the daytime. How then could R. Johanan state that nothar, after its proper time, may be burned either in the day or in the night?

(24) R. Eleazar's father was Pedath.

(25) תורת כהנים ‘the law of the priests’. an halachic commentary on Leviticus. sometimes designated Sifra.

(26) The book, Torath Kohanim.

(27) Of the waters of purification. V. Num. XIX. 2ff.

(28) V. ibid. 19.

(29) טבול יום , one who has performed his ritual ablution and is awaiting sunset, when his purification will be completed. V. Glos.

(30) And also to sprinkle the waters of purification. (V. Rashi).

(31) From which the water of purification (p. 490. n. 14) is prepared.

(32) As the law in his case was relaxed in respect of the tithe it might also have been relaxed in respect of purification. How, then, could the uncircumcised, whose case is more restricted, be compared to him?

(33) Of the red heifer. In such a case the objection might be justified.

(34) Of the waters of purification. V. Num. XIX. 2ff.

(35) V. ibid. 19.

(36) V. Glos.

(37) Of the water of purification by mixing the water with the ashes of the red heifer. V. Num. XIX. 27.

(38) Who had been duly circumcised.

(39) Tosef. Parah IV. (12) How then could R. Eleazar maintain that the uncircumcised may touch terumah?

(40) Lev. XXII, 4, lit., ‘man man’.

(41) Supra 70a. As he is included there, so he is also included in the prohibition to touch terumah. R. Eleazar need not adopt this view, since the Rabbis are in disagreement with it.

(42) If R. Akiba regards the uncircumcised and the unclean as having the same status in all respects.

(43) Whenever he deals with uncleanness caused by touch.

(44) Lit., ‘and (he) should teach’.

(45) Since, however. the uncircumcised is always omitted. it follows that, with the exception of the case of the red heifer, he does not have the same status as the unclean. How then could it be said that according to R. Akiba the uncircumcised may not touch terumah?

(46) Mention the two side by side.

(47) Hag. 4b. Three times a year. on the occasion of the Festivals of Passover, Pentecost and Tabernacles, all males had to appear before the Lord in the Temple at Jerusalem. V. Ex. XXIII. 17 and cf. Hag. 20.

(48) It is revolting to have an uncircumcised man in the Temple. Hence the prohibition. This, however, supplies no proof that in all other respects also the uncircumcised has the same status as the unclean.

(49) R. Judah and the Rabbis, in their difference on the question of the hermaphrodite.

(50) Levitically clean persons, including a woman.

(51) V. supra p. 491. n. 9.

(52) Parah V, 4.

(53) Num. XIX, 17.

(54) Minors.

(55) Of the ashes of the red heifer.

(56) Since the mention of the latter rite, in Num. XIX, follows that of the former, no other rite in respect of the red heifer being mentioned in between.

(57) Women. V. Yoma 43a.

(58) V. p. 492. n. 17.

(59) How, in view of this deduction made by the Rabbis, can he maintain that an hermaphrodite is ineligible?

(60) That sanctification is to be compared to gathering.

(61) In Num. XIX, 17.

(62) The sing., as was done in the case of the verb referring to the gathering. V. ibid. 9.

(63) The plural.

(64) Minors.

(65) Since she is eligible for the gathering.

(66) And running water shall he put. Num. XIX, 17.

(67) In Num. XIX. 17. V. infra nn. 11 and 12.

(68) The ashes.

(69) The water.

(70) The plural.

Talmud - Mas. Yevamoth 73a

And the clean person shall sprinkle upon the unclean;[1] [since] clean [was mentioned][2] the implication must be that he is [somewhat unclean.[3] Thus it was taught that a tebul yom[4] is permitted to prepare the red heifer.

R. Shesheth was asked: Is an uncircumcised person permitted to eat tithe:[5] Is tithe deduced from the paschal lamb in the case of circumcision[6] as the paschal lamb is deduced from tithe in the case of the mourning of an onan,[7] or may only the major [sanctity] be deduced from the minor but not the minor from the major [sanctity]? He replied. You have learned this: In respect of terumah and the first ripe fruits[8] one may incur the penalties of death[9] and a fifth;[10] these furthermore are forbidden to non-priests, they are the [undisputed] property of the priest,[11] they are neutralized[12] in one hundred and one,[13] and they require washing of the hands,[14] and sunset,[15] All these restrictions apply to terumah and bikkurim only but not to tithe.[16] Now, if that were so,[17] it should have been stated here, ‘The uncircumcised is forbidden to eat of them, which prohibition is not applicable to tithe’![18] — He might have taught some[19] and omitted others.[20]

What else did he omit that he should have omitted this?[21] — He omitted the following. In the final clause while it was stated: ‘Some restrictions apply to tithe and the first ripe fruits, but not to terumah, since tithe and the first ripe fruits must be brought to the appointed place,[22] they require confession[23] and are forbidden to an onan, and R. Simeon permits [the bikkurim to an onan]; they are,[24] furthermore, subject to removal;[25] but R. Simeon exempts them’,[26] [the laws that] they may not be burned[27] even when levitically unclean,[28]

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(1) Num. XIX. 19.

(2) Which was unnecessary. it being self-evident that the rite of purification should be performed by a clean person.

(3) The object of the text being to indicate that though he is not clean in all respects he may nevertheless perform the rite of sprinkling.

(4) V. Glos. The tebul yom is in one respect regarded as clean, since he has already performed his ritual ablution (v. Lev. XIV. 9), while in another respect (the eating of holy food),he is still regarded as unclean until sunset.

(5) The ‘second tithe’ which is permitted to Israelites under certain restrictions. V. Deut. XIV, 22-27.

(6) As the Paschal lamb is forbidden to the uncircumcised so is also the second tithe.

(7) V. Glos. The prohibition of the second tithe to the onan is specifically referred to in Deut. XXVI, 14, while the prohibition to him of the Paschal lamb is arrived at by deduction from the former.

(8) Bikkurim v. Glos.

(9) For unlawfully eating of them (v. Lev. XXII, 9 and Mak. 17a).

(10) Of the value of the food, in addition to its actual cost, which a non-priest must pay if he consumed unwittingly any quantity of terumah or bikkurim. V. Lev. XXII. 24.

(11) He may purchase with them any objects and may also use them as a token of betrothal.

(12) Lit., 'go up'. i.e., lose their sanctity.

(13) If the ratio of the ordinary food to that of the terumah of bikkurim is that or a hundred to one. The priest is then given 1/101 of the mixed quantity and the rest is permitted to be eaten by any person.

(14) On the part of the man who wishes to eat of them, even if they consist of fruit only, which, unlike bread, if not consecrated requires no washing of the hands.

(15) Before an unclean person, though he has performed his ablution, is permitted to eat of them.

(16) Bik. II. 1; B.M. 52b.

(17) That the uncircumcised is permitted to eat the second tithe.

(18) Since, however, this was omitted, it follows that tithe also is forbidden to the uncircumcised.

(19) Of the restrictions that do not apply to tithe.

(20) The uncircumcised among them.

(21) If nothing else was omitted it is unlikely that one single case only should have been omitted.

(22) Jerusalem. V. Deut. XIV, 22ff and XXVI, 2ff.

(23) V. Deut. XXVI, 10 (bikkurim); ibid. 13 (tithe).

(24) Cf. Pes. 36b.

(25) From the house, by the third, and the sixth year of the Septennial cycle. Cf. I have put away the hallowed things out of my house (Deut. XXVI, 13) and v. Maas. V, 6.

(26) From the law of removal. Bik. II, 2.

(27) Oil, for instance, for lighting purposes.

(28) And not fit to be eaten.

Talmud - Mas. Yevamoth 73b

and that the man[1] who eats of them while they themselves are levitically unclean is to be flogged,[2] and that these laws do not apply to terumah, were not stated.[3] This proves clearly that only some were taught and others were omitted.[4]

The Master said,[5] 'And are forbidden to an onan, and R. Simeon permits [the bikkurim to an onan]'.[6] Whence do they derive their views? — From the Scriptural text, Thou mayest not eat within thy gates the tithe of thy corn, or of thy wine, or of thine oil or the firstlings of thy herd[5] etc. nor the offering of thy hand,[2] and a Master said that 'the offering of thy hand' refers to bikkurim;[7] and bikkurim were compared to tithe: As tithe is forbidden to the onan so are bikkurim also forbidden to the onan. And R. Simeon?[8] — The All Merciful called them terumah: As terumah is permitted to the onan[9] so are bikkurim permitted to the onan.

'They are, furthermore, subject to removal; but R. Simeon permits them'. One Master[10] compares [bikkurim to tithe][11] and the other Master does not.

'They may not be burned when levitically unclean, and the man who eats of them while they themselves are levitically unclean is to be flogged'. Whence is this derived? — From what was taught: R. Simeon said, Neither have I burned[12] thereof, being unclean,[13] whether I was unclean and it was clean or I was clean and it was unclean. I do not know, however, where one was forbidden to eat it'.[14] (But, surely, in relation to it, the uncleanness of the body was specifically stated: The soul that touches any such shall be unclean until the even, and shall not eat of the holy things,[15] unless he bathe his flesh in waters — This is the question: Whence the prohibition [to eat it] where the thing itself is unclean?[16] It was expressly stated,[17] Thou mayest not eat within thy gates the tithe of thy corn[18] but further on[19] it was stated. Thou shalt eat it within thy gates; the unclean and the clean may eat it alike as the gazelle, and as the hart,[20] and at the school of R. Ishmael it was taught that the unclean and the clean may eat together even on the same table, and the same plate, and no precautions need be taken. Thus the All Merciful stated, ‘That, concerning which I told you there, Thou shalt eat it within thy gates,[20] you may not eat here’.[21]

‘That these laws do not apply to terumah’. Whence do we derive this? — R. Abbahu replied in the name of R. Johanan: Scripture stated, Neither have I burnt thereof, being unclean,[22] you may not burn ‘thereof’, but you may burn the oil of terumah if it has become unclean.[23] Might it not be suggested: You may not burn any ‘thereof’. but you may burn holy[24] oil that became unclean? — This, surely. may be inferred a minori ad majus: If in respect of the tithe, the sanctity of which is of a minor character, the Torah stated, Neither have I burnt thereof, being unclean,[22] how much more so in respect of holy food the Sanctity of which is of a major character. If so, terumah also might be inferred a minori ad majus! — Surely ‘thereof’ was written. And what reason do you see?[25] It is logical that holy food should not be excluded, since[26] [the following restrictions also apply to it:] piggul,[27] nothar,[27] sacrifice, me'ilah,[27] kareth,[27] and it is also forbidden to an onan.[27] On the contrary; terumah should not be excluded since [to it apply the restrictions of][28] death.[29] a fifth,[30] it cannot be redeemed[31] and it is forbidden to non-priests![32] — Those[33] are more in number. And if you prefer I might say: Kareth[34] is regarded as being of greater importance.

‘The man that eats of them while they themselves are levitically unclean is to be flogged, and that these laws do not apply to terumah’. He is apparently[35] exempt only from flogging, but a prohibition[36] remains. Whence is this derived? — Scripture stated. Thou shalt eat it within thy gates.[37] only ‘it’[38] but not any other;[39] and a negative precept that is derived from a positive one [has only the force of] a positive.[40]

R. Ashi said.[41] From the first clause also[42] you may infer that the Tanna taught some[43] and omitted others,[44] since he did not state

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(1) Himself levitically clean.

(2) V. infra.

(3) Though, according to the first Tanna who compares bikkurim and tithe in all respects, these laws also should have been included in his statement.

(4) The uncircumcised among them.

(5) V. Bah. Cur. edd. omit.

(6) Supra 73a.

(7) In reference to which ‘hand’ was mentioned. V. Deut. XXVI. 4. (Tosaf. s.v. תרומת a.l.).

(8) Why does he permit it?.

(9) As shewn supra 70a.

(10) The first Tanna.

(11) In respect of which the prohibition was stated in Deut. XXVI. 13. Cf. supra p 494. n. 18.

(12) E.V. ‘put away’.

(13) Deut. XXVI, 14.

(14) The prohibition referring to burning only. The question is assumed to refer to the uncleanness of either the tithe or the one who eats it.

(15) Which, as shewn infra 74b, refers to tithe.

(16) Lev. XXII, 6.

(17) In respect of the ‘second tithe’.

(18) Deut. XII, 17.

(19) In reference to dedicated animals which are permitted to a non-priest if they were redeemed after having become blemished.

(20) Deut. XV, 22.

(21) Only there may the clean eat though the unclean had touched the plate and caused the defilement of the food, but not here in the case of the second tithe.

(22) Deut. XXVI, 24.
(23) Which proves that no prohibition is attached to terumah.
(24) Dedicated, for instance, as a meal-offering.
(25) For inferring holy food a minori ad majus, and for excluding terumah by the expression thereof?
(26) The mnemonic פנקעכם represents the initials, or striking letters of Piggul. Nothar, Korban (sacrifice). me'ilah (the ‘Ayin). Kareth. asur (forbidden).
(27) V. Glos.
(28) The mnemonic מהפ״ז (cf. supra n. 1) represents the initials of מיתה ‘death’, חומש fifth’, פדיון ‘redemption’, זר ‘non-priest’.
(29) For the person who eats it while he is in a state of uncleanness.
(30) Payable by a non-priest who eats terumah unwittingly even at a time when it is permitted to priests. The fifth is not payable in respect of holy food when its consumption is permitted to priests.
(31) Holy food, however, may be redeemed in certain circumstances.
(32) Holy food of the minor degree is permissible to non-priests.
(33) The restrictions in respect of terumah.
(34) Which is incurred in connection with holy food and not in connection with terumah.
(35) Since flogging was mentioned.
(36) To eat unclean terumah.
(37) Deut. XV, 22.
(38) May be eaten.
(39) Terumah.
(40) Transgression of which is not punishable by flogging.
(41) With reference to the question supra p. 494. n. 14.
(42) Not only from the second.
(43) Of the restrictions that do not apply to tithe.
(44) The uncircumcised among them.

Talmud - Mas. Yevamoth 74a

‘And they[1] apply in all[2] the years of the septennial cycle[3] and cannot be redeemed’, and that ‘this does not apply to the [second] tithe’. This proves it.

Come and hear: ‘If shreds[4] which render the circumcision invalid remain, he may not eat terumah, nor the paschal lamb, nor holy food, nor tithe’. Does not tithe refer to the tithe of the corn? — No; the tithe of cattle.[5] But is not the tithe of cattle the same as holy food?[6] — Even on your view are we not told here of the paschal lamb and yet ‘holy food’ also is mentioned! — One can well understand why it was necessary to mention both the paschal lamb and holy food; for if the paschal lamb only had been stated it might have been assumed that it only is forbidden, because uncircumcision was written in Scripture in connection with the paschal lamb, but not holy food. And if holy food only had been stated it might have been assumed that what was meant by holy food was the paschal lamb.[7] What need, however, was there for the mention here of the tithe of cattle![8] — [No, say,] rather, tithe refers to the first tithe; and this [teaching] is that of R. Meir who holds that the first tithe is forbidden to non-priests.[9]

Come and hear: Since R. Hiyya b. Rab of Difti has learned, ‘An uncircumcised is forbidden to eat of both tithes’, is not one the tithe of the corn and the other the tithe of the cattle! — Here also the first tithe was meant and the ruling is that of R. Meir.

Come and hear: ‘An onan is forbidden to eat of tithe but is permitted to eat terumah, and [to engage] in the [preparation of] the red heifer;[10] a tebul yom[11] is forbidden to eat terumah, but is permitted [to engage] in [the preparation of] the red heifer, and to eat tithe; and he who was still short of atonement[12] is forbidden [to engage] in [the preparation of] the red heifer, but is permitted to eat terumah and tithe'. Now, if it were so,[13] it should have been stated, 'The uncircumcised is forbidden to eat terumah but is permitted [to engage] in [the preparation of] the red heifer[14] and to eat tithe'![15] — This represents the view of a Tanna of the school of R. Akiba, who includes the uncircumcised, like the unclean, in the prohibition.[16] As it was taught: Any man soever[17] includes the uncircumcised.

Who is the Tanna who differs from R. Akiba?[18] — It is the Tanna who [is in disagreement with] R. Joseph the Babylonian. For it was taught: The burning[19] by an onan or by one who is still short of atonement is valid; but R. Joseph the Babylonian said: That of the onan is valid but that of him who is short of atonement is not valid.[20]

R. Isaac also is of the opinion that the uncircumcised is forbidden to eat [second] tithe. For R. Isaac stated: Whence is it deduced that the uncircumcised is forbidden to eat [second] tithe? 'Thereof' was stated in respect of [the] tithe,[21] and 'thereof' was also stated in respect of the paschal lamb;[21] as the paschal lamb, in respect of which 'thereof' was used, is forbidden to the uncircumcised, so is [the] tithe, in respect of which 'thereof' was used, forbidden to the uncircumcised. Is it[22] free for deduction? For if it is not free, it could be objected: The Paschal lamb is rightly subject to the restriction[23] since one may incur in respect of it the penalties for piggul,[24] nothar'' and levitical uncleanness![25] — It is indeed free for the deduction. Which[26] is free? Raba replied in the name of R. Isaac: 'Thereof' is written three times in connection with the paschal lamb.[27] One is required for the paschal lamb itself;[28] one for the analogy;[29] and as to the third, according to him who maintains that Scripture intended[30] a positive precept to follow a negative[31] one,[32] 'thereof' was written [a second time],[33] because nothar was written [a second time];[33] and according to him who maintains [that the repetition of until the morning[34] was intended] to allow a second morning for its burning,[35] 'thereof' was written [a second time],[36] because until the morning[34] had to be written [a second time]. Also, in connection with tithe, 'thereof' was written three times. One is required for its own purpose;[37] one is required for the deduction which R. Abbahu made in the name of R. Johanan;[38] and the third is required for the exposition made by Resh Lakish. For Resh Lakish stated in the name of R. Simya: Whence is it deduced that second tithe which has become levitically unclean may be used for anointing? It is said, Nor have I given thereof for the dead,[39] only for a dead man have I not given, but I have given for a living man in the same manner as for the dead. Now, what is it that may be equally applied to the living and to the dead? You must say that it is anointing.[40] Mar Zutra demurred: It[39] might be suggested to refer to the purchase for the dead of a coffin and shrouds![41] — R. Huna son of R. Joshua replied: 'Thereof' means of the tithe itself.[42] R. Ashi replied: Nor have I given[39] must be analogous to I have not eaten,[39] as there[43] it refers to the tithe itself so here also[44] it must refer to the tithe itself. But still it[45] is free, however, in one direction only![46] [The analogy is] quite satisfactory according to him who maintains that deduction may be made [even in such a case]. and may not be refuted.[47] According to him, however, who is of the opinion that deduction may be made but also refuted, what can be said?[48] — R. Abbahu's deduction[49] may be inferred from the text cited in the statement which R. Nahman made in the name of Rabbah b. Abbuha. For R. Nahman stated in the name of Rabbah b. Abbuha: What was meant by the Scriptural text, And I, behold, I have given thee[50] the charge of My heave-offerings?[51] Scripture speaks of two kinds of terumah. One, clean terumah, and the other, unclean terumah; and concerning these the All Merciful said, 'It shall be thine,[50] even for burning under your dish.'[52]

AND ALL LEVITICALLY UNCLEAN PERSONS etc. Whence is this deduced? — R. Johanan replied in the name of R. Ishmael: Scripture stated, What man soever of the seed of Aaron is a leper, or hath an issue etc.[53] Now, what is it that is equally

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(1) Terumah and bikkurim.

(2) Lit., 'other', i.e., even in the third and sixth. V. next note.

(3) And not only, like the second tithe, in the first, second, fourth and fifth years of the cycle.

(4) Of the corona.

(5) Which solves the question put to R. Shesheth.

(6) Which is already mentioned.

(7) Both were therefore necessary.

(8) Which is included in ‘holy food’. V. supra n. 2. Hence ‘tithe’ must mean second tithe, which solves the question put to R. Shesheth.

(9) And owing to its sanctity it was also forbidden to the uncircumcised.

(10) Since it is not offered on the altar, its sanctity is of a lesser degree.

(11) V. Glos.

(12) An unclean person the requirements of whose purification have, with the exception of the sacrifice prescribed for the unclean, been satisfied.

(13) That the uncircumcised is permitted to eat second tithe.

(14) As stated supra 72b.

(15) Since this, however, was omitted it must be assumed that the omission was due to the fact that tithe is permitted to the uncircumcised!

(16) To engage even in the preparation of the red heifer (supra 72b).

(17) Lev. XXII, 4;, lit., ‘man man’.

(18) And maintains (v. supra 72b) that the uncircumcised may deal with the red heifer.

(19) Of the red heifer. V. Num. XIX, 5.

(20) As the first Tanna differs from R. Joseph in respect of the man who was short of atonement, he presumably differs also in respect of the uncircumcised.

(21) V. infra for further explanation.

(22) The expression ‘thereof’ used in the analogy.

(23) Its prohibition to the uncircumcised.

(24) V. Glos.

(25) Hence no analogy between it and tithe would be justified.

(26) Of the expressions, ‘thereof’.

(27) Ex. XII, 9,10.

(28) [In ‘Ye shall not eat thereof raw’ (verse 9) ‘thereof’ is required as otherwise it might have been assumed to refer to the unleavened bread and bitter herbs mentioned in the preceding verse (Tosaf)].

(29) With second tithe.

(30) By the text, Ye shall burn (that which remains) with fire (Ex. Xli, 10).

(31) Ye shall let nothing thereof remain (ibid.).

(32) In order to exempt the transgressor from the penalty of flogging. v. Mak. 4b.

(33) In Ex. XII, 20., cf. previous note.

(34) Ibid. Earlier in the text it was already stated, And ye shall let nothing thereof remain until the morning.

(35) The morning after the first day of the Passover. V. Pes. 83b.

(36) In Ex. XII. 10.

(37) [The first ‘thereof’ to exclude the first tithe from the restriction in regard to onan (v. Glos) תום ישנים].

(38) Permitting the burning of unclean oil of terumah for lighting purposes. V. supra 73b.

(39) Deut. XXVI, 24.

(40) It cannot refer to eating which is, of course, inapplicable to the dead.

(41) And not to anointing. The deduction, consequently, would be that though unclean tithe may not be exchanged for money wherewith to buy the requirements of the dead, it being unfit as food, it may be exchanged for the purpose of buying anything for the living.

(42) Not with the money for which it was exchanged.

(43) In respect of eating.

(44) The ‘giving’.

(45) The expression. ‘Thereof’.

(46) In that of the Paschal lamb; those occurring in the section of tithe being required for other deductions.

(47) Nid. 22b.

(48) In view of the objection that the Paschal lamb is subject to restrictions which are inapplicable to the second tithe.
(49) From one of the expressions of ‘thereof’.
(50) לך.
(51) Num. XVIII, 8.
(52) Since R. Abbahu's deduction may be made from this text, one of the expressions of ‘thereof’ remains free for the purpose of the analogy.
(53) Lev. XXII, 4.

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applicable to all the seed[1] of Aaron? You must say that it is terumah.[2] But might it not be assumed to refer to the breast and the shoulder?[3] — [These are] not [permitted] to [a woman] who returns.[4] But terumah also is not permitted to a halalah![5] — A halalah is not regarded as of the seed of Aaron.[6] And whence is it inferred that until he be clean[7] means ‘until sunset’,[8] perhaps it means, ‘until the atonement is brought’? — This cannot be entertained. For a Tanna of the school of R. Ishmael [taught] that Scripture[7] speaks of a zab[9] who noticed only two issues, and of a leper while under observation,[10] both being cases similar to that of one who is unclean by the dead;[7] as he who is unclean by the dead[7] is not liable to bring an atonement so are these[11] such as are not liable to bring an atonement.[12] Let it be said, then, that this[13] applies only to those who are not liable to bring an atonement, but that for those who are liable to an atonement,[14] purification is incomplete until the atonement has been brought! Furthermore, in respect of what we learned, ‘If he performed the prescribed ablution and came up from his bathing he may eat of the [second] tithe; after sunset he may eat terumah; and after he has brought his atonement he may also eat of the holy food’;[15] whence, it may also be asked, are these laws derived? — Raba replied in the name of R. Hisda: Three Scriptural texts are recorded: It is written, And shall not eat of the holy things, unless he bathe his flesh in water,[16] implying if he bathed, however, he is clean. It is also written, And when the sun is down, he shall be clean, and afterwards he may eat of the holy things.[17] And finally, it s written, And the priest shall make atonement for her, and she shall be clean.[18] How, [then, are these contradictory conditions[19] to be reconciled]?[20] The first refers to [second] tithe; the second to terumah, and the third to holy food. Might not these be reversed?[21] It is reasonable that terumah should be subject to the greater restriction, since[22] it is also subject to the restrictions of the death penalty,[23] the fifth,[24] it cannot be redeemed,[25] and is also forbidden to the non-priest.[26] On the contrary; [second] tithe might be regarded as subject to the greater restriction, since it[27] has to be brought to the appointed place,[28] requires confession,[29] is forbidden to an onan, must not be burned[30] [even] when unclean, the penalty of flogging is incurred for eating it when it is unclean,[31] and it is also subject to the law of removal![32] — The penalty of death, nevertheless, is of the greatest severity. Raba said: Apart from the fact that the death penalty is of the greatest severity it could not be said so;[33] for Scripture stated, soul.[34] Now, what is it that is equally [permitted] to every soul? You must admit that it is tithe.[35] Still, this[36] might apply only to one who is not liable to bring an atonement;[37] but where a man is liable to an atonement it might be said that [purification is not complete] until he has brought the atonement! — Abaye replied: Two Scriptural texts are recorded in the case of a woman in childbirth.[38] It is written, Until the days of her purification be fulfilled,[39] as soon as her days are fulfilled she is clean; and it is also written, And the priest shall make atonement for her, and she shall be clean,’[40] how, [then, are the two to be reconciled]?[41] The former applies to terumah, the latter to holy food.[42]

But might not these be reversed?[43] — It stands to reason that holy food should be subject to the greater restriction,[44] since it is also subject to the restrictions of[45] piggul[46] nothar,[46] sacrifice, me'ilah,[46] kareth,[46] and is also forbidden to an onan.[46] On the contrary, terumah should be subject to the greater restriction,[47] since it is also subject to the restrictions[48] of[45] the death penalty,[49] the fifth,[50] it cannot be redeemed,[51] and is also forbidden to the non-priest![52] — Those[53] are more in number.

Raba said: Apart from the fact that those[53] are more in number this[54] could not be maintained. For Scripture stated, And the priest shall make atonement for her, and she shall be clean,[55] which implies that [until that moment] she was unclean. Now, were it to be assumed that this text[56] speaks of holy food,[57] the text, And the flesh that toucheth any unclean thing shall not be eaten[58] should apply to it![59] It must, therefore, be concluded that the text[60] speaks of terumah.

R. Shisha son of R. Idi demurred: How could it be said that the law of terumah was prescribed in this text?[60] Surely it was taught: [From the text]. Speak unto the children of Israel.[61] one would only learn [that these laws[62] are applicable to] the children of Israel; whence, however, is one to infer that they also apply to a proselyte or an emancipated slave? Scripture consequently stated,[63] Woman.[64] Now, if it were to be assumed that the text speaks of terumah, are a proselyte and an emancipated slave, [it may be asked,] permitted to eat terumah![65] Said Raba: But does it[66] not?[67]

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(1) Males and females.

(2) It cannot refer to holy food of the higher degree of sanctity which is permitted to male priests only.

(3) Of the peace-offerings which belong to the class of holy food of a minor degree of sanctity, and are permitted to the priestly males and females. (V. Lev. X, 14).

(4) From the home of her husband who was an Israelite and died without issue, to that of her father who is a priest (v. supra 68b). Terumah, however, is permitted in such a case.

(5) V. Glos., though she is the daughter of a priest.

(6) Having been born of a forbidden marriage.

(7) Lev. XXII, 4.

(8) And on the basis of this interpretation the unclean is permitted to eat terumah even before he has brought his atonement.

(9) V. Glos.

(10) Lit., ‘a locked-up leper’. V. Lev. XIII, 4ff.

(11) The zab and leper spoken of in this text.

(12) Only a confirmed leper, and a zab who has had three attacks of gonorrhoea are, on recovery and purification, liable to bring sacrifices. Cf. Meg. 8a.

(13) That sunset alone, though no sacrifice had yet been brought, completes the purification of the unclean as far as the consumption of terumah is concerned.

(14) The confirmed leper, and a zab who had three attacks.

(15) Neg. XIV, 3, Pes. 35a, Nid. 71b.

(16) Lev. XXII, 6.

(17) Ibid. 7.

(18) Ibid. XII, 8.

(19) Bathing, sunset and sacrifice.

(20) Each text obviously pointing to a different condition as the essential, or completion of purification!

(21) For terumah bathing alone should suffice; while for tithe, waiting until sunset should be required.

(22) V. supra p 497. n. 3.

(23) V. supra p. 497. n. 4

(24) V. supra p. 497 n. 5.

(25) While tithe may be redeemed.

(26) Tithe is not.

(27) The mnemonic הד"ם ט"ב lit., ‘a good myrtle’, represents distinctive letters occurring in prominent words describing the following restrictions ה=הבאה ד=ודוי confession; ם = אסור prohibition sc. to an onan; ט = טומאה uncleanness; ב = בעור removal.

(28) Jerusalem. V. Deut. XIV, 22ff.

(29) V. Deut. XXVI, 13.

(30) For lighting purposes, if, for instance, it consisted of oil.

(31) While the man is clean.

(32) V. supra p. 494 n. 18.
(33) V. supra p. 502, n. 15.
(34) Lev. XXII, 6.
(35) This verse then must refer to tithe, and it requires ablution only and no waiting for sunset.
(36) That purification in respect of terumah is complete even before the sacrifice had been brought.
(37) As, for instance, the case of the leper under observation, and that of the zab who had no more than two attacks, of whom the text mentioned speaks.
(38) Who is liable to bring a sacrifice.
(39) Lev. XII, 4.
(40) Ibid. 8.
(41) According to the former text, cleanness is complete at the conclusion of the prescribed period, while according to the latter the woman cannot be clean before her sacrifices are offered.
(42) Thus it follows that even when a sacrifice has been prescribed (cf. p. 505, n. 17) terumah may be eaten before that sacrifice has been brought.
(43) The first text applying to holy food, and the second to terumah.
(44) That its consumption be not permitted before the prescribed sacrifice had been offered.
(45) For explanation of the mnemonics v. supra p. 497 nn. 1 and 3.
(46) V. Glos.
(47) V. supra note 2.
(48) V. supra p. 497, n. 3.
(49) V. supra p. 497 n. 4.
(50) V. supra p. 497 n. 5.
(51) Holy food may be redeemed.
(52) Holy food is not.
(53) The restrictions in connection with holy food.
(54) That the first text, Lev. XII, 4. which permits consumption before the sacrifice is brought, should refer to holy food.
(55) Lev. XII. 8.
(56) V. supra note 12.
(57) Which would accordingly be permitted to be eaten even before the prescribed sacrifice had been offered.
(58) Lev. VII, 29.
(59) Since the person who has not brought the prescribed sacrifice is still regarded as unclean. How then could the consumption of holy food be permitted to him?
(60) Lev. XII. 4.
(61) Ibid. 2.
(62) Relating to uncleanness after childbirth. V. Lev. XII, 2ff.
(63) Lev. XII, 2.
(64) Cf. Ker. 7b.
(65) Certainly not. The text must consequently refer not to terumah but to holy food!
(66) The text cited.
(67) Speak of terumah?

Talmud - Mas. Yevamoth 75a

Surely it is written,[1] She shall touch no hallowed thing[2] [which] includes terumah![3] The fact, however, is that Scripture enumerated a number of distinct subjects.[4] Now what need was there for three distinct texts[5] in respect of terumah! — They are all required. For were terumah to be deduced from Until he be clean,[6] it would not be known whereby,[7] hence did the All Merciful write, And when the sun is down, he shall be clean.[8] And if the All Merciful had written only And when the sun is down,[8] it might have been assumed [to apply to such a person] as is not liable to bring a sacrifice, but in the case of one who is liable it might have been presumed that cleanness is not effected before he has brought his atonement, hence the All Merciful wrote, Until. . . be fulfilled.[9] And had the All Merciful written only, Until . . . be fulfilled,[10] it might have been presumed that cleanness may be effected even without ablution, hence did the All Merciful write, Until he be clean.[6]

According. however, to that Tanna who disagrees with the Tanna of the school of R. Ishmael, maintaining that the text[6] speaks of a zab who had three attacks of gonorrhoea and of a confirmed leper,[11] and that the deduction from Until he be clean[6] is 'until he brings his atonement,'[12] what need was there for two texts[13] in respect of holy food? — [They are both] required. For had the All Merciful written about the woman after childbirth only,[14] the law[15] might have been said to apply to her only because her uncleanness is of long duration,[16] but not to a zab. And had the All Merciful written the law[17] in connection with a zab only,[18] it might have been assumed to apply to him only since his uncleanness does not automatically cease,[19] but not to a woman after childbirth.[20] [Hence both texts were] necessary.

What was the need[21] for the text, It must be put into water, and it shall be unclean until the even?[22] — R. Zera replied: In respect of touch;[23] as it was taught: And it shall be unclean[24] might have been taken to refer to all cases,[25] hence it was stated, Then shall it be clean.[26] And if only Then shall it be clean[26] had been stated it might have been assumed to refer to all cases,[27] hence it was stated, And it shall be unclean.[28] How then [are the two to be reconciled]? The one[29] refers to [second] tithe and the other[30] to terumah. But might not the deduction be reversed? — It stands to reason that as the eating of terumah is more restricted than the eating of tithe, so shall the touching of terumah be more restricted than the touching of tithe.

If you prefer I might say that the prohibition against the touching of terumah[31] is deduced from the following. It was taught:[32] She shall touch no hallowed thing,[33] is a warning against its consumption.[34] Perhaps it is not so, but against touching it? It was stated, She shall touch no hallowed thing, nor come into the sanctuary;[33] the hallowed thing is thus compared to the sanctuary; as [an offence against] the sanctuary involves loss of life,[35] so [must the offence against] the hallowed thing be such as involves loss of life, while in respect of touch no loss of life is involved; and the reason [why eating] was expressed by a term denoting touch is to indicate that touching and eating are equally [forbidden].[36]

[A PRIEST WHO IS] WOUNDED IN HIS STONES etc. Who is it that taught: A woman subject to a pentateuchally forbidden cohabitation[37] may eat terumah?[38] — R. Eleazar replied: This question is the subject of a dispute, and the ruling here is that of R. Eleazar and R. Simeon.[39] R. Johanan said: [The ruling here] may even be that of R. Meir,[39] the circumstances here being different, since the woman has already been eating.[40] And R. Eleazar? — The argument, 'since she has already been eating' cannot be entertained; for should you not admit this,[41] a daughter of an Israelite who was married to a priest and whose husband subsequently died, should also be permitted to eat terumah since she has already been eating it.[42] And R. Johanan? — There,[43] his kinyan had completely lapsed;[44] here, however, his kinyan did not lapse.[45]

WHAT IS TERMED A PEZU'A? Our Rabbis taught: What is termed a pezu'a dakkah? A man both of whose stones were wounded or even only one of them; even though they were only punctured, crushed, or simply defective. Said R. Ishmael son of R. Johanan b. Beroka: I heard from the mouth of the Sages at the Vineyard[46] at Jabneh that one having only one stone is a natural born eunuch[47] and is, therefore, a fit person. How could it be said that such a person is a natural born eunuch![48] — Say rather, he is like a natural born eunuch and is, therefore, fit.[49]

Is [a man whose stones are] punctured incapable of procreation? Surely, a man once climbed up a palm tree

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(1) In the same section.

(2) Lev. XII, 4.

(3) V. Mak. 14b. The proselyte and emancipated slave are also included in such a prohibition.
(4) One may be applicable to one class of persons. and another to others.
(5) Lev. XXII, 4. ibid. 7, and ibid. XII, 4, which , as explained supra. refer to terumah.
(6) Lev. XXII, 4.
(7) Cleanness is effected.
(8) Ibid. 7.
(9) Ibid. XII, 4. which speaks of a woman after childbirth, who is liable to bring a sacrifice and is, nevertheless, regarded as clean in respect of terumah immediately after the sunset of the last day of the prescribed period.
(10) V. supra n. 24.
(11) Both of whom are liable to bring sacrifices.
(12) The text referring to holy food, terumah having been deduced by him from Lev. XXII, 7.
(13) Lev. XII, 8 and ibid. XXII, 4.
(14) I.e., Lev. XII, 8.
(15) That the prescribed sacrifice must be brought before cleanness is effected.
(16) Eighty days must elapse in the case of the birth of a daughter (v. Lev. XII. 5) before the mother is permitted to eat of terumah or of holy food.
(17) V. supra note 3.
(18) I.e., Lev, XXII, 4.
(19) He remains unclean however long his affliction may last.
(20) Who, in respect of connubial relations, is regarded as clean on the termination of the prescribed period, though the flow may still continue.
(21) In view of Lev. XXII, 7 which makes the consummation of cleanness dependent on sunset.
(22) Lev. XI, 32, which, also making the consummation of cleanness dependent on sunset, must, like Lev. XXII, 7 refer to terumah.
(23) Before sunset on the day of purification no terumah may come in contact with the unclean vessel; and the same restriction applies to the tebul yom (v. Glos.). This could not have been deduced from Lev. XXII, 7 which does not speak of touch or contact but of eating.
(24) Lev. XI, 32, even after it had been put in water.
(25) I.e., that the uncleanness remains in respect of both terumah and [second] tithe.
(26) Ibid. וטהר. The use of this form of the verb (which may also represent the present participle), instead of the imperfect, implies a state of cleanness even before the sun had set. (V. Rashi).
(27) That the state of cleanness arises, as soon as ablution had taken place, in respect of both tithe and terumah.
(28) Lev. XI, 32.
(29) The latter, Be clean.
(30) The former, Be unclean.
(31) On the part of a tebul yom. V. Glos.
(32) So Bah. Cur. edd. omit.
(33) Lev. XII, 4.
(34) Before the sunset of the last day of the prescribed period, the woman being regarded until then as a tebul yom, the ‘day’ (yom) being a ‘long one’ embracing all the days of the prescribed period.
(35) The penalty for entering the sanctuary while one is unclean is kareth. Cf. Num. XIX, 20.
(36) To the unclean or the tebul yom.
(37) As is the case in our Mishnah with the wife of the mutilated priest with whom no cohabitation has yet taken place after his mutilation, though such cohabitation may still take place at any moment.
(38) V. our Mishnah.
(39) V. supra 57b.
(40) Before her husband was disabled. She is not deprived of a privilege she had been enjoying though she may not be entitled to new privileges.
(41) That the argument is untenable.
(42) Which is absurd. The argument is consequently untenable.
(43) The case of a priest who married the daughter of an Israelite and died.
(44) When he died. Hence the woman's loss of her privilege.

(45) Since the marriage had not been annulled.

(46) The College. So called because the students were sitting in rows arranged like the vines in a vineyard.

(47) סרים חמה lit., 'a eunuch through heat', i.e., fever, illness (v. Golds.) or 'a eunuch of the sun', i.e., from birth when the child first saw the sun (v. Jast.).

(48) The former surely might be the result of an accident!

(49) The prohibition being restricted to the wounded or crushed.

Talmud - Mas. Yevamoth 75b

and a thorn pierced his stones, [his semen] issued like a thread of pus, and, [despite the accident], he begat children! — In that case, as a matter of fact, Samuel sent word to Rab, telling him, 'Institute enquiries respecting the parentage of his children'.

Rab Judah stated in the name of Samuel: A man whose stones have been injured by a supernatural agency[1] is regarded as a fit person.[2] Said Raba: This is the reason why the Scriptural text reads, Who is wounded[3] and not 'the wounded'.[4]

In a Baraitha it was taught: It was said in Scripture. He who is wounded . . . shall not enter[3] and it was also said, A bastard shall not enter,'[5] as the latter is the result of human action, so is the former the result of human action.[6]

Raba stated: Wounded[3] applies to all,[7] crushed[3] applies to all,[7] and cut off[8] applies to all.[9] 'Wounded applies to all': Whether the membrum, the stones or the spermatic cords of the stones were injured. 'Crushed applies to all': Whether the membrum, the stones or the spermatic cords were crushed. 'Cut off applies to all': Whether the membrum, the stones or the spermatic cords were cut off.

A certain Rabbi asked Raba: Whence is it inferred that the expression pezu'a dakkah[8] refers to an injury in the privy parts; might it not be said to refer to the head? The other replied: As no number of generations is mentioned,[10] it may be inferred that the reference is to the privy parts.[11] But is it not possible that the reason why no number of generations is given in this case is because only he himself[12] is forbidden,[13] while his son and the son of his son are permitted! — [This must be] similar to the case of him whose membrum is cut off; as the latter involves the privy parts, so must the former involve those parts.

And whence is it inferred that the injury of the keruth shafekah[14] himself involves his privy parts? Might it not be one involving his lips![15] — Shafekah[16] is written, implying, 'at the spot where it discharges',[17] But might it not refer to one's nose? — It is not written, '[Cut] at the organ that discharges', but 'a cut organ that discharges'; thus implying that organ which in consequence of a cut discharges, and in the absence of a cut does not discharge but flows out. This excludes the nose which in either case[18] emits a discharge.[19]

In a Baraitha it was taught: It was said in Scripture. He who is wounded in his stones shall not enter,[8] and it was also said. A bastard shall not enter,[20] as the latter refers to the privy parts, so does the former refer to the privy parts.

In a case where a puncture beginning below the corona terminated[21] at the other end of it above the corona, R. Hiyya b. Abba desired to declare the sufferer as fit.[22] Said R. Assi to him: Thus ruled R. Joshua b. Levi, '[A perforation of] any size in the corona constitutes a bar [against fitness]'.

IF, HOWEVER, ANY PART OF THE CORONA REMAINED etc. Rabina, while sitting [at his studies], raised the following question: Must the HAIR'S BREADTH of which they spoke extend over the entire circumference thereof or only over its greater part? — 'The HAIR'S BREADTH', said Rabbah[23] Tosfa'ah to Rabina, must extend over the greater part of it and towards its upper section'.[24]

R. Huna ruled: If it[25] is cut away like a reed pen it constitutes no disqualification; if like a gutter[26] it causes disqualification. For in the latter case the air penetrates;[27] in the former it does not. R. Hisda, however, ruled: [If the cut was] in the shape of a gutter no disqualification is constituted; if it had the shape of a reed pen disqualification is constituted. For in the first case friction may be produced; in the latter it cannot.

Raba said: It is reasonable to adopt the view of R. Huna that in the latter case the air penetrates while in the former it does not. For in regard to friction it is only like a bung in a cask.[28]

Said Rabina to Meremar: Thus said Mar Zutra in the name of R. Papa, 'The law is that no disqualification is constituted whether the corona was cut away like a reed pen or like a gutter He raised, however, the question. [whether such a cut must be] below the corona or may even be above it?[24] — It is obvious that it may even be above it; for were it to be below the corona, the man would be regarded as fit even if the entire membrum there had been cut off. Rabina, however,[29] only desired to test Meremar.

Such an incident[30] once occurred at Matha Mehasia, and R. Ashi arranged for the corona to be cut into the shape of a reed pen, and then declared the man to be fit. It once happened at Pumbeditha that a man had his semen duct blocked, and the discharge of the semen made its way through the urinal duct. R. Bibi b. Abaye intended to declare the man fit. R. Papi, however, said to him, 'Because you are yourselves

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(1) Lit., 'by the hands of heaven', through lightning, for instance, or from birth.

(2) He is not included in the prohibition to enter the congregation of the Lord. V. infra n. 9.

(3) Deut. XXIII. 2.

(4) The definite article would have implied that the incapacity was of long standing. (Cf. supra note 7).

(5) Deut. XXIII, 3.

(6) Not that of a supernatural force. (Cf. supra note 7).

(7) The organs of procreation.

(8) Deut. XXIII. 2.

(9) The organs of procreation.

(10) Forbidding them to enter into the assembly of the Lord, as is the case with a bastard, an Ammonite, a Moabite etc. V. Deut. XXIII, 2ff.

(11) An injury which deprives one of the power of procreation.

(12) Who is wounded.

(13) To enter into the assembly of the Lord. V. ibid. 2.

(14) Here rendered, 'one whose membrum is cut off'.

(15) From which spittle may be emitted. Shafekah, from rt. שפך 'to pour out', emit'.

(16) Cf. supra n. 8.

(17) Spittle does not flow out of the mouth.

(18) Even when it is not cut.

(19) But does not ejaculate.

(20) Deut. XXIII. 3.

(21) By sloping upwards towards the body.

(22) Since one end of the perforation is below the corona.

(23) So Emden. Cur. edd. 'Raba'.

(24) Which is nearer to the body.

(25) The corona.

(26) The cut running across the centre and leaving the sides intact.

(27) Cooling the membrum and preventing the flow of the semen.

(28) Though the bung is cut away at its lower end it nevertheless closes the hole with its upper part which comes in contact with the sides of the bung hole. The contact produced by the upper part of the membrum is sufficient for the generation of the heat required for fertilization.

(29) In raising a question the answer to which was,so obvious.

(30) The cut having taken the shape of a gutter.

Talmud - Mas. Yevamoth 76a

frail beings you speak frail words;[1] through its proper duct it fertilizes but when not passing through its proper duct it does not fertilize.'

Rab Judah stated in the name of Samuel: If it had a small perforation which was closed up, the man is deemed to be unfit if the wound re-opens when semen is emitted, but if it does not re-open the man is regarded as fit.

In respect of this ruling Raba raised the question: Where? If the perforation is below the corona,[2] [the man should remain fit] even if it were cut off! — It means, in the corona itself. So it was also stated elsewhere: R. Mari b. Mar said in the name of Mar Ukba in the name of Samuel: If a hole that has been made in the corona itself is closed, the man is disqualified if it re-opens when semen is emitted; but if it does not [re-open the man is deemed to be] fit.

Raba the son of Rabbah sent to R. Joseph: Will our Master instruct us how to proceed.[3] The other replied: Warm barley bread is procured, and placed upon the man's anus. Thereby the flow of semen sets in, and the effect can be observed. Said Abaye: Is everybody like our father Jacob concerning whom it is written, My might, and the first-fruits of my strength,[4] because he never before experienced the emission of semen![5] — No, said Abaye, coloured garments[6] are dangled before him.[7] Said Raba: Is everybody then like Barzillai the]Gileadite![8] — In fact it is obvious that the original answer is to be maintained.

Our Rabbis taught: If it[9] was punctured [the man is regarded as] unfit, because the flow is sluggish.[10] If it was closed up [he is deemed to be] fit, because he is then capable of production. And this is a case where the unfit may return to his former state of fitness. What does the expression 'this' exclude? — It excludes the case where a membrane was formed on the lungs in consequence of a wound; since such cannot be regarded as a proper membrane.[11]

R. Idi b. Abin sent the following question to Abaye: How are we to proceed?[12] — A grain of barley is to be procured wherewith the spot[13] is lacerated.[14] Tallow is rubbed in, and a big ant, procured for the purpose, is allowed to bite in, and its head is severed.[15] It must be a grain of barley; an iron instrument would cause inflammation. This procedure, furthermore, applies only to a small perforation; a large one would peel off.

Rabbah son of R. Huna stated: A man who urinates at two points is an unfit person.[16]

Said Raba: The law is in agreement neither with the view of the son nor with that of the father. As to the son, there is the statement just mentioned. As to the father? — Since R. Huna said: Women who practise lewdness with one another are disqualified from marrying a priest.[17] And even according to R. Eleazar, who stated that an unmarried man who cohabited with an unmarried woman with no matrimonial intention renders her thereby a harlot, this disqualification ensues only it, the case of a man;[18] but when it is that of a woman[19] the action is regarded as mere obscenity.

MISHNAH. A MAN WHO IS WOUNDED IN HIS STONES, AND ONE WHOSE MEMBRUM IS CUT OFF, ARE PERMITTED TO MARRY A PROSELYTE OR AN EMANCIPATED SLAVE. THEY ARE ONLY FORBIDDEN TO ENTER INTO THE ASSEMBLY,[20] AS IT IS SAID IN SCRIPTURE, HE THAT IS WOUNDED IN HIS STONES OR HATH HIS PRIVY MEMBRUM CUT OFF SHALL NOT ENTER INTO THE ASSEMBLY OF THE LORD.[21]

GEMARA. R. Shesheth was asked: May a priest who is wounded in his stones marry a proselyte or an emancipated slave;[22] does he[23] remain in his state of holiness and is consequently forbidden[24] or does he not remain in his state of holiness and is consequently permitted?[24] — R. Shesheth replied: You have learned this [law in the following]. ‘An Israelite who is wounded in his stones is permitted to marry a nethinah’.[25] Now, were it to be assumed that he[26] retains his holiness, the text, Neither shalt thou make marriages with them[27] should be applicable here.[28] Said Raba: Is the law there[29] due at all to sanctity or non-sanctity? [It is merely due to] the possibility that he[30] might beget a child who[31] would proceed to worship idols. This, then, is applicable only when they[32] are still idol worshippers. When, however, they are converted, they are undoubtedly permitted,[33] and it was only the Rabbis who placed them[34] under a prohibition as a preventive measure.[35] But such a preventive measure was instituted by the Rabbis in respect of those only who are capable of procreation, not in respect of those who are incapable of procreation.[36]

Now, then,[37] a bastard also, since he is capable of procreation,[38] should also be forbidden,[39] while in fact, we have learned, ‘Bastards and nethinim may intermarry with one another’![40] — In fact [this is the explanation:] the Rabbis instituted a preventive measure only in the case of the fit but not in that of the unfit.[41]

Subsequently Raba stated: What I said[42] is of no consequence. For while they are still idolaters their marriages are invalid; only when they are converted are their marriages valid.[43]

R. Joseph raised an objection: And Solomon became allied to Pharaoh King of Egypt by marriage, and took Pharaoh's daughter![44] — He caused her to be converted. But, surely, no proselytes were accepted either in the days of David or in the days of Solomon![45] — Was there any reason for it[46] but [that the motive of the proselytes might be the benefits] of the royal table?

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(1) מוליתא = ממולאי ‘frail things’, applied to the speaker's clan as well as to his rulings. דאתו, ‘because you’. מולאי may also mean ‘short lived people’ and דאתו according to Bah, should read דאתיתו משום דאתיתו ממולאי ‘because you are descendants of short lived people’. R. Bibi was a descendant of the house of Eli who were condemned to die young (v. I Sam. II, 32f). The expression may also, like a similar root in Arabic, bear the meaning of ‘foolishness’. (Cf. B.B. Sonc. ed. p. 582, n. 6).

(2) Away from the body.

(3) With the test, when it is desired to ascertain whether the semen will re-open a closed up perforation.

(4) Gen. XLIX, 3, referring to Reuben, Jacob's firstborn son.

(5) Other people are not so saintly. Why then should the elaborate test described be necessary in ordinary cases?

(6) Peculiar to women.

(7) Exciting his passions and thus causing a discharge.

(8) Known for his indulgence in carnal gratification (v. Shab. 152a).

(9) The duct of the semen.

(10) And does not fertilize.

(11) It may easily burst. The lungs are, therefore, regarded as wounded, and the animal from which they were taken is unfit for consumption. Cf. Hul. 42a.

(12) In healing a perforated membrum.

(13) Round the perforation.

(14) The shreds thus formed ultimately join and aid in closing up the perforation.

(15) Thus remaining in the cavity and assisting in the closing up and healing.

(16) He is similar to the disabled persons spoken of in Deut. XXIII, 2.
(17) Shab. 65a.
(18) Who cohabited with a woman.
(19) Indulging in lewdness with another.
(20) They may not marry the daughter of an Israelite.
(21) Deut. XXIII. 2.
(22) I.e., women whom a priest is forbidden to marry.
(23) The disabled priest.
(24) To marry the women mentioned (Cf supra n. 6).
(25) Fem. of nathin for which v. Glos.
(26) A disabled man.
(27) Deut. VII, 3.
(28) How, then, is an Israelite permitted to marry a nethinah! Since, however, the law does permit him to marry such a woman it is obvious that a disabled man loses his sanctity. As the disabled Israelite loses his sanctity so does the disabled priest lose his.
(29) In the case of marriage between a fit or disabled Israelite and an idolatress or a nethinah.
(30) The man who marries an idolatress.
(31) Through the influence of his mother.
(32) The women spoken of in Deut. VII, 3.
(33) Pentateuchally. Cur. edd., ‘In Israel’ should be omitted with the 1509 Pesaro ed. (cf. Golds.).
(34) The nethinah as well as the idolatress.
(35) V. infra 78b.
(36) This is the reason why a disabled Israelite is permitted to marry a nethinah. No inference, therefore, may be drawn from this in respect of a disabled priest.
(37) Since in respect of those who are capable of procreation the Rabbis did institute a preventive measure.
(38) And is Pentateuchally forbidden to marry an idolatress.
(39) To marry a nethinah, as a preventive measure of the Rabbis.
(40) Kid. 6.
(41) Those, e.g., spoken of in Deut. XXIII, 2f.
(42) V. Bah. That Deut. VII, 3 refers to idolaters only and not to proselytes.
(43) Deut. VII, 3, must consequently refer to proselytes, the prohibition being due to the Israelite's sanctity. As the nethinah was not forbidden to the disabled Israelite it follows that a disabled man, be he priest or Israelite, loses his sanctity; as at first suggested supra.
(44) I Kings III. 1. The term ויתחתן ‘allied . . . . by marriage’ implies recognition of validity of marriage. The Talmudic text of the verse seems to represent an abbreviation of M.T.
(45) Cf. supra 24b.
(46) For the refusal to admit proselytes.

Talmud - Mas. Yevamoth 76b

Such a woman[1] obviously was in no need of it.[2] But let the inference[3] be drawn from the fact that she[1] was an Egyptian of the first generation![4] And were you to reply that those[5] had already departed, and these[6] are others;[7] surely, it may be pointed out, it was taught: R. Judah stated, ‘Menjamin, an Egyptian proselyte, was one of my colleagues among the disciples of R. Akiba, and he told me: I am an Egyptian of the first generation and married an Egyptian woman of the first generation; I shall arrange for my son to marry an Egyptian of the second generation in order that my grandson may be enabled to enter into the congregation of Israel!’[8] R. Papa replied: Are we to take our directions from Solomon! Solomon did not marry at all,[9] for it is written, Of the nations concerning which the Lord said unto the Children of Israel: ‘Ye shall not go among them, neither shall they come among you; for surely they will turn away your heart after their gods’; Solomon did cleave unto them in love.[10] The expression. And he become allied. . . in marriage,[11] however, presents a difficulty![12] — On account of his excessive love for her. Scripture regards him as if he had become allied by marriage to her. Said Rabina to R. Ashi: Surely we learned A MAN WHO IS WOUNDED IN HIS STONES, AND ONE WHOSE MEMBRUM VIRILE IS CUT OFF, ARE PERMITTED TO MARRY A PROSELYTE OR AN EMANCIPATED SLAVE, [from which it follows] that they are forbidden to marry a nethinah![13] — The other replied: According to your view,[14] read the final clause, THEY ARE ONLY FORBIDDEN TO ENTER INTO THE ASSEMBLY, [from which it follows] that they are permitted to marry a nethinah! But [the fact is that] no inference may be drawn from this Mishnah.

MISHNAH. AN AMMONITE AND A MOABITE ARE FORBIDDEN[15] AND THEIR PROHIBITION IS FOR EVER[16] , THEIR WOMEN, HOWEVER, ARE PERMITTED AT ONCE.[17] AN EGYPTIAN AND AN EDOMITE ARE FORBIDDEN[18] ONLY UNTIL THE THIRD GENERATION.[19] WHETHER THEY ARE MALES OR FEMALES. R. SIMEON, HOWEVER, PERMITS THEIR WOMEN FORTHWITH.[17] SAID R. SIMEON: THIS LAW[20] MIGHT BE INFERRED A MINORI AD MAJUS: IF WHERE THE MALES ARE FORBIDDEN FOR ALL TIME[21] THE FEMALES ARE PERMITTED FORTHWITH,[22] HOW MUCH MORE SHOULD THE FEMALES BE PERMITTED FORTHWITH WHERE THE MALES ARE FORBIDDEN UNTIL THE THIRD GENERATION ONLY.[23] THEY REPLIED: IF THIS[20] IS AN HALACHAH,[24] WE SHALL ACCEPT IT; BUT IF IT IS ONLY AN INFERENCE,[25] AN OBJECTION CAN BE POINTED OUT. HE REPLIED: NOT SO.[26] [BUT IN FACT] IT IS AN HALACHAH THAT I AM REPORTING.

GEMARA. Whence are these laws inferred? — R. Johanan replied: Scripture stated, And when Sail saw David go forth against the Philistine, he said into Abner, the captain of the host: ‘Abner, whose son is this youth’? And Abner said: ‘As thy soul liveth, O King, I cannot tell’.[27] But did he[28] not know him? Surely it is written, And he loved him greatly; and he became his armour bearer![29] — He rather made the inquiry concerning his father. But did he not know his father? Surely it is written, And the man was an old man in the days of Saul, stricken in years among them;[30] and Rab or, it might be said, R. Abba, stated that this referred to the father of David, Jesse. who came in with an army[31] and went out with an army![31] — It is this that Saul meant: Whether he descended from Perez,[32] or from Zerah.[33] If he descended from Perez he would be king, for a king breaks[34] for himself a way and no one can hinder him. If, however, he is descended from Zerah he would only be an important man.[35] What is the reason why he gave instructions that enquiry be made concerning him? — Because it is written, And Saul clad David with his apparel.[36] being of the same size as his,[37] and about Saul it is written, From his shoulders and upward he was higher than any of the people.[38] Doeg the Edomite then said to him,[39] ‘Instead of enquiring whether he is fit to be king or not, enquire rather whether he is permitted to enter the assembly or not’! ‘What is the reason’?[40] ‘Because he is descended from Ruth the Moabitess’. Said Abner to him,[41] ‘We learned: An Ammonite,[42] but not an Ammonitess; A Moabite,[42] but not a Moabitess![43] But in that case[44] a bastard[45] would’ imply: But not a female bastard?’ — ‘It is written mamzer [Which implies] anyone objectionable’.[46] ‘Does then[47] Egyptian[48] exclude the Egyptian woman’? — ‘Here[49] it is different, since the reason for the Scriptural text is explicitly stated: Because they met you not with bread and with water;[50] it is customary for a man to meet [wayfarers]; It is not, however, customary for a woman to meet [them]’.[51]

‘The men should have met the men and the women the women!’

He[52] remained silent, Thereupon. the King said.’[53] ‘Inquire thou whose son the stripling is’.[54] Elsewhere he calls him youth;[55] and here[54] he calls him, stripling![56] — It is this that he implied, ‘You have overlooked[57] an halachah,’ go and enquire at the college!’ On enquiry, he was told: An Ammonite,[58] but not an Ammonitess; A Moabite,[58] but not a Moabitess.

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(1) Pharaoh's daughter.

(2) Hence she could be accepted.
(3) That marriage with a forbidden woman is valid.
(4) Who is forbidden to marry into the congregation of Israel. The third generation only is permitted. (V. Deut. XXIII. 9).
(5) The old Egyptians spoken of in the text cited (supra n. 4).
(6) The Egyptians of later times.
(7) Other nations superseded them. Hence the prohibition does not apply to them.
(8) Which shews that even after the days of Solomon the Egyptians were still regarded as the descendants of the ancient inhabitants of Egypt.
(9) His marriage with Pharaoh's daughter was an invalid one, and she could only be regarded as his mistress.
(10) I Kings XI. 2, emphasis on love, sc. he did not marry them.
(11) V.supra p. 514, n. 15.
(12) Here the union is actually described as a marriage!
(13) Had they been permitted to marry such a woman, this should have been stated; and the permission to marry a proselyte and an emancipated slave would be inferred a minori ad majus. How then could it be stated, supra 76a. that a nethinah is permitted to be married to a man wounded in his stones?
(14) That a nethinah is forbidden to marry disabled men.
(15) To enter the assembly of the Lord (v. Deut. XXIII. 4ff).
(16) V. ibid.
(17) Immediately after conversion.
(18) Cf. supra n. 2 and v. Deut. ibid. 8f.
(19) Exclusive. The third generation is permitted.
(20) That Egyptian and Edomite women are permitted to marry an Israelite immediately after their conversion.
(21) Ammonites and Moabites. for instance.
(22) Immediately after conversion.
(23) Egyptians and Edomites.
(24) I.e., a tradition R. Simeon received from his teachers.
(25) Of R. Simeon's own reasoning.
(26) Even though the ruling were based on an inference no valid objection could be advanced against it. V. Gemara infra.
(27) I Sam. XVII, 55.
(28) Saul.
(29) I Sam. XVI, 21.
(30) Ibid. XVII, 12.
(31) He was chief over six hundred thousand men (Rashi).
(32) The son of Judah. (V. Gen. XXXVIII. 29. Ruth, IV. 18ff).
(33) V. Gen. ibid. 30.
(34) Heb. פרץ ‘to break’, a play upon the rt. of Perez פרץ.
(35) Zerah of the rt. זרח ‘to shine’.
(36) I Sam. XVII, 38, his apparel — מדיו.
(37) כמדתו ‘like his size’, play upon מדיו of the same rt. מדד
(38) Ibid. IX, 2. His unusual stature impressed him.
(39) To Saul.
(40) That his eligibility to enter the congregation should be questioned.
(41) To Doeg.
(42) Deut. XXIII, 4.
(43) Supra 6a. The prohibition to enter into the congregation (v. ibid.). since the masculine gender was used in the text, applies to the males only
(44) If the masculine gender excludes the women.
(45) Deut XXIII,3 ממזר masc.
(46) Man or woman. מום זר lit., ‘anything strange’, play upon ממזר.
(47) If the masculine gender excludes the women.

(48) Deut. XXIII, 8 מצרי masc.
(49) In the case of the Ammonite and Moabite.
(50) Ibid. 5.
(51) The women were, therefore, excluded from the prohibition.
(52) Abner.
(53) To Doeg. V. infra.
(54) 1 Sam. XVII, 56.
(55) נעַר ibid. 55.
(56) עֶלֶם.
(57) Lit., ‘it was concealed’; rt. עלם the same as that of עֶלֶם (v. supra n. 9).
(58) Deut. XXIII. 4.

Talmud - Mas. Yevamoth 77a

As, however, Doeg submitted to them all those objections[1] and they eventually remained silent, he desired to make a public announcement against him.[2] Presently [an incident occurred]: Now Amasa was the son of a man, whose name was Ithna the Israelite, that went in to Abigal[3] the daughter of Nahash,[4] but elsewhere it is written, Jether the Ishmaelite![5] This teaches, Raba explained, that he girded on his sword like an Ishmaelite and exclaimed, ‘Whosoever will not obey the following halachah will be stabbed with the sword; I have this tradition from the Beth din of Samuel the Ramathite: An Ammonite but not an Ammonitess; A Moabite, but not a Moabitess’![6] Could he, however, be trusted?[7] Surely R. Abba stated in the name of Rab: Whenever a learned man gives directions[8] on a point of law, and such a point comes up [for a practical decision], he is obeyed if his statement was made[9] before the event;[10] but if it was not so made he is not obeyed! Here the case was different, since Samuel and his Beth din were still living.[11]

The difficulty,[12] however, still remains! — The following[13] interpretation was given: All glorious is the king's daughter within.[14] In the West[15] it was explained. others quote it in the name of R. Isaac: Scripture said, And they said unto him: ‘Where is Sarah thy wife?’ etc.[16]

The question[17] is a matter in dispute between Tannaim: An Ammonite,[18] but not an Ammonitess; A Moabite,[18] but not a Moabitess. So R. Judah. R. Simeon, however, said: Because they met you not with bread and with water;[19] it is customary for a man to meet etc.[20]

Raba made the following exposition: What was meant by, Thou hast loosed my bonds![21] David said to the Holy One, blessed be He, ‘O Master of the world! Two bonds were fastened on me,[22] and you loosed them: Ruth the Moabitess[23] and Naamah the Ammonitess.[24]

Raba made the following exposition: What was meant by the Scriptural text, Many things hast Thou done, O Lord my God, even Thy wondrous works, and Thy thoughts toward us?[25] It is not written, ‘toward me’, but toward us. This teaches that Rehoboam[26] sat on the lap of David when the latter said to him. ‘Those two Scriptural verses[27] were said concerning me and you.’[28]

Raba made the following exposition: What was meant by the Scriptural text, Then said I: ‘Lo, I am come with the roll of a book which is prescribed for me’?[29] David said,[30] ‘I thought I have come[31] only now; but I did not know that in the Roll of the Book[32] it was already[33] written about me’. For there it is written, That are found,[34] and here it is written. l have found[35] David My servant; with My holy oil have I anointed him.[36]

‘Ulla said in the name of R. Johanan: The daughter of an Ammonite proselyte[37] is eligible to marry a priest. Said Raba b. ‘Ulla to ‘Ulla: In accordance with [whose view is your statement made]? If in accordance with that of R. Judah, he surely had stated that the daughter of a male proselyte is like the daughter of a male halal![38] And if in accordance with the view of R. Jose, your statement is self-evident,for surely he had stated: Even where a male proselyte had married a female proselyte his daughter is eligible to marry a priest![39] And were you to reply that this[40] applies to such as are fit to enter the assembly[41] but not to this man who[42] is not fit to enter the assembly[43] whence [it may he asked] is this distinction [inferred]! — It is inferred from the case of a High Priest who married a widow.[44] [But it may be objected] the marriage between a High Priest and a widow is different, since his cohabitation constitutes a transgression![45] — [Then the case of the] halal proves it?[46] [But it may be objected that] a halal is different since his formation was in sin![47] — [Then the case of the] High Priest[48] proves it; and thus the argument will go round;[49] though the aspect of the one is unlike that of the other and the aspect of the other is unlike that of the first, their common characteristic is that either of them is unlike the majority of the assembly[50] and his daughter[51] is ineligible,[52] so here also since he[53] is unlike the majority of the assembly,[54] his daughter should be ineligible.[52] [But it may again be objected] their common characteristic[55] is different, since it also involves an aspect of sin![56] Did you possibly[57] speak of an Ammonite who married the daughter of an Israelite,[58] [informing us that], though his cohabitation is an act of transgression, his daughter is nevertheless eligible? — The other replied: Yes; for when Rabin came[59] he reported in the name of R. Johanan on the daughter of an Ammonite proselyte[60] and the daughter of an Egyptian of the second generation[60] that R. Johanan declared her eligible[61] while Resh Lakish maintained that she was ineligible.[61]

'Resh Lakish maintained that she was ineligible', for he infers this case from that of a High Priest who married a widow. 'R. Johanan declared her eligible'.

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(1) Addressed to Abner supra.

(2) To brand David publicly as a descendant of a Moabitess, and unfit to enter the congregation of Israel in accordance with Deut. XXIII, 4.

(3) Cur. edd., 'Abigail', is apparently a printer's error (cf. M.T.). V., however, I Chron. II, 17.

(4) II Sam. XVII, 25.

(5) I Chron. II, 17. Some MSS, read Ishmaelite in the [text of Sam. also. How then are the two readings to be reconciled?

(6) V. supra p. 517, n. 17. [On the political issues involved in this controversy v. Aptowitzer, Parteipolitik der Hasmonaerzeit pp. 31ff. He regards the attack on the legitimacy of David as a movement inspired by the Sadducees to support the Hasmoneans' right to the throne against the challenge of their opponents. V. Kid. Sonc. ed. pp. 332ff].

(7) In such circumstances.

(8) Basing his ruling on traditional law which he claims to have received from his teachers.

(9) In the course of his discourses and studies.

(10) Before the point of law assumed practical importance.

(11) Had not the statement been a true on, he would not have ventured to make it when its validity could be so easily tested.

(12) Raised by Doeg (supra 76b) to which no reply was forthcoming

(13) Cf. Bah. a.l.

(14) Ps. XLV, 14. Respectable women remain at home and do not go into the open road even to meet members of their own sex. No blame, therefore, is attached to the Ammonite and Moabite women for not meeting the Israelites with bread and with water. Cf. Deut. XXIII, 5.

(15) Palestine.

(16) Gen XVIII, 9, and he answered, 'Behold in the tent'. Sarah remained indoors attending to the duties of her household, though there were visitors whom Abraham was entertaining in the open under the tree (ibid. 4).

(17) As to the Scriptural text from which the admission of Ammonite and Moabite women is deduced.

(18) Deut. XXIII, 4.

(19) Ibid. 5.

(20) V. supra 76b.

(21) Ps. CXVI, 16.

(22) Upon David's dynasty.

(23) From whom David himself descended. V. Ruth IV. 13. 17ff.

(24) The wife of Solomon and mother of Rehoboam, David's grandson. V. I Kings XIV, 21, 31.

(25) Ps. XL, 6.

(26) V. supra p. 519. n. 17.

(27) Gen. XVIII. 9 and Ps, XLV. 14, from which the permissibility of admitting Ammonite and Moabite women into the congregation of Israel was deduced.

(28) Divine providence which permitted Ammonite and Moabite women to enter the assembly has saved them from being excluded from the congregation of Israel.

(29) Ps. XL. 8.

(30) When he was anointed king.

(31) To the kingship.

(32) The Scroll of the Law, the Pentateuch.

(33) Since the days of Abraham.

(34) Gen. XIX. 1, (rt. מצא) referring to the two daughters of Lot. from whom descended Ammon and Moab respectively.
(35) Rt. מצא.
(36) Ps. LXXXIX. 21.
(37) It is now assumed that the daughter was born from an Ammo- nite father and mother after their conversion.
(38) Who is forbidden to marry a priest! Kid. 77a. For halal v. Glos.
(39) Kid. loc. cit.
(40) The dispute between ‘R. Judah and R. Jose.
(41) Those of the nations who are not forbidden by the prohibitions prescribed in Deut. XXIII.
(42) As an Ammonite.
(43) In accordance with the prohibition in Deut. XXIII. 4. (20) Between an Ammonite's daughter who, as a female, is not included in the prohibition, and the daughter of any other people. What proof is there that a father's status deprives a daughter of her rights?
(44) As the daughter of a High Priest who is forbidden to marry a widow, is ineligible to marry a priest, so is the daughter of an Ammonite proselyte.
(45) The marriage between an Ammonite and an Ammonitess, however, is no transgression.
(46) The marriage by a halal (v. Glos.) of the daughter of an Israelite constituting no transgression, and yet his daughter is ineligible to marry a priest.
(47) A halal is the offspring of a forbidden union; the Ammonite proselyte is not. How, then, could the latter be inferred from the former?
(48) Whose formation was not in sin, and yet his daughter is forbidden.
(49) If objection is raised against the case of the High Priest. that of the halal will be adduced as proof; and if objection is raised against that of the halal, the case of the High Priest will be adduced as proof.
(50) As to the High Priest his cohabitation is forbidden, and as to the halal his formation was in sin.
(51) The High Priest's and the halal's.
(52) To marry a priest.
(53) The Ammonite proselyte.
(54) He is forbidden to enter the assembly of the Lord (Deut. XXIII. 4).
(55) That of the High Priest and the halal.
(56) The daughter of the High Priest was born in sin, since the marriage of her parents was a forbidden one, and in the case of the daughter of the halal, the birth of the father was in sin. In the case of the Ammonite proselyte, however, neither the daughter nor her father was born in sin. How, then, could this case be inferred from the two former? And thus the question remains, what need was there for R. Johanan to teach the evident case of the daughter of an Ammonite proselyte?
(57) ‘Certainly’ is to be deleted. V. Bah.
(58) Not as previously assumed (v. supra p. 520, n. 13)
(59) From Palestine to Babylon.
(60) Who married the daughter of an Israelite and thus contracted a forbidden union.
(61) To marry a priest.

Talmud - Mas. Yevamoth 77b

as R. Zakkai recited[1] in the presence of R. Johanan, ‘[The expression,] But a virgin of his own people shall he take to wife,[2] includes a woman who is fundamentally a proselyte[3] who is eligible to marry a priest’, and the other said to him, ‘I learn: ["Since. instead of] ‘His people’. Of his people [was written]. a virgin who descended from two peoples[4] is also included", and you mention only a fundamental proselyte and no other!’ Now. what is meant by ‘two peoples’? If it be suggested that it refers to the case of an Ammonite who married an Ammonitess. and that these are described as of ‘two peoples’ because the males are forbidden and the females are permitted, such a case [it may be objected] is the same as that of a fundamental proselyte! Consequently it must refer to an Ammonite who married the daughter of an Israelite.[5]

Others say: He said to him,[6] ‘I learn: ["Since, instead of] ‘His people’. Of his people[2] [was written], a virgin who is descended from two peoples[7] and from a people consisting of two groups of people[8] is included", and you mention only a fundamental proselyte and no other!’[9]

According to this latter version, however,[10] whence is it inferred that the daughter of an Egyptian of the second generation[11] is eligible to marry a priest? And should you suggest that this might be inferred from the case of an Ammonite who married the daughter of an Israelite, [it may be objected that] the case of the Ammonite who married the daughter of an Israelite is different since the Ammonite females are eligible.[12] — An Egyptian of the second generation who married an Egyptian woman of the second generation might prove it.[13] But [it may be objected that the case] of an Egyptian of the second generation who married an Egyptian woman of the second generation is different since his cohabitation constitutes no transgression? — An Ammonite who married the daughter of an Israelite might prove it,[14] and thus the argument would go round etc.[15]

Said R. Joseph: This[16] then it is that I heard Rab Judah expounding on ‘His people. Of his people’ and I did not [at the time] understand what he meant.[17]

When R. Samuel b. Judah came, he stated: Thus he[18] recited in his[19] presence: An Ammonite woman is eligible;[20] her son that is born from an Ammonite is ineligible; and her daughter that is born from an Ammonite is eligible. This, however, applies only to an Ammonite and an Ammonitess who were converted; but her daughter that was born from an Ammonite is ineligible. [On hearing this] the other said to him, ‘Go recite this outside. For your statement that "an Ammonite woman is eligible" [is quite acceptable, since] Ammonite[21] excludes the Ammonitess. That "her son that is born from an Ammonite is ineligible" [is also correct] since he is in fact an Ammonite. In what respect, however, is "her daughter that was born from an Ammonite eligible"? If in respect of entering the assembly, is there, now that her mother is eligible. any need to mention her! The eligibility must consequently be in respect of marrying a priest. [But then what of the statement], "this, however, applies only to an Ammonite and an Ammonitess who were converted; but her daughter that was born from an Ammonite is ineligible"? What is meant by "her daughter that was born of an Ammonite"? If it be suggested that it refers to an Ammonite who married an Ammonitess,[22] then this is the same case as that of a fundamental proselyte![23] Consequently it must refer to an Ammonite who married the daughter of an Israelite’.[24] [Concerning this] he told him. ‘Go recite this outside’.[25]

AN EGYPTIAN AND AN EDOMITE ARE FORBIDDEN ONLY etc. What is the OBJECTION?[26] — Raba b. Bar Hana replied in the name of R. Johanan: Because it may be said that the case of forbidden relatives proves it,[27] since in respect of them the prohibition extends to the third generation only[28] [and is nevertheless applicable to] both males and females.[29] [But can it not be argued that the case] of forbidden relatives is different.[30] since in their case the penalty of kareth is involved?[31] — [The case of the] bastard[32] proves it. [But can it not be suggested that the case] of the bastard is different[33] since he is forever ineligible to enter the congregation?[34] — [The case of] forbidden relatives[35] proves it. Thus the argument could go round.[36] The aspects of one are unlike those of the other and the aspects of the other are unlike those of the first. Their common characteristic, however, is that both males and females are equally forbidden; so might one also include the Egyptian man and the Egyptian woman so that in their case also both males and females should be equally forbidden.[37] This common characteristic, however, [it may be retorted,] is different.[33] since in one respect it also involves kareth.[38] And the Rabbis?[39] They infer it[40] from the halal[41] who is the offspring of a union between those who through it, are guilty of transgressing a positive commandment;[42] and in accordance with the view of R. Eliezer b. Jacob.[43] Then what is meant by, NOT SO?[44] — It is this that he said to them: As far as I am concerned, I do not accept the view of R. Eliezer b. Jacob;[45] but according to you, since your view is that of R. Eliezer b. Jacob,[46] [my reply is that] IT IS AN HALACHAH THAT I AM REPORTING.[47]

It was taught: R. Simeon said to them,[48] ‘I am reporting an halachah and, moreover, a Scriptural text supports my view, [it having been written] sons[49] but not daughters’.

Our Rabbis taught: Sons,[49] but not daughters; so R. Simeon. R. Judah, however, said: Behold it is said in Scripture. The sons of the third generation that are born unto them;[50] Scripture has made them dependent on birth.[51]

R. Johanan said: Had not R. Judah declared, ‘Scripture made them dependent on birth’,[52] he would not have found his hands and feet at the house of study.[53] For as a Master said that a congregation of proselytes is also called an assembly.[54]

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(1) I.e., from this statement it is deduced what was R. Johanan's view.

(2) Lev. XXI, 14.

(3) Or ‘a proselyte of her own status’ (Jast.). who was a proselyte from her birth, i.e., when her father and mother were converted after their marriage and before her birth. Where an Ammonite proselyte marries the daughter of an Israelite, the offspring of such a union is not fundamentally a proselyte and is ineligible to marry a priest since the union was a forbidden one.

(4) This is explained presently

(5) Thus it is proved (v. supra n. 4) that, in the opinion of R. Johanan, such a case is eligible.

(6) R. Johanan to R. Zakkai.

(7) From the daughter of an Israelite who married an Ammonite proselyte.

(8) I.e., whose father is the Ammonite proselyte, a descendant of a people whose males are forbidden and whose females are permitted.

(9) According to this version, unlike the former where it was arrived at by inference. R. Johanan's view is explicitly stated.

(10) Since the case of the Ammonite only was mentioned. (Cf. supra n. 2).

(11) Who married the daughter of an Israelite and thus contracted a forbidden union.

(12) While the Egyptian females, like the man, are forbidden for three generations.

(13) His daughter is permitted since she belongs to the third generation, although she also belongs to the Egyptian people whose males and females are equally forbidden. As this latter restriction is no bar in this case it should form no bar in the case of an Egyptian of the second generation who married the daughter of an Israelite.

(14) His daughter is eligible though his marriage constitutes a transgression.

(15) Continued as supra 77a.

(16) The ruling permitting the daughter of an Ammonite proselyte who married the daughter of an Israelite.

(17) R. Joseph, as a result of a serious illness, lost his memory and only dimly recollected some of the rulings and expositions of his teachers.

(18) R. Zakkai. V. supra.

(19) R. Johanan's.

(20) This is explained presently.

(21) Deut. XXIII, 4.

(22) Who were converted prior to the birth of their daughter.

(23) Who, as stated in the first clause, is eligible!

(24) The daughter being ineligible because of the forbidden marriage of her parents.

(25) In such a case also the daughter is eligible as deduced supra from the expression, Of his people (Lev. XXI. 14) instead of ‘his people’.

(26) That can be advanced, according to the Rabbis, against R. Simeon's argument in our Mishnah.

(27) That R. Simeon's argument is untenable.

(28) Both in the ascending and the descending line.

(29) Similarly in the case of the Egyptian and the Edomite.

(30) I.e., it is more restricted than that of marriage with an Egyptian etc.

(31) Since they are subject to the one restriction (kareth) they are also subject to the other (equal prohibition of males and females). The case of the Egyptian and the Edomite, however, which does not involve kareth might not include the females either!

(32) Cohabitation with whom is not subject to the penalty of kareth, and both males and females are nevertheless equally subject to the prohibition.

(33) I.e., it is more restricted than that of marriage with an Egyptian etc.

(34) As he is subject to this restriction he is also subject to the other (cf. supra n. 1).

(35) Who are only forbidden to intermarry with each other, but are severally permitted to all the other members of the congregation.

(36) Should objection be raised against the case of the forbidden relatives, that of the bastard could be adduced as proof; and should objection be raised against that of the bastard, that of the forbidden relatives might be adduced as proof.

(37) This then, is the objection which the Rabbis could raise against R. Simeon's a minori argument.

(38) Even in the case of the bastard, kareth is involved as the penalty of his parents for the action which was the origin of his birth. In the case of the Egyptian and Edomite, however, there is no aspect whatsoever involving this penalty. The latter, therefore, cannot be deduced from the others.

(39) How could they still maintain their objection against R. Simeon's argument.

(40) The prohibition of the females.

(41) And not, as has previously been assumed, from the bastard.

(42) When, e.g., a High Priest married a seduced woman (cf. supra 60a) who is forbidden to him by virtue of the positive precept of Lev. XXI. 13.

(43) Who, contrary to the view of the Sages, regards such a child as halal (supra 59b and 60a). Thus it has been proved that even where no kareth is involved, both males and females (the halalah like the halal) are included in the prohibition. Similarly in the case of the Egyptians and the Edomites.

(44) The objection of the Rabbis is strong enough!

(45) Cf. supra p. 523. n. 13. ab. init., R. Simeon being of the opinion that the offspring of a union between those who are thereby guilty of transgressing a positive precept only is not regarded as a halal.

(46) And consequently you might derive the prohibition of the females from the law of the halal.

(47) And an objection is of no validity in the face of a definite tradition.

(48) The Rabbis of our Mishnah.

(49) בנים Deut. XXIII, 9.

(50) Ibid. emphasis on are born.

(51) Irrespective of sex. Had the law applied to males only the clause ‘that are born etc,’ should have been omitted.

(52) I.e., that the females also are forbidden.

(53) His position would have been untenable.

(54) The assembly of the Lord (cf. Deut. XXIII, 2, 3, 4, 9. and Kid. 73a.).

Talmud - Mas. Yevamoth 78a

how[1] could an Egyptian of the second generation ever attain purity![2] But is not this possible when he transgressed and did marry one?[3] — Scripture[4] would not have written of a case of ‘when’.[5] Behold the case of the bastard which is one of ‘when’[6] and yet Scripture did write it![7] — It wrote of a ‘when’ [leading] to a prohibition;[8] it would not have written of a ‘when’ [if it led] to permissibility.[9] Behold the case of the man who remarried his divorced wife,[10] which involves a ‘when’ [leading] to a permitted act[11] and yet did Scripture write of it! — In that case it was written mainly for the purpose of the original prohibition.[12]

Our Rabbis taught: If the expression of sons[13] was used, why was also that of generations[13] used; and if that of generations was used, why also that of sons?[14] If the expression of ‘sons’ had been used and not that of ‘generations’[15] it might have been assumed that only the first and second son is forbidden but that the third[16] is permitted, the expression of ‘generations’[17] was, therefore, used. And had the expression of ‘generations’ only been used and not that of sons,[18] it might have been assumed that the precept was given only to those who stood at Mount Sinai,[19] the expression of sons’ was therefore used.[20] Unto them,[21] Count from them.[22] Unto them.[23] Be guided by the status of the ineligible among them.[24]

It was necessary [for Scripture] to write unto them,[25] and it was also necessary for it to write, That are born.[25] For had the All Merciful written only. 'That are born', it might have been presumed that the counting must begin from their children,[26] hence did the All Merciful write 'Unto them'.[27] And had the All Merciful written only 'Unto them',[28] it might have been presumed that, where a pregnant Egyptian woman became a proselyte, she and her child are regarded as one generation. hence did the All Merciful write. 'That are born'.[29]

It was, furthermore. necessary to write unto them[28] in this case,[30] and Unto him[31] in respect of the bastard. For had the All Merciful used the expression here only,[30] [the restriction[32] might have been assumed to apply to this case only], because the child descended from a tainted origin.[33] but not to a bastard, since he is descended from an untainted origin.[34] And had the All Merciful written the expression in respect of the bastard, [the restriction[32] might have been presumed to apply to him only]. because he is for all time unfit to enter into the assembly, but not in this case.[35] [Both texts were, therefore,] required.

Rabbah b. Bar Hana stated in the name of R. Johanan: If an Egyptian of the second generation married an Egyptian woman of the first generation, her son is [regarded as belonging to the] third generation. From this it is obvious that he[36] is of the opinion that the child is ascribed to him.[37]

R. Joseph raised an objection: R. Tarfon said, 'Bastards may attain to purity. How? If a bastard married a female slave, their child is a slave. When, however, he[38] is emancipated he becomes a free man'.[39] This[40] clearly proves that the child is ascribed to her! — There it is different, because Scripture said, The wife and her children shall be her master's.[41]

Raba raised an objection: R. Judah related, 'Menjamin, an Egyptian proselyte. was one of my colleagues among the disciples of R. Akiba, and he once told me: I am an Egyptian of the first generation and married an Egyptian wife of the first generation; and I shall arrange for my son to marry an Egyptian wife of the second generation in order that my grandson shall be eligible to enter the congregation'.[42] Now, if it could be assumed that the child is ascribed to his father, [he could have married a wife] even of the first generation![43] — The fact is that[44] R. Johanan said to the Tanna:[45] Read, '[a woman of the] first generation'.

When R. Dimi came[46] he stated in the name of R. Johanan: If an Egyptian of the second generation married an Egyptian wife of the first generation. her son is [regarded as belonging to the] second generation. From this it is obvious that a child is ascribed to his mother.

Said Abaye to him: What then of the following statement of R. Johanan. 'If a man set aside a pregnant beast as a sin-offering and it then gave birth, his atonement may be made, if he desires, with the beast itself, and, if he prefers, his atonement may be made with her young'.[47] This law would be intelligible if you admit that an embryo is not regarded as a part[48] of its mother, since this case would be similar to that of one who set aside as a security two sin-offerings,[49] in respect of which R. Oshaia had stated that a man who set aside two sin-offerings as a security[49] is to be atoned for with either of them, while the other goes to the pasture.[50] If you maintain, however, that an embryo is a part[51] of its mother, the former is like the young of a sin-offering,[52] and the young of a sin-offering is sent to die![53] The other remained silent. 'Is it not possible', the first said to him, 'that there[54] it is different.[55] since it is written That are born,[56] Scripture made it dependent on birth'?[57] — 'Clever man',[58] the other replied, 'I saw your chief[59] between the pillars[60] when R. Johanan gave the following traditional ruling: The reason[61] here is because it was written, That are born;[56] elsewhere, however, the child is ascribed to the father'.[62]

What, however, of the following statement of Raba. ‘If a pregnant gentile woman was converted, there is no need for her son to perform ritual immersion’.[63] Why[64] is there no need for him to perform immersion? Should you reply that it[65] is due to a ruling of R. Isaac; for R. Isaac stated: Pentateuchally [a covering of] the greater part,[66] if one objects to it,[67] constitutes legally an interposition,[68] and if one does not object to,[69] no legal interposition is constituted;[70]

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(1) If Egyptian women were not included in the prohibition to enter the assembly.

(2) Entry into the assembly. Egyptian women proselytes being regarded, like Israelites, as an assembly (v. supra n. 12), no Egyptian male proselyte of the first or second generations would ever be permitted to marry them. How then, since he can marry neither a woman of Israel nor a proselyte of his own people, would he ever produce a third generation (v. Deut. XXIII, 9) that would be fit to enter the assembly?

(3) A woman in Israel or an Egyptian woman proselyte.

(4) In permitting the third generation (v. Deut. XXIII, 9).

(5) I.e., of a possibility that a person might transgress and thus produce a generation that will be fit.

(6) The assumption of a bastard's birth is dependent on the possibility that someone will commit an offence.

(7) Ibid. 3.

(8) The case of the bastard was stated in order to forbid his entry into the assembly.

(9) The third generation may enter (ibid.).

(10) After she had been married to another man (v. Deut. XXIV, 1ff).

(11) The children of such a marriage, as deduced from Deut. XXIV, 4, are eligible. (Kid. 77a and supra 11b).

(12) The ineligibility of the woman herself. The eligibility of her children is only indirectly arrived at by a deduction.

(13) Cf. Deut. XXIII, 9: The sons (E.V., children) that are born . . . the third generation.

(14) Either the one expression or the other should have been used throughout the context.

(15) The text reading the ‘third son’ instead of third generation.

(16) Though the son of a proselyte of the first generation.

(17) Indicating all the sons of the same generation.

(18) Reading ‘generations that are born’.

(19) And that Egyptians born three generations later than the date of the promulgation of the Law shall no more be subject to its restrictions.

(20) Indicating respectively individual sons in all subsequent generations.

(21) לָהֶם Deut. XXIII, 9.

(22) From the generation of the proselyte. He represents the first generation; his son, the second; and his grandson, being of the third, is permitted to enter the congregation.

(23) A second לָהֶם (v. p. 527. n. 18) not translated in E.V.

(24) Whether the father is an Egyptian proselyte and the mother is of Israel, or whether the mother is an Egyptian and the father is an Israelite. the children are in either case ineligible until the third generation.

(25) Deut. XXIII. 9.

(26) The proselytes themselves not being counted at all in the generations.

(27) To indicate that the proselytes themselves are regarded as the first generation.

(28) Deut. XXIII, 9.

(29) That birth constitutes a new generation:

(30) In respect of the Egyptian.

(31) Ibid. 3.

(32) That the ineligibility of any one of the parents causes the ineligibility of the child. Cf. supra note 2.

(33) Lit., ‘drop’. One of his parents at least was ineligible.

(34) His father and mother may have been proper Israelites.

(35) Since an Egyptian is permitted after the third generation.

(36) R. Johanan.

(37) Had he been ascribed to her he should have been regarded as belonging to the second generation.

(38) The child.

(39) V. Kid. 69a.

(40) Since the child, prior to emancipation, is regarded as a slave.

(41) Ex. XXI, 4, indicating that in this particular case, (that of the children of a female slave), the children are ascribed to their mother. This is no proof, however, that in other cases also children are to be ascribed to their mother.
(42) Tosef. Kid. V; Sotah 9a; supra 76b.
(43) And the child would have been eligible by virtue of his father.
(44) Lit., ‘surely’.
(45) Who recited the Baraitha mentioned.
(46) From Palestine to Babylon.
(47) Tem. 25a.
(48) Lit., ‘thigh’.
(49) In case one should be lost, the other would take its place.
(50) Until it contracts a blemish, when it is redeemed. As the young and its mother spoken of in R. Johanan's statement are regarded as separate beasts, they also would be subject to the same law, and atonement may be made by either.
(51) Lit., ‘thigh’.
(52) Which was without child at the time of its dedication.
(53) How’, then, could R. Johanan state that atonement may be made with either?
(54) The ruling about the ascription of the Egyptian child to its mother, reported in the name of R. Johanan.
(55) From other cases. While elsewhere the child may be ascribed to its father, in the case spoken of by R. Johanan it is ascribed to the mother.
(56) Deut. XXIII, 9.
(57) I.e., on its mother.
(58) קרקפנא (adj. of קרקף or קרקפא ‘head’) ‘mann von Kopf’. ‘Geistreicher’ v. Levy.
(59) Rabbah who was Abayeer's teacher (v. Tosaf. s.v. חזיתיה a.l., and cf. Tosaf. ‘Er. 22b, s.v. קרקפנא).
(60) Of the college.
(61) Why the children are ascribed to the mother.
(62) The suggestion was consequently not the result of Abaye's own ingenuity but a mere repetition of what he heard from his Master, Rabbah.
(63) Which forms a part of the conversion ceremonial. The immersion that had been performed by his mother exempts him also.
(64) If the child is elsewhere not regarded as part of its mother.
(65) The exemption of the child from the immersion.
(66) Of a hair (v. Rashi, Suk. 6b); that prevents it from coming in direct contact with the water.
(67) To the object or substance that causes the interposition.
(68) And invalidates the immersion.
(69) The presence of the interposition, when, e.g., it is necessary for it to remain there.
(70) ‘Er. 4b, Nid. 67b. As the embryo must necessarily remain within its mother's body during the period of conception, it cannot possibly object, so to speak, to its mother's interposition.

Talmud - Mas. Yevamoth 78b

surely [it may be retorted] R. Kahana stated: This applies only in respect of its greater part, but when the whole of it is effected a legal interposition is constituted![1] — The case of the embryo is different since its position[2] is that of its natural growth.[3]

When Rabina[4] came, he stated in the name of R. Johanan: Among the other nations follow the male.[5] If they are converted[6] follow the more tainted of the two.[7]

‘Among the other nations follow the male, as it was taught: Whence is it deduced that if one of the other nations[8] cohabited with a Canaanitish[9] woman and begat a son, that son may be purchased as a slave?[10] It is said, Moreover of the children of the strangers[11] that do sojourn among you, of them may ye buy.[12] As it might have been assumed that even if one of the Canaanites[9] had cohabited with one of the women of the other [gentile] nations[8] and begat a son, you may buy that son as a slave, it was explicitly stated, That they have begotten in your land;[12] only from those who were begotten[13] in your land, but not from those who dwell in your land.[14]

‘If they are converted, follow the more tainted of the two’. In what case? If it be suggested that it refers to an Egyptian[15] who married an Ammonitess,[16] how could the expression ‘the more tainted of the two’, be applicable when Scripture explicitly said, An Ammonite,’[17] but not an Ammonitess?[18] — Rather, the reference is to an Ammonite[19] who married an Egyptian wife.[20] If [the child of such a marriage] is a male, he is ascribed to the Ammonite;[21] if it is a female, she is ascribed to the Egyptian.[22]

MISHNAH. BASTARDS AND NETHINIM[23] ARE INELIGIBLE,[24] AND THEIR INELIGIBILITY IS FOR ALL TIME, WHETHER THEY BE MALES OR FEMALES.

GEMARA. Resh Lakish said: A woman bastard is eligible[25] after ten generations. This is derived from an analogy between tenth,[26] and tenth[27] mentioned in respect of the Ammonite and the Moabite; as in the latter case the females are permitted[27] so are they permitted in the former case.[28] Should you suggest that as in the latter case eligibility begins forthwith so it does in the former case, [it may be replied] that the analogy can only be effective in respect of the generations after the tenth.[29] But, surely, we learned, BASTARDS AND NETHINIM ARE INELIGIBLE, AND THEIR INELIGIBILITY IS FOR ALL TIME, WHETHER THEY BE MALES OR FEMALES![30] — This is no difficulty: One statement[31] is in agreement with him who holds[32] that a deduction is carried through in all respects,[33] while the other[34] is in agreement with him who maintains[32] that a deduction is restricted by its original basis.[35]

R. Eliezer was asked: What [is the legal position[36] of] a female bastard after ten generations? ‘Were anyone to present to me’, he replied, ‘a third generation. I would declare it pure!’ He is obviously of the opinion [that the stock of] a bastard does not survive.[37] So also did R. Huna state: A bastard's stock does not survive. Did we not learn, however, BASTARDS ARE INELIGIBLE, AND THEIR INELIGIBILITY IS FOR ALL TIME? — R. Zera replied: It was explained to me by Rab Judah that those who are known[38] survive;[39] those who are not known[38] do not survive; and those who are partly known and partly unknown survive for three generations but no longer.

A certain man once lived in the neighbourhood of R. Ammi. and the latter made a public announcement that he was a bastard. As the other was bewailing the action,[40] [the Master] said to him: I have given you life.[41]

R. Hana b. Adda stated: David issued the decree of prohibition[42] against the nethinim,[43] for it is said, And the king called the Gibeonites,[44] and said unto them-now the Gibeonites were not of the children of Israel etc.[45]

Why did he issue the decree against them? — Because it is written. And there was a famine in the days of David three years. year after year.[46] In the first year he said to them, ‘It is possible that there are idolaters among you, for it is written, And serve other gods, and worship them . . . and he will shut up the heaven, so that there shall be no rain etc.’[47] They instituted enquiries but could not discover any idolaters. In the second year he said to them, ‘There may be transgressors among you, for it is written, Therefore the showers have been withheld and there hath been no latter rain; yet thou hadst a harlot's forehead etc.’[48] Enquiries were made but none was found. In the third year he said to them, ‘There might be among you men who announce specified sums for charity in public but do not give them, as it is written, As vapours and wind without rain, so is he that boasteth himself of a false gift’.[49] Enquiries were made and none was found. ‘The matter’, he concluded, ‘depends entirely upon me; Immediately, he sought the face of the Lord.[46] What does this mean? — Resh Lakish explained: He enquired of the Urim and Tummim.[50] How is this inferred? R. Eleazar replied: It is arrived at by an analogy between two occurrences of the expression of ‘countenance of’; for here it is written, And David sought the countenance of the Lord,[46] and elsewhere it is written, Who shall enquire for him by the judgment of the Urim before the countenance of the Lord.[51] And the Lord said: ‘It is for Saul and his bloody house, because he put to death the Gibeonites’.[52] ‘For Saul’, because he was not mourned for in a proper manner; ‘and his bloody house, because he put to death the Gibeonites’. Where, however, do we find that Saul ‘put to death the Gibeonites’! The truth is that, as he killed the inhabitants of Nob, the city of the priests who were supplying them[53] with water and food, Scripture regards it as if he himself had killed them.

Justice is demanded for Saul because he was not properly mourned for, and justice is demanded because he put to death the Gibeonites?[54] — Yes; for Resh Lakish stated: What is meant by the Scriptural text, Seek ye the Lord, all ye humble of the earth, that have executed His ordinance?[55] Where there is his ordinance,[56] there are also his executions.[57]

David said: As to Saul, there have already elapsed

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(1) Even if the person does not mind the interposition. In the case of the embryo, surely, all its body remains untouched by the water. Why, then, should the child be exempt from the immersion!
(2) In utero, during pregnancy.
(3) The mother's body is inseparable from it and cannot, therefore, be regarded as an interposition.
(4) [Read R. Abin, v. Kid 67a].
(5) The child is ascribed to its father; though the mother may belong to a different gentile nation. V. infra.
(6) To Judaism.
(7) V. infra.
(8) Other than the seven enumerated in Deut. VII, 1.
(9) General designation of the seven nations, (v. supra n. 11) the males of which were to be exterminated (ibid. XX, 16).
(10) And, being ascribed to his father, is not subject to the law of extermination. V. supra n. 12.
(11) I.e., not of the seven nations who were the inhabitants of Canaan (v. supra n. 12).
(12) Lev. XXV, 45.
(13) I.e., whose mother that bore him, not his father, was a native of the land of Canaan.
(14) Whose father belonged to one of the seven nations of Canaan (v. supra n. 22). Thus it has been shewn that among the gentile nations also the child is ascribed to its father.
(15) Who until the third generation is ineligible to enter the congregation.
(16) Who is eligible immediately after conversion.
(17) Deut. XXIII. 4.
(18) She is not tainted at all!
(19) Who is ineligible for all time. (Ibid.).
(20) Eligible only after three generations.
(21) His father, and is consequently forbidden for all time to enter the congregation. Had he been ascribed to his mother he would have been eligible after the third generation.
(22) Her mother (cf. supra n. 6). Had she been ascribed to her father she would have been eligible forthwith (cf. supra n. 4).
(23) Pl. of nathin, v. Glos.
(24) To marry the daughter of an Israelite.
(25) To enter the congregation (cf. Deut. XXIII, 3), i.e., to marry an Israelite.
(26) In respect of the bastard (ibid.).
(27) V. supra 69a.
(28) [Rashi gives the fuller version. The Sifre: Just as ‘tenth’ stated with an Ammonite means for ever’ (v. Deut. XXIII, 4). so does ‘tenth’ stated with mamzer mean ‘for ever’. Consequently. as in the former. males (are forbidden) and not females, so in the latter].
(29) Since in the case of the bastard the prohibition of the first ten generations was explicitly stated and includes, as the term mamzer connotes (v. supra 76b), both men and women, whereas the prohibition after ten generations in the case of bastards is not stated explicitly but derived on the basis of analogy from an Ammonite, in respect of whom ‘for ever’ is

explicitly stated. V. p. 532, n. 14.
(30) How, then, could Resh Lakish maintain that the bastard is permitted after the tenth generation?
(31) The statement of Resh Lakish.
(32) V. Hul. 120b.
(33) Lit., ‘judge from it and from it’, i.e., all that applies to the case from which deduction is made is also applicable to the case deduced. As the case of the bastard is deduced from that of the Ammonite in one respect, it must also agree with it in all other respects, including eligibility of the females after the tenth generation, as Resh Lakish ruled. It is only in respect of the first ten generations which are explicitly forbidden in Scripture that deduction could not be made (cf. supra p. 532, n. 15).
(34) The ruling in our Mishnah.
(35) Lit., ‘judge from it and set it in its (original) place’, i.e., the rules of the case deduced limit the scope of the deduction. Though the case of the bastard is deduced from that of the Ammonite in respect of forbidding the former, like the latter, for all time, the exclusion of the females, though applicable to the latter, does not apply to the former, and female bastards (cf. supra p. 532, n. 15) remain, therefore, forbidden for all time.
(36) As regards entry into the congregation.
(37) A third generation would never come into existence.
(38) As bastards.
(39) There being no danger of intermarriage with them or their descendants.
(40) Lit., ‘and wept’.
(41) Cf. supra. text and p. 533, nn. 9 and 10.
(42) To enter the assembly.
(43) Pl. of nathin. V. Glos.
(44) I.e., nethinim. Cf. supra n. 4.
(45) II Sam. XXI, 2, the last six words implying that they were excluded from the congregation.
(46) Ibid. 1.
(47) Deut. XI. 16f.
(48) Jer. III, 3.
(49) Prov. XXV, 14.
(50) V. Glos.
(51) Num. XXVII. 21.
(52) II Sam. XXI, 1.
(53) The Gibeonites who, as hewers of wood and drawers of water for the altar (v. Josh. IX, 23, 27), were maintained by the priests.
(54) A simultaneous claim in his favour and against him!
(55) Zeph. II, 3. משפטו בעלו.
(56) משפטו lit., ‘his judgment’, for Saul's guilt.
(57) Read פעלו his work, sc. Saul's good deeds.

Talmud - Mas. Yevamoth 79a

the twelve months of the [first] year[1] and it would be unusual to arrange for his mourning now. As to the nethinim,[2] however, let them be summoned and we shall pacify them. Immediately[3] the king called the Gibeonites, and said unto them . . . ‘What shall I do for you? and wherewith should I make atonement, that ye may bless the inheritance of the Lord’? And the Gibeonites said to him: ‘It is no matter of silver or gold between us and Saul, or his house,’ neither is it for us [to put] any man etc. . . . Let seven men of his sons be delivered unto us and we will hang them up unto the Lord etc.’[4] . He tried to pacify them but they would not be pacified. Thereupon he said to them: This nation[5] is distinguished by three characteristics: They are merciful, bashful and benevolent. ‘Merciful’, for is is written, And shew thee mercy, and have compassion upon thee, and multiply thee.[6] ‘Bashful’, for it is written, That His fear may be before you.[7] ‘Benevolent’, for it is written, That he may command his children and his household etc.[8] Only he who cultivates these three characteristics is fit to join this nation.[9]

But the king took the two sons of Rizpah the daughter of Aiah, whom she bore into Saul, Armoni and Mephibosheth; and the five sons of Michal the daughter of Saul, whom she bore to Adriel the son of Barzillai the Meholathite.[10] Why just these? — R. Huna replied: They[11] were made to pass before the Holy Ark. He whom the Ark retained [was condemned] to death and he whom the Ark did not retain was saved alive.

R. Hana b. Kattina raised an objection: But the king spared Mephibosheth, the son of Jonathan the son of Saul![12] — He did not allow him to pass.[13] Was there favouritism then! — In fact he did let him pass and it retained him, but he invoked on his behalf divine mercy and it released him. But here, too, favouritism is involved![14] — The fact, however, is that he invoked divine mercy that the Ark should not retain him. But, surely, it is written, The fathers shall not be pit to death for the children etc.![15] — R. Hiyya b. Abba replied in the name of R. Johanan: It is better that a letter be rooted out of the Torah than that the Divine name shall be publicly profaned.[16]

And Rizpah the daughter of Aiah took sackcloth, and spread it for her upon the rock, from the beginning of harvest until water was poured upon them from heaven; and she suffered neither the birds of the air to rest on then by day, nor the beast of the field by night.[17] But, surely, it is written, His body shall not remain all night upon the tree![18] — R. Johanan replied in the name of R. Simeon b. Jehozadak: It is proper that a letter be rooted out of the Torah so that thereby the heavenly name shall be publicly hallowed. For passers-by were enquiring, ‘What kind of men are these?’ — ‘These are royal princes’ — ‘And what have they done?’ — ‘They laid their hands upon unattached[19] strangers’ — Then they exclaimed: ‘There is no nation in existence which one ought to join as much as this one. If [the punishment of] royal princes was so great. how much more that of common people; and if such [was the justice done for] unattached proselytes, how much more so for Israelites

A hundred and fifty thousand men immediately joined Israel; as it is said, And Solomon had threescore and ten thousand that bore burdens, and fourscore thousand that were hewers in the mountain.[20] Might not these have been Israelites? — This cannot be assumed, for it is written, But of the children of Israel did Solomon make no bondservants.[21] But that[22] might have represented mere public service![23] — [The deduction,] however, [is made] from the following: And Solomon numbered all the strangers that were in the Land of Israel, etc. And they were found a hundred and fifty thousand etc. And he set threescore and ten thousand of them to bear burdens, and fourscore thousand to be hewers in the mountains.[24]

Was it David, however, who issued the decree of prohibition against the nethinim? Moses, surely, issued that decree, for it is written, from the hewer of thy wood to the drawer of thy water![25] — Moses issued a decree against that generation only[26] while David issued a decree against all generations.

But Joshua, in fact, issued the decree against them, for it is written, And Joshua made them that day hewers of wood and drawers of water for the congregation, and for the altar of the Lord![27] — Joshua made his decree for the period during which the Sanctuary was in existence[28] while David made his decree for the time during which the Sanctuary was not in existence.

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(1) Of mourning. A year is regarded as the maximum period for mourning after the dead. Cf. M.K. 21b.

(2) Pl. of nathin. V. Glos.

(3) V. Bah.

(4) II Sam. XXI, 2-4, 6.

(5) Israel.

(6) Deut. XIII, 18.

(7) Ex. XX, 17.

(8) To be benevolent, לעשות צדקה lit. ‘to practise charity’ (E.V. righteousness) Gen. XVIII. 19.

(9) Israel. As the Gibeonites displayed a spirit of revenge and vindictiveness they were excluded from, and forbidden even to enter, the assembly of Israel.

(10) II Sam. XXI, 8.

(11) All the surviving descendants of Saul.

(12) Ibid. 7. Had the selection been made by the Ark, what need was there for David to spare him?

(13) To avoid the risk of being retained.

(14) If he who was retained was released another would have to die in his place!

(15) Neither shall the children be put to death for the fathers (Deut. XXIV, 16). Why then were Saul's descendants made to suffer for the sin of Saul?

(16) Which would have been the case had the crime against the Gibeonites been allowed to go unpunished.

(17) II Sam. XXI, 10.

(18) Deut. XXI, 23.

(19) גרורים lit., ‘dragged in’; proselytes who have not been admitted into the congregation, [or, ‘self-made proselytes’, a class of converts who Judaize in mass under the impulsion of fear. V. Moore, G. F. Judaism I, 337].

(20) I Kings V, 29.

(21) Ibid. IX. 22.

(22) The labour spoken of in I Kings V, 29.

(23) Not the labour of slaves. דוגזר perhaps a corruption of the Persian רוזגר ‘day labourer’. Cf. Golds. a.l. and Jast. s.v. רונגר.

(24) II Chron. II, 16f.

(25) Deut. XXIX, 10. Since these were specially singled out they obviously did not form a part of the congregation of Israel, while their services were exactly those which were peculiar to the nethinim or the Gibeonites.

(26) Of his own time.

(27) Josh. IX, 27.

(28) As it was specifically stated, For the altar (ibid.).

Talmud - Mas. Yevamoth 79b

In the days of Rabbi there was a desire to permit the nethinim.[1] Said Rabbi to them, ‘We could very well surrender our portion; who could surrender the portion of the altar?’[2] He[3] is thus in disagreement with R. Hiyya b. Abba. For R. Hiyya b. Abba stated in the name of R. Johanan: The portion of the congregation is forbidden for ever,[4] and the portion of the altar is forbidden only when the Sanctuary is in existence, but when the Sanctuary is not in existence it is permitted.

MISHNAH. R. JOSHUA STATED: I HAVE HEARD[5] THAT A SARIS[6] SUBMITS TO HALIZAH[6] AND THAT HALIZAH IS ARRANGED FOR HIS WIFE, AND ALSO THAT A SARIS[6] DOES NOT SUBMIT TO HALIZAH AND THAT NO HALIZAH IS TO BE ARRANGED FOR HIS WIFE, AND I AM UNABLE TO EXPLAIN THIS.[7] R. AKIBA SAID, I WILL EXPLAIN IT: A MAN-MADE SARIS[8] SUBMITS TO HALIZAH AND HALIZAH IS ALSO ARRANGED FOR HIS WIFE, BECAUSE THERE WAS A TIME WHEN HE WAS IN A STATE OF FITNESS. A SARIS BY NATURE[9] NEITHER SUBMITS TO HALIZAH NOR IS HALIZAH ARRANGED FOR HIS WIFE, SINCE THERE NEVER WAS A TIME WHEN HE WAS FIT. R. ELIEZER SAID: NOT SO, BUT A SARIS BY NATURE[9] SUBMITS TO HALIZAH AND HALIZAH IS ALSO ARRANGED FOR HIS WIFE, BECAUSE HE MAY BE CURED. A MAN-MADE SARIS[10] NEITHER SUBMITS TO HALIZAH NOR IS HALIZAH ARRANGED FOR HIS WIFE, SINCE HE CANNOT BE CURED. R. JOSHUA B. BATHYRA TESTIFIED CONCERNING BEN MEGOSATH, WHO WAS A MAN-MADE SARIS LIVING IN JERUSALEM. THAT HIS WIFE WAS ALLOWED TO BE MARRIED BY THE LEVIR, THUS CONFIRMING THE OPINION OF R. AKIBA.

THE SARIS NEITHER SUBMITS TO HALIZAH NOR CONTRACTS THE LEVIRATE

MARRIAGE, AND SO ALSO A WOMAN WHO IS INCAPABLE OF PROCREATION MUST NEITHER PERFORM HALIZAH NOR BE TAKEN IN LEVIRATE MARRIAGE.

IF A SARIS SUBMITTED TO HALIZAH FROM HIS SISTER-IN-LAW, HE DOES NOT THEREBY CAUSE HER TO BE DISQUALIFIED.[10] IF, HOWEVER, HE COHABITED WITH HER HE CAUSES HER TO BE DISQUALIFIED.[11] SINCE HIS ACT IS SHEER PROSTITUTION.[12] SIMILARLY, WHERE BROTHERS SUBMITTED TO HALIZAH FROM A WOMAN INCAPABLE OF PROCREATION, THEY DO NOT THEREBY CAUSE HER TO BE DISQUALIFIED.[11] IF, HOWEVER, THEY COHABITED WITH HER, THEY CAUSE HER TO BE DISQUALIFIED.[11] SINCE COHABITATION WITH HER IS AN ACT OF PROSTITUTION.[13]

GEMARA. Observe! R. Akiba was heard to state that ‘Those who are subject to the penalty of negative precepts[14] are on a par with those who are subject to the penalties of kareth’;[15] but those who are subject to the penalty of kareth are not eligible for halizah or levirate marriage![16] — R. Ammi replied: ‘What we are dealing with here is with a case, for instance, where his brother[17] had married a proselyte; and R. Akiba is of the same opinion as R. Jose, who stated that an assembly of proselytes is not regarded as an assembly.’[18] If so,[19] he should also be permitted to contract levirate marriage![20] — The law is so indeed; only because R. Joshua used the expression ‘SUBMITS TO HALIZAH’[21] he [R. Akiba] also used the expression ‘SUBMITS TO HALIZAH’. This[22] may also be proved by inference; for it was stated, R. JOSHUA B. BATHYRA TESTIFIED CONCERNING BEN MEGOSATH, WHO WAS A MAN-MADE SARIS LIVING IN JERUSALEM, THAT HIS WIFE WAS ALLOWED TO BE MARRIED BY THE LEVIR,[23] THUS CONFIRMING THE OPINION OF R. AKIBA. This proves it.[22]

Rabbah raised an objection: He who is wounded in the stones or has his privy member cut off, a man-made saris, and an old man, may either participate in halizah or contract levirate marriage. How?[24] If these died[25] and were survived by wives and brothers, and those brothers addressed a ma'amar to the wives, or gave them letters of divorce, or participated with them in halizah, their actions are legally valid;[26] if they cohabited with them, the widows become their lawful wives.[27] If the brothers died and they[28] addressed a ma'amar to their[29] wives, or gave them divorce, or participated with them in halizah, their actions are valid;[30] and if they cohabited with them the widows become their lawful wives, but they[31] may not retain them, because it is said in Scripture. He that is wounded in the stones or hath his privy member cut off shall not enter into the assembly of the Lord.[32] This clearly proves that we are dealing[33] with members of the assembly![34] — The fact is, said Rabbah, that this[35] is a case where the widow became subject to him[36] first and he was subsequently maimed.[37] Said Abaye to him: Let the prohibition against the maimed man override the positive precept of the levirate marriage! Did we not learn [of a similar case]: R. Gamaliel said, If she[38] made a declaration of refusal[39] well and good;[40] and if not, let [the elder sister] wait until the minor grows up and she will then be exempt as his wife's sister.[41] Thus it follows that the prohibition against a wife's sister has the force of overriding [that of the levirate marriage]; here also, then, let the prohibition against the maimed man have the force of overriding it! — But, said R. Joseph. this Tanna[42] represents the view of the Tanna of the school of R. Akiba, who maintains that [the issue] of a union which is subject to the penalty of negative precepts owing to consanguinity[43] is regarded as a bastard, but [the issue] of a union that is merely subject to the penalty of negative precepts is not a bastard.[44]

The text, ‘To raise up unto his brother a name’[45] should be applicable to this case[46] also, but he,[47] surely, is incapable of raising it![48] — Raba replied: If so,[49] there exists no woman who is eligible for the levirate marriage whose husband was not a saris by nature[50] for a short time, at least, prior to his death.[51]

Against R. Eliezer,[52] however, Raba's reply[53] presents a [valid] objection! — There[54] it is only a general state of debility[55] that had set in.[56]

What are we to understand by A SARIS BY NATURE? — R. Isaac b. Joseph replied in the name of R. Johanan: Any man

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(1) To enter into the congregation.
(2) Both the congregation and the altar have shares in them (cf. Josh. ibid.).
(3) Rabbi, who forbade the portion of the altar in his time though the Sanctuary was no more in existence.
(4) Until a properly constituted authority should allow it.
(5) A tradition from his teachers.
(6) V. Glos.
(7) In what case of saris halizah is, and what case it is not applicable.
(8) סרים אדם lit., a 'eunuch of man', one whose emasculation was the result of human action. (Cf. infra n. 12).
(9) סרים חמה lit., a 'eunuch of the sun', one who was a eunuch from the time he first saw the sun, i.e., a congenital eunuch.
(10) V. p. 538, n. 10.
(11) To marry a priest.
(12) The woman being forbidden to him as 'his brother's wife'.
(13) Cf. supra n. 3.
(14) A man-made saris is one of these, since cohabitation with him is forbidden by a negative precept in Deut. XXIII, 2.
(15) V. supra 49a.
(16) How then could R. Akiba maintain in our Mishnah that A MAN-MADE SARIS SUBMITS TO HALIZAH.
(17) The deceased brother of the saris.
(18) A proselyte, not being included in the term assembly (v. Deut. XXIII. 2) she is permitted to the saris. Hence he submits to her halizah.
(19) V. supra n. 1.
(20) Why then was only halizah mentioned?
(21) According to R. Joshua, who regards an assembly of proselytes as a congregation, marriage is in fact forbidden. Only halizah is permitted because in his opinion it is applicable in the case of those a union between whom is subject to the penalty of a negative precept.
(22) That according to R. Akiba even the levirate marriage is permitted.
(23) Levirate marriage. V. supra n. 5.
(24) I.e., in what connection is this law applicable?
(25) Without issue.
(26) Lit., 'what they did they have done'; after their ma'amar, a divorce is required; after their divorce, no marriage may take place; and their halizah is valid.
(27) Lit., 'they acquired'.
(28) The maimed mentioned or the old man.
(29) Brothers'.
(30) V. supra note 9.
(31) Those that are maimed. The old man is excluded. V. infra.
(32) Deut. XXIII, 2. V. Tosef. XI.
(33) In regarding the halizah and marriage with an impotent person as valid.
(34) How then could it be suggested that R. Akiba speaks of women proselytes who are not included in the term 'assembly?'
(35) R. Akiba's statement in our Mishnah.
(36) As his deceased brother's wife.
(37) Since the obligation arose while the man was still in a state of potency, halizah with him is both necessary and valid.
(38) A minor who was given away in marriage by her mother or brothers after the death of her father and whose elder sister has now become subject to the levirate marriage of her husband.
(39) Mi'un (v. Glos.). No divorce is needed in the case of such a minor's marriage.
(40) Lit., 'she refused'. Her marriage becomes null and void retrospectively, and, as she has thus never been the legal

wife of the levir, her sister (who is now no more the levir's wife's sister) may well contract with him the levirate marriage.

(41) Supra 18a, infra 109a.

(42) Who, in fact, deals with a case where the impotency had set in prior to the obligation and yet permits the halizah.

(43) Of the contracting parties.

(44) This Tanna, like the Tanna of our Mishnah, thus draws a distinction between two classes of trespass that are subject to the penalty of negative precepts: (a) cases due to consanguinity and (b) other cases. While the former are subject to the restrictions of those who are liable to kareth, the latter are not. Maimed persons belong to the latter class and are consequently subject to the levirate law. Cf. supra 49a.

(45) Deut. XXV, 7.

(46) The maimed levir.

(47) Owing to his impotency at the time of the halizah.

(48) Though at some earlier period he might have been; why then should he be subject to halizah?

(49) If his former potency is not to be taken into consideration.

(50) Approaching death deprives a person of his generating powers, and he may then be regarded virtually as a saris.

(51) The widow of such a saris should consequently be exempt from halizah (v. our Mishnah). How, then, would a widow ever be subject to halizah? It must, therefore, be admitted that a person's former capacity for propagation is taken into consideration even though that capacity was subsequently lost.

(52) Who maintains that a manmade saris does not submit to halizah, though prior to his incapacitation he was capable of propagation.

(53) Which proves the contrary of R. Eliezer's statement (cf. supra n. 6).

(54) Where the power of propagation is lost on approaching death.

(55) Which precedes death.

(56) And this cannot at all be compared with the case of an actual saris whose incapacity is due to a definite defect in his generative organs.

Talmud - Mas. Yevamoth 80a

who has not experienced a moment [of life] in a state of fitness.[1] How could this[2] be ascertained? — Abaye replied: [By observing whether] when he urinates no arch is formed. What are the causes?[3] — That the child's mother baked at noon[4] and drank strong[5] beer.

R. Joseph said: It must have been such a saris[6] of whom I heard Ammi saying. ‘He who is afflicted from birth’,[7] and I did not know [at the time] to whom he was referring. But should we not take into consideration the possibility that he might have recovered in the meantime![8] — Since he suffered from affliction in his early as well as in his later life, no [possible interval of recovery] need be taken into consideration

R. Mari raised an objection: R. Hanina b. Antigonos stated, ‘It[9] is to be examined[10] three times in eighty days’![11] — Precautions are to be taken in respect of one limb;[12] in respect of the entire body[13] no such precautions need be taken.[14]

R. ELIEZER SAID: NOT SO etc. A contradiction may be pointed out: If at the age of twenty he[15] did not produce two hairs,[16] they[17] must bring evidence that he is twenty years of age and he, being confirmed as a saris,[18] neither submits to halizah nor performs the levirate marriage. If the woman[19] at the age of twenty did not produce two hairs,[20] they[21] must bring evidence that she is twenty years of age and she, being confirmed as a woman who is incapable of procreation neither performs halizah nor is taken in levirate marriage; so Beth Hillel. But Beth Shammai maintain that with the one as well as with the other [this takes place at] the age of eighteen. R. Eliezer said. In the case of the male, the law is in accordance with Beth Hillel and in the case Of the female, the law is in accordance with Beth Shammai because a woman matures earlier than a man![22] Rami b. Dikuli replied in the name Of Samuel: R. Eliezer changed his view.[23]

The question was raised: From which statement did he withdraw? — Come and hear what was taught: R. Eliezer said. A congenital saris[24] submits to halizah, and halizah is arranged for his wife, because cases of such a nature are cured in Alexandria in Egypt.[25]

R. Eleazar said: As a matter of fact he[26] did not change his view at all, but that statement[27] was taught in respect [of the age of] punishment.[28]

It was stated: If a person[29] between the age of twelve years and one day[30] and that of eighteen years[31] ate forbidden fat,[32] and after the marks of a saris had appeared, he grew two hairs.[33] Rab ruled that the person is deemed to be a saris retrospectively.[34] But Samuel ruled [that the person is regarded as] having been a minor at that time.[35]

R. Joseph demurred against Rab.[36] According to R. Meir,[37] a woman who is incapable of procreation[38] should be entitled to a fine![39] — Abaye replied: She passes from her minority [directly] into adolescence.[40] The other said to him: May all such fine sayings be reported in my name. For so it was taught: A saris is not tried as a stubborn and rebellious son,[41] because no stubborn and rebellious son is tried unless he bears the mark of the pubic hair.[42] Nor is a woman who is incapable of procreation tried as a betrothed damsel[43] because from her minority she passes [directly] into adolescence.[44]

R. Abbahu stated: On [the basis of] the marks of a saris, of a woman incapable of procreation, and of an eight-[month] child[45] no decision is made[46] until they attain the age of twenty.[47] Is, however, an eight-[month] child viable? Surely it was taught: An eight-month child is like a stone,[48] and it is forbidden to move him;[49] only his mother may bend over him and nurse him

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(1) I.e., who was born with defective organs.

(2) That a child was a saris from birth.

(3) Of congenital impotency.

(4) The heat of the oven combined with the heat of the day obviously affected the generative organs of the embryo.

(5) Others, ‘pale’, ‘diluted’.

(6) The congenital eunuch or ‘saris by nature’ spoken of in our Mishnah.

(7) Lit., ‘from his mother's bowels’.

(8) Between the periods of his early and present impotency. And since he was possessed of his manly powers even if only for a short time, bow could he (v. our Mishnah) be regarded as a ‘saris by nature’?

(9) The firstborn of a beast afflicted with a serious blemish which renders it unfit for the altar.

(10) To ascertain whether the blemish is a permanent one. If it was only a passing affliction it does not affect the legal fitness of the animal.

(11) At the beginning, middle and end of the period. Only where the blemish remained for the full eighty days is it regarded as permanent. If no examination was made in the middle of the period mentioned, the blemish cannot be deemed to be a permanent since it is possible that it had disappeared for some time and reappeared again V. Bek. 38b. Why, then, is the middle period disregarded in the case of the saris?

(12) The eye, for instance, which was the limb affected in the case cited.

(13) The impotency of the saris is an affliction affecting his body as a whole.

(14) It is unlikely that such a defect should appear, disappear and reappear again.

(15) A levir whose duty it is to contract levirate marriage or to submit to halizah.

(16) The marks of puberty.

(17) The relatives of the widow who wish to exempt her from the halizah and the marriage.

(18) By a display of the required symptoms.

(19) The widow whose husband had died without issue.

(20) The marks of puberty.

(21) The levir's relatives. Cf. supra note 9, mutatis mutandis.

(22) Nid. 47b. Now, the case spoken of here is that of a congenital saris and yet R. Eliezer stated that he is subject neither to halizah nor to the levirate marriage, which is in direct contradiction to his statement in our Mishnah!
(23) The two statements were made at an earlier and later period respectively.
(24) V. supra p. 538. n. 11.
(25) As this Baraitha agrees with our Mishnah and, in addition, contains also a reason for its statement, based on actual experience. it is reasonable to assume that R. Eliezer withdrew from his other view contained in the Baraitha of Niddah.
(26) R. Eliezer.
(27) Supra, that the age of a male is twenty, in agreement with Beth Hillel, and that that of a female is eighteen, in agreement with Beth Shammai.
(28) At the ages stated males and females respectively, emerging from their state of minority and entering that of majority, become subject to all legal obligations and penalties. The statement has no reference at all to halizah or the levirate marriage.
(29) The reference is to a female though the masc. gender ‘saris’ is used. The age of twelve years and one day is applicable to females only.
(30) Below this age a girl is regarded as a minor.
(31) This will be according to R. Eliezer, supra.
(32) Or committed any other transgression. The eating of forbidden fat, חלב is invariably taken as the example of a punishable offence. Cf. Golds. a.l.
(33) The marks of puberty.
(34) From the age of twelve years and one day. Despite the absence of the hairs until after the age of eighteen. and their subsequent appearance. the girl is regarded as having passed into her majority at the earlier age of twelve years and one day. and consequently subject from that time to all legal penalties, the delay in the emergence of her marks of puberty being attributed to her mere impotence.
(35) Between the ages of twelve and eighteen. Samuel holds that majority sets in at the latter age only when the girl's impotency is definitely established.
(36) Who regards a girl, who was only subsequently found to be a saris, as having been a saris and consequently also of age from the moment she was twelve years and one day old.
(37) Who exempts the seducer of a minor from the payment of the fine prescribed in Deut. XXII, 29.
(38) The seducer of whom is also exempt from the fine mentioned (supra note 2) on the ground that, as she did not produce the required hairs, she was regarded at the time as a minor. V. Keth. 35b.
(39) Because, since it was later established that she was sterile, she should be regarded (cf. supra note 1) as having been sterile, and so also of age, retrospectively.
(40) The former age is twelve years and one day; the latter is twelve and a half plus one day. In the intervening age a girl is described as נערה damsel or maiden; and it is during this period (נערות) that she is entitled to the fine mentioned. The sterile woman does in fact become of age retrospectively, as Rab laid down, but she assumes the status of the adolescent woman who is not entitled to the fine.
(41) Cf. Deut. XXI, 18ff.
(42) Lit., ‘lower beard’.
(43) Who has been outraged (v. Deut. XXII, 23ff).
(44) Cf. supra n. 5.
(45) Born in the eighth month of conception. who, as a rule, is not viable.
(46) As to whether in the case of the former they are impotent and of age, and in the case of the latter whether he is viable.
(47) Between the age of twelve and this age the former are regarded as minors until they have produced two pubic hairs, if these appear before they were twenty; and if these were not produced at twenty their majority begins from the age of twelve. In the case of the child he cannot be regarded as viable before he has completed the twentieth year of his life.
(48) Obviously because he is not viable.
(49) On the Sabbath when only such objects may be moved as were intended to be used on that day. The moving of a stone is forbidden.

Talmud - Mas. Yevamoth 80b

in order to avert danger![1] — Here[2] we are dealing with one whose marks[3] have not[4] been developed.[5] For it was taught: Who is an eight-month child? He whose months [of conception] have not been completed. Rabbi said: The marks, his hair and nails which were not developed, would indicate it.[6] The reason then is because they were not developed, but had they been developed it would have been assumed that the child was a seven-month one[7] only his [birth] was somewhat delayed.[8]

With reference, however, to the practical decision which Raba Tosfa'ah gave in the case of a woman whose husband had gone to a country beyond the sea and remained there for a full year of twelve months, where he declared the child legitimate,[9] in accordance with whose [view did he act]? [Was it] in accordance with that of Rabbi who maintains that [birth] may be delayed![10] — Since R. Simeon b. Gamaliel also maintains that [birth may] be delayed. he acted in agreement with a majority. For it was taught: R. Simeon b. Gamaliel said: Any human[11] child that lingers for thirty days can not be regarded as a miscarriage.[12]

Our Rabbis taught: Who is a congenital saris?[13] Any person who is twenty years of age and has not produced two pubic hairs.[14] And even if he produced them afterwards he is deemed to be a saris in all respects. And these are his characteristics: He has no beard, his hair is lank, and his skin is smooth. R. Simeon b. Gamaliel said in the name of R. Judah b. Jair:[15] Any person whose urine produces no froth; some say: He who urinates without forming an arch; some say: He whose semen is watery; and some say: He whose urine does not ferment. Others say: He whose body does not steam after bathing in the winter season. R. Simeon b. Eleazar said:[15] He whose voice is abnormal so that one cannot distinguish whether it is that of a man or of a woman.

What woman is deemed to be incapable of procreation? — Any woman who is twenty years of age and has not produced two pubic hairs.[14] And even if she produces them afterwards she is deemed to be a woman incapable of procreation in all respects. And these are her characteristics: She has no breasts and suffers pain during copulation. R. Simeon b. Gamaliel said:[15] One who has no mons veneris like other women. R. Simeon b. Eleazar said: One whose voice is deep so that one cannot distinguish whether it is that of a man or of a woman.

It was stated: As to the characteristics of a saris, R. Huna stated, [Impotency cannot be established] unless they are all present. R. Johanan, however, stated: Even if only one of them is present.[16] Where two hairs were produced[17] all agree that impotency cannot be established unless all characteristics[18] are displayed. They only differ in the case where these were not produced. With reference, however, to what Rabbah b. Abbuha said to the Rabbis, ‘Examine R. Nahman. and if his body steams I will allow him to marry my daughter’; in accordance with whose view [was he acting]? [Was it] according to R. Huna![19] — No; R. Nahman had some stray hairs.[20]

THE SARIS NEITHER SUBMITS TO HALIZAH NOR CONTRACTS THE LEVIRATE MARRIAGE, AND SO ALSO A WOMAN WHO IS INCAPABLE OF PROCREATION etc. The saris was mentioned in the same way as the woman who is incapable of procreation; as the woman's incapacity is due to an act of[21] heaven so must that of the saris be an act[21] of heaven; and this anonymous [Mishnah] is in agreement with R. Akiba who stated [that halizah applies] only to a man-made [saris but] not [to one afflicted] by the hand of heaven.[22]

IF A SARIS SUBMITTED TO HALIZAH FROM HIS SISTER-IN-LAW, HE DOES NOT THEREBY CAUSE HER TO BE DISQUALIFIED etc. The reason then [why when HE COHABITED WITH HER HE CAUSES HER TO BE DISQUALIFIED] is because he[23] cohabited with her; another man, however, does not;[24]

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(1) To the mother and the child. The latter might otherwise die of starvation before his time, and the former might contract serious illness through the accumulation of superfluous milk in her breasts. V. Tosef. Shab. XVI. Now, since the child, because he is not viable, is regarded as a stone (v. p. 545. n. 13), how could he ever attain the age of twenty?

(2) In the cited Baraitha.

(3) Of viability. such as hair and nails.

(4) So Alfasi, Bah and some MSS. Cur. edd. omit, ‘not’ referring to R. Abbahu's statement.

(5) Where the marks, however, are developed. as is the case in the Baraitha cited, the child may be viable.

(6) Tosef. Shab. XVI. Lit., ‘concerning him’ , whether he is an eight-month child.

(7) A child whose development is completed in the seventh month is viable.

(8) R. Abbahu, supra, referring to such a case, teaches that, even according to Rabbi, no definite decision can be arrived at before the child has grown up and attained the age of twenty.

(9) Assuming, as he did, that it remained in utero three months after the nine-monthly period.

(10) Would he agree with an individual, against the opinion of a majority?

(11) In the case of an animal the period is eight days.

(12) Supra 36b, Shab. 135b, Nid. 44b. The child is assumed to be a seven-month one whose birth had been delayed and who is consequently viable.

(13) V. supra p. 538, n. 11.

(14) The usual marks of puberty.

(15) In reply to the question ‘who is a saris?’

(16) Lit., ‘by one of them’.

(17) Elijah Wilna deletes ‘In the beard’ of cur. edd. [The reference will be accordingly to an emergence of hairs after the age of twenty, for had they appeared earlier, he would no longer be regarded as a saris even in the face of all other characteristics of a saris, v. supra p. 543. Tosaf., however, retains the reading of our text and consequently draws a distinction between hairs of the beard and on any other part of the body. The former in themselves, unlike the latter, are not sufficient to establish potency. V. Tosaf. s.v. דהביא].

(18) Of a saris.

(19) Since the absence of one characteristic satisfied him, contrary to the opinion of R. Johanan supra.

(20) V. supra p. 547, n. 5. סיכי pl. of סיכא.

(21) Lit., ‘by the hands of’.

(22) The congenital eunuch or the saris by nature. Cf. supra p. 538. n. 11.

(23) The levir to whom, as his brother's wife, she is forbidden under the penalty of kareth.

(24) Cause her to be disqualified.

Talmud - Mas. Yevamoth 81a

is this, then, an objection to the view of R. Hamnuna who stated that a widow awaiting the decision of her levir who committed adultery[1] is disqualified [from marrying her] brother-in-law![2] — No; the same law[3] is applicable to [the case of cohabitation with] another man also; Only because the first clause was taught in respect of himself,[4] the latter clause also was taught in respect of himself.

SIMILARLY, WHERE BROTHERS SUBMITTED TO HALIZAH FROM A WOMAN INCAPABLE OF PROCREATION etc. The reason then [why when THEY COHABITED WITH HER THEY CAUSE HER TO BE DISQUALIFIED] is because they cohabited with her, but had they not cohabited with her they would not;[5] in accordance with whose view [is this statement made]? — Not in accordance with that of R. Judah; for should it [be suggested that it is in agreement with] R. Judah, he, surely, [it might be objected,] stated that a woman incapable of procreation is regarded as a harlot.[6]

MISHNAH. IF A PRIEST WHO WAS A SARIS BY NATURE[7] MARRIED THE DAUGHTER OF AN ISRAELITE, HE CONFERS UPON HER THE RIGHT OF EATING TERUMAH. R. JOSE AND R. SIMEON STATED: IF A PRIEST WHO WAS AN HERMAPHRODITE MARRIED THE DAUGHTER OF AN ISRAELITE, HE CONFERS UPON HER THE RIGHT TO EAT TERUMAH.

R. JUDAH STATED: IF A TUMTUM,[8] WAS OPERATED UPON[9] AND HE WAS FOUND TO BE A MALE, HE MUST NOT PARTICIPATE IN HALIZAH,[10] BECAUSE HE HAS THE SAME STATUS AS A SARIS. THE HERMAPHRODITE MAY MARRY [A WIFE] BUT MAY NOT BE MARRIED [BY A MAN].[11] R. ELIEZER[12] STATED: [FOR COPULATION] WITH AN HERMAPHRODITE THE PENALTY OF STONING IS INCURRED AS [IF HE WERE] A MALE.[13]

GEMARA. [Is not this][14] obvious![15] — It might have been assumed that only one who is capable of propagation is entitled to bestow the right of eating[16] and that he who is not capable of propagating is not entitled to bestow the right of eating; hence we were taught [that even the saris may bestow the right].

R. JOSE AND R. SIMEON STATED . . . HERMAPHRODITE. Resh Lakish said: He CONFERS UPON HER THE RIGHT OF EATING TERUMAH but does not confer upon her the right to eat of the breast and the shoulder.[17] R. Johanan, however, said: He also confers upon her the right to eat of the breast and shoulder.[17]

According to Resh Lakish,[18] why is the breast and the shoulder different?[19] [Obviously] because [it was] Pentateuchally [ordained].[20] [Was not] terumah, [however]. also Pentateuchally [ordained]? — We are dealing here with terumah at the present time,[21] which [is only a] Rabbinical [ordinance].[22] What is the law, however, when the Sanctuary is in existence?[23] [Obviously that terumah may] not [be eaten]![24] Why, then, did he state, ‘But does not confer the right of eating the breast and the shoulder’?[25] He should rather have drawn the distinction in respect of the terumah itself, thus: This[26] applies only to Rabbinical terumah,[27] but not to terumah that has been Pentateuchally ordained![28] — It is this, in fact, that he meant: When he[29] confers upon her[30] the right of eating, he enables her to eat terumah at the present time[27] only when it is a Rabbinical ordinance;[31] he is not entitled, however, to confer upon her the right of eating terumah at the time when the law of the breast and the shoulder is in force,[32] even if the terumah is only Rabbinical,[33] for she might in consequence also come to eat of Pentateuchal terumah.[34]

‘R. Johanan, however, said: He also confers upon her the right to eat of the breast and the shoulder’. Said R. Johanan to Resh Lakish: Do you[35] maintain that terumah at the present time is only a Rabbinical ordinance? — ‘Yes’, the other replied, ‘for I read:[36] A cake of figs[37] among cakes of figs is neutralised’.[38] ‘But I’, said the first, ‘read, "A piece[39] among pieces[40] is neutralized";[41] you obviously believe that the reading[42] is, "Whatsoever[43] one is wont to count",[44] the reading in fact is, "That which one is wont to count"’.[45]

What [Mishnah[46] is] it? — That wherein we learned: If a man had bundles of fenugrec of kil'ayim[47] of the vineyard[48] they must be burned.[49] If these were mixed up with others,[50]

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(1) With any man.

(2) As any harlot. Consequently she would also be forbidden to marry a priest. But according to the implication of our Mishnah she is not disqualified from marrying a priest!

(3) Of our Mishnah, that cohabitation with the widow causes her disqualification.

(4) The levir.

(5) Cause her to be disqualified.

(6) Supra 61a. Cf. supra p. 548, n. 8, mutatis mutandis.

(7) This excludes the man-made saris who stands under the prohibition of Deut. XXIII, 2, and cannot consequently confer upon his wife the right of eating.

(8) V. Glos.

(9) Lit., ‘was torn asunder’.

(10) If he has a brother who could participate in the ceremony instead of him.

(11) He has the status of a male rather than that of a female, and his cohabitation with a male would be an act of sodomy.
(12) ‘Eleazar’ according to תוספות יום טוב. Cf. however, Tosaf. s.v. רבי infra 84a.
(13) On the difference between R. Eliezer and R. Judah. v. Gemara infra.
(14) That the congenital saris bestows the right of eating terumah upon his wife.
(15) His marriage being lawful; since he is not subject to the prohibition in Deut. XXIII, 2 (cf. supra note 3), he is obviously entitled to bestow the right.
(16) Cf. Lev. XXII, 11. And such as are born in his house, they may eat of his bread, emphasis on born in his house. Cf. Rashi, a.l.
(17) The priest's due from certain sacrifices. Cf. Lev. VII, 34.
(18) Who forbids the breast and the shoulder to the wife of the hermaphrodite.
(19) From terumah which may be eaten by her.
(20) Cf. supra n. 1.
(21) After the destruction of the Temple.
(22) Pentateuchally it is only due while the Temple is in existence.
(23) Cf. supra note 6.
(24) By the wife of an hermaphrodite.
(25) Drawing a distinction between terumah and other priestly gifts.
(26) That the hermaphrodite confers upon his wife the right of eating.
(27) After the destruction of the Temple.
(28) Cf. supra note 6.
(29) The hermaphrodite.
(30) His wife.
(31) Pentateuchally it is only due while the Temple is in existence.
(32) When the Temple is in existence.
(33) Such as that given from the fruit of the trees, which is at all times a Rabbinical ordinance only.
(34) That which is given from corn, wine and oil.
(35) Since you restrict the right of consumption to terumah and exclude that of the breast and the shoulder.
(36) In a Baraitha. Cf. the Mishnah cited infra and note 11.
(37) A number of figs pressed together.
(38) If such a cake of terumah was mixed up with a hundred non-consecrated cakes of the same size, or if a cake of terumah that was levitically unclean was mixed up with a hundred such cakes of clean terumah, the entire quantity is permitted. in the latter case, to clean priests and, in the former case, to Israelites also. This proves that terumah at the present time is only a Rabbinical ordinance, since such neutralization, had the ordinance been Pentateuchal, would not, owing to its comparative importance (its high commercial value, v. infra), have been permitted. Though the terumah of figs, like that of all other fruit of trees, is at all times a Rabbinical ordinance only, its neutralization would not have been permitted at the present time had there been any Pentateuchal terumah in existence at the same time. The neutralization of the former would have been forbidden as a preventive measure against the possible assumption that the ‘latter also might be neutralized.
(39) Of an unclean sin-offering which is Pentateuchally forbidden. V. the Baraitha infra 81b.
(40) Of clean meat.
(41) And is permitted to be eaten. As a piece of meat which is Pentateuchally forbidden (v. supra n. 5) may be neutralized, even though its importance, owing to its commercial value, may be as high as that of a cake of figs, so may any food be neutralized even though its prohibition is Pentateuchal.
(42) Cf. the Mishnah cited infra.
(43) Any objects which any person whatsoever sells by counting the units. V. infra n. 11.
(44) Cannot be neutralized.
(45) ‘Whatsoever’ is more comprehensive than ‘that’. According to the former reading, neutralization is not permitted in the case of any objects which are regarded as of sufficiently high commercial value to be sold not in bulk but in units. According to the latter reading, neutralization is permitted in all cases except those where the units are of such a high value that they are not sold save by counting single units. Now, since cakes of figs are not invariably sold in units they may of course be neutralized even though they consist of Pentateuchal terumah (cf. supra n. 7). Resh Lakish, therefore, remains with no proof whatsoever that terumah at the present time is a mere Rabbinical ordinance. [This interpretation

which follows Rashi does not account for the phrase ‘one is wont etc’, mentioned also with the latter reading. Me'iri explains the former as including whatever is being sold as a rule by counting among the poor, whereas the latter requires the sale by counting to be the general practice among the rich as well as the poor. On either reading it is the general practice rather than the invariable rule which is the determining factor].

(46) Referred to by R. Johanan (cf. p. 551. n. 8).

(47) V. Glos.

(48) Cf. Deut. XXII, 9.

(49) This is deduced from the expression תקדש (ibid. R.V., forfeited; R.V. marg., consecrated), read as תוקד אש ‘shall be burned with fire’.

(50) Permitted bundles of fenugrec.

Talmud - Mas. Yevamoth 81b

they must all be burned;[1] so R. Meir. The Sages, however, stated: They are neutralized in [a mixture of] two hundred and one.[2] R. Meir, [in his ruling,] is of the opinion that whatever[3] might be counted causes forfeiture,[4] while the Sages are of the opinion that only six things cause forfeiture.[5] R. Akiba said: Seven. They are the following: Crack-nuts,[6] the pomegranates of Badan,[7] sealed jugs [of wine], young shoots of beet,[8] cabbage roots and the Grecian gourd. R. Akiba adds also home made[9] bread.[10] Those which are subject to the law of ‘orlah[11] [impart the prohibition of] ‘orlah[12] [and those which are subject] to the law of kil'ayim of the vineyard[13] [impart[12] that of the] kil'ayim of the vineyard.[14] R. Johanan holds the view that the reading[15] was, ‘That which one is wont to count’[16] while Resh Lakish holds the view that the reading was ‘Whatsoever one is wont to count’.[17]

What [is the Baraitha about the] piece?[18] — It was taught: A piece of a levitically unclean sin-offering that was mixed up with a hundred pieces of clean sin-offerings and, similarly, a piece of levitically unclean shewbread[19] that was mixed up with a hundred pieces of clean shewbread is neutralized.[20] R. Judah said: It is not neutralized.[21] If, however, a piece of a levitically clean sin offering was mixed up with a hundred pieces of clean and unconsecrated meat, and similarly if a piece of levitically clean shewbread was mixed up with a hundred pieces of clean unconsecrated bread, all agree that neutralization cannot take place.[22] Now in the first clause, at any rate, it was stated that it ‘is neutralized’![23] — R. Hiyya son of R. Huna replied: In [the case where it was] crushed.[24] If so,[24] what is R. Judah's reason?[25]

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(1) The forbidden kil'ayim cannot be neutralized. The reason is given infra.

(2) I.e., if the permitted food is two hundred times the quantity of the forbidden kil'ayim.

(3) V. supra p. 551. n. 9.

(4) Lit., consecrates’. (Cf. R.V. and J.T., Deut. XXII, 9, be forfeited). All the mixture is forbidden on account of the importance (cf. supra p. 551, n. 11) of the forbidden object it contained, which can never be neutralized.

(5) Cf. supra n. 9.

(6) אגוזי פרך (cf. Jast. and Golds.). Rashi regards Perek as a place name. Parka (Perek) is situated in Samaria in the vicinity of Shechem.

(7) A Samaritan town north-east of Shechem lying in the valley Wadi Baidan.

(8) Or ‘tomatoes .

(9) Lit., ‘of the master of the house’.

(10) Lit., ‘loaves’.

(11) V. Glos. The nuts, pomegranates and jugs of wine.

(12) Upon the entire mixture.

(13) The beet, cabbage and gourd.

(14) ‘Orlah III, 6, Bezah 3b. Zeb. 72a.

(15) In the Mishnah cited.

(16) Cf. supra p. 551, n. 11. Only such objects cannot be neutralized. Cakes of figs and pieces of meat, however, since some people do not always sell them singly but in bulk, are of less commercial importance and may, therefore, be neutralized.

(17) Cf. supra p. 551, nn. 7 and 8. As cakes of figs are sometimes sold by being counted singly. they are regarded as commercially important objects which, were they Pentateuchally forbidden, could never be neutralized. As it was stated, however, that a cake of figs of terumah may be neutralized, it follows, according to Resh Lakish, that terumah at the present time is only a Rabbinical, and not a Pentateuchal ordinance.

(18) Mentioned by R. Johanan. Cf. supra p. 551. n. 5.

(19) Cf. Ex. XXV, 30.

(20) The entire mixture is regarded as clean sin-offering meat and clean shewbread respectively.

(21) The reason is discussed infra.

(22) Neutralization would have removed a Pentateuchal prohibition (that of eating consecrated food by a non-priest) from the piece of the sin-offering or from that of the shewbread. As, however, the entire mixture, which consists of pieces that are sometimes sold by number, may be eaten even without recourse to neutralization by a priest to whom it could be sold, though this might have to be done at a reduced cost, the law of neutralization, which is applied even in such circumstances whenever the prohibition is Rabbinical. as in the case of the cake of figs (supra). is not applied here where it is Pentateuchal.

(23) Though these objects are sometimes sold in units. This obviously proves that the reading was, as R. Johanan stated. ‘That which one is wont to count . How, then, could Resh Lakish maintain that the reading was ‘Whatsoever one is wont to count ?

(24) When it is no longer sold in units but in bulk.

(25) Why does he in such a case object to neutralization?

Talmud - Mas. Yevamoth 82a

— R. Judah follows his own view; for he stated:[1] The law of neutralization takes no effect in homogeneous objects.[2] [Had the piece] not been crushed, however, what [would have been the law]? Assumingly that it could not be neutralized! Why. then, was it taught. ‘If, however, a piece of a levitically clean sin-offering was mixed up with a hundred pieces of clean and unconsecrated meat . . . neutralization cannot take place’?[3] Let the distinction be drawn in [the case of consecrated meat] itself, thus: This[4] applies only where it[5] was crushed; but when it was not crushed it may not be neutralized! — He preferred [to speak of] a mixture of clean with clean.[6]

According to Resh Lakish,[7] wherein lies the difference between the first clause and the final clause?[8] — R. Shisha the son of R. Idi replied: The first clause deals with uncleanness that was due to liquids,[9] which is only Rabbinical,[10] while the final clause [deals with a prohibition][11] which is Pentateuchal.[12] What, however, [would be the law in the case of] uncleanness through a reptile?[13] Assumingly that no neutralization is permitted! Why, then, did he state in the final clause, ‘If, however, a piece of levitically clean sin-offering was mixed up with a hundred pieces of clean and unconsecrated meat . . . neutralization cannot take place’?[14] Let the distinction rather be drawn in [respect of consecrated meat] itself, thus: This[15] applies only to uncleanness due to liquids, but when it is due to a reptile it may not be neutralized! — He preferred [to speak] of a mixture of clean with clean.[16]

Rabbah replied:[17] The first clause [deals with] a prohibition under a negative precept[18] while the final clause [deals with] one that involves the penalty of kareth.[19] But surely was it not Rabbah who stated that in all Pentateuchal prohibitions there is no difference[20] between a prohibition that is due to a negative precept and one that involves kareth![21] — This is a difficulty.

R. Ashi replied:[17] [The law[22] in the] final clause is due to the fact that [the consecrated food] is an object which may be made[23] permissible,[24] and any object which [in certain circumstances] becomes permitted[24] cannot be neutralized even in a thousand.[25] This statement of R. Ashi, however, is mere fiction.[26] For to whom [would the mixture become permitted]![27] To[28] the priest it is permitted [all the time];[29] to the Israelite[28] it is for ever forbidden![30] The statement of R. Ashi must consequently be regarded as mere fiction. But is R. Johanan of the opinion that terumah at the present time[31] is Pentateuchal?[32] Surely it was taught: If in front of two baskets, one of which contained unconsecrated fruit and the other that of terumah, were two se'ah measures, one containing unconsecrated fruit and the other that of terumah, and the latter fell into the former, behold these are permitted,[33] for it is assumed that the terumah fell into the terumah and the unconsecrated fruit fell into the unconsecrated fruit.[34] And [in reference to this ruling] Resh Lakish stated: ‘Only if the unconsecrated fruit[35] was more than that of the terumah’;[36] while R. Johanan stated, ‘Even if the unconsecrated fruit were no more than the terumah’.[37] Now, according to Resh Lakish[38] the ruling[39] may well be justified since he may hold the opinion that with Rabbinically [forbidden food] also it is necessary[40] to have a larger quantity [of the permitted food]. According to R. Johanan.[41] however, a difficulty arises![42] ‘This’[43] [R. Johanan may reply] ‘is the view of[44] the Rabbis,[45]

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(1) Zeb. 79a, Men. 22b.

(2) Lit., ‘a kind in its kind does not cease to exist’.

(3) Thus drawing a distinction between a mixture of consecrated and unconsecrated meat.

(4) That neutralization takes place.

(5) The piece of the sin-offering.

(6) To indicate that even in such a case, where the law of neutralization might have been expected to apply (cf. Ter. V. 3-4). the mixture remains forbidden.

(7) Who explained the Baraitha under discussion to refer to a crushed piece.

(8) In either case the piece is Pentateuchally forbidden. As neutralization takes place in the case of the first clause owing to the insignificant value of the piece. neutralization should also take place, for the same reason, in the case of the final clause! According to R. Johanan, the reason for the difference between the two clauses has been explained supra p. 553, n. 6.

(9) If the crushed mixture was contained, for instance. in a vessel that had been in contact with unclean liquids.

(10) Pentateuchally no unclean liquid can impart uncleanness to a vessel.

(11) The consumption of consecrated food by a non-priest.

(12) Food Pentateuchally forbidden, if mixed with other food of the same kind, cannot be neutralized, according to this opinion. even if it is sold in bulk.

(13) Pentateuchal uncleanness.

(14) V. supra note 2.

(15) That neutralization takes place.

(16) V. supra p. 554, n. 5.

(17) To the objection raised against Resh Lakish.

(18) That of eating consecrated meat which is unclean. V. Lev. VII, 19.

(19) Were the crushed mixture which contained a piece of consecrated meat to be regarded as neutralized and treated like unconsecrated meat, it might be eaten by an unclean person who would thus incur the penalty of kareth for eating consecrated meat during his uncleanness. Cf. Lev. VII, 20.

(20) In respect of preventive measures enacted by the Rabbis.

(21) Infra 219a, where, however, the reading is ‘Raba’.

(22) Disallowing neutralization.

(23) If the consumer is, for instance, a priest.

(24) Even though no neutralization were to take place.

(25) Times its quantity.

(26) בדותא v. B. M., Sonc. ed., p. 47. n. 1.

(27) The law which rules out neutralization in the case of objects which may attain to a state of permissibility without this process, is applicable only to such objects as become permissible, i.e., which emerge from a state of prohibition into one of permissibility. Cf. Bezah 3b.

(28) Lit., ‘if to’.

(29) He may eat the piece of consecrated food even if it were never mixed up with the unconsecrated food.

(30) If no neutralization were to be allowed.

(31) After the destruction of the Temple.

(32) As stated supra 81a.
(33) Even an Israelite may eat from the basket that contained the unconsecrated fruit.
(34) Tosef. Ter. VI end; Pes. 9b, 44a; Naz. 36b.
(35) In the basket.
(36) In the se'ah measure. Only in such a case is the assumption mentioned made, because the terumah representing the smaller quantity might be regarded as neutralized even if it had fallen into the basket of the unconsecrated fruit.
(37) No excess of unconsecrated fruit is necessary since the assumption mentioned is alone sufficient to establish the permissibility of the unconsecrated fruit.
(38) Who, as stated supra, regards terumah at the present time as Rabbinical.
(39) In the Baraitha cited.
(40) To make the mentioned assumption.
(41) In whose opinion terumah is Pentateuchal at the present time also.
(42) How could the assumption mentioned be made in the case of a prohibition which is Pentateuchal!
(43) The ruling in the Baraitha cited.
(44) Lit., ‘this according to whom?’
(45) Who hold that terumah at the present time is only Rabbinical.

Talmud - Mas. Yevamoth 82b

while I maintain the view of R. Jose’.[1] For it was taught in Seder ‘Olam:[2] Which thy fathers possessed, and thou shalt possess it,[3] they had a first,[4] and a second[5] possession,[6] but they had no third one;[7] and R. Johanan stated, ‘Who is the author of Seder ‘Olam? R. Jose’.[8]

But is R. Johanan of the opinion that in respect of a Rabbinically forbidden object no excess is required?[9] Surely we learned: A ritual bath containing exactly forty se'ah [of water][10] to which one se'ah[11] was added and from which one se'ah[12] was taken off, is deemed to be ritually fit.[13] And R. Judah b. Shila stated in the name of R. Assi in the name of R. Johanan. ‘As much as its greater part’.[14] Does not this mean that the greater part must remain?[15] — No; that the greater part must not be removed.[16] And if you prefer I might say: Here[17] it is different,[18] since it may be said, ‘For it is assumed’.[19]

We learned, THE HERMAPHRODITE MAY MARRY [A WIFE]![20] — Read, ‘If he married’,[21] But, surely, it was stated MAY MARRY![22] — And even in accordance with your view what is the meaning of BUT MAY NOT BE MARRIED [BY A MAN]?[23] Consequently it must be granted that as MAY . . . BE MARRIED[23] implies an act that had already been performed, so also MAY MARRY implies an act that had already been performed. It may still be urged: No;[24] MAY MARRY implies that the act is permissible; but MAY NOT BE MARRIED[23] implies, not even if the act had already been performed.[25] But surely since it was taught in the final clause, R. ELIEZER STATED: [FOR COPULATION WITH] AN HERMAPHRODITE THE PENALTY OF STONING IS INCURRED AS [IF HE WERE] A MALE, it is to be inferred that the first Tanna was doubtful on the point![26] — The law[27] was clear to the one Master as well as to the other Master; the only difference between them was the question of stoning for copulation through either of his two organs. One Master[28] was of the opinion that the penalty of stoning is incurred by copulation through either of the two organs,[29] while the other Master[30] was of the opinion [that it is incurred through the male organ only] AS [IF HE WERE] A MALE.

Rab said:

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[1] Who stated in our Mishnah that the hermaphrodite may confer upon his wife the right of eating terumah. It was in reference to this that R. Johanan had stated that the hermaphrodite may also confer upon his wife the right of eating the breast and the shoulder, which are Pentateuchally ordained, since terumah also according to R. Jose is even at the present time a Pentateuchal ordinance.

(2) Lit., ‘Order of the World’, a chronological work compiled in the first half of the second century by R. Jose b. Halafta.

(3) Deut. XXX. 5, ירשו וירשתה the rt. of ירש is repeated.

(4) After the conquest in the days of Joshua

(5) In the days of Ezra.

(6) The sanctity of Eretz Israel having ceased with the destruction of the first Temple and the Babylonian exile, a second ‘posses sion was necessary to restore to the land its sanctity.

(7) Which was not necessary, the second sanctification having remained for all time. As the land thus remained sacred the Pentateuchal obligation of terumah also remained in force.

(8) V. Nid. 46b.

(9) To effect neutralization. It is now assumed that the reason why R. Johanan maintains that ‘even if the unconsecrated fruit were no more than the terumah’ it is permitted is because, in the case of a Rabbinical prohibition, neutralization is effected by the mere accident of the mixing of consecrated with unconsecrated fruit even though the latter did not form the larger part and not because he relies on the above mentioned assumption.

(10) The minimum quantity of water that constitutes a ritual bath.

(11) Of unsuitable liquid.

(12) Of the entire quantity of forty-one se'ah.

(13) Mik. VII, 2. The se'ah of unsuitable liquid is regarded as having been neutralized in the forty se'ah of water, so that when one se'ah of the mixture was subsequently removed, the minimum of forty se'ah of suitable liquid still remained in the bath.

(14) Zeb. 22a. This is explained presently.

(15) I.e., se'ah after se'ah of unsuitable liquid may be added and an equal quantity of the mixture may be successively removed only until a minimum of twenty-one se'ah of suitable water remains in the bath. Should there remain less, so that the suitable liquid no longer represents the greater part of the mixture, the bath would become ritually unfit. This (the unsuitability of certain liquids in a ritual bath being only a Rabbinical provision) proves that according to R. Johanan an excess is required even in the case of Rabbinical ordinances!

(16) If only half of the suitable water remained the unsuitable liquid is neutralized, no excess being required.

(17) The case in the Baraitha of Terumoth.

(18) From the case of the ritual bath or other Rabbinical ordinances where an excess may in fact be required.

(19) ‘That the terumah fell into the terumah and the unconsecrated fruit etc.’ (v. supra), so that no forbidden food had ever entered the basket of the unconsecrated fruit. Such an assumption is obviously inapplicable in the case of the bath.

(20) נושא. This shews that he is regarded as a proper male. As such he should confer upon his wife the right to eat of the breast and the shoulder. How then could Resh Lakish maintain supra that he does not?

(21) נישא i.e., if marriage had already taken place it is valid in so far as to require a letter of divorce for its dissolution since it is possible that he is a male. Originally, however, no such marriage is permitted owing to the equal possibility that he is not a male but a female.

(22) Implying that marriage may be contracted in the first instance.CF. supra n.1.

(23) נישא. Perfect. Surely this cannot refer to marriage in the first instance but to a marriage already performed?

(24) The two expressions are not identical.

(25) The difficulty against the view of Resh Lakish consequently remains, while the opinion of R. Johanan receives confirmation.

(26) Whether the hermaphrodite is to be regarded as a male. This, then, presents an objection against the view of R. Johanan.

(27) That the hermaphrodite is regarded as a male.

(28) The first Tanna.

(29) Even if it was effected through his female organ.

(30) R. Eliezer.

Talmud - Mas. Yevamoth 83a

Our Mishnah[1] cannot be maintained in the presence of the following Baraitha. For it was taught: R. Jose stated, ‘The hermaphrodite is a creature sui generis, and the Sages did not determine whether he is a male or a female’.[2] On the contrary; the Baraitha[2] cannot be maintained in the face of our

Mishnah![3] — As R. Jose left his colleague[4] it may be inferred that he changed his opinion.[5]

Samuel, however, said: The Baraitha[2] cannot be maintained in the face of our Mishnah.[3] On the contrary; our Mishnah[3] cannot be maintained in the face of the Baraitha,[2] since Samuel was heard to take note of an individual opinion![6] — This[7] applies only to a case where the Mishnah is not thereby uprooted; when the Mishnah, however, is thereby uprooted it need not be taken into consideration.

At the school of Rab it was stated in the name of Rab that the halachah is in agreement with R. Jose in respect of the hermaphrodite and grafting; and Samuel stated: In respect of protracted labour and forfeiture.

As to the 'hermaphrodite', there is the ruling just mentioned.[8] 'Grafting'? — As we have learned: There must be no planting, no sinking[9] and no grafting on the eve of the Sabbatical Year[10] within thirty days before the new year; and if one planted or sank or grafted, the tree must be uprooted.[11] R. Judah said: Any grafting[12] which takes no root within three days will never take root. R. Jose and R. Simeon stated: [Within] two weeks.[13] And, [in reference to this.] R. Nahman stated in the name of Rabbah b. Abbuha that according to him who stated, 'thirty days', thirty and thirty are required;' according to him who stated 'three days', three and thirty are required;[14] and according to him who stated 'two weeks', two weeks and thirty days are required.[14]

'And Samuel stated: In respect of protracted labour and forfeiture'. 'Protracted labour'? — As we learned: How long does the period of protracted labour[15] continue? R. Meir said: Forty or fifty days.[16] R. Judah said: Her [ninth] month is sufficient.[17] R. Jose and R. Simeon said: Protracted labour cannot extend beyond two weeks.[18] 'Forfeiture'? As we have learned: If one causes his vine to overhang[19] above the crops of his neighbour, behold he causes thereby their forfeiture,[20] and he is liable to make compensation; so R. Meir. R. Jose and R. Simeon said:

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(1) Which attributes to R. Jose the opinion that the hermaphrodite bestows upon his wife the right of eating terumah.

(2) Tosef. Bik. II. Since his sex is a matter of doubt he cannot obviously bestow the right(v. p. 558, n. 12) upon his wife.

(3) V. p. 558. n. 12.

(4) In his statement in the Baraitha where he alone appears as the author. In the Mishnah both R. Jose and R. Simeon appear as the authors.

(5) Which he first expressed in our Mishnah.

(6) If that opinion is more rigid. (Cf. supra 41a Meg. 18b). Here too R. Jose's opinion in the Baraitha is more restrictive than his opinion in our Mishnah and should therefore be taken into consideration!

(7) That an individual opinion is to be taken into consideration.

(8) In our Mishnah (cf. Rashi a.l.).

(9) The sinking of a branch under the ground while one end of it remains attached to the tree and the other end is made to protrude from the ground so that in due course it may develop into an independent tree.

(10) Cf. Lev. XXV, 4ff.

(11) A tree does not take root according to this view, before thirty days from the day of its planting have elapsed, and by that time the Sabbatical Year has already begun where all such agricultural activities are forbidden.

(12) And similarly any planting or sinking.

(13) Sheb. II, 6.

(14) Since the last thirty days of the eve of the Sabbatical Year are regarded as part of the next Sabbatical Year (v. M.K. 3b). the plant, in order that it may be permitted, must have taken root prior to these last thirty days.

(15) During this period a woman is not subject to the restrictions of a zabah (v. Glos.), if the flow occurred during the eleven days that intervene between her menstrual periods, even if the discharge continued for three consecutive days. Such a continuous discharge at any other time, when it cannot be attributed to labour, subjects a woman to the uncleanness of a zabah. As in this case, however, the discharge may be regarded as that attendant on labour, the woman must observe only the days prescribed for one after childbirth (cf. Lev. XII, 2ff) and not those prescribed for a zabah (cf. ibid. XV, 25ff). V. Nid. 36b.

(16) Prior to the birth of the child.

(17) Should the flow begin prior to the ninth month and continue for three consecutive days she is regarded as a zabah.

(18) Nid. 36b.

(19) Lit., 'to cover'. 'to make a shadow'.

(20) Cf. Deut. XXII, 9.

Talmud - Mas. Yevamoth 83b

No man can impose a prohibition upon that which is not his.[1]

The question was raised: What would Samuel[2] have said with regard to the hermaphrodite?[3] — Come and hear what Samuel said to R. Anan: The Baraitha cannot be maintained in the face of our Mishnah.[4]

What would Samuel have said in respect of grafting?[3] — Come and hear what Samuel said to R. Anan: Teach in accordance with the view of him who stated 'three and thirty'.

What is the opinion of Rab[5] in respect of protracted labour?[6] — This is undecided.[7]

What is Rab's Opinion in respect of forfeiture?[6] R. Joseph replied. Come and hear what R. Huna stated in the name of Rab: The halachah is not in agreement with R. Jose.

Said Abaye to him:[8] What reason do you see for relying upon this statement?[9] Rely rather on that which R. Adda made in the name of Rab: The halachah is in agreement with R. Jose! — Who is it [that is referred to by the phrase] 'At the school of Rab it was stated'?[10] R. Huna [of course];[11] and R. Huna it was who stated that the halachah is not in agreement [with R. Jose].[12]

R. JUDAH STATED: A TUMTUM etc. R. Ammi remarked: What would R. Judah[13] have done with a case like that of the tumtum of Bairi,[14] who, after having been placed upon the operating table[15] and operated upon, begat seven children![16] And R Judah?[17] — He could tell you:[18] An enquiry should be made as to the origin of his children.

It was taught: R. Jose son of. R. Judah stated that a tumtum must not participate in halizah, since it is possible that on being operated upon he may be found to be a congenital saris.[19] Is everyone then,[20] who is operated upon a male! — It is this that he meant: It is possible that on being operated upon he may be found to be a female; and were he found to be a male, it is even then possible that he might be found to be a congenital saris. What is the practical difference between them?[21] — Raba replied: The practical difference between them is the question of disqualification[22] where other brothers are in existence,[23] and that of halizah where no other brothers exist.[24]

R. Samuel son of R. Judah said in the name of R. Abba, the brother of R. Judah b. Zabdi, in the name of Rab Judah in the name of Rab: In respect of the hermaphrodite the penalty of stoning is incurred through either of his organs.

An objection was raised: R. Eliezer stated, 'In respect of the hermaphrodite the penalty of stoning is incurred as in the case of a male. This, however, applies only to his male organ; but in respect of his female organ no penalty is incurred'![25] — He[26] holds the same opinion as the following Tanna. For it was taught: R. Simai stated that in respect of the hermaphrodite the penalty of stoning is incurred through either of his organs. What is R. Simai's reason? — Raba replied: Bar Hamduri has explained it to me as follows: And thou shalt not lie with a male, as well as with womankind;[27] what male is it that is capable of two manners of lying?[28] Obviously[29] the hermaphrodite. And the Rabbis? — Though he is capable of two manners of lying it is nevertheless written in Scripture.

With a male.[30] Whence, however, do the Rabbis[31] derive the law concerning an ordinary male? — From And.[32] Whence[33] the prohibition in respect of unnatural intercourse with a woman? — From Woman.[34]

R. Shezbi stated in the name of R. Hisda: It is not in all respects that R. Eliezer maintains that the hermaphrodite is a proper male. Since, were you to say so, [such an animal][35] would be fit for consecration.[36] And whence is it derived that it[37] may not be consecrated? — From what the Rabbis taught: [A bird] that was covered,[38] set aside [for idolatrous purposes], or worshipped, that was the hire of a harlot[39] or the price of a dog,[39] a tumtum or hermaphrodite, causes the defilement of one's clothes[40] by [contact with one's] oesophagus.[41] R. Eliezer said: [A bird that was] a tumtum or hermaphrodite does not impart the defilement of clothes through contact with one's oesophagus; for R. Eliezer maintained that wherever male and female were mentioned,[42] the tumtum and hermaphrodite are to be excluded; but [in the case of the sacrifice of a] bird, since in respect of it no mention was made of male or female, the tumtum and hermaphrodite are not to be excluded.[43]

R. Nahman b. Isaac said: We also learned [a similar Baraitha]: R. Eliezer stated:

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(1) Kil. VII, 4; B.K. 100a.

(2) Who only mentioned protracted labour and forfeiture.

(3) Does he agree that here also the halachah is in agreement with R. Jose?

(4) V. supra 83a and cf. supra p. 558. n. 2 and p. 559, n. 1.

(5) Whose school reported in his name (supra 83a) on the hermaphrodite and grafting only.

(6) V. supra p. 560. n. 10.

(7) Teku תיקו v.Glos.

(8) R. Joseph.

(9) That of R. Huna.

(10) Supra 38a where only the hermaphrodite and grafting were mentioned.

(11) V. Sanh. 17b. Wherever it is reported that ‘At the school of Rab it was stated’ the author of the statement was R. Huna. When, however, R. Huna himself reports ‘At the school etc.’ the author of the statement is R. Hamnuna. V. Rashi a.l. and cf. Tosaf. s.v. אמרי.

(12) In respect of forfeiture, supra.

(13) Who regards the tumtum as a saris even if after an operation he is found to be a male.

(14) A mountain village north of Safed in Palestine, once a famous town.

(15) Lit., ‘his (sc. the operator's) chair’.

(16) Which proves, contrary to the opinion of R. Judah, that such a tumtum is no saris.

(17) How could he maintain his opinion in view of this incident?

(18) אמר לך so MS.M.]

(19) Tosef. Yeb. XI. Bek. 42b. A congenital saris (v. Glos.) is. of course, exempt from halizah.

(20) Since R. Jose mentions only the possibility of being a saris and not that of being a female.

(21) Between R. Jose and his father R. Judah. Whether such a tumtum is a doubtful or a certain saris he is, in either case, exempt from halizah.

(22) From the levirate marriage.

(23) Besides the tumtum. According to R. Judah, who regards him as definitely a saris, the widow, if the tumtum submitted to her halizah, is not thereby disqualified from subsequently marrying any of the other brothers, since the halizah of a saris is null and void. According to R. Jose, however, the widow is disqualified. since the tumtum might possibly be a male and his halizah might be valid.

(24) According to R. Judah no halizah takes place; while according to R. Jose halizah must be performed owing to the possibility of his being a male.

(25) Tosef. Yeb. X.

(26) Rab.

(27) Lev. XVIII, 22. משכבי pl., lit., ‘lyings’.

(28) V. n. 7.

(29) Lit., ‘be saying’.
(30) זכר sing. masc. ibid., which excludes copulation through his female organ.
(31) Who employ the expression With a male (ibid.) in relation to the hermaphrodite.
(32) Lev. XVIII, 22. ואת, the superfluous particle of the defined accusative. Cur. edd. read, ‘from woman’. For the reading adopted here, v. Bah, a.l.
(33) According to both the Rabbis and R. Simai.
(34) Ibid. cf. Bah.
(35) An hermaphrodite.
(36) As a sacrifice for the altar.
(37) The hermaphrodite.
(38) Used for bestiality.
(39) Cf. Deut. XXIII. 19.
(40) If the bird was offered up as a sacrifice in consequence of which its head is pinched off (cf. Lev. I, 15). As for the reasons stated, the bird is unfit for the altar, pinching (which is not the ritual mode of slaughter for unconsecrated birds) renders the bird nebelah (v. Glos.) which imparts uncleanness to one's clothes. V. infra n. 10.
(41) I.e., through eating it. It is in this manner, and not by touch, that the nebelah of a clean bird (cf. Deut. XIV, 11) imparts uncleanness to a person.
(42) In the Torah.
(43) Bek. 42a, Zeb. 85b. Since in the case of sacrifices of beasts, male and female were mentioned, it is obvious that, according to R. Eliezer, no tumtum or hermaphrodite is suitable.

Talmud - Mas. Yevamoth 84a

A hybrid, terefah,[1] one that was extracted through the abdominal wall,[2] the tumtum and the hermaphrodite can neither become sacred nor can they impart sanctity to others; is and Samuel explained: They neither become sacred by means of exchange,[3] nor do they impart sanctity [to any other beast][4] by causing it to become an exchange.[5] This proves [what has been said].

R. ELIEZER STATED . . . THE PENALTY OF STONING IS INCURRED AS [IF HE WERE] A MALE. It was taught: Rabbi related, ‘When I went to learn Torah at [the school of] R. Eleazar b. Shammu'a, his disciples combined against me like the cocks of Beth Bukya[6] and did not let me learn more than this single thing in our Mishnah: R. ELIEZER STATED: [FOR COPULATION WITH] AN HERMAPHRODITE THE PENALTY OF STONING IS INCURRED AS [IF HE WERE] A MALE.

CHAPTER IX

MISHNAH. SOME WOMEN ARE PERMITTED[7] TO THEIR HUSBANDS AND FORBldden[7] TO THEIR LEVlrs,[8] OTHERS ARE PERMITTED[7] TO THEIR LEVIRS AND FORBIDDEN[7] TO THEIR HUSBANDS, OTHERS ARE PERMITTED TO BOTH THE FORMER AND THE LATTER, WHILE OTHERS ARE FORBIDDEN TO THE FORMER AS WELL AS TO THE LATTER. IN THE FOLLOWING CASES THE WOMEN[9] ARE PERMITTED TO THEIR HUSBANDS AND FORBIDDEN TO THEIR LEVIRS: IF A COMMON PRIEST WHO MARRIED A WIDOW HAD A BROTHER A HIGH PRIEST; IF A HALAL[10] WHO MARRIED A WOMAN OF LEGITIMATE STATUS[11] HAD A BROTHER OF LEGITIMATE STATUS;[12] IF AN ISRAELITE WHO MARRIED THE DAUGHTER OF AN ISRAELITE HAD A BROTHER A BASTARD, ‘OR IF A BASTARD WHO MARRIED A BASTARD HAD A BROTHER AN ISRAELITE, [IN ALL THESE CASES THE WOMEN] ARE PERMITTED[7] TO THEIR HUSBANDS AND FORBIDDEN[7] TO THEIR LEVIRS.

THE FOLLOWING[9] ARE PERMITTED[7] TO THEIR LEVIRS AND FORBIDDEN[7] TO THEIR HUSBANDS: IF A HIGH PRIEST WHO BETROTHED A WIDOW[13] HAD A BROTHER A

COMMON PRIEST; IF ONE OF LEGITIMATE STATUS[12] WHO MARRIED A HALALAH[10] HAD A BROTHER A HALAL;[10] IF AN ISRAELITE WHO MARRIED A BASTARD HAD A BROTHER A BASTARD, OR IF A BASTARD WHO MARRIED THE DAUGHTER OF AN ISRAELITE HAD A BROTHER AN ISRAELITE, [IN ALL THESE CASES THE WOMEN] ARE PERMITTED TO THEIR LEVIRS AND FORBIDDEN TO THEIR HUSBANDS.

THE FOLLOWING[14] ARE FORBIDDEN[15] TO BOTH THE FORMER AND THE LATTER;[16] IF A HIGH PRIEST WHO MARRIED A WIDOW HAD A BROTHER A HIGH PRIEST, OR IF A COMMON PRIEST OF LEGITIMATE STATUS[17] WHO MARRIED A HALALAH[18] HAD A BROTHER OF LEGITIMATE STATUS,[17] OR IF AN ISRAELITE WHO MARRIED A BASTARD HAD A BROTHER AN ISRAELITE, OR IF A BASTARD WHO MARRIED THE DAUGHTER OF AN ISRAELITE HAD A BROTHER A BASTARD, [IN ALL THESE CASES THE WOMEN] ARE FORBIDDEN[15] BOTH TO THE FORMER AND THE LATTER.[16] ALL OTHER WOMEN ARE PERMITTED[15] TO BOTH THEIR HUSBANDS AND THEIR LEVIRS.

[IN RESPECT OF] RELATIVES OF THE SECOND GRADE, [WHO ARE FORBIDDEN] BY THE ORDINANCES OF THE SCRIBES,[19] A WOMAN WHO IS WITHIN THE SECOND GRADE OF KINSHIP TO THE HUSBAND BUT NOT WITHIN THE SECOND GRADE OF KINSHIP TO THE LEVIR,[20] IS FORBIDDEN TO THE HUSBAND AND PERMITTED TO THE LEVIR; [A WOMAN WHO IS WITHIN] THE SECOND GRADE OF KINSHIP TO THE LEVIR BUT NOT WITHIN THE SECOND GRADE OF KINSHIP TO THE HUSBAND IS FORBIDDEN TO THE LEVIR AND PERMITTED TO THE HUSBAND; [WHILE ONE WHO IS WITHIN] THE SECOND GRADE OF KINSHIP TO THE ONE AND TO THE OTHER IS FORBIDDEN TO THE ONE AS WELL AS TO THE OTHER. SHE CANNOT CLAIM EITHER KETHUBAH,[18] OR USUFRUCT,[21] OR ALIMONY, OR HER WORN CLOTHES.[22] [SHOULD A] CHILD [BE BORN HE] IS ELIGIBLE [FOR THE PRIESTHOOD]; BUT THE HUSBAND MUST BE COMPELLED TO DIVORCE HER. A WIDOW, HOWEVER, WHO WAS MARRIED TO A HIGH PRIEST, A DIVORCEE OR HALUZAH WHO WAS MARRIED TO A COMMON PRIEST, A BASTARD OR A NETHINAH[23] WHO WAS MARRIED TO AN ISRAELITE, OR THE DAUGHTER OF AN ISRAELITE WHO WAS MARRIED TO A NATHIN[23] OR A BASTARD IS ENTITLED TO HER KETHUBAH.

GEMARA. What was the point in teaching MARRIED?[24] He could have taught: ‘Betrothed’![25] And were you to reply that the reason [for the prohibition[26] is only] because he MARRIED, since [in that case][27] a positive[28] as well as a negative[29] precept is involved,[30] but where betrothal only took place the positive precept[26] does override the negative;[31] but [it could be retorted] the whole of our section deals with a positive,[32] versus a negative precept.[33] and the positive nevertheless does not override the negative! — As it was desired to state in the final clause, A HIGH PRIEST WHO MARRIED A WIDOW, [who is forbidden][34] only where [the High Priest] MARRIED her, since in that case he caused her to be a halalah, but [not where he only] betrothed [her in which case] she is permitted [to his brother],[35] he taught in the first clause also: MARRIED.

But why should the expression[36] be determined by[37] the final clause? Let it be determined by[38] the middle clause: IF A HIGH PRIEST WHO BETROTHED A WIDOW HAD A BROTHER A COMMON PRIEST![39] — The determining factor,[40] rather, is the case immediately following in the same context.[41] As it was desired to teach, IF A HALAL WHO MARRIED A WOMAN OF LEGITIMATE STATUS, where the reason [for her prohibition[42] is] because [the halal] MARRIED her and thus caused her to become a halalah, but where he had only betrothed her she would have been permitted to him; MARRIED was, therefore, taught [here also].[43]

What point, however, was there in teaching, A widow? He should have taught: ‘A virgin’![44]

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(1) V. Glos.

(2) By means of the ‘Caesarean operation’. (15) Tem. 17a. V. also op. cit. 11a and Bek. 42a.

(3) If any of these was exchanged for a consecrated beast. (Cf. Lev. XXVII, 10). That these cannot be directly consecrated is obvious. Cf. Bek. 14a.

(4) If they themselves were sacred. In the case of the hybrid, tumtum and hermaphrodite their sanctity is possible only where they were born from a consecrated beast. In the case of the terefah and the one extracted by means of the Caesarean operation sanctity is possible if the former was consecrated before it became terefah and the latter while it was still in its embryonic state.

(5) Cf. Lev. XXVII, 10.

(6) A town in Upper Galilee notorious for its fierce cocks who do not allow the intrusion of a strange cock among them (Rashi).

(7) In marriage.

(8) If their husbands died without issue when, in ordinary cases, it is the duty of the levir to marry his deceased brother's widow.

(9) Lit., ‘and these’.

(10) V. Glos.

(11) Eligible to marry a priest.

(12) Of pure priestly stock.

(13) But did not marry her. If marriage took place the woman would in consequence be ineligible to marry even a common priest.

(14) Lit, ‘and these’.

(15) In marriage.

(16) Lit., ‘to these and to these’.

(17) Of pure priestly stock.

(18) v. Glos.

(19) Cf. supra 201, 211.

(20) If, for instance, the woman was the husband's mother's mother and the levir was his paternal, but not his maternal brother.

(21) Which the husband had consumed. The reason is given infra 89a.

(22) Which she brought to her husband at their marriage. She has no claim upon such clothes even if they were still available (Rashi). According to Tosaf. (infra 85a, s.v. בלאות) she is entitled to such clothes, and the ruling here applies to compensation for clothes which have been completely worn out. Cf Keth. 201a.

(23) V. Glos.

(24) In the first section of our Mishnah.

(25) Even if only betrothal had taken place the woman would be permitted to her husband and forbidden to the levir.

(26) Of the levirate marriage.

(27) Where the levir is a High Priest.

(28) A virgin . . . shall (positive) he take (Lev. XXI, 14) but not a widow (negative). A negative derived from a positive has only the force of a positive.

(29) A widow . . . shall he not (negative) take (ibid.).

(30) Were the levirate marriage to take place two precepts would have been overridden by the single positive precept of the levirate marriage.

(31) V. supra n. 7. The positive precept. A virgin . . . shall he take (v. supra note 6) is not in this case infringed, since a widow after a betrothal is still in her virginity.

(32) Of the levirate marriage.

(33) A bastard, for instance, to an Israelite.

(34) To his brother who is a common priest.

(35) Lit., ‘to him’.

(36) In the first section of our Mishnah.

(37) Lit., ‘and instead of teaching on account of’.

(38) Lit., ‘let him teach on account of’.

(39) Where the expression used was BETROTHED, and not ‘married’.

(40) In the use of the expression of MARRIED.

(41) Lit. , ‘but because of the daughter of the (same) valley’.

(42) To his brother.

(43) In the first case, that of the common priest who married a widow.

(44) Who, becoming a widow after her husband's death, is, like one who was married as a widow, forbidden to a High Priest.

Talmud - Mas. Yevamoth 84b

And should you reply that this Tanna holds the opinion that the original marriage[1] causes the subjection;[2] behold, [it may be pointed out, the case of] the HALAL WHO MARRIED A WOMAN OF LEGITIMATE STATUS[3] where it is not said that ‘the original marriage causes the subjection’![4] — This[5] is certainly due to the final clause. As it was desired to teach in the final clause, IF A HIGH PRIEST WHO MARRIED A WIDOW HAD A BROTHER A HIGH PRIEST OR A COMMON PRIEST, where [the prohibition[6] applies to] a WIDOW only[7] but [not to] a virgin who is eligible to marry him,[8] therefore, WIDOW was taught [here also].[9]

R. Papa demurred: If the law is in agreement with the following ruling[10] which R. Dimi, when he came,[11] reported in the name of R. Johanan, viz., that if an Egyptian of the second generation married an Egyptian woman of the first generation her son is regarded as belonging to the second generation,[12] [our Mishnah] should also have taught: If an Egyptian of the second generatlon married two Egyptian women, one of the first, and the other of the second generation, and he had sons from the first and from the second, [the wives of these sons], if they[13] married in the proper manner,[14] are permitted to their husbands but forbidden to their levirs,[15] and if they married in the reverse order[16] [the wives] are permitted to their levirs[17] and forbidden to their husbands;[18] proselyte women[19] are permitted to the one as well as to the other,[20] and women who are incapable of procreation are forbidden to the one as well as the other![21] — He taught some cases and omitted others. What else did he omit that he should have omitted this also? — He omitted [the case of the man] wounded in the stones.[22] If this is all that can be pointed out,[23] the case of the man wounded in the stones cannot be regarded as an instance of an omission, since those that are subject to the penalty of negative precepts were [already] mentioned![24] — Were not several specific cases mentioned[25] of those that are subject to the penalty of negative precepts? Surely it was stated, IF A COMMON PRIEST MARRIED A WIDOW and then again IF A HALAL MARRIED A WOMAN OF LEGITIMATE STATUS![26] That case[27] was required [for the specific purpose] of informing us [that the law is] in agreement with [the ruling] Rab Judah reported in the name of Rab. For Rab Judah reported in the name of Rab: Women of legitimate [priestly] status were not forbidden to be married to men of tainted birth.[28]

But, surely, he taught regarding A HALAL WHO MARRIED A WOMAN OF LEGITIMATE STATUS and then again regarding AN ISRAELITE WHO MARRIED THE DAUGHTER OF AN ISRAELITE AND HE HAD A BROTHER A BASTARD![29] — This also is not a repetition of what was already taught, since thereby he taught us [first] regarding a negative precept which is not applicable to all[30] and then he taught us regarding a negative precept which is applicable to all. But did he not teach[31] IF AN ISRAELITE WHO MARRIED A BASTARD HAD A BROTHER AN ISRAELITE![32] Con sequently[33] it must be concluded that he taught some cases while others he omitted. This proves it.

[Reverting to] the main text, ‘Rab Judah reported in the name Of Rab: Women of legitimate [priestly] status were not forbidden to be married to men of tainted birth’. Might it be suggested that the following provides support for his view? [It was stated], A HALAL WHO MARRIED A WOMAN OF LEGITIMATE STATUS; does not [this refer to] a priestess (who was fitting unto him);[34] and is not the meaning of[35] LEGITIMATE STATUS eligible for priesthood![36] — No; [it might refer to] the daughter of an Israelite, and LEGITIMATE STATUS means[35] eligible for the assembly.[37] If so, HAD A BROTHER OF LEGITIMATE STATUS would also [mean] ‘eligible for the assembly’, from which it would follow that he himself is ineligible for the assembly![38] Consequently it must refer to a priest; and since he is a priest she also must be a priestess.[39] What an argument! Each phrase may bear its own peculiar interpretation.[40]

Rabin b. Nahman raised an objection: They shall not take . . . they shall not take[41] teaches[42] that the prohibition was addressed to the woman through the man![43] — Raba replied, [This is the meaning]: Where the prohibition is applicable to him it is also applicable to her, but where it is not applicable to him it is also inapplicable to her.[44] Is this,[45] however, deduced from this text? Surely it was deduced from a text which Rab Judah expounded in the name of Rab! For Rab Judah stated in the name of Rab and so it was taught at the school of R. Ishmael: When a man or woman shall commit any sin that men commit;[46] Scripture compared the woman to the man in respect of all the punishments in the Torah![47] — If deduction had been made from that [text][46] it might have been assumed [to apply only to] a prohibition that is equally applicable to all, but not to a prohibition that is not equally applicable to all.[48]

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(1) Of the deceased brother.

(2) Of the woman to the levirate marriage, i.e. , the widow's status at the time of her husband's death is determined by the status in which she found herself when he married her, not by that in which his death placed her, consequently if at the time of the marriage she was a virgin she would not have been regarded as a widow and would, therefore, have been permitted to marry a priest.

(3) Who becomes, thereby. disqualified from marrying his brother.

(4) Had this been the case, his brother should have been permitted to marry her, owing to the fact that at the time of her marriage with the deceased (when she presumably became subject to the levirate marriage) she was no halalah.

(5) The mention of WIDOW rather than ‘virgin’.

(6) To her husband who was a High Priest. and to the levir who was a common priest.

(7) Who becomes a halalah through such a forbidden marriage.

(8) The High Priest, (her first husband) and, after his death, also his brother if he was a common priest.

(9) In the first case, that of the common priest who married a widow.

(10) Lit., ‘if there is that’.

(11) From Palestine to Babylon.

(12) Supra 78a.

(13) The sons.

(14) I.e., if the son of the Egyptian of the second generation, who thus belongs to the third and is permitted to enter the assembly (v. Deut. XXIII, 9), married the daughter of an Israelite; while the other who belongs to the second generation married an Egyptian of the second generation.

(15) Should one of the brothers die without issue. The son of the third generation is forbidden to marry the Egyptian of the second generation, while the son of the second generation is forbidden to marry the daughter of an Israelite.

(16) I.e., if the son of the second generation married the daughter of an Israelite, while the son of the third generation married an Egyptian of the second generation.

(17) Cf. supra n. 5 mutandis mutandis.

(18) Cf. supra. 6 mutatis mutandis.

(19) Who are not included in the term ‘assembly of the Lord’ (v. Deut. XXIII, 9).

(20) Both the Israelite and (for the reason indicated in n. 10) the Egyptian of the second generation may marry a proselyte.

(21) The son of the second generation may not marry her because she is the daughter of an Israelite, while after his death she is forbidden to his brother because a woman who is incapable of procreation is not subject to the levirate marriage and is consequently forbidden to him as his brother's wife.

(22) In respect of such a maimed person, prohibition and permission similar to those in our Mishnah could be stated: If he is maimed and his brother is fit the woman is forbidden to him (v. Deut. XXIII, 2) and permitted to his brother; if he is fit and his brother maimed she is permitted to him and forbidden to his brother; if both are maimed etc. proselyte women are permitted to both.

(23) Lit., ‘if because of’.

(24) And among these, this case also is included. What proof, then, is there that any cases other than that of R. Dimi were omitted?

(25) Lit., ‘did be not teach and then taught again’.

(26) Which proves that the Mishnah did not avoid giving more than one example of the same type of prohibition.

(27) Of a halal who married a woman of legitimate status.

(28) Kid. 731, 76a, infra 85a. The purpose of our Mishnah in giving the law of the halal was not to teach the prohibition of the woman to the levir (which, of course, as pointed out supra, was unnecessary) but her permission to marry a husband though he is a halal and she is of legitimate status or of pure priestly stock. The prohibition to marry one of impure stock is incumbent upon the man and not upon the woman.

(29) Which shews that the Mishnah did not avoid giving more than one example of the same type of prohibition.

(30) The case of the halal is applicable to priests only, not to Israelites.

(31) Lit., ‘surely he taught’.

(32) Also a case of a negative precept! (cf. n. 7). Cur. edd. insert In parenthesis ‘and a bastard who married a bastard and he has a brother an Israelite’, which Rashal omits.

(33) Lit., ‘but not’?

(34) Though he may marry the daughter of an Israelite he should preferably marry the daughter of a priest. Cf. Pes. 49a. [The bracketed words are rightly omitted in MS.M].

(35) Lit., ‘and what’.

(36) To marry a priest. Which is in agreement with the opinion of Rab.

(37) I.e. ‘ to marry an Israelite.

(38) Surely not!

(39) I.e., since the term ‘legitimate status in the case of the man has reference to a priest, so the reference in the case of the woman must be to a priestess which shews that a priestess may marry one of tainted birth.

(40) Lit., ‘that as it is and that as it is’.

(41) Lev. XXI, 7.

(42) Since the expression was repeated.

(43) This is now assumed to mean that as the untainted priest may not marry a halalah so may not the untainted priestess marry a halal. An objection against the opinion of Rab.

(44) The halalah whom an untainted priest is forbidden to marry is herself forbidden to marry such a priest. The untainted priestess however, whom a halal is not forbidden to marry, may also marry the halal.

(45) The equality of men and women in respect of prohibitions

(46) Num. v, 6.

(47) Whether flogging or kareth.

(48) That of the priesthood does not apply to Israelites. Hence it was necessary to have the text of Lev. XXI, 7.

Talmud - Mas. Yevamoth 85a

Behold, however, [the prohibition against] defilement[1] which is a prohibition that is not equally applicable to all[2] and [yet the sole] reason [why it is inapplicable to woman is] because the All Merciful wrote The sons of Aaron[3] and not the daughters of Aaron; had, however, no such text been available[4] it would have been assumed that women also come under the same obligation. What is the reason? Obviously[5] because of the deduction Rab Judah reported in the name of Rab![6] — No; this might have been deduced from They shall not take.[7]

Others Say:[8] [The prohibition in regard] to marrying had to be specified.[9] Since it might have been assumed that it[10] should be inferred from [that relating to] defilement,[11] therefore he taught us[12] [that women are subject to the same prohibition as men].

R. Papa and R. Huna son of R. Joshua once happened to be at Hinzebu,[13] the town of R. Idi b. Abin, when the following question was asked of them: Were women of legitimate [priestly] status forbidden to be married to men of tainted birth or not? R. Papa replied, ‘You have learned it [in the following]. Ten different genealogical classes went up from Babylon:[14] Priests, Levites, Israelites, halalim,[15] proselytes, emancipated slaves, bastards, nethinim,[16] shethuki[17] and asufi.[17] Priests, Levites and Israelites may intermarry with one another. Levites, Israelites, halalim, proselytes and emancipated slaves may intermarry with one another. Proselytes, emancipated slaves, bastards, nethinim,[16] shethuki[17] and asufi[17] are permitted to intermarry with one another.’[18] That daughters of priests, however, [may be married to a] halal was not mentioned.[19] Said R. Huna son of R. Joshua to him: Only cases where the women may marry the men, and the men may marry the women were enumerated;[20] the case of the Priest, however,[21] was not mentioned, because a halalah, should he even desire to marry one, is forbidden to him.[22] When they came before R. Idi b. Abin he said to them, ‘O, school-children! Thus said Rab Judah in the name of Rab: Women of legitimate [priestly] status were not forbidden to be married to men of illegitimate Status’.[23]

[IN RESPECT OF] RELATIVES OF THE SECOND GRADE [WHO ARE FORBIDDEN] BY THE ORDINANCES OF THE SCRIBES etc. The men of Bairi[24] enquired of R. Shesheth: Is a woman who is of the second grade of kinship to her husband but not to her levir entitled to claim her kethubah from the levir or not? [Do we say that] since a Master said that her kethubah[25] is a charge on the estate of her first husband[26] she has no [claim upon the levir];[27] or, possibly, since the Rabbis have ordained that wherever she is unable to obtain it from her first husband[28] [she may collect it] from the second, she[29] is entitled to claim it[30] [from the levir]? R. Shesheth replied, ‘You have learned this: Her kethubah[25] is a charge upon the estate of her first husband, but if she was a relative of the second grade of kinship to her husband she receives nothing even from the levir.

Does [the expression,[31] however,] imply that some [widows] do receive their[30] kethubah from the levir![32] — There is a lacuna, and thus it is the correct reading:[33] Her kethubah[25] is a charge upon the estate of her first husband; and if she obtains nothing from the first, the Rabbis have ordained [that she is to receive it] from the second; but if she was a relative of the second grade of kinship to her husband she receives nothing even from the levir.

R. Eleazar enquired of R. Johanan: Is a widow [who was married] to a High Priest, or a divorcee or a haluzah [who was married] to a common priest entitled to maintenance or not? How is this question to be understood? If [it is a case] where she still lives with him,[34] would she, when it is his duty to divorce her,[35] be entitled to receive maintenance![36] — This question was necessary in the case[37] where he went to a country beyond the sea and she borrowed money wherewith to maintain herself;[38] it being desired to ascertain[39] whether, [owing to the fact that] maintenance[39] among the conditions of the kethubah, she is entitled to mainte nance just as she is entitled to the kethubah, or is she entitled to the kethubah only because she receives it and goes, but not to maintenance which might induce her to remain with him? — The other replied: She is not entitled to maintenance.[40] But, surely, it was taught: She is entitled to maintenance.[41] — That was taught In respect of [alimony] after [her husband's] death.[42]

Another reading:[43] He said to him, ‘It was taught: She is entitled to maintenance’.[41] ‘Surely’, [the other asked], ‘it is his duty to divorce her!’[44] ‘But then’, [the first retorted], ‘it was taught: She is entitled to maintenance’![41] — ‘That’, [the other replied], ‘was taught in respect of [alimony] after his death’.[42]

Our Rabbis taught: A widow [who was married] to a High Priest, or a divorcee or haluzah [who was married] to a common priest is entitled to her kethubah, usufruct,[45] alimony and worn clothes,[46] but she becomes thereby unfit, and her child is unfit, and [the husband] is compelled to divorce her. Relatives of the second grade of kinship [who are forbidden] by the ordinances of scribes are entitled neither to kethubah, nor to usufruct,[45] nor to alimony[46] nor to worn clothes;[46] the woman remains fit and her child is fit; but [the husband] is compelled to divorce her. R. Simeon b. Eleazar said, ‘Why was it ordained that a widow married to a High Priest is entitled to her kethubah? Because he becomes unfit[47] and she becomes unfit and wherever he becomes unfit and she becomes unfit[48]

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(1) For the dead.
(2) Having been given to priests only. v. Lev. XXI, 1ff.
(3) Ibid. 2.
(4) Lit., ‘but (if) not so’.
(5) Lit., ‘not?’
(6) Which shews that even a prohibition which is not applicable to all would be assumed to be applicable to women by deduction from Rab's text!
(7) Lev. XXI, 7, from which it has been deduced (supra 84b, end) that women are subject to the same prohibitions as men even where the prohibitions are not applicable to all. Hence the necessity for the text of Lev. XXI, 1 , which excludes women. From Num. v, 6, however, it may still be maintained, deduction could be made only in respect of a prohibition that is applicable to all.
(8) Although the equality of men and women in respect of prohibitions could be deduced from the text cited by Rab Judah in the name of Rab.
(9) Lit., ‘taking was necessary for him’, with reference to the verse, ‘They shall not take’.
(10) The prohibition of the marriage of the halalah to a halal.
(11) Which, as has just been shewn, applies only to men and not to women.
(12) In the case of marriage by the text of Lev. XXI, 7.
(13) Or ‘Shekanzebu’ (Bah). The reading ‘Shekanzib’ (cf. supra 37b) is quoted by Golds., a.l., and rejected in favour of the reading in our text.
(14) In the days of Ezra.
(15) Pl. of halal, profaned priests. V. Glos.
(16) Pl. of nathin, v. Glos.
(17) For notes v. supra 37a.
(18) Kid. 69a.
(19) The answer to their question is, therefore, in the affirmative.
(20) Lit., ‘wherever these take from those and those take from these he taught’.
(21) Though, were he a halal, he would not have been forbidden to marry a priest's daughter.
(22) So that the Mishnah of Kid. is not conclusive.
(23) V. supra 84b.
(24) V. supra p. 561, n. 10. [Here probably Be Bari, south of Sura (v. Obermeyer, p. 308)].
(25) Of a widow subject to the levirate marriage.
(26) Supra 381, Keth. 80b.
(27) Though in this particular case she can have no claim upon the estate of her husband.
(28) If, for instance, he is without means.
(29) Since here also she receives nothing from the estate of her first husband.
(30) Lit., ‘there is to her’.
(31) ‘She receives nothing even from the levir’.
(32) Which is contrary to the ruling supra that the kethubah remains a charge upon the estate of the first husband.
(33) Lit., ‘and thus he taught’.
(34) Lit., ‘sits under him’, her forbidden husband.
(35) Lit., ‘He stands under (the charge) to get up and make her go out’.
(36) Obviously not. What need, then, was there to ask a question the answer to which is so obvious?
(37) Lit., ‘it is not required (but)’.
(38) Lit., ‘and she ate’.
(39) Lit., ‘what’.
(40) Lit., ‘there is not to her’.
(41) Lit., ‘there is to her’.
(42) If her husband died before she was divorced. Since in such a case there is no cause to apprehend that she will be induced to remain with him, she is entitled to alimony.

(43) Lit., ‘there is one who says’.

(44) Cf. supra p. 574 n. 11. How, then, could he he expected to maintain her?

(45) Consumed by the husband from her melog (v. Glos.) property.

(46) Cf. nn. on our Mishnah.

(47) He is not permitted to perform the Temple service as long as he refuses to part with her. V. Bek. 45b and Git. 35b.

(48) [Tosaf.: ‘Wherever he becomes unfit or she becomes unfit’. The resulting unfitness of either of them is sufficient to act as a deterrent to the woman in view of the effect it has on the child's fitness. R. Tam, on the other hand, whilst agreeing with this rendering, takes ‘he’ as referring to the child].

Talmud - Mas. Yevamoth 85b

[the Rabbis] have penalized him [by ordering him to pay her] kethubah.[1] And why was it ordained that relatives of the second grade of kinship, [who are forbidden] by the ordinances of the Rabbis, are not to receive their kethubah? Because the man remains fit and the woman remains fit, and wherever he as well as she remains fit [the Rabbis] have penalized her [by depriving her of her] kethubah.[2] Rabbi said, ‘The former[3] are prohibitions[4] of the Torah, and prohibitions of the Torah require no reinforcement;[5] while the latter[6] are prohibitions of the scribes, and the prohibitions of the scribes require reinforcement.[7] Another reason[8] is: In the former case the man induces the woman[9] [into the marriage];[10] in the latter case she induces him.[11] Who stated the ‘other reason’? One opinion asserts[12] that it was R. Simeon b. Eleazar who stated it; and he gave an answer[13] [to the question] ‘what is the reason’. ‘What is the reason’, [he said in effect,] ‘why it was ordained that when the man is unfit and the woman is unfit the man is penalized by having to pay the kethubah? Because he induces the woman into the marriage.[14] And what is the reason why when he remains fit and she remains fit she is penalized by losing her kethubah? Because she induces him, [into the marriage’].[15] Another opinion asserts[12] that it was Rabbi[16] who stated it, because the case of the haluzah presented to him the following difficulty: A haluzah, surely, is only Rabbinically [forbidden to be married to a common priest][17] and yet she receives her kethubah.[18] Thereupon he stated: Since the man disqualifies her by Rabbinical law[19] it is he, [who in the former case], induces[20] her [into marriage][21] but in the latter case it is she that induces him [into marriage].[22]

What practical difference is there between [the reason given by] Rabbi and [that given by] R. Simeon b. Eleazar? — R. Hisda replied: The practical difference between them is the case of a bastard or a nethinah [who was married] to an Israelite. According to him who gave the reason[23] that [the prohibitions were] Pentateuchal, then this case[24] also is Pentateuchal;[25] but according to him who gave as the reason,[23] that the man induces the woman[26] then here, it is she that induces him [into the marriage].[27] According to R. Eliezer, however, who[28] stated, ‘Behold he[29] is both a slave and a bastard’,[30] the woman, surely, would not induce the man at all![31] — Rather, said R. Joseph, the practical difference between them[32] is the case of the man who remarried his divorced wife after she had been married.[33] According to him who gave the reason[34] that [the prohibitions were] Pentateuchal, then this case[35] also is Pentateuchal;[36] but according to him who gave as the reason[34] that the man induces the woman[37] then here, surely, she induces him.[38]

But according to R. Akiba who stated that the offspring of a union forbidden under the penalty of a negative precept is deemed to be a bastard,[39] she,[40] surely, would not induce the man at all![41]

Rather, said R. Papal the practical difference between them[42] is the case of a be'ulah[43] [who was married] to a High Priest.[44] According to him who gave as the reason[34] that [the prohibitions were] Pentateuchal, then this case also is Pentateuchal;[45] but according to him who gave as the reason[34] that the man induces the woman,[37] then here, surely, it is she that induces him.[46]

According to R. Eliezer b. Jacob, however, who stated that the offspring of a union that is forbidden under a positive precept is deemed a halal,[47] she,[48] surely, would not at all induce him![49]

Rather, said R. Ashi, the practical difference between them[42] is the case of the man who cohabits again with his doubtful sotah.[50] According to him who stated that the reason[34] is that [the prohibition is] Pentateuchal, then this case also is Pentateucha[46] but according to him who stated that the reason[34] is that the man induces the woman[37] here it is she that induces him.[46]

And according to R. Mathia b. Heresh who stated that even a woman whose husband, while going to arrange for her drinking [of the water of bitterness][51] cohabited with her on the way, is rendered a harlot, she,[52] surely, would not at all induce him [to such a marriage]![53] Rather, said Mar b. R. Ashi, the practical difference between them[54] is the case of a confirmed sotah[55] .

MISHNAH. THE DAUGHTER OF AN ISRAELITE WHO WAS BETROTHED TO A PRIEST, WAS PREGNANT FROM A PRIEST, OR WAS AWAITING THE DECISION OF A LEVIR WHO WAS A PRIEST; AND, SIMILARLY, THE DAUGHTER OF A PRIEST [WHO STOOD IN SUCH RELATIONSHIP] TO AN ISRAELITE, MAY NOT EAT TERUMAH.[56] THE DAUGHTER OF AN ISRAELITE WHO WAS BETROTHED TO A LEVITE, WAS PREGNANT FROM A LEVITE, OR WAS AWAITING THE DECISION OF A LEVIR WHO WAS A LEVITE; AND, SIMILARLY, THE DAUGHTER OF A LEVITE [WHO STOOD IN SUCH RELATIONSHIP] TO AN ISRAELITE MAY NOT EAT TITHE.[57] THE DAUGHTER OF A LEVITE WHO WAS BETROTHED TO A PRIEST, WAS PREGNANT FROM A PRIEST, OR WAS AWAITING THE DECISION OF A LEVIR WHO WAS A PRIEST; AND, SIMILARLY, THE DAUGHTER OF A PRIEST [WHO STOOD IN SUCH RELATIONSHIP TO A LEVITE, MAY EAT NEITHER TERUMAH NOR TITHE.

GEMARA. And granted that she[58] is [no more than] an ordinary woman,[59] is not any ordinary woman permitted to eat tithe?[60] R. Nahman replied in the name of Samuel: This ruling represents the view of R. Meir[61] who stated: The first tithe is forbidden to common people.[62] For it was taught:

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(1) The woman is already penalized by a marriage which taints both herself and her husband and which is naturally followed by an unhappy family life. In such circumstances the woman would either not consent to marriage or would be anxious to have such a union severed at the earliest possible moment. The penalty was, therefore, imposed upon the husband.

(2) In order that she might, in consequence, be deterred from contracting such a marriage or, if contracted, be anxious to have it severed.

(3) Lit., ‘those’, the marriage of a widow to a High Priest and that of a divorcee or haluzah to a common priest.

(4) Lit., ‘words’.

(5) Hence there was no need to deprive the woman of her kethubah. Cf. supra n. 1.

(6) Marriages with relatives of the second grade of kinship.

(7) Cf. supra n. 1.

(8) Why in the former case the man is to pay the kethubah while in the latter the woman loses her kethubah.

(9) Lit., ‘(in) this he leads her’. מרגילה denom. of רגל ‘foot’ (cf. Jast.). Colds. (a.l.) renders ‘befleckt er sie’.

(10) The woman is reluctant to contract a marriage which taints her and her children.

(11) As the marriage subjects neither the woman nor her children to any disability, it is assumed that she, as a woman, is more anxious than the man to marry.

(12) Lit., ‘there is (one) who said’.

(13) Lit., ‘he said’.

(14) V. supra notes 8 and 9.

(15) V. supra note 10.

(16) Who had previously explained that the reason why the woman was deprived of her kethubah was because prohibitions of the scribes require reinforcement.

(17) Cf. Kid. 78a.

(18) If Rabbinical prohibitions require reinforcement the haluzah should not have been entitled to her kethubah. (Cf. supra p. 576, n. 2).

(19) [(a) According to Rashi: from eating terumah; (b) MS. M. reads: ‘he disqualifies her seed by rabbinic law’. Cf. also Me'iri].
(20) V. supra p. 576, n. 8.
(21) The woman is reluctant to contract such a union.
(22) V. supra p. 576, n. 10.
(23) Why in the former case, supra, the woman is entitled to her kethubah.
(24) Of the bastard or the nethinah.
(25) And the woman is, therefore, entitled to her kethubah.
(26) Into the marriage.
(27) She, being in any case forbidden to marry an Israelite, has nothing to lose by her marriage which, under certain conditions, may even be advantageous to her, since according to R. Tarfon (cf. Kid. 69a, supra 78a), it may enable her descendants to become proper Israelites. The woman, therefore, loses her kethubah.
(28) Disagreeing with the view of R. Tarfon. (Cf. supra n. 11).
(29) The son of a union between a bastard and a slave.
(30) And can never become a legitimate Israelite. Cf. Kid. 69a.
(31) Why then should she lose her kethubah?
(32) Rabbi and R. Simeon b Eleazar.
(33) After she had been married to another man. V. Rashi and cf. Bah a.l. Cur. edd. read, ‘a divorced woman after she had been married’.
(34) V. supra p. 57, n. 7.
(35) The remarriage of one's divorcee.
(36) It is pentateuchally forbidden to marry such a woman. (V. Deut. XXIV, 4). Cf. supra p. 57, n. 9.
(37) Into the marriage.
(38) Since the prohibition was addressed to the man; and neither the woman nor her children are subject to any disability in consequence of such a marriage.
(39) V. supra 49a.
(40) The divorced woman who has been married to another man and whose remarriage with her first husband is forbidden by a negative precept.
(41) She would not be anxious to contract a union the issue from which would be bastards.
(42) Rabbi and R. Simeon b. Eleazar.
(43) A woman who has lost her virginity. v. Glos.
(44) Such a union is forbidden under the positive precept. A virgin . . . shall he take (Lev. XXI, 14), and not by a negative one. A negative precept derived from a positive has only the force of a positive. The offspring therefore, would be no bastard even according to R. Akiba.
(45) Cf. supra n. 11 and supra p. 57, n. 9.
(46) V. supra note 5.
(47) V. supra 600.
(48) A be'ulah.
(49) Since such a marriage would render her child a halal.
(50) V. Glos. Such a woman is pentateuchally forbidden to her husband though the offspring of the union is not regarded as a bastard. V. supra 49b.
(51) V. Num. V, 18f.
(52) The doubtful sotah.
(53) Which would render her a harlot and her children bastards.
(54) Rabbi and R. Eleazar b. Simeon.
(55) Who is Pentateuchally forbidden to her husband though their offspring is not deemed to be a bastard. As she herself is in any case forbidden to marry a priest she has nothing to lose by cohabiting with her husband, and she would consequently persuade him to live with her again. Hence the ordinance that in such a case she loses the rights to her kethubah.
(56) As explained supra 67b.
(57) Which is the due of the Levites. V. Num. XVIII, 24.
(58) The daughter of the Israelite or the Levite who was betrothed etc. to a Levite and an Israelite respectively.

(59) זרה (masc. זר), lit., ‘a stranger’, not of priestly, or levitical stock.
(60) Of course she is. Why, then, does our Mishnah forbid it?
(61) Lit., ‘this, who is it? It is R. Meir’.
(62) Supra 74a. Cf. supra note 1 and p. 579, n. 7.

Talmud - Mas. Yevamoth 86a

Terumah to the priest and the first tithe to the Levite;[1] so R. Meir. R. Eleazar b. Azariah permits it to the priest,[2] ‘Permits it’![3] Does this then imply that some authority forbids it?[4] Read, therefore, ‘He may give it to the priest also’. What is R. Meir's reason? R. Aha son of Rabbah replied on the authority of a traditional statement:[5] For the tithe of the children of Israel, which they set apart as terumah unto the Lord,[6] as terumah is forbidden to common people so is the first tithe forbidden to common people. May it be assumed that[7] as in the case of terumah the penalties of death and of a fifth[8] are incurred, so are the penalties of death and of a fifth incurred in the case of tithe? — Scripture stated, And die therein if they profane it[9] . . . then he shall put the fifth part thereof unto it;[10] ‘therein’,[11] but not in the tithe; ‘Into it’[12] but not unto tithe. And the Rabbis?[13] — As terumah is a cause of tebel[14] so is the first tithe a cause of tebel;[15] and this is in agreement with what was taught: R. Jose said, It might have been presumed that guilt is incurred only for tebel from which nothing whatsoever[16] had been set apart; whence is it deduced [that guilt is also incurred when] terumah gedolah[17] had been set apart but not the first tithe,[18] first tithe but not the second tithe[19] or even if the poor man's tithe[20] [only had not been set apart]? Scripture stated, Thou mayest not eat within thy gates[21] and further on it was stated, That they may eat within thy gates, and be satisfied;[22] as ‘Thy gates’ which was stated below[22] refers to the poor man's tithe,[23] so ‘Thy gates’ which was stated here[21] refers to the poor man's tithe, and [concerning it] the All Merciful has said, Thou mayest not.[24] And if the deduction had been made from that text[25] only[26] it might have been assumed [to imply the penalty] of a negative precept[27] but not [the penalty of] death; hence we were taught [the earlier text[28] also].[29]

Another reading: That the first tithe is a cause of tebel[30] may surely be deduced from the text cited by R. Jose![31] — If [deduction had been made] from that text[25] only[32] it might have been assumed [to imply the penalty] of a negative precept[27] but not the penalty of death; hence we were taught [the earlier text[28] also].[29]

How did you explain it?[33] In accordance with the view of R. Meir! Explain, then, the final clause: THE DAUGHTER OF A LEVITE WHO WAS BETROTHED TO A PRIEST and THE DAUGHTER OF A PRIEST . . . TO A LEVITE MAY EAT NEITHER TERUMAH NOR TITHE; what [bearing has the question of] non-priestly stock in this case?[34] — R. Shesheth replied: The meaning of[35] the expression,[36] SHE MAY NOT EAT is that she may not give permission to one to set apart[37] the tithe.[38] Does this[39] then imply that a married woman may give such permission? — Yes; and so it was taught: And ye may eat it in every place, ye and your household[40] teaches that a married daughter of an Israelite[41] may give permission for terumah[42] to be set apart.[43] You say: Permission for terumah[43] to be set apart; perhaps it is not so, but to eat it?[44] It can be replied: If she[45] may eat terumah which is subject to greater restrictions, how much more may she[46] eat tithe which is subject to lesser restrictions.[47] The text[48] must consequently[49] have taught that a married daughter of an Israelite may give permission for terumah[42] to be set apart.[43]

Mar the son of Rabana[50] stated: This[51] teaches that she is not given a share in the tithe in the threshing- floors.[52] This is a satisfactory explanation according to him who holds that this[53] is due to considerations of privacy governing the sexes;[54] according to him, however, who holds that this[53] is due to [possible abuse by] a divorced woman,[55] may not a divorced woman who is the daughter of a Levite[56] eat tithe?[57] — And according to your argument, may not a divorced woman who is the daughter of a priest eat terumah![58] But [the fact is that the ordinance[59] is] a preventive measure against [abuse by] a divorced woman who was the daughter of an Israelite.[60] If so,[61] what was the point in mentioning BETROTHED? [The same rule should be applied] even to one who was married! — As in the first clause BETROTHED was taught,[62] BETROTHED was also taught in the final clause.[63]

Our Rabbis taught: Terumah gedolah[64] belongs to the priest, and the first tithe belongs to the Levite; so R. Akiba. R. Eleazar b. Azariah said:

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(1) As the terumah must be given to the priest and may be eaten by priests only and not by common peopled so must the first tithe also be given to Levites and be eaten by Levites only and not by common people (v. Rashi).

(2) Keth. 26a.

(3) The eating of tithe by a priest.

(4) Which is absurd. A priest, surely, is not included among the ‘common’ people to whom tithe should be forbidden!

(5) Attributed to R. Meir himself.

(6) Num. XVIII, 24; terumah (E.V. gift) and tithe having been mentioned in juxtaposition.

(7) Lit., ‘if’.

(8) Cf. Lev. XXII. 14.

(9) Ibid. 9.

(10) Ibid. 14.

(11) Shall the penalty of death be incurred.

(12) Shall a fifth be added.

(13) How do they explain the comparison between the terumah and tithe to which Scripture points?

(14) טבל v. Glos. The penalty for eating tebel is death.

(15) V. supra n. 18, though for the eating of the tithe itself no death penalty is incurred.

(16) Neither the priestly, nor the levitical dues.

(17) V. Glos.

(18) Which is not so sacred as terumah, being permitted to Levites.

(19) Which even common people are permitted to eat. Cf. Deut. XIV, 22-27.

(20) Which is not even sacred, it being regarded as mere alms.

(21) Deut. XII, 17, speaking of tithe.

(22) Ibid. XXVI, 12, speaking of the tithe of the poor man.

(23) The text speaking of the third year, (ibid.). The third and the sixth year of the Septennial cycle are the years in which the poor man's, instead of the second tithe is given to all who are in need of it.

(24) Eat, (ibid. XII, 17), before it is set apart from the produce.

(25) Deut. XII, 17, speaking of tithe.

(26) Lit., ‘and if from there’.

(27) For the eating of the tithe, since the prohibition only was stated, but no death penalty was mentioned.

(28) Num. XVIII, 24.

(29) From which a comparison is made between the tithe and terumah. Cf. supra p. 580. n. 10.

(30) V. Glos.

(31) In the Baraitha just discussed. What need, then, was there for the comparison deduced from Num. XVIII, 24?

(32) Lit., ‘if from that’.

(33) The reference to tithe in the case of THE DAUGHTER OF AN ISRAELITE WHO WAS BETROTHED TO A LEVITE, and THE DAUGHTER OF A LEVITE... TO AN ISRAELITE.

(34) Lit., ‘what strangeness is there here’; neither the daughter of a priest nor the daughters of a Levite are ‘strangers’ or ‘common’ women to whom tithe is forbidden.

(35) Lit., ‘what’.

(36) Lit., ‘that was taught’.

(37) From the produce of her betrothed, or of the levir whose decision she is awaiting.

(38) And the terumah of this tithe (cf. Num. XVIII, 26) so that she might be enabled to eat of the tithe. The reason for the prohibition is not because the tithe is forbidden to her, but because she is not entitled to appoint an agent for the setting apart of terumah without the owner's knowledge.

(39) Since BETROTHED was mentioned.
(40) Num. XVIII, 31. The husband (ye) was compared to his wife (household; בית term for ‘wife’).
(41) I.e., one married to a Levite.
(42) From her husband's produce.
(43) Cf. supra note 5.
(44) The tithe.
(45) The wife of a priest, because she is entitled to the same rights as her husband.
(46) The wife of a Levite who also, like the wife of the priest, is entitled to her husband's rights.
(47) As this law is so obvious there was no need to have a Scriptural text from which to deduce it.
(48) V. supra n. 7.
(49) Lit., ‘but’. Since it is available for a comparison between husband and wife.
(50) Or ‘Rabina’ (v. Rashi).
(51) The final clause in our Mishnah, THE DAUGHTER OF A LEVITE TO A PRIEST and THE DAUGHTER OF A PRIEST TO A LEVITE.
(52) If she comes unaccompanied by her husband. The first clause will, however, refer to eating and is in accordance with R. Meir's view.
(53) The prohibition to give a share in the terumah or tithe to a woman when she comes alone to the threshing-floor.
(54) יחוד v. Glos. s.v. yihud and cf. infra 100a.
(55) Who might continue to collect tithe at the threshing- floors even after her divorce from her husband when she returns to her former status of an ordinary woman and forbidden to share in the priestly dues and, according to R. Meir, also in the levitical tithe.
(56) Another reading, ‘May not the daughter of a priest eat terumah? — And according to your argument may not a divorced woman who is the daughter of a Levite eat tithe?’ Cur. edd. enclose the reading of our text in parenthesis.
(57) Of course she may. Why, then, should she be refused a share in the tithe even in the absence of her husband!
(58) She undoubtedly may. Why then is the wife of a priest refused a share in terumah in the absence of her husband (cf. infra 100a) irrespective of whether she is the daughter of a priest or of an Israelite?
(59) V. p. 582, n. 20.
(60) Such a preventive measure is, of course, applicable to the daughter of a Levite in respect of tithe in the same way as to the daughter of a priest in respect of terumah.
(61) That the prohibition is merely a preventive measure.
(62) In the first clauses the expression BETROTHED was essential, since the object of the Mishnah was to state that betrothal alone does not confer upon the daughter of an Israelite the right of eating terumah and tithe, and upon the daughter of a Levite the right to terumah, if the former was betrothed to a priest or a Levite and the latter to a priest; and that even betrothal, and not only marriage, deprives the daughter of a priest and the daughter of a Levite of the right of eating terumah and tithe respectively if the man was in the former case an Israelite or a Levite and in the latter case an Israelite.
(63) Where the reference is to the woman's eligibility to call for a share in the tithe; though in this case the woman, whether betrothed or married, is subject to the same restriction.
(64) V. Glos.

Talmud - Mas. Yevamoth 86b

To the priest.[1] ‘To the priest’, but not to the Levite![2] — Read: To the priest also.

What is R. Akiba's reason? — Because it is written, Moreover thou shalt speak unto the Levites, and say unto them;[3] Scripture thus refers specifically to the Levites. And the other?[4] — His view follows that of R. Joshua b. Levi. For R. Joshua b. Levi stated: In twenty-four passages were the priests described as Levites, and the following is one of them: But the priests the Levites, the sons of Zadok.[5] And R. Akiba? You cannot say so[6] here; for it is written, And ye may eat it in every place,[7] [it is to be given to him only] who ‘may eat it in every place’; a priest , however, is excluded since he may not eat it in a graveyard.[8] And the other? — [The meaning[9] is] wherever he wishes: Neither is it required [to eat it within the] wall[10] nor is a man subject to flogging for eating it while his body is levitically unclean.

There was a certain garden from which R. Eleazar b. Azariah[11] used to receive the first tithe. R. Akiba went and transferred its gate so that it faced a graveyard.[12] ‘Akiba with his bag’,[13] the other remarked, ‘and I have to live’!

It was stated: Why were the Levites penalized [by being deprived of the] tithe?[14] — R. Jonathan and Sabia [are in dispute on the matter]. One holds: Because they did not go up[15] in the days of Ezra;[16] and the other holds: In order that the priests might depend upon it[17] during the days of their uncleanness.[18]

According to him who holds [that the Levites were deprived of the tithe] because ‘they did not go up’, one can well understand why they were penalized. According to him, however, who gave as the reason, ‘In order that the priests may depend upon it during the days of their uncleanness’, were the Levites penalized for the sake of the priests! Rather, all agree[19] that the penalization was due to their not going up in the days of Ezra; they differ, however, on the following point: One is of the opinion that their forfeit belonged to the poor, while the other is of the opinion that priests, during the days of their uncleanness, are also regarded as poor.

Why, then,[20] did R. Akiba[21] transfer the gate so that it faced a graveyard?[22] — It was this that he[23] said to him:[24] If you come [to claim it] as a forfeit, you are entitled to it; but if you come [to demand it] as your share, you have no [claim upon it].

Whence is it deduced that they[25] did not go up in the days of Ezra? — It is written, And I gathered them together to the river that runneth to Ahava; and there we encamped three days,’ and I viewed the people and the priests, and found there none of the sons of Levi.[26]

R. Hisda stated: At first, officers were appointed from the Levites only, for it is said, And the officers of the Levites before you;[27] but now, officers are appointed from the Israelites only, for it is said, ‘And officers over you shall come from the majority’.[28] MISHNAH. THE DAUGHTER OF AN ISRAELITE WHO WAS MARRIED TO A PRIEST MAY EAT TERUMAH. IF HE DIED AND SHE HAS A SON BY HIM SHE MAY CONTINUE TO EAT TERUMAH. IF SHE WAS [SUBSEQUENTLY][29] MARRIED TO A LEVITE, SHE MAY EAT OF THE TITHE.[30] IF THE LATTER DIED AND SHE HAD A SON BY HIM, SHE MAY CONTINUE TO EAT OF THE TITHE. IF SHE WAS [SUBSEQUENTLY] MARRIED TO AN ISRAELITE SHE MAY EAT NEITHER TERUMAH NOR TITHE. IF THE LATTER DIED AND SHE HAS A SON BY HIM, SHE MAY EAT NEITHER TERUMAH NOR TITHE. IF HER SON BY THE ISRAELITE DIED, SHE MAY AGAIN EAT OF THE TITHE. IF HER SON BY THE LEVITE DIED SHE MAY AGAIN EAT TERUMAH. IF HER SON BY THE PRIEST DIED, SHE MAY EAT NEITHER TERUMAH NOR TITHE.

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(1) Belongs the first tithe. B.B. 81b, Keth. 261, Hul. 13 lb.

(2) Scripture, surely, assigned the tithe to the Levite!

(3) Num. XVIII, 26, referring to tithe.

(4) R. Eleazar b. Azariah. How could he include the priests?

(5) Ezek. XLIV, 15.

(6) That by Levites the priests also were meant.

(7) Num. XVIII, 31.

(8) Which he may not enter owing to the prohibition of defiling himself for the dead. Cf. Lev. XXI, 1ff.

(9) Of In every place (Num. XVIII, 31).

(10) Of Jerusalem, outside of which the eating of certain consecrated foodstuffs was forbidden.

(11) Who was a priest, cf. Ber. 27b.

(12) So that R. Eleazar b. Azariah (v. supra n. 9) was prevented from entering it (cf. supra n. 6).
(13) Reference to the shepherd's wallet. R. Akiba was a herdsman in his early life (cf. Keth. 62b). [Me'iri: Though R. Akiba may have to return to his shepherd's wallet, I can manage to live without his tithe].
(14) A provision was made at some time (v. infra) that tithe shall not be given to the Levites in accordance with the Pentateuchal law but to the priests (cf. Sot. 47b, Hul. 131b).
(15) To Judaea.
(16) Who led some forty thousand exiles from Babylon to Jerusalem. [On the Levites' deprivation of their right to tithe v. Tchernowitz. H. Jewish Studies in Memory of George Alexander Kohut (Hebrew section) p. 47].
(17) The tithe.
(18) When terumah is forbidden to them.
(19) Lit., 'all the world', R. Jonathan and Sabia.
(20) According to the opinion which maintains that the tithe was allotted to the priests in the days of Ezra.
(21) Who lived after Ezra.
(22) R. Eleazar b. Azariah as a priest was surely then entitled to it. Cur. edd. contain in parenthesis, 'According to him who said that the forfeit belonged to the poor, it can well be understood why R. Akiba transferred the entrance so that it faced a graveyard; according to him, however, who stated that it belonged to the priests, why did he transfer the entrance so that it faced a graveyard'. The reading adopted is given in the margin of cur. edd.
(23) R. Akiba.
(24) R. Eleazar b. Azariah.
(25) The Levites.
(26) Ezra VIII, 15. [This is apparently contradicted by the many verses in Ezra and Nehemiah which mention the Levites side by side with the priests, and as Tosaf. already points out (s.v. ימבני) is against the Mishnah in Kid. 69a which includes the Levites among the ten family stocks that came up from Babylon, unless it is to be assumed that the penalty was inflicted on the Levites because they were not among the first to join Ezra].
(27) II Chron. XIX, 11.
(28) Such a text cannot be traced in our Bible and may represent a verse from a lost apocryphal text. Some commentators regard it as a quotation from memory, based on Deut. I, 13, 15; but the respective dates of Ezra and Deut. would create chronological difficulties. (v. Golds.).
(29) After having had a child from the priest.
(30) But not of terumah. Her priestly status is lost.

Talmud - Mas. Yevamoth 87a

THE DAUGHTER OF A PRIEST WHO WAS MARRIED TO AN ISRAELITE MAY NOT EAT TERUMAH.[1] IF HE DIED AND SHE HAD A SON BY HIM SHE MAY NOT EAT TERUMAH. IF SHE WAS [SUBSEQUENTLY] MARRIED TO A LEVITE SHE MAY EAT TITHE. IF THE LATTER DIED AND SHE HAD A SON BY HIM SHE MAY EAT TITHE. IF SHE WAS [SUBSEQUENTLY] MARRIED TO A PRIEST SHE MAY EAT TERUMAH. IF THE LATTER DIED AND SHE HAD A SON BY HIM SHE MAY EAT TERUMAH. IF HER SON BY THE PRIEST DIED SHE MAY NOT EAT TERUMAH. IF HER SON BY THE LEVITE DIED SHE MAY NOT EAT TITHE. IF HER SON BY THE ISRAELITE DIED SHE RETURNS TO THE HOUSE OF HER FATHER; AND IT IS CONCERNING SUCH A WOMAN THAT IT WAS SAID, AND IS RETURNED UNTO HER FATHER'S HOUSE, AS IN HER YOUTH, SHE MAY EAT OF HER FATHER'S BREAD.[2]

GEMARA. IF HER SON BY THE LEVITE DIED SHE MAY AGAIN EAT TERUMAH, because she is again entitled to eat it by virtue of her son;[3] whence is this[4] derived? — R. Abba replied in the name of Rab: [From the use of the expression,] But a daughter[5] [instead of] 'a daughter'.[6] In accordance with whose view?[7] Is it in accordance with that of R. Akiba who bases expositions on Wawin![8] — It may be said [to be in agreement] even [with the view of the] Rabbis, since the entire expression But a daughter[5] is superfluous.[9]

Our Rabbis taught: When she[10] returns,[11] she returns only to [the privilege of eating] terumah, but does not return to [the privilege of eating] the breast and the shoulder.[12] Said R. Hisda in the name of Rabina b. Shila, 'What Scriptural text proves this?[13] — She shall not eat of the terumah of the holy things,[14] she must not eat of that which is set apart[15] from the holy things'.[16] R. Nahman replied[17] in the name of Rabbah b. Abbuha: Of [her father's] bread,[5] but not all [her father's] bread;[18] this excludes the breast and the shoulder.[12] Rami b. Hama demurred: Might it not be suggested that this[19] excludes the invalidation of vows![20] Raba replied: A Tanna of the school of R. Ishmael has long ago settled this difficulty. For a Tanna of the School of R. Ishmael taught: What need was there for Scripture to state, But the vow of a widow, or of her that is divorced . . . shall stand against her?[21] Is she not free from the authority of her father and also from that of her husband![22] The fact is that where the father had entrusted [his daughter] to the representatives of the husband, or where the representatives of the father had entrusted her to the representatives of the husband, and on the way[23] she became a widow or was divorced, [it would not have been known] whether she was to be described as of[24] the house of her father[25] or as of the house of her husband;[26] hence the need for the text[27] to tell you that as soon as she had left her father's authority, even if only for a short while, he may no more invalidate her vows.[28]

R. Safra replied:[29] She may eat of her father's bread,[30] only bread but no flesh.[31] R. Papa replied:[29] She may eat of her father's bread,[30] only the bread which is the property of her father;[32] excluding however, the breast and the shoulder which [priests] obtain from the table of the Most High.[33]

Raba, however, replied:[29] And the breast of the waving and the thigh of heaving shall ye eat . . . thou, and thy daughters with thee,[34] only when they are with thee.[35]

R. Adda b. Ahabah stated that a Tanna taught: When she[36] returns to her father's house, she returns [only to the privilege of eating] terumah, but does not return to [the privilege of eating] the breast and the shoulders. [If she[37] returns, however,] by virtue of her son,[38] she returns also to [the privilege of eating] the breast and the shoulder.[39] R. Mordecai went and recited this traditional statement in the presence of R. Ashi, when the latter said to him, 'Whence [has this case][40] been included?[41] From "But a daughter".[42] Should she, then, be more important than the other!'[43] — There,[43] the excluding texts were written;[44] but here[40] no excluding texts were written.

THE DAUGHTER OF A PRIEST WHO WAS MARRIED TO AN ISRAELITE etc. Our Rabbis taught: And is returned unto her father's house,[42] excludes one who is awaiting the decision of the levir;[45] as in her youth,[42] excludes a pregnant woman.[46] But could not this [law,[47] however, be arrived at by] logical argument: If where a child by a first husband is not regarded as the child by the second husband, in respect of exempting the woman from the levirate marriage,[48] the embryo is nevertheless regarded as a born child,[49] how much more should the embryo be regarded as a born child where a child by the first husband is regarded as the child of the second, in respect of depriving a woman of her right to terumah![50] No; this is no argument.[51] If an embryo was regarded as a born child in respect of the levirate marriage, where the dead were given the same status as the living,[52] should an embryo be regarded as a born child in respect of terumah, where the dead were not given the same status as the living?[53] Consequently Scripture expressly stated, As in her youth,[54] to exclude a pregnant woman.

And it was necessary for Scripture to write, As[55] in her youth, to exclude the pregnant woman; and also[56] And have no child,[54] to[57] exclude one who has a born child. For had the All Merciful written only And have no child,[54] it might have been assumed [that only a woman who has a born child is forbidden to eat terumah, because] at first[58] there was one body and now there are two bodies,[59] but that a pregnant woman, who formed at first[58] one body and is now also one body only, may eat, [hence the second text[60] was] required. And had the All Merciful written of the pregnant woman only it might have been assumed [that only she is forbidden to eat terumah] because at first[58] her body

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(1) She loses through her marriage the right she enjoyed as the daughter of a priest while she was still unmarried.

(2) Lev. XXII, 13.

(3) By the priest.

(4) That her son by the priest enables her again to eat terumah even though she was deprived of that right during the period she lived with the Levite and the Israelite.

(5) Lev. XXII, 13.

(6) From the superfluous Waw in ובת.

(7) Is this deduction made.

(8) And not in accordance with the view of the Rabbis (cf. Sanh. 51b) who are in the majority and differ from R. Akiba. V. supra 68b.

(9) The previous verse (Lev. XXII, 12) also speaking of the priest's daughter it would have been quite sufficient for v. 13 to begin with the personal pronoun, ‘But if she be’.

(10) The priest's daughter who was a widow or divorced and have no child. (V. Lev. XXII, 13).

(11) Unto her father's house (v. ibid.).

(12) Which are also among the priestly gifts. Cf. Ex. XXIX, 27, Lev. VII, 34 X, 14.

(13) That the breast and shoulder remain forbidden to her even after she returns to her father's house.

(14) Lev. XXII, 12, where instead of בתרומת הקדשים only בקדשים could have been written.

(15) במורם from the same rt as תרומת (v. supra n. 12).

(16) The sacrifices; reference v to the breast and shoulder. (V. supra n. 10). These are forbidden to her even after she returns to her father's house. (V. supra 68b).

(17) To the enquiry of R. Hisda.

(18) לחם here taken in its wider signification of ‘food’ (cf. Dan. V, 1). The Mem of מלחם (of but not all food) indicates limitation.

(19) The limitation implied by the Mem. V. supra n. 16.

(20) By her father; even when his daughter returns to his house and resumes her right to eat terumah. Before marriage, a daughter's vows may be invalidated by her father. Cf. Num. XXX, 4ff.

(21) Num. XXX, 10.

(22) And since none of them could in consequence annul her vows, it is obvious that such vows stand against her. What need, then, was there for the text of Num. XXX, 10?

(23) To her husband's home.

(24) Lit., ‘how I read about her’.

(25) Since she has not reached the house of her husband and has consequently not yet passed entirely out of her father's authority. Hence her father would still have the power of invalidating her vows.

(26) And her vows, like those of any other widow, could not be invalidated by her father.

(27) Lit., ‘but’.

(28) V. Keth. 49a.

(29) To the enquiry of R. Hisda.

(30) Lev. XXII, 13.

(31) The breast and the shoulder.

(32) Terumah which is regarded as the property of the priests.

(33) These are only the remains of certain sacrifices which do not belong to the priests but to the altar, ‘the table of the Most High’, and are given to the priests as the leavings of His meal.

(34) Lev. X, 14.

(35) I.e., before their marriage to non-priests, may the breast and the shoulder be eaten by them.

(36) A priest's daughter.

(37) V. p. 588, n. 16; or the daughter of an Israelite. (V. next note).

(38) If she was married, for instance, to an Israelite and after his death resumed her right to eat terumah by virtue of a son whom she previously had by a priest.

(39) Since the exclusion of the right to the breast and the shoulder was mentioned in the former case only.

(40) That of the woman who derives her right to terumah from her son.

(41) Among those entitled to eat terumah.
(42) V. Lev. XXII, 13.
(43) The daughter who derives her right to terumah from her father.
(44) V. supra n. 3.
(45) Who is not eligible to eat terumah, because she is not completely returned to her father's house, being still bound to the levir.
(46) Who, being with child, does not return as in her youth.
(47) That a pregnant woman, like one who has a born child, does not regain her right to eat terumah.
(48) A woman whose husband died without issue is not exempt from the levirate marriage, though she may have a son by a former husband.
(49) A pregnant woman is not subject to the levirate marriage.
(50) A priest's daughter whose Israelite husband died without issue is forbidden to eat terumah, just as if she had had a son by him, if she had a son by any former Israelite husband of hers. Now, since the law could be arrived at by inference a minori ad majus, the Scriptural text stating the same law is, surely, superfluous!
(51) Lit., 'what (reasoning) for me'!
(52) A child whose death occurred after the death of his father exempts his mother from the levirate marriage as if he were still alive.
(53) Only a live child deprives his mother, the daughter of a priest who married an Israelite, from her right to eat terumah after the death of her husband. As soon as the child dies his mother regains her lost right.
(54) Lev. XXII, 13.
(55) Cf. Bah. Cur. edd. omit 'As . . . exclude'.
(56) Lit., 'and it was necessary to write'.
(57) So Bah. Cur. edd. omit, 'To exclude . . . child'.
(58) Before her marriage.
(59) Mother and born child.
(60) As in her youth.

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was empty and now it is full, but not [a woman whose child was already born],[1] whose body was at first empty and is now also empty, [hence was the first text[2] also] required.[3]

(Mnemonic.[4] He said to him: Let us not make[5] and make[6] in death; let us make and not make in the child of the levir and terumah.)[7]

Said Rab Judah of Diskarta[8] to Raba: The dead should not be given[9] the same status as the living, in respect of the levirate marriage, by inference a minori ad majus: If where a child by the first husband is regarded as the child of the second husband, in respect of disqualifying the woman from the eating of terumah,[10] the dead were not given the same status as the living,[11] how much less should the dead be given the same status as the living[12] where the child of the first husband is not regarded as the son of the second, in respect of exempting the woman from the levirate marriage![13] It was expressly stated, Her ways are ways of pleasantness, and all her paths are peace.[14]

Then let the dead be given[15] the same status as the living in respect of terumah by inference a minori ad majus: If where a child by the first husband is not regarded as the child of the second In respect of exempting the woman from the levirate marriage,[13] the dead were given the same status as the living,[16] how much more so should the dead be given the same status as the living[17] where a child of the first husband is regarded as the son of the second, in respect of disqualifying the woman from terumah![18] It was expressly stated, And [she] have no child[19] and she, surely, has none.[20]

Let the child of the first husband be regarded as the child of the second husband in respect of the levirate marriage by inference a minori ad majus: If where the dead were not given the same status as the living, in respect of terumah[21] the child of the first husband is regarded as the son of the second,[22] how much more should the child of the first husband be regarded as the child of the second[23] where the dead were given the status of the living in respect of the levirate marriage![21] — It was expressly stated, And [he] have no child,[24] and this man, surely, has none.

Then let the child of the first husband not be regarded as the child of the second husband, in respect of terumah, by inference a minori ad majus: If where the dead were given the same status as the living, in respect of exempting her from the levirate marriage, the child of the first husband was not regarded as the child of the second,[22] how much less should the child of the first husband be regarded as the child of the second, where the dead were not regarded as the living in respect of eating terumah![21] — It was specifically stated, And [she] have none,[25] but she surely has [one].

CHAPTER X

MISHNAH. A WOMAN WHOSE HUSBAND HAD GONE TO A COUNTRY BEYOND THE SEA AND ON BEING TOLD,[26] 'YOUR HUSBAND IS DEAD', MARRIED, MUST, IF HER HUSBAND SUBSEQUENTLY RETURNED, LEAVE THE ONE AS WELL AS THE OTHER, AND SHE ALSO REQUIRES[27] A LETTER OF DIVORCE FROM THE ONE AS WELL AS FROM THE OTHER. SHE HAS NO [CLAIM TO HER] KETHUBAH, USUFRUCT, MAINTENANCE[28] OR WORN CLOTHES[29] EITHER AGAINST THE FIRST HUSBAND OR AGAINST THE SECOND. IF SHE HAS TAKEN ANYTHING FROM THE ONE OR FROM THE OTHER, SHE MUST RETURN IT. THE CHILD BEGOTTEN BY THE ONE HUSBAND OR BY THE OTHER IS A BASTARD;[30] NEITHER OF THEM[31] MAY DEFILE HIMSELF FOR HER;[32] NEITHER OF THEM HAS A CLAIM TO WHATEVER SHE MAY FIND[33] OR MAKE WITH HER HANDS;[34] AND NEITHER HAS THE RIGHT OF INVALIDATING HER VOWS.[35] IF SHE WAS THE DAUGHTER OF AN ISRAELITE, SHE BECOMES DISQUALIFIED FROM MARRYING A PRIEST; IF THE DAUGHTER OF A LEVITE, FROM THE EATING OF TITHE; AND IF THE DAUGHTER OF A PRIEST, FROM THE EATING OF TERUMAH. NEITHER THE HEIRS OF THE ONE HUSBAND NOR THE HEIRS OF THE OTHER ARE ENTITLED TO INHERIT HER KETHUBAH, AND IF [THE HUSBANDS] DIE, THE BROTHER OF THE ONE AND THE BROTHER OF THE OTHER MUST SUBMIT TO HALIZAH, BUT MAY NOT CONTRACT THE LEVIRATE MARRIAGE. R. JOSE SAID: HER KETHUBAH REMAINS A CHARGE UPON THE ESTATE OF HER FIRST HUSBAND. R. ELEAZAR SAID: THE FIRST HUSBAND IS ENTITLED TO WHATEVER SHE MAY FIND, OR MAKE WITH HER HANDS, AND ALSO HAS THE RIGHT OF INVALIDATING HER VOWS. R. SIMEON SAID: HER COHABITATION OR HALIZAH WITH THE BROTHER OF THE FIRST HUSBAND EXEMPTS HER RIVAL,[36] AND A CHILD BEGOTTEN BY HIM[37] IS NOT A BASTARD. IF SHE MARRIED WITHOUT AN AUTHORIZATION[38] SHE MAY RETURN TO HIM.[37] IF[39] SHE MARRIED WITH THE AUTHORIZATION OF THE BETH DIN,[40] SHE MUST LEAVE,[41] BUT IS EXEMPT FROM AN OFFERING.[42] IF SHE MARRIED, HOWEVER, WITHOUT THE AUTHORIZATION OF THE BETH DIN, SHE MUST LEAVE[41] AND IS ALSO LIABLE TO AN OFFERING. THE AUTHORITY OF THE BETH DIN IS THUS MORE EFFECTIVE IN THAT IT EXEMPTS HER FROM THE OFFERING. IF THE BETH DIN RULED[43] THAT SHE MAY BE MARRIED AGAIN AND SHE WENT AND DISGRACED HERSELF[44] SHE[45] MUST BRING AN OFFERING, BECAUSE THE BETH DIN PERMITTED HER ONLY TO MARRY.[46]

GEMARA. Since in the final clause it was stated, IF SHE MARRIES WITHOUT PERMISSION SHE MAY RETURN TO HIM, [which means obviously], without the authorization of the Beth din but [in reliance on the evidence] of witnesses, the first clause, it is to be inferred, [speaks of a woman who married] with the permission of the Beth din and on the evidence of a single witness.[47] Thus it clearly follows that one witness is trusted. Furthermore, we learned: The practice was adopted of allowing a marriage on the evidence of one witness reporting[48] another single witness, and of a woman reporting another woman, and of a woman reporting a bondman or a bondwoman;[49] from which it is obvious that one witness is trusted. Furthermore we learned: [The man to whom] one witness said, ‘You have eaten[50] suet’,[51] and who replied, ‘I have not eaten’, is exempt.[52] Now the reason [for his exemption is] because he said, ‘l have not eaten’; had he, however, remained silent [the witness] would have been trusted.[53] From this it is clearly evident that one witness is trusted in accordance with Pentateuchal law;[54] whence is this[55] deduced? From what was taught: If his sin... be known to him,[56] but not when others have made it known to him. As it might have been assumed that even where he does not contradict the evidence he is exempt, it was expressly stated, If. . . be known to him,[57] in any manner.[58] Now, how is this statement to be understood? If it be suggested [that it refers to a case] where two witnesses appeared, and he does not contradict them, what need then was there for a Scriptural text![59] Must it not then refer to the case of[60] one witness, and yet [we see that] when the accused does not contradict him he is trusted.[61] From this, then, it maybe inferred that one witness is to be trusted.[54] But whence is it inferred that [the reason[62] is] because he is trusted? Is it not possible that it is due to the fact that the other had remained silent, silence being regarded as an admission! You can have proof that this is so,[63] since in the final clause it was stated: [A man to whom] two witnesses said, ‘You have eaten[64] suet,[65] and who replied. ‘I have not eaten’,is exempt; but R. Meir declares him guilty. Said R. Meir: This[66] may be inferred a minori ad majus. If two witnesses may bring upon a man the severe penalty of death, should they not be able to bring upon him the minor penalty of a sacrifice! The others replied: What if he desired to say, ‘I have acted presumptuously’![67] Now, in the first clause,[68]

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(1) Lit., ‘have no child’ (Lev. XXII, 13) i.e., a woman who has a born child and whose case was deduced from this text.

(2) And have no child.

(3) To indicate that a born child also deprives his mother of her right to terumah.

(4) An aid to the memorisation of the following four arguments.

(5) The verb ‘to make’, עשה is rendered in the following discussions by various equivalents in accordance with the requirements of English idiom.

(6) Cur. edd. ‘her deeds’, מעשיה, is ap patently a substitute for this reading, ונעשה, which agrees with MS.M.

(7) Cur. edd. repeat, ‘levirate marriage and terumah’. MS.M. gives it only once.

(8) [Deskarah, N.E. of Bagdad. Obermeyer. p. 146].

(9) Lit., ‘let us not make’. Cf. mnemonic supra.

(10) V. supra p. 589, n. 14.

(11) V. supra p. 590, n. 2.

(12) And consequently not exempt his mother from the levirate marriage.

(13) V. supra p. 589. n. 12.

(14) Prov. III, 17. Were a woman, whose child died after its father, to be subjected to the obligations of the levirate marriage, the peace and the pleasantness of family life might be disturbed where the woman, for instance, happened to have married after the death of her husband and the child died subsequently.

(15) Cf. supra note 3.

(16) Cf. supra p. 590, n. 1.

(17) And consequently disqualify his mother from the right of eating of terumah.

(18) Cf. supra p. 589. n. 14.

(19) Lev. XXII, 13.

(20) Hence the permission to eat terumah.

(21) Cf. supra p. 590, n. 2.

(22) Cf. supra p. 589, n. 12.

(23) And consequently exempt his mother from the levirate marriage.

(24) Deut. XXV, 5.

(25) Lev. XXII, 13.

(26) Lit., ‘and they came and said to her’. This, as will be explained infra, refers to evidence given by a single witness.

(27) If she desires to marry again.

(28) Even for the period during which she lived with him.

(29) Neither compensation for those that were entirely destroyed nor the clothes themselves should the tatters still be in existence.
(30) Pentateuchally if begotten by the second husband; Rabbinically if by the first who resumed living with her.
(31) If a priest.
(32) If she died. Cf. Lev. XXI,1ff.
(33) A woman's find belongs to her lawful husband. Cf. B.M. 12a.
(34) To which a lawful husband is entitled in return for her maintenance.
(35) V. Num. XXX. 7ff.
(36) From the levirate marriage and halizah.
(37) Her first husband, after his return.
(38) Of the Beth din; i.e., if she married on the strength of the evidence of two witnesses who testified to her husband's death, in which case no authorization by a court is required.
(39) When only one witness testified to the death of her husband.
(40) And her first husband subsequently returned.
(41) Her second husband.
(42) Since she has acted on a ruling of the Beth din. Cf. Hor. 2a.
(43) Lit., ‘they taught her’ or ‘directed her’.
(44) By immoral conduct. V. infra 922 for fuller explanation.
(45) If her first husband subsequently returns.
(46) I.e., to contract a lawful marriage, not a forbidden one.
(47) Cf. supra p. 593, n. 1.
(48) Lit., ‘from the mouth’.
(49) Infra 122a, Shab. 145a, Bek. 46b.
(50) Unwittingly.
(51) חלב forbidden fat.
(52) From bringing a sin-offering (cf. Lev. IV, 27ff), Kid. 65b, Ker. 11b.
(53) And a beast would have been offered as a sin-offering though its sanctity was entirely dependent on one man's word.
(54) Had such evidence been Pentateuchally inadmissible, the sin-offering would consist of a Pentateuchally unconsecrated beast which must not be offered on the altar and is also forbidden to be eaten by the priests.
(55) The admissibility of one man's evidence.
(56) Lev. IV, 28; only then must he bring a sin-offering.
(57) Ibid.
(58) Cf. Ker. 11b.
(59) Two witnesses are, surely, always relied upon.
(60) Lit., ‘but not’.
(61) And an offering is brought upon the altar on the basis of his word. Cf. supra n. 7.
(62) For the obligation of an offering.
(63) Lit., ‘you may know’ that the reason is because silence is regarded as an admission.
(64) Unwittingly.
(65) חלב forbidden fat.
(66) That the evidence of the two witnesses is accepted despite the denial of the accused.
(67) For a presumptuous sin no sin-offering is brought. In such a case the evidence of the witnesses would be of no value. They can only testify to one's action but not to one's motive or state of mind. Since the accused could annul the evidence by such a plea he is also believed when he simply contradicts the evidence.
(68) Where the accusation comes from one witness.

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on what grounds do the Rabbis declare the man liable?[1] If it be suggested: Because he[2] is believed; surely [here it may be objected], even in the case of two witnesses, who in all other cases are trusted though the accused contradicts them, the Rabbis have exempted him![3] The reason[4] must consequently be[5] because the accused remained silent, and silence is regarded as admission![6]

[The fact], however, [is that this[7] is arrived at] by[8] a logical inference, this case being analogous to that of a piece of fat[9] concerning which there is doubt as to whether it was of the forbidden,[10] or of the permitted kind; if a single witness came and declared, ‘l am certain that it was permitted fat’, he is trusted.[11] Are [the two cases] similar? There[12] the prohibition[13] was not established; here[14] the prohibition of a married woman is established,[15] and no question of sexual relationship [may be decided on the evidence of] less than two witnesses! This[16] is rather analogous[17] to the case of a piece that was definitely forbidden fat;[18] if a single witness came and declared, ‘I am certain that it was permitted fat,’ he is not believed.[19] But are these cases, similar? In that case,[20] should even a hundred witnesses come they would not be believed; in this case,[16] however, since should two witnesses come they would be trusted, one witness also should be trusted! This[16] is rather analogous to the cases of tebel,[21] and consecrated and konam[21] objects.[22]

Whose tebel[21] is here to be understood? If his own,[23] [he would naturally be trusted] since it is in his power to make it fit for use;[24] if, however, it is that of another person, [the question may still be urged], what view is here adopted: If it is maintained that a man who sets apart priestly dues for his neighbours’ produce out of his own does not require the owner s consent [it is quite obvious why the witness is here trusted] since it is in his power to make it fit for use;[24] and if it is maintained that the owner's consent is required and that the witness declares, ‘I know that he has made it fit for use’, whence is this very law[25] derived? As regards consecrated objects also, if it was a consecration of the value of an object [it is obvious why one witness is trusted] since it is in his power to redeem it;[26] but if an object has been consecrated,[27] [the objection may still be raised]: If it were his own[23] [he would naturally be trusted] since it is within his right to ask for the disallowance of his vow;[28] if, however, it belonged to another man, and the witness declared, ‘I know that its owner has asked for the disallowance of his vow’, whence is this very law[29] derived? With reference to konam[30] objects also, if it is maintained that the law of trespass[31] is applicable to konam objects and that the sanctity of their value[32] descends upon them [it is obvious why one witness is trusted] since it is within his power to redeem them;[33] and if it is maintained that the law of trespass[31] is not applicable to konam objects[34] and that it is only a mere prohibition with which he is saddled[35] [the question may be urged]: If any such object was his own [it is natural that he should be trusted] since it is within his power to ask for the disallowance of his vow;[36] if, however, it belonged to another man, and the witness declared, ‘I know that its owner has asked for the disallowance of his vow, whence is this very law[37] derived?

R. Zera replied:[38] Owing to the rigidity of the disabilities[39] that were later[40] imposed upon her the law was relaxed in her favour at the beginning.[41] Let there be, however, neither rigid disabilities nor a relaxation of the law! — In order [to avoid] perpetual desertion[42] the Rabbis have relaxed the law in her favour.[43]

MUST . . . LEAVE THE ONE AS WELL AS THE OTHER etc. Rab stated: This was taught only in respect [of a woman] who married on the evidence of a single witness, but if she married on the strength of the evidence of two witnesses, she need not leave.[44] In the West[45] they laughed at him. ‘Her husband’ [they remarked] comes, and there he stands, and you say: She need not leave!’ — This[46] [it may be replied] was required only in the case when the man[47] was not known.[48] If he[49] is unknown, why is she to leave [her second husband] even where she only married on the evidence of a single witness? This is required only in the case where two witnesses came and stated, ‘We were with him[49] from the moment he left until now, but you it is who are unable to recognize him’;[50] as it is written, And Joseph knew his brethren but they knew him not,[51] on which R. Hisda remarked: This teaches that he went forth without any marks[52] of a beard and now he appeared with a full[52] beard. But, after all, there are two[53] against two

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(1) To an offering, if he did not contradict the evidence.

(2) The one witness.

(3) Because his word is more than the evidence of two witnesses. How much more then should he be trusted when the evidence is only that of one witness!

(4) For the obligation of a sin-offering in the first clause.

(5) Lit., ‘but not’.

(6) The original question then arises again: Whence is it proved that the evidence of one witness is admissible?

(7) Cf. supra n. 12.

(8) Lit., ‘but’.

(9) Which someone has eaten.

(10) For the unwitting eating of which a sin-offering is incurred.

(11) Cf. Git. 2b.

(12) Where the nature of the fat is in doubt.

(13) Of the piece.

(14) The case of the woman spoken of in our Mishnah.

(15) The doubt extending only to the question as to whether by the death of the husband this prohibition had been removed.

(16) The case of the woman spoken of in our Mishnah

(17) Lit., ‘this is not like, but’.

(18) Which someone has eaten.

(19) The question, therefore, remains whence is it inferred that the evidence of one witness is admissible.

(20) Where the forbidden nature of the fat is established.

(21) V. Glos.

(22) Where the evidence of a single witness is accepted though the prohibitions were established. From such a case that of the woman in our Mishnah may reasonably be inferred.

(23) That of the witness.

(24) He can at any moment set apart the priestly dues and thus render the produce fit for everybody's consumption Such an argument is, of course, inapplicable to the case in our Mishnah.

(25) That the evidence of a single witness is accepted in such a case.

(26) Objects of which the value only has been consecrated קדושת דמים, completely lose their sanctity on redemption. Cf. supra n. 9.

(27) קדושת הגוף, consecrated for the altar. Such cannot be redeemed.

(28) A learned man may under certain conditions disallow the vow, and the object would consequently lose its sanctity. Cf. supra p. 597, n. 9.

(29) That the evidence of a single witness is accepted in such a case.

(30) V. Glos.

(31) Me'ilah, v. Glos.

(32) Which is consecrated for Temple purposes.

(33) Cf. supra p. 597, n. 9.

(34) Konam being regarded as a vow only, which the man has to fulfil by paying to the Temple treasury the value of the object which itself remains unconsecrated.

(35) Lit. , ‘that rides upon his shoulder’.

(36) V. supra note 2.

(37) V. supra note 2.

(38) To the question raised supra to the admissibility of the evidence of a single witness in the case of the woman in our Mishnah.

(39) Loss of kethubah, usufruct, etc.

(40) If her husband returns.

(41) By permitting her to marry on the evidence of a single witness. Knowing the disabilities to which she would be subject should her first husband return, she takes every precaution to verify the evidence of the one witness.

(42) עיגונא lit. , ‘holding fast’, description of a deserted woman who remains tied to her absent husband.

(43) And allowed her to marry on the strength of the evidence of one witness.

(44) It is now assumed that Rab referred to the second husband,
(45) Palestine.
(46) Rab's ruling.
(47) Her first husband.
(48) To have been her husband.
(49) The first husband.
(50) Because he left while still young and now he has attained to manhood. Such evidence is accepted if the evidence of the husband's death was given by one witness only. It is not accepted, however, where it is contradictory to the evidence of two witnesses on the basis of whose testimony the woman had married her second husband.
(51) Gen. XLII, 8.
(52) Construct of חתימה ‘mark’ or ‘stamp’. חתימת זקן ‘The mature manly expression which the beard gives, full manhood’ (Jast.).
(53) Witnesses.

Talmud - Mas. Yevamoth 88b

and he who cohabits with her[1] is liable to bring an asham talui![2] R. Shesheth replied:[3] When she was married, for instance, to one of her witnesses.[4] But she herself is liable to an asham talui![5] — Where[3] she states, ‘I am certain’,[6] If so, what need was there to state [such an obvious ruling], when even R. Menahem son of R. Jose[7] maintained his view only where the witnesses[8] came first and the woman married afterwards, but not[9] where she married first and the witnesses came afterwards! For it was taught: If two witnesses state that he[10] was dead and two state that he was not dead, or if two state that the woman was divorced and two state that she was not divorced, the woman must not marry again, but if she married she need not leave;[11] R. Menahem, son of R. Jose, however, ruled that she must leave.[10] Said R. Menahem son of R. Jose, ‘When do I rule that she must leave? Only when witnesses came first and she married afterwards, but where she married first and the witnesses came afterwards, she need not leave!’[12] — Rab also spoke of the case where witnesses came first and the woman married afterwards, [his object being] to exclude the ruling of R. Menahem son of R. Jose.

Another reading: The reason there[13] is because she married first and the witnesses came afterwards,[14] but where witnesses came first and the woman married afterwards, she must leave. In accordance with whose [view is this ruling]? — In accordance with that of R. Menahem son of R. Jose.

Raba raised an objection: Whence is it deduced that if [a priest] refused[15] he is to be compelled?[16] It was expressly stated, And thou shalt sanctify him,[17] even against his will. Now, how is this[18] to be understood?[19] If it be suggested [that it is a case] where she was not married to one of her witnesses[20] and she does not plead ‘I am certain’,[21] is there any need to state that he is to be compelled?[22] Consequently it must refer to a case[23] where she was married to one of her witnesses[24] and she pleads, ‘I am certain’; I and yet it was stated that he was to be compelled;[25] from which it clearly follows that she is to be taken away from him![26] — A priestly prohibition is different.[27] If you prefer I might say,[28] ‘What is the meaning of "he is to be compelled"? He is to be compelled by means of witnesses’.[29] And if you prefer I might say:[28] [It is a case] where witnesses came first and she married afterwards, and this represents the view of R. Menahem son of R. Jose.[30] R. Ashi replied. What is meant by the expression, ‘She need not leave’ which Rab used? She is not to depart from her first state of permissibility.[31] But surely Rab has said this once! For we learned, IF SHE MARRIED WITHOUT AN AUTHORIZATION SHE MAY RETURN TO HIM, and Rab Huna stated in the name of Rab: This is the established law![32] — One was stated as an inference from, the other.[33]

Samuel said: This[34] was taught only in the case where she does not contradict him,[35] but where she contradicts him she need not leave.

What [are the circumstances] spoken of? If it be suggested that there are two witnesses[36] , of what avail is her denial?[37] [It must then deal with the case] of one witness, and the reason[38] is because she contradicts him;[39] had she, however, remained silent, she would have been obliged to leave. But, surely, ‘Ulla stated that ‘wherever the Torah allows credence to one witness[40] he is regarded as two witnesses, and the evidence of one man[41] against that of two men has no validity!’[42] — Here it is a case of evidence by ineligible witnesses,[43] and [Samuel's statement is] in accordance with the view of R. Nehemiah. For it was taught: R. Nehemiah stated, ‘Wherever the Torah allows credence to one witness[40] the majority of opinions is to be followed,[44] and [the evidence of] two women against that of one man is given the same validity as that of two men against one man’.[45]

And if you prefer I might reply: Wherever one eligible witness came first,[46] even a hundred women[47] are regarded as one witness;[48] here, however, we are dealing with a case where a woman witness came in the first instance;[49] and the statement of R. Nehemiah is to be explained thus: R. Nehemiah stated, ‘Wherever the Torah allows credence to one witness, the majority of opinions is to be followed, and [the evidence of] two women against that of one woman is given the same validity as that of two men against one man, but that of two women against that of one man is regarded only as that of a half and a half.[50]

SHE ALSO REQUIRES A LETTER OF DIVORCE FROM ONE AS WELL AS FROM THE OTHER. It is quite intelligible that she should require a divorce from the first husband; but why also from the second [when their union was a] mere act of adultery?[51] — R. Huna replied: This[52] is a preventive measure against the possibility of assuming that the first had divorced her and the second had [lawfully] married her, and that consequently[53] a married woman[54] may leave her husband without a letter of divorce. If so[55] , in the latter clause also, where it was stated, ‘If she was told "your husband is dead", and she was betrothed, and afterwards her husband came, she is permitted to return to him’,[56] might it not be assumed there also that the first husband had divorced her and the other had [lawfully] betrothed her and that consequently a betrothed woman may be released without a letter of divorce! — As a matter of fact she does require a letter of divorce.[57] If so,[58] [it might there also be assumed that] the first had again married his divorced wife after she had been betrothed![59] — [This statement is in] accordance with R. Jose b. Kiper who stated [that remarrying one's divorced wife] after a marriage[60] is forbidden but after a betrothal[60] is permitted.[61] Since, however, it was stated in the final clause, ‘Although

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(1) And thus commits a doubtful sin, it being uncertain which pair of witnesses is to be trusted.

(2) V. Glos. Such an offering is brought for the commission of a doubtful sin. How, then, could Rab maintain that she may continue to live with her second husband?

(3) Rab's ruling is applicable.

(4) Who well knows that her first husband is dead.

(5) Since as far as she is concerned her first husband's death is still a matter of doubt.

(6) That the man who claims to be her first husband is a stranger. An asham talui is brought only in cases where a person is himself in doubt as to the propriety of an act he has committed; v. Keth. Sonc. ed., p. 122 notes.

(7) Who in a similar case maintained (v. infra) that the woman must leave her second husband.

(8) Who testified that the first husband was alive.

(9) Lit., ‘he did not say’.

(10) The woman's first husband.

(11) Her second husband

(12) V. Keth. 22b. What need, then, was there for Rab's ruling?

(13) Why Rab allowed the woman to remain with her second husband though two witnesses stated that her first husband was still alive.

(14) As in the case in our Mishnah in connection with which Rab's statement was made.

(15) To observe the rules of levitical uncleanness and matrimony prescribed in Lev. XXI, 1ff.

(16) דפנו rt. דפן ‘to strike on the side’ (cf. דופן ‘side’, ‘wall’).
(17) Ibid. 8.
(18) Case of coercion.
(19) Since a Scriptural text was required for the purpose, it could not apply to established or even doubtful prohibitions which a priest must undoubtedly obey and the observance of which is obviously to be enforced.
(20) Who was a priest.
(21) Cf. supra p. 599, n. 16.
(22) V. supra p. 600, n. 13.
(23) Lit., ‘but not?’
(24) Who was a priest.
(25) To separate from her if witnesses subsequently came and declared that the first husband was still alive at the time this second marriage with the priest took place.
(26) How then could Rab rule that in the case of contradictory evidence between two pairs of witnesses the second union is not to be severed if it took place prior to the appearance of the second pair.
(27) A priest is subject to greater restrictions which do not apply to others.
(28) In reply to Raba's objection.
(29) Before marriage with the priest is allowed, the court makes every effort to ascertain whether witnesses are available who could contradict the evidence of the first witnesses and thus prevent the marriage. If, however, no such witnesses are available and the marriage has taken place, the union need not be severed though such witnesses subsequently appeared.
(30) With which Rab is in agreement.
(31) She may return to her first husband, because in her second marriage she is a victim of circumstances,It having been contracted on misleading evidence.
(32) Infra 91a; why should the same ruling be stated twice?
(33) Rab, however, gave his ruling only once.
(34) That the woman must . . . LEAVE THE ONE AS WELL AS THE OTHER. (V. our Mishnah).
(35) The man who claims to be her husband.
(36) Who testify to the veracity of the statement of the man who claims to be the first husband.
(37) Lit., ‘when she contradicts him, what is?; her word would obviously not be accepted against the word of two witnesses.
(38) Why the woman may continue to live with her second husband.
(39) The evidence that her first husband was alive.
(40) In certain cases of marriage and divorce, testifying, for instance, that a husband was dead.
(41) Who now states that the first husband was not dead.
(42) The previous evidence of the one witness being consequently valid, why should the woman have to leave even when she does not contradict the latter evidence?
(43) Relatives, women or slaves, for instance, two of whom testify that the first husband is alive.
(44) Since one witness is trusted, the accepted law of valid evidence is superseded in such cases and the evidence of any ineligible witnesses (cf. supra n. 8) is equally admissible.
(45) Infra 117b, Sot. 31b. When, therefore, the wife does not contradict the evidence, these otherwise ineligible witnesses are trusted. Where, however, she contradicts them, her evidence is added to that of the one witness who had originally testified that her husband was dead, and the evidence of the second pair of witnesses, being thus contradicted by two, is disregarded. Cf. Maimonides cited by Wilna Gaon, glosses.
(46) And testified that the first husband was dead.
(47) I.e., ineligible witnesses who, after the woman had married, testified that her first husband was alive.
(48) And their evidence, being opposed to that of the first witness, is disregarded, as is the case with all evidence of a single witness, which is opposed to that of a previous witness. The woman need not, therefore, leave her second husband even if she does not contradict the second set of witnesses.
(49) V. supra p. 602, n. 11, and two women subsequently testified that the first husband was alive. If the wife keeps silent, there remains a majority of two against one; if she contradicts the two the majority disappears.
(50) The two together representing one; so that the evidence of the first eligible witness remains unaffected by it, provided the woman remarried, even where she remained silent.

(51) The first husband having been alive when it was contracted.
(52) The requirement of a divorce from the second husband.
(53) Lit., ‘and it is found’.
(54) The marriage with the second being assumed to have been valid.
(55) That provision was made against erroneous assumptions.
(56) Infra 92a.
(57) From the second, to whom she was betrothed.
(58) That a letter of divorce is required.
(59) Cf. supra note 6 mutatis mutandis.
(60) With a second husband.
(61) Cf. supra 11b.

Talmud - Mas. Yevamoth 89a

the latter[1] gave her a letter of divorce he has not thereby disqualified her from marrying a priest’,[2] it may be inferred that she requires no divorce;[3] for should she require a divorce, why does he not disqualify her from marrying a priest![4] — Rather,[5] in the final clause it will be assumed[6] that the betrothal was an erroneous one.[7] In the first clause also [let it be said that] it would be assumed that the marriage was an erroneous one![8] The Rabbis have penalized her.[9] Then let them penalize her in the final clause also! — In the first clause where she committed a forbidden act[10] they penalized her; in the final clause where she did not commit a forbidden act, the Rabbis did not penalize her.

SHE HAS NO [CLAIM TO HER] KETHUBAH, [because] what is the reason why the Rabbis have provided a kethubah for a woman? In order that it may not be easy for the husband[11] to divorce her![12] But in this case let it be easy for him, to divorce her.[13]

SHE HAS NO [CLAIM TO] . . . USUFRUCT, MAINTENANCE OR EVEN WORN CLOTHES, [because] the conditions[14] entered in the kethubah[15] are subject to the same laws as the kethubah[16] itself. IF SHE HAD TAKEN ANYTHING FROM THE ONE OR FROM THE OTHER,[SHE MUST RETURN IT]. Is this not obvious! — As it might haved been assumed that since she has already seized it, it is not to be taken from her, hence we were taught [that SHE MUST RETURN IT]. THE CHILD . . . .IS A BASTARD. Elsewhere we learned: Terumah[17] from levitically unclean produce may not be set apart for that which is levitically clean[18] . If, however, such terumah has been set apart it is valid if the act was done in error, but if it was done wilfully it is null and void[19] . Now what is meant by ‘it is null and void’? — R. Hisda replied: The act is absolutely null and void, even that griva[20] [which has been designated as terumah] returns to its former state of tebel.[21] R. Nathan son of R. Oshaia replied: It is null and void in respect of making the remainder[22] fit for use, but [that which has been set apart] becomes terumah.[23] R. Hisda does not give the same explanation as R. Nathan son of R. Oshaia, for, should it be said [that the portion set apart] is lawful terumah, it might sometimes happen that one would wilfully neglect to set apart the terumah [from the remainder].[24]

But why should this be different from, [the following case concerning] which we learned: If a man has set apart as terumah a cucumber which was found to be bitter, or a melon which turned out to be decayed[25] [the fruit becomes] terumah; but [from the remainder] terumah must again be set apart![26] Do you raise an objection from a case where one has acted unwittingly[27] against a case where one has acted wilfully?[27] Where one has acted unwittingly,[28] no forbidden act has been committed; when, however, one has acted wilfully,[29] a forbidden act has been committed.

A contradiction, however, was pointed out between two acts committed unwittingly: Here[30] it is stated, ‘It is lawful terumah if the act was done unwittingly’,[31] while there sit was stated, ‘Terumah,’ but [from the remainder] terumah must again be set apart’! — There,[32] it is an erroneous act amounting almost[33] to a wilful one, since he should have tasted it .[34]

A contradiction was also pointed out between two cases of wilful action: Here[35] it is stated, ‘but if it was done wilfully, it is null and void’, while elsewhere we learned: If a man has set apart as terumah [the produce] of an unperforated plant-pot[36] for [the produce of] a perforated pot,[37] [the former becomes] terumah but [from the latter] terumah must again be separated![38] — In [the case of produce grown in] two different vessels[39] a man would obey;[40] in [that of] one vessel[41] he would not obey.[42]

Now according to R. Nathan, son of R. Oshaia, who explained that ‘the act is null and void in respect of making the remainder fit for use but [that that which has been set apart] becomes terumah.[43] [

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(1) Who betrothed her.

(2) Infra 92a.

(3) Even Rabbinically; and that, therefore, the letter of divorce given is null and void.

(4) A divorced woman, even if the divorce was given to her in accordance with a Rabbinical and not a Pentateuchal ordinance. is forbidden to be married to a priest. Cf. infra 94a.

(5) The fact is that no divorce is required, as had been first assumed.

(6) Seeing that she is released without any letter of divorce.

(7) Release from which requires no divorce. Hence there is no need to provide against the assumption that ‘the first husband had divorced her and the other had lawfully betrothed her etc.’, suggested supra.

(8) Cf. supra n. 8. Why then was a letter of divorce required?

(9) For contracting a marriage without first making the necessary enquiries.

(10) Unlawful marriage.

(11) Lit., ‘in his eyes’.

(12) Cf. Keth. 11a.

(13) And thus sever a forbidden union.

(14) Such as the undertaking of maintenance etc. which, like the specified amount of the kethubah are entered in the marriage contract.

(15) I.e., the contract. This is one of the meanings of ‘kethubah’, v. n. 18.

(16) I.e., the specified sum due to the woman on the husband's death or on her divorce.

(17) V. Glos.

(18) Since the former is forbidden to be eaten the priest would thereby suffer a loss.

(19) Lit., ‘he did not do, even anything’. Ter. II, 2, Pes. 33a, Men. 25b.

(20) A measure of capacity. V. Glos.

(21) And forbidden to all.

(22) The levitlcally clean produce (Rashi).

(23) And the priest may use it for the purposes for which it is fit such as, for instance, fuel.

(24) V. supra note 6, believing that the portion he had set apart. and which had assumed the name of terumah, had exempted it.

(25) Lit., ‘having an offensive smell’.

(26) Ter. III, 1 , Kid. 46b; which proves that the possibility of neglecting this second separation of terumah does not render null and void the whole act.

(27) The case of the cucumber or the melon where the man believed it to be in good condition. (12) The second case in the first Mishnah cited.

(28) The case of the cucumber or the melon where the man believed it to be in good condition.

(29) The second case in the first Mishnah cited.

(30) In the first cited Mishnah.

(31) Implying that no further terumah for the remainder need be set apart.

(32) In the second Mishnah quoted.

(33) Lit., ‘near’.

(34) The fruit, before setting it apart as terumah.
(35) V. supra note 3.
(36) Which is not subject to terumah, since it has not grown directly from the ground.
(37) Which is subject to terumah. A plant in a perforated pot is deemed to be growing from the ground since it derives its nourishment through the holes of the pot from the ground itself.
(38) Dem. V, 10; Kid. 46a, Men. 70a. Why is the terumah in this case valid, while in the other it becomes tebel again?
(39) As in the last cited Mishnah where the produce designated as terumah grew in one kind of pot while the other produce grew in another kind of pot.
(40) To give terumah again, though the portion he has set apart is also allowed to remain terumah.
(41) Where the clean and the unclean grew in the same kind of pot or soil.
(42) To give terumah again, were the portion he has set aside allowed to retain the name of terumah. He would argue that, in view of the validity of his act, no further terumah need he given to the priest, whom he would consequently present with unclean terumah. Hence it was ordained that his act is void and that the quantity he has set aside is not to be regarded as terumah.
(43) And the priest may use it for the purposes for which it is fit, such, for instance, as burning.

Talmud - Mas. Yevamoth 89b

, why is this case different from [the following] where we learned [that if a man has set apart as terumah the produce] of a perforated plant-pot[1] for that of an unperforated one,[2] the terumah is valid, but[3] may not be eaten[4] before terumah and tithe from other produce[5] has been set aside for it![6] — Here[7] it is different, since Pentateuchally the terumah is valid, in accordance with the view of R. Elai; for R. Elai stated: Whence is it inferred that if one separates terumah from an inferior quality for a superior quality, his terumah is valid? It is written, And ye shall bear no sin by reason of it, seeing that ye have set apart from it the best thereof.[8] [Now, this implies that if you do not set apart from the best but of the worst you shall bear sin]; if, [however, the inferior quality] does not become consecrated, why [should there be any] bearing of sin?[9] Hence it may be inferred[10] that if one sets apart terumah from an inferior quality for a superior quality, his terumah is valid.[11]

Said Rabbah to R. Hisda: According to you who maintain that ‘the act is absolutely null and void’ so that ‘even that griva [which has been designated as terumah] returns to its former state of tebel’, the reason being[12] that this is a preventive measure against the possibility ‘that one might wilfully neglect to set apart [the terumah from the remainder]’; is there anywhere [I may ask] a law that terumah which is Pentateuchally valid should, owing to the possibility that one might wilfully neglect his duty, be turned into[13] unconsecrated produce?[14] Could, then, a Beth din lay down a condition that would cause a law of the Torah to be uprooted! — The other replied: And do you not yourself agree with such a ruling? Have we not learned, THE CHILD BY THE ONE HUSBAND OR THE OTHER IS A BASTARD. Now, it is reasonable [that the child] by the second [should be deemed] a bastard,[15] but why [should the child] by the first [be a bastard]? She is, surely, his wife[16] and [the child is consequently] a proper Israelite whom [by regarding him as a bastard] we permit to marry a bastard![17] The first retorted: Thus said Samuel, ‘He is forbidden to marry a bastard’. And so said Rabin, when he came,[18] in the name of R. Johanan. ‘He is forbidden to marry a bastard’. Why, then,[19] is he called a bastard? — In respect of forbidding him to marry the daughter of an Israelite.[20]

R. Hisda sent to Rabbah through R. Aha son of R. Huna [the following enquiry]: Cannot the Beth din lay down a condition which would cause the abrogation of a law of the Torah? Surely it was taught: ‘At what period of her age[21] is a husband entitled to be the heir of his wife [if she dies while still] a minor?[22] Beth Shammai stated: When she attains to womanhood;[23] and Beth Hillel said: When she enters into the bridal chamber.[24] R. Eliezer said: When connubial intercourse has taken place. Then he is entitled to be her heir, he may defile himself for her,[25] and she may eat terumah by virtue of his rights’. (Beth Shammai said, ‘When she attains to womanhood’,[26] even though she has not entered the bridal chamber![27] — Read, ‘When she attains to womanhood and enters the bridal chamber', and it is this that Beth Shammai said to Beth Hillel: In respect of your statement, 'When she enters the bridal chamber', it is only when she has attained womanhood that the bridal chamber is effective, but otherwise the bridal chamber alone is of no avail. 'R. Eliezer said: When connubial intercourse has taken place'. But, surely, R. Eliezer said that the act of a minor has no legal force![28] — Read, 'After she has grown up and connubial intercourse has taken place'.) At all events it was here stated, 'He[29] is entitled to be her heir'; but, surely, by Pentateuchal law it is her father[30] who should here be her legal heir, and yet it is the husband who is heir in accordance with a Rabbinical ordinance![31] — Hefker[32] by Beth din is legal hefker.[33] for R. Isaac stated: Whence is it deduced that hefker by Beth din is legal hefker? It is said, Whosoever came not within three days, according to the counsel of the princes and the elders, all his substance should be forfeited, and himself separated from the congregation of the captivity.[34] R. Eleazar stated [that the deduction[35] is made] from here: These are the inheritances, which Eleazar the priest. and Joshua the son of Nun, and the heads of the fathers' houses of the tribes of the children of Israel, distributed for inheritance.[36] Now, what relation is there between Heads and Fathers? But [this has the purpose] of telling you that as fathers may distribute as an inheritance to their children whatever they wish, so may the heads distribute as an inheritance to the people whatever they wish.

'He may defile himself for her'. But, surely, by Pentateuchal law it is her father who may here defile himself for her, and yet it is the husband who by a Rabbinical law was allowed to defile himself for her![37] — [This was allowed] because she is a meth mizwah.[38] Is she, however, a meth mizwah?[38] Surely, it was taught. 'Who may he regarded as a meth mizwah? He who has no [relatives] to bury him'. [If, however, he has relatives upon whom] he [could] call and they[39] would answer him, he is not regarded as a meth mizwah![40] — Here also, since they are not her heirs, they would not answer even if she were to call upon them.

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(1) V. supra p. 606, n. 10.

(2) V. supra p. 606, n. 9.

(3) Since it was given for produce which is not subject to terumah, it cannot assume the sanctity of terumah and remains tebel.

(4) Even by a priest.

(5) Lit., 'place'.

(6) Dem. V, 10; Kid. 46b. Why, then, was the terumah in the former case, which is virtually tebel, and is forbidden to be burnt (cf. Shab. 26a), allowed to be used by the priest (v. supra p. 606, n. 16) even though no terumah and tithe have been given for it from other produce?

(7) Where unclean produce was used as terumah for clean.

(8) Num. XVIII, 32.

(9) Surely no wrong has been done where one's action is null and void and other terumah has to he given!

(10) Lit., 'from here'.

(11) Tem. 5a, B.M. 56a, B.B. 84b, 143a, Kid. 46b.

(12) Lit., 'what is the reason'.

(13) Lit., 'they brought it out',

(14) Hullin v. Glos.

(15) Since, owing to the fact that the first husband was still alive, the marriage was unlawful.

(16) The marriage with the second having had no validity at all.

(17) Who is forbidden to an Israelite. As this, however, is permitted it follows that even a law of the Torah may be superseded by an ordinance of the Rabbis.

(18) From Palestine to Babylon.

(19) Since he is accordingly regarded as a proper Israelite.

(20) Such a restriction is no abrogation of a law of the Torah but a reinforcement of it.

(21) Lit., 'from when'.

(22) I.e., at what age may it be definitely assumed that the minor is no longer likely to make a declaration of refusal (v. Glos. s.v. mi'un) and may, consequently. be regarded as one's proper wife.

(23) Lit., ‘when she stands in her height’, the age of puberty.

(24) Huppah (v. Glos.), which is the preliminary to matrimonial cohabitation.

(25) If she died, though he is a priest. V. Lev. XXI, 1f.

(26) The husband may defile himself by her corpse and is also entitled to be her heir.

(27) When she is not yet regarded as his lawful wife (cf. supra 29b) and. according to law, he is entitled to be her heir. This consequently proves that the Beth din does possess the power to abrogate Pentateuchal laws!

(28) Infra 107b, 108a, Keth. 101b.

(29) The husband.

(30) (That is his legal heir (Rashi). Since the reference here is to a fatherless girl who was given in marriage by her mother or brothers. Such a marriage is not valid by Pentateuchal law which vests the right of giving a minor girl in marriage only in the father].

(31) How then could it be maintained that Beth din has no authority to abrogate Pentateuchal laws?

(32) הפקר a declaration that the property of a certain person is ownerless. V. Glos.

(33) The Rabbis have consequently full authority to transfer the property of the minor from her father's heirs to her husband, and such transfer cannot be regarded as an abrogation of the Pentateuchal law. The reading היה ‘was’ for the usual הוה ‘is’ may be a censorial alteration. Cf. Golds. a.l.

(34) Ezra X, 8.

(35) That Beth din is empowered to dispose of an individual's property in accordance with its legal decisions.

(36) Josh. XIX, 51.

(37) How then could it be maintained that Beth din has no authority to abrogate Pentateuchal laws?

(38) Lit., ‘dead of the commandment’, a corpse in which no one is interested and the burial of which is obligatory upon any person who discovers it.

(39) Lit., ‘and others’.

(40) ‘Er. 17b, Naz. 43b. As there are available the heirs of her father upon whom she could call, why is she regarded as a meth mizwah?

Talmud - Mas. Yevamoth 90a

‘And she may eat terumah by virtue of his rights’![1] — Only Rabbinical terumah.[2]

Come and hear: If a man ate[3] levitically unclean terumah, he must pay compensation in clean unconsecrated produce.[4] If he paid unconsecrated produce that was levitically unclean, his compensation, said Symmachus in the name of R. Meir, is valid[5] if it was paid in error,[6] and invalid if paid wilfully.[7] The Sages. however, said: Whether in one case or in the other[8] his compensation is valid, but he must again pay compensation in clean unconsecrated produce.[9] And when, in considering this ruling, the objection was raised, ‘Why should not his compensation be valid if he paid it wilfully? A blessing should come upon him! For he has eaten such of the priest's produce[10] as is not fit for him in the days of his uncleanness[11] and paid him compensation in something[12] that is fit for him in the days of his uncleanness’,[13] Raba, others say, Kadi, replied: [Some words are] missing from the text, the correct reading being the following: ‘If a man ate levitically unclean terumah he may pay compensation In any produce;[14] if he ate levitically clean terumah, he must pay compensation in clean unconsecrated produce; if, however, he made compensation in unconsecrated produce that was levitically unclean, his compensation, said Symmachus in the name of R. Meir, is valid if it was made in error,[15] and his compensation is invalid if it was made wilfully. But the Sages said: His compensation is valid whether he has acted in error or wilfully, but he must again pay compensation in clean unconsecrated produce’. Now here, surely. the compensation is Pentateuchally valid,[16] for were a priest to betroth a wife[17] with it her betrothal would be valid, and yet the Rabbis[18] ruled that ‘his compensation is invalid’,[19] and thus[20] a married woman[21] is permitted to [marry any one in] the world![22] — This was meant by the expression,[23] ‘his compensation is invalid’ which R. Meir used: That he must pay compensation again in clean unconsecrated produce.[24] If so, then Symmachus[25] holds the same view as the Rabbis! — R. Aha son of R. Ika replied: The difference between them is on the question whether one who has acted unwittingly is to be penalized as a preventive measure against one acting wilfully.[26]

Come and hear: If [sacrificial] blood became levitically unclean and was then sprinkled [upon the altar], it is accepted[27] if [the sprinkling was performed] unwittingly, but it is not accepted [if it was performed] wilfully.[28] Now, according to Pentateuchal law, it is here undoubtedly accepted, for it was taught. ‘In respect of what [errors] does the High Priest's front-plate[29] procure acceptance?[30] In respect of the sacrificial blood, flesh or fat that became unclean whether [this was brought about] by one acting in error or wilfully, under compulsion or willingly, and whether [this occurred with the sacrifice] of an individual or with [that of the] congregation’,[31] and yet the Rabbis ruled that ‘it is not accepted’[32] so that an unconsecrated beast is brought[33] into the Temple court![34] — R. Jose b. Hanina replied: The expression, ‘it is not accepted’ was used[35] in respect of permitting the flesh to be eaten;[36] the owner, however, obtains atonement through it.[37]

After all, however, the law of eating the flesh [of the sacrifice] would he uprooted, whereas it is written in the Scriptures. And they shall eat those things wherewith atonement was made[38] which teaches that the priests eat [the sacrificial meat] and the owner obtains thereby atonement! — The other replied: With an abstention from the performance of an act[39] it is different.[40]

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(1) Though Pentateuchally she is forbidden to eat terumah! V. supra p. 609. n. 5.

(2) That which is given from fruits of the trees, which is Pentateuchally permitted to non-priests. since the law of terumah is Pentateuchally applicable to corn only.

(3) Unwittingly.

(4) The reason is explained in Pes. 32a.

(5) Assumes the name of terumah.

(6) I.e., if he was unaware that the produce he gave as compensation was levitically unclean.

(7) Since he knew it to be unclean and yet paid it as compensation he is penalized.

(8) Whether the compensation was made in error or wilfully.

(9) Git. 54a.

(10) Lit., ‘from him something’.

(11) Levitically unclean terumah may not be eaten by a priest even when he is himself also unclean.

(12) Unconsecrated produce.

(13) Even though it is levitically unclean.

(14) Even unconsecrated produce which is unclean.

(15) V. supra p. 610, n. 10.

(16) Since unconsecrated foodstuffs, though levitically unclean, may be consecrated (cf. supra 89b).

(17) Giving it to her as the token of betrothal (cf. Kid. 2a).

(18) I.e., R. Meir.

(19) If it was made wilfully.

(20) By ruling that the compensation is invalid and, in consequence, is not the property of the priest.

(21) Pentateuchally she should assume this status.

(22) As the compensation is Rabbinically invalid (v. supra n. 11) the betrothal also would be Rabbinically invalid. V. supra p. 609, n. 5.

(23) Lit., ‘what’.

(24) The first payment, however, is also valid.

(25) Who reported R. Meir.

(26) According to the Rabbis, an unwitting sin is made punishable in order to prevent thereby a wilful one; hence their ruling that whether the payment of the compensation mentioned was made unwittingly or wilfully a second payment of compensation must be made. According to R. Meir, however, the inadvertent sinner is not to suffer for the sake of the wilful one; hence his ruling that a second payment of compensation is due only in the case of a wilful action.

(27) I.e., the owner obtains atonement and the flesh of the sacrifice may be eaten. הורצה of the same rt. רצה as that of ונרצה and it shall be accepted in Lev. I, 4, q.v.

(28) Pes. 16b.

(29) ציץ v. Ex. XXVIII, 36ff.

(30) Cf. supra n. 2.

(31) Pes. 80b, Yoma 7a, Men. 25b, Zeb. 45a, Git. 54a.

(32) In case of wilful action.

(33) Lit., 'brought again', i.e., the second sacrifice which the Rabbis ordained to be brought in addition to the first whose blood became unclean, remains Pentateuchally an unconsecrated beast, since, according to Pentateuchal law, no second sacrifice is required.

(34) V. supra p. 609, n. 5.

(35) Lit., 'what . . . which he said'.

(36) Only in this respect 'is it not accepted'; and the priest may not eat of such flesh.

(37) And no second sacrifice is required.

(38) Ex. XXIX, 33.

(39) שב ואל תעשה lit., 'sit and do not act', as is the case with the prohibition against eating the sacrificial meat mentioned.

(40) From the case of turning consecrated terumah into unconsecrated produce. The former (v. supra n. 1) involving no action may well be within the jurisdiction of the Rabbis, but not the latter which involves an act uprooting a Pentateuchal law.

Talmud - Mas. Yevamoth 90b

He,[1] [on hearing the last reply] said to him:[2] It was my intention to raise objections against your view[3] from [the Rabbinical laws which relate to] the uncircumcised,[4] sprinkling,[5] the knife [of circumcision],[6] the linen cloak with zizith,[7] the lambs of Pentecost,[8] the shofar[9] and the lulab;[10] now, however, that you taught us that abstention from the performance of an act[11] is not regarded as an abrogation [of the law, I have nothing to say since] all these are also cases of abstention.[12]

Come and hear: Unto him ye shall hearken,[13] even if he tells you. 'Transgress any of all the commandments of the Torah' as in the case, for instance, of Elijah on Mount Carmel,[14] obey him in every respect in accordance with the needs of the hour![15] — There it is different,[16] for it is written, 'Unto him shall ye hearken'. Then let [Rabbinic law] be deduced from it! — The safeguarding[17] of a cause is different.[18]

Come and hear: If he[19] annulled [his letter of divorce][20] it is annulled: so Rabbi. R. Simeon b. Gamaliel, however, said: He may neither annul it nor add a single condition to it,[21] since, otherwise,[22] of what avail is the authority[23] of the Beth din.[24] Now, though here, the letter of divorce may be annulled[25] in accordance with Pentateuchal law, we allow a married woman,[26] owing to the power[27] of Beth din,[24] to marry anyone in the world![28] — Anyone who betroths [a woman] does so in implicit compliance with the ordinances[29] of the Rabbis,[30] and the Rabbis have [in this case][31] cancelled the [original] betrothal.[32]

Said Rabina to R. Ashi: This[33] is a quite satisfactory explanation where betrothal was effected by means of money;[34] what, however. can be said [in a case where betrothal was effected] by cohabitation! — The Rabbis[35] have assigned[36] to such a cohabitation the character of mere prostitution.[37]

Come and hear: R. Eleazar b. Jacob stated, 'I heard that even without any Pentateuchal [authority for their rulings]. Beth din may administer flogging and [death] penalties; not, however, for the purpose of transgressing the words of the Torah but in order to make a fence for the Torah. And it once happened that a man rode on horseback on the Sabbath in the days of the Greeks,[38] and he was brought before Beth din and was stoned; not because he deserved this penalty, but because the exigencies of the hour demanded it. And another incident occurred with a man who had intercourse with[39] his wife under a fig tree, and he was brought before Beth din and flogged; not because he deserved such a penalty, but because the exigencies of the hour demanded it![40] To safeguard a cause is different.[41]

NEITHER OF THEM MAY DEFILE HIMSELF FOR HER. Whence is this derived? — From what is written in Scripture. Except for his kin that is near unto him,[42] and a Master stated that ‘his kin’ means his wife;[43] while it was also written, The husband shall not defile himself, among his people, to prof- ane himself;[44] [implying that] there is a husband, then, who may, and there is a husband who may not defile himself; how, then [are these contradictory laws to be reconciled]? He may defile himself for his lawful wife but he may not defile himself for his unlawful wife .[45]

NEITHER OF THEM HAS A CLAIM UPON ANYTHING SHE MAY FIND etc. [because] what is the reason why the Rabbis ruled that a wife's finds belong to her husband? In order that he may bear no hatred against her; but, here, let him bear against her ever so much hatred![46]

OR MAKE WITH HER HANDS, [because] for what reason did the Rabbis rule that the work of her hands belonged to her husband? Because she receives from him her maintenance;[47] but here, since she receives no maintenance, her handiwork does not belong to him.

OR TO THE RIGHT OF INVALIDATING HER VOWS, [since] what is the reason why the All Merciful said that a husband may annul [his wife's vows]? In order that she may not become repulsive; here, however, let her become ever so repulsive![48]

IF SHE WAS THE DAUGHTER OF AN ISRAELITE, SHE BECOMES DISQUALIFIED FROM MARRYING A PRIEST etc.

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(1) R. Hisda.

(2) Rabbah who maintained (supra 89b) that the Rabbis have no power to abrogate a pentateuchal law.

(3) V. supra note 4.

(4) Proselyte, whose circumcision is performed on the Passover Eve and who, by Rabbinic law, is forbidden to participate in the Paschal lamb, though Pentateuchally it is his duty to celebrate the Passover as an Israelite. Cf. Pes. 92a.

(5) On an unclean person, on the Sabbath day, is Rabbinically forbidden (cf. Pes. 66a) though Pentateuchally permitted. Should the Sabbath on which such sprinkling is due happen to be a Passover Eve, the person affected would, owing to the Rabbinical prohibition, remain unclean on that day and would, in consequence, be deprived of participation in the Paschal lamb, which is a Pentateuchal precept.

(6) The carrying of which on the Sabbath is Rabbinically forbidden even along roofs, an act which is Pentateuchally permitted (cf. Shab, 130b). By observing this Rabbinical law it is sometimes necessary to postpone circumcision which is a Pentateuchal commandment.

(7) V. Glos. Pentateuchally it is permitted to insert woollen fringes (v. Num. XV, 38) in a linen garment, despite the prohibition in Deut. XXII, 11 against wearing wool and linen together. Owing, however, to a Rabbinic prohibition, fringes of wool in a linen garment are forbidden, and this prohibition sometimes results in the abrogation of the Pentateuchal commandment of zizith. Cf. Men. 40a.

(8) V. Num. XXVIII, 26ff. If Pentecost fell on a Sabbath day, and these lambs were not offered for the purpose for which they were designated, the sacrificial blood may not, in accordance with a Rabbinical prohibition, be sprinkled upon the altar, though such sprinkling is Pentateuchally permitted. Thus, the Pentateuchal law of the sprinkling of the sacrificial blood, and other laws which are dependent on its performance, are suspended by a Rabbinical ordinance. Cf. Bezah 20b.

(9) The ram's horn used on the New Year festival (cf. Lev. XXIII. 24). If New Year's Day falls on a Sabbath, the Pentateuchal law of Shofar is abrogated by the Rabbis for fear it might be carried from one Sabbatical domain into another. Cf. R.H. 32a.

(10) The branches of palm- trees (Lev. XXIII, 40) which are taken during the Feast of Tabernacles. This Pentateuchal law is abrogated on the Sabbath day, for the same reason as in the case of the Shofar. (Cf. p. 613, n. 1 t).

(11) Cf. supra p. 613. n. 1.

(12) V. last note.
(13) Deut. XVIII, 15, referring to a true prophet.
(14) Where he offered a sacrifice on an improvised altar (v. I Kings XVIII, 31ff) despite the prohibition against offering sacrifices outside the Temple.
(15) Which shews that the word of a prophet, as also that of the Rabbis, may abrogate a Pentateuchal law.
(16) From the teaching of the Rabbis.
(17) Lit., ‘making a wall round’.
(18) From an ordinary measure. Elijah, by his act, saved Israel from idolatry and brought them back to the worship of Cod.
(19) A husband who sent a letter of divorce to his wife by the hand of an agent. Cf. Git. 32a.
(20) In the presence of any Beth din, even though the woman was unaware of the fact.
(21) Cf. supra n. 10.
(22) Lit., ‘if so were such annulment to he permitted.
(23) Lit., ‘power’.
(24) I.e., R. Gamaliel the Elder, who ordained that such an annulment must not be made, since the woman in her ignorance of it might marry again and thus unconsciously give birth to illegitimate children. V. Git. 33a.
(25) So long as it did not reach the woman's hand.
(26) Since the letter of divorce was duly annulled the woman obviously still retains the status of a married woman.
(27) Lit., ‘what power’, quotation from R. Simeon's exclamation.
(28) Which shews that a Pentateuchal law of marriage is abrogated by a Rabbinic measure!
(29) Lit., ‘opinion’, ‘view’.
(30) The formula being. ‘According to the law of Moses and of Israel’ (cf. P.B. p. 298), i.e., the Pentateuchal and Rabbinic law.
(31) Where the divorce was annulled.
(32) Transforming retrospectively the money of the betrothal (cf. Kid. 2a) given to the woman at her first marriage into an ordinary gift. Since the hefker of money comes within the power of a legal tribunal the Beth din is thus fully empowered to cancel the original betrothal, and the divorcee assumes, in consequence, the status of an unmarried woman who is permitted to marry any stranger.
(33) The explanation of the retrospective cancellation of the original marriage. V. supra note 3.
(34) A woman may be betrothed by means of money, deed or cohabitation. V. Kid. 2a.
(35) In compliance with whose laws and ordinances all betrothals are implicitly effected.
(36) Lit ‘made’.
(37) From the moment a divorce is annulled in such a manner, the cohabitation, it was ordained, must assume retrospectively the character of mere prostitution, and since her original betrothal is thus invalidated the woman resumes the status of the unmarried and is free to marry whomsoever she desires.
(38) While the Greeks were the rulers of the country.
(39) Lit., ‘ejaculate in’.
(40) Cf. Sanh. 46a; which shows that the Rabbis may carry out decisions contrary to Pentateuchal law.
(41) Cf. supra p. 614, nn. 7 and 8. The incidents referred to occurred in times of religious laxity when rigid measures were necessary, v Sanh., Sonc. ed., p. 303. n. 8.
(42) Lev. XXI, 2.
(43) Consequently it is permitted for a priest to defile himself for his wife.
(44) Ibid. 4. which, contrary to the interpretation of v. 2, shews that a husband may not defile himself for its wife., ‘a husband’. (E.V. chief man).
(45) Who is the subject of our Mishnah, v. supra 22b.
(46) The more he will hate her the sooner will he sever the unlawful union.
(47) Lit., ‘eats foods’.
(48) Cf. supra n. 5.

Talmud - Mas. Yevamoth 91a

Is not this obvious![1] — [The statement] IF THE DAUGHTER OF A LEVITE [she becomes disqualified] FROM THE EATING OF TITHE was required.[2] Does, however, the daughter of a Levite become disqualified by prostitution from the eating of tithe? Surely, it was taught: If the daughter of a Levite was taken into captivity[3] or was subjected to an act of prostitution,[4] she may nevertheless be given tithe and she may eat it![5] — R. Shesheth replied: This[6] is a punitive measure.[7]

IF THE DAUGHTER OF A PRIEST, [she becomes disqualified] FROM THE EATING OF TERUMAH, even Rabbinical terumah.

NEITHER THE HEIRS OF THE ONE HUSBAND NOR THE HEIRS OF THE OTHER ARE ENTITLED TO INHERIT HER KETHUBAH etc. How does the question of kethubah arise here?[8] R. Papa replied: The kethubah of the male children.[9] [Is not this also] obvious![10] — It might have been assumed that the Rabbis had penalized only her, since she had committed the forbidden act, but not her children, hence we were informed [that they also lose the kethubah].

THE BROTHER OF THE ONE AND THE BROTHER OF THE OTHER MUST SUBMIT TO HALIZAH, BUT MAY NOT CONTRACT THE LEVIRATE MARRIAGE. The brother of the first husband submits to halizah in accordance with the Pentateuchal law,[11] and may not contract the levirate marriage in accordance with Rabbinic law;[12] the brother of the second, however, submits to halizah in accordance with Rabbinical law,[13] and may not contract the levirate marriage either in accordance with Pentateuchal, or in accordance with Rabbinical law.[14]

R. JOSE SAID: HER KETHUBAH [REMAINS A CHARGE] UPON THE ESTATE OF HER FIRST HUSBAND etc. Said R. Huna: The latter agree with the former,[15] but the former do not agree with the latter: R. Simeon agrees with R. Eleazar;[16] since he[17] does not penalize [the woman[18] in the case of] cohabitation which constitutes the main prohibition. how much less [would he do so in respect of] what she finds and what she makes with her hands.which are only monetary matters. R. Eleazar, however, does not agree with R. Simeon; [since it is only in respect of] what the woman finds and what she makes with her hands, which are monetary matters, that he does not penalize her, but in respect of cohabitation which is a religious prohibition he does penalize her. And both of them agree with R. Jose; [since they] do not penalize [the woman in respect of] those matters which are applicable while she continues to live with her husband,[19] how much less [would they do so in respect of] the kethubah the purpose of which is[20] [for the woman] to take it and depart.[21] R. Jose, on the other hand, does not agree with them; [since it is only in respect of] the kethubah [the purpose of which is for the woman] to take it and depart,[21] that he does not penalize her, but in respect of those matters which are applicable while she continues to live with her husband,[19] he does penalize her.

R. Johanan stated: The former agree with the latter, but the latter do not agree with the former: R. Jose agrees with R. Eleazar; since he does not penalize [the woman in respect of] the kethubah which has to be taken from the husband and given to the wife,[22] how much less [would be do so in respect of] what she finds and what she makes with her hands which have to be taken from her and given to him.[23] R. Eleazar, however, does not agree with him; [since it is only in respect of] what she finds and what she makes with her hands which have to be taken from the woman and given to the husband,[23] that he does not penalize her, but in respect of the kethubah which has to be taken from him and given to her,[22] he does penalize her. And both of them agree with R. Simeon; since they do not penalize her in respect of matters which [are applicable] while [her first husband] is alive, how much less [would they do so in respect of] cohabitation which takes place after his death. R. Simeon, however, does not agree with them; [since it is only in respect of] cohabitation which [takes place] after [her husband's] death, that he does not penalize her, but [in respect of] those matters which [are applicable] while [he is] alive, he does penalize her.

IF SHE MARRIED WITHOUT AN AUTHORIZATION etc. Said R. Huna in the name of Rab: This is the accepted law.[24] R. Nahman said to him: Why should you indulge in circumlocution![25] If you hold the same view as R. Simeon, say. ‘The halachah is in agreement with R. Simeon’ for, indeed, your traditional statement runs on the same lines as that of R. Simeon! And should you reply. ‘If I were to say "the halachah is in agreement with R. Simeon", it might be assumed to apply even to his first statement’,[26] then say. ‘The halachah is in agreement with R. Simeon in his latter statement’![27] — This is a difficulty.

R. Shesheth said: It occurs to me[28] that Rab made this reported statement while he was sleepy and about to doze off.[29] [His statement] ‘This is the accepted law’ implies that[30] [the Rabbis] differ;[31] but what could she do? She was but the victim of circumstances![32] Furthermore, it was taught: ‘None of the women in incestuous marriages forbidden in the Torah, requires a letter of divorce from the man who married her,[33] except a married woman who married again in accordance with a decision of a Beth din’. Only [where she married again] ‘in accordance with a decision of a Beth din’[34] does she require a letter of divorce, but where [the marriage took place] in accordance with the evidence of two witnesses she requires no letter of divorce.[35] Now, whose view is here represented?[36] If it be suggested [that it is the view of] R. Simeon, does she [it may be retorted] require a letter of divorce [even where her marriage took place] in accordance with a decision of the Beth din? Surely it was taught: R. Simeon stated, ‘If the Beth din acted[37] on their own judgment[34] [the marriage is regarded] as a wilful [act of adultery between] a man and a [married] woman;[38] [if, however, they acted],[30] in accordance with the evidence of [two] witnesses, [the marriage is regarded] as [intercourse between] a man and a woman that was due to error’.[39] In both cases, however,[40] no letter of divorce is thus[41] required.[42] Consequently it must represent the view of the Rabbis![43] The fact is [that it[44] represents the view of] R. Simeon, and you may interpret it as follows. R. Simeon stated: If the Beth din acted[45] on their own judgment, [the marriage is regarded] as intentional [intercourse[46] between] a man and an [unmarried] woman and [the latter][47] consequently requires a letter of divorce; [If, however, they acted],[45] in accordance with the evidence of [two] witnesses [the marriage is regarded] as wanton [intercourse between] a man and an [unmarried] woman[48] and [the latter consequently] requires no letter of divorce.

R. Ashi replied: The statement[49] was mainly concerned with the question of the prohibition,[50] and is to be understood as follows:[51] If the Beth din acted[52] on their own judgment, [the marriage is regarded] as a wilful [act of adultery between] a man and a [married] woman, and [the latter is consequently] forbidden to her [first] husband; [if, however, they acted][49] in accordance with the evidence of [two] witnesses, [the marriage is regarded] as [intercourse between] a man and a woman that was due to error, and [the latter is consequently] not forbidden to her [first] husband.

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(1) Having the status of a harlot she is obviously forbidden to marry a priest. Cf. Lev. XXI, 7.

(2) As this ruling had to be mentioned the other also was included.

(3) Where she is exposed to the dangers of gentiles’ outrage.

(4) Cohabitation with a slave, for instance, or a halal. Cf. supra 68a.

(5) Bek. 47a.

(6) The disqualification of the Levite's daughter in our Mishnah.

(7) For not instituting the necessary enquiries before she married her second husband.

(8) Where the woman herself, as stated earlier in our Mishnah, is not entitled to it.

(9) Of the woman. By the insertion of the prescribed clause (v. Keth. 52b), her sons are entitled to receive her kethubah from their father's estate when he dies, even if their mother died first and their father married again and had sons with his second wife. They receive her kethubah in addition to their shares in their father's estate to which the sons of both the first and the second wife are equally entitled. In the case spoken of in our Mishnah, however, the sons of the first wife lose their claim to her kethubah.

(10) If their mother herself is not entitled to it, how much less her sons whose claim is entirely derived from hers.

(11) Since according to Pentateuchal law he is the brother of the proper husband.

(12) As a punitive measure against the woman who did not make sufficient enquiries before contracting her second marriage.

(13) Pentateuchally the widow is not subject to him at all, since her marriage with his brother was invalid. Cf. supra p. 617, n. 11.
(14) Cf. previous two notes.
(15) That in respect of the points they mentioned the woman is regarded as the wife of the first husband.
(16) V. our Mishnah.
(17) Having stated that, HER COHABITATION . . . WITH THE BROTHER OF THE FIRST HUSBAND EXEMPTS HER RIVAL.
(18) In regard to her relationship to her first husband.
(19) Lit., 'when she sits under him', when there is reason to apprehend that she would never be divorced in consequence.
(20) Lit. , 'stands'.
(21) Thus actually beginning the process of separation and final divorce.
(22) Lit., 'which from his to hers'.
(23) Lit., 'which from hers to his'.
(24) Cf. supra 88b.
(25) גנבא גנובי חמה לך (rt. גמב, in Pael 'to go round about'). 'O thou cunning man, what is the use of thy going round about?' (Jast.).
(26) That of cohabitation with the brother of the first husband where her second marriage was contracted on the evidence of one witness only.
(27) IF SHE MARRIED WITHOUT AUTHORIZATION.
(28) Lit., 'I would say'.
(29) Lit., 'dozing and lying down'.
(30) In the final clause, where the woman married on the evidence of two witnesses.
(31) Maintaining that the woman is to be penalized.
(32) מיאנס אנסה from rt. אנס 'to be compelled'. What better proof could she have had than the testimony of two qualified witnesses.
(33) Lit., 'from him'.
(34) I.e., where the evidence as to her first husband's death has been given by one witness only.
(35) Since she was but an unfortunate victim of circumstances.
(36) Lit., 'who is it'.
(37) Permitted the remarriage of a woman whose husband's death has been reported.
(38) And the woman becomes thereby forbidden to her first husband if he returns.
(39) And the return of the woman to her first husband is consequently permitted.
(40) Whether the marriage was on the decision of Beth din or on the evidence of two witnesses.
(41) Since the comparison was made with acts of presumption and error while divorce was not mentioned at all.
(42) The first Baraitha cited, which required a divorce in a case where the woman married in accordance with a decision of the Beth din, cannot therefore represent the view of R. Simeon.
(43) Which proves that they also admit that no divorce is necessary where the marriage was contracted in reliance on two witnesses. Who is it, then, that differs from R. Simeon that it should have been necessary for Rab to declare the halachah to be in agreement with his view?
(44) The first Baraitha under discussion. V. p. 620. n. 13.
(45) V. supra p. 620, n. 8.
(46) For the purpose of betrothal. Cf. Kid. 2a.
(47) Since her marriage was legal.
(48) Which constitutes no legal union.
(49) V. supra note 15.
(50) Lit., 'he taught in respect of prohibition'.
(51) Lit., 'and thus be said'.
(52) V. supra p. 620, n. 8.

Talmud - Mas. Yevamoth 91b

Rabina replied: The statement was mainly dealing with the question of sacrifice,[1] and is to be understood as follows.[2] If the Beth din acted on their own judgment, [the marriage is regarded] as a wilful [act of adultery between] a man and a [married] woman, and [the latter] does not bring a sacrifice;[3] if, however, they acted] in accordance with the evidence of [two] witnesses, [the marriage is regarded] as [intercourse between] a man and a woman that was due to error and [the latter] has to bring a sacrifice.[4]

If you prefer. however, I might say that the first [Baraitha][5] represents [the view of] the Rabbis, and you may explain it as follows: 'Except a married woman'[6] and one 'who married again in accordance with a decision of a Beth din'.[7]

'Ulla raised an objection: Do we accept the plea[8] 'what could she have done'?[9] Surely we learned: [If a letter of divorce] was dated[10] according to[11] an era that was inappropriate,[12] according to[11] the Median era, or according to[11] the Greek era, according to [the era of] the building of the Temple, or the destruction of the Temple, or if he[13] was in the East and wrote, 'In the West', [or he was] in the West and wrote, 'In the East', she[14] must leave her first and her second husband,[15] and all the disabilities[16] [enumerated,[17] are applicable] to her.[18] But why?[19] Let it be argued. 'What could she have done'![20] — She should have arranged for the letter of divorce to be read.[21]

R. Shimi b. Ashi said, Come and hear: If a levir married his sister-in-law[22] and her rival went and married [another man][23] and then the former[24] was found to be incapable of procreation,[25] [the latter][26] must leave the one and the other[27] and all the disabilities[16] [mentioned[28] apply] to her.[29] But why?[30] Let it be argued. 'What could she have done'![31] — She should have waited.

Said Abaye: Come and hear: If the rivals [of] any of the forbidden relatives concerning whom it has been said[32] that they exempt their rivals went and married, and any such forbidden relatives[33] were found to be incapable of procreation,[34] [every rival] must leave the one and the other,[35] and all the disabilities[36] [mentioned[37] apply] to her.[38] But why?[39] Let it be argued. 'What could she have done'! — She should have waited.

Said Raba. Come and hear: If a scribe wrote a letter of divorce for the husband and a quittance[40] for the wife, and then made a mistake and handed the letter of divorce to the wife and the quittance to the husband, and they[41] gave them to one another,[42] and after a time[43] the letter of divorce was discovered[44] in the possession of the husband and the quittance in the possession of the wife, [the latter][45] must leave the one as well as the other,[46] and all the disabilities[36] [mentioned[47] apply] to her.[38] But why?[48] Let It be argued. 'What could she have done'! — She could have arranged for the letter of divorce to be read.[49]

Said R. Ashi, Come and hear: If he[50] changed[51] his name or her name, the name of his town or the name of her town, she must depart from the one and from the other,[52] and all the disabilities[36] [mentioned[37] apply] to her.[38] But why?[48] Let it be argued. 'What could she have done'! — She should have arranged for the letter of divorce to be read.[53]

Said Rabina, Come and hear: If a man married a woman[54] on [the strength of] a bald[55] letter of divorce she must depart from the one and from the other,[56] etc.! — She should have arranged for the letter of divorce to be read.[57]

R. Papa desired to decide a case on [the principle of] 'What could she have done',[58] Said R. Huna Son of R. Joshua to R. Papa: But surely all those[59] Baraithoth were taught?[60] The other answered him: Were they not explained?[61] 'Shall we then',[62] the former retorted, 'rely on explanations'![63]

R. Ashi said: No regard need be paid[64] to a rumour.[65] What kind of rumour [is here meant]? If it be suggested [that it means] a rumour after marriage.[66] Surely [it may be objected] R. Ashi has said this once; for R. Ashi stated:

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(1) Cf. supra n. 6, mutatis mutandis.
(2) So Bah. Cf. supra n. 7. Cur. edd. omit, ‘and is . . . follows’.
(3) Since her wilful act was performed in reliance on the ruling of Beth din. V. Hor. 2b.
(4) As for any other similar sin committed in error.
(5) V. supra note 15.
(6) Who married again in accordance with the evidence of two witnesses.
(7) On the evidence of one witness. According to this interpretation, a marriage on the evidence of two witnesses is not excluded (as was originally suggested supra 91a) and it also requires a letter of divorce.
(8) Lit ‘do we say’.
(9) R. Shesheth's objection, supra 91a.
(10) Lit., ‘he wrote’.
(11) Lit., ‘for the name’.
(12) For the place in which, or the time when the document was written.
(13) The scribe (Rashi). It is assumed that the witnesses are from the same place as the scribe. (Cf. Tosaf s.v. היה a.l.)
(14) The woman who married again after receiving such a defective document from her husband.
(15) Lit ‘from this and from this’.
(16) Lit., ‘these ways’.
(17) Supra 87b and in the Mishnah cited from Gittin (v. infra n. 13), such as the loss of kethubah etc.
(18) Cf. Git., Sonc. ed., p. 282, q. v. notes.
(19) Should the woman be penalized.
(20) She honestly believed the document to be valid.
(21) By an expert who would have detected the irregularities and warned her in good time.
(22) The widow of his brother who died without issue.
(23) Which she is permitted to do, since the levirate marriage of one widow exempts all her rivals from both halizah and the levirate marriage.
(24) Lit ‘this’, the widow who married the levir.
(25) And consequently unable to exempt her rival (cf. supra 12a).
(26) The rival mentioned.
(27) Lit., ‘from this and from this’. She may neither live with the husband she married nor with the levir.
(28) V. supra n. 12.
(29) Git. 80a.
(30) Cf supra n. 14.
(31) She surely could not have anticipated the other's incapability.
(32) Supra 2a.
(33) Lit., ‘these’.
(34) Cf. supra p. 622, n. 20.
(35) V. supra p. 622, n. 22.
(36) Lit., these ways’.
(37) Supra 87b and in the Mishnah cited from Gittin (cf. Git. 79b) such as the loss of kethubah etc.
(38) Git. 80a.
(39) Should the woman he penalized.
(40) Which the wife gives to the husband on the receipt of her kethubah.
(41) Without examining the documents.
(42) Lit., ‘this to this and this to this’; both of them believing that the husband gave to his wife the letter of divorce, and that the wife gave to her husband the quittance.
(43) When the woman had married another man.
(44) Lit., ‘goes out’.
(45) Since her divorce was invalid, the document having been given to her not by her husband as the law requires but by the scribe.
(46) Her second and her first husband.

(47) V. supra note 7.
(48) Should she be subject to the disabilities.
(49) When she would immediately have discovered the scribe's error.
(50) The husband.
(51) In the letter of divorce which he gave to his wife.
(52) Lit., ‘from this and from this’: from her first, and from her second husband.
(53) And the change of name would have been discovered at once.
(54) Lit., ‘he married her’.
(55) קרח i.e., a ‘folded document’ (cf. B.B. 160a) on one of whose folds a signature is wanting. A valid deed of such a character must bear the signature of a witness on each fold and must he signed by no less than three witnesses. V. Git., Sonc. ed., p. 391.
(56) V. supra p. 623, n. 22.
(57) And the defect would have been discovered forthwith.
(58) It was his intention to allow a woman, whose second marriage was contracted on the evidence of two witnesses who had testified that her first husband was dead, to go back to him when he returned.
(59) Above mentioned.
(60) And in none was the principle of ‘what could she have done’ acted upon.
(61) Special reasons were given why the principle mentioned was not acted upon. In all other cases, however, it should be taken into consideration.
(62) Lit., ‘shall we rise’.
(63) Despite the explanations, the original objections may still be urged. Cur. edd. insert in parenthesis ‘and he desisted’. i.e., R. Papa abandoned his contemplated decision.
(64) If a woman was authorized by the Beth din to contract a second marriage.
(65) That her first husband was still alive.
(66) Of the woman with her second husband.

Talmud - Mas. Yevamoth 92a

No regard need be paid to a rumour that originated after marriage![1] — It might have been assumed that since she was to appear before the Beth din to obtain the authorization[2] [for her marriage].[3] the rumour is regarded as one [that arose] before marriage[4] and she should in consequence he forbidden,[5] we were, therefore, taught [that even in such circumstances a rumour is disregarded].

IF SHE MARRIED WITH THE AUTHORIZATION OF THE BETH DIN SHE MUST LEAVE etc. Ze'iri said: Our Mishnah cannot be authentic[6] owing to a Baraitha that was recited at the academy. For it was recited at the academy: If the Beth din ruled[7] that the sun had set,[8] and later it appeared, [such a decision] is no ruling[9] but a mere error.[10]

R. Nahman. however, stated: [Such an authorization][11] is [to be regarded as] a ruling.[12] Said R. Nahman: You can have proof[13] that it [is to be regarded as] a ruling. For throughout the Torah a single witness is never believed while in this case he is believed. But why? Obviously[14] because [such an authorization is regarded as] a ruling.[15] Raba said: You can have proof[13] that it[11] is [to be regarded as a mere] error.[16] For were Beth din to issue a ruling in a case of some forbidden fat or blood that it is permitted, and then find a [strong] reason for forbidding it, [their subsequent ruling], should they retract and rule again that it is permitted,[17] would be completely disregarded;[18] whereas here,[19] it should one witness present himself,[20] the woman would be permitted to marry again,[21] and should two witnesses [afterwards] appear[22] the woman would be forbidden to marry again,[23] but should another witness subsequently appear[24] the woman would again be permitted to marry. But why?[25] Obviously[26] because it[19] [is regarded as a mere] error.[27]

R. Eliezer also is of the opinion that it[19] is [to be regarded as a mere] error. For it was taught: R. Eliezer said: Let the law pierce through the mountain[28] and let her[29] bring a fat sin-offering.[30] Now, if it be granted that it[19] is [to be treated as] an error one can well see the reason why she is to bring an offering.[31] If, however, it be contended that it[19] is [to be regarded as] a ruling, why should she bring an offering![32] But is it not possible that R. Eliezer holds the opinion that an individual who committed a sin in reliance on a ruling of the Beth din is liable?[33] — If so, what [could have been meant by] ‘Let the law pierce through the mountain’![34]

IF THE BETH DIN DECIDED THAT SHE MAY MARRY AGAIN etc. What is meant by DISGRACED HERSELF? — R. Eliezer[35] replied: She played the harlot. R. Johanan replied: [If being] a widow [she was married] to a High Priest, [or if] a divorcee or a haluzah [she was married] to a common priest. He who stated,’She played the harlot’[36] would, even more so, [subject the woman to a sin-offering. if as] a widow [she was married] to a High Priest.[37] He, however, who stated, ‘[If being] a widow [she was married] to a High Priest’ does not[38] [subject her to a sin-offering if] she played the harlot. What is the reason? — Because she might plead, ‘It is you who granted me the status of an unmarried woman’.[39]

It was taught in agreement with the opinion of R. Johanan: If Beth din directed that she may be married again. and she went and disgraced herself, so that, for instance, [being] a widow [she was married] to a High Priest.[or being] a divorcee or a haluzah [she was married] to a common priest. she is liable to bring an offering for every single act of cohabitation;[40] so R. Eleazar. But the Sages said: One offering for all. The Sages, however, agree with R. Eleazar that, If she was married to five men, she is liable to bring an offering for every one, since [here it is a case of] separate bodies.

MISHNAH. IF A WOMAN WHOSE HUSBAND AND SON WENT TO COUNTRY BEYOND THE SEA WAS TOLD,[41] ‘YOUR HUSBAND DIED AND YOUR SON DIED AFTERWARDS’,[42] AND SHE MARRIED AGAIN,[43] AND LATER SHE WAS TOLD,’ IT WAS OTHERWISE’.[44] SHE MUST DEPART;[45] AND ANY CHILD BORN BEFORE OR AFTER[46] IS A BASTARD.[47] IF

SHE WAS TOLD. ‘YOUR SON DIED AND YOUR HUSBAND DIED AFTERWARDS’,[48] AND SHE CONTRACTED THE LEVIRATE MARRIAGE, AND AFTERWARDS SHE WAS TOLD, ‘IT WAS OTHERWISE’[49] SHE MUST DEPART;[50] AND ANY CHILD BORN BEFORE OR AFTER[46] IS A BASTARD.[47]

IF SHE WAS TOLD, ‘YOUR HUSBAND IS DEAD, AND SHE MARRIED, AND AFTERWARDS SHE WAS TOLD, ‘HE WAS ALIVE[51] BUT IS NOW DEAD’, SHE MUST DEPART,[52] AND ANY CHILD BORN BEFORE [THE DEATH OF HER FIRST HUSBAND][53] IS A BASTARD, BUT ONE BORN AFTER IT[54] IS NO BASTARD. IF SHE WAS TOLD, ‘YOUR HUSBAND IS DEAD AND SHE WAS BETROTHED, AND AFTERWARDS HER HUSBAND APPEARED, SHE IS PERMITTED TO RETURN TO HIM. ALTHOUGH THE OTHER[55] GAVE HER A LETTER OF DIVORCE HE HAS NOT THEREBY DISQUALIFIED HER FROM MARRYING A PRIEST. THIS R. ELEAZAR B. MATHIA DERIVED BY MEANS OF THE FOLLOWING EXPOSITION: NEITHER [SHALL THEY[56] TAKE] A WOMAN PUT AWAY FROM HER HUSBAND,[57] EXCLUDES ONE PUT AWAY[58] FROM A MAN WHO IS NOT HER HUSBAND.[59]

GEMARA. What is meant by BEFORE[60] and what is meant by AFTER?[61] If it be suggested that BEFORE means before the [second] report and that AFTER means after that report, it should have been stated: The child is a bastard![62] Because it was desired to state in the final clause, IF SHE WAS TOLD, ‘YOUR HUSBAND IS DEAD’, AND SHE MARRIED, AND AFTERWARDS SHE WAS TOLD, ‘HE WAS ALIVE BUT IS NOW DEAD . . . ANY CHILD BORN BEFORE[63] [THE DEATH OF HER FIRST HUSBAND] IS A BASTARD, BUT ONE BORN AFTER IT[64] IS NO BASTARD, the expressions BORN BEFORE OR AFTER IS A BASTARD were used in the first clause also.

Our Rabbis taught: This[65] is the view of R. Akiba who stated: Betrothal with those who are subject [on intercourse] to the penalties of a negative commandment is invalid.[66] The Sages, however, said that [the child] of a sister-in-law[67] is no bastard.[68] Let it be said: The child of a union between those who are subject [on intercourse] to the penalties of a negative precept is no bastard![69] — This Tanna[70] is the following Tanna of the school of R. Akiba, who stated that [only a child] of a union that is subject to the penalties of a negative precept owing to consanguinity is a bastard, but one born from a union that is subject to the penalties of a mere negative precept[71] is no bastard.

Rab Judah stated

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(1) If, for instance, after a priest had married, a rumour arose that before her marriage with him his wife was a divorcee or a harlot. Git. 81a, 88b, 89a.

(2) Lit., ‘and we permitted’.

(3) Before it had taken place.

(4) Her appearance before the court implying that, already at that time, the possibility that her husband was still alive was being considered.

(5) To her second husband, as if the rumour had been current before her marriage.

(6) Lit., ‘our Mishnah is not’.

(7) On a cloudy day which happened to be the Sabbath day.

(8) And permitted the people to commence their week-day labours which are forbidden on the Sabbath.

(9) Which exempts the individual who acted upon it from a sin- offering and affects the nature of the sin-offering which the congregation who acted upon it has to bring.

(10) Since the erroneous ruling of the Beth din was not due to an oversight on their part of a point of law but to a false assumption of a matter of fact. They assumed that the sun had set, while in fact, it had not. Similarly here, They assumed that the woman's husband was dead when as a matter of fact he was alive. Our Mishnah, therefore, which exempts the woman from a sin-offering cannot be authentic.

(11) The permission to the woman to marry again, spoken of in our Mishnah.

(12) Subject to the same laws as all erroneous rulings issued by a Beth din. Cf. supra 11. 6. and Hor. 2aff.

(13) Lit., ‘thou shalt know’.

(14) Lit., ‘not?’

(15) The woman did not act on the evidence of the witness which, as is now apparent, was due to an error, but on the ruling of the Beth din who accepted the evidence of this witness. Whatever their reason may have been it was their ruling that was the cause of the woman's marriage.

(16) [They assumed that every woman makes careful investigations before she marries (v. supra 25a) and it has been found that this was not the case].

(17) [Rashi: For a reason not as strong as that which prompted them to prohibit It. Me'iri: For the very same reason which made them permit it at the very first].

(18) Lit., ‘we do not look to them’. Once it has been found that their first ruling was erroneous it cannot again be adopted.

(19) v. supra p. 625, n.8.

(20) Testifying that the woman's husband was dead.

(21) Lit., ‘we permit’.

(22) Declaring that the husband was still alive.

(23) Lit., ‘we forbid’.

(24) Stating that the husband has died since.

(25) If the first authorization is to be regarded as a ruling it should not again be adopted (cf. supra n. 2), once it has been proved (by the testimony of the two witnesses) that it was erroneous.

(26) Lit., ‘not’?

(27) It is assumed that though the first witness misled the court the last is speaking the truth.

(28) l.e., one should delve deeper into the subject (cf. Rashi a.l.) ‘Justice under all circumstances’ (Jast.).

(29) The woman who married by permission of the court on the evidence of one witness.

(30) Cf. Sanh. 6b. Though, if viewed superficially, it would appear that the woman, since she had acted on the decision of a court, is not liable to a sin-offering (cf. Hor. 2a). careful consideration of the case would reveal that she is liable, since the decision was based on the error of the witness and not on a legal oversight of the court. Cf. supra p. 625, n. 7.

(31) Cf. supra note14, second section.

(32) Cf. loc. cit. first section.

(33) To a sin-offering.

(34) Cf. supra note 12 (first interpretation) and supra note 14.

(35) Marg. note, ‘Eleazar’.

(36) That even in such a case a sin-offering must be brought.

(37) Since it is obvious that the court's permission did not extend to a marriage which is in any case forbidden to the woman, even if her husband is dead.

(38) Lit. , ‘but not’.

(39) And since she acted on a ruling of a court, she is not liable to a sin-offering.

(40) This is further explained in Ker. 15a.

(41) Lit., ‘and they came and said to her’.

(42) As the son was alive when his father died the widow is not subject to the levirate marriage or halizah.

(43) A stranger.

(44) Lit., ‘the matter was reversed’, the son died first, so that when his father died afterwards the widow was subject to halizah or levirate marriage.

(45) From her second husband, since he married her before she had performed the required halizah.

(46) The second report. Lit ‘and the first and last child’.

(47) Being the issue of a union forbidden by a negative precept. V. Gemara infra.

(48) V. p. 627. n. 10.

(49) V. supra p. 627, n. 8.

(50) From the levir, to whom, (her husband having had issue from her at the time he died) she is forbidden as ‘his brother's wife’.

(51) At the time she married her second husband.

(52) From her second husband who married her while, as a married woman, she was forbidden to him.
(53) Lit., ‘and the first child’.
(54) Lit., ‘and the last’.
(55) Lit., ‘the last, the man who betrothed her.
(56) Priests.
(57) Lev. XXI, 7-
(58) Lit., ‘and not’.
(59) The divorce being unnecessary it has no effect on the status of the woman.
(60) In the first clauses of our Mishnah.
(61) Lit., ‘what is first and what is last’.
(62) Since the child's legitimacy is not determined by the date of the report but by the facts.
(63) Lit., ‘the first’.
(64) Lit., ‘and the last’.
(65) The statement in the first clause of our Mishnah that the child is a bastard.
(66) V. supra 10b. And no divorce is consequently required.
(67) Who married a stranger before she had performed halizah with the levir.
(68) Tosef. XI. Since such marriage is forbidden by a negative precept only, and is not subject to kareth.
(69) This more general statement would have also included the particular case of the sister-inlaw mentioned.
(70) Referred to in the Baraitha cited as ‘the Sages’.
(71) The marriage, for instance, of the sister-in-law to a stranger. The general statement (v. supra note 7) was consequently inadmissible.

Talmud - Mas. Yevamoth 92b

in the name of Rab: Whence is it deduced that betrothal with a sister-in-law[1] is of no validity?[2] — From the Scriptural text,[3] The wife of the dead shall not be married[4] outside unto one who is not of his kin,[5] there shall be no validity in the betrothal[6] of her by a stranger.[7] Samuel, however, stated: Owing to our [intellectual] poverty[8] it is necessary [that she be given] a letter of divorce; Samuel having been in doubt as to whether the expression,[9] The wife of the dead shall not be,[10] served the purpose of[11] a negative precept[12] or rather indicated[11] that betrothal with such a woman is invalid.

R. Mari b. Rachel said to R. Ashi: Thus said Amemar, ‘The law is in agreement with Samuel’. Said R. Ashi: Now that Amemar has said that the law is in agreement with Samuel, her levir,[13] if he was a priest,[14] submits to her halizah and she is permitted to her second husband.[15] He[16] surely benefits[17] thereby.[18] and thus the sinner[19] is at an advantage![20] — Rather [this is the reading]: If her levir[21] was an Israelite, the other[22] gives her a letter of divorce and she is permitted to the levir.[23]

R. Giddal stated in the name of R. Hiyya b. Joseph in the name of Rab: While betrothal with a sister-in-law[24] is invalid, marriage with her is valid.[25] If betrothal, however, is invalid, marriage also should be invalid! — Read: Both betrothal and marriage with her are invalid. And if you prefer I might say. What is meant by ‘marriage with her is valid’? — It constitutes an act of[26] harlotry[27] in accordance with the ruling of R. Hamnuna.For R. Hamnuna stated: A woman who, while awaiting the decision of the levir, played the harlot, is forbidden to marry the levir. And if you prefer I might say: [The reading is]. in fact, as has been originally stated, that betrothal with her is invalid but marriage with her is valid,[28] since her case might be mistaken for that of a woman whose husband went to a country beyond the sea.[29]

R. Jannai said: A vote was taken at the college and it was decided that betrothal with a sister-in-law[30] has no validity. Said R. Johanan to him: O Master, is not this [law contained in] a[31] Mishnah? For we have learnt: If a man said to a woman, ‘Be thou[32] betrothed unto me after I shall have become a proselyte’. ‘after thou shalt have been a proselyte’. ‘after I shall have been emancipated’. ‘after thou shalt have been emancipated’. ‘after thy husband shall have died’ , ‘after thy sister shall have died' or 'after thy brother-in-law shall have submitted to thy halizah', the betrothal is invalid![33] — The other replied: Had I not lifted up the sherd, would you have found the pearl beneath it?[34]

Resh Lakish said to him:[35] Had not a great man praised you. I would have told you that the Mishnah [you cited represents the view] of R. Akiba who maintains that betrothal with those who are subject to the penalties of a negative precept is invalid.[36]

If [this Mishnah, however, represents the view of] R. Akiba, betrothal [with the sister-in-law][37] should be valid where [the stranger] said to her, 'after thy brother-in-law shall have submitted to thy halizah', since R. Akiba has been heard to state that one may transfer possession of that which is not yet in existence;[38] for we learned:

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(1) V. supra note 5.

(2) And no divorce is consequently required.

(3) Lit., 'because it is said'.

(4) Lit., 'she shall not be', חא תהיה.

(5) Deut. XXV,5.

(6) Lit., 'being'. הויה, i.e., 'betrothal'.

(7) Lit., 'a stranger shall have no being in her'. הויה (supra n. 15) is of the same rt. היה, as that of תהיה (supra. 13).

(8) Inability to understand the meaning of the Scriptural text mentioned.

(9) Lit., 'that'.

(10) Deut. xxv. .5.

(11) Lit., 'that it came'.

(12) And, as is the case with other unions that are forbidden by negative precepts, the betrothal is valid.

(13) The brother-in-law of the widow, spoken of in the first case of our Mishnah, who married a stranger and from whom, according to Samuel, she requires a divorce.

(14) To whom the sister-in-jaw would thus be forbidden even after she had been divorced by the stranger. A priest is forbidden to marry a divorced woman. V. Lev. XXI, 7.

(15) Lit. , 'to him', the stranger whom she married.

(16) The second husband. v. supra n. 7.

(17) He is permitted to continue to live with his wife.

(18) By the halizah of the levir.

(19) Who contracted a union before instituting the necessary enquiries as to the circumstances of his wife's first husband's death.

(20) Lit., 'gains'.

(21) Cf. supra note 5.

(22) The second husband. Cf. supra note 7.

(23) Lit., 'to him'.

(24) Who, before she performed halizah with the levir had married a stranger.

(25) This validity, it is at present assumed, subjects the woman to the necessity of a letter of divorce.

(26) Lit., 'In'.

(27) By such a marriage she becomes forbidden to marry the levir as if she had played the harlot; but no letter of divorce is required.

(28) In the sense that she requires a letter of divorce. Cf. p. 630, n. 17. and the following note.

(29) And she married in accordance with the decision of a court on the evidence of one witness who testified that her first husband was dead. As the woman in this case requires a letter of divorce, it was ordained, as a preventive measure, that in the case spoken of in our Mishnah also a letter of divorce shall be required. the validity spoken of extending, however, to this requirement and no further. In the case of betrothal no preventive measure was enacted since in this case also no letter of divorce is required.

(30) V. p. 630, n. 16.

(31) Lit., ‘our’.

(32) Lit., ‘behold thou art’. Cf. P.B. p. 298.

(33) Kid. 62a, Keth. 58b. B.M. 16b. Betrothal cannot take effect at once owing to his stipulation and it cannot take place in the future because that which is not yet in existence may not be acquired. From this it follows that before the levir has submitted to halizah betrothal by a stranger is invalid, which is in effect the law reported by R. Jannai.

(34) I.e. , had not R. Jannai stated his ruling it might never have occurred to R. Johanan that the reason for the invalidity of the betrothal in the case of the sister-in- law was the law that betrothal with a sister-in-law by a stranger is never valid before the levir has submitted to halizah. He might have assumed the invalidity in this particular case also to be due to the fact that the man distinctly desired it to take place in the future, and no one can acquire that which is not yet in existence.

(35) R. Johanan.

(36) Marriage of a sister-in-law by a stranger before she has performed halizah with the levir is forbidden by such a negative precept. This Mishnah, therefore, provides no proof, like the statement of R. Jannai, that the Rabbis also admit invalidity in such a case.

(37) Lit ‘with’, or ‘in her’.

(38) Consequently. the betrothal here, though it was dependent on a future event which had not yet taken place. should also be valid.

Talmud - Mas. Yevamoth 93a

[If a woman said to her husband]. ‘Konam,[1] I do aught for your mouth’,[2] he[3] need not annul [her vow].[4] R. Akiba, however, said: He[3] must annul it, since she might do more [work] than is due[5] to him![6] Surely in connection with this it was stated: R. Huna son of R. Joshua said, [This law[7] applies only] where she said, ‘My hands[8] shall be consecrated to Him who made them’, since her hands are in existence.[9]

This[10] differs [from the opinion] of R. Nahman b. Isaac. For R. Nahman b. Isaac stated: R. Huna [holds the same opinion] as Rab,[11] Rab as R. Jannai, R. Jannai as R. Hiyya. R. Hiyya as Rabbi,[12] Rabbi as R. Meir, R. Meir as R. Eliezer b. Jacob. and R. Eliezer b. Jacob as R. Akiba, who stated that a man may transfer possession of a thing that is not yet in existence.

What statement is it [that records the opinion of] R. Huna? It was stated: He who sold the fruit of a date-tree[13] to another may. said R. Huna, withdraw from the sale before they come into existence; but after they have come into existence he may no longer withdraw.[14] R. Nahman, however, stated: He may withdraw even after they have come Into existence.[15] Said R. Nahman: I admit, that if he[16] had already plucked and ate them, [compensation] is not to he extracted from him.[17]

As to Rab?[18] — [In that] which R. Huna stated in the name of Rab: If a man said to another, ‘let this field which I am about to buy be yours as from now the moment I buy it’, [the latter] acquires It.[19]

‘R. Jannai [is of the same opinion] as R. Hiyya’; for R. Jannai had a tenant[20] who used to bring him a basket of fruit every Sabbath Eve. Once as it was growing dark, and [the tenant] did not come, [R. Jannai] took[21] tithe[22] from the fruit which [he had] at home for [the redemption of] those.[23] When he subsequently came before R. Hiyya [the latter] said to him, ‘You have acted well; for it was taught : That thou mayest learn to fear the Lord thy God always[24] refers to Sabbaths and festivals’.[25] Now, in ‘respect of what law?[26] If in respect of giving tithe[27] so that one may be allowed to eat,[28] was it necessary [it may be asked] for a Scriptural text to permit moving,[29] [the prohibition of which is only] Rabbinical![30]

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(1) This is one of the expressions of a vow. V. Glos.

(2) I.e, that her husband be forbidden to eat anything made by her or purchased from the proceeds of her work.

(3) The husband who is empowered to annul his wife's vow. Cf. Num. XXX, 7ff.

(4) A wife's work belongs to her husband and she has, therefore, no right to dispose of it by vow or otherwise. Her vow is consequently null and void and requires on invalidation.

(5) A husband is entitled only to a certain amount of his wife's work (v. Keth. 64b). Any work in excess of that maximum is at the disposal of the wife who, in the opinion of R. Akiba, is entitled to forbid it to her husband by a vow, though that work has not yet been done.

(6) Keth. 59a, 66a, Ned. 85a, Kid. 63a. V. supra note 3.

(7) That a wife may by her vow cause her future work to be forbidden.

(8) And through them the work they will produce.

(9) At the time she made her vow.

(10) The view presented by R. Huna, according to which R. Akiba maintains that a thing that is not yet in existence may not be legally transferred.

(11) From whom he received it as a tradition from his master, R. Jannai. who in turn, received it from his master, R. Hiyya, and so on to R. Akiba.

(12) R. Judah I, the Patriarch or Prince, compiler of the Mishnah.

(13) During the winter, before they blossomed.

(14) Because, according to R. Huna, the kinyan that was arranged before they come into existence takes effect as soon as they come into existence.

(15) In his opinion no kinyan is effective unless the object sold is actually in existence at the time of the sale.

(16) The buyer.

(17) B.M. 66b.

(18) Where was his view expressed?

(19) B.M. 16b; which proves that, in the opinion of Rab, one may transfer possession of a field which one does not yet possess. obviously because he holds that one may transfer possession of that which is not yet in existence.

(20) אריס cf Gr.**, a tenant of a field who in return for his labour receives a share of the field's produce.

(21) Before the Sabbath commenced.

(22) An act which In Rabbinic law it is forbidden to perform on the Sabbath.

(23) The fruit which he expected from the tenant, though at the time the tithe was taken they were still the property of the tenant (v. Tosaf. s.v. מייתי a.l.) and not that of R.Jannai.

(24) Deut.XIV, 23, speaking of the levitical and priestly gifts.

(25) On which enjoyment should not be marred by failure to set apart the prescribed gifts.

(26) Was the Scriptural warning necessary.

(27) On Sabbath or festivals.

(28) Of his produce from which tithe was not taken before the holy day set in.

(29) טלטול moving the fruit before being tithed. The prohibition to set aside on holy days any of the priestly or levitical gifts is due to the Rabbinical ordinance which is in the same category as the moving from its place, on such days, of articles that are unfit for use. (Cf. Bezah 36b).

(30) Scripture, surely. could not be referring to a prohibition which was not ordained before the Rabbinical period.

Talmud - Mas. Yevamoth 93b

Consequently[1] [it must refer to] an instance like this one.[2] Said the first to him, ‘But in my dream[3] they read to me a Scriptural text on the "bruised reed";[4] did they not mean to tell me: Behold, thou trustest upon the staff of this bruised reed’?[5] ‘No’. [the other replied], ‘It is this that they meant: A bruised reed shall he not break, and the dimly burning wick shall he not quench’.[6]

Rabbi?[7] — Where it was taught: Thou shalt not deliver unto his master a bondman,[8] Rabbi explained that Scripture speaks here of a man who bought a slave on the condition that he would set him free.[9] How is this[10] to be understood?[11] R. Nahman b. Isaac replied: In the case where [the buyer] gave him[12] a written declaration, ‘Your person shall become yours as from now as soon as I have bought you’.[13]

R. Meir?[14] — Where it was taught:[15] If a man said to a woman, ‘Be thou betrothed to me after I shall have become a proselyte’. ‘after thou shalt have become a proselyte’. ‘after I shall have been emancipated’. ‘after thou shalt have been emancipated’. ‘after thy husband shall have died’, ‘after thy sister shall have died’, or ‘after thy brother-in- law shall have submitted to thy halizah’, the betrothal is invalid; but R. Meir said that her betrothal is valid.[16]

R. Eliezer b. Jacob?[14] — Where it was taught: More than this did R. Eliezer b. Jacob say: Even if a man said, ‘The plucked fruit of this bed shall be terumah for the attached fruit of that[17] other bed’, or ‘The attached fruit of this[17] bed [shall be terumah] for the plucked fruit of that other bed,[17] when it shall have grown[16] to a third [of its maturity] and been plucked’. his words are valid if the fruit has grown to[18] a third [of its maturity] and has been plucked.[19]

R. Akiba?[20] — Where we learned: [If a woman said to her husband]. ‘Konam,[21] if l do aught for your mouth’,[22] he[23] need not annul [her vow].[24] R. Akiba, however, said: He[23] must annul It, since she might do more [work] than is due[25] to him.[26]

An enquiry was addressed to R. Shesheth: What is [the law in respect of] one witness[27] in the case of a sister-in- law?[28] Is the reason why one witness [is sometimes believed elsewhere][29] because no one would tell a lie which is likely to be exposed. and consequently here also [the witness] would tell no lie;[30] or is the reason why one witness [is believed elsewhere][31] because the woman herself makes careful enquiries and [only then] marries, and consequently here, since she may sometimes be in love with [her brother-in-law]. she might marry him without proper enquiry?[32] — R. Shesheth answered them: You have learned it, IF SHE WAS TOLD, ‘YOUR SON DIED AND YOUR HUSBAND DIED AFTERWARDS’, AND SHE CONTRACTED THE LEVIRATE MARRIAGE, AND LATER SHE WAS TOLD, ‘IT WAS OTHERWISE, SHE MUST DEPART; AND ANY CHILD BORN BEFORE OR AFTER IS A BASTARD.[33] Now, how is this to be understood? If it be suggested [that there were] two witnesses against two,[34] what reason do you see [it may be asked] for relying on the latter? Rely rather on the former! Furthermore. [how could the child be described as] BASTARD [when he is only] an uncertain bastard! And should you reply that he[35] was not exact in his expression. surely [it may be pointed out] since in the final clause he[35] stated, ANY CHILD BORN BEFORE [THE DEATH OF HER FIRST HUSBAND] IS A BASTARD, BUT ONE BORN AFTER IT IS NO BASTARD,[33] it may well be inferred that he was exact In his expressions, Consequently[36] it must be concluded [that the first report was that of] one witness, and that the reason [why he is not believed is] because two witnesses came and contradicted his evidence, but had this not been the case[37] he would have been believed.[38]

Another reading: This question[39] does not arise, since even the woman herself is believed.[40] For we learned: A woman who stated, ‘My husband is dead’ may be married again.[41] and she may similarly contract levirate marriage [if she stated] ‘My husband is dead’.[42] The question arises only in respect of permitting a sister-in-law to marry a stranger.[43] Is the reason why one witness [is elsewhere sometimes believed][44] because no one would tell a lie which is likely to be exposed, and consequently, here also [the witness] would tell no lie;[45] or is the reason why one witness [is elsewhere believed][44] because [the woman] herself makes careful enquiries and [only then] marries, and consequently here she might marry without proper enquiry. since she might fiercely

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(1) Lit. , ‘but not’.

(2) That of R. Jannai; the text indicating that tithe may be given for the redemption of fruit which has not yet come into one's possession, in order that thereby a man's enjoyment on Sabbaths and festivals might not be disturbed by his inability to partake of untithed fruit that arrived too late. Thus it follows that R. Jannai received the tradition from R. Hiyya that a man may legally dispose of that which is not yet in existence.

(3) On the evening of the incident with his tithe.

(4) Mentioned in II Kings XVIII, 21 and lsa. XLII, 3.

(5) II Kings XVIII, 21, implying that his action was blameworthy.
(6) Isa. XLII, 3, concluding, He shall make the right to go forth according to the truth, a text suggesting approval.
(7) Where was the view attributed to him, supra 93a, expressed?
(8) Deut. XXIII, 16.
(9) Such a slave shall not be delivered to the bondage of the man who bought him, but must be given his emancipation.
(10) The buyer's undertaking.
(11) It cannot refer to an undertaking given at, or after the time of purchase. Such an undertaking is obviously binding and the ruling of Rabbi in such a case would he superfluous.
(12) The slave.
(13) Kid. 63a, Git. 45a, which shews that, according to Rabbi, one may dispose of what is not yet his
(14) Where was the view attributed to him, supra 93a, expressed?
(15) Cur. edd., ‘we learned’.
(16) Kid. 63a, Keth. 58b, B.M. 16b, and supra 92b, q.v. for notes. Though at the time of the stipulation the conditions were not yet fulfilled, R. Meir regards the betrothal as valid. Thus it has been shewn that, according to him, one may effect a kinyan of that which is not yet in existence.
(17) V. Bah,, a.l.
(18) Lit., ‘brought’.
(19) Tosef. Ter. II, Kid. 62a, which clearly proves that according to R. Eliezer b. Jacob one may legally dispose of things which are not yet in existence.
(20) V. supra note 1.
(21) Cf. supra p. 632, n. 4.
(22) Cf. supra p. 632 n. 8.
(23) Cf. supra p. 632, n. 6.
(24) Cf. supra p. 632, n. 7.
(25) Cf. supra p. 632, n. 8.
(26) Cf. supra p. 632. n. 9. This proves that, according to R. Akiba, one may legally dispose of work even if It is not yet in existence, and the same naturally applies to other things also.
(27) Who testifies that the husband of the woman is dead.
(28) Whose husband died without issue, and who is in consequence subject to the levirate marriage. Is the witness in such a case believed?
(29) In respect of allowing a woman to marry again if he testified that her husband was dead.
(30) And his evidence is, therefore, accepted.
(31) v. p. 635. n. 16.
(32) And the one witness, therefore, is not to be relied upon.
(33) Supra 92a.
(34) One pair testifying to the veracity of the first report and the other to that of the second.
(35) The author of our Mishnah.
(36) Lit., ‘but not’.
(37) Lit., ‘not thus’.
(38) Which proves that the evidence of one witness is relied upon in permitting a sister-in-law to marry a levir.
(39) In the case just proved. V. supra note 9.
(40) Much more so a witness.
(41) Where she is not otherwise subject to the levirate marriage.
(42) And was survived by no issue. ‘Ed. I, 12, Sheb. 32b, infra 114b. V. p. 636. n. II.
(43) Where one witness testified that her brother-in-law’ was dead or that her husband died first and her son died after him.
(44) V. supra p. 635, n. 16.
(45) V. supra p. 636, n.I.

Talmud - Mas. Yevamoth 94a

hate her brother-inlaw?[1] — R. Shesheth answered them: You have learned it, IF A WOMAN.. WAS

TOLD, YOUR HUSBAND DIED AND YOUR SON DIED AFTERWARDS', AND SHE MARRIED AGAIN, AND LATER SHE WAS TOLD, 'IT WAS OTHERWISE', SHE MUST DEPART; AND ANY CHILD BORN BEFORE OR AFTER IS A BASTARD.[2] Now, how is this to be understood? If it be suggested [that there were] two witnesses against two,[3] what reason do you see [it may be asked] for relying on the latter? Rely rather on the former! Furthermore, [how could the child be described as a] BASTARD, [when he is only] an uncertain bastard! And should you reply that he[4] was not exact in his expression. Surely [it may be pointed out] since in the final clause he[4] stated, ANY CHILD BORN BEFORE [THE DEATH OF HER FIRST HUSBAND] IS A BASTARD, BUT ONE BORN AFTER IT IS NO BASTARD,[2] it may be inferred that he was exact in his expressions! Consequently[5] [it must be concluded that the first report was that of] one witness, and that the reason [why he is not believed is] because two witnesses came and contradicted his evidence, but had this not been the case[6] he would have been believed! [No]. In fact [it may be retorted, there may have been] two witnesses against two, and [this is the explanation]: As As R. Aha b. Manyumi stated, 'Where the witnesses have proved an alibi',[7] so here also [It is a case where the second pair of] witnesses have proved an alibi.[8]

Said R. Mordecai to R. Ashi, — others Say. R. Aha said to R. Ashi: Come and hear: A woman is not believed if she says. 'My brother-in-law is dead, and so I may marry again', or, 'My sister is dead, and so I may enter[9] her house'.[10] Only she is not believed but one witness is believed![11] According to your argument, however, [it may be retorted] read the final clause: A man is not believed when he says.'My brother is dead, and so I may contract the levirate marriage with his wife', or, 'My own wife is dead, and so I may marry her sister' —[10] Is it only he who is not believed, but one witness is believed? In the case of a woman[12] one can well understand that in order to prevent her perpetual desertion the Rabbis have relaxed the law in her favour.[13] What, however, can be said in the case of a man! [This statement][14] then [it must be explained] was required in accordance with the view of R. Akiba.[15] It might have been assumed that, since R. Akiba stated that the offspring of a union between those who are subject to the penalty of negative commandments is a bastard, she[16] may be presumed to be desirous of avoiding injury[17] and to institute, therefore, careful enquiries.[18] hence we were taught[19] [that she is not to be believed].[20] Raba said:[21] That one witness is believed in the case of a sister-in-law[22] [may be inferred] a minori ad majus: If you have permitted [a woman to marry again][23] in face of a prohibition involving kareth[24] how much more so in face of a mere prohibitory law.[25] Said one of the Rabbis to Raba: Her own case proves [the contrary]: In face of a prohibition involving kareth[24] you have permitted her [to marry again][26] while in face of a mere prohibitory law[25] you have not permitted her![27] The fact, however, is this:[28] Why is she not believed?[27] Because, as she may sometimes hate the levir, she might marry a stranger without first instituting careful enquiries;[29] so also in the case of one witness, since she may sometimes hate the levir, she might marry [a stranger] without first instituting the necessary enquiries.[29]

THIS DID R. ELEAZAR B. MATHIA DERIVE BY MEANS OF THE FOLLOWING EXPOSITION etc. Said Rab Judah in the name of Rab:[30] R. Eleazar could have produced[31] a pearl and produced but a potsherd. What is meant by 'pearl'? — That which was taught: Neither [shall they take] a woman put away from her husband.[32] even if she was divorced from her husband alone[33] she[34] is disqualified from marrying a priest.[35] And it is this [that was meant by] the 'scent of the divorce'[36] which disqualifies a woman from marrying a priest. MISHNAH. IF A MAN'S WIFE HAD GONE TO A COUNTRY BEYOND THE SEA AND HE WAS TOLD,[37] YOUR WIFE IS DEAD', AND, AFTER HE MARRIED HER SISTER, HIS WIFE CAME BACK, [THE LATTER] IS PERMITTED TO RETURN

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(1) V. supra p. 636. n. 3.

(2) V. supra p. 636, n. 4.

(3) V. supra p. 636,0. 5.

(4) V. supra p. 636,0.6.

(5) Lit., ‘but not’.

(6) Lit., ‘not thus’. (11) From which it follows that the evidence of one witness is accepted in permitting a sister-in-law to marry a stranger. (12) Why the evidence of the second pair is regarded as more reliable than that of the first pair.

(7) הזמה (rt. זמם, cf. Deut. XIX, 19) ‘causing witnesses to be subjected to the law of retaliation’ by disproving their evidence. This is effected when a second pair of witnesses testify that the first pair were with them at a certain place at the time when according to their evidence an act had been committed or an event had occurred at another place.

(8) They testified that the former were with them at the time they alleged the death of the husband or that of the son to have occurred. Cf. Mak. 5a. In such a case, the second report is accepted.

(9) To marry her husband. A sister's husband is forbidden while the sister is alive.

(10) V. Infra 118b with slight variants.

(11) Could not then this Mishnah supply the answer to the enquiry addressed to R. Shesheth?

(12) Who is permitted to marry again on the evidence of one witness.

(13) supra n. 6.

(14) In the Mishnah cited, that a woman is not believed.

(15) It Is for this purpose only that was recorded; and no inference, such as those suggested. may be drawn from it.

(16) A woman who is subject to a levir, and marriage with whom by a stranger is forbidden by a negative commandment.

(17) To her person and status. Should the report prove to have been false, she is penalized as stated supra. ‘Of the child’, In cur. edd. is deleted by Bah.

(18) Before she definitely asserts that her brother-in-law is dead.

(19) Cur. edd. insert in parenthesis: ‘That she apprehends her own injury; she does not apprehend the injury of the child’ (v. Rashi).

(20) For fear she might hate her levir, v. supra 93b.

(21) In reply to the enquiry addressed to R. Shesheth. supra.

(22) V. supra p. 637, n. 2.

(23) On the evidence of one witness who testified that her husband was dead.

(24) One of the major penalties for connubial intercourse with a married woman.

(25) Marriage of a sister- in-law by a stranger in the circumstances postulated in the enquiry.

(26) If she herself declared that her husband was dead.

(27) To marry a stranger, though she declared that her brother-in-law was dead.

(28) Lit., ‘and but’.

(29) As to whether the levir had really died.

(30) Alfasi and Asheri read, ‘Rab said’.

(31) Lit., ‘expounded’.

(32) Lev. XXI, 7.

(33) If the husband inserted in the letter of divorce a clause forbidding her to marry anyone else, v. Git., 82b.

(34) Though her letter of divorce is, owing to its restrictive clause, of no validity.

(35) Even if her husband died, and she remained a widow.

(36) l.e., even the mere semblance of a divorce, though the document is invalid.

(37) Lit., ‘they came and said to him’.

Talmud - Mas. Yevamoth 94b

TO HIM;[1] AND HE IS PERMITTED TO MARRY THE RELATIVES OF THE SECOND WOMAN,[2] AND THE SECOND WOMAN IS PERMITTED TO MARRY HIS RELATIVES. IF THE FIRST DIED HE IS PERMITTED TO MARRY THE SECOND.

IF HE WAS TOLD, HOWEVER, THAT HIS WIFE WAS DEAD, AND HE MARRIED HER SISTER, AND THEN HE WAS TOLD THAT SHE WAS THEN[3] ALIVE BUT HAD SINCE DIED, ANY CHILD BORN BEFORE[4] [HIS FIRST WIFE'S DEATH] IS A BASTARD, BUT ANYONE BORN AFTER THAT[5] IS NO BASTARD.

R. JOSE STATED[6] WHOSOEVER DISQUALIFIES FOR OTHERS DISQUALIFIES FOR HIMSELF AND WHOSOEVER DOES NOT DISQUALIFY FOR OTHERS DOES NOT DISQUALIFY FOR HIMSELF.

GEMARA. Even though his wife and his brother-in-law[7] went to a country beyond the sea,[8] so that such marriage[9] had the effect of causing the prohibition of the wife of his brother-in-law to his brother-in-law, it is nevertheless the wife of his brother-in-law that is forbidden,[10] while his own wife is permitted.[11] and we do not say that, since the wife of his brother-in-law is forbidden to his brother-in-law, his Own wife also should be forbidden to him.[12]

Are we to assume that our Mishnah does not represent the view of R. Akiba? For if [it be in agreement with] R. Akiba [his wife][13] would be the sister of his divorcee![14] For it was taught: None of the women In incestuous marriages forbidden in the Torah require a letter of divorce,[15] except a married woman[16] who remarried in accordance with the decision of the Beth din.[17] R. Akiba, however, adds[18] also a brother's wife[19] and a wife's sister.[20] Now, since R. Akiba ruled that she[21] requires a letter of divorce, [his first wife] becomes ipso facto forbidden to him because she is the sister of his divorcee![22]

Was not, however, the following statement made in connection with this[23] ruling: R. Giddal said in the name of R. Hiyya b. Joseph in the name of Rab, ‘How is one to understand this "brother's wife"?[24] Where a man's brother, for instance, betrothed a woman and went to a country beyond the sea, and he,[25] on hearing that his brother was dead, married his wife;[26] since people might say[27] that the first[28] had attached a certain condition to the betrothal[29] and that the latter[25] had lawfully married her.[30] And how is one to understand a "wife's sister"?[24] Where a man, for instance, betrothed a woman and she went to a country beyond the sea, and he, on hearing that she died, married her sister;[26] since people might say[31] that he had attached a certain condition to the betrothal[32] of the first[33] and that he, therefore, legally married the other’.[34] In respect of marriage,[35] however, can it be said that one had attached a condition to marriage![36]

Said R. Ashi to R. Kahana: If [our Mishnah represents the view of] R. Akiba, one's mother-in-law[37] should also be mentioned,[38] since R. Akiba was heard to state: [The marriage of] a man's mother-in.law after the death [of his wife] is not punishable by burning![39] For it was taught: They shall be burnt with fire. both he and they,[40] he and one of them;[41] so R. Ishmael. R. Akiba said: He and both of them.[42] This presents no difficulty according to Abaye who explained that the difference between them[43] lies in the interpretation of the text,[40] R. Ishmael maintaining that the text mentioned only one[44] while R. Akiba maintains that the text spoke of two.[45] According to Raba, however, who explained that the difference between them[43] is [the case of marriage of] a man's mother-in-law after the death [of his wife].[46] his mother-in-law should also have been mentioned![47] — The other replied: Granted that Scripture has excluded her[48] from the penalty of burning. has Scripture. however, excluded her from the prohibition?[49]

Let her,[50] however, be forbidden [to her husband] through his cohabitation with her sister, her case being similar to that of a woman whose husband went to a country beyond the sea![51] — [The two cases are] not alike: His wife who, [if she had acted] presumptuously,[52] is forbidden to him by Pentateuchal law, has been forbidden to him, when [she acted] unwittingly, by a preventive measure of the Rabbis;

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(1) Since the marriage with the second was invalid V. infra 95a.

(2) V. infra 97a.

(3) At the time he married her sister.

(4) Lit., ‘the first child’.

(5) Lit.,’and the last’.

(6) His statement is explained infra.

(7) The husband of his wife's sister.

(8) And on the evidence of one witness, who testified that both were dead, the man married his wife's sister; and subsequently both travellers returned.

(9) Of the man with his sister-in-law.

(10) To her husband.

(11) To him

(12) So that the same marriage which results in a prohibition of the one woman does not effect the permissibility of the other.

(13) Who comes back and who, according to our Mishnah, is permitted to return to him.

(14) With whom marital relationship is forbidden. The second wife, according to R. Akiba, as will tentatively be shown anon, must be divorced.

(15) If they were married, such an unlawful marriage being regarded as mere harlotry.

(16) Whose husband is reported, by one witness, to be dead.

(17) Who accepted the evidence; and later the husband returned. In such a case the women requires a divorce from her second husband also. V. infra 88b.

(18) To the women who require a letter of divorce.

(19) Whom a man married on the evidence that her husband (his brother) was dead, and her husband subsequently returned.

(20) Cf. the first case in our Mishnah.

(21) His wife's sister. V. supra n. 8.

(22) How, then, could it be said in our Mishnah that his first wife is PERMITTED TO RETURN TO HIM?

(23) R. Akiba's.

(24) In whose case a letter of divorce is required.

(25) The brother at home.

(26) In such a case a divorce was necessary.

(27) Should the brother return, and the brother at home not give his wife a letter of divorce.

(28) The brother who came back from a country beyond the sea.

(29) A condition which had not been fulfilled and had thus rendered the betrothal invalid.

(30) And so, in order that it be not suspected that a lawful marriage had been dissolved without a letter of divorce, It was enacted, as a preventive measure, that a letter of divorce was in such a case necessary.

(31) Should the woman return, and her sister not be given a letter of divorce.

(32) V. p.641. n.17.

(33) The woman who now returned.

(34) The sister who remained at home. Cf. supra p. 641, n. 18.

(35) The case spoken of in our Mishnah.

(36) [Surely no condition is attachable to marriage; and even on the view that marriage may be contracted conditionally, it is unusual for a person to invalidate a marriage because of the non-fulfilment of a condition attached to it (v. Tosaf. s.v. אלא)]. All would consequently know that the first marriage was a valid one and that the second was, therefore, invalid. No letter of divorce was, therefore, necessary even according to R. Akiba, whose view, contrary to the previous assumption, may well be represented in our Mishnah.

(37) Whom one married on receiving a report that his wife (her daughter) was dead.

(38) In our Mishnah.

(39) And is presumably permitted.

(40) Lev. XX. 14, speaking of a man who take with his wife also her mother (ibid.).

(41) The one whom the man was forbidden to marry, viz., the woman he married last.

(42) Sanh. 76b.

(43) R. Ishmael and R. Akiba.

(44) Forbidden woman (v. supra n. 10). the first having been lawfully married.

(45) Women that were both forbidden to the man; where, for instance, he married his mother-in-law and her mother. According to this explanation of Abaye the question of marrying a mother-inlaw after the death of one's lawful wife did not arise in the dispute, and R. Akiba's opinion on the subject cannot, therefore, be inferred from it.

(46) R. Ishmael maintaining that even when a man had married his mother-in-law after the death of his wife he is to be burned, while R. Akiba maintains that he is burned only if both women were alive.(Cf. Sanh. 76b).

(47) In our Mishnah; since, as has been shewn, according to Raba's explanation, marriage of a mother-in-law after the death of her daughter is, according to R. Akiba, permitted

(48) A mother-in-law that was married by her son-in- law.

(49) Evidently not. Her case, therefore, could not have been mentioned in our Mishnah.

(50) The first wife spoken of in our Mishnah, who IS PERMITTED TO RETURN TO HIM.

(51) And she married a second husband. In both cases the women acted unwittingly. As in the latter case the woman is forbidden to her husband, so should the woman in the case in our Mishnah.

(52) In marrying a second husband.

Talmud - Mas. Yevamoth 95a

with his wife's sister, however, presumptuous [marriage with whom does] not [cause his first wife to be] forbidden [to him] by Pentateuchal law, no preventive measure has been instituted by the Rabbis in her case where [he acted] unwittingly.[1] Whence, however, is it deduced that she[2] is not forbidden?[3] — [From that] which was taught: With her;[4] only cohabitation[5] with her causes her to be prohibited;[3] cohabitation[6] with her sister, however, does not cause her to be prohibited. [This, Scriptural text was required] since [otherwise] It might have been argued [as follows]: If where a man cohabited with [a woman forbidden by] a lighter prohibition.[7] [the person][8] who caused the prohibition [itself][9] is forbidden [to her],[10] how much more should [the person][11] who caused the prohibition become forbidden in the case of cohabiting with [one[12] forbidden by] a heavier prohibition.[13]

R. Judah stated: Beth Shammai and Beth Hillel are agreed[14] that a man who cohabited with his mother-in-law renders his wife unfit [to live with him]; they only differ where a man cohabited with his wife's sister, in which case Beth Shammai maintain that thereby he causes [his wife] to be unfit for him, while Beth Hillel maintain that he does not thereby cause her to be unfit for him.

R. Jose stated: Beth Shammai and Beth Hillel are agreed[14] that a man who cohabits with his wife's sister does not thereby render his wife unfit for him; they differ only where a man cohabited with his mother-in-law, in which case Beth Shammai maintain that thereby he causes [his wife] to be unfit for him, while Beth Hillel maintain that he does not thereby cause her to be unfit for him. [Both agree][15] for the following reason:[16] Originally all the women of the world were permitted to him,[17] and all the men of the world were permitted to her;[18] but when he betrothed her he imposed a prohibition upon her and she imposed a prohibition upon him; the prohibition, however, which he imposed upon her is greater than the prohibition which she imposes upon him, since he caused all the men of the world to be forbidden to her, while she caused her relatives only to be forbidden to him. This,[19] then, may be arrived at by an inference: If she, to whom he[20] caused[21] all the men in the world to be prohibited, is, if she cohabited unwittingly with one who was forbidden to her,[22] not forbidden to the man[23] who was permitted to her,[24] how much more reason is there why he[23] to whom she[25] caused[26] the prohibition of her relatives only, should, if he cohabited unwittingly with one who was forbidden to him,[27] not be forbidden[28] to her[25] who was permitted to him. This argument is applicable to one who acted unwittingly. Whence is it deduced [that the same law[29] is applicable] to one who acted wilfully? It was expressly stated With her,[30] cohabitation[31] with her only causes her to be prohibited;[32] cohabitation[33] with her sister, however, does not cause her to be prohibited.[32]

Said R. Ammi in the name of Resh Lakish: What is R. Judah's reason?[34] — Because it is written, They shall be burnt with fire. both he and they;[35] is the whole household to be burned![36] If this, then, is not a case for burning[36] regard the text as indicating a prohibition.[37]

Rab Judah stated in the name of Samuel: The law is not in agreement with R. Judah.[37]

A man once committed incest with his mother-in-law, and Rab Judah summoned him and ordered him to receive a flogging. ‘Had Samuel not stated’, he said to him, ‘that the law was not in agreement with R. Judah. I would have forbidden [your wife] to you for all time’.

What was meant by a ‘lighter prohibition’?[38] — R. Hisda replied: Remarrying one's divorced wife after her marriage to another man —[39] When that man[40] cohabited with her, he caused her to be prohibited to the other,[41] and when the other[41] cohabited with her[42] he caused her to be prohibited to the former.[43] [But, it may be argued,] remarrying one's divorced wife after her marriage to another man is different[44] since her body[45] was defiled and she is[46] prohibited for all time![47] — Rather, said Resh Lakish, [it means] a yebamah.[48]

A yebamah with whom?[49] If it be suggested: With a stranger,[50] [the ruling] being in accordance with R. Hamnuna who ruled[51] that a woman awaiting the decision of the levir who played the harlot is forbidden to the levir,[52] [it may be objected that] a yebamah is different,[44] since her body was defiled and she is prohibited to the majority of men.[53] If, however, [it be suggested that it refers[54] to] a yebamah in relation to [her deceased husband's] brothers: Where one [brother, for instance] addressed to her a ma'amar he caused her to be prohibited to the other,[55] and when the other cohabited with her he caused her to be prohibited to the former.[56] [But in this case] what point is there, [it may be retorted, in stating][57] that the second cohabited with her,[58] [when the same law is applicable] also even where he[59] only addressed to her a ma'amar![60] — This is no difficulty; [a ma'amar could not be postulated], in accordance with R. Gamaliel who ruled: There is no validity in a ma'amar that was addressed after a previous ma'amar.[61] But [still the objection is that the same law is applicable] even if he[59] gave her a letter of divorce and even if he submitted to her halizah! — Rather, said R. Johanan, [it means] a sotah.[62]

A sotah, with whom?[63] If it be suggested: With her husband who, if he cohabited with her,[64] caused her to be prohibited to her seducer,[65] what point is there, [it may be objected, in stating] that he cohabited with her? Even if he[66] only gave her a letter of divorce and even if he only said, ‘I am not allowing her to drink’,[67] [the same law is applicable]![68] [If it be suggested] however: The sotah with the seducer;[69] is this[70] [it may be objected] a ‘lighter prohibition’? It is surely a grave prohibition, since she is a married woman!

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(1) As is the case in our Mishnah.

(2) A wife whose husband has had connubial intercourse with her sister.

(3) To her husband, in accordance with Pentateuchal law.

(4) And a man lie with her, Num. V, 13.

(5) Of a stranger.

(6) Of her husband.

(7) This, as will be explained infra, refers to a married woman, intercourse with whom is regarded as a comparatively lighter prohibition than that of a wife's sister (v. p. 644, n. 5), since it may at any time be raised by means of a letter of divorce severing the relationship between the husband and the wife.

(8) The husband.

(9) The husband causes the prohibition of his wife to all men. It is owing to his marriage with her that she is forbidden to marry any other man.

(10) One must not retain a faithless wife.

(11) I.e., the wife who caused the prohibition of her sister to her husband.

(12) His wife's sister.

(13) Since his wife causes her sister to be forbidden to him during the whole of her lifetime. Hence It was necessary to have a Scriptural text to shew that the law is not so.

(14) Lit., ‘did not dispute’.

(15) That cohabitation with his wife's sister does not render his wife unfit to live with him.

(16) Lit., ‘because’.

(17) The husband, before he married his wife.

(18) The wife, before she married her husband.

(19) V. supra n.7.

(20) Her husband.

(21) By marrying her.

(22) If, for instance, she was outraged.

(23) Her husband.

(24) Her husband. Cf. supra 56b.

(25) His wife.

(26) By marrying him.

(27) His wife's sister.

(28) ‘To him’ in cur. edd. is deleted with Bah.

(29) V. supra p. 644, n. 7.

(30) Num. V, 13. V. supra p. 643. n. 10.

(31) Of a stranger.

(32) To her husband.

(33) Of her husband.

(34) For maintaining that both Beth Shammai and Beth Hillel agree that a man's cohabitation with his mother-in-law causes his wife to be prohibited to him.

(35) Lev. XX, 14. Cf. supra p. 642, n. 9.

(36) His first wife, surely, who was lawfully married, should not suffer because her husband bad subsequently contracted an unlawful marriage!

(37) V. supra note 13.

(38) Spoken of supra.

(39) Which is a ‘lighter prohibition’. being only a prohibitory law which involves no kareth. V. infra p. 646, n. I.

(40) Her second husband.

(41) Her first husband.

(42) After her second husband had divorced her.

(43) V. supra p. 645, n. 18, the prohibition being due to the prohibitory law in Deut. XXIV, 4. Thus the second husband ‘who caused the prohibition of his wife is thereby himself forbidden to her’.

(44) From a marriage with one's wife's sister.

(45) That of the divorced woman.

(46) Cur. edd., insert, ‘and she is prohibited to the majority’ which (cf. Rashi a.l.) is to be deleted.

(47) To both husbands. A wife's sister, however, is forbidden only during the lifetime of one's wife but permitted after her death, while furthermore the marriage of a wife's sister does not cause the defilement of the wife's body. The latter case cannot, therefore, be compared to the former. What, then, was meant by the ‘lighter prohibition’?

(48) Marriage with her by a stranger is regarded as a ‘lighter prohibition’.

(49) I.e., with whom did she cohabit that her act should have the result that he ‘who caused the prohibition is thereby himself forbidden to her’?

(50) The prohibition to marry whom, before she had performed the halizah, is only a prohibitory law involving no kareth.

(51) Supra 81a, 92b, Cit. 80b, Sot. 18b.

(52) Thus the levir ‘who caused the prohibition’ of his sister-in-law to others is ‘himself forbidden to her’ by the cohabitation of the stranger.

(53) I.e., to everybody except the levir or levirs. A wife's sister, however, is forbidden to him (her sister's husband) alone, and his wife's body is not defiled by his marriage with her sister. The two cases, therefore, cannot be compared.

(54) Cf. supra note 6.

(55) Brother, this being regarded as a ‘lighter prohibition’, since it is due to a Rabbinic measure only.

(56) Cf. supra note so, mutatis mutandis.

(57) Supra.

(58) I.e., that be prohibits her to the first only because he cohabited with her.

(59) The second brother.
(60) He should still thereby prohibit her to the first brother, in view of the ruling supra 50a that a ma'amar is effective after a ma'amar.
(61) Supra 50a.
(62) V. Glos. Cohabitation with a sotah is regarded as the ‘lighter prohibition’.
(63) V. supra p. 646, n. 7.
(64) After she had been warned by him against intimacy with a stranger, and after she had met that stranger privately, when all connubial intercourse between the woman and her husband is forbidden.
(65) Even after his own death or after he had divorced her. Thus, the seducer ‘who caused the prohibition’ of the woman to her husband becomes ‘himself forbidden’ to her for all time.
(66) Her husband.
(67) The water of bitterness (cf. Num. V, 18). V. supra n. 6.
(68) She becomes forbidden to the seducer for all time. Cf. supra n’ 7.
(69) By his cohabitation the woman becomes prohibited to her husband who was the cause of her prohibition to others.
(70) Cohabitation with a married woman.

Talmud - Mas. Yevamoth 95b

— Rather, said Raba, it means a married woman. Similarly when Rabin came[1] he stated in the name of R. Johanan: A married woman. But why should this[2] be described as ‘a lighter prohibition’? — Because [her husband] who causes her to be prohibited [to other men] does not cause her to be so prohibited during the whole of his lifetime.[3]

It[4] was taught likewise: Abba Hanan stated in the name of R. Eleazar: [It means] a married man. [And the argument runs thus:] If where a man cohabits with [a woman forbidden by] a lighter prohibition,[5] in which case he[6] who caused the prohibition of her does not cause her to be prohibited during the whole of his lifetime,[7] [it is nevertheless ruled] that the very person who causes the prohibition becomes prohibited,[8] then, in a case of cohabiting with [one forbidden] by a graver prohibition,[9] where the person, who causes the prohibition of her,[10] prohibits her during the whole of her lifetime,[11] how much more should we rule that the very person who causes the prohibition should become prohibited;[12] hence it was expressly stated, With her,[13] only cohabition[14] with her[15] causes her to be prohibited[16] but cohabitation[17] with her sister does not cause her[18] to be prohibited.[16]

R. JOSE STATED: WHOSOEVER DISQUALIFIES etc. What does R. Jose mean?[19] If it be suggested that while the first Tanna implied that ‘Where a man's wife and his brother-in-law[20] went to a country beyond the sea,[21] the wife of his brother- in-law is forbidden,[22] though his own wife is permitted’,[23] R. Jose said to him, ‘As his own wife is permitted[23] so is the wife of his brother-in-law also permitted’;[22] if so, [it may be objected, why the expression] WHOSOEVER DOES NOT DISQUALIFY FOR OTHERS DOES NOT DISQUALIFY FOR HIMSELF[24] where it should have been. ‘Whosoever does not disqualify[25] for himself, does not disqualify for others’![26]

If, however, [it be suggested that R. Jose implied]. ‘As the wife of his brother-in-law is forbidden,[27] so is his wife also forbidden’,[28] [the expression,] WHOSOEVER DISQUALIFIES would be satisfactorily explained; what, however, would be the purport of WHOSOEVER DOES NOT DISQUALIFY?[24] — R. Ammi replied: [He[29] refers] to an earlier clause:[30] ‘If she married with the authorization of the Beth din, she must leave, but is exempt from an offering. If she married, however, without the authorization of the Beth din, she must leave and is also liable to an offering, the authorization of the Beth din is thus more effective in that it exempts her from the offering.[31] Concerning this, the first Tanna stated [that his wife may return to him][32] ‘irrespective of whether [the marriage[33] took place] on the evidence of two witnesses,[34] where the wife of his brother-in-law is permitted,[35] or whether [it took place] in accordance with a decision of the Beth din,[36] where the wife of his brother-in- law is forbidden',[35] and [to this] R. Jose replied. '[If the marriage took place] in accordance with a decision of the Beth din,[36] where he DISQUALIFIES FOR OTHERS[37] he DISQUALIFIES FOR HIMSELF;[38] [if, however, it took place] on the basis of the evidence of two witnesses,[34] where he DOES NOT DISQUALIFY FOR OTHERS[39] he DOES NOT DISQUALIFY FOR HIMSELF.[40]

R. Isaac Nappaha replied: [R. Jose may], in fact, refer to the latter clause,[41] one[42] [of his rulings applying] where [the persons who] had gone [were] the man's wife[43] and his brother-in-law. and the other [applying] where his betrothed and brother-in-law had gone. The first Tanna having ruled that 'irrespective of whether it was his wife and his brother-in-law or whether it was his betrothed and his brother-in-law, the wife of his brother-in-law is forbidden[44] while his wife is permitted,'[45] R. Jose said to him, 'In the case of his wife and brother-in-law where no one would assume that he had attached some condition to his marriage[46] and where consequently he does not cause [his sister-in-law] to be prohibited to the other,[47] he does not cause [his first wife] to be prohibited to him either; in the case of his betrothed and his brother-in-law, however, where someone might assume that he had attached some condition to his betrothal[48] and where, in consequence, he causes [his sister- in-law] to be prohibited to the other,[49] he causes [his first wife] also to be prohibited to him.

Rab Judah Stated in the name of Samuel: The halachah is in agreement with R. Jose.

R. Joseph demurred: Could Samuel have said this?[50] Surely it was stated: A yebamah,[51] Rab said, has the status of a married woman; and Samuel said: She has not the status of a married woman. And R. Huna said: Where, for instance, a man's brother betrothed a woman[52] and then went to a country beyond the sea, and he,[53] on hearing that his brother was dead, married his wife. [It is in such a case] that Rab ruled that 'she has the status of a married woman' and is consequently forbidden to the brother-inlaw;[54] and Samuel ruled that 'she has not the status of a married woman' and is, therefore, permitted to him![55] Said Abaye to him:[56] Whence [do you infer] that when Samuel stated that 'the halachah is in agreement with R. Jose', he was referring to R. Isaac Nappaha's interpretation? Is it not possible that he was referring to that of R. Ammi![57] And even if he refers to that of R. Isaac Nappaha, whence the proof that [he referred to the ruling] 'DISQUALIFIED'?[58]

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(1) From Palestine to Babylon.

(2) Illicit intercourse with a married woman.

(3) As soon as be divorces her she is free again. A prohibition of this nature, which may terminate at any time, is regarded as 'lighter' than the prohibition of a man's wife's sister, which remains in force throughout the whole of the lifetime of his wife.

(4) The lighter prohibition referred to.

(5) A married woman. The prohibition is considered light for the reason that follows.

(6) The husband.

(7) The prohibition of a married woman terminates with divorce by her husband.

(8) The woman becomes forbidden to her own husband through illicit intercourse.

(9) His wife's sister.

(10) I.e., the wife who causes her sister to be prohibited to her husband.

(11) The prohibition [If a man's wife's sister remains in force throughout the whole of the lifetime of his wife.

(12) To her own husband.

(13) Num. V, 13.

(14) Of a stranger

(15) His wife.

(16) To her husband.

(17) Of her husband.

(18) The wife.

(19) His statement seems to have no apparent connection with the preceding clause.

(20) His wife's sister's husband.

(21) And they both returned after be had married his wife's sister on the strength of the evidence of one witness who testified that they were both dead.

(22) To her husband, his brother-in-law.

(23) To him.

(24) Cases about which R. Jose, according to this suggestion, did not speak.

(25) His own wife.

(26) His wife's sister to her husband. These last mentioned cases being those of which R. Jose presumably spoke.

(27) To her husband, his brother-in- law.

(28) To him.

(29) R. Jose.

(30) In a previous Mishnah.

(31) V. supra 87b.

(32) V. our Mishnah, first clause.

(33) Of the husband (whose wife had gone away) with his wife's sister (whose husband also bad gone away).

(34) Who testified that both his wife and brother-in-law were dead.

(35) To her husband, if be returned.

(36) On the evidence of one witness. V. supra n. 11.

(37) He causes his wife's sister to be forbidden to return to her husband owing to his illicit marriage with her.

(38) His first wife is forbidden to him also.

(39) His wife's sister being in this case permitted to her husband.

(40) And his first wife may return to him.

(41) I.e., our Mishnah which speaks of a marriage permitted on the evidence of one witness.

(42) Lit., ‘that’. Cur. edd. insert in parenthesis ‘that, where he married the wife of his brother-in-law; and that, where he married the betrothed of his brother-in-law.’

(43) This is the reading of Rashi (a.l. s.v. ה״ג). Cur. edd., transpose ‘wife’ and ‘betrothed’.

(44) To her husband, if be returned.

(45) To him.

(46) With his first wife; since no condition is admissible in a marriage contract. (V., however, supra p. 642, n. 5).

(47) Her husband, his brother-in-law. His own first marriage being known to be valid it should be obvious to all that his subsequent marriage with his sister-in-law was invalid. Were it even assumed that his brother-in-law had divorced her, the invalidity of his marriage with his sister-in-law would not thereby be affected since even after her divorce she still remains forbidden to him as his wife's sister. This being the case no one will suspect his brother-in-law when his wife returns to him of having remarried his divorcee. Hence R. Jose's ruling that she is not forbidden to her husband.

(48) Which, on non-fulfilment, had rendered the betrothal invalid and thus enabled him lawfully to contract his subsequent marriage; his presumed sister-in-law being to him (owing to the invalidity of her sister's betrothal) no more than a mere stranger.

(49) Her former husband. Were she permitted to return to him it might be assumed that he had divorced her prior to her marriage with her brother-in-law and that the latter had now divorced her; and so it would be concluded that (contrary to Deut. XXIV, 4) a man married again the woman he had once divorced though she had in the meantime been married to another man.

(50) Lit., ‘thus’, that the halachah is in agreement with the full statement of R. Jose, including the part relating to the marriage with the sister of one's betrothed, it being necessary in case of betrothal to provide against the erroneous assumption that the betrothal was invalid and that consequently a man's divorcee had been married again by him. Cf. p. 650, nn. 8 and 9.

(51) This is explained anon.

(52) Had he married her there would have been no question that she may return to him. Cf. supra p. 650, n. 7.

(53) The brother at home.

(54) I.e., to the man who first betrothed her and then left her and now returned, and who, owing to his brother's marriage with her, has become her brother-in-law. Were she to be permitted to return to him it might be assumed that his original betrothal was invalid owing to some disqualifying condition, that his brother's marriage was, therefore, valid, and that be now married his brother's wife.

(55) Because, in the opinion of Samuel, no provision need be made against the erroneous assumption that the betrothal was invalid (cf. supra n. 5). How, then, could it be said that Samuel adopted the complete statement of R. Jose.
(56) R. Joseph.
(57) So that the question of the assumption of a disqualifying condition in a betrothal would not at all arise.
(58) The case of one's betrothed and brother-in-law.

Talmud - Mas. Yevamoth 96a

Is it not possible [that he referred] to the ruling ‘DOES NOT DISQUALIFY’![1] Or else [it might be argued], whence is it proved that R. Huna's explanation[2] is tenable? Is it not possible that R. Huna's explanation is altogether untenable and that they[3] differ on the ruling of R. Hamnuna who stated that ‘A woman awaiting the decision of the levir, who played the harlot, is forbidden to her levir’;[4] Rab maintaining that she ‘has the status of a married woman’ and is consequently prohibited[5] by reason of her immoral act,[6] while Samuel maintains that ‘she has not the status of a married woman’ and does not therefore, become prohibited[5] by reason of her immoral act? Or else [it might be replied] that they[3] differ on the question whether betrothal of a sister-in-law[7] is valid, Rab maintaining that she ‘has the status of a married woman’ and betrothal[7] with her is, in consequence, invalid, while Samuel maintains that ‘she has not the status of a married woman’ and betrothal[7] with her is, therefore, valid. But on this question[8] they[3] had already disputed once![9] — The one was stated as an inference from the other.[10]

MISHNAH. IF A MAN WAS TOLD ‘YOUR WIFE IS DEAD AND HE MARRIED HER PATERNAL SISTER; [AND WHEN HE WAS TOLD] ‘SHE[11] ALSO IS DEAD’, HE MARRIED HER MATERNAL SISTER;[12] SHE[13] TOO IS DEAD, AND HE MARRIED HER PATERNAL SISTER;[14] ‘SHE[15] ALSO IS DEAD, AND HE MARRIED HER MATERNAL SISTER;[16] AND LATER IT WAS FOUND THAT THEY WERE ALL ALIVE, HE IS PERMITTED TO LIVE WITH THE FIRST,[17] THIRD[18] AND FIFTH,[19] WHO ALSO EXEMPT THEIR RIVALS;[20] BUT HE IS FORBIDDEN TO LIVE WITH THE SECOND OR THE FOURTH,[21] AND COHABITATION[22] WITH ONE OF THESE DOES NOT EXEMPT HER RIVAL. IF, HOWEVER, HE[23] COHABITED WITH THE SECOND AFTER THE DEATH OF THE FIRST,[24] HE IS PERMITTED TO LIVE WITH THE SECOND[25] AND FOURTH,[26] WHO ALSO EXEMPT THEIR RIVALS;[27] BUT HE[23] IS FORBIDDEN TO LIVE[28] WITH THE THIRD AND WITH THE FIFTH, AND COHABITATION[22] WITH ONE OF THESE DOES NOT EXEMPT HER RIVAL.

A BOY OF THE AGE OF NINE YEARS AND ONE DAY RENDERS[29] [HIS SISTER-IN-LAW] UNFIT [FOR MARRIAGE] WITH HIS BROTHERS, AND HIS BROTHERS RENDER HER UNFIT FOR HIM, BUT WHILE HE RENDERS HER UNFIT FROM THE OUTSET ONLY, THE BROTHERS RENDER HER UNFIT BOTH FROM THE OUTSET AND AT THE END. IN WHAT MANNER?[29] A BOY OF THE AGE OF NINE YEARS AND ONE DAY WHO COHABITED WITH HIS SISTER-IN-LAW RENDERS HER UNFIT [FOR MARRIAGE] WITH HIS BROTHERS; THE BROTHERS, HOWEVER, RENDER HER UNFIT FOR HIM WHETHER THEY COHABITED WITH HER, ADDRESSED TO HER A MA'AMAR, GAVE HER A LETTER OF DIVORCE OR SUBMITTED TO HER HALIZAH.

GEMARA. Did not all those [marriages[30] take place] after the death of the first wife![31] — R. Shesheth replied: [By this[32] was meant]. AFTER THE ASCERTAINED[33] DEATH OF THE FIRST WIFE.

A BOY OF THE AGE OF NINE YEARS etc. Does a boy of the age of nine years and one day cause unfitness[34] [only where his act took place] at the outset,[35] but if at the end[36] he causes no unfitness? Surely R. Zebid son of R. Oshaia learnt: If [a brother][37] addressed a ma'amar to his sister-in-law, his brother of the age of nine years and one day, cohabiting with her afterwards, causes her to be unfit [for marriage with him]![38] — It may be replied: Cohabitation causes unfitness[32] even [if it took place] at the end,[36] while a ma'amar causes unfitness [only if it was addressed] at the outset,[35] but if at the end,[36] it causes no unfitness. But does cohabitation[39] cause unfitness even [if it took place] at the end? Surely it was taught: BUT WHILE HE RENDERS HER UNFIT FROM THE OUTSET ONLY, THEY [RENDER HER UNFIT] BOTH FROM THE OUTSET AND AT THE END. IN WHAT MANNER? A BOY OF THE AGE OF NINE YEARS AND ONE DAY WHO COHABITED WITH HIS SISTER-INLAW etc![40] — Something, indeed, is here missing, and this is the proper reading: ‘A BOY OF THE AGE OF NINE YEARS AND ONE DAY RENDERS [HIS SISTER-IN-LAW] UNFIT [FOR MARRIAGE WITH HIS BROTHERS, if his action took place] AT THE OUTSET, but they RENDER HER UNFIT FOR HIM BOTH AT THE OUTSET AND AT THE END. This is applicable only in the case of a ma'amar, but cohabitation[41] causes unfitness even [if it took place] at the end. IN WHAT MANNER? A BOY OF THE AGE OF NINE YEARS AND ONE DAY WHO COHABITED WITH HIS SISTER-IN-LAW[42] RENDERS HER UNFIT FOR MARRIAGE WITH HIS BROTHERS.

His his ma'amar, however, any validity[43] at all?[44] Surely it was taught: A boy of the age of nine years and one day renders [his sister-in-law] unfit for his brothers[45] by one kind of act only, while the brothers render her unfit for him by four kinds of acts. He renders her unfit for the brothers by cohabitation,[46] while the brothers render her unfit for him by cohabitation, by a ma'amar, by a letter of divorce and by halizah![47] — Cohabitation, which causes unfitness both from the outset and at the end, presented to him a definite law,[48] [the law of the] ma'amar, however, which causes unfitness front the outset only but not at the end, could not be regarded by him as definite.[49]

So it was also stated: Rab Judah said in the name of Samuel: He[50] has [the power to give] a letter of divorce.[51] And so said R. Tahlifa b. Abimi: He[50] has [the power to address] a ma'amar.[51]

It was taught likewise: He[50] has [the right to give] a letter of divorce[51] and he has [the right to address] a ma'amar;[51] so R. Meir.

Could R. Meir, however, hold the view [that such a boy] has [the power to give] a letter of divorce?[51] Surely it was taught: Cohabitation with a boy of the age of nine years [and one day] was given the same validity as that of a ma'amar by an adult; and R. Meir said: The halizah of a boy of the age of nine years was given the same validity as that of a letter of divorce by an adult.[52] Now, if that were so,[53] it should have been stated, ‘As that of his own letter of divorce’! — R. Huna son of R. Joshua replied: He[54] has [the right],[55] but [his divorce is of a] lesser validity.[56] For according to R. Gamaliel who ruled that there is no [validity in a] letter of divorce after another letter of divorce, his ruling is applicable only [in the case of a divorce] by an adult after that of an adult, or one by a minor after that of a minor, but [a divorce] by an adult after that of a minor is effective,[57] while according to the Rabbis who ruled that a letter of divorce given after another letter of divorce is valid, the ruling applies only to [a divorce] by adult after that of an adult, or one by a minor after that of a minor, but [a divorce by] a minor after [that of] an adult is not effective.[57]

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(1) The case of one's wife and brother-in-law-; Samuel indicating that in this case, and in this case alone, the halachah is in agreement with R. Jose that the sister-in-law is permitted to her first husband contrary to the view of the first Tanna who forbids her.

(2) Supra 95b.

(3) Rab and Samuel.

(4) Cit. 80b, Sot 18b, supra 95a.

(5) To the levir.

(6) As a married woman is prohibited to her husband if she has committed such an act.

(7) To a stranger before she had performed halizah.

(8) The validity of betrothal of a sister- in-law. V. supra n. 7.

(9) Supra 92b. Why should they dispute the same point twice.
(10) By disciples. Rab and Samuel, however disputed the point only once.
(11) His second wife.
(12) Who was thus a perfect stranger to the first wife.
(13) His third wife.
(14) A perfect stranger to the second.
(15) The fourth.
(16) A stranger to the third.
(17) Since his marriage with her was valid.
(18) Who was a complete stranger to him when he married her (V. supra p. 652. n. 12). His previous marriage with her maternal sister (his second wife) had no validity because the latter was a sister of his first wife and was forbidden to him as ‘his wife's sister’.
(19) Marriage with whom was valid since the marriage with her sister (the fourth) was invalid. Cf. supra n. 2, mutatis mutandis.
(20) If the man died without issue and one of his surviving brothers contracted the levirate marriage with or submitted to halizah from one of these widows.
(21) The validity of his marriage wife the first and third causes the second and the fourth to be prohibited to him as his wives’ respective sisters. Cf. supra note 2.
(22) By one of the levirs. Cf. supra note 4.
(23) The husband.
(24) I.e., it was proved that the first report of her death was true (Rashi).
(25) The death of the first wife has removed from the second the prohibition of wife's sister (since a wife's sister is prohibited only during the lifetime of the wife) marriage with whom becomes valid.
(26) The marriage with the second having become valid (v. supra n. 9), that with the third (being now the man's wife's sister) becomes invalid and, consequently, the marriage with the fourth who is now a perfect stranger becomes valid.
(27) V. supra note 4.
(28) Cf. previous notes, mutatis mutandis.
(29) This will be explained in the Gemara infra.
(30) That were enumerated in the first clause of our Mishnah.
(31) Why then was ‘AFTER THE DEATH OF THE FIRST’ mentioned only in the second clause in the case where HE COHABITED WITH THE SECOND?
(32) V. supra n. 2.
(33) In the other cases death was only reported.
(34) Of his sister-in-law for his brothers.
(35) Before any of the adult brothers bad addressed a ma'amar to the widow.
(36) After an elder brother had addressed to her a ma'amar.
(37) Of a deceased husband who died without issue.
(38) Which shows that a boy of this age may cause unfitness even ‘at the end’.
(39) On the part of the boy of the age of nine years and one day.
(40) Emphasis on COHABITED. Since the illustration is limited to an act of cohabitation only the general statement that the boy RENDERS HER UNFIT FROM THE OUTSET ONLY, on which the illustration apparently hangs must also be limited to cohabitation.
(41) On the part of the boy of the age of nine years and one day.
(42) Even at the end, i.e., after his brothers had addressed to her a ma'amar.
(43) Lit., ‘has he a ma'amar’?
(44) Cur. edd. insert ‘for the brothers’, which, with MS.M. and Pesaro ed. 1509, should be omitted. V. infra n. 5.
(45) The last three words are wanting in cur. edd., but are rightly included in the Pesaro ed. V. supra n. 4.
(46) And by no other act.
(47) How then could it be said that the boy's ma'amar has any validity at all.
(48) פסיקא rt. פסק ‘to cut’, ‘to decide’, i.e., the law relating to cohabitation is definite and absolute. The act is always valid. Hence he mentioned it.
(49) And being undesirous of entering into details of the law he preferred to omit it.

(50) A boy of the age of nine years and one day.
(51) His act is effective and causes his sister-in- law to be unfit for marriage to his brothers.
(52) Cf. Nid. 45a, supra 68a.
(53) That according to R. Meir the letter of divorce of a boy of the age of nine years and one day is valid.
(54) A boy the age of nine years and one day.
(55) To give a letter of divorce. V. supra p. 655. n. 11.
(56) Lit., 'and small'. Hence no comparison could be made between his halizah which is as valid as that of a divorce by on adult, and his own divorce which is not so valid.
(57) Since the divorce of the minor is of lesser validity.

Talmud - Mas. Yevamoth 96b

MISHNAH. IF A BOY OF THE AGE OF NINE YEARS AND ONE DAY COHABITED WITH HIS SISTER-IN-LAW[1] AND THEN HIS BROTHER WHO WAS OF THE AGE OF NINE YEARS AND ONE DAY COHABITED WITH HER, [THE LATTER] RENDERS HER UNFIT[2] FOR [THE FORMER].[3] R. SIMEON SAID: HE DOES NOT RENDER HER UNFIT.[4]

IF A BOY OF THE AGE OF NINE YEARS AND ONE DAY COHABITED WITH HIS SISTER-IN-LAW[5] AND AFTERWARDS HE COHABITED WITH HER RIVAL, HE HAS RENDERED [THEREBY THE FIRST AS WELL AS THE SECOND] UNFIT FOR MARRIAGE WITH HIMSELF.[6] R. SIMEON SAID: HE DOES NOT RENDER [THEM] UNFIT.[7]

GEMARA. It was taught: R. Simeon said to the Sages, 'If the first cohabitation[8] was a valid act,[9] the second cohabitation[10] cannot have any validity;[11] if, the first cohabitation, however, has no validity,[12] the second cohabitation also should have no validity'.[13]

Our Mishnah[14] cannot represent the view of Ben 'Azzai; for it was taught: Ben 'Azzai stated, 'A ma'amar is valid after another ma'amar where it concerns two levirs[15] and one sister-in-law,[16] but no ma'amar is valid after a ma'amar where it concerns two sisters-inlaw and one levir.'[17]

MISHNAH. IF A BOY OF THE AGE OF NINE YEARS AND ONE DAY COHABITED WITH HIS SISTER-IN-LAW[18] AND THEN DIED, SHE MUST PERFORM HALIZAH BUT MAY NOT CONTRACT THE LEVIRATE MARRIAGE.[19] IF HE HAD MARRIED [ANY OTHER] WOMAN AND SUBSEQUENTLY DIED, SHE IS EXEMPT [FROM BOTH].[20]

IF A BOY OF THE AGE OF NINE YEARS AND ONE DAY COHABITED WITH HIS SISTER-IN-LAW, AND AFTER HE HAD COME OF AGE HE MARRIED ANOTHER WOMAN AND SUBSEQUENTLY DIED, IF HE HAD NOT [CARNALLY] KNOWN THE FIRST WOMAN AFTER HE HAD BECOME OF AGE, THE FIRST ONE MUST PERFORM HALIZAH BUT MAY NOT CONTRACT THE LEVIRATE MARRIAGE,[21] WHILE THE SECOND[22] MAY EITHER PERFORM HALIZAH OR CONTRACT LEVIRATE MARRIAGE. R. SIMEON SAID: [THE SURVIVING LEVIR] MAY CONTRACT LEVIRATE MARRIAGE WITH WHICHEVER OF THEM HE MAY DESIRE[23] AND SUBMITS TO HALIZAH FROM THE OTHER.[24] [THE SAME LAW APPLIES] WHETHER HE IS OF THE AGE OF NINE YEARS AND ONE DAY, OR WHETHER HE IS OF THE AGE OF TWENTY YEARS BUT HAD NOT PRODUCED TWO PUBIC HAIRS.[25] GEMARA. Raba stated: With reference to the statement of the Rabbis that in the case of the levirate bond originating from two levirs [the sister-in-law] must perform halizah only but may not contract levirate marriage, it must not be assumed that this is applicable only where there is a rival, because [in that case] a preventive measure was necessary on account of the rival;[26] for here[27] there is no rival and yet [the sister-in-law] must perform halizah only but may not contract the levirate marriage.[28]

IF HE HAD MARRIED [ANY OTHER] WOMAN AND SUBSEQUENTLY DIED etc. Here[27] we learned what the Rabbis taught: If an imbecile or a minor married and then died, their wives are exempt from halizah and from the levirate marriage.[29]

A BOY OF THE AGE OF NINE YEARS etc. AND AFTER HE HAD COME OF AGE etc. Let the cohabitation of the boy of nine[27] be given the same validity as that of a ma'amar by an adult,[30] and so let the rival [here][27] be debarred from the levirate marriage![31] — Now said Rab: The cohabitation of a boy of nine was not given the same validity as that of a ma'amar by an adult. Samuel, however, said: It was certainly given the same validity:[32] and so said R. Johanan: It certainly was given the same validity. Then[33] let the same validity be given here also![34] — This [question is a matter of dispute between] Tannaim. That Tanna [whose ruling is contained in the chapter] of the ‘Four Brothers’[35] enacted a preventive measure on account of the rival;[36] and though he stated the law in respect of an adult the same law is applicable to a minor, the reason why he mentioned the adult being only because he was engaged on the question of[37] the adult. The Tanna here[38] however, is of the opinion that they[39] were given the same validity,[40] and he enacted no preventive measure on account of the rival; and though he spoke of the minor the same law applies to an adult, the reason why he spoke of the minor being only because he was dealing with the minor.[37]

R. Eleazar came and reported this statement at the schoolhouse but did not report it in the name of R. Johanan. When R. Johanan heard this he was annoyed.[41] Thereupon R. Ammi and R. Assi came in and said to him: Did it not happen at the Synagogue of Tiberias that R. Eleazar and R. Jose disputed [so hotly] concerning a door bolt which had a knob[42] at one end[43] that they tore a Scroll of the Law in their excitement. ‘They tore?[44] Could this be imagined! Say rather ‘That a Scroll of the Law was torn[45] in their excitement’. R. Jose b. Kisma who was then present exclaimed, ‘I shall be surprised if this Synagogue[46] is not turned into a house of idolatry’, and so it happened. [On hearing this] he was annoyed all the more. ‘Comradeship too’ he exclaimed.[47]

Thereupon R. Jacob b. Idi came in and said to him: ‘As the Lord commanded Moses his servant, so did Moses command Joshua, and so did Joshua; he left nothing undone of all that the Lord commanded Moses;[48] did Joshua, then, concerning every word which he said, tell them, "Thus did Moses tell me"? But, the fact is that Joshua was sitting and delivering his discourse without mentioning names, and all knew that it was the Torah of Moses. So did your disciple R. Eleazar sit and deliver his discourse without mentioning names and all knew that it was yours’. ‘Why’, he[49] chided them,[50] are you not capable of conciliating like the son of Idi our friend?’

Why was R. Johanan so annoyed? — [For the following reason]. For Rab Judah stated in the name of Rab: What is the meaning of the Scriptural text, I will dwell in Thy tent for ever?[51] Is it possible for a man to dwell in two worlds! But [in fact it is this that] David said to the Holy One, blessed be He, ‘Lord of the Universe, May it be Thy will

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(1) The widow of his brother who died without issue.

(2) For the levirate marriage.

(3) Because, as in the case of a ma'amar after a ma'amar, the act of either levir is valid and, as no two levirs may marry the same sister-in-law, the latter must divorce her; and a sister-in-law divorced by one of the levirs may never again be married by any of them.

(4) His reason is given in the Gemara, infra.

(5) The widow of his brother who died without issue.

(6) Since levirate marriage may be contracted with one sister-in- law only. The first cohabitation constituting an imperfect kinyan, the second is effective to the extent of necessitating a divorce, and with a sister-in-law that was divorced by a levir, none of the levirs may subsequently contract levirate marriage. Cf. supra p. 656, n. 9.

(7) His reason is given in the Gemara, infra.

(8) Of the first young levir.
(9) Constituting a kinyan of the sister-in-law.
(10) That of the second young levir.
(11) Since there is no validity in an act of cohabitation that follows an act of cohabitation (v. supra 50a), the second act is regarded as irregular intercourse with a stranger; and since it was committed unwittingly, the woman remains permitted to the first levir.
(12) Owing to the levir's tender age.
(13) V. supra n. 8 and cf. supra 51b.
(14) Which regards the cohabitation of a young levir as having the same validity as a ma'amar (cf. supra p. 656, n. 9), and yet rules that an act of cohabitation after another act of cohabitation is legally effective whether in the case of two levirs and one sister- in-law (first case) or two sisters-in-law and one levir (second case).
(15) The one as well as the other having addressed to the widow one ma'amar only.
(16) Because each levir (v. supra 51a) has equally the power to address such a ma'amar.
(17) The second ma'amar having no validity owing to the first ma'amar which had completely effected the kinyan of the first sister-in-law; and no levir is permitted to contract levirate marriage with more than one of the widows of his deceased childless brother.
(18) The widow of his brother who died childless.
(19) The act of the minor, while it is valid enough to subject his sister- in-law to the levirate bond of his surviving brothers, does not sever the first levirate bond which is due to her union with the first deceased brother. Being now subject to the levirate bond originating from two levirs, she is deprived (cf. supra 31b) of her right to the levirate marriage, and must perform halizah only.
(20) Levirate marriage and halizah. The betrothal of a minor having no validity, the woman is not regarded as his wife in respect of the levirate. It is only in the case of a sister-in-law (v. supra n. 2) that his cohabitation is valid enough to subject the woman to the levirate bond.
(21) Because, as the minor did not cohabit with her since he became of age, she remained subject to the levirate bond originating from two levirs (cf. supra note 2).
(22) Being the deceased's lawful wife.
(23) R. Simeon does not admit the ineligibility for levirate marriage of a sister-in- law who is subject to the levirate bond originating from two levirs, V. supra 31b.
(24) Since they cannot be regarded as rivals, the marriage of the one does not exempt the other, Both, however, may not be taken in levirate marriage, as a preventive measure against erroneous comparisons with two sisters-in-law who were lawfully married.
(25) The marks of maturity. So long as these have not appeared he retains the legal status of a minor.
(26) V. supra 31b and cf. supra p. 658, n. 7 end.
(27) In our Mishnah.
(28) Cf. supra p. 658, n. 2.
(29) Supra 69b, infra 112b. A minor and an imbecile have the same legal status, and our Mishnah, speaking of the minor confirms this ruling.
(30) Which (as stated supra 31b) debars the rival of the widow to whom the [ma'amar had been addressed, from the levirate marriage, though the rival's marriage with the deceased was in every respect a lawful union.
(31) Why then was it stated that THE SECOND MAY EITHER PERFORM HALIZAH OR CONTRACT THE LEVIRATE MARRIAGE?
(32) Lit., ‘they made and they made’.
(33) According to Samuel and R. Johanan.
(34) Lit., ‘and let them make’. Cf. supra n. 6.
(35) The chapter which contains the Mishnah referred to is named after the first two words with which it begins. V. supra 260.
(36) Cf. supra 31b.
(37) Lit., ‘stood’.
(38) In our Mishnah.
(39) The cohabitation of a minor and the ma'amar of an adult.
(40) Lit., ‘they made’.

(41) Perhaps because R. Eleazar did not act in accordance with Aboth VI, 6, 'Whosoever reports a thing in the name of him who said it brings deliverance into the world'. V., however, the Gemara's explanation infra.
(42) Or, 'a fastening contrivance' (Jast.).
(43) R. Eleazar forbids its use on the Sabbath because it cannot be regarded as a 'vessel' and is consequently forbidden to be moved from its place; while R. Jose maintains that the knob at its end, whereby the bolt may occasionally be used as a pestle for crushing foodstuffs, imports to it the character of a vessel and it may. therefore. be used and moved on the Sabbath. V. 'Er. 101b.
(44) The active form, קרעו, implies intentionally.
(45) The Niph'al. accidentally.
(46) Which permitted strife among its scholars.
(47) They compared his resentment against his disciple R. Eleazar to a dispute between colleagues, as if he and his disciple were school companions. 'The fellows (my pupils) too, are quoted against me?' (Jast.)
(48) Josh. XI, 15.
(49) R. Johanan.
(50) R. Ammi and R. Assi.
(51) Ps. LXI, 5; עולמים lit., 'worlds'.

Talmud - Mas. Yevamoth 97a

that a traditional statement may be reported in my name in this world'; for R. Johanan[1] stated in the name of R. Simeon b. Yohai: The lips of a [deceased] scholar, in whose name a traditional statement is reported in this world, move gently in the grave. Said R. Isaac b. Ze'ira, or it might be said, Simeon the Nazirite: What is the Scriptural proof of this? And the roof of thy mouth like the best wine that glideth down smoothly for my beloved, moving gently the lips of those who are asleep,[2] like a heated mass of grapes. As a heated mass of grapes, as soon as a man places his finger upon it, exudes[3] immediately so with the scholars as soon as a traditional statement is made in their name in this world, their lips move gently[4] in the grave.

WHETHER HE IS OF THE AGE OF NINE YEARS etc. A contradiction was pointed out: If at the age of twenty he[5] did not produce two [pubic] hairs,[6] they[7] must bring evidence that he is twenty years of age, and he [is then confirmed as a] saris;[8] he may neither submit to halizah nor may he perform the levirate marriage. If a woman[9] at the age of twenty did not produce two [pubic] hairs, they[10] must bring evidence that she is twenty years of age, and she [is then confirmed as a] woman who is incapable of procreation; she may neither perform halizah nor contract levirate marriage![11] — Surely in connection with this Mishnah it was stated: R. Samuel b. Isaac said in the name of Rab that this[12] applies only to the case where [other] symptoms[13] of a saris also appeared on him.[14]

Said Raba: This[15] may also be arrived at by deduction. For it was taught, 'And he [is confirmed as a] saris',[16] from which this[15] may well be deduced.

And where no symptoms of a saris developed, how long [is one regarded as a minor]?[17] — It was taught at the school of R. Hiyya: Until he has passed middle age.[18]

Whenever people came [with such a case][19] before Raba,[20] he used to tell them, if [the youth was] emaciated, 'Let him first be fattened'; and if he was stout, he used to tell them, 'Let him first be made to lose weight'; for these symptoms disappear[21] sometimes as a result of emaciation and sometimes they disappear[21] as a result of stoutness.

CHAPTER XI

MISHNAH. A MAN IS PERMITTED TO MARRY [THE NEAR RELATIVE] OF A WOMAN [WHOM HE HAS] OUTRAGED OR SEDUCED.[22] HE, HOWEVER, WHO OUTRAGED OR

SEDUCED [A RELATIVE] OF HIS MARRIED WIFE, IS GUILTY.[23] A MAN MAY MARRY THE WOMAN WHOM HIS FATHER HAS OUTRAGED OR SEDUCED OR THE WOMAN WHOM HIS SON HAS OUTRAGED OR SEDUCED. R. JUDAH FORBIDS [MARRIAGE] WITH THE WOMAN WHOM ONE'S FATHER HAS OUTRAGED OR SEDUCED.

GEMARA. Here[24] we learn what the Rabbis taught: 'A man who has outraged a woman[25] is permitted to marry her daughter; if, however, he married the woman, he is forbidden to marry her daughter'. A contradiction, however, may be pointed out: A man who is suspected of intercourse with a woman is forbidden to marry her mother, her daughter and her sister![26] — This [prohibition[27] is only] Rabbinical.[28]

Would it be stated, however, where a Rabbinical prohibition exists, that A MAN IS PERMITTED TO MARRY even from the outset! — Our Mishnah refers only to [a marriage] after [the suspected woman's] death.[29]

Whence is this ruling deduced? — From what the Rabbis taught: In the case of all those [illicit relationships][30] Scripture used the expression of 'lying',[31] but here[32] it made use of the expression of 'taking',[33] in order to tell you [that only when intercourse with a woman was in] the manner of 'taking'[34] did the Torah forbid [marriage with her relatives].[35]

Said R. Papa to Abaye: If that is so,[36] then in respect of one's sister, concerning whom it is written, And if a man shall take his sister, his father's daughter, or his mother's daughter;[37] is [intercourse] here also forbidden only [if it is in] the manner of 'taking',[34] but permitted [if it is in] the manner of 'lying'![38] — The other replied: The word 'taking' is used in the Torah without being defined, [so that a text] to which 'taking' is applicable,[39] [signifies] 'taking'[40] while one to which only 'lying' is applicable,[41] [signifies] 'lying'.[42]

Raba stated: [That a man who] outraged a woman is permitted to marry her daughter, [is deduced] from here: It is written, The nakedness of thy son's daughter, or of thy daughter's daughter, thou shalt not uncover;[43] from which it follows[44] that the daughter of her[45] son and the daughter of her[45] daughter may be uncovered; but it is also written in Scripture, Thou shalt not uncover the nakedness of a woman and her daughter; thou shalt not take her son's daughter, or her daughter's daughter![46] How then [are these to be reconciled]? The former[47] refers to cases of outrage and the latter to those of marriage. Might not [the application][48] be reversed? — In respect of forbidden relatives the expression kin[49] is written, and kinship exists only by means of marriage; but no kinship exists by means of outrage.

R. JUDAH FORBIDS MARRIAGE WITH THE WOMAN WHOM ONE'S FATHER HAD OUTRAGED etc. R. Giddal stated in the name of Rab: What is R. Judah's reason? Because it is written, A man shall not take his father's wife, and shall not uncover his father's skirt:[50] the skirt which his father saw[51] he shall not uncover. Whence, however, is it inferred that Scripture speaks of an outraged woman? — From the preceding section of the text where it is written, Then the man that lay with her shall give unto the damsels father fifty shekels of silver.[52] And the Rabbis?[53] — If one text had occurred in close proximity to the other your exposition would have been justified;[54] now, however, that it does not occur in close proximity, the text is required for [an exposition] like that of R. Anan. For R. Anan stated in the name of Samuel that the Scriptural text[50] speaks of a woman awaiting the levirate decision of his father; and the meaning of[55] his father's skirt[50] is: He[56] shall not uncover the skirt which is designated for his father.[57]

[This prohibition,[58] however], might be deduced from the fact that she is his aunt![59] — [The text[50] was necessary] to make him[60] guilty of the transgression of two negative commandments.[61] [The prohibition,[62] however] might be inferred from the fact [that the widow as a] sister-in-law[63] [is forbidden] to marry any stranger![64] — [The text[50] was necessary] to make him guilty of the transgression of three negative commandments.[65] And if you prefer I might say:[66] After [his father's] death.[67]

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(1) Or Jehozadak (cf. Sanh. 90b).

(2) Cant. VII. 10. דובב moving gently.

(3) דובב.

(4) V. supra n. 5. The rt. דבב signifies both ‘to exude’ and ‘to whisper’.

(5) A levir whose brother died without issue and whose duty it is to marry the widow of the deceased or to submit to her halizah.

(6) The legal signs of maturity.

(7) The relatives of the widow, who are desirous of procuring her exemption from the levirate marriage and the halizah.

(8) One incapable of procreation. V. Glos. He is no longer regarded as a minor for whose maturity the widow must wait.

(9) A widow whose husband died childless. Cf. supra p. 661, n. 8.

(10) The levir's relatives, cf. supra p. 661, n. 10 mutatis mutandis.

(11) Supra 80a, Ned. 57b, Cf, B.B. 155b. From this (cf. p. 661, n. 11) it follows that at the age of twenty a person is considered to have attained legal majority, though his body has not developed any signs of maturity, contrary to our Mishnah which gives such a person the status of a minor.

(12) The law that he is regarded as a saris,

(13) Described supra 80b.

(14) If, however, these additional symptoms of a saris did not appear, he is as stated in our Mishnah regarded as a minor so long as he has not produced two pubic hairs.

(15) That a boy is not regarded as a saris unless apart from the absence of pubic hairs, he has developed also other symptoms of a saris.

(16) Implying that he had already other symptoms of a saris.

(17) If two pubic hairs did not appear.

(18) Lit., ‘most of his years’, i.e., until he is thirty-six years of age. Man's span of life is taken to be seventy years (cf. Ps. XC, 10).

(19) Of one who reached the age of twenty without having produced two hairs.

(20) Or,’R. Hiyya’. Cf. B.B. 155b and Nid. 47b.

(21) דנתרי (rt. נתר, Pi'el, ‘to fall off’). MS.M. reads, דאתו (rt. אתא ‘come’, ‘appear’) a reading adopted by Tosaf. in B.B. 155b, s.v. הכי.

(22) Only relatives of a married wife are subject to the law of incest.

(23) And must suffer the prescribed penalties.

(24) In our Mishnah.

(25) By immoral intercourse, whether without, or with her consent.

(26) Tosef. Yeb. IV and supra 262 q.v. for notes.

(27) In the Tosefta cited.

(28) In order that illicit intercourse with the suspected woman may not be facilitated through a marriage with one of her near relatives.

(29) If the woman outraged or seduced is dead the marriage with any one of her relatives would obviously provide no further facilities for illicit intercourse with her (cf. supra n. 7). Hence no preventive measure was instituted.

(30) Such as, e.g., a father's wife, a daughter-in-law and an aunt (v. Lev. XX, 11ff).

(31) E.g., lieth (Lev. XX, 11), lie (ibid. 12).

(32) In respect of a woman and her mother, and similar relatives that are forbidden through one's wife.

(33) E.g., take (lev. XVIII, 17, 18, ibid. XX, 14, 17).

(34) I.e., when the man contracted with her a lawful marriage; cf. Deut. XXIV, 1: ‘When a man taketh a wife’.

(35) The relatives of a woman with whom he had illicit intercourse are, therefore permitted.

(36) Lit., ‘but now’.

(37) Lev. XX, 17 emphasis on take. Cf. supra n. 6.

(38) This would be absurd.

(39) As in the case of a woman and her mother or two sisters, where marriage with the first is lawful.

(40) Lawful marriage. Only when legal marriage took place with the first is marriage with the second forbidden.
(41) Intercourse, for instance, with one's sister.
(42) Even illicit intercourse.
(43) Lev. XVIII, 10.
(44) Lit., ‘thus’.
(45) A wife's.
(46) Lev. XVIII, 17.
(47) Lit., ‘here’.
(48) I.e., applying the first text to cases of marriage and the second to those of outrage.
(49) V. Lev. XVIII, 6.
(50) Deut. XXIII, 1.
(51) Even through outrage.
(52) Deut. XXII, 29. a case of outrage.
(53) How can they maintain their view in our Mishnah against the Scriptural text.
(54) Lit., ‘as you said’.
(55) Lit., ‘and what’.
(56) A son.
(57) Such a woman, unless she has performed halizah with his father, is permitted to marry no one but his father.
(58) To marry the widow who was subject to his father's Ievirate marriage. Cf. supra n. 9.
(59) Having been the wife of his father's brother. V. Lev. XX, 20. What need then was there for the additional text of Deut. XXIII, 1?
(60) The son. v.. supra note 10.
(61) Prescribed in (1) Lev. XX, 20 and (2) Deut. XXIII, 1.
(62) V. supra note 10.
(63) Cf. supra note 9.
(64) Lit., ‘to the market’, i.e., any man other than the levir. Cf. supra n. 11 second clause.
(65) The two referred to supra p. 665, n. 13 as well as the one last mentioned.
(66) In reply to the last objection.
(67) When marriage with the widow is not subject to the last mentioned prohibition (that of a sister-in-law to a stranger) and only two prohibitions (v. supra p. 665, n. 13) remain.

Talmud - Mas. Yevamoth 97b

‘My[1] paternal, but not my maternal brother; and he is the husband of my mother and I am the daughter of his wife’![2] — Rami b. Hama said: Such [a relationship is] not [legally possible] according to the ruling of R. Judah in our Mishnah.[3]

‘He[4] whom I carry on my shoulder is my brother and my son and I am his sister’? — This is possible when an idolater cohabited with his daughter’.[5]

‘Greetings[4] to you my son; I am the daughter of your sister’? — This is possible where an idolater cohabited with his daughter's daughter.[6]

‘Ye[4] water-drawers,[7] we shall ask you[8] a riddle that defies solution: He whom I carry is my son and I am the daughter of his brother’? — This is possible where an idolater cohabited with the daughter of his son.[9]

‘Woe,[4] woe, for my brother who is my father; he is my husband and the son of my husband; he is the husband of my mother and I am the daughter of his wife; and he provides no food for his orphan brothers, the children of his daughter’? — This is possible when an idolater cohabited with his mother and begot from her a daughter; then he cohabited with that daughter; and then the grandfather[10] cohabited with her[11] and begot from her sons.[12]

‘I[13] and you are brother and sister,[14] I and your father are brother and sister, and I and your mother are sisters’? — This is possible where an idolater cohabited with his mother and from her begot two daughters, and then he cohabited with one of these and begot from her a son. When the sons's mother's sister[15] carries[16] him[17] she addresses him thus.[18]

‘I[13] and you are the children of sisters,[14] I and your father are the children of brothers, and I and your mother are the children of brothers’? — This indeed is possible also in the case of a lawful marriage; where, for instance, Reuben had two daughters, and Simeon[19] came and married one of them, and then came the son of Levi[19] and married the other.

The son of Simeon can thus[20] address the son of the son of Levi.[21]

MISHNAH. THE SONS OF A FEMALE PROSELYTE WHO BECOME PROSELYTES TOGETHER WITH HER NEITHER[22] PARTICIPATE IN HALIZAH NOR CONTRACT LEVIRATE MARRIAGE, EVEN IF THE ONE WAS NOT CONCEIVED IN HOLINESS.[23] BUT WAS BORN IN HOLINESS,[24] AND THE OTHER WAS BOTH CONCEIVED AND BORN IN HOLINESS. SO ALSO [IS THE LAW] WHERE THE SONS OF A BONDWOMAN WERE EMANCIPATED TOGETHER WITH HER.

GEMARA. When the sons of the bondwoman Yudan were emancipated. R. Aha b. Jacob permitted them to marry one another's wives.[25] Said Raba to him: But R. Shesheth forbade [such marriages]. The other replied: He forbade, but I allow.

[In respect of proselyte brothers] from the same father and not from the same mother, there is no difference of opinion[26] that this[27] is permitted;[28] [in respect of brothers] from the same mother and not from the same father, there is no difference of opinion[26] that this[27] is forbidden.[29] They differ only [in respect of proselytes whose brotherhood is] both paternal and maternal. He[30] who permits it[27] [does so because children are] ascribed to their father, since they are spoken of as ‘the children of such and such a man’.[31] R. Shesheth, however, [holds that they] are also spoken of as ‘the children of such and such a woman’.[29]

Another reading: R. Aha b. Jacob disputed [the illegality of marriage][27] even in respect of maternal brothers. And what is his reason? — Because a man who has become a proselyte is like a child newly born.[32]

We learned, THE SONS OF A FEMALE PROSELYTE WHO BECAME PROSELYTES TOGETHER WITH HER NEITHER PARTICIPATE IN HALIZAH NOR CONTRACT THE LEVIRATE MARRIAGE, is not the reason[33] because they are forbidden [to marry a brother's wife]![34] — No; it is because [the widow] is not subject to the law of halizah and levirate marriage.[35] She is permitted, however, to strangers.[36] and the brothers also are permitted[to marry her]. But, surely, it was stated EVEN! Now were you to admit that [the brothers] are forbidden.[37] one could well justify the expression of EVEN: EVEN IF THE ONE WAS NOT CONCEIVED IN HOLINESS BUT WAS BORN IN HOLINESS. AND THE OTHER WAS BOTH CONCEIVED AND BORN IN HOLINESS, [so that the two might well be regarded] as [the sons of] two mothers,[38] they are nevertheless forbidden; if you maintain, however, that they are permitted,[39] what [can be the purport of] EVEN![40] — Even though the birth of both was in holiness, and people might mistake[41] them for Israelites,[42] [the widow] is nevertheless permitted [to marry a stranger].[43]

Others read: Logical reasoning also supports the view that they are permitted,[39] since the expression EVEN was used. For, if you grant that they are permitted[39] it is quite correct to say EVEN: Even though the birth of both was in holiness and people might mistake[41] them for

Israelites.[42] they are nevertheless permitted;[43] if, however, you maintain that they are for bidden[44] what [can be the purport of] EVEN![45] — EVEN IF THE ONE WAS NOT CONCEIVED IN HOLINESS BUT WAS BORN IN HOLINESS, AND THE OTHER WAS BOTH CONCEIVED AND BORN IN HOLINESS [so that they might well be regarded] as [the sons of] two mothers,[46] they are nevertheless forbidden.

Come and hear: Twin brothers who were proselytes, and similarly if they were emancipated slaves,[47] may neither participate in halizah nor contract levirate marriage, nor are they guilty [of a punishable offence] for [marrying] a brother's wife.[48] If however, they were not conceived in holiness but were born in holiness, they neither participate in halizah nor contract levirate marriage[49] but are guilty [of a punishable offence][50] for [marrying] a brother's wife.[51] If they were both conceived and born in holiness, they are regarded as Israelites in all respects. At all events, it was stated that they are not ‘guilty [of a punishable offence] for [marrying] a brother's wife’; [from which it follows that] no punishable offence is incurred

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(1) This and the following unlikely propositions are merely riddles on the possible complications of consanguinity.

(2) Such a riddle may be put by a daughter who was born as a result of outrage by his father where the son of the man by another wife has subsequently married her mother.

(3) Since, according to R. Judah, marriage is forbidden with a woman one's father had outraged.

(4) V. supra n. 4.

(5) And a son was born from the union. The mother of the child might put such a riddle.

(6) The son born from such a union, since he is the paternal brother of his mother's mother, might be addressed by his mother in the terms of this riddle.

(7) Lit., ‘drawers who draw the bucket’. Men engaged in the irrigation of fields (cf. Rashi and last.); scholars drawing from the fountains of wisdom (cf. Aruk. and Tosaf. s.v. דדלו.

(8) So Aruk. Cur. edd., ‘let it fall among you’.

(9) The son born from this union is the paternal brother of his mother's father.

(10) The idolater's father.

(11) The daughter.

(12) The daughter may describe the idolater as her maternal brother, her natural father and her actual husband. Owing to her cohabitation with his father (the grandfather) he is the son of her husband, while through his cohabitation with her mother he is her mother's husband and she is, of course, the daughter of his wife. The children resulting from the union between her and the grandfather are his (the idolater's) paternal brothers and, of course, the children of his daughter.

(13) V. supra p. 666, n. 4.

(14) אחי may be rendered ‘brothers’, ‘brother and sister’ and ‘sisters’. It sometimes signifies ‘relatives’ or mere ‘friends’.

(15) [MS.M. ‘when his sister’].

(16) So MS.M. Cur. edd., ‘calls’.

(17) The son.

(18) She and the son are brother and sister, being the offspring of the same father. She and his father are brother and sister from the same mother, while she and his mother are sisters both paternally and maternally.

(19) His brother, Reuben, Simeon and Levi, the sons of Jacob and Leah (v. Gen. XXIX, 32ff) are chosen as an illustration of brotherly relationship.

(20) So Bah a.l. wanting in cur. edd.

(21) He and Levi's grandson are the children of two sisters (Reuben's daughters); he and Levi's son (the grandson's father) are children of two brothers (Simeon and Levi), while he and the grandson's mother are children of the two brothers Reuben and Simeon.

(22) Should one of the brothers die without issue.

(23) I.e., before his mother became a proselyte.

(24) After his mother became a proselyte.

(25) A proselyte having the status of a newly born child, all his previous family relationships are dissolved. The prohibition against marriage with a brother's wife does not, therefore, apply.

(26) Between R. Aba and R. Shesheth.
(27) Marriage of a brother's wife in the case of proselytes.
(28) It is well known that their father was no Israelite, and that it is for this reason that the marriage was permitted. No one would assume that they were the sons of the same father, since idolaters' wives were known to be faithless, and, consequently, no one would erroneously infer that proper Israelites may also marry their brother's wives.
(29) Their mother being known, they might he assumed to be lawful brothers and, should marriage of a brother's wife he permitted in their case, an erroneous conclusion (v. supra note 6) might he formed.
(30) R. Aba.
(31) Cf. supra note 6.
(32) V. supra 22a and cf supra note 3.
(33) Of the prohibition. Lit., 'what is the reason'.
(34) The law of the levirate marriage being inapplicable in their case, the prohibition against marrying a brother's wife remains in force. An objection against R. Aha
(35) The Mishnah implying that the brothers are not obliged to perform the religious rites.
(36) Lit., 'to the world'.
(37) Marriage of a brother's wife in the case of proselytes.
(38) Who may marry one another's wives.
(39) To marry each other's wives.
(40) On the contrary; this should be an additional reason for permissibility.
(41) Lit., 'exchange'.
(42) And so permit a deceased brother's wife to marry a stranger without previous halizah.
(43) Because (cf. Rashi) it is known that the duty of levirate marriage and halizah is determined by paternal brotherhood which is inapplicable in the case of a father who was an idolater (cf. supra p. 668, n. 6.) [They, themselves, would however be forbidden to marry each other's widows where they were both born in holiness. It is only with reference to the first clause of our Mishnah that R. Aha stated supra that they were permitted (Rashi)].
(44) To marry each other's wives.
(45) The fact that they were both born in holiness should be an additional reason for the prohibition.
(46) Who may marry one another's wives.
(47) Though, in the case of twins, paternal brotherhood is certain (cf. infra 89a).
(48) V. supra p. 668, n. 3.
(49) Since the duty of levirate marriage and halizah is dependent on paternal brotherhood. Cf. supra p. 669, n. 3.
(50) Kareth.
(51) Whom even a maternal brother is forbidden to marry.

Talmud - Mas. Yevamoth 98a

but that a [Rabbinical] prohibition is 'nevertheless involved![1] — The law, in fact, is that even a [Rabbinical] prohibition is not involved; only, because it was desired to state in the final clause, 'but are guilty [of a punishable offence]', it was stated in the first clause also, 'they are not guilty [of a punishable offence]'.

Raba stated: With reference to the Rabbinical statement that [legally] an Egyptian has no father,[2] it must not be imagined that this is due to [the Egyptians'] excessive indulgence in carnal gratification, owing to which it is not known [who the father was], but that if this were known[3] it is to be taken into consideration;[4] but [the fact is] that even if this is known it is not taken into consideration. For, surely, in respect of twin brothers, who originated in one drop that divided itself into two, it was nevertheless stated in the final clause,[5] that they 'neither participate in halizah nor perform levirate marriage'.[6] Thus it may be inferred that the All Merciful declared their children to be legally fatherless,[7] for [so indeed it is also] written, Whose flesh is as the flesh of asses, and whose issue is like the issue of horses.[8]

Come and hear what R. Jose related: It once happened with the proselyte Niphates[9] that he married the wife of his [deceased][10] maternal brother,[11] and when the case was submitted to the Sages their verdict was that the law of matrimony does not apply to a proselyte. But then, should a proselyte betroth a woman, would also the betrothal be invalid? — Say then rather: The prohibition of a brother's wife does not apply to a proselyte. Now does not [this refer to the case] where his brother[11] had married her while he was a proselyte![12] — No; where he married her while he was still an idolater.[13] But if [betrothal took place] while he was still an idolater, what [need is there] to state it?[14] — It might have been assumed that [in the case of a brother's betrothal] while he is still an idolater a preventive measure should be enacted lest [erroneous conclusions be drawn in the case] where he is a proselyte, hence we were taught [that no such measure was enacted].

Come and hear what Ben Yasyan[15] related: When I went to the coastal towns[16] I came across a certain proselyte who had married the wife of his maternal brother. ‘Who, my son’, I said to him, ‘permitted you [this marriage]?’ ‘Behold’, he replied. ‘the woman and her seven children;[17] on this bench sat R. Akiba when he made two statements: "A proselyte may marry the wife of his maternal brother", and he also stated, "And the word of the Lord came unto Jonah the second time, saying,[18] only a second time did the Shechinah speak to him; a third time the Shechinah did not speak to him."’[19] At any rate, it was stated here that ‘a proselyte may marry the wife of his maternal brother’. Does not [this refer to a case] where his brother married her while he was a proselyte! — No; where he married her while he was still an idolater.[20] What [need then was there] to state [such an obvious law]? — It might have been assumed that [in the case of a brother's betrothal] while he is still an idolater a preventive measure should be enacted lest [erroneous conclusions be drawn in the case] where he is a proselyte. hence we were taught [that no such measure was enacted].

Is he,[21] however, believed? Surely R. Abba stated in the name of R. Huna in the name of Rab: Wherever a scholar gives directions[22] on a point of law and such a point comes up for a practical decision, he is obeyed if he made the statement[23] before the event;[24] but if it was not so made, he is not obeyed![25] — If you wish I might say: The incident occurred after he made his statement. If you prefer, I might say: Because he stated, ‘Behold the woman and her seven children’.[26] And if you prefer I might say: Here it is different[27] because with it he related another incident.[28]

The Master said, ‘And the word of the Lord came to Jonah a second time, saying,[29] only a second time did the Shechinah speak unto him, a third time the Shechinah did not speak to him’. But surely it is written in Scripture, He restored the border of Israel from the entrance of Hamath unto the sea of the Arabah, according to the word of the Lord, which He spoke by the hand of His servant Jonah the son of Amittai, the prophet![30] — Rabina replied: He[31] referred to the affairs of Nineveh.

R. Nahman b. Isaac replied, It is this that was meant:[32] According to the word of the Lord . . . which He spoke by the hand of his servant, the prophet,[33] as his intention towards Nineveh was turned from evil to good, so was his intention towards Israel, in the days of Jeroboam the son of Joash, turned from evil to good.

Come and hear: A proselyte who was born in holiness[34] but was not conceived in holiness[35] has [legally] maternal consanguinity but no paternal consanguinity. For instance:[36] If he married his maternal sister,[37] he must divorce her;[38] if his paternal one, he may retain her.[39] His father's maternal sister he must divorce;[40]

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(1) Lit., ‘guilt there is not but a prohibition there is’. The Rabbis had instituted a preventive measure against the possibility of taking such a marriage as a precedent for allowing similar marriages to proper Israelites. Objection then against R. Aha!

(2) Not only where he became a proselyte himself in which case he is regarded as newly born (v. supra), but even where he was only conceived before his mother became a proselyte and was born subsequently.

(3) If, for instance, his father and mother were confined under lock and key, where it was impossible for any other man to have had intercourse with the woman.

(4) And, if the child was born after his mother had become a proselyte (v. supra p. 670, n. 10), he is to be regarded legally as having a father.

(5) Which speaks of proselytes who were born after their mother had become a proselyte.

(6) Supra 97b end.

(7) Lit., ‘made them free’, ‘ownerless’.

(8) Ezek. XXIII, 20.

(9) Gr. ** So MS.M. Cur. edd. ‘Niphatem’. The suggestion to read Gr.** is rejected by Golds.

(10) V. Rashi, a.l. s.v. דנסבא.

(11) Who was a proselyte.

(12) And yet it was stated that the prohibition of ‘brother's wife’ does not apply.

(13) When his betrothal has no validity; and after he had become a proselyte he no longer cohabited with her.

(14) The law being self-evident.

(15) MS.M., ‘R. Jose b. Yasin’.

(16) Mercantile ports (Jast.).

(17) Proselytes. whom R. Akiba (v. infra) permitted to marry brothers’ wives.

(18) Jonah III, 1.

(19) Mekilta, Bo.

(20) V. supra p. 671, n. 11.

(21) A proselyte in the circumstances of the one who reported R. Akiba's ruling.

(22) Basing his ruling on a tradition he received from his teachers.

(23) In the course of his discourses.

(24) Before the law was required in connection with a practical issue.

(25) Much less should an ordinary proselyte be relied upon in a case in which he himself is involved. v. supra 770.

(26) An incident which had obviously occurred ‘before he made his statement.

(27) From the case of the scholar's ruling spoken of by Rab.

(28) R. Akiba's discourse on Jonah III, 1 while he was sitting on a certain bench. As the one statement could be safely accepted, the other also was accepted.

(29) Jonah III, 1.

(30) II Kings XIV, 25, which shews that He spoke a third time.

(31) R. Akiba, in stating that the Shechinah spoke to him only twice.

(32) By the text of II Kings cited.

(33) Ibid.

(34) I.e., after his mother became a proselyte.

(35) I.e., before his mother became a proselyte.

(36) Lit., ‘how’.

(37) Though she was born while their mother was still an idolatress, and though he, as a proselyte, is regarded as a newly born child.

(38) As a preventive measure against the possibility of marrying a sister, who like himself was born after their mother's conversion. Such a marriage, since brother and sister were born ‘in holiness’, is punishable by kareth.

(39) No preventive measure in this case is necessary, since, a proselyte having legally no father, any daughter that may be begotten by his father, even after his conversion, would not be legally his sister.

(40) A preventive measure against marriage with his own maternal sister. Cf. supra n. 13.

Talmud - Mas. Yevamoth 98b

his paternal one he may retain. His mother's maternal sister he must divorce. As to her paternal sister, R. Meir said: He must divorce her,[1] and the Sages said: He may retain her;[2] R. Meir maintaining that any woman forbidden on account of maternal consanguinity must be divorced, but if on account of paternal consanguinity he may retain her. He is also permitted [to marry] his brother's wife,[3] and the wife of his father's brother. All other forbidden relatives are also permitted to him, including his father's wife. If [a proselyte][4] married a woman and her daughter[5] she may[6] retain[7] one, but must release the other.[8] In the first instance he may not marry[7] her.[9] If his wife died, he is permitted to marry his mother-in-law. Another opinion is that he is forbidden to marry his mother-in-law.[10] At all events, it was here stated that he is ‘permitted [to marry] his brother's wife’; does not [this apply to a woman] whom his brother had married while he was a proselyte! — No; where he married her while he was still an idolater. What [need was there] to state it?[11] — It might have been assumed that [in the case of a brother's marriage] while he was still an idolater a preventive measure[12] should be enacted to preclude [the same thing being done] where he is already a proselyte, hence were we taught [that in such a case a brother's wife was permitted].

The Master stated, ‘If [a proselyte] married a woman and her daughter, he may retain one but must release the other; in the first instance he may not marry her’. Now, if he must even release her, is there any need [to speak of a prohibition to marry her] from the outset?[13] — It refers to a previous clause,[14] and the meaning is this: That [woman]. concerning whom the Rabbis ruled that he[15] may retain her,[16] may nevertheless not be married by him from the outset.

‘If his wife died he is permitted to marry his mother-in-law. Another opinion is that he is forbidden to marry his mother-inlaw’. One is in agreement with R. Ishmael and the other is in agreement with R. Akiba. He who forbade the marriage agrees with R. Ishmael who stated: A man's mother-in-law after [his wife's] death retains the former prohibitions;[17] and in respect of a proselyte a preventive measure was enacted.[18] He, however, who permits the marriage follows R. Akiba who stated that the prohibition [to marry] one's mother-in-law is weakened after [one's wife's] death;[19] and, consequently, no preventive measure has been enacted by the Rabbis in respect of a proselyte.

MISHNAH. IF THE [MALE] CHILDREN OF FIVE WOMEN WERE MIXED UP[20] AND, WHEN THESE INTERCHANGED CHILDREN GREW UP, THEY TOOK WIVES AND THEN DIED, FOUR[21] SUBMIT TO HALIZAH FROM ONE [OF THE WIDOWS][22] AND ONE[23] CONTRACTS WITH HER THE LEVIRATE MARRIAGE.[24] [THEN] HE[25] AND THREE [BROTHERS][21] SUBMIT TO HALIZAH FROM ONE [OTHER OF THE WIDOWS]. AND ONE[26] CONTRACTS WITH HER[27] THE LEVIRATE MARRIAGE.[28] THUS[29] EVERY ONE [OF THE WIDOWS] PERFORMS HALIZAH FOUR TIMES AND CONTRACTS THE LEVIRATE MARRIAGE ONCE.

GEMARA. Only the halizah [must take place[30] first] and the levirate marriage afterwards; the levirate marriage, however, must not take place first, since, thereby, one[31] might infringe the prohibition against a sister-in-law's marriage with a stranger.[32]

What [was the object of the statement], HE AND THREE [BROTHERS] SUBMIT TO HALIZAH FROM ONE [OTHER OF THE WIDOWS]?[33] — That it be not suggested that one brother only should contract levirate marriage with all of them. Rather let every brother contract levirate marriage with only one [of the widows], when it is possible his own [sister-in-law] might happen to fall to his lot.

Our Rabbis taught:[34] ‘If some of them[35] were brothers[36] and some were no brothers,[36] the brothers submit to halizah while those who are no brothers contract the levirate marriage.’ What does this exactly mean? — R. Safra replied. It is this that is meant: If some of them[35] were paternal brothers[36] and some were [also] maternal brothers,[37] the maternal brothers submit to halizah[38] and the paternal brothers may [also] contract levirate marriage.[39] ‘If some of them[40] were priests and some were non-priests, the priests submit to halizah[41] and those who are non-priests may [also] contract levirate marriage. If some of them[42] were priests and some maternal brothers, the former as well as the latter submit to halizah but may not contract levirate marriage.’[43]

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(1) The reason is given presently.

(2) No preventive measure being necessary in such a case which is quite unlike that of a maternal sister.
(3) Cur. edd. insert ‘from his mother’ which is to be deleted with Bah a.l. The proselyte is, in fact, permitted to marry the wife of his paternal brother as well as the wife of his maternal brother if the latter was born before the conversion. A preventive measure (cf. supra p. 673, n. 13) was not instituted in the case of a relationship which is not due to consanguinity but is dependent on betrothal.
(4) Before his conversion. One born ‘in holiness’ is forbidden to marry a mother and her daughter.
(5) Who were also converted.
(6) After his conversion.
(7) Lit., ‘bring in’, sc. to his home.
(8) This is a preventive measure against marriage with an Israelitish mother and daughter.
(9) This sentence is explained infra.
(10) V. Sanh., Sonc. ed., p. 394. notes.
(11) The law being so obvious.
(12) Forbidding his wife to his brother.
(13) Why, then, was the superfluous clause, ‘In the first instance he may not marry her’, inserted.
(14) Lit., ‘there he stands’.
(15) The proselyte.
(16) E.g., his paternal sister.
(17) V. supra 94b, Sanh. 76b.
(18) To prevent such a marriage in the case of an Israelite.
(19) It is no longer punishable by the severe penalty of burning. v. supra 94b.
(20) And each woman had also another son who was not involved in the confusion.
(21) Of the five brothers who were not mixed up with these. V. supra note 6.
(22) Since everyone of them might be her brother-in-law.
(23) Of the five brothers (v. supra n. 7) i.e., the fifth who had not submitted to halizah.
(24) As four brothers have, by their halizah, severed their levirate bond with the widow mentioned, the fifth may marry her either as her brother-in-law (in case it was his brother who was her husband) or as a stranger (if her husband was a brother of one of the four who had now set her free).
(25) The brother who contracted the levirate marriage.
(26) Of the brothers (v. supra n. 7) who had submitted to halizah from the first widow.
(27) The second widow.
(28) For reasons similar to those explained supra n. 10.
(29) Lit., ‘it is found’. The same procedure being followed in respect of all the five widows.
(30) In our Mishnah, in respect of every widow.
(31) Should a brother happen to marry the widow who was not the wife of his deceased brother.
(32) Lit., ‘for he met a sister-in-law for the market’.
(33) The same brother who contracted the first levirate marriage is, surely, entitled to contract similar marriages with all the widows, as soon as the other four brothers had submitted to their halizah.
(34) So Bah. Cur. edd. omit.
(35) Of the brothers who were not involved in the confusion.
(36) Of those who were mixed up and are now dead.
(37) I.e., paternal brother to one and maternal brother to another.
(38) Thereby setting free the widows of their paternal brothers. They may not contract levirate marriage even after the widows had performed halizah with all the other brothers, since, should one of them happen to marry the widow of his maternal brother, he would thereby incur the penalty of kareth.
(39) With any of the widow's, after each of the other brothers had submitted to her halizah.
(40) of the brothers who were not involved in the confusion.
(41) The levirate marriage is forbidden to them because any one of them might happen to marry the widow who was not a sister-in-law to him but to one of the other brothers. and who, by the halizah with her brother-in-law, has become a haluzah whom a priest is forbidden to marry.
(42) Of the brothers who were not involved in the confusion.
(43) Tosef. Yeb. XII. Cf. supra p. 676. n. 9 (re maternal brothers) and supra n. 1 (re priests).

Talmud - Mas. Yevamoth 99a

Our Rabbis taught: A man must sometimes submit to halizah from his mother[1] owing to an uncertainty; from his sister, owing to an uncertainty: and from his daughter, owing to an uncertainty'. For instance?[2] If his mother and another woman had two male children, and then gave birth to two male children[3] in a hiding place;[4] and a son[5] of the one mother[6] married the mother[7] of the other son while the son[8] of the other mother[6] married the mother of the first, and both[9] died without issue, the one[10] must submit to halizah from both women[11] and the other[10] must submit to halizah from both women.[11] Thus it follows that each submits to halizah from his mother owing to an uncertainty. 'From his sister. owing to an uncertainty'; for instance?[2] When his mother and another woman gave birth to two female children[12] In a hiding place,[13] and their brothers[14] who were not from the same mother[15] married them[16] and died without issue, he[17] must submit to halizah from both widows.[18] Thus it follows that a man submits to halizah from his sister owing to an uncertainty. 'From his daughter, owing to an uncertainty'; for instance?[19] When his wife and another woman gave birth to two female children[20] in a hiding place,[21] and their[22] [husbands'] brothers[23] married them[16] and died without issue, the one [father][24] submits to halizah from his daughter[25] owing to the uncertainty and the other [father][24] submits to halizah from his daughter[25] owing to the uncertainty.[26]

It was taught: R. Meir said, A husband and wife may sometimes produce five different castes.[27] How? If an Israelite bought a bondman and a bondwoman in the market, and these had two sons[28] one of whom became a proselyte, the result is that one is a proselyte and the other is an idolater.[29] If [subsequently] he made them[30] perform the prescribed immersion for the purpose of slavery and then they cohabited with one another [and bore a son], behold here we have a proselyte, an idolater and a slave.[31] If he subsequently emancipated the bondwoman[32] and the slave cohabited with her [and had another son], behold here[33] we have a proselyte, an idolater, a slave and a bastard.[34] If he then emancipated both of them[30] and made them marry one another, behold here[35] we have a proselyte, an idolater, a slave, a bastard and an Israelite.[36] What does this teach us? — That when an idolater or a slave cohabits with an Israelitish woman their child is a bastard.[37]

Our Rabbis taught: Sometimes a man sells his father to enable his mother to collect her kethubah. How? If an Israelite bought in the market a bondman and a bondwoman who had a son,[38] and having emancipated the bondwoman he married her and bequeathed, in writing, all his estate to her son, the result is that this son[39] sells his father[40] in order to enable his mother[41] to collect her kethubah.[42] What does this teach us? — That all this [Baraitha[43] represents the views of] R. Meir. and that a slave [is regarded as] movable property, such property being mortgaged for a kethubah![44]

And if you prefer I might say. It is this that we were taught: A slave [is on the same footing as] real estate.[45]

MISHNAH. IF THE CHILD OF A WOMAN WAS INTERCHANGED WITH THE CHILD OF HER DAUGHTER-IN-LAW. AND WHEN THE INTERCHANGED CHILDREN GREW UP THEY TOOK WIVES AND THEN DIED,[46] THE [OTHER] SONS OF THE DAUGHTER-IN-LAW[47] SUBMIT TO HALIZAH[48] BUT MAY NOT CONTRACT LEVIRATE MARRIAGE.[49] FOR [IN THE CASE OF EACH WIDOW AND BROTHER] IT IS UNCERTAIN WHETHER SHE IS THE WIFE OF HIS BROTHER[50] OF THE WIFE OF HIS FATHER'S BROTHER.[51] THE [OTHER] SONS OF THE GRANDMOTHER[52] EITHER SUBMIT TO HALIZAH[53] OR CONTRACT LEVIRATE MARRIAGE,[54] SINCE [IN THE CASE OF EACH WIDOW AND BROTHER] THE ONLY DOUBT IS WHETHER SHE IS THE WIFE OF HIS BROTHER[55] OR THE WIFE OF HIS BROTHER'S SON.[55] IF THE UNTAINTED SONS[56] DIED,[57] THEN THE INTERCHANGED SONS SUBMIT [IN RESPECT OF THE WIDOWS] OF

THE SONS OF THE GRANDMOTHER TO HALIZAH BUT MUST NOT CONTRACT[54] THE LEVIRATE MARRIAGE. SINCE [IN THE CASE OF EACH WIDOW AND BROTHER] IT IS UNCERTAIN WHETHER SHE IS THE WIFE OF HIS BROTHER[55] OR THE WIFE OF HIS FATHER'S BROTHER;[58] [WHILE IN RESPECT OF THE WIDOWS] OF THE SONS OF THE DAUGHTER-IN- LAW ONE[59] SUBMITS TO HALIZAH[60] AND THE OTHER[59] [MAY ALSO] CONTRACT THE LEVIRATE MARRIAGE.[61]

IF THE CHILD OF A PRIEST'S WIFE WAS INTERCHANGED WITH THE CHILD OF HER BONDWOMAN, BEHOLD BOTH MAY EAT TERUMAH[62] AND RECEIVE ONE SHARE AT THE THRESHINGFLOOR[63]

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(1) Though she belongs to one of the fifteen classes of relatives (supra 2a) who are themselves exempt from the levirate marriage and halizah and who also exempt their rivals from these obligations.

(2) Lit., ‘how’.

(3) One child each, he being one of them.

(4) Where the women were sheltering from some enemy and where, owing to the confusion or the darkness of the place, the children were interchanged and it was impossible for either mother to ascertain which was her own child.

(5) Concerning whose motherhood no doubt existed.

(6) And her ‘first husband.

(7) Her husband having died.

(8) Concerning whose motherhood no doubt existed.

(9) These sons, each of whom is paternal as well as maternal brother of one of the interchanged sons.

(10) Of the interchanged, as brother to one of the deceased. V. supra n. 12.

(11) It being unknown which of them is] his mother who is exempt from halizah, he must submit to halizah from the two, one of whom is certainly a stranger to him and subject to his halizah.

(12) Each woman to one child.

(13) V. supra note 7.

(14) The paternal brothers of each of the girls’ maternal brothers. [Rashi, basing himself on the Tosef. (Yeb. XII) from where the passage is taken, reads: And (his) two paternal brothers married them].

(15) But from a former wife of their father, and who are consequently perfect strangers to the girls and their mothers.

(16) The girls.

(17) The maternal brother of one of the girls, who is the paternal brother of both the deceased.

(18) V. supra p. 677. n. 14, mutatis mutandis.

(19) Lit., ‘how’.

(20) Each woman to one child.

(21) V. supra p. 677, n. 7.

(22) The mothers’.

(23) Two brothers, of the one husband or two of the other. An uncle is permitted to marry his niece.

(24) If the interchanged girls were married by his brothers.

(25) V. supra p. 677. n. 14. mutatis mutandis

(26) Tosef. Yeb. XII.

(27) Lit., ‘nations’.

(28) Who are regarded as idolaters but not as slaves. Cf. supra 46a.

(29) Though the sons of the same father and mother.

(30) The slaves he bought.

(31) The son of the slave of an Israelite has the status of a slave. Cf. supra 462.

(32) Who thereby gains the status of an Israelitish woman.

(33) Though sons of the same father and mother.

(34) Being the result of a union between an Israelitish woman (v. supra n. 18) and a slave.

(35) Though sons of the same father and mother.

(36) Tosef. Kid. V; the issue of a union between emancipated slaves has the status of an Israelite.

(37) Cf. supra 16b. 450. Kid. 70a.

(38) Whom he did not buy.
(39) When the Israelite dies.
(40) The slave who forms a part of the Israelite's estate.
(41) Who claims her kethubah from the estate of her deceased husband.
(42) Tosef. Kid. V.
(43) The section dealing with the sale of one's father just cited, as well as the section relating to the five castes cited above.
(44) A view expressed by R. Meir in Keth. 80b.
(45) Which, all agree, is mortgaged for the kethubah.
(46) Without issue.
(47) In respect of whom her motherhood was never in doubt.
(48) From the widows of the deceased.
(49) With the widows.
(50) With whom either halizah or levirate marriage is permitted.
(51) Whom one is forbidden to marry.
(52) In respect of whom her motherhood was never in doubt.
(53) From the widows of the deceased.
(54) With the widows.
(55) With whom either halizah or levirate marriage is permitted.
(56) I.e., those who were never involved in the interchange.
(57) Without issue.
(58) Whom one is forbidden to marry.
(59) Of the two interchanged sons.
(60) From either of the widows. He may not, however, contract levirate marriage since in respect of each widow it might be assumed that she was not his, but the other's brother's wife, and that she is consequently forbidden to him or to anyone else before the other had submitted to her halizah.
(61) For if the widow was his brother's wife he is obviously entitled to marry her, and if she was his brother's son's wife he may also marry her since her deceased husband's brother had already submitted to her halizah and had thereby set her free to marry even a stranger.
(62) A priest's slave also being allowed to eat terumah.
(63) This is explained infra.

Talmud - Mas. Yevamoth 99b

THEY MAY NOT DEFILE THEMSELVES FOR THE DEAD[1] NOR MAY THEY MARRY ANY WOMEN WHETHER THESE ARE ELIGIBLE [FOR MARRIAGE WITH A PRIEST][2] OR INELIGIBLE.[3] IF WHEN THEY[4] GREW UP, THE INTERCHANGED CHILDREN EMANCIPATED ONE ANOTHER THEY MAY MARRY WOMEN WHO ARE ELIGIBLE FOR MARRIAGE WITH A PRIEST[5] AND THEY MAY NOT DEFILE THEMSELVES FOR THE DEAD.[6] IF, HOWEVER, THEY DEFILED THEMSELVES, THE PENALTY OF FORTY STRIPES[7] IS NOT INFLICTED UPON THEM.[8] THEY MAY NOT EAT TERUMAH,[9] BUT IF THEY DID EAT THEY NEED NOT PAY COMPENSATION EITHER FOR THE PRINCIPAL OR [THE ADDITIONAL] FIFTH.[10] THEY ARE NOT TO RECEIVE A SHARE[11] AT THE THRESHING-FLOOR, BUT THEY MAY SELL [THEIR OWN] TERUMAH[12] AND THE PROCEEDS ARE THEIRS.[13] THEY RECEIVE NO SHARE IN THE CONSECRATED THINGS OF THE TEMPLE,[14] AND NO CONSECRATED THINGS[15] ARE GIVEN TO THEM. BUT THEY ARE NOT DEPRIVED OF THEIR OWN.[13] THEY ARE EXEMPT FROM [GIVING TO ANY PRIEST] THE SHOULDER, THE CHEEKS AND THE MAW,[16] WHILE THE FIRSTLING OF EITHER OF THEM MUST REMAIN IN THE PASTURE[13] UNTIL IT CONTRACTS A BLEMISH.[17] THE RESTRICTIONS RELATING TO PRIESTS AND THE RESTRICTIONS RELATING TO ISRAELITES ARE BOTH IMPOSED UPON THEM.[18]

GEMARA. IF THE UNTAINTED SONS DIED etc.; are, then, the others,[19] because they were mixed up, tainted! — R. Papa replied: Read, ‘If those [whose parentage was] certain died’.

[IN RESPECT, HOWEVER, OF THE WIDOWS] OF THE SONS OF THE DAUGHTER-IN-LAW ONE SUBMITS TO HALIZAH etc. Only halizah [must take place first] and the levirate marriage afterwards. The levirate marriage, however, must not take place first; since thereby one might infringe the prohibition against a sister-in-law's marriage with a stranger.[20]

[IF THE CHILD OF] A PRIEST'S WIFE WAS INTERCHANGED etc. Obviously only ONE SHARE![21] — Read ‘ONE SHARE together’.[22] Here we learn [a thing] which is in agreement with him who ruled that no share of terumah is given to a slave unless his master is with him.[23] For it was taught: No share in terumah is given to a slave unless his master is with him; so R. Judah. R. Jose, however, ruled: The slave[24] may claim, ‘If I am a priest, give me for my own sake; and if I am a priest's slave, give me for the sake of my master’. In the place of R. Judah,[men of doubtful status] were raised to the status of priesthood[25] [on the evidence that they received a share] of terumah.[26] In the place of R. Jose, however, no one was raised to the status of priesthood [on the evidence of having received a share] of terumah.[27]

It was taught: R. Eleazar b. Zadok said, ‘During the whole of my lifetime I have given evidence but once, and through my statement they raised a slave to the priesthood’. ‘They raised’? Is [such an error] conceivable! If through the beasts of the righteous the Holy One, blessed be He, does not cause an offence to be committed, how much less through the righteous themselves! — Rather, read. ‘They desired to raise a slave to the priesthood, through my statement’. He witnessed [the occurrence][28] in the place of R. Jose. but went and tendered his evidence in the place of R. Judah.[29]

Our Rabbis taught: Ten [classes of people] must not be given a share of terumah at the threshing-floors. They are the following: The deaf,[30] the imbecile, the minor, the tumtum,[31] the hermaphrodite the slave, the woman,[32] the uncircumcised,[33] the levitically unclean, and he who married a woman who is unsuitable for him.[34] In the case of all these, however, [terumah] may be sent to their houses, with the exception[35] of the one who is levitically unclean and one who married a woman who is unsuitable for him.[36] Now, one can well understand [the prohibition[37] in respect of] the deaf, the imbecile and the minor, since they lack intelligence;[38] [in respect of] the tumtum and the hermaphrodite also,[39]

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(1) Since either of them might be assumed to be the priest (cf. Lev. XXI, 1).

(2) Since such women are forbidden to the slave.

(3) A bondswoman, for instance, who is forbidden to the priest.

(4) The son of the priest and the slave who were interchanged.

(5) Any freed man may marry such a woman.

(6) V. p. 680, n. 13.

(7) ‘Forty’ is a round number for the penalty of flogging which in fact consisted of thirty-nine stripes only.

(8) Because each of them can plead that he is not the priest.

(9) On account of the slave who, being now a freed man, is, like any Israelite, forbidden to eat terumah.

(10) Which an Israelite must pay (cf. Lev. XXII, 14). Each one of them can plead that he is the priest.

(11) In terumah. Cf supra n. 5’

(12) Of their own produce.

(13) No priest can claim it from either of them since each can reply that it is he who is the priest.

(14) Not even a share in the skins of the sacrifices.

(15) Firstlings, for instance, or herem (v. Glos.). Cf. Num. XVIII, 14f.

(16) Priestly gifts prescribed in Deut. XVIII, 3.

(17) When it is unfit for the altar, and may be eaten by its owner. The reason why an Israelite owner may not eat of the flesh of his firstling, even after it has contracted a blemish, is not because of its sanctity but because its consumption by a non-priest is regarded as robbing the priests. No such consideration arises in a case where the owner can claim that he himself is a priest. (Cf. supra note 9).

(18) MS.M. and cur. edd. infra 100a. The reading here is ‘upon him’.

(19) Lit., ‘those’.

(20) Lit., ‘because he met a sister-in-law for the market’.

(21) Since no more than one of them can lay claim to the priesthood. Why then was the obvious stated?

(22) Only when the two come together do they receive one share. One without the other receives nothing. The reason is given infra.

(23) As one of the two is obviously a slave neither of them can claim a share unless the other is with him.

(24) In circumstances like those spoken of in our Mishnah, where it is uncertain whether he is a slave or a priest.

(25) Lit., ‘genealogical (priestly) records’, enabling them to marry women of unblemished and priestly descent. V. Keth,, Sonc. ed., p. 233, n. 4.

(26) Hence no terumah must be given to a slave in the absence of his master.

(27) Tosef. Yeb. Xli, Keth. 28b.

(28) That a slave received a share of terumah.

(29) Cf. Keth., Sonc., ed., p. 156. notes.

(30) Deaf-mute.

(31) V. Glos.

(32) A priest's wife.

(33) A priest whose brothers died as a result of their circumcision, and who, owing to the fatal effect of such an operation on members of his family, is himself exempt from circumcision.

(34) I.e., one whom a priest is forbidden to marry.

(35) The uncircumcised priest is not excluded since his wives and slaves, though not he himself, are permitted to eat terumah.

(36) Tosef. Ter. X end.

(37) To give him a share of terumah at the threshing-floor.

(38) It would be a mark of disrespect were the sacred terumah to be entrusted to the care of persons who are mentally defective, or undeveloped, or in any other way below the normal standard of intellectual or physical fitness.

(39) One can understand the reason for the prohibition.

Talmud - Mas. Yevamoth 100a

since either of them is a peculiar creature; the slave, too, because owing to the terumah[1] he might be raised to the priesthood;[2] the uncircumcised and the unclean also, owing to their repulsiveness; and the priest who married a woman unsuitable for him, as a penalty. But why should not a woman [be given a share of terumah]? — On this question R. Papa and R. Huna son of R. Joshua differ. One explains: Owing [to possible abuse by] a divorced woman;[3] and the other explains: Owing to [the necessity of avoiding] privacy between the sexes.[4] What is the practical difference between them? — The practical difference between them is the case of a threshing-floor that is near a town but is unfrequented by people,[5] or one that is distant [from a town] but frequented by people.[6]

‘In the case of all these, however, [terumah] may be sent to their houses, with the exception of the one who is levitically unclean and one who married a woman who is unsuitable for him’. [May terumah], then, be sent to the uncircumcised?[7] What is the reason! [Is it] because he is a victim of circumstances? The man who is levitically unclean is also a victim of circumstances![8] — The force of circumstances in the former case is great;[9] in the latter, the force is not so great.[10]

Our Rabbis taught: Neither to a slave nor to a woman may a share in terumah be given at the threshing-floors. In places, however, where a share is given. It is to be given to the woman first, and she is immediately dismissed. What can this mean?[11] — It is this that was meant: The[12] poor mans tithe which is distributed at home[13] is to be given to the woman first.[14] What is the reason? — That the degradation [of the woman may be avoided].[15]

Raba said: Formerly, when a man and a woman[16] came before me for a legal decision, I used to dispose of the man's lawsuit first, because I thought a man is subject to the fulfilment of all the commandments;[17] since, however, I heard this,[18] I dispose of a woman's lawsuit first. Why? In order [to save her from] degradation.[19]

IF WHEN THEY GREW UP, THE INTERCHANGED CHILDREN etc. [It states] THEY EMANCIPATED. [Implying] only[20] if they wished, but if they did not wish they need not [emancipate one another]! But why? Neither of them could marry either a bondwoman[21] or a free woman![22] Raba replied: Read: Pressure is brought to bear upon them so that they emancipate one another.

THE RESTRICTIONS . . . ARE IMPOSED UPON THEM. In what respect?[23] — R. Papa replied: In respect of their meal-offering. A handful[24] must be taken from it,[25] as of a meal-offering of an Israelite, but it may not be eaten,[26] as is the case with a meal-offering of the priests.[27] But how [is one to proceed]? The handful is offered up separately and the remnants are also offered up separately. But [surely] there is to be applied here the Scriptural deduction that any offering a portion of which had been put on the fire of the altar[28] is subject to the prohibition you shall not burn![29] — R. Judah son of R. Simeon b. Pazzi replied: They are burned as wood,[30] in accordance with a ruling of R. Eleazar. For it was taught: R. Eleazar said, For it sweet savour[31] you may not offer them;[32] you may offer them, however, as mere[30] wood.[33] This is satisfactory according to R. Eleazar, what, however, can be said according to the Rabbis?[34] — One proceeds in accordance with a ruling of R. Eleazar son of R. Simeon. For it was taught: R. Eleazar son of R. Simeon said: The handful is offered up separately and the remnants are scattered over the enclosure of the sacrificial ashes.[35] And even the Rabbis differ from R. Eleazar only in respect of a priestly sinner's meal-offering which is suitable for offering up;[36] but here,[37] even the Rabbis agree.[38]

MISHNAH. IF A WOMAN DID NOT WAIT THREE MONTHS AFTER [SEPARATION[39] FROM] HER HUSBAND, AND MARRIED AGAIN AND GAVE BIRTH [TO A SON], AND IT IS UNKNOWN WHETHER IT IS A NINE-MONTHS CHILD BY THE FIRST HUSBAND OR A SEVEN-MONTHS CHILD BY THE SECOND, IF SHE HAD OTHER SONS BY THE FIRST HUSBAND AND OTHER SONS BY THE SECOND, THESE MUST SUBMIT TO HALIZAH[40] BUT MAY NOT CONTRACT WITH HER LEVIRATE MARRIAGE.[41] AND HE, IN RESPECT OF THEIR WIDOWS,[42] LIKEWISE, SUBMITS TO HALIZAH[43] BUT MAY NOT CONTRACT LEVIRATE MARRIAGE.[44]

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(1) Which he receives.

(2) As was explained supra.

(3) Who might, after her divorce when she is no more permitted to eat terumah. continue to collect it.

(4) Yihud, v. Glos. Cf. supra 86a.

(5) No preventive measure against (a) abuse by a divorced woman is here necessary, since the proximity of the threshing-floor to the town enables its owner to keep in touch with social events in the town. The precautions, however, against (b) privacy, owing to the loneliness of the floor, cannot be neglected.

(6) Cf. supra note 1 mutatis mutandis; (b) has to, but (a) need not be disregarded.

(7) Since he is not included in the exceptions. Cf. supra p. 683, n. 8.

(8) If the latter was not excluded why then was the former?

(9) The uncircumcised cannot help the infirmity of the constitution of the members of his family. It is not through any fault of his that he must remain uncircumcised (v. supra p. 683, n. 6).

(10) By the exercise of due care uncleanness might be avoided.

(11) In the first sentence it was stated that a woman receives no share; and in the following it is tacitly assumed that in certain places she does receive a share!

(12) C;f. Bah. Cur. edd. read, ‘Where the poor man's tithe is distributed’.

(13) In town.
(14) Though privacy between the sexes need not be apprehended there.
(15) It is degrading for a woman to have to wait her turn in a crowd of men.
(16) With different law suits.
(17) While a woman is exempt from certain commandments. Hence it is the man that should receive precedence.
(18) The reason why a woman should be given her share of the poor man's tithe first.
(19) Cf. supra p. 684. n. 11.
(20) Lit., ‘yes’.
(21) Owing to the priest.
(22) Since one of them is a slave. How, then, could they ever fulfil the religious duty of propagation which is incumbent upon all?
(23) Lit., for what law’.
(24) V. Lev. II, 2.
(25) Since he might be the Israelite.
(26) As he might also be the priest.
(27) V. Lev. VI, 16.
(28) As was the case here where the handful was offered up.
(29) Lev. II. Once the prescribed portion of an offering had been duly offered up on the altar the remnants of that offering may no longer be burned in the altar. Cf. Zeb 77a. How then could the remnants of the meal-offering be offered up when a portion of the offering (the handful) is also offered up.
(30) Not as an offering.
(31) Lev II, 12.
(32) V. supra note 13.
(33) Yoma 47b, Sot. 23a, Zeb. 76b, Men. 106b.
(34) Who do not permit the offering of the remnants on the altar even as wood.
(35) בית הדשן Sot. 23a, Men. 74a. A place near the altar, where a certain portion of the ashes of the altar was deposited.
(36) In its entirety, as is the case with a priest's voluntary meal-offering.
(37) Where there is the possibility that it is not the offering of a priest at all.
(38) That the remnants are to be scattered in the enclosure of the ashes. V. Sot., Sonc ed., p. 116, notes.
(39) By her hushand's death or by divorce.
(40) From the widow of the son whose father is unknown, if he died childless.
(41) Since it is possible that they are only the maternal brothers of the deceased, whose widow is forbidden to them under the penalty of kareth.
(42) Lit., ‘to them’.
(43) From their widows, if they died without issue.
(44) Cf. supra n. 8 mutatis mutandis.

Talmud - Mas. Yevamoth 100b

IF HE[1] HAD BROTHERS BY THE FIRST[2] AND ALSO BROTHERS BY THE SECOND,[2] BUT NOT BY THE SAME MOTHER, HE[1] MAY EITHER SUBMIT TO HALIZAH OR CONTRACT THE LEVIRATE MARRIAGE,[3] BUT AS FOR THEM, ONE[4] SUBMITS TO HALIZAH[5] AND THE OTHER MAY [THEN] CONTRACT LEVIRATE MARRIAGE.[6]

IF ONE OF [THE TWO HUSBANDS] WAS AN ISRAELITE AND THE OTHER A PRIEST, HE[7] MAY ONLY MARRY A WOMAN WHO IS ELIGIBLE TO MARRY A PRIEST.[8] HE[7] MAY NOT DEFILE HIMSELF FOR THE DEAD,[8] BUT IF HE DID DEFILE HIMSELF HE DOES NOT SUFFER THE PENALTY OF FORTY STRIPES.[9] HE MAY NOT EAT TERUMAH,[9] BUT IF HE DID EAT HE NEED NOT PAY COMPENSATION EITHER FOR THE PRINCIPAL OR [FOR THE ADDITIONAL] FIFTH.[10] HE DOES NOT RECEIVE A SHARE[11] AT THE THRESHING-FLOOR, BUT HE MAY SELL [HIS OWN] TERUMAH[12] AND THE PROCEEDS

ARE HIS.[13] HE RECEIVES NO SHARE IN THE CONSECRATED THINGS OF THE TEMPLE,[14] NO CONSECRATED THINGS ARE GIVEN TO HIM,[15] BUT HE IS NOT DEPRIVED OF HIS OWN.[13] HE IS EXEMPT FROM [GIVING TO ANY PRIEST] THE SHOULDER, THE CHEEKS AND THE MAW,[16] WHILE HIS FIRSTLING MUST REMAIN IN THE PASTURE[17] UNTIL IT CONTRACTS A BLEMISH.[18] THE RESTRICTIONS RELATING TO PRIESTS AND THE RESTRICTIONS RELATING TO ISRAELITES ARE IMPOSED UPON HIM.

IF THE TWO [HUSBANDS] WERE PRIESTS, HE[7] MUST MOURN AS ONAN[19] FOR THEM[20] AND THEY MUST MOURN AS ONENIM[21] FOR HIM,[22] BUT HE MAY NOT DEFILE HIMSELF FOR THEM,[23] NOR MAY THEY DEFILE THEMSELVES FOR HIM.[23] HE MAY NOT INHERIT FROM THEM,[24] BUT THEY MAY INHERIT FROM HIM.[25] HE IS EXONERATED[26] IF HE STRIKES OR CURSES[27] THE ONE OR THE OTHER. HE GOES UP [TO SERVE] IN THE MISHMAR[28] OF THE ONE AS WELL AS OF THE OTHER,[29] BUT HE DOES NOT RECEIVE A SHARE [IN THE OFFERINGS].[30] IF, HOWEVER BOTH SERVED IN THE SAME MISHMAR,[28] HE RECEIVES A SINGLE PORTION.[31]

GEMARA. Only the halizah [must take place first][32] and the levirate marriage afterwards; the levirate marriage, however, must not take place first, since, thereby, one[33] might infringe the prohibition against the marriage of a sister-in-law with a stranger.[34]

Samuel said: If ten priests stood together and one of them separated [from the company] and cohabited [with a feme sole]. the child [that may result from the union][35] is a shethuki.[28] In what [respect is he] a shethuki? If it be suggested that he is silenced[36] [when he claims a share] of his father's estate, [is not this, it may be retorted] self-evident? Do we know who is his father! — Rather,[37] he is silenced [if he claims any] of the rights of priesthood.[38] What is the reason? — Scripture stated, And it shall be unto him, and to his seed after him,[39] it is, therefore, required that ‘his seed’ shall be traced to ‘him’,[40] but this is not the case here.[41]

R. Papa demurred: If that is so in the case of Abraham where it is written, To be a God to thee and to thy seed after thee,[42] what does the All Merciful exhort him thereby![43] — It is this that he said to him: Marry not an idolatress or a bondwoman so that your seed shall not be ascribed to her.[44]

An objection was raised: The first[45] is fit to be a High Priest.[46] But, surely, it is required that a priest's child shall be traced to his father,[47] which is not the case here![48] — [The requirement that] a priest's child shall be traced to his father[49] is a Rabbinical provision. while the Scriptural text is a mere prop;[50] and it is only in respect of prostitution that the Rabbis have made their preventive measure; in respect of marriage, however, no such measure was enacted by them. But did the Rabbis introduce such a preventive measure in the case of prostitution? Surely we learned: IF A WOMAN DID NOT WAIT THREE MONTHS AFTER [SEPARATION FROM] HER HUSBAND, AND MARRIED AGAIN AND GAVE BIRTH [TO A SON]; now, what is meant by AFTER [SEPARATION FROM] HER HUSBAND? If it be suggested: AFTER the death OF HER HUSBAND, read the final clause: HE MUST MOURN AS ONAN FOR THEM AND THEY MUST MOURN AS ONENIM FOR HIM; one can well understand [the circumstances in which] HE MOURNS AS ONAN FOR THEM, such mourning being possible [even in the case] of marriage with the second [husband, on the occasion of the] collecting of the bones of the first.[51] But how is it possible that they MOURN AS ONENIM FOR HIM, when the first husband is dead![52] If, however, [it be suggested that our Mishnah speaks] of a divorced woman, and that the meaning of AFTER [SEPARATION FROM] HER HUSBAND is AFTER the divorce OF HER HUSBAND, then read the final clause: HE MAY NOT DEFILE HIMSELF FOR THEM, NOR MAY THEY DEFILE THEMSELVES FOR HIM; now, one can understand that THEY MAY NOT DEFILE THEMSELVES FOR HIM as a restrictive measure, [since in respect of every one of them it may be assumed that] he is possibly not his son; but why MAY HE NOT DEFlle HIMSELF FOR THEM?

Granted that he must not defile himself for the second;[53] for the first, however, he should be allowed to defile himself in any case! For if he is his son, then he may justly defile himself for him; and if he is the son of the second[54] he may legitimately defile himself for him since he is a halal![55] Consequently [our Mishnah must refer to a case] of prostitution,[56] and the meaning of AFTER [SEPARATION FROM] HER HUSBAND must be, AFTER [SEPARATION FROM] THE MAN WHO IRREGULARLY COHABITED WITH HER;[57] and yet it was stated in the final clause, HE MAY GO UP [TO SERVE] IN THE MISHMAR OF THE ONE AS WELL AS OF THE OTHER. This, then, presents an objection against the ruling of Samuel![58] — R. Shemaia replied: [Our Mishnah refers] to a minor who made a declaration of refusal.[59] But is a minor[60] capable of propagation? Surely R. Bebai recited before R. Nahman: Three categories of women may use an absorbent in their marital intercourse:[61] A minor, an expectant mother, and a nursing wife. The minor,[62] because she[63] might become pregnant and, as a result, she might die. An expectant mother,[62] because she[63] might cause her foetus to degenerate into a sandal.[64] A nursing wife,[62] because she[63] might have to wean her child [prematurely][65] and this would result in his death. And what is the age of such a minor?[66] From the age of eleven years and one day until the age of twelve years and one day. One who is under,[67] or over this age[68] must carry on her marital intercourse in the usual manner. This is the opinion of R. Meir. The Sages, however, said: The one as well as the other carries on her marital intercourse in the usual manner. and mercy will be vouchsafed from heaven,[69] for it is said in the Scriptures, The Lord preserveth the simple![70] — [The case of our Mishnah] is possible with a mistaken betrothal,[71] and on the basis of a ruling of Rab Judah in the name of Samuel. For Rab Judah stated in the name of Samuel in the name of R. Ishmael: And she be not seized[72] [only then[73] is she] forbidden;[74] if, however, she was seized[75] she is permitted;[74] there is, however, another kind of woman who is permitted[74] even if she was not seized.[76] And who is she? — A woman whose betrothal was a mistaken one,[77] who may, even if her son sits riding on her shoulder, make a declaration of refusal [against her husband] and go away.[78]

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(1) The son whose father is unknown.

(2) Husband of his mother.

(3) If there were no other surviving brothers. The widow is either his sister-in-law with whom levirate marriage is lawful, or a stranger with whom he may contract an ordinary marriage.

(4) Either a son of the first, or a son of the second husband.

(5) From the widow of the son whose father is unknown, if he died childless.

(6) Since the widow is either his sister-in-law and the levirate marriage with her is lawful, or she is a stranger and permitted to marry him because her brother-in-law had submitted to her halizah.

(7) The son whose father is unknown.

(8) It being possible that he is the son of the priest.

(9) Since it is possible that he is the son of the Israelite, Cf. also supra p. 681, n. 3.

(10) V. supra p. 681, n. 6 mutatis mutandis.

(11) In terumah.

(12) Separated from his own produce.

(13) V. supra p. 681, n. 9, mutatis mutandis.

(14) V. loc. cit. n. 10. This reading is that of MSS. and the separate editions of the Mishnah. Cur. edd., ‘in the holy of holies’.

(15) V. supra p. 681, n. 11.

(16) Cf. Deut. XVIII, 3.

(17) V. supra p. 681, n. 9.

(18) V. loc. cit. n. 13.

(19) V. Glos.

(20) On the day of their death; since either of them might have been his father.

(21) Plur. of onan.

(22) Cf. supra n. 16 mutatis mutandis.

(23) Since, in the case of either of them, it is not certain that he is the son of the person concerned. V. Lev XXI, 2.

(24) The heirs of the one husband may refer him to those of the other while the heirs of the other may refer him back to the first, since in either case he has no proof that the deceased in question was his father.

(25) If he has no other heirs. As there is no one to dispute their claim, and since the claim of the one is of equal validity with that of the other, the inheritance is divided between the two groups of brothers.

(26) From the death penalty.

(27) V. Ex XXI. 15, 17 and cf. supra p. 687, n. 19.

(28) V. Glos.

(29) And the other priests of the mishmar have no right to prevent him.

(30) Each mishmar may send him to the others.

(31) Since one of the two is certainly his father.

(32) Where HE HAD BROTHERS IN THE FIRST AND . . . SECOND, BUT NOT BY THE SAME MOTHER . . . ONE SUBMITS TO HALIZAH AND THE OTHER MAY [THEN] CONTRACT LEVIRATE MARRIAGE.

(33) Should that brother not he the son of the father of the deceased.

(34) Lit., ‘for he met a sister-in-law for the market’.

(35) Though, as his mother was feme sole, he is no bastard.

(36) Shethuki is derived from שתק which in Pi'el signifies ‘to make silent’.

(37) Though he is undoubtedly a priest, since his father, whoever he may have been, was certainly one of the group of priests.

(38) He is not allowed to take part in the Temple service though eligible to marry a woman of pure stock.

(39) Num. XXV, 13, speaking of the priesthood.

(40) Only such a priest can transmit the rights of priesthood to his seed.

(41) Lit ‘and it is not’. Since the father of the shethuki is unknown he cannot transmit the rights of priesthood to him.

(42) Gen. XVII, 7.

(43) By the expression. Thy seed after thee, which is analogous to that of Num. XXV, 23. but, referring to Israelites and not to priests. could not bear the same exposition,

(44) The child of any such woman is ascribed to his mother and not to his father. Cf. Kid. 68b.

(45) Child born from a levirate marriage that took place within three months after the death of the deceased brother, when it is doubtful whether the child is the offspring of the deceased or of the levir.

(46) Supra 37a.

(47) Lit., ‘that "his seed" shall be traced "to him"’.

(48) Cf. supra n. 7 end.

(49) To be eligible for the rights of priesthood.

(50) Not actual proof.

(51) For the purpose of re-burial. Whenever such collecting takes place, even many years after death, the son must on that day observe the laws relating to an onan (cf. Pes. 91b). Such mourning, therefore, is possible even after the marriage of his mother with her second husband.

(52) Having died, according to the present assumption, before the birth of the son.

(53) Owing to the possibility that he is the son of the first and, consequently, a legitimate priest who is forbidden to defile himself for the corpses of strangers.

(54) Who married his mother while she was a divorced woman.

(55) V. Glos. The child of a union between a priest and a divorced woman is disqualified for the priesthood and may defile himself for the dead.

(56) Where neither of the men had contracted legal marriage with her. Her son, since she has the status of feme sole, has also the status of a legitimate priest who must observe the laws of priestly sanctity, and must not, therefore, defile himself for either of the men. Death and divorce being excluded as factors in the separation of the woman from the first man, it is also possible that the son should he in the position of onan for them and that they should he onenim for him.

(57) בועלה. The consonants בעלה are the same as those of ‘her husband’, בעלה.

(58) Who disqualified such a child for the priesthood. Cf. supra p. 688, n. 15.

(59) V. Glos. s.v. mi'un. Such a minor requires no letter of divorce. It is, therefore, possible for her to be separated from her first husband and yet remain permitted to marry a priest. Her son would consequently be subject to the restrictions spoken of in our Mishnah. Cf. supra p. 690. n. 6.

(60) Lit., ‘a female who refused’.

(61) To prevent conception.
(62) Is permitted the use of an absorbent.
(63) Were she not to use one.
(64) A flat, fish-shaped abortion. V. n. on סנדל supra 12b.
(65) Owing to her second conception.
(66) Who, though capable of conception, is exposed to the danger of death.
(67) When no conception is possible.
(68) When no fatal consequences are involved in conception or birth.
(69) Divine mercy will safeguard her from danger.
(70) Ps. CXVI, 6, those who are incapable of preserving themselves. Tosef. Nid. II. supra 12b q. v. notes. Now, since a minor may not make a declaration of refusal unless she is under the age of twelve years and one day, and since a minor under that age either dies if she conceives, or does not conceive at all if she is younger, how could our Mishnah speak of a minor who made a declaration of refusal and who also had a child?
(71) When a condition which remained unfulfilled was attached to it. In such a case, the woman may leave her husband without a letter of divorce and is, consequently, permitted to marry a priest. Her son who is, therefore, a legitimate priest may well be subject to the restrictions enumerated in our Mishnah. Cf. supra p. 690. n. 6.
(72) Num. V. 13. (E.V., Neither she be taken in the act), referring to a woman who was defiled secretly and there were no witnesses against her.
(73) Only if she was not seized, i.e., she did not act under compulsion but willingly. Cf. supra 56b.
(74) To her husband.
(75) Violated.
(76) Cf. supra n. 2.
(77) Cf. supra p. 691, n. 14.
(78) In any subsequent intercourse, whether lawful or illicit, her status is that of feme sole who had never before been married; v. Keth. Sonc. ed. p. 298, notes.

Talmud - Mas. Yevamoth 101a

IF THE TWO [HUSBANDS] WERE PRIESTS etc. Our Rabbis taught: If he[1] struck one[2] and then struck the other, or if he cursed one[2] and then cursed the other, or cursed them both simultaneously or struck them both simultaneously, he is guilty.[3] R. Judah. however, said: If[4] simultaneously, he is guilty;[5] if[4] successively he is exonerated.[6] But, surely, it was taught: R. Judah stated that he[7] is exonerated [even if his offences were] simultaneous! — Two Tannaim differ as to what was the opinion of R. Judah.

What is the reason of him who exonerated?[8] R. Hanina replied: 'Blessing'[9] is spoken of in Scripture [in respect of parents] on earth[10] and blessing[9] is spoken of [in respect of God] above.[11] As there is no association above so must there be no association below;[12] and striking has been compared to cursing.[13]

HE MAY GO UP [TO SERVE] IN THE MISHMAR etc. Since, however, HE DOES NOT RECEIVE A SHARE why should he go up? — [You ask] 'Why should he go up'; surely. he might say: I wish to perform a commandment![14] — But [this is the difficulty]: It does not say. '[If] he went up'[15] but HE GOES up, implying even against his will![16] — R. Aha b. Hanina in the name of Abaye in the name of R. Assi in the name of R. Johanan replied: In order [to avert any possible] reflection on his family.[17]

IF, HOWEVER, BOTH SERVED IN THE SAME MISHMAR etc. In what respect do two mishmaroth[18] differ [from one] that [in the former case] he should not [receive a share]? [Is it] because when he comes to the one mishmar he is driven away and when he comes to the other mishmar he is again driven away?[19] Then, even in the case of one mishmar also, when he comes to one beth ab[20] he is driven away and[21] when he comes to the other beth ab he is also driven away! —

R. Papa replied: It is this that was meant: IF, HOWEVER, BOTH SERVED IN THE SAME Mlshmar and in the same beth ab, HE RECEIVES A SINGLE PORTION.

CHAPTER XII

MISHNAH. THE COMMANDMENT OF HALIZAH MUST BE PERFORMED IN THE PRESENCE OF THREE JUDGES, EVEN THOUGH ALL THE THREE ARE LAYMEN.[22] IF THE WOMAN PERFORMED THE HALIZAH WITH A SHOE,[23] HER HALIZAH IS VALID,[24] [BUT IF] WITH A SOCK[25] IT IS INVALID; IF WITH A SANDAL[26] TO WHICH A HEEL IS ATTACHED IT IS VALID, BUT [IF WITH ONE] THAT HAS NO HEEL IT IS INVALID. [IF THE SHOE WAS WORN][27] BELOW THE KNEE[28] THE HALIZAH IS VALID, BUT IF ABOVE THE KNEE[28] IT IS INVALID. IF THE WOMAN PERFORMED THE HALIZAH WITH A SANDAL[26] THAT DID NOT BELONG TO HIM,[29] OR WITH A WOODEN SANDAL, OR WITH THE ONE OF THE LEFT FOOT [WHICH HE[29] WAS WEARING] ON HIS RIGHT FOOT, THE HALIZAH IS VALID.

IF SHE PERFORMED THE HALIZAH WITH A SANDAL TOO LARGE [FOR HIM],[29] IN WHICH, HOWEVER, HE IS ABLE TO WALK, OR WITH ONE TOO SMALL WHICH, HOWEVER, COVERS THE GREATER PART OF HIS FOOT, HER HALIZAH IS VALID.

GEMARA. Since even THREE LAYMEN [are sufficient],[30] what need is there for JUDGES? — It is this that we were taught: That three men are required, who are capable of dictating [the prescribed texts][31] like judges.[32] Thus we have learned here what the Rabbis taught: The commandment of halizah is performed in the presence of three men who are able to dictate [the prescribed texts][31] like judges.[32] R. Judah said: In the presence of five.[33]

What is the first Tanna's reason? — Because it was taught: Elders[34] [implies] two; but as no court may be evenly balanced,[35] one man more is added to them; behold here three. And R. Judah?[36] — The elders of[37] [implies] two; and elders[38] [implies another] two; but since no court may be evenly balanced,[35] one man more is added to them; behold here five.

As to the first Tanna, what deduction does he make [from the expression] the elders of?[37] — He requires it for the purpose of including[39] even three laymen. Whence, then, does R. Judah deduce the eligibility of laymen?[39] — He deduces it from Before the eyes of;[40] a Master having said: ‘Before the eyes of’, excludes blind men. Now, since the expression ‘Before the eyes of’ is required to exclude blind men it follows that even laymen [are eligible]. For should it be suggested [that only members of] the Sanhedrin[41] are required. what need was there to exclude blind men, [an exclusion which could have been] deduced from that which R. Joseph learnt! For R. Joseph learnt: As the Beth din[42] must be clean[43] in respect of righteousness so must they be clear from all physical defects,[44]

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(1) The son concerning whom it is unknown, as in our Mishnah, which of his mother's two husbands was his father.

(2) Lit., ‘this’, one of his mother's two husbands.

(3) Since one of the two is certainly his father. As to the necessary caution v. infra nn. 12 and 13.

(4) He struck or cursed.

(5) The specific caution that must precede any forbidden act that is punishable by a court is here effected when the witnesses cautioned the offender by one statement against the striking or the cursing of the two, e.g., ‘do not strike them’.

(6) Though he may have been duly cautioned in each particular case, no penalty can be imposed upon him by any court, since each caution was of a doubtful character, it being unknown in each case whether the particular man he was about to strike or curse was his father or not. A caution of a doubtful character is, in the opinion of R. Judah, of no validity. while in the opinion of the first Tanna it is valid.

(7) V. supra note 8.

(8) If the offender struck or cursed simultaneously. One of the victims must surely have been his father!
(9) Euph. for ‘cursing’.
(10) Lit., ‘below’. V. Ex. XXI. 17.
(11) V. Lev. XXIV, 15.
(12) Only when the curse referred to a single individual is the offender subject to punishment.
(13) Since both acts, in the case of parents. appear in Ex. XXI, in close proximity. vv. 15 (striking) and 17 (cursing). Such proximity, according to the opinion here expressed, serves the purpose of an analogy. According to another opinion, the analogy is disturbed by the intervening v. 16. Cf. Sanh. 85a.
(14) To take part in the Temple service, even though he derives no material benefit from it.
(15) The past tense, implying contingency.
(16) Why should he be compelled?
(17) Should he abstain from the Temple service, rumour might attribute his abstention to some serious disqualification which would bring discredit upon all his family. Its members, therefore, may compel him to join in the service.
(18) Plur. of mishmar.
(19) Each mishmar asserting that he does not belong to them.
(20) V. Glos. A mishmar consisted of six families each of which was described as beth ab, performing service on a different day in the week.
(21) Cf. MS.M. and Bah. Cur. edd. omit to the end of the sentence.
(22) Not professional judges.
(23) Made of soft leather and covering the upper part of the foot (cf. Rashi and Jast.) opp. to sandal (v. infra n. 3).
(24) Though the shoe required for halizah purposes should properly be a sandal made of hard leather and consisting of a sole with straps attached for fastening it to the foot.
(25) אנפיחיא Cf. infilia, shoes or socks made of felt.
(26) סנדח.
(27) Cf. Rashi. According to others the law refers not to the shoe itself but to the sandal straps.
(28) Where, for instance, the levir (according to Rashi) had his foot amputated. According to the other interpretation ‘below’, and ‘above’ the knee refers to the position of the straps on the leg.
(29) The levir.
(30) To constitute a tribunal for halizah.
(31) Deut. XXV, 7-9.
(32) The appropriate texts in the original Hebrew are dictated by members of the court to the levir and his sister-in-law, respectively, who must repeat them precisely as they hear them. Cf. Sot. 32a.
(33) Tosef. Yeb. XII. Our Mishnah is in agreement with the first Tanna of this Baraitha.
(34) Deut. XXV, 7.
(35) An even number of judges might, when a difference of opinion arose, be equally divided and this would make a decision by majority impossible.
(36) Why does he require five?
(37) Deut. XXV, 8.
(38) Ibid. 9.
(39) As eligible members of the tribunal.
(40) Deut. XXV, 9 (E.V., In the presence of).
(41) I.e., professional judges.
(42) בית דין, lit, ‘house of law’ ‘court’, applied also to the members of the Sanhedrin or of any court engaged in legal decisions or in the administration of the law.
(43) In their character, free from all possible suspicion.
(44) Heb, mum, ‘blemish’.

Talmud - Mas. Yevamoth 101b

for it is said in Scripture, Thou art all fair, my love; and there is no spot in thee.[1]

As to the former,[2] however, what deduction does he make from the expression. ‘Before the eyes of'? — That expression serves the purpose of a deduction like that of Raba, Raba having stated: The judges must see the spittle issuing from the mouth of the sister-in-law, because it is written in Scripture, Before the eyes of the elders . . . and spit.[3] But does not the other[4] also require the text[5] for a deduction like that of Raba! — This is so indeed. Whence, then,[6] does he deduce [the eligibility of] laymen?[7] — He deduces it from in Israel[8] [implying] any Israelite whatsoever. As to the former,[9] however, what deduction does he make from 'In Israel'?[10] — He requires it for a deduction like that which R. Samuel b. Judah taught: 'In Israel' [implies that halizah must be performed] at a Beth din of Israelites but not at a Beth din of proselytes.[11] And the other?[4] — 'In Israel' is written a second time.[12] And the former?[9] — He requires it[13] for another deduction in accordance with what was taught: R. Judah stated, 'We were once sitting before R. Tarfon when a sister-in-law came to perform halizah, and he said to us, "Exclaim all of you: The man that had his shoe drawn off"'.[14] And the other? — This is deduced from And [his name] shall be called.[14] If this is so'[15] And they shall call[16] [implies] two;[17] And they shall speak[16] [also implies] two,[17] [so that] here also [one might deduce]: According to R. Judah,[18] behold there are here nine; and according to the Rabbis,[19] behold there are here seven! — That text[16] is required for a deduction in accordance with what was taught: And they[20] shall call him[16] but not their representative; And they shall speak unto him[16] teaches that they give him suitable advice. If he,[21] for instance, was young and she[22] old, or if he was old and she was young, he is told, 'What would you with[23] a young woman?' Or 'What would you[23] with an old woman? Go to one who [is of the same age] as yourself, and introduce no quarrels into your home'.[24]

Raba stated in the name of R. Nahman: The halachah is that halizah is to be performed in the presence of three men, since the Tanna[25] has taught us so[26] anonymously.[27] Said Raba to R. Nahman: If so [the same ruling should apply to] mi'un[28] also, for we learned:[29] Mi'un and halizah [must be witnessed] by three men![30] And should you reply [that the halachah] is so indeed, surely [It may be retorted] it was taught: Mi'un,[31] Beth Shammai ruled, [must be declared before] a Beth din of experts;[32] and Beth Hillel ruled: [It may be performed] either before a Beth din or not before a Beth din. Both, however, agree that a quorum of three is required. R. Jose son of R. Judah and R. Eleazar son of R. Jose[33] ruled: [The mi'un is] valid [even if it was declared] before two.[34] And R. Joseph b. Manyumi reported in the name of R Nahman[34] that the halachah is in agreement with this pair![35] — There,[36] only one anonymous [teaching] is available while here[37] two anonymous [teachings][38] are available.

There[36] also two anonymous [teachings] are available! For we learned: If, however, a woman made a declaration of refusal[39] or performed halizah in his presence, he[40] may marry her,[41] since he [was but one of the] Beth din![42] — But, [the fact is that while] there,[43] only two anonymous [teachings] are available; here,[44] three anonymous [teachings] are available.[45]

Consider! The one[43] is an anonymous [teaching], and the other[44] is an anonymous [teaching]; what difference does it make to me whether the anonymous [teachings] are one, two or three? — Rather, said R. Nahman b. Isaac, [the reason[46] is] because the anonymity[47] occurs in a passage recording a dispute.[48] For we learned: 'The laying on of hands by the elders,[49] and the breaking of the heifer's neck[50] is performed by three elders; so R. Jose,[51] while R. Judah stated: By five elders. Halizah and declarations of mi'un, [however, are witnessed] by three men';[52] and since R. Judah does not express disagreement,[53] it may be inferred that R. Judah changed his opinion.[54] This proves it.

Raba stated: The judges must appoint a place;[55] for it is written, Then his brother's wife shall go up to the gate[56] unto the elders.[57]

R. Papa and R. Huna son of R. Joshua arranged a halizah'[48] in the presence of five. In accordance with whose view?[58] Was it in accordance with that of R. Judah? He, surely, had changed his opinion![59] [Their object[60] was] to give the matter due publicity.[61]

R. Ashi once happened to be at R. Kahana's, when the latter said to him, ‘The Master has come up to us [at an opportune moment] to complete a quorum of five’.[62]

R. Kahana stated: I was once standing in the presence of Rab Judah, when he said to me, ‘Come, get on to this bundle of reeds[63] that you may be included in a quorum of five’.[62] On being asked, ‘What need is there for five?’ he replied, ‘In order that the matter be given due publicity’.[61]

R. Samuel b. Judah once stood before Rab Judah when the latter said to him, ‘Come, get on to this bundle of reeds[63] to be included in a quorum of five,[62] in order that the matter be thereby given due publicity’.[61] ‘We learned’, the first remarked, ‘In Israel [implies that halizah must be performed] at a Beth din of Israelites but not at a Beth din of proselytes[64] while I am, in fact, a proselyte’. ‘On the word[65] [of a man] like R. Samuel b. Judah’, Rab Judah said, ‘I would withdraw money [from its possessor]’.[66] [You say] ‘Withdraw’! Could this be imagined? Surely the All Merciful said, At the mouth of two witnesses![67] — Rather [it is this that he meant]. ‘I would on his word[65] impair the validity of a note of indebtedness.[68]

Raba stated:

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(1) Cant. IV, 7.
(2) The first Tanna.
(3) Deut. XXV, 9. Cf. infra 106b.
(4) R. Judah.
(5) Deut. XXV, 9, (E.V., In the presence of).
(6) Since the text of Deut. XXV, 9 is required for Rab's deduction.
(7) As eligible members of the tribunal.
(8) Deut. XXV, 7 (Rash). or ibid. 10 (Golds.).
(9) The first Tanna.
(10) Cf. Bah and supra n. 7.
(11) Cf. Kid. 14a.
(12) Cf. supra n. 7.
(13) The second expression, In Israel.
(14) V. Deut. XXV, 10.
(15) Since deduction has been made from the expression of elders etc.
(16) Deut. XXV, 9.
(17) The plural representing no less than two.
(18) Who deduced from the other texts the number of five judges.
(19) Limiting the number of judges, as deduced supra, to three.
(20) Emphasis on they.
(21) The levir.
(22) The sister-in-law.
(23) Lit., ‘what to thee at’.
(24) Supra 44a.
(25) Of our Mishnah.
(26) Lit., ‘like him’, sc. like the first Tanna of the Baraitha cited, supra 101a.
(27) The halachah is, as a rule, in agreement with the anonymous statements in a Mishnah.
(28) A declaration of refusal to live with her husband made by a minor. V. Glos.
(29) Anonymously.
(30) Sanh. 2a. Cf. infra 107b.
(31) V. supra note 6.
(32) Mumhin, plur. of mumhe. v. Glos.

(33) Or ‘Simeon’ (cf. marg. note in cur. edd. and infra 107b).

(34) Sanh. 2a. Cf. infra 107b.

(35) Who require a quorum of two only, contrary to the anonymous teachings supra which require a quorum of three!

(36) Concerning mi'un.

(37) On halizah.

(38) One here (our Mishnah) and the other in Sanh. 2a.

(39) Mi'un, v. Glos.

(40) A Sage who, if he had previously pronounced the woman forbidden to her husband owing to a vow she had made, would not have been allowed to marry her in order to avoid any suspicion that his motive in forbidding her to her husband was his intention to marry her himself.

(41) In these circumstances.

(42) Bek. 31a, supra 25b. Mi'un and halizah, unlike disallowance and confirmation of vows, must be witnessed by a court, or quorum of three, and three persons would not be suspected of ulterior motives even though one of them subsequently married the woman concerned. This Mishnah, then, adds a second anonymous statement to the one previously mentioned, both requiring a quorum of three for mi'un.

(43) Concerning mi'un.

(44) On halizah.

(45) The Mishnah cited last, which adds one anonymous teaching to the single one of mi'un, also adds one to the two anonymous teachings concerning halizah.

(46) Why the halachah is in agreement with the anonymous teaching in respect of halizah and not with that in respect of mi'un.

(47) In respect of halizah.

(48) In which R. Judah participated.

(49) On the head of a sin-offering of the congregation. V. Lev. IV, 15.

(50) V. Deut. XXI, 4.

(51) ‘Simeon’, according to a marg. note and Sanh. 2a.

(52) Sanh. loc. cit.

(53) With the ruling that a quorum of three only is required for halizah, though in a previous discussion (supra 102a) he maintained that a quorum of five was required.

(54) And agreed with the anonymous teaching. Hence R. Nahman's ruling that as regards the quorum for halizah the halachah agrees with the anonymous teaching. In respect of mi'un, however, the anonymous teaching has not been mentioned in connection with a dispute in which R. Jose and R. Eleazar participated. Hence it must be assumed that they adhered to their first opinions contrary to the anonymous teaching, which consequently does not represent the halachah.

(55) For the performance of the rite of halizah.

(56) I.e., a specified place.

(57) Deut. XXV, 7. (16) Lit., performed an act’.

(58) Did they insist on a quorum of five.

(59) Agreeing that only three are required for a halizah quorum.

(60) In adding to the prescribed quorum.

(61) That it should be widely known that the woman was a haluzah and so no priest would marry her; while prospective husbands, on hearing that she had been freed by halizah from her levirate bond, might begin to woo her (cf. Rashi). The question of R. Judah's first opinion did not at all enter into consideration.

(62) At a halizah ceremonial.

(63) The spot appointed for the performance of the halizah (cf. Raba's ruling supra).

(64) V. supra p. 696.

(65) Lit., ‘mouth’.

(66) Though in such lawsuits the evidence of two witnesses is required.

(67) Deut. XIX, 15. The evidence of one witness is not sufficient. Cf. supra note 9. The numeral ‘two’ which in cur. edd. and some MSS. is given in the absolute form, שנים, appears in M.T. in the construct, שני Cf. ibid. XVII, 6, which, however, refers to evidence in capital cases.

(68) Should he declare that the note was already redeemed the debtor would not be ordered to pay the debt, though the creditor also could not be compelled to destroy the note (cf. Rashi, Keth. 85a). According to some of the Tosafists the debt may not be collected unless the creditor takes the prescribed oath, as is the case wherever one witness declares a debt recorded on a note of indebtedness to have been paid, v. Keth. 8a. R. Samuel's superiority over the ordinary witness is limited to the following only: While the latter, if a relative, is not believed, to enforce an oath on the creditor, R. Samuel would always be believed (v. Tosaf. s.v. מרענא).

Talmud - Mas. Yevamoth 102a

A proselyte may, according to Pentateuchal law, sit in judgment[1] on a fellow proselyte, for it is said in the Scriptures, Thou shalt in any wise set him king over thee, whom the Lord thy God shall choose; one from among thy brethren shalt thou set king over thee;[2] only when set over thee[2] is he required to be one from among thy brethren;[2] when, however, he is to judge his fellow proselyte he may himself be a proselyte.[3] If his[4] mother was an Israelitish woman he may sit in judgment even on an Israelite.[5] In respect of halizah, however, [no man is eligible as judge] unless both his father and his mother were Israelites for it is said, And his name shall be called in Israel.[6]

Rabbah stated in the name of R. Kahana in the name of Rab: If Elijah should come and declare that halizah may be performed with a foot-covering shoe,[7] he would be obeyed; [were he, however, to declare that] halizah may not be performed with a sandal,[8] he would not be obeyed, for the people have long ago adopted the practice [of performing it] with a sandal.

R. Joseph, however, reported in the name of R. Kahana in the name of Rab: If Elijah should come and declare that halizah may not be performed with a foot-covering shoe,[7] he would be obeyed; [were he, however, to declare that] halizah may not be performed with a sandal,[8] he would not be obeyed, for the people have long ago adopted the practice [of performing it] with a sandal.

What is the practical difference between them?[9] — The practical difference between them is [the propriety of using] a foot-covering shoe ab initio.[10]

According to him, however, who stated [that it was proper to use[11] it] even ab initio, surely, [it may be objected] we learned: IF A WOMAN PERFORMED THE HALIZAH WITH A FOOT-COVERING SHOE, HER HALIZAH IS VALID [which[12] implies validity only] after the action had been performed but not ab initio. — The same law[13] is applicable even [where the shoe was used] ab initio. As, however, it was desired to state in the final clause: BUT IF WITH A SOCK IT IS INVALID, [a law] which applies even after the action had been performed, a similar expression[14] was also used in the first clause.

[On the question of] using a foot-covering shoe[15] ab initio Tannaim differ. For it was taught: R. Jose[16] related, ‘I once went to Nesibis where I met an old man whom I asked, "Are you perchance acquainted with R. Judah b. Bathyra?" and he replied, "Yes; and he in fact always sits at my table". "Have you ever seen him arranging a halizah ceremony for a sister-in-law?" [I asked]. "I saw him arranging halizah ceremonies many a time", he replied. "With a foot-covering shoe [I asked] or with a sandal?" — "May halizah be performed", he asked me’ "with a foot-covering shoe?" I[17] replied: Were that [not] so, what could have caused[18] R. Meir to state that halizah if performed with a foot-covering shoe is valid, while R. Jacob reported in his[19] name that it was quite proper to perform [even] halizah ab initio with a foot-covering shoe!’

With reference to him who ruled that it was not proper ab initio [to perform halizah with a foot-covering shoe] what could be the reason? If it be suggested: Because [the loosing of] the upper[20] [may be described as] from off[21] and [the loosing of the] thong[22] as ‘from off of the from off’, [a performance which is not in accordance with] the Torah which said, from off[21] but not ‘from off of the from off’; [it could well be retorted that] if such were the reason [the halizah should be invalid] even when actually performed. — This[23] is a preventive measure against the possible use of a flabby[24] shoe or even half a shoe.[25]

Said Rab: Had I not seen my uncle[26] arranging a halizah with a sandal that had laces I would have allowed a halizah only with an Arabian sandal which can be more firmly fastened. And in respect of our [kind of sandal] though it has a knot,[27] a strap also should be tied to it,[28] so that the halizah may be properly performed.[29]

(Mnemonic: You permitted a sister-in-law a sandal.)[30] Rab Judah reported in the name of Rab: The permissibility of a sister-in-law to marry a stranger takes effect as soon as the greater part of the heel[31] is released.[32]

An objection was raised: If the straps of a foot-covering shoe or of a sandal were untied[33] or if [the levir] slipped [it off from] the greater part of his foot,[34] the halizah is invalid.[35] The reason then[36] is because it was he that slipped it off; had she, however, slipped it off, her halizah would have been valid; [and, furthermore this applies to] the greater part of the foot only[37] but not to the greater part of the heel![38] — The 'greater part of the foot' has the same meaning as 'the greater part of the heel'; [and the reason] why he calls it 'the greater part of the foot' [is] because all the weight of the foot rests on it.

This[39] provides support for R. Jannai. For R. Jannai stated: Whether [the levir] untied [the straps] and she slipped off [the sandal] or whether she untied the straps and he slipped off the sandal, her halizah remains invalid, unless she unties the straps and she slips off the sandal.

R. Jannai enquired: What is the law if she tore it?[40] What if she burnt it?[40] Is the exposure of the foot necessary,[41] and this has here been effected,[42] or is 'taking off' necessary, which has not taken place here?[43] — This remains undecided.[44]

R. Nehemiah enquired of Rabbah: What is the law in the case of two shoes one above the other? — How is this enquiry to be understood? If it be suggested: That she[45] drew off the upper one and the lower one remained, surely, the All Merciful said: From off[46] but not 'from off of the from off'! — Such enquiry is necessary only where she tore the upper one and removed the lower one while the upper one remained [on the levir's foot], the question being whether[47] the requirement is the 'taking off' which has been done[42] , or whether the exposure of the foot is necessary which was not effected here?[48]

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(1) Even in capital cases. In civil matters a proselyte judge has equal rights with an Israelite.

(2) Deut. XVII, 15. The term 'king' is taken to embrace that of judge'. Cf. Prov. XXIX. 4.

(3) Lit., 'but a proselyte judges his fellow a proselyte'.

(4) The proselyte's.

(5) Cf. supra n. 1 .

(6) Deut. XXV, 10, emphasis on the last word.

(7) V. supra p. 694, n. 2.

(8) V. supra p. 694. no. 3 and 5.

(9) Rabbah and R. Joseph. According to either of their reports the practice of using a sandal is not to be altered.

(10) According to Rabbah it is improper to use a foot-covering shoe. Its use would be permitted only if Elijah came and declared it to be permissible. According to R. Joseph, however, its use is and remains permitted unless Elijah should come and declare it to be inadmissible.

(11) A foot-covering shoe.

(12) Since the Perfect in a conditional clause was used.

(13) That the halizah is valid.

(14) Lit., 'which has been done'.

(15) For halizah.

(16) Or ‘Simeon’. V. Tosef. Yeb. XII.

(17) Cut. edd. insert in parenthesis: ‘And the Torah said his shoe נעחו but not his foot-covering shoe מנעל [This is deleted by Rashi since the term מנעח is post-Biblical, occurring nowhere in the Bible in the sense of shoe. v. Rashi].

(18) Lit., ‘he saw’.

(19) R. Meir's.

(20) Of the shoe.

(21) Cf. Deut. XXV, 9. And loose his shoe from off his foot.

(22) Which binds the upper to the foot and rests above it.

(23) The impropriety of using a foot-covering shoe ab initio.

(24) Cf. Jast.; or ‘burst’ (cf. Rashi).

(25) Such are not permitted at all for halizah purposes. Were any foot-covering shoe permitted for use in halizah one might erroneously use such a shoe even when it was burst or when it was flabby or even when half of it was torn away. Hence its entire prohibition. No such measure was necessary in the case of the sandal which, when burst or broken in halves cannot be worn at all.

(26) R. Hiyya.

(27) Which prevents the sandal from falling off the foot.

(28) Round the sandal and the foot, prior to the halizah.

(29) By untying the strap first and then releasing the foot from the shoe, the woman carries out completely the prescribed requirements of the halizah. The rt. חליץ may signify both (a) loosing or untying sc. of the shoe strap, and (b) releasing sc. of the foot from the shoe.

(30) A prominent verb and two prominent nouns in the following three rulings reported by Rab Judah in the name of Rab.

(31) Of the levir.

(32) From the sandal.

(33) By the levir or by themselves, but not by the woman.

(34) And the woman completed the removal.

(35) Tosef. Yeb. XII.

(36) Why the halizah is invalid.

(37) Lit., ‘yes’.

(38) How then could Rab state that permissibility to marry a stranger comes into effect as soon as the greater part of the heel had been released.

(39) The Baraitha cited.

(40) The sandal while on the levir's foot.

(41) For a valid halizah.

(42) Lit., ‘there is’.

(43) Lit., ‘and there is not’. Since she did not take off the sandal.

(44) Teku, v. Glos.

(45) The sister-in-law.

(46) V. supra p. 702, n. 2.

(47) Lit., ‘what’.

(48) Where the upper sandal still remains on the levir's foot.

Talmud - Mas. Yevamoth 102b

Does this, however, ever happen? — Yes; for the Rabbis once saw Rab Judah going out into the street in five pairs of felt socks.

Rab Judah reported in the name of Rab: A sister-in-law who was brought up together with the brothers[1] is permitted to marry any one of the brothers and there is no need to consider the possibility that she[2] might have taken off the sandal [from the foot] of one of them.[3] The reason, then[4] is because we did not actually observe it,[5] had we, however, observed it[5] the possibility [that her halizah was valid] would have had to be taken into consideration.[6] But, surely, it was taught:

Whether he[7] had the intention[8] [of performing the commandment of halizah] and she had no such intention, or whether she had such intention and he did not, halizah is invalid, it being necessary[9] that both shall at the same time have such intention![10] It is this that was meant : Although we observed it[5] there is no need to consider the possibility that they might have intended [to give their action the character of a valid halizah].

Others read: The reason[4] is because we did not see it,[5] had we, however, seen it, the possibility [of a valid halizah] would have had to be considered,[6] the statement that[11] intention[12] is necessary[13] applying only to the permissibility [of the woman] to strangers,[14] but to the brothers she does become forbidden.[15]

Rab Judah stated in the name of Rab: No halizah may be performed with a sandal that was sewn with flax,[16] for it is said in Scripture, And I shod thee with tahash.[17] Might it be suggested that [the skill of] a tahash[18] is admissible[19] but not any other material? — The mention of ‘shoe’ twice[20] indicates the inclusion [of all kinds of leather]. If the repeated mention of ‘shoe’ indicates the inclusion [of all kinds of leather] all other materials should also be included! — If that were so,[21] for what purpose was the term tahash used?

R. Eleazar enquired of Rab: [What is the law where] the sandal was made of leather and its straps of [animal] hair? — The other replied: Could we not apply to it, And I shod thee with tahash![22] If so, a shoe all made of hair[23] should also be admissible! — Such is called a slipper.[24]

Said R. Kahana to Samuel: Whence is it derived that the verb in[25] we-halezah[26] his shoe from off his foot[27] signifies taking off? — Because it is written, That they shall take out[28] the stones in which the plague is.[29] But I might suggest that the meaning[30] is that of arming;[31] for it is written in Scripture, Arm[32] ye men from among you for the war![33] — There also,[33] [the underlying meaning is] the slipping out from the house to go to war. But, surely, it is also written in Scripture, He girds[34] the afflicted in his affliction![35] — [The meaning is that] as a reward for his affliction He will deliver[36] him from the judgment of Gehenna. What, however, is the explanation of the Scriptural text,[37] The angel of the Lord encampeth round about them that fear him, and He girds them?[38] — [The meaning is that] as a reward for those who fear him He will deliver them from the judgment of Gehenna.

What explanation is there, however, for the Scriptural text,[39] And He will make strong[40] thy bones,[41] of which R. Eleazar said that this was the best of the blessings,[42] and Raba explained that the meaning[43] was the strengthening of the bones![44] — Yes, it may bear the one meaning and it may also bear the other; but were the meaning here[45] intended to be that of ‘tying on’,[46] the All Merciful should have written: ‘We-halezah his shoe upon his foot’.[47] But [it might be still objected], had the All Merciful written, ‘upon his foot’ it might have been suggested: Only upon his foot, but not upon his leg;[48] hence the All Merciful wrote From off[49] his foot, [to indicate] that [halizah may be performed] even on the [levir's] leg! — If so, the All Merciful should have written: ‘Upon [what is] above his foot’. Why [then did He use the expression] From off his foot? Consequently it must be inferred that the meaning[50] is ‘to take off’.

A certain Min[51] once said to R. Gamaliel:[52] You are a people with whom its God has performed halizah,[53] for it is said in Scripture, with their flocks and with their herds they shall go to seek the Lord, but they shall not find him; He hath drawn off[54] [the shoe] from them.[55] The other replied: Fool, is it written: ‘He hath drawn off [the shoe] for them’? It is written, ‘He hath drawn off [the shoe] from them’; now in the case of a sister-in-law from whom the brother drew off [the shoe] could there be any validity in the act?[56]

BUT IF WITH A SOCK IT IS INVALID etc. This then teaches that a sock is not regarded as a shoe; and so it was also taught: The man who removes [the monies] from the Temple treasury[57] must not enter with a bordered tunic or with a sock,[58] and there is no need to state [that he must not enter] with a shoe or with a sandal, since no one[59] may enter the Temple court with a shoe or a sandal;[60] but elsewhere the contrary was taught: One must not walk[61] with a shoe, a sandal or a sock either from one house to another or even from one bed to another bed![62] — Abaye replied: [This refers to a sock] which is furnished with pads, [the prohibition] being due to the pleasure [its wearing affords].[63] Said Raba to him: Is [all footwear] forbidden on the Day of Atonement because of the pleasure it affords, even though it cannot be regarded as a shoe? Surely, Rabbah son of R. Huna used to wrap a scarf round his foot and so went out![61] — But [in fact], said Raba,[64] there is no difficulty: The one Baraitha[65] refers to a leather sock; the other[66] to a felt sock. This explanation is indeed reasonable. For were you not to say so, a contradiction [would arise between one statement dealing with] the Day of Atonement and [another statement which also deals with] the Day of Atonement. For it was taught: No man may walk about in slippers in his house,[61] but he may walk about in his house in socks.[67] Consequently[68] it must be inferred that one statement refers to a leather sock and the other to a felt sock. This proves It.

It was taught in agreement with Raba:[69] [If a sister-in-law] performed halizah with a torn shoe which covered the greater part of the [levir's] foot, with a broken sandal which contained the greater part of his foot, with a sandal of cork[70] or of bast, with an artificial foot,[71] with a felt sock, with a support of the feet,[72] or with a leather sock, and also where she performed halizah with an adult

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(1) Of her deceased husband.

(2) In the course of the years they were together.

(3) As a friendly service. It is now assumed that had such an act been performed the removal of the sandal would have been regarded as a valid halizah which would cause the sister-in-law to become forbidden to marry the brothers.

(4) Why halizah is not apprehended.

(5) That she drew off the sandal from the foot of any brother.

(6) And the sister-in-law would be forbidden to marry any of the brothers.

(7) The levir.

(8) Where halizah was performed.

(9) Lit., ‘until’.

(10) Tosef. Yeb. XII, infra 106a. Why then should the removal of a sandal as a mere friendly act ever be regarded as a valid halizah?

(11) Lit ‘and what he taught’.

(12) To perform the commandment of halizah.

(13) On the part of the levir and the sister-in-law.

(14) Lit., ‘to the world’. Only for this purpose is intention a sine qua non.

(15) Even where there was no intention but mere action.

(16) I.e., provided with a flax lining or, according to another interpretation, stitched with a flaxen thread (cf. Rashi).

(17) Ezek. XVI, 10, E.V. sealskin. The tahash, the skin of which was used for one of the coverings of the roof of the Tabernacle made by Moses in the wilderness, formed a class of its own, and the Sages could not determine whether it belonged to the class of wild or of domestic animals (cf. Shab. 28b). The mention in the context of shoeing of tahash, the use of the skin of which only was recorded in the Scriptures, is taken to imply that the shoe spoken of in the Scriptures was invariably made of a material similar to that of the skin of tahash, viz., leather. Hence the inadmissibility in halizah of any shoe that was not wholly made of leather.

(18) Since this animal only was mentioned.

(19) Lit., ‘yes’.

(20) Lit., ‘shoe’ (bis). V. Deut. XXV, 9 and 10.

(21) That all materials are admissible.

(22) Ezek. XVI, 10.

(23) The tahash also had hair on its skin,.

(24) And is not included in the term of ‘shoe’.

(25) Lit., ‘that that’.

(26) חלצה (rt, חלץ), E.V. and loose.
(27) Deut. XXV, 9.
(28) וחלצו (rt. חלץ), v. supra n. 9.
(29) Lev. XIV, 40.
(30) Of וחחצה in Deut. XXV, 9.
(31) I.e., the tying on and not the taking off of the shoe.
(32) החלצו (rt. חלץ) v. supra note 9.
(33) Num. XXXI, 3.
(34) יחלץ, (rt חלץ). V. supra note 9.
(35) Job XXXVI, 15, which shews that the rt. חלץ also signifies ‘putting on’, ‘tying on’.
(36) יחלצו cf. E.V. He delivereth the afflicted by His affliction.
(37) Lit., ‘but that which it is written’.
(38) Ps. XXXIV, 8. ויחלצם (rt חלץ), v. supra p. 705, nn. 9 and 18.
(39) Lit., ‘but that which it is written’.
(40) יחליץ(rt. חלץ).
(41) Isa. LVIII, 11.
(42) That were enumerated in the context. Cf. ibid. 8-14.
(43) Of יחליץ.
(44) Which shews that the rt. חלץ signifies also ‘strengthening’, ‘equipping’, ‘arming’, and thus also ‘tying on’.
(45) Deut. XXV, 9.
(46) Lit., ‘strengthening’, ‘arming’.
(47) Instead of ‘from off’.
(48) And in case his foot was amputated, no halizah would be possible.
(49) מעל lit., ‘from above’, i.e., even from that part which is above his foot.
(50) Of וחלצה in Deut. XXV, 9.
(51) V. Glos.
(52) [Probably R. Gamaliel of Jabneh, after the destruction of the Temple in 70 C.E. V. Herford, Christianity in the Talmud p. 355].
(53) I.e., severed his connection with them.
(54) חלץ.
(55) E.V. ‘He hath withdrawn Himself from them’. Hos. V, 6.
(56) Certainly not. It is the sister-in-law that performs the halizah while the brother-in-law only submits to it. God, in the image of the text quoted, standing towards Israel in the relationship of a Ievir to his sister-in-law, cannot perform the halizah, and his action is, so to speak, invalid, the bond between him and His people remaining in force.
(57) Cur. edd. ‘we learned’. Cf. marg. note a.l. and Shek. III, 2.
(58) In order that he may be free from the suspicion that he concealed some money in his socks or in the border of his tunic.
(59) Even when suspicion is out of the question.
(60) Out of respect for the place. Now, since a sock is permitted in the Temple court where a shoe is for. bidden it is obvious that a sock is not included in the category of shoe.
(61) On the Day of Atonement, when as a part of the affliction (cf. Lev. XVI, 29) the wearing of shoes is forbidden.
(62) Which shows that a sock is also regarded as a shoe.
(63) Cf. supra n. 6.
(64) In reply to the contradiction that was pointed out.
(65) Which forbids the wearing of a sock on the Day of Atonement.
(66) That dealing with entry into the Temple court.
(67) Which is contradictory to the Baraitha previously cited there the wearing of socks was forbidden even where one only walked from one bed to another.
(68) Lit., ‘but not’?
(69) That a difference is drawn between a sock of felt or cloth and one of leather. While the former is not regarded as a shoe the latter is.
(70) Or, according to others, ‘bamboo’.

(71) Of the levir. Lit., 'the hollowed stump of the cripple'.

(72) One of the cushions which a cripple ties to his feet.

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whether he was standing, sitting or reclining, and also if her halizah was performed with a blind man, her halizah is valid. [If her halizah] however, [was performed] with a torn shoe that did not cover the greater part of the [levir's] foot, with a broken sandal which does not hold the greater part of his foot, with a support of the hands,[1] or with a cloth sock, and also where her halizah was performed with a minor, her halizah is invalid.[2]

Whose [view is represented in the first statement mentioning] the artificial foot?[3] — [Obviously that of] R. Meir, for we learned: A cripple may go out [on the Sabbath][4] with his artificial foot;[5] so R. Meir, and R. Jose forbids it;[6] [but the latter statement]: 'With a cloth-sock'[7] can only represent the view of the Rabbis![8] — Abaye replied: Since the latter statement [represents the opinion of] the Rabbis, the first also [must represent the opinion of] the Rabbis, the first [dealing with an artificial foot that was] covered with leather.[9]

Said Raba to him:[10] What, however, [is the law if it[11] was] not covered with leather? Is it then unfit![12] If so, instead of teaching in the latter statement, 'With a cloth sock',[13] a distinction should have been drawn in [respect of the artificial foot] itself: This[14] applies only where it was covered with leather, but if it was not covered with leather it is unfit![12] Rather, said Raba, since the first statement represents the view of R. Meir, the latter also represents the view of R. Meir, the one[11] affording protection[15] while the other[16] affords no protection.[17]

Amemar stated: When a levir submits to halizah he must press down his foot [to the ground]. Said R. Ashi to Amemar: Was it not taught [that the halizah was valid] 'whether he[18] was standing, sitting or reclining'? — Read: And in all these cases, only if he pressed his foot [to the ground].

Amemar further stated: A man who walks on the upper side of his foot[19] must not submit to halizah. Said R. Ashi to Amemar: But, surely, it was taught: 'Supports of the feet';[20] does not [this signify] that such [a cripple][21] may submit to halizah with a support! No; [the meaning is] that he may give it to another person[22] who is allowed to submit to halizah [with it].

Said R. Ashi: According to Amemar's ruling neither Bar Oba nor Bar Kipof[23] could submit to halizah.

[IF THE SHOE WAS WORN] BELOW THE KNEE etc. A contradiction was pointed out: Regalim,[24] excludes[25] stump-legged cripples![26] — Here[27] it is different since it was written in Scripture, From off his foot.[28] If so, [halizah should be permissible] above the knee also! — From off but not 'from off the from off'.[29]

Said R. Papa: From this[30] it may be inferred that the istewira[31] reaches down to the ground;[32] for were it to be imagined that it is disconnected,[33] it [would be situated] above [the foot], while the leg [would be] above that which is above [the foot].[34] R. Ashi, however, said: It may even be said that it is disconnected, but any part adjacent to the foot is legally regarded as the foot itself.[35]

ABOVE THE KNEE. R. Kahana raised an objection: And against her afterbirth that cometh out from between her feet![36] — Abaye replied: When a woman kneels down to give birth she presses her heels against her thighs and thus gives birth. Come and hear: He had neither dressed his feet nor trimmed his beard![37] — This is a euphemistic expression. Come and hear: And Saul went in to cover his feet![38] — This is a euphemistic expression. Come and hear: Surely he is covering his feet in the cabinet of the cool chamber![39] — This is a euphemistic expression. Between her feet etc.![40] — This is a euphemistic expression.

R. Johanan Said: That profligate[41] had seven sexual connections on that day;[42] for it is said, Between her feet he sunk, he fell, he lay; at her feet he sunk, he fell; where he sunk there he fell down dead.[43] But, surely she[44] derived gratification from the transgression! R. Johanan replied in the name of R. Simeon b. Yohai: All the favours of the wicked[45]

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(1) Cf. supra n. 6, one of the cushions tied to a cripple's hands.
(2) Thus it has been shown that in respect of halizah a legal distinction is made between the two kinds of sock. Cf. supra n. 3.
(3) Regarding it as a proper shoe. Cf. supra n. 5.
(4) When carrying from one domain into another is forbidden.
(5) Because it is regarded as a shoe which one may wear on the Sabbath.
(6) Shab. 65b, Yoma 78b.
(7) That halizah with it is invalid.
(8) Who differ from R. Meir in regarding neither the artificial foot nor the cloth sock as a shoe. According to R. Meir a cloth sock, like an artificial foot, is regarded as a shoe. Does then the Baraitha represent the contradictory views of R. Meir and the Rabbis!
(9) Hence its admissibility as a shoe for halizah.
(10) Abaye.
(11) The artificial foot.
(12) For halizah.
(13) That halizah with it is invalid.
(14) The admissibility of the artificial foot for halizah.
(15) For the Ieg. Hence it is regarded as a shoe that is admissible for halizah.
(16) A cloth sock.
(17) Hence its unfitness for halizah. It is not the material of which it is made but its unsuitability as a covering of the foot that causes its unfitness.
(18) The levir.
(19) Owing to a deformity in his foot (cf. Rashi). ליחתא the ‘fibula’, ‘splint-bone's ‘his feet being turned outward so as to form an obtuse angle’ (Jast.).
(20) Are among the objects that may be used as shoes for the purpose of halizah.
(21) In the conditions just described.
(22) Whose foot is not deformed.
(23) These were men with deformed feet. Cf. M.K. 25b.
(24) רגלים Ex. XXIII, 14 (E.V., times) referring to the Festival pilgrimages to Jerusalem.
(25) Since רגלים may also be taken as the plural of רגל foot.
(26) Hag. 3a. בעלי קבין v. GIos. s.v. kab. As these cripples are deprived of their feet they (v. supra n. 2) are exempt from the duty of the pilgrimages (v. supra n. 1). Thus it follows that the leg is not regarded as a ‘foot’, which is contrary to our Mishnah!
(27) The case of halizah.
(28) Deut. XXV, 9, מעל רגלו, lit., ‘from above his foot’, i.e., any part of the leg.
(29) V. supra n. 5. The part of the leg between the knee and the foot is ‘above the foot’; and the part above the knee is ‘above the above’.
(30) Our Mishnah which permits halizah on any part of the leg below the knee.
(31) [The ankle-bone (talus) v. Katzenelsohn, Talmud und Medizin, p. 384.]
(32) There is legally no division between the foot and this bone.
(33) From the foot.
(34) And halizah on that part would be invalid.
(35) Hence any part between it and the knee may be legally regarded as directly above the foot.
(36) Deut. XXVIII, 57; which shews that the region of the thighs is also included in the term of feet.

(37) II Sam. XIX, 25. Cf. supra n. 13.
(38) I Sam. XXIV, 4, expression for urination.
(39) Judges III, 24. Cf. supra n. 15.
(40) Ibid. V, 27. Cf. supra nn. 13 and 15.
(41) Sisera.
(42) When he fled from Barak and Deborah.
(43) Judges V, 27. Each of the expression he sunk כרע and he fell נפך occurs three times, and he lay שכב occurs once.
(44) Jael.
(45) Which they do for the righteous.

Talmud - Mas. Yevamoth 103b

are evil for the righteous;[1] For it is said, Take heed to thyself that thou speak not to Jacob either good or evil.[2] Now, as regards evil, one can perfectly well understand [the meaning][3] but why not good? From here then it may be inferred that the favour of the wicked is evil for the righteous.

There,[4] one can well see the reason,[5] since he[6] might possibly mention to him the name of his idol;[7] what evil, however, could be involved here?[8] — That of infusing her with sensual lust. For R. Johanan stated: When the serpent copulated with Eve,[9] he infused her[10] with lust. The lust of the Israelites who stood at Mount Sinai,[11] came to an end, the lust of the idolaters who did not stand at Mount Sinai did not come to an end.

IF THE WOMAN PERFORMED THE HALIZAH WITH A SANDAL THAT DID NOT BELONG TO HIM etc. Our Rabbis taught: [From the expression] His shoe[12] I would only know that his own[13] shoe [is suitable];[14] whence, however, is it deduced that anybody's shoe is suitable?[15] Hence was the term ‘shoe’ repeated,[16] thus indicating the suitability of anyone's shoe.[17] If so, why was the expression, ‘His shoe’, at all used? — ‘His shoe implies one which he can wear, excluding a large one in which he cannot walk, excluding a small one which does not cover the greater part of his foot, and excluding also a sandal which consists of a sole but has no heel.

Abaye once stood in the presence of R. Joseph when a sister-in-law came to perform halizah. ‘Give him’,[18] he[19] said to him,[20] your sandal’, and [Abaye] gave him’ his left sandal. ‘It might be suggested’, he[19] said to him,[20] ‘that the Rabbis spoke[21] only of a fait accompli; did they, however, speak also of what is permissible ab initio?’ The other[20] replied: If so, in respect of a sandal that is not the levir's own, it might also be suggested that the Rabbis spoke[22] only of a fait accompli; did they, however, speak also of what is permissible ab initio! ‘I’, the first[19] answered him, ‘meant to tell you this: Give it to him and transfer possession to him’.[23]

A WOODEN SANDAL. Who is the Tanna [whose view is expressed in this ruling]?[24] — Samuel replied: The view is that of R. Meir. For we learned: A cripple may go out [on the Sabbath][25] with his wooden stump; so R. Meir,[26] while R. Jose forbids it.[27] Samuel's father explained:[28] With one that is covered with leather, [the ruling representing] the general opinion.[29]

R. Papi stated in the name of Raba: No halizah may be performed with a sandal that is under observation;[30] a halizah, however, that has been performed [with it] is valid. No halizah may be performed with a sandal, the leprous condition of which has been confirmed;[31] and even a halizah that had already been performed [with it] is invalid.[32] R. Papa, however,stated in the name of Raba: No halizah may be performed either with a sandal under observation[30] or with one the leprous condition of which had been confirmed;[31] a halizah, however, that had been performed [with either] is valid.

An objection was raised: A house locked up[33] imparts uncleanness from within,[34] [and a house] confirmed in its leprous condition [imparts uncleanness][34] both within and without. The one as well as the other imparts uncleanness to anyone entering.[35] Now, if it is to be assumed [that an object doomed to destruction is regarded] as already crushed to dust,[36] surely [it may be objected] the requirement [there][37] is that He goeth into the house;[38] but [such a house] is not in existence![39] — There[37] it is different, because Scripture said, And he shall break down the house,[40] even at the time of breaking down it is still called 'house'.

Come and hear: A [leprous] strip of cloth[41] measuring three [finger-breadths] by three,[42] even if [in volume] it does not amount to the size of an olive,[43] causes, as soon as the greater part of it has entered a clean house, the defilement of that house.[44] Does not [this refer to a strip of cloth the uncleanness of which] had been confirmed![45] No; [it refers to] one under observation.[46] But if so, read the final clause: If in volume[47] it constituted the size of many olives[48] , as soon as a portion of it of the size of an olive[49] enters a clean house, it causes the uncleanness of that house.[50] Now, if you grant [that the reference is to a strip] of confirmed leprosy one can well understand why it was compared[51] to a corpse;[52] if, however, you maintain [that the reference is to a strip] under observation[53] why [it may be objected] was it compared to a corpse! — There[54] it is different,[55] for Scripture said, And he shall burn the garment,[56] even at the time of burning it is still called 'garment.'[57] Then let [halizah] be deduced from it![58] — A prohibition cannot be deduced from [the laws of] uncleanness.[59]

Raba stated: The law is that [a sister-in-law] may not perform halizah either with a sandal under observation,[60] or with a sandal of confirmed leprosy, or with a sandal belonging to an idol;[61] if, however, she has performed halizah [with either of these], her halizah is valid.[62] [With a sandal] that was offered to an idol[63]

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(1) Cf. Hor. 10b, Naz. 23b.

(2) Gen. XXXI, 24.

(3) לחיי adv. or interr. (lit., 'for life'), 'very well'.

(4) In the warning to Laban.

(5) Why even good should not be spoken.

(6) Laban.

(7) Cf. Gen. XXXI, 30.

(8) In the incident with Jael.

(9) In the Garden of Eden, according to a tradition.

(10) I.e., the human species.

(11) And experienced the purifying influence of divine Revelation.

(12) Deut. XXV, 9.

(13) The levir's.

(14) For his own halizah.

(15) For the halizah of any other person.

(16) Lit., 'it was stated shoe (bis)'.

(17) Lit., 'from any place'.

(18) The levir.

(19) R. Joseph.

(20) Abaye.

(21) In ruling that halizah with a left-foot sandal is valid. V. our Mishnah.

(22) Cf. supra n. 4, mutatis mutandis.

(23) As a gift, so that the shoe might become the levir's property.

(24) Permitting halizah with a wooden sandal.

(25) When carrying from one domain into another is forbidden.

(26) Who regards the cripple's wooden stump as a proper shoe.

(27) Shab. 25b. As in respect of the Sabbath R. Meir regards the stump as a shoe, so also in respect of halizah does he regard it as a shoe.

(28) Our Mishnah. Cf. supra n. 7.

(29) All agree that a wooden stump that is furnished with a leather covering is admissible for halizah.

(30) מוסגר, lit., ‘locked up’, a sandal that, in accordance with Lev. XIII, 50, is shut up for a certain period so that it may be ascertained whether the plague-spot that appeared on it is of the clean or unclean type. Cf. ibid. 47ff.

(31) מוחלט, rt. חלט, ‘to tie up’ (Jast.).

(32) Such a sandal, being doomed to destruction by burning (Lev. XIII, 55), is legally regarded as non-existent.

(33) For the purpose of observation. Cf. p. 712, n. 13 and Lev. XIV, 34ff.

(34) By contact.

(35) Neg. XIII, 4 though no contact took place.

(36) And, consequently, as legally non-existent. Cf. supra note 15.

(37) In the case of a leprous house.

(38) Lev. XIV, 46, emphasis on house. Only then is the person unclean.

(39) Since it is condemned to be broken down. V. supra n. 4. How, then, could uncleanness be imparted by that which does not exist?

(40) Lev. XIV, 45.

(41) Cf. ibid. XIII, 47.

(42) These are the minimum measurements required for a piece of cloth to be termed garment.

(43) Which in the case of a corpse is the minimum that may impart uncleanness.

(44) Tosef. Neg. VII. A leprous garment, like a leper, imparts uncleanness to all objects in a house as soon as it is brought into that house, though none of the objects have come in actual contact with it.

(45) In consequence of which it is doomed to destruction by burning. Now, if what is doomed to destruction is legally regarded as non-existent, how could such a strip impart uncleanness?

(46) Cf. supra p. 712, n. 13.

(47) That of a strip of cloth of the size mentioned.

(48) If the material, for instance, was very thick.

(49) Though its measurements were less than the greater part of three finger-breadths by three.

(50) Neg. XIII, 4.

(51) In the fixing of its minimum, in respect of imparting uncleanness, to be that of the size of an olive.

(52) Which also imparts uncleanness if a small part of it of the size of an olive only remained. Confirmed leprosy may well be compared to a corpse. Cf. Num. XII, 22: Let her not . . . be as one dead. The reference is to Miriam who was at the time leprous (v. ibid. 10) and Aaron requested Moses that she may not be confirmed in her leprosy and thus become like a corpse.

(53) V. supra p. 712, n. 13 mutatis mutandis.

(54) The law of uncleanness in respect of the strip of leprous cloth.

(55) From the law of halizah where an object doomed to destruction is regarded as non-existent.

(56) Lev. XIII, 52, emphasis on burn and garment.

(57) Hence it may impart uncleanness even where it is doomed to destruction.

(58) And a sandal of confirmed leprosy should also be admissible for halizah.

(59) Which form a peculiar class of their own.

(60) Cf. supra p. 712, n. 13.

(61) Which is put on the idol when it is moved from place to place (Rashi).

(62) Because the sandal under observation is not doomed to destruction; the sandal of confirmed leprosy is regarded as a garment despite its doom, (as deduced supra from Lev. XIII, 52); while the sandal of the idol, being only an accessory to it, is not doomed to burning. Though no benefit may be derived therefrom it is admissible for halizah, because the fulfilment of a precept is not regarded as a ‘benefit’.

(63) As part of its worship, and which must consequently be destroyed.

Talmud - Mas. Yevamoth 104a

or [with one] that belonged to a condemned city[1] or [with one] that was made[2] in honour of a [dead] elder,[3] no halizah may be performed; and even a halizah that has been performed with it is invalid.

Said Rabina to R. Ashi: In what respect is [the sandal] that was made in honour of a [dead] elder different [from an ordinary sandal]? Is it because it was not made for walking? That of the Beth din also[4] was not made for walking! — The other replied: Should the attendant of the Beth din use it for walking, would the Beth din object![5]

MISHNAH. IF [A SISTER-IN-LAW] PERFORMED THE HALIZAH AT NIGHT, HER HALIZAH IS VALID. R. ELEAZAR, HOWEVER, REGARDS IT AS INVALID. [IF SHE PERFORMED IT] WITH [THE LEVIR'S] LEFT SHOE, HER HALIZAH IS INVALID, BUT R. ELEAZAR DECLARES IT TO BE VALID.

GEMARA. May it be suggested that they[6] differ on the following principle: The one Master[7] holds the opinion that lawsuits are to be compared to plagues,[8] while the other Master[9] holds the opinion that lawsuits cannot be compared to plagues?[10] — No; all agree that lawsuits cannot be compared to plagues; for should they be compared, even the close of a legal process could not have been allowed at night.[11] Here, however, they[12] differ on the following principle: Ones Master[9] holds that halizah is like the commencement of legal proceedings[13] and the other Master[14] holds that halizah is like the close of the proceedings.[15]

Rabbah[16] b. Hiyya of Ktesifon[17] carried out a halizah with a felt sock, with no other men present, at night. Said Samuel: How great is his authority[18] in acting on the view of one individual![19] What [however, could be his] objection?[20] If [against the use of the] felt sock, an anonymous Baraitha[21] [permits it]![22] If [against his acting at] night, our anonymous Mishnah[23] [permits this]![24] — His objection, however, is [that Rabbah acted] alone. How [he objected] could he act alone when it was only one individual who expressed approval of such a procedure![25] For we learned: If [a sister-in-law] performed halizah in the presence of two or three men, and one of them. was discovered to be a relative or in any other way unfit [to act as judge], her halizah is invalid; but R. Simeon and R. Johanan ha-Sandelar declare it valid. Furthermore, it once happened that a man submitted to halizah with none present but himself and herself in a prison, and when the case came before R. Akiba he declared the halizah valid.[26]

And[27] if you prefer I might say: All these [rulings] also are the views of[28] an individual. For it was taught: R. Ishmael son of R. Jose stated, ‘I saw R. Ishmael b. Elisha carry out a halizah with a felt sock, with no other men present, and [this occurred] at night’.

WITH [THE LEVIR'S] LEFT SHOE HER HALIZAH etc. What is the Rabbis’ reason? ‘Ulla replied: [The meaning of] ‘foot’ [here][29] is deduced from that of foot[30] in the context of the leper. As there[31] it is the right[32] so here[33] also it must be the right. Does not R. Eleazar, then, deduce [the meaning of] foot [here][33] from that of foot[34] in the context of the leper? Surely, it was taught: R. Eleazar stated, Whence is it deduced that the boring [of the ear of a Hebrew slave][35] must be performed on his right ear? — For the term ear was used here[36] and the term ‘ear’ was also used elsewhere;[37] as there[37] it is the right ear[38] so here also it is the right ear![39] — R. Isaac b. Joseph replied in the name of R. Johanan: The statement is to be reversed.[40]

Raba said: There is, in fact, no need to reverse [the statement,[36] the reply to the objection[41] being that] the terms ‘ear’[42] [are both] free [for the deduction];[43] the terms of ‘foot,’[44] however, are not free for deduction.[45] But even if [one of the texts] is not free for deduction, what objection can be raised [against the deduction]?[46] — It may be objected: The case of the leper is different,[47] since he is also required [to bring] cedar-wood and hyssop and scarlet.[48] MISHNAH. [IF A SISTER-IN-LAW] DREW OFF [THE LEVIR'S SHOE] AND SPAT,[49] BUT DID NOT RECITE [THE FORMULAE],[50] HER HALIZAH IS VALID.[51] IF SHE RECITED [THE FORMULAE] AND

SPAT, BUT DID NOT DRAW OFF THE SHOE, HER HALIZAH IS INVALID.[52] IF SHE DREW OFF THE SHOE AND RECITED [THE FORMULAE] BUT DID NOT SPIT, HER HALIZAH, R. ELIEZER[53] STATED, IS INVALID; AND R. AKIBA STATED: HER HALIZAH IS VALID.

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(1) All the spoil of which was to be burned. Cf. Deut. XIII, 13ff.

(2) As a part of his shroud.

(3) Not being used for walking it cannot be regarded as a shoe.

(4) The approved sandal kept by a Beth din for the special purpose of halizah ceremonials.

(5) Presumably not. Hence it may well be regarded as a shoe made for the purpose of walking.

(6) The first Tanna and R. Eleazar in our Mishnah.

(7) The first Tanna.

(8) Both having been mentioned in the same Scriptural verse (Deut. XXI, 5). As plagues may be examined by the priest in the daytime only (based on Lev. XIII, 24: ‘On the day when raw flesh is seen in him’,) so may lawsuits also be dealt with by the court in the daytime only. Halizah involving as it does the question of the widow's kethubah is regarded as coming under the category of lawsuits.

(9) R. Eleazar.

(10) Cf. Sanh. 34b, Nid. 500

(11) But, as a matter of fact, this was explicitly allowed. Cf. Sanh. 32a.

(12) The first Tanna and R. Eleazar in our Mishnah.

(13) Which must take place in the daytime only. Cf. Sanh. 34b.

(14) The first Tanna.

(15) Which is allowed even in the night-time. Cf. p. 715, n. 8.

(16) Others, ‘Raba’. Cf. Alfasi and רא״ש.

(17) On the eastern bank of the Tigris in the south of Assyria.

(18) Ironical exclamation.

(19) The ruling of the majority being against this opinion.

(20) Against Rabbah's action.

(21) Lit., ‘it was taught’.

(22) Supra 102b. And the halachah, as a rule, is in agreement with the anonymous ruling.

(23) Cf. Rashi, s.v. לילה a.l. Cur. edd., it was taught’.

(24) Cf. supra n. 9.

(25) Lit., ‘taught it’.

(26) Thus it is proved that it is an individual opinion, that of R. Akiba, that permits halizah in the absence of witnesses.

(27) Cf. Bah. Cur. edd. insert: ‘And R. Joseph b. Manyumi stated in the name of R. Nahman that the halachah is not in agreement with that pair.’ This occurs infra 105b, but is irrelevant here.

(28) Lit., ‘taught them’.

(29) Deut. XXV, 9, dealing with halizah.

(30) Lev. XIV, 14.

(31) In the case of the leper.

(32) Since the text explicitly mentions it.

(33) In halizah.

(34) Lev. XIV, 14.

(35) Who refuses to go out free. V. Ex. XXI, 5f.

(36) V. previous note.

(37) With the leper. Lev. XIV, 14.

(38) Since the text explicitly mentions it.

(39) Kid. 15a, which shews that R. Eleazar does make deduction from the terms used in the context of the leper.

(40) In our Mishnah. It is R. Eleazar, and not the first Tanna, who ruled that halizah with the left shoe is invalid.

(41) As to why R. Eleazar draws an analogy between the terms of ear and not between those of foot.

(42) Lit., ‘ear, ear’.

(43) Both in the case of leper (Lev. XIV, 14 and 17) and in that of the slave (Ex. XXI, 6 and Deut. XV, 17) one of the terms is superfluous and, therefore, free for the deduction that the boring must be performed on the right ear.

(44) Lit., ‘foot, foot’.

(45) Though in the context of the leper the term foot occurs twice (Lev. XIV. 14 and 17), in that of halizah it appears only once (Deut. XXV, 9). As in the latter text it is required for the context itself no deduction can be made from such an analogy unless it is one that is free from all possible objection.

(46) Cf. supra n. 14 final clause. Since no refutation can be advanced, the deduction, though based on texts of which one only is free for the purpose, should hold!

(47) From that of halizah.

(48) On the day of his cleansing. (Cf. Lev. XIV, 4). The laws of the leper, being in this respect more rigid than those of halizah, may also be more rigid in respect of the requirement of the right shoe. Hence R. Eleazar's opinion that no deduction is to be made from the analogous words, and that halizah with the left shoe is, therefore, valid.

(49) Cf. Deut. XXV, 9.

(50) Prior to the halizah she declares (a) ‘My husband's brother refuseth to raise up unto his brother a name in Israel; he will not perform the duty of a husband's brother unto me’ (ibid. 7). After the halizah she exclaims, (b) ‘So shall it be done unto the man that doth not build up his brother's house’ (ibid. 9).

(51) The omission of an act, but not that of a formula, renders a halizah invalid. V. infra.

(52) Cf. supra n. 3.

(53) Cf. marg. note. Cur. edd., ‘Eleazar’.

Talmud - Mas. Yevamoth 104b

SAID R. ELIEZER TO HIM: [SCRIPTURE STATED], SO SHALL BE DONE,[1] ANYTHING WHICH IS A DEED[2] IS A SINE QUA NON.[3] R. AKIBA, HOWEVER, SAID TO HIM, FROM THIS VERY TEXT[4] PROOF [MAY BE ADDUCED FOR MY VIEW]: SO SHALL BE DONE UNTO THE MAN,[5] ONLY THAT WHICH IS TO BE DONE UNTO THE MAN.[6]

IF A DEAI[7] LEVIR SUBMITTED TO HALIZAH, OR IF A DEAF[7] SISTER-IN-LAW PERFORMED HALIZAH, OR IF A HALIZAH WAS PERFORMED ON A MINOR, THE HALIZAH IS INVALID.

[A SISTER-IN-LAW] WHO PERFORMED HALIZAH WHILE SHE WAS A MINOR MUST AGAIN PERFORM HALIZAH WHEN SHE BECOMES OF AGE; AND IF SHE DOES NOT AGAIN PERFORM IT, THE HALIZAH IS INVALID.

IF [A SISTER-IN-LAW] PERFORMED HALIZAH IN THE PRESENCE OF TWO OR THREE MEN AND ONE OF THEM WAS DISCOVERED TO BE A RELATIVE OR ONE IN ANY OTHER WAY UNFIT [TO ACT AS JUDGE], HER HALIZAH IS INVALID; BUT R. SIMEON AND R. JOHANAN HA-SANDELAR DECLARE IT VALID. FURTHERMORE,[8] IT ONCE HAPPENED THAT A MAN SUBMITTED TO HALIZAH PRIVATELY BETWEEN HIMSELF AND HERSELF IN A PRISON, AND WHEN THE CASE CAME BEFORE R. AKIBA HE DECLARED THE HALIZAH VALID.

GEMARA. Raba said: Now that you have stated[9] that the recital [of the formulae][10] is not a sine qua non, the halizah of a dumb man and a dumb woman is valid.

We learned: IF A DEAF LEVlr SUBMITTED TO HALIZAH, OR IF A DEAF SISTER-IN-LAW PERFORMED HALIZAH, OR IF A HALIZAH WAS PERFORMED ON A MINOR, THE HALIZAH IS INVALID. Now, what is the reason?[11] is it not because these are unable to recite [the formulae]![12] — No; because they are not in complete possession of their mental faculties.[13] If so, [the same applies] also to a dumb man and to a dumb woman![14] — Raba replied: A dumb man and a dumb woman are in full possession of their mental faculties, and it is only their mouth that troubles[15] them. But, surely, at the school of R. Jannai it was explained [that the reason why a deaf-mute is unfit for halizah is] because [the Scriptural instruction], He shall say[16] or She shall say[17] is inapplicable to such a case![18] — [Say] rather, if Raba's statement was ever made it was made in connection with the final clause: IF A DEAF LEVir SUBMITTED TO HALIZAH, OR IF A DEAF SISTER-IN-LAW PERFORMED HALIZAH, OR IF A HALIZAH WAS PERFORMED ON A MINOR, THE HALIZAH IS INVALID. [It is in connection with this that] Raba said: Now that you have stated that the recital of [the formulae][19] is a sine qua non, the halizah of a dumb man or a dumb woman is invalid. And our Mishnah[20] [is based on the same principle] as [that propounded by] R. Zera; for R. Zera stated: Wherever proper mingling[21] is possible actual mingling is not essential,[22] but where proper mingling is not possible[23] the actual mingling is a sine qua non.[24]

[The following ruling] was sent to Samuel's father: A sister-inlaw who spat[25] must perform the halizah.[26] This implies that she is rendered unfit for the brothers;[27] but whose view is this?[28] If it be suggested [that it is that of] R. Akiba, it may be objected:[29] If R. Akiba said that it[30] was not indispensable[31] even where the actual commandment [of halizah is being performed, in which case] it could be argued that it could be given the same force as [the burning] of the altar portions of the sacrifices. which is not an essential [rite] when [the portions] are not available,[32] and yet is a sine qua non when they are available,[33] [would he regard it[30] as a reason for the woman] to become thereby unfit for the brothers! [Should it be suggested], however, [that the view[34] is that] of R. Eliezer,[35] surely [it may be retorted] are two acts which jointly effect permissibility,[36] and any two acts that jointly effect permissibility are ineffective one without the other![37] — Rather, the view[38] is in agreement with that of Rabbi. For it was taught: The Pentecostal lambs[39] cause the consecration of the bread[40] only by their slaughter.[41] In what manner?[42] If they were slaughtered for the purpose of the festival sacrifices[43] and their blood also was sprinkled with such intention,[43] the bread becomes consecrated. If they were not slaughtered for the purpose of the festival sacrifices,[44] though their blood was sprinkled for the proper purpose,[43] the bread does not become consecrated. If they were slaughtered for the purpose of the festival sacrifices[43] and their blood was sprinkled for another purpose,[45] [the bread] is partly consecrated and partly unconsecrated;[46] so Rabbi. R. Eleazar son of R. Simeon, however, stated: [The bread] is never consecrated unless the slaughtering [of the lambs] and the sprinkling of their blood were both intended for the proper purpose of the festival.[47]

Did R. Akiba, however, hold that the act of spitting does not render the woman unfit?[48] Surely it was taught: If she drew off [the levir's shoe] but did not

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(1) Deut. XXV, 9, emphasis on done. יעשה (rt. עשה). V. infra n. 7.

(2) מעשנ (rt. עשה). Cf. supra n. 6.

(3) The omission of any act, therefore, renders the halizah invalid.

(4) Lit., ‘from there’.

(5) Deut. ibid., emphasis on man.

(6) As, e.g., drawing off the shoe which is an act on the body of the levir. Spitting, therefore, is excluded.

(7) The ‘deaf’ spoken of in the Talmud literature is always to be understood as a deaf-mute. Cf. Ter. I, 2.

(8) I.e., not only in a case where there were at least two judges but even where no one beside the levir and the sister-in-law ‘vas present.

(9) In the first clause of our Mishnah.

(10) V. supra p. 718, n. 2.

(11) For the invalidity.

(12) Cf. supra p. 718, n. 12. How then could it be said that recital of the formulae is not an indispensable condition?

(13) The minor because of his immature age, and the deaf and dumb because of his physical defects which adversely affect his mental powers.

(14) Why then is their halizah valid?

(15) Lit., ‘pains

(16) Cf. Deut. XXV, 8.

(17) Cf. ibid. 7 and 9.

(18) How then can halizah of a dumb person be regarded as valid!

(19) V. supra p. 718, n. 2.
(20) Which stated that if she did not recite the formulae the halizah is valid
(21) Of the flour and the oil of a meal-offering. With one log of oil for sixty ‘esronim (v. Glos.) of flour, and a maximum of sixty ‘esronim in one pan, perfect mingling is possible.
(22) Even if no mingling has taken place the meal-offering is acceptable.
(23) Where, e.g., the proportions of the mixture were less than a log for sixty ‘esronim or where more than sixty ‘esronim were placed in one pan.
(24) Men. 18b, 103b. With halizah also, though in the case of persons who are able to recite the prescribed formulae, the omission does not invalidate the halizah, in the case of dumb persons for whom it is physically impossible ever to recite the formulae, the omission of it does render the halizah invalid.
(25) In the presence of the Beth din.
(26) Though her act was not a part of a formal halizah ceremony, she forfeits thereby her right ever to contract levirate marriage with any of the levirs.
(27) V. supra n. 7.
(28) That an informal act of spitting renders the woman unfit for marriage with the brothers.
(29) Lit., ‘now’.
(30) The act of spitting.
(31) Which shews what little significance R. Akiba attaches to this part of the ceremony.
(32) If, for instance, they were lost or became unfit for the altar owing to uncleanness. Cf. Pes. 59b.
(33) So in the case of halizah, R. Akiba might have been expected to regard the spitting, which is an act that can be performed, as an essential.
(34) V. supra note 9.
(35) Cur. edd., ‘Eleazar’ (cf. supra p 718, n. 5); who stated in our Mishnah that the act of spitting was indispensable. (17) Drawing off the shoe and spitting.
(36) Of the sister-in-law to marry a stranger.
(37) Cf. Men. 89a.
(38) V. supra p. 720, n. 9.
(39) V. Num. XXVIII, 26-31.
(40) The two loaves that were also brought to the Temple on Pentecost. V. Lev. XXIII, 17.
(41) The waving of the loaves and the lambs together, which precedes the slaughter of the latter, does not effect the proper consecration of the bread.
(42) Is consecration effected even after slaughtering of the lambs.
(43) Lit., ‘for their name’.
(44) Lit., not for their name’; i.e., if they were intended to be merely sacrifices, not specifically those prescribed for the Pentecost festival.
(45) Cf. supra n. 9.
(46) I.e., it is subject to some, but not to all, of the restrictions of properly consecrated bread.
(47) Cf. supra note 8. Pes. 13b, Men. 47a. Thus it has been shewn that according to Rabbi, where two acts such as proper slaughtering and proper sprinkling are required, consecration is partially effected even though the former act alone was properly performed. Similarly, in respect of halizah, one of the prescribed acts is sufficient to render the woman unfit for the levirate marriage.
(48) For the levirate marriage.

Talmud - Mas. Yevamoth 105a

spit nor recite,[1] her halizah is valid. If she spat but did not draw off the shoe nor recite,[2] her halizah is invalid[3] if she recited[2] but did not spit nor draw off the shoe, there is here no reason whatsoever for apprehension.[4] Now, whose [view is here represented]? If it be suggested [it is that of] R. Eliezer, [how could it be stated that] ‘if she drew off [the levir's shoe] but did not spit nor recite, her halizah is valid’ when, surely, R. Eliezer said: SO SHALL BE DONE, ANYTHING WHICH IS A DEED IS A SINE QUA NON? It is consequently obvious [that it is the view of] R. Akiba; and yet it was stated that ‘if she spat but did not draw off the shoe nor recite, her halizah is invalid’. To whom, [however, does the invalidity cause her to be forbidden]?[5] If it be suggested, ‘To strangers’;[6] is not this [it may be retorted] self-evident? Is it a halizah [like this that would enable the sister-inlaw] to become free to marry a stranger![7] It must therefore, be admitted[8] [that the validity refers to her state of prohibition] to the brothers.[9] Thus you have our contention proved.

According to R. Akiba, wherein lies the legal difference between the act of spitting and that of reciting?[10] — Recital[11] that must take place both at the commencement[12] [of the halizah ceremony] and at its conclusion[13] cannot be mistaken;[14] spitting, however, which does not take place at the beginning but only at the end, might be mistaken [for a proper halizah],[15] and thus[16] a proper halizah also would be permitted to marry the brothers.[17]

Others say that the following ruling was sent to him:[18] A sister-in-law who spat[19] may afterwards perform halizah and need not spit a second time.[20] So,in fact,it once happened that a sister-in-law[21] who came before R. Ammi, while R. Abba b. Memel was sitting in his presence, spat prior to her drawing off the shoe. ‘Arrange the halizah for her’, said R. Ammi to him,[22] ‘and dismiss her case’.[23] ‘But surely’. said R. Abba to him, ‘spitting is a requirement!’ — ‘She has spat indeed!’ ‘But let her spit [again]; what could be the objection?’ — ‘The issue might [morally and religiously] be disastrous; for should you rule that she is to spit again, people might assume that her first spitting was ineffective[24] and thus[25] a proper haluzah also would be permitted to marry the brothers!’[26] ‘But is it not necessary. [that the various parts of the halizah] should follow in the prescribed order?’ — ‘The order of the performances is not essential’. He[22] thought [at the time] that the other[27] was merely shaking him off. When, however, he went out he carefully considered the point and discovered that it was taught: Whether drawing off the shoe preceded the spitting or whether spitting preceded the drawing off, the action performed is valid.[28]

Levi once went out [to visit] the country towns,[29] when he was asked: ‘May a woman whose hand was amputated perform halizah?[30] What is the legal position where a sister-in-law spat blood? [It is stated in Scripture]: Howbeit I will declare unto thee that which is inscribed in the Writing of Truth;[31] does this[32] then imply that there exists a [divine] Writing that is not of truth?’ He was unable to answer.[33] When he came and asked these questions at the academy. they answered him: Is it written, ‘And she shall draw off with her hand’?[34] Is it written, ‘And spit spittle’?[34] [As to the question] ‘Howbeit I will declare unto thee that which is inscribed in the Writing of Truth,[31] does this then imply that there exists a [divine] Writing that is not of truth’? There is really no difficulty. For the former[35] refers to a [divine] decree that was accompanied by an oath while the latter[36] refers to one that was not accompanied by an oath. [This is] in accordance with a statement of R. Samuel b. Ammi. For R. Samuel b. Ammi stated in the name of R. Jonathan: Whence is it deduced that a decree which is accompanied by an oath is never annulled?[37] — From the Scriptural text, Therefore I have sworn unto the House of Eli, that the iniquity of Eli's house shall not be expiated with sacrifice nor offering for ever.[38] Rabbah said: It will not be expiated ‘with sacrifice nor offering’, but it will be expiated with the words of the Torah.

Abaye said: It will not be expiated ‘with sacrifice nor offering’ but it will be expiated with the practice of lovingkindness.

Rabbah and Abaye were both descendants of the house of Eli. Rabbah who engaged in the study of the Torah lived forty years. Abaye, however, who engaged in the study of the Torah and the practice of lovingkindness, lived sixty years.

Our Rabbis taught: There was a certain family in Jerusalem whose members used to die when they were about the age of eighteen. When they came and acquainted R. Johanan b. Zakkai [with the fact,] he said to them: ‘perchance you are descendants of the family of Eli concerning whom it is written in Scripture. And all the increase of thy house shall die young men;[39] go and engage in the study of the Torah, and you will live'. They went and engaged in the study of the Torah and lived [longer lives]. They were consequently called 'The family of Johanan', after him.

R. Samuel b. Unia stated in the name of Rab: Whence is it deduced that a [divine] dispensation against a congregation is not sealed? — [You say] 'Is not sealed'! Surely it is written, For though thou wash thee with nitre, and take thee much soap, yet thine iniquity is marked before Me![40] — But [this is the question]: Whence is it deduced that even if it has been sealed it is torn up? — From the Scriptural text, What . . . as the Lord our God is whensoever we call upon him.[41] But, surely, it is written, Seek ye the Lord while He may be found![42] — This is no contradiction. The latter applies to an individual, the former to a congregation. And[43] when may an individual [find him]? R. Nahman replied in the name of Rabbah b. Abbuha: In[44] the ten days between the New Year and the Day of Atonement.[45]

[The following ruling] was sent to Samuel's father: A sister-inlaw who spat blood shall perform halizah,[46] because it is impossible that blood should not contain some diluted particles of spittle.

An objection was raised: It might have been assumed that blood that issues from his[47] mouth or membrum virile is unclean,[48] hence it was explicitly stated, His issue is unclean,[49] but the blood which issues from his mouth or from his membrum virile is not unclean, but clean![50] — This is no contradiction: The former[51] is a case[52] where she sucks in;[53] the latter,[54] where [the blood] flows gently.

IF A DEAF LEVIR SUBMITTED TO HALIZAH etc.

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(1) The prescribed formulae. V. supra p. 718. n. 2.

(2) V. p. 721, n. 14.

(3) But the woman is rendered unfit for the levirate marriage. V. infra.

(4) I.e., even levirate marriage is permitted.

(5) The expression פסוחה, here rendered 'invalid', bears in the original a double meaning: (a) the halizah itself is invalid and (b) the woman becomes invalid, i.e., unfit to contract a marriage. V. infra note 8.

(6) Lit., 'to the world', i.e., as the halizah is invalid the woman still remains forbidden to all men except the levirs.

(7) Obviously not. Mere spitting could not possibly be regarded as a proper halizah.

(8) Lit., 'but not'.

(9) The second meaning of פסולה (v. supra note 4. (b) being that the woman is forbidden to contract the levirate marriage with any of the brothers. Cf. Git. 24b.

(10) Since both acts are not indispensable, why does the former act according to R. Akiba cause the sister-in-law to be forbidden to the brothers (as has just been proved), while the latter does not (R. Akiba having stated supra that there was 'no reason whatsoever for apprehension')?

(11) Of the prescribed formulae.

(12) V. supra p. 718, n. 2 (a).

(13) V. loc. cit. n. 2 (b).

(14) For a proper halizah. Where the sister-in-law is allowed to marry a levir it is obvious to all who know of the recital that it was only the first formula that was recited and that no halizah had followed it.

(15) Anyone witnessing the spitting would form the opinion that the other parts of the halizah ceremonial had preceded it.

(16) Were she subsequently permitted to marry a levir.

(17) Hence R. Akiba's prohibition. Cf. supra p. 722. n. 9.

(18) To Samuel's father. Cf. supra 104b.

(19) Before Beth din, though her act did not form a part of the formal halizah ceremony.

(20) At the proper time when the formal ceremony is carried out.

(21) Cf. Bah. a.l. wanting in cur. edd.

(22) R. Abba.

(23) I.e., there is no need for her to spit again.
(24) And the woman would consequently be allowed to marry a levir even after she had spat:
(25) By allowing her to contract levirate marriage.
(26) Cf. supra note 1.
(27) R. Ammi.
(28) Cf. infra 106b, Sanh. 49b.
(29) In the course of a lecture tour. According to the Palestinian Talmud and the Midrash Rabbah, Levi was sent by R. Judah the Prince to take up an appointment as teacher and judge in a provincial town. In his excitement and pride he grew so bewildered that he was unable to answer the following three questions.
(30) With her teeth.
(31) Dan. X, 21, taken to refer to divine dispensation.
(32) The adjectival phrase ‘of truth’.
(33) Lit., ‘it was not in his hand’.
(34) Certainly not.
(35) ‘Writing of truth’, i.e., ‘permanent’, ‘unalterable’.
(36) The ‘writing that is not of truth’, i.e., which may be altered or recalled.
(37) Lit ‘torn up’.
(38) I Sam. III, 14, emphasis on ‘sworn’ and ‘for ever’.
(39) I Sam. II, 33.
(40) Jer. II, 22, emphasis on ‘marked’ ‘sealed’. The Hebrew equivalent of the former is נכתם which is similar in sound to that of the letters *נחתם.
(41) Deut. IV, 7.
(42) Isa. LV, 6, emphasis on while he may be found, implying that there are times when he may not be found!
(43) Cf. Bah.
(44) Lit., ‘these are’.
(45) Known as the ‘ten days of penitence’, עשרת ימי תשובה ע.
(46) As in the case of ordinary spitting. she may not subsequently contract levirate marriage.
(47) A man who hath an issue, cf. Lev. XV, 2.
(48) As his spittle or issue respectively is unclean.
(49) Ibid., emphasis on issue.
(50) Nid. 56a. Apparently because the blood contains no particle of spittle (cf. supra n. 10), which is contradictory to the previous statement that all blood contains some particles of spittle.
(51) The ruling sent to Samuel's father.
(52) Lit., ‘here’.
(53) When it is inevitable that some spittle should be mingled with the blood.
(54) Lit., ‘here’.

Talmud - Mas. Yevamoth 105b

Rab Judah stated in the name of Rab:[1] This[2] is the view of R. Meir;[3] but the Sages maintain that the halizah of a minor has no effect at all.[4]

[A SISTER-IN-LAW] WHO PERFORMED HALIZAH WHILE SHE WAS A MINOR etc. Rab Judah stated in the name of Rab: This[5] is the view of R. Meir who stated, ‘In the Pentateuchal section [of halizah] the expression man[6] is used,[7] and the woman is to be compared to the man’.[8] The Sages, however, maintain that in the Pentateuchal section ‘man’ was written;[7] [and as to] a woman, whether she is of age or a minor [her halizah is valid].

Who [is the Tanna here described as the] Sages? — It is R. Jose. For R. Hiyya and R. Simeon b. Rabbi once sat together, when one of them began as follows:[9] A man who offers up his prayers must direct his eyes towards [the Temple][10] below,[11] for it is said, And Mine eyes and Mine heart shall be there perpetually.[12] And the other said: The eyes of him who offers up prayers shall be directed[13] towards [the heavens] above, for it is said Let us lift up our heart with our hand.[14] In the meanwhile they were joined by R. Ishmael son of R. Jose. ‘On what subject are you engaged?’ he asked them. ‘On the subject of prayer’, they replied. ‘My father’, he said to them, ‘ruled thus: A man who offers up his prayers must direct his eyes to the [Sanctuary] below and his heart towards [the heavens] above so that these two Scriptural texts may be complied with.’ While this was going on, Rabbi entered the academy.[15] They, being nimble, got into their places quickly. R. Ishmael son of R. Jose, however, owing to his corpulence[16] could only move to his place with slow steps. ‘Who is this man, cried Abdan[17] out to him, ‘who strides over the heads[18] of the holy people!’ The other replied. ‘I am Ishmael son of R. Jose who have come to learn Torah from Rabbi’.[19] ‘Are you, forsooth, fit’, the first said to him, ‘to learn Torah from Rabbi?’ — ‘Was Moses fit’, the other retorted, ‘to learn Torah from the lips of the Omnipotent!’ ‘Are you Moses indeed!’ the first exclaimed. — ‘Is then your Master a god!’ the other retorted. R. Jose remarked: Rabbi got what he merited when the one[20] said to the other[21] ‘Your Master’ and not ‘my Master’.[22] While this was proceeding a sister-in-law came before Rabbi.[23] ‘Go out’, said Rabbi to Abdan, ‘and have her examined’.[24] After the latter went out, R. Ishmael said to him:[25] Thus said my father, ‘In the Pentateuchal section man[26] is written;[27] [but as to] a woman, whether she is of age or a minor [her halizah is valid]’. ‘Come back’, he[15] , cried after him,[21] ‘you need not [arrange for any examination]; the grand old man[28] has already given his decision [on the subject]’.

Abdan now came back picking his steps,[29] when R. Ishmael son of R. Jose exclaimed, ‘He of whom the holy people is in need may well stride over the heads of the holy people; but how dare he of whom the holy people has no need stride over the heads of the holy people!’ ‘Remain in your place’, said Rabbi to Abdan.

It was taught: At that instant Abdan became leprous, his two sons were drowned and his two daughters-in-law made declarations of refusal.[30] ‘Blessed be the All Merciful’, said R. Nahman b. Isaac, ‘who has put Abdan to shame in this world’.[31]

‘We may learn from the words of this eminent scholar’,[32] said R. Ammi, ‘that [a sister-in-law who is] a minor may perform halizah while she is still in her childhood’.[33] Raba said: [She must wait with halizah] until she has reached the age of [valid] vows.[34] The law however, is [that she must not perform halizah] until she has produced two [pubic] hairs.

IF [A SISTER-IN-LAW] PERFORMED HALIZAH IN THE PRESENCE OF TWO etc. R. Joseph b. Manyumi stated in the name of R. Nahman: The halachah is not in agreement with this pair.[35] But, surely. R. Nahman had once stated this; for R. Joseph b. Manyumi stated in the name of R. Nahman: The halachah is that[36] halizah [must be performed] in the presence of three [judges]![37] — [Both are] required: For if the first only had been stated, it might have been assumed [that three judges are required] ab initio only. but that ex post facto even two [judges are enough] hence we were taught that ‘the halachah is not in agreement with this pair’.[38] And if we had been taught that ‘the halachah is not in agreement with this pair’ but in accordance with the ruling of the first Tanna, it might have been assumed [that this applies only] ex post facto,[39] but that ab initio five [judges] are required,[40] [hence the former statement was also] required.[41]

IT ONCE HAPPENED THAT A MAN SUBMITTED TO HALIZAH.[42] etc. PRIVATELY BETWEEN HIMSELF AND HERSELF! How, then, can we know it? — Rab Judah replied in the name of Samuel: When witnesses observed it from without.

The question was raised:[43] Did it happen that the HALIZAH was performed privately BETWEEN HIMSELF AND HERSELF outside, AND THE CASE WAS BROUGHT BEFORE R. AKIBA IN PRISON,[44] or perhaps it happened that the HALIZAH was performed BETWEEN HIMSELF AND HERSELF in prison? — Rab Judah replied in the name of Rab: The incident occurred in prison and the case also came up for decision in prison.[45] [

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(1) Others, ‘Samuel’. Cf. Tosaf. supra 96a, s.v. רבי.

(2) That the halizah of a minor is invalid and that it consequently prohibits the woman from contracting levirate marriage with any of the older brothers.

(3) Who stated (supra 96a) that the halizah of a minor has the same force as that of a divorce by a levir who is of age.

(4) His act is legally null and void. She is not thereby forbidden even to himself.

(5) That a sister-in-law who was a minor may not perform halizah.

(6) V. Deut. XXV, 7.

(7) Which excludes the male minor.

(8) Since both man and sister-in-law (woman) were mentioned in the same verse (ibid.). As the male minor is excluded so is the female minor excluded.

(9) Lit., ‘and said’.

(10) In Jerusalem. Cf. Ber. 28b, 30a.

(11) I.e., on this earth, opp. to ‘heaven’ above.

(12) I Kings IX, 3. Hence it must always form the centre of attraction for all engaged in prayer.

(13) Cf. Bah. Wanting in cur. edd.

(14) Lam. III, 41, emphasis on lift up.

(15) When everyone present was expected to take his usual seat.

(16) Cf. B.M. 84a.

(17) One of Rabbi's disciples. ‘Abdan’ is a contraction of ‘Abba Judan’ by which name he is known in the Palestinian Talmud. (Cf. Tosaf. s.v. אבא a.l.).

(18) During the discourses of the Master the disciples were seated on the ground in Eastern fashion; and R. Ishmael, in making his way towards his seat in the front rows, was compelled to stride over the heads of the assembly.

(19) Lit., ‘my master’, a designation applied to R. Judah the prince who was in his time the Master par excellence.

(20) R. Ishmael.

(21) Abdan.

(22) A slight upon Rabbi's recognized high position but one he well deserved for allowing Abdan publicly to annoy R. Ishmael.

(23) Desiring him to arrange for her a halizah ceremony.

(24) To ascertain whether she has developed the marks of puberty and is consequently eligible to perform halizah.

(25) Rabbi.

(26) Which excludes the male minor.

(27) Deut. XXV, 7.

(28) R. Jose. Thus it is proved that it is R. Jose's view that was presented supra as that of ‘the Sages’.

(29) Cf. supra note 4.

(30) V. Glos. s.v. Mi'un. The Talmudic text may imply that the two daughters. in-law, as minors, refused to contract levirate marriage with the brothers of their dead husband, so that the names of the deceased were ‘blotted out of Israel’ (cf. Golds.). Accordingly the rendering of the text should be ‘two (of) his (several) sons were drowned’. The text, however, might also be rendered: ‘His two sons were drowned (after) his two daughters-in-law had made declarations of refusal (against them)’.

(31) As an atonement for his ill-treatment of R. Ishmael; thus enabling him to enter the hereafter free from all sin.

(32) R. Jose בי רבי ברבי lit., ‘of the school of my master’, or ‘of Rabbi’, was a title of scholastic distinction given to many eminent scholars who were Rabbi's disciples or contemporaries, and similarly also to predecessors as well as to immediate successors among the early Amoraim. V. Nazir, Sonc., ed., p. 64, n. 1.

(33) פעוטות (cf. פטפט פוט, ‘to babble’) ‘talkers’, children of six or seven years of age, who may legally purchase or sell movable property. A child at this age, being regarded as sufficiently developed to understand certain commercial transactions, is also regarded as sufficiently developed to perform a halizah.

(34) One year prior to puberty, or the age of eleven years and one day, when her vows and consecrations are valid if on examination she is found to understand their significance and purpose. (Cf. Nid. 45b).

(35) R. Simeon and R. Johanan ha-Sandelar, the halachah being in agreement with the first Tanna who maintains that three judges are required for a halizah.

(36) V. Bah. Cur. edd. omit.
(37) Cf. supra 101b.
(38) Even ex post facto, which is the case spoken of in our Mishnah, halizah is invalid if no three eligible judges were present.
(39) Of which our Mishnah speaks (cf. supra n. 3).
(40) In agreement with R. Judah (cf. supra 101a).
(41) To indicate that even in the dispute between the first Tanna and R. Judah the halachah is in agreement with the former.
(42) Cf. our Mishnah. Cur. edd. read here ‘they performed halizah’.
(43) The ambiguity in our Mishnah is due to a reading which omits the Waw in ובא so that it is possible to join ‘in prison’ either to the previous, or to the following clause (cf. Tosaf. s.v. ובא).
(44) During the revolt of Bar Kokeba (132-135 C.E.) R. Akiba was for a time held by the Romans as a prisoner and was subsequently martyred.
(45) [Tosaf.: Rab Judah had it on tradition that it was so, even as it is related in T.J.: R. Johanan ha-Sandelar passed outside the prison wherein R. Akiba was incarcerated, calling out, ‘Who requires needles?’, ‘Who requires forks?’ . . . ‘How is it where the halizah was performed between himself and herself?’ R. Akiba thereupon looked out through the window and replied: ‘Hast thou of needles (kushin)? Hast thou kasher?’, thus intimating that it is legal. V. Tosef. quoted in תום״ ישנים for a slightly different version].

Talmud - Mas. Yevamoth 106a

Our Rabbis taught: A halizah under a false assumption[1] is valid.[2] What is meant by ‘a halizah under a false assumption’? Resh Lakish explained: Where a levir is told, ‘Submit to halizah and you will thereby wed her’. Said R. Johanan to him:[3] I am in the habit of repeating a Baraitha, ‘Whether he[4] had the intention[5] [of performing the commandment of halizah] and she had no such intention, or whether she had such intention and he had not, her halizah is invalid, it being necessary[6] that both shall at the same time have such intention’,[7] and you say that her halizah is valid![8] But [in fact this is the meaning]:[9] When a levir is told, ‘Submit to her halizah on the condition that she gives you two hundred zuz’.[10]

So it was also taught [elsewhere]: A halizah under a false assumption is valid; and what is meant by a halizah under a false assumption? One in which the levir is told ‘Submit to her halizah on condition that she gives you two hundred zuz’. Such an incident, in fact, occurred with a woman who fell to the lot of an unworthy levir who was told, ‘Submit to her halizah on condition that she gives you two hundred zuz’. When this case came before R. Hiyya he ruled that the halizah was valid.

A woman[11] once came before R. Hiyya b. Abba.[12] ‘Stand up,[13] my daughter’, the Rabbi said to her. ‘Her sitting is her standing’,[14] replied her mother.[15] ‘Do you know this man?’[16] the Rabbi asked. ‘Yes’, she answered him, ‘it is her money that he saw and he would like to it’.[17] ‘Do you not like him then?’ he asked the woman.[18] ‘No’, she replied. ‘Submit to her halizah’, [the Rabbi] said to [the levir], ‘and you will thereby wed her’. After the latter had submitted to halizah at her hands he said to him, ‘Now she is ineligible to marry you; submit again to a proper halizah that she may be permitted to marry a stranger’.

A daughter of R. Papa's father-in-law fell to the lot of a levir who was unworthy of her.[19] When [the levir] came before Abaye the latter said to him, ‘Submit to her halizah and you will thereby wed her’. Said R. Papa to him, ‘Does not the Master accept the [relevant] ruling of R. Johanan?’[20] — ‘What then could I tell him?’ [the other asked]. ‘Tell him’, the first replied, ‘"submit to her halizah on condition that she gives you two hundred zuz."’ After [the levir] had submitted to halizah at her hand [Abaye] said to her,[18] ‘Go and give him [the stipulated sum]’.[21] ‘She’, R. Papa replied, ‘was merely fooling him’;[22] was it not, in fact taught: If a man escaping from prison beheld a ferry boat and said [to the ferryman], ‘Take a denar and lead me across’,[23] [the latter] can only claim his ordinary fare.[24] From this then it is evident that the one can say to the other, ‘I was merely fooling you’; so here also[25] [the woman may say], ‘I was merely fooling you’. ‘Where is your father?’[26] [Abaye] asked him. — ‘In town’, the other replied. ‘Where is your mother?’[26] — ‘In town’, the other again replied. He set his eyes upon them and they died.

Our Rabbis taught:[27] A halizah under a false assumption is valid; a letter of divorce [given] under a false assumption is invalid.[28] A halizah under coercion is invalid; a letter of divorce [given] under compulsion is valid. How is this[29] to be understood? If it is a case where the man [ultimately][30] says, ‘I am willing’, the halizah also [should be valid]; and if he does not say, ‘I am willing’, a letter of divorce also should not [be valid]! — It is this that was meant: A halizah under a false assumption is always valid, and a letter of divorce [given] on a false assumption is always invalid; but a halizah under coercion and a letter of divorce [given] under coercion are sometimes valid and sometimes invalid, the former when the man [ultimately][30] declared, ‘I am willing’, and the latter, when he did not declare, ‘I am willing’. For it was taught: He shall offer it[31] teaches that the man is coerced.[32] It might [be assumed that the sacrifice may be offered up] against his will, it was, therefore, expressly stated, In accordance with his will.[33] How then [are the two texts to be reconciled]? He is subjected to pressure until he says, ‘I am willing’. And so you find in the case of letters of divorce for women: The man[34] is subjected to pressure until he says, ‘I am willing’.[35]

Raba reported in the name of R. Sehora in the name of R. Huna: Halizah may be arranged even though [the parties][36] are unknown[37] A declaration of refusal[38] may be arranged even though the parties[39] are unknown.[37] For this reason[40] no certificate of halizah may be written[41] unless the parties are known,[42] and no certificate of mi'un[43] may be written[41] unless the parties are known,[42] for fear of an erring Beth din.[44]

Raba in his own name, however, stated: halizah must not be arranged unless the parties[45] are known,[46] nor may a declaration of refusal[43] be heard unless the parties[47] are known.[46] For this reason[48] it is permissible[49] to write a certificate of halizah[50] even though the parties are not known,[51] and it is also permissible[49] to write a certificate of mi'un[52] even though the parties are not known,[51] and we are not afraid of an erring Beth din.[53]

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(1) מוטעת (rt. טעה Hof.) lit., ‘misled’.

(2) Tosef. Yeb. XII, Keth. 74a.

(3) Resh Lakish.

(4) The levir.

(5) When he submitted to halizah.

(6) Lit., ‘until’.

(7) Tosef. Yeb. XII, supra 102b.

(8) Even when the levir was misled into thinking that he was performing an act of marriage!

(9) Of ‘halizah under a false assumption’.

(10) V. Glos. Even if the promised sum was not forthcoming, the halizah is valid. Any condition in connection with an act which, like halizah. cannot be performed through an agent is illegal and void. Cf. Keth. 74a.

(11) A sister-in-law who fell to the lot of an undesirable levir. (V. infra).

(12) To meet the levir.

(13) I.e., to contract the levirate marriage.

(14) She was lame or suffered from some other chronic disease which disabled her from standing up. Another interpretation: Her ‘sitting’, i.e., her abstention from the marriage is her ‘standing’, i.e., salvation.

(15) Cf. Bah.

(16) I.e., did she know why he insisted on marrying a disabled woman? According to the second interpretation the question was whether she knew anything against his character.

(17) After which he would get rid of her. Lit., ‘and he desires to eat it from her’.

(18) The sister-in-law.

(19) But who insisted on contracting with her the levirate marriage.

(20) Requiring both the man and the woman to be of the unanimous intention, during the ceremony, of fulfilling the commandment of halizah. V. supra.

(21) Though the halizah was in any case valid, Abaye held that the condition must be complied with.

(22) Lit., ‘(the trick of) "I fooled with you", she did to him’. Since the halizah is valid, and since it is the levir's duty to perform it, no legal obligation is incurred by promising him an excessive sum for doing that which it was his duty to do.

(23) An excessive fee for crossing a river.

(24) B.K. 116a.

(25) In the case of halizah under discussion.

(26) Abaye's query implied that R. Papa seemed to have all his needs provided for by his parents and that this left him leisure enough to indulge in fine dialectics.

(27) Others read, ‘Raba said’ (She'iltoth section Ki Theze).

(28) If the condition on which it was given was not fulfilled. A condition in the case of divorce has legal validity, since a divorce may be effected through the agency of witnesses. V. Keth. 74a and cf. supra p. 730, n. 10, final clause.

(29) The second ruling relating to coercion.

(30) After Beth din had brought pressure to bear upon him.

(31) Lev. I, 3.

(32) To carry out his vow if he undertook to bring an offering.

(33) לרצנו ibid., E.V., ‘that he may be accepted’.

(34) Who refuses to give a divorce.

(35) Cf. Kid. 50a, B.B. 48a, Ar. 21a.

(36) The levir and his sister-in-law who apply for a halizah to be arranged for them.

(37) To the Beth din.

(38) Mi'un. V. Glos.

(39) The husband and the minor.

(40) Since halizah or mi'un may he arranged even for unknown persons whose declarations might be false.

(41) For a woman who applied for such a certificate to enable her to marry again. even if the usual declaration, that the parties were known to the writers, is omitted. V. infra n. 4.

(42) To the writers who witnessed the ceremony.

(43) Mi'un. V. Glos.

(44) I.e., a second Beth din who might be called upon to deal with the question of the remarriage of the parties and who might be unaware of the law that halizah and mi'un may be arranged even for unknown persons, and who, in their reliance on the written certificate, might permit the woman to marry again; overlooking the fact that the usual declaration that the parties were known to the writers (cf. supra note 1) was wanting from the certificate.

(45) V. supra p. 732, n. 10.

(46) To the Beth din.

(47) The husband and the minor.

(48) Since no Beth din would allow halizah and mi'un unless the parties are known to them.

(49) For witnesses who were present during one or other, as the case may be, of such ceremonies.

(50) To enable the woman to marry again.

(51) To the writers who witnessed the ceremony.

(52) Cf. supra notes 3 and 10.

(53) Cf. supra note 4 mutatis mutandis. Since the first Beth din must know the parties the question of mistaken identity does not arise.

Talmud - Mas. Yevamoth 106b

MISHNAH. [THIS IS THE PROCEDURE IN THE PERFORMANCE OF] THE COMMANDMENT OF HALIZAH: HE[1] AND HIS DECEASED BROTHER'S WIFE COME UNTO THE BETH DIN, AND [THE LATTER] OFFER HIM SUCH ADVICE AS IS SUITABLE TO HIS CONDITION,[2] FOR IT IS SAID IN THE SCRIPTURES, THEN THE ELDERS OF HIS CITY SHALL CALL HIM AND SPEAK UNTO HIM.[3] SHE THEN ANNOUNCES: MY

HUSBAND'S BROTHER REFUSETH TO RAISE UP UNTO HIS BROTHER A NAME IN ISRAEL; HE WILL NOT PERFORM THE DUTY OF A HUSBAND'S BROTHER UNTO ME.[4] THEN HE MAKES THE DECLARATION: I LIKE NOT TO TAKE HER.[5] [THESE FORMULAE] WERE ALWAYS SPOKEN IN THE HOLY TONGUE.[6] THEN SHALL HIS BROTHER'S WIFE DRAW NIGH UNTO HIM IN THE PRESENCE OF THE THE ELDERS AND DRAW[7] HIS SHOE FROM OFF HIS FOOT, AND SPIT BEFORE[8] HIS FACE,[9] SUCH SPITTLE AS THE JUDGES CAN SEE, AND SHE RAISES HER VOICE AND SAYS:[10] SO SHALL IT BE DONE UNTO THE MAN THAT DOTH NOT BUILD UP HIS BROTHER'S HOUSE,[11] THUS FAR[12] USED THEY TO RECITE.[13] WHEN, HOWEVER, R. HYRKANUS, UNDER THE TEREBINTH AT KEFAR ETAM,[14] ONCE DICTATED THE READING AND COMPLETED THE ENTIRE SECTION,[15] THE PRACTICE WAS ESTABLISHED TO COMPLETE THE ENTIRE SECTION.

[THAT] HIS NAME SHALL BE CALLED IN ISRAEL, ‘THE HOUSE OF HIM THAT HAD HIS SHOE DRAWN[16] OFF’,[17] IS A COMMANDMENT [TO BE PERFORMED] BY THE JUDGES AND NOT BY THE DISCIPLES.[18] R. JUDAH, HOWEVER, RULED: IT IS A DUTY INCUMBENT UPON ALL PRESENT TO CRY ‘[THE MAN][19] THAT HAD HIS SHOE DRAWN[16] OFF’.[17]

GEMARA. Rab Judah stated: [This is the procedure in the performance of] the commandment of halizah: She recites;[20] he recites;[21] she draws off his shoe, spits and recites.[22] What does he teach us [by this statement]? This is our very Mishnah! — It is this that he teaches us: The prescribed procedure is such, but if the order was reversed, it does not matter. So it was also taught: Whether the drawing off of the shoe preceded the spitting or whether the spitting preceded the drawing off, the act is valid.[23]

Abaye ruled: The man who dictates the halizah formulae[24] shall not read for the woman [the word] not[25] separately and [the clause] he will perform the duty of a husband's brother unto me[26] separately, since this[27] would convey the meaning, ‘He desires to perform the duty of a husband's brother to me’; but [should read without a pause]. He will not perform the duty of a husband's brother unto me. Nor shall he read for the levir [the word] not[28] separately and [the clause] I like[28] separately; for this[27] would convey the meaning. ‘I like to take her’; but [he should read without a pause], I like not to take her.[29] Raba, however, stated: This[30] is only the conclusion[31] of a sentence, and in a concluding clause [a pause] is of no consequence.[32]

R. Ashi found R. Kahana making a painful effort to read out for a woman,[33] He will not perform the duty of a husband's brother unto me,[34] [without a pause]. ‘Does not the Master,’ he asked him, ‘accept the ruling of Raba?’[35] — ‘Raba’, the other replied, ‘admits in [the case of the formula] He will not perform the duty of a husband's brother unto me[34] [that no pause is permitted].[36]

Abaye stated: The person who writes a certificate of halizah shall word it as follows: ‘We read out for her[37] from My husband's brother refuseth[38] to[39] will perform the duty of a husband's brother unto me;[40] and we read out for him[41] from not[42] to[39] to take her;[43] and we read out for her from So[44] to[45] him that had his shoe drawn off.[46]

Mar Zutra ruled [the paper][47] and copied the full text.[48] Mar b. Idi[49] demurred: But, surely, [a section only of the Pentateuch] is not permitted to be written![50] The law, however, is in agreement with the ruling of Mar Zutra.[51]

Abaye stated: If, when she spat. the wind carried the spittle away,[52] her act is invalid.[53] What is the reason? — It is necessary that she shall spit before[54] his face.[44] If, therefore, he was tall and she was short, and the wind carried the spittle away,[55] her act is deemed to have been[56] before his face.[57] If, however, she was tall and he was short, it is necessary that [the spittle] shall drop to the level of his face before[58] it disappears.

Raba stated: If she ate garlic and then spat[59] or if she ate a clod of earth and then spat,[59] her act is invalid.[53] What is the reason? — Because it is necessary that she shall spit[44] of her own free will, which is not the case here.[60]

Raba further stated: The judges must see the spittle issuing from the mouth of the sister-in-law, because it is written in Scripture Before the eyes of the elders . . . and spit.[61]

[THAT] HIS NAME SHALL BE CALLED IN ISRAEL, 'THE HOUSE OF HIM THAT HAD HIS SHOE DRAWN OFF' IS A COMMANDMENT [TO BE PERFORMED] BY THE JUDGES AND NOT BY THE DISCIPLES. It was taught: R. Judah stated: We were once sitting before R. Tarfon when a sister-in-law came to perform halizah, and he said to us, 'Exclaim all of you: Haluz ha-na'al,[62] haluz ha-na'al, haluz ha-na'al!' [

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(1) The levir.
(2) As, for instance, whether the respective ages or characters of the parties are likely to be conducive to a happy union. Cf. supra 44a, 101b.
(3) Deut. XXV, 8.
(4) Deut. XXV, 7.
(5) Ibid. 8.
(6) The classical Hebrew in which the formulae appear in the Scripture. Cf. Sot. 32a.
(7) E.V., loose.
(8) E.V., in.
(9) Deut. XXV, 9.
(10) E.V. ' And she shall answer and say.
(11) Ibid.
(12) I.e., to the end of v. 9.
(13) Or 'dictate'. The judges dictated and the parties recited.
(14) [Var. lec. אבום, Cambridge Mishnah M.S. עכו. Krauss MGWf 1907, p. 332 reads כפר עכןם, Capphare Accho in lower Galilee. Etam is mentioned in Judges XV, 8 and 11, I Chron. IV, 32 and II Chron. XI, 6].
(15) To the end of v. 10.
(16) E.V., loosed.
(17) Deut. XXV, 10.
(18) Who happen to be present when the halizah ceremony is being performed.
(19) E.V., him.
(20) The formula prescribed in Deut. XXV, 7.
(21) The formula, ibid. 8.
(22) Ibid. 9. Cf. Sanh. 49b.
(23) Lit., 'what he did is done'. Sanh. 49b, supra 105a.
(24) Lit., 'document', 'deed'.
(25) it:'. (Deut. XXV, 7) which is the first word of the formula.
(26) אבה יבמי ibid.
(27) The severance of the latter clause from the negative particle.
(28) Deut. XXV, 8, cf. supra n. 3.
(29) Ibid.
(30) Each of the clauses mentioned by Abaye.
(31) אסוקי. This is the reading of Alfasi, Asheri and Bah. Cur. edd., אפסוקי 'breaking'. . . pausing'.
(32) Hence it is permitted to make a break between 'not' and the rest of the formula.
(33) A sister-in-law for whom he was arranging a halizah.
(34) The prescribed formula in Deut. XXV, 7.
(35) Supra, that a pause after 'not' is immaterial.

(36) It is only in the formula of the levir, in which the negative particle, ‘not’, forms the first word and cannot consequently be misunderstood as being connected with any previous word, that a pause does not matter. In the woman's formula, however, where the negative particle occurs in the middle of a clause, a pause after it might imply the connection of the negative with the preceding words, so that the clause following it would assume the meaning of an affirmative statement.
(37) The sister-in-law.
(38) The prescribed formula in Deut. XXV, 7.
(39) The middle portion of the formula is omitted, since it is forbidden to write down more than three consecutive words of the Pentateuch on unruled paper (cf. Git. 6b). The words permitted to be written according to Abaye represent in the Hebrew no more than two consecutive words.
(40) V. supra p. 735, n. 4.
(41) The levir.
(42) לא, the beginning of the levir's first formula.
(43) Ibid.
(44) Deut. XXV, 9.
(45) V. supra note 3.
(46) Ibid. 10, E.V., loosed.
(47) For the halizah certificate, cf. Git. 6b.
(48) Of each formula, not merely, as Abaye taught, its first and last words.
(49) Others, ‘Mar b. R. Ashi’. V. Alfasi and Asheri.
(50) The Pentateuch in its entirety only may be copied. Cf. Git. 60a.
(51) The prohibition against copying a section of the Pentateuch being limited to one that is to be used for teaching purposes. One, however, that is to be used as a mere record, as in the case of the Halizah certificate, does not come under the prohibition.
(52) Lit., ‘received’, ‘clutched’, ‘absorbed’.
(53) L1t., ‘she did not do anything’.
(54) E.V., in.
(55) V. supra note 16.
(56) Lit., ‘there is’.
(57) lbid., since at the moment the spittle left her mouth it was before the levir's face.
(58) Lit., ‘and then’.
(59) Impulsively owing to the unpleasant taste in her mouth.
(60) The garlic or the clod of earth having been the cause of her involuntary or instinctive action.
(61) Deut. XXV, 9.
(62) ‘(The man) that had his shoe drawn off’. V. Deut. XXV, 10.

CHAPTER XIII

MISHNAH. BETH SHAMMAI RULED: ONLY THOSE[1] WHO ARE BETROTHED[2] MAY EXERCISE THE RIGHT OF REFUSAL;[3] BUT BETH HILLEL RULED: BOTH THOSE WHO ARE BETROTHED AND THOSE WHO ARE MARRIED. BETH SHAMMAI RULED: [A DECLARATION OF REFUSAL[3] MAY BE MADE] AGAINST A HUSBAND BUT NOT AGAINST A LEVIR;[4] BUT BETH HILLEL RULED: EITHER AGAINST A HUSBAND OR AGAINST A LEVIR. BETH SHAMMAI RULED: [THE DECLARATION][5] MUST BE MADE IN HIS PRESENCE, BUT BETH HILLEL RULED: EITHER IN HIS PRESENCE OR NOT IN HIS PRESENCE. BETH SHAMMAI RULED: [THE DECLARATION[5] MUST BE MADE] BEFORE BETH DIN, BUT BETH HILLEL RULED: EITHER BEFORE BETH DIN OR NOT BEFORE BETH DIN.

BETH HILLEL SAID TO BETH SHAMMAI: [A GIRL] MAY EXERCISE THE RIGHT OF REFUSAL WHILE SHE IS A MINOR EVEN FOUR OR FIVE TIMES.[6] BETH SHAMMAI, HOWEVER, ANSWERED THEM: THE DAUGHTERS OF ISRAEL ARE NOT OWNERLESS PROPERTY,[7] BUT, [IF ONE] MAKES A DECLARATION OF REFUSAL, SHE MUST WAIT TILL SHE IS OF AGE, AND DECLARE HER REFUSAL[8] AND MARRY AGAIN.

GEMARA. Rab Judah stated in the name of Samuel: What is Beth Shammai's reason?[9] Because no stipulation is attachable to a marriage;[10] and were a married minor to be allowed to exercise the right of refusal, it would come to be assumed[11] that a stipulation is attachable to a marriage.[12] What reason, however, could be advanced[13] where she only entered the bridal chamber[14] and no cohabitation had taken place?[15] Because no condition is attachable to an entry into the bridal chamber.[16] What reason, however, could be advanced[13] where the father[17] entrusted her to the representatives of the husband?[18] — The Rabbis made no distinction.[19] And Beth Hillel?[20] — It is well known that the marriage of a minor is only Rabbinically valid.[21]

Both Rabbah and R. Joseph declared: The reason of Beth Shammai[22] is that no man wishes to treat his cohabitation as mere fornication.[23] What, however, can be the reason[22] where she only entered the bridal chamber and no cohabitation took place?[24] No man would like his bridal chamber to be [an introduction to] a forbidden act.[25] What reason,[22] then, could be advanced where the father[26] had entrusted her to the representatives of the husband?[27] — The Rabbis made no distinction.[28] And Beth Hillel?[29] — Since [a minor's marriage] involves[30] betrothal and kethubah no one would suggest that her husband's cohabitation was an act of fornication.

R. Papa explained: Beth Shammai's reason[31] is because of the usufruct,[32] and Beth Hillel's reason also is because of the usufruct.[32] ‘Beth Shammai's reason is because of the usufruct’, for should you say that a married minor may exercise the right of refusal, [her husband][33] might [indiscriminately] pluck [the fruit] and consume it, [knowing as he does] that she might leave him at any moment.[34] Beth Hillel, however, [say]: On the contrary; since it is laid down that she may exercise the right of refusal, [her husband] would make every effort to improve her property, fearing that if [he should] not [do this], her relatives might give her their advice [against him] and thus take her away from him.

Raba stated: The real reason[31] of Beth Shammai is because no man would take the trouble to prepare a meal[35] and then spoil it.[36] And Beth Hillel?[37] — Both are pleased [to be married to each other][38] in order that they may be known as married people.[39]

BETH SHAMMAI RULED . . . AGAINST A HUSBAND etc. R. Oshaia stated: She may[40] make a declaration of refusal in respect of his ma'amar[41] but she has no right to make a declaration of refusal in respect of his levirate bond.[42]

Said R. Hisda: What is R. Oshaia's reason? — She has the power to annul a ma'amar which is effected with her consent; she has no power, however, to sever the levirate bond since it is binding on her against her will.[43] But, surely, [levirate marriage by] cohabitation may be effected against her will[44]

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(1) Young girls who are minors and whose fathers are dead. v. infra n. 2.

(2) With the permission of their mother or brothers into whose charge they pass after the death of their fathers.

(3) Mi'un (v. Glos.) and no divorce is required.

(4) The levirate bond with whom can he severed by halizah only. Bah deletes ‘but not . . . levir’.

(5) Cf. supra n. 3.

(6) And may marry again after each refusal.

(7) To be taken up by man after man without receiving proper divorce from the one before being betrothed or married to the other

(8) This is explained in the Gemara infra.

(9) For ruling that ONLY BETROTHED WOMEN MAY EXERCISE THE RIGHT OF REFUSAL and that consequently a married minor may not exercise the right.

(10) And the validity of the marriage is not in any way impaired even if the condition that was attached to it was not fulfilled. The law assumes that the man tacitly renounces, on cohabitation, the condition.

(11) The invalidity of her marriage being assumed to be due, not to her minority, but to some unfulfilled stipulation that was attached to her marriage.

(12) Even in the case of one who is of age. Hence Beth Shammai's ruling in our Mishnah. Cf. supra note 1.

(13) For the prohibition of mi'un. V. Glos.

(14) Huppah, v. Glos.

(15) In such a case, since consummation of marriage has not taken place, there is, surely, no need to provide against the erroneous assumption of the validity of a stipulation in consummated marriage!

(16) If a minor at such a stage in her marriage were allowed mi'un it might be assumed that the reason why her union was severed without a divorce was not because of her minority but owing to an unfulfilled condition that was attached to her entry into the bridal chamber, and so it would be concluded erroneously that even in the case of one who is of age a condition attached is valid.

(17) I.e., his successors in authority over the minor, after his death, viz., his wife and sons. (Cf. supra p. 738, n. 2). Where a father is alive the law of mi'un (with the exception of the case mentioned supra p. 2, n. 6) does not apply, since he has the right to give her away in perfect and proper marriage while she is a minor.

(18) An act which, though regarded as marriage, is a stage preceding that of entry into the bridal chamber, where a condition is valid, even in the case of a bride who is of age.

(19) Between a marriage fully consummated and one in its earlier stage. Since both are cases of marriage, permissibility of mi'un in the latter might lead to an erroneous conclusion concerning the former.

(20) Why do they not provide against the possibility of erroneous conclusions.

(21) No one would draw comparisons between a marriage the validity of which is only Rabbinical and one which is Pentateuchally binding.

(22) V. Supra p. 739, n. 1.

(23) Which would be the case were a married minor to be allowed to leave her husband by mi'un only without a proper divorce. Mi'un was, therefore, forbidden in order to encourage the marriage of orphan minors who, if they remain unmarried, are subject to the dangers of immorality and prostitution. Cf. infra 112b.

(24) In which case the reason given is inapplicable.

(25) Retrospective prostitution.

(26) V. Supra p. 739, n. 9.

(27) Though such an act on the part of the minor's mother or brothers constitutes marriage in accordance with Rabbinic law, as does such an act on the part of the father even in the case of one who is of age (cf. Keth. 48b), nevertheless the question of fornication does not in such a case arise. Why, then, do Beth Shammai forbid mi'un even at this stage of marriage?

(28) Cf. supra p. 739, n. 11.
(29) How, in view of the reason advanced, could they allow mi'un even in marriage!
(30) Lit., 'there is'.
(31) V. supra p. 739, n. 1.
(32) Of the minor's melog (v. Glos.) property.
(33) Who after marriage is entitled to the usufruct of his wife's melog property.
(34) Lit., 'for in the end she stands to go out'.
(35) The wedding feast.
(36) Had mi'un been allowed after a marriage no one would, for this reason, ever marry a minor; and this might lead to immoral consequences. Cf. supra p. 740, n. 2.
(37) v. p. 740, n. 8.
(38) Despite the objections pointed out by Beth Shammai.
(39) The possible loss does not, therefore, prevent a man from marrying a minor.
(40) According to Beth Hillel who allow the right of refusal even against a levir.
(41) If the levir made a ma'amar, she can annul it by mi'un, and no divorce is required.
(42) Only halizah can sever the levirate bond. In ordinary cases where the levir addressed to the yebamah a ma'amar, she requires for her freedom both a divorce to annul the effect of the ma'amar, and halizah to sever the levirate bond.
(43) Because it is due to her marriage with the deceased brother, which, since she did not exercise her right of refusal against him, remained valid.
(44) Cf. supra 53b, 54a.

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and yet she may annul it! — [This,] however, [is really the reason]: She may annul [a kinyan by] cohabitation or by a ma'amar, because it is the levir who effects it; she cannot, however, annul the levirate bond which the All Merciful has imposed upon her.

'Ulla said: She may exercise her right of refusal even in respect of his levirate bond. What is the reason?[1] [By her refusal] she annuls the marriage of her first husband.[2]

Raba raised an objection against 'Ulla: The rival of anyone, entitled to make a declaration of refusal,[3] who did not exercise her right, must perform the ceremony of halizah[4] [if her husband died childless] but may not contract levirate marriage.[5] But why? Let her exercise her right of refusal now and thereby annul the marriage of her first husband, and then let her rival[6] contract the levirate marriage![7] — The rival of a forbidden relative is different.[8] For Rami b. Ezekiel learnt: If a minor made a declaration of refusal against her husband she is permitted to marry his father,[9] but if against the levir[10] she is forbidden to marry his father. It is thus evident[11] that at the time she became subject to the levirate marriage she is looked upon as his[12] daughter-in-law;[13] similarly here also[14] [marriage of the rival is forbidden because] at the time of her subjection to the levirate marriage she is looked upon as his daughter's rival.[15] Rab stated: If she[16] made a declaration of refusal against one[17] [of the levirs] she is forbidden [to marry] the others[17] also; her case being analogous to that of the recipient of a letter of divorce.[18] As[19] the recipient of a letter of divorce is forbidden to all [the brothers] as soon as she is forbidden to one[20] so is there no difference here also.[21]

Samuel, however, stated: If she[16] exercised her right of refusal against one[20] [of the levirs] she is permitted [to marry] the others;[17] her case being unlike that of the recipient of a letter of divorce.[18] For with the recipient of a letter of divorce[18] it is he[20] who took the initiative against her;[22] but here it is she who took the initiative against him, declaring, 'I do not like you and I do not want you; it is you whom I dislike but I do like your fellow'.

R. Assi ruled: If she[16] made a declaration of refusal against one [levir] she is permitted [to marry] even him. May it be assumed that he is of the same opinion as R. Oshaia who maintains that a minor has no right to make a declaration of refusal in respect of his levirate bond?[23] — In respect of one levir she may well be entitled to annul [the levirate bond]; here, however, we are dealing with two levirs [the reason[24] being] that no declaration of refusal is valid against half a levirate bond.[25]

When Rabin came[26] he reported in the name of R. Johanan: If she[16] exercised her right of refusal against one[17] [of the levirs] she is permitted to marry the other brothers. [They], however did not agree with him. Who [are they who] did not agree with him?

Abaye said: Rab;[27] Raba said: R. Oshaia;[28] and others said: [Even] R. Assi.[29]

BETH SHAMMAI RULED . . . IN HIS PRESENCE etc. It was taught: Beth Hillel said to Beth Shammai, ‘Did not the wife of Pishon the camel driver make her declaration of refusal in his absence?’ ‘Pishon the camel driver’, answered Beth Shammai to Beth Hillel, ‘used a reversible measure;[30] they, therefore, used against him also a reversible measure’.[31] Since, however, he was eating the usufruct[32] it is obvious that [the minor] was married to him;[33] but [if this was the case] did not Beth Shammai rule [it may be asked] that a married minor may not exercise the right of refusal![34] They bound him with two bonds.[35]

BETH SHAMMAI RULED: . . . BEFORE BETH DIN etc. Elsewhere we learned: Halizah and declarations of mi'un [must be witnessed by] three men.[36] Who is the Tanna?[37] — Rabbah replied: This [ruling is that of] Beth Shammai.[38] Abaye said: You may even say [that it is the ruling of] Beth Hillel. All that[39] Beth Hillel really stated was that no experts[40] are required; three men, however, are indeed required. As it was, in fact, taught: Beth Shammai ruled [that mi'un must he declared] before Beth din,[41] and Beth Hillel ruled: Either before a Beth din or not before a Beth din. Both, however, agree that a quorum of three is required.[42] R. Jose son of R.[43] Judah and R. Eleazar son of R. Simeon[44] ruled: [Mi'un is] valid [even if It was declared] before two.[45] R. Joseph b. Manyumi reported in the name of R. Nahman that the halachah is in agreement with this pair.[46]

BETH SHAMMAI, HOWEVER, ANSWERED . . . AND SHE DECLARES HER REFUSAL etc. But, surely, she has already made a declaration of refusal![47] — Samuel replied: [The meaning is] TILL SHE IS OF AGE and states, ‘I am willing to abide by the first declaration of refusal’.[48] ‘Ulla replied: Two [different statements] are here made: Either she declares her refusal ‘and is betrothed after she is of age,[49] or she declares her refusal, and is married forthwith.[50]

According to ‘Ulla one can well understand why the expression, TILL SHE IS OF AGE OR DECLARES HER REFUSAL[51] AND MARRIES AGAIN, was used. According to Samuel, however, it should have been stated ‘TILL SHE IS OF AGE and states’.[52] — This is a difficulty. MISHNAH. WHICH MINOR MUST MAKE THE DECLARATION OF REFUSAL?[53] ANY WHOSE MOTHER OR BROTHERS HAVE GIVEN HER IN MARRIAGE WITH HER CONSENT. IF, HOWEVER, THEY GAVE HER IN MARRIAGE WITHOUT HER CONSENT SHE NEED NOT MAKE ANY DECLARATION OF REFUSAL.[54]

R. HANINA B. ANTIGONUS RULED: ANY CHILD WHO IS UNABLE TO TAKE CARE OF HER TOKEN OF BETROTHAL[55] NEED NOT MAKE ANY DECLARATION OF REFUSAL.[54]

R. ELIEZER[56] RULED: THE ACT OF A MINOR HAS NO VALIDITY AT ALL, BUT [SHE[57] IS TO BE REGARDED] AS ONE SEDUCED. IF, THEREFORE, SHE IS THE DAUGHTER OF AN ISRAELITE [AND WAS MARRIED] TO A PRIEST SHE MAY NOT EAT TERUMAH,[58] AND IF SHE IS THE DAUGHTER OF A PRIEST [AND WAS MARRIED] TO AN ISRAELITE SHE MAY EAT TERUMAH.[59]

R. ELIEZER B. JACOB RULED: IN THE CASE OF ANY HINDRANCE [IN

REMARRYING][60] THAT WAS DUE TO THE HUSBAND, [THE MINOR] IS DEEMED TO HAVE BEEN[61] HIS WIFE; BUT IN THE CASE OF ANY HINDRANCE [IN REMARRYING] THAT WAS NOT DUE TO THE HUSBAND SHE IS NOT DEEMED TO HAVE BEEN[62] HIS WIFE.

GEMARA. Rab Judah stated, and others say that it was taught In a Baraitha: Originally, a certificate of mi'un was drafted [as follows]: 'I do not like him and I do not want him and I do not desire to be married to him'. When, however, it was observed that the formula was too long and it was feared that

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(1) How could she annul a bond which the 'All Merciful has imposed upon her'?

(2) The deceased; so that the levirate bond ceases to exist retrospectively as if it had never been in existence.

(3) I.e., a girl who married while she was a minor and whose father did not receive the token of her betrothal. This may occur even during the lifetime of her father if she marries a second time after she had been divorced by her first husband to whom she had been given in marriage by her father. After a divorce the father's right to give his 'minor' daughter in marriage ceases.

(4) With the levir, though he is the father or any other forbidden relative of the minor. It is only the rival of a woman whose marriage is Pentateuchally valid who is exempt from both levirate marriage and halizah with the forbidden relative of that woman. The marriage of a minor, who could exercise her right of refusal at any moment, is only Rabbinically valid.

(5) Supra 2b. Since after all the minor did not exercise her right of refusal her marriage is valid enough to forbid her rival's levirate marriage, as is the case with a Pentateuchally valid marriage.

(6) Who, by the declaration of refusal of the minor, ceases to be her rival.

(7) With the minor's forbidden relative.

(8) From a minor who becomes subject to halizah. While the minor may, by annulling her marriage retrospectively by the exercise of the right of mi'un, procure exemption from the halizah, her rival cannot, through the minor's exercise of this right, obtain the freedom to marry the minor's forbidden relative.

(9) Who, owing to her retrospective annulling by mi'un of her marriage with his son, is to him now a mere stranger.

(10) To whom she has become bound by the levirate obligation when her husband, against whom she did not exercise her right of mi'un, died childless.

(11) Since she is forbidden to marry the levir's father.

(12) The levir's father's.

(13) A status which she retains despite the mi'un.

(14) Though her mi'un which annulled her marriage retrospectively exempted her from halizah.

(15) Her subsequent estrangement, effected by the minor's mi'un, cannot remove her known status of forbidden relative's rival. Cf. supra note 10.

(16) A minor.

(17) Lit., 'this'.

(18) From one of the levirs.

(19) Lit., 'not?'

(20) The levir who gave her the letter of divorce.

(21) The mi'un which causes her to be forbidden to marry one of the brothers causes her, as in the case of divorce, to be equally forbidden to all the other brothers.

(22) And he is presumed to have acted on behalf of all his brothers.

(23) And if she did exercise It she still remains permitted to the levir, v. supra p. 741, n. 8.

(24) For the invalidity of the mi'un.

(25) She is equally bound to the two levirs, and her refusal was declared against one of them only.

(26) From Palestine to Babylon.

(27) Who stated supra that if a minor made a declaration of refusal against one of the brothers she is forbidden to all.

(28) R. Johanan permitted her to marry the brothers only where there were several of them (the reason being the same as that of R. Assi that a part of a levirate bond cannot be severed); where, however, there was only one brother R. Johanan forbids him to marry the minor who made a declaration of refusal against him. This ruling is contrary to that of R.

Oshaia who in all cases regards mi'un against a levirate bond as invalid.

(29) Much more so R. Oshaia (v. supra n. 13). Even R. Assi who, unlike R. Oshaia agrees with R. Johanan in permitting the marriage of a minor, after her mi'un, only where the number of levirs is more than one, differs, nevertheless, from him in allowing the minor to marry the very levir against whom her declaration of refusal was made.

(30) כפושה (rt. כפש 'to bend'cf.מדה כפושה, a measure of capacity having a deep receptacle at one end and a shallow one at the other, to defraud thereby sellers and buyers; ‘a false measure’. This is a metaphor expressing Pishon's double dealing with his wife in pretending merely to eat the fruit of her melog property, to which he was in fact entitled, while in reality he was encroaching upon the property itself which belonged to her.

(31) He was paid ‘measure for measure’, ‘tit for tat’. In other cases, however, mi'un must be declared before Beth din only.

(32) Of the minor's melog property.

(33) Not merely betrothed. Before marriage, even if betrothal had taken place, a husband is not entitled to the usufruct of his wife's melog property.

(34) How then could she here at all make such a declaration !

(35) Metaph. He was subjected to two penalties. קיטרי sing.קטרא (Heb. קשר) ‘knot’, ‘bond’.

(36) Supra 101b, Sanh. 2a.

(37) Whose ruling this statement represents.

(38) Who require the presence of a Beth din (v. our Mishnah) which consists of three men.

(39) Lit., ‘until here’.

(40) Mumhin, plur. of mumhe, v. Glos.

(41) ‘Of experts’. This is the reading supra 101b.

(42) Which confirms Abaye's opinion.

(43) Cur. edd., בר (‘son’), is apparently a misprint for בר (‘son of R.’), which is the reading supra, loc. cit.

(44) Cf. loc. cit. where the reading is ‘Jose’.

(45) Sanh. 2a, supra loc. cit.

(46) Who require a quorum of two only, v. supra loc. cit.

(47) When she was a minor. Why then does our Mishnah speak of a second declaration of refusal after she has become of age?

(48) By the second refusal (cf. supra n. 8) only the confirmation of the first was intended. Without such confirmation it might be possible to assume that she had changed her opinion and withdrawn her first declaration.

(49) When she may no more exercise the right of mi'un even after a betrothal only.

(50) While still a minor. Since, according to Beth Shammai, mi'un after a marriage is invalid she would not be able, once she was married, to exercise that right again. The word ותמאן translated AND DECLARES etc. should be rendered OR DECLARES etc.

(51) ‘OR . . . REFUSAL is wanting in cur. edd., but is to be added (cf. our Mishnah).

(52) That she abides by her declaration.

(53) If she desires to leave her husband.

(54) She may leave her husband without any legal formality, and may marry any other man.

(55) The money or object whereby the kinyan of betrothal is effected. Cf. Kid. 2af.

(56) Cf. Bah, Bomb. ed. and separate edd. of the Mishnah; Cur. edd., ‘Eleazar’.

(57) If she was given away in marriage.

(58) Her marriage being invalid, she remains in her father's control, and, like any other daughter of an Israelite who never married a priest, is forbidden to eat terumah.

(59) As the daughter of a priest who never married an Israelite. Cf. supra n. 6.

(60) Lit., ‘retention (in the house of her husband)’.

(61) Lit., ‘as if she was’.

(62) Lit., ‘as if she was not’.

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people might mistake it for a letter of divorce,[1] the following formula was instituted: ‘On the Nth day, So-and-so the daughter of So-and-so made a declaration of refusal in our presence’.

Our Rabbis taught: What is regarded as mi'un? — If she[2] said, ‘I do not want So-and-so my husband’, or ‘I do not want the betrothal which my mother or my brothers have arranged for me’.[3] R. Judah said even more than this:[4] Even if while sitting in the bridal litter,[5] and being carried[6] from her father's house to the home of her husband, she said, ‘I do not want So-and-so my husband’, her statement[7] is regarded as[8] a declaration of refusal. R. Judah said more than this:[9] Even if, while the wedding guests were reclining [on their dining couches] in her husband's house and she was standing and waiting[10] upon them , she said to them, ‘I do not want my husband So-and-so’, her statement[11] is regarded as[12] a declaration of refusal. R. Jose b. Judah said more than this: Even if, while her husband sent her to a shopkeeper to bring him something for himself,[13] she said, ‘I do not want So-and-so my husband’, you can have no mi'un more valid than this one.[14]

R. HANINA B. ANTIGONUS RULED: ANY CHILD etc. Rab Judah reported in the name of Samuel: The halachah is in agreement with R. Hanina b. Antigonus.

A Tanna taught: If a minor who did not make a declaration of refusal married herself again, her marriage, it was stated in the name of R. Judah b. Bathyra, is to be regarded as her declaration of refusal.

It was asked: What is the law where she[15] was only betrothed?[16] — Come and hear: If a minor who did not make a declaration of refusal betrothed herself [to another man], her betrothal, it was stated in the name of R. Judah b. Bathyra, is regarded as her declaration of refusal.

The question was raised: Do the Rabbis differ from R. Judah b. Bathyra or not? If you can find some ground for holding that they differ, [it may be asked whether only] in respect of betrothal,[17] or even in respect of marriage? And should you find some reason for holding that they differ even in respect of marriage [the question arises whether] the halachah is in agreement with him[18] or not? And if you can find some ground for holding that the halachah is in agreement with him [it may be asked whether only] in respect of marriage or also in respect of betrothal? — Come and hear: Rab Judah stated in the name of Samuel that the halachah is in agreement with R. Judah b. Bathyra;[19] [since it had to be stated that] the halachah [is so] it may be inferred that they differ.[20]

The question, however, still remains [whether the minor spoken of][21] is one who was married in the first instance[22] or perhaps she is one who was only betrothed?[23] — Come and hear: Abdan's[24] daughters-in-law[25] rebelled [against their husbands].[26] When Rabbi sent a pair of Rabbis to interrogate then,[27] some women said to them, ‘See your husbands are coming’. ‘May they’, they replied, ‘be your husbands!’[28] and ‘Rabbi decided: ‘No more significant mi'un than this is required’. Was not this a case of marriage?[29] — No, one of betrothal only. The halachah, however, is in agreement with R. Judah b. Bathyra, even where marriage with the first husband has taken place.

R. ELIEZER[30] RULED etc. Rab Judah stated in the name of Samuel: I have surveyed [the rulings] of the Sages from all aspects and found no man who was so consistent in his treatment of the minor as R. Eliezer.[30] For R. Eliezer[30] regarded her as one taking a walk with [her husband] in his courtyard who, when she rises from his bosom, performs her ritual immersion[31] and is permitted to eat terumah in the evening.[32]

It was taught: R. Eliezer stated: There is no validity whatsoever in the act of a minor, and her husband is entitled neither to anything she may find,[33] nor to the work of her hands,[33] nor may he annul her vows;[34] he is not her heir[33] and he may not defile himself for her.[35] This is the general rule: She is in no respect regarded as his wife, except that it is necessary for her to make a declaration of refusal.[36] R. Joshua stated: Her husband has the right to anything she finds[37] and to the work of her hands,[37] to annul her vows,[34] to be her heir,[37] and to defile himself for her;[38] the general principle being that she is regarded as his wife in every respect, except that she may leave him[36] by a declaration of refusal.[39] Said Rabbi: The views of R. Eliezer are more acceptable than those of R. Joshua; for R. Eliezer is consistent throughout in his treatment of the minor while R. Joshua makes distinctions. What [unreasonable] distinctions does he make? — If she is regarded as his wife, she should also require a letter of divorce.[40] But according to R. Eliezer also [it may be argued] if she is not regarded as his wife, she should require no mi'un either! — Should she then depart without any formality whatever?[41]

R. ELIEZER B. JACOB RULED: etc. What is to be understood by a HINDRANCE THAT WAS DUE TO THE HUSBAND and a HINDRANCE THAT WAS NOT DUE TO THE HUSBAND? — Rab Judah replied in the name of Samuel: If when she was asked to marry[42] she replied, '[I must refuse the offer] owing to So-and-so my husband'; such a HINDRANCE is one THAT WAS DUE TO THE HUSBAND.[43] [If, however, she refused the offer] 'because', [she said] 'the men [who proposed] are not suitable for me'; such a HINDRANCE is one THAT WAS NOT DUE TO THE HUSBAND.

Both Abaye b. Abin and R. Hanina b. Abin gave the following explanation: If he gave her a letter of divorce, the HINDRANCE IS one THAT WAS DUE TO THE HUSBAND[44] and, therefore, he is forbidden to marry her relatives and she is forbidden to marry his relatives, and he also disqualifies her from marrying a priest.[45] If, however, she exercised her right of refusal against him, the HINDRANCE is one THAT WAS NOT DUE TO THE HUSBAND and, therefore, he is permitted to marry her relatives and she is permitted to marry his relatives, and he does not disqualify her from marrying a priest.[46]

But surely, this[47] was specifically stated below: If a minor made a declaration of refusal against a man, he is permitted to marry her relatives and she is permitted to marry his relatives, and he does not disqualify her from marrying a priest; but if he gave her a letter of divorce he is forbidden to marry her relatives and she is forbidden to marry his relatives, and he also disqualifies her from marrying a priest![48] — The latter[49] is merely an explanation [of the former].[50]

MISHNAH. IF A MINOR MADE A DECLARATION OF REFUSAL AGAINST A MAN, HE IS PERMITTED [TO MARRY] HER RELATIVES AND SHE IS PERMITTED TO [MARRY] HIS RELATIVES, AND HE DOES NOT DISQUALIFY HER FROM [MARRYING] A PRIEST;[51] BUT IF HE GAVE HER A LETTER OF DIVORCE, HE IS FORBIDDEN TO [MARRY] HER RELATIVES AND SHE IS FORBIDDEN TO [MARRY] HIS RELATIVES, AND HE ALSO DISQUALIFIES HER FROM [MARRYING] A PRIEST.[52] IF HE GAVE HER A LETTER OF DIVORCE AND REMARRIED HER AND, AFTER SHE HAD EXERCISED HER RIGHT OF REFUSAL AGAINST HIM, SHE WAS MARRIED TO ANOTHER MAN AND BECAME A WIDOW OR WAS DIVORCED, SHE IS PERMITTED TO RETURN TO HIM.[53] IF, HOWEVER, SHE EXERCISED HER RIGHT OF REFUSAL AGAINST HIM[54] AND HE REMARRIED HER, AND SUBSEQUENTLY GAVE HER A LETTER OF DIVORCE AND THEN SHE WAS MARRIED TO ANOTHER MAN AND BECAME A WIDOW OR WAS DIVORCED, SHE IS FORBIDDEN TO RETURN TO HIM.[55]

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(1) And might consequently include the formula in letters of divorce also.

(2) The minor.

(3) Lit., 'with which they have consecrated me'.

(4) I.e., extended the scope of mi'un still further.

(5) אפריון.

(6) Lit., 'and goes

(7) Though it might be objected that, had she really meant what she said, she would have refused to be carried to her husband.

(8) Lit., ‘it is’.
(9) V. supra note 3.
(10) Lit., ‘and giving drink’.
(11) Though her waiting upon the guests might seem to contradict her declaration, and though no proper Beth din is present.
(12) Lit., ‘behold it’.
(13) Lit., ‘an object of his’.
(14) Tosef. Yeb. XIII. Though her statement might possibly be the result of a mere outburst against her husband for troubling her with his errand, and though no one but the shopkeeper was present when she made the statement.
(15) A minor who did not make her declaration of refusal.
(16) Not married. Has betrothal the same validity as marriage?
(17) Do they require separate mi'un, but not in the case of marriage, where they agree with R. Judah.
(18) R. Judah; though he is in the minority.
(19) In respect of marriage as well as in that of betrothal.
(20) Had they all been of the same opinion there would have been no need to make the statement that the halachah agrees with him.
(21) Concerning whom it was ruled that no mi'un is required.
(22) l.e. , to her first husband.
(23) But if married, specific mi'un is required.
(24) Abdan was one of Rabbi's disciples, who, after an incident with R. Ishmael, lost his two sons the husbands of the young women here mentioned. Cf. supra 105b.
(25) Who were minors.
(26) Refusing to perform their marital obligations.
(27) To ascertain whether their refusal was in earnest.
(28) I.e., you are welcome to them.
(29) Lit ‘what not (but) that she was married’, i.e., each of them was married to her husband, and, since a mere casual remark was nevertheless accepted by Rabbi as mi'un, it may be inferred that an actual marriage with, or a betrothal to another man may even more so be regarded as mi'un.
(30) Cf. supra p. 746, n. 4.
(31) Necessitated by their connubial intercourse.
(32) If her father is a priest, though her husband is an Israelite. R. Eliezer does not regard the minor as a wife either in respect of the requirement of mi'un or in respect of any other restrictions or privileges such as those relating to terumah.
(33) To which a lawful husband is entitled.
(34) Which is the privilege of a husband. Cf. Num. XXX. 71f.
(35) If he is a priest. Only a lawful husband may. Cf. Lev. XXI, 2.
(36) If she wishes to marry another man.
(37) Rabbinic law has conferred upon him the same rights as those of a lawful husband. Cf. supra n. 4.
(38) Even if he is a priest (cf. supra n. 6). She is regarded as a meth mizwah (v. Glos.), hence he may defile himself for her though Pentateuchally she is not his proper wife.
(39) And no letter of divorce is required.
(40) Mi'un should not have been allowed.
(41) Certainly not. Hence the requirement of mi'un.
(42) While she was still living with her first husband.
(43) Since the minor has shewn by her declaration that it was her desire to continue to live with him.
(44) Since she did not exercise her right of refusal it is obvious that as far as she was concerned the union would never have been broken.
(45) Like any other divorced woman.
(46) Since she is not regarded as his wife.
(47) Our Mishnah according to the explanation of Abaye and R. Hanina.
(48) V. Mishnah intro. Why then should the same ruling be recorded twice?
(49) The Mishnah cited.
(50) R. Eliezer b. Jacob's ruling in our Mishnah.

(51) Since she is not regarded as his wife.

(52) Like any other divorced woman.

(53) It is only a divorced woman that must not be remarried by her first husband after she had been married to another (v. Deut. XXIV, 2-4) but not a minor who left her husband by mi'un which even cancels her status of divorcee in which she may find herself after a previous separation from her husband.

(54) Her first husband.

(55) Since her second separation from her first husband was by means of a letter of divorce, she retains the status of a divorcee. Cf. supra n. 6.

Talmud - Mas. Yevamoth 108b

THIS IS THE GENERAL RULE: IF DIVORCE FOLLOWED MI'UN[1] SHE IS FORBIDDEN TO RETURN TO HIM,[2] AND IF MI'UN FOLLOWED DIVORCE[1] SHE IS PERMITTED TO RETURN TO HIM.[3]

IF A MINOR EXERCISED HER RIGHT OF REFUSAL AGAINST A MAN, AND THEN SHE WAS MARRIED TO ANOTHER MAN WHO DIVORCED HER, AND AFTERWARDS TO ANOTHER MAN AGAINST WHOM SHE MADE A DECLARATION OF REFUSAL, AND THEN TO ANOTHER MAN WHO DIVORCED HER,[4] SHE[5] IS FORBIDDEN TO RETURN TO THE MAN FROM WHOM SHE WAS SEPARATED BY A LETTER OF DIVORCE, BUT IS PERMITTED TO RETURN TO HIM FROM WHOM SHE WAS SEPARATED BY HER EXERCISE OF THE RIGHT OF MI'UN.

GEMARA. It is thus[6] evident that mi'un has the power to cancel[7] divorce; but this, surely, is contradicted by the following: IF A MINOR EXERCISED THE RIGHT OF REFUSAL AGAINST A MAN AND THEN WAS MARRIED TO ANOTHER MAN WHO DIVORCED HER, AND AFTERWARDS TO ANOTHER MAN AGAINST WHOM SHE MADE A DECLARATION OF REFUSAL, AND THEN TO ANOTHER MAN WHO DIVORCED HER,[8] SHE[5] IS FORBIDDEN TO RETURN TO THE MAN FROM WHOM SHE WAS SEPARATED BY A LETTER OF DIVORCE, BUT IS PERMITTED TO RETURN TO HIM FROM WHOM SHE WAS SEPARATED BY HER EXERCISE OF THE RIGHT OF MI'UN, from which it is evident that mi'un against his fellow has no power to cancel[7] his own divorce![9] — Rab Judah replied in the name of Samuel: There is a break[10] [in our Mishnah], the one who taught the former[11] did not teach the latter.[11] Raba[12] said: But what contradiction is this? It is possible that mi'un[13] cancels his own divorce, but that the mi'un against his fellow[14] does not cancel his own letter of divorce! But in what way is the mi'un against his fellow different from one against himself] that it should not cancel his own[15] divorce? [Obviously for the reason that] as she is familiar with his[15] hints and gesticulations he[15] might allure her and marry her again.[16] [But if this is the case] mi'un against himself also should not cancel his divorce, [for the same reason] that as she is familiar with his hints and gesticulations he might allure her and marry her again! Surely, he[15] had already tried to allure[17] her but she did not succumb.[18]

If a contradiction, however, [exists it is that between one ruling] concerning his fellow against [another ruling] concerning his fellow: IF, HOWEVER, SHE EXERCISED HER RIGHT OF REFUSAL AGAINST HIM AND HE REMARRIED HER, AND HAVING SUBSEQUENTLY GIVEN HER A LETTER OF DIVORCE SHE MARRIED ANOTHER MAN AND BECAME A WIDOW OR WAS DIVORCED, SHE IS FORBIDDEN TO RETURN TO HIM. The reason [then why she is forbidden to return to him is] because she BECAME A WIDOW OR WAS DIVORCED, but had she exercised her right of refusal[19] she would have been permitted to return to him,[20] from which it is evident that the mi'un against his fellow has the power to cancel[21] his own divorce; but this view is contradictory to the following: IF A MINOR EXERCISED THE RIGHT OF REFUSAL AGAINST HER HUSBAND AND THEN WAS MARRIED TO ANOTHER MAN WHO

DIVORCED HER, AND AFTERWARDS TO AN OTHER MAN AGAINST WHOM SHE MADE A DECLARATION OF REFUSAL, SHE[22] IS FORBIDDEN TO RETURN TO THE MAN FROM WHOM SHE WAS SEPARATED BY A LETTER OF DIVORCE, BUT IS PERMITTED TO RETURN TO HIM FROM WHOM SHE WAS SEPARATED BY HER EXERCISE OF THE RIGHT OF MI'UN. From this, then, it is evident that the mi'un against his fellow has no power to cancel[23] his own divorce! R. Eleazar replied: There is a break[24] [in our Mishnah]; the one who taught the former[25] did not teach the latter.[25] ‘Ulla replied: [The latter statement refers to a case where], for instance, she was thrice divorced, so that she appears like a grown up.[26]

Who taught [the two respective statements of our Mishnah]?[27] Rab Judah replied in the name of Rab: To this may be applied the Scriptural text,[28] We have drunk our water for money; our wood cometh to us for price.[29] In the time of proscription[30] the following halachah was inquired for: If a minor left her first husband with a letter of divorce and her second husband through mi'un, may she return to her first husband? They hired a man for four hundred zuz,[31] and [through him] they addressed the enquiry to R. Akiba in prison,[32] and he stated that she was forbidden.[33] R. Judah b. Bathyra [also was asked] at Nesibis and he too forbade her.[33] Said R. Ishmael son of R. Jose: There was no need for us to [ascertain] such [an halachah],[34] For if in a prohibition involving the penalty of kareth[35] he has been permitted[36] how much more so[37] in one [involving only the penalty of] a negative commandment.[38] But the enquiry was in this manner: If [a minor] was the wife of his mother's brother, and consequently forbidden to him as a relative of the second degree,[39] and his paternal brother [subsequently] married her[40] and died,[41] may she now exercise her right of mi'un,[42] and thus annul her first marriage[43] and so be permitted to contract the levirate marriage?[44] Is[45] mi'un valid after [a husband's] death where a religious performance[46] is involved, or not? Two men were hired for four hundred zuz[47] and when they came and asked R. Akiba in prison he ruled [that such levirate marriage was] forbidden; and when R. Judah b. Bathyra [was asked] at Nesibis he also decided that it was forbidden.

R. Isaac b. Ashian stated: Rab, however, admits that she[48] is permitted to marry the brother[49] of the man whom she is forbidden [to remarry].[50] Is not this obvious? For it is only he with whose hints and gesticulations she is familiar but not his brother![51] — It might have been assumed that [marriage with] the one[52] should be forbidden as a preventive measure against the other[52] hence we were taught [that his brother may marry her]. Another reading: R. Isaac b. Ashian stated: As she[53] is forbidden to him[54] so is she forbidden to his brothers. But, surely, she is not familiar with their hints and gesticulations![55] — His brothers were forbidden [marriage with her] as a preventive measure against [marriage] with him.

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(1) Irrespective of the number of times the man married and divorced her and the number of times she exercised the right of mi'un.

(2) Because her last separation was by means of a letter of divorce. Cf. supra. n. 8.

(3) Cf. supra n. 6.

(4) Others insert here, ‘to another against whom she exercised her right of refusal’ (cf. separate edd. of the Mishnah, Alfasi and Bah).

(5) Cur. edd., ‘this is the general rule’ is here omitted in accordance with the reading of the separate edd. of the Mishnah and Alfasi.

(6) Since it was ruled that IF MI'UN FOLLOWED DIVORCE SHE IS PERMITTED TO RETURN to her husband, despite the divorce that preceded it. Cf. supra p. 751, 15, 6.

(7) Lit., ‘comes . . . and cancels’.

(8) V. supra note 1.

(9) That preceded the mi'un.

(10) תברא (rt. תבר ‘to break’). Others ‘contradiction’ (cf. Rashi, Levy and Jast).

(11) Lit., ‘this’.

(12) Others, ‘Rabbah’. Cf. Bah.

(13) The case spoken of in the first statement of our Mishnah.
(14) Spoken of in the second statement.
(15) The first husband.
(16) Lit., ‘entangle and bring her’, i.e., he might take advantage of their earlier familiarity and insidiously ingratiate himself with her, creating dislike between her and her second husband so that she might be led to exercise her right of mi'un against the latter and return to him.
(17) Cf. supra n. 3.
(18) Lit., ‘she was not entangled’, ‘confused’. The fact that she exercised the right of refusal against him after he had married her a second time and presumably made every effort to retain her, may be regarded as proof that she would not be induced to marry him a third time. When the mi'un, however, concerns a second husband. It is quite likely that, as her separation from her first husband was not due to her mi'un but to his divorcing her, she might readily consent to return to him and thus allow him to induce her to exercise her right of mi'un against her second husband.
(19) Against her second husband.
(20) Her first husband.
(21) Lit., ‘comes . . . and cancels’.
(22) V. supra p. 752, n. 2.
(23) Lit., ‘comes...and cancels’.
(24) V. supra p. 752, n. 7.
(25) Lit., ‘this’.
(26) It is in such a case only that she may not he remarried to any of the men, even though her separation from her last husband was by mi'un. If, however, she was divorced once or twice only, the mi'un against her last husband confirms her in the state of her minority, and she may be married again by either of the men who had previously divorced her.
(27) Concerning which it was said supra that they represent the views of different authors.
(28) Lit., ‘what (is the meaning) of that which was written’.
(29) Lam. v, 4.
(30) Lit., ‘danger’: the times of the suppression of the Bar Kokeba revolt in 135 C.E. when the study of the Torah and Rabbinic or oral law was forbidden by the Roman authorities under pain of death,
(31) V. Glos.
(32) The payment of the exorbitant sum of four hundred zuz for obtaining the required ruling recalled to Rab's mind the text of Lamentations quoted.
(33) To return to her first husband.
(34) Since, as is shewn presently, it is obvious that the minor is permitted to marry her first husband again after she has been separated from her second husband by mi'un.
(35) Marriage with a married woman.
(36) In the case of a minor who has exercised the right of mi'un.
(37) Should one be permitted to marry her.
(38) That of again marrying one's divorced wife. Thus it has been shewn that the author of the first statement in our Mishnah was Rab and that the author of the second statement was R. Ishmael son of R. Jose. Rab, though he belonged to the first generation of Amoraim, was also among the last of the Tannaim. Hence he was sometimes described as Tanna.
(39) Forbidden by Rabbinic law. Cf. supra 21a.
(40) After the death of her first husband.
(41) Without issue, so that she became subject to levirate marriage with his paternal brother.
(42) Against her first husband, through marriage with whom she became forbidden to the levir, the man in question.
(43) And remove thereby her forbidden relationship with the levir.
(44) With the levir between whom and herself no forbidden relationship any longer exists owing to her mi'un. Cf. supra notes 7 and 8.
(45) Cur. edd. insert in parenthesis ‘her rival’.
(46) That of the levirate marriage (Deut. XXV, 5).
(47) V. Glos.
(48) A divorced minor who may not be married again by the husband who divorced her though she was separated from her second husband by mi'un.
(49) She is not regarded as his brother's divorcee.

(50) Though her mi'un does not alter her status of divorcee in respect of her former husband himself (for the reason stated supra) it does remove it as far as marriage with his brother is concerned. She is, as a result of her mi'un, no longer regarded as his brother's divorcee.
(51) And since it is only this familiarity that is the cause of the prohibition, it is obvious that where it does not apply there should be no prohibition.
(52) Lit., ‘this’.
(53) V. p. 755, n. 13.
(54) The husband who divorced her.
(55) Cf. supra p. 755, n. 16. Why then should she be forbidden to marry them?

Talmud - Mas. Yevamoth 109a

MISHNAH. IF A MAN DIVORCED HIS WIFE AND REMARRIED HER, SHE IS PERMITTED TO MARRY THE LEVIR;[1] R. ELEAZAR[2] . HOWEVER, FORBIDS.[3] SIMILARLY, IF A MAN DIVORCED AN ORPHAN[4] AND REMARRIED HER,[5] SHE IS PERMITTED TO MARRY THE LEVIR;[6] R. ELEAZAR, HOWEVER, FORBIDS.

IF A MINOR WAS GIVEN IN MARRIAGE BY HER FATHER AND WAS DIVORCED,[7] [SO THAT SHE IS REGARDED] AS AN ‘ORPHAN’ IN HER FATHER'S LIFETIME,[8] AND THEN HER HUSBAND REMARRIED HER,[9] ALL AGREE THAT SHE IS FORBIDDEN TO MARRY THE LEVIR.[10]

GEMARA. ‘Efa stated: What is R. Eleazar's reason?[11] Because there was a period when she was forbidden to him.[12] Said the Rabbis to ‘Efa: If so, halizah also should not be required![13] And should you reply that the law is so indeed; surely [it may be pointed out] it was taught: In the name of R. Eleazar it was stated that she does perform halizah! — In truth, said ‘Efa, the reason of R. Eleazar is unknown to me.

Abaye said, This is the reason of R. Eleazar:[11] He was in doubt whether it was death[14] that subjects [the widow to the levirate marriage] or whether it was the marriage that preceded it[15] that subjects her to it. If it is death that subjects her to it, she should be subject to the[16] levirate marriage; and if it is the marriage preceding it[15] that subjects her to it, then there was a period when she was forbidden to him.[17]

Raba said: It was in fact obvious to R. Eleazar that it is death[14] that subjects [the widow to the levirate marriage], but while all well know of the divorce, not all are aware of the remarriage.[18] On the contrary! Remarriage gets noised abroad since the woman dwells with him! — Do we not, however, deal here [even with such a case as] where he remarried her in the evening and died in the morning?[19]

R. Ashi said, This is the reason of R. Eleazar:[20] He forbade [the levirate marriage of] these[21] as a preventive measure against the remarriage of an ‘orphan’ [minor] in her father's lifetime.[22] This[23] may also be logically supported; for in the final clause it was stated, IF A MINOR WAS GIVEN IN MARRIAGE BY HER FATHER AND SHE WAS DIVORCED [SO THAT SHE IS REGARDED] AS AN ‘ORPHAN’ IN HER FATHER'S LIFETIME, AND THEN REMARRIED HER HUSBAND, ALL AGREE THAT SHE IS FORBIDDEN TO MARRY THE LEVIR. Now what [need was there] to state [this when it is so] obvious![24] Consequently it must be[25] this that was taught: R. Eleazar's reason[20] is because he forbade [the levirate marriages of] those as a preventive measure against [the levirate marriage of] this one. Thus our case has been proved.

It was taught in agreement with R. Ashi: The Sages agree with R. Eleazar in respect of a minor whom her father had given in marriage and who was divorced [so that she is regarded] as an ‘orphan’ in her father's lifetime, and who then remarried [her husband], that she is forbidden to [contract the levirate marriage with] the levir, because her divorce was a perfectly legal divorce, whereas her remarriage was not a perfectly legal remarriage. This,[26] however, applies only where he[27] divorced her while she was a minor[28] and remarried her while she was still a minor;[29] but if he[27] divorced her while she was a minor and remarried her when she was of age, and also if he remarried her while she was still a minor and she became of age while she was with him, and then he died,[30] she may either perform halizah or contract the levirate marriage.[31] In the name of R. Eleazar, however, it was stated: She must perform halizah but may not contract the levirate marriage.[32]

Raba enquired of R. Nahman: What is [the law[33] in respect of] her[34] rival?[35] — The other replied: [The prohibition against] herself is a preventive measure;[36] shall we then go so far[37] as to enact a preventive measure[38] against a preventive measure?[39] But, surely, it was taught: It was stated in the name of R. Eleazar, ‘She and her rival perform halizah’; Now can it possibly be imagined that she and her rival [are to perform halizah]? Consequently it must mean,[40] ‘either she or her rival performs halizah’![41] — Are you not [in any case obliged to] offer an explanation?[42] Explain, then,[42] as follows: She performs halizah while her rival may either perform halizah or contract the levirate marriage.

MISHNAH. WHERE TWO BROTHERS WERE MARRIED TO TWO SISTERS WHO WERE MINORS[43] AND ORPHANS,[44] AND THE HUSBAND OF ONE OF THEM DIED,[45] [THE WIDOW][46] IS FREE[47] AS BEING [THE LEVIR'S] WIFE'S SISTER. SIMILARLY IN THE CASE OF TWO DEAF[48] [SISTERS ONE OF WHOM WAS] OF AGE AND [THE OTHER] A MINOR, IF THE HUSBAND OF THE MINOR DIED, THE MINOR IS FREE[47] AS BEING [THE LEVIR'S] WIFE'S SISTER. IF THE HUSBAND OF THE ELDER SISTER DIED, THE MINOR IS TO BE INSTRUCTED, R. ELIEZER[49] STATED, TO EXERCISE HER RIGHT OF MI'UN AGAINST HIM.[50] R. GAMALIEL SAID: IF SHE[51] EXERCISED HER RIGHT OF MI'UN WELL AND GOOD;[52] BUT IF [SHE DID] NOT, LET HER WAIT[53] UNTIL SHE IS OF AGE[54] WHEN THE OTHER BECOMES FREE[47] AS BEING [THE LEVIR'S] WIFE'S SISTER. R. JOSHUA SAID: WOE TO HIM[55] BECAUSE OF HIS WIFE AND WOE TO HIM BECAUSE OF HIS BROTHER'S WIFE! HE MUST ALLOW HIS WIFE TO GO[56] BY [GIVING HER] A LETTER OF DIVORCE,[57] AND HIS BROTHER'S WIFE[58] BY [SUBMITTING TO HER] HALIZAH.

GEMARA. But is this is permitted? Surely. Bar Kappara taught: A man should always cling to three things and keep away from three things. ‘A man should cling to the following three things’: Halizah, the making of peace and the annulment of vows; ‘and keep away from three things’: — From mi'un, from [receiving] deposits and from acting as surety![59] Mi'un [involving the fulfilment] of a commandment[60] is different.[61]

[Reverting to our] previous text, ‘Bar Kappara taught: A man should always cling to three things . . . Halizah’, in accordance with [a statement of] Abba Saul. For it was taught: Abba Saul said, ‘If [a levir] married his sister-in-law on account of her beauty, or in order to gratify his sexual desires ‘or with any other ulterior motive, it is as if he has infringed [the law of] incest; and I am even inclined to think that the child [from such a union] is a bastard’.[62]

‘The making of peace’, for it is written, Seek peace and pursue it[63]

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(1) Though at the time his brother had divorced her she was forbidden to him as ‘his brother's divorcee’.

(2) Mishnah edd.: R. Eliezer.

(3) The reason is given infra.

(4) A minor who was given to him in marriage by her mother or brothers, and who is entitled, therefore, to exercise mi'un.

(5) Whether during her minority or after she had attained her majority.

(6) It is the death of her husband, not his marriage with her, that subjects her to the levir; and at the hour of his death she was no longer his divorcee but his wife.

(7) While she was still in her minority, the letter of divorce having been accepted on her behalf by her father (Rashi). (Cf. Keth. 46b) Rashi s.v. ומקבל and Sonc. ed. p. 266, n. 6.

(8) A father, in accordance with Pentateuchal law, is entitled to give his minor daughter in marriage only once. After she has been divorced, therefore, a father has no more right to give her away in marriage than her mother or brothers in the case where the father is dead. As in the latter case mi'un cancels marriage so it does in the former. The minor thus assumes the status of ‘orphan’ while her father is still alive.

(9) During her minority.

(10) If her husband died during her minority. She has the status of a divorcee because her letter of divorce, having been accepted by her father, is valid, Her subsequent marriage has no validity since her father can no longer act for her (cf. supra p. 756, n. 12) and her own act has no legal force.

(11) For forbidding to the levir his brother's divorced wife despite the fact that at the time of his brother's death she was married to him again.

(12) Lit., ‘she stood for him one hour in prohibition’; i.e,, at the time she was divorced she was forbidden to him under the penalty of kareth as his ‘brother's divorcee’. Her subsequent remarriage does not alter her status.

(13) As any other ‘brother's divorcee’.

(14) Of the childless husband,

(15) Lit.,’the first’.

(16) Lit., ‘behold she is thrust before him’.

(17) Cf. supra n. 4. Hence levirate marriage is forbidden (owing to the second possibility), and halizah is necessary (owing to the first).

(18) Should the levir, therefore, be permitted to contract with her the levirate marriage, it might be assumed by those who knew of the divorce and not of the remarriage that he married his brother's divorcee. Hence R. Eleazar's prohibition.

(19) Certainly we do, since the Mishnah applies to all possible cases. In such a case as the one mentioned the remarriage remains unknown.

(20) v. supra p. 757, n. 3.

(21) The remarried women spoken of in our Mishnah.

(22) Who, as stated in our Mishnah, may not be married by the levir because she retains the status of a divorcee.

(23) R. Ashi's explanation.

(24) As her father has no legal authority to give her in marriage, and as the remarriage that has been contracted by herself (a minor) has no validity, it is obvious that her previous legal status of divorcee remains in force and that she is, therefore, forbidden to the levir as ‘his brother's divorcee’.

(25) Lit. ‘but not’?

(26) That the Sages admit that the minor may not contract the levirate marriage.

(27) Her first husband.

(28) Her father having accepted on her behalf the letter of divorce which is thus valid.

(29) When neither she nor her father had the right to contract the marriage (cf. supra p. 756, n. 12); and where the death of the husband occurred while she was still in her minority, so that there was no cohabitation at all when she was of age.

(30) So that cohabitation between them could take place while she was of age.

(31) Since the final act of cohabitation after she becomes of age constitutes a legal kinyan of marriage.

(32) Keth. 73bf. Since it was stated that ‘the Sages agree with R. Eleazar in respect of a minor . . . in her father's lifetime’, it is obvious that R. Eleazar himself spoke of this case and presumably made it the cause of the prohibition of the levirate marriages with the others mentioned.

(33) According to R. Eleazar.

(34) A divorced minor whom the husband remarried when she was of age.

(35) Is her rival permitted levirate marriage?

(36) Against the possibility of contracting levirate marriage with an ‘orphan’ in her father's lifetime.

(37) Lit., ‘rise’.

(38) Prohibition of the levirate marriage of the rival.

(39) Cf. supra note 5. Obviously not.

(40) Lit., ‘but no?’

(41) How then could it be said supra that, according to R. Eleazar, the rival may contract the levirate marriage?
(42) The statement being obscure, and an explanation being required in any case.
(43) And given in marriage by their mother or brothers.
(44) So in accordance with the separate edd. of the Mishnah, The last two words are wanting in cur. edd.
(45) Without issue.
(46) Cur. edd., החזו ‘that’, is here omitted, in accordance with the reading of the separate edd. of the Mishnah, and the Palestinian Talmud, Cf. Wilna Gaon.
(47) From levirate marriage and halizah.
(48) Deaf and dumb, whose marriage is valid according to Rabbinic law only.
(49) Others, ‘Eleazar’.
(50) Her husband. His marriage with her (a minor) being only Rabbinically valid, his levirate bond with the elder sister renders her forbidden to him. By the mi'un of the minor the levir is able to perform the Pentateuchal law.
(51) The minor.
(52) Lit., ‘she refused’ and the elder sister is then enabled to contract the levirate marriage.
(53) I.e., she is not forbidden to her husband, despite his levirate bond with her elder sister which his brother's death had created, (Cf. supra 51a).
(54) And her marriage with her husband becomes Pentateuchally binding.
(55) The surviving brother,
(56) He may not retain her owing to the levirate bond (cf. supra note); R. Joshua, contrary to the opinion of R. Gamaliel, holding the view that a levirate bond does cause the prohibition of the widow's minor sister; and since the levirate bond is the result of a Pentateuchally binding marriage, the marriage with the minor, which is only Rabbinically valid, must be dissolved,
(57) Not by mi'un for the reason given in the Gemara infra.
(58) Who is forbidden as the sister of his divorcee. (15) To instruct a minor to exercise her right of refusal.
(59) The reasons are given infra. From this then it is obvious that mi'un is not to be encouraged. Why then is THE MINOR TO BE INSTRUCTED TO EXERCISE HER RIGHT OF MI'UN?
(60) As is the case in our Mishnah, where the exercise of mi'un enables the levir to observe the Pentateuchal commandment of the levirate marriage.
(61) From ordinary mi'un; while the latter is to be avoided the former is to be encouraged.
(62) Supra 39b.
(63) Ps. XXXIV, 15. Pursue it רדפהו (rt. רדף).

Talmud - Mas. Yevamoth 109b

and [in connection with this] R. Abbahu stated that deduction is made[1] by a comparison between the two expressions of ‘pursuit’:[2] Here it is written, Seek peace and pursue it and elsewhere it is written, He that pursueth[3] after righteousness and mercy findeth life, prosperity and honour.[4]

‘The annulment of vows’, in accordance with [a statement of] R. Nathan. For it was taught: R. Nathan said, ‘If a man makes a vow it is as if he has built a high place[5] and if he fulfils it,[6] it is as if he has offered up a sacrifice upon it’.[7]

‘And keep away from three things: From mi'un’, since it is possible that when she becomes of age she will change her mind.

‘From [receiving] deposits’ [applies to deposits made by] his fellow townsman who [regards] his house as his own house.[8]

‘From acting as surety [refers to would-be] sureties in Shalzion.[9] For R. Isaac said, ‘What was meant by the Scriptural text, He that is surety for a stranger shall smart for it?[10] Evil after evil[11] comes upon those who receive proselytes,[12] and upon the sureties[13] of Shalzion and upon him who rivets[14] himself to the word of the halachah.[15]

That ‘those who receive proselytes’, [bring evil upon themselves, is deduced] in accordance with [a statement of] R. Helbo. For R. Helbo stated: Proselytes are hurtful to Israel as a sore on the skin.[16]

‘The sureties of Shalzion [bring evil upon themselves]’ because [in that place] they practice ‘pull out and thrust in’.[17]

‘Who rivets himself to the word of the halachah’, [brings evil upon himself], for it was taught: R. Jose said, ‘Whosoever says that he has no [desire to study the] Torah, has no [reward for the study of the] Torah’. Is not this obvious? — But [this must be the meaning]: ‘Whosoever says that he has only [an interest in the study of the] Torah[18] has only [reward for the study of the] Torah’. This, however, is also obvious! — But [the meaning really is] that he has no [reward] even [for the study of the] Torah. What is the reason? — R. Papa replied: Scripture said, That ye may learn them and observe to do them,[19] whosoever is [engaged] in observance[20] is [also regarded as engaged] in study, but whosoever is not [engaged] in observance is not [regarded as engaged] in study. And if you wish I may say: [The reading is] in fact, as was said before: ‘Whosoever says that he has only [an interest in the study of the] Torah has only [reward for the study of the] Torah’, yet [the statement] was necessary [in the case] where he teaches others and these go and do observe [the laws of the Torah]. Since it might have been assumed that he also receives reward,[21] hence we were taught [that he does not]. And if you wish I may say [that the statement] ‘who rivets himself to the word of the halachah’ [applies] to a judge who, when a lawsuit is brought before him, and he knows of an halachah [relating to a similar case], compares one case with the other[22] and, though he has a teacher, he does not go to him to inquire.[23] [Such a judge brings evil upon himself] for R. Samuel b. Nahmani stated in the name of R. Jonathan: A judge should always imagine himself as if [he had] a sword lying between his thighs, and Gehenna was open beneath him; as it is said in Scripture, Behold, it is the couch[24] of Solomon; threescore mighty men[25] are about it, of the mighty men of Israel etc. because of the dread in the night:[26] ‘because of the dread of’ Gehenna[27] which is like ‘the night’.

R. GAMALIEL SAID: IF SHE EXERCISED HER RIGHT OF MI'UN etc. R. Eleazar inquired of Rab: What is R. Gamaliel's reason?[28] Is it because he holds the opinion that the betrothal of a minor remains in a suspended condition[29] and as she grows up it grows with her[30] even though no cohabitation has taken place;[31] or is the reason because he is of the opinion that when a man betroths the sister of his sister-in-law the latter procures her exemption thereby, but thereby only,[32] [and consequently] only if cohabitation has taken place is the elder sister exempt,[33] but if no cohabitation has taken place she is not? — The other replied, This is R. Gamaliel's reason: Because he is of the opinion that when a man betroths the sister of his sister-in-law the latter procures her exemption thereby but thereby only[32] [and consequently] only if cohabitation has taken place is the elder sister exempt,[33] but if no cohabitation has taken place she is not.

Said R. Shesheth: It seems[34] that Rab made this statement while he was sleepy and about to doze off;[35] for it was taught: If a man betrothed a minor, her betrothal remains in a suspended condition. Now, what [is meant by] ‘a suspended condition’ ? Obviously[36] that as she grows up it grows up with her[37] even though there was no cohabitation.[38] Said Rabin the son of R. Nahman to him: The matter of the betrothal of a minor[39] remains in a suspended condition. If cohabitation had taken place[40] it is valid, but if no cohabitation had taken place[40] it is not; for [in the absence of such cohabitation] she thinks ‘He has an advantage over me[41] and I have an advantage over him’.[42]

Is Rab, however, of the opinion that only if cohabitation had taken place is the betrothal valid,[43] but if there was no cohabitation it is not? Surely it was stated: Where a minor did not exercise her right of mi'un and, when she became of age, actually[44] married [another man], Rab ruled: She requires no letter of divorce from her second husband, and Samuel ruled: She requires a letter of divorce from her second husband.[45]

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(1) As to the greatness of the reward for the propagation of peace. Lit., ‘comes’.

(2) Lit., ‘pursuing’ (bis) rt. רדף.

(3) רודף(rt. רדף), E.V., ‘followeth’.

(4) Prov. XXI, 21; the reward for the pursuit of the latter will also be enjoyed by him who pursues the former. Cf. Kid. 40a.

(5) At the time when the erection of such was forbidden; i,e., after the setting up of the Central Sanctuary in Palestine.

(6) I.e., he does not go to the expert Sage to have it annulled.

(7) Git. 46b, Ned. 22a.

(8) Being a constant visitor at his house he may sometimes help himself to the deposited object and, losing or forgetting about it, would claim it again.

(9) Where debts were collected from the guarantors and not from the creditors. שלציון is a place name (Rashi); perhaps Seleucia, or an abbreviation of שלוף דוץ v. note 10.

(10) Prov. XI, 15.

(11) The inference is based on the expression רע ירוע (in which the rt. רעע which is also that of רעה ‘evil’ is repeated).

(12) The original for He that . . . stranger (ibid.) is ערב זר which is interpreted as the mixing of proselytes with Israel. The rt. ערב may bear both meanings.

(13) The E V. reading of the text.

(14) I.e., to the word but not to its practice.

(15) This is deduced from תוקעים (E.V., that strike hands) in the concluding clause of the verse cited. תקע may also bear the meaning of ‘stick to’, ‘nail oneself to’. This will be further explained anon.

(16) In speaking of proselytes (Isa. XIV, 1) the word used is that of ונספחו (E.V., shall join) which is of the same rt. as ספחת (a sore). V. supra 47b.

(17) They ‘pull out’ the debtor from his obligation and ‘thrust in’ the creditor.

(18) Not in its observance.

(19) Deut. V, 1.

(20) Of the laws of the Torah.

(21) As if he had himself observed the laws of the Torah.

(22) Following his own conclusions.

(23) In order to obtain definite guidance on the case under consideration. It is a judge of such a character who is described as one ‘who rivets himself to the word of the halachah’.

(24) E.V., litter, the seat from which he dispensed justice.

(25) Judges.

(26) Cant. III, 7f.

(27) Should justice be perverted.

(28) For allowing the exemption of the elder when the minor becomes of age.

(29) During her minority.

(30) I.e., becomes retrospectively effective as soon as she attains her majority.

(31) After her majority. As the validity of the original betrothal is thus made retrospective, the provisional levirate bond between the levir and the elder sister may be regarded as never having existed.

(32) Lit.,’and she goes for herself’. Only by the ‘betrothal’ (i.e.,the cohabitation) that took place when the minor bad attained her majority does the elder procure her exemptions not by the original betrothal of the minor which is ineffective.

(33) Lit., ‘yes’. Because it is the ‘betrothal’ that severs the levirate bond which existed between the levir and the elder sister from the moment his brother died.

(34) Lit., ‘I would say’.

(35) Lit., ‘while dozing and lying’.

(36) Lit., ‘not?’

(37) V. supra p. 763 n, 12.

(38) V. supra p. 63, n. 13.

(39) Lit., ‘this matter of a minor’.

(40) After her majority was attained.

(41) He can divorce her at any time against her will.

(42) She may, according to Pentateuchal law, exercise against him her right of mi'un at any moment. Though she cannot do so according to-Rabbinic law after she produces two pubic hairs, (cf. Mid. 52a and Tosaf. s.v. הוא a.l.), the uncertainty in her mind as to the durability of the union causes it to remain in a suspended condition until kinyan by cohabitation, after she becomes of age, has been effected.

(43) Lit., 'yes'.

(44) Lit., 'and stood up'.

(45) Keth. 73a.

Talmud - Mas. Yevamoth 110a

Does not [this refer to a case] where he[1] did not cohabit [with her]?[2] — No; where he[1] did cohabit with her.[3] If, however, he[1] cohabited [with her] what is Samuel's reason?[4] — He holds the view that one Who performs cohabitation does so in reliance on his first betrothal.[5] But surely they[6] once disputed this point! For it was stated: If a man betrothed a woman conditionally,[7] and unconditionally, Rab ruled: She[8] requires from him a letter of divorce; and Samuel ruled: She requires no letter of divorce from him. 'Rab ruled: She requires from him a letter of divorce', because as soon as he marries her he undoubtedly dispenses with his condition.[9] 'And Samuel ruled: She requires no letter of divorce from him', because one who performs cohabitation does so in reliance on his first betrothal![10] — [Both disputes were] necessary. For if the former[11] only had been stated, it might have been assumed that Rab adheres to his opinion there only because no condition[12] was attached [to the betrothal][13] but in the latter case,[14] where a condition was attached to it,he agrees with Samuel.[15] And if the latter case[14] only had been stated, it might have been assumed that there only[16] does Samuel maintain his view[17] but in the former[18] he agrees with Rab.[19] [Hence both were] required.

Did Rab, however, state that only where [the husband] cohabited with her[20] does she require a letter of divorce[21] but that if he did not cohabit with her none is required?[22] Surely it once happened at Naresh that a man betrothed a girl while she was a minor, and, when she attained her majority and he placed her upon the bridal chair,[23] another man came and snatched her away from him; and, though Rab's disciples, R. Beruna and R. Hananel, were present on the occasion, they did not require the girl to obtain a letter of divorce from the second man![24] — R. Papa replied: At Naresh they married[25] first and then placed [the bride] upon the bridal chair.[26] R. Ashi replied: He[27] acted improperly[28] they, therefore, treated him also improperly, and deprived him of the right of valid betrothal.[29] Said Rabina to R. Ashi: [Your explanation is] satisfactory where the man betrothed [her] with money;[30] what [however, can be said where] he betrothed her by cohabitation? — The Rabbis have declared his cohabitation to be an act of mere fornication.[31]

Rab Judah stated in the name of Samuel: The halachah is in agreement with R. Eliezer;[32] and so did R. Eleazar state: The halachah is in agreement with R. Eliezer.[32]

MISHNAH. IF A MAN WAS MARRIED TO TWO ORPHANS WHO WERE MINORS[33] AND DIED, COHABITATION[34] OR HALIZAH[35] WITH ONE OF THEM EXEMPTS HER RIVAL.[36] AND THE SAME LAW IS APPLICABLE TO[37] TWO DEAF[38] WOMEN.[39]

[IF A MAN WAS MARRIED TO] A MINOR AND TO A DEAF[38] WOMAN,[40] COHABITATION WITH ONE OF THEM DOES NOT EXEMPT HER RIVAL.[41] [IF ONE WAS] POSSESSED OF HER FACULTIES AND THE OTHER WAS DEAF,[42] COHABITATION WITH THE FORMER EXEMPTS THE LATTER, BUT COHABITATION WITH THE LATTER DOES NOT EXEMPT THE FORMER. [IF ONE WAS] OF AGE AND THE OTHER A MINOR, COHABITATION WITH THE FORMER EXEMPTS THE LATTER, BUT COHABITATION

WITH THE LATTER DOES NOT EXEMPT THE FORMER.

GEMARA. Is, however, a deaf[42] woman permitted to perform halizah? Surely, we learned: If a deaf levir submitted to halizah or a deaf sister-in-law performed halizah, or if halizah was performed on a minor, the halizah is invalid![43] — R. Giddal replied in the name of Rab: [This[44] applies] to COHABITATION.[45] Raba[46] replied: It[47] may be said to apply even to halizah; one[48] referring to a woman who was originally deaf,[49] and the other[50] referring to a woman who was possessed of hearing[51] and became deaf afterwards. The ‘woman who was originally deaf’, leaves[52] as she entered,[53] but the ‘woman who was possessed of hearing and became deaf afterwards’ cannot do so, since her inability to recite [the prescribed formulae][54] acts as an obstacle.[55]

Abaye raised an objection against him: Is, however, one who was originally deaf permitted to perform halizah? Surely, we learned: If two brothers, one of whom was in possession of his faculties and the other deaf,[45] were [respectively] married to two strangers,[56] one of whom was in the possession of her faculties and the other deaf,[57] and the deaf [brother] who was the husband of the deaf woman died, what should [his brother who was] in possession of his faculties, the husband of the woman in possession of her faculties, do? He marries her[58] and if he wishes to send her away,[59] he may do so.[60] If the [brother] who was in possession of his faculties, the husband of the woman who was in possession of her faculties, died, what should the deaf brother, the husband of the deaf woman do? He marries [the widow] and may never divorce her.[61] Does not this apply to a woman who was originally deaf?[62] And yet it was stated that he may only marry

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(1) Her first husband.

(2) After she had attained her majority. And since Rab nevertheless rules that no divorce from the second husband is required it is obvious that he regards her first marriage as valid!

(3) And it is this cohabitation, not their first betrothal, that constitutes the kinyan of the first marriage.

(4) Since cohabitation renders the betrothal of the first husband valid, that of the second must be invalid; why then did Samuel require the woman to be divorced from her second husband!

(5) Which was invalid. The marriage with the second husband is therefore valid and can be annulled by divorce only.

(6) Rab and Samuel.

(7) Stipulating, for instance, that she must have no bodily defect or that she must not be subject to any restrictions due to a vow she may have made.

(8) If it was discovered that she had a defect or that she was subject to the restrictions due to a vow.

(9) And valid kinyan is effected by their first cohabitation.

(10) Which was invalid; v, Keth. 72b. Why then should they dispute the same point again?

(11) Lit., ‘that’; the dispute concerning a minor who did not exercise her right of mi'un, cited from Keth. 73a.

(12) This is the reading of Rashi, following the version in Keth. 73a. The reading of cur. edd. is given infra p. 766, n. 6.

(13) And the husband was obviously anxious to give the union all the necessary validity. Being well aware that the betrothal of a minor is Pentateuchally invalid he naturally ‘betroths’ her again by cohabitation as soon as she becomes of age.

(14) Lit., ‘that’; cited from Keth. 72b.

(15) That the original condition remains in force even after consummation of the marriage.

(16) Since the condition was attached to the original betrothal,

(17) That the marriage remains dependent on the original condition and is, therefore, invalid.

(18) v. supra p. 765, n. 13.

(19) Cur. edd. read, ‘For if that had been stated, (it might have been assumed that) in that case only did Rab maintain his view, because there existed a condition and as soon as (the man) cohabited with her he dispensed with his condition; but in this case it might have been assumed that he agrees with Samuel; and if this had been stated (it might have been assumed that) in this case only did Samuel maintain his view; but in that, it might have been said, he agrees with Rab’. [Rashi rejects this reading in view of the passage in Keth. 72a which states distinctly that Rab's ruling was not because he held that the man dispenses with the condition on intercourse, but because he renews betrothal at the time to avoid intercourse degenerating into mere fornication. Tosaf. s.v. בההיא retains the reading of cur. edd., and explains that it is because no man would render his intercourse mere fornication that we assume that he dispensed with the condition, since he made no mention of the condition at the time. Had he, however, repeated the condition at intercourse, the condition would stand].

(20) The minor who has attained majority.

(21) Lit., 'yes'.

(22) Lit., 'not'.

(23) It is assumed that this was a ceremony similar to ordinary huppah (v. Glos.).

(24) Obviously because they regarded the first marriage. though no cohabitation had taken place (v. supra n. 10), as valid, As the disciples presumably acted in accordance with the ruling of their Master, Rab, how could it be said that Rab requires a divorce only where cohabitation had taken place?

(25) Cohabitation.

(26) And this is the reason why Rab's disciples regarded the marriage with the first husband as valid and, therefore, required no divorce from the second man.

(27) The second man.

(28) In snatching away another man's wife.

(29) All betrothals are made 'in accordance with the law of Moses and Israel' (cf. P.B. p. 298) i.e.. the Pentateuchal, as well as Rabbinic law; hence it is within the power of the Rabbinical authorities to declare certain betrothals, such, for instance, as the present one where the girl was improperly snatched away, to be invalid.

(30) One of the forms of kinyan in marriage (cf. Kid. 2a). Since the Rabbis are empowered to confiscate a man's property they might well dispose of the money of the betrothal by treating it as a mere gift to the girl.

(31) Which has no legal validity to effect a kinyan.

(32) That THE MINOR IS TO BE INSTRUCTED TO EXERCISE HER RIGHT OF MI'UN.

(33) Marriage with whom is only Rabbinically valid.

(34) By the levir, even during her minority, for the purpose of the levirate marriage.

(35) After she has attained her majority.

(36) From levirate marriage and halizah.

(37) Lit., 'and so'.

(38) I.e., deaf.mute.

(39) Marriage with whom, like marriage with a minor, is only Rabbinically valid.

(40) Though the marriage with either, according to Rabbinic law, is of equal validity.

(41) Since it is uncertain, owing to the difference in their physical condition and age, which of them he preferred and which of them has consequently the greater claim to be regarded as his wife.

(42) I.e., deaf-mute.

(43) Supra 104b. How then could it be said in our Mishnah. AND THE SAME LAW IS APPLICABLE TO TWO DEAF WOMEN?

(44) The law in our Mishnah concerning two deaf women. V. supra n. 3.

(45) Not to halizah.

(46) Others, 'Rabbah'. Cf. infra p. 772, n. 8.

(47) V. supra note 4.

(48) Lit. , 'here'; our Mishnah which allows halizah in respect of a deaf woman.

(49) Even before her marriage.

(50) The Mishnah supra 104b which rules the halizah of a deaf woman to be invalid.

(51) At the time she married.

(52) The levir by means of halizah.

(53) The marriage with her husband. As the marriage was performed by means of signs and gestures so also is the halizah.

(54) Cf. supra 106b.

(55) As a deaf-mute she is unable to recite them and is consequently precluded from the performance of halizah.

(56) I.e., women who were not related to one another.

(57) I.e., deaf-mute.

(58) I.e., contracts the levirate marriage by means of signs and gestures. No halizah is permitted since the woman is incapable of reciting the prescribed formulae.

(59) After he has married her.
(60) Divorcing her, as he married her, by the use of signs and gestures.
(61) Infra 112b. The divorce of a man who is not in the possession of all his faculties cannot annul the marriage of his brother who was in the possession of all his faculties and whose marriage, therefore, subjects him to a levirate marriage that can never be annulled.
(62) Probably it does.

Talmud - Mas. Yevamoth 110b

but not submit to halizah![1] — No, this refers to a woman who was capable of hearing[2] and became deaf afterwards.[3]

Come and hear: If two brothers of sound senses were married to two strangers[4] one of whom was of sound senses and the other deaf, and [the brother who was] of sound senses, the husband of the deaf woman, died, what should the [brother who was] of sound senses, the husband of the woman who was of sound senses, do? He marries [the deaf widow], and if he wishes to divorce her he may do so.[5] If [the brother who was] of sound senses, the husband of the woman who was of sound senses, died, what should the [brother who was] of sound senses, the husband of the woman who was deaf, do? He may either submit to halizah or contract levirate marriage.[6] Are we not to assume that[7] as the man was originally[8] of sound senses so was she originally[8] deaf, and nevertheless it was stated that he may only[9] marry her but may not submit to her halizah![10] — Is this an argument? Each one may bear its own meaning.[11]

An objection was raised against him:[12] If two brothers, one of whom was of sound senses and the other deaf, were married to two sisters, one of whom was of sound senses and the other deaf, and the deaf brother, the husband of the deaf sister, died, what should [the brother who was] of sound senses, the husband of [the sister who was] of sound senses, do? — [Nothing, since] the widow is released[13] by virtue of her being [the levir's] wife's sister. If [the brother who was] of sound senses, the husband of [the sister who was] of sound senses, died, what should the deaf brother, the husband of the deaf sister, do? He releases his wife by means of a letter of divorce,[14] while his brother's wife is for ever forbidden [to marry again]![15] And should you reply that here also [it is a case of a man] who was of sound senses and who became afterwards deaf, is [such a man, it may be retorted], in a position to divorce [his wife]? Surely, we learned: If she[16] became deaf, he may divorce her; if she became insane, he may not divorce her.[17] If he became deaf or insane he may never divorce her.[18] Consequently it must be a case of a man[19] who was originally[20] deaf. And since [the man spoken of] is one who was originally deaf, the woman [spoken of in the same context must] also be one who was originally deaf; and, as the sisters were such as were originally deaf, the strangers also [must be such as were] originally deaf; but in the case of the strangers we learned that [the levir] may only marry[21] but may not submit to halizah![22] The other[23] remained silent.

When he[24] visited R. Joseph, the latter said to him: Why did you raise your objections against him[23] from [teachings] which he could parry by replying that the sisters [spoken of are such as were] originally deaf, and that the strangers [are such as were originally] of sound senses who became deaf afterwards? You should rather have raised your objection against him from the following: If two deaf brothers were married to two sisters who were of sound senses, or to two deaf sisters or to two sisters one of whom was of sound senses and the other deaf; and so also if two deaf sisters were married to two brothers who were of sound senses, or to two deaf brothers, or to two brothers one of whom was of sound senses and the other deaf, behold these women[25] are exempt from levirate marriage and from halizah.[26] If [however the women] were strangers[27] [the respective levirs] must marry them,[28] and if they wish to divorce them, they may do so.[29] Now, how [is this ruling][30] to be understood? If it be suggested [that it refers to brothers who were first][31] of sound senses and who became deaf afterwards,[32] could they [it may be asked] divorce [their wives]? Surely, we learned: If he[33] became deaf or insane he may never divorce her![34] This ruling must consequently refer[35] to [brothers who were] originally[31] deaf; and since they [are such as were] originally deaf, the women [referred to must] also be [such as were] originally[31] deaf; and it was nevertheless taught: ‘If [the women, however], Were strangers [the respective levirs] must marry them’,[36] they may thus only[37] marry them but may not submit to their halizah. This, then, presents a refutation of Rabbah![38] — This is indeed a refutation.

A MINOR AND A DEAF WOMAN etc. R. Nahman related: I once found R. Adda b. Ahabah and his son-in-law R. Hana sitting in the market place of Pumbeditha and bandying arguments[39] and [in the course of these they] stated: The ruling,[40] [IF A MAN WAS MARRIED TO] A MINOR AND TO A DEAF WOMAN, COHABITATION WITH ONE OF THEM DOES NOT EXEMPT HER RIVAL applies only to a case[41] where [the widows] became subject to him[42] through a brother of his who was of sound senses, since it is not known to us whether he[43] was more pleased with the minor or whether he was more pleased with the deaf woman; ‘whether he was more pleased with the minor’ because she would [in due course] reach the age of intelligence or ‘whether he was more pleased with the deaf woman’ because she was fully grown and in a marriageable condition; if [the widows], however, became subject to him[42] through a deaf brother of his, there is no doubt that he[44] was more pleased with the deaf woman, because she was of matrimonial age and of his kind. But I told them: Even if [the widows] became subject to him[45] through a deaf brother of his [the question of his preference still remains] a matter of doubt.

How do they[46] obtain redress?[47] — R. Hisda replied in the name of Rab: [The levir] marries the deaf widow and then releases her by a letter of divorce,[48] while the minor waits until she is of age, when she performs halizah.[49]

From this, said R. Hisda, it may be inferred that Rab is of the opinion that a deaf wife is partially acquired,[50] [while concerning] a minor [it is a matter of doubt whether] she is [properly] acquired,[51] or not acquired [at all];[52] for were it to be suggested that concerning a deaf wife [it is uncertain whether] she is acquired[51] or not acquired [at all and that] a minor is partially acquired,[50] [the question would arise] why [should the levir] marry [the deaf widow] and release her by a letter of divorce?

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(1) Owing to the woman's incapability of reciting the prescribed formulae. How, then, could Raba (or Rabbah) state that in such a case halizah is permissible?

(2) At the time she married.

(3) After he has married her.

(4) I.e., women who were not related to one another.

(5) V. supra n. 5.

(6) Infra 112b.

(7) Lit., ‘what not?’

(8) Even before marriage.

(9) Lit., ‘yes’.

(10) V. p. 769, n. 8.

(11) Lit., ‘that as it is, and that etc.’

(12) Raba (or Rabbah).

(13) From levirate marriage and halizah.

(14) He must not continue to live with her because she is the sister of his zekukah (v. Glos.) the levirate bond with whom is, as was her marriage with her husband, Pentateuchally valid, while his own marriage with his deaf wife, though valid in Rabbinic law, is invalid in Pentateuchal law. A Rabbinically valid marriage cannot override a levirate bond which is Pentateuchal.

(15) Infra 112b. She is forbidden to her brother-in-law since she is (in Rabbinic law) his wife's (or divorcee's) sister, and she is forbidden to other men since, as a deaf-mute who is unable to recite the prescribed formulae, her brother-in-law is precluded from submitting to halizah from her, and, in consequence, she remains attached to him by the levirate bond. Now, as the levir's deafness is, in this case, an affliction from which he suffered prior to his marriage, the deafness spoken of in the two previously cited cases (since all these appear in the same contexts) must similarly refer to afflictions commenced prior to the marriage. This then presents an objection against Raba (cf. supra p. 769, n. 8)!

(16) One's wife.

(17) In accordance with a Rabbinical provision safeguarding the position of the woman who, were she to be divorced and thus remain unprotected by a husband, would be subject, owing to her mental condition, to serious moral and physical danger.

(18) Infra 112b; because his marriage which took place when he was in full possession of his senses was Pentateuchally valid, while a divorce given by him while deaf or insane would have no Pentateuchal validity.

(19) Lit., ‘but not?’

(20) Prior to the marriage.

(21) Lit, , ‘yes’.

(22) V. supra p. 769, n. 8.

(23) Raba (or Rabbah).

(24) Abaye.

(25) If their husbands died without issue.

(26) Because all these marriages having been contracted by signs and gestures, are of equal validity. Each widow is, therefore, forbidden to the respective levir as his wife's sister.

(27) To one another.

(28) Halizah is forbidden, since either the levir or the sister-in-law (or both), as the case may be, is unable to recite the prescribed formulae.

(29) Cit. 71b, infra 112b.

(30) Concerning the deaf people spoken of in this context.

(31) Prior to the marriage.

(32) After the marriage.

(33) Cf. Bah. Cur. edd. insert: ‘If she became insane he may not divorce’.

(34) Git. 71 b. infra 112b. Cf. supra p. 771, n. 1. How, then, could it be said to be a case of deafness acquired after marriage!

(35) Lit., ‘but not?’

(36) Git. 71 b, infra 112b.

(37) Lit., ‘yes’.

(38) Or ‘Raba’. Cf. supra p. 768, n. 6 and supra p. 769, n. 8.

(39) So Tosaf. and one of Rashi's explanations. וקמקוו אקוותא (vb. קהי ‘to blunt’ and noun אקווא or אקהא ‘refutation’). Jastrow renders, ‘They were sitting and raising arguments . Another interpretation of Rashi derives the expression from the rt קוה ‘to gather’; ‘they were gathering round them an assembly of students’.

(40) Lit., ‘that which we learned’.

(41) Lit., ‘these words’.

(42) Lit., ‘she fell’.

(43) The deceased brother.

(44) The deceased brother.

(45) Lit., ‘she fell’.

(46) The minor and the deaf wife whose husband died childless and who became subject to a levir.

(47) Since one does not exempt the other (v. our Mishnah) and the deaf woman is incapable of performing halizah. Were the levir to marry the deaf widow and submit to halizah from the minor after she had attained her majority, the former would become forbidden to him by the halizah of her rival (‘If a man did not build he must never build’ , supra), the marriage of the deaf not being Pentateuchally valid to sever the levirate bond with the minor.

(48) Cf. supra n. 4.

(49) Both widows are thus released from the levir.

(50) By her husband. Lit., ‘acquired and left over’; only in a part of her person is she legally regarded as wife, Cf. infra n. 9.

(51) Completely; and she is consequently regarded as the deceased brother's proper wife.

(52) And consequently she is legally no more than a stranger. That the legal condition of relationship between the minor and her husband is different from that between the deaf wife and her husband is fairly obvious. For if they were both regarded as partially acquired, or if the acquisition of either was regarded as doubtful, their legal position would in no way differ from that of two minors or two deaf women, while, in fact, it does. (Cf. our Mishnah and the following one). From Rab's ruling, however, it is inferred that it is the deaf wife who is partially acquired and that it is the minor concerning whom it is uncertain whether she is wholly acquired or not acquired at all.

Talmud - Mas. Yevamoth 111a

Let her[1] continue to live with him in any case. For if [a deaf woman] is acquired[2] then she is of course acquired,[3] and if she is not acquired,[4] then she is a mere stranger.[5] And should you argue, ‘why should the minor wait until she grows up and then performs halizah? Let her[6] continue to live with him [for the same reason[7] that] if she is [properly] acquired[4] then she is of course acquired,[8] and if she is not acquired,[4] then she is a mere stranger’;[9] if so [it could be retorted] whereby should the deaf [widow] be released![10]

R. Shesheth said: Logical deduction leads also to the interpretation R. Hisda imparted to Rab's ruling.[11] For it was taught: If two brothers were married to two orphan sisters,[12] a minor and a deaf woman, and the husband of the minor died, the deaf widow is released by means of a letter of divorce[13] while the minor waits until she is of age, when she performs halizah.[14] If the husband of the deaf woman dies, the minor is released by a letter of divorce[15] while the deaf widow is forever forbidden [to marry again].[16] If, however, he cohabited with the deaf widow[17] he must give her a letter of divorce and she[18] becomes permitted [to marry any other man].[19] Now, if you grant that a deaf wife is partially acquired[20] [and that concerning] a minor [it is doubtful whether] she is [fully] acquired[21] or not acquired [at all], one can well see the reason why when he cohabited with the deaf widow he gives her a letter of divorce and she becomes permitted [to marry any other man]. For you may rightly claim that in any case [she becomes permitted]. If the minor is acquired,[21] [the deaf widow] is rightly released as his wife's sister;[22] and if she is not acquired [at all] he has quite lawfully contracted with her[23] the levirate marriage.[24] If you contend, however, [that concerning] a deaf woman [it is doubtful whether] she is acquired[19] or not acquired [at all], and that a minor is partially acquired,[20] [the difficulty arises] why should the deaf widow, if he cohabited with her and gave her a letter of divorce, be permitted [to marry again] when the cohabitation with her was unlawful,[25] and an unlawful cohabitation does not release a woman?[26] — It is possible that this statement represents the view of[27] R. Nehemiah who ruled that an unlawful cohabitation exempts [a widow] from halizah.[28]

If [this statement represents the view of] R. Nehemiah read the final clause: ‘If a man was married to two orphans,[29] one of whom was a minor and the other deaf, and died ‘and the levir cohabited with the minor and then cohabited with the deaf widow, or a brother of his cohabited with the deaf widow,[30] both are forbidden to him.[31] How do they obtain redress? The deaf woman is released by a letter of divorce[31] while the minor waits until she is of age ‘when she performs halizah’.[32] Now,if you grant[33] that a deaf wife is partially acquired [and that concerning] a minor [it is doubtful whether she is fully] acquired or not acquired [at all],[34] and [that the opinion in this statement] is that of the Rabbis,[35] one can well understand the reason why[36] ‘the minor[37] waits until she is of age, when she performs halizah’, since [otherwise][38] he might cohabit with the deaf widow first,[39] and the [subsequent] cohabitation with the minor would [thereby] be rendered an unlawful cohabitation.[40] If you contend, however, [that the opinion in the statement is that of] R. Nehemiah,[41] surely he [it may be objected] ruled that an unlawful cohabitation does exempt![42] Consequently it must be concluded [that the opinion in the statement is that of] the Rabbis. Our point is thus proved.

R. Ashi said: From the first clause[43] also it may be inferred that [the opinion expressed] is that of the Rabbis. For it was stated, ‘If,[44] however, he cohabited with the deaf widow he must give her a letter of divorce and she becomes permitted [to marry any other man]', but it was not stated,[45] 'If he cohabited with the minor, he must give her a letter of divorce and she becomes permitted'![46] — If this is all, there is not much force in the argument; since in respect of the deaf widow for whom no lawful redress is possible[47] mention had to be made of redress obtained through a forbidden act,[48] but concerning a minor, for whom lawful redress is possible,[49] no redress obtainable through a forbidden act was mentioned.

MISHNAH. IF A MAN WHO WAS MARRIED TO TWO ORPHANS WHO WERE MINORS DIED, AND THE LEVIR COHABITED WITH ONE,[50] AND THEN HE ALSO COHABITED WITH THE OTHER,[51] OR A BROTHER OF HIS COHABITED WITH THE OTHER,[51]

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(1) Once the levir married her.

(2) As the legal wife of her husband.

(3) And having been the proper wife of the deceased, her marriage with the levir severs the levirate bond with the minor, the subsequent halizah with whom is null and void and in no way affects the validity of her marriage.

(4) As the legal wife of her husband.

(5) To the minor, halizah with whom does not concern her at all. Consequently it must be inferred that it is the deaf wife who is partially acquired, and that the doubt as to complete acquisition or none exists in the case of the minor.

(6) Once the levir married her.

(7) Given in the case of the deaf woman.

(8) Cf. supra n. 1 mutatis mutandis.

(9) To the deaf woman, marriage with whom does not consequently affect the validity of her marriage.

(10) Of halizah she is incapable, owing to her inability to recite the prescribed formulae; and marriage with her after a marriage had been contracted with the minor is forbidden. Hence the necessity for Rab's ruling which provides redress for the minor as well as the deaf widow.

(11) That a deaf wife is partially acquired and the legality of the acquisition of a minor is altogether doubtful.

(12) Orphan is mentioned on account of the minor.

(13) She is forbidden to live with her husband as the sister of the minor who is now his zekukah (v. Glos.), since she, as a deaf woman, is only partially acquired as wife, while the minor's acquisition by her husband (and consequently her levirate bond with the levir) might possibly have been completely valid.

(14) And is then free to marry any other man.

(15) As it is possible that the minor is not acquired at all as a wife, while the levirate bond with the deaf widow is at all events partially valid, the former is forbidden to her husband as the sister of his zekukah. (V. Glos. and cf. supra n. 11).

(16) She is forbidden to the levir as the sister of his divorcee (it being possible that the minor was completely acquired as his wife), and she is forbidden to any other man since, owing to her inability to recite the required formulae, the levir cannot release her by halizah. Even when the minor dies, and the prohibition of 'divorcee's sister' is lifted, she remains forbidden to the levir as 'brother's wife'. Since at the time she became subject to the levir as his deceased brother's wife she was for some reason unfit to contract the levirate marriage, the prohibition of 'brother's wife' comes again into force.

(17) After he had divorced the minor.

(18) Though the cohabitation was forbidden.

(19) Because (a) if the minor was to be regarded as his legal wife, the deaf woman was all the time permitted to marry a stranger since, as his wife's sister, she was never subject to the levirate obligations; and if (b) the minor was not to be regarded as his legal wife, his marriage with the deaf widow, who accordingly was not his wife's sister, was a valid levirate marriage which was duly and lawfully annulled by the letter of divorce which set her free.

(20) V. supra p. 773, n. 7.

(21) Cf. supra p. 773, n. 8.

(22) Cf. supra n. 3 (a).

(23) The deaf widow.

(24) Cf. supra n. 3 (b).

(25) Since the minor is at least partially his wife and the deaf widow is forbidden to him as his wife's sister.

(26) From the levirate obligations. Since it is possible that the deaf woman was completely acquired as wife by the deceased brother, the levirate bond between her and the levir is also fully valid, and as the partial acquisition of the minor by her husband (the levir) cannot annul such a possibly fully valid bond, the deaf widow is precluded from marrying either the levir whose partial wife's sister she is (cf. supra n. 9) or from marrying any other man to whom she can be permitted only through halizah with the levir, which she, as a deaf person, is incapable of performing. Had she been permitted to marry the levir, his cohabitation with her would have released her from any further levirate obligation, while his divorce would have set her free to marry any other man. Since, however, cohabitation with the levir is unlawful, she cannot thereby be released from her levirate obligation and should consequently remain forbidden to all men forever!

(27) Lit., ‘this, who?’

(28) V. supra 50b. Hence the permissibility for the deaf widow to marry again after she had been divorced.

(29) V. supra p. 774 n. 10.

(30) After the former had cohabited with the minor.

(31) The reason is given infra.

(32) And she is free at all events: If the minor was a lawfully acquired wife the deaf widow is exempt from the levirate marriage by the former's levirate marriage; and if the minor was not a lawfully acquired wife, the deaf widow had performed the levirate obligation by her own cohabitation with the levir through whose divorce she is now free to marry again.

(33) In respect of the two sisters spoken of in the first clause cited.

(34) Cf. supra p. 775, n. 3.

(35) Who maintain that an unlawful cohabitation does not exempt a deceased brother's widow from the levirate marriage and halizah.

(36) In the final clause, relating to a marriage with orphans who were strangers to each other.

(37) Though marriage with her by the levir should in any case be permitted. For if she was fully acquired by her husband the subsequent cohabitation by the levir with the deaf widow who was only partially acquired can have no validity to cause the minor's prohibition to him; and if she was not acquired at all she, as a stranger, should also be permitted to the levir; and in either case her divorce should set her free without the performance of halizah.

(38) If halizah were not imposed upon the minor when she attains her majority.

(39) And the minor, since it is possible that she was fully acquired, would not be exempt by the levir's cohabitation with the deaf widow who was only partially acquired.

(40) Since it followed that of the deaf widow who, having been at least partially acquired, is the minor's rival, and two rivals may not be married. As in such a case the minor could not be free before she became of age and performed halizah, a similar restriction has been imposed in the former case also.

(41) That the minor is partially acquired and that concerning the deaf woman the validity of her acquisition as a wife is in doubt.

(42) Why then should the minor have to wait until she is of age? If the deaf woman is not acquired at all the minor's cohabitation with the levir is, surely, permitted. But even if the deaf woman is acquired, and her levirate bond causes the minor to be forbidden to the levir, there should be no need for the minor to wait until she is of age and able to perform the halizah, while according to R. Nehemiah, an unlawful cohabitation also exempts a woman from the levirate marriage and halizah!

(43) Which deals with the marriage of two sisters.

(44) When the husband of the deaf sister died.

(45) In the case where the husband of the minor died.

(46) Which would be the law according to R. Nehemiah, who ruled that an unlawful cohabitation exempts the woman from the levirate obligations. The statement, consequently, must represent the view of the Rabbis, and the reason why the minor cannot be released by a letter of divorce is because cohabitation with her is unlawful since she is the sister of the levir's partially acquired wife; while she herself, in case she was fully acquired, is subject to the levirate bond, from which the marriage with her deaf sister, whose kinyan was only partial, cannot exempt her.

(47) As she is forbidden to all men including the levir, as shewn supra.

(48) It being the only possible means whereby she could marry again.

(49) She has only to wait until she is of age, when she can lawfully perform halizah and thereby obtain her freedom.

(50) Lit., ‘the first’.

(51) Lit., ‘the second’.

Talmud - Mas. Yevamoth 111b

Talmud - Mas. Yevamoth 111b

HE HAS NOT THEREBY RENDERED THE FIRST INELIGIBLE [FOR HIM];[1] AND THE SAME LAW IS APPLICABLE TO TWO DEAF WOMEN.

[IF ONE WAS] A MINOR AND THE OTHER DEAF, AND THE LEVIR COHABITED WITH THE MINOR AND THEN HE ALSO COHABITED WITH THE DEAF WIDOW, OR A BROTHER OF HIS COHABITED WITH THE DEAF WIDOW, HE HAS RENDERED THE MINOR INELIGIBLE [FOR HIM].[2] IF THE LEVIR COHABITED WITH THE DEAF WIDOW AND THEN HE ALSO COHABITED WITH THE MINOR, OR A BROTHER OF HIS COHABITED WITH THE MINOR, HE HAS RENDERED THE DEAF WIDOW INELIGIBle [FOR HIM].[3]

[IF ONE WAS] OF SOUND SENSES AND THE OTHER DEAF, AND THE LEVIR COHABITED WITH THE FORMER AND THEN HE ALSO COHABITED WITH THE LATTER, OR A BROTHER OF HIS COHABITED WITH THE LATTER, HE DOES NOT RENDER THE FORMER INELIGIBLE [FOR HIM]. IF THE LEVIR COHABITED WITH THE LATTER, AND THEN HE ALSO COHABITED WITH THE FORMER, OR A BROTHER OF HIS COHABITED WITH THE FORMER, HE RENDERS THE LATTER INELIGIBLE [FOR HIM].

[IF ONE WAS] OF AGE AND THE OTHER A MINOR, AND THE LEVIR COHABITED WITH [THE WIDOW] WHO WAS OF AGE, AND THEN HE ALSO COHABITED WITH THE MINOR, OR A BROTHER OF HIS COHABITED WITH THE MINOR, HE DOES NOT RENDER THE ELDER INELIGIBLE FOR HIM. IF THE LEVIR COHABITED WITH THE MINOR, AND THEN HE ALSO COHABITED WITH [THE WIDOW WHO WAS] OF AGE, OR A BROTHER OF HIS COHABITED WITH [THE WIDOW WHO WAS] OF AGE, HE RENDERS THE MINOR INELIGIBLE [FOR HIM].

R. ELEAZAR RULED: THE MINOR IS TO BE INSTRUCTED TO EXERCISE HER RIGHT OF MI'UN AGAINST HIM.[4]

GEMARA. Rab Judah stated in the name of Samuel: The halachah is in agreement with R. Eliezer[5] . So also did R. Eleazar[6] state: The halachah is in agreement with R. Eleazar.[7] And [both statements[8] were] required. For if the statement had been made on the first [Mishnah] only[5] [it might have been assumed that] in that case alone did Samuel hold that the halachah is in agreement With R. Eliezer,[9] since [the levir there] had not fulfilled the commandment of the levirate marriage,[10] but in this case[11] where[12] the commandment of the levirate marriage has been fulfilled, it might have been assumed that both must be released by a letter of divorce.[13] And if the information[14] had been given on the latter[11] only, [it might have been suggested that] only in this case [is the halachah in agreement with him], because the elder is subject to levirate marriage[15] with him, but not[16] in the other case.[17] [Hence both statements were] required.

MISHNAH. IF A LEVIR WHO WAS A MINOR COHABITED WITH A SISTER-IN-LAW WHO WAS A MINOR, THEY SHOULD BE BROUGHT UP TOGETHER.[18] IF HE COHABITED WITH A SISTER-IN-LAW WHO WAS OF AGE, SHE SHOULD BRING HIM UP UNTIL HE IS OF AGE.[19]

IF A SISTER-IN-LAW DECLARED WITHIN THIRTY DAYS [AFTER HER LEVIRATE MARRIAGE], ‘HE HAS NOT COHABITED WITH ME’,[20] [THE LEVlr] IS COMPELLED TO SUBMIT TO HER HALIZAH,[21] BUT [IF HER DECLARATION WAS MADE] AFTER THIRTY DAYS, HE IS ONLY REQUESTED TO SUBMIT TO HER HALIZAH.[22] WHEN, HOWEVER, HE ADMITS [HER ASSERTION], HE IS COMPELLED, EVEN AFTER TWELVE MONTHS, TO

SUBMIT TO HER HALIZAH.

IF A WOMAN VOWED TO HAVE NO BENEFIT FROM HER BROTHER-IN-LAW, THE LATTER IS COMPELLED TO SUBMIT TO HER HALIZAH, [IF HER VOW WAS MADE] DURING THE LIFETIME OF HER HUSBAND,[23] BUT IF AFTER THE DEATH OF HER HUSBAND,[24] THE LEVlr MAY ONLY BE REQUESTED[25] TO SUBMIT TO HER HALIZAH. IF THIS,[26] HOWEVER, WAS IN HER MIND [EVEN IF HER VOW WAS MADE] DURING THE LIFETIME OF HER HUSBAND, THE LEVIR MAY ONLY BE REQUESTED TO SUBMIT TO HER HALIZAH.[27]

GEMARA. Must it be assumed that our Mishnah[28] is not in agreement with R. Meir? For it was taught: A boy minor and a girl minor may neither perform halizah nor contract levirate marriage;[29] so R. Meir![30] — It may even be said to agree with R. Meir, for R. Meir spoke only [of the levirate marriage of a sister-in-law] who was of age to a minor, and [of one who was] a minor to [a levir that was] of age, since one of these[31] [may possibly be performing] forbidden cohabitation.[32] He did not speak, however, of a boy minor who cohabited with a girl minor, in which case both are in the same position.[33] But, surely, it was stated, IF HE COHABITED WITH A SISTER-IN-LAW WHO WAS OF AGE SHE SHOULD BRING HIM UP UNTIL HE IS OF AGE![34] — R. Hanina of Hozaah replied: If he had already cohabited [the law] is different.[35] But was it not stated: SHE SHOULD BRING HIM UP UNTIL HE is OF AGE,[36] though each act of cohabitation is a forbidden one![37] — The truth is clearly that our Mishnah cannot be in agreement with R. Meir.

Should not the text, To raise up unto his brother a name,[38] be applied here? And this minor,[39] Surely, is not capable of it![40] — Abaye replied: Scripture said, Her husband's brother shall go in unto her,[41] whoever he may be.[42] Raba[43] replied: Without this [text] also you could not say [that a minor may not contract levirate marriage]. For is there any act [in connection with the levirate marriage] which is at one time[44] forbidden and after a time[45] permitted? Surely, Rab Judah stated in the name of Rab: Any sister-in-law to whom the instruction, Her husband's brother shall go in unto her,[41] cannot be applied at the time when she becomes subject to the levirate marriage, is indeed like the wife of a brother who has children, and is consequently forbidden![46] But then might it not be suggested that this same [principle is applicable here] also?[47] — Scripture said, If brethren dwell together,[48] even if [one brother is only] one day old.[49]

IF A SISTER-IN-LAW DECLARED WITHIN THIRTY DAYS etc. Who is it that taught that up to thirty days[50] a man may restrain himself?[51] -R. Johanan replied: It is R. Meir; for it was taught: A complaint in respect of virginity[52] [may be brought] during the first[53] thirty days;[54] so R. Meir. R. Jose said: If [the woman] was shut up [with him, the complaint must be made] forthwith; if she was not shut up [with him], it may be made even after many years.[55] Rabbah stated: It[56] may even be said [to represent the opinion of] R. Jose,[57] for R. Jose spoke there[55] only of one's betrothed with whom one is familiar,[58] but [not of] the wife of one's brother

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(1) As the kinyan of both is of equal validity or invalidity, if the levir's kinyan of the first was valid, that of the other, coming as it does after it, is ineffective, while if his kinyan of the first was invalid, that of the other was equally invalid and both have the same status as strangers whom he never married. He may, therefore, retain the first who is in any case permitted to him, while the second must be released, since it is possible that the kinyan of a minor is valid and both were, therefore, the lawful wives of the deceased brother, who, as rivals, cannot both be married by the levir.

(2) This is a preventive measure against the possibility of marrying the deaf woman first. Cf. Gemara supra 111a — Rashi. Cf. infra p. 779, n. 1. [Mishnayoth edd.: ‘he does not render the minor ineligible’, the reason being if the minor is fully acquired, the act of cohabitation with the deaf-mute that followed has no validity. Should, on the other hand, the kinyan in regard to a minor be of no effect whatsoever, then she could not be considered the wife of the deceased brother, v. Bertinoro a.l.].

(3) Since it is possible that the minor is fully acquired, while in the case of the other it is certain that, as a deaf person, she is only partially acquired.

(4) Thus annulling her marriage and enabling the levir to retain the elder woman.

(5) With reference to Mishnah 109a which deals with the levirate marriage of two sisters, cf. however supra p. 760, n. 5.

(6) R. Eleazar b. Pedath, one of the Amoraim.

(7) R. Eleazar b. Shammua’, the Tanna in our Mishnah.

(8) That (a) the halachah is in agreement with R. Eleazar in our Mishnah and that (b) it is also in agreement with R. Eliezer's view in the Mishnah supra 109a, as stated in the Gemara supra 110a.

(9) V. supra p. 779, n. 3.

(10) There only it is permissible to teach the minor to exercise her right of mi'un, in order that the levir may be enabled to perform the commandment with the elder.

(11) Our Mishnah.

(12) The levir having cohabited with both widows.

(13) And that the minor is not to be taught to exercise her right of mi'un.

(14) That the halachah is in agreement with R. Eleazar.

(15) V. supra note 2.

(16) Cf. supra note 5.

(17) Cf. supra p. 779, n. 3, where, should the minor fail to exercise her right of mi'un, the elder widow would, as his wife's sister, be altogether exempt from the levirate marriage.

(18) Lit., ‘this with this’. As the divorce of a minor is invalid, they cannot be separated by a letter of divorce, should they desire to do so, before both have attained their majority.

(19) During his minority he cannot divorce her (cf. supra note 10).

(20) And he denies her statement.

(21) It being assumed that a period of thirty days sometimes elapses before a marriage is consummated, her word is accepted; v. Gemara.

(22) He cannot be compelled, because it is assumed that no one postpones consummation of marriage for a longer period than thirty days. His word is, therefore, accepted. As the woman, however, by her statement, declared herself to be still bound to him by the levirate bond it is necessary that she should perform halizah, to submit to which, however, the levir can only be asked, not compelled.

(23) When she is not likely to have had in her mind the possibility of ever marrying the levir. The vow is, therefore, presumed to have been due to some quarrel or misunderstanding between her and the levir and to be in no way due to a desire on her part to evade the precept of the levirate marriage.

(24) When her intention may have been to avoid marrying the levir.

(25) But may not be compelled.

(26) Avoidance of the levirate marriage.

(27) And if he refuses, the widow, who is alone to blame for the fact that the levirate marriage cannot be contracted with her, is forbidden to marry again; nor is she entitled to her kethubah.

(28) Which allows levirate marriage to a minor.

(29) Since it is possible that on attaining majority they may be found wanting in procreative powers, in consequence of which they will be unfit for the performance of the levirate obligations. As the Pentateuchal law is thus incapable of fulfilment, the sister-in-law remains forbidden to the levir as his brother's wife’.

(30) Supra 61b. (Cf. supra n. 6).

(31) I.e., the party that is of age.

(32) Cf. supra p. 781, n. 7.

(33) Both are not subject to punishment, even if their cohabitation is found to be a forbidden act and consequently may be allowed in a doubtful case such as this; cf. infra 114a.

(34) Which is not a case concerning two minors.

(35) Though the levirate marriage of a minor with one who is of age is forbidden, it is nevertheless valid ex post facto.

(36) Implying permissibility to continue to live with him.

(37) Which proves that our Mishnah permits directly, not only ex post facto, the levirate marriage of a minor.

(38) Deut. XXV, 7.

(39) As he is incapable of procreation.

(40) To raise up unto his brother a name. Why then is he allowed, the levirate marriage?

(41) Deut. XXV. 5.
(42) Even one who is incapable of fulfilling the commandment in its entirety.
(43) Others, ‘Rabbah’ (cf. Tosaf. supra 20 s,v. ואחות).
(44) Lit., ‘now’, while one of the parties is a minor.
(45) When majority is attained.
(46) Supra 30a; for all time, even when the cause of her prohibition had ceased to exist. Were not the minor then permitted the levirate marriage, this prohibition would not have been removed even after he had attained majority.
(47) I.e., that a levir who was a minor at the time his brother died may never contract levirate marriage.
(48) Deut. XXV, 5.
(49) Must the levirate marriage he contracted, cf. ibid.
(50) After his marriage.
(51) From cohabitation. This being evidently the reason why in our Mishnah the woman's statement is accepted as true.
(52) A husband's assertion that he found no tokens of virginity (cf. Deut. XXII, 13ff), and that, consequently, his wife is not entitled to her kethubah.
(53) Lit., ‘all’.
(54) After marriage; and the husband is believed when he states that he had only just then discovered her defect. If his complaint is made after thirty days, he cannot deprive his wife of her kethubah, it being assumed that her defect, if any, had been discovered by him long ago and that he had acquiesced. His present complaint is regarded as a mere pretext to penalize the woman because of some new quarrel that may have arisen between them.
(55) V. Tosef. Keth. I.
(56) The statement in our Mishnah, which implies that for thirty days after marriage a man may restrain himself. (Cf. supra note 5).
(57) Not only that of R. Meir.
(58) And since he met her in privacy consummation of marriage might well be assumed.

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towards whom one is rather reserved.[1]

Now, instead of being compelled to submit to halizah, let [the levir] be compelled to take [his sister-in-law] in levirate marriage! — Rab replied: [This is a case] where her letter of divorce was produced by her.[2]

An objection was raised: If within thirty days[3] a sister-in-law declared, ‘He has not cohabited with me,’ he is compelled to submit to halizah from her, whether he says ‘I have cohabited’ or whether he admits ‘I have not cohabited’; if after thirty days, he may only be requested[4] to submit to halizah from her. If she declares,[5] ‘He cohabited with me,’ and he states, ‘I did not cohabit’, behold, he may[6] release her by a letter of divorce.[7] If he declares, ‘I have cohabited’ and she states, ‘He has not cohabited with me,’ It is necessary for him, even if he withdrew his statement and admitted, ‘I have not cohabited’, [to give her] a letter of divorce[8] and [to submit to her] halizah![9] — R. Ammi replied: [The meaning is that] she requires halizah together with her letter of divorce.[10]

R. Ashi replied: There[11] the letter of divorce [was given] in respect of his levirate bond;[12] while here[13] the letter of divorce [is required in respect] of his cohabitation.[14]

[A couple] both of whom admitted[15] [that there was no consummation of the levirate marriage] once came before Raba. ‘Arrange the halizah for her’, said Raba to his disciples, ‘and dismiss her case’. ‘But, surely’, said R. Sherebya to Raba, ‘it was taught: She requires[15] both a letter of divorce and halizah!’ ‘If it was so taught’, the other replied, ‘well, then it was taught’.

Hon son of R. Nahman enquired of R. Nahman: What [is the law in respect of] her[16] rival?[17] — The other replied: Shall the rival be forbidden [to marry again] because we compel or request [the levir]![18]

IF A WOMAN VOWED TO HAVE NO BENEFIT etc. We learned elsewhere: At first it was held that [the following] three [classes of] women must be divorced[19] and they also receive their kethubah: One[20] who declares, ‘I am unclean for you’,[21] or ‘heaven is between me and you’,[22] or ‘May I be kept away from the Jews’.[23] This ruling was afterwards withdrawn[24] in order that a wife might not cast eyes upon another man[25] and thus disgrace her husband;[26] but [instead it was ordained that] one[20] who declared, ‘I am unclean for you’[21] must bring evidence in support of her statement;[27] [in respect of a woman who tells her husband] ‘heaven is between me and you’,[22] [peace] is made between them by way of a request [addressed to the husband]; [and if a woman vowed], ‘May I be kept away from the Jews’ [the husband] invalidates his part [of the vow][28] and she may continue connubial intercourse with him, though she remains removed from [other] Jews.[29] The question was raised: What [is her relation] to the levir [if a woman had vowed],[30] ‘May I be kept from the Jews?’ Is [it assumed that][31] it occurred to her that her husband may possibly die[32] and that she might become subject to the levir[33] or not?[34] — Rab replied: The levir has not the same status as the husband;[35] and Samuel replied: The levir has the same status as the husband.

Said Abaye: Logical deduction is in agreement with Rab. For we learned, IF A WOMAN VOWED TO HAVE NO BENEFIT FROM HER BROTHER-IN-LAW, THE LATTER IS COMPELLED TO SUBMIT TO HER HALIZAH [IF HER VOW WAS MADE] DURING THE LIFETIME OF HER HUSBAND. Now, if it is [to be assumed] that it occurred to her’[36]

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(1) Though he was alone with her no cohabitation may have taken place. מיבזז בזיז rt.בזז ‘to be shy’, ‘bashful’. Cf. כזז גזז.

(2) Lit., ‘from under her hand’. After a divorce by the levir, the levirate marriage is forbidden. It is now assumed that the letter of divorce spoken of is one by which the levir had severed their union after the consummation of their marriage.

(3) After contracting levirate marriage.

(4) He cannot be compelled.

(5) After thirty days from their marriage.

(6) If they desire their union to be severed.

(7) No halizah is necessary, the woman being believed, since more than thirty days have elapsed after their marriage.

(8) Since after thirty days it is assumed that cohabitation had taken place.

(9) Because she herself by her declaration that no cohabitation had taken place and that the levirate bond was consequently still in force has caused her own prohibition to all other men until she has performed the halizah. Now, as in this case it is specifically mentioned that a letter of divorce is required, it is to be presumed that in all cases spoken of in this Baraitha the woman had no divorce; why then in the absence of a divorce, is the levir in the first case, compelled to submit to halizah and not rather to the performance of the levirate marriage?

(10) Which is already in her possession. The clause ‘even if he withdrew’ his statement etc,’ does not emphasize the necessity of giving a letter of divorce but the ruling that where the levir first declared after thirty days that he consummated the marriage he may only be requested and not compelled to submit to halizah even though he later asserted that no cohabitation had taken place.

(11) In the first clause of the Baraitha under discussion.

(12) And this has caused the woman to be forbidden to the levir, in consequence of which halizah only but no levirate marriage is possible.

(13) In the final clause.

(14) The purport of the clause ‘even if he withdrew’ his statement etc.’ being that although the levir admitted later that no cohabitation had taken place, in consequence of which it might have been presumed that halizah alone is sufficient, a letter of divorce is nevertheless required, because, more than thirty days having elapsed after the marriage, his first statement admitting cohabitation is accepted as the true one.

(15) After the levir had first declared that consummation of marriage had taken place.

(16) A sister-in-law who declared that the levirate marriage had not been consummated.

(17) Is the rival also forbidden to marry again before the other had performed the halizah?

(18) Obviously not. The sister-in-law in question may indeed have placed herself under a prohibition as a result of her own declaration. The rival, however, since every levirate marriage is usually consummated, remains free.
(19) Even if the husband is reluctant.
(20) The wife of a priest.
(21) Through outrage. A priest is forbidden to live with a wife in such circumstances.
(22) A declaration that may be made by a woman whom her husband deprives of her connubial rights. The meaning might be: ‘The distance of the heavens lies between us’ or ‘heaven knows (if no man does) our miserable relationship’.
(23) I.e., a vow to have no sexual intercourse with any of them. Such a vow is assumed to be the result of the pain that connubial intercourse may cause her, and therefore justified.
(24) Lit., ‘they returned to say’.
(25) Whom she would arrange to marry in a place where they are unknown.
(26) By inventing the disabilities mentioned.
(27) Otherwise her assertion is disregarded.
(28) That part of the prohibition that concerns himself.
(29) For fuller notes v. Ned., Sonc, ed., pp. 279ff.
(30) During the lifetime of her husband.
(31) Though her husband is alive.
(32) Without issue.
(33) Her vow was consequently meant to include the levir; and, since her husband can only invalidate his own share, she remains forbidden to the levir.
(34) Her vow may have applied to those men only who are otherwise allowed to marry her if her husband divorced her, her object being to convince him that she had no intention of marrying any other man even after she had left him. As the levir remains in any case forbidden to her after her husband had divorced her she could not have had him in mind. Hence he should be permitted to contract levirate marriage with her.
(35) He is excluded from the vow.
(36) Even while her husband was alive, that he might die without issue and that she would, therefore, be subject to the levir.

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it should have been [stated that he is only] to be requested![1] — What we are dealing with here is the case of a woman who has children, so that such a remote possibility[2] does not occur to her.

What, however, [would be the law if] she had no children? [Would the levir in that case have] to be requested! Instead, then, of stating, IF THIS, HOWEVER, WAS IN HER MIND [EVEN IF HER VOW WAS MADE] DURING THE LIFETIME OF HER HUSBAND, THE LEVIR MAY ONLY BE REQUESTED TO SUBMIT TO HER HALIZAH,[3] a distinction should have been made in the very same case:[4] This[5] is applicable only where she has children, but where she has no children he may only be requested!’ Consequently[6] it must be inferred that whether[7] she has children or not, the levir is compelled [to submit to halizah], in accordance with the opinion of Rab. Thus our contention is proved.

CHAPTER XIV

MISHNAH. A DEAF[8] MAN WHO MARRIED A WOMAN OF SOUND SENSES OR A MAN OF SOUND SENSES WHO MARRIED A DEAF WOMAN MAY, IF HE WISHES TO RELEASE HER, DO SO;[9] AND IF HE WISHES TO RETAIN HER HE MAY ALSO DO SO. AS HE MARRIES [THE WOMAN] BY GESTURES[10] SO HE DIVORCES HER BY GESTURES.

IF A MAN OF SOUND SENSES MARRIED A WOMAN OF SOUND SENSES AND SHE BECAME DEAF, HE MAY,[11] IF HE WISHES, RELEASE HER;[12] AND IF HE WISHES HE MAY RETAIN HER. IF SHE BECAME AN IMBECILE HE MAY NOT DIVORCE HER.[13] IF HE, HOWEVER, BECAME DEAF OR INSANE, HE MAY NEVER DIVORCE HER.[14]

R. JOHANAN B. NURI ASKED: WHY MAY A WOMAN WHO BECAME DEAF BE DIVORCED WHILE A MAN WHO BECAME DEAF MAY NOT DIVORCE [HIS WIFE]? THEY[15] ANSWERED HIM: A MAN WHO GIVES DIVORCE IS NOT LIKE A WOMAN WHO IS DIVORCED. FOR WHILE A WOMAN MAY BE DIVORCED WITH HER CONSENT AS WELL AS WITHOUT IT, A MAN CAN GIVE DIVORCE ONLY WITH HIS FULL CONSENT.

R. JOHANAN B. GUDGADA TESTIFIED CONCERNING A DEAF [MINOR] WHO WAS GIVEN IN MARRIAGE BY HER FATHER[16] THAT SHE MAY BE RELEASED BY A LETTER OF DIVORCE.[17] THEY[18] SAID TO HIM:[19] THE OTHER[20] ALSO IS IN A SIMILAR POSITION[21] .

IF TWO DEAF BROTHERS WERE MARRIED TO TWO DEAF SISTERS, OR TO TWO SISTERS WHO WERE OF SOUND SENSES, OR TO TWO SISTERS ONE OF WHOM WAS DEAF AND THE OTHER WAS OF SOUND SENSES; AND SO ALSO IF TWO DEAF SISTERS WERE MARRIED TO TWO BROTHERS WHO WERE OF SOUND SENSES, OR TO TWO DEAF BROTHERS, OR TO TWO BROTHERS ONE OF WHOM WAS DEAF AND THE OTHER OF SOUND SENSES, BEHOLD THESE [WOMEN] ARE EXEMPT FROM HALIZAH AND FROM LEVIRATE MARRIAGE.[22] IF [THE WOMEN, HOWEVER], WERE STRANGERS[23] [THE RESPECTIVE LEVlrs] MUST MARRY THEM,[24] AND IF THEY WISH TO DIVORCE THEM,[25] THEY MAY DO SO.[26]

IF TWO BROTHERS, ONE OF WHOM WAS DEAF AND THE OTHER OF SOUND SENSES, WERE MARRIED TO TWO SISTERS WHO WERE OF SOUND SENSES, AND THE DEAF BROTHER, THE HUSBAND OF [THE SISTER WHO WAS] OF SOUND SENSES, DIED, WHAT SHOULD THE BROTHER OF SOUND SENSES, THE HUSBAND OF THE SISTER OF SOUND SENSES, DO? [NOTHING; SINCE HIS SISTER-IN-LAW] IS EXEMPT[27] , AS BEING HIS WIFE'S SISTER. IF THE BROTHER OF SOUND SENSES, THE HUSBAND OF [THE SISTER WHO WAS] OF SOUND SENSES, DIED, WHAT SHOULD THE DEAF BROTHER, THE HUSBAND OF [THE SISTER WHO WAS] OF SOUND SENSES, DO? HE MUST RELEASE HIS WIFE BY A LETTER OF DIVORCE[28] WHILE HIS BROTHER'S WIFE IS FORBIDDEN FOREVER [TO MARRY AGAIN].[29]

IF TWO BROTHERS OF SOUND SENSES WERE MARRIED TO TWO SISTERS ONE OF WHOM WAS DEAF AND THE OTHER OF SOUND SENSES, AND THE BROTHER OF SOUND SENSES, THE HUSBAND OF THE DEAF SISTER, DIED, WHAT SHOULD THE BROTHER OF SOUND SENSES, THE HUSBAND OF [THE SISTER WHO WAS] OF SOUND SENSES, DO? [NOTHING; SINCE HIS SISTER-IN-LAW] IS EXEMPT[30] AS HIS WIFE'S SISTER. IF THE BROTHER OF SOUND SENSES, THE HUSBAND OF [THE SISTER WHO WAS] OF SOUND SENSES, DIED, WHAT SHOULD THE BROTHER OF SOUND SENSES, THE HUSBAND OF THE DEAF SISTER, DO? HE MUST DIVORCE HIS WIFE BY A LETTER OF DIVORCE[31] AND [HE RELEASES] HIS BROTHER'S WIFE BY HALIZAH.[32]

IF TWO BROTHERS, ONE OF WHOM WAS DEAF AND THE OTHER OF SOUND SENSES, WERE MARRIED TO TWO SISTERS, ONE OF WHOM WAS DEAF AND THE OTHER OF SOUND SENSES, AND THE DEAF BROTHER, THE HUSBAND OF THE DEAF SISTER, DIED, WHAT SHOULD [THE BROTHER WHO WAS] OF SOUND SENSES, THE HUSBAND OF [THE SISTER WHO WAS] OF SOUND SENSES, DO? [NOTHING; SINCE THE WIDOW] IS RELEASED BY VIRTUE OF HER BEING HIS WIFE'S SISTER. IF THE BROTHER OF SOUND SENSES, THE HUSBAND OF [THE SISTER WHO WAS] OF SOUND SENSES, DIED, WHAT SHOULD THE DEAF BROTHER, THE HUSBAND OF THE DEAF SISTER, DO? HE

RELEASES HIS WIFE BY A LETTER OF DIVORCE. WHILE HIS BROTHER'S WIFE IS FOREVER FORBIDDEN [TO MARRY AGAIN].[33]

IF TWO BROTHERS, ONE OF WHOM WAS DEAF AND THE OTHER OF SOUND SENSES, WERE MARRIED TO TWO STRANGERS WHO WERE OF SOUND SENSES, AND THE DEAF BROTHER, THE HUSBAND OF [THE WOMAN WHO WAS] OF SOUND SENSES DIED, WHAT SHOULD THE BROTHER OF SOUND SENSES, THE HUSBAND OF THE WOMAN OF SOUND SENSES, DO? — HE EITHER SUBMITS TO HALIZAH OR CONTRACTS LEVIRATE MARRIAGE. IF THE BROTHER OF SOUND SENSES, THE HUSBAND OF [THE WOMAN WHO WAS] OF SOUND SENSES, DIED, WHAT SHOULD THE DEAF BROTHER, THE HUSBAND OF THE WOMAN WHO WAS OF SOUND SENSES, DO? HE MUST MARRY HER AND HE MAY NEVER DIVORCE HER.[34]

IF TWO BROTHERS OF SOUND SENSES WERE MARRIED TO TWO STRANGERS,[35] ONE OF WHOM WAS OF SOUND SENSES AND THE OTHER DEAF, AND THE BROTHER OF SOUND SENSES, THE HUSBAND OF THE DEAF WOMAN DIED, WHAT SHOULD THE BROTHER OF SOUND SENSES, THE HUSBAND OF THE WOMAN OF SOUND SENSES, DO? HE MARRIES [THE WIDOW] AND IF HE WISHES TO DIVORCE HER HE MAY DO SO. IF THE BROTHER OF SOUND SENSES, THE HUSBAND OF THE WOMAN OF SOUND SENSES, DIED, WHAT SHOULD THE BROTHER OF SOUND SENSES, THE HUSBAND OF THE DEAF WOMAN, DO? HE MAY EITHER SUBMIT TO HALIZAH OR CONTRACT LEVIRATE MARRIAGE.

IF TWO BROTHERS, ONE OF WHOM WAS DEAF AND THE OTHER OF SOUND SENSES, WERE MARRIED TO TWO STRANGERS,[35] ONE OF WHOM WAS DEAF AND THE OTHER OF SOUND SENSES, AND THE DEAF BROTHER, THE HUSBAND OF THE DEAF WOMAN, DIED, WHAT SHOULD THE BROTHER OF SOUND SENSES, THE HUSBAND OF THE WOMAN OF SOUND SENSES. DO? HE MUST MARRY [THE WIDOW], BUT IF HE WISHES TO DIVORCE HER HE MAY DO SO.[36] IF THE BROTHER OF SOUND SENSES, THE HUSBAND OF THE WOMAN OF SOUND SENSES, DIED, WHAT SHOULD THE DEAF BROTHER, THE HUSBAND OF THE DEAF WOMAN, DO? HE MUST MARRY [THE WIDOW] AND HE MAY NEVER DIVORCE HER.

GEMARA. Rami b. Hama stated: Wherein lies the difference between a deaf man or a deaf woman [and an imbecile] that the marriage of the former should have been legalized by the Rabbis[37] while that of the male imbecile or female imbecile was not legalized by the Rabbis? For it was taught: If an imbecile or a minor married, and then died, their wives are exempt from halizah and from the levirate marriage![38] — [In the case of] a deaf man or a deaf woman, where the Rabbinical ordinance could be carried into practice,[39] the marriage was legalized by the Rabbis; [in that of] a male, or female imbecile, where the Rabbinical ordinance cannot be carried into practice, since no one could live with a serpent in the same basket,[40] the marriage was not legalized by the Rabbis.

And wherein lies the difference between a minor [and a deaf person] that the marriage of the former should not have been legalized[41] by the Rabbis while that of the deaf person was legalized by the Rabbis? — The Rabbis have legalized the marriage of a deaf person since [Pentateuchally] he would never be able to contract a marriage;[42] they did not legalize the marriage of a minor since in due course he would be able to contract [a Pentateuchally valid] marriage. But, surely, [in the case of] a girl minor, who would in due course be able to contract [a Pentateuchally valid] marriage, the Rabbis did legalize her marriage.[43] — There[44] [it was legalized] in order that people might not treat her as ownerless property.[45] And why is there a difference[46] between a minor [and a deaf woman] that the former should be permitted to exercise the right of mi'un while the deaf woman should not be permitted to exercise the right of mi'un? — Because, if [the latter also were allowed to do] so,

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(1) And not compelled; since it is the woman's fault that the levirate marriage cannot be contracted.
(2) Lit., ‘that all this’, i.e., that all her children as well as her husband would die, and that the death of the former would precede that of the latter.
(3) Which, referring to a case where the woman's intention was known, is altogether different from the previous one.
(4) Spoken of, where it is not definitely known whether the levirate marriage was or was not in her mind.
(5) That the levir is compelled to submit to halizah.
(6) Since no such distinction was drawn.
(7) Lit., ‘there is no difference’.
(8) ‘Deaf and dumb’, as is to be understood throughout by the term ‘deaf’. Marriages contracted by parties of whom one is a deaf-mute are only Rabbinically valid.
(9) By a letter of divorce.
(10) Which in the case of a deaf person take the place of the prescribed formulae.
(11) Though her marriage was Pentateuchally valid.
(12) By a letter of divorce, for the reason to be explained infra.
(13) This is a Rabbinic provision, and the reason is given in the Gemara.
(14) Because his marriage was Pentateuchally valid while his divorce, being that of a deaf person, has no such validity.
(15) The Sages. divorce, being that of a deaf person, has no such validity. (8) The Sages.
(16) Such a marriage is Pentateuchally valid since her father is empowered to act on her behalf.
(17) Even after attaining her majority when she is no longer under her father's control.
(18) The Sages.
(19) R. Johanan b. Nuri.
(20) Lit., ‘this’, one of sound senses that became deaf, who formed the subject of R. Johanan b. Nuri's enquiry in the preceding paragraph.
(21) V. Git. 55a.
(22) As the marriages of both sisters are of equal invalidity in Pentateuchal, and of equal validity in Rabbinic law, their levirate obligations and degree of relationship are also on the same legal level. Each sister, therefore, exempts the other, as in the case of marriages between normal brothers and sisters, from both the levirate marriage and halizah.
(23) To one another; i.e., if they were not sisters or near of kin in any other way.
(24) Since no halizah is possible with a deaf-mute (v. supra p.788, n. 1) who cannot recite the formulae.
(25) After marriage.
(26) By gestures, as they did in the case of the marriages.
(27) From levirate marriage and halizah.
(28) Because the levirate bond with his sister-in-law, whose marriage (as one between normal persons) was Pentateuchally valid, causes his wife whose marriage with him (a deaf person) was only Rabbinically valid, to be forbidden to him as the sister of his zekukah (v. Glos.).
(29) Since, as a deaf man (cf. supra p.789. n. 8), he is incapable of participating in her halizah, while levirate marriage cannot be contracted because she is his wife's, or divorcee's sister.
(30) From levirate marriage and halizah.
(31) Cf. supra n. 1 mutatis mutandis.
(32) Since both he and his sister-in-law are normal persons.
(33) V. supra p.790. 2.
(34) His divorce, which has only Rabbinical, but not Pentateuchal validity, cannot sever the levirate bond between him and his sister-in-law, which arose out of the pentateuchally valid marriage of his brother.
(35) Cf. supra p.789. n. 10.
(36) Cf. supra p.789. n. 10.
(37) As is evident from our Mishnah. Since halizah was required it is obvious that the preceding marriage, without which the question of halizah could never have arisen, is recognized as valid despite the fact that a deaf-mute (cf. supra p.788. n. 1), owing to his inferior intelligence, is elsewhere ineligible to effect a kinyan.
(38) Supra 69b, 96b.
(39) Deaf-mutes might well lead a happy matrimonial life, not only when the husband or wife is deaf, but even where both are afflicted with deafness.

(40) proverb. There can be no happy or enduring matrimonial union between an imbecile and a sane person or between two imbeciles.

(41) As has been stated in the Baraitha just cited.

(42) And were not his marriage recognized as valid, at least in Rabbinic law, marriage for him would have become an impossibility.

(43) Wherein does she differ from the boy minor that she should be subject to a different law?

(44) The case of the girl minor.

(45) Take liberties with her.

(46) Since in the case of either, marriage is Pentateuchally invalid.

Talmud - Mas. Yevamoth 113a

men would abstain from marrying her.[1]

And why is there a difference between a minor [and a deaf woman] that the former should be permitted to eat terumah[2] while a deaf woman[3] may not? For we learned, ‘R. Johanan b. Gudgada testified concerning a deaf girl whom her father gave in marriage[4] that she may be dismissed by a letter of divorce,[5] and concerning a minor, the daughter of an Israelite, who was married[6] to a priest, that she may eat [Rabbinical][7] terumah’,[8] while the deaf woman may not eat’![9] This[10] is a preventive measure against the possibility that a deaf man might feed a deaf woman [with such terumah]. Well, let him feed her, [since she is only in the same position] as a minor who eats nebelah![11] This[12] is a preventive measure against the possibility that a deaf [husband] might feed a wife of sound senses [with it]. But even a deaf husband might well feed his wife who was of sound senses with Rabbinical terumah![13] — A preventive measure was made against the possibility of his feeding her with Pentateuchal terumah.

And why is the minor different [from the deaf woman] that the former should be entitled to her kethubah while the deaf woman is not entitled to her kethubah? — Because if [the latter also were] so [entitled] men would abstain from marrying her.[14]

Whence, however, is it inferred that a minor is entitled to a kethubah? — From what we learned: A minor who exercised the right of mi'un, a forbidden relative of the second degree,[15] and a woman who is incapable of procreation, are not entitled to a kethubah;[16] but [it follows[17] that one] released by a letter of divorce,[18] though a minor, is entitled to receive her kethubah.

And whence is it inferred that a deaf woman is not entitled to her kethubah? — From what was taught: If a man who was deaf or an imbecile married women of sound senses [the latter], even though the deaf man recovered his faculties or the imbecile regained his intelligence, have no claim whatsoever on [either of] them.[19] But if [the men] wished to retain them [the latter] are entitled to a kethubah of the value of[20] a maneh.[21] If, however, a man of sound senses married a woman who was deaf or an imbecile, her kethubah is valid, even if he undertook in writing to give her a hundred maneh,[22] since he himself had consented to suffer the loss.[23] The reason, then,[24] is because he himself consented; had he not consented, however, she would receive no kethubah,[25] since otherwise[26] men would abstain from marrying her.[27]

If so,[28] a kethubah should have been provided for a woman of sound senses who married a deaf man, since otherwise[29] [women] would abstain from marrying [deaf men]! — More than the man desires to marry does the woman desire to be taken in marriage.[30]

A deaf man once lived in the neighbourhood of R. Malkiu [and the latter] allowed him to take a wife to whom he had assigned in writing a sum of four hundred zuz out of his[31] estate. Raba remarked: Who is so wise as R. Malkiu who is indeed a great man. He[32] held the view: Had he wished to have a maid to wait upon him, would we not have allowed one to be bought for him?[33] How much more, [then, should his desire be fulfilled] here where there are two [reasons for complying with his request]![34]

R. Hiyya b. Ashi stated in the name of Samuel: For [unwitting intercourse with] the wife of a deaf man[35] no asham talui[22] is incurred.[36] It might be suggested that the following provides support to his[37] view: There are five who may not set apart terumah, and if they did so their terumah is not valid. These are they: A deaf man, an imbecile, a minor, he who gives terumah[38] from that which is not his own, and an idolater who gave terumah from that which belonged to an Israelite; and even [if the latter gave it] with the consent of the Israelite his terumah is invalid![39] — He[40] holds[41] the same view is R. Eleazar. For it was taught : R. Isaac stated in the name of R. Eleazar that the terumah of a deaf man must not be treated[42] as profane, because its validity is a matter of doubt.[43] If he[40] is of the same opinion as R. Eleazar,[44] an asham talui also should be incurred![45] — It is necessary[46] [that the offence should be similar to that of eating] one of two available pieces [of meat].[47] But does R. Eleazar require [a condition similar to that of eating] one of two pieces? Surely, it was taught : R. Eleazar stated: For [eating] the suet of a koy[48] one incurs the obligation of an asham talui![49] — Samuel is of the same opinion as R. Eleazar in one case[50] but differs from him in the other.[51]

Others read: R. Hiyya b. Ashi stated in the name of Samuel: For [unwitting intercourse with] the wife of a deaf man the obligation of an asham talui is incurred.[52] An objection was raised: There are five who may not set apart terumah![53] — He[54] holds the same view as R. Eleazar.[55]

R. Ashi asked: What is R. Eleazar's reason? Is he positive that the mind of a deaf man is feeble but in doubt whether that mind is clear[56]

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(1) Because at any time throughout her life she could leave her husband by merely making her declaration of refusal. This does not apply to a minor who loses her right to mi'un as soon as she becomes of age.

(2) Even if only her mother or brother gave her in marriage to a priest.

(3) Who was not given in marriage by her father. V. infra.

(4) While she was in her minority.

(5) Even after she became of age, when it is she and not her father that receives it.

(6) By her mother or brothers after the death of her father.

(7) Cf. supra 902.

(8) ‘Ed. VII, 9, Git. 53b. Though such marriage is not Pentateuchally valid.

(9) Since only the minor, and not the deaf woman of whom the first clause speaks, was mentioned in this, the second clause.

(10) The prohibition against the eating of terumah by a deaf woman.

(11) V. Glos. Neither he nor she is subject to any punishment for the eating of forbidden food, v. infra 114a.

(12) The prohibition against the eating of terumah by the deaf woman.

(13) Since their marriage is at least Rabbinically valid.

(14) Cf. supra p.793, n. 5, mutatis mutandis. While deafness, as a rule, is an affliction for life, a minor does not forever remain in her minority.

(15) Who is forbidden in Rabbinic, though not in Pentateuchal law. Cf. supra 21a.

(16) Keth. 100b, B.M. 67a. The first mentioned, because her separation from her husband is effected even against his will; the second was penalized for contracting an unlawful marriage (cf. supra 85b); while in the case of the last the marriage is regarded as a contract under false pretenses.

(17) Since the Mishnah cited speaks only of a minor who has exercised the right of mi'un, and whose separation was, therefore, effected even without the husband's consent.

(18) Which is valid only if the husband had consented to the separation.

(19) Because, at the time the marriage had been contracted, the men were not in the possession of all their senses or faculties and were, in consequence, incapable of undertaking any monetary obligations.

(20) V. Bah. Cur. edd. omit to the end of the clause.

(21) V. Glos. [Their marriage is deemed to have taken place when the husband recovers his faculties, and at that time they were no longer virgins. Beth Joseph, Eben ha-Ezer LXVII].

(22) V. Glos.

(23) לזוק בנכסיו, lit., ‘to be damaged in his estate’. Bomb. ed. and others (cf. Bah) read לזון ‘to be maintained’.

(24) Why the deaf woman is entitled to her kethubah.

(25) Even according to Rabbinic law.

(26) Lit., ‘for if so’, i.e., if the Rabbis had entitled her to receive a kethubah.

(27) Cf. supra p.793, n. 5 mutatis mutandis.

(28) That eligibility to receive a kethubah is determined by the likelihood of the consent to marry the deaf person.

(29) Cf. supra n. 5, mutatis mutandis.

(30) The lack of a kethubah would not prevent a woman from marrying a man even if he was deaf.

(31) The deaf man's.

(32) R. Malkiu, in allowing the deaf man to accept responsibility for the sum mentioned.

(33) The answer is, of course, in the affirmative.

(34) Matrimony and service.

(35) Though it might be argued that, since the degree of her husband's intelligence or mental capacity cannot be accurately gauged — the validity of her marriage should be deemed doubtful.

(36) Such an offering is due only when the offence is a matter of doubt (cf. infra p.796. n. 10). In this case, however, as the marriage is valid in Rabbinic law only but remains definitely invalid in Pentateuchal law, no offering could be incurred.

(37) Samuel's.

(38) Without the authority of its owner.

(39) Ter. I, 1 Shab. 153b. From this Mishnah, then, it follows, since the terumah of a deaf man is regarded as definitely invalid, that the incapacity of a deaf man is not a matter of doubt; and this apparently provides support to Samuel's view.

(40) Samuel.

(41) In regard to terumah.

(42) Lit., ‘go out’.

(43) Shab. 153a. The invalidity of the terumah spoken of in the Mishnah cited may consequently be due to a similar reason. Hence no support for Samuel's view concerning a deaf man's wife may be adduced from it.

(44) That the validity of the deaf man's action, and consequently also his capacity, is a matter of doubt.

(45) In a case of intercourse with his wife. Cf. supra p.795, n. 15, mutatis mutandis.

(46) If an asham talui is to be incurred.

(47) One of which was definitely forbidden and the other definitely permitted, and it is unknown whether a person ate the one or the other. Only in such a case, where the doubt is due to the existence of two objects, is an asham talui incurred. Similarly in the case of intercourse with one of two women, when it is unknown whether the woman affected was his own wife or a forbidden stranger, an asham talui is incurred. If the doubt, however, relates to one object, it being unknown, for instance, whether a piece of fat one has eaten was of the permitted or forbidden kind, no asham talui is involved. Similarly, in the case of the deaf man's marriage, where the doubt relates to one woman, it being uncertain whether she has the status of a married woman or not, no asham talui is incurred.

(48) A kind of antelope,Gr. **, concerning which it was unknown whether it belonged to the genus of cattle whose suet is forbidden or to that of the beast of chase whose suet is permitted. Cf. Hul. 80a.

(49) Though the doubt relates to one object only.

(50) In regard to terumah.

(51) In regard to the liability of an asham talui.

(52) Cf. supra p.795. n. 14 mutatis mutandis.

(53) Cf. supra p.796. n. 2 mutatis mutandis.

(54) Samuel.

(55) V. supra p.796. n.7(mutatis mutandis) and text.

(56) And whatever little his feebleness enables him to do he can do well at all times.

Talmud - Mas. Yevamoth 113b

or not clear,[1] though [in either case] it Is always in the same condition,[2] or is it possible that he has no doubt that the [deaf man's] mind is feeble and that it is not clear,[1] but [his doubt] here is due to this reason: Because [the deaf man] may sometimes be in a normal state[3] and sometimes in a state of imbecility? In what respect would this constitute any practical difference? — In respect of releasing his wife[4] by a letter of divorce.[5] If you grant that his mind is always in the same condition,[6] his divorce [would have the same validity] as his betrothal.[7] If, however, you contend that sometimes he is in a normal state[3] and sometimes he is in a state of imbecility, he would indeed be capable of betrothal; in no way, however, would he be capable of giving divorce.[8] What then is the decision? — This remains undecided.[9]

IF SHE BECAME AN IMBECILE etc. R. Isaac stated: According to the word of the Torah, an imbecile may be divorced,[10] since her case is similar to that of a woman of sound senses [who may be divorced] without her consent. What then is the reason why it was stated that she may not be divorced? — In order that people should not treat her as a piece of ownerless property.[11]

What kind [of imbecile, however, is here] to be understood? If it be suggested [that it is one] who is capable of taking care of her letter of divorce and who is also capable of taking care of herself, would people [it may be asked] treat her as if she were ownerless property! If, however, [she is one] who is unable to take care either of her letter of divorce or of herself, [how could it be said that] in accordance with the word of the Torah she may be divorced? Surely, it was stated at the school of R. Jannai, And giveth it in her hand[12] [only to her] who is capable of accepting her divorce,[13] but this one[14] is excluded since she is incapable of accepting her divorce; and, furthermore, it was taught at the school of R. Ishmael, And sendeth her out of his house,[15] only one who , when he sends her out, does not return, but this one[14] is excluded since she returns even if he sends her out! — This[16] was necessary[17] in respect of one who is capable of preserving her letter of divorce but is unable to take proper care of herself. Hence, in accordance with the word of the Torah , such an imbecile may well be divorced for, surely, she is capable of preserving her letter of divorce; the Rabbis, however, ruled that she shall not be dismissed in order that people might not treat her as a piece of ownerless property.

Abaye remarked: This[18] may also be supported by deduction. For in respect of her[14] it was stated, IF SHE BECAME AN IMBECILE HE MAY NOT DIVORCE HER, while in respect of him[19] [the statement was]. HE MAY NEVER DIVORCE HER. In what respect [it may be asked] does he[20] differ [from her] that the statement [concerning him] is NEVER while in respect of her ‘NEVER’ is not mentioned?[21] The inference, then, must be that the one is Pentateuchal, the other Rabbinical.

R. JOHANAN B. NURI ASKED etc. The question was raised: Was R. Johanan b. Nuri certain [of the law concerning] the man[22] and his question related to that of the woman , or is it possible that he was certain concerning that of the woman[23] and his question related to that of the man? — Come and hear: Since they answered him: A MAN WHO GIVES A DIVORCE IS NOT LIKE A WOMAN WHO IS DIVORCED. FOR WHILE A WOMAN MAY BE DIVORCED WITH HER CONSENT AS WELL AS WITHOUT IT, A MAN CAN GIVE A DIVORCE ONLY WITH HIS FULL CONSENT, it may be inferred[24] that his question related to the man .[25] On the contrary; since they said to him: THE OTHER ALSO IS IN A SIMILAR POSITION,[26] it may be inferred that his question related to the woman! — But [the fact is this]: R. Johanan b. Nuri was addressing [them[27] in the light] of their own statement. ‘According to my view’, [he argued], ‘as well as a man[28] is incapable of giving a divorce, so also is a woman[25] incapable of receiving a divorce;[29] but according to your view,[30] why should there be a difference between a man and a woman?’[31] [To this] they replied: A MAN WHO GIVES A DIVORCE IS NOT LIKE A WOMAN WHO IS DIVORCED.

R. JOHANAN . . . TESTIFIED etc. Raba stated: From the testimony of R. Johanan b. Gudgada[32] [it may be inferred that if a husband] said to witnesses, ‘See this letter of divorce which I am giving [to my wife]', and to her he said,[33] 'Take this bill of indebtedness', she is nevertheless divorced. For did not R. Johanan b. Gudgada imply that [the woman's] consent was not required?[34] Here also, then, her consent is not required. Is not this obvious![35] — It might have been assumed that since he said to her, 'Take this bill of indebtedness'[36] he has thereby cancelled [the letter of divorce], hence we were taught [that it remains valid, for] had he in fact cancelled it, he would have made his statement to the witnesses. Since, however, he did not make the statement to the witnesses he did not cancel it at all; and the only reason why he made that statement to her was[37] to conceal [his] shame.[38]

R. Isaac b. Bisna once lost the keys of the school house in a public domain[39] on a Sabbath.[40] When he came to R. Pedath[41] the latter said to him, 'Go and

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(1) He cannot do anything rational.

(2) Either always clear or always not clear.

(3) Lit. , 'sound'.

(4) Whom he married when he was already suffering from his infirmity.

(5) This question applies only to the view of R. Eleazar. (Cf. supra p.796. n. 7). According to the Rabbis, as has been stated (supra 112b), a deaf man may divorce his wife, as he marries her, by gestures.

(6) Either always clear or always not clear.

(7) Since his mental powers do not change, he is as capable of giving divorce as contracting a marriage. He was either capable of both transactions or of neither.

(8) It being possible that at the time of the betrothal or marriage he happened to be in a normal state, and his act was consequently valid, while at the time of the divorce he may happen to relapse into imbecility, in consequence of which his act can have no validity.

(9) Teku, v. Glos.

(10) Though it is impossible to ascertain whether she realizes the significance of her action.

(11) Were she left unprotected by a husband, unscrupulous men might take undue advantage of her.

(12) Deut. XXIV, 1 (hand = יד. V. infra note 4).

(13) Lit., 'who has a hand' (v. supra note 3).

(14) The imbecile.

(15) Deut. XXIV, 1 .

(16) The statement of R. Isaac concerning the imbecile.

(17) Lit., 'not required (but)'.

(18) That the divorce of an imbecile is only Rabbinically forbidden but Pentateuchally permitted.

(19) The man who became an imbecile.

(20) Lit., 'here'.

(21) Lit., 'and what is different there that it was not taught forever'.

(22) That if he was deaf he may not divorce his wife.

(23) That if she was deaf she may be divorced.

(24) Since the expression used in the reply was, A MAN . . . IS NOT LIKE A WOMAN.

(25) Had it referred to the woman, the expression in the reply would have been, 'A woman . . . is not like a man'.

(26) The man not having been mentioned at all.

(27) The Rabbis.

(28) Who is deaf.

(29) It was to this statement that the Rabbis replied, THE OTHER ALSO IS IN A SIMILAR POSITION.

(30) Which allows a deaf woman to be divorced.

(31) Why should not a deaf man also be allowed to divorce his wife?

(32) According to which a woman may be divorced without her consent even though her betrothal was Pentateuchally valid.

(33) When handing the letter of divorce to her.

(34) Cf. supra p.799, n. 13.

(35) According to R. Johanan. What need, then, was there for Raba to state the obvious?

(36) Thus describing the document as one which has no relation whatsoever to divorce.

(37) Lit., 'and that which he said thus, owing to'.

(38) At divorcing her. Or, to save her from the shame of being divorced in public.

(39) Reshuth harabbim רשות הרבים. Glos. [Though the question arose on Sabbath they could not have been lost in a public domain on that day. Bah., therefore, rightly omits 'on a Sabbath'; nor did Rashi seem to have it, v. 114a s. v. דבר, v.n. 9].

(40) I.e., in a place where, and on a day when carrying of objects is forbidden.

(41) On Sabbath (Rashi). To consult him on the best way of getting the keys to the school house.

Talmud - Mas. Yevamoth 114a

lead forth some boys and girls [to the spot] and let them take a walk[1] there, for if they find [the keys] they will bring them back'. [From this] it is clearly evident that he[2] is of the opinion that if a minor eats nebelah,[3] it is not the duty of the Beth din to take it away from him.[4] May it be suggested that the following provides support for his view? A man must not say to a child, 'Bring me[5] a key', or 'bring me[5] a seal'; but he may allow him to pluck or to throw![6] Abaye replied: 'To pluck' [may refer] to a non-perforated plant-pot,[7] and 'to throw' [may refer] to a neutral domain,[8] [acts which are no more than prohibitions] of the Rabbis.[9]

Come and hear: If an idolater came to extinguish [a fire],[10] he is not to be told either. 'Put it out' or 'Do not put it out', because it is not the duty of the Israelites present[11] to enforce his Sabbath rest. If a minor [Israelite], however, came to extinguish [the fire], he must be told, 'Do not put it out', since it is the duty of the Israelites present[11] to enforce his Sabbath rest![12] R. Johanan replied: [The child is inhibited only] where he [appears to] act with his father's approval.[13]

Similarly, then, in respect of the idolater,[14] [it is a case] where he acts with the approval of an Israelite? Is this, however, permitted![15] — An idolater acts on his own initiative.[16]

Come and hear: If the child of haber[17] was in the habit of visiting his mother's father who was an 'am ha-rez,[18] there is no need to apprehend that [the latter] might feed him with [levitically] unprepared foodstuffs;[19] and if fruit[20] was found in his[21] possession, it is not necessary [to take it from] him![22] — R. Johanan replied: The law was relaxed in respect of demai.[23]

The reason, then,[24] is because [the fruit was] demai,[23] but [had its prohibition been] certain[25] it would have been necessary to tithe it;[26] but, surely [it may be objected] R. Johanan said[27] that [a child is inhibited only] where he [appears to] act with his father's approval[28] — But [the fact is that] R. Johanan was in doubt. When, therefore, he dealt with the one subject[29] he rebutted the argument[30] and when he dealt with the other[29] he [again] rebutted the argument.[30]

Come and hear: If the child of a haber[31] who was a priest was in the habit of visiting his mother's father who was a priest and an 'am ha-arez,[32] there is no need to apprehend that [the latter] might feed him with unclean terumah; and if fruit was found in his[33] possession it is not necessary [to take it away from] him![34] — [This refers only] to Rabbinical terumah.[35]

Come and hear: An [Israelite] child may be regularly[36] breast fed by an idolatress or an unclean beast, and there is no need to have scruples about his sucking from a detestable thing;[37] but he must not be directly fed with nebeloth,[38] terefoth,[39] detestable creatures or reptiles. From all these, however, he may suck, even on the Sabbath,[40] though this is forbidden to an adult.[41] Abba Saul stated: It was our practice to suck from a clean beast on a festival.[42] At any rate it was here stated that 'there is no need to have scruples about his sucking from a detestable thing'![43] — [The permissibility] there is due to [the presence of] danger.[44]

If so, an adult also [should be permitted]![45] — [Permissibility for] an adult is dependent on medical opinion.[46] [Permissibility for] a child also should be made dependent on medical opinion![47] — R. Huna son of R. Joshua replied: The ordinary child is in danger when deprived of his[48] milk.

'Abba Saul stated: It was our practice to suck from a clean beast on a festival'. How is one to understand this?[49] If danger was involved, [the sucking should be permitted] even on the Sabbath also; and if no danger was involved, it should be forbidden even on a festival! — This can only be understood as a case where[50] pain[51] was involved, [Abba Saul] being of the opinion [that sucking][52] is an act of indirect[53] detaching.[54] [In respect of the] Sabbath, therefore, where the prohibition[55] [is one involving the penalty] of stoning, the Rabbis have instituted a preventive measure;[56] [in respect of] a festival, however, where the prohibition[55] [is only that of] a negative precept,[57] the Rabbis have not instituted any preventive measure.

Come and hear: These ye shall not eat,[58] for they are a detestable thing[59] [is to be understood[60] as] 'you shall not allow them to eat',[61] this being a warning[62] to the older men concerning the young children. Does not this imply[63] that [minors] must be ordered, you shall not eat [such things']![64] — No; that [adults] may not give them[65] with their own hands.[66]

Come and hear: No soul of you shall eat blood[67] implies[68] a warning[62] to the older men concerning the young children. Does not this signify[63] that [minors] must be told,[69] 'Do not eat [blood]'![70] — No; that [adults] must not give them with their own hands.[66]

Come and hear: Speak . . . and say[71] conveys a warning[62] to the older [Priests] concerning the [priests who are] minors. Does not this imply that minors must be ordered not to defile themselves![72] — No; that [adults] must not defile them with their own hands.[66]

And [all the Scriptural texts cited are] required. For if we had been informed concerning detestable things only,

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(1) Or, 'let them play' (Rashi).

(2) R. Pedath, who saw no objection to the children's desecration of the Sabbath.

(3) V. Glos. Symbolic of any religious transgression.

(4) Lit., 'to separate him'.

(5) On the Sabbath, from a public domain.

(6) If he does that of his own accord. Which proves that though a child may not be ordered to break a religious law he need not he interfered with if he does it on his own account.

(7) The plants in which draw no nourishment from the ground and cannot consequently he regarded as attached to it.

(8) Karmelith כרמלית, neither a public nor a private domain. V. Glos.

(9) In the case of Pentateuchal prohibitions, however, a child must he stopped even if he acts quite innocently.

(10) On the Sabbath when labour is forbidden to an Israelite.

(11) Lit , 'upon them'.

(12) Shab. 121a. Which shews, contrary to the opinion of R. Pedath, that even where a child acts in pure innocence, he must he prevented from transgressing a law.

(13) I.e., if his father is present at the time he commits the transgression. The father's silence is interpreted as approval and encouragement of the child to continue his forbidden act. Hence the rule that he must he prevented from the desecration of the Sabbath. When, however, the child acts in the absence of his father it is no one's duty to restrain him.

(14) Mentioned in the same context (Shab 121a).

(15) Surely not. Whatever an Israelite is forbidden to do on the Sabbath he must not ask an idolater to do for him.

(16) He does not wait for the Israelite's encouragement, since he well knows that after the Sabbath he will he duly rewarded for his labour. Hence it is not necessary for any Israelite to prevent him from acting as he desires.

(17) חבר, lit., 'associate' (v. Glos). One who observes all religious laws including those relating to the priestly and Levitical gifts, which were occasionally neglected by the 'am ha-arez.

(18) עפ הארץ, lit., 'people of the land' (v. supra n. 12).

(19) Produce of the land on which the levitical dues have not been given.

(20) I.e., any land produce, liable to levitical dues.

(21) The child's.

(22) I.e., he may eat of it, though, as the fruit of an ‘am ha-arez, on which the necessary dues may not have been given, it is forbidden for consumption. From this it follows that there is no need to prevent a child from transgression. An objection against those who hold the contrary view!

(23) דמאי, land produce belonging to an ‘am ha-arez (v. Glos.), since the prohibition of such produce is due to suspicion only. It is not certain that the prescribed dues were not given by the ‘am ha-arez.

(24) Why the child is not prevented from the consumption of the fruit mentioned.

(25) If, for instance, it had been definitely known that it had not been tithed.

(26) Before the child could be allowed to eat of it.

(27) Supra, in explanation of the citation from Shab. 121a.

(28) Why, then, should the child, where he acts in all innocence and where his father's approval is not in question, be prevented from eating of the levitically unprepared fruit?

(29) Lit., ‘standing here’.

(30) Lit., ‘thrusts’, thus preventing his disciples from drawing any definite, and possibly erroneous, conclusion,

(31) V. supra p. 801, n. 12.

(32) V. loc. cit. n. 13.

(33) The child's.

(34) Cf. supra note ,. mutatis mutandis. The consumption of unclean terumah is forbidden Pentateuchally (cf. supra 73b)!

(35) That which is given from the fruit of the trees (apart from vine and olive trees) which is Pentateuchally exempt.

(36) Lit., ‘and goes’.

(37) Which is forbidden to adults. Cf. Lev. XI, 10ff.

(38) Plural of nebelah (v. GIos.).

(39) The sing. is terefah q.v. Glos.

(40) When sucking is under certain conditions forbidden, as explained infra.

(41) The milk of an unclean beast is for adults Pentateuchally forbidden. Cf. Bek. 6b.

(42) When the restrictions on work are not as rigid as those of the Sabbath.

(43) Though he is eating a Pentateuchally forbidden food (v. supra n. 6 and cf. supra p. 802, n. 4)!

(44) Without food the child's life is endangered.

(45) When life is in danger any religious law may be infringed.

(46) Lit., ‘requires an estimate’. Before he is allowed to eat of the forbidden food it is necessary to obtain medical opinion that delay until the conclusion of the Sabbath, for instance, would involve him in danger.

(47) Cf. supra n. 11.

(48) Lit., ‘at’.

(49) The circumstances in which Abba Saul and his friends were permitted to commit an apparently forbidden act.

(50) Lit., ‘not necessary (but)’.

(51) Not danger to life.

(52) From the breast.

(53) Or ‘unusual’. כלאחר יד lit., ‘as if by the back of the hand’.

(54) מפרק (rt. פרק in Pi'el, ‘break down’, ‘detach’) Milking an animal with one's hands is regarded as direct detaching which on the Sabbath is Pentateuchally forbidden (cf Shab. 95a); releasing the milk by sucking is an unusual, or indirect unloading and is only Rabbinically forbidden.

(55) For actual unloading.

(56) Forbidding also sucking which is indirect unloading.

(57) Involving no death penalty.

(58) לאכתאכלןם (Kal of אכל). V. infra n. 7.

(59) Lev. XI, 42.

(60) Since the prohibition of such food for adults has already been mentioned elsewhere.

(61) לא תאכילום (Hif. of אכל).

(62) Lit., ‘to warn’, ‘caution’, ‘admonish’.

(63) Lit., ‘what not?’

(64) Even if they act on their own. An objection against R. Pedath (cf. supra p. 801, n. 7)!
(65) Bah. Cur. edd., 'him'.
(66) Cf. supra. 801, n. 8, final clause.
(67) Lev. XVII, 12.
(68) V. supra note 6
(69) Lit., 'they say to them'.
(70) Cf. supra p. 801, n. 7.
(71) Lev. XXI, 1, a repetition of the rt. אמר.
(72) Lit., 'he tells them, Do not be defiled'. An objection against R. Pedath (cf. supra p. 801, n. 7)!

Talmud - Mas. Yevamoth 114b

it might have been assumed [that the law[1] applies to them], because their prohibition applies[2] to even the minutest [objectionable creature][3] but not to blood the minimum quantity of which[4] must be no less than[5] a quarter [of a log].[6] And if we had been informed concerning blood only, it might have been assumed [that the law[7] applies to this] because [the eating of it] involves the penalty of kareth, but not to reptiles. And if we had been informed concerning these two,[8] it might have been assumed [that the law[7] applies to these] because their prohibition applies equally to all but not to uncleanness.[9] And had we been informed concerning uncleanness it might have been assumed [that the law[7] applies only here because] priests are different [from other people], since more commandments have been imposed upon them,[10] but not to these.[8] [Hence the three Scriptural texts were] required.

Come and hear: IF TWO BROTHERS ONE OF WHOM WAS OF SOUND SENSES[11] AND THE OTHER DEAF WERE MARRIED TO TWO SISTERS WHO WERE OF SOUND SENSES, AND THE DEAF BROTHER, THE HUSBAND OF [THE SISTER WHO WAS] OF SOUND SENSES, DIED, WHAT SHOULD THE BROTHER OF SOUND SENSES, THE HUSBAND OF THE SISTER OF SOUND SENSES, DO? — [NOTHING; SINCE HIS SISTER-IN-LAW] IS EXEMPT AS BEING HIS WIFE'S SISTER. IF THE BROTHER OF SOUND SENSES, THE HUSBAND OF [THE SISTER WHO WAS] OF SOUND SENSES, DIED, WHAT SHOULD THE DEAF BROTHER, THE HUSBAND OF [THE SISTER WHO WAS] OF SOUND SENSES, DO? HE MUST RELEASE HIS WIFE BY A LETTER OF DIVORCE WHILE HIS BROTHER'S WIFE IS FORBIDDEN FOREVER [TO MARRY AGAIN]. Now, why should he RELEASE HIS WIFE BY A LETTER OF DIVORCE? Let her continue to live with him [since he is only like] a minor who eats nebelah.[12] — On account of the prohibition imposed upon her.

Come and hear: IF TWO BROTHERS OF SOUND SENSES WERE MARRIED TO TWO SISTERS ONE OF WHOM WAS OF SOUND SENSES[13] AND THE OTHER DEAF, AND THE BROTHER OF SOUND SENSES, THE HUSBAND OF THE DEAF SISTER. DIED, WHAT SHOULD THE BROTHER OF SOUND SENSES, THE HUSBAND OF [THE SISTER WHO WAS] OF SOUND SENSES, DO? [NOTHING; SINCE HIS SISTER-IN-LAW] IS EXEMPT AS HIS WIFE'S SISTER. IF THE BROTHER OF SOUND SENSES, THE HUSBAND OF [THE SISTER WHO WAS] OF SOUND SENSES. DIED, WHAT SHOULD THE BROTHER OF SOUND SENSES, THE HUSBAND OF THE DEAF SISTER, DO? — HE MUST DIVORCE HIS WIFE BY A LETTER OF DIVORCE, AND [RELEASE] HIS BROTHER'S WIFE BY HALIZAH. But why MUST HE DIVORCE HIS WIFE BY A LETTER OF DIVORCE? Let her continue to live With him [since she is only like] a minor who eats nebelah![14] — Owing to the prohibition that is imposed upon him.

Raba said, Come and hear: IF TWO BROTHERS, ONE OF WHOM WAS DEAF AND THE OTHER OF SOUND SENSES, WERE MARRIED TO TWO SISTERS, ONE OF WHOM WAS OF SOUND SENSES[13] AND THE OTHER DEAF, AND THE DEAF BROTHER, THE HUSBAND

OF THE DEAF SISTER, DIED, WHAT SHOULD [THE BROTHER WHO WAS] OF SOUND SENSES, THE HUSBAND OF [THE SISTER WHO WAS] OF SOUND SENSES, DO? [NOTHING; SINCE THE WIDOW] IS RELEASED BY VIRTUE OF HER BEING HIS WIFE'S SISTER. IF THE BROTHER OF SOUND SENSES, THE HUSBAND OF [THE SISTER WHO WAS] OF SOUND SENSES, DIED, WHAT SHOULD THE DEAF BROTHER, THE HUSBAND OF THE DEAF SISTER, DO? HE RELEASES HIS WIFE BY A LETTER OF DIVORCE, WHILE HIS BROTHER'S WIFE IS FOREVER FORBIDDEN [TO MARRY AGAIN]. Now here, surely, no prohibition is involved either for him or for her, and yet it was stated, HE RELEASES HIS WIFE BY A LETTER OF DIVORCE![14] — R. Shemaia replied: This is a preventive measure against the possibility of allowing a sister-in-law to marry a stranger.[15]

CHAPTER XV

MISHNAH. IF A WOMAN AND HER HUSBAND WENT TO A COUNTRY BEYOND THE SEA [AT A TIME WHEN THERE WAS] PEACE BETWEEN HIM AND HER AND [WHEN THERE WAS ALSO] PEACE IN THE WORLD, AND SHE CAME BACK AND SAID, MY HUSBAND IS DEAD', SHE MAY MARRY AGAIN; AND IF SHE SAID, 'MY HUSBAND IS DEAD [AND HAS LEFT NO ISSUE]' SHE MAY CONTRACT THE LEVIRATE MARRIAGE. [IF, HOWEVER, THERE WAS] PEACE BETWEEN HIM AND HER, BUT WAR IN THE WORLD, [OR IF THERE WAS] DISCORD BETWEEN HIM AND HER, BUT PEACE IN THE WORLD, AND SHE CAME BACK AND SAID, 'MY HUSBAND IS DEAD', SHE IS NOT BELIEVED.[16] R. JUDAH SAID: SHE IS NEVER BELIEVED UNLESS SHE COMES WEEPING AND HER GARMENTS ARE RENT. THEY,[17] HOWEVER, SAID TO HIM: SHE MAY MARRY IN EITHER CASE.[18]

GEMARA. Mention was made of[19] PEACE BETWEEN HIM AND HER[20] because it was desired to speak of[21] DISCORD BETWEEN HIM AND HER, and PEACE IN THE WORLD was mentioned[22] because it was desired to mention[21] WAR IN THE WORLD.

Raba stated: What is the reason [why a wife is not believed in a time] of war? Because she speaks from conjecture. 'Could it be imagined' [she thinks][23] 'that among all those who were killed he alone escaped!' And should it be contended that since there was peace between him and her she would wait until she saw [what had actually happened to him]. it may sometimes happen [It may be retorted] that he was struck by an arrow or spear and she would think that he was certainly dead, while in fact someone night have applied an emollient[24] [to his wound] and he might have recovered

Raba was [at first] of the opinion[25] that famine is not like war, since [in the former case] she does not speak from conjecture. [Later. however]. Raba changed his opinion. stating that famine is like war. For a woman once appeared before Raba and said to him, 'My husband died during a famine'. 'You have acted well', he remarked to her.[26] 'in that you saved your own life,[27] since it could hardly be imagined that he would survive on the little remnant of flour that you left for him'. 'The Master then'. she replied. 'also understands that in such circumstances he could not survive'.[28] After this[29] Raba ruled: Famine[25] is worse than war; for whereas in the case of war it is only when the wife states, 'My husband died in the war', that she is not believed, but [if her statement is that]. 'He died in his bed', she is believed, in the case of famine she is not believed unless she states, 'He died and I buried him'.

A ruin[25] is regarded as war, for [in this case also] she speaks from conjecture. A visitation of serpents or scorpions[25] is regarded as war, for [here also a wife] speaks from conjecture. As to pestilence. some hold that it is like war, while others hold that it is not like war. 'Some hold that it is like war', because a wife, they maintain. speaks from conjecture; while 'others hold that it is not like war' because, they maintain, a wife relies upon the common saying.[30] 'A pestilence may rage for seven years but none dies before his time' ,[31]

The question was raised:[32] What is the law if it was she who established that there was a war in the world?[33] Do we apply the argument. 'What motive could she have for telling a lie?'[34]

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(1) Which included minors in the prohibition.
(2) To adults.
(3) So according to Tosaf. (s.v. משום a.l.) contrary to Rashi.
(4) Involving a penalty.
(5) Lit., 'until there is'.
(6) V. Glos.
(7) Which included minors in the prohibition.
(8) Reptiles and blood.
(9) Which applies to priests only. Cf. Lev. XXI, 1ff.
(10) As their adults were more restricted than others, greater restriction may have been imposed upon their minors also.
(11) The order in our Mishnah is slightly different.
(12) V. Glos. A deaf-mute is no more responsible for his actions than a minor, and no more punishable than a minor. An objection against R. Pedath (cf. supra p. 801, n. 7)! (10) His wife who, as a woman in the possession of her senses and faculties, is subject to punishment if she continues to live with him.
(13) The order in our Mishnah is slightly different.
(14) Cf. supra p. 805. n. 9. (3) He is of sound senses and in possession of his faculties. Cf. supra p. 805, n. 10, mutatis mutandis.
(15) Were the deaf man and deaf woman allowed to continue living together, those who were unacquainted with the law that deaf-mutes are no more responsible for their actions than minors, might assume that their marriage was a valid one and that the sister-in-law, as the deaf levir's wife's sister, is exempt from the levirate marriage and halizah and, consequently, free to marry again.
(16) The reason why she is not believed in a time of war is given by Raba in the Gemara infra, while in a case of discord between herself and her husband she is suspected of a desire to get rid of him.
(17) The Sages.
(18) Lit., 'whether this or this', whether she shows signs of distress and mourning or not.
(19) Lit., 'he taught'. sc. in our Mishnah.
(20) Though this is superfluous. It being obvious that if a husband and wife lived in peace, her declaration that he is dead should be relied upon.
(21) Lit., 'to teach'.
(22) Cf. supra nn. 4 and 5 mutatis mutandis.
(23) Wanting in cur. edd., and inserted by Bah.
(24) Cf. Jast. 'A plaster'. or 'bandage.' (Rashi).
(25) In respect of accepting a wife's evidence as to the death of her husband in a country beyond the sea.
(26) Desiring to probe whether she had actually witnessed her husband's death or spoke from conjecture only.
(27) Leaving him to his fate in the famine-stricken area.
(28) She thus admitted that she had not actually witnessed her husband's death.
(29) Lit., 'he returned'. Finding that even in the case of famine a wife speaks from conjecture.
(30) Lit., 'on what men say'.
(31) Lit.. and a man without (his full tale of) years does not depart'.
(32) [Rashi v. 215b s.v. דאי reads, He (Raba) raised the question].
(33) [And she stated, 'He died in war' v. Rashi loc. cit.].
(34) Where a person has no benefit from a lie he may obviously be presumed to be speaking the truth.

Talmud - Mas. Yevamoth 115a

since, if she wished, she could have said that there was peace in the world;[1] or, perhaps. since a war was established [by her] she speaks[2] from conjecture.[3] and the argument. 'What motive could she have for telling a lie'[4] cannot come and impair an established principle? — Come and hear: [If a woman states]. 'They[5] set our house on fire',[6] or 'They filled the cave wherein we sheltered[7] with smoke, and he[8] died while I escaped'. she is not believed![9] There it is different since she can be told,[10] 'As a miracle happened to you. so may a miracle have happened to him[8] also'.[11]

Come and hear: [If a woman states]. 'ldolaters fell upon us , or, 'robbers fell upon us,[12] and he[8] died while I escaped'. she is believed![13] -There[14] [her statement is believed] in accordance with the view of R. Idi. For R. Idi stated: A woman [carries] her weapons about her.[15] There was once a man whose bridal chamber caught fire at the close of his wedding feast, and his wife cried, 'Look at my husband, look at my husband!' When they came near they saw a charred body[16] that was prostrate [on the ground] and the hand [of a man][17] lying [by it]. R. Hiyya b. Abin intended to give his decision [that the law in this case] is the same as [that where a woman stated]. 'They set our house on fire', or 'they filled the cave wherein we sheltered with smoke'. Raba, however, said: Are [the two cases at all] similar? There, she did not say. 'Look at my husband, look at my husband'![18] while[19] here [those present actually saw] the charred body that was prostrate [on the ground] and the hand that was lying by it. And R. Hiyya b. Abin?[20] — As to the charred body[16] that was prostrate [on the ground]. it may be suggested that a stranger[21] came to the rescue of [the burning man] and was himself burned,[22] while the hand which was lying [nearby, might be that of the bridegroom who] having been caught by the fire was mutilated;[23] and[24] in order [to hide his] shame he may have left the place and fled into the wide world.

A question was raised: What is the law in respect of one witness[25] In time of war?[26] Is the reason why one witness is [elsewhere][27] believed because no one would tell a lie which is likely to be exposed[28] and, consequently. here also [the witness] would not tell a lie;[29] or is it possible that the reason why one witness [is believed][27] is because [the woman] herself makes careful enquiries and [only then] marries again. here. therefore.[30] [he would not be believed since a woman][31] does not make sufficient enquiries before she marries again?

Rami b. Hama replied. Come and hear: R. Akiba stated: When I went down to Nehardea to intercalate the year. I met Nehemiah of Beth Deli who said to me, 'I heard that in the Land of Israel[32] no one with the exception of R. Judah b. Baba permits a [married] woman to marry again on the evidence of one witness'. 'That is so', I told him' 'Tell them', he said to me. 'in my name: You know that this country is infested[33] with raiders; I have this tradition from R. Gamaliel the Elder: That a [married] woman may be allowed to marry again on the evidence of one witness'.[34] Now, what was meant by 'This country is infested with raiders'? Obviously that[35] 'although this country is in a state of confusion.[36] I have this tradition: That a [married woman] may be allowed to marry again on the evidence of one witness'! Thus it is evident that one witness is believed.[37] Said Raba: If so,[38] why should 'this country[39] be different?[40] He should [have said]. 'Wherever raiders exist'!-Rather, said Raba, it is this that was meant: 'You know that this country is infested[41] with raiders and it is impossible for me to leave my family and to come before the Rabbis; I have this tradition from R. Gamaliel: That a [married] woman may be allowed to marry again on the evidence of one witness

Come and hear: Two learned men[42] once travelled with Abba Jose b. Simai on board a ship. which sank. And on the evidence of women, Rabbi[43] allowed their wives to marry again. [Now, evidence of death by] water is. surely. like [that of death in] war, and women, even a hundred of them, are legally equal to one witness,[44] and yet it was stated [that Rabbi] 'Allowed . . ' to marry'![45] — And do you understand this?[46] Those[47] were waters without [a visible] end,[48] and [when a man is drowned in] waters without [a visible] end his wife is forbidden [to marry again]![49] How, then, is this to be understood? [Obviously] that they[50] stated, '[The drowned men] were cast up in our presence

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(1) And as no one could have contradicted her, she would have been believed in saying that her husband was dead and she would have obtained her object; hence she is believed even when she reported that there was a war.

(2) Alfasi: ‘Since it was established that (in time of war) she speaks......the argument etc.’.

(3) When her husband was involved in a war.

(4) Cf. supra n. 3.

(5) Brigands. in a time of war.

(6) Lit., ‘they caused a house to smoke upon us’.

(7) Lit., upon us’.

(8) Her husband.

(9) This proves that her statement that her husband is dead is not accepted although it was through her that it became known that there ever was a state of war.

(10) As she has not actually seen his death.

(11) It is for this reason, and not because she is suspected of lying. that her evidence is not regarded as sufficient proof for establishing the death of her husband. In the case of a war, however, it may well be assumed that she had actually seen the death of her husband, since, had she desired to deceive, she need not have disclosed the fact that there ever was a war.

(12) Circumstances similar to those of a war.

(13) Which proves that a wife is believed when she states that her husband died in circumstances akin to war if these become known solely through her own evidence.

(14) Since the incident did not happen in war time but only in analogous circumstances.

(15) ‘A.Z 25b; i.e., her sex is her protection against murder. When, therefore, her husband is attacked, unless there was actually a state of war, she does not flee to save her own life, but remains on the spot to the very end. Her evidence that her husband is dead may consequently be accepted as that of an eye witness. This, therefore, provides no proof that a wife is also believed if an actual state of war existed when her husband's death presumably occurred.

(16) Lit., ‘man’.

(17) Who apparently attempted to rescue the bridegroom.

(18) Hence it is possible that her husband did not die at all.

(19) Cf. MS.M. Cur. edd. read ‘and furthermore’.

(20) How could he possibly compare the two cases?

(21) Lit., ‘another man’.

(22) Lit., ‘and the fire consumed him’.

(23) Lit., ‘a blemish was born or produced on him’. He lost his hand.

(24) In explanation of his disappearance.

(25) Whose evidence is relied upon in allowing a married woman to marry again if he testified that her husband was dead.

(26) Is his evidence accepted?

(27) Cf. supra note 10.

(28) Lit., concerning a thing which is likely to be revealed, he does not lie’.

(29) And he is believed.

(30) Cur. edd. insert in square brackets. ‘since she sometimes hates him’. Cf. readings cited by Wilna Gaon, Glosses.

(31) Speaking in time of war from mere conjecture (cf. Rashal's emendation).

(32) Palestine.

(33) Lit., ‘entangled’. confused’.

(34) V. infra 122a.

(35) Lit., ‘not?’

(36) In a condition similar to a state of war.

(37) Even in a time of war.

(38) If one witness is believed even when any part of the world is in actual state of war.

(39) The expression used by R. Nehemiah.

(40) From other countries.

(41) Lit., ‘entangled’. confused’.

(42) V. Glos. s.v. Talmid Hakam.

(43) R. Judah the Prince.

(44) Cf supra 88b.
(45) From which it follows that one witness is believed (cf. supra p. 811, n. 10) even in a time of war.
(46) Rabbi's ruling in the case of the wives of the drowned scholars.
(47) I.e., the sea.
(48) I.e., all the limits cannot he seen from any one point on the shore. Cf. infra 121a.
(49) Even if fully qualified men had witnessed the accident, because it is possible that the man may have swum to, or the waters have cast him upon another part of the shore where he was rescued. As all the shore line cannot be seen from the point where he fell into the waters (v. supra n. 5) his rescue may have been effected, though none of the men of the locality have observed it
(50) The women who gave evidence.

Talmud - Mas. Yevamoth 115b

and we saw then, immediately [afterwards]',[1] and they also mention [his identification] marks. so that we do not rely upon them[2] but on the marks.[3]

A man once deposited some sesame with another, [and when in due course] he asked him, 'Return to me my sesame , the other replied. 'You have already taken it'. 'But, surely'. [the depositor remonstrated, 'the quantity] was such and such and it is [in fact still] lying [intact] in your jar'.[4] 'Yours', the other replied. 'you have taken back and this is different'. R. Hisda at first intended to give his decision [that the law in this case is] the same as that of the two learned men,[5] where we do not assume that those have gone elsewhere and these are others.[6] Raba, however, said to him: Are [the two cases] alike? There, the identification marks were given; but here, what identification marks can sesame have! And in regard to [the depositor's] statement [that their quantity] was such and such, it might be said that the similarity of quantities is a mere coincidence.

Said Mar Kashisha b. R. Hisda to R. Ashi: Do we ever [in such circumstances][7] take into consideration the possibility that [the contents of a vessel] may have been removed?[8] Surely we learned: If a man found a vessel on which was inscribed a Kof it is korban;[9] if a Mem, it is ma'aser;[10] ' if a Daleth it is demu'a'a;[11] if a Teth, it is Tebel;[12] and if a Taw, It is terumah;[13] for in the period of danger[14] they used to write a Taw for terumah![15] — Said Rabina to R. Ashi: Do we not [in such circumstances][16] heed the possibility that [the contents of a vessel] may have been removed? Read, then, the final clause: R. Jose said, Even if a man found a jar on which 'terumah' was inscribed [the contents] are nevertheless regarded as unconsecrated, for it is assumed[17] that though it was in the previous year full of terumah it has subsequently been emptied![18] But the fact is, all agree that the possibility of [the contents] having been removed must be taken into consideration. Here, however, they differ only on the following principle: One Master is of the opinion that had the owner removed [the contents from the jar] he would undoubtedly have wiped [the mark] off, while the other [maintains that] it might be assumed that he may have forgotten [to remove the mark] or he may also intentionally have left it as a safeguard[19] .

Resh Galutha Isaac,[20] a son of R. Bebai's sister, once went from Cordova to Spain[21] and died there. A message was sent from there [in the following terms]. 'Resh Galutha Isaac, a son of R. Bebai's sister, went from Cordova to Spain and died there. [The question thus arose] whether [the possibility that there might have been] two [men of the name of] Isaac is to be taken into consideration[22] or not? — Abaye said: It is to be taken into consideration:[22] but Raba said: It is not to be taken into consideration.[23]

Said Abaye: How[24] do I arrive at my assertion? — Because in[25] a letter of divorce that was once found in Nehardea it was written, 'Near the town of Kolonia,[26] I, David son of Nehilais,[27] a Nehardean, released and divorced my wife So-and-so', and when Samuel's father sent it to R. Judah Nesiah[28] the latter replied: 'Let all Nehardea be searched'.[29] Raba, however, said: If that were so[30] he[31] should [have ordered] the whole world to be searched![32] The truth is that it was only out of respect for Samuel's father[33] that he sent that message. Raba said: How[34] do I arrive at my assertion? Because in two notes of indebtedness that were once produced in court at Mahuza [the names of the parties] were written as Habi son of Nanai and Nanai son of Habi. and Rabbah[35] b. Abbuha ordered the collection of the debts on these bills. But,surely, there are many [men bearing the names of] Habi son of Nanai and Nanai son of Habi at Mahuza![36] And Abaye?[37]

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(1) After their emerging from the water (cf. Tosaf. s.v. וחזינהו, a.l.).

(2) On their evidence of the men's death.

(3) (If which the judges were well aware independently of the woman's evidence.

(4) Which should prove that the sesame had not been returned to its owner.

(5) Whose wives Rabbi permitted to marry on the assumption that the discovered bodies were theirs.

(6) Who have the same identification marks. Similarly with the sesame in the jar, since it is of the same quantity as that of the deposited sesame it should be assumed to belong to the depositor and should, therefore, be returned to him.

(7) When an identification mark exists, such as a letter on a cask or, as in the case of the sesame, the identity of quantities.

(8) And replaced by similar contents.

(9) Lit, ‘sacrifice’, i.e., consecrated.

(10) Tithe.

(11) A ‘mixture’ of terumah and unconsecrated produce. Others read,דמאי demai, produce concerning which it is uncertain whether it had been tithed.

(12) V. Glos. Produce of. which it is certain that the priestly and Levitical dues have not been given for it.

(13) V. Glos.

(14) During the Hadrianic persecutions that followed the Bar Kokeba revolt when the practice of Jewish laws was forbidden (cf supra p. 754. n. 9).

(15) M.Sh IV, 11. This proves that a mark is regarded as sufficient proof that the original contents were not removed and replaced by others!

(16) v. supra note 1.

(17) Since most of the world's produce is unconsecrated.

(18) And replaced by unconsecrated produce Much more so when a single letter only appears on the jar! V. M.Sh., loc. cit.

(19) פנהיא (cf. Pers. panah) ‘protection’. People who might perhaps have no scruples about clandestinely consuming other peoples produce would nevertheless be afraid of meddling with sacred commodities.

(20) [Term denotes elsewhere ‘Exilarch’; here it is a proper name. V. Obermeyer, p. 183, n.l.].

(21) מקורטבא לאספמיא. So Golds. against Rappaport in ערך מילין p. 156ff. Cordova at that time, as during the Moorish reign and other periods of spanish history, may have formed an independent state. [Obermeyer p. 183 identifies the former with Kurdafad near Ktesifon on the left bank of tigris, and the latter with Apamea, a frontier town of Babylon on on the right bank of the Tigris].

(22) Even when it was not definitely known that there were two such persons in the same place.

(23) Unless it was known that two such persons lived there. (Cf. infra 116a).

(24) Lit., ‘whence’.

(25) Cf. Bah.

(26) [Me'iri: By side of the town Nehardea, which had been declared a free (Roman) colony and exempt from taxation, cf. A.Z., Sonc. ed. p. 50, n.5.].

(27) So Rosh and הגהות אשר״י. Cur. edd., ‘Androlinai’.

(28) To decide whether the document may be given to the woman who claimed it as a valid one. [The reference must be to R. Judah I the prince, since the father of Samuel was no longer alive during the patriarchate of of R. Judah II (v. Obermeyer, p. 261, n. 4)].

(29) To ascertain whether there is no other person of the same name in that town. This obviously proves the soundness of Abaye's ruling.

(30) As Abaye ruled.

(31) R. Judah Nesi'ah.

(32) Any Nehardean of that name might have left Nehardea for another town after giving the letter of divorce in question.

(33) That he might not be chagrined by hearing that his enquiry was really futile and that there was in fact nothing for him to do but to accept the document as valid.

(34) Lit., ‘whence’.

(35) So Bah.Cur. edd., ‘Raba’.

(36) And yet it was not doubted that the persons who held the notes were the men named, which proves that even the definite existence of other men of the same name in the same place need not be taken into consideration. This being the rule in monetary matters, it may be inferred that in religious matters, the uncertain existence at least of men of the same name need not be taken into consideration.

(37) How’ can he maintain his ruling in view’ of the decision of Rabbah b. Abbuha.

Talmud - Mas. Yevamoth 116a

What possibility can be taken into consideration![1] If that of loss,[2] one is surely careful with [a note of indebtedness];[3] if that of a deposit,[4] since the name of the one is like that of the other the former does not entrust the latter with such a deposit;[5] what then can be said?[6] That he[7] may only have delivered [the note] to him![8] ‘Letters’[9] [it may be replied] are acquired by mesirah.[10]

A letter of divorce was once found at Sura, and in it appeared this entry: ‘In the town of Sura, I, Anan son of Hiyya. a Nehardean, released and divorced my wife So-and-so.’ Now when the Rabbis searched from Sura to Nehardea [they found that] there was no other Anan son of Hiyya save one Anan son of Hiyya of Hagra[11] who was at that time at Nehardea, and witnesses came and declared that on the day on which the letter of divorce was written Anan son of Hiyya of Hagra was with them.[12] Said Abaye: Even according to me who hold that [the possibility of the existence of other men of the same name] is to be taken into consideration. no such possibility need be considered here,[13] for [even in respect of the only other man known to have that name] witnesses declared that he was at Nehardea;[14] how then could he [on the same day,] have been[15] at Sura![16] Raba said: Even according to me who hold that [the possibility of the existence of other men of the same name] is not to be taken into consideration. [such possibility] must be considered here,[17] since [the man in question] may have gone [to Sura] on a flying camel,[18] or[19] [got there] by a miraculous leap,[20] or[19] he may have given verbal instructions[21] [for the letter of divorce to be written[22] on his behalf], as, [in fact] Rab said to his scribes, and R. Huna, similarly, said to his scribes: When you are at Shili[23] write [in any deed] ‘At Shili’, although the instructions were given to you at Hini,[24] and when you are at Hini,[23] write, ‘At Hini’, although the instructions Were given to you at Shili.[25]

What is [the decision] in respect of the sesame?[26] — R. Yemar ruled: [The possibility that it was removed and replaced by another lot] is not to be taken into consideration; Rabina ruled: It is to be taken into consideration; and the law is that it is to be taken into consideration.

DISCORD BETWEEN HIM AND HER etc. What is to be understood by DISCORD BETWEEN HIM AND HER?Rab Judah replied in the name of Samuel: When [a wife] says to her husband. ‘Divorce me!’ Do not all women[27] say this?[28] Rather [this is the meaning]: When she says to her husband. ‘You have divorced me!’ Then let her be believed on the strength of R. Hamnuna's ruling; for R. Hamnuna ruled: If a woman said to her husband, ‘You have divorced me’. she is believed, for it is an established principle that no woman would dare [to make such a false assertion] in the presence of her husband! — [Here it is a case] where she said. ‘You have divorced me in the presence Of So-and-so and So-and-so’, who. when asked, stated that this had never happened .[29]

What is the reason in case Of DISCORD?[30] — R Hanina explained: Because she is likely to tell a lie.[31] R. Shimi b. Ashi explained: Because she speaks from conjecture.[32] What is the practical difference between them?[33]

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(1) In deciding the ownership of a note of indebtedness of the nature if the notes mentioned.

(2) That the actual creditor had lost the note and that the man who produced it. whose name is the same as that of the creditor, had found it.

(3) The remote and unlikely possibility of loss may. therefore, be completely disregarded.

(4) That the holder of the note is not its owner, but only keeper or trustee for another man of the same name as his.

(5) Since he knows full well that the keeper might at any moment claim to be the creditor.

(6) In justification of the assumption that the man producing the note is not the real creditor.

(7) The creditor when selling the note to the man who now utters it.

(8) But did not transfer its possession by the usual kinyan. And, since the seller may withdraw' from the sale before legal transfer had taken place, it might be assumed that the creditor named in the note withdrew from the sale and that the man of the same name who now produces the note is not its owner even through purchase.

(9) I.e., a note of indebtedness.

(10) V. Glos. The delivery of the note completes the legal transfer after which the seller can no longer withdraw. Cf Kid. 47b. p BB 76a. 77a.

(11) [Hagronia. a suburb of Nehardea (Obermeyer p. 266)].

(12) In Nehardea; while the letter of divorce was written at Sura. Owing to the distance between the two towns it was impossible for him to have been in the one as well as in the other on the same day.

(13) Where a search revealed that only one such person lived throughout that region.

(14) V. supra n. 2.

(15) Lit., 'what did he require'.

(16) [The distance between Nehardea and Sura was about twenty parasangs, a travelling journey of two days. v. Obermeyer P. 251].

(17) Where it was definitely established that another man of such a name existed.

(18) Dromedary(?) V. Mak., Sonc. ed., P. 21, n. 4.

(19) Lit., 'or also'.

(20) And so it was possible for him to be in both towns on the same day.

(21) At Nehardea.

(22) In Sura.

(23) Shili and Hini were situated near each other (cf. Bezah 25b) on the South of Sura; v. B.B., Sonc. ed., p. 753' n. 6.

(24) The place name entered in a legal document is not that of the locality where the transaction which it records took place or the instructions concerning its writing were given, but that of the locality where the document was written.

(25) Which proves that it was customary for scribes to write legal documents in one place for people who gave them the necessary instruction in another.

(26) Discussed supra 115b.

(27) Lit.. 'all of them also'.

(28) When they are angry. They do not mean it seriously. Why, then, should a woman, because of a momentary outburst, be suspected of inventing a tale about her husband's death?

(29) לא היו דברים מעולם (abr. להד"ם), lit.. 'the things never were.

(30) Why is not a wife in such a case believed if she states that her husband is dead?

(31) Out of hatred she might deliberately invent the tale that her husband was dead so that by marrying again she might become forbidden to him forever.

(32) Though she might not deliberately tell an untruth, her hatred would prevent her from finding out what exactly happened to her husband if ever he was placed in a position of danger. The likelihood of his death would be regarded by ber as a certainty.

(33) R. Hanina and R. Shimi. Is not her word mistrusted in either case?

Talmud - Mas. Yevamoth 116b

— The practical difference between them arises in the case where [the husband] created[1] the discord.[2]

The question was raised: What [is the law in respect of] one witness in a case of discord? Is the reason why one witness is [elsewhere][3] believed[4] that he would not tell a lie which is likely to be exposed.[5] and consequently he would here also tell no lie;[6] or is it possible that the reason why one witness is believed elsewhere[7] is that [the woman] herself makes careful enquiries and [only then] marries again; here, therefore, [his evidence should not be accepted] since, as there was discord between husband and wife,[8] she would not make careful enquiries and yet would marry again? — This remains undecided .[9]

R. JUDAH SAID: SHE IS NEVER etc. It was taught: They[10] said to R. Judah: According to your statement, only a woman of sound senses[11] would be allowed to marry again while an imbecile[12] would never be allowed to marry again! But the fact is that[13] the one as well as the other may be allowed to marry again.

A woman[14] once came to Rab[15] Judah's Beth din. 'Mourn', they said to her, 'for your husband, rend your garments and loosen your hair'. Did they teach her to simulate![16] — They themselves held the same view as the Rabbis,[17] but in order that he[18] also should allow her to marry they advised her to do so. MISHNAH. BETH HILLEL STATED: WE HAVE HEARD SUCH A TRADITION[19] ONLY IN RESPECT OF A WOMAN WHO CAME FROM THE HARVEST[20] AND [WHOSE HUSBAND DIED] IN THE SAME COUNTRY,[21] [THE CIRCUMSTANCES BEING THE SAME] AS THOSE OF A CASE THAT ONCE ACTUALLY HAPPENED. SAID BETH SHAMMAI TO THEM: [THE LAW IS] THE SAME WHETHER THE WOMAN CAME FROM THE HARVEST OR FROM THE OLIVE PICKING, OR FROM THE VINTAGE, OR FROM ONE COUNTRY TO ANOTHER, FOR THE SAGES SPOKE OF THE HARVEST ONLY [BECAUSE THE INCIDENT TO WHICH THEY REFERRED] OCCURRED THEN.[22] BETH HILLEL, THEREFORE, CHANGED THEIR VIEW [THENCEFORWARD] TO RULE IN ACCORDANCE WITH THE OPINION OF BETH SHAMMAI.

GEMARA. It was taught: Beth Shammai said to Beth Hillel, According to your View,[23] one would only know the law concerning[24] the wheat harvest;[25] whence, however, [the law concerning] the barley harvest? And, furthermore, one would only know the law in the case where[24] one harvested; whence, however, [the law in the case where] one held a vintage, picked olives, harvested dates, or picked figs? But [you must admit] it is only the original incident that occurred at harvest time and that the same law is applicable to all [the other seasons]. So here also [we maintain that] the incident occurred with [a husband who died] in the same country. and the same law is applicable to all [other countries]. And Beth Hillel?[26] — In the case of the same country. where people freely [move about].[27] she is afraid;[28] [coming. however]. from one country to another, since people do not freely [move about].[29] she is not afraid.[30] And Beth Shammai?[31] — Here[32] also caravans frequently [move about].[33]

What was the original incident?[34] -[It was that of] which Rab Judah spoke in the name of Samuel: It was the end of the wheat harvest when ten men went to reap their wheat and a serpent bit one of them and he died [of the wound]. His wife, thereupon, came and reported the incident to Beth din, who, having sent [to investigate]. found her statement to be true. At that time it was ordained: If a woman stated, 'My husband is dead', she may marry again; [if she said] 'My husband is dead [and left no issue]', she may contract the levirate marriage.

Must it be suggested that R. Hanania b. Akabia[35] and the Rabbis differ on the same principle as that on which Beth Shammai and Beth Hillel differ? For it was taught: No man shall carry water of purification[36] and ashes of purification[36] across the Jordan on board a ship, nor may one stand on [the bank on] one side and throw them across to the other side, nor may one float them upon water nor may one carry them while riding[37] on a beast or on the back of another man unless his [own] feet were touching the [river] bed. He may, however, convey them across a bridge. [These laws are applicable] as well to the Jordan as to other rivers. R. Hanania b. Akabia[35] said: They[38] spoke[39] only of the Jordan and of [transport] on board a ship, as was the case in the original incident.[40] Must it, then, be assumed that the Rabbis[41] hold the same view as Beth Shammai[42] while R. Hanania b. Akabia holds the same view as Beth Hillel?[43] — The Rabbis can answer you: Our ruling agrees with the view[44] of Beth Hillel also; for Beth Hillel maintained their opinion[45] only there,[46] since [the woman is believed only because] she fears [to tell an untruth, and it is only] in a place that is near that she fears while in a distant one she does not fear. Here,[47] however, what matters it whether it is on the Jordan or on other rivers![48] R. Hanania b. Akabia can also answer you: I may uphold my view even according to Beth Shammai; for Beth Shammai maintained their opinion[49] only there[46] because [a woman] makes careful enquiries[50] and [only then] marries again. Hence, what matters it whether the locality was near or far. Here,[51] however, [the prohibition] is due to an actual incident; hence it is only [against transport] on the Jordan and on board a ship, where the incident occurred, that the Rabbis enacted their preventive measure, but against other rivers where the incident did not occur the Rabbis enacted no preventive measure.

What was the incident?[52] — [It was that] which Rab Judah related in the name of Rab: A man was once transporting Water of purification[53] and ashes of purification[53] across the Jordan on board a ship, and a piece of a corpse, of the size of an olive,[54] was found stuck in the bottom of the ship. At that time It was ordained: No man shall carry Water of purification and ashes of purification across the Jordan on board a ship.

MISHNAH. BETH SHAMMAI RULED: SHE[55] IS PERMITTED TO MARRY AGAIN AND SHE RECEIVES HER KETHUBAH. BETH HILLEL, HOWEVER, RULED: SHE IS PERMITTED TO MARRY AGAIN BUT SHE DOES NOT RECEIVE HER KETHUBAH. SAID BETH SHAMMAI TO THEM: YOU HAVE PERMITTED [WHAT MIGHT BE] THE GRAVE OFFENCE OF ILLICIT INTERCOURSE,[56] SHALL WE NOT PERMIT [THE TAKING OF HER HUSBAND'S] MONEY WHICH IS OF LESS IMPORTANCE![57] BETH HILLEL ANSWERED THEM: WE FIND

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(1) Lit., ‘accustomed’, i.e., introduced.

(2) While the wife shewed no hatred towards him. As she does not hate him she would not invent a lie in order to get rid of him but would nevertheless readily believe that he was dead should he ever have found himself in a position of danger. She would not take the trouble to ascertain whether her conjecture was not groundless.

(3) When he gives evidence that a husband died in normal circumstances.

(4) And the widow is allowed to marry again.

(5) V. supra p. 811, n. 13.

(6) Hence he is believed.

(7) V. supra note 3.

(8) Lit., ‘to him’.

(9) Teku, v. Glos.

(10) The Sages.,

(11) Who feels her loss and gives expression to it by her weeping and her torn garments. Others render ‘sly’. ‘one able to simulate’ (cf. Golds.).

(12) Who is unconscious of her loss and consequently gives no outward expression to any grief. שוטה may also be rendered ‘foolish’, ‘silly’, ‘simpleton’. Cf. supra n. 11, second rendering.

(13) Lit., ‘but’.

(14) Stating that her husband died in a country beyond the sea.

(15) Cur. edd ‘R’

(16) Since she did not manifest any signs of grief her remarriage should, according to R. Judah's ruling. have been forbidden!

(17) The Sages in our Mishnah and in the quoted Baraitha.

(18) Rab Judah.

(19) That a wife is believed when she states that her husband is dead,

(20) The reason is explained infra.

(21) It being thus possible to verify the woman's statement.

(22) בהווה Lit., ‘in what is’, The ruling of the Sages was given in connection with a particular case where it so happened that the woman returned from a harvest. The same ruling, however, is applicable in all circumstances. [The term generally denotes ‘what usually happens’. It is in this sense that it seems to be taken by the T. J. quoted by Tosaf. (s.v לא): Why should the harvest (be different)? Said A. Mana: It is different in that an accident usually happens there on account of the scorching sun].

(23) That a wife's evidence regarding the death of her husband may be accepted only in circumstances similar to those of the original incident. (Cf. supra n. 4).

(24) Lit., ‘I have but’.

(25) The incident (cf. supra note 4) having occurred during the wheat harvest.

(26) Why do they draw a distinction between a husband's death in the same, and in another country.

(27) From place to place. Another interpretation: Many people knew the husband.

(28) To bring a false report which could be easily disproved by one of (a) the travellers or (b) the men who knew the husband, Cf. n. 2.

(29) Cf. supra note 2 mutatis mutandis.

(30) Cf’. supra n. 3 mutatis mutandis.

(31) Do they not provide against the possibility of a wife's mendacity!

(32) From one country to another.

(33) Cf. supra note 2 and note 3 mutatis mutandis.

(34) Spoken of supra.

(35) So MS.M. Cur. edd., ‘Akiba’.

(36) Cf. Num. XIX, 1ff.

(37) Lit., ‘cause them to ride’.

(38) The Sages.

(39) When enacting the prohibitions mentioned.

(40) Tosef. Parah VIII, v. supra.

(41) The authors of the first ruling in the Baraitha cited.

(42) Since both hold that the restrictions apply not only to conditions which are exactly the same as those of the original incident but to any other condition also.

(43) Cf. supra n. 3 mutatis mutandis, Is it likely. however, that the Rabbis and R. Hanania would differ from Beth Hillel and Beth Shammai respectively!

(44) Lit,, ‘we (as to) what we said’.

(45) Restricting the law to conditions exactly similar to those of the original incident.

(46) In the case of a wife's evidence on the death of her husband.

(47) Transporting the water and ashes of purification.

(48) Of course it does not matter.

(49) Trusting the evidence of the wife in all cases, even where the conditions differ from those of the original incident.

(50) Whether her husband was dead.

(51) V. supra note 8.

(52) Spoken of supra.

(53) Cf Num. XIX, 1ff.

(54) The minimum that causes defilement of objects that come in contact with it or that are placed in the same ohel (v. Glos.).

(55) A woman who reports her husband's death.

(56) If the woman were not telling the truth she would still be a married woman and her second marriage would be illicit,

(57) Lit., ‘that is light’.

Talmud - Mas. Yevamoth 117a

THAT ON HER EVIDENCE, THE BROTHERS MAY NOT ENTER INTO THEIR

INHERITANCE.[1] SAID BETH SHAMMAI TO THEM: DO WE NOT LEARN THIS[2] FROM HER KETHUBAH SCROLL WHEREIN [HER HUSBAND] PRESCRIBES FOR HER, ‘IF THOU BE MARRIED TO ANOTHER MAN, THOU WILT RECEIVE WHAT IS PRESCRIBED FOR THEE’! THEREUPON BETH HILLEL WITHDREW THIS OPINION, THENCEFORTH TO RULE IN ACCORDANCE WITH THE VIEW OF BETH SHAMMAI.

GEMARA. R. Hisda stated: If she[3] is taken in levirate marriage the levir enters into the inheritance[4] on her evidence. If they[5] made an exposition on the kethubah, shall we not make an exposition on the Torah? The All Merciful said, Shall succeed in the name of his brother,[6] and he has surely succeeded.[7] R. Nahman ruled: If [a woman] came before Beth din and stated, ‘My husband is dead; permit me to marry again’. permission must be granted her to marry again. and she is given her kethubah. [If she demanded]. ‘Give me my kethubah’, she must not be permitted even to marry. What is the reason? Because she came with her mind intent on the kethubuh.[8]

The question was raised: What is the ruling [where she said], ‘Permit me to marry and give me my kethubah’? Has she come with her mind intent on the kethubah, since she specified her kethubah[9] or [is it assumed that] a person [naturally] lays before the Beth din all the claims he has![10] And[11] should you find [a reason for deciding in her favour because] a person submits whatever claim he has to the Beth din, [the question still remains as to] what [is the law where she stated]. ‘Give me my kethubah and permit me to marry’? [Is it assumed that] in this case[12] she has undoubtedly come with her mind bent on the kethubah. or is it possible [that she mentioned her kethubah] because[13] she did not know by what means she becomes permitted [to marry again].[13] — This is undecided.[14]

MISHNAH. ALL ARE REGARDED AS TRUSTWORTHY TO GIVE EVIDENCE[15] FOR HER[16] EXCEPTING HER MOTHER-IN-LAW. THE DAUGHTER OF HER MOTHER-IN-LAW, HER RIVAL, HER SISTER-IN-LAW[17] AND HER HUSBAND'S DAUGHTER.[18] WHEREIN LIES THE DIFFERENCE BETWEEN [THE ADMISSIBILITY OF] A LETTER OF DIVORCE AND [THAT OF THE EVIDENCE OF] DEATH?[19] IN THAT THE WRITTEN DOCUMENT[20] PROVIDES THE PROOF.[21]

GEMARA. The question was raised: What [is the law in regard to the eligibility[22] of] the daughter of her father-in-law?[23] Is the reason [for the ineligibility] of the daughter of her mother-in-law because there is a mother[24] who hates her she[25] also hates her; here,[26] however, there is no mother who hates her?[27] Or is it possible that the reason [for the ineligibility] of the daughter of her mother-inlaw is because she[28] believes that the other squanders[29] the savings of her mother; there,[26] then, she also believes that she squanders[29] the savings of her father-in-law?[30] Come and hear: ‘All are regarded as trustworthy to give evidence for her[31] excepting five women’; but if that were so[32] [the number should] be six![33] — It is possible that the reason [for the ineligibility] of the daughter of her mother-in-law is because she[34] believes that the other squanders the savings of her mother[35] [and, therefore] there is no difference between the daughter of her mother-in-law and the daughter of her father-in-law.[36] But, surely. it was taught.[37] ‘Excepting seven women’![38] — This is the view of R. Judah. For it was taught:[39] R. Judah adds[40] also a father's wife[41] and a daughter-In-law. They[42] said to him: A father's wife[41] is, in fact, included in the expression ‘a husband's daughter’,[43] and a daughter-in-law is obviously included in the expression ‘her mother-in-law’.[44]

And R. Judah?[45] - Because one can well understand why a mother-in-law should hate her daughter-in-law, since the former believes that the latter squanders her Savings,[46] but why should a daughter-in-law hate her mother-in-law![47] Similarly one may well understand why a husband's daughter hates her father's wife, since the former believes that she is squandering her mother's savings, but why should a father's wife hate her husband's daughter![47]

Why, then, does he[48] add the two?[49] — But [this is the true explanation]: Why does a daughter-in-law hate her mother-in-law? Because the latter reports[50] to her son all that she[51] does. [Similarly] a father's wife also hates her husband's daughter because the latter reports[50] to her father all that she[52] does. And the Rabbis?[53] — As in water face answereth to face, so the heart of man to man.[54] And R. Judah? — The text[55] applies[56] to [the study of] the words of the Torah.[57]

R. Aha b. ‘Awya said: In the West[58] they asked: What is the ruling in respect of a potential[59] mother-in-law?[60] Does it occur to her that [this woman's][61] husband might die [without issue] and she[62] would thereby be subject to the levir, and therefore. she[62] hates her;[63] or does it not?

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(1) Though inheritance is a monetary affair, Only in order to save her from a life-long widowhood was a woman allowed on her own evidence to marry again. In monetary matters, however, the evidence of two eligible witnesses (cf. Deut. XIX. 15) is a sine qua non.
(2) That she is entitled to her kethubah.
(3) A woman who reported the death of her husband.
(4) Of the deceased. Cf. supra 40a.
(5) Beth Shammai, and later also Beth Hillel, in our Mishnah.
(6) Deut. XXV, 6, explained Rabbinically to refer to the levir.
(7) Hence he is also entitled to the inheritance.
(8) She probably knows that her husband is alive and she has no intention of marrying again. All she aims at is the acquisition of the money.
(9) And even marriage should, therefore, be forbidden to her,
(10) But her main purpose was matrimony. Hence both her requests should be granted.
(11) Reading of Rashal, inserted in cur. edd, within square brackets.
(12) Since she mentioned her kethubah first,
(13) She may have thought that it was the kethubah that releases her from her dead husband and it is for this reason that she mentioned it first. Cf. supra note 3’
(14) Teku. v. Glos,
(15) That her husband died.
(16) Any woman.
(17) The wife of her husband's brother, who becomes her rival if levirate marriage is contracted.
(18) All these are assumed to be, for one reason or another, hostile to her and are therefore suspected of giving false evidence (cf. supra n. 8) in the expectation that she will marry again and thereby become forever forbidden to their relative, her first husband.
(19) I.e., why are the relatives mentioned accepted as qualified bearers of her letter of divorce, (v. Git, 23b) and not as eligible witnesses to testify to the death of her husband?
(20) The letter of divorce,
(21) It is mainly the document itself that constitutes the validity of the divorce and not the eligibility of its bearer.
(22) To give evidence that her husband was dead,
(23) From another wife who is not her mother-in-law.
(24) I.e., her mother-in-law.
(25) The daughter of that mother-in-law.
(26) In the case of the daughter of her father-in-law,
(27) The daughter of her father-in-law is therefore eligible as a witness.
(28) The daughter.
(29) Lit,, ‘eats’.
(30) Lit.,’wife's family’. In consequence of which she hates her and is, therefore, ineligible to be her witness.
(31) Cf. supra p. 824. nn. 8 and 9.
(32) That the daughter of a father-in-law is also ineligible as witness.
(33) Since our Mishnah had enumerated five others. From this then it may be inferred that the daughter of a father-in-law is eligible.
(34) The daughter.
(35) So Bah. Cur. edd., ‘of the father-in-law’.

(36) Both, therefore, may be regarded as one. Hence the number five,
(37) Cur. edd., ‘we learned’.
(38) While our Mishnah enumerates only five.
(39) Cur. edd., ‘we learned’.
(40) To the number of women who are ineligible to testify to the death of another woman's husband.
(41) The stepmother of the woman in question.
(42) The Sages.
(43) Since a husband's daughter is ineligible as witness for a husband's wife it is obvious that the latter also, since both stand in the same relationship to one another, is equally ineligible as witness for the former. V. infra n. 6.
(44) As a mother-in-law is precluded from giving evidence for her daughter-in-law so,it is obvious, is the latter (cf. supra n. 5) precluded from giving evidence for the former. There was no need, therefore, to enumerate all the four. The mention of two of these embraces the four.
(45) Why in view of the explanation of the Rabbis does he enumerate seven?
(46) As the wife of her son and heir she would in due course become mistress of her possessions.
(47) Her ineligibility, therefore, cannot be inferred from the other. Hence it was necessary specifically to mention her.
(48) R. Judah.
(49) Who, as was just explained, are not hostile to the others, and should, therefore, be eligible to give evidence for them!
(50) Lit., ‘reveals’, ‘discloses’.
(51) Her daughter-in-law.
(52) Her father's wife; her stepmother.
(53) Why, in view of R. Judah's explanation, do they omit the two from their list?
(54) prov. XXVII, 19. Hatred is mutual. As a husband's daughter hates her father's wife so does the latter hate the former; and the same reciprocity exists between a mother-in-law and her daughter-in-law. There was no need, therefore, to mention them all. The four are covered by the two.
(55) Lit., ‘this’.
(56) Lit.. ‘is written’.
(57) Effort and success are interdependent as in water face answereth face. Or: The successful achievement of the student is dependent on the sympathy and understanding (the cheerful countenance) of the Master.
(58) Palestine, which lay on the West of Babylon.
(59) Lit.. ‘that comes afterwards’. i.e., the mother of the levir and stepmother of the husband of the woman in question. who might become her mother-in-law if her husband died childless and she had to contract the levirate marriage with the levir.
(60) Is she eligible as witness if she testifies that her stepson is dead in consequence of which the wife of the deceased must either marry her son or perform halizah with him and marry a stranger (Rashi). [R. Hananel (v. Lewin B. M. Ozar ha-Geonim, Yebamoth p. 334) explains the problem differently. viz., can a woman give evidence on behalf of her potential mother-in-law? Where. for instance, Jacob had two wives, Leah and Rachel, the former of whom bore him a son, Reuben, and the latter, Joseph; and the question arises whether the wife of Reuben may testify as to the death of Jacob, her father-in-law, permitting the remarriage of Rachel, her potential mother-in-law. For should her own husband Reuben die, she would have to contract levirate marriage with his brother Joseph. Rachel thus becoming her mother-in-law].
(61) For whom she tenders evidence.
(62) As her future mother-in-law.
(63) Hence she is ineligible as a witness for her.

Talmud - Mas. Yevamoth 117b

Come and hear: If a woman stated. ‘My husband died first and my father-in-law died after him’. she may marry again and she also receives her kethubah. but her mother-in-law is forbidden.[1] Now, why is her[2] mother-in-law forbidden? Is it not because it is assumed that neither her[2] husband died nor did her father.in.law die[3] and that by her statement[4] she intended to damage the position of her mother-in-law.[5] hoping that [as a result][6] she[7] would not in the future[8] come to torment her![9] —

There[10] it may be different because she[11] has experienced her annoyance.[12]

MISHNAH. IF ONE WITNESS STATED, [‘THE HUSBAND[13] IS] DEAD’, AND THEREUPON HIS WIFE MARRIED AGAIN, AND ANOTHER CAME AND STATED ‘HE IS NOT DEAD’. SHE NEED NOT BE DIVORCED. IF ONE WITNESS SAID. ‘HE[13] IS DEAD AND TWO WITNESSES SAID. ‘HE IS NOT DEAD’, SHE MUST, EVEN IF SHE MARRIED AGAIN, BE DIVORCED. IF TWO WITNESSES STATED, ‘HE[13] IS DEAD’, AND ONE WITNESS STATED, HE IS NOT DEAD’, SHE MAY, EVEN IF SHE HAD NOT YET DONE SO,[14] MARRY AGAIN.[15]

GEMARA. The reason[16] then is because [the woman][17] MARRIED AGAIN; had she, however, not married would she[18] not have been permitted to marry? But Surely. ‘Ulla stated: Wherever the Torah declared one witness credible,[19] he is regarded[20] as two witnesses, and the evidence of one man[21] against that[22] of two men[23] has no Validity![24] — It is this that was meant: IF ONE WITNESS STATED [‘THE HUSBAND IS] DEAD’ and after his wife had been permitted to marry again ANOTHER CAME AND STATED ‘HE IS NOT DEAD’, she is not to be deprived of[25] her former status of permissibility.[26]

IF ONE WITNESS SAID, ‘HE IS DEAD’, Is this not obvious?[27] For the evidence of one man against that Of[28] two men[29] has no validity! — [This ruling’ is] required only in the case of ineligible witnesses[30] [this being] in accordance with the view of R. Nehemiah. For it was taught: R. Nehemiah stated, ‘Wherever the Torah declares one witness credible,[31] the majority of statements is to be followed,[32] and [the evidence of] two women against that of one man is given the same validity as that of two men against one man’.[33]

And if you prefer I might reply: Wherever one eligible witness came first, even a hundred women[34] are regarded as one witness.[35] But [here it is such a case] as, for example, where a woman witness came in the first instance;[36] and [the statement] of R. Nehemiah is to be explained thus: R. Nehemiah stated, ‘Wherever the Torah declares one witness credible, the majority of statements is to be followed, and [the evidence of] two women against one woman is given the same validity as that of two men against one man; but [the evidence of] two women against that of one man is regarded as half[37] and half[38] .

IF TWO WITNESSES STATED, ‘HE IS DEAD’ etc. What does this teach us?[39] [A ruling] in respect of ineligible witnesses, [the principle being the same] as that of R. Nehemiah who follows the majority of statements[40] . But is not this exactly the same [as the previous clause]![41] — It might have been assumed that the majority is followed only when the law is thereby made more stringent ,[42] but not [where it leads] to a relaxation of the law;[43] hence we were taught [the final clause] ,[44]

MISHNAH. IF ONE WIFE[45] SAID [‘HER HUSBAND IS] DEAD’ AND THE OTHER WIFE[46] SAID, ‘HE IS NOT DEAD , THE ONE WHO SAID, ‘HE IS DEAD’ MAY MARRY AGAIN AND SHE ALSO RECEIVES HER KETHUBAH, WHILE THE ONE WHO SAID, ‘HE IS NOT DEAD, MAY NEITHER MARRY AGAIN NOR IS SHE TO RECEIVE HER KETHUBAH. IF ONE WIFE[47] STATED, ‘HE IS DEAD’ AND THE OTHER STATED. ‘HE WAS KILLED’, R. MEIR RULED: SINCE THEY CONTRADICT ONE ANOTHER THEY MAY NOT MARRY AGAIN. R. JUDAH AND R. SIMEON RULED: SINCE BOTH[48] ADMIT THAT HE[49] IS NOT ALIVE, BOTH MAY MARRY AGAIN.

IF ONE WITNESS STATED, ‘HE[50] IS DEAD’, AND ANOTHER WITNESS STATED.[51] ‘HE IS NOT DEAD’,

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(1) To marry again; infra 118a. The evidence as to the death of her husband is not admissible though the witness. since her own husband was dead at the time she gave her evidence, was no longer her daughter.in.law.

(2) The witness's.

(3) And both women are still related to one another as mother-in-law and daughter-in-law.

(4) Lit., ‘and what she said thus’.

(5) Who if she married again would not any longer be able to live with her first husband, the father-in-law of the witness.

(6) Cf. supra p. 827. n. 14.

(7) Her mother-in-law.

(8) When her husband and son returned from their foreign travels.

(9) By reporting to her son all the doings of his wife. It is thus obvious that a daughter-in-law is not believed as a witness for her mother-in-law, though the cause of her hatred (the return of her husband and his mother's gossip) is still a thing of the future and at the time her evidence is given, potential only. From this it follows that a potential mother-in-law also is equally ineligible as a witness for her potential daughter. in-law.

(10) Since in that case the woman for whom evidence is given was already her mother-in-law.

(11) The daughter-in-law.

(12) This case, therefore, provides no proof that a woman hates one who had never been her mother-inlaw and whose annoyances she had never experienced.

(13) Who had gone to a country beyond the sea.

(14) prior to the appearance of the one witness.

(15) Even after he tendered his evidence.

(16) Why the woman in the first clause of our Mishnah may live with the man she married.

(17) Whose husband's death was reported by the first witness.

(18) Since our Mishnah only states that SHE NEED NOT BE DIVORCED and does not state that she may marry again.

(19) As is the case here, where one witness testifies to the death of a husband (cf. supra 88b).

(20) Lit., ‘behold here’.

(21) In our case, that of the second witness.

(22) Lit., ‘in the place of’.

(23) In the first instance, the first witness whose evidence had been accepted as valid as that of two.

(24) Sot. 31b, Keth. 22b, supra 88b. Why then should not the woman be directly permitted to marry again?

(25) The original לא תצא lit.,’she shall (or need) not go out’, may bear this meaning as well as that given in our Mishnah.

(26) Because the decision of Beth din had been issued before the second witness appeared. Had he arrived prior to the issue of the decision, the evidence of the first witness, as it had not yet been accepted. would have had no greater validity than his,

(27) That the woman MUST ... BE DIVORCED,

(28) Lit., ‘in the place of’,

(29) As is the case in the second clause of our Mishnah.

(30) Where the two witnesses were, e.g.. relatives or slaves.

(31) As in the case, e.g.. spoken of in the first clause of our Mishnah.

(32) As the accepted law of valid evidence is in such cases suspended, the evidence of any ineligible witnesses (cf. supra n. 7) is admitted,

(33) Hence the necessity for the ruling of our Mishnah. In the absence of such a ruling it would have been assumed that the evidence of ineligible witnesses is here also inadmissible.

(34) I.e., ineligible witnesses who, after the woman had married again, stated that her husband was not dead,

(35) As the evidence of a single witness when it is opposed to that of a previous witness whose evidence had already been accepted (cf. supra p. 828, n. 18) is completely disregarded, so is the evidence of the hundred women if it conflicts with that of the first eligible witnesses.

(36) And, on her evidence, the widow was permitted to marry again. As two women subsequently opposed the statement of the one, the marriage must be annulled by a letter of divorce.

(37) Of a valid evidence, i.e., as that of one witness.

(38) The evidence of two women against that of one man would, therefore, have the same validity as that of one witness against another, spoken of in the first clause of our Mishnah. and the widow would have retained her first status of permissibility. v. supra 88b.

(39) Is it not obvious that two witnesses are relied upon when they are opposed by one witness only!

(40) Though the two witnesses are ineligible. their evidence against that of the one witness, since they form the majority, is accepted, and the widow is permitted to marry again.
(41) The ruling in the second clause of our Mishnah which, as has just been explained, teaches this very principle.
(42) As in the second clause where, owing to the majority principle, the woman is forbidden to marry again.
(43) As in the final clause under discussion, where, by following the majority. the woman is allowed to marry again.
(44) Of our Mishnah, to indicate that in all cases the majority is to be followed.
(45) Of a man who has gone to a country beyond the sea.
(46) Her rival.
(47) V. p. 830. n. 9'
(48) Lit.. 'this and this'.
(49) Their husband.
(50) V. p. 830. n. 9'
(51) Before the Beth din, on the evidence of the first witness, had allowed the woman to marry again.

Talmud - Mas. Yevamoth 118a

OR IF ONE WOMAN STATED. 'HE[1] IS DEAD', AND ANOTHER WOMAN[2] STATED,[3] 'HE IS NOT DEAD', SHE[4] MAY NOT MARRY AGAIN.

GEMARA. The reason. then,[5] is because she said, 'HE IS NOT DEAD'; had she, however, kept silent she would presumably have been allowed to marry again; but [it may be objected], no rival may give evidence on behalf of her associate![6] — It was necessary [to teach the case where the OTHER WIFE SAID], 'HE IS NOT DEAD.[7] Since it might have been assumed that [their husband] was really dead and that by stating[8] 'HE IS NOT DEAD' she evidently[9] intended to inflict injury upon her rival in the spirit of[10] Let me[11] die with the Philistines,[12] we are informed [that she is nevertheless forbidden to marry again].

IF ONE WIFE STATED, 'HE IS DEAD' etc. R. Meir should have expressed his disagreement in the first clause also![13] R. Eleazar replied: [The first clause] is a subject[14] in dispute and it[15] represents the opinion of R. Judah and R. Simeon.[16] R. Johanan. however. stated that it[17] may be said [to represent even the view of] R. Meir, for in such a case even R. Meir agrees,[18] since in the case of testimony relating to a woman[19] the evidence [of the nature of] 'He is not dead' is not [regarded as a valid] contradiction,[20]

We learned: IF ONE WITNESS STATED, HE IS DEAD' AND ANOTHER WITNESS STATED, HE IS NOT DEAD', OR IF ONE WOMAN STATED, 'HE IS DEAD AND ANOTHER WOMAN STATED, HE IS NOT DEAD', SHE MAY NOT MARRY AGAIN. Now according to R. Eleazar[21] it may well be explained that the anonymous statement [in the final clause][22] is in agreement with R. Meir. According to R. Johanan,[23] however, there is a difficulty! — This is a difficulty.

MISHNAH. IF A WOMAN AND HER HUSBAND WENT TO A COUNTRY BEYOND THE SEA, AND SHE RETURNED AND STATED, MY HUSBAND IS DEAD'. SHE MAY BE MARRIED AGAIN AND SHE ALSO RECEIVES HER KETHUBAH. HER RIVAL, HOWEVER, IS FORBIDDEN.[24] IF [HER RIVAL] WAS THE DAUGHTER OF AN ISRAELITE [WHO WAS MARRIED] TO A PRIEST, SHE IS PERMITTED TO EAT TERUMAH;[25] SO R. TARFON. R. AKIBA, HOWEVER, SAID: THIS[26] IS NOT A WAY THAT WOULD LEAD HER OUT OF THE POWER OF TRANSGRESSION, UNLESS [IT BE ENACTED THAT] SHE SHALL BE FORBIDDEN BOTH TO MARRY AND TO EAT TERUMAH.

IF SHE STATED, 'MY HUSBAND DIED FIRST AND MY FATHER-IN-LAW DIED AFTER HIM, SHE MAY MARRY AGAIN AND SHE ALSO RECEIVES HER KETHUBAH, BUT HER

MOTHER-IN-LAWS[27] IS FORBIDDEN.[28] IF [THE LATTER] WAS THE DAUGHTER OF AN ISRAELITE [WHO WAS MARRIED] TO A PRIEST, SHE IS PERMITTED TO EAT TERUMAH; SO R. TARFON. R. AKIBA, HOWEVER, SAID.. THIS[29] IS NOT A WAY THAT WOULD LEAD HER OUT OF THE POWER OF TRANSGRESSION, UNLESS [IT BE ENACTED THAT] SHE SHALL BE FORBIDDEN BOTH TO MARRY AGAIN AND TO EAT TERUMAH.

GEMARA. And [both statements[30] were] necessary. For If the first only had been stated, it might have been assumed that only in that did N. Tarfon maintain [his view],[31] since the grievance is personal.[32] but that in respect of a mother-in-law, the grievance against whom is merely general,[33] he agrees with N. Akiba.[34] And had the latter only been stated it might have been assumed that R. Akiba maintained [his view] there only, but that in the former case he agrees with R. Tarfon. [Hence both statements were] necessary.

Rab Judah stated in the name of Samuel: The halachah is in agreement with R. Tarfon. Said Abaye: We also learned the same: [If a woman[35] states],[36] ‘A son was given to me in a country beyond the sea, and my son died first while my husband died after him’, she is believed.[37] [If, however, she states]. ‘My husband [died first] and my son died after him’, she is not believed,[38] though note must be taken of her statement, and she must, therefore, perform halizah[39] but may not[40] contract the levirate marriage.[41] [From which it follows that] ‘note must be taken of her statement’, but that no note need be taken of the statement of a rival. Thus our point is proved.

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(1) V. supra p. 830. n. 9.

(2) Even if she is the rival of the woman concerned.

(3) V. supra note 5.

(4) Even the first.

(5) Why the second wife MAY NEITHER MARRY AGAIN.

(6) Her rival.

(7) There was no need to mention the case where she remained silent, which is obvious.

(8) Lit., ‘and that which she said’.

(9) Since she went out of her way to contradict her rival and was not content to remain silent.

(10) Lit.. ‘she said’.

(11) נפשי v. marg. note. Cur. edd.. נפשה

(12) Judges XVI, 30. She is prepared herself to lose the right of marrying again in order that her rival also may thereby be deprived of her right.

(13) Where. as in the second clause, one woman contradicts the other.

(14) Lit.. ‘it was taught’.

(15) The view expressed in the first clause.

(16) [According to R. Eleazar. R. Meir would forbid in the second clause remarriage to both women, because he admits a rival's contradictory evidence, whereas R. Judah and Simeon hold that a rival's contradiction is not admitted and hence they rule that both are permitted to marry. Similarly in the first clause, on R. Meir's view the first woman would not be allowed to marry, regard being had to the contradiction of her rival. On this assumption, the reason stated in the second clause for R. Judah's and R. Simeon's ruling, that neither denied the fact of the man's death, will have been advanced by them as an argument on the hypothesis that R. Meir's view, admitting the rival's contradiction, is accepted. תוס״ ישנים].

(17) The view expressed in the first clause.

(18) That the assertion of the second wife is not regarded as valid contradiction of the evidence of the first.

(19) [In connection with the death of her husband in regard to which the laws of evidence have been considerably relaxed. Var. lec. ‘the testimony of a rival’].

(20) But as a mere outburst of malice, intended to injure her rival. The first evidence is, therefore, accepted.

(21) Who explained that the first clause represents the view of those who differ from R. Meir, while R. Meir maintains that the first wife also is forbidden to marry again, because a rival's contradiction is admitted, v. p. 831, n. 21.

(22) Which forbids remarriage, even where the contradictory evidence was given by the rival (v. supra p. 831. n. 7.)

(23) Who stated that R. Meir agrees with the ruling in the first clause that a rival's contradiction is admitted.
(24) To marry again; since a woman may not tender evidence for her rival.
(25) As during the lifetime of her husband. The evidence of the other which is regarded as invalid to enable the rival to marry again (v. supra n. 1) is equally invalid to deprive her of her right to the eating of terumah.
(26) To forbid the rival to marry and to allow her to eat terumah.
(27) For whom a daughter-in-law is ineligible to tender evidence.
(28) To marry; though. at the time the evidence in her favour was given. the witness, according to whose evidence her husband died before her father-in-law, was no longer her daughter-in-law. The reason is explained supra 117b.
(29) Cf. supra n. 3 mutatis mutandis.
(30) The first (relating to a rival) and the second (relating to a mother-in-law).
(31) That the evidence of a rival is not accepted.
(32) The deprivation of marital intercourse caused by a rival. Only 10 such circumstances, it is possible, did R. Tarfon discredit the evidence of a rival who might indeed be actuated by malice.
(33) Lit,, ‘things in the world’.
(34) That a daughter-in-law need not be suspected of deliberate lying because of some general grievance against her mother-in-law; and that consequently. though her evidence is not accepted in respect of relaxing the laws of marriage. it may be accepted in respect of enforcing the laws of terumah.
(35) Who went to a country beyond the sea with her husband before any issue was born from their union.
(36) On her return.
(37) And may contract levirate marriage. Her evidence merely confirms the status in which she was already at the time of her departure. At that time as well as now she had no children to exempt her from the levirate obligations.
(38) To be permitted to marry a stranger without previous halizah with the levir. The evidence of a woman is accepted only in respect of the death of her husband, where it is assumed that she takes all possible care to ascertain the fact of his death. it is not, however, accepted in respect of liberating her from a levir against whom she might have been nursing a personal hatred, so that she would, without making the necessary enquiries, be ready on the flimsiest of proofs to testify anything which enables her to get rid of him.
(39) Owing to the status in which she has been confirmed.
(40) Since note must be taken of her allegation.
(41) Infra 118b, 119b.

Talmud - Mas. Yevamoth 118b

MISHNAH. IF A MAN BETROTHED ONE OF FIVE WOMEN AND HE DOES NOT KNOW WHICH OF THEM HE HAS BETROTHED, AND EACH STATES, ‘HE HAS BETROTHED ME. HE GIVES A LETTER OF DIVORCE TO EVERY ONE OF THEM,[1] AND, LEAVING THE KETHUBAH[2] AMONG THEM, WITHDRAWS;[3] SO R. TARFON. R. AKIBA, HOWEVER, SAID: THIS IS NOT A WAY THAT WOULD TAKE ONE OUT OF THE POWER OF TRANSGRESSION, UNLESS ONE GIVES TO EACH OF THEM BOTH A LETTER OF DIVORCE AND HER KETHUBAH.[2]

IF A MAN ROBBED ONE OF FIVE PERSONS AND DOES NOT KNOW WHICH OF THEM HE HAS ROBBED, AND EACH ONE STATES. ‘HE HAS ROBBED ME’, HE LEAVES THE [AMOUNT OF] THE ROBBERY AMONG THEM AND WITHDRAWS;[4] SO R. TARFON. R. AKIBA, HOWEVER, STATED: THIS IS NOT A WAY THAT WOULD LEAD ONE OUT OF THE POWER OF SIN, UNLESS ONE PAYS [THE FULL AMOUNT OF THE ROBBERY] TO EVERY ONE [OF THE PERSONS INVOLVED].

GEMARA. Since BETROTHED was stated. and not[5] ‘cohabited’. and since ROBBED was stated and not ‘bought’. whose [view, it may be asked, is represented in] our Mishnah? Neither. [apparently. that of] the first Tanna[6] nor that of R. Simeon b. Eleazar![6] For it was taught: R. Simeon b. Eleazar stated that R. Tarfon and R. Akiba did not differ [on the ruling that] where a man betrothed one of five women, and he does not know which of them he betrothed, he leaves the kethubah[2] among them and withdraws;[3] they differ only in the case where cohabitation occurred, R. Tarfon ruling that the man leaves the kethubah[2] among them and withdraws, while R. Akiba ruled [that the man is not exempt from transgression] unless he pays[7] everyone of them. R. Tarfon and R. Akiba. furthermore, did not differ on [the ruling that] where a person bought something from five men and does not know from which of them he bought, he may leave the price of the purchase among them and depart; they differ only in the case where a person robbed one of five men, R. Tarfon ruling that the man must deposit the amount of the robbery among them and may then depart, while R. Akiba ruled [that the man is not exonerated] unless he pays [the amount of the] robbery to everyone.[8] Now, since R. Simeon b. Eleazar said that they[9] do not differ in the case where a man betrothed or purchased, it may be inferred that the first Tanna is of the opinion that they[9] did differ. Whose [view then, is presented in our Mishnah]? If it is that of the first Tanna 'betrothal' and purchase should have been mentioned,[10] and if [it is that of] R. Simeon b. Eleazar cohabitation and 'robbery' should have been mentioned![11] — [Our Mishnah represents] in fact [the view of] N. Simeon b. Eleazar, but the meaning of[12] BETROTHED is betrothal through cohabitation'. BETROTHED was used in order to acquaint you how far R. Akiba is prepared to go[13] , as he imposes a penalty[14] even where one transgressed a Rabbinic prohibition[15] only; and ROBBED was taught in order to acquaint you how far N. Tarfon is prepared to go, as he imposes no penalties[16] even where one had transgressed a Pentateuchal prohibition.[17]

MISHNAH. A WOMAN WHO WENT WITH HER HUSBAND TO A COUNTRY BEYOND THE SEA, HER SON ALSO [GOING] WITH THEM, AND WHO CAME BACK AND STATED, 'MY HUSBAND DIED AND AFTERWARDS MY SON DIED', IS BELIEVED.[18] [IF, HOWEVER, SHE STATED.] 'MY SON DIED AND AFTERWARDS MY HUSBAND DIED'.[19] SHE IS NOT BELIEVED,[20] BUT NOTE IS TAKEN OF HER ASSERTION[21] AND SHE MUST, THEREFORE, PERFORM HALIZAH[22] AND MAY NOT CONTRACT THE LEVIRATE MARRIAGE.[23]

[IF A WOMAN[24] STATES].[25] 'A SON WAS GIVEN TO ME [WHILE I WAS] IN A COUNTRY BEYOND THE SEA' AND SHE ALSO ASSERTS, 'MY SON DIED AND AFTERWARDS MY HUSBAND DIED', SHE IS BELIEVED.[26] [IF, HOWEVER, SHE STATES]. 'MY HUSBAND DIED AND AFTERWARDS MY SON DIED .[27] SHE IS NOT BELIEVED,[28] BUT NOTE IS TAKEN OF HER ASSERTION[29] AND SHE MUST, THEREFORE, PERFORM HALIZAH[30] BUT MAY NOT CONTRACT LEVIRATE MARRIAGE.[31]

[[19] F A WOMAN[32] STATES]. 'A BROTHER-IN-LAW WAS GIVEN TO ME [WHILE I WAS] IN A COUNTRY BEYOND THE SEA',[33] AND SHE ALSO STATES, 'MY HUSBAND DIED AND AFTERWARDS MY BROTHER-IN-LAW DIED OR 'MY BROTHER-IN-LAW DIED AND AFTERWARDS MY HUSBAND DIED', SHE IS BELIEVED.[34] IF A WOMAN AND HER HUSBAND AND HER BROTHER-IN-LAW WENT TO A COUNTRY BEYOND THE SEA, AND SHE [ON RETURNING HOME] STATED, 'MY HUSBAND DIED AND AFTERWARDS MY BROTHER-IN-LAW [DIED]' OR 'MY BROTHER-IN-LAW [DIED] AND AFTERWARDS MY HUSBAND [DIED]'. SHE IS NOT BELIEVED; FOR A WOMAN IS NOT TO BE BELIEVED WHEN SHE ASSERTS 'MY BROTHER-IN-LAW IS DEAD', IN ORDER THAT SHE MAY MARRY AGAIN. NOR [WHEN SHE STATES THAT] HER SISTER IS DEAD. IN ORDER THAT SHE MAY ENTER HIS[35] HOUSE.[36] A MAN ALSO IS NOT BELIEVED WHEN HE ASSERTS 'MY BROTHER IS DEAD', SO THAT HE MAY CONTRACT LEVIR' ATE MARRIAGE WITH HIS WIFE, NOR [WHEN HE ASSERTS THAT] HIS WIFE IS DEAD, IN ORDER THAT HE MAY MARRY HER SISTER.[37]

GEMARA. Raba enquired of R. Nahman: What [is the legal position] if a husband transferred to his wife [through an agent][38] the possession of a letter of divorce, where a brother-in-law[39] is in existence?[40] [Is the divorce], since she [usually] hates her brother. in-law, an advantage to her and [consequently valid, because] a privilege may be conferred upon a person in his absence; or is it possible [that the divorce], since she sometimes loves her brother-in-law, is a disadvantage to her and [consequently invalid because] no disadvantage may be imposed upon a person in his absence? The other replied. We have learned this: NOTE IS TAKEN OF HER ASSERTION AND SHE MUST, THEREFORE, PERFORM HALIZAH. BUT MAY NOT CONTRACT THE LEVIRATE MARRIAGE.[41] Said Rabina to Raba: What [is the legal decision] if a husband transferred to his wife [through an agent][42] the possession of a letter of divorce at a time[43] when a quarrel [raged between them]? [is the divorce], since she has a quarrel with her husband, an advantage to her or [is it a disadvantage, since] the gratification of bodily desires is possibly preferred by her?[44] — Come and hear what Resh Lakish said: 'It is preferable to live in grief[45] than to dwell in widowhood' .[46]

Abaye said: 'With a husband [of the size of an] ant her seat is placed among the great'.[47]

R. Papa said: Though her husband be a carder[48] she calls him to the threshold and sits down [at his side].[49]

R. Ashi said: If her husband is only a cabbage-head[50] she requires no lentils[51] for her pot.[52]

A Tanna taught: All such women[53] play the harlot and attribute the results[54] to their husbands. [

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(1) If he has no desire to marry any of them.
(2) I.e., the sum due to a woman on being divorced. (V. Glos.).
(3) He need not give them more than the amount of one kethubah since he had betrothed no more than one woman. It is for the women themselves to come to an agreement on the disposal of that sum.
(4) Cf. supra n. 2 mutatis mutandis.
(5) Lit,, was not stated'.
(6) Of the Baraitha cited infra.
(7) The full amount of her kethubah.
(8) Tosef. Yeb. XIV.
(9) R. Tarfon and R. Akiba.
(10) And not those of 'betrothal' and robbery
(11) Not those if betrothal and 'robbery'.
(12) Lit , and what'.
(13) Lit 'with the power'.
(14) That the man must pay the amount if her kethubah to each one of the five women.
(15) It is only Rabbinically that betrothal through cohabitation is forbidden. Pentateuchally it constitutes a proper kinyan.
(16) Maintaining as he does that one single sum equal to the amount of the robbery exonerates the robber from all further liability.
(17) Prohibition of robbery was specifically mentioned in the Pentateuch,
(18) And is exempt from levirate marriage and halizah. Her statement is accepted since thereby she is merely confirming the status in which she found herself before her departure. At that time she had a son who exempted her from the levirate bond; and now that her husband died before that son she is still entitled to the same exemption. Her admission of her son's death does not affect her status, since she is the only source of the information, and as her word is accepted in respect of the death it must be similarly accepted in respect of its date.
(19) So that she is in consequence subject to the levirate bond.
(20) Because her assertion would alter the status in which she was confirmed prior to her departure. Such alteration cannot be authorized in view of the possibility that her report might be due to a desire to marry the levir.
(21) Since, at any rate, her statement has impaired her former status.
(22) Before she may be permitted to marry a stranger.
(23) She herself having testified that she was forbidden to the levir.
(24) Who had no children at the time she left her home town.
(25) On returning from across the sea.

(26) And remains subject to the levirate bond and may perform halizah or contract levirate marriage. Her statement is accepted because it confirms the status in which she was established prior to her departure. Cf. supra p. 836. n. 11 mutatis mutandis.

(27) So that, were her statement to be accepted, she would be exempt from the levirate bond to which, in virtue of her former status, she is still subject.

(28) Cf. supra note 2 mutatis mutandis. As a rule, a woman is supposed to hate her brother-in-law.

(29) V. supra n. 3.

(30) V. supra n. 4.

(31) V. supra n. 5.

(32) Who was known to have no brother-in-law.

(33) I.e., her mother-in-law, who was with her overseas, gave birth to a son during their stay there.

(34) Since in either case she only confirms her former status. Cf. supra p. 836. n. 11 mutatis mutandis.

(35) Her sister's husband's.

(36) I.e., to marry him, which she is forbidden to do during the lifetime of her sister.

(37) Cf. supra note 2 mutatis mutandis.

(38) Whom the childless husband had asked to act on behalf of his wife, his intention being to spare her from the levirate obligations on his death. Elsewhere a divorce is invalid unless it had actually been delivered into the woman's hands or into those of an agent who was duly appointed by her.

(39) To whom she would be subject in the absence of a letter of divorce.

(40) Lit., ‘in the place of’.

(41) Since this is the ruling in our Mishnah both in the case where It is assumed that she loves the levir (cf. supra p. 837, n. 2) and in that where she is assumed to hate him (cf. supra p. 837. n. 10). it is obvious that it is uncertain whether a divorce given in the circumstance described by Raba is an advantage or a disadvantage to the woman. The legal position in such a case would consequently be that the woman would have to perform halizah but would not be permitted levirate marriage.

(42) V. p. 838. n’ 4.

(43) Lit., ‘in the place of’.

(44) She might prefer a married life in quarrels to a peaceful life of separation.

(45) Or ‘together’, ‘as husband and wife’. V. following note.

(46) A woman's maxim. She prefers an unhappy life in a married state to a happy one in solitude. טן דו ‘with a load of grief’, ‘in trouble’ (last.). According to Rashi, טן דו= ‘two bodies’ (cf. supra n. 4). Levy compares it with the Pers., tandu, ‘two persons’.

(47) A proverb. חרתא a free woman,

(48) נפצא ‘flax-beater’; Aruk, נפסא ‘a watchman of vegetables’; a very poor and humble occupation.

(49) To show her friends that she is a married woman. She is proud of her husband despite his lowly social status.

(50) קולסא ‘dull’, or ‘ugly’ (cf. last.); ‘of a tainted family’ (Rashi).

(51) Regarded as a cheap food.

(52) For the sake of a married life, a woman willingly renounces all other pleasures. even the enjoyment of the poorest meal.

(53) Lit,, ‘and all of them’, those married to the unlovely types of husband mentioned.

(54) Lit , ‘and hang (it) on’.

Talmud - Mas. Yevamoth 119a

CHAPTER XVI

MISHNAH. A WOMAN WHOSE HUSBAND AND RIVAL WENT TO A COUNTRY BEYOND THE SEA, AND TO WHOM PEOPLE CAME AND SAID, ‘YOUR HUSBAND IS DEAD’, MUST NEITHER MARRY AGAIN[1] NOR CONTRACT LEVIRATE MARRIAGE[2] UNTIL SHE HAS ASCERTAINED WHETHER HER RIVAL IS PREGNANT.[3] IF SHE HAD[4] A MOTHER-IN-LAW[5] SHE NEED NOT APPREHEND [THE POSSIBILITY OF THE BIRTH OF ANOTHER SON];[6] BUT IF SHE DEPARTED WHILE PREGNANT [SUCH POSSIBILITY]

MUST BE TAKEN INTO CONSIDERATION.[7] R. JOSHUA RULED; SHE NEED NOT APPREHEND [SUCH A POSSIBILITY].[8]

GEMARA. What is implied by[9] ‘HER RIVAL’?[10] — It is this that we are told: {The possibility of a birth in respect] of that rival[11] need be apprehended; in respect of another rival, however, it need not be apprehended.[12]

MUST NEITHER MARRY AGAIN NOR CONTRACT LEVIRATE MARRIAGE etc. It is quite proper that she shall not contract levirate marriage since it is possible that [her rival] is pregnant and that she would in consequence cause an infringement[13] [of the prohibition against marriage] of a brother's wife, which is Pentateuchal; but why should she not marry [a stranger]? The majority of women should be taken as a criterion[14] and the majority of women conceive and bear children! Must it then[15] be assumed that [the ruling is that of] R. Meir who takes a minority also into consideration?[16] — It may even be said [to represent the view of] the Rabbis; for the Rabbis follow[17] the majority principle only where the majority is actually present[18] as, for instance, in the case of ‘nine shops’[19] and ‘Sanhedrin’ ,[20] but in respect of a majority that is not actually present[21] the Rabbis were not guided by the majority principle.

Behold the case of a minor boy and a minor girl, where the majority is one that is not actually present and the Rabbis nevertheless follow the majority principle; for it was taught: A minor, whether male or female, may neither perform nor submit to halizah, nor may he contract levirate marriage; so R. Meir. They said to R. Meir: You spoke well [when you ruled] that ‘He may neither perform nor submit to halizah’, since in the Pentateuchal section[22] man was written,[23] and we draw a comparison between ‘woman’ and man.[24] What, however, is the reason why he may not contract levirate marriage? He replied: Because a minor male might be found to be a saris;[25] a minor female might be found to be incapable of procreation; and thus the law of incest would be violated. The Rabbis, however, maintain, ‘Follow the majority of male minors’; and the majority of male minors are not sarisin;[26] ‘Follow the majority of female minors’ and the majority of female minors are not incapable of procreation![27] — But, clearly, [it must be admitted], our Mishnah represents the view of R. Meir.

How have you explained it?[28] That it is in agreement with the view of[29] R. Meir? Read, then, the final clause: IF SHE HAD A MOTHER-IN-LAW SHE NEED NOT APPREHEND [THE POSSIBILITY OF THE BIRTH OF ANOTHER SON]; but why? One should be guided by the majority of women, and the majority of women conceive and bear while a minority miscarry, and, since all those who bear [produce] a half of males and a half of females, the minority of those who miscarry should be added to the half [of those who bear] females, and so the males would constitute a minority which[30] should be taken into consideration![31] — It is possible that since the woman was confirmed[32] in her status of permissibility to strangers[33] [the possibility of the birth of a levir] was not taken by him[34] into consideration. In the first clause, then,[35] where she was confirmed in the status of eligibility for the levirate marriage,[36] let her contract the levirate marriage! — R. Nahman replied in the name of Rabbah b. Abbuha: In the first clause where a prohibition which is subject to the penalty of kareth [is involved, the possibility of the birth of a son][37] had to be provided against; in the final clause, however, where a prohibitory law [only is involved][38] no [such possibility][39] was taken into consideration. Said Raba: Consider: The one [prohibition] is Pentateuchal and the other also is Pentateuchal;[40] what matters it, then, whether the prohibition is one involving kareth or whether it is only a mere prohibitory law? — Rather, said Raba;

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(1) Since her husband, when he departed, was known to have had no issue.

(2) It being possible that her rival had a child from their husband.

(3) If the rival is found to be pregnant the woman is free to marry again; and if she is not pregnant, levirate marriage or halizah must be performed.

(4) Overseas.
(5) Who, at the time of her departure, had no other son but the one who is now dead.
(6) To her mother-in-law. It is only in respect of a rival that the possibility of a birth must be taken notice of, since a child, whatever its sex, exempts the woman from the levirate obligations. In the case of a mother-in-law, however, the birth of a female would not affect the woman's freedom to marry again, since it is only a male that subjects her to the levirate obligations. There is no need to apprehend that the mother-in-law had not only (a) given birth to a child but also (b) that that child was not a female but a male.
(7) Since the only doubt is whether the child was a male. Cf. supra n. 6.
(8) Because here also two possibilities must be postulated: (a) that the mother-in-law did not miscarry and (b) that the child born was not a female but a male.
(9) Lit., ‘she’ or ‘it’.
(10) Emphasis on HER.
(11) Who went with her husband to a country beyond the sea.
(12) If witnesses testified that the known rival (v. supra n. 11) was not pregnant there is no need to apprehend the possibility of a marriage with another wife who may have given birth to a child.
(13) Lit., ‘meet’.
(14) Lit., ‘go’.
(15) Since the majority principle is not followed.
(16) Hul. 6a; and since some women do not conceive and bear, the possibility that the rival belonged to this minority must be provided against by forbidding levirate marriage. Would then our anonymous Mishnah represent the view of an individual!
(17) Lit., ‘when do they go’.
(18) Lit., ‘which is before us’.
(19) Which were selling permitted meat, while one shop in their vicinity was selling forbidden meat. If between these shops a piece of meat was found and it is not known from which shop it came, it is assumed to be permitted meat, since the majority of the shops were selling meat of such a character. V. Hul. 95a.
(20) A majority of whom (twelve against eleven) are in favour of a certain decision. V. Sanh. 40a.
(21) The majority of women in general who are assumed to conceive and bear.
(22) Dealing with halizah.
(23) V. Deut. XXV, 7.
(24) As the male must be of mature age and not a minor, so must also be the female.
(25) V. Glos.
(26) Pl. of saris, v. Glos.
(27) Bek. 19b. Cf. supra 61b, 105b. The majority spoken of here is, surely, one which is not actually present, and the Rabbis are nevertheless guided by it!
(28) Lit., ‘in what did you place it’, sc. the first clause of our Mishnah.
(29) Lit., ‘like’.
(30) According to R. Meir.
(31) And, contrary to the ruling in our Mishnah, the woman should, as in the first clause, be forbidden marriage.
(32) When her mother-in-law departed.
(33) Lit., ‘to the market’; because there was no known levir.
(34) R. Meir.
(35) If a woman's confirmed status at a certain period is a determining factor.
(36) Since her husband when he departed, had no issue.
(37) By the rival.
(38) The marriage of a yebamah to a stranger.
(39) That a son was born by the mother-in-law.
(40) Neither is a mere Rabbinically preventive measure.

Talmud - Mas. Yevamoth 119b

in the first clause the woman's confirmed status[1] [would subject her] to the levirate marriage while the majority principle[2] [would enable her] to marry any stranger;[3] and, though ‘confirmed status’ is not as important a factor as a majority, the minority of women who miscarry must be added to the ‘confirmed status’ so that the factors on either side are equally balanced;[4] hence[5] she MUST NEITHER MARRY AGAIN NOR CONTRACT LEVIRATE MARRIAGE. In the final clause, however, the woman's confirmed status[6] as well as the majority principle[7] [points] to [the permissibility of marriage with] any stranger,[3] so that [viable] males[8] constitute a minority of a minority;[9] and a minority of a minority is not taken into consideration even by R. Meir.

MUST NEITHER MARRY AGAIN NOR CONTRACT LEVIRATE MARRIAGE etc. For ever?[10] — Ze'iri replied: [She waits] on account of herself three months[11] and on account of her associate nine,[12] and then she may, at all events,[13] perform halizah. R. Hanina said: On account of herself [she must wait] three months, but on account of her associate[14] for ever.[15] But let her perform halizah[16] at all events![17] — Both Abaye b. Abin and R. Hanina b. Abin replied: This[18] is a preventive measure against the possibility that the child[19] might be viable[20] as a result of which[21] you would have to subject her to the necessity of a public announcement[22] in respect of the priesthood.[23] Well, let her be subjected to the necessity! — It may happen that someone would be present at the halizah and not at the announcement,[24] and he would form the opinion[25] that a haluzah was permitted to a priest.

We learned: [If a woman states], ‘A son was given to me [while I was] in a country beyond the sea’ and she also asserts, ‘My son died and afterwards my husband died’, she is believed. [If she states, however], ‘My husband died and afterwards my son died’, she is not believed, but note is taken of her assertion and she must, therefore, perform halizah but may not contract levirate marriage.[26] Let it, however, be apprehended that witnesses might come and confirm her statement and that, as a result, you would subject her to the necessity of an announcement in respect of the priesthood! — R. Papa replied: [This refers to] a woman divorced.[27] R. Hiyya son of R. Huna replied: [It refers to one] who stated ‘I and he[28] were hidden in a cave’.[29] MISHNAH. [IN THE CASE OF] TWO SISTERS-IN-LAW[30] ONE OF WHOM[31] STATED, ‘MY HUSBAND IS DEAD’, AND THE OTHER ALSO STATED, ‘MY HUSBAND IS DEAD’, THE FORMER[31] IS FORBIDDEN[32] ON ACCOUNT OF THE HUSBAND OF THE LATTER,[33] AND THE LATTER IS FORBIDDEN[34] ON ACCOUNT OF THE HUSBAND OF THE FORMER.[33] IF THE ONE HAD WITNESSES[35] AND THE OTHER HAD NO WITNESSES,[35] SHE WHO HAD THE WITNESSES IS FORBIDDEN,[36] WHILE SHE WHO HAD NO WITNESSES IS PERMITTED.[37] IF THE ONE HAD CHILDREN AND THE OTHER HAD NO CHILDREN,[38] SHE WHO HAD CHILDREN[39] IS PERMITTED[34] AND SHE WHO HAD NO CHILDREN[40] IS FORBIDDEN.[34] IF THEY[41] CONTRACTED LEVIRATE MARRIAGES,[42] AND THE LEVIRS DIED, THEY[43] ARE FORBIDDEN [TO MARRY AGAIN].[44] R. ELEAZAR[45] RULED: SINCE THEY WERE ONCE PERMITTED TO MARRY THE LEVIRS[46] THEY ARE PERMITTED TO MARRY ANY MAN.

GEMARA. A Tanna taught: If the one[47] had witnesses[48] and also children, and the other had neither witnesses nor children, both are permitted [to marry again].[49]

IF[50] THEY CONTRACTED LEVIRATE MARRIAGES, AND THE LEVIRS DIED, THEY ARE FORBIDDEN [TO MARRY AGAIN]. R. ELEAZAR RULED: SINCE THEY WERE ONCE PERMITTED TO THE LEVlrs THEY ARE PERMITTED TO MARRY ANY MAN. Raba inquired: What is R. Eleazar's reason? Is it because he is of the opinion that a rival[51] is eligible to tender evidence in favour of her associate or is it because [he holds that] she would not[51] cause injury to herself?[52] What practical difference is there [between the two assumptions]?

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(1) It was an established fact that her husband had no issue and that a levir was in existence.

(2) Most women bear viable children and her rival's child would exempt her from the levirate obligations.

(3) Lit., ‘to the market’.

(4) Lit., 'and it is a half and a half', 'confirmed status' plus minority pointing to the levirate marriage while the majority principle points to permissibility to marry any stranger.

(5) Since neither consideration can be regarded as more weighty than the other.

(6) As one who had no brother-in-law.

(7) Miscarriages and the births of females constitute a majority against the minority of births of viable males.

(8) Only a viable male child exempts a woman from the levirate obligations.

(9) I.e., besides the fact that viable males are in a minority (v. supra n. 10) the possibility of the birth of a viable male is still less to be taken note of in view of the confirmed status of the woman (v. supra note 9).

(10) But why! Let her perform halizah and thus at all events procure her freedom. V. infra p. 844, n. 5.

(11) As any other woman whose husband died. V. supra 42b.

(12) Since should her rival be pregnant, her levirate bond could not be severed by halizah but by the actual birth of a viable child.

(13) Whether the rival gave birth to a child or not. V. infra note 5.

(14) Her rival who might he pregnant.

(15) Until it is definitely ascertained whether her rival had given birth to a viable child.

(16) After a period of nine months (v. supra p. 843, n. 15), and so procure her freedom to marry again.

(17) Since either she is exempted altogether from the levirate obligations by the birth of her rival's child (if one was horn) or (if no viable child was born) she gains her freedom by the halizah.

(18) That no halizah must be performed; v. supra n. 3.

(19) Of the rival.

(20) In consequence of which the halizah would become null and void as if it had never taken place.

(21) Lit., 'it is found'.

(22) That the halizah was unnecessary and consequently null and void.

(23) I.e., that she is permitted to marry a priest.

(24) V. supra note 10.

(25) Should she eventually be married to a priest.

(26) Supra 118b, q.v. for notes.

(27) From a former husband; before she was married to the one now deceased. As a divorcee she remains forbidden to marry a priest even if the halizah is subseqeuntly found to have no validity.

(28) She and her husband together with their son.

(29) When death occurred. Since no one was present there is no need to provide against the possibility of the appearance of witnesses.

(30) The wives of two brothers.

(31) Lit., 'this'.

(32) To marry a stranger.

(33) Who might, in fact, he alive and with whom halizah or levirate marriage must he performed. A woman is eligible to tender evidence on the death of her husband in so far only as to enable herself to marry again. She is ineligible, however, to give evidence enabling her sister-in-law to marry again.

(34) To marry again.

(35) That her husband was dead.

(36) To marry a stranger; since there are no witnesses to testify to the death of the levir. The evidence of his wife alone (cf. supra n. 4) is not sufficient for the purpose.

(37) To marry any stranger; since she herself is believed in respect of the death of her husband while in respect of the death of the levir the evidence of the witnesses is available.

(38) And neither had witnesses.

(39) Who exempt their mother from the levirate bond.

(40) And who is consequently subject to the levirate bond of a man whose death is attested only by her sister-in-law whose word cannot he accepted (cf. supra n. 4).

(41) The two sisters-in-law spoken of in the first clause of our Mishnah, neither of whom had children nor was able to produce witnesses to attest her husband's death.

(42) With the levirs other than the absent husbands.

(43) V. supra note 12.

(44) Any stranger. Though the evidence of each woman was valid to enable herself to contract levirate marriage, it is not valid to exempt her sister-in-law- from the levirate bond (cf. supra note 4), and the possibility that their absent levirs (the first husbands) were still alive must he taken into consideration.
(45) Var. lec. R Eliezer.
(46) On the assumption that their husbands were dead.
(47) Of two sisters-inlaw who stated that their husbands were dead.
(48) To confirm her statement.
(49) The former because of her children who exempt her from the levirate bond; and the latter, because witnesses had testified to the death of her levir while she herself is believed in respect of the death of her husband.
(50) Cur. edd. do not indicate by the usual stops that this passage is derived from our Mishnah. Cf. however, Bomb. ed.
(51) By a statement whereby she injures her associate.
(52) Her evidence here would injure herself as it would her associate. Where, however, her associate alone would be the sufferer a rival's evidence is not accepted.

Talmud - Mas. Yevamoth 120a

That of allowing[1] her rival to marry before herself. If it is granted that a rival may give evidence in favour of her associate, her rival may be permitted to marry even if she herself did not remarry. If, however, it be maintained that the reason is because she would not cause injury to herself, the rival would be permitted to marry only if she herself had married again, but if she herself did not remarry, her rival also would not be permitted to remarry. Now, what [is the decision]? — Come and hear: R. ELEAZAR RULED: SINCE THEY WERE ONCE PERMITTED TO THE LEVIR THEY ARE PERMITTED TO MARRY ANY MAN. Now, if it be granted that [the reason is because] she would not cause injury to herself one can well see the reason why only when the one married again is the other permitted to remarry. If it be maintained, however, that the reason is because a rival is eligible to tender evidence in favour of her associate, [the associate should be permitted to marry again] even if the rival did not remarry. Consequently it must be concluded[2] that R. Eleazar's reason is: Because she[3] herself had married again and she would not cause injury to herself! — R. Eleazar may have argued on the basis of the view of the Rabbis.[4] ‘According to my view [he may have said in effect] a rival is eligible to tender evidence in favour of her associate, and even if she herself did not remarry the other may be allowed to marry again. According to your view, however, you must at least agree with me that where she herself’ remarried the other also should be allowed to marry again, since she[3] would naturally not injure herself!’ And the Rabbis?[5] — She might be acting [in the spirit of] let me die with the Philistines.[6]

Come and hear: If a woman and her husband went to a country beyond the sea, and she returned and stated, ‘My husband is dead’, she may be married again and she also receives her kethubah. Her rival, however, is forbidden. R. Eleazar[7] ruled: Since she becomes permitted her rival also becomes permitted![8] — Read: Since she was permitted and she married again. Let it, however,[9] be apprehended that she[3] may have returned with a letter of divorce and that the reason why she made her statement[10] is because it was her intention to injure her rival![11] — If she was married to an Israelite, this would be so indeed;[12] but here we are dealing with one who married a priest.[13]

MISHNAH. EVIDENCE [OF IDENTITY][14] MAY BE LEGALLY TENDERED[15] ONLY ON [PROOF AFFORDED BY] THE FULL FACE[16] WITH THE NOSE, THOUGH THERE WERE ALSO MARKS ON THE MAN'S BODY OR CLOTHING. NO EVIDENCE [OF A MAN'S DEATH][15] MAY BE TENDERED BEFORE HIS SOUL HAS DEPARTED; EVEN THOUGH THE WITNESSES HAVE SEEN HIM WITH HIS ARTERIES CUT[17] OR CRUCIFIED OR BEING DEVOURED BY A WILD BEAST.[18] EVIDENCE [OF IDENTIFICATION] MAY BE TENDERED [BY THOSE] ONLY [WHO SAW THE CORPSE] WITHIN[19] THREE DAYS [AFTER DEATH].[20] R. JUDAH B. BABA, HOWEVER, SAID: NEITHER ALL MEN, NOR ALL PLACES, NOR ALL SEASONS[21] ARE ALIKE.[22]

GEMARA. Our Rabbis taught: Evidence [of identification][23] may be tendered[24] only on [proof afforded by] the forehead without the face[25] or the face without the forehead — Both together with the nose must[19] be present.[26]

Abaye, or it might be said, R. Kahana, stated: What is the Scriptural proof?[27] — The shew of their countenance[28] doth witness against them.[29]

Abba b. Martha, otherwise[30] Abba b. Manyumi, was being pressed for the payment of some money by the people of the Exilarch's house. Taking some wax he smeared it on a piece of rag and stuck it upon his forehead. He passed before them and they did not recognize him.[31]

THOUGH THERE WERE ALSO MARKS etc. Does this imply that identification marks are not valid Pentateuchally? A contradiction, surely, may be pointed out: If he[32] found it[33] tied to a bag, a purse or a seal-ring[34] or if it was found among his furniture,[35] even after a long time, it[33] is valid![36] — Abaye replied: This is no difficulty. The one is the view of[37] R. Eliezer[38] b. Mahebai while the other is that of[37] the Rabbis. For it was taught: No evidence [of identification] by a mole may he legally tendered. R. Eliezer[38] h. Mahebai ruled: Such evidence may be legally tendered. Do they not differ on the following principle,[39] that one Master[40] is of the opinion that identification marks are valid Pentateuchally[41] while the other Master[42] is of the opinion that identification marks are only Rabbinically valid? — Said Raba: All[43] agree that identification marks are valid Pentateuchally; but here they differ on the question whether it is common for the same kind of mole to he found on persons of simultaneous birth.[44] One Master[42] is of the opinion that it is common for the same kind of mole to be found on persons of simultaneous birth,[45] and the other Master[46] is of the opinion that it is not common for the same kind of mole to be found on persons of simultaneous birth.[47]

Others say: Their[48] point of difference here is whether a mole usually undergoes a change after one's death — One Master[49] is of the opinion that it usually undergoes a change after one's death[50] and the other Master[46] is of the opinion that it does not usually undergo a change after one's death.

Others maintain that Raba said: All[51] agree that identification marks are only Rabbinically valid; but here [it is on the question] whether a mole

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(1) Where a woman who went overseas with her husband leaving her rival in the home town returned and stated that her husband was dead.

(2) Lit., ‘but infer from it’.

(3) The woman who reported the death of her husband.

(4) Lit., ‘according to their words he said to them’.

(5) Why do they not allow the associate to marry even in the latter case?

(6) Judges XVI, 30. In order to inflict injury upon her associate she is willing to suffer injury herself.

(7) Var. Sec. R. Eliezer cf. supra p. 845, n. 16.

(8) Cf. supra 118a. This proves that, on the evidence of a rival, an associate is always permitted to marry again whether the rival who gave the evidence did or did not herself marry again.

(9) If the reason why a rival is believed in respect of her associate is not because she is eligible to tender evidence but because she would not injure herself.

(10) Lit., ‘that which she said thus’. That her husband was dead.

(11) She herself would thereby suffer no disability since she herself is in any case divorced from her husband.

(12) There would be ground for suspecting that she was divorced.

(13) Who may not marry a divorcee (v. Lev. XXI, 7). Had she been a divorced woman she would not have ventured to contract such a marriage for fear lest her former husband might return and expose her.

(14) In respect of a dead man.

(15) To enable the widow to marry again.

(16) פרצוף פנים cf. Gr.**.
(17) Or ‘mortally wounded’ (v. Rashi). מגוייד rt. גייד, to cut an artery’, a mode of execution practised among certain peoples (cf. Jast.).
(18) Since it is possible to recover life even in such precarious conditions.
(19) Lit., ‘until’.
(20) After this period, the decay of the corpse would hinder identification.
(21) Lit., ‘hours’, ‘times’.
(22) Decomposition in one case may be much more rapid than in another. The period of THREE DAYS mentioned must, therefore, be varied according to physical and climatic conditions.
(23) In respect of a dead man.
(24) To enable the widow to marry again.
(25) V. supra note 5.
(26) If the evidence of identification is to be valid.
(27) That the full face is essential for identification.
(28) Emphasis on countenance; not any other part of the body.
(29) Isa. III, 9.
(30) Lit., ‘which he’, ‘who was’.
(31) Lit., ‘they did not discover it’. בשקר (cf. בקר) ‘to examine’, ‘to discover’.
(32) A man who was carrying a letter of divorce from a husband to his wife.
(33) The letter of divorce after it had been lost for a time.
(34) Cf. infra 120b. טבעת ‘ring’.
(35) Cf. Rashi.
(36) B.M. 27b; provided he is able to identify the bag, or any of the other objects mentioned, as the original object to which the letter of divorce had been tied. Though the assumed validity of the document affects a Pentateuchal law (permitting a married woman to marry a stranger) it is nevertheless permitted to rely upon the identification marks, contrary to the implication of our Mishnah.
(37) Lit., ‘that’.
(38) Pesaro ed. and MSS. read ‘Eleazar’.
(39) Of course they do.
(40) R. Eliezer.
(41) Cf. B.M. 27a.,
(42) The first Tanna.
(43) Both the first Tanna as well as R. Eliezer.
(44) בן גילו, lit., ‘son of his circle’, (‘circle’ referring to the sphere of the zodiac). Persons born at the same hour of the day are assumed to be physically and morally subject to the same planetary influences for good and for evil.
(45) As the corpse and the man in question might have been such persons, all marks, other than those afforded by those of the full face, are no reliable proof of identity.
(46) R. Eliezer.
(47) A mole, therefore, is a valid identification mark.
(48) Cf. supra p. 849, n. 14.
(49) The first Tanna.
(50) Hence it cannot be regarded as a valid mark of identification.
(51) V. supra p. 849, n. 14.

Talmud - Mas. Yevamoth 120b

constitutes a distinct[1] identification mark[2] that they differ. One Master is of the opinion that it constitutes a distinct identification mark,[2] and the other Master is of the opinion that it does not constitute a distinct identification mark.

With reference to the version according to which Raba stated that ‘identification marks are valid Pentateuchally’ [the objection might be raised:] Surely it was taught, THOUGH THERE WERE

ALSO MARKS ON THE MAN'S BODY OR CLOTHING![3] — As to the BODY [the marks indicated by the witnesses were only that the corpse was] long or short;[4] and as to one's CLOTHING [no reliability can be placed upon their identification] since borrowing might be apprehended.[5] If, however, borrowing is to be apprehended how could we allow the return of an ass[6] on [the strength of] the identification marks of a saddle![7] — People do not borrow a saddle because it makes the back of the ass sore.[8] Where one 'found it tied to a bag, a purse or a seal-ring',[9] how do we allow its return![10] — As to a seal-ring one is afraid of forgery;[11] as to one's bag and purse, people are superstitious[12] and do not lend such objects.[13] And if you prefer I might say [that the identification marks of one's] CLOTHING [consisted in a statement] that they were white or red.[14]

EVEN THOUGH THE WITNESSES HAVE SEEN HIM WITH HIS ARTERIES CUT etc. This then implies that a man whose arteries have been cut may live; but this is inconsistent with the following: A person does not cause defilement[15] before his soul has departed, even though his arteries had been cut and even though he is in a dying condition.[16] [Thus it follows that] it is only defilement that he does not cause but that it is impossible for him to live![17] — Abaye replied: This is no difficulty. The one represents the view of[18] R. Simeon b. Eleazar; the other that of[18] the Rabbis. For it was taught: Evidence may be legally tendered on [the death of a person] whose arteries were cut,[19] but no such evidence may be tendered concerning one crucified. R. Simeon b. Eleazar ruled: No such evidence may be legally tendered even concerning one whose arteries were cut, because [the wounds] might be cauterized and [the man] may survive.[20] Can this,[21] however, be reconciled[22] with the views of R. Simeon b. Eleazar? Surely in the final clause[23] it was taught: It once happened at Asia that a man[24] was lowered into the sea and Only his leg was brought up,[25] and the Sages ruled: [If the recovered leg contained the part] above the knee [the man's wife] may marry again,[26] [but if it contained only the part] below the knee she may not remarry![27] — Waters are different since they irritate the wound.[28] But, surely, Rabbah b. Bar Hana related: I myself have seen an Arab merchant who took hold of a sword and cut open the arteries of his camel, but this did not cause it to cease its cry![29] — Abaye replied: That [camel] was a lean animal.[30]

Raba replied: [The operation was performed] with a glowing hot knife,[31] and this is in agreement with the opinion of all.[32]

OR BEING DEVOURED BY A WILD BEAST etc. Rab Judah stated In the name of Samuel: This has been taught only in the case [where the attack was] not on a vital organ,[33] but where it was on a vital organ, evidence may be legally tendered.

Rab Judah further stated in the name of Samuel: If a person whose two organs[34] or the greater part of them were cut[35] escaped, evidence [of his death] may be legally tendered.[36] But this cannot be! For, surely, Rab Judah stated in the name of Samuel: If a man whose two [organs][34] or the greater part of them were cut[35] indicated by gestures, 'Write a letter of divorce for my wife', [such document] is to be written and delivered [to his wife]![37] — He is alive[38] but will eventually die.[39] If this is so[40] one[41] should go into exile[42] on account of him; while, in fact,[43] it was taught: If a man cut [unwittingly] the two, or the greater part of the two [organs[44] of another man] he is not to go into exile! — Surely in connection with this it was stated that R. Hoshaia explained: The possibility must be taken into consideration that the wind might have aggravated the wound[45] or that he himself[46] also may

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(1) מובהק rt. בהק 'to shine', 'glisten'.

(2) And may consequently serve as proof even in pentateuchal prohibitions.

(3) If identification marks have pentateuchal validity these should have been regarded as reliable.

(4) Which cannot be regarded as reliable marks of identification.

(5) There is no proof that the dead man was wearing his own clothes. V. supra note 5.

(6) That was found.

(7) V. B.M. 27a.
(8) The saddle of one ass does not fit another. A saddle, therefore, is a proper mark of identification.
(9) Supra 120a.
(10) It is possible, surely, that the objects were borrowed from another man and that the document tied to them was not the lost original.
(11) Of the seal; and does not lend it to anyone. Hence it may justly be presumed to belong the person on whose body it is found.
(12) The lending of such an object is supposed to effect a transfer of the lender's luck to the borrower.
(13) Cf. supra n. 3.
(14) Many persons wear garments of red and white, and the colours therefore, cannot be regarded as a reliable mark of identification.
(15) As a corpse.
(16) Ohal. 1, 6.
(17) Which is contradictory to the implication in our Mishnah.
(18) Lit., ‘that’.
(19) The evidence being accepted as valid to enable the man's wife to remarry.
(20) Lit., ‘he is able to burn and to live’. Our Mishnah would thus represent the view of R. Simeon b. Eleazar.
(21) V. supra n. 8.
(22) Lit., ‘be set up’.
(23) V. infra 121a, the continuation of our Mishnah.
(24) A diver.
(25) L1t., ‘and it did not go up in their hands but his leg’.
(26) Since after the loss of so much of the limb the man cannot survive.
(27) Because a man may survive even in such circumstances. The drowning also cannot be regarded as a certainty since the waters may have thrown the body up on another shore where the man's life may have been saved. Now, if our Mishnah represents the view of R. Simeon b. Eleazar, remarriage should be forbidden even in the case where ‘the part above the knee’ was also torn away!
(28) And this makes survival in the first case (cf, supra n.2 final clause) impossible.
(29) Till the actual moment of death, which shows that even after the cutting of its arteries an animal may still live.
(30) And the wound was not deep.
(31) Which cauterized the wound.
(32) Since all agree that a cauterized wound is not fatal.
(33) Lit., ‘from a place from which his soul does not depart’.
(34) The oesophagus and the trachea.
(35) L1t., ‘he cut on him two or the greater part of two’.
(36) His wife being permitted to marry again. 621. 70b.
(37) Lit., ‘behold these shall write and give’; which shows that one in such a condition is still regarded as a living man. How, then, could it be said that Rab Judah in the name of Samuel accepted the legality of the evidence of death in similar circumstances!
(38) Hence the validity of his letter of divorce.
(39) And the evidence of his — death is consequently also valid.
(40) If eventual death is regarded as a certainty.
(41) The man who unwittingly inflicted the wounds mentioned.
(42) Cf. Deut. XIX, 2f
(43) Lit., ‘wherefore’.
(44) The oesophagus and the trachea.
(45) Or ‘made him senseless’ (cf. Jast.).
(46) By excessive struggling.

Talmud - Mas. Yevamoth 121a

have brought on his death,[1] What is the practical difference between these [two explanations]? —

The case where one cut [another man's organs] in a house of marble[2] and the latter made some convulsive movements,[3] or also where he cut his organs out of doors and the latter made no convulsive movements.[4]

R. JUDAH . . . SAID: NOT ALL etc. The question was raised: Does R. Judah b. Baba differ [from the first Tanna] in relaxing the law[5] or does he differ from him in imposing a greater restriction?[6] — Come and hear: A man was once drowned at Karmi and after three days he was hauled up at Be Hedya, and R. Dimi of Nehardea allowed his wife to remarry. And again, it happened that a man was drowned in the Tigris[7] and after five days he was hauled up to the Shebistana bridge[8] and, on the evidence of the shoshbinim,[9] Raba permitted his wife to marry again — Now, if you grant that he[10] differs [from the first Tanna] in relaxing the law, they[11] might well have acted in accordance with the ruling of R. Judah b. Baba. If you should contend, however, that he[10] differed in imposing a greater restriction, in accordance with whose view [it may be asked] did they[11] act? — Waters are different because they cause contraction.[12] But, surely, you said that ‘waters [are different since they] irritate the wound’! — That applies only where a wound exists, but where no wound exists waters cause contraction. This, furthermore, applies only where the witnesses saw the body as soon as it was brought up, but if it remains some time, it swells.[13]

MISHNAH. IF A MAN FELL INTO THE WATER, WHETHER IT HAD [A VISIBLE] END[14] OR NOT, HIS WIFE IS FORBIDDEN [TO MARRY AGAIN].[15] SAID R. MEIR: IT ONCE HAPPENED THAT A MAN FELL INTO A LARGE CISTERN AND ROSE TO THE SURFACE[16] AFTER THREE DAYS.[17] SAID R. JOSE: IT ONCE HAPPENED THAT A BLIND MAN DESCENDED INTO A CAVE.[18] TO PERFORM RITUAL ABLUTION WHILE HIS GUIDE WENT DOWN AFTER HIM; AND AFTER WAITING LONG ENOUGH FOR THEIR SOULS TO DEPART, PERMISSION WAS GIVEN TO THEIR WIVES TO MARRY AGAIN.[19] ANOTHER INCIDENT OCCURRED AT ASIA[20] WHERE A MAN WAS LOWERED INTO THE SEA, AND ONLY HIS LEG WAS BROUGHT UP,[21] AND THE SAGES RULED: [IF THE RECOVERED LEG CONTAINED THE PART] ABOVE THE KNEE [THE MAN'S WIFE] MAY MARRY AGAIN,[22] [BUT IF IT CONTAINED ONLY THE PART] BELOW THE KNEE, SHE MAY NOT MARRY AGAIN.[23]

GEMARA. Our Rabbis taught: If a man fell into water, whether it had [a visible] end[24] or not, his wife is forbidden [to marry again];[25] so R. Meir. But the Sages ruled: [If he fell into] water that has [a visible] end,[24] his wife is permitted [to marry again],[26] but [if into water] that has no [visible] end[27] his wife is forbidden [to marry again].[28]

What is to be understood by ‘has [a visible] end’? — Abaye replied: [An area all the boundaries of which] a person standing [on the edge] is able to see in all directions.[29]

Once a man was drowned in the swamp of Samki, and R. Shila permitted his wife to marry again. Said Rab to Samuel: ‘Come, let us place him under the ban’.[30] ‘Let us first’, [the other replied,] ‘send to [ask] him [for an explanation]’. On their sending to him the enquiry: ‘[If a man has fallen into] water which has no [visible] end. is his wife forbidden or permitted [to marry again]’? he sent to them [in reply], ‘His wife is forbidden’ — ‘And [they again enquired] is the swamp of Samki regarded as water that has [a visible] end or as water that has no [visible] end?’ — ‘It is’, he sent them his reply, ‘a water that has no [visible] end’. ‘Why then did the Master [they asked] act in such a manner?’[31] — ‘I was really mistaken’, [he replied]; ‘I was of the opinion that as the water was gathered and stationary it was to be regarded as "water which has [a visible] end", but the law is in fact not so; for owing to the prevailing waves it might well be assumed that the waves carried [the body] away’.[32] Samuel thereupon applied to Rab the Scriptural text, There shall no mischief befall the righteous,[33] while Rab applied to Samuel the following text: But in the multitude of counsellors there is safety.[34]

It was taught: Rabbi related how it once happened that while two men were casting nets in the Jordan one of them entered a subterranean fish pond[35] and when the sun had set he could not find the entrance of the cave. His companion, after waiting long enough for his soul to depart, returned and reported the accident to his household. On the following day when the sun rose [the first man] discovered the entrance of the cave, and on returning he found his household in deep mourning[36] ‘How great’, exclaimed Rabbi, ‘are the words of the Sages who ruled [that if a man fell into] water which has [a visible] end his wife is permitted [to marry again, but if into water] which has no [visible] end, his wife is forbidden’.If so,[37] then also in the case of water which has [a visible] end the possibility of having remained in a subterranean fish pond should be taken into consideration! — It is not usual for a subterranean fish pond to be found with water which has [a visible] end.[38]

R. Ashi said: The ruling of the Rabbis [that where a man has fallen into] water which has no [visible] end his wife is forbidden [to marry again]. applies only to an ordinary person but not to a learned man for, should he be rescued.[39] the fact would become known.[40] This, however, is not correct; for there is no difference between an ordinary man and a learned man. Ex post facto, the marriage[41] is valid; ab initio, it is forbidden.

It was taught: R. Gamaliel related, ‘I was once travelling on board a ship when l observed a shipwreck and was sorely grieved for [the apparent loss of] a scholar[42] who had been travelling on board that ship. (And who was he? — R. Akiba.) When I subsequently landed, he[43] came to me and sat down and discussed matters of halachah. "My son", I asked him, "who rescued you?" "The plank of a ship", he answered me, "came my way, and to every wave that approached me I bent my head" —[44] Hence the Sages said that if wicked persons attack a man let him bend his head to them.[45] At that hour I exclaimed: How significant are the words of the Stages who ruled [that if a man fell into] water which has [a visible] end, [his wife] is permitted [to marry again; but if into] water which has no [visible] end, she is forbidden’.

It was taught: R. Akiba related, ‘l was once travelling on board a ship when I observed a ship in distress,[46] and was much grieved on account of a scholar who was on it.(And who was it? — R. Meir.) When l subsequently landed in the province of Cappadocia[47] he came to me and sat down and discussed matters of halachah. "My son", l said to him, "who rescued you?" — "One wave" he answered me, "tossed me to another, and the other to yet another until [the sea] cast me[48] on the dry land". At that hour I exclaimed: How significant are the words of the Sages who ruled [that if a man fell into] water which has [a visible] end, [his wife] is permitted [to marry again; but if into] water which has no [visible] end, she is forbidden’. Our Rabbis taught: If a man fell into a lion's den, no evidence[49] may be legally tendered concerning him;[50] but if into a pit full of serpents and scorpions, evidence[49] may legally be tendered concerning him.[50] R. Judah b. Bathyra ruled: Even [if he fell] into a pit full of serpents and scorpions, no evidence[49] may legally be tendered concerning him,[50] since the possibility must be taken into consideration

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(1) So that the man who inflicted the wounds was not the direct cause of death. Hence he is not to be exiled, though the wife of the victim may well be allowed to marry again on the evidence of the infliction of such mortal wounds.

(2) Where no wind can penetrate.

(3) According to the first explanation. since no aggravation could have resulted from wind, the offender must be condemned to exile. According to the second explanation he is exonerated, since it is possible that the convulsive movements of the victim brought on his death.

(4) Aggravation by wind is possible, while the bringing on of death by the victim himself cannot be assumed.

(5) While the first Tanna requires the evidence to be based on an examination of the corpse within three days of death, R. Judah allows it, in certain circumstances, even after three days.

(6) Disregarding the evidence under certain conditions even within three days.

(7) דיגלת, Heb הדקל cf. Targum on Gen. II, 14.

(8) [The bridge on the Southern Tigris connecting the great trading route between Khuzistan and Babylon during the persian period; v. Obermeyer pp. 68ff].

(9) Pl. of shoshbin, groomsman'. The shoshbin acted as best men or companions of the groom, to whom they also brought wedding gifts (shoshbinuth).

(10) R. Judah b. Baba.

(11) R. Dimi and Raba.

(12) Of the corpse, the decay of which consequently sets in later than in the case of a corpse on dry land. Hence it is possible in such circumstances to identify a person even after three days from the time of his death.

(13) And changes appearance.

(14) This is explained by Abaye infra.

(15) It being possible that the man was thrown up by the water after a day or two; and that he was restored to life. V. infra n. 8.

(16) Lit., ‘and he went up’.

(17) In R. Meir's opinion it is possible for one to live in water for a day or two; and the first clause of our Mishnah is in agreement with this view.

(18) l.e., to waters ‘that had a visible end’ (cf. supra note 5).

(19) R. Jose is of the opinion that no human being can survive so long (v. p. 854, n. 8) in water, and death may, therefore, be regarded as a certainty. In the case of water ‘that has no visible end’, however, he agrees with R. Meir, since it is possible that the body was thrown up on a distant shore where it was restored to life.

(20) V. Sanh., Sonc. ed. p. 151, n. 1.

(21) V. supra p. 851, n. 17.

(22) V. p. 852, n. 1.

(23) V. p. 852, 11. 2.

(24) This is explained by Abaye infra.

(25) V. p. 854, n. 6.

(26) It being assumed that the man was not rescued from the water. Any rescue, had it been effected, since all the shores are visible, would have been observed from the point where the drowning occurred.

(27) This is explained by Abaye infra.

(28) Since the man might have been rescued on another shore which was not visible from the point where the drowning occurred.

(29) Lit., ‘four winds’. A person observing a drowning accident would not depart as long as there was any hope of rescue, and, as all the shores were visible and no rescue was observed, it may be regarded as a certainty that the drowned man was dead, and his wife may, therefore, be permitted to marry again.

(30) For permitting a married woman to remarry.

(31) V. p.855 n. 12.

(32) Lit.. ‘they lowered’, and the man was rescued.

(33) Prov. XII, 21. Rab was spared the injustice of placing the innocent R. Shila under the ban.

(34) lbid. Xl, 24. The counsel of Samuel saved Rab from a wrong action.

(35) [Constructed on the shore to retain the fish washed into it by the overflowing river].

(36) Lit ‘a great mourning in his house’.

(37) If such an incident as that related by Rabbi is possible.

(38) [There is not sufficient fish to warrant the construction of a pond (Me'iri)].

(39) Lit., ‘that he went up’

(40) Lit, ‘he has a voice’.

(41) Of his wife to another man.

(42) Talmud Hakam, v. Glos.

(43) R. Akiba.

(44) Thus avoiding its force.

(45) Cf. supra n. 6

(46) Lit., ‘that was tossed in the sea’.

(47) Gr.** in Asia Minor.

(48) lit., ‘vomited me out’.

(49) That he is dead.
(50) To enable his wife to marry again.

Talmud - Mas. Yevamoth 121b

that he might be a charmer.[1] But the first Tanna?[2] — Owing to the pressure[3] they[4] injure him.[5]

Our Rabbis taught: [If a man] fell into a burning furnace, evidence may be legally tendered concerning him, [and also if he fell] into a boiler that was full of [boiling][6] wine or oil, evidence may be legally tendered concerning him. In the name of R. Aha It was stated: [If the man fell into a hot boiler] of oil, evidence may legally be tendered concerning him, because it[7] adds fuel to the fire;[8] [but if into one] of wine, no evidence may legally be tendered concerning him, because it[9] extinguishes [the fire].[10] They,[11] however, said to him: At first it[9] extinguishes [the fire to a certain extent] but eventually it causes it to burn [with greater vehemence].[12]

SAID R. MEIR: IT ONCE HAPPENED THAT A MAN FELL INTO A LARGE CISTERN etc. It was taught: They said to R. Meir, ‘Miracles cannot be mentioned [as proof]’.[13] What [did they mean by] ‘miracles’?[14] If it be suggested because he neither eats nor drinks, surely [it may be pointed out], It is written in Scripture, And fast ye for me, and neither eat nor drink [three days]![15] — Rather because he does not sleep. For R. Johanan stated: [A man who said]. ‘I take an oath that I will not sleep for three days’ is to be flogged[16] and he may sleep at once.[17] What then is R. Meir's reason?[18] — R. Kahana replied: There were[19] arches above arches.[20] And the Rabbis?[21] — They[22] were of marble.[23]

And R. Meir? — It is hardly possible that the man did not hang[24] on to [the arches] and doze a while.

Our Rabbis taught: It once happened that the daughter of Nehonia the well[25] -digger[26] fell into a large cistern, and people went and reported [the accident] to R. Hanina b. Dosa.[27] During the first hour he said to them, ‘All is well’.[28] In the second hour he again said, ‘All is well’.[28] In the third he said to them, ‘She is saved’.[29] ‘My daughter’, he asked her, ‘who saved you?’ — ‘A ram[30] came to my help[31] with an aged man[32] leading it’. ‘Are you’, the people asked him, ‘a prophet?’ — ‘I am’, he replied, ‘neither prophet nor the Son of a prophet; but should the [beneficent] work in which the righteous is engaged[33] be the cause of disaster[34] to his seed!’ R. Abba stated: His[35] son nevertheless died of thirst; for it is said in Scripture, And round about Him it stormeth mightily,[36] which teaches that the Holy One, blessed be He, deals strictly with those round about Him even to a hair's[37] breadth. R. Hanina said, [Proof[38] may be adduced] from here: A God dreaded in the great council of the holy ones, and feared of all them that are round about Him.[39]

MISHNAH. EVEN [A MAN ONLY] HEARD WOMEN SAYING, ‘SO-AND-SO IS DEAD’, THIS SHOULD SUFFICE FOR HIM.[40] R. JUDAH SAID: EVEN IF HE ONLY HEARD CHILDREN SAY, ‘BEHOLD WE ARE GOING TO MOURN FOR A MAN NAMED SO-AND-SO AND TO BURY HIM’ [IT IS SUFFICIENT].[40] WHETHER [SUCH STATEMENT WAS MADE] WITH THE INTENTION [OF TENDERING EVIDENCE] OR WAS MADE WITH NO SUCH INTENTION [IT IS VALID]. R. JUDAH B. BABA SAID: WITH AN ISRAELITE [THE EVIDENCE IS VALID] EVEN IF THE MAN HAD THE INTENTION [OF ACTING AS WITNESS]. IN THE CASE OF AN IDOLATER, HOWEVER, THE EVIDENCE IS INVALID IF HIS INTENTION WAS [TO ACT AS WITNESS].

GEMARA. Is it not possible that they[41] did not go?[42] — Rab Judah replied in the name of Samuel: [Our Mishnah deals with a case] where they[41] Say, ‘Behold we are returning from the mourning for, and the burial of So-and-so’.Is it not possible that a mere ant[43] had died and that the children gave it the man's name?[44] — [It is a case] where they[45] say, ‘Such and such Rabbis were there’ or ‘such and such funeral orators were there’.

IN THE CASE OF AN IDOLATER, HOWEVER . . . IF HIS INTENTION WAS etc. Said Rab Judah in the name of Samuel: This[46] was taught only in the case where it was his[47] intention to enable [the woman] to be permitted,[48] but if his intention was merely to give evidence his testimony is valid. How could this[49] be ascertained? — R. Joseph replied: If he came to Beth din and stated. ‘So-and-so is dead, allow his wife to marry again’, such evidence is one where his intention was to enable [the woman] to be permitted,[48] [but if he stated], ‘He is dead’, and nothing more, his intention was merely to give evidence.

So It was also stated:[50] Resh Lakish said, This[46] was taught only in the case where it was his intention to enable [the woman] to be permitted,[48] but if his intention was merely to give evidence his testimony is valid.

Said R. Johanan to him:[51] Did it not happen with Oshaia Berabbi,[52] that he opposed[53] eighty-five elders saying to them that, ‘This[46] was taught Only in the case where it was his intention to enable [the woman] to be permitted[48] but if his intention was merely to give evidence his testimony is valid’, but the Sages did not agree with him![54]

But according to the ruling in our Mishnah, that[55] IN THE CASE OF AN IDOLATER, HOWEVER, THE EVIDENCE IS INVALID IF HIS INTENTION WAS [TO ACT AS WITNESS],[56] how is it possible [for the idolater's testimony ever to be accepted]?[57] — Where he makes a statement at random;[58] as was the case where one went about saying, ‘Who of the family of Hiwai is here? Who is here of the family of Hiwai? Hiwai is dead!’, and R. Joseph allowed his[59] wife to marry again.

A man[60] once went about saying, ‘Alas for the valiant rider who was at Pumbeditha, for he is dead’; and R. Joseph, or it might be said, Raba, allowed his wife to marry again.

A man once went about saying, ‘Who of the family of Hasa is here? Hasa is drowned!’ [On hearing this] R. Nahman exclaimed, ‘By God, the fish must have eaten Hasa up!’ Relying on R. Nahman's exclamation, Hasa's wife went and married again, and no objection was raised against her action.[61]

Said R. Ashi: From this[62] it may be inferred that the ruling of the Rabbis[63] that [if a man had fallen into] water which had no [visible] end, his wife is forbidden [to marry again] applies only ab initio, but if someone had already married her, she is not to be taken away from him.

Others read: R. Nahman allowed his[64] wife to marry again; for he said, ‘Hasa was a great man, and had he come up [out of the water] his rescue would have become known’. The law, however, is not so. For there is no difference between a great man and one who is not great — [In either case] it is permitted[65] ex post facto and forbidden[66] ab initio.

A certain idolater ‘once said to an Israelite, ‘Cut some grass[67] and throw it to my cattle on the Sabbath; if not, I will kill you as I have killed So-and-so, that son of an Israelite, to whom I said, "Cook for me a dish on the Sabbath", and whom, as he did not cook for me, I killed’. His wife[68] heard this and came to Abaye.[69] As he kept her waiting

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(1) Tosef. Yeb. XIV.

(2) Why, in view of R. Judah b. Bathyra's reason, does he admit evidence of death in the latter case?

(3) Of the falling body.

(4) The serpents and scorpions.

(5) In a lion's den, however, there is much more space, and the body might sometimes fall to one side and the animals, if they happened to be full, would leave it untouched.

(6) Standing over the fire.

(7) The oil when, owing to the fall of the body, it flows over the sides of the boiler into the fire beneath it.

(8) Lit., ‘it causes to burn’.

(9) The wine (cf. supra n. 9).

(10) And, owing to the cooling caused by the liquid, the man might be saved from actual death.

(11) The Rabbis, represented by the view of the first Tanna.

(12) Hence the ruling that evidence of death may be accepted in the case of a fall into a hot boiler whether the contents be oil or wine.

(13) In the natural course of events the man could not survive long in a cistern. If his death were not caused by the water, some other causes would inevitably bring it about. V. infra.

(14) I.e., why should not the man be able to survive if he could keep his head above the water?

(15) Esth. IV, 16, which shews that it is possible to live for a considerable time without food or drink.

(16) Malkoth (v. Glos.); for taking a false oath, It is impossible for a human being to live for three days without sleep.

(17) In three days’ time, accordingly, a man who had fallen into a cistern would inevitably succumb to fatigue and the physical necessity for sleep, and would in the natural course of events be drowned.

(18) If no one can withstand the necessity for sleep. why does not R. Meir, in the circumstances mentioned, admit the evidence?

(19) In the cistern mentioned in our Mishnah.

(20) Where the man might have slept in comparative safety.

(21) Why do they, in such circumstances, admit the evidence?

(22) The arches.

(23) Too slippery for anyone to sleep upon them in safety.

(24) מסריך rt.סרך’to clutch’, ‘to twist’.

(25) שחין’wells’ or ‘ditches’. Cf. Rashi and Jast.

(26) He was engaged In the benevolent occupation of digging wells for the benefit of the pilgrims to Jerusalem who visited the Temple on the occasion of the three major Festivals of the year. The ordinary wells did not suffice for the large influx of men and cattle on these festive occasions.

(27) Famous for his miraculous powers of cure and rescue through the efficacy of his prayers. Cf. Ber. 34b, Ta'an. 24b. V. B.K., Sonc. ed. p. 287, n. 11.

(28) שלום, lit., ‘peace’.

(29) Lit., ‘she went up’.

(30) Lit., ‘a male of ewes’. — The ram of Isaac (Rashi).

(31) Lit., ‘was appointed for me’.

(32) Abraham (Rashi).

(33) Well-digging. V. supra p. 859, n. 13.

(34) Lit., ‘shall stumble’, ‘come to grief’.

(35) Nehonia's.

(36) P5. L, 3, stormeth =נשערה rt. שער ‘hair’. V. next note.

(37) Lit., ‘like a thread of a hair’, כחוט השערה (v. supra n. 4).

(38) Of God's strict dealing with the righteous.

(39) Ps. LXXXIX, 8; cf. parallel passage B.K. 50a.

(40) To tender evidence of death, and to enable the widow to marry again.

(41) The children spoken of in our Mishnah.

(42) To carry out what they said they were going to do, and that the man in question was in fact not dead. How then could such unreliable evidence be acted upon!

(43) Or ‘locust’.

(44) For fun. Cf. supra n. 10.

(45) The children spoken of in our Mishnah.

(46) That the evidence is invalid.

(47) The idolater's.
(48) To marry again.
(49) The motive of the witness.
(50) By Amoraim.
(51) Resh Lakish.
(52) Cf. n. on ברבי supra 105b.
(53) שהתרים, so Aruk and Beth Joseph in Eben ha-Ezer XVII. Cur. edd., ‘he permitted them with’.
(54) Maintaining that even in the latter case the evidence is invalid.
(55) Lit., ‘our Mishnah wherein it was taught’.
(56) From which it follows that if his Intention was not to act as witness his testimony is accepted.
(57) How can one make a statement the object of which is not even to affirm (i.e., to give evidence) that a certain thing had happened, and such a statement nevertheless be accepted as legally reliable?
(58) מסיח לפי תומו lit., ‘speaks according to his innocence’; he is merely reporting what he had seen.
(59) Hiwa's.
(60) An idolater.
(61) Lit., ‘and they did not say anything to her’.
(62) The acquiescence in the action of Hasa's wife.
(63) Lit., ‘that which the Rabbis said’.
(64) Hasa's
(65) Lit., ‘yes’.
(66) Lit., ‘not’.
(67) אספסתא, grass used as fodder for cattle.
(68) The wife of the Israelite whom the idolater claimed to have killed.
(69) To obtain his ruling as to whether she may marry again.

for three festivals,[1] R. Adda b. Ahabah said to her, 'Apply[2] to R. Joseph, whose knife is sharp'.[3] When she came to him he decided[4] [her case by deduction] from the following Baraitha:[5] If an idolater who was selling fruit in the market declared, 'These fruits are of 'orlah,[6] of a newly broken field,[7] or of a plantation in its fourth year',[8] his statement is disregarded,[9] for his intention was merely to raise the value[10] of his fruit.[11]

Abba Judah of Zaidan[12] related: It once happened that an Israelite and an idolater went on a journey together and when the idolater returned he said, 'Alas for the Jew who was with me on the journey, for he died on the way and I buried him', and [the Israelite's] wife [on this evidence] was allowed to marry again. And, again it happened that a group[13] of men were going to Antiochia[14] and an idolater came and stated, 'Alas for that group[13] of men, for they died and I buried them', and [on this evidence] their wives were permitted to marry again. Moreover, it happened that sixty men were going to the camp[15] of Bether,[16] and an idolater came and stated, 'Alas for sixty men who were on the way to Bether, for they died and I buried them', and [on the basis of this statement] their wives were permitted to marry again.

MISHNAH. EVIDENCE[17] MAY BE TENDERED [EVEN IF THE CORPSE WAS SEEN BY THE WITNESSES] IN CANDLE LIGHT OR IN MOONLIGHT; AND A WOMAN MAY BE GIVEN PERMISSION TO MARRY AGAIN ON THE EVIDENCE OF A MERE VOICE.[18] IT ONCE HAPPENED THAT A MAN WAS STANDING ON THE TOP OF A HILL AND CRIED, SO-AND-SO SON OF SO-AND-SO OF SUCH-AND-SUCH A PLACE IS DEAD', BUT WHEN THEY WENT [TO THE TOP OF THE HILL] THEY FOUND NO ONE THERE. HIS WIFE, HOWEVER, WAS PERMITTED TO REMARRY.[19] AGAIN, IT HAPPENED AT ZALMON[20] THAT A MAN DECLARED, 'I AM SO-AND-SO SON OF SO-AND-SO; A SERPENT HAS BITTEN ME, AND I AM DYING'; AND THOUGH WHEN THEY WENT [TO EXAMINE THE CORPSE] THEY DID NOT RECOGNIZE HIM, THEY NEVERTHELESS PERMITTED HIS WIFE TO REMARRY.

GEMARA. Rabbah b. Samuel stated: A Tanna taught that Beth Shammai ruled that a woman may not be permitted to marry again on the evidence of a mere voice[19] and Beth Hillel ruled that she may be permitted to marry again on the evidence of a mere voice.[21] What does he[22] teach us?[23] This,[24] surely, is the ruling in our Mishnah![25] — It is this that he teaches us: Should an anonymous statement be found that a woman [in such circumstances] is not permitted to marry again, that [statement would represent the view of] Beth Shammai.

BUT WHEN THEY WENT . . . THEY FOUND NO ONE. Is it not possible that it was a demon [that cried]?[26] — Rab Judah replied in the name of Rab: [This is a case] where they[27] saw in him the likeness of a man! But they[28] also are in the likeness of men! — They[27] saw his shadow. But these[28] also have a shadow! They[29] saw a shadow of his shadow. Is it not possible that these[28] also cast a shadow of a shadow? — R. Hanina replied: The demon Jonathan[29] told me that they[28] have a shadow but not a shadow of a shadow. Is it not possible that it was a rival [that cried]?[30] — A Tanna at the school of R. Ishmael taught that at a time of danger[31] [a letter of divorce] may be written and delivered [to the woman][32] even if [the husband who gave the instructions][33] is unknown [to the witnesses].[34]

MISHNAH. R. AKIBA STATED: WHEN I WENT DOWN TO NEHARDEA TO INTERCALATE[35] THE YEAR, I MET NEHEMIAH OF BETH DELI[36] WHO SAID TO ME, 'I HEARD THAT IN THE LAND OF ISRAEL NO ONE, WITH THE EXCEPTION OF R.[37] JUDAH B. BABA, PERMITS A [MARRIED] WOMAN TO MARRY AGAIN ON THE EVIDENCE OF ONE WITNESS'. 'THAT IS SO', I TOLD HIM. TELL THEM', HE SAID TO ME, 'IN MY

NAME: (YOU KNOW THAT THIS COUNTRY[38] IS IN CONFUSION BY REASON OF RAIDERs);[39] I HAVE THIS[40] TRADITION FROM R. GAMALIEL THE ELDER: THAT A [MARRIED] WOMAN MAY BE ALLOWED TO MARRY AGAIN ON THE EVIDENCE OF ONE WITNESS'.[41] AND WHEN I CAME AND RECOUNTED THE CONVERSATION IN THE PRESENCE OF R. GAMALIEL[42] HE REJOICED AT MY INFORMATION AND EXCLAIMED, 'WE HAVE FOUND A COLLEAGUE[43] FOR R. JUDAH B. BABA!' AS A RESULT OF THIS TALK[44] R. GAMALIEL RECOLLECTED THAT SOME MEN WERE ONCE KILLED AT TEL ARZA,[45] AND THAT R. GAMALIEL [THE ELDER] HAD ALLOWED THEIR WIVES TO MARRY AGAIN ON THE EVIDENCE OF ONE WITNESS.[46] AND THE LAW WAS ESTABLISHED THAT [A WOMAN] SHALL BE ALLOWED TO MARRY AGAIN [ON THE EVIDENCE OF ONE] WITNESS [WHO STATES THAT HE HAS HEARD THE REPORT] FROM[47] ANOTHER WITNESS, FROM[47] A SLAVE, FROM[47] A WOMAN OR FROM[47] A BONDWOMAN. R. ELIEZER AND R. JOSHUA RULED: A WOMAN MAY NOT BE ALLOWED TO MARRY AGAIN ON THE EVIDENCE OF ONE WITNESS.[48] R. AKIBA RULED: [A WOMAN IS NOT ALLOWED TO MARRY AGAIN] ON THE EVIDENCE OF[49] A WOMAN, ON THAT OF[50] A SLAVE, ON THAT[50] OF A BONDWOMAN OR ON THAT OF RELATIVES.

GEMARA. Is R. Akiba then[51] of the opinion that on the evidence of[50] a woman,[52] [a wife is] not [permitted to marry again]? Surely, It was taught: R. Simeon b. Eleazar stated in the name of R. Akiba, '[That] a woman is eligible[53] to bring her own letter of divorce[54] is Inferred a minori ad majus: If those women concerning whom the Rabbis ruled that they[55] are not believed when they state, "Her husband[56] is dead"[57] are nevertheless eligible[53] to bring[58] her a letter of divorce,[59] how much more reasonable is it that this woman, who is believed when she states that her own husband is dead, should be eligible[53] to bring her own letter of divorce.' [Thus it follows that only] those women of whom the Rabbis have spoken[57] are not believed[60] but any other[61] woman is believed![62] — This is no difficulty. One ruling[63] was made[64] before the law,[65] had been established; the other,[64] after the law[65] had been established.

MISHNAH. THEY[66] SAID TO HIM:[67] 'IT ONCE HAPPENED THAT A NUMBER OF LEVITES WENT TO ZOAR,[68] THE CITY OF PALMS, AND ONE OF THEM WHO FELL. ILL WAS TAKEN BY THEM INTO AN INN. WHEN THEY RETURNED THEY ASKED THE INNKEEPER[69] WHERE IS OUR FRIEND?" AND SHE REPLIED, HE IS DEAD AND i BURIED HIM". [AND IT WAS ON THIS EVIDENCE THAT] HIS WIFE WAS PERMITTED TO MARRY AGAIN. SHOULD NOT THEN A PRIEST'S WIFE[70] [BE BELIEVED AT LEAST AS MUCH] AS THE INNKEEPER!'[71] HE ANSWERED THEM, WHEN SHE WILL BE [GIVING SUCH EVIDENCE] AS THE INNKEEPER SHE WILL BE BELIEVED. THE INNKEEPER [AS A MATTER OF FACT] HAD BROUGHT OUT TO THEM HIS[72] STAFF, HIS BAG[73] AND THE SCROLL OF THE LAW WHICH HE HAD WITH HIM.[74]

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(1) ריגלי, when the scholars and students who were assembled for the purpose of listening to the festival discourses, were also asked to decide difficult points of law that had arisen during the preceding months. During these gatherings the woman had an opportunity of making enquiries about her vanished husband. According to תשובות בגאונים cited by Rashi, the ריגלי were the anniversaries of the deaths of distinguished men, when scholars from the surrounding localities as well as the general public assembled round the respective graves for study and for discussions of matters of law.

(2) Lit., 'go before'.

(3) Metaph., he is capable of acute logical reasoning and deduction. Cf. Rashi, Hul 77a.

(4) Lit., 'solved'.

(5) Cur. edd., 'Mishnah'.

(6) ערלה (v. Glos.). which are forbidden for consumption, though they may be superior in quality to those which come from old trees.

(7) עזיקה (cf. Jast. s.v.עזקה and Me'iri a.l.); such fruits being forbidden on the Sabbatical year though they may be of a high quality (v. previous note). ‘Azeka may have been, according to Rashi (a.l. s.v.לא אמר כלום) a town in Judaea (cf. Josh. X, 10), that was famous for its choice fruit, the point in doubt being whether the fruit had originally belonged to an Israelite and whether It had been tithed. If this interpretation is to be followed the sale of the fruit mentioned presumably took place outside Palestine, where locally grown produce is free from tithe. For other interpretations cf. Tosaf. a.l. s.v. *של and Levy, s.v.עזק

(8) נטע רבעי which is holy for gibing praise unto the Lord (Lev. XIX, 24), forbidden to be consumed though they may be of a superior quality. Cf. supra note 5.

(9) Lit., ‘he did not say anything’.

(10) להשביח, lit., ‘to improve’.

(11) Tosef. Dem. IV. Lit ‘purchase’. It is assumed that he merely lied, in order to praise his fruit, so that it might fetch a higher price. Similarly in the case under consideration, the idolater's statement that he killed the Israelite is regarded as an idle boast intended as a mere threat.

(12) The Biblical ציון Sidon, on the Western coast of Phoenicia, [or, Bethsaida in Galilee].

(13) קולר lit., ‘chain’.

(14) Gr.’** Antioch, on the Orontes in Syria; or Antiochene, the region round Antioch.

(15) כרכום, a battleground, cf. castra.

(16) The town where in 135 C.E. Bar Kokeba fought his last battle against the Romans.

(17) That a man is dead.

(18) בת קול., ‘daughter of the voice’, ‘echo’, even if the person who uttered it was not seen, as in the case given infra.

(19) Cf. supra n. 4.

(20) [Identified with Selamin (Selame) in Galilee (v. Josephus Wars II, 20, 6), the modern Hirbet Selame, N.E of the El Battauf valley 20 km from Sepphoris, v. Klein S, MGWJ, 1927, p. 266].

(21) Tosef. Naz. I.

(22) Rabbah b. Samuel.

(23) By his statement that according to Beth Hillel, whose ruling is accepted as the established law, a mere voice is sufficient evidence.

(24) That such evidence is accepted.

(25) Which, being anonymous, is regarded as the established law.

(26) [Demons were believed to deceive men, causing divorces and other evils; v. Angus the Religious Quests of the Graeco-Roman World, p. 38; cf. Git. 66a].

(27) Who heard the voice.

(28) Demons.

(29) [Name of (a) a demon; (b) a man (Rashi). MS. M. and Git. 66a have, ‘Jonathan my son’].

(30) Whom the man had married in another town, and who came for the specific purpose of misleading the woman to marry another man so that she might thereby become forbidden to her present husband. A rival is usually suspected of malice against her associate.

(31) When a man, for instance, was cast into a pit and his fate is in the balance.

(32) In order to release her thereby from perpetual doubt as to the ultimate fate of her husband and from the perpetual prohibition of marrying again.

(33) Calling them out, in the case presumed, from the bottom of the pit.

(34) Who have to execute the mission, v. Git. 66a. Similarly in the case dealt with in our Mishnah. Were not the voice to be relied upon the woman might have to remain all her life bereft of her own husband and unable ever to marry another man.

(35) To add another month. The Hebrew leap year contains thirteen, instead of the usual twelve months.

(36) [Dili, a village in Galilee, Horowitz, I, Palestine, p. 131].

(37) Wanting in cur. edd. Cf., however 115a and infra.

(38) Palestine.

(39) So that it is unsafe for one to undertake a journey to Palestine and to report the traditional ruling that follows, [or, in view of the unsettled conditions, it is difficult to obtain in every case two reliable witnesses].

(40) V. Bah.

(41) Who testifies that her husband is dead.
(42) Of Yabneh, a grandson of R. Gamaliel the Elder.
(43) One who is of the same opinion as he.
(44) Lit., ‘from the midst of the thing’.
(45) תל ארזא(lit., ‘cedar hill’). It is probably identical with the Biblical תל חרשא mentioned in Ezra II, 59 and Neh. VII, 61 for which the Septuagint reads,Gr.**.
(46) Who testified that their husbands were dead. [Some texts add: ‘And the law was established that (a woman) shall be allowed to marry on the evidence if one witness’].
(47) Lit , ‘from the mouth of’.
(48) Cf. supra n. 11.
(49) Lit., ‘by the mouth of’.
(50) Lit., ‘by the mouth of’.
(51) As is evident from the final clause of our Mishnah.
(52) Cf. p. 866, n. 11.
(53) Lit., ‘believed’.
(54) From a foreign country, though she, like any other messenger who brings a letter of divorce from foreign parts, would have to make the declaration that the document was written and signed in her presence.
(55) Being suspected of hatred towards the woman in whose favour they pretend to give their evidence.
(56) The husband of the woman whom they are suspected of hating.
(57) Supra 117a.
(58) Cf. supra note 5.
(59) Lit., ‘their letters of divorce’, i.e., any such letters wherewith they might have been entrusted. V. Git. 23b.
(60) V. supra note 6.
(61) Lit., ‘in the world’.
(62) How, then, could it be implied that R. Akiba does not allow the evidence of any woman who testifies to the death of another woman's husband?
(63) Of R. Akiba.
(64) Lit., ‘here’.
(65) That a woman's evidence on a man's death shall be relied upon in permitting that man's wife to marry again.
(66) The Rabbis.
(67) R. Akiba. V. previous Mishnah.
(68) On the East or S.E. of the Dead Sea. Zoar is mentioned several times in the Bible. Cf., e.g., Gel. XIV, 2, 8 and XIX, 22.
(69) פונדקית (fem.) ‘woman innkeeper’.
(70) כהנת V. n. 3.
(71) I.e., since a woman's evidence is ineligible, even that of a priest's wife would be ineligible. Is it then conceivable that the latter should be regarded as less trustworthy than an innkeeper! כהנת might perhaps be rendered ‘princess’, ‘lady’ as כהן is interpreted by the Targumim (cf. e.g., Gen. XLI, 45, ps. CX, 4) as רבא ‘great man’, ‘prince’. ‘Should not the lady enjoy the status of the innkeeper!’ Another interpretation applies כהנת to all Jewish women since any of them might become a כהנת by marrying a priest. Cf. Golds.
(72) The dead man's.
(73) [Some texts add, ‘his shoes’].
(74) It was on this proof, and not on the evidence of the innkeeper, that they acted.

Talmud - Mas. Yevamoth 122b

GEMARA. What was the inferiority of the innkeeper?[1] R. Kahana replied: She was an innkeeper who was an idolatress and she said at random,[2] ‘This is his staff, and this is his bag and this is the grave wherein I buried him’. So it was also recited by Abba the son of R. Manyumi b. Hiyya: She was an innkeeper who was an idolatress and she said at random,[2] ‘This is his staff, and this is his bag and this is the grave wherein I buried him’. But, surely, they had asked her, ‘Where is our friend?’[3] — When she saw them she began to cry, and when they asked her, ‘Where is our friend?’ she replied, ‘He died and l buried him’,[4]

Our Rabbis taught: It once occurred that a man came to give evidence on behalf of a woman[5] before R. Tarfon. ‘My son’, [the Master] said to him, ‘what[6] do you know concerning the evidence for this woman?’ — ‘I and he’, the other replied, ‘were going on the same road and when a raiding gang pursued us he grasped[7] the branch of an olive tree, pulled it down, and made the gang turn back. "Lion", I said to him, "I thank you".[8] "Whence did you know [he asked] that my name was Lion? So in fact I am called in my home town: Johanan son of R. Jonathan, the Lion of Kefar Shihaya",[9] and after some time he fell ill and died’. And [on this evidence] R. Tarfon permitted his[10] wife to marry again.

Does not R. Tarfon, however, hold that inquiry and examination[11] are necessary? Surely it was taught: It once happened that a man came before R. Tarfon to give evidence on behalf of a woman.[5] My son’, he said to him, ‘What[6] do you know concerning this evidence?’ ‘I and he’, the other replied, ‘were going on the same road, and when a raiding gang pursued us he grasped the branch of a fig tree, pulled it down, and drove[12] the gang back. "I thank you,[13] Lion", I said to him, and he replied, "You have correctly guessed my name, for so I am called in my home town: Johanan son of Jonathan, the Lion of Kefar Shihaya", and after some time he died’. The Master said to him: Did you not tell me thus, ‘Johanan son of Jonathan of Kefar Shihaya the Lion’?[14] — ‘No’, the other replied, ‘but it is this that I told you: Johanan son of Jonathan, the Lion of Kefar Shihaya’. Having examined him closely[15] two or three times and the man's replies invariably agreeing, R. Tarfon permitted his[16] wife to marry again![17] — This [is a point in dispute between] Tannaim. For it was taught: Witnesses on matrimonial matters[18] are not to be subjected[19] to enquiry and examination.[20] These are the words of R. Akiba;[21] R. Tarfon, however, ruled: They are to be subjected.[22] And they[23] differ [in respect of a ruling] of R. Hanina. For R. Hanina stated: Pentateuchally both monetary, and capital cases must be conducted with enquiry and examination,[20] for it is said, Ye shall have one manner of law,[24] what then is the reason why they have ordained that monetary cases do not require enquiry and examination?[20] In order that you should not lock the door in the face of borrowers —[25] And it is on this principle that[26] they[23] differ: One Master is of the opinion that since the woman has[27] a kethubah to receive[28] [such cases[29] are] on a par with those of monetary matters,[30] while the other Master is of the opinion that since we are thereby permitting a married woman to marry a stranger[31] [such cases[32] are] on a par with capital cases.[33]

R.Eleazar said in the name of R. Hanna: Scholars[34] increase peace in the world, for it is said in the Scriptures, And all thy children shall be to taught of the Lord; and great shall be the peace of thy children.[35]

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(1) Implied by the argument of the Sages, ‘SHOULD NOT THEN A PRIEST'S WIFE etc.’

(2) V. supra p. 861, n. 14.

(3) How then could it be said that she spoke at random?

(4) It was thus obvious that she had no ulterior motive in making her statement and that she was merely answering their enquiry. Such evidence may be regarded as given in all innocence (cf. supra p. 861, n. 14) and may be relied upon.

(5) Testifying that her husband was dead.

(6) Lit., ‘how’.

(7) Lit., ‘and suspended himself’.

(8) יישר כחך lit., ‘may thy strength be right (or firm)’.

(9) [שיהיא, Klein S. (v. E.J. Col. 1139) reads שיהליא Kefar Shihlayim, a village in ldumacea, Saallis (Chaalis) mentioned in Joseph. Wars III, 2.2].

(10) The dead man's.

(11) דרישה וחקירה. Cf. Deut. XIII, 15: Then shalt thou inquire and make search (ודרשת וחקרת). Before the evidence is accepted, witnesses are to be questioned and cross-examined as to the day, hour, and attendant circumstances, in order to test thereby the veracity of their statements. V. Sanh. 32a and 40a.

(12) Lit., ‘and caused to return’.

(13) V. supra note 4.

(14) R. Tarfon changed the order of the words to test the man's accuracy.

(15) דקדק rt. דקק(Pilpel) ‘to crush’.

(16) The dead man's.

(17) Which shews that R. Tarfon holds that ‘inquiry and examination’ are necessary!

(18) I.e., evidence on the death of a husband.

(19) אין בודקין rt. בדק Kal., ‘to search’, investigate’.

(20) V. supra p. 869, n. 7.

(21) Eben ha-Ezer XVIII, 79, Wilna Gaon Glosses and others read: ‘R. Akiba and p. Tarfon however etc’.

(22) Cf. supra note 5.

(23) R. Akiba and R. Tarfon.

(24) Lev. XXIV, 22. As capital cases are subject to such enquiry (v. Deut. XIII, is) so are also monetary cases.

(25) Sanh. 2b, 32a. Were difficulties to be placed in the way of creditors they would altogether decline to advance any loans.

(26) Lit., ‘and in what’.

(27) Lit., ‘there is’.

(28) From the estate of her dead husband. The terms of the marriage contract entitle a woman to her kethubah when she lawfully marries again.

(29) I.e., evidence on the death of a husband.

(30) Hence his opinion that no enquiry and examination of the witnesses is necessary.

(31) Lit., ‘to the world’.

(32) Since intercourse with a married woman is punishable by strangulation.

(33) Where full enquiry and examination is required.

(34) תלמידי חכמים v. Glos s.v. Talmid Hakam.

(35) lsa. LIV, 13. children = בניך (rt.בנה ’to build’). The conclusion of the passage in Ber. 64a is as follows: Read not, thy children(banayik) but thy builders (bonayik). Scholars are the builders of the world and it is their dissemination of true knowledge and enlightenment that preserves and promotes the ideals and blessings of peace.

Talmud - Mas. Kethuboth 2a

CHAPTER I

MISHNAH. A MAIDEN IS MARRIED[1] ON THE FOURTH DAY [OF THE WEEK] AND A WIDOW ON THE FIFTH DAY, FOR TWICE IN THE WEEK THE COURTS OF JUSTICE[2] SIT IN THE TOWNS, ON THE SECOND DAY [OF THE WEEK] AND ON THE FIFTH DAY, SO THAT IF HE [THE HUSBAND] HAD A CLAIM AS TO THE VIRGINITY [OF THE MAIDEN-BRIDE] HE COULD GO EARLY [ON THE MORNING OF THE FIFTH DAY OF THE WEEK] TO THE COURT OF JUSTICE.

GEMARA. R. Joseph said: Rab Judah said [that] Samuel said: Why did they [the Rabbis] Say. A MAIDEN IS MARRIED ON THE FOURTH DAY? Because we have learned:[3] 'If the time [appointed for the marriage] arrived and they[4] were not married,[5] they[4] eat of his [food][6] and they eat[7] of terumah'[8] — you might think that if the time arrived on the first day in the week he would have to supply her with food, therefore have we learned, A MAIDEN IS MARRIED ON THE FOURTH DAY.[9] Said R. Joseph: Lord of Abraham![10] He [Samuel] attaches a Mishnah which was taught, to a Mishnah which was not taught! Which was taught and which was not taught? This was taught and this was taught! — But [put it this way]: he attaches a Mishnah, the reason of which was explained,[11] to a Mishnah, the reason of which was not explained.[12] But if it was said,[13] it was said thus; Rab Judah said [that] Samuel said: Why did they say, A MAIDEN IS MARRIED ON THE FOURTH DAY? Because IF HE HAD A Claim AS TO THE VIRGINITY HE COULD GO EARLY [NEXT MORNING] TO THE COURT OF JUSTICE — well, let her be married on the first day in the week, so that if he had a claim as to virginity he could go early [on the morning of the second day of the week] to the court of justice! [The answer is:] The Sages watched over the interests[14] of the daughters of Israel so that [the bridegroom] should prepare for the [wedding.] feast three days, [namely] on the first day in the week, the second day in the week, and the third day in the week, and on the fourth day he marries her. And now that we have learned 'shakedu',[15] that [Mishnah] which we have learned: If the time arrived and they were not married, they eat of his [food] and they eat of terumah, [is to be understood as implying that if] the time arrived on the first day in the week, since he cannot marry [her, on the first day of the week, on account of the ordinance], he does not give her food [on the three days, from the first day of the week to the fourth day]. Therefore[16] [R. Joseph concludes], if he became ill or she became ill, or she became menstruous,[17] he does not give her food.

Some [scholars] there are who put this as a question: If he became ill, what is [the law]?[18] [Shall I say:] There.[19] the reason [he need not support her,] is because he is forced,[20] and here, he is also forced?[21] Or shall I say] perhaps, there.[22] he is forced[23] by an ordinance which the Rabbis ordained,[24] [but] here, [he is] not?[25] And if you will say:[26] If he became ill he supplies her with food, [then the question would still be:] if she became ill, what is [the law]? Can he say unto her, 'I am here ready to marry you'? Or, perhaps, she can say unto him, 'His field[27] has been flooded'?[28] And if you will say [that] she can say to him [when she falls ill], 'His field has been flooded.' [then the question is,] if she became menstrous, what is [the law]? During her regular time there is no question

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(1) Lit., 'is taken' as wife.

(2) Lit., 'houses of judgment (law, justice)'.

(3) V. infra 57a.

(4) The maiden or the widow.

(5) The marriage did not take place through the man's fault.

(6) The man has to maintain them.

(7) If the man (the bridegroom) is a priest.

(8) The priest's share of the crop. v. Glos.

(9) And thus to teach that it is not his fault that he does not marry her on the first day in the week, because the Rabbis ordained that he has to wait with the marriage till the fourth day (in the case of a maiden), or the fifth day (in the case of a widow).
(10) An exclamation, like ‘O, God!’ (v. Rashi ad loc.).
(11) Our Mishnah: So THAT . . . HE COULD GO EARLY TO THE COURT OF JUSTICE.
(12) V. infra 57a.
(13) The saying of Samuel.
(14) Lit., ‘ordinance’, ‘improvement.
(15) ‘They (the Sages) watched’, etc. — the principle just stated.
(16) Since ye find that the bride has no claim to maintenance where he is not to blame [or the delay in the marriage.
(17) After the time for the marriage had arrived and the marriage cannot take place through one of these causes.
(18) Lit ‘how is it?’
(19) When the appointed date of the marriage falls on the first day of the week, v. infra 57a.
(20) By the ordinance of the scholars, according to which he must wait till the fourth day of the week (שקדו).
(21) By his illness to postpone the marriage.
(22) When the appointed date of the marriage falls on the first day of the week.
(23) To postpone the marriage.
(24) And therefore he need not support her.
(25) I.e., in this case he would have to support her since the postponement of the marriage is due to his illness.
(26) Lit., ‘And if you may be able (or, find it possible) to say.’
(27) Another reading is ‘thy field’. The sense is, of course, the same.
(28) I.e., it is his bad luck that she became ill, and consequently he must support her.

Talmud - Mas. Kethuboth 2b

that she cannot say to him, ‘His field has been flooded’. When is the question asked? [If she became menstruous] not during her regular time, what is [the law]? Since it is not during her regular time, she can say unto him, ‘His field has been flooded’? Or, perhaps, since there are women who change their periods. It is as if it was her regular time? R. Ahai explained:[1] [We learnt:] When the time came and they were not married, they eat of his food and they eat of terumah.’[2] It does not state. ‘They [the men] did not marry them [the women]’ but [it says] ‘They [the women] were not married.’ In what case? If they prevent,[3] why do they eat of his food and eat of the terumah? Hence, you must say [must you not].[4] that they were forced as in this case,[5] and it states ‘they eat of his food and they eat of terumah’? — R. Ashi said: Indeed I can say[6] [that] in the case of an accident[7] she does not eat [of his].[8] And [here][9] they [the men] prevented.[10] And by right he ought to have stated, ‘they [the men] did not marry [the women].’[11] But since the first clause[12] speaks of them [the women] the latter clause also speaks of them [the women]?[13]

Raba said: And with regard to divorce[14] it is not so.[15] Accordingly Raba holds [that] accident is no plea in regard to divorce.[16] Whence does Raba get this [rule]? Shall I say, from what we have learned: ‘Behold this is thy bill of divorce if I come not [back] from now until twelve months,’[17] and he died within the twelve months, there is no divorce.[18] [And we would conclude from this that only if] he died there is no divorce,[19] but if he became ill[20] there is a divorce![21] But perhaps indeed I might say [that] if he became ill there would also he no divorce.[22] and [the Mishnah][23] lets us hear just this [rule], that there is no divorce after death.[24] [That] there is no divorce after death, a previous Mishnah[25] teaches: ‘Behold, this is thy bill of divorce if I die,’ [or] ‘behold, this is thy bill of divorce from this illness,’[26] [or] ‘behold, this is thy bill of divorce after [my] death,’ he has not said anything.[27] [But] perhaps [that[28] is] to exclude from that[29] of our teachers, for it has been taught: Our teachers allowed her to marry again.[30] And we said: Who are ‘our teachers’? Rab Judah said [that] Samuel said: The court that allowed the oil [of the heathen]:[31] they[32] hold like R. Jose who said, ‘the date of the document shows it.’[33] But from the later clause:[34] ‘[This is thy bill of divorce][35] from now if I come not [back] from now [and] until twelve months’, and he died within the twelve months, it is a divorce. [And we may deduce] ‘if he died’, and the same rule applies if he became ill.[36] [But] perhaps [the divorce is effective] only when he died, because it was not pleasing to him that she should become subject to[37] the yabam![38] — But [the deduction can be made] from this: There was a certain [man][39] who said unto them:[40] ‘If I do not come [back] from now until thirty days it shall be a divorce.’[41] He came [back] at the end of thirty days but the ferry stopped him.[42] He said unto them,[43] ‘Look, I have come [back]; look, I have come [back]!’[44] Said Samuel: This is not regarded as having come back.[45] But perhaps an accident which is frequent[46] is different,[47] for since he ought to have stipulated it[48] and he did not stipulate it, he injured himself![49] — But [we must say] Raba expressed an opinion of his own:[50] On account of the chaste women and on account of the loose women.[51] On account of the chaste women,[52] because if you will say that it should not be a divorce.[53]

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(1) I.e., ‘answered’.

(2) Mishnah 57a: v. supra.

(3) If the women cause the hindrance to the marriage taking place now..

(4) Lit., ‘but is it not’.

(5) Lit., as in this manner’, that is, when menstruation appeared outside the regular time.

(6) Lit., ‘always I say unto thee’.

(7) As irregular menstruation (v. n. 10). The accident is a mishap that comes from the woman.

(8) Lit., ‘every accident, she does not eat.

(9) In the Mishnah quoted by R. Ahai.

(10) The marriage from taking place now’.

(11) And not ‘they (the women) Here not married’.

(12) Of the Mishnah, quoted by R. Ahai: V. infra 57a.

(13) I.e., since that Mishnah speaks in the first clause of ‘maiden’ and ‘widow’, it uses in the clause that follows the passive ‘they were not married’ the subjects of which are the ‘maiden and the ‘widow’ to use the active ‘they did not marry’, referring to the men, would have required more words in that clause.

(14) Lit., ‘deeds (of divorce).’

(15) I.e., an accident, as explained infra, does not invalidate a divorce.

(16) Lit. , ‘there is no accident with divorce’.

(17) These words the husband says to the wife. ‘From now until twelve months, means ‘within twelve months,.

(18) Lit., ‘it is not a Get,’ (v. Glos.) that is, the divorce does not take effect: v. Git. 76b.

(19) Because there can be no divorce after death.

(20) And he could not come back within the twelve months through his illness.

(21) Which proves that we do not admit a plea of force majeure to invalidate a Get.

(22) For the plea of accident does apply to divorce.

(23) Git. 76b.

(24) And no other deduction, e.g.. as to illness, is to be made from that Mishnah.

(25) Git. 72a. Lit., ‘beginning’, ‘first clause’, denoting here a previous Mishnah.

(26) This phrase is not clear. V. Rashi here and Git. 72a. The phrase seems to mean, ‘If I die from this illness.’ v. Tosaf. a.l.

(27) I.e., his words have no effect.

(28) I.e., the Mishnah of Git. 76b quoted above.

(29) I.e., from the view of our teachers. If this is the object of (the first clause of) the Mishnah of Cit. 76b, Raba cannot deduce from this Mishnah that if he (the husband) became ill the divorce took effect: v. supra, also note 9.

(30) ‘Our teachers’ regard her as divorced (against the Mishnah) and allow her to marry again without halizah. If she is regarded as a widow and she has no children she requires halizah before she can re-marry. As to halizah v. Deut. XXV. 5-10. and Glos.

(31) V. A.Z. 36a and 37a.

(32) I.e., the members of the court of justice.

(33) [B.B. 136a: and so here the date inserted for the Get is intended to make it effective from the time of the delivery thereof. For further notes v. Git. (Sonc. ed.) p. 136].

(34) I.e., Raba deduces the rule that the plea of accident does not apply to divorce from the second clause of the Mishnah, cf. Git. 76b.
(35) v. Git. 76b.
(36) And he could not come back on account of his illness.
(37) Lit. , ‘that she should fall before’ (the yabam).
(38) The husband's brother, who, if she was regarded as a widow (and not as divorced), would have to marry her or let her perform halizah.
(39) A husband.
(40) Certain persons who might be witnesses.
(41) I.e., the bill of divorce given now shall become effective.
(42) The ferry was on the other side of the river and he could not get across, and he was thus prevented (by this accident) from arriving in his town within the thirty days.
(43) To persons standing near by.
(44) The divorce should therefore not take effect.
(45) Lit., ‘Its name is not come back"’ — the divorce, therefore, takes effect. This proves that force majeure is no plea in regard to Get.
(46) I.e., an accident which is likely to occur, as the ferry being on the other side of the river.
(47) Does not bar the divorce from becoming effective.
(48) That if the ferry should be on the other side of the river and he could not get across and come into his town, it should be regarded as if he had arrived in the town and come hack within the meaning of his condition, which would thus be regarded as not fulfilled, and the divorce would, consequently, not take effect.
(49) He has himself to blame. The attempted deduction from the ferry case is therefore refuted.
(50) Since the rule of Raba, that an accident is no bar to the effectiveness of the divorce, cannot be derived from any Mishnah or from the ferry case, it is attributed to himself that is to his own reasoning.
(51) By ‘loose women’ are meant women who would not be particular about marrying again even if the validity of the divorce was not established.
(52) The divorce should be effective.
(53) That the divorce should not become effective because of the accident.

Talmud - Mas. Kethuboth 3a

sometimes [it may happen] that he was not held back by an accident,[1] and she would think that he was held back by an accident[2] and she would be tied, and sit.[3] And on account of the loose women, because if you will say [that] it should not be a divorce, sometimes [it may happen] that he was held back by an accident[4] and she would say[5] that he was not held back by an accident[6] and she would go and get married, and the result would be[7] [that] the divorce was invalid[8] and her children [from the second marriage] would be bastards.[9] But is it possible[10] that according to the law of the Bible it would not be a divorce[11] and on account of ‘the chaste women’ and on account of the ‘loose women’ we should allow a married woman[12] to the world?[13] — Yes, every one who betroths in accordance with the sense of the Rabbis he betroths,[14] and the Rabbis have annulled his betrothal.[15] Said Rabina to R. Ashi: This might be well[16] [if] he betrothed her with money,[17] [but if] he betrothed [her] by act of marriage, what can one say [then]? — The Rabbis have made[18] his act of marriage non-marital.[19]

Some, [however,] say[20] [as follows]: Raba said: And so [also] with regard to divorce. Accordingly Raba holds [that the plea of] accident applies to divorce.[21] An objection was raised: ‘Behold this is thy bill of divorce if I come not [back] from now [and] until twelve months,’ and he died within the twelve months, there is no divorce. [Now] if he dies there is no divorce, but if he became ill there would be a divorce! — Indeed l might say [unto thee] that if he became ill there would be no divorce either, and [the Mishnah] lets us hear just this [rule]: that there is no divorce after death. [That] there is no divorce after death a previous Mishnah teaches! — Perhaps [that is] to exclude from that of our teachers. Come and hear:[22] From now if I have not come [back] from now [and] until twelve months,’ and he died within the twelve months.it is a divorce. Would not the same rule apply if he became ill? No, Only if he died, because it was not pleasing to him that she should become subject to the yabam. Come and hear: A certain [man] said unto them: ‘If I do not come [back] from now [and] until thirty days it shall be a divorce.’ He came [back] at the end of thirty days but the ferry stopped him. And he said unto them, ‘Look, I have come [back]; look, I have come [back]!’ And Samuel said: This is not regarded as having come back! — An accident which is frequent is different, for since he ought to have stipulated it and he did not stipulate it, he injured himself.

R. Samuel b. Isaac said: They have only taught[23] since the institution of Ezra[24] and after, [according to which] the courts of justice sit[25] only on the second day and on the fifth day [of the week]. But before the institution of Ezra, when the courts of justice sat every day, a woman[26] could be married on any day. Before the institution of Ezra, what there was there was![27] — He means it thus: If there are courts of justice that sit now as before the institution of Ezra,[28] a woman may be married on any day. But what of shakedu?[29] [We suppose] that he[30] had [already] taken the trouble.[31]

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(1) Lit. ‘that he was not forced.’ The divorce would therefore certainly be effective.

(2) And the divorce would, in her view, not take effect (if the rule would have been that an accident is a bar to the divorce becoming effective).

(3) Lit. , ‘and she will be tied’. I.e., she would regard herself as tied to her absent husband and would not marry again. An ‘agunah is a woman tied to an absent husband’. The Rabbis endeavoured to prevent the state of ‘agunah; v. Git. 33a.

(4) And the divorce would not take effect.

(5) The use of ‘she would say’ here in contradistinction to ‘she would think’ in the case of the ‘chaste women’ is no doubt intentional. She (the loose woman) would say this, although she would not think so in her heart.

(6) In which case the divorce would become effective.

(7) Lit ‘and it is found.’

(8) If the divorce should not become effective because of an accident.

(9) The children of a married woman and a man who is not her husband are bastards, mamzerim; v. Yeb. 49a. This would be the case if the divorce would not become effective because of an accident and the first husband should turn up and say that he was held back by an accident. To prevent such evil results Raba established the rule that an accident should not be a bar to the divorce taking effect.

(10) Lit., ‘and is there anything?’

(11) [The Plea of force majeure as recognized in the Bible, v. Deut. XXII, 26.]

(12) Lit., ‘the wife of a man.’

(13) I.e.,to marry another man.

(14) Lit., ‘he sanctifies.’ ‘he consecrates.’ To sanctify, to consecrate a woman to oneself means to marry her. Kiddushin ‘sanctifications’ means ‘betrothal,’ ‘marriage.’ I.e every one who marries a woman marries her on the basis that the marriage is sanctioned by the law of the Rabbis.

(15) Lit. , ‘and the Rabbis have caused the betrothal to be released from him,’ that is retrospectively. As the marriage is subject to the sanction of the Rabbis, the Rabbis can, if the necessity arises, annul the marriage. Such a necessity has arisen when an accident would be a bar to the divorce becoming effective.

(16) The answer just given might be regarded as satisfactory.

(17) V. Kid. 2a.

(18) I.e., have declared it to be, or regard it.

(19) Lit ‘an intercourse of prostitution.’ The Rabbis have in either case the power to annul the marriage. The argument that Raba arrived at his views through his own reasoning stands.

(20) Lit., ‘There are some who say.’

(21) According to this version. Raba holds that an accident is a bar to the divorce becoming effective.

(22) From here till ‘he injured himself’ the text is practically identical with the corresponding text on folio 2b. There are only one or two omissions and one or two slight variations. For interpretation, v. notes on the translation of 2b. The difference of the arguments is obvious.

(23) That a maiden marries on the fourth day of the week.

(24) V. B.K. 82a.

(25) Lit., ‘are fixed. ,
(26) Even a maiden.
(27) That is past and does not matter!
(28) Every day.
(29) Lit., ‘we require they watched"’. V. supra 2a.
(30) The bridegroom.
(31) Of preparing for the wedding.

Talmud - Mas. Kethuboth 3b

What is [the reference to] shakedu? [For] it has been taught: Why did they say that a maiden is married on the fourth day? ‘Because if he had a claim as to virginity he could go early [next morning] to the court of justice. But let her be married on the first day in the week and if he had a claim as to virginity he could go early [on the morning of the second day in the week] to the court of justice? — The Sages watched over the interests of the daughters of Israel so that [the man] should prepare for the [wedding-]feast three days, the first day in the week, and the second day in the week, and the third day in the week, and on the fourth day he marries her. And from [the time of] danger and onwards the people made it a custom to marry on the third day and the Sages did not interfere with them. And on the second day [of the week] he shall not marry; and if on account of the constraint[1] it is allowed. And one separates the bridegroom from the bride on the nights of Sabbath at the beginning,[2] because he makes a wound.[3]

What [was the] danger? If I say that they[4] said, ‘a maiden that gets married on the fourth day [of the week] shall be killed’, [then how state] ‘they made it a custom’? We should abolish it entirely! — Said Rabbah: [That] they said, ‘a maiden that gets married on the fourth day [of the week] shall have the first sexual intercourse with the prefect.’[5] [You call] this danger? [Surely] this [is a case of] constraint![6] — Because there are chaste women who would rather surrender themselves to death and [thus] come to danger. But let one expound to them[7] that [in a case of] constraint [it] is allowed?[8] — There are loose women[9] and there are also priestesses.[10] But [then] let one abolish it?[11] A decree[12] is likely to cease, and [therefore] we do not abolish an ordinance of the Rabbis on account of a decree. If so, on the third day he [the prefect] would also come and have intercourse [with the bride]? — Out of doubt he does not move himself.[13]

[It is stated above:] ‘And on the second day [of the week] he shall not marry; and if on account of the constraint it is allowed.’ What constraint [is referred to]? Shall I say [that it is] that which we have said?[14] There,[15] one calls it ‘danger’ ‘and here, one calls it [mere] ‘constraint’! And further, there [it states], ‘they made it a custom’, [whilst] here, ‘it is allowed’![16] — Said Raba: [it is that] they say ‘a general has come to town.[17] In what case? If he comes and passes by,[18] let it be delayed![19] — It is not necessary [to state this but] that he came and stayed. Let him, [then], marry on the third day [of the week]![20] — His[21] vanguard arrived on the third day. And if you wish I may say: What is [the meaning of] ‘on account of the constraint’? As it has been taught: If his bread was baked and his meat prepared and his wine mixed[22] and the father of the bridegroom[23] or the mother of the bride died,[24] they bring the dead [person] into a room and the bridegroom and the bride into the bridal chamber,[25]

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(1) This will be explained anon.
(2) If it is her first marital union.
(3) By the first act of intercourse.
(4) The Roman authorities.
(5) jus primae noctis; v. J.E., VII, p. 395.
(6) [And no woman is enjoined to sacrifice her life in resisting this assault: v. supra p. 7 n. 1, v. infra 51b.]
(7) The women.

(8) V. n. 6.
(9) Who might submit voluntarily.
(10) Wives of priests who would be forbidden to their husbands even when submitting under constraint: v. infra 51b.
(11) Marrying on Wednesday.
(12) Of the Romans.
(13) To come into town.
(14) The fear of the exercise of jus primae noctis.
(15) Earlier in the cited Baraitha.
(16) [Implying that it was not an established custom.]
(17) And he would requisition the food prepared for the wedding-feast.
(18) If he only passes through the town.
(19) I.e., let the marriage be delayed till the fourth day of the following week.
(20) [Instead of the second day of the week and thus give him a longer opportunity for making preparations for the wedding.]
(21) The general's.
(22) With water, their wine being too strong to be drunk undiluted. I.e., all the preparations for the wedding had been made.
(23) [Who had to provide for the wedding-feast.]
(24) [Who provided the wife with her trousseau.]
(25) Huppah, v. Glos. First the marriage and then the mourning.

Talmud - Mas. Kethuboth 4a

and he performs the dutiful marital act[1] and [then] separates [himself from her].[2] And [then] he keeps the seven days of the [wedding-]feast[3] and after that he keeps the seven days of mourning.[3] And [during] all these days he sleeps among the men and she sleeps among the women.[4] And they do not withhold ornaments[5] from the bride all the thirty days.[6] [But that is] only [if] the father of the bridegroom or the mother of the bride [died], because there is [then] no one who should prepare for them [for the wedding], but not [in case of] the reverse.[7] Rafram b. Papa said [that] R. Hisda said: They taught [this] only when water had [already] been put on the meat, but if water had not [yet] been put on the meat, it is to be sold. Raba said: And in a city, although water had been put on the meat, it is sold.[8] R. Papa said: And in a village, although water had not been put on the meat, it is not sold.[9] But where [then] will you find [the rule] of R. Hisda [to apply]? Said R. Ashi: For instance, [in] Matha Mehasia,[10] which is neither a city nor a village.[11]

It has been taught according to R. Hisda: If his bread was baked and his meat prepared and his wine mixed and water had been put on the meat and the father of the bridegroom or the mother of the bride died, they bring the dead [person] into a room and the bridegroom and the bride into the bridal chamber, and he performs the dutiful marital act and [then] separates [himself from her]. And [then] he keeps the seven days of the [wedding-]feast and after that he keeps the seven days of mourning. And all these days he sleeps among the men and she sleeps among the women. And so [also] if his wife became menstruous does he sleep among the men and she sleeps among the women. And they do not withhold ornaments from the bride all the thirty days. In any case he must not perform the [first] marital act on the eve of Sabbath or in the night following the Sabbath.

The Master said [above]: ‘He sleeps among the men and she sleeps among the women.’ This supports R. Johanan, for R. Johanan said: Although they said [that] there is no mourning on a festival, yet matters of privacy he keeps.[12] R. Joseph the son of Raba lectured in the name of Raba: They taught[13] only if he had yet no intercourse [with her],[14] but if he had [already] intercourse, his wife may sleep with him.[15] But here we deal with a case when he had intercourse, and still it teaches [that] he sleeps among the men and she sleeps among the women? — When did he[16] say [it]? With regard to his wife becoming menstruous. But it says. ‘And so [also if his wife became menstruous]'![17]

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[1] The first intercourse.

[2] [Immediately after which the burial takes place. The death of one of these parents is thus the constraint referred to. Where the death occurred on Monday the marriage is to take place immediately so as to avoid delay in the funeral.]

[3] V. infra.

[4] So that they have no intercourse.

[5] 'Ornaments means both jewellery and toilet requisites.

[6] [The thirty days of semi-mourning that follow the death of a near relative.]

[7] These rules do not apply.

[8] Because it can be sold.

[9] Because it cannot be sold.

[10] A place near Sura.

[11] Lit., 'Which is excluded from a city and excluded from a village'.

[12] [I.e., mourning customs that affect domestic relations, and thus involve no outward manifestations of grief, must be observed.]

[13] That he sleeps among the men and she sleeps among the women.

[14] And he may feel tempted.

[15] In one room.

[16] Raba

[17] And this would seem to show that there is no difference between the time of mourning and the period of menstruation.

Talmud - Mas. Kethuboth 4b

— Thus he[1] means to say:[2] And so [also], if his wife became menstruous and he had not yet had intercourse [with her] he sleeps among the men and she sleeps among the women. Is this [then] to say that he treats mourning more lightly than menstruation?[3] Surely. R. Isaac the son of Hanina said that R. Huna said: All kinds of work[4] which a wife performs for her husband, a menstruant[5] may perform for her husband, except the mixing of the cup[6] and the making[7] of the bed and the washing of his face, his hands and his feet;[8] while with regard to mourning it has been taught: Although they[9] said: No man has a right to force his wife[10] to paint [her eyes] or rouge [her face], in truth[11] they said: She mixes him the cup[12] and she makes him the bed and she washes his face, his hands and his feet?[13] — [This is] not difficult; here[14] [it speaks] of his mourning,[15] there[16] [it speaks] of her mourning.[17] But it says:[18] 'The father of the bridegroom or the mother of the bride [died]'?[19] — This refers to the rest.[20] But is there a difference between his mourning and her mourning? Surely it has been taught: If a man's father-in-law or mother-in-law died,[21] he cannot force his wife to paint [her eyes] and to rouge [her face]. but he lowers his bed[22] and keeps mourning with her. And so [also] if a woman's father-in-law or mother-in-law died[23] she is not allowed to paint [her eyes] and to rouge [her face], but she lowers her bed and keeps mourning with him![24] — Teach with reference to his mourning 'he sleeps among the men and his wife sleeps among the women'.[25] But it says: 'And so [also]'?[26] — This refers to painting and rouging.[27] But it says 'with him'! Does this not mean,[28] with him in one bed? — No, [it means] with him in one house, and as Rab said to his son Hiyya: In her presence[29] keep mourning, in her absence do not keep mourning.[30] R. Ashi said: Can you compare this mourning[31] with ordinary mourning?[32] Ordinary mourning is strict and one would not deal lightly[33] with it. [But] this mourning, since the Rabbis were lenient [about it], one might deal lightly with it. What is the leniency? Shall I say. because it says he performs the dutiful act of marriage and separates [himself from her]? That is[34] because the mourning has not rested upon him[35] yet; [namely] if according to R. Eliezer, [the mourning does not begin] until the body has been taken out of the house,[36] and if according to R. Joshua, [the mourning does not begin] until the golel[37] has been closed![38] — But [the leniency is this,] because it says: He keeps [first] the seven days of the [wedding-]feast and after that he keeps the seven days of mourning.

The Master said: ‘In any case he must not perform the [first] marital act on the eve of Sabbath or in the night following the Sabbath. It is right [that he may not perform it] on the eve of Sabbath, because of a wound.[39] But in the night following the Sabbath, why not? — Said R. Zera:

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(1) The Tanna of the cited Baraitha.

(2) Lit., ‘thus he says.’

(3) Lit., ‘that mourning is lighter to him (the husband) than menstruation’. The case of menstruation is limited to where no intercourse had taken place.

(4) Lit., ‘all works’.

(5) I.e., the wife during menstruation.

(6) I.e., pouring out of wine: v. supra p. 10 n. 6.

(7) Lit., ‘spreading.’

(8) Because the nearness may bring temptation: v. infra 61a.

(9) The Rabbis.

(10) When she is mourning for a parent.

(11) Cf. B.M. 60a: wherever an opinion is introduced with the words, ‘in truth they said,’it means to say that it is an established legal rule.

(12) Cf. infra 61a.

(13) This would show that he treats mourning less lightly than menstruation!

(14) Supra 4a: ‘he sleeps among the men and she sleeps among the women.’

(15) And she might be tempted.

(16) Lit., ‘here.’ In the Baraitha just quoted.

(17) And she would resist temptation.

(18) Lit., ‘it teaches.’

(19) This shows that there is no difference between his mourning and her mourning.

(20) Lit., ‘When it teaches, on the rest. — I.e., this refers to the other points mentioned in the Baraitha on 4a.

(21) Lit., ‘he whose father-in-law or mother-in-law died.’

(22) Placing the mattresses on or near the floor was a sign of mourning.

(23) Lit., ‘she whose father-in-law or mother-in-law died.’

(24) Since it does not state in the latter case that he has to sleep among the men etc., it shows that there is no difference between his mourning and her mourning.

(25) And so there would be a difference between his mourning and her mourning. In his mourning there would be the precaution just stated, while in her mourning that precaution would not be required.

(26) This would show that there is no difference between his mourning and her mourning.

(27) In either case she does not paint or rouge.

(28) Lit., ‘what not?’

(29) In the presence of Hiyya's wife who was in mourning.

(30) I.e., ‘with him’ (or ‘with her’) shews that she keeps mourning with him in his presence and he keeps mourning with her in her presence.

(31) Lit., ‘the mourning of here’, namely the mourning immediately before the marriage; v. supra 3b (bottom) and 4a.

(32) Lit., ‘mourning of the world.’

(33) Lit., ‘and one would not come to disregard it.’

(34) Lit., ‘there’.

(35) Has not begun yet.

(36) Lit., ‘until it goes out from the door of the house.’

(37) The covering stone of a tomb. ‘To close the golel’ means ‘to close the tomb with the golel,’ v. Nazir (Sonc. ed.) p. 302, n. 5.

(38) Cf. M.K. 27a.

(39) He makes a wound through the first intercourse.

Talmud - Mas. Kethuboth 5a

Because of accounts.[1] Said Abaye to him: And are accounts of a religious nature forbidden?[2] Surely R. Hisda and R. Hamnuna both said: Accounts of a religious nature, one is allowed to calculate them on Sabbath; and R. Eleazar said: One may assign charity to the poor on Sabbath; and R. Jacob said [that] R. Johanan said: One may go to synagogues and to schoolhouses to watch over public affairs[3] on Sabbath; and R. Jacob the son of Idi said [that] R. Johanan said: One may do any work to save a life[4] on Sabbath; and R. Samuel the son of Nahmani said [that] R. Jonathan said: One may go to theatres and circuses[5] to watch over public affairs on Sabbath; and [a scholar] of the school of Menashia taught: One may negotiate about the girls to be betrothed on Sabbath[6] and about a boy to teach him the book[7] and to teach him a trade? — But, said R. Zera, it has been prohibited[8] lest he might slaughter a fowl.[9] Said Abaye to him: But if this were so, then the Day of Atonement which fell on the second day of the week should be postponed[10] for fear[11] lest he might slaughter a fowl?[12] — There,[13] that [he has to prepare only] for himself he is not troubled [so much],[14] [but] here,[15] that [he has to prepare] for others,[16] he is troubled.[17] Or: there, he has an interval,[18] [but] here, he has no interval.[19] Now that you have come so far,[20] the eve of Sabbath[21] also is prohibited[22] for fear lest he might slaughter a fowl.[23]

The question was asked:[24] [Does the Mishnah mean:] A maiden is married on the fourth day [of the week], and the intercourse takes place on the fourth day, and we are not afraid that he might be pacified?[25] Or perhaps [the meaning is] a maiden is married on the fourth day [of the week], and the intercourse takes place on the fifth day[26] because we are afraid that he might be pacified? — Come and hear: Bar-Kappara taught: A maiden is married on the fourth day [of the week] and the intercourse takes place on the fifth day[26] because on it [the fifth day] the blessing for the fishes was pronounced.[27] A widow is married on the fifth day [of the week] and the intercourse takes place on the sixth day[28] because on it [the sixth day] was pronounced the blessing for man.[29] [We thus see that] the reason is on account of the blessing, but as to [his] being pacified we are not afraid. If so,[30] [in the case of] a widow also the intercourse should take place on the fifth day [of the week], because on it [the fifth day] was pronounced the blessing for the fishes?[31] — The blessing for man is better for him.[32] Or on account of 'they have watched,'[33] for it has been taught: Why did they[34] say [that] a widow is married on the fifth day [of the week] and the intercourse takes place on the sixth day? Because, if you will say that the intercourse should take place on the fifth day, in the morning[35] he will rise and go to his work;[36] therefore the Sages watched over the welfare[37] of the daughters of Israel that he should rejoice with her[38] three days, [namely] on the fifth day of the week,[39] on the eve of Sabbath[40] and [on] Sabbath.[41] What is the difference between 'the blessing' and 'they have watched'?[42] The difference is this:[43] [in the case of] a man of leisure,[44] or [in the case] when a festival falls on the eve of Sabbath.[45]

Bar-Kappara expounded: The work of the righteous[46] is greater than the work[47] of heaven and earth, for in [regard to] the creation of heaven and earth it is written, Yea, My hand hath laid the foundation, of the earth, and My right hand hath spread out the heavens,[48] while in [regard to] the work of the hands of the righteous it is written, The place which Thou hast made for Thee to dwell in, O Lord, the sanctuary, O Lord, which Thy hands have established.[49] Replied[50] one Babylonian, and R. Hiyya [was] his name: [It is written.] And the dry land his hands formed?[51] — It is [to be] written, 'His hand'.[52] But it is written, they formed?[53] — Said R. Nahman b. Isaac: 'His fingers formed,'[54] as it is written. When I behold Thy heavens, the work of Thy fingers, the moon and the stars which Thou hast established.[55]

An objection was raised: [It is written,] The heavens declare the glory of God, and the work of His hands the firmament shows?[56] — Thus he said:[57] The handiwork[58] of the righteous, who shews [it]?[59] The firmament. And what is it? Rain.[60]

Bar-Kappara [also] expounded: What [is the meaning of what] is written. And thou shalt have a peg among thy implements?[61] Do not read,[62] thy implements,[63] but ‘upon thy ear’;[64] [this means to say] that if a man hears an unworthy thing[65]

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(1) If he will consummate the marriage in the night following the Sabbath he will give a dinner in the evening and he will make accounts (in his mind) on Sabbath as to the cost of that festive meal.

(2) I.e., is it forbidden to make calculations for a religious purpose on Sabbath?

(3) Lit., ‘the affairs of many’.

(4) Lit., ‘one removes a person’ from under debris. The meaning is: One may do any work on Sabbath to save a life.

(5) Theatres and circuses were also places of general assemblies. in the same way public meetings were also held in synagogues and schoolhouses.

(6) I.e., one may negotiate the betrothal of them on Sabbath.

(7) I.e., the book, the Bible.

(8) Lit., ‘a preventive measure’. To have the first intercourse in the night following the Sabbath.

(9) Lit ‘the child of a fowl’, that is a young fowl. There is also the reading בו ‘on it’ i.e., on Sabbath for בן. He would be so busy thinking of the festive meal on Sabbath night that he might forget that it was Sabbath and slaughter a fowl for the dinner in the evening.

(10) For one day; v. Rashi.

(11) ‘As a preventive measure’.

(12) On Sabbath, since he would be busy thinking of the preparations for the meal on Sunday, which would be the eve of the Day of Atonement. On the eve of the Day of Atonement it is a religious duty to have a festive meal.

(13) In the case of the Day of Atonement.

(14) And he will not forget that it is Sabbath and he will not slaughter a fowl on Sabbath.

(15) In the case of the wedding-feast on Sabbath night.

(16) For the guests of the evening.

(17) And he might forget that it is Sabbath and he might slaughter a fowl on Sabbath.

(18) Sabbath night and Sunday morning. He does not have the important meal before midday or later on the day of the eve of the Atonement Day.

(19) The wedding-dinner would take place on Sabbath night as soon as Sabbath is out.

(20) To this result, namely that he must not perform the first intercourse in the night following the Sabbath because he might profane the Sabbath by slaughtering a fowl on Sabbath.

(21) Friday night.

(22) To have the first intercourse.

(23) On Friday evening, after Sabbath had already begun.

(24) Lit ‘it was asked by them’.

(25) Lit ‘cooling off to the (his) mind.’ That is, if he has intercourse on Wednesday and he has reason to complain as to virginity, his anger might cool off by Thursday morning and he might not go on Thursday to the court of justice; v. supra 2a.

(26) I.e., Wednesday evening, which belongs to the fifth day.

(27) Lit., said (by God).’ Cf. Gen. I, 20-23, especially 22.

(28) Thursday evening. v. n. 13.

(29) Cf. Gen. I, 26-28, especially 28.

(30) If the reason is on account of the blessing.

(31) It means this: If the reason is the blessing, why should not intercourse, in the case of a widow, take place on the same day as the marriage, namely on the fifth day? And on the fifth day there was the blessing for the fishes. And if that blessing is good enough for a maiden it should be good enough for a widow.

(32) For Bar Kappara. He considered the blessing for man a stronger reason. In the case of a maiden it is different, as, if her intercourse should take place on Friday, we should he afraid that he might be appeased by Monday, the first court-day after Friday. ‘Therefore the blessing for the fishes has to suffice in the case of the maiden.

(33) Shakedu, v. supra pp. 2 and 8. The ordinance that in the case of a widow the intercourse should take place on Friday was made in the interests of the daughters of Israel.

(34) The Sages.

(35) The next morning. In case of a widow the marriage festivities last only one day. V. infra 7a bottom.

(36) Lit., 'he rises unto his trade (work) and goes his way. That is, he walks out of the house and leaves the whole wedding atmosphere behind him. This had to be prevented.
(37) Lit., 'ordinance (for the welfare).'
(38) With the widow-bride.
(39) The day of the marriage.
(40) Friday, the day of the intercourse.
(41) The religious day of rest.
(42) What is the difference between these two reasons?
(43) Lit., 'there is between them.'
(44) Lit., 'an idle man.' 'They have watched' would not apply to a man of leisure, as he need not go to work next day. But the intercourse would have to take place on Friday if the reason was 'the blessing'.
(45) In which case Friday is a religious day of rest, and he would not go to work. But the reason of 'the blessing' would still operate for intercourse on Friday.
(46) Pious men.
(47) The creation.
(48) Isa. XLVIII, 13. There 'My hand' is written.
(49) Ex. XV, 17. In regard to the sanctuary, which is the work of the hands of pious men, 'Thy hands' is written.
(50) I.e., objected.
(51) Ps XCV, 5.
(52) [The kethib in some texts is ידו ('his hand').]
(53) [In the plural. so that the subject 'hand' must also be in the plural.]
(54) 'Fingers' is implied as subject.
(55) Ps. VIII, 4.
(56) Ps. XIX, 2. [Thus we have 'hands' written also in connection with creation.]
(57) Thus the Psalmist meant.
(58) Lit., 'the work of their hands.'
(59) Who tells them, announces them?
(60) Rain comes because the pious pray for it. The handiwork of the righteous is called the 'work of His hands', because in the rain the work of God and the work of the righteous meet. The rain is the work of God, but it comes as the result of the good deeds of the pious, whose prayers God fulflls.
(61) Deut. XXIII, 14.
(62) [In the sense of 'render'.]
(63) From אזן azayn 'implement, tool'.
(64) As if from אזן ozen 'ear'.
(65) Lit 'a thing (or, a word) that is not worthy', not fit to be heard.

Talmud - Mas. Kethuboth 5b

he shall plug his finger[1] into his ears. And this is the same that R. Eleazar said: Why do the fingers of man resemble pegs? Why?[2] Shall I say because they are divided?[3] [Surely] each one has been made for its own purpose![4] For a Master said: This one[5] [Is used for measuring] the span;[6] this one[7] [is used for] taking a fistful of the meal-offering,[8] this one[9] [is used for defining] the cubit measure,[10] this one[11] [is used for taking the measure of] 'a finger',[12] [and] this one[13] [is used for service with] the thumb![14] — But [the question is] why[15] [are the fingers] pointed like pegs? [The reason is] that if a man hears an unworthy thing he shall plug his fingers into his ears. [A member] of the school of R. Ishmael taught: Why is the whole ear hard and the ear-lap soft? [So] that if a man hears an unworthy thing he shall bend the ear-lap into it.[16]

Our Rabbis taught: A man shall not let his ears hear idle things,[17] because they are burnt first of [all] the organs.[18]

The question was asked: Is it allowed[19] to perform the first marital act on Sabbath?[20] Is the blood [in the womb] stored up,[21] or is it the result of a wound?[22] And if you will say[23] [that] the blood is stored up [in the womb, then the question arises:] is he concerned about the blood,[24] and it is allowed: or is he concerned with the opening,[25] and it is forbidden?[26] And if you will say [that] he is concerned with the blood and the opening comes of itself, [then the question arises:] Is the halachah[27] according to R. Simeon who says: A thing which is not intended[28] is allowed; or is the halachah according to R. Judah who says: A thing which is not intended is forbidden?[29] And if you will say [that] the halachah is according to R. Judah [then the question arises], does he do damage in regard to the opening, or does he improve in regard to the opening?[30] Some say:[31] And if you will say that the blood is the result of a wound [then the question arises], is he concerned about the blood and it is forbidden,[32] or is he concerned with his own pleasure, and it is allowed? And if you will say [that] he is concerned with his own pleasure and the blood comes out of itself,[33] [then the question arises] is the halachah according to R. Judah or is the halachah according to R. Simeon? And if you will say [that] the halachah is according to R. Judah, [then the question arises,] does he do damage by [making] the wound, or does he improve by [making] the wound? And if you will say [that] he does damage by [making] the wound, [then the question arises,] with regard to one who does damage, is the halachah according to R. Judah,

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(1) The finger is pointed like a peg.

(2) Lit., ‘what is the reason?’ I.e., what is the meaning of the question? With regard to what are the fingers of man like pegs?

(3) I.e., shall I say that the question is: Why are the fingers divided? They might have been joined together.

(4) Lit., ‘for its thing.’

(5) The little finger.

(6) I.e the distance from the little finger to the thumb of a spread hand.

(7) The finger next to the little finger.

(8) קמיצה the taking of a fistful of the meal-offering. v. Lev II, 2.

(9) The middle finger.

(10) The cubit is a measure equal to the distance from the elbow to the tip of the middle finger.

(11) The fourth from the little finger.

(12) And also for priestly service with the ‘finger’; cf. Lev. IV, 6.

(13) The fifth from the little finger.

(14) V. Lev. VIII, 23, 24; XIV, 14, 17, 25, 28. We thus see that every finger has a definite purpose. They therefore had to be divided and function as separate fingers!

(15) Lit., ‘what is the reason (that)?’

(16) Into the ear. He will thus close the ear and not hear the unworthy thing.

(17) Not only unworthy things. but even idle things a man should not hear, e.g tittle-tattle.

(18) Lit., ‘of the limbs.’ ‘Because they are burnt first of (all) the organs’ seems to have a figurative meaning. From hearing unworthy or idle things he may proceed to speak unworthy or idle things and then to do unworthy or idle things. The ear is thus the first organ to ‘be burnt’, to ‘catch fire’. c.f. Prov. VI, 27-28. If. the English phrase, ‘to burn one's fingers.’

(19) Lit ‘How is it?

(20) When the intercourse could not take place here Sabbath, (Tosaf.)

(21) And the intercourse would he allowed, since the blood flows out of its own accord, no wound having been made.

(22) Lit ‘or is it wounded?’ And the intercourse would be forbidden.

(23) Lit ‘And if you should he able to say.’

(24) Is his aim to release it? Lit., ‘is it the blood he requires?’ [According to Tosaf.: In order to see whether she is a virgin.

(25) Or is his aim to make an opening?

(26) It is forbidden to make an opening on Sabbath. [Such an act comes under the category of ‘building’.]

(27) ‘Adopted opinion’, ‘rule’.

(28) An act which is in itself forbidden but is the unintended though unavoidable result of an act which is permitted. Thus one may, according to R. Simeon, push a couch on the floor, on Sabbath, if one has not the intention to make a rut in the floor, although, as a matter of fact, such a rut is made as the unavoidable result of pushing the couch.

(29) R. Judah's view is opposed to that of R. Simeon; v. n. 4.

(30) Is the making of the opening considered to be to the advantage or disadvantage of the woman? If it is to her disadvantage it would he allowed even according to R. Judah. [Based on the principle that an act of damage does not constitute labour in regard to Sabbath. V. Shab. 106a.]

(31) Lit., 'there are who say', that the questions were with regard to the assumption that the blood is the result of a wound.

(32) To have the intercourse on Sabbath.

(33) The coming of the blood is therefore an unintended but unavoidable result of an act, the intended object of which is the pleasure.

Talmud - Mas. Kethuboth 6a

or is the law according to R. Simeon?[1] In the school of Rab[2] they said: Rab allowed[3] and Samuel forbade.[3] In Nehardea[4] they said: Rab forbade and Samuel allowed. Said R. Nahman b. Isaac: And your [mnemotechnical] sign [is]: These make it lenient for themselves, and these make it lenient for themselves.[5] But does Rab allow it? Surely R. Shimi b. Hezekiah said in the name of Rab: [As regards] that stopper of the brewing boiler, it is forbidden to squeeze it in[6] on a festival day![7] — In that [case][8] even R. Simeon admits [that it is forbidden], for Abaye and Raba, both of them say: R. Simeon admits [that it is forbidden] in [a case of] 'Let his head be cut off, and let him not die!'[9] [But] R. Hiyya the son of Ashi said [that] Rab said: The halachah is according to R. Judah,[10] and R. Hanan the son of Ammi [said that] Samuel said: The halachah is according to R. Simeon.[11] And R. Hiyya the son of Abin taught it without [naming the] men:[12] Rab said [that] the halachah is according to R. Judah. and Samuel said [that] the halachah is according to R. Simeon? — Still, Rab holds like R. Judah, [but] according to that version that says, 'the blood is stored up [in the womb],' he does damage in regard to the opening,[13] [and] according to that version that says, 'the blood is the result of a wound,' he does damage in [making] the wound.[13]

R. Hisda objected: If a girl, whose period[14] to see [blood] had not arrived yet, got married, Beth Shammai[15] say: One gives her four nights,[14] and the disciples of Hillel say: Until the wound is healed up.[16] If her period to see [blood] had arrived[17] and she married, Beth Shammai say: One gives her the first night,[18] and Beth Hillel say: Until the night following the Sabbath [one gives her] four nights.[19]

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(1) According to R. Simeon he who does damage by making a wound had to bring a sin-offering; v. Shab. 106a.

(2) In Sura. Before the words 'in the school of Rab', some texts have the word 'it has been said (that)'.

(3) To have the first intercourse on Sabbath.

(4) The place of Samuel.

(5) In Sura they said that Rab allowed it, and in Nehardea they said that Samuel allowed it.

(6) Into the bottle. The stopper is made of soft material, and, if it is squeezed, the liquid absorbed in the material would come out.

(7) This shows that Rab, like R. Judah, holds that a permitted action which results in a prohibited action, though the latter was not intended, is forbidden; v. p. 19, on. 4 and 5.

(8) Of the stopper in the brewing bottle.

(9) 'Let his head be cut off, and let him not die!' is a dialectic term for an absolutely unavoidable result of an act. V. Jast., s.v. פסק. In such a case R. Simeon admits that the act leading to the forbidden act is prohibited. This applies to the stopper. Intercourse, however, is different; v. infra 6b.

(10) V. p. 19. n. 5.

(11) V. p. 19. n. 4.

(12) I.e., without naming the authorities.

(13) V. supra p. 19, n. 6.

(14) Lit., 'time'.

(15) Lit., ‘the house’, i.e., the school, of Shammai. (15) In which she can have intercourse with her husband.

(16) The blood that comes out is attributed to the wound and not to menstruation. Ordinarily, after the first intercourse further intercourse is forbidden until the coming out of blood, i.e menstruation, is over. But in this case, in which the young bride had never yet had any menstruation, it is assumed that the blood is not due to menstruation but to the wound caused by the intercourse. According to Beth Shammai this assumption holds good for four nights, and according to Beth Hillel it holds good ‘until the wound is healed up.’ As to the definition of this phrase, v. Nid. 64b. V. also Nid. 65b, where it is finally decided that after the first coition no further intercourse must take place until the flowing of blood has stopped, even in the case of a young bride who had not yet had any menstruation. V. also Eben ha-’Ezer, 63, and Yoreh De'ah, 193.

(17) But she had in fact not yet seen blood; that is, she had the maturity for it, but the maturity had not yet manifested itself. A girl has reached the period of maidenhood (puberty) when she is twelve years and one day old. When she is twelve and a half years old she has reached the state of bogereth, (v. Glos.), full maturity, womanhood. V. infra 39a.

(18) He may repeat the intercourse during the first night.

(19) Mishnah in Nid. 64b.

Talmud - Mas. Kethuboth 6b

[Now] does it not[1] mean that if he had [yet] no intercourse [with his wife] he may have intercourse [with her] even on Sabbath?[2] — Said Raba: No, except Sabbath. Said Abaye to him: But it says, ‘until the night following the Sabbath [one gives her] four nights’?[3] — Only, said Raba, when he already had intercourse [with her].[4] If [it were, as you say,] after he already had intercourse, what does he let us hear?[5] — He lets us hear that it is allowed to have intercourse on Sabbath, as that [statement] of Samuel [teaches], for Samuel said: One may enter into a narrow opening on Sabbath,[6] although[7] he causes pebbles to break loose.[8]

R. Joseph objected: A bridegroom is free from the reading of Shema’[9] in the first night[10] until the night following the Sabbath, if he has not performed [yet] an act.[11] Is it not[12] because he is anxious to perform the marital act?[13] — Said Abaye to him: No; he is anxious because he has not had intercourse.[14] Said Raba to him: And on account of anxiety [only][15] he is free [from reading Shema’]? If this were so, then [if] his ship sank in the sea, he would also be free [from the reading of Shema’]! And should you say [that] it is really so, surely, R. Abba b. Zabda said [that] Rab said: A mourner is bound to observe all the precepts that are stated in the Torah except [that] of the Tefillin[16] because it is said with regard to them an ornament’?[17] — But, said Raba, this[18] is a dispute of Tannaim,[19] for one [Baraitha] teaches: If he[20] did not do an act [of coition] in the first [night],[21] he is free [from reading Shema’] also in the second [night]; in the second [night],[22] he is free [from reading Shema’] also in the third [night].[23] And another [Baraitha] teaches: [In] the first and second [night] he is free, [but in] the third [night] he is obliged [to read Shema’].[24] And Abaye [holds that] there[25] also they][26] differ with regard to anxiety.[27] And these Tannaim [are] like those Tannaim,[28] for it has been taught [in a Baraitha]: He who marries a maiden shall not perform the first intercourse[29] on Sabbath, and the Sages allow [it]. Who are the Sages? Said Rabbah: It is R. Simeon, who says: A thing which is not intended is allowed.[30] Said Abaye to him: But R. Simeon admits (that it is forbidden] in [a case of] ‘Let his head be cut off and let him not die!’[31] Said he to him: Not like those Babylonians who are not skilled in moving aside,[32] but there are some who are skilled in moving aside.[33] If so,[34] why [give the reason of] ‘anxious’?[35] — For one who is not skilled. [Then] let them say: One who is skilled is allowed [to perform the first intercourse on Sabbath], one who is not skilled is forbidden? — Most [people] are skilled.[36] Said Raba the son of R. Hanan to Abaye: If this were so, then why [have] groomsmen,[37] why [have] a sheet?[38] — He [Abaye] said to him: There [the groomsmen and the sheet are necessary] perhaps he will see and destroy [the tokens of her virginity].[39]

R. Ammi objected:[40] He who pierces[41] an abscess on Sabbath, if [in order] to make an opening[42] to it, he is guilty,[43] but if [in order] to cause pus to come out of it

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(1) Lit., ‘is it not?’ Having quoted the Mishnah from Nid. 64b, R. Hisda proceeds to ask his question, which is based on the last statement of Beth Hillel.

(2) The question presumes that ‘until the night following the Sabbath (one gives her) four nights’ may also mean any one of the four nights, and thus the intercourse may be first consummated on the night of Sabbath, (v. Rashi). This shews that one may have the first intercourse on Sabbath.

(3) Sabbath must, therefore, be included!

(4) One night before Sabbath. The intercourse on Sabbath was thus not the first.

(5) What new law does the Tanna teach us? Why should he (the husband) not be allowed to have intercourse on Sabbath?

(6) Lit., ‘a narrow opening (or breach). one may enter into it on Sabbath.’

(7) Lit , ‘and although.’

(8) He may have, say the second intercourse on Sabbath, v. Rashi, ad loc.

(9) The verses, Deut. VI, 4-9, XI, 13-21; Num. XV, 37-41 which are recited daily, morning and evening.

(10) Following the marriage.

(11) I.e the first intercourse. Mishnah Ber. 16.

(12) That he is free from the reading of Shema’, even on Sabbath night.

(13) Lit., ‘because he is anxious, because he wants to have intercourse.’ Being preoccupied with a duty (mizwah) he is free from another duty (mizwah).

(14) [Before Sabbath, and forbidden to have it on Sabbath.]

(15) Mental agitation, worry.

(16) Phylacteries, v. Glos.

(17) Cf. Ezek. XXIV, 17. [The reference being there to the Tefillin which Ezekiel was charged not to lay aside despite his mourning for his wife. V. M.K. 15a.] A mourner, though very much troubled, is nevertheless not free from observing the precepts. We thus see that anxiety does not exempt one from fulfilling the various religious commandments. And so in the case of the Mishnah quoted by R. Joseph it cannot be that the bridegroom is free from the reading of Shema’ only because of his anxiety.

(18) With regard to the first intercourse on Sabbath.

(19) Lit ‘this is (of) Tannaim.

(20) The bridegroom.

(21) After the marriage.

(22) If he did not do an act in the second night either.

(23) The third night (after the fourth day in the week) is Sabbath, and he is free from reading Shema’ as he is allowed to perform the marital act for the first time.

(24) The teacher of this Baraitha holds that he is not allowed to perform it first on Sabbath, and therefore he is obliged to read Shema’.

(25) In the Baraithas just quoted.

(26) The Tannaim.

(27) According to the first Baraitha his anxiety caused by the fact that he is not allowed to perform the act on Sabbath frees him from reading Shema’. And according to the second Baraitha this anxiety does not free him from reading Shema’. According to the first Baraitha the case of the mourner would be different. Since anxiety is no part of the mourning observances (Rashi. a.l.).

(28) I.e., the dispute of the Tannaim just quoted by Raba is the same as the dispute of the Tannaim of the Baraitha to be quoted now.

(29) Lit., ‘shall not have intercourse at the beginning.’

(30) V. supra p. 19, n. 4.

(31) V. supra p. 20, n. 8.

(32) I.e., having intercourse with a virgin without causing a bleeding.

(33) Thus no blood need come out, and ‘Let his head be cut off and let him not die!’ does not apply.

(34) If the bridegroom is skilled in ‘moving sideways’.

(35) He need not be anxious about the intercourse and should not be free from reading Shema’ on account of such anxiety.

(36) Therefore the principle regarding ‘Let his head be cut off and let him not die!’ does not, as a rule, apply.

(37) The groomsmen testify in case of need to the virginity of the bride. V. infra 12a. If the bridegroom will act in a manner that will cause no bleeding, the groomsmen will not be able to testify on the question of virginity.

(38) To provide evidence of the virginity of the bride. Cf. Deut. XXII, 17.

(39) It may happen that he will act in the normal manner and cause bleeding but he will destroy the tokens and maintain that the bride was not a virgin; for this reason the above mentioned provisions are necessary. Where however he moved aside and made a false charge as to her virginity, the bride can plead that she is still a virgin (Rashi).

(40) V. ‘Ed. (Sonc. ed.) p. 12 nn. 5-6.

(41) Lit., ‘loosens.’ Jast.: ‘manipulates.’

(42) Lit., ‘mouth’.

(43) Of Sabbath-breaking.

Talmud - Mas. Kethuboth 7a

he is free from punishment]?[1] — There[2] it is[3] stored up[4] and is [entirely] loose,[5] here[6] it[7] is stored up[8] but is not [entirely] loose.[9] R. Ammi allowed to have first intercourse[10] on Sabbath. Said the Rabbis to him: But her kethubah[11] is not written yet! — He said to them: Let her seize movable goods.[12] R. Zebid permitted to have the first intercourse on Sabbath. Some say: R. Zebid himself had the first intercourse on Sabbath. Rab Judah allowed to have the first intercourse on a festival. R. Papi said in the name of Raba: You shall not say [that] on a festival it[13] is allowed, but [that] on Sabbath it is forbidden. It is just as well allowed on Sabbath; only it happened so.[14] R. Papa said in the name of Raba: On a festival it is allowed, on Sabbath it is forbidden. Said R. Papi to R. Papa: What is your opinion? Since a wound[15] has been permitted [on a festival] for a necessity. it has been permitted also when there is no necessity? If that were so, it should be permitted to put spices on coals[16] on a festival, for since the kindling of fire has been allowed [on a festival] for a necessity, it should be allowed also when there is no necessity![17] Said he to him.[18] Concerning this[19] the Biblical verse said, save that which every man must eat,[20] [this means] a thing which is useful[21] for every man.[22] R. Aha, the son of Raba, said to R. Ashi: If this were So,[23] then if a deer happened to come to the hands of a person[24] on a festival, [shall we say that] since it is not of equal usefulness for every person,[25] is it really so that it would be forbidden to kill it? Said he[26] to him:[27] I say, ‘a thing that is needful for every person,’[28] [and] a deer is needful for every person.[29] R. Jacob, the son of Idi, said: R. Johanan gave a decision[30] in Zaidan:[31] It is forbidden to perform the first intercourse on Sabbath. — And is there an instructive decision for a prohibition?[32] — Yes, we have learned in a Mishnah:[33] The school of Hillel gave a decision regarding her[34] that she[35] should be a Nazirite yet another seven years. Or indeed it is as that which has been taught: If the cord of the spinal column is severed in its larger portion [the animal is trefa],[36] [this is] the view of Rabbi.[37] R. Jacob Says: Even if it[38] is [only] perforated [the animal is trefa]. Rabbi gave a decision[39] according to R. Jacob.[40]

R. Huna said: The halachah is not as stated by R. Jacob. R. Nahman b. Isaac taught thus: R. Abbahu said: R. Ishmael b. Jacob, from Tyre asked R. Johanan in Zaidan, and I heard [it]: Is it allowed[41] to have the first intercourse on Sabbath? And he[42] said to him:[43] It is forbidden. — And the law is: It is allowed to have the first intercourse on Sabbath.[44]

R. Helbo said [that] R. Huna said [that] R. Abba, the son of Zabda, said [that] Rab said: A maiden as well as a widow requires a benediction.[45] — But did R. Huna say so? Did not R. Huna say: A widow does not require a benediction? — It is not difficult.[46] Here[47] [it speaks] of a young man[48] who marries a widow, there[49] of a widower who marries a widow. And when a widower marries a widow [a benediction] is not required? Did not R. Nahman Say: Huna b. Nathan said to me: A Tanna taught: Whence [is it derived that] the benediction of the bridegrooms[50] [has to be said] in the presence of ten [persons]? Because it is said, And he took ten men of the elders of the city, and said: ‘Sit ye down here’. And they sat down.[51] And Boaz was a widower, who married a widow![52] — What is [the meaning of the words] ‘she does not require a benediction’ which R. Huna said? She does not require a benediction during all the seven days. but on one day[53] she requires a benediction. But that which has been taught:[54] 'The Sages were anxious for the welfare of the daughters of Israel, that he[55] may rejoice with her[56] three days' — how is this to be understood?[57] If [it speaks] of a young man, did you not say — seven;[58] if of a widower, did you not say — one day?[59] — If you wish, you may say [that it speaks] of a widower [and in this case] one day is for the benediction and three days are for rejoicing. And if you wish, you may say [that it speaks] of a young man [and in this case] seven [days] are for the benediction and three [days] for rejoicing.

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(1) And permitted: v. Shab. 107a and 3a. Intercourse should thus be permitted on Sabbath for the first time, even when the aim is the bleeding!

(2) In the case of the abscess.

(3) The blood.

(4) In the abscess.

(5) From the flesh.

(6) In the case of the virgin. bride.

(7) The blood.

(8) In the womb.

(9) From the walls of the womb. [Read with MS.M. 'It is neither stored up nor loose,' but the result of a wound, hence forbidden.]

(10) Lit., 'to perform in the beginning'.

(11) The marriage contract; lit., 'a written deed' (v. Glos.). Marital union is forbidden before the kethubah is written.

(12) And the movable goods will be a pledge in her hand with regard to the kethubah until the marriage contract will be written, when all his real estate is mortgaged with regard to kethubah.

(13) The first intercourse.

(14) Lit., 'and the event that was was thus'. [The question was put to him on a festival and he declared it permissible.]

(15) I.e., the making of a wound.

(16) To perfume the room after dinner; v. Ber. 43a.

(17) The meaning of the question of R. Papi to R. Papa is as follows: If a distinction is to be made, regarding the first intercourse, between Sabbath and a festival and it is to he held, as R. Papa holds in the name of Rab, that it is forbidden in Sabbath and allowed on a festival, then R. Papa must hold that, since certain work was allowed on a festival for a necessity, work should be allowed on a festival even when there is no necessity for it. It is, e.g. allowed to make a wound on a festival by slaughtering an animal for the need of food. It would, therefore, according to R. Papa, be allowed to make a wound (v. supra 3b, 4b, 5b) by performing the first intercourse on a festival, although there is no necessity for it, since the first intercourse can wait until after the festival. If this view were correct, then it should have been allowed to burn spices on coals on a festival, although spices are not a necessity, since the kindling of fire on a festival is allowed for a necessity. And the accepted view is that it is forbidden to put spices on coals on a festival. Consequently, if the first intercourse is forbidden on sabbath it should be forbidden also on a festival, since it is not a necessity. R. Papa's view is therefore wrong. Generally speaking, work that is forbidden on Sabbath is forbidden on a festival. There is an exception in the case of work necessary for preparing food. This is already indicated in Ex. XII, 16; v. Meg. 7b.

(18) To R. Papi.

(19) I.e., to avoid, or anticipate the answer to, your question.

(20) Ex. XII, 16. The verse continues, 'that only may be done to you'.

(21) Literally, 'equal', 'like', 'worth'; a thing that is of equal worth for every one, namely, to eat, to do, to have.

(22) The sense of the answer is this: You cannot compare the first intercourse to spices. Spices are not of equal necessity for every person. As Rashi puts it, only people who are used to luxuries desire spices. But sexual intercourse, even the first act, is a human need, which applies to all people.

(23) I.e., if only work for a necessity to all is allowed on a festival.

(24) Lit., 'happened to meet him.'

(25) Cf. n. 6.

(26) R. Ashi.

(27) To R. Aha.

(28) R. Ashi seems to emphasize the needfulness of the object, though it may nor be of equal necessity to all.

(29) Indeed, he answers, a deer is good for every person, and therefore, it may be slaughtered on a festival.
(30) הורה means ‘to teach’, ‘to instruct’, ‘to decide’. הוראה denotes a decision based on traditional teaching and (on) one's own learned deductions (One might call it ‘an instructive decision.’
(31) Sidon; [others: Bethsaida]
(32) I.e., does not apply the term הורה, or הוראה to a prohibitory decision which need not necessarily be based on tradition or powers of dedication (Rashi).
(33) Nazir 19b.
(34) הורוה.
(35) The Queen Helena of Adiabene, mother of King Monabaz. V. Nazir (Sonc. ed.) p. 66, n. 4.
(36) It is forbidden to use the animal for food if the larger portion of its spinal cord was severed while the animal was alive.
(37) Lit , ‘(these are) words of Rabbi . Rabbi is Rabbi Judah ha-Nasi.
(38) The spinal cord.
(39) הורוה v. Hul. 45b.
(40) Against his own view. The view of R. Jacob was stricter than that of Rabbi.
(41) Lit., ‘How is it?’
(42) R. Johanan.
(43) To R. Ishmael.
(44) This is the conclusion of the long argument.
(45) At the celebration of the marriage. v. P.B. p. 299. Lit , ‘laden (with) a blessing. ‘ Cf. ‘obliged to’, ‘bound to.’
(46) There is no contradiction between the two traditions.
(47) Where R. Huna says that a widow requires a benediction.
(48) A young man who was never married before.
(49) Where R. Huna says that a widow does not require a benediction.
(50) Identical with the benediction mentioned above.
(51) Ruth IV, 2.
(52) And still the benediction was required. As to Boaz having been a widower, v. B.B. 91a.
(53) On the day of marriage.
(54) V. supra 5a.
(55) The bridegroom.
(56) The bride.
(57) Lit., ‘In what?’ ‘How?’
(58) The benediction has to be said all the seven days following the marriage ceremony, and this implies rejoicing. That the benediction has to be said all the seven days in the case of the marriage of a young man, even if the bride is a widow, is inferred from the statement that in the case of the marriage of a widower and a widow it is not required to say the benediction all the seven days (Rashi).
(59) Only on one day has the benediction to be said, and this apparently means rejoicing only on one day.

Talmud - Mas. Kethuboth 7b

An objection was raised: [It has been taught:] The benediction is said [at the celebration of the marriage] for a maiden seven [days] and for a widow one day. Is it not [to be understood that] even [in the case of] a widow who marries a young man [the benediction is said only on one day]? — No [only when the widow marries] a widower. But [if the widow marries] a young man, what [then]? Seven [days]?[1] If that is so, let it be taught:[2] The benediction is said for a maiden[3] seven [days], and for a widow who marries a young man[4] seven [days], and for a widow [who marries a widower][5] one day? — It taught a decided thing:[6] That there is no maiden who has less than seven [days],[7] and there is no widow who has less than one day.[8] The [above] text [says]: R. Nahman said: Huna b. Nathan said to me: A Tanna taught: Whence [is it derived that] the benediction of the bridegrooms [has to be said] in the presence of ten [persons]? Because it is said, And he took ten men of the elders of the city, and said: ‘Sit ye down here’.[9] But R. Abbahu said [that it is derived] from here: In assemblies bless ye God, the Lord, from the fountain of Israel.[10] And how does R. Nahman expound this verse of R. Abbahu?[11] — He requires it for the same purpose as has been set out in a Baraitha:[12] R. Meir used to say: Whence [can it be derived] that even embryos in the bowels of their mothers sang[13] a song[14] by the sea?[15] Because it is said, In assemblies bless ye God, the Lord, from the fountain of Israel.[16] And the other one?[17] — If [that were] so, let the verse say,[18] 'from the womb.'[19] Why [does it say], 'from the fountain'?[20] [To show that it is] concerning the affairs of the fountain.[21] And how does R. Abbahu expound that verse of R. Nahman?[22] — He requires it for expounding: an Ammonite, and not an Ammonitess, a Moabite, and not a Moabitess.[23] For if you would think [that the presence of the ten men was required] for [the saying of] the benediction, would it not have been sufficient if they had not been elders?[24] And the other one?[25] — If you would think [that the verse was to be used] for that exposition, would it not have been sufficient if there had not been ten [persons]?[26] — Yes, to make the matter public[27] — and as Samuel said to R. Hanna of Bagdath:[28] Go out and bring me ten[29] [persons] and I will say unto thee in their presence; If one assigns [property] to an embryo, it acquires it. But the law is: If one assigns [property] to an embryo, it does not acquire it.[30]

The Rabbis taught: The benediction of the bridegrooms is said[31] in the house of the bridegroom.[32] R. Judah says: Also in the house of the betrothal[33] it is said.[34] Abaye said: And in [the province of] Judah they taught [the opinion of R. Judah] because [in the province of Judah] he[35] is alone with her.[36]

Another [Baraitha] teaches: The benediction of the bridegrooms is said in the house of the bridegrooms and the benediction of betrothal in the house of betrothal. [As to] the benediction of betrothal — what does one say?[37] — Rabin b. R. Adda and Rabbah son of R. Adda both said in the name of Rab Judah: Blessed art Thou, O Lord our God, King of the Universe, who has sanctified us by his commandments and has commanded us concerning the forbidden relations and has forbidden unto us the betrothed[38] and has allowed unto us the wedded[39] through [the marriage] canopy[40] and sanctification.[41] R. Aha 'the son of Raba, concludes it.[42] in the name of Rab Judah, [with the words]: Blessed art Thou, O Lord, who sanctifies Israel through canopy and sanctification. He who does not seal[43] [holds that] it is analogous to the blessing over fruits and to the benediction [said on performing] religious commandments.[44] And he who seals[45] [holds that] it is analogous to the kiddush.[46]

Our Rabbis taught: The blessing of the bridegrooms is said in the presence of ten [persons][47] all the seven days.[48] Rab Judah said: And that is only if new guests[49] come.[50] What does One say?[51] Rab Judah 'and: 'Blessed art Thou, O Lord our God, King of the Universe,

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(1) The benediction has to be said during seven days, just as at the marriage of a young man and a maiden!

(2) I.e., it should have been taught.

(3) On the occasion of the marriage of a maiden.

(4) On the occasion of the marriage of a widow and a young man.

(5) On the occasion of the marriage of a widow and a widower.

(6) A definite thing.

(7) On the occasion of the marriage of every maiden the benediction is said during the seven days fol lowing the marriage.

(8) On the occasion of the marriage of a widow the benediction must be said at least on one day (the day of the marriage). Usually a widow marries a widower.

(9) V. supra 7a.

(10) Ps. LXVIII, 27. An 'assembly' consists of at least ten persons; v Sanh. 2a. The 'fountain' is regarded by R. Abbahu, Midrashically, as an allusion to the young wife. Cf. Prov. V, 18: Let thy fountain be blessed, and have joy of the wife of thy youth. V. also V, 15' and lsa. LI, 1. The derivation of R. Abbahu from the verse in Psalms is this: When a marriage is celebrated and a new fountain of Israel is to enrich life, a benediction has to be said in the presence of ten persons.

(11) I.e. ‘to what Midrashic use does R. Nahman put Ps. LXVIII, 27?

(12) Lit., ‘to what has been taught’.

(13) Lit., ‘said.’

(14) Probably the song (Ex. XV) is meant.

(15) The Red Sea.

(16) The derivation is: Even those who were still in ‘the fountain’ of Israel sang a song unto the Lord. In vv. 23 and 26 R. Meir no doubt saw, Midrashically., allusions to the crossing of the Red Sea. Cf. especially v. 26 with Ex. XV. 20, 21.

(17) R. Abbahu. How does he derive the idea of R. Meir just expounded, since he uses the verse in Ps. LXVlii for another purpose (benediction at the marriage in the presence of ten persons)?

(18) I.e., the verse should have read.

(19) ‘From the womb’ would indicate the presence of ‘fruit of the womb’, of an embryo. Cf. e.g., Gen. XXX, 2.

(20) ‘Fountain’ does not refer to present pregnancy, to an embryo, but to the source of life in the woman without implying that there is life in it now. Therefore we can also speak of the ‘fountain’ in the maiden.

(21) Marriage is concerned very largely with ‘the affairs of the fountain. ‘ R. Abbahu, therefore, prefers to use the verse in Ps. LXVIII for his Midrashic exposition (benediction at the marriage in the presence of ten persons).

(22) Ruth IV, 2.

(23) In Deut. XXIII, 4, it is said, An Ammonite or a Moabite shall not enter into the assembly of the Lord. The presence of ten elders was required for the interpretation that the prohibition to enter into the assembly of the Lord, that is, to be admitted into the community of Israel, applied only to Ammonite and Moabite men and not to Ammonite or Moabite women. This interpretation made the law clear, and thus Boaz could marry Ruth the Moabitess.

(24) That the presence of elders was necessary shews that the interpreting and establishing of a law was required.

(25) R. Nahman. How will he get that exposition if he uses the verse for a different purpose?

(26) If the presence of the elders was required for establishing a law, then there was no need to have ten elders. A smaller number of elders would also have been sufficient. It is different, according to R. Nahman, if the presence of the ten persons was required for saying the benediction at the marriage of Boaz and Ruth. Ten persons form a congregation; v. supra.

(27) This is the view of R. Abbahu.

(28) Bagdad. v. Rashi, Ber. 54b.

(29) So as to make his legal pronouncement public.

(30) V. B.B. 142b.

(31) Lit., ‘they bless the benediction etc.’ The reference is to the benediction at the celebration of the marriage held usually at the house of the bridegroom's parents as distinguished from that recited at the betrothal at the house of the parents of the bride V. infra.

(32) V. infra.

(33) On ‘betrothal’ v. Glos. s.v. erusin.

(34) V. p. 29, n. 13.

(35) The bridegroom.

(36) The bride. Bridegroom and bride are, in the province of Judah, closeted alone after the betrothal, (v. infra 12a). [This is forbidden without the benediction having been previously recited. V. Kallah, I.]

(37) I.e., what are the words constituting the benediction of betrothal?

(38) [Betrothal (erusin) without marriage (nissu'in) does not permit the bride to the bridegroom.]

(39) I.e., the women who are legally married unto their husbands. For the sake of clarity the post-Talmudic versions read: ‘those who are wedded unto us.’ V. Rashi and the Prayer-Books.

(40) Huppah v. Glos. and Kid (Sonc. ed.) p. 5, n. 7.

(41) חופה וקדושין together constitute the complete marriage. [Var. lec. (Ittur and others) חופה בקדושין ‘Huppah by means of Kiddushin’, a preferable reading since the act Kiddushin (betrothal) took place in former days before Huppah.]

(42) The benediction; i.e., he adds a concluding portion.

(43) I.e., does not add the concluding portion.

(44) In those blessings there are no concluding portions. [Because their subject matter is praise and not interrupted by words of supplication or other matter (Rashi). Tosaf.: Because they are short prayers], Cf., e.g., P.B. pp. 289-291, 270.

(45) I.e., adds a concluding portion.

(46) Kiddush, ‘sanctification’, is the special term for the benediction said at the beginning of the Sabbath or a festival. And that benediction has a concluding portion, cf. P.B. pp. 124, 230-231, 243. [Because apart from words of praise to God it contains matter in description of the day of rest or the festival (Rashi). Tosaf.: because it is a lengthy prayer.]
(47) Lit., ‘with ten’.
(48) Following the marriage.
(49) Lit ‘new faces’.
(50) The benediction of the bridegrooms is said, at the meal on every day’ of the seven day's if on every succeeding day new guests, that is guests who were not there on the previous day, come to the meal. For a pretty thought as to Sabbath being ‘a new guest’ v. Tosaf. a.l.
(51) I.e., What is the text of the benediction?

Talmud - Mas. Kethuboth 8a

who has[1] created all things[2] to his glory’. and[3] ‘the Creator of man’, and ‘who has created man in his image. In the image of the likeness of his form, and has prepared unto him[4] out of himself[5] a building forever.[6] Blessed art thou, O Lord, Creator of man’.[7] ‘May the barren[8] greatly rejoice and exult[9] when her children will be gathered[10] in her midst in joy.[11] Blessed art Thou, O Lord, who maketh Zion joyful through[12] her children’[13] ‘Mayest Thou make the loved[14] companions greatly to rejoice, even as of old[15] Thou didst gladden Thy creature[16] in the Garden of Eden. Blessed art Thou, O Lord, who maketh bridegroom and bride to rejoice’.[17] ‘Blessed art Thou, O Lord our King, God of the universe, who has created joy and gladness, bridegroom and bride, rejoicing, song, mirth, and delight,[18] love, and brotherhood, and peace, and friendship.[19] Speedily, O Lord our God, may be heard in the cities of Judah, and in the streets of Jerusalem, the voice of joy and the voice of gladness, the voice of the bridegroom and the voice of the bride, the voice of the singing[20] of bridegrooms from their canopies[21] and of youths from their feasts[22] of song. Blessed art Thou, O Lord, who maketh the bridegroom to rejoice with[23] the bride’.[24]

Levi came[25] to the house of Rabbi to[26] the wedding-feast of R. Simeon his son [and] said five benedictions.[27] R. Assi came[25] to the house of R. Ashi to[26] the wedding-feast of Mar his son [and] said six benedictions.[28] Does it mean to say that they differ in this: that one holds that there was one formation,[29] and the other holds that there were two formations?[30] — No. All[31] agree [that] there was [only] one formation, [but they differ in this:] one holds [that] we go according[32] to the intention,[33] and the other holds [that] we go according[32] to the fact,[34] as that [statement] of Rab Judah [who] asked:[35] It is written, And God created man in his own image,[36] and it is written, Male and female created He them.[37] How is this [to be understood]? [In this way:] In the beginning it was the intention[38] [of God] to create two [human beings], and in the end [only] one [human being] was created.

R. Ashi came to the house of R. Kahana.[39] The first day[40] he said all the benedictions.[41] From then and further on;[42] if there were new guests[43] he said all the benedictions, but if not [he declared] it to be merely a continuance of the same joy[44] [in which case] one says [only] the benedictions ‘in whose dwelling there is joy’[45] and ‘who has created’.[46] From the seventh day to the thirtieth day.[47] whether he[48] said to them[49] ‘because of the wedding[50] or whether he did not say to them ‘because of the wedding’, one says the benediction ‘in whose dwelling there is joy’.[51] From then[52] and further on;[53] if he said to them ‘because of the wedding’ he says the benediction ‘in whose dwelling there is joy’, but not otherwise.[54] And if he says to them ‘because of the wedding’, until when [is this benediction said]?[53] Said R. Papi in the name of Raba: Twelve months [forming] a year.[55] And at first[56] from when?[57] Said R. Papa: From the time that they put barley into the mortar.[58] But this is not so? Did not R. Papa busy himself for his son Abba Mar[59] and say the benediction[60] from the time of the betrothal? — It was different [in the case of] A. Papa, because he took the trouble [of preparing everything for the wedding].[61] Rabina busied himself for his son[62] in the house of R. Habiba and said the benediction[60] from the time of the betrothal. He said: I am sure with regard to them that they will not retract [the betrothal].[63] [But] the matter was not successful[64] and they did retract. R. Tahlifa, son of the West,[65] came to Babylon [and] said six long benedictions.[66] But the law is not according to him. R. Habiba came into the house of a circumcision[67] [and] said the benediction 'in whose dwelling there is joy.' But the law is not according to him, since they are distressed because the child has pain.

R. Nahman said [that] Rab said: Bridegrooms are of the number, and mourners are not of the number.[68] An objection was raised: Bridegrooms and mourners are of the number? — You ask [from] a Baraitha against Rab?[69] Rab is a Tanna and differs![70] It has been said: R. Isaac said [that] R. Johanan said: Bridegrooms are of the number, and mourners are not of the number. An objection was raised: Bridegrooms and mourners are of the number?[71] —

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(1) It is common usage to translate in the Prayer books the perfect verb 'has' in the benediction by 'hast' (created, etc.).

(2) Lit 'all'.

(3) I.e., also the benediction of ('the Creator of man'). The words, 'the Creator of man' are preceded by the words, 'Blessed art Thou, O Lord our God, King of the universe,' as in the first benediction.

(4) Unto man.

(5) Out of man. P.B. 'out of his very self.'

(6) Lit., 'a building even to perpetuity.' By 'a building for ever', Eve is meant. V. Rashi, a.l. and cf. Gen. II. 22. 'A building for ever' contains the idea of 'the mother of all living' (Gen. III, 20). It is woman that carries the human race. P.B. p. 299: — 'a perpetual fabric' — expresses well this idea.

(7) These three benedictions are based on Gen. I and II. In the first benediction God is praised for the creation of the world ('the all'). In the second benediction God is praised for the creation of man. 'Man' is used here in the sense of 'human being', cf. Gen. I, 27. In the third benediction God is praised for fashioning man in his image, in the image of the likeness of his form, and for preparing a perpetual building out of man himself. In creating Eve, out of man, god provided for the perpetual renewal of man, of the human being. The divine form of man and the continual re-creation of man, by ever recurring new births, in the divine form, are the subjects of praise in the third benediction while the subject of the second benediction is the creation of man generally. 'The Creator of man', in the concluding portion of the third benediction, has already the further meaning of the creation of man as expressed in the third benediction. In this respect 'The Creator of Man', in the third benediction, differs from 'The Creator of Man' of the second benediction. This might also explain the difficulty which has been felt to exist in the relationship of these two benedictions (v. the Gemara later and Rashi a.l.; v. also Abrahams' Notes, P.B. p. ccxvi).

(8) I.e., Zion; cf. Isa. LIV.

(9) Cf. Isa. LXI, 10 and LXII, 5.

(10) Lit., 'at the gathering of her children.'

(11) Cf. Isa. LIV, 1-3.

(12) Lit., in 'with'.

(13) I.e., by restoring to Zion her children. This benediction seems to have arisen out of Isa. LXII. Cf. especially vv. 4 and 5. And according to Ps. CXXXVII, Jerusalem is to be remembered and set 'above my chiefest joy'; Rashi a.l. (fol. 8a).

(14) I.e., the bridegroom and the bride.

(15) The word מקדם in Gen. II, 8, means 'eastward'. Here it is used in the sense of 'in former times', 'of old'.

(16) I.e., Adam, by giving him a wife; cf. Gen. II, 23. Adam and Eve rejoiced at their union. And so may the bridegroom and bride rejoice.

(17) The last two benedictions do not begin with 'Blessed art Thou, O Lord out God, King of the universe,' because they are in fact prayers. In the first, second and third benedictions God is praised for what he had done. In the fourth as well as in the fifth benediction a prayer is uttered that God may cause something to happen, namely joy to Zion, or to the bridegroom and the bride. For another explanation, v. Rashi and Tosaf. a.l. V., however, Rashi s.v.משמח. The fifth benediction seems to have resulted from the fourth benediction. V. supra n. 4 and cf. Isa. LXII, 5. The two prayers, like the two ideas contained in vv. 4 and 5, were bound up with one another.

(18) All these words mean 'joy'. דיצה means dancing with joy'.

(19) Or, 'fellowship', companionship'.

(20) Lit., ‘breakings forth into song, shouts of joy’.
(21) In the Hebrew text the singular is used. Canopy means here ‘a bridal chamber’. Cf. Joel II, 16.
(22) In the Hebrew text the singular is used.
(23) In this benediction the joy referred to is the joy of the bridegroom with the bride (Rashi).
(24) In this benediction God is praised for the creation of joy in its various forms. Bridegroom and bride represent joy. True joy leads to love and friendship. These six benedictions are recited at Jewish weddings up to this day. The benediction over the wine is added to them, and together they are called ‘the Seven Benedictions’. The loftiness of tone and the beauty of style of these benedictions are unsurpassed. The blend of Biblical strength and Midrashic sweetness seems to point to an early date.
(25) Lit., ‘happened to come .
(26) Lit., ‘in’. A more correct translation might be, ‘during’.
(27) Lit., ‘blessed five’. Apparently the second benediction was left out (Rashi).
(28) I.e., all the six benedictions.
(29) For man and woman. Therefore one benediction for the creation of man and woman is sufficient. This would be the third benediction.
(30) One of man and one of woman.
(31) Lit., ‘the whole world.’
(32) Lit., ‘after’.
(33) The intention was to create two human beings: man and woman.
(34) Only’ man was formed, and woman was ‘built’ out of him; cf. Gen. II, 7 and 22.
(35) Lit., ‘to throw up a question’.
(36) Gen. I, 27.
(37) Gen. V, 2: It seems that R. Judah does not ask his question merely from the first five words of Gen. I, 27, and from the first three words of Gen. V, 2, for in that case there would have been no need for him to refer to Gen, V, 2, since he could have asked the question from the last words of Gen 1. 27 ‘male and female he created them’ but his question is from the whole verse 27 in Gen I and from the whole verse 2 in Gen V. The meaning of the question should be this: Gen I, 27 begins by saying that God created man and ends by saying that man was created as male and female. The last words of Gen I, 27 would thus shew that there were two creations. Gen V, 2 begins by saying that God created them male and female, and then it says, as He blessed them and called their name Man in the day when they were created. This verse would shew that in the end there was only one creation. In short: Gen. I, 27. begins with one creation and ends with two creations, and Gen V, 2, begins with two creations and ends with one creation. This, it seems, is the question of Rab Judah. Rab Judah quoted the verses by quoting the first portions of the verse. He really meant to say ‘etc.’ — In ‘Er. 18a and Ber. 61a the name is R. Abbahu. In ‘Er. 18a, in the image of God hath he created man, is quoted from Gen. I, 27. In Ber. 61a, ‘for in the image of God made he man’ (Gen. IX, 6) is quoted. This quotation apparently stands for that of Gen. I, 27. Both in ‘Er. 18a and Ber. 61a ‘male and female created He them’ is quoted first.
(38) Lit., ‘it went up in the thought’, namely of God. A sense of reverence does not allow Rab Judah to mention ‘God’ after ‘thought’. The meaning of the answer is: At first God intended to create two human beings, man and woman (Gen I. 27). But in the end only man was created by God, and woman was ‘built’ by God out of man (Gen V, 2)
(39) I.e., to the wedding-feast.
(40) The first of the seven days of the wedding festivities, which began after the marriage ceremony; v. supra 7b.
(41) Lit., ‘he blessed all of them.’
(42) Lit., ‘from now’. I.e., from the second day to the end of the seven days.
(43) Lit., ‘new faces’: cf. supra 7b.
(44) If there were new guests it would be a new occasion for joy.
(45) Lit., ‘the joy’.
(46) The sixth benediction.
(47) Lit., ‘from seven to thirty.’
(48) The host, as a rule the father of the bride.
(49) The invited guests.
(50) ‘I have invited you here to dinner’ (Rashi).
(51) שהשמחה במעונו v. p. 35, n. 1.
(52) Lit., ‘from now’.

(53) I.e., after the thirty days.

(54) Lit., ‘if not, not’. (18) The benediction ‘in whose dwelling there is joy’.

(55) I.e., the whole of the first year. The phrase ‘in whose dwelling there is joy’ occurs here for the first time. Commenting on this phrase Rashi says ‘at the beginning of the summons (to say Grace).’ The words ‘in whose dwelling there is joy’ are indeed used in the introduction to the Grace after meals at weddings; v. P.B. p. 300. Cf. also Abrahams' Notes, p. ccxviii, and Baer, Seder Abodoth Israel, p. 563. But the question arises: was שהשמחה במעונו said before the Grace after meals in Talmudic times? In our text there is no indication that this was so. Another question is: did the whole benediction consist of the words שהשמחה במעונו ? Or were they the initial words of a longer benediction? The benediction אשר ברא ’who has created’ mentioned together with it is the sixth benediction, the longest of the six benedictions. One is thus very much tempted to think that שהשמחה במעונו were words of a longer benediction probably introduced by the formula ‘Blessed art Thou, O Lord our God, King of the Universe’ and said as a substitute for the first five benedictions. The key note of the first five benedictions is joy. Joy speaks out of every benediction; there was joy in the creation of the universe, in the creation of man, in the formation of man and woman. There is joy in the fourth and fifth benedictions. The joy in the first three benedictions is the joy of God. The joy in the fourth and fifth benedictions is also divine joy. The sixth benediction speaks of the joy created by God for man, ‘Blessed art Thou, O Lord out God, King of the Universe, who has created joy and gladness.’ etc. The joy of the first five benedictions is summarized by the words, ‘in whose dwelling there is joy.’ There is joy on high, there is joy with God. This joy is spoken of in the first five benedictions. And this joy is also expressed briefly in the words ‘in whose dwelling there is joy’. The human joy, created by God, is expressed in the sixth benediction אשר באר, while שהשמחה במעונו stands for the benediction which was a substitute for the first five benedictions. On the first day of the wedding the six benedictions were said. After the first day, if there were no new guests, two benedictions were said. After the seventh day only one benediction was said. And that benediction was ‘in whose dwelling there is joy.’ Man's joy began to diminish. So only God's joy was now mentioned. In the time after the Talmud שהשמחה במעונו was given a place in the introduction to the Grace after meals at weddings, instead of being said as a full benediction after Grace, because the full text of this benediction was not mentioned in the Talmud. It may be that the tradition that the full benediction (with ‘Blessed art Thou,’ etc.) was said, was lost. It was felt that שהשמחה במעונו was left hanging in the air and it was incorporated in the summons to say Grace; v. P.B., p. 300. That the word מעון was chosen to denote the dwelling of God may be due to the fact that it is mentioned in Hag. 12b as the heavenly region in which the angels sing; v. Abrahams and Baer, loc cit. מעון is there spoken of as the fifth of the seven firmaments. Might there not be in it an allusion to the five benedictions, for which the benediction of שהשמחה במעונו is a substitute?

(56) Or, ‘originally.’ i.e., ‘before the wedding.’

(57) Does one say ‘In whose dwelling there is joy’.

(58) Or trough (for brewing beer), or pot (for planting barley for the wedding ceremony). The meaning of this phrase is: from the time that they begin making preparations for the wedding (v. Rashi).

(59) I.e., R. Papa had his son engaged to be married.

(60) In whose dwelling there is joy’.

(61) As all preparations for the wedding and the wedding-feast were made, R. Papa felt that he could say the benediction.

(62) I.e. , Rabina had his son engaged (Rashi).

(63) And therefore he said the benedictions.

(64) Lit., ‘the matter was not supported (by divine help).

(65) I.e., son of Palestine, Palestinian. It may be that מערבא (‘West’) was the name of the father of R. Tahlifa; v. Levy, s.v. But the mention of Babylon seems to support the rendering ‘son of the West’, ‘Palestinian’.

(66) He extended the first two benedictions by making additions to them (Rashi). It is possible that ‘by long’ is meant the full benedictions as they are given on fol. 8a, in contradistinction to the short blessing שהשמחה במעונו

(67) I.e., a house in which a circumcision took place, followed by a festive meal.

(68) There must be ten male persons for the recital of the six (or seven) ‘benedictions of the bridegrooms’, v. supra 7a and 7b. The benediction of the mourners is also said in the presence of ten male persons, v. infra 8b. R. Nahman says in the name of Rab that bridegrooms may be of the ten, but mourners may not be of the ten. There must be ten without the mourners.

(69) Lit., ‘You throw a Baraitha against Rab.’

(70) I.e., Rab's authority is as great as that of a Tanna and he has therefore the right to differ with other Tannaim, Teachers of Mishnah or Baraitha.

(71) The same question is asked against R. Johanan as was asked against Rab. But the answer which was effective in the case of Rab could not be given with regard to R. Johanan. Therefore different answers are attempted, v. infra 8b.

Talmud - Mas. Kethuboth 8b

With regard to what was that taught?[1] With regard to Grace after meals;[2] [and] with regard to what did R. Johanan say [this ruling]?[3] With regard to the line [of comforters].[4] But [then] what of the dictum[5] of which)R. Isaac said [that] R. Johanan said: ‘One says the benediction[6] of the bridegrooms in the presence of ten [male persons] and the bridegrooms are of the number, and [one says] the benediction of the mourners[7] in the presence of ten [male persons] and the mourners are not of the number’ — is there a benediction [said] in the line [of comforters]?[8] — But [the answer is]: With regard to what did R. Johanan say [this ruling]?[3] with regard to the [benediction recited in the] open space.[9] But [then] what of the dictum which R. Isaac said [that] R. Johanan said: ‘One says the benediction of the bridegrooms in the presence of ten [male persons] all the seven [days][10] and the bridegrooms are of the number, and [one says] the benediction of the mourners in the presence of ten [male persons] all the seven [days][11] and the mourners are not of the number — is the benediction [recited in] the open space said all the seven days?[12] — It is possible in the presence of new friends[13] — as in the case of[14] R. Hiyya. the son of Abba, [who was] the Bible teacher of the son[15] of Resh Lakish, or, as some say,[16] the Mishnah teacher of the son of Resh Lakish. [It happened as follows:] A child [of R. Hiyya, the son of Abba] died,[17] The first day[18] he [Resh Lakish] did not go to him. The next day[19] he [Resh Lakish] took with him[20] Judah the son of Nahmani,[21] his meturgeman.[22] [and] said to him: Rise [and] say something[23] with regard to[24] [the death of] the child. He spoke[25] and said: [It is written.] And the Lord saw and spurned, because of the provoking of His sons and His daughters.[24] [This means, in] a generation [in which the fathers spurn the Holy One, blessed be He, He is angry with their sons and their daughters and they die when they are young.[26] And some say [that] he [the child of R. Hiyya, the son of Abba, that died] was a young man[27] and that he [Judah the son of Nahmani] said thus to him:[28] Therefore the Lord shall have no joy in their young men, neither shall He have compassion on their fatherless and widows; for every one is profane and an evil-doer, and every mouth speaketh folly. For all this His anger is not turned away, but His hand is stretched out still.[29] (What is the meaning[30] of ‘but His hand is stretched out still’? Said R. Hanan, the son of Rab:[31] All know for what purpose[32] a bride is brought into the bridal chamber, but whoever disgraces his mouth and utters[33] a word of folly-even if a [divine] decree[34] of seventy years of happiness[35] were sealed [and granted] unto him,[36] it is turned for him into evil.) — He came to comfort, [and] he grieved him? This he said to him: Thou art important enough to be held responsible[37] for [the shortcomings of] the generation.[38] He[39] [then] said to him:[40] Rise [and] say something with regard to the praise of the Holy One, blessed be He He spoke and said: The God,[41] who is great in the abundance of His greatness, mighty and strong in the multitude of awe-inspiring deeds, who reviveth the dead with his word,[42] who does great things that are unsearchable[43] and wondrous works without number.[44] Blessed art thou, O Lord, who revivest the dead.[45] He[46] then ‘said to him:[47] Rise [and] say something with regard to the mourners. He spoke and said: Our brethren, who are worn out, who are crushed by this bereavement,[48] set your heart to consider[49] this: This it is [that] stands for ever,[50] it is a path from the six days of creation.[51] Many have drunk, many will drink,[52] as the drinking of the first ones, so will be that of the last ones. Our brethren, the Lord of consolation comfort you. Blessed be He who comforteth the mourners. (Said Abaye: ‘Many have drunk’ he should have said, ‘many will drink’ one should not have said, ‘the drinking of the first ones’, he should have said, ‘the drinking of the last ones’ one should not have said, for R. Simeon, the son of Lakish,[53] said, and so one has taught in the name of R. Jose: Man should never open his mouth to Satan.[54] Said R. Joseph: What text [shows this]? We should have been as Sodom, we should have been like unto Gomorrah.[55] What did He[56] reply unto him?[57] Hear the word of the Lord, ye rulers of Sodom, etc.[58]) He[59] [then] said to him:[60] Rise [and] say something with regard to the comforters of the mourners.[61] He spoke and said: Our brethren, bestowers of lovingkindnesses, sons of bestowers of lovingkindnesses, who hold fast to the covenant of Abraham our father[62] [for it is said, For I have known him, to the end that he may command his children, etc.],[63] our brethren, may the Lord of recompense pay you your reward. Blessed art Thou who payest the recompense. He[64] [then] said unto him:[65] Rise [and] say something with regard to the whole of Israel. He spoke and said: Master of the worlds, redeem and save, deliver [and] help Thy people Israel from pestilence,[66] and from the sword, and from plundering,[67] and from the blast, and from the mildew, and from all kinds of calamities that [may] break forth and come into[68] the world. Before we call, mayest Thou answer,[69] Blessed art Thou who stayest the plague.[70] ‘Ulla said, and some say [that] it was taught in a Baraitha: Ten cups [of wine] the scholars have instituted [to be drunk] in the house of the mourner: Three before the meal in order to open the small bowels, three during the meal in order to dissolve the food in the bowels, and four after the meal: one corresponding to ‘who feedeth’,[71] one corresponding to the blessing of ‘the land’,[71] one corresponding to ‘who rebuildeth Jerusalem,[71] and one corresponding to ‘who is good and doeth good’.[71] They [then] added unto them [another] four [cups]: one in honour of the officers of the town, and one in honour of the leaders of the town, and one in honour of the Temple. and one in honour of Rabban Gamaliel. [When] they began to drink [too much] and to become intoxicated, they restored the matter to its original state.[72] What [about] Rabban Gamaliel? — As it has been taught: At first the carrying out of the dead[73] was harder for his relatives[74] than his death,[75] so that they left him[76] and ran away, until Rabban Gamaliel[77] came and adopted a simple style and they carried him out[78] in garments of linen, and [then] all the people followed his example and carried out [the dead][79] in garments of linen. Said R. Papa: And now it is the general practice [to carry out the dead] even in rough cloth worth [only] a zuz.[80]

R. Eleazar said:

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(1) Lit., ‘When was that taught’. In the Baraitha (that mourners ate also of the number)

(2) Lit., ‘the benediction of food’.

(3) That mourners are not of the number.

(4) The line of comforters which was formed to offer consolation to the mourners after a burial, v. Sanh. 19a.

(5) Lit., ‘But as to this that’.

(6) ‘The blessing, or benediction, of the bridegrooms’ has a collective sense. The six (or seven) benedictions are meant.

(7) Has also a collective sense; v. infra.

(8) Does one say benedictions in the line that is formed, after the burial of the dead, so that the friends may comfort the mourners? There only words of comfort are said, but no benedictions. In Sanh.. 19a one word of comfort is mentioned: תתנחמו ‘be comforted’.

(9) The benedictions of the mourners were said in the open space, v. infra.

(10) Of the wedding festivities.

(11) Of mourning.

(12) Lit., ‘Is there a benediction of the open space all the seven days?’

(13) Lit., ‘Thou wilt find it in (the case of) new faces’. When new friends come to visit the mourners for the first time during the seven days, the benediction of mourners is said :in the free space.

(14) Lit., ‘as that of.’

(15) So MS.M.; cur. edd. ‘sons’.

(16) Lit., ‘and some say.’

(17) It was R. Hiyya's child that died and not Resh Lakish's. Resh Lakish went to comfort R. Hiyya and took his (Resh Lakish's) meturgeman (v. infra) with him. Some scholars go wrong in the rendering of this passage. V., for instance, Levy p. 303. Bacher rightly speaks of the death of the young child of R. Hiyya.

(18) I.e., the first day of R. Hiyya's mourning.

(19) Lit., ‘on the morrow.’

(20) Lit., ‘led him.’

(21) Judah the son of Nahmani, is mentioned several times as the meturgeman of Resh Lakish; v. e.g. Sot. 37b, Cit. 60b, (also Tem. 14b), and Sanh. 7b.

(22) 'Interpreter'. As to his function v. J.E., vol. VIII, p. 521. and vol. I, p. 527, n. I. One sentence may be quoted from the last-named article. 'In a limited sense it ('the interpreter' Amora, or meturgeman) signifies the officer who stood at the side of the lecturer or presiding teacher in the academy and in meetings for public instruction, and announced loudly, and explained to the large assembly in an oratorical manner, what the teacher had just expressed briefly and in a low voice.' The meturgeman was, therefore, a sort of assistant lecturer. Judah the son of Nahmani, was assistant lecturer to Resh Lakish. He was also a good preacher who expounded well Biblical verses homiletically (cf. e.g., Sanh. 7b). He could also recite benedictions by heart. Cf. Cit. 60b and Tem. 14b. For these reasons apparently Resh Lakish took with him Judah the son of Nahmani, when he paid a visit of condolence to R. Hiyya. the son of Abba. Judah spoke on behalf of Resh Lakish.
(23) Lit., 'a word', 'a thing.'
(24) Lit., 'corresponding to', 'vis-a-vis'.
(25) Lit., 'he opened.' This probably means: he opened his mouth (and said), cf. Job III, 1. It may also mean: he opened his discourse; v. the Dictionaries of Levy and Jastrow, s.v. Here the first meaning seems to be more likely. (15) Deut. XXXII, 19.
(26) Lit., 'small'.
(27) I.e., a grown-up son, not a small child
(28) To R. Hiyya. the son of Abba
(29) Isa. IX. 16.
(30) Lit., 'What?' 'Why?'
(31) In Shab. 33a: b. Raba.
(32) Lit., 'for what.'
(33) Lit., 'brings forth from his mouth.'
(34) Lit., a decree of His judgment.'
(35) Lit, 'for good.'
(36) I.e., even if it was decreed in heaven that he should have seventy' years of happiness. cf R.H. 16b.
(37) Lit., 'to be seized'.
(38) Cf. Shab. 33b: 'the righteous men are seized for (the shortcomings of) the generation.' V. Rashi a.l.
(39) Resh Lakish
(40) Judah the son of Nahmani.
(41) According to Rashi the words 'Blessed art Thou, O Lord our God, King of the Universe,' are to be supplemented before 'The God,' etc.
(42) This phrase occurs also in the abbreviated Amida prayer said on Friday' night. v. P.B. p. 120.
(43) Lit., 'until there is no searching.' Cf Ps CXLV. 3.
(44) Lit., 'until there is no number.' Cf. Ps. CXLVII, 5. The whole phrase occurs also in the evening service prayer v. P.B. p. 99.
(45) This benediction is, in its main ideas, reminiscent of the first three benedictions of the Amida.
(46) Resh Lakish
(47) Judah the son of Nahmani.
(48) Lit., 'by this mourning.'
(49) Cf. I Chron. XXII, 25.
(50) Rashi adds: that all die, and you should nor weep too much.
(51) Lit., 'in the beginning'.
(52) From the cup of sorrow.
(53) I.e., Resh Lakish.
(54) That is, one should never utter ominous words and thus invite misfortune.
(55) Isa. I, 9.
(56) God.
(57) Unto Isaiah.
(58) Isa. I, 20. Because Isaiah compared the people to Sodom and Gomorrah, God addressed them as 'rulers of Sodom,' 'people of Gomorrah.' This is to illustrate how ominous words can have an evil effect.
(59) Resh Lakish.
(60) Judah the son of Nahmani.

(61) The friends who came to comfort the mourners.

(62) Rashi adds: who bestowed lovingkindnesses. The meaning is: who are carrying out the trust with which Abraham was charged, also for future generations; v. next note.

(63) The passage is bracketed also in the original. The verse continues: and his household after him, that they may keep the way of the Lord, to do righteousness and Justice: to the end that the Lord may bring upon Abraham that which He has spoken of him; Gen. XVIII, 19.

(64) Resh Lakish.

(65) Judah the son of Nahmani.

(66) Lit ,’the pestilence.’

(67) Lit., ‘the spoil’, ‘the plunder’.

(68) Lit.,’to’.

(69) Lit., ‘and thou wilt answer’.

(70) Cf. Num. XVII, 13, 15; XXV, 8; II Sam. XXIV, 21, 25; Ps. CVI, 30. It is now time to deal with one or two points arising out of what we are told on this page (folio 8b) about the visit of Resh Lakish and his meturgeman, Judah the son of Nahmani, to R. Hiyya the son of Abba, on the occasion of the death of R. Hiyya's child. The story of this visit was introduced in order to show that there is ברכת רחבה during all the seven days of mourning if new friends are present on each occasion. Now, what is ברכת רחבה ? This question has not been answered yet. In the time of the Gaonim the tradition concerning it had faded already. In Shittah Mekubbezeth on Keth. 8b three different views are quoted. The view mentioned in Nahmanides’ Toroth ha-Adam ed. Venice, p. 50a, is again different. The explanation attempted by Krauss in the Jahrbuch der jud.-lit. Gesellschaft, vol. XVII (1926), pp. 238-239 (v. also Krauss, Jahresbericht XXXVII-XXXIX Isr.-Theol. Lehranstalt in Wien, p. 60f) is unsatisfactory. בית האבל in Kethuboth 8b is not inaccurate (v. Jahrbuch, p. 235). The emendation suggested by Krauss (Jahresbericht, p. 60) for מאי ברכת אבלים ברכת רחבה . (Meg. 23b) is unacceptable. In Tractate Soferim ch. XIX ברכת רחבה is not mentioned. The quotation from Hai and Sherira in Shittah Mekubbezeth concludes with the words: ‘As much as we have heard, we never heard that the ברכת רחבה was in vogue in Babylon’. The following explanation may however be briefly submitted: — רחבה in this connection has nothing to do with רחוב public place. It is, rather, the open space behind the house (of the mourner). V. Er. 24a-b and Krauss, T.A. vol. I, p. 48, and p. 361, n. 633. ברכת רחבה would thus mean the blessing of the mourners said in the open space behind the house of the mourner. When ten or more friends came to comfort the mourner there was, at any rate in many cases, no room in the house for all the visitors, and the mourners sat in the open space behind the house and the guests assembled there, and the benedictions ברכת אבלים were recited before the assembly in the open space. רחבה was therefore almost identical with the בית האבל Therefore, when it is said in Meg. 23b מאי ברכת אבלים ברכת רחבה this statement is entirely correct. (לא אזל לגביה can only mean that he (Resh Lakish) did not go to him (to the mourner). The next day he did go to him, namely, to his house, or to the open space behind the house. What Krauss, Jahrbuch, p. 239, says on לגביה cannot be accepted.) The story on this page (folio 8b) confirms this interpretation. Resh Lakish and his meturgeman went to R. Hiyya, that is, they went to his house, or to the open space near his house. Judah, the son of Nahmani, delivered there a homily and recited four benedictions. And these benedictions are called ברכת רחבה and ברכת אבלים. That is: The ברכת אבלים., which was recited in the רחבה was also called ברכת רחבה and required the presence of ten new guests. Whether this ברכת רחבה required a cup of benediction is difficult to say. In Toroth ha-Adam p. 45b it says: Some say that ברכת רחבה requires a cup: cf. however ibid. 49a, where the view of R. Paltai seems to be that it had no ‘cup’ attached to it. In the story on this page (folio 8b) no ‘cup’ is mentioned. It might have been implied. It may be that the סעודת הבראה (the meal given by friends to the mourners after the funeral) also took place in this רחבה. Cf. M.K. 25a. The ברכת רחבה fell, apparently, early into disuse, so that in post-Talmudic times its real character was not known any more. It is difficult to see why these benedictions disappeared from use. They are beautiful in thought and language, especially benedictions 1 and 2. These two benedictions deserve to be reinstated. Another point that should be noted is this: Judah the son of Nahmani, did not give his own sayings. The homily which he delivered was not his own. The benedictions which he recited had long been fixed. Cf. Rashi, ad loc. וכן סדורות על הסדר. It is strange that Graetz thinks that Judah the son of Nahmani improvised these beautiful prayers and that these prayers shew that Judah was a fine Hebrew stylist. Judah the son of Nahmani was a meturgeman, and a meturgeman was not expected to say original things. He knew by heart the homilies of others and the fixed benedictions, and he delivered the homilies well and he recited the benedictions well. It is interesting to note that קום אימא מילתא was said to the Meturgeman, although the

מילתא was not his. Cf. also Shittah Mekubbezeth: מרינן קום אימא מילתא סדורא בעלמא אמר ליה אבל הני ברכות מעיקרא איתקון והא דא

(71) ‘Who feedeth’ is the first benediction of Grace after meals, the blessing of ‘the land’ is the second, ‘who rebuildeth Jerusalem’ is the third, and ‘who is good and doeth good’ is the fourth. V. P.B., pp. 280-283; cf. Ber. 48b.

(72) Lit., ‘to its old state.’ Cf. Sem. ch. XIV, where the text is somewhat different and the order of the ‘cups’ varies.

(73) I.e.. the funeral.

(74) The relatives of the dead.

(75) Because of the great expense. They buried the dead in costly’ garments (Rashi).

(76) The dead.

(77) I.e., Rabban Gamaliel II, also called Rabban Gamaliel of Jabneh.

(78) For variant, cf. M.K. 27b.

(79) For burial

(80) A silver coin, one fourth of a shekel.

Talmud - Mas. Kethuboth 9a

He who says. I have found an ‘open opening’[1] is trusted to make her forbidden for him.[2] Why?[3] It is a double doubt:[4] It is a doubt [whether she had the intercourse with the other man while] under him,[5] or[6] , [while] not under him.[7] And if you say[8] that [she had that intercourse while] under him, [there is] the [other] doubt [whether she had that intercourse] by violence or[9] by [her free] will! — It was necessary[10] [to state this rule] in the case of the wife of a priest.[11] And if you wish, you may say [that it speaks of] the wife of an Israelite,[12] and for instance when her father received the betrothal for her [when] she was less than three years and one day old.[13] What does he[14] let ‘is hear by [this since] we have already learnt [it]:[15] ‘If a man says[16] to a woman, "I have betrothed thee [to myself]", and she says, "Thou hast not betrothed me [to thyself]," she is allowed [to marry] his relatives, but he is forbidden [to marry] her relatives.’[17] — What you might have supposed is that there[18] [he causes a prohibition to himself] because it is certain to him,[19] but here it is not quite certain to him.[20] [Therefore] he[21] lets us hear [this rule].[22] But did R. Eleazar say so? Did not R. Eleazar say: The wife does not become forbidden for her husband save in the case of[23] warning[24] and seclusion,[25] and as [we find in] the occurrence that happened?[26] But how can you [in any case] understand it?[27] Was the occurrence that happened accompanied by warning and seclusion? And again, did they[28] declare her[29] forbidden?[30] — This is no difficulty, [for] thus he[31] means to say:[32] The wife does not become forbidden for her husband save in the case of warning and seclusion, [and this we learn] from the occurrence that happened, because [there] there was no warning and seclusion and [therefore] she[33] was not forbidden.[34] But [the former question] is nevertheless difficult. In the [case of] warning and seclusion but not [in the case of] ‘an open opening’![35] — But according to your argument[36] [the question could be asked]: [in the case of] warning and seclusion, yes, [and in the case of] witnesses,[37] no! Hence he[38] means to say thus: The wife does not become forbidden for her husband through one witness[39] but through two witnesses;[40] but in the case of warning and seclusion:[41] even through one witness,[42] and ‘an open opening’ is like two witnesses.[43] And if you will say: [In the case of] the occurrence that happened. why did they not declare her forbidden?[44] [The answer is:] There it was compulsion.[45] And if you wish you can say as R. Samuel the son of Nahmani said[46] [that] R. Jonathan said:

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(1) ‘An open opening’ is a euphemistic expression for ‘absence of virginity’. The husband, after the first intercourse with his young wife, claims that he found no virginity.

(2) V. infra.

(3) Lit , ‘And why?’ — The question is: Why should his wife become forbidden for him by what he said regarding the absence of her virginity?

(4) Lit., the doubt of a doubt’.

(5) Under her husband, that is, since the betrothal (erusin); in which case she is regarded as an adulteress who is forbidden to live with her husband. V. Sanh. 51a.

(6) Lit ‘A doubt’.

(7) Before her betrothal.

(8) Lit., ‘If thou wilt be found (consequently) to say.’

(9) If a betrothed (or married) woman is violated by another man she does not become forbidden for her husband. V. infra 51b, v. also Deut. XXII, 25-27.

(10) Lit., not necessary’, i.e., it would not have been necessary but for the case of the wife of a priest. The meaning is: the rule applies in the case of the wife of a priest.

(11) If the wife of a priest was violated she was forbidden for her husband. V. infra 51b, and Yeb. 56b.

(12) I.e., an ordinary Jew, not a priest.

(13) In this case there is only one doubt: whether she was violated, or submitted by her free will. The other doubt (‘under him’ or ‘not under him’) does not arise since in the latter case her virginity would not be affected. V. Ned. 44b.

(14) R. Eleazar (an Amora).

(15) That a man may, by his own evidence, prohibit for himself a thing or a person otherwise permitted to him.

(16) Lit., ‘he who says’.

(17) The forbidden degrees of relatives by marriage; v. Kid. 65a.

(18) Kid. 65a.

(19) Lit , ‘it is certainly established to him.’

(20) His grievance may’ be imaginary.

(21) R. Eleazar.

(22) That he is believed.

(23) Lit., ‘over the affairs of’.

(24) Given to the wife by the suspecting husband.

(25) Of the wife with the suspected man. V. Num. V, 11ff; cf. Sol. 2a and 2b.

(26) Lit., ‘according to the deed that was’. I.e., of David and Bathsheba, cf. II Sam. XI. This contradicts the dictum of R. Eleazar that the woman becomes forbidden on a mere charge by her husband of an ‘open opening’.

(27) This latter dictum of R. Eleazar.

(28) The authorities.

(29) Bath-sheba.

(30) [For Judah. The fact that she was allowed to marry David shews that she was not forbidden to Uriah, for it is a general rule that an adulteress is forbidden to continue with her husband as well as her paramour. Sot. 27b.]

(31) R. Eleazar.

(32) Lit., ‘he says’.

(33) Bath-sheba.

(34) For Uriah. V. p. 44, n. 20.

(35) Lit., ‘warning . . . yes; an open . . . no.’ I.e., the words of R. Eleazar imply that the wife would be forbidden for her husband only in case of warning and seclusion, but not in the case of ‘an open opening’, which contradicts his former ruling.

(36) If you are to argue from the implications of R. Eleazar's words as they stand.

(37) Why should the evidence of witnesses that the wife was unfaithful be weaker than warning and seclusion? Surely this cannot be!

(38) R. Eleazar.

(39) By the evidence of one witness that the wife was unfaithful; v. Rashi ad loc.

(40) By the evidence of two witnesses.

(41) Where there are two witnesses to the warning and seclusion.

(42) If even only one witness testified to the adultery that followed she is forbidden to her husband. V. Sot. 2b.

(43) I.e., the charge of an ‘open opening’ by her husband is on a par with the evidence of two witnesses.

(44) For David, seeing that many people knew of the occurrence, and thus there were witnesses.

(45) Bath-sheba could not resist the demand of the king. [And since she was thus not forbidden to Uriah, she was permitted also to David. (V. supra p. 44, n. 20)].

(46) Lit., ‘as that which R. Samuel the son of Nahmani said’.

Talmud - Mas. Kethuboth 9b

Everyone who goes out into the war of the House of David writes for his wife a deed of divorce,[1] for it is written, And to thy brethren shalt thou bring greetings, and take their pledge.[2] What [is the meaning of], 'and take their pledge'? R. Joseph learnt: Things which are pledged between him and her.[3]

Abaye said: We have also learned[4] [this]:[5] A MAIDEN IS MARRIED ON THE FOURTH DAY OF THE WEEK. [This implies] only on the fourth day, but not the fifth day.[6] What is the reason? [Presumably] on account of the cooling of the temper.[7] Now in which respect [could the cooling of the mind have a bad result]? If with regard to giving her the kethubah,[8] let him give it to her.[9] Consequently[10] [we must say only] with regard to making her forbidden for him;[11] and [it is a case where] he puts forward a claim.[12] Is it not that he puts forward the claim of 'an open opening'?[13] — No, [it is a case where] he puts forward the claim of blood.[14]

Rab Judah said [that] Samuel said: If any one says. 'I have found an open opening', he is trusted to cause her to lose her kethubah. Said R. Joseph: What does he[15] let us hear? We have [already] learned [this]:[16] He who eats[17] at his father-in-law's [between the time of betrothal and the time of marriage] in Judaea,[18] without witnesses, cannot [after the marriage] raise the claim of [the loss of] virginity, because he is alone with her.[19] In Judaea he cannot raise this claim, but in Galilee[20] he can raise it. Now in which respect? If to make her forbidden for him, why [should he] not [be able to raise this claim] in Judaea?[21] Consequently[22] [we must say it is] to cause her to lose her kethubah;[23] and [it is in a case] when he raises a claim. Is it not that he raises the claim of 'an open opening'? — No, when he raises the claim of blood.[24]

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(1) [So that in case he falls in battle his wife should be free to marry without the necessity of halizah. The Get would in that case take effect retrospectively from the date of its writing (Rashi). Tosaf.: He writes a Get without any conditions to take effect immediately]

(2) I Sam. XVII, 15.

(3) I.e., the betrothals, these thou shalt take from them by a deed of divorce (Rashi).

(4) We have been taught in a Mishnah; v. supra 2a.

(5) That the claim of 'an open opening' makes the wife forbidden for the husband.

(6) Lit., 'on the fourth day, yes, on the fifth day, no.'

(7) The husband might be appeased by the following Monday, cf. supra 2a and 5a.

(8) V. Glos.

(9) No harm is done by this. There is no sin involved in the payment of the marriage settlement to the wife, even if, in law, she forfeited it through her conduct.

(10) Lit., 'but'.

(11) If her conduct makes her forbidden for the husband for marital intercourse then the disregard of this prohibition would involve a sin. And therefore a maiden marries on the fourth day of the week so that there should be no 'cooling of the mind'.

(12) I.e., the husband must have put forward a serious claim.

(13) As evidencing unfaithfulness, This proves that the charge of an 'open opening' by the husband renders his wife forbidden to him.

(14) I.e he claims that there was no bleeding. And this is a more manifest sign of the absence of virginity, evidencing unfaithfulness, than 'an open opening.

(15) Rab Judah.

(16) In a Mishnah; cf. infra 22a.

(17) I.e., he who frequently visits the house of the father of his betrothed bride.

(18) This was customary in Judaea.

(19) And might have had intimate relations with the bride.

(20) In Galilee that custom (v. p. 46, n. 16) did not prevail.

(21) If he is sure that he has not been intimate with her during the time of betrothal and he charges her with unfaithfulness, he renders her, by the mere charge, forbidden to him?

(22) Lit., ‘but’.

(23) In Judaea he cannot make her lose the kethubah, because he might have been intimate with her during the period of betrothal.

(24) And therefore Samuel's statement is necessary.

Talmud - Mas. Kethuboth 10a

It was stated: Rab Nahman said [that] Samuel said in the name of R. Simeon b. Eleazar: The scholars ordained for the daughters of Israel [as follows]: for a maiden two hundred [zuz[1]] and for a widow a maneh[2] [one hundred zuz].[3] And they trusted him, so that when he said, ‘I have found an open opening’, he is believed.[4] If so, what have the Sages accomplished with their ordinance?[5] — Said Raba: The presumption is [that] no one will take the trouble of preparing a [wedding-]feast and will then spoil it.[6] One has taught: Since it[7] is a fine [instituted] by the sages she[8] shall collect only from the worst land[9] [of the husband's estate]. [You say] a fine! Why a fine?[10] — Say then: since it is an ordinance of the sages,[11] she shall collect only from the worst land [of the husband's estate]. Rabban Simeon b. Gamaliel says: The kethubah of a wife is from the Torah.[12] But did Rabban Simeon b. Gamaliel say so? Surely it has been taught: [It is written in the Torah] He shall pay money according to the dowry of virgins;[13] [this teaches us that] this[14] is [as much] as the dowry of the virgins[15] and the dowry of the virgins is [as much] as this.[16] But,[17] the Sages found a support for [the rule that] the kethubah of a wife is from the Torah. Rabban Simeon b. Gamaliel Says: The kethubah of a wife is not from the words of the Bible, but from the words of the Soferim![18] — Reverse it.[19] And why does it appear to you right to reverse[20] the latter [teaching]? Reverse the former [teaching]![21] — We have [already] heard that R. Simeon the son of Gamaliel said that the kethubah is from the Bible, for we learnt: Rabban Simeon b. Gamaliel says: He[22] gives her[23] [the kethubah] in Cappadocian coins.[24] And if you wish, you may say: The whole of it[25] is [according to] Rabban Simeon b. Gamaliel. only[26] it is defective[27] and it teaches thus:[28] Here the Sages found a support for [the rule that] the kethubah of a wife is from the Torah. The kethubah of a widow [however] is not from the words of the Torah but from the words of the Soferim, for Rabban Simeon b. Gamaliel Says: The kethubah of a widow is not from the words of the Torah but from the words of the Soferim.[29]

Someone came before R. Nahman [and] said to him: I have found an open opening.[30] R. Nahman answered:[31] Lash him with palm-switches; harlots[32] lie prostrate before him.[33] But it is R. Nahman who said that he [the husband] is believed![34] — He is believed, but [at the same time] one lashes him with palm-switches. R. Ahai answered: Here[35] [it speaks] of a young man,[36] there [it speaks] of one who was married before.[37]

Some one came before Rabban Gamaliel [and] said to him, I have found an ‘open opening’. He [Rabban Gamaliel] answered him: Perhaps you moved aside.[38] I will give you an illustration: To what is this like? To a man who was walking in the deep darkness of the night[39] [and came to his house and found the door locked];[40] if he moves aside [the bolt[41] of the door] he finds it open, if he does not move aside [the bolt of the door] he finds it locked. Some say [that] he [R. Gamaliel] answered him thus: Perhaps you moved aside wilfully[42] and you tore away the door and the bar.[43] I will give you an illustration: To what is this like? To a man who was walking in the deep darkness of the night [and came to his house and found the door locked]; if he moves aside [the bolt of the door] wilfully[44] he finds it open, if he does not move aside [the bolt of the door] wilfully he finds it locked.

Some one came before Rabban Gamaliel the son of Rabbi [and] said to him, ‘My master, I have had intercourse [with my newly-wedded wife] and I have not found any blood.’ She [the wife] said to him, ‘My master, I was a virgin.’ He said to them: Bring me that cloth.[45] They brought him the cloth, and he soaked it in water and he washed it and he found on it a good many drops of blood.[46]

[Thereupon] he [Rabban Gamaliel] said to him [the husband]: Go, be happy with thy bargain.[47] Huna Mar the son of Raba of Parazika,[48] said to R. Ashi: Shall we also do it?[49] He answered him:

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(1) V. Glos.
(2) V. Glos.
(3) As her kethubah. V. infra 10b.
(4) And she loses the kethubah.
(5) If he can make her lose the kethubah by the claim of an ‘open opening’.
(6) No one will go to the trouble and expense of a wedding and then waste it all by an invented claim. If he makes such a charge, he is, no doubt, telling the truth.
(7) The kethubah.
(8) The wife.
(9) Cf. also B.K. 7b and 8a.
(10) Why do you call it a fine? And why should it he a fine?
(11) I.e., a Rabbinical, and not a Biblical, ordinance.
(12) I.e.. an ordinance of the Bible.
(13) Ex. XXII, 16.
(14) The payment for the enticement of the virgin.
(15) I.e., fifty pieces of silver, the fine inflicted for violating a virgin, v. Deut. XXII, 27.
(16) The ‘silver pieces’ referred to are shekels, not ma'ahs, v. infra 38a.
(17) Lit., ‘from here’, i.e., from the phrase ‘dowry of virgins’.
(18) The Soferim, or scribes, were the learned men who succeeded Ezra during a period of about two hundred years. Rabban Simeon b. Gamaliel therefore holds that the kethubah was a Rabbinical, and not a Biblical, ordinance.
(19) The answer is: Reverse the reading and say that Rabban Simeon b. Gamaliel said that in the Scriptural verse mentioned is to be found a support for the rule that the kethubah of a wife is from the Bible, and that the first Tanna said that it was not Biblical but ‘from the words of the Soferim’.
(20) Lit., ‘And why do you see that you should reverse.’
(21) Where it says that Rabban Simeon b. Gamaliel holds that the kethubah of a wife is from the Torah.
(22) The husband.
(23) The wife.
(24) They were more variable than the Palestinian coins. The husband has to pay in Cappadocian coins because the kethubah is from the Bible; v. infra 110b.
(25) Of the teaching of the Baraitha mentioned before.
(26) Lit., ‘and’.
(27) A clause is missing.
(28) I.e., the Baraitha should be read thus.
(29) According to this version of the Baraitha, R. Simeon b. Gamaliel holds that the kethubah of the maiden-wife is Biblical and that the kethubah of the widow-wife is rabbinical.
(30) He (the husband) raised this complaint about his newly wedded wife.
(31) Lit., ‘said to him’, i.e., concerning him.
(32) V. Levy, Vol. III, p. 2. Rashi: ‘the harlots of Mabrakta’. [Mabrakta was a place in the neighbourhood of Mahoza. v. Obermeyer, p. 177.]
(33) I.e., such a man ought to be punished. for if he is such an expert in these matters he must have led an immoral life.
(34) If the husband says that he has not found virginity in his wife. Why should he then be lashed for having complained to R. Nahman about his wife?
(35) Where R. Nahman ordered punishment.’
(36) Who was not married before. He should not have known if he had not had intercourse with harlots before his marriage. There R. Nahman ordered lashing.
(37) And therefore he could know without having led an immoral life. He is therefore believed and receives no lashing (Rashi). It is also possible that according to R. Ahai both are believed R. Ahai only explains that it is the young man who gets the birch.
(38) And thus performed the coition without tearing the hymen. V. Jast. p. 595.

(39) Lit., 'in the blackness of night and darkness'; cf. Prov. VII, 9.
(40) Some such words as these must be inserted.
(41) 'He moved aside', and 'he did not move aside' refer apparently to the bolt of the door and not to the door itself. The simile is obvious: the bolt is compared to the membrum virile. He moved the membrum virile aside and therefore found 'an open opening'.
(42) Intentionally.
(43) The 'door', 'door-way', 'entrance', apparently refers to the vagina, or the entrance into the vagina, and 'the bar' to the hymen. He intentionally moved so forcibly that he tore open the entrance and swept away the hymen without feeling it.
(44) The action must be intentional. The chief point of this version seems to be the wilful intention. The bolt of a door cannot, as a rule, he moved aside accidentally. There must be intention in the action.
(45) Upon which they spent the night.
(46) The blood was covered by semen.
(47) Lit., 'take possession of' a phrase in which there is also an element of joy. 'Be happy with' expresses well the spirit of the decision. Rabban Gamaliel himself was happy that he could keep together and strengthen the bond of marriage between husband and wife.
(48) Faransag, near Bagdad.
(49) I.e., apply in such cases the test applied by Rabban Gamaliel to the cloth.

Talmud - Mas. Kethuboth 10b

Our[1] laundry work[2] is like their[3] washing.[4] And if you will say let us do laundry work,[5] [my answer is] the smoothing stone will remove it.[6] Someone came before Rabban Gamaliel the son of Rabbi [and] said to him, 'My master, l have had intercourse [with my newly-wedded wife] and I have not found any blood.' She [the wife] said to him, 'My master, I am still a virgin.' He [then] said to them: Bring me two handmaids, one [who is] a virgin and one who had intercourse with a man. They brought to him [two such handmaids], and he placed them upon a cask of wine. [In the case of] the one who was no more a virgin its smell[7] went through,[8] [in the case of] the virgin the smell did not go through.[9] He [then] placed this one [the young wife] also [on a cask of wine]. and its smell[10] did not go through. He[11] [then] said to him:[12] Go, be happy with thy bargain.[13] — But he should have examined her from the very beginning![14] — He had heard a tradition,[15] but he had not seen it done in practice.[16] and he thought. The matter might not be certain[17] and it would not be proper[18] to deal lightly with daughters of Israel.[19]

Someone came before Rabban Gamaliel the elder [and] said to him, 'My master, I have had intercourse [with my newly-wedded wife] and I have not found any blood. She [the wife] said to him, 'My master, I am of the family of Dorkati, [the women of] which have neither blood of menstruation nor blood of virginity.' Rabban Gamaliel investigated among her women relatives and he found [the facts to be] in accordance with her words. He [then] said to him: Go, be happy with thy bargain. Happy art thou that thou hast been privileged [to marry a woman] of the family of Dorkati. What is [the meaning of] Dorkati? — A cut-off generation.[20] — R. Hanina said: Vain consolation Rabban Gamaliel offered[21] to that man, for R. Hiyya taught: As the leaven is wholesome for the dough, so is blood wholesome for a woman. And one has [also] taught in the name of R. Meir: Every woman who has abundant blood has many children. It has been said: R, Jeremiah b. Abba said: He [Rabban Gamaliel] said to him [the husband]: Be happy with thy bargain. But R. Jose b. Abin said: He said to him: thou hast been punished with thy bargain.[22] We quite understand the one who says 'Thou hast been punished' with thy bargain — this is [according to the view] of R. Hanina. But according to him who says 'Be happy' [with thy bargain], what is the advantage [of such a marriage]? — He [the husband] does not come to any doubt regarding menstruation.

Someone came to Rabbi [and] said, 'My master, I have had intercourse [with my newly-wedded wife] and I have not found any blood.' She said, 'My master, I was [and am] still a virgin, and it was [a period of] years of dearth.’ Rabbi saw that their faces were black,[23] [and] he commanded concerning them, and they[24] brought them[25] to a bath and gave them to eat and to drink and brought them to the bridal chamber, and he had intercourse with her and found blood. He[26] [then] said to him: Go, be happy with thy bargain. Rabbi applied to them the verse:[27] Their skin is shrivelled upon their bodies,’ it is withered, it is become like a stick.[28]

MISHNAH. A MAIDEN — HER KETHUBAH IS TWO HUNDRED [ZUZ],[29] AND A WIDOW — A MANEH.[30] A MAIDEN, WHO IS A WIDOW, [OR] DIVORCED, OR A HALUZAH[31] FROM BETROTHAL[32] — HER KETHUBAH[33] IS TWO HUNDRED [ZUZ], AND THERE LIES AGAINST THEM THE CHARGE OF NON-VIRGINITY.[34]

GEMARA. Why [is a widow called] ‘almanah’? R. Hana of Bagdad said: because of the maneh.[35] But what can be said with regard to a widow from the betrothal?[36] — Because that one is called ‘almanah’[37] this one is also called ‘almanah.’[38] What can be said with regard to [the word] ‘almanah’, that is written in the Bible?[39] — [The woman] for whom the Rabbis will in future institute [the kethubah of] a maneh. But does the Bible speak of a thing which will be in the future?[40] — Yes, for it is written: And the name of the third river is Hiddekel, that is it which goeth towards the east of Ashur,[41] and R. Joseph learnt: Ashur, that is Seleucia. But was [Seleucia] already then in existence? But [it is mentioned] because it will exist in the future. Here also ‘almanah’ is mentioned in the Bible] because it [the kethubah of maneh] will exist in the future.

R. Hana of Bagdad also said: The rain waters, saturates and manures [the earth] and refreshes[42] and enlarges[43] [the fruits]. Raba the son of R. Ishmael, and some say R. Yemar the son of Shelemiah, said: Which is the verse?[44] [It is this:] Thou waterest the ridges abundantly, thou settlest the furrows thereof, thou makest it soft with showers, thou blessest the springing thereof.[45]

R. Eleazar said: The altar removes and feeds, makes beloved, atones.[46] Have not ‘atones’ and ‘removes’ the same meaning?[47] It removes [evil decrees][48] and atones for sins R. Hana of Bagdad also said: Dates warm, satisfy, act as a laxative,[49] strengthen[50] and do not make [one] delicate.

Rab said: If one has eaten dates, he should not give a legal decision. An objection was raised. Dates are wholesome morning and evening, in the afternoon they are bad, at noon they are incomparable.[51] and they remove three things: evil thought, stress of the bowels, and abdominal troubles! — Do we say that they are no good? They are indeed good. only for the moment [they cause] unsteadiness. It is analogous to wine, for the Master said:[52] He who has drunk[53] one-fourth [of a log][54] of wine shall not give a legal decision.[55] And if you wish you may say: There is no difficulty: This is before a meal and that is after a meal,[56] for Abaye said: Mother[57] told me: Dates before a meal are as an axe to the palmtree,[58] after a meal as a bar to the door.[59] Dasha [door], Raba explained:[60] derek sham[61] [‘the way there’].[62] Darga [stairs, ladder]. Raba explained:[63] derek gag [the way of the roof].[64] Puria [bed], R. Papa explained: sheparin we-rabin ‘aleha [because one is fruitful and multiplies on it]. R. Nahman b. Isaac said:

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(1) Babylonian.

(2) גיחוץ is fine laundry’ work.

(3) Palestinian.

(4) כיבום is plain washing. In Palestine the plain washing was better than in Babylonia. because the water in Palestine was better or because they had in Palestine better ingredients (Rashi). In order to get the same results they would have to do fine laundry work in Babylonia, and that would include smoothing the cloth with a stone, according to Rashi, with a gloss-stone.

(5) Let us apply גיחוץ to the cloth on which the bride and bridegroom slept.

(6) The blood. In the process of גיחוץ the stone with which the cloth would be smoothed would cause the drops of blood, which would be seen after plain washing, to disappear. The test of Rabban Gamaliel could therefore not be employed in Babylonia.

(7) I.e., the smell of the wine.

(8) One could smell the wine from the mouth (Rashi).

(9) One could not smell the wine from the mouth.

(10) I.e., the smell of the wine.

(11) Rabban Gamaliel.

(12) To the husband.

(13) The test shewed that the wife was a virgin.

(14) Why did he first have to experiment with the two handmaids.

(15) That this was a reliable test.

(16) Lit., ‘The practice he had not seen.’

(17) Lit., ‘perhaps it is not certain that the matter is good,’ that is, that the test would be effective.

(18) Lit., ‘The way of the land,’ that is, the custom.

(19) Therefore he carried out the test first with handmaids.

(20) Heb. Dor. Katu'a.

(21) Lit., ‘consoled him.’

(22) Lit., ‘Be punished with thy bargain,’ that is, the marriage stands, although it is not to thy advantage.

(23) From hunger.

(24) Those who carried out Rabbi's commands.

(25) The young couple.

(26) Rabbi.

(27) Lit., ‘read concerning them.’

(28) Lam. IV, 8.

(29) V. Glos.

(30) One hundred zuz.

(31) A woman released from a leviratical marriage, by halizah; v. Deut. XXV, 5-10.

(32) She was only betrothed (arusah, v. Glos.) but not married, and became a widow or was divorced, or released by halizah from marrying her deceased fiance's brother.

(33) Lit., ‘their kethubah’. The kethubah of either the widow’, or the divorcee, or the halizah.

(34) The husband who marries one of these women has a right to complain if he does not find signs of virginity. As they were only betrothed but not married they are expected to be virgins.

(35) The value of the kethubah of a woman who married when she was a widow. This is no attempt at proper etymology.

(36) The value of the kethubah of such a widow is two hundred zuz, and still she is called ‘almanah’.

(37) This is no attempt at proper etymology.

(38) Lit., ‘One calls her.’

(39) The kethubah was not biblically ordained for the widow; v. supra 10a.

(40) Lit., ‘And was the verse written for the future?’

(41) Gen. II, 14.

(42) Or ‘softens.’

(43) Lit., ‘causes to extend.’

(44) That can be referred to in support of R. Hana's saying regarding the rain.

(45) Ps. LXV, 11.

(46) A play on the word מזבח (altar).

(47) ‘Removes’ apparently also refers to sins!

(48) The answer is that ‘removes’ refers to evil decrees.

(49) Lit., ‘loosen’, (the bowels).

(50) The body.

(51) I.e., very good. — Dates are good, or very good, after the meals in the morning, noon and evening. They are not good in the afternoon after a rest (Rashi).

(52) The reference is to Samuel, in whose name this saying is quoted in ‘Er. 64a.

(53) Lit., he who drinks.

(54) Log is a liquid measure equal to the contents of six eggs.

(55) And one-fourth of a log of wine is certainly wholesome. But for the moment it may make one unsteady, and therefore unfit to give legal decisions.
(56) Lit., 'bread'. If one eats dates before a meal, the effect is bad and one must not give legal decisions. The passage which declares them bad speaks of a case where one eats dates after a meal. The statement itself bears this out; v. supra p. 53, n. 6.
(57) V. Kid. (Sonc. ed.) p. 153.
(58) That is, injurious.
(59) This apparently means good. It is difficult to see the meaning of the comparison. Rashi explains: They sustain the body as the bar supports a door.
(60) Lit., 'said'.
(61) A play on the word.
(62) Or, the way is there; or, through there.
(63) Lit., 'said.'
(64) Or, the way to the roof; or, the way through the roof.

Talmud - Mas. Kethuboth 11a

We will also say:[1] ailonith [the barren woman that is] a man-like[2] woman, who does not bear children.[3]

MISHNAH. A WOMAN PROSELYTE, A WOMAN CAPTIVE, AND A WOMAN SLAVE, WHO HAVE BEEN REDEEMED, CONVERTED, OR FREED [WHEN THEY WERE] LESS THAN THREE YEARS AND ONE DAY OLD — THEIR KETHUBAH IS TWO HUNDRED [ZUZ]. AND THERE IS WITH REGARD TO THEM THE CLAIM OF [NON-]VIRGINITY.[4] GEMARA. R. Huna said: A minor proselyte[5] is immersed[6] by the direction[7] of the court.[8] What does he let us know? That it is an advantage[9] to him and one may act for a person in his absence[10] to his advantage? [Surely] we have learned [this already]: One may act for a person in his absence to his advantage. but one cannot act for a person in his absence to his disadvantage!

What you might have supposed is that an idolator[11] prefers a life without restraint[12] because it is established for us that a slave certainly prefers a dissolute life,[13] therefore, he[14] lets us know that this is said[15] [only in the case] of a grown-up person who has already tasted sin,[16] but [in the case of] a minor, it is an advantage to him.[17] May we say that [this Mishnah] supports him:[18] A WOMAN PROSELYTE, A WOMAN CAPTIVE, AND A WOMAN SLAVE, WHO HAVE BEEN REDEEMED, CONVERTED. OR FREED [WHEN THEY WERE] LESS THAN THREE YEARS AND ONE DAY OLD [etc.]? Is it not that they immersed them[19] by the direction of the Court?[20] No, here we treat of the case of a proselyte whose sons and daughters were converted with him, so that they are satisfied with what their father does.[21]

R. Joseph said: When they[22] have become of age they can protest [against their conversion].[23]

Abaye asked:[24] A WOMAN PROSELYTE, A WOMAN CAPTIVE, AND A WOMAN SLAVE, WHO HAVE BEEN REDEEMED, CONVERTED OR FREED [WHEN THEY WERE] LESS THAN THREE YEARS AND ONE DAY OLD-THEIR KETHUBAH IS TWO HUNDRED [ZUZ]. Now if you indeed mean to say [that] when they have become of age they can protest [against their conversion],[25] would we give her the kethubah that she may go and eat [it] in her heathen state? — When she has become of age.[26] [But] when she has become of age, too, she can protest and go out![27] — As soon as she was of age one hour, and did not protest, she cannot protest any more.[28]

Raba raised an objection: These maidens receive the fine:[29] if a man has intercourse with[30] a bastard,[31] a Nethinah,[32] a Cuthean,[33] a proselyte, a captive. or a slave, who have been redeemed, converted, or freed [when they were] less than three years and one day old-they have to be paid the fine.[34] Now if you say [that] when they have become of age they can protest, would we give her[35] the fine that she may go and eat it in her heathen state? — When she has become of age.[36] When she has become of age too she can protest and go out![37] — As soon as she was of age one hour and did not protest she cannot protest any more.[38] Abaye did not say as Raba [said][39] [because] there[40] [where it speaks of fines we can say]: This is the reason:[41] that the sinner should not have any benefit.[42] Raba did not say as Abaye [said][43] because in the case of the kethubah [we can say that] this is the reason:[44] that it[45] should not be a light matter in his eyes to send her away.[46]

MISHNAH. WHEN A GROWN-UP MAN[47] HAS HAD SEXUAL INTERCOURSE WITH[48] A LITTLE GIRL,[49] OR WHEN A SMALL BOY[50] HAS INTERCOURSE WITH A GROWN-UP WOMAN, OR [WHEN A GIRL WAS ACCIDENTALLY] INJURED BY A PIECE OF WOOD[51] — [IN ALL THESE CASES] THEIR KETHUBAH IS TWO HUNDRED [ZUZ]; SO ACCORDING TO[52] R. MEIR. BUT THE SAGES SAY: A GIRL WHO WAS INJURED ACCIDENTALLY BY A PIECE OF WOOD — HER KETHUBAH IS A MANEH. A VIRGIN, WHO WAS A WIDOW, A DIVORCEE, OR A HALUZAH FROM MARRIAGE[53] — HER[54] KETHUBAH IS A MANEH.[55]

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(1) We will make a similar etymological exposition.

(2) Or ram-like. איילונית ‘a woman who cannot bear children,’ is connected with איל (ram).

(3) I.e., who is incapable of bearing children.

(4) If they had sexual intercourse before they were three years and one day old the hymen would grow again, and they would be virgins. V. 9a and 11b and cf. Nid. 44b and 45a.

(5) I.e., a minor who wants to become a proselyte, that is, be converted to Judaism. Prior to and for the purpose of that conversion the would-be proselyte has to undergo circumcision and immersion in water. V. Yeb. 46aff. The immersion is to signify his purification. If the would-be proselyte is a minor (under thirteen years of age) and has no father to act for him, the Court can authorise his ritual immersion.

(6) Lit., ‘they immerse him’.

(7) Lit., ‘by the knowledge’.

(8) Lit., ‘house of judgment’. Three members constitute the court.

(9) To be received into the Jewish Faith.

(10) Lit., ‘not in his presence’. — As the proselyte is a minor he is not, legally speaking, present.

(11) Lit.,’one who worships the stars and planets.’

(12) Lit., ‘lawlessness, unbridled lust.’ — It would therefore be a disadvantage to the minor would-be proselyte to become a Jew.

(13) Cf. Git. 13a. — This confirms the former supposition.

(14) R. Huna.

(15) Lit., ‘these words.’

(16) Lit., ‘who has tasted the taste of what is forbidden’.

(17) To become a Jew.

(18) R. Huna.

(19) The women proselytes.

(20) Because they were less than three years and one day old, consequently minors.

(21) The immersion of the minor proselytes therefore took place by the direction of their father and not of the Court. — This Mishnah is therefore no support for R. Huna.

(22) The minor proselytes.

(23) And leave the Jewish faith and go back to their former state without being liable to a penalty by the Jewish Court.

(24) Lit., ‘he raised against this a point of contradiction from a higher authority.’

(25) V. note 2.

(26) Only then one gives her the kethubah.

(27) Of Judaism; why then give her the kethubah?

(28) The kethubah would be given to her after ‘one hour’.

(29) Lit., ‘These maidens to whom there is a fine’. — The fine is that for seducing a girl; v. Deut. XXII, 29.

(30) Lit., ‘He who came on.’

(31) V. Yeb. 49a.
(32) A descendant of the Gibeonites. V. Joshua IX, 22, 23, 27 and cf. Yeb. 78b.
(33) A Samaritan.
(34) V. infra 29a.
(35) The proselyte.
(36) And adhered to Jewish practice, only then she is paid the fine, v. Tosaf.
(37) Of Judaism.
(38) The fine would be given to her after ‘one hour’.
(39) Did not ask the question of Raba.
(40) In the Mishnah, infra 29a.
(41) Why the fine should he paid to the seduced proselyte girl.
(42) Therefore he should pay the fine in any case. But the case of the kethubah (in our Mishnah) is different. Therefore, Abaye asked from our Mishnah.
(43) He did not ask the same question as Abaye.
(44) Why the kethubah is paid to the woman proselyte.
(45) Lit., ‘she’.
(46) Lit., ‘to bring her out (of his house)’, that is, to divorce her. Therefore he should pay the kethubah in any case. But the case of the fine is different. Therefore Raba asks from the Mishnah infra 29a.
(47) A man who was of age.
(48) Lit., ‘who came on’.
(49) Less than three years old.
(50) Less than nine years of age.
(51) Lit., ‘One who was injured by wood’, as a result of which she injured the hymen.
(52) Lit., ‘the words of’.
(53) A maiden was married, and immediately after the marriage. became a widow or divorced, or a haluzah; v. supra 10b.
(54) Lit., ‘their’, that is, the kethubah of each of them.
(55) Since the marriage had taken place she is regarded as a married woman and it is assumed that she is no more a virgin.

Talmud - Mas. Kethuboth 11b

AND THERE IS WITH REGARD TO THEM NO CHARGE OF NONVIRGINITY. A WOMAN PROSELYTE, A WOMAN CAPTIVE AND A WOMAN SLAVE, WHO HAVE BEEN REDEEMED, CONVERTED, OR FREED [WHEN THEY WERE] MORE THAN THREE YEARS AND ONE DAY OLD — THEIR KETHUBAH IS A MANEH, AND THERE IS WITH REGARD TO THEM NO CHARGE OF NON-VIRGINITY.

GEMARA. Rab Judah said that Rab said: A small boy who has intercourse with a grown-up woman makes her [as though she were] injured by a piece of wood.[1] When I said it before Samuel he said: ‘Injured by a piece of wood’ does not apply to[2] flesh. Some teach this teaching by itself:[3] [As to] a small boy who has intercourse with a grown-up woman. Rab said, he makes her [as though she were] injured by a piece of wood; whereas Samuel said: ‘Injured by a piece of wood’ does not apply to flesh. R. Oshaia objected: WHEN A GROWN-UP MAN HAS HAD INTERCOURSE WITH A LITTLE GIRL, OR WHEN A SMALL BOY HAS INTERCOURSE WITH A GROWN-UP WOMAN, OR WHEN A GIRL WAS ACCIDENTALLY INJURED BY A PIECE OF WOOD-[IN ALL THESE CASES] THEIR KETHUBAH IS TWO HUNDRED [ZUZ]; SO ACCORDING TO R. MEIR. BUT THE SAGES SAY: A GIRL WHO WAS INJURED ACCIDENTALLY BY A PIECE OF WOOD — HER KETHUBAH IS A MANEH![4] Raba said. It means[5] this: When a grown-up man has intercourse with a little girl it is nothing, for when the girl is less than this,[6] it is as if one puts the finger into the eye;[7] but when a small boy has intercourse with a grown-up woman he makes her as ‘a girl who is injured by a piece of wood.’ and [with regard to the case of] ‘a girl injured by a piece of wood.’ itself, there is the difference of opinion between R. Meir and the Sages.

Rami b. Hama said: The difference of opinion[8] is [only] when he[9] knew her,[10] for R. Meir compares her[11] to a mature girl,[12] and the Sages compare her to a woman who had intercourse with a man.[13] But if he did not know her,[14] all agree[15] that she has nothing.[16] And why does R. Meir compare her to a mature girl? Let him compare her to a woman who had intercourse with a man! — [In the case of] a woman who had intercourse with a man, a deed had been done to her by a man;[17] but in her case[18] — no deed has been done to her by a man. — And why do the Rabbis compare[19] her to a woman who had intercourse with a man? Let them compare her to a mature girl! [In the case of] a mature girl no deed whatsoever has been done to her,[20] but in her case — a deed has been done to her.[21]

‘But if he did not know her, all agree that she gets nothing’.[22] R. Nahman objected: If she says. ‘I was injured by a piece of wood,’ and he says. ‘No, but thou hadst intercourse with a man’, Rabban Gamaliel and R. Eliezer say [that] she is believed![23] But, said Raba, whether he knew’ her[24] and whether he did not know her,[25] according to R. Meir [her kethubah is] two hundred [zuz];[26] [whereas] according to the Rabbis, if he knew her [her kethubah is] a maneh, [if] he did not know her, she gets nothing.[27]

Raba however changed his opinion,[28] for it has been taught: How [does] the bringing out of an evil name[29] [take place]? He[30] comes to court and says, ‘I, So-and-so,[31] have not found in thy daughter the tokens of virginity.’ If there are witnesses that she has been unchaste under him,[32] she gets a[33] kethubah of a maneh.[34] [But surely] if there are witnesses that she has been unchaste under him, she is to be stoned![35] — It means this: If there are witnesses that she has been unchaste under him, she has to be stoned; if she was unchaste before [the betrothal], she gets a kethubah of a maneh. Now R. Hiyya b. Abin said [that] R. Shesheth said: This teaches:[36] If he married her in the presumption that she is a virgin and she was found to have had intercourse with a man,[37] she gets a kethubah of a maneh. Whereupon R. Nahman objected: ‘If one marries a woman and does not find in her virginity, [and] she says, "After thou hadst betrothed me [to thyself] I was forced[38] and [thus] thy[39] field has been inundated," and he says, "No, but before I betrothed thee [unto me] [thou hadst intercourse with a man], my bargain is [thus] a mistaken one.’ [etc.]’[40] and [this assuredly means] she is to get nothing![41] And R. Hiyya b. Abin said to them: Is it possible! R. Amram and all the great ones of the age sat[42] when R. Shesheth said that teaching and they found it difficult[43] and he[44] answered: In which respect is it indeed a mistaken bargain? In respect of two hundred [zuz:], but a maneh she gets [as a kethubah]. And you[45] say [that it means] she gets nothing! Whereupon Raba said: He who asked [this question][46] has asked well, for a mistaken bargain’ means entirely.[47] But [then] that [other teaching] presents a difficulty.[48] Put [it] right[49] and say thus: If there are witnesses that she was unchaste under him[50] she has to be stoned, if she was unchaste before [the betrothal], she gets nothing, if she was found to be injured by a piece of wood, she has a kethubah of a maneh. But Surely it was Raba who said [above that], according to the Rabbis, if he did not know her, she gets nothing![51] Hence you must conclude[52] from this[53] that Raba retracted from that [opinion].[54] Our Rabbis taught: If the first [husband] took her [the bride] to his home for the purpose of marriage. and she has witnesses that she was not alone [with him,][55] or even if she was alone [with him]. but she did not stay [with him] as much time as is needed for intercourse, the second [husband][56] cannot raise any complaint with regard to her virginity. for the first [husband] had taken her to his home [for the purpose of marriage].[57]

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(1) Although the intercourse of a small boy is not regarded as a sexual act, nevertheless the woman is injured by it as by a piece of wood.

(2) Lit., ‘is not in’.

(3) I.e., the difference of opinion between Rab and Samuel with regard to that question was recorded without any reference to R. Judah.

(4) The Sages differ only with regard to a girl injured by a piece of wood, but not with regard to a small boy who has intercourse with a grown-up woman. This shows that the latter case cannot be compared with the former case. The Mishnah would consequently be against Rab and for Samuel.

(5) Lit., 'says'.

(6) Lit 'here', that is, less than three years old.

(7) I.e., tears come to the eye again and again, so does virginity come back to the little girl under three years. Cf. Nid. 45a.

(8) Between R. Meir and the Sages.

(9) The husband.

(10) I.e., he knew, when he married her, that the bride was thus injured.

(11) The one who was thus injured.

(12) A bogereth (v. Glos.), a girl of full maturity, may sometimes not have signs of virginity, (v. Yeb. 59a), and her kethubah is nevertheless two hundred zuz.

(13) And had no virginity. Therefore her kethubah is only a maneh, as that of a widow.

(14) Did not know of the injury and thus thought that she was in her full virginity.

(15) Lit., 'the words of all.'

(16) Lit., 'it is nothing'. — As he was kept in ignorance of what happened to her, she does not get even a maneh (Rashi).

(17) Lit., 'by the hands of man'.

(18) Lit., 'this'.

(19) Lit., 'instead of comparing'.

(20) Her signs of virginity vanished through her maturity.

(21) Through the piece of wood.

(22) This is the concluding part of the statement.

(23) V. infra 23a. This shews that she gets the kethubah even if he did not know that she had been thus injured.

(24) I.e., knew, when he married her, that she had been injured.

(25) Did not know that she was thus injured.

(26) [And the author of the Mishnah which states that she is believed, will be R. Meir, and she receives two hundred zuz].

(27) V. n. 4. [And our Mishnah which states that she gets only a maneh will represent the view of the Sages in the case where he knew her].

(28) Lit., 'and Raba went back on himself.'

(29) Cf. Deut. XXII, 13,14.

(30) The husband.

(31) Lit., 'such and such a person', — the, husband is addressing the father of his young wife.

(32) I.e., that she had intercourse with a man after their betrothal.

(33) Lit., 'there is unto her'.

(34) V. infra 46a.

(35) Lit., 'a daughter of stoning' — (Cf. Deut. XXII, 20, 21). [How then can she have a claim to a kethubah?]

(36) Lit., 'this says'.

(37) Before the betrothal.

(38) By a man to have intercourse with him.

(39) Lit., 'his field'.

(40) V. Mishnah, infra 12b.

(41) [I.e., the words 'my bargain is a mistaken one' imply that the husband in making this charge denies her the right to receive anything at all. This refutes R. Shesheth's view that she is entitled in such a case to one maneh.]

(42) I.e., were present.

(43) Lit., 'and it was difficult unto them'. I.e., they felt the difficulty presented by the cited Mishnah.

(44) R. Shesheth.

(45) R. Nahman.

(46) I.e., R. Nahman, by asking the question from the cited Mishnah.

(47) I.e., entirely a mistaken bargain and she gets nothing. The question of R. Nahman was therefore a good question.

(48) Lit., 'That is difficult'. The Baraitha of Kethuboth 46a, which says that if she was unchaste before the betrothal she gets a kethubah of a maneh.

(49) I.e., answer.

(50) I.e., that she had intercourse with a man after their betrothal.

(51) And this is in contradiction with what Raba said just now, namely. that if the young wife was found to be injured by a piece of wood, she has a Kethubah of a maneh.

(52) Lit., ‘hear from this’.

(53) From Raba's statement that one injured thus gets a kethubah of a maneh.

(54) Expressed by Raba previously that, according to the Rabbis, if the husband did not know before the betrothal that the bride was injured, she gets no kethubah at all.

(55) Lit., ‘that she was not hidden.’

(56) The woman married again after the death of, or divorce by. the first husband.

(57) As she was married before, the second husband must reckon with the possibility of her having had intercourse with the first husband, in spite of the evidence which she can bring to shew that the marriage was not consummated.

Talmud - Mas. Kethuboth 12a

Rabbah said: This teaches that if he married her in the presumption that she was a virgin and she was found to have had intercourse she gets a kethubah of a maneh.[1] R. Ashi said: [No.] generally.I can tell you. she receives indeed nothing; but it is different here, because the first one had married her.[2] But let us apprehend that perhaps she was unchaste under him![3] — Said R. Sherabia: [We] suppose he betrothed her to himself and had immediately intercourse with her.[4]

Some[5] there are who refer this[6] to our Mishnah: A VIRGIN, WHO IS A WIDOW, A DIVORCEE OR A HALUZAH FROM MARRIAGE, — HER KETHUBAH[7] IS A MANEH AND THERE IS NO CLAIM OF VIRGINITY WITH REGARD TO THEM. A VIRGIN FROM MARRIAGE’ — how is it possible? — When she was brought into the bridal chamber and no intercourse took Place. Rabbah said: This teaches that if he married her in the presumption that she was a virgin and she was found to have had intercourse she gets a kethubah of a maneh.[8] R. Ashi said: [No.] indeed, I can tell you. generally she gets nothing; but it is different here, because she was brought into the bridal chamber.[9] But let us apprehend that perhaps she was unchaste under him![10] — Said R. Sherabia: When he betrothed her to himself and had immediately intercourse with her.[11] He who refers this[12] to the Baraitha,[13] how much more [would this apply] to our Mishnah.[14] But he who refers this to our Mishnah would not apply it to the Baraitha, because he could say unto her, ‘I have relied upon the witnesses.’[15]

MISHNAH. HE WHO EATS WITH HIS FATHER-IN-LAW IN JUDAEA WITHOUT THE PRESENCE OF WITNESSES CANNOT RAISE A COMPLAINT REGARDING THE VIRGINITY. BECAUSE HE HAS BEEN ALONE WITH HER.[16]

GEMARA. Since it says[17] in the Mishnah HE WHO EATS,[18] It follows that there are places also in Judaea where one does not eat.[19] Abaye said: Conclude from this that in Judaea, too, the places differ in their custom, as it was taught: R. Judah said: In Judaea they used formerly to leave the bridegroom and the bride alone one hour before their entry into the bridal chamber, so that he may become intimate with her,[20] but in Galilee they did not do so. In Judaea they used formerly to put up two best men,[21] one for him and one for her, in order to examine the bridegroom and the bride when they enter the bridal chamber,[22] and in Galilee they did not do so. In Judaea. formerly. the best men used to sleep in the house in which the bridegroom and the bride slept, and in Galilee they did not do so. And he who did not act according to this custom could not raise the charge of non-virginity.[23] To which [does this[24] refer]? Shall I say [that it refers] to the first clause?[25] [If so,] It ought to read, ‘He who acted[26] [according to this custom]!’ Again[27] [if you will say that it refers] to the last clause,[28] it ought to read, ‘He who was not examined!’[29] — Abaye said: Indeed [it refers] to the first clause, so read.[30] ‘He who acted [according to this custom].’ Said Raba to him: But it reads,[31] He who did not act!’ But. said Raba. it means thus: He who did not act according to the custom of Galilee in Galilee but [acted] according to the custom of Judaea in Galilee cannot raise the claim of virginity. R. Ashi said: Indeed [it refers] to the last clause,[32] and we should read,[33] ‘He who was not examined.’[34]

MISHNAH. IT IS ALL ONE WHETHER [THE WOMAN IS] AN ISRAELITISH WIDOW OR A PRIESTLY WIDOW[35] — HER KETHUBAH IS A MANEH. THE COURT OF THE PRIESTS[36] COLLECTED FOR A MAIDEN[37] FOUR HUNDRED ZUZ, AND THE SAGES DID NOT PROHIBIT [IT] TO THEM.[38]

GEMARA. A Tanna taught: And the priestly widow-her ketubah is two hundred [zuz]. But we have taught in our Mishnah: AN ISRAELITISH WIDOW AS WELL AS A PRIESTLY WIDOW — HER KETHUBAH IS A MANEH! — Said R. Ashi: There were two ordinances. At first they[39] ordained for a maiden four hundred zuz and for a widow a maneh.

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(1) [For evidently he relied on the evidence that the first marriage was not consummated, and thus married her on the presumption that she was a virgin. and still it is said that he cannot bring a charge against her to make her forfeit the kethubah of a maneh to which she is entitled as a widow.]

(2) And there may have been intercourse and this militates against the presumption that she was a virgin on the second marriage.

(3) After the betrothal to the second husband. [Why then should he not be able to bring a charge against her so as to give witnesses an opportunity to testify as to the true facts?]

(4) So that unchastity was impossible.

(5) Lit., ‘and some’.

(6) I.e.,the observations of Rabbah, R. Ashi and R. Sherabia.

(7) I.e., the kethubah of each of them.

(8) V. supra p. 60, n. 11.

(9) [So that it is to be assumed that the marriage was consummated, v. supra p. 60, n. 12.]

(10) After the betrothal to the second husband.

(11) So that unchastity was impossible.

(12) I.e., the observations of Rabbah, R. Ashi and R. Sherabia.

(13) Fol. I11b, bottom. In the case of the Baraitha there were witnesses that there was no intercourse.

(14) In the Mishnah there were no witnesses that no intercourse took place.

(15) And in view of the testimony of the witnesses the presumption that she was a virgin is a strong one, so that R. Ashi's reply to Rabbah would not hold good. True, ‘the first one married her,’ but there are witnesses who say that no intercourse took place. Rabbah's deduction from the Baraitha would therefore be justified.

(16) And he may have had intimate intercourse with his bride.

(17) Lit ‘reaches’.

(18) In the house of the father-in-law.

(19) V. note 3.

(20) Lit ‘that his heart may become bold,’ towards her, that is that he may become used to her. V. Krauss, T.A II, p. 461. n. 341.

(21) Heb. Shoshebin, groomsman, v. B.B. (Sonc ed.) p. 615, n. 10.

(22) So that they should not deceive one another regarding the tokens of virginity (Rashi). [That would be in such localities in Judaea where the young affianced people were not allowed to be alone before the entry into the bridal chamber. This shews that customs differed in Judaea itself.]

(23) Cf. Tosef. Keth. I.

(24) The last sentence from ‘and’ till ‘virginity’.

(25) In which it said that in Judaea they used to leave the bridegroom and the bride alone.

(26) If he did not act according to this custom he ought to be able to raise the charge of non-virginity’.

(27) Lit., ‘but’.

(28) With regard to the examination by the best men.

(29) I.e he over whom there was no supervision by the best man, v. Rashi

(30) Lit., ‘and teach’

(31) Lit ,’teaches’.

(32) With regard to the examination by the best men.

(33) Lit., ‘and teach’.

(34) I.e., over, whom there was no supervision by the best man.

(35) An Israelitish widow is the widow of an ordinary Israelite who was also the daughter of an ordinary Israelite. A priestly widow is a widow who was the daughter of a priest; v. Rashi.

(36) [(a) A court of twenty-three judges holding sessions in priestly communities (Shittah Mekubbezeth. a.l.); (b) A Sanhedrin dominated by Sadducean or High-priestly elements. (V. Geiger Urschrift, pp. 114ff: and Buchler, Swartz Festshrift).]

(37) For the virgin-maiden that was the daughter of a priest; v. Rashi.

(38) Lit., ‘did not strike at their hand’, ‘protest [(a) Although the same was recorded as part of the Kethubah proper and not as the extra addition. v. infra 54b, the payment thereof would he enforced; (b) or. although not recorded at all, the woman could collect it by virtue of the prevalent custom, v, Tosaf.]

(39) The Court of the priests.

Talmud - Mas. Kethuboth 12b

When they saw that they[1] treated them[2] lightly.[3] they ordained for them[4] two hundred [zuz]. When they saw [again] that they[5] kept away from them,[6] for they[7] said, ‘Instead of marrying a priestly widow, we shall rather marry[8] the virgin-daughter of an Israelite,’[9] they restored their [former] ordinance.[10]

THE COURT OF OUR PRIESTS, etc. R. Judah said [that] Samuel said: They[11] did not say it only [regarding] the court of the priests.[12] but even the noble families[13] in Israel, if they want to do as[14] the priests do,[15] may do [so]. An objection was raised: If one wants to do as[14] the priests do,[15] for instance [if] the daughter of an Israelite [gets] married to a priest. or the daughter of a priest [gets married] to an Israelite, one may do [so]. [We would infer from this that only if] the daughter of an Israelite [gets married] to a priest, or the daughter of a priest [gets married] to an Israelite, [it is allowed to do as the priests do], because there is [then] one side of priesthood.[16] but if the daughter of an Israelite [gets married] to an Israelite, it is not [allowed to do as the priests do]![17] — The Mishnah states here a case of ‘not only’; not only [is it allowed[18] in the case of] the daughter of an Israelite [getting married] to an Israelite, who cannot say to her ‘I raise thee’ [to a higher position];[19] but [in the case of] the daughter of an Israelite [getting married] to a priest. who can say to her, ‘I raise thee [to a higher position].’[20] I might think that it is not allowed;[21] [hence] he lets us hear [that this is not so].[22]

MISHNAH. IF A MAN[23] MARRIES A WOMAN AND DOES NOT FIND[24] IN HER VIRGINITY [AND] SHE SAYS, AFTER THOU HADST BETROTHED ME [UNTO THEE][24] WAS FORCED AND [so] THY FIELD HAS BEEN INUNDATED’[25] AND HE SAYS, ‘NO, BUT [IT OCCURRED] BEFORE I BETROTHED THEE [TO ME] AND MY BARGAIN WAS A MISTAKEN BARGAIN’ — RABBAN GAMALIEL AND R. ELIEZER SAY [THAT] SHE IS BELIEVED. [BUT] R. JOSHUA SAYS: WE DO NOT LIVE FROM HER MOUTH[26] , BUT SHE IS IN THE PRESUMPTION OF HAVING HAD INTERCOURSE[27] BEFORE SHE WAS BETROTHED AND HAVING DECEIVED HIM, UNTIL SHE BRINGS PROOF FOR HER STATEMENT.[28]

GEMARA. It was stated: [If one person says to another person]. ‘l have a maneh in your hand,’[29] and the latter[30] says. ‘I do not know[31] — Rab Judah and R. Huna Say: [He is] bound [to pay].[32] and R. Nahman and R. Johanan Say: [he is] free [from the obligation to pay].[33] R. Huna and R. Judah say: [he is] bound [to pay]. [because they hold that] in the case of ‘sure’,and ‘perhaps’. ‘sure’ has it.[34] R. Nahman and R. Johanan say: [he is] free [from the obligation to pay] [because they hold the view]: leave[35] the money in the possession of its present owner.[36] Abaye said to R. Joseph: The opinion[37] of R. Huna and Rab Judah corresponds with the view of Samuel,[38] for we have learned: [If] she[39] was pregnant, and they said to her, ‘What is the nature of this embryo?’[40] [and she answered]. ‘It is from the man So-and-So, and he is a priest.’ Rabban Gamaliel and R. Eliezer say [that] she is believed. And Rab Judah said [that] Samuel said [that] the halachah is according to Rabban Gamaliel. And R. Samuel b. Judah said to Rab Judah: Sharpwitted one![41] You said to us in the name of Samuel [that] the halachah is according to Rabban Gamaliel also in the first[42] [Mishnah]. [Now what means]: ‘also in the first [Mishnah]’? [Assuredly it must mean]. although one could say[43] ‘leave the money in the possession of its [present] owner.’ [still] Rabban Gamaliel said: ‘sure’ has it.[44] Is it [then] to say that R. Judah and R. Huna follow the opinion of Rabban Gamaliel, and R. Nahman and R. Johanan follow the opinion of R. Joshua? — R. Nahman can answer you:[45] I even follow the opinion of[46] Rabban Gamaliel; only Rabban Gamaliel says it there[47] because there is miggo.[48] but what miggo is there here?[49] Or [again]: Rabban Gamaliel says it only there, because we Say: leave her in her presumptive state,[50] but here what presumptive state has he got?[51] It is also evident that [it is right] as we have answered, that R. Nahman follows the opinion of[52] Rabban Gamaliel,

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(1) The husbands who married widows of priestly stock.

(2) The wives.

(3) And easily divorced them, because the amount of their kethubah was not high (Rashi).

(4) The wives.

(5) The would-be husbands.

(6) The widows of priestly stock.

(7) The would-be husbands.

(8) Lit., ‘we shall go and marry’.

(9) Lit., ‘a virgin, a daughter of an (ordinary) Israelite’, seeing that both receive the same kethubah.

(10) Lit.. ‘they restored their words’.

(11) The scholars.

(12) That the kethubah of the virgin-daughter of a priest could be increased to four hundred zuz.

(13) I.e., families of distinguished birth.

(14) Lit., ‘according to the way’, ‘manner’.

(15) And increase the kethubah to four hundred zuz.

(16) I.e., one of them, either the bridegroom or the bride, is of the priestly family.

(17) And increase the kethubah to four hundred zuz.

(18) To increase the kethubah to four hundred zuz.

(19) As they are both of ordinary Israelite families.

(20) To the privileged position of the wife of a priest.

(21) To increase the kethubah to four hundred zuz.

(22) That it is allowed to increase the kethubah to four hundred zuz.

(23) Lit., ‘he who marries’.

(24) Lit., ‘and he did not find’.

(25) I.e ‘it is thy loss.

(26) I.e., we do not go by what she says and we do not believe her.

(27) With another man.

(28) Lit., ‘for her words’.

(29) I.e., you owe me a maneh.

(30) Lit., ‘this one’.

(31) The person from whom the money is claimed neither denies nor admits the claim.

(32) The person against whom the claim is made must pay’ the maneh to the claimant.

(33) The person against whom the claim is made need not pay anything.

(34) Lit., ‘better’, ‘preferable’. — When one litigant asserts a certainty and the other litigant puts forward the plea of ‘I do not know,’ judgment is given for the one who asserts a certainty.

(35) Or, let stand.
(36) Lit 'in the presumption of its owner'. The phrase here signifies: leave the money in the possession of its present holder, because, as he is the holder of the money', he is in the presumption of being its rightful owner.
(37) Lit., 'This'.
(38) Lit., 'it is of Samuel'.
(39) An unmarried woman.
(40) i.e., who is the father of this expected child,'
(41) Heb. Shinena. V. B.K. (Sonc. ed.) p. 60 n. 2.
(42) I.e., in our Mishnah, which is the first of the three Mishnahs in which Rabban Gamaliel and R. Eliezer say that she is believed. The first Mishnah will also include the following Mishnah, where, as in our Mishnah, the kethubah is the point at issue.
(43) Lit., 'there is to say'.
(44) [Since he accepts the woman's plea which is 'sure' in preference to the husband's which is 'doubtful'. Which shews that R. Huna and Rab Judah in their ruling follow the view of Samuel that the halachah follows Rabban Gamaliel.]
(45) Lit., 'R. Nahman says unto thee'.
(46) Lit., 'I who say ever.
(47) Lit., 'until now Rabban Gamaliel does not say there'.
(48) Miggo, means since,' 'because,' and 'in consequence of,' and is used here as a legal term, denoting 'a legal rule according to which a deponent's statement is accepted as true on the ground that, if he had intended to tell a lie, he might have invented one more advantageous to his case,' v. Jast. s. v'. The Miggo here is this: Instead of saying that she was forced to have intercourse, she could have said that she was injured by a piece of wood. [This would be a more advantageous plea since it does not disqualify her from marrying a priest as does the plea that she had been forced. And similarly in the case of the next Mishnah she might have maintained that her accident happened after she had become betrothed to him, and thus is entitled to a kethubah of two hundred zuz instead of pleading that it occurred before, reducing thereby her claim to a maneh. V. Rashi.]
(49) In the case of the money claim, what miggo is there which we could apply to the claimant? Therefore, we say, 'leave the money in the possession of its (present) owner.'
(50) The presumption is that the maiden is a virgin. This presumption holds good until she had been found not to be a virgin, and this has been found only after her betrothal. Therefore she was, at the time of her betrothal, in the presumptive state of a virgin.
(51) There is no presumption in favour of the claimant. The presumption is in favour of the person from whom the money is claimed, since he holds the money.
(52) Lit., 'says'.

Talmud - Mas. Kethuboth 13a

for if it were [not] so, there would be a difficulty between one law and another law, for it is established for us [that] in civil matters the law is according to R. Nahman, whereas in this [case][1] R. Judah [said] that Samuel said [that] the halachah is according to Rabban Gamaliel,[2] Is it not then to be concluded from this [that it is] as we have answered?[3] Conclude [so] from this.

MISHNAH. [IF] SHE[4] SAYS, 'I WAS INJURED BY A PIECE OF WOOD', AND HE SAYS, 'NO, THOU HAST HAD INTERCOURSE WITH A MAN[5] — RABBAN GAMALIEL AND R. ELIEZER SAY: SHE IS BELIEVED, AND R. JOSHUA SAYS: WE DO NOT LIVE FROM HER MONTH,[6] BUT SHE IS IN THE PRESUMPTION OF HAVING HAD INTERCOURSE WITH A MAN,[7] UNTIL SHE BRINGS PROOF FOR HER STATEMENT.[8]

GEMARA. With regard to what are their claims?[9] — R. Johanan Says: With regard to two hundred[10] [zuz] and a maneh.[11] R. Eleazar says: with regard to a maneh and nothing.[12] R. Johanan says: With regard to two hundred [zuz] and a maneh, [because] he[13] shares the opinion of R. Meir who says [that] whether he knew of her or did not know of her[14] [she gets as her kethubah] two hundred [zuz]. And R. Eleazar says: With regard to a maneh or nothing, [because] he shares the view of the Rabbis who say [that] whether he knew of her or did not know of her,[14] [she gets as her kethubah] a maneh. It is quite right that R. Eleazar does not say as R. Johanan [says]. because he establishes it[15] according to the Rabbis.[16] But why does not R. Johanan say as R. Eleazar [says]? — He holds [that when] he[17] married her in the presumption of [her being] a virgin and she is found to have had intercourse, she has a kethubah of a maneh.[18] [According to this view] here[19] he would say. ‘a maneh,’[20] and she would say. ‘a maneh,’[21] [and] what difference would there be between his claim and her claim?[22] [Now] it is quite right according to R. Eleazar[23] that we have stated[24] two cases,[25] one[26] it to exclude the opinion of Rami b. Hama,[27] and one[28] to exclude the opinion of R. Hiyya b. Abin in the name of R. Shesheth.[29] But according to

R. Johanan why are two cases necessary?[30] — One to show you the strength[31] of Rabban Gamaliel, and one to show you the strength of R. Joshua. The first case to show you the strength of R. Joshua, that, although one could say [there] miggo,[32] she is not believed. The second case to show you the strength of Rabban Gamaliel, that, although one cannot say [there][33] Miggo, she is believed.

MISHNAH. [IF] THEY[34] SAW HER[35] TALKING WITH SOMEONE,[36] AND THEY SAID TO HER, ‘WHAT SORT OF A MAN IS HE?[37] [AND SHE ANSWERED, ‘HE IS] THE MAN SO-AND-SO AND HE IS A PRIEST — RABBAN GAMALIEL AND R. ELIEZER SAY: SHE IS BELIEVED,[38] AND R. JOSHUA SAYS: WE DO NOT LIVE FROM HER MOUTH,[39] BUT SHE IS IN THE PRESUMPTION OF HAVING HAD INTERCOURSE WITH A NATHIN[40] OR A MAMZER,[41] -[42] UNTIL SHE BRINGS PROOF FOR HER STATEMENT. [IF] SHE[43] WAS PREGNANT AND THEY[44] SAID UNTO HER, ‘WHAT IS THE NATURE OF THIS FOETUS.’[45] [AND SHE ANSWERED, ‘IT IS] FROM THE MAN SO-AND-SO AND HE IS A PRIEST — RABBAN GAMALIEL AND R. ELIEZER SAY: SHE IS BELIEVED,[46] AND R. JOSHUA SAYS: WE DO NOT LIVE FROM HER MOUTH,[47] BUT SHE IS IN THE PRESUMPTION OF BEING PREGNANT FROM A NATHIN OR A MAMZER,[48] UNTIL SHE BRINGS EVIDENCE FOR HER STATEMENT.

GEMARA. What is the meaning of ‘TALKING’? Ze'iri said: She was hidden.[49] R. Assi said: She had intercourse.[50] It is quite right according to Ze'iri that it Says[51] ‘TALKING’,[52] But according to R.Assi why [does it say] ‘TALKING?’ — [It is] a more appropriate[53] expression, as it is written:[54] ‘She eateth,[55] and wipeth her mouth,[56] and saith, ‘I have done no wickedness.’[57] It is quite right according to Ze'iri that he teaches [in the Mishnah] two [cases]: ‘TALKING’ and ‘PREGNANT,[58] But according to R. Assi, why [does the Mishnah teach] two [cases]? — One case[59] to declare her fit[60] and one case[61] to declare her daughter[62] fit.[63] That is quite right according to him who says [that] he who declares her fit declares [also] her daughter fit.[64] But according to him who says [that] he who declares her fit declares her daughter unfit,[65] what is there to say? — R. Assi holds the view of him[66] who says [that] he who declares her fit declares [also] her daughter fit.

R. Pappa said to Abaye: According to Ze'iri who said: What Is TALKING?’ She was hidden, and R. Joshua said [that] she is not believed — did not Rab say: We punish with lashes for the privacy[67] but we do not prohibit[68] on account of the privacy? Is it to say that it is not according to R. Joshua?[69] — You may even say [that it is according to] R. Joshua. [for] they set a higher standard in matters of priestly descent.[70]

An objection was raised: [If] they[71] saw her go in[72] with someone[73] Into a secret [place]

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(1) l,e., the case of our Mishnah.

(2) That she is believed, and consequently she gets a kethubah of two hundred zuz.

(3) That even R. Nahman will follow the opinion of Rabban Gamaliel in the case of our Mishnah, that she is believed and gets a kethubah of two hundred in.

(4) The woman whose husband complains about the absence of virginity.

(5) Lit., ‘thou art one (that has been) trodden by a man’.
(6) I.e., We do not go by her statement.
(7) Since she has no virginity.
(8) Lit., ‘for her words’.
(9) I.e., what is the claim of the husband and what is the claim of the wife?
(10) She says that she was injured and claims a kethubah of two hundred zuz, on the view of R. Meir, supra 11a.
(11) He says that she had intercourse with another man, in which case she gets only a maneh; v. the statement of R. Hiyya b. Abin, supra 11b and Rabbah's statement, supra 12a.
(12) She claims a maneh as one who was thus injured and according to the Sages, (v. supra 11a) gets a maneh. He says that she had intercourse with a man and therefore gets no kethubah at all, on the view advanced by R. Ashi, supra 12a.
(13) [I.e. , The Tanna of this Mishnah shares, in the view of R. Johanan, the opinion of R. Meir, It cannot refer to R. Johanan as he would not be likely to accept the ruling of R. Meir in preference to that of the majority of the Sages (Rashi).]
(14) That she was thus injured, v. supra 11b.
(15) Our Mishnah.
(16) Who are the majority and according to whom the law is decided,
(17) The husband.
(18) V. supra, p. 68, n. 14.
(19) In our Mishnah,
(20) I.e., That she is entitled only to a maneh because he believed her on marriage to be a virgin and found it was not so.
(21) If R. Johanan would say as R. Eleazar says that she could only claim a maneh owing to her accident.
(22) Hence R. Johanan has had to explain the Mishnah as representing the view of R. Meir.
(23) Who says that if she had intercourse with a man, she gets no Kethubah at all.
(24) Lit., ‘he teaches’,
(25) The case of our Mishnah and that of the previous Mishnah.
(26) The case of our Mishnah.
(27) Who says (supra 11b) that if the husband did not know’ that she had an accident she gets no kethubah at all.
(28) The case of the previous Mishnah, where the husband says ‘my bargain is a mistaken one, taken to mean that the woman is entitled to no kethubah at all,
(29) Who says that, even if she had intercourse with another man, she gets a Kethubah of a maneh, v. supra 11b.
(30) [Only the case of the second Mishnah should have been stated as illustrating the difference of opinion between R. Gamaliel and R. Joshua in regard to the pleas of ‘sure’ and ‘perhaps’, and thus incidentally excluding the opinion of Rama b. Hama, whereas the case of the first Mishnah could’ be inferred from the second one.]
(31) I.e., how strong his view is.
(32) V. supra, p. 67. n. 8.
(33) [Since on the view of R. Johanan she gets in any case two hundred zuz, even if the husband was unaware of the accident that happened before the betrothal, v. supra. p. 69.
(34) People.
(35) An unmarried woman.
(36) A man.
(37) Lit., ‘what is the nature (or character) of this man’?
(38) And she may marry a priest
(39) I.e., we do not go by her statement.
(40) V. Glos.
(41) ‘Mamzer’ is usually translated by ‘bastard’. Marriage with a ‘momzer’ and a ‘nathin’ was forbidden; v. Yeb.78b. As to what constitutes a ‘mamzer’ v. Yeb. 49a.
(42) And the intercourse with a ‘Nathin’ or a ‘Mamzer’ makes her unfit to marry a priest.
(43) An unmarried woman.
(44) People.
(45) V. supra p. 66 n. 17.
(46) And she and her child are fit for priestly marriage.
(47) I.e., we do not go by her statement.

(48) And neither she nor her child is fit for priestly marriage.
(49) ‘TALKING’ means: ‘she was hidden’ with a man, and she may have had with him intercourse.
(50) ‘TALKing’ means: ‘she had intercourse’ with the man.
(51) In the Mishnah. Lit., ‘that he teaches’.
(52) Secret talking. Talking in hiding is also ‘talking’.
(53) I.e., euphemistic.
(54) Proverbs XXX, 20.
(55) Also euphemistic expressions.
(56) Also euphemistic expressions.
(57) The first part of the verse reads: ‘So is the way of all adulterous woman.
(58) One case of suspicion and one case of certainty. V. also Rashi.
(59) The case of ‘TALKING’.
(60) To marry a priest, according to R. Gamaliel.
(61) The case of ‘pregnant’.
(62) If the child that was born was a daughter.
(63) To marry a priest, according to R. Gamaliel.
(64) V. infra 13b.
(65) [Whereas the mother has had a presumption of fitness, this cannot be said of her daughter who was born under suspicion, v. infra 13b.]
(66) Lit., ‘holds Its’,
(67) I.e., the being alone of a man with a married woman. V. Levy and Jast. s,v. יחוד.
(68) The married woman to her husband. In spite of the fact that the woman was alone with another man we do not assume that misconduct took place.
(69) According to R. Joshua we would not believe her and we would say that misconduct took place. Consequently, she ought to be forbidden to her husband.
(70) In order to ensure the purity of the priestly families, he made the law stringent in our Mishnah. But ordinarily R. Joshua would not forbid a wife to her husband on account of her having been alone with another man.
(71) People.
(72) Lit,, ‘that she went in’.
(73) I.e., with a man.

Talmud - Mas. Kethuboth 13b

or into a ruin,[1] and they said to her, ‘What sort of a man is he?’ [and she answered]. ‘he is a priest and he is the son of the brother of my father’ — Rabban Gamaliel and R. Eliezer say: She is believed. R. Joshua says: We do not live from her mouth, but she is in the presumption of having had Intercourse with a Nathin or a Mamzer, until she brings proof for her statement . Now it is quite right according to Ze'iri,[2] that he teaches[3] two [cases]: into a secret [place] or into a ruin.[4] But according to R. Assi who said: She had intercourse,[5] why does it teach[6] two cases?[7] — It teaches [only] one [case]: into the secret [place] of the ruin.[8] But it teaches: into a secret [place] or into a ruin! — [But say] one [expression stands] for a ruin of a town and one [expression stands] for a ruin of a field. And they are [both][9] necessary. for if it[10] had told us [only] concerning a ruin of a town [one might have said that] in this [case] Rabban Gamaliel declares her fit because most[11] [of the men] of the town are fit with regard to her,[12] but in [the case of] a ruin of a field, when most [of the men][13] are unfit with regard to her.[14] I might say that he agrees with R. Joshua.[15] And if it[16] had told us [only] this [case][17] [I might have said that only] in this case[18] did R. Joshua say [that she is not believed], but in that [case][19] I might say [that] he agrees with Rabban Gamaliel;[20] [therefore] it was necessary [to state both cases].

An objection was raised:[21] This[22] is a testimony with regard to which the woman is fit.[23] But R. Joshua Says: She is not believed. Said R. Joshua to them:[24] Do you not agree that in the case of a woman[25] who was captured, and there are witnesses that she was captured, and she says. ‘I am pure.'[26] she is not believed? They said to him, 'Yes: but what a difference there is between this case and that case.'[27] In this case[28] there are witnesses,[29] and in that case[30] there are no witnesses.[31] He said to them: In that case too[32] there are also witnesses, for her stomach reaches up to her teeth.[33] They said to him, 'Most of the idolators are unrestrained in sexual matters.' He said to them: 'There is no guardian against unchastity.'[34] This applies[35] only in the case of the testimony of the woman with regard to herself.[36] but in the case of the testimony of the woman with regard to her daughter. all agree that the child is a shethuki.'[37] — [Now] what did he[38] say unto them[39] and what did they answer him? This they said unto him: 'You have answered us with regard to the pregnant woman,[40] what will you answer us with regard to the woman [whom they saw] talking [to a man]?'[41] — He said to them: The woman [whom they saw] talking [to a man] is the same as the captive woman.[42] They said to him, 'The captive woman is different, for most of the idolators are unrestrained in sexual matters.'[43] He said to them: Here also,[44] since she hid herself,[45] there is no guardian against unchastity.[46] [Now] at all events he teaches two [cases]: The woman [whom they saw] talking [to a man] and the pregnant woman![47] [This is] a refutation of R. Assi,[48] [This is indeed] a refutation,[49] — But let this difference weigh with him[50] There[51] most of the men are unfit with regard to her, but here[52] most of the men are fit with regard to her! — This[53] supports the opinion of R. Joshua b. Levi, for R. Joshua b. Levi said: He who declares her fit[54] declares her fit even when most of the men are unfit,[55] and he who declares her unfit declares her unfit even when most of the men are fit.[56]

R. Johanan said: He who declares her fit declares also her daughter fit, [and] he who declares her unfit declares also her daughter unfit. And R. Eleazar said: [Even] he who declares her fit declares her daughter unfit. Rabba said: What is the reason of R. Eleazar? [This:] It is quite right [with regard to her], she has the presumption of fitness,[57] [but] her daughter has no presumption of fitness.[58] R. Eleazar objected to [the ruling of] R. Johanan: This only applies to the testimony of the woman with regard to herself, but in the case of the testimony of the woman with regard to her daughter, all agree that the child is a shethuki.[59] Does this not [mean] a shethuki and unfit? — No, a shethuki and fit. But is there a shethuki [who is] fit? — Yes, according to Samuel, for Samuel said: [If] ten priests are standing together and one of them goes away[60] and has intercourse [with a woman], the child is a shethuki. Now what [means here] a shethuki? Is it to say that he is 'silenced' from the property of his father?[61] This is evident! Do we know who his father is? — It means one silences him from the rights of priesthood,[62] for it is written: 'And it shall be unto him and to his seed after him the covenant of an everlasting priesthood.[63] [that is, only] one whose seed is legitimately descending from him, excluding this one,[64] whose seed is not legitimately descending from him.[65]

A bridal couple[66] once came before R. Joseph. She said, 'It[67] is from him'.[68] and he said,

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(1) A deserted building.

(2) According to whom 'talking secretly'. or being with a man in a secret place, gives grounds for suspicion, though it does not necessarily imply intercourse.

(3) In the Baraitha just quoted.

(4) 'Into a secret place' does not imply misconduct, but 'into a ruin' does imply misconduct.

(5) Talking secretly, or being with a man in a secret place. affords no grounds for suspicion unless there has been some evidence of misconduct.

(6) In the Baraitha just quoted.

(7) Since the reference here is to a case where misconduct was seen to have taken place, what matters it whether it occurred in a secret place or a ruin?

(8) The Baraitha is to be understood as if the reading was 'into the secret (place) of the ruin,' and thus only one case is mentioned.

(9) Both expressions.

(10) In the Baraitha just quoted.

(11) Lit., 'the majority'.

(12) Most of the inhabitants of the town are Jews, and the intercourse with a Jew does not make her unfit to marry a priest.

(13) All kinds of men resort from all parts to a ruin in the field (Rashi).

(14) She might have had intercourse with a man who makes her unfit to marry a priest.

(15) That she is not believed.

(16) The Baraitha just quoted.

(17) A ruin of a field.

(18) A ruin of a field.

(19) A ruin in the town.

(20) That she is believed.

(21) Cf. Tosef. Keth. I. This is a continuation of a passage in the Tosef, which is identical with the first part of the second case of our Mishnah: 'She was pregnant (and they said unto her, What is the nature of this embryo' (and she answered, It is) from the man So-and-so (and) he is a priest"' — Rabban Gamaliel and R. Eliezer say: She is believed.

(22) For variants v. Tosef. loc. cit.

(23) I.e., the woman is legally fit to give that testimony and she is believed.

(24) R. Gamaliel and R. Eleazar, v. n, 20.

(25) Lit., 'a woman captive'.

(26) I.e., no man had intercourse with me during my captivity.

(27) Lit., 'between this (woman) and this (woman)'.

(28) Lit., 'to this woman'.

(29) In the case of the captive woman there ate witnesses that she was captured.

(30) Lit., 'and to this (woman)'.

(31) In the case of the pregnant woman (the case of the Tosefta and our Mishnah) there are no witnesses that she had intercourse with one who makes her unfit for marrying a priest. It is clear, especially from the wording in the Tosefta, that this whole sentence, from 'yes,' until 'witness, is spoken by Rabban Gamaliel and R. Eliezer. V. Rashi.

(32) Of the pregnant woman.

(33) A figurative expression for 'she is visibly pregnant

(34) No one is immune from the possibility of having forbidden sexual intercourse. And the pregnant woman may have had intercourse with one forbidden to her and may thus have become unfit for a priestly marriage. The whole passage is explained soon.

(35) Lit., 'with regard to what are these words said'? When do Rabban Gamaliel and R. Eliezer hold that she is believed?

(36) Her testimony with regard to herself is believed.

(37) A shethuki (lit., 'silenced') is defined in Kid. 69a as one who knows his mother but does not know who his father is. Therefore, the woman herself may marry a priest, but if she gave birth to a daughter, that daughter may not marry a priest. The corresponding sentence in the Tosefta is much shorter; viz 'This applies only to the testimony with regard to herself, but with regard to the child all agree that it is a shethuki'.

(38) R. Joshua.

(39) R. Samuel and R. Eliezer.

(40) Her pregnancy is evidence against her.

(41) Why should she not be believed?

(42) The one case is similar to the other case. In both cases there is a strong possibility of intercourse.

(43) It is not only a question of sexual intercourse, but it is also a question who it was with whom the woman had intercourse. In the case of the captive woman, she is made unfit for priestly marriage, because the men among whom she finds herself are mostly unfit for her. But not so in the case of the woman who was talking to a man, where most men are fit for her, v. supra.

(44) In the case of the woman who was talking to another man.

(45) She was talking to the man secretly.

(46) And she may have had intercourse with a man who makes her unfit for a priestly marriage.

(47) The 'talking woman' and the pregnant woman are, at all events, two different

(48) According to whom the case of the 'talking woman' is also a case of certain sexual intercourse.

(49) I.e., R. Assi stands refuted.

(50) Or, let it be a difference to him (R. Joshua). Lit., 'let it go out to him' — 'let it be different to him'.

(51) In the ease of the captive woman.

(52) In the case of the ‘talking woman,

(53) The fact that R. Joshua disregards this difference.

(54) Lit., ‘according to the words of him who declares her fit’.

(55) With regard to her, as in the case of the captive woman.

(56) With regard to her, as in the case of the ‘talking woman’.

(57) Legal fitness. She is of legitimate birth and she is fit to marry a priest. The doubt as to the nature of the man with whom she had intercourse does not destroy the presumption of her fitness.

(58) Because suspicion attaches to her very birth. If the man who is the father is unfit, then she is unfit and must not marry a priest. The doubt is sufficient to make her unfit, since there is no presumption of fitness to remove.

(59) V. p. 73, n. 10 and p. 74. n. 4.

(60) Lit., ‘separated himself’.

(61) I.e., he does not inherit the property of his (alleged) father.

(62) He has no share in the rights and privileges of priesthood.

(63) Num, XXV, 13.

(64) The unknown father of the shethuki.

(65) [He cannot transmit the rights of priesthood to his seed, v. Yeb. 100b, but as regards marriage with one of priestly stock, this shethuki is permitted. This shews that one may be a shethuki and yet fit.]

(66) Lit,, ‘that betrothed (man) and his betrothed (woman)’.

(67) The child with which she was pregnant.

(68) From her fiance.

Talmud - Mas. Kethuboth 14a

‘Yes. [it is] from me.’ R. Joseph said: Why should we be afraid? First,[1] he admits, and moreover, Rab Judah said [that] Samuel said: The halachah is according to Rabban Gamaliel.[2] Abaye said to him: And in this [case]. if he did not admit, would Rabban Gamaliel declare her as fit? Did not Samuel say to Rab Judah: ‘Sharp-witted one! The halachah is according to Rabban Gamaliel, but you should not act upon it,[3] unless most men are fit for her,’ whereas here most men are unfit for her![4] — And according to your reasoning is not this [statement] in itself difficult? [First he says] ‘The halachah [is. etc.’] [and then] ‘do not act in practice [on it]’![5] Hence you must say: The one ruling applies before[6] the other after it was done,[7] and in this case also it is like ‘after it was done.’[8]

Abaye asked[9] Raba: Did R. Joshua Say: She is not believed? This would be in contradiction with the following: R. Joshua and R. Judah b. Bathyra testified concerning the widow[10] [of one who was] of a mixed family[11] that she is fit to marry a priest![12] — He said to him: Now is this so?[13] There[14] the woman marries, and [in that case] she examines[15] and [then] marries; but here[16] the woman misconducts herself; does she first examine and then misconduct herself?[17]

Raba said: Is the contradiction [only] between [one statement of] R. Joshua and [the other Statement of] R. Joshua. [but] not[18] between [one Statement of] Rabban Gamaliel and [another Statement of] Rabban Gamaliel?[19] Surely the concluding clause[20] teaches: Rabban Gamaliel said to them: We accept your testimony,[21] but what can we do, since Rabban Johanan b. Zakkai decreed that no court be set up for this purpose.[22] because the priests will obey you to remove[23] but not to bring near?[24] — But, said Raba; there is no contradiction between [the statement of] Rabban Gamaliel and [the other statement of] Rabban Gamaliel, [because] there[25] it is sure’[26] [and] here[27] it is ‘perhaps.’[28] Neither is there a contradiction between [the one statement of] R. Joshua and [the other statement of] R. Joshua, [because] there[29] there is one doubt[30] [and] here[31] there is a double doubt.[32] Therefore, according to Rabban Gamaliel the ‘sure’ is [so] strong[33] [a plea] that even where [there is only] one doubt[34] he declares [her] fit,[35] and the ‘perhaps’ is [so] weak [a plea][36] that even where there is a double doubt[37] he declares [her] unfit.[38] [And] according to R. Joshua one doubt[39] is [so] strong that even in the case where [she pleads] ‘sure’ he declares [her] unfit,[40] and a double doubt[41] is [so] light[42] that even in the case where [she pleads] ‘perhaps’ he declares [her] fit.[43]

Our Rabbis taught: Which is the widow[44] [of one] of a mixed family? When there is with regard to it[45] [no doubt] on account of mamzeruth,[46] nathinuth[47] and on account of slaves of the kings.[48] R. Meir said:

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(1) Lit., ‘one’.

(2) That she is believed, v. supra 12b.

(3) Lit., ‘thou shalt not do a deed’.

(4) As she is betrothed, the only man fit for her is her fiance. To all other men she is prohibited.

(5) This seems self-contradictory!

(6) [lf a priest comes to seek guidance in regard to such a marriage we declare it not permissible unless he was held fit for the woman.]

(7) [If he did marry her without consulting the authorities he may retain her.]

(8) [Since she is already betrothed we do not force the bridegroom to put her aside.]

(9) Lit., ‘raised (a contradiction) to’.

(10) V. p. 78, n. 9.

(11) עיסה means ‘dough’ and is also a designation for a mixed community or a mixed family, that is a community or a family with an admixture of illegitimate persons or persons of doubtful legitimacy, v. Kid. 69b.

(12) [This shews that we place her on her erstwhile presumption of fitness and refuse to disqualify her for the sake of a doubt.]

(13) I.e., what a comparison!

(14) In the case of ‘Ed.

(15) The purity of the family.

(16) In the case of our Mishnah.

(17) Therefore she is not believed.

(18) Lit., ‘is there no contradiction’.

(19) And one must endeavour to explain R. Gamaliel also.

(20) Of the Mishnah in ‘Ed.

(21) I.e., we approve of what you say.

(22) [Of declaring the legitimacy of such a doubtful case.]

(23) I.e., not to allow persons of doubtful legitimacy to join their families.

(24) They will not obey the court if permission is given for persons of doubtful legitimacy to enter their families. V. ‘Ed. (Sonc. ed.) p. 48, nn. 2-7.

(25) In the case of our Mishnah.

(26) She says that she is sure that she had intercourse with a legitimate person.

(27) In the Mishnah in ‘Ed.

(28) As it is a case of עיסה the woman herself cannot say that she is sure that the family is free from illegitimate admixtures.

(29) In the case of our Mishnah.

(30) Whether the man with whom she had intercourse was fit or unfit (regarding the priesthood).

(31) In the Mishnah in ‘Ed.

(32) Indeed, in the case of a widow of a member of a mixed family there are many doubts of illegitimacy.

(33) I.e., important.

(34) Against her.

(35) For the priesthood.

(36) Unimportant.

(37) V. p.77, n. 20.

(38) For the priesthood.

(39) In the case of our Mishnah

(40) For the priesthood.

(41) In the Mishnah in ‘Ed.

(42) Unimportant.

(43) For the priesthood. In short, with Rabban Gamaliel the ‘sure’ outweighs one doubt, and with R. Joshua one douht outweighs the ‘sure’.

(44) Who has been held to be fit for marrying a priest: Tosaf. omits ‘widow’. And indeed in Tosef., kid. V the word is left out. The reference will be to a girl of a mixed family and not to a widow of a member of a mixed family. v. Tosaf. [On the whole subject of עיסה v., Rosenthal F. MGWJ 1881, also pp. 38ff and Freund L. Schwartz-Festschrift p. 163ff and Graetz op. cit. 1879, pp. 99ff].

(45) The family.

(46) Mamzer-ship.

(47) Nathin-ship. For nathin and mamzer v. Glos.

(48) Cf. Neh. VII, 57, and Yeb. 17b. [According to Rashi the reference is to the Herodian dynasty.] When there is no suspicion, with regard to that family, of intermarriage with mamzerim, nathinim and royal slaves.

Talmud - Mas. Kethuboth 14b

I have heard that when there is none of these [defects] in the family one permits [its members] to marry into the priesthood. R. Simeon b. Eleazar said in the name of R. Meir. and R. Simeon the son of Menasia also said it:[1] Which is the widow [of one] of a mixed family? When a doubtful halal[2] was mixed up[3] in it, [for] the Israelites know the mamzerim who are among them, but they do not know the halalim who are among them.[4]

The Master said: ‘Which is the widow [of one] of a mixed family? When there is with regard to it [no doubt] on account of mamzeruth, nathinuth and on account of slaves of the kings’. [This would show that if there is a doubt on account of] a halal [in the family] it is fit.[5] Why should these[6] be different? [Because] these are Biblical? A halal is also Biblical![7] And further:[8] ‘R. Meir said: I have heard that when there is none of these [defects] in the family one permits [its members] to marry into the priesthood’. This is the same [as that which] the first Tanna[9] [taught]! And further:[10] ‘R. Simeon b. Eleazar said in the name of R. Meir, and R. Simeon b. Menasia also said it: Which is the widow [of one] of a mixed family? When a halal was mixed up in it, [for] the Israelites know the mamzerim who are among them, but they do not know the halalim who are among them.’ Surely it says in the first clause [that if there is a doubt regarding] a halal [in the family, the family is] fit [to marry into the priesthood]! R. Johanan said: There is a difference between them [concerning a person who when he is called] mamzer protests and [when he is called] halal is silent. The first Tanna holds [that] every person who when called ‘unfit’ is silent is [considered] unfit, and thus the first Tanna said: Which is the widow [of one] of a mixed family? When there is in it no one who is silent if he is called mamzer or nathin, or slave of the king, or halal. Whereupon R. Meir said to him: This applies only to [each of] these cases[11] since [he who calls him thus is liable to] render him unfit [to enter] into [the congregation,] but he who is called a halal and is silent,[12] is fit, and the reason he is silent is that it does not trouble him.[13] Whereupon R. Simeon b. Eleazar said to the first Tanna[14] of R. Meir: If you have heard that R. Meir declares the person fit in the case of silence, this is not when he is called halal and is silent, but when he is called mamzer and is silent, for the reason he is silent is because he says to himself; ‘a mamzer is well-known’.[15] But [if he is called] mamzer and he protests. or [he is called] halal and is silent he is unfit,[16] for the reason he is silent is because he thinks, ‘it is enough if he is not excluded from the congregation’.[17]

One Baraitha taught: R. Jose says: [if he is called] mamzer and is silent, he is fit, and if he is called halal and is silent, he is unfit. And another Baraitha taught: [if he is called] halal and is silent he is fit, [but if he is called] mamzer and is silent, he is unfit. There is no difficulty;[18] the one[19] is according to the first Tanna in the sense of R. Meir, and the other one is according to R. Simeon b. Eleazar in the sense of R. Meir.

MISHNAH. R. JOSE SAID: IT HAPPENED THAT A GIRL. WENT DOWN TO DRAW[20] WATER FROM A SPRING AND SHE WAS RAVISHED. R. JOHANAN B. NURI SAID: IF

MOST OF THE INHABITANTS[21] OF THE TOWN MARRY [THEIR DAUGHTERS] INTO THE PRIESTHOOD,[22] THIS [GIRL] MAY [ALSO] MARRY INTO THE PRIESTHOOD.[23]

GEMARA. Raba said to R. Nahman: According to whom did R. Johanan b. Nuri say [this n the Mishnah?]. If according to Rabban Gamaliel, [surely] he declares as fit even when there is a majority of unfit![24] [And] if it is according to R. Joshua, [surely] he declares as unfit even when there is a majority of fit![25] — He said to him: Rah Judah said [that] Rab said:

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(1) Lit., 'according to his words'.

(2) Halal is one who is profaned, unfit for priesthood on account of his father's illegitimate connection. Cf. Lev. XXI, 15 and v. Kid. 77a and 77b. A doubtful halal is a person about whom there is a doubt whether he is a halal or not.

(3) נטמע means 'to he mixed up beyond recognition'. V. Jast.

(4) Therefore one has to he careful with regard to doubtful halalim.

(5) [The widow would not be disqualified where there was a doubtful admixture of a halal in her dead husband's family.]

(6) [The marriage to any one of those enumerated in the Baraitha is Biblically forbidden and consequently renders the woman who marries the offspring of such an union unfit for a subsequent marriage to a priest, v. Yeb. 68a.]

(7) Cf. Lev. XXI, 15, and Yeb. 68a.

(8) Another difficulty.

(9) The first statement of the Baraitha and R. Meir's are practically identical.

(10) Another difficulty.

(11) Mamzer, nathin and royal slave.

(12) [And does not protest against the stigma attached to his descent.]

(13) Since he is not excluded from the congregation.

(14) That is, the teacher who transmitted the words of R. Meir and said in his name 'l have heard, etc.' and not the first Tanna of the cited Baraitha.

(15) Lit., a mamzer has a voice — And since he is not regarded generally as a mamzer he does not think it worth while to protest against the assertion of one man.

(16) For the priesthood.

(17) As he is not excluded from the congregation, he does not desire any investigations into his origin (Rashi).

(18) There is no contradiction between these two Baraithas.

(19) The second Baraitha.

(20) Lit., 'to fill'.

(21) Lit., 'men',

(22) Are entitled to marry their daughters to priests. This shows that they are 'fit'.

(23) Because the man with whom she had intercourse is taken to be one of the majority, and the majority consists of 'fit' men,

(24) Because he places the woman on the presumption of fitness, v. supra 13b.

(25) V. supra 13b.

Talmud - Mas. Kethuboth 15a

The incident[1] happened at the springs[2] of Zepphoris, and the ruling followed R. Ammi, for R. Ammi said: and that is when a company of unfit men passed by there,[3] and also R. Jannai. for R. Jannai said: if she had intercourse at the springs she is fit for the priesthood. — Do you really mean to say at the springs? — But rather [say]: If she had intercourse at the time of [the people visiting] the springs she is fit for the priesthood. But if someone went[4] from Zepphoris and had intercourse [with her], the child is a shethuki.[5] This is according to the following: When R. Dimi came[6] he said that Ze'iri said [in the name of] R. Hanina, and some say: Ze'iri said [in the name of] R. Hanina:[7] One goes after the majority of [the inhabitants of] the town and one does not go after the majority of the [passing] company. — Just the reverse! These[8] move about and those[9] are stationary![10] — But [say thus]: One goes after the majority of the [inhabitants of the] town, but only when there is [also] the majority of the [passing] company with it, but one does not go after the majority of the [inhabitants of the] town alone, nor after the majority of the [passing] company alone.[11] — What is the reason?[12] — It is prohibited[13] [to go after] the majority of the [passing] company in order to prevent[14] [going after] the majority of [the inhabitants of] the town. But even [in the case of] the majority of [the inhabitants of] the town, if he, went[15] to her, [let us say that] he who separates himself separates himself from the majority?[16] — It speaks of a case[17] when she went to him.[18] so that he was stationary,[19] and R. Zera said: All that is stationary is considered as half to half.[20] But do we require two majorities? Has it not been taught: if nine [meat] shops.[21] all of them, sell ritually killed meat. and one [shop sells] meat not ritually slaughtered and he bought in[22] one of them and he does not know in which of them he bought. it is prohibited because of the doubt;[23] but if [meat] was found,[24] one goes after the majority?[25] And if you will say that [it speaks of a case] when the gates of the city are not closed,[26] so that a majority[27] came [also] from outside,[28] did not R. Zera say: even when[29] the gates of the city are closed? — Where purity of descent is concerned they[30] put up a higher standard.[31]

The text says: 'R. Zera said: All that is stationary is considered as half to half.' [This apparently means] whether it is for leniency or for strictness.[32] Whence does R. Zera take it? Shall I say from [the Baraitha which teaches that] if nine [meat] shops, all of them, sell ritually killed meat and one [shop sells] meat not ritually slaughtered and he bought in one of them[33] and he does not know in which of them he bought, it is prohibited because of the doubt; but if [meat] was found, one goes after the majority? There it is for strictness![34] But [he derives it] from [the following]: If there were [in a certain place] nine frogs and one reptile[35] and he touches one of them and he does not know which of them he touched he is unclean because of the doubt? — There also it is for strictness![36] — But [rather] from [the following]: If there were [in a certain place] nine reptiles and one frog and he touches one of them and he does not know which of them he touched, [if this happened] on private ground he is unclean because of the doubt, [but] if this happened in a public place,[37] he is clean because of the doubt.[38]

And how do we know this[39] from the Bible? — The verse says: And if he lie in wait for him and rise up against him,[40] [that is to say that he is not guilty of murder] until he intended [to kill] him. And the Rabbis? — They said in the school of R. Jannai: This excludes one who throws a stone into [a group of people]. What case do you mean? Do you mean a case when there are nine idolators and one Israelite? Let it be sufficient for him[41] that the majority are idolators,[and] even if [you will say that it is considered as] half to half, [the rule is that] when there is a doubt in capital cases one takes a lenient view! — It speaks of a case when there are nine Israelites and one idolator, so that the idolator is stationary, and whatever is stationary is considered as half to half.[42]

It was stated: R. Hiyya b. Ashi [said that] Rab said [that] the law is according to R. Jose.[43] And R. Hanan b. Raba [said that] Rab said [that] it was [only] a decision for the hour.[44] R. Jeremiah argued: And for pure descent we do not require two majorities? Have we not learned:

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(1) Related in our Mishnah.

(2) קרונות var. lec. (קרונה) 'spring', so Levy. V. also Krauss, TA. I 212. Jast.: 'Caravan', 'Station'.

(3) [So that there were two majorities of fit persons — the majority of local inhabitants and the majority of visitors from outside].

(4) Lit., 'separated himself'.

(5) V. supra 13b and Glos.

(6) To Palestine.]

(7) Leaving out R. Dimi.

(8) The people of the passing company.

(9) The inhabitants of the town.

(10) Lit , 'and these are fixed and stand'. — As to the point of the question, v. infra.

(11) I.e., there must be two majorities.

(12) That we do not go after the majority of the (passing) company.
(13) Lit., ‘a prohibition’
(14) Lit., ‘on account of’.
(15) Lit., ‘if they went’, that is to say one of the inhabitants of the town.
(16) I.e., he who comes away from a crowd, or a community is regarded as having come away from those who constitute the majority of the crowd or community. And if the majority of the town consists of fit people, we ought to assume that the man who had intercourse with the woman was one of the majority and did not disqualify her from marrying a priest, and that no blemish attaches to the child.
(17) Lit., ‘no, necessarily’.
(18) Lit., ‘to them’.
(19) I.e., fixed in one place.
(20) The rule of majority does not apply, v. infra.
(21) Out of the ten meat-shops that are in the market
(22) Lit., ‘from’.
(23) Lit., ‘its doubt is prohibited’. [Because the prohibited minority is in a fixed, settled place (kabu'a), v. infra.]
(24) In the market-place, in which the ten shops are situated.
(25) And the majority of the shops sell ritually killed meat. Thus we see that one single majority is sufficient.
(26) [And meat is admitted from the outside.]
(27) Of butchers selling ritually killed meal.
(28) Lit., ‘from the world’. [So that there are two majorities — the majority of local Jewish butchers and the majority of Jewish butchers from outside.]
(29) Lit., ‘although’.
(30) The Sages.
(31) And therefore two majorities are required, cf. supra 13a.
(32) I.e., whether the result of this rule is lenient or strict, that is, to allow or to prohibit (whichever it may be).
(33) This illustrates the principle of kabu'a, a fixed, stationary prohibition.
(34) And you cannot derive from this for leniency.
(35) Dead reptiles make ritually unclean, but not frogs, v. Lev, XI, 29.
(36) And you cannot derive from this for leniency.
(37) [On the principle that a doubtful ease of uncleanness is clean if it arises in a public place but unclean if in private ground v. Sot. p. 140.]
(38) From this Baraitha you can derive both for strictness and for leniency.
(39) The rule: what is stationary is considered half to half.
(40) V. Deut. XIX, 11.
(41) Lit., ‘let it be deduced by him’.
(42) For full notes on this passage v. Sanh. (Sonc. ed.) p. 531, n. 4 and B.K. (Sonc. ed.) p. 253.
(43) In our Mishnah.
(44) A special decision for the occasion, regard having been had to certain circumstances, which is not to be taken as a precedent, for elsewhere two majorities are required.

Talmud - Mas. Kethuboth 15b

[If] one found in it[1] an abandoned[2] child — if the majority [of the inhabitants of the town consist of] non-Israelites [the child is] a non-Israelite, if the majority [of the inhabitants of the town consist of] Israelites [the child is] an Israelite, [and if the inhabitants of the town are] half to half, [the child is] an Israelite.[3] And Rab said: They have taught this only with regard to sustaining it,[4] but not with regard to pure descent. And Samuel said: [They have taught this only] with regard to removing debris[5] for its sake?[6] — That which Rab Judah said in the name of Rab[7] [namely, that] the incident happened at the springs of Zepphoris,[8] escaped his[9] attention.[10] But according to R. Hanan b. Raba who said [that] it was a decision for the hour,[11] it is difficult![12] He who taught this[13] did not teach that.[14]

The [above] text [says]: ‘[If] one found in it an abandoned child — if the majorlty [of the inhabitants of the town consist of] non-Israelites [the child is] a non-Israelite. if the majority [of the inhabitants of the town consist of] Israelites [the child is] an Israelite, [and if the inhabitants of the town are) half to half [the child is] an Israelite. Rab said: They have taught this only with regard to sustaining it, but not with regard to pure descent. But Samuel said: [They have taught this only] with regard to removing debris for its sake.’ But did Samuel say so? Did not R. Joseph say that R. Judah said in the name of Samuel: We do not go with regard to saving life after the majority?[15] — But the saying of Samuel referred[16] to the first clause: ‘If the majority [of the inhabitants of the town consist of] non-Israelites [the child is] a non-Israelite.’ [Upon this] Samuel said: And with regard to removing debris it is not so,[17] ‘If the majority [of the inhabitants of the town consist of] non-Israelites [the child is] a non-Israelite’ — for what practical purpose [is this taught]? — R. Papa said: To allow him to eat [meat of] animals not ritually slaughtered. — ‘If the majority [of the inhabitants of the town consists of] Israelites [the child is] an Israelite,’ — for what practical purpose [is this taught]? — R. Papa said: That one returns to him a lost object.[18] If [the inhabitants of the town are] half to half [the child is] an Israelite’ — for what practical purpose [is this taught]? Resh Lakish said: With regard to damages.[19] How shall we imagine this case? Shall we say that an ox of ours[20] gored[21] an ox of his?[22] [In this case] let him[23] say to him.[24] ‘Bring evidence that you are an Israelite — and take![25] It speaks of a case when an ox of his[26] gored an ox of ours[27] — one half he[28] pays, and with regard to the other half he says to them,[29] ‘Bring evidence that I am not an Israelite and I will pay[30] you.[31]

CHAPTER II

MISHNAH. IF A WOMAN BECAME A WIDOW OR WAS DIVORCED[32] [AND] SHE SAYS, ‘THOU DIDST MARRY ME [AS] A VIRGIN,’[33] AND HE SAYS, ‘NOT SO, BUT I MARRIED THEE [AS] A Wldow,’[34] -[35] — IF THERE ARE WITNESSES THAT SHE WENT OUT[36] WITH A HINUMA[37] AND HER HEAD UNCOVERED,[38] HER KETHUBAH IS TWO HUNDRED [ZUZ.][39] R. JOHANAN THE SON OF BEROKA SAYS: ALSO THE DISTRIBUTION OF ROASTED EARS OF CORN IS EVIDENCE.[40] AND R. JOSHUA ADMITS THAT, IF ONE SAYS[41] TO HIS FELLOW,[42] THIS FIELD BELONGED TO YOUR FATHER AND I BOUGHT IT FROM HIM. HE IS BELIEVED,

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(1) In a town in which Israelites and non-Israelites live.

(2) Lit., ‘thrown away’.

(3) Mak. VII, 2.

(4) [Jews are in duty bound to support their own poor.]

(5) On Sabbath.

(6) It would appear from this text with regard to pure descent that one majority’ is not sufficient.

(7) Lit., ‘(that) Rab said’.

(8) So that there were two majorities, v. supra p. 81, n. 3.

(9) R. Jeremiah.

(10) Had R. Jeremiah not overlooked this he would not have asked his question, for indeed two majorities were required for pure descent.

(11) It is now being assumed that R. Hanan also accepted the explanation that it occurred at the springs of Zepphoris, so that there were two majorities and he regards this ruling of R. Johanan b. Nuri only as a special decision, but elsewhere, two majorities are not required.

(12) Why does Rab say in the case of the abandoned child ‘but nor with regard to pure descent’, which would shew that Rab requires two majorities also in other cases?

(13) That Rab said here ‘but not with regard to pure descent’.

(14) That R. Judah said in the name of Rab that the incident happened at the springs of Zepphoris. Indeed there was only one majority there, and therefore R. Hanan said, ‘it was a decision for the hour’, v. supra, p 83, n. 10 In all other cases two majorities are required.

(15) Where it is a question of saving life the minority had to be equally taken into considerations.
(16) Lit., but when that of Samuel was said, it was said with regard'.
(17) One must remove the debris from the child in any case.
(18) V. B.M. (Sonc. ed.) p. 149, n. 6.
(19) V. B.E. (Sonc. ed) p. 211, n. 6.
(20) Belonging to Israelites.
(21) Cf Ex. XXI, 35,36.
(22) Belonging to the erstwhile abandoned child.
(23) The Israelite,
(24) To him who was an abandoned child.
(25) The damages due to you.
(26) Belonging to the erstwhile abandoned child.
(27) Belonging to Israelites.
(28) The erstwhile abandoned child.
(29) To the Israelites.
(30) Lit., 'give.'
(31) The other half as well, that is full damages, v. B.K. loc. cit.
(32) Lit., 'the woman who became a widow or was divorced.'
(33) And the kethubah is two hundred zuz.
(34) And the kethubah is one hundred sins.
(35) If the woman became a widow the dispute is between her and the heir (or heirs) of the husband.
(36) On her wedding day, from the house of her father to the house of her husband.
(37) For the meaning of this word v. infra p. 95.
(38) That is, her hair loosened; for the meaning of פרוע cf. Num. V, 18.
(39) Because only virgin-brides went out on their wedding day with a hinuma and with the hair of the head loosened.
(40) That she was a virgin. They used to distribute roasted ears of corn to little children at the weddings of maidens, but not of widows or divorcees.
(41) Lit., 'in (the case of) one (who) says.'
(42) I.e., to another man.

Talmud - Mas. Kethuboth 16a

FOR THE MOUTH THAT BOUND IS THE MOUTH THAT LOOSENS.[1] BUT IF THERE ARE WITNESSES THAT IT[2] BELONGED TO HIS FATHER AND HE SAYS, 'I BOUGHT IT FROM HIM.' HE IS NOT BELIEVED.

GEMARA. The reason[3] is that there are witnesses,[4] but if there are no witnesses the husband is believed. Is it to say that the anonymous and undisputed decision[5] recorded in our Mishnah is not according to Rabban Gamaliel? For if it were according to Rabban Gamaliel, did not he say that she is believed?[6] — You may even say [that it is according to] Rabban Gamaliel; [for] Rabban Gamaliel says [it][7] only there in [a case of] 'sure' and 'perhaps'.[8] but here[9] where they are both[10] sure[11] [in their statements] he[12] did not say [it][13] — But he who raised the question, how could he raise it at all?[14] Surely this is a case where they are both 'sure' [in their statements]! — Since most women get married as virgins [you might say that] it[15] is like 'sure and perhaps'.[16] This[17] may also be proved by the following reasoning, since it is stated: AND R. JOSHUA ADMITS [etc.][18] It is well if you say [that] Rabban Gamaliel admits.[19] But if you say [that] Rabban Gamaliel does not admit.[20] to whom does [then] R. Joshua admit?[21] Do you think [that] R. Joshua refers to this chapter?[22] He refers to miggo[23] in the first chapter.[24] To which?[25] Is it to say [that he refers] to this: If she was pregnant, and they said to her. 'What is the nature of this embryo'. [and she answered, 'it is] from man So-and-so and he is a priest'. Rabban Gamaliel and R. Eliezer say: She is believed, [and] R. Joshua says: We do not live from her mouth?[26] What miggo is there in that case?[27] Behold, her stomach reaches up to her teeth![28] Again [should it refer] to this: They saw her talking with someone and they said to her: ‘what is the character of this man?’ [and she answered, ‘it is] man So-and-so and he is a priest’. Rabban Gamaliel and R. Eliezer say: She is believed [and] R. Joshua says: We do not live from her mouth?[29] [There too.] what miggo is there? True, there is according to Ze'iri, Who says [that] ‘she was talking’ means ‘she was hiding herself’ [with a man]. [in which case she has] a miggo, for if she wished she could say. ‘I had no intercourse,’ and [still] she said, ‘I had intercourse,’ [therefore] she is believed. But according to R. Assi, who says [that] ‘she was talking’ means ‘she had intercourse, what miggo is there?[30] Or again [should he refer] to this: She says. ‘I was injured by [a piece of] wood,’ and he says. ‘Not so, but thou wast trodden by a man.’ Rabban Gamaliel and R. Eliezer say: She is believed, and R. Joshua says: We do not live from her mouth?[31] [There too] what miggo is there? True, there is according to R. Eliezer, who says that [the dispute between the husband and the wife is] with regard to a maneh and nothing.[32] [In which case she has] a miggo, for if she wished she could say. ‘I was injured by a piece of wood under thee,’[33] and she would get two hundred [zuz.],[34] and [still] she said [that she was injured] earlier,[35] [therefore] she is believed. But according to R. Johanan who says that [the dispute between the husband and the wife is] with regard to two hundred [zuz] and a maneh,[36] what miggo is there?[37] — But [he refers] to this: If one has married a woman and has not found in her virginity [and] she says. ‘After thou hadst betrothed me [to thyself] I was violated and thy field has been inundated,’ and he says, ‘Not so, but [it happened] before I betrothed thee [to myself]’. Rabban Gamaliel and R. Eliezer say: She is believed, and R. Joshua says: We do not live from her mouth,[38] For [here there is] a miggo, because if she wished she could say. ‘I was injured by a piece of wood under thee,’ and [by saying this] she would not make herself unfit for the priesthood. and [still] she said, ‘l have been violated’, and [by saying this] she made herself unfit for the priesthood; therefore Rabban Gamaliel said that she is believed. And R. Joshua said to Rabban Gamaliel: With regard to this miggo here,[39] I agree with you, but with regard to that miggo there,[40] I differ from you. Now, this is a miggo and that is a miggo, what difference is there between this miggo and that miggo.? Here[41] there is no slaughtered ox before you, there[42] there is a slaughtered ox before you.[43] But since most women get married as virgins.[44] [even] if no witnesses came,[45] what of it?[46] — Rabina said: Because one can say:[47] most women marry as maidens and a minority as widows. And whenever a maiden gets married, it is spoken about,[48]

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(1) I.e., if that person had been silent the other man would not have known that the field ever belonged to his father. We have, therefore, to believe both his statements.

(2) The field.

(3) Of the decision given in our Mishnah that the kethubah of the woman is two hundred zuz.

(4) That she went out on her wedding day with the hinuma and uncovered head.

(5) Lit., ‘we have learnt without definition.’

(6) V. supra 12b.

(7) That she is believed.

(8) There (in the Mishnah 22b) the husband cannot be ‘sure’ with regard to his statement, while the wife can be sure. V. Rashi.

(9) In our Mishnah.

(10) The husband and the wife.

(11) Lit., ‘in sure and sure’.

(12) Rabban Gamaliel.

(13) That the wife is believed. The wife is not believed more than the husband.

(14) The answer is so obvious.

(15) The case in our Mishnah.

(16) The statement of the wife is more ‘sure’ than that of her husband. And therefore you might say that she is believed even when there are no witnesses that she went out with a hinuma’ and her head uncovered. And as this is, apparently, not the view of our Mishnah, the questioner raised his question.

(17) That Rabban Gamaliel would admit that, if there were no witnesses that she went out with a hinuma’ and her head uncovered, the husband would be believed (Rashi).

(18) V. second clause of our Mishnah.

(19) Lit., ‘Rabban Gamaliel treats of "he admits".’ I.e., It is well, if it is assumed that Rabban Gamaliel admits that, in the absence of witnesses, (v. n. 13) the husband is believed, since it is a case of ‘sure’ and ‘sure’; in which case the author of the first clause of the Mishnah is Rabban Gamaliel, who while differing from R. Joshua in a case of ‘sure’ and ‘perhaps’ (as in the Mishnah on 12b), agrees here with R. Joshua, since it is a case of ‘sure’ and ‘sure’. And, therefore, it is said in the second clause of the Mishnah ‘AND R. JOSHUA ADMITS,’ namely In the first clause of the Mishnah Rabban Gamaliel admits to R. Joshua. and in the second clause R. Joshua admits to Rabban Gamaliel (Rashi).
(20) V. n. 15.
(21) To what do the words ‘AND R. JOSHUA ADMITS’ refer, seeing that no mention is made previously in the Mishnah of any dispute.
(22) I.e., to the first clause in the first Mishnah of this Chapter.
(23) I e., the controversy regarding miggo v. supra p. 67. n. 8.
(24) Lit ‘he refers to miggo and he refers to the first chapter’.
(25) I. e., to which ease does he refer?
(26) V. supra 13a, second Mishnah, second clause.
(27) Lit., ‘there’.
(28) She could not say that she had no intercourse! What other statement could she have made which would have been more to her advantage?
(29) V. supra 13a. second Mishnah, first clause.
(30) She could not say that she had no intercourse since there is evidence to the contrary! What other statement could she have made which would have been more to her advantage?
(31) V. infra 13a, first Mishnah.
(32) v. Supra 13a.
(33) Since our betrothal. In which ease she is entitled to two hundred zuz.
(34) V. supra p. 69.
(35) That is, before the betrothal and thus claims only a maneh.
(36) V. supra p. 68. And she would get two hundred (zuz) if she was injured by a piece of wood, whether she was injured before or after the betrothal.
(37) V. preceding note.
(38) V. supra 12b.
(39) The second clause of our Mishnah. The man could have been silent, therefore we believe also his second statement.
(40) In the Mishnah 22b.
(41) In the second clause of our Mishnah.
(42) In the Mishnah 12b.
(43) The phrase ‘there is a slaughtered ox before you’ means, there is a fact which cannot be wiped out or denied. This applies to the Mishnah 12b. The virginity is not there. This fact remains. According to R. Joshua in such a case a miggo is of no avail. But in our Mishnah the other person would not have known that the field once belonged to his father if the present holder had not told him so. This is meant by the phrase, ‘There is no slaughtered ox before you.’ There is no fact here if the holder of the field had not stated it. In such a case a miggo is applied, because we assume that the holder of the field would not have said it if he had not bought the field from the other man's father.
(44) Reverting to the argument at the beginning of this folio.
(45) That she went out with a hinuma and uncovered head.
(46) She should be regarded as having belonged to the majority and therefore having been a virgin at her marriage, so that her kethubah would be two hundred (zuz).
(47) Lit., ‘there is to say’.
(48) Lit., ‘she has a voice.’ A girl's marriage is much more spoken about than a widow's marriage. A girl's marriage is also much more festive and much more public.

Talmud - Mas. Kethuboth 16b

and since this one was not spoken about,[1] [the presumption that she belonged to] the majority has become shaken. — But if [you maintain that] whenever a maiden gets married it is spoken about, [then even] when witnesses come,[2] what of it?[3] They are false witnesses![4] — But, said Rabina: most marriages of maidens are spoken about,[5] and [in the case of] this one, since it was not spoken about, [the presumption that she — the bride — belonged to] the majority has been shaken.[6] IF THERE ARE WITNESSES THAT SHE WENT OUT WITH A HINUMA, etc. Should we not be afraid that perhaps she might produce witnesses before this court and get [her kethubah] paid and [later] she might produce the written document [of the kethubah] before another court and get [her kethubah] paid [a second time] by that [document]? — R. Abbahu said: This teaches [that] one writes a quittance.[7] R. Papa said:[8] It speaks of a place in which one does not write a kethubah document.[9] Some refer[10] this[11] to the [following] Baraitha: If she lost her kethubah document, or she hid it, or it was burnt, [then the matter is as follows:] if they danced before her, played before her, passed before her the cup of [glad] tidings,[12] or the cloth of virginity[13] [and] if she has witnesses with regard to one of these [things],[14] her kethubah is two hundred [zuz]. Now should we not be afraid that perhaps she might produce witnesses before this court and get [her kethubah] paid and [later] she might produce the written document before another court and get [her kethubah] paid [a second time] by that document? — R. Abbahu said: This teaches [that] one writes a quittance. R. Papa said: It speaks of a place in which one does not write a kethubah document. But does it not say ‘[if] she lost her kethubah document’?[15] — [It so happened] that he wrote her [one]. But may she not after all produce it and get [her kethubah] paid [a second time] with it! The meaning of ‘she lost [it]’ is ‘she lost [it] in fire.’[16] If so, it is the same as ‘it was burnt!’ And then, what can you say with regard to ‘she hid [it]?’[17] And furthermore, why [mention] ‘she lost [it]’?[18] — But [this is what the Baraitha means]: if she lost it, it is as if she had hidden it before us, and we do not give her [the kethubah money] until witnesses say [that] her kethubah document has been burnt.[19] He who refers this[20] to the Baraitha, all the more [does he refer it] to the Mishnah. But he who refers this to our Mishnah [does] not [refer it] to the Baraitha, because of the difficulty.[21] IF THERE ARE WITNESSES, etc. Should we not be afraid that perhaps she might produce witnesses of hinuma before this court and get [her kethubah] paid and [later] she might produce [other] witnesses of hinuma before another court and get [her kethubah] paid [a second time]? — Where it is not possible otherwise,[22] we certainly write a quittance. [It is said above in the Baraitha]: ‘[If] they passed before her the cup of [glad] tidings.’[23] What is the cup of [glad] tidings? R. Adda the son of Ahaba said: One passes before her a cup of wine of Terumah,[24] as if to say. ‘This one is worthy of eating Terumah.’[25] R. Papa demurred to this: Does not a widow eat Terumah?[26] But, said R. Papa [as if to say] ‘This one is "first"[27] as Terumah is "first".’[28] It has been taught: R. Judah says: One passes before her a cask of wine. R. Adda the son of Ahaba said: [If she was] a virgin one passes before her a closed one, [and if] she has had intercourse with a man one passes before her an open one. Why? Let us pass [a cask of wine] before a virgin and let us not pass [a cask of wine] at all before one who had intercourse? — [It may happen] some times that she has seized[29] two hundred [so] and [then] says. ‘I was a virgin and they did not pass [a cask of wine] before me because they were prevented by an accident.’[30] Our Rabbis taught: How does one dance[31] before the bride? Beth Shammai say:

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(1) If this had been known as a maiden's marriage it would have been made public and there would have been people to come forward and give evidence that she went out with a hinuma and her head uncovered.

(2) And say that she went out with a hinuma and uncovered head.

(3) Since this marriage was not spoken about, one should say that she was not married as a maiden.

(4) Since other people knew nothing about it.

(5) Not ‘all marriages of maidens’.

(6) Therefore, the presence or absence of witnesses makes all the difference.

(7) [And the husband produces a quittance that he paid her the kethubah, cf. B.B. 171b.]

(8) [He holds that no quittance may be written for fear of putting the lender at a disadvantage in case he loses it. What they do on payment is to tear up the bond without which the creditor cannot claim his debt.]

(9) [And the woman collects her dues in the court since it is a condition enjoined by the court, v. infra 51a.]

(10) Lit., ‘teach’.

(11) The controversy of R. Abbahu and R. Papa.

(12) כוס של בשורה, v. infra.

(13) On the day of her marriage.

(14) Which are only done at the marriage of a virgin.

(15) And this shows that a kethubah document was written.

(16) And she cannot produce it any more.

(17) If she hid it, she can produce it.

(18) As ‘she lost (it)’ is mentioned separately, it cannot mean ‘in fire’.

(19) This means that if ‘she lost’ it or ‘she hid’ it. she does not get the kethubah money unless she finds the document and produces it. If she says ‘it was burnt,’ she must produce witnesses that it was burnt. This answer is indeed unsatisfactory.

(20) The controversy of R. Abbahu and R. Papa.

(21) V. supra note 10.

(22) [In a place where no kethubah is written, and the woman collects her dues at the court by means of witnesses, and there is the possibility for her to produce two sets of witnesses before two different courts and collect ber kethubah twice.]

(23) כום של בשורה v. Krauss T.A. II, p. 459. In J. Keth II, 1, חבית של בשרות ‘a barrel of glad tidings’ is mentioned.

(24) V. Glos.

(25) That is, she is unblemished and fit to marry a priest.

(26) A widow may also marry a priest.

(27) I. e., she is a virgin and for the first time dedicated to married life.

(28) Terumah is called ‘first’, cf. Num. XV, 20, 21; Deut. XVIII, 4.

(29) If she is in possession of the two hundred zuz the onus probandi is on the other party.

(30) Rashi says: They were intoxicated from the wine which they drank at the wedding, and the other party could not bring evidence to disprove her statements. But now that a cask of wine has to be passed also before one who was not a virgin, witnesses will be available to testify that in the latter case an open cask was passed before her.

(31) What does one sing or recite?

The bride as she is.[1] And Beth Hillel say: ‘Beautiful and graceful bride’![2] Beth Shammai said to Beth Hillel: If she was lame or blind, does one say of her: ‘Beautiful and graceful bride’? Whereas the Torah[3] said, ‘Keep thee far from a false matter.’[4] Said Beth Hillel to Beth Shammai: According to your words,[5] if one has made a bad purchase in the market, should one praise it[6] in his eyes or depreciate it?[7] Surely,[8] one should praise it in his eyes. Therefore,[9] the Sages said: Always should the disposition of man be pleasant with people. — When R. Dimi came,[10] he said: Thus they sing before the bride in the West:[11] no powder[12] and no paint[13] and no waving[14] [of the hair], and still a graceful gazelle. When the Rabbis ordained R. Zera they sang before him thus: No powder and no paint and no waving [of the hair], and still a graceful gazelle. When the Rabbis ordained R. Ammi and R. Assi they sang before them thus: Such as these, such as these ordain unto us, [but] do not ordain unto us of the perverters[15] or babblers,[16] and some say: of the half-scholars[17] or one-third-scholars.[18] When R. Abbahu came from the Academy to the court of the Emperor,[19] hand-maids[20] from the Imperial house went out towards him and sang before him thus, ‘Prince of his people, leader of his nation, shining light,[21] blessed be thy coming in peace!’ They tell of R. Judah b. Ila'i that he used to take a myrtle twig and dance before the bride and say: ‘Beautiful and graceful bride.’ R. Samuel the son of R. Isaac danced with three [twigs].[22] R. Zera said: The old man is putting us to shame.[23] When he[24] died,[25] a pillar of fire came between him and the whole [of the rest of the] world. And there is a tradition that a pillar of fire has made such a separation[26] only either for one in a generation or for two in a generation only.[27] R. Zera said: His twig[28] [benefited] the old man, and some say: His habit[29] [benefited] the old man, and some say: his folly[30] [benefited] the old man. — R. Aha took[31] her[32] on his shoulder and danced [with her]. The Rabbis said to him: May we [also] do it? He said to them: If they[33] are on you[34] like a beam,[35] [then it is] all right. and if not, [you may] not. R. Samuel b. Nahmani said [that] R. Jonathan said: it is allowed to look intently at the face of the bride all the seven [days][36] in order to make her beloved to her husband.[37] But the law is not according to him. Our Rabbis taught: One causes a funeral procession[38] to make way[39] for a bridal procession,[40] and both of them[41] for the King of Israel. One tells of King Agrippa that he made way for a bride, and the Sages praised him. — They praised him — from this it would seem that he did well. Did not R. Ashi say: Even according to him, who says [that] if a king forgoes his honour, his honour is forgone, if a king forgoes his honour, his honour is not forgone. for a Master said:[42] ‘Thou shalt set a king over thee,’[43] [this means] that his awe shall be over thee?[44] — It was [at] a cross-road.[45] Our Rabbis taught: One interrupts[46] the study of the Torah for the sake of a funeral procession[47] and the leading[48] of the bride [under the bridal canopy]. They tell of R. Judah b. Ila'i that he interrupted the study of the Torah for the sake of a funeral procession[49] and the leading[50] of the bride [under the bridal canopy]. This applies only[51] when there are not sufficient people at the funeral procession,[52] but if there are sufficient people one does not interrupt [the study of the Torah].[53] And how many are sufficient? R. Samuel the son of Ini said in the name of Rab: Twelve thousand men and six thousand trumpets.[54] And some say: Twelve thousand[55] men and among them six thousand trumpets.[56] ‘Ulla said: For instance when people form a line from the city-gate to the burial place. R. Shesheth, and some say R. Johanan said: Its taking away[57] is like its giving.[58] As its giving was in [the presence of] sixty myriads[59] [of people], so [has] its taking away [to be] in [the presence of] sixty myriads [of people]. And this is the case only[60] with regard to one who read [the Bible] and studied [the Mishnah.]

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(1) One does not exaggerate in praising the bride. If she is not beautiful one does not say that she is.

(2) Every bride has to be regarded and praised as beautiful and graceful.

(3) I.e., the Pentateuch.

(4) Ex XXIII. 7.

(5) I.e., according to the view you have just expressed.

(6) The thing purchased.

(7) In the text ‘in his eyes’ is repeated here.

(8) Lit., ‘you] must say’.
(9) Lit , ‘from here’.
(10) To Babylonia.
(11) I. e., Palestine.
(12) כחל. A powder used for painting the eye-lids. stibium.
(13) שרק A paint for the face.
(14) פירכום means ‘making the hair beautiful’ either by dyeing it or by dressing it. It may also denote making the hair into locks. V. Levy and Jast. ‘Waving’ is perhaps the best translation. It may also refer to painting the face. Cf. Shah. 34a and Jast. s.v. פרכם I. One painting refers to the eyes, one to the cheeks, and one, perhaps, to the lips.
(15) I.e., Immature scholars who pervert the reasons of the law (Rashi). V. Sank. ag.
(16) I.e men who cannot substantiate their decisions who cannot argue properly (Rashi).
(17) V, Levy
(18) V. Levy. On these terms v. also Sank. (Son. ed) p. 65 notes.
(19) At Ag where he had his academy.
(20) In Sank. 14a. ‘the matrons’.
(21) Lit., ‘lamp of light’.
(22) [He used to throw up three twigs one after the other and catch them in turn (Rash).]
(23) Through his myrtle dance before the bride.
(24) R. Samuel the son of R. Isaac.
(25) Lit., ‘when his soul was at rest’.
(26) I.e., that such an apparition was seen.
(27) I.e., for one man or two men in a generation. Only for very great and pious men such a phenomenon occurs.
(28) With which he danced at weddings before the bride. This good deed was the cause of the apparition.
(29) Of dancing before the bride.
(30) Of dancing with three twigs before the bride (Rashi). The words in the text for ‘twig’, ‘habit’ and ‘folly’ are almost alike.
(31) Lit., ‘caused her to ride’.
(32) The bride.
(33) The brides.
(34) I.e., on your shoulders.
(35) I.e.. awaking no sensual desire.
(36) Of the wedding week.
(37) When he (the husband) sees that all look at her intently (admiring her beauty), her beauty enters his heart (Rashi).
(38) Lit ‘the dead’.
(39) Lit., ‘to pass by’.
(40) Lit., ‘before a bride’.
(41) Lit., ‘and this and this’.
(42) In Kid. 32b it says שנאמר, ‘for it is said’. Here אמר מר is used referring apparently to R. Ashi.
(43) Deut. XVII. 15.
(44) That thou shalt respect him, v, Sot. (Sonc. ed.) p. 204.
(45) Where Agrippa made way for a bride. and people might have thought that be had to go in the other direction.
(46) Lit., ‘one abolishes’, ‘suspends’.
(47) Lit., ‘for the bringing out of the dead’.
(48) Lit., ‘for the bringing in’.
(49) Lit , ‘for the bringing out of the dead’.
(50) Lit., ‘for the bringing in’.
(51) Lit., ‘in what (case) are these words said’?
(52) Lit., ‘when there is not with him all his requirement’.
(53) This limitation only applies to the funeral procession. but not to the leading of the bride to the canopy
(54) I.e., trumpeters.
(55) So the correct reading in Meg. 29a. Our text ‘thirteen thousand’.
(56) I.e., trumpeters.

(57) I.e., the taking away of the Torah. When a scholar dies the Torah which he knew and studied is taken away, as far as his knowledge and his study are concerned.
(58) I.e., as the giving of the Torah on Sinai.
(59) I.e.. 600,000.
(60) Lit., 'and these words (have been said)'.

Talmud - Mas. Kethuboth 17b

But for one who taught [others] there is no limit.[1] AND IF THERE ARE WITNESSES THAT SHE WENT OUT WITH A HINUMA etc. What is hinuma.? — Surhab b. Papa said in the name of Ze'iri: A myrtle-canopy.[2] R. Johanan said: A veil under which the bride [sometimes] slumbers.[3] R. JOHANAN THE SON OF BEROKA SAYS, etc. It was taught: This was [regarded as] a proof in Judaea; what is [the proof in] Babylonia? — Rab said: The dripping of oil on the heads[4] of the scholars.[5] R. Papa said to Abaye: Did the master speak of oil [used] for cleaning [the head]?[6] — He said to him:[7] Orphan,[8] did not your mother do the dripping of the oil on the heads of the scholars at the time[9] of the event?[10] As that [case when] one of the scholars was occupied with [the wedding of] his son in the house Of Rabbah b. 'Ulla — and some say, Rabbah b. 'Ulla was occupied with [the wedding of] his son in the house of one of the scholars — and he dripped oil on the heads of the scholars at the time of the event.[11] — What [sign is there at the wedding of] a widow? — R. Joseph taught: A widow has no roasted ears of corn [distributed at her wedding].[12] AND R. JOSHUA ADMITS THAT IF ONE SAYS TO HIS FELLOW etc. But let him[13] teach: R. Joshua admits that in [the case when] one says to his fellow,'this field belonged to you[14] and I have bought it of you' [he is believed]? — Because he would have to teach [in] the last clause: If there are witnesses that it was his and he says. 'l have bought it of you'. he is not believed.[15] [And] how shall we imagine this case? If he ate [the fruits of] it [during the] years of hazakah[16] why should he not be believed? And if he did not eat [the fruits of] it [during the] years of hazakah it is self-evident that he is not believed![17] — If so, with regard to his father[18] also [one could argue]: If he[19] ate [the fruits of] it [during the] years of hazakah. why should he not be believed?[20] And if he did not eat [the fruits of] it [during the] years of hazakah, it is self-evident that he is not believed! We grant you with regard to his father, [because] there may be a case, as, for instance, when he ate [the fruits of] it two [years] during the life of the father and one [year] during the life of his son.[21] And [this would be] according to R. Huna, for R. Huna said: One does not acquire the ownership of the property of a minor by the undisturbed possession of it during the prescribed period. even if [he continued in the possession after] the minor had become of age.[22] But R. Huna comes to let us hear [what is already taught In] our Mishnah![23] — If you wish. you may say. R. Huna says. 'what is to be derived from our Mishnah by implication.'[24] And if you wish, you may say, 'he lets us hear, even if he had become of age'.[25] But let him[26] [after all] teach with regard to himself[27] and put the case when he[28] ate [the fruits of] it two [years] in his presence[29] and one [year] in his absence,[30] and, for instance, when he[31] fled? — Because of what did he flee? If he fled because of [danger to his] life,[32] it is self-evident that he[33] is not believed. since he cannot protest![34] And if he fled because of money [matters].[35] he ought to have protested.[36] because it is established for[37] [that] a protest in his absence[38] is a [valid] protest![39] For we have learned: There are three countries with regard to hazakah: Judaea, Trans-Jordan and Galilee.[40] [If] he[41] was in Judaea and someone took possession [of his land] in Galilee, [or he' was] in Galilee and Someone took possession [of his land] in Judaea, it is no hazakah[42] until he is with him in the [same] province.[43] And we asked[44] concerning it,[45] What opinion does he[46] hold? If he holds that a protest in his absence[47] is a [valid] protest,[48] this should apply also to Judaea and Galilee.[49] And if he holds [that] a protest in his absence is not a [valid] protest. it should not he [a valid protest] even if they are both in Judaea?[50] [And] R. Abba the son of Memel said: Indeed, he holds [that] a protest in his absence is a [valid] protest, but our Mishnah speaks[51] of a time of lawlessness.[52] — And why does he just speak of Judaea and Galilee?[53] '

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(1) Of the number of people attending his funeral.

(2) So Rashi. V. next note.

(3) So Rashi. Cf. however, Levy and Jast. s. vv. Cf. also Krauss, TA., II, p. 457. note 311, and p. 458. note 316.

(4) Lit., ‘head’.

(5) Rashi.’ Young scholars who were present at the wedding. This was a sign that the bride was a virgin.

(6) Surely the scholars do not require such oil (Rashi) cf. also Krauss, T.A. I. p. 683. n. 187.

(7) Abaye.

(8) I.e., one who is ignorant of this custom (Rashi).

(9) Lit . ‘hour’.

(10) I.e., at your wedding.

(11) Of the wedding.

(12) And the absence of the ears of corn is the sign that she is a widow (Rashi).

(13) The teacher of our Mishnah.

(14) Instead of ‘to your father’. [Since the reason for R. Joshua's ruling is that it is a case where there is no slaughtered ox before you, he could have illustrated it in this way (Rashi). Tosaf.: this would be a stronger case seeing that both parties are ‘sure’ in their plea]

(15) And this is not the case. for the reasons to be stated immediately.

(16) ‘To eat’ the field meant ‘to use and take’ the fruits of the field. ‘To eat’ the field without anyone complaining about this meant undisturbed possession of the field. And if this undisturbed possession lasted three years without interruption it established ownership. V. B.B. 28ff. Both the holding of the land and the right accruing from it giving the title of ownership are called hazakah. ‘Years of hazakah’; the term means both ‘the years of holding’ and ‘the years of holding that give the right and title of ownership.’ ‘To eat’ is similar to usus’ in the Twelve Tables (VI. 3)’ In the sense of ‘holding’ hazakah is also similar to ‘usus’. In the sense of ‘acquisition (of ownership) by holding for a certain period fixed by law’, it is similar to ‘usucapio’ in Roman Law. Ulpian says. ‘Usucapio est adjectio dominii per continuationem possessionis temporis lege definita.’ ‘Usucapio is the acquisition of ownership by possession for the length of time required by law.’ The full time for ‘usucapio’ of lands and houses was in Roman Law (till Justinian) two years. In Talmudic Law it was three years. For the Roman Law of ‘usucapio’ see, Hunter, Roman Law, 4th ed., p. 205ff, Muirhead, Law of Rome, 3rd ed., p. 132f., p. 241 and p. 380. and Moyle. Justiniani Institutiones, 3th ed. p. 225ff. As to iusta causa and iustus titulus, v. Moyle. op. cit. p. 226, n.3; in Talmudic Law cf. Baba Bathra, fol. 41a, Mishnah. חזקה על ידי אכילה would correspond to usucapio. ‘The taking by using’ (usucapio) would after the prescribed time become ‘taking (altogether). that is acquiring by use.’ In Talmudic Law- ‘capio’ was the more dominating term. It seems that the full meaning of ‘auctoritas’ in ‘usus auctoritas fundi’ (in ‘the Twelve Tables, v. Muirhead, op. cit. p. 132) was lost in the course of time. ‘Auctoritas’ seems to mean the authority, the right of ownership acquired by the use of the soil (real property). ‘Usucapio’ is not so good as ‘usus auctoritas’. ‘Usucapio’ has, after all, in Roman Law two meanings, as hazakah in Talmudic Law. It is worthy of note that Ulpian. who came from Syria, was a contemporary of the Tannaim of the second half of the second century. Gaius also lived in the second century. אכלה is not translated by ‘he bad the usufruct of it’, because ‘usufruct’ is the right of using and taking the fruits of property not one's own. (Justinian's Institutes, II. 4) v. Moyle, Engl. Translation of Justinian's Institutes, 4th ed., p. 47. v. also Hunter, op. cit., p. 396.

(17) And since he had to teach in the last clause the case where the field belonged to ‘his father’, he also taught in the first clause ‘this field belonged to your father.’

(18) I.e., the father of the other man.

(19) The claimant, i.e., the man who says. ‘This field belonged to your father and l bought it of him.’

(20) In the last clause of the Mishnah.

(21) [And the Mishnah teaches us although he did occupy for three years he is nevertheless not believed.]

(22) V. B.M. 391. Fir certain business transactions, the minor became of age, in Talmudic Law, when be reached the age of twenty; v. B.B. 155a.

(23) According to the answer just given the rule stated by R. Huna is implied in the teaching of the Mishnah.

(24) What R. Huna states is not said explicitly in the Mishnah. It is to be derived by implication. And R. Huna derives it and states it as a rule.

(25) The rule as stated by B. Huna has an additional point, namely. ‘even if be bad become of age’. This cannot be derived from the Mishnah by implication. This additional point is the reason why R. Huna states the rule.

(26) The teacher of our Mishnah.

(27) The other man, and not the other man's father.
(28) The present possessor.
(29) In the presence of the other man.
(30) This year in his absence does not count, as be could not protest.
(31) The other man. [And thus teach us that, although be did occupy it for three years. the year be had it in the other's absence does not count, and be is not believed.]
(32) He was in danger of bis life in the place in which be lived. He would be afraid to protest (against the man holding bis land) in his place of refuge, because be would be afraid of being pursued by those who sought his life. The fact that be did not protest during the third year would, therefore, not make the possession of the field by the present holder an undisturbed possession for the period required by the law.
(33) The present possessor.
(34) Cf. n. 11.
(35) To avoid unpleasantness because of money-matters.
(36) Wherever be is, as no personal harm would be done to him even if his place of refuge became known.
(37) I.e., it is an established rule.
(38) I.e., in the absence of the present holder.
(39) Because the protest goes from person to person until it reaches the present bolder. V. B.B. 38b.
(40) I.e.. the three provinces of Palestine mentioned in the Mishnah are regarded as three different countries in respect of hazakah.
(41) The owner of the land.
(42) The undisturbed holding of the land for the period required by law does not acquire ownership.
(43) Mishnah, B.B. 38a: ‘in one province. only when both, owner and holder, are in the same province, that is in Judaea or in Galilee, v. B.B. 38a.
(44) By way of discussion,
(45) Cf B.B. 38a-b.
(46) The teacher of the Mishnah.
(47) I.e., in the absence of the present holder.
(48) Because the protest goes from person to person until it reaches the present holder, v. B.B. 38b.
(49) I.e., if the one is in Judaea and the other is in Galilee in due course the protest made by the owner in one province will reach the holder in the other province.
(50) Lit., ‘even Judaea and Judaea also not’. Even if they are in the same province, but in different places. The protest is still In his absence.
(51) Lit., ‘and the Mishnah they taught’.
(52) In the text: חירום ‘Lawlessness’. A lawlessness brought about by war or by other causes. Through the lawlessness there is no communication between the two provinces, so that the protest cannot reach the holder of the land. And if the protest cannot reach the holder of the land, the protest, if made, would have no force. And as the protest would have no force, the possession of the holder does not become an undisturbed possession. Cf. Rashbam, B.B. 38a.
(53) Lit., ‘and why are Judaea and Galilee different that he takes (them)’? The meaning of the question is: ‘Lawlessness may also occur between towns in the same province.’

Talmud - Mas. Kethuboth 18a

Because [the condition of the relations between] Judaea and Galilee is usually as in time of lawlessness.[1] But let him teach: R. Joshua admits [that] when one says to his fellow, ‘I borrowed from you a maneh and paid it [back] to you.’ he is believed![2] — Because he would have [in that case] to teach [in] the last clause: ‘If there are witnesses that he borrowed from him [a maneh] and he says. "I have paid it [back]" he is not believed’, but it is established for us[3] [that] if one lends [money] to his fellow before[4] witnesses, he need not pay it [back] to him before witnesses.[5] — But let him [then] teach: R. Joshua admits [that] if one says to his fellow, ‘I owed to your father a maneh[6] and I returned to him half’[7] he is believed![8] — According to whose opinion?[9] If according to the opinion of the Rabbis. surely they say [that he is regarded as] one who returns a lost thing;[10] [and] if according to R. Eliezer b. Jacob. surely he says that he must take an oath![11] For it has been taught:[12] R. Eliezer b. Jacob says: Sometimes [it may happen] that a man has to take an oath because of his own statement. How [is it]? [If one says to his fellow]. ‘I owed to your father a maneh and I returned to him half,’ he must take an oath.[13] And this is [a case] where one takes an oath because of one's statement.[14] But the Sages say: He is [regarded] only as one who returns a lost thing and he is free. And does not R. Eliezer b. Jacob hold [that] one who returns a lost thing is free?[15] — Rab said: [It speaks here of a case] when a minor claimed from him.[16] But did not a Master say: One does not take an oath because of a claim by a deaf-mute, an imbecile, or a minor?[17] — What is [meant by] ‘minor’? A grown-up person, and why does he call him ‘minor’? Because with regard to the affairs of his father he is [regarded as] a minor. If so, [how can you say] ‘his own statement?’ It is a claim [made] by others! — It is a claim [made] by others and [also] his own admission. But all claims [consist of] a claim [made] by others and one's own admission![18] — They differ here with regard to [an opinion of] Rabbah, for Rabbah said: Why did the Torah say [that] he who admits a part of the claim must take an oath? [Because] it is a presumption [that] no man is insolent in the face of his creditor. He would [indeed] like to deny the whole [debt]. but he does not do it[19] because no one is [so] insolent.

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(1) Cf. B. B. 28a for variants.

(2) [The Mishnah could have illustrated the ruling of R. Joshua in a case ‘where there is no ox slaughtered before you’. in this way instead of by one dealing with real property and with ‘your father.’]

(3) I.e.,it is an established rule; cf. B.B. 170a, Shebu. 41b.

(4) Lit., ‘with’.

(5) I.e., he is believed if he says he repaid it to him in the absence of witnesses. so the Mishnah could not teach that he is not believed.

(6) Lit., ‘a maneh to thy father in my hand’, that is, thy father had a maneh in my hand.

(7) Lit., ‘and made him eat half (or a portion)’. it may be that be paid him the half in kind, perhaps in goods.

(8) [Since it is made entirely on his own initiative. This would be a strong point. having regard to the law that elsewhere he who admits half a claim is not believed without an oath, v. infra.]

(9) Would that statement be.

(10) Even if the admission is not made on his own initiative but made on the claim of the son, he is free from paying the other half, and from taking an oath. V. Shebu 42a, also 38b.

(11) As to the other half.

(12) Shebu. 42b.

(13) As to the other half.

(14) If he would not have made the statement no one would have known of his debt.

(15) From taking an oath. [Surely this is against the well-established principle that he is exempt. v. Git. 48b.]

(16) His statement was therefore not entirely ‘his own statement’.

(17) V. Shebu. 38b. [How then could R. Eliezer in such a case impose an oath?]

(18) [All cases for which an oath is imposed are such as where the one against whom a claim is made makes a partial admission.

(19) Lit., ‘and this one that be does not deny it’.

Talmud - Mas. Kethuboth 18b

[Indeed] he would like to admit the whole of it,[1] only he does not do it in order to slip away from him [for the present].[2] and he thinks, ‘as soon as I will have money I will pay it’.[3] And [therefore] the Divine Law[4] said: Impose an oath on him, so that he should admit the whole of it.[5] [Now] R. Eliezer b. Jacob holds [that] he is not insolent against him nor against his son, and therefore he is not [regarded as] one who returns a lost thing. And the Rabbis hold [that] against him he is not insolent, but against his son he might be insolent, and since he is not insolent,[6] he is [regarded as] one who returns a lost thing.[7]

MISHNAH. IF WITNESSES SAID, ‘THIS[8] IS OUR HANDWRITING, BUT WE WERE

FORCED,[9] WE WERE MINORS, WE WERE DISQUALIFIED WITNESSES,[10] THEY ARE BELIEVED.[11] BUT IF THERE ARE WITNESSES THAT IT IS THEIR HANDWRITING, OR THEIR HANDWRITING COMES OUT FROM ANOTHER PLACE,[12] THEY ARE NOT BELIEVED.[13] GEMARA. Rami b. Hama said: They taught[14] this[15] only when they[16] said: We were forced [by threats] with regard to money.[17] but [if they said]. we were forced [by threats] with regard to [our] life, they are believed. Raba said to him: Is it so? After he has once testified. he cannot again testify![18] And if you will say [that] this applies only to an oral testimony but not to testimony In a document — did not Resh Lakish say: If witnesses are signed on a document it is as if their testimony had been examined in court?[19] No; if it has been said,[20] it has been said with regard to the first clause, [where it is stated:] THEY ARE BELIEVED. Whereupon Rami b. Hama said: They taught this[21] only when they[22] said, ‘We were forced [by threats] with regard to [our] life.’ but if they said, ‘we were forced [by threats] with regard to money. they are not believed. because no one makes himself [out to be] a wicked man.[23] Our Rabbis taught: They[24] are not believed to disqualify[25] it.[26] This is the view of R. Meir; but the Sages say [that] they are believed. This is right according to the Rabbis,[27] who follow[28] their principle[29] ‘the mouth that bound is the mouth that loosened,’[30] but what is the reason of R. Meir?[31] I grant you [with regard to] ‘DISQUALIFIED WITNESSES.’[32] [because] the creditor himself examines well [the witnesses] beforehand and [then] lets [them] sign.[33] [With regard to] ‘MINORS’ also [it can be explained] according to R. Simeon b. Lakish. for Resh Lakish[34] said:

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(1) The whole debt.

(2) I.e.,to postpone the matter.

(3) The whole debt.

(4) Lit., ‘the All-Merciful’.

(5) Now.

(6) And admits a part of the debt.

(7) And be is believed without an oath. For further notes on the whole passage v. Sheb. (Sonc. ed.) pp. 25ff’.

(8) The handwriting of the signatures on a document.

(9) To sign.

(10) Lit ‘Unfit with regard to testimony’. They may have been unfit either through kinship or through their conduct (Rashi). Cf. Sanh. 27b and 24b.

(11) [Since it is they who at the first instance confirm their signatures. they are also believed in the attendant reservation made by them in regard thereto.]

(12) As when their handwriting has been confirmed on another document.

(13) [Since the validity of their signatures does not depend on their present attestation the reservation Is not accepted.]

(14) In our Mishnah.

(15) That if their handwriting is confirmed through another document they are not believed to disqualify their signature on the present document.

(16) The witnesses.

(17) Money threats should not have made them sign a falsehood. And they are not believed to say that they signed a falsehood, v. note 12.

(18) Retracting what he testified before — By their signatures they declared the document valid. and they cannot now declare it to be invalid.

(19) Therefore, what applies to oral testimony applies also to testimony in a document.

(20) I.e., if Rami b. Hama made any statement similar to the one mentioned above.

(21) That they are believed to disqualify their signature.

(22) The witnesses.

(23) I.e.. a man's testimony against himself has no legal effect. And by saying now that money threats made them sign a false testimony. the witnesses would make themselves out to be wicked men. V. n. 6.

(24) The witnesses who signed the document.

(25) In the manner stated in the first clause of the Mishnah.

(26) The document.

(27) I.e.. ‘the Sages’.

(28) Lit., ‘as’.

(29) Lit., ‘their reason’.

(30) I.e., the same persons who made the document valid have the power to make the document invalid. cf. Mishnah 14b.

(31) Lit., ‘but according to R. Meir, what is the reason’?

(32) I.e., if they say ‘we were unfit to bear testimony;’ v. supra p. 101, n. 13.

(33) They must therefore have been fit witnesses, and they cannot now say that they were unfit.

(34) Abbreviated from R. Simeon h. Lakish.

Talmud - Mas. Kethuboth 19a

It is a presumption that the witnesses do not sign a document unless [everything] was done by adults.[1] But what is the reason with regard to ‘FORCED?’[2] — R. Hisda said: R. Meir holds that if one said to witnesses, ‘sign a falsehood and you will not be killed,’ they should rather be killed and not sign a falsehood.[3] Raba said to him: Now. if they would come to us to ask [our] advice, we would say unto them: Go [and] sign and do not be killed, for a Master said: ‘There is nothing that comes before the saving of life except idolatry, incest and bloodshed only.’[4] Now that they have signed, can we say to them: why have you signed?[5] But the reason of R. Meir is in accordance with what R. Huna [said in the name of] Rab: for R. Huna said [that] Rab said: If he[6] admits that he has written the bond,[7] there is no need[8] to confirm it.[9] [To revert to] the main text:[10] R. Huna said [that] Rab said: If he[11] admits that he has written the bond, there is no need to confirm it. R. Nahman said to him: Why do you go round about?[12] If you hold with R. Meir, say: the halachah is according to R. Meir.[13] He[14] [then] said to him:[15] And how do you Sir, hold?[16] He[17] said to him:[18] When they come[19] before us in court,[20] we say to them: go [and] confirm your documents[21] and [then] come to court.[22] Rab Judah said [that] Rab said: If one said: This is a [loan-] deed of trust,[23] he is not believed. Who said [it]? If the debtor said it, it is plain; why should he be believed? If the creditor said [it], may a blessing come upon him![24] And if the witnesses said [it], — [then] if their handwriting comes out from another place, it is plain that they are not believed,[25] and if their handwriting does not come out from another place, why should they not be believed?[26] (Mnemonic: BASH)[27] Raba said: Indeed, the debtor said [it], and [it is] according to R. Huna, for R. Huna said [that] Rab said: If he[28] admits that he has written the document, there is no need to confirm it.[29] Abaye said: Indeed, the creditor said [it], and it is a case where he would injure others.[30] And [this is] according to R. Nathan, for it has been taught:[31] R. Nathan says: Whence [do we learn that], if one has a claim of a maneh against his fellow and that fellow against another fellow,[32] we[33] take out [the sun, of a maneh] from this one and give it to that one?[34] The Writ says[35] And he shall give [it] to whom he owes [it].[36] R. Ashi said: Indeed, the witnesses said [it], and [it is in a case] where their handwriting does not come out from another place; and as to your question,[37] Why should they not be believed, [the answer is] as stated by R. Kahana, for R. Kahana said: It is forbidden for a man to keep[38] a [loan-] deed of trust in his house, because it is said: Let[39] not unrighteousness dwell in thy tents.[40]

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(1) That is, all the parties, including the witnesses, must have been grown-up persons and not minors. Therefore. R. Meir holds that the witnesses are not allowed to say now that they were minors when they signed the document.

(2) Why does R. Meir hold that, if the witnesses said ‘we were forced to sign the document. they are not believed?

(3) So that even if they say that they were forced us sign a falsehood by threats with regard to their life, they make themselves out to be wicked, and this no one can do; v. p. 102, n. 12.

(4) This means: everything, every religious law must yield to the preservation of life. If one is told: Transgress this or that law, otherwise you will be killed, he should transgress the law and not be killed. Only in respect of idolatry, incest and bloodshed this rule does does not apply. One should rather lose one's life than commit these transgressions; v. Sanh. 74a.

(5) In the case of signing a document, one should sign a falsehood and not lose one's life. The witnesses should, therefore, be believed if they said. ‘we were forced to sign a falsehood by threats to our life’.

(6) The debtor.

(7) And that the witnesses signed it by his direction.

(8) For the creditor.

(9) By the witnesses; and the debtor cannot plead that he has discharged the debt as long as the creditor holds the bond. The statement of the witnesses is not necessary now. Therefore, they cannot disqualify the bond, according to R. Meir.

(10) From which the above quotation has been taken.

(11) The debtor.

(12) Lit., ‘O thou cunning man, what is the use of thy going round about?’ (Jast.).

(13) [Instead of making it an independent statement, thus conveying the impression that it is a ruling on which there is no disagreement among Tannaim.]

(14) R. Huna.

(15) R. Nahman.

(16) I.e.. what is your opinion?

(17) R. Nahman.

(18) R. Huna.

(19) Creditors.

(20) Lit., ‘to law’.

(21) Rashi: ‘Go and seek (and bring) your witnesses and confirm it (the document)’. [As a precaution. In case the debtor, though admitting that he wrote the bond, will plead that he had discharged the debt.

(22) Lit ‘and go down to law’.

(23) I.e., a bill of indebtedness signed on trust, in expectation that the loan, which is stated in the bill as having been advanced, will be advanced at some future date. The debtor trusts the creditor. The document is therefore called שטר אמנה, a document, or deed of trust’.

(24) For being so honest.

(25) V. our Mishnah.

(26) It is their testimony upon which the validity of the document depends.

(27) A stands for Raba, A for Abaye, and SH for R. Ashi, the names of the three Amoraim who follow now.

(28) The debtor.

(29) [And the debtor cannot now invalidate the document by saying that it is a deed of trust even in the absence of attesting witnesses.]

(30) If the creditor is believed that the document is a deed of trust, be will injure others, who are his creditors, if he has no other assets. Therefore, he is not believed.

(31) In a Baraitha.

(32) I.e., A owes a maneh to B, and B owes a maneh to C.

(33) The court.

(34) The court takes a maneh from A and gives it to C. since B who is the creditor of A is the debtor of C.

(35) תלמוד לומר, lit., ‘There is a teaching in the Scriptural text to intimate (this)’, v. Jast. p. 1672.

(36) Num. V, 7. E. V. ‘and give it unto him to whom he is ‘guilty’. The teaching derived from these scriptural words by R. Nathan is: restitution has to be made to him to whom restitution is due. If A owes a maneh to B and B owes a maneh to C, the debt of A to B is paid, or may be paid. to C.

(37) Lit., ‘what you say’.

(38) Lit., ‘to cause to stay’.

(39) M.T. ‘And let not’.

(40) Job XI, 14.

Talmud - Mas. Kethuboth 19b

And R. Shesheth, the son of R. Idi, said: From [the words of] R. Kahana can be inferred[1] [that] if witnesses said, ‘Our words were [regarding a matter of] trust,’[2] they are not believed, for this reason:[3] Since it is ‘unrighteousness’ [we say that] they must not sign on [what is] unrighteousness.[4] R. Joshua b. Levi. said: It is forbidden for a man to keep a paid bill of indebtedness in his house, because it is said: ‘Let not unrighteousness dwell in thy tents’.[5] In the West[6] they said in the name of Rab: [It is said]: If iniquity be in thy hand, put it far away.[7] This is a [loan-] deed of trust and a deed of good-will;[8] [and it is said]: ‘And let not unrighteousness dwell in thy tents’. This is a paid bill of indebtedness. He who says [that it[9] applies to] a paid bill of indebtedness, how much more [does it apply to] a [loan-] deed of trust.[10] [And] he, who says [that it applies to] a [loan-] deed of trust, [would hold that it does not apply to] a paid bill of indebtedness,[11] because sometimes they keep it on account of the scribe's fees.[12] It has been stated: A book[13] that is not corrected[14] — R. Ami said: Until thirty days one is allowed to keep it, from then and further on, it is forbidden to keep it, because it is said: ‘Let not unrighteousness dwell in thy tents.[15] R. Nahman said: If witnesses said, ‘Our words were [regarding a matter of] trust.’[16] they are not believed; [if they said]. ‘Our words were [attended by] declaration,’[17] they are [also] not believed.[18] Mar. the son of R. Ashi. said: [if witnesses said]. ‘Our words were [regarding a matter of] trust,’ they are not believed; [but if they said], ‘Our words were [attended by] declaration,’ they are believed, for this reason:[19] this one[20] was allowed to be written[21] and that one[22] was not allowed to be written.[23] Raba asked of R. Nahman: How is it [if witnesses say], ‘Our words were [subject to] a condition’ ?[24] [Are they not believed in the case of] ‘declaration’ and ‘trust’ because[25] they invalidate[26] the document, and [in] this [case of ‘condition’] they also invalidate the document? Or is perhaps ‘condition’ a different thing?[27] — He[28] said to him:[29] When they[30] come before us in court, we say to them: go [and] fulfil your conditions and [then] come to court. If one witness says [that there was] a condition,[31] and one witness says [that there was] no condition R. Papa said: they both testify to a valid document and only one says [that there was] a condition, and the words of one [witness] have no value where there are two witnesses.[32] R. Huna the son of R. Joshua demurred to this: If so,[33] even if they both say [that there was a condition] [their words should] also [have no value]![34] But we say [that] they come to uproot their testimony,[35] and this one also comes to uproot his testimony.[36] And the law is according to R. Huna, the son of R. Joshua. Our Rabbis taught: If two [witnesses] were signed on a document and died, and two [witnesses] came from the street and said, ‘We know that it is their handwriting, but they were forced, they were minors, they were disqualified witnesses, they[37] are believed. But if there are [other] witnesses that this is their handwriting. or their handwriting comes out from another place, [namely] from a document, the validity of which was challenged,[38] and which was confirmed[39] in Court,[40] they are not believed. — And we collect[41] with it as with a valid document? Why? They are two and two![42] — Said R. Shesheth: This teaches [that] contradiction[43] is the beginning of rebuttal,[44]

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(1) Lit., ‘understand from this’.

(2) I.e.. they say that the document they signed as witnesses was a loan-deed of trust.

(3) Lit., ‘what is the reason?’

(4) And as they had signed, they are not believed when they say that it was a deed of trust, because they cannot make out themselves to be wicked; as supra p. 102, n. 12.

(5) Job XI, 14.

(6) Palestine.

(7) Job XI. 14.

(8) שטר פסים Jast.: ‘a deed of sale for accommodation’ [Rashb. B.B. 154b explains it as a deed of feigned sale arranged for the purpose of making people believe that the person in whose favour it is made out is wealthy. ‘Aruch takes it as a variant of פסטים, **, ‘trust’. (v. J. Keth. II, 3) and simply the Greek equivalent of שטר אמנה].

(9) The prohibition to keep the document.

(10) There was fraud even in its origin.

(11) Lit., ‘but a paid bill of indebtedness, no.’

(12) Lit., ‘the small coins of the scribe’ — the creditor paid the scribe's fee, which the debtor has to pay. The creditor, therefore, keeps back the paid bill of indebtedness until he has collected from the debtor the scribe's fee. There is a lawful ground for keeping back the documents.

(13) Of the Bible.

(14) I.e., the mistakes in the manuscript had not been corrected.

(15) And it is ‘unrighteousness’ to keep a book of the Bible with mistakes uncorrected.

(16) I.e., they say that the document they signed as witnesses was a loan-deed of trust.

(17) Of protest. The witnesses say that the seller protested that be was forced to sell and did not recognize the sale, and that they signed the deed in cognizance of the protest.

(18) They cannot invalidate a written document.

(19) Lit., ‘what is the reason’.

(20) The latter.

(21) In order to get out the seller from his predicament.

(22) The former.

(23) On account of ‘unrighteousness’.

(24) The witnesses say. ‘we signed the deed of sale, but the sale was made dependent upon a condition, which has not been fulfilled’.

(25) Lit., ‘this is the reason’.

(26) Lit., ‘uproot’.

(27) [The condition in itself does not affect the validity of the document, only the non-fulfilment thereof.]

(28) R. Nahman.

(29) Raba.

(30) The purchasers in a transaction, the witnesses to which declare. that it was subject to a condition.

(31) Attached to the transaction.

(32) Lit., ‘in the place of two’.

(33) [Since the confirmation of the signature by the witness to the transaction is treated as a formal attestation of the document, which bats the admission of any qualifying declaration subsequent thereto.]

(34) [Having once testified to the validity of the document, they cannot subsequently retract by saying that it was subject to a condition. Why then did R. Nahman, in the case of two witnesses, insist on the purchasers fulfilling the condition?]

(35) [The mere confirmation of their signatures by the witnesses does not complete their attestation of the document. This is completed in their subsequent statement that it was subject to a condition. This latter statement, however, taken in itself, is but a qualification of their former statement confirming their signatures without any direct bearing as to the validity of the document, which really depends upon the fulfilment or non-fulfilment of this condition. In this it is different from the case where the subsequent statement declares the document to have been written under protest, attacking the validity of the document itself.]

(36) So that there is only one witness on the document.

(37) The two witnesses from the street.

(38) Lit ‘against which one called a protest’.

(39) Lit ‘strengthened’.

(40) As valid.

(41) Lit ‘we cause to be collected (the debt)’.

(42) The two witnesses who are signed on the document and who are now dead, and the two witnesses from the street, who testify to the unfitness of the witnesses who bad signed on the document. Even if their handwriting is otherwise confirmed, their testimony is counterbalanced by the testimony of the two witnesses from the street.

(43) הכחשה is a denial of the subject-matter of the evidence, for which however, no retaliatory punishment is imposed, as Deut. XIX, 19 does not refer to witnesses who were contradicted so the subject-matter of their evidence, but against whom the accusation (in a sense) of an ‘alibi’ was proved. [The term ‘alibi’ is used bete for convenience sake, as it deals there with the presence or absence of the witnesses of the alleged crime at the time when it was committed, rather than with the presence or the absence of the accused, as the term is generally understood.]

(44) הזמה I.e., the proving of an ‘alibi’, a rebuttal of evidence, whereby the witnesses are proved to be Zomemim, (v. Glos.). The proving of the subject-matter of the evidence to be false is a first step in a subsequent proof of an ‘alibi’, both being but one continued process of law, v. B K. 73b.

Talmud - Mas. Kethuboth 20a

and as witnesses can be rebutted only in their presence,[1] so can they be contradicted only in their presence.[2] R. Nahman said to him: If they[3] had been before us and [the other two witnesses] had contradicted them, it[4] would hake been a contradiction,[5] and we would not have paid any attention to them,[6] because it[7] is a contradicted testimony. Now that they[8] are not here[9] — [when it could be maintained] that if they had been before us, they[10] might [even] perhaps have admitted to them[11] — should they be believed? No, said R. Nahman; set the two [witnesses][12] against the two [witnesses][13] and leave the property[14] in the possession of its master.[15] It is analogous to the [case of the] property of a [certain] madman. A [certain] madman sold property. Two [witnesses] came [and] said [that] he sold [the property] when he was insane, and two [witnesses] came and said [that] he sold [the property] when he was sane.[16] [And] R. Ashi said: Set the two [witnesses][17] against the two [witnesses][18] and leave the property[14] in the possession of the madman. And we say [this] only when he has the ownership-right of his forefathers,[19] but if he has not the ownership-right of his forefathers, we say that he bought [the property] when he was insane and that he sold [It] when he was insane.[20] — R. Abbahu said: One rebuts[21] witnesses only in, their presence, but one contradicts them also in their absence. And a rebuttal in their absence — granted that it is not an [effective] rebuttal,[22] but it is a contradiction.[23] The Master said [above]: ‘If there are witnesses that this is their handwriting, or their handwriting came out from another place. [namely] from a document which was contested and was confirmed in court, they are not believed’. [This is only] if it was contested, but not, if it was not contested.[24] This is a support[25] for R. Assi, for R. Assi said: A document[26] is confirmed only from a document, which was contested and was confirmed in Court. The Nehardeans[27] said: A document is confirmed only from two kethuboth or from two fields,[28] and [only] when their owners[29] used[30] them for three years, and [that] in comfort.[31] R. Shimi b. Ashi said: And [only] when it is produced by another person,[32] but not [if it is produced] by himself.[33] — Why not [if from] under his own hand? Because he may have forged [the signatures of the witnesses].[34] [If so]. even when produced by another person also, perhaps he went[35] and saw[36] and forged?[37] — So clearly[38] he cannot fix [it in his mind].[39] Our Rabbis taught: A person[40] may write [down] his testimony in[41] a document[42] and may, through it,[43] give evidence even after many years. R. Huna said: Only when he remembers it[44] by[45] himself. R. Johanan said: Even if he does not remember it by himself.[46] Rabbah said: You may infer from [the words of] R. Johanan [that] if two [persons] know evidence[47] and one of them has forgotten [it], the other one may remind him[48] [of it]. They asked: [In the case of] himself[49] — what is [the law]?[50] — R. Habina said: Even he himself [may do so]. Mar b. R. Ashi, said: He himself [may] not. And the law is: he himself [may] not.

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(1) In view of the retaliatory punishment which it involves, the accusation of an ‘alibi’ can be made only in the presence of the witnesses concerned.

(2) [No evidence is accepted refuting the subject-matter of the evidence in the absence of the witnesses, and since in the case of the document they are dead, the evidence of the second set of witnesses is not accepted. The evidence disqualifying the witnesses as having been forced or minors is considered הכחשה not כהזמה.]

(3) The witnesses who signed the document.

(4) The testimony of the new witnesses.

(5) Of the testimony of the witnesses who signed the document.

(6) The witnesses who signed the document.

(7) The testimony of the witnesses of the document.

(8) The witnesses who signed the document.

(9) They died.

(10) The witnesses who signed the document.

(11) To the other witnesses. I.e., there is an additional reason for disregarding the testimony of the document. The witnesses who signed the document might even have admitted that what the other witnesses said was true.

(12) On the one side.

(13) On the other side.

(14) Lit., ‘money’.

(15) I.e., of him who happens to have it now. [E.g., in the case of a note of indebtedness, either the debtor, or the creditor should the latter have happened to distrain on the debtor's goods. And when the Baraitha rules that they are not believed, it means only in so fat that the document is not destroyed.]

(16) Lit., ‘well’.
(17) On the one side.
(18) On the other side.
(19) The ownership-right came to him from his forefathers by inheritance.
(20) And the property passes to the purchaser.
(21) V. supra p. 108 nn. 9 and 10
(22) And they do not incur the retaliatory penalty for Zomemim witnesses.
(23) I.e., the evidence stands contradicted.
(24) Lit., ‘If it is contested, yes. if it was not contested, no’. If the document was contested and confirmed in court as valid, the new witnesses are not believed; but if the document was not contested and confirmed, the new witnesses are believed.
(25) Lit., ‘supports’.
(26) I.e., the signatures of a document. If the confirmation is made by comparing it with the signatures attached to another document.
(27) The Scholars of Nehardea.
(28) From signatures of the same witnesses attached to two marriage settlements it deeds of sale of fields.
(29) I.e., the occupants who claim to be owners.
(30) Lit., ‘ate’.
(31) Without anyone protesting against their holding of the fields.
(32) Lit., ‘it comes out from under the hands of’. I.e., when the two documents, with which the contested document is compared, were in the possession of other persons and they produced them.
(33) Lit., ‘from under his own hand’. I.e., if they were in the possession of the person whose document is contested.
(34) In the contested document.
(35) To the other persons.
(36) The other documents.
(37) The signatures of the witnesses on the contested document.
(38) Lit., ‘all that’.
(39) He cannot hope to imitate the handwriting of the witnesses in the other documents, since the documents are not in front of him. By seeing the documents once or twice in the hands of others, he cannot forge the signatures.
(40) Who is going to be a witness in a legal dispute.
(41) Lit., ‘on’.
(42) We would say ‘on paper’.
(43) עליה ‘through it’, ‘by it’, ‘by means of it’. There is apparently a legal nicety in the word. Not ממנה, ‘from it’. If his evidence is only from it, that is if be does not recollect the evidence even when looking at the paper, his evidence would not be valid. The written testimony should be an aid to his memory. But if it does not recall anything to him, it is valueless.
(44) Part of the evidence (Rashi).
(45) Lit ‘of, or from himself’. And the written testimony brings it all back to his mind.
(46) Only after looking at the document, in which be bad written his testimony at the time, he reminds himself of the facts of the case. But if he cannot now recollect anything, the written testimony has no value (Rashi). The same rule obtains in the English Law of Evidence. V. Cockle, Cases and Statutes on the Law of Evidence, third edition, pp. 266-7: ‘A witness may refresh his memory by referring to any writing or document made by himself, at or so soon after the transaction in question that the judge considers it was fresh in his memory at the time. But it is not necessary that the witness should have any independent recollection of the fact recorded, if he is prepared to sweat to it on seeing the writing or document.’ V. also Powell's Principles and Practice of the Law of Evidence, ninth edition, pp. 269-172. On p. 169: ‘A witness may refresh his memory by looking at any memorandum — (1) Which revives in his mind a recollection of the fact to which it refers.’ Paragraphs (2) and (3) on p. 170 are also very interesting. (3) is ‘an extreme case,’ and it is difficult to say whether R. Johanan would have gone as far as that.
(47) Knew facts of a case to which they could testify.
(48) Lit., ‘one reminds his fellow’.
(49) I.e., the litigant.
(50) Lit., ‘how is it’? I.e., may the litigant remind the witness of the evidence?

Talmud - Mas. Kethuboth 20b

But if he[1] is a scholar,[2] even he himself[3] [may remind the witness].[4] As that case of R. Ashi: He knew evidence for R. Kahana, [and] he[5] said to him:[6] Does the master remember that evidence?[7] And he[8] said to him:[9] No. But was it not so and so?[10] He[11] replied: I do not know. In the end, R. Ashi reminded himself, and he gave evidence for him.[12] He[11] saw that R. Kahana was surprised,[13] [so] he[11] said to him:[14] Do you think [that] I relied upon you? l threw it upon my mind[15] and I remembered it.[16] We learnt elsewhere:[17] Mounds which are near a town or a road, whether they are new or old, are unclean;[18] those [mounds] which are distant — if they are new,[19] they are clean,[20] and if they are old,[21] they are unclean.[22] What is near? Fifty cubits.[23] And what is old? Sixty years.[24] [This is] the view[25] of R. Meir. R. Judah says: ‘near’, [denotes] when there is none nearer; ‘old’, when one remembers it.[26] [Now] what is [meant by] a town and what is [meant by] a road? Shall I say: [by] a town is [meant] an ordinary town, [and by] a road is [meant] an ordinary road? Do we presume uncleanness out of doubt? Did not Resh Lakish say: They[27] found some pretext[28] and declared the land of Israel unclean?[29] — Said R. Zera: [By] a town is [meant] a town which is near a burial place, and [by] a road is [meant] a road [leading] to a burial place. I grant you [in the case of] a road [leading] to a burial place,[30] because sometimes it might happen [that a funeral took place] at twilight, and it chanced that they buried it[31] in the mound.[32] But [in the case of] a town which is near a burial place — all go to the burial place![33] — Said R. Hanina: Because women bring there[34] their abortions and lepers[35] [bring there][36] their arms.[37] [And it is assumed that] till fifty cubits she[38] goes alone,[39] but for a longer distance[40] she takes a man with her and [then] she goes to the burial place.[41] Therefore, we do not presume uncleanness in Eretz Israel.[42] R. Hisda said: You may infer from [the words of] R. Meir[43] [that] one remembers[44] evidence till sixty years, for a longer[45] [period than sixty years] one does not remember. But it is not so, [for] there[46] [he does not remember the evidence after sixty years] because it[47] is not his concern,[48] but here,[49] since it is his concern, even for a longer [period[50] he] also [remembers the evidence].

MISHNAH. [IF] ONE[51] WITNESS SAYS, ‘THIS IS MY HANDWRITING AND THAT IS THE HANDWRITING OF MY FELLOW, AND THE OTHER [WITNESS] SAYS, ‘THIS IS MY HANDWRITING AND THAT IS THE HANDWRITING OF MY FELLOW,’ THEY ARE BELIEVED. [IF] ONE SAYS, ‘THIS IS MY HANDWRITING,’ AND THE OTHER SAYS, ‘THIS IS MY HANDWRITING,’ THEY MUST JOIN TO THEMSELVES ANOTHER [PERSON].[52] [THIS IS] THE VIEW[53] OF RABBI. BUT THE SAGES SAY: THEY NEED NOT JOIN TO THEMSELVES ANOTHER [PERSON], BUT A PERSON IS BELIEVED TO SAY, ‘THIS IS MY HANDWRITING’.[54] GEMARA. If you should find [that] according to the view of Rabbi

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[1] **(1)** The witness.

[2] **(2)** If the witness is a scholar he will know whether the reminding of the facts recalls the facts, or some of the facts, to his memory. If his memory is not aided, he will not give evidence.

[3] **(3)** The litigant.

[4] **(4)** Of the facts.

[5] **(5)** R. Kahana.

[6] **(6)** To R. Ashi.

[7] **(7)** I.e., do you remember those facts?

[8] **(8)** R. Ashi.

[9] **(9)** R. Kahana.

[10] **(10)** R. Kahana asked R. Ashi.

[11] **(11)** R. Ashi.

[12] **(12)** For R. Kahana.

[13] **(13)** R. Kahana was surprised that R. Ashi gave evidence after be bad said twice that be did not remember it.

[14] **(14)** To R. Kahana.

(15) Lit., ‘upon my soul’. — The meaning of these words is: I tried bard to recall the facts to my mind.
(16) His own mental efforts were successful. — This story shows that a scholar may be reminded of the evidence by the litigant himself.
(17) Oh. XVI, 2.
(18) We assume that there are graves in those mounds.
(19) Lit., ‘new ones’.
(20) If a dead body bad been buried there, it would have been known.
(21) Lit., ‘old ones’.
(22) They might have been used as burial places.
(23) Or less.
(24) Or more.
(25) Lit., ‘the words’.
(26) When it originated.
(27) The scholars.
(28) V. Nazir (Sonc. ed.) p. 247, n. 7.
(29) Why should we then presume uncleanness out of a doubt?
(30) That it is regarded as unclean.
(31) The dead body.
(32) As the funeral took place on the eve of Sabbath at twilight they might not have had time to reach the burial place before the commencement of Sabbath, and therefore they buried the dead body in the mound. Therefore, the mound is unclean.
(33) Since the burial place is near, why should the town, then, be unclean?
(34) In the mounds.
(35) Lit., ‘those who are afflicted with boils (leprosy)’.
(36) In the mounds.
(37) Or other limbs, which have been amputated or have fallen off through the disease of leprosy.
(38) The woman.
(39) And in that case she would bury the abortion in the mound.
(40) Lit., ‘more’.
(41) As she takes a man to accompany ber she does not mind going to the burial place and burying the abortion there.
(42) Lit., ‘the land of Israel’.
(43) Who says, ‘What is old? Sixty years.’
(44) Lit., ‘this evidence is remembered’.
(45) Lit., ‘more’.
(46) In the case of the mound.
(47) I.e., the matter of the origin of the mound.
(48) Lit., ‘not thrown upon him’. I.e., there is no reason why he should remember how the mound originated mote than sixty years back.
(49) In the case of a legal dispute, he is interested in the facts of which he was a witness, and, therefore, he remembers the evidence even after sixty years.
(50) Than sixty years.
(51) Lit., ‘this’.
(52) So that there should be two witnesses for each handwriting (signature).
(53) Lit., ‘the words’.
(54) And the two witnesses thus confirm the document which they signed.

Talmud - Mas. Kethuboth 21a

they[1] give evidence with regard to their handwriting.[2] according to the Sages they[3] give evidence with regard to the maneh[4] in the deed.[5] This is self-evident! — You might have said that Rabbi was in doubt whether they[3] testified to their signature or to the maneh in the deed.[6] And the difference[7] would be when one of them died. [Here] we need two witnesses[8] from the street to testify regarding it,[9] because otherwise,[10] the whole of the money less a quarter would go out[11] by the mouth[12] of one witness, and both here and there the stricter rule would prevail.[13] Therefore, he teaches that it is clear to Rabbi,[14] whether the result is lenient[15] or strict.[16] For Rab Judah said [that] Rab said: If two [witnesses] are signed on a document and one of them died, two [persons] from the street are required to give evidence with regard to him.[17] In this[18] it would be lenient[19] according to Rabbi and it is strict[20] according to the Rabbis. And if there are not two, but there is only one,[21] what [then]? — Said Abaye: He[22] shall write his signature on a piece of clay[23] and place it before the court, and the court confirms it,[24] and he need not testify to his own signature,[25] and he [then] goes with that one[26] and they [together] testify to [the signature of] the other [witness].[27] And only on a piece of clay[28] but not a scroll,[29] lest a bad[30] man may find it and write on it whatever he likes,[31] and We have learned: If one person produces the handwriting[32] of another person[33] that he owes him [money], he collects [the debt] from unmortgaged[34] property.[35] Rab Judah said [that] Samuel said. The halachah is according to the Sages[36] This is obvious! [When there is a dispute between] one [authority] and many [authorities] the law is according to the many (authorities]! You might have said: since the halachah is according to Rabbi as against one of his fellow-scholars, it is also against many of his fellow-scholars,[37] so be lets us hear[38] [otherwise]. (Mnemonic: Nah, Nad, Had.)[39] R. Hinena b. Hiyya said to R. Judah, and some say (that] R. Huna b. Judah [said] to Rab Judah, and some say [that] R. Hiyya b. Judah [said] to Rab Judah: And did Samuel say so? Surely once a deed came out[40] from the court of Mar Samuel and there was written in it, ‘Whereas R. ‘Anan b. Hiyya came and testified to his own signature and to that of his fellow-witness,[41] namely,[42] R. Hanan b. Rabbah, and whereas R. Hanan b. Rabbah came and testified to his own signature and to that of his fellow-witness, namely R. ‘Anan b. Hiyya,’ we have verified[43] it, and we have confirmed it,[43] as it is proper![44] — He said to him: That deed belonged to orphans, and Samuel was afraid of an erring court.[45] Samuel thought: There might be someone who held that the halachah is [generally] according to Rabbi as against one fellow-scholar, and not as against many of his fellow-scholars, but [that] in this[46] [the halachah is according to Rabbi] even as against many of his fellow-scholars,[47] I will make relief,[48] so that the orphans should not suffer any loss. Rab Judah said [that] Samuel said: Witness and judge are joined together.[49] Rami b. Hama said: How excellent is this tradition! Said Raba: What is the excellence? What the witness testifies to the judge does not testify to, and what the judge testifies to the witness does not testify to?[50] And indeed, when Rami b. Ezekiel came he said: Do not heed those rules which my brother Judah[51] laid down in the name of Samuel.

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(1) The witnesses.

(2) Therefore the handwriting of each witness has to be confirmed by two witnesses.

(3) The witnesses.

(4) Maneh is only mentioned as an illustration. It is the transaction recorded in the deed to which they testify. This transaction might have been the loan of a maneh.

(5) And the two witnesses testify to the transaction by each of them confirming his signature, hence the ruling of the Sages.

(6) [And being in doubt, he took the more stringent view, and required that both witnesses testify to each other's signature.]

(7) Whether Rabbi was sure or doubtful in his view.

(8) Because of Rabbi's doubt whether the witnesses testified to their signature or to the maneh in the deed.

(9) The signature of the dead witness.

(10) Lit., ‘if so’. I.e., if we should say that one witness from the street would be sufficient.

(11) I.e., would be given to the claimant.

(12) I.e., the evidence.

(13) If Rabbi was in doubt we should require two other witnesses to give evidence regarding the signature of the dead witness. One other witness, added to the surviving witness, would not do, because the evidence of the witnesses may be (since Rabbi is in doubt) with regard to the maneh In the deed, and not to the signatures, in which case half of the evidence regarding the transaction would be given when the surviving witness confirms his own signature. His own confirmation of his signature is sufficient, as fat as his evidence is concerned, if the object of the evidence is the transaction recorded in the deed. half of the sum mentioned in the deed would then go to the claimant by his confirmation of his signature, in other words, by his evidence. And when be testifies, with the other new witness, regarding the signature of the dead witness, half of the other half of the sum is testified to by him, so that altogether three-quarters of the sum mentioned in the deed would go to the claimant through the evidence of one, the surviving witness, and this is not according to the law, which demands that no more than one half should ‘go out’ by the evidence of one single witness. (V. Git. (Sonc. ed.) p. 57, n. 9.) Therefore, through Rabbi's doubt, we should require two other witnesses when one witness died. And when both witnesses who signed the deed are alive, each signature must be testified to by both witnesses, because there would be Rabbi's doubt that the evidence may be regarding the signatures. The result would be that in both cases, whether both witnesses are alive or one witness is dead, each signature would have to be testified to by two witnesses.

(14) That the evidence is regarding the signatures.

(15) As in the case of the death of one witness. Being certain in his view that the evidence is with regard to the signatures. and not with regard to the maneh in the deed, Rabbi would hold that one witness from the street, added to the surviving witness, is sufficient. The surviving witness and the new witness would both testify to both signatures. There would be no question of three-quarters of the sum mentioned going out by the mouth of one witness, because in Rabbi's certain view, the evidence is with regard to the signatures and not with regard to the maneh in the deed.

(16) In the case when both the witnesses are alive. They must testify to both signatures.

(17) This is according to the Sages.

(18) I.e., in this case.

(19) V. n. 2.

(20) As the Rabbis (the Sages) hold the view that the evidence is regarding the maneh in the deed, two new witnesses are required to testify to the signature of the dead witness. If there would be only one new witness and he would be added to the surviving witness, three-fourths of the sum mentioned in the deed would go out by the mouth of one witness, v. p. 114, n. 14.

(21) Person from the street who recognizes the handwriting of the dead witness.

(22) The surviving witness.

(23) חספא ‘clay’, or ‘a piece of clay’ is reminiscent of the Babylonian clay-tablets.

(24) By comparing the signature on the piece of clay with the signature in the deed.

(25) In the deed.

(26) The person from the street.

(27) Of the dead witness.

(28) Shall he (the surviving witness) write his signature.

(29) We would say ‘but not on a sheet of paper’. It is interesting to note the use of ‘piece of clay’, together with the use of ‘scroll’. It may be that חספא was also used, later, in the sense of ‘a small piece of paper’.

(30) Dishonest.

(31) He may write over the signature that the signatory borrowed a certain sum of money from him.

(32) A note of indebtedness signed by the other person.

(33) Lit., ‘he produced against him his handwriting.’

(34) Lit., ‘free’.

(35) V. B.B. 175b. The surviving witness must, therefore, be careful and write his signature only on a piece of clay, or on a small piece of papers on which there is room only for his signature.

(36) In our Mishnah.

(37) Lit., his fellow and even from his fellows’.

(38) That the halachah is according to scholars.

(39) Nah stands for Hinenah b. Hiyya; Nad for Hunah b. Judah; Had for Hiyya b. Judah. the names of the Amoraim that follow.

(40) Declared as valid.

(41) Lit., ‘and to the one of (the person) with him’.

(42) Lit., ‘and who is it?’

(43) The deed.

(44) We thus see that Samuel acted according to the opinion of Rabbi.

(45) Of judges who might mistakenly think that in this matter the law is according to Rabbi.

(46) In the matter of confirming witnesses' signatures.
(47) And he will not accept the confirmation.
(48) I.e., I will do more than is necessary.
(49) For the purpose of confirming the validity of the document, the witness testifies to his signature, and the judge to his signature endorsing the document which had been presented to court for confirmation. V. infra.
(50) The witness testifies to the transaction (to the maneh in the deed according to the Sages), and the judge testifies to his own signature.
(51) Rab Judah was a brother of Rami.

Talmud - Mas. Kethuboth 21b

Rabbanai, the brother of R. Hiyya b. Abba, came to buy sesame and he said: Thus Samuel said: Witness and judge are joined together. Amemar said: How excellent is this tradition! Said R. Ashi to Amemar: Because the father of your mother[1] praised it, you also praise it! Raba has already refuted it. R. Safra said [that] R. Abba said [that] R. Isaac b. Samuel b. Martha said [that] R. Huna said, and some say [that] R. Huna said [that] Rab said: If three[2] sit together to confirm a deed, and two [of them] know[3] the signatures of the witnesses and one does not know,[4] before they sign,[5] they may testify[6] before him,[7] and he[8] [then] signs[9] [with them]; after they have signed, they may not testify before him and he may not sign. But do we write [the attestation]?[10] Did not R. Papi say in the name of Raba: The judge's attestation which is written before the witnesses give evidence as to their signatures is invalid, because it looks like a lie? [And] here also it looks like a lie! — But say: Before they have written [the attestation] they may testify before him and he [then] signs [with them]; after they have written [the attestation], they may not testify before him and he may not sign. We may infer from this three things.[11] We may infer that a witness may be[12] a judge;[13] we may [also] infer that, if the judges know the signatures of the witnesses, there is no need to testify[14] before them;[15] and [again] we may infer that, if the judges do not know the signatures of the witnesses, it is necessary to give evidence before every one.[16] R. Ashi demurred to this: Agreed[17] that we may infer from it that a witness may be a judge, but [how can we infer from it that], if the judges know the signatures of the witnesses, there is no need to testify before them? Perhaps, indeed, I can say to you [that] this is necessary, but it is different here, because the telling[18] has been fulfilled before one.[19] And [further, how can we infer from It that], if the judges do not know the signatures of the witnesses, it is necessary to give evidence before every one?[20] Perhaps, indeed, I can say to you [that] this is not necessary, but it is different here, because the telling[21] would not have been fulfilled at all.[22] R. Abba sat and reported[23] this law, that a witness may be a judge. R. Safra [then] objected to R. Abba: If three[24] saw it[25] and they are [of] the court, two[26] shall stand up and set [two] of their fellows[27] beside the one, and they[28] shall testify before them,[29] and [then] they say: Hallowed is the new moon, hallowed; for one person is not believed by himself. Now, if you assume that a witness may be a judge, what do we want all this for? Let them sit in their places[30] and proclaim[31] [the new moon] is hallowed! — He said to him: That was also difficult to me, and I asked R. Isaac b. Samuel b. Martha. and R. Isaac [asked] R. Huna, and R. Huna [asked] Hiyya b. Rab, and Hiyya b. Rab [asked] Rab, and he said to them: Leave alone the testimony as to the new moon, [for it is] Biblical, and the confirmation of documents is Rabbinic.[32] R. Abba said [that] R. Huna said [that] Rab said: If three sit to confirm a document and an objection is raised[33] against one of them,[34] they[35] may, before they have signed [the attestation], give evidence regarding him,[36] and he may [then] sign; after they have signed, they may not give evidence regarding him[37] and he may not sign. On what ground was that objection raised? If the objection was on the ground of robbery,[38]

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(1) Rami b. Hama.
(2) Three laymen may constitute themselves into a court.
(3) Lit., 'recognize'.
(4) The signatures.
(5) A declaration that the signatures of the witnesses have been confirmed.

(6) To the signatures of the witnesses.
(7) Before the third judge.
(8) The third judge.
(9) The attestation confirming the signatures. As to the form of the attestation, v. Rashi.
(10) Before the signatures of the witnesses have been testified to by the signatories or by other witnesses.
(11) Lit., 'heat from this three'.
(12) Lit., 'be made'.
(13) [The two who first testify to the signatures of the witnesses may then act as judges, endorsing the document.]
(14) To the signatures.
(15) Before the judges, since no provision is made for any testimony being made before the two judges who know the signatures.
(16) Of the judges, since in this case the two judges have to testify before the third judge.
(17) Lit.,'it is all tight'.
(18) The giving of evidence.
(19) Before the third judge.
(20) Of the judges.
(21) The giving of evidence.
(22) If the two judges had not testified before the third judge.
(23) Lit., 'said'.
(24) Of the Sanhedrin.
(25) The new moon.
(26) Of them.
(27) Of the Sanhedrin.
(28) The two.
(29) The three who form the court.
(30) After they have given evidence as to the new moon.
(31) Together with the third person.
(32) [Whereas in a Biblical matter a witness cannot act as judge, in a Rabbinic measure, e.g., the attestation of documents, no such stringency applies.]
(33) Lit., 'and one calls a protest'. [This protest was made by two, v. infra 26a.]
(34) It is said that he is unfit to act as judge.
(35) The other two persons.
(36) That he is a fit person.
(37) As they are then interested patties, it being to their discredit to have acted as judges with an unfit person.
(38) On account of a robbery which he is alleged to have committed.

Talmud - Mas. Kethuboth 22a

they are two and two.[1] [And] if it is a protest regarding family blemish,[2] [then all that is required is] merely a revealing of the matter.[3] — Indeed, I will tell you, it is a protest regarding robbery, and these say: We know of him that he has repented.[4] R. Zera said: This thing I have heard from R. Abba, and if not for R. Abba of Acco, I would have forgotten it: If three sit to confirm a document and one of them dies,[5] they must write, 'We were In a session of three, and one is no more.'[6] R. Nahman b. Isaac said: And if it is written in it: This document has been produced[7] before us [as] a court of law, more is not necessary.[8] But perhaps it was an arrogant court, and [that is] according to Samuel, for Samuel said: If two have judged,[9] their judgment is a judgment,[10] only they are called an arrogant court?[11] — When it is written in it, [e.g.] 'The court of our Master Ashi.'[12] But perhaps the scholars of the school of R. Ashi hold with Samuel? — When it is written in it, 'And our Master Ashi told us.'[13] MISHNAH. IF A WOMAN SAYS. 'I WAS MARRIED[14] AND I AM DIVORCED', SHE IS BELIEVED, FOR THE MOUTH THAT FORBADE IS THE MOUTH THAT PERMITS. BUT IF THERE ARE WITNESSES THAT SHE WAS MARRIED, AND SHE SAYS. 'I AM DIVORCED', SHE IS NOT BELIEVED. IF SHE SAYS. 'I WAS TAKEN CAPTIVE BUT I HAVE

REMAINED CLEAN.'[15] SHE IS BELIEVED, FOR THE MOUTH THAT FORBADE IS THE MOUTH THAT PERMITS. BUT IF THERE ARE WITNESSES THAT SHE WAS TAKEN CAPTIVE AND SHE SAYS, 'I HAVE REMAINED CLEAN,' SHE IS NOT BELIEVED. BUT IF THE WITNESSES CAME AFTER SHE HAD MARRIED, SHE SHALL NOT GO OUT.[16] GEMARA. R. Assi said: Whence [do we know] from the Torah [the principle of] 'the mouth that forbade is the mouth that permits'? Because it is said: 'My daughter I gave to this man as a wife.'[17] [By saying] 'to man', he made her forbidden,[18] [by saying] 'this', he made her permitted.[19] Why is a Scriptural verse necessary? It stands to reason: he made her forbidden, and he made her permitted! — The Scriptural verse is required according to what R. Huna [said that] Rab said, for R. Huna said [that] Rab said: Whence [do we know] from the Bible that the father is believed to make his daughter forbidden?[20] Because it is said: 'My daughter I gave to [this] man as his wife.'[21] Why [is it said] 'this'?[22] — It is required for what R. Jonah taught, for R. Jonah taught: 'My daughter I gave to this man': '[To] this [man]', and not to the brother-in-law.[23] Our Rabbis taught: If a woman says, I am married', and then she says.[24] 'I am unmarried', she is believed. But she made herself forbidden![25] — Said Raba the son of R. Huna: When she has given a plausible reason for her words.[26] We have also a Baraitha to the same effect. If she says, 'I am married', and then she says, 'I am unmarried', she is not believed, but if she gives a plausible reason for her words, she is believed. And so it once happened with a great woman, who was great in beauty, and men were eager[27] to betroth her, and she said to them, 'I am betrothed'. After a time she became betrothed.[28] The Sages said to her: Why have you chosen[29] to do this?[30] She answered them,[31] 'At first, when unworthy men came to me, I said, "I am betrothed"; now that worthy men come to me, I became betrothed'. And this law R. Aha, the prince of the castle, brought before the Sages[32] in Usha, and they said: If she gives a plausible reason for her words she is believed. Samuel asked Rab: If [a woman] says,[33] 'I am unclean',[34] and then she says. 'I am clean',[35] what is [the law]?[36] He[37] answered him:[38] Also in this case if she gives

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(1) Two give evidence against him (v. n. 4), and these other two for him, and he is still inadmissible, even if the other two give evidence regarding his fitness before they signed.

(2) He is said to be descended from slaves and thus unfit to act as judge.

(3) A search in his genealogy can reveal whether there is any ground for the objection of the two witnesses or not, independent of the evidence of the other two. Why then should the other member of the court, after having signed, be debarred from testifying in his favour?

(4) Lit., 'that he has done repentance'. Repentance implies giving back the thing robbed to its owner. [Since they do not contradict the evidence of the first set of witnesses, their testimony as to his fitness is accepted, provided it is given before they signed.]

(5) Before they signed it.

(6) So that it should be known that the document was confirmed in the presence of three judges.

(7) Lit., 'has gone out'. This term also implies that the document has been found valid.

(8) It is then evident that they were three, as a court of law cannot consist of less than three judges.

(9) Sat as a court and pronounced judgment.

(10) Their decision is valid.

(11) I.e., such practices should be discouraged.

(12) Under R. Ashi a court would certainly consist of three. R. Ashi's court is mentioned as a mere illustration, R. Ashi being a contemporary of R. Nahman b. Isaac, and head of the most renowned Academy and court at Mehasia.

(13) To act as a court. And then the court would certainly consist of three.

(14) Lit., 'the wife of a man'.

(15) No one has had intercourse with me, and I am still fit to marry into the priesthood.

(16) Lit., 'behold, this (one) shall not go out'. I.e., out of the house of her husband. Her second marriage is valid and she is not to be sent away.

(17) Deut. XXII, 16.

(18) As he does not say to which man, he made her forbidden to all men.

(19) To this man.

(20) To all men except the one man to whom he says he gave her in marriage.

(21) Deut. XXII, 16. He can give her as wife to this man and thus make her forbidden to all other men.
(22) It is obvious that he means that man, who is putting up a claim against his newly. wedded wife.
(23) The law of Deut. XXli, 13ff does not apply to the husband's brother who marries the widow of his brother (cf. Deut. XXV, 5ff) and brings against her a charge of defamation. He is not subject to the fine. V. infra 46a.
(24) Lit., ‘and she turned (retracted) and she said’.
(25) Lit., ‘a piece of prohibition’. By Saying ‘I am married’, she declared herself to be forbidden to other men, how then can she raise this prohibition by a mere retraction?
(26) Why she said, ‘I am married’.
(27) Lit., ‘and men jumped at her’.
(28) Lit., ‘she stood up and betrothed herself (to a man)’.
(29) Lit., ‘why bast thou seen’.
(30) To say that you were betrothed.
(31) Lit., ‘she said to them’.
(32) For consideration.
(33) To her husband.
(34) I.e., ‘I am in the period of menstruation’.
(35) Lit., ‘I bad no menstruation’.
(36) Lit., ‘How is it’. May her husband believe bet second statement and have intercourse with her?
(37) Rab.
(38) Samuel.

Talmud - Mas. Kethuboth 22b

a plausible reason for her words she is believed. He learned it from him forty times, and still Samuel did not act accordingly with regard to himself. Our Rabbis taught: When two [witnesses] say [that the husband of the woman] has died, and two [witnesses] say [that] he has not died, or two [witnesses] say [that] she has been divorced, and two [witnesses] say [that] she has not been divorced, she shall not marry [again], but if she has married [again], she shall not go out. R. Menahem b. Jose says: She shall go out. R. Menahem b. Jose said: When do I say [that] she shall go out? — When witnesses[1] came and then she married, but if she married and then came witnesses,[1] she shall not go out. Now, they are two and two,[2] [and] he who has intercourse with her[3] is liable to a doubtful guilt-offering![4] Said R. Shesheth: When she married one of her witnesses.[5] Then she herself should bring a doubtful guilt. offering! — When she says. ‘I am sure’.[6] R. Johanan said: When two [witnesses] say [that the husband of the woman] has died, and two [witnesses] say [that] he has not died, she shall not marry [again], but if she has married [again], she shall not go out. When two [witnesses] say [that] she has been divorced, and two [witnesses] say [that] she has not been divorced, she shall not marry [again]. and if she has married, she shall go out. What is the difference between the first case and the second case? — Abaye said: Explain it[7] [that it speaks] of one witness.[8] When one witness says [that] he has died, the Rabbis believe him as two [witnesses].[9] And [this is] according to ‘Ulla, for ‘Ulla said: Wherever the Torah makes one witness credible. [it is as if] there are two, whereas he who said that he has not died is one, and the words of one have no validity against two.[10] If so, [she should be allowed to marry again] from the beginning? — Because of that [saying] of R. Assi, for R. Assi said: ‘Put away from thee a froward mouth, and perverse lips put far from thee’.[11] In the second case [however] one witness says [that] she has been divorced, and one witness says [that] she has not been divorced, they [therefore] both testify to a married woman, and he who says [that] she has been divorced is one, and the words of one have no validity against two. Raba said: Indeed, they are two and two, and R. Johanan regards [as right] the words of R. Menahem b. Jose[12] in [the case of] divorce, but not in [the case of] death. Why? — In the case of death, she cannot contradict him,[13] [but] in the case of divorce, she can contradict him.[14] But would she be as impudent as all that?[15] Did not R. Hamnuna say: If a woman says to her husband, ‘thou hast divorced me,’ she is believed, [for] the presumption is [that] a woman is not insolent before her husband?[16] — This is the case only when there are no witnesses who support her; but when there are witnesses who support her, she is indeed insolent. R. Assi says: When the witnesses say, ‘he has died just now, he has divorced her just now.’ Death one cannot prove,[17] divorce one can prove, for we say to her, ‘if it is so, shew us thy document of divorce’.[18] Our Rabbis taught: If two [witnesses] say that she has been betrothed, and two [witnesses] say [that] she has not been betrothed, she shall not marry, and if she has married, she shall not go out. If two [witnesses] say [that] she has been divorced, and two [witnesses] say [that] she has not been divorced, she shall not marry, and if she has married, she shall go out.

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(1) The second set of witnesses.

(2) There are two witnesses against two witnesses, and the matter, that is the death of the first husband, remains in doubt. This cannot refer to the case of divorce, v. infra.

(3) The man who marries bet now’.

(4) A guilt-offering to be brought when one is in doubt whether the act committed was sinful or not.

(5) And be is sure that the first husband died.

(6) [She has a feeling of certitude that her first husband is dead, as otherwise be would have come back to bet (Rashi).]

(7) The statement of R. Johanan.

(8) Not two sets of witnesses testified, but one single witness in each case.

(9) [The Rabbis have laid down the principle that the evidence of one witness testifying to the husband's death is sufficient; v. Yeb. 88a.]

(10) Lit., ‘and the words of one are not in the place of two’. [The evidence of the former witness, who said that he was dead, is treated as that of two witnesses, whereas that of the latter only, as that of one.]

(11) Prov. IV. 24 — One should try to avoid evil talk, although there is no objection to the marriage from the point of view of strict law’. [R. Assi was wont to quote this verse from Prov.]

(12) That she should go out.

(13) If her first husband comes back she cannot say to him, ‘thou art dead!’ Therefore, she would not say that he is dead unless she was sure that it is so, and we believe her.

(14) If the first husband comes and says that he has not divorced her, she will contradict him and say that he has divorced her. If we should believe her she would rely on the denial she could give him and would marry again, although she was still the wife of the first husband.

(15) To contradict her husband in the case of divorce, even if it was not true.

(16) And so we ought to believe her also in the case of divorce!

(17) Therefore she need not go out if she has married again, provided it was to one of the witnesses.

(18) She cannot have lost it in such a short time. And if she cannot show her document of divorce she must not marry again, and if she has married, she must go out.

Talmud - Mas. Kethuboth 23a

What is the difference between the first case and the second case? — Abaye said: Explain it[1] [that it speaks] of one witness.[2] When one witness says [that] she has been betrothed and one witness says [that] she has not been betrothed, they both testify to an unmarried woman, and he who says [that] she has been betrothed is one, and the words of one have no validity against two. In the second case [where] one witness says [that] she has been divorced and one witness says [that] she has not been divorced, they both testify to a married woman, and he who says that she has been divorced is one, and the words of one have no validity against two. R. Ashi said: Indeed, they are two and two, and reverse it.[3] When two say, ‘we have seen[4] that she has been betrothed’, and two Say, we have not seen that she has been betrothed, she shall not marry [another man], and if she has married she goes out.’ [But] this is obvious! ‘We have not seen’ is no evidence! — It is not [so obvious], as it is needed for the case when they dwelt in one courtyard; one might say, ‘if she had been betrothed it would have been known,’[5] so he lets us hear that there are people who get betrothed quietly. In the second case, when two say, ‘we have seen that she has been divorced,’ and two say, ‘we have not seen that she has been divorced, she shall not marry again, and if she has married she shall not go out,’ what does he let us hear [by this case]?[6] Although they live in the same courtyard! [But then] this is the same![7] — One might say that with regard to betrothal it happens that people get betrothed quietly. but with regard to divorce. if she had been divorced, it would have been known, so he lets us hear that there are people who get betrothed and get divorced quietly. AND IF WITNESSES COME AFTER SHE GOT MARRIED. SHE SHALL NOT GO OUT. R. Oshaia refers it[8] to the first clause.[9] Rabbah b. Abin refers it to the second clause.[10] He who refers it to the first clause, how much more [does he refer it] to the second clause, for in the case of a captive woman they have made it lenient.[11] But he who refers it to the second clause does not refer it to the first clause.[12] Is it to say that they differ concerning the view of R. Hamnuna: that he who refers it to the first clause holds the view of R. Hamnuna,[13] and he who refers it [only] to the second clause does not hold the View of R. Hamnuna? — No, all hold the view of R. Hamnuna. and here they differ in this: one argues: When was that of R. Hamnuna said?[14] In his presence,[15] but in his absence she is impudent,[16] and one holds [that] in his absence also she is not impudent.[17] AND IF WITNESSES CAME AFTER SHE GOT MARRIED. etc. The father of Samuel said: ‘SHE GOT MARRIED’, does not mean, ‘she actually got married’. but ‘as soon as they[18] allowed her to get married’, even if she did not get married yet. But it says: SHE SHALL NOT GO OUT’![19] — [This means] she shall not go out from her first permission.[20] Our Rabbis taught: When she says. ‘I was taken captive. and I am pure, and I have witnesses that I am pure. they[18] do not say: We will wait until the witnesses come, but they[18] allow her at once [to marry]. If they[18] allowed her to marry and then the witnesses came and said, ‘we do not know’,[21] then she shall not go out. But if witnesses of defilement[22] came, even if she has many children she shall go out.[23] Certain women captives came once to Nehardea. The father of Samuel[24] placed watchmen with them.[25] Said Samuel to him: And who watched them till now? Said he to him: ‘If they had been thy daughters wouldst thou also have spoken of them so lightly?’ It was ‘as an error which proceedeth from before the ruler,’[26] and the daughters of Mar Samuel were taken captive. And they were brought[27] to the Land of Israel. They let their captors stand outside and they went in into the school of R. Hanina. This One[28] said, ‘I was taken captive and I am pure,’ and that one said. ‘I was taken captive and I am pure. [So] they[18] allowed them.[29] Then the captors entered. R. Hanina [thereupon] said: They are the children of a Scholar.[30] It [then] became known[31] that they were the daughters of Mar Samuel. R. Hanina [thereupon] said to R. Shaman b. Abba: Go and take care of thy relatives.[32] Said he to R. Hanina: But there are witnesses in the country beyond the sea![33] — Now, however. they are not before us. Witnesses are in the North,[34] and [therefore] she shall be forbidden [to marry]? [Now] the reason[35] is because no witnesses came,[36] but if witnesses came she[37] is forbidden! But did not the father of Samuel say: As soon as they allowed her to get married, even if she did not get married?[38] R. Ashi said: It was stated: Witnesses of defilement.[39]

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(1) The Baraitha just quoted.

(2) For each evidence.

(3) In the first case she has to go out, and in the second case she need not go out.

(4) This, too, is a new element.

(5) Lit., ‘there is a voice in the matter’.

(6) ‘We have not seen’ is no evidence!

(7) As in the first case.

(8) The sentence just quoted.

(9) Of our Mishnah, referring to the claim of the woman that she was divorced.

(10) Referring to her claim that she remained chaste in captivity.

(11) Since it is only presumed that she may have been cohabited with.

(12) Lit., ‘but to the first clause, no’.

(13) V. supra 22b.

(14) I.e., with regard to what case did R. Hamnuna express that view.

(15) In the presence of the husband.

(16) [And therefore she would have to go out if witnesses came after she married and said that she was a married woman.]

(17) And therefore she need not go out.

(18) The Court.
(19) This would imply that she did get married.
(20) I.e., from the permission given her by the Court to get married. That permission stands.
(21) Whether she is pure or not.
(22) I.e., witnesses who say that she was defiled while in captivity.
(23) If the husband is a priest.
(24) Abba the son of Abba.
(25) To guard them until they had been redeemed.
(26) V. Eccl. X, 5. The words that escaped the lips of Samuel had bad results.
(27) Lit., and they (the captors) brought them’.
(28) One of the daughters of Samuel.
(29) To marry even a priest.
(30) Since they left the captors outside they were their own witnesses, and the principle of ‘the mouth that forbids is the mouth that permits’ applied.
(31) Lit., ‘the matter was revealed’.
(32) I.e., marry one of them. [R. Shaman was a priest and relative of Samuel (Rashi).]
(33) I.e., ‘There are witnesses in a far country, and they may come and testify to the daughters of Samuel having been in captivity. [And defiled; (v. Tosaf.).]
(34) אסתן. Assyrian, istan, ‘north’, v. Kid. 12b.
(35) Why she is allowed to marry.
(36) To testify. cf. n. 2.
(37) I.e., each one of the daughters.
(38) And if witnesses came afterwards, she may get married.
(39) Only to witnesses who testify that the woman was actually defiled during her captivity, would annul the permission given for bet to get married but witnesses who testify only to bet having been in captivity would not affect that permission. There is then no conflict between R. Hanina and the father of Samuel.

Talmud - Mas. Kethuboth 23b

MISHNAH. IF TWO WOMEN WERE TAKEN CAPTIVE, [AND NOW] ONE SAYS, ‘I WAS TAKEN CAPTIVE AND I AM PURE, AND THE OTHER ONE SAYS. I WAS TAKEN CAPTIVE AND I AM PURE.’ THEY ARE NOT BELIEVED. BUT WHEN THEY TESTIFY TO ONE ANOTHER, THEY ARE BELIEVED. GEMARA. Our Rabbis taught: [If she says]. ‘I am impure and my friend is pure,’ she is believed; ‘I am pure and my friend is impure’, she is not believed; ‘I and my friend are impure’, she is believed as to herself and she is not believed as to her friend; ‘I and my friend are pure’; she is believed as to her friend and she is not believed as to herself. The Master said: ‘[If she says]. "I am pure and my friend is impure", she is not believed’. How shall we imagine this case? If there are no witnesses,[1] why is she not believed as to herself? She says, ‘I was taken captive and I am pure!’[2] Hence it is plain that there are witnesses. [Now] read the middle clause: ‘"I and my friend are impure"; she is believed as to herself and she is not believed as to her friend’. But if there are witnesses, why is she not believed?[3] Hence it is plain that there are no witnesses. [Now] read the last clause: ‘"l and my friend are pure"; she is believed as to her friend and she is not believed as to herself’. But if there are no witnesses, why is she not believed as to herself? Hence it is plain that there are witnesses. The first clause and the last clause when there are witnesses, [and] the middle clause when there are no witnesses? — Abaye said: Yes, the first clause and the last clause when there are witnesses, [and] the middle clause when there are no witnesses. R. Papa said: The whole of it [speaks] of where there are witnesses, but there is one witness who reverses.[4] [If] she says, ‘I am impure and my friend is pure’, and the one witness says to her, ‘thou art pure and thy friend is impure’, she has declared herself forbidden,[5] [and] her friend becomes permitted through her testimony.[6] If [she says] ‘I am pure and my friend is impure’, and the one witness says to her, ‘Thou art impure and thy friend is pure’, since there are witnesses,[7] she is not believed[8] [as to herself], [and] her friend becomes permitted through the testimony[9] of the [one] witness. [If she says], ‘I and my friend are impure.’ and the one witness says to her, ‘thou and thy friend are pure,’ she has declared herself forbidden, [and] her friend becomes permitted through the testimony of the [one] witness. What need is there again for this?[10] It is [the same as in] the first part![11] — You might have said [that] they are both pure and the reason why she says so[12] is that she acts [in accordance with the saying:] ‘Let me die with the Philistines’,[13] so he lets us hear.[14] [If she says] ‘I and my friend are pure’, and the one witness says to her, ‘Thou and thy friend are impure’, since there are witnesses,[15] she is not believed,’ [and] her friend becomes permitted through her testimony.[16] What need is there again for this? It is [the same as in] the very first clause![17] — You might have said [that] she is believed[18] only when she declares herself as unfit,[19] but when she declares herself as fit[20] I might say that she is not believed,[21] so he lets us hear[22] [that this is not so]. MISHNAH. AND LIKEWISE TWO MEN, [IF] ONE SAYS, ‘I AM A PRIEST’,[23] AND THE OTHER SAYS. ‘I AM A PRIEST’, THEY ARE NOT BELIEVED.[24] BUT WHEN THEY TESTIFY TO ONE ANOTHER, THEY ARE BELIEVED. R. JUDAH SAID: ONE DOES NOT RAISE [A PERSON] TO THE PRIESTHOOD THROUGH THE TESTIMONY[25] OF ONE WITNESS. R. ELEAZAR SAID: ONLY THEN, WHEN THERE ARE PEOPLE WHO OBject;[26] BUT WHEN THERE ARE NO PEOPLE WHO OBJECT. ONE RAISES [A PERSON] TO THE PRIESTHOOD THROUGH THE TESTIMONY OF ONE WITNESS. R. SIMEON B. GAMALIEL SAYS IN THE NAME OF R. SIMEON: THE SON OF THE CHIEF OF THE PRIESTS:[27] ONE RAISES [A PERSON] TO THE PRIESTHOOD THROUGH THE TESTIMONY OF ONE WITNESS. GEMARA. What need is there for all these [cases]?[28] They are needed. For if he had stated [only the case of] ‘R. Joshua admits’[29] [I might have said that only in that case is that principle applied]. because there is a possible loss of money.[30] but [in the case of] ‘If witnesses say this is our handwriting’[31] where there is no possible loss of money.[32] I would not say so.[33] And if he had stated [the case of] ‘If witnesses say this is our handwriting’. [I might have said that Only in that case does that principle apply] because [their statement concerns] other people.[34] but where it concerns himself[35]

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(1) That she and bet friend were taken captive.

(2) And in accordance with the principle in the Mishnah, supra 22a, she should be believed.

(3) As to her friend.

(4) Her testimony.

(5) V. supra p. 121. n. 9.

(6) Lit., ‘through her mouth’. [For in regard to a captive woman, he evidence of one in favour of her chastity is sufficient, v. infra 27a.]

(7) That she and her friend were taken captive.

(8) Lit., ‘all is not as if from her’, i.e., as if dependent on her, (Jast.). The fact that she was taken captive is known from the evidence of the witnesses and not only from her testimony.

(9) Lit., ‘mouth’.

(10) The last statement.

(11) [From the two cases in the first part we learn the two principles that her own evidence as to her having become impure must stand, and that the evidence of the witness in favour of chastity is sufficient.]

(12) Lit., ‘and this that she says so’, — that they ate both impure.

(13) Judg., XVI, 30. She applies to herself and to her friend the well-known Saying of Samson, that is, though she is pure she says that she is impure, so that she should be believed as to her friend, of whom she says that she is impure.

(14) That she is believed as to herself but not as to her friend.

(15) That she and her friend were taken captive.

(16) Lit., ‘through her mouth’.

(17) From here we learn that one witness is believed to attest the purity of the captive woman, even if there is another one contradicting him.

(18) As to her friend.

(19) Impure.

(20) Pure.

(21) As to her friend.

(22) Also the last case.
(23) Of priestly stock.
(24) To be given terumah; (v. Glos.).
(25) Lit., ‘mouth’.
(26) Lit., ‘when? In the place in which there are objectors’. — The objectors say that he is not of priestly descent or legitimate origin.
(27) Segan, v. Sanh. (Sonc. ed.) p. 97, n. 1.
(28) In the preceding Mishnahs from the beginning of this chapter (supra 15b)to this last Mishnah. All these have been cases taught in illustration of the same principle of ‘the mouth that forbids is the mouth that permits’.
(29) Supra 15b.
(30) [His first statement that ‘This field belonged to thy father’, carries with It a possible loss of money. and it must therefore be taken in conjunction with the subsequent statement, ‘But l bought it of him’.]
(31) Supra 18b.
(32) [There the witnesses themselves stand to lose nothing by this statement.]
(33) Lit., ‘I would say, no’. I.e., I would not apply here the principle of ‘the mouth that forbids is the mouth that permits’, and their second statement that they acted under constraint etc. is not accepted.
(34) Lit., ‘because for the world’ — The statement of the witnesses does not concern themselves but others.
(35) As in the case of ‘R. Joshua admits’.

Talmud - Mas. Kethuboth 24a

I would not say so. And if he would let us hear these two [cases. I might have said] because [both cases deal with] money matters but [in the case of] ‘a married woman’,[1] which is a matter of [sexual] prohibition.[2] I would not say so.[3] What need is there for [the case of] ‘I was taken captive and I am pure’?[4] — Because he wants to teach ‘But if witnesses came after she got married, she shall not go out’.[5] — That is quite right according to him who refers this to the second clause, but according to him who refers this to the first clause,[6] what is there to say? Because he wants to teach [the case of] ‘If two women were taken captive’.[7] — And what need is there for [the case of] ‘If two women were taken captive’? — You might have said [that] we may be afraid that they favour one another,[8] so he lets us hear [that we do not say so].[9] What need is there for [the case of] ‘AND LIKEWISE TWO MEN’?[10] Because he wants to teach the difference of opinion between R. Judah and the Rabbis .[11] Our Rabbis taught: [If one says:] I am a priest and my friend is a priest. he is believed to the extent of allowing him to eat terumah,[12] but he is not believed to the extent of allowing him to marry a woman[13] until there are three, [and] two testify to one and two testify to the other. R. Judah says: He is not believed even with regard to allowing him to eat terumah until there are three, [and] two testify to one and two testify to the other. Is this to say that R. Judah is afraid that they might favour one another,[14] and the Rabbis are not afraid that they might favour one another? Surely [from the following Mishnah] we understand just the reverse! For we have learned: When ass-drivers[15] come to a town and one of them says, ‘Mine[16] is new[17] and my friend's is old mine is not prepared[18] and my friends is prepared’; he is not believed;[19] R. Judah says: He is believed![20] — Said R. Adda b. Ahaba, in the name of Rab: The statement must be reversed.[21] Abaye said: Indeed, there is no need to reverse It;[22] in [the case of] demai,[23] they[24] have made it lenient, for most of the ‘amme ha-’arez[25] separate the tithes. Raba said: Is the question [only] of R. Judah against R. Judah? Is there no question [also] Of the Rabbis against the Rabbis?[26] No, [they answer]: there is no question of R. Judah against R. Judah. as we have [just] explained,[27] [and] there is no question of the Rabbis against the Rabbis, for [the case[28] is similar to that with regard to which] R. Hama b. ‘Ukba said that [it speaks of] when he has his trade-tools in his hand;

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(1) Supra 22a.
(2) Matters of sexual prohibition are treated with greater strictness than money matters.
(3) Therefore, the case regarding a married woman is also taught in illustration of the principle.
(4) Mishnah, 22a second clause.

(5) Ibid concluding clause of Mishnah.
(6) V. supra 23a.
(7) Mishnah, supra 23b.
(8) And the two women shield one another.
(9) That when the two women testify to one another's purity, they are believed.
(10) The case of out Mishnah.
(11) The first Tanna and R. Eliezer.
(12) V. Glos.
(13) Of unblemished descent.
(14) By false mutual recommendations.
(15) Who bring corn to a place to sell.
(16) My corn.
(17) New=fresh, old=not fresh. Fresh corn is not so good as corn that is not fresh. [He Simply says this in depreciation of his own ware and in praise of that of his fellow.] It may also be that ‘new’ and ‘old’ are used in the sense of Lev. XXIII, 10ff’., the ‘new’ being forbidden before the offering of the ‘omer; v. Glos.
(18) I.e., the priestly dues have not been given.
(19) [According to the first interpretation (n. 10) the reference is to the tithes only, and according to the second also to the prohibition of ‘new’ corn.]
(20) This would show that the Rabbis are afraid of people favouring one another, and that R. Judah is not afraid.
(21) I.e., read.’ R. Judah says: they are not believed, and the Rabbis Say: They are believed.
(22) Lit., ‘do not reverse’.
(23) Demai is produce about which there is a doubt whether the tithes therefrom have been properly taken or not; v. Glos.
(24) The Sages.
(25) V. Glos. They did not observe, or were under the Suspicion of not observing certain religious customs regarding tithes, levitical cleanness, etc. In Spite of this suspicion it was assumed that most of them did give tithes.
(26) If you do not reverse, why should the Rabbis hold that the ass-drivers are not believed, seeing that they do not suspect mutual favouritism.
(27) Lit., answered’. They have made it lenient with regard to demai.
(28) Of the ass-drivers.

Talmud - Mas. Kethuboth 24b

so here also[1] [we deal with] when he[2] has his trade-tools[3] in his hand.[4] And with regard to what[5] was that of R. Hama. b. ‘Ukba said?[6] With regard to what we have learned: If a potter left his pots[7] and went down to drink [water from the river,][8] the inner ones are pure and the outer ones are impure.[9] But it has been taught[10] that these and those are impure?-Said R. Hama b. ‘Ukba: [it speaks of a case][11] when he had his trade-tools in his hand,[12] so that[13] the hand of all touches them.[14] But it has been taught:[15] These and those are pure? — Said R. Hama b. ‘Ukba: When his trade-tools are not in his hand.[16] But [then] the case that we have learnt:[17] ‘The inner ones are pure and the outer ones are impure’ — how is that possible?[18] — When they[19] are near the public road and [they are impure] because of border stones of the public road.[20] And if you wish you may say: R. Judah and the Rabbis differ as to whether one raises [a person] from terumah to the status of a priest.[21] The question was asked: What is [the law]? Does one raise[22] [a person] from documents[23] to the full status of a priest?[24] — How shall we imagine this case? If we say that it is written in it: ‘I, So-and-so, a priest. have signed as witness’ — who testifies to him?[25] — No, [but] it must be when it is written in it: I, So-and-so, a priest, have borrowed a maneh from so-and-so, and witnesses have signed [the document]. What [then] is [the law]? Do they[26] testify [only] to the maneh [mentioned] in the document, or do they testify to the whole matter?[27] — R. Huna and R. Hisda [give opposing answers]: One says: One raises,[28] and one says: One does not raise.[28] The question was asked.[29] What is [the law]? Does one raise [a person] from the lifting up of the hands[30] to the status of a priest?[31] This is asked according to him who says [that] one raises [a person] from terumah to the status of a priest[32] and this is asked according to him who says [that] one does not raise [a person from terumah to the status of a priest].[33] It is asked according to him who says [that] one raises: When is this said?[34] [In the case of] terumah, which [if eaten by one who is not a priest] is a sin punishable with death;[35] but [in the case of] 'lifting up the hands', which [if one who is not a priest performs the pronouncing of the priestly blessing] is [only transgressing the] prohibition of a positive command,[36] [I would say] no.[37] Or perhaps there is no difference,[38] [and] it is asked according to him who says [that] one does not raise: When is this said? [In the case of] terumah, which is eaten in privacy;[39] but [in the case of] 'lifting up the hands,' which [is done] in public [I might say that] if he were not a priest he would not have the impudence[40] [to act as a priest]. Or perhaps there is no difference?[41] — R. Hisda and R. Abina [give opposing answers to this question]: One says: One raises,[42] and One Says: One does not raise. R. Nahman b. Isaac said to Raba: What is [the law]? Does one raise [a person] from 'lifting up the hands' to the full status of a priest? Said he to him: [With regard to this] there is a difference of opinion between R. Hisda and R. Abina. What is the [adopted] law? Said he to him: I know a Baraitha: For it has been taught: R. Jose said: Great[43] is presumption.[44] for it is said: And the children of the priests: the children of Habaiah, the children of Hakkoz, the children of Barzillai, who took a wife of the daughters of Barzillai the Gileadite, and was called after their name. These sought their register. of those that were reckoned by genealogy, and they were not found,' therefore were they deemed polluted and put from the priesthood. And the Tirshatha[45] said unto them, that they should not eat of the most holy things, till there stood up a priest with Urim and Thummim.[46] He[47] [thus] said to them: You remain[48] in your presumptive state; what have you eaten in exile?[49] The holy things of the country.[50] So here also [you shall eat] the sacred things of the country.[51] Now if we were to assume [that] one raises [a person] from 'lifting up the hands' to the state of a priest, since these spread out their hands,[52] one might raise them?'[53] — It is different here,[54] for their presumption has been impaired[55] For if you will not say so.[56] [then] according to him who says [that] one raises [a person] from terumah, since they eat terumah. one might raise them to the status of priests! Hence, [you must say it is][57] because their presumption has been impaired.[58]

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(1) In the case of the ass-drivers.

(2) Each ass-driver.

(3) As the measure and leveller.

(4) This shows that the ass-drivers mean to sell their corn. Therefore the Rabbis suspect them of mutual favouritism. If one praises his friend's produce in one place, the friend will praise the other one's produce in another place. And therefore the Rabbis hold that they are not believed.

(5) Lit., 'where'.

(6) I.e., did he give that explanation.

(7) I.e., put down his pots in the street and left them unobserved.

(8) These words, bracketed in the text, are missing in the Mishnah Toh. VII, 1. whence this is quoted.

(9) As they may have been touched by persons who do not observe the laws of purity.

(10) In a Baraitha.

(11) In the Baraitha.

(12) And thus indicates that the Pots ate for sale.

(13) Lit., 'because'.

(14) Would-be buyers handle the pots and examine them as to their quality. Therefore, in the Baraitha. both the inner and the outer pots are impure.

(15) In another Baraitha.

(16) There is no indication that the pots ate for sale and no one touches them.

(17) In the Mishnah.

(18) Neither explanation of R. Hama b. 'Ukba seems to apply. since some of the pots are pure and some are impure.

(19) The outer pots.

(20) תפופי.' Lit., 'the rubbings' (Rashi), or 'border' (Jast.). According to Rashi, big stones or pegs set up at the sides of the public toad, to prevent trespassing on private property. and against wbich passers.by press. The outer pots ate impure. because passers-by. who do not observe the laws of purity, may touch them with their garments. The inner pots the passers-by cannot reach, and therefore they ate pure.

(21) יוחסין lit., ‘genealogical records’, ‘traced genealogy’; (Jast. s.v.). The word המתיחשים ‘those that were reckoned by qenealoqy’. Ezra Il, 62, refers to ‘the children of the priests’. (v. 61). יוחסין means therefore primarily ‘genealogical priestly records’, ‘traced priestly genealogy’. In out text the phrase can be tendered by ‘as being of a priestly family’. or as ‘having the status of a priest’, or’ briefly, ‘to the full status of a priest’. and the dispute between R. Judah and the Rabbis is. if a person is seen eating terumah, whether he is to be regarded as a priest also in family matters and be allowed to marry a woman of unblemished descent; (v. Kid. 69b). R. Judah says ‘yes’, and he is therefore strict even with regard to terumah, and does not accept the evidence of one witness, but the Rabbis would say ‘no’. and are therefore lenient with regard to terumah (v. 24a). This, then, is the point at issue, and not whether we suspect mutual favouritism, which, in point of fact, all agree that we do not. [According to the Rabbis, however, we must still adopt the answer given before, that the Mishnah of Demai deals with a case when the ‘ass-driver had his trade-tools in his hand’ (Tosaf.)]

(22) Lit., ‘how is it to raise’, etc.

(23) In which a person is designated as a priest.

(24) V. note 4.

(25) Who testifies that he is in fact a priest?

(26) The witnesses.

(27) I.e., to the whole contents of the document and so also to the priestly status of the borrower.

(28) A person from documents to the status of a priest.

(29) By the members of the academy.

(30) The priests lifted up their bands in pronouncing the priestly blessing. The pronouncing of the priestly blessing (v. Num. VI, 22.27) is therefore called ‘Lifting up the bands’. Cf. Ta'an 26, Bet. 34a.

(31) Should one regard him, wbom be sees pronouncing the priestly blessing. as a priest in every way?

(32) That is, according to R. Judah.

(33) That is, according to the Rabbis.

(34) Lit., ‘(when are) these words (said)’.

(35) It is therefore to be assumed that he who eats terumah is a priest. as it is not presumed that a person would commit such a grave sin.

(36) LIt., ‘do’. The commandment of pronouncing the blessing is given only to Aaron and his sons (and descendants) — Num. Vl, 23. If non-Aaronides perform this commandment, they commit a transgression. because to them this is forbidden by Implication. Only priests may bless, not non-priests. The transgression of a commandment, forbidden by implication from a positive command, is treated like a positive command, and is not punishable. This transgression will therefore be sooner committed by a non-Aaronide than the sin of eating terumah.

(37) I.e one does not raise a person from ‘lifting up the hands’ to the full status of priest hood.

(38) Between terumah and lifting up the bands.

(39) And the person does not mind committing a wrong act privately.

(40) Lit., ‘a man would not be as impudent (or, act as impudently) as all that’.

(41) Between terumah and lifting up the hands.

(42) A person from lifting up of the bands to the status of priest.

(43) I.e., important.

(44) חזקה; the word used here in the sense of ‘presumptive continuance of a state, or condition, until evidence is produced rebutting the presumption’. V. Jast. s.v.

(45) [The governor; identified with Nehemiah (Rashi).]

(46) Ezra II, 61-62.

(47) The Tirshatha.

(48) Lit., ‘behold you are’.

(49) In Babylonia.

(50) ‘Limit,’ ‘boundary.’ has here the technical meaning of ‘country,’ as distinguished from ‘sanctuary and Jerusalem’. ‘Sacred things of the country’ ate the holy things that may be consumed outside the Temple and Jerusalem, such as terumah, as distinct from sacrificial offerings, that must be consumed within the precincts of the Temple courtyard.

(51) The Tirshatha only forbade them to eat ‘the most holy things’, as sacrifices. It is therefore implied that as he allowed them to eat ‘the sacred things of the country.’ as terumah, in presumptive continuance of their former state, they would be allowed, in the same way, to perform the lifting up of the hands, which was also done in ‘the country’.

(52) And pronounced the priestly blessing; v. preceding note.

(53) To the full status of priests, that is, as being of a priestly family,. v. p. 133 n. 4.

(54) In the case Of Ezra II, 61-63.

(55) Since they must not eat ‘the most holy things’ and the rightful priests do eat them. One would therefore not raise them to the status of priests from lifting up their hands. But in other cases one might do so.

(56) That no mistake can be made because their presumption has been impaired.

(57) Lit., ‘but is it not’?

(58) And therefore no mistake can be made, and the same applies to the ‘lifting up of hands’.

Talmud - Mas. Kethuboth 25a

If so,[1] what [do the words of R. Jose mean] ‘Great is the presumption’?[2] — Till now[3] they ate [only] Rabbinical terumah.[4] [and] now they ate Biblical terumah.[5] And if you wish, you may say: now also they ate Rabbinical terumah[6] [and] did not eat Biblical terumah,[7] and when does one raise [a person] from terumah to the status of a priest. In the case of Biblical terumah, but in the case of Rabbinical terumah one does not raise. If so,[8] what [is the meaning of the words] ‘Great is the presumption’?[9] — Although one might have forbidden [Rabbinical terumah] because of Biblical terumah,[10] this has not been forbidden. But did they not eat Biblical terumah? Surely it is written: ‘that they should not eat of the most holy things’, [implying] ‘the most holy things’ they did not eat, but Biblical terumah they did eat! — [No]. He means thus: Neither [may they eat] anything that is called ‘holy thing's[11] as it is written: ‘And no stranger shall eat of the holy thing’, nor anything which is called ‘holy thing’. for it is written: ‘And if a priest's daughter be married into a stranger. she shall not eat of the peace-offering of the holy things’[12] — and a Master said: [that this means] that which has been set aside from the holy things she shall not eat.[13] Come and hear: A presumption for the priesthood is constituted by the ‘lifting up of the hands’ in Babylonia, and the eating of the hallah[14] in Syria, and taking a share in [the priestly] gifts[15] in large cities.[16] In any case he mentions [here] the ‘lifting up of the hands’; is it not with regard to the full status of the priest?[17] — No, with regard to terumah.[18] But he teaches [the ruling regarding terumah] as analogous to the eating of hallah,’ just as the eating of hallah [entitles a person] to the full status of a priest, so does the lifting up of the hands [entitle a person] to the full status of a priest? — No. the eating of the hallah itself merely [serves as evidence] regarding terumah, [for] he holds that hallah in our days[19] is Rabbinical and terumah is Biblical and one raises [a person] from Rabbinical hallah to Biblical terumah.[20] and [it is] as R. Huna. the son of R. Joshua. reversed [the words of] the Rabbis.[21] Come and hear: A presumption for the priesthood is [constituted by] the ‘lifting up of the hands’ and taking a share [at the distribution of the [priestly gifts] at the threshing floors[22] in the Land of Israel;[23] in Syria and in all places to which the messengers of the new moon come[24] the ‘lifting up of the hands’ is evidence, but not taking a share at the threshing floors.[25] Babylonia is like Syria. R. Simeon b. Gamaliel, says: Also Alexandria in Egypt formerly. because there was there a permanent court of law.[26] In any case he teaches [here] the ‘lifting up of the hands’; is it not with regard to the full status of the priest? — No, with regard to hallah. But he teaches [the rule regarding the lifting up of the hands] as analogous to taking a share at the threshing floors: just as taking a share at the threshing floors [serves as evidence] in respect of the status of a priest, so does the ‘lifting up of the hands’ [serve] in respect of the status of a priest! — No, taking a share at the threshing floors itself [serves as evidence only as] to hallah, for he holds that terumah in our days is Rabbinical and hallah is Biblical and one raises [a person] from Rabbinical terumah to Biblical hallah, even as the Rabbis. whom R. Huna the son of R. Joshua found [in discourse]. For R. Huna, the son of R. Joshua, found the Rabbis in the School of Rab sitting[27] and saying: Even according to him who says that terumah in these days is Rabbinical. hallah is Biblical, for during the seven [years] that they[28] conquered [the Land] and during the seven [years] that they distributed [it][29] there was a duty upon them [to separate] hallah, but there was no duty upon them [to separate] terumah. And I said to them: On the contrary, even according to him who says [that] terumah in these days is Biblical, hallah is Rabbinical, for it has been taught: [It is written:] ‘In your coming’.[30] If ‘in your coming’[31] you might think as soon as two or three spies had entered it? [Therefore] it is said in your coming’.[32] I have spoken of the coming of all and not of the coming of a portion of you. Now when Ezra brought them up[33]

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(1) Lit., ‘and but’.

(2) How far does the presumption improve their position? Why does R. Jose lay such emphasis on it?

(3) Lit.,’at first’. In Babylonia.

(4) Terumah outside Palestine is only Rabbinically ordained; v. Kid. 36b.

(5) Terumah in Palestine is commanded by the law of the Bible, and the eating of such terumah by them was due to the importance attached to ‘presumption’.

(6) I.e.. terumah on vegetables and fruits.

(7) On corn, wine and oil.

(8) Lit.. ‘and but’.

(9) V. supra p. 135’ n. 4.

(10) Since on their entering the land there would be plenty of Biblical terumah available side by side with the Rabbinical terumah, through being permitted to eat the latter, they might be led to eat also of the former.]

(11) Lev. XXIl, 10. The reference is to terumah. v. Yeb. 74b.

(12) Lev. XXII, 12. The reference is to those portions of sacrifices, the breast and shoulder of peace-offerings. (v. Lev. VII, 34). that could be partaken of by the wives of priests and their slaves; v. next note.

(13) Cf. preceding note. And in Ezra II, 63. both words are used, corresponding to the two words just quoted from Lev. XXII, 10 and 12; v. Kid. 69b and Yeb. 68b and 87a.

(14) The priest's share of the dough; v. Num. XV, 20.

(15) V. Deut. XVIII, 3.

(16) [Though these Portions are permissible to non-priests.it is assumed that no one but a priest would venture to accept these publicly.]

(17) I.e.,in family matters; (v. supra p. 133, n. 4) which solves R. Nahman b. Isaac's question.

(18) [He who is seen to avail himself of any of these privileges as defined may be given terumah, but it cannot be used as evidence regarding marriage.]

(19) Lit., ‘in this time’, i.e., after the destruction of the Second Temple.

(20) When one is seen being given hallah, we assume he is a priest, and he may be given terumah.

(21) V. infra.

(22) I.e., sharing in the terumah.

(23) [Where terumah was Biblical and would not be given to a person of doubtful descent, and similarly in regard to the ‘lifting of hands’, the presence of the Sanhedrin, who would investigate claims to priesthood. would be sufficient bar to a non-priest.]

(24) [V. R.H. 18a; informing the people the day on which the Sanhedrin bad proclaimed the new moon of Nisan so that they might observe the festival of Passover on the proper day. These places bad to be within fifteen days’ walking distance from Jerusalem.]

(25) Being outside Palestine proper terumah there is only of Rabbinic origin.

(26) Who would investigate claims to priest hood, cf. supra p. 137, n. 12.

(27) Rashi renders בי רב ‘house of learning’. school’, ‘college’.

(28) The Israelites.

(29) Under Joshua. V. B.M. 89a.

(30) בבואכם so literally Num. XV, 18. E.V. ‘When you come’.

(31) The emphasis would seem to be on ‘come’.

(32) The emphasis is thus laid on ‘your’. ‘Your’ means ‘(the coming of) all of you’.

(33) To the Land of Israel.

Talmud - Mas. Kethuboth 25b

not all of them went up.[1] Come and hear: A presumption for the priesthood [is constituted by] the ‘lifting up of the hands’ and taking a share at the threshing floors and testimony.[2] Now is testimony a presumption?[3] Hence he means thus: The ‘lifting up of the hands is like a testimony’; as a testimony [raises one] to the status of a priest, so the ‘lifting up of the hands’ [raises one] to the status of a priest![4] — No. [what it means is] a testimony that comes on the strength of a presumption[5] is like a presumption. as when a man came once before R. Ammi [and] said to him: I am convinced that he[6] is a priest. So he said to him: What have you seen? And he answered him: He read first in the Synagogue.[7] — As[8] priest or as prominent man?[9] — After him a Levite read.[10] And R. Ammi raised him to the priesthood on the strength of his testimony.[11] Someone came before R. Joshua b. Levi, [and] said to him: am convinced that he[12] is a Levite. He said to him: What have you seen? He answered him: He read second in the Synagogue. As Levite or as a prominent man? — A priest read before him.[13] And R. Joshua b. Levi raised him to the status of Levite[14] on the strength of his testimony. Someone came once before Resh Lakish [and] said to him: I am convinced that he[15] is a priest. He ‘said to him: What have you seen? [He answered him:] He read first in the Synagogue. He[16] asked him: Have you seen him take a share at the threshing floors?[17] — Said R. Eleazar to him. And does the priesthood cease if there Is no threshing floor there?[18] — Once they sat before R. Johanan [and] there came such a case before them. Resh Lakish asked him:[19] Have you seen him take a share at the threshing floor? So R. Johanan said to him: And does the priesthood cease if there is no threshing floor there? — He[20] turned round, looked at R. Eleazar with displeasure[21] and said: You have heard something from the smith's son[22] and you did not say it to us in his name.[23] Rabbi and R. Hiyya, one raised a son to the priesthood on the testimony of his father, and one raised a brother to the state of Levite on the testimony of his brother. It can be proved that it was Rabbi who raised the son to the priesthood on the testimony of his father, for it has been taught: If one comes and says: ‘This Is my son and he is a priest,’ he is believed with regard to allowing him to eat terumah, but he is not believed with regard to allowing him to marry a woman.[24] This is the opinion[25] of Rabbi. Said R. Hiyya to him: If you believe him so as to allow him to eat terumah, believe him [also] so as to allow him to marry a woman, and if you do not believe him so as to allow him to marry a woman, do not believe him also as to allow him to eat terumah. He answered him: I believed him so as to allow him to eat terumah because it is In his hands to let him eat terumah,[26] but I do not believe him so as to allow him to marry a woman because it is not in his hands to let him marry a woman.[27] It’ is proved.[28] And since it was Rabbi who raised the son to the priesthood on the testimony of his father, [it follows that] it was R. Hiyya who raised the brother to the status of Levite on the testimony of his brother, But [according to] R. Hiyya, why is the son different that [he is] not [raised]?[29] Because he is related to his father. A brother. too, is related to his brother?[30] —

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(1) And therefore hallah in these days is Rabbinical.

(2) Witnesses testify that he is a priest.

(3) Surely you cannot call a Testimony a presumption!

(4) Which answers the question of R. Nahman b. Isaac.

(5) The testimony is to a fact that postulates a presumption.

(6) A certain person. Lit., ‘this (man)’.

(7) When called up to the Law. V. Git. 59b.

(8) Lit., ‘in the presumption of’.

(9) V. Git. 59b.

(10) This would show that he was a priest; v. Git. 59b.

(11) Lit., ‘by his mouth’.

(12) A certain person. Lit., ‘this (man)’.

(13) [So he must have been a Levite, v. Git. 59b.]

(14) To give him the first tithe.

(15) A certain person. Lit., ‘this (man)’.

(16) Resh Lakish.

(17) The first answer apparently did not satisfy Resh Lakish.

(18) R. Eleazar apparently regarded the first answer as sufficient.

(19) The witness.
(20) Resh Lakish.
(21) Rashi: with an evil eye.
(22) R. Johanan. V. Sanh. (Sonc. ed.) p. 647. n. 8.
(23) He understood that R. Eleazar had heard the phrase he had cited from R. Johanan. and therefore reproved him for this lack of scholarly courtesy in not mentioning his source.
(24) Of unblemished descent.
(25) Lit., ‘the words’.
(26) He can give him of his terumah.
(27) Marriage is not in the hand of the father.
(28) That it was Rabbi who promoted the son to priesthood on the testimony of his father.
(29) On the testimony of his father.
(30) Why should he be raised on the evidence of his brother?

Talmud - Mas. Kethuboth 26a

When he was talking in his simplicity.[1] As that [story which] Rab Judah related in the name of Samuel: It happened that a man was talking in his simplicity and said: ‘I remember when I was a child and rode on my father's shoulder, they brought me out from school and stripped me of my shirt and immersed me[2] so that I could eat terumah in the evening.’[3] And R. Hiyya added:[4] ‘And my friends held aloof from me and called me "Johanan the halloth-eater".’[5] And Rabbi raised him to the priesthood on his testimony. It has been taught: R. Simeon b. Eleazar, says: Just as terumah is a presumption for the priesthood, so is the first tithe a presumption for the priesthood,[6] but he who takes a share [at the threshing floors] through the court — [this] is not a presumption.[7] The first tithe belongs to the Levite?[8] - [This is] according to R. Eleazar, the son of Azariah,for it has been taught: Terumah belongs to the priest, the first tithe to the Levite-this is the view of R. Akiba, R. Eleazar, the son of Azariah, says: The first tithe belongs also to the priest. [But] R. Eleazar, the son of Azariah, says: ‘also to the priest’; does he say: to the priest and not to the Levite? — Yes. after Ezra had punished them.[9] But perhaps it happened that they gave it to him?[10] — Said R. Hisda: Here we treat of a case where we know that the father of that [per. son] is a priest and a rumour[11] came Out concerning him that he is the son of a divorced woman[12] or a haluzah[13] and [yet] they gave him tithe at the threshing floor. [He could not be regarded as] a Levite, because he was not a Levite.[14] What then could you say? That he was the son of a divorced woman or the son of a haluzah? [But as to this] there is no question that according to him who says [that] the first tithe is forbidden to strangers.[15] they would not have given [it] to him. For even according to him who says: The first tithe is permitted to strangers.[16] it is only to sustain them[17] but as a distribution [due to him as of right] they do not give it to him.[18] ‘But he who takes a share [at the threshing floors] through the court [this] is not a presumption.’ If it is not a presumption through the court, when is it a presumption? — Said R. Shesheth: he means thus: If one shares the terumah in the property of his father[19] through the court, it is not a presumption. — This is obvious![20] — You might have said [that] just as those[21] [get their share of terumah] for eating. this one also [gets his share of terumah] for eating, so he lets us hear [that] those [get the terumah] for eating and this one for selling.[22] R. Judah says: ONE DOES NOT RAISE [A PERSON] TO THE PRIESTHOOD ON THE TESTIMONY OF ONE WITNESS, etc. R. Simeon b. Gamaliel says the same as R. Eliezer?[23] And if you will say [that] they differ with regard to an objection raised by one person. [in] that R. Eliezer holds that an objection [may be admitted if cooling from;] one [person] and R. Simeon b. Gamaliel holds that an objection [must come from at least] two [persons] did not R. Johanan say’ All agree that an objection [must come from] at least two persons? — But we treat here of a case where the father of this [person] is a priest and a rumour[24] came out concerning him that he is the son of a divorced woman or the son of a haluzah and they put him down,[25] and one witness came and said, ‘I know that he is a priest.’[26]

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(1) The brother, on whose statement the promotion was made, did not intend to give evidence.
(2) Terumah had to be eaten in ritual purity.
(3) [Because children ate apt to rummage about in places that are not clean, and thus contract defilement.]
(4) Completing the man's narrative.
(5) Plur. of Hallah, v. Glos.
(6) If a man is seen eating first tithe, it is presumed that he is a priest.
(7) This is explained infra.
(8) V. Num. XVIIl, 24.
(9) The Levites, not to be given any tithes, v. Yeb. 86b.
(10) To the Levite; how’ then car first tithe constitute a presumption for priesthood?
(11) Lit., ‘voice’.
(12) He is the offspring of a union of a priest with a divorced woman, therefore a halal, (‘profaned’). v. Lev. XXI, 7.
(13) V. Glos.
(14) His father is a priest.
(15) Persons who ate neither priests not Levites.
(16) Cf Yeb. 74a, 85b. and 86a.
(17) If they ate poor.
(18) And Since they gave him tithe at the threshing floors it shew's that he is an unblemished priest.
(19) After the father's death.
(20) Even a halal inherits his father.
(21) The brothers.
(22) He inherits the terumah and may sell it to rightful priests but he may not eat it, although the division took place under the direction of the court
(23) In out Mishnah.
(24) Lit ‘voice’.
(25) From the status of priesthood.
(26) A rightful, unblemished priest.

Talmud - Mas. Kethuboth 26b

and they raised him [again] and [then] came two [other witnesses] and said [that] he is the son of a divorced woman or the son of a haluzah. and they put him, down [again]. and [then] came one witness and said, ‘I know that he is a priest’. [Now] all agree[1] that they[2] are joined into one testimony, and they differ as to whether we are afraid of bringing contempt on the court.[3] The first Tanna[4] holds: Since we put hill, down we do not raise him, [again]. because we are afraid of bringing contempt on the court.[5] Whereas R. Simeon b. Gamaliel, holds: we have put him down and we can raise him, [again].[6] and we are not afraid of bringing contempt on the court. R. Ashi asked against this: If so, even [when there are] two and two[7] also?[8] But, said R. Ashi, they differ as to whether they[9] are joined into one testimony. And they have the same difference of opinion as these Tannaim,[10] for it has been taught: Their testimonies are not joined together unless they have both seen[11] at the same time;[12] R. Joshua b. Korha. says: Even when [they have seell] one after another. Their testimonies are not established[13] in court until they both give evidence at the same time; R. Nathan says: We hear the evidence of one to-day. and when the other one comes to-morrow we hear his evidence.[14] MISHNAH. IF A WOMAN WAS IMPRISONED BY HEATHENS, IF FOR THE SAKE OF MONEY, SHE IS PERMITTED TO HER HUSBAND, AND IF FOR THE PURPOSE OF [TAKING HER] LIFE,[15] SHE IS FORBIDDEN TO HER HUSBAND. GEMARA. R. Samuel b. Isaac said [that] Rab said: They have taught [this] only when the hand of Israel is strong over the heathens.[16] but when the hand of the heathens is strong over themselves,[17] even if for the sake of money, she is forbidden to her husband. Raba raised an objection: R. Jose the priest and R. Zechariah b. ha-Kazzab[18] testified regarding an Israelitish woman, who was pledged[19] in Ashkelon and her family[20] put her away.[21] and her witnesses[22] testified [concerning her] that she did not hide herself [with a man] and that she was not defiled [by a man]. [that] the Sages said to them: If you believe [the witnesses] that she was pledged believe [them also] that she did not hide herself and that she was not defiled, and if you do not believe [them] that she did not hide herself and that she was not defiled, do not believe [them] that she was pledged.[23] Now Ashkelon [was a town in which] the hand of the heathens was strong over themselves and he teaches

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(1) R. Eliezer and R. Simeon b. Gamaliel.

(2) The testimony of the first witness and that of the last witness so that there ate two witnesses against two witnesses.

(3) If he is re-instated now, having been put down by the court twice.

(4) R. Eliezer.

(5) [Should he be reinstated after having been degraded twice, the court would be brought into contempt; and thus R. Eliezer says that where there have been objectors, there is renewed promotion by the evidence of one witness, namely the last.]

(6) [To the priesthood In continuance of the presumptive state which he had originally enjoyed.]

(7) If two witnesses who speak in his favour come at the same time.

(8) He should be not raised again in the view of R. Eliezer for feat of bringing contempt on the court.

(9) The testimony of the first witness and that of the last witness, so that there ate two witnesses against two witnesses.

(10) The Rabbis and R. Nathan of the Baraitha that follows.

(11) What they testify to.

(12) At the same time and in the presence of one another.

(13) Accepted as evidence.

(14) Their testimonies are joined together and the two single witnesses are regarded as a pair of witnesses. R Eliezer agrees with the Rabbis, R. Simeon b. Gamaliel with R. Nathan.

(15) And she was saved afterwards.

(16) [In which case they were afraid to force the woman, lest they should forfeit their money claim.]

(17) I.e., when the heathens are independent. [or a euphemism ‘themselves’, standing for Israelites.]

(18) ‘Son of the Butcher’.

(19) For a debt.

(20) Who were priests.

(21) Disqualified her from marrying a priest for fear she might have been violated.

(22) Who testified to her having been pledged.

(23) V. ‘Ed. VIII, 2.

Talmud - Mas. Kethuboth 27a

‘when she was pledged’ but not ‘when she was imprisoned’?[1] — [No] the same applies also to [the case if] she had been imprisoned. only it happened so.[2] Some say. Raba said: We have also learned [in a Mishnah] to the same effect: R. Jose the priest and R. Zechariah b. ha-Kazzab testified regarding an Israelitish woman. who was pledged in Ashkelon and her family put her away and her witnesses testified concerning her that she did not hide herself [with a man] and that she was not defiled [by a man]. [that] the Sages said: If you believe [the witnesses] that she was pledged believe [them also] that she did not hide herself and that she was not defiled, and if you do not believe [them] that she did not hide herself and was not defiled, do not believe [them] that she was pledged. In Ashkelon [it happened] for the sake of money, and [yet] the reason [why the Sages permitted her to her husband was] because witnesses testified concerning her, but if witnesses did not testify concerning her [she would] not [have been permitted]; and is it not [also to be supposed] that there is no difference whether she was pledged or imprisoned?[3] — No, when she was pledged it is different.[4] Some put [this argument] in the form of a contradiction. We have learned: IF FOR THE SAKE OF MONEY SHE IS PERMITTED TO HER HUSBAND. But here is a contradiction: ‘R. Jose testified etc.’ [Now] in Ashkelon [it happened] for the sake of money and [yet] the reason [why she is permitted to her husband] is because witnesses testify concerning her, but if no witnesses testify concerning her, [she would] not [have been permitted]. And it is answered: R. Samuel b. Isaac said: It is no contradiction; here[5] [it speaks] when the hand of Israel is strong over the heathens, [and] there[6] when the hand of the heathens is strong over themselves. IF FOR THE PURPOSE OF [TAKING HER] LIFE SHE IS FORBIDDEN [TO HER HUSBAND]. Rab said: As, for instance, the wives of thieves.[7] Levi said: As, for instance, the wife of Ben Dunai.[8] Hezekiah said: This is only[9] when they have [already] been sentenced to death — R. Johanan says: Even if they have not yet been sentenced to death. MISHNAH. IF TROOPS OF SIEGE HAVE TAKEN A TOWN. ALL THE PRIESTS’ WIVES[10] WHO ARE IN IT ARE UNFIT.[11] IF THEY HAVE WITNESSES,[12] EVEN A SLAVE.[13] EVEN A HANDMAID,[14] THEY ARE BELIEVED. NO ONE IS BELIEVED AS TO HIMSELF. GEMARA. There is a contradiction against this: If a reconnoitering troop comes to a town in time of peace the open casks [of wine] are forbidden[15] and the closed ones are permitted.[16] In times of war both are permitted, because they have no time to offer libations.[17] — R. Mari answered: To have intercourse they have time.[18] To offer libations they have no time. R. Isaac b. Eleazar said in the name of Hezekiah: There[19] [it speaks] of a besieging troop of the same kingdom.[20] here[21] [it speaks] of a besieging troop of another kingdom.[22] [Even in the case of a besieging troop] of the same kingdom it is not possible that one of them does not run away[23] [from the rest of the troop]![24] — Rab. Judah answered in the name of Samuel: When the guards[25] see one another.[26] [But] it is not possible that one does not sleep a little![27] — R. Levi answered: When they placed round the town chains. dogs. trunks of trees and geese.[28] R. Abba, b. Zabda said: With regard to this R. Judah Nesi'ah[29] and the Rabbis differ: one said [that] there[30] [it speaks] of a besieging troop of the same kingdom. and here[31] of a beseiging troop of another kingdom, and he found no difficulties, whereas one[32] raised all those questions[33] and answered [them by saying] when they placed round the town chains, dogs. trunks of trees, and geese. R. Idi b. Abin said in the name of R. Isaac b. Ashian: If there is there one hiding place. it protects all priests’ wives.[34] R. Jeremiah asked [a question]: What is [the law] if it holds only one? Do we say of each one:[35] This is the one[36] or not? — But why should it be different from [the following case]? There were two paths, one was clean[37] and one was unclean, and someone walked in one of them and [then] prepared clean things.[38] and another person came and walked in the second path and [then] prepared clean things. R. Judah says: If each one comes to ask[39] separately,[40] they are [declared] clean;[41] [but] if they both come together, they are [declared] unclean;[42] R. Jose Says: In either case[43] they are [declared] unclean.[44] [Whereon] Raba, and some say R. Johanan said: [if they come to ask] at the same time, all agree that they are [declared] unclean, if they come one after another, all agree that they are [declared] clean; they differ only when one comes to ask for himself and for the other one; one[45] regards this as[46] [if it were] at the same time, and the other[47] regards this as [if it were] one after another. Now here[48] also, since all [women] [are declared] permitted.it is like [the case where they came] at the same time?[49] — How is this so?[50] There[51] there is certainly an impurity,[52] [but] here[53] who says that any one[54] has been defiled?[55] R. Ashi asked: If she[56] says. ‘I have not hidden myself and I have not been defiled’, what is [the law]? Do we say

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(1) The case of ‘pledged’ would be worse than that of ‘imprisoned’. for once the tithe for redemption had expired. the pledge remains the absolute possession of the creditor (Rashi).

(2) That she had been pledged.

(3) This Supports R. Samuel b. R. Isaac.

(4) V. p. 144 n. 9.

(5) In our Mishnah.

(6) ‘Ed. V. 2.

(7) Their property and their wives were apparently confiscated (Rashi).

(8) Or Dinai, a notorious bandit, v. Sot. (Sonc. ed.) p. 249. n. 2.

(9) Lit ,’and that is’.

(10) Priestesses.

(11) I.e.,forbidden to their husbands, as they might have been defiled by the troops.

(12) That they have not been defiled.

(13) A male slave.

(14) A female slave.

(15) Because they may have offered libations to idols.
(16) It is assumed that the troops do not touch the closed casks since they have open casks of wine.
(17) V. A.Z. 70b. And in our Mishnah it is assumed that the troops have time to violate the women of the town.
(18) They are driven by their passion.
(19) In A.Z. 7ob.
(20) [Sent to suppress a rebellion. The troop is therefore self-restrained]
(21) In our Mishnah.
(22) An enemy troop behaves in a hostile manner, and the women of the town may have been violated.
(23) Var. lec. ‘remove his foot’.
(24) And has violated a woman.
(25) Appointed for the protection of the population.
(26) And they can call to one another to arrest any wrongdoer. Fear of the guards would prevent assaults on women.
(27) I.e., the guards may fall asleep for a little while.
(28) So that any one who would attempt to run away (or slip away) would be caught.
(29) The Prince. R. Judah II
(30) In A.Z. 70b.
(31) In out Mishnah.
(32) The other disputing patty.
(33) Raised here in the Gemara.
(34) It is to be assumed of each one that she hid herself there.
(35) Of the priests’ wives.
(36) Who hid herself there.
(37) Ritually. In one of the two paths were dead bodies buried, but it is not known in which.
(38) Lit., ‘did purities’. I.e., touched things which were ritually pure (Rashi). If he is ritually impure he makes them ritually impure.
(39) They come to ask a scholar for a decision as to the things which they touched.
(40) Lit., ‘this one for himself and this one for himself’.
(41) I.e., the things are pure, because the two men ate regarded as pure. Since they came to ask separately I say of each of them that he walked in the clean path.
(42) The things are unclean, because the decision given to the men cannot be: ‘you are clean’, since one of the two present must have walked in the unclean path. As it is not known which it was they ate both regarded as unclean and the things which they touched are unclean.
(43) Lit., ‘Whether So-and-so’. Whether they come separately or together.
(44) V. Toh. V, 5.
(45) R. Jose.
(46) Lit., ‘compares it to’.
(47) R. Judah.
(48) In the case of the priests’ wives.
(49) And therefore all of them should be forbidden on the view of R. Jose to their husbands, if there is a hiding place in which only one can hide herself, Since, when R. Judah and R. Jose differ, the law is according to R. Jose (Rashi) and since it is ruled that all the women are permitted, it is as if they all had come at one and the same time to ask for a decision.
(50) I.e., is this analogy correct? How can you compare these two cases?
(51) In the case of the two paths.
(52) One path was unclean.
(53) In the case of the priests’ wives.
(54) Of the priests’ wives.
(55) It may be that there was no defilement at all.
(56) One of the priests’ wives.

Talmud - Mas. Kethuboth 27b

‘why should she lie,’[1] or do we not say it? But why should this be different from the following case? Once someone hired out an ass to a person, and he said to him, ‘Do not go the way of Nehar Pekod. where there is water,[2] go the way of Naresh, where there is no water. But he[3] went the way of Nehar Pekod and the ass died.[4] He[3] [then] came before Raba[5] and said to him. ‘Indeed, I went the way of Nehar Pekod, but there was no water. Said Raba: ‘Why should he lie?’ If he wished he could say ‘l went the way of Naresh.’ And Abaye said to him: we do not say ‘Why should he lie?’ where there are witnesses.[6] — Now is this so? There there were witnesses that there certainly was water on the way of Nehar Pekod. but here has she certainly been defiled? It is [only] a fear,[7] and in the case of a fear we say [‘why should he lie?’] IF THERE ARE WITNESSES, EVEN A SLAVE, EVEN A HAND’ MAID, THEY ARE BELIEVED. And even her own handmaid is believed. But there is a contradiction against this:[8] She[9] must not be alone with him[10] unless there are witnesses, even a slave, even a handmaid[11] except her own handmaid,[12] because she[13] is familiar with her own handmaid![14] — R. Papi said: In [the case of] a woman captive[15] they[16] have made it lenient. R. Papa said: In the one case[17] [it speaks of] her handmaid, in the other case[18] [it speaks of] his handmaid. But her handmaid is not believed? Does he not teach [that] no one may testify as to himself? [This would imply that] her handmaid is believed![19] Her handmaid is like herself.[20] R. Ashi said: In both cases [it speaks of] her handmaid, but [what we maintain is that] the handmaid sees and is silent.[21] [Consequently] there,[22] where her silence makes her permitted.[23] she is not believed, but here,[24] where her silence makes her forbidden.[25] she is believed. Now also, she may come and tell a falsehood?[26] Two [things] she would not do[27] as in the case of Mari b. Isak [or as some say of Hana b. Isak]: To him there came a brother from Be-Hozae and said to him: Give me a share in the property of our father. He answered him: I do not know you. He[28] [then] came to R. Hisda, and he[29] said to him: I he[30] answered you well, for it is written:[31] ‘And Joseph knew his brethren, and they knew not him.’ This teaches that he went away before he had grown a beard and he came back after growing a beard.[32] [Then] he[29] said to him: I Go and bring witnesses that you are his brother. He[28] answered him:[29] I have witnesses, but they are afraid of him,[33] because he is a powerful man. He[29] [then] said to the other man: Go you and bring witnesses that he[28] is not thy brother. He[30] answered him:[29] Is this the law? [Surely] he who claims must produce evidence![34] He[29] said to him.[30] So I rule for you and all who are powerful like you![35] But they[36] may also come and lie?[37] Two things they[36] will not do.[38] May we say that this difference[39] is like that between [these] Tannaim? [For it was taught in a Baraitha:] This testimony[40] a man and a woman, a boy and a girl, her father and her mother, her brother and her sister [may give], but not her son and her daughter, nor her slave and her handmaid. And [in] another [Baraitha] it was taught. All are believed to testify [for her] except herself and her husband.[41] Now the views of R. Papa and R. Ashi are [certainly] according to the difference of the Tannaim.[42] But is the view of R. Papa according to the Tannaim?[43] R. Papa can answer you: That Baraitha[44] [speaks of a case] when she[45] talked in her simplicity.[46] As that which R. Dimi said when he came: R. Hanan of Carthagene told a story: A case came before R. Joshua b. Levi (or as some say R. Joshua b. Levi told a Story: A case came before Rabbi): Someone was talking in his simplicity and said: I and my mother were taken captives among heathens. When I went out to draw my water, my mind was on my mother.[47] [When I was out] to gather wood, my mind was on my mother. And Rabbi allowed her to marry[48] a priest[49] by [the words of] his mouth.[50] MISHNAH. R. ZECHARIAH B. HA-KAZZAB[51] SAID: BY THIS TEMPLE[52] HER HAND[53] DID NOT MOVE OUT OF MY HAND[54] FROM THE TIME THAT THE HEATHENS ENTERED JERUSALEM UNTIL THEY DEPARTED. THEY[55] ANSWERED HIM: NO ONE MAY TESTIFY CONCERNING HIMSELF.[56] GEMARA. It has been taught: And notwithstanding this[57] he appointed for her a dwelling place[58] in his court-yard. and when she was out, she went out at the head of her children,[59] and when she came in, she came in at the head other children.[60] Abaye asked: May one do so with regard to one's’ divorced wife?[61] [Do I say:] There[62] it was allowed because in [the case of] a captive woman[63] they[64] made it lenient, but not here.[65] or is there no difference? — Come and hear: It has been taught: If someone has divorced his wife, she shall not get married [and live] in his neighbourhood.[66]

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(1) Lit.. ‘Why should I lie?’ Do we apply here the principle of ‘Why should I lie?’ If she had wished to tell a falsehood she could have said that she hid herself. She does not gain any advantage by her present statement. Therefore we should believe her entire statement.
(2) Which, apparently. the ass-driver would have to cross.
(3) The man who hired the ass.
(4) Apparently through the fatigue of crossing the water.
(5) Before whom the parties, the owner and hirer of the ass, brought their dispute.
(6) It is common knowledge that there is water on the way to Nehar, Pekod, v. however, B.M. (Sonc. ed.) p. 468 and notes.
(7) One is merely afraid that she may have been defiled.
(8) V. Git. 73a.
(9) The wife of a husband who gave her a divorce on condition that he dies, v. Git. 73a.
(10) With her husband between the delivery of the divorce and his death.
(11) Even if a slave or a handmaid is present when husband and wife are in one room.
(12) The wife's own handmaid.
(13) The wife.
(14) We thus see that her own handmaid cannot be a witness. This is the contradiction. For further notes v. Git. (Sonc. ed.) p. 348.
(15) E.g., the priests’ wives in the Mishnah.
(16) The Rabbis.
(17) In Git. 73a.
(18) In our Mishnah.
(19) Anyone but herself.
(20) Therefore her own handmaid cannot be a witness.
(21) I.e., all the handmaid does is: She sees what her mistress does and keeps quiet.
(22) In Git. 73a.
(23) There (in Git. 73a), if the handmaid says nothing as to any intimacy between husband and wife after the conditional divorce, she is in her permitted state. And as her handmaid is suspected of Seeing a wrong done and saying nothing her silent testimony is not accepted.
(24) In our Mishnah.
(25) A captive woman is presumed to have been violated unless there is evidence to the contrary. consequently in order to make her mistress permitted to her husband the handmaid would have to speak. She would have to say that her mistress was not defiled. And we do not assume that she would say an untruth. She may be guilty of a silent falsehood, but not of a spoken falsehood. Therefore when she says that her mistress has remained pure she is believed.
(26) In spite of what has just been said by R. Ashi, it is possible that out of attachment to her mistress, or for fear of her, the handmaid may come and actually tell a falsehood. Why should she then be believed?
(27) To be silent about her mistress's defilement and to say that she was not defiled, that she would do both these things we do not assume.
(28) The claimant.
(29) R. Hisda.
(30) Mari, or Hana.
(31) Gen. XLII, 8.
(32) It is therefore possible and even natural that your brother does not recognize you.
(33) Of his brother.
(34) This is the accepted rule!
(35) I.e.,I am the interpreter and exponent of the law. I apply the rules according to circumstances. Now that I have to deal with a man like you; Mari. I modify the rule! And he bowed to the ruling of R. Hisda; v. B.M. 39b. where the story is told more fully.
(36) The witnesses.
(37) Cf. B.M. 39b.
(38) To be silent as to the truth and to tell a falsehood
(39) Whether her handmaid is believed or not.

(40) Regarding a captive woman.
(41) Her handmaid is therefore believed.
(42) R. Papa and R. Ashi would hold like the second Baraitha.
(43) The view of R. Papa does not seem to agree with either Baraitha, since he makes a distinction between his handmaid and her handmaid. According to the first Baraitha no handmaid is believed, whether his or hers, and according to the second Baraitha either handmaid is believed, even hers.
(44) The second Baraitha.
(45) The handmaid.
(46) She related her story quite innocently, without intending to give evidence. In such a case R. Papa would also hold that her handmaid is believed. Therefore R. Papa's view would also be according to the second Baraitha.
(47) Apparently he had his eyes on her so that no one assaulted her.
(48) She was a widow.
(49) Lit., ‘into priesthood’.
(50) Relying upon the story told innocently by the Son.
(51) ‘The Butcher’. He was a priest in Jerusalem at the time of the Roman conquest.
(52) He swore by the Temple.
(53) The hand of his wife.
(54) I.e., she was always with him, and he knew that she remained pure.
(55) The Sages.
(56) As it concerns himself his testimony cannot be accepted.
(57) That they did not accept this testimony. and consequently she was forbidden to him (Rashi).
(58) Lit., ‘a house’.
(59) So that she should not be alone with her husband.
(60) So that she should not be alone with her husband, v. Tosef. Keth. V. for variants.
(61) May she live in the same court-yard in which her former husband lives?
(62) In the case of R. Zechariah.
(63) During the siege she was regarded as a captive woman.
(64) The scholars.
(65) In the case about which Abaye asks.
(66) שכונה ‘a group of three houses’, v. A.Z. 21a. Former friendship may lead to renewed intimacy.

Talmud - Mas. Kethuboth 28a

and if he[1] was a priest she must not live with him in the [same] alley.[2] If it was a small village[3] — such a case happened, and they said: A small village is considered[4] a neighbourhood.[5] Who must give way before whom? — Come and hear’ It has been taught : She must give way before him , and not he before her, but if the court-yard[6] belonged to her, he must give way before her. The question was asked: If the court-yard belonged to both, what is [the law]? Come and hear: ‘She must give way before him.’ In what case?[7] If the court-yard belongs to him it is obvious; and if the court-yard belongs to her, has it not been taught: ‘If the court-yard belongs to her, he gives way before her’? Hence [it must be] in a such case![8] — [No.] Perhaps [it deals with a case] when they rented [the court.yard]. How is it then?[9] — Come and hear: [It is written:] The Lord will hurl thee away violently as a man,[10] and Rab said:[11] moving about[12] is harder for a man than for a woman.[13] Our Rabbis taught: If he[14] borrowed[15] from the property of her father,[16] she collects the payment only through another person.[17] R. Shesheth said: And if they [both] come before us to Court, we do not deal with[18] them.[19] R. Papa said: We excommunicate them. R. Huna, the son of R. Joshua. said: We even order them to be lashed. R. Nahman said: It is taught in Ebel Rabbathi:[20] This is said only[21] when she was divorced after[22] marriage, but if she was divorced after betrothal, she may collect the payments herself, because he is not [so] familiar with her. Once a betrothed and his [former] fiancee came before Raba, and R. Adda b. Mattena, sat before him. Raba placed a messenger[23] between them.[24] R. Adda b. Mattena said to him: Did not R. Nahman say: ‘It is taught in Ebel Rabbathi etc.’?[25] — He answered him: We see[26] that they are familiar with one another.[27] Some say: Raba did not place a messenger between them. R. Adda b. Mattena said to him: Let the Master place a messenger between them. He answered him:[28] Did not R. Nahman say: ‘It is taught in Ebel Rabbathi, etc.’? He[29] said to him:[28] This only when they are not familiar with one another, but [as to] these — I see that they are familiar with one another.[27] MISHNAH. THE FOLLOWING[30] ARE BELIEVED ON TESTIFYING WHEN THEY ARE GROWN-UP[31] TO WHAT THEY HAVE SEEN WHEN THEY WERE SMALL:[32] — A PERSON IS BELIEVED ON SAYING ‘ THIS IS THE HANDWRITING OF MY FATHER.’[33] ‘THIS IS THE HANDWRITING OF MY TEACHER. ‘THIS IS THE HANDWRITING OF MY BROTHER:[34] REMEMBER THAT THAT WOMAN WENT OUT WITH A HINUMA AND UNCOVERED HEAD,[35] ‘THAT THAT MAN USED TO GO OUT FROM SCHOOL[36] TO IMMERSE[37] IN ORDER TO EAT TERUMAH’.[38] ‘THAT HE USED TO TAKE A SHARE WITH US AT THE THRESHING FLOOR, THAT THIS PLACE WAS A BETH HA-PERAS.’[39] THAT UP TO HERE WE USED TO GO ON SABBATH.[40] BUT A MAN IS NOT BELIEVED WHEN HE SAYS: SO-AND — SO HAD A WAY[41] IN THIS PLACE, THAT MAN HAD A PLACE OF STANDING UP AND LAMENTATION[42] IN THIS PLACE. GEMARA. R. Huna b. Joshua said: [This is] only[43] when a grown up person is with him.[44] And it is necessary,[45] for if he had taught us[46] [with regard to] his father, [I might say][47] that is because he[48] was always[49] with him,[50] but [with regard to] his teacher. [he would] not [be believed]. And if he had taught us [with regard to] his teacher, [I might say][51] that is because he had reverence[52] for his teacher.[53] And if he had taught us these two [cases],[54] [I might say[55] with regard to] his father, that is because he was always with him, and [with regard to] his teacher, because he had reverence for him, but [with regard to] his brother, in regard to whom there is neither this nor that ground.[56] I might say [that he is] not [believed]; so he teaches us[57] [that] since the confirmation of documents[58] is [only] ordained by the Rabbis,[59] so the Rabbis have believed him regarding what the Rabbis [themselves] have ordained. I REMEMBER THAT THAT WOMAN WENT OUT WITH A HINUMA AND UNCOVERED HEAD. What is the reason?[60] — Because most women get married as virgins, so this[61] is only a declaration.[62] THAT THAT MAN USED TO GO OUT FROM SCHOOL TO IMMERSE IN ORDER TO EAT TERUMAH. But perhaps he was the slave of a priest?[63] — This supports R. Joshua b. Levi; for R. Joshua b. Levi said: A man is forbidden to teach his slave[64] the Torah. But is it indeed not [permitted]? Has it not been taught: If his master has borrowed from him[65] or his master made him

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(1) The husband.

(2) Even if she has not remarried, since a priest's divorced wife is forbidden to a priest.

(3) I.e.,the place In which they lived.

(4) Lit.,’judged’.

(5) And she must not marry and live there.

(6) With the buildings in it.

(7) Lit., ‘of what case do we treat’?

(8) Lit., ‘manner’. When the court belonged to both.

(9) What is the answer to the question? Lit., ‘what is with regard to it’.

(10) lsa. XXli. 17.

(11) Referring to this verse.

(12) Lit., ‘hurlings about’.

(13) Hence. if the court-yard belonged to both, she must give way before him. By moving from place to place. a man loses the sphere of his livelihood, while a woman can assure hers by marriage.

(14) The husband who was a priest.

(15) While they were married.

(16) I.e., property that she brought from her father's house or that she inherited from her father after her marriage. (V. Glos. s.v. mulug).

(17) So as to avoid personal contact between them, which may lead to familiarity.

(18) Lit., ‘we do not attach ourselves to them’.

(19) She must send someone to represent her.

(20) Name of a small Treatise joined to the Babylonian Talmud which deals with laws of mourning. It is also called euphemistically Semahoth ('Joys').

(21) Lit., 'in what (case) are these words said', i.e., when must they not meet together after divorce. R. Nahman applied the rule stated there to collecting payments or appearing in court together. For variants v. loc. cit.

(22) Lit., 'from'.

(23) Apparently a messenger of the court, an usher.

(24) Between the betrothed and his former fiancee.

(25) That the law does not apply to a betrothed couple that had been divorced.

(26) From our own observations now.

(27) Therefore the rule stated in Ebel Rabbathi cannot hold good in this case.

(28) Raba.

(29) R. Adda.

(30) Lit., 'and those'.

(31) Lit., 'in their greatness', in their majority.

(32) Lit., 'in their smallness', in their minority.

(33) And the signature which was appended when he was still a minor is confirmed in court on the strength of this testimony made in his majority.

(34) To the marriage-ceremony.

(35) Signs that she was a virgin-bride: V. supra 15b and 17b.

(36) When we were pupils together.

(37) I.e.,to bathe for purification so as to be ritually fit to eat terumah.

(38) Which shews that he is a priest. cf. supra 24a-26a.

(39) A field in which a grave has been ploughed becomes a beth ha-peras, and renders unclean through contact for a distance of half a furrow of one hundred cubits In each direction. Peras = half (v. Jast.). Rashi connects it with meaning 'to break' (an area of bone splinters); Maim. with 'to extend' (an area of extension); Tosaf. Nid. 57b with 'to tread' (an area from which people tread aside).

(40) On Sabbath it is not permitted to walk 2000 cubits beyond the outer boundary of the town,

(41) I.e., a right of way.

(42) Var. lec., SITTING DOWN. At funerals. The funeral escort, On returning from a burial, halted on the way seven times at certain places. where they stood up and sat down on the ground to offer comfort to the mourners or to lament for the departed. v. B.B. (Sonc. ed.) p. 420. n. 4.

(43) Lit., 'and that is' — Only then he is believed on testifying to what he saw as a child.

(44) And we arc informed that he is permitted to join the other witness in the evidence which requires the minimum of two witnesses.

(45) To teach the three cases regarding the handwriting.

(46) Lit., 'let us hear'.

(47) That he is believed.

(48) The son.

(49) Lit., 'frequent'.

(50) With his father; he therefore knew' his handwriting well.

(51) That he is believed.

(52) Lit., 'fear, awe'.

(53) He therefore knew his handwriting well.

(54) Of his father and his teacher.

(55) That he is believed.

(56) He is neither always with him nor does he revere him.

(57) Lit., 'he lets us hear' — by stating all the three cases.

(58) I.e.,the attestation of signatures on documents in court.

(59) V. supra 21b.

(60) That he is believed.

(61) His testimony.

(62) No formal testimony of witnesses is required; a general declaration is sufficient.

(63) Who is also entitled to eat terumah.
(64) And this person was in a school, (lit., 'the house of the book') where he learned the Torah (The Book _ the Bible _ the Torah). Therefore he could not be a slave.
(65) From his slave.

Talmud - Mas. Kethuboth 28b

a guardian or he put on Tefillin[1] in the presence of his master or he read three verses[2] in the Synagogue, he does not become free![3] — There[4] it happened that he did it with his consent;[5] [for what case] do we state [our rule]?[6] When he treats him as a child.[7] TO IMMERSE IN ORDER TO EAT TERUMAH. [Only] with regard to Rabbinical terumah.[8] THAT HE WAS TAKING A SHARE WITH US AT THE THRESHING FLOOR. But perhaps he was the slave of a priest? — We have learned [this] according to him who says: One does not distribute terumah to a slave unless his master is with him,[9] for it has been taught: One does not distribute terumah to a slave unless his master is with him. This is the view of R. Judah. R. Jose says: He can say: 'If I am a priest, give me for my sake, and if I am the slave of a priest, give me for the sake of my master'. In the place of R. Judah they used to raise from terumah to the status of a priest; in the place of R. Jose they would not raise from terumah to the status of a priest.[10] It is taught:[11] R. Eleazar, the son of R. Jose,[12] said: I have never given testimony. Once I gave testimony and they raised a slave to the priesthood through my evidence.[13] [You say] they raised! Do you indeed mean to say this? Now. if the Holy One, blessed be He, does not bring a stumbling[14] through the animals of the pious men,[15] how much less through the pious men themselves?[16] — But,[17] they wanted to raise a slave to the priesthood through my evidence. He saw it[18] in the place of R. Jose,[19] and he went and testified in the place of R. Judah.[20] THAT THIS PLACE WAS A BETH HA-PERAS Why?[21] — Because [the law of] beth ha-peras is Rabbinical, for Rab Judah said in the name of Rab: One blows away [the dust from][22] the beth ha.peras. and goes [there]. Rab Judah b. Ammi said in the name of Rab Judah: A beth ha-peras which has been trodden out is clean. What is the reason?[23] It is impossible that a bone [of the size] of a barleycorn was not trodden down by the foot.[24] UP TO HERE HE USED TO GO ON SABBATH. He holds that the [Sabbath] limits[25] are Rabbinical. A MAN IS NOT BELIEVED WHEN HE SAYS: THAT MAN HAD A WAY IN THIS PLACE, SO-AND-SO HAD A PLACE OF STANDING UP AND LAMENTATION IN THIS PLACE. What is the reason? Money we do not extract.[26] Our Rabbis taught:[27] A boy is believed when he says, 'Thus my father told me: this family is clean. this family is unclean. — [You say,] 'clean and unclean'! Do you indeed mean to say this?[28] But [say]: 'this family is fit[29] and this family is unfit', 'That we have eaten at the Kezazah[30] [on the occasion of the marriage] of the daughter of So-and-so to So-and-so', 'that we used to bring hallah and [priestly] gifts[31] to the priest So-and-so'. But only through himself,[32] and not through someone else. In all these cases, if he was an heathen and he became a proselyte, a slave and he was set free, he is not believed.[33] [But] he is not believed when he says 'that man had a way in this place, that man had a place of standing up and lamentation in this place'. R'. Johanan b. Beroka, said. He is believed. To which [clause] does R. Johanan b. Beroka, refer? Shall I say, to the last clause? This is extracting money?[34] — But [it refers] to the first clause. In all these cases, if he was a heathen and he became a proselyte, a slave and he was set free, he is not believed. R. Johanan b. Beroka says: He is believed. In what [principle] do they differ? — The first Tanna holds: Since he was a heathen he would not pay special attention to it,[35] and R. Johanan b. Beroka, holds: Since he had it in his mind to become a proselyte he would pay special attention to it. What is KEZAZAH? — The Rabbis taught: In what manner does kezazah take place? If one of the brothers has married a woman who is unworthy of him, the members[36] of the family come together, bring a cask full of fruit, break it in the middle of the open place[37] and say. Brethren of the house of Israel, hear. Our brother So-and-so has married a woman who is not worthy of him, and we are afraid lest his descendants[38] will be united with our descendants. Come and take for yourselves a sign[39] for future generations, that his descendants shall not be united with our descendants'. This is kezazah with regard to which a child is believed when he testifies. [

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(1) The Phylacteries.
(2) From the Bible.
(3) Lit., ‘he does not go out to freedom’, v. Git. 70a. This shews that a slave does learn the Torah.
(4) In the case just quoted.
(5) It may sometimes happen that a slave is taught the Torah.
(6) That it is forbidden to teach a slave the Torah.
(7) And teaches him as he would teach his own children. This is forbidden. Therefore the person in the Mishnah could not be a slave.
(8) Cf. supra 25a. Only with regard to Rabbinical terumah is such testimony sufficient.
(9) As he was alone and took a share at the threshing floor, it shews that he was a priest.
(10) V. supra 26a-27b. And therefore they would not give a slave terumah in the absence of his master, lest this should be used as evidence in regard to marriage.
(11) In a Baraitha.
(12) V. Yeb. 99b.
(13) Lit., ‘through my mouth’.
(14) A sin, an offence.
(15) V. Git. 7a.
(16) And how could such an offence have been caused through R. Eleazar.
(17) The case was as follows.
(18) That they gave terumah to a person who in fact was a slave in the absence of his master.
(19) Where they did not raise from terumah to the state of a priest. There was therefore no harm in distributing terumah to a slave at the threshing floor.
(20) Where they raised from terumah to the state of a priest. They therefore thought that this man was a priest. The mistake was apparently found out in time and he was not raised. No offence was brought about through a pious man.
(21) Why was this testimony sufficient?
(22) To see whether there are any bones there.
(23) Why is it regarded as clean?
(24) And by being reduced to a smaller size is no longer liable to communicate defilement.
(25) I.e., the ordinance regarding the Sabbath limits for walking is Rabbinical; therefore this testimony is sufficient.
(26) On the strength of that statement. In civil matters such testimony is not sufficient.
(27) Cf. Tosef. Keth. III for variants.
(28) ‘Clean’ and ‘unclean’ are not applicable to families.
(29) Unblemished and fit to marry into priestly families.
(30) ‘Cutting off’, ‘severing family connections’; a ceremony attending the sale of an heirloom to an outsider, and the marriage of a man beneath his social rank. It is the marriage-Kezazah that is spoken of here, v. infra.
(31) V. Deut. XVIII, 3.
(32) The boy himself must have been the messenger.
(33) As to what he saw when he was a heathen or a slave.
(34) V. note 5.
(35) To the various matters about which he testified.
(36) Lit., ‘the sons’.
(37) רחבה v. supra p. 41, n. 5. Here. too, it can mean the open space before the house.
(38) Lit., ‘seed’.
(39) As a token. They should remember what happened and tell their children, so that everyone will know to distinguish between the descendants of this brother and those of the rest of the family.

Talmud - Mas. Kethuboth 29a

CHAPTER III

MISHNAH. THESE ARE MAIDENS[1] TO WHOM THE FINE IS DUE.[2] IF ANYONE HAD

INTERCOURSE WITH A MAMZERETH,[3] A NETHINAH,[4] A CUTHEAN,[5] OR WITH A PROSELYTE [MAIDEN].[6] A CAPTIVE, OR A SLAVE-WOMAN,[7] WHO WAS REDEEMED,[8] CONVERTED,[9] OR FREED [WHEN SHE WAS] UNDER THE AGE OF[10] THREE YEARS AND ONE DAY.[11] IF ONE HAD INTERCOURSE WITH HIS SISTER, WITH THE SISTER OF HIS FATHER, WITH THE SISTER OF HIS MOTHER, WITH THE SISTER OF HIS WIFE, WITH THE WIFE OF HIS BROTHER,[12] WITH THE WIFE OF THE BROTHER OF HIS FATHER, OR WITH A WOMAN DURING MENSTRUATION,[13] HE HAS TO PAY THE FINE,[14] [FOR] ALTHOUGH THESE [TRANSGRESSIONS][15] ARE PUNISHED THROUGH [THE TRANSGRESSOR] BEING CUT OFF,[16] THERE IS NOT, WITH REGARD TO THEM, A DEATH [PENALTY] [INFLICTED] BY THE COURT.[17] GEMARA. [Does it mean that only] these blemished maidens get the fine, [but] unblemished ones [do] not?[18] — He means it thus: These are blemished maidens who get the fine:[19] IF ANYONE HAD INTERCOURSE WITH A MAMZERETH, A NETHINAH, A CUTHEAN,[20] etc.

[Only] [the Mishnah states] a maiden [receives a fine],[21] [but not] a small girl.[22] Who is the Tanna [who taught this]? Rab Judah said in the name of Rab: It is R. Meir, for it has been taught:[23] A small child from the age of one day[24] until [the time that] she grows two hairs[25] , sale applies to her,[26] but not the fine;[27] from [the time that] she grows two hairs until she becomes mature,[28] the fine applies to her, but not sale.[29] This is the view of R. Meir; for R. Meir said: Wherever sale applies,[30] the fine does not apply, and wherever the fine applies, sale does not apply. But the Sages say: A small child from the age of three years and one day until [the time that] she becomes mature — the fine applies to her.[31] [Does that mean] only the fine [and] not sale![32] — Say:

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(1) Na'aroth pl. of na'arah, technically, a girl between twelve years and twelve and a half years of age.

(2) If a man has violated any of these maidens mentioned in our Mishnah, he must pay the fine fixed in Deut. XXII, 29.

(3) Fem. of mamzer, v. Glos.

(4) Fem. of nathin, v. Glos.

(5) A Samaritan, V. Glos.

(6) V. supra 11a.

(7) A maiden.

(8) In the text the word is in the plural, because it refers to a class and not to one person.

(9) It is interesting to note that ‘CONVERTED’ comes before, although it should come after, ‘FREED’. The reason is probably because it is, in Hebrew, a shorter word. Of the three words the first has three, the second four, and the fourth, five syllables, not counting the suffix ‘waw’, (‘and’). The sequence of the words chosen makes for symmetry.

(10) Lit., ‘less than’.

(11) He has to pay the fine. For further notes v. supra 11a.

(12) Whom the brother divorced after the betrothal.

(13) And they are all maidens.

(14) Lit., ‘the fine is due to them’.

(15) V. Lev. XVIII, 9ff

(16) From life, by premature or sudden death, Kareth V. Glos. Cf. Lev. XVIII, 29: For whosoever shall do any of these abominations, even the souls that do them shall be cut off from among their people.

(17) V. e.g., Lev. XX, 9ff. Only death penalty by the court releases from the money fine, v. Gemara.

(18) The phrasing of the Mishnah seems to imply that only the following maidens which are enumerated are entitled to fines — namely, only of blemished descent. Surely that is impossible.

(19) Although the fine has been fixed for unblemished maidens, whom the man could marry (V. Deut. XXII, 29), it is, the Mishnah tells us, due also to blemished maidens, whom he could not marry. That unblemished maidens get the fine need not be specially mentioned in the Mishnah.

(20) He has to pay the fine.

(21) Lit., ‘a maiden, yes, a minor, no’.

(22) A ketannah. A girl is so called until the age of twelve years. If a minor was violated, the fine, according to the Mishnah, is not due to her.

(23) V. Tosef. Keth.
(24) Tosef.: A small child from the age of three years and one day. This is, no doubt, the correct reading. In the text of the Talmud ‘three years and’ is missing.
(25) The sign of beginning maturity.
(26) The father may sell his daughter as a maid-servant; v. Ex. XXI, 7.
(27) If she was violated; the word na'arah is used in Deut. XXII, 28, 29, excluding a minor.
(28) A girl becomes mature when she is twelve and a half years old. She is then called bogereth, v. Glos.
(29) When the girl is a na'arah the father has no more right to sell her.
(30) Sale applies only when the girl is a ketannah, and the fine applies only when the girl is a na'arah.
(31) According to the Sages, the fine is due to the girl both as a ketannah and a na'arah. In other words, the word na'arah in Deut. XXII, 28, 29 is not to be taken strictly.
(32) Lit., ‘fine, yes; sale, no’!

Talmud - Mas. Kethuboth 29b

also the fine [applies] when sale [applies].[1]

But are these [maidens][2] entitled to the fine! Why? Read here: ‘and she shall be his wife’, [that means] one who is fit to be his wife?[3] — Said Resh Lakish: [It is written:] ‘maiden’, ‘maiden’, ‘the maiden’[4] once[5] [the word ‘maiden’ is necessary] for itself,[6] once to include [those maidens, the marrying of whom involves the transgression merely of] a plain prohibitory law,[7] and once to include [those maidens, the marrying of whom involves] a transgression punishable with kareth.[8] R. Papa said: [It is written:][9] ‘virgin’,’virgin’, ‘the virgins’; once [the word ‘virgin’ is necessary] for itself,[10] once to include [those virgins, the marrying of whom involves the transgression merely of] a plain prohibitory law, and once to include [those virgins, the marrying of whom involves] a transgression punishable with kareth. Why does R. Papa not agree with Resh Lakish? — That [verse][11] he requires for [the same teaching] as that of Abaye, for Abaye said: If he cohabited with her[12] and she died, he is free,[13] for it is said: ‘And he shall give unto the father of he maiden’;[14] [this means]: To the father of a maiden,[15] but not to the father of a dead [person].[16] And why did not Resh Lakish agree with R. Papa? — That [verse][17] he requires for an analogy[18] for it is taught: [[t is written:] — ‘he shall pay money according to the dowry of virgins,[19] [this means that] this[20] shall be like the dowry of virgins,[21] and the dowry of virgins shall be like this.[22] But Resh Lakish also requires it[23] for [the same teaching] as that of Abaye, and R. Papa also requires it[24] for the analogy?[25] — Take therefore six words:[26] ‘maiden’, ‘maiden’, ‘the maiden’, ‘virgin’, ‘virgins’, ‘the virgins’: Two [are necessary] for themselves,[27] one for the teaching of Abaye, and one for the analogy, [and] two remain over: one to include [those maidens, the marrying of whom involves the transgression] of a plain prohibitory law, and one to include [those maidens, the marrying of whom involves] a transgression punishable with kareth.

This[28] [Mishnah] is to exclude [the view of] that Tanna.[29] For it has been taught: [It is written:] and she shall be his wife.[30] Simeon the Temanite says: [This means:] a woman who can become his wife;[31] R. Simeon b. Menassia says: [This means:] a woman who can remain his wife.[32] What difference is there between them?[33] — R. Zera said: The difference between them is with regard to a mamzereth and a nethinah. According to him who says that there must be the possibility of her ‘becoming’ his wife, here[34] also there is the possibility of her ‘becoming’ his wife.[35] And according to him who says that there must be the possibility of her remaining his wife, here[36] there is not the possibility of her remaining his wife.[37] But according to R. Akiba, who says: Marriage takes no effect when there is a prohibitory law against[38] it, what is the difference between them?[39] — There is a difference between them in the case of a widow who marries a high priest, and this according to R. Simai, for it is taught:[40] R. Simai says: Of all[41] R. Akiba makes mamzerim,[42] except [the issue of] a widow and a high priest, for the Torah says: ‘he shall not take’, and ‘he shall not profane’,[43] [this teaches that] he makes [his issue] profane,[44] but not mamzerim,[45] And according to R. Yeshebab, who says: Come and let us cry out against Akiba b. Joseph, who says: Whenever the marriage is forbidden in Israel[46] the child [of such marriage] is a mamzer,[47] what is the difference between them?[48] — The difference between them is

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(1) During the whole period that sale applies to a girl, the fine also applies to her, extending however beyond that period, till her stage of bogereth.
(2) Mentioned in our Mishnah.
(3) Lit., 'a woman who is fit for him'. From the words of the Bible one would infer that the fine is payable only if he violated a maiden whom, in law, he could marry. But as to the maidens mentioned in the Mishnah, who are either generally prohibited to an Israelite for marriage, or there is kareth barring their way to marriage, (as in the case of the maidens enumerated in the second clause of the Mishnah), there should be no fine due to them.
(4) In Deut. XXII, 28 'maiden'; verse 29: 'the maiden', and 'the' in 'the maiden' is reckoned as a separate word representing the word 'maiden', so that we have the word 'maiden' written three times. To each of the three words a function is assigned in the Talmudic exposition. One 'maiden' refers to the ordinary unblemished maidens, one 'maiden' refers to the blemished maidens as mentioned in the first clause of the Mishnah, and one 'maiden' refers to the maidens enumerated in the second clause of the Mishnah. — The maidens mentioned in the second part of the first clause of the Mishnah seem to occupy a position of their own. V. Tosaf 29a, s.v. והבא.
(5) Lit., 'one ("maiden")'.
(6) For the ordinary maiden, v. note 3.
(7) Lit., 'those guilty of a negative prohibition', which carries with it the punishment of flagellation only.
(8) V. Glos.
(9) Ex. XXII, 15, 16. There it speaks of seduction. R. Papa, apparently, puts seduction and violation on one level.
(10) V. supra nn. 3 and 5.
(11) Deut. XXII, 29.
(12) By force.
(13) From paying the fine.
(14) The full half-verse is: 'And the man that lay with her shall give unto the father of the maiden fifty silver pieces'. (Deut. XXII, 29.)
(15) I.e., of maiden that lives.
(16) If the maiden is dead, the father cannot be called any more the father of the maiden'. He can only be called the father of the dead maiden, and to such the fine is not payable.
(17) Ex. XXII, 16.
(18) Gezerah shawah; an analogy based on similarity of expressions. V. Glos.
(19) Ex. XXII, 16.
(20) The money to be pact in the case of seduction. (Ex. XXII, 16.)
(21) By 'the dowry of virgins' is meant, according to this teaching, the sum of money to be paid as a fine in Deut. XXII, 29, which is fifty; so here (Ex. XXII, 16) it has to be fifty.
(22) As in Ex. XXII, 16 the money consists of shekels, (this is derived from the special word ישקול, employed for 'pay')' so in Deut. XXII, 29, the fifty have to be shekels.
(23) The word 'the maiden'.
(24) The word 'the virgin'.
(25) Both the teaching of Abaye and the analogy are important to Resh Lakish and P. Papa.
(26) Lit., 'but six verses are written'. — Make your expositions from all the six words taken together.
(27) For the ordinary cases of seduction and violation.
(28) Our Mishnah, in which it is taught that the fine is due also in the case of the violation of maidens, the marriage with whom is prohibited, as a mamzereth or his sister.
(29) I.e., the author of the Baraitha. As to the Tannaim mentioned in the Baraitha, the views of both of them are excluded, v. Tosaf a.l.
(30) Deut. XXII, 29.
(31) Lit., 'to whom there is "becoming".' But his sister cannot 'become' his wife. The very act of marriage is impossible. No marriage, no betrothal, can take effect. V. Kid. 66b. Therefore the law of the fine would not apply to his sister or to any of the other five maidens mentioned in the second clause of the Mishnah.

(32) Lit., ‘who is fitting to be retained’. He takes the word ‘be’, תהיה, in the sense of ‘remaining’. This excludes a mamzereth, for although marriage with a mamzereth takes effect, there is ‘prohibitory law’ attached to it. (v. Kid. 66b). The marriage ought therefore to be discontinued. The mamzereth is thus a woman who cannot remain his wife. Therefore, according to R. Simeon the son of Menassia, the law of fine does not apply to her. — We thus see that our Mishnah excludes both the view of Simeon the Temanite and the view of R. Simeon the son of Menassia.
(33) Between Simeon the Temanite and R. Simeon b. Menassia (Rashi).
(34) In the case of mamzereth and nethinah.
(35) The marriage with a mamzereth or nethinah takes effect although there is a ‘prohibitory law’ against it. The mamzereth or nethinah can therefore become his wife, although she should not remain his wife. In the view of Simeon the Temanite it is the possibility of her becoming his wife that matters, and therefore they are entitled to the fine.
(36) In the case of mamzereth and nethinah.
(37) In the view of R. Simeon b. Menassia, it is the possibility of her remaining his wife that matters. And since a mamzereth or nethinah cannot remain his wife, they are not entitled to the fine.
(38) V. Yeb. 44a and 49a and v. ibid. 10b and 52b.
(39) Between Simeon the Temanite and R. Simeon the son of Menassia. A mamzereth or nethinah could not, on this view, become his wife even according to R. Simeon b. Menassia; what is then the difference between him and Simeon the Temanite?
(40) In a Baraitha; v. Yeb. 64a and 68a.
(41) I.e., of all the issues of prohibited unions.
(42) R. Akiba declares the offspring of all prohibited unions to be mamzerim, v. Yeb. 49a.
(43) Lev. XXI, 14f. The two verses read: A widow or a divorced woman, or a profane woman, or a harlot, these shall he not take; but a virgin of his own people shall he take to wife. And he shall not profane his seed among his people, for I am the Lord who sanctify him. Vv. 10-15 deal with the high priest.
(44) The children are only unfit for the priesthood.
(45) In this case R. Akiba admits that the marriage takes effect, although there is a prohibitory law against it, so that, in this case, according to Simeon b. Menassia, though the marriage would take effect, since he could not retain her owing to the prohibition, there is no fine, whereas according to Simeon the Temanite, there is a fine.
(46) Lit., ‘he who has no (permission of) union in Israel’.
(47) This rule would include also the marriage of a widow and a high priest and would make also the child of such a marriage a mamzer.
(48) What difference would there be now between Simeon the Temanite and R. Simeon b. Menassia?

Talmud - Mas. Kethuboth 30a

with regard to the marriage with an Egyptian or an Edomite [woman], in which case there is a transgression [merely] of a positive law.[1] — That is all right if R. Yeshebab [by his statement] only came to exclude the view of R. Simai.[2] But if his statement was his own,[3] whenever the marriage is forbidden in Israel, the child [of such a marriage] is a mamzer. It would include also a marriage with regard to which a positive law has been transgressed. What is [then] the difference between them? — The difference between them is with regard to a girl, who is no more a virgin, who married a high priest.[4] — And why is this[5] different?[6] — It is a law which does not apply to all.[7]

R. Hisda said: All agree that he who has intercourse with a woman during menstruation[8] [against her will] has to pay the fine,[9] for according to him who holds that there must be the possibility of her[10] ‘becoming’ his wife, there is with regard to her[11] the possibility of her becoming his wife,[12] and according to him who holds that there must be the possibility of her[13] remaining his wife, there is with regard to her[14] the possibility of her remaining his wife.[15]

Our [Mishnah][16] likewise excludes the view of R. Nehunia b. ha-Kaneh, for it is taught: R. Nehunia b. ha-Kaneh, made the Day of Atonement equal to the Sabbath with regard to payment; as [he who desecrates] the Sabbath[17] forfeits his life[18] and is free from payment,[19] so [he who desecrates] the Day of Atonement[20] forfeits his life[21] and is free from payment. What is the reason [for the view] of R. Nehunia b. ha-Kaneh? — Abaye said: It is said ‘harm’[22] [in the case of death][23] by the hand of man,[24] and it is said ‘harm’[25] [in the case of death] by the hand of heaven, [so I say:] As in the case of the ‘harm’ done by the hand of man one is free from payment,[26] so also in the case of ‘harm’ done by the hand of heaven, one is free from payment.[27] To this R. Adda b. Ahaba, demurred: Whence [do you know] that Jacob warned his sons[28] against cold and heat,[29] which are by the hand of heaven?[30] Perhaps [he warned them] against lions and thieves, which are ‘by the hand of man?’[31] — Is it that Jacob warned them against this and did not warn then, against that? Jacob warned then, against every kind of harm.[32]

[But] are cold and heat by the hand of heaven? Is it not taught: Everything is ‘by the hand of heaven’ except cold and heat, for it is said: ‘Cold and heat are in the way of the froward; he that keepeth his soul holdeth himself far from them’?[33] Further, are lions and thieves ‘by the hand of man’? Did not R. Joseph say. and R. Hiyya teach: Since the day of the destruction of the Temple, although the Sanhedrin ceased,[34] the four forms of capital punishment[35] have not ceased? ‘They have not ceased,’ [you say]? Surely they have ceased! But [say]

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(1) With regard to the Edomite and the Egyptian it is stated in Deut. XXIII, 9: ‘The children of the third generation that are born unto them shall enter into the congregation of the Lord.’ This is a ‘positive law’. That the marriage with an Edomite and an Egyptian of the second generation is forbidden is derived from this positive law. And when a prohibitory law is derived from a positive law, it is regarded as a positive law. And in such a case the marriage takes effect, although it should be discontinued. Thus we would have a difference between Simeon the Temanite and Simeon the son of Menassia.

(2) If his statement refers only to R. Simai, it is limited by the words of R. Simai, and a positive law (i.e., a prohibitory law derived from a positive law) cannot be brought in.

(3) And is therefore unlimited.

(4) In Lev. XXI, 13 the high priest is commanded to take as his wife a virgin. If he marries a girl who is no more a virgin the marriage takes effect, although it should be discontinued. And so we have again a difference between Simeon the Temanite and R. Simeon b. Menassia.

(5) Prohibition derived from a positive law.

(6) From other such prohibitions (e.g., the prohibition with regard to the Edomite and Egyptian) v. p. 164. nn. 6 and 8.

(7) It applies only to the high priest. Therefore it is not treated as the other prohibitory laws that arc derived from positive laws, and it would not be included in the general ruling of R. Akiba even according to R. Yeshebab.

(8) The last case in the second clause of our Mishnah.

(9) Although the cohabitation with a woman during menstruation is prohibited and is punishable with kareth, v. Lev. XVIII, 19 and 29.

(10) The violated maiden.

(11) The menstruant woman.

(12) The marriage of a woman during menstruation takes effect. The fact that cohabitation during menstruation is forbidden does not affect the validity of the marriage, cf. Yeb. 49b and Kid. 68a. The condition of Simeon the Temanite is therefore fulfilled.

(13) The violated maiden.

(14) The menstruant woman.

(15) The marriage of a menstruous woman is entirely valid and may be continued. Thus the condition of R. Simeon b. Menassia is fulfilled.

(16) In the second clause of which it is taught that he who violates his sister or any of the other six maidens enumerated, the intercourse with whom is punishable by kareth, has to pay the fine.

(17) By doing forbidden work on that day.

(18) I.e., he is guilty of a transgression punishable by death (by the hand of man, that is by the court), v. Ex. XXXI, 15 and XXXV, 2.

(19) If, in doing the forbidden work on the Sabbath, he caused damage to someone's property (e.g., if he set fire to a stack of corn) he is free from paying for the damage done, since the transgression involves the death penalty, and where there is the death penalty, there is no payment of money, on the principle that the smaller offence, for which the payment of money is due, is merged in the greater offence v. infra.

(20) By doing forbidden work on that day.

(21) I.e., he is guilty of a transgression punishable by kareth; v. Lev. XXIII, 29, 30. kareth is a divine visitation. Compare ‘And (that soul) shall be cut off from among his people’ (v. 29) with ‘and I will destroy that soul from among his people’ (v. 30). Kareth is called in the Talmud ‘death by the hand of heaven’, while the death penalty, i.e., death by the court, is called ‘death by the hand of man’. T. Nehunia b. ha-Kaneh makes ‘death by the hand of heaven’ (although it is not known when it will come, and when it comes it may be regarded by some people as a natural death; cf. Sema. III, 10) equal to ‘death by the hand of man (which is executed through the Court, and all see that the penalty of death was inflicted for the transgression) and applies to it also the principle that the lesser offence is merged in the greater. On this view since the intercourses mentioned in the second clause of our Mishnah are punishable with kareth, the fine would not he paid.

(22) אסון Ex. XXI. 22, 23.

(23) ‘Harm’ in Ex. XXI, 22, 23 means (also) death as v. 23 (‘then thou shalt give life for life’) clearly shews.

(24) Cf. v. 22: And if men strive together and hurt a woman with child etc.

(25) V. Gen. XLII. 4. also XLIV, 29 There the reference is to ‘harm’ that may befall Benjamin on the Journey which may result in death. V. infra.

(26) In Ex. XXI, 22, when no death (or other ‘harm’) follows, a payment of money is made. But when death follows, the death penalty is inflicted (v. 23) and no payment of money is made. This is clear, since payment of money is only mentioned to v. 22, and in v. 23 only ‘life for life’ is mentioned.

(27) Abaye's reasoning is as follows: i. He proves that ‘harm’ refers both to the harm done by man (including death) and to the harm caused by heaven (including death). Therefore ‘death by the hand of heaven’ equals ‘death by the hand of man’. ii. In the case in which ‘death by the hand of man’ is mentioned, it is stated that the penalty of death is inflicted (‘life for life’), and no payment of money is made. The same applies to a case where the penalty is ‘death by the hand of heaven’. The analogy could only he between the two words ‘harm’. Once the equality of the two kinds of death is established (through the analogy), the equality of the consequences of these two kinds of death follows.

(28) In Gen. XLII, 4.

(29) So Rashi; fast. ‘blowing cold winds’. The words are taken from Prov. XXII, 5.

(30) Cold and heat come from God.

(31) Thieves are ‘the hand of man’. Lions are apparently called ‘the hand of man’, as they are not ‘the hand of heaven in the same sense in which cold and heat are ‘the hand of heaven,’ v., however, infra.

(32) Lit., ‘all things’. And such harm as is ‘the hand of heaven is included.

(33) Prov. XXII. 5. also A.Z. (Sonc. ed.) p. II, n. 2.

(34) And capital punishment could no longer he decreed by the Jewish Courts.

(35) LIt., ‘the four deaths’, v. Sanh. 49b.

Talmud - Mas. Kethuboth 30b

the judgment of the four forms of capital punishment has not ceased.[1] He who would have been sentenced to stoning,[2] either falls down from the roof or a wild beast treads him down.[3] He who would have been sentenced to burning, either falls into a fire[4] or a serpent bites him.[5] He who would have been sentenced to decapitation.[6] is either delivered to the government[7] or robbers come upon him.[8] He who would have been sentenced to strangulation, is either drowned in the river or dies from suffocation.[9] But reverse it: Lions and thieves are ‘by the hand of heaven’, and cold and heat are ‘by the hand of man’.

Raba said: The reason [for the view] of R. Nehunia b. hakaneh, is [derived] from here:[10] [It is written:] And if the people of the land do not all hide their eyes from that man, when he giveth of his seed unto Molech, [and put him not to death]; then I will set my face against that man, and against his family, and will cut him off.[11] [With these words] the Torah says:[12] My kareth is like your death [-penalty]; as [in the case of] your death[-penalty] one is free from payment, so [in the case of] my kareth one is free from payment. What is the difference between Raba and Abaye? — The difference is [with regard to] a stranger[13] who ate terumah.[14] According to Abaye he is free [from payment],[15] and according to Raba he is bound [to pay].[16] But is he free [from payment] according to Abaye? Did not R. Hisda say: R. Nehunia b. ha-Kaneh admits that he who stole [forbidden] fat[17] belonging to his neighbour, and ate it, is bound [to pay],[18] because he was guilty of stealing before he came to [the transgression of] the prohibition with regard to [forbidden] fat?[19] Hence [you say that] as soon as[20] he lifted it[21] up he acquired it,[22] but he did not become guilty of the transgression[23] punishable with death until he had eaten it. Here[24] also, when he lifted it[25] up he acquired it, but he did not become guilty of the transgression[26] punishable with death until he had eaten it![27] — Here we treat of a case where his friend stuck it[28] into his mouth.[29] [But] even then,[30] as soon as he chewed it, he acquired it, but he is not guilty of the transgression punishable with death until he has swallowed it![31] — When [his friend] stuck it into his oesophagus.[32] How shall we imagine this case? If he can give it back,[33] let him give it back.[34] And if he cannot give it back, why should he be guilty?[35] — It speaks of a case when he can give it back only with an effort.[36] R. Papa said, When his friend put liquids of terumah into his mouth.[37] R. Ashi said: [it speaks of a case] when a stranger ate his own terumah.[38]

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(1) The punishment comes in corresponding forms.

(2) To death by stoning.

(3) And kills him.

(4) A conflagration.

(5) And the poison burns and kills him.

(6) With a sword, v. Sanh. 49b.

(7) To the Roman Government.

(8) And slay him.

(9) סרונכי; so Jast.; Rashi: croup.

(10) From the following passage of the Bible.

(11) Lev. XX, 4f.

(12) I.e., God says in the Torah to Israel.

(13) I.e., A non-priest.

(14) If a stranger eats terumah, he is punished with death, not with death ‘by the hand of man’ but with death ‘by the hand of heaven’. V. Lev. XXII, 9, 10 and cf. Sanh. 83a. The death ‘by the hand of heaven’ in this case is, however, a milder form of kareth. Kareth proper means the cutting off of the life of the transgressor and of his family. The death in the case of a stranger eating terumah means death similar to that of kareth, namely ‘by the hand of heaven,’ but applied only to the offender. V. Rashi, a.l. Cf. also Lev. XX, 5 (then I will set my face against that man and against his family and I will cut him off).

(15) For the terumah. ‘Harm’ indicates any kind of death, also the milder form of death ‘by the hand of heaven’, as that in the case of eating terumah.

(16) To the priest for the terumah. Raba derives the reason for the view of R. Nehunia b. ha-Kaneh, from Lev. XX, 4, 5, and there kareth proper is spoken of. According to Raba, therefore, only kareth proper is made equal to death ‘by the hand of man’ with regard to one being free from payment, but not the milder form of kareth, of death ‘by the hand of heaven, as in the case of a stranger eating terumah. In that case, payment must be made.

(17) Heleb; v. Lev. III, 17; VII, 23 and 25. In the latter verse kareth is the punishment mentioned for eating heleb. Cf. Ker. 2a, 4a-b.

(18) Although the eating of heleb is punishable with kareth; v. preceding note.

(19) Since the crime of stealing was committed before the sin of eating heleb, the principle of the lesser offence being merged in the greater (v. supra 30a) does not apply.

(20) Lit., ‘from the time that’.

(21) The heleb.

(22) And from that moment becomes liable for the theft.

(23) Of eating the heleb.

(24) In the case of terumah.

(25) The terumah.

(26) Of eating terumah.

(27) And he should therefore he liable to pay for it.
(28) The terumah.
(29) So that he did not acquire it by lifting it up but only from the moment he eats it, so that the offence of stealing and of eating the terumah are committed simultaneously.
(30) Lit., 'the end of the end'.
(31) The theft is thus committed before the offence of eating the terumah, whereas there is no liability for eating terumah before he swallows it.
(32) So there was no chewing.
(33) I.e., if he can bring it out of his oesophagus.
(34) And by failing to do so he becomes liable from that very moment for stealing it.
(35) Of the transgression of eating terumah, seeing it was a case of force majeure.
(36) [So that even if he had brought it up, it would have been useless. Consequently he cannot be held guilty of stealing. What he can be made liable to pay for is for actually eating the terumah. This act, however, carries with it also a death penalty which applies in this case, since he could by an effort have brought it up. As both penalties do thus arise simultaneously, he is free from payment.]
(37) In this case also both penalties come at the same time; cf. previous note.
(38) Terumah of his own produce, which he separated and was going to give to the priest. In eating it he is guilty of a transgression punishable with death 'by the hand of heaven'.

Talmud - Mas. Kethuboth 31a

and [at the same time] tore the silk garments of his neighbour.[1]

The [above] text [stated]: 'R. Hisda said: R. Nehunia b. hakaneh admits that, if someone stole [forbidden] fat belonging to his neighbour and ate it, he is bound [to pay], because he was guilty of stealing before he came to [the transgression of] the prohibition with regard to [forbidden] fat.' Is it to say that he differs from R. Abin? For R. Abin said: If someone threw an arrow [on Sabbath] from the beginning of four [cubits] to the end of four [cubits[2]] and it[3] tore silk garments in its passage[4] he is free [from payment],[5] for the taking up[6] was necessary for the putting down:[7] Now here[8] also the 'lifting up' was necessary for the eating.[9] — Now, is this so?[10] There[11] 'the putting down' is impossible without the 'taking up'; but here[12] the eating is possible without the 'lifting up', for, if he likes, he can bend down and eat.[13] Or: there,[14] if he wants to take it back, he cannot take it back;[15] but here,[16] he can put it back.[17] — What is the [practical] difference between the one answer and the other answer? — The difference is: when someone carried[18] a knife in the public road[19] and it[20] tore silk garments in its passage: according to the answer that the 'putting down' is impossible without the 'taking up', here[21] also the 'putting down' is impossible without the 'taking up'.[22] And according to the answer that he cannot take it back, here[23] he can take it back.[24]

The text [stated above]: 'R. Abin said: If someone threw [on Sabbath] an arrow from the beginning of four [cubits] to the end of four [cubits] and it tore silk garments in its passage he is free [from payment], for the "taking up" was necessary for the "putting down".' R. Bibi b. Abaye raised the following objection: If someone stole a purse[25] on Sabbath he is bound [to pay],[26] because he was guilty of stealing before he came to the [transgression of] the prohibition which is punishable with stoning,[27] but if he dragged it along he is free [from payment], because the desecration of the Sabbath and the stealing come at the same time.[28] And why?[29] Here also we should say: The lifting up is necessary for the carrying out![30] — Here we treat of a case when he lifted it up in order to hide it and changed his mind and carried it out.[31] [But] is he, in this case, guilty [of desecrating the Sabbath]? Did not R. Simeon say [that] R. Ammi said in the name of R. Johanan: If someone was removing objects from one corner to another corner and changed his mind and carried them out he is free [of the transgression of the desecration of the Sabbath] because the taking up was not from the outset for that [purpose]? — Do not say: in order to hide it, but say: in order to carry it out, only it speaks here of a case when he [paused and] remained standing [for a while].[32] For what purpose did he remain standing? If to adjust the cord on his shoulder, this is the usual way.[33] — No; [we speak of a case] where he stood still in order to rest. But how would it be if [he had remained standing] in order to adjust the cord on his shoulder?

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(1) Ordinarily he would have to pay his neighbour for the damage done to his garments. But as here the liability to death ‘by the hand of heaven’ for eating the terumah and the obligation to pay to his neighbour for the torn silk garments come at the same time, he is free from having to make the payment to his neighbour.

(2) To throw an object a distance of four cubits in the public road on Sabbath is a desecration of the Sabbath, which, if done wilfully, is punishable with death ‘by the hand of man’ (stoning) if after a warning, and with death ‘by the hand of heaven’ (kareth), if without a warning. V. Shah. 96b and 100a and Ex. XXXI, 14.

(3) The arrow.

(4) I.e., in the course of its flight.

(5) For the silk garments, to their owner.

(6) Of the arrow.

(7) It is when the object is ‘put down’ or comes to rest, that the act of transgressing, or of throwing, is completed. But it begins with the ‘taking up’ of the object. The damage to the silk garments was done between the act of ‘taking up’ עקירה and that of ‘putting down’, הנחה. The penalty of death or kareth is thus regarded as having come at the same time as the obligation to pay for the torn garments, and he is therefore free from payment (Rashi).

(8) In the case of one stealing heleb and eating it.

(9) Therefore here also the penalty of kareth for eating heleb and the obligation to pay for the heleb to its owner come at the same time, and, according to R. Abin, he would he free from payment.

(10) Is this analogy correct?

(11) In the case of throwing the arrow.

(12) In the case of eating heleb.

(13) Without lifting; there is therefore no analogy. Hence the liability for stealing came first from the moment of lifting.

(14) In the case of throwing the arrow.

(15) Once he has thrown the arrow it takes its course.

(16) In the case of eating the heleb.

(17) Therefore we do not say that the eating of the heleb Begins from the time when he lifted it up.

(18) Lit., ‘He who causes to pass’.

(19) To carry an object four cubits in the public road is a desecration of the Sabbath, v. supra.

(20) The knife.

(21) In the case of the knife.

(22) And he would he free from payment, v. p. 170. n. 6

(23) In the case of the knife.

(24) And he would have to pay for the torn garments.

(25) With money.

(26) To the owner of the purse for the loss of the purse and its contents.

(27) He was guilty of stealing as soon as he lifted up the purse, and he was guilty of desecrating the Sabbath only after he carried it into the public road. And as the two guilty acts did not coincide, he is not free from payment.

(28) When he got it out from the domain of the owner into the public road.

(29) Why should he be bound to pay if he lifted up the purse?

(30) And he should he free from payment. V. p. 170, n. 6.

(31) The ‘lifting up’ was therefore not for the purpose of carrying out,

(32) [His pause in the owner's domain completed the first act of removing, making him liable for the theft, while the liability for Sabbath desecration begins when he resumes his walk to carry it outside.]

(33) Of one who carries a cord, and this pause cannot be regarded as an interruption.

Talmud - Mas. Kethuboth 31b

He would be free [from payment]? [If so] instead of teaching ‘but if he dragged it along he is free [from payment]’, let him make the distinction in the same case.[1] ‘When is this said?[2] If he stood still to rest; but if [he stood still] to adjust the cord on his shoulder, he is free [from payment]'? But [answer thus:] Whose opinion is this? It is that of Ben 'Azzai, who says: Walking is like standing.[3] [But] how would it be if he threw [the purse]?[4] He would be free [from payment].[5] Let him then make the distinction in the same case,[6] thus when is it said:[7] 'When he walked,[8] but when he threw it, he is free'? — The case of dragging it along is necessary [to be stated]. You might have said that this is not the way of carrying out,[9] so he lets us hear [that it is not so]. Of what [kind of purse does it speak]? If of a large purse, this[10] is the ordinary way [of carrying it out],[11] and if of a small purse, this is not the ordinary way?[12] — In fact [it speaks] of a middle-sized [purse]. But where did he carry it to? If he carried it into the public road, there is desecration of the Sabbath but no stealing,[13] and if he carried it into private ground, there is stealing but no desecration of the Sabbath![14] — No, it is necessary [to state it] when he carried it out to the sides[15] of the public road. According to whose view?[16] If according to [that of] R. Eliezer, who says: The sides of the public road are like the public road,[17] there is desecration of the Sabbath but no stealing[18] and if it is according to the view of the Rabbis, who say: 'The sides of the public road are not like the public road,' there is stealing but no desecration of the Sabbath?[15] — Indeed, it is according to R. Eliezer, and when R. Eliezer says: 'The sides of the public road are like the public road', it is only with regard to becoming guilty of the desecration of the Sabbath,[19] because sometimes, through the pressure of the crowd, people go in there,[20] but with regard to acquiring, one does acquire there, because the public is not often there.[21] R. Ashi said: [We speak of a case] when he lowered[22] his hand to less than three [handbreadths][23] and received it.[24] [And this is] according to Raba, for Raba said: The hand of a person is regarded as [a place of] four by four [handbreadths].[25] R. Aha taught so.[26] Rabina [however] taught: Indeed, when he carried it out into the public road, for he acquires also in the public ground.[27] [And] they[28] differ with regard to a deduction from this Mishnah, for we have learned: If he[29] was pulling it out[30] and it died in the domain of the owner, he is free;[31] but if he lifted it up or brought it[32] out from the territory of the owner[33] and it died, he is bound [to pay].[34] Rabina makes a deduction from the first clause, and R. Aha makes a deduction from the second clause. Rabina makes a deduction from the first clause: 'If he was drawing it out and it died in the domain of the owner, he is free'. The reason [for his being free] is because it died in the domain of the owner, hut If he had brought it out[35] from the domain of the owner[36] and it died, he would have been hound [to pay].[37] R. Aha makes a deduction from the second clause: 'but if he lifted it up or brought it out [etc.]' Bringing out is like lifting up; as lifting up is [an act through which the object] comes into his possession,[38] so bringing out [must he an act through which the object] comes into his possession.[39] According to R. Aha the first clause is difficult and according to Rabina the second clause is difficult? — The first clause is not difficult according to R. Aha, for as long as it has not come into his possession it is called: 'in the domain of the owner'.[40] The second clause is not difficult according to Rabina, for we do not say [that] bringing out is like lifting up.[41]

IF ONE HAD INTERCOURSE [BY FORCE] WITH HIS SISTER, OR WITH THE SISTER OF HIS FATHER, etc. There is a question of contradiction against this: The following persons receive [the punishment of] lashes: he who has intercourse with his sister, with the sister of his father, with the sister of his mother, with the sister of his wife, with the sister of his brother, with the wife of the brother of his father, or with a woman during menstruation,[42]

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(1) In the first case stated when he lifted up the purse.

(2) That the two acts are held not to coincide and he is therefore bound to pay for the purse.

(3) Lit, 'he who walks is as he who stands.' It means: every pace made is a new 'lifting up' and a new 'putting down'. Therefore, the theft is committed with the first 'lifting up' of the purse, and the desecration of the Sabbath is effected when the last pace is made. The two acts therefore do not coincide and he is bound to pay.

(4) He lifted up the purse and threw it into the public road.

(5) Because the stealing and the desecration of the Sabbath come together: cf. the case of the arrow on supra 30a.

(6) In the first case stated when he lifted up the purse.

(7) That the two acts are not held to coincide and he is therefore bound to pay for the loss to the owner of the purse.

(8) And carried out the purse in walking.

(9) From one territory to another, and therefore involves no liability.

(10) Dragging it along.

(11) And why is it necessary to let us hear that dragging it along is a way of carrying out? It is too heavy to carry.

(12) And indeed it should not be regarded as 'carrying out' and should not constitute a desecration of the Sabbath.

(13) Lit., 'the prohibition of Sabbath is there, the prohibition of stealing is not there'. — Without lifting it up there is no acquisition in the public road. (Rashi.)

(14) Since he carried it from one private ground to another private ground next to it. 'Carrying out' is forbidden on Sabbath only from private ground to public ground or from public ground to private ground. V. Shab. 2b and 73a.

(15) V. infra.

(16) Lit., 'according to whom'?

(17) V. Shab. 6a.

(18) V. note 1.

(19) Guilt of the Sabbath.

(20) Lit., 'the public press and go in there'.

(21) And they have therefore more the character of private ground for the purpose of acquisition by pulling (meshikah, v. Glos.).

(22) Lit., joined'.

(23) From the ground. Within three handbreadths from the ground it is public territory. Cf. Shab. 97a.

(24) Indeed he dragged the purse along into the public road, and there he put his (second) hand near the ground, less than three handbreadths, and received the purse into the hand, and his hand acquired it for him. Thus the desecration of the Sabbath and the stealing came at the same time: the former when the purse was carried out into the public road (for dragging along is carrying out), and the latter when — simultaneously — it dropped into his hand (Rashi). V. also next note.

(25) For the purpose of 'taking up' and 'putting down', the place must be at least four by four handbreadths; v. Shab. 4a. Raba said that the hand of a person is regarded as being a place of four by four handbreadths; v. Shab. 5a. And just as it is regarded as a place of four by four handbreadths for the purposes of Sabbath, it is also regarded as such a place for the purposes of acquisition. Therefore, when he received the purse into his hand, although it was lower than three handbreadths from the ground, since his hand is considered a place, in the legal sense, it is as if he had lifted up the purse above the three handbreadths from the ground and he has thus acquired it by lifting it up: the desecration of the Sabbath and the stealing come therefore at the same time (Rashi). 'Lifting' as an act of acquisition must be at least three handbreadths from the ground. V. Kid. (Sonc. ed.) p. 124, n. 5.

(26) As R. Ashi said that there is no acquisition in a public domain except by 'lifting up'.

(27) By dragging along the purse towards him. No 'lifting up' is necessary. The person acquires the object by pulling it (meshikah) even in a public domain.

(28) R. Aba and Rabina.

(29) V. B.K. l.c.

(30) Lit., 'he pulled it and went'. — He intended to steal the animal.

(31) From paying to the owner for the animal, for he has not acquired it yet, since he has not taken it out from the territory of the owner and it has therefore not come into his possession.

(32) The animal.

(33) And by doing this he acquired the animal.

(34) To the owner for the animal, v. B.K. 79a.

(35) By the process of 'pulling'.

(36) Even into public territory.

(37) This shews that pulling an object to oneself acquires also in public territory.

(38) רשות has the meaning of domain as well as of possession.

(39) רשות here also means 'possession'. By being brought into his private domain the object comes into his possession, but not by being brought out into public territory. Therefore R. Aha requires the device of the person receiving the object into his hand near the ground, as R. Ashi said.

(40) Even if it is in the public road.

(41) In the sense in which R. Aha says it.

(42) Persons who commit, after a warning, a transgression punishable with kareth receive the punishment of lashes, v. Mak. 13a.

and it is established that one does not receive lashes and pay![1] — ‘Ulla said: There is no difficulty. Here[2] [it speaks] of his sister [who is] a maiden,[3] and there[4] [it speaks] of his sister [who is] a mature girl.[5] [But in the case of] his sister [who is] a mature girl, too, [there are damages to be paid for the] shame and deterioration?[6] — [It speaks of] an idiot.[7] But [there are still damages to be paid for] the pain?[8] [It speaks of] a girl who was seduced.[9] Now that you have come to this,[10] you can even say [that it speaks of] his sister [who was] a maiden [and namely when she was] an orphan[11] and [she was] seduced.[12]

Consequently, ‘Ulla holds the view that wherever there is money [to be paid] and the punishment of lashes [to be inflicted], he pays the money and does not receive the lashes,[13] Whence does ‘Ulla derive this? — He derives it from [the law with regard to] one person who injures another person. Just as when one person injures another person, in which case there is money to [be paid][14] and the punishment of lashes,[15] he pays the money and does not receive the lashes,[16] so whenever there are payment of money and the punishment of lashes, he pays the money and does not receive the lashes. [But may it not be argued] it is different with [the case of] one person who injures another person because he is liable for five things?[17] And [if you will say] that [the payment of] money is lighter,[18] [one can say against this] that [here it has been excepted] from its rule [and] permitted to the Court![19] But he derives it from the refuted false witnesses.[20] Just as in the case of refuted false witnesses, whose transgression involves the payment of money and the punishment with lashes,[21] they pay the money but do not receive the lashes,[22] so whenever there are payment of money and the punishment of lashes, he pays the money and does not receive the lashes. [But it may be argued] it is different with the case of refuted false witnesses, because they do not require a warning?[23] [And if you will say] that [the payment of] money is lighter, [one can say against this,] that they[24] have not done any deed![25] — But he derives it from both.[26] The point common to both is that there are the payment of money and the punishment of lashes, and in either case he pays the money and does not receive the lashes. So whenever there are payment of money and the punishment of lashes, he pays the money and does not receive the lashes. But [it may be argued] the point common to both is [also] that they both have a strict side?[27] And if [you will say that the payment of] money is lighter, [one can say against this] that they have both a lighter side?[28] —

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(1) Since he receives lashes, according to the Mishnah just quoted, he should not pay the fine, and this would be against our Mishnah.

(2) In our Mishnah.

(3) A na'arah (v. Glos.) and the fine is payable; v. supra 29a. In this case the penalty of lashes would not be inflicted.

(4) In Mak. 13a.

(5) A bogereth (v. Glos.), and no fine is due, v. supra 29a. In this case the penalty of lashes is inflicted.

(6) Which she has suffered, (v. infra 39a-40b). And there would be both lashes and payment.

(7) The girl is not compos mentis, and thus neither shame nor deterioration applies.

(8) Caused by the forced intercourse.

(9) In the Mishnah Mak. 13a, it was not a case of violation, but of seduction; and in seduction there is no pain: v. infra 39b.

(10) To say that the Mishnah Mak. speaks of seduction and not violation.

(11) Since her father is not alive, the damages are payable to her.

(12) And having yielded to his persuasion she will not claim the damages from him; hence lashes are inflicted.

(13) Since ‘Ulla explains the Mishnah Mak. 13a as dealing with a bogereth, as otherwise there would be, in his view, no lashes even if he were warned beforehand, but only the payment of the fine.

(14) V. Ex. XXI, 19.

(15) This is deduced from Deut. XXV, 3 (Rashi).

(16) V. infra 32b.

(17) He has to make five kinds of payments; v. B.K. 83b. The payment of money in this case is therefore particularly

heavy and other money payments cannot be compared with it.
(18) And if in this case payment of money is to be made and no lashes are to be given, the same should indeed apply to other cases. Whether the payment is greater or smaller, it is a lighter punishment than lashes, and we see here that the lighter punishment is chosen (cf. Rashi).
(19) In this case the Torah has expressly stated that the Court may administer lashes (cf. Deut. XXV, 2). But the Court may prefer, and as a rule does prefer, that the person who was injured should receive money as compensation (Cf. Tosaf. s.v. ואי). Therefore in this case the money is paid and no lashes are given. But in other cases, as in those of violation and seduction. the rule may be different. In these cases the giving of lashes is not mentioned explicitly in the Torah, and thus its permissiveness is not stated. And when in such cases the punishment of lashes and the payment of money are due, lashes are given. And you cannot derive other cases from this case. With regard to the punishment of lashes v. Mak. 13b.
(20) Witnesses proved zomemim, v. Glos.
(21) Cf. Mak. 4a.
(22) V. infra 32b.
(23) They are subject to the lex talionis without a warning.
(24) The refuted false witnesses.
(25) Their transgression consists in words and not in deeds. Therefore the money penalty is imposed and not that of lashes. But with regard to transgressions in deeds, it may be that the transgressor receives lashes!
(26) The case of one person who injures another person and the case of the refuted false witnesses.
(27) In the one case the five kinds of payment and in the other case the non-requirement of a warning.
(28) In the one case the exception (v. p. 176, n. 9), and in the other case the transgression consisted of words and not of a deed. Therefore you cannot compare other cases with this case.

Talmud - Mas. Kethuboth 32b

But ‘Ulla derives it from the two words ‘for’.[1] It is written here for he hath humbled her[2] and it is written there: ‘Eye for eye’. As there[3] he pays money and does not receive lashes, so wherever there are the payment of money and the punishment of lashes, he pays money and does not receive the lashes.

R. Johanan said: You can even say that it[4] speaks of his sister who was a maiden. Only there[4] it speaks of a case where they warned him,[5] and here[6] it speaks of a case where they did not warn him.[7] Consequently R. Johanan holds the view that wherever there are the payment of money and the punishment of lashes and they warned him, he receives the lashes and does not pay the money. Whence does R. Johanan derive this? — The verse says: According to his guilt;[8] [from this I infer that] you punish him because of one guilt but not because of two guilts, and immediately follow[9] the words: Forty stripes he may give him.[10] But behold when one person injures another person, in which case there are the payment of money and the punishment of lashes, he pays money and does not receive the lashes? And if you will say that this is only when they did not warn him, but when they warned him, he receives the lashes and does not pay — did not R. Ammi say in the name of R. Johanan that, if one person struck another person a blow, for which no perutah[11] can be claimed as damages,[12] he receives the lashes? How shall we imagine this case? If they did not warn him, why does he receive the lashes? Hence it is clear that they warned him, and the reason [why he receives the lashes and does not pay] is because the damages do not amount to a perutah, but if they amount to a perutah he pays the money but does not receive the lashes![13] — [It is] as R. Elai said: The Torah has expressly stated[14] that the Zomemim witnesses have to pay money; so [here] also the Torah has expressly stated that the person who injures another person has to pay money. With regard to what has that [teaching] of R. Elai been said? — With regard to the following:[15] ‘We testify that So-and-so owes his fellow two hundred zuz’ and they were found to be Zomemim, they receive the lashes and pay,[16] for it is not the verse that imposes upon them[17] the lashes[18] which imposes upon them[17] the payment[19] [of money]. This is the view of R. Meir; and the Sages say: He who pays does not receive lashes.[20] [And] let us say: he who receives lashes does not pay?[21] [Upon that] R. Elai said: The Torah has expressly stated that the Zomemim witnesses have to pay more money. Where has the Torah stated this? — Consider; it is written: ‘Then shall ye do unto him as he had thought to do onto his brother’; why [is it written further,] ‘hand for hand’?[22] [This means] a thing that is given from hand to hand, and that is money. [And] the same applies to the case of[23] one person who injures another person. Consider; it is written: ‘As he hath done, so shall it be done to him’;[24] why [is it written further] ‘so shall it be rendered unto him’?[25] [This means] a thing that can be rendered,[26] and that is money.

Why does R. Johanan not say as ‘Ulla?[27] — If so[28] you would abolish [the prohibitory law]: The nakedness of thy sister thou shalt not uncover.[29]

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(1) תחת. A deduction based on similarity of expressions — a Gezerah shawah (v. Glos.).

(2) Deut. XXII, 29.

(3) Ex. XXI, 24.

(4) The Mishnah, Mak. 13a.

(5) And he is therefore liable to the payment of money and the penalty of lashes, and the Mishnah in Mak. 13a teaches us that, in that case, he receives the lashes and does not pay the money.

(6) In our Mishnah.

(7) And he is not liable to the penalty of lashes, and therefore he has to pay the money.

(8) Deut. XXV, 2.

(9) Lit., ‘and next to it’.

(10) Deut. XXV, 3. This shows that when there are two guilts, or two punishments for one guilt, he receives the punishment of lashes.

(11) A small coin, v. Glos.

(12) Lit., ‘in which there is not the value of a perutah’.

(13) Which contradicts R. Johanan's ruling.

(14) Lit., ‘increased’. This means: included something by using an additional word, or additional words.

(15) Mak. 4a.

(16) The amount they wanted to make the person pay. against whom they falsely testified.

(17) Lit., ‘brings them to’.

(18) For transgressing the ninth commandment.

(19) V. Deut. XIX, 19.

(20) V. Mak. 4a.

(21) According to the view of R. Johanan.

(22) Deut. XIX, 21.

(23) Lit., ‘also’.

(24) Lev. XXIV, 19.

(25) Lev. XXIV, 20.

(26) Lit., ‘with regard to which there is a rendering’, ‘a giving’.

(27) That our Mishnah speaks of the case where he had intercourse with his sister as a na'arah, which makes him liable to the fine and exempts him from lashes.

(28) That is, if he who cohabited with his sister who is a maiden, would be free from receiving lashes after he had been warned.

(29) Lev., XVIII, 9. A prohibitory law, if wilfully transgressed, and after a warning, is punishable (also) with lashes. Therefore R. Johanan holds that where there are the payment of money and the punishment of lashes, he receives the lashes and does not pay the money. Only our Mishnah speaks of a case where there was no warning, and therefore he pays the fine.

Talmud - Mas. Kethuboth 33a

[But could not one say] also [in the case of] one person who injures another person: If so[1] you would abolish [the prohibitory law], ‘he shall not exceed, lest, if he should exceed.’[2] [And in case of] the

Zomemim witnesses too, [one could say]: If so you would abolish [the law]: 'then it shall be, if the guilty man deserve to be beaten.'[3] But [you must say that in the case of] the Zomemim witnesses it is possible to fulfil it[4] when [the witnesses testified falsely about someone[5] that he was] the son of a divorced woman or the son of a haluzah.[6] [Similarly in the case of] a person who injured another person, it also is possible to fulfil it[7] when he struck him a blow for which no perutah can be claimed as damages.[8] [And so you can say] also [with regard to] his sister [that] it is possible to fulfil it[9] in the case of his sister who was a mature girl![10] — R. Johanan can answer you: [The verse] for he hath humbled her[11] is required for [the same teaching] as of Abaye, for Abaye said: The verse says, 'for he hath humbled her'. This[12] [he shall pay] for he has humbled her, [from which we infer], by implication, that there are also [to be paid damages for] shame and deterioration.[13] And 'Ulla?'[14] — He derives it from a teaching of Raba, for Raba said: The verse says: Then the man that lay with her shall give unto the father of the maiden it fifty shekel of silver;[15] [this means that] for the enjoyment of lying [with the maiden he has to pay] fifty [shekel of silver], [and we infer], by implication, that there are also [to be paid damages for] shame and deterioration.

R. Eleazar[16] says: The Zomemim witnesses pay money and do not receive lashes, because they cannot be warned.[17] Raba said: You may know it [from the following]:[18] When shall we warn them? Shall we warn them at first?[19] They will [then] say: We have forgotten[20] . Shall we warn them during the deed?[21] They would [then] withdraw and not give any evidence.[22] Shall we warn them at the end?[23] [Then] what has been has been.[24] Abaye demurred to this: Let us warn them immediately after they have given their evidence?[25] R. Aha, the son of R. Ika demurred: Let us warn them at first[26] and gesticulate to them [afterwards].[27] Later[28] Abaye said: What I said[29] was nothing. For if one were to say[30] that Zomemim witnesses require a warning, [it would follow that], if we have not warned them, we would not kill them.[31] [But then] is it possible[32] that who they wished to kill without a warning,[33] that they should require a warning? Surely, it is necessary[34] [that the words be fulfilled,] 'then shall ye do unto him as he has thought to do onto his brother',[35] and this would not be [the case here]? To this R. Samma the son of R. Jeremiah demurred. But now [according to your argument], [if the witnesses testified falsely about someone[36] that he was] the son of a divorced woman or the son of a haluzah,[37] since this case is not included in 'as he had thought etc.' a warning should be required![38] — The verse says: 'Ye shall have one manner of law';[39] [this means] a law that is equal for you all.[40]

R. Shisha, the son of R. Idi, said: That a person who injures another person pays money and does not receive the lashes is derived from this:[41] [It is written:] And if men strive together and hurt a woman with child, so that her fruit depart.[42] [Upon this] R. Eleazar said: The verse speaks of a striving with intent to kill, for it is written, But if any harm follow, then thou shalt give life for life[43] . How shall we imagine this case? If they did not warn him, why should he be killed? Hence it is obvious that he was warned, [and it is held], when one is warned regarding a severe matter[44] one also is warned for a light matter,[45] and [yet] the Torah says: And yet no harm follow, he shall be surely fined.[46] To this R. Ashi demurred: Whence [do we know] that when one is warned regarding a severe matter one also stands warned for a light matter? Perhaps it is not so![47] And even if we will say that it is so, whence [do we know] that [the penalty of] death is severer?

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(1) cf, in this case, he has to pay money, he does not receive the lashes, v. supra 32b.

(2) Deut. XXV, 3. If the lashes are not given, this law is not fulfilled.

(3) Deut. XXV, 2, from which is derived the inflicting of lashes on Zomemim witnesses, v. Mak. 2b, and infra.

(4) The flagellation prescribed in Deut. XXV, 2.

(5) A priest.

(6) V. Glos. In this case one cannot do to him as he Bad thought to do to others; nor is there a money fine, so he receives the lashes, v. Mak. 2a.

(7) The flagellation attached to the prohibitory law of Deut. XXV, 3.

(8) Where there is no money payment and so he receives the lashes, v. supra 32b. V. Rashi .

(9) The flagellation attached to the prohibitory law of Lev. XVIII, 9.

(10) As long as there is a possibility of fulfilling the law it is not abolished, as in the other two cases; thus there is no point in R. Johanan's objection to ‘Ulla's explanation.

(11) Deut. XXII, 29, from which ‘Ulla derives that the fine is paid and no lashes are inflicted.

(12) The fifty shekels of silver.

(13) V. infra 40b.

(14) Whence does he derive Abaye's deduction?

(15) Deut. XXII, 29.

(16) So marginal glosses to text. R. Eleazar b. Pedath, generally called in the Talmud simply R. Eleazar, was a disciple and later an associate of R. Johanan. Cur. edd.: R. Eliezer.

(17) [No verse is required to teach that Zomemim witnesses pay and receive no lashes (in opposition to R. Elai supra p. 178) as the Talmud proceeds to explain. The case of Mak. 2a (v. supra note 3) is an exception since there is no possibility of applying the lex talionis; where however it is applicable there are no lashes (Rashi).]

(18) That they cannot be warned.

(19) Before they gave evidence.

(20) The warning. The warning has then lapsed.

(21) I.e,, during the evidence.

(22) Seeing that they are under suspicion they would refuse altogether to give evidence, even true evidence.

(23) After they had given their evidence.

(24) I.e., what they said they cannot withdraw, and there would be no point in warning them.

(25) ‘Within as much (time) as is required for an utterance’, e.g., ‘a greeting’. V. Nazir (Sonc. ed.) p. 71 n. 1.

(26) Before they gave evidence.

(27) I.e., during the evidence. By gesticulating we would remind the witnesses of the warning given to them at first, and they could not say, ‘we have forgotten it’.

(28) Or, ‘another time’.

(29) That the Zomemim witnesses should require a warning to be lashed.

(30) Lit., ‘if it enters thy mind’.

(31) Although their false evidence, had it remained unrefuted, would have brought about the penalty of death on him against whom they testified.

(32) Lit., ‘is there anything (like this)?’

(33) Since their evidence proved to be false, they could not have given a warning to those against whom they testified.

(34) Lit., ‘do we not require’?

(35) Deut. XIX, 19.

(36) A priest.

(37) v. supra p. 180, n. 3.

(38) [If the reason that Zomemim witnesses require no warning is because, otherwise, the principle ‘as he had though’ could not be applied, a warning should be required in this case which the law excepts from the application of this principle].

(39) Lev., XXIV, 22.

(40) And since in most cases the Zomemim witnesses cannot be warned, they need not be warned in this case either.

(41) And not (as supra 32b) from Lev. XXIV, 20.

(42) Ex. XXI, 22.

(43) Ex. XXI, 23. [‘Harm’ means ‘death’; and, the verse tells us, although there was no intent of killing the woman, the blow having been directed against the other man, yet the slayer is put to death, v. Sanh. 74a.

(44) ‘Life for life.’

(45) The lashes for striking a person.

(46) We thus see that although there was a warning and he should be liable to being punished with the lashes, he pays the money and does not receive the lashes.

(47) And since he does not stand warned for the light matter, he is not liable to the punishment with lashes, and therefore pays the fine.

Talmud - Mas. Kethuboth 33b

Talmud - Mas. Kethuboth 33b

Perhaps [the punishment with] lashes is severer, for Rab said: If they had lashed Hananiah, Mishael and Azariah, they would have worshipped the [golden] image?[1] R. Samma the son of R. Assi said to R. Ashi; and some say [that] R. Samma the son of R. Ashi [said] to R. Ashi: Do you not make a distinction between a beating that has a limit[2] and a beating that has no limit![3] R. Jacob from Nehar Pekod [also] demurred:[4] That is alright according to the Rabbis who[5] hold that life[6] actually means [life].[7] But according to Rabbi,[8] who holds that it means money, what is there to say?[9] — But, said R. Jacob from Nehar Pekod, in the name of Raba; [it is to be derived] from the following verse:[10] [It is written,] 'If he rise again, and walk abroad upon his staff then shall he that smote him be quit.'[11] Would it enter your mind that this one[12] walks about in the street and that one[13] should be killed?[14] But it teaches that they imprison him;[13] if he[12] dies, they kill him; and if he does not die, 'he shall pay for the loss of his time, arid shall cause him to be thoroughly healed.'[11] Now how shall we imagine this case? If they did not warn him, why should he be killed? Hence it is plain that they warned him, and [it is held], one who was warned for a severe matter stands warned for the lighter matter and [yet] the All-Merciful says [that if he does not die] 'he shall pay for the loss of his time, and shall cause him to be thoroughly healed'.[15] To this R. Ashi asked: Whence [do you know] that one who was warned for a severe matter stands warned for a lighter matter? Perhaps not? And if you will even say that he does [stand warned for the lighter matter], whence [do you know] that death is severer? Perhaps [the punishment with] lashes is severer, for Rab said: If they had lashed Hananiah, Mishael and Azariah, they would have worshipped the [golden] image? R. Samma the son of R. Assi said to R. Ashi, and some say [that] R. Samma the son of R. Ashi [said] to R. Ashi: Do you not make a distinction between a beating that has a limit and a beating that has no limit?[16] R. Mari [also] demurred:[17] Whence [do you know] that [one smote the other] wilfully[18] and 'he shall be quit' [means] from [the penalty of] death? Perhaps [one smote the other] inadvertently[19] and 'he shall be quit' [means] from exile?[20] The difficulty remains.

Resh Lakish said:[21] This[22] is the opinion of R. Meir,[23] who says: He receives the lashes and pays [the money].[24] — If it is according to R. Meir, [then one who violated] his daughter should also [pay the fine]?[25] And if you will say that R. Meir holds [that] one may receive the lashes and pay [the money], but does not hold [that] one may receive the death penalty[26] and pay [the money][27] — has it not been taught: If he has stolen and slaughtered [an animal] on Sabbath,[28] or has stolen and slaughtered [an animal] for idolatry,[28] or has stolen an ox that is to be stoned[29] and slaughtered it, he shall pay fourfold or fivefold.[30] This is the view of R. Meir,[31] but the Sages declare him free [from payment]? — Has it not been stated regarding this: R. Jacob said in the name of R. Johanan, and some say [that] R. Jeremiah said in the name of R. Simeon b. Lakish: R. Abin and R. Elai and the whole company [of scholars] said in the name of R. Johanan [that it speaks of a case when] he [who stole the animal] let it be slaughtered by another person. But is it possible that one sins and another one is punished?[32] Raba said: The Divine law says: and slaughter it or sell it; [this teaches that] as the sale is [effected] through [the participation of] another person, so [may] the slaughtering [of the animal] be through another person. In the School of R. Ishmael it was taught: [the word] 'or' [is] to include the agent. In the School of Hezekiah it was taught: [the word] 'instead'[32] [is] to include the agent. Mar Zutra demurred to this: Is it anywhere to be found that if he does [the deed] himself he is not liable[33] and if an agent does it he is liable? He himself [does not pay], not because he is not liable, but because he suffers the severer penalty. [But] if he [who stole the animal] let it be slaughtered by another person, what is the reason of the Rabbis who declare him free [from paying]? — Who are the Sages?

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(1) V. Dan. III.

(2) The number of lashes given by the Court is limited to forty.

(3) The lashes that might have been given to Hananiah, Mishael and Azariah would have had no limit.

(4) I.e., against the derivation of R. Shisha, based on the exposition of R. Eleazar.

(5) V. Sanh. 79a-b.

(6) In Ex. XXI, 23.

(7) I.e., the death penalty. In this case the text deals with an attack which was attended by a warning, and so you can make the derivation that he pays the money and does not receive the lashes, as supra p. 182, n. 8.

(8) Sanh. 79a-b.

(9) Since there is no question of a death penalty the text need not necessarily refer to a case where there was a warning, and thus affords no basis for the derivation.

(10) Lit., ‘from here’.

(11) Ex. XXI, 19.

(12) Who was smitten.

(13) Who smote.

(14) Surely that is impossible! If the one was not killed by the injury, the smiter would not receive the death penalty. Then why does the Torah expressly say that ‘he that smote him be quit’?

(15) Although there was a warning making him liable to lashes. This shews that he pays money and does not receive the lashes.

(16) For notes v. supra p. 182, nn. 11-12.

(17) To the derivation of R. Jacob from Nehar Pekod.

(18) In which case only the penalty of death is inflicted, provided there was a warning.

(19) And if he killed him he is banished to one of the cities of refuge. V. Num. XXXV, 11ff and Deut. XIX, 2ff.

(20) I.e., from banishment to one of the three cities of refuge. [The text thus speaks of a case where there was no warning, and for this reason makes him liable to a fine where the blow did not result in death; where however there was a warning there would be no payment, but lashes.]

(21) With regard to the question from the Mishnah in Mak. 13a; v. supra 31b.

(22) The view of our Mishnah.

(23) Lit., ‘whose opinion is this? It is that of R. Meir’.

(24) V. supra 32b.

(25) And in the Mishnah infra 36b, it is stated that in such a case no fine is paid, because the penalty of death (by the hand of man) is attached to it. V. also Sanh. 75a.

(26) Lit., ‘he dies’.

(27) In the text follows: ‘and not’; i.e., and does he not hold that?

(28) And has thus incurred the death penalty.

(29) V. Ex. XXI, 28.

(30) V. Ex. XXI, 37.

(31) We thus see that R. Meir holds that even when there is a death penalty he pays the money.

(32) Regarding the payment of money; v. Kid. 43a.

(33) To pay the money.

Talmud - Mas. Kethuboth 34a

R. Simeon, who says: An unfit slaughtering is not called[1] slaughtering. This might be right with regard to [the slaughtering for] idolatry and [the slaughtering of] the ox that is to be stoned, but the slaughtering on Sabbath is a fit slaughtering, for we learnt: If someone has slaughtered [an animal] on Sabbath or the Day of Atonement, although he is guilty of [a transgression for which he forfeits] his life,[2] his slaughtering is a fit one?[3] — He holds the opinion of R. Johanan ha-Sandalar,[4] for it has been taught: If someone has cooked on Sabbath, [if] by mistake, he may eat it, [and if] wilfully he may not eat it: This is the view of R. Meir. R. Judah says: [If] by mistake, he may eat it after the outgoing[5] of the Sabbath, [if] wilfully, he may never eat it. R. Johanan hasandalar says: [If] wilfully, others may eat it after the outgoing of the Sabbath, but not he, [if] wilfully, neither he nor others may eat it.[6] What is the reason of R. Johanan ha-Sandalar? As R. Hiyya expounded at the entrance of the house of the Prince:[7] [It is written:] ‘Ye shall keep the Sabbath therefore, for it is holy unto you’.[8] [From this we derive:] As what is holy is forbidden to be eaten, so what has been prepared[9] on the Sabbath is forbidden to be eaten. If [so, you might say that] as what is holy is forbidden to be enjoyed,[10] so what has been prepared on the Sabbath should be forbidden to be enjoyed? — It says ‘unto you’; from this we learn: It shall belong to you.[11] You might think [that it is forbidden to eat] even [what has been prepared on the Sabbath] by mistake,[12] [therefore] it is said: every one that profaneth it shall surely be put to death.[13] [This teaches that only] when [the act was done] wilfully,[14] have I told thee [that it is forbidden as that which is holy] but not [if it was done] by mistake.

R. Aha and Rabina differ concerning this. One says: What has been prepared on Sabbath [is forbidden] according to the Bible, and one says: [only] according to the Rabbis. He who says: According to the Bible — as we have [just] explained.[15] [And] he who says: according to the Rabbis — the verse says: ‘It is holy’, [that means]: ‘it’[16] is holy, but what has been prepared on it is not holy.[17] According to him who says [that the prohibition is only] Rabbinical, what is the reason of the Rabbis who declare him[18] free?[19] — The Rabbis declare him free only with regard to other cases.[20]

But [with regard to] one who slaughtered for idolatry [one can ask:] as soon as he has cut[21] a little it[22] has become forbidden,[23] so when he continues the slaughtering[24] he does not slaughter what is the owner's?[25] — Raba said: [it speaks of a case] when he says [that] he worships it[26] with the completion of the slaughtering. [But with regard to] the ox that is to he stoned [one can ask]: he[27] does not slaughter what is his?[28] Here we speak of a case when he[29] handed it[30] to a keeper and it caused the damage[31] in the house of the keeper[32] and it was sentenced in the house of the keeper and a thief stole it from the house of the keeper. And R. Meir holds the view of R. Jacob and holds the view of R. Simeon. He holds the view of R. Jacob who says: If the keeper returned it even after the sentence had been pronounced, it is regarded as returned.[33] And he holds the view of R. Simeon who says: that which causes [the gain or loss of] money is regarded as money.[34]

Rabbah said: Indeed [it speaks of a case] when he[35] slaughtered it himself

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(1) Lit., ‘its name is not’. An act of slaughter that does not for any reason whatsoever effect the ritual fitness of the animal to be eaten is not considered by them in the eye of the law a slaughter.

(2) V. supra 30a.

(3) Mishnah, Hul. 14a.

(4) Probably ‘sandal-maker’.

(5) Lit., ‘at the outgoing’.

(6) According to R. Johanan ha-Sandalar what has been cooked on Sabbath wilfully must not be eaten by any few. The same would apply to what has been slaughtered wilfully on Sabbath. Thus one can say that the slaughtering on Sabbath is an unfit slaughtering.

(7) Judah the Prince.

(8) Ex. XXXI, 14.

(9) Lit., ‘the work of’.

(10) I. e., to have any use or benefit from it.

(11) Although one may not eat it, one may have other uses or benefits from it, e.g., one may sell it to one who is not a Jew and is therefore not bound by these laws.

(12) If he did not know it was Sabbath (Rashi).

(13) Ibid.

(14) For which the death penalty is inflicted.

(15) Lit., ‘said’.

(16) I. e., the Sabbath itself.

(17) The prohibition is therefore only Rabbinical.

(18) Who stole an animal and slaughtered it on Sabbath.

(19) From paying four- or fivefold. Since the animal is, according to Biblical law, fit for food, it should be considered a fit slaughter.

(20) Lit., the rest’, i.e., the other two cases mentioned: the serving of idols and the ox condemned to death.

(21) The throat of the animal.

(22) The animal.
(23) For any use as an animal slaughtered for idol worship v. Hul. 40a.
(24) Cutting the throat of the animal until the slaughtering of the animal is complete to make it fit for food.
(25) It has already become forbidden to the owner for any use and has thus ceased to be in his possession. He should therefore be free from paying four- or fivefold.
(26) The idol. The idolatrous act is to take place when the slaughtering has been completed. Consequently he was slaughtering what was the owner's.
(27) The thief.
(28) The owner's. An ox that is to be stoned for goring a person is forbidden for any use. It is therefore regarded as not belonging any more to the owner. And he should therefore be free from paying four- or fivefold.
(29) The owner.
(30) The ox.
(31) By killing a person. Cf. Ex. XXI, 28.
(32) I. e., while in the possession of the keeper.
(33) Although the condemned animal has no value, the liability of the keeper, who has to return the animal to its owner, is discharged by the keeper returning the animal to its owner.
(34) Since the thief stole the condemned animal the keeper cannot return it to the owner and he has to pay to the owner the value of the animal as it was when he entrusted it to him. The ox that is to be stoned has therefore a money.value for the keeper. The thief must therefore pay the four- or fivefold. For fuller notes on the whole passage beginning from ‘Resh Lakish said’ etc., 33b, v. B.K. (Sonc. ed.) pp. 407-410.
(35) The thief.

Talmud - Mas. Kethuboth 34b

and R. Meir holds the view that [though generally] one may receive the lashes and pay, one cannot receive the death penalty and pay[1] but these [cases][2] are different, because the Torah has enacted something novel in [the matter of] fine,[3] and [therefore][4] he has to pay, although he has to suffer the death penalty.[5] And Rabbah follows his own principle, for Rabba said: If he had a kid which he had stolen and he slaughtered it on Sabbath, he is bound,[6] for he was already guilty of stealing before he came to the profanation[7] of the Sabbath; [but] if he stole and slaughtered it on Sabbath he is free,[8] for if there is no stealing[9] there is no slaughtering and no selling.

Rabbah said further: If he had a kid which he had stolen and had slaughtered it at the place he broke into,[10] he is bound,[11] for he was already guilty of stealing before he came to the transgression of breaking in;[12] [but] if he stole and slaughtered it in the place he broke into,[13] he is free, for if there is no stealing, there is no slaughtering and no selling. And it was necessary [to state both cases]. For if he had let us hear [the case of the] Sabbath [I would have said that he is free from payment] because its prohibition is a perpetual prohibition,[14] but [in the case of] breaking in, which is only a prohibition for the moment,[15] I might say, [that it is] not [so].[16] And if he had let us hear [the case of] breaking in [I would say that he is free from payment] because his breaking in is his warning,[17] but [with regard to the] Sabbath, [in] which [case] a warning is required, I might say that [it is] not [so].[18] [Therefore] it is necessary [to state both cases].

R. Papa said: If one had a cow that he had stolen and he slaughtered it on Sabbath, he is liable[19] for he was already guilty of stealing before he came to the profanation of the Sabbath; if he had a cow that he borrowed and he slaughtered it[20] on Sabbath, he is free.[21] R. Aha the son of Raba said to R. Ashi: Does R. Papa mean to tell us[22] [that the same rule[23] applies to] a cow? — He answered him: R. Papa means to tell us [that the same rules applies to] a borrowed [cow]. You might possibly think [that] because R. Papa said that he[24] becomes responsible for its food from the time of [his taking possession of the cow by] ‘pulling’[25] here also he becomes responsible for any unpreventable accident [that may befall it] from the time of borrowing,[26] so he lets us hear [that it is not so].[27]

Raba said: If their father left them[28] a borrowed cow,[29] they[30] may use it during the whole period for which he borrowed it;[31] if it died,[32] they are not responsible for what happened.[33] If they thought that it belonged to their father and they slaughtered it and ate it, they pay the value of the meat at the lowest price.[34] If their father left them an obligation of property,[35] they are bound to pay. Some refer it[36] to the first case,[37] and some refer it to the second case.[38] He who refers it to the first case, so much the more [does he refer it] to the second case, and he differs from R. Papa.[39] And he who refers it to the second case[40] does not refer it to the first case, and he agrees with R.Papa.[41]

It is alright [that] R. Johanan[42] does not say according to Resh Lakish,[43] because he wants to explain[44] it[45] according to the Rabbis. But why does not Resh Lakish say according to R. Johanan? — He will answer you: since he is free[46] if they warned him, he is also free [even] if they did not warn him.[47]

And they[48] follow their own principles,[49] for when R. Dimi came [from Palestine] he said: He who has committed inadvertently an act which, if he had committed it wilfully, would have been punishable with death or with lashes, and [which is also punishable] with something else,[50] R. Johanan says [that] he is bound,[51] and Resh Lakish says [that] he is free.[52] R. Johanan says [that] he is bound, for they did not warn him.[53] Resh Lakish says [that] he is free,[54] for since he is free if they warned him, so he is free also when they did not warn him.

Resh Lakish raised an objection against R. Johanan: [It is written]: If no harm follow, he shall be surely fined.[55]

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(1) Cf. supra 33b.

(2) In the case of the slaughtering of the stolen animal, supra 33b.

(3) A fine of four or five times the value of the animal is in itself a novel law.

(4) In view of the novel law in these cases.

(5) Lit., 'he is killed'.

(6) To pay the fine.

(7) Lit., 'prohibition'.

(8) From paying the fine,

(9) The crime of stealing is, as it were, wiped out by the more serious transgression of profaning the Sabbath. There is, therefore, no payment of principal. And since there is no payment of the principal, there is also no payment of the fine for the slaughtering and selling.

(10) מחתרתו means here both: the place he broke into and the time of breaking into the place. This breaking in took place after the stealing of the kid, which was a separate act. Cf. Ex. XXII, 2.

(11) To pay the fine.

(12) In which case he may forfeit his life, v. Ex. XXII, 2.

(13) Here the stealing and breaking in are one act.

(14) I. e., if he has profaned the Sabbath and incurred the death penalty, this penalty can always be inflicted.

(15) The thief's life is forfeit only when he is 'found breaking in'. If he is found later his life is not forfeited, v. Ex. XXII, 2.

(16) I. e., that he is not free from payment.

(17) I. e., he may be killed without a warning.

(18) I. e., that he is not free from payment.

(19) To pay the fine.

(20) And thus stole it.

(21) From paying the fine. For the stealing and the Sabbath desecration by means of the slaughtering were committed simultaneously.

(22) Lit., 'come to let us hear'.

(23) Which Rabbah applies to the kid.

(24) Cf. B.M. 91a.

(25) Meshikah. v. Glos.
(26) I. e., before he desecrated the Sabbath. And therefore he should have to pay the fine when he slaughters it on Sabbath.
(27) That the stealing coincides with the slaughtering, and he is therefore free from payment if he slaughters the borrowed cow on Sabbath.
(28) I. e., to his children.
(29) I. e., a cow which the father had borrowed.
(30) The children.
(31) Lit., ‘all the days of the borrowing’.
(32) Accidentally, without their fault.
(33) Lit., ‘for its accident’. The children are not responsible because they did not borrow it.
(34) Which is generally estimated to be two-thirds of the ordinary price, cf. B.B. 146b.
(35) אחריות נכסים, i.e., property which is a security for the payments which would have to be made. He left them (landed) property and with it the obligation which rests upon such property. The chief point in the phrase is the obligation for which such property is a security, and which was passed on to the children.
(36) The last statement.
(37) I. e., they are not responsible for the accident only if their father did not leave them an obligation of property.
(38) When they slaughtered and ate it.
(39) Who says that the obligation is incurred when the accident happens. According to the opposing view, the father left them the obligation, which therefore was incurred at the time of borrowing.
(40) Where the father left them landed property, they are made to pay the full value of the meat since they ought to have been more careful.
(41) Lit., ‘and this is the view of R. Papa’. The obligation is incurred with the accident, and at the time of the accident there was no borrower, since the person that borrowed the cow was dead.
(42) Who explains the Mishnah as dealing with a case where there was no warning. v. supra 32b.
(43) Who explains the Mishnah as representing the view of R. Meir, v. supra 33b.
(44) Lit., ‘he puts’.
(45) The Mishnah.
(46) From paying the fine.
(47) Since the offence carries with it the penalty of lashes, there is no money payment even where lashes are not inflicted.
(48) R. Johanan and Resh Lakish.
(49) Or ‘opinions’, stated elsewhere.
(50) I. e.,the payment of money.
(51) To make the money payment.
(52) From making the money payment.
(53) And so there is no death penalty, and therefore he pays.
(54) From making the money payment.
(55) Ex. XXI, 22.

Talmud - Mas. Kethuboth 35a

[Now] is not real ‘harm’ meant?[1] No, the law concerning ‘harm’ [is meant].[2] Some say: R. Johanan raised an objection against Resh Lakish: [It is written] ‘And if no harm follow, he shall be surely fined’. Is not the law concerning ‘harm’ [meant]?[2] No, real ‘harm’ [is meant].[1]

Raba said: Is there any one who holds that he who committed inadvertently an act which, if he had committed it wilfully, would have been punishable with death [and which is also punishable with the payment of money] is bound [to make the money payment]? Has not the school of Hezekiah taught: [It is written] He that smiteth a man . . . he that smiteth a beast[3] [from which we infer:] As in [the case of] the killing of a beast you have made no distinction between [it being done] inadvertently and wilfully, intentionally and unintentionally, by way of going down or by way of going up,[4] so as to free him [from the payment], but [in any case] make him liable to pay, so also in [the case of] the killing of a man you shall make no distinction between [it being done] inadvertently and wilfully, intentionally and unintentionally, by way of going down or by way of going up, so as to make him liable to pay money, but to free him from paying money?[5] But when Rabin came [from Palestine], he said: [As to] him who committed inadvertently an act which,if he had committed it wilfully, would have been punishable with death [and which is also punishable with the payment of money] — all agree that he is free [from the payment of money], they only differ when the act committed inadvertently would, if committed wilfully, have been punishable with lashes and something else.[6] R. Johanan says [that] he is bound [to make the money payment, because] only with regard to those who commit an act punishable with death, the analogy is made,[7] [but] with regard to those who commit an act punishable with lashes, the comparison is not made. [But] Resh Lakish says [that] he is free [from making the money payment, because] the Torah has expressly included those who commit an act punishable with lashes to be as those who commit an act punishable with death. Where has the Torah included [them]?-Abaye said: [We infer it from] the double occurrence of ‘wicked man’[8] Raba said: [We infer it from] the double occurrence of ‘smiting’.[9] R. Papa said to Raba: Which ‘smiting’ [do you mean]? If you mean[10] [the verse][11] ‘And he that smiteth a beast shall pay for it, and he that smiteth a man shall be put to death,’ this[12] speaks[13] of the death penalty?[14] — Is it this ‘smiting’; he that smiteth a beast shall pay for it: life for life and next to it [comes] And if a man cause a blemish in his neighbour, as he hath done so shall it be done to him?[15] But here [the term] ‘smiting’ is not mentioned![16] — We mean[17] the effect of ‘smiting’.[18] But this verse refers to one who injures his fellow, and one who injures his fellow has to pay damages?[19] — It if does not refer to a ‘smiting’ in which there is the value of a perutah,[20] refer it[21] to a smiting in which there is not the value of a perutah.[22]

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(1) If no harm follows, that is if the woman does not die, he pays the fine. But if the woman dies, no fine is paid, even if he was not warned. This would be according to Resh Lakish and against R. Johanan

(2) I. e., if the woman did not die, or if she died but he was not warned, he pays the fine. The ‘law concerning harm’ would imply warning. No warning, no death penalty, and therefore payment of money. This would accord with R. Johanan.

(3) Lev. XXIV, 21. The whole verse reads: And he that smiteth a beast shall pay for it; and he that smiteth a man shall be put to death. — Smiting here means killing.

(4) A distinction which obtains in the case of unintentional manslaughter with reference to the liability to take refuge, cf. Mak. 7b.

(5) Even if the killing of the man was done inadvertently, and the death penalty is not inflicted, there is no payment of money to be made. R. Johanan could therefore not have said that he was bound to make the money payment, supra p. 190.

(6) The payment of money.

(7) Between he that smiteth a beast and he that smiteth a man; v. supra.

(8) A Gezerah shawah v. Glos. The word ‘wicked’ occurs in Num. XXXV, 31 (in the case of the death penalty) and in Deut. XXV, 2 (in the case of the penalty of the lashes), and therefore an analogy is drawn between the two cases.

(9) [Raba disapproves of this double analogy, but assumes that those who are liable to lashes are in every case exempt from payment directly from ‘he that smiteth a beast’ and not by means of the analogy between them and those liable to the death penalty.]

(10) Lit., ‘if to say’.

(11) Lev. XXIV, 21.

(12) The second half of the verse.

(13) Lit., ‘is written’.

(14) And offers no basis of deduction for the penalty’ of lashes.

(15) Lev. XXIV, 19. This is taken to mean: he shall receive the lashes; v. infra.

(16) It does not say in this verse ‘If a man smiteth his neighbour’. It says ‘If a man cause a blemish in his neighbour’.

(17) ‘We speak of’.

(18) To cause a blemish means to smite. And the smiter has to be smitten, that is, he has to receive the lashes.

(19) But he does not receive lashes.

(20) V. infra 32b.

(21) I. e., the words ‘so shall it be done to him’.

(22) And in this case he receives lashes and the analogy with ‘he that smiteth a beast’ serves to teach, on the view of Resh Lakish, that there is no payment even where, for one cause or another, there is no infliction of lashes.

Talmud - Mas. Kethuboth 35b

Anyhow, he is not liable to pay damages?[1] — It necessarily [speaks of a case] where, while he smote him, he tore his silk garment.[2]

R. Hiyya said to Raba: And according to the Tanna of the school of Hezekiah, who says: [It is written] ‘He that smiteth a man . . . He that smiteth a beast’ [etc.,][3] — whence does he know that it[4] refers to a week-day and there is no distinction to be made?[5] Perhaps it refers to the Sabbath, [in which case] there is a distinction to be made with regard to the beast itself?[6] — This cannot be,[7] for it is written: ‘And he that smiteth a beast shall pay for it, and he that smiteth a man shall be put to death.’ How shall we imagine this case? If they did not warn him, why should he, if he killed a man, be put to death? Hence it is clear that they warned him,[8] and if [it happened] on a Sabbath would he, if he smote a beast, pay for it?[9] Therefore it can only refer to[10] a week-day.[11]

R. Papa said to Abaye: According to Rabbah, who says [that] the Torah has instituted something novel in the matter of fines and [therefore] he pays although he is killed[12] — according to whom does he put our Mishnah? If according to R. Meir,[13] [the law regarding] his daughter is difficult,[14] if according to R. Nehunia b. ha-Kana,[15] [the law regarding] his sister is difficult;[16] [and] if according to R. Isaac[17] [the law regarding] a mamzereth is difficult?[18] It would be alright if he would hold like R. Johanan,[19] [for] he would [then] explain it[20] like R. Johanan.[19] But if he holds like Resh Lakish[21] how can he explain it ?[22] — He [therefore], of necessity, holds like R. Johanan.

R. Mattena said to Abaye: According to Resh Lakish who says that the Torah has expressly included those who commit an act punishable with lashes to be as those who commit an act punishable with death[23] — who is the Tanna, who differs from R. Nehunia b. ha'Kana?[24] It is either R. Meir[25] or R. Isaac.[26]

Our Rabbis taught: All forbidden relations and all relations forbidden in the second degree have no claim[27] to fine [for outrage][28] or to indemnity for seduction.

A woman who refuses [her husband] by mi'un[29] has no claim to fine [for outrage] or to indemnity for seduction. [In this case] a barren woman has no claim to fine for outrage or to indemnity for seduction. And a woman who has gone out[30] on account of an evil name,[31] has no claim to fine for outrage or to indemnity for seduction. What are ‘forbidden relations’ and what are ‘relations forbidden in the second degree’? Shall I say [that] ‘forbidden relations’

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(1) Because the damages do not amount to a perutah. The verse thus affords no basis of deduction for the ruling of Resh Lakish.

(2) There the analogy is required, and we are taught that he is liable to lashes for the injury he inflicted and is free from paying for the silk garments even if the lashes are not actually inflicted

(3) V. p. 191 and notes,

(4) Lev. XXIV, 21.

(5) Between ‘inadvertently’ and ‘wilfully’; but there is in every case liability to payment.

(6) Payment would be due only if he killed it inadvertently. If he killed it wilfully he would be liable to the death penalty on account of the desecration of the Sabbath and he would thus be free from the money payment.

(7) Lit., ‘this does not enter your mind’. It cannot be assumed that the verse refers to the offence having been committed on Sabbath and inadvertently.

(8) I. e., he killed him wilfully.

(9) Where he killed it wilfully. Surely not, seeing that he is liable to death!

(10) Lit., 'but is it not?'

(11) Where no distinction is made between wilful and inadvertent killing of a beast and the same absence of distinction applies mutatis mutandis to him who kills a man.

(12) Supra 34b.

(13) Who holds that the lesser penalty is not merged in the greater, v. supra 34b.

(14) Why should there be no fine in the case of 'his daughter', (infra 36b).

(15) Who agrees with R. Meir with regard to lashes but not with regard to kareth.

(16) Why does our Mishnah impose a fine in the case of 'his sister' which is subject to kareth?

(17) Who holds that offenders liable to kareth are not subject to lashes, v. Mak. 14a.

(18) Why should there be a fine in this case which is subject to lashes.

(19) That out Mishnah deals with a case where there was no warning and hence no infliction of lashes, v. supra 32b and 34b.

(20) Out Mishnah.

(21) That even where his lashes are actually inflicted, since there isa liability to lashes, there is no payment. V. supra. 34b.

(22) Out Mishnah.

(23) So that there is no payment even if the offence was committed unwittingly.

(24) V. supra 30a. This Tanna would not exempt offenders liable to kareth from payments which would be in accord with out Mishnah which imposes a fine in the case of his sister — an offence involving kareth.

(25) Who does not exempt from, payment on account of the penalty of lashes, and thus although there are also lashes in the case of a sister, there is no exemption from the fine, v. supra 32b.

(26) V. supra note 4. He will consequently hold that an offence with his sister is limited to kareth and does not carry with it any lashes and therefore no exemption from the fine.

(27) Lit 'there is not to them'.

(28) Deut XXII, 28, 29.

(29) V. Glos.

(30) I.e., who had to leave her husband.

(31) Presumably with reference to Deut. XXII, 13ff.

Talmud - Mas. Kethuboth 36a

are really forbidden relations[1] and prohibitions of the second degree [are those relations which were forbidden] by the Rabbis?[2] Why should the latter not receive the fine since they are fit for him Biblically? — But, forbidden relations are those with regard to which one is liable to the penalty of death at the hand of the Court,[3] prohibitions of the second degree are those with regard to which there is kareth;[4] but in the case of prohibitions with regard to which one trespasses a plain prohibitory law,[5] they receive the fine. And whose opinion is it? [It is that of] Simeon the Temanite.[5] Some say: 'Forbidden relations' are those with regard to which one is liable to the penalty of death at the hand of the Court or kareth, 'prohibitions of the second degree are those with regard to which one transgresses a plain prohibitory law. Whose opinion is this? That of R. Simeon b. Menassia.[5]

[It is said above:][6] A woman who refuses her husband by mi'un has no claim to fine [for outrage] or to indemnity for seduction. But any other minor has a claim [to the fine]. Whose opinion would this be? That of the Rabbis, who say: A minor receives the fine.[7] Read now the other clause: 'A barren woman has no claim to fine [for outrage] or to indemnity for seduction'. This is according to R. Meir, who says: The minor does not receive the fine; and this one came from her state as minor into the state of womanhood.[8] The first clause would then be according to the Rabbis and the last clause according to R. Meir? And if you would say that all of it is according to R. Meir, but in the case of the woman who refuses her husband by mi'un he holds like R. Judah[9] — does he indeed hold the view [of R. Judah]? Has it not been taught: Until when can the daughter exercise the right of mi'un? Until she grows two hairs[10] — [these are] the words of R. Meir. R. Judah says: Until the black is more than the white?[11] — But it is according to R. Judah,[12] and with regard to a minor he holds like R. Meir,[13] But does he[14] hold this view?[15] Did not Rab Judah say [that] Rab said: ‘These are the words of R. Meir’?[16] Now if it had been so,[17] he ought to have said: ‘These are the words of R. Meir and R. Judah’? — This Tanna[18] holds according to R. Meir in one thing[19] and differs from him in one thing.[20] Rafram said: What is meant by ‘a woman who refuses her husband by mi'un’? One who is entitled to refuse.[21] Let him then teach[22] ‘a minor’? — This is indeed difficult.

[It is said above:] ‘A barren woman has no claim to fine [for outrage] or to indemnity for seduction . A contradiction was raised against this: A woman who is a deaf-mute, or an idiot, or barren, has a claim to fine [for outrage], and a suit can be brought [by her husband] against her concerning her virginity. What contradiction is there? The one [Baraitha][23] is according to R. Meir[24] and the other [Baraitha] is according to the Rabbis! But he who raised the questions how could he raise it at all?[25] — He wanted to raise another contradiction: Against a woman who is a deaf-mute, or an idiot, or has reached maturity,[26] or lost her virginity through an accident, no suit can be brought concerning her virginity; against a woman who is blind or barren, a suit can be brought concerning her virginity. Symmachus says in the name of R. Meir: Against a blind woman a suit cannot be brought concerning her virginity! — Said R. Shesheth: This is not difficult: the one [Baraitha] is according to R. Gamaliel and the other [Baraitha] is according to R. Joshua.[27] [But] say when does R. Gamaliel hold this view?[28] When she pleads;[29] but does he hold this view when she does not plead — Yes, since R. Gamaliel holds that she is believed, [we apply], in a case like this, [the verse], Open thy mouth for the dumb.[30]

‘And against a woman who has reached maturity, one cannot bring a suit concerning her virginity.’ Did not Rab say: To a woman who has reached maturity one gives the [whole] first night?[31]

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(1) Those forbidden in Lev. XVIII.

(2) Lit., ‘the Scribes’, v. Yeb. 21a.

(3) V. Lev. XX.

(4) v. Lev. XVIII.

(5) V. supra 29b.

(6) Supra 35b.

(7) V. supra 29a.

(8) Without having been in the state of na'arah, since she did not have the signs of maidenhood. And only a na'arah receives the fine.

(9) That a maiden can exercise the tight of mi'un, v. infra.

(10) The signs of puberty, i. e., as long as she is a minor.

(11) I. e., after she has reached the state of na'arah, the growth of the hair having advanced. This shews that R. Meir does not agree with R. Judah in the matter of mi'un.

(12) According to R. Judah the Baraitha can deal with a na'arah.

(13) That she has no claim to fine; hence the ruling with regard to a naturally barren woman, v. supra p. 195. n. 9,

(14) R. Judah.

(15) Of R. Meir.

(16) V. infra 40b.

(17) As it has just now been said.

(18) Of the Baraitha, cited supra.

(19) That a minor has no claim to fine.

(20) With regard to mi'un.

(21) I. e., a minor. The whole Baraitha would then be according to R. Meir.

(22) I. e., state expressly.

(23) The former Baraitha.
(24) That a minor has no claim and similarly a naturally barren woman. cf. n. 4.
(25) The answer being so obvious.
(26) A bogereth, v. Glos.
(27) V. supra 12b. According to R. Gamaliel's view, since the woman is believed on saying that she was violated after betrothal, in the case of a deaf-mute we admit this plea on her behalf and mutatis mutandis on the view of R. Joshua. v. infra.
(28) That she is believed.
(29) That she was forced after betrothal.
(30) Prov. XXXI, 8. I. e., the Court pleads what she could have pleaded.
(31) For intercourse. We assume that any bleeding that may proceed is not due to menstruation hut to virginity, V. Nid. 64b. And this would shew that she has virginity.

Talmud - Mas. Kethuboth 36b

— If he raises the complaint with regard to the bleeding,[1] it is really so;[2] here we treat of a case where he raises the complaint of the 'open door'.[3]

[It is said above:] 'Symmachus says in the name of R. Meir: Against a blind woman a suit cannot be brought concerning her virginity'. What is the reason of Symmachus? — R. Zera said: 'because she may have struck against the ground'.[4] All the others[5] may also have struck against the ground?[6] All the others see it[7] and show it to their mothers,[8] this one does not see it and does not shew it to her mother.[9]

[It is said above]:[10] 'And a woman who goes out because of an evil name has no claim to fine [for outrage] and to indemnity for seduction'. A woman who goes out because of an evil name is liable to be stoned?[11] — R. Shesheth said: He[12] means it thus: if an evil name has gone out concerning her in her childhood[13] she has no claim to fine [for outrage] or to indemnity for seduction. R. Papa said: Infer from this [that] one does not collect [a debt] with an unsound document. How shall we imagine this case? If to say that a rumour has gone out that the document is forged, and similarly here that a rumour has gone out that she has been unchaste? — Did not Raba say [that] if the rumour has gone out in the town [that] she is unchaste one does not pay any attention to it?[14] — But [the case is that] two [persons] came and said [that] she asked them to commit with her a transgression[15] and similarly here [that] two [persons] came and said [that] he[16] said to them: Forge me [the document]. It is all right there,[17] since there are many unrestrained men.[18] But here[19] — if he[20] has been established,[21] have [therefore] all Israelites been established?[22] — Here also, since he[23] was going round searching for a forgery, I can say [that] he [him. self] has forged it and written it.[24]

*MISHNAH. AND[25] IN THE FOLLOWING CASES NO FINE[26] IS INVOLVED: IF A MAN HAD INTERCOURSE WITH A FEMALE PROSELYTE, A FEMALE CAPTIVE OR A BONDWOMAN, WHO WAS RANSOMED, PROSELYTIZED OR MANUMITTED AFTER THE AGE OF[27] THREE YEARS AND A DAY.[28] R. JUDAH RULED: IF A FEMALE CAPTIVE WAS RANSOMED SHE IS DEEMED TO BE IN HER VIRGINITY[29] EVEN IF SHE BE OF AGE.

A MAN WHO HAD INTERCOURSE WITH HIS DAUGHTER. HIS DAUGHTER'S DAUGHTER, HIS SON'S DAUGHTER. HIS WIFE'S DAUGHTER. HER SON'S DAUGHTER OR HER DAUGHTER'S DAUGHTER INCURS NO FINE,[30] BECAUSE HE FORFEITS HIS LIFE, THE DEATH PENALTIES OF SUCH TRANSGRESSORS BEING[31] IN THE HANDS OF BETH DIN, AND HE WHO FORFEITS HIS LIFE PAYS NO MONETARY FINE FOR IT IS SAID IN SCRIPTURE, AND YET NO HARM FOLLOW HE SHALL BE SURELY FINED.[32]

GEMARA. R. Johanan said: Both R. Judah and R. Dosa taught the same thing. As to R. Judah [we have the ruling] just mentioned. As to R. Dosa? — It was taught: A female captive[33] may eat terumah;[34] so R. Dosa. 'What after all is it', said R. Dosa, 'that that Arab[35] has done to her? Has he rendered her unfit to be a priest's wife merely because he squeezed her between her breasts?'[36]

Said Raba:[37] Is it not possible that there is really no [agreement between them]?[38] R. Judah may have laid down his ruling[39] here[40] only in order that the sinner may gain no advantage,[41] but there[42] he may hold the same opinion as the Rabbis; is or else: [May not] R. Dosa have laid down his ruling[43] only there[44] [where it concerns] terumah which [at the present time is only] a Rabbinical enactment,[45] but in the case of a fine which is a Pentateuchal law[46] he may well hold the same view as the Rabbis?[47]

Abaye answered him: Is R. Judah's reason here[48] 'that the sinner may gain no advantage'? Surely it was taught: R. Judah ruled, 'If a female captive was ransomed[49] she is deemed to be in her virginity,[50] and even if she is ten years old her kethubah is two hundred[51] zuz'.[52] Now how[53] [could the reason] 'that the sinner shall gain no advantage' apply[54] there?[55] — There also [a good reason exists for R. Judah's ruling, since otherwise[56] men][57] would abstain from marrying her.[58]

Could R. Judah, however, maintain the view [that a female captive] retains the status of a virgin[59] when in fact, it was taught: A man who ransoms a female captive may marry her, but he who gives evidence on her behalf[60] may not marry her,[61] and R. Judah ruled: In either case he[61] may not marry her![62]

Is not this,[63] however, self-contradictory? You said, 'A man who ransoms a female captive may marry her', and then it is stated, 'He[64] who gives evidence on her behalf may not marry her'; shall he[65] not marry her [it may well be asked] because he gives also evidence on her behalf? — This is no difficulty. It is this that was meant: A man who ransoms a female captive and gives evidence on her behalf may marry her,[66] but he who merely gives evidence on her behalf may not marry her.[67]

In any case, however, does not the contradiction against R. Judah remain?[68] — R. Papa replied: Read, 'R. Judah ruled: In either case he may marry her'.

R. Huna the son of R. Joshua replied: [The reading may] still be as it was originally given,[69] but R. Judah was speaking to the Rabbis in accordance with their own ruling. 'According to my view[70] [he argued] the man may marry her in either case; but according to your view[71] it should have been laid down that in either case he may not marry her'.

And the Rabbis?[72] — 'A man who ransoms a captive and gives evidence on her behalf may marry her' because no one would throw money away for nothing,[73] but 'he who merely gives evidence on her behalf may not marry her' because he may have fallen in love with her.[74]

R. Papa b. Samuel pointed out the following contradiction to R. Joseph:

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(1) I. e., the lack of it.

(2) He is entitled to raise this complaint.

(3) V. supra 9a. This complaint cannot be raised against a bogereth.

(4) And thus lost her virginity.

(5) All other girls. Lit., 'all of them'.

(6) And yet a suit can be brought against them concerning their virginity.

(7) I. e., notice the accidental loss of their virginity.

(8) And it is known that the virginity is lost by accident and no claim arises concerning the virginity at their marriage. And if no accidental loss was made known the claim concerning virginity does arise.

(9) But the accidental loss may have happened all the same. Therefore there is no virginity claim against a blind woman.

(10) V. supra 35b. (*) The translation from here to the end of the Tractate is by the Rev. Dr. I. W. Slotki.
(11) Cf. Deut. XXII, 20, 21.
(12) The Tanna.
(13) Before she was betrothed.
(14) V. Git. 89b. And the same would apply to the document.
(15) To have intercourse with her.
(16) The alleged creditor.
(17) In the case of the woman.
(18) Since she solicited two men she might have solicited other men with more success.
(19) In the case of the document.
(20) The alleged creditor.
(21) As a forget.
(22) As forgers. He may therefore not have found men who would sign a forged document.
(23) The alleged creditor.
(24) I. e., forged the signatures of the witnesses.
(25) Cf. the previous Mishnah, supra 29a.
(26) Lit., ‘they have no fine’, sc. of fifty shekels. (cf. Deut. XXII, 29).
(27) Lit., ‘more than’.
(28) An age when intercourse is possible, and girls in the circumstances mentioned are likely to have succumbed to temptation or violence.
(29) Lit., ‘behold she is in her sanctity’.
(30) Lit., ‘they have no fine’.
(31) Lit., ‘because their death’.
(32) Ex. XXI, 22; from which it may be inferred that if ‘harm’ (i.e., death) follows no monetary fine is incurred.
(33) Who was the daughter or wife of a priest.
(34) Because she is not suspected of intercourse with her captors. A seduced or violated woman is regarded as a harlot who is forbidden to a priest (cf. Lev. XXI, 7) and is, therefore, also ineligible to eat terumah.
(35) Sc. her captor. Arabs were ill-famed for their carnal indulgence (v. Kid. 49b and Tosaf. s.v. וכי a.l.).
(36) Git. 81a; cf. ‘Ed’. III. 6. Captors. R. Dosa maintains, only play about with their captives but did not violate them.
(37) So MS.M. Cut. edd., ‘Rabbah’. Cf. Tosaf. supra 11a s.v. אביי and infra 37a s.v. אמר רבה.
(38) R. Judah and R. Dosa.
(39) That a ransomed captive retains the status of virgin and consequently is entitled to a fine from her seducer.
(40) In our Mishnah.
(41) By an exemption from the statutory fine (cf. supra p. 198. n. 16).
(42) In the case of terumah cited from Git. 81a. (15) That a female captive is forbidden to a priest and is ineligible to eat terumah.
(43) That a captive retains her status of chastity and may eat terumah if she is a priest's wife or daughter.
(44) V. p. 199, n. 14.
(45) Pentateuchally even a woman whose seduction was a certainty is permitted to eat such terumah. Hence no prohibition was imposed even in Rabbinic law where seduction is doubtful.
(46) And subject to greater restrictions.
(47) The first Tanna of our Mishnah.
(48) In our Mishnah.
(49) שנפדית, so MS.M. Cut. edd., שנשבית, ‘was taken captive’, is difficult.
(50) Cf. supra p. 199, n. 1.
(51) The statutory sum to which a virgin is entitled. A widow is entitled to one hundred zuz only.
(52) Tosef. Keth. III.
(53) Lit., ‘what’.
(54) Lit., ‘there is’.
(55) Where the husband had committed no sin. Now since this reason is here inapplicable and R. Judah nevertheless gives the captive the status of a virgin, it follows, as R. Johanan has laid down supra, that R. Judah maintains his view in all cases including., of course, that of terumah also.

(56) I. e., if the captive were only allowed a kethubah of one hundred zuz.

(57) On learning that her kethubah was not the one given to a virgin, and suspecting, therefore, that she had been seduced.

(58) As such a reason, however, is inapplicable to terumah R. Judah, as Raba had suggested. may well be of the same opinion as the Rabbis.

(59) Cf. supra p. 199, n. 1.

(60) That she had not been seduced.

(61) If he is a priest (cf. supra p. 199, n. 6).

(62) Tosef. Yeb. IV; which proves that a female captive does lose her status of virginity. How then could R. Judah maintain in our Mishnah and in the Baraitha cited from Tosef. Keth. III that she retains the status of a virgin?

(63) The Baraitha just cited from Tosef. Yeb.

(64) Implying presumably anyone. even the man who ransomed her.

(65) The man who ransomed the captive and who in such circumstances is permitted to marry her.

(66) Because no man would spend money on the ransom of a captive with the object of marrying her unless he was convinced of her chastity.

(67) In the absence of any special effort on his part to ransom the woman while she was captive he is suspected of tendering false evidence in a desire to gratify his passions.

(68) V. supra p. 200, n. 20.

(69) I. e., that R. Judah ruled: ‘He may not marry her’.

(70) That a captive retains her status of chastity.

(71) That a captive loses the status of a virgin.

(72) On what grounds do they draw a distinction between the man who ransoms a captive and the one who only tenders evidence in her favour?

(73) Cf. supra note 4.

(74) Lit., ‘put his eyes on her’. Cf. supra note 5.

Talmud - Mas. Kethuboth 37a

Could R. Judah hold the view that [a female captive] is deemed to have retained her virginity[1] when it was, in fact, taught. ‘If a woman proselyte discovered [some menstrual] blood[2] on [the day of] her conversion it is sufficient, R. Judah ruled, [to reckon her Levitical uncleanness from] the time she [discovered it].[3] R. Jose ruled: She is subject to the same laws[4] as all other women[5] and, therefore, causes uncleanness [retrospectively] for twenty-four hours,[6] or [for the period] intervening between[7] [her last] examination and[7] [her previous] examination.[8] She must also wait[9] three months;[10] so R. Judah. but R. Jose permits her to be betrothed and married at once’?[11] — The other replied: You are pointing out a contradiction between a proselyte and a captive [who belong to totally different categories, since] a proselyte does not protect her honour while a captive does protect her honour.

A contradiction, however, was also pointed out between two rulings in relation to a captive.[12] For it was taught: Proselytes,[13] captives[13] or slaves[13] who were ransomed, or proselytized. or were manumitted, must wait three months[14] if they were older than three years and one day; so R. Judah. R. Jose permits immediate betrothal and marriage.[15] [The other] remained silent. ‘Have you’. he said to him, ‘heard anything on the subject?’ — ‘Thus’, the former replied. ‘said R. Shesheth: [This is a case] where people saw that the captive was seduced’. If so[16] what could be R. Jose's reason? — Rabbah replied: R. Jose is of the opinion that a woman who plays the harlot makes use of an absorbent in order to prevent conception. This[17] is intelligible in the case of a proselyte, who, since her intention is to proselytize, is careful.[18] It[17] is likewise [intelligible in the case of] a captive [who is also careful][18] since she does not know whither they would take her.[19] It[17] is similarly [intelligible in the case of] a bondwoman [who might also be careful][18] when she hears from her master.[20] What, however, can be said in the case of one who is liberated on account of the loss of a tooth or an eye?[21] And were you to suggest that R. Jose did not speak[22] of an unexpected occurrence,[23] [it might be retorted,] there is the case of a woman who was outraged or seduced[24] which may happen unexpectedly and yet it was taught: A woman who has been outraged or seduced must wait three months; so R. Judah, but R. Jose permits immediate betrothal and marriage![25] — The fact, however, is, said Rabbah,[26] that R. Jose is of the opinion that a woman who plays the harlot turns over in order to prevent conception.[27] And the other?[28] — There is the apprehension that she might not have turned over properly.[29]

FOR IT IS SAID IN SCRIPTURE, AND YET NO HARM FOLLOW HE SHALL BE SURELY FINED etc. Is, however, the deduction[30] made from this text?[31] Is it not in fact made from the following text:[32] According to the measure of his crime,[33] [which implies][34] you make him liable to a penalty[35] for one crime, but you cannot make him liable [at the same time] for two crimes?[36] — One [text[37] deals] with [the penalties of] death and money and the other[38] with [the penalties of] flogging and money.

And [both texts[39] were] needed. For if we had been told [only of that which deals with the penalties of] death and money[37] it might have been assumed [that the restriction[40] applied only to the death penalty] because it involves loss of life,[41] but not [to the penalties of] flogging and money where no loss of life is involved. And if we had been told only of flogging and money[38] it might have been assumed [that the restriction[40] applied only to flogging] because the transgression for which flogging is inflicted[42] is not very grave,[43] but not [to the penalties of] death and money where the transgression for which the death penalty is imposed[42] is very grave.[44] [Hence it was] necessary [to have both texts].

According to R. Meir, however, who ruled: ‘A man may be flogged and also ordered to pay’.[45] what need was there for the two texts?[46] — One[47] deals with the penalties of death and money

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(1) Cf. supra p. 199. n. 1.

(2) Only the menstrual blood of an Israelite woman or of one who was converted to the Jewish faith causes Levitical uncleanness.

(3) I. e., only such objects are deemed to be Levitically unclean as have been touched by her after, but not before her discovery.

(4) Lit., ‘behold she’.

(5) Of the Jewish faith.

(6) מעת לעת, lit., ‘from time to time’.

(7) Lit., ‘from . . . to’.

(8) Whichever period is the less; v. ‘Ed. I, 1

(9) After her conversion.

(10) Before she is permitted to marry. in order to make sure that she was not with child prior to her conversion.

(11) From which Baraitha it follows that R. Judah suspects illicit intercourse, contrary to the statement attributed to him in out Mishnah that a captive is presumed to protect her chastity.

(12) Lit., ‘captive on captive’.

(13) In the original the noun appears in the sing.

(14) Cf. notes 9 and 10 mutatis mutandis.

(15) V. l.c. n. 11.

(16) That there is definite evidence against her chastity.

(17) Rabbah's explanation.

(18) To have an absorbent in readiness in order to avoid conception and the mixing of legitimate, with illegitimate children. Lit ‘she protects herself’.

(19) She makes provision (cf. preceding note) against the possibility of being sold to an Israelite master who might set her free.

(20) Of her impending liberation.

(21) Cf. Ex. XXI, 26f. The bondwoman, surely, could not know beforehand that such an accident would occur.

(22) I. e., did not maintain his ruling that a period of three months must be allowed to pass.

(23) Lit., ‘of itself’, when, as in the case of the loss of a tooth or an eye. the woman was not likely to have been possessed of an absorbent.
(24) [Rashi does not seem to have read ‘seduced’ which appears here irrelevant; v. marginal Glosses.]
(25) Which shows that even when the unexpected happens R. Jose requires no waiting period.
(26) The reading in the parallel passage (Yeb. 35a) is ‘Abaye’.
(27) No absorbent is needed. Similarly in the case of a liberated captive or slave. Hence the ruling of R. Jose that no waiting period is required.
(28) Why does he require a waiting period.
(29) And conception might have taken place.
(30) That one who suffers the death penalty is exempt from a monetary fine.
(31) Lit., ‘from here’ sc. Ex XXI, 22, cited in our Mishnah.
(32) Lit., ‘from there’.
(33) Deut. XXV, 2, A.V. ‘fault’, R.V. ‘wickedness’.
(34) Since the text makes use of the sing.
(35) Flogging, spoken of in the text cited.
(36) By the imposition of two forms of punishment. V. supra 32b and B.K. 83b, Mak. 4b, 13b.
(37) Deut. XXI, 22.
(38) Deut. XXV, 2.
(39) V. preceding notes.
(40) To one penalty.
(41) The punishment being so severe it alone is sufficient.
(42) Lit., ‘its transgression’.
(43) It is sufficient, therefore, if only one penalty is inflicted.
(44) And two penalties might well have been regarded as a proper measure of justice.
(45) Supra 33b. The second text, therefore, cannot be applied as suggested.
(46) V. supra notes 6 and 7.
(47) Deut. XXI, 22.

Talmud - Mas. Kethuboth 37b

and the other[1] with those of death and flogging. And [both texts were] needed. For if we had been told [only of that which deals with the penalties of] death and money it might have been assumed [that the restriction[2] applied to these two penalties only] because we must not inflict one penalty upon one's body and another upon one's possessions, but in the case of death and flogging, both of which are inflicted on one's body, it might have been assumed [that the flogging] is deemed to be [but] one pro tracted death penalty and both may, therefore, be inflicted upon one man.[3] And if we had been told about death and flogging only [the restriction[4] might have been assumed to apply to these penalties only] because no two corporal punishments may be inflicted on the same person, but in the case of the penalties of death and money one of which is corporal and the other monetary it might have been assumed that both may be inflicted.[5] [Both texts were, therefore,] necessary.

What need was there[6] for the Scriptural text, Moreover ye shall take no ransom for the life of a murderer?[7] — The All-Merciful has here stated: You shall take no monetary fine from him and thus exempt him from the death penalty.

What was the need[8] for the Scriptural text, And ye shall take no ransom for him that is fled to his city of refuge’?[9] — The All-Merciful has here stated: You shall take no monetary fine from him to exempt him from exile.[10]

But why two texts?[11] — One deals with unwitting, and the other with intentional [murder]. And [both texts] were required. For if we had been told[12] of intentional murder[13] only it might have been assumed [that the restriction[12] applied to this case only], because the transgression for which death is inflicted[14] is grave,[15] but not to the one of unintentional murder where the transgression is not so grave. And if we had been told[16] of unintentional murder is only it might have been assumed [that the restriction[16] applied to this case only] because no loss of life is involved,[17] but not to intentional murder where a loss of life[18] is involved.[19] [Both texts were consequently] required.

What was the object[20] of the Scriptural text, And no expiation can be made for the land for the blood that is shed therein, but by the blood of him that shed it?[21] — It was required for [the following deduction] as it was taught: Whence is it deduced that, if the murderer has been discovered after the heifer's neck had been broken,[22] he is not to be acquitted?[23] From the Scriptural text, ‘And no expiation can be made for the land for the blood that is shed therein etc.’[24]

Then what was the need[25] for the text, So shalt thou put away the innocent blood front the midst of thee?[26] — It is required for [the following deduction] as it was taught: Whence is it deduced that execution by the sword[27] must be at the neck? It was explicitly stated in Scripture, ‘So shalt thou put away the innocent blood from the midst of thee’, all who shed blood are compared to the atoning heifer:[28] As its head is cut[29] at the neck[30] so [is the execution of] those who shed blood at the neck.[31] If [so, should not the comparison be carried further]: As there[32] [its head is cut] with an axe and at the nape of the neck so here[33] too? — R. Nahman answered in the name of Rabbah b. Abbuha: Scripture said, But thou shalt love thy neighbour as thyself,[34] choose for him an easy death.[35]

What need was there[36] for the Scriptural text, None devoted, that may be devoted of men, shall be ransomed?[37] — It is required for [the following] as it was taught: Whence is it deduced that, when a person was being led to his execution,[38] and someone said, ‘I vow to give his value[39] [to the Temple].’ his vow is null and void?[40] [From Scripture] wherein it is said, ‘None devoted, that may be devoted of man, shall be redeemed’.[41] As it might [have been presumed that the same law applied] even before his sentence had been pronounced[42] it was explicitly stated: ‘Of men’,[43] but not ‘all men’.[44]

According to R. Hanania b. ‘Akabia, however, who ruled that the [age] value of such a person[45] may be vowed[46] because its price is fixed,[47] what deduction does he[48] make from the text of ‘None devoted’?[49] — He requires it for [the following deduction] as it was taught: R. Ishmael the son of R. Johanan b. Beroka said, Whereas we find that those who incur the penalty of death at the hand of heaven[50] may pay a monetary fine and thereby obtain atonement, for it is said in Scripture, If there be laid down on him a sum of money,[51] it might [have been assumed that] the same law applied also [to those who are sentenced to death] at the hands of men,[52] hence it was explicitly stated in the Scriptures. ‘None . . . devoted[53] of men shall be redeemed’. Thus we know the law only concerning[54] severe death penalties[55] since [they are imposed for offences] which cannot be atoned for[56] if committed unwittingly;[57] whence, [however. is it inferred that the same law applies also to] lighter death penalties[58] seeing that [they are for offences] that may be atoned for[59] if committed unwittingly?[60] It was explicitly stated in Scripture, ‘None devoted’.[61] But could not this[62] be inferred independently from Ye shall take no ransom[63] which implies: You shall take no money from him to exempt him [from death]?[64] What need was there for ‘None devoted’? — Rami b. Hama replied: It was required. Since it might have been assumed

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(1) Deut. XXV, 2.

(2) To one penalty.

(3) Lit., ‘and we shall do on him’.

(4) To one penalty.

(5) V. note 1.

(6) Since it has been laid down that no monetary fine may be imposed upon one who suffers the death penalty.

(7) Num. XXXV, 31. It is now assumed that כופר, (E.V. ransom) signified ‘a monetary fine’ that is imposed upon the murderer in addition to his major penalty.

(8) Since no monetary fine may be imposed upon one who is flogged, much less upon one who must flee to a city of refuge. Alter: Since a monetary fine is not imposed upon a murderer. Cf. תוספות ישנים and Tosaf. s.v. לא a.l.
(9) Num. XXXV, 32. Cf. supra n. 3.
(10) Sc. the fleeing to a city of refuge.
(11) Num. XXXV, 31 (death and money) and ibid. 32 (exile and money). As both deal with murder, could not the lesson of the one be deduced from the other?
(12) That no ransom may be substituted for the death penalty.
(13) Num. XXXV, 31.
(14) Lit., ‘its transgression’.
(15) And a monetary fine is no adequate punishment.
(16) Cf. supra note 10, mutatis mutandis. (15) Num. XXXV, 32.
(17) The murderer's punishment being exile only.
(18) The penalty being death.
(19) And it might have been presumed that in order to save a human life ransom was allowed to be substituted.
(20) In view of Num. XXXV, 31 which forbids ransom to he substituted for capital punishment.
(21) Num. XXXV, 33.
(22) V. Deut. XXI, 1ff.
(23) Though the heifer atones for the people if the murderer is unknown.
(24) V. Sot. 47b.
(25) In view of the text of Num. XXXV. 33 and the deduction just made.
(26) Deut. XXI, 9, forming the conclusion of the section dealing with the ceremony of the ‘atoning heifer’ (v. note 12).
(27) Lit., ‘those executed by the sword’.
(28) יכלה ערופה, lit., ‘the heifer whose neck was broken’.
(29) Lit., ‘there’.
(30) V. Deut. XXI, 4.
(31) Sanh. 52b.
(32) In the case of the atoning heifer.
(33) The execution of a murderer.
(34) Lev. XIX, 18.
(35) Pes. 75a, Sanh. 52b and 45a.
(36) Cf. supra note 9.
(37) The conclusion is He shall surely be put to death. Lev. XXVII, 29.
(38) Lit., ‘goes out to be killed’.
(39) Lit., ‘his valuation upon me’. Cf Lev. XXVII, 2ff.
(40) Lit., ‘he said nothing’.
(41) Since his life is forfeited his value is nil.
(42) Lit., ‘his judgment was concluded’.
(43) I. e., ‘a part of a man’, ‘an incomplete one’, viz. one sentenced to death.
(44) I. e., ‘a full man’, ‘one whose life is still in his own hands’, viz. a man still on trial before his sentence of death has been pronounced.
(45) Who ‘was led to his execution’.
(46) Lit., ‘he is valued’, if the person who made the vow used the expression, ‘I vow his value’ not ‘his life’.
(47) In Lev. XXVII. Though his forfeited life has no value, his ace (according to Lev. XXVII, 3-7) has a fixed legal value; and the vow, since it did not refer to his life but his value, is interpreted in the Biblical sense and is consequently valid. V. ‘Ar. 7b.
(48) Who does not apply it to a condemned man.
(49) Lit , ‘that . . . what does he do to it?’
(50) Offenders who ate not subject to the jurisdiction of a court of law’ (v. Sanh. 15b).
(51) Ex. XXI. 30.
(52) Sc. by a sentence of a criminal court.
(53) חרם denotes dedication, excommunication and also condemnation to destruction or death.
(54) Lit., ‘there is not to me but’, ‘I have only’.

(55) For offences committed intentionally.
(56) By a sacrifice.
(57) E.g. wounding one's father or stealing a man (V. Ex. XXI, 15f).
(58) If they were committed intentionally.
(59) By a sacrifice.
(60) E.g., idolatry or adultery.
(61) ‘Ar. 7b.
(62) That no ransom may be substituted for the death penalty even in the cases of lighter death penalties.
(63) Num. XXXV, 31.
(64) The death penalty for murder is considered of a lighter character since, the crime, if committed unwittingly, is atoned for by exile.

Talmud - Mas. Kethuboth 38a

that this applied only where murder had been committed[1] in the course of an upward movement,[2] because no atonement[3] is allowed when such an act[4] was committed unwittingly.[5] but that where murder was committed in the course of a downward movement,[2] which [is an offence that] may be atoned for[3] if committed unwittingly,[5] a monetary fine may be received from him and thereby he may be exempted [from the death penalty]. Hence we were taught[6] [that in no circumstances may the death penalty be commuted for a monetary fine].

Said Raba to him,[7] Does not this[8] follow from what a Tanna of the School of Hezekiah [taught]; for a Tanna of the School of Hezekiah taught: He that smiteth a man[9] [was placed in juxtaposition with] And he that smiteth a beast[9] [to indicate that just] as in the case of the killing of[10] a beast no distinction is made whether [the act was] unwitting or presumptuous, whether intentional or unintentional, whether it was performed in the course of a down ward movement or in the course of an upward movement, in respect of exempting him from a monetary obligation[11] but in respect of imposing a monetary obligation[12] upon him,[13] so also in the case of the killing of[14] a man no distinction is to be made whether [the act was] unwitting or presumptuous. whether intentional or unintentional, whether it was performed in the course of a downward movement or in the course of an upward movement, in respect of imposing upon him a monetary obligation[15] but[16] in respect of exempting him from any monetary obligation?[17] — But, said Rami b. Hama, [one of the texts[18] was] required [to obviate the following assumption]: It might have been presumed that this[19] applied only where a man blinded another man's eye and thereby killed him, but that where he blinded his eye and killed him[20] by another act a monetary fine must be exacted from him.[21]

Said Raba to him:[22] Is not this[23] also deduced from [the statement of] another Tanna of the School of Hezekiah; for a Tanna of the School of Hezekiah [taught:] Eye for eye[24] [implies] but not an eye[25] and a life for an eye?[26] — [This]. however, [is the explanation], said R. Ashi: [One of the texts[27] was] required [to obviate the following assumption]: It might have been presumed that since the law of a monetary fine is an anomaly[28] which the Torah has introduced, a man must pay it even though he also suffers the death penalty. Hence we were told[29] [that even a monetary fine may not be imposed in addition to a death penalty].

But according to Rabbah, who said that it is an anomaly[28] that the Torah has introduced by the enactment of the law of a monetary fine [and that therefore an offender][30] must pay his fine even though he is also to be killed,[31] what application can be made of the text ‘None devoted. . .’?[32] — He[33] holds the view of the first Tanna who [is in dispute with] R. Hanania b. ‘Akabia.[34] MISHNAH. A GIRL[35] WHO WAS BETROTHED AND THEN DIVORCED[36] IS NOT ENTITLED, SAID R. JOSE THE GALILEAN, TO RECEIVE A FINE [FROM HER VIOLATOR].[37] R. AKIBA SAID: SHE IS ENTITLED TO RECEIVE THE FINE AND, MOREOVER, THE FINE BELONGS TO HER.[38]

GEMARA. What is R. Jose the Galilean's reason?[39] — Scripture said, That is not betrothed[40] [is entitled to a fine],[41] one, therefore, who was betrothed is not entitled to a fine. And R. Akiba?[42] — [In the case of a girl] that is not betrothed [the fine is given] to her father but if she Was betrothed [the fine is given] to herself.

Now then, [the expression,] A damsel[43] [implies] but not one who is adolescent;[44] could it here also[45] [be maintained] that [the fine is given] to herself?[46] [Likewise the expression] virgin[47] [implies] but not one who is no longer a virgin; would it here also[48] [be maintained] that [the fine is given] to herself?[46] Must it not consequently be admitted[48] [that the exclusion in the last mentioned case] is complete,[49] and so here also[50] it must be complete?[51] — R. Akiba can answer you: The text of[52] ‘Not betrothed’ is required for [another purpose].[53] as it was taught: ‘That is not. betrothed’ excludes a girl[54] that was betrothed and then divorced who has no claim to a fine; so R. Jose the Galilean. R. Akiba, however, ruled: She has a claim to a fine and her fine [is given] to her father.[55] This[56] is arrived at by analogy: Since her father is entitled to have the money of her betrothal[57] and he is also entitled to have the money of her fine[58] [the two payments should be compared to one another]: As the money of her betrothal[59] belongs to her father even after she had been betrothed[60] and divorced,[61] so also the money of her fine should belong to her father even after she had been betrothed and divorced. If so[62] what was the object of the Scriptural text, ‘That is not betrothed’? It is free for the purpose of a comparison with it and an inference from it by means of a gezerah shawah.’[63] Here[64] it is said, ‘That is not betrothed’ and elsewhere[65] it is said, That is not betrothed,[66] as here[67] [the fine is that of] fifty [silver coins][68] so is it fifty [silver coins] there[65] also; and as there[65] [the coins must be] shekels[69] so here[67] also they must be shekels.

What, however, moved[70] R. Akiba [to apply the text] of ‘That is not betrothed’[71] for a gezerah shawah and that of ‘Virgin’ for the exclusion[72] of one who was no longer a virgin?

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(1) Intentionally. Lit., ‘he killed him’.

(2) Of the hand, body or instrument.

(3) By exile.

(4) Murder in the course of an upward movement of the hand or body.

(5) V. Mak. 7b.

(6) By the text, ‘None devoted’ from which deduction was made supra.

(7) Rami b. Hama.

(8) The deduction from ‘None devoted’ that, in the case of murder, the death penalty may not be commuted for a monetary fine irrespective of whether the offence had been committed in the course of an upward. or downward movement.

(9) Lev. XXIV, 21.

(10) Lit., ‘he who kills’.

(11) Which in relation to the beast was not spoken of in the text of Lev. XXIV, 21.

(12) Which was spoken of in the text ibid.

(13) I. e., the man who killed the beast must in all cases mentioned pay compensation, and under no circumstance may he evade payment.

(14) Lit., ‘he too kills’.

(15) Of which, in respect of murder, Lev. XXIV, 21 does not speak.

(16) Since the text (Lev. XXIV, 21) speaks of the death penalty as the only punishment for murder.

(17) V. supra 35a, B.K. 35a, Sanh. 79b. This shows that no distinction is made in the case of murder between a downward movement or an upward movement, but in every case no money payment can be imposed in addition to the major punishment. And the same principle must apply to the non-acceptance of a ransom in substitution for the death penalty. What need was there then for the text of ‘None devoted’ (cf. supra p. 208, n. 16)?

(18) Either ‘None devoted’ or ‘He that smiteth’ (cf. Rashi).

(19) That no monetary penalty may be imposed upon one who is to suffer the death penalty.

(20) Simultaneously (v. Rashi).

(21) As compensation for the eye, in addition to the death penalty for murder. [For the obvious difficulty involved in this reply of Rami b. Hama, which apparently is intended to explain the purpose of the verse ‘none devoted’ according to R. Ishmael b. R. Johanan b. Beroka; v. p. 210, n. 9.]

(22) Rami b. Hama.

(23) That for blinding an eye and thereby killing the man no monetary fine may be imposed in addition to the death penalty.

(24) Ex. XXI, 24.

(25) I. e., compensation for the loss of an eye.

(26) [From this is derived that the Law could not mean actual retaliation, as there was always the danger of loss of life to the offender while not an eye and life for a life (Tosaf.)]. B.K. 84a. The deduction from ‘He that smiteth’ since it is not needed for this case, must consequently apply to that ‘when Be Blinded his eye and killed him By another act’; and the question arises again: What need was there for one or for the other of the two previously cited texts (v. supra p. 209. n. 8)?

(27) V. supra p. 209. n. 8.

(28) חידוש, lit., ‘an innovation’ sc. different from other laws. In many instances it cannot be justified on logical grounds and can only be accepted as a divine law the reason for which is beyond human comprehension.

(29) By means of one of the two texts (v. supra p. 209. n. 8) which is not required in respect of ordinary monetary payments.

(30) If his offence warrants it.

(31) Supra 34b, 3 5b.

(32) Which, according to his view . Is not required to exclude the case just mentioned (cf. supra n. 4).

(33) Rabbah.

(34) Supra 37b where deduction is made from this text that a vow to give to the Temple the value of a person who was led to his execution, is null and void. [The whole passage is extremely difficult; v. Tosaf. The main difficulty is presented by the second answer of Ram B. Hama. (v. p. 209 , n. 11). The following may be offered in explanation: To revert to the very beginning of the discussion the Talmud, assuming that the verse ‘you shall take no fine’ denotes that no money payment is to be imposed in addition to a death penalty, asked, what need was there for this verse, in view of the verse ‘and yet no harm follow’ (v. p. 205). There upon follows the reply that this verse meant to exclude the commutation of the death penalty for money payment. Then the question arises, what need was there for R. Ishmael b. R. Johanan b. Beroka to resort, for what practically amounts to the same ruling, to the verse ‘None devoted’? To this Rami b. Hama in his first reply, answers that he needed this latter verse in the case where the murder was committed in a downward course. This reply, however, is rebutted by Raba, as such a contingency is already provided for in the verse ‘he that smiteth etc.’ This forces Rami b Hama to fall back on the original assumption that the verse ‘you shall take no ransom’ comes to teach that no money payment may be imposed in addition to the death penalty; and as to the very first question, what need is there, in view of the verse ‘and yet no harm shall follow’ for two verses to teach the same thing? — the reply is: it is necessary to provide for a case where the blinding and the killing result from two separate blows. Raba, however, objected that this contingency too was already provided for. Hence R. Ashi's reply, that the extra verse was required to ‘extend the rule to the case of a fine (v. Shittah Mekubbezeth. a.l.). This answer, however, the Talmud did not regard as satisfactory according to Rabbah, who held that a fine may be imposed in addition to the death penalty. On his view the verse ‘you shall take no ransom’ cannot be taken as referring to the imposition of a money payment in addition to the death penalty. Consequently, he would be forced back on the alternative explanation that it serves to teach that no death penalty may be commuted for money payment and thus the question of supra p. 208 ‘what need is there of "None devoted"’ remains. To this the answer is, that Rabbah would agree with the first Tanna who is in dispute with R. Hanania b. ‘Akabia].

(35) Na'arah, v. Glos

(36) Had she not been divorced, the offender is put to death and there is consequently no fine.

(37) V. Deut. XXII, 29. The reason is stated infra.

(38) Not to her father.

(39) For his ruling in our Mishnah.

(40) Deut. XXII, 28.

(41) The man . . . shall give . . . fifty shekels (ibid. 29).

(42) How, in view of the Scriptural text cited, can he maintain that SHE IS ENTITLED TO RECEIVE THE FINE?
(43) Deut. XXII, 28, Heb. na'arah.
(44) A bogereth (v. Glos).
(45) Since R. Akiba laid down that the exclusion of a fine that was implied by the text of ‘not betrothed’ is restricted to the girl's father but that the girl herself is still entitled to it.
(46) But this is absurd, since no such law is anywhere to be found.
(47) Deut. XXII, 28.
(48) Lit., ‘but’.
(49) I. e., no fine is paid either to the girl or to Bet father.
(50) The exclusion of which R. Jose the Galilean has spoken.
(51) The previous objection against R. Akiba's ruling (cf. supra p. 211, n. 8) thus arises again.
(52) Lit., ‘that’.
(53) And is consequently not available for the deduction made by R. Jose the Galilean.
(54) V. supra p. 211, n. 1.
(55) The contradiction between this ruling of R. Akiba and Bis ruling in out Mishnah is discussed infro.
(56) That she is entitled to the fine even after she had been betrothed.
(57) V. infra 46b.
(58) V. Deut. XXII, 29.
(59) I. e., a second betrothal while she was still a damsel (na'arah). V. supra p. 211, n. 1.
(60) To one man.
(61) From him and then betrothed to the other man.
(62) If one who was betrothed and divorced is also entitled to a fine.
(63) V. Glos.
(64) In the case of an outrage.
(65) In the case of seduction.
(66) Ex. XXII, 15.
(67) In the case of an outrage.
(68) V Deut. XXII, 29.
(69) שקלים. The text (Ex. XXII, 16) reads ישקל (lit., ‘shall weigh’, E.V. pay) which is of the same rt. as שקל (shekel).
(70) Lit., ‘you saw’.
(71) Deut. XXII, 28.
(72) From the tight to a fine.

Talmud - Mas. Kethuboth 38b

Might [not one equally well] suggest that ‘Virgin’ should be applied for the gezerah shawah[1] and ‘That is not betrothed’ [should serve the purpose of] excluding[2] a girl[3] that was betrothed and divorced? — It stands to reason [that the text of] ‘That is not betrothed’ should be employed for the gezerah shawah,[4] since such a girl[3] is still[5] designated. A damsel that is a virgin.[6] On the contrary; [should not the expression of] ‘Virgin’ be applied for the gezerah shawah, since [a non-virgin] may still be described as one ‘That is not betrothed’?[7] — It stands to reason [that R. Akiba's first view[8] is to be preferred, since] the body of the one[9] had undergone a change while that of the other[10] had not.[11]

As to R. Jose the Galilean,[12] whence does he draw that logical inference?[13] — He derives it from the following where it was taught: He shall pay money according to the dowry of virgins[14] [implies] that this [payment] shall be the same sum as the dowry of the virgins and the dowry[15] of the virgins shall be the same as this.[16]

Does not a contradiction arise between the two statements of R. Akiba?[17] — [The respective statements represent the opinions of] two Tannaim who differ as to what was the ruling of R. Akiba.

[The ruling of] R. Akiba in our Mishnah presents no difficulty since the gezerah shawah does not altogether deprive the Scriptural text of its ordinary meaning.[18] According to R. Akiba's ruling in the Baraitha, however, does not the gezerah shawah completely deprive the Scriptural text of its ordinary meaning?[19] — R. Nahman b. Isaac replied. Read in the text:[20] That is not a betrothed maiden.[21] [But] is not a betrothed maiden one [for the violation of whom] the penalty of stoning [but not fine] is incurred?[22] — It might have been assumed that, since it is an anomaly[23] that the Torah had introduced by the enactment of the law of a monetary fine, an offender[24] must, therefore, pay his fine even if he is also to be executed.[25] According to Rabbah, however, who said that it was an anomaly[23] that the Torah had introduced by the' enactment of the law of a monetary fine and that an offender[24] must pay his fine even if he is also to be executed,[26] what can be said [in reply to the objection raised]?[27] — He[28] adopts the same view as that of R. Akiba in our Mishnah.[29]

Our Rabbis taught: To whom is the monetary fine [of an outraged virgin[30] to be given]? — To her father. Others say: To herself. But why ‘to herself’?[31] — R. Hisda replied: We are dealing here with the case of a virgin who was once betrothed and is now divorced, and they[32] differ on the principles underlying the difference between the view of R. Akiba in our Mishnah and his view in the Baraitha.

Abaye stated: If he[33] had intercourse with her and she died,[34] he is exempt [from the fine], for in Scripture it was stated, Then the man . . . shall give unto the damsel's father,[35] but not unto a dead woman's father.[36]

This ruling which was so obvious to Abaye formed the subject of an enquiry by Raba.[37] For Raba enquired: Is the state of adolescence legally attainable in the grave[38] or not? ‘Is the state of adolescence attainable in the grave and [the fine,[35] therefore,] belongs to her son,[39] or is perhaps the age of adolescence not attainable in the grave and [the fine, therefore,] belongs to her father?

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(1) And not, as has been said, to exclude a non-virgin from her tight to the fine.

(2) From the tight to a fine.

(3) A na'arah.

(4) So that even a girl (na'arah) who was once betrothed and divorced should be entitled to the fine.

(5) Despite Bet Betrothal and divorce.

(6) Hence it is quite reasonable that her right to the fine shall not be lost. A non-virgin however, who is not described as ‘a damsel that is a virgin’ justly loses her tight to the fine.

(7) While a na'arah that was once betrothed and divorced and cannot so be described should not be entitled to the fine.

(8) That a na'arah that was once betrothed and divorced is entitled to the fine and that a non-virgin is not.

(9) The non-virgin.

(10) Who was betrothed and divorced.

(11) Cf. supra note 14.

(12) Who, unlike R. Akiba, does not use the expression of ‘That is not betrothed’ for a gezerah shawah

(13) Stated supra 38a ad fin., that a fine of fifty shekel is to be paid both in the case of seduction and that of violation.

(14) Ex. XXII, 16, the case of seduction

(15) Viz. fifty, as specified in Deut. XXII. 29

(16) Shekels, as implied from Ex. XXII, 16 (cf. supra p. 213. n. 5).

(17) In out Mishnah he laid down that the fine BELONGS TO HER while in the Baraitha (supra 38a) he maintains that it ‘is shawah to her father’.

(18) Because in addition to the deduction of the gezerah shawah, the ordinary meaning of the text. viz. that if the ‘damsel . . . is not betrothed’ the fine is given ‘unto the damsel's father’ but if she was once betrothed it ‘BELONGS TO HER’, is also in agreement with the law.

(19) The implication of the ordinary meaning being that if the damsel vas betrothed the fine is paid not to her father but to herself (cf. supra note 4.) while according to R. Akiba it ‘is given to her father’ irrespective of whether she was, or was not betrothed.

(20) Deut. XXII. 28.

(21) Thus excluding one formerly betrothed but now divorced. The consonants of the original ארשה (Aram. ארסה) may be read as ארשה (as M.T.) ‘was betrothed’ as well as ארשה ‘one who is betrothed’.

(22) Since no monetary fine may be imposed in addition to the penalty of death. What need then was there a for a Scriptural text to teach the same law?

(23) Cf. supra p. 210, n. 3.

(24) If his crime warrants it.

(25) Hence the necessity in this case for the additional Scriptural text.

(26) Supra 34a, 35b, 38a.

(27) Cf. supra p. 214, n. 5. The reply given by R. Nahman b. Isaac supra — that the offence referred to in the text is against one who was still betrothed and that the implication is that the offender, because he is suffering the penalty of death, is exempt from the monetary fine — is untenable; since, according to Rabbah, such an offender incurs both penalties.

(28) Rabbah.

(29) Which, as stated supra, does not ‘deprive the Scriptural test of its ordinary meaning’.

(30) This is now assumed to mean a virgin ‘that is not betrothed’ who is spoken of in Deut. XXII. 28f.

(31) The Scriptural text, surely, lays down that the fine is to be given ‘Unto the damsel's father’.

(32) The respective authors of the two opinions expressed in the last cited Baraitha.

(33) The offender spoken of in Deut. XXII, 28f.

(34) Before he was brought to trial.

(35) Deut. XXII, 29.

(36) V. supra 29b.

(37) V. infra p. 217, n. 10 final clause.

(38) In the case of a virgin who was violated while she was a na'arah (v. Glos) and died a na'arah but whose violator was not brought to trial until sometime later when the girl, had she been alive, would have attained the state of bagruth; (v. Glos).

(39) If she had one. As the fine would have been payable to her and not to her father if she had been alive (v. infra 41b) so it is now payable to her son who is her legal heir.

Talmud - Mas. Kethuboth 39a

But is she,[1] however, capable of [normal] conception?[2] Did not R. Bibi recite in the presence of R. Nahman:[3] Three [categories of] women may use an absorbent[4] in their marital intercourse:[5] a minor, and an expectant and nursing mother. The minor,[6] because otherwise she might become pregnant and die. An expectant mother,[6] because otherwise she might cause her foetus to degenerate into a sandal.[7] A nursing mother,[6] because otherwise she might have to wean her child [prematurely][8] and this would result in his death.[9] And what is [the age of such] a minor?[10] From the age of eleven years and one day to the age of twelve years and one day. One who is under,[11] or over this age[12] must carry on her marital intercourse in a normal manner; so R. Meir. But the Sages said: The one as well as the other carries on her marital intercourse in a normal manner, and mercy[13] will be vouchsafed from Heaven, for it is said in the Scriptures, The Lord preserveth the simple.[14] And should you reply that this is a case where she conceived when she was a na'arah and gave birth to a child when she was still a na'arah [it could be objected:] Does one give birth to a child within six months [after conception]? Did not Samuel, in fact, state: The period between the age of na'aruth[15] and that of bagruth[16] is only six months? And should you suggest [that he meant to say] that there were no less but more [than six months] surely [it could be retorted] he used the expression. only’![17] It must be this, then, that he[18] asked: Is the state of adolescence[19] attainable in the grave[20] and her father consequently forfeits[21] [his right],[22] or is perhaps the state of adolescence not attainable in the grave[23] and the father, therefore, does not forfeit[24] [his right]?

Mar son of R. Ashi raised the question[25] in the following manner: Does death effect adolescence[26] or not? — The question stands undecided.[27]

Raba enquired of Abaye: What [is the legal position if] he[28] had intercourse and became betrothed?[29] The other replied: Is it written in Scripture. 'Then the man . . . shall give unto the father of the damsel[30] who was not a betrothed woman'?[31] Following, however, your line of reasoning, [the first retorted, one can argue in respect] of what was taught: '[If the offender had] intercourse with her and she married [the fine] belongs to herself', is it written in Scripture. 'Then the man . . . shall give unto the father of the damsel[32] who was not a married woman'? — What a comparison![33] There[34] [the following analogy may well be made]: Since the state of adolescence liberates a daughter from her father's authority[35] and marriage also liberates a daughter from her father's authority[36] [the two may be compared to one another]: As [in the case of] adolescence, if she attains adolescence after he had intercourse with her,[37] [the fine] belongs to the girl herself,[38] so also [in the case of] marriage, if she married after he had intercourse with her,[37] [the fine] belongs to the girl herself. But as to betrothal, does it completely liberate a daughter from her father's authority? Surely we learned: [In the case of] a betrothed girl[39] her father and her husband jointly may invalidate her vows.[40]

MISHNAH. THE SEDUCER PAYS THREE FORMS [OF COMPENSATION] AND THE VIOLATOR FOUR. THE SEDUCER PAYS COMPENSATION FOR INDIGNITY AND BLEMISH[41] AND THE [STATUTORY] FINE, WHITE THE VIOLATOR PAYS AN ADDITIONAL [FORM OF COMPENSATION] IN THAT HE PAYS FOR THE PAIN.

WHAT [IS THE DIFFERENCE] BETWEEN [THE PENALTIES OF] A SEDUCER AND THOSE OF A VIOLATOR? THE VIOLATOR PAYS COMPENSATION FOR THE PAIN BUT THE SEDUCER DOES NOT PAY COMPENSATION FOR THE PAIN. THE VIOLATOR PAYS[42] FORTHWITH[43] BUT THE SEDUCER [PAYS ONLY] IF HE DISMISSES[44] HER. THE VIOLATOR MUST DRINK OUT OF HIS POT[45] BUT THE SEDUCER MAY DISMISS [THE GIRL] IF HE WISHES. WHAT IS MEANT BY[46] 'MUST DRINK OUT OF HIS POT'? — EVEN IF SHE IS LAME, EVEN IF SHE IS BLIND AND EVEN IF SHE IS AFFLICTED WITH BOILS [HE MAY NOT DISMISS HER]. IF, HOWEVER, SHE WAS FOUND TO HAVE COMMITTED[47] AN IMMORAL ACT OR WAS UNFIT TO MARRY AN ISRAELITE[48] HE MAY NOT CONTINUE TO LIVE WITH HER, FOR IT IS SAID IN SCRIPTURE, AND UNTO HIM SHE SHALL BE FOR A WIFE,[49] [IMPLYING] A WIFE THAT IS FIT 'UNTO HIM

GEMARA. [For the] PAIN of what?[50] — The father of Samuel replied: For the pain [he has inflicted] when he thrust her upon the ground.

R. Zera demurred: Now then, if he had thrust her upon silk stuffs[51] would he for a similar reason[52] be exempt? And should you say that the law is so indeed,[52] was it not [it may be retorted] taught: 'R. Simeon b. Judah stated in the name of R. Simeon.[53] A violator does not pay compensation for the pain [he has inflicted] because

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(1) A girl in her minority. In the case under discussion, which refers to a na'arah, who died before she became a bogereth the birth of a child is possible only if conception took place while she was a minor — under twelve years of age.

(2) I. e., one that would result in the birth of a child.

(3) V. Yeb. 12b, 100b, Nid. 45a.

(4) מוך 'hackled wool or flax'.

(5) To prevent conception.

(6) Is permitted the use of an absorbent.

(7) סנדל, lit., 'a flat fish', i.e., a fish-shaped abortion due to superfetation.

(8) On account of her second conception which causes the deterioration of her breast milk.

(9) וימות, so MS.M. Cut. edd. omit.

(10) Who is capable of conception but is exposed thereby to danger.

(11) When no conception is possible.

(12) When pregnancy involves no fatal consequence.

(13) To protect them from danger.

(14) Ps. CXVI, 6; sc. those who are unable to protect themselves. From this it follows that a girl under the age of twelve is incapable of normal conception. How then could it be assumed by Raba that a na'arah (cf. supra p. 215, n. 14) might give birth to a child?

(15) Abstract of ‘na'arah’, (v. Glos).

(16) Abstract of ‘bogereth’.

(17) Which implies ‘no more’.

(18) Raba.

(19) V. supra p. 215, n. 12.

(20) And the fine is, therefore, payable to the deceased as if she had been alive. (V. infra 41b).

(21) פקע lit., ‘bursts’.

(22) To the fine. As a fine is not inheritable before it has been collected, the father cannot inherit it from his daughter, and the offender is consequently altogether exempt from payment.

(23) And the deceased retains the status of a na'arah.

(24) V. supra note 5.

(25) Attributed (supra 38b ad fin.) to Raba.

(26) I. e., does a na'arah (v. Glos) assume the status of adolescence the moment she dies, and her father consequently forfeits his tight to the fine as if she had actually attained her adolescence in her lifetime? The former version of Raba's question differs from this in that it assumes as a certainty, contrary to Abaye's ruling, that death does not effect adolescence, the only doubt being whether adolescence is attained in due course, in the grave. According to this, the latter version, however, Abaye's very certainty is questioned, and the statement (supra p. 215) ‘This ruling which was so obvious to Abaye formed the subject of enquiry by Raba’ refers to this version.

(27) Teku (v. Glos.)

(28) The offender spoken of in Deut. XXII, 28f.

(29) Before the payment was made. Does the fine still belong to her father or is it now payable to herself?

(30) Deut. XXII, 29.

(31) Of course not. Scripture draws no distinction between the one and the other.

(32) Deut. XXII, 29.

(33) Lit., ‘thus, now’.

(34) Marriage.

(35) It is only a minor and a na'arah (v. Glos) over whom a father exercises his authority (v. infra 46b).

(36) The vows of a married woman may be invalidated by her husband only and nor by her father.

(37) While she was still a na'arah.

(38) Since it is the ‘father of the damsel’ to whom the fine is to be paid (v. Deut. XXII, 29) and not the father of the girl who is adolescent.

(39) A na'arah.

(40) V. Ned. 66b and infra 46b; which shews that a father maintains partial control over his daughter as a na'arah even after her betrothal.

(41) This is explained infra.

(42) To the damsel's father.

(43) Eden if he marries her.

(44) This is explained infra.

(45) עציץ, an earthen vessel used as a receptacle for refuse or as a plant

(46) Lit., ‘how’.

(47) Lit., ‘there was found in her’.

(48) Lit ‘to enter into (the congregation of) Israel’, on account of her illegitimate or tainted birth.

(49) So lit. Deut. XXII, 29.

(50) Must the violator pay.

(51) A fall which is not painful.

(52) Lit ‘thus also’.

(53) The parallel passage in B.K. 59a has ‘Simeon b. Menasya’.

Talmud - Mas. Kethuboth 39b

the woman would ultimately have suffered the same pain from her husband, but they[1] said to him: One who is forced to intercourse cannot be compared to one who acts willingly’?[2] — [The reference.] in fact,[3] said R. Nahman in the name of Rabbah b. Abbuha [is to the] pain of opening the feet, for so it is said in Scripture, And hast opened thy feet to every one that passed by.[4] But if so, the same applies to one who has been seduced?[5] R. Nahman replied in the name of Rabbah b. Abbuha: The case of one who has been seduced may be compared to that of a person who said to his friend, ‘Tear up my silk garments and you will be free from liability’.[6] ‘My’? Are they[7] not her father's?[8] — This, however, said R. Nahman in the name of Rabbah b. Abbuha, [is the explanation]: The smart women among them declare that one who is seduced experiences no pain. But do we not see that one does experience pain? — Abaye replied: Nurse[9] told me: Like hot water on a bald head.[10] Raba said: R. Hisda's daughter[11] told me, Like the prick of the blood-letting lancet.[12] R. Papa said: The daughter of Abba of Sura[11] told me, Like hard crust in the jaws.[13]

THE VIOLATOR PAYS FORTHWITH BUT THE SEDUCER [PAYS ONLY] IF HE DISMISSES HER etc. WHEN HE DISMISSES HER! Is she then his wife?[14] Abaye replied: Read, ‘If he does not marry her,[15] So it was also taught: Although it was laid down that the seducer pays [the statutory fine] only if he does not marry her, he must pay compensation for indignity and blemish forthwith. And [in the case of] the violator as well as [of] the seducer, she herself or her father may oppose.[16]

As regards one who has been seduced, this[17] may well be granted because it is written in Scripture. If her father will refuse,[18] [since from ‘refusing’][19] I would only [have known that] her father [may refuse], whence [could it be deduced that] she herself [may also refuse]?[20] It was, therefore, explicitly stated ‘will refuse’, implying either of them.[21] But as regards a violator, though one may well grant that she [may refuse him since] it is written in Scripture. ‘and onto him she shall be[22] [which implies][23] only if she is so minded, whence, however, [it may be objected] is it deduced that her father [may also object to the marriage]? — Abaye replied: [Her father was given the right to object] in order that the sinner[24] might not gain an advantage.[25] Raba replied; It[26] is deduced a minori ad majus: If a seducer who has acted against the wish of her father alone may be rejected either by herself or by her father how much more so the violator who has acted both against the wish of her father and against the wish of herself.

Raba did not give the same reply as Abaye, because, having paid the fine, [the offender can] no [longer be described as a] sinner gaining an advantage. Abaye does not give the same reply as Raba [because it may be argued:[27] In the case of] a seducer, since he himself may object [to the marriage], her father also may object to it; [but in the case of] a violator, since he himself may not object [to the marriage] her father also may have no right to object to it.

Another Baraitha taught: Although it has been laid down that the violator pays forthwith[28] she has no claim upon him[29] when he divorces her.[30] [‘When he divorces her’! Can he divorce her?[31] — Read: When she demands a divorce[32] she has no claim upon him].[29] If he died, the fine is regarded as a quittance for her kethubah.[33] R. Jose the son of R. Judah ruled: She is entitled[34] to a kethubah for one maneh.[35]

On what principle do they[36] differ? — The Rabbis hold the view that the only reason why[37] the Rabbis instituted a kethubah [for a wife was] in order that the man might not find it easy[38] to divorce her,[39] but [the violator,] surely, cannot divorce her.[40] R. Jose the son of R. Judah, however, is of the opinion that this man too might torment her until she says to him, ‘I do not want you’.[41] THE

VIOLATOR MUST DRINK OUT OF HIS POT. Said Raba of Parazika[42] to R. Ashi. Consider! [The fines of a violator and a seducer] are deduced from one another.[43]

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(1) The Rabbis who differed from his view.
(2) B.K. 59a. Nose if the PAIN referred to was that caused by the thrust the first Tanna would not have spoken of pain in the case of a husband.
(3) Lit., ‘but’.
(4) Ezek XVI, 25.
(5) Why then is a seducer exempt from paying compensation6 for pain.
(6) By her consent to suffer the pain the woman has exempted the man from paying compensation.
(7) The silk garments, sc. her chastity and all it involves (v. infra 46b).
(8) How then could she grant exemption?
(9) Abaye's mother died from childbirth and he was brought up by his nurse (v. Kid. 31b).
(10) Slight but pleasurable pain.
(11) His wife.
(12) ריבדא ‘puncture’, כוסילתא ‘lancer used for blood-letting’.
(13) V. Jast. Aliter: ‘palate’ (Rashi).
(14) Obviously not, since he has not legally married her. How then can the expression of dismissed be used?
(15) Since the woman, her father, or the seducer himself may object to the marriage.
(16) The marriage.
(17) That the girl as well as her father may oppose the marriage.
(18) So lit., Ex. XXII, 16. (E.v. utterly refuse).
(19) If the verb had nor been repeated.
(20) To marry the seducer.
(21) Lit., ‘from any place’.
(22) Deut. XXII, 29.
(23) Since it was not stared, ‘And he shall take her’.
(24) The violator.
(25) Over the seducer.
(26) Her father's right to oppose the marriage.
(27) Against his a minori inference.
(28) V. Our Mishnah.
(29) In respect of her kethubah.
(30) The fine he pays is regarded as a settlement of her kethubah, though it was Bet father who received the payment.
(31) Of course not, since Scripture stared, He may not put her away all his days (Deut. XXII, 29).
(32) Lit., ‘when she goes out’.
(33) Cf. supra n, 7.
(34) Like a woman who married as a widow or divorcee.
(35) V. Glos.
(36) R. Jose the son of R. Judah and the Rabbis.
(37) Lit., ‘what is the reason?’
(38) Lit., ‘easy in his eyes’.
(39) V. infra 54a.
(40) Cf. supra note 8. Hence no kethubah was necessary.
(41) She too must, therefore, be protected by a kethubah.
(42) Farausag, a district near Bagdad (cf. Obermeyer p. 269).
(43) The former from the latter in respect of ‘shekels’ and the latter from the former in respect of the number ‘fifty’ (v supra 38a ad fin.).

Talmud - Mas. Kethuboth 40a

why then should not this law[1] also be inferred?[2] — Scripture stated, He shall surely pay a dowry for her to be his wife,[3] 'her'[4] [implies][5] only if he is so minded [need he marry her].

WHAT IS MEANT BY 'MUST DRINK OUT OF HIS POT' etc.? R. Kahana said, I submitted the following argument before R. Zebid of Nehardea:[6] Why should not the positive commandment[7] supersede the negative one?[8] And he replied to me: 'Where do we say that a positive commandment supersedes a negative one? [Only in a case], for instance, like circumcision in leprosy.[9] since otherwise it would be impossible to fulfil the positive commandment, but here,if she should say that she did not want [the man for a husband],would [the question of the performance of] the positive commandment[7] ever have arisen?'[10]

MISHNAH. IF AN ORPHAN WAS BETROTHED AND THEN DIVORCED, ANY MAN WHO VIOLATES HER, SAID R. ELEAZAR, IS LIABLE [TO PAY THE STATUTORY FINE][11] BUT THE MAN WHO SEDUCES HER IS EXEMPT.[12]

GEMARA. Rabbah b. Bar Hana stated in the name of R. Johanan: R. Eleazar made his statement[13] on the lines of the view of his master R. Akiba who ruled: She[14] is entitled to receive the fine, and, moreover, the fine belongs to her. How is this[15] inferred?[16] — As it was stated, IF AN ORPHAN . . . ANY MAN WHO VIOLATES HER, SAID R. ELEAZAR, IS LIABLE [TO PAY THE STATUTORY FINE] BUT THE MAN WHO SEDUCES HER IS EXEMPT, [the difficulty arises: Is not the case of] an orphan self-evident?[17] Consequently it must be this that we were taught: A girl WHO WAS BETROTHED AND THEN DIVORCED has the same status as AN ORPHAN. As [the fine of] an orphan belongs to the orphan herself so does that of a girl who was betrothed and then divorced belong to the girl herself.

R. Zera said in the name of Rabbah b. Shila who said it in the name of R. Hamnuna the Elder who had it from R. Adda b. Ahabah who had it from Rab: The halachah is in agreement with the ruling of R. Eleazar. Rab [in fact] designated R. Eleazar[18] as the happiest[19] of the wise men.

MISHNAH. WHAT IS [THE COMPENSATION THAT IS PAID FOR] INDIGNITY?[20] ALL DEPENDS ON THE STATUS OF THE OFFENDER AND THE OFFENDED.

[AS TO] BLEMISH,[20] SHE IS REGARDED AS IF SHE WERE A BOND WOMAN TO BE SOLD IN THE MARKET PLACE [AND IT IS ESTIMATED] HOW MUCH SHE WAS WORTH[21] AND HOW MUCH SHE IS WORTH NOW.

THE STATUTORY FINE[22] IS THE SAME FOR ALL, AND ANY SUM THAT IS FIXED PENTATEUCHALLY REMAINS THE SAME FOR ALL.

GEMARA, Might it not be suggested that the All-Merciful intended the fifty sela'[23] to cover all the forms of compensation?[24] — R. Zera replied: [If that were so] it would be said, 'Should one who had intercourse with a princess pay fifty and one who had intercourse with the daughter of a commoner also pay only fifty?'[25] Said Abaye to him: If so, the same might be argued in respect of a slave:[26] 'Should [compensation for] a slave who perforates pearls be thirty [and that for] one who does

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(1) That a seducer, like a violator. must marry his victims.

(2) Lit., 'in respect of this thing also let them be inferred from one another'.

(3) Ex. XXII, 15.

(4) לו lit., 'to him.

(5) Since it is not stated, 'And she shall be his wife' (cf. supra. 220, n. 17).

(6) Nehardea was a town on the Euphrates, situated at its junction with the Royal Canal about seventy miles north of Sura, and famous for its great academy in the days o Samuel, which is as rivalled only by that of Sura.

(7) She shall be his wife (Deut. XXII, 29). Lit., ‘let the positive command come and supersede etc.’.
(8) The prohibition. e.g., to marry one who was UNFIT TO MARRY AN ISRAELITE.
(9) It is forbidden to remove leprosy by means of a surgical operation; but if the leprosy covered the place or circumcision it is permitted to perform the circumcision although the leprosy is removed in the process. Thus the positive commandment of circumcision supersedes the negative one of leprosy.
(10) Obviously not, since the girl has the right of objecting to marry him. Similarly, if she happens to be one who is forbidden to marry an Israelite she is advised to object to the marriage (Rashi). [Isaiah Trani: Since the command for the performance of this positive precept is not absolute,it is not sufficiently strong to supersede a negative prohibition.]
(11) V. Deut. XXII, 29.
(12) Her acquiescence in the offence is regarded as an intimation that she has renounced her claim to the fine, and since, owing to the death of Bet father, the fine belongs to her, she is fully entitled to remit it.
(13) In our Mishnah.
(14) A girl who was betrothed and risen divorced (v. Mishnah, supra 38a).
(15) That R. Eleazar follows the ruling of R. Akiba?
(16) Lit., ‘from what’
(17) Since she has no father the fine obviously belongs to her. What need then was there for our Mishnah
(18) R. Eleazar b. Shammu'a, a disciple of R. Akiba (v. Yeb. 62b).
(19) So Jast. or ‘important’, ‘notable’ (v. Levy).
(20) V. Mishnah, supra 39a.
(21) Before the offence.
(22) V. Mishnah, supra 39a.
(23) Deut. XXII, 29.
(24) Lit., ‘from all things’.
(25) Though the indignity of the former is undoubtedly greater. Hence it follows that, in addition to the statutory sum which the Torah has awarded to all alike, an additional sum for indignity must be paid in accordance with the status of the offended party.
(26) Compensation for whom is fixed at thirty shekels (v. Ex. XXI, 32).

Talmud - Mas. Kethuboth 40b

needlework also be thirty?’[1] — This, however, said R. Zera, [is the proper explanation]: If two men had intercourse with her, one in a natural, and the other in an unnatural manner, it would be argued,[2] ‘Should one who had intercourse with a sound woman pay fifty and one who had intercourse with a degraded woman also pay fifty?’

Said Abaye to him: If so, the same might be argued in respect of a slave: ‘Should [compensation for] a healthy slave be thirty [and that for] one afflicted with boils also be thirty?’[1] — This, however, said Abaye, [is the explanation]: Scripture said,[3] Because he hath humbled her[4] [as if to say]: These[5] [must be paid] ‘because he hath humbled her’,’ thus it may be inferred that [compensation for] indignity and blemish[6] must also be paid.[7]

Raba replied: Scripture said, Then the man that lay with her shall give unto the damsel's father fifty [shekels of] silver;[8] for the gratification of ‘lying’ [he gives] fifty. Thus it may be inferred that [compensation for] indignity and blemish must also be paid.[7]

But say [perhaps] that [compensation for indignity and blemish is paid] to her?[9] — Scripture said, Being in her youth in her father's house,[10] [implying that] all advantages of ‘her youth’ belong to her father.

[Consider,] however, that which R. Huna said in the name of Rab: ‘Whence is it deduced that a daughter's handiwork belongs to her father? [From Scripture] where it is said, And if a man sell his daughter to be a maidservant,[11] as[12] the handiwork of a maidservant belongs to her master so does the handiwork of a daughter belong to her father'. Now what need is there[13] [it may be asked, for this text when] the law[14] can be deduced from [the text of] 'Being in her youth in her father's house'? Consequently [it must be admitted, must it not, that] that text was written in connection only with the annulment of vows?[15] And should you suggest[16] that we might infer[17] from it,[18] [it could be retorted that,] monetary matters[19] cannot be inferred from ritual matters.[20] And should you suggest[16] that we might infer it[17] from the law of fine, is [it could be retorted, could it not, that,] monetary payments cannot be inferred from fines?[21] — This, however, [is the explanation]:[22] it stands to reason that [her compensation should] belong to her father; for if he wished he could have handed her over[23] to an ugly man or to one afflicted with boils.[24]

AS TO BLEMISH, SHE IS REGARDED AS IF SHE WERE A BONDWOMAN TO BE SOLD. How is she assessed? The father of Samuel replied: It is estimated how much[25] more a man would pay for a virgin slave than[25] for a non-virgin slave to attend upon him. 'A non-virgin slave to attend upon him'! What difference does this[26] make to him? — [The meaning], however, [is this: How much more a man would pay for] a virgin slave than[25] for a non-virgin slave[25] for the purpose of marrying her to his bondman. But even if 'to his bondman', what difference does this[27] make to him? — [We are dealing here] with a bondman who gives his master satisfaction.[28]

MISHNAH. WHEREVER THE RIGHT OF SALE APPLIES NO FINE IS INCURRED[29] AND WHEREVER A FINE IS INCURRED NO RIGHT OF SALE APPLIES. IN THE CASE OF A MINOR THE RIGHT OF SALE[30] APPLIES BUT NO FINE[31] IS INCURRED;[32] IN THE CASE OF A DAMSEL[33] A FINE IS INCURRED[32] BUT NO RIGHT OF SALE[30] APPLIES. TO A DAMSEL WHO IS ADOLESCENT[34] THE RIGHT OF SALE DOES NOT APPLY NOR IS A FINE INCURRED THROUGH HER.

GEMARA. Rab Judah stated in the name of Rab: This[35] is the ruling of R. Meir, but the Sages rule: A fine is incurred[32] even where the right of sale[36] applies. For it was taught: The right of sale[36] applies to a minor from the age of one day until the time when she grows two hairs,[37] but no fine is incurred through her.[38] From the time she grows two hairs until she comes of age a fine is incurred through her but no right of sales applies; so R. Meir, because R. Meir has laid down: Wherever the right of sale applies no fine is incurred, and wherever a fine is incurred no right of sale applies. The Sages, however, ruled: Through a minor from the age of three years and one day until the time she becomes adolescent a fine is incurred.[39] Only a fine [you say] but not the right of sale?[40] — Read: A fine also where the right of sale applies.[41]

R. Hisda said: What is R. Meir's reason?[42] Scripture said, And unto him[43] she shall be[44] for a wife;[45] the text thus speaks of a girl who may herself contract a marriage.[46] And the Rabbis?[47] Resh Lakish replied: Scripture said, na'ar[48] which[49] implies even a minor.[50]

R. Papa the son of R. Hanan of Be Kelohith heard this[51] and proceeded to report it before R. Shimi b. Ashi [when the latter] said to him: You apply it[52] to that law; we apply it to the following: Resh Lakish ruled; A man who has brought an evil name[53] upon a minor is exempt,[54] for it is said in Scripture, And give them unto the father of the damsel,[53] Scripture expressed the term na'arah[55] as plenum.[56]

R. Adda b. Ahabah demurred: Is the reason then[57] because the All-Merciful has written na'arah, but otherwise it would have been said that even a minor [was included], surely [it may be objected] it is written in Scripture, But if this thing be true, and the tokens of virginity be not found in the damsel, then they shall bring out the damsel to the door of her father's house, and [the men of her city] shall stone her,[58] while a minor is not, is she, subject to punishment?[59] — [The explanation,] however, [is that since] na'arah [has been written] here[60] [it may be inferred that here only is a minor excluded] but wherever Scripture uses the expression of na'ar even a minor is included.

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(1) Though the labour value of the one is undoubtedly higher than that of the other,
(2) If no compensation for indignity were paid in addition to the statutory fine.
(3) In stating the reason for the statutory fine.
(4) Deut. XXII, 29.
(5) The fifty shekels mentioned.
(6) Which are payable in other cases of injury.
(7) Lit., ‘that there is’.
(8) Deut. XXII, 29.
(9) Since ‘the damsel's father ‘ was mentioned (ibid.) only in respect of the fifty shekels of fine.
(10) Num. XXX, 17.
(11) Ex. XXI, 7.
(12) Since ‘daughter’ and ‘maidservant’ are mentioned in the same verse they may be compared to one another.
(13) Lit., ‘wherefore to me?’
(14) That a daughter's handiwork belongs to her father,
(15) And, therefore, no deduction from it can be made in respect of handiwork. Similarly here also, no deduction from it could be made in respect of compensation for indignity and blemish. Thus an objection arises against Raba's explanation.
(16) In justification of Raba.
(17) That compensation for indignity and blemish belongs to the father,
(18) The law of the annulment of vows.
(19) Such as compensation.
(20) As the fine belongs to her father so does her compensation.
(21) The objection against Raba thus remains.
(22) Why compensation for indignity and blemish is paid to the father.
(23) As wife.
(24) Thus subjecting her to indignity and blemish while he himself derives there from pecuniary benefit. As her indignity and blemish are in his hands he is justly entitled to compensation from the man who inflicts them upon her.
(25) Lit., ‘between . . . to’.
(26) The virginity of a slave whom one requires for service.
(27) Cf. previous note mutatis mutandis. The main object of a master is the acquisition of slave children.
(28) And his master in return desires to give him the satisfaction of marrying a virgin.
(29) This is illustrated anon.
(30) By her father (cf. Ex. XXI, 7 and ‘Ar. 29b).
(31) V. Deut. XXII, 29 and Ex. XXII, 16.
(32) In case of violation or seduction.
(33) Na'arah (v. Glos.).
(34) Bogereth (v. Glos.).
(35) That IN THE CASE OF A MINOR . . . NO FINE IS INCURRED.
(36) V. p. 226, n. 8.
(37) As a sign of puberty.
(38) V. p. 226, n. 10.
(39) Tosef. Keth. II. Our Mishnah (v. p. 226, n. 13) must consequently represent the ruling of R. Meir.
(40) But this is contrary to the Pentateuchal law (cf. p. 226, n. 8).
(41) From the age of three years and one day until she grows two hairs. under the first age limit, no fine, and above the second age limit until she becomes adolescent, only a fine is incurred.
(42) V. supra p. 226, n. 13).
(43) The girl through whom the fine is incurred.
(44) תהיה.
(45) So lit., Deut. XXII, 29.
(46) Lit., ‘who causes herself to be’. תהיה implying action on the part of the girl herself independent of that of any other person. A minor whose marriage is dependent on the will of her father is consequently excluded from the text.
(47) How in view of the implication of the text could they maintain that through a minor a fine is incurred?

(48) נער (So MS.M. and Bah). Cur. edd. נערה.
(49) Since M.T. reads נער though the kere is נערה (damsel).
(50) [The Rabbis explain this form as an example of the epicene use of a noun; cf. GR. ** and GR. **, child].
(51) The deduction attributed to Resh Lakish.
(52) The deduction from נער,נערה.
(53) Deut. XXII, 19.
(54) From the fine of a hundred shekels of silver (v. ibid.).
(55) נערה ‘damsel’.
(56) With a ‘he’ at the end, in order to exclude the minor. [This is the only place in the Pentateuch where the word is written plene].
(57) Why the fine of a hundred shekels is not payable in respect of a minor.
(58) Deut. XXII, 20f.
(59) A minor would consequently have been excluded even if na'ar had been written.
(60) Where a minor, as has been proved, must be excluded.

Talmud - Mas. Kethuboth 41a

MISHNAH. HE WHO DECLARES, ‘I HAVE SEDUCED THE DAUGHTER OF SO-AND-SO’ MUST PAY COMPENSATION FOR INDIGNITY AND BLEMISH ON HIS OWN EVIDENCE BUT NEED NOT PAY THE STATUTORY FINE.[1]

HE WHO DECLARES, ‘I HAVE STOLEN’ MUST MAKE RESTITUTION FOR THE PRINCIPAL ON HIS OWN EVIDENCE BUT NEED NOT REPAY DOUBLE,[2] FOURFOLD[3] OR FIVEFOLD.[3]

[HE WHO STATES,] ‘MY OX HAS KILLED SO-AND-SO’ OR ‘THE OX OF SO-AND-SO’ MUST MAKE RESTITUTION[4] ON HIS OWN EVIDENCE. [IF HE, HOWEVER, SAID.] ‘MY OX HAS KILLED THE BONDMAN OF SO-AND-SO’[5] HE NEED NOT MAKE RESTITUTION ON HIS OWN EVIDENCE.[6]

THIS IS THE GENERAL RULE: WHOEVER PAYS MORE THAN THE ACTUAL COST OF THE DAMAGE HE HAS DONE[7] NEED NOT PAY IT ON HIS OWN EVIDENCE. GEMARA. Why did not he[8] include ‘I have violated’?[9] — He implied that this was unnecessary: It was unnecessary [to state that if a man declared,] ‘I have violated’, in which case he casts no reflection on the girl's character[10] , that he must pay compensation for indignity and blemish on his own evidence,[11] but [if a man declared.] ‘I HAVE SEDUCED’, in which case he does cast a reflection on her character,[12] it might have been assumed that he does not pay [such compensation] on his own evidence,[13] hence he informs us [that he does].

Our Mishnah does not agree with the following Tanna. For it was taught: R. Simeon b. Judah stated in the name of R. Simeon, [Compensation for] indignity and blemish also a man does not pay on his own evidence[14] because he[15] cannot be trusted[16] to tarnish the character of another man's daughter.

Said R. Papa to Abaye: What [is the ruling if] she is satisfied?[17] — It is possible that her father might not be satisfied. And what if her father also is satisfied? — It is possible that the members of her family might not be satisfied. What if the members of her family are also satisfied? — It is impossible that there should not be one somewhere[18] who is not satisfied.

HE WHO DECLARES, ‘I HAVE STOLEN’ MUST MAKE RESTITUTION FOR THE PRINCIPAL etc. It was stated: [In respect of liability for] half damages.[19] R. Papa ruled: It is a civil obligation,[20] but R. Huna the son of R. Joshua ruled: It is penal.[21] ‘R. Papa ruled: It is a civil obligation', for he is of the opinion that cattle as a rule[22] cannot be presumed to be safe.[23] Justice, therefore, demands that the owner should make full restitution,[24] but the All-Merciful has shown mercy towards him[25] because his cattle have not yet become mu'ad.[26] 'R. Huna the son of R. Joshua ruled: It is penal', for he is of the opinion that cattle as a rule are presumed to be safe.[27] Justice. therefore, demands that the owner should make no restitution at all,[28] but it was Divine Law[29] that imposed a fine upon him in order that he should exercise special care over his cattle.[30]

(Mnemonic:[31] He damaged what, and killed a general rule.)

We have learned: The plaintiff and the defendant[32] are involved[33] in the payment.[34] Now according to him who holds that liability for half damages is a civil obligation[35] it is perfectly correct [to say] that the plaintiff is involved in the payment,[36] but according to him who maintains that liability for half damages is penal [it may well be asked:] If he receives that which [in strict justice] is not his due how can he be involved[37] in the payment?[38] — It[39] may apply[40] only to [a loss caused by] a decrease in the value of the carcass.[41] [But have we not] already learned elsewhere [about] the decrease in the value of the carcass? 'To compensate for the damage'[42] means that the owner[43] must dispose of the carcass?[44] — One [of the statements deals] with a tam[45] and the other with a mu'ad.[45] And [both statements are] required. For if [that relating to] a tam only had been made it might have been presumed [to apply to that alone] because the animal has not yet become mu'ad but not to a mu'ad since [in the latter case the owner] has been duly warned. And if [only the statement relating to] a mu'ad had been made it might have been assumed [to apply to that case alone] because the owner pays full compensation[46] but not [to that of] a tam.[47] [Both rulings were consequently] required.

Come and hear: What is the difference [in the case of compensation for damages] between a tam[45] and a mu'ad?[45] — In the case of a tam half damages are paid out of its own body,[48] while in the case of a mu'ad full compensation is paid out of the best of the [defendant's] estate.[49] Now if[50] it were the case [that liability for half damage[51] is penal] why was it not also stated[52] that in the case of a tam no compensation is paid merely on one's own evidence[53] whereas in the case of a mu'ad[54] compensation is paid even on one's own[55] evidence?[56] — He[57] recorded [some distinctions][58] and omitted others. What [else, however], did he omit [that should justify the assumption] that he omitted this distinction also.[59] — He omitted [also the payment of] half kofer.[60] If [the only point not mentioned] is that of[61] half kofer it is no omission,

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(1) Prescribed in Ex. XXII, 16, because one's own admission to having committed an act for which a fine is prescribed cannot tender one liable to pay it (v. B.K. 75a).

(2) V. Ex. XXII, 3.

(3) V. ibid. XXI, 37.

(4) V. ibid. XXI, 30, 35.

(5) The fine for which is (v. ibid. 32) thirty shekels.

(6) Cf. supra n. 4.

(7) When evidence against him is available.

(8) The Tanna of our Mishnah.

(9) In addition to 'I have seduced'.

(10) Since the outrage was not her fault but her misfortune.

(11) As the girl's character is not called in question the man's admission may well be regarded as a true confession to satisfy his conscience and as a desire to make amends.

(12) Cf. supra note 3 mutatis mutandis.

(13) I. e., his compensation is to be refused on the ground that his word which casts a reflection on the girl's reputation cannot be accepted without valid proof.

(14) Cf. supra n. 1.

(15) In the absence of other valid evidence.

(16) Lit., ‘not all from him’.
(17) To put up with the reflection in order to gain her compensation.
(18) Lit., ‘in a province of the sea’, ‘a country beyond the sea’.
(19) Restitution made for damage done by the ‘Born’ (v. B.K. 2b) of a tam (v. Glos).
(20) And is consequently payable on one's own evidence.
(21) Lit., ‘fine’, and is payable only where valid evidence, other than the admission of the offender, is available (cf. supra p. 228, n. 5).
(22) Unless their owner takes special care to check them.
(23) They might at any moment do some damage. Hence it is the duty of their owner to hold them under control.
(24) For any damage done by his cattle, since such damage is the result of his carelessness (v. supra n. 2).
(25) By releasing him from half of the payment.
(26) ‘Cautioned’ (v. Glos). But whatever he does pay is a civil liability (v. supra p. 229. n. 13).
(27) And no special care on the part of the owner is called for.
(28) Since it was not his fault that his cattle had done the damage.
(29) By ordering him to pay half damages.
(30) Cf. B.K. 15a.
(31) Containing key words occurring in the following four citations from which objections are raised against the ruling of R. Huna the son of R. Joshua.
(32) Lit., ‘he who suffered, and he who caused the damage’.
(33) This is now assumed to imply ‘loss’.
(34) B.K. 14b.
(35) And that the plaintiff should in strict justice be entitled to full compensation.
(36) Since he loses (v. supra n. 14) a half of which is really his due.
(37) Cf supra n. 12.
(38) This an objection arises against R. Huna the son if R. Joshua.
(39) The statement that the plaintiff also is ‘involved in the payment’.
(40) Lit., ‘is required’.
(41) Between the date on which the animal was killed and that on which the action was tried. Such loss is borne By the plaintiff, the defendant paying only half the difference between the value of the live animal and the carcass as it was on the day of the accident.
(42) B.K. 9b.
(43) Of the animal that was killed, i.e., the plaintiff.
(44) I. e., he must take it in part payment of his compensation, and if its value decreases it is obvious that he must beat the loss (cf. p. 230, n. 20). What need then was there to state the same ruling twice?
(45) V. Glos,
(46) And, therefore, no further liability is imposed upon him.
(47) Where the defendant pays only half of the damages and may, therefore, be expected to beat the loss whenever the value of the carcass had decreased.
(48) I. e., of the tort-feasant animal. The defendant's estate remains exempt from all liability.
(49) Mishnah, B.K. 26b.
(50) So according to Rashal and the parallel passages in B.K. 15a. Cur. edd. omit ‘if . . . case’.
(51) In the case of a tam (cf. supra p. 229, n. 22).
(52) As another distinction between a tam and a mu'ad.
(53) Cf. supra p. 229, n. 14.
(54) Where the liability is civil.
(55) Cf. supra p. 229, n. 13 and text.
(56) Cf. supra p. 230, n. 17.
(57) The Tanna of this Mishnah.
(58) Between a tam and a mu'ad,
(59) In an enumeration the Tanna would not have omitted just one point.
(60) ‘Ransom’ (v. Ex. XXI, 30) V. Glos. In the case of manslaughter a mu'ad pays full compensation while a tam does not pay even half (cf. B.K. 41a).

(61) Lit., on account of'.

Talmud - Mas. Kethuboth 41b

since that [Mishnah] may represent the view of[1] R. Jose the Galilean who ruled that [in the case of] a tam half kofer is paid.[2]

Come and hear: [A MAN WHO SAID.] 'MY OX KILLED SO-AND-SO' OR 'THE OX OF SO-AND-SO MUST PAY COMPENSATION ON HIS OWN EVIDENCE. Now does not [this statement deal] with a tam?[3] — No; with a mu'ad. What, however, [would be the law] in the case of a tam? Would no liability be established by one's own evidence? Then instead of stating in the final clause, '. . . THE BONDMAN OF SO-AND-SO HE NEED NOT MAKE RESTITUTION ON HIS OWN EVIDENCE, could not a distinction have been drawn in the very same case, thus: 'This[4] applies only to a mu'ad but in respect of a tam no liability is incurred by one's own evidence'? — The entire [Mishnah prefers to] deal with a mu'ad.[5]

Come and hear: THIS IS THE GENERAL RULE: WHOSOEVER PAYS MORE THAN THE ACTUAL COST OF THE DAMAGE HE HAS DONE NEED NOT PAY ON HIS OWN EVIDENCE, from which it follows,[6] [does it not, that if the payment is] less than the cost of the damage,[7] one must pay compensation even on one's own evidence?[8] Do not infer: '[But if payment is] less than the cost of the damage [one must pay . . . on one's own evidence]',[7] but infer: '[If payment] corresponds to the actual amount of the damage one must pay compensation even on one's own evidence'. What, however, [would be the law if payment were] less than the amount of the damage?[9] Would no liability be established by one's own evidence? Then[10] why was it not stated, 'This is the general rule: Whoever does not pay an amount corresponding to the actual cost of the damage he has done pays no compensation on his own evidence', which would imply [that where compensation is] less or more[11] [it is to be paid on one's own evidence]?[12] — This is indeed a refutation.[13]

The law, however, [is that the liability for] half damage is penal. 'A refutation' [of a ruling][14] and [yet it is] the law? — Yes; for the sole basis of the refutation[15] was that[16] the statement[17] did not run, '[whoever does not pay an amount] corresponding to the actual cost of the damage he has done'; [but such a principle][18] was not regarded by him[19] as exactly accurate, since there is the liability for half damages [in the case of the damage done by] pebbles[20] Concerning which there is an halachic tradition that the liability is civil.[21] On account of this consideration he did not adopt [the form of the expression suggested].

Now that you have laid down that liability for half damage is penal, the case of a dog that devoured lambs or that of a cat that devoured big hens is one of unusual occurrence[22] and no distress is executed in Babylon.[23] If, however, they[24] were small the occurrence is a usual[25] one and distress is executed.[26] Should the plaintiff,[26] however, seize [the chattels of the defendant][27] they are not to be taken away from him.[28] Furthermore, if[29] he pleads. 'Fix for me a date [by which the defendant must come with me] to the Land of Israel,'[30] such date must be fixed for him, and if [the defendant] does not go with him he must be placed under the ban. In any case,[31] however, [the defendant] is to be placed under the ban;[32] for he is told, 'Abate your nuisance',in accordance with a dictum of R. Nathan. For it was taught:[33] R. Nathan said, Whence is it derived that a man may not breed a bad dog in his house nor place a shaking ladder in his house? [From Scripture] where it is said, That thou bring not blood upon thine house.[34]

CHAPTER IV

MISHNAH. IF A GIRL[35] WAS SEDUCED [THE COMPENSATION FOR] HER INDIGNITY

AND BLEMISH AS WELL AS THE STATUTORY FINE BELONG TO HER FATHER[36] [TO WHOM BELONGS ALSO THE COMPENSATION FOR] PAIN IN THE CASE OF ONE WHO WAS VIOLATED. IF THE GIRL'S ACTION WAS TRIED[37] BEFORE HER FATHER DIED [ALL THE FORMS OF COMPENSATION] ARE DUE TO HER FATHER,[38] IF HER FATHER [SUBSEQUENTLY] DIED THEY ARE DUE TO HER BROTHERS.[39] IF HER FATHER, HOWEVER, DIED BEFORE HER ACTION WAS TRIED THEY[40] ARE DUE TO HER.[41] IF HER ACTION WAS TRIED BEFORE SHE BECAME ADOLESCENT[42] [ALL FORMS OF COMPENSATION] ARE DUE TO HER FATHER; IF HER FATHER [SUBSEQUENTLY] DIED[43] THEY ARE DUE TO HER BROTHERS.[39] IF, HOWEVER, SHE BECAME ADOLESCENT BEFORE HER ACTION COULD BE TRIED THEY ARE DUE TO HER.[44] R. SIMEON RULED.' IF HER FATHER DIED[45] , BEFORE SHE COULD COLLECT [THE DUES] THEY BELONG TO HER.[46]

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(1) Lit., ‘this (is) according to whom?’

(2) V. B.K. 26a. The distinction mentioned (v. supra n. 1) does not, therefore, apply. The other distinction also, viz, that between full kofer for a mu'ad and half kofer for a tam, cannot be regarded as an omission, since it is included in the first clause which lays down that in the case of a tam half damages are paid and in that of a mu'ad full compensation is paid, a ruling which applies to kofer as well as to damages. Since there is no other omission, this Mishnah proves that the liability for half damage is civil as supra.

(3) And since liability is established by one's own evidence such liability cannot be penal but civil. Cf. supra 230. n, 17.

(4) That liability is established by one's own admission.

(5) To shew that even in respect of a mu'ad there is a case where no liability is incurred By one's own evidence.

(6) Lit., ‘but’.

(7) Such as half damage payable in the case of a tam.

(8) V. supra note 5.

(9) V. p. 232. n. 9,

(10) Instead of laying down a rule from which a wrong inference might be drawn.

(11) Than the actual cost of the damage.

(12) Since, however, the rule was not stated in this form it follows that liability for less than the actual cost of the damage (v. supra n. 1). is not payable on one's own admission. An objection thus arises against R. Huna the son of R. Joshua (cf. supra p. 231, n. 5),

(13) The ruling, therefore, that half damages payable in the case of a tom is penal, stands refuted.

(14) Cf. supra nn. 4 and 5.

(15) Lit., ‘what is the reason that it was refuted?’

(16) Lit., ‘because’,

(17) In out Mishnah.

(18) Which would have excluded all cases of payment for half damages.

(19) The Tanna of this Mishnah,

(20) Kicked up by an animal (v. B.K. 17a and cf, 3b).

(21) Despite the fact that the compensation is less than the actual damage.

(22) And thus coming under the category of damage by the ‘horn’ (v. B.K. 2b) which is also one of unusual occurrence.

(23) Since penal liabilities may be imposed in Palestine only by a judge who is specially ordained for the purpose (mumhe, v. Glos). No such judges lived in Babylon.

(24) The lambs or the hens.

(25) Falling under the category of damage by the ‘tooth’ (cf. B.K. 2b) which is also one of usual occurrence and compensation in which case is a civil liability.

(26) Even in Babylon.

(27) [So Rashi. R. Tam: the animal that caused the damage (Tosaf)].

(28) And he retains an amount corresponding to half the damage.

(29) Where no chattels were seized.

(30) Cf. supra p. 233. n. 15.

(31) Whether the plaintiff wishes the case to be tried in the Land of Israel or not.

(32) ‘Until he abates the nuisance’. (So B.K. 15b).
(33) B.K. 15b, 46a.
(34) Deut. XXII, 8, referring to the duty of removing a cause of danger though one is not directly responsible for any fatal result.
(35) Na'Arah (v. Glos.).
(36) Cf. Mishnah supra 39a and notes.
(37) Lit.,’she stood before the law.
(38) In accordance with Deut. XXII. 20.
(39) As heirs of their father. Once the court had ordered payment, the amount in question is considered as the ‘actual property’ of the father which is inherited by his sons, v. infra 43a.
(40) Being still penal liabilities.
(41) V. infra 43a. Var. lec. adds, ‘R. Simeon ruled: If her father died before she could collect (the dues) they belong to her’.
(42) A bogereth (v. Glos.).
(43) Wether before or after she became adolescent.
(44) Because at that age she is no longer under her father's control.
(45) Var. lec.; ‘If she became adolescent’.
(46) Because the fine does not become the ‘actual property’ of the father by mere decision of the court, (cf. supra notes 5 and 7).

Talmud - Mas. Kethuboth 42a

HER HANDIWORK, HOWEVER, AND ANYTHING SHE FINDS EVEN IF SHE HAD NOT COLLECTED [THE PROCEEDS]. BELONG TO HER BROTHERS IF HER FATHER DIED.[1] GEMARA. What [new law] does he teach us?[2] Have we not [already] learned: The seducer pays three forms [of compensation] and the violator four. The seducer pays compensation for indignity and blemish as well as the statutory fine, and the violator pays an additional [form of compensation] in that he pays for the pain?[3] — It was necessary [to teach us[2] that the compensation is due] TO HER FATHER.[4] [But] that [the compensation is due] to her father is also obvious, since a seducer has to pay for it? For if [it were to be given] to herself [the objection could be raised], why should the seducer pay [to her when] he acted with her consent?[5] — It was necessary [to tell us[2] of the case where] HER ACTION WAS TRIED [which is a point in] dispute between R. Simeon and the Rabbis.[6] We have learned elsewhere: [If a man said to another] ‘You have violated or seduced my daughter’, and the other replied. ‘I did not violate or seduce her’. ‘I adjure you’ [said the first] and the other responded. ‘Amen’, but afterwards admitted his guilt, he is liable.[7] R. Simeon, however, exempts him, for no fine is paid on one's own admission.[8] They,[9] however, said to him: Though no man pays a fine on his own admission he nevertheless pays compensation for indignity and blemish[10] on his own admission.[11] Abaye enquired of Rabbah:[12] What is the law according to R. Simeon[13] where a man said to another, ‘You have violated or seduced my daughter, and I have brought you to law and you were ordered to pay me [a stipulated sun, of] money’ and the other replied. ‘I have neither violated nor seduced her, nor have you brought me to law nor have I been ordered to pay you any money’, and after he had taken an oath[14] he admitted his guilt? Is [his liability], since his action had been tried,[15] civil[16] and he consequently incurs thereby a sacrifice for [having taken a false] oath, or is it possible that, though his action had been tried, his liability[17] is still regarded as penal?[18] — The other replied: It is a civil liability and he incurs thereby the obligation to bring a sacrifice for a false oath.[19] He[20] pointed out to him[21] the following objection: R. Simeon, said, As it might have been presumed that if a man said to another, ‘You have violated or seduced my daughter’ and the other replied ‘I have neither violated nor seduced her’, [or if the first said]. ‘Your ox has killed my bondman’ and the other replied, ‘He did not kill him’, or if a bondman said to his master,[22] ‘You have knocked out my tooth’ or ‘You have blinded my eye’.[23] and he replied. ‘I have not knocked it out’ or ‘I have not blinded it’ and [the defendant] took the oath[24] but afterwards admitted his liability it might have been presumed that he is liable,[25] hence It was explicitly stated in Scripture, And he deal falsely with his neighbour[23] a matter of deposit, or of pledge, or of robbery, or have oppressed his neighbour; or have found that which was lost, and deal falsely therein, and swear to a lie,[26] as these are distinguished by the characteristics of being civil cases so must all [other cases where similar liabilities[27] may be incurred be distinguished by the characteristics] of being civil. These, therefore, are excluded [from liability][28] since they are penal.

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(1) Unlike compensation. Which is not due to their father before the action had been tried and decided in his daughter's favour, these are his due from the moment they come into existence. As they are consequently his 'actual property' he is entitled to transmit them to his heirs.

(2) In our Mishnah.

(3) V. 39a for notes.

(4) This was not mentioned in the Mishnah cited.

(5) If then it is also obvious that the compensation is to be paid to her father what need was there for our Mishnah?

(6) The first Tanna (v. our Mishnah).

(7) To pay the actual amount due as well as an additional fifth (v. Lev. V, 24). and also to bring a guilt-offering.

(8) As the man would have been exempt from the penal liabilities if he had himself admitted the offence in the absence of any other evidence, he must also be exempt from all liabilities (v. supra note 6) in the case of a denial. For it was not a civil liability (mamon), but a penal liability (kenas) that he had denied.

(9) The Rabbis who differed from him.

(10) Which are not kenas but mamon.

(11) V. Shebu. 36b.

(12) Rabbah b. Nahmani who was his teacher.

(13) Who (according to the Mishnah of Shebu. cited) exempts one from liability in the case of a denial.

(14) In confirmation of his denial.

(15) And he was ordered to pay.

(16) [Having been ordered to pay, he can no longer secure exemption by his own admission; his liability is now considered of the mamon class (Rashi)].

(17) Since it was originally penal.

(18) [Var. lec. add: 'and he who confesses to a liability for a fine is exempt'. On this reading, Abaye's question was also whether his own admission, after the action had been tried, exempts him from payment; v. Tosaf.]

(19) [Car. lec. omit: 'and he incurs . . . false oath'. In that case Rabbah's answer is given in general terms. He merely replied, 'it is a civil liability', which for the present is taken to mean that it is so both in respect of an obligation to an oath and to liability to payment; cf. n. 6, v. Tosaf.]

(20) Abaye.

(21) Rabbah.

(22) Lit., 'his bondman said to him'.

(23) In compensation for which he demands his freedom (v. Ex. XXI, 26f). Such compensation is also deemed to be penal, because a slave was regarded as his master's chattels.

(24) In confirmation of his denial.

(25) V. supra p. 236, n. 6.

(26) Lev. V, 21f.

(27) V. supra p. 236, n. 6.

(28) The instances enumerated by R. Simeon.

Talmud - Mas. Kethuboth 42b

Does not [this ruling refer to a man] whose action had already been tried?[1] — No, [it deals] with one whose action had not yet been tried.[2] But, surely, since the first clause deals with the case of a man whose action had been tried, would not the final clause also deal with such a case? For in the first clause it was stated: 'I only knew [that liability[3] is incurred in] cases where compensation is paid for the actual value only, whence, however, is it deduced that [such liability is also incurred in] cases where the payment is double,[4] fourfold[5] or fivefold[5] and [in those of] the violator, the seducer and the calumniator?[6] From Scripture which explicitly stated, And commit a trespass,[7] [implying that all such are] included'. Now, how is this statement to be understood? If [it is one referring to] a man whose action had not yet been tried [the objection could be raised:] Is double compensation payable in such circumstances?[8] It is obvious, therefore, that [the reference is to one] whose action had already been tried. And since the first clause deals with one whose action had been tried, the final clause also must deal, must it not, with one whose action had already been tried?[9] — The other replied: I could have answered you that the first clause deals with one whose action had already been tried, and the final clause with one whose action had not yet been tried and that the entire Baraitha represents the view of R. Simeon, but I would not give you forced interpretations, for, were I to do so, you might retort: Then either the first clause should begin with 'R. Simeon said' or the final clause should conclude with 'these are the words of R. Simeon'.[10] The fact, however, is that the entire [Baraitha] refers to one whose action had already been tried, the first clause being the view of the Rabbis and the final clause that of R. Simeon, and I must agree with you in regard to the sacrifice for [taking a false] oath,[11] for the All-Merciful has exempted him[12] [as may be deduced] from [the text] And he deal falsely.[13] When I, however, said, that 'It is a civil liability' [I was only implying that a man had the right] to transmit such a liability as an inheritance to his sons.[14] Again he[15] raised an objection against him:[16] R. SIMEON RULED, IF HER FATHER DIED BEFORE SHE COULD COLLECT [HER DUES] THEY BELONG TO HER. Now if you maintain [that such compensation] is a civil liability in respect of being transmitted as an inheritance to one's sons, why should the compensation belong to her? Should it not, in fact, belong to the brothers? — This subject, said Raba, both Rabbah and R. Joseph found difficult for twenty-two years[17] and no solution was forthcoming. It was only when[18] R. Joseph assumed the presidency of the academy[19] that he solved it: There[20] it is different [from other penal liabilities] because Scripture said, Then the man that lay with her shall give unto the damsel's father fifty [shekels of] silver[21] [which implies that] the Torah has not conferred upon the father the right of possession before the money had actually been handed to him; when Rabbah, however, said, 'It is a civil liability in respect of being transmitted as an inheritance to his sons' he was referring to other penal liabilities.[22] But then, in the case of a bondman it is written in Scripture, He shall give into their master thirty shekels of silver,[23] would it here[24] also [be maintained that] the Torah has not conferred upon the master the right of possession before the money had actually been handed to him? — The yitten[25] cannot be compared[26] with we-nathan.[27] If so,[28] [instead of deducing the exemption from sacrifice] from the Scriptural text, 'And he deal falsely',[29] should not the deduction rather be made from 'Then . . . shall give'?[30] — Raba replied: The text of 'And he deal falsely' was required in a case, for instance, where the girl's action had been tried and then she became adolescent[31] and died, in which case[32] when the father receives[33] [the fine] he inherits [it] from her.[34] If so,[35] [however, how could it be said:] 'These, therefore, are excluded [from liability] since they are in fact penal' when they are in fact[36] civil? — R. Nahman b. Isaac replied: [The meaning is], These are excluded since they were originally penal. He[37] pointed out to him[38] another objection: R. Simeon, however. exempts him, for no fine is paid on ones own admission.[39] The reason then[40] is because his action had not been tried[41] but if it had been tried,[42] in which case he does pay,[43] even on his own admission,[44] he would incur. also, would he not, [the obligation of bringing] a sacrifice for swearing [a false oath]?[45] — R. Simeon argues with the Rabbis on the lines of their own view. According to my own view [he argued] the All-Merciful has exempted the man[46] even after he had been tried [as may be deduced] from the text 'And deal falsely'.[47] According to your view, however, you must at least admit that [the man is exempt] if he has not yet been tried, since the claim advanced against him is penal

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(1) At one court where he was ordered to pay; and he now denies his liability before another court. As R. Simeon nevertheless exempts him from liability (cf. supra p. 236, n. 6), an objection arises against Rabbah.

(2) I.e., whose liability had not yet been legally established and the amount claimed is still 'kenas' and not 'mamon'.

(3) V. Supra p. 236. n. 6.

(4) V., Ex. XXII, 3.

(5) Ibid. XXI, 37.

(6) Lit., ‘who brought out an evil name’ (V. Deut. XXII, 19).

(7) Lev. V, 21, a general statement preceding the details enumerated in the following verses.

(8) certainly not. For, in the first instance, there is no proof that the mail had stolen the object and, secondly, even if he had stolen it he might yet make his own confession and thereby obtain exemption from the double payment.

(9) V. supra note 4.

(10) Why then did R. Simeon's name appear at the beginning of the final clause, thus indicating that only that, and not the first clause represented his view?

(11) That according to R. Simeon he is not liable to bring his sacrifice even if his action had already been tried.

(12) Even if his action had been previously tried.

(13) Lev. V, 22 (cf. supra p. 238, n. 1 and text).

(14) [And much more so in regard to liability to payment on self admission, cf. p. 237 n. 7, v. Shittah Mekubbezeth]. In this respect only is it deemed to be civil if the father died after the action had been tried, though the collection of the sum had not yet been effected.

(15) Abaye.

(16) Rabbah.

(17) I.e., during all the period Rabbah occupied the presidency of the academy at Pumbeditha (cf. Ber. 64a and Hor. 14a).

(18) After the death of Rabbah.

(19) Cf. supra n. 8.

(20) The case of a fine for seduction or violation spoken of in our Mishnah.

(21) Deut. XXII, 29 emphasis on ‘give’.

(22) [Cf. supra 237, n. 4). The whole passage is extremely difficult. Commentators explain that Rabbah had it on tradition that a penal liability becomes civil in respect of inheritance after action had been taken, and the whole discussion was to elucidate exactly the implications of this vague tradition; v. Tosaf. 42a, s.v. אמר].

(23) Ex. XXI, 32.

(24) Since the verb ‘to give’ was used.

(25) יתן which is used in Ex. XXI, 32.

(26) Lit., alone’, ‘is in a separate category’.

(27) ונתן (Perfect with waw consec.). The former indicates merely future action while the latter implies the pluperfect, ‘he shall have given’.

(28) That deduction may be made from Deut. XXII, 29 to the effect that the fines of a violator and a seducer have a different legal status from that of other fines in that they remain penal even after the offender had been tried.

(29) Cf. supra p. 238, n. 1 and text.

(30) Cf. supra n. 8. While the text beginning ‘And deal falsely’ (Lev. V. 21) excludes only those liabilities which were originally penal but are not so now after the court had issued its ruling (v. supra 42a, ad fin.), the text of Then . . . shall give (Deut. XXII, 29) deals specifically with the fines of a violator and a seducer, laying down that so long as no collection of the fines had been effected, they remain penal even after the court had issued its ruling (v. Rashi and cf. Tosaf. a.l., s.v. אי). [Although the verse ‘And deal falsely’ is necessary for other penal liabilities, the fine of a violator should not have been included seeing that it belongs to a class by itself as is deduced from ‘Then . . . shall give’, v. Shittah Mekubbezeth].

(31) A bogereth. When the fine, according to R. Simeon (cf. supra p. 235. n. 11, and text), belongs to her.

(32) Lit., ‘for there’.

(33) Lit., ‘inherits’.

(34) And as far as he is concerned the liability, the payment of which had been ordered by the court, is no longer penal but civil. Hence the necessity for the text of ‘And he deal falsely’ to indicate that the defendant is nevertheless exempt from a sacrifice (cf. Tosaf. s.v. כי) because originally the liability was penal (v. Rashi).

(35) That the Baraitha (supra 42a) deals with a case where the action had already been tried and that the father inherits the fine from his daughter.

(36) Cf. supra n. 1.

(37) Abaye.

(38) Rabbah.

(39) Mishnah cited supra 42a.

(40) Why the offender is exempt.

(41) Previously, before a court. For if it had been tried he could not subsequently make a voluntary admission that would exempt him.

(42) By the first court, and he was ordered to pay.

(43) On the ruling of the second court.

(44) The money involved being no longer penal but (on account of the ruling of the first court) civil.

(45) Though the sum involved was originally penal. A contradiction thus arises between this Mishnah and the Baraithas both of which speak in the name of R. Simeon.

(46) From the sacrifice for a false oath.

(47) Cf. supra 42a ad fin.

Talmud - Mas. Kethuboth 43a

and one who makes a voluntary admission in a penal case is exempt.[1] But the Rabbis are of the opinion that the claim[2] is [mainly] in respect of compensation for indignity and blemish.[3] On what principle do they[4] differ? — R. Papa replied: R. Simeon is of the opinion that a man would not leave that which is fixed[5] to claim[6] that which is not fixed,[7] while the Rabbis hold the view that no man would leave a claim[6] from which [the defendant] could not be exempt even if he made a voluntary admission[8] and advance a claim[9] from which he would be exempt[10] if he made a voluntary admission. R. Abina enquired of R. Shesheth: To whom belongs the handiwork of a daughter who[11] is maintained[12] by her brothers?[13] Are they[14] in loco parentis and as in that case her handiwork belongs to her father so here also it belongs to her brothers; or [is it more reasonable that] they should not be compared to their father, for in his case she is maintained out of his own estate but here she is not maintained out of their estate?[15] — He replied: You have learned about such a case: A widow is to be maintained out of the estate of [her deceased husband's] orphans, and her handiwork belongs to them.[16] [But] are [the two cases in every way] alike? It may not be any satisfaction to a man that his widow should be liberally provided for,[17] but he might well be pleased, might he not, that his daughter should?[18] Does this[19] imply that a man has preference for his daughter than for his widow? Surely. R. Abba said in the name of R. Jose:[20] The relationship between[21] a widow and her daughter, in the case of a small estate,[22] has been put on the same level as that of the relationship between[21] a daughter and her brothers. As in the case of the relationship between a daughter and her brothers, the daughter is maintained[23] while the brothers can go begging at [people's] doors, so also in the case of the relationship between a widow and her daughter, the widow is maintained and the daughter can go begging at [people's] doors;[24] [which shews, does it not, that the widow is given preference]? — As regards [provision against] degradation[25] a man gives preference to his widow;[26] as regards liberal provision[27] he gives preference to his daughter.[28] R. Joseph objected: HER HANDIWORK, HOWEVER, AND ANYTHING SHE FINDS, EVEN IF SHE HAS NOT COLLECTED [THE PROCEEDS], BELONG TO HER BROTHERS IF HER FATHER DIED. The reason[29] then is[30] that [they originated during] the lifetime of their father, but [if they originated] after his death [they would belong] to herself. Does not [this refer to a daughter] who is maintained?[31] — No; [this is a case of one] who is not maintained.[32] If she is not maintained, what need is there to state [such a case]?[33] For even according to him who ruled that a master is entitled to say to his bondman, ‘Work for me and I will not maintain you’[34] the ruling applies only to a Canaanite bondman concerning whom ‘With thee’ was not written in Scripture, but not to a Hebrew slave concerning whom with thee[35] was written in Scripture. How much less [then would such a ruling apply] to one's daughter? — Rabbah b. ‘Ulla replied: It[36] was only required in the case of a surplus.[37] Said Raba: Did not such a great man as R. Joseph know that [sometimes there may] be a surplus when he raised his objection?[38] The fact however is, Raba explained, that R. Joseph raised his objection from our very Mishnah. For it was stated, HER HANDIWORK, HOWEVER, AND ANYTHING SHE FINDS, EVEN IF SHE HAS NOT COLLECTED [THE PROCEEDS]; but from whom [it may be asked] is she to collect anything she finds? Consequently it must be conceded that it is this that was meant: HER HANDIWORK is like ANYTHING SHE FINDS; as anything she finds belongs to her father[39] [if she finds it] during his lifetime, and to herself [if she finds it] after his death[40] so also in the case of her handiwork, [if it was done] during the lifetime of her father it belongs to her father [but if it was done] after his death it belongs to herself. Thus it may be concluded [that the ruling of R. Shesheth stands refuted].[41] So it was also stated:[42] Rab Judah ruled in the name of Rab, The handiwork of a daughter who is maintained by her brothers belongs to herself. Said R. Kahana: What is the reason? Because it is written in Scripture And ye make them an inheritance for your children after you,[43] [implying]: ‘them’[44] [you may make an inheritance] ‘for your children’, but not your daughters for your children. This tells us that a man may not transmit his authority[45] over his daughter to his son.[46] To this Rabbah demurred: It might be suggested that the Scriptural text[47] speaks of [payments in connection with] the seduction of one's daughter, fines and mayhem![48] And so did R. Hanina learn: The Scriptural text[47] speaks of [payments in connection with] the seduction of one's daughter, fines and mayhem![49] Is not mayhem injury involving bodily pain?[50] — R. Jose b. Hanina replied:

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(1) Cf. supra p. 236, n. 7.

(2) Of the father, in the Mishnah of Shebu. 36b, cited supra 42a.

(3) Which are civil liabilities.

(4) R. Simeon and the Rabbis.

(5) The statutory fine, prescribed in Deut. XXII, 29.

(6) Compensation for indignity and blemish.

(7) Since it varies according to the status of each individual.

(8) Cf. p. 241, n. 17.

(9) Cf. supra n. 1.

(10) Since it is penal.

(11) In accordance with the terms of her mother's kethubah (v. Glos.); cf. infra 52b.

(12) Until she is married. (V. infra 52b).

(13) The sons of her deceased father.

(14) Since they maintain her.

(15) But of that which their father had left them (cf. supra nn. 7 and 8).

(16) Mishnah, infra 59b. As the handiwork of a widow who is entitled to maintenance by the terms of her kethubah belongs to the sons of the deceased, so obviously does that of a daughter who is also maintained by virtue of a claim in the kethubah of her mother. (Cf. supra n. 7).

(17) By retaining her handiwork for herself. הרווחה, lit., ‘relief’, ‘comfort’. (Rt. רווח or רוח, lit., ‘to be far’, ‘to be placed wide apart’, hence ‘to have space or room to live in comfort’.)

(18) Her handiwork may, therefore, belong to her.

(19) The suggestion just made.

(20) The parallel passage in B.B. 140b reads, ‘Assi’.

(21) Lit., ‘at’, ‘at the side of’.

(22) Which does not suffice for the maintenance of the dependents of the deceased man for a period of twelve months (v. B.B. 139b).

(23) Out of the estate of the deceased.

(24) B.B. 140b.

(25) Begging.

(26) He feels more humiliation when his widow goes begging than when his daughter does so.

(27) Cf. supra p. 242, n. 13.

(28) It is a father's wish, as a rule, that his daughter shall be enabled to save up some money for her marriage dowry.

(29) Why these BELONG TO HER BROTHERS.

(30) As in the case of COMPENSATION and FINE spoken of in the same Mishnah.

(31) Out of her father's estate by her brothers. How then could R. Shesheth rule that the handiwork of a daughter in such circumstances belongs to her brothers?

(32) Where the deceased, for instance, left no property.

(33) I.e., what need was there for the author of our Mishnah to provide a text from which we are to infer that a daughter's handiwork and anything she finds that originated after her father's death belong to herself?

(34) Git. 12a.

(35) Deut. XV, 16, He fareth well with thee.

(36) The text of our Mishnah from which the inference mentioned is to be drawn (v. p. 243 n. 11).

(37) Sc. if the daughter's earnings exceeded the cost of her maintenance. Our Mishnah was necessary for the purpose of the inference (cf. p. 243 n. 11) that the surplus also belongs to herself.

(38) Of course he knew and, therefore, he could not possibly have raised an objection in the form attributed to him.

(39) In return for her board. A father is under no legal obligation to maintain his daughter (v. infra 49a) and it was, therefore, enacted that in recognition of his consideration for her all she finds shall belong to him (v. B.M. 12b).

(40) Her father's heirs can lay no claim to her finds because the board they provide for her is not an act of kindness on their part but a legal obligation, cf. supra p. 243, n. 7.

(41) Cf. supra p. 243. n. 9.

(42) By Amoraim.

(43) Lev. XXV, 46.

(44) Canaanite bondmen.

(45) Lit., ‘privilege’, ‘advantage’.

(46) Hence the ruling that the handiwork of a daughter, though it belongs to her father, does not belong to her brothers.

(47) Lev. XXV, 46, from which the ruling mentioned (v. supra p. 244, n. 11) has been deduced.

(48) Assault involving bodily injury. V. infra n. 3.

(49) All of which are unusual income and cannot be regarded as an income that brothers might properly expect. Handiwork, however, which may normally be expected, the brothers may justly expect from their sister in return for the maintenance with which they provide her.

(50) Compensation for which is not due even to her father (v. B.K. 87b). What need then was there to exclude his heirs?

Talmud - Mas. Kethuboth 43b

The wound [may be supposed to] have been made in her face[1] . Rab[2] Zera stated in the name of R. Mattena who had it from Rab: (others assert [that it was] Rabbi[2] Zera who stated in the name of R. Mattena who had it from Rab): The handiwork of a daughter who is maintained by her brothers belongs to herself, for it is written in Scripture, And ye make them an inheritance for your children after you[3] [implying]: ‘Them’[4] [you may make an inheritance] ‘for your children’, but not your daughters for your children. This tells us that a man may not transmit his authority over his daughter to his son.[5] Said Abimi b. Papi to him: Shakud[6] made this statement.[7] Who is Shakud? — Samuel. But, surely, was it not Rab who made this statement? — Read: Shakud also made this statement. Mar the son of Amemar said to R. Ashi, Thus the Nehardeans have laid down: The law is in agreement with the ruling of R. Shesheth.[8] R. Ashi [however] said: The law is in agreement with Rab.[9] And the law is to be decided in agreement with the view of Rab. MISHNAH. IF A MAN GAVE HIS DAUGHTER[10] IN BETROTHAL AND SHE WAS DIVORCED, [AND THEN] HE GAVE HER [AGAIN] IN BETROTHAL AND SHE WAS LEFT A WIDOW, HER KETHUBAH[11] BELONGS TO HIM.[12] IF HE GAVE HER IN MARRIAGE AND SHE WAS DIVORCED [AND THEN] HE GAVE HER [AGAIN] IN MARRIAGE AND SHE WAS LEFT A WIDOW, HER KETHUBAH[13] BELONGS TO HER.[14] R. JUDAH SAID: THE FIRST[15] BELONGS TO HER FATHER.[16] THEY,[17] HOWEVER, SAID TO HIM: HER FATHER, AS SOON[18] AS HE GIVES HER IN MARRIAGE, LOSES ALL CONTROL OVER HER.[19] GEMARA. The[20] reason[21] is that when HE GAVE HER IN MARRIAGE [the first time] SHE WAS DIVORCED [and that when] HE GAVE HER [AGAIN] IN MARRIAGE, SHE WAS LEFT A WIDOW [for the first time],[22] but if she had been left a widow twice[23] she would not have been fit to marry again. The Tanna[24] has thus indirectly laid down an anonymous ruling in agreement with Rabbi who holds that if [a thing has happened] twice presumption is established.[25] R. JUDAH SAID: THE FIRST BELONGS TO HER FATHER. What is R. Judah's reason? — Both Rabbah and R. Joseph explained: Since her father has acquired the right to it[26] at the time of the betrothal.[27] Raba objected: ‘R. Judah ruled that the first[28] belonged to her father; R. Judah nevertheless admitted that if a father gave his daughter in betrothal while she was still a minor and she married after she had attained adolescence he has no authority over her'.[29] But why? Might it not here also be argued,[30] 'Since her father has acquired the right to it at the time of the betrothal'?[31] The fact, however, is that if any statement [in the nature mentioned] has at all been made it must have been made in the following terms:[32] Both Rabbah and R. Joseph explained: Because it[33] was written while she was still under his authority.[34] As to the recovery [of a kethubah],[35] from which date may distraint be effected?[36] — R. Huna replied: The hundred[37] or the two hundred[38] from the date of the betrothal[39] and the additional jointure[40] from that of the marriage.[41] R. Assi, however, replied: The former as well as the latter [may be distrained upon only] from the date of the marriage.[42] But could R. Huna, however, have given such a ruling?[43] Has it not been stated: If a wife produced against her husband two kethuboth, one for two hundred, and one for three hundred zuz, she may, said R. Huna, distrain from the earlier date if she wishes to collect the two hundred zuz [but if she desires to collect the] three hundred zuz she may distrain from the later date only. Now if the ruling were as stated[44] she should be entitled, should she not, to distrain to the extent of two hundred zuz from the earlier date and to that of one hundred from the later date? — But [even] according to your conception [it might equally be objected why] should she [not] distrain for all the five hundred zuz, two hundred from the earlier date and three hundred from the later date? What then is the reason why she cannot distrain for all the five hundred? [Obviously this:] Since the man did not write in her favour,[45] 'I willingly added to your credit three hundred zuz to the two hundred' he must have meant to imply: 'If you desired to distrain from the earlier date you would recover [no more than] two hundred, and if you desired to distrain from the later date you would receive three hundred'.

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(1) As an exposed wound decreases her value, compensation is due to her father, since it is he who suffers the loss.

(2) Zera traveled from Babylon to Palestine where he was ordained by R. Johanan and had the title of Rabbi conferred upon him. His former title was only Rab. The following statement was made by him, according to the first reading, before, and according to the second reading after his ordination.

(3) Lev. XXV, 46.

(4) Canaanite bondmen.

(5) Cf. supra p. 244, n. 11.

(6) שקוד 'careful speaker' (cf. Rashi a.l.), 'industrious scholar' (Jast.) 'studious' (Aruk).

(7) The ruling and deduction reported by R. Zera.

(8) V. supra p. 242, n. 12 and text.

(9) In opposition to R. Shesheth.

(10) While she was a minor or a na'arah (v. Glos.).

(11) Of the second, as well as that of the first betrothal.

(12) Because the income of a daughter under the state of bogereth (V. Glos.) belongs to her father.

(13) Whether of the first or the second marriage.

(14) Because a father's control over his daughter, even if she is a minor, ceases as soon as he gives her in marriage; and since the collection of a kethubah, though not its writing, must always follow the marriage the amount collected is the rightful possession of the daughter.

(15) Sc. the kethubah of the first marriage.

(16) The reason is stated infra.

(17) The Rabbis who differed from his view.

(18) Cur. edd. insert in parentheses, 'if'.

(19) Hence it is she who is entitled to receive her kethubah.

(20) The interpretation of this passage is difficult and that of Rashi is here adopted (v. Tosaf. s.v. טעמא)

(21) For the illustration in the second clause of the Mishnah.

(22) So that it is possible for her to remarry a third time.

(23) Instead of having been divorced.

(24) Of our Mishnah by avoiding any unhappy illustration in which the woman cannot marry again.

(25) If a woman, for instance, was widowed twice she is deemed to be a dangerous companion to men, and is, therefore, forbidden to marry again (v. Yeb. 64b).

(26) Lit., ‘them’. The plural referring generally to the two respective amounts of the statutory kethubah, two hundred so for a virgin and one hundred for a widow or divorcee (v. Rashi, s.v. הואיל).

(27) When the daughter was still under her father's authority. In the case (if the second kethubah, however, which is subsequent to the first marriage R. Judah agrees, of course, with the Rabbis.

(28) Cf supra p. 246, n. 8.

(29) Sc. the kethubah belongs to herself and not to her father.

(30) That the kethubah should being to the father (cf supra n. 5).

(31) Since such argument, however, was not used the statement attributed above to Rabbah and R. Joseph cannot be authentic.

(32) Lit., ‘but if it was said, it was said thus’.

(33) The kethubah for the first marriage. On the use of the pl. נכתבין cf. supra n. 2. [Although the liability in regard to the kethubah began at betrothal, it was not reduced to writing till nuptials proper; cf. Rashi. For other interpretations v. Asheri].

(34) Unlike the Rabbis who were guided by the time of the collection (cf. supra p. 246, n. 7) R. Judah holds that the date of the writing of the kethubah is the determining factor. Hence his ruling in our Mishnah (where the writing took place while the daughter was in her minority) that the kethubah is the father's property. In the Baraitha cited, however, (where the writing took place when the daughter was already adolescent, I. e., shortly before her marriage) the kethubah rightly belongs no longer to her father but to herself.

(35) From property sold between the date of the betrothal and that on which the kethubah was written.

(36) I.e., does the right of distraint begin on the date of the betrothal (when the man becomes Rabbinically liable for the kethubah) or (as in the case just dealt with) on the date the kethubah was written? (V. Rashi. Cf., however, Tosaf s.v. ומיגבא).

(37) For a widow or a divorcee.

(38) In the case of a virgin.

(39) Since these amounts are statutory liabilities applicable to all.

(40) Which differs according to individual arrangements, v. infra.

(41) When the kethubah is written and formal acquisition (kinyan v. Glos.) is effected.

(42) Having accepted the written kethubah that bore the later date on which her marriage took place the woman is assumed to have surrendered her rights to the statutory amount, which she had acquired earlier on betrothal, in favour of her new advantages as well as any disadvantages that were conferred by the written document.

(43) Lit., ‘did H. Huna say so’? That the earlier obligation (statutory kethubah) is recoverable from the earlier date (betrothal). and the latter one (additional jointure) from the later date (marriage).

(44) V. supra note 8. Lit., ‘there is’.

(45) In her second kethubah.

Talmud - Mas. Kethuboth 44a

Here also[1] [it may similarly be said:] This is the reason why she cannot distrain [for the additional jointure from the earlier date]: Since he did not write in her favour, ‘I have added a hundred zuz to the two hundred’[2] she [having accepted the deed] must have renounced her former lien.[3] The Master[4] has laid down that if she wishes she may distrain with the earlier kethubahs and if she prefers she may distrain with the later one.[5] Is it then to be assumed [that this ruling] differs from that of R. Nahman who laid down that if two deeds[6] were issued one after the other the latter cancels the former?[7] — [No, for] has it not been stated in connection with this statement that R. Papa said: R. Nahman nevertheless admits that if the man has added[8] one palm[9] the insertion was intended as an additional privilege?[10] And here also, Surely, [the husband] has added something.[11] [To turn to] the original text.[12] R. Nahman laid down that if two deeds were issued one after the other the latter cancels the former. Said R. Papa: R. Nahman nevertheless admits that if the man has added one palm the insertion was intended as an additional privilege.[13] It is obvious [that the reason why both deeds are valid where] the first [was a deed] of sale and the second [a deed] of gift[14] [is because the action of the owner] was intended[15] to improve the other's rights,[16] as a safeguard against[17] the law of pre-emption;[18] and much more [is this[19] obvious where] the first was for a gift and the second for a sale, for it may then be presumed that the latter was written in that manner in order to safeguard the other against a creditor's rights.[20] [What], however, [is the reason why] the second cancels the first where both deeds[21] were for a sale or both for a gift? — Rafram replied: Because it may be presumed that [the holder of the deeds] has admitted to the other [the invalidity of the first deed].[22] R. Aha replied: Because it might be presumed that [the holder of the deeds] has surrendered his security of tenure.[23] What is the practical issue between them?[24] — The disqualification of the witnesses,[25] payment of compensation for unsufruct[26] and land tax.[27] What is [the decision] in respect of the kethubah?[28] — Come and hear what Rab Judah laid down in the name of Samuel who had it from R. Eleazar the son of R. Simeon:[29] [The statutory kethubah of] a maneh[30] or two hundred zuz[31] [may be distrained for] from [the date of] the betrothal but the additional jointure only from the date of the marriage. The Sages, however, ruled: The one as well as the other [may be distrained for only] from the date of the marriage. The law is that the one as well as the other [may be distrained only] from the date of the marriage. MISHNAH. THE DAUGHTER OF A PROSELYTE WOMAN WHO BECAME A PROSELYTE TOGETHER WITH HER MOTHER[32] AND THEN[33] Played THE HARLOT IS SUBJECT TO THE PENALTY[34] OF STRANGULATION,[35] BUT NOT TO[36] [STONING AT] THE DOOR OF HER FATHER'S HOUSE[37] NOR [DOES HER HUSBAND PAY THE] HUNDRED SELA'.[38] IF SHE WAS CONCEIVED IN UNHOLINESS[39] BUT HER BIRTH WAS IN HOLINESS[40] SHE IS SUBJECT TO THE PENALTY OF STONING BUT NOT T[36] [THAT OF BRINGING HER OUT TO 'THE DOOR OF HER FATHER'S HOUSE', NOR [DOES HER HUSBAND PAY THE] HUNDRED SELA'. IF SHE WAS BOTH CONCEIVED AND BORN IN HOLINESS[40] SHE IS REGARDED AS A DAUGHTER OF ISRAEL IN ALL RESPECTS.[41] ONE[42] WHO HAD A FATHER BUT NO DOOR OF HER FATHER'S HOUSE',[43] OR A 'DOOR OF HER FATHER'S HOUSE' BUT NO FATHER, IS NEVERTHELESS SUBJECT TO THE PENALTY[44] OF STONING,[45] [FOR THE REGULATION, 'TO] THE DOOR OF HER FATHER'S HOUSE',[46] WAS ONLY INTENDED AS [AN INDEPENDENT] PRECEPT.[47]

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(1) The last cited ruling of R. Huna.

(2) But has included the two hundred in the three hundred under a later date.

(3) Her right to distraint does, therefore, begin on the later date only. In the case of ordinary kethuboth, however, to which R. Huna's first ruling refers, a special clause to the effect that the husband has willingly added the additional jointure to the statutory kethubah forms part of the contract. The woman's original rights consequently remain unimpaired (cf. supra p. 248, n. 8).

(4) I.e., R. Huna in his second ruling. supra 43b.

(5) Lit., 'with that'.

(6) Relating to the same transaction and the same persons.

(7) And the right to distrain begins with the second date. Were R. Nahman's ruling to be applied to the case spoken of by R. Huna, would not the second kethubah have cancelled the first and the woman would have had no choice in the matter?

(8) In the text of the second deed.

(9) Or any other object or money. The addition of a palm applies to a sale, or gift of a plot of land.

(10) Lit., 'he wrote It for an addition'. The deed is not thereby impaired. and it is, therefore, within the right of the holder of the deeds to distrain either with the second deed and thus recover the original as well as the addition but from the later date only, or to distrain from the first date the original alone without the addition.

(11) Another hundred zuz.

(12) Which was cited in the discussion just concluded.

(13) V. p. 249 for notes.

(14) And related to the same transaction and the same persons as the first one.

(15) Lit., 'he (intended) when he wrote for him'.

(16) Even though no material addition was made to the original sale.

(17) Lit., on account of'.

(18) In virtue of which the next abutting neighbour can insist on exercising the right of first purchase. This right applies to a sale but not to a gift. בר מצרא lit., 'one on the border', sc the owner of an adjacent field who has the right of

Pre-emption.
(19) The reason for the validity of both deeds.
(20) Only a buyer may claim compensation from the original owner if a creditor of that owner had distrained upon the land he bought. A donee has no such right. By the writing of the second deed the owner has conferred upon the donee the additional rights of a buyer.
(21) Lit., ‘both of them’.
(22) And willingly accepted the second though his rights of distraint were thereby restricted to the later date.
(23) During the period intervening between the date of the first, and that of the second deed.
(24) Rafram and R. Aha.
(25) According to Rafram the witnesses, since they put their signatures to an invalid document, must be regarded as legally unfit for further evidence. (So Rashi. Tosaf., however, s.v. איכא, object to this view and (a) restrict the disqualification of the witnesses in respect of such a deed only as is held by the man who had cast aspersion on their characters or (b) apply the disqualification to the signatures). According to R. Aha, who does not question the authenticity of the deed, the character of the witnesses is not in any way affected.
(26) Which the holder of the deeds enjoyed between the first and the second date. According to Rafram, the holder of the deeds must pay such compensation since the first deed is presumed to be invalid. According to R Aha no such compensation is paid since the holder of the deeds renounced only his security of tenure but not his unsufruct.
(27) The original owner must pay it according to Rafram and the holder of the deeds according to R. Aba.
(28) I.e., ‘from which date may distraint be effected?’ (V. p. 247, n. 11 and 248, n. 1).
(29) Var. lec. ‘Eliezer b. Shamua’ (Bomb. ed.).
(30) V. Glos.
(31) The respective amounts due (a) to a widow or divorcee, and (b) to a virgin.
(32) Lit., ‘the female proselyte whose daughter became a proselyte with her’.
(33) Having become betrothed while she was still a na'arah (v. Glos).
(34) Lit., ‘behold this’.
(35) The penalty prescribed for a faithless married woman.
(36) Lit., ‘she has not either’.
(37) Prescribed in Deut. XXII, 21 for a betrothed Israelite damsel (na'arah) who played the harlot.
(38) Due from a man who wrongfully accused his wife (v. Deut. XXII, 19). [Nor is he flagellated, the fine and the flogging being prescribed in juxtaposition to one another (Ritba)].
(39) Sc. while her mother was still a heathen.
(40) After her mother's conversion.
(41) She is subject to the penalties and entitled to the privilege as prescribed in Deut. XXII. 19, 21.
(42) Any daughter of Israel (Rashi) who played the harlot while she was a betrothed na'arah.
(43) When her father, for instance, had no house.
(44) Lit., ‘behold this’.
(45) v. supra note I.
(46) פתח בית אביה (Deut. XXII, 21). Cur. edd. read אב.
(47) Not as an indispensable part of the penalty.

Talmud - Mas. Kethuboth 44b

GEMARA. Whence is this[1] deduced? — Resh Lakish replied: Since Scripture said, That she die[2] it[3] included also her who WAS CONCEIVED IN UNHOLINESS BUT HER BIRTH WAS IN HOLINESS: If so, [should not her wrongful accuser][4] also be flogged[5] and [condemned] to pay the hundred sela'?[6] Scripture stated, That she die[7] [implying that she] was included in respect of death but not in respect of the fine. Might it not be suggested [that Scripture intended] to include one who was both conceived and born in holiness? — Such a person is a proper Israelite woman.[8] But can it not be said that [Scripture intended] to include one conceived and born in unholiness? — If this were so what purpose would be served[9] by the expression,[10] ‘In Israel’?[11] R. Jose b. Hanina ruled: A man who brought an evil name upon an orphan girl is exempt, for it is said in Scripture, And give them unto the father of the damsel,[12] Which excludes this girl who has no ‘father’. R. Jose b. Abin, or it might be said, R. Jose b. Zebida, raised an objection: If her father utterly refuse[13] [was meant][14] to include an orphan girl in respect of the fine;[15] so R. Jose the Galilean.[16] [Why then should the orphan in this case[17] be excluded]? — He raised the objection and he himself supplied the answer: [This[18] is a case of a girl] who became an orphan after the man had intercourse with her.[19] Rabbah[20] ruled: He[21] is guilty. Whence [did he infer this]? — From that which Ammi taught: A virgin of Israel,[22] but not a proselyte virgin.[23] Now if you assume that in a case of this nature[24] in Israel[25] guilt is incurred, one can well see why it was necessary for a Scriptural text to exclude proselytes. If you, however, assume that in a case of this nature in Israel[25] [the offender] is exempt [the difficulty would arise:] Now [that we know that the offender] is exempt [even if he sinned] against Israelites[25] was it any longer necessary [to mention exemption if the offence was] against proselytes?[26] Resh Lakish ruled: A man who has brought an evil name[27] upon a minor is exempt,[28] for it is said in Scripture, And give them unto the father of the damsel,[29] Scripture expressed the term na'arah[30] as plenum.[31] To this R. Aha[32] b. Abba[33] demurred: Is the reason then[34] because in this case ‘the na'arah’[35] was written [in Scripture], but otherwise it would have been said that even a minor [was included], surely, [it may be objected] it is written in Scripture, But if the things be true, and the tokens of virginity be not found in the damsel, then they shall bring out the damsel to the door of her father's house and [the men of the city] shall stone her,[36] while a minor is not, is she, subject to punishment?[37] — [The explanation,] however, [is that, since] na'arah [has been written] here[38] [it may be inferred that only where na'arah[39] is used is a minor excluded] but wherever Scripture uses the expression na'arah[40] even a minor is included.[41] Shila taught: There are three modes [of execution] in the case of a [betrothed] damsel[42] [who played the harlot]. If witnesses appeared against her in the house of her father-in-law[43] [testifying] that she had played the harlot in her father's house[44]

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(1) That IF SHE WAS CONCEIVED IN UNHOLINESS BUT HER BIRTH was IN HOLINESS SHE IS SUBJECT TO THE PENALTY OF STONING.

(2) Deut. XXII, 21, which is superfluous after Shall stone her with stones (ibid.).

(3) By the insertion of the superfluous expression.

(4) Supra p. 251, n. II.

(5) In accordance with Deut. XXII, 18, v. p. 251. n. 11.

(6) V. Deut. XXII, 19.

(7) Ibid. 21; emphasis on ‘die’.

(8) And requires no special text to include her.

(9) Lit., ‘what would it benefit him’.

(10) Deut. XXII, 21.

(11) None whatever. Hence it follows that the last mentioned was excluded.

(12) Ibid. 29.

(13) מאן ימאן Ex. XXII, 16, dealing with a case of seduction.

(14) Since the verb was repeated (v. note 2).

(15) One form of the verb (ימאן) referring to the father and the other (the infin. מאן) to a girl who has no father.

(16) Which shews that, though the laws in respect of seduction (Ex. XXII, 15f) are inferred from those of outrage (Deut. XXII, 28) and vice versa, and though in the latter case Scripture specifically stated that the fine is payable to the damsel's father (ibid. 29), an orphan is nevertheless entitled to the fine.

(17) In that of an evil name.

(18) The Tannaitic ruling of R. Jose the Galilean.

(19) Only such an orphan is included. All others are excluded by the Scriptural mention of father.

(20) In opposition to the view of R. Jose b. Hanina supra.

(21) The man who brought an evil name upon an orphan.

(22) Deut. XXII, 19.

(23) I.e., the penalties spoken of in the Scriptural text apply only to the former and not to the latter.

(24) Sc. that of a girl who is fatherless. A proselyte, though his or her heathen parents are alive, has the status of one who is fatherless.

(25) Sc. an Israelite girl who is fatherless.

(26) Of course not, since the latter case would be self-evident a minori ad majus. As exemption, however, was specified in this case it may be concluded that in that of an Israelite orphan guilt is incurred.

(27) V. Deut. XXII, 19.

(28) From paying the prescribed fine ‘of a hundred shekels’.

(29) V. Deut. XXII, 19.

(30) Damsel, Heb. נערה.

(31) With ‘he’ at the end of the word. As elsewhere נערה is written נער (na'ara) defective, it is assumed that the plenum here was intended to refer to na'arah (v. Glos.) only, and not to a minor, v. supra 40b, and notes.

(32) Var. ‘Adda’ (cf. supra 40b).

(33) Var. ‘Ahabah’ (cf. l.c. and MS.M.).

(34) Why the fine mentioned is not incurred where a minor is concerned.

(35) הנערה, ‘the . . . damsel’.

(36) Deut. XXII. 20f.

(37) And a minor would consequently have been excluded even if נער defective had been written.

(38) Where a minor is obviously excluded because she is not subject to penalties.

(39) נערה.

(40) נער.

(41) I.e., the exclusion mentioned was not necessary for the case spoken of in this context where it is obvious (v. supra n. 11) but for the purpose of a general deduction.

(42) Na'arah (v. Glos.).

(43) Sc. after her marriage.

(44) While she was betrothed.

Talmud - Mas. Kethuboth 45a

she is stoned at the door of her father's house,[1] as if to say,[2] ‘See the plant that you have reared’. If witnesses came [to testify] against her in her father's house that she played the harlot in his house she is stoned at the entrance of the gate of the city. If having committed the offence[3] she eventually[4] attained adolescence[5] she is condemned to strangulation.[6] This[7] then implies that wherever there occurred a change in one's person, one's mode of execution also must be changed. But is not this contradicted by the following: ‘If a betrothed damsel[8] played the harlot and [her husband] brought upon her an evil name[9] after she had attained adolescence,[10] he is neither to be flogged[11] nor is he to pay the hundred sela’,[12] but she and the witnesses who testified falsely against her[13] are hurried[14] to the place of stoning’?[15] ‘She and the witnesses who testified falsely against her’! Can this be imagined?[16] — But [this is the meaning:] ‘She[17] or[18] her witnesses[19] are hurried[14] to the place of stoning’?[20] — Raba replied: You speak [of the law relating to a husband] who brought up an evil name; but this law is different [from the others],[21] because it is an anomaly.[22] For, elsewhere, if a girl[23] entered the bridal chamber,[24] though no intercourse followed, she is condemned to strangulation if she committed adultery, but [a woman upon whom a husband] brought an evil name is condemned to Stoning.[25] Said R. Huna the son of R. Joshua to Raba: Is it not possible that the All-Merciful created the anomaly only where no constitutional change had taken place,[26] but where a constitutional change had occurred[27] the All-Merciful has created no anomaly?[28] — The fact however is, explained R. Nahman b. Isaac, [that the question whether a change in status] involves, or does not involve a change [in the penalty] is [a point in dispute between] Tannaim. For we have learned: If they[29] committed a sin before they were appointed [to their respective offices] and [then] were appointed, they are regarded[30] as laymen. R. Simeon ruled: If their sin came to their knowledge before they were appointed[31] they are liable,[32] but if after they were appointed[33] they are exempt.[34]

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(1) Cf. Deut. XXII. 21.

(2) To the parents.

(3) While she was a na'arah.

(4) Before her trial.

(5) V. Glos. s.v. bogereth.

(6) The penalty prescribed for adults. Only a na'arah (v. Glos.) is subject to the penalty of stoning.

(7) R. Shila's last mentioned ruling that the penalty of a na'arah who attained majority is changed from stoning to strangulation.

(8) V. p. 254, n. 20.

(9) V. Deut. XXII, 14.

(10) Sc. when their marriage took place (Rashi).

(11) v. ibid. 18.

(12) V. ibid. 19.

(13) And were proved Zomemim (v. Glos.).

(14) מקדימין lit., ‘go early’, sc. they cannot escape their doom and might as well get it over as soon as possible (Rashi).

(15) בית הסקילה, a structure twice a man's height (i.e. six cubits) from which the condemned man was thrown before he was stoned (v. Sanh. 453 [Sone. ed.] p. 295).

(16) Obviously not. If she is condemned they must be true witnesses, and if they are condemned she must be innocent.

(17) If she was found guilty.

(18) The waw of it may be rendered ‘or’ as well as ‘and’.

(19) In the case where their falsehood was established by other witnesses.

(20) Thus, at all events, it follows that despite the change in her person she is still subject to the former penalty, which is in contradiction with the ruling of Shila (v. supra note 1). (The penalty of a na'arah is stoning and that of one who is in her adolescence is only strangulation).

(21) Such as the law of Shila which deals with an accusation by witnesses and not with an evil name brought by a husband.

(22) Lit., ‘novelty’, and no comparison with, or inference from an anomalous law may he made.

(23) Even a na'arah (v. Glos. and cf. infra 48b).

(24) Huppah (v. Glos.).

(25) [Although had she committed the offence at the time of the defamation, i.e., after marriage, she would he strangled. This proves that in the case where the husband himself, and not witnesses, brings a charge, after marriage, of infidelity having taken place during betrothal, we do not apply the principle that the intervening change in the woman's status effects retrospectively a change in the penalty. And it is the exception which the law makes in this case which proves the general rule to the contrary elsewhere, v. Tosaf.].

(26) As in the case just cited where the change affects only her status — from betrothal to marriage.

(27) I.e., when the girl had attained her adolescence as In the case spoken of by Shila.

(28) The contradiction pointed out (v. supra p. 255, notes 1 and 14) would consequently arise again.

(29) A High Priest and a ruler whose sin-offerings differ from those of laymen. The former's offering being a bullock (Lev., IV, 3) the latter's a he-goat (ibid. 23) while that of a layman is a she-goat (ibid. 28) or a lamb (ibid. 32).

(30) In respect of their sin-offerings.

(31) So that both the commission of the sin and their awareness of it occurred while they were in the same status as laymen.

(32) To bring sin-offerings as prescribed for laymen (v. supra note 4).

(33) So that their sin was committed while they were still laymen and subject to one kind of offering, and their awareness set in when, as a ruler or High Priest, another kind of offering was due.

(34) Completely; on account of the change in their status (Hor. 10a). Consequently it may be assumed that the first Tanna who holds that a change in status does not involve a change of offering, maintains also that a change in the person involves no change of penalty, while R. Simeon who maintains that a change of status removes the obligation of an offering, will hold all the more so that a change in the person removes a man's liability to his former penalty and thus subjects him to the penalty appropriate to his new condition, and thus Shila's teaching will be in accordance with R. Simeon.

Talmud - Mas. Kethuboth 45b

[But] is it not to be maintained that R. Simeon was heard to be guided by [the time of] the awareness also,[1] did you, how ever, hear that he Was guided by [the time of] awareness alone and not also by that of the commission of sin? For were that so,[2] should they[3] not have brought an offering in accordance with their present status, the High Priest a bullock, and the ruler a he-goat?[4] — Surely R. Johanan said to the Tanna:[5] Read, 'She is to be condemned to stoning.'[6] But why?[7] Did not the All-Merciful[8] speak of a betrothed 'damsel'[9] and this one is adolescent? — R. Elai replied: Scripture said, the damsel[10] [implying] her who was a damsel[9] before.[11] Said R. Hanania to R. Elai: If so,[12] should not [the husband] also be flogged and pay the hundred sela'?[13] — 'May the All-Merciful', the other replied, 'save us from such an opinion'.[14] 'On the contrary [the first retorted], may the All-Merciful save us from such an opinion as yours'. What, however, is the reason?[15] — R. Isaac b. Abin, or, as some say, R. Isaac b. Abba, replied: In her case it was[16] her behaviour that brought about her [punishment] but in his case it was is the inclination of his lips[17] that brought about his [penalties]. 'In her case it was her behaviour that brought about her [punishment]' and when she played the harlot she was still a na'arah.[18] 'But in his case it was the inclination of his lips that brought about his [penalty]'; and when does he incur his guilt? Obviously at that time,[19] and at that time she Was already adolescent. Our Rabbis taught: A betrothed damsel[18] who played the harlot is to be stoned at 'the door of her father's house'[20] . If she had no 'door of her father's house'[21] she is stoned at the entrance of the gate of that city. But in a town which is mostly inhabited by idolaters she is stoned at[22] the door of the court. Similarly you may say: A man who worships idols[23] is to be stoned at the gate [of the city] where he worshipped, and in a city the majority of whose inhabitants are idolaters he is stoned at the door of the court .[24] Whence are these rulings derived? — From what our Rabbis have taught: [By the expression] thy gates[25] [was meant] the gate [of the city] wherein the man has worshipped. You say, 'The gate [of the city] wherein the man has worshipped', might it not mean the gate where he is tried?[26] — [Since the expression] 'thy gates' is used below[27] and also above[28] [an analogy is to be made:] As 'thy gates' mentioned above[29] refers to the gate [of the city] wherein he worshipped[30] so does 'thy bates' that was mentioned below[27] refer to the gate [of the city] wherein the man had worshipped. Another interpretation: 'Thy gates',[25] but not the gates of idolaters.[31] [As to] that [expression of] 'thy gates', has not a deduction already been drawn from it?[32] — If [the purpose of the expression were only] this deduction[33] Scripture would have used the expression 'gate'; why thy gates'? Both deductions may, therefore, be made. Thus we obtain [rulings in respect of] idolatry,[34] whence do we [derive the law in respect of] a betrothed girl?[35] R. Abbahu replied: 'Door'[36] is inferred from 'door',[37] and door[37] from 'gate',[38] and 'gate'[37] from 'thy gates'.[39] Our Rabbis taught: [A husband] who brings up an evil name [upon his wife] is flogged[40] and he must also pay a hundred sela'.[41] R. Judah ruled: As to flogging, [the husband is] flogged in all circumstances; as to the hundred sela', however, where he had intercourse with her[42] he pays them but if he did not have intercourse with her[43] he does not pay. They[44] differ on the same principles as those on which R. Eliezer b. Jacob and the Rabbis differed,[45] and it is this that [each of the former group] meant: [A husband] who brought an evil name [upon his wife] is flogged and he must also pay a hundred sela', whether he had intercourse, or did not have intercourse with her, [this being] in agreement with the Rabbis.[46] R. Judah ruled: As to flogging [the husband is] flogged in all circumstances;[47] as to the hundred sela', however, where he had intercourse with her he pays them but if he did not have intercourse with her he does not pay; in agreement with R. Eliezer b. Jacob.[48] Another reading.[49] All the statement[50] is in agreement with the opinion of R. Eliezer b. Jacob[48] and it is this that [each of the former group][51] meant: [A husband] who brought an evil name [upon his wife] is flogged and he must also pay the hundred sela' only where he had intercourse with her.[52] R. Judah ruled: As to flogging, [the husband is] flogged in all circumstances.[53] Can R. Judah, however, maintain that 'as to flogging, [the husband] is flogged in all circumstances' when it was taught: R. Judah ruled, If he had intercourse he is flogged but if he did not have intercourse he is not flogged? — R. Nahman b. Isaac replied: [By the ruling of R. Judah that the husband] 'is flogged'[54] [was meant] chastisement[55] which is a Rabbinical penalty.[56]

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(1) I.e., the nature of an offering cannot be determined by that status alone in which a man finds himself at the time he committed his sin. If his liability to that offering is to be established he must have the same status when he becomes aware of his sin. It is on this account, and not because a change of status involves a change of penalty, that R. Simeon exempts a man from an offering where he became aware of his sin after he had assumed a new status.

(2) That a change of status involves a man in the offering or penalty of his new condition, in agreement with Shila's ruling, irrespective of that man's former status in which his sin was committed.

(3) Laymen who became aware of their sins after they had been appointed High Priests or rulers.

(4) The answer being in the affirmative the objection against Shila again arises (v. supra p. 255, notes 1 and 14).

(5) Who recited Shila's ruling in his presence.

(6) Sc. despite the change in her person her penalty remains unaltered. That is, Shila's teaching is rejected.

(7) I.e., why (v. supra note 5) is she to be stoned.

(8) In prescribing the penalty of stoning.

(9) Na'arah (v. Glos.).

(10) Deut. XXII, 21 emphasis on ‘the’, הנערה with the ‘he’ article.

(11) Sc. at the time of the offence (v. supra note 5).

(12) That the determining factor is the time of the offence.

(13) The penalties prescribed in Deut. XXII, 18f.

(14) An evasive reply. R. Elai held the reason to be so obvious that he refused to discuss it. Cf. the reason given infra.

(15) Why the girl's constitutional change alters the man's penalties and not hers.

(16) Lit., ‘this’.

(17) Sc. his organs of speech. It was his talk that brought an evil name upon her.

(18) Na'arah (v. Glos.).

(19) When he spread the report.

(20) If the witnesses came after she had married (v. Rashi). Cf. supra p. 251, n. 10.

(21) Cf. supra p. 252, n. 3.

(22) Or ‘outside’; cf. Tosaf. s. v. על, a.l.

(23) MS M., ‘and in the case of idolatry’.

(24) Tosef. Sanh. X.

(25) Deut. XVII, 5

(26) The judges’ seat was at the city gate (cf. Ruth IV, 1ff).

(27) Deut. XVII, 5, which follows, and prescribes the punishment of the crime mentioned in v. 2 that precedes R.

(28) Deut. XVII. 2.

(29) Where the commission of the crime is spoken of.

(30) Since the text specifically deals with that subject. (v. n. 12).

(31) I.e., if most of the inhabitants of a city are idolaters the execution is not carried out at the gate of the city but at the court gate.

(32) In the analogy supra. Lit., ‘you have drawn it out’. How could two deductions be made from one word?

(33) Lit., ‘so’.

(34) Since the texts cited deal with that subject.

(35) Na'arah (v. Glos.).

(36) Door of her father's house (Deut. XXII, 21) in the text dealing with the punishment of a betrothed girl.

(37) Door of the gate of the court פתח שער החצר (Num. IV, 26).

(38) V. supra n, 5. Since both nouns (פתח) ‘door’, and (שער) ‘gate’ are placed in juxtaposition, the analogy may be made: As ‘door’ (פתח) in this text is near ‘gate’ (שער) so is ‘door’ in Deut. XXII, 21 (v. supra n. 4) to be regarded as occurring near ‘gate’. Hence the ruling that if the girl has no ‘door of her father's house’ she is to be stoned at the ‘gate’ of the city.

(39) Deut. XVII, 5, which deals with idolatry; the analogy being: As in the case of idolatry so also in that of a betrothed girl the execution takes place at the gate of the court wherever the city is inhabited by a majority of idolaters.

(40) As prescribed in Deut. XXII, 18.

(41) V. Deut. XXII, 19.

(42) And then brought up the evil name by alleging that he had found no tokens of virginity (v. ibid. 17).

(43) And his allegation is based on the evidence of witnesses.

(44) The Rabbis and R. Judah.

(45) Infra.
(46) Who maintain that the Scriptural section dealing with the case of a husband who ‘brought up an evil name’ upon his wife applies in all circumstances, whether intercourse did or did not take place.
(47) For even where the Scriptural section under discussion does not apply, the penalty of flogging must still be inflicted on account of the infringement of the prohibition against tale bearing.
(48) Who holds that the section under discussion deals only with a case where intercourse preceded the allegation.
(49) Lit., ‘some there are who say’.
(50) Lit., ‘all of it’, sc. the views of both the Rabbis and R. Judah.
(51) V. p. 259, n. 12.
(52) In full agreement with R. Eliezer b. Jacob (cf. supra n. 1).
(53) For the reason given p. 259, n. 15; but he is exempt from the payment of the hundred sela’.
(54) ‘In all circumstances’.
(55) מכת מרדות V. Glos. s.v. makkath marduth.
(56) Pentateuchally, however, no flogging is inflicted unless intercourse preceded the charge.

Talmud - Mas. Kethuboth 46a

R. Papa replied: By the expression[1] If he had intercourse he is flogged’,[2] which was used there,[3] the monetary fine[4] [was meant].[5] But could one describe a monetary fine as ‘flogging’? — Yes, and so indeed we have learned:[6] If a man said, ‘I vow to pay half of my valuation’[7] he most pay half of his valuation. R. Jose the son of R. Judah ruled: He is flogged[8] and must pay his full valuation. [And in reply to the question,] why should he be flogged? R. Papa explained: He is ‘flogged’[8] by [having to pay his] full valuation.[9] What is the reason?[10] — [The ruling[10] in the case of a vow for] a half of one's valuation[11] is a preventive measure against the possibility [of a vow for] the value of half of one's body,[12] such a half[13] being an organic part[14] on which one's life depends.[15] Our Rabbis taught: And they shall fine him[16] refers to[17] a monetary fine; And chastise him[18] refers to[17] flogging. One can readily understand why ‘And they shall fine’ refers to a monetary payment since it is written, ‘And they shall fine him a hundred shekels of silver and give them unto the father of the damsel’;[19] whence, however, is it deduced that ‘And chastise him’ refers to flogging? — R. Abbahu replied: We deduce ‘Shall chastise’[18] from ‘Shall chastise’,[20] and ‘Shall chastise’[20] from ‘Son’,[21] and ‘Son’[21] from ‘Son’[22] [occurring in the Scriptural text:] Then it shall be, if the wicked man deserve[23] to be beaten.[24] Whence is the warning[25] against bringing up an evil name [upon one's wife] deduced? R. Eleazar replied: From Thou shalt not go up and dawn as a talebearer.[26] R. Nathan replied: From Then thou shalt keep thee[27] from every evil thing.[28] What is the reason that R. Eleazar does not make his deduction[29] from the latter[30] text?[28] — That text[28] he requires for [the same deduction] as [that made by] R. Phinehas b. Jair: From the text,[31] Then thou shalt keep thee from every evil thing;[28] R. Phinehas b. Jair deduced[29] that a man should not indulge in [morbid] thoughts by day that might lead him to uncleanness by night.[32] What then is the reason why R. Nathan does not make his deduction from the former[33] text?[34] — That text[34] is a warning to the court that it must not be lenient with one[35] [of the litigants] and harsh to the other. If [a husband] did not tell the witnesses,[36] ‘Come and give evidence for me’ and they volunteered to give it, he[37] is not to be flogged nor is he to pay the hundred sela’.[38] She, however, and the witnesses who testified falsely against her are hurried[39] to the place of stoning. ‘She and the witnesses who testified against her’! Can this be imagined? — But [this is the meaning]: ‘She or her witnesses are hurried to the place of stoning.[39] Now the reason then[40] is because he did not even tell them [to give their evidence].[41] Had he, however, told them [he would have been subject to the prescribed penalties][42] even though he did not hire them. [This ruling thus serves the purpose] of excluding the view of R. Judah concerning whom it was taught: R. Judah ruled, [a husband] incurs no penalties[42] unless he has hired the witnesses.[43] What is R. Judah's reason? R. Abbahu replied: An analogy is drawn between the two forms of the root ‘to lay’.[44] Here[45] it is written, And lay[46] wanton charges against her,[47] and elsewhere it is written, Neither shall ye lay[48] upon him interest,’[49] as there[49] [the offence is committed through the giving of] money[50] so here [also it can be committed only by the giving of] money.[51] R. Nahman b. Isaac said, and so did R. Joseph the Zidonian recite at the school[52] of R. Simeon b. Yohai: An analogy is drawn between the two forms of the root ‘to lay’.[53] R. Jeremiah raised the question: What is the ruling[54] where [the husband] hired them[55] with a piece of land?[56] What [if he hired them] for a sum less than a perutah?[57] What [if both witnesses were hired] for one perutah? R. Ashi enquired: What [is the ruling where a husband][58] brought an evil name [upon his wife] in respect of their first marriage? What [if a levir[59] brought up an evil name] in respect of his brother's marriage? — You may at all events solve one [of these questions].[60] For R. Jonah taught: I gave my daughter unto this man[61] only unto this man[62] but not to a levir.[63] What [is the ruling of] the Rabbis and what [is that of] R. Eliezer b. Jacob?[64] — It was taught: What constitutes[65] the bringing up of an evil name [against one's wife]?[66] If [a husband] came to the Beth din and said, ‘I, So-and-so, found not in thy daughter the tokens of virginity’. If there are witnesses that she committed adultery while living with hint she is entitled to a kethubah for a maneh.[67] ‘If there are witnesses that she committed adultery while living with him [you say,] she is entitled to a kethubah for a maneh’! But is she not in that case subject to the penalty of stoning?[68] — It is this that was meant: If there are witnesses that she committed adultery while she was living with him she is to be stoned; if, however, she committed adultery before [her marriage] she is entitled to a kethubah for a maneh.[69] If it was ascertained that the evil name had no foundation in fact[70] the husband is flogged and he must also pay a hundred sela’ irrespective of whether he had intercourse [with her] or whether he did not have intercourse [with her]. R. Eliezer b. Jacob said: These penalties[71] apply only where he had intercourse [with her]. According to R. Eliezer b. Jacob[72] one can well understand why Scripture used the expressions, ‘And go in unto her’[73] and ‘When I came nigh to her’,[74] but according to the Rabbis[75] what [could be the meaning of] ‘And go in unto her’[73] and’ When I came nigh unto her’?[74] ‘And go in unto her’[73] with wanton charges, and ‘When I come nigh to her’[74] with words. According to R. Eliezer b. Jacob[72] one can well see why Scripture used the expression, ‘I found not in thy daughter the tokens of virginity’,[76] but according to the Rabbis[75] what [could be the sense of the expression], ‘I found not in thy daughter the tokens of virginity’? — I found not far[77] thy daughter witnesses to establish her claim to tokens of virginity.[78] It was quite correct for Scripture, according to R. Eliezer b. Jacob,[79] to state, And yet these are the tokens of my daughter's virginity;[80] but according to the Rabbis[81] what could be the sense of [the expression,] ‘And yet these are the tokens of my daughter's virginity’?[80] — And yet these are the witnesses who establish[78] the tokens of my daughter's virginity. One can well understand, according to R. Eliezer b. Jacob,[79] why Scripture wrote, And they shall spread the garment,’[80] but according to the Rabbis[81] what [could be the sense of the instruction,] And they shall spread the garment? — R. Abbahu replied: They explain[82] [the charge] which he submitted against her;[83] as it was taught: ‘And they shall spread the garment’ teaches that the witnesses of the one party and those of the other party come, and the matter is made as clear as a new garment. R. Eliezer b. Jacob said: The words are to be taken in their literal sense: [They must produce] the actual garment.[84] R. Isaac son of R. Jacob b. Giyori sent this message in the name of R. Johanan: Although we do not find anywhere in the Torah that Scripture draws a distinction between natural and unnatural intercourse In respect of flogging or other punishments, such a distinction was made in the case of a man who brought an evil name [upon his wife];[85] for he is not held guilty unless, having had intercourse with her, [even][86] in an unnatural manner, he brought up an evil name upon her in respect of a natural intercourse. In accordance with whose view?[87] If [it be said to be] in accordance with the view of the Rabbis [the husband, it could be retorted, should have been held guilty] even if he had no intercourse with her. If [it be said to be] in agreement with the view of R. Eliezer b. Jacob

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(1) Lit.,’what’.

(2) לוקה. The rt. לקה may signify (a) flogging and also (b) the infliction of any penalty or suffering.

(3) In the last cited ruling of R. Judah.

(4) The hundred shekels.

(5) The payment of the fine only is dependent on previous intercourse, but flogging is inflicted in all circumstances (v. supra p. 259. n. 15).

(6) MS.M., ‘it was taught’. Cf. ‘Ar. 20a and Tosef. ‘Ar. III.

(7) V. Lev. XXVII, 2ff.

(8) לוקה (cf. supra note 5).

(9) Or ‘he is punished by having to pay etc’.

(10) For the payment of his full valuation when the man only vowed half of it.

(11) חצי ערכו, as prescribed in Lev. XXVII, 2ff.

(12) ערך חציו

(13) Lit., ‘and the value of his half’.

(14) MS.M. דבר Cur. edd. אבר ‘limb’.

(15) And where the value of such a part or limb is vowed the full valuation must be paid.

(16) Deut. XXII, 19.

(17) Lit., ‘this’.

(18) Deut. XXII, 18.

(19) Deut. XXII, 19.

(20) Deut. XXI, 18.

(21) Ibid.

(22) Ibid. XXV, 2 (v. infra n. 14).

(23) Lit., ‘son’.

(24) V. supra n. 13. As this text in which ‘son’ occurs (v. supra n. 14) speaks definitely of flogging (v. Deut. XXV, 2-3) the punishment of the ‘son’ spoken of in Deut. XXI, 18, concerning whom also the expression of ‘chastise’ (ibid.) was used, must also be that of flogging; and since ‘chastise’ (ibid.) implies flogging, ‘chastise’ in Deut. XXII, 18 must also mean flogging. V. Sanh. 71b.

(25) Sc. a negative precept for the transgression of which flogging is incurred. No flogging is in- flicted for an offence unless there is a prohibition in regard to it.

(26) Lev. XIX, 16.

(27) ונשמרת the Nif. of שמר which implies a negative precept.

(28) Deut. XXIII, 10.

(29) Lit., ‘said’.

(30) Lit., ‘from that’.

(31) Lit., ‘from here’.

(32) The verse following (Deut. XXIII, 11) speaking of a man . . . that is not clean . . . by night. V. A.Z. 20b.

(33) Lit., ‘from that’.

(34) Lev. XIX, 16.

(35) The Heb. of Lev. XIX, 16 cited, is לא תלך רכיל the third word being composed of the letters forming the phrase רך לי ‘lenient or gentle to me’.

(36) Who testified that his wife committed adultery before her marriage.

(37) Though the evidence had been proved to be false.

(38) V. Deut. XXII, i8f.

(39) For notes v. supra p. 255, n. 4ff.

(40) Why the husband is exempt.

(41) Since the ruling runs, ‘did not tell them’, and not ‘did not hire them’.

(42) V. Deut. XXII, 18f.

(43) Who testified that his wife committed adultery before her marriage.

(44) Or ‘to put’. Lit., ‘it comes (from) putting (and) putting’.

(45) In the case of an evil name brought up by a husband (Deut. XXII, 13ff).

(46) ושם, rt. שום ‘to put’, ‘to lay’.

(47) Deut. XXII, 14.

(48) תשימון, rt. שופ.

(49) Ex. XXII, 24.

(50) Interest.

(51) Sc. the hiring of the witnesses.

(52) MS.M. ‘Zaidana of the school’. [Probably of Bethsaida].

(53) V. supra p. 262, n. 13ff.
(54) According to R. Judah who laid down that a husband incurs no penalties unless he has hired the witnesses.
(55) The witnesses (v. supra p. 262, n. 12).
(56) Does R. Judah include land also under the term of ‘money’, or does he, since his ruling was deduced from the law of interest, restrict the price of the hiring to movables only, such as money and foodstuffs, which are specifically mentioned in connection with the laws of interest, (v. Ex. XXII, 24 and Deut. XXIII, 20).
(57) V. Glos.
(58) Who remarried his wife after he had once divorced her.
(59) Who was under the obligation to contract levirate marriage with his deceased brother's wife (cf. Deut. XXV, 5ff).
(60) The last.
(61) Deut. XXII, 16.
(62) I.e., the husband.
(63) Sc. the penalties prescribed in the section apply only to the former.
(64) Referred to supra 45b ad fin.
(65) Lit., ‘how’.
(66) V. Deut. XXII, 13ff.
(67) V. Glos.
(68) How then could one speak of giving her a kethubah?
(69) The statutory sum due to a non-virgin.
(70) Lit., ‘is not an evil name’.
(71) Lit., ‘words’, the penalties prescribed in the section of Deut. XXII, 13ff.
(72) Who restricts the application of the penalties (v. supra n. 3) to a husband with whom intercourse had taken place.
(73) Deut. XXII, 13.
(74) Ibid. 14.
(75) Who maintain that the penalties always apply, irrespective of intercourse.
(76) Deut. XXII, 17.
(77) The lamed in לבתך may be rendered ‘in’ (as E.V.) or ‘for’ as here expounded.
(78) By refuting the evidence of the first witnesses who accused her of the offence. כשרי, (read as kashre) is to be regarded as the Piel of כשר, ‘to make fit’, and referring to the action of the witnesses who establish the fitness or honesty of the accused.
(79) V. supra note 4.
(80) Deut. XXII, 17.
(81) V. supra note 7.
(82) ופרשו (E.V., ‘and they shall spread’) is rendered, ‘And they shall explain’. פרש, ‘to explain’, פרש ‘to spread’. Shin and Sin being interchangeable.
(83) השם לה ‘(the allegation) which he submitted against her’. A play on the word השמלה (E.V. the garment) v. Tosaf.
(84) As proof of the tokens.
(85) Only where his witnesses accused her of illicit intercourse in a natural manner is he, when their evidence is proved to be false, liable to pay the fine of a hundred shekels; but where his witnesses alleged unnatural intercourse he is exempt from the fine even though their evidence was proved to be false.
(86) V. Rashi.
(87) Has the last mentioned statement been made?

Talmud - Mas. Kethuboth 46b

must not the intercourse in both cases be in a natural manner?[1] — The fact, however, is, said R. Kahana in the name of R. Johanan, that the husband is not held guilty unless he had intercourse In a natural manner and he brought up an evil name upon her in respect of a natural intercourse. MISHNAH. A FATHER HAS AUTHORITY OVER HIS DAUGHTER[2] IN RESPECT OF HER BETROTHAL [WHETHER IT WAS EFFECTED] BY MONEY,[3] DEED[4] OR INTERCOURSE;[5] HE IS ENTITLED TO ANYTHING SHE FINDS AND TO HER HANDIWORK; [HE HAS THE

RIGHT] OF ANNULLING HER VOWS[6] AND HE RECEIVES HER BILL OF DIVORCE;[7] BUT HE HAS NO USUFRUCT[8] DURING HER LIFETIME.[9] WHEN SHE MARRIES, THE HUSBAND SURPASSES HIM [IN HIS RIGHTS] IN THAT HE HAS[10] USUFRUCT DURING HER LIFETIME,[11] BUT HE IS ALSO UNDER THE OBLIGATION OF MAINTAINING AND RANSOMING HER[12] AND TO PROVIDE FOR HER BURIAL. R. JUDAH RULED: EVEN THE POOREST MAN IN ISRAEL MUST PROVIDE[13] NO LESS THAN TWO FLUTES AND ONE LAMENTING WOMAN. GEMARA. ‘BY MONEY’. Whence is this[14] deduced? — Rab Judah replied: Scripture said, Then shall she go ant for nothing without money,[15] [which implies that] this master[16] receives no money[17] but that another master does receive money;[18] and who is he? Her father.[19] But might it not be suggested that it[20] belongs to her?[21] — Since[22] it is her father who contracts[23] her betrothal, as it is written in Scripture, I gave my daughter unto this man,[24] would she take the money![25] But can it not be suggested that this[26] applies only to a minor[27] who has no legal right[28] [to act on her own behalf], but that a na'arah[29] who has such rights[30] may herself contract her betrothal, and she herself receives the money? — Scripture stated, Being in her youth in her father's house,[31] [implying that] all the advantages of her youth belong to her father. [Consider], however, that which R. Huna said in the name of Rab: ‘Whence is it deduced that a daughte handiwork belongs to her father? [From Scripture] where it is said, And if a van sell his daughter to be a maidservant,[32] as[33] the handiwork of a maidservant belongs to her master so does the handiwork of a daughter belong to her father’.[34] Now what need was there,[35] [it may be asked, for this text when] deduction[36] could have been made from [the text of] ‘Being in her youth in her father's house’?[31] Consequently [it must be admitted, must it not, that] that text was written in connection only with the annulment of vows?[37] And should you suggest that we might infer this[38] from it,[39] [it could be retorted that] monetary matters cannot be inferred from ritual matters.[39] And should you suggest that we might infer it is from [the law of] fine,[40] [it could be retorted, could it not, that] monetary payments cannot be inferred from fines? And should you suggest that it is might be inferred from [the law of compensation for] indignity and blemish,[41] [it could be retorted] that indignity and blemish are different,[42] since [the rights] of her father [are also, are they not], involved[43] in it?[44] — [This], however, [is the explanation]:[45] It is logical to conclude that when the All-Merciful excluded[46] [another] going out,[47] the exclusion Was meant to be [understood in a manner] similar to the original.[48] But[49] one ‘going out’, surely, is not like that of the other: For[50] in the case of the master [the maidservant] goes entirely out of his control while in the ‘going out’ from the control of her father [the daughter's] transfer to the bridal chamber is still lacking?[51] — In respect of the annulment of vows, at any rate, she passes out of his control; for we have learned: In the case of a betrothed damsel[52] it is her father and her husband who jointly annul her vows.[53] DEED OR INTERCOURSE. Whence do we [deduce this]?[54] — Scripture said, And becometh another man's wife is [from which it may be inferred that] the various forms of betrothal[55] are to be compared to one another.[56] HE IS ENTITLED TO ANYTHING SHE FINDS,

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(1) Since he takes the verses literally.

(2) While she is under the age of twelve and a half years and one day.

(3) Sc. the money belongs to him.

(4) The receipt of the deed by him effects his daughter's betrothal.

(5) It is within his rights to allow such an act to have the validity of a kinyan (v. Glos.).

(6) V. Num. XXX. 4ff.

(7) If she was divorced during her betrothal before attaining her adolescence (v. Glos. s.v. bogereth).

(8) Of property that came into her possession from her mother's side.

(9) Such property passes into the possession of a father as heir to his daughter only after her death.

(10) In addition to the privileges enjoyed by a father.

(11) Cf. infra 65b, Kid. 3b.

(12) If she was taken captive.

(13) For his wife's funeral.

(14) That the money of the betrothal belongs to her father.

(15) Ex. XXI, 11, referring to a Hebrew maidservant.
(16) To whom a father sold his daughter (v. ibid. 7).
(17) When she leaves him on becoming a na'arah (v. Glos. and cf. Kid. 4a).
(18) When, on marriage, she passes out of his control.
(19) Since beside the master spoken of in the Scriptural text (cf. Ex. XXI, 8) the daughter of an Israelite has no other master but her father.
(20) The money of her betrothal.
(21) The implication of the text cited merely indicating that, unlike the case of the liberation of an Israelite maidservant, her passing out of her father's control at betrothal is attended by money, without necessarily meaning that this money goes to her father.
(22) Lit 'now'.
(23) Lit., 'accepts'.
(24) Deut. XXII, 16.
(25) Of course not. Hence it must be concluded that it, as stated in our Mishnah, belongs to her father.
(26) A father's right to the betrothal money of his daughter, as implied in the Scriptural text cited.
(27) Though the Scriptural text referred to deals with an evil name brought upon a na'arah (v. Glos.) it might nevertheless be contended that the betrothal of that na'arah took place while she was still a minor.
(28) Lit., 'a hand'.
(29) V. Glos.
(30) Lit., 'a hand'.
(31) Num. XXX, 17.
(32) Ex. XXI, 7.
(33) Since 'daughter' and 'maidservant' appear in juxtaposition an analogy between them may be drawn.
(34) Supra 40b, infra 47a, Kid. 8a.
(35) Lit., 'wherefore to me'.
(36) That a father is entitled to his daughter's handiwork.
(37) And, therefore, no deduction from it can be made in respect of handiwork. Similarly, here also, no deduction from it could be made in respect of a father's right to his daughter's money of betrothal. The previous question, therefore, arises again.
(38) That a father is entitled to his daughter's money of betrothal.
(39) From the law of the annulment of vows.
(40) As the fine prescribed in Deut. XXII, 19, belongs to her father so does the money.
(41) Which belongs to her father (v. supra 40b).
(42) From the case under consideration.
(43) As a father has the right to dispose of the indignity and blemish of his daughter while she is still a na'arah, by allowing any sort of person to marry her, he is also entitled to compensation for any indignity or blemish anyone inflicted upon her without his consent.
(44) The question, whence is it deduced that the money of betrothal belongs to her father, thus arises again.
(45) Why deduction may be made from Ex. XXI, 11 (cf. supra p. 266 notes 13-20, and text).
(46) Cf. supra p. 266 notes 15-18 and text.
(47) V. supra p. 266, n. 17.
(48) As in the original it is the master, and not the maidservant, who, in the absence of the specific text to the contrary, would have received the money for the latter's redemption, so in the implication it must be the father (who corresponds to the master), and not his daughter, who is to receive the money when she passes out of his control at betrothal (v. Rashi). [Now since we learn that her father is entitled to her betrothal money, it follows that the right to effect her betrothal is vested in him, Tosaf.].
(49) Lit., 'but that'.
(50) Lit., there'.
(51) Until her entry into the bridal chamber (Huppah, v. Glos.) a daughter is still partially under the control of her father who is still entitled to her handiwork and remains her heir.
(52) Na'arah (v. Glos.).
(53) The father alone has no longer the right to do so. For further notes on the passage v. Kid. (Sonc. ed.) p. 36.

(54) A father's absolute right to effect the betrothal of his young daughter (v. supra p. 266, nn. 3-4) by these two methods. (15) Deut. XXIV, 2; and becometh והיתה.

(55) הייות lit., ‘beings’, ‘becomings’, of the same rt. היה as that of והיתה (v. supra p. 268, n. 15).

(56) As betrothal by money is entirely in the hands of the father (to whom the money belongs, as has been shewn supra) so is betrothal by deed or intercourse.

in order [to avert] ill feeling.[1] TO HER HANDIWORK. Whence do we deduce this? — [From that] which R. Huna quoted in the name of Rab: Whence is it deduced that a daughter's handiwork belongs to her father? — [From Scripture] where it is stated, And if a man sell his daughter to be a maidservant,[2] as the handiwork of a maidservant belongs to her master so does the handiwork of a daughter belong to her father.[3] But may it not be suggested that this[4] [applies only to] a minor whom he may sell, but the handiwork of a na'arah[5] whom he cannot sell belongs to herself? — It is but logical to assume that it should belong to her father; for should it be imagined that her handiwork does not belong to him [the objection could well be advanced against] the right[6] which the All-Merciful has conferred upon a father to consign his daughter to the bridal chamber: How could he consign her when he thereby[7] prevents her from doing her work?[8] R. Ahai demurred: Might it not be suggested that he[9] pays her compensation [for the time] she is taken away [from her work] or else, that he consigns her during the night,[10] or else that he might consign her on Sabbaths[11] or festivals?[11] — [The fact], however, [is that in the case of] a minor no Scriptural text was necessary.[12] For since is he may even sell her was it at all necessary [to state that her handiwork belongs to him]?[13] If a Scriptural text[14] then was at all necessary [it must have been] in respect of a na'arah. TO ANNUL HER VOWS. Whence do we [deduce this]? [From Scripture] where it is written,[15] Being in her youth in her father's house.[16] AND HE RECEIVES HER BILL OF DIVORCE. Whence is this deduced? — From Scripture where it is written, And she departeth and And becometh,[17] ‘departure’[18] being compared to ‘becoming’.[19] BUT HE HAS NO USUFRUCT DURING HER LIFETIME. Our Rabbis taught: A father has no usufruct[20] during the lifetime of his daughter.[21] R. Jose the son of R. Judah ruled: A father is entitled to usufruct[20] in the lifetime of his daughter. On what principle do they differ? — The first Tanna is of the opinion that the Rabbis were well justified in allowing usufruct to a husband, since otherwise he might refrain from ransoming [his wife].[22] What, however, can be said[23] in respect of a father? That he would refrain from ransoming her? [It is certain that] he would ransom her in any case. R. Jose the son of R. Judah, however, is of the opinion that a father also might refrain from ransoming [his daughter], for he might think: She is carrying a purse[24] about her, let her proceed to ransom herself.[25] WHEN SHE MARRIES, THE HUSBAND SURPASSES HIM [IN HIS RIGHTS] IN THAT HE HAS USUFRUCT etc. Our Rabbis taught: If [a father] promised his daughter in writing[26] fruit,[27] clothes or other movable objects[28] that she might take[29] with her[30] from her father's house to that of her husband, and she died,[31] her husband does not acquire these objects. In the name of R. Nathan it was stated: The husband does acquire them. Must it be assumed that they[32] differ on the same principles as those on which R. Eleazar b. Azariah and the Rabbis differed? For we learned: A woman who was widowed or divorced, either after betrothal or after marriage, is entitled to collect all[33] [that is due to her]. R. Eleazar b. Azariah ruled: [Only a woman widowed or divorced] after her marriage recovers all [that is due to her], but if after a betrothal a virgin recovers only two hundred zuz[34] and a widow only one maneh[34]

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[1] Between father and daughter.

[2] Ex. XXI, 7.

[3] Cf. supra 40b, 46b, Kid. 3b.

[4] Lit., ‘these words’, a father's right to his daughter's handiwork.

[5] V. Glos.

[6] Lit., ‘but that’.

[7] Lit., ‘surely’.

[8] During her preparations for, and the performance of the bridal chamber ceremonial. Since, however, a father does enjoy the right it must be concluded that a daughter's handiwork does belong to her father.

[9] A father who consigns his daughter into the bridal chamber.

[10] When people usually rest from their work.

[11] On which days work is forbidden. The question thus arises again: Whence is it deduced that a daughter's handiwork belongs to her father?

(12) To confer upon her father the right to her handiwork. (15) Lit., ‘now’.
(13) Obviously not.
(14) Viz., the superfluous word לאמה., to be a maidservant (Ex. XXI, 7), from which the analogy is drawn supra. The ordinary text deals, of course, with a minor.
(15) In the Section dealing with the invalidation of vows.
(16) Num. XXX. 17. ‘Being in her youth’ בנעוריה, sc. while she is yet a na'arah (v. Glos.).
(17) Deut. XXIV, 2.
(18) I.e., divorce.
(19) Sc. a wife (cf. Deut. XXIV, 2: Becometh . . . wife). As a father may contract his daughter's betrothal so may he accept her divorce.
(20) V. supra p. 266, n. 7.
(21) V. l.c. n. 8.
(22) Should she ever be taken captive.
(23) In justification of his claim to the usufruct of his daughter's property.
(24) The savings of the proceeds of her property.
(25) And should her savings be insufficient he would refuse to supplement them.
(26) Lit., ‘wrote for her’, as her dowry.
(27) Detached from the ground (v. infra).
(28) Lit., ‘vessels’, ‘chattels’.
(29) Lit., ‘which shall come’.
(30) On betrothal.
(31) During the period of her betrothal.
(32) R. Nathan and the first Tanna.
(33) I.e., her additional jointure as well as her statutory kethubah.
(34) V. Glos., sc. her statutory kethubah only.

Talmud - Mas. Kethuboth 47b

for the man wrote [the additional jointure] for her with the sole object of marrying her.[1] [Must it then be assumed] that he who ruled that ‘her husband does not acquire’ [upholds the same principle] as R. Eleazar b. Azariah[2] while he[3] who ruled that ‘the husband does acquire’ [upholds the same principle] as the Rabbis?[4] — No; all[5] [may, in fact, hold the same view] as R. Eleazar b. Azariah.[6] [For] he who ruled, ‘her husband does not acquire’,[is obviously] in agreement with R. Eleazar b. Azariah.[7] And as to him[3] who ruled, ‘the husband does acquire’ [it may be explained that] only [in respect of undertakings] from him[8] towards her[9] did R. Eleazar b. Azariah maintain his view,[10] [for the reason that] ‘the man wrote [the additional jointure] for her with the sole object of marrying her’,[11] but [in respect of undertakings] from her[12] towards him[13] even R. Eleazar b. Azariah may admit [that betrothal has the same force as marriage] since [undertakings of such a nature][14] are due to [a desire for] matrimonial association, and such association, surely, had taken place.[15] HE IS ALSO UNDER THE OBLIGATION OF MAINTAINING HER etc. Our Rabbis taught: Maintenance was provided for a wife in return for her handiwork, and her burial[16] in return for her kethubah.[17] A husband is, therefore, entitled to usufruct. ‘Usufruct’! Who mentioned it?[18] — A clause is missing, and this is the proper reading: Maintenance was provided for a wife in return for her handiwork, her ransom In return for usufruct,[19] and her burial in return for her kethubah;[20] a husband, therefore, is entitled to usufruct.[19] What [was the need for] ‘therefore’?[21] — It might have been presumed [that a husband] must not consume the fruits[19] but should rather leave them,[22] since, otherwise,[23] he might refrain from ransoming her, hence we were informed that that [course][24] was preferable, for sometimes [the proceeds of the fruit] might not suffice[25] and he[26] would have to ransom her at his own expense. Might I not transpose [the sequence]?[27] — Abaye replied: They[28] ordained the common for the common[29] and the uncommon for the uncommon.[30] Said Raba: The following Tanna is of the opinion that maintenance[31] is a Pentateuchal duty. For it was taught: She'erah[32] refers to[33] maintenance, for so it is said in Scripture, Who also eat the she'er[34] of my peaple;[35] Her raiment[36] [is to be understood] according to its ordinary meaning; ‘Onatha[37] refers to the time for conjugal duty[38] prescribed in the Torah,[39] for so it is said in Scripture, If than shalt afflict[40] my daughters.[41] R. Eleazar said: ‘She'erah’ refers to the prescribed time for conjugal duty,[39] for so it is said in Scripture, None of you shall approach to any that is near of kin[42] to him to uncover their nakedness;[43] ‘Her raiment’ [is to be taken] according to its literal meaning; ‘Onatha refers to maintenance, for so it is said in Scripture, And he afflicted thee,[44] and suffered thee to hunger.[45]

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(1) And since he did not marry her she can have no claim to it. V. Infra 54b, 89b; B.M. 17b.

(2) As the latter makes the woman's right to her additional jointure dependent on marriage, so also does the former make the husband's right to the dowry his wife brings from her father's house dependent on marriage. In the opinion of both betrothal entitles one only to the prescribed statutory rights.

(3) R. Nathan.

(4) As they deem betrothal to he as valid as marriage in respect of conferring upon a woman the right to her additional jointure as well as to her statutory kethubah, so does R. Nathan deem betrothal to be conferring upon a husband the right to the dowry his wife has brought him. As the additional jointure which is included in the document of the kethubah is acquired on betrothal by the woman, so is the dowry which is also included in the same document acquired on betrothal by the man.

(5) R. Nathan and the first Tanna.

(6) Whose ruling is (as stated infra) the accepted law.

(7) Cf. supra note 6.

(8) A husband.

(9) A wife.

(10) That betrothal does not confer upon a woman the right of acquisition.

(11) V. supra p. 271. n. 5.

(12) A wife.

(13) A husband.

(14) The dowry e.g., which her father promises to her husband.

(15) By the betrothal. Hence the ruling that, in this respect, betrothal alone confers the same rights as marriage.

(16) Variant, ‘ransom’ (Sheiltoth).

(17) Here it means the dowry (v. supra n. 4) which, like the statutory kethubah and the additional jointure, is also entered in the kethubah document.

(18) Lit., ‘their (sc. the fruits’) name’; the first clauses of the Baraitha cited speak only of ‘handiwork’ and ‘kethubah’ and these, surely, provide no reason for a husband's right to usufruct.

(19) Of her melog (v. Glos.) property which was not entered in the kethubah.

(20) V. supra note 7.

(21) The ruling ‘a husband therefore . . . usufruct’ seems superfluous after the statement, ‘her ransom in return for usufruct’.

(22) I. e., allow their proceeds to accumulate, and thus create a fund for his wife's ransom.

(23) Lit., ‘if so’; were he to consume the fruit or to spend their proceeds.

(24) That the husband shall enjoy usufruct and that in return for this he shall assume the obligation of ransoming his wife.

(25) To cover the full amount of the ransom. Lit., ‘that they he not full’.

(26) Since, in accordance with the ordinance, he enjoyed usufruct and undertook the obligation of ransom. (V. supra note 14).

(27) In the Baraitha, thus: Maintenance in return for usufruct and ransom in return for handiwork. A wife would consequently be prevented from retaining her handiwork even if she declined maintenance.

(28) The Rabbis.

(29) Maintenance and handiwork are both part of a person's daily routine.

(30) Usufruct for ransom. It is rare that a wife should own melog (v. Glos.) property or that she should be carried away as a captive. Both usufruct and ransom are consequently uncommon.

(31) Of a wife by her husband.

(32) E.V. Her food, שארה (שאר with pronom suffix; v. infra n. 8) Ex. XXI. 10.

(33) Lit., ‘these’.
(34) שאר E. V. flesh.
(35) Micah III, 3.
(36) Ex. XXI. 10.
(37) עונתה, R.V., Her duty of marriage; A.J.V., Her conjugal rights, Ex. XXI, 10. עונתה (rt. ענה in Piel, ‘to afflict’; v. infra nn. 12 and 14).
(38) עונה (rt. ענה; v. supra n. 11).
(39) Cf. infra 61b.
(40) תענה (rt. ענה).
(41) Gen. XXXI, 50.
(42) שאר
(43) Lev. XVIII, 6.
(44) ויענך (rt. ענה).
(45) Deut. VIII, 3.

Talmud - Mas. Kethuboth 48a

R. Eliezer b. Jacob interpreted: [The expressions] She'erah kesutha,[1] [imply]: Provide her with raiment according to her age, viz. that a man shall not provide his old wife[2] [with the raiment] of a young one nor his young wife with that of an old one. [The expressions], Kesutha we- ‘Onatha[3] [imply.] Provide her with raiment according to the season of the year,[4] viz. that he shall not give her new raiment[5] in the summer nor worn out raiment[6] in the winter.[7] R. Joseph learnt: Her flesh[8] implies close bodily contact,[9] viz, that he must not treat her in the manner of the Persians who perform their conjugal duties in their clothes. This provides support for [a ruling of] R. Huna who laid down that a husband who said, ‘I will not [perform conjugal duties] unless she wears her clothes and I mine’, must divorce her and give her also her kethubah. R. JUDAH RULED: EVEN THE POOREST MAN IN ISRAEL etc. This[10] then implies that the first Tanna is of the opinion that these[11] are not [necessary]. But how is one to imagine [the case]? If these[11] were required by the woman's status,[12] what [it may be objected could be] the reason of the first Tanna who ruled [that these[11] were] not [required]? And if these[11] were not required by the woman's status,[13] what [it may be objected could be] the reason of R. Judah? — [The ruling was] necessary only [in a case], for instance, where these were demanded by his status but not by hers. The first Tanna is of the opinion that the principle that she[14] rises with him[15] but does not go down with him[16] is applied only during her lifetime[17] but not after her death, while R. Judah maintains [that the principle applies] even after her death. R. Hisda laid down in the name of Mar ‘Ukba that the halachah is in agreement with R. Judah. R. Hisda further stated in the name of Mar ‘Ukba: If a man became insane Beth din take possession[18] of his estate and provide food and clothing for his wife, sons and daughters, and for anything else.[19] Said Rabina to R. Ashi: Why should this[20] be different from that concerning which it was taught: If a man went to a country beyond the sea and his wife claimed maintenance, Beth din take possession of[21] his estate and provide food and clothing for his wife, but not for his sons and daughters or for anything else?[22] The other replied: Do you not draw a distinction between one who departs[23] deliberately and one who departs[24] without knowing it?[25] What [is meant by] ‘anything else’? — R. Hisda replied: Cosmetics were meant,[26] R. Joseph explained: Charity. According to him who replied, ‘Cosmetics’, the ruling[27] would apply with even greater force to charity.[28] He, however, who explained, ‘charity’ [restricts his ruling[27] to this alone] but cosmetics [he maintains] must he given to her, for [her husband] would not be pleased that she shall lose her comeliness. R. Hiyya b. Abin stated in the name of R. Huna: If a man went to a country beyond the sea, and his wife died, Beth din take possession[29] of his estate and bury her in a manner befitting the dignity of his status. [You say] ‘In a manner befitting the dignity of his status’, and not that of her status![30] — Read, In a manner befitting his status also; and it is this that he[31] informs us: She rises with him [in his dignity] but does not go down with him [to a lower status] even after her death. R. Mattena ruled: A man[32] who gave instructions that when [his wife] died she shall not be buried at the expense of his estate must be obeyed.[33] What, however, is the reason [for obeying the man] when he has left instructions? Obviously because the estate falls to the orphans;[34] but the estate falls to the orphans, does it not, even if he left no instructions?[35] — [The proper reading], however, is: A man[32] who gave instructions that when he dies be shall not be buried at the expense of his estate[36] is not to be obeyed, for it is not within his power[37] to enrich his sons and throw himself upon the public. MISHNAH. SHE[38] REMAINS[39] UNDER THE AUTHORITY OF HER FATHER[40] UNTIL SHE ENTERS

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(1) שארה כסותה (Ex. XXI, 10), 'her age, her raiment'. שאר = flesh (cf. supra note 8), hence 'body', 'age'.

(2) Lit., 'to her'.

(3) כסותה ועונתה (Ex. XXI, 10), 'her raiment and her time' עונה = 'time', 'season'.

(4) Lit., 'her season'.

(5) Which might be too warm for her in the hot weather.

(6) Being worn thin they would not provide sufficient protection from cold.

(7) Lit., 'in the days of the rains'.

(8) Cf. supra p. 273, n. 6.

(9) Lit., 'nearness of flesh'.

(10) Since the ruling is attributed to R. Judah.

(11) Two flutes and one lamenting woman.

(12) Lit. 'that it is her (sc. her family's) custom'.

(13) Cf. supra n. 8 mutatis mutandis.

(14) A wife.

(15) Her husband.

(16) I.e., enjoys his advantages but does not suffer his disadvantages.

(17) As in the instance dealt with infra 61a.

(18) Lit., 'go down into'.

(19) This is explained infra.

(20) The case dealt with by R. Huna.

(21) This is explained infra.

(22) Infra 107a.

(23) From his home to a foreign country.

(24) From society. sc. becomes insane.

(25) In the former case the man could have left instructions, if he were minded to do so, that his wife and family should be provided for. Since, however, he left no such instructions, it is obvious that he had no intention of providing for them. Hence the ruling that his wife, whom he is under a legal obligation to maintain, (her claim being secured on his estate in accordance with the terms of her kethubah) must be provided for by the Beth din out of his estate; not however, his sons and daughters who have no legal claim upon their father's estate. Where, however, a man becomes insane it may well be assumed that it was his wish that both his wife and family shall be properly provided for out of his estate.

(26) Lit., 'this'.

(27) Of the Baraitha that 'anything else' was not to be provided for.

(28) Since the court which has no right to provide from a man's estate for his own wife's personal enjoyments would have much less power to exact from that estate for charity.

(29) Lit., 'go down into'.

(30) Why should she suffer indignity on account of his lower status?

(31) R. Huna.

(32) While in a dying condition. The instructions of a dying man have the force of a legally written document.

(33) Having survived her husband and collected her kethubah a wife has no further claim upon his estate which is consequently inherited by his sons.

(34) Cf. supra n. 2.

(35) And they, of course, are under no obligation to bury the widow.

(36) But at the public cost.

(37) Lit., 'all from him'.

(38) A na'arah (v. Glos.). This Mishnah is a continuation of the previous one, supra 46b.
(39) לעולם, lit., 'for ever', 'always'.
(40) Even after her betrothal. He is entitled to all his privileges; and,' if she is the daughter of an Israelite, although betrothed to a priest, terumah is forbidden to her.

Talmud - Mas. Kethuboth 48b

UNDER THE AUTHORITY OF HER HUSBAND[1] [BY GOING INTO THE BRIDAL CHAMBER][2] AT MARRIAGE. IF HER FATHER DELIVERED HER TO THE AGENTS OF THE HUSBAND[3] SHE PASSES[4] UNDER THE AUTHORITY OF HER HUSBAND. IF HER FATHER WENT WITH HER HUSBAND'S AGENTS[5] OR IF THE FATHER'S AGENTS WENT WITH THE HUSBAND'S AGENTS[5] SHE REMAINS[4] UNDER THE AUTHORITY OF HER FATHER. IF HER FATHER'S AGENTS DELIVERED HER TO HER HUSBAND'S AGENTS[6] SHE PASSES[4] UNDER THE AUTHORITY OF HER HUSBAND. GEMARA. What [is the purport of] REMAINS?[7] — To exclude [the ruling] of an earlier[8] Mishnah where we learned: If the respective periods[9] expired[10] and they were not married[11] they are entitled to maintenance out of the man's estate[12] and [if he is a priest][13] may also eat terumah.[14] Therefore 'REMAINS'[15] Was used.[16] IF HER FATHER DELIVERED HER TO THE AGENTS OF THE HUSBAND SHE PASSES UNDER THE AUTHORITY OF HER HUSBAND etc. Rab ruled: Her delivery [is regarded as entry into the bridal chamber] in all respects[17] except that of terumah;[18] but R. Assi ruled in respect of terumah also. R. Huna, (or as some Say, Hiyya b. Rab,) raised an objection against R. Assi: She remains[15] under the authority of her father until she enters the bridal chamber.[19] 'Did I not tell you', said Rab to them,[20] 'that you should not be guided by an ambiguous statement?[21] He[22] can answer you that "her delivery" is regarded as her entry into the bridal chamber'. Samuel, however, ruled: [Her delivery has the force of entry into the bridal chamber only in respect] of her inheritance.[23] Resh Lakish ruled: [Only in respect] of her kethubah.[24] What is meant by 'her kethubah'? [If it means] that should [the woman] die he inherits it,[25] [then this ruling is, is it not,] the same as that of Samuel?[26] Rabina replied: The meaning is[27] that her [statutory] kethubah from a second husband[28] is only a maneh.[29] Both R. Johanan and R. Hanina ruled: Her delivery [is regarded as entry into the bridal chamber] in all respects. even that of terumah.[30] An objection was raised: If the father went with the agents of the husband, or if the agents of the father went with the agents of the husband, or if she had a court-yard on the way, and she entered it with him[31] to rest there for the night,[32] her father inherits from her if she died, although her kethubah[33] is already in the house of her husband. If, however, her father delivered her to her husband's agents, or if her father's agents delivered her to her husband's agents, or he[34] had a court-yard on the way, and she entered it with him with an intention to matrimony, her husband is her heir if she died, although her kethubah[33] was still in her father's house.[35] This ruling[36] applies only in respect of her inheritance[37] but in respect of terumah [the law is that] no woman is allowed to eat terumah until she enters the bridal chamber.[38] [Does not this represent] a refutation of all?[39] This is indeed a refutation. [But] is not this,[40] however, self-contradictory? You said. 'She entered it with him to rest for the night'. The reason [why such an act is not regarded as entry into the bridal chamber is] because [the entrance was made specifically for the purpose of] resting for the night. Had it, however, been made with no specified intention [it would be deemed to have been made] with an intention to matrimony. Read, however, the final clause: 'She entered it with him with an intention to matrimony', from which it follows, does it not, that if the entrance was made with no specified intention [it would be deemed to have been made just] in order to rest there for the night? — R. Ashi replied: Both entrances mentioned[41] are such as were made with no specified intention, but any unspecified [entrance into] a court-yard of hers [is presumed to have been made] in order to rest there for the night while any unspecified [entrance into] a court-yard of his[42] [is presumed to have been made] with an intention to matrimony. A Tanna taught: If a father delivered [his daughter][43] to the agents of her husband and she played the harlot[44] her penalty is that[45] of strangulation.[46] Whence is this ruling deduced? — R. Ammi b. Hama replied: Scripture stated,[47] To play the harlot in her father's house,[48] thus excluding one whom the father had delivered to the agents of the husband. Might it not be suggested that this[48] excludes one who entered her bridal chamber but with whom no cohabitation had taken place?[49] — Raba replied: Ammi told me [that a woman[50] who entered her] bridal chamber was explicitly[51] mentioned in Scripture: If there be a damsel that is a virgin betrothed unto a man;[52] 'a damsel' but not a woman who is adolescent, 'a virgin' 'but not a woman with whom intercourse took place, 'betrathed' but not one married.[53] Now what [is meant by] 'one married'? If it be suggested: One actually married, [it can be objected that stich a deduction][54] would be practically the same as that of 'a virgin but not one with whom intercourse took place'. Consequently it must be concluded[41] [that by 'married' was meant one] who entered into the bridal chamber but with whom no intercourse took place.[55]

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(1) far. lec. 'to the bridal chamber' (v. Tosaf. 48a, s.v. לעולם).

(2) Huppah (v. Glos.); cf. Rashi, a.l. and cf. supra n. 10.

(3) Who were sent to bring her from her father's house to that of her husband.

(4) Lit., 'behold she is'.

(5) To her husband's house.

(6) Neither they nor her father who sent them accompanying her to the house of her husband.

(7) לעולם, lit., 'for ever', 'always'. The omission of לעולם would not in any way alter the actual ruling except the wording which would then read, 'She is under' etc. Why then was an apparently superfluous word inserted?

(8) Lit., 'first'.

(9) One of twelve months for a virgin and of thirty days for a widow (from the date their intended husbands claimed them) in which to prepare their marriage outfits.

(10) Lit., 'the time arrived'.

(11) Through their future husbands' delay or neglect.

(12) Lit., 'eat of his'.

(13) Though they are daughters of Israelites.

(14) Infra 57a.

(15) V. note I.

(16) Sc. despite the expiry of the prescribed period a daughter REMAINS UNDER THE AUTHORITY OF HER FATHER UNTIL etc. and is consequently forbidden to eat terumah (cf. supra p. 276, n. 9).

(17) Sc. the man obtains all the privileges to which a husband is entitled from the moment the bride enters the bridal chamber (e.g., the right to her handiwork, heirship).

(18) The woman, if she is the daughter of an Israelite, is forbidden to eat it though the man is a priest (v. infra 57b).

(19) And until then she is forbidden to eat terumah (cf. supra p. 276, n. 9). How then could R. Assi maintain that terumah is permitted to her?

(20) His disciple R. Huna and his son Hiyya.

(21) איפכא, lit., 'reverse'.

(22) Sc. R. Assi. MS.M., TT.

(23) I.e., if she died on the way between her father's house and that of her husband, her dowry (given to her by her father) is inherited by her husband although he is not entitled to his other rights until her entrance into the bridal chamber.

(24) This is explained anon.

(25) Viz., the dowry her father gave her which forms one of the entries in her kethubah.

(26) V. p. 277 n. 17

(27) Lit., 'to say'.

(28) If her first husband died while she was on the way with his agents.

(29) V. Glos. The amount prescribed for a widow. A virgin is entitled to two hundred zuz.

(30) Cf. supra p. 277. n. 12 mutatis mutandis.

(31) Her husband.

(32) With no matrimonial intention.

(33) I.e., the dowry her father gave her.

(34) Her husband.

(35) I.e., the objects specifically assigned to her as dowry were still in her father's house.

(36) That delivery to the husband's agents has the force of a marriage.
(37) V. supra p. 277, n. 17.
(38) Tosef. Keth. IV.
(39) Lit., ‘all of them’, those (with the exception of Samuel) whose rulings differ from this Baraitha.
(40) The Baraitha last mentioned.
(41) In the first and second clauses.
(42) Her husband.
(43) Cf. supra p. 276, n. 7.
(44) Prior to her entry into the bridal chamber.
(45) Lit., ‘behold this’.
(46) Like that of a married woman; not stoning which is the penalty of one betrothed.
(47) In prescribing the penalty of stoning.
(48) Deut. XXII, 21.
(49) What proof is there that one who had not even entered the bridal chamber is also excluded?
(50) Prior to marriage
(51) I.e., is deduced from a specific expression.
(52) Deut. XXII, 23.
(53) V. Sanh. 66b.
(54) Betrothed but not actually married’. (15) Lit., ‘but not?’
(55) Since this text excluded such a case from the penalty of stoning no other text is required for the same purpose. Deut. XXII, 21, is consequently free for the deduction made by R. Ammi.

Talmud - Mas. Kethuboth 49a

But might not one suggest that if she[1] returned[2] to her parental home she resumes her former status?[3] — Raba replied: A Tanna of the school of R. Ishmael has long ago settled this difficulty. For a Tanna of the school of R. Ishmael taught: What need was there for Scripture to state, But the vow of a widow, or of her that is divorced, even everything wherewith she bath bound her soul, shall stand against her?[4] Is she not free from the authority of her father[5] and also from that of her husband?[6] [The fact], however, is that where[7] her father had delivered her to the agents of her husband, or where the agents of her father had delivered her to the agents of her husband and, on the way,[8] she became a widow or was divorced[9] [one would not know] whether she was to be described as of[10] the house of her father[11] or as of the house of her husband;[12] hence the need for the text[13] to tell you that as soon as she has left her father's authority,[14] even if only for a short while, he may no longer annul her vows.[15] Said R. Papa: We also learned [a similar ruling]:[16] A man who has intercourse with a betrothed girl incurs no penalties[17] unless she is a na'arah,[18] a virgin, betrothed, and in her father's house.[19] Now one can well see that ‘na'arah’ excludes[20] one who is adolescent, ‘virgin’ excludes[20] one with whom a man has had intercourse, and ‘betrothed’ excludes one who married [by entry into the bridal chamber].[21] What, [however, could the expression] ‘in her father's house’ exclude? Obviously this:[22] [The case where] her father delivered her to the agents of the husband.[23] R. Nahman b. Isaac said: We also learned [a similar ruling]:[24] Should one have intercourse with a ‘married woman’[25] the latter,[26] provided she entered under the authority of her husband,[27] although no intercourse had taken place, is to he punished by strangulation.[28] ‘She entered under the authority of her husband’ [implies][29] in any form whatever.[30] This is conclusive proof. MISHNAH. A FATHER[31] IS UNDER NO OBLlgation TO MAINTAIN HIS DAUGHTER. THIS EXPOSITION[32] WAS MADE BY R. ELEAZAR B. AZARIAH[33] IN THE PRESENCE OF THE SAGES IN THE VINEYARD OF JABNEH:[34] [SINCE IT WAS ENACTED THAT] THE SONS SHALL BE HEIRS [TO THEIR MOTHER'S KETHUBAH][35] AND THE DAUGHTERS SHALL BE MAINTAINED [OUT OF THEIR FATHER'S ESTATE,[35] THE TWO CASES MAY BE COMPARED:] AS THE SONS CANNOT BE HEIRS EXCEPT AFTER THE DEATH OF THEIR FATHER, SO THE DAUGHTERS CANNOT CLAIM MAINTENANCE EXCEPT AFTER THE DEATH OF THEIR FATHER.

GEMARA. [Since it has been said that] he is UNDER NO OBLIGATION TO MAINTAIN HIS DAUGHTER Only, it follows[36] that he is under an obligation to maintain his son, [and in the case of] his daughter also, since he is only exempt from[37] legal OBLIGATION he is, obviously, still subject[38] to a moral duty; who, [then, it may be asked, is the author] of our Mishnah? [Is it] neither R. Meir nor R. Judah nor R. Johanan b. Beroka? For it was taught: It is a moral duty[39] to feed one's daughters, and much more so ones sons, (since the latter are engaged in the study of the Torah);[40] so R. Meir. R. Judah ruled: It is a moral duty to feed ones sons, and much more so one's daughters, (in order [to prevent their] degradation).[41] R. Johanan b. Beroka ruled: It is a legal obligation to feed one's daughters[42] after their father's death; but during the lifetime of their father neither sons nor daughters need be[43] fed.[44] Now who [could be the author of] our Mishnah? If R. Meir, he, surely, [it may be objected] ruled that [the maintenance of] sons [was only] a moral duty.[45] If R. Judah, he, surely ruled that also[46] [the maintenance of] sons [was only] a moral duty.[45] And if R. Johanan b. Beroka [should be suggested, the objection would be: Is not his opinion that] one is not even subject to[47] a moral duty?[45] — If you wish I might say [that the author is] R. Meir; If you wish I might Say: R. Judah; and if you prefer I might Say: R. Johanan b. Beroka. ‘If you wish I might say [that the author is] R. Meir’, and it is this that he meant:[48] A FATHER IS UNDER NO OBLIGATIon TO MAINTAIN HIS DAUGHTER, and the same law applies to his son. [Maintenance], however, is a moral duty in the case of his daughter and, much more so, in the case of his sons; and the reason why[49] HIS DAUGHTER was mentioned[50] was to teach us this:

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(1) Whom HER FATHER DELIVERED TO THE AGENTS OF THE HUSBAND.

(2) Before she reached her husband's house.

(3) Since she is again ‘in her father's house’ her penalty might again be changed from strangulation (the penalty for a married woman) to stoning (the penalty for one betrothed who is in her father's house, (Deut. XXII, 21). This does not exactly raise a difficulty against our Mishnah, but is an attempt merely at elucidating the law (Rashi).

(4) Num. XXX, 10.

(5) Since she was once married. A father's control over his daughter ceases with her marriage.

(6) Being now a widow or a divorcee. Now since neither father nor husband may annul her vows it is self-evident that her vows ‘stand against her’. What need then was there for the text of Num. XXX, 10.

(7) Lit., ‘behold’.

(8) To her husband's house.

(9) And so returned to her parental home.

(10) Lit., ‘how I read about her’.

(11) Because, not having reached her husband's house, she has not passed entirely out of her father's control. Her father should consequently be entitled to annul her vows.

(12) Who is now dead or divorced. Her vows consequently, like those of any other widow or divorcee, could no longer be annulled.

(13) Lit., ‘but’.

(14) As, for instance, where she was delivered to the husband's agents.

(15) Yeb. 87a. As in respect of vows the woman is no longer regarded as being ‘in her father's house’ so also in respect of her penalties.

(16) Sc. a Mishnah which supports the ruling of the Baraitha supra 48b: ‘If a father delivered . . . her penalty is that of strangulation’.

(17) Sc. the penalties prescribed in Deut. XXII, 24ff.

(18) V. Glos.

(19) Sanh. 66b.

(20) Lit., ‘and not’.

(21) Before intercourse Lad taken Place (cf. supra 48b 3d fit.).

(22) Lit., ‘not, to exclude?’

(23) Cf. supra p, 280, notes 4 and 16.

(24) V. supra p. note 1.

(25) Lit., ‘the wife of a man’.

(26) Sc. the woman. So according to MS.M. (v. infra n. 13).

(27) So MS.M. Cur. edd. insert ‘for marriage’.

(28) So MS.M., הרי זו בחנק Cur. edd. הבא עליה הרי זה בחנק

(29) Since even ‘bridal chamber’ was not mentioned.

(30) Lit., ‘in the world’; even mere delivery to the husband's agents.

(31) During his lifetime. V. infra.

(32) On the formula of the kethubah.

(33) On the day when he was appointed president of the College (Rashi, cf. Ber. 27b).

(34) Or Jamnia. The כרם יבנה was either the name of the school, so called because the students ‘sat in rows’ like ‘vines in a vineyard’ (Rashi), or an actual vineyard in which the scholars met (Krauss). The school of Jabneh was established by R. Johanan b. Zakkai during the siege of Jerusalem by Vespasian. Cf. B.B. (Sonc. ed.) p. 549, n. 4.

(35) A formula to that effect must be entered in a kethubah, v. Mishnah infra 52b.

(36) As DAUGHTER only was mentioned.

(37) Lit., ‘there is not’.

(38) Lit., ‘there is’.

(39) Though after a certain age there is no legal obligation.

(40) The bracketed words are the Talmudic comment on this teaching. (V. Rashb. s.v. דעסקי B.B. 141a).

(41) In their search for a livelihood, cf. n. 6.

(42) In accordance with the terms of their mother's kethubah.

(43) Lit., ‘these and these are not’

(44) Cf. Tosef. Keth. IV and BB. 141a.

(45) While our Mishnah implies a legal obligation.

(46) נמי. This may be omitted with MS.M.

(47) Lit., ‘there is not.

(48) In his statement in our Mishnah.

(49) Lit, ‘and that’.

(50) And not ‘son’. Cf. supra p. 282, n. 2 and text.

Talmud - Mas. Kethuboth 49b

That even in the case of his daughter[1] he is only exempt from a legal obligation but is nevertheless subject to a moral duty.[2] ‘If you wish I might say: R. Judah’; and it is this that he meant: A FATHER is UNDER NO OBLIGATION TO MAINTAIN HIS DAUGHTER, and much more so[3] his son.[4] It is, however, a moral duty [to maintain] one's son and, much more so, ones daughters; and the only reason why HIS DAUGHTER was mentioned Was to teach us this: That even [the maintenance of] one's daughter is no[5] legal obligation. ‘And if you prefer I might say: R. Johanan b. Beroka’, and what Was meant is this: HE IS UNDER NO OBLIGATION TO MAINTAIN HIS DAUGHTER, and the same law applies to his son; and this, furthermore, means[6] that [such maintenance] is not even[5] a moral duty; only because [the maintenance of daughters] after their father's death is a legal obligation, the expression, HE IS UNDER NO OBLIGATION, was used here also.[7] R. Elai stated in the name of Resh Lakish who had it from R. Judah[8] b. Hanina: At Usha[9] it was ordained that a man must maintain his sons and daughters while they are young.[10] The question was raised: Is the law in agreement with his statement or not? — Come and hear: When people came before Rab Judah,[11] he used to tell them, ‘A Yarod[12] bears progeny and[13] throws them upon [the tender mercies of] the townspeople’.[14] When people came before R. Hisda,[10] he used to tell them, ‘Turn a mortar[15] for him upside down,[16] in public and let one[17] stand [on it] and say: The raven cares[18] for its young but that man[19] does not care for his children’.[20] But does a raven care[18] for its young? Is it not written in Scripture,[21] To the young ravens which cry?[22] — This is no difficulty. The latter[23] applies to white ravens[24] and the former[25] to black ones.[26] When a man[27] came before Raba he used to tell him, ‘Will it please you that your children should be maintained from the charity funds?’[28] This ruling,[29] however, has been laid down only for one who is not a wealthy man, but if the man is wealthy he may be compelled[30] even against his wish; as was the case with[31] Raba who used compulsion against R. Nathan b. Ammi[32] and extracted front him four hundred zuz[33] for charity.[34] R. Elai stated in the name of Resh Lakish: It was enacted at Usha[35] that if a man assigned all his estate to his sons in writing, he and his wife[36] may nevertheless[37] be maintained out of it. R. Zera, or as some say, R. Samuel b. Nahmani, demurred: Since the Rabbis went so far as to rule[38] that [in the case that follows] a widow is maintained out of her husband's estate, was there any necessity [to state that such maintenance is allowed to] the man himself and his wife? For Rabin had sent in his letter:[39] If a man died and left a widow and a daughter, his widow is to receive her maintenance from his estate?[40] If the daughter married,[41] his widow is still to receive her maintenance from his estate. If the daughter died?[42] Rab[43] Judah the son of the sister of R. Jose b. Hanina said: I had such a case, and it was decided[44] that his widow was to receive her maintenance from his estate.[45] [In view of this ruling we ask: Was it] necessary [to give a similar ruling[46] in respect of] the man himself[47] and his wife? — It might have been assumed [that the law applies only] there,[48] because there is no one else to provide for her,[49] but here [it might well be argued:] Let him provide for himself and for her;[50] hence we were taught [that here also the same ruling applies]. The question was raised: Is the law in agreement with his view[51] or not? — Come and hear: R. Hanina and R. Jonathan were once standing together when a man approached them and bending down kissed R. Jonathan upon his foot. ‘What [is the meaning of] this?’ said R. Hanina to him.[52] ‘This man’, the other[52] replied, ‘assigned his estate to his sons in writing

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(1) Who is not engaged in the study of the Torah.

(2) Had ‘son’ been mentioned instead of DAUGHTER it might have been assumed that the maintenance of a daughter is not even a moral duty.

(3) MS.M., ‘and the same law applies to’.

(4) Since it is easier for a man to earn his livelihood.

(5) Lit., ‘there is not’.

(6) Lit., ‘and that is the law’.

(7) In fact, however, there is neither legal obligation nor moral duty.

(8) Variant, ‘R. Jose’ (Alfasi and Rosh).

(9) Usha was a town in Galilee, in the vicinity of Sepphoris and Shefar'am, where the Sanhedrin met after it left Jabneh (Jamnia). It was also the place where, after the wars of Bar Cochba, on the cessation of the religious persecutions which characterised the Hadrianic reign in the middle of the second century, an important Rabbinical synod was held. Cf. B.B. (Sonc. ed.) p. 139, n. 1; p. 141, n. 4 and p. 207, n. 3. [On the Synod of Usha v. J.E, XI, 645ff.].

(10) Lit., ‘small’, under age of puberty (Rashi).

(11) With the case of a father who refused to maintain his young children.

(12) יארוד (Heb. תנים) ‘A bird of solitary habits’ (Jast.); ‘dragon’ or ‘jackal’ (Rashi). Cf. the rendering of תנים in Jer. IX, 10 by A.V. and R.V. respectively.

(13) Neglecting them.

(14) From which observation it follows that a judge can only censure a heartless father but has no power to compel him to provide for the maintenance of his children.

(15) אסיתא, v. Krauss, TA, I, 447.

(16) An improvised platform.

(17) Aliter, ‘him’, sc. the father.

(18) Lit., ‘asks’.

(19) ההוא גברא, sc. the father. According to the second interpretation, (supra note 8) the expression, as elsewhere, may refer to the speaker himself.

(20) V. supra note 5,

(21) Ps. CXLVII, 9.

(22) Presumably for food; which shews that the parent neglects them.

(23) Lit., ‘that’, the text implying neglect of the young ravens.

(24) Sc. very young ones. These are disliked by their parents (Rashi).

(25) Rab Judah's statement that ravens do care for their young.

(26) Older birds. For such the parents do care.
(27) Who refused to maintain his young children.
(28) V. supra note 5.
(29) That a father cannot legally be compelled to maintain his children.
(30) To maintain his children.
(31) Lit., ‘like that of’.
(32) Who was a wealthy man.
(33) V. Glos.
(34) How much more then may compulsion be used against a wealthy father who refuses to provide for his own children.
(35) Cf. supra p. 183, n. 12.
(36) Though the sons are now the legal owners of the estate.
(37) By virtue of the enactment of Usha.
(38) Lit., ‘greater than this did they say’.
(39) From Palestine to Babylon.
(40) In accordance with his undertakings in her kethubah.
(41) And the estate was transferred into her husband's ownership.
(42) And her possessions were inherited by her husband who is her heir.
(43) So in the parallel passage. B.B. 193a. Cur. edd ‘Rabbi’.
(44) Lit., ‘they said’.
(45) B.B. 193a.
(46) That despite the assignment, maintenance may be drawn from the estate.
(47) Who made the assignment.
(48) The case of the widow spoken of in Rabin's letter.
(49) Lit., ‘who may take the trouble’. Her husband being dead she would have been helpless without the allowance for her maintenance.
(50) And consequently should not be allowed to draw upon the estate he assigned to his sons.
(51) That of R. Elai.
(52) R. Jonathan.

Talmud - Mas. Kethuboth 50a

and I compelled them to maintain him’. Now if it be conceded that this[1] was not [in accordance with the strict] law one can well understand why he had to compel them,[2] but if it be contended that this[3] is the law, would it have been necessary for him [it may be objected] to compel them?[4] R. Elai stated: It was ordained at Usha[5] that if a man wishes to spend liberally[6] he should not spend more than a fifth.[7] So it was also taught: If a man desires to spend liberally[6] he should not spend more than a fifth,[7] [since by spending more] he might himself come to be in need [of the help] of people.[8] It once happened that a man wished to spend[6] more than a fifth[7] but his friend did not allow him. Who was it?[9] — R. Yeshebab. Others say [that the man who wished to spend was] R. Yeshebab, but his friend did not allow him. And who was it?[9] R. Akiba. R. Nahman, or as some say, R. Aha b. Jacob, said: What [is the proof from] Scripture?[10] — And of all that Thou shalt give me I will surely give the tenth[11] into thee.[12] But the second tenth,[13] surely, is not like the first one? — R. Ashi replied: I will . . . give a tenth of it[14] [implies ‘I will make] the second like the first’. Said R. Shimi b. Ashi: [The number of those who report] these traditions[15] steadily diminishes,[16] and your mnemonic[17] is ‘The young[18] assigned in writing[19] and spend liberally’.[20] R. Isaac stated: It was ordained at Usha[21] that a man must bear[22] with his son until [he is] twelve years [of age]. From that age[23] onwards he may threaten[24] his life.[25] But could this be correct?[26] Did not Rab, in fact, say to R. Samuel b. Shilath,[27] ‘Do not accept [a pupil] under the age of six; a pupil of the age of six you shall accept and stuff him like an ox’?[28] — Yes, ‘stuff him like an ox’, but he may not ‘threaten him’[24] until after [he has reached the age of] twelve years. And if you prefer I may say: This[29] is no difficulty, since one may have referred[30] to Scripture[31] and the other to Mishnah; for Abaye stated: Nurse[32] told me that a child of six [is ripe] for Scripture; one of ten, for Mishnah; one of thirteen,[33] for a full twenty-four hours'[34] fast,[35] and, in the case of a girl,[36] [one who is of] the age of twelve.[37] Abaye stated, Nurse[32] told me: A child of the age of six whom a scorpion has bitten on the day on which he has completed his sixth year does not survive [as a rule].[38] What is his remedy? — The gall of a white stork[39] in beer. This should be rubbed into the wound [and the patient] be made to drink it. A child of the age of one year whom a bee has stung on the day he has completed his first year does not survive [as a rule].[38] What is his remedy? — The creepers of a palm-tree in water. This should be rubbed in and [the patient] be made to drink it. Said R. Kattina: Whosoever brings his son [to school] under the age of six will run after hint but never overtake him.[40] Others say: His fellows will run after him but will never overtake him.[41] Both statements, however, are correct:[42] He is feeble but learned. If you prefer I might say: The former[43] applies to one[44] who is emaciated; the latter, to one[44] who is in good health. R. Jose b. Hanina stated:[45] At Usha[46] it was ordained that if a woman had sold usufruct property[47] during the lifetime of her husband and then died, the husband[48] may seize it from the buyers.[49] R. Isaac b. Joseph found R. Abbahu standing among a crowd of people.[50] 'Who', he said to hint, 'is the author of the traditions of Usha?' — 'R. Jose b. Hanina', the other informed him. He learned this from him forty times and then it appeared to him as if he had it safely in his bag.[51] Happy are they that keep justice, that do righteousness at all times.[52] Is it possible to do righteousness at all times? — This, explained our Rabbis of Jabneh[53] (or, as others say. R. Eliezer), refers to a man who maintains his sons and daughters[54] while they are young.[55] R. Samuel b. Nahmani said: This[52] refers to a man who brings up an orphan boy or orphan girl in his house and enables them to marry. Wealth and riches are in his house; and his merit endureth for ever.[56] R. Huna and R. Hisda [expounded the text in different ways]. One said: It applies to a man who studies the Torah[57] and teaches it to others;[58] and the other said: It applies to a man who writes the Pentateuch, the Prophets and the Hagiographa and lends them to others.[59] And see thy children's children,' peace be upon Israel.[60] R. Joshua b. Levy said: As soon as your children have children there will be peace upon Israel; for they will not be subject to halizah[61] or levirate marriage.[62] R. Samuel b. Nahmani said: As soon as your children have children[63] there will be peace for the judges of Israel, for [doubtful claimants] will not come to quarrels.[64] THIS EXPOSITION WAS MADE BY R. ELEAZAR B. AZARIAH[65] IN THE PRESENCE OF THE SAGES etc.

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(1) Maintenance of their father by sons to whom he had assigned his estate.

(2) He compelled them to obey the enactment of Usha though they pleaded adherence to the strict law'.

(3) V supra note 2.

(4) Naturally not, Since the sons would have had no ground whatsoever on which to base their refusal.

(5) V. Supra p. 283, n. 12.

(6) In charity.

(7) Of his wealth. (The reason is given anon. Cf. infra 76b, 'Ar. 282).

(8) Lit., 'creatures'.

(9) His friend.

(10) That no more than a fifth may be spent on charity.

(11) שנועשר אע (Infinitive and Imperfect), the repetition of the verb עשר ('to give a tenth') implies two tenths or one fifth.

(12) Gen. XXVIII, 22.

(13) Which, being taken from the nine tenths that remained after the first tenth had been given away. represents only (1/10 X 9/10 _) 9/100 of the original capital.

(14) אעשרנו, So lit. imperfect with suffix of 3rd sing. instead of the imperfect אעשר

(15) The enactments of Usha reported supra by R Elai.

(16) The first enactment was reported by three Amoraim: R Elai, Resh Lakish and R. Judah (or Jose) b. Hanina (supra 40b), the second only by two: R. Elai and Resh Lakish (supra l.c.). while the third was reported by R Elai alone.

(17) An aid to the recollection of the order in which they were cited and thereby the order of the diminutions.

(18) 'A man shall maintain . . . while they are young' (supra 49b.

(19) 'If a man assigned . . . in writing' (supra l.c.).

(20) 'If a man wishes to spend liberally' (the last cited enactment).

(21) V. Supra p. 183, n. 12.

(22) Lit ,’roll’, i.e., have patience with him, and employ gentle means to induce him to study.

(23) Lit., ‘from here’.

(24) Lit., ‘go down with him into’.

(25) Sc. he may adopt drastic measures if his son is neglectful or indifferent.

(26) Lit., ‘I am not (in agreement)’.

(27) A teacher of young children (v. B.B. 8b).

(28) B.B. 21a. This seems to shew that the age of compulsion is six, contrary to R. Isaac's tradition which puts it at twelve.

(29) Cf. supra n. 14.

(30) Lit., ‘that’.

(31) Which a child should begin studying at the age of six.

(32) His mother died while he was an infant, and his upbringing was entrusted to a nurse from whom he learned many proverbs and maxims, legends and folklore; v. Kid. 31b.

(33) תתליסר, V n. 23 .

(34) מעת לעת, lit., ‘from time to time’, from a certain hour of one day to the same hour on the following day.

(35) The fast of the Day of Atonement and that of the Ninth of Ab last for a full twenty-four hours, beginning near sunset and terminating at nightfall on the following day.

(36) Who matures earlier.

(37) Sc. twelve years and one day (Tosaf s.v. ובת, a.l., contrary to Rashi who interprets ‘twelve’ as ‘twelfth’, viz., from the age of eleven years and a day). [The text is uncertain. MS.M. and Asheri read ‘and one of twelve () for a full twenty four hours’ fast and in the case of a little girl’. This may mean; (a) ‘and that applies to a little girl’, whereas in the case of a boy the age for a full fast begins at thirteen, or (b) ‘and the same law applies to a girl’; v. Isaiah Trani. Tosaf. seems to have had a still shorter text with no reference to a boy; y. Tosaf. s.v.].

(38) Unless the appropriate remedy is applied (Rashi). Cf., however, Tosaf. s.v. ומאי a.l.

(39) דיה. The ‘white dayyah’ is the Talmudic interpretation of חסידה (Lev. XI, 19), E.V. stork (cf. Hul. 63a).

(40) Sc. all his efforts to restore his child to normal health will be of no avail. His health remalns irrevocably ruined.

(41) He will always surpass them in knowledge and attainments.

(42) Lit., ‘they are.

(43) V. supra n. 3.

(44) Lit., ‘that’.

(45) Infra 78b, B.K. 88b, B.M. 35a, 96b, B.B. 50a. 139b.

(46) V. supra p. 183, n. 12.

(47) Melog (v.Glos).

(48) Who has the legal status of a buyer.

(49) Since he is in the position of the earliest purchaser.

(50) באוכלוסא דאינשי, so MS. M. Cur. edd. דאושא ‘of Usha’. Var. lec. קאי בהילכתא דאושא ‘engaged in teaching the laws passed at Usha’ (Jast.).

(51) Sc. would never forget it.

(52) Ps. CVI, 3.

(53) V. supra p. 181, n. 19.

(54) This is a charitable act, since legally they have no claim upon him for maintenance.

(55) Children being ‘at all times’ dependent on their father, the text cited may well be applied to such a man. צדקה ‘righteousness’ may also signify ‘charity’.

(56) Ps. CXII, 3.

(57) Which is compared to ‘wealth and riches’.

(58) His Torah is not thereby diminished so that ‘wealth and riches’ (v. supra note 7) ‘are in his house’, and ‘his merit’ for teaching other people ‘endureth for ever’.

(59) Cf. supra notes 7 and 8 mutatis mutandis. The scrolls remain his, while his ‘merit endureth for ever’ for enabling others to study.

(60) Ps. CXXVIII, 6.

(61) V. Glos.

(62) Which are frequently the cause of quarrels.

(63) Sc. legal heirs.

(64) On the disposal of the estate of the deceased.

(65) So MS. M. and our Mishnah supra 493. Cur. edd. omit 'b. Azariah' from the quotation.

Talmud - Mas. Kethuboth 50b

R. Joseph sat before R. Hamnuna while R. Hamnuna was sitting and discoursing: As sons may obtain their inheritance only from landed property so may one's daughters obtain their maintenance only from landed property. All shouted at him: 'Is it only from a man who leaves land that sons inherit while from him who leaves no land his sons do not inherit?'[1] Said R. Joseph to him:[2] Might not the Master have been speaking of the kethubah [that is due to] male children?[3] The other[2] replied: The Master who is a great man understood precisely what I meant.[4] R. Hiyya b. Joseph stated: Rab allowed maintenance [to daughters][5] from wheat[6] of 'aliyyah.[7] The question was raised: Was [Rab's allowance made for] a marriage outfit,[8] and by 'aliyyah is meant,[9] 'in accordance with her father's generans[10] disposition', [his ruling being] in agreement with that of Samuel who laid down that in respect of marriage outfit the assessment[11] is determined by [the disposition of] the father;[12] or was it rather for actual maintenance,[13] and by 'aliyyah was meant[9] 'in accordance with the chivalrous[14] enactments made[15] in an upper chamber',[16] for R. Isaac b. Joseph stated: In an upper chamber it was enacted that daughters shall be maintained even out of movable property?[17] — Come and hear: R. Benai the brother of R. Hiyya b. Abba had in his possession orphans' movable property, and when [he and the daughters of the deceased] came before Samuel, the latter said to him, 'Go and provide maintenance [for them]'. Does not [maintenance refer] to actual maintenance, he being of the same opinion as R. Isaac b. Joseph?[18] — No; there[19] [the claim] was in respect of marriage outfit, and Samuel [acted] in accordance with his own view, since he laid down that in respect of marriage outfit the assessment[20] is determined by [the disposition of] the father.[21] [Such] a case[22] occurred at Nehardea,[23] and the Nehardean judges issued an order[24] [in favour of the daughters]. At Pumbeditha also[25] R. Hana b. Bizna allowed [daughters] to collect [for their maintenance].[26] R. Nahman, however, said to them: Proceed to withdraw [your orders], otherwise[27] I shall order the seizure of your mansions. R. Ammi and R. Assi intended to allow maintenance[28] out of movable property.[29] Said R. Jacob b. Idi to them: In a matter concerning which R. Johanan and Resh Lakish hesitated to act[30] would you [venture to] act? R. Eleazar intended to allow maintenance[28] out of movable property.[29] Said R. Simeon b. Eliakim to him: 'Master, I know that in your decision[31] you are not acting on the line[32] of justice but on the line of mercy, but [the possibility ought to be considered that] the students might observe this ruling and fix it as an halachah for future generations'. A similar case[33] was once submitted to[34] R. Joseph. 'Give her', he ordered, 'of the dates that [are spread] on the reed-mat'.[35] Said Abaye to him, 'Even if she were a creditor[36] would the Master have allowed her [a privilege] of such a nature?'[37] — 'What I mean is', the other said to him, '[dates] that are suitable[38] for [spreading on] the reed-mat'.[39]

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(1) Certainly not. The Torah did not restrict the laws of inheritance to landed estates only.

(2) R. Hamnuna.

(3) If their mother pre-deceased their father they are entitled to recover her kethubah from his estate over and above the shares to which they like the other sons are entitled.

(4) The comparison made between the maintenance of daughters and the inheritance of sons was not, as the others who shouted assumed, the ordinary inheritance of sons, which is a Pentateuchal right, but their inheritance of their mother's kethubah (v. supra n. 3) which, like the maintenance of daughters, is merely a Rabbinical obligation undertaken by their father in accordance with the terms of the kethubah which he gave to their mother. Cf. infra 52b, and 91b.

(5) In the absence of real estate.

(6) Sc. movable property.

(7) דעלייה. The noun עליה may signify either 'upper chamber' or 'best' 'generous'. The meaning is discussed anon.

(8) Which is levied from movables also.
(9) Lit., 'and what 'aliyyah?'
(10) Cf. supra n. 7.
(11) For a daughter, out of her deceased father's estate.
(12) Infra 68a. A bigger allowance if he was known to be generous, and a smaller one if he was known to be niggardly.
(13) Which, forming one of the terms of the kethubah, may legally be recovered like the statutory kethubah itself, from landed property only.
(14) Lit., 'good'.
(15) In favour of daughters.
(16) Cf. 'the upper chamber of Hananiah b. Hezekiah' (Shab. 13b) and v. supra
(17) [Despite the fact that the lien clause in the Mishnah on which they base their claims to maintenance did not include movables, v. infra 56b].
(18) Who testified supra to the enactment made in favour of daughters.
(19) In the case dealt with by Samuel.
(20) V. p. 290, n. 11.
(21) V. p. 290, n. 12.
(22) In which daughters claimed maintenance from their deceased father's movable property.
(23) V. supra p. 222, n. 8.
(24) Lit., 'judged'.
(25) Where a similar case (v. supra n. 6) occurred.
(26) From the movable property of their deceased father.
(27) Lit., 'and if not'.
(28) Of daughters.
(29) V. supra n. 10.
(30) Lit., 'did not do a deed'.
(31) Lit., 'in you'.
(32) Lit., 'measure'.
(33) Of a daughter who claimed maintenance out of her deceased father's estate.
(34) Lit., 'that (case) which came before'.
(35) To dry; sc. movable property.
(36) Who is entitled to distrain upon sold property, a right to which a daughter is not entitled.
(37) The seizure of movable assets. The answer being in the negative, the question arises: How could R. Joseph allow a daughter the privilege to which even a creditor is not entitled?
(38) I. e., ripe.
(39) But are still attached to the tree. Attached fruit has the status of landed property.

Talmud - Mas. Kethuboth 51a

'After all, however, [it may be objected] is not all that is ripe[1] for cutting[2] regarded as already cut?'[3] — 'I mean [dates] that are still dependent[4] on the palm-tree'.[5] A boy orphan and girl orphan[6] once came before Raba.[7] 'Grant a bigger [maintenance allowance] to the boy', said Raba, 'for the sake of the girl'.[8] Said the Rabbis to Raba: Did not the Master himself lay down [that payment may be exacted] from landed property but not from movable property whether in respect of [a daughter's] maintenance, [a wife's] kethubah or [a daughter's] marriage outfit?[9] — He answered them: Had he desired to have a handmaid to attend on him would we not have granted him [an Increased allowance for the purpose]?[10] How much more then [should the allowance be increased] here[11] where it serves[12] two [purposes].[13] Our Rabbis taught: Both landed property[14] and movable property may be seized[15] for the maintenance of a wife[16] or daughters;[16] so Rabbi.[17] R. Simeon b. Eleazar ruled: Landed property may be seized for daughters[18] from sons, for daughters from daughters,[19] and for sons from Sons;[19] for sons from daughters where the estate is large[20] but not where it is small.[21] Movable property[22] may be seized for sons from sons,[23] for daughters from daughters[23] and for sons from daughters, but not for daughters from sons.[24] Although we have an established rule that the halachah is in agreement with Rabbi [where he differs] from his colleague, the halachah here is in agreement with R. Simeon b. Eleazar; for Raba stated: The law is [that payment may be exacted] from landed property but not from movable property whether in respect of a kethubah, maintenance or marriage outfit.[25]

MISHNAH. [IF A HUSBAND] DID NOT WRITE A KETHUBAH FOR HIS WIFE[26] SHE MAY RECOVER TWO HUNDRED ZUZ[27] [IF AT MARRIAGE SHE WAS] A VIRGIN, AND ONE MANEH[27] [IF SHE WAS THEN] A WIDOW, BECAUSE [THE STATUTORY KETHUBAH] IS A CONDITION LAID DOWN BY BETH DIN. IF HE ASSIGNED TO HER IN WRITING A FIELD THAT WAS WORTH ONE MANE H INSTEAD OF THE TWO HUNDRED ZUZ,[28] AND DID NOT WRITE IN HER FAVOUR,[26] ‘ALL PROPERTY THAT I POSSESS IS SURETY FOR YOUR KETHUBAH’,[29] HE IS NEVERTHELESS LIABLE [FOR THE FULL AMOUNT][30] BECAUSE [THE CLAUSE MENTIONED] IS A CONDITION LAID DOWN BY BETH DIN. IF HE DID NOT WRITE IN HER FAVOUR[31] [THE CLAUSE], IF YOU ARE TAKEN CAPTIVE I WILL RANSOM YOU AND TAKE YOU AGAIN AS MY WIFE,’[29] OR, IN THE CASE OF A PRIEST'S WIFE,[32] ‘[29] WILL RESTORE YOU TO YOUR PARENTAL HOME’,[33] HE IS NEVERTHELESS LIABLE [To CARRY OUT THESE OBLIGATIONS], BECAUSE [THE CLAUSE] IS A CONDITION LAID DOWN BY BETH DIN. IF SHE IS TAKEN CAPTIVE IT IS HIS DUTY TO RANSOM HER; AND IF HE SAID, ‘HERE[34] IS HER LETTER OF DIVORCE AND HER KETHUBAH LET HER RANSOM HERSELF’, HE IS NOT ALLOWED [TO ACT ACCORDlngly].[35] IF SHE SUSTAINED AN INJURY IT IS HIS DUTY TO PROVIDE FOR HER MEDICAL TREATMENT,[36] BUT IF HE SAID, HERE[34] IS HER LETTER OF DIVORCE AND HER KETHUBAH, LET HER HEAL HERSELF’, HE IS ALLOWED [TO ACT IN ACCORDANCE WITH HIS DESIRE]. GEMARA. Whose [view is represented in our Mishnah]? It is [obviously that of] R. Meir who ruled [that the intercourse of] any man who undertakes to give a virgin less than two hundred zuz[37] or a widow less than ‘a Maneh[37] is[38] an act of prostitution;[39] for if [it be suggested that it is the view of] R. Judah, he surely, [it can be objected] ruled, [that if a husband] wished he may write out for a virgin[40] a deed for two hundred zuz and she writes [a quittance][41] ‘I have received from you a maneh,’ and for a widow [he may write out a deed for] a maneh and she writes [a quittance], ‘I received from you fifty zuz’.[42] Read, however, the final clause: IF HE ASSIGNED TO HER IN WRITING A FIELD THAT WAS WORTH ONE MANEH INSTEAD OF THE TWO HUNDRED ZUZ, AND DID NOT WRITE IN HER FAVOUR, ALL PROPERTY THAT I POSSESS[43] IS SURETY FOR YOUR KETHUBAH’ HE IS NEVERTHELESS LIABLE [FOR THE FULL AMOUNT], BECAUSE [THE CLAUSE MENTIONED] IS A CONDITION LAID DOWN BY BETH DIN. Does not this obviously represent the view[44] of R. Judah who laid down that [the omission from a bond of the clause] pledging property[45] [is regarded as] the scribe's error?[46] for if [It be suggested that it represents the view of] R. Meir, he, surely, [it can be objected] ruled that [the omission of the clause] pledging property is not [regarded as] the scribe's error. For we have learned: If a man found notes of indebtedness

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(1) Lit., ‘that stands’.

(2) לגדוד, so MS. M., Aruk, Tosaf. B.B. 42b (s.v. שבה). Cur. edd., לגזוז ‘to shear’, is also the reading of Tosaf. a.l. (s.v. סוף).

(3) כגדוד. This is the reading of the authorities who adopt לגדוד (cf. supra n. 9). The others read כגזוז.

(4) Lit., ‘require’.

(5) Not being sufficiently ripe they are deemed to he part of the tree (cf. supra note 7).

(6) Brother and sister whose deceased father's movable property had been entrusted to a guardian.

(7) Claiming an allowance out of their father's estate.

(8) Sc. an allowance that shall suffice for the two.

(9) Infra 69b; how then did Raba allow the exaction of maintenance out of movable assets (v. supra n. 13)?

(10) As heir the boy is entitled to have all his needs supplied from the estate.

(11) Where the sister attends on her brother.

(12) Lit., ‘there is’.
(13) Attendance and maintenance.
(14) Lit., ‘property which has surety’, sc. to which a claimant may resort in case of non-payment by the defendant.
(15) From orphans.
(16) Of their deceased father.
(17) Infra 68b.
(18) For their maintenance or marriage outfit.
(19) Sc. the younger are given equal shares with the elder though the latter had taken earlier possession of their father's estate.
(20) V. next note.
(21) I. e., if it does not suffice for the maintenance of the sons and the daughters until they reach adolescence (Rashi. Cf. B.B. 139b). In such a case the estate belongs to the daughters while the sons may go begging (B.B. loc. cit.).
(22) Cf. supra n. 1 mutatis mutandis.
(23) V. supra note 6.
(24) Movable assets of the deceased in the possession of his sons are regarded, as far as his daughters are concerned, as non-existent.
(25) Supra p. 292 and infra 69b.
(26) Lit., ‘for her’.
(27) V. Glos.
(28) The statutory amount of a virgin's kethubah.
(29) This is one of the statutory clauses that a kethubah must contain.
(30) V. p. 293. n. 15.
(31) Lit., ‘for her’.
(32) With whom her husband (the priest) may not live again after she had been a captive and in whose favour the clause ‘and take you again as wife’ cannot be written.
(33) Lit., ‘country’, ‘district’.
(34) Lit., ‘behold’.
(35) Since the obligation to ransom her is incurred as soon as she is taken captive.
(36) Lit., ‘to heal her’.
(37) V. Glos.
(38) Lit., ‘behold this’.
(39) Infra 54b.
(40) As her kethubah.
(41) Though she has received nothing.
(42) Infra 54b. Now since our Mishnah insists on the payment of the full amount of the kethubah, presumably even if the woman had surrendered her claim (corresponding to a quittance), it can only represent the view of R. Meir who disallows such a surrender and not that of R. Judah who allows it.
(43) This is assumed to include even property which he disposed of subsequent to the writing of the kethubah.
(44) Lit , ‘it comes’.
(45) E.g that of the debtor to the creditor.
(46) And not as the considered consent of the creditor. Despite its error the pledging clause is deemed to have been entered.

Talmud - Mas. Kethuboth 51b

he must not restore them[1] if they contain a clause pledging property, because the court would exact payment from such property,[2] but if they do not contain the clause pledging property, he must return them, because the court will not exact payment from the property;[3] so R. Meir. The Sages,[4] however, ruled: In either case he must not return them, because the court will exact payment from the property[5] [in any case].[6] Would then the first clause [represent the view of] R. Meir and the final clause that of R. Judah? And should you suggest that both clauses[7] [represent the view of] R. Meir and that he draws a distinction between a kethubah and notes of indebtedness,[8] [it could be retorted] does he, indeed, draw such a distinction? Has it not been taught: For five [classes of claims] may distraint be made only on free assets;[9] they are as follows. [A claim for] produce,[10] for amelioration shewing profits,[11] for an undertaking[12] to maintain the wife's son or the wife's daughter, for a note of indebtedness wherein no lien on property had been entered, and for a woman's kethubah from which the clause pledging security was omitted.[13] Now what authority have you heard laying down that [the omission from a deed of a record of] a lien on property is not regarded as the scribe's error?[14] [Obviously it is] R. Meir;[15] and yet it was stated, was it not, 'a woman's kethubah'?[16] — If you wish, I might reply: [Our Mishnah represents the view of] R. Meir; and if you prefer I might reply: [It represents the View of] R. Judah. 'If you prefer I might reply: [It represents the view of] R. Judah',for there[17] she specifically wrote in the man's favour[18] [in a quittance]: 'I received'[19] but here[20] she did not write in his favour,[18] 'I received'.[21] 'If you wish I might reply: [Our Mishnah represents the view of] R. Meir',for by the expression[22] 'HE IS NEVERTHELESS LIABLE' [was meant liability to pay] out of his free assets.[23] IF HE DID NOT WRITE IN HER FAVOUR etc. Samuel's father ruled: The wife of an Israelite who had been outraged is forbidden to her husband, since it may be apprehended that the act begun[24] under compulsion may have terminated[25] with her consent.[26] Rab raised an objection against Samuel's father: [Have we not learned,] IF YOU ARE TAKEN CAPTIVE I WILL RANSOM YOU AND TAKE YOU AGAIN AS MY WIFE?[27] The other remained silent. Rab thereupon applied to Samuel's father the Scriptural text, The princes refrained talking and laid their hand on their mouth.[28] What, however, could he have replied?[29] — [That the law][30] was relaxed in the case of a captive.[31] According to Samuel's father's ruling how is it possible to conceive a case of outrage which the All-Merciful deemed to be genuine?[32] — Where, for instance, witnesses testified that she cried from the commencement to the end. [This ruling],[33] however, differs from that of Raba; for Raba laid down: Any woman, the outrage against whom began[34] under compulsion, though it terminated with her consent, and even if she said, 'Leave him alone', and that if he had not made the attack upon her she would have hired him to do it,is permitted [to her husband]. What is the reason? — He plunged[35] her into an uncontrollable passion.[36] It was taught in agreement with Raba: And she be not seized[37] [only then][38] is she forbidden,[39] [from which it follows] that if she was seized[40] she is permitted.[39] But there is another class of woman who is permitted[39] even if she was not seized.[41] And who is that? Any woman who began[42] under compulsion and ended[43] with her consent. Another Baraitha taught: 'And she be not seized' [only then] is she forbidden[44] [from which it follows] that if she was seized[45] she is permitted.[44] But there is another class of woman who is forbidden[44] even though she was seized. And who is that? The wife of a priest.[46] Rab Judah stated in the name of Samuel who had it from R. Ishmael: 'And she be not seized', [then only][47] is she forbidden,[44] but if she was seized she is permitted. There is, however, another class of woman who is permitted even if she was not seized. And who is that? A woman whose betrothal was a mistaken one,[48] and who may, even if her son sits riding on her shoulder, make a declaration of refusal[49] [against her husband] and go away. Rab Judah ruled: Women who are kidnapped[50] are permitted to their husbands.[51] 'But', said the Rabbis to Rab Judah, 'do they[52] not bring bread to them?'[53] — [They do this] out of fear. 'Do they[52] not, however, hand them[53] their arrows?'[54] — [They do this also] out of fear. It is certain, however, that they[52] are forbidden if [the kidnappers] release then, and they go to them of their own free will. Our Rabbis taught: Royal captives[55] have the status of ordinary captives[56] but those that are kidnapped by highwaymen are not regarded as ordinary captives. Was not, the reverse, however, taught? — There is no contradiction between the rulings concerning royal captives[57] since the former refers[58] [for example] to the kingdom of Ahasuerus[59] while the latter refers[60] to the kingdom of [one like] Ben Nezer.[61] There is also no contradiction between the two rulings concerning captives of highwaymen[62] since the former refers[60] to [a highwayman like] Ben Nezer[61] while the latter refers[60] to an ordinary highwayman.[63] As to Ben Nezer, could he be called there[64] 'king' and here is 'highwayman'? — Yes; in comparison with Ahasuerus he was a highwayman but in comparison with an ordinary robber he was a king. OR, IN THE CASE OF A PRIEST'S WIFE, 'I WILL RESTORE YOU TO YOUR PARENTAL HOME' etc. Abaye ruled: If a widow was married to a High Priest[65] it is the latter's duty to ransom[66] her, since one may apply to her: OR IN THE CASE

OF A PRIEST'S WIFE, I WILL RESTORE YOU TO YOUR PARENTAL HOME',[67]

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(1) Either to the creditor or to the debtor.

(2) Lit 'from them', sc. the nekasim (assets). Aliter: 'Exact payment on the strength of them', sc. the notes. Such exaction would be an injustice to the debtor if he has paid his liabilities and it was he who had lost the paid notes. But even where the creditor admits liability collusion with the object of robbing purchasers may be suspected (v. B.M. 12b).

(3) Ff. supra n. 7, ab. init.

(4) One of whom was R. Judah, a contemporary of R. Meir.

(5) Ff. supra note 7.

(6) Mishnah, B.M. 12b.

(7) Lit., 'all of it'.

(8) While in the case of the latter he does not regard the omission as a scribe's error, he does so in the case of the former since the terms of a kethubah are governed by statutory regulations laid down by Beth din.

(9) Of the defendant; but not on his sold or mortgaged property.

(10) In the case, for instance, where a field with its produce was taken away from a buyer by the man from whom the seller had robbed it. The buyer who may recover the cost of the field itself from the seller's sold or mortgaged property may not recover the cost of the produce except from his free assets. Cf. Git. 48b, B.M. 14b.

(11) Where the buyer (cf. supra n. 3) incurred expense in effecting the improvements of the land.

(12) Lit., 'and he who undertakes'.

(13) B.K. 95a.

(14) And that the holder of such a deed may only distrain on free assets.

(15) Who most consequently be the author of the last cited Baraitha which states that 'a note of indebtedness wherein no lien on property had been entered' entitles the holder to distrain 'only on free assets'.

(16) 'May be distrained only on free assets' if the clause pledging security was omitted from it. The section of our Mishnah, therefore, which states that, despite the omission of such a clause the husband is 'NEVERTHELESS LIABLE' and the kethubah may presumably be distrained on sold and mortgaged property also (v. supra p. 295. n. 2). cannot represent the view of R. Meir. How then could it be suggested that both clauses of our Mishnah (cf. supra p. 295, n. 12 and text) represent the view of R. Meir?

(17) In the Mishnah (infra 54b) cited supra 51a, according to which the statutory sum of a kethubah may be reduced.

(18) Lit., 'for him'.

(19) And she has the right to renounce a portion of her claim.

(20) In our Mishnah which allows the woman the full amount of her kethubah even if her husband had written none.

(21) And the object of our Mishnah is to point out that a woman's consent to dispense with the written document of her kethubah is no evidence that she has surrendered her right to recover the statutory amount to which she is entitled. It is assumed rather that her indifference to the written document is due to her reliance on her statutory rights.

(22) Lit., 'what . . . that was taught'.

(23) His sold or mortgaged property, however, may not be distrained on, in agreement with R. Meir, since no lien on property had been recorded in the kethubah.

(24) Lit., 'her beginning'.

(25) Lit., 'and her end'.

(26) And a wife who willingly played the harlot is forbidden to her husband.

(27) Though a woman in captivity is usually assumed to have been outraged.

(28) Job XXIX, 9.

(29) Lit., 'what has he to say'.

(30) Prohibiting an outraged woman to her husband.

(31) Since her violation is only a suspicion.

(32) Lit., 'permitted'. sc. the woman is exempt from punishment. Cf. Deut. XXII, 26.

(33) Samuel's father's.

(34) Lit., 'her beginning'.

(35) Lit., 'clothed'.

(36) Being a victim of her passions she is deemed to have acted under compulsion even when she professed acquiescence.

(37) Num. V, 13. E.V., neither she be taken in the act.
(38) Sc. if she was not seized, i.e., if she did not act under compulsion but willingly.
(39) To her husband.
(40) Sc. if she acted under compulsion.
(41) But acted willingly.
(42) Lit., ‘her beginning’.
(43) Lit., ‘and her end’.
(44) To her husband.
(45) Sc. if she acted under compulsion.
(46) Yeb. 56b.
(47) V. supra note 4.
(48) When a condition which remained unfulfilled was attached to it. In such a case the woman may leave her husband without a letter of divorce and she has the status of a feme sole who had never before been married.
(49) V. Glos. s.v. mi'un. [Isaiah Trani: This is not to be taken literally. It means simply that she is permitted to marry another man without a bill of divorce].
(50) Lit., ‘whom thieves steal’.
(51) Any intercourse between the kidnappers and the women is regarded as outrage since the latter would not willingly consent to intimate relations with the men they detest.
(52) The kidnapped women.
(53) The thieves, which shows that they live on amicable terms with the kidnappers.
(54) When their camp is attacked.
(55) Sc. women forcibly taken into the royal harem (v. Rashi). Aliter. Captives of the government; ‘forced by (Roman) officials’ (Jast.).
(56) And are permitted to their husbands, in agreement with the terms of the kethubah (cf. our Mishnah).
(57) Lit., ‘kingdom on kingdom’.
(58) Lit., ‘that’.
(59) Sc. one taken captive by a royal personage. Not expecting ever to be married by such a person a captive would strenuously resist intimate relations.
(60) Lit., ‘that’.
(61) בן נצר who was a robber and self-made ruler (cf. Rashi). A woman might well entertain the hope that such a man would consent to marry her and she might consequently allow intimate relations. Ben Nezer is identified by some authorities with Odenathos of Palmyra, who was first a robber chief and ultimately the founder of a dynasty (v. fast.). [V. Graetz, Geschichte, IV p. 453ff.].
(62) Lit., ‘robbery on robbery’.
(63) With whom no decent woman would desire to be associated even in marriage. Intercourse with such a man must, therefore, he regarded as outrage.
(64) In the second Baraitha cited. (15) The Baraitha first mentioned.
(65) Though such a marriage is forbidden (cf. Lev. XXI, 14).
(66) If she is taken captive.
(67) The clause in her kethubah as the wife of a priest. Since her ransom would not lead to a re-union with the High Priest but only to her restoration to her parental home, he is obliged to ransom her.

Talmud - Mas. Kethuboth 52a

but if a bastard or a nethinah[1] was married to an Israelite the latter is under no obligation to ransom her, since one cannot apply to her:[2] AND TAKE YOU AGAIN AS MY WIFE.[3] Raba ruled: Wherever the captivity causes the woman to be forbidden[4] [to her husband] it is his duty to ransom her[5] but where some other circumstance causes her to be forbidden to him[6] it is not his duty to ransom her.[7] Must it be assumed [that they[8] differ on the same principles] as the following Tannaim? [For it was taught:] If a man forbade his wife by a vow [from deriving any benefit from him] and she was taken captive, he must, said R. Eliezer, ransom her[9] and give her also her kethubah. R. Joshua said: He must give her her kethubah but need not ransom her. Said R. Nathan: I asked Symmachus, ‘When R. Joshua said, "He must give her her kethubah but need not ransom her" [did he refer to a case] where her husband first made his vow against her and she was then taken captive or even to a case where she was first taken captive and he made his vow against her subsequently?’[10] And he told me, ‘I did not hear [what he exactly said] but it seems [that he referred to] a case where [the husband] made the vow against her first and the woman was taken captive afterwards; for, should you suggest [that the ruling applied also to a woman who] was taken captive first and the man made his vow against her afterwards [the objection could be raised that in such a case] he might make use of a trick’.[11] Do not they[12] then differ[13] in [the case of one] who made a vow against the wife of a priest,[14] Abaye upholding the view of R. Eliezer[15] while Raba IS maintaining that of R. Joshua?[16] — No;[17] here[18] we are dealing [with the case of a woman] who, for instance, made the vow herself and her husband[19] confirmed it,[20] R. Eliezer being of the opinion that it was he[21] who put his finger between her teeth[22] while R. Joshua maintains that it was she herself who put her finger between her teeth.[23] [But] If she herself put her finger between her teeth what claim can she have to her[24] kethubah? And, furthermore, [it was stated]: Said R. Nathan: I asked Symmachus, ‘When R. Joshua said, "He must give her her kethubah but need not ransom her [did he refer to a case] where her husband first made his vow against her and she was then taken captive or even to a case where she was first taken captive and he made his vow against her subsequently?’ and he told me: ‘I did not hear [what he exactly said]’. Now if [this is a case] where she herself had made the vow, what difference is there [it may be asked] whether he made the vow first against her[25] and she was taken captive afterwards or whether she was first taken captive and he then made the vow?[26] — The fact is that [here[27] it is a case where] the husband made the vow against her, but Abaye explains [the dispute][28] on the lines of his view while Raba explains it on the lines of his view. ‘Abaye explains the dispute on the lines of his view’, thus: If a widow [was married] to a High Priest no one[29] disputes [the ruling] that it is the husband's duty to ransom her;[30] if a bastard or a nethinah [was married] to an Israelite no one[29] disputes the ruling that it is not his duty to ransom her,[31] if also one made a vow against the wife of a priest[32] no one[29] disputes the ruling that it is his duty to ransom her, since [the principle in this case] is identical with that of a widow [who was married] to a High Priest.[33] They[34] differ only in [respect of him who] made a vow against the wife of an Israelite,[35] R. Eliezer being guided by the woman's original status[36] while R. Joshua is guided by her subsequent status.[37] ‘Raba explains it on the lines of his view’, thus: If a widow [was married] to a High Priest, or a bastard or a nethinah to an Israelite no one[38] disputes the ruling that it is not the husband's duty to ransom her.[39] They[40] differ only in [the case where one] made a vow against either the wife of a priest or the wife of an Israelite,[41] R. Eliezer being guided by the woman's original status[36] while R. Joshua is guided by her subsequent status.[37] IF SHE IS TAKEN CAPTIVE IT IS HIS DUTY TO RANSOM HER etc. Our Rabbis taught: If she was taken captive during the lifetime of her husband, and he died afterwards, and her husband was aware of her [captivity],[42] it is the duty of his heirs to ransom her, but if her husband was not aware of her captivity it is not the duty of his heirs to ransom her. Levi proposed to give a practical decision[43] in agreement with this Baraitha. Said Rab to him, Thus said my uncle:[44] The law is not in agreement with that Baraitha but with the following[45] wherein it was taught: [If a woman] was taken captive after the death of her husband it is not the duty of his orphans to ransom her, and, furthermore,[46] even if she was taken captive during the lifetime of her husband, but he died subsequently, the orphans are under no obligation to ransom her, since one cannot apply to her [the clause in her kethubah:] AND I WILL TAKE YOU AGAIN AS MY WIFE.[47] Our Rabbis taught: [If a woman] was taken captive and a demand was made upon her husband for as much as ten times her value, he must ransom her the first time. Subsequently, however, he ransoms her only if he desired to do so but need not ransom her[48] if he does not wish to do so. R. Simeon b. Gamaliel ruled:

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(1) Fem. of nathin (v. Glos.).

(2) As the Israelite is forbidden to live with her.

(3) Which is the appropriate clause entered in a kethubah given to the wife of an Israelite, and which cannot apply (v. supra n. 5) where she is one forbidden to him.

(4) Lit., ‘the prohibition of captivity causes her’.

(5) Contrary to the opinion of Abaye, the clause entered in a kethubah of a priest's wife obliges the priest to ransom his wife though she becomes forbidden to him through her captivity, only if she was permitted to him before she had been taken captive.

(6) As, for instance, a widow to a High Priest.

(7) Because, in the case of a forbidden marriage, as the clause ‘AND TAKE YOU AGAIN AS WIFE’ was originally invalid (cf. supra n. 6) the clause ‘RESTORE YOU TO YOUR PARENTAL HOME’ also has no validity. Thus, contrary to the ruling of Abaye, Raba maintains that a High Priest is under no obligation to ransom a widow whom he married in contravention of the laws of the High Priesthood. In the case of a bastard and a nethinah Raba is, of course, of the same opinion as Abaye.

(8) Abaye and Raba.

(9) Although, owing to his vow, he would subsequently be compelled to divorce her.

(10) Though there is good reason to suspect that the object of his vow was to escape his responsibility of ransoming her.

(11) Cf. supra n. 1.

(12) R. Eliezer and R. Joshua.

(13) Lit., ‘what, not?’

(14) I. e., the man who made the vow was himself a priest. It is his duty to ransom his wife, though her being prohibited to him is not due to her captivity, because the clause, ‘I WILL RESTORE YOU TO YOUR PARENTAL HOME’ may well be applied. Their dispute could not refer to an Israelite who made such a vow, since in that case, the clause ‘AND TAKE YOU AGAIN AS MY WIFE’ being inapplicable. R. Eliezer could not have imposed upon the man the duty of ransoming his wife.

(15) Cf. supra n. 5.

(16) That the husband is exempt from ransoming his wife because her prohibition to him was not caused by her captivity but by some other circumstance, viz. his vow.

(17) R. Eliezer and R. Joshua do not differ on the same principles on which Abaye and Raba differed, both of them agreeing either with Abaye or with Raba.

(18) Lit., ‘here in what?’

(19) An Israelite.

(20) Explicitly or implicity.

(21) By his confirmation of the vow.

(22) Metaph. It is his fault that the vow remained valid. Had he desired to annul it he had the full power to do so (v. Num. XXX, 7ff). As he is thus the cause of the woman's prohibition to him and of rendering the clause in the kethubah inapplicable, he must pay the penalty by retaining the responsibility of ransoming her.

(23) She should not have made her vow. Having made it her prohibition to her husband is her own fault. Cf. supra n. 13 mutatis mutandis.

(24) Lit., ‘what is its doing’.

(25) I. e., by confirming it.

(26) In either case, since it was she who made the vow, no trick on the part of the husband can be suspected.

(27) In the dispute between R. Eliezer and R. Joshua.

(28) Between R. Eliezer and R. Joshua.

(29) Neither R. Eliezer nor R. Joshua. Lit., ‘all the world’.

(30) Cf. supra p. 300. n. 3. The fact that she is forbidden to him for come reason other than that of her captivity being of no consequence.

(31) Cf. supra p. 300, n. 2, and text.

(32) Sc. a Priest against his own wife.

(33) In either case the clause, ‘I WILL RESTORE YOU TO YOUR PARENTAL HOME’ (cf. supra p. 300, n. 3) may well be applied after, as well as before, the woman had been taken captive.

(34) St. Eliezer and R. Joshua.

(35) Cf. supra note9 mutatis mutandis. To the wife of an Israelite it was originally possible to apply the clause, ‘I WILL TAKE YOU AGAIN AS MY WIFE’ but now, owing to the vow, it can no longer be applied.

(36) Lit., ‘goes after (the status) of the beginning’. When the clause was applicable and therefore the obligation stands.

(37) Lit.,’in the end’.

(38) V. supra p. 302, n. 6.
(39) In the case of the widow to a High Priest, as her prohibition is due to a cause other than captivity, neither the clause relating to ‘remarriage’ nor that of ‘restoring her to her parental home’ is valid (cf. supra p. 300. n. 10); and in the case of the last mentioned because the clause, ‘I WILL TAKE You AGAIN AS MY WIFE could not be applied originally and cannot be applied now.
(40) R. Eliezer and R. Joshua.
(41) To either of whom the relevant clauses of her kethubah that were originally applicable now, on account of the vow which is a cause of prohibition ‘other than that of captivity’.
(42) And thus incurred the liability to ransom her before he died.
(43) Lit., ‘to do a deed’.
(44) R. Hiyya who was Rab's father's brother.
(45) Lit., ‘as that’.
(46) Lit., ‘and no more but’.
(47) Since her husband is dead. V. Tosef. Keth. IV.
(48) At all. It is his duty to ransom her no more than once (Rashi). Aliter: For an exorbitant price (v. R. Han. Tosaf. s.v. רצה a. l.). If, however, the ransom demanded is not higher than her value he must pay it.

Talmud - Mas. Kethuboth 52b

Captives must not be ransomed for more than their value, in the interests of the public.[1] [This then implies] that they must be ransomed for their actual value even though the cost of a captive's ransom[2] exceeds the amount of her kethubah. Has not, however, the contrary been taught: [If a woman] was taken captive, and a demand was made upon her husband for as much as ten times the amount of her kethubah[3] he must ransom her the first time. Subsequently, however, he ransoms her only if he desires to do so but need not ransom her if he does not wish to do so. R. Simeon b. Gamaliel ruled: If the price of her ransom corresponded to the amount of her kethubah, he must ransom her; if not, he[4] need not ransom her?[5] — R. Simeon b. Gamaliel upholds two lenient rules.[6] IF SHE SUSTAINED AN INJURY IT IS HIS DUTY TO PROVIDE FOR HER MEDICAL TREATMENT. Our Rabbis taught: A widow is to be maintained from [her husband's] orphans’ estate; and if she requires medical treatment, it is regarded[7] as maintenance. R. Simeon b. Gamaliel ruled: Medical treatment of a limited liability may be deducted[8] from her kethubah but one which has no limited liability[9] is regarded[10] as maintenance. Said R. Johanan: Blood letting in the Land of Israel[11] was regarded as medical treatment of no limited liability.[12] R. Johanan's relatives had [to maintain] their father's wife who required daily medical treatment. When they came to R. Johanan[13] he told them: Proceed to arrange with a medical man an inclusive fee.[14] [Later, however], R. Johanan remarked: ‘We have put ourselves [in the unenviable position] of[15] legal advisers’.[16] What, however, was his opinion at first,[17] and why did he change it in the end![18] At first he thought [of the Scriptural text,] And that thou hide not thyself from thine own flesh,[19] but ultimately he realized [that the position of] a noted personality is different [from that of the general public].[20]

MISHNAH. [A HUSBAND WHO] DID NOT GIVE HIS WIFE IN WRITING[21] [THE FOLLOWING UNDERTAKING:] ‘THE MALE CHILDREN THAT WILL BE BORN FROM OUR MARRIAGE[22] SHALL INHERIT THE MONEY OF THY KETHUBAH IN ADDITION TO THEIR SHARES WITH THEIR BROTHERS’,[23] IS NEVERTHELESS LIABLE, BECAUSE [THIS CLAUSE] IS A CONDITION LAID DOWN BY BETH DIN. [THOUGH HE DID NOT GIVE HIS WIFE IN WRITING[24] THE UNDERTAKING:] ‘THE FEMALE CHILDREN THAT WILL BE BORN FROM OUR MARRIAGE[25] SHALL DWELL IN MY HOUSE AND BE MAINTAINED OUT OF MY ESTATE UNTIL THEY SHALL BE TAKEN IN MAKRIAGE’[26] HE IS NEVERTHELESS LIABLE, BECAUSE [THIS CLAUSE] IS A CONDITION LAID DOWN BY BETH DIN. [SIMILARLY IF HE DID NOT GIVE HIS WIFE THE WRITTEN UNDERTAKING:][27] ‘YOU SHALL DWELL IN MY HOUSE AND BE MAINTAINED THEREIN OUT OF MY ESTATE THROUGHOUT THE DURATION OF YOUR WIDOWHOOD’, HE IS

NEVERTHELESS LIABLE, BECAUSE [THIS CLAUSE ALSO] IS A CONDITION LAID DOWN BY BETH DIN. SO DID THE MEN OF JERUSALEM WRITE. THE MEN OF GALILEE WROTE IN THE SAME MANNER AS THE MEN OF JERUSALEM. THE MEN OF JUDAEA, HOWEVER, USED TO WRITE:[28] ‘UNTIL THE HEIRS MAY CONSENT TO PAY YOU YOUR KETHUBAH’. THE HEIRS, CONSEQUENTLY, MAY, IF THEY WISH TO DO IT, PAY HER HER KETHUBAH AND DISMISS HER. GEMARA. R. Johanan stated in the name of R. Simeon b. Yohai: Why was the kethubah for MALE CHILDREN[29] instituted?[30] In order that any man might thereby[31] be encouraged[32] to give[33] to his daughter as much as to his son. But is such a regulation found anywhere else?[34] Seeing that the All-Merciful ordained that a son shall be heir; a daughter shall not’,[35] would the Rabbis proceed to make a provision[36] whereby a daughter shall be the heir? — This[37] also has Scriptural sanction, for it is written, Take ye wives, and beget sons and daughters,’ and take wives far your sans, and give your daughters to husbands;[38] [now the advice to take wives for one's] sons is quite intelligible [since such marriages are] within a father's power[39] but [as to the giving of] one's daughters [the difficulty arises:] Is [such giving] within his power?[39] [Consequently[40] it must be] this that we were taught: That a father must provide for his daughter clothing and covering and must also give her a dowry[41] so that people may be anxious to woo[42] her and so proceed to marry her. And to what extent?[43] Both Abaye and Raba ruled: Up to a tenth of his wealth. But might it not be suggested[44] [that the sons] should inherit [what their mother received] from her father[45] but not [that which was due to her] from her husband?[46] — If that were so, a father also would abstain from assigning[47] [a liberal dowry for his daughter].[48] May it then be suggested[44] that where her father had assigned a dowry[49] her husband must also enter the clause[50] but where her father did not assign any dowry[51] her husband also need not enter the clause?[52] — The Rabbis drew no distinction.[53] But should not then[54] a daughter[55] among sons[56] also be heir?[57] — The Rabbis have treated [the kethubah][58] like an inheritance.[59] But should not then a daughter[55] among the other daughters[56] be heir?[60] — The Rabbis made no distinction.[61] Why then[62] is not [the kethubah] recoverable[63] from movables also?[64] — The Rabbis treated it like the [statutory] kethubah.[65] Why then should not distraint be made on sold or mortgaged property?[66] — [The expression] we learned [was] SHALL INHERIT.[67] May it then[62] be suggested [that It Is recoverable] even if there was no surplus[68] of a denar?[69] — The Rabbis have made no enactment where the Pentateuchal law of inheritance would thereby be uprooted. R. Papa was making arrangements for his son to be married into the house of Abba of Sura.[70] He went there to write the kethubah for the bride.[71] When Judah b. Meremar heard [of his arrival] he went out to welcome him.[72] When, however, they reached the door [of the bride's father's house] he asked leave to depart, when [R. Papa] said to him, ‘Will the Master come in with me?’

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(1) מפני תיקון העולם ‘for the sake of the social order’ (Jast.), lit., ‘for the establishment of the world’, that captors should not thereby be encouraged to demand exorbitant prices for the ransom of their captive.

(2) Lit., ‘her ransom’.

(3) Sc. did not exceed R.

(4) Since one cannot be expected to be liable for a single clause of a kethubah more than for the total amount of the kethubah. [Isaiah Trani: The amount of the kethubah here denotes the extra jointure in addition to the statutory two hundred and one hundred zuz].

(5) A ruling which contradicts the implication of the first Baraitha that he must ransom her ‘even though the cost of a captive's ransom exceeds the amount of her kethubah’.

(6) The price of the ransom need not exceed either (a) the actual value of the woman or (b) the amount of her kethubah, whichever is the less.

(7) Lit., ‘behold it’.

(8) Lit., ‘she is healed’.

(9) If. for instance, the woman is always ailing.

(10) Lit., ‘behold it’.

(11) Palestine.

(12) Tosef. Keth. IV.

(13) Seeking advice on how to escape the constant drain on their resources.

(14) Lit.,’go fix something for him, for a healer’. Since their liability would thereby become limited they would be entitled to deduct it from the woman's kethubah.

(15) Lit., ‘as’.

(16) עורכי הדיינין lit., ‘those who arrange (the pleas) before the judges’. It is forbidden for a judge to act, even indirectly, as legal adviser to one of the litigants, v. Aboth (Sonc. ed.) p. 6, n. 1.

(17) When he gave his advice to his relatives.

(18) Lit., ‘and in the end what did he think?’

(19) Isa. LVIII, 7, teaching the obligation of assisting one's relatives.

(20) A judge must subject himself to greater restrictions in order to be free from all possible suspicion of partiality.

(21) As one of the clauses of her kethubah.

(22) Lit., ‘that you will have from me’.

(23) Who may be born from another wife. The effect of such a clause is that, if the woman predeceases her husband, her sons, on the death of their father (her husband), would inherit her kethubah, and they would recover it from their deceased father's estate, irrespective of the amount or size of the shares to which they are entitled like any of the other sons of the deceased. This clause is designated, as ‘kethubath benin dikrin’ (kethubah of male children).

(24) V. p. 305, n. 13.

(25) V. p. 305, n. 14.

(26) Lit., ‘to men’. This clause is designated as ‘kethubath benan nukban’ (kethubah of female children).

(27) As one of the clauses of her kethubah.

(28) Immediately after the last mentioned clause.

(29) Cf. supra p. 305, n. is and text.

(30) Sc. why should not the kethubah, which on the death of his wife is legally inherited by the husband, be regarded as a part of his general estate and so be equally divided between all his sons?

(31) By being assured that whatever dowry he may give to his daughter will remain the property of her own children and will not pass through her husband to the children of his other wives.

(32) Lit., ‘that a man may leap’.

(33) So MS.M. Cur. edd. ‘and he will write’.

(34) Lit., ‘is there a thing?’

(35) Cf. Num. XXVII, 8: If a man die, and have no son, then ye shall cause his inheritance to pass unto his daughter, from which it follows that if a man has a son his inheritance shall not pass unto his daughter.

(36) Encouraging a father (cf. supra p. 306. n. 8) to give his daughter a liberal dowry and thus deprive his sons of property which Pentateuchally should in due course be inherited by them.

(37) A father's duty to make liberal provision for his daughter.

(38) Jer. XXIX, 6.

(39) Lit., ‘stand in his hand’. It is the man who approaches the woman, not the woman the man.

(40) Since Scripture nevertheless advises fathers to give their daughters to husbands.

(41) Lit., ‘something’.

(42) Lit., ‘jump’, ‘leap’.

(43) Must a father go on assigning a dowry for his daughter.

(44) Since the kethubah for the male children was instituted in order to encourage a father to provide a liberal dowry for his daughter.

(45) Sc. the dowry he gave her, which was included in her kethubah.

(46) The statutory kethubah and any additional jointure her husband may have settled upon her.

(47) Lit., ‘and will not write’.

(48) No father would be prepared to give a liberal dowry to a husband of his daughter who does not himself also allow the sons of that daughter to inherit what he had promised their mother.

(49) Lit., ‘wrote’.

(50) Relating to the MALE CHILDREN. Lit., ‘should write’.

(51) Lit., ‘did not write’.

(52) Cf. supra p. 307, n. 16 mutatis mutandis.

(53) Between the two kinds of kethubahs, since most kethubahs contain records of dowries (Rashi). All kethubahs must consequently include the MALE CHILDREN clause also.

(54) V. supra p. 307, n. 10.

(55) Of one wife who had no sons'

(56) Of another wife.

(57) To her mother, as far as her kethubah is concerned. The same reason that applies to male children should equally apply to a daughter in the absence of sons. Why then was a ‘male children’ and not a similar ‘female children’ clause instituted?

(58) In which the term ‘INHERIT’ was used (cf. our Mishnah).

(59) No daughter may ‘inherit’ among sons.

(60) Though she cannot be heir among sons (v. supra n. 8) she is well entitled, in the case of an ordinary inheritance, to be heir among daughters. Why then should she be deprived of her mother's kethubah (cf. supra n. 6. final clause)?

(61) Cf. supra note 2.

(62) V. supra p. 307, n. 10.

(63) By the sons.

(64) As stated supra 50a.

(65) Which cannot be recovered from the movables of a deceased husband.

(66) Just as the woman can collect her kethubah from mortgaged or sold property, so should the sons be able to recover it from such property, v. infra 55a.

(67) And no sold or mortgaged property may be seized for an inheritance.

(68) After the two ‘male children’ kethubahs had been paid (v. Mishnah infra 91a).

(69) Whereby the Pentateuchal law of inheritance could be carried out. Why then was it stated (l.c.) that the male children kethubahs are not recoverable in such a case?

(70) Who was his father-in-law (cf. supra 39b and Sanh. 14b). R. Papa's son married the sister of his father's wife.

(71) Lit., ‘for her’. This would include the fixing of the amount for the dowry she was to receive from her father.

(72) Lit., ‘he came; shewed himself to him’.

Talmud - Mas. Kethuboth 53a

Observing, however, that it was distasteful to him [to enter], he addressed him thus: ‘What is it that you have on your mind? [Are you reluctant to enter] because Samuel said to Rab Judah, "Shinena,[1] keep away from[2] transfers of inheritance[3] even though they be from a bad son to a good son, because one never knows what issue will come forth from him,[4] and much more so [when the transfer is] from a son to a daughter",[5] this[6] also [I may point out] is an enactment of the Rabbis; as R. Johanan stated in the name of R. Simeon b. Yohai’,[7] The other replied, ‘This enactment applies only [to one who acts] willingly;[8] does it also imply that one should be compelled so to act?’ — ‘Did I tell you’ said [R. Papa] to him, ‘to come in and coerce him? What I meant was: Come in but exercise no pressure upon him’. ‘My entrance’, the other replied, ‘would amount to compulsion’.[9] [As R. Papa, however,] urged him, he entered but, having sat down, remained silent.[10] [Abba] thought that he[11] was vexed[12] and consequently assigned[13] [to his daughter as dowry] all that he possessed. Finally, however, he said to him,[11] ‘Will not the Master speak even now? By the life of the Master, I have left nothing for myself!’ — ‘As far as I am concerned’,[14] the other replied, ‘even the amount you have assigned[15] has given me no pleasure’. ‘This being the case’,[16] the first said, ‘I will withdraw’. ‘l did not suggest’, the other said, ‘that you should make a rogue[17] of yourself’. R. Yemar the Elder enquired of R. Nahman: Does a woman who sold her kethubah to her husband retain the right to the kethubah for her male children[18] or not?[19] — Said Raba to him: Why do you not raise the same question in the case of a woman who surrendered her claim [to her kethubah]?[20] ‘Now’, the other replied, ‘that I [found it necessary to] enquire [concerning a woman] who sold [her kethubah],[21] though [in that case] it might well be assumed [that her need for] money compelled her [to the sale; and, furthermore,] it might be said [that she is] like a person who was struck a hundred blows with a hammer,[22] was it then necessary [to raise the same question in respect of] a woman who [voluntarily] surrendered her claim [to her kethubah]?[23] Raba stated: I have no doubt[24] that a woman who sells[25] her kethubah to strangers[26] retains the right to the male children's kethubah.’ What is the reason? [It is her need for] money that has compelled her [to sell].[27] A woman [on the other hand] who surrenders her claim [to her kethubah] in favour of her husband does not retain the right to the male children's kethubah. What is the reason? She has lightheartedly surrendered her claims.[28] [Is, however, a woman,] Raba enquired, who sells her kethubah to her husband treated as one who sells it to strangers,[29] or as one who renounces it in favour of her husband?[30] After he raised the question he himself solved it: [The law concerning] a Woman who sells her kethubah to her husband is the same as that of one who sells it to strangers.[29] R. Idi b. Abin raised an objection: [We learned]: If she[31] died, neither the heirs of the one husband nor the heirs of the other are entitled to inherit her kethubah.[32] And in considering the difficulty, ‘How does the question of a kethubah at all arise?’[33] R. Papa replied, ‘The kethubah of the male children [was meant]’.[34] But why?[35] Could not one[36] argue here also:[37] ‘Her passion has overpowered her’?[38] — There[39] [the loss of her kethubah] is a penalty that the Rabbis have imposed upon her.[40] Rabin b. Hanina once sat [at his studies] before R. Hisda and in the course of the session he laid down in the name of R. Eleazar: A woman who surrenders her kethubah to her husband is not entitled to maintenance.[41] The other[42] said to him: Had you not spoken to me in the name of a great man I would have told you: Whoso rewardeth evil for good, evil shall not depart from his house.[43] R. Nahman and ‘Ulla and Abimi son of R. Papi once sat at their studies, and R. Hiyya b. Ammi was sitting with them when there came before them a man whose betrothed wife had died.[44] ‘Go and bury her’, they said to him, ‘or pay her kethubah on her account’,[45] Said R. Hiyya to them, We have a teaching:[46] In the case of a betrothed wife[47] [the husband] is subject neither to the laws of onan,[48] nor may he defile himself for her;[49] and she likewise[50] is not subject to the laws of onan,[51] nor may she defile herself for him;[52] if she dies he is not her heir,[53] but if he dies she collects her kethubah.[54] Now the reason [why she collects her kethubah is] because it was he who died; had she, however, died she would not have been entitled to any kethubah.[55] What is the reason?[56] — R. Hoshaia replied: Because one cannot apply to her: ‘If you will be married to another man you will receive what is prescribed for you’.[57] When Rabin came[58] he stated in the name of Resh Lakish: If a betrothed woman died, she is not entitled to a kethubah. Said Abaye to them:[59] Go and tell him:

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(1) שיננא (rt. שנן ‘to sharpen’); (i) ‘keen witted’, (ii) ‘man of iron endurance’, (iii) ‘long toothed’ (cf. שן ‘tooth’) V. B.B. Sonc. ed. vol. II, p. 561, n. 14.

(2) Lit., ‘be not among’.

(3) From persons who are legally entitled to be heirs.

(4) Though the son himself is wicked his children may be righteous.

(5) By giving his daughter a dowry he deprives his sons from a portion of their inheritance. (Cf. supra p. 307, n. 2).

(6) Allowing one's daughter a dowry.

(7) Supra 52b.

(8) Lit., ‘from his (own) mind’.

(9) The father of the bride would be ashamed to offer a small dowry in the presence of a distinguished guest.

(10) While R. Papa was discussing the amount of the dowry with the bride's father.

(11) Judah b. Meremar who looked on in silence.

(12) At the smallness of the dowry he was offering.

(13) Lit., ‘wrote it’.

(14) Lit., ‘if from me’.

(15) Lit., ‘that also that you wrote’.

(16) Lit., ‘now also’.

(17) הדרנא (rt. הדר ‘to return’) a retractor.

(18) V. our Mishnah and supra p. 305, n. 15.

(19) Sc. are her sons still entitled to inherit her kethubah as they are entitled to inherit their share in the estate of their father, or do they lose the former right on account of their mother's sale which had transferred her rights to their father from whose estate they can inherit no bigger shares than those to which his other sons are entitled?

(20) Which is a more common occurrence than a sale.

(21) Believing that even in such a case it is possible that the woman irrevocably loses her rights.

(22) V. Golds. who compares עוכלא with Syr. אכלא ‘a hammer’, and renders עוכלי, ‘hammer blows’. Aliter. They inflicted upon her a hundred strokes with a lash to which a small weight named ‘ukla was attached (Rashi). Aliter: I may adopt the opinion of him who said, they struck (defeated) that opinion with a hundred measures against one (a hundred arguments against, for one in favour of it). ‘Ukla (cf. אוכלא) is a small measure of capacity and also of a weight (Jast.).
(23) Obviously not. If she might lose her rights even when she acted under the stress of circumstances, there can be no question that she loses them when she willingly surrenders them.
(24) Lit.,’it is plain to me’.
(25) For a mere trifle, since, to the buyers the transaction is of a highly speculative and doubtful value. v. infra n. 10.
(26) Who recover it only if she is divorced or if she survives her husband, but lose it completely if she predeceases him and he inherits it.
(27) Not her indifference to the welfare of her sons. On this account, therefore (v. infra n. 1), she does not lose her rights on behalf of her sons.
(28) And, having thereby shewn her complete indifference to the interests of her sons, her surrender is deemed to be final and irrevocable.
(29) Since in both cases she sells it for a mere trifle, the husband's purchase being no less of a speculation than that of strangers (cf. p. 310, nn. 9-10). For should she predecease him, her kethubah would in any case be inherited by him; and the only advantage he might possibly derive from his purchase is the knowledge that his sons would benefit from it if he predeceased his wife. As, in fact, he did not predecease her his purchase fully assumes the same nature as that of strangers, and her male children inherit her kethubah.
(30) Since the kethubah is actually in his possession (which is not the case with strangers) and she consented to sell him all her rights.
(31) A woman whose husband went to a country beyond the sea and who, on being told by one witness that her husband was dead, contracted a marriage, and her first husband subsequently returned.
(32) Yeb. 87b.
(33) Lit. , ‘what is its doing?’ How could her children submit any claim to her kethubah when she herself, as stated earlier in the Mishnah cited (Yeb. l.c.), is not entitled to one?
(34) Yeb. 91a; sc. if the woman predeceased her two husbands, who in consequence inherited her estate, her children have no claim to her kethubah and receive shares equal to those of their paternal brothers.
(35) Should her children be deprived of the kethubah of their mothers
(36) Since it has been said above that the reason why the woman does not lose her right to the kethubah for her male children is because it was her need that compelled her to sell it.
(37) In the case of the woman who married a second husband on the evidence of one witness.
(38) And this compelled her to marry again. Now since she acted under compulsion her children should not be deprived of her kethubah.
(39) V. p. 311, n. 10.
(40) For marrying again on insufficient evidence (that of one witness) before instituting further inquiries to verify his evidence.
(41) During her widowhood. As she surrendered her kethubah she surrendered thereby all her rights, including that of maintenance, that are contained therein.
(42) R. Hisda.
(43) Prov. XVII, 13.
(44) Before her marriage.
(45) [The reference is to the statutory amount of the kethubah, these Rabbis being of the opinion that the husband has been allowed to retain the kethubah of his deceased wife for the expenses he incurred in the burial.]
(46) A Baraitha. Cf. infra p. 313, n. 1.
(47) Before her marriage.
(48) V. Glos. Unlike an onan whose married wife died, he may Partake of holy food.
(49) If he is a priest (cf. Lev. XXI, 1f).
(50) If he died.
(51) She also is permitted to partake of holy food.
(52) During a festival when not only priests but also Israelites and women are forbidden to attend on the corpses of those

who are not their near relatives (v. R.H. 16b). Aliter: Nor is she under an obligation to defile herself for him. (Cf. Rashi a.l. and Yeb. 29b. s.v. ולא מיטמאת; and Tosaf. loc. cit. s.v. ולא).

(53) To the dowry her father gave her.

(54) Yeb. 29b, 43b, infra 89b. Both the statutory amount and any additional jointure, if he provided her with a kethubah on betrothal (cf. infra 89b.

(55) Contrary to the ruling supra that the man must either bury his betrothed wife or pay to her account the amount of her kethubah.

(56) For the man's exemption from the duty of burying his wife despite the statutory amount of her kethubah which he inherits.

(57) This is one of the clauses of a kethubah (v. Yeb. 117a). Since this clause can obviously have no effect except when a husband predeceases his wife or when she is divorced by him, the kethubah cannot be regarded as the wife's property whenever she predeceases her husband, and he, consequently, cannot be regarded as inheriting it from her. [As to the teaching supra 47b that the husband inherits the kethubah in return for her burial, the reference is to the dowry, v. supra p. 272, n. 7 and cf. p. 312, n. 8.

(58) From Palestine to Babylon.

(59) Those present at the college.

Talmud - Mas. Kethuboth 53b

‘You are deprived of your benefaction;[1] it is cast upon the thorns’,[2] for R. Hoshaia has already expounded his traditional teachings[3] in Babylon.[4] THE FEMALE CHILDREN THAT WILL BE BORN FROM OUR MARRIAGE etc. Rab[5] taught: Until they shall be taken in marriage;[6] but Levi taught: Until they shall attain adolescence.[7] [Would daughters then be maintained] according to Rab although they attained adolescence, and according[8] to Levi even though they married?[9] — The fact, however, [is that where a daughter] attained adolescence though she was not married or where she was married though she did not attain adolescence no one[10] disputes [the ruling that she is not entitled to maintenance]. They[11] differ only on the question of a [daughter who was] betrothed but did not attain adolescence.[12] So also did Levi teach in his Baraitha:[13] Until they shall attain adolescence and the time for their marriages arrives. Both?[14] — What was meant is this:[15] Either they shall attain adolescence or[16] the time for their marriage[17] shall arrive. [They[18] differ on the same principles] as the following Tannaim: How long is a daughter to be maintained? Until she is betrothed. In the name of R. Eleazar it was stated: Until she attains adolescence. R. Joseph learnt: [Daughters must be maintained] until they become [wives]. The question was raised: Does this[19] mean becoming [wives] at marriage or becoming [wives] at betrothal? — The question must stand unanswered.[20] Said R. Hisda to R. Joseph: Did you ever hear from Rab Judah whether a betrothed [orphan] is entitled to maintenance[21] or not?[22] The other replied: I have not actually heard it, but it may logically be concluded that she is not entitled, because [her future husband], having betrothed her, would not allow[23] her to be degraded.[24] ‘If you have not actually heard this’, [R. Hisda] retorted ‘it may logically be concluded that she is entitled, for [her intended husband], not being sure of her,[25] would not throw his money away for nothing’.[26] Another reading:[27] He[28] replied: I have not actually heard it, but it may logically be concluded that she is entitled [to maintenance]; for [her intended husband], not being sure of her, would not throw his money away for nothing. The other[29] retorted: If you have not actually heard this it may logically be concluded that she is not entitled to maintenance; because [her future husband], having betrothed her, would not allow her to be degraded. (Mnemonic of the men:[30] SHak Zarap.[31] [Subjects:] She refused and a sister-in-law of the second degree is betrothed and he outraged her.) R. Shesheth was asked: Is a minor who exercised her right of refusal[32] entitled to maintenance[33] or not?[34] — You, replied R. Shesheth, have learned this: A widow[35] in her father's house, a divorced woman[35] in her father's house or a woman[35] who was awaiting the decision of a levir[36] in her father's house is entitled to maintenance. R. Judah ruled: [Only a woman who] is still in her father's house is entitled to maintenance but [a woman who] is no longer in her father's house is not entitled to maintenance. [Now is not] R. Judah's ruling exactly the same as that of the first Tanna?[37] Consequently it may be concluded that[38] the difference between them is the case of a minor who had exercised her right of refusal,[39] the first Tanna being of the opinion that she is entitled [to maintenance][40] while R. Judah upholds the view that she is not entitled to it.[41] Resh Lakish enquired: Is the daughter of a sister-in-law[42] entitled to maintenance[43] or not? Has she no claim to it, since the Master said,[44] Her kethubah is a charge on the estate of her first husband[45] or is it possible that she is entitled to it since the Rabbis have enacted that whenever she[46] is unable to collect her kethubah from [the estate of] the first, she may recover it from that of the second?[47] — The question must remain unanswered.[48] R. Eleazar enquired: Is the daughter of a forbidden relative of the second degree of incest[49] entitled to maintenance[50] or not?

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(1) Or ‘recognition’ (v. Rashi).

(2) שקילא טיבותך שדיא אהיזרי, a proverb. The information whereby he intended to benefit the students was of no use to them. Aliter: Your good-natured information is taken and thrown over the hedge (slight adaptation from fast.). Aliter: Take your favours and throw them in the bush, v. B.M. Sonc. ed. p. 377.

(3) Which included the one reported by Rabin.

(4) They were in no need, therefore, to wait for the Palestinian report of Rabin.

(5) In dealing with this clause in the kethubah.

(6) Lit., ‘to men’. Cf. our Mishnah which agrees with Rab's ruling.

(7) V. Glos. s.v. bogereth.

(8) So MS.M. Fur. edd., ‘and Levi’.

(9) Surely not; since either of these conditions liberates a daughter from her father's control and she must in consequence lose her claim to maintenance (cf. infra 68b).

(10) Lit., ‘all the world’. V. infra n. 2.

(11) Rab and Levi.

(12) According to Rab she is maintained only until betrothal though by that time she may still be under age, and according to Levi, either adolescence or marriage deprives her of her rights to maintenance.

(13) Levi, like R. Hiyya and R. Oshaia, was the compiler of six orders of Baraithoth corresponding to the six orders of the Mishnah compiled by R. Judah the Patriarch.

(14) Cf. p. 313, n. 14.

(15) Lit., ‘but’.

(16) The ‘Waw’ in וימטי may be rendered, ‘and’ as well as ‘or’.

(17) A period of twelve months from the time her intended husband had claimed her, in the case of a virgin, and one of thirty days in the case of a widow (v. Mishnah infra 57a).

(18) Rab and Levi.

(19) The expression ‘become (wives)’ in R. Joseph's statement.

(20) Teku, v. Glos.

(21) By her brothers, out of their deceased father's estate.

(22) [He wished to know according to which of the two Tannaim, whose views have just been cited, was the law to be fixed (Tosaf.)]

(23) Lit., ‘it would not be pleasing to him’.

(24) As the maintenance of an orphan daughter by her brothers was ordained in order to prevent her degradation (v. supra 49a) it cannot be enforced in this case where no degradation is to be expected.

(25) A betrothal does not always lead to marriage.

(26) As he would not maintain her, the duty (for the reason stated supra p. 314, n. 15) devolves upon her brothers.

(27) Reversing the respective views of R. Joseph and R. Hisda.

(28) R. Joseph.

(29) R. Hisda.

(30) Who raised the following questions.

(31) SHesheth, Lakish, Elazar, Baba, Papa.

(32) V. Glos. s.v. mi'un.

(33) By her brothers, out of their deceased father's estate.

(34) The point of the question is whether (a) the declaration of refusal to live with her husband dissolved her marriage retrospectively and she resumes in consequence the status of one who was never married and is, therefore, entitled to maintenance until she reaches her adolescence; or (b) since her marriage had once removed her from her father's control, in consequence of which she has lost her right to maintenance, her subsequent declaration of refusal cannot again restore to her the right she had once lost.

(35) Who had been only betrothed but had never married.

(36) Shomereth yabam. v. Glos.

(37) Who also spoke only of a woman 'in her father's house'. Wherein, then, do they differ?

(38) Lit., 'what, not?'

(39) V. Glos. s.v. mi'un.

(40) Cf. p. 315, n. 10. By mentioning a 'widow (cf. supra n. 11) in her father's house' the first Tanna meant to include also the minor who exercised her right of refusal who is thereby restored to the status of one who had never been married and had always been 'in her father's house'.

(41) V. supra p. 315. n. 10. He ruled, 'who is still in her father's house', sc. who has never left it to be married, is entitled to maintenance; not, however, one who had once been married though that marriage bad taken place during minority.

(42) Whom the levir married in fulfilment of the law of the levirate marriage (v. Deut. XXV, 5).

(43) By her brothers, out of their deceased father's estate.

(44) Yeb. 85a.

(45) This refers to the sister-in-law. That is to say the mother of the daughter in question. As her kethubah cannot be made a charge upon the estate of her second husband (her original brother-in-law), so cannot the maintenance of her daughter, which is one of the obligations undertaken in the same document.

(46) The sister-in-law.

(47) Cf. supra n. 8 mutatis mutandis.

(48) Teku, v. Glos.

(49) V. Yeb. 20a, 213.

(50) Out of the estate of her deceased father.

Talmud - Mas. Kethuboth 54a

Has she no claim to maintenance[1] since [her mother] is not entitled to a kethubah, or is it likely that the Rabbis have imposed a penalty only upon her mother who had committed a transgression but not upon her who had committed no transgression? — This remains unanswered. Raba asked: Is the daughter of a betrothed wife entitled to maintenance[2] or not? Is she entitled to maintenance[3] since [her mother] is entitled to a kethubah[4] or is it possible that she is not entitled [to maintenance],[3] since the Rabbis have not ordained [the writing of] the kethubah until the time of the marriage?[5] — The question must stand unanswered. R. Papa asked: Is the daughter of an outraged woman[6] entitled to maintenance[2] or not? According to the ruling of R. Jose the son of R. Judah, who has laid down[7] that [her mother] is entitled to recover[8] a kethubah for one maneh,[9] the question does not arise.[10] It arises only according to the ruling of the Rabbis who have laid down that the fine[11] is regarded as a quittance for her kethubah. What, [it may be asked, is the decision]?[12] Has she no claim to maintenance[13] since [her mother] is not entitled to a kethubah,[14] or might it possibly [be argued thus:] What is the reason why a kethubah [has been instituted for a wife]? In order that the man might not find it easy[15] to divorce her;[16] but [this man],[17] surely, cannot[18] divorce her?[19] — This must stand unanswered. YOU SHALL DWELL IN MY HOUSE etc. R. Joseph learnt: IN MY HOUSE[20] but not in my hovel.[21] She is entitled, however, to maintenance.[22] Mar son of R. Ashi ruled: She is not entitled even to maintenance.[23] The law, however, is not in agreement with Mar son of R. Ashi. R. Nahman stated in the name of Samuel: If marriage was proposed to her[24] and she accepted, she is no longer entitled to maintenance.[25] [This is to imply that] if she did not accept,[26] she would not be entitled to maintenance! — R. Anan replied: This was explained to me by Mar Samuel: If she said, '[l cannot accept the proposal] out of respect for the memory of[27] So-and-so, my husband', she is entitled to maintenance; [but if she said], 'Because the men are not suitable for me,' she is not entitled to maintenance.[28] R. Hisda ruled: If she[29] played the harlot she is not entitled to maintenance. R. Joseph ruled: If she painted her eyes[30] or dyed her hair[31] she is not entitled to maintenance.[32] He who ruled: 'If she played the harlot'[33] would even more so deprive her of maintenance if she paints her eyes or dyes her hair. He, however, who ruled: ‘If she painted her eyes or dyed her hair’[33] would allow her maintenance[34] if she played the harlot. What is the reason? — Her passions have overpowered her. The law, however, is not in agreement with any of these reported rulings but with that which Rab Judah laid down in the name of Samuel: She[35] who claims her kethubah at court is not entitled to maintenance. But is she not entitled? Surely it was taught: If she sold her kethubah, pledged it, or mortgaged [the land that was pledged[36] for] her kethubah to a stranger, she is not entitled to maintenance. [Does not this imply] that only such[37] [acts deprive a widow of her maintenance] but not [the act of] claiming [her kethubah at court]? — These [acts[38] deprive her of her maintenance] whether she appeared at court or not, but the act of claiming [her kethubah deprives her of maintenance] only if she appeared[39] in court but does not [deprive her of it] if she did not appear at court. SO DID THE MEN OF JERUSALEM etc. It was stated: Rab ruled, ‘The halachah is in agreement with [the practice of] the MEN OF JUDAEA’, but Samuel ruled, ‘The halachah agrees with [the practice of] the MEN OF GALILEE’. Babylon[40] and all its neighbouring towns[41] followed a usage in agreement with the ruling of Rab; Nehardea[42] and all its neighbouring towns[41] followed a usage agreeing with the ruling of Samuel. A woman of Mahuza[43] was once married to [a man of] Nehardea. When they came to R. Nahman,[44] and he observed from her voice that she was a native of Mahuza, he said to them, ‘[The decision must be in agreement with Rab, for] Babylon and all its neighbouring towns have adopted a usage in agreement with the ruling of Rab’. When, however, they pointed out to him, ‘But, surely, she is married to [a man of] Nehardea,’ he said to them, ‘If that is the case, [the decision will be in agreement with Samuel for] Nehardea and all its neighbouring towns followed a usage agreeing with the ruling of Samuel. How far does [the usage of] Nehardea extend? — As far afield as the Nehardean kab[45] is in use.[46] It was stated: [When a kethubah is being paid to] a widow, said Rab, assessment is made of what she wears,[47] but Samuel said: That which she wears is not assessed. Said R. Hiyya b. Abin: [Their opinions[48] are] reversed[49] in the case off retainer.[50] R. Kahana taught: And so[51] [are their opinions][48] in the case of a retainer;[50] and [Rab] had laid down this mnemonic, ‘Strip the widow and the orphan[52] and go out’. R. Nahman said: Although we have learned in a Mishnah in agreement with the view of Samuel[53] the law is in agreement with that of Rab. For we learned: Whether a man has consecrated his estate, or whether he has consecrated the valuation of himself[54] [the Temple treasurer][55] has no claim either upon the clothes of that man's wife,[56] or upon the clothes of his children, or the coloured articles that were dyed for them,[57] or any new sandals that [their father] may have bought[57] for them.[58] Said Raba to R. Nahman: Since, however, we have learned in a Mishnah in agreement with the view of Samuel, why does the law agree with that of Rab? The other replied: At first sight it might appear[59] to run parallel to the principle of Samuel, but if you examine it carefully [you will find that] the law, in fact, must be in agreement with [the view of] Rab. For this[60] is the reason:[61] When he[62] bought[63] [the clothes] for her [he did so] on the assumption that she would live with him.[64] He did not, however, buy[63] them for her on the assumption that she should take them[65] and depart.[66] A daughter-in-law of the house of Bar Eliashib was claiming her kethubah from orphans. When she summoned them to court and they said, ‘It is degrading for us that you should come with us in such [clothes]’, she went home and dressed and wrapped herself in all her garments. When they came before Rabina he told them: The law is in agreement with the ruling of Rab who laid down [that when a kethubah is being paid to] a widow, assessment is made of what she wears. A man[67] once said, ‘Let a bride's outfit[68] be provided for my daughter’, and the price of an outfit was subsequently reduced. ‘The benefit’,[69] ruled R. Idi b. Abin, ‘belongs to the orphans’.[70] A man[67] once said,

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(1) Which is only one of the obligations a man undertakes in the kethubah he gives to his wife.

(2) Out of her deceased father's estate if he had sons from another wife.

(3) V. supra p. 316, n. 13.

(4) If her father had written one for her on betrothal. As he is responsible for the kethubah of his wife so should he be responsible for the maintenance of his daughter (v. supra p. 316, n. 13).

(5) As the obligation of the kethubah does not begin before marriage, that of maintenance also does not begin earlier.

(6) Whom the offender has subsequently married (v. Deut. XXII, 28f).

(7) Supra 39b.
(8) Out of the man's estate, though he had already paid to her father the fine prescribed in Deut. XXII, 29. v. supra 39b.
(9) V. Glos.
(10) As the kethubah is recoverable from the man's estate so is the daughter's maintenance (v. supra p. 316, n. 13).
(11) That is paid to her father (Deut. XXII, 29).
(12) As regards the daughter's maintenance.
(13) V. supra p. 316, n. 13).
(14) As the kethubah cannot be recovered so cannot the daughter's maintenance.
(15) Lit., ‘that she shall not be easy in his eyes’.
(16) He cannot easily divorce her if his act involves him in the payment of the amount specified in the kethubah.
(17) Who committed outrage.
(18) V. Deut. XXII, 29.
(19) Hence the ruling that the woman is not entitled to a kethubah. As this argument, however, does not apply to her daughter the latter may well be entitled to maintenance.
(20) Sc. only if the deceased left a proper house must his sons provide living accommodation for his widow. (Cf. however, fast. infra n. 20.)
(21) בביקתי M.S.M בבית עקתי. _ביקתא=בי עקתא (v. Shab. 77b), ‘a house of distress’, ‘a poor man's house’ (Rashi). If the house is too small the orphans may ask her to live elsewhere. Aliter. ביקתא = בקעתא, ‘valley’, ‘group of fields’, estate’; the widow ‘must be ‘content to live in her late husband's house with his heirs, hut she cannot claim a separate residence’ (Jast.).
(22) Though she is in residence in her paternal home, she does not forfeit her claim to maintenance from her late husband's estate. Though the first part of the clause of her kethubah, DWELL IN MY HOUSE, is not carried out, the second part, BE MAINTAINED OUT OF MY ESTATE, nevertheless remains valid.
(23) As one part of the clause is inapplicable the other part also becomes void.
(24) The widow.
(25) Her WIDOWHOOD is deemed to have terminated thereby, and in consequence she loses the rights attached to it.
(26) Whatever the reason.
(27) Lit., ‘on account of’.
(28) The heirs cannot be compelled to continue her maintenance once she has had an offer from a man who is willing to provide for her.
(29) The widow.
(30) Rt. כחל, (denom. of כוחל, stibium, a powder applied to the eyelids), ‘to paint the eyelids’, cosmetically or medically (v. Jast.).
(31) Rt. פרכם (denom. of פיקם with inserted ר ‘to adorn with paint or dye’ (v. Levy). Jast. derives it from פרך, ‘to rub’, ‘to rub with paint’ (s.v. פרכם); ‘dyeing the hair’ (Jast. s.v. פירכום).
(32) Since it is apparent that she is not much concerned for the memory of her late husband.
(33) ‘She is not entitled to maintenance’.
(34) Lit., ‘she has’.
(35) The widow.
(36) V. Rashi.
(37) Lit., ‘these, yes’.
(38) Whereby the widow actually recovers her kethubah.
(39) Lit., ‘yes’.
(40) [Stands here for Sura which was in the neighbourhood of the old great city of Babylon, v. Git. Sonc. ed. p. 17, n. 3.]
(41) So Rashi, ‘her dependencies’, sc. places following her usages (Jast.); ‘seine Nachbarorte’ (Golds).
(42) V. supra p. 222. n. 8.
(43) A Jewish trading centre. One of the ‘neighbouring towns’ or ‘dependencies’ of Babylon.
(44) In connection with a dispute concerning the fulfilment of the terms of the kethubah (v. the final clauses of our Mishnah).
(45) V. Glos. Here a term for a dry measure in general, not the specific kab (Obermeyer p. 242).
(46) Lit., ‘spreads’.
(47) Sc. the value of her clothes is deducted from the amount of her kethubah.

(48) Those of Rab and Samuel.

(49) Samuel ruling that the value of clothes is, and Rab maintaining that it is not to be deducted from the man's wages.

(50) Or ‘client’ (v. Jast.), when he leaves the employ of his master who, during the period of his service, had been supplying him with his clothes. לקיט (rt. לקט ‘to gather’) ‘gleaner’, ‘field labourer’.

(51) As in the case of a widow.

(52) Sc. the retainer or client.

(53) Viz. that a wife's clothes are the property of her husband.

(54) V. Lev. XXVII, 1ff.

(55) Who comes to collect such offerings.

(56) Cf. supra note 9.

(57) Though they have not yet used them (cf. Rashi). This shews that the raiments are the property of the wife.

(58) ‘Ar. 24a, B.K. 102b.

(59) לכאורה adv., Lamed and Kaf. prefixed to the noun אורה, ‘light’.

(60) Lit., ‘what’.

(61) Why the Temple treasurer has no claim upon a wife's clothes though their value is rightly to be deducted from the amount she is paid in settlement of her kethubah.

(62) The husband.

(63) Or, ‘transferred possession’.

(64) Consequently, so long as she lives with him, they are her absolute property and no one can take them away from her. Hence the ruling of the Mishnah of ‘Ar. that the Temple treasurer cannot claim them.

(65) When he died.

(66) Hence the ruling of Rab that their value is to be deducted from her kethubah.

(67) On his death bed. The instructions of a person in such a condition have the force of a legally written document.

(68) The cost of which was well known, all brides being similarly provided for (Rashi).

(69) פורנא (rt. פרן ‘to cut’, hence ‘to endow’) ‘endowment’, hence ‘good luck’ (v. fast.); ‘surplus’ (Colds.).

(70) It is their duty to provide the outfit, and since they can obtain it at a reduced price the balance is theirs.

Talmud - Mas. Kethuboth 54b

‘Four hundred zuz[1] [of the value of this] wine shall be given to my daughter’, and the price of wine rose. ‘The profit’, ruled R. Joseph, ‘belongs to the orphans’.[2] Relatives of R. Johanan had [the responsibility of maintaining their] father's wife who was in the habit of consuming much[3] food. When[4] they came to R. Johanan she told them, ‘Go and ask your father that he should assign a plot of land for her maintenance’.[5] When they subsequently came before Resh Lakish, he said to them, ‘[By such an assignment] he has increased all the more [the allowance for] her maintenance’.[6] ‘But’, they said to him, ‘R. Johanan did not say so?’ — ‘Go’,he told them, ‘and give her [proper maintenance], otherwise[7] I shall pull R. Johanan out of your ears’. R. Johanan, when they came to him again, said to them, ‘What can I do when one of equal standing[8] differs from me?’ R. Abbahu stated: This was explained to me by R. Johanan: [If the husband] said,[9] ‘towards maintenance’ he has thereby increased [the allowance for] her maintenance;[10] but if he said,[9] ‘for maintenance’ he has thereby limited the allowance for her maintenance.[11]

CHAPTER V

MISHNAH. ALTHOUGH [THE SAGES] HAVE ENACTED THAT A VIRGIN COLLECTS[12] TWO HUNDRED ZUZ[13] AND A WIDOW ONE MANEH,[13] IF HE [THE HUSBAND] WISHES TO ADD, EVEN A HUNDRED MANEH, HE MAY DO SO. [A WOMAN] WHO WAS WIDOWED OR DIVORCED, EITHER AFTER BETROTHAL OR AFTER MARRIAGE, IS ENTITLED TO COLLECT ALL [THAT IS DUE TO HER].[14] R. ELEAZAR B. AZARIAH RULED: [ONLY A WOMAN WIDOWED] AFTER HER MARRIAGE RECEIVES ALL [THAT IS DUE TO HER], BUT IF AFTER A BETROTHAL, A VIRGIN RECOVERS ONLY TWO HUNDRED ZUZ[13] AND A WIDOW ONLY ONE MANEH,[13] FOR THE MAN PROMISED[15] HER

[THE ADDITIONAL JOINTURE] WITH THE SOLE OBJECT OF MARRYING HER.[16] R. JUDAH RULED: IF [A HUSBAND] WISHES HE MAY WRITE OUT FOR A VIRGIN[12] A DEED FOR TWO HUNDRED ZUZ AND SHE WRITES [A QUITTANCE],[17] ‘I HAVE RECEIVED FROM YOU A MANEH’, AND FOR A WIDOW [HE MAY WRITE OUT A DEED FOR] A MANEH AND SHE WRITES [A QUITTANCE]. ‘I HAVE RECEIVED FROM YOU FIFTY ZUZ’. R. MEIR RULED: [THE INTERCOURSE OF] ANY MAN WHO UNDERTAKES TO GIVE A VIRGIN LESS THAN TWO HUNDRED ZUZ[13] OR A WIDOW LESS THAN A MANEH[13] IS[18] AN ACT OF PROSTITUTION.

GEMARA. [Is not this][19] obvious? — It might have been presumed that the Rabbis have fixed a limit in order that the man who has no means might not be put to shame; hence we were taught [that there was no limit]. IF HE WISHES TO ADD etc. It was not stated, ‘If he wishes to write’,[20] but ‘WISHES TO ADD’.[21] This then provides support for [a ruling which] R. Aibu stated in the name of R. Jannai. For R. Aibu stated in the name of R. Jannai: The supplementary provisions[22] [that are included] in a kethubah are subject to the same regulations as the statutory kethubah.[23] [In what respect] can this[24] matter?[25] — In respect of a woman who sells or surrenders [her kethubah],[26] or one who rebels,[27] one who impairs,[28] or claims [her kethubah],[29] or one who transgresses the Law;[30]

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(1) V. Glos.

(2) Since the bequest was not a quantity of wine but a specified sum of money.

(3) Lit., ‘spoilt’, or ‘caused to diminish, (Af. of פסד).

(4) During their father's lifetime. He was on the point of dying and disposing of his property (cf. p. 322, n. i). (15) To consult him as to how they could reduce their liability.

(5) So that the liability of the heirs would thereby be limited to the value of that plot of land only. Such an assignment, of course, is valid only if it was made on one's death bed and is subject in addition to the woman s consent (V. Pe'ah, III, 7 and Rashi a.l.). The efficacy of R. Johanan's advice being dependent on the consent of the woman explains also why R. Johanan, despite his regrets for giving advice to relatives (supra 52b), proceeded to advise them again (v. Tosaf. a.l. s.v. דנייהו). In the other case his advice was effective despite the woman's wish.

(6) His assignment of the land cannot deprive the widow of her right to proper maintenance, and can only be regarded as the provision of an additional source of income from which she might draw in case the maintenance the heirs provided was not on a liberal scale.

(7) Lit., ‘and if not’.

(8) Lit., ‘who is corresponding to me’.

(9) When he assigned a particular plot of land for his wife's maintenance.

(10) ‘Towards’ implying an addition to what is already due to her.

(11) ‘For maintenance’ implying ‘in return’ or compensation for the maintenance to which she is entitled.

(12) As her statutory kethubah.

(13) V. Glos.

(14) Sc. her statutory kethubah as well as any additional jointure her husband may have settled upon her.

(15) Lit., ‘wrote’.

(16) And since he died before marrying her she can have no claim to it.

(17) Though she has received nothing.

(18) Lit., ‘behold this’.

(19) That A HUSBAND MAY ADD, IF HE WISHES etc.

(20) Which might have implied a mere gift.

(21) Sc. to the kethubah, implying that the additional jointure assumes the same designation as the statutory kethubah itself.

(22) Such as additional jointure, maintenance, or any other of the terms mentioned in the previous chapter.

(23) Infra 104b.

(24) The treatment of the additional jointure as the statutory kethuhah.

(25) Lit., ‘it goes out (results) from it’.

(26) By such an act she sells her additional jointure as well as her statutory kethubah though only ‘kethubah’ was mentioned when the transaction took place.

(27) Against her husband, by refusing conjugal rights or work (v. infra 63a). If, in consequence, reductions are made from her kethubah (v. loc. cit.) her additional jointure, like her statutory kethubah, is subject to these deductions.

(28) By admitting that she had already been paid a part of her kethubah (infra 87a). In such a case she cannot recover the balance of the additional jointure even though that part of the kethubah had been left unimpaired. (v. Tosaf. s.v. ולפוגמת).

(29) V. supra 54a. As she loses her maintenance by claiming her statutory kethubah so she loses it by claiming only her additional jointures (Rashi).

(30) A woman who transgresses the Mosaic law or traditional Jewish practice may be divorced without receiving her kethuhah (infra 72a). This applies to her additional jointure also.

Talmud - Mas. Kethuboth 55a

in respect of amelioration,[1] an oath,[2] and the Sabbatical year,[3] in respect of him who assigned all his property to his sons,[4] or the recovery of payment out of real estate and from the worst part of it,[5] also in respect of [the law of a widow] while in her father's house,[6] and of the kethubah for male children.[7] It was stated: The kethubah for the male children,[8] [the scholars of] Pumbeditha[9] ruled, may not be collected from sold or mortgaged property,[10] for we have learned,[8] ‘They shall inherit’;[11] and the scholars of[12] Matha Mehasia[13] ruled: It may be collected from sold or mortgaged property, for we have learned,[8] ‘They shall take’.[14] The law, however, is that it may not be collected from sold or mortgaged property, since we have learned ,[8] ‘They shall inherit’.[11] Movables[15] which are available[16] [may be collected][17] without an oath;[18] but if they are not available,[19] [the kethubah may, the scholars of] Pumbeditha ruled, [be collected][20] without an oath[18] and the scholars[21] of Matha Mehasia ruled: Only with an oath. The law [is that they may be collected] without an oath. If [her husband] has set aside for her a plot of land [defining it] by its four boundaries[22] [she[23] may collect from it] without an oath;[24] but if [he only defined it] by one boundary, [the scholars of] Pumbeditha ruled [that collection[25] may be made from it] without an oath,[24] but the scholars of Matha Mehasia ruled: Only with an oath.[26] The law, however, is that collection[25] may be effected without an oath.[22] If a man said to witnesses, ‘Write out [a deed],[27] sign it and give it to a certain person’,[28] and they took from him symbolic possession there is no need[29] to consult him.[30] [If, however,] no symbolic possession was taken, [the scholars of] Pumbeditha ruled, there is no need[29] to consult him,[30] but the scholars of Matha Mehasia ruled: It is necessary to consult him. The law is that it is necessary to consult him. R. ELEAZAR B. AZARIAH etc. It was stated: Rab and R. Nathan [differed]. One maintained that the halachah was in agreement with R. Eleazar b. Azariah and the other maintained that the halachah was not in agreement with R. Eleazar b. Azariah. You may conclude that it was R. Nathan who maintained that the halachah was in agreement with R. Eleazar b. Azariah[31] since R. Nathan was heard [elsewhere] to follow [the rule of] assumption,[32] he[33] having stated that the halachah was in agreement with R. Simeon Shezuri in the case of a man dangerously ill[34]

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(1) Of the estate of the husband after his death. As the statutory kethubah cannot be recovered from such amelioration (v. Bek. 5lb) so cannot the additional jointure either.

(2) A woman must take an oath in respect of her additional jointure in all cases where she takes an oath in respect of her statutory kethubah (infra 87a).

(3) In which all debts must be released (v. Deut. XV. Iff) but not the obligation of a kethubah (v. Git. 48b). The exemption applies to both the statutory kethubah and the additional jointure.

(4) And left any fraction of land for his wife. Thereby she loses her kethubah (v. B.B. 132a) and her additional jointure also.

(5) These restriction apply to the additional jointure as well as to the statutory kethubah (v. Git. 48b).

(6) She may claim her kethubah within twenty-five years only (v. infra 104a). This applies also to her additional jointure. There is no time limit in the case of a widow who lives in her late husband's house.

(7) The children are entitled to their mother's additional jointure just as they are entitled to her statutory kethubah and to the dowry, which her father gave to her husband on the occasion of their marriage, and which also forms a part of the kethubah obligations of a husband.

(8) V. Mishnah supra 52b.

(9) פומבדיתא (lit., ‘mouth of Beditha’, one of the canals of the Euphrates), was a Babylonian town famous as a Jewish centre of learning.

(10) Of the widow's late husband.

(11) One inherits free assets only.

(12) Lit., ‘sons of’.

(13) מתא מחסיא is a suburb of Sura in Babylonia.

(14) Instead of they shall inherit’. This implies that the children are entitled to the kethubah as a gift made to them by their father at the time of his marriage with the right to seize his property wherever it may be found.

(15) Pledged by a husband for the kethubah of his wife.

(16) At the time of the man's death.

(17) By the widow who, in other circumstances, is required to take an oath to the effect that her late husband had not given her some money or objects of value as a security for her kethubah.

(18) Since it is definitely known what objects of value had been set aside for her kethuhah there is no reason to suspect that any other objects or money also had been secretly deposited with her.

(19) If, e.g., they were lost.

(20) From the landed property of the deceased, since all of it is legally pledged for the kethubah of one's wife.

(21) Lit., ‘sons’.

(22) As a special security for her kethubah.

(23) When her husband dies.

(24) Cf. supra p. 325, n. 14, mutatis mutandis.

(25) V. loc. cit. n. 13.

(26) As only one of the four boundaries had been indicated the plot of land cannot be regarded as a definite security, and the suspicion may be entertained that her husband may have given her some private deposit as a security for her kethubah (cf. supra p. 325, n. 13).

(27) E.g., of a gift of land.

(28) Lit., ‘to him’.

(29) Before the deed is written (Rashi).

(30) Whether his instructions were seriously meant or whether he has not since changed his mind (cf. Rashi). According to some authorities the consultation relates to the question of entering a clause pledging the donor's property (cf. Tosaf. s.v. כתובו).

(31) Whose opinion in our Mishnah is based on the assumption that THE MAN PROMISED . . . WITH THE SOLE OBJECT etc.

(32) Wherever a man did not specify his intention or motive.

(33) Cur. edd. read ‘R. Nathan’. In Hul. 75b the reading is ‘R. Jonathan’, and in Men. 30b ‘R. Johanan’.

(34) Who gave instructions for a letter of divorce to be written for his wife. The document may be delivered to the woman, even though its delivery was not mentioned in the instructions, because it is assumed that the dying man intended it for this purpose (v. Git. 65b).

Talmud - Mas. Kethuboth 55b

and in that of terumah[1] of the tithe of demai[2] produce.[3] But does not Rab, however, follow [the rule of] assumption? Surely it was stated: As to the gift of a dying man[4] [in the deed of] which was recorded [symbolic] acquisition, the school of Rab in the name of Rab reported [that the testator] has [thereby] made him[5] ride on two harnessed horses;[6] but Samuel said: I do not know what decision to give on the matter. ‘The school of Rab in the name of Rab reported [that the testator] has [thereby] made him ride on two harnessed horses’, for it is like the gift of a man in good health,[7] and it is also like the gift of a dying man.[8] ‘It is like the gift of a man in good health’, in that, if he recovered, he cannot retract,[7] and ‘it is like the gift of a dying man’ in that, if he said that his loan[9] [shall be given] to X, his loan [is to he given] to X.[10] ‘But Samuel said: I do not know what decision to give on the matter’, since it is possible that he[11] decided not to transfer possession to him[12] except through the deed,[13] and no [possession by means of a] deed [may be acquired] after [the testator's] death![14]

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(1) V. Glos.

(2) V. Glos.

(3) V. Dem. IV, 1. In this as in the previous case the rule of assumption is followed. Cf. p. 326, n. 10.

(4) Who distributed all his estate. V. B.B. Sonc. ed. p. 658. n. 2. The verbal assignment of a dying man is valid and requires no deed or formal acquisition.

(5) The recipient.

(6) I.e., his claim has a double force: That of the gift of a dying man and that of legal acquisition. ‘ רכשי , pl. of ריכשא ‘a harnessed or galloping horse’.

(7) Owing to the symbolic acquisition that took place.

(8) Cf. supra note 3.

(9) Lit., ‘my loan’, a debt which someone owes him.

(10) Although the money was not at that time in his possession and the gift was not made in the presence of the three parties concerned (v. B.B. 144a).

(11) By the unnecessary symbolic acquisition. V. infra n. 12.

(12) The donee.

(13) Not merely by virtue of the legal validity of his instructions (v. supra note 3).

(14) Hence it was difficult for Samuel to give a decision on the matter (v. B.B. Sonc. ed. p. 658, n. 11). As Rab, however, definitely ruled in favour of the donee on the assumption that the donor ‘made him ride on two harnessed horses’, it follows that Rab is guided by the rule of assumption. How then could it be implied supra that it was Rab who held that the halachah was not in agreement with R. Eleazar b. Azariah!.

Talmud - Mas. Kethuboth 56a

— The fact, however, is that both[1] follow [the rule of] assumption; and he who stated that the halachah [was so][2] was well justified, [while in respect of] him who stated that the halachah was not [so],[3] [it may be explained that] here[4] also [the ruling is based on] an assumption, that the man's object[5] [it is assumed] was the formation of a mutual attachment,[6] and such attachment has indeed been formed.[7] R. Hanina[8] once sat in the presence of R. Jannai when he stated: The halachah is in agreement with R. Eleazar b. Azariah. [The Master] said to him, ‘Go Out’ read your Biblical verses outside;[9] the halachah is not in agreement with R. Eleazar b. Azariah’. R. Isaac b. Abdimi stated in the name of our Master:[10] The halachah is in agreement with R. Eleazar b. Azariah. R. Nahman stated in the name of Samuel: The halachah is in agreement with R. Eleazar b. Azariah. R. Nahman in his own name, however, stated that the halachah was not in agreement with R. Eleazar b. Azariah, while the Nehardeans stated in the name of R. Nahman that the halachah was in agreement with R. Eleazar b. Azariah. And though R. Nahman uttered a curse, proclaiming, ‘Such and such a fate shall befall every judge who gives a ruling in agreement with the opinion of R. Eleazar b. Azariah’, the halachah is nevertheless in agreement with R. Eleazar b.Azariah. And the halachah in practice is In accordance with the Opinion of R. Eleazar b. Azariah. Rabin enquired: What is the law[11] where the bride only entered the bridal chamber but there was no intercourse? Is the kinyan[12] effected by the affectionate attachment in the bridal chamber[13] or is the kinyan effected by the affectionate attachment of the intercourse?[14] — Come and hear what R. Joseph learnt: ‘Because he assigned[15] it to her only on account of the affectionate attachment of the first night’. Now, if you grant that it is the affectionate attachment in the bridal chamber that effects the kinyan it was correct for him to state ‘the first night’. If, however, you contend that it is the affectionate attachment of the intercourse that effects the kinyan, does this [it may be objected, first] take place on the first night only and not subsequently? — What then [do you suggest]? The [affectionate attachment in the] bridal chamber? Is the bridal chamber [it may be retorted] entered[16] in the night only and not in the day time![17] — But according to your argument does intercourse take place at night and not in the day time? Surely Raba stated: If one was in a dark room [intercourse] is permitted![18] — This is no difficulty. He[19] may have taught us that it is proper conduct[20] that intercourse should be at night; but [if it is maintained that it is the affectionate attachment in the] bridal chamber [that effects the kinyan] the difficulty arises![21] — [The assumption that kinyan is effected in the] bridal chamber also presents no difficulty. Since, usually, the bridal chamber is a prelude to[22] intercourse he taught us that it was proper that [it should be entered] at night. R. Ashi enquired: What is the law[23] where [a bride] entering the bridal chamber became menstruous?[24] If you should find [some reason] for saying that it is the affectionate attachment in the bridal chamber that effects the kinyanl[15] [the question still remains whether this applies only to] a bridal chamber that is a prelude[25] to intercourse but not to a bridal chamber that is no prelude to intercourse,[26] or is there perhaps no difference?[27] — This remains unanswered. R. JUDAH SAID: IF [A HUSBAND] WISHES HE MAY WRITE OUT FOR A VIRGIN etc. Does R. Judah hold the opinion that a quittance is written?[28] Surely we learned: If a person repaid part of his debt, R. Judah said, he[29] must exchange [the bond for another].[30] R. Jose said: He[31] must write a quittance for him![32] — R. Jeremiah replied: [Here it is a case] where the quittance is [written] within.[33] Abaye replied: You may even say [that here it is a case] where the quittance is not written within.[34] There[35] it is quite correct[36] [to disallow the use of a quittance, since the debtor] had undoubtedly repaid him[37] and it is possible that the quittance might be lost and that he[37] would produce the bond and thus collect [the paid portion of the debt] a second time. Here,[38] however, did he indeed give her anything?[39] It is a mere statement that she addressed to him.[40] If, then, he preserved [the quittance] well and good;[41] and if he did not preserve it, well, it is he himself who is the cause of his own loss. One can well understand why Abaye did not give the explanation as R. Jeremiah, since it was not stated[42] that the quittance was entered within,[43] but why did not R. Jeremiah give the same explanation as Abaye? — The quittance here[44] is forbidden as a preventive measure against the [erroneous permitting of] a quittance elsewhere.[45] The reason [for the husband's exemption[46] is apparently] because she gave him a quittance in writing.[47] If, however, [she had surrendered a portion of her kethubah] by word of mouth only [he would] not [have been exempt];[48] but why? This,[44] surely, is a monetary matter, and R. Judah was heard to rule that in a monetary matter one's stipulation[49] is valid. For was it not taught: If a man said to a woman, ‘Behold thou art consecrated unto me[50] on condition that thou shalt have no [claim] upon me [for] food, raiment or conjugal rights’, she is consecrated,[51] but the stipulation is null;[52] so R. Meir. R. Judah, however, said: In respect of monetary matters his stipulation is valid?[53] — R. Judah is of the opinion that the kethubah is a Rabbinical enactment,[54] and the Sages[55] have applied to their enactments[56] higher restrictions than to those of the Torah.[57] But what of the case of usufruct[58] which is a Rabbinical law and the Rabbis nevertheless did not apply any restriction to it;[59] for we learned: R. Judah said, He[60] may for all time eat the fruit of the fruit[61] unless he wrote out for her [the undertaking], ‘I have no claim whatsoever[62] upon your estates and their produce and the produce of their produce forever’;[63]

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(1) Rah and R. Nathan.

(2) I.e., that it was in agreement with R. Eleazar b. Azariah.

(3) Cf. preceding note, mutatis mutandis.

(4) The statement supra against R. Eleazar b. Azariah.

(5) In promising his bride an additional sum in her kethubah.

(6) Between him and his bride.

(7) Even though no marriage has taken place. The woman is, therefore, entitled to the full sum she had been promised. Hence the statement (which has been ascribed to Rab) against the ruling of R. Eleazar b. Azariah.

(8) Following the reading of Ber. 30b Bah adds ‘the Bible teacher’.

(9) [I.e., Go teach the Bible to children instead of venturing into the realms of the halachah. Bible instructions were given in a place ‘outside’ the academy].

(10) Rab (v. Rashi) or Rabbi, i.e., R. Judah the Patriarch (v. Tosaf. a.l. s.v. אמר). According to Tosaf, the speaker here was the first R. Isaac b. Abdimi who was a disciple of Rabbi (cf. Shab. 4ob) and a teacher of Rab (cf. B.B. 87a and Hul. 110a).

(11) According to R. Eleazar b. Azariah's views in our Mishnah.

(12) V. Glos. The legal and final union that may be regarded as marriage.

(13) Huppah v. Glos. And the bride is consequently entitled to the full amount of the statutory, and the additional kethuhah.

(14) And since this has not taken place the bride can only claim the statutory minimum.

(15) Lit., ‘wrote’.

(16) Lit., ‘there is’.

(17) Why then did R. Joseph mention ‘night’?

(18) In the day time. V. infra 65b, Shab. 86a.

(19) R. Joseph. V. supra n. 5.

(20) Lit., ‘the way of the earth’.

(21) V. supra n. 5.

(22) Lit., ‘stands for’.

(23) Is the bride entitled to the additional jointure of her kethubah? Cf. supra p. 328, n. 9.

(24) The bridegroom dying before intercourse had taken place. Intercourse with a menstruant is Pentateuchally forbidden. (Cf. Lev. XVIII, 19). (13) Cf. supra p. 328, n. 10.

(25) Lit., ‘suitable’.

(26) Cf. p. 329, n. 12. The bride would consequently have no claim upon the additional sum she was promised.

(27) The bride being entitled in either case to the full amount.

(28) By a creditor to whom part of a debt was repaid; and consequently there is no need to exchange the bond for one in which the balance only is entered.

(29) The creditor.

(30) In which only the balance of the original debt is entered while the first bond is destroyed. The debtor cannot be compelled to accept a quittance which he would have ‘to guard from mice’ and the loss of which might involve him in a claim for the repayment of the full loan. It is more equitable that the creditor should change the bond.

(31) The creditor.

(32) B.B. 170b. Such a course is advantageous to the creditor, since a bond entitles its holder to seize any real estate which the debtor has sold or mortgaged after, but not before the date of his bond. Were a new bond for the balance to be written, the creditor would lose his right to seize any of the debtor's property that was sold or mortgaged between the date of the original bond and that of the new one. In the opinion of R. Jose the rights of the creditor must not be impaired, while in the opinion of R Judah equity demands that the debtor be not encumbered with the necessity of taking care of the quittance (cf. supra n. 6). How then could it be stated here that R. Judah allowed the writing of a quittance?

(33) I.e., is entered on the kethubah itself, so that the husband, unlike the debtor spoken of in B.B., has no need to preserve any document.

(34) Cf. supra n. 9.

(35) The case of the payment of the part of a debt.

(36) For R. Judah.

(37) The creditor.

(38) In our Mishnah.

(39) So MS.M. reading מידי .

(40) She received no money at all from her husband.

(41) Lit., ‘he preserved it’.

(42) In our Mishnah.

(43) V. supra p. 330, n. 9.

(44) The case of the kethubah.

(45) A debt, for instance, where R. Judah does not allow it (cf. supra p. 330, n. 6).

(46) From the payment of the part of the kethubah which his wife has surrendered (v. our Mishnah).

(47) Lit., ‘she wrote for him’.

(48) Since our Mishnah speaks of writing.

(49) Even though it deprives a person from a right to which he is Pentateuchally entitled.

(50) The formula of marriage used by the bridegroom is, ‘Behold thou art consecrated unto me by this ring according to the law of Moses and Israel’.

(51) Becomes his lawful wife.

(52) Since it is contrary to the law of the Torah. Cf Ex. XXI, 10.

(53) B.M 51a, 94a, B.B. 226b

(54) Not Pentateuchal.
(55) Sc. the Rabbis.
(56) In order to prevent laxity.
(57) The laws of the Torah, being universally respected, required no such additional restrictions.
(58) Melog property (v. Glos.) to the fruit of which a husband is entitled during his lifetime while the property itself remains the possession of his wife.
(59) A husband being allowed to surrender his right to the usufruct.
(60) A husband who renounced his claim to the fruit of melog property.
(61) The fruit produced by lands that were purchased out of the proceeds of the fruit of the original property.
(62) Lit., 'judgment and words'.
(63) Infra 83a.

Talmud - Mas. Kethuboth 56b

and it had been established that by 'writing'[1] only saying was meant![2] — Abaye replied: All [married women] have a kethubah; not all, however, have fruit. In respect of what is usual the Rabbis have applied restrictions. In respect of what is not usual, however, the Rabbis have made no restrictions. But what of the case of ass-drivers[3] which is a common occurrence and the Rabbis have nevertheless applied no restrictions to it; for we learned: Where ass-drivers entered a town and one of them declared, 'My [produce] is new and that of my fellow is old' or 'Mine is not fit for use[4] but that of my fellow is fit', they are not believed; but R. Judah said, They are believed![5] — Abaye replied: To any Rabbinical enactment of an absolute character[6] the Rabbis have applied further restrictions, but to any Rabbinical enactment of uncertain origin[7] the Rabbis have added no further restrictions. Raba replied: They[8] relaxed the law in respect of demai.[9] R. MEIr RULED . . . ANY MAN WHO . . . GIVE . . . LESS etc. The expression, 'WHO . . . GIVE . . . LESS' [implies][10] even [if the assignment remained a mere] stipulation.[11] Thus it follows that he[12] is of the opinion that the man's stipulation is void and that the woman receives [her full kethubah];[13] yet since[14] the man had said to her[15] 'You will have but a maneh',[16] her mind is not at ease[17] and his intercourse is regarded as an act of prostitution.[18] But, surely, R. Meir was heard to rule that any stipulation[19] which is contrary to what is written in the Torah is[20] null and void, [from which it may be inferred,[21] may it not, that if it is] but against a law of the Rabbis it is[20] valid?[22] — R. Meir holds the view that the kethubah is a Pentateuchal institution. It was taught: R. Meir ruled, If any man assigns to a virgin[23] a sum less than two hundred zuz or to a widow less than a maneh his marriage is regarded as[24] an act of prostitution. R. Jose ruled: One is permitted [to contract such a marriage].[25] R. Judah ruled: If the man wished he may write out for a virgin a bond for two hundred zuz while she writes[26] for him, 'I have received from you a maneh'; and [he may write a bond] for a widow for a maneh while she writes[26] for him, 'I have received from you fifty zuz'.[27] Is R. Jose then of the opinion that 'one is permitted [to contract such a marriage]'?[28] This surely is contrary [to the following:] A woman's kethubah may not be made [a charge on] movable property as a social measure.[29] Said R. Jose: What social measure is this?[30] Their[31] price, surely, is not fixed and they deteriorate in value.[32] Now, did not the first Tanna also say that [a kethubah] may not be made [a charge on movable property]?[33] Must he[34] not, consequently, have meant to say: This[35] applies only where he[36] accepted no responsibility;[37] but where he accepted responsibility[37] [the kethubah] may be made [a charge upon them].[38] Thereupon came R. Jose to question: Even If he[36] did accept responsibility how [could the kethubah be] made [a charge upon them][39] when their price, surely, is not fixed and they deteriorate in value.[40] Now, if there,[41] where the diminution in value [of the movables] is only a possibility,[42] R. Jose provides against it, would he not even more so [adopt a similar course] here[43] where the diminution [of the kethubah] is a certainty? — How now! There[44] she did not know it[45] to think of surrendering her rights;[46] but here she was well aware [of the fact][47] and has definitely surrendered her rights. The sister of Rami b. Hama was married to R. Iwia

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(1) In R. Judah's statement.

(2) Lit., ‘what writes? says’. Which proves that, according to R. Judah no restrictions were made even in the case of a Rabbinical law.

(3) About whose imported produce it is uncertain whether it has been tithed (v. GIos. s.v. Demai). Such produce is only Rabbinically forbidden.

(4) I.e., it had not been duly tithed.

(5) Demai IV, 7, v. supra p. 131 notes. Which shows that, according to R. Judah, no restriction was imposed even on a Rabbinically forbidden produce. (Cf. supra note 8).

(6) Lit., ‘a certainty of their words’.

(7) As in the case of demai where the prohibition is due to the uncertainty whether or not the produce had been tithed.

(8) The Rabbis, though they applied restriction even in cases where their prohibition was due merely to an uncertainty.

(9) V. Glos. The uncertainty here is so great, since most people even among the ‘amme ha-’arez (v. Glos. s.v. ‘Am ha-’arez) do give tithe, that no restrictions were applied to it.

(10) Since the expression used is not ‘if the virgin received less’.

(11) While the woman in fact receives the full amount of her kethubah.

(12) R. Meir.

(13) Cf. supra n. 2. Lit., ‘and there is to her’.

(14) [Lit., ‘and since’. The text is not smooth. MS.M. preserves a better reading ‘but since she had (a full kethubah) what is the reason (of R. Meir)?’ — Since he said to her etc.].

(15) The virgin who is entitled to two hundred zuz.

(16) One hundred zuz (v. Glos.).

(17) [Lit., ‘her mind does not rest, rely upon’, i.e., she contracted her marriage on the expectation of a kethubah of a smaller amount than the prescribed minimum.]

(18) [Since the marriage was not performed in accordance with the requirements of the law, it is regarded as an act of prostitution.]

(19) Lit., ‘whoever makes a stipulation’.

(20) Lit., ‘his stipulatlon’.

(21) Since he mentions the Torah only.

(22) As a kethubah is an enactment of the Rabbis (v. R. Judah's view supra 56a), why is the stipulation void?

(23) As her kethubah.

(24) Lit., ‘behold this’.

(25) The stipulation being valid even if the woman's surrender of her right was only verbal.

(26) Contrary to the opinion of R. Jose, R. Judah maintains that a verbal stipulation or undertaking against a Rabbinical measure is of no validity.

(27) Half a maneh.

(28) I.e., one where the kethubah amounts to less than the prescribed minimum.

(29) Lit., ‘because of making the world right’. Movable objects may be easily lost and do not provide a reliable security for the kethubah.

(30) Lit., ‘there is in this’.

(31) Movable objects.

(32) While a kethubah must always amount to a legally fixed minimum.

(33) Wherein, then, does R. Jose differ from him?

(34) The first Tanna.

(35) That movable property provides no security for a kethubah.

(36) The husband.

(37) For the loss of the movable property.

(38) The possibility of deterioration in value being disregarded by the first Tanna.

(39) Movable objects.

(40) R. Jose is consequently of the opinion that it is not only against loss but also against a diminution in value that provision must be made.

(41) Where movable objects are assigned as a security.

(42) Lit., ‘perhaps they diminish’.

(43) Where the husband definitely assigned no more than half of the legal maximum.

(44) V. supra note 14.

(45) That the value would be diminished.

(46) Lit., ‘that she shall forgive’ or ‘surrender’.

(47) That her husband has contracted for a sum less than her due.

Talmud - Mas. Kethuboth 57a

and her kethubah[1] was lost. When they came before R. Joseph[2] he said to them, Thus said Rab Judah in the name of Samuel: This[3] is the opinion of R. Meir,[4] but the Sages ruled that a man may live with his wife without a kethubah for two or three years.[5] Said Abaye to him:[6] But did not R. Nahman state in the name of Samuel that the halachah is in agreement with R. Meir in his preventive measures?[7] — If so, [the other replied] go and write one[8] for her. When R. Dimi came[9] he stated in the name of R. Simeon b. Pazzi in the name of R. Joshua b. Levi who had it from Bar Kappara: The dispute[10] refers to the beginning,[11] but at the end[11] she cannot, according to the opinion of all, surrender[12] [any portion of her kethubah].[13] R. Johanan, however stated that their dispute extended to both cases.[14] Said R. Abbahu: [The following] was explained to me by R. Johanan: ‘I and R. Joshua b. Levi do not dispute with one another. The "beginning" of which R. Joshua b. Levi spoke means[15] the beginning of [the meeting in] the bridal chamber, and by the "end" was meant[15] the termination of the intercourse;[16] and when I stated that the dispute extended to both cases [I meant] the beginning [of the meeting in] the bridal chamber and the end of that meeting which is the beginning of the intercourse.’[17] When Rabin came[18] he stated in the name of R. Simeon b. Pazzi in the name of R. Joshua b. Levi who had it from Bar Kappara. The dispute refers only to the end, but at the beginning she may, so is the opinion of all, renounce[19] [any portion of her kethubah].[20] R. Johanan, however, stated that their dispute extended to both cases. Said R. Abbahu: This was explained to me by R. Johanan: ‘I and R. Joshua b. Levi do not dispute with one another. The "end" of which R. Joshua b. Levi spoke meant the end of [the meeting in] the bridal chamber, and by the "beginning" was meant the beginning of [the meeting in] the bridal chamber; and when I stated that the dispute extended to both cases [I meant] the beginning,[21] and the termination of the intercourse.’ Said R. Papa: Had not R. Abbahu stated, ‘This was explained to me by R. Johanan: "I and R. Joshua b. Levi do not dispute with one another"’ I would have submitted that R. Johanan and R. Joshua b. Levi were in dispute while R. Dimi and Rabin[22] were not in dispute. The ‘end’ of which Rabin spoke might mean[23] the end of [the meeting in] the bridal chamber, and the ‘beginning’ of which R. Dimi spoke might mean[23] the beginning of the intercourse.[21] What does he[24] teach us thereby?[25] — It is this that he teaches us: [It is preferable to assume][26] that two Amoraim differ in their own opinions[27] rather than that two Amoraim should differ as to what was the view of another Amora.[28] MISHNAH. A VIRGIN IS ALLOWED TWELVE MONTHS FROM THE [TIME HER INTENDED] HUSBAND CLAIMED HER,[29] [IN WHICH] TO PREPARE HER MARRIAGE OUTFIT.[30] AND, AS [SUCH A PERIOD] IS ALLOWED FOR THE WOMAN, SO IS IT ALLOWED FOR THE MAN FOR HIS OUTFIT.[31] FOR A Wldow[32] THIRTY DAYS [ARE ALLOWED]. IF THE RESPECTIVE PERIODS EXPIRED[33] AND THEY WERE NOT MARRIED[34] THEY[35] ARE ENTITLED TO MAINTENANCE OUT OF THE MAN'S ESTATE[36] AND [IF HE IS A PRIEST] MAY ALSO EAT TERUMAH. R. TARFON SAID: ALL [THE SUSTENANCE] FOR SUCH A WOMAN MAY BE GIVEN OF TERUMAH.[37] R. AKIBA SAID: ONE HALF OF UNCONSECRATED FOOD[38] AND ONE HALF OF TERUMAH.[39] A LEVIR[40] [WHO IS A PRIEST] DOES NOT CONFER [UPON HIS SISTER-IN-LAW][41] THE RIGHT OF EATING TERUMAH.[42] IF SHE[43] HAD SPENT SIX MONTHS[44] W[29] TH[45] HER HUSBAND AND SIX MONTHS W[29] TH[45] THE LEVlr,[46] OR EVEN [IF SHE SPENT] ALL OF THEM[47] WITH HER HUSBAND LESS ONE DAY WITH[45] THE LEVIR,[46] OR ALL OF THEM[47] WITH[45] THE LEVIR[46] LESS ONE DAY WITH HER HUSBAND,[48] SHE IS NOT PERMITTED TO EAT TERUMAH.[49] THIS[50] [WAS THE RULING ACCORDING TO] AN EARLIER[51] MISHNAH.[52] THE COURT, HOWEVER, THAT SUCCEEDED[53] RULED:

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(1) I.e., the written marriage contract. V. Glos.
(2) To obtain his ruling on the question whether she may continue to live with her husband without the kethubah.
(3) That living with a wife whose kethubah is less than the prescribed minimum, and much more so with one who has no kethubah at all, is regarded as mere prostitution, even though the woman remained legally entitled to collect the full amount of her kethubah.
(4) Who holds that since the woman is not absolutely certain that she will obtain the full amount of her kethubah (either in the case, supra, because she believes the man's stipulation to be valid or, in this case, because she has no document to prove her claim) it can only be regarded as an act of prostitution (v. supra p. 333, n. 8).
(5) I.e., for any length of time. V. Tosaf. s.v. שתים a.l.
(6) R. Joseph.
(7) The Rabbinical restrictions he added to those of the Torah.
(8) A new marriage contract.
(9) From Palestine to Babylon.
(10) Between R. Judah and R. Jose on the question whether a verbal renouncement of the woman is valid (supra 56b).
(11) This is explained infra.
(12) By a mere verbal statement.
(13) Since she has already acquired it. Only by means of a written quittance may her rights then be surrendered.
(14) I.e., to the ‘beginning’ and ‘end’.
(15) Lit., ‘what’.
(16) R. Judah and R. Jose dispute only in respect of the period between the beginning and the conclusion of the meeting in the bridal chamber but agree that after intercourse the man's stipulation is invalid unless the woman has surrendered her rights in writing. It was, therefore, quite correct for R. Joshua b. Levi to state that ‘at the end (i.e., of the intercourse), she cannot, according to the opinion of all, surrender (i.e., verbally) any part of her kethubah’.
(17) To which the dispute indeed refers (cf. supra p. 335, n. 14).
(18) From Palestine to Babylon.
(19) V. Supra p. 335, nn. 8-10.
(20) Since she has not yet legally acquired it.
(21) Which corresponds to the termination of the meeting in the bridal chamber.
(22) Whose reports appear contradictory.
(23) Lit., ‘what’.
(24) R. Papa.
(25) In view of R. Abbahu's definite statement R. Papa's remark seems pointless.
(26) Unless there is proof to the contrary.
(27) It is natural and legitimate for opinions to differ.
(28) In which case one of the two must be definitely wrong since the view of the Amora which both of them claim to represent could not possibly have agreed with what both of them submit. Had not R. Abbahu's statement been authoritative, coming as it did from R. Johanan himself, R. Papa's submission would have been preferred to his.
(29) After their betrothal.
(30) Jewels and similar ornaments (v. Rashi).
(31) The preparations for the wedding dinner and the bridal chamber (v. ibid.).
(32) Who is presumed to be in the possession of some trinkets and jewellery from her first marriage.
(33) Lit., ‘the time arrived’.
(34) Owing to the man's delay (v. supra 2b).
(35) The women.
(36) Lit., ‘they eat of his’.
(37) Out of the proceeds of which she may buy unconsecrated food for consumption during the days of her Levitical uncleanness.
(38) For consumption during her period of uncleanness.
(39) For her use in her clean state.
(40) יתם , the brother of a deceased childless husband, whose duty it is to marry the widow.
(41) Who became a widow while still betrothed.
(42) Prior to their marriage (v. supra n. 12).

(43) As a betrothed virgin.
(44) Of the period of twelve months that is granted to her.
(45) Lit., 'in the presence of'.
(46) I.e., in awaiting his marriage.
(47) The twelve months.
(48) [Isaiah Trani preserves a better reading, 'even if (she spent) all of them with the husband, less one day, or all of them with the levir].
(49) By virtue of her husband whose obligation to maintain her does not begin until the end of the twelve months, and even then terminates with his death.
(50) That after THE RESPECTIVE PERIODS EXPIRED . . . THEY ARE ENTITLED . . . EAT TERUMAH.
(51) Lit., 'first'.
(52) Cf. Sanh. Sonc. ed. p. 163, n. 7.
(53) The authors of the earlier Mishnah.

Talmud - Mas. Kethuboth 57b

A WOMAN[1] MAY NOT EAT TERUMAH UNTIL SHE HAS ENTERED THE BRIDAL CHAMBER.[2] GEMARA. Whence is this[3] derived? — R. Hisda replied: From Scripture which states, And her brother and her mother said: 'Let the damsel abide with us yamim,[4] at the least ten.[5] Now, what could be meant by yamim? If it be suggested 'two days',[6] do people, [it might be retorted,] speak in such a manner? [If when] they suggested to him[7] two days he said no, would they then suggest ten days? Yamim must consequently mean[8] a year, for it is written, yamim[9] shall he have the right of redemption.[10] But might it not be said [that yamim means] a month,[11] for it is written, But a month of yamim?[12] — I will tell you: [The meaning of] an undefined [expression of] yamim may well be inferred from another undefined expression of yamim, but no undefined expression of yamim may be inferred from one in connection with which month was specifically mentioned. R. Zera stated that a Tanna taught: In the case of a minor,[13] either she herself or her father is empowered to postpone[14] [her marriage].[15] One can well understand why she is empowered to postpone [the marriage], but [why also her] father? If she is satisfied, what matters it to her father? — He might think this: Now she does not realize [what marriage implies] but to-morrow[16] she will rebel [against her husband], leave him and come back to, and fall [a burden] upon me.[17] R. Abba b. Levi stated: No arrangements may be made for marrying a minor while she is still in her minority. Arrangements[18] may, however, be made while she is a minor for marrying her when she becomes of age. Is not this obvious? — It might have been suggested that [this should not be allowed] as a precaution against the possibility of her beginning to feel anxiety at once[19] and so becoming ill. Hence we were taught [that no such possibility need be considered]. R. Huna stated: If on the day she became adolescent[20] she was betrothed, she is allowed thirty days[21] like a widow.[22] An objection was raised: One who has attained adolescence is like one who has been claimed [by her intended husband in marriage]. Does not this imply, 'Like a Virgin who was claimed'?[23] — No, like a widow who was claimed. Come and hear: If a woman who is adolescent had waited for twelve months[24] her husband, said R. Eliezer, since he is liable for her maintenance, may also annul [her vows]![25] — Read: A woman who is adolescent[26] or one[27] who waited twelve months.[28] Come and hear: If a man betrothed a virgin, whether he[29] claimed her and she held back or whether she claimed him and he[29] held back, she is allowed twelve months[30] from the time of the claim but not from the time of the betrothal; and one who is adolescent is like one who has been claimed. How [is this to be understood]? If she was betrothed on the day she became adolescent,[31] she is allowed twelve months; while one betrothed [is sometimes allowed] thirty days.[32] Is not this a refutation against R. Huna? — It is a refutation. What [was meant by] 'while one betrothed [is sometimes allowed] thirty days'? — R. Papa replied, It is this that was meant: If an adolescent woman was betrothed after twelve months of her adolescence have elapsed, she is allowed[30] thirty days like a widow. IF THE RESPECTIVE PERIODS EXPIRED AND THEY WERE NOT MARRIED. 'Ulla stated: The daughter of an Israelite who is betrothed [to a priest] is, according to Pentateuchal law, permitted to eat terumah, for it is written In Scripture, But if a priest buy any soul, the purchase of his money,[33] and that [woman] also is the purchase of his money.[34] What then is the reason why [the Rabbis] ruled that she is not permitted to eat [terumah]? Because it might happen that when a cup [of terumah] will be offered[35] to her in the house of her father she might give her brother or sister[36] to drink [from it]. If so, [the same reason should apply] also where THE RESPECTIVE PERIODS EXPIRED AND THEY WERE NOT MARRIED! — In that case[37] he appoints for her a special place.[38] Now then, no [hired harvest] gleaner[39] [working] for an Israelite should be allowed to eat terumah, since it is possible that [the household of the Israelite] would come to eat with him! If[40] they feed him from their own [victuals], Would they eat of his?[41] R. Samuel son of Rab[42] Judah explained:[43] Owing to a bodily defect[44] [that might subsequently be detected].[45] lf so, [should not the same reason] also [be applicable to a woman who] had entered the bridal chamber, but intercourse with whom did not take place?[46] — In that case[47] he arranges for her to be first examined and only then takes her in.[48] Now then, the slave of a priest,[49] bought from an Israelite, should not be allowed to eat terumah on account of a bodily defect[44] [that might be discovered]![50] — [The law of cancellation of a sale owing to a subsequent detection of a] bodily defect[44] does not apply to slaves. For if the defect is external [the buyer] has presumably seen it;[51] and if it is internal, since [the buyer] requires [the slave] for work only he does not mind a private defect.[52] Were [the slave] to be found to have been a thief or

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(1) Who is not the daughter of a priest.

(2) Huppah, v. Glos.

(3) Lit., ‘whence these words’, that A VIRGIN IS ALLOWED TWELVE MONTHS.

(4) ימים , E.V., a few days.

(5) Gen. XXIV, 55, referring to the period the relatives of Rebekah wished her to remain with them after consenting to her marriage with Isaac.

(6) The minimum of the plural.

(7) Abraham's servant.

(8) Lit., ‘but what’.

(9) E.V., for a full year.

(10) Lev. XXV, 29. As here yamim means ‘a year’ so it does in Gen. XXIV, 55, while עשור means ‘ten months’.

(11) And עשור , ‘ten days’.

(12) Num. XI, 20. E.V. a full month.

(13) Who was claimed by the man who betrothed her.

(14) Lit ‘prevent’.

(15) Beyond the period given in our Mishnah; until she is of age. V. Tosef. Keth. V.

(16) After the marriage, when she finds her connubial duties distasteful.

(17) He would then have to provide for her a new marriage outfit (v. Rashi). It is the privilege of a minor to leave her husband at any moment by the mere making of a formal declaration that she does not like him (v. Glos. s.v. Mi'un).

(18) Without legal betrothal.

(19) Lit., ‘bring in fear from now’.

(20) A bogereth (v. Glos.). Lit., ‘she became adolescent one day’.

(21) In which to prepare her marriage outfit.

(22) Not the longer period of twelve months. It is assumed that on approaching adolescence a woman begins to prepare her marriage outfit, and the shorter period of one month is regarded as sufficient for completing it.

(23) Who (v. our Mishnah) is allowed a period of twelve months!

(24) From the time she was claimed by the man who betrothed her.

(25) Ned. 70b, 73b. There is no need for her father to consent to the annulment. (Cf. Num. XXX, 4ff). From here it follows that even one who is adolescent is not entitled to maintenance until after the expiry of twelve months, which is an objection against R. Huna.

(26) Who waited thirty days.

(27) A na'arah (v. Glos.).

(28) The difference between the two readings is represented in the original by the addition of a mere waw.

(29) Lit, ‘the (intended) husband’.

(30) For the preparation of her outfit.

(31) Lit., ‘she became of age one day’.

(32) V. infra for further explanation.

(33) Lev. XXII, 11. The conclusion of the verse is he may eat of it, i.e., of terumah.

(34) The money, or the object of value, which the man gives to the woman as her token of betrothal, and whereby she is acquired as his wife.

(35) Rt. מזג lit., ‘to mix’, sc. wine with water or spices.

(36) Who are Israelites to whom the eating or drinking of terumah is forbidden.

(37) Lit., ‘there’, where the priest is legally liable to maintain her.

(38) Away from her father's household; thus preventing her from giving away his victuals to her relatives.

(39) Who is a priest.

(40) Lit., ‘now’.

(41) Obviously not. Hence the permissibility for the gleaner to eat his terumah.

(42) Wanting in MS.M.

(43) The reason why the daughter of an Israelite who was betrothed to a priest is not permitted to eat terumah before the time her husband becomes liable to maintain her.

(44) סימפון ‘an implied condition the non-fulfilment of which annuls the agreement’, whence ‘a bodily defect . . . not stated in the contract’ (Jast.) Cf. **.

(45) In the woman. This might be discovered before the marriage and, as a result, the betrothal would be annulled retrospectively.

(46) In this case also, should a bodily defect be discovered before the consummation of the marriage the betrothal would be annulled retrospectively. Why then does our Mishnah permit the eating of terumah in such a case?

(47) Lit., there’.

(48) Into the bridal chamber. After entering into the chamber it may be safely assumed that he has satisfied himself that she was not suffering from any bodily defects.

(49) Who eats terumah by virtue of being the slave of a priest.

(50) And that would retrospectively annul the purchase. The slave would consequently retain the status of an Israelite's slave to whom the eating of terumah was all the time forbidden.

(51) And since he nevertheless consented to the purchase he must have been content to overlook it.

(52) The sale, therefore, cannot thereby be annulled.

Talmud - Mas. Kethuboth 58a

a gambler[1] the sale is still valid.[2] What else is there?[3] [Only that the slave might be found to have been] an armed robber or one proscribed by the government;[4] but such characters are generally known.[5] Consider! Whether according to the [explanation of the one] Master[6] or according to that of the other Master[7] she[8] is not permitted to eat [terumah], what then is the practical difference between them? — The difference between them [is the case where her intended husband] accepted [her defects,[9] or where her father] delivered [her to the intended husband's agents][10] or went[11] [with them].[10] R. TARFON SAID: ALL [THE SUSTENANCE] FOR SUCH A WOMAN MAY BE GIVEN OF TERUMAH etc. Abaye stated: The dispute[12] applies only to the daughter of a priest[13] who was betrothed to a priest but with respect to the daughter of an Israelite[14] who was betrothed to a priest all[15] agree [that she is supplied with] one half of unconsecrated food[16] and one half of terumah. Abaye further stated: Their dispute[12] relates to one who[17] was only betrothed,[18] but in respect of a married woman[19] all[15] agree [that she is supplied with] one half of unconsecrated food[20] and one half of terumah.[20] So it was also taught: R. Tarfon said, All [the sustenance] for such a woman is given of terumah. R. Akiba said, One half of consecrated food and one half of terumah — This[21] applies only to the daughter of a priest who was betrothed to a priest, but with respect to the daughter of an Israelite who was betrothed to a priest all[22] agree [that she is supplied with] one half of unconsecrated food and one half of terumah. This,[21] furthermore, applies only to one who[23] was only betrothed but in respect of a married woman[24] all[22] agree [that she is supplied with] one half of unconsecrated food[25] and one half of terumah.[25] R. Judah b. Bathyra said, She is supplied with two thirds[26] of terumah and one third of unconsecrated food. R. Judah said, All [her sustenance] is given to her in terumah[27] and she sells it and purchases unconsecrated food out of the proceeds.[28] R. Simeon b. Gamaliel said, Wherever terumah was mentioned[29] [the woman] is to be given [a supply equal to] twice the quantity of unconsecrated victuals.[30] What is the practical difference between them?[31] — The difference between them [is the question of the woman's] trouble.[32] A LEVIR [WHO IS A PRIEST] DOES NOT CONFER [UPON HIS SISTER-IN-LAW] THE RIGHT OF EATING TERUMAH. What is the reason? — The All-Merciful said, The purchase of his money[33] while she is the purchase of his brother.[34] IF SHE HAD SPENT SIX MONTHS WITH HER HUSBAND. Now that you stated [that even if she spent the full twelve months less one day] WITH THE HUSBAND [she is] not [permitted to eat terumah] is there any need [to mention also] WITH THE LEVIR?[35] — This is a case[36] [of anti-climax:] ‘This, and there is no need to say that’.[37] THIS [WAS THE RULING ACCORDING TO] AN EARLIER MISHNAH etc. What is the reason?[38] — ‘Ulla, or some say R. Samuel b. Judah, replied: Owing to a bodily defect [that might subsequently be detected].[39] According to ‘Ulla[40] one can well understand [the respective rulings of the earlier,[41] and the later rulings],[42] the former[41] being due to the possibility that a cup [of terumah] might be offered[43] to her in the house of her father,[44] and the latter to [the possibility of] the detection of a bodily defect.[45]

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(1) So Tosaf. s.v. קוביוסטוס , and cf. **, ‘gambler’; **; ‘a crafty person’ (contra Rashi's interpretation, ‘kidnapper’).

(2) Lit., ‘he reached him’. Slaves being known to possess such characters a buyer of a slave is presumed to have accepted the inevitable.

(3) That might be given as a reason for the cancellation of the sale.

(4) Sentenced to death.

(5) Lit., ‘they have a voice’, and the buyer must have known the circumstances before he bought him and must have consented to have him despite his unsavoury character.

(6) ‘Ulla.

(7) R. Samuel.

(8) The daughter of an Israelite who was betrothed to a priest.

(9) Once he consented to overlook them he cannot again advance them as a reason for the annulment of the betrothal. In such a case R. Samuel's explanation is not applicable while that of ‘Ulla is.

(10) Cf. supra 48b. As she does not any longer live with her father's family ‘Ulla's reason does not apply while that of R. Samuel does.

(11) Himself or his agents.

(12) That of R. Tarfon and R. Akiba.

(13) Who is familiar with the restrictions of terumah and would, therefore, abstain from eating it during the days of her Levitical uncleanness when consecrated food is forbidden to her.

(14) Who may be ignorant of the restrictions appertaining to terumah.

(15) Even R. Tarfon.

(16) For consumption during the days of her uncleanness.

(17) Being the daughter of a priest.

(18) Her father with whom she lives during the period of her betrothal might well be relied upon that, as a priest, he would duly supervise her observance of the laws of terumah and would, during her uncleanness, himself, or through her brothers, sell her terumah and purchase for her with the proceeds unconsecrated food.

(19) Who does not live with her husband (cf. infra 64b).

(20) Being alone she might not be able to arrange for the sale of her terumah during her uncleanness, and might consequently be apt to consume the consecrated food forbidden to her.

(21) The difference of opinion.

(22) V. p. 342, n. 10.

(23) Being the daughter of a priest.

(24) V. p. 342. n. 14.

(25) V. p. 342, n. 15.

(26) Lit., ‘portions’.
(27) But, unlike R. Tarfon who allows only as much terumah as if it were unconsecrated victuals, R. Judah allows a larger quantity of terumah (which is cheaper) so that its proceeds should suffice for the purchase of the required quantity of ordinary food.
(28) Lit., ‘money’.
(29) In the subject under discussion.
(30) Tosef. Keth. V. ab. init.
(31) R. Judah and R. Simeon b. Gamaliel.
(32) In the selling of her terumah. It is difficult to sell terumah (the buyers of which, being priests only, are naturally few) and it must be offered at a very low price. To save the woman trouble R. Gamaliel allows her terumah double the quantity of unconsecrated victuals so that by reducing the price of the former by a half she would easily dispose of it and be able to acquire with the proceeds her required ordinary victuals. R. Judah, however, makes no provision for saving her trouble, and allows her only a slight margin of terumah above that of ordinary food estimated at the current prices.
(33) Lev. XXII, 11, v. also supra p. 340, n. 5; only such may eat terumah.
(34) She does not become his own wife before he acquired her through the levirate marriage.
(35) I.e., OR ALL OF THEM WITH THE LEVIR LESS ONE DAY WITH HER HUSBAND etc. If when one day only of the twelve months was not spent with the husband she does not acquire the privilege of eating terumah, how much less would such a privilege be acquired when all the period less one day was not spent with the husband!
(36) Lit., ‘he taught’.
(37) Lit., ‘this, and he need not tell this’.
(38) Of the later Beth din.
(39) V. supra p. 341, nn. 3-4.
(40) Who (supra 75b) gave as the reason for the ruling of the earlier Mishnah that the woman might allow her relatives to drink of her cup of terumah.
(41) Forbidding terumah during the first twelve months also permitting it after the expiration of that period.
(42) Which extends the prohibition until the entry into the bridal chamber.
(43) V. supra p. 340, n. 6.
(44) And she might allow her relatives to drink from it (v. supra note 6). As this would not happen after the twelve months when the intended husband, becoming liable for her maintenance and desirous of preventing her from giving away his victuals to her relatives in her father's house, provides for her an abode of her own, the woman was permitted to eat terumah.
(45) V. supra p. 341, n. 3. Hence the extension of the prohibition until the entry into the bridal chamber.

Talmud - Mas. Kethuboth 58b

According to R. Samuel b. Judah, however, the earlier [ruling of the] Mishnah is due to [the possible detection of] a bodily defect and the later is also due to [the possible detection of] a bodily defect, what then is [the reason for] their difference? — [The principle underlying] the difference is the [efficacy of an] examination by outsiders. One Master[1] is of the opinion that an examination by others[2] is regarded as effective,[3] while the other Master[4] holds the opinion that an examination by others is not regarded as effective.[5] MISHNAH. IF A MAN CONSECRATED HIS WIFE'S HANDIWORK,[6] SHE MAY NEVERTHELESS CONTINUE TO WORK AND TO CONSUME [THE PROCEEDS HERSELF].[7] [IF, HOWEVER, HE CONSECRATED] THE SURPLUS[8] [ONLY]. R. MEIR RULED: IT IS DULY CONSECRATED.[9] R. JOHANAN HA-SANDELAR RULED: IT REMAINS UNCONSECRATED.[9] GEMARA. R. Huna stated in the name of Rab:[10] A woman is entitled to say to her husband, ‘I do not wish either to be maintained by you or to work for you’. He holds the opinion that when the Rabbis regulated [the relations of husband and wife] her maintenance was fundamental[11] while [the assignment of the proceeds of] her handiwork [to her husband] was due [only to their desire for preventing] ill-feeling.[12] If, therefore, she said, ‘I do not wish either to be maintained by you or to work for you’, she is entitled to do so.[13] An objection was raised: Maintenance [for a wife] was provided in return for her handiwork![14] — Read: Her handiwork was assigned [to her husband] in return for her maintenance. May it be suggested that [our Mishnah] provides support for his[15] view? [It stated,] IF A MAN CONSECRATED HIS WIFE'S HANDIWORK SHE MAY NEVERTHELESS CONTINUE TO WORK AND TO CONSUME [THE PROCEEDS HERSELF]. Does not [this refer to a wife for whom her husband is able[16] to] provide maintenance?[17] — No; [it is a case where the husband is unable to] provide her maintenance. If, however, [her husband is unable to] provide her maintenance, what need was there to state [such an obvious case]?[18] Even according to him who holds that a master has the right to say to his slave, ‘Work for me but I will not maintain you,’[19] such a rule applies only to a Canaanite slave concerning whom Scripture has not written ‘with thee’, but not to a Hebrew slave concerning whom it is written in Scripture. With thee,[20] how much less then [would this apply to] his wife?[21] — It[22] was necessary [as an introduction to] the final clause: [IF, HOWEVER, HE CONSECRATED] THE SURPLUS [ONLY]. R. MEIR RULED: IT IS DULY CONSECRATED.[23] R. JOHANAN HA-SANDELAR RULED: IT REMAINS UNCONSECRATED. Now [R. Huna's ruling] is in disagreement with that of Resh Lakish. For Resh Lakish stated: You must not assume that R. Meir's reason[24] is because he is of the opinion that a man may consecrate that which has not yet come into existence[25] but this is R. Meir's reason: Since [a husband] has the right to compel her to work, his consecration is regarded as if he had said to her, ‘May your hands[26] be consecrated to Him who created them’. But, surely, he[27] did not use such an expression![28] — Since R. Meir was heard to state that a man does not utter his words to no purpose,[29] [the expression the husband used here][30] may be regarded as if he had actually said to her, ‘May your hands be consecrated to Him who created them’. But is R. Meir of the opinion that a man cannot consecrate anything that is not yet in existence? Surely it was taught: If a man said to a woman, ‘Be thou betrothed unto me after I shall have become a proselyte’ or ‘After thou shalt have become a proselyte’. ‘After I shall have been set free’, ‘After thou shalt have been set free’, ‘After thy husband will have died’, ‘After thy sister will have died’, or ‘After thy brother-in-law shall have submitted to halizah[31] from thee’, she, R. Meir ruled, is legally betrothed![32] — From that [Baraitha] the inference[33] may indeed be drawn;[34] from this, [our Mishnah], however, it cannot be inferred.[35] [IF, HOWEVER, HE CONSECRATED] THE SURPLUS [ONLY]. R. MEIR RULED: IT IS DULY CONSECRATED. When does it become consecrated? — Both Rab and Samuel stated: The surplus becomes consecrated only after [the wife's] death.[36] R. Adda b. Ahabah stated: The surplus is consecrated while she is still alive.[37] [In considering this statement] R. Papa argued: In what circumstances?[38] If it be suggested: Where [the husband] allows her maintenance[39] and also allows her[40] a silver ma'ah[41] for her other requirements,[42] what [it may be retorted] is the reason of those who stated that it ‘becomes consecrated only after [the wife's] death’?[43] If, however, it is a case where [the husband] does not allow her maintenance and does not allow her a silver ma'ah for her other requirements, what [it may be objected] is the reason of him who stated that ‘it is consecrated while she is still alive’? — This is a case indeed[44] where he does allow her maintenance; but does not allow her a silver ma'ah for her other requirements. Rab and Samuel are of the opinion that [the Rabbis] have ordained

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(1) The author of the earlier Mishnah.

(2) Lit., ‘outside’. Which the man would naturally arrange at the expiry of the twelve months when he becomes liable for her maintenance.

(3) I.e., after such an examination a man can no longer refuse to marry the woman on the ground of the subsequent detection in her of some bodily defect. Hence his ruling (v. supra p. 344. n. 7).

(4) I.e., the authorities of the latter ruling.

(5) And the man may cancel the engagement. Hence the prohibition to eat terumah until the entry into the bridal chamber when the man himself has the opportunity of ascertaining the condition of her body.

(6) Which partly belongs to him (v. infra 64b).

(7) The reason is given infra.

(8) Of the proceeds in excess of the sum required for her maintenance.

(9) The reason is given infra.

(10) The Hebrew equivalent of the last five words is wanting in the corresponding passage in B.K. 8b.

(11) Since a woman cannot always earn sufficient for her maintenance.

(12) Between husband and wife.
(13) As the Rabbinical enactment aimed at the benefit of the woman only, she may well decline that favour if she is so minded.
(14) Which belongs to her husband (supra 47b). This implies that the assignment of a wife's handiwork to her husband was the original provision.
(15) R. Huna's.
(16) And, indeed, also desires to do so. Cf. Rashi and Tosaf. s.v. מאי .
(17) And since he is nevertheless precluded from consecrating her handiwork it follows, as R. Huna ruled, that a wife is entitled to refuse maintenance and to retain her right over her work.
(18) That he has no right to consecrate her handiwork which does not belong to him!
(19) B.K. 87b, supra 43a, Git. 12a.
(20) Deut. XV, 16.
(21) What need then was there to state the obvious?
(22) The first clause which is indeed self-evident.
(23) Though he does not maintain her.
(24) For giving a husband the right of consecrating his wife's handiwork.
(25) Such as the woman's work before she has performed it.
(26) Which, of course, were in existence at the time of the consecration. Thus it has been shown that according to Resh Lakish it is the opinion of R. Meir that a husband has the right to compel his wife to work.
(27) The husband.
(28) He did not say ‘Your hands’, but ‘Your handiwork’.
(29) V. ‘Ar. 5a.
(30) Since it would serve no purpose at all in the form he used it.
(31) V. Glos
(32) When the respective conditions are fulfilled, though at the time of the betrothal they were still unfulfilled (Yeb. 92b, 93b, B.M. 16b). This then shows that a man can legally dispose even of that which is not yet in existence.
(33) V. n. 7 final clause.
(34) Lit., ‘yes’.
(35) Since the reason may well be the one given supra by Resh Lakish.
(36) When her husband inherits her estate.
(37) As soon as it is produced.
(38) Could the two opposing views be justified.
(39) Whereby he acquires the right to her earnings.
(40) Every week.
(41) V. Glos.
(42) Whereby he acquires the right to the surplus of her earnings in excess of the sum required for her maintenance, cf. infra 64b.
(43) Since the husband is entitled to both her earnings and the surplus the consecration should take effect even while she is alive.
(44) Lit., ‘for ever’; ‘always’.

Talmud - Mas. Kethuboth 59a

maintenance [for a wife] in return for her handiwork,[1] and a silver ma'ah[2] in return for the surplus;[3] and since the husband does not give her the silver ma'ah, the surplus remains hers.[4] R. Adda b. Ahabah, however, is of the opinion that maintenance was ordained in return for the surplus,[3] and the silver ma'ah in return for her handiwork; and since [the husband] supplies her maintenance, the surplus is his. On what principle do they[5] differ? — The Masters hold that the usual[6] is for the usual,[7] and the Master holds that the fixed [sum][8] is for the fixed [quantity].[9] An objection was raised: Maintenance [for a wife] was provided in return for her handiwork![10] — Read: In return for the surplus of her handiwork. Come and hear: If he does not give her a silver ma'ah for her other requirements, her handiwork belongs to her![11] — Read: The surplus of her handiwork belongs to her. But, surely, in connection with this statement it was taught: What [is the quantity of work that] she[12] must do for him?[13] The weight of five sela's[14] of warp in Judaea [etc.]![15] — It is this that was meant: What is the quantity of work [that she must do] in order that we might determine how much is her surplus? The weight of five sela's of warp in Judaea which is ten sela's[16] in Galilee. Samuel stated: The halachah is in agreement with R. Johanan ha-Sandelar.[17] But could Samuel have made such a statement? Have we not learned: [If a woman said to her husband]. 'Konam,[18] if I do aught for your mouth',[19] he[20] need not annul her vow.[21] R. Akiba, however, said: He[20] must annul it, since she might do more work than is due to him.[22] R. Johanan b. Nuri said: He[20] must annul her vow[23] since he might happen to divorce her[24] and she would [owing to her vow] be forbidden to return[25] to him.[26] And Samuel stated: The halachah is in agreement with R. Johanan b. Nuri?[27] — When Samuel stated, 'The halachah is in agreement with R. Johanan b. Nuri' [he referred only] to the surplus.[28] Then let him[29] specifically state, 'The halachah is in agreement with R. Johanan b. Nuri in respect of the surplus', or else 'The halachah is not in agreement with the first Tanna',[30] or else, 'The halachah is in agreement with R. Akiba![31] — But, replied R. Joseph, you speak of konamoth?[32] Konamoth are different. For, as a man may[33] forbid to himself the fruit of his fellow[34] so may he also consecrate[35] that which is not yet in existence.[36] Said Abaye to him:[37] It is quite logical that a man should be entitled to forbid the use of the fruit of his fellows to himself,[38] since he may also forbid his own fruit[39] to his fellow;[40] should he, however, have the right to forbid something that is not yet in existence,[41] seeing that no man has the right[42] to forbid the fruit of his fellow to his fellow?[43] — But, replied R. Huna son of R. Joshua, [that[44] is a case] where the woman said, 'My hands shall be consecrated to Him who created them', [such consecration being valid] since her hands are in existence.[45] But even if she had said so, could she consecrate them? Are they not mortgaged to him?[46] — [This is a case] where she said,[47] 'When I shall have been divorced'.[48] But is there a consecration that could not take effect now[49] and would nevertheless become effective later?[50] — And why not? retorted R. Elai. Were a man to say to his friend, 'This field that I am selling you shall be consecrated as soon as I shall have re-purchased it from you', would it not[51] become consecrated?[52] R. Jeremiah demurred: What a comparison? There[53] [the seller] has the right to consecrate [his field];[54] here,[55] however, [the woman] has no power to divorce herself![56] This[55] is rather similar[57] to the case of a man who said to another, 'This field which I have sold to you shall become consecrated after I shall have re-purchased it from you', where it does not become consecrated.[58] R. Papa demurred: Are the two cases at all similar? There[59] both the field itself and its produce are in the possession of the buyer, but here[60] the wife's person is in her own possession. This[60] is rather similar[61] to the case of a man who said to another,

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(1) Which belongs to the husband.

(2) Every week.

(3) V. supra p. 347. n. 14.

(4) And cannot consequently be consecrated by him until after her death when he inherits it.

(5) Rab and Samuel on the one hand and R. Adda b. Ahabah on the other.

(6) Maintenance.

(7) The proceeds of the woman's handiwork. A surplus, however, in excess of the sum required for her maintenance, is unusual.

(8) The silver ma'ah.

(9) A wife's handiwork the quantity of which is prescribed (v. infra 64b).

(10) Supra 47b, 58b. An objection against R. Adda b. Ahabah.

(11) Infra 64b; which proves that the ma'ah is in return for her handiwork not for the surplus. An objection against Rab and Samuel,

(12) A wife.

(13) Her husband.

(14) V, Glos. s.v. Sela'.

(15) Infra 64b. This 'handiwork', not the surplus. How then could the insertion of 'surplus' be justified?

(16) The Galilean sela' being equal to half that of Judaea.

(17) In our Mishnah.

(18) קונם , (konam) one of the expressions of a vow. V. Glos.

(19) I.e., that her husband shall be forbidden to eat anything prepared by her or purchased from the proceeds of her work.

(20) The husband who is empowered to annul his wife's vows. V. Num. XXX, 7f.

(21) As a wife's work belongs to her husband she has no right to dispose of it by vow or in any other way. Her vow is, therefore, null and void and requires no invalidation.

(22) More than the quantity to which he is entitled (v. infra 64b). Any work in excess of that quantity remains at the disposal of the wife who is entitled to forbid it to her husband by a vow. Hence the necessity for annulment.

(23) Not only on account of the surplus as stated by R. Akiba.

(24) When he loses all claim to her work, and her vow becomes effective.

(25) He would not be able to remarry her because her vow would prevent her from performing for him any of the services which a wife must do for her husband. [R. Johanan b. Nuri is of the opinion that the surplus belongs to the husband and the woman has thus no right to forbid it to him by vow.]

(26) V. Ned. 85a and infra 66a and 70a.

(27) According to whom the woman's vow becomes valid after her divorce though at the time the vow was made the work she will do afterwards has not yet come into existence. From this it follows that a person may similarly consecrate anything that is not yet in existence. How, then, could Samuel who adopts this view as the halachah also state that the halachah is in agreement with R. Johanan ha-Sandelar according to whom a thing which is not yet in existence cannot be consecrated? [For this can be the only reason for R. Johanan ha-Sandelar's view in the Mishnah according to Samuel who explained the reference in the Mishnah to be to the surplus after the wife's death (v. supra p. 347) which R. Johanan ha-Sandelar will regard as unconsecrated because, at the time when the husband consecrated his wife's handiwork, it was not yet in existence (Rashi).

(28) And not to all her work which has not yet come into existence. This answer could be easily refuted, since the same objection that has been raised against the ‘handiwork’ may equally be raised against the ‘surplus’ which also was not in existence when the vow was made. This had been waived, however, in view of the more general objection that follows (Rashi). [Tosaf: Samuel's statement that the halachah is like R. Johanan b. Nuri is limited to his view that the surplus belongs to the husband v. supra p. 349. n. 14].

(29) Samuel.

(30) From which it would be inferred that annulment of the vow is necessary only on account of the surplus.

(31) Who specifically mentioned the surplus. Since none of these expressions was used it is obvious that Samuel could not have referred to the surplus only.

(32) Plural of konam, a general term for vows which are usually introduced by konam.

(33) In making a vow.

(34) Though he could not consecrate such fruit to the Sanctuary.

(35) I.e prohibit to himself by a vow.

(36) I.e., seeing that he can, by means of a vow, prohibit to himself a thing which is not in his possession, he can also prohibit a thing which is not yet in existence. Hence the validity of the vow. In our Mishnah, however, where the subject is ordinary consecration to the sanctuary, halachah is indeed in agreement with R. Johanan ha-Sandelar that the consecration is invalid.

(37) R. Joseph. ‘To him’ is wanting in MS.M.

(38) By a vow.

(39) To any particular person, by means of a vow, or to everybody by a general consecration to the Sanctuary.

(40) He may forbid his fellow's fruit to himself as the master of his own body; and he may forbid his fruit to his fellow as the owner of his fruit.

(41) The woman's work. Neither her work (which has not yet been done) nor her right to it (which she will regain only after divorce) is yet in existence.

(42) Even by a vow.

(43) Certainly not. As a person has no right to do the latter, he being neither master of his fellow's body nor owner of his fruit, so he should not be entitled to do the former (v. supra note 1.)

(44) R. Johanan b. Nuri's ruling which Samuel adopted as the halachah.

(45) Whereas our Mishnah deals with the case where she consecrated her handiwork, and this is not yet in existence.

(46) Her husband. How then could she consecrate that which is not hers?
(47) The consecration shall take effect.
(48) At that time she is again independent of her husband.
(49) As in the case under discussion where the woman while living with her husband is ineligible to dispose of her work.
(50) Obviously not. How then could the halachah be in agreement with R. Johanan b. Nuri?
(51) When it is re-purchased.
(52) It certainly would. Similarly in the case of a woman's work after she is divorced.
(53) The case of the field one is about to sell.
(54) Since at the time of the consecration it is still to his possession. Hence also the effectiveness of his present consecration after he had re-purchased that field.
(55) In the case of the consecration of a wife's work while she is still with her husband.
(56) How then could she have the power to consecrate her work even for the future?
(57) Lit., 'this is not equal but',
(58) Because at the time of the consecration it was no longer in his possession.
(59) The case of the sold field,
(60) V. supra p. 351, n. 15.
(61) V. p. 351, n. 17.

Talmud - Mas. Kethuboth 59b

'This field which I have mortgaged to you shall be consecrated after I have redeemed it,' where it is consecrated. R. Shisha son of R. Idi demurred: Are these cases similar? There it[1] is in his[2] power to redeem it; but here she has no power to divorce herself. This is rather similar to the case of a man who said to his fellow, 'This field which I have mortgaged to you for ten years[3] shall be consecrated when I shall have redeemed it', where it becomes consecrated. R. Ashi demurred: Are these cases similar? There[4] he[2] has the power to redeem it at least after ten years, but here she has never the power to divorce herself![5] — But, replied R. Ashi, you speak of konamoth! Konamoth are different [from ordinary vows] since they effect the consecration of the body[6] itself;[7] and [the reason here[8] is the same] as that of Raba, for Raba stated: Consecration,[9] leavened food[10] and manumission[11] cancel a mortgage.[12] They[13] should then[14] become consecrated forthwith![15] — The Rabbis have imparted force to a husband's rights[16] [over his wife] so that they[13] shall not become consecrated forthwith.[17] MISHNAH. THE FOLLOWING ARE THE KINDS OF WORK WHICH A WOMAN MUST PERFORM FOR HER HUSBAND: GRINDING CORN, BAKING BREAD, WASHING CLOTHES, COOKING, SUCKLING HER CHILD, MAKING READY HIS BED AND WORKING IN WOOL. IF SHE BROUGHT HIM ONE BONDWOMAN[18] SHE NEED NOT DO ANY GRINDING OR BAKING OR WASHING. [IF SHE BROUGHT] TWO BONDWOMEN,[19] SHE NEED NOT EVEN COOK OR SUCKLE HER CHILD. IF THREE, SHE NEED NEITHER MAKE READY HIS BED NOR WORK IN WOOL. IF FOUR, SHE MAY LOUNGE[20] IN AN EASY CHAIR.[21] R. ELIEZER SAID: EVEN IF SHE BROUGHT HIM[22] A HUNDRED BONDWOMEN HE MAY[23] COMPEL HER TO WORK IN WOOL; FOR IDLENESS LEADS TO UNCHASTITY. R. SIMEON B. GAMALIEL SAID: EVEN[24] IF A MAN FORBADE HIS WIFE UNDER A VOW TO DO ANY WORK HE MUST DIVORCE HER AND GIVE HER KETHUBAH[25] TO HER FOR IDLENESS LEADS TO IDIOCY.[26] GEMARA. GRINDING CORN! How could you imagine this?[27] — Read: Attending to[28] the grinding.[29] And if you prefer I might say: With a hand mill. Our Mishnah[30] does not agree with the view of R. Hiyya. For R. Hiyya taught: A wife [should be taken] mainly for the sake[31] of her beauty; mainly for the sake[32] of children.[33] And R. Hiyya further taught: A wife is mainly for the wearing[32] of a woman's finery. And R. Hiyya further taught: He who wishes his wife to look graceful[34] should clothe her in linen garments. He who wishes his daughter to have a bright complexion,[35] let him, on the approach of her maturity, feed her with young fowls and give her milk to drink. SUCKLING HER CHILD. Must it be assumed that our Mishnah[36] does not agree with the View of Beth Shammai? For was it not taught: If a woman vowed not to sickle her child she must, said Beth Shammai, pull the breast out of its mouth,[37] and Beth Hillel said: [Her husband] may compel her to suckle it.[38] If she was divorced he cannot compel her; but if [the child] knows her[39] [her husband] pays her the fee and may compel her to suckle it in order [to avert] danger?[40] — It may be said to be in agreement even with the view of Beth Shammai, but here[41] we are dealing with such a case, for instance, where the woman made a vow and her husband confirmed it; Beth Shammai being of the opinion that he has thereby put his finger between her teeth,[42] while Beth Hillel hold that it is she that has put her finger between her teeth.[43] Then[44] let them[45] express their disagreement as regards a kethubah generally.[46] Furthermore, it was taught:[47] Beth Shammai said: She need not suckle [her child]![48] — But, clearly, our Mishnah is not in agreement with the view of Beth Shammai. 'If [the child] knows her'.

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(1) The mortgaged field.

(2) The man who consecrated the field.

(3) During which period he has no power to redeem it, as a wife has no power to divorce herself.

(4) The ten years' mortgage.

(5) The two cases, therefore, cannot be compared.

(6) Of the animal or object consecrated.

(7) In relation to the man concerned; and unlike other consecrations to the Temple Treasury, can never be redeemed.

(8) For the validity of the consecration of the wife's work.

(9) Of a pledged animal for the altar.

(10) Which is pledged to a non-Israelite but kept in the possession of an Israelite when the time for its destruction on the Passover Eve arrives. No leaven or leavened food though pledged to a non-Jew may be kept in Jewish possession from the mid-day of Passover Eve until the conclusion of the Passover festival,

(11) Of a mortgaged slave,

(12) Similarly here, the consecration cancels the husband's claim upon the body or work of his wife. Hence the validity of her consecration.

(13) The wife's hands.

(14) V. supra n. 15.

(15) Why then has it been stated that the consecration becomes effective only after her divorce.

(16) שעבודא דבעל lit., 'the subjection or pledging to the husband'.

(17) His rights, as long as she lives with him, are not merely those of a creditor to whom an object has been mortgaged or pledged but the fuller rights of a buyer. For further notes on the whole of this passage, v. Ned. Sonc. ed. pp. 265ff.

(18) Or a sum that would purchase one.

(19) Or their value. V. supra n. 1.

(20) Lit., 'sit'.

(21) I.e., she need not perform even minor services for him. She is under no obligation to leave her chair to bring him any object even from the same house (cf. Rashi). קתדרא , cf. **, 'an easy chair', 'soft seat'.

(22) Her husband.

(23) Or, according to another interpretation, 'should'.

(24) I.e., precautions must be taken against idleness not only in the case mentioned by R. Eliezer but also in the following where the husband himself forbade the work.

(25) Thus enabling her to engage in work again.

(26) שיעמום , 'stupefaction', 'dullness'.

(27) A woman, surely, could not be expected to turn the sails or the wheels of a mill.

(28) Lit., 'causing'.

(29) She performs the accompanying services only.

(30) Which imposes duties of work upon a wife.

(31) Lit., 'a woman is not but'.

(32) V. p. 353, n. 14.

(33) Not as a bondwoman for her husband. R. Hiyya agrees, however, that a wife is expected to work in wool in return for the maintenance her husband allow's her. His only objection is to menial work such as the grinding of corn which has an injurious effect upon her womanly grace. V. Tosaf. s.v. תני .

(34) Lit., 'to nurse', 'to make pliant', 'to make graceful'.

(35) Lit., 'that he may make white'.
(36) Which imposes upon a wife the duty of suckling her children.
(37) I.e., her vow is valid, because she is under no obligation to suckle her child.
(38) According to their view it is a mother's duty to suckle her child and her vow is, therefore, null and void.
(39) And refuses to be nursed by any other woman (Rashi). [Isaiah Trani: Even if it does not refuse to be suckled by another woman, its separation from its mother, whom it has learnt to recognize, may prove injurious to the infant].
(40) Tosef. Keth. V. Since Beth Shammai maintain here that a wife is under no obligation to suckle her children (cf. supra n. 6) out Mishnah (cf. supra n. 5) obviously cannot be in agreement with their view.
(41) In the cited Baraitha.
(42) I.e., it is the husband's fault that the vow remained valid. He could easily have annulled it had he wished to do so. (V. Num. XXX, 7ff).
(43) She should not have vowed (cf. supra note 7).
(44) If, as now suggested, the husband has confirmed the vow the woman had made.
(45) Beth Shammai and Beth Hillel.
(46) Where a woman vowed that her husband was to have no benefits from her. According to Beth Shammai she would be entitled to her kethubah because it is the man's fault that her vow remained valid (cf. supra p. 354, n. 11), while according to Beth Hillel she would receive no kethubah because the making of the vow was her fault (cf. p. 354. n. 12).
(47) In respect of any woman, even one who made no vow.
(48) How then could it be suggested that our Mishnah is in agreement with the view of Beth Shammai?

Talmud - Mas. Kethuboth 60a

At what age?[1] — Raba in the name of R. Jeremiah b. Abba who had it from Rab replied: Three months. Samuel, however, said: Thirty days; while R. Isaac stated in the name of R. Johanan: Fifty days. R. Shimi b. Abaye stated: The halachah is in agreement with the statement of R. Isaac which was made in the name of R. Johanan. One can well understand [the respective views of] Rab and R. Johanan since they are guided by the child's keenness of perception.[2] According to Samuel, however, is such [precocity][3] at all possible? — When Rami b. Ezekiel came[4] he said, 'Pay no regard to those rules which my brother Judah laid down in the name of Samuel; for this said Samuel: As soon as [the child][5] knows her'.[6] A [divorced woman] once came to Samuel [declaring her refusal to suckle her son]. 'Go', he said to R. Dimi b. Joseph, 'and test her case'.[7] He went and placed her among a row of women and, taking hold of her child, carried him in front of them. When he came up to her [the child][8] looked at her face with joy,[9] but she turned her eye away from him. 'Lift up your eyes'. he called to her, 'come, take away your son'. How does a blind child know [its mother]? R. Ashi said: By the smell and the taste.[10] Our Rabbis taught: A child must be breast fed for[11] twenty-four months. From that age onwards[12] he is to be regarded as one who sucks an abominable thing; these are the words of R. Eliezer. R. Joshua said: [He may be breast fed] even for four or five years. If, however, he ceased[13] after the twenty-four months and started again[14] he is to be regarded as sucking an abominable thing.[15] The Master said, 'From that age onwards he is to be regarded as one who sucks an abominable thing'. But I could point out a contradiction: As it might have been presumed that human[16] milk is forbidden[17] since such [prohibition may be deduced from the following] logical argument: If in the case of a beast[18] in respect of which the law of contact[19] has been relaxed[20] [the use of] its milk has nevertheless been restricted,[21] how much more should the use of his milk be restricted in the case of a human being in respect of whom the law of contact has been restricted;[22] hence it was specifically stated, The camel because it[23] cheweth the cud [. . . it is unclean unto you],[24] only 'it' is unclean; human milk, however, is not unclean but clean. As it might also have been presumed that only [human] milk is excluded[25] because [the use of milk] is not equally [forbidden] in all cases[26] but that [human] blood is not excluded[27] since [the prohibition of eating blood] is equally applicable in all cases,[28] hence it was specifically stated, it,[29] only 'it' is forbidden; human blood, however, is not forbidden but permitted.[30] And [in connection with this teaching] R. Shesheth has stated: Even [a Rabbinical] ordinance of abstinence is not applicable to it![31] — This is no difficulty. The latter[32] [refers to milk] that has left [the breast][33] whereas the former[34] [refers to milk] which has not left [the breast]. [This law, however], is reversed in the case of blood,[35] as it was taught: [Human] blood which [is found] upon a loaf of bread must be scraped off and [the bread] may only then be eaten; but that which is between the teeth[36] may be sucked without any scruple.[37] The Master stated, ‘R. Joshua said: [He may be breast fed] even for four or five years’. But was it not taught that R. Joshua said: Even when [he carries] his bundle on his shoulders?[38] — Both represent the same age.[39] R. Joseph stated: The halachah is in agreement with R. Joshua. It was taught: R. Marinus said, A man suffering from an attack on the chest[40] may suck milk[41] [from a beast] on the Sabbath.[42] What is the reason? — Sucking is an act of unusual[43] unloading[44] against which, where pain[45] is involved, no preventive measure has been enacted by the Rabbis. R. Joseph stated: The halachah is in agreement with R. Marinus. It was taught: Nahum the Galatian[46] stated, If rubbish[47] was collected[48] in a gutter[49] it is permissible to crush it with one's foot quietly[50] on the Sabbath, and one need have no scruples about the matter. What is the reason? — Such repair is carried out in an unusual manner[51] against which, when loss is involved,[52] the Rabbis enacted no preventive measure. R. Joseph stated: The halachah is in agreement with the ruling of Nahum the Galatian. ‘If he ceased, however, after the twenty-four months and started again he is to be regarded as one who sucks an abominable thing’. And for how long?[53] — R. Judah b. Habiba replied in the name of Samuel: For three days. Others read: R. Judah b. Habiba recited[54] before Samuel: ‘For three days’. Our Rabbis taught: A nursing mother whose husband died within twenty-four months [of the birth of their child] shall neither be betrothed nor married again

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(1) Lit., ‘until how much?’ i.e., at what age is a child assumed to know its mother, and to refuse in consequence to be suckled by another woman?

(2) Lit., ‘every one according to his sharpness’; the former fixing it at the age of three months and the latter at that of fifty days.

(3) That a child should know its mother at the age of thirty days.

(4) From Palestine to Babylon, v. infra 111b.

(5) Whatever its age.

(6) May a mother be compelled to suckle it, even after she has been divorced. She is only entitled to a fee from the child's father.

(7) To ascertain whether the child knew its mother.

(8) Cur. edd. הות , (fem.). Read with Bomb. ed. הוה (masc.).

(9) Af. of סוי , ‘to look up with joy’ (Jast.). ‘to gaze longingly’.

(10) Of the milk.

(11) Lit., ‘a baby sucks and continues until’.

(12) If he is still breast fed.

(13) Lit., ‘he separated’.

(14) Lit., ‘and returned’.

(15) Cf. Tosef. Nid. II.

(16) Lit., ‘those who walk on two (legs)’.

(17) V. Rashi; lit., ‘unclean’.

(18) Of the unclean classes enumerated in Lev. XI, 4ff and Deut, XIV, 7ff.

(19) By a human being.

(20) Contact with a live animal, even of the unclean classes (v. supra n. 10), does not cause uncleanness.

(21) It is forbidden for human consumption (v. Bek, 6b).

(22) Contact with a menstruant, for instance, causes uncleanness.

(23) Emphasis on ‘it’ (הוא) (v. infra n. 20).

(24) Lev. XI, 4.

(25) Lit., ‘I take out’, sc. from the prohibition of consuming it.

(26) The milk of a clean beast being permitted.

(27) From the restriction of consuming it.

(28) Even the blood of a clean beast is forbidden.

(29) The second ‘it’ (הוא) in Lev. IV, 11. Cf. supra n. 14. According to another interpretation the exclusion of blood is derived from the expression זה (E.V. these) at the beginning of the verse (Rashi).

(30) Cf. Ker. 22a and . infra n. 6.

(31) I.e., human milk is not only Pentateuchally, but also Rabbinically permitted. How then is this ruling to be harmonized with the previous Baraitha cited from Niddah which regards human milk as an ‘abominable thing’?

(32) Lit., ‘that’, the last mentioned Baraitha which permits the consumption of human milk.

(33) And is collected in a utensil.

(34) Which, regarding the milk as an ‘abominable thing’, forbids it to one older than twenty-four months.

(35) As long as it remains within the body it is permitted; but as soon as it leaves it is forbidden as a preventive measure against the eating of animal blood.

(36) I.e., which has not been separated from the body.

(37) Ker. 21b.

(38) I.e., even at an age when the child is capable of carrying small loads he may still be breast fed. How then is this to be reconciled with the Baraitha cited from Niddah (V. supra note 5)?

(39) Lit., ‘one size’ or ‘limit’.

(40) גונח (rt. גנח ‘to groan’), one sighing painfully under an attack angina pectoris. V. Jast.

(41) Goat's milk which has a curative effect (v. Rashi).

(42) Though the release of the milk from the animal's breast resembles the plucking of a plant from its root, or the unloading of a burden, which is forbidden on the Sabbath,

(43) כלאחר יד , lit., ‘as if by the back of the hand’.

(44) מפרק (rt. פרק Piel, ‘break down’, ‘detach’). Milking an animal with one's hands is regarded as direct unloading (or detaching) which on the Sabbath is Pentateuchally forbidden (cf. Shab. 95a); releasing the milk by sucking is an unusual or indirect unloading or detaching which is only Rabbinically forbidden.

(45) V. supra p. 357, n. 11.

(46) Of Galatia or Gallia in Asia Minor,

(47) Lit., ‘small pieces of straw’,

(48) Lit., ‘that went up’.

(49) And thus prevents the proper flow of the water.

(50) בצנעא lit., ‘privately’.

(51) V. supra p. 357. n. 14.

(52) Were the gutter to remain choked up the overflow of the water would cause damage.

(53) Must the break last for the child to be regarded as having ceased to suck.

(54) A Baraitha, His statement was not merely the report of a ruling of Samuel who was but an Amora.

Talmud - Mas. Kethuboth 60b

until [the completion of the] twenty-four months;[1] so R. Meir. R. Judah however, permits [remarriage] after eighteen months.[2] Said R. Nathan[3] b. Joseph: Those[4] surely, are the very words of Beth Shammai and these[5] are the very words of Beth Hillel; for Beth Shammai ruled: Twentyfour months,[6] while Beth Hillel ruled: Eighteen months![6] R. Simeon b. Gamaliel replied, I will explain:[7] According to the view[8] [that a child must be breast fed for] twenty-four months[9] [a nursing mother] is permitted to marry again after twenty-one months,[10] and according to the view[11] [that it is to be breast fed for] eighteen months[12] she may marry again after fifteen months;[13] because a [nursing mother's] milk deteriorates only three months after [her conception].[14] ‘Ulla stated: The halachah is in agreement with the ruling of R. Judah;[15] and Mar ‘Ukba stated: R. Hanina permitted me to marry [a nursing woman] fifteen months after [the birth of her child].[16] Abaye's metayer once came to Abaye and asked him: Is it permissible to betroth [a nursing woman] fifteen months after [her child's birth]? — The other answered him: In the first place[17] [whenever there is disagreement] between R. Meir and R. Judah the halachah is in agreement with the view of R. Judah;[15] and, furthermore, [in a dispute between] Beth Shammai and Beth Hillel the halachah is in agreement with the view of Beth Hillel;[18] and while ‘Ulla said, ‘The halachah is in agreement with R. Judah’,[15] Mar ‘Ukba stated, ‘R. Hanina permitted me to marry [a nursing woman] fifteen months after [the birth of her child]’, how much more then [is there no need for you to wait the longer period] since you only intend betrothal.

When he[19] came to R. Joseph[20] the latter told him, ‘Both Rab and Samuel ruled that [a nursing woman] must wait twenty-four months exclusive of the day on which her child was born and exclusive of the day on which she is betrothed’.[21] Thereupon he[22] ran[23] three parasangs[24] after him, (some say, one parasang along sand mounds), but failed to overtake him. Said Abaye: The statement made by the Rabbis that ‘Even [a question about the permissibility of eating] an egg[25] with kutha[26] a man shall not[27] decide[28] in a district [which is under the jurisdiction] of his Master’ was not due [to the view that this might] appear as an act of irreverence[29] but to the reason that [a disciple] would have no success in dealing with the matter. For I have in fact learned the tradition of Rab and Samuel and yet I did not get the opportunity of applying it.[30] Our Rabbis taught: [If a nursing mother] gave her child to a wet nurse or weaned him, or if he died, she is permitted to marry again forthwith.[31] R. Papa and R. Huna son of R. Joshua intended to give a practical decision in accordance with this Baraitha, but an aged woman said to them, ‘I have been in such a position[32] and R. Nahman forbade me [to marry again].[33] Surely, this could not have been so;[34] for has not R. Nahman in fact permitted [such remarriage][35] in the Exilarch's family?[36] — The family of the Exilarch was different [from ordinary people] because no nurse would break her agreement[37] with them.[38] Said R. Papi to them:[39] Could you not have inferred it[40] from the following? It has been taught: [A married woman] who was always anxious[41] to spend her time[42] at her paternal home,[43] or who has some angry quarrel at her husband's home,[44] or whose husband was in prison,[44] or had gone to a country beyond the sea,[45] or was old or infirm,[44] or if she herself was barren, old,[46] incapable of procreation or a minor,[46] or if she miscarried after the death of her husband, or was in any other way incapacitated for propagation, must[47] wait three months.[48] These are the words of R. Meir. R. Jose,[49] however, permits betrothal or marriage forthwith.[50] And [in connection with this] R. Nahman stated in the name of Samuel: The halachah is in agreement with R. Meir in respect of his restrictive measures![51] — ‘This’, they[52] answered him, ‘did not occur to us’. The law is [that if the child] died [remarriage by his mother] is permitted [forthwith], but if she has weaned him [her remarriage] is[53] forbidden. Mar son of R. Ashi ruled: Even if the child died [the remarriage of the mother] is forbidden, it being possible that she has killed it so as to be in a position[54] to marry. It once actually happened that a mother strangled her child. This incident, however, is no proof.[55] That woman[56] was an imbecile, for it is not likely that [sane] women would strangle their children. Our Rabbis taught: If a woman was given a child to suckle[57] she must not suckle together with it either her own child or the child of any friend of hers. If she agreed to a small allowance for board she must nevertheless eat much.[58] Whilst in charge of the child[59] she must not eat things which are injurious for the milk. Now that you said [that she must] not [suckle] ‘her own child’ was there any need [to state] ‘nor the child of any friend of hers’? — It might have been assumed that only her own child [must not be suckled] because owing to her affection for it she might supply it with more [than the other child] but that the child of a friend of hers [may well be suckled] because if she had no surplus [of milk] she would not have given any at all. Hence we were taught [that even the child of a friend must not be suckled]. ‘If she agreed to a small allowance for board she must nevertheless eat much’. Wherefrom? — R. Shesheth replied: From her own.[60] ‘Whilst in charge of the child she must not eat things which are injurious’. What are these? — R. Kahana replied: For instance, cuscuta,[61] lichen, small fishes and earth.[62] Abaye said: Even pumpkins and quinces. R. Papa said: Even a palm's heart[63] and unripe dates.[64] R. Ashi said: Even kamak[65] and fish-hash. Some of these cause the flow of the milk to stop while others cause the milk to become turbid. A woman who couples in a mill will have epileptic children. One who couples on the ground will have children with long necks. [A woman] who treads[66] on the blood[67] of an ass will have scabby[68] children. One who eats[66] mustard will have intemperate children.[69] One who eats[66] cress will have blear-eyed children. One who eats[66] fish brine[70] will have children with blinking eyes.[71] One who eats[72] clay[73] will have ugly children. One who drinks[72] intoxicating liquor will have ungainly[74] children. One who eats[72] meat and drinks wine will have children

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(1) Were she to marry sooner and happen to become pregnant, the child would have to be taken from her breast before the proper time.

(2) The shorter period is in his opinion quite sufficient for the suckling of a child.

(3) Var. lec. ‘Jonathan’ (v.Tosef. Nid. Il).
(4) The words of R. Meir.
(5) R. Judah's words.
(6) As the period during which a child must be breast fed. What then was the object of the repetition of the same views?
(7) Read אפרש (v. She'iltoth, Wayera, III). Cur. edd. אכריע (rt. כרע , Hif. ‘to over-balance’, ‘compromise’).
(8) Lit., ‘the words of him who says’.
(9) Beth Shammai.
(10) Not, as R. Meir ruled, twenty-four.
(11) Lit., ‘the words of him who says’.
(12) Beth Hillel.
(13) And not, as R. Judah ruled, eighteen.
(14) For three months, at least, after her remarriage the child's breast feeding need not be interrupted. The views of Beth Shammai and Beth Hillel thus differ from those of R. Meir and R. Judah respectively.
(15) That a nursing mother need not wait more than eighteen months.
(16) In agreement w1th the view of Beth Hillel as interpreted by R. Simeon b. Gamaliel.
(17) Lit., ‘one’.
(18) Who, according to R. Simeon b. Gamaliel's interpretation, require a nursing mother to postpone remarriage for no longer a period than fifteen months.
(19) Abaye, who was a disciple of R. Joseph.
(20) To consult him on the question his metayer addressed to him.
(21) Yeb. 43a.
(22) Abaye.
(23) In an attempt to stop his metayer from acting on his decision.
(24) V. Glos.
(25) That was found in a slaughtered fowl (v. Tosaf. s.v. אפילו a.l.). The question of eating a properly laid egg with milk (v. next note) could of course never arise.
(26) A preserve containing milk.
(27) Though the answer is simple and obvious.
(28) Lit., ‘solve’.
(29) Against the Master.
(30) When the question was addressed to him. MS.M. adds; ‘because at that time I forgot it’.
(31) After her husband's death. She need not wait until the period for suckling mentioned above has expired.
(32) Lit., ‘with me was (such) an event’.
(33) Before the expiration of the period prescribed for the breast feeding of the child.
(34) Lit., ‘Is it so’?
(35) V. supra n. 12.
(36) The children having been entrusted to hired nurses. This actually happened in the case of his own wife Yaltha (v. She'iltoth, Wayera, XIIl and cf. Golds. a.l.).
(37) Lit., ‘return’, ‘retract’.
(38) Hence it was safe to allow their widows to remarry (note 12). In the case of ordinary people, however, the nurse might well change her mind at any moment and the child would consequently have to fall back upon the nursing of his own mother. Should she then happen to be in a state of pregnancy the child would be in danger of starvation.
(39) R. Papa and R. Huna.
(40) The decision of R. Nahman reported by the woman,
(41) Pass. particip. of רדף ‘to pursue’, ‘be anxious’.
(42) Lit., ‘to go’.
(43) And she was there when her husband died.
(44) At the time of his death.
(45) And there he died.
(46) When her husband's death occurred.
(47) Though in all such cases it is obvious that the woman cannot be pregnant.
(48) Before remarriage or betrothal. This is a precaution against a similar marriage or betrothal on the part of a normal

woman who might be pregnant.
(49) This is also the reading of She'iltoth. The reading of Tosef. Yeb. VI, 6 and ‘Erub. 47a is ‘R. Judah’.
(50) After the husband's death. Cf. Yeb, and ‘Erub. l.c.
(51) It is consequently forbidden for any widow to marry again before the prescribed period of three months has elapsed even where the cause of the prohibition, i.e., that of possible pregnancy, does not apply. Similarly in the case of a nursing mother remarriage would obviously be forbidden even where the child died or is otherwise independent of his mother's nursing. Why then had R. Papa and R. Huna to rely solely upon the aged woman's report?
(52) R. Papa and R. Huna.
(53) Since it is possible that her action was due to her desire to marry.
(54) Lit., ‘and went’.
(55) Lit., ‘and this is not’.
(56) Who strangled her child.
(57) Lit., ‘behold that they gave her a son to give (him) suck’.
(58) Of her own (v. infra) in order to maintain a healthy supply of milk.
(59) Lit., ‘with it’.
(60) Cf. supra n. 2.
(61) כשות, v. Jast., hops (Rashi).
(62) Cf. infra p. 363, n. 4.
(63) Read קרא (cf. Rashi). Cur. edd. קרא (gourd).
(64) Lit., ‘palm branch’.
(65) כמכא , ‘curdled milk’, ‘an appetizing sauce made of milk’, (cf. Fleischer to Levy, and Jast.).
(66) During her pregnancy.
(67) Read דמא (Aruk.). Cur. edd., רמא .
(68) Or ‘bald’, reading גורדני (cf. Rashi). Var. גרגרני ‘gluttons’, ‘bibbers’.
(69) Or ‘gluttons’.
(70) Or ‘small fish’ (Rashi) in brine (Jast.).
(71) Aruk (s.v. מיץ), ‘small eyes’.
(72) During her pregnancy.
(73) גרגושתא , a certain kind of reddish clay was believed to possess medicinal qualities as an astringent. Cf. Smith, Dict. Gk. Rom. Ant. s.v. creta, v. Jast.
(74) Lit., ‘black’. Cf. Jast.

Talmud - Mas. Kethuboth 61a

of a robust constitution. One who eats eggs will have children with big eyes. One who eats fish will have graceful children. One who eats parsley[1] will have beautiful children. One who eats coriander will have stout[2] children. One who eats ethrog[3] will have fragrant children. The daughter of King Shapur, whose mother had eaten ethrog[3] [while she was pregnant] with her, used to be presented before her father as his principal perfume. R. Huna[4] related: R. Huna b. Hinena tested us [with the following question:] If she[5] says that she wishes to suckle her child and he[6] says that she shall not suckle it her wish is to be granted,[7] for she would be the sufferer.[8] What, [however, is the law] where he says that she shall suckle the child and she says that she will not suckle it? Whenever this[9] is not the practice in her family we, of course, comply with her wish; what, [however, is the law] where this is the practice in her family but not in his? Do we follow the practice of his family or that of hers? And we solved his problem from this: She[10] rises with him[11] but does not go down with him.[12] What, said R. Huna, is the Scriptural proof?[13] — For she is a man's wife,[14] [she is to participate] in the rise of her husband but not in his descent. R. Eleazar said, [The proof is] from here: Because she[15] was the mother of all living[16] she was given [to her husband][17] to live but not to suffer pain. IF SHE BROUGHT HIM ONE BONDWOMAN etc. Her other duties, however, she must obviously perform; [but why?] Let her say to him, ‘I brought you a wife in my place’![18] — Because he might reply, ‘That bondwoman works for me and for herself, who will work for you!’ [IF SHE BROUGHT] TWO BONDWOMEN, SHE NEED NOT EVEN COOK OR SUCKLE etc. Her other duties, however, she must obviously perform; [but why]? Let her say to him, ‘I brought you another wife who will work for me and for her, while the first one [will work] for you and for herself!’ — Because he might reply, ‘Who will do the work for our guests[19] and occasional visitors!’[20] IF THREE, SHE NEED NEITHER MAKE READY HIS BED. Her other duties, however, she must perform; [but why]? Let her say to him, ‘I brought you a third one[21] to attend upon our guests and occasional visitors!’ — Because he might reply, ‘The more the number of the household the more the number of guests and occasional visitors’. If so,[22] [the same plea could also be advanced] even [when the number of bondwomen was] four! — [In the case of] four bondwomen, since their number is considerable they assist one another. R. Hana, or some say R. Samuel b. Nahmani, stated: [SHE BROUGHT] does not mean that she had actually brought; but: Wherever she is in a position to bring,[23] even though she has not brought any. A Tanna taught: [A wife is entitled to the same privileges] whether she brought [a bondwoman] to him[24] or whether she saved up for one out of her income. IF FOUR, SHE MAY LOUNGE IN AN EASY CHAIR. R. Isaac b. Hanania[25] stated in the name of R. Huna: Although it has been said, SHE MAY LOUNGE IN AN EASY CHAIR she should[26] nevertheless fill[27] for him his cup, make ready his bed and wash his face, hands and feet.[28] R. Isaac b. Hanania[29] further[30] stated in the name of R. Huna: All kinds of work which a wife performs for her husband a menstruant also may perform for her husband, with the exception of filling[31] his cup, making ready his bed and washing his face, hands and feet.[32] As to ‘the making ready of his bed’ Raba explained that [the prohibition] applies only in his presence but [if it is done] in his absence it does not matter.[33] With regard to ‘the filling of his cup’. Samuel's wife made a change[34] [by serving] him with her left hand. [The wife of] Abaye placed it[35] on the edge[36] of the wine cask. Raba's [wife placed it] at the head-side of his couch, and R. Papa's [wife put it] on his foot-stool.[37] R. Isaac b. Hanania[38] further[39] stated: All [foodstuffs] may be held back from the waiter[40] except meat and wine.[41] Said R. Hisda: [This applies only to] fat meat and old wine. Raba said: Fat meat[42] throughout the year but old wine only in the Tammuz[43] season.[44] R. Anan b. Tahlifa related: I was once standing in the presence of Samuel when they brought him a dish of mushrooms, and, had he not given me [some of it], I would have been exposed to danger.[45] I, related R. Ashi, was once standing before R. Kahana when they brought him slices[46] of turnips in vinegar, and had he not given me some, I would have been exposed to danger. R. Papa said: Even a fragrant date [if not tasted may expose one to danger].[45] This is the rule: Any foodstuff that has a strong flavour or an acrid taste [will expose a man to danger[45] if he is not allowed to taste of it]. Both Abbuha[47] b. Ihi and Minjamin b. Ihi [shewed consideration for their waiter] the one giving [him a portion] of every kind of dish[48] while the other gave [him a portion][49] of one kind only.[50] With the former Elijah[51] conversed, with the latter he did not. [It was related of] two pious men, and others say of R. Mari and R. Phinehas the sons of R. Hisda, that one of them[52] gave [a share to his waiter][53] first[54] while the other gave him last.[55] With the one who gave [the waiter his share] first, Elijah[56] conversed; with the one, however, who gave his waiter last, Elijah did not converse.[57] Amemar, Mar Zutra and R. Ashi were once sitting at the gate of King Yezdegerd[58] when the King's table-steward[59] passed them by. R. Ashi, observing that Mar Zutra

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(1) כרפסא = כרפס , celery, parsley, or other green vegetables.

(2) Or ‘fleshy’, cf. בישרא , ‘flesh’.

(3) אתרוגא or אתרוג , a fruit of the citrus family used (a) as one of the ‘four kinds’ constituting the ceremonial wreath on Tabernacles and also (b) as a preserve.

(4) Var. lec. ‘Papa’ (Asheri and MS.M.).

(5) The mother of a child.

(6) The father.

(7) Lit., ‘(we) listen to her’.

(8) Through the accumulation of the milk in her breast. Lit., ‘the pain is hers’.

(9) The breast feeding of a child by its mother.

(10) A wife.

(11) Her husband.

(12) Supra 48a. A wife enjoys the advantages of her husband but not his disadvantages.
(13) For the statement cited.
(14) Gen. XX, 3 בעולת בעל of the rt. עלה ‘to go up’, ‘rise’.
(15) Eve, symbolizing all married women.
(16) Gen. III, 20.
(17) Adam, mentioned earlier in the verse.
(18) בחריקאי , abs. חריקא , lit., ‘gap’. As the bondwoman takes her place she should be exempt altogether from domestic duties,
(19) אורחי , guests that spend a month or a week.
(20) פרחי (פרחא ‘flying’), visitors who pay only a short visit.
(21) Lit., ‘another’.
(22) If an increase in the number of bondwomen causes a corresponding increase in that of guests and visitors.
(23) I.e., if she has the means.
(24) Her husband.
(25) MS.M., ‘Hanina’.
(26) She is not compelled but is advised (v. Rashi s.v. אבל a.l.).
(27) מוזגת , rt. מזג ‘ to mix, sc. wine with water or spices.
(28) Such personal services are calculated to nurse a husband's affections (Rash. l.c.).
(29) MS.M. ‘Hanina’.
(30) Read (v. marg. note, a.l.) ואמר . Cur. edd. omit the Waw,
(31) Cf. supra n. 3.
(32) In order to prevent undue intimacy between husband and wife during her period of Levitical uncleanness.
(33) Lit,, ‘we have nothing in it’.
(34) During her ‘clean days’, after menstruation and prior to ritual immersion, when marital relations are still forbidden.
(35) V. supra note 10.
(36) Lit., mouth’.
(37) Cf. Golds. Others: (v. Jast.) ‘chair’.
(38) MS.M. ‘Hanina’.
(39) V. supra note 6.
(40) Until he has finished serving the meal.
(41) Which excite his appetite and any delay in satisfying it causes him extreme pain.
(42) Must not be held back.
(43) תמוז , the fourth month of the Hebrew calendar corresponding to July-August.
(44) When the weather is extremely hot and spicy wine is tempting.
(45) Of faintness due to the extreme pangs of hunger excited by the flavour of the dish,
(46) גרגלידי the ‘upper portions’.
(47) Bomb. ed., ‘Abuth’.
(48) As it was served.
(49) At the beginning of the meal, of the first dish.
(50) Keeping back the others until the conclusion of the meal.
(51) The immortal prophet, the maker of peace and herald of the Messianic era.
(52) Lit., ‘master’.
(53) Of every dish he served.
(54) Before he tasted of it himself.
(55) After he himself and his guests had finished their meal.
(56) V. supra note 7.
(57) By failing to give the waiter a share as soon as the various dishes were served he caused him unnecessary pain of unsatisfied desire and hunger.
(58) Or Yezdjird, one of the Kings of Persia.
(59) אטורנגא ; compound word: ‘table’ and ‘maker’.

Talmud - Mas. Kethuboth 61b

turned pale in the face, took up with his finger [some food from the dish and] put it to his mouth. ‘You have spoilt the King's meal’ [the table-steward][1] cried. ‘Why did you do such a thing?’ he was asked [by the King's officers].[1] ‘The man who prepared that dish’,[2] he[3] replied, ‘has rendered the King's food objectionable’. ‘Why?’ they asked him. ‘I noticed’, he replied, ‘a piece of leprous swine[4] flesh in it’. They examined [the dish] but did not find [such a thing]. Thereupon he took hold of his finger and put it on it,[5] saying, ‘Did you examine this part?’ They examined it and found it [to be as R. Ashi had said]. ‘Why did you rely upon a miracle?’ the Rabbis asked him. ‘I saw’, he replied, ‘the demon of leprosy hovering over him’.[6] A Roman once said to a woman, ‘Will you marry me?’ — ‘No,’ she replied. Thereupon[7] he brought some pomegranates, split them open and ate them in her presence. She kept on swallowing all the saliva[8] that irritated her, but he did not give her [any of the fruit] until [her body] became swollen.[9] Ultimately he said to her, ‘If I cure you, will you marry me?’ — ‘Yes’, she replied. Again[7] he brought some pomegranates, split them and ate them in her presence. ‘Spit out at once, and again and again’,[10] he said to her, all saliva that irritated you’. [She did so] until [the matter] issued forth from her body in the shape of a green palm-branch; and she recovered. AND WORKING IN WOOL. Only IN WOOL but not in flax. Whose [view then is represented in] our Mishnah? — It is that of R. Judah. For it was taught: [Her husband] may not compel her to wait[11] upon his father or upon his son, or to put straw before his beast;[12] but he may compel her to put straw before his herd.[13] R. Judah said: Nor may he compel her to work in flax because flax causes one's mouth to be sore[14] and makes one's lips stiff.[15] This refers, however, only to Roman flax. R. ELIEZER SAID: EVEN IF SHE BROUGHT HIM A HUNDRED BONDWOMEN. R. Malkio stated in the name of R. Adda b. Ahabah: The halachah is in agreement with R. Eliezer. Said R. Hanina the son of R. Ika: [The rulings concerning] a spit,[16] bondwomen[17] and follicles[18] [were laid down by] R. Malkio; [but those concerning] a forelock,[19] wood-ash[20] and cheese[21] [were laid down by] R. Malkia. R. Papa, however, said: [If the statement is made on] a Mishnah or a Baraitha [the author is] R. Malkia [but if on] a reported statement[22] [the author is] R. Malkio. And your mnemonic[23] is, ‘The Mishnah[24] is queen’.[25] What is the practical difference between them?[26] — [The statement on] Bondwomen.[27] R. SIMEON B. GAMALIEL SAID etc. Is not this the same view as that of the first Tanna?[28] — The practical difference between them [is the case of a woman] who plays with little cubs[29] or [is addicted to] checkers.[30]

MISHNAH. IF A MAN FORBADE HIMSELF BY VOW TO HAVE INTERCOURSE WITH HIS WIFE[31] BETH SHAMMAI RULED: [SHE MUST CONSENT TO THE DEPRIVATION FOR] TWO WEEKS;[32] BETH HILLEL RULED: [ONLY FOR] ONE WEEK.[32] STUDENTS MAY GO AWAY[33] TO STUDY THE TORAH, WITHOUT THE PERMISSION [OF THEIR WIVES FOR A PERIOD OF] THIRTY DAYS; LABOURERS [ONLY FOR] ONE WEEK. THE TIMES FOR CONJUGAL DUTY PRESCRIBED IN THE TORAH[34] ARE: FOR MEN OF INDEPENDENCE,[35] EVERY DAY; FOR LABOURERS, TWICE A WEEK; FOR ASS-DRIVERS,[36] ONCE A WEEK; FOR CAMEL-DRIVERS,[37] ONCE IN THIRTY DAYS; FOR SAILORS,[38] ONCE IN SIX MONTHS. THESE ARE THE RULINGS OF R. ELIEZER. GEMARA. What is the reason of Beth Shammai?[39] — They derive their ruling from [the law relating to] a woman who bears a female child.[40] And Beth Hillel? — They derive their ruling from [the law relating to] one who bears a male child.[41] Why should not Beth Hillel also derive their ruling from [the law relating to] a woman who bears a female child?[42] — If they had derived their ruling from [the law relating to] a woman who bears a child they should indeed have ruled thus, but [the fact is that] Beth Hillel derive their ruling from [the law of] the menstruant.[43] On what principle do they[44] differ? — One[45] is of the opinion that the usual[46] [is to be inferred] from the usual,[47] and the other[48] is of the opinion that what a husband has caused[49] should be derived from that which he has caused.[50] Rab stated: They[44] differ only in the case of one who specified [the period of abstention] but where he did not specify the period it is the opinion of both that he must divorce her forthwith and give her the kethubah. Samuel, however, stated: Even where the period had not been specified the husband may delay [his divorce],[51] since it might be possible for him to discover some reason[52] for [the remission of] his vow.[53] But surely, they[54] once disputed this question; for have we not learned: If a man forbade his wife by vow to have any benefit from him he may, for thirty days, appoint a steward,[55] but if for a longer period he must divorce her and give her the kethubah. And [in connection with this] Rab stated: This ruling applies only where he specified [the period] but where he did not specify it he must divorce her forthwith and give her the kethubah, while Samuel stated: Even where the period had not been specified the husband may also postpone [his divorce],[51] since it might be possible for him, to discover some grounds[52] for [the annulment of his vow]?[56] — [Both disputes are] required. For if [their views] had been stated in the former[57] only it might have been assumed that only in that case did Rab maintain his view, since [the appointment] of a steward is not possible but that in the second case[58] where [the appointment] of a steward is possible he agrees with Samuel. And If the second case[58] only had been stated it might have been assumed that only in that case did Samuel maintain his view[59] but that in the former case[60] he agrees with Rab. [Hence both statements were] necessary. STUDENTS MAY GO AWAY TO STUDY etc. For how long [may they go away] with the permission [of their wives]? — For as long as they desire.

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(1) V. Rashi.

(2) Lit., ‘thus’.

(3) R. Ashi.

(4) דבר אחר , lit., ‘another thing’, sc. ‘something unnameable’, e.g., swine, leprosy, idolatry and sodomy.

(5) One of the pieces of meat.

(6) Mar Zutra (v. Rashi).

(7) Lit., ‘he went’,

(8) That welled up in her mouth as a result of the acrid flavour of the fruit.

(9) Lit., ‘it became (transparent) like glass’ (v. Rashi).

(10) Lit., ‘spit (and) eject’ (bis).

(11) Lit., ‘to stand’, v. Rashi.

(12) Such as a horse or an ass or (according to another interpretation) ‘male beasts’ (v. Rashi and cf. Bah a.l.).

(13) Cattle or (according to the second interpretation in n. 9) ‘female beasts’.

(14) Or ‘swollen’, v. next note.

(15) Because the spinner must frequently moisten the thread, with his saliva (v. Jast.). Aliter: ‘the flax causes an offensive smell in the mouth and distends the lips’ (cf. Rashi and Golds.).

(16) That has been used for the roasting of meat on a festival, may at the time be put aside (v, Bezah 28b).

(17) Whom a woman brought to her husband at her marriage (v. our Mishnah).

(18) That these, even without the pubic hairs, are sufficient indication of pubes (v. Nid. 52a).

(19) Belorith בלורית (cf. Sanh, Sonc. ed. p. 114, n. 5). An Israelite trimming the hairs of a heathen must withdraw his hand at a distance of three finger's breadth on every side of the forelock (A.Z. 29a).

(20) אפר מקלה , is forbidden to be spread on a wound because it gives the appearance of an incised imprint (v. Mak. 21).

(21) Forbidden, if made by a heathen, because it is smeared over with lard.

(22) שמעתתא , an opinion or dictum of Rabbis, not recorded in a Mishnah or Baraitha, reported by their disciples or colleagues.

(23) An aid to the recollection as to which statements were made by R. Malkia and R. Malkio respectively.

(24) מתניתא a general term for Mishnah and Baraitha in contradiction to שמעתתא (v. supra note 7).

(25) I.e., more authoritative than a reported statement. Malkia מלכיא whose name closely resembles (queen) מלכתא (and not Malkio) is to be associated with the Mishnah and the Baraitha that are designated queen.

(26) R. Hanina and R. Papa.

(27) Which is recorded in our Mishnah. According to R. Papa the comment on it must be that of R. Malkia (cf. supra note 10) while according to R. Hanina it is included among the statements attributed to R. Malkio, v, A.Z. 29a, and Mak. 21a.

(28) R. Eliezer. What difference is there for all practical purposes whether the reason for the ruling Is unchastity or idiocy?

(29) V. Jast. Or ‘wooden cubs’, counters in a game (cf. Levy).

(30) נדרשיר or נרדשיר nardeshir, the name of a game played on a board; ‘chess’ (Rashi). [So named after its inventor Ardeshir Babekan, v, Krauss T.A. III, p. 113]. A woman who spends her time in this manner may be exposed to the temptation of unchastity but is in no danger of falling into idiocy.
(31) Lit., ‘IF A MAN FORBADE BY VOW HIS WIFE FROM INTERCOURSE’.
(32) After this period it is the duty of the husband either to have his vow disallowed or to release his wife by divorce.
(33) From their homes,
(34) Ex. XXI, 10.
(35) טיילין (rt. טול , Piel, ‘to walk about’), men who have no need to pursue an occupation to earn their living and are able ‘to walk about’ idly.
(36) Who carry produce from the villages to town and whose occupation requires their absence from their home town during the whole of the week.
(37) Who travel longer distances from their homes.
(38) Whose sea voyages take them away for many months at a time.
(39) Who allow TWO WEEKS.
(40) Intercourse with whom is forbidden for two weeks (v. Lev. XII, 5),
(41) In whose case the prohibition is restricted to one week (ibid. 2).
(42) The fact that the longer period of two weeks has Pentateuchal sanction should entitle a husband to vow abstention for a similar length of time.
(43) The period of whose uncleanness is only seven days (v. Lev. XV, 19).
(44) Beth Shammai and Beth Hillel.
(45) Lit., ‘Master’, sc. Beth Hillel.
(46) Such as a quarrel between husband and wife resulting in a vow of abstention.
(47) Menstruation which is a monthly occurrence. Births are not of such regular occurrence.
(48) Beth Shammai.
(49) Abstention on account of his vow.
(50) Birth. Menstruation is not the result of a husband's action.
(51) For two weeks according to Beth Shammai or one week according to Beth Hillel.
(52) פתח , lit., ‘a door’; some ground on which to justify his plea that had he known it he would never have made that vow; v, Ned, 21.
(53) A competent authority, if satisfied with the reason, may under such conditions disallow a vow.
(54) Rab and Samuel.
(55) To supply his wife's needs.
(56) Cf. supra n. 11. Why then should Rab and Samuel unnecessarily repeat the same arguments?
(57) The vow against marital duty.
(58) A vow forbidding other benefits.
(59) Since the appointment of a steward is feasible.
(60) The vow against marital duty.

What should be the usual periods?[1] — Rab said: One month at the college[2] and one month at home; for it is said in the Scriptures, In any matter of the courses which came in and went out month by month throughout all the months of the year.[3] R. Johanan, however, said: One month at the college and two months at home; for it is said in the Scriptures, A month they were in Lebanon and two months at home.[4] Why does not Rab also derive his opinion from this text?[4] — The building of the holy Temple is different [from the study of the Torah] since it could be carried on by others.[5] Then why does not R. Johanan derive his opinion from the former text?[3] — There [the conditions were] different because every man was in receipt of relief.[6] Rab said:[7] A sigh breaks down half of the human constitution,[8] for it is said in Scripture, Sigh, therefore, thou son of man; with the breaking of thy loins[9] and with bitterness shalt thou sigh.[10] R. Johanan, however, said: Even all the human constitution, for it is said in Scripture, And it shall be when they say unto thee: Wherefore sighest thou? that thou shalt say: Because of the tidings, for it cometh; and every heart shall melt, and all hands shall be slack, and every spirit shall faint, and all knees shall drip with water.[11] As to R. Johanan, is it not also written, ‘With the breaking of thy loins’? — [The meaning of] this is that when [the breaking] begins it does so from the loins. And as to Rab, is it not also written, ‘And every heart shall melt, and all hands shall be slack, and every spirit shall be faint’? — The report of the holy Temple is different since [the calamity] was very severe. An Israelite and an idolater were once walking together on the same road and the idolater could not keep pace with the Israelite. Reminding him of the destruction of the holy Temple [the latter] grew faint and sighed; but still the idolater was unable to keep pace with him. ‘Do you not say’, the idolater asked him, ‘that a sigh breaks half of the human body’? — ‘This applies only’, the other replied, ‘to a fresh calamity but not to this one with which we are familiar. As people say: A woman who is accustomed to bereavements is not alarmed [when another occurs]’. MEN OF INDEPENDENCE EVERY DAY. What is meant by tayyalin?[12] — Raba replied: Day students.[13] Said Abaye to him: [These are the men] of whom it is written in Scripture, It is vain for you[14] that ye rise early, and sit up late, ye that eat of the bread of toil; so He giveth[15] unto those who chase their sleep away;[16] and ‘these’,[17] R. Isaac explained, ‘are the wives of the scholars,[18] who chase the sleep from their eyes[19] in this world and achieve thereby the life of the world to come’,[20] and yet you Say. Day students’![21] — [The explanation]. however, said Abaye, is in agreement [with a statement] of Rab who said [a man of independence is one.] for instance, like R. Samuel b. Shilath[22] who eats of his own, drinks of his own and sleeps in the shadow of his mansion[23] and a king's officer[24] never passes his door.[25] When Rabin came[26] he stated: [A man of independence is one]. for instance, like the pampered men of the West,[27] R. Abbahu[28] was once standing in a bath house, two slaves supporting him, when [the floor of] the bath house collapsed under him.[29] By chance he was near a column [upon which] he climbed[30] taking up the slaves with him.[31] R. Johanan was once ascending a staircase, R. Ammi and R. Assi supporting him, when the staircase collapsed under him. He himself climbed up and brought them up with him. Said the Rabbis to him, ‘Since [your strength is] such, why do you require support?[32] — ‘Otherwise’, he replied. what [strength] will I reserve for the time of my old age?’ FOR LABOURERS TWICE A WEEK. Was it not, however, taught: Labourers, once a week? — R. Jose the son of R. Hanina replied: This is no difficulty; the former[33] [speaks of labourers] who do their work in their own town while the latter [speaks of those] who do their work in another town — So it was also taught: Labourers [perform their marital duties] twice a week. This applies only [to those] who do their work in their own town, but for those who do their work in another town [the time is only] once a week FOR ASS-DRIVERS ONCE A WEEK. Rabhah son of R. Hanan[34] said to Abaye: Did the Tanna[35] go to all this trouble[36] to teach us [merely the law relating to] the man of independence[37] and the labourer?[38] — The other replied: No;

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(1) That students should (a) be permitted to be away from their wives even with their consent, and (b) remain at home (v. Rashi). According to one opinion the restrictions spoken of here apply to labourers only. Students are allowed greater freedom. (V. Tosaf. s.v. אלא , a.l.).

(2) Lit., ‘here’.
(3) I Chron. XXVII, emphasis on ‘month by month’.
(4) I Kings V, 28.
(5) Solomon had sufficient men for the work and required each group for no longer than one month out of every three. The study of the Torah demands more time.
(6) The stipend allowed by the king. This allowance enabled a husband to provide a comfortable living for his wife who, in return, consented to his absence from home every alternate month. In the case of students, however, whose study brings no worldly reward to their wives, the period of absence from home should not exceed one month in every three.
(7) The following discussion is introduced here on account of the difference of opinion between Rab and R. Johanan on the application of Scriptural texts, which is characteristic of this as of the previous discussion.
(8) Lit., ‘body’.
(9) The loins are in the middle of the body.
(10) Ezek. XXI, 11.
(11) Ibid. 12. The prophet's sigh is accompanied by shattering effects on all parts of the body.
(12) Cf. supra p. 369, n, 5.
(13) בני פירקי , lit., ‘sons of the lesson’, i.e., students domiciled in the college town who are able to live in their own homes and to attend the college for lessons only.
(14) This admonition is addressed to those who pursue worldly occupations.
(15) Without toiling for it.
(16) Ps. CXXVII, 2. E.V., unto his beloved. לידידו is homiletically treated as coming from the rt. נדד ‘to shake’, ‘chase away’.
(17) ‘Those who chase their sleep away’.
(18) תלמידי חכמים . V. Glos. s.v. talmid hakam.
(19) In sitting up all night waiting for the return of their husbands from the house of study.
(20) As a reward for the consideration they shew to their studious husbands. Since the wives of students who come from other towns would not be expecting their husbands to return home every day, the reference must obviously be to those who live in the college town, i,e., the day students, which proves that even these remain all night at the college.
(21) How could men who spend their nights in study be expected to perform the marital duty daily?
(22) A teacher of children (v. supra 50a) who made an unostentatious but comfortable living.
(23) אפדנא ‘mansion’, ‘palace’, i,e., his own home (cf. ‘the Englishman's home is his castle’).
(24) פריסתקא , MS. M. דרוקא ‘a detachment of soldiers’,
(25) To exact from him service or money. As his wants were moderate, he had no need to be under obligation to anyone for his food or drink and had no need to go fat to seek his livelihood. A man in such a position might well be described as a man of independence.
(26) From Palestine to Babylon.
(27) palestine, which lay to the west of Babylon where this statement was made,
(28) This is told in illustration of the physical strength enjoyed by the Palestinians,
(29) And the three were in danger of falling into the pool of water over which the floor was built,
(30) Grasping it with one hand,
(31) With his other hand.
(32) Lit., ‘to support him’.
(33) Lit., ‘here’. Our Mishnah.
(34) MS.M., R. Hanin b. Papa.
(35) The author of the first clause of out Mishnah, which deals with the ease of a vow.
(36) Lit., ‘fold himself up’.
(37) V. supra p. 369. n. 5.
(38) Whose times only could be affected by an abstinence of ONE WEEK (Beth HIllel) or TWO WEEKS (Beth Shammai). The other classes of persons enumerated, whose times are once in thirty days or at longer intervals, would not thereby be affected.

Talmud - Mas. Kethuboth 62b

to all.[1] But was it not stated ONCE IN SIX MONTHS?[2] — One who has bread in his basket is not like one who has no bread in his basket.[3] Said Rabbah[4] son of R. Hanan to Abaye: What [is the law where] an ass-driver becomes a camel-driver?[5] — The other replied: A woman prefers one kab[6] with frivolity to ten kab[6] with abstinence.[7] FOR SAILORS, ONCE IN SIX MONTHS. THESE ARE THE WORDS OF R. ELIEZER. R. Beruna[8] stated in the name of Rab:[9] The halachah follows R. Eliezer. R. Adda b. Ahabah, however, stated in the name of Rab: This is the view of R. Eliezer only. but the Sages ruled: Students may go away to study Torah without the permission [of their wiveseven for] two or three years.[10] Raba stated: The Rabbis[11] relied on R. Adda b. Ahabah[12] and act accordingly at the risk of [losing] their lives.[13] Thus R. Rehumi who was frequenting [the school] of Raba at Mahuza[14] used to return home on the Eve of every Day of Atonement. On one occasion[15] he was so attracted by his subject [that he forgot to return home]. His wife was expecting [him every moment, saying.] 'He is coming soon,[16] he is coming soon'[16] As he did not arrive she became so depressed that tears began to flow from her eyes. He was [at that moment] sitting on a roof. The roof collapsed under him and he was killed.[17] How often[18] are scholars to perform their marital duties? — Rab Judah in the name of Samuel replied: Every Friday night.[19] That bringeth forth its fruit in its season,[20] Rab Judah, and some say R. Huna, or again. as others say. R. Nahman, stated: This [refers to the man] who performs his marital duty every Friday night.[21] Judah[22] the son of R. Hiyya and son-in-law of R. Jannai was always spending his time[23] in the school house but every Sabbath eve[24] he came home. Whenever he arrived the people saw[25] a pillar of light moving before him. Once he was so attracted by his subject of study [that he forgot to return home]. Not Seeing[26] that Sign. R. Jannai said to those [around him], 'Lower[27] his bed,[28] for had Judah been alive he would not have neglected the performance of his marital duties'. This [remark] was like an error that proceedeth from the ruler,[29] for [in consequence] Judah's[30] soul returned to its eternal rest. Rabbi was engaged in the arrangements for the marriage of his son into the family of R. Hiyya,[31] but when the kethubah[32] was about to be written the bride passed away.[33] 'Is there, God forbid', said Rabbi, 'any taint [in the proposed union]?'[34] An enquiry was instituted[35] into [the genealogy of the two] families [and it was discovered that] Rabbi descended from Shephatiah[36] the son of Abital[37] while R. Hiyya descended from Shimei a brother of David.[38] Later[39] he[40] was engaged in preparations for the marriage of his son into the family of R. Jose b. Zimra. It was agreed that he[41] should spend twelve years at the academy.[42] When the girl was led before him[41] he said to them, 'Let it[43] be six years'. When they made her pass before him [a second time] he said,'I would rather marry [her first] and then proceed [to the academy]'. He felt abashed[44] before his father, but the latter said to him.'My son, you[45] have the mind of your creator;[46] for in Scripture it is written first, Thou bringest them in and plantest them[47] and later it is written, And let them make Me a sanctuary. that I may dwell among them.[48] [After the marriage] he departed and spent twelve years at the academy. By the time he returned his wife[49] had lost the power of procreation. 'What shall we do?', said Rabbi. 'Should we order him to divorce her, it would be said: This poor soul waited in vain! Were he to marry another woman, it would be said: The latter is his wife and the other his mistress.' He prayed for mercy to be vouchsafed to her, and she recovered. R. Hanania b. Hakinai was about to go away to the academy towards the conclusion of R. Simeon b. Yohai's wedding. 'Wait for me', the latter said to him, 'until I am able to join you'.[50] He, however, did not wait for him but went away alone and spent twelve years at the academy. By the time he returned the streets of the town were altered and he was unable to find the way[51] to his home. Going down to the river bank and sitting down there he heard a girl being addressed thus: 'Daughter of Hakinai, O, daughter of Hakinai, fill up your pitcher and let us go!' 'It is obvious',[52] he thought, 'that the girl is ours', and he followed her. [When they reached the house] his wife was sitting and sifting flour. She[53] lifted up her eyes and seeing him, was so overcome with joy[54] that she fainted.[55] 'O, Lord of the universe',[the husband] prayed to Him, 'this poor soul; is this her reward?'[56] And so he prayed for mercy to be vouchsafed to her and she revived. R. Hama b. Bisa went away [from home and] spent twelve years at the house of study. When he returned he said, 'I will not act as did b. Hakina'.[57] He therefore entered the [local] house of study and sent word to his house. Meanwhile his son, R. Oshaia[58] entered, sat down before him and addressed to him a question on [one of the] subjects of study. [R. Hama]. seeing how well versed he was in his studies, became very depressed. ‘Had I been here,’[59] he said, ‘l also could have had such a child’.- [When] he entered his house his son came in, whereupon [the father] rose before him, believing that he wished to ask him some [further] legal questions. ‘What[60] father’, his wife chuckled,[61] ‘stands up before a son!’ Rami b. Hama applied to him [the following Scriptural text:] And a threefold cord is not quickly broken[62] is a reference to R. Oshaia, son of R. Hania. son of Bisa.[63] R. Akiba was a shepherd of Ben Kalba Sabua.[64] The latter's daughter. seeing how modest and noble [the shepherd] was, said to him, ‘Were I to be betrothed to you. would you go away to [study at] an academy?’ ‘Yes’, he replied. She was then secretly betrothed to him and sent him away. When her father heard [what she had done] he drove her from his house and forbade her by a vow to have any benefit from his estate. [R. Akiba] departed. and spent twelve years at the academy. When he returned home he brought with him twelve thousand disciples. [While in his home town] he heard an old man saying to her, ‘How long

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(1) Even in respect of the other classes a vow may be made for the specified periods only.

(2) In the case of sailors. How could these be affected by an abstention of ONE WEEK or TWO WEEKS?

(3) Proverb (Yoma 18b. Yeb. 32b). The latter experiences the pangs of hunger much more than the former who can eat the bread should he decide to use it up. A sailor's wife may partially satisfy her desires by the hope that her husband may at any moment return. A vow extinguishes all her hope; and she must not, therefore, be allowed to suffer longer than the periods indicated.

(4) Vat. ‘Raba’ (MS.S. and Asheri).

(5) I.e., may an ass-driver become a camel-driver without the permission of his wife, in view of the longer absence from home which the new occupation will involve.

(6) V. Glos.

(7) Proverb, (Sotah 20a, 21b). A woman prefers a poor living in the enjoyment of the company of her husband to a more luxurious one in his absence. She would, therefore, rather have her husband for a longer period at home, though as a result he would be earning less, than be deprived of his company for longer periods. though as a result he would be earning more.

(8) Vat. lec. ‘Mattena’ (Alfasi).

(9) Vat. Iec, ‘Raba’ (Asheri).

(10) And the halachah would be in agreement with the Sages who ate the majority.

(11) I.e, his (Raba's) contemporaries.

(12) According to whose statement the Sages permitted students to leave their homes for long periods (v. supra n. 3).

(13) I.e., they die before their time as a penalty for the neglect of their wives (v. Rashi).

(14) A town on the Tigris, noted for Its commerce and its large Jewish population.

(15) Lit., ‘one day’.

(16) Lit., ‘now’,

(17) Lit., ‘his soul rested’, sc, came to its eternal test.

(18) Lit., ‘when’.

(19) Lit., ‘from the eve of Sabbath to the eve of Sabbath’.

(20) Ps. 1,3.

(21) Cf.B.h.82a.

(22) MS.M.,’R.Judah’.

(23) Lit., ‘was going and sitting’.

(24) בי שמשי ‘twilight’, sc, of the Sabbath eve.

(25) Read with MS.M., יהוו קא חזו Cur. edd., הוה ... חזי (sing.) may refer to R. Jannai.

(26) Cf. supra p’ 375’ n. 18,

(27) Lit., ‘bend’, a mark of mourning for the dead,

(28) מטתו

(29) Cf. Eccl, X, 5’

(30) So MS.M., reading דיהודה.

(31) He was about to marry R. Hiyya's daughter (Rashi).

(32) V. Glos,

(33) Lit,, ‘the soul of the girl rested’. V. supra p’ 375, n. 10.
(34) The unexpected death of the bride being due to providential intervention to prevent an undesirable union,
(35) Lit,, ‘they sat and looked in’,
(36) David's son (II Sam, III,4).
(37) One of David's wives (ibid.).
(38) As the latter was not a descendent of the anointed king's family it was not proper for his daughter to be united in marriage with one who was.
(39) Lit,, ‘he went’.
(40) Rabbi,
(41) Rabbi's son.
(42) The marriage to be celebrated at the end of this period.
(43) The period of study prior to the marriage.
(44) On account of his apparent fickleness,
(45) In being influenced by affection to shorten the courting interval and to hasten the marriage day.
(46) Who also hastened the day of His union with Israel,
(47) Ex, XV, 17, i.e,, only after settlement in the promised land was the sanctuary (the symbol of the union between God and Israel) to be built.
(48) Ex. XXV, 8, i.e., while still in the wilderness. (V. p. 376,n.22).
(49) Having been separated from him for more than ten years (Rashi, cf. Yeb. 34b).
(50) At the conclusion of the marriage festivities.
(51) Lit., ‘did not know (how) to go’.
(52) Lit., ‘infer from this’.
(53) Read with MS.M., דלי Cut. edd., דל עינה may be rendered ‘he lifted up her eye’ i.e., he attracted her attention. (v. Jast. s.v. סוי).
(54) Cf. supra p’ 355, n. 12.
(55) Lit., ‘her spirit fled’.
(56) For depriving herself of her husband so many years for the sake of the Torah.
(57) Who entered his house unexpectedly and thereby neatly caused the death of his wife.
(58) Who was unknown to his father.
(59) I.e., had he remained at home and attended to the education of his son.
(60) Lit., is ‘there’.
(61) Lit., ‘said’.
(62) Eccl. IV, is.
(63) Three generations of scholars all living at the same time, v. B.B. Sone. ed. p. 537.0.8.
(64) One of the three richest men of Jerusalem at the time of the Vespasian siege. V. Git. 56a.

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will you lead the life of a living widowhood?’ ‘If he would listen to me,’ she replied. ‘he would spend [in study] another twelve years’. Said [R. Akiba]: ‘It is then with her consent that I am acting’. and he departed again and spent another twelve years at the academy. When he finally returned he brought with him twenty-four thousand disciples. His wife heard [of his arrival] and went out to meet him, when her neighbours said to her, ‘Borrow some respectable clothes and put them on’, but she replied: A righteous man regardeth the life of his beast.[1] On approaching him she fell upon her face and kissed his feet. His attendants were about to thrust her aside, when [R. Akiba] cried to them, ‘Leave her alone, mine and yours are hers’.[2] Her father, on hearing that a great man had come to the town, said, ‘I shall go to him; perchance he will invalidate my vow’,[3] When he came to him [R. Akiba] asked, ‘Would you have made your vow if you had known that he was a great man?’ ‘[Had he known]’ the other replied. ‘even one chapter or even one Single halachah [I would not have made the vow]’. He then said to him, ‘I am the man’.[4] The other fell upon his face and kissed his feet and also gave him half of his wealth.[5] The daughter of R. Akiba acted in a similar way[6] towards Ben Azzai. This is indeed an illustration of the proverb:[7] ‘Ewe follows ewe; a daughter's acts are like those of her mother.’ R. Joseph the son of Raba [was] sent [by] his father to the academy under[8] R. Joseph. and they arranged for him [to stay there for] six years. Having been there three years and the eve of the Day of Atonement approaching. he said, ‘I would go and see my family’. When his father heard [of his premature arrival] he took up a weapon and went out to meet him. ‘You have remembered’, he said to him, ‘your mistress!’[9] Another version: He said to him, ‘You have remembered your dove!’[10] They got involved in a quarrel and neither the one nor the other ate of the last meal before the fast.[11] MISHNAH. IF A WIFE REBELS[12] AGAINST HER HUSBAND. HER KETHUBAH[13] MAY BE REDUCED BY SEVEN DENARII[14] A WEEK.[15] R. JUDAH SAID: SEVEN TROPAICS.[16] FOR HOW LONG MAY THE REDUCTION CONTINUE TO BE MADE? UNTIL [A SUM] CORRESPONDING TO HER KETHUBAH [HAS ACCUMULATED].[17] R. JOSE SAID: REDUCTIONS MAY BE MADE CONTINUALLY UNTIL [SUCH TIME] WHEN, SHOULD AN INHERITANCE FALL TO HER FROM ELSEWHERE, [HER HUSBAND] WILL BE IN A POSITION TO COLLECT FROM HER THE [FULL AMOUNT DUE]. SIMILARLY, IF A HUSBAND REBELS AGAINST HIS WIFE, AN ADDITION OF THREE[18] DENARII A WEEK IS MADE TO HER KETHUBAH. R. JUDAH SAID: THREE TROPAICS. GEMARA. REBELS in what [respect]? — R. Huna replied: [In respect] of conjugal Union .R. Jose the son of R. Hanina replied: [In respect] of work. We learned, SIMILARLY, IF A HUSBAND REBELS AGAINST HIS WIFE. Now according to him who said, ‘[In respect] of conjugal union [this ruling] is quite logical and intelligible;[19] but according to him who said, ‘[In respect] of work’, is he[20] [it may be objected] under any obligation [at all to work] for her?[21] — Yes,[22] [rebellion being possible] when he declares ‘I will neither sustain nor support [my wife]’ — But did not Rab state: If a man says. ‘I will neither sustain nor support [my wife]’. he must divorce her and give her the kethubah?[23] — Is it not necessary to consult him [before ordering him to divorce her]?[24] An objection was raised: The same[25] [law[26] is applicable to a woman] betrothed[27] or married, even to a menstruant, even to a sick woman and even to one who was awaiting the decision of the levir.[28] Now,[29] according to him who said, ‘[In respect] of conjugal union’ it is quite correct to mention the sick,

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(1) A quotation from Prov. XII, 10.

(2) I.e., it is thanks to her suggestion and encouragement that he and, through him, his disciples, were able to acquire their knowledge.

(3) Which a competent authority may under certain conditions do.

(4) Lit., ‘he’.

(5) Lit., money’.

(6) As her mother had done towards R. Akiba

(7) Lit., ‘and this it is that people say’.

(8) Lit., ‘before’.

(9) זונתך, Lit., ‘your harlot’. Var. lec. ‘thy mate’, ‘thy beloved’.

(10) יונתך This version is obtained by the slight interchange of a י for a ז (cf. Supra n. 8).

(11) לא איפסיק (rt. פסק , ‘to separate’, sever’, ‘cease’) i.e., did not eat the סעודה המפסקת, the ‘meal which, so to speak. causes one to cease’ the eating of food until the conclusion of the Day of Atonement after nightfall On the following day.

(12) The term is explained in the Gemara infra.

(13) V. Glos.

(14) Plural of denar. V. Glos.

(15) This is regarded as the equivalent of the value of the seven kinds of work (supra 59b) a woman is expected to perform for her husband. (Cf. M.R. Gen. LII).

(16) Half a denar.

(17) Then she may be divorced, and cannot claim her kethubah.

(18) Corresponding to the three obligations of a husband, prescribed in Ex. XXI, 10.

(19) Since a husband, like a wife, might sometimes decide to rebel in this respect.

(20) A husband.

(21) Surely not. How then, in this respect. is rebellion applicable to him?

(22) I.e., his duty to maintain and support his wife corresponds to her duty to work for him.

(23) Infra 77a. presumably at once, while according to Out Mishnah every week AN ADDITION . . . IS MADE TO HER KETHUBAH.

(24) Of course it is; since he may quite possibly be persuaded to resume his obligations. It is during this period of negotiation that the weekly additions are made to the kethuhah.

(25) Lit., ‘(it is) one to me’.

(26) Relating to the rebellion of a wife against her husband.

(27) When she declares that she will refuse to marry.

(28) Infra 64a. שומרת יבם , the widow of a man who died childless, who must either be taken in marriage by her deceased husband's brother or submit to halizah (v. Glos.) from him.

(29) Cut. edd. insert in parentheses: ‘This is correct according to him who said "(In respect) of work’; but according to him who said (In respect) of conjugal union", is a menstruant capable of conjugal union? — He can answer you: One who has bread in his basket is not like one who has none’. Others say, v, infra p. 382.

Talmud - Mas. Kethuboth 63b

but according to him who said, ‘[In respect] of work’, is a sick woman [it may be objected] fit to do work?[1] — The fact,however, is that[2] [in respect] of conjugal union all[3] agree that [a wife who refuses] is regarded as a rebellious woman.[4] They[3] differ only in respect of work. One Master is of the opinion that [for a refusal] of work [a wife] is not to be regarded as rebellious and the other Master holds the opinion [that for a refusal] of work also [a wife] is regarded as rebellious. [To turn to] the main text,[5] If a wife rebels against her husband, her kethubah may be reduced by seven denarii a week. R. Judah said: Seven tropaics. Our Masters, however, took a second vote[6] [and ordained] that an announcement regarding her shall be made on four consecutive Sabbaths and that then the court shall send her [the following warning]: ‘Be it known to you that even if your kethubah is for a hundred maneh[7] you have forfeited it’.[8] The same [law is applicable to a woman] betrothed or married, even to a menstruant, even to a sick woman, and even to one who was awaiting the decision of the levir.[9] Said R. Hiyya b. Joseph to Samuel: Is a menstruant capable of conjugal union?[10] — The other replied: One who has bread in his basket is not like one who has no bread in his basket[11] Rami b. Hama stated: The announcement concerning her[12] is made only in the Synagogues and the houses of study. Said Raba: This may be proved by a deduction,[13] it having been taught,’Four Sabbaths consecutively’.[14] This is decisive.[15] Rami b. Hania further stated: [The warning] is sent to her[16] from the court twice, once before the announcement and once after the announcement. R. Nahman b. R. Hisda stated in his discourse: The halachah is in agreement with our Masters.[17] Raba remarked: This is senseless.[18] Said R. Nahman b. Isaac to him, ‘Wherein lies[19] its senselessness? I, in fact, told it to him, and it was in the name of a great man that I told it to him. And who is it? R. Jose the son of R. Hanina!’ Whose view then is he[20] following? — The first of the undermentioned.[21] For it was stated: Raba said in the name of R. Shesheth, ‘The halachah is that she[16] is to be consulted’,[22] while R. Huna b. Judah stated in the name of R. Shesheth, ‘The halachah is that she is not to be consulted’.[23] What is to be understood by ‘a rebellious woman’?[24] — Amemar said: [One] who says. ‘I like him[25] but wish to torment him’.[26] If she said, however, ‘He is repulsive to me’, no pressure is to be brought to bear upon her.[27] Mar Zutra ruled: Pressure is to be brought to bear upon her.[28] Such a case once occurred, and Mar Zutra exercised pressure upon the woman and [as a result of the reconciliation that ensued] R. Hanina of Sura[29] was born from the re-union. This, however,[30] was not [the right thing to do]. [The successful] result] was due to the help of providence.[31] R. Zebid's daughter-in-law rebelled [against her husband][32] and took possession of her silk [cloak].[33] Amemar, Mar Zutra and R. Ashi were sitting together[34] and R. Gamda sat beside them; and in the course of the session they laid down the law: [If a wife] rebels she forfeits her worn-out[35] clothing that may still be in existence. Said R. Gamda to them, ‘Is it because R. Zebid is a great man that you would flatter him? Surely R. Kahana stated that Raba had only raised this question[36] but had not solved it’. Another version:[37] In the course of their session they decided: [If a wife] rebels she does not forfeit her worn-out clothing[38] that may still be in existence. Said R.

Gamda to them,

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(1) Naturally not. How then could she in this respect be guilty of rebellion?
(2) Lit., ‘but’.
(3) R. Huna and R. Jose.
(4) And the Baraitha cited deals with conjugal union.
(5) Of the quotation, ‘the same law etc.’ cited supra 63a ad fin.
(6) Lit., ‘they (i.e., their votes) were counted again’.
(7) V. Glos.
(8) At the end of the four weeks.
(9) Cf. Tosef. Keth. V., and supra notes 1 and 2.
(10) Obviously not; she being forbidden to her husband until the conclusion of the days of her Levitical uncleanness and the seven subsequent ‘clean days’.
(11) Cf. supra p. 374. n. 9 The woman's declared rebellion and the man's knowledge that even during her cleanness she will remain forbidden. aggravate the pain of the deprivation and entitle him to immediate redress.
(12) A woman who rebelled against her husband
(13) From the very text of the ordinance.
(14) Emphasis on Sabbaths’ days of test when everybody is free from work and able to attend Synagogue and the houses of study.
(15) Lit., ‘Infer from this’.
(16) A woman who rebelled against her husband.
(17) Whose ruling is recorded in the Baraitha just cited (v. supra p. 381. n. 12 and text).
(18) בורכא (cf. בור ‘empty’. uncultivated’). ‘a hollow, senseless statement’. The addition of the כ is on the analogy of words like ערכך (Levy). Others derive if from ברך ‘cave out’ (v. Jast.)
(19) Lit , ‘what’.
(20) Raba who regarded the statement as senseless.
(21) Lit., ‘like that’
(22) With a view to inducing her to resume her duties, and during the negotiations. contrary to the view of our Masters, only the weekly sum mentioned is deducted from her kethubah. [On this interpretation which follows Rashi, Raba decides in accordance with our Mishnah against our Masters. Tosaf. explains differently R Nahman, In stating that the halachah is with our Masters, meant to exclude thereby the view of Rami B Hama regarding the two warnings. He maintained that the words of our masters had to be taken as they stand, with no mention of any warning before the proclamation. This is however rejected by Raba, who declares, on the authority of R. Shesheth, the halachah to be that a warning is given prior to the proclamation The warning will, In this case, be that she will lose the while of her kethubah should she still prove recalcitrant after the proclamation].
(23) [On Tosaf. interpretation. (Previous note) the meaning is she is not warned before but only after the proclamation, agreeing with R. Nahman b. R. Hisda].
(24) Heb. moredeth, whose divorce is to be delayed and deductions are in the meantime to be made from her Kethubah.
(25) Her husband.
(26) In this case divorce is delayed in the hope that the weekly reductions of her kethubah and the persuasions used by the court will induce her to change her attitude.
(27) [The husband can, if he wishes, divorce her forthwith without giving her kethubah; v. Rashi and Tosaf. s.v. אבל .]
(28) V. Supsra note 4.
(29) Supra was the seat of the famous school of Rab, in the South of Babylonia.
(30) Though the pressure in this case resulted to the birth of a great man.
(31) Lit., ‘assistance of heaven’
(32) [She said, ‘He is repulsive to me’ (Rashi) v. infra p. 384, n. 5].
(33) Which she had brought with her when she married, and which was assessed and entered to her Kethubah.
(34) Lit., ‘sat’.
(35) V supra n. 11
(36) As to the forfeiture of worn-out clothes.
(37) Lit., ‘there are who say’.

(38) V. supra p. 383, n. 21.

Talmud - Mas. Kethuboth 64a

‘Is it because R. Zebid is a great man[1] that you turn the law against him? Surely R.Kahana stated that Raba had only raised the question but had not solved it’. Now that it has not been stated what the law is,[2] [such clothing] is not to be taken away from her if she has already seized them, but if she has not yet seized them they are not to be given to her. We also make her wait twelve months, a [full] year. for her divorce,[3] and during these twelve months she receives no maintenance from her husband.[4] R. Tobi b. Kisna stated in the name of Samuel: A certificate of rebellion may be written against a betrothed woman but no such certificate may be written against one who is awaiting the decision of the levir.[5] An objection was raised: The same [law[6] is applicable to a woman] betrothed or married, even to a menstruant, even to a sick woman and even to one who was awaiting the decision of the levir![7] — This is no contradiction. The one[8] refers to the case where the man claimed her;[9] the other[10] to that where she claimed him.[11] For R. Tahlifa b. Abimi stated in the name of Samuel: If he claimed her[9] he is attended to;[12] if she claimed him she is not attended to.[13] To what case did you explain the statement of Samuel[14] as referring? To the one where she claimed him?[15] [But if so] instead of Saying[16] ‘A certificate of rebellion may be written against a betrothed woman’ it should have been said, ‘On behalf of a betrothed woman’![17] — This is no difficulty. Read, ‘On behalf of a betrothed woman’.[18] Wherein does a woman awaiting the decision of the levir differ [from the man] that no [certificate of rebellion should be issued on her behalf]? Obviously because we tell her, ‘Go, you are not commanded [to marry]’;[19] [but. then.] a betrothed woman also should be told, ‘Go, you are not commanded [to marry]’![19] Again should [it be explained to be one] where she comes with the plea Saying. ‘I wish to have a staff in my hand and a spade for my burial’,[20] [this then should] also apply to a woman awaiting the decision of the levir if she comes with such a plea! — [The proper explanation] then [must be this]: Both statements[21] [refer to the case] where the man claimed,[22] and yet there is no difficulty. since one[23] may refer[24] to the performance of halizah and the other[25] to that of the levirate marriage. For R. Pedath stated in the name of R. Johanan: [If the levir] claimed her for the performance of halizah his request is to be attended to,[26] but if he claimed her for the levirate marriage his request is disregarded.[27] Why [is he] not [attended to when he claims her] for the levirate marriage? Naturally because we tell him, ‘Go and marry another woman’; [but then even when he claims her] for the performance of halizah could we not also tell him, ‘Go and marry another woman’? Again should the answer be: [Because] he can plead. ‘As she is bound to me[28] no other wife will be given me’. Here also[29] [could he not plead] ‘As she is bound to me no other wife will be given to me’? — [The proper explanation] then [is this]: Both statements[30] [deal with one] who claimed her for the levirate marriage. but there is really no difficulty. one[31] being[32] in agreement with the earlier Mishnah while the other is[32] in agreement with the latter Mishnah. For we have learned: The commandment of the levirate marriage must take precedence over that of halizah.[33] [This was the case] in earlier days when [levirs] had the intention of observing the commandment — Now, however, when their intention is not the fulfilment of the commandment, it has been ruled that the commandment of halizah takes precedence over that of the levirate marriage.[34] FOR HOW LONG MAY THE REDUCTION CONTINUE TO BE MADE? etc. What [is meant by] TROPAICS? R. Shesheth replied: [one tropaic is] an istira. And how much is an istira? — Half a zuz.[35] So it was also taught: R. Judah said: Three tropaics which [amount to] nine ma'ah[35] [the reduction being at the rate of] one ma'ah and a half per day.[36] R. Hiyya b. Joseph asked Of Samuel: In what respect is he[37] different [from his wife] that he is allowed [a reduction] for the Sabbath,[38] and in what respect is she different [from him] that she is not allowed [an addition] for the Sabbath?[39] — In her case,[40] since it is a reduction that is made, [the seventh tropaic the husband gains] does not have the appearance of Sabbath pay. In his case, however,[41] since it is additions that are made,

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(1) And would humbly accept the ruling.

(2) Lit., ‘neither thus nor thus’.
(3) To afford her an opportunity of changing her attitude.
(4) [Rashi and Adreth among others restrict this procedure to a rebellion out of repulsion, a case illustrated in their view by the daughter-in-law of R. Zebid (v. Supra p. 383, n. 10). Where the rebellion was out of malice she loses her kethubah and dowry completely after the warning at the end of four weeks. Maim., on the other hand, applies it to rebellion out of malice. In the case of rebellion out of repulsion, she is granted a divorce immediately because ‘she is not a captive to her husband that she should be forced to have intercourse with him’, and though she forfeits her kethubah, she loses none of her dowry (v. Maim. Yad. Ishuth XIV, 8, and commentaries a.l.). In his view the case of R. Zebid's daughter-in-law was one of rebellion out of malice].
(5) Shomereth yabam, v. Glos,
(6) Of. ‘a rebellious ‘woman’.
(7) Supra 63a, notes.
(8) The Baraitha cited (v. suprs n. 8).
(9) And she refused him.
(10) Samuel's ruling reported by R. Tobi.
(11) And he refused to marry her.
(12) And he is awarded a certificate of rebellion against her.
(13) She is not entitled to a certificate of rebellion against him, which should enable her to obtain the weekly additions to her Kethubah (v. our Mishnah). The reason is given infa. Thus it has been shown that there is a legal difference between the case where he makes the claim and between the case where she makes the claim.
(14) V. p. 384, n. 11.
(15) V. p. 384, n. 12.
(16) Lit., ‘that’.
(17) Against her husband.
(18) The emendation involving only the slight change of על to ל .
(19) A woman is under no obligation to propagate the race (v. Yeb. 65b).
(20) I.e., a son who will provide for her while she is alive and arrange for her burial when she dies.
(21) Lit., ‘these and these’, the statement reported in the name of Samuel as well as the other cited from 63a Supra.
(22) And she refused him.
(23) The Baraitha cited (v. supra p. 384, n. 8).
(24) Lit., ‘here’.
(25) Samuel's ruling reported by R.Tobi.
(26) V.supra p.384, n. 13.
(27) The reason is given anon in the latter Mishnah cited.
(28) By the marital bond which only halizah can sever.
(29) When he claims her for levitate marriage.
(30) V. supra p. 385. n. 8.
(31) V. supra p. 385. n. 10.
(32) Lit., ‘here’.
(33) A woman who refused the levir's claim was, therefore, guity of rebellion, and a certificate against her was issued to the levit.
(34) No certificate of rebellion may, therefore, be issued against a woman who refuses such a marriage.
(35) V. Glos.
(36) The week consisting of six working days.
(37) The husband.
(38) Seven tropaics corresponding to all the days of the week including the Sabbath day.
(39) The nine ma'ah at the rate of one and a half per day corresponding to six days only (cf. supra n. 9).
(40) I.e. , when the woman rebels.
(41) When the man rebels against his wife.

Talmud - Mas. Kethuboth 64b

[another addition for the seventh day] would have the appearance of Sabbath pay. R. Hiyya b. Joseph [further] asked of Samuel: What [is the reason for the distinction] between a man who rebels [against his wife] and a woman who rebels [against her husband]?[1] — The other replied. ‘Go and learn it from the market of the harlots; who hires whom?’[2] Another explanation: [The manifestation of] his passions is external; hers is internal. MISHNAH. IF A MAN[3] MAINTAINS HIS WIFE THROUGH A TRUSTEE, HE MUST GIVE HER [EVERY WEEK] NOT LESS THAN TWO KABS[4] OF WHEAT OR FOUR KABS OF BARLEY. SAID R. JOSE: ONLY R. ISHMAEL WHO LIVED NEAR EDOM[5] GRANTED HER A SUPPLY OF BARLEY.[6] HE MUST ALSO GIVE HER HALF AKAB OF PULSE AND HALF ALOG[4] OF OIL; AND AKAB OF DRIED FIGS OR A MANEH[4] OF PRESSED FIGS,[7] AND IF HE HAS NO [SUCH FRUIT] HE MUST SUPPLY HER WITH A CORRESPONDING QUANTITY OF OTHER[8] FRUIT. HE MUST ALSO PROVIDE HER WITH A BED, A MATTRESS[9] AND[10] A RUSH MAT. HE MUST ALSO GIVE HER [ONCE A YEAR] A CAP FOR HER HEAD AND A GIRDLE FOR HER LOINS; SHOES [HE MUST GIVE HER] EACH MAJOR FESTIVAL;[11] AND CLOTHING [OF THE VALUE] OF FIFTY ZUZ EVERY YEAR. SHE IS NOT TO BE GIVEN NEW [CLOTHES][12] IN THE SUMMER OR WORN-OUT CLOTHES IN THE WINTER, BUT MUST BE GIVEN THE CLOTHING [OF THE VALUE] OF FIFTY ZUZ DURING THE WINTER, AND SHE CLOTHES HERSELF WITH THEM WHEN THEY ARE WORN-OUT DURING THE SUMMER; AND THE WORN-OUT CLOTHES REMAIN HER PROPERTY.[13] HE MUST ALSO GIVE HER [EVERY WEEK] A SILVER MA'AH FOR HER [OTHER] REQUIREMENTS[14] AND SHE IS TO EAT WITH HIM ON THE NIGHT OF EVERY SABBATH.[15] IF HE DOES NOT GIVE HER A SILVER MA'AH FOR HER OTHER REQUIREMENTS, HER HANDIWORK BELONGS TO HER.[16] AND WHAT [IS THE QUANTITY OF WORK THAT] SHE MUST DO FOR HIM?[17] THE WEIGHT OF FIVE SELA'S OF WARP IN JUDAEA, WHICH AMOUNTS TO TEN SELA'S IN GALILEE,[18] OR THE WEIGHT OF TEN SELA'S OF WOOF[19] IN JUDAEA, WHICH AMOUNTS TO TWENTY SELA'S IN GALILEE.[18] IF SHE WAS NURSING [HER CHILD] HER HANDIWORK IS REDUCED AND HER MAINTENANCE IS INCREASED. ALL THIS APPLIES TO THE POOREST IN ISRAEL, BUT IN THE CASE OF A MEMBER OF THE BETTER CLASSES[20] ALL IS FIXED ACCORDING TO THE DIGNITY OF HIS POSITION. GEMARA. Whose [view is represented in] our Mishnah?[21] [It seems to be] neither that of R. Johanan b. Beroka nor that of R. Simeon. For we learned: And what must be its[22] size? Food for two meals for each, [the quantity being] the food one eats on weekdays and not On the Sabbath; so R. Meir. R. Judah said: As on the Sabbath and not as on weekdays. And both intended to give the lenient ruling.[23] R. Johanan b. Beroka said:[24] A loaf that is purchased for a dupondiom[25] [when the cost of wheat is at the rate of] four se'ah[25] for a sela’.[25] R. Simeon said:[26] Two thirds of a loaf, three of which are made from a Kab.[27] Half of this [loaf is the size prescribed] for a leprous house,[28] and half of its half[29] renders one's body[30] unfit;[31] and half of the half of its half to be susceptible to Levitical uncleanness,[32] Now, whose [view is that expressed in our Mishnah]?[33] If [it be suggested that it is that of] R. Johanan b. Beroka [the prescribed TWO KABS would only] be [sufficient for] eight [meals].[34] and if [the suggestion is that it is that of] R. Simeon [the TWO KABS would] be [sufficient even for] eighteen [meals].[35] — [Our Mishnah may] in fact [represent the view of] R. Johanan b. Beroka but, as R. Hisda said elsewhere,[36] ‘Deduct a third of them for the [profit of the] shopkeeper’,[37] so here[38] also take a third[39] and add to them.[40] But [do not the meals] still amount only to twelve?[41] — She eats with him on Friday nights —[42] This is satisfactory according to him who explained[43] [TO EAT In our Mishnah as] actual eating. What, however, can be said according to him who explained ‘eating’ [to mean] intercourse? Furthermore, [would not her total number of meals still] be only thirteen?[44] — The proper answer is really this:[45] As R. Hisda said elsewhere,[46] ‘Deduct a half for the [profit of the] shopkeeper.[47] so here[48] also take a half[49] and add to them.[50] (Does not a contradiction arise between the two statements of R. Hisda?[51] — There is no contradiction. One statement refers[52] to a place where [the sellers of the wheat] supply also wood[53] while the other refers[52] to a place where they do not supply the wood.)[54] If so[55] [the number of meals] is sixteen.[56] With whose [view then would our Mishnah agree]? With R. Hidka who ruled: A man must eat on the Sabbath four meals?[57] — It may be said to represent even the view of the Rabbis, for one meal is to be reserved for guests and occasional visitors.[58] Now that you have arrived at this position [our Mishnah] may be said to represent even the view of R. Simeon,[59] for according to the Rabbis[60] three meals should be deducted[61] for guests and occasional visitors[62] and according to R. Hidka[63] two Only are to be deducted for guests and occasional visitors.[64] SAID R. JOSE: ONLY . . . GRANTED A SUPPLY OF BARLEY etc. Do they eat barley at Edom only and throughout the world none IS eaten? — It is this that he meant: ONLY R. ISHMAEL WHO LIVED NEAR EDOM GRANTED A SUPPLY OF BARLEY equal to twice the quantity of wheat, because the Idumean barley was of an inferior quality. THE MAN MUST ALSO GIVE HER HALF A KAB OF PULSE. Wine, however, is not mentioned. This provides support for a view of R. Eleazar. For R. Eleazar stated:

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(1) I.e., why does the former lose only half a tropaic a day while the latter loses a full tropaic each day?

(2) The man naturally hires the woman; which shows that the male feels the deprivation mote than the female, His compensation. therefore, must be proportionately higher.

(3) A husband who does not live with his wife.

(4) V. Glos.

(5) In the South of Palestine.

(6) This is explained in the Gemara infta.

(7) דבילה , a cake of pressed figs. The latter is sold by weight; the former by measure,

(8) Lit., ‘from another place’.

(9) מפץ , a mat of bark or reeds,

(10) The separate edd. of the Mishnah read, ‘And if he has no mattress he gives her a rush mat’.

(11) I.e., Passover, Pentecost and Tabernacles.

(12) Which provide more warmth than outworn clothes.

(13) Even after her husband had provided her with the new outfit. This is further discussed in the Gemara infra.

(14) Smaller expenses.

(15) I.e., Friday nights, the prescribed time for marital intercourse.

(16) This is explained supra 59a as referring to the surplus.

(17) Where he supplies her with the prescribed allowances.

(18) The Galilean sela’ being equal in weight to half of the Judaean sela’.

(19) It is twice as difficult to web the warp than the woof. Hence a larger Output is required of the latter than of the former.

(20) מכובד . lit., ‘honoured’, respected’.

(21) Which prescribed for a wife a minimum of TWO KABS.

(22) The loaf of bread required for an ‘erub tehumin. (v. Glos.).

(23) I.e., to reduce the prescribed minimum of the ‘erub. R. Meir used to consume at a weekday meal less bread than at a Sabbath meal at which the richness of the additional Sabbath dishes tempted him to eat more bread. R. Judah, however, consumed on Sabbath, when several satisfying courses ate served, less bread than he would on weekdays owing to the smaller number of courses.

(24) In determining the quantity of bread required for two meals.

(25) V. Glos.

(26) V. p. 388, n. 12.

(27) Of wheat.

(28) If a person remained in such a house (v. Lev. XIV, 33ff) for a length of time during which the quantity of bread mentioned can be consumed his clothes become unclean and require ritual washing (cf. Neg. XIII, 9).

(29) If it consists of Levitically unclean food.

(30) Of the person who ate it,

(31) To eat terumah before he performs ritual immersion, v. ‘Er. 82b.

(32) [This latter passage does not occur in the Mishnah ‘Er. but is introduced in the Gemara on 83a as a teaching by a Tanna].

(33) Where a wife is allowed a minimum of TWO KABS of wheat for the week. Since she must have at least two meals a day, the two Kabs should provide fourteen (seven times two) meals, besides an additional one or two (respectively.

according to the Rabbis or to R. Hidka, infra) for the Sabbath day.

(34) According to R. Johanan b. Beroka a loaf that contains food for two meals (v. supra p. 388. n. 12) is one ‘that is purchased for a dupondium when the cost of wheat is at the rate of four se'ah for a sela’, Each sela’ = four denarii, each denar = six ma'ahs and each ma'ah = two dupondia. Consequently a sela’ = (4 X 6 X 2) forty eight dupondta. a se'ah = six Kabs = twelve half-Kabs. Consequently four se'ahs (4 X 12) forty-eight half-Kabs. For a dupondium, therefore, half a Kab of wheat is obtained; and since this quantity supplies two meals each quarter of a Kab provides one meal. The TWO KABS consequently provide only eight meals.

(35) R. Simeon's minimum is ‘two thirds of a loaf, three of which ate made of a Kab’. If two thirds represent two meals (v. supra p. 388, n. 12) each third represents one meal. If three loaves are made from one Kab, each Kab represents (3 X 3) nine meals. The TWO KABS, therefore, represent (6 X 9) = eighteen meals. Now since according to our Mishnah a wife must be allowed fourteen meals plus one additional meal or two for the Sabbath (v. supra note 9) neither the view of R. Johanan b. Beroka nor that of R. Simeon can be represented by it.

(36) V. ‘Er. 82b.

(37) Though the shopkeeper buys at the rate of four se'ahs for a sela’ = half a kab for a dupondium (v. supra p. 389. n. 10) he sells at a higher price, leaving for himself a profit of one third of the purchase price. For each dupondium, therefore, he sells only two thirds of half a kab. One third of half a Kab or one sixth of a Kab thus provides one meal. Two Kabs therefore, would produce (2 x 6) = twelve meals.

(38) In our Mishnah.

(39) The shopkeeper's profit which the husband saves by the supply of wheat instead of shop baked loaves.

(40) To the presumed number of eight. Four is a third of twelve which is the number of meals two Kabs provide.

(41) Cf. supra p. 389. n. 13 ad fin. As, however, she requires fourteen plus one or plus two meals for the week (v. supra p. 389. n. 9) she is still short of three or four meals.

(42) Lit., ‘the nights of the Sabbath’. Friday night belongs to the Sabbath, the day always beginning with the sunset of the previous day.

(43) Infra 65b.

(44) The twelve mentioned (v. supra p. 389. n. 13 ad fin.) plus the one she has on Friday night. She is thus still short of a meal or meals (v. supra p. 389. n. 9) for the Sabbath day.

(45) Lit., ‘but’.

(46) V. ‘Er. 82b.

(47) Cf. supra p. 389, n. 13 mutatis mutandis.

(48) In our Mishnah.

(49) V. supra note 1.

(50) Cf. supra note 2 mutatis mutandis. The woman thus obtains her full number of meals.

(51) Lit., ‘a difficulty of R. Hisda against R. Hisda’.

(52) Lit., ‘that’.

(53) For the baking of the bread. In such a case the shopkeeper deducts only a third for his profit.

(54) And the shopkeeper sells at a profit equal to half of his purchase price to compensate himself for the cost of the wood.

(55) That a half is to be added.

(56) Each half Kab producing four, instead of the presumed two meals, the two Kabs would produce (4 X 4) sixteen meals.

(57) Shab. 117a. As R. Hidka is in the minority, would an anonymous Mishnah which usually represents the halachah agree with the opinion of an individual against that of a majority?

(58) Cf. supra p. 364. nn. 5-6. This leaves the woman with fifteen meals, twelve for the six weekdays and three for the Sabbath.

(59) According to whom the TWO KABS would provide eighteen meals.

(60) Who maintain that only three meals are prescribed for the Sabbath.

(61) From the eighteen.

(62) Cf. supra note 1.

(63) Whose view is that for the Sabbath four meals are prescribed.

(64) Leaving for the woman four Sabbath meals plus twelve for the week days.

Talmud - Mas. Kethuboth 65a

Talmud - Mas. Kethuboth 65a

No allowance for wine is made for a woman.[1] And should you point out the Scriptural text, I will go after my lovers, that give me my bread and my water, my wool and my flax. mine oil and my drink,[2] [it may be replied that the reference is to] things which a woman desires.[3] And what are they? Jewellery. R. Judah of Kefar Nabirya[4] (others say: of Kefar Napor[5] Hayil) made the following exposition: Whence is it derived that no allowance for wines is made for a woman? — [From Scripture in] which it is said, So Hannah rose up after she had eaten[6] in Shiloh, and after drinking.[7] only 'he had drunk' but she did not drink. Now, then, would you also [interpret:] 'She had eaten'[8] that he[6] did not eat? — What we say is [that the deduction may be made] because the text has deliberately been changed. For consider: It was dealing with her, why did it change [the form]?[9] Consequently it may be deduced that it was 'he who drank' and that she did not drink. An objection was raised: If [a woman] is accustomed [to drink] she is given [an allowance of drink]! — Where she is accustomed to drink the case is different. For R. Hinena b. Kahana stated in the name of Samuel, 'If she was accustomed [to drink] she is given an allowance of one cup; if she was not accustomed [to it] she is given an allowance of two cups'. What does he mean? — Abaye replied: It is this that he means: If she was in the habit [of drinking] two cups in the presence of her husband she is given one cup in his absence; if she is used [to drink] in the presence of her husband only one cup, she is given none at all in his absence. And if you prefer I might say: If she is used [to drink] she is allowed some wine for her puddings[10] only. For R. Abbahu stated in the name of R. Johanan: It happened that when the Sages granted the daughterin-law of Nakdimon[11] b. Gorion a weekly[12] allowance of two se'ahs of wine for her puddings she[13] said to them, 'May you grant such allowances to your daughters'. A Tanna taught: She was a woman awaiting the decision of the levir.[14] Hence they did not reply Amen after her.[15] A Tanna taught: One cup[16] is becoming to a woman; two are degrading. [and if she has] three she solicits publicly.[17] [but if she has] four she solicits even an ass in the street and cares not. Raba said: This was taught only [in respect of a woman] whose husband is not with her; but if her husband is with her [the objection to her drinks] does not arise.[18] But, Surely. [there is the case of] Hannah whose husband was with her![19] — With a guest[20] it is different,[21] for R. Huna stated Whence is it inferred that a guest is forbidden marital union? [From Scripture in] which it is said, And they rose up in the morning early and worshipped before the Lord, and returned, and came to their house to Ramah; and Elkanah knew Hannah his wife; and the Lord remembered her,[22] only[23] then[24] but not before. Homa, Abaye's wife, came to Raba[25] and asked him, 'Grant me an allowance of board', and he granted her the allowance. 'Grant me [she again demanded] an allowance of wine'. 'I know', he said to her, 'that Nahmani[26] did not drink wine'. 'By the life of the Master [I swear]'. she replied. 'that he gave me to drink[27] from horns[28] like this'.[29] As she was showing it to him her arm was uncovered and a light shone[30] upon the court. Raba rose, went home and solicited R. Hisda's daughter.[31] 'Who has been to-day at the court?' enquired R. Hisda's daughter. 'Homa the wife of Abaye'. he replied. Thereupon she followed her, striking her with the straps[32] of a chest[33] until she chased her out of all Mahuza.[34] 'You have', she said to her, 'already killed three [men].[35] and now you come to kill another [man]!' The wife of R. Joseph the son of Raba came before R. Nehemiah the son of R. Joseph and said to him, 'Grant me an allowance of board', and he granted her. 'Grant me also an allowance of wine' [she demanded], and he granted her. 'I know', he said to her, 'that the people of Mahuza drink wine'. The wife of R. Joseph the son of R. Menashya of Dewil[36] came before R. Joseph and said to him, 'Grant me an allowance of board', and he granted her. 'Grant me', she said, 'an allowance of wine', and he granted her. 'Grant me', she said again. 'an allowance of silks'. 'Why silks?' he asked. 'For your sake', she replied. 'and for the sake of your friend and for the sake of your associates'.[37] HE MUST ALSO PROVIDE HER WITH A BED, A MATTRESS etc. Why[38] should he give her A MATTRESS AND A RUSH MAT?[39] — R. Papa replied: [This is done only] in a place where it is the practice to girth the bed with ropes.[40] which would hurt[41] her. Our Rabbis taught: She[42] is not given[43] a cushion and a bolster. In the name of R. Nathan it was stated: She is given a cushion and a bolster. How is this to be understood? If it is a case where she is used to it,[44] what [it may be objected] is the reason of the first Tanna?[45] And if it is a case where she is not used to it,[44] what [it may be asked] is the reason of R. Nathan?[46] — [The statement was] necessary only in the case where it[47] was his habit but not her habit.[48] The first Tanna[49] is of the opinion that [her husband] may say to her, ‘When I go away[50] I take them and when I return I bring them back with me’,[51] while R. Nathan holds the opinion that she can tell him, ‘It might sometimes happen [that you will return] at twilight[52] when you will be unable to bring them[53] and so you will take mine[54] and make me sleep on the ground’.[55] HE MUST ALSO GIVE HER [ONCE A YEAR] A CAP. Said R. Papa to Abaye:

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(1) Alcoholic drinks might lead her to unchastity (v. Rashi).

(2) Hos. II, 7. And my drink, ושקויי , presumably including wine.

(3) שקויי (cf. supra n. 9) being derived from the rt. שוק ‘to long’. ‘desire’.

(4) MS. M., גבוריא. [Neburja. identified with en-Nebraten in upper Galilee].

(5) נפור MS.M. גבור ; marg., גבור .

(6) אכלה . This is taken as perfect 3rd pers. fem; according to the accentuation of M.T. it is the inf. estr. with fem.termination.

(7) I Sam. I, 9. E.V., They had drunk. M.T. שתה , Inf. is taken as the equivalent of שתה (3rd masc. sing.), ‘he (Elkanah) had drunk’.

(8) The word אכלה (ibid.) instead of אכל , אכלם or אכלו

(9) From the finite to the infinite.

(10) ציקי קדירה (v. Jast.). Others, ‘as an ingredient or seasoning of a dish’ (v. Rashi and Golds.).

(11) Or ‘Nicodemon’, ‘Nicodemus’, one of the three wealthiest men in Jerusalem in the days of the siege by Vespasian and Titus (v. Git. 58a).

(12) Lit., ‘from the eve of the Sabbath to the eve of the Sabbath’.

(13) In her annoyance at what she considered to be too small an allowance.

(14) Shomereth yabam. V. Glos.

(15) They did not wish their daughters ever to be placed in the position of a widow who is, moreover, subject to the decision of the levir.

(16) Of wine.

(17) Lit., ‘with the mouth’.

(18) Lit., ‘we have not (anything) against it’.

(19) And she nevertheless, as stated supra. abstained from drink.

(20) אכסנאי (Cf. Gr. **). ‘stranger’, ‘lodger’, ‘guest’.

(21) Hannah at the time was not in her own home but at Shiloh.

(22) I Sam. I,19.

(23) Lit., ‘yes’.

(24) When they had come to their own home.

(25) After Abaye's death (cf. Yeb. 64b).

(26) Lit., ‘my comforter’, a name by which Abaye was often referred to, v. Git. Sonc. ed. p. 140, n. 6.

(27) משקיא לי , MS.M. Cur. edd., משקי ליה ‘gave him to drink’.

(28) Plural of שופרזא , ‘a drinking horn’ (v. Jast.) or ‘deep cups’ (cf.Rashi and Levy).

(29) pointing to her arm.

(30) Lit., ‘fell’.

(31) His own wife.

(32) Pl. of קולפא (rt. קלף , ‘to peel’) ‘peeled or scrapped leather’, ‘a leather strap’ (v. Jast.); ‘a key’ (Rashi).

(33) שידא Aruk, שיראי , ‘silk’; בקולפא דשיראי ‘with a silken strap’. Rashi: ‘With the key of a chest’.

(34) V. supra p. 319. n. 9.

(35) Homa had already thrice married and each of her husbands had died (v. Yeb. 64b).

(36) [Perhaps Debeile in the neighbourhood of Hille (near Sura). There is also a Dabil in Armenia, v. Funk, Monuments Talmudica, p. 291].

(37) To enable her to keep up her social standing in the company of her deceased husband's friends and associates.

(38) Since beds were usually furnished with a skin girth (v. Rashi).

(39) Which are much less comfortable for lying on than a skin girth. R. Tam (Tosaf. s.v. מפץ a.l.) deletes MATTRESS since on account of its softness it is useful even where the bed is furnished with a skin spread.

(40) Instead of the skin girth.

(41) דמבגר (Af. of בגר) lit., ‘which produce a roughness’ (v. Jast.). According to Rashi בגר is to e taken in the sense of ‘age’. The ropes cause her pain and ‘age her’ prematurely.

(42) The wife spoken of to Our Mishnah.

(43) By her husband.

(44) To sleep on a cushion and a bolster.

(45) Who ruled that she is not to be allowed these comforts.

(46) Why should her husband be expected to provide for her more comforts than she habitually requires.

(47) V. p. 394. n. 10.

(48) [Yet on the principle that ‘she rises with him’ supra 61a, she is entitled to them when she is with him (Rashi)].

(49) V. p. 394. n. 11.

(50) From you.

(51) Since she is not in the habit of using them she does not require them in his absence.

(52) On Sabbath eve.

(53) The carrying of objects is forbidden on the Sabbath, the prohibition beginning at twilight on the Friday evening.

(54) The other bed clothes that he had given her or that she herself had purchased. (V. however, next note).

(55) Hence R. Nathan's ruling that a husband must in all cases provide his wife with cushion and bolster. [Var. lec. (v. Tosaf.) omit ‘so you will take mine’. On that reading the woman will argue that she would be made to sleep on the ground, even in his presence, when she is entitled to all the comfort to which he is accustomed, v. supra note 2].

Talmud - Mas. Kethuboth 65b

This Tanna[1] [expects a person to be] ‘stripped naked and to wear shoes’![2] ‘The Tanna,’ the other replied. ‘was dealing[3] with a mountainous region where one cannot possibly manage with less than three pairs of shoes [a year].[4] and indirectly he informed us that these should be given to her on the occasion of a major festival so that she might derive joy from them. AND CLOTHING [OF THE VALUE] OF FIFTY ZUZ. Abaye said: Fifty small zuz.[5] Whence is this deduced? — From the statement:[6] ALL THIS APPLIES TO THE POOREST IN ISRAEL, BUT IN THE CASE OF A MEMBER OF THE BETTER CLASSES ALL IS FIXED ACCORDING TO THE DIGNITY OF HIS POSITION. Now, should one imagine [that the reference is to] fifty real zuz,[7] whence [it could be objected] would a poor man obtain fifty zuz? Consequently it must be concluded [that the meaning is] fifty small zuz. SHE IS NOT TO BE GIVEN NEW etc. Our Rabbis taught: Any surplus of food[8] belongs to the husband, while any Surplus of worn out clothes belongs to the woman. [You said:] ‘Any surplus of worn out clothes belongs to the woman’; of what use are they to her? — Rehaba replied: For putting on during the days of her menstruation so that she may not [by the constant wearing[9] of the same clothes] become repulsive to her husband. Abaye stated: We have a tradition that the surplus of the worn out clothes of a widow[10] belongs to her husband's heirs. For the reason in the former case[11] is that she shall not become repulsive to her husband[12] but in this case[13] let her be ever so repulsive. HE MUST ALSO GIVE HER [EVERY WEEK] A SILVER MA'AH etc. What [is meant by] SHE IS TO EAT? — R. Nahman replied: Actual eating. R. Ashi replied: Intercourse. We have learned: SHE IS TO EAT WITH HIM ON THE NIGHT OF EVERY SABBATH. Now, according to him[14] who said, ‘[actual] eating’ it is quite correct to use the expression SHE IS TO EAT. According to him,[15] however, who said, ‘intercourse’, why [it may be asked] was the expression SHE IS TO EAT used?[16] — It is a euphemism.[17] as it is written in Scripture. She[18] eateth, and wipeth her mouth, and saith: ‘I have done no wickedness’.[19] An objection was raised: R. Simeon b. Gamaliel said, ‘She is to eat with him on the night of the Sabbath and on the Sabbath [day]’. Now, according to him[20] who said, ‘ [actual] eating’, it is correct to state, ‘and on the Sabbath [day]’.[21] According to him,[22] however, who said, ‘intercourse’, is there any intercourse on the Sabbath day? Did not R. Huna state, The Israelites are holy and do not have intercourse in the day-time’?[23] — But, Surely, Raba stated: It is permitted in a dark room.[24] IF SHE WAS NURSING [HER CHILD]. R. ‘Ulla the Great made at the Prince's[25] door the following exposition: Although it was said:[26] ‘A man is under no obligation to maintain his sons and daughters when they are minors’, he must maintain them while they are very young.[27] How long?[28] — Until the age of six; in accordance [with the view of] R. Assi, for R. Assi stated: A child of the age of six is exempt[29] by the ‘erub[30] of his mother. Whence [is this[31] derived]? — From the Statement: IF SHE WAS NURSING [HER CHILD] HER HANDIWORK IS REDUCED AND HER MAINTENANCE IS INCREASED. What can be the reason?[32] Surely because he[33] must eat together with her. But is it not possible [that the reason[32] is] because she[34] ailing? — If that were the case it should have been stated, ‘If she was ailing’, why then [was it stated]. IF SHE WAS NURSING?[35] But is it not possible that it was this that we were taught:[36] That nursing mothers are commonly ailing?[37] It was stated: What is the addition[38] that he makes for her?[39] R. Joshua b. Levi said: She is given an additional allowance for wine, because wine is beneficial for lactation.

CHAPTER VI

MISHNAH. A WIFE'S FIND AND HER HANDIWORK BELONG TO HER HUSBAND. AND [OF] HER INHERITANCE[40] HE HAS THE USUFRUCT DURING HER LIFETIME.[41] [ANY COMPENSATION FOR] AN INDIGNITY OR BLEMISH [THAT MAY HAVE BEEN INFLICTED UPON] HER BELONGS TO HER. R. JUDAH B. BATHYRA RULED: WHEN IN PRIVACY[42] SHE RECEIVES TWO-THIRDS [OF THE COMPENSATION] WHILE HE[43] RECEIVES ONE-THIRD, BUT WHEN IN PUBLIC[44] HE RECEIVES TWO-THIRDS[45] AND SHE RECEIVES ONE-THIRD. HIS SHARE IS TO BE GIVEN TO HIM FORTHWITH, BUT WITH HERS LAND IS TO BE BOUGHT AND HE[43] ENJOYS THE USUFRUCT.[46]

GEMARA. What does he[47] teach us? This surely was already learnt: A father has authority over his daughter in respect of her betrothal [whether it was effected] by money, by deed or by intercourse; he is entitled to anything she finds and to her handiwork; [he has the right] of invalidating her vows, and he receives her letter of divorce; but he has no usufruct during her lifetime. When she marries, the husband surpasses him [in his rights] in that he has usufruct during her lifetime![48] — He[49] regarded this[50] as necessary [on account of the law relating to] INDIGNITY OR BLEMISH [THAT MAY HAVE BEEN INFLICTED UPON] HER, [which is the subject of] a dispute between R. Judah b. Bathyra and the Rabbis.[51]

A tanna recited in the presence of Raba: A wife's find belongs to herself; but R. Akiba ruled: [It belongs] to her husband. The other[52] said to him: Now that [in respect of the] surplus[53]

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(1) Who imposes upon a husband the duty of giving his wife shoes three times a year and clothing only once a year.

(2) Proverb. By the time the woman will receive her second or third pair of shoes her clothes will be worn to tatters and yet she would be wearing new shoes; a toilet more ludicrous than one uniformly shabby and worn out.

(3) Lit., ‘stands’.

(4) Though clothes may conveniently last for the same period.

(5) Provincial zuz (Rashi). A provincial, or country zuz was equal in value to an eighth of the town, Or Tyrian zuz.

(6) Lit., ‘since it was taught’.

(7) I.e., of the Tyrian standard (ef. p. 395, n. 14).

(8) I.e., if the woman did not consume all her allowance of food prescribed in our Mishnah.

(9) During her clean and unclean periods.

(10) Whose allowance for clothes is made by her deceased husband's heirs.

(11) Lit., ‘there’.

(12) Lit., ‘in his presence’.

(13) Lit., ‘here’.

(14) R. Nahman.

(15) R. Ashi.

(16) Cf. Bah. a.l.

(17) לישנא מעליא , lit., ‘a perfect or appropriate expression’. MS.M.adds, נקט , ‘he took up (used)’.
(18) The adulterous woman.
(19) Prov. XXX, 20.
(20) R. Nahman.
(21) Since one has to eat in the day time also.
(22) R. Ashi.
(23) Shab. 86a, Nid. 17a.
(24) V. Ibid.
(25) The Exlarch.
(26) Lit., ‘that they (sc. the Rabbis) said’.
(27) Lit., ‘the small of the small’.
(28) Must he maintain them.
(29) יוצא , i.e., he does not require one specially prepared for himself (v. Golds.). Rashi takes יוצא in the literal sense, ‘he goes out’. i.e., should his father place an ‘erub in one direction and his mother to the opposite direction he would be allowed to move only in the direction his mother had chosen. In any case it follows that a child of the age of six is entirely attached to and dependent upon his mother and, consequently, just as a man must provide for his wife so must he provide for the child who is entirely dependent upon her.
(30) V. Glos.
(31) That a father is at all liable to maintain his young children,
(32) For the increase of the maintenance.
(33) The child.
(34) During lactation.
(35) The conclusion, therefore, must be that she was not ailing.
(36) By the use of the expression. NURSING, and not ‘ailing’.
(37) As this is quite possible no positive proof is available that it is a father's legal duty to maintain his young children.
(38) For the Increase of the maintenance.
(39) So Bah. Cur. edd. omit.
(40) Which she inherited from a relative (Rashi's first interpretation supported by R. Tam., Tosaf. s.v. וירושתה a.l.).
(41) The capital, however, remains hers.
(42) I.e., if the indignity was imposed in the absence of onlookers or the blemish inflicted upon a concealed part of her body.
(43) Her husband.
(44) I.e., if people witnessed the indignity or if the blemish was inflicted on a part of the body that is exposed.
(45) Since he not only shares her indignity and degradation but, in addition, must also put up with a woman who has become disfigured. V. Rashi.
(46) As is the case with all property that comes into a wife's possession after her marriage. The capital remains hers and after his death or on divorce she recovers also the right of usufruct.
(47) The author of our Mishnah.
(48) V. supra 46b, notes, from which it follows that a husband is entitled to all his wife's possessions enumerated in our Mishnah. Why then were the same rulings repeated here?
(49) The author of our Mishnah.
(50) Our Mishnah.
(51) And could not have been inferred from the statement quoted.
(52) Raba.
(53) Of a woman's work above the amount required for her maintenance.

Talmud - Mas. Kethuboth 66a

which is her handiwork[1] R. Akiba ruled [that it belongs] to herself, how much more so her find? For we learned: [If a woman said to her husband,] ‘Konam, if I do aught for your mouth’, he need not invalidate her vow;[2] R. Akiba, however, said: He must invalidate it, since she might do more work than is due to him![3] — Reverse then: A wife's find belongs to her husband, but R. Akiba ruled [that it belonged] to herself. But surely, when Rabin came[4] he stated in the name of R. Johanan: In respect of a surplus[5] obtained through no undue exertion all[6] agree that [it belongs to the] husband, and they only differ in respect of a surplus[5] obtained through undue exertion; the first Tanna being of the opinion [that even this belongs] to her husband while R. Akiba maintains [that it belongs] to herself![7] — R. Papa replied: A find is like a surplus gained through undue exertion,[8] [concerning which there is] a difference of opinion between R. Akiba and the Rabbis.

R. Papa raised the question: What is the law where she performed for him two [kinds of work] simultaneously?[9] Rabina raised the question: What is the ruling where she did three or four [kinds of work][10] simultaneously? — These must remain undecided.[11]

[ANY COMPENSATION FOR] INDIGNITY OR BLEMISH [THAT MAY HAVE BEEN INFLICTED UPON] HER. Raba son of R. Hanan demurred:[12] Now then,[13] if a man insulted his fellow's mare would he also have to pay him [compensation for the] indignity? But is a horse then susceptible to insult?[14] — This, however, [is the objection:] If a man spat on his fellow's garment would he[15] also have to pay him [compensation for this] indignity? And should you say that [the ruling] is really so,[16] surely [it can be retorted] we have learned: If a man spat so that the spittle fell upon another person, or uncovered the head of a woman, or removed a cloak from a person he must pay four hundred zuz;[17] and R. Papa explained: This has been taught [to apply] only [where it touched] him[18] but if it touched his garment only [the offender] is exempt![19] — [An insult] to his garment involves no indignity to him, [but an insult to] his wife does involve an indignity to him.[20]

Said Rabina to R. Ashi: Now then,[21] If a man insulted a poor man of a good family where all the members of the family are involved in the indignity, must he also pay [compensation for] indignity to all the members of the family?[22] — The other replied: There[23] it is not their own persons [that are insulted]. Here, however, one's wife is [like] one's own body.

MISHNAH. IF A MAN UNDERTOOK TO GIVE A FIXED SUM OF MONEY TO HIS SON-IN-LAW AND HIS SON-IN-LAW DIED,[24] HE[25] MAY, THE SAGES RULED, SAY[26] ‘I WAS WILLING TO GIVE [THE MENTIONED SUM] TO YOUR BROTHER BUT I AM UNWILLING TO GIVE IT TO YOU’.[27]

IF A WOMAN UNDERTOOK TO BRING HER HUSBAND[28] ONE THOUSAND DENARII HE MUST ASSIGN TO HER[29] A CORRESPONDING SUM OF FIFTEEN MANEH.[30] AS A CORRESPONDING SUM FOR APPRAISED GOODS,[31] HOWEVER, HE ASSIGNS[29] ONE FIFTH LESS.[32] [IF A HUSBAND IS REQUESTED TO ENTER IN HIS WIFE'S KETHUBAH:] ‘GOODS ASSESSED AT ONE MANEH’, AND THESE ARE IN FACT WORTH A MANEH,[33] HE CAN HAVE [A CLAIM FOR] ONE MANEH ONLY.[34] [OTHERWISE,[35] IF HE IS REQUESTED TO ENTER IN THE KETHUBAH:] ‘GOODS ASSESSED AT A MANEH’, HIS WIFE MUST GIVE HIM [GOODS OF THE ASSESSED VALUE[35] OF] THIRTY-ONE SELA'S AND A DENAR,[36] AND IF ‘AT FOUR HUNDRED [ZUZ]’, SHE MUST GIVE [HIM GOODS VALUED[35] AT] FIVE HUNDRED [ZUZ.][37] WHATEVER

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(1) And should belong to her husband. A husband is entitled to his wife's handiwork (v. our Mishnah) in, return for the maintenance he provides for her (v. supra 58b).

(2) Since a wife's work, and even its surplus (v. supra note 6), belongs to her husband, (v. supra note 7) she has no right to dispose of it without his consent. Her vow, therefore, is null and void and no invalidation is required.

(3) And of this surplus being her own property, she may well dispose. (For further notes v. supra 59a). How then, Raba argued, could the opinion be entertained that, according to R. Akiba, a wife's find (to which she has a greater claim than to the surplus mentioned) should belong to her husband?

(4) From Palestine to Babylon.

(5) V. supra note 6.

(6) Lit., ‘all the world’, sc. R. Akiba and the Rabbis.

(7) A find should naturally be regarded as a ‘surplus obtained through no undue exertion’, about which there is no difference of opinion. How then could it be said that the find of a wife is a point in dispute?

(8) Most finds are not easily obtained, and before one finds anything valuable among the deposits of the sea, for instance, many hours and days might have to he spent.

(9) Acting as watchman, for instance, and spinning at the same time.

(10) While doing the former (v. supra n. 2) she was also teaching, for instance. a lesson and hatching eggs. Are such performances regarded as ordinary. or undue exertion?

(11) Teku, v. Glos.

(12) Against R. Judah b. Bathyra (v. our Mishnah).

(13) If a man is to receive compensation for an indignity or injury which he himself has not sustained.

(14) Surely not Raba's objection does not, consequently, arise.

(15) Cf. supra n. 6

(16) That he must pay compensation.

(17) Cf. B.K. 90a.

(18) The body of the offended party.

(19) Which proves conclusively that for such an offence, since it was not committed on one's person, no compensation is paid. Why then should a husband receive compensation for his wife's sufferings which he himself has not experienced?

(20) Read ליה (MS.M.). Cur. edd., read לה , and the rendering (rather unsatisfactory) would be as follows: His garment feels no shame but his wife feels the indignity.

(21) If indirect insult also entitles one to compensation.

(22) certainly not. Why then should the husband receive compensation for indignity to his wife?

(23) The case of indirect insult to the family.

(24) Childless; so that his widow should now be married to, or perform halizah (v. Glos.) with his surviving brother (v. Deut. XXV, 5ff) who, in the case of his marriage with the widow, is entitled to the deceased brother's estate (v. Yeb. 40a).

(25) The father-in-law.

(26) To the surviving brother who by virtue of his right to the estate of the deceased now claims also the slim his father-in-law had promised him.

(27) And the brother must, nevertheless, either submit to halizah from the widow or marry her.

(28) On marriage.

(29) As her kethubah (v. Glos.)

(30) V. Glos. He must, in return for the profits he will be able to derive from his trading with her money, add fifty per cent to the amount his wife brought him. A maneh == a hundred denarii (or zuz), and fifteen maneh == fifteen hundred denarii.

(31) I.e., if she brought to him, on marriage, goods instead of cash. This kind of dowry is designated Shum (appraisement).

(32) Than the appraised value. This refers to an appraisement made during the wedding festivities when the tendency is to over-assess whatever goods the bride brings to her husband. [According to the T.J. a fifth is allowed for the wear and tear of the goods, since her husband is held responsible for them].

(33) I.e., if the assessment was made prior to the wedding festivities. (Cf. p. 401, n. 12).

(34) He cannot claim twenty-five percent more than the maneh as in the case where the valuation was made during the wedding festivities (v. supra note 1).

(35) l.e., If the valuation was made during the wedding festivities (cf. supra p. 401, n. 12).

(36) V. Glos. A sela’== four denarii, thirty-one sela's and one denar = (31 X 4 + 1) 125 denarii. A maneh, or a hundred denarii, is a fifth less than one hundred and twenty-five denarii.

(37) [This passage is difficult, and the interpretations of it are many and varied, cf. e.g., Tosaf. s.v. שום . The explanation given follows Rashi. R. Hai Gaon, on the basis of the T.J. (v. supra p. 401, n. 12) explains: If she promised to bring him a dowry (shum) of property worth a maneh, which does not wear out, and is thus always actually worth a maneh, she need not add a fifth to it, v. Shittah Mekubbezeth; v. p. 406, in the case of a bar of gold].

Talmud - Mas. Kethuboth 66b

A BRIDEGROOM ASSIGNS [TO HIS WIFE IN HER KETHUBAH] HE ASSIGNS AT ONE FIFTH LESS [THAN THE APPRAISED VALUE].

GEMARA. Our Rabbis taught: There was no need to state that where the first[1] was a scholar and the second an ‘am ha-’arez [the father-in-law] can say, ‘I WAS WILLING TO GIVE [THE MENTIONED SUM] TO YOUR BROTHER BUT I AM UNWILLING TO GIVE IT TO YOU, but even where the first was ‘am ha-’arez and the second a scholar he may also say so.

IF A WOMAN UNDERTOOK TO BRING TO HER HUSBAND ONE THOUSAND DENARII etc. Are not these[2] the same as the case in the first clause?[3] — He taught [first concerning a] large assessment[4] and then he taught also about a smaller assessment;[5] he taught about his assessment[6] and he also taught about her assessment.[7]

MISHNAH. IF A WOMAN UNDERTOOK TO BRING TO HER HUSBAND[8] READY MONEY, EVERY SELA’[9] OF HERS COUNTS[10] AS SIX DENARII.[11] THE BRIDEGROOM MUST UNDERTAKE [TO GIVE HIS WIFE][12] TEN DENARII FOR HER [PERFUME][13] BASKET IN RESPECT OF EACH MANEH.[14] R. SIMEON B. GAMALIEL SAID: IN ALL MATTERS THE LOCAL USAGE SHALL BE FOLLOWED.

GEMARA. This,[15] surely, is exactly [the same ruling as] ‘He must assign to her a corresponding sum of fifteen maneh’.[16] — He taught first about a major transaction[17] and then taught about a minor transaction.[18] And [both rulings were] necessary. For had that of the major transaction only been taught it might have been assumed [that it applied to this only] because the profit [it brings in] is large but not to a minor transaction the profit from which is small; [hence it was] necessary [to state the latter]. And had we been informed of that of the minor transaction only it might have been said [to apply to this only] because the expenses and responsibility[19] are small but not to a large transaction where the expenses and responsibility are great; [hence it was] necessary [to state the former].

THE BRIDEGROOM MUST UNDERTAKE [TO GIVE HIS WIFE] TEN DENARII FOR HER BASKET. What is meant by BASKET?

r. Ashi replied: The perfume basket. R. Ashi further stated: This ruling applies to Jerusalem[20] only.

R. Ashi enquired: [Is the prescribed perfume allowance[21] made] in respect of each maneh valued or each maneh for which [obligation has been] accepted?[22] [And even][23] if you could find [some reason] for stating: [‘In respect of each] maneh for which [obligation has been] accepted’[22] [the question arises: Is the allowance to be made only on] the first day or every day? Should you find [some ground] for deciding: Every day, [the question still remains whether this applies only to the] first week or to every week. Should you find [some authority] for stating: Every week, [it may be asked whether this applies only to the] first month or to every month — And should you find [some argument] for saying: Every month, [It may still be questioned whether this is applicable only to the] first year or to every year. — All this remains undecided.[24]

Rab Judah related in the name of Rab: It once happened that the daughter of Nakdimon b. Gorion[25] was granted by the Sages[26] an allowance of four hundred gold coins in respect of her perfume basket for that particular day, and she[27] said to them, ‘May you grant such allowances for your own daughters!’ and they answered after her: Amen.[28] Our Rabbis taught: It once happened that R. Johanan b. Zakkai left Jerusalem riding upon an ass, while his disciples followed him, and he saw a girl picking barley grains in the dung of Arab cattle. As soon as she saw him she wrapped herself with her hair and stood before him. ‘Master’, she said to him, ‘feed me’. ‘My daughter’, he asked her, ‘who are you?’ ‘I am’, she replied, ‘the daughter of Nakdimon b. Gorion’. ‘My daughter’, he said to her, ‘what has become[29] of the wealth of your father's house?’ ‘Master’, she answered him, ‘is there not a proverb current in Jerusalem: "The salt[30] of money is diminution?"’[31] (Others read: Benevolence).[32] ‘And where [the Master asked] is the wealth of your father-in-law's house?’ ‘The one’, she replied, ‘came and destroyed the other’.[33] ‘Do you remember, Master’, she said to him, ‘when you signed my kethubah?’ ‘I remember’, he said to his disciples, ‘that when I signed the kethubah of this [unfortunate woman], I read therein "A million gold denarii from her father's house" besides [the amount] from her father-in-law's house’.[34] Thereupon R. Johanan b. Zakkai wept and said: ‘How happy are Israel;[35] when they do the will of the Omnipresent no nation nor any language-speaking group has any power over them; but when they do not do the will of the Omnipresent he delivers them into the hands of a low people, and not only in the hands of a low people but into the power of the beasts of a low people’.

Did not Nakdimon b. Gorion, however, practice charity? Surely it was taught: It was said of Nakdimon b. Gorion that, when he walked from his house to the house of study, woollen clothes were

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(1) Brother who died.

(2) The latter portions of our Mishnah, which contain various instances of deductions of a fifth. (So Rashi. For another interpretation v. Tosaf. s.v. תנא).

(3) AS A CORRESPONDING SUM . . . HE ASSIGNS ONE FIFTH LESS, which includes all the other instances.

(4) ONE THOUSAND DENARII to which the ruling AS A CORRESPONDING SUM . . . HE ASSIGNS ONE FIFTH LESS refers.

(5) GOODS ASSESSED AT A MANEH... THIRTY-ONE SELA'S AND A DENAR. Both cases were necessary, since some might assume that with a larger sum over-estimation is more likely while others might assume that over-estimation is more likely to take place in the case of a smaller sum.

(6) WHATEVER A BRIDEGROOM ASSIGNS . . . ONE FIFTH LESS, referring to a valuation made by him, of goods she had already brought to him before the kethubah had been written.

(7) IF AT FOUR HUNDRED [ZUZ] SHE MUST GIVE etc., the last three words implying that the kethubah had already been written and SHE MUST GIVE the required amount of goods which is naturally valued by her (or her relations) to correspond after due deduction with the amount entered in the kethubah.

(8) On marriage.

(9) Which is worth four denarii.

(10) In respect of the corresponding amount to be entered in her kethubah.

(11) I.e. , fifty percent is added to it as in the case of ready money mentioned in the previous Mishnah. The difference between the two cases will be explained in the Gemara infra.

(12) Whether daily, weekly or more rarely has not been stated.

(13) According to the explanation of the Gemara.

(14) Which she brings on marriage.

(15) The ruling in the first clause of our Mishnah.

(16) V. previous Mishnah. In that case he adds fifty percent, and so he does in this case also. Why then should the same ruling be recorded twice?

(17) A thousand denarii in the previous Mishnah, supra 66a.

(18) EVERY SELA’ etc. in the Mishnah of ours.

(19) זיונא (v. Rashi). Jast., ‘management, expenses and risks of business’: עיסקא זוטא דזוטר זיונא , ‘a small capital the management of which is easy’.

(20) Where the women here in the habit of indulging in the use of perfumes.

(21) Ten denarii in respect of each maneh (v. our Mishnah).

(22) by the husband in the kethubah. The latter (v. previous Mishnah) amount to one fifth less than the valuation.

(23) V. Tosaf. s.v. ואם .

(24) Teku, v Glos.

(25) Cf. supra 65a (p. 392, n. 6).
(26) To whom, when her husband died, she applied for an order for an allowance out of her husband's estate.
(27) In her discontent with the amount.
(28) V. supra p. 392, n. 10 and text.
(29) Lit., ‘where did it go’.
(30) I.e., the preservative, the safeguard.
(31) חסר , i.e. , spending it in the exercise of charitable and benevolent deeds. As the members of her family were not charitable they lost their money.
(32) חסד (v. supra n. 3) interchange of ד with ר.
(33) The two were mixed up and when the one was lost the other disappeared with it.
(34) The addition made to her kethubah by the bridegroom.
(35) Read with MS.M., אשריהם. Cur. edd., אשריכם , ‘happy are you’.

Talmud - Mas. Kethuboth 67a

spread beneath his feet and the poor followed behind him and rolled them up![1] — If you wish I might reply: He did it for his own glorification —[2] And if you prefer I might reply: He did not act as he should have done,[3] as people say, ‘In accordance with the camel is the burden’.[4]

It was taught: R. Eleazar the son of R. Zadok said, ‘May I [not] behold the consolation [of Zion] if I have not seen her[5] picking barley grains among the horses’ hoofs at Acco. [On seeing her plight] I applied to her this Scriptural text: If thou know not, O thou fairest among women, go thy way forth by the footsteps of the flock and feed thy kids;[6] read not thy kids[7] but thy ‘bodies’.[8]

R. Shaman b. Abba stated in the name of R. Johanan: If a wife brought to her husband[9] [a bar of] gold, it is to be assessed and [entered in her kethubah] according to its actual value.[10]

An objection was raised: ‘[Broken pieces of] gold are like vessels’.[11] Does not this imply[12] ‘like silver vessels’ which wear out?[13] — No, ‘like gold vessels’ which do not wear out. If so, [the expression] should have been ‘like vessels [made] thereof’! And, furthermore, it was taught: [A bar of] gold is like vessels; gold denarii are like ready money.[14] R. Simeon b. Gamaliel said: Where the usage is not to change them[15] they are valued and are [to be entered in the kethubah] at the rate of their actual value.[16] Now, to what is R. Simeon b. Gamaliel referring? If it be suggested [that he refers] to the final clause,[17] the inference [it may be pointed out would be] that the first Tanna maintains his opinion[18] even when the usage is not to change them, but, surely, [it may be objected] they can not be used as currency![19] It must consequently be assumed[20] [that he[21] referred] to the first clause and that it is this that was meant: [A bar of] gold is like vessels; and what [is meant by] vessels? silver vessels;[22] and R. Simeon b. Gamaliel said: It is like gold denarii where the usage is not to change them![23] — No;[24] he[21] may still refer to the final clause but [it is a case where] with difficulty they can be used as currency; and the principles on which they differ is this: One Master[25] holds the view that since they can be used as currency we allow her the increase[26] and the other Master[21] is of the opinion that since they can be used as currency only with difficulty, she is not to have the increase.[27]

If you prefer I might reply: All the statement[28] is that of R. Simeon b. Gamaliel, but a clause therein is missing, and the proper reading is as follows: [A bar of] gold is like vessels,[29] gold denarii are like ready money. This is the case only where it is the usage to change them,[30] but where it is the usage not to change them[31] they are to be valued and entered in the kethubah at the rate of their actual value; so R. Simeon b. Gamaliel for R. Simeon b. Gamaliel holds the view that where it is the usage not to change them they are to be valued and [entered in the kethubah] at the rate of their actual value. But [the difficulty] nevertheless [remains that the expression] should have been, ‘like vessels [made] thereof’! — This is indeed a difficulty. And if you prefer I might reply: We are here[28] dealing with a case of broken pieces of gold.[32] R. Ashi said: [We deal here[28] with] gold leaf.[33] R. Jannai stated: The spices of Antioch[34] are[35] like ready money.[36] R. Samuel b. Nahmani stated in the name of R. Johanan:[37] A woman[38] is entitled to seize Arabian camels in settlement of her kethubah.[39]

R. Papi stated: A woman[38] may seize clothes[40] manufactured at Be Mikse[41] for her kethubah.[42]

R. Papi further stated: A woman[38] may seize sacks made at Rodya[43] and the ropes of Kamhunya[44] for her kethubah.

Raba stated: At first I said: A woman[38] is entitled to seize money bags[45] of Mahuza[46] for her kethubah.[42] What was [my] reason? Because [women] relied upon them.[42] When I observed, however, that they[47] took them and went out with them into the market[48] and as soon as a plot of land came their way they purchased it with this money I formed the opinion that they rely[49] only upon land.[50] MISHNAH. IF A MAN GAVE HIS DAUGHTER IN MARRIAGE WITHOUT SPECIFYING ANY CONDITIONS, HE MUST GIVE HER NOT LESS THAN FIFTY ZUZ. IF THE [BRIDEGROOM] AGREED TO TAKE HER IN NAKED HE[51] MAY NOT SAY, ‘WHEN I HAVE TAKEN HER INTO MY HOUSE I SHALL CLOTHE HER WITH CLOTHES OF MY OWN’, BUT HE MUST PROVIDE HER WITH CLOTHING WHILE SHE IS STILL IN HER FATHER'S HOUSE. SIMILARLY IF AN ORPHAN IS GIVEN IN MARRIAGE[52] SHE MUST BE GIVEN NOT LESS THAN FIFTY ZUZ. IF [CHARITY] FUNDS ARE AVAILABLE[53] SHE IS TO BE FITTED OUT IN ACCORDANCE WITH THE DIGNITY OF HER POSITION.

GEMARA. Abaye stated: By FIFTY ZUZ small coins[54] [were meant]. Whence is this statement inferred? — From the statement in the final clause: IF [CHARITY] FUNDS ARE AVAILABLE SHE IS FITTED OUT IN ACCORDANCE WITH THE DIGNITY OF HER POSITION [concerning which], when it was asked, ‘What was meant by FUNDS’.[55] Rehaba explained: Charity funds.[56] Now if we should imagine that by FIFTY ZUZ the actual[57] [coins were meant], how much [it may be asked] ought we to give her even IF CHARITY FUNDS ARE AVAILABLE! Consequently it must be inferred that by FIFTY ZUZ small coins [were meant].

Our Rabbis taught: If an orphan boy and an orphan girl applied for maintenance,[58] the girl orphan is to be maintained first and the boy orphan afterwards,[59] because it is not unusual for a man to go begging[60] but it is unusual for a woman to do so.[61] If an orphan boy and an orphan girl

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(1) I.e., taking the stuff away with them.

(2) Such gifts are not regarded as proper charity.

(3) He did not give in accordance with his means.

(4) The richer and the greater the man the more is expected of him.

(5) The daughter of Nakdimon b. Gorion.

(6) Cant. I., 8.

(7) גדיותיך.

(8) גויותיך, involving the change of ו for ד.

(9) On marriage.

(10) No addition of fifty per cent (as in the case of ready money) and no subtraction of a fifth (as in the case of goods) are made

(11) כלים , the term is explained anon.

(12) Lit., ‘what, not?’

(13) And consequently deteriorate in value. How then could R. johanan maintain that a bar of gold is to be entered in the kethubah for its full value without reducing the fifth prescribed for goods?

(14) Since they can be used as currency. An addition of fifty percent in their case must, therefore, be entered in the kethubah.

(15) In the ordinary course of trade, i.e., where they are not taken as currency.
(16) And no addition (as in the case of cash) is made. Tosef. Keth. VI.
(17) Gold denarii etc.
(18) That an addition of fifty percent is to be made (v.supra n. 12).
(19) Lit., ‘do not go out’. Why then should they be treated as ready money?
(20) Lit., ‘but not’.
(21) R. Simeon b. Gamaliel.
(22) And a reduction of a fifth is therefore to be made.
(23) Cf. supra p. 406, n. 13. Would then R. Johanan accept the opinion of R. Simeon b. Gamaliel against that of the anonymous first Tanna?
(24) R. Simeon b. Gamaliel does not refer to the first clause.
(25) The first Tanna.
(26) Of fifty percent, as in the case of regular currency.
(27) In the case of bar gold, however, it is generally agreed, as R. Johanan ruled, that it is to be entered into the kethubah at the rate of its actual value.
(28) The Baraitha cited.
(29) I.e., gold wares.
(30) Cf. supra p. 406, n. 13 mutatis mutandis.
(31) V. supra p. 406, n. 13.
(32) Which wear away in use. Such are indeed to be treated in the same way as silver ware (as has been suggested supra), their price being entered in the kethubah after a deduction of one fifth had been made. R. Johanan. however, who rules the entry of their actual value deals with the case of large bars which do not perceptibly wear away, and whose full value must consequently appear in the kethubah.
(33) ממלא var. מללא (v. Rashi). Tosaf., ‘gold ore’; Golds., ‘gold dust’. Cf. p. 407, n. 14 mutatis mutandis.
(34) Or Antiochene, the capital of Syria on the Orontes, founded by Seleucus Nicator. [Antioch was a trading centre for spices (v. Krauss, T.A., I, p. 690)].
(35) In respect of the amount to be entered in a kethubah.
(36) Fifty percent is to be added to the amount the wife brings in on marriage. These spices were so famous that they could always be sold and thus easily turned into cash.
(37) Var. lec., ‘Johanan’. (MS. M. and Rosh).
(38) A widow who advances the claim for her kethubah against her deceased husband's estate (v. Tosaf. s.v. גמלים).
(39) Though these are movable objects, they are, owing to the ready sale they command, deemed to have been pledged for the kethubah. פרנא , ‘settlement’, ‘endowment’ (cf. Jast.). Rashi's interpretation, ‘the profit of a third’, is rejected by Tosaf. l.c. [Frankel MGWJ, 1861, p. 118 derives the term from the Gk. ** the outfit which the bride has to bring with her].
(40) V. Rashi; ‘sheets’ (Jast.).
(41) [A frontier town between Babylon and Arabia (Obermeyer, p. 334)].
(42) Cf. supra n. 6 mutatis mutandis.
(43) Not identified.
(44) [In the neighbourhood of Supra, op. cit. p. 296].
(45) I.e., the sums of money which they contain (Rashi).
(46) A famous commercial town (v. supra p. 319, n. 9).
(47) Windows or divorced women who seized them for their kethubah.
(48) So MS.M. Cur. edd., omit the last three words.
(49) As a guarantee for their kethubah.
(50) Hence they should not be allowed to seize Mahuza bags.
(51) Lit., ‘the husband’.
(52) By the guardians of the poor.
(53) Lit., ‘there is in the purse’.
(54) V. supra 65b.
(55) Lit., ‘bag’.
(56) Lit., ‘bag of charity’.

(57) I.e., the Tyrian zuz (v. supra l.c.).
(58) Lit., 'who came to be maintained', Out of the poor funds.
(59) If the funds permit.
(60) Lit., 'his way is to go about the doors'.
(61) Lit., 'to go about'.

Talmud - Mas. Kethuboth 67b

applied for a marriage grant[1] the girl orphan is to be enabled to marry first and the boy orphan is married afterwards, because the shame of a woman is greater than that of a man.[2] Our Rabbis taught: If an orphan applied for assistance to marry,[3] a house must be rented for him, a bed must be prepared for him and [he must also be supplied with] all [household] objects [required for] his use, and then he is given a wife in marriage, for it is said in Scriptures, Sufficient for his need in that which he wanteth:[4] 'sufficient for his need', refers to the house; 'in that which wanteth', refers to a bed and a table; 'he'[5] refers to a wife, for so it is said in Scripture, I will make him[5] a help meet unto him.[6]

Our Rabbis taught: 'Sufficient for his need' [implies] you are commanded to maintain him, but you are not commanded to make him rich; 'in that which he wanteth' [includes] even a horse to ride upon and a slave to run before him. It was related about Hillel the Elder that he bought[7] for a certain poor man who was of a good family a horse to ride upon and a slave to run before him. On one occasion he could not find a slave to run before him, so he himself ran before him for three miles.

Our Rabbis taught: It once happened that the people of Upper Galilee bought for a poor member of a good family of Sepphoris[8] a pound of meat every day.[9] 'A pound of meat'! What is the greatness in this? — R. Huna replied: [It was] a pound of fowl's meat.[10] And if you prefer I might say: [They purchased] ordinary meat for a pound[11] [of money].[12] R. Ashi replied: The place was[13] a small village[14] and everyday a beast had to be spoiled for his sake.[15]

A certain man once applied to[16] R. Nehemiah [for maintenance]. 'What do your meals consist of', [the Rabbi] asked him. 'Of fat meat and old wine', the other replied — 'Will you consent [the Rabbi asked him] to live[17] with me on lentils?' [The other consented,] lived with him on lentils and died. 'Alas', [the Rabbi] said, 'for this man whom Nehemiah has killed.' On the contrary, he should [have said] 'Alas for Nehemiah who killed this man'! — [The fact], however, [is that the man himself was to blame, for] he should not have cultivated his luxurious habits to such an extent.

A man once applied to[18] Raba [for maintenance]. 'What do your meals consist of?' he asked him. 'Of fat chicken and old wine', the other replied. 'Did you not consider', [the Rabbi] asked him, 'the burden of the community?' 'Do I', the other replied, 'eat of theirs? I eat [the food] of the All-Merciful; for we learned: The eyes of all wait for Thee, and Thou givest them their food in due season,[19] this, since it is not said, 'in their season' but 'in his[20] season', teaches that the Holy One, blessed be He, provides for every individual his food In accordance with his own habits'.[21] Meanwhile there arrived Raba's sister, who had not seen him for thirteen years, and brought him a fat chicken and old wine. 'What a remarkable incident!'[22] [Raba][23] exclaimed; [and then] he said to him, 'I apologize[24] to you, come and eat'.

Our Rabbis taught: If a man has no means and does not wish to be maintained [out of the poor funds] he should be granted [the sum he requires] as a loan and then it can be presented to him as a gift; so R. Meir. The Sages, however, said: It is given to him as a gift and then it is granted to him as a loan. ('As a gift'? He, surely, refuses to[25] take [gifts]! Raba replied: It is offered to him in the first instance[26] as a gift.)

If he has the means but does not want to maintain himself, [at his own expense],[27] he is given [what he needs] as a gift, and then he is made to repay it. (If ‘he is made to repay it’ he would, surely, not take again! — R. Papa replied: [Repayment is claimed] after his death.) R. Simeon said: If he has the means and does not want to maintain himself [at his own expense], no one need feel any concern about him. If he has no means and does not wish to be maintained [out of the poor funds] he is told, ‘Bring a pledge and you will receive [a loan]’ in order to raise thereby his [drooping] spirit.[28]

Our Rabbis taught: To lend[29] refers to a man who has no means and is unwilling to receive his maintenance [from the poor funds] to whom [the allowance] must be given as a loan and then presented to him as a gift. Thou shalt lend him[30] refers to a man who has the means and does not wish to maintain himself [at his own expense] to whom [the allowance] is given as a gift and repayment is claimed from his [estate] after his death, so R. Judah. The Sages, however, said: If he has the means and does not wish to maintain himself [at his own expense] no one need feel any concern about him. To what, however, is the text Thou shalt lend him[31] to be applied? The Torah employs ordinary phraseology.[32]

Mar ‘Ukba had a poor man in his neighbourhood into whose door-socket he used to throw four zuz every day. Once[33] [the poor man] thought: ‘I will go and see who does me this kindness’. On that day [it happened] that Mar ‘Ukba was late at[34] the house of study and his wife[35] was coming home with him. As soon as [the poor man] saw them moving the door he went out after them, but they fled from him and ran into a furnace from which the fire had just been swept. Mar ‘Ukba's feet were burning and his wife said to him: Raise your feet and put them on mine. As he was upset,[36] she said to him, ‘I am usually at home[37] and my benefactions are direct’.[38] And what [was the reason for] all that?[39] — Because Mar Zutra b. Tobiah said in the name of Rab (others state: R. Huna[40] b. Bizna said in the name of R. Simeon the Pious; and others again state: R. Johanan said in the name of R. Simeon b. Yohai): Better had a man thrown himself into a fiery furnace than publicly put his neighbour to shame. Whence do we derive this? From [the action of] Tamar; for it is written in Scripture, When she was brought forth,[41] [she sent to her father-in-law].[42]

Mar ‘Ukba had a poor man in his neighbourhood to whom he regularly sent four hundred zuz on the Eve of every Day of Atonement. On one occasion[43] he sent them through his son who came back and said to him, ‘He does not need [your help]’. ‘What have you seen?’ [his father] asked. ‘I saw [the son replied] that they were spraying old wine before him’.[44] ‘Is he so delicate?’ [the father] said, and, doubling the amount, he sent it back to him.

When he[45] was about to die[46] he requested, ‘Bring me my charity accounts’. Finding that seven thousand of Sijan[47] [gold] denarii were entered therein he exclaimed, ‘The provisions are scanty and the road is long’, and he forthwith[48] distributed half of his wealth. But how could he do such a thing?[49] Has not R. Elai stated: It was ordained at Usha that if a man wishes to spend liberally he should not spend more than a filth?[50] — This applies only during a man's lifetime, since he might thereby be impoverished[51] but after death[52] this does not matter.

R. Abba used to bind money in his scarf,[53] sling it on his back, and place himself at the disposal of the poor.[54] He cast his eye, however, sideways [as a precaution] against rogues.[55]

R. Hanina had a poor man to whom he regularly sent four zuz on the Eve of every Sabbath. One day he sent that sum through his wile who came back and told him [that the man was in] no need of it. ‘What [R. Hanina asked her] did you see?’ [She replied:] I heard that he was asked, ‘On what will you dine;

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(1) Out of the charity funds. Lit., ‘came to be married’.

(2) Tosef. Keth. VI.

(3) V. p. 409, n. 12.

(4) Deut. XV, 8.

(5) לו lit., ‘unto him’.

(6) Gen. II, 18, referring to a wife. Tosef Keth. VI.

(7) Alfasi: he hired.

(8) A town on one of the Upper Galilean mountains. It was called Sepphoris צפורי (v. Meg. 6a) ‘because it was perched on the top of a mountain like a bird’, צפור . At one time it was the capital of Galilee and is identified (l.c.) with Kitron (Judges I, 30). V. Klein, S. מאמרים , 54ff

(9) Tosef. Pe'ah. IV.

(10) Which was very expensive.

(11) ליטרא , is both a weight, the Roman libra, and a measure of capacity.

(12) The meat was so expensive.

(13) Lit., ‘there’.

(14) Where there are no buyers.

(15) All the meat that remained after his one pound had been taken off had to be thrown away for lack of buyers and consumers.

(16) Lit., ‘came before’.

(17) שתגלגל (rt. גלל , Pilp.). lit., ‘roll’, i.e., ‘to put up with the inconvenience’.

(18) Lit., ‘came before’.

(19) Ps. CXLV,15. בעתו lit., ‘in his season’.

(20) V. supra n. 3

(21) V. Rashi.

(22) מאי דקמא , lit., ‘what is that before me?’

(23) So Rashi. Ar. reads, מאי דקאמא (== קא אמא , ‘which I said’) i.e., the applicant remarked, ‘This is just what I have said’. (Cf. Jast.).

(24) Lit., ‘I humble myself’. Rashi: ‘I spoke too much’. The rt. ענה , עני , may bear either meaning.

(25) Lit., ‘not’.

(26) Lit., ‘to Open’.

(27) And thus leads a life of penury.

(28) Lit., ‘that his mind shall be elated or cheered’. By this offer he is made to feel that he is not treated as a pauper and he consents, therefore, ultimately to take the sum as a loan without a pledge.

(29) העבט , E.V., surely, Deut. XV, 8.

(30) תעביטנו ibid.

(31) I.e., the repetition of the verb, in the Infinitive and Imperfect (v. supra nn. 2 and 3), from which R. Judah derived his ruling.

(32) Lit., ‘spoke in the language of men’, who are in the habit of repeating their words. Hence no inference may be drawn from the repetition in the text cited.

(33) Lit., ‘one day’.

(34) So MS.M., בבי Cur. edd. לבי .

(35) Who, owing to the late hour, went to meet him.

(36) Lit., ‘his mind weakened’. He feared that he was not providentially protected from the heat of the furnace because he was not as worthy of divine protection as his wife.

(37) So that the poor had easy access to her.

(38) Lit., ‘near’. She gave them gifts in kind and they could forthwith derive benefit from them. He, however, was not approachable at all times and the alms he gave to the poor were not in kind but in money which had first to be spent before the poor could derive any benefit from it. His benefits, therefore, were indirect.

(39) Why did they make such an effort to escape from the attention of the poor man?

(40) Var Hana (v. B.M. 59a).

(41) To be burned (Gen. XXXVIII, 24).

(42) Ibid., 25. She chose to be burned rather than publicly put her father-in-law to shame. it was only through Judah's own confession (ibid. 26) after he received her private message (ibid 25) that she was saved.

(43) Lit., ‘day’.

(44) קמיה MS.M. Cur. edd., ‘to him’.

(45) Mar ‘Ukba’.
(46) Lit., ‘when his soul was (about to) come to its rest’.
(47) The name of a Persian town in the district of Shiraz, v. Fleischer to Levy's Worterbuch I, p. 560.
(48) Lit ,’he arose’.
(49) Distributing half his wealth.
(50) V. supra 50a.
(51) Lit., ‘go down from his wealth’.
(52) I.e , when one is on the point of dying as was the case with Mar ‘Ukba.
(53) סודרא ‘scarf’ or ‘turban’, a cloth placed over, or wound round the head, hanging down loosely upon, the arms and shoulders.
(54) Who undid the binding and shared the money among themselves.
(55) He would nevertheless spare the poor the feelings of shame.

Talmud - Mas. Kethuboth 68a

on the silver [coloured] cloths[1] or on the gold [coloured] ones?[2] ‘ ‘It is in view of such cases’ [R. Hanina] remarked, ‘that R. Eleazar said: Come let us be grateful to the rogues for were it not for then, we[3] would have been sinning every day, for it is said in Scripture, And he cry unto to the Lord against thee, and it be sill unto thee.[4] Furthermore, R.Hiyya b. Rab of Difti[5] taught: R. Joshua b. Korha said, Any one who shuts his eye against charity is like one who worships idols, for here[6] it is written, Beware that there be not a base[7] thought in thy heart etc. [and thine eye will be evil against thy poor brother][8] and there[9] it is written, Certain base[7] fellows are gone out,[10] as there[9] [the crime is that of] idolatry, so here also [the crime is like that of] idolatry’.[11]

Our Rabbis taught: If a man pretends to have a blind eye, a swollen belly or a shrunken leg,[12] he will not pass out from this world before actually coming into such a condition. If a man accepts charity and is not in need of it his end [will be that] he will not pass out of the world before he comes to such a condition.

We learned elsewhere: He[13] may not be compelled to sell his house or his articles of service’.[14] May he not indeed?[15] Was it not taught: If he was in the habit of using gold articles he shall now use copper ones?[16] — R. Zebid replied. This is no difficulty. The one[17] refers to the bed and table: the other to cups and dishes. What difference is there in the case of the cups and dishes that they are not [to be sold]? Obviously because he can say, ‘[The inferior quality] is repulsive to me’, [but then, in respect of] a bed and table also, he might say [the cheaper article] is unacceptable to me! — Raba the son of Rabbah replied: [This[17] refers] to a silver strigil.[18] R. Papa replied: There is no difficulty: one[19] [refers to a man] before he came under the obligation of repayment,[20] and the other refers to a man[21] after he had come under the obligation of repayment.[22] MISHNAH. IF AN ORPHAN WAS GIVEN IN MARRIAGE BY HER MOTHER OR HER BROTHERS [EVEN IF] WITH HER CONSENT[23] AND THEY ASSIGNED[24] TO HER A HUNDRED, OR FIFTY ZUZ,[25] SHE MAY, WHEN SHE ATTAINS HER MAJORITY,[26] RECOVER FROM THEM THE AMOUNT THAT WAS DUE TO HER.[27] R. JUDAH RULED: IF A MAN HAD GIVEN HIS FIRST DAUGHTER IN MARRIAGE, THE SECOND[28] MUST RECEIVE AS MUCH AS THE [FATHER] HAD GIVEN TO THE FIRST. THE SAGES, HOWEVER, SAID: SOMETIMES A MAN IS POOR AND BECOMES RICH OR RICH AND BECOMES POOR.[29] THE ESTATE SHOULD RATHER BE VALUED AND SHE[30] BE GIVEN [THE SHARE THAT IS HER DUE].

GEMARA. Samuel stated: In respect of the marriage outfit[31] the assessment[32] is to be determined by [the disposition of] the father.[33]

All objection was raised: ‘The daughters are to be maintained and provided for[34] out of the estate of their father. In what manner? It is not to be said, "Had her father been alive he would have given her such and such a sum" but the estate is valued and she is given [her due share]’. Does not [‘provided for’ refer to] the marriage[35] outfit?[36] — R. Nahman b. Isaac replied: No; [it refers to] her own maintenance.[37] But, surely, it was stated: ‘Are to be maintained and provided for’; does not one [of the expressions][38] refer to the marriage[39] outfit and the other to her own maintenance?[40] — No; the one as well as the other refers to her own maintenance,[40] and yet there is no real difficulty, for one of the expressions[38] refers[41] to food and drink and the other[41] to clothing and bedding.

We learned: THE SAGES, HOWEVER, SAID, SOMETIMES A MAN IS POOR AND BECOMES RICH OR RICH AND BECOMES POOR. THE ESTATE SHOULD RATHER BE VALUED AND SHE BE GIVEN [THE SHARE THAT IS HER DUE]. Now what is meant by POOR and RICH? If it be suggested that POOR means poor in material possessions, and RICH means rich in such possessions, the inference [should consequently be] that the first Tanna holds the opinion that even when a man was rich and became poor she is given as much as before; but, surely, [it may be objected] he has none [to give]. Must it not then [be concluded that] POOR means poor in mind[42] and RICH means rich in mind,[43] and yet it was stated, THE ESTATE SHOULD RATHER BE VALUED AND SHE BE GIVEN [THE SHARE THAT IS HER DUE]. from which it clearly follows that we are not guided by the assumed disposition [of her father], and this presents an objection against Samuel![44] He[45] holds the same view as R. Judah. For we learned, R. JUDAH RULED: IF A MAN HAD GIVEN HIS FIRST DAUGHTER IN MARRIAGE, THE SECOND SHOULD RECEIVE AS MUCH AS THE [FATHER] HAD GIVEN TO THE FIRST. [Why], then, [did he not] say, ‘The halachah is in agreement with R. Judah’?[46] — If he had said, ‘The halachah is in agreement with R. Judah’, it might have been assumed [to apply] only [where her father had actually] given her[47] in marriage, since [in that case] he has revealed his disposition, but not [to a case where] he had not given her[47] in marriage,[48] hence he[45] taught us[49] that R. Judah's reason is that we are guided by our assumption [as to whit was her father's disposition], there being no difference whether he had already given her[50] in marriage or whether he had not given her in marriage; the only object he[51] had[52] in mentioning [the case where a father] gave her[50] in marriage was to let you know the extent of the ruling[53] of the Rabbis[54] [who maintain] that although he had already given her[50] in marriage and had thereby revealed his disposition, we are nevertheless not to be guided by the assumption [as to what may have been the father's disposition].

Said Raba to R. Hisda: In our discourse we stated[55] in your name, ‘The halachah is in agreement with R. Judah. The other replied: May it be the will [of Providence] that you may report in your discourses all such beautiful sayings in my name. But could Raba, however, have made such a statement?[56] Surely, it was taught: Rabbi said, A daughter who is maintained by her brothers is to receive[57] a tenth of [her father's] estate;[58] and Raba stated that the law is in agreement with Rabbi![59] — This is no difficulty. The former[60] [is a case] where we have formed some opinion about him;[61] the latter[62] is one where we have not formed any opinion about him.[63] This explanation may also be supported by a process of reasoning. For R. Adda b. Ahaba stated: It once happened that Rabbi gave her[64] a twelfth of [her father's] estate. Are not the two statements contradictory?[65] Consequently[66] it must be inferred that the one[67] [refers to a father of whom] some opinion had been formed while the other[68] [refers to one of whom] we have formed no opinion. This is conclusive proof.

[To turn to] the main text.[69] Rabbi said, A daughter who is maintained by her brothers is to receive a tenth of [her father's] estate. They[70] said to Rabbi: According to your statement, if a man had ten daughters and one son the sons should receive no share at all on account of[71] the daughters? He replied: What I mean is this: The first[72] [daughter] receives a tenth of the estate, the second [receives a tenth] of what [the first] had left, and the third [gets a tenth] of what [the second] had left, and then they divide again [all that they had received] into equal shares.

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(1) I.e., white linen (Rashi).

(2) Silk cloths dyed. (Rashi a.l.; cf. also Rashi on Ezek. XVI, 16). טלי or טלי may be compared with GR.** , cushion', 'pillow' (v. Levy); 'will you recline at dinner', he was asked, 'on the linen, or silken pillows?' The noun is also rendered, 'table outfit', the expressions, 'silver' and gold' being taker, literally; 'Will you dine with the silver outfit (i.e., with the outfit used in connection with silver vessels) or with the gold outfit?' (Jast.).

(3) Who do not always respond to every appeal for charity.

(4) Deut. XV, 9.

(5) Dibtha, below the Tigris.

(6) In connection with the duty of assisting the poor.

(7) בליעל

(8) Deut. XV, 9.

(9) Concerning idolatry

(10) Deut. XIII, 14, the expression base, בליעל (v. supra n. 12), occuring in both cases.

(11) It is only thanks to the rogues who claim charity under false pretences that we have an excuse for not responding to every appeal.

(12) V. Rashi; 'a hump' (Jast.) . שוק may be rendered 'leg', 'foreleg' or 'shoulder'. The rt. קפח in Piel is to be taken according to Rashi's interpretation in the sense of 'binding', 'forcing', or 'outraging'. It is taken by Jast. as denom. of קפח 'to make high and arched shoulders', 'to cause or pretend to be humpbacked'.

(13) One who owns less than two hundred zuz and wishes to take a share in the poor man's gifts. The possessor of two hundred zuz is forbidden to participate in the poor man's gifts.

(14) Though the proceeds of such a sale would raise the man's capital above the two hundred zuz limit. Pe'ah VIII, 8.

(15) Lit., 'and not?'

(16) Which proves that a poor man is expected to sell his costlier goods before he is allowed to take alms. Why then was it stated here that he is not compelled to sell 'his artical of service'?

(17) The last mentioned Baraitha which orders the sale of 'articles of service'.

(18) There can be no hardship in using instead of one made of a cheaper metal.

(19) The Mishnah from Pe'ah, according to which one is not compelled to sell his articles of service.

(20) I.e., if he possessed less than two hundred zuz and applied for assistance before receiving any help under false pretences. As there is no claim against him he is not to be compelled to sell his articles of service.

(21) Who, being in possession of two hundred zuz, accepted alms under false pretences.

(22) I.e., after it had been discovered that did not belong to the poor classes and was ordered by the court to refund all sums he had received unlawfully. In such a case, if he is unable to meet the claim otherwise, he is compelled to sell his costly articles and to content himself with the use of cheaper ones.

(23) And much more so if without her consent.

(24) Lit., 'wrote'.

(25) As her share in the estate of her deceased father.

(26) Though she had accepted the amount during her minority V.supra note 1.

(27) VI., a tenth of the estate.

(28) Who marries after his death.

(29) The amount he gives to his first daughter is, therefore, no criterion for his second

(30) The second daughter.

(31) Of an orphan.

(32) I.e.,the amount to be given to the orphan on marriage out of her father's estate.

(33) She is to receive a bigger or a smaller amount in accordance with her fathers reputation for generosity or niggardliness.

(34) This is explained anon.

(35) Lit., ['the parnasah of her husband', parnasah being a technical term to denote the estate set aside for the dowry of the orphaned daughter. Frankel MGWJ 1861,p.119 connects it with the Gk. ** cf. supra p. 408. n. 6].

(36) A contradiction against the ruling of Samuel.

(37) Before marriage, while she is still with her brothers.

(38) 'To be (a) maintained and (b) provided for'.

(39) V. p. 416, n. 13.

(40) V. p. 416, n. 15.

(41) Lit., 'that'.

(42) Niggardly; having the mind or disposition of a poor man.
(43) Generous.
(44) Who stated that the amount is determined by what is known of the disposition of her father. How, it is asked, could Samuel differ from a Mishnah?
(45) Samuel.
(46) Which would have been a shorter statement and would have included the name of its author also.
(47) HIS FIRST DAUGHTER.
(48) Since his disposition had not beers revealed.
(49) By his specific ruling.
(50) HIS FIRST DAUGHTER.
(51) The compiler of our Mishnah.
(52) Lit., 'and that.'
(53) Lit., 'power'.
(54) The Sages
(55) Or: Shall we state etc. (cf Rashi, s v. דרשינן Bezah 28a)
(56) That the amount to be given to an orphan on marriage is determined, as R. Judah ruled, by the disposition of her father.
(57) On marriage.
(58) Ned. 39b.
(59) I.e., that the amount the daughter is to receives is a legally, prescribed proportion. How then could he have said that the halachah was in agreement with R. Judah (v supra note 7)?
(60) Lit., that', the statement that the halachah follows R. Judah (v. supra note 7)
(61) The orphan's father. Knowing his disposition it is possible to determine accordingly what amount his daughter shall be allowed on marriage.
(62) Lit., 'that', the law that the proportion she is to receive is always a tenth of the estate.
(63) If he was unknown to the court and no one is able to supply reliable information on the point.
(64) An orphan on marriage.
(65) According to the former statement Rabbi allowed only one tenth while according to the latter he allowed a twelfth.
(66) To reconcile the contrary statements.
(67) The case where a twelfth had been allowed.
(68) Cf. supra p. 418, n. 13.
(69) A citation from which has been discussed supra..
(70) The scholars at the college.
(71) Lit.,'in the place of'.
(72) It is at present assumed, 'the first to marry'.

Talmud - Mas. Kethuboth 68b

But did not each one receive what was hers?[1] — It is this that was meant: If all of theme wish[2] to marry at the same time they are to receive equal shares.[3] This provides support for [the opinion] of R. Mattena; for R. Mattena has said: If all of them wish to marry at the same time they are to receive one tenth. 'One tenth'! Can you imagine [such a ruling]?[4] The meaning must consequently be that[5] they are to receive their tenths at the same time.[6] Our Rabbis taught: The daughters,[7] whether they had attained their adolescence before they married or whether they married before they had attained their adolescence, lose their right to maintenance[8] but not to their allowance for marriage outfit; so Rabbi. R. Simeon b. Eleazar said: If they also attained their adolescence, they lose the right to their marriage outfit.[9] How should they proceed?[10] — They hire for themselves husbands[11] and exact their outfit allowance. R. Nahman stated: Huna told me, The law is in agreement with Rabbi.

Raba raised an objection against R. Nahman: IF AN ORPHAN WAS GIVEN IN MARRIAGE BY HER MOTHER OR HER BROTHERS [EVEN IF] WITH HER CONSENT, AND THEY ASSIGNED TO HER A HUNDRED, OR FIFTY ZUZ, SHE MAY, WHEN SHE ATTAINS HER

MAJORITY, RECOVER FROM THEM THE AMOUNT THAT WAS DUE TO HER. The reason then[12] is because she was a minor;[13] had she, however, been older[14] her right[15] would have been surrendered![16] — This is no difficulty; the one[17] , is a case where she protested;[18] the other,[19] where she did not protest.[20] This expla nation may also be supported by a process of reasoning. For otherwise[21] there would arise a contradiction between two statements of Rabbi.[22] For it was taught, ‘Rabbi said, A daughter who is maintained by her brothers is to receive a tenth of [her father's] estate’, [which implies] only when[23] she is maintained[24] but not[25] when she is not maintained.[26] Must it not in consequence be concluded that one [statement deals with one] who protested and the other [with one] who did not protest. This proves it.

Rabina said to Raba: R. Adda b. Ahaba told us in your name, If she attained her adolescence she need not lodge a protest;[27] if she married she need not lodge a protest;[27] but if she attained her adolescence and was also married it is necessary for her to lodge a protest.[28] But could Raba have made such a statement? Surely, Raba pointed out an objection against R. Nahman [from the Mishnah of] AN ORPHAN, and the other replied that ‘the one is a case where she protested, the other where she did not protest’![29] — This is no difficulty. One[30] is a case where she is maintained[31] by them;[32] the other,[33] where she is not maintained by them.[34]

R. Huna stated in the name of Rabbi: [The right[35] to] marriage outfit is not the same as that[36] conferred by a condition in a kethubah.[37] What is meant by ‘is not the same as that conferred by a condition in a kethubah’? Should it be suggested[38] that whereas for the allowance for a marriage outfit even property pledged[39] may be seized,[40] [for the fulfilment of an obligation[36] under] the terms of a kethubah no pledged property[41] may be seized,[42] what [new point, it may be objected,] does this teach us? Surely it is a daily occurrence [that pledged property] is seized for marriage outfit but not for maintenance! [Should it], however, [be suggested that] whereas for a marriage outfit movable objects also may be seized, [for the fulfilment of an obligation under] a condition in a kethubah only real estate. but not movable objects, may be seized, [it may be objected that,] according to Rabbi, for the one as well as the other[43] [movable objects] may be seized. For it was taught: Both landed property and movable property may be seized for the maintenance of a wile or daughters;[44] so Rabbi! What, then, is meant by ‘[The right to] marriage outfit is not the same as that conferred by a condition in a kethubah’? — As it was taught: If a man[45] said that his daughters must not be maintained out of his estate he is not to be obeyed.[46] [If, however, he said, that] his daughters shall not receive their marriage outfit out of his estate he is obeyed, because [the right to] marriage outfit is not the same as that conferred by a condition in a kethubah[47] . [

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(1) Of course she did. Each one is entitled to a tenth of the value of the estate as it stood at the time she married. Why then should there be a new division in equal shares, which would deprive those who married earlier from what was their due?

(2) Lit., ‘came’.

(3) After each in turn had received a tenth of the value of the estate as it stood at the moment her share was allowed to her. Since subsequently they will all pool their shares it does not matter which of them is given her share first. the only object of the allotment of the successive shares is to determine what part of the estate is to be left for the son. If there were three daughters for instance, the division would proceed as follows: One daughter would be allowed one tenth of the estate; the other 1/10 X 9/10; and the third 1/10 X 81/100. The son would, therefore, receive 1- (1/10-9/100 — 81/1000)= 729/1000, and each daughter would ultimately get a 271/3 X 1000 of the entire estate.

(4) Certainly not. If every daughter is entitled to a tenth of the estate, several daughters, surely, should receive more than one tenth.

(5) Lit., ‘but’.

(6) The reading being עישור כאחד instead of עישור אחד (one tenth’). Cf. supra n. 9.

(7) Of a man who left an estate and is survived by sons.

(8) Because the terms of a kethubah provide for the maintenance of daughters only until adolescence (v. Glos. s.v. bogereth) or marriage, whichever is the earlier.

(9) The tenth of the estate to which, as stated supra, a daughter is entitled. In his opinion it is only one who is a minor, nacarah (v. Glos.), that receives such tenth, once she has reached her adolescence, or married as a nacarah, without claiming at the time her full marriage outfit, she loses her claim to it.
(10) If they had not been married early and are desirous of securing their tenth before losing it through age.
(11) [They hire men to declare that they would marry them (Strashun)].
(12) why she may recover the amount prescribed for her marriage outfit,
(13) At the time she married.
(14) Even If she was still a nacarah at the time of marriage.
(15) To her full claim.
(16) And she would not be entitled to the balance of her marriage outfit. This anonymous Mishnah then is in agreement with the view of R. Simeon b. Eleazar. Now, since the halachah is usually in agreement with the anonymous Mishnah how could R. Nahman maintain that the halachah is in agreement with Rabbi?
(17) Rabbi's statement that she does not lose her marriage outfit.
(18) When less than her due was assigned to her.
(19) Our Mishnah.
(20) Hence it is only a minor, who cannot surrender her rights, that may recover the balance when she becomes of age. One, however, who has passed her minority (cf. supra note 8) may well surrender her right. Her silence is regarded as consent.
(21) Lit., ‘for if so’, that Rabbi maintains that in all cases a daughter on attaining adolescence does not lose the right to her marriage outfit,
(22) Lit., ‘that of Rabbi against that of Rabbi’.
(23) Lit., ‘yes’.
(24) Is she to receive a tenth of the whole.
(25) She is to receive no such allowance.
(26) I.e., after she had attained her adolescence, How then could Rabbi also have stated that a daughter always (v. supra n. 1) receives her outfit?
(27) Against the full, or partial loss of her marriage outfit allowance. Even without her protest she retains he right to the tenth of the estate that is due to her,
(28) Otherwise she loses her claim to the marriage outfit.
(29) Supra. Cf. supra p. 420, notes 11 to 14. From which it follows that once she passes her minority, though she did not attain her adolescence, a daughter loses her full claim to an outfit allowance if she did not lodge her protest on marriage. How then could it be said that according to Raba, ‘if she married (provided it was before attaining her adolescence) she need not lodge a protest’?
(30) Raba's ruling that ‘if she married she need not lodge a protest’.
(31) After her marriage.
(32) Her brothers. In such a case it is to be presumed that her silence was not due to her consent to lose her outfit but to the belief that, as they continued to maintain her, they would also give her in due course the full amount of her outfit allowance.
(33) The inference from our Mishnah according to which one who has passed out of her minority surrenders on marriage her right to the balance of her outfit.
(34) Hence she loses the right to her outfit unless she lodged her protest.
(35) Of a daughter.
(36) Of a daughter's maintenance.
(37) Cf. supra 52b.
(38) As a point of difference between the two rights.
(39) By the brothers (not by the father).
(40) Since it represents a fixed sum (one tenth of the estate) it had the validity of a debt incumbent upon the estate.
(41) Even if it was only the brothers who pledged it (v. Git. 48b)
(42) As the amount is not a fixed quantity it has not the same force as a debt.
(43) For maintenance as well as for marriage outfit.
(44) And much more so for marriage outfit which has the validity of a debt of a debt (cf. supra nn. 6 and 8).
(45) On his death bed.

(46) Since even a dying man, whose verbal instructions have the validity of a legal contract, cannot annul the undertaking to maintain his daughters which he entered in the kethubah.

(47) While the latter is obligatory upon the deceased and upon his heirs, the firmer has to be provided by the heirs only where the deceased did not give specific instructions to the contrary.

Talmud - Mas. Kethuboth 69a

Rah inserted[1] [the following enquiry] between the lines[2] [of a communication[3] he sent] to Rabbi: What [is the law] where the brothers have encumbered [the estate they inherited from their father]?[4] [When the enquiry reached him] R. Hiyya [who] was sitting before him asked, '[does he mean:] They sold it or pledged it?' — 'What difference call this make?'[5] the other retorted. Whether they sold it [he continued] or pledged it, [the estate] may he seized [to meet the obligation] of marriage outfit but may not be seized for that of maintenance

As to Rab, however, if his enquiry [related to brothers] who sold [the estate], he should have written to him, 'sold'; and if his enquiry [related to brothers] who pledged it, he should have written to him, 'pledged'! — Rab wished to ascertain the law concerning both cases and he thought: If I write to him 'sold' [I shall get] satisfaction If he were to send [in reply] that 'the estate may be seized', since the same ruling would apply with even greater force to the case where they pledged [the estate]. If, however, he were to send me in reply that 'it may not be seized',the question [in respect of brothers] who pledged [the estate] would still remain. If, [again]. I were to write to him, 'pledged' then if he sent in reply that 'the estate may not be seized' this ruling would apply with even greater force [to the case where] they sold it. Should he, however, send a reply that 'it may be seized', the question [in respect of brothers] who sold It would still remain. I will, therefore, write to him , 'encumbered' which might mean the one[6] as well as the other[7]

R. Johanan, however, ruled: [An estate][8] may not be seized either [to meet the obligation of the] one or of the other.[9]

The question was raised: Did not R. Johanan hear the ruling of Rabbi, but if he had heard it he would have accepted it? Or is it possible that he heard it and did not accept it? — Come and hear what has been stated: If a man died and left two daughters and one son, and the first forestalled [the others] and took a tenth of the estate while the other did not manage to collect [her share] before the son died[10] , R. Johanan ruled: The second[11] has surrendered her right.[12] Said R. Hanina: Something that is even more striking than this has been said, [viz.. that an estate] may be seized[13] [to meet the obligation] of a marriage outfit though it may not be seized for that of maintenance, and you nevertheless state, 'The second has surrendered her right'?[14] Now, if that were the case,[15] he[16] should have asked him 'who said it?'[17]

But is it not possible that he in fact did not hear it [at first][18] and when he [finally] heard he accepted it, but there[19] [the circumstances are] different, since the house [of the second daughter] has now ample provisions?[20] Said R.Yemar to R. Ashi: Now then,[21] if she[22] found anything at all, so that her house is amply provided for, would we in such a case also not give her a tenth of the estate? — The other replied: I said, A house amply provided for from the same estate.[23]

Amemar ruled: A daughter[24] has [the legal status of] an heiress. Said R. Ashi to Amemar: Should it be desired to settle her claim[25] by means of a money payment such a settlement cannot be effected for the same reason?[26] — 'Yes', the other replied. 'Should it be desired [the first asked] to settle her claim by [giving her] one plot of land, such a settlement cannot be effected for the same reason?'[26] — 'Yes', the other replied .[27] R. Ashi, however, ruled: A daughter[28] has [the legal status of] a creditor.[29] And Amemar also withdrew his former opinion. For R. Minyomi son of R. Nihumi stated: I was once standing before Amemar and a woman who claimed a tenth of [her deceased father's] estate appeared before him, and I observed [that it was his] opinion that if [her brothers] desired to settle with her by means of a money payment he would have agreed to the settlement.[30] For he heard the brothers say to her, ‘If we had the money we would settle with you[31] by a cash payment’, and he remained silent and told them nothing to the contrary.

Now that it has been said that [a daughter in her claim to her tenth][28] has the legal status of a creditor [the question arises whether she is the creditor] of the father or of the brothers. In what respect can this matter? — In respect [of allowing her] to collect [her tenth] either from their medium[32] land and without an oath,[33] or of their worst land with an oath.[34] Now what [is the law]? — Come and hear [of the decision] of Rabina: He allowed the daughter of R. Ashi to collect [her tenth] from Mar[35] the son of R. Ashi out Of his medium land, without an oath, but from the son of R. Sama[36] the son of R. Ashi out of his worst land with an oath.[37]

R. Nehemiah the son of R. Joseph sent the following message to Rabbah the son of R. Huna Zuta[38] of Nehardea:[39] When this woman[40] presents herself to you, authorize her to collect a tenth part of [her deceased father's] estate even from the casing of handmills.[41]

R. Ashi stated: When we were at the college of R. Kahana we authorized the collection [of a daughter's tenth] from the rent[42] of houses also.

R. Anan sent [this communication] to R. Huna, ‘[To] our colleague Huna, greetings.[43] When this woman[40] presents herself before you, authorize her to collect a tenth part of [her father's] estate’. [When the communication arrived,] R. Shesheth was sitting before him. ‘Go’, [R. Huna] said to him,[44] ‘and convey[45] to him[46] [the following message]-and he[47] who does not deliver the message[48] to him shall fall under the ban — "Anan, Anan, [is the collection to be made] from landed, or from movable property? And who presides at the meal in a house of mourning?"’[49] R. Shesheth went to R. Anan and said to him: The Master[50] is a teacher,[51] and R. Huna is a teacher of the teacher,[52] and he pronounced the ban against anyone who would not convey[53] [his message] to you;[54] and had he not pronounced the ban I would not have said, ‘Anan, Anan, [is the collection to be made] from landed, or movable property, and who presides at the meal in a house of mourning?’[55] Thereupon, R. Anan went to Mar ‘Ukba and said to him: See, Master, how R. Huna addressed[56] me as ‘Anan, Anan’;[57] and, furthermore, I do not know what he meant by the message he sent me on marziha.[58] The other said to him: Tell me now

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(1) Lit., ‘suspended’.

(2) חטי perhaps from חטט ‘to dig’. ‘scratch’ hence a line drawn with a stylus (cf Rashi and last.). Aruk renders ‘stitches’ (cf חוט ‘thread’), and this is apparently the interpretation adopted by Tosaf (s v. תלת a l.), the meaning being that ‘among the documents that were sewn together one containing the enquiry was appended’; or, ‘among the stitches holding the documents together the one containing the enquiry was inserted’.

(3) A friendly,’ letter (Rashi).

(4) May it be seized by the daughter for their marriage outfit?

(5) Lit.,’what goes out (results) from it?’

(6) Lit., ‘thus’.

(7) Sold or pledged. And should there be a difference in law between the two cases, Rabbi in his reply would naturally indicate it.

(8) Which the brothers sold or pledged. Cf. supra.

(9) I.e., maintenance or marriage outfit.

(10) And the entire estate fell to the lot of the daughters.

(11) Since she did not collect her tenth while the son was alive, i.e., before she and her sister became the sole heirs,

(12) A daughter may claim a tenth of the estate from a son only but not from a daughter whose rights are equal to hers.

(13) Though it has been pledged or sold.

(14) To her marriage outfit, even in an estate which had been neither sold nor pledged. The first sister, surely, cannot possess a stronger claim upon the estate than a buyer or a creditor, V. Git. 51a.

(15) That R. Johanan never heard Rabbi's ruling.

(16) R. Johanan.

(17) Since he did not ask him this it may be inferred that R. Johanan did hear Rabbi's ruling but did not accept it. For this reason also he did not withdraw his ruling in the case of the two daughters.

(18) Rabbi's ruling.

(19) The case of the two daughters which was discussed after he had heard Rabbi's ruling and accepted it.

(20) At first she was entitled to a tenth only and now she gets a half. In such circumstances she may well be expected to surrender her claim to the tenth. Rabbi, however, deals with a case where the brothers are alive, and the daughters ate entirely dependent on their tenths,

(21) If the argument of additional provision is admissible.

(22) The second sister.

(23) From which she was to receive her tenth.

(24) In respect of her right to a tenth of her father's estate.

(25) To the tenth of the estate. Lit., ‘to remove her’.

(26) Because she has the status of an heiress, Lit., ‘thus also’.

(27) As heiress she has the right to claim a share in the actual property her father left and in every portion of it.

(28) In respect of her right to a tenth of her father's estate.

(29) Her claim may, therefore, be met by a money payment or by the allotment of any plot of land of the value of a tenth of the estate that is due to her.

(30) Lit., ‘he would have removed (sc. dismissed) her’,

(31) So MS. M. adding לך after סליקנא.

(32) Land is classified as עידית best בינונית, medium Or זיבורית worst, and payments are made from these respective qualities in accordance with the strength and validity of any particular claim. Cf. e g., Git. 48b.

(33) That she had never taken anything from the estate. This would be the law if she were regarded as the creditor of the brothers.

(34) If she is regarded as the father's creditor. In the latter case she would be subject to the restrictions imposed on a creditor who claims his debt from the debtor's orphans (v. Get. 48b).

(35) Who survived his father and from whom his sister claimed a portion of her tenth.

(36) Who predeceased R. Ashi and whose son, on the death of his grandfather (R. Ashi), inherited his father's (R. Sama's) share and was now sued by his aunt to give her the portion of her tenth that his father as a son of R. Ashi owed her (Rashi). [Ritba and others: R. Sama died shortly after R. Ashi, before his daughter managed to collect her tenth share in the estate].

(37) According to Rabina, then, the daughter was regarded as the debtor of her brothers (Mar and R. Sama). From the former, therefore, who was alive she consequently collected of the best and without an oath (cf. supra p. 425 , n. 11). From the latter, however, she could only collect through his son as the creditor of has father's and was therefore subject to the restrictions of a creditor who collects from orphans (cf. supra. note I).

(38) Var. lec., ‘Zuti’ (cf. B.B. 66b)

(39) V. supra p. 222, n. 8.

(40) The bearer, whose case R. Nehemiah had investigated.

(41) The casing being regarded as landed estate from which her tenth may be collected.

(42) The yield of the houses being legally regarded, like, the houses themselves, as landed property (cf. supra n. 8’).

(43) Lit., ‘peace.

(44) To R. Shesheth.

(45) Lit., ‘say’.

(46) To R. Anan.

(47) I.e., ‘If you do not deliver the message etc.’, the third person being used for euphemism.

(48) I.e., using exactly the same words, lit., ‘say’.

(49) R. Huna was apparently offended by the tone or wording of R. Anan's communication. Hence the abusive reply.

(50) R. Anan.

(51) A complimentary introduction to the unpleasant message that follows

(52) I.e., R. Anan. An excuse for carrying out his instructions though they were offensive to R. Anan.

(53) Lit., ‘say’.
(54) Lit., ‘to him’.
(55) The seat of honour at the meal in a house of mourning was given to the greatest scholar in the company
(56) Lit , ‘sent’.
(57) Without the title of ‘R.’
(58) מרזיחה rendered supra, ‘a house of mourning’.

Talmud - Mas. Kethuboth 69b

how the incident actually occurred. ‘The incident’, the first replied, ‘happened in such and such a way’. ‘A man’, the other exclaimed, ‘who does not know the meaning of marziha should [scarcely] presume to address[1] R. Huna as, "our colleague Huna".’

What [is the meaning of] marziha. — Mourning; for it is written in Scripture, Thus saith the Lord: Enter not into the house of mourning[2] etc.[3]

R. Abbahu stated: Whence is it deduced that a mourner sits at the head [of the table]?[4] [From Scripture] wherein it is said, I chose out their way, and sat at the head,[5] and dwelt as a king in the army, as one that comforteth[6] the mourners.[7] But does not yenahem[8] mean [one who comforts] others?[9] R. Nahman b. Isaac replied: The written form is YNHM.[10] Mar Zutra said: [The deduction[11] is made] from here: We-sar marzeah seruhim,[12] he who is in bitterness and distracted[13] becomes the chief[14] of those that stretched themselves.[15]

Raba stated: The law [is that payment may be exacted] from landed property, but not from movable property, whether in respect of maintenance, kethubah or marriage outfit.[16]

MISHNAH. IF A MAN DEPOSITED[17] A SUM OF MONEY FOR HIS [UNMARRIED] DAUGHTER WITH A TRUSTEE,[18] AND [AFTER SHE WAS BETROTHED][19] SHE SAYS, ‘I TRUST MY HUSBAND’,[20] THE TRUSTEE MUST ACT IN ACCORDANCE WITH THE CONDITION OF HIS TRUST;[21] SO R. MEIR. R. JOSE, HOWEVER, SAID: WERE [THE TRUST] ACTUALLY[22] A FIELD[23] AND SHE WISHED TO SELL IT, WOULD IT NOT BE DEEMED[24] SOLD FORTHWITH![25] THIS APPLIES TO ONE WHO IS OF AGE.[26] IN THE CASE OF A MINOR, HOWEVER, THERE IS NO VALIDITY AT ALL IN THE ACT OF A MINOR.

GEMARA. Our Rabbis taught: If a man deposited for his son-in-law with a trustee a sum of money wherewith to buy a field for his daughter, and she says, ‘Let it be given to my husband’, she is entitled [to have her wish fulfilled, if it was expressed] after her marriage[27] but if only after her betrothal the trustee must act according to the conditions of his trust;[28] so R. Meir. R. Jose, however, said: A woman who is of age has a right [to obtain her desire] whether [it was expressed] after her marriage or only after betrothal, but [in the case of] a minor [whether her wish was expressed] after marriage or after betrothal, the trustee must act in accordance with the conditions of his trust.[29] What is the practical difference between them?[30] If it be suggested that the practical difference between them is the case of a minor after her marriage, R. Meir holding the opinion that [even] she is entitled [to have her wish] and R. Jose comes to state that even after marriage [It is only] a woman who is of age that is entitled to have her wish[31] but not a minor, [in that case] what of[32] the final clause,[33] IN THE CASE OF A MINOR, HOWEVER, THERE IS NO VALIDITY AT ALL IN THE ACT OF A MINOR. Who [it might be asked] could have taught this? If it be suggested [that the author was] R. Jose, [it could be objected:] This, surely, could be inferred from the first clause; for, since R. Jose said, WERE [THE TRUST] ACTUALLY A FIELD AND SHE WISHED TO SELL IT, WOULD IT NOT BE DEEMED SOLD FORTHWITH! [it follows[34] that only] one that is of age, who is eligible to effect a sale, was meant,[35] but not a minor who is ineligible to effect a sale.[36] Consequently it must be R. Meir [who was the author of] it, and a clause is in fact missing [from our Mishnah], the proper reading being as follows:[37] 'THE TRUSTEE MUST ACT IN ACCORDANCE WITH THE CONDITIONS OF HIS TRUST. This applies only [to a woman whose desire was expressed] after her betrothal, but if after her marriage she is entitled [to have her wish]. THIS [furthermore] APPLIES TO ONE WHO IS OF AGE. IN THE CASE OF A MINOR, HOWEVER, THERE IS NO VALIDITY AT ALL IN THE ACT OF A MINOR.'[38] — [The fact]. however, is that the practical difference between them is the case of one who is of age [whose wish was expressed] after her betrothal.[39]

It was stated: Rab Judah said in the name of Samuel. The halachah is in agreement with R. Jose. Raba ion the name of R. Nahman said, The halachah is in agreement with R. Meir. Ilfa[40] reclined[41] upon a sail mast[42] and[43] said: 'Should any one come and submit to me any statement [in the Baraithoth] of R. Hiyya and R. Oshaia[44] which I cannot make clear to him [with the aid] of our Mishnah I will drop from the mast[45] and drown myself'. An aged man came and recited to him [the following Baraitha:][46] If a man[47] said, 'Give my children[48] a shekel a week',[49] and they require a sela',[50] a sela' is to he given to them.[51] But if he said, 'Give them no more than a shekel', only a shekel is to he given to them.[52] If, however, he gave Instructions that if these died others[53] shall be his heirs in their stead, only one shekel [a week] is to be given to them, irrespective of whether he used the expression of 'give' or 'give no [more]',[54] [Ilfa] said to him: [Do you wish to know] whose ruling this[55] is?

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(1) Lit., 'sent'.

(2) מרזה , Heb. from Aram. מרזיחה

(3) Jer. XVI, 5

(4) At the meal in a house of mourning.

(5) E V., as chief. ואשב ראש may bear both renderings.

(6) This is explained by R. Nahman anon.

(7) Job. XXIX, 25.

(8) ינחם Imperf. Piel of נחם .

(9) How then could the text be said to refer to the mourner who is himself to be comforted?

(10) ינחם , which may be vocalized as the Pus form Yenuham, 'one who is comforted'. Though the text must retain its obvious meaning with the M.T. vocalization of ינחם , the possibility of reading ינחם as ינחם also permits of the Midrashic exposition (Tosaf. s.v. אמר).

(11) That the mourner is to sit at the head of the table at the meal in a house of mourning.

(12) וסר מרזח סרוחים , Amos, VI, 7. Midrashically, סר = שר (chief, I.e., 'sits at the head'), מרזח is divided into מר (bitter) and זח (rt. זוח distracted), and סרוחים is taken to refer to the comforters who stretch themselves on their couches or on the ground at the feet of the mourner. (Cf. Golds.). E.V., And the revelry of men that stretched themselves shall pass away.

(13) I.e. , the mourner.

(14) I.e. , sits at the head of the table during the meal.

(15) Before him, sc. those, who came to offer their condolence.

(16) A Gaonite provision, תקנת הגאונים , empowers also the seizure of movable property to meet any of these obligations (cf Tosaf. supra 51a. s.v. ממקרקעי). [This Takkanah has been ascribed to Hunai Gaon and dated 787, v. Epstein, L. The Jewish Marriage, p. 255 and Tykocinski, Die Gaonaischen Verordnungen, p. 35ff].

(17) Lit., 'he who made a third', i.e., appointed a third person as trustee.

(18) Cf. supra n. 12, instructing him to use the money after his death for the benefit of his daughter, e.g., to buy for her a field.

(19) So Tosaf (s.v. המשליש) contrary to Rashi's 'married', v. Gemara infra.

(20) 'And desire the money to be given to him',

(21) Lit., 'what was put in his hand as a third party'. The daughter's wish is to be disregarded and the trustee buys a field with it.

(22) Lit., 'was not but'.

(23) Not merely a sum of money with which to buy one.

(24) Lit., ‘behold it’.
(25) Lit., ‘from now’, sc. from the moment she expressed her desire to sell it, and the same should apply where the trust consisted of a sum of money. The sum of money must consequently be at her disposal and she may gave it to her husband if she desires to do so.
(26) The point of this limitation is discussed in the Gemara infra.
(27) The assumption being that the father wished the trustee to act only until his daughter's marriage.
(28) V. supra p. 428, n. 16.
(29) Tosef. Keth. VI. Cf. supra p. 428, n. 16.
(30) R. Meir and R. Jose, i.e., does R. Meir in the Baraitha refer to a minor also or only to one who is of age?
(31) Lit., ‘yes’.
(32) Lit., ‘say’.
(33) Of our Mishnah.
(34) Since R. Jose gave as the reason for his ruling the consideration that she could have sold the field if she wished
(35) Lit., ‘yes’.
(36) The final clause, then, would be superfluous
(37) Lit , and thus he taught’.
(38) Now, since R. Meir also admits that the act of a minor has no validity, his statement in the Baraitha cited that after marriage she is entitled to have her wish must refer to one who is of age and not to a minor. What, then, is the practical difference between R. Meir and R. Jose?
(39) According to R. Meir her wish is to be ignored; according to R. Jose it is to be granted. Cf. supra p. 428, n. 14 As to a minor both agree that bet request is not to be granted even if she makes it after her marriage
(40) Scholar and merchant, a contemporary of R. Johanan. When the latter was appointed to the presidency of the college the former was away from his home town, engaged in the pursuit of his commercial enterprises. What follows happened on his return when he was told that had he devoted more time to his studies and less to commerce the presidency would have been offered to him. V. Ta'an. 21a.
(41) Lit., suspended himself’ (cf. Rashi Git. 32b, s.v. דתלי Pesah. 68b, s.v. ותלי).
(42) Or sail-yard. Cf. Rashi. Other renderings: ‘Sail, or mast of a boat’, ‘mastyard’, איסקריא , GR.**,(perhaps from rt. סקר , ‘to espy’, hence ‘espying place’) ‘mast’ or ‘yard’ (v. Jast.) מכותא cf. Assyr. makua, a kind of ‘boat’, ‘mast’ or ‘sail-yard’ (v. Rashi, a.l. and Git. 36a, Rashb. B.B. 161b); ‘a ship’ (Aruk). In the parallel passage. Ta'an 21a, the reading for דמכותא is דספינתא (of a ship).
(43) To prove that despite has commercial undertakings he had not forgotten his studies.
(44) These were regarded as the most authoritative of the Baraitha collections
(45) Cf. p 430, n. 9.
(46) Demanding Mishnaic authority for its rulings V. infra note 12.
(47) Lying on his death bed, or setting out on a long journey.
(48) Out of the estate he leaves behind.
(49) For their maintenance
(50) A sela’ two shekels
(51) Their father's mention of the smaller coin. it is assumed, was not meant to exclude the bigger one. All that he implied was that his children should be given no more than their actual weekly requirements.
(52) Though they may be in need of more.
(53) Whom he named.
(54) Because in this case it is evident that it was his intention to economize as much as possible. (11) Because in this case it is evident that it was his intention to economize as much as possible on the weekly maintenance of his children in order that the heirs he nominated might in due course receive as large an inheritance as possible.
(55) That, though the children need more than their father had allowed them, the instructions of the deceased must be carried out.

Talmud - Mas. Kethuboth 70a

It is that of R. Meir[1] who laid down that it is a religious obligation to carry out the instructions of a dying man.[2]

R. Hisda stated in the name of Mar 'Ukba: The law is that whether [the dying man] said, 'Give' or 'give no more',[3] his children are to he given all that they require. But have we not, however, an established principle that the halachah is in agreement with R. Meir who laid down that it is a religious obligation to carry out the instructions of a dying man? — This applies to other matters, but in this case [the father] is quite satisfied [that his children should be provided with all they need]; and in limiting their allowance,[4] his object was[5] to encourage them.[6]

We learned elsewhere: With regard to little children,[7] their purchase is a valid purchase and their sale is a valid sale in the case of movable objects.[8] Rafram explained: This has been taught in the case only where no guardian had been appointed,[9] but where a guardian had been appointed neither their purchase nor their sale has any legal validity. Whence is this inferred? From the expression, THERE IS NO VALIDITY AT ALL IN THE ACT OF A MINOR. But might not the case where a trustee[10] had been appointed be different?[11] — If so,[12] it should have been stated, 'IN THE CASE OF A MINOR, HOWEVER, a trustee must act in accordance with the conditions of his trust' what [then was the purpose of the expression,] THERE IS NO VALIDITY AT ALL IN THE ACT OF A MINOR? Hence it may be inferred [that the same law is applicable] in all cases.[13]

CHAPTER VII

MISHNAH. IF A MAN FORBADE HIS WIFE BY VOW TO HAVE ANY BENEFIT FROM HIM HE MAY, [IF THE PROHIBITION IS TO LAST] NOT MORE[14] THAN THIRTY DAYS, APPOINT A STEWARD,[15] BUT IF FOR A LONGER PERIOD HE MUST DIVORCE HER[16] AND GIVE HER THE KETHUBAH. R. JUDAH RULED: IF HE WAS AN ISRAELITE[17] HE MAY KEEP HER [AS HIS WIFE IF THE PROHIBITION WAS FOR] ONE MONTH, BUT MUST DIVORCE HER AND GIVE HER THE KETHUBAH [IF IT WAS FOR] TWO MONTHS. IF HE WAS A PRIEST[18] HE MAY KEEP HER [AS HIS WIFE, IF THE PROHIBITION WAS FOR] TWO MONTHS,[19] BUT MUST DIVORCE HER AND GIVE HER THE KETHUBAH [IF IT WAS FOR] THREE.

IF A MAN FORBADE HIS WIFE BY VOW THAT SHE SHOULD NOT TASTE A CERTAIN FRUIT[20] HE MUST DIVORCE HER AND GIVE HER THE KETHUBAH. R. JUDAH RULED: IF HE WAS AN ISRAELITE[17] HE MAY KEEP HER [AS HIS WIFE, IF THE VOW WAS FOR] ONE DAY, [BUT IF FOR] TWO DAYS HE MUST DIVORCE HER AND GIVE HER THE KETHUBAH. IF, HOWEVER, HE WAS A PRIEST[18] HE MAY KEEP HER [AS HIS WIFE, IF THE VOW WAS FOR] TWO DAYS [BUT IF FOR] THREE HE MUST DIVORCE HER AND GIVE HER THE KETHUBAH.

IF A MAN FORBADE HIS WIFE BY VOW THAT SHE SHOULD NOT MAKE USE OF A CERTAIN ADORNMENT[21] HE MUST DIVORCE HER AND GIVE HER THE KETHUBAH. R. JOSE RULED: [THIS[22] APPLIES] TO POOR WOMEN IF NO TIME LIMIT[23] IS GIVEN, AND TO RICH WOMEN [IF THE TIME LIMIT[23] IS] THIRTY DAYS.

GEMARA. Since, however, he[24] is under an obligation to [maintain] her[25] how can he forbid her by a vow [to have any benefit from him]? Has he then the power[26] to cancel his obligation? Surely we have learned: [If a woman said to her husband] 'Konam, if I do aught for your mouth' he need not annul her vow;[27] from which[28] it is evident that, as she is under an obligation to him,[29] she has no right to cancel her obligation,[30] similarly here, since he is under an obligation to [maintain] her he should have no right to cancel his obligation![31] — [This,] however, [is the right explanation:] As he[32] is entitled to say to her,[33] 'Deduct [the proceeds of] your handiwork for your maintenance'[34]

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(1) Expressed in our Mishnah by the ruling that despite the request of the daughter the trustee must carry out the instructions of her deceased father.

(2) Cf. Git. 14b, 15a and 40a.

(3) Cf. supra 69b ad fin.

(4) Lit., ‘and (as to) that which be said thus’.

(5) Lit., ‘he came’.

(6) To lead a thrifty life and to make an effort to earn their livelihood.

(7) Of the ages of nine and eight’ (Rashi. a.l. s.v. הפעוטות .). ‘six and seven’ (Rashb. B.B. 155b, s.v. אלא).

(8) Transactions in landed estate, however, may be made by such only as have produced signs of puberty or have attained the age of twenty, v. Git. 59a, 65a, B.B. l.e.

(9) By a father or the court.

(10) With definite instructions as to the use he was to make of the trust money.

(11) From an ordinary guardian who is expected to use his own discretion in the best interests of the orphans. In the latter case the orphan's transaction might be deemed valid because it is not against their father's instructions and, being in the interest of the orphans, the guardian might well be presumed to have acquiesced.

(12) That a distinction is to be drawn between a trustee with special instructions and an ordinary guardian.

(13) Where there is a guardian, whose charge is somewhat similar to that of a trustee. Lit , ‘even in the world’.

(14) Lit., ‘until’.

(15) To supply his wife's maintenance.

(16) I.e., if the woman demands her freedom.

(17) Who, unlike a priest (v. Lev. XXI, 7), may remarry his divorced wife.

(18) Cf. supra n. 4.

(19) A priest was allowed more time in order to afford him a longer period of retracting before his divorce separates her from him for ever.

(20) He confirmed a vow she had made to that effect (Rashi). Though he has no right to forbid his wife the eating or tasting of any foodstuffs he may, by keeping silent when she herself makes such a vow, confirm it; v. Num. XXX, 7ff. Others: He vowed to abstain from his wife should she taste a certain fruit; v. Isaiah Trani.

(21) Cf. supra n. 7 mutatis mutandis.

(22) That in the case of a vow against a wife's adornments, the husband must DIVORCE HER AND GIVE HER THE KETHUBAH.

(23) To the duration of the vow.

(24) A husband.

(25) His wife.

(26) Lit., ‘all (power) as if from him?’

(27) Supra 59a and notes.

(28) Since no annulment is required.

(29) A wife's handiwork belongs to her husband.

(30) In consequence of which her vow is null and void and requires no annulment.

(31) And his vow also should, therefore, be null and void.

(32) A husband.

(33) His wife.

(34) I.e., he would neither maintain her nor expect her to give him her handiwork (v. supra n. 8).

Talmud - Mas. Kethuboth 70b

he [in making his vow] is regarded[1] as having said to her, ‘Deduct [the proceeds of] your handiwork for your maintenance’.

If, however, one is to adopt the ruling R. Huna gave in the name of Rab, for R. Huna stated in the name of Rab: A wife may say to her husband , ‘I would neither be maintained by, nor work [for you]’, why should there be no need to annul [her vow] when she said ‘Konam, if l do aught for your mouth’? Let it rather be said that as she is entitled to say, ‘I would neither be maintained by nor work [for you]’ she [in making her vow] might be regarded[1] as having said, ‘I would neither be maintained by, nor work [for you]'?[2] — [The fact,] however, [is that] the explanation is not that 'he is regarded'[3] but that he actually said to her, 'Deduct your handiwork for your maintenance.' If so,[4] what need has she of a steward?[5] — [She needs one] where [the proceeds of her handiwork] do not suffice.[6] If, [however, her handiwork] does not suffice,[7] our original question arises again![8] R. Ashi replied: [This is a case] where [her handiwork] suffices for major requirements but does not suffice for minor requirements.

How is one to understand these 'minor requirements'? If the woman is in the habit of having them, they are, surely, a part of her regular requirements,[9] and if she is not used to them[10] what need has she for a steward?[11] — [The law concerning a steward] is required only where she was used [to them] in her father's house but consented to dispense with them when with her husband.[12] In such a case she can say to him, 'Hitherto, before you forbade me by a vow [to have any benefit from you], I was willing to put up with your [mode of living], but now that you have forbidden me [to enjoy any benefit from you] I am not able to put up [any longer] with your [mode of living]'. And wherein lies the difference [between a vow for more, and one for] NOT MORE THAN THIRTY DAYS? — [Within a period of] NOT MORE THAN THIRTY DAYS people would not become aware of it, and the matter would be no degradation to her; but after a longer period[13] people would hear of it, and the matter would be degrading to her.

If you prefer I might reply: [His vow[14] is valid] only if he vowed while she was merely betrothed to him.[15] But has a betrothed woman, however, any claim to maintenance?[16] — [Yes], if the time [for the celebration of the marriage] arrived and she was[17] not married. For we have learned: If the respective periods expired[18] and they were not married,[19] they[20] are entitled to maintenance[21] out of the man's estate, and [if he is a priest] may also eat terumah.[22] Wherein then lies the difference [between a vow for more, and one for] NOT MORE THAN THIRTY DAYS? — [During a period of] NOT MORE THAN THIRTY DAYS an agent[23] performs his mission; for a longer period no agent performs his mission.

And if you prefer I might reply: [The husband's vow[24] is valid] when he made it while she was betrothed to him and she was [afterwards] married.

But if she was married [afterwards] she must obviously have understood her position and accepted it![25] — [It is a case] where she pleaded, 'I thought I shall be able to bear it but now I cannot bear it'.

But granted that such a plea[26] is properly admissible[27] in respect of bodily defects;[28] is it admissible, however, in respect of maintenance?[29] — Clearly, then, we can only explain as we explained at first.

HE MAY, [IF THE PROHIBITION IS TO LAST] NOT MORE THAN THIRTY DAYS, APPOINT A STEWARD. Does not the steward, however, act on his[30] behalf?[31] — R. Huna replied: [Our Mishnah refers] to one who declared, 'Whoever will maintain [my wife] will not suffer any loss'.[32] But, even if be spoke in such a manner, is not the steward acting on his behalf? Have we not learned: If a man who was thrown into a pit cried that whosoever should hear his voice should write a letter of divorce for his wife, [the hearers][33] may lawfully[34] write, and deliver [it to his wife]?[35] — How now! there[36] the man said, 'should write';[37] but did the man here[38] say, 'should maintain'? All he said was, 'whoever will maintain'.[39]

But surely R. Ammi said: In [the case of] a fire [breaking] out on the Sabbath][40] permission was given to make the announcement 'Whosoever shall extinguish it will suffer no loss'.[41] Now what does [the expression] 'In a fire'[42] exclude? Does it not exclude a case of this kind?[43] — No; [it was meant] to exclude other acts that are forbidden on the Sabbath.[44]

Rabbah raised an objection: If a man is forbidden by a vow to have any benefit from another man, and he has nothing to eat [the other] may go to a shopkeeper with whom he is familiar and say to him , ‘So-and-so is forbidden by a vow to have any benefit from me, and I do not know what to do for him’. [The shopkeeper] may then give to the one and recover the cost from the other.[45] Only such [a suggestion][46] is permitted but not that of ‘whoever will maintain [my wife] will not suffer any loss’?[47] — [The formula,] ‘There is no question’ is here implied:[48] There is no question [that a man may announce,] ‘whoever will maintain [my wife] will not suffer any loss’, since he is speaking to no one in particular;[49] but even in this case where, since he is familiar with him[50] and goes and speaks to him directly, [it might have been thought that his mere suggestion is] the same as if he had expressly told him,[50] ‘You go and give him’,[51] hence we were taught [that this also is permitted].

[To revert to] the main text.[52] If a man is forbidden by a vow to have any benefit from another man, and he has nothing to eat, [the other] may go to a shopkeeper with whom he is familiar and say to him, ‘So-and-so is forbidden by a vow to have any benefit from me, and I do not know what to do for him’. [The shopkeeper] may then give to the one and recover the cost from the other.[53] If his[54] house is to be built, his wall to be put up or his field to be harvested [the other] may go to labourers with whom he is familiar and say to them, ‘So-and-so is forbidden by a vow to have any benefit from me, and I do not know what to do for him’. They may then work for him and recover[55] their wages from the other. If they were going on the same journey and the one had with him nothing to eat, [the other][56] may give [some food] to a third[57] person as a gift and the first may take it [from that person] and eat it.[58] If no third person[57] is available, he[56] may put the food upon a stone or a wall, and say, ‘Behold this is free[59] for all who desire [to take it]’, and the other[60] may take it and eat it.[61] R. Jose, however, forbids this.[62] Raba said: What is R. Jose's reason? — [It is forbidden as] a preventive measure against

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(1) Lit., ‘is made’.

(2) And her vow should be valid. Why then has it been said that her husband ‘need not annul her vow’?

(3) Lit., ‘do not say; be is made’.

(4) That her handiwork is not taken away from her.

(5) The proceeds of her handiwork could be spent on her maintenance.

(6) To make up the legally prescribed sum (v. supra 64b).

(7) And it is, therefore, still her husband's duty to maintain her in part.

(8) How can he by his vow cancel an obligation that is incumbent upon him?

(9) Lit., ‘she is used to them’.

(10) Being mere luxuries.

(11) The husband, surely, is not expected to provide for such luxuries.

(12) Lit., ‘roll’ with him’, i.e., to put up with his mode of living.

(13) Lit., ‘more’.

(14) That his wife shall not HAVE ANY BENEFIT FROM HIM.

(15) When he is under no obligation to maintain her.

(16) Certainly not (v. supra n. 13). What need then was there to state the obvious?

(17) Lit., ‘they were’. V. n. 2.

(18) Lit., ‘the time (for the respective marriages referred to supra 57a) arrived’.

(19) Through the man's delay.

(20) The women mentioned.

(21) In accordance with a Rabbinical ordinance.

(22) Mishnah supra 57a. Since in such circumstances the man is Pentateuchally under no obligation to maintain his betrothed his vow forbidding her to have any benefit is valid; and as he is obliged to maintain her in accordance with Rabbinic law he must appoint a steward to look after her maintenance.

(23) The steward appointed (v. our Mishnah).

(24) V. supra p. 435, n. 12.

(25) What claim then could she advance?

(26) Mistaken judgment.
(27) Lit., ‘that we say so’.
(28) Though a woman at first consented to live with the man who suffered from such defects she may subsequently plead that she under-estimated her feeling and that now she cannot bear them (v. infra 77a). A woman may well be excused her first error of judgment in such circumstances.
(29) No woman, surely, could plead that she was not aware that a person could live without food. As she has once accepted the disability she should not be entitled to change her mind.
(30) The husband's.
(31) Lit., ‘do his mission’. The answer being in the affirmative, the question arises why his agent should be allowed to do on his behalf what he himself is not allowed to do.
(32) He would reimburse him.
(33) Though they have received no direct instructions.
(34) Lit., ‘behold these’.
(35) Git. 66a; as if they had been agents who had received direct instructions from him. Similarly the steward spoken of in our Mishnah should be regarded as the husband's agent (v. supra p. 436, n. 15).
(36) The case of divorce.
(37) A definite instruction.
(38) In the matter of maintenance.
(39) This is not even an indirect instruction but a mere intimation. Anyone acting on such an intimation only cannot be regarded as agent.
(40) When a Jew is forbidden to do any work himself or to instruct someone else, even a Gentile, to do it for him.
(41) Shab. 121a.
(42) Implying a fire only and not other cases.
(43) A person's announcement concerning compensation for the maintenance of his wife whom he himself is forbidden to maintain, or any similar announcements which might lead someone to perform on behalf of that person what he himself is forbidden to do.
(44) The sanctity of the Sabbath demands greater restrictions which need not he applied to other prohibitions such as those of vows for instance.
(45) Ned. 43a. Lit., ‘gives to him and comes and takes from this’.
(46) Which is rather vague and non-committal.
(47) Which is more explicit and a committal undertaking. An objection against R. Huna.
(48) Lit., ‘be (the Tanna of that Mishnah) said’.
(49) Lit., ‘to the world’.
(50) The shopkeeper.
(51) And, thereby becoming his virtual agent, be should, like himself, be forbidden to supply any provisions.
(52) Of the citation from Ned. 43a.
(53) V. supra p. 437, n. 14.
(54) The man who is forbidden to have benefit from the other by a vow.
(55) Lit., ‘and come and take’.
(56) Benefit from whom he is forbidden to derive.
(57) Lit., ‘another’.
(58) Cf. infra n. 16.
(59) Lit., ‘they are ownerless property’.
(60) V. supra note 9.
(61) MS.M. omits ומותר (‘and it is permitted’) which seems superfluous here as well as supra. V. supra n. 13.
(62) V. Ned. 43a.

Talmud - Mas. Kethuboth 71a

[a repetition of] the incident of Beth Horon.[1]

R.JUDAH SAID: IF HE WAS AN ISRAELITE HE MAY KEEP HER [AS HIS WIFE, IF THE

PROHIBITION WAS FOR] ONE MONTH etc. Is not this the same ruling as that of the first Tanna?[2] — Abaye replied: He[3] came to teach us [the law concerning] a priest's wife.[4] Raba replied: The difference between them is a full month[5] and a defective month.[6]

Rab stated: This[7] was taught only in the case of a man who specified [the period of the prohibition], but where he did not specify, he[8] must divorce her immediately and give her the kethubah. Samuel, however, stated: Even where the period was not specified [the husband] need not divorce her, since it is possible that he might discover some reason[9] for [the remission of] his vow.[10] But surely they[11] had once been in dispute upon this principle; for have we not learned, ‘If a man forbade his wife by vow to have intercourse, Beth Shammai ruled: [She must consent to the deprivation for] two weeks; Beth Hillel ruled: [Only for] one week’;[12] and Rab stated, ‘They[13] differ only in the case of a man who specified [the period of abstention] but where he did not specify the period he[14] must divorce her forthwith and give her the kethubah’, and Samuel stated, ‘Even where the period had not been specified the husband need not divorce her, since it might be possible for him to discover some reason[15] for [the annulment of] his[16] vow’?[17] — [Both disputes were] necessary. For if [their views] had been expressed in the former case[18] it might have been assumed that only in that case did Rab maintain his view, since [the appointment] of a steward is not possible, but that in the latter case[19] where [the appointment] of a steward is possible, he agrees with Samuel. And if [their views] had been stated in the latter case[19] it might have been assumed that only in that case did Samuel maintain his view, since the appointment of a steward is possible. but that in the former case[18] he agrees with Rab. [Hence both statements were] necessary.

We learned: IF A MAN FORBADE HIS WIFE BY VOW THAT SHE SHOULD NOT TASTE A CERTAIN FRUIT, HE MUST DIVORCE HER[20] AND GIVE HER THE KETHUBAH. Now according to Rab[21] [there is no contradiction[22] since] the latter[23] may apply to a man who did not specify [the period of the prohibition] and the former[23] to a man who did specify [the period]. According to Samuel,[24] however, a contradiction arises![22] — Here we are dealing with a case, for instance, where the woman made the vow and he confirmed it;[25] R. Meir[26] holding the opinion that [the husband][27] had himself put his finger between her teeth. But does R. Meir hold the principle, ‘He has himself put his finger between her teeth’? Surely it was taught: If a woman made the vow of a nazirite[28] and her husband heard of it and did not annul it, she, said R. Meir and R. Judah, has thereby put her own finger between her teeth. Therefore, if the husband wishes to annul her vow, he may do so. But if he[29] said, ‘I do not want a wife who is in the habit of vowing’. she may be divorced without [receiving] her kethubah. R. Jose and R. Eleazar said: He[30] has put his finger between her teeth. Therefore, if the husband wishes to annul her vow, he may do so. But if he[31] said, ‘I do not want a wife who is in the habit of vowing’, he may divorce her but must give her the kethubah![32] — Reverse [the views]: R. Meir and R. Judah said: ‘He has put’[33] and R. Jose and R. Eleazar said: ‘She has put’.[34] But is R. Jose of the opinion that it is she who put?[34] Have we not learned: R. Jose ruled: [THIS[35] APPLIES] TO POOR WOMEN IF NO TIME LIMIT IS GIVEN?[36] — Read: R. Meir and R. Jose said, ‘He has put’;[33] R. Judah and R. Eleazar said, ‘She has put’.[34] But does R. Judah uphold the principle of ‘She put’?[34] Have we not learned: R. JUDAH RULED: IF HE WAS AN ISRAELITE HE MAY KEEP HER [AS HIS WIFE, IF THE VOW WAS FOR] ONE DAY?[37] — Read: R. Meir and R. Judah and R. Jose said, ‘He put’.[33] and R. Eleazar said, ‘She put’.[34] And should you find [some ground] for insisting that the names must appear in pairs,[38] then read: R. Meir and R.Eleazar said, ‘She put’,[39] and R. Judah and R. Jose said, ‘He put’;[40] and this anonymous Mishnah[41] is not in agreement with R. Meir.

Is R. Jose, however, of the opinion that [THIS[42] APPLIES] TO POOR WOMEN IF NO TIME LIMIT IS GIVEN; from which[43] it is evident that a husband has the right to annul[43] [such vows]?[44] This, surely, is incongruous [with the following]. These are the vows[45] which a husband may annul: Vows which involve an affliction of soul[46] [as, for instance, if a woman said, ‘I vow not to enjoy the pleasure of bathing] should I bathe’[47] [or] ‘I swear that[48] I shall not bathe’, [or again, ‘I vow not to make use of adornments] should I make use of an adornment',[47] [or] 'I swear that[48] I shall not make use of any adornments'. R. Jose said: These are not regarded as vows involving an affliction of soul;[49] and the following are vows that involve an affliction of soul: '[I swear] that I shall not eat meat' or 'that I shall not drink wine' or 'that I shall not adorn myself

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(1) V. Ned. Sonc. ed. p. 148f and notes.
(2) Who also allowed a period of THIRTY DAYS.
(3) R. Judah.
(4) of which the first Tanna does not speak.
(5) Consisting of thirty days.
(6) Of twenty-nine days. According to R. Judah ONE MONTH is allowed irrespective of whether it is a full or a defective one. According to the first Tanna THIRTY DAYS are invariably allowed.
(7) That for a period of thirty days a steward may be appointed.
(8) Though his vow might be annulled by a competent authority by the end of the thirty days.
(9) Lit., ' a door'.
(10) V. supra p. 370. nn. 10-11.
(11) Rab and Samuel.
(12) Supra 61b.
(13) Beth Shammai and Beth Hillel.
(14) According to the opinion of both.
(15) V. supra note 10.
(16) V. supra. p. 370, n. 11
(17) Why then should Rab and Samuel be in dispute upon the same principle here also?
(18) The prohibition of intercourse.
(19) The vow forbidding other benefits.
(20) Forthwith.
(21) Who draws a distinction between a specified and an unspecified period.
(22) Between this ruling (immediate divorce) and the earlier Mishnah (allowing a certain period to pass).
(23) Lit., 'here'.
(24) Who, contrary to the view of Rab (v. supra n. 4), draws no distinction.
(25) Since if she is willing to accept her kethubah and leave him, she would not try to obtain the annulment of her vow. There is no advantage, therefore, in postponing the divorce. Where, however, he himself made the vow, the divorce is delayed in order to afford him an opportunity of discovering some ground for the remission of his vow.
(26) Who is generally the author of an anonymous Mishnah.
(27) By confirming her vow though he had the right to annul it.
(28) V. Num. VI, 2ff.
(29) Having once confirmed the vow.
(30) V. supra p. 440, n. 10.
(31) Having once confirmed the vow.
(32) Which shews that R. Meir's view is that she and not he has put the finger between the teeth, where she makes the vow and he confirms it.
(33) His finger between her teeth.
(34) Her finger between her teeth.
(35) That the husband must divorce her and give her the kethubah.
(36) This referring (as has been explained supra) to a vow the woman had made, it follows that according to R. Jose it is the husband who puts his finger between her teeth.
(37) But if for more than ONE DAY be must divorce her and give her the kethubah. This referring to a vow the woman has made, it follows that according to R. Judah also it is the husband who put his finger etc. (v. supra n. 7).
(38) Lit., 'to say: He taught in pairs'.
(39) Her finger between her teeth.
(40) V. supra note 3.
(41) Which follows the principle that it is the husband who 'put his finger between her teeth'.

(42) That a husband must divorce his wife and also give her the kethubah if he has not annulled a vow she has made against the use of a certain adornment.
(43) Since the husband is penalized (v. supra n. 13) for not annulling the vow.
(44) I.e., those relating to a woman's adornments.
(45) So MS.M. and separate edd. of the Mishnah. Cur. edd., ‘things’.
(46) V. Num. XXX, 14.
(47) ‘Up to a certain time’.
(48) Lit., ‘if’.
(49) Hence they may not be annulled by a husband. V. Ned. Mishnah 79a; cf. however next note. [The passage that follows does not occur in the Mishnah Ned. 79a and the source of the whole citation is consequently, according to some commentators, said to be a Baraitha (v. Shittah Mekubbezeth). Tosaf. however (s.v. הכי) on the basis of an entirely different text, omits this passage.]

Talmud - Mas. Kethuboth 71b

with coloured garments’![1] — Here[2] we are dealing with matters affecting their intimate relations.[3] This explanation is satisfactory according to him who maintains that a husband may annul [vows on] matters affecting their intimate relations. — What, however, can be said [in explanation] according to him who maintains that a husband may not annul [such vows]? For it was stated:[4] [As to vows on] matters affecting their intimate relations, R. Huna ruled: A husband may annul them; R. Adda b. Ahabah ruled: A husband may not annul them, for we do not find that a fox should die of the dust of his den![5] — The fact, however, is that we are here[2] dealing with a case, for instance, where she made her marital intercourse dependent upon her use of adornments, by saying. ‘The enjoyment of your intercourse shall be forbidden to me should I ever make use of any adornment.’[6] [This explanation] is in agreement with a ruling of R. Kahana. For R. Kahana ruled, [If a woman said to her husband]. ‘The enjoyment of my intercourse [shall be forbidden][7] to you’, he may compel her to such intercourse;[8] [if, however, she vowed,] ‘The enjoyment of your intercourse [shall be forbidden][9] to me’[10] he must annul [her vow][11] because no person is to be fed with a thing that is forbidden to him.[12] But let her[13] not adorn herself and consequently not be forbidden to him![14] — If so,[15] she would be called, ‘The ugly woman’.[16] But then let her adorn herself and be forbidden [intercourse] either for two weeks, according to Beth Shammai[17] or for one week according to Beth Hillel!’[18] — These[19] apply only to a case where he [the husband] has forbidden her by a vow [to have intercourse with him], because [in such circumstances] she thinks ‘He may have been angry with me[20] and will later[21] calm down’.[22] Here, however, since she has made the vow and he remained silent,[23] she comes to the conclusion: ‘Since he remained silent[23] he must indeed hate me’.[24]

R. JOSE RULED: [THIS APPLIES] TO POOR WOMEN IF NO TIME LIMIT IS GIVEN. What is the TIME LIMIT?[25] — Rab Judah citing Samuel replied: Twelve months.[26] Rabbah b. Bar Hana citing R. Johanan replied: Ten years.[26] R. Hisda citing Abimi replied: A festival;[27] for[28] the daughters of Israel adorn themselves on a festival.

AND TO RICH WOMEN [IF THE TIME LIMIT IS] THIRTY DAYS. Why just[29] THIRTY DAYS? — Abaye replied: Because[28] a prominent woman enjoys the scent of her cosmetics for thirty days.[30]

MISHNAH. IF A MAN FORBADE HIS WIFE[31] BY VOW THAT SHE SHALL NOT GO TO HER FATHER'S HOUSE, AND HE[32] LIVES WITH HER IN THE SAME TOWN, HE MAY KEEP [HER AS HIS WIFE, IF THE PROHIBITION WAS FOR] ONE MONTH; BUT IF FOR TWO MONTHS HE MUST DIVORCE HER AND GIVE HER ALSO THE KETHUBAH. WHERE HE, HOWEVER, LIVES IN ANOTHER TOWN, HE MAY KEEP [HER AS HIS WIFE, IF THE PROHIBITION WAS FOR] ONE FESTIVAL,[33] [BUT IF FOR] THREE[34] FESTIVALS, HE MUST DIVORCE HER AND GIVE HER ALSO HER KETHUBAH. IF A MAN FORBADE HIS WIFE

BY VOW[35] THAT SHE SHALL NOT VISIT A HOUSE OF MOURNING OR A HOUSE OF FEASTING, HE MUST DIVORCE HER AND GIVE HER ALSO HER KETHUBAH, BECAUSE THEREBY HE HAS CLOSED [PEOPLE'S DOORS] AGAINST HER. IF HE PLEADS, HOWEVER, [THAT HIS ACTION] WAS DUE TO SOME OTHER CAUSE[36] HE IS PERMITTED [TO FORBID HER]. IF HE SAID TO HER: '[THERE SHALL BE NO VOW] PROVIDED THAT YOU TELL[36] SO-AND-SO WHAT YOU HAVE TOLD ME' OR 'WHAT I HAVE TOLD YOU' OR 'THAT YOU SHALL FILL[36] AND POUR OUT ON THE RUBBISH HEAP', HE MUST DIVORCE HER AND GIVE HER ALSO HER KETHUBAH.

GEMARA. This, surely, is self-contradictory. You said, HE MAY KEEP [HER AS HIS WIFE, IF THE PROHIBITION WAS FOR] ONE FESTIVAL, which implies that if it was for two festivals he must divorce her and give her also her kethubah. But read the concluding clause, [IF FOR] THREE FESTIVALS HE MUST DIVORCE HER AND GIVE HER ALSO HER KETHUBAH, from which it follows, does it not, that if it was for two only he may keep [her as his wife]?[37] Abaye replied: The concluding clause refers to a priest's wife, and it represents the view of R. Judah.[38] Rabbah b. 'Ulla said: There is no contradiction, for one[39] refers to a woman who was anxious [to visit her parents home][40] and the other applies to one who was not anxious.[41]

Then[42] was I in his eyes as one that found peace,[43] R.[44] Johanan[45] interpreted: like a bride[46] who was found faultless[47] in the house of her father-in-law[48] and she is anxious to go and tell of her success[49] at her paternal home.[50]

And it shall be at that day, saith the Lord, that thou shalt call me Ishi,[51] and shalt not call me Ba'ali,[52] R. Johanan interpreted: Like a bride in the house of her father-in-law[53] and not like a bride in her paternal home.[54]

IF A MAN FORBADE HIS WIFE BY VOW etc. One can well understand that in respect [of her prohibition to enter] A HOUSE OF FEASTING

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(1) Such vows only may be annulled by a husband. Now, in view of this ruling of R. Jose (v. supra n. 5), how could it be said that according to his opinion a husband may annul vows against the use of any adornments?

(2) In the case of adornments referred to by R. Jose in our Mishnah.

(3) Lit., 'things between him and her' (sc. husband and wife): a powder, for instance, for the removal of superfluous hair from unexposed parts of the body. A woman's abstention from the use of such kinds of cosmetics or adornments are regarded as things affecting their intimate relations and such vows may well be annulled by a husband, v. Ned. 79b.

(4) Ned. 81a.

(5) Proverb: i.e., one is not injured by an element to which one is accustomed. The husband being accustomed to his wife, cannot be harmed by her refusal to look after her body (as defined n. 8); 'pit' (Rashi) or 'rubble', 'loose ground' (Jast.). Since the intimate relations of husband and wife are not affected by such a vow, the husband has no right to invalidate them. How, then, can be be penalized in the case of the adornments spoken of in our Mishnah?

(6) The annulment of such a vow is within the right of a husband.

(7) By a vow.

(8) Because it is not within her power to make a vow against a duty that is incumbent upon her as a married woman.

(9) By a vow.

(10) Such a vow is within her power to make, since it relates to her own gratification.

(11) Though he is under no obligation to respect it.

(12) Cf. supra note 1.

(13) If according to R. Jose the only reason why a husband has the right to annul his wife's vows in connection with adornments (v. our Mishnah) is because she has made her marital intercourse dependent upon them.

(14) Why then is a husband entitled to annul such vows?

(15) If she were to dispense with her adornments.

(16) An insult which she would not be able to bear, and in consequence of which she would resume the use of adornments and thus affect her marital relationship. Cf. supra note 1.

(17) As in the case where a man forbade his wife by a vow to have intercourse with him (supra 61b).

(18) Why then has it been stated that HE MUST DIVORCE HER AND GIVE HER THE KETHUBAH forthwith?

(19) The respective rulings of Beth Shammai and Beth Hillel, which allow a certain period before a divorce can be enforced.

(20) When he made his vow.

(21) Lit., ‘now’.

(22) And seek the help of an authority in obtaining its disallowance.

(23) And so confirmed it.

(24) She is, therefore, anxious to leave him at once. Hence the ruling in our Mishnah (cf. p. 443, n. 13).

(25) During which a wife must put up with the deprivation of her adornments, and be unable to demand a divorce.

(26) Only where the prohibition has been extended to a longer period can the husband be compelled to divorce his wife and to give her also her kethubah.

(27) I.e., until the major festival next to the day on which the vow was made. The major festivals are Passover, Pentecost and Tabernacles.

(28) Lit., ‘for so’.

(29) Lit., ‘what is the difference?’

(30) If, therefore, the prohibition imposed upon her by the vow is for less than that period, she does not suffer much by the deprivation of her cosmetics.

(31) He confirmed a vow she bad made to that effect. Though a husband has no right to impose such a vow upon his wife, be may confirm it by remaining silent when he hears that she has imposed such a vow upon herself; v. Num. XXX, 7ff; or, he vowed to abstain from his wife should she go to her father's house; cf. supra p. 433, n. 7.

(32) Her father. [Var. lec. ‘IF THEY’, v. Rashi].

(33) It was customary for daughters to visit their parents living in another town on the occasion of each major festival (v. p. 444. n. 7), and it was laid down that no hardship was involved if one such visit was omitted.

(34) The question of two is discussed infra.

(35) V. p. 444, n. 11.

(36) This is explained in the Gemara.

(37) How then are the two clauses to be reconciled?

(38) In the Mishnah supra 70a.

(39) Lit., ‘here’, the first clause which implies that if the prohibition is to last for two festivals the woman must be divorced and is to receive her kethubah.

(40) רדופה, pass. particip. Kal of רדף, ‘to pursue’, v. next note. In the first year of her married life a woman is anxious, as soon as the first festival after her marriage approaches, to pay a visit to her paternal home where she looks forward to the enjoyment of recounting her novel experi ences in her husband's home. If she is prevented by a vow from paying the visit at the first festival she must be given the opportunity of paying a visit not later than at the second festival. Hence if the vow is for the first two festivals, she is entitled to a divorce and to her kethubah also.

(41) Where she is homesick and always longing to visit her parents, two festivals are considered a hardship. If she shews no such signs of homesickness there is no hardship involved unless the inhibition is for at least three festivals (Rashi). Tosaf. s.v. כאן explains differently: A woman who failed to visit her paternal home on the occasion of the first festival after her marriage is presumed to be fairly indifferent to such visits, and to be suffering no undue hardship by postponing her visit for another two festivals.

(42) Var. lec., according to Tosaf. ‘for it is written, l'hen’.

(43) Cant. VIII, 10.

(44) Var. lec., according to Tosaf. ‘and R.’ etc.

(45) Var. lec ‘Jonathan’.

(46) Sc. a woman in the first year of her married life.

(47) שלמה (lit.. ‘whole’, ‘perfect’) is of the same root as שלום (peace) in the text cited.

(48) Where she lives with her husband.

(49) Lit., ‘her praise’

(50) Cf. supra p. 445, n. 8.

(51) אישי, ‘my husband’, analogous to אישות ‘matrimony’, the term implying that the marital union between the parties is complete.

(52) Hosea II, 18. בעלי signifies ‘my master’, or ‘my husband’ in the sense that the man is lord over his wife.

(53) I.e after her marriage when her union with her husband is complete. (V. supra n. 10).

(54) When her future husband is still her ba'al (master) and not her Ish (husband). Israel's relation to God, the prophet assures the people, will be intimate like that of the first mentioned bride and not cautious, reserved and uncertain like that of the latter.

Talmud - Mas. Kethuboth 72a

the reason, HE HAS CLOSED [PEOPLE'S DOORS] AGAINST HER, is applicable;[1] what [point, however,] is there [in the reason,] HE HAS CLOSED [PEOPLE'S DOORS] AGAINST HER, in the case of A HOUSE OF MOURNING? — A Tanna taught: To-morrow she might die and no creature would mourn for her.[2] Others read: And no creature would bury her.[3]

It was taught: R. Meir used to say: What is meant by the Scriptural text, it is better to go to the house of mourning than to go to the house of feasting. for that is the end of all men, and the living will lay it to his heart,[4] what, [I say, is meant by] And the living will lay it[5] to his heart? The matters relating to death. [Let him realize] that if a man mourns for other people others will also mourn for him; if he buries other people others will also bury him; if he lifts up [his voice to lament] for others, others will [lift up their voices to lament] for him; if he escorts others [to the grave] others will also escort him; if he carries others [to their last resting place] others will also carry him.

IF, HOWEVER, HE PLEADS [THAT HIS ACTION] WAS DUE TO SOME OTHER CAUSE HE IS PERMITTED. What is meant by SOME OTHER CAUSE? — Rab Judah citing Samuel replied: On account of dissolute men who frequent that place. Said R. Ashi: This applies only where [the place] has gained such a reputation; where, however, it has not gained such reputation it is not within the power of the husband [to veto it].[6]

IF HE SAID TO HER: ‘[THERE SHALL BE NO VOW] PROVIDED THAT YOU TELL [etc.].’ [Why indeed] should she [not] tell it? — Rab Judah citing Samuel replied: [This refers to] abusive language.[7]

OR ‘THAT YOU SHALL FILL AND POUR OUT ON THE RUBBISH HEAP’. [Why indeed] should she [not] do it? — Rab Judah citing Samuel replied: [Because the meaning of his request is] that she shall allow herself to be filled and then scatter it.[8] In a Baraitha it was taught: [The man's request is] that she shall fill ten jars of water and empty them on to the rubbish heap. Now according to [the explanation] of Samuel one can well see the reason why HE MUST DIVORCE HER AND GIVE HER ALSO HER KETHUBAH; according to the Baraitha, however, [the difficulty arises] what matters it to her if she does it?[9] — Rabbah b. Bar Hana citing R. Johanan replied: [She cannot be expected to do it] because she would appear like an imbecile.

R. Kahana stated: If a man placed his wife under a vow that she shall neither borrow nor lend a winnow, a sieve, a mill or an oven, he must divorce her and give her also her kethubah, because [should she fulfil the vow] he would give her a bad name among her neighbours. So it was also taught in a Baraitha: If a man placed his wife under a vow that she shall neither borrow nor lend a winnow, a sieve, a mill or an oven, he must divorce her and give her also her kethubah, because [should she comply with his desire] he would give her a bad name among her neighbours. Similarly if she vowed that she shall neither borrow nor lend a winnow, a sieve, a mill or an oven, or that she shall not weave beautiful garments for his children, she may be divorced without a kethubah, because [by acting on her wishes] she gives him a bad name among his neighbours.

MISHNAH. THESE ARE TO BE DIVORCED WITHOUT RECEIVING THEIR KETHUBAH:

A WIFE WHO TRANSGRESSES THE LAW OF MOSES OR [ONE WHO TRANSGRESSES] JEWISH PRACTICE. AND WHAT IS [REGARDED AS A WIFE'S TRANSGRESSION AGAINST] THE LAW OF MOSES? FEEDING HER HUSBAND WITH UNTITHED FOOD,[10] HAVING INTERCOURSE WITH HIM DURING THE PERIOD OF HER MENSTRUATION,[11] NOT SETTING APART HER DOUGH OFFERING,[12] OR MAKING VOWS AND NOT FULFILLING THEM.[13] AND WHAT [IS DEEMED TO BE A WIFE'S TRANSGRESSION AGAINST] JEWISH PRACTICE? GOING OUT WITH UNCOVERED HEAD,[14] SPINNING IN THE STREET[15] OR CONVERSING WITH EVERY MAN. ABBA SAUL SAID: [SUCH TRANSGRESSIONS INCLUDE] ALSO THAT OF A WIFE WHO CURSES HER HUSBAND'S PARENTS IN HIS PRESENCE. R. TARFON SAID: ALSO ONE WHO SCREAMS. AND WHO IS REGARDED A SCREAMER? A WOMAN WHOSE VOICE CAN BE HEARD BY HER NEIGHBOURS WHEN SHE SPEAKS INSIDE HER HOUSE.[16]

GEMARA. FEEDING HER HUSBAND WITH UNTITHED FOOD. How are we to understand this? If the husband knows [the fact],[17] let him abstain; if he does not know [it],[17] how did he discover it? — [This ruling was] required in the case only where she told him, ‘So-and-so the priest has ritually prepared for me the pile of grain’,[18] and he went and asked him and her statement was found to be untrue.

HAVING INTERCOURSE WITH HIM DURING THE PERIOD OF HER MENSTRUATION. How are we to understand this? If he was aware of her [condition] he could have abstained, if he was not aware [of it][19] he should still rely upon her, for R. Hinena b. Kahana stated in the name of Samuel: Whence is it deduced that the menstruant herself may [be relied upon to] count [correctly]?[20] From the Scriptural statement, Then she shall number to herself[21] seven days,[22] ‘Lah means to herself.’[23] — It was required in the case only where she said to her husband, ‘So-and-so the sage told me that the blood was clean’,[24] and when her husband went and asked him it was found that her statement was untrue. If you prefer I might reply on the lines of a ruling of Rab Judah who said: If a woman was known[25] among her neighbours to be a menstruant her husband[26] is flogged on her account for [having intercourse with] a menstruant.[27]

NOT SETTING APART THE DOUGH OFFERING. How is this to be understood? If the husband was aware [of the fact] he should have abstained [from the food]; if he was not aware [of it at the time] how does he know it now? — [The ruling is to be understood as] required in the case only where she said to him. ‘So-and-so the baker[28] has ritually prepared the dough[29] for me’ and when the husband went and asked him her statement was found to be untrue.

OR MAKING VOWS AND NOT FULFILLING THEM; for the Master stated: One's children die on account of the sin of making vows,[30] as it is said in Scripture. Suffer not thy mouth to cause thy flesh to sin etc. [wherefore should God be angry at thy voice, and destroy the work of thine hands];[31] and what is the work of a man's hands? You must say: His sons and his daughters. R. Nahman[32] said, [It[33] may be inferred] from the following: In vain have I smitten your children;’[34] ‘In vain’ implies, on account of vain utterances.[35]

It was taught: R. Meir said, Any man who knows that his wife makes vows and does not fulfil them should impose vows upon her again. [You say] ‘Should impose vows upon her [again]’? Whereby would he reform her?[36] — But [say] he should provoke her again in order that she should make her vow in his presence[37] and he would [thus be able to] annul it.[38] They, however, said to him: No one can live with a serpent in the same basket.[39]

It was taught: R. Judah said. Any husband who knows that his wife does not [properly] set apart for him the dough offering should set it apart again after her. They, however, said to him: No one can live with a serpent in the same basket.[40] He who taught it[41] in connection with this case[42] [would apply it] with even greater force to the other case;[43] he, however, who taught it in connection with the other case [applies it to that case only][44] but [not to this one,[42] because][45] it might sometimes happen that he would eat.[46]

AND WHAT [IS DEEMED TO BE A WIFE'S TRANSGRESSION AGAINST] JEWISH PRACTICE? GOING OUT WITH UNCOVERED HEAD. [Is not the prohibition against going out with] an uncovered head Pentateuchal;[47] for it is written, And he shall uncover the woman's head,[48] and this, it was taught at the school of R. Ishmael, was a warning to the daughters of Israel that they should not go out with uncovered[49] head?[50] — Pentateuchally

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(1) By the confirmation of such a vow he deprives her of social enjoyments and relaxation.

(2) As she had not participated in the mourning for others.

(3) סופדה v. Tosef. Keth. VII and cf. supra n. 1 mutatis mutandis. Aliter: ‘And none will care for her’ (Jast.) סופנה (rt. ספן ‘to hide’, or ‘to care for’).

(4) Eccl. VII, 2.

(5) Emphasis on it.

(6) Lit. ‘not as if all (the power) is from him’.

(7) Lit., ‘words of shame’.

(8) Euphemism for vigorous exercise after intercourse in order to prevent conception.

(9) Lit., ‘let her do it’.

(10) V. Num. XVIII, 21ff.

(11) V. Lev. XVIII, 19.

(12) V. Num. XV, 19ff.

(13) V. Deut. XXIII, 22.

(14) Aliter: With hair loose or unbound.

(15) This is explained in the Gemara.

(16) This is explained in the Gemara.

(17) When the food is given to him.

(18) Sc. be has received his priestly dues. Asheri, Tur and Shulhan ‘Aruk omit ‘priest’. Any person, by setting apart the priestly and Levitical dues, might ritually prepare the grain.

(19) At the time.

(20) The prescribed number of the days of her uncleanness.

(21) לה.

(22) Lev. XV, 28.

(23) I.e., she may be implicitly trusted to count correctly. What need was there for the ruling in our Mishnah?

(24) That it was not menstrual.

(25) By her habit or the like.

(26) If he had intercourse with her after he had been duly cautioned.

(27) Kid. 80a. Our Mishnah would thus refer to a case where the neighbours informed the husband of the facts after the event.

(28) Lit., ‘kneader’.

(29) I.e., he has duly set apart the dough offering.

(30) And not fulfilling them nor applying for their disallowance.

(31) Eccl. V, 5.

(32) Var., ‘R. Nahman b. Isaac’ (Shab. 32b).

(33) The penalty for the sin of vows.

(34) Jer. II, 30.

(35) Vows made but not fulfilled.

(36) The imposition of an additional vow would hardly induce her to fulfil her former vows or change her habits.

(37) ידירנה (Hif. of נדר) may bear this meaning, ‘he shall cause her (by his provocation) to vow’, as also the previously assumed meaning, ‘he shall cause her to be under (sc. impose upon her) a vow’.

(38) And so avoid the necessity of divorcing her.

(39) Proverb; if it is the woman's habit to make vows and to break them it is practically impossible for her husband to be always on the look out to invalidate them. She would, despite all vigilance, manage to make vows of which he would remain ignorant. He is entitled, therefore, to insist on divorcing her.
(40) Cf. p. 450, n. 12 mutatis mutandis.
(41) R. Judah's ruling which aims at avoiding a divorce.
(42) The dough offering.
(43) Vows. A transgression in connection with these (which are not common) is much less likely than in connection with the dough offering which has to be given from every dough that is made. If, according to R. Judah, divorce should be avoided in the latter case how much more so in the former.
(44) Cf. supra n. 4.
(45) Owing to the frequency of bread baking.
(46) Bread, the dough offering from which had not been set apart. As one is more likely to commit a transgression in this case R. Judah would not seek to avoid a divorce.
(47) Why then is it here described as one of mere Jewish practice?
(48) Num. V. 18 (v. A.V.) R.V. and A.J.V. render ‘And let the hair of the woman's head go loose’.
(49) Cf. supra n. 9.
(50) Why then was this described as traditional Jewish practice?

Talmud - Mas. Kethuboth 72b

it is quite satisfactory [if her head is covered by] her work-basket;[1] according to traditional Jewish practice, however, she is forbidden [to go out uncovered] even with her basket [on her head].

R. Assi stated in the name of R. Johanan: With a basket [on her head a woman] is not guilty of[2] [going about with] an uncovered head. In considering this statement, R. Zera pointed out this difficulty: Where [is the woman assumed to be]?[3] If it be suggested, ‘In the street’, [it may be objected that this is already forbidden by] Jewish practice;[4] but [if she is] in a court-yard[3] [the objection may be made that] if that were so[5] you will not leave our father Abraham a [single] daughter who could remain with her husband![6] — Abaye, or it might be said, R. Kahana, replied: [The statement refers to one who walks] from one courtyard into another by way of an alley.[7]

SPINNING IN THE STREET. Rab Judah stated in the name of Samuel: [The prohibition applies only] where she exposed her arms to the public. R. Hisda stated in the name of Abimi: [This applies only] where she spins rose [coloured materials, and holds them up] to her face.[8]

CONVERSING WITH EVERY MAN. Rab Judah stated in the name of Samuel: [This refers only to one] who jests with young men.

Rabbah b. Bar Hana related: I was once walking behind R. ‘Ukba when I observed an Arab woman who was sitting, casting her spindle and spinning a rose [coloured material which she held up] to her face.[9] When she saw us she detached the spindle [from the thread], threw it down and said to me, ‘Young man, hand me my[10] spindle’. Referring to her[11] R. ‘Ukba made a statement. What was that statement? — Rabina replied: He spoke of her as a woman SPINNING IN THE STREET. The Rabbis said: He spoke of her as one CONVERSING WITH EVERY MAN.

ABBA SAUL SAID: [SUCH TRANSGRESSIONS INCLUDE] ALSO THAT OF A WIFE WHO CURSES HER HUSBAND'S PARENTS IN HIS PRESENCE. Rab Judah said in the name of Samuel: [This[9] includes also] one who curses his parents in the presence of his offspring;[12] and your mnemonic sign[13] is, Ephraim and Manasseh,[14] even as Reuben and Simeon,[15] shall be mine.[16] Rabbah[17] explained:[18] When she said[19] in the presence of her husband's son, ‘May a lion devour your grandfather’.[20]

R. TARFON SAID: ALSO ONE WHO SCREAMS. What is meant by a screamer? — Rab Judah replied in the name of Samuel: One who speaks aloud[21] on marital matters. In a Baraitha it was taught: [By screams was meant a wife] whose voice[22] during her intercourse in one court can be heard in another court. But should not this, then,[23] have been taught in the Mishnah[24] among defects?[25] — Clearly we must revert to the original explanation.[26]

MISHNAH. IF A MAN BETROTHED A WOMAN ON CONDITION THAT SHE WAS NOT SUBJECT TO ANY VOWS AND SHE WAS FOUND TO BE UNDER A VOW,[27] HER BETROTHAL IS INVALID. IF HE MARRIED HER[28] WITHOUT MAKING ANY CONDITIONS AND SHE WAS FOUND TO BE UNDER A VOW,[27] SHE MAY BE DIVORCED WITHOUT RECEIVING HER KETHUBAH.

[IF A WOMAN WAS BETROTHED] ON CONDITION THAT SHE HAS NO BODILY DEFECTS, AND SHE WAS FOUND TO HAVE SUCH DEFECTS, HER BETROTHAL IS INVALID. IF HE MARRIED HER WITHOUT MAKING ANY CONDITIONS AND SHE WAS FOUND TO HAVE BODILY DEFECTS, SHE MAY BE DIVORCED WITH OUT A KETHUBAH. ALL DEFECTS WHICH DISQUALIFY PRIESTS[29] DISQUALIFY WOMEN ALSO.[30]

GEMARA. We have [in fact] learned [the same Mishnah] also in [the Tractate] Kiddushin.[31] [But] here[32] [the laws][33] were required [in respect of] kethuboth,[34] and the laws concerning betrothal[35] were stated on account Of those of the kethubah; there[36] the laws in respect of betrothal were required, and those concerning kethuboth[33] were stated on account of those of betrothal.

R. Johanan said in the name of R. Simeon b. Jehozadak: They[37] spoke only of the following vows. That she would not eat meat, that she would not drink wine or that she would not adorn herself with coloured garments. So it was also taught elsewhere: They spoke of such vows as involve an affliction of the soul, [namely,] that she would not eat meat, that she would not drink wine or that she would not adorn herself with coloured garments.

In dealing with this subject R. Papa raised this difficulty: What does it[38] refer to? If it be suggested [that it refers] to the first clause[39] [it might be retorted that] since the husband objects [to vows] even other kinds of vows[40] Should also be included! — [It refers] only to the final clause.[41] R. Ashi said: It may in fact refer to the first clause,[39] but in respect of the vows to which people usually take exception[42] his objection is valid;[43] respect of vows to which people do not as a rule take exception his objection has no validity.

It was stated: If a man betrothed a woman on condition [that she was under no vow] and married her without attaching any conditions, it is necessary, Rab ruled, that she[44] shall obtain from him a letter of divorce; and Samuel ruled: It is not necessary for her to obtain a letter of divorce from him.[45] Said Abaye:

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(1) קלתה or קלת, calathus, ‘a woven vase-shaped basket’.

(2) Lit., ‘there is not in her’.

(3) When her head is covered by her basket only.

(4) Spoken of in our Mishnah. What need then was there for R. Johanan's statement?

(5) That otherwise the law of ‘uncovered head’ applies also in a court-yard.

(6) Since all married women go about in their court-yards with uncovered heads.

(7) Into which the two courts open out. An alley, since fewer people frequent it, would not have been included in the restrictions spoken of in our Mishnah in respect of a public street, yet it is not considered sufficiently private to allow the woman to go about there with ‘uncovered head’. Hence the necessity for the specific ruling of R. Johanan.

(8) That it might reflect the rose colour. ורד ‘rose’. (V. Tosaf s.v. בטווה). Aliter: ‘Spins with a rose in her hair’, reading וורד ‘and a rose’ (Maim.). Aliter: ‘Spins with the thread lowered in front of her face’ (euphemism), reading ורד rt. רדד, ‘to flatten’, ‘lower’ (Rashi). Var. lec. ויורד (rt. ירד) ‘to go down’, ‘descend’ (cf. Jast. and Golds.).

(9) Cf. supra n. 4.

(10) Reading פלכאי (Aruch). Cur. edd., פלך.

(11) Lit., ‘on her’ or ‘it’. (8) The expression המקללת . . . בפניו, WHO CURSES. . . . IN HIS PRESENCE.

(12) MS.M. יולדיו בפני מולדיו; Cur. edd. יולידיו בפני מולידיו.

(13) To aid in the recollection that one's offspring is like oneself.

(14) Jacob's grandchildren.

(15) His own children.

(16) Gen. XLVIII, 5.

(17) Var., ‘Raba’.

(18) The cursing of which Samuel spoke.

(19) [V. Tosaf. s.v. יולידיו; cur. edd. add ‘to him’].

(20) V. Rashi, and Tosaf. loc. cit.

(21) Lit., ‘makes her voice heard’.

(22) Her screams of pain caused by the copulation.

(23) Since her screaming is due to a bodily defect.

(24) Infra 77a.

(25) Of course it should. Such a case in our Mishnah is out of place.

(26) That given in the name of Samuel.

(27) Lit., and vows were found upon her’.

(28) Lit., ‘he took her, in (his house)’. It will be explained infra whether this does or does not refer to the preceding case.

(29) From the Temple service (cf. Lev. XXI, 17ff).

(30) From marriage. If such a woman married she may be divorced without a kethubah.

(31) In Kid. 50a.

(32) Since our tractate is dealing with the laws of kethubah.

(33) DIVORCED WITHOUT A KETHUBAH (bis).

(34) Plural of kethubah.

(35) HER BETROTHAL IS INVALID.

(36) In the tractate of Kid. 50a.

(37) The Rabbis in our Mishnah.

(38) The definition of vows given in the name of R. Simeon b. Jehozadak.

(39) Where the husband explicitly expressed his objection to betroth a woman who was under a vow.

(40) Lit., ‘all words’, ‘things’.

(41) Where the husband had made no conditions.

(42) Such as those mentioned in R. Simeon b. Jehozadak's definition.

(43) And the betrothal, therefore, is invalid.

(44) If it was found that she was under a vow, and the man consequently refuses to live with her.

(45) Cf. Yeb. 110a.

Talmud - Mas. Kethuboth 73a

It must not be suggested that Rab's reason[1] is that, because the man has married her without attaching any conditions, he has entirely dispensed with his former condition.[2] Rab's reason rather is that no man treats his intercourse as a mere act of prostitution.[3]

Surely they[4] once disputed on such a principle.[5] For it was stated: Where [an orphan] minor[6] who did not[7] exercise her right of mi'un[8] and who, when she came of age, left[9] [her husband][10] and married [another man], Rab ruled: She requires no letter of divorce from her second husband,[11] and Samuel ruled: She requires a letter of divorce from her second husband![12] — [Both disputes were] necessary. For if the latter[13] only had been stated, it might have been assumed that Rab adhered to his opinion[14] in that case only because no condition was attached [to the betrothal],[15] but that in the former case,[16] where a condition was attached [to the betrothal],[17] he agrees with Samuel.[18] And if the former case[16] only had been stated, it might have been assumed that in that case only[19] did Samuel maintain his view[20] but that in the latter[13] he agrees with Rab.[21] [Hence both were] required.

We have learned: IF HE MARRIED HER WITHOUT MAKING ANY CONDITION AND SHE WAS FOUND TO BE UNDER A VOW, SHE MAY BE DIVORCED WITHOUT RECEIVING HER KETHUBAH [which[22] implies that] it is only her kethubah that she cannot claim but that she nevertheless requires a letter of divorce. Now does not this[23] refer to one who has betrothed a woman on condition [that she was under no vow][24] and married her without making any condition?[25] This then[26] represents an objection against Samuel![27] [

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(1) For regarding the marriage as valid.

(2) And consequently he must not only divorce her but must give her her kethubah also.

(3) The consummation of the marriage was, therefore, a legal act necessitating a divorce for its annulment. In respect of the monetary obligation, however, the man still adheres to his original condition which she did not fulfil, and be cannot consequently be expected to give her also her kethubah.

(4) Rab and Samuel.

(5) I.e., whether intercourse after a conditional betrothal (the case spoken of supra 72b), or a legally imperfect marriage or betrothal (the case cited infra from Yeb. 109b) has the force of a valid and proper marriage to require the divorce for its annulment.

(6) Who was given in marriage by her mother or brothers.

(7) While she was still in her minority.

(8) V. Glos.

(9) Lit., ‘stood up’.

(10) With whom she had intercourse after she had come of age.

(11) Because, according to Rab, her second marriage was null and void owing to the kinyan (v. Glos.) effected by the intercourse of the first husband when she came of age. (V. supra n. 12). Being well aware that the original marriage which took place during the woman's minority had no legal force, the man is presumed to have intended his intercourse after she had attained her majority to effect the required legal kinyan of marriage.

(12) Yeb. 109b; because any act of intercourse on the part of the first husband, even after the woman had attained her majority, was carried out in reliance on the original betrothal which, having taken place while she was a minor, had no validity. Her betrothal to the second is, therefore, valid and must be annulled by a proper divorce. Though it may be added, Samuel admits that she is prohibited to the second husband, having regard to the fact that she did not exercise her right until she reached her majority (v. Nid. 52a). This prohibition is nevertheless only Rabbinical and consequently has no bearing on the question of the divorce, the purpose of which is to sever a union which is Pentateuchally binding. According to Rab, however, (v. supra p. 455, n. 13) the prohibition of the woman to her second husband is not merely Rabbinical but is, in fact, Pentateuchal. Why then should Rab and Samuel dispute on the same principle twice?

(13) Lit., ‘that’, the dispute in the case of the minor, cited from Yeb. 109b.

(14) That the intercourse of the first husband is regarded as a kinyan.

(15) And the husband may, therefore, be presumed to be anxious to give to the union all the necessary validity of a proper marriage (cf. supra p. 455, n. 13).

(16) That stated supra 72b.

(17) And the husband naturally believes that the woman, since she consented to the marriage, was in a position to fulfil it.

(18) That, as it never occurred to the husband (v. supra n. 5) that his original betrothal was in any way invalid, and as he did not, therefore, betroth her by subsequent cohabitation, no divorce is required.

(19) Since a condition was attached to the original betrothal.

(20) That the marriage, owing to its dependence on the original condition, is invalid.

(21) That, since no conditions were made, the intercourse of the first husband after her attaining majority has the validity of a kinyan, and no divorce from the second is required.

(22) Since the kethubah was excluded and not the letter of divorce.

(23) The second clause of our Mishnah.

(24) I.e., the case spoken of in the first and previous clause, the second clause of the Mishnah being dependent on the first.

(25) Which is the case in dispute between Rab and Samuel.

(26) The answer being apparently in the affirmative, and the implication being that a divorce is required.

(27) Who ruled (supra 72b ad. fin.) that no divorce is necessary.

Talmud - Mas. Kethuboth 73b

— No; [this[1] refers to one who] betrothed her without attaching a condition and also married her without attaching a condition.[2] If, however, one betrothed a woman on a certain condition and subsequently married her without attaching a condition would she, [according to our Mishnah], indeed[3] require no divorce?[4] If so, then, instead of stating, IF A MAN BETROTHED A WOMAN ON THE CONDITION THAT SHE WAS NOT SUBJECT TO ANY VOWS AND SHE WAS FOUND TO BE UNDER A VOW, HER BETROTHAL IS INVALID,[5] it should rather have been stated: If a man married a woman without attaching a condition and she was found to be under a vow, her betrothal is invalid, and [it would be evident, would it not, that this[6] applies] even more so to the former?[7] — It is really this reading that was meant:[8] IF A MAN BETROTHED A WOMAN ON THE CONDITION THAT SHE WAS NOT SUBJECT TO ANY VOWS, and then he married her without making any conditions, AND SHE WAS FOUND TO BE UNDER A VOW, HER BETROTHAL IS INVALID; if, however, he betrothed her without making any conditions and also MARRIED HER WITHOUT MAKING ANY CONDITIONS, SHE MAY BE DIVORCED WITHOUT RECEIVING HER KETHUBAH; it is only her kethubah that she cannot claim but it is necessary for her to obtain a divorce. But why has she no claim to her kethubah? Because, [apparently], he[9] could plead, ‘I do not want a wife that is in the habit of making vows’,[10] but if that is the case there should be no need for her to obtain a divorce either![11] — Rabbah replied: It is only according to Rabbinical law that she requires a divorce. So also said R. Hisda: It is only in accordance with the Rabbinical law that she requires a divorce. Raba replied: The Tanna[12] was really in doubt.[13] [Hence he adopted] the lenient view in monetary matters[14] and the stricter one[15] in the case of prohibitions.[16]

Rabbah stated: They[17] differ only in the case of an error[18] [affecting] two women,[19] but where an error [affects] one woman[20] all agree[21] that she requires no divorce from him.[22] Said Abaye:[23] But our Mishnah, surely, is one which [has been assumed[24] to refer to] an error [affecting] one woman but was nevertheless adduced as an objection![25] If, however, such a statement was made at all it must have been made in this form: Rabbah stated: They[26] differ only in the case of an error [affecting] a woman [who is in a position] similar [to that of one of] two women,[27] but in the case of an error [affecting] merely one woman[28] all agree[29] that she requires no divorce from him.[30]

Abaye raised an objection against him:[31] If a man betrothed a woman in error[32] or [with something worth] less than a perutah,[33] and, similarly, if a minor betrothed a woman, even if any [of them] has subsequently sent presents[34] [to the woman], her betrothal is invalid,[35] because he has sent these gifts on account of the original betrothal.[36] If, however, they[37] had intercourse they have thereby effected legal kinyan. R. Simeon b. Judah in the name of R. Ishmael said: Even if they had intercourse they effect no kinyan.[38] Now here, surely, it is an error [affecting] only one woman and they[39] nevertheless differ. Would you not [admit that by ‘error’ is meant] an error in respect of vows?[40] — No; [what was meant is] an error in respect of that which was worth less than a perutah.[41] — But was not ‘less than than a perutah’ explicitly mentioned: ‘If a man betrothed a woman in error or [with something worth] less than a perutah’?[42] — [The latter part is] really an explanation [of the former:] What is meant by ‘If a man betrothed a woman in error’? If, for instance, he betrothed her with ‘something worth less than ‘a perutah’.

On what principle do they[43] differ?[44] — One Master[45] holds the view that everyone is aware that with less than the value of a perutah no betrothal can be effected, and consequently any man having intercourse [after such an invalid act] determines [to do so] for the purpose of betrothal. The other Master,[46] however, holds the view that not everyone is aware that with less than the value of a perutah no betrothal can be effected, and when a man has intercourse [after such an act[47] he does so] in reliance on his first betrothal.[48]

He raised [another] objection against him:[49] [If a man said to a woman,] 'I am having intercourse with you on the condition that my father will consent',[50] she is betrothed to him even if his father did not consent. R. Simeon b. Judah, however, stated in the name of R. Simeon, If his father consented she is betrothed but if his father did not consent she is not betrothed.[51] Now here, surely, it is a case similar to that of an error affecting one woman[52] and they[53] nevertheless differ![54] — They differ in this case[55] on the following points.[56] One Master[57] holds the opinion that [the expression] 'On the condition that my father consents' implies, 'On condition that my father will remain silent', and [the betrothal is valid] because, surely, his father remained silent. And the other Master[58] holds the opinion [that the meaning of the expression is] that his father will say, 'yes', and [the betrothal is invalid] because his father in fact did not say, 'yes'.

He raised [a further] objection against him.[59] The Sages agree with R. Eliezer[60] in respect of a minor whom her father had given in marriage and who was divorced,[61] [in consequence of which] she is regarded as an 'orphan' in her father's lifetime,[62] and who was then remarried,[63] that she must perform halizah[64] but may not[65] contract the levirate marriage because her divorce was a perfectly legal divorce,[66] but her remarriage was not a perfectly legal remarriage.[67] This,[68] however, applies only where he[69] divorced her while she was a minor[70] and remarried her while she was still a minor;[71] but if he[72] divorced her while she was a minor[73] and remarried her while she was still a minor and she became of age while she was still with him, and then he died,[74] she must either perform halizah or contract the levirate marriage.[75]

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(1) The second clause of our Mishnah.

(2) I.e., the second clause of our Mishnah is not dependent on the first one.

(3) Lit., 'thus'.

(4) This would seem to follow from the interpretation of our Mishnah just advanced on behalf of Samuel.

(5) A form of expression which, omitting all reference to marriage, might imply that if she was subsequently married unconditionally a divorce is required.

(6) That the betrothal is invalid and that consequently no divorce is required.

(7) The case enunciated in the present form of our Mishnah where the betrothal was not followed by marriage.

(8) Lit., 'thus also he said'.

(9) Should be be ordered to pay the kethubah.

(10) And her betrothal is, therefore, invalid as if the man had advanced such a plea at the actual time of the betrothal.

(11) Cf. p. 457, n. 10. Rab's view that 'no man treats his intercourse as a mere act of prostitution' (supra 73a) cannot be advanced here in reply, since Samuel, whose views are the subject of the present discussion, does not admit it.

(12) Of our Mishnah.

(13) As to 'whether the presumption that, as a rule, one does not want to live with a wife who is in the habit of making vows is sufficient reason for regarding the betrothal of such a woman as null and void.

(14) I.e., the kethubah. As the woman's claim to it is of a doubtful nature, her husband who is the possessor of the money cannot be made to pay it.

(15) That a divorce is necessary if she wishes to remarry.

(16) It is forbidden to live with another man's wife.

(17) Rab and Samuel, supra 72b, ad fin.

(18) I.e., the man believed that the woman was under no vow while in fact she was.

(19) The first of whom a man betrothed on the condition that she was under no vow and the second of whom he afterwards married without making any condition and subsequently found that she was under a vow. Samuel regards the non-conditional marriage of the second as invalid because the man is presumed to have married her on the same condition as that on which he betrothed the first. Rab, however, maintains that it is quite possible that the man was so attracted by the second woman that he was willing to dispense with his terms.

(20) Whom the man betrothed on a certain condition and afterwards married without making any condition.

(21) Even Rab.

(22) Since the man has made it clear at the betrothal that he objected to live with her if she were encumbered with any vows.

(23) Rashal deletes ‘to him’, which appears in brackets in cur. edd.

(24) Supra 73a ad fin.

(25) Against Samuel (l.c.); which shews, contrary to Rabbah's assumption, that even in the case of a mistake in respect of one woman, some authorities maintain that a divorce is required.

(26) Rab and Samuel, supra 72b ad fin.

(27) One, for instance, who was betrothed on a certain condition, was then divorced and subsequently married with no condition. In such a case Rab maintains that a divorce is required as in the case of the second woman where two women were involved (cf. supra p. 458, n. 9), while Samuel maintains that no divorce is required because the man's condition at the betrothal is regarded as a permanent declaration that he would not live with a woman who was in the habit of making vows and, since this condition renders the marriage null and void, no divorce is required to annul such a marriage.

(28) I.e., one whose marriage had followed her betrothal, and no divorce had intervened, so that the man may well be presumed to have consummated marriage on the same terms as those he laid down at the betrothal.

(29) Even Rab.

(30) In raising the objection against Samuel supra our Mishnah was assumed to deal with ‘a woman who was in a position similar to that of two women’ (cf. supra n. 1).

(31) Rabbah.

(32) This, at present, is presumed to mean that the woman was under a vow and the man was at the time unaware of it.

(33) V. Glos.

(34) Sablonoth; v. Kid. Sonc. ed. p. 254, n. 4.

(35) Although the presents, if specifically given as a token of betrothal, would effect a valid kinyan of betrothal.

(36) And since that betrothal is invalid the gifts cannot effect the necessary kinyan.

(37) Any of those mentioned whose betrothal is invalid.

(38) Tosef. Kid. IV.

(39) R. Ishmael and the first Tanna.

(40) Cf. supra note 6. This proves that one authority at least (viz. the first Tanna) regards a non-conditional marriage as valid though it followed a conditional betrothal. How then could Rabbah maintain, according to the second version, that in such a case all agree that, as the marriage is invalid, no divorce is required.

(41) The man, at the time of betrothal, having been under the erroneous impression that kinyan may be effected by such an insignificant sum. Since this law is generally known it may well be presumed that subsequent intercourse was intended as kinyan. In the case of an error in respect of vows, however, subsequent intercourse cannot alter the invalidity of the betrothal since during the performance of the latter act the man may still have been under the impression that his wife was not restricted by any vow. The general opinion, therefore, is, Rabbah may well maintain, that no divorce is in this case required.

(42) Is it likely that the same law should be repeated in the same context?

(43) R. Ishmael and the first Tanna.

(44) On the previous assumption (that the ‘error’ referred to the conditional betrothal of a woman who was under a vow) the principles underlying this dispute might be those upheld supra by Rab and Samuel respectively. On the present assumption, however, (that be ‘error’ refers to a betrothal attempted with less than a perutah) the difficulty arises (cf. supra note 1) ‘on what principles do they differ?’ sc. how could R. Ishmael maintain his view that ‘even if they had cohabited they effect no kinyan’?

(45) The first Tanna.

(46) R. Ishmael.

(47) Which be believes to be a valid betrothal.

(48) Which was in fact invalid and in consequence of which the cohabitation constitutes no kinyan.

(49) Rabbah.

(50) To the union.

(51) Git. 25b.

(52) Since in both cases a condition was attached to the betrothal, merely one woman is involved, and no divorce intervened between betrothal and intercourse.

(53) R. Simeon and the first Tanna.

(54) R. Simeon maintaining that the intercourse is a valid kinyan, and a divorce is consequently required. How then (cf. supra p. 459, n. 14 mutatis mutandis) could Rabbah assert that in such a case all agree that no divorce is necessary?

(55) Lit., 'there'.

(56) Not on the principle underlying Rabbah's assertion.

(57) The first Tanna.

(58) R. Simeon.

(59) Rabbah.

(60) The reading in the parallel passage, Yeb. 109a, is 'Eleazar'.

(61) Her father having received the letter of divorce on her behalf.

(62) Like an orphan, she has no father to give her away in marriage, because though alive be has lost his right to do so after he has given her in marriage once.

(63) Lit., 'he (the first husband from whom she was divorced) married her again'. While she was still in her minority when her actions have no legal validity.

(64) V. Glos.

(65) If her husband died childless and was survived by a brother.

(66) And as the divorcee of his brother she is forbidden to the levir under the penalty of kareth (v. Glos.).

(67) Cf. supra n. 13.

(68) That the Sages admit that the minor in question may not contract the levirate marriage.

(69) Her first husband.

(70) The validity of the divorce being due to the fact that her father has accepted the letter of divorce on her behalf.

(71) When neither she nor her father (cf. supra p. 461, n. 12) had the right to contract the marriage; and her husband died while she was still in her minority so that no intercourse at all had taken place when she came of age.

(72) Her first husband.

(73) V. p. 461, n. 20.

(74) So that it was possible for intercourse to take place when she was already in her majority.

(75) Because the act of intercourse after she had come of age constituted a legal kinyan of marriage, and she became thereby the legally married wife of the deceased.

Talmud - Mas. Kethuboth 74a

In the name of R. Eliezer,[1] however, it was stated: She[2] must perform halizah but may not contract the levirate marriage.[3] Now, here,[4] surely, it is a case similar to that of an error[5] affecting merely one woman and they[6] nevertheless differ![7] — In that case[8] also [it may be said that][9] they[6] differ on the following principles.[10] One Master[11] maintains that everyone is aware that there is no validity in the betrothal of a minor and, consequently, any man having intercourse [after such an invalid act] determines that his intercourse shall serve the purpose of a betrothal.[12] The other Master,[13] however, maintains that not everyone is aware that there is no validity in the betrothal of a minor, and when a man has intercourse [after such an act[14] he does so] in reliance on his original betrothal.[15]

[So][16] it was also stated: R. Aha b. Jacob stated in the name of R. Johanan. If a man betrothed a woman on a certain condition and then had intercourse with her, she,[17] it is the opinion of all, requires no letter of divorce from him.

R. Aha the son of R. Ika, his[18] sister's son[19] raised an objection against him: A halizah under a false pretext[20] is valid; and what is 'a halizah under a false pretext'? Resh Lakish explained: Where a levir is told, 'Submit to her halizah and you will thereby wed her'. Said R. Johanan to him:[21] I am in the habit of repeating [a Baraitha,] 'Whether he[22] had the intention[23] [of performing the commandment of halizah] and she had no such intention, or whether she had such intention and he had not, her halizah is invalid, it being necessary[24] that both shall [at the same time] have such intention', and you say that her halizah is valid?[25] But, said R. Johanan, [this is the meaning:][26] When a levir is told, 'Submit to her halizah on the con dition that she gives you two hundred zuz'.[27] Thus[28] it clearly follows that as soon as a man has performed an act[29] he has thereby dispensed with his condition, [why then should it not be said] here also that as soon as the man has intercourse he has thereby dispensed with his condition?[30] — The other replied: Young hopeful,[31] do you speak sensibly?[32] Consider: Whence do we derive [the law of the validity of] any condition? [Obviously] from the condition in respect of the sons of Gad and the sons of Reuben;[33] [hence it is only] a condition that may be carried out through an agent, as was the case there,[34] that is regarded as a valid condition; but one which cannot be carried out through an agent,[35] as was the case there, is not regarded as a valid condition.[36] But is not intercourse[37] an act which cannot be performed through an agent as was the case there[34] and yet a condition in connection with it is valid?[38] — The reason[39] there is because the various forms of betrothal[40] were compared to one another.[41] R.'Ulla b. Abba in the name of 'Ulla in the name of R. Eleazar stated: If a man betrothed a woman by a loan[42] and then had intercourse with her, or on a certain condition[43] and then had intercourse with her, or with less than the value of a perutah[44] and then had intercourse with her, she,[45] it is the opinion of all, requires from him a letter of divorce.[46]

R. Joseph b. Abba, in the name of R. Menahem in the name of R. Ammi stated: If a man betrothed a woman with something worth less than a perutah and then had intercourse with her, she[45] requires a letter of divorce from him.[46] It is only in this case[47] that no one could be mistaken,[48] but in the case of the others[49] a man may be mistaken.[50]

R. Kahana stated in the name of 'Ulla: If a man betrothed a woman on a certain condition[43] and then had intercourse with her, she[45] requires a divorce from him.[46] Such a case once occurred and the Sages could find no legal ground[51] for releasing the woman without a letter of divorce. [This is meant] to exclude [the ruling] of the following Tanna. For Rab Judah stated in the name of Samuel in the name of R. Ishmael: And she be not seized[52] [only then[53] is she] forbidden;[54] if, however, she was seized[55] she is permitted.[54] There is, however, another [kind of woman] who is permitted[54] even though she was not seized.[56] And who is she? A woman whose betrothal was a mistaken one[57] and who may, even if her son sits riding on her shoulder,

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(1) V. supra p. 461, n. 10.

(2) Whom the first husband remarried 'while she was still a minor and she came of age while she was with him, and then be died' (cf. Rashi, second version, s.v. ח ג a.l.). Aliter: Even if she was remarried after she came of age, or was divorced and remarried after she came of age, R. Eliezer's reason being that preventive measures were necessary against the possibility of erroneously allowing one who was an 'orphan in the lifetime of her father' to contract levirate marriage. If the former interpretation is adopted the author of the Baraitha here cited would be in disagreement with the one in Yeb. 109a (v. Rashi l.c.); if the latter interpretation is adopted, the reading of cur. edd. infra is to be emended (v. infra note 14).

(3) V. Yeb. 109a where this passage occurs with some slight variations.

(4) Where remarriage took place 'while she was still a minor and she came of age while she was with him'.

(5) The error of believing the betrothal of the minor to be valid.

(6) The Sages and R. Eliezer.

(7) The Sages maintaining that levirate marriage may be contracted; which proves that the intercourse that took place when she was of age is regarded as a valid kinyan. As the same principle applies also to the case of error in respect of a woman under a vow (supra) an objection arises against Rabbah (cf. supra p. 459, n. 14).

(8) Lit., 'there'.

(9) If the second interpretation (supra note 7) is adopted the reading is to be emended to: Every one knows that the betrothal of a minor is invalid, but where one betrothed a woman on a certain condition and then had intercourse he does so in reliance on this condition (v. Rashi).

(10) Not on the one underlying the case of which Rabbah spoke.

(11) The view expressed by the Sages.

(12) Hence the validity of the marriage and the permissibility of a levirate marriage.

(13) R. Eliezer.

(14) Which be believes to be a valid betrothal.

(15) Which in fact was invalid. Hence the invalidity of the marriage etc. (cf. supra note 1).

(16) In agreement with Rabbah who stated (supra 73b) that ‘in the case of an error affecting merely one woman all agree that she requires no divorce from him’.

(17) If the condition has not been fulfilled.

(18) R. Aba b. Jacob's.

(19) MS.M. reads ‘son of the sister of Resh Lakish’.

(20) מוטעת (rt. טעה, Hof'al.) lit., ‘misled’.

(21) Resh Lakish. Cur. edd. omit ‘to him’ which is the reading of MS.M.

(22) The levir.

(23) When be submitted to halizah.

(24) Lit., ‘until’.

(25) If the levir, according to the interpretation of Resh Lakish, performed the halizah in order to effect thereby a kinyan of marriage, he obviously did not intend to perform the commandment of halizah the very purpose of which is not the union of the woman with, but her separation from, the levir. And, since there was no intention to perform the commandment, how could such a halizah be valid?

(26) Of ‘a halizah under a false pretext’.

(27) V. Glos. Even if the promised sum was not paid to the levir the halizah is nevertheless valid. Tosef. Yeb. XII, Yeb. 106a.

(28) Since the non-fulfilment of the condition does not invalidate the halizah.

(29) [Without emphasizing at the time that he does so in reliance on the condition (v. Tosaf.).]

(30) And the woman should, therefore, become his lawful wife. How then could R. Aha b. Jacob maintain in the name of R. Johanan that a betrothal, on a certain condition that has not been fulfilled, is invalid and no divorce is required even if intercourse followed the betrothal?

(31) Lit., ‘son of the school house’.

(32) Lit., ‘beautiful’.

(33) V. Num. XXXII, 29, 30 and Kid. 61a.

(34) Moses instructed Joshua to act, so to speak, as his agent in carrying out the condition he had made (v. Num. XXXII, 28ff).

(35) Halizah, for instance. The levir cannot instruct an agent to submit to halizah on his behalf when the sum promised shall have been handed to him.

(36) As the condition is null and void the act of halizah remains valid despite the unfulfilled condition. Where, however, the condition was valid, as in the case of the betrothal spoken of by R. Aha b. Jacob, the non-fulfilment of the condition renders the betrothal null and void and no subsequent intercourse can be regarded as an annulment of the condition and confirmation of the betrothal.

(37) When it was intended as a kinyan of marriage.

(38) As was stated in the passage quoted from Git. 25b (supra 73b).

(39) For the validity of the condition.

(40) הויות (rt. היה) lit., ‘beings’. ‘becomings’. היה is the rt. of והיתה (Deut. XXIV, 2), and she becometh . . . wife. A woman may become a man's wife either by receiving from him (a) money (or its equivalent in kind) or (b) a deed or (c) by cohabitation (Kid. 2a).

(41) As a condition in connection with (a) and (b) (which may be performed through an agent) is valid, so also is one in connection with (c).

(42) Which she owed him. Such betrothal is invalid because loaned money may be spent, while a betrothal cannot be valid unless money or its equivalent (v. p, 464, n. 15) was actually given to the woman at the time of the betrothal (v. Kid. 6b).

(43) Which was not fulfilled.

(44) V. Glos. The minimum sum for a betrothal to be valid is a perutah.

(45) If the union is to be dissolved.

(46) Because a man, it is assumed, would not allow his intercourse to deteriorate into a mere act of prostitution.

(47) Betrothal with less than a perutah.

(48) That the betrothal was valid. Knowing his act to be invalid be determines to effect the kinyan of the marriage through his subsequent intercourse. Hence the necessity for a divorce to dissolve it.

(49) Betrothal by a loan or on a certain condition, spoken of supra in the name of R. Eleazar.

(50) He might be under the impression that a loan may effect a valid betrothal or that the condition he had made had been fulfilled. As his intercourse would consequently be based on his erroneous presumption of the validity of the betrothal the union would have no validity and, contrary to the view expressed in the name of R. Eleazar (v. supra n. 8), no divorce to dissolve it would be required.

(51) Lit., ‘there was no power’.

(52) Num. V, 13, E.V., neither she be taken in the act.

(53) Only if she was ‘not seized’, i.e., she did not act under compulsion but willingly (cf. Yeb. 56b).

(54) To her husband.

(55) I.e., if she acted under compulsion.

(56) Cf. supra n. 1.

(57) I.e., when a condition that was attached to it remained unfulfilled. In such a case the woman may leave her husband without a letter of divorce and is free to marry any other man.

Talmud - Mas. Kethuboth 74b

make a declaration of refusal[1] [against her husband] and go away.[2]

Our Rabbis taught: If she[3] went to a Sage [after her betrothal] and he disallowed her vow her betrothal is valid. [If one[4] went] to a physician who cured her, her betrothal is invalid. What is the difference between the act of the Sage and that of the physician?[5] — A Sage annuls[6] the vow retrospectively[7] while a physician effects the cure only from that moment onwards.[8] But was it not, however, taught, [that if she[9] went] to a Sage and he disallowed her vow or to a physician and he cured her, her betrothal is invalid?[10] — Rabbah[11] replied: There is no contradiction. The former[12] represents the view of R. Meir; the latter[13] represents that of R. Eleazar. ‘The former represents the view of R. Meir’, who holds that a man does not mind[14] his wife's being exposed to the publicity[15] of a court of law.[16] ‘The latter represents that of R. Eleazar’ who holds that no man wants his wife to be exposed to the publicity[17] of a court of law.[18] What is the source[19] [of these statements]?[20] — [The following] where we learned: If a man divorced his wife on account of a vow [she had made] he may not remarry her,[21] nor may he remarry his wife [if he divorced her] on account of a had name.[22] R. Judah ruled: In the case of a vow that was made in the presence of many people[23] he may not remarry her,[24] but if it was not made in the presence of many people he may remarry her.[25] R. Meir ruled: In the case of a vow [the disallowance of which] necessitates the investigation of a Sage[26] her husband may not remarry her,[27] but if it does not require the investigation of a Sage[28] he may remarry her.[29] R. Eleazar said:[30] The prohibition against [remarriage where the disallowance of the vow] required [the investigation of a Sage][31] was ordained only on account [of a vow] which requires [no such investigation].[32] (What is R. Judah's reason?[33] Because it is written in Scripture,

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(1) I.e., she requires no formal letter of divorce.

(2) V. supra 51b. The practical ruling of the Sages, as reported by R. Kahana in the name of ‘Ulla, shews that the ruling of R. Ishmael was not adopted.

(3) The woman who was under a vow at the time of her betrothal.

(4) The woman who was afflicted with a bodily defect at the time of her betrothal.

(5) I.e., why is the betrothal valid in the case of the former and not in that of the latter?

(6) Lit., ‘uproots’.

(7) So that the woman, at the time of her betrothal, was virtually under no vow. Hence the validity of the betrothal.

(8) Since the woman at the time of the betrothal was still suffering from her affliction the betrothal was effected under a false assumption and is therefore invalid.

(9) V. supra note 8.

(10) How is this statement to be reconciled with the previous one according to which disallowance of a vow by a Sage renders the preceding betrothal valid?

(11) V. Marg. glos. Cur. edd. , 'Raba'.

(12) The ruling that the betrothal is valid if a Sage disallowed the vow.

(13) That even where a Sage had disallowed the vow the betrothal is invalid.

(14) Lit., 'Is willing'.

(15) שתתבזה, lit., 'that she shall be disgraced'.

(16) By applying in person to the Sage for the disallowance of her vow. It is assumed, therefore, that a man has no objection to betrothing a woman who is under a vow, since she may subsequently apply to a Sage for a disallowance.

(17) V. p. 466, D. 20.

(18) Consequently, if he had known that she was under a vow he would not have betrothed her. Hence the invalidity of the betrothal.

(19) Lit., 'it'.

(20) Attributed to R. Meir and R. Eleazar respectively.

(21) Because, according to one opinion (v. Git. 45b), it is possible that after the woman had obtained from a Sage the disallowance of her vow and had married another man, her first husband might regret his action in divorcing her and, advancing the plea that he would not have divorced her had he known that her vow could be disallowed, might impair thereby the validity of her second marriage. By the enactment that 'he may not re-marry her' a husband is naturally induced to institute all the necessary enquiries and to consider very carefully his course before he decides upon divorce, and should he nevertheless divorce her and then plead that he was unaware that her vow could be disallowed, his plea might well be disregarded. According to another opinion (Git. l.c.) the prohibition to marry a woman in the circumstances mentioned is a penalty, and a warning to women to abstain from making vows.

(22) Immoral conduct. For the reason cf. supra note 6 mutatis mutandis. As a vow may be disallowed so may a bad name turn out to be unfounded, and the first husband might then try to impair the validity of the second marriage. According to the second opinion (v. supra note 6 ad fin.) the prohibition is a penalty for, and a warning against, lax morality and ill-reputed associations.

(23) Lit., 'of which many knew', cf. infra 75a ab init.

(24) Since such a vow can never be disallowed (v. infra p. 468, n. 6 and text). R. Judah adopts the second reason (supra note 6).

(25) Because, since the disallowance of such a vow is permitted, no penalty has been imposed upon the woman.

(26) I.e., if it is of the class of vows which a husband is not entitled to invalidate.

(27) R. Meir, maintaining that a husband does not mind his wife's being exposed to the publicity of a court of law forbids remarriage on account of the first reason supra p. 467, n. 6, since the first husband might plead that if he had known that the vow could be disallowed by a Sage he would not have consented to give a divorce.

(28) I.e., if the vow was of a class the invalidation of which is within the husband's rights.

(29) Because in this case the husband cannot advance the plea that the divorce was due to a misunderstanding (cf. supra p. 467, n. 6 and note 12).

(30) Cur. edd. insert in parentheses, 'Whether it requires or whether it does not require he may not remarry her' (cf. the reading in Git. 45b, Rashal and Asheri).

(31) V. p. 467, n. 11 .

(32) V. supra note 1. Since in the latter case the husband might plead that he was not aware that he had the right to disallow the vow. In the former case, however, no such plea can be advanced because no man would consent that his wife should be exposed to the publicity of a court of law. V. Git. 45b.

(33) For ruling that a vow that was made in public (v. supra p. 467, nn. 8 and 9) may not be disallowed.

Talmud - Mas. Kethuboth 75a

And the children of Israel smote them not, because the princes of the congregation had sworn unto them.[1] And what is considered 'many'? R. Nahman b. Isaac said: Three [men]; [for the expression of] 'days'[2] implies two [days] and 'many'[2] three. R. Isaac replied: Ten; [for the term] congregation[3] was applied to them.)[4] [Now] 'R. Meir ruled: In the case of a vow [the disallowance of which] necessitates the investigation of a Sage he may not remarry her' [and] 'R. Eleazar said: The prohibition [against remarriage where the disallowance of the vow] required [the investigation of a Sage] was ordained only on account [of a vow] which required [no such investigation]'.[5] on what principles do they[6] differ? — R. Meir holds the view that 'a man does not mind his wife's being exposed to the publicity of a court of law' and R. Eleazar holds the view that 'no man wants his wife to be exposed to the publicity of a court of law'.[7] Raba replied:[8] Here[9] we are dealing with the case of a woman from a noted family in which case the man[10] could say,[11] 'I have no wish to be forbidden to marry her relatives'.[12] If so,[13] [consider] the final clause where it is stated, 'But if he[14] went[15] to a Sage who disallowed his vow or to a physician who cured him, his betrothal of the woman is valid', [why, it may be asked, was it not] stated, 'the betrothal is invalid' and[16] explained,[17] 'Here we are dealing with the case of a man from a noted family concerning whom the woman[18] might plead. 'I have no wish to be forbidden to marry his relatives'?[19] — A woman is satisfied with any sort [of husband] as Resh Lakish said. For Resh Lakish stated: 'It is preferable to live in grief[20] than to dwell in widowhood'.[21] Abaye said: With a husband [of the size of an] ant her seat is placed among the great.[22] R. Papa said: Though her husband be a carder[23] she calls him to the threshold and sits down [at his side].[24] R. Ashi said: Even if her husband is only a cabbage-head[25] she requires no lentils[26] for her pot.[27]

A Tanna taught: But all such women[28] play the harlot and attribute the consequences[29] to their husbands.

ALL DEFECTS WHICH DISQUALIFY etc. A Tanna taught: To these[30] were added[31] [excessive] perspiration, a mole and offensive breath.[32] Do these, then, not cause a disqualification in respect of priests? Surely we have learned,[33] 'The old, the sick and the filthy'[34] and we have also learned, 'These defects whether permanent or transitory, render human beings[35] unfit [for the Temple service]!'[36] — R. Jose b. Hanina replied: This is no contradiction. The former refers to perspiration that can be removed;[37] the latter, to perspiration that cannot be removed.[38]

R.Ashi said [in reply]: You are pointing out a contradiction between 'perspiration' and 'one who is filthy' [which in fact are not alike, for] there, in the case of priests,[39] it is possible to remove the perspiration[40] by the aid of sour wine, and it is also possible [to remove] an offensive breath by holding pepper in one's mouth and thus performing the Temple service, but in the case of a wife[41] [such devices are for all practical purposes] impossible.[42]

What kind of a mole is here meant? If one overgrown with hair, it would cause disqualification in both cases; if one with no hair, [then, again], if it is a large one it causes disqualification in both cases[43] and if it is a small one it causes no disqualification in either; for it was taught: A mole which is overgrown with hair is regarded as a bodily defect; if with no hair it is only deemed to be a bodily defect when large but when small it is no defect; and what is meant by large? R. Simeon b. Gamaliel explained: The size of an Italian issar![44] — R. Jose the son of R. Hanina said: One which is situated on her forehead.[45] [If it was on] her forehead he[46] must have seen it and acquiesced![47] — R. Papa replied: It is one that was situated under her bonnet and is sometimes exposed and sometimes not.

R. Hisda said: I heard the following statement from a great man (And who is he? R. Shila). If a dog bit her[48] and the spot of the bite turned into a scar [such a scar] is considered a bodily defect.

R. Hisda further stated: A harsh voice in a woman is a bodily defect; since it is said in Scripture, For sweet is thy voice, and thy countenance is comely.[49]

R. Nathan of Bira learnt: [The space] of one handbreadth between a woman's breasts.[50] R. Aha the son of Raba intended to explain in the presence of R. Ashi [that this statement meant that '[the space of] a handbreadth' is to [a woman's] advantage,[51] but R. Ashi said to him: This[52] was taught in connection with bodily defects. And what space [is deemed normal]? Abaye replied: [A space of] three fingers.

It was taught: R. Nathan said, It is a bodily defect if a woman's breasts are bigger than those of others. By how much? — R. Meyasha the grandson of R. Joshua b. Levi replied in the name of R. Joshua b. Levi: By one handbreadth. Is such a deformity, however, possible?[53] — Yes; for Rabbah b. Bar Hana related, I saw an Arab woman who flung her breasts over her back and nursed her child.

But[54] of Zion it shall be said: 'This man and that[55] was born in her; and the Most High Himself doth establish her;[56] R. Meyasha, grandson of R. Joshua b. Levi, explained: Both[57] he who was born therein and he who looks forward to seeing it.[58]

Said Abaye: And one of them[59] is as good as two of us.[60] Said Raba: When one of us, however, goes up there[61] he is as good as two of them. For [you have the case of] R. Jeremiah who, while here,[62] did not understand what the Rabbis were saying, but when he went up there he was able to refer to us as 'The stupid Babylonians'.[63]

MISHNAH. IF SHE[64] WAS AFFLICTED WITH BODILY DEFECTS WHILE SHE WAS STILL IN HER FATHER'S HOUSE,[65] HER FATHER[66] MUST PRODUCE PROOF THAT THESE DEFECTS AROSE AFTER SHE HAD BEEN BETROTHED AND [THAT, CONSEQUENTLY, IT WAS THE] HUSBAND'S FIELD THAT WAS INUNDATED.[67] IF SHE CAME UNDER THE AUTHORITY OF HER HUSBAND,[68] THE HUSBAND[69] MUST PRODUCE PROOF THAT THESE DEFECTS WERE UPON HER BEFORE SHE HAD BEEN BETROTHED AND [THAT CONSEQUENTLY] HIS BARGAIN WAS MADE IN ERROR. THIS IS THE RULING OF R. MEIR. THE SAGES, HOWEVER, RULED: THIS[70] APPLIES ONLY TO CONCEALED BODILY DEFECTS;

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(1) Josh. IX, 28; the oath could not be annulled because it was taken in public.

(2) Referring to Lev. XV, 25. Cf. Nid. 73a.

(3) עדה (Josh. ibid.).

(4) And a congregation consists of not less than ten men.

(5) Cf. supra p. 467, nn. 11ff.

(6) R. Meir and R. Eleazar. Cf. supra p. 466, nn. 29ff.

(7) The source of the statements (v. supra p. 467, n-.5) has thus been shewn. For further notes on the passage v. Git. (Sonc. ed.) pp. 200ff.

(8) In explanation of the contradiction pointed out supra 74b.

(9) The second Baraitha which rules that the betrothal is invalid even if a Sage has disallowed the vow.

(10) Even according to R. Meir who maintains that a husband does not mind his wife's appearance before a court of law one may still be objecting to live with a wife who is restricted by a vow.

(11) In his desire to avoid a divorce and to obtain the retrospective annulment of his betrothal (v. following note).

(12) Her mother and sister who are forbidden to marry the man who divorced her. He may insist that he wishes to retain the privilege of marrying these women members of a noted family though he objected to the particular one who restricted herself by a vow. By obtaining the annulment of the betrothal he does not place his wife under the category of a divorcee and he retains, in consequence, the right of marrying her relatives. Hence the ruling (even according to R. Meir) that the betrothal is invalid.

(13) If Raba's explanation is to be accepted.

(14) A man who betrothed a woman on the condition that he was under no vow or that he suffered no bodily defects.

(15) After the betrothal

(16) In order to reconcile the two clauses.

(17) On the lines followed by Raba in the first clause.

(18) Cf. supra n. 3 mutatis mutandis.

(19) Cf. mutatis mutandis, supra nn. 4 and 5.

(20) Or ‘together’, ‘as husband and wife’. V. following note.

(21) Yeb. 118b. This is a woman's maxim. She prefers a married life of unhappiness and misery to a happy and prosperous life in solitude. טן דו (adv.) ‘with a load of grief’, ‘in trouble’ (Jast.) Aliter: (Cf. supra n. 13) טן דו ‘two bodies’ (Rashi); ‘two persons’ (Levy).

(22) A woman's opinion of a married life (v. Yeb. l.c.). חראתא pl. of חרתא, ‘a free woman’.

(23) נפסא, ‘flax-beater’ (Rashi), a watchman of vegetables’ (Aruch.), i.e., of a poor and humble occupation.

(24) To shew her friends that she is a married woman. She is proud to be in the company of a husband however humble his occupation and social status.

(25) קלוסא, i.e., ‘dull’, ‘ugly’ (v. Jast.): ‘of a tainted family’ (Rashi).

(26) I.e., even a cheap vegetable.

(27) A woman is content to dispense even with the cheapest enjoyments for the sake of a married life.

(28) Who marry the unlovely types enumerated.

(29) Lit., ‘and hang on’.

(30) The defects that disqualify priests (v. Bek. 43a).

(31) In the case of women (v. our Mishnah).

(32) Lit., ‘smell of the mouth’.

(33) In respect of defects that render animals unfit for the altar (Bek. 41a).

(34) Under which term, it is at present assumed, excessive perspiration and offensive breath are included.

(35) Sc. priests.

(36) Bek. 43a. How then could it be said supra that excessive perspiration and offensive breath are not included among those that disqualify a priest?

(37) By the application of water (v. Tosaf. s.v. כאן). Aliter: That may be cured (v. Tosaf. loc. cit.).

(38) Cf. supra n. 14 mutatis mutandis.

(39) Who were not described as ‘filthy’, but as suffering from excessive perspiration or offensive breath. R. Ashi, contrary to the previous assumption (v. supra note 11), draws a distinction between ‘filthy’ which implies a chronic state of the body and the two others which are only minor defects.

(40) Even if water could not remove it.

(41) With whom a husband is constantly in contact.

(42) Hence the ruling that even such minor defects render a betrothal invalid.

(43) Lit., ‘here and here’, in the case of a priest and in that of a wife.

(44) V. Glos. The question then arises: What kind of a mole was meant in the Baraitha supra where it is mentioned among the three defects of a wife that do not disqualify a priest.

(45) And is small in size and without hair.

(46) The man who betrothed her.

(47) How then could a mole in such circumstances be regarded as a defect that causes the invalidity of the betrothal?

(48) Any woman.

(49) Cant. II, 14.

(50) This is explained anon.

(51) But if it was bigger or smaller it is to be regarded as a defect.

(52) R. Nathan's statement.

(53) Lit., ‘is there such a kind’.

(54) The following paragraph, though irrelevant to the subject under discussion, is inserted here because of its author, R. Meyasha, who is also the author of the previous statement.

(55) איש ואיש, lit., ‘man and man’.

(56) Ps. LXXXVII, 5.

(57) The inference is derived from the repetition of man (v. supra n. 3).

(58) Will be acclaimed as a son of Zion.

(59) The man of Zion, i.e., the Palestinians (Rashi).

(60) Babylonians.

(61) To Palestine.

(62) In Babylon.

(63) Cf. Men. 42a.

(64) A betrothed woman.
(65) I.e., before she married and went to live with her husband.
(66) If his daughter is to be entitled to her kethubah from the man who betrothed her and refused to marry her on account of her defects.
(67) Metaph. It is the husband's misfortune that the woman who had no such defects prior to her betrothal is now afflicted with them.
(68) I.e., if the defects were discovered after the marriage.
(69) Should be, on account of her defects, desire to divorce her and to deny her the kethubah.
(70) The validity of a husband's plea that HIS BARGAIN WAS MADE IN ERROR.

Talmud - Mas. Kethuboth 75b

BUT IN RESPECT OF DEFECTS THAT ARE EXPOSED HE[1] CANNOT ADVANCE ANY VALID PLEA.[2] AND IF THERE WAS A BATH-HOUSE IN THE TOWN HE CANNOT ADVANCE ANY VALID PLEA[2] EVEN AGAINST CONCEALED BODILY DEFECTS, BECAUSE HE [IS ASSUMED TO HAVE HAD HER] EXAMINED BY HIS WOMEN RELATIVES.[3]

GEMARA. The reason then[4] is because the father produced proof, but if he produced no proof,[5] the husband is believed.[6] Whose [view consequently is here[7] expressed]? [Obviously] that of R. Joshua who stated, ‘Our life is not dependent on her statement’.[8] Now read the final clause: IF SHE CAME UNDER THE AUTHORITY OF THE HUSBAND, THE HUSBAND MUST PRODUCE PROOF, the reason then[9] is because the husband produced proof, but if he produced no proof,[10] the father is believed,[11] a ruling which expresses the view of R. Gamaliel who stated that the woman is believed![12] — R. Eleazar replied: The contradiction[13] [is evident]; he who taught the one did not teach the other.[14]

Raba said: It must not be assumed that R. Joshua[15] is never guided by the principle of the presumptive soundness of the body, for the fact is[16] that R. Joshua is not guided by that principle only where it is opposed by the principle of possession.[17] Where, however, the principle of possession is not applicable R. Joshua is guided by that of the soundness of the body; for it was taught: If the bright spot[18] preceded the white hair, he[19] is unclean; if the reverse, he is clean. [If the order is in] doubt, he is unclean; but R. Joshua said: It darkened.[20] What is meant by ‘It darkened’? Rabbah replied: [It is as though the spot] darkened[21] [and, therefore,] he is clean.[22]

Raba explained:[23] The first clause [is a case of] ‘Here[24] they[25] were found and here they must have arisen’[26] and so is the final clause: Here[27] they[28] were found and here they must have arisen.[29] Abaye raised an objection against him:[30] IF SHE CAME UNDER THE AUTHORITY OF THE HUSBAND, THE HUSBAND MUST PRODUCE PROOF THAT THESE DEFECTS WERE UPON HER BEFORE SHE HAD BEEN BETROTHED[31] AND [THAT, CONSEQUENTLY,] HIS BARGAIN WAS MADE IN ERROR; [Thus only if she had the defects] BEFORE SHE HAD BEEN BETROTHED [is the husband's plea] accepted,[32] [but if they were seen upon her] only after she had been betrothed[33] [his plea would] not [be accepted]. But why? Let it be said,[34] ‘Here they were found and here they must have arisen’![35] — The other[30] replied: [The principle[36] cannot be applied if the defects were discovered] after she had been betrothed because it may be taken for granted that no man drinks out of a cup[37] unless he has first examined it; and this man[38] must consequently have seen [the defects] and acquiesced.[39] If so,[40] [the same principle should apply] also to one [who had defects] prior to her betrothal. [Since,] however, [it is not applied], the presumption must be that no man is reconciled to bodily defects, [why then is it not presumed] here[41] also that no man is reconciled to bodily defects? — This, however, is the explanation: [The principle[36] cannot be applied to defects discovered] after she had been betrothed because two [principles] are [opposed to it:] The presumptive soundness of the woman's body[42] and the presumption that no man drinks out of a cup unless he has first examined it and that this man must, consequently, have seen [the defects] and acquiesced. What possible objection can you raise?[43] Is it the presumption that no man is reconciled to bodily defects? [But this] is only

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(1) Since he was in a position to see them.

(2) That he was not aware of these defects.

(3) He must have known, therefore, of the defects, and acquiesced.

(4) Why in the first clause of our Mishnah the woman who was divorced after a betrothal is entitled to her kethubah.

(5) So that it is unknown when the defects first arose.

(6) If he pleads that the woman was afflicted with the defects prior to her betrothal; and he, as the possessor of the money, is consequently exempt from paying the kethubah as is the law in respect of all monetary claims where the possessor cannot be deprived of his money without legal proof of the claim advanced against him.

(7) In the implication that the law is to be decided in favour of the husband who is the possessor of the money and not in favour of the woman who, since she was born without bodily defects, has the claim of presumptive soundness of body.

(8) I.e., we do not rely on the woman's assertion, supra 12b, where the time she had been outraged is a matter of dispute between her and her husband. Though the woman has in her favour the claim of the presumptive chastity of her body she, nevertheless, cannot obtain her kethubah because of her husband's stronger claim as the possessor of the amount of the kethubah.

(9) Why the woman does not receive her kethubah.

(10) So that it is unknown when the defects first arose.

(11) Cf. supra note 7 mutatis mutandis; the woman's presumptive soundness of body being regarded as a superior claim to that of the husband possessor of the amount of the kethubah.

(12) Supra 12b. Cf. supra p. 473, n. 9 mutatis mutandis and p. 473, n. 12. A contradiction thus arises between the first and the second clause of our Mishnah.

(13) תברא. Aliter: (rt. תבר ‘to break’) Divide or sever (the two clauses). R. Han. (v. Tosaf. s.v. תברא). regards תברא as an imprecation.

(14) The first clause represents the view of R. Joshua who maintains the same view in the case spoken of in the second clause, while the second clause expresses the view of R. Gamaliel who maintains it in the case of the first clause also, neither of them drawing a distinction between a woman who was still in her father's house and one who was already under the authority of her husband.

(15) Cf. supra p. 473, nn 7-8.

(16) Lit., ‘but’.

(17) Lit., ‘presumptive possession of the money’.

(18) In leprosy. V. Lev. XIII, 2-4.

(19) The man afflicted.

(20) Neg. IV, 11.

(21) Cf. Lev. XIII, 6: If the plague be dim (or dark) . . . then the priest shall pronounce him clean.

(22) Thus it has been shewn that R. Joshua, since be ruled that a doubtful case of leprosy is clean, is guided by the principle of the presumptive soundness of the human body wherever it is not opposed by the principle of possession.

(23) The apparent contradiction between the first and the second clause of our Mishnah (cf. supra note 1).

(24) In the FATHER'S HOUSE.

(25) The BODILY DEFECTS of the woman.

(26) And it is owing to this principle only that the onus of producing proof was thrown upon the father. Otherwise, he would have been believed without proof, in agreement with the view of R.Gamaliel, which is the adopted halachah (v. supra 12b), because his claim is supported by the principle of his daughter's presumptive soundness of body.

(27) In the husband's house.

(28) The BODILY DEFECTS of the woman.

(29) The two clauses of our Mishnah thus present no contradiction, both expressing the view of R. Gamaliel (cf. supra p. 474, n. 15).

(30) Raba.

(31) תתארס. The reading in our Mishnah is נתארסה a change of tense and form that does not materially affect the meaning of the phrase.

(32) Lit., ‘yes’.
(33) Although she was still in her father's house.
(34) If Raba's explanation is correct.
(35) Since this principle, however, is not adopted in the final clause, how could Raba's explanation be upheld?
(36) ‘Here they were found etc.’.
(37) Euphemism.
(38) Since he had married the woman.
(39) Hence the inadmissibility of the principle, ‘Here they were found etc.’.
(40) If the principle of the ‘presumptive examination of the cup’ is the determining factor in favour of the woman.
(41) In the final clause where the proof established the existence of the defects after betrothal while the woman was still in her father's house.
(42) Lit. ‘place the body upon its strength’.
(43) Against deciding, on the basis of the two principles, in favour of the woman.

Talmud - Mas. Kethuboth 76a

one principle[1] against two principles,[2] and one against two cannot be upheld.[3] [But where the defects were discovered] before betrothal, the principle of the presumptive soundness of her body cannot be applied,[4] and all that remains is[5] the presumption that no man drinks out of a cup unless he has first examined it and that this man must consequently have seen [the defects] and acquiesced, [but to this it can be retorted:] On the contrary, the presumption is that no man is reconciled to bodily defects, and consequently the money is to remain in the possession of its holder.[6]

R. Ashi explained:[7] The [claim in the] first clause[8] [is analogous to the claim] ‘You owe my father a maneh’,[9] but that in the final clause[10] [is analogous to the claim] ‘You owe me a maneh’.[11]

R. Aha the son of R. Awya raised an objection against R. Ashi: R. Meir[12] admits that in respect of bodily defects[13] likely to have come[14] with her from her father's house it is the father who must produce the proof.[15] But why?[16] Is [not this[17] analogous to the claim,] ‘You owe me a maneh’?[18] — Here[15] we are dealing with the case of a woman who had a superfluous limb.[19] [But if] she had a superfluous limb[20] what proof could be brought?[21] — Proof that the man has seen it[22] and acquiesced.

Rab Judah stated in the name of Samuel: If a man exchanged a cow for [another man's] ass, and the owner of the ass pulled[23] the cow[24] but the owner of the cow did not manage to pull[25] the ass before the ass died, it is for the owner of the ass to produce proof that his ass was alive at the time the cow was pulled.[26] And the Tanna [of our Mishnah who taught about] a bride[27] supports this ruling. Which [ruling concerning the] bride?[28] If it be suggested: [

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(1) In favour of the man. The principle of possession is of no consequence here because it is completely disregarded when opposed by that of the presumptive soundness of the body.
(2) Which are in favour of the woman.
(3) Hence the ruling in her favour.
(4) Since proof was adduced that she was afflicted with the defects prior to her betrothal.
(5) Lit. ‘what is there?’ in favour of the woman's claim.
(6) In the absence of the presumption of the soundness of body (cf. supra n. 5) the principle of possession is a determining factor (cf. supra note 2), and thus, being added to that of a man's irreconcilableness to bodily defects, two principles in favour of the man are opposed to one in favour of the woman. Hence the ruling in favour of the man.
(7) The apparent contradiction between the first and second clause of our Mishnah (cf. supra p. 474, n. 1).
(8) Since the kethubah of a betrothed woman, as a na'arah (v. Glos.), unlike that of a married one, belongs to her father and not to herself.
(9) Where the presumptive soundness of the claimant's daughter's body, not being that of the claimant herself, cannot

override the principle of possession which is in favour of the husband. Hence the necessity for the father to produce the proof.

(10) Dealing with a married woman.

(11) In which case (cf. supra note 9 mutatis mutandis), the presumptive soundness of the body of the woman who is herself the claimant is sufficient to establish her claim. Hence it is for the husband to produce the necessary proof. Thus it is possible to assume that both the clauses of our Mishnah under discussion represent the view of R.Gamaliel who ruled that the presumptive soundness of body overrides the principle of possession.

(12) Though he stated in our Mishnah that if the defects were discovered after the woman CAME UNDER THE AUTHORITY OF HER HUSBAND it is the latter that MUST PRODUCE PROOF.

(13) The reference is at present assumed to be to any kind of defect.

(14) Lit., ‘that are likely to come’.

(15) Tosef. Keth. VII.

(16) Should the father have to produce the proof.

(17) According to R. Ashi's explanation.

(18) The woman being married and the kethubah belonging to her, the presumptive soundness of her body should be sufficient to establish her claim.

(19) Not, as has been presumed by R. Aha, with one who was afflicted with any defect. A superfluous limb does not grow after betrothal. Being a congenital defect, the principle of the presumptive soundness of the body cannot be applied.

(20) Which is obviously congenital.

(21) In support of her claim to her kethubah.

(22) Prior to betrothal or marriage.

(23) Pulling, meshikah (v. Glos.) is one of the forms of acquiring legal possession.

(24) While the ass still remained on his premises.

(25) To take it to his premises.

(26) If such proof is produced the former owner of the cow must bear the loss, because the legal acquisition by one of the parties of one of two objects exchanged places upon the other party the responsibility for any accident that might happen to the other object even though he did not himself formally acquire it (v. Kid. 28a).

(27) Concerning whose defects a similar doubt exists. In the case of the exchanged animals it is uncertain whether the ass died before or after the acquisition of the cow; in the case of the bride it is uncertain whether she had her defects before or after her betrothal.

(28) Provides the support.

Talmud - Mas. Kethuboth 76b

The one concerning a bride IN HER FATHER'S HOUSE,[1] are the two cases [it may be objected] alike? There it is the father[2] who produces the proof and receives[3] [the kethubah from the husband][4] while here it is the owner of the ass[5] who produces the proof and retains [the cow],[6] — R. Abba replied: [The ruling concerning a] bride in her father-in-law's house.[7] But [the two cases] are still unlike, for there it is the husband who produces the proof[8] and thereby impairs the presumptive right of the father,[9] while here it is the owner of the ass who produces the proof[10] and thereby confirms his presumptive right![11] — R. Nahman b. Isaac replied: [The support is derived from the case of the] bride IN HER FATHER'S HOUSE in respect of her token of betrothal.[12] And, furthermore, it need not be said [that this[13] applies only] in accordance with him who holds [that a token of] betrothal is not unreturnable[14] but [it holds good] even according to him who maintains [that a token of] betrothal is unreturnable, since his ruling relates only to certain betrothal, but [not] to doubtful betrothal [where the father may retain the token] only[15] if he produces proof but not otherwise.[16]

An objection was raised: If a needle was found in the thick walls of the second stomach [of a ritually killed beast, and it protrudes only] from one of its sides,[17] the beast is fit [for human consumption,[18] but if it protruded] from both sides, the beast is unfit for human consumption.[19] If a drop of blood was found on [the needle] it is certain that [the wound was inflicted] before the ritual killing;[20] if no drop of blood was found on it, it is certain that [the wound was made] after the killing.[21] If the top[22] of the wound was covered with a crust, it is certain that [the wounding occurred] three days prior to the killing;[23] if the top[22] of the wound was not covered with a crust,[24] it is for the claimant to produce the proof.[25] Now if the butcher[26] had already paid the price he[27] would have to produce the required proof and so obtain the refund [of his money]; but why? Let the owner of the beast rather produce the proof and retain [the purchase money]![28] — [This is a case] where the butcher[26] has not yet paid the price.[29] But how can such an absolute assertion[30] be made?[31] — [This] however, [will dispose of the difficulty:] For when Rami b. Ezekiel came he said, ‘Pay no regard to those rules which my brother Judah laid down in the name of Samuel; for thus said Samuel: He in whose domain the doubt first arose[32] must produce the proof; and the Tanna [of our Mishnah who taught about] the bride[33] provides support for this ruling.[34]

An objection was raised: If a needle was found in the thick walls of the second stomach etc.[35] Now,[36] if the butcher[26] has not yet paid the purchase price it would be the owner of the beast[36] who would have to produce the proof and so obtain [its price] from [the butcher]; but why? [Has not] the doubt arisen [when the beast was already] in the possession of the butcher?[37] — [This is a case] where the butcher has already paid the price.[38] But how can such a categorical statement[39] be made?[40] — It is the usual practice that so long as one man does not pay the price the other does not give his beast.

THE SAGES, HOWEVER, RULED: THIS APPLIES ONLY TO CONCEALED BODILY DEFECTS. R. Nahman stated:

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(1) In the first clause; the assumption being that, in agreement with R. Eleazar (supra 75b), it represents the view of R. Joshua, and that the father must produce the proof even where the defects were discovered after marriage and the doubt did not arise until after the bride had come under the authority of her husband. (Cf. Rashi, a.l. and infra s.v. אליבא, ad fin.). Similarly in the case of the exchange of the animals the owner of the ass must produce proof though the doubt occurred after his meshikah of the cow had transferred the ass to the responsibility of the other party.

(2) The claimant.

(3) Lit., ‘brings out’.

(4) Which is the usual rule: The claimant produces the proof and receives his due.

(5) The defendant.

(6) Contrary to the usual rule (v. supra n. 4). How then could it be asserted that the latter is supported by the former?

(7) I.e., the second clause of our Mishnah provides the support; the assumption being with R. Eleazar (supra 75b), that it represents the view of R. Gamaliel and that the husband must produce the proof even where the defects were discovered prior to marriage, while the bride was still in her parental home, and her kethubah still belonged to her father. (Cf. Rashi a.l. and infra s.v. אליבא ad fin.). The support is adduced thus: If in this case where the doubt first arose while the bride was still under her father's authority (i.e., in the claimant's possession) it is the husband, who is the defendant, that must produce the proof, how much more so in the case of the exchange of the animals where the doubt arose In the house of the defendant (the owner of the ass) that the latter must produce the proof.

(8) That she had the defects prior to her betrothal.

(9) The presumption of the woman's soundness of body.

(10) That the ass was alive at the time the cow was acquired by him.

(11) The presumption that the ass that was alive prior to the acquisition of the cow was also alive during the time the cow was acquired. How then could a case in which the proof rightly serves the purpose of impairing a presumptive right be taken as support to one in which the proof is adduced to confirm a presumptive right?

(12) In the first clause of our Mishnah where the proof must be produced by the father (cf. supra p. 478, n. 1 mutatis mutandis) though it serves also the purpose of enabling him to retain the money, or object of value, that was given as the token of the betrothal of the bride. Similarly in the case of the exchange of the animals, the owner of the ass produces the proof and retains the cow.

(13) That proof is required to enable the father to retain the token of betrothal.

(14) Lit., ‘given for sinking’, i.e., that it is not returned under any conditions whatsoever (v. B.B. 145a). Since it is ‘not unreturnable', it is not in the father's full possession and he might well he expected to have to produce the proof.

(15) Lit., 'yes'.

(16) Lit., 'if not, not'.

(17) The inner side of the stomach. Owing to the thickness of its folds it is quite possible that the needle merely pricked, but did not pierce through the stomach wall.

(18) Since the wound caused by the needle was not fatal.

(19) Trefa (v. Glos.). A perforation of the stomach is a fatal wound which renders the afflicted animal unfit for human consumption even if it was ritually killed before it could die of the wound.

(20) And the beast is, therefore, unfit for human consumption (cf. supra n. 8).

(21) When it could not affect the life of the beast which, in consequence, remains fit for consumption.

(22) Lit., 'mouth'.

(23) And should a butcher buy the beast within the three days it is a bargain made in error which he may cancel and claim the refunding of his purchase money.

(24) And the vendor pleads that the wound was made after the sale when the beast was in the possession of the buyer, while the buyer insists that it was made prior to the sale when it was still in the vendor's possession.

(25) Hul. 50b.

(26) Sc. the buyer.

(27) Being the claimant.

(28) As in the case spoken of by Samuel (supra 76a), where the owner of the ass produces the proof and retains the cow. Since, however, the law here is not so, an objection arises against Samuel's ruling.

(29) So that the vendor is the claimant. Hence it is for the butcher, who is the defendant, to produce the proof and thus retain his money.

(30) That the butcher always buys on credit and that he is, therefore, always the defendant.

(31) A butcher, surely, does not always buy on credit and our Baraitha does not mention buyer at all but claimant, irrespective of whether he happens to be the buyer or the vendor.

(32) I.e., the owner of the cow, since the doubt first arose after the owner of the ass had acquired the cow and thereby transferred the responsibility for the ass to the former owner of the cow.

(33) That if the doubt concerning the first appearance of her defects arose while she was in her paternal home her father must produce the proof, and that if it arose when she was already under the authority of her husband it is the husband who must produce the proof.

(34) Samuel, according to the present explanation, would hold the same opinion as Raba who stated (supra 75b) that the first as well as the second clause of our Mishnah represents the view of one Tanna, viz. that of R. Joshua.

(35) Supra, cited from Hul. 50b.

(36) Since it has been laid down that the claimant must produce the proof.

(37) Of course it has, since the needle could not have been found before the beast had been killed. Now if Rami b. Ezekiel's report in the name of Samuel is to be regarded as authentic, the butcher should have been the party to produce the proof.

(38) And it is the butcher in fact from whom the proof is expected.

(39) That the butcher invariably buys for cash and that he is therefore always the claimant.

(40) Does not a butcher sometimes take on credit?

Talmud - Mas. Kethuboth 77a

Epilepsy[1] is regarded as [one of the] concealed bodily defects.[2] This, however, applies only to attacks which occur at regular periods,[3] but if they are irregular [epilepsy is regarded] as [one of the] exposed bodily defects.[4]

MISHNAH. A MAN IN WHOM BODILY DEFECTS HAVE ARISEN CANNOT BE COMPELLED TO DIVORCE [HIS WIFE]. R. SIMEON B. GAMALIEL SAID: THIS APPLIES ONLY TO MINOR DEFECTS, BUT IN RESPECT OF MAJOR DEFECTS[5] HE CAN BE COMPELLED TO DIVORCE HER.

GEMARA. Rab Judah recited: 'HAVE ARISEN';[6] Hiyya b. Rab recited: 'Were'.[7] He who recited 'HAVE ARISEN' [holds that the ruling applies] with even more force [where the defects] 'were',[7] since [in the latter case the woman] was aware of the facts and acquiesced. He, however, who recited 'Were' [holds that the ruling does] not [apply where the defects] 'have arisen'.[8]

We learned: R. SIMEON B. GAMALIEL SAID: THIS APPLIES ONLY TO MINOR DEFECTS BUT IN RESPECT OF MAJOR DEFECTS HE CAN BE COMPELLED TO DIVORCE HER. Now, according to him who reads, 'HAVE ARISEN[9] it is quite proper to make a distinction between major defects and minor defects.[10] According to him, however, who reads, 'were', what [it may be asked] is the difference between major defects and minor ones? Was she not in fact aware [of their existence] and acquiesced?[11] — She may have thought that she would be able to tolerate them but now she finds that she is unable to tolerate them.[12]

These,[13] R. Simeon b. Gamaliel explained, are major defects: If, for instance, his eye was blinded, his hand was cut off or his leg was broken.

It was stated: R. Abba b. Jacob said in the name of R. Johanan: The halachah is in agreement with R. Simeon b. Gamaliel. Raba said in the name of R. Nahman: The halachah is in agreement with the Sages. But could R. Johanan, however, have made such a statement?[14] Surely Rabbah b. Bar Hana stated in the name of R. Johanan: Wherever R. Simeon b. Gamaliel taught in our Mishnah, the halachah is in agreement with his ruling except [in the cases of] 'guarantor',[15] 'Zidon'[16] and the 'latter proof'![17] — There is a dispute of Amoraim as to what was R. Johanan's view.[18]

MISHNAH. THE FOLLOWING ARE COMPELLED TO DIVORCE [THEIR WIVES]: A MAN WHO IS AFFLICTED WITH BOILS, OR HAS A POLYPUS,[19] OR GATHERS [OBJECTIONABLE MATTER][20] OR IS A COPPERSMITH[20] OR A TANNER,[20] WHETHER THEY WERE [IN SUCH CONDITIONS OR POSITIONS] BEFORE THEY MARRIED OR WHETHER THEY AROSE AFTER THEY HAD MARRIED. AND CONCERNING ALL THESE R. MEIR SAID: ALTHOUGH THE MAN MADE A CONDITION WITH HER [THAT SHE ACQUIESCES IN HIS DEFECTS] SHE MAY NEVERTHELESS PLEAD, 'I THOUGHT I COULD ENDURE HIM,[21] BUT NOW I CANNOT ENDURE HIM.'[21] THE SAGES, HOWEVER, SAID: SHE MUST ENDURE [ANY SUCH PERSON] DESPITE HER WISHES, THE ONLY EXCEPTION BEING A MAN AFFLICTED WITH BOILS, BECAUSE SHE [BY HER INTERCOURSE] WILL ENERVATE HIM.

IT ONCE HAPPENED AT ZIDON THAT THERE DIED[22] A TANNER WHO HAD A BROTHER[23] WHO WAS ALSO A TANNER. THE SAGES RULED: SHE[24] MAY SAY, 'I WAS ABLE TO ENDURE[21] YOUR BROTHER BUT I CANNOT ENDURE YOU'.

GEMARA. What [is meant by one] WHO HAS A POLYPUS? — Rab Judah replied in the name of Samuel: [One who suffers from an offensive] nasal smell. In a Baraitha it was taught: [One suffering from] offensive breath.[25] R. Assi learnt in the reverse order[26] and supplied the mnemonic, ‘Samuel did not cease [studying] all our chapter [with] his mouth’.[27]

WHO GATHERS. What [is meant by one] WHO GATHERS? — Rab Judah replied: One who gathers dogs’ excrements.[28]

An objection was raised: ‘One who gathers’ means a tanner![29] — But even according to your own view,[30] would not a contra diction arise from our Mishnah [which specifies] OR GATHERS OR IS A COPPERSMITH OR A TANNER?[31] — One may well explain why our Mishnah[31] presents no contradiction[32] because the latter[33] refers to a great tanner[34] whilst the former[35] refers to a small tanner;[36] but according to Rab Judah the contradiction remains?[37] — [The definition][38] is [a matter in dispute between] Tannaim. For it was taught: ‘One who gathers’ means a ‘tanner’; and others say: It means ‘one who gathers dogs’ excrements’.[39]

OR IS A COPPERSMITH OR A TANNER. What is meant by A COPPERSMITH? — R. Ashi[40] replied: A kettle-smith.[41] Rabbah b. Bar Hana explained: One who digs copper from the mine.[42] It was taught in agreement with Rabbah b. Bar Hana: What is meant by a coppersmith? One who digs copper from the mine.[42]

Rab stated: If a husband says, ‘I will neither maintain nor support [my wife]’, he must divorce her and give her also her kethubah. R. Eleazar went and told this reported statement to Samuel [who] exclaimed, ‘Make Eleazar eat barley;[43] rather than compel him to divorce her let him be compelled to maintain her’. And Rab?[44] — No one can live with a serpent in the same basket.[45] When R. Zera went up[46] he found R. Benjamin b. Japheth sitting [at the college] and reporting this[47] in the name of R. Johanan.[48] ‘For this statement’, he said to him, ‘Eleazar was told in Babylon to eat barley’.

Rab Judah stated in the name of R. Assi:[49] We do not compel divorce except [in the case of] those who are tainted.[50] When I mentioned this in the presence of Samuel he remarked, ‘As, for instance, a widow [who was married] to a High Priest, a divorced woman or a haluzah[51] to a common priest, a bastard or a nethinah[51] to an Israelite, or the daughter of an Israelite to a nathin[51] or a bastard; but if a man married a woman and lived with her ten years and she bore no child he cannot be compelled [to divorce her]’. R. Tahlifa b. Abimi, however, stated in the name of Samuel: Even the man who married a woman and lived with her ten years and she bore no child may be compelled [to divorce her].[52]

We learned, THE FOLLOWING ARE COMPELLED TO DIVORCE [THEIR WIVES]: A MAN WHO IS AFFLICTED WITH BOILS OR HAS A POLYPUS. This[53] is quite justified according to R. Assi, since only Rabbinically forbidden cases were enumerated whilst those which are Pentateuchally forbidden were omitted.[54] According to R. Tahlifa b. Abimi[55] however, our Mishnah should also have stated: If a man married a woman and lived with her for ten years and she bore no child he may be compelled [to divorce her].[56] — R. Nahman replied: This is no difficulty. For in the latter case[57] [compulsion is exercised] by words; in the former[58] cases, by whips.[59]

R.Abba demurred: A servant will not be corrected by words![60] — The fact, however, explained R. Abba, is that in all these cases[61] [compulsion is exercised] by means of whips

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(1) נכפה, ‘one who is epileptic’. כפה in Nif. ‘to be overtaken by a demon’.

(2) Because a woman may conceal her epilepsy by remaining indoors when the attack comes on.

(3) In such a case she can avoid appearing in public when she feels the approach of the attack.

(4) V. Our Mishnah.

(5) The nature of these is explained in the Gemara.

(6) I.e., that the husband's defects spoken of in our Mishnah arose after he married the woman.

(7) Cf. supra n. 10, i.e., the man was afflicted with the defects before his marriage.

(8) Cf. supra p. 481, n. 10. In this case the woman might well plead that had she known that the man would later develop bodily defects she would never have consented to marry him.

(9) V. supra p. 481, n. 10.

(10) Since it is reasonable to expect a woman to object to the former but not to the latter.

(11) Of course she was, the defects having arisen prior to her marriage.

(12) Hence her right to claim a divorce.

(13) This paragraph appears in old edd. and Alfasi (cf. Bah a.l.) as a Mishnah.

(14) Which implies that only in this particular case is the halachah in agreement with R. Simeon b. Gamaliel.

(15) V. B.B. 174a.

(16) V. Git. 74a.

(17) V. Sanh. 31a.

(18) Rabbah b. Bar Hana maintaining that a general rule had been laid down whilst R. Abba b. Jacob disputes this.

(19) Cf. and v. Gemara infra.

(20) This is explained in the Gemara.

(21) Lit., ‘to receive’, ‘accept’.

(22) Without leaving any issue.

(23) It is the duty of the surviving brother to contract the levirate marriage with the widow (v. Deut. XXV, 5ff).

(24) The widow.

(25) Lit., ‘smell of the mouth’.

(26) Attributing to Samuel the definition given in the Baraitha and vice versa.

(27) Mouth in association with the name of Samuel suggesting that it was Samuel who interpreted POLYPUS as offensive breath from the mouth (cf. supra note 7).

(28) Used for tanning.

(29) Tosef. Keth. VII, which is contradictory to the definition given here by Rab Judah.

(30) That ‘one who gathers’ means a tanner.

(31) Which shews that ‘tanner’ and ‘one who gathers’ are two distinct occupations.

(32) Against the Baraitha which defines ‘one who gathers’ as a ‘tanner’.

(33) Lit., ‘here’, the term TANNER specifically mentioned.

(34) Who does not himself gather the excrements.

(35) ‘One WHO GATHERS’.

(36) Who must himself gather the excrements needed for his work.

(37) Cf. supra p. 483, n. 11.

(38) Of ‘one who GATHERS’.

(39) Rab Judah, in differing from the Baraitha, adopted this latter definition.

(40) Var. lec. Rab (Aruch.).

(41) חשלי, pl. of חשלא, ‘smith’; דודי, pl. of דודא (Bib. Heb. דוד), ‘pot’, ‘kettle’.

(42) Lit., ‘cuts . . . from its root’, sc. source’.

(43) Like an animal, since he, by being so credulous as to accept an absurd statement, displayed no higher intelligence.

(44) Why does he order divorce rather than maintenance?

(45) Metaph. Divorce is, therefore, preferable.

(46) From Babylon to Palestine.

(47) Rab's ruling supra.

(48) I.e., that R. Johanan also was of the same opinion as Rab.

(49) Var. lec., Rab (Asheri), R. Ashi (Alfasi).

(50) I.e., those who are disqualified to their husbands as priests or from marrying into the congregation of Israel. [Var. lec., ‘We compel in the case of tainted (women)’. A man who married a woman disqualified to him is compelled to put her away (v. Shittah Mekubbezeth). According to our text it might be suggested that Samuel's dictum is restricted to cases where the defect resides in the woman and does not exclude the cases of blemishes dealt with in our Mishnah, where the defect is in the man].

(51) V. Glos.

(52) Because propagation of the species is one of the 613 commandments.

(53) The omission from this list in our Mishnah of the tainted persons enumerated by Samuel.
(54) As these are obvious.
(55) Who, unlike R. Assi, included the man, whose wife had no child after living for ten years with him, among those who are compelled to divorce their wives.
(56) Since compulsion in this case is only a Rabbinical ordinance.
(57) Lit., 'that', the man whose wife had no child for ten years (v. supra n. 6).
(58) Those enumerated in our Mishnah.
(59) As the compulsion in the latter case is merely in the nature of persuasion it could not be included among the others.
(60) Prov. XXIX, 19. How then would a man who refuses to carry out a decision of a court of law be moved by mere persuasion?
(61) The man whose wife had no child as well as those enumerated in our Mishnah. Lit., 'that and that'.

Talmud - Mas. Kethuboth 77b

but in the former, if she said, 'I wish to be with him', she is allowed [to live with him] whilst in the latter,[1] even if she said, 'I wish to be with him', she is not allowed [to continue to live with him].[2] But behold [the case of the man who was] afflicted with boils with whom the woman is not allowed to live even if she said, 'I wish to be with him', for we learned: THE ONLY EXCEPTION BEING A MAN AFFLICTED WITH BOILS BECAUSE SHE [BY HER INTERCOURSE] WILL ENERVATE HIM, and this case was nevertheless enumerated![3] — There,[4] if she were to say. 'I will live with him under [the supervision of] witnesses',[5] she would be allowed [to remain with him] but here,[6] even if she were to say, 'I will live with him under [the supervision of] witnesses,' she would not be allowed to do so.

It was taught: R. Jose related, An old man of the inhabitants of Jerusalem told me, 'There are twenty-four [kinds of] skin disease,[7] and in respect of all these the Sages said, "Intercourse is injurious", but most of all is this the case with those afflicted with ra'athan'.[8] What is the cause of it? — As it was taught: If a man had intercourse immediately after being bled, he will have feeble[9] children; if intercourse took place after the man and the woman[10] had been bled they will have children afflicted with ra'athan. R. Papa stated: This[11] has been said only in the case where nothing was tasted [after the bleeding] but if something was tasted there can be no harm.[12]

What are the[13] symptoms? — His eyes tear, his nostrils run, spittle flows from his mouth and flies swarm about him. What is the cure?[13] — Abaye said: Pila,[14] ladanum,[15] the rind of a nut tree, the shavings of a dressed hide,[16] melilot[17] and the calyx[18] of a red date-tree. These must be boiled together and carried into a house of marble,[19] and if no marble house is available they may be carried into a house [the walls of which are of the thickness] of seven bricks and a half.[20] Three hundred cups [of the mixture] must then be poured upon his[21] head until his cranium is softened, and then his brain is cut open. Four leaves of myrtle must be brought and each foot[22] [in turn] lifted up and one [leaf] placed [beneath it].[23] It[24] is then grasped with a pair of tweezers and burned; for otherwise it would return to him.[21]

R. Johanan issued the announcement: Beware of the flies of the man afflicted with ra'athan.[25]

R. Zera never sat [with such a sufferer] in the same draught. R. Eleazar never entered his tent. R. Ammi and R. Assi never ate any of the eggs coming from the alley in which he lived. R. Joshua b. Levi, however, attached himself to these [sufferers] and studied the Torah; for he said, A lovely hind and a graceful doe,[26] if [the Torah] bestows grace upon those who study it, would it not also protect them?

When he[27] was about to die the Angel of Death was instructed, 'Go and carry out his wish'. When he came and shewed himself to him the latter said, 'Shew me my place [in Paradise]'. — 'Very well', he replied. 'Give me your knife', the other demanded, '[since, otherwise], you may frighten me on the way'. He gave it to him. On arriving there he lifted him up and shewed him [his place]. The latter jumped and dropped on the other side [of the wall].[28] He seized him by the corner of his cloak; but the other exclaimed, 'I swear that I will not go back'. Thereupon the Holy One, blessed be He, said, 'If he ever had an oath of his annulled[29] he must return;[30] but if not, he need not return'. 'Return to me my knife', he said to him; but the other would not return it to him. A bath kol[31] went forth and said to him, 'Return the thing to him, for it is required for the mortals'.[32]

Elijah[33] heralded him[34] proclaiming. 'Make room for the son of Levi, make room for the son of Levi'. As he[34] proceeded on his way he found R. Simeon b. Yohai sitting on thirteen stools[35] of gold. 'Are you', the latter asked him, 'the son of Levi?' — 'Yes', he replied. 'Has a rainbow [the latter asked again] ever appeared in your lifetime?' — 'Yes', he replied. 'If that is so [the other said] you are not the son of Levi'.[36] The fact, however, is[37] that there was no such thing [in his lifetime], but he[38] thought, 'I must take no credit for myself'.

R. Hanina b. Papa was his[39] friend, and when he was about to die the Angel of Death was commanded, 'Go and carry out any wish of his'. He went to his house and revealed himself to him. 'Allow me', the latter said to him, 'thirty days in which to revise my studies', for it was said,[40] 'Happy is he who comes here in full possession of his learning'. He left him, and after thirty days he appeared to him again. 'Shew me', the latter said to him 'my place [in Paradise]'. 'Very well', he replied. 'Give me your knife', the other said to him, [since otherwise], you may frighten me on the way'. 'Do you wish to treat me as your friend[41] has done?' he asked. 'Bring', the other replied, 'the Scroll of the Law and see if anything that is written therein has not been observed by me'. 'Have you attached yourself', he asked 'to the sufferers of ra'athan and engaged thus in the study of the Torah?'[42] Nevertheless when his soul passed to its eternal rest, a pillar of fire formed a partition between him and the world; and we have it as a tradition that such a partition by a pillar of fire is made only for a person who is unique in his generation[43] or [one] of the two [outstanding men] in his generation. R. Alexandri approached him and said, 'Do it for the honour of the Sages', but he disregarded him. 'Do it [he said] for the honour of your father's house', but he again disregarded him. 'Do it [he finally requested] for your own honour's sake' [and the pillar of fire] departed.

Abaye remarked: [The purpose of the pillar of fire was] to keep away[44] anyone who had failed to observe even a single letter[45] [of the Torah]. Said R. Adda b. Mattena to him: [This then would also] exclude the Master, since he has no battlement to his roof.[46] The fact, however, was[47] that he did have one, but the wind had thrown it down at that moment.

R. Hanina said: Why are there no sufferers from ra'athan in Babylon? — Because they eat beet[48] and drink beer containing cuscuta[49] of the hizme[50] shrub.

R. Johanan stated: Why are there no lepers in Babylon? — Because they eat beet,[48] drink beer, and bathe in the waters of the Euphrates. [

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(1) Lit., 'here'. V. supra p. 485, n. 9.

(2) V. supra p. 485, n. 3.

(3) An objection against R. Abba's explanation.

(4) In the case just cited.

(5) Sc. only to attend on him, while refraining from intercourse.

(6) The case of the man whose wife had no child for ten years after their marriage.

(7) Lit., 'stricken with boils'.

(8) Tosef. Keth. VII, ad fin. ראתן (cf. רתת 'trembling'), one of the skin diseases causing nervous trembling and extreme debility of the body (v. Jast.). Aliter: A person having an insect in his brain (cf. Rashi).

(9) Or 'nervous'. ויתיקין, rt. ותק, 'to unnerve'.

(10) Lit., ‘both of them’.
(11) The warning against intercourse after being bled.
(12) Lit., ‘we have nothing against it’.
(13) Lit., ‘his’, of the man suffering from ra'athan.
(14) A fragrant plant (v. Jast.). Aliter: polion (Rashi). Aliter: Penny royal (cf. Golds. ‘Polei’).
(15) Or ‘labdanum’, , a soft black or dark brown resinous exudation from the Cistus or rock rose.
(16) These fall off when the hide is being smoothed.
(17) Sweet scented clover.
(18) מתחלא (cf. תחלא, half-ripe date), the calyx of the date when it is in its early unripe condition.
(19) To shut out all draughts.
(20) אריחא is of the size of half a brick, the size of the brick being three handbreadths.
(21) The sufferer from ra'athan.
(22) Of the insect (cf. Rashi's interpretation, supra p. 486, n. 9).
(23) Thus preventing the insect from burying its feet in the brain when lifted out.
(24) The insect.
(25) Which are infectious.
(26) Prov. V, 19, a reference to the Torah.
(27) R. Joshua b. Levi.
(28) Of Paradise.
(29) איתשיל (rt. שאל ‘to ask’ in Ithpa'el) ‘to ask a competent authority for absolution from an oath or a vow’.
(30) His present oath can also be annulled.
(31) V. Glos.
(32) Lit., ‘creatures’
(33) Elijah, the prophet who went up by a whirlwind into heaven (II Kings II, 11).
(34) R. Joshua b. Levi.
(35) תכתקי (v. Levy and Jast.). A more acceptable rendering might be: Sitting at thirteen tables of fine gold (cf. תכא ‘a table’).
(36) I.e., the saintly man concerning whom Elijah made his proclamation. The rainbow being a token of the covenant (Gen. IX, 12) that, though the people deserved destruction, the waters shall no more become a flood to destroy all flesh (ibid. 15), should not appear in the lifetime of a saint whose merit alone is sufficient to save the world from destruction (v. Rashi).
(37) Lit., ‘and this is not (so)’.
(38) R. Joshua b. Levi.
(39) The pronoun refers to the Angel of Death (Rashi) or to R. Joshua b. Levi (according to a MS.).
(40) In the world to come (cf. B.B. 10b).
(41) Cf. p. 488, nn. 11 and 12.
(42) Sc. he was not even as pious and staunch in his faith as R. Joshua b. Levi to trust in the power of the Torah to protect him from all evil. If the latter, despite his extreme piety, did not hesitate to outwit the Angel of Death, how much more likely was he to do so.
(43) Head and shoulders above them in learning and piety.
(44) From attending on the deceased.
(45) ‘Even . . . letter’ is deleted by Rashal. [On this reading render: ‘Who has failed to observe (the Torah as he did)’, v. Rashi].
(46) Which is a contravention of Deut. XXII, 8.
(47) Lit., ‘and this is not (so)’.
(48) Aliter: Tomatoes.
(49) Instead of the usual hops.
(50) Prob. Spira Regia (Jast.); is also suggested as a probable derivation.

Talmud - Mas. Kethuboth 78a

CHAPTER VIII

MISHNAH. IF A WOMAN CAME INTO THE POSSESSION[1] OF PROPERTY BEFORE SHE WAS BETROTHED, BETH SHAMMAI AND BETH HILLEL AGREE THAT SHE MAY[2] SELL. IT OR GIVE IT AWAY AND HER ACT IS LEGALLY VALID. IF SHE CAME INTO THE POSSESSION OF THE PROPERTY AFTER SHE WAS BETROTHED, BETH SHAMMAI SAID: SHE MAY SELL IT,[2] AND BETH HILLEL SAID: SHE MAY NOT SELL IT;[2] BUT BOTH AGREE THAT IF SHE HAD SOLD IT OR GIVEN IT AWAY HER ACT IS LEGALLY VALID. R. JUDAH STATED: THE SAGES ARGUED BEFORE R. GAMALIEL, 'SINCE THE MAN[3] GAINS POSSESSION OF THE WOMAN DOES HE NOT ALSO GAIN POSSESSION OF HER PROPERTY?'[4] HE REPLIED, 'WE ARE EMBARRASSED[5] WITH REGARD TO [THE PROBLEM OF] HER NEW POSSESSIONS[6] AND DO YOU WISH TO INVOLVE US [IN THE PROBLEM OF] HER OLD ONES[7] ALSO?' IF SHE CAME INTO THE POSSESSION OF PROPERTY AFTER SHE WAS MARRIED, BOTH[8] AGREE THAT, EVEN IF SHE HAD SOLD IT OR GIVEN IT AWAY, THE HUSBAND MAY SEIZE IT FROM THE BUYERS. [IF SHE CAME INTO POSSESSION] BEFORE SHE MARRIED.[9] AND SUBSEQUENTLY MARRIED, R. GAMALIEL SAID: IF SHE[10] HAD SOLD IT OR GIVEN IT AWAY HER ACT IS LEGALLY VALID. R. HANINA B. AKABIA STATED: THEY ARGUED BEFORE R. GAMALIEL, SINCE THE MAN[11] GAINED POSSESSION OF THE WOMAN SHOULD HE NOT ALSO GAIN POSSESSION OF HER PROPERTY?' HE REPLIED, 'WE ARE EMBARRASSED WITH REGARD TO [THE PROBLEM OF] HER NEW POSSESSIONS AND DO YOU WISH TO INVOLVE US [IN THE PROBLEM OF] HER OLD ONES ALSO?[12] R. SIMEON DRAWS A DISTINCTION BETWEEN ONE KIND OF PROPERTY AND ANOTHER: PROPERTY THAT IS KNOWN[13] TO THE HUSBAND [THE WIFE] MAY NOT SELL, AND IF SHE HAS SOLD IT OR GIVEN IT AWAY HER ACT IS VOID; [PROPERTY, HOWEVER,] WHICH IS UNKNOWN TO THE HUSBAND SHE MAY NOT SELL, BUT IF SHE HAS SOLD IT OR GIVEN IT AWAY HER ACT IS LEGALLY VALID.

GEMARA. What is the essential difference between the first clause[14] in which they[15] do not differ and the succeeding clause[16] in which they differ?[17] — The school of R. Jannai replied: In the first clause it was into her possession that the property had come;[18] in the succeeding clause[16] the property came into his possession.[19] If, however, [it is maintained] that the property 'came into his possession' why is HER ACT LEGALLY VALID when SHE HAD SOLD [THE PROPERTY] OR GIVEN IT AWAY? — This then [is the explanation:] In the first clause the property has beyond all doubt come into her possession.[18] In the succeeding clause, [however, the property] might be said [to have come either] into her, or into his possession;[20] [hence,][21] she may not properly sell [the property, but] IF SHE HAD SOLD IT OR GIVEN IT AWAY HER ACT IS LEGALLY VALID.

R. JUDAH STATED: [THE SAGES] ARGUED BEFORE R. GAMALIEL. The question was raised: Does R. Judah[22] refer to the case of direct permissibility[23] or also to one of ex post facto?[24]

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(1) Lit., 'to whom there fell'.

(2) After her betrothal and before her marriage. V. infra.

(3) Through betrothal.

(4) The application of this argument is explained in the Gemara.

(5) Lit., 'ashamed'.

(6) In failing to discover a reason why a husband (as stated infra) is entitled to seize the property which his wife had sold or given away even though she obtained it after marriage.

(7) Property into the possession of which she came while she was only betrothed.

(8) Beth Shammai and Beth Hillel.

(9) [I.e either before or after she was betrothed (Rashi), v. Tosaf.].

(10) After her marriage.

(11) By marriage.

(12) Cf. supra p. 490, on. 5-7.
(13) This is explained in the Gemara.
(14) Of our Mishnah.
(15) Beth Shammai and Beth Hillel,
(16) Property obtained AFTER SHE WAS BETROTHED.
(17) In both cases surely, she sells or gives away after betrothal when her property presumably belongs to the man who betrothed her. Cf. infra note 10.
(18) Before betrothal she is the legal possessor of whatever is given to her.
(19) Because, as it is assumed at present, after betrothal the man is the legal owner of all that the woman may have.
(20) The kinyan of betrothal being regarded as that of a doubtful marriage, since it is uncertain whether marriage will follow.
(21) According to Beth Hillel.
(22) In the argument he reported in the name of the Sages to invalidate her sale.
(23) I.e.,the ruling of Beth Shammai that if she obtained property after she was betrothed she is fully entitled to sell it or to give it away.
(24) Where it is the unanimous opinion of Beth Shammai and Beth Hillel THAT IF SHE HAD SOLD IT OR GIVEN IT AWAY HER ACT IS LEGALLY VALID.

Talmud - Mas. Kethuboth 78b

Come and hear what was taught in the following. R. Judah stated: They argued before R. Gamaliel, ‘Since the one woman[1] is his wife and the other[2] is his wife, just as a sale by the former[3] is invalid so also should a sale by the latter[4] be invalid’. He replied, ‘We are in an embarrassed condition with regard to [the problem of] her new possessions and you wish to involve us [in the problem of] her old ones also?’[5] Thus[6] it may be inferred that he referred to a case of ex post facto also. This is conclusive.[7]

It was taught: R. Hanina b. Akabia said, It was not such a reply[8] that R. Gamaliel gave to the Sages,[9] but it was this that he replied, ‘[There is] no [comparison]; if you say [the ruling][10] is to apply to a married woman whose husband is entitled to her finds, to her handiwork and to the annulment of her vows, will you say it also applies to a betrothed woman whose husband is not entitled either to her finds or to her handiwork or to the annulment of her vows?’[11] ‘Master’, they said to him, ‘[this is quite feasible if] she effected a sale before she married;[12] what, [however, will be your ruling where] she was married and effected the sale[13] subsequently?’ — ‘This woman also’, he replied, ‘may sell or give away, and her act is valid’. ‘Since, however’, they argued, ‘he[14] gained possession of the woman[15] should he not also gain possession of her property?’[16] — ‘We are quite embarrassed’, he replied, ‘about [the problem of] her new possessions and you wish to involve us [in the problem of] her old ones[17] also!’ But, surely, we learned, [IF SHE CAME INTO POSSESSION] BEFORE SHE MARRIED, AND SUBSEQUENTLY MARRIED, R. GAMALIEL SAID: IF SHE HAD SOLD IT OR GAVE IT AWAY[18] HER ACT IS LEGALLY VALID![19] — R. Zebid replied, Read: She may sell or give away, and her act is valid.[20] R. Papa replied: There is no difficulty,[21] for one[22] is the view of R. Judah on R. Gamaliel's opinion[23] whilst the other[24] is the view of R. Hanina b. Akabia on R. Gamaliel's opinion.[25] Is R. Hanina b. Akabia then in agreement with Beth Shammai?[26] — It is this that he meant: Beth Shammai and Beth Hillel did not differ at all on this point.[27]

Both Rab and Samuel stated: Whether a woman came into the possession of property before she was betrothed or whether she came into possession after she was betrothed her husband may, [if she sold it] after she married, take it away from the buyers. In agreement with whose view [is this ruling], which is neither in agreement with that of R. Judah nor with that of R. Hanina b. Akabia? — They adopted the ruling of our Masters; for it was taught: Our Masters took a recount [of votes, and decided that] whether a woman came into the possession [of property] before she was betrothed or whether she came into its possession after she was betrothed, her husband may, [if she sold it] after she married, take it away from the buyers.[28]

AFTER SHE WAS MARRIED, BOTH AGREE. May it be suggested that here we are learning Of the enactment of Usha,[29] for R. Jose the son of R. Hanina stated: It was enacted at Usha that if a woman sold during the lifetime of her husband melog[30] property,[31] and died, the husband[32] may seize it from the buyers![33] — Our Mishnah [deals with the seizure] during the woman's lifetime for the purposes of usufruct [only];[34] the enactment of Usha [refers to the seizure] of the capital after her death.[35]

R. SIMEON DRAWS A DISTINCTION BETWEEN ONE KIND OF PROPERTY [etc.]. Which kind is regarded as KNOWN, and which as UNKNOWN? — R. Jose the son of R. Hanina replied: KNOWN means landed property;[36] UNKNOWN, movable property. But R. Johanan said: Both are regarded as KNOWN, but the following is classed as UNKNOWN. Whenever a woman lives in a certain place and comes into the possession of property in a country beyond the sea. So it was also taught elsewhere: The following is classed as unknown. Wherever a woman lives in a certain place and comes into the possession of property in a country beyond the sea.

A certain woman[37] wishing to deprive her [intended] husband of her estate assigned it in writing to her daughter.[38] After she married and was divorced[39]

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(1) Lit., ‘this one’, — whom he married.

(2) Whom he betrothed.

(3) Of any property that came into her possession after marriage.

(4) Of property she obtained after betrothal.

(5) Cf. supra p. 490, nn. 5-7. Tosef. Keth. VIII.

(6) Since this Baraitha speaks explicitly of a sale that had already taken place.

(7) Lit., ‘hear or infer from it.

(8) As the one contained in our Mishnah.

(9) Who compared a betrothed to a married woman.

(10) ‘EVEN IF SHE HAD SOLD IT . . . THE HUSBAND MAY SEIZE IT FROM THE BUYERS’.

(11) Only a husband and a father, acting together, may annul the vows of a betrothed woman as a na'arah (v. Glos.).

(12) While she was only betrothed.

(13) Of property that came into her possession before her marriage.

(14) By the kinyan of marriage.

(15) I.e., the right to her finds and handiwork and to the invalidation of her vows.

(16) To the usufruct of which a husband is entitled during her lifetime. If her sale is valid her husband would inevitably be deprived of his right to the usufruct.

(17) Cf. supra p. 490, nn. 5-7.

(18) I.e., a case ex post facto.

(19) From which it follows that such a sale or gift is not permitted in the first instance, a ruling which is in contradiction to that reported by R. Hanina in the name of R. Gamaliel.

(20) [On this reading the amendment is made in the text of our Mishnah; var. lec., ‘Read: if she sold it or gave it away her act is valid’, the change being made in the Baraitha, v. Tosaf. s.v. תני].

(21) V. supra n. 5.

(22) Our Mishnah (cf. supra n. 5).

(23) That even during betrothal a woman is not permitted in the first instance to sell or to give away, much less may she do so after marriage.

(24) The quoted Baraitha.

(25) That even a married woman may sell or give away property that came into her possession before she married. This view which R. Hanina did not state specifically in our Mishnah he elucidated in the Baraitha.

(26) And not with Beth Hillel who ruled that even after a betrothal a woman is not permitted in the first instance to sell or give away; much less may she do so after marriage. Would then R. Hanina deviate from the accepted halachah which is in agreement with Beth Hillel?

(27) But both agreed that the woman is fully entitled to sell or to give away.

(28) Tosef. Keth. VIII.

(29) V. supra p. 283. n. 12.

(30) V. Glos.

(31) The capital of which belongs to the woman, while its usufruct is enjoyed by the husband.

(32) Who is heir to his wife and has the status of a ‘prior purchaser’.

(33) Supra 50a, B.K. 88b, E.M. 35a, 96b. B.B. 50a, 139b. The difficulty then arises: What need was there for the enactment of Usha in view of the ruling in our Mishnah on the enactment of Usha v. Epstein. L. The Jewish Marriage Contract, pp. 110ff.

(34) After the woman's death, however, even if she predeceased her husband, the capital would, according to our Mishnah, revert to the buyer.

(35) Cf. supra n. 5. [Tosaf. s.v. לימא states that the Gemara could have also explained the need of the enactment of Usha to provide for the case where she inherited the property whilst betrothed, whereas the Mishnah refers only to property which fell to her after marriage].

(36) It is to be assumed that the husband in marrying her expected such property to come into her possession.

(37) A widow who was about to marry.

(38) Intimating at the same time in the presence of witnesses that the transfer was only temporary, and that it was her wish that the estate shall revert to her on the death of her husband or on her being divorced by him.

(39) And her daughter refusing to part with the gift.

Talmud - Mas. Kethuboth 79a

she came before R. Nahman [to claim the return of her estate]. R. Nahman tore up the deed.[1] R. Anan, thereupon, went to Mar ‘Ukba[2] and said to him, ‘See, Master, how Nahman the boor[3] tears up people's deeds’. ‘Tell me’, the other said to him, ‘how exactly the incident occurred’. ‘It occurred’, he replied,’ in such and such a manner’. ‘Do you speak’, the other exclaimed, ‘of a deed a woman intended as a means of evasion?[4] Thus said R. Hanilai b. Idi in the name of Samuel: I am an officially recognized judge,[5] and should a deed which a woman intended as a means of evasion[4] come into my hand I would tear it up.

Said Raba to R. Nahman:[6] What in fact is the reason?[7] [Obviously] because no man would neglect himself and give his property away to others. But this would apply to strangers only, whilst to a daughter one might well give![8] — Even in the case of a daughter a woman gives preference to her own person.[9] An objection was raised: If a woman desires to keep her property from her husband, how is she to proceed? She writes out[10] a deed of trust[11] to a stranger;[12] so R. Simeon b. Gamaliel.[13] But the Sages said: If he[14] wishes he may laugh at her[15] unless she wrote out for him: ‘[You shall acquire possession] from this day whenever I shall express[16] my consent’,[17] The reason then[18] is because she wrote out for him in the manner prescribed;[19] but had she not done so, the [fictitious] buyer would have acquired [would he not] possession of it?[20] — R. Zera replied: There is no difficulty. One ruling[21] refers to [a woman who has assigned to the stranger] all her property;[22] the other,[23] to [a woman who assigned to a stranger] a part of her property. But if the buyer does not[24] acquire her property[25] the husband[26] should acquire it![27] — Abaye replied: It[28] was treated as property WHICH IS UNKNOWN TO THE HUSBAND[29] in accordance with the view of R. Simeon.[30]

MISHNAH. [IF A MARRIED WOMAN] CAME INTO THE POSSESSION OF MONEY, LAND SHOULD BE BOUGHT THEREWITH AND THE HUSBAND IS ENTITLED TO THE USUFRUCT.[31] [IF SHE CAME INTO THE POSSESSION OF] PRODUCE THAT WAS DETACHED FROM THE GROUND,[32] LAND SHOULD BE BOUGHT THEREWITH AND THE HUSBAND IS ENTITLED TO THE USUFRUCT. [IF IT WAS] PRODUCE ATTACHED TO THE

GROUND, THE LAND,[33] R. MEIR RULED, IS TO BE VALUED AS TO HOW MUCH IT IS WORTH WITH THE PRODUCE[34] AND HOW MUCH WITHOUT THE PRODUCE, AND WITH THE DIFFERENCE[35] LAND SHOULD BE BOUGHT[36] AND THE HUSBAND IS ENTITLED TO ITS USUFRUCT.[37] THE SAGES, HOWEVER, RULED: ALL PRODUCE ATTACHED TO THE GROUND BELONGS TO THE HUSBAND[38] AND ONLY THAT WHICH IS DETACHED FROM IT[39] BE LONGS TO THE WIFE; [WITH THE PROCEEDS OF THE LATTER] LAND IS TO BE BOUGHT AND THE HUSBAND IS ENTITLED TO THE USUFRUCT.[40]

R. SIMEON SAID: IN RESPECT OF THAT[41] WHEREIN THE HUSBAND IS AT AN ADVANTAGE WHEN HE MARRIES HIS WIFE[42] HE IS AT A DISADVANTAGE WHEN HE DIVORCES HER[43] AND IN RESPECT OF THAT WHEREIN HE IS AT A DISADVANTAGE WHEN HE MARRIES HER HE IS AT AN ADVANTAGE WHEN HE DIVORCES HER. HOW SO? PRODUCE WHICH IS ATTACHED TO THE GROUND IS THE HUSBAND'S WHEN HE MARRIES HIS WIFE[44] AND HERS WHEN HE DIVORCES HER,[45] WHILST PRODUCE THAT IS DETACHED FROM THE GROUND IS HERS WHEN SHE MARRIES[46] BUT THE HUSBAND'S WHEN SHE IS DIVORCED.[47]

GEMARA. It is obvious[48] [that if husband and wife differ on the choice of purchase between] land and houses,[49] land [is to receive preference].[50] [If they differ on the choice between] houses and date-trees, houses [are to receive preference].[51] [If they insist respectively on] date-trees and other fruit trees, date-trees [are to receive preference].[51] [If their dispute is on] fruit trees and vines, fruit trees [are to receive preference].[51] [What, however, is the ruling if the husband desires to purchase][52] a thicket of sorb[53] or a fish pond?[54] — Some maintain that it is regarded as[55] produce;[56] and others maintain that it is regarded as[57] capital.[58] This is the general rule:[59] If the stump grows new shoots[60] it is regarded as capital,[61] but if the stump grows no new shoots it is regarded as produce.[62]

R. Zera stated in the name of R. Oshaia in the name of R. Jannai (others say, R. Abba stated in the name of R. Oshaia in the name of R. Jannai), If a man steals

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(1) Of the gift which the daughter produced.

(2) Who was Ab Beth Din (v. Glos.). [The reference is to Mar ‘Ukba II, v. Funk, Die Juden in Babylonian I, notes p. XIV.]

(3) חקלאה, lit ‘field-labourer’; ‘uncultured fellow’.

(4) מברחת (Hif. of ברח), lit., ‘one who causes to flee’ or ‘to escape’.

(5) He was appointed to that office by the Resh Galutha or Exilarch (v. Sanh. 5a). מורה הוראה, lit., ‘guide for ruling’, one who gives directions or decisions on questions of ritual and legal practice.

(6) When he tore up the deed of gift which the daughter produced.

(7) Why Samuel (upon whose ruling R. Nahman relied) did not recognize the validity of a deed that was intended as a means of evasion.

(8) On what authority then did R. Nahman tear up the deed which had been produced by the woman's daughter?

(9) And it may safely be assumed, therefore, that the gift was intended as a temporary one which was to revert to the donor as soon as the cause that impelled her to make the gift had been removed.

(10) Prior to her marriage.

(11) שטר פסים (or פסים cf. Aruch and last.), a deed of a feigned sale or gift with which one person entrusts (cf. פיסטים ‘trust’) another in order to make people believe (in the interests of one of the parties) that a proper sale or presentation had actually taken place.

(12) Lit., to another’, so MS.M. Cur. edd. ‘to others’.

(13) Who, maintaining that such a deed has no legal validity, the holder of the deed having no claim whatever upon the property specified in it, considers the fictitious transaction as a safe protection for the woman.

(14) The holder of the deed.

(15) I.e., he may retain possession of the property by virtue of the deed; and thus refuse to return it to her.

(16) At any time in the future.

(17) Tosef. Keth. IX. In this case only is the woman protected against the holder of the deed as well as against her husband. For should the latter claim the property she can evade him by expressing consent to its acquisition by the stranger; and should the stranger claim possession she can exercise her right of refusing to give her consent.
(18) Why the holder of the deed cannot claim possession of the property in the case mentioned.
(19) Lit., ‘thus’.
(20) This, then, is in contradiction to the ruling of Samuel supra.
(21) Lit., ‘that’, Samuel's view.
(22) Since no person would give away all his property to a stranger it is pretty obvious that the deed related to a fictitious transaction.
(23) The ruling of the Sages in the Baraitha cited.
(24) Where the woman's entire property had been assigned to him.
(25) In consequence of which the woman remains Its legal possessor.
(26) Who is entitled to the usufruct of his wife's possessions during her lifetime and to her capital also after her death.
(27) Why should the property be awarded to the woman?
(28) Property fictitiously transferred by a woman prior to her marriage.
(29) Since he believes the transaction to have been a genuine one, the husband does not expect ever to enjoy the use of the property in question.
(30) Our Mishnah ad fin.
(31) The land itself remaining in the possession of the woman.
(32) I.e., after being harvested.
(33) Which remains the property of the woman.
(34) Which, having grown before the land came into possession of the woman, remains her property, in the opinion of R. Meir, like the land itself.
(35) Lit., ‘remainder’, i.e., the value of the attached produce which is the property of the woman (v. supra note 7) and not of the husband who, according to R. Meir, is entitled only to such produce of his wife's land as grows after, but not before he had become entitled to the usufruct.
(36) Thus turning the proceeds of the produce into capital.
(37) The purchased land remaining the property of the wife (cf. supra note 4).
(38) Even if it grew before he had become entitled to the usufruct of the land.
(39) At the time he marries the woman, when he acquires the right to the usufruct.
(40) Cf. supra note 4.
(41) Lit., ‘in the place’.
(42) Lit., ‘at her entrance’, sc. into her married state.
(43) Lit., ‘at her going out’.
(44) If at that time they were still attached. This is in agreement with the view of the Sages supra and the point of difference between them and R. Simeon is discussed infra.
(45) A divorced woman being entitled not only to the land (which was hers all the time) but also to all produce of such land that had not been detached prior to her divorce.
(46) It is consequently turned into capital by purchasing therewith land to the usufruct of which the husband is entitled while the land itself remains in the possession of the woman.
(47) All detached fruit belonging to the husband who is entitled to the usufruct of his wife's land.
(48) When A MARRIED WOMAN CAME INTO THE POSSESSION OF MONEY which, as stated in our Mishnah, is to be invested in LAND, sc. a reliable profit yielding security.
(49) Each insisting on his or her choice.
(50) Land being a safer and better investment than houses both as regards durability (which is an advantage to the wife who remains the owner of the capital) and yield (which is an advantage to the husband who has the right of usufruct).
(51) Cf. supra n. 9 mutatis mutandis.
(52) Cf. supra n. 7. This is the interpretation of R. Tam and R. Han. (V. Tosaf. s.v. כללא) contrary to Rashi.
(53) Which can only be used for the cutting of its wood and which is valueless after the wood has been cut.
(54) That loses all its value after the fish have been removed.
(55) Lit., ‘they say concerning it’.
(56) Since no capital remains (cf. supra p. 498, nn. 12 and 13) for the woman. Hence it is her right to veto such a

purchase.

(57) Cf. supra n. 14.

(58) Because the land of the thicket and the pond respectively remain after the sorb had been cut or the fish had been removed. Against such a purchase, therefore, the woman may not exercise her veto.

(59) Laid down by the authors of the first ruling.

(60) I.e., if after the first yield had been disposed of the capital continues to yield further produce or profit.

(61) So R. Han. (v. Tosaf. a.l. s.v. כללא). Cur. edd., followed by Rashi, read produce'.

(62) V. supra n. 5. Cur. edd., followed by Rashi, read, ‘capital’. As a thicket of sorb or a fish pond produces only one yield (cf. supra p. 498. on. 12 and 13) it may not be purchased (v. supra p. 498, n. 7) if the woman objects (cf. supra n. 15).

Talmud - Mas. Kethuboth 79b

the young of a melog[1] beast he must pay double[2] its value to the woman.[3] In accordance with whose [view has this ruling[4] been laid down]? Is it in agreement with neither that of the Rabbis nor with that of Hananiah? For it was taught: The young of a melog beast belongs to the husband; the child of a melog bondwoman belongs to the wife; but Hananiah the son of Josiah's brother ruled, The child of a melog bondwoman has been given the same legal status as the young of a melog beast![5] — It may be said to agree even with the opinion of all,[6] for it is the produce alone that the Rabbis in their enactment have assigned to the husband but not the produce that accrues from this produce.[7] [The view] of Hananiah is quite logical on the assumption[8] that death[9] is not to be taken into consideration,[10] but [what principle is followed by] the Rabbis? If they do take into consideration the possibility of death,[11] even the young of a melog beast also should not [belong to the husband], and if they do not take the possibility of death into consideration,[12] then even the child of a bondwoman also [should belong to the husband]![13] — They do in fact take the possibility of death into consideration,[11] but the case of the beast is different [from that of a bondwoman] since its skin remains.[14]

R. Huna b. Hiyya stated in the name of Samuel: The halachah is in agreement with Hananiah. Said Raba in the name of R. Nahman: Although Samuel said, ‘The halachah is in agreement with Hananiah’, Hananiah admits that if the woman is divorced she may pay the price [of the bondwoman's children] and take them because [they constitute] the pride of her paternal house [which she is entitled to retain].[15]

Raba stated in the name of R. Nahman: If a woman brought to her husband[16] a goat for milking, a ewe for shearing, a hen for laying eggs, or a date-tree for producing fruit, he may go on eating [the yield of any of these][17] until the capital is consumed.

R. Nahman stated: If a woman[16] brought to her husband a cloak[18] [its use] is [to be regarded as] produce and he may continue to use it as a covering until it is worn out.[19]

In accordance with whose view [has this statement[20] been made]? — In agreement with the following Tanna,[21] for it has been taught: Salt or sand[22] is regarded as produce;[23] a sulphur quarry or an alum-mine[24] is regarded, R. Meir said, as capital,[25] but the Rabbis said, As produce.[26]

R.SIMEON SAID: IN RESPECT OF THAT WHEREIN THE HUSBAND IS AT AN ADVANTAGE. [Is not this view of] R. Simeon identical [with that of] the first Tanna?[27] — Raba replied: The difference between them is [the case of produce that was] attached at the time of the divorce.[28]

MISHNAH. IF AGED BONDMEN OR BONDWOMEN FELL TO HER[29] [AS AN INHERITANCE] THEY MUST BE SOLD, AND LAND PURCHASED WITH THE PROCEEDS, AND THE HUSBAND CAN ENJOY THE USUFRUCT THEREOF. R. SIMEON B. GAMALIEL SAID; SHE NEED NOT SELL THEM,[30] BECAUSE THEY ARE THE PRIDE OF HER PATERNAL HOUSE.[31] IF SHE CAME INTO THE POSSESSION OF OLD OLIVE-TREES OR VINES THEY MUST BE SOLD,[32] AND LAND PURCHASED WITH THE PROCEEDS, AND THE HUSBAND CAN ENJOY THE USUFRUCT THEREOF. R. JUDAH SAID: SHE NEED NOT SELL THEM, BECAUSE THEY ARE THE PRIDE OF HER PATERNAL HOUSE.[31] GEMARA. R. Kahana stated in the name of Rab: They[33] differ only where [the olive-trees or vines] fell [to the woman] in her own field,[34] but [if they were] in a field that did not belong to her[35] she must, according to the opinion of all, sell them;[36] because [otherwise] the capital[37] would be destroyed.[38] To this R. Joseph demurred: Are not BONDMEN OR BONDWOMEN[39] the same as [trees in] a field that does not belong to her[40] and there is nevertheless a dispute?[41] — The fact is, if the statement[42] has at all been made it must have been made in the following terms: R. Kahana stated in the name of Rab, They[43] differ only where [the olive-trees and vines] fell [to the woman] in a field that did not belong to her[44] but [if they were] in her own field[45] it is the opinion of all that she need not sell them because [she is entitled to retain] the pride of her paternal house.

MISHNAH. HE WHO INCURRED EXPENDITURE IN CONNECTION WITH HIS WIFE'S [MELOG][46] PROPERTY, WHETHER HE SPENT MUCH AND CONSUMED[47] LITTLE, [OR SPENT] LITTLE AND CONSUMED MUCH, WHAT HE HAS SPENT HE HAS SPENT, AND WHAT HE HAS CONSUMED HE HAS CONSUMED.[48] IF HE SPENT BUT DID NOT CONSUME HE MAY TAKE AN OATH AS TO HOW MUCH HE HAS SPENT AND RECEIVE COMPENSATION.

GEMARA. How much is considered LITTLE? — R. Assi replied: Even one dried fig; but this applies only where he ate it in a dignified manner.[49] Said

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(1) V. Glos.

(2) V. Ex. XXII, 6ff.

(3) And not to the husband. Since a beast dies, and its yield ceases, the young must replace it as capital and is consequently the property of the wife. It may not be consumed by the husband but may be sold, and a produce-yielding object purchased with the proceeds.

(4) In the statement made in the name of R. jannai.

(5) And belongs to the husband.

(6) Both with that of the Rabbis and that of Hananiah.

(7) The young is the ‘produce’ of the beast but the ‘double’ that the thief pays as restitution is the produce of that young and consequently the ‘produce of the produce’ of the beast. This belongs to the wife.

(8) Lit., ‘that is’.

(9) Either of the bondwoman or of the beast.

(10) Hence his ruling that the child of the bondwoman, as well as the young of the beast, are to be regarded as produce which belongs to the husband, the bondwoman or the beast being regarded as the ‘capital’ which remains in the possession of the wife.

(11) As implied by their ruling that ‘the child of the melog bondwoman belongs to the wife’ (cf. supra p. 499 n. 9 mutatis mutandis) and not to the husband.

(12) As their ruling that ‘the young of a melog beast belongs to the husband’ seems to imply.

(13) How then can the two rulings be reconciled?

(14) And constitutes a small capital which remains the possession of the woman so that the young is treated as ‘produce’.

(15) Cf. Yeb. 66b.

(16) On marriage.

(17) Since milk, wool, eggs and fruit are the ‘produce’ of the goat, the ewe, the hen and the tree respectively and, even when the yield ceases, the woman is still left with some capital such as the skin of the goat and the ewe, the feathers of the hen or the wood of the date-tree.

(18) As melog property.

(19) The shreds being regarded as the woman's capital.
(20) Of R. Nahman that even shreds constitute capital.
(21) Sc. the Rabbis, infra, who differ from R. Meir.
(22) Of melog property situated on the sea shore.
(23) Since the yield is continual. It may, therefore, be used up by the husband.
(24) The supplies of which gradually come to an end.
(25) The quarry or the mine must he sold, and a constantly produce-yielding object is to he acquired with the proceeds.
(26) Which may he used up by the husband. The quarry or mine constitute in their opinion the capital which remains the property of the woman. Cf. supra note 2.
(27) The Sages, cf. supra p. 498, n. 3.
(28) Of which the Sages did not speak in our Mishnah. While according to R. Simeon such produce belongs to the woman, the Sages assign it to the husband because it grew prior to the divorce when he was still entitled to usufruct. That produce detached at the time of divorce belongs to the husband, as R. Simeon stated, cannot, of course, be a matter in dispute.
(29) A married woman.
(30) Even if her husband desires it (cf. Rashi).
(31) Which she is entitled to retain.
(32) ‘As wood’ (so the separate edd. of the Mishnah).
(33) The first Tanna and R. Judah in our Mishnah.
(34) I.e., if she came into the possession of the trees together with land in which they grew.
(35) If, for instance, her father from whom she inherited them did not own the soil and was only entitled to the trees alone until they withered.
(36) In order that land or any other produce-yielding capital might be acquired with the proceeds.
(37) Which should remain the permanent possession of the woman.
(38) When the trees withered.
(39) After whose death no capital whatsoever remains.
(40) Cf. supra note 6.
(41) Though the capital is destroyed.
(42) Attributed to Rab.
(43) The first Tanna and R. Judah in our Mishnah.
(44) V. supra note 3.
(45) V. supra note 2.
(46) V. Glos.
(47) By virtue of his right to its usufruct.
(48) He has no claim for compensation upon his wife should he divorce her.
(49) V. Kid. 45b.

Talmud - Mas. Kethuboth 80a

R. Abba: At the school of Rab it was stated, Even the refuse[1] of dates.[2]

R.Bibi enquired: What [is the ruling in respect of] a mash of pressed dates?[3] — This stands undecided.[4]

What [is the ruling if] he did not eat it[5] in a dignified manner?[6] ‘Ulla replied: On this there is a difference of opinion between two Amoraim in the West.[7] One says, The value of an issar;[8] and the other says, The value of a denar.[8]

The judges of Pumbeditha[9] stated: Rab Judah gave a practical decision[10] in [a case where the husband used up some] bundles of vine-shoots,[11] Rab Judah acting here in accordance with his own principle; for Rab Judah ruled: If he[12] ate thereof [during one of the three years] only ‘uncircumcised’[13] produce,[14] [the produce of] the Sabbatical year,[15] or the produce of mingled seed,[16] this counts [towards the three years of] hazakah.[17]

R. Jacob stated in the name of R. Hisda: If a man has incurred expenses on the melog property of his wife who was a minor[18] [he is in the same legal position] as one who incurred expenses on the property of a stranger.[19] What is the reason? — The Rabbis have enacted this measure[20] in order that he should not allow her property to deteriorate.[21]

A woman once came into the possession of four hundred zuz[22] at Be-Hozae.[23] Her husband went thither, spent six hundred [on his journey] and brought with him the four hundred. While he was on his way back he required one zuz and took it out of these. When he came before R. Ammi[24] the latter ruled: What he has spent he has spent and what he used he has used.[25] Said the Rabbis to R. Ammi: Does not this[26] apply only where he consumes the produce, whilst here he used up the capital which [constituted a part of] the expenditure? — If so, he replied,[27] he is one who SPENT BUT DID NOT CONSUME, then HE MAY TAKE AN OATH AS TO HOW MUCH HE HAS SPENT AND RECEIVE HIS COMPENSATION. HE MAY TAKE AN OATH AS TO HOW MUCH HE HAS SPENT AND RECEIVE COMPENSATION. Said R. Assi: This applies only where the appreciation corresponds to the expenditure. What exactly is the object of this[28] law?[29] — Abaye replied: That if the appreciation exceeded the expenditure be receives the sum of his outlay without an oath. Said Raba to him: If so,[30] one might be induced to act cunningly![31] — [The object of the law] however, said Raba, was that if the outlay exceeded the appreciation he is only entitled to receive that amount of his outlay which corresponds to the appreciations and [even this can be obtained only] by an oath.[32]

The question was raised: What is the legal position where a husband has sent down[33] arisin[34] in his place?[35] Does [an aris] go down [into melog fields] in his reliance on the rights of the husband, [and, consequently,] when the husband forfeits his claim[36] they also[37] lose theirs, or does an aris possibly go down [into the melog fields] in his reliance on the [yield of] the land, and land, surely is usually entrusted to arisin?[38] To this Raba son of R. Hanan demurred: Wherein does this case essentially differ from that of a man who went down into a neighbour's field and planted it without the owner's authority where an assessment[39] is made and he is at a disadvantage?[40] — In that case[41] there was no other person to take the trouble;[42] but here there is the husband who should have taken the trouble.[43] What then is the decision on the matter? — R. Huna the son of R. Joshua replied: We must observe [the conditions of each case]: If the husband is an aris,[44] the arisin lose all claim to compensation wherever the husband loses his claim;[45] if the husband is not an aris [they are entitled to compensation, since] all land is usually entrusted to arisin.[46]

The question was raised: What is the ruling where a husband sold [his wife's melog] land for usufruct?[47] Do we say that whatever he possesses[48] he may transfer to others, or is it possible that the Rabbis have by their enactment granted the usufruct to the husband Only

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(1) שיגרא (rt. שגר 'to flow', 'to cast').

(2) After all the juice and sweetness has been pressed out, when they are practically valueless.

(3) V. Jast. s.v. חובצא, חובץ.

(4) Teku, v. Glos.

(5) The 'dried fig', supra.

(6) I.e., what minimum quantity must one eat in such a case to he regarded as having CONSUMED LITTLE?

(7) Palestine.

(8) V. Glos.

(9) The reference is to R. Papa b. Samuel (v. Sanh. 17b).

(10) In favour of the wife who was divorced.

(11) Of his wife's melog property, with which he fed his cattle. Though the shoots were hardly suitable for the purpose, Rab Judah regarded their consumption as sufficient reason for denying the husband all rights to compensation for his expenses.

(12) A person who occupied a field for three years.

(13) ‘Orlah (v. Glos. and cf. Lev. XIX, 23).

(14) I.e., the shoots, since the fruits of ‘Orlah are forbidden for all uses.

(15) Which is common property and the consumption of which is no proof of ownership.

(16) Kil'ayim (v. Glos. and cf. Lev. XIX, 19 and Deut. XXII, 9). Only the shoots are permitted in this case also (cf. supra n. 15).

(17) V. Glos. This shews that right of ownership may be established not only by the consumption of proper produce but also by that of mere shoots. Similarly, here, the improper feeding of one's cattle with vine-shoots is also regarded as proper consumption to exempt the woman from all responsibility for the expenses her husband had incurred on her melog property.

(18) Who might leave him at any time by exercising her right of mi'un (v. Glos.).

(19) The minor on exercising mi'un must compensate her husband for any improvements he may have effected in her property, paying him at the rate given to an aris (v. Glos.) in that country.

(20) Conferring upon the husband of a minor the rights of an aris in respect of any expenses on her melog property that he may incur.

(21) Had no provision been made for enabling him to recover his expenses he, knowing that the minor might leave him at any moment by exercising her right of mi'un, would exploit her property to the full, spending nothing on its improvement.

(22) V. Glos.

(23) A town in Khuzistan, S.W. Persia.

(24) Claiming his expenses.

(25) Cf. our Mishnah. The benefit he has derived from the one zuz (‘CONSUMED LITTLE’) deprives him of the right to recover the six hundred zuz for his expenses (‘HE SPENT MUCH’).

(26) That If HE HAS SPENT MUCH AND CONSUMED LITTLE he cannot recover his expenses.

(27) So Bah.

(28) Lit., ‘concerning what’.

(29) Of R. Assi, i.e., does he lay the emphasis on TAKE AN OATH or on RECEIVE? In other words: Is it implied that the husband must swear Only where the appreciation just corresponds with his outlay, hut is to receive his outlay without any oath where the appreciation exceeds the outlay; or is the implication that he is to receive for his outlay no more than the value of the appreciation, and where the former exceeds the latter, he is not entitled to receive the difference even though he is willing to swear?

(30) That in the circumstances mentioned one may obtain a sum of money without affirming his claim by an oath.

(31) However small the outlay, one might claim the full value of appreciation minus a fraction, and receive it for the mere asking.

(32) Confirming the amount he claims.

(33) Into his wife's melog lands.

(34) Pl. of aris (v. Glos.).

(35) Do these arisin, when the woman is divorced, receive the full value of their amelioration?

(36) Where, e.g., he consumed any part of the produce.

(37) If they consumed any of it.

(38) Had not the husband sent them, the wife would have done it herself. The arisin should consequently he entitled to the full refund of their share.

(39) Of the appreciation.

(40) B.M. 101a. He is repaid the amount he spent or is allowed the value of the appreciation whichever is the less. The two cases being essentially analogous, why was the question of the arisin at all raised?

(41) That of the man who entered his neighbour's field.

(42) Of planting the field. The man who undertook the work in the absence of other cultivators, and thus benefited the owner, is therefore, justly entitled to some compensation.

(43) And since he would not have been entitled to any compensation if he consumed anything of the produce so also, it may well he argued, should not the arisin, who stepped into his place, be entitled to any compensation. Hence the enquiry.

(44) Capable of attending to the field himself as any experienced aris.

(45) Since the wife might well plead that, if they had not interfered, her husband would himself have done the work. As they have only done what the husband would have done they cannot expect any higher privileges.

(46) Cf. supra p. 505, n. 9.

(47) Sc. that the buyer cultivated the land and enjoys its produce while the land itself remains the property of its original owner.

(48) לה of cur. edd. in brackets is wanting in Alfasi. Cf. Asheri.

Talmud - Mas. Kethuboth 80b

in order to provide for the comfort of his home but not so that he should sell it? — Judah Mar b. Meremar replied in the name of Raba: Whatever he has done is done. R. Papi[1] in the name of Raba replied: His act has no validity. Said R. Papa: The ruling reported[2] by Judah Mar b. Meremar was not explicitly stated[3] but was arrived at by inference. For a woman once brought to her husband[4] two bondwomen,[5] and the man went and married another wife and assigned to her one of them. [When the first wife] came before Raba and cried, he disregarded her. One who observed [the incident] formed the opinion [that Raba's inaction] was due to his view that whatever the husband did[6] is valid;[7] but in fact, it is not so.[8] [Usufruct has been allowed to a husband] in order to provide for the comfort of his house and here, Surely, comfort was provided.[9]

And the law is that if a husband sold [his wife's melog] field for its usufruct[10] his act has no legal validity. What is the reason? Abaye replied: Provision must be made against the possible deterioration of the land.[11] Raba explained: In order [to safeguard] the comfort of his house.[12] What is the practical difference between them?[13] — The practical difference between them is the case of land that was adjoining a town;[14] or else where the husband [himself] was [acting as] aris,[15] or else where [the husband] receives money[16] and trades therewith.[17]

MISHNAH. IF A WOMAN AWAITING THE DECISION OF THE LEVIR[18] CAME[19] INTO THE POSSESSION OF PROPERTY, BETH SHAMMAI AND BETH HILLEL AGREE THAT SHE MAY SELL IT OR GIVE IT AWAY, AND THAT HER ACT IS LEGALLY VALID.[20] IF SHE DIED, WHAT SHALL BE DONE WITH HER KETHUBAH[21] AND WITH THE PROPERTY THAT COMES IN AND GOES OUT WITH HER?[22] BETH SHAMMAI RULED: THE HEIRS OF HER HUSBAND[23] ARE TO SHARE IT[24] WITH THE HEIRS OF HER FATHER;[25] AND BETH HILLEL RULED: THE [ZON BARZEL][26] PROPERTY IS TO REMAIN WITH THOSE IN WHOSE POSSESSION IT IS,[27] THE KETHUBAH[28] IS TO REMAIN IN THE POSSESSION OF THE HEIRS OF THE HUSBAND, AND THE PROPERTY WHICH GOES IN AND COMES OUT WITH HER[29] REMAINS IN THE POSSESSION OF THE HEIRS OF HER FATHER.

IF HIS[30] BROTHER[31] LEFT MONEY, LAND SHALL BE BOUGHT THEREWITH AND HE[32] SHALL ENJOY ITS USUFRUCT.[33] [IF THE DECEASED LEFT] PRODUCE THAT WAS DETACHED FROM THE GROUND, LAND SHALL BE BOUGHT [OUT OF THE PROCEEDS] AND HE[32] SHALL ENJOY ITS USUFRUCT. [IF IT WAS STILL] ATTACHED TO THE GROUND, THE LAND[34] IS TO BE ASSESSED, SAID R. MEIR, AS TO HOW MUCH IT IS WORTH[35] TOGETHER WITH THE PRODUCE AND HOW MUCH IT IS WORTH WITHOUT THE PRODUCE, AND WITH THE DIFFERENCE LAND SHALL BE BOUGHT,[36] AND HE[37] SHALL ENJOY ITS USUFRUCT. THE SAGES, HOWEVER, RULED: PRODUCE WHICH IS [STILL] ATTACHED TO THE GROUND BELONGS TO HIM,[38] BUT THAT WHICH IS DETACHED FROM THE GROUND PASSES INTO THE OWNERSHIP OF HIM WHO SEIZES IT FIRST.[39] IF HE [SEIZED IT] FIRST HE ACQUIRES OWNERSHIP; AND IF SHE [SEIZED IT] FIRST LAND SHALL BE BOUGHT THEREWITH AND HE[37] SHALL ENJOY ITS USUFRUCT. IF [THE LEVIR] MARRIED HER SHE IS REGARDED AS HIS WIFE IN ALL RESPECTS[38] SAVE THAT HER KETHUBAH REMAINS A CHARGE ON HER FIRST HUSBAND'S ESTATE.

HE CANNOT SAY TO HER, ‘BEHOLD YOUR KETHUBAH LIES ON THE TABLE’, BUT ALL HIS PROPERTY[40] IS PLEDGED TO HER KETHUBAH.[41] SO, TOO, A MAN MAY NOT SAY TO HIS WIFE, BEHOLD YOUR KETHUBAH LIES ON THE TABLE, BUT ALL HIS PROPERTY IS PLEDGED TO HER KETHUBAH. IF HE DIVORCED HER[42] SHE IS ENTITLED ONLY TO HER KETHUBAH.[43] IF HE SUBSEQUENTLY REMARRIED HER SHE IS [TO ENJOY THE SAME RIGHTS AS] ALL OTHER WIVES, AND IS ENTITLED ONLY TO HER KETHUBAH.[38]

GEMARA. The question was raised: If a woman awaiting the decision of a levir[44] died, who is to bury her? Are her husband's heirs to bury her because they inherit her kethubah[45] or is it possibly the heirs of her father who must bury her because they inherit the property that comes in and goes out with her? — R. Amram replied, Come and hear what was taught: If a woman awaiting the decision of a levir died,

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(1) So MS.M. and Bail. Cur. odd., ‘Papa’.

(2) Lit., ‘that’.

(3) By Raba.

(4) On marriage.

(5) As melog property.

(6) Even if he sold moles property.

(7) Hence the statement of Judah Mar.

(8) A husband has no right to sell such property. It was only in that particular case that the husband acted within his rights for the reason that follows.

(9) Since the bondwoman would even now attend to general household duties.

(10) V. supra note 4.

(11) Lit., ‘we fear lest it will deteriorate’. The buyer of the usufruct, having no interest in the land itself, would exploit it to the full, neglecting its proper cultivation and use. The husband, however, who, in addition to his right to usufruct, might also, in the event of his surviving his wife, become the owner of the land itself, may well be relied upon to give it proper attention.

(12) The sale of the usufruct to a stranger would deprive the household of the enjoyment of it.

(13) Abaye and Raba. Is not the sale of the usufruct equally forbidden whatever the reason?

(14) Where it is possible to watch the treatment meted out to the land by the buyer and to take in good time the necessary steps for its protection. In such a ease Raba's reason is applicable; Abaye's is not. According to the latter the husband would he entitled to sell the usufruct.

(15) He himself was looking after the land, delivering to the buyer the harvested produce. In this case also Raba's reason is applicable, but not Abaye's (cf. supra note 4).

(16) From the buyer.

(17) In this case Abaye's reason applies: but not Raba's, since the income from the trading provides for the comfort of the house. According to Raba the sale of usufruct in such a case is permitted.

(18) שומרת יבם the widow of a deceased brother during the period intervening between the death of her husband and her halizah or marriage with the levir.

(19) During this waiting period (Rashi. Cf., however, Rashi on the parallel Mishnah s.v. שנפלו Yeb. 38a).

(20) As melog property (v. Glos.) she has the right to dispose of it in the way she thinks fit.

(21) V. Glos. Here it denotes the sum corresponding in value to the wife's dowry which is conveyed under terms of tenancy to the husband, who enters it in the marriage contract and accepts full responsibility: v. Glos. s.v. zon barzel.

(22) I.e., her melog property, the capital of which remains in the legal possession of the wife, the husband, who enjoys Only the usufruct, accepting no responsibility for it.

(23) Who is heir to his wife. ‘Husband’ in this context _ levir.

(24) I.e., the melog property, not the kethubah concerning which Beth Shammai are of the same opinion as Beth Hillel that follows. The discrepancy between the first clause in the Mishnah, where the melog property is declared definitely hers, whereas in this second clause it is considered doubtfully so, is explained in Yeb. 38a.

(25) Since it is a matter of doubt whether the marital bond with the levir constitutes such a close relationship as that of actual marriage, the right of heirship as between her husband's heirs and her father's cannot he definitely determined. The property must, therefore, he equally divided between them.

(26) V. Glos.

(27) The question whether these are the heirs of the husband who had undertaken responsibility for the property, or the heirs of the wife whose capital it was originally, is dealt with 10 B.B. 158b.

(28) Here (unlike supra p. 507, n. 11) it has its usual connotation; (a) the statutory sum of a hundred zuz for a widow and two hundred zuz for a virgin which is entered in all marriage contracts irrespective of any property that the wife may bring with her on marriage and (b) the amount which the husband adds to it over and above the value of the property which she brought to him.

(29) V. supra note 1,

(30) The levir's (v. supra p. 507, n. 11).

(31) The deceased (v. l.c.).

(32) The levir, if he contracted the levirate marriage with the widow.

(33) The capital being pledged to the woman for her kethubah which remains a charge upon the estate of her first husband, the deceased. According to this opinion even movable possessions, such as money. are also pledged for the kethubah.

(34) Read אותה with Bah a.l. Cur. edd. אותן refers to פירות and conveys no sense.

(35) היא יפה (so Bah). Cur. edd. הן יפין (cf. previous note).

(36) R. Meir holding the view that whatever the land yielded while it was in the possession of the deceased (i.e.. during his lifetime) is mortgaged for the wife's kethubah.

(37) The levir, if he contracted the levirate marriage with the widow.

(38) This is discussed in the Gemara infra.

(39) כל הקודם זכה lit., ‘whoever is first gains possession’. The same ruling applies also to money, since movables, in the opinion of the Sages, are not pledged for the kethubah unless the wife had seized them (cf. Infra 84b).

(40) Which he inherited from his deceased brother.

(41) I.e., he cannot pay her out her kethubah and sell the rest, hut must hold the whole of the deceased brother's estate as mortgaged to her kethubah; v. infra p. 512, n. 21.

(42) After he had duly consummated the levirate marriage.

(43) And he is at liberty to dispose of the rest of the property (v. supra n. 6) as he may desire.

(44) Cf. supra p. 507, n. 8.

(45) Which should compensate for burial expenses (cf. supra 47b).

Talmud - Mas. Kethuboth 81a

it is the duty of her heirs, even those who inherit her kethubah, to bury her. Said Abaye, We also have learned a [similar Mishnah]: A widow is to be maintained out of the estate of [her deceased husband's] orphans, and her handiwork belongs to them. It is not their duty, however, to bury her; it is the duty of her heirs, even those who inherit her kethubah, to bury her.[1] Now, what widow is it that has two kinds of heirs?[2] Obviously[3] she who is awaiting the decision of a levir.[4]

Said Raba: But could[5] he not plead, ‘I am only heir to my brother; it is not my duty to bury his wife’![6] — Abaye replied: [Such a plea would be untenable] because he is approached by two alternative demands:[7] If he is heir to his brother he should bury his wife;[8] if he does not bury his wife he should return her kethubah.[9] [Raba] retorted, it is this that I mean: [Might he not plead], ‘I am only heir to my brother; it is not my duty to bury his wife; and if [I am expected to bury her] on account of the kethubah[10] [I may point out that] a kethubah is not payable during [the husband's] lifetime’?[11] — Who is it that was heard to admit the kethubah as a text for legal exposition?[12] Beth Shammai, of course.[13] But Beth Shammai have also been heard to lay down the rule that a note of indebtedness which is due for payment is regarded as repaid.[14] For we have learned: If their husbands[15] died before they drank,[16] Beth Shammai rule that they are to receive their kethubah and that they need not drink,[16] and Beth Hillel rule that they either drinks or they do not receive their kethubah.[17] [Now how could it be said,] ‘They either drink’, when the All-Merciful said, Then shall the man bring his wife to the priest,[18] and he is not there? [The meaning must] consequently be: As they do not drink[19] they are not to receive their kethubah. Again 'Beth Shammai rule that they are to receive their kethubah and that they need not drink', but why [should they receive their kethubah]? Is not their claim of a doubtful nature,[20] it being uncertain whether she had committed adultery or not;[21] then how could an uncertainty[22] override a certainty?[23] Beth Shammai [must consequently] hold the view that 'a note of indebtedness that is due for payment is regarded as repaid'.[24] But is it not required [that the proviso], 'When thou wilt be married to another man thou wilt receive what is prescribed for thee' [be complied with], which is not the case here?[25] — R. Ashi replied: A levir is also regarded as 'another man'.[26]

Raba addressed [the following message] to Abaye[27] through R.Shemaya b. Zera: Is a kethubah[28] indeed payable during [the levir's] lifetime? Has it not, in fact, been taught: R. Abba[29] stated, 'I asked Symmachus, "How is a man[30] who desires to sell his brother s property to proceed" [and he replied,] "If he is a priest,[31] he should prepare a banquet[32] and use persuasive means;[33] if he is an Israelite[34] he may divorce her and then marry her again".'[35]

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(1) Supra 43a, infra 95b.

(2) The expression 'her heirs, even those who inherit her kethubah' implies that there exists also another class of heirs who do not inherit her kethubah.

(3) Lit., 'be saying'.

(4) [The last clause is to be taken independently of the first, which cannot refer to such a widow since it speaks of orphans, v. Tosaf.].

(5) The levir who, in fact, inherits only the statutory kethubah and the additional jointure, which are the property of his brother, and not the zon barzel, the original property of the woman. Cf. however, Tosaf. s.v. ולימא a.l.

(6) It was only his brother's duty to bury his wife in return for her kethubah which he inherits (cf. supra 47b) but not his duty, since he does not inherit from the widow but from his brother.

(7) Lit 'they come to him from two sides'.

(8) As his brother would have done had he survived her.

(9) To her heirs. Which is conceded to a husband in return for his wife's burial expenses.

(10) Cf. note 10.

(11) And he, representing her husband, since it was his intention to consummate levirate marriage, is still alive.

(12) The exposition being: Since the kethubah contains the proviso, 'When thou wilt be married to another man, thou wilt receive what is prescribed for thee', it may be inferred that, except in the case of divorce, the kethubah is not payable during the lifetime of the husband, when his wife cannot 'be married to another man.

(13) V. Yeb. 117a.

(14) Yeb. 38b, Sol. 25a. The amount of the debt is deemed to he in the virtual possession of the creditor. So, too, with the amount of the kethubah which is deemed to he in the virtual possession of the widow. The levir is consequently inheriting it not from his brother but from the widow, in return for which he must incur the obligation of burying her.

(15) Of women suspected of illicit intercourse with strangers after they had been warned by their husbands.

(16) The water of bitterness. (V. Num. V, 24).

(17) Yeb. 38b. Sol. 24a.

(18) Num. V, 15, emphasis on man.

(19) The water of bitterness (v. Num. V, 24.)

(20) Of course it is.

(21) In the former case she loses her right to her kethubah; in the latter case she does not.

(22) That of her claim (v. supra n. 10).

(23) It is certain that the husband's heirs are the rightful owners of his estate.

(24) So that the woman (and not the heirs) being regarded as the virtual possessor of the amount of her kethubah, no certainty is here overridden by an uncertainty.

(25) Since one awaiting the decision of a levir is not permitted to marry any stranger. How, then, could it he said supra that the kethubah is collected in the levir's lifetime?

(26) At the moment her husband's death had set her free to marry the levir the proviso of her kethubah was fulfilled, and her kethubah is payable.

(27) Who maintained supra that the kethubah is payable even during the lifetime of the levir.

(28) Of a woman awaiting the decision of the levir.

(29) I.e., R. Abba Arika or Rab.

(30) A levir who married his deceased brother's widow for whose kethubah (v. our Mishnah) all the property he inherited from his deceased brother is mortgaged.

(31) Who is forbidden to marry a divorced woman (v. Lev. XXI, 7).

(32) For his wife, his former sister-in-law.

(33) To secure her consent to sell so much of the property (v. supra note 6) as is in excess of the amount of her kethubah. If her consent cannot he obtained and he wishes to live with her he has no redress. He cannot divorce and remarry her as an Israelite may (v. infra) since his priesthood (v. supra note 7) would preclude him from marrying a woman he has once divorced.

(34) Who may marry a divorced woman.

(35) Adopting this course, he may either (a) pay her the amount of her kethubah as soon as she is divorced and, after selling all the property which is in excess of it, marry her again (on the condition of the first kethubah, v. infra 80b) or (b) he may remarry her before paying to her the amount of her kethubah and on remarriage give her a new one which, as all ordinary kethuboth, is secured not only on his present possessions but also on his future acquisitions. It is only a levir whose future acquisitions are not pledged for the kethubah of his deceased brother's widow (whom he marries and whose only security is the property left by her deceased husband) that is forbidden to sell the property he has inherited from that brother. Any other husband, including a levir who remarried his sister-in-law after he consummated levirate marriage and after he divorced her, since such a kethubah is secured by present possession and future acquisition, may well sell all his property even without his wife's consent.

Talmud - Mas. Kethuboth 81b

Now if it could be assumed that a kethubah is payable during the lifetime [of the levir] why should he not set aside exclusively for her some property equal in value to the amount of the kethubah, and then sell the rest?[1] ‘But according to your argument[2] [it might be asked] why should not the same objection[3] be raised from our Mishnah [where it was stated,] HE CANNOT SAY TO HER, "BEHOLD YOUR KETHUBAH LIES ON THE TABLE", BUT ALL HIS PROPERTY IS PLEDGED FOR HER KETHUBAH?’ — ‘There[4] we might merely have been given a piece of good advice;[5] for, were you not to admit this, [how would you] read the final clause where it is stated, So, TOO, A MAN MUST NOT SAY TO HIS WIFE, "BEHOLD YOUR KETHUBAH LIES ON THE TABLE", BUT ALL HIS PROPERTY IS PLEDGED FOR HER KETHUBAH, would he here also [it may be asked] not be able to sell if he wished to do so?[6] Consequently [it must be agreed that] he was there merely giving a piece of good advice;[7] and similarly here also we might merely be given a piece of good advice;[5] the statement of R. Abba, however, does present an objection!’[8] — ‘R. Abba's statement also does not give rise to any objection [because the restrictions on the man's liberty to sell] are due to [the desire of avoiding] hatred.’[9] A sister-in-law once fell to the lot of a man[10] at Pumheditha, and his [younger] brother wanted to cause her to be forbidden to marry him[11] by [forcing upon her] a letter of divorce.[12] ‘What is it’, [the eldest brother] said to him, ‘that you have in your mind? [Are you troubled] because of the property[13] [that I all, to inherit]?[14] I will share the property with you’. R. Joseph [in considering this case] said: Since the Rabbis have laid down that he[15] may not sell,[16] his sale is invalid even if he had already sold it.[17] For it was taught:[18] If a man died[19] and left a widow who was awaiting the decision of a levir[20] and also left a bequest of property of the value of a hundred maneh,[21] [the levir] must not sell the property although the widow's kethubah amounts only to one maneh, because all his property is pledged to her kethubah.[22] Said Abaye to him:[23] Is it so that wherever the Rabbis ruled that one must not sell, the sale is invalid, even after it had taken place? Did we not, in fact, learn: Beth Shammai said, She[24] may sell it, and Beth Hillel said, She may not sell it; but both agree that if she had sold it or given it away her act is legally valid?[25] The case was sent to R. Hanina b. Papi who sent [the same reply] as that of R. Joseph. On this Abaye remarked: Has R. Hanina b. Papi, forsooth, hung jewels[26] upon it?[27] It was then sent to R. Minyomi the son of R. Nihumai who sent [the same reply] as Abaye[28] [and added:][29] ‘Should R. Joseph give a new reason report it to me. R. Joseph thereupon went out, investigated, and discovered that it was taught: If a man who had a monetary claim against his brother died,[30] and left a widow who had to await the decision of a levir, [the latter][31] is not entitled to plead, ‘Since I am the heir I have acquired [the amount of the debt]’, but it must be taken from the levir and spent on the purchase of land and he is only entitled to its usufruct.[32] But ‘is it not possible’, said Abaye to him, ‘that provision was made in his own interests?’[33] — ‘The Tanna stated’, the other replied, ‘that it must be "taken" from him,[34] and you say that "provision was made in his own interests"’! The case was again sent to R. Minyomi the son of R. Nihumai who said to then,: Thus said R. Joseph b. Minyomi in the name of R. Nahman, ‘This[35] is not an authentic teaching’.[36] What is the reason?[37] If it be Suggested, ‘Because money is a movable thing and movables are not pledged to a kethubah’,[38] is it not possible [it might be retorted] that the statement represents the view of R. Meir who holds that movables are pledged to a kethubah?[39] [Should it be suggested,] however,[40] ‘Because he[41] could say to her: You are not the party I have to deal with’,[42]

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(1) What need then was there for persuasion or divorce and remarriage?

(2) ‘Since you can see no reason against the sale of the property in excess of the kethubah except that a kethubah is not payable during the levir's lifetime’.

(3) Against Abaye, supra.

(4) In our Mishnah.

(5) In the interests of the woman; but not a legal ruling. Hence no objection can arise from it.

(6) Of course he could sell, since his future acquisitions are also pledged for the kethubah (cf. supra p. 512, n. 11).

(7) Cf. supra n. 6.

(8) As shewn supra.

(9) Between husband and wife. Were he allowed to set aside a particular part of his property as surety for her kethubah she might misinterpret his action to be a preliminary to a permanent divorce. By adopting the measures described supra he makes it clear to all that the only motive for his action was his desire to sell the property.

(10) The woman's husband died without issue and the duty of marrying her or submitting to her halizah fell upon that man who was the eldest surviving brother of the deceased.

(11) His eldest brother.

(12) A divorce by one of the surviving brothers causes the widow to be forbidden to all the brothers (v. Yeb. 50a).

(13) Of the deceased.

(14) The brother who marries the widow inherits also the estate of the deceased (v. Yeb. 40a).

(15) A levir for whose marriage (or halizah) a sister-in-law is waiting.

(16) The estate of his deceased brother, which he inherits.

(17) Similarly, here, the share promised to the younger brother under a legal kinyan is deemed to be a sale which is invalid.

(18) Cf. infra n. 10.

(19) Without issue.

(20) Cf. supra p. 507, n. 8.

(21) V. Glos.

(22) Which proves that the levir who is responsible far his sister-in-law's kethubah may not sell any of his deceased brother's property which he inherits.

(23) R. Joseph.

(24) A wife who came into the possession of property.

(25) Supra 78a; which proves that a sale ex post facto is valid even though it was not originally permitted.

(26) כיפי (כיף, כיפא ‘stone’) ‘precious stones’.

(27) He has not. His ruling is no more supported by proof or reason than that of R. Joseph, and may he equally disregarded.

(28) That the sale is valid.

(29) Cf. MS.M. which inserts, ‘and he (also) sent (word) to them’.

(30) Without issue.

(31) I.e., the debtor who, as brother of the deceased, marries his widow and also inherits his estate (v. supra p. 514, n. 4).
(32) The debt in this case is similar to a sale ex post facto, and nevertheless it is invalid; which proves the correctness of R. Joseph's ruling.
(33) Lit., 'that which was good for him they did for him'; it is more advantageous for a person when his money is invested than when it is spent.
(34) Implying forcible action against his will.
(35) The Baraitha discovered by R. Joseph.
(36) It is spurious and not to be relied upon.
(37) V. previous note.
(38) And a statement that regards them as pledged to a kethubah must consequently be spurious.
(39) Cf. Yeb. 99a, Kid. 68b.
(40) As a reason why the statement under discussion must be considered spurious.
(41) The levir.
(42) He is the debtor of the deceased but not hers. Cf. supra n.8 mutatis mutandis.

Talmud - Mas. Kethuboth 82a

is it not possible [it might be retorted] that the statement represents the view of R. Nathan, since it was taught: R. Nathan stated, 'Whence is it deduced that if a man claims a maneh[1] from another, and this one [claims a similar sum] from a third, the sum is to be collected from the last [named] and handed over to the first? From Scripture, which stated,[2] And give unto him against whom he hath trespassed'?[3] [This], however, [is the reason:][4] We find nowhere a Tanna who imposes two restrictions[5] in the matter of a kethuboth;[6] we only find agreement either with R. Meir or with R. Nathan.[7] Raba remarked: If so, I can well understand[8] what Abaye meant when I heard him say, 'This is not an authentic teaching' and [at the time] I did not understand what [his reason] was.

A sister-in-law at Matha Mehasia[9] once fell to the lot of a man[10] whose [younger] brother wanted to cause her to be forbidden to marry him[11] by [forcing upon her] a letter of divorce.[12] 'What is it', [the eldest brother] said to him, 'that you have in your mind? If it is on account of the property[13] [that you are troubled][14] will share the estate with you'. 'I am afraid', the other replied, 'that you will treat me as the Pumbedithan rogue [has treated his brother]'.[15] 'If you wish', the first said to him, 'take your half at once'.[16] Said Mar son of R. Ashi: Although when R. Dimi came[17] he stated in the name of R. Johanan, If a man said to another, 'Go and pull[18] this cow, but it shall pass into your legal possession only after thirty days', he legally acquires it after thirty days,[19] even if it stands at the time in the meadow,[20] [in this case the younger brother cannot acquire possession of the promised share]; for there[21] it was in his power [to transfer possession at once][22] but here[23] it is not in his power [to transfer immediate possession]. But, surely, when Rabin came[24] be stated in the name of R. Johanan[25] that 'he does not acquire possession'![26] — This is no difficulty: One[27] refers to a case where the seller said, 'Acquire possession[28] from now';[29] the other, where he did not say, 'Acquire from now'.

'Ulla was asked: What is the ruling where levirate marriage was consummated first and the division of the property[30] took place afterwards?[31] — The act[32] is null and void[33] [he replied]. What is the ruling [he was asked] if the division[30] took place first and the levirate marriage afterwards?[31] -The act[32] [he replied] is null and void.[33] R. Shesheth demurred: Now [that it has been said that where] levirate marriage took place first and the division[30] afterwards the act[32] is null and void, was it at all necessary [to ask the question where] the division took place first and the levirate marriage afterwards?[34] — [The respective enquiries related to] two independent incidents that occurred [at different times].[35]

When Rabin came[24] he stated in the name of Resh Lakish: Whether levirate marriage was consummated first and the division took place afterwards, or whether the division took place first and the levirate marriage afterwards, the act is null and void. And [in fact] the law is that the act is null and void.

THE SAGES, HOWEVER, RULED: WHAT IS STILL ATTACHED TO THE GROUND BELONGS TO HIM. But why? Is not all his[36] landed estate[37] a pledge and a guarantee for her kethubah? — Resh Lakish replied: Read, 'Belongs to her'.[38]

IF [THE LEVlr] MARRIED HER SHE IS REGARDED AS HIS WIFE. In what respect? — R. Jose the son of R. Hanina replied: By this is meant that her separation from him is effected by a letter of divorce[39] and that he may marry her again.[40] [You say,] 'Her separation from him is effected By a letter of divorce'; [but] is not this obvious? — It might have been assumed that since the All-Merciful said, And perform the duty of a husband's brother unto her,[41] she[42] is still subject to the original levirate obligations[43] and a letter of divorce should not be enough unless [the separation had been effected] by halizah, hence we were taught [that only a letter of divorce is required].

[You say,] 'He may marry her again'; [but] is not this obvious?

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(1) V. Glos.

(2) Num. V, 7.

(3) Emphasis on the last five words which refer to the first, who is the person against whom the trespass had been committed, and not to the second who is merely an intermediary who, even if the debt had been repaid to him, would also have had to transfer it to the first. Similarly in the statement under discussion the debt which the deceased claims from the levir might well be regarded as a debt due to the widow who has a claim upon the deceased.

(4) Cf. supra p. 515, n. 10.

(5) That of R. Meir as well as that of R. Nathan.

(6) Which is only a Rabbinical institution.

(7) But not with both. Since the statement under discussion does impose both restrictions it must be considered spurious.

(8) Lit., 'that is'.

(9) A suburb of Sura. It was an important seat of learning in the days of Rab, and attained even greater fame in the first two decades of the fifth century under the guidance of R. Ashi.

(10) Cf. supra p. 523, n. 10.

(11) Cf. loc. cit. n. 11.

(12) Cf. supra p. 513, n. 12.

(13) Cf. p. 514, n. 1.

(14) Cf. loc. cit. n. 2.

(15) He did not keep the promise he made (supra Rib). Pumbeditha was notorious for its sharpers (cf. B.E. 46a, Hul. 127a).

(16) Though legal acquisition could not be effected until the consummation of the levirate marriage.

(17) From Palestine to Babylon.

(18) Pulling, meshikah (v. Glos.) is one of the forms of kinyan.

(19) From the moment he pulled it.

(20) Sc., not in the possession of the buyer.

(21) In the case of the cow,

(22) Hence he may legally transfer possession even after thirty days.

(23) In the case of the share of the younger brother. The elder brother cannot possibly convey possession of the deceased brother's estate before performing the levirate marriage, when it then passes into his possession. Hence also the invalidity of the kinyan.

(24) From Palestine to Babylon.

(25) In the case of the deferred acquisition of a cow, just cited.

(26) Which presents a contradiction between the two rulings attributed to R. Johanan.

(27) The first cited ruling.

(28) After the thirty days.

(29) I.e., retrospective possession which is valid.
(30) Between the levir who married the widow and any other of the brothers.
(31) Is the brother entitled to retain the property the levir has allotted to him?
(32) Sc. the division by which the levir deprives the widow whom he married of a security for her kethubah.
(33) And the property remains in the possession of the levir, the kethubah of the widow being secured on it.
(34) If the division is invalid in the first case, where the kinyan might be immediate, how much more so in the second case where the kinyan can only be retrospective.
(35) The second enquiry was addressed by those who did not hear of the first mentioned ruling.
(36) The deceased.
(37) Including whatever is attached to it.
(38) The Sages' dispute being limited to detached produce and money which, they maintain, as movables are not pledged to a kethubah.
(39) Not by halizah (v. Glos.) by which the bond between a levir and his sister-in-law is severed where no levirate marriage is consummated.
(40) Though prior to the levirate marriage a divorced sister-in-law is forbidden to marry any of the brothers.
(41) Deut. XXV, 5.
(42) Since the expression of levirate marriage (duty of a husband's brother) is specifically mentioned in addition to the expression of marriage (And take her to him to wife, ibid.).
(43) Even after the consummation of the levirate marriage.

Talmud - Mas. Kethuboth 82b

— It might have been assumed that since he has already performed the commandment that the All-Merciful has imposed upon him she shall again resume towards him the prohibition of [marrying] a brother's wife,[1] hence we were informed [that he may remarry her]. But might it not be suggested that the law is so[2] indeed?[3] — Scripture stated, And take her to him to wife,[4] as soon as he has taken her she becomes his wife [in all respects].

SAVE THAT HER KETHUBAH REMAINS A CHARGE ON HER FIRST HUSBAND'S ESTATE. What is the reason?[5] — A wife has been given[6] to him from heaven.[7] If, however, she is unable to obtain her kethubah from her first husband [provision was made by the Rabbis that] she receives it from the second[8] in order that It may not be easy for bin, to divorce her.[9]

HE CANNOT SAY TO HER, BEHOLD YOUR KETHUBAH [etc.]'. What [need was there for stating] SO,TOO?[10] — It might have been suggested [that the restriction mentioned applies only] in the former case[11] because the levir does not insert [in her kethubah the clause] 'That which I possess and that which I will acquire',[12] but that in the latter case, where he does insert [the pledge clause,] 'That which I possess and that which I will acquire',[13] she relies upon this guarantee,[14] hence we were told [that the ruling applies in both cases].

IF HE DIVORCED HER SHE IS ENTITLED ONLY TO HER KETHUBAH. Only[15] IF HE DIVORCED HER [may he sell the property],[16] but if he did not divorce her he may not. Thus we were informed in agreement with the ruling of R. Abba.[17]

IF HE SUBSEQUENTLY REMARRIED HER SHE IS [TO ENJOY THE SAME RIGHTS AS] ALL OTHER WIVES, AND IS ENTITLED ONLY TO HER KETHUBAH. IF HE SUBSEQUENTLY REMARRIED HER'! What does he thereby[18] teach us? Have we not learned: If a man divorced his wife and then remarried her, his second marriage is contracted on the terms of her first kethubah?[19] — It might have been assumed that the law applied only to his wife since it was he himself who wrote the kethubah; in the case of his sister-in-law, however, since it was not he[20] who wrote the kethubah for her, it might well have been assumed that where he divorced, and then remarried her the kethubah must come from himself, hence we were taught [that in this case also she is entitled only to the first kethubah].

Rab Judah stated: At first they used to give merely a written undertaking[21] in respect of [the kethubah of] a virgin for two hundred zuz[22] and in respect of that of a widow for a maneh,[22] and consequently[23] they grew old and could not take any wives, when Simeon b. Shetah took the initiative[24] and ordained that all the property of a husband is pledged for the kethubah of his wife. So it was also taught elsewhere: At first they used to give merely a written undertaking[25] in respect of [the kethubah of] a virgin for two hundred zuz[22] and in respect of that of a widow for a maneh,[22] and consequently[23] they grew old and could not take any wives. It was then ordained that the amount of the kethubah[26] was to be deposited in the wife's father's house. At any time, however, when the husband was angry with her he used to tell her, ‘Go to your kethubah’.[27] It was ordained, therefore, that the amount of the kethubah[26] was to be deposited in the house of her father-in-law.[28] Wealthy women[29] converted it into silver, or gold baskets, while poor women converted it into brass[30] tubs. Still, whenever the husband had occasion to be angry with his wife he would say to her, ‘Take your kethubah and go’.[31] It was then that[32] Simeon b. Shetah ordained that the husband must insert the pledging clause, ‘All my property is mortgaged to your kethubah’.[33] [

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(1) Lev. XVIII, 16.

(2) That halizah is required and that he may not remarry her.

(3) Lit., ‘thus also’.

(4) Deut. XXV, 5; where only the latter part of the verse, And perform the duty of a husband's brother unto her, would have been sufficient.

(5) I.e., why should not the levir, her present husband, assume responsibility for her kethubah.

(6) Lit., ‘they caused him to acquire’.

(7) She was not chosen by him but was imposed upon him by the Divine law of the levirate marriage. He cannot, therefore, be expected to undertake any monetary obligations in respect of her kethubah.

(8) The levir who married her.

(9) Lit., ‘that it may not be easy in his eyes to cause her to go out’.

(10) In the case of a wife. Is it not obvious that a husband's obligation towards a wife he himself has chosen cannot possibly be less than those he incurs in respect of a sister-in-law he married only in obedience to a commandment?

(11) The marriage of a sister-inlaw.

(12) ‘Shall be pledged to the kethubah’. So that the woman, having her security limited to the levir's possessions that were inherited from her deceased husband, would naturally suspect that by ‘putting her kethubah on the table’ the levir intends to escape his full responsibility and desires to deprive her of the possibility of collecting her kethubah when the occasion arises. This, as might well be expected, would create animosity between husband and wife (cf. supra p. 513, n. 9).

(13) So that the kethubah is well secured.

(14) And no animosity would ensue despite his ‘putting of the kethubah on the table’.

(15) Lit., ‘yes’.

(16) Which he inherited from the deceased and which is in excess of the amount of the kethubah.

(17) Supra 81a, that unless the woman can be persuaded to consent to the sale of the property it may be sold only after she had been divorced.

(18) By specifying the law in the case of a sister-in-law whom the levir had married.

(19) I.e., she cannot claim a second kethubah, infra 89b; And this law one would expect to apply also to a sister-in-law. What need then was there to specify it in the case of the latter. (V. Supra n. 1)?

(20) But her first husband.

(21) Lit., ‘they would write’. No clause pledging the husband's landed property being inserted in the kethubah.

(22) V. Glos.

(23) Women refusing to marry under such precarious conditions, (v. supra note 4).

(24) Lit., ‘until he came’.

(25) V. supra note 4.

(26) Lit., ‘it’.

(27) I.e., he could easily get rid of her since the amount of her kethubah was at hand and there was no need for him to make any efforts to find the money.

(28) Sc. husband.

(29) The amount of whose kethubah was high. In addition to the statutory sum the kethubah also contains additional obligations on the part of the husband corresponding to the amount the wife brought to him on marriage.

(30) So Tosaf. s.v. עביט. Cur. edd. ‘urine’.

(31) Cf. supra p. 520, n. 10.

(32) V. l.c. n. 7.

(33) So MS.M. Cur. edd., ‘to her kethubah’. [For a full discussion of this passage v. Epstein, L., op. cit. pp. 19ff.]

Talmud - Mas. Kethuboth 83a

CHAPTER IX

MISHNAH. IF A HUSBAND GIVES TO HIS WIFE A WRITTEN UNDERTAKING, ‘I HAVE NO CLAIM WHATSOEVER[1] UPON YOUR ESTATES’, HE MAY NEVERTHELESS ENJOY ITS USUFRUCT DURING HER LIFETIME AND, WHEN SHE DIES, HE IS HER HEIR. IF SO, WHAT WAS HIS OBJECT IN GIVING HER THE WRITTEN UNDERTAKING, ‘I HAVE NO CLAIM WHATSOEVER UPON YOUR ESTATES’? THAT IF SHE SOLD THEM OR GAVE THEM AWAY HER ACT MIGHT BE VALID. IF HE WROTE, ‘I HAVE NO CLAIM WHATSOEVER UPON YOUR ESTATES AND UPON THEIR PRODUCE, HE MAY NOT ENJOY THEIR USUFRUCT DURING HER LIFETIME BUT, WHEN SHE DIES, HE IS HER HEIR. R. JUDAH RULED: HE MAY IN ALL CASES ENJOY THE YIELD OF THE PRODUCE UNLESS HE WROTE OUT FOR HER [THE FOLLOWING UNDERTAKING]: ‘I HAVE NO CLAIM WHATSOEVER UPON YOUR ESTATES AND UPON THEIR PRODUCE AND THE PRODUCE OF THEIR PRODUCE AND SO ON WITHOUT END.

IF HE WROTE, ‘I HAVE NO CLAIM UPON YOUR ESTATES, THEIR PRODUCE AND THE PRODUCE OF THEIR PRODUCE DURING YOUR LIFETIME AND AFTER YOUR DEATH’, HE MAY NEITHER ENJOY THEIR PRODUCE DURING HER LIFETIME NOR CAN HE BE HER HEIR WHEN SHE DIES. R. SIMEON B. GAMALIEL RULED:WHEN SHE DIES HE IS HER HEIR BECAUSE [BY HIS DECLARATION] HE IS MAKING A CONDITION WHICH IS CONTRARY TO WHAT IS ENJOINED IN THE TORAH[2] AND WHENEVER A MAN MAKES A CONDITION WHICH IS CONTRARY TO WHAT IS WRITTEN IN THE TORAH, HIS CONDITION IS NULL AND VOID.[3] GEMARA. R. Hiyya taught:[4] If a husband said[5] to his wife.[6]

And if he gave her such an undertaking in writing,[7] what does It matter? Was it not taught: If a man says[8] to another,[9] ‘I have no claim whatsoever on this field, I have no concern in it and I entirely dissociate myself from it’,[10] his statement is of no effect?[11] — At the school of R. Jannai it was explained, [we are dealing here with the case] of a man who gave the undertaking to his wife[12] while she was still only betrothed to him,[13] [the ruling[14] being] in agreement with that of R. Kahana, that a man is at liberty to renounce beforehand an inheritance[15] which is likely to accrue to him from another source;[16] and [this ruling, furthermore, is] in agreement with a dictum of Raba, that if anyone says. ‘I do not desire [to avail myself] of a regulation of the Rabbis of this kind’, his desire is granted.[17] What [is meant by the expression] ‘of this kind’? As [that referred to in the statement made by] R. Huna in the name of Rab: A woman is entitled to say to her husband, ‘I do not wish either to be maintained by you or to work for you’.[18] If so,[19] should not [the same ruling apply to] a married woman also?[20] Abaye replied: In the case of a married woman the husband's rights have the same force as the wife's.[21] Raba said: His rights are superior to hers. This[22] is of practical significance in the case of a woman who was awaiting the decision of the levir.[23] The question was raised: What is the ruling if symbolic kinyan was executed[24] [at the time of the renunciation]?[25] — R. Joseph replied: [The kinyan is invalid since] it related to an abstract renunciation.[26] R. Nahman replied: [The kinyan is valid because] it related to land itself.[27] Said Abaye: R. Joseph's statement is reasonable

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(1) Lit., ‘no right nor claim’.

(2) According to the Torah it is the husband who is the heir of his wife (v. B.B. 111b).

(3) It is only the produce which was granted to the husband by a Rabbinical measure, that he may renounce.

(4) In reference to the rulings in our Mishnah.

(5) Emphasis on said, sc. he can waive his rights by a mere verbal declaration.

(6) Infra 102b.

(7) Much less if it was only verbal.

(8) Either verbally or in a written document (v. Rashi).

(9) Sc. to his partner.

(10) Lit., ‘and my hand is removed from it’.

(11) Infra 95a. Git. 77a, B.B. 43a, 49a; because no man can renounce his rights by a mere verbal declaration unless by way of a gift or sale, but since there was no expression such as, ‘I make the field over to you’. or words to the same effect denoting a gift, the waiver is ineffective. Now since a written undertaking that omitted such an expression is invalid, bow much more so would that be the case with a mere verbal utterance? An objection thus arises against R. Hiyya.

(12) Lit., ‘when he writes for her’.

(13) When he has as yet no right to her property.

(14) Which allows renunciation in such a case.

(15) Lit., ‘stipulate that he shall not inherit’.

(16) Sc. from a stranger to whom he becomes next of kin through an act of his (such as marriage) and whose heir he becomes thereby in accordance with Rabbinic law. It is only an inheritance from a next-of-kin, or property that is already in one's possession, the rights of which cannot be waived by mere renunciation but requires (v. supra n. 8) the specific expressions of ‘giving’. [This statement of R. Kahana is on the view that the law that the husband inherits his wife is a Rabbinic provision. v. supra p. 528, cf. supra p. 522, n. 2].

(17) Since the regulation was made for his benefit, he is at liberty to reject it.

(18) Since her maintenance by her husband in return for her handiwork is a Rabbinic regulation made in favour of the woman, she is at liberty to reject it. A husband (cf. supra nn. 13 and 14) is similarly entitled to renounce his rights as heir to his wife, without any further formality.

(19) That the husband's right to renounce his claim upon his wife's property is due to the fact that it was for his benefit that her property was assigned to him.

(20) Of course it should. Why then was it necessary for the school of R. Jannai supra to explain the ruling as referring to an undertaking that was given ‘while she was still only betrothed to him’?

(21) Lit., ‘his hand is like her hand’. Since he is consequently legal possessor of the property he cannot (cf. supra p. 523, n. 13) waive his rights to it by mere renunciation.

(22) The difference of opinion between Abaye and Raba, which does not in any way affect our present discussion since in either case a husband is regarded as the possessor of his wife's property and cannot, by a mere verbal renunciation, legally transfer it.

(23) If such a woman died and left property which came into her possession either (a) while her husband was still alive or (b) after his death while she was awaiting the levir's decision, the respective rights of her heirs and her husband's heirs to such property depend on, and vary according to, the respective views of Abaye and Raba as fully discussed in Yeb. 39a, q.v.

(24) Lit., ‘they (sc. witnesses) acquired from him (on behalf of his partner)’. Cf. Rashi.

(25) Of his share in his partner's property. spoken of in the Baraitha quoted supra in objection to R. Hiyya. Does, or does not such kinyan, it is asked, effect the legal transfer of the land despite. or because of the fact, that no expression of ‘giving’ (v. supra p. 523. n. 8) was used. [According to Tosaf. s.v. קני the query refers to the waiving of rights by a husband to the property of his wife after marriage].

(26) Lit., ‘they acquired from him (a mere verbal expression) of right and claim’, which are not in his power to waive.

(27) Lit., ‘of the body of the land’, which is, of course, a concrete object that may well be acquired by symbolic kinyan.

Talmud - Mas. Kethuboth 83b

where [the partner][1] lodged his protest forthwith,[2] but if he delayed,[3] the kinyan must be regarded as relating to the land itself,[4] Amemar said, the law is that the kinyan is taken to refer to the land itself.[5] Said R. Ashi to Amemar: [Do you speak] of one who lodged his protest forthwith or of one who delayed it? ‘In what respect [the other asked] does this matter?’ — In respect of [determining whether the law is] in agreement with the view of R. Joseph.[6] ‘I did not hear this’,[7] the other replied. ‘by which I mean that I do not accept it.’

IF SO, WHAT WAS HIS OBJECT IN GIVING HER THE WRITTEN UNDERTAKING etc. But[8] why should she not be able to say to him, ‘You have renounced all your claims’?[9] — Abaye replied: The holder of a deed is always at a disadvantage.[10] But might it not be suggested [that he renounced his claim] upon the usufruct?[11] — Abaye replied: A young pumpkin [in hand] is better than a full-grown one [in the field].[12] But may it be suggested [that his renunciation related] to his heirship?[13] Abaye replied: Death is a common occurrence but the sale [of property by a wife] is not common;[14] and whenever a person renounces his claims [he does so] in respect of what is not a common occurrence but he does not do it in respect Of that which is a common occurrence. R. Ashi replied:[15] [The husband's renunciation was] ‘UPON YOUR ESTATES’,[16] but not upon their produce; ‘UPON YOUR[17] ESTATES’, but not after your death.[18]

R. JUDAH RULED: HE MAY IN ALL CASES ENJOY THE YIELD OF THE PRODUCE [etc.]. Our Rabbis taught: The following are regarded as produce and the following as the yield of the produce respectively. If a woman brought to her husband[19] a plot of land and it yielded produce, such yield is regarded as produce. If he sold the produce and purchased land with the proceeds and that land yielded produce, such yield is regarded as the yield of the produce. The question was raised: According to R. Judah, [is the expression] THE PRODUCE OF THEIR PRODUCE[20] the essential element,[21] or is rather WITHOUT END[22] the essential element,[23] or is it possible that both expressions are essential?[24] But should you find [some ground] for deciding [that the expression] THE PRODUCE OF THEIR PRODUCE is the essential element,[25] what need was there [it might be asked, for the mention[26] of] ‘WITHOUT END’? — It is this that we were taught: So long as he renounced in her favour, in writing, the yield of the produce it is as if he had expressly written in her favour, ‘without end’. But should you find [some reason] for deciding that WITHOUT END is the essential element,[27] what need was there [it might be asked, for the mention[26] of] THE PRODUCE OF THEIR PRODUCE? — It is this that we were taught; Although he renounced in her favour, in writing, the yield of the produce [the renunciation] is valid only[28] if he also wrote ‘without end’ but is invalid[29] if he did not [write it]. But if you should find some argument for giving the decision that both expressions are essential [it could he asked]. what need is there for the specification[30] of both? Both are necessary. For if only the ‘yield of the produce’ had been written in her favour and ‘without end’ had been omitted, it might have been assumed that he loses thereby his right to the enjoyment of the yield of the produce only but that he is still entitled to enjoy the produce of the yield of that produce, hence it is necessary for the expression ‘without end’ [to be included in the renunciation]. And if only ‘without end’ had been written in her favour and the ‘yield of the produce’ had not been specified,[30] it might have been assumed that ‘without end’ referred to the first produce only,[31] hence it is necessary to specify also the ‘yield of the produce’.[32]

The question was raised: May a husband who wrote, in favour of his wife, the renunciation ‘I have no claim whatsoever upon your estates and upon the yield of their produce’, enjoy the produce itself? Has he renounced the yield of their produce only but not the produce [itself] or is it possible that he renounced all his claim? But it is quite obvious that he has renounced all his claims. For should you suggest that he only renounced his claim upon the yield of the produce but not upon the produce itself, whence [it might be objected] would arise a yield of the produce if the man had consumed the produce itself?[33]

[No, for even] according to your view, [how will you explain] the statement in our Mishnah, R. JUDAH RULED: HE MAY IN ALL CASES ENJOY THE YIELD OF THE PRODUCE etc. [Where it may equally be objected,] whence would there be a yield of the produce if she[34] has consumed the produce itself? [Your explanation,] however, [would be that the reference is to a case] where the woman had allowed [the produce] to remain;[35] here also [it may be a case] where the husband has allowed the produce to remain.[35]

R. SIMEON B. GAMALIEL RULED etc. Rab said: The halachah is in agreement with the ruling of R. Simeon b. Gamaliel but not because of the reason he gave. What is meant by ‘the halachah is In agreement with the ruling of R. Simeon b. Gamaliel but not because of the reason he gave’? If it be suggested: ‘The halachah is in agreement with the ruling of R. Simeon b. Gamaliel’ in respect of his statement that WHEN SHE DIES HE IS HER HEIR, ‘but not because of the reason he gave’.for whereas R. Simeon b. Gamaliel is of the opinion that if A MAN MAKES A CONDITION WHICH IS CONTRARY TO WHAT IS WRITTEN IN THE TORAH, HIS CONDITION IS NULL AND VOID, Rab holds that such a condition[36] is valid[37] and [his acceptance of the ruling[38] is solely due to] his opinion that a husband's right of inheritance is a Rabbinical enactment and that the Sages have imposed upon their enactments greater restrictions than upon those of the Torah;[39]

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(1) Who waived his rights.

(2) As soon as the partner came to take possession of the field, he declared that he never intended to give away his share and that his renunciation was merely a way of escape from a quarrel with his partner.

(3) Lit., ‘when standing’, the protest being made sometime after his partner had taken possession of the field.

(4) Cf. p. 524, n. 9; it being obvious that this belated protest was only the result of an afterthought, and that his original intention was to give away his share to his partner.

(5) V. p. 524, n. 9.

(6) Supra 83a ad fin.

(7) The ruling of R. Joseph. Cf. MS. M.

(8) If the husband's renunciation is sufficiently valid to confer legality on his wife's sale or gift.

(9) I.e., even his rights to usufruct and heirship.

(10) Should his claims ever conflict with those of the person in possession in whose favour the deed is always to be interpreted. In the case under discussion the wife is regarded as the ‘holder of the deed’ and the husband as the possessor of the rights of (i) usufruct, (ii) heirship and (iii) the seizure of any property she has sold or given away. Since his renunciation can be interpreted as referring to one of these rights only, the woman has no legal footing on which to claim ‘You have renounced all your claims’.

(11) And not upon his other rights (cf. note 7) including that of seizure of the property his wife has sold or given away.

(12) Cf. ‘a bird in hand is worth two in the bush’ (Eng. prov.). The right to usufruct, which can be enjoyed at once, though it is of less value than the land itself, is more advantageous to a husband than the right of the seizure of property that his wife may possibly sell at some future time. The former is a certainty, the other is an eventuality.

(13) Cf. supra n. 9 mutatis mutandis.

(14) A woman as a rule does not sell her ancestral possessions.

(15) To the two objections just dealt with by Abaye.

(16) Emphasis on ESTATES.

(17) Emphasis on the pronoun.

(18) When they are no longer hers.

(19) On marriage.

(20) And not that of WITHOUT END. (Rashi); cf. note 8 ad fin.

(21) In the wording of the renunciation spoken of by R. Judah; and, if it was omitted, the renunciation, as far as the yield of produce is concerned, is invalid even though the expression ‘without end’ had been used. Aliter. And the renunciation is valid even though ‘without end’ was omitted (Tosaf. s.v. פירי).

(22) And not ‘the produce of the produce’.

(23) Cf. supra n. 7, mutatis mutandis.

(24) And if one of them was omitted the renunciation is invalid.
(25) V. supra note 7.
(26) In our Mishnah.
(27) Cf. supra note 5.
(28) Lit., 'yes'.
(29) LIt., 'not'.
(30) In the renunciation.
(31) That it is this produce, but not its yield, that he renounces for ever
(32) [All of which justifies the query as to which expression is regarded as essential according to R. Judah. The query is left unanswered, v. infra p. 528. n. 2].
(33) Obviously there could be none Hence it may be concluded that the husband renounced 'all his claims'.
(34) The wife. Cf. Rashi. Cur. edd., דאכלינהו.
(35) It had for some reason remained unconsumed and a produce-yielding object had been purchased with the proceeds. [Here, too, the question remains unanswered, v. supra p. 527. n. 5].
(36) If it relates to monetary matters.
(37) In agreement with R. Judah, supra 56a.
(38) Of R. Simeon b. Gamaliel, that the condition is invalid in the case of the husband's heirship.
(39) Not being Pentateuchal, people might be lax in their observance. Greater safeguards were, therefore, required.

Talmud - Mas. Kethuboth 84a

could Rab, however, [it may be retorted,] hold the opinion that one's condition [though contrary to what is written in the Torah] is valid? Has it not in fact been stated: If a man says to another, '[I sell you this object] on condition that you have no claim for overreaching against me' [the buyer]. Rab ruled, has nevertheless a claim for overreaching against him,[1] and Samuel ruled, He has no claim for overreaching against him?[2] — [It is this] then [that was meant;] 'The halachah is in agreement with the ruling of R. Simeon b. Gamaliel' who laid down that IF A MAN MAKES A CONDITION WHICH IS CONTRARY TO WHAT IS WRITTEN IN THE TORAH, HIS CONDITION IS NULL AND VOID, 'but not because of the reason he gave', for whereas R. Simeon b. Gamaliel is of the opinion that WHEN SHE DIES HE IS HER HEIR, Rab maintains that when she dies he is not her heir.[3] But is not this in agreement with his reason[4] and not with his ruling?[5] — This then [it is that was meant:] 'The halachah is in agreement with the ruling of R. Simeon b. Gamaliel' who laid down that WHEN SHE DIES HE IS HER HEIR, but not 'because of the reason he gave' for, whereas R. Simeon b. Gamaliel is of the opinion that only a condition that is contrary to a Pentateuchal law is null but one that is contrary only to a Rabbinic law[6] is valid, Rab maintains that even a condition contrary to a Rabbinic law[6] is also null.[7]

But this would be in agreement, would it not, with both his reason[8] and his ruling.[9] Rab only adding [greater force to it]?[10] This then [it is that was meant :] 'The halachah is in agreement with R. Simeon b. Gamaliel' who laid down that WHEN SHE DIES HE IS HER HEIR, but not 'because of the reason he gave', for, whereas R. Simeon b. Gamaliel holds that a husband's right of heirship is Pentateuchal and that [it is invalid because] WHEREVER A MAN MAKES A CONDITION WHICH IS CONTRARY TO WHAT IS WRITTEN IN THE TORAH, HIS CONDITION IS NULL AND VOID, Rab maintains that a husband's right of heirship is only a Rabbinic enactment and [that the condition is nevertheless null because] the Sages have imparted to their enactments the same force as that of Pentateuchal laws.

But [could it be said,] that Rab is of the opinion that a husband's right of heirship is only Rabbinical when in fact we have learned:[11] R. Johanan b. Beroka ruled, 'If a husband is the heir of his wife he must [when the Jubilee year[12] arrives] return [the inheritance] to the members of her family and allow them a reduction of price';[13] and, in considering this statement, the objection was raised: What is really his[14] opinion? If he holds that a husband's right of heirship is Pentateuchal, why [it may be asked] should he return [the inheritance at all]?[15] And if [he[16] holds it to be only] Rabbinical, why [it may be objected] should [even a part of] its price be paid?[17] And Rab explained: He[16] holds in fact the opinion that a husband's right of heirship is Pentateuchal but[18] [here it is a case of a man], for instance, whose wife bequeathed to him a [family] graveyard, [and it is] in order [to avoid] a family taint[19] that the Rabbis have ruled, Let him take the price and return it; and by[20] ‘allow them a reduction in price’ [was meant a deduction of] the cost of his wife's grave;[21] [the return of a family graveyard being] in agreement with what was taught: If a person has sold his [family] grave, the path to this grave, his halting place.[22] or his place of mourning, the members of his family may come and bury him perforce,[23] in order [to avert] a slight upon the family![24] — Rab spoke here in accordance with R. Johanan b. Beroka's point of view but he himself does not uphold it.

MISHNAH. IF A MAN DIED AND LEFT A WIFE,[25] A CREDITOR,[26] AND HEIRS[27] AND HE ALSO HAD A DEPOSIT OR A LOAN IN THE POSSESSION OF OTHERS, THIS, R. TARFON RULED, SHALL BE GIVEN TO THE ONE WHO IS UNDER THE GREATEST DISADVANTAGE.[28] R. AKIBA SAID: NO PITY IS TO BE SHEWN IN A MATTER OF LAW; AND IT[29] SHALL RATHER BE GIVEN TO THE HEIRS, FOR WHEREAS ALL THE OTHERS[30] MUST TAKE AN OATH[31] THE HEIRS NEED NOT TAKE ANY OATH.[32] IF HE LEFT PRODUCE THAT WAS DETACHED FROM THE GROUND, THEN WHOEVER[33] SEIZES IT FIRST ACQUIRES POSSESSION. IF THE WIFE TOOK POSSESSION OF MORE THAN THE AMOUNT OF HER KETHUBAH, OR A CREDIT OR OF MORE THAN THE VALUE OF HIS DEBT, THE BALANCE, R. TARFON RULED, SHALl. BE GIVEN TO THE ONE WHO IS UNDER THE GREATEST DISADVANTAGE.[34] R. AKIBA SAID: NO PITY IS TO BE SHEWN IN A MATTER OF LAW; AND IT SHALL RATHER BE GIVEN TO THE HEIRS, FOR WHEREAS ALL THE OTHERS[30] MUST TAKE AN OATH[31] THE HEIRS NEED NOT TAKE ANY OATH.[32] GEMARA. What was the object of specifying both A LOAN and a DEPOSIT?[35] [Both were] required. For if A LOAN only had been mentioned it might have been presumed that only in that case did R. Tarfon maintain his view, because a loan is intended to be spent,[36] but that in the case of a deposit which is in existence[37] he agrees with R. Akiba.[38] And if the former[39] only had been mentioned it might have been assumed that only in that case did R. Akiba maintain his view[40] but that in the other case[41] he agrees with R. Tarfon.[42] [Hence both were] necessary.

What is meant by TO THE ONE WHO IS UNDER THE GREATEST DISADVANTAGE? — R. Jose the son of R. Hanina replied: To the one who is under the greatest disadvantage in respect of proof.[43] R. Johanan replied: [The reference is] to the kethubah of the wife[44] [who was given this privilege] in order to maintain pleasantness[45] [between her and her husband].[46] [This dispute is the same] as that between the following Tannaim: R. Benjamin said, To the one who is under the greatest disadvantage in respect of proof.[43] and this is the proper [course to take]; R. Eleazar said.[The reference is] to the kethubah of the wife[44] [who was given this privilege] in order to maintain pleasantness[45] [between her and her husband].[46] IF HE LEFT PRODUCE THAT WAS DETACHED. As to R. Akiba,[47] what was the point in discussing the BALANCE when[48] the entire estate belongs to the heirs?[49] — The law is so indeed,[50] but since R. Tarfon spoke of the BALANCE, he also mentioned the BALANCE.

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(1) Because the condition is contrary to the Pentateuchal injunction of אל-תונו (Lev. XXV, 24).

(2) Now, since Rab recognizes the invalidity of a condition that is contrary to Pentateuchal law of overreaching, how could he be said to regard a similar condition elsewhere as valid?

(3) The condition being ‘and because a husband's right of heirship is, in Rab's opinion, a Rabbinical enactment which has not the same force as that of a Pentateuchal law.

(4) I.e., that a condition which is contrary to a Pentateuchal law is null.

(5) That WHEN SHE DIES HE IS HER HEIR. The answer being in the affirmative, the facts are directly opposite to the statement made supra by Rab.

(6) Such, e.g. as a renunciation by a husband of his rights to the usufruct of his wife's property.
(7) Because in his opinion the Sages have impaired to their enactments the same force as that of a Pentateuchal law.
(8) V. supra note 2.
(9) Cf. supra note 3.
(10) Viz., and extending R. Gamaliel's principle to a Rabbinic enactment applies it also to the usufruct. This being the case, how is Rab's statement supra to be understood?
(11) Bek. 52b.
(12) Cf. Lev. XXV, 8ff.
(13) This, it is at present assumed, is the meaning of וינכה להן מן הדמים.
(14) R. Johanan b. Beroka.
(15) An inheritance to which one is Pentateuchally entitled does not return in the Jubilee Year (cf. Bek. 52b).
(16) R. Johanan b. Beroka.
(17) By the members of the wife's family. Lit., ‘what is their doing?’ Since the husband's right is only in Rabbinic law the members of the wife's family, who are the original owners Pentateuchally, should be entitled to the return of the inheritance to them without any monetary payment on their part.
(18) In explanation of the difficulty as to why such all inheritance should be restored in the Jubilee Year.
(19) It is derogatory for a family that strangers should be interred in their graveyard while their own members should have to seek burial in another family's graveyard.
(20) Lit., ‘and what?’
(21) Since it is a husband's duty to bury his dead wife.
(22) The place where, on returning from burial, the funeral escort halts to offer, with due ceremonial, consolation to the mourners. On returning from a burial the funeral escort halted on the way at a certain station where seven times they stood up and sat down on the ground, to offer comfort and consolation to the mourners or to weep and lament for the departed.
(23) They may force the buyer to take back the purchase price and so cancel the sale.
(24) B.B. 100b, Bek. 52b. Cf. supra p. 530. n. 9. Now since Rab specifically stated here that ‘a husband's right of inheritance is Pentateuchal’ how could he be said to hold that such a right is only Rabbinical.
(25) Who claims her kethubah.
(26) Claiming the repayment of his debt.
(27) Expecting their inheritance.
(28) This is explained infra.
(29) The deposit or the loan
(30) Widows and creditors.
(31) Before they are authorized to seize any portion of the estate.
(32) The inheritance passes into their possession as soon as the parson whose heirs they are dies. Since they are the legal possessors, the others, whose claims have yet to be substantiated by an oath, cannot deprive them of their possessions, for the movables of orphans are not pledged to the creditors of their father.
(33) The heirs, the widow or the creditor.
(34) This is explained infra.
(35) Could not the law of the one be inferred from the other?
(36) The amount of the loan not being in existence at the time the man died it cannot pass into the possession of his heirs before it had been collected from the debtor.
(37) At the time the depositor died, since a deposit must never be spent by the bailee.
(38) That, since it is in existence, it passes into the possession of the heirs.
(39) A DEPOSIT.
(40) Cf supra note 4.
(41) A loan.
(42) Cf. supra note 2.
(43) Sc. the holder of the last dated bond by which such landed estate only may be seized as had been sold after that date.
(44) Who, being unable to exert herself like a man in the search for any possible possessions of her husband, is regarded as ‘THE ONE WHO IS UNDER THE GREATEST DISADVANTAGE’.

(45) חינא lit., ‘grace’.

(46) While he is alive. Her uncertainty in respect of her settlement after his death might have led to quarrels and strife. Aliter; That women may readily consent to marriage. Had they not been assured that they would have the first claim upon their husband's estate they might refuse all offers of marriage (cf. Rashi). Aliter; That women may be attractive to their husbands by their attachment and devotion which would result from the sense of security they would feel in the provision fist their future (cf. T.J., Aruch and R. Han. in Tosaf. s.v. לכתובת a.l.).

(47) Who regards the heirs as the possessors because WHEREAS OTHERS MUST TAKE AN OATH THE HEIRS NEED NOT.

(48) For the very same reason (cf. previous note).

(49) The seizure on the part of the widow or a creditor of any movable portion of such property would consequently be invalid.

(50) Lit., yes, so also’, even if the creditor or the widow has seized any portion of the estate the heirs’ right to it is in no way affected and the seized property must be returned to them in its entirety.

Talmud - Mas. Kethuboth 84b

. But would R. Akiba[1] maintain that seizure[2] is never legally valid?[3] Raba replied in the name of R. Nahman: Seizure[4] is valid where it took place during the lifetime [of the deceased].[5] Now according to R. Tarfon,[6] where [must the produce] be kept?[7] — Both Rab and Samuel replied: It must be heaped up and lie in a public domain, but [if it was kept] in an alley[8] no [seizure is valid]. Both R. Johanan and Resh Lakish, however, said: Even [if the produce lay] in an alley [seizure is valid].

Certain judges once gave their decision in agreement with R. Tarfon, and Resh Lakish[9] reversed their verdict. Said R. Johanan to him, ‘You have acted as [if R. Akiba's ruling were a law] of the Torah’![10] May it be assumed that they[11] differ on this principle; One Master upholds the view that if [in giving a decision] a law cited in a Mishnah had been overlooked the decision must be reversed[12] and the other Master upholds the view that if a law cited in a Mishnah had been overlooked the decision need not be reversed?[13] — No; all agree that if [in giving a decision] a law cited in a Mishnah had been overlooked the decision must be reversed, but this is the point at issue between them:[14] One Master holds that the halachah is in agreement with the opinion of R. Akiba [only when he differs] from a colleague of his but not from his master,[15] while the other Master holds that the halachah [is in agreement with him] even [if he differs] from his master. If you prefer[16] I might say; All agree that the halachah agrees with R. Akiba [only when he differs] from a colleague of his but not from his master. Here, however. the point at issue is this: One Master holds R. Tarfon to have been his[17] master and the other Master holds him to have been his colleague. Alternatively it might be said: All agree that he[18] was his[19] colleague; but the point at issue between them[20] is this: One Master maintains that the statement[21] was that ‘The halachah [agrees with R. Akiba]’[22] and the other Master maintains that the statement[21] was that ‘one should be inclined [in favour of a ruling of R. Akiba]’.[23]

R. Johanan's relatives seized in an alley a cow that belonged to orphans. When they appeared before R. Johanan, he said to them, ‘Your seizure is quite lawful’. R. Simeon b. Lakish, however, before whom they subsequently appeared, said to them. ‘Go and return it’.[24] ‘What can I do’, said R. Johanan to whom they came again, ‘when one of equal authority[25] differs from me?’

[A creditor] once seized an ox from the herdsman of [his debtor's] orphans. The creditor said, ‘I seized it during the lifetime [of the debtor]’[26] and the herdsman said, ‘He seized it after the debtor's death’.[27] They appeared before R. Nahman who asked the herdsman, ‘Have you witnesses that [the creditor] has seized it?’ — ‘No’, the other replied. [R. Nahman thereupon] said to him: Since he could have said, ‘It came into my possession through purchase’[28] he is also entitled to say. ‘I seized it during the lifetime [of the debtor]’. But did not Resh Lakish state; The law of presumptive possession is inapplicable to living creatures?[29] — The case of an ox that was entrusted to a herdsman is different [from that of other living creatures].[30]

The people of the Nasi's[31] household once seized in an alley a bondwoman belonging to orphans. At a session held by R. Abbahu, R. Hanina b. Papi and R. Isaac Nappaha in whose presence sat also R. Abba they[32] were told, ‘Your seizure is quite lawful’. ‘Is it’, said R. Abba to them,[33] ‘because these people are of the Nasi's household that you are favouring them? Surely, when certain judges once gave a decision in agreement with R. Tarfon Resh Lakish reversed their decision’.[34]

Yemar b. Hashu had a money claim against a certain person who died and left a boat. ‘Go’, he said to his agent, ‘and seize it’. [The latter] went and seized it, but R. Papa and R. Huna the son of R. Joshua met him and told him, ‘You are seizing [the ship] on behalf of a creditor and thereby you are causing loss to others,[35] and R. Johanan ruled: He who seizes [a debtor's property] on behalf of a creditor and thereby causes loss to others[35]

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(1) V. supra note 1.
(2) Cf. note 3.
(3) This is a mere enquiry (v. Rashi). R. Tan, regards it as an objection. the assumption of the invalidity of seizure being contradictory to the Mishnah supra 80b, where the woman awaiting levirate marriage, who was first to take possession of the detached produce, is declared to have acquired it; (v. Tosaf. s.v. ולרבי a.l.).
(4) Of chattels.
(5) So that the chattels had never for one moment passed into the possession of the heirs.
(6) Who maintains that WHOEVER SEIZES IT FIRST ACQUIRES POSSESSION, because the heirs do not become its possessors as soon as the man dies.
(7) That the seizure should be valid.
(8) Which is frequented by few people. In such a spot where meshikah (v. Glos.) is valid (cf. B.B. 84b) the produce, even according to R. Tarfon, passes into the possession of the heirs as soon as its original owner dies, and seizure by any other person is invalid.
(9) Who follows the ruling of R. Akiba.
(10) An expression of disapproval. Only a decision which is contrary to the Torah must be reversed. A Rabbinical ruling, however, has no such force, and though a judge may be expected to act according to a certain ruling, his decision must not be reversed if he differed from it.
(11) R. Johanan and Resh Lakish.
(12) Though R. Akiba's ruling is not explicitly contained in a Mishnah, but reported by Amoraim, it is considered a Mishnaic ruling since the law is in agreement with his opinion whenever it is opposed by no more than one individual. Cf. Sanh. 33a.
(13) Is it likely, however, that any authority would uphold the latter view?
(14) R. Johanan and Resh Lakish.
(15) R. Tarfon was sometimes regarded as the master of R. Akiba (v. infra).
(16) Since the last mentioned view seems unlikely.
(17) R. Akiba's.
(18) R. Tarfon.
(19) R. Akiba's.
(20) R. Johanan and Resh Lakish.
(21) On the reliability of R. Akiba's rulings.
(22) Hence the action of Resh Lakish in reversing the decision of the judges mentioned.
(23) I.e. , a ruling of his has not the force of an halachah though a judge is expected to follow it rather than that of any other individual who is opposed to it. Since, however, a decision has been given to the contrary the decision must stand. Hence R. Johanan's objection to the action of Resh Lakish (v. supra n. 11).
(24) In agreement with R. Akiba that seizure of movables for debt after the death of the original owner is invalid, the property having passed, at the moment he died, into the possession of his heirs.
(25) V. Rashi. Lit., ‘who is corresponding to me’.
(26) So that it never came into the possession of the orphans.

(27) Cf. supra note 3 mutatis mutandis.

(28) And his statement could not be disproved on account of the absence of witnesses to testify to the seizure.

(29) הגודרות lit., 'those kept In the fold', since (a) they stray into other people's folds and (b) are sometimes taken accidentally from the pasture lands by a shepherd to whom they do not belong. (v. B.B. 36a. Cit. 20b). Now, since the creditor's right to the retention of the animal can only be based on that of presumptive possession, which is here inapplicable, why did Rash Lakish allow the creditor to retain it?

(30) A herdsman is presumed to take good care that his flock stray not into other people's folds, or be seized by other shepherds.

(31) Judah II.

(32) The people of the Nasi's household.

(33) R. Abbahu and his colleagues.

(34) Supra.

(35) Other creditors.

Talmud - Mas. Kethuboth 85a

does not legally acquire it'.[1] Thereupon they[2] seized it themselves, R. Papa rowing[3] the boat while R. Huna the son of R. Joshua pulled it by the rope. One Master then declared, 'I have acquired all the ship'[4] and the other similarly declared, 'I have acquired all of it'.[5] They were met by R. Phinehas b. Ammi who said to them: Both Rab and Samuel ruled that '[Seizure is valid] only if [the produce] was piled up and lay in a public domain'.[6] 'We too', they replied, 'have seized it at the main current of the river'.[7] When they appeared before Raba he said to them, 'Ye white geese[8] that strip the people of their cloaks;[9] thus ruled R. Nahman; [The seizure is valid] only if it took place during the lifetime [of the original owner].

The men of Be-Hozae[10] once claimed a sum of money from Abimi the son of R. Abbahu, who sent it to them by the hand of Hama the son of Rabbah b. Abbahu. He duly went there and paid them, but when he asked them, 'Return to me the bond', they replied. 'This payment was made in settlement of some other claims'.[9] He came before R. Abbahu [to complain] and the latter asked him, 'Have you witnesses that you have paid them?' — 'No', he replied. 'Since', the former said to him, 'they could plead[11] that the payment was never made,[12] they are also entitled to plead that the payment was made in settlement of some other claims'.[13]

What is the law in respect of the agent's liability to refund? — R. Ashi replied; We have to consider the facts. If he[14] said to him. 'Secure the bond and pay the money' he[15] must refund it; [but if he[14] said.] 'Pay the money and secure the bond', he is under no obligation to refund it. The law, however, is not so. He[15] must refund it in either case, because the other[14] may well say. 'I deputed you to improve my position, not to make it worse

There was a certain woman with whom a case[16] of bonds was once deposited and when the heirs [of the depositor] came to claim it from her she said, 'I seized them[17] during [the depositor's] lifetime'.[18] R. Nahman to whom she came said to her, 'Have you witnesses that it[19] was claimed from you during [the depositor's] lifetime and that you refused to return it?' — 'No', she replied. 'If so', he said to her, 'your seizure is one that took place after [the owner's] death,[20] and such a seizure is invalid.[21]

A woman was once ordered[22] to take an oath[23] at the court of Raba, but when R. Hisda's daughter[24] said to him, 'I know that she is suspected of [taking false] oaths', Raba transferred the oath to her opponent.[25]

On another occasion R. Papa and R. Adda b. Mattena sat in his presence when a bond was brought to him. Said R. Papa to him. 'I know that this bond is paid up'. 'Is there, [Raba] asked him, 'any other man with the Master [to confirm the statement]?' 'No', he replied. 'Although', the other said to him, 'the Master is present [to give evidence] there is no validity [in the testimony of] one witness'.[26] Said R. Adda b. Mattena to him, 'Should not R.Papa be [deemed as reliable] as the daughter of R. Hisda?'[27] — 'As to the daughter of R. Hisda [he replied] I am certain of her;[28] I am not sure, however, about the Master'.[29] Said R. Papa: Now that the Master has stated [that a judge who can assert,] 'I am certain of a person', may rely upon that person's evidence,[30] I would tear up a bond on the evidence of my son Abba Mar of whose reliability I am certain. 'I would tear up'! Is such an act conceivable?[31] — He rather [meant to say,] 'I would impair a bond[32] on his evidence'.

A woman was once ordered to take[33] an oath at the court of R. Bibi b. Abaye, when her opponent suggested to them, 'Let her rather come and take the oath in our town,[34] where she might possibly feel ashamed [of her action] and confess'. 'Write out said she to them, 'the verdict in my favour[35] so that after I shall have taken the oath it may be given to me'. 'Write it out for her', ordered R. Bibi b. Abaye. 'Because', said R. Papi. 'you are descendants of short-lived people you speak frail words;[36] surely Raba stated, 'An attestation[37] by judges that was written before the witnesses have identified their signatures is invalid',[38] from which it is evident [that such an attestation] has the appearance of a false declaration, and so here also [the verdict][39] would appear to contain a false statement'. This conclusion,[40] however, is futile[41] [as may be inferred] from a statement of R. Nahman, who said; R. Meir ruled that even if [a husband] found it[42] on a rubbish heap, and then signed and gave it to her, it is valid; and even the Rabbis[43] differ from R. Meir only in respect of letters of divorce where it is necessary that the writing shall be done specifically in her name, but in respect of other legal documents they agree with him,[44] for R. Assi stated in the name of R. Johanan, 'A man may not borrow again on a bond on which he has once borrowed and which he has repaid.[45] because the obligation [incurred by the first loan][46] was cancelled;[47] the reason then is because 'the obligation was cancelled', but that [the contents of the document] have the appearance

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(1) One has no right to acquire a benefit for one man at the expense of another, v. Git. 11b.

(2) Who were also among the deceased's creditors.

(3) A form of acquisition.

(4) Rowing being in his opinion the proper form of acquiring legal possession of a ship.

(5) Cf. supra n. 6 mutatis mutandis.

(6) Supra 84b, infra 86b. The boat presumably lying at the river bank which, not being frequented by many boats, has the status of an alley, could not, therefore, be lawfully seized and acquired.

(7) On which many boats ply and which has the status of a public thoroughfare where seizure is legal.

(8) Metaph., 'old men'.

(9) By giving a decision in their own favour and thus robbing the other creditors.

(10) V. supra p. 504, n. 5. (13) Lit., 'these are (from other) sides'.

(11) In the absence of witnesses to testify that the debt had been paid.

(12) לא היו דברים מעולם lit., 'the things never were'.

(13) V. supra p. 536, n. 23.

(14) The man who sent him.

(15) The agent.

(16) מלוגא (rt. מלד 'to pluck'), a bag made of skins from which the hair has been plucked.

(17) The bonds.

(18) 'In payment of the debt he owed me'.

(19) The case of bonds.

(20) As long as he was alive the bonds were held by her as a deposit which was virtually in the possession of the depositor.

(21) Since at the death of the depositor the bonds had passed directly into the possession of his heirs.

(22) Lit., 'became liable'.

(23) To confirm her denial of a monetary claim that had been advanced against bet.

(24) Raba's wife.

(25) The claimant who in such a case (cf. Shebu. 44b) is entitled to the sum claimed on confirming it by an oath

(26) [Asheri, Alfasi and Isaiah Trani omit ‘No . . . one witness’. According to this reading Raba required the confirmation by another person because R. Papa was related to one of the parties, v. Tosaf, and Strashun].

(27) Whose testimony was regarded by Raba, supra, as sufficient to disqualify the defendant from taking an oath.

(28) That I can rely upon her evidence.

(29) [Did he mean to imply that he suspected R. Papa of lying? This is unlikely in view of the discussion that follows in which R. Papa seemed to betray no resentment at the affront. Yet this is the only meaning which can be attached to the text of cur. edd. Preference is consequently to be given to the reading of Asheri and Alfasi (v. n. 1); and what Raba meant was that, as a relative, R. Papa's evidence could not be accepted].

(30) Even though no other witness is available Lit.. ‘It is a thing’.

(31) In money matters, surely, the evidence of two witnesses is required.

(32) Sc. the holder would have to confirm the statement in the bond by an oath before an order for repayment could he issued (Tosaf.).

(33) Lit., ‘become liable’.

(34) So Bah. Cur. edd. omit ‘our’.

(35) זכוותא, pl, of זכותא, ‘favourable judgment’.

(36) Abaye was a descendant of the house of Eli who were condemned to die young (cf. I Sam. II, 32). ממולאי and מוליתא (rt. מלל ‘to crush’) ‘frail things’, ‘frail words’, ‘frail or short-lived people’. A similar expression in Arabic means ‘to be foolish’. Cf. B.B. 137b, Sone. ed. p. 582, n. 6.

(37) Of a document, confirming the signature of the witnesses.

(38) Git 26b, supra 21b.

(39) Which the woman requested and the wording of which would have implied that when it was written she had already taken the oath.

(40) That a document containing a statement which at the time of writing was not yet true is invalid even after the act it mentions has materialized.

(41) Lit., ‘and it is not’.

(42) A letter of divorce he has prepared for his wife.

(43) Who denied the validity of the document.

(44) That the validity of the document (cf. supra n. 4) is not affected.

(45) On the same day that he borrowed. Though the bond in such a case is not antedated it may not be used again.

(46) Viz., the right to seize the debtor's property.

(47) When it was repaid. The second loan, since no new bond was issued in connection with it, has only the force of a loan by word of mouth which does not entitle the creditor to seize any of the debtor's sold property. Should the first bond, however, be used for the second loan, the lender might unlawfully seize property to which he is not legally entitled. B.M. 17a.

Talmud - Mas. Kethuboth 85b

of a false statement[1] is a matter which need not be taken into consideration.

A certain man once deposited seven pearls, wrapped in a sheet, with R. Miasha the son of the son of R. Joshua h. Levi. As R. Miasha died intestate[2] they came to R. Ammi.[3] ‘In the first instance’, he said to them, ‘I know that R. Miasha the son of the son of R. Joshua b. Levi was not a wealthy man,[4] and secondly. does not the man[5] indicate the marks?’[6] This ruling, however, applies only to a man who was not a frequent visitor at the bailee's house,[7] but if he was a frequent visitor there [the marks he indicates are no evidence of ownership since] it might well be assumed that another person has made the deposit and he happened to see it. A certain man once deposited a silver cup with Nasa; and Hasa died intestate.[8] R. Nahman before whom [the heirs] appeared said to them, ‘I know that Hasa was not a wealthy man? and, furthermore, does he[5] not indicate the mark?’[9] This, however, applies only to a man who was not an habitual visitor at the bailee's house,[7] but if he was a frequent visitor there [the mark he indicates is no valid proof since] it might be said that another person had deposited [the cup] and he happened to see it.

A certain man once deposited a silk cloth[10] with R. Dimi the brother of R. Safra, and R. Dimi died intestate.[2] R. Abba, to whom [the depositor] came [to submit his claim.] said to them,[11] ‘In the first place I know that R. Dimi was not a wealthy man[4] and, secondly, the man is here indicating the distinguishing mark.’ This, however, applies only to a man who was not a frequent visitor[7] at the bailee's house, but if he was a frequent visitor there [the indication of the mark is no valid proof since] it might well be suggested that another man deposited the object and he happened to see it. A man once said[12] to those around him,[13] ‘Let my estate be given to Tobiah’, and then he died. [A man named] Tobiah came [to claim the estate]. ‘Behold’, said R. Johanan. ‘Tobiah has come’.[14] Now if he said, ‘Tobiah’[15] and ‘R. Tobiah’[16] came, [the latter is not entitled to the estate, since] he said ‘To Tobiah’ but not ‘To R. Tobiah’. If he,[16] however, was on familiar terms with him[17] [the estate must be given to him, since the omission of title might have been due to] the fact that he was on intimate terms with him. If two Tobiahs appeared,[18] one of whom was a neighbour[19] and the other a scholar, the scholar is to be given precedence.[20] If one [of the Tobiahs] is a relative and the other a scholar, the scholar is given precedence.[20] The question was asked: What is the position where one is a neighbour[19] and the other a relative? — Come and hear; Better is a neighbour that is near than a brother far off[21] if both[22] are relatives, or both are neighbours. or both are scholars the decision is left to the discretion[23] of the judges.

Come, said Raba to the son of R. Hiyya b. Abin, I will tell you a fine saying of your father's:[24] Although[25] Samuel said, ‘If a man sold a bond of indebtedness to another person and then he[26] released the debtor, the latter is legally released;[27] and, moreover, even [a creditor's] heir may[28] release [the debtor]’ Samuel, nevertheless, admits that, where a wife brought in to her husband[29] a bond of indebtedness and then remitted it, the debt is not to be considered remitted, because her husband's rights are equal to hers.[30]

A relative of R. Nahman once sold her kethubah for the goodwill.[31] She was divorced and then died. Thereupon [the buyers] came to claim [the amount of the kethubah] from her daughter.[32] ‘Is there no one’, said R. Nahman to those around him,[33] ‘who can tender her advice?

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(1) The bond having been written not for the second but for the first loan.

(2) Lit., ‘he did not order’. And his heirs maintained that the pearls might have belonged to the deceased from whom they inherited them.

(3) To obtain his ruling on the ownership of the deposit.

(4) And he could not consequently have been the owner of costly objects.

(5) The depositor.

(6) That the pearls were (a) wrapped up in a sheet and (b) their number was seven (Rashi. Cf., however, Tosaf. s.v. קיהיב.

(7) Lit.,’ that be was not in the habit of entering and going out from there’.

(8) He was accidentally drowned (v. Yeb. 121b).

(9) That it was a silver cup.

(10) מטכסא cf. , silk or silk cloth.

(11) To the heirs.

(12) While he was on his death bed.

(13) Lit., ‘to them’.

(14) Sc. the estate must be given to this man.

(15) I.e., if he assigned his estate to a person whom he named without describing him by the title by which he is usually known.

(16) A scholar of the name of Tobiah who bears the title ‘R(abbi)’.

(17) The testator.

(18) Claiming the estate.

(19) Of the deceased.

(20) A person is assumed to be more favourably disposed towards a scholar than towards any other person. On the merit and heavenly reward of him who benefits scholars, v. Bet. 34b.
(21) Prov. XXVII, 10.
(22) Who claim the estate.
(23) שודא _ שוחדא ‘choice’, ‘singling out’, ‘discretion’ (Jast.). Aliter. ‘Favour’, ‘gift’. i.e., the judges in their verdict may favour, or make a gift of the estate to any of the claimants they prefer (cf. R. Tam in Tosaf. s.v. שודא and Levy s.v.). Aliter: שודא _ שדי ‘to throw’, i.e., the judges must cast about for (gauge) the opinion of the testator to determine which of the claimants he preferred (Rashi). Cf. Golds. שודא ist unverkennbar das syn. סודא, סוודא (confabulatio, colloquium) Rat, Beschluss der Richter’.
(24) Lit ‘which your father said’.
(25) This is the reading in the parallel passage elsewhere (cf. B.B. 147b). The reading here is הא, lit., ‘that’, ‘as to that’.
(26) The seller.
(27) Because the buyer of a bond is entitled only to the same rights as those of the seller and since the latter, by his release of the creditor, has forfeited his claims upon the debt, the former also forfeits them; v. Kid.. Sonc. ed. p. 239. n. 1.
(28) When he inherits the estate of the creditor.
(29) On marriage.
(30) Lit., ‘his hand is like her hand’; hence it is not within her power to remit the debt without her husband's consent.
(31) Cf. Rashi. טובת הנאה lit , ‘the goodness of a favour’ (cf. the English idiom, ‘a game for love’), i.e., receiving no full price for her kethubah from the buyers, who purchase it as a speculation in case her husband dies first it divorces her. Should she die first, they have no claim to the kethubah.
(32) Who was the heir to her mother's kethubah.
(33) Lit., ‘to them’.

Talmud - Mas. Kethuboth 86a

She might remit[1] her mother's kethubah in favour of her father,[2] and then she may inherit it frons him’.[3] When she heard this she went and remitted it [in her father's favour]. Thereupon R. Nahman said: ‘We have put ourselves in the [unenviable] position of legal advisers’.[4] What was the opinion that he held at first[5] and what made him change it afterwards?[6] — At first he thought [of the Scriptural text.] And that thou hide not thyself from thine own flesh,[7] but ultimately he realized that [the position of] a noted personality is different [from that of the general public].[8]

[Reverting to] the main text; Samuel said, ‘If a man sold a bond of indebtedness to another person, and then he released the debtor, the latter is released; and, moreover, even [a creditor's] heir may release [the debtor].’[9] Said R. Huna the son of R. Joshua; But if he[10] is clever he[11] rattles some coins in his[12] face and [the latter][13] writes the bond[14] in his[15] name.

Amemar said; He[16] who adjudicates [liability] in an action [for damage] caused indirectly would here also[17] adjudge damages[18] to the amount [recoverable] on a valid bond,[19] but he who does not adjudicate [liability] in an action for damage caused indirectly[20] would here adjudge damages only to the extent of the value of the mere scrap of paper.[21] Such[22] an action was [once tried] when through Rafram's insistence[23] R. Ashi[24] was compelled to order the collection [of damages][25] in the manner of a beam that is fit for decorative mouldings.[26]

Amemar stated in the name of R. Hama; If a man has against him, the claim of his wife's kethubah and that of a creditor, and he owns a plot of land and has also ready money, the creditor's claim is settled by means of the ready money while the woman's claim is settled by means of the land, the creditor being treated in accordance with his rights,[27] and the wife in accordance with her rights.[28] If, however, he owns only one plot of land and it suffices to meet the claim of one only, it is to be given to the creditor;[29] it is not to be given to the wife. What is the reason?[30] — More than the man's desire to marry is the woman's desire to be married.[31]

Said R. Papa to R. Hama, Is it a fact that you have stated in the name of Raba; If a man, against whom there was a monetary claim owned a plot of land, and who, when his creditor approached hini with the claim for repayment, replied, ‘Collect your loan from the land’, he is to be ordered [by the court,] ‘You must yourself go and sell it, bring [the net proceeds] and deliver it to him’?[32]

‘No’, the other replied. ‘Tell me then’, [the first said to him,] ‘how the incident[33] had actually occurred’. ‘[The debtor]’ the other replied, ‘alleged that his money belonged to[34] an idolater; and since he acted in an improper manner[35] he was similarly treated in an improper manner’.[36]

Said K. Kahana to R. Papa; According to the statement you made that the repayment of [a debt to] a creditor is a religious act,[37] what is the ruling where [a debtor] said, ‘I am not disposed to perform a religious act’?[38] — ‘We’, the other replied. ‘have learned: This[39] applies only to negative precepts, but in the case of positive precepts, as for instance, when a man is told, ‘Make a sukkah’[40] and he does not make it [or, ‘Perform the commandment of the] lulab’[41] and he does not perform it

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(1) Lit., ‘let her go and remit’.

(2) Since, as has been stated (supra 85b ad fin.), even a creditor's heir may release the debtor’. The daughter is in this case the heir to a debt (the kethubah) which her father owed her mother who sold it to others who, like the buyers of a bond, lose all their claims upon it as soon as the heir has remitted it.

(3) Upon whom the buyers have no claim.

(4) עורכי הדיינין lit., ‘those who arrange (the pleas) before the judges’. A judge is forbidden to act even indirectly as legal adviser to one of the parties. Cf. Aboth I, 8, Sonc. ed. p. 6. n. 1.

(5) When he tendered advice.

(6) Lit., ‘and in the end what did he think?’ sc. why did he finally reproach himself for acting as ‘legal adviser’?

(7) Isa. LVIII, 7, implying that it is one's duty to come to the assistance of one's relative.

(8) A judge, in order to be free from all suspicion of partiality, must subject himself to greater restrictions and must consequently tender no legal advice whatever to line of the parties in a lawsuit, even in cases where the action is not to be tried by him, v. supra 52b.

(9) V. p. 541, nn. 15ff.

(10) The buyer.

(11) As soon as he buys the bond and before the creditor has had time to think of remitting it to the debtor.

(12) The debtor.

(13) Being naturally in need of ready money.

(14) For the amount involved. As soon as he buys the bond and before the creditor has time to think of remitting it to the debtor.

(15) The buyer's.

(16) I.e., R. Meir (cf. B.K. 100a f).

(17) Lit., ‘by it’; in the case of a bond the debt in which had been remitted to the debtor after the creditor had sold the bond of indebtedness.

(18) In favour of the buyer.

(19) The creditor who was the cause of the damage must compensate the buyer for his loss.

(20) As to the dispute on this point v. B.K. 116b.

(21) On which the bond is written, since the creditor might plead that he is only liable for the piece of paper which he sold. For the debt itself he is not liable since it was only indirectly that he caused the loss of it.

(22) Cf.. however, Infra n. 17.

(23) By his legal and scholastic arguments.

(24) Who was the adjudicator in the action (cf however, infra n. 17).

(25) From, the creditor who remitted the debt. According to another interpretation (cf. Rashi on the parallel passage, B.K. 98b) R. Ashi in his childhood had destroyed a bond of indebtedness, and Rafram made him pay for it in accordance with the ruling of R. Meir (v. supra note 8).

(26) Metaph. As the beam is smooth and straight and of the best quality of wood so was the collection made to the full extent of the damage and of the best of the creditor's estate.

(27) As he advanced ready money he is justly entitled to ready money.

(28) As her statutory kethubah is secured on the husband's lands she is entitled to his land only. The amount (if the kethubah corresponding to the on barzel (v. Glos.) property, though this might have consisted of ready money, is, like the statutory kethubah with which it is amalgamated, also secured on the husband's lands only.

(29) If the bond of indebtedness and the kethubah bear the same date. Otherwise, the holder of the document bearing the earlier date takes precedence.

(30) For the preference of the creditor where the documents were issued on the same date.

(31) And the disadvantage in respect of the collection of her kethubah would not in any way deter her from marriage. If a creditor, on the other hand, were to experience undue difficulty in the collection of his debt he might decide to turn away from his door all future borrowers.

(32) Is it possible that a debtor would be expected to go to all this trouble when the creditor's security was not that of ready money but of land?

(33) That gave rise to the erroneous report.

(34) Lit., 'attached his money to'.

(35) By attempting to deprive his creditor from his due.

(36) In being ordered to find a buyer for his land, though elsewhere (cf. supra n. 6) it is the task of the creditor to do so.

(37) V. 'Ar. 22a.

(38) [Since, that is to say, the payment of a debt is a religious obligation, where is the sanction for the employment of compulsory measures to make one pay his debts? Others connect the question with the preceding case of one who ascribes his money to a non-Jew so as to evade payment, v. Tosaf. s.v. אמר].

(39) That flogging is administered and the sinner is thereby purged.

(40) The festive booth for the Feast of Tabernacles (cf Lev. XXIII, 34ff).

(41) 'Palm-branch', the term applied to the festive wreath used in the Tabernacles ritual and consisting of four species of which the palm-branch is one (cf. Lev. XXIII, 40).

Talmud - Mas. Kethuboth 86b

he is flogged[1] until his soul departeth.[2]

Rami b. Hama enquired of R. Hisda: What is the ruling where [a husband said to his wife,] 'Here is your letter of divorce but you shall be divorced thereby only after [the lapse of] thirty days'. and she went and laid it down at the side of a public domain?[3] — 'She', the other replied, 'is not divorced, by reason of the ruling of Rab and Samuel, both of whom have stated, 'It must be heaped up and lie in a public domain'[4] and the sides of a public domain are regarded as the public domain itself.[5] On the contrary! She should be deemed divorced by reason of a ruling of R. Nahman, who stated in the name of Rabbah b. Abbuha, 'If a man said to another, "Pull this cow, but it shall pass into your possession Only after thirty days", he legally acquires it even if it stands at the time in the meadow';[6] and a meadow presumably has, has it not, the same status as the sides of a public domain?[7] — No; a meadow has a status of its own[8] and the sides of a public domain, too, have a status of their own.[9] Another version: He[10] said to him,[11] 'She[12] is divorced by reason of a ruling of R. Nahman,[13] the sides of a public domain having the same status as a meadow'. — 'On the contrary! She should not be regarded as divorced by reason of a ruling of Rab and Samuel.[13] for have not the sides of a public domain the same status as a public domain?' — 'No; a public domain has a status of its own[8] and the sides of a public domain, too, have a status of their own'.[9]

MISHNAH. IF A HUSBAND SET UP HIS WIFE AS A SHOPKEEPER[14] OR APPOINTED HER AS HIS ADMINISTRATRIX HE MAY IMPOSE UPON HER AN OATH[15] WHENEVER HE DESIRES TO DO SO. R. ELIEZER SAID; [SUCH AN OATH[15] MAY BE IMPOSED UPON HER] EVEN IN RESPECT OF HER SPINDLE AND HER DOUGH.[16]

GEMARA. The question was asked; Does R. Eliezer mean [that the oath[17] is to be imposed] by implication[18] or does he mean that it may be imposed directly?[19] Come and hear: They[20] said to R. Eliezer, ‘No one can live with a serpent in the same basket’.[21] Now if you will assume that R. Eliezer meant the imposition of a direct oath[19] one can well understand the argument;[22] but if you were to suggest [that he meant the oath to be imposed] by implication only, what [it may be objected] could this[23] matter to her?[24] — She might tell him, ‘Since you are so particular with me I am unable to live with you’.[25]

Come and hear:[26] If a man did not exempt his wife[27] from a vow[28] and from an oath[29] and set her up as his saleswoman or appointed her as his administratrix, he may impose upon her an oath[29] whenever he desires to do so. If, however, he did not set her up as his saleswoman and did not appoint her as his administratrix, he may not impose any oath upon her. R. Eliezer said: Although he did not set her up as his saleswoman and did not appoint her as his administratrix, he may nevertheless impose upon her an oath wherever he desires to do so, because there is no woman who was not administratrix for a short time, at least, during the lifetime of her husband, in respect of her spindle and her dough. Thereupon they said to him: No one can live with a serpent in the same basket. Thus you may infer that [R. Eliezer meant that the oath[29] may he imposed] directly. This is conclusive.

MISHNAH. [IF A HUSBAND] GAVE TO HIS WIFE AN UNDERTAKING IN WRITING, ‘I HAVE NO CLAIM UPON YOU FOR EITHER VOW[30] OR OATH’,[31] HE CANNOT IMPOSE AN OATH[32] UPON HER. HE MAY, HOWEVER, IMPOSE AN OATH UPON HER HEIRS[33] AND UPON HER LAWFUL SUCCESSORS.[34] [IF HE WROTE,] I HAVE NO CLAIM FOR EITHER VOW[30] OR OATH[31] EITHER UPON YOU, OR UPON YOUR HEIRS OR UPON YOUR LAWFUL SUCCESSORS’, HE MAY NOT IMPOSE AN OATH EITHER UPON HER OR UPON HER HEIRS OR UPON HER LAWFUL SUCCESSORS. HIS HEIRS, HOWEVER, MAY[35] IMPOSE AN OATH UPON HER, UPON HER HEIRS OR UPON HER LAWFUL SUCCESSORS. [IF THE WRITTEN UNDERTAKING READ.] ‘NEITHER I NOR MY HEIRS NOR MY LAWFUL SUCCESSORS[36] SHALL HAVE ANY CLAIM UPON YOU OR UPON YOUR HEIRS OR UPON YOUR LAWFUL SUCCESSORS FOR EITHER VOW OR OATH’, NEITHER HE NOR HIS HEIRS NOR HIS LAWFUL SUCCESSORS MAY IMPOSE AN OATH EITHER UPON HER OR UPON HER HEIRS OR UPON HER LAWFUL SUCCESSORS.

IF SHE[37] WENT FROM HER HUSBAND'S GRAVE TO HER FATHER'S HOUSE,[38] OR RETURNED TO HER FATHER-IN-LAW'S HOUSE BUT WAS NOT MADE ADMINISTRATRIX, THE HEIRS ARE NOT ENTITLED TO IMPOSE AN OATH UPON HER;[39] BUT IF SHE WAS MADE ADMINISTRATRIX THE HEIRS MAY IMPOSE AN OATH UPON HER IN RESPECT OF [HER ADMINISTRATION] DURING THE SUBSEQUENT PERIOD[40] BUT NOT IN RESPECT OF THE PAST.[41] GEMARA. What is the nature of the oath?[42] — Rab Judah replied in the name of Rab:

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(1) In an endeavour to coerce him to perform the precept.

(2) Hul. 132b; if he persists in his refusal. Thus it follows that no one is at liberty to declare, ‘I am not disposed to perform a religious act’.

(3) Where fewer people walk, and where it remained intact until the lapse of the thirty days. Is the letter of divorce, it is asked, regarded as being still in the possession of the woman, despite its place of deposit, and the woman is consequently legally divorced, or is the spot, being at the side of a public domain, subject to the same restrictions in respect of kinyan as the public domain itself.

(4) Supra 84b, 85a, q.v., from which it follows that an object in a public domain cannot be acquired except by a specific act of kinyan.

(5) Cf. supra n. 9. The woman cannot consequently he regarded as being in possession of the letter of divorce and her divorce is, therefore, invalid.

(6) Supra 82a q.v. for notes.

(7) As the cow is acquired after the specified period, though stationed in a meadow', so should the woman be deemed to be in the possession of the letter of divorce, though it lies at the side of a public domain.

(8) Hence the validity of a deferred kinyan if at the specified period the object was within its boundaries.

(9) No deferred kinyan being effective within such a spot.

(10) R. Hisda.

(11) Rami b. Hama.

(12) The woman to whom her husband gave a letter of divorce stipulating that it shall take effect only after the lapse of thirty days.

(13) V. supra.

(14) That she should sell his wares

(15) That she has not dealt fraudulently with anything that had been put in her charge.

(16) Sc. not only when she is engaged in commercial transactions, but also when she is occupied with her domestic affairs only. (V. Gemara infra).

(17) He has spoken of in our Mishnah.

(18) גלגול lit 'rolling'. sc only where the wife has to take an oath in respect of her commercial transactions may an oath in respect of her domestic occupations be added.

(19) Sc. even if she is attending to her domestic occupations only.

(20) The Rabbis who differed from him.

(21) Proverb. Serpent _ cantankerous husband.

(22) A wife could justly object to live with a cantankerous man who does not trust her in her domestic responsibilities.

(23) The oath by implication.

(24) When she has in any case to take an oath in respect of her business transactions.

(25) Her refusal to live with him is not due to the actual oath but to his mistrust of her integrity.

(26) An answer to the question supra as to what was R. Eliezer's meaning.

(27) By a formal declaration.

(28) E.g., 'may all the produce of the world be forbidden to me if I misappropriated any of your goods or money' (cf. Git. 34b).

(29) V. supra p. 546. n, 10.

(30) V. p. 547. n. 10.

(31) V. supra p. 546, n. 20.

(32) The nature of this oath is explained infra.

(33) If, having been divorced by him, she died and they claim from him the amount of her kethubah. The oath they take affirms that the deceased had not enjoined upon them either while, or before, she was dying, not did they find any entry among her papers that the kethubah was paid (v. Shebu. 45a).

(34) People who bought her kethubah from her. Cf. n. 4, mutatis mutandis.

(35) If on the death of their father the widow, her heirs or lawful successors claim from them the payment of her kethubah.

(36) The purchasers of his estate from whom the kethubah is claimed in the absence of unencumbered property.

(37) The woman whom her husband had granted exemption from vow and oath (v. supra).

(38) Sc. she severed all connection with her husband's business affairs as soon as he was buried.

(39) Even in respect of the period between her husband's death and burial.

(40) Lit., 'for that which is to come', the exemption having expired at the moment the estate passed into the possession of the heirs.

(41) The period of her administration prior to their father's death, when she was protected by his exemption.

(42) The exemption from which is discussed in the first clause of our Mishnah.

Talmud - Mas. Kethuboth 87a

[It is one that is incumbent] upon a woman who during the lifetime of her husband was made administratrix [of his affairs].[1] R. Nahman replied in the name of Rabbah b. Abbuha: [It is one that is incumbent] upon a woman who impairs her kethubah.[2] R. Mordecai went to R. Ashi and submitted to him this argument: One can well imagine [the origin of the exemption], according to him who holds [that the oath is one incumbent] upon a woman who impairs her kethubah [by assuming that] it occurred to the woman that she might sometime be in need of money and would draw it from her kethubah and would, therefore, tell her husband, ‘Give me an undertaking in writing that you will impose no oath upon me’.[3] According to him, however, who holds [that the oath is one incumbent] upon a woman who during the lifetime of her husband was made administratrix [of his affairs],[4] did she know [it may be objected] that he would set her up as administratrix that she should say to him, ‘Give me a written undertaking that you will impose no oath upon me’?[5] — The other replied: You taught this statement[6] in connection with that clause;[7] we teach it[8] in connection with this:[9] IF SHE WENT FROM HER HUSBAND'S GRAVE TO HER FATHER'S HOUSE, OR RETURNED TO HER FATHER-IN-LAW'S HOUSE BUT WAS NOT MADE ADMINISTRATRIX, THE HEIRS ARE NOT ENTITLED TO IMPOSE AN OATH UPON HER, BUT IF SHE WAS MADE ADMINISTRATRIX THE HEIRS MAY IMPOSE AN OATH UPON HER IN RESPECT OF [HER ADMINISTRATION] DURING THE SUBSEQUENT PERIOD BUT NOT IN CONNECTION WITH THE PAST, [and, in reply to the question as to] what exactly was meant by THE PAST, Rab Judah stated in the name of Rab: [The period] during the lifetime of her husband for which she was made administratrix [of his affairs], but in respect of [the period intervening] between death and burial an oath may be imposed upon her.[10] R. Mattena, however,[11] maintained that no oath may be imposed upon her[12] even in respect of [the period between] death and burial;[13] for the Nehardeans laid down: For poll-tax,[14] maintenance[15] and funeral expenses. an estate[16] is sold without public announcement.[17]

Said Rabbah in the name of R. Hiyya: [If in giving exemption to his wife a husband wrote,] ‘Neither vow nor oath’ it is only he who cannot impose an oath upon her, but his heirs may impose an oath upon her. [If he wrote, however,] ‘Free from vow, free from oath’, neither he nor his heirs may exact an oath from her, [since by this expression] he meant to say to her: ‘Be free from the obligation of an oath’.

R. Joseph. however, stated in the name of R. Hiyya: [If in giving exemption to his wife a husband writes,] ‘Neither vow nor oath’ it is only he who cannot impose an oath upon her but his heirs may; [but if he wrote,] ‘Free from vow, free from oath’, both he and his heirs may exact an oath from her [since by such an expression] he thus meant to say to her: ‘Clear yourself by means of an oath’.

R. Zakkai sent to Mar ‘Ukba the following message: Whether [the husband wrote,] ‘Neither oath’ or ‘Free from oath’, or whether [he wrote.] ‘Neither vow’, or ‘Free from vow’, [and he used the expression] ‘In respect of my estates’,[18] he cannot impose an oath upon her, but his heirs may. [If he wrote, however,] ‘In respect of these estates’, neither he nor his heirs may exact an oath from her.

R. Nahman stated in the name of Samuel in the name of Abba Saul the son of Imma Miriam: Whether [the husband wrote,] ‘Neither oath’ or ‘Free from oath’’ whether [he wrote,] ‘Neither vow’ or ‘Free from vow , or whether [he used the expression,] ‘In respect of my[18] estates’ or ‘In respect of these estates’, neither he nor his heirs may exact an oath from her; but what can I do in view of a ruling of the Sages that anyone who comes to exact payment out of the property of orphans is not to be paid unless he first takes an oath.[19]

Others read this[20] as a Baraitha: Abba Saul the son of Imma Miriam stated; Whether [the husband wrote.] ‘Neither oath’ or ‘Free from oath’, whether [he wrote,] ‘Neither vow’ or ‘Free from vow , or whether [he used the expression,] ‘In respect of my[18] estates, or ‘In respect of these estates’. neither he nor his heirs may impose ,an oath upon her; but what can I do in view of a ruling of the Sages that anyone who comes to exact payment out of the property of orphans need not be paid unless he first takes an oath. [It was in connection with this Baraitha[21] that] R. Nahman said in the name of Samuel: The halachah is in agreement with the ruling of the son of Imma Miriam.

MISHNAH. A WOMAN WHO IMPAIRS[22] HER KETHUBAH IS NOT PAID[23] UNLESS SHE FIRST TAKES AN OATH.[24] IF ONE WITNESS TESTIFIES AGAINST HER THAT [HER KETHUBAH] HAS BEEN PAID,[25] SHE IS NOT BE PAID UNLESS SHE FIRST TAKES THE OATH. FROM THE PROPERTY OF ORPHANS, FROM ASSIGNED PROPERTY[26] AND [FROM THE PROPERTY OF] AN ABSENT HUSBAND[27] SHE MAY NOT RECOVER [THE PAYMENT OF HER KETHUBAH] UNLESS SHE FIRST TAKES AN OATH.[28]

HOW [ARE WE TO UNDERSTAND THE STATEMENT,] ‘A WOMAN WHO IMPAIRS HER KETHUBAH’? IF HER KETHUBAH WAS FOR A THOUSAND ZUZ[29] AND [HER HUSBAND] SAID TO HER, ‘YOU HAVE ALREADY RECEIVED [THE FULL AMOUNT OF] YOUR KETHUBAH’, AND SHE SAYS, ‘I RECEIVED ONLY A MANEH’,[29] SHE IS NOT PAID [THE BALANCE] UNLESS SHE TAKES AN OATH. WHAT IS MEANT BY[30] ‘IF ONE WITNESS TESTIFIES AGAINST HER THAT [HER KETHUBAH] HAS BEEN PAID’? IF HER KETHUBAH WAS FOR A THOUSAND ZUZ[29] AND WHEN [HER HUSBAND] SAID TO HER, ‘YOU HAVE RECEIVED [THE FULL AMOUNT OF] YOUR KETHUBAH’, SHE REPLIED, ‘I HAVE NOT RECEIVED IT WHILE ONE WITNESS TESTIFIES AGAINST HER THAT [THE KETHUBAH] HAS BEEN PAID[25] SHE IS NOT PAID UNLESS SHE FIRST TAKES AN OATH. WHAT IS MEANT BY THE EXPRESSION,[30] ‘FROM ASSIGNED PROPERTY’? IF [HER HUSBAND] HAD SOLD HIS PROPERTY TO OTHERS AND SHE SEEKS TO RECOVER PAYMENT FROM THE BUYERS, SHE IS NOT PAID UNLESS SHE FIRST TAKES AN OATH. WHAT IS THE EXPLANATION OF THE EXPRESSION,[30] FROM THE PROPERTY OF ORPHANS’? IF [HER HUSBAND] DIED AND LEFT HIS ESTATE TO HIS ORPHANS AND SHE SEEKS TO RECOVER PAYMENT FROM THE ORPHANS, SHE IS NOT PAID UNLESS SHE FIRST TAKES AN OATH. WHAT IS TO BE UNDERSTOOD BY[31] ‘AN ABSENT HUSBAND’? IF HER HUSBAND WENT TO A COUNTRY BEYOND THE SEA AND SHE SEEKS TO RECOVER PAYMENT IN HIS ABSENCE,[32] SHE IS NOT PAID UNLESS SHE FIRST TAKES AN OATH.

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(1) It is from such an oath only that a husband exempts his wife, but not from one which a woman incurs when she impairs her kethubah (v. infra). A husband, according to this view, only exempts his wife from an obligation which is in his power to impose upon her but not from one which she has brought upon herself.

(2) By admitting that part of it has been paid to her. A woman who makes such an admission while her husband pleads that he has paid her the full amount is not entitled to receive the balance she claims except on oath, and it is the opinion of the authority cited by R. Nahman that a husband's general exemption extends to such an oath also, much more so to that required from her as administratrix (cf. supra note 2).

(3) And while asking for exemption from this particular oath she might at the same time ask for an exemption from both oaths.

(4) Cf. supra note 2.

(5) As she cannot be assumed to divine her husband's thoughts and intentions, the desire for such a request could naturally never arise.

(6) Rab Judah's, (supra 86b f).

(7) The case dealt with in the first clause of our Mishnah (cf. supra p. 549. n. i).

(8) I.e., you assume that R. Judah and R. Nahman refer to one and the same clause.

(9) The final clause dealing with the oath of an administratrix.

(10) Cf. supra p. 548, n. 11. Whereas R. Nahman refers to the first clause, Rah Judah refers to the case of an administratrix in the last clause, and so R. Mordecai's objection does not arise.

(11) Differing from Rab Judah.

(12) The administratrix whom her husband has exempted from oath.

(13) This period also coming under the term of THE PAST.

(14) On behalf of orphans.

(15) Of one's widow or daughter.

(16) A bequest now belonging to the orphans of the deceased.

(17) Because in all these cases money is urgently needed and there is no time for the public announcement that must precede all sales effected on the order of a court. The urgency of the sale must inevitably lead to some undercutting of prices which the widow cannot possibly avoid (v. Git. 52b). It would consequently be an act of injustice to impose upon her an oath in respect of her administration during the period between her husband's death and burial.
(18) Omitting the demonstrative pronoun ‘these’.
(19) V. B.B. 5b.
(20) The ruling cited in the name of Abba Saul.
(21) Cf. supra n. 3.
(22) This is explained anon.
(23) The balance she claims.
(24) Affirming her claim.
(25) In full (v. infra).
(26) Mortgaged or sold.
(27) Lit., ‘and not in his presence’, i.e., if a husband who was abroad sent a divorce to his wife and she claims her kethubah in his absence.
(28) Which is imposed upon her by the court even if the respective defendants mentioned do not demand it.
(29) V. Glos.
(30) Lit., ‘how".
(31) Lit., ‘how’.
(32) Cf. supra p. 552, n. 6.

Talmud - Mas. Kethuboth 87b

R. SIMEON RULED: WHENEVER[1] SHE[2] CLAIMS HER KETHUBAH THE HEIRS MAY IMPOSE AN OATH UPON HER BUT WHERE SHE DOES NOT CLAIM HER KETHUBAH THE HEIRS CAN NOT IMPOSE AN OATH UPON HER.

GEMARA. Rami b. Hama wished to assume that the OATH[3] was Pentateuchal,[4] since [it is a case where] one [of two persons] claims two hundred [zuz] and the other admits one hundred [the defence] being an admission of a part of the claim,[5] and whoever admits part of a claim must[6] take an oath.[7] Said Raba: There are two objections to this assumption: In the first place, all who take an oath in accordance with Pentateuchal law take the oath and do not pay,[8] while she[9] takes the oath and receives payment. And, secondly, no oath may be imposed[6] in respect of the denial of [a claim that is] secured[10] on landed property.[11] [The fact,] however, is, said Raba, [that the oath is only] Rabbinical. As it is the person who pays that is careful to remember the details while he who receives payment is not, the Rabbis have imposed an oath upon her[12] that she might be careful to recollect the details.

The question was raised; What if a woman impaired her kethubah by [admitting that she received part payment in the presence of] witnesses? [Is it assumed that] were [her husband] to pay her [the balance] he would do it in the presence of witnesses,[13] or [is it rather assumed that] it was a mere coincidence [that witnesses were present when the first payment was made]?[14] — Come and hear;[15] All who take an oath in accordance with Pentateuchal law, take the oath and do not pay,[16] but the following take an oath and receive payment; A hired labourer,[17] a man who was robbed[18] or wounded,[19] [any claimant] whose opponent is suspected of [taking a false] oath[20] and a shopkeeper[21] with his [accounts] book,[22] and also [a creditor] who impaired his bond [the first instalment of which had been paid] in the absence of witnesses.[23] Thus only[24] [where the first instalment was paid] ‘in the absence of witnesses’[25] but not where it was paid in the presence of witnesses![26] — This is a case of ‘there is no question . . .’[27] There is no question[28] that [when the first instalment was paid] in the presence of witnesses she must take an oath; when, however, [it was paid] in the absence of witnesses,it might be assumed that she has [the same privilege] as one who restores a lost object [to its owner][29] and should, therefore, receive payment without taking an oath. It was, therefore, taught [that the oath is nevertheless not to be dispensed with].

The question was raised: What if a woman impaired her kethubah [by including in the amount she admitted] sums amounting to[30] less than the value of a perutah?[31] Is it assumed that since she[32] is so careful in her statements she must be speaking the truth[33] or is it possible that she[34] is merely acting cunningly?[35] — This remains unsolved.[36]

The question was raised: What if a woman declares her [original] kethubah to have been less [than the amount recorded in the written document]?[37] Is it assumed that such a woman is in the same position as the woman who impaired [her kethubah] or is it possible [that the two cases are unlike, since] the woman who impairs [her kethubah] admits a part [of the sum involved][38] while this one does not admit a part [of the sum involved]?[39] — Come and hear: A woman who declares that her [original] kethubah was less [than the amount recorded in the document] receives payment without an oath. How [is this to be understood]? If her kethubah was for a thousand zuz[40] and when her husband said to her, 'You have already received your kethubah,'[41] she replies. 'I have not received it,[41] but [the original kethubah] was only for one maneh,'[42] she is to receive payment without an oath.[43]

Wherewith, however, does she collect [the amount she claims]? Obviously with that document.[44] But is not that document a mere potsherd?[45] — Raba the son of Rabbah replied: [This is a case] where she states, 'There was an arrangement of mutual trust between me and him'.[46]

IF ONE WITNESS TESTIFIES AGAINST HER THAT [HER KETHUBAH] HAS BEEN PAID [etc.]. Rami b. Hama wished to assume that the OATH was Pentateuchal, for it is written In Scripture, One witness shall not rise up against a man for any iniquity, or for any sin;[47] it is only for ally iniquity or for any sin that he may not rise up, but he may rise up [to cause the imposition upon one of the obligation] of an oath. And, furthermore, a Master has laid down: In all cases where two witnesses render a man liable to pay money, one witness renders him liable to take an oath.[48] Said Raba: There are two objections to this assumption. In the first place, all who take an oath in accordance with Pentateuchal law, do so and do not pay,[49] while she takes an oath and receives payment; and, secondly, no oath may be imposed in respect of the denial of [a claim that is] secured on landed property. [The fact], however, is, said Raba [that the oath is only] Rabbinical, [having been enacted] to appease the mind of the husband.

R. Papa said:

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(1) Lit., 'all the time'.

(2) The Gemara infra explains what R. Simeon refers to.

(3) Which A WOMAN WHO IMPAIRS HER KETHUBAH must take.

(4) On the difference between a Rabbinical oath and one imposed by the Torah v. Shebu. 41a.

(5) [Read with MS.M.: for she claims of him two hundred (zuz) and he admits to her one hundred, so that he is admitting part of the claim].

(6) Pentateuchally.

(7) That he has repaid the difference. The woman, having admitted receipt of a part of her kethubah, must consequently be in a similar position.

(8) I.e., it is the defendant, not the claimant, who takes the oath.

(9) The woman who impaired her kethubah and claims the balance.

(10) As is a kethubah.

(11) V. Shebu. 42b, B.M. 57b.

(12) V. supra p. 553, n. 11.

(13) As he did in the case of the first payment. The woman would consequently be entitled to payment without taking the oath.

(14) And since the man was not particular to secure witnesses on the first occasion, he might have been equally indifferent on the second occasion, and the woman would consequently have to take an oath.
(15) V. Mishnah Shebu. 44b.
(16) V. supra p. 553, n. 10.
(17) Who swears that he has not received his wages.
(18) Witnesses testifying that they saw the robber emerging from that person's house carrying an object which they could not identify.
(19) The evidence shewing that the wound had been inflicted while the two men were alone in a particular spot, though no third party had witnessed the actual wounding.
(20) I.e., if the defendant is known to have once before sworn falsely.
(21) Who was given an order by an employer to supply a certain amount of goods to his workmen on account of their wages.
(22) If the book shews that the goods had been duly supplied and the workmen deny receiving them, the shopkeeper, like the workmen, is ordered to take an oath (the former that he supplied the goods and the latter that they had Dot received them) and both receive payment from the employer.
(23) [Add with MS.M. ‘and she who impairs her kethubah without witnesses’]. These last two mentioned cases are not found in the Mishnah (v. supra n. 11 ad fin.) and their source is a Baraitha (cf. Tosaf. s.v. ואלו a.l.).
(24) Lit., ‘yes’.
(25) Must the claimant take the oath.
(26) The woman, in the case under discussion, would consequently be entitled to collect the balance she claims without taking an oath.
(27) Lit., ‘he implied (the formula).”It is not required” (to say etc.)’.
(28) Lit., it is not required (to say that)’.
(29) In such a case a person is not expected to take an oath that he had returned all that he had found. His honesty is taken for granted in view of the fact that a dishonest man would have kept the object entirely to himself. Similarly with the impaired kethubah. Had the woman been dishonest she need not have admitted the receipt of an instalment at all and could have collected the full amount of her kethubah by virtue of the written document she possesses.
(30) Lit., ‘less less’.
(31) V. Glos.
(32) By including even small and insignificant payments.
(33) And should, therefore, be exempt from an oath in respect of the balance.
(34) In mentioning insignificant payments.
(35) She mentioned the small sums in order to give the impression of being a careful and scrupulous person while in fact the instalment or instalment she received were substantial sums. Consequently an oath should be imposed upon her.
(36) Teku, v. Glos.
(37) And she claims that amount; while her husband states that he had paid her all her kethubah.
(38) The husband asserting that he paid the full amount and she admitting the receipt of a part of it. In such a case an oath may justly be imposed upon the woman.
(39) Since according to her statement the kethubah never amounted to more than the sum she now claims.
(40) V. Glos.
(41) The amount entered in the document.
(42) While the document contains a larger sum.
(43) This solves the problem.
(44) The kethubah she holds.
(45) Sc. of no legal value, since she herself admits that the amount it records is fictitious.
(46) They agreed, she states, that she would claim the smaller sum only despite the entry in the kethubah which shewed a larger one. This verbal agreement does not in any way affect the validity of the kethubah which, having been written and signed in a proper manner and attested by qualified witnesses, is a valid document on the strength of which a legal claim may well be founded; cf. supra 19b.
(47) Deut. XIX. 15.
(48) As two witnesses would have caused the woman to lose her kethubah entirely, one witness may rightly cause an oath to be imposed upon her. V. Shebu. 40a.

(49) V. supra p. 553, n. 10ff.

Talmud - Mas. Kethuboth 88a

If he[1] is clever he may bring her under the obligation[2] of a Pentateuchal oath:[3] He pays her[4] the amount of her kethubah in the presence of one witness, associates the first witness[5] with the second[6] and then treats his first payments[7] as a loan.[8] R. Shisha son of R. Idi demurred: How can one associate the first witness with the second one?[9] — But, said R. Shisha the son of R. Idi, [he might proceed in this manner:][10] He pays her the amount of her kethubah in the presence of the first witness and a second one, and then treats his first payments as a loan. R. Ashi demurred: Might she not still assert that there were two kethubahs?[11] — But, said R. Ashi: He might inform them[12] [of the facts].[13]

FROM ASSIGNED PROPERTY. Elsewhere we have learned; And so also orphans cannot exact payment unless they first take an oath.[14] From whom?[15] If it be suggested. From a borrower[16] [it may be objected;] Since[17] their father would have received payment without an oath[18] should they require an oath?[19] — It is this, however, that was meant: And so also orphans cannot exact payment from orphans unless they first take an oath.[20]

R. Zerika stated in the name of Rab Judah: This[21] has been taught only [in the case] where the orphans[22] stated, ‘Father told us; I have borrowed and paid up’. If, however, they said, ‘Father told us: I have never borrowed’ [the others] cannot exact payment even if they take an oath. Raba demurred: On the contrary. wherever a man says. ‘I have not borrowed’, it is as if he had said, ‘I have not paid’![23] — [The fact,] however, [is that] if such a statement[24] was at all made it was made in these terms: R. Zerika stated in the name of Rab Judah. This[25] has been taught only [in a case] where the orphans[22] stated, ‘Father told us: l have borrowed and paid up’. If, however, they said — ‘Father told us: I have never borrowed’, [the orphans of the creditor] may exact payment from them without an oath , because to say, ‘I have not borrowed’ is equivalent to saying, ‘I have not paid’.

AND[26] [FROM THE PROPERTY OF] AN ABSENT HUSBAND [A WOMAN] MAY NOT RECOVER [THE PAYMENT OF HER KETHUBAH] UNLESS SHE FIRST TAKES AN OATH. R. Aha, the governor of the castle,[27] stated: A case[28] was once brought before R. Isaac Nappaha[29] at Antioch[30] and he made this statement, ‘This[31] has been taught only in respect of the kethubah of a woman [who receives preferential treatment] in order to maintain pleasant relations[32] [between her and her husband] but not [in respect of] a creditor. Raba, however, stated in the name of R. Nahman; Even a creditor [has been given the same privilege],[33] in order that every person shall not take his friend's money and abscond and settle in a country beyond the sea and thus [cause the creditor's] door to be shut in the face of intending borrowers.[34]

R. SIMEON RULED: WHENEVER SHE CLAIMS HER KETHUBAH etc. What is R. Simeon referring to? — R. Jeremiah replied. To this; AND[35] [FROM THE PROPERTY OF] AN ABSENT HUSBAND [A WOMAN] MAY NOT RECOVER [THE PAYMENT OF HER KETHUBAH] UNLESS SHE FIRST TAKES AN OATH [which implies that] there is no difference between [a claim] for maintenance and one for a kethubah,’[36] and [in opposition to this ruling] R. Simeon came to lay down the rule that WHENEVER SHE CLAIMS HER KETHUBAH THE HEIRS MAY IMPOSE AN OATH UPON HER

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(1) The husband whose plea is supported by one witness only.

(2) Lit., ‘bring her to the hands of’.

(3) Cf. supra p. 553. n. 6.

(4) A second time.

(5) Who saw the first payment.

(6) Should she deny having had her kethubah paid, he presents the two witnesses in support of his claim.
(7) On account of her kethubah.
(8) Should she then deny receiving the money he may well impose upon her a Pentateuchal oath on the strength of the evidence of the first witness who was present when she received it. It is only in the case of a kethubah which is an hypothecary obligation (v. supra) that a witness cannot impose upon a defendant the Pentateuchal oath.
(9) In view of the fact that the evidence of the one relates to a transaction at which the other was not present. The law of evidence demands that both witnesses testify to the same transaction. Should the woman he prepared to deny the second payment also, no Pentateuchal oath could be imposed upon her and she would thus be able to obtain a third payment also on taking a Rabbinical oath.
(10) V. supra notes 1-8.
(11) The first of which she had returned when she had received her first payment. As the first witness, who knows that the two payments were made to her in settlement of a kethubah would naturally corroborate her statement, the dispute would still relate to a kethubah and not to a loan. How then could a Pentateuchal oath be imposed upon her?
(12) The two witnesses.
(13) Before he makes his second payment. As the first witness would thus be aware that the second payment is made solely for the purpose of imposing upon her a Pentateuchal oath in respect of the first payment which she fraudulently denied, he would refrain from giving evidence in her favour and the man would thus be able to recover his money. Her peculiar plea that she had two kethubahs would naturally be disregarded in the absence of all supporting evidence.
(14) Shebu. 45a. Cf. supra p. 548, n. 4.
(15) Can they not ‘exact payment etc.’.
(16) Against whom they produce a bond of indebtedness bequeathed by their father.
(17) Lit., ‘now".
(18) As all creditors who produce a bond of indebtedness against a debtor.
(19) Obviously not, since orphans would not be subject to a restriction from which their father was exempt.
(20) Cf. Shebu. 47a.
(21) That after taking an oath the orphans of a lender are entitled to receive payment of a bond they have inherited.
(22) Of the borrower.
(23) B.B. 6a, Shebu. 41b. If a man did not borrow he obviously did not repay; but since the bond shews that he did borrow, he must obviously be ordered to pay. How then could it be said that if the orphans pleaded that their father told them that he never borrowed they are exempt from payment?
(24) As the one attributed to R. Zerika.
(25) That the orphans cannot exact payment of a bond they have inherited unless they first take an oath.
(26) V. our Mishnah. Cut. edd. add here ונפרעת MS.M. והנפרעת.
(27) A surname (v. Rashi). Cf. Neb. VII, 2, where Hananiah is so described.
(28) Of a claim against an absent debtor.
(29) So MS.M. and Bah. Cut. edd. omit ‘Nappaha’.
(30) The capital of Syria, on the river Orontes. It was founded by Seleucus Nicator and was at one time named Epidaphnes.
(31) That a claimant may be authorized by a court to seize the property of a defendant in the latter's absence.
(32) V. supra p. 532, n. 11f.
(33) Cf. supra n. 5.
(34) Metaph. Undue difficulty in the collection of a debt would prevent people from risking their money in the granting of loans.
(35) Cf. supra p. 558. n. 13.
(36) For either claim the woman cannot recover from her absentee husband's property without an oath.

Talmud - Mas. Kethuboth 88b

BUT WHERE SHE DOES NOT CLAIM HER KETHUBAH THE HEIRS CANNOT IMPOSE AN OATH UPON HER. And they[1] [in fact] differ on the same principles as those on which Hanan and the sons of the High Priests differed; for we learned: If a man went to a country beyond the sea and his wife claimed maintenance, she must, Hanan ruled, take an oath at the end[2] but not at the beginning.[3] The sons of the High Priests, however, differed from him and said that she must take an oath both at the beginning[3] and at the end.[4] R. Simeon [is thus of the same opinion] as Hanan while the Rabbis[5] [hold the same view] as the sons of the High Priests.

R. Shesheth demurred; Then[6] [instead of saying,] THE HEIRS MAY IMPOSE AN OATH UPON HER, It should have said, 'Beth din[7] may impose an oath upon her'! — The fact, however, is, said R. Shesheth.[that R. Simeon referred] to this:[8] If she went from her husband's grave to her father's house, or returned to her father-in-law's house but was not made administratrix, the heirs are not entitled to impose an oath upon her; but if she was made administratrix the heirs may exact an oath from her in respect of [her administration] during the subsequent period but may not exact one concerning the past;[9] and [in reference to this ruling] R. Simeon came to lay down the rule that WHENEVER SHE CLAIMS HER KETHUBAH THE HEIRS MAY ENACT AN OATH FROM HER BUT WHERE SHE DOES NOT CLAIM HER KETHUBAH THE HEIRS CANNOT IMPOSE AN OATH[10] UPON HER. And they[11] differ on the same principles as those on which Abba Saul and the Rabbis differed; for we have learned: An administrator whom the father of the orphans had appointed must take an oath,[10] but one whom the Beth din have appointed need not take an oath. Abba Saul, however, said, The rule is to be reversed: If Beth din appointed him he must take an oath but if the father of the orphans appointed him he need not take an oath.[12] R. Simeon [thus holds the same view] as Abba Saul[13] and the Rabbis [in our Mishnah hold the same view] as the Rabbis.[14] Abaye demurred: Then[15] [rather than say,] WHEREVER SHE CLAIMS HER KETHUBAH[16] it should have said,[15] 'If[17] she claims'.[18] The fact, however, is, said Abaye, [that R. Simeon referred] to this: [If a husband] gave to his wife an undertaking in writing, 'I renounce my claim upon you for either vow or oath', he cannot impose an oath upon her etc. [If the written undertaking read,] 'Neither I nor my heirs nor my lawful successors will have any claim upon you. or your heirs or your lawful successors for either vow or oath', neither he nor his heirs nor his lawful successors may impose an oath either upon her or upon her heirs or upon her lawful successors;[19] and [in reference to this ruling][20] R. Simeon came to lay down the rule[21] that[22] WHENEVER SHE CLAIMS HER KETHUBAH THE HEIRS MAY ENACT AN OATH FROM HER.[22]

And they[23] [consequently] differ on the same principles as those on which Abba Saul the son of Imma Miriam, and the Rabbis differed.[24] R. Simeon agreeing with Abba Saul and the Rabbis [of our Mishnah] with the Rabbis.[25] R. Papa demurred: This would satisfactorily explain [the expression] WHENEVER SHE CLAIMS HER KETHUBAH.[26] What, however, can be said [in justification of] BUT WHERE SHE DOES NOT CLAIM HER KETHUBAH?[27] The fact, however, is, said R. Papa, [R. Simeon's ruling was intended] to oppose the views of both R. Eliezer and those who differed from him.[28] MISHNAH. IF SHE[29] PRODUCED A LETTER OF DIVORCE WITHOUT A KETHUBAH[30]

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(1) R. Simeon and the first Tanna.

(2) Sc. when her husband dies and she claims her kethubah.

(3) I.e., when he is still alive and she claims maintenance.

(4) Infra 104b.

(5) The first Tanna in our Mishnah.

(6) Lit., 'that', i.e., if it is a case of a wife's claim for maintenance during her husband's lifetime.

(7) The court. V. Glos.

(8) The preceding Mishnah.

(9) Supra 86b, q.v. for notes.

(10) Affirming faithful and honest administration.

(11) R. Simeon and the first Tanna.

(12) Git. 52b, q.v. for the reasons of the respective rulings.

(13) Since the woman also has been appointed by the 'father of the orphans'.

(14) Of the Mishnah cited.

(15) Since R. Simeon relaxes the law in favour of the woman.

(16) Then THE HEIRS MAY IMPOSE AN OATH, an expression which implies that R. Simeon is adding a restriction.

(17) I.e., only if.

(18) ‘May an oath be exacted’. ‘WHENEVER SHE CLAIMS . . . THE HEIRS MAY’ implies that whereas the first Tanna exempted the woman from an oath even where she claimed her kethubah, R. Simeon differed from him and imposed upon her an oath ‘WHEREVER SHE CLAIMS’.

(19) Supra 86b q.v. for notes.

(20) Which exempts the woman from an oath even when she seeks to recover payment from orphans.

(21) Restricting the woman's privilege. Cf. supra n. 2f.

(22) Cf. supra n. 4.

(23) R. Simeon and the first Tanna.

(24) Supra 87a.

(25) Of the Baraitha referred to.

(26) Cf. supra note 4. The Rabbis having exempted the woman from the oath that the orphans might wish to impose upon her, R. Simeon laid down that WHEREVER etc.

(27) What need was there for this statement which has no beating on what the Rabbis have said?

(28) I.e., R. Simeon differs from the views expressed in the two Mishnahs, supra 86b, and not only, as Abaye maintained, from those of the second Mishnah only. Contrary to what has been stated in these two Mishnahs, R. Simeon laid down that a wife's liability to take an oath is not determined by the action of the husband in granting her exemption and by the terms of that exemption, but is entirely dependent on whether the woman does or does not claim her kethubah. (V. Rashi and Tosaf’. s.v. לאפוקי a.I.). [On this interpretation R. Papa does not disagree with Abaye but merely adds that R. Simeon's interpretation refers also to the second clause. This is supported by MS.M. which omits: The fact is however, (lit. ‘but’), said R. Papa. For other interpretations v. Shittah Mekubbezeth].

(29) A woman who seeks to recover the amount of her kethubah.

(30) I.e., the written marriage contract (v. Glos.). It is now assumed that the woman asserts that the document was lost.

Talmud - Mas. Kethuboth 89a

SHE IS ENTITLED TO COLLECT THE AMOUNT OF HER KETHUBAH.[1] [IF SHE, HOWEVER, PRODUCED HER] KETHUBAH WITHOUT A LETTER OF DIVORCE AND, WHILE SHE PLEADS, MY LETTER OF DIVORCE WAS LOST’,[2] HE[3] Pleads, ‘MY QUITTANCE[4] WAS LOST’, AND SO ALSO A CREDITOR WHO PRODUCED[5] A BOND OF INDEBTEDNESS THAT WAS UNACCOMPANIED BY A PROSBUL,[6] THESE[7] ARE NOT PAID. R. SIMEON B. GAMALIEL RULED; SINCE THE TIME OF DANGER[8] A WOMAN IS ENTITLED TO COLLECT HER KETHUBAH WITH OUT A LETTER OF DIVORCE AND A CREDITOR IS ENTITLED TO COLLECT [HIS DEBT] WITHOUT A PROSBUL.

GEMARA. This[9] implies [does it not] that a quittance[10] may be written;[11] for if a quittance may not be written would not the possibility have been taken into consideration that the woman might produce her kethubah [after her husband's death] and[12] collect therewith [a second time]?[13] — Rab replied: We are dealing[14] with a place where no kethubah is written.[15] Samuel, however, said: [Our Mishnah refers] also to a place where a kethubah is written.

May then[16] a quittance be written according to Samuel?[17] R. Anan replied, This was explained to me by Mar Samuel;[18] Where it is the custom not to write [a kethubah] and [the husband] asserted, ‘I have written one’ it is he who must produce the proof, where it is the usage to write one and she pleads. ‘He did not write one for me’ it is she that must produce the proof.[19]

Rab[20] also withdrew from [his previously expressed opinion]. For Rab had stated: Both in a place where [a kethubah] is written and in one where it is not written, a letter of divorce [enables a woman to] collect her statutory[21] kethubah [while the written document of the] kethubah [enables her to] collect the additional jointure;[22] and whosoever wishes to raise any objection may come and do so.[23]

We have learned: [A WOMAN, HOWEVER, WHO PRODUCED HER] KETHUBAH WITHOUT A LETTER OF DIVORCE AND, WHILE SHE PLEADS, 'MY LETTER OF DIVORCE WAS LOST HE PLEADS, 'MY QUITTANCE WAS LOST'. AND SO ALSO A CREDITOR WHO PRODUCED A BOND OF INDEBTEDNESS WITHOUT A PROSBUL, THESE ARE NOT PAID. Now, according to Samuel[24] this statement is quite intelligible since one might interpret it as applying to a locality where it is the practice to write [no kethubah] and the husband pleaded. 'I did write one'. In such a case [the man] might justly be told, 'Produce your evidence', and should he fail to do so he might well be told, 'Go and pay up'.[25] According to Rab,[26] however, [the question arises,] granted that she[27] is not to collect her statutory kethubah,[28] let her at least collect the additional jointure![29] — R. Joseph replied: Here[30] we are dealing with a case where no witnesses to the divorce were present. Since [the husband] could have pleaded. 'I have not divorced her',[31]

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(1) Sc. the sum she claims. Should the husband plead that he already paid her that sum and that the document had been returned to him at the time and was then duly destroyed, his plea would be disregarded since the provision for a kethubah has the force of 'an act of a court', מעשה בית דין, and is as binding in the absence of a written document as if one had been actually in existence. Only the production of valid evidence could exempt the man from payment. Cf. B.M. 17b.

(2) 'Before I collected my kethubah'.

(3) The husband.

(4) 'Which was given to me at the time I paid the amount of the kethubah'. His wife, he alleges. had produced at that time her letter of divorce only asserting that her written kethubah was lost. As is the procedure in such cases, he maintains, the letter of divorce was duly destroyed in order to prevent the woman from claiming therewith a second payment at another court of law, while he was furnished with a quittance as a protection for his heirs should the woman produce her kethubah after his death, and, denying that she was ever divorced, claim the amount of her kethubah as the widow of the deceased.

(5) After the Sabbatical year when all debts must be released (v. Deut. XV. 2).

(6) Pleading that the prosbul was lost, while the debtor asserts that such a document had never been made out and that he was consequently released from his debt by the Sabbatical year. פרוזבול, a form of declaration which enables a creditor to retain his rights to the collection of his debts even after the Sabbatical year. (V. Glos. and cf. Git. 34b).

(7) Lit., 'behold these'.

(8) The Hadrianic persecutions that followed the rebellion of Bar Cochba (132-135 C.E.) when all religious practices were forbidden on the penalty of death and it was hazardous to preserve a letter of divorce or a prosbul.

(9) The ruling in out Mishnah that the amount of a kethubah may be collected by a woman who produces her letter of divorce only, even if, under the plea that she lost it, she does not surrender her kethubah.

(10) In lieu of the return of the original document, such as the kethubah or any bond of indebtedness.

(11) Despite the pleas of the defendant who objects to become the custodian of a quittance and demands the return of the original record of his obligations or, in its absence, exemption from payment.

(12) As a widow (cf. supra p. 562, n. 6 ad fin.).

(13) As this possibility is disregarded it follows that a quittance may well be written despite the defendant's objection. But how is this ruling to be reconciled with the accepted view of the authority (B.B. 171b) who holds that the defendant may rightly object to have to 'guard his quittance from mice'?

(14) In our Mishnah.

(15) The women relying on the general provision of the Rabbis which entitles every wife to a kethubah.

(16) Cf. supra notes 2 and 3.

(17) Cf. supra n. 9.

(18) MS.M.: Samuel.

(19) Samuel also is thus of the opinion that a quittance may not be written, as was laid down in B.B. 171b, while our Mishnah, according to his interpretation, refers both to places where a kethubah is written as well as to those where a kethubah is not written. The woman IS ENTITLED TO COLLECT THE AMOUNT OF HER KETHUBAH even if she fails to produce the document when, in the former case, she produced valid proof that her husband did not write one for her, and, in the latter case, where the man failed to produce valid proof that he did write one for her.

(20) Who first restricted the ruling of our Mishnah to a place where no kethubah is written.

(21) Lit., ‘root’, i.e., the amount of two hundred and a hundred zuz to which a virgin and a widow respectively are entitled.

(22) The first clause of our Mishnah thus refers to the statutory kethubah which may be collected with a letter of divorce, while the second clause refers to the additional jointure, both clauses applying to all localities irrespective of whether the custom of the place was to write a kethubah or not to write one.

(23) Sc. no possible objection could be raised to this view, since the woman would never be able to collect mote than what is her due.

(24) Who allows the statutory kethubah as well as the additional jointure to be collected on the strength of a letter of divorce.

(25) Both the additional and the statutory jointure, on the evidence of the letter of divorce. Should the woman subsequently produce a written kethubah without her letter of divorce, payment, as stated in our Mishnah, might justly be refused if the husband pleads that he had already paid her all that was due to her, at the time she produced her letter of divorce, that her letter of divorce was then destroyed and that a quittance was given to him. The ruling that she NEED NOT BE PAID is consequently quite logical.

(26) Who allows only the statutory kethubah to be collected on the production of a letter of divorce.

(27) When she produces her written kethubah alone.

(28) Because she might have already collected it with her letter of divorce (cf. supra p. 564, n. 5).

(29) Which is at all events due to her (cf. supra p. 564. n’ 5). As our Mishnah, however, ruled that she NEED NOT BE PAID anything at all, an objection against Rab's view thus arises.

(30) In the statement of our Mishnah under discussion.

(31) And thereby procured exemption from payment of the kethubah.

Talmud - Mas. Kethuboth 89b

he is also entitled to plead, ‘I have divorced her but I have already paid her the kethubah’.[1]

But since it was stated in the final clause, R. SIMEON B. GAMALIEL RULED: SINCE THE TIME OF DANGER A WOMAN IS ENTITLED TO COLLECT HER KETHUBAH WITHOUT A LETTER OF DIVORCE AND A CREDITOR IS ENTITLED TO COLLECT [HIS DEBT] WITHOUT A PROSBUL, [it follows that] we are dealing with a case where witnesses to the divorce are present; for had no such witnesses been present whereby could she have collected [her kethubah]?[2] — [The fact], however, is that the entire Mishnah represents the view of R. Simeon b. Gamaliel, but some clauses are missing, the correct reading being the following: NEED NOT BE PAID’. This applies only where no witnesses to the divorce are present, but if such witnesses are present she is entitled to collect her additional jointure. As to the statutory kethubah, if she produces her letter of divorce she may collect it, but if she does not produce her letter of divorce she may not collect it.[3] Since the time of danger, however, a woman may collect her kethubah even if she does not produce her letter of divorce, for R. SIMEON B. GAMALIEL RULED; SINCE THE TIME OF DANGER A WOMAN IS ENTITLED TO COLLECT HER KETHUBAH WITHOUT A LETTER OF DIVORCE AND A CREDIT OR [IS ENTITLED TO COLLECT HIS DEBT] WITHOUT A PROSBUL’.

R. Kahana and R. Assi said to Rab; According to the ruling you have laid down that the statutory kethubah is collected by the letter of divorce , [the question arises,] whereby does a woman who was widowed after her marriage collect her kethubah? [Obviously] through the witnesses [who testify to the] death [of her husband]. Should we not, however, take into consideration the possibility that her husband might have divorced her and that she might subsequently[4] produce the letter of divorce[5] and collect[6] with it also? — [A widow may collect her kethubah only] if she lived with her husband.[7] But is it not possible that he might have divorced her near the time of his death?[8] — [In such a case] it is he[9] who has brought the loss upon himself.

Whereby does a woman who was widowed after her betrothal collect her kethubah? [Obviously] by the witnesses [who testify to the man's] death. Should we not, however, take into consideration the possibility that the man might have divorced her and that she would subsequently produce her letter of divorce and collect with it also?[10] — [This],[11] however, [is the explanation:][12] Where no other course is possible a quittance may be written.[13] For were you not to admit this [the objection might be raised even in respect of] the very witnesses [who testify to her husband's] death:[14] The possibility should be considered that the woman might present [one pair of] witnesses to [her husband's] death before one court and so collect [her kethubah] and then present [another pair] before another court and collect it [again]. It must he obvious, therefore,[15] that where no other course is possible a quittance may be written.

Said Mar Kashisha the son of R. Hisda to R. Ashi: Whence is it derived that a woman who was widowed after her betrothal is entitled to a kethubah.[16] If it be suggested [that it may he derived] from this passage: ‘A woman who was widowed or divorced either after her betrothal or after her marriage is entitled to collect all[17] [that is due to her]’,[18] is it not possible [it may be retorted that this applies to a case] where the man had written a kethubah for her? And were you to argue. ‘If he has written one for her, what need was there to tell [such an obvious rule?’ It could be retorted that it serves the purpose] of rejecting the view of R. Eleazar b. Azariah who maintained that ‘the man wrote the [additional jointure] for her with the sole object of marrying her’.[19] The inference too [from the Mishnah cited leads to the same conclusion].[20] For it has been stated, ‘[She] is entitled to collect all [that is due to her]’. Now if you agree that [this is a case where] the man had written [a kethubah] for her one can well understand why she ‘is entitled to collect all [that is due to her]’.[21] If you submit, however, that the man did not write a kethubah for her, what [it may be objected is the justification for the expression.] ‘is entitled to collect all’, seeing that she is only entitled to one hundred or two hundred[22] zuz?[23] [Should it,] however, [be suggested that the law[24] may be derived] from that which R. Hiyya b. Abin[25] taught: ‘In the case of a betrothed wife[26] [a husband] is neither [subject to the laws of] onan[27] nor may he[28] defile himself for her,[29] and she likewise is not subject to the laws of the onan[30] nor is she[31] obliged[32] to defile herself for him;[33] if she died he[34] does not inherit from her though if he died she is entitled to collect the amount of her kethubah’,[35] is it not possible [it might be retorted that this refers only to a case] where the man had written a kethubah for her? And should you argue. ‘If he had written one for her what need was there to state [such an obvious ruling?’ It might be replied that] ‘it was necessary [in order to inform us that if] she died he does not inherit from her’.[36]

R. Nahman said to R. Huna: According to Rab who laid down that a letter of divorce [enables a woman to] collect her statutory kethubah, is there no cause to apprehend that she might produce the letter of divorce at one court of law and collect her kethubah therewith and then again produce it at another court of law and collect therewith [a second time]? And should you reply that it might be torn up,[37] could she not [it may be retorted] demand, ‘I need [it to be enabled] thereby[38] to marry again? — [What we do is,] we tear it up and endorse on the back of it: ‘This letter of divorce has been torn by us, not because it is an invalid document but in order to prevent the woman from collecting therewith a second payments.

MISHNAH. [A WOMAN WHO PRODUCED] TWO LETTERS OF DIVORCE AND TWO KETHUBAHS MAY[39] COLLECT PAYMENT OF THE TWO KETHUBAHS.[40] [IF SHE PRODUCES, HOWEVER.] TWO KETHUBAHS AND ONE LETTER OF DIVORCE[41] OR ONE KETHUBAH AND TWO LETTERS OF DIVORCE,[42] OR A KETHUBAH, A LETTER OF DIVORCE AND [EVIDENCE OF HER HUSBAND'S] DEATH,[43] SHE MAY COLLECT PAYMENT FOR ONE KETHUBAH ONLY, FOR ANY MAN WHO DIVORCES HIS WIFE AND THEN REMARRIES HER CONTRACTS HIS SECOND MARRIAGE ON THE CONDITION OF THE FIRST KETHUBAH.[44]

GEMARA. If she desired it, she[45] could [evidently][46] collect [payment of her kethubah] either with the one kethubah or with the other.[47] May it not then be argued that this ruling presents an objection against the ruling which R. Nahman stated in the name of Samuel? For R. Nahman stated in the name of Samuel: Where two bills[48] are issued one after the other[49] the latter annuls the former![50] — Has it not been stated in connection with this ruling that R. Papa said: ‘R. Nahman in fact admits that if one[51] has added in the [second] bill one palm-tree[52] [it is assumed that] he has written it[53] for the sake of that addition’,[54] so also here [it is a case] where the husband has added something for her [in the second kethubah].[55]

Our Rabbis taught: If [a woman] produced a letter of divorce, a kethubah and [evidence of her husband's] death[56]

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(1) His plea is accepted because by abstaining from the use of the false though convenient plea, ‘I have not divorced her at all’, he has established his reputation for honesty.

(2) It is obvious, therefore, that witnesses were available; contrary to R. Joseph's interpretation (supra 89a ad fin.).

(3) Since it is possible that she had already collected it once on the strength of her letter of divorce.

(4) After receiving payment of her kethubah on the evidence of the witnesses who testified to the death of her husband.

(5) Before another court.

(6) Her statutory kethubah.

(7) Where it is well known that she was not divorced by him.

(8) So that the fact would remain unknown.

(9) By consenting to a secret divorce.

(10) The answer previously given, which well explains the case of a widow after her marriage, is inapplicable here since a betrothed man and woman do not live together.

(11) And not as has been first suggested, ‘where she lived with her husband’.

(12) Of the difficulty pointed out by R. Kahana and R. Assi.

(13) Had no quittance been allowed in such instances claimants would be deprived unjustly of their legitimate rights.

(14) In localities where no kethubah is written.

(15) Lit., ‘but it is certain’.

(16) Even where the man did not write one for her. That this is the case is apparent from the previous discussion where the husband's liability has been tacitly assumed. Had not a betrothed woman been allowed a kethubah unless she possessed also a written document, the objection that she might collect her kethubah mote than once could must have been advanced, since the document would have been destroyed as soon as payment had been made.

(17) I.e., both her statutory kethubah and her additional jointure.

(18) Supra 47b, 54b, B.M. 17b.

(19) Cf. loc. cit., and since be died before he married her she, it might have been thought, is only entitled to her statutory kethubah but not to the additional jointure. Hence it was necessary for the ruling that she ‘15 entitled to collect all (that is due to her)’.

(20) That the case dealt with is one ‘where the man had actually written a kethubah for her’.

(21) The reason being that the man had expressly promised her in writing not only the statutory kethubah but also the additional jointure.

(22) One hundred if she married as a widow, and two hundred if as a virgin.

(23) I.e., the statutory kethubah only and nothing more.

(24) That a woman who was widowed after her betrothal is entitled to her kethubah (v. supra p. 567, n. 2).

(25) The reading elsewhere (cf. B.M. 18a, Sanh. 28b) is ‘Ammi’.

(26) Before the marriage took place.

(27) A mourner during the period between the death and burial of certain relatives is called onan (v. Glos.) and is subject to a number of restrictions. A priest whose betrothed wife died may, unlike one whose married wife died, partake of sacrificial meat or any other holy food.

(28) If he is a priest.

(29) Cf. Lev. XXI, 1ff.

(30) She is allowed to partake of holy food.

(31) Unlike a married wife whose duty it is to attend to the burial of her husband.

(32) Cf. supra n. 10. The laws of defilement do not apply to women. Cf., however, infra n. 22.

(33) Aliter; ‘Nor may she defile herself for him’, i.e., during a festival when not only priests but also Israelites and women are forbidden to attend on the corpses of those who are not their near relatives (v. R.H. 16b).

(34) Unlike a husband who is heir to his wife (v. B.B. 111b).

(35) Yeb. 29b, B.M. 18a.

(36) Which is not obvious. And since the case where ‘she deed’ had to be stated, the one where ‘he died’, though self-evident, had, by way of contrast, also to be mentioned.

(37) As soon as payment is made.

(38) By using it as evidence that she had been legally divorced.

(39) If the date of the first kethubah is earlier than that of the first divorce and that of the second kethubah is earlier than that of the second divorce.

(40) Because it is assumed that after he had once divorced her the man had remarried her and then divorced her again. The kethubahs are consequently both due to her.

(41) The dates of both kethubahs being earlier than that of the letter of divorce, so that both obviously refer to the same marriage.

(42) I.e., the man married her after she had once been divorced by him, but did not write for her a second kethubah before he again divorced her.

(43) If the order was marriage, divorce, remarriage, death.

(44) I.e., that she should be entitled only to the first kethubah.

(45) WHO PRODUCED TWO KETHUBAHS AND ONE LETTER OF DIVORCE.

(46) Since our Mishnah does not specify which of the two kethubahs is to be used, the choice is evidently left to the woman.

(47) I.e., either with the kethubah that bears the earlier, or with the one that bears the later date. Should she prefer to use that of the earlier date she would obviously be able to seize even such property as her husband had sold after the earlier, though prior to the later, date.

(48) Signed by the same person and referring to the same transaction.

(49) Sc. the date on the one is later than on the other.

(50) Supra 44a; and the holder of the two bills is entitled to seize only such property as the defendant had sold subsequent to the later date. This then is in contradiction, is it not, to the ruling in out Mishnah which authorizes the woman (cf. supra p. 569, n. 11) to make use of her earlier kethubah?

(51) A seller or donor.

(52) That was not included in the bill of the earlier date.

(53) The second bill.

(54) And not with the intention of annulling the first one.

(55) Cf supra n. 7. Hence the ruling that the woman may collect payment with either of the two kethubahs. She may not collect, however, with both kethubahs unless the second document contained a specific insertion to the effect that it was the husband's desire that the second one shall form an addition to the first. In the absence of such an insertion the woman may collect either (a) the smaller amount contained in the first kethubah and enjoy the right of seizing all property her husband had sold since that date or (b) the bigger amount in the second kethubah and restrict her right of seizure to such property only as bad been sold after the second date. By the issue of a second kethubah, containing an addition to the first one without the specific insertion mentioned, a husband is assumed to have conferred upon his wife the right of choosing between the respective advantages and disadvantages of the two documents. Where the second kethubah, however, contains no addition at all, the latter document is assumed to have been intended as a cancellation of the first, since otherwise it need not have been issued, and seizure of property is restricted to the later date.

(56) Claiming one kethubah as a divorcee from her first marriage and the other as a widow from her second marriage.

Talmud - Mas. Kethuboth 90a

she may. if the letter of divorce bears an earlier date than the kethubah, collect payment for two kethubahs,[1] but if the kethubah bears an earlier date than the letter of divorce she may collect payment of one kethubah only, for any man who divorces his wife and then remarries her contracts his second marriage on the condition of the first kethubah.

MISHNAH. [IN THE CASE OF] A MINOR WHOM HIS FATHER HAD GIVEN IN MARRIAGE, THE KETHUBAH OF HIS WIFE[2] REMAINS VALID,[3] SINCE IT IS ON THIS CONDITION THAT HE KEPT HER AS HIS WIFE. [IN THE CASE OF ONE WHO BECAME] A PROSELYTE AND HIS WIFE WITH HIM, THE KETHUBAH REMAINS VALID,[4] SINCE IT IS ON THIS CONDITION THAT HE KEPT HER AS HIS WIFE.

GEMARA. R. Huna stated: [The ruling of our Mishnah][5] was given only in respect of the maneh[6] or the two hundred zuz;[7] to the additional jointure, however, she[8] is not entitled.[9] Rab Judah, however, stated: She[10] is entitled [to receive payment for] her additional jointure also.

An objection was raised: If an additional monetary obligation was undertaken[11] the woman receives that which was added.[12] [Thus it follows, does it not, that] only if an additional monetary obligation was undertaken[13] is the woman to receive any addition[14] but if no such addition was made[15] [she does] not [receive any addition at all]?[16] — Read: ‘Also that which had been added’.[17] But surely, [in the following Baraitha] it was not taught so: ‘If an additional monetary obligation was undertaken[13] the woman receives that which was added, and if no additional monetary obligation was undertaken a virgin receives two hundred zuz and a widow receives a maneh’. Is not this then an objection against Rab Judah?[18] — Rab Judah was misled by the wording of our Mishnah. He thought that the rule, ‘THE KETHUBAH OF HIS WIFE REMAINS VALID’, applied to the full amount;[19] but in fact it is not so. It applies to the statutory kethubah alone.

CHAPTER X

MISHNAH. IF A MAN WAS MARRIED TO TWO WIVES AND DIED, THE FIRST [WIFE] TAXES PRECEDENCE[20] OVER THE SECOND, AND THE HEIRS[21] OF THE FIRST WIFE TAKE PRECEDENCE[22] OVER THE HEIRS OF THE SECOND. IF HE MARRIED A FIRST WIFE AND SHE DIED AND THEN HE MARRIED A SECOND WIFE AND HE HIMSELF DIED,[23] THE SECOND WIFE[24] AND HER HEIRS[25] TAKE PRECEDENCE OVER THE HEIRS OF THE FIRST WIFE.[26]

GEMARA. Since it was stated THE FIRST [WIFE] TAKES PRECEDENCE OVER THE SECOND but not ‘The first wife receives payment[27] and the second does not’,[28] it may be implied that if the second wife forestalled [the first] and seized [the payment of her kethubah] it cannot be taken away from her.[29] May it then be inferred from this ruling that if a creditor of a later date has forestalled [one of an earlier date] and ‘distrained [on the property of the debtor], his distraint is of legal Validity?[30] In fact it may be maintained that his distraint is of no legal validity, and as to [the phrase] TAKES PRECEDENCE, It means complete [right of seizure];[31] as we have learned: A son takes precedence over a daughter.[32]

Some there are who say: Since it was not stated, ‘If the second wife forestalled [the first] and seized [the payment of her kethubah] it is not to he taken away from her’, it may be implied that even if she has seized payment it may be taken away from her. May it then be concluded that if a creditor of a later date has forestalled [one of an earlier date] and distrained [on the property of a debtor] his distraint is of no legal Validity?[33] — In fact it may be maintained that his distraint is of legal validity, only because the Tanna stated, THE SECOND WIFE AND HER HEIRS TAKE PRECEDENCE OVER THE HEIRS OF THE FIRST WIFE[34] ,

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(1) Since in such a case it is evident that the kethubah was given to her in connection with her second marriage. Her first kethubah she collects on the evidence of her letter of divorce.

(2) The sum of two hundred in which is assigned to a virgin.

(3) Even when he becomes of age, though the woman at that time is no longer a virgin. (V. Tosaf. s.v לא). The kethubah of a non-virgin is only one hundred in.

(4) Though it was given to her before her husband became a proselyte.

(5) That the wife of a minor is entitled to her kethubah even when he becomes of age.

(6) V. Glos.

(7) I.e., the statutory kethubah (cf supra n. 3) which is a woman s due in accordance with a Rabbinical enactment and is entirely independent of the minor's will or consent.

(8) The woman married to a minor.

(9) Since a minor cannot legally be bound to any contract.

(10) The woman who married a minor.

(11) Lit., ‘they renewed’, sc. the monetary addition was undertaken by the minor after he came of age or by the intending proselyte after he had embraced Judaism.

(12) Tosef. Keth. IX. It is now assumed that this refers to the additional sum only.

(13) V. p. 571. n. 11.

(14) Lit., ‘yes’. Cf. p. 571, n. 12.

(15) After the minor came of age or the idolater had embraced Judaism.

(16) An objection against Rab Judah who allows a woman even the additional jointure that a minor or an idolater may have settled upon her.

(17) To the additional jointure that had been settled upon her while her husband was still an idolater or in his minority.

(18) Since here it was explicitly stated that only the statutory kethubah may be recovered (cf. supra n. 4).

(19) That was mentioned in the kethubah, i.e., the statutory kethubah as well as the additional jointure.

(20) In respect of her claim to her kethubah.

(21) If the women, having survived their husband, died before they had collected the payments of their kethubahs.

(22) Cf. supra n. 1, mutatis mutandis.

(23) And the sons of the first wife claim (a) their mother's kethubah to which they are entitled by virtue of the ‘male children’ clause (v. Mishnah supra 52b) which their father had entered in their mother's kethubah, or (b) their due share in their father's estate.

(24) Who, unlike the first, has survived her husband and consequently has, in respect of her claim upon her kethubah, the same legal status as a creditor.

(25) Who, like their mother, have the status of creditors.

(26) Who predeceased her husband and consequently lost her claim to her kethubah, since a surviving husband is the heir of his wife, her sons’ claim to her kethubah (v. n. 4) being treated as a claim for an inheritance (v. supra 55a) and as such must yield precedence to that of a creditor.

(27) Lit., ‘she has’.

(28) Lit., ‘has not’.

(29) Since the expression of ‘PRECEDENCE’ only Implies priority of claim but not actual and inalienable right.

(30) Lit., ‘what he collected is collected’. But If this were the case there would have been no dispute on the subject infra 94a.

(31) Lit , ‘and what....he taught completely’, i.e , the claim of the first wife to her kethubah is absolute; and, should there be no balance, the second wife would receive nothing.

(32) B.B. 115a, where the meaning is that if there is a son he has full rights to the estate whilst a daughter has no claim of heirship upon it at all.

(33) Cf. supra n. 1 mutatis mutandis.

(34) Where the statement, ‘If the heir's of the first forestalled the heirs of the second and seized payment it is not to be taken away from them’ is inapplicable, since, in fact, it is taken away from then, the estate being mortgaged to the heirs of the second who have the status of creditors.

Talmud - Mas. Kethuboth 90b

he also taught. THE FIRST WIFE TAKES PRECEDENCE OVER THE SECOND.[1]

IF A MAN MARRIED A FIRST WIFE. Three rulings may be inferred from this statement. It may be inferred that if one [wife died] during her husband's lifetime and the other after his death, [the sons of the former] are entitled to the kethubah of ‘male children’[2] and we do not apprehend any quarrelling.[3] Whence is this inferred? Since it was stated, THE SECOND WIFE AND HER HEIRS TAKE PRECEDENCE OVER THE HEIRS OF THE FIRST WIFE [it follows that] they are only entitled to precedence but that if there is [a balance, the others also] take [their share]. It may also be inferred that the kethubah [of the second wife][4] may be regarded as the surplus[5] over the other.[6] Whence is this inferred? Since it was not stated [that payment[7] is made only] if a surplus of a denar remained there. Furthermore It may be inferred that a kethubah [claimed by virtue] of the ‘male children’ [clause] may not be distrained on mortgaged property;[8] for if it could be imagined that it may be distrained on mortgaged property, the sons of the first wife[9] should [be entitled to] come and distrain on [the property] of the sons of the second .[10] To this R. Ashi demurred: Whence [these conclusions]? Might I not in fact maintain that if one [wife died] while her husband was alive, and the other after his death, [the sons of the former] are not entitled to the kethubah [that they claim by virtue] of the ‘male children’ clause, whilst the expression of[11] TAKE PRECEDENCE[12] might refer[13] to the inheritance?[14] And were you to retort: What was the object[15] [of the description] THE HEIRS OF THE FIRST WIFE?[16] [I might reply that] as the Tanna used the expression, THE SECOND WIFE AND HER HEIRS[17] he also spoke of THE HEIRS OF THE FIRST WIFE![18] And with reference to your conclusion that ‘the kethubah [of the second wife] may be regarded as a surplus over the other’, might I not in fact still maintain that no kethubah may be regarded as a surplus over the other, but here[19] it is a case where there was a surplus of a denar![20] [As to the case where] one [wife died] during her husband's lifetime and the other after his death, this is [a matter in dispute[21] between] Tannaim. For it was taught: [If a man's wives] died, one during his lifetime and the other after his death, the sons of the first wife, Ben Nannus ruled, can say to the sons of the second,[22] ‘You are the sons of a creditor;[23] take your mother's kethubah[24] and go’.[25] R. Akiba said: The inheritance[26] has already been transferred[27] from [the sole right of inheritance by] the sons of the first wife[28] [the joint right of inheritance by these and] the sons of the second.[29] Do they[30] not differ on the following principle: One Master[31] holds the Opinion that where one [wife died] during her husband's lifetime and the other after his death [the sons of the former] are entitled to the kethubah [of their mother by Virtue of the] ‘male children’ clause, and the other Master holds that where one [wife died] during a husband's lifetime and the other after his death [the sons of the former] are not entitled to the ‘male children’ kethubah?[32] Said Rabbah: I found the young scholars of the academy while they were sitting [at their studies] and arguing: All[33] [may hold the view that where] one [wife died] during her husband's lifetime and the other after his death [the sons of the former] are entitled to [their mother's] ‘male children’ kethubah, but here they[34] differ [on the principle whether the second wife's][35] kethubah may be regarded[36] as a surplus over the other; and the same dispute applies to [the debt] of a creditor.[37] One Master[31] holds that the [second wife's][35] kethubah is regarded as a surplus over the other,[36] and the same law applies to [the debt] of a creditor, and the other Master holds that no one kethubah may be regarded as a surplus over the other, and the same law applies to [the debt] of a creditor. Thereupon I said to them: In respect of [a claim of] a creditor no ones disputes [the view] that [the debt] is regarded as a surplus;[38] they[30] only differ in respect of a kethubah.[39] TO this R. Joseph demurred: If so[40] [instead of saying.] ‘R. Akiba said: The inheritance has already been transferred’ it should [have said.] ‘If there is a surplus of a denar [the sons of the first wife receive their mother's kethubah].’[41] [The fact]. however, is, said R. Joseph. that they[42] differ [on the question whether the ‘male children’ kethubah is payable where] one [wife died] during her husband's lifetime and the other after his death .[43]

These Tannaim[44] [differ on the same principle] as the following Tannaim. For it was taught: If a man married his first wife and she died and then he married his second wife and he himself died, the sons of this wife[44] may come after [her][45] death and exact their mother's kethubah.[46] R. Simeon ruled: If there is a surplus of one denar[47] both[48] receive the kethubahs of their mothers but if no [such surplus remains] they[48] divide [the residue][49] in equal portions. Do they[50] not differ on this principle: Whereas one Master[51] holds that where one [wife died] during her husband's lifetime and the other after his death [the sons of the former] are entitled to the ‘male children’ kethubah, the other Master holds that where one [wife died] during her husband's lifetime and the other after his death [the children of the former] are not entitled to the ‘male children’ kethubah?[52] No; all[53] may agree that where one [wife died] during her husband's lifetime and the other after his death [the sons of the former] are to receive the ‘male children’ kethubah,

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(1) omitting here also an expression which is inapplicable in the other case.

(2) Cf. supra 52b and supra p. 573’ n. 4.

(3) Between the heirs of the second, who claim their mother's kethubah as creditors (cf. supra p. 57. n. 6) and those of the first, who claim (cf. loc. cit. n. 7) their ‘male children’ kethubah as heirs, the former disputing the right of the latter to have .1 larger share in the father's estate than they.

(4) Which has the force of a debt.

(5) V. Mishnah infra 91a. The kethubahs that wives heirs receive by virtue of the ‘male children’ clause (supra 52b) is subject to a surplus of one denar, at least, that must remain after the kethubahs have been paid in full, to safeguard the application of the Pentateuchal law of succession in regard to at least part if the estate. If no such minimum surplus remains the ‘male children’ kethubahs cannot he collected and the entire estate is divided in accordance with the Pentateuchal law of succession among all the sons.

(6) The kethubah which the heirs of the first wife claim by virtue of the ‘male childrens’ clause. The kethubah of the second wife which has to he paid as a debt by all the heirs (cf. infra p. 573,11. 5) who first inherit that amount, provides for the application of the Pentateuchal law’ of succession. The heirs the first wife consequently receive their ‘male children’ kethubah and no minimum surplus of a denar is required as would have been the case had the second kethubah also been dependent on the ‘male children’ clause.

(7) Of the ‘male children’ kethubah of the first wife.

(8) l.c . it has the status of an inheritance and not that of a debt.

(9) Whose claim is of an earlier date than that of the second.

(10) Hence it may be inferred that their claim cannot be distrained on mortgaged property.

(11) Lit , ‘and what’.

(12) Which implies that if there is any residue they also receive a share.

(13) Lit., ‘it was taught’.

(14) Of their father's estate; and not to the ‘male children’ kethubah.

(15) Lit., ‘wherefore to me’.

(16) ‘OF THE FIRST WIFE’ in the final clause has no point if bet sons claim, not the ‘male children’ kethubah by virtue of her rights, but their share in their fathers estate as his heirs.

(17) A proper description, since it is by virtue of their mother's rights that their claim to her kethubah is established.

(18) A mere balancing of expression which has no bearing in the latter case on the source from which their claim is derived.

(19) If the PRECEDENCE spoken of refers even, as at first suggested, to the ‘male children’ kethubah.

(20) Though this fact was not specifically stated in our Mishnah it may have been taken for granted in view of the ruling laid down in the following Mishnah (infra 91a).

(21) As to whether the sons of the first wife are entitled to their mother's kethubah by virtue of the ‘male children’ clause.

(22) Wherever the estate does not allow of a surplus of a denar above the amount of the two kethubahs.

(23) Cf. supra p’ 573, n. 5.

(24) Which becomes due to her on the father's death, and which you inherit from her. This provides for the application of the Pentateuchal law of succession, all the heirs discharging a debt incurred by the father (cf. supra p. 575’ n. 3)’

(25) The Pentateuchal law of succession having been fulfilled (v. supra n 10) the sons of the first wife are entitled to the full payment of their mother's ‘male children’ kethubah out of the residue of the estate.

(26) Of the kethubah of the first wife who predeceased her husband.

(27) Lit., ‘jumped’. at the time the man died and was survived by his second wife.

(28) Lit., ‘and fell before’.

(29) I.e., the residue of the estate, remaining after the deduction of the second wife's kethubah, is the common inheritance of all the sons of the deceased, those of the wife who predeceased him having no claim whatsoever in respect of the male children' kethubah which is payable only where both wives predeceased their husband.

(30) Ben Nannus and R. Akiba.

(31) Ben Nannus.

(32) V. supra note I.

(33) Lit., 'all the world' (v. supra note 2).

(34) V. supra note 2.

(35) The woman who survived her husband and whose claim has the same force as that of a creditor.

(36) Where not even a denar remained after the claims of the two kethubahs had been met.

(37) In the ease where both wives predeceased their husband and the sons of both claim the 'male children' kethubahs of their mothers while the creditor lays claim to the residue.

(38) And the sons of the two wives are consequently entitled to their mother's 'male children' kethubahs respectively.

(39) Ben Nannus holds the view that the kethubah of a wife, who had survived her husband, has the same status as a debt and consequently (v. supra P. 575. n. 3) enables the sons of the first wife to collect the payment of the 'male children' kethubah of their mother; while R. Akiba maintains that the payment of a kethubah is not on a par with that of any other debt; for, whereas any other debt is paid by the heirs to another person after they had first inherited that sum (v. l.c). the amount of a kethubah is received by the sons themselves, in the first instance, as debtors without it having first fallen into their possession as heirs. The sons not having inherited the kethubah, there is no application here of the Pentateuchal law of succession. In order, therefore. that the Pentateuchal law of succession might not be superseded by the Rabbinical enactment of the 'male children' kethubah, it was ordained that in such a ease the sons of the first wife shall lose completely their rights to the kethubah.

(40) That R. Akiba allows the 'male children' kethubah where there is a surplus.

(41) The expression. however, which he actually used implies that the sons never receive their mother's kethubah.

(42) Ben Nannus and R. Akiba.

(43) As has been assumed at first (cf supra p. 576. notes 7.14. and p. 577' nn. 1-4).

(44) This (according to Rashi) is at present assumed to refer to the second wife who survived him and whose kethubah has, therefore, the status of a debt. R. Han, however, reads explicitly 'the sons of the second' (v. Tosaf infra 91a s.v.וכי).

(45) V. Tosaf. l.c.

(46) While the sons of the wife who predeceased her husband, as at present assumed (v. supra n. 5), are not entitled to their mother's kethubah, in virtue of the 'male children' clause.

(47) After the sum of the two kethubahs bad been deducted.

(48) The sons of both wives.

(49) The balance remaining after the kethubah of the second wife bad been paid.

(50) R. Simeon and the first Tanna.

(51) R. Simeon.

(52) But since the principles are the same what need was there to record two disputes on the very same principles?

(53) R. Simeon and the first Tanna,

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but they differ here on [the question whether it is necessary for the surplus] denar to consist of real estate. The one Master[1] holds that only real estate is regarded as a surplus[2] but not movables[3] and the other Master[4] holds that even movables [are regarded as surplus].[5] But can you say so?[6] Have we not learned, R. Simeon ruled: Even if there was movable property[7] it is of no avail[8] unless there was landed property [of the Value of] one denar more than [the total amount of] the two kethubahs?[9] — [The fact,] however, is that they[10] differ here on [the question whether] a denar of mortgaged property [is regarded as a surplus]. One Master[11] holds that only free property constitutes a surplus[12] but not mortgaged property, and the other Master[13] holds that mortgaged property also [constitutes a surplus]. If so,[14] [instead of stating,] 'R. Simeon ruled: If there is a surplus of one denar', should it not have been stated, 'Since there is a surplus of one denar'? — The fact, however, is that they[10] differ on [the question whether a sum] less than a denar [constitutes a surplus]. One Master[15] is of the opinion that only a denar constitutes a surplus[16] but not a sum less than a denar, and the other Master[17] holds that even less than a denar [constitutes a surplus]. But did not R. Simeon, however, say ‘a denar’? And were you to reply. ‘Reverse [their views]’,[18] does not the first Tanna of the Mishnah[19] [it may be retorted] also speak of a denar?[20] — The fact, however, [is that we must follow] on the lines of the first two explanations. and reverse [the views].[21]

Mar Zutra stated in the name of R. Papa: The law [is that where] one [wife died] during her husband's lifetime and the other after his death [the sons of the former] are entitled to the ‘male children’ kethubah, and that one kethubah[22] is regarded as the surplus over the other. [Now] granted that if we had been told that ‘[where] one [wife died] during her husband's lifetime and the other after his death [the sons of the former] are entitled to the "male children" kethubah’, but had not been told that ‘one kethubah is regarded as the surplus over the other’ it might have been presumed [that the former law applied] Only where the surplus amounted to a denar but not otherwise.[23] [Why,] however, could we [not have] been informed [of the second law only, viz., that] ‘one kethubah is regarded as the surplus over the other’, and it would have been self-evident,[24] [would it not, that this ruling was] due to [the law that ‘where] one [wife died] during her husband's lifetime and the other after his death [the sons of the former] are entitled to the "male children" kethubah’?[25] — If we were given the information in such a manner, [the law] might have been presumed [to apply to a case,] for instance, where a man had married three wives of whom two died during his lifetime and one after his death, and the last mentioned had given birth to a daughter who is not entitled to heirship.[26] but [not to the case where] one [wife died] during her husband's lifetime and the other after his death and the latter had given birth to a son,[since in this case] the possibility of a quarrel[27] might have to be taken into consideration,[28] hence we were taught [that even in this case one kethubah[29] is regarded as surplus over the other].[30] MISHNAH. IF A MAN WAS MARRIED TO TWO WIVES AND THEY DIED, AND SUBSEQUENTLY HE HIMSELF DIED, AND THE ORPHANS [OF ONE OF THE WIVES][31] CLAIM THEIR MOTHER'S KETHUBAH[32] [BUT THE ESTATE OF THE DECEASED HUSBAND] IS ONLY ENOUGH[33] [FOR THE SETTLEMENT OF THE] TWO KETHUBAHS[34] [ALL THE ORPHANS] RECEIVE EQUAL SHARES.[35] IF THERE WAS A SURPLUS[36] OF [A MINIMUM OF] ONE DEN A R,[37] EACH GROUP OF SONS[38] RECEIVE THE KETHUBAH OF THEIR MOTHER.[39] IF THE ORPHANS [OF ONE OF THE WIVES][40] SAID, ‘WE ARE OFFERING FOR OUR FATHER'S ESTATE ONE DEN AR MORE [THAN THE TOTAL AMOUNT OF THE KETHUBAHS]’, IN ORDER THAT THEY [MIGHT THEREBY BE ENABLED TO] TAKE THEIR MOTHER'S KETHUBAH[41] THEIR REQUEST IS DISREGARDED[42] AND[43] THE ESTATE IS [PROPERLY] VALUED AT THE BETH DIN. IF THE ESTATE INCLUDED[44] PROSPECTIVE PROPERTY,[45] IT IS NOT [REGARDED] AS [PROPERTY HELD] IN ACTUAL POSSESSION.[46] R. SIMEON RULED: EVEN IF THERE WAS MOVABLE PROPERTY[47] IT IS OF NO AVAIL[48] UNLESS THERE WAS LANDED PROPERTY [WORTH] ONE DENAR MORE THAN [THE TOTAL AMOUNT OF] THE TWO KETHUBAHS.

GEMARA. Our Rabbis taught: If one wife had[49] [a kethubah for] a thousand [zuz] and the other for five hundred, each group of sons[50] receive the kethubah of their mother provided a surplus of one denar was available; otherwise, they must divide the estate in equal proportions.

It is obvious [that if[51] the estate was] large[52] and[53] it depreciated,[54] the heirs have already[55] acquired ownership thereof.[56] What, [however, is the ruling where the estate was] small and it appreciated?[57] — Come and hear the case of the estate of the house of Bar Zarzur which was small and it appreciated, and when [the heirs] came [with their suit] before R. Amram he said to them, ‘It is your duty[58] to satisfy them’.[59] As they disregarded [his ruling] he said to them, ‘If you will not satisfy them I will chastise you with a thorn that causes no blood to flow’.[60] Thereupon he sent them to R. Nahman, who said to then,, ‘Just as [in the case where an estate was] large and it depreciated

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(1) The first Tanna.

(2) Lit., ‘yes’.

(3) As in the case under dispute the surplus consisted of movables the first Tanna denies the sons of the first wife all rights to their mother's kethubah,

(4) R. Simeon,

(5) Hence his ruling that where there is a surplus (even if it consists of movables) the sons of the first wife, like those of the second, are entitled to the payment of their mother's kethubah,

(6) That R. Simeon regards movables also as a surplus.

(7) Lit., ‘property which has no security’.

(8) As far as the calculation of a surplus is concerned,

(9) V. the Mishnah infra.

(10) R. Simeon and the first Tanna.

(11) The first Tanna,

(12) Lit., ‘yes’.

(13) R. Simeon.

(14) That the Baraitha under discussion deals with a case where there is a surplus of one denar and that R. Simeon relaxes the ruling of the first Tanna by regarding that denar as surplus even if it represents mortgaged property.

(15) The first Tanna.

(16) Lit., ‘yes’.

(17) R. Simeon.

(18) I.e., that in the opinion of the first Tanna the sons of the first wife are deprived of their mother's Kethubah (cf. supra p. 578, n. 7) only where there is no surplus at all, but if there is one, even if of less than a denar, they are entitled to her kethubah, while according to R. Simeon they are entitled to her kethubah only if the surplus amounts to a denar (so Tosaf. s.v. וכי תימא a.I. contrary to Rashi).

(19) Infra, who is in dispute with R. Simeon and who is identical with the first Tanna of the Baraitha (supra 90b) under discussion.

(20) How’ then can it be suggested (cf. supra note 4) that the first Tanna admits a surplus of less than a dear?

(21) Cf. supra note 4 mutatis mutandis. The first Tanna deprives the sons of the first wife of her kethubah only where there is no surplus at all but if there is one, even though it consists of movables or mortgaged property. they are to receive her kethubah, while R. Simeon allows them their mother's kethubah only where the denar surplus consists of landed and free property (cf. Tosaf. s.v.כי). The previous objection against the expressions ‘if’ instead of ‘since’ (cf. supra p. 579’ n. 16) does not arise since R. Simeon is more restrictive than the first Tanna.

(22) That is paid to the heirs of the wife who bad survived her husband and whose kethubah has the status of a debt.

(23) Lit., ‘if there is a surplus of a denar, ‘yes’; if not, ‘not’. Hence one can well understand the necessity for the statement of the second law also.

(24) Lit., ‘and l would know’.

(25) Since it is such a case only. where one kethubah has the status of a debt, that could give rise to this law. Where both wives died doting their husband's lifetime the sons of both have obviously equal rights of inheritance and the question of surplus to satisfy the Pentateuchal law of inheritance does not arise.

(26) In respect of her father's estate. As her claim is restricted to bet mother's kethubah alone, not being entitled to a share in the residue of bet father's estate after her mother's kethubah had been paid. no quarrels between bet and the sons of the two other wives could possibly arise on that account. Hence it is lawful for the sons whose mother's kethubah was larger to collect their due by pointing to the sum paid to the daughter (in settlement of her mother's kethubah which has the status of a debt) as the surplus which satisfied the Pentateuchal law of inheritance.

(27) Between that son and his brothers, all of whom have the same rights to their father's estate; v. supra p. 574. n. 8.

(28) I.e.,it might have been presumed that in order to obviate such a quarrel it may have been enacted that in such a case the second kethubah is not regarded as a surplus and all the sons share equally, after the payment of the second kethubah, the residue of their father's estate.

(29) V. supra p. 580, n. 8.

(30) The possibility of a quarrel does not affect the rights of the sons of the first wife.

(31) Whose kethubah was for a larger sum than that of the other.

(32) As heirs of their mother, by virtue of the ‘male children’ clause (v. Mishnah, supra 52b); while the other heirs demand a division in equal portions on the ground that, irrespective of their mother's ‘male children’ kethubahs, as sons of the deceased they are entitled to equal shares in his estate.

(33) Lit., ‘and there is not there but’.

(34) So that, if their demand is complied with, the brothers would be receiving their respective shares of their mother's kethubahs in virtue of the ‘male children’ clause, thus allowing no scope for the operation of the Biblical law of succession.

(35) As heirs of their father with equal rights to his estate.

(36) After the two kethubahs had been paid.

(37) So that the pentateuchal law of succession could be applied to it.

(38) Lit., ‘these... and these’.

(39) And the residue of the estate (amounting to not less than one denar) is then divided between all the sons in equal portions.

(40) V. supra note I.

(41) Cf. supra notes 4.9 and text.

(42) Lit., ‘they do not listen to them’.

(43) Lit., ‘but’.

(44) Lit., ‘there were there’.

(45) Such, for instance, as an expected inheritance from the orphan's grandfather who survived their father, or an outstanding debt of their father's which would fall due only at some time in the future.

(46) The existing estate must accordingly be divided equally amongst all the sons of the deceased though the addition of the prospective property would have provided a surplus.

(47) Cf. supra p’ 579’ n’ 9’

(48) Cf. loc. cit. n. 10.

(49) Lit., ‘to this’,

(50) Lit., ‘these ‘ . ‘ and these’.

(51) At the time the father died,

(52) I.e,, its value exceeded the total amount of the kethubah by not less than a denar,

(53) When it was valued at the court.

(54) So that no surplus remained after deduction of the amounts of the kethubahs,

(55) At the moment of their father's death, when there was a surplus (v. supra note 4).

(56) The sons of the wife whose kethubah was for the larger amount are, therefore, entitled to the larger sum though at the time of the division of the property there was no longer any surplus.

(57) V, supra notes 2-5. Are the sons who claim the larger kethubah now entitled to it as if the surplus had been available at the time of their father's death, or is a claim once lost never recoverable?

(58) Lit., ‘go’.

(59) The sons of the woman whose kethubah was for the larger amount,

(60) Metaph. He would place them under the ban.

Talmud - Mas. Kethuboth 91b

the heirs have already acquired ownership thereof, so [also where the estate was] small and it appreciated the other heirs[1] have already[2] acquired ownership thereof.[3] (Mnemonic:[4] A thousand and a hundred duty in a kethubah, Jacob put up his fields by words [of] claimants.) A man against whom there was a claim of a thousand zuz had two mansions each of which he sold[5] for five hundred zuz. The creditor thereupon came and distrained on one of them and then he was going to distrain on the other. [Whereupon the purchaser] took one thousand zuz, and went to [the creditor] and said to him, ‘If [the one mansion] is worth to you one thousand zuz, well and good; but if not, take your thousand[6] zuz and go’.[7] Rami b. Hama [in dealing with the question] proposed that this case was exactly analogous to that in our Mishnah: IF THE ORPHANS [OF ONE OF THE WIVES] SAID, ‘WE ARE OFFERING FOR OUR FATHER'S ESTATE ONE DENAR MORE’.[8] But Raba said to him, ‘Are the two cases at all alike? There[9] the orphans[10] would be suffering a loss, but here, does the creditor suffer any loss? He only advanced a thousand zuz and a thousand zuz he receives

And for what amount is the tirpa[11] made out?[12] — Rabina said: For a thousand zuz. R. ‘Awira said: For five hundred. And the law is [that the tirpa is made out] for five hundred.

A certain man against whom someone had a claim for a hundred zuz had two small plots of land each of which he sold[5] for fifty zuz. His creditor came and distrained on one of them and then he came again to distrain on the other. [The purchaser. thereupon.] took a hundred zuz and went to him and said, ‘If [one of the plots] is worth a hundred zuz[13] to you. well and good; but if not, take the one hundred zuz and go’.[14] R. Joseph [in considering the question] proposed to say that this was a case exactly analogous to that in our Mishnah: IF THE ORPHANS [OF ONE OF THE WIVES] SAID[15] etc. But Abaye said to him, ‘Are the two cases at all alike? There the orphans would have suffered a loss, but here, what loss would [the creditor] have? He lent a hundred and receives a hundred’.

For what amount is the tirpa made out? — Rabina said: For a hundred. R. ‘Awira said: For fifty. And the law is [that it is made out] for fifty. A certain man against whom there was a claim for a hundred zuz died and left a small plot of land that was worth fifty zuz. As his creditor came and distrained on it the orphans went to him and handed to him fifty zuz. Thereupon he distrained on it again. When they came [with this action] before Abaye. he said to them, ‘It is a moral duty incumbent upon orphans[16] to pay the debt of their father.[17] With the first payment you have performed a moral duty. and now that he has seized [the land again] his action is perfectly lawful’,[18] This ruling. however, applies only in the case where [the orphans] did not tell him ,[19] ‘These fifty zuz are for the price of the small plot of land’, but if they did tell him, ‘these fifty zuz are for the price of the small plot of land’ ,[20] they have thereby entirely dismissed him,[21]

A certain man[22] once sold the kethubah of his mother[23] for a goodwill [price][24] and said to [the buyer], ‘If mother comes and raises objections I shall not pay you any compensation’.[25] His mother then died having raised no objections. but he himself[26] came and objected.[27] Rami b. Hama [in discussing the case] proposed to decide that he[28] takes the place of his mother. Raba, however, said to him: Granted that he did not accept any responsibility for her action, did he not accept responsibility for his own action either?[29] Rami b. Hama stated: If Reuben[30] sold a field to Simeon[30] without a guarantee[31] and Simeon then re-sold it to Reuben with a guarantee

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(1) Whose mother's kethubah was for the smaller amount.

(2) At the moment their father died, when there was 110 surplus.

(3) Cf. supra note 8 mutatis mutandis,

(4) The words or phrases of the mnemonic correspond to striking terms in the successive rulings that follow,

(5) To one person after he had incurred his debt.

(6) The sum which the seller owed him,

(7) l,e,, ‘give up both mansions’,

(8) As the offer of the orphans is rejected on account of its excessive nature, so is the purchaser's demand of the excessive valuation of the one mansion also to be rejected.

(9) Our Mishnah.

(10) The sons of the woman whose kethubah was for the lesser amount.

(11) טירפא (rt. טרף ‘to seize’), a document issued by a court of law to a claimant (e.g.. a creditor, or a purchaser on whom, as in this case, the seller's creditor has distrained) who is unable to collect his due from the defendant (in this case, the seller), authorizing him to trace his property (including any land the defendant may have sold after the liability in question had been incurred by him) for the purpose of seizing it eventually in payment of his claim.

(12) Lit., ‘do we write’. Where the creditor was willing to accept the one mansion from the purchaser in settlement of his claim of one thousand zuz, is it for the five hundred zuz which the purchaser has actually lost, or is it for the one thousand zuz, the amount of the debt he has settled?

(13) The sum which the seller owed him.

(14) I.e., return both plots.

(15) Cf. supra p. 584. nn. 5.9 mutatis mutandis.

(16) Though such a duty cannot be enforced by a court of law.
(17) As a mark of respect for his memory.
(18) Since a debtor's landed property is pledged for his debts.
(19) The creditor, when they paid him the first fifty zuz.
(20) Thus pointing out that the money was not intended as a payment of the debt.
(21) He cannot again seize the land which is now the absolute property of the orphans.
(22) Whose mother married again after his father's death.
(23) During her second husband's lifetime.
(24) טובת הנאה (cf. supra p. 542, n. 4). A very small price only would be paid for such a kethubah, the purchase of which must be in the nature of a mere speculation, since the mother might die during the lifetime of her husband who would inherit it or the son might pre-decease his mother and never come Into Its possession. in both of which eases the purchaser would lose all he paid.
(25) LIt., ‘I will not come to your rescue’ (rt.פצי in Pa. ‘to free , save , rescue separate by force’). i.e., he accepted no responsibility whatsoever for the safety of the money advanced.
(26) As the heir of his mother.
(27) Contending that as he had accepted no responsibility he may now, like his mother, himself object to the sale and thus procure the amount of the kethubah for himself.
(28) The son.
(29) Of course he did. Though he may well cancel the sale on the ground that it was invalid because it had taken place before he (the seller) was in possession of the inheritance (cf. B.M. 16a), he must nevertheless refund to the buyer the full price he had received whatever it may have been. (For an alternative interpretation v. Rashi a.I., second explanation. and cf. Tosaf s.v. דזבנה a.I.).
(30) The names of the first two sons of Jacob (cf. Gen. XXIX, 32f) are taken as fictitious names for ‘seller’ and ‘buyer’ respectively.
(31) For compensation in ease of distraint by a creditor.

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and Reuben's creditor[1] came and seized it from him, the law is that Simeon must proceed to offer him[2] compensation.[3] Raba, however, said to him: Granted that [Simeon] had accepted responsibility for general claims,[4] did he also accept responsibility for [claims against Reuben] himself?[5] Raba admits, however, that where Reuben inherited a field from Jacob[6] and sold it to Simeon[7] without a guarantee and Simeon then re-sold It to Reuben with a guarantee. whereupon Jacob's creditor came and seized it from him, the law is that Simeon must proceed to offer him[8] compensation.[9] What is the reason?-Jacob's creditor is regarded as any other creditor.[10]

Rami b. Hama [further] stated: If Reuben sold a field to Simeon with a guarantee and allowed [the price of the field] to stand[11] as a loan,[12] and when Reuben died, and his creditor came to seize it from Simeon, [the latter] satisfied him by [refunding to him the] amount ,[13] the law is that Reuben's children can tell him, '[As far as] we [are concerned,] our father has left movables[14] with you. and the movables of orphans are not pledged to a creditor.'[15]

Raba remarked: If the other[16] is clever he gives them[17] a plot of land in settlement of the debt and then he collects it from them,[18] in accordance [with a ruling of] R. Nahman who stated in the name of Rabbah b. Abbahu: If orphans collected a plot of land for their father's debt,[19] a creditor[20] may in turn collect it from them.[21] Rabbah[22] stated: If Reuben sold all his fields[23] to Simeon who In turn sold one field [of these] to Levi, and then Reuben's creditor appeared,[24] [the latter] may collect either from the one or from the other.[25] This law, however, applies only where [Levi] had bought [land of] medium quality, but if he bought either the best or the worst he may tell him,[26] 'It is for this reason[27] that I have taken the trouble [to buy the best or the worst because either is] land which is not available for you'.[28] And even [when he bought] medium quality the law is applicable only where [Levi] did not leave[29] medium quality of a similar nature

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(1) By virtue of a bond the date of which was antecedent to that of the first sale.

(2) Reuben.

(3) As if Reuben had not been the original seller. As simeon, who guaranteed compensation. would have to fulfil his obligation in the ease of any other buyer he incurs the same liability towards Reuben who, not having given any guarantee for his sale has the same status as any other buyer. ומפצי, rt. פצי cf. supra note 2.

(4) Proceeding from his own creditors.

(5) The answer is obviously in the negative. Simeon is undoubtedly exempt from all such claims.

(6) Sc. his father (cf. supra p. 586, n' 7).

(7) I.e., any other person (v. loc. cit.).

(8) Reuben,

(9) Lit., 'and rescue him from him' (cf. supra p. 586, n. 2).

(10) I.e., as if Jacob had been a stranger and the creditor had no claim against Reuben's father but against the man from whom Reuben had bought the field. Since the claim of the creditor is not against Reuben himself the claim against his father does not affect his right if he once sold the field without guarantee and Simeon resold it to him with a guarantee.

(11) Lit., 'put up', 'established'.

(12) I.e., instead of paying in cash Simeon gave him a note of Indebtedness,

(13) Lit,, zuzim, money', i,e., the amount of the loan which he owed to Reuben's heirs.

(14) Viz., the amount of the debt,

(15) Nor to the buyer who has been deprived by him of the field. Having paid a claim for which the orphans were not responsible, he must suffer the loss himself,

(16) The buyer from whom the orphans now claim the price of the land which he owes,

(17) The orphans.

(18) By virtue of the responsibility which their father, as seller, had undertaken towards him, as buyer. Since the land comes into their possession by virtue of the debt they inherited from their father, it is deemed to be an inheritance which may be seized by a buyer whose purchase had been distrained on by their father's creditor.

(19) Which was owing to him.

(20) Who lent money to their father,

(21) As if the land had been a direct inheritance from their father, although their acquisition of it took place after his death (cf. supra n. 13) as a result of the creditor's inability to meet his obligation.

(22) MS.M. reads, ‘Raba’, and this is also the reading in the parallel passage in B.K. 8b.

(23) By one deed of sale (v. infra n. 4).

(24) Claiming payment of the debt,

(25) Lit,,’if he wishes he collects from this and if he wishes he etc.’, i.e., either from Simeon or from Levi. Where, however, the fields were sold by Reuben under more than one deed (cf. supra n. 2) his creditor cannot distrain on Levi unless the field the latter had bought was the last one that Reuben had sold to Simeon. If it was not the last, Levi may refuse payment on the ground that, even after Simeon had bought that field, Reuben was still in possession of sufficient property to meet his creditor's claim, and that no creditor can distrain on property sold while free property remained in the debtor's possession.

(26) The creditor who is entitled to recover his debt from the medium quality of the debtor's free, or sold property.

(27) That the creditor might have no legal claim upon it,

(28) Cf. supra n. 5’

(29) With Simeon.

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but if he did leave medium quality of a similar nature he may lawfully tell him,[1] ‘I have left for you ample land[2] from which to collect [your debt]’.

Abaye stated: If Reuben sold a field to Simeon with a guarantee and a creditor of Reuben's came to distrain on it the law is that Reuben may proceed to litigate[3] with that creditor and [the latter] cannot say to him, ‘You are no party to me’[4] for [the other can] retort, ‘For whatever you will take away from him he will turn to me [to claim compensation]’[5] Others say: Even where no guarantee was given[6] the same law[7] applies, since [Reuben] may say to him,[8] ‘I do not like Simeon to have any grievance against me

Abaye [further] stated: If Reuben sold a field to Simeon without a guarantee and there appeared against him[9]

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(1) The creditor.

(2) Lit., ‘place’.

(3) ומפצי Cf. supra p. 586, n. 2.

(4) Since he was distraining against Simeon and not against him who, as an uninterested party, has no right to be a pleader in the lawsuit (cf. B.K. 70a).

(5) ‘Hence I am an interested party’.

(6) By Reuben to Simeon.

(7) That the creditor cannot say to Reuben, ‘You are no party to me’.

(8) The creditor,

(9) Reuben.

Talmud - Mas. Kethuboth 93a

claimants[1] [disputing his title to the field][2] he[3] may withdraw before he has taken possession of it,[4] but after he had taken possession of it[5] he may no longer withdraw,[6] because [Reuben] can say to him,[3] ‘You have agreed to a bag sealed with knots[7] and you got it’.[8] And from what moment is possession considered to have been effected? — As soon as he[9] sets his foot upon the landmarks.[10] Others say: Even [If the sale was made] with a guarantee the same law[11] applies. since [the seller] might say to him, ‘Produce the tirpa[12] [that was issued against] you and I shall pay you’.[13]

MISHNAH. IF A MAN WHO WAS MARRIED TO THREE WIVES DIED, AND THE KETHUBAH OF ONE[14] WAS A MANEH,[15] OF THE OTHER[14] TWO HUNDRED ZUZ, AND OF THE THIRD[14] THREE HUNDRED ZUZ[16] AND THE ESTATE[17] [WAS WORTH] ONLY ONE MANEH[18] [THE SUM] IS DIVIDED EQUALLY.[19] IF THE ESTATE[20] [WAS WORTH] TWO HUNDRED ZUZ [THE CLAIMANT] OF THE MANEH RECEIVES FIFTY ZUZ[21] [AND THE CLAIMANTS RESPECTIVELY] OF THE TWO HUNDRED AND THE THREE HUNDRED ZUZ [RECEIVE EACH] THREE GOLD DENARII.[22] IF THE ESTATE[23] [WAS WORTH] THREE HUNDRED ZUZ,[24] [THE CLAIMANT] OF THE MANEH RECEIVES FIFTY ZUZ[25] AND [THE CLAIMANT] OF THE TWO HUNDRED ZUZ [RECEIVES] A MANEH[25] WHILE [THE CLAIMANT] OF THE THREE HUNDRED ZUZ [RECEIVES] SIX GOLD DENARII.[26] SIMILARLY, IF THREE PERSONS CONTRIBUTED TO A JOINT FUND[27] AND THEY HAD MADE A LOSS OR A PROFIT THEY SHARE IN THE SAME MANNER.[28]

GEMARA. [THE CLAIMANT] OF THE MANEH RECEIVES FIFTY ZUZ. Should she not be entitled to thirty-three and a third zuz only?[29] — Samuel replied: [Here it is a case] where the one who is entitled to the two hundred zuz gave a written undertaking to the woman who was entitled to one maneh, ‘I have no claim whatsoever upon the maneh’.[30] But if so,[31] read the next clause: [THE CLAIMANTS RESPECTIVELY] OF THE TWO HUNDRED, AND THE THREE HUNDRED ZUZ [RECEIVE EACH] THREE GOLD DENARII, [why, it may be objected, could she[32] not] tell her,[33] ‘You have already renounced your claim upon[34] it’? — Because she can reply. ‘I have only renounced my claim’.[35]

IF THE ESTATE [WAS WORTH] THREE HUNDRED etc. [Why should THE CLAIMANT] OF THE TWO HUNDRED ZUZ[36] RECEIVE A MANEH [when in fact] she should be entitled to seventy-five zuz only?[37] — Samuel replied: [Our Mishnah refers to a case] where the woman who was entitled to the three hundred zuz gave a written undertaking to the one who was entitled to the two hundred zuz and the other who was entitled to a maneh, ‘I have no claim whatsoever upon you in respect of one maneh’.[38] R. Jacob of Nehar Pekod[39] replied in the name of Rabina: The first clause deals with two acts of seizure[40] and the final clause deals with two acts of seizure.[40] ‘The first clause deals with two acts of seizure’ viz. seventy-five zuz came into their hands[41] the first[42] time[43] and one hundred and twenty-five the second[42] time.[44] ‘The final clause deals with two acts of seizure, viz., seventy-five came into their hands[41] the first[42] time[43] and two hundred and twenty-five the second[42] time.[45]

It was taught: This[46] is the teaching of R. Nathan. Rabbi,[47] however, said, ‘I do not approve[48] of R. Nathan's views in these [cases][46] for[49] [the three wives][50] take equal shares’.[51]

SIMILARLY IF THREE PERSONS CONTRIBUTED. Samuel ruled: If two persons contributed to a joint fund,[52] one of them a maneh, and the other two hundred zuz,

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(1) עסיקין ‘contestants’ (v. Rashi). Others: ‘disputes’ (cf. Jast. s.v, עסק II).

(2) Aliter: ‘Protests against the tithe were issued’ (v. fast. loc. cit.).

(3) Simeon.

(4) If he has not yet paid for it.

(5) And so legally acquired it. Legal acquisition may be effected before the price of the land had been paid, the price becoming a debt due to the seller.

(6) Despite the disputes involved.

(7) Rashi (B.K. 9a): A bag full of wind.

(8) I.e.’you made a purchase without proper investigation and you must bear the unpleasant consequences.

(9) The buyer.

(10) Of the field, to level them (v. Rashi B.M. 14b).

(11) That the buyer may not withdraw after he had taken possession.

(12) V. supra p. 584, n. 8.

(13) I.e., before the court has authorized the distraint the buyer has no right to cancel the sale on the ground that he is troubled by claimants, Only when the court has given its decision in favour of the claimants, and the land was actually taken away from him, has he the right to call upon the seller for compensation.

(14) Lit., ‘this’,

(15) A hundred zuz (v. Glos.).

(16) And the three contracts bore the same date, If they bear different dates the collection of any earlier kethubah takes precedence over the later one.

(17) Lit., ‘there was’.

(18) A hundred zuz (v. Glos.).

(19) Since the three women have equal claims upon that maneh, the smallest kethubah being for no less than one maneh.

(20) Lit., ‘there was’.

(21) This will be discussed in the Gemara infra.

(22) I,e., seventy-five zuz. A gold denar twenty-five silver denarii or zuz (v. B.M. 45b). The two women take equal shares in the two hundred zuz since the kethubah of either is for no less a sum and the money available is equally pledged to both.

(23) Lit., ‘there was’,

(24) So that the first maneh is pledged to all the three women (cf. supra note 2). the second to the claimants of the two hundred and the three hundred respectively, while the third maneh is only pledged to the claimant of the three hundred.

(25) V. supra note 4’

(26) One hundred and fifty us.

(27) Lit., ‘who put into a bag’ sc. for trading purposes.

(28) In proportion to the amounts contributed.

(29) I,e., a third of the first maneh, since she has no claim at all upon the second maneh,

(30) Which is legally pledged to her. In that maneh she has only one rival claimant in the person of the woman whose kethubah is for three hundred, The maneh is consequently to be divided between the two only.

(31) That the holder of the kethubah for the two hundred us has renounced her claim upon the first maneh,

(32) The claimant of the three hundred zuz.

(33) The holder of the kethubah for the two hundred.

(34) Lit ‘you have removed yourself from’.

(35) ‘As far as the claimant of the maneh was concerned but not my legal right to a share in it’, i.e., she only undertook to abstain from litigation with the claimant of the maneh in order to enable her thereby to obtain a half of that sum, but she had not renounced her right to a share in that maneh should she ever wish to assert it against the third wife, the holder of the kethubah for the three hundred us. She is, therefore, entitled, as far as the balance of that maneh is concerned, to claim a share equal to that of the third wife, which, together with her share in the second maneh, amounts to (50/2 + 100/2) seventy-five us or three gold denarii,

(36) Who, as stated above, has renounced fifty zuz of the first maneh.

(37) I.e., a half of the balance of fifty of the first maneh and a half of the second maneh amounting to a total of (520/2 +100/2 = 25 +50) seventy-five zuz, The third maneh upon which she has no claim at all (cf. supra p. 590. n. 7) must, of course, be excluded from the calculations of her share.

(38) While the woman whose kethubah was for two hundred us did not renounce any of her rights in favour of the holder of the kethubah for the one maneh. The first maneh is consequently divided between these two, the second maneh between the second and the third woman while the third maneh is given to the third woman only.

(39) Lit., ‘the river of Pekod’, a town east of Nehardea, or a district in S.E. Babylon. Pekod is mentioned in Jer. L, 21 and Ezek. XXIII, 23.

(40) l.e., the women collected the amounts mentioned in two instalments, the second of which was not available when the first was collected.

(41) Lit., ‘fell’.

(42) Lit., ‘one’.

(43) Since each woman had a claim upon this sum the three divide it between them in equal shares, each one receiving twenty-five zuz.

(44) The first one, having already received twenty-five us, now claims no more than seventy-five zuz, and since her claim to the seventy-five zuz is legally equal to the claims of the other two women the sum is equally divided between them and she receives a third of it, or twenty-five zuz, bringing up her total collection to FIFTY ZUZ. The second woman who has a claim upon the full balance of a hundred zuz divides the sum with the third woman each receiving fifty zuz which, added to the twenty-five zuz each received of the first maneh, amounts to a total of seventy-five zuz, or THREE GOLD DENARII.

(45) Seventy-five us of these, as in the previous case (cf. supra n. 4), is equally divided between the three women thus allowing a total of FIFTY ZUZ for the first woman. The second one who also received twenty-five zuz at the first division and who still claims a balance of two hundred minus twenty-five one hundred and seventy-five us receives twenty-five zuz as her share in the seventy-five us mentioned and another fifty zuz which is her share in the maneh that is equally divided between her and the third woman, thus receiving a total of twenty-five plus twenty-five plus fifty a hundred zuz or a MANEH. The balance of fifty us now remaining is given to the third woman who thus receives a total of twenty-five plus twenty-five plus fifty plus fifty one hundred and fifty==six GOLD DENARII.

(46) The part of our Mishnah which deals with the eases of the three women.

(47) R. Judah the Patriarch or Prince, compiler of the Mishnah.

(48) Lit,, ‘see’.

(49) Lit., ‘but’.

(50) Despite the difference in the amounts of their respective kethubahs.

(51) The estate being equally pledged to all the three, the woman who claims the smallest amount has no less a right to it than the women who claim the bigger amounts have a right to theirs. Only in the case of contributors to a common fund are profits and losses to be divided in proportion to the respective amounts contributed.

(52) Cf. supra p. 590, n. 10.

Talmud - Mas. Kethuboth 93b

the Profit is to be equally divided.[1] Rabbah said: It stands to reason [that Samuel's ruling applies] where an ox [was purchased][2] for ploughing and Was used[3] for ploughing.[4] Where, however, an ox [was purchased] for ploughing[5] and was used[3] for slaughter[6] each of the Partners[7] receives a share in proportion to his capital.[8] R. Hamnuna, however, ruled: Where an ox [was bought] for ploughing,[9] even if it was used[3] for slaughter[10] the profit must be equally divided.[11]

An objection was raised: If two persons contributed to a joint fund,[12] one of them a maneh, and the other, two hundred zuz, the profit is to be equally divided.[13] Does not this refer to an ox [bought] for ploughing and used[3] for slaughter, and [thus presenting] an objection against Rabbah? — No, it refers to an ox that was bought for ploughing and was used for ploughing.[9] What, however, [is the law where] an ox [was bought] for ploughing and used[3] for killing? Does each partner[7] [in such a case] receive a share in proportion to his capital? Then instead of stating in the final clause, ‘If one man had bought [some oxen] out of his own money and the other [had bought some] out of his own money[14] and the animals were mixed up, each partner[7] receives a share in proportion to his capital’,[15] could not a distinction have been made in the very same case,[16] [thus:] ‘This[17] applies only where an ox was bought for ploughing and was used for ploughing, but where an ox was bought for ploughing and was used for slaughter each partner receives a share in proportion to his capital’? — It is this, in fact, that[18] was implied: ‘This[19] applies only where an ox was bought for ploughing and was used for ploughing. but where an ox was bought for ploughing and was used for slaughter’ the law is the same as ‘if one man had bought [some oxen] out of his own money and the other [had bought some] out of his own money, and the animals were mixed up [in which case] each party receives a share in proportion to his capital’.

We learned: SIMILARLY IF THREE PERSONS CONTRIBUTED TO A JOINT FUND AND THEY MADE A LOSS OR A PROFIT THEY SHARE IN THE SAME MANNER. Does not ‘THEY MADE A LOSS mean that they made a loss on their actual transaction, and A PROFIT’ that they made a profit on their actual transaction?[20] — R. Nahman replied in the name of Rabbah b.

Abbuha: No; they made 'A PROFIT' [owing to the issue of] new coins[21] and THEY MADE A LOSS' [by the deterioration of a coin into] an istira[22] that was only suitable for application to a bunion.[23]

MISHNAH. IF A MAN WHO WAS MARRIED TO FOUR WIVES DIED, HIS FIRST WIFE[24] TAKES PRECEDENCE[25] OVER THE SECOND, THE SECOND TAKES PRECEDENCE OVER THE THIRD AND THE THIRD OVER THE FOURTH. THE FIRST MUST TAKE AN OATH[26] [IN ORDER TO GIVE SATISFACTION] TO THE SECOND,[27] THE SECOND TO THE THIRD,[28] AND THE THIRD TO THE FOURTH,[28] WHILE THE FOURTH RECOVERS PAYMENT WITHOUT AN OATH.[29] BEN NANNUS SAID: SHOULD SHE[30] HAVE THE ADVANTAGE BECAUSE SHE IS THE LAST? SHE ALSO MAY NOT EXACT PAYMENT EXCEPT ON OATH, IF ALL [KETHUBAHS] WERE ISSUED ON THE SAME DAY THEN THE WOMAN [WHOSE KETHUBAH] PRECEDED THAT OF THE OTHER, EVEN IF ONLY BY ONE HOUR,[31] GAINS [THE FIRST RIGHT]. AND SO IT WAS THE CUSTOM IN JERUSALEM TO INSERT THE HOURS [IN SUCH DOCUMENTS]. IF ALL KETHUBAHS WERE ISSUED AT THE SAME HOUR AND THE ESTATE IS WORTH NO MORE[32] THAN A MANEH [THE WOMEN] RECEIVE EQUAL. SHARES.

GEMARA. On what principle do they[33] differ? — Samuel replied:

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(1) Lit., 'for the middle'.

(2) With the joint capital.

(3) Lit., 'stands'.

(4) So that the share of one partner in the ox is as essential as that of the other, the animal being useless for work unless it is whole.

(5) And much more so if it was purchased for slaughter. (Cf. infra note 7.)

(6) Its value in flesh having in the meantime increased.

(7) Lit., 'this ' ' ' this'.

(8) Since the carcase can be well divided. The original intention to use the animal for ploughing only (cf. supra note 3) does not alter the fact that in the end it was used for the purpose which admitted of division.

(9) V. supra nn. 3 and 7'

(10) Cf. supra n. 4 mutatis mutandis.

(11) Lit., 'for the middle'.

(12) Cf. supra p. 590 n. 10.

(13) Tosef. Keth. X.

(14) One party having bought more expensive and, therefore, much stronger animals than the other.

(15) Tosef. I.e.; since stronger animals are capable of more work.

(16) Spoken of in the first clause, where the two men bought an ox jointly.

(17) That profits are equally divided.

(18) Lit., 'thus also'.

(19) That profits are equally divided.

(20) Which is in contradiction to Samuel's ruling (Rashi). .Aliter: Since it is self-evident that profits on an ox that was both bought and used for slaughter are to be divided proportionally, this ruling, being superfluous in such a case, must refer to that of an ox that was originally bought for ploughing and was only subsequently used for slaughter. Thus an objection arises against R. Hamnuna (v. Tosaf, s,v. מאי a.I.).

(21) The older currency which the men originally invested being worth more than the new currency. so that the profit in the terms of the new currency was not made on any business transactions but on the actual coins. Since then it is the original investments that are returned to their owners the return must be in proportion to the respective original investments. Any profit, however, that is the result of business transactions is equally divided, (V. Rashi. Cf., however, Tosaf. s.v. הותירו a.I.)

(22) A coin (v. Glos.).

(23) As a cure. I.e., coins that have been withdrawn from circulation and, having lost their monetary value, are of no more use than a piece of metal. Such a loss (cf. supra note 4) must be borne by the two men in proportion. A trading loss, however, is, as Samuel ruled, to be equally divided.

(24) I,e,, the woman whose kethubah bears the earliest date.

(25) In respect of her claim to her kethubah,

(26) That she had received no payments from her husband, on account of her kethubah, prior to his death,

(27) Who might lose all her kethubah should no balance remain after the first had collected her due,

(28) Cf. supra n. 4 mutatis mutandis,

(29) If the orphans are of age. In the ease of orphans who are still in their minority no one may exact payment from them except with an oath; v. supra 87a.

(30) The fourth.

(31) Provided the hour had been entered in the document.

(32) Lit., ‘and there is not there’,

(33) Ben Nannus and the first Tanna.

Talmud - Mas. Kethuboth 94a

[Their dispute relates to a case,] for instance, where It was found that one of the fields[1] did not belong to him,[2] their point of difference[3] being the question [of the legality of the action] of a creditor of a later date who forestalled [one of an earlier date] and distrained [on the debtor's property]. The first Tanna holds that such distraint has no legal validity,[4] and Ben Nannus holds that whatever he distrained on is legally his,[5] R. Nahman in the name of Rabbah b. Abbuha replied: Both[6] agree that the distraint [of a creditor of a later date] has no legal validity,[7] but here they differ on the question whether provision is to be made against the possibility that [the fourth woman might] allow the ground to deteriorate. One Master[8] is of the opinion that provision is to be made against the possibility that she[9] might allow the ground[10] to deteriorate,[11] and the other Master is of the opinion that no provision need be made against such a possibility. Abaye replied: The difference between them[6] is the ruling of Abaye the Elder who stated: The ‘orphans’ spoken of[12] are grown-ups and there is no need to say that minors[13] [are included].[14] The first Tanna[15] does not hold the view of Abaye the Elder while Ben Nannus upholds it.[16]

R.Huna stated: If two brothers or two partners had a lawsuit[17] against a third party[18] and one of them went with that person to law,[19] the other[20] cannot say to him,[21] ‘You are not my party’[22] because[23] [the one who went to law] acted on his behalf also.[24]

R. Nahman once visited Sura[25] and was asked what the law was in such a case.[26] He replied: This is [a case that has been stated in] our Mishnah: THE FIRST MUST TAKE AN OATH [IN ORDER TO GIVE SATISFACTION] TO THE SECOND, THE SECOND TO THE THIRD AND THE THIRD TO THE FOURTH, but it was not stated, ‘the first to the third’. Now, what could be the reason?[27] Obviously[28] because [the second] has acted on her behalf also. But are [the two cases] alike? In the latter,[29] an oath for one person is the same as an oath for a hundred,[30] but in this case[31] he[32] might well plead, ‘Had l been present I would have submitted more convincing arguments’.[33] This,[34] however, applies only when he[32] was not In town [when the action was tried] but if he was in town [his plea is disregarded, since if he had any valid arguments] he ought to have come.[35]

It was stated: If two deeds[36] bearing the same date[37] [are presented in court,[38] the property in question],[39] Rab ruled, should be divided [between the two claimants], and Samuel ruled: [The case is to be decided at] the discretion of the judges.[40] Must it be assumed that Rab follows the view Of R. Meir who holds that the signatures of the witnesses make [a Get] effective,[41]

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(1) Which the first three women had taken in payment of their respective kethubahs.

(2) I.e., it was found that the deceased husband had taken it by violence from a person who might appear at any moment to claim it, and any one of the three wives, that might thus be deprived of her field, would ultimately proceed 10 make her claim against the field that had been reserved for the fourth wife.

(3) In arguing the question whether the fourth woman may be asked by one of the other women to take an oath that she had not already collected her kethubah during the lifetime of their husband,

(4) And the creditor who holds the earlier-dated bond may consequently distrain on that property. Similarly in the case of the kethubah spoken of in our Mishnah, as that of the fourth woman bears the latest date, any of the other women, being in the position of earlier creditor, may distrain on her field wherever she is deprived of the field that had been allotted to her. And since the fourth may thus be deprived of her field by any of the others at any time there is no need to make sure of her claim by the imposition of an oath, and she, consequently, RECEIVES PAYMENT WITHOUT AN OATH.

(5) As the fourth woman (cf. supra note I) could not consequently be deprived of her field once it has been allotted to her SHE ALSO MAY NOT RECEIVE PAYMENT EXCEPT UNDER AN OATH.

(6) Ben Nannus and the first Tanna.

(7) Against the claims of an earlier creditor,

(8) Ben Nannus.

(9) The fourth woman.

(10) That has been allotted to her.

(11) If no oath were imposed upon her she would realize that her tenure of the property may only be temporary and would consequently exploit it to the full and neglect its amelioration. Hence the ruling that she also must take an oath before she receives payment.

(12) In the Mishnah supra 87a and Shebu. 45a: From orphans’ property she cannot recover payment except on oath. (Cf. Mishnah Git, 48b: Payment from orphans can be received only from the poorest land).

(13) Who require greater protection.

(14) Cf. Git. 50a, Shebu. 47b.

(15) Who exempts the fourth woman from the oath.

(16) Our Mishnah does not refer to the particular case which Samuel mentioned and the oath is imposed upon the fourth woman as a protection of the orphans and not vis-_-vis the other women,

(17) In connection with their joint ownership.

(18) Lit,, ‘one’.

(19) And lost his case.

(20) Brother or partner.

(21) The third party.

(22) And so demand a new trial on his share.

(23) Lit.,’but’.

(24) Lit,, ‘he did his mission’.

(25) V. supra p. 383, n. 7’

(26) Dealt with by R. Huna.

(27) For exempting the first from taking an oath vis-_-vis the third.

(28) Lit., ‘not?’

(29) Lit., ‘there’, that is our Mishnah.

(30) Once the woman has declared on oath that her husband had not paid her kethubah, her claim to it is established irrespective of the number of women who plead that she may have been paid by her husband.

(31) Lit., ‘here’.

(32) The brother or partner who was not present at the trial.

(33) Which would have enabled him to win his case. Our Mishnah, therefore, provides no answer to the enquiry addressed to R. Nahman.

(34) That the plea, ‘Had I been present etc.’ is admissible.

(35) To court,

(36) Of a sale or a gift relating to the same property.

(37) Lit., ‘coming forth in one day’.

(38) As the hour at which a deed was executed was not usually entered (except in Jerusalem) it cannot be determined which of the deeds is the earlier and which is the later document.

(39) I.e., the property of the donor or seller respectively which the holders of the deeds claim.

(40) שודא דדייני , v. supra p. 541. n. 12. The judges are empowered to give their decision in favour of the claimant who in their opinion deserves it (so Rashi and R. Tam, Tosaf. B.B. 350 s.v שודא) According to Rashb. (B.B. loc. cit.) the judges estimate which of the two claimants the seller or donor was more likely to favour. This may also be the opinion of Rashi (cf. infra 94b s.v. ושמואל ad fin).

(41) Git. 3b. Lit., 'the witnesses of the signature cut (the marriage union)'. In the ease of a deed, too. the validity should begin on the date the signatures were attached. And since the two deeds bear the same date and no hours are specified (cf. supra p. 597, n. 22) the two should have the same force and there can be no other alternative but that of dividing the property equally between the two claimants.

Talmud - Mas. Kethuboth 94b

and that Samuel follows the view of R. Eleazar who holds that the witnesses to the delivery [Of a Get] make it effective?[1] — No, all[2] follow the view of R. Eleazar,[3] but it is the following Principle on which they differ here. Rab is of the opinion that a division [between the claimants] is preferable and Samuel holds that [leaving the decision to] the discretion Of the judges is prefer. able. But can you maintain that Rab follows the view Of R. Eleazar? Surely, Rab Judah stated in the name of Rab, 'The halachah is in agreement with R. Eleazar in matters Of divorce' [and he added.] 'When I mentioned this in Samuel's presence he said: "Also in the case of other deeds". Does not this then imply that Rab is of the opinion that in the case Of deeds [the halachah is] not [in agreement with R. Eleazar]?' Clearly. Rab follows the view Of R. Meir and Samuel that of R. Eleazar.

An objection was raised: 'If two deeds[4] bearing the same date [are produced in court, the property In question] is to be divided. Is not this an objection against Samuel?[5] — Samuel can answer you: This represents the view of[6] R. Meir but I follow the view of R. Eleazar.[7]

But if this[8] represents the view of R. Meir, read the final clause: 'If he[9] wrote [a deed] for one man[10] [and then he wrote a deed for,] and delivered it to another man, the one to whom he delivered [the deed] acquires legal possession'. Now if [this[8] represents the view of] R. Meir why does he acquire possession? Did he not, in fact, lay down that the signatures of the witnesses[11] make [a Get] effective?[12] — This[13] [is a question which is also in dispute between] Tannaim.[14] For it was taught: And the Sages say [that the money][15] must[16] be divided,[17] while here[18] it was ruled that the trustee[19] shall use his own discretion.[20]

The mother of Rami b. Hama[21] gave her property in writing to Rami b. Hama in the morning, but in the evening she gave it in writing to Mar 'Ukba b. Hama.[22] Rami b. Hama came before R. Shesheth who confirmed him in the possession of the property. Mar 'Ukba then appeared before R. Nahman who Similarly confirmed him in the possession of the property. R. Shesheth, thereupon, came to R. Nahman and said to him, 'What is the reason that the Master has acted in this way?' 'And what is the reason', the other retorted, 'that the Master has acted in that way?' 'Because', the former replied, '[Rami's deed was written] first' ,[23] 'Are we then', the other retorted, 'living in Jerusalem where the hours are inserted [in deeds]?'[24] 'Then why [the former asked] did the Master act in this way?'[25] '[I treated it,] the other retorted, [as a case to be decided] at the discretion of the judges'.[26] 'I too'' the first said, '[treated the case as one to be decided at] the discretion of the judges' ,[27] 'In the first place' the other retorted, 'I am a judge[28] and the Master is no judge, and furthermore, you did not at first come with this argument' ,[29]

Two deeds [of sale][30] were once presented before R. Joseph, one being dated,[31] 'On the fifth of Nisan' ,[32] and the other was vaguely dated, 'In Nisan'. R. Joseph confirmed the [holder of the deed which had the entry,] 'fifth of Nisan' in the possession of the property. 'And I', said the other, 'must lose?' 'You', he replied, 'are at a disadvantage, since it may be suggested that your deed was one that was written[33] on the twenty-ninth of Nisan'[34] 'Will, then, the Master', the other asked, 'write for me

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(1) Cit. 9b. The date of the signatures is immaterial. Since, therefore, it is possible that the donor or seller has delivered the one deed before he delivered the other, the judges must use their discretion in deciding which of the two claimants was the more likely to have been favoured by the deceased.

(2) L.it., ‘all the world’, Rab and Samuel.

(3) Since his ruling is the accepted law (cf. Cit. 86b).

(4) V. supra p 597’ nn. 20-23.

(5) Who maintained that it is left to the discretion of the judges to decide which of the claimants is to receive the property in dispute.

(6) Lit., ‘this according to whom?’

(7) Since Samuel has Tannaitic authority for his view he may well differ from R. Meir.

(8) The Baraitha, the first clause of which has been quoted.

(9) The seller or donor.

(10) To whom, however, he did not deliver it until a later date (v. infra n. 7).

(11) Not the delivery of the document.

(12) And since the first deed was signed before the other, the holder of that deed should have acquired possession despite the fact that it was delivered to him after the second deed had been delivered to the other man. The Baraitha must consequently represent the view of R. Eleazar who, as is evident from the first clause, also upholds the ruling that the property in dispute must he divided, How then, in opposition to two Tannaim, could Samuel (cf. supra p. 598’ n. 7) maintain his view?

(13) The point in dispute between Rab and Samuel,

(14) Cf. supra n. 2.

(15) Which a man sent through an agent to a certain person who, however, died before the agent could deliver It to him (v. Cit, 14b).

(16) If on returning the agent found that the sender also had died,

(17) Between the heirs of the sender and the heirs of the payee.

(18) In Babylon.

(19) השליש lit., ‘the third party’, I.e., the agent through whom the money was sent. The parallel passage (Git. 14b) reads, השליח’the messenger. Colds, suggests that השלי which was an abbreviation for השליח was here wrongly read השליש.

(20) A ruling which is based on the same principle as that of Samuel's in respect of the judges. The ruling of the Sages is followed by Rab while that adopted by the Rabbis in Babylon is followed by Samuel,

(21) Cf. B.B. 151a where an incident involving the same characters is recorded. The circumstances, however, are not exactly identical and the arguments involve totally different principles. The two records (v. Tosaf. s,v, אמיה) obviously deal with two different incidents.

(22) And it was not known to which of the two the deed was delivered first.

(23) In the morning, while that of his brother was written in the evening.

(24) Of course not. Since in Babylon no hours were entered in deeds it is obvious that, in accordance with the usage of the place. if two deeds were written on the same day no preference is to be given to one because it was written a few hours earlier than the other, Rami, therefore, can claim no preference over Mar ‘Ukba.

(25) Since both deeds have the same force the property should have been equally divided between Rami and Mar ‘Ukba. Why was it all confirmed in the possession of the latter?

(26) I.e..following the ruling of R. Eleazar that it is the witnesses to the delivery that render a deed effective, he estimated that it was Mar ‘Ukba, for whom his mother had been known to have had greater affection, to whom his deed had been delivered first.

(27) And since his decision was given first, R. Nahman should not have reversed it by relying merely on his own discretion,

(28) Appointed by the Exilarch and the academy (Rashi).

(29) He did not at first contend that he treated the case as one that was dependent on the discretion of the judges but submitted that Rami was entitled to the property because his deed was written first. As this submission was erroneous, since outside Jerusalem no hours were entered in deeds and the case was not tried in Jerusalem but in Babylon, his decision could well be reversed.

(30) Both relating to the same field that was sold under a guarantee for indemnification.

(31) Lit., ‘written’.
(32) The first civil month in the Hebrew calendar corresponding to March-April.
(33) Lit., ‘son of’.
(34) I.e., the last day of the month. Hence the priority of the claim of the holder of the presumably earlier deed.

Talmud - Mas. Kethuboth 95a

a tirpa[1] [authorizing distraint on property sold][2] after the first of Iyar?’[3] ‘They’,[4] he replied, ‘might tell you: You [are holding a deed] that was written on the first of Nisan’ .[5] What means of redress [can he[6] have recourse to]?[7] — They[8] write out authorizations[9] to one another.[10] MISHNAH. IF A MAN WHO WAS MARRIED TO TWO WIVES SOLD HIS FIELD,[11] AND THE FIRST WIFE[12] HAD GIVEN A WRITTEN DECLARATION TO THE BUYER, ‘I HAVE NO CLAIM WHATSOEVER UPON YOU’, THE SECOND WIFE[13] MAY[14] DISTRAIN ON THE BUYER, AND THE FIRST WIFE[12] ON THE SECOND, AND THE BUYER ON THE FIRST WIFE,[15] AND SO THEY GO ON IN TURN UNTIL THEY ARRANGE SOME COMPROMISE BETWEEN THEM, THE SAME LAW APPLIES ALSO TO[16] A CREDITOR[17] AND TO[16] A WOMAN CREDITOR,[17]

GEMARA. What matters it even if she HAD GIVEN him A WRITTEN DECLARATION? Has it not been a man says to another, ‘I have no claim whatsoever on this field, I have no concern in it and l entirely dissociate myself from it’, his statement is of no effect?[18] — Here we are dealing with a case where a kinyan was executed.[19] But even if kinyan had been executed, what is the use? Could she not say, ‘I merely wished to oblige my husband’?[20] Have we not, in fact, learned: If a man bought [a married woman's property][21] from her husband and then bought it also from the wife, his purchase is legally invalid.[22] Does not this[11] [13] show clearly that the woman can plead, ‘l merely wished to oblige my husband’?[20] R. Zera replied in the name of R. Hisda: This is no difficulty. One ruling[23] is that of R. Meir and the other[24] is that of R. Judah. For it was taught: [If a husband] drew up a deed[25] for the buyer[26] [of a field of his wife],[27] and she did not endorse it, [and then he drew up a deed] for another buyer [of a field of hers][27] and that she did endorse, she loses thereby [her claim to] her kethubah,’[28] so R. Meir.[29] R. Judah, however, said: She may plead, ‘I[30] merely meant to oblige my husband;[31] what [claim] can you have against me?’[32]

As to Rabbi,[33] however, would he allow the anonymous Mishnah here to represent the view of R. Meir and the anonymous Mishnah there[34] to represent the view of R. Judah?[35] R. Papa replied: [Our Mishnah deals] with the case of a divorced woman,[36] and it represents the opinion of all. R. Ashi replied: Both Mishnahs[37] represent the views of R. Meir,[38] for R. Meir maintains his view[39] only there where two buyers are concerned,[40] since in such a case she may well be told, ‘If you wished to oblige. you should have done so in the case of the first buyer’,[41] but where Only one buyer [is concerned]. even R. Meir admits [that the sale is invalid].[42] while our Mishnah[43] [refers to a case] where [the husband had first] written out a deed for another buyer.[44]

Elsewhere we learned: Payment cannot be recovered from mortgaged property where free assets are available, even if they are only of the poorest quality.[45] The question was raised: If the free assets were blasted[46] may the mortgaged property be distrained on? — Come and hear: [If a husband] drew up a deed for the buyer [of a field of his wife] and she did not endorse it [and then he drew up a deed] for another buyer [of a field of hers] and that she did endorse, she loses thereby [her claim to] her kethubah,’ so R. Meir.[47] Now, if it could be imagined that where the free assets were blasted the mortgaged property may be distrained on [the difficulty would arise:] Granted that she lost [her right to recover] her kethubah from the second buyer,[48] why[49] should she not be entitled[50] to recover it, at any rate, from the first buyer?[51] — Said R. Nahman b. Isaac:[52] The meaning of ‘she loses’ is that she loses [her right to recover her due] from the second buyer.[53] Said Raba: Two objections may be raised against this explanation:[54] In the first place [it may be pointed out] that [the expression of] ‘she loses’ implies total loss. And, furthermore, it was taught: If a man borrowed from one person and sold his property to two others, and the creditor gave a written declaration to the second buyer, ‘I have no claim whatever upon you’, [this creditor] has no claim whatever upon the first buyer, since the latter can tell him, ‘I have left you[55] a source[56] from which to recover your debt’![57] — There,[58] [it may be argued[59] that] it was he[60] who had deliberately caused the loss to himself.[61]

Said R. Yemar to R. Ashi:

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(1) V. supra p. 584, n. 8.
(2) By the same vendor.
(3) The month following Nisan. Lit., ‘from Iyar onwards’. However late in Nisan the deed may have been written it could not have been later than the first of the following month, and the vendee should, therefore (v. supra p. 600, n. 9)’ be entitled to distrain at least on those vendees who purchased their property from the same vendor after he had purchased his.
(4) The vendees whose purchases were effected after the first of Iyar.
(5) And since his deed was consequently of an earlier date than the one that was written on the ‘fifth of Nisan’, the holder of the latter deed was not entitled to the property which R. Joseph confirmed in his possession. ‘Before distraining on our purchases’, the vendees (v. supra n. 8) might well plead, ‘claim the land which you have actually bought’.
(6) The holder of the ‘In Nisan’ deed.
(7) In view of the alternative pleadings. Should he make a claim against the holder of the deed written On the fifth of Nisan the latter could retort that ‘In Nisan’ meant the twenty-ninth of the month; and should he attempt to distrain on those who bought after the first of Iyar they could retort that ‘In Nisan’ meant the first of that month.
(8) The holders of the ‘In Nisan’ and ‘fifth of Nisan’ deeds.
(9) To distrain on subsequent buyers.
(10) The holder of the ‘In Nisan’ deed is thus enabled to distrain on the subsequent vendees by virtue of his own deed or by virtue of that of the ‘fifth of Nisan’ held by the other. Since the vendor guaranteed to indemnify either of them he may distrain on behalf of the other if the later vendees plead that his deed was written as early as on the first of Nisan; or if, in reply to the claim of the holder of the ‘fifth of Nisan’ deed, they pleaded that the ‘In Nisan’ deed was written as late as on the twenty-ninth and that the holder of the earlier deed should consequently have distrained on him and not on them, who were later purchasers, he may distrain on them by virtue of his own deed.
(11) Which was pledged for the kethubahs of the women,
(12) I.e., the woman who was married first and whose kethubah consequently bore the earlier date.
(13) Whose claim upon the field was not in any way impaired.
(14) When her husband dies.
(15) Since she had renounced in his favour her claims upon that field.
(16) Lit., ‘and so’,
(17) This is explained infra.
(18) Supra 83a q.v. for notes, Git. 77a.
(19) Lit., ‘they (sc. witnesses) acquired from her (on behalf of the vendee)’. Such a kinyan (as was laid down by Amemar, supra 83b) is taken to refer to the land itself and not merely to the woman's abstract renunciation.
(20) St. her kinyan was not meant to be taken seriously.
(21) Which (a) her husband inserted in her kethubah as a special security for the sum of that kethubah, apart from the general security on all his estate, or (b) her husband assigned to her after their wedding as special security for her kethubah, or (c) she had brought to her husband as marriage dowry and for the money value of which he had made himself responsible to her (v. B,B. 49b ff).
(22) Cit. 55b, B.B. loc. cit. (13) The ruling that the sale is invalid.
(23) That of our Mishnah,
(24) The ruling that the sale is invalid.
(25) Lit., ‘he wrote .
(26) Lit., ‘for the first’.
(27) V, supra p. 602, n. 11.
(28) If her husband has no free property left. She cannot recover her kethubah even from the first buyer since he might

plead that when he had bought his field her husband was still left in the possession of that field which he subsequently sold to the second purchaser.

(29) Because by refusing to endorse the first deed she made it clear that she had no desire to please her husband. Her action in endorsing the second deed may, therefore, be regarded as the true expression of her consent to the sale and her earnest renunciation of her claim upon the property.

(30) In endorsing the second deed.

(31) Cf. supra p. 602, n. 10,

(32) Surely none. She is, therefore, entitled to recover her kethubah from the second buyer.

(33) R. Judah the Patriarch, the Redactor of the Mishnah.

(34) Git, 55b just cited.

(35) Since the halachah agrees as a rule with the anonymous Mishnah a contradiction would arise.

(36) Who renounced her rights to the purchased field after she had been divorced, so that the plea of obliging her husband is clearly inadmissible.

(37) Lit., ‘all of it’, our Mishnah as well as the one in Git. 55b.

(38) Both dealing with a woman who was still living with her husband,

(39) That the woman loses her kethubah.

(40) As was specifically mentioned in that Baraitha. Cf. supra note 7’

(41) As she had not done it she cannot now plead that her object was to oblige her husband.

(42) Since she may plead that she merely wished to oblige her husband.

(43) Which regards the woman's renunciation as valid.

(44) Whose deed she refused to endorse. Cf. supra p. 603, n. 7.

(45) Git. 48b.

(46) After the sale of the others.

(47) Cf. supra p, 603 notes,

(48) On account of her endorsement of his purchase.

(49) Since her first source of payment was no longer available,

(50) As in the case of free assets that were blasted.

(51) Whose purchase corresponds to the ‘mortgaged property’ referred to in the enquiry. Since, however, she is not allowed to distrain on the first it follows, does it not, that even if the free assets were blasted, payment cannot be recovered from mortgaged property.

(52) The Baraitha quoted provides no solution to the question.

(53) Her right to recover her kethubah from the first buyer, however, remains unimpaired.

(54) Which R. Nahman b. Isaac advanced.

(55) ‘When I purchased the first field’.

(56) The field which the second buyer had subsequently purchased.

(57) Similarly in the ease of the woman, her kethubah cannot be recovered from the first buyer who might well plead that he too had left her a source from which to collect her kethubah, R. Nahman h. Isaac's explanation thus stands refuted by two objections.

(58) In the Baraitha cited by Raba,

(59) In justification of R. Nahman b. Isaac's explanation. So according to R. Tam and R. Han (v. Tosaf, s.v. התם a. l.), contrary to Rashi who regards what follows as the conclusion of Raba's arguments, v. infra n. 5.

(60) The creditor,

(61) By signing the declaration in favour of the second buyer though he was well aware that by this act he loses the only source available for the recovery of his debt. In the ease of a woman, however, whose kethubah does not fall due for payment until after the death of her husband, it may well be maintained that the renunciation of her rights in favour of the second buyer, during the lifetime of her husband, was not regarded by her as of any practical consequence, and the loss ultimately ensuing cannot, therefore, be said to have been deliberately caused by herself. As the two eases are not analogous R. Nahman b. Isaac's explanation stands unrefuted, The first objection raised by Raba remains unanswered as happens sometimes in such Talmudic discussions where only the second of two objections is dealt with. Moreover the first objection is rather feeble and may well be met by the reply that the expression ‘she loses’ need not necessarily imply total loss (so Tosaf. loc, cit.), According to Rashi ‘There . ‘ himself’, is taken by Raba as an argument against the solution of the problem that was attempted by inference from the first Baraitha, and might also be inferred from the last one quoted (cf. Golds.). 'There', i,e.,in the eases dealt with in the last Baraithas, the argument runs, it was he', i e.,the claimant (the woman in the first case and the creditor in the second) 'who had caused the loss to himself'; and no inference can, therefore, be drawn from either of these cases in respect of the one referred to in the question where the claimant is in no way responsible for the loss of the free assets.

Talmud - Mas. Kethuboth 95b

This,[1] Surely, is the regular practice[2] [of the courts of law]? For did not a man once pledge a vineyard to his friend for ten years[3] but it aged after five years,[4] and [when the creditor] came to the Rabbis[5] they wrote out a tirpa[6] for him?[7] — There[8] also it was they[9] who caused the loss to themselves. For, having been aware that it may happen that a Vineyard should age,[10] they should not have bought [any of the debtor's pledged land].[11] The law, however, is that where free assets are blasted, mortgaged property may be distrained on. Abaye ruled: [If a man said to a woman][12] 'My estate shall be yours and after you [it shall be given] to So-and-so', and then the woman[13] married, her husband has the Status of a vendee and her successor[14] has no legal claim[15] in face[16] of her husband. In agreement with whose view [was Abaye's ruling laid down]? In agreement with the following Tanna.[17] For it has been taught: [If one man said to another,] 'My estate shall be yours and after you [it shall be given] to So-and-so' and the first recipient went down [into the estate] and sold it, the second may reclaim the estate[18] from those who bought it; so Rabbi. R. Simeon b. Gamaliel ruled: The second may receive only that which the first has left.[19] But could Abaye have laid down such a ruling? Did not Abaye in fact, Say, 'Who is a cunning rogue? He who counsels[20] to sell[21] an estate[22] in accordance with the ruling of R. Simeon b. Gamaliel?[23] — Did he Say, 'She may marry'?[24] All he said was, 'The woman married'.[25]

Abaye further stated: [If a man said to a woman.][26] 'My estate shall be yours and after you [it shall be given] to So-and-so' and the woman sold [the estate] and died, her husband[27] may seize It from the buyer, the woman's successor[28] [may seize it] from the husband,[29] and the buyer from the successor,[30] and all the estate is confirmed in the possession of the buyer.[31] But why should this case be different from the following where we learned: AND SO THEY GO ON IN TURN UNTIL THEY ARRANGE SOME COMPROMISE BETWEEN THEM?-There they are all suffering some loss[32] but here it is only the buyer who suffers the loss.[33]

Rafram went to R. Ashi and recited this argument to him: Could Abaye have laid down such a ruling?[34] Did he not, in fact, lay down: [If a man said to a woman.] 'My estate shall be yours and after you [it shall be given] to So-and-so',and then the woman married, her husband has the status of a vendee, and her successor has no legal claim in face of her husband?[35] — The other replied: There [it is a woman] to whom he[36] spoke while she was feme sole,[37] but here [we are dealing with one] to whom he[36] spoke when she was married.[38] For it is this that he meant to tell[39] her? 'Your successor only shall acquire Possession; your husband shall not'.[40]

THE SAME LAW APPLIES ALSO TO A CREDITOR. A Tanna taught:[41] The same law applies to[42] a creditor and two buyers[43] and also to a woman, who was a creditor,[44] and two buyers.[45]

CHAPTER XI

MISHNAH. A WIDOW IS TO BE MAINTAINED OUT OF THE ESTATE OF [HER DECEASED HUSBAND'S] ORPHANS [AND] HER HANDIWORK BELONGS TO THEM. IT IS NOT THEIR DUTY, HOWEVER, TO BURY HER; IT IS THE DUTY OF HER HEIRS, EVEN THOSE WHO INHERIT HER KETHUBAH, TO BURY HER.

GEMARA. The question was asked: Have we learnt,[46] 'is to be maintained'[47] or 'one who is maintained'?[48] Have we learned, 'is to be maintained', in agreement with the men of Galilee,[49] so that there is no way[50] [by which the orphans] can avoid[51] maintaining her; or have we rather learned ‘one who is maintained’,[48] in agreement with the men of Judaea,[52] so that [the orphans,] if they wish it, need not[53] maintain her?

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(1) To allow creditors to distrain on mortgaged property wherever free assets are blasted.

(2) Lit., ‘and, surely, actions every day’.

(3) The terms entered in the mortgage deed being that the creditor was to enjoy the usufruct of the vineyard during the ten years, in payment of his loan, while the vineyard itself was to return to the debtor at the end of that period without any further payment or obligation on his part.

(4) I.e., ceased yielding produce before the creditor had recouped himself in full.

(5) To claim the balance of the loan,

(6) V. supra p. 584, n. 8.

(7) And thereby enabled him to distrain on all property which the debtor had sold after the date On which the mortgage deed was written. This being the regular practice in the administration of the law, why was the question, supra 95a, at all raised?

(8) The ease just cited.

(9) Who purchased the lands from the debtor though they were well aware that these were already pledged to the mortgagee of the vineyard.

(10) And that this might happen before the expiry of the ten years in consequence of which the creditor would naturally distrain on the debtor's remaining property.

(11) Having bought it they have only themselves to blame for the consequences. The regular practice of the courts in such actions has, therefore, no bearing on the ease referred to in the question.

(12) Who (as will be explained Infra) was feme sole.

(13) Lit., ‘and stood up’.

(14) Lit., ‘to after you’.

(15) Lit., ‘nothing’.

(16) Lit., ‘place’.

(17) R. Simeon b. Gamaliel.

(18) After the death of the first donee who, by the terms of the gift, was entitled to the usufruct during his lifetime only but had no right to sell the estate itself

(19) B.B. 137a; and since the first has sold the estate the second his no rightful claim upon it.

(20) So Rashb. (B. B. 137a). Aliter. Who lakes counsel with himself (R. Gersh.).

(21) And much more so one who sells (so according to Rashb. v. supra n. 15).

(22) Which was given to a person with the stipulation that after his death it shall pass over to another person.

(23) Sotah 21b, B. B. loc. cit. Though such a sale is morally wrong, since the donor meant the second donee to have the estate after the death of the first, it is nevertheless quite legal on the basis of the ruling of R. Simeon b. Gamaliel. Now since Abaye condemns the person who acts on the ruling of R. Simeon b. Gamaliel, would he himself base a ruling of his on this view’ of R. Simeon b. Gamaliel?

(24) Which would have implied approval.

(25) A fait accompli. Her action, however, though legal, is nevertheless condemned by Abaye as morally wrong.

(26) Who (v. infra) was married.

(27) Who has the status of a first buyer.

(28) Cf. supra p. 606, n. 9.

(29) Because, unlike the previous ease where the woman of whom Abaye spoke was unmarried, the woman in this case (v. supra n. 4) was married at the time the estate was presented to her and her successor. Her husband who was not in any way mentioned by the donor is, therefore, deemed to have been Implicitly excluded by the donor from all rights to, or claim upon. the estate.

(30) In agreement with the ruling of R. Simeon b. Gamaliel that the first donee has the right to sell the estate.

(31) It cannot again be taken away from him by the husband, since his present tenure of the estate is no longer based upon his rights as a buyer from the married woman but upon the rights derived from her successor. In the former ease the husband as ‘first buyer’ (v. supra note 5) would have had right of seizure. In the latter ease he has none.

(32) The buyer loses some of his purchase money and the women lose portions of their kethubah.

(33) The husband and the donees are only claiming a gift.
(34) That all the estate is confirmed in the possession of the buyer.
(35) Cf. supra p. 606, n. 7 and 9.
(36) The donor.
(37) Cf. supra p. 606, n. 7.
(38) Cf. supra p. 607, n. 4.
(39) Lit., ‘what did he (mean) to say?’
(40) Cf. supra 607. n. 7.
(41) In explanation of our Mishnah.
(42) Lit., ‘and so’.
(43) The total value of whose purchases from the debtor represents the amount of the debt. The creditor, if he renounced his claim to the extent of that portion of the debt that was secured on the second buyer's purchase, may distrain on the purchases of the first buyer who in turn distrains on the second buyer (whose purchase was that of property that was already pledged to the first in security of his purchase) who in turn distrains on the creditor (by virtue of his renunciation); and so they go on in turn until a compromise is arranged.
(44) Sc. who claims the amount of her kethubah.
(45) Cf. supra n’ 9 mutatis mutandis.
(46) In our Mishnah.
(47) ניזונת sc. the reading given supra.
(48) הניזונת in which case the Mishnah means that only the handiwork of a widow, who is maintained by the orphans, belongs to them.
(49) Who entered in the kethubah the clause. ‘You shall dwell in my house and be maintained therein out of my estate throughout the duration of your widowhood’ (v. Mishnah supra 52b).
(50) ‘To go’ (cf. fast.).
(51) Aliter. There is no possibility of avoiding (cf. Levy).
(52) Who added to the clause mentioned (supra n. 4), ‘Until the heirs may consent to pay you your kethubah’ (Mishnah. supra 52b).
(53) If they had paid her the kethubah.

Talmud - Mas. Kethuboth 96a

— Come and hear what[1] R. Zera stated in the name of Samuel:[2] ‘The find of a widow belongs to herself’. Now if you grant that what we learnt was, one who is maintained’ [this ruling is] quite justified,[3] but if you insist that what we learnt was ‘is to be maintained’[4] [why,[5] it might be objected, should they not] have the same rights as a husband, and just as in the latter case[6] a wife's find belongs to her husband, so it, the former case[7] also the find of the woman[8] should belong to the heirs?[9] — I may still insist that what we have learnt[10] was ‘is to be maintained’; for the reason why[11] the Rabbis have ordained that the find of a wife belonged to her husband is in order that he shall bear no grudge[12] against her, but as regards these[13] let them bear the grudge.[14]

R.Jose b. Hanina ruled: All manner of work which a wife must render to her husband[15] a widow must render to the orphans, with the exception of serving one's drinks,[16] making ready one's bed and washing one's face, hands or feet.[17] R.Joshua b. Levi ruled: All manner of service that a slave must render to his master a student must render to his teacher, except that of taking off his[18] shoe.[19] Raba explained: This ruling[20] applies only to a place where he[21] is not known, but where he is known there can be no objection.[22] R. Ashi said: Even where he[21] is not known the ruling[20] applies only where he does not put on tefillin[23] but where he puts on tefillin, he may well perform such a service.[22] R.Hiyya b. Abba stated in the name of R. Johanan. A man who deprives his student of [the privilege of] attending on him acts as if he had deprived him of [an act of] kindness, for it is said in Scripture, To him that deprives[24] his friend[25] of kindness.[26] R. Nahman b. Isaac said: He also deprives[27] him of the fear of heaven, for it is said in Scripture, And he forsaketh the fear of the Almighty.[28]

R.Eleazar ruled: If a widow[29] seized movables [to provide] for her maintenance, her act is[30] valid.[31] So it was also taught: If a widow seized movables [to provide] for her maintenance, her act is[30] valid.[31] And so R. Dimi, when he came,[32] related: It once happened that the daughter-in-law of R. Shabbethai seized[33] a saddle bag[34] that was full of money,[35] and the Sages had no power to take it out of her possession.

Rabina ruled: This[36] applies only to maintenance but [movables seized] in payment of a kethubah may be taken away from her. Mar son of R. Ashi demurred: Wherein [is the case of seizure] for a kethubah different [from the other]? Is it because [the former may be distrained for] on landed property and not on movables, may not maintenance also, [it may be objected, be distrained] on landed property and not on movables? The fact, however, is that as in respect of maintenance seizure[30] is valid,[31] so it is also valid in respect of a kethubah.

Said R. Isaac b. Naphtali to Rabina: Thus, in agreement with your view, it has also been stated in the name of Raba. R.Johanan stated in the name of R. Jose b. Zimra: A widow who allowed two or three years to pass[37] before[38] she claimed maintenance loses her maintenance. Now [that it has been said that] she loses [her maintenance after] two years, was it necessary [to mention also] three? — This is no difficulty; the lesser number[39] refers to a poor woman while the bigger one[39] refers to a rich woman;[40] or else: The former[39] refers to a bold woman and the latter[39] to a modest woman.[41] Raba ruled: This[42] applies only to a retrospective claim,[43] but in respect of the future she is entitled [to maintenance].

R.Johanan enquired: If the orphans plead, ‘We have already paid[44] [the cost of maintenance[45] in advance]’, and she retorts, ‘I did not receive it’, who must produce the proof?

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(1) So MS.M. reading דאמר Cur. edd. omit the daleth.

(2) Alfasi and Asheri omitting. ‘R. Zera stated’ read ‘Samuel stated’.

(3) Our Mishnah representing the view of the men of Judaea, Samuel's ruling might be applied to a widow who (v. supra note 7) was not maintained by the orphans.

(4) In agreement with the men of Galilee who allow’ the orphans no alternative.

(5) In view of the fact that they must always maintain the widow as a husband must always maintain his wife.

(6) Lit., ‘husband’.

(7) Lit., ‘here’, Sc. the case referred to by Samuel.

(8) I.e., the widow.

(9) As Samuel, however, ruled that it belongs to herself it must be concluded that the reading in our Mishnah is, ‘one who is maintained’.

(10) In our Mishnah.

(11) Lit., ‘what’,

(12) איבה ‘enmity’.

(13) The orphans who are legally bound to maintain her.

(14) It is only the handiwork of the widow that belongs to the orphans, in return for the maintenance she receives from them, as the handiwork of a wife, for a similar reason, belongs 10 her husband.

(15) V. supra 59b.

(16) Lit., ‘mixing (the drink in his) cup’. Rt. מזג to mix with water (to weaken its strength) or spices.

(17) These are intimate services to which a husband only is entitled.

(18) Lit., ‘loosening’, ‘undoing’.

(19) Only a Canaanite slave performs this menial service, and a student performing it might be mistaken for such a slave,

(20) That a student should not assist his teacher in taking off his shoes.

(21) The student.

(22) Lit ‘we have nothing against it’.

(23) V. GIos. As slaves also do not wear tefillin (v Git. 40a), his status might well be mistaken.

(24) למס, rt. מסס ‘to melt’.
(25) Sc. the student one teaches.
(26) Job VI, 14. The previous verse speaks of help which is homiletically applied to that of the student to his teacher. R.V. renders v. 14. To him that is ready to faint kindness should be shewed from his friend. ‘Should be shewed’ is changed by A. J. V. to ‘is due’.
(27) Lit., ‘breaks off’.
(28) Job VI, 14; E.V., Even10 him that forsaketh etc. [Personal attendance on scholars constitutes in itself a good education in righteous conduct and fear of the Almighty, v. Bet. 7b.
(29) Whose maintenance may be distrained for on landed property only (v. supra 69b).
(30) Ex post facto.
(31) Lit., what she seized she seized’.
(32) From Palestine to Babylon.
(33) From the estate of her deceased husband.
(34) דסקיא Gr. , a bag made up of two pouches.
(35) For her maintenance.
(36) That the seizure of movables by a widow is ex post facto valid.
(37) Lit.. ‘who delayed’.
(38) Lit., ‘and not’.
(39) Lit., ‘here’.
(40) Who is able to live for a considerable time on her own means. Such a woman cannot be assumed to have surrendered her right to maintenance before a period of three years had elapsed.
(41) Who is too shy to litigate or to go to court. Cf. supra n. 2 second clause.
(42) The loss of maintenance.
(43) For the time that has passed.
(44) To the widow.
(45) For the ensuing year.

Talmud - Mas. Kethuboth 96b

Is the estate [of the deceased man] in the presumptive possession of the orphans[1] and consequently it is the widow who must produce the proof, or is the estate rather in the presumptive possession of the widow[2] and the proof must be produced by the orphans? Come and hear what Levi taught: [In a dispute on the maintenance of] a widow, the orphans must produce the proof[3] so long as she is unmarried,[4] but if she was married[5] the proof must be produced by her.[6]

R.Shimi b. Ashi said: [This point[7] is a matter in dispute between] the following[8] Tannaim: She[9] may sell [portions of her deceased husband's estate] but should specify in writing,[10] ‘These I have sold for maintenance,’ and ‘These I have sold for the kethubah’ [as the case may be]; so R. Judah. R. Jose, however, ruled: She[11] may sell [such portions] and need not specify the purpose[12] in writing, for in this manner she gains an advantage.[13] They[14] thus apparently[15] differ on the following point: R. Judah, who ruled that it is necessary to specify[16] the purpose,[17] holds that the [deceased man's] estate is in the presumptive possession of the orphans and that it is the widow who must produce the proof,[18] whilst R. Jose, who ruled that it was not necessary to specify the purpose, upholds the view that the estate is in the presumptive possession of the widow and that it is the orphans who must produce the proof.[19] Whence [is this[20] made so obvious]? It is quite possible that all[14] agree that the [deceased man's] estate is in the presumptive possession of his widow and that the orphans must produce the proof,[21] but R. Judah[22] is merely tendering good advice [by following which the widow] would prevent people from calling[23] her a glutton.[24] For were you not to admit this,[25] could not the question[26] raised by R. Johanan[27] be answered from the Mishnah:[28] She may sell [her deceased husband's estate] for her maintenance out of court but should enter [in the deed of sale,] ‘I have sold these for maintenance’?[29] Consequently[30] It must be concluded[31] that no deduction may be made from the Mishnah[28] because therein only good advice was tendered;[32] and so also here[33] [it may similarly be submitted that R. Judah] was only tendering good advice.[32] Or else: All[34] may agree that the estate [of the deceased] is in the presumptive possession of the orphans, but R. Jose's reason[35] is exactly the same as [that given by] Abaye the Elder who stated: To what may the ruling[36] of R. Jose be compared? To [the instructions of] a dying man who said, ‘Give two hundred zuz[37] to So-and-so, my creditor,[38] who may take them, if he wishes, in settlement of his debt or, if he prefers, he may take then, as a gift’,

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(1) Who are his legal heirs.

(2) To whom it is pledged in accordance with an enactment of the Rabbis.

(3) That they have paid her in advance.

(4) Since the estate is pledged to her (v. supra n. 9).

(5) And claims the cost of her maintenance for the time past.

(6) Having married she loses the security of her Former husband's estate.

(7) The question of the presumptive ownership of the deceased man's estate.

(8) Lit., ‘as’, ‘like’.

(9) A widow.

(10) In the deeds of sale.

(11) A widow.

(12) Whether it was maintenance or kethubah.

(13) Lit., ‘her power is beautiful’, as will be explained anon.

(14) R. Judah and R. Jose.

(15) Lit., ‘what not’?

(16) In the deeds of sale.

(17) Whether it was maintenance or kethubah.

(18) That she has not been paid the cost of maintenance. Hence it is to her advantage that the purpose of the sale should be specified. Should she fail to do so, the orphans, when she comes to claim her kethubah from them, might refuse payment on the ground that her sale had the purpose of recouping her for her kethubah. Her alternative plea, ‘If so, pay me for my maintenance’ could be met by the counter plea that they had already Paid for it in movables, a plea which, when coming from orphans, the court must accept.

(19) A specification of the purpose, therefore, would bring no advantage to her. Its omission, on the other hand, might well prove advantageous in the case where the deceased man's estate was completely consumed by the orphans and the widow had recourse to distraining on landed property which he sold during his lifetime. Submitting that her own sales had the purpose of providing for her maintenance she may legally distrain on such property which is pledged for her kethubah. Had she, however, specified that her sales had the purpose of recovering her kethubah she could no longer distrain on her husband's sold property which (v. Git. 48b) is not pledged for her maintenance.

(20) The conclusion of R. Shimi.

(21) That the widow had already received the allowance for her maintenance.

(22) In ruling that the widow should specify the purpose for which her sales are made.

(23) Lit., ‘that they shall not call’.

(24) Were she to omit from the deed of sale the mention of her kethubah people might assume that all the proceeds of her sales were spent on her maintenance alone. As a reputed glutton her chances of a second marriage would be diminished (v. Rashi).

(25) Lit., ‘say so’, that R. Judah in his ruling is merely tendering advice.

(26) Lit., ‘that’.

(27) ‘Who must produce the proof’ (supra 96a ad fin.).

(28) Infra 97b.

(29) Of course it could. The reason for the requirement of a specification of the purpose of the sale that underlies R. Judah's ruling in the Baraitha should obviously hold good for the similar ruling in the Mishnah. If the reason in the former is that the estate remains in the presumptive possession of the orphans, the same reason would apply to the latter. And since a Mishnah, unlike a Baraitha, must be known to all students, R. Johanan's question would easily have been answered.

(30) Since the question had to be solved from Levi's Baraitha.

(31) Lit., ‘but’.
(32) But the presumptive possession of the estate is that of the widow.
(33) In the Baraitha.
(34) R. Judah and R. Jose.
(35) For the ruling that the purpose of the sale need not be specified in the deed.
(36) V. supra n. 8. משל lit., ‘simile’.
(37) V. Glos.
(38) Cf. B.B. 138b.

Talmud - Mas. Kethuboth 97a

who, if he takes them as a gift, has not the same advantage [as if he had taken them for his debt].[1]

In what manner does [a widow] sell [her deceased husband's property] for her maintenance?[2] — R. Daniel son of R. Kattina replied in the name of R. Huna: She sells [portions of it] once in twelve months[3] and the buyer supplies her maintenance [in instalments][4] once every thirty days. Rab Judah, however, stated: She sells once in six months and the buyer provides her maintenance [in instalments] once every thirty days.

It was taught in agreement with R. Huna: [A widow] sells[5] once in twelve months and the buyer supplies her maintenance [in instalments] once every thirty days. It was also taught in agreement with Rab Judah: [A widow] sells once in six months and the buyer provides her maintenance [in instalments] once every thirty days.

Amemar said: The law is that [a widow] sells [sufficient land to suffice her] for six months and the buyer provides her maintenance [in instalments] once every thirty days. Said R. Ashi to Amemar: What [about the ruling] of R. Huna? — ‘I’, the other replied, ‘have not heard of it’, by which he meant,[6] ‘I do not approve of it’.

R. Shesheth was asked: May [a widow] who sold [land] for her maintenance subsequently distrain on it[7] for her kethubah? This question was raised on [the basis of a ruling of] R. Joseph who stated, ‘If a widow has sold [any of her deceased husband's estate][8] the responsibility for the indemnity falls upon the orphans,[9] and if the court sold [any such property] the responsibility for the indemnity again falls upon the orphans’[10] What [then, it was asked, is the ruling]? May she, since the responsibility for the indemnity falls upon the orphans, distrain [on the land],[11] or is it possible that [the buyers] may tell her,[12] ‘Granted that you have not accepted general[13] responsibility for indemnity, did you not indeed accept responsibility [against distraint] by yourself either?’[14] — You, he replied, have learned it: ‘[A widow][15] may continue to sell[16] until [only the estate of] the value of her kethubah [remains], and this is a support to her since she might thus collect her kethubah from the residue’. Thus[17] it may be inferred that only if she left [estate corresponding to the value of her kethubah] may[18] [she collect her kethubah]. but if she did not leave [so much of the estate,[19] she may] not.[20] But is it not possible that he[21] was merely tendering good advice, in order that people might not call her a swindler?[22] — If so,[23] he[21] should have stated, ‘She collects her kethubah from the remainder’, why [then did he also add,] ‘A support to her’? Consequently it must be inferred that only if she left [estate corresponding to the value of her kethubah] may[18] [the widow collect her kethubah], but if she did not leave [so much[19] she may] not.[20]

The question was raised: If a man sold [a plot of land][24] but [on concluding the sale] he was no longer in need of money, may his sale[25] be withdrawn[26] or not?[27] Come and hear: There was a certain man who sold a plot of land to R. Papa because he was in need of money to buy some oxen, and, as eventually he did not need it, R. Papa actually returned the land to him! — [This is no proof since] R. Papa may have acted beyond the strict requirements of the law.[28]

Come and hear: There was once a dearth at Nehardea[29] when all the people sold their mansions,[30] but when eventually wheat arrived[31] R. Nahman told them: The law is that the mansions must be returned to their original owners! — There also the sales were made in error since it eventually became known that the ship[32] was[33] waiting in the bays.[34] If that is so,[35] how [explain] what Rami b. Samuel said to R. Nahman, 'If [you rule] thus you will cause them[36] trouble in the future',[37] [whereupon] he replied, 'Is dearth a daily occurrence?' and to which the former retorted, 'Yes, a dearth at Nehardea is indeed a common occurrence'?[38] And the law is that if a man sold [a plot of land][39] and [on concluding the sale] was no longer in need of money the sale may be withdrawn.

MISHNAH. A WIDOW, WHETHER [HER HUSBAND DIED] AFTER [HER] BETROTHAL[40] OR AFTER [HER] MARRIAGE[41] MAY SELL [OF HER DECEASED HUSBAND'S ESTATE] WITHOUT [THE SANCTION OF] BETH DIN. R. SIMEON RULED: [IF HER HUSBAND DIED] AFTER MARRIAGE[41] SHE MAY SELL[42] [OF HIS ESTATE] WITHOUT [THE SANCTION OF] BETH DIN,[43] [BUT IF ONLY] AFTER [HER] BETROTHAL, SHE MAY NOT SELL [ANY OF THE ESTATE] EXCEPT WITH [THE SANCTION OF] BETH DIN, SINCE SHE IS NOT ENTITLED TO MAINTENANCE, AND ONE WHO IS NOT ENTITLED TO MAINTENANCE MAY NOT SELL [SUCH PROPERTY] EXCEPT WITH [THE SANCTION OF] BETH DIN.

GEMARA. One can readily see [that the privilege[44] of a woman who was widowed] AFTER MARRIAGE is due to [her immediate need for] maintenance;[45]

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(1) A debt may be distrained for on sold property, but a gift may not. Similarly with the widow, by omitting, in agreement with the ruling of R. Jose, the specification of the purpose of her sales, she retains the right to distrain on her deceased husband's sold property by advancing the plea that her own sales had been made for the purpose of her maintenance (which cannot, of course, be distrained for on such property) and that she was now seeking to recover her kethubah to which such property is pledged. To protect herself against the plea of the orphans that her kethubah also was paid out of her sales, she might arrange for witnesses to he present when the sales for her maintenance take place and when she makes a verbal declaration to that effect.

(2) למזונות, so MS.M. Cur. edd. omit the word.

(3) Sufficient to Provide for her maintenance during all that period.

(4) He must not pay the full price in one instalment in order that he may be enabled, should the widow marry before she receives all the instalments, to hand over the balance to the orphans.

(5) Portions of her deceased husband's estate.

(6) Lit.,'as if to say'.

(7) On the very land she has sold.

(8) To reimburse herself for her maintenance or kethubah, but guaranteeing indemnity to the buyer.

(9) Since it is they who are responsible for the widow's kethubah and maintenance.

(10) Infra 100a.

(11) Though she herself had sold it; and refer the buyers to the orphans.

(12) When she proceeds to distrain on the land she sold them.

(13) Lit., 'of the world', sc. if other claimants distrained on the land.

(14) And, consequently. she is not allowed to distrain on such property.

(15) To provide for her maintenance.

(16) Portions of her deceased husband's estate.

(17) Since according to this ruling the widow must have recourse to the residue.

(18) Lit., 'yes'.

(19) But sold all of it.

(20) Collect her kethubah by distraining on the lands she sold.

(21) The author of the Baraitha, in ruling that a portion of the estate corresponding to the value of the kethubah must remain unsold.

(22) L1t., 'retractor'. Legally. however, she may well distrain on the property of such buyers.

(23) If the ruling was in the nature of advice.
(24) For the sole reason that he needed money for some specific purpose.
(25) Since he no longer needed the money.
(26) On the ground of being a sale made in error.
(27) Owing to the fact that at the time of the sale the seller was still in need of money.
(28) לפנים משורת הדין lit., ‘within the line of the law’, i.e., he surrendered his legal right for the sake of benefiting a fellow man; v. B.K. Sonc. ed. p. 584, n. 2.
(29) V. supra p. 222, n. 8.
(30) To use the proceeds for the purchase of wheat.
(31) And prices fell so that the sellers of the mansions were no longer in need of the money.
(32) That carried the grain.
(33) At the time the sales were effected.
(34) Sheltering until the subsidence of the high water. Had these sellers been aware of the fact that the ship was so near they would never have thought of selling their mansions. Such sales may, therefore, be regarded as sales in error, which may be withdrawn. The question under discussion, however, refers to a seller who was actually in need of money when his sale was effected (v. p. 616, n. 16) and whose release came only after the sale.
(35) That the reason for R. Nahman's ruling was that the ship was already in the bays at the time the sales were arranged. So according to Rashb. (v. Tosaf. s. v.אי, a.l.) contra Rashi who takes this argument to he in support of the reason given for R. Nahman's ruling.
(36) The sellers.
(37) Because they will not be able to find buyers.
(38) Granted the frequency of dearth at Nehardea, the detention of the provision ships in the bays is obviously of no common occurrence. Consequently it must be concluded that R. Nahman's reason for the cancellation of the sales was not because ‘the ship was in the bays’ but because the sellers, though in need of money when the sales were arranged, had no need of the money subsequently, such cases being of frequent occurrence.
(39) V. supra p. 616, n. 13.
(40) When her claim is restricted to that of her kethubah only (v. our Mishnah infra).
(41) When she claims also maintenance.
(42) For her maintenance.
(43) Since she cannot be expected to starve until Beth din find time to deal with her case.
(44) To SELL... WITHOUT THE CONSENT OF BETH DIN.
(45) Cf. supra n. 4.

Talmud - Mas. Kethuboth 97b

what, however, is the reason[1] [for conferring this privilege[2] upon one widowed] after betrothal?[3] — ‘Ulla replied: In order to [enhance the] attractions[4] [of matrimony].[5] R. Johanan replied: Because no man wants his wife to suffer the indignity [of appearing] in court. What is the practical difference between them?[6] — The practical difference between them is the case of a divorced woman. For according to him who replied, ‘In order to [enhance the] attractiveness [of matrimony]’ a divorced woman also may[7] claim [the privilege[8] of the provision for matrimonial] attractiveness; but according to him who replied, ‘Because no man Wants his wife to suffer the indignity [of appearing] in court’ a divorced woman [is not entitled to the privilege since] the man does not care [for her dignity].

We learned: And a divorced woman may not sell [of her former husband's estate][9] except with the sanction of Beth din.[10] Now, according to him who replied, ‘Because no man wants his wife to suffer the indignity [of appearing] in court’ the ruling is well justified since for a divorced wife one does not care; but according to him who replied, ‘In order to [enhance the] attractions [of matrimony’. why should not] a divorced woman[11] also be entitled to claim [the privilege of the provision for matrimonial] attractiveness? — This represents the view of R. Simeon.[12] If [this represents the view of] R. Simeon [the objection arises: Was not this principle] already laid down in the earlier clause, AFTER HER BETROTHAL SHE MAY NOT SELL etc.?[13] — It might have been presumed [that his ruling applied] Only to a woman widowed after [her] betrothal, since in her case there was not much affection,[14] but that a divorced woman, in whose case there was much affection,[15] may[16] demand [the privilege of the provision for matrimonial] attraction.[17] But have we not learned this[18] also: WHO IS NOT ENTITLED TO MAINTENANCE which includes,[19] does it not, a divorced woman?[20] — No, [it includes one who is both] divorced[21] and' not divorced,[22] as [the one spoken of by] R. Zera who stated: Wherever the Sages described a woman as both divorced and not divorced[22] her husband is responsible for her maintenance.[23]

Come and hear: As she[24] may sell [of her deceased husband's estate] without [the sanction of] Beth din so may her heirs, those who inherit her kethubah, sell [such property] without [the sanction of] Beth din. Now, according to him who replied, ‘Because no man wants his wife to suffer the indignity [of appearing] in court’ one can well see the reason for this ruling;[25] for as it is disagreeable to him[26] that she should suffer indignity so it is also disagreeable to him that her heirs should suffer indignity. According to him, however, who replied, ‘In order to [enhance the] attractiveness [of matrimony]’, what [consideration for] attractiveness [it may be objected] could there be in respect of her heirs?[27] — ‘Ulla interpreted this [to be a case where] her daughter, for instance, or her sister, Was her heir.[28]

MISHNAH. [A WIDOW WHO] SOLD HER KETHUBAH OR PART OF IT, OR PLEDGED IT OR PART OF IT, OR PRESENTED IT OR PART OF IT, TO A STRANGER, MAY NOT SELL THE RESIDUE [OF HER DECEASED HUSBAND'S ESTATE][29] EXCEPT WITH (THE SANCTION OF] BETH DIN.[30] THE SAGES, HOWEVER, RULED: SHE MAY SELL [THE LAND PLEDGED FOR HER KETHUBAH] EVEN IN FOUR OR FIVE INSTALMENTS[31] AND [IN THE MEANTIME][32] SHE MAY SELL [OF HER HUSBAND'S ESTATE TO PROVIDE] FOR HER MAINTENANCE WITHOUT [THE SANCTION OF] BETH DIN, ENTERING, [HOWEVER, IN THE DEED OF SALE,] ‘I SOLD [THE LAND TO PROVIDE] FOR MY MAINTENANCE’.[33] A DIVORCED WOMAN, HOWEVER, MUST NOT SELL [SUCH PROPERTY] EXCEPT WITH [THE SANCTION OF] BETH DIN.

GEMARA. Who [is the author of the first ruling in] our Mishnah?[34] — It is R. Simeon. For it was taught: If a woman sold [all] her kethubah or pledged it, or mortgaged [the land that was pledged for] her kethubah to a stranger, she is not entitled to maintenance.[35] R. Simeon ruled: Even if she did not sell or pledge [all] her kethubah, but half of it only, she loses her maintenance.[36] Does this[37] then imply that R. Simeon holds the view that we do not regard part of the amount[38] as being legally equal to the full amount, while the Rabbis maintain that part of the amount is legally regarded as the full amount? But, [it may be objected], have we not in fact heard the reverse? For was It not taught: And he[39] shall take a wife its her virginity[40] excludes one who is adolescent[41] [some of whose] virginity is ended; so R. Meir. R. Eleazar and R. Simeon permit[42] [the marriage] of one who is adolescent?[43] — There[44] they differ [on the interpretation] of Scriptural texts,[45] R. Meir being of the opinion that ‘virgin’[46] implies even [one who retains] some of her virginity; ‘her virginity’[47] implies only one who retains all her virginity;[48] ‘in her virginity’[49] implies only[50] [when previous intercourse with her took place] in a natural manner,[51] but not when in an unnatural manner.[52] R. Eleazar and R. Simeon, however, are of the opinion that ‘virgin’ would have implied a perfect virgin; ‘her virginity’ implies even [one who retains] only part of her virginity;

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[1] Of the first Tanna of our Mishnah.

[2] As far as her kethubah is concerned.

[3] Why should not a claim of this nature (cf. supra note 1) be subject to the jurisdiction of a court just as that of any other claimants?

[4] Lit., ‘grace’.

[5] In the absence of the privilege some women might refuse to consent to their betrothal; v. supra 84a.

(6) ‘Ulla and R. Johanan.
(7) Since the privilege is not dependent on the husband's feelings.
(8) V. supra note 8.
(9) To reimburse herself for her kethubah.
(10) Mishnah infra.
(11) Since the privilege is not dependent on the husband's feelings.
(12) Who, as follows from his ruling in our Mishnah, does not recognize the principle of providing for matrimonial attractiveness.
(13) Cf. supra n. 4’ Why then should the same principle be repeated?
(14) Lit., ‘her favour (in the eyes of the husband) was not much’. Her husband having died before he married her. As no woman would expect privileges after such a slight matrimonial relationship there was Do need to confer the privilege (v. supra p. 618, n. 5) upon such a widow,
(15) Cf. previous note mutatis mutandis. V. Tosaf. s.v, אלמנה a.I. for two other interpretations.
(16) Even according to R. Simeon.
(17) Hence the necessity for the two rulings.
(18) The case of a divorced woman.
(19) Lit., ‘to include what?’
(20) After her marriage. It cannot refer to a woman divorced after her betrothal since her case could be inferred a minori ad majus from that of A WIDOW... AFTER HER BETROTHAL.
(21) After betrothal.
(22) One, for instance, to whom the husband has thrown a letter of divorce in a public thoroughfare and it is uncertain whether it fell nearer to her or to him (v. Git. 74a).
(23) Our. Mishnah thus teaches that the husband's responsibility for the maintenance of a woman in such circumstances ceases with his death, and his orphans, therefore, are under no obligation to maintain her out of his estate. She is well entitled to maintenance during his lifetime since it is through him that she is prevented from contracting a second marriage; but after his death, when she is free to marry again, her claim which was all the time of a doubtful nature must lapse.
(24) A widow.
(25) The right of the heirs to sell without the sanction of Beth din.
(26) The husband.
(27) Who as a rule are males (cf. Rashi). A female enjoys the right of inheritance only in the absence of males.
(28) In whose case the consideration of rendering matrimony attractive must be reckoned with.
(29) For her maintenance.
(30) This is the view of R. Simeon (v. Gemara infra).
(31) Lit., ‘times’.
(32) Before the last instalment is sold.
(33) Such insertion being in certain cases advantageous for the woman (as explained supra 96b).
(34) According to which a widow who sold even only part of her kethubah may not sell of her husband's estate without the sanction of Beth din.
(35) Tosef. Keth. XI, supra 54a. If. however, she sold etc. a part of it only she is still entitled to maintenance. Cur. edd. insert here in parentheses, ‘these are the words of R. Meir’, a sentence which is wanting in the Tosefta. Rashi retains it.
(36) Tosef. Keth. XI; as she loses her maintenance she may not sell without the sanction of Beth din. Cf. supra n. 4 and Rashi on our Mishnah, s.v. לא תמכור. Rashal actually inserts in the text ‘and the rest she may not sell except with the sanction of Beth din’, a reading which was apparently wanting in Rashi's text as well as in cut. edd., but was known to the Tosafists (v. Tosaf. s.v. מכרה).
(37) The dispute between R. Simeon and the Rabbis according to which the former regards the absence of a part as the absence of the whole while the latter do not.
(38) Sc. of the kethubah. Lit., ‘silver’ with reference to Ex. XXII, 17.
(39) A High Priest.
(40) Lev. XXI, 13.
(41) A bogereth (v. Glos.).
(42) A High Priest.

(43) Yeb. 595. The absence of a part of her virginity not being regarded as the absence of all virginity. Thus it follows that, while R. Simeon does not regard the absence of a part as the absence of the whole, the Rabbis do, which is the reverse of their respective views here (v. p. 621, n. 7).

(44) In the Baraitha cited from Yeb.

(45) Not on the question whether a part legally equals the whole.

(46) בתולה.

(47) בתוליה.

(48) Which excludes the one who is adolescent some of whose virginity is ended.

(49) בבתוליה (Lev. XXI, 13)

(50) Lit., ‘yes’.

(51) Is she forbidden to a High Priest.

(52) The superfluous ב (=’in’) in בבתוליה implies intercourse in the place of virginity. Unnatural intercourse with a na'arah (v. Glos) whereby virginity is not affected, is consequently excluded.

Talmud - Mas. Kethuboth 98a

‘in her virginity’[1] implies only one[2] whose entire virginity is intact,[3] irrespective of whether [previous intercourse with her was] of a natural or unnatural character.[4] A certain woman[5] once seized a silver cup on account of her kethubah[6] and then claimed her maintenance. She appeared before Raba. He [thereupon] told the orphans, ‘Proceed to provide for her maintenance; no one cares for the ruling of R. Simeon who laid down that we do not regard part of the amount as legally equal to the full amount.

Rabbah the son of Raba sent to R. Joseph [the following enquiry:] Is a woman[7] who sells [of her deceased husband's estate] without [an authorization of] Beth din required to take an oath[8] or is she not required to take an oath? — And [why, the other replied, do you not] enquire [as to whether] a public announcement[9] [is required]? I have no need, the first retorted, to enquire concerning a public announcement because R. Zera has stated in the name of R. Nahman, ‘If a widow assessed [her husband's estate] on her own behalf[10] her act is invalid’;[11] now, how [is this statement] to be understood? If a public announcement[9] has been made [the difficulty arises,] why is her act invalid? Must we not consequently assume that there was no public announcement, and [since it was stated that] Only [if the assessment was made] ‘on her own behalf’ is ‘her act invalid’ it follows, does it not, [that if she made it] on behalf of another[12] her act is valid?[13] — [No,] a public announcement may in fact have been made but [her act is nevertheless invalid] because she can be told, ‘Who [authorized] you to make the assessment?’[14] as was the case with a certain man with whom corals[15] belonging to orphans had been deposited and he proceeded to assess them on his own behalf for four hundred ZUZ, and when later its price rose to six hundred zuz, he appeared before R. Ammi, who said to him, ‘Who [authorized] you to make the assessment?’[16] And the law is that she[17] is required to take an oath,[18] but there is no need to make a public announcement.[19] MISHNAH.IF A WIDOW WHOSE KETHUBAH WAS FOR TWO HUNDRED ZUZ SOLD[20] [A PLOT OF LAND THAT WAS] WORTH A MANEH[21] FOR TWO HUNDRED ZUZ OR ONE THAT WAS WORTH TWO HUNDRED ZUZ FOR ONE MANEH, HER KETHUBAH IS DEEMED TO HAVE BEEN THEREBY SETTLED.[22] IF HER KETHUBAH, HOWEVER, WAS FOR ONE MANEH, AND SHE SOLD [LAND THAT WAS] WORTH A MANEH AND A DENAR’ FOR ONE MANEH, HER SALE IS VOID. EVEN THOUGH SHE DECLARED, I WILL RETURN THE DENAR TO THE HEIRS’ HER SALE IS VOID.[23] R. SIMEON B. GAMALIEL RULED: HER SALE[22] IS ALWAYS VALID[24] UNLESS THERE WAS[25] [SO MUCH LAND] THERE AS WOULD HAVE ENABLED HER[26] TO LEAVE[27] FROM A FIELD AN AREA OF NINE KAB,[28] AND FROM A GARDEN THAT OF HALF A KAB[29] OR, ACCORDING TO R. AKIBA, A QUARTER OF A KAB.[29] IF HER KETHUBAH WAS FOR FOUR HUNDRED ZUZ AND SHE SOLD [PLOTS OF LAND][30] TO [THREE] PERSONS, TO EACH FOR ONE MANEH,[31] AND TO A FOURTH[32] [SHE SOLD] WHAT WAS WORTH A MANE HAND A DENAR FOR ONE MANEH,[33] [THE

SALE] TO THE LAST PERSON IS VOID BUT [THE SALES] OF ALL THE OTHERS ARE VALID. GEMARA. Wherein does [the sale of a plot of land] THAT WAS WORTH TWO HUNDRED ZUZ FOR ONE MANEH differ [from the previous case? Is it] because she[34] might be told, 'You yourself have caused the loss'? [But, then, why should she not, where she SOLD A PLOT OF LAND THAT WAS] WORTH A MANEH FOR TWO HUNDRED ZUZ, also [be entitled to] say, 'It is I who have made the profit'?[35] — R. Nahman replied in the name of Rabbah b. Abbuha:

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(1) Which includes one who is adolescent (Lev. XXI, 13).

(2) Being a na'arah (v. Glos.).

(3) Is permitted to be married by a High priest.

(4) Yeb. 595. She is forbidden even if it was unnatural. Her virginity must he completely intact. Cf. supra note 11. Thus it has been shewn that the dispute between R. Simeon and the Rabbis (sc. R. Meir) has no bearing on the legal relationship between the part and the whole (cf. supra note 4). but on the method of interpreting certain Scriptural texts.

(5) A widow.

(6) The amount of which exceeded the value of the cup.

(7) A widow.

(8) That she did not collect more than her due.

(9) Of the intended sale of the estate, as is the procedure where the sale is ordered by the court.

(10) And seized it for her kethubah.

(11) Lit., 'she did nothing'; the orphans may at any time reclaim that land and refund her the amount of her kethubah.

(12) I.e., she sold the estate for her kethubah to a third party.

(13) Lit., 'what she did she did'; which shews that no public announcement is required in the case of the sale under discussion.

(14) As neither the court nor the orphans had given her any such authorization the estate must remain in the legal possession of the orphans. If, however, she sells to other people her act is valid since she is fully authorized to do so.

(15) כסיתא (so Rashi). Cur. edd., כיסתא fodder'. MS. M. כסותא 'garment'.

(16) Cf. supra n. 8 mutatis mutandis.

(17) A woman in the circumstances spoken of 10 Rabbah's enquiry supra.

(18) V. supra note 2.

(19) Cf. n. 3. [This implies that the assessment must nevertheless be made in the presence of an expert valuer (Trani)].

(20) From her deceased husband's estate.

(21) V. Glos.

(22) Because she is to blame for the loss incurred.

(23) Since she had no right to sell a part of the land (representing the value of the denar) her entire sale is deemed to have been made in error and is. therefore, void.

(24) Even if the land she sold was worth more than the amount of her kethubah; because she can refund the balance to the orphans.

(25) Lit., 'shall be'.

(26) If she had not sold for more than her due. Lit. , 'sufficient', 'as much as'.

(27) Exclusive or inclusive of the land she sold over and above the area representing the value of the amount that was due to her.

(28) Sc. in which such a quantity of seed could be sown. An area of that size represents the minimum of land that can be profitably cultivated. By leaving a lesser area the woman is causing undue loss to the orphans. and her sale must consequently be annulled. If the lesser area, however, would have remained even if she had sold what was her due, her sale is valid since the orphans could not in any case have made profitable use of the residue.

(29) The minimum area that can be profitably laid out as a garden. Cf. supra n. 9 mutatis mutandis.

(30) From her deceased husband's estate.

(31) Lit., 'to this for a maneh and to this for a maneh'.

(32) Lit., 'last'.

(33) So that in the last sale she disposed of more than her due.

(34) The widow who effected the sale.

(35) And so have a claim to another maneh.

Talmud - Mas. Kethuboth 98b

Rabbi[1] has taught here[2] that all [profits[3] belong] to the owner of the money.[4] As it was taught,[5] ‘If one unit[6] was added to [the purchases made by an agent] all [the profit belongs] to the agent’; so R. Judah, but R. Jose ruled,, ‘[The profit] is to be divided’,[7] [and, in reply to the objection,] But, surely, it was taught that R. Jose ruled, All [profit belongs] to the owner of the money! Rami b. Hama replied: This is no difficulty for the former refers to an object that has a fixed value[8] while the latter refers to one that has no fixed[9] value.[10] R. Papa stated: The law is that[11] [the profit made by the agent on] an object that had a fixed value must be divided,[7] but if on an object that had no fixed value all [profit belongs] to the owner of the money. What does he[12] teach us?[13] — That the reply that was given[14] is the proper one.[15] The question was raised: What [is the law where a man] said to his agent,[16] ‘Sell for me a lethek’[17] and the latter presumed[18] to sell a kor.[19] [Is the agent deemed to be merely] adding to the owner's instructions and [the buyer, therefore,] acquires possession of a lethek, at all events, or is he rather transgressing his instructions and [the buyer, therefore,] acquires no possession of a lethek either? — Said R. Jacob of Nehar Pekod[20] in the name of Rabina, Come and hear: If a householder said to his agent, ‘Serve a piece [of meat][21] to the guests’, and the latter said to them, ‘Take two’,[22] and they took three,[22] all of them are guilty[23] of trespass.[24] Now if you agree [that the agent][25] was merely adding to the host's instruction one can well understand the reason why the householder is guilty of trespass. If you should maintain, however, [that the agent][25] was transgressing his instruction [the objection could well be advanced:] Why should the householder be guilty of trespass? Have we not In fact learned: If an agent performed his mission it is the householder who is guilty of trespass but if he did not perform his mission it is the agent who is guilty of trespass?[26] — Here we may be dealing with a case where the agent said to the guests, ‘Take one at the desire[27] of the householder[28] and one at my own request's[27] and they took three.

Come and hear: IF HER KETHUBAH, HOWEVER, WAS FOR A MANEH, AND SHE SOLD [LAND THAT WAS] WORTH A MANEH AND A DENAR FOR A MANEH, HER SALE IS VOID. Does[29] not [this mean] that SHE SOLD [LAND THAT WAS] WORTH A MANEH AND A DENAR FOR A MANE band a denar,[30] and that by[29] [the expression,] ‘FOR A MANEH’ the maneh that was due to her [is meant], and by[29] EVEN[31] [one is to understand] EVEN THOUGH SHE DECLARED, I WILL RETURN THE DENAR TO THE HEIRS [by repurchasing for them] land of the value of a denar’? And was it not nevertheless stated, HER SALE IS VOID?[32] — No,[33] retorted R. Huna the son of R. Nathan, [this is a case] where [she sold] at the lower price.[34]

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(1) R. Judah I, the Patriarch, compiler of the Mishnah c. 200 C.E.

(2) In our Mishnah.

(3) Made by an agent.

(4) Since the widow was merely acting as the agent of the orphans, who are the owners, she cannot lay any claim to the profit she made.

(5) V. infra, o. 12.

(6) Lit., ‘one more’.

(7) Between agent and owner; v. Tosef. Dem, VIII.

(8) And, since it is not certain in whose favour the additional unit was given away by the seller, its value must be equally divided between the agent and the owner of the money.

(9) So that the additional unit cannot be regarded as a gift, but as a part of the purchase, payment for which was made with the money of the owner. Hence it is the latter only who is entitled to the added unit.

(10) Thus it has been shewn that our Mishnah which deals with land (something that has no fixed value) and assigns the profits to the original owner (the orphans) is in agreement with the view of R. Jose.

(11) הלכתא so cur. edd. and R. Han. MS.M. and a reading approved by Tosaf. (s.v. אמר) is הלכך ‘therefore’.

(12) R. Papa.

(13) By his statement which is only a repetition of what has just been laid down. This question seems to imply the reading of הלכך (v. supra n. 13) rather than that of הלכתא, (Tosaf.).

(14) By Rami b. Hama.

(15) Lit., ‘that which we replied is a reply’.

(16) Lit., ‘to him’.

(17) Sc. a plot of land in which a lethek (half a kor) of grain may be sown.

(18) Lit., ‘and went’.

(19) V. Glos.

(20) A town situated on the east of Nehardea.

(21) Which was subsequently found to have been consecrated food.

(22) Each.

(23) The host in respect of the first, the agent in respect of the second and the guests 10 respect of the third.

(24) Me'il. 20a.

(25) Like the agent spoken of in the enquiry.

(26) Hag. 10b, Kid. 42b, Ned. 54a, Me'ii. 205. Consequently it must be concluded, must it not. that an agent in the circumstances mentioned is deemed to have added to, and not transgressed, his instructions?

(27) Lit., ‘knowledge’.

(28) Thus performing his mission.

(29) Lit., ‘what’.

(30) Sc. for its full price, so that no error was involved.

(31) Which, in view of the fact that the denar obviously belongs to the orphans, is apparently meaningless.

(32) As the woman is in a position similar to that of the agent spoken of in the enquiry it follows that as her sale is void so is that of the agent.

(33) I.e., our Mishnah is not to be understood as suggested.

(34) Sc. for one maneh only; the error 10 the sale, not the excess of the land sold, being the reason for the invalidity of the sale. [Read with MS.M. and Tosaf. בדזילא instead of בדאויל in cur. edd.].

Talmud - Mas. Kethuboth 99a

But since the final clause[1] [deals with a case] where [she sold] at a lower price, [would not] the earlier clause[2] [naturally[3] refer to one] where [she did] not [sell] at a lower price. for has [it not] been stated in the final clause, IF HER KETHUBAH WAS FOR FOUR HUNDRED ZUZ AND SHE SOLD [PLOTS OF AND] TO [THREE] PERSONS[4] TO EACH FOR ONE MANEH, AND TO A FOURTH[4] [SHE SOLD] WHAT WAS WORTH A MANE HAND A DENAR FOR ONE MANEH, [THE SALE] TO THE LAST PERSON IS VOID BUT [THE SALES] OF ALL THE OTHERS ARE VALID?[5] — No, both the earlier and the final clause [refer to a sale] at a lower price, but[6] it is this that we were informed in the final clause: The reason [why her sale is void is] because [she sold][7] at a lower price [the property] that belonged to the orphans,[8] but [if that[9] had been done] with her own,[10] her sale is valid.[11] But is not this already inferred from the first clause: WHOSE KETHUBAH WAS FOR TWO HUNDRED ZUZ SOLD [A PLOT OF LAND THAT WAS] WORTH A MANEH FOR TWO HUNDRED ZUZ OR ONE THAT WAS WORTH TWO HUNDRED ZUZ FOR ONE MANEH, HER KETHUBAH IS DEEMED TO HAVE BEEN THEREBY SETTLED?[12] — It might have been assumed [that the ruling[13] was applicable] there Only because [by her one act] she completely severed her connection with that house,[14] but that here[15] [the sale for] the first maneh [should be deemed invalid] as a preventive measure against [the assumption of the validity of the sale for the] last maneh,’ hence we were informed [that the law was not so].

Some there are who say: You have no need to ask [for a ruling] where [a man said to his agent,] ‘Go and sell for me a lethek’[16] and [the latter] sold for him a kor, since [in this case the agent] was undoubtedly adding to his instructions.[17] The question, however, arises as to what is the ruling where the man said to the agent, ‘Go and sell for me a kor’ and he sold for him Only one lethek.[16] Do we [in such a case] lay down that [the agent] might tell the man, ‘I have done for you that which is more advantageous to you, for [had I sold the full kor, and] you were no longer in need of money you could not have retracted',[18] or is it rather [held that the owner] might retort to him, 'It is no satisfaction to me that many deeds [should be held] against me'? — R. Hanina of Sura[19] replied, Come and hear: If one man gave to another a gold denar[20] and told him, 'Bring me a shirt', and the other brought him a shirt for three sela's and a cloak for three sela's, both are guilty of trespass.[21] Now if you admit that an agent in similar circumstances[22] has performed his mission and was only adding to his instructions, one can well see why the owner[23] is guilty of trespass.[24] If, however, you should maintain that [the agent in such circumstances] was transgressing his instructions, why should [the owner] be guilty of trespass?[25] — Here we are dealing with a case where [the agent] brought him [a shirt that was] worth six sela's for three.[26] If so[27] why should the agent be guilty of trespass? — On account of the cloak.[28] But if that were so,[29] read the final clause: R. Judah ruled, Even in this case[29] the owner is not guilty of trespass because he might say [to the agent,] 'I wanted a big shirt and you brought me one that is small and bad'![30] — 'Bad' means[31] 'bad in respect of the price', for[32] [the owner can] tell him, 'Had you brought me one for six sela's [my gain would have been] even greater since it would have been worth twelve sela's.'[33] This[34] may also be proved by an inference. For it was stated:[35] R. Judah admits [that if the transaction was] in pulse both[36] are guilty of trespass

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(1) Of our Mishnah.

(2) The clause just cited.

(3) Since two clauses are not necessary to lay down the same principle.

(4) V. our Mishnah for notes.

(5) An objection against R. Huna the son of R. Nathan (cf. supra n' 9).

(6) As to the objection (v. supra n. 9).

(7) To the fourth person.

(8) Sc. land that exceeded the amount that was due to her.

(9) The sale of land of the value of a maneh and a denar for one maneh only.

(10) I.e., when she was selling to the first three persons. and when the extra land for the denar was still hers.

(11) Because the law of overreaching is inapplicable to landed property even where the error amounted to as much as a sixth of the value; much less when it is no more than one hundredth.

(12) Which shews that where the additional land sold constituted a part of the woman's due, her sale is valid. Cf. supra p. 627, n. 11.

(13) That the sale is valid when the land belongs to the woman,

(14) In such a case naturally no preventive measures are called for.

(15) The case in the final clause.

(16) V. supra p. 626, n. 2.

(17) And the buyer is consequently entitled to the possession at least of the lethek (cf. supra 98b).

(18) The sale consequently should be valid.

(19) Cf. supra p. 383, n. 7.

(20) Rashi: The gold denar twenty-five silver denarii, or six sela's (cf. B.M. 44b). [Rashi probably means approximately six sela's, since one sela' four denarii, or the extra denar may be surcharge as agio. v, Strashun].

(21) If the denar was found to have belonged to the sanctuary. Me'il. 21a.

(22) Selling one lethek where the instruction was to sell two (a kor) is similar to spending on an object three sela's where the instruction was to spend on it six (a gold denar).

(23) Lit., 'master of the house', sc. the man who gave the denar to the agent.

(24) He is responsible for the offence since his wish had been carried out.

(25) Consequently it must be inferred that the agent spoken of 10 the enquiry has performed his mission (cf. supra p. 628, n. 6).

(26) Cf. supra note 4.

(27) That the agent carried out the sender's instructions.

(28) Which he bought entirely on his own responsibility.

(29) That the agent bought for three sela's an article that was actually worth six,

(30) Me'il, loc. cit. If the reply given (cf. supra n. 9) is to be accepted R. Judah's statement is apparently meaningless.
(31) Lit., ‘what’.
(32) Despite the fact that the shirt bought was actually worth six sela's.
(33) The higher the price the higher in proportion is the profit. Aliter: One who pays a higher price is allowed a greater discount (cf. Rashi s.v. ל דא, and Tosaf. s,v. כל a.I.).
(34) That by ‘bad’ R. Judah meant ‘bad in respect of the price’, that the shirt bought for three sela's was actually worth six, and that the reason why the owner is not guilty of trespass is because his wish to have the advantage of the bigger purchase had not been carried out.
(35) Tosef. Me'il, II.
(36) The owner and the agent.

Talmud - Mas. Kethuboth 99b

because [the quantity of] pulse for a sela’ [is in exactly the same proportion as] that for one perutah.[1] This is conclusive. How is this[2] to be understood? If it be suggested [that it refers] to a place where [pulse] is sold by conjectural estimate, does not one [it may be objected] who pays a sela’ obtain the commodity at a much cheaper rate?[3] — R. Papa replied: [It refers] to a place where each kanna[4] is sold[5] for one perutah.[6] Come and hear: IF HER KETHUBAH WAS FOR FOUR HUNDRED ZUZ AND SHE SOLD [PLOTS OF LAND] TO [THREE] PERSONS[7] TO EACH FOR ONE MANEH, AND TO A FOURTH[7] [SHE SOLD] WHAT WAS WORTH A MANEH AND A DEN AR FOR ONE MANEH [THE SALE] TO THE LAST PERSON IS VOID BUT [THE SALES] OF ALL THE OTHERS ARE VALID![8] — [This[9] is no proof, for] as R. Shisha the son of R. Idi replied[10] [that the final clause of our Mishnah deals] with small plots of land,[11] [so it may] in this discussion[12] also [be argued that the clause cited deals] with small plots of land.[13] It is obvious [that if a man] instructed [his agent to sell a plot of land] to one person but not to two persons [and he sold it to two’ the sale is invalid[14] for] he distinctly told him, ‘To one person but not to two persons’.[15] What, [however, is the ruling where] he gave instructions [that the sale shall be made] to one person without mentioning any further limitation?[16] R. Huna ruled: ‘To one person’ implies ‘but not to two’.[17] Both R. Hisda and Rabbah son of R. Huna, however, ruled: ‘To one person’[18] may mean even to two;[19] ‘to one’, may mean[16] even to a hundred.[19] R. Nahman once happened to be at Sura[20] when R. Hisda and Rabbah b. R. Huna came to visit him. ‘What [is the ruling], they asked him, in such a case?’[21] — To one’, he replied, [may mean] even to two, ‘to one’ may mean even to a hundred. ‘[Are the sales valid,]’ they asked him, ‘even where the agent made an error?’[22] — ‘I do not speak’, he replied, ‘of a case where the agent had made an error’. ‘But did not a Master’, they asked again, ‘say [that the law of] overreaching does not apply to landed property’?[23] This[24] applies only where the owner made the error; but where the agent has made the error [the owner] might tell him, ‘I sent you to improve my position but not to impair it’.[25] Whence, however, is it inferred that a distinction may be drawn between the agent and the owner? — [From] what we have learned, ‘If a man tells his agent, "Go and give terumah", the latter must give sold no more than a lethek. The validity of the sales of the former is consequently no criterion for the "validity of the sales of the agent in question. the terumah in accordance with the disposition of the owner,[26] and if he does not know the owner's disposition, he should give the terumah in a moderate manner, viz., one fiftieth.[27] If he reduced [the denominator by] ten[28] or added ten to it[29] his terumah is nevertheless valid’,s while in respect of an owner[26] it was taught: If, when setting apart terumah, there came up in his hand even so much as one twentieth[30] his terumah is valid.[31] Come and hear: IF HER KETHUBAH WAS FOR FOUR HUNDRED ZUZ AND SHE SOLD [PLOTS OF LAND] TO [THREE] PERSONS[32] TO EACH FOR ONE MANEH, AND TO A FOURTH[32] [SHE SOLD] WHAT WAS WORTH A MANEH AND A DENAR FOR ONE MANEH, [THE SALE] TO THE LAST PERSON IS VOID BUT [THE SALES] OF ALL OTHERS ARE VALID.[33] R. Shisha the son of R. Ishi replied: [This clause deals] with small plots of land.[34]

MISHNAH. IF AN ASSESSMENT OF THE JUDGES[35] WAS BY ONE SIXTH LESS, OR BY

ONE SIXTH MORE [THAN THE ACTUAL VALUE OF THE PROPERTY]. THEIR SALE IS VOID. R. SIMEON B. GAMALIEL RULED: THEIR SALE IS VALID FOR, OTHERWISE,[36] OF WHAT ADVANTAGE WOULD THE POWER OF A COURT BE? IF A BILL FOR INSPECTION,[37] HOWEVER, HAS BEEN DRAWN UP, THEIR SALE IS VALID EVEN IF THEY SOLD FOR TWO HUNDRED ZUZ[38] WHAT WAS WORTH ONE MANEH,[38] OR FOR ONE MANEH WHAT WAS WORTH TWO HUNDRED ZUZ.

GEMARA. The question was asked: What is the legal status of[39] an agent?[40] —

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(1) The smallest coin. No advantage is gained10 making a bigger purchase. The owner's wish 10 this case, unlike that of the shirt (cf. supra p. 629, n. 13) may consequently be regarded as having been carried out. Thus it has been shewn that the reason why R. Judah exempts the owner in the case of the shirt is the one indicated. (Cf. p. 629.0. 14).

(2) The transaction10 pulse.

(3) Than one who buys for a perutah only. The more the amount spent by the buyer the more generous the conjectural estimate of the seller How then could it be said (cf. supra n. 1) that no advantage is gained from the purchase of a larger quantity?

(4) כנא (cf.) a small measure of capacity.

(5) Lit., ‘measured’.

(6) V . Glos. ; no advantage, therefore, is gained from the purchase of larger quantities. Read with MS.M. דכיילי כנא כנא בפרוטה Cur edd., ‘where they measure with kannai (pl. of kanna) so that he tells him. Each kanna for a perutah’.

(7) V. our Mishnah for notes.

(8) Though at the time she sold to each of the first three persons she was in fact authorized (or entitled) to sell much more. As these sales of the woman (which are analogous to an agent's sale of a lethek when his instructions were to sell as much as a kor) are valid, so one would expect the sale of the agent to be valid, and a reply is thus obtained to the enquiry supra 995.

(9) Cf. supra note 8.

(10) Infra.

(11) Detached from one another.

(12) L1t., ‘here’.

(13) Cf. supra n. 11. In such circumstances the woman was never expected (entitled or authorized) to sell for all the four hundred zuz to one person at one and the same time. By selling the small plots each for a price not higher than one maneh she is in a different legal position from that of the agent who,10 fact, was expected to sell a full kor while he actually

(14) Even if the sale of a lethek, where the instructions were to sell a kor, were to be ruled as being valid.

(15) Thus clearly expressing his objection to be responsible for more than one deed of sale.

(16) Are the agent's sales to two persons. in such circumstances, valid or not?

(17) The sales, therefore, are invalid.

(18) Unless some definite form of restriction has been expressed.

(19) The sales to them are consequently valid. The mention of one person only is regarded as the usual manner of speech, which is not intended to exclude any larger number of persons.

(20) V. supra p. 383, n. 7’

(21) As the one just discussed.

(22) By accepting a lower price.

(23) V. Mishnah B.M. 56a, why then should the agent's error cause the invalidity of the sale? [Var. lec., ‘But did the Master not say etc.’,the reference being to R. Nahman's ruling reported B.M. 108a, v. Tosaf. s.v. הכי].

(24) The law just quoted.

(25) Hence the invalidity of the sale.

(26) Lit., ‘master of the house’.

(27) Of the produce.

(28) Sc. one fortieth of the whole, which is the quantity of terumah given by men of a liberal disposition (v. Ter. IV, 3).

(29) A sixtieth, which is the measure given by one who is of a mean disposition (v. loc, cit.).

(30) Ter. IV 4; but if his error was greater his terumah is invalid.

(31) Which proves conclusively that a distinction is made between an error made by an owner and one made by his agent.

(32) V. our Mishnah for notes.

(33) Though the multiplicity of sales and inevitable deeds might be objected to' if not by the orphans themselves, by Beth din. Since, however, no such objection is admitted in this case, the same ruling should apply to the case discussed in the enquiry supra 99a.

(34) That were detached from one another, so that it was impracticable to sell them all to one person. Hence the validity of the sales. Where one plot of land, however, is concerned, the owner might well object to have the responsibility of a multiplicity of deeds.

(35) Of a deceased husband's estate which was sold to pay the kethubah of his widow.

(36) Lit., 'if so'.

(37) אגרת בקורת (אגרת= letter', 'bill'; בקורת from rt. בקר, 'to examine' 'inspect'), a legal document, issued by a court, inviting the public to inspect property put up by an order of the court for sale.

(38) V. Glos.

(39) Lit. 'like whom'.

(40) Who made a mistake in the sale he was instructed to effect.

Talmud - Mas. Kethuboth 100a

Raba in the name of R. Nahman replied: An agent [has the same status] as judges,[1] but R. Samuel b. Bisna replied in the name of R. Nahman: As a widow.[2] 'Raba in the name of R. Nahman replied: An agent [has the same status] as judges', for as judges do not act in their [personal interests] so does an agent not act in his [personal interests], thus excluding a widow who acts in her [own personal interests]. 'R. Samuel b. Bisna replied in the name of R. Nahman: As a widow', for as the widow is a single individual so is an agent a single individual; thus excluding members of a court, who are many. — And the law is that an agent [has the same legal status] as a widow. But why [should this case be] different from that concerning which we learned: If a man tells his agent, 'Go and give terumah' the latter must give the terumah in accordance with the disposition of the owner, and if he does not know the owner's disposition, he should separate terumah in a moderate manner, viz. one fiftieth. If he reduced [the denominator by] ten or added ten to it his terumah is, nevertheless, valid?[3] — There[4] [the circumstances are different], for, since someone might give his terumah in a niggardly manner while some other might give it liberally, [the agent][5] might tell the owner, 'I deemed[6] you to be of such [a disposition]';[7] but here, since it was clearly an error, [the owner] might well say, 'You should have made no error'.[8]

R. Huna b. Hanina stated in the name of R. Nahman: The halachah is in agreement with the ruling of the Sages.[9] [Can it be said,] however, that R. Nahman does not hold [that the act of a court is invariably valid since, otherwise,] of what advantage would the power of a court be,[10] when R. Nahman, in fact, ruled in the name of Samuel:[11] If orphans came to take their shares in their father's estate, the court must appoint for [each of] them a guardian and [these guardians] choose for [each of] them a proper share, and when [the orphans] grow up they may enter a protest [against the settlement]; but R. Nahman in his own name, laid down: Even when they grow up they may enter no protest since, otherwise, of what advantage would the power of a court be? — This is no difficulty, the former[12] [referring to a case] where the guardians made a mistake while the latter[13] [deals with one] where no error was made. If no error was made, on what grounds could [the orphans] enter their protest? — On that of the adjacent fields.[14]

When R. Dimi came[15] he stated: It once happened that Rabbi[16] acted in agreement with the ruling of the Sages[9] when Perata, the son of R. Eleazar b. Perata, grandson of R. Perata the Great, asked him, 'If so, of what advantage would the power of a court be?'[10] And [as a result] Rabbi reversed his decision. Thus it was taught by R. Dimi. R. Safra, however, taught as follows: It once happened that

Rabbi[16] desired to act in agreement with the ruling of the Sages,[9] when Perata, the son of R. Eleazar b. Perata, grandson of R. Perata the Great, said to him, ‘If so, of what advantage is the power of a court?’ And[17] [as a result] Rabbi did not act as he intended.[18] Must it be assumed that they[19] differ on this principle: One master[20] holds the view that if [in giving a decision] a law cited in a Mishnah[21] has been overlooked the decision must be reversed, and the other Master[22] upholds the view[23] that it cannot be reversed?[24] — No; all[19] agree that if [in giving a decision] a law cited in a Mishnah has been overlooked the decision must be reversed, but one Master holds that the incident occurred in one way[25] while the other holds that it occurred in the other way.[25]

R. Joseph stated: If a widow sold [any of her deceased husband's estate][26] the responsibility for the indemnity falls upon the orphans,[27] and if the court sold [any such property][28] the responsibility for the indemnity again falls upon the orphans.[29] [Is not this ruling] obvious?[30] — It was not necessary [indeed in respect of] the widow,[30] but was required [in respect of] the court; for it might have been assumed

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(1) The sale is valid if the error did not amount to a sixth (v. our Mishnah).

(2) The slightest error renders the sale invalid (cf. the Mishnah supra 98a.)

(3) Ter. IV, 4 and supra 99b q.v. for notes. This then shews, contrary to what was laid down above as law (cf. supra n. 5)’ that a slight error does not render an agent's act invalid.

(4) In the case of an agent giving terumah for the owner.

(5) Who gave more, or less, than the owner was inclined to give.

(6) Lit., ‘estimated’.

(7) Niggardly or liberal as the case might be.

(8) Hence the invalidity of the sale however slight the error may have been.

(9) The first mentioned ruling in our Mishnah.

(10) I.e., the view of R. SIMEON B. GAMALIEL.

(11) V. Kid. Sonc. ed. p. 210, notes.

(12) Lit., ‘that’, R. Nahman's ruling in the name of Samuel (cf. supra n. 2).

(13) R. Nahman's ruling in his own name (cf. supra, n. 3)’

(14) Lit., ‘on (the ground of) the sides’, sc. the unsatisfactory situation of their allotted fields owing to their distance from other fields which they already possessed.

(15) From Palestine to Babylon.

(16) R. Judah I, the Patriarch, compiler of the Mishnah.

(17) So MS.M. (wanting in cur. edd.).

(18) Lit., ‘the act’.

(19) R. Dimi and R. Safra.

(20) R. Dimi.

(21) Sc. that of R. Simeon b. Gamaliel, which, unlike that of the first Tanna, is also supported by a reason.

(22) R. Safra.

(23) Which is, however, most unlikely.

(24) Had then Rabbi acted in agreement with the Sages’ ruling, he would not have been able to reverse his decision.

(25) Lit., ‘thus’.

(26) To reimburse herself for her maintenance or kethubah, guaranteeing indemnity to the buyer.

(27) Because they are responsible for the widow's kethubah and maintenance, and she, in selling the estate, was merely acting as their agent.

(28) For the maintenance of a widow or daughter. Cf. also supra n. 10 mutatis mutandis.

(29) Cf. supra n. 10 mutatis mutandis and 97a.

(30) Cf supra n. 11.

Talmud - Mas. Kethuboth 100b

that whoever buys from the court does so in order that he may have the benefit of a public announcement,[1] hence we were informed [that the responsibility for the indemnity still remains upon the orphans].

R. SIMEON B. GAMALIEL RULED etc. To what limit [of error]?[2] — R. Huna b. Judah replied in the name of R. Shesheth: To a half.[3] So it was also taught: R. Simeon b. Gamaliel ruled, If the court sold for one maneh what was worth two hundred zuz, or for two hundred zuz what was worth one maneh, their sale is valid. Amemar laid down in the name of R. Joseph: A court that sold [one's estate] without a [previous] public announcement are deemed[4] to have overlooked a law cited in a Mishnah and [their decision][5] must be reversed. [You say] 'Are deemed'?[4] since

Have they not in actual fact overlooked one,' we learned:[6] The assessment [of the property] of the orphans[7] [must be accompanied by a public announcement for a period of] thirty days, and the assessment of consecrated land[8] [for a period of] sixty days; and the announcement must be made both in the morning and in the evening?[9] — If [the ruling[10] were to be derived] from that [Mishnah alone] it might be presumed that it applied only to an agent[11] but not to a court; hence we were taught[10] [that the law applied to a court also].

R. Ashi raised an objection against Amemar: IF AN ASSESSMENT OF JUDGES WAS BY ONE SIXTH LESS, OR ONE SIXTH MORE [THAN THE ACTUAL VALUE OF THE PROPERTY], THEIR SALE IS VOID, but [it follows] if it corresponded to the actual worth of the land[12] their sale is valid. Does not this[13] [apply even to a case] where no public announcement was made?[14] — No; [it applies only to one] where an announcement was made. But since the final clause [refers to a case] where an announcement was made [must not] the first clause[15] [refer to one] where no announcement was made; for in the final clause it was taught: IF A BILL FOR INSPECTION,[16] HOWEVER, HAS BEEN DRAWN UP, THEIR SALE IS VALID EVEN IF THEY SOLD FOR TWO HUNDRED ZUZ WHAT WAS WORTH ONE MANEH, OR FOR ONE MANEH WHAT WAS WORTH TWO HUNDRED ZUZ ?[17] — The fact indeed is [that the first clause refers to a case] where no announcement was made, and [yet[18] there is] no difficulty, for one ruling[19] refers to objects concerning which public announcements must be made, while the other[20] refers to objects concerning which no public announcements are made, such as[21] slaves, movables and deeds. (What is the reason [why no announcement is made in the case of] slaves? — [Because if one were made] they might hear It and escape. Movables and deeds? — Because they might be stolen.) If you wish I might reply:[22] One ruling[23] refers to a time when an announcement is made while the others refers to a time when no announcement is made, the Nehardeans having laid down that for poll-tax,[24] maintenance[25] and funeral expenses [an estate][26] is sold without a public announcement.[27] And if you prefer I might reply:[22] One ruling[23] applies to a place where announcements are made while the other[20] applies to one where no announcements are made, R. Nahman having stated: Never was a bill for inspection[28] drawn up at Nehardea.[29] From this [statement][30] one implied that [the reason[31] was] because they[32] were experts in assessments; but R. Joseph b. Minyomi stated: It was explained to me by R. Nahman [that the reason is] because they[33] were nicknamed 'consumers of publicly auctioned estates',[34]

Rab Judah ruled in the name of Samuel: Orphans' movables must be assessed[35] and sold forthwith.[36] R. Hisda ruled in the name of Abimi: They are to be sold[37] in the markets.[38] There is, however, no difference of opinion between them.[39] One speaks of a place[40] in the proximity of a market ,[41] while the other deals with one[40] from which the market is far.[42]

R. Kahana had in his possession some beer that belonged to the orphan R. Mesharsheya b. Hilkai. He kept it until the festival,[43] saying, 'Though it might deteriorate,[44] it will have a quick sale.'[45]

Rabina had In his possession some wine belonging to the orphan Rabina the Little, his sister's son, and he had also some wine of his own which he was about to take up to Sikara.[46] When he came to

R. Ashi and asked him, ‘May I carry [the orphan's wine] with my own’[47] the other told him, ‘You may go; it is not superior to your own.

MISHNAH. [A MINOR] WHO EXERCISED THE RIGHT OF MI'UN,[48] A FORBIDDEN RELATIVE OF THE SECOND DEGREE,[49] OR A WOMAN WHO IS INCAPABLE OF PROCREATION IS NOT ENTITLED EITHER TO A KETHUBAH[50] OR TO THE BENEFITS[51] [OF HER MELOG[48] PROPERTY][52] OR TO MAINTENANCE,[53] OR TO HER WORN OUT ARTICLES.[54] IF THE MAN, HOWEVER, HAD MARRIED HER AT THE OUTSET ON THE UNDERSTANDING THAT SHE WAS INCAPABLE OF PROCREATION SHE IS ENTITLED TO A KETHUBAH. A WIDOW WHO WAS MARRIED TO A HIGH PRIEST,[55] A DIVORCED WOMAN OR A HALUZAH[48] WHO WAS MARRIED TO A COMMON PRIEST,[56] A BASTARD OR A NETHINAH[48] WHO WAS MARRIED TO AN ISRAELITE. OR THE DAUGHTER OF AN ISRAELITE WHO WAS MARRIED TO A NATHIN,[48] OR A BASTARD IS ENTITLED TO A KETHUBAH.[57]

GEMARA. Rab taught: A minor who is released by means of a letter of divorce is not entitled to a kethubah[58] and, much less so, [a minor] who exercises the right of mi'un[48] Samuel taught: [A minor] who exercises the right of mi'un[48] is not entitled to a kethubah,[59] but a minor who is released by a letter of divorce is entitled to her kethubah.[60] Samuel[61] follows his [previously expressed] principle; for he laid down: [A minor] who exercises the right of mi'un[62] is not entitled to a kethubah[63] but a minor who is released by a letter of divorce is entitled to her kethubah,’[64] [a minor] who exercises the right of mi'un[62] is not [through this act] disqualified from marrying the brothers [of her husband],[65] nor is she thereby disqualified from marrying a priest,[66] but [a minor who] is released by a letter of divorce is [through this act] disqualified from marrying the brothers [of her husband][67] and also from marrying a priest;[68] [a minor] who exercises the right of mi'un need not wait three months[69]

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(1) Lit.,’it is with the intent that a voice may be brought out for him that he buys’. Since any sale by a court must be preceded by a public announcement. it is conceivable that if any person had a claim upon the land in question he would advance it as soon as the announcement had been made. A buyer who is presumably aware of these considerations might. therefore, be assumed to feel so secure in his purchase as to surrender his guarantee for indemnity. [Aliter: Whoever buys from the Beth din buys for the purpose that he might gain publicity as a man of means, without necessarily expecting any guarantee of indemnification; Strashun].

(2) Is the sale valid.

(3) Of the actual value.

(4) Lit., ‘are made’.

(5) Unlike an erroneous decision that does not conflict with a Mishnah, which remains in force and compensation is paid by the court.

(6) In a Mishnah.

(7) That is put up for sale to meet the claims of their father's widow or daughters.

(8) Sold by the Temple treasurer.

(9) ‘Ar. 21b.

(10) Laid down by Amemar in the name of R. Joseph.

(11) Who sells orphans’ property.

(12) Lit., ‘worth for worth’, or ‘equal for equal’.

(13) The implied ruling that the sale is valid.

(14) Is this then an objection against Amemar?

(15) Since two adjacent clauses would not repeat the same law.

(16) Which involves. of course, a public announcement (v. supra p. 632, n. 12).

(17) Is this then an objection against Amemar?

(18) Despite the deduction which is apparently in contradiction to Amemar's ruling.

(19) Lit., ‘here’, the ruling of Amemar.

(20) The first clause of our Mishnah.

(21) Lit., ‘and these are objects concerning which no public announcement is made’.

(22) To the objection against Amemar that was raised supra.

(23) Lit., ‘here’, the ruling of Amemar.

(24) On behalf of orphans.

(25) Of one's widow or daughters.

(26) Of a deceased, inherited by his orphans.

(27) Since in all these cases money is urgently needed no time can be spared for the usual public announcement that must precede other sales ordered by a court; v. supra 8a.

(28) Cf. supra p. 632, n. 12.

(29) Cf. supra p. 222, n. 8.

(30) Of R. Nahman.

(31) For dispensing with a bill of inspection at Nehardea.

(32) The Nehardeans.

(33) Who bought orphans’ estates that were offered for sale after a public announcement.

(34) A description of contempt. At such enforced sales the buyers usually made exorbitant profits at the expense of the helpless orphans.

(35) Immediately on their father's death.

(36) In order to prevent their deterioration.

(37) [Read with MS. M.: They are taken to the markets, מוליכין]

(38) Or ‘on market days’ (cf. Rashi, s.v. דמקרב).

(39) Rab Judah and R. Hisda.

(40) L1t., ‘that’.

(41) Aliter: A time when market day is near (cf. Rashi loc. cit.).

(42) Aliter. ‘When market day is a long way of’ (cf. I.e.).

(43) Though beer must be classed as movables.

(44) איצצתא. ‘depreciation in the market’ or ‘deterioration of quality’ (cf Jast.) Aliter: ‘Though it might become sour’, (cf. Rashi).

(45) Lit., ‘will bring quick money’, I.e , there will be no need to sell on credit. Cash sales, though at a comparatively small price, are preferable to sales on credit that might command a higher price.

(46) [A town on the Tigris near Mahuza. Obermeyer. p. 186].

(47) Sc. may a trustee undertake the risk of sea transport [The wine could be taken from Matha Mehasia (Sura) the home of Rabina to Sikara, either overland or by boat. The former journey, though shorter, was the more expensive and involved greater risk of breakage to the earthenware barrels in which the wine was transported, v. Obermeyer, p. 188ff.]

(48) V. Glos.

(49) Who is forbidden by Rabbinic, though not by Pentateuchal, law (cf. Yeb. 21a).

(50) Cf. Yeb. 113a, B.M. 67a; the first mentioned because her separation may be affected even against her husband's will, the second was penalized for contracting an unlawful marriage (cf. Yeb. 85b) while in the case of the last her marriage is regarded as a contract under false pretences.

(51) Lit., ‘fruit’. Aliter: Usufruct.

(52) Sc. her husband is under no obligation to pay her ransom if she is taken captive, though in the case of a legal and normal marriage a husband must assume such obligation (in return for the usufruct of his wife's melog property). As this woman is not entitled to a kethubah she is also deprived of the right to be ransomed which is one of the terms of a kethubah. Aliter; Her husband need not refund the usufruct,

(53) Cf. supra note 5 mutatis mutandis. The limitations of this ruling are dealt with infra 107b.

(54) The articles which she brought to her husband on marriage and the value of which was included in her kethubah. If her husband has used these articles he need not compensate her for their wear or loss when she leaves him.

(55) V. Lev. XXI, 13.

(56) V. ibid. 7.

(57) Yeb. 84a.

(58) Since the marriage of a minor, n his opinion, has no validity and her status is that of one seduced,

(59) Cf. supra note 3.

(60) Because a divorce can be given with the husband's consent only.
(61) In his ruling just cited.
(62) V. Glos,
(63) Cf. supra p. 639, R. 3.
(64) V. p. 639, n. 13.
(65) V. p. 639, n. 11,
(66) Since she has not the status of a divorced woman, mi'un dissolving the union retrospectively.
(67) Because it is forbidden to marry a woman whom ones brother had divorced.
(68) V, Lev. XXI, 7'
(69) After mi'un, before contracting a second marriage, though such a period must be allowed to pass in the case of any other divorced woman or widow. Cf. supra n' 5.

Talmud - Mas. Kethuboth 101a

but [a minor who] was released by a letter of divorce must wait three months.[1] What does he[2] teach us when all these cases have already been taught:[3] If [a minor] has exercised the right of mi'un against her husband he is permitted to marry her relatives[4] and she is permitted to marry his relatives,[4] and he does not disqualify her from marrying a priest;[5] but if he gave her a letter of divorce he is forbidden to marry her relatives and she is forbidden to marry his relatives and he also disqualifies her from marrying a priest?[6] — He found it necessary [to restate these rulings in order to mention:] ‘She must wait three months’ which we did not learn.[7]

Must one assume [that they[8] differ on the same principles] as the following Tannaim: R. Eliezer stated, There is no validity whatsoever in the act of a minor, and her husband is entitled neither to anything she finds,[9] nor to the work of her hands,[9] nor may he invalidate her vows;[10] he is not her heir[9] and he may not defile himself for her;[11] this being the general rule: She is in no respect regarded as his wife, except that it is necessary for her to make a declaration of refusal;[12] and R. Joshua stated, The act of a minor is valid, and her husband has the right to anything she finds[13] and to the work of her hands,[13] to invalidate her vows,[14] to be her heir,[13] and to defile himself for her;[15] the general principle being that she is regarded as his wife in every respect, except that she may leave him[12] by declaring her refusal against him?[16] Must one then assume that Rab[17] has laid down the same principle as that of R. Eliezer[18] and that Samuel[19] has laid down the same principle as that of R. Joshua?[20] — There is no difference of opinion between them[21] as to what was the view[22] of R. Eliezer;[23] they differ only in respect of the view[22] of R. Joshua. Samuel [ruled] In agreement with R. Joshua; but Rab argued that[24] R. Joshua maintained his view only there[25] [where the benefits[26] are transferred] from her to him[27] but not [where the benefits[28] are to be transferred] from him to her.[29]

OR TO HER WORN OUT ARTICLES. Said R. Huna b. Hiyya to R. Kahana: You have told us in the name of Samuel that this[30] was taught only in respect of melog,[31] but that to zon barzel[31] property she is entitled. R. Papa, in considering this statement, raised the point: To which [class of women did Samuel refer]? If it be suggested: To [A MINOR] WHO EXERCISED THE RIGHT OF MI'UN [the difficulty would arise:] If [the articles] are still in existence she would be entitled to receive them in either case,[32] and if they were no longer in existence she would in neither case[32] be entitled to receive them.[33] [Is the reference], then, to A WOMAN WHO IS INCAPABLE OF PROCREATION? [But here again, it may be objected:] If [the articles] were still in existence she would receive them in either case,[32] and if they no longer existed [the ruling] should be reversed: She should receive melog property since [the capital] always remains in her legal possession[34] but should not receive zon barzel property since [the capital] does not remain in her possession.[35] [The fact,] however, [is that the reference is] to A FORBIDDEN RELATIVE OF THE SECOND DEGREE, in whose case[36] the Rabbis have penalized the woman in respect of [what is due to her] from the man,[37] and the man in respect of [what is due to him] from the woman.[38] R. Shimi b. Ashi remarked: From R. Kahana's statement[39] it may be inferred [that if a lawful wife] brought to her husband[40] a cloak,[41] the article is [to be treated as] capital and the man may not continue to wear it until it is worn out.[42] But did not R. Nahman, however, rule that [a cloak must be treated as] produce?[43] — He[44] differs from R. Nahman. IS NOT ENTITLED [. . .] TO A KETHUBAH. Samuel stated: This was taught only in respect of the maneh[45] and the two hundred zuz,'[46] to the additional jointure,[47] however, she[48] is entitled. So it was also taught: The women concerning whom the Sages have ruled, 'They are not entitled to a kethubah' as, for instance, a minor who exercised the right of mi'un[39] and the others enumerated in the same context,[49] are not entitled to the maneh[50] or to the two hundred zuz,[51] but are entitled to their additional jointures; women, however, concerning whom the Sages have ruled, 'They may be divorced without [receiving their] kethubah' as, for instance, [a wife who] transgresses the [Mosaic] law, and others enumerated in the same context,[52] are not entitled to their additional jointures[47] and much less to [their statutory kethubahs of] a maneh[50] or two hundred zuz;[51] whilst a woman who is divorced on the ground of in repute[53] takes only[54] what is hers[55] and departs. This[56] provides support to R. Hunah who laid down: If she played the harlot [a wife] does not in consequence forfeit

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(1) As any other woman (v. supra note 8).
(2) Samuel, in the statement cited.
(3) In a Mishnah.
(4) V. supra p. 639, n. 11.
(5) Cf. note 5'
(6) Yeb. 1085.
(7) in the Mishnah of Yeb. cited.
(8) Rab and Samuel.
(9) To which a lawful husband is entitled.
(10) Which is the privilege of a husband (cf. Num. XXX, 7ff).
(11) If he is a priest. Only a lawful husband may (cf. Lev. XXI, 2).
(12) If she wishes to marry another man.
(13) Rabbinic law has conferred upon him the same rights as those of a lawful husband. Cf. p. 640, n. 17.
(14) Which is the privilege of a husband (cf. Num. XXX, 7ff).
(15) Even if he is a priest (cf. supra n. 1). Since he inherits her she is regarded as a meth mizwah (v. Glos.) for whom he may defile himself though Pentateuchally she is not his proper wife; v. Rashi Yeb. 108a.
(16) And no letter of divorce is required. Yeb. 89b, 108a.
(17) Who does not allow a kethubah to a divorced minor.
(18) Who ruled: 'There is no validity whatsoever in the act of a minor'.
(19) Who allows to a minor her kethubah,
(20) Who ruled that 'the act of a minor is valid'. Is it likely, however, that Rab and Samuel who were Amoraim would engage in a dispute which is practically a mere repetition of that of Tannaim?
(21) Lit., 'all the world', sc, Rab and Samuel.
(22) Lit., 'according'.
(23) I.e., even Samuel must admit that according to R. Eliezer, no kethubah is due to a minor a minori ad majus (cf. infra nn. 16 to 19 and text mutatis mutandis).
(24) Lit., 'up to here',
(25) In the case cited from Yeb.
(26) Inheritance, handiwork and finds.
(27) A husband may well be given such privileges in order to encourage men to undertake the responsibilities of married life.
(28) Such as the kethubah and the other privileges contained therein.
(29) There is no need to hold out inducements of marriage to a woman who is assumed to be always craving for marriage.
(30) That the woman spoken of in our Mishnah is not entitled to compensation for the WORN OUT CLOTHES. It will be discussed anon to which of the three classes of woman mentioned Samuel referred.
(31) V. Glos.

(32) Whether they were melog or zon barzel.

(33) Since, in the case of zon barzel, the husband might plead that what he used up was legally his, and in respect of melog also, though he had no right to use up the ‘capital’. he might still plead justification on the ground that it would have become his by the right of heirship if he had survived her. In either case he would be justified in his claim that the minor's right to compensation does not come into force except on divorce.

(34) And the husband, therefore, had no right to use it up.

(35) But in that of the husband who was consequently entitled to use it up completely.

(36) Since both husband and wife are guilty of a transgression.

(37) Lit., ‘fined her in respect of what is his’. Viz the kethubah and maintenance as well as for the wear of melog articles which he used up unlawfully and for which,10 the case of a lawful marriage. he would have been liable to pay compensation to the woman.

(38) Lit. , ‘fined him in respect of what is hers’. He must pay compensation for the wear of zon barzel articles which he used up, though a lawful wife cannot object to such use. [Although the woman is nor mally entitled to compensation for the wear of the zon barzel property, it is still considered a fine, as legally the husband should, in this case, not be made to pay since he does not divorce of his own free will (R. Nissim). Var. lec. , they fined her in respect of what is hers (i.e..the melog property) and him in respect of what is his (i.e., the zon barzel property).]

(39) That in a forbidden marriage the woman is not entitled to compensation for worn out melog articles.

(40) On marrying him.

(41) As melog.

(42) If he did so he must pay compensation.

(43) Supra 79b.

(44) R. Kahana.

(45) The statutory kethubah that is due to one who married as a widow or divorcee.

(46) Due to a virgin (cf. supra note 7 mutatis mutandis).

(47) Which a husband settles on his wife at his own pleasure.

(48) Lit., ‘they’, sc, the classes of women mentioned in our Mishnah.

(49) Lit., ‘and her associates’.

(50) V. supra note 7.

(51) V. supra n. 8.

(52) Cf. supra n. 10 and v. Mishnah supra 72a.

(53) Lit., ‘on evil name’, sc. of faithlessness.

(54) MS.M. inserts, ‘the worn out clothes’.

(55) Lit., ‘before her’, sc. her ‘melog property.

(56) The last ruling in the cited Baraitha.

Talmud - Mas. Kethuboth 101b

her worn out articles that are still in existence.

A tanna recited in the presence of R. Nahman: [A wife who] played the harlot forfeits in consequence her worn out articles [though they are still] in existence. ‘If she’ , the other said to him, ‘has played the harlot, have her chattels also played the harlot?[1] Recite rather: She does not forfeit her worn out articles [that are still] in existence’ — Rabbah b. Bar Hana stated in the name of R. Johanan: This[2] is the view of the unnamed R. Menahem,[3] but the Sages ruled: [A wife who] played the harlot does not thereby forfeit her worn out articles that are still in existence.

IF THE MAN, HOWEVER, HAD MARRIED HER etc. Said R. Huna:A woman incapable of procreation [has sometimes the status of] a wife and [sometimes she has] no such status;[4] a widow[5] [has always the status of] a proper wife. ‘A woman incapable of procreation [has sometimes the status of] a wife and [sometimes she] has no such status’; if the husband knew of her [defect][6] she is entitled to a kethubah[7] and if he did not know of her [defect] she is not entitled to a kethubah. ‘A widows [has always the status of] a proper wife’, for, whether her husband was aware of her [widowhood] or whether he was not aware of it, she is always entitled to a kethubah. Rab Judah, however, said: The one[8] as well as the other[9] [has sometimes the status of] a wife and [sometimes she has] no such status,[4] for [in either case] if her husband was aware of her [condition or status] she is entitled to a kethubah and if he was not aware of it she is not entitled to a kethubah. An objection was raised: If [a High Priest] married on the presumption that [the woman] was in her widowhood[10] and it was found that she had been in such a condition,[10] she is entitled to her kethubah. Does not this imply that if[11] there was no presumption[12] she is not entitled to a kethubah?[13] — Do not infer 'that[11] if there was no such presumption' but infer [this:] If he married her on the presumption that she was not in her widowhood[14] and it was found that she had been in such a condition,[14] she is not entitled to a kethubah. What, however, [is the ruling where he married her] with no assumption? Is she entitled [to a kethubah]? Then instead of stating, 'On the presumption that [the woman] was in her widowhood[14] and it was found that she had been in such a condition,[14] she is entitled to her kethubah', should it not rather have been stated, 'With no assumption she is entitled to her kethubah'[15] and [it would have been obvious that this[16] applied] with even greater force to the former?[17] Furthermore, it was explicitly taught: If he[18] married her in the belief[19] [that she was a widow] and it was found that his belief was justified,[19] she is entitled to a kethubah, but if he married her with no assumption she is not entitled to a kethubah. [Does not this present] an 'objection against R. Huna? — It was our Mishnah that caused R. Huna to err. He thought that, since a distinction was drawn in the case of a woman incapable of procreation[20] and no distinction was drawn in respect of a widow, it must be inferred that a widow is entitled [to a kethubah even if she was married] with no assumption of her status. [In fact, however] this is no [proper conclusion], for in stating the case of a widow the author intended to apply to it[21] the distinction drawn in the case of the woman who was incapable of procreation.[22]

CHAPTER XII

MISHNAH. IF A MAN MARRIED A WIFE AND SHE MADE AN ARRANGEMENT WITH HIM THAT HE SHOULD MAINTAIN HER DAUGHTER[23] FOR FIVE YEARS, HE MUST MAINTAIN HER FOR FIVE YEARS. IF SHE WAS [SUBSEQUENTLY][24] MARRIED TO ANOTHER MAN AND ARRANGED WITH HIM ALSO THAT HE SHOULD MAINTAIN HER DAUGHTER[23] FOR FIVE YEARS, HE, TOO, MUST MAINTAIN HER FOR FIVE YEARS. THE FIRST HUSBAND IS NOT ENTITLED TO PLEAD, 'IF SHE WILL. COME TO ME I WILL MAINTAIN HER',[25] BUT HE MUST FORWARD HER MAINTENANCE TO HER AT THE PLACE WHERE HER MOTHER [LIVES].[26] SIMILARLY, THE TWO HUSBANDS CANNOT PLEAD, 'WE WILL MAINTAIN HER JOINTLY', BUT ONE MUST MAINTAIN HER AND THE OTHER ALLOW HER THE COST OF HER MAINTENANCE. IF SHE[27] MARRIED[24] HER HUSBAND MUST SUPPLY HER WITH MAINTENANCE AND THEY[28] ALLOW HER THE COST OF HER MAINTENANCE. SHOULD THEY[29] DIE, THEIR OWN DAUGHTERS ARE TO BE MAINTAINED OUT OF THEIR FREE ASSETS ONLY[30] BUT SHE[27] MUST BE MAINTAINED EVEN OUT OF ASSIGNED PROPERTY, BECAUSE SHE[31] [HAS THE SAME LEGAL STATUS] AS A CREDITOR. PRUDENT MEN USED TO WRITE,[32] 'ON CONDITION THAT I SHALL MAINTAIN YOUR DAUGHTER FOR FIVE YEARS WHILE YOU [CONTINUE TO LIVE] WITH ME'. GEMARA. It was stated: A man who said to his fellow, 'I owe you a maneh'[33] is, R. Johanan ruled, liable; but Resh Lakish ruled: He is free. How is one to understand [this dispute]? If [it refers to a case] where the man said to them[34] 'You are my witnesses', what [it might be objected] is the reason of Resh Lakish who holds him to be free?[35] If [it is a case] where he did not say to them,[34] 'You are my witnesses, what [it might equally be objected] can be the reason of R. Johanan who holds him liable?[36] The fact is[37] that [the dispute relates to a case] where he did not tell them, 'You are my witnesses', but here we are[38] dealing [with the case of a person] who said to another, 'I owe you a maneh'[33] by [handing to him][39] a note of indebtedness.[40] R. Johanan ruled: He is liable, because the contents[41] of a bond[42] has the same force as if the man [who delivered it] said, 'You are my witnesses'; but Resh Lakish ruled: He is free, because the contents[41] of a bond has no binding force.

We learned: IF A MAN MARRIED A WIFE AND SHE MADE AN AGREEMENT WITH HIM THAT HE SHALL MAINTAIN HER DAUGHTER FOR FIVE YEARS, HE MUST MAINTAIN HER FOR FIVE YEARS. Does not this refer to[43] , a case like this?[44]

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(1) Surely not.
(2) The version recited by the Tanna in the presence of R. Nahman.
(3) Sc. whose rulings were often quoted anonymously in the Mishnah and the Baraitha. [The reference is to R. Menahem b. R. Jose, v, Neg. 262.]
(4) Lit., ‘and not a wife’.
(5) Even if married to a High Priest (cf. Lev. XXI, 14).
(6) Before he married her.
(7) He is assumed to have acquiesced.
(8) MS,M., one incapable of procreation’.
(9) ‘A widow’ (so MS.M.) who was married to a High Priest.
(10) Lit., ‘so’.
(11) Lit. , ‘but’ —
(12) A case analogous to that where the High Priest was not aware of the woman's widowhood, supra.
(13) An objection against R. Huna.
(14) Lit. , ‘so’.
(15) So Bah. Cur. edd. omit the last six words.
(16) The woman's right to her kethubah.
(17) Lit. , ‘that’, where the High Priest actually presumed the woman's widowhood.
(18) A High Priest.
(19) בידוע particip. pass. of ידע (‘to know’) with prefix.
(20) ‘IF THE MAN, HOWEVER, HAD MARRIED HER AT THE OUTSET . . . SHE IS ENTITLED etc.’.
(21) Lit., ‘stands on’.
(22) Which immediately precedes it.
(23) From another husband.
(24) before the expiration of the five years.
(25) Sc. refusing maintenance on the ground that her mother with whom she lives was no longer his wife.
(26) Var. lec., ‘to the place of her mother’ (so according to the separate edd. of the Mishnah and Alfasi).
(27) The daughter.
(28) Respectively; each one the full cost.
(29) The two husbands (v. supra n. 2).
(30) Cf. 48b.
(31) Whose rights are based on a written bond.
(32) In any agreement to maintain a wife's daughter.
(33) V. Glos.
(34) Those who were present at the time of his admission of the debt.
(35) Such a ruling, surely. is contrary to what has been laid down in Sanh. 29b.
(36) This, surely, is also contrary to what was taught in Sanh. 29b, that the admission is valid only where the debtor explicitly stated, ‘You are my witnesses’.
(37) Lit., ‘always’.
(38) Lit., ‘in what are we’.
(39) In the presence of witnesses.
(40) In which the debt is acknowledged in the man's handwriting but is not attested by his signature nor by that of witnesses.
(41) Lit., ‘thing’.
(42) Delivered in the presence of witnesses.
(43) Lit., ‘what, not?’

(44) Where the husband had handed over the written agreement (cf. supra note 8 mutatis mutandis) in the presence of witnesses without specifically appointing them as such. Had the document been duly signed the ruling, being so obvious, would have been superfluous. Does this then present an objection against Resh Lakish?

Talmud - Mas. Kethuboth 102a

— No, [our Mishnah is dealing] with deeds on verbal agreements,[1] and [the ruling[2] was necessary] in accordance with [the view] of R.Giddal, since R. Giddal has laid down in the name of Rab:[3] [if[4] one man said to another.] ‘How much are you giving to your son?’ [and the other replies.] ‘Such and such a sum’, and [when the other asks.] ‘How much are you giving to your daughter?’ [the first replies.] ‘Such and such a sum’, [and on the basis of this talk] a betrothal was effected,[5] kinyan is deemed to have been executed, these being matters concerning which kinyan is effected by a mere verbal arrangement.[6]

Come and hear: If a man gave to a priest in writing [a statement] that he[7] owed him five sela's[8] he must[9] pay him the five sela's and his son is not redeemed thereby![10] — There [the law] is different because one is under a pentateuchal obligation [to give them] to him.[11] If that be so, why did he write? — In order to choose for himself a priest.[12] If that is the case[13] why is not his son redeemed?[14] — In agreement with a ruling of ‘Ulla; For ‘Ulla said, pentateuchally [the son] is redeemed as soon as [the father] gives [the note of money indebtedness to the priest,] and the reason why the Rabbis ruled that he was not redeemed is because a preventive measure was enacted against the possibility of the assumption that redemption may be effected by means of bonds [in general].[15]

Raba said: [Their ‘[6] dispute seems to follow the same principles] as [laid down by] Tannaim: [If the guarantee] of a guarantor appears[16] below the signatures to bonds of indebtedness,[17] [the creditor] may recover his debt from [the guarantor's] free property.[18] Such a case once came before R. Ishmael who decided that [the debt] may be recovered from [the guarantor's] free property.[18] Ben Nannus, however, said to him, ‘[The debt may] be recovered neither from free property nor from assigned property’. ‘Why?’ the other asked him. ‘Behold’, he replied, ‘this is just as if [a creditor] were [in the act of] throttling a debtor[19] in the street,[20] and his friend found him and said to him, "Leave him alone and I will pay you", [where he is undoubtedly] exempt from liability, since the loan was not made through trust in him.’[21] May it not be suggested that R. Johanan holds the same view as R. Ishmael while Resh Lakish holds that of Ben Nannus? — On the view of Ben Nannus there can be no difference of opinion;[22]

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(1) שטרי פסיקתא in which the witnesses enter the terms that were verbally agreed upon between the parties and duly attach their signatures.

(2) Which might appear superfluous in view of the fact that the agreement has been properly drawn up and duly signed.

(3) Kid. 9b.

(4) In negotiating a marriage.

(5) Lit., ‘they stood and betrothed’.

(6) No symbolic kinyan being necessary. Our Mishnah, too’ deals similarly with a verbal agreement from which symbolic kinyan was absent; and, contrary to the opinion that an agreement without kinyan is invalid, it lays down the law In agreement with R. Giddal.

(7) Lit., ‘that I’.

(8) Or shekels. Such a sum is due to the priest for the redemption of an Israelite's firstborn son (cf. Ex. XIII, 13 and Num. XVIII, 16).

(9) Though the document was unsigned and no kinyan was executed and, in consequence. should have no more legal force than a verbal admission. This contradicts Resh Lakish.

(10) Bek. 510.

(11) [He is not actually obliged Biblically to give to this particular priest, hence omit to him’ with MS.M. which reads ‘because it is Biblical’.]

(12) In the absence of the written document the five sela's could have been given to any other priest.

(13) That the Pentateuchal obligation confers upon a legally invalid document the force of one that was duly signed by witnesses.

(14) A legal bond, surely, might be regarded as a virtual payment.

(15) Other than those In which the father of the child himself assumed the liability. (14) R. Johanan and Resh Lakish.

(16) Lit., 'which goes out'.

(17) [The guarantor simply declaring 'I am guarantor' without attaching his signature (Tosaf.).]

(18) But not from property which he sold or mortgaged. Since the signatures of the witnesses do not appear below the guarantee, the guarantor's undertaking can have no more force than a verbal promise, or a loan that has not been secured by a bond, in which case no assigned property is pledged to the creditor.

(19) Lit., 'his fellow'.

(20) Sc. using violence against him.

(21) Such a guarantee is offered for the sole purpose of rescuing the debtor from the creditor's violence. It cannot be regarded as a serious guarantee to discharge the debt, since the debt was incurred before the guarantee was given, v. B.B. 175b.

(22) I.e., even R. Johanan must admit that Ben Nannus differs from his ruling. For, if in the case of a guarantee which has Pentateuchal authority (v. B.B. 173b), Ben Nannus does not recognize the validity of a personally unattested undertaking, how much less would he recognize such an undertaking in a case like that spoken of by R. Johanan.

Talmud - Mas. Kethuboth 102b

their dispute, however, might relate to the view of R. Ishmael. R. Johanan is, [of course,] in agreement with R. Ishmael, while Resh Lakish [might argue:] R. Ishmael maintains his view there[1] only[2] because a pentateuchal responsibility is involved[3] but [not] here where no pentateuchal responsibility is involved.

The [above] text [stated]: 'R. Giddal has laid down in the name of Rab: [If one man said to another,] "How much are you giving to your son?" [and the other replied,] "Such and such a sun,", and [when the other asks,] "How much are you giving to your daughter?" [the first replies,] "Such and such a sum", [and on the basis of this talk] betrothal was effected, kinyan is deemed to have been executed, these being matters concerning which kinyan is effected by a mere verbal arrangement'.[4] Said Raba: It stands to reason that Rab's ruling should apply [only] to the case of a man whose daughter was[5] a na'arah,[6] since the benefit [of her betrothal][7] goes to him,[8] but not to that of a bogereth,[6] since the benefit [of the betrothal of the latter]' does not go to him; but, by God! Rab meant [his ruling to include] even one who is a bogereth. For, should you not concede this, [the objection could be put:] What benefit does the son's[9] father derive?[10] The reason consequently must be that[11] owing to the pleasure of the formation of a mutual family tie they decide to allow one another the full rights of kinyan.

Said Rabina to R. Ashi: Are those verbal arrangements,[12] allowed to be recorded[13] or are they not allowed to be recorded?[14] — They, the other replied, may not be recorded.[15] He[16] raised an objection against him:[17] PRUDENT MEN USED TO WRITE,[18] ON CONDITION THAT I SHALL MAINTAIN YOUR DAUGHTER FOR FIVE YEARS WHILE YOU [CONTINUE TO LIVE] WITH ME'?[19] — The meaning of[20] 'WRITE' [in this context] is 'say'. Could 'saying', however, be described as 'writing'? — Yes, for so we learned: If a husband gives to his wife a written undertaking,[21] 'I have no claim whatsoever upon your estates',[22] and R. Hiyya taught:[23] If a husband said[24] to his wife.[25]

Come and hear: Deeds of betrothal[26] and marriage[27] may not be written except with the consent of both parties,[28] but, [it follows, that] with the consent of both parties they may be written. Does not this refer to[29] deeds based on verbal agreements?[30] — No; deeds of actual betrothal,[31] [the ruling[32] being] in agreement with R. papa and R. Sherabya; for it was stated: If a man wrote it[33] in her name[34] but without her consent she is, said Rabbah[35] and Rabina, betrothed, but R. Papa and R. Sherabya aid, She is not betrothed.[36]

Come and hear: SHOULD THEY DIE, THEIR OWN DAUGHTERS ARE TO BE MAINTAINED OUT OF THEIR FREE PROPERTY ONLY BUT SHE MUST BE MAINTAINED EVEN OUT OF ASSIGNED PROPERTY, BECAUSE SHE [HAS THE SAME LEGAL STATUS] AS A CREDITOR![37] Here we are dealing with a case where the man was made to confirm his obligation[38] by a kinyan.[39] If so,[40] [the same right[41] should be enjoyed, should it not, by one's own] daughters also? — [This is a case] where kinyan was executed in favour of the ones but not in favour of the others.[42] Whence this certainty?[43] — Since she was in existence at the time the kinyan was executed, the kinyan in her favour is effective; the other daughters,[44] however, since they were not in existence at the time the kinyan was executed, the kinyan in their favour is not effective. But do we not also deal with the case where they[45] were in existence at the time of the kinyan, this being possible where,[46] for instance, the man had divorced his wife and then remarried her? — [This] however, [is the explanation:] Since she is not covered by the provision of Beth din[47] kinyan in her case is effective; in the case of the other daughters, however, who are protected by the provision of Beth din,[47] kinyan is not effective. Are they, on that account, worse off?[48] — This, however, is the reason: In the case of his own daughters, since they are protected by the provision of Beth din,[47] it might be assumed that he entrusted them[49] with some bundles [of money].[50]

THE FIRST HUSBAND IS NOT ENTITLED TO PLEAD [etc.] R.Hisda stated: This[51] implies that [the place of] a daughter must be with her mother.[52] Whence, [however, the proof] that we are dealing here[53] with one who is of age; is it not possible that[54] we are dealing only with a minor [whose custody must be entrusted to her mother] on account of what had once happened? For it was taught: If a man died and left a young son with his mother,[55] [and while] the father's heirs demand, ‘Let him be brought up with us’ his mother claims, ‘My son should be brought up by me’, [the son] must be left with his mother, but may not be left with anyone who is entitled to be his heir.[56] Such a case[57] once occurred and [the heirs] killed him on the eve of passover![58] — If that were so[59] it should have been stated,[60] ‘To wherever she is,’

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(1) The case of the guarantor.

(2) Lit., ‘until here’.

(3) The recognition of a guarantor's responsibility is (as stated supra) Pentateuchal.

(4) Supra 102a q.v. for notes.

(5) At the time betrothal was negotiated.

(6) V. Glos.

(7) Sc. the sum of money or object of value which the man gives to the woman as a token of betrothal which constitutes the required kinyan.

(8) Lit., to his hand’. As a return for the benefit he, it may well be presumed, readily agrees that even his verbal undertaking should have the legal force of a personally attested written deed.

(9) Sc. the bridegroom's.

(10) Surely none; since the pecuniary benefit from his son's betrothal does not belong to him.

(11) Lit., ‘but’.

(12) Lit., ‘words’, spoken of supra, in connection with which no symbolic kinyan was executed.

(13) Sc. in a deed, by witnesses.

(14) For, if they were to be embodied10 a deed, the holder of such a deed would be enabled to distrain on assigned property to which, in the absence of symbolic kinyan, he is legally not entitled. [The question, according to Isaiah Trani, is whether these may be reduced to writing without the consent of both parties, either of whom may object to encumbering the property with a mortgage, v. Shittah Mekubbezeth a.I. and R. Nissim on Kid.9b also, for other interpretations.]

(15) Cf. supra nn. 10 and 11.

(16) Rabina.

(17) R. Ashi.

(18) כותבין emphasis on ‘WRITE’.

(19) Though the agreement was only verbal. How then could K. Ashi maintain that verbal arrangements may not be embodied in a deed?

(20) Lit., ‘what’.

(21) הכותב

(22) Mishnah supra 830.

(23) In reference to this Mishnah which uses the expression of writing (v. supra n. 3).

(24) Emphasis on the word האומר.

(25) Which proves that a verbal statement is sometimes described as a written one.

(26) Verbal agreements between the parties on the amounts promised.

(27) Kethubah contracts.

(28) B.B. 167b,Kid.9b.

(29) Lit., ‘what, not?’

(30) Cf. supra p. 647, n. 13. An objection thus arises against R. Ashi who ruled that verbal agreements ‘may not be recorded’. [On Trani's interpretation (supra p. 650, n. II) this passage is adduced in support of R. Ashi that such deeds cannot be written without the consent of both parties. This will, however, necessitate the deletion of the words ‘(it follows that) with the consent of both they may be written’, which words10 fact do not occur in MS.M.]

(31) Betrothal may be effected by a deed wherein the man enters, ‘Behold thou art betrothed unto me’.

(32) Which requires the consent of the woman to such a deed.

(33) A deed of betrothal.

(34) Or ‘for her sake’, that of the woman he wishes to betroth.

(35) Var., ‘Raba’ (MS.M., the parallel passage in Kid., and Codes).

(36) Kid. 9b, 48a.

(37) Since only a written deed would confer upon her such a status it is obvious that such a deed was in her possession, an objection against R. Ashi (cf. supra n. 12).

(38) To maintain his wife's daughter.

(39) Lit., ‘where they acquired (symbolic) possession from his hand’. Hence the permissibility of writing a deed.

(40) That the verbal agreement was under a kinyan.

(41) To exact the cost of maintenance from assigned property.

(42) Lit., ‘to this’.

(43) The Mishnah, surely, does not mention kinyan in the case of the one and omit it in that of the others.

(44) Who were presumably born from the marriage contracted at the time of the kinyan.

(45) The man's own daughters.

(46) Lit., ‘and how is this to be imagined?’

(47) The clause of the kethubah which entitles daughters born from that marriage to maintenance.

(48) The contrary might, in fact, be expected: As they enjoy the privilege of the clause in the kethubah (v. supra n. 10) they should also be entitled to the privilege of the kinyan.

(49) Lit., ‘caused them to seize’, before he died.

(50) Or valuables, to discharge his obligation on the account of their maintenance.

(51) The ruling that the maintenance of one's wife's daughter must be forwarded to the place where her mother lives.

(52) The brothers who maintain her are not entitled to demand that she shall live with them.

(53) In our Mishnah.

(54) In stating. ‘WHERE HER MOTHER (LIVES)’.

(55) לאמו; wanting in Bomb. ed.

(56) An interested party may be suspected of murder.

(57) That the child was entrusted to the care of relatives who were entitled to be his legal heirs.

(58) In order to secure his property. Now since there is nothing to prove that an older daughter (who is well capable of looking after herself) must also be maintained at her mother's house and cannot be compelled to live with the brothers and receive maintenance from them, an objection arises against R. Hisda. [Detractors of the Talmud, it may be mentioned, professed to find in this passage an allusion to the ‘ritual’ murder of ‘Christian’ children! The absurdity of this suggestion was pointed out by Eric Bischoff in his Talmudkatechismus, p. 38, where he describes it as ‘sinnlos’ (senseless). It is evident that this incident was recorded to emphasize the danger of entrusting a child to the care of one who stands to benefit by its death. For we see here that even the sanctity of the Festival did not deter the brothers from perpetrating a crime for the purpose of gain. This danger has also been recognized in the English Law of Insurance which lays down that a man cannot insure his child's life to derive a benefit on its death].

(59) That a daughter who is of age may be compelled to live with her brothers.

(60) In our Mishnah.

Talmud - Mas. Kethuboth 103a

why then was it stated, ‘AT THE PLACE WHERE HER MOTHER [LIVES]’?[1] Consequently it must be inferred that [the place of] a daughter, whether she be of age or a minor, is with her mother.

THE TWO HUSBANDS CANNOT PLEAD etc. A certain man once leased his mill to another for [the consideration of the latter's services in] grinding [his corn].[2] Eventually he became rich and bought another mill and an ass. Thereupon he said to the other, ‘Until now I have had my grinding done at your place but now[3] pay me rent’. — ‘I shall’, the other replied, ‘only grind for you’.[4] Rabina [in considering the case] intended to rule that it involved the very principle that was laid down in our Mishnah: THE TWO HUSBANDS CANNOT PLEAD, ‘WE WILL MAINTAIN HER JOINTLY’, BUT ONE MUST MAINTAIN HER AND THE OTHER ALLOWS HER THE COST OF HER MAINTENANCE.[5] R. ‘Awira, however, said to him: Are [the two cases] alike? There [the woman][6] has Only one stomach, not two;[7] but here[8] [the lessee] might well tell the owner, ‘Grind [in your own mill][9] and sell; grind [in mine][10] and keep’.[11] This,[12] however, has been said only in a case where [the lessee] has no [other orders for] grinding at his mill,[13] but if he has [sufficient orders for] grinding at his mill he may in such circumstances be compelled [not to act] in the manner of Sodom.[14]

MISHNAH. SHOULD A WIDOW SAY, ‘I HAVE NO DESIRE TO MOVE FROM MY HUSBAND'S HOUSE’, THE HEIRS CANNOT TELL HER, GO TO YOUR FATHER'S HOUSE AND WE WILL MAINTAIN YOU’, BUT THEY MUST MAINTAIN HER IN HER HUSBAND'S HOUSE[15] AND GIVE HER A DWELLING BECOMING HER DIGNITY. IF SHE SAID, HOWEVER,[16] HAVE NO DESIRE TO MOVE FROM MY FATHER'S HOUSE’, THE HEIRS ARE ENTITLED TO SAY TO HER, ‘IF YOU STAY WITH US YOU WILL HAVE YOUR MAINTENANCE, BUT IF YOU DO NOT STAY WITH US YOU WILL RECEIVE NO MAINTENANCE’. IF SHE BASED HER PLEA[16] ON THE GROUND THAT SHE WAS YOUNG AND THEY[17] WERE YOUNG,[18] THEY MUST MAINTAIN HER WHILE SHE LIVES IN THE HOUSE OF HER FATHER.

GEMARA. Our Rabbis taught:[19] [A widow] may use [her deceased husband's] dwelling as she used it during his[20] lifetime. [She may also use] the bondmen and bondwomen, the cushions and the bolsters, and the silver and gold utensils as she used them during the lifetime of her husband, for such is the written undertaking he gave her: ‘And you shall dwell in my house and be maintained therein out of my estate throughout the duration of your widowhood’.[21]

R. Joseph learnt:[22] ‘In my house’ [implies] ‘but not in my hovel’.[23]

R. Nahman ruled: If orphans sold a widow's dwelling[24] their act is legally invalid.[25] But why [should this case be] different from that of which R. Assi spoke in the name of R. Johanan as follows:[26] If the male orphans forestalled [the female orphans] and sold[27] some property of a small estate[28] their sale is valid?[29] — There[30] [the property] Was not pledged to any daughter[31] during [her father's] lifetime,[32] but here[33] [the dwelling] was pledged to the widow[34] during [her husband's] lifetime.[35]

Abaye stated: We have a tradition that if a widow's dwelling[36] collapsed it is not the duty of the heirs to rebuild it.' So it was also taught: If a widow's dwelling[36] collapsed it is not the duty of the heirs to rebuild it.[37] Furthermore, even if she says, 'Allow me and I shall rebuild it at my own expense', she is not granted her request .[38]

Abaye asked: What [is the legal position if] she repaired it?[39] — This is undecided.[40]

IF SHE SAID, HOWEVER,'I HAVE NO DESIRE' etc. Why should they not give her maintenance while she lives there?[41] — This supports [a statement] of R. Huna who said, 'The blessing of a house [is proportionate] to its size'.[42] Why then can they not give her according to the blessing of the house?[43] — That is so.[44] Said R. Huna: The sayings[45] of the Sages [are a source of] blessing, wealth and healing. [As to] 'blessing',[we have] the statement just mentioned. 'Wealth'? — Because we learned: If one sold fruits to another[46] [and the buyer] pulled[47] them, though they have not yet been measured,[48] ownership is acquired. If, however, they have been measured,[49] but [the buyer] has not pulled them, ownership is not acquired. But if [the buyer] is prudent he rents the place where they are kept.[50] 'Healing'? — For we learned: A man should not chew wheat and put it on his wound during the Passover because it ferments.[51]

Our Rabbis taught: When Rabbi[52] was about to depart [from this life] he said, 'I require [the presence] of my sons'. When his sons entered into his presence he instructed them: 'Take care that you shew due respect to your mother. The light[53] shall continue to burn in its usual place, the table[53] shall be laid in its usual place [and my] bed shall be spread in its usual place.[54] Joseph of Haifa and Simeon of Efrath who attended on me in my lifetime shall attend on me when I am dead'.

'Take care that you shew due respect to your mother'. Is [not this instruction] Pentateuchal, since it is written, Honour thy father and thy mother?[55] — She was their stepmother.[56] [Is not the commandment to honour] a stepmother[56] also Pentateuchal, for it was taught: Honour thy father and thy mother,'[55] 'thy father'[57] includes[58] 'thy stepmother','and thy mother'[59] includes[60] 'thy Stepfather',[61] and the superfluous waw[62] includes 'thy elder brother'? — This exposition[63] [was meant to apply] during [one's own parents'] lifetime but not after [their] death.

'The light shall continue to burn in its usual place, the table shall be laid in its usual place [and my] bed shall be spread in its usual place'.[64] What is the reason? — He used to come home again at twilight every Sabbath Eve. On a certain Sabbath Eve a neighbour came to the door speaking aloud, when his handmaid whispered, 'Be quiet for Rabbi is sitting there'. As soon as he heard this he came no more,in order that no reflection might be cast[65] on the earlier saints.[66]

'Joseph of Haifa and Simeon of Efrath who attended on me in my lifetime shall attend on me when I am dead'. He was understood to mean, 'In this world'.[67] When it was seen however, that their biers preceded his[68] [all] said that the conclusion must be that he was referring to the other[69] world, and that the reason why he mentioned it[70] was that it might not be suspected that they were guilty of some offence[71] and that it was only the merit of Rabbi that protected[72] them until that moment .[73]

'I require'. he said to them, '[the presence] of the Sages of Israel', and the Sages of Israel entered into his presence. 'Do not lament for me',[74] he said to them, 'in the smaller towns,

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(1) Emphasis on MOTHER.

(2) No money rental having been arranged.

(3) 'That I have another mill in which to grind my corn'.

(4) But will pay no rent.

(5) As 10 this case a cash payment must be made though originally only maintenance gas undertaken so in the case of the miller a cash rental may be demanded though the original arrangement was for payment in service.

(6) Spoken of in our Mishnah.

(7) She cannot he expected to consume a double allowance of food. Hence there is no other alternative but that of substituting one monetary payment for one allowance of food.

(8) The case of the miller.

(9) The one you bought.

(10) The one I hired from you.

(11) A suggestion which may well be adopted by the owner without any loss to himself.

(12) That the lessee cannot be compelled to pay a cash rental.

(13) It would be an act of injustice to compel him to pay rent while his machinery stood idle. It is more equitable that he should be enabled to continue the original agreement whereby he is both kept employed and pays his rent.

(14) The Sodomites were notorious for refusing to do any favours even when they cost them nothing. ‘A dog-in-the-manger attitude’ (cf. B.B. Sonc. ed. p. 62, n. 3).

(15) בבית בעלה, so MS.M. Wanting incur. edd.

(16) For refusing to live with the heirs.

(17) The heirs, children from another wife.

(18) In consequence of which she fears quarrels or temptation.

(19) Cf. Tosef. Keth. XI.

(20) Lit., ‘her husband’.

(21) Mishnah supra 52b.

(22) In explaining the Mishnah cited.

(23) Supra 540 q.v. for notes.

(24) Which formed part of her deceased husband's estate.

(25) Lit., ‘they have not done anything’.

(26) Lit., ‘for R. Assi stated in the name of R. Johanan’.

(27) Before the court had dealt with the case.

(28) Of their deceased father, which is legally due to the daughters (cf. infra 108b).

(29) Lit., ‘what they sold is sold’, Yeb. 67b, Sotah 21b, B.B. 1400.

(30) The sale of a small estate.

(31) Lit., ‘to her’.

(32) A father is under no legal obligation to maintain his daughters.

(33) A widow's dwelling.

(34) Lit., ‘to her’.

(35) As is evident from the Mishnah supra 52b.

(36) Which formed part of her deceased husband's estate.

(37) Her claim upon the dwelling terminates as soon as it is no longer fit for habitation.

(38) Lit., ‘they do not listen to her’.

(39) The dilapidated dwelling (v. Rashi). Aliter; May she repair it? (V. Tosaf. s.v. ח ג a.l.) Is she entitled, it is asked, to continue to live In that dwelling so long as it can be kept up by repairs or must she quit it as soon as dwelling in it becomes impossible without repairs.

(40) Teku, v. Glos.

(41) In her father's house.

(42) Tosef. Keth. XII, B.B. 144b. The more the members of a household the cheaper the cost of living.

(43) Sc. an allowance equal to the cheaper cost of her maintenance at the house of the heirs.

(44) Lit., ‘thus also’; she is in fact entitled to such an allowance.

(45) Lit., ‘tongue’, ‘language’.

(46) The price having been agreed upon.

(47) ‘Pulling’ (meshikah, v. Glos.).

(48) Measuring is not an essential factor of a sale, since it merely determines the quantity sold.

(49) V. B.B. 84b as to how and where.

(50) Mishnah B.B. 84b. If the fruit is kept in the seller's domain the buyer who for some reason is unable to transport his purchase forthwith and fears that the seller might retract and cause him financial loss, may thus protect himself by renting the spot on which the fruit is kept and thereby acquire possession of the fruit since a man's domain acquires possession for him. A buyer thus gets wealth by taking the hint of the Sages.

(51) Pesah. 39b. From this saying one learns of a remedy for a wound.

(52) R. Judah I (135-220 C.E.) the Patriarch, compiler of the Mishnah.

(53) Which he used during his lifetime.

(54) ‘Bed shall. . . place’ is wanting in MS.M.

(55) Ex. XX, 12.

(56) Lit., ‘a father's wife’.

(57) את אביך emphasis on את the sign of the defined accusative, which is not absolutely essential in the context.

(58) Lit., ‘this’. Cf., however, Beth Joseph, Y.D. 240 ad fin. where the reading is לרבות’to include’.

(59) ואת אמך cf. supra n. 7 mutatis mutandis.

(60) V. supra note 8.

(61) Lit. ‘thy mother's husband’.

(62) In ואת אמך.

(63) Lit., ‘these words’, respect for step.parents.

(64) V. supra note 4.

(65) Lit., ‘to bring out’.

(66) צדיקים ‘righteous and pious men’ who were denied the privilege of revisiting their earthly homes.

(67) I.e., they should attend to his burial (Rashi) or to the light. table and bed at his house, of which he spoke earlier.

(68) They died about the same time as Rabbi and were buried first.

(69) Lit., ‘that’.

(70) Lit., ‘that he said thus’, that they should attend on him.

(71) Lit., ‘that they may not say: They had something’.

(72) Lit., ‘benefitted’.

(73) Until the end of his days.

(74) Or ‘hold funeral orations’.

Talmud - Mas. Kethuboth 103b

and reassemble[1] the college after thirty days.[2] My son Simeon is wise[3] my son Gamaliel Nasi[4] and Hanina b. Hama shall preside [at the college].

‘Do not lament for me in the smaller towns’. He was understood to give this instruction In order [to cause less] trouble.[5] As it was observed, however, that when lamentations were held in the large towns everybody[6] came[7] they arrived at the conclusion that his instruction was due to [a desire to enhance] the honour [of the people].[8]

‘Reassemble the college after thirty days’, because [he thought] ‘I am not more important than our teacher Moses concerning whom it is Written in Scripture. And the children of Israel wept for Moses in the plains of Moab thirty days’.[9]

For thirty days they mourned both day and night; subsequently[10] they mourned in the day-time and studied at night or mourned at night and studied during the day, until a period of twelve months of mourning[11] [had passed].

On the day that Rabbi died a bath kol[12] went forth and announced: Whosoever has been present at the death of Rabbi is destined to enjoy the life of the world to come. A certain fuller,[13] who used to come to him[14] every day, failed to call on that day; and, as soon as he heard this, went up upon a roof, fell down to the ground and died. A bath kol[12] came forth and announced: That fuller also is destined to enjoy the life of the world to come. ‘My son Simeon is wise. What did he[14] mean?[15] — It is this that he meant: Although my son Simeon is wise, my son Gamaliel shall be the Nasi.[16] Said Levi, ‘Was It necessary to state this?’[17] — It was necessary’. replied R. Simeon b. Rabbi, ‘for yourself and for your lameness'.[18] What was his[19] difficulty?[20] Does not Scripture state, But the kingdom gave he to Jehoram, because he was the firstborn?[21] — The other[22] was properly representing[23] his ancestors[24] but R. Gamaliel was not properly representing[23] his ancestors.[25] Then why did Rabbi act in the manner he did?[26] — Granted that he[27] was not representing his ancestors In wisdom he was worthily representing them in his fear of sin.[28]

'Hanina b. Hama shall preside at the college'. R. Hanina, however, did not accept [the office] because R. Afes was by two and a half years older than he; and so R. Afes presided. R. Hanina sat [at his studies] outside [the lecture room],[29] and Levi came and joined him. When R. Afes went to his eternal rest[30] and R. Hanina took up the presidency Levi had no one to join him[31] and came in consequence to Babylon.

This description coincides with the following:[32] When Rab was told that a great man who was lame made his appearance at Nehardea[33] and held a discourse [in the course of which he] permitted [the wearing of] a wreath,[34] he said,'It is evident[35] that R. Afes has gone to his eternal rest, and R. Hanina has taken over the presidency; and that Levi having had no one to join him, has come [down here].' But might not one have suggested that R. Hanina came to his eternal rest, that R. Afes continued In the presidency as before[36] and that Levi who had no one to join him came [therefore, to Babylon]? If you wish I might reply: Levi would have submitted to the authority of R. Afes. And if you prefer I might reply: Since [Rabbi] once said, 'Hanina b. Hama shall preside at the college', there could be no possibility of his not becoming head;[37] for about the righteous it is written in Scripture. Thou shalt also decree a thing, and it shall be established unto thee.[38]

Was there not R. Hiyya?[39] — He had already gone to his eternal rest.[40] But did not R. Hiyya, state, 'I saw Rabbi's sepulchre[41] and shed tears upon it'? — Reverse [the names]. But did not R. Hiyya state, 'On the day on which Rabbi died holiness ceased'? — Reverse [the names]. But has it not been taught: When Rabbi fell in R. Hiyya entered into his presence and found him weeping. 'Master', he said to him, 'Why are you weeping? Was it not taught: '[If a man] dies smiling it is a good omen for him, if weeping it is a bad omen for him; his face upwards it is a good omen, his face downwards it is a bad omen; his face towards the public it is a good omen, towards the wall it is a bad omen; if his face is greenish it is a bad omen, if bright and ruddy it.is a good omen; dying on Sabbath Eve[42] is a good omen, on the termination of the Sabbath[43] is a bad omen; dying on the Eve of the Day of Atonement is a bad omen, on the termination of the Day of Atonement[44] is a good omen; dying of diarrhoea is a good omen because most righteous men die of diarrhoea?' And the other replied, 'I weep on [account of my impending separation from] the Torah and the commandments'?[45] — If you wish I might reply: Reverse [the names]; and if you prefer I might reply: In fact there Is no need to reverse [the names; but as] R. Hiyya was engaged in the performance of pious deeds Rabbi thought 'I will not disturb him'.[46] This[47] is in line with the following:[48] When R. Hanina and R. Hiyya were engaged in a dispute R. Hanina said to R. Hiyya, 'Do you [venture to] dispute with me? Were the Torah, God forbid, to be forgotten in Israel, I would restore it by means of my dialectical arguments'. — 'I', replied R. Hiyya, 'make provision that the Torah shall not be forgotten in Israel. For I bring flax seed, sow it, and weave nets [from the plant]. [With these] I hunt stags with whose flesh I feed orphans and from whose skins I prepare scrolls, and then proceed to a town where there are no teachers of young children, and write out the five Books of the Pentateuch for five children [respectively] and teach another six children respectively the six orders of the Mishnah, and then tell each one: Teach your section to your colleagues"'. It was this that Rabbi [had in mind when he] exclaimed, 'How great are the deeds of Hiyya?' Said R. Simeon b. Rabbi to him: '[Greater] even than yours?' — 'Yes', he replied. 'Even', asked R. Ishmael the son of R. Jose, 'than my father's?' — 'God forbid', the other replied. 'Let no such thing be [mentioned] in Israel!'[49]

'I desire', he[50] announced, 'the presence of my younger son R. Simeon entered into his presence and he entrusted him with the orders[51] of wisdom. ‘I desire the presence of my elder son’, he announced. When R. Gamaliel entered he entrusted him with the traditions and regulations[51] of the Patriarchate. ‘My son’, he said to him, ‘conduct your patriarchate with men of high standing,[52] and cast bile among the students’.[53]

But , surely, this[54] is not proper[55] for is it not written in Scripture, But he honoureth them that fear the Lord,[56] and the Master said that this [text might be applied to] Jehoshaphat, King of Judah. who, on seeing a scholar, used to rise from his throne, embrace him and kiss him, and call him ‘My master, my master; my teacher, my teacher’? — This is no difficulty: The latter attitude[57] [is to be adopted] in private; the former[57] in public.[58]

It was taught: Rabbi was lying [on his sickbed] at Sepphoris[59] but a [burial] place was reserved for him at Beth She'arim.[60] Was it not, however, taught: Justice, justice shalt thou follow.[61] follow Rabbi to Beth She'arim? — Rabbi was [indeed] living at Beth She'arim[62] but when he fell ill[63] he was brought to Sepphoris

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(1) Lit., ‘and cause to sit.

(2) Of lamentation and mourning. No longer period for mourning shall be allowed.

(3) חכם. this is explained in the Gemara infra. V. also infra n. 24 and p. 659. n. 9.

(4) נשיא ‘prince’. ‘president’, ‘patriarch’. On some of the dignities and honours attached to the offices of Nasi, Hakam, and Ab-beth-din respectively v. Hor. 13b.

(5) By restricting the lamentations to the larger towns the inhabitants of the smaller ones as well as the villagers would be spared the time and trouble involved in arranging, or attending, the public funeral services.

(6) Lit., ‘all the world’.

(7) Both from the smaller towns and the villages.

(8) Cf., ‘he wished that Israel might be honoured in greater measure through him’ (Sanh. 470).

(9) Deut. XXXIV, 8.

(10) Lit., ‘from now onwards’.

(11) Lit., ‘that they mourned twelve months of the year’.

(12) V. Glos.

(13) [Probably this was the fuller mentioned in Ned. 410 (Jacob Emden).]

(14) Rabbi.

(15) One would naturally expect the wise son rather than the other to succeed his father as Nasi. Why then did Rabbi mention the wisdom of the one as apparently a reason for the appointment of the other?

(16) Cf. supra p. 658 nn. 13-14. [Halevy Doroth, II, p. 20, n. I, explains that what Rabbi primarily meant was that Simeon shall be the Hakam and Gamaliel the Nasi. The precedence, however, given in his instructions to Simeon, although his office was second to that of the Nasi, indicated that Rabbi desired to have a secondary meaning attached to his words. Hence the question, ‘what did he mean?’].

(17) That Gamaliel, who was the elder son and entitled to the succession, shall be the Nasi.

(18) Levi was lame (v. Suk. 530). Aliter (Jast.): ‘Do we need thee and thy limping (lame remark)?’

(19) R. Simeon b. Rabbi's.

(20) In understanding Levi's objection.

(21) II Chron. XXI, 3. (Cf. p. 659, n. 10). What need then was there, as Levi objected, for Rabbi's specific instruction?

(22) Lit., ‘that’, Jehoram.

(23) Lit., ‘fulfilling the place of’.

(24) Since there was no other son possessing a superior claim.

(25) His younger brother having been wiser. Hence the necessity for Rabbi's specific instructions. Aliter; What was his (sc. Levi's) difficulty? (Is it) that Scripture stated, But the kingdom . . . the firstborn, that (firstborn, it may be replied.) was properly representing his ancestors but R. Gamaliel etc. (cf. S. Strashun).

(26) Lit. , ‘thus’.

(27) Gamaliel.

(28) Moral conception and conduct (cf. Abboth III, II; Sonc. ed. III, 9’ p. 32).

(29) Since he could not recognise R. Afes as his superior.
(30) Lit., ‘his soul rested’.
(31) Lit., ‘to sit at his side’.
(32) Lit., ‘and that is’.
(33) V. supra p. 222, n. 8.
(34) On the Sabbath, when the carrying of objects from one domain into another is forbidden (cf. Shab. 59b).
(35) Lit., ‘infer from this’.
(36) Lit., ‘as he sat he sits’.
(37) Lit., ‘that he should not reign’. Consequently he must have survived R. Afes.
(38) lob XXII, 28.
(39) Who was superior to both R. Hanina and R. Afes. Why was he overlooked by Rabbi?
(40) When Rabbi was making his testamentary appointments.
(41) ‘His coffin’ (Rashi).
(42) Being the approach of the day of rest.
(43) Lit., ‘at the going out of the Sabbath’.
(44) One's sins having been forgiven during the day.
(45) All of which proves that R. Hiyya was still alive when Rabbi was on his deathbed.
(46) Lit., ‘cause him to be idle’ or ‘to relax’.
(47) The testimony to R. Hiyya's piety and public benefactions.
(48) Lit., ‘and that is (why)’.
(49) Cf. B.M. 85b where the parallel passage contains some variations including the substitution of ‘R. Ishmael the son of R. Jose’ for ‘R. Simeon b. Rabbi’.
(50) Rabbi. The story of the last moments of his life, interrupted by the Preceding discussions, explanations and incidents, is here resumed.
(51) Plur. const. of סדר ‘order’, ‘rules and regulations’.
(52) ברמים (sing. רם ‘high’, ‘elevated’). Aruch reads, בדמים) (דמים ‘equivalent’, ‘compensation’, ‘value’) ‘as something precious’.
(53) Sc. ‘introduce a firm discipline in the college’.
(54) Keeping scholars under a discipline which many might regard as degrading.
(55) Lit., ‘I am not’.
(56) Ps. XV, 4.
(57) Lit., ‘that’.
(58) Scholars, like the general public, may be expected to respect the common rules and regulations and to pay homage to the Patriarch.
(59) V. supra p. 410, n. 6.
(60) Identified with (a) the modern Tur'an. a village situated ten kilometres E.N.E. of Sepphoris (I. S. Horowitz, Palestine s.v.); (b) Besara, mentioned in Josephus, the modern Dscheda W. of the Valley of Jezreel (Klein. S. EJ. 4, 427).
(61) Deut. XVI, 20.
(62) ‘Rabbi . . . She'arim’ is wanting in עין יעקב edd.
(63) V. B.M. 85a.

Talmud - Mas. Kethuboth 104a

because it was situated on higher ground[1] and its air was salubrious.

On the day when Rabbi died the Rabbis decreed a public fast and offered prayers for heavenly mercy. They. furthermore, announced that whoever said that Rabbi was dead would be stabbed with a sword.

Rabbi's handmaid[2] ascended the roof and prayed: ‘The immortals[3] desire Rabbi [to join them] and the mortals[4] desire Rabbi [to remain with them]; may it be the will [of God] that the mortals may overpower the immortals'. When, however, she saw how often he resorted to the privy,[5] painfully taking off his tefillin[6] and putting them on again, she prayed: 'May it be the will [of the Almighty] that the immortals may overpower the mortals'. As the Rabbis incessantly continued[7] their prayers for [heavenly] mercy she took up a jar and threw it down from the roof to the ground. [For a moment] they ceased praying[8] and the soul of Rabbi departed to its eternal rest.[9] 'Go', said the Rabbis to Bar Kappara, 'and investigate'.[10] He went and, finding that [Rabbi] was dead, he tore his cloak and turned the tear backwards. [On returning to the Rabbis] he began: 'The angels[11] and the mortals[12] have taken hold of the holy ark.[13] The angels overpowered the mortals and the holy ark has been captured'. 'Has he', they asked him, 'gone to his eternal rest?' — 'You', he replied, 'said it; I did not say it'.

Rabbi, at the time of his passing, raised his ten fingers towards heaven[14] and said: 'Sovereign of the Universe, it is revealed and known to you that I have laboured in the study of the Torah with my ten fingers and that I did not enjoy [any worldly] benefits even with my little finger. May it be Thy will that there be peace In my [Jast] resting place'. A bath kol[15] echoed, announcing, He shall enter into peace; they shall rest on their beds.[16]

[Does not] the context require [the singular pronoun:] 'On thy bed'?[17] This provides support for R. Hiyya b. Gamda. For he stated in the name of R. Jose b. Saul: When a righteous man departs from this world the ministering angels say to the Holy One, blessed be He, 'Sovereign of the Universe, the righteous man So-and-so is coming', and he answers them, 'Let the righteous men come [from their resting places], go forth to meet him, and say to him that he shall enter into peace [and then] they[18] shall rest on their beds'.

R. Eleazar stated: When a righteous man departs from the world he is welcomed by[19] three companies of ministering angels. One exclaims, 'Come[20] into peace'; the other[21] exclaims, He who walketh in his uprightness,[22] while the third[23] exclaims, 'He shall enter into peace; they shall rest on their beds'.[22] When a wicked man perishes from the world he is met[24] by three groups of angels of destruction. One announces, 'There is no peace, saith the Lord, unto the wicked';[25] the other[23] tells him, 'He[26] shall lie down in sorrow',[27] while the third[23] tells him, 'Go down and be thou laid with the uncircumcised'.[28]

MISHNAH. SO LONG AS SHE LIVES IN HER FATHER'S HOUSE [A WIDOW][29] MAY RECOVER HER KETHUBAH AT ANY TIME.[30] AS LONG, HOWEVER, AS SHE LIVES IN HER HUSBAND'S HOUSE SHE MAY RECOVER HER KETHUBAH ONLY WITHIN[31] TWENTY-FIVE YEARS, BECAUSE IN THE COURSE OF TWENTY-FIVE YEARS SHE HAS SUFFICIENT OPPORTUNITIES[32] OF RENDERING[33] FAVOURS[34] CORRESPONDING [IN VALUE TO THE AMOUNT OF] HER KETHUBAH; SO R. MEIR WHO LAID DOWN THE RULING IN THE NAME OF R. SIMEON B. GAMALIEL. THE SAGES, HOWEVER, RULED: SO LONG AS SHE LIVES IN HER HUSBAND'S HO USE [A WIDOW][35] MAY RECOVER HER KETHUBAH AT ANY TIME,[36] BUT AS LONG AS SHE LIVES IN HER FATHER'S HOUSE SHE MAY RECOVER HER KETHUBAH ONLY WITHIN[31] TWENTY-FIVE YEARS.[37] IF [THE WIDOW] DIED, HER HEIRS MUST MENTION[38] HER KETHUBAH WITHIN[31] TWENTY-FIVE YEARS.[39] GEMARA. Said Abaye to R. Joseph. [Is it logical[40] that] the poorest woman in Israel [should be allowed to recover her kethubah] ONLY WITHIN TWENTY-FIVE YEARS and Martha the daughter of Boethus[41] also ONLY WITHIN TWENTY-FIVE As?[42] — The other replied: In accordance with the camel is the burden.[43]

The question was raised: Must she,[44] according to R. Meir, lose in proportion?[45] -This must stand undecided.[46]

THE SAGES, HOWEVER, RULED: SO LONG. Said Abaye to R.Joseph: [Is it reasonable that if] she comes before sunset she may recover her kethubah and that [if she came] after sunset she may not recover it? [Is it likely that] she has surrendered it in that short while? — ‘Yes’, the other replied. ‘all the standards of the Sages are such. In [a bath of] forty se'ah[47] [for instance] one may perform ritual immersion; In [a bath of] forty se'ah minus one kortob[47] one may not perform ritual immersion

Rab Judah reported in the name of Rab: R. Ishmael son of R. Jose testified in the presence of Rabbi to a statement he made[48] in the name of his father that [the ruling in our Mishnah] was taught only [in respect of a woman] who produces[49] no deed of the kethubah but if she produces[49] the deed of the kethubah she may recover [the amount of] her kethubah at any time.[50] R. Eleazar, however, ruled: Even if she produces[49] the deed of the kethubah she may recover the amount within twenty-five years Only.

R. Shesheth raised an objection: ‘A creditor may recover his debt [at any time]. even if there was no mention of it.’[51] Now, how is this to be understood? If [it refers to a creditor] who holds no bond, whereby [it might be asked] could he recover his debt? Consequently [it must refer to one] who does hold a bond [from which it follows, does It not, that] only a creditor [may recover his due]. because he is not likely to have surrendered his claim, but that a widow[52] [is deemed to have] surrendered?[53] — He[54] raised the objection and he also removed it: This[55] may, in fact, refer to[56] one who holds no bond,[57] but[58] here we are dealing with a case[59] where the debtor[60] admits [his liability].[61] But, Surely. R. Elai had stated: They[62] taught. ‘A divorced woman has the very same rights as a creditor’.[63] Now, how are We to understand [this ruling]? If [it refers to a divorcee] who holds no kethubah, whereby [it might be objected] could she recover her due? Consequently [it must refer to one] who does hold a kethubah, [from which it follows, does it not, that] only a divorcee [may recover her kethubah] because she is not likely to have surrendered it, but that a widow [is deemed to have] surrendered?[64] — Here also [it is a case] where the defendant[60] admits [the claim].[65]

R. Nahman b. Isaac stated: R. Judah b. Kaza learnt in the Baraitha of the school of Bar Kaza, If she[66] claimed her kethubah

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(1) Cf. Meg. 60: ‘Why was it called Sepphoris (צפורי)? Because it was perched on the top of a hill like a bird’ (צפור ‘bird’).

(2) A famous character, known for her sagacity and learning.

(3) Lit., ‘those above’, ‘the angels’.

(4) Lit., ‘those below’, ‘lower regions’.

(5) He was suffering from acute and painful diarrhoea (cf. B.M. 85a).

(6) V. Glos. These must not be worn when the body is not in a state of perfect cleanliness.

(7) Lit., ‘they were not silent’.

(8) Lit., ‘they remained silent’.

(9) Lit., ‘rested’.

(10) Rabbi's condition.

(11) אראלים lit., ‘messengers’ (Jast.); cf. B.H. מלאך. Aliter; ‘God's lions’ (Levy).

(12) מצוקים (rt. יצק’’to cast’). Aliter; ‘The just’ (Rashi).

(13) Metaph. Rabbi was known as ‘our holy teacher’.

(14) Lit., ‘in an upward direction’.

(15) V. Glos.

(16) Isa. LVII, 2.

(17) In harmony with the first part of the verse. [Strashun amends ‘on his bed’].

(18) The righteous who went out to welcome him.

(19) Lit., ‘go out to meet him’.

(20) Var. ‘He shall enter’ (עין יעקב).

(21) Lit.,

(22) Isa. LVII, 2.

(23) Lit., ‘and one’.
(24) Lit., ‘go out to meet him’.
(25) Isa. XLVIII, 22.
(26) M.T. reads ‘Ye’תשכבון. [This is also the reading of MS.M.].
(27) lsa. L, 11.
(28) Ezek. XXXII, 19.
(29) Who is maintained by her deceased husband's heirs.
(30) Lit.,’for ever’.
(31) Lit., ‘until’.
(32) Lit,, ‘there is (the opportunity)’.
(33) At the expense of the heirs who maintain her.
(34) To neighbours and friends, by giving them small gifts.
(35) V. supra note 8.
(36) Lit., ‘for ever’.
(37) If a longer period has been allowed to pass she is presumed to have surrendered her claim. Such surrender cannot be assumed In the case of a widow who lives in her late husband's house, since the respect shewn to her by the heirs with whom she lives may well account for her bashfulness to advance a claim which might disturb the cordial relations between them.
(38) Sc. claim.
(39) Of her husband's death. They lose their claim if a longer period has been allowed to lapse.
(40) According to R. Meir's ruling in our Mishnah.
(41) One of the rich women of Jerusalem in the time of the Titus and Vespasian siege (cf. Git. 56a) whose kethubah amounted to a very high figure.
(42) A kethubah like that of the latter, surely. could not be spent in small gifts in the same period as one for the minimum amount of a kethubah.
(43) Proverb. The richer the woman the more she may be expected to spend.
(44) A widow who claimed her kethubah within twenty-five years.
(45) Sc. one twenty-fifth of her kethubah for each year that she has allowed to pass. Lit.,’divide into three’.
(46) Teku v. Glos.
(47) V. Glos.
(48) Lit., ‘which he said’.
(49) Lit., ‘goes out from under her hands’.
(50) It is held that if she had surrendered her kethubah she would have destroyed the deed or given it up to the heirs.
(51) For twenty-five years.
(52) Who enjoyed the protection of the heirs for all those years and who, furthermore, is not actually ‘out of pocket’ when her kethubah is surrendered.
(53) An objection against R. Eleazar.
(54) R. Shesheth.
(55) The Baraitha just cited.
(56) Lit., ‘always’.
(57) The inference being: Only a creditor who holds no bond is not presumed to have surrendered his claim but that a widow who holds no kethubah is presumed to have surrendered her claim.
(58) In reply to the objection: How could the claim be proved in the absence of a bond?
(59) Lit., ‘10 what?’
(60) Lit., ‘he who is liable.
(61) Cf. supra n. 7.
(62) The authors of the Baraitha.
(63) She may recover her kethubah even after twenty: five years.
(64) V. supra notes 1 and 2.
(65) Sc. that her kethubah had not yet been paid.
(66) A widow (cf. supra p. 665, n. 8).

Talmud - Mas. Kethuboth 104b

she is again entitled to the original period.[1] and if she produced[2] the deed of the kethubah she may recover [the amount of] her kethubah at any time.[3]

R. Nahman b. R. Hisda sent [the following message] to R. Nahman b. Jacob: Will our Master instruct us as to whether the dispute[4] [refers to] one who produced a deed of the kethubah or to one who produced no deed of the kethubah,' and with whose ruling does the halachah agree? — The other replied: The dispute refers to one who produced no deed of the kethubah, but [a woman] who produced a deed of the kethubah may recover her kethubah at any time;[5] and the halachah is in agreement with the ruling of the Sages.

When R. Dimi came[6] he reported R. Simeon b. Pazzi who laid down in the name of R. Joshua b. Levi who had it from Bar Kappara: This[7] was taught only in respect of the maneh[8] and the two hundred zuz.[8] To any additional jointure, however, the woman is always entitled.[9] R. Abbahu in the name of R. Johanan, however, ruled: She is not entitled even to the additional jointure; for R. Aibu has laid down in the name of R. Jannai: The additional provisions[10] of a kethubah are subject to the same rules[11] as the kethubah itself.[12] So it was also said:[13] R. Abba laid down in the name of R. Huna who had it from Rab: This was taught only in respect of the maneh and the two hundred zuz. To any additional jointure, however, she is always entitled.[14] Said R. Abba to R. Huna: Did Rab really say this?[15] — 'Do you wish', the other replied, to silence me[16] or to stand me a drink?'[17] — 'I',the other replied. wish to silence you!'

The mother-in-law of R. Hiyya Arika[18] was the wife of his brother,[19] and [when she became] a widow lived in her father's bouse. [R. Hiyya] maintained her for twenty.five years at her paternal home [but when] at the end [of the period] she said to him. 'Supply me with my maintenance' he told her, 'You have no [longer any claim to] maintenance'. 'pay me [then', she said'my] kethubah'. 'You have no claim,' he replied- 'either to maintenance or to the kethubah' ,[20] She summoned him to law before Rabbah b. Shila. 'Tell me', [the judge] said to him,[21] 'what exactly were the circumstances. 'I maintained her', the other[21] replied. 'for twenty-five years at her paternal home and, by the life of the Master!, I carried [the stuff] to her on my shoulder'. 'What is the reason', [the judge] said to him, 'that the Rabbis[22] ruled, so LONG AS SHE LIVES IN HER HUSBAND'S HOUSE [A WIDOW] MAY RECOVER HER KETHUBAH AT ANY TIME? Because we assume that she did not claim it in order [to save herself from] shame.[23] Similarly here also[24] [it may well be assumed] that she did not [previously] submit her claim in order [to save herself from] shame.[23] Go, and supply her [maintenance]'. [As R. Hiyya] disregarded [the ruling. the judge] wrote out for her an adrakta[25] on his property. Thereupon he came to Raba and said to him, 'See, Master, how he treated my case',[26] 'He has given you the proper ruling', the other replied. 'If that is the case',[the widow] said to him,[27] 'let him[28] proceed to refund me the produce[29] [he has consumed] since that day[30] to date'. 'Shew me' he[27] said to her, 'your adrakta'.[31] As he observed that it did not contain the clause,[32] 'And we have ascertained that this estate belonged to the deceased', he said to her, 'The adrakta is not properly drawn up'.[33] 'Let the adrakta be dropped'. she said; 'and let me receive [the refund for the produce] from the day on which the period of the public announcement terminated[34] to date'. 'This',[35] he replied. applies only to a case[36] where no error has crept[37] into the adrakta, but where an error occurs[37] in the adrakta the document possesses no validity'.[38] 'But did not the Master himself lay down', she exclaimed, '[that the omission[39] of the clause] pledging property [is to be regarded as the] scribe's error?'[40] — 'In this case', Raba told her, '[the omission] cannot be said to be a scribe's error, for even Rabbah b. Shila originally[41] overlooked the point'.[42] He thought: Since both belonged to him[43] what matters it [whether the widow distrains] on the one or the other.[44] But this is not [the proper view]. For sometimes [the widow] might go and improve those [lands][45] while those belonging to her husband[46] would be allowed[47] to deteriorate and [the heir might eventually] tell her, 'Take yours[48] and return to me mine',[49] and a stigma[50] would thus fall[51] upon the court.[52]

CHAPTER XIII

MISHNAH. TWO JUDGES OF CIVIL LAW[53] WERE [ADMINISTERING JUSTICE] IN JERUSALEM, ADMON AND HANAN B. ABISHALOM. HANAN LAID DOWN TWO RULINGS[54] AND ADMON LAID DOWN SEVEN: —[55]

IF A MAN WENT TO A COUNTRY BEYOND THE SEA AND HIS WIFE CLAIMED MAINTENANCE, HANAN RULED:

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(1) Of twenty-five years. Lit. , 'behold she is as at first'.

(2) Lit. , 'goes out from under her hands'.

(3) Cf. supra note 12.

(4) Between R. MEIR and THE SAGES.

(5) Cf. supra p. 667. n. 12.

(6) From Palestine to Babylon.

(7) That after a period of twenty-five years a widow is presumed to have surrendered her kethubah.

(8) V. Glos., sc. the statutory kethubah which is one maneh in the case of marriage with a widow and two hundred zuz in that with a virgin.

(9) Since this may be regarded as a gift (and not as the legal kethubah) from the husband to his wife.

(10) Lit., 'conditions', of which the additional jointure is one.

(11) Lit., 'like'.

(12) One who loses the statutory kethubah must also forfeit the additional jointure.

(13) By Amoraim.

(14) V. supra notes 4 to 6.

(15) [MS.M. inserts, He (R. Huna) said he was silenced; cf. Ned. Sonc. ed. p. 242. notes.]

(16) I.e., was his question intended to imply incredulity?

(17) I.e., he wished in all earnestness to ascertain whether Rab had actually made that statement so that in return for the valuable information he might treat him to a cup of wine. אישתיקן and אשקיין a play upon the similarity of the letters.

(18) The tall.

(19) Who died childless and whose estate was inherited by R. Hiyya.

(20) In accordance with the ruling of the Sages in our Mishnah.

(21) R. Hiyya.

(22) Sc. THE SAGES.

(23) Cf. supra p. 665. n. 16, second clause.

(24) Where so much respect was shewn to her by R. Hiyya that he carried her foodstuffs to her on his shoulder.

(25) אדרכתא (rt. דרך 'to tread'). an authorization following that of another legal document called tirpa (cf. B.B. , Sonc. ed., p 738. n. 1) which a court issues to a claimant after he had traced the defendant's property. to seize it (to 'tread' on) for the purpose of having it offered for public sale and his recovering the proceeds or the land itself at the Price valued.

(26) Lit., 'judged me'.

(27) Raba.

(28) R. Hiyya.

(29) Of the land that was valued at a sum corresponding to that of her kethubah.

(30) On which she received the adrakta (according to the opinion of Rabbah). when it was signed (according to Abaye). or when the period of the announcement of the public sale terminated (according to Raba). From such date the land passes into the possession of the claimant and its produce also from that day onwards belongs to him (cf. B.M. 36b).

(31) V. supra p. 669. n. 7.

(32) Lit., 'that it was not written in it'.

(33) The adrakta referred to all R. Hiyya's landed property. while legally it should have been restricted to those which he inherited from his deceased brother. On his own lands the widow could have no claim whatsoever.

(34) In agree. melt with the view of Raba (cf. supra p. 669. n. 12). After the claimant discovers a field that belonged to the defendant he reports to the court who value it, and arrange for a period of thirty days for the public announcement. at the end of which the claimant comes into possession (v. B.M. 35b).
(35) That the land passes into the possession of the claimant on one of the dates mentioned (supra p. 669. n. 12).
(36) Lit., ‘these words’.
(37) Lit., ‘is written’.
(38) Lit., we have not in it’; the land does not pass into the ownership of the claimant until he takes actual possession of it.
(39) From a deed.
(40) And is deemed to have been entered though the scribe had omitted it (B.M. 140. B.B. 169b). Why then should an error in the adrakta cause its invalidity?
(41) [Rightly omitted in MS.M.]
(42) Lit., ‘in that’. In that he had an adrakta made out against R. Hiyya's own property.
(43) R. Hiyya.
(44) R. Hiyya's brother's or his own. Hence he drew up the adrakta on all R. Hiyya's lands.
(45) Which did not belong to her husband but to his heir and which the court handed over to her in return for her claim.
(46) And were legally pledged for her kethubah.
(47) By the heir who is well aware that he can at any time re-claim his own land and transfer the property of the deceased to his widow,
(48) Cf. supra p. 670, n. 16.
(49) Cf. supra p. 670. n. 15.
(50) Lit., ‘murmur’, ‘reflection’.
(51) Lit., ‘and come to bring out’.
(52) Who would be accused of carelessness or indifference in the provision they made for the widow.
(53) גזירות (plural of גזירה, ‘decree’, ‘decision’). Var., גזילות (plural of גזילה ‘robbery’) v. infra. Cf. B.K. 58b, Sonc. ed. p. 340, n. 1.
(54) From which the Sages differed.
(55) V. supra n. 2. The rulings are enumerated in this Mishnah and in those following.

Talmud - Mas. Kethuboth 105a

SHE MUST TAKE AN OATH[1] AT THE END[2] BUT NOT AT THE BEGINNING.[3] THE SONS OF THE HIGH PRIESTS,[4] HOWEVER, DIFFERED FROM HIM AND RULED THAT SHE MUST TAKE AN OATH BOTH AT THE BEGINNING[3] AND AT THE END.[2] R. DOSA B. HARKINAS AGREED WITH THEIR RULING. R. JOHANAN B. ZAKKAI SAID: HANAN HAS SPOKEN WELL; SHE NEED TAKE AN OATH ONLY AT THE END.[2]

GEMARA. I Would point out an Inconsistency: ‘Three judges in cases of robbery[5] were [administering justice] in Jerusalem. Admon b. Gadai,[6] Hanan the Egyptian and Hanan b. Abishalom’. Is there not an inconsistency between ‘three’[7] and ‘TWO’, and an inconsistency between ‘CIVIL’[8] and ‘robbery’?[9] One might well admit that there is no [real] inconsistency between the ‘three’ and the ‘TWO’ since he[10] may be enumerating [only those] whom he con siders important[11] and omitting[12] [the one] whom he does not consider important. Does not, however, the inconsistency between ‘CIVIL’ and ‘robbery’ remain? — R. Nahman b. Isaac replied: [Both terms may be justified on the grounds] that they[13] imposed fines[14] for acts of robbery;[15] as it was taught: If [a beast] nipped off a plant, said R. Jose. the Judges of Civil Law in Jerusalem ruled that if the plant was in its first year [the owner of the beast pays as compensation] two silver pieces.[16] if it was in its second year [he pays as compensation] four silver pieces.[17]

I point out [another] contradiction: Three judges of Civil Law were [administering justice] in Jerusalem. Admon, and Hanan and Nahum?[18] — R. Papa replied: He who mentioned Nahum was R. Nathan;[19] for it was taught: R. Nathan stated, ‘Nahum the Mede also was one of the Judges of Civil

Law in Jerusalem', but the Sages did not agree with him.

Were there, however, no more [judges]? [Did not] R. Phinehas. in fact, state on the authority of R. Oshaia that there were three hundred and ninety four courts of law[20] in Jerusalem, and an equal number of Synagogues. of Houses of Study[21] and of schools?[22] — Judges there were many, but we were speaking of Judges of Civil Law only.

Rab Judah stated in the name of R. Assi: The Judges of Civil Law in Jerusalem received their salaries out of the Temple funds[23] [at the rate of] ninety-nine maneh.[24] If they were not satisfied is they were given an increase.

[You say] 'They were not satisfied'?[25] Are we dealing with wicked men?[26] The reading in fact is,[27] [If the amount was] not Sufficient[28] an increase was granted to them even if they objected.[29]

Karna[30] used to take one istira[31] from the innocent[32] party and one istira from the guilty party and then informed them of his decision.[33] But how could he[34] act in such a manner? Is it not written in Scripture, And thou shalt take no gift?[35] And should you reply that this applies only where he does not take from both [litigants] since he might [in consequence] wrest judgment, but Karna, since he took [the same amount] from both parties, would not come to wrest judgment, [it can be retorted:] Is this permitted even where one would not come to wrest judgment? Was it not in fact taught: What was the purpose of the statement And thou shalt take no gift?[35] If to teach that one must not acquit the guilty or that one must not condemn the innocent [the objection Surely could be raised]. It was already specifically stated elsewhere in Scripture, Thou shalt not wrest judgement.[36] Consequently it must be concluded that even [where the intention is] to acquit the innocent or to condemn the guilty the Torah laid down, And thou shalt take no gift?[37] — This[37] applies only where [the judge] takes [the gift] as a bribe,[38] but Karna took [the two istira] as a fee.[39] But is it permissible [for a judge to take money] as a fee.[39] Have we not in fact learned: The legal decisions of one who takes a fee for acting as judge are null and void?[40] — This[40] applies only to a fee for pronouncing judgment, while Karna was only taking compensation for loss of work.[41]

But [is a judge] permitted to take compensation for loss of work? Was it not in fact taught: Contemptible is the judge who takes a fee for pronouncing judgment; but his decision is valid?[42] Now, what is to be understood [by fee]. If it be suggested [that it means] a fee for acting as judge [the objection would arise: How could be said,] 'his decision is valid', when in fact we have learned:[43] The legal decisions of one who takes a fee for acting as judge are null and void? Consequently it must mean[44] a fee for loss of work,[45] and yet it was stated, was it not, 'Contemptible is the judge etc.'? — This applies only to a loss of work that cannot be proved, but Karna received [compensation for] loss of work that could be proved. for he was [regularly occupied in] smelling tests[46] at a wine store,[47] and for this he was paid a fee.[48] This is similar to the case[49] of R. Huna. When a lawsuit was brought to him, he used to say to the [litigants]. 'Provide me with a man who will draw the water[50] in my place[51] and I will pronounce judgment for you'.

Said R. Abbahu: Come and see how blind are the eyes of those who take a bribe. If a man has pain in his eyes he pays away money to a medical man and he may be cured or he nay not be cured, yet these take what is only worth one perutah[52] and blind their eyes [therewith]. for it is said in Scripture. For a gift blindeth them that have sight.[53]

Our Rabbis taught: For a gift doth blind the eyes of the wise,[54] and much more so those of the foolish; And pervert the words of the righteous,[54] and much more so those of the wicked. Are then fools and wicked men capable of acting as judges?[55] — But it is this that is meant: 'For a gift doth blind the eyes of the wise', even a great Sage who takes bribes will not depart from the world without [the affliction of] a dullness of the mind,[56] 'And pervert the words of the righteous',

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(1) That she has no property of her husband's in her possession.

(2) Sc. when her husband dies and she claims her kethubah.

(3) I.e., during his lifetime when she claims her maintenance.

(4) בני כהנים גדולים A similar description occurs in Oh. XVII, 5. Cf. supra p. 64, n. 6, בית דין של כהנים ‘Priestly Court’ or ‘Court of Priests’.

(5) Or any damage.

(6) I.e, Admon mentioned in our Mishnah.

(7) In the Baraitha cited.

(8) Cf. supra note 1.

(9) In the Baraitha cited.

(10) The author of our Mishnah.

(11) On the admissibility of another rendering v. Tosaf. s.v., דחשיב, a.I.

(12) Lit., ‘did not teach’.

(13) The judges mentioned.

(14) Lit., ‘decreed decrees’. Hence the term ‘CIVIL’ גזירות: (v. supra p. 672, n. 1) in our Mishnah.

(15) גזילות (cf. supra p. 672, nn. 1 and 8). Hence the justification for the use of this term in the Baraitha.

(16) A silver piece = one ma'ah or a third of a denar, v. Glos.

(17) B.K. 58b.

(18) Inconsistent with our Mishnah which mentions only TWO. V., however, Tosaf s.v. דחשיב.

(19) [Who considered Nahum important, v. Maharsha].

(20) Each consisting of twenty-three judges.

(21) For Mishnah and Talmud.

(22) For children.

(23) תרומת הלשכה, lit., ‘heave-offering of the (people) to the (Temple treasure) chamber’.

(24) V. Glos.

(25) לא רצו,

(26) Who expect from the public funds more than is required for a decent living. A judge's salary most not exceed the actual cost of his living (v. Rashi).

(27) Lit., ‘but’.

(28) To provide for a decent living.

(29) V. supra p. 673, n. 15.

(30) A judge if the Exile. Cf Sanh. 17b, Sonc. ed. p.88, n. 5.

(31) V. Glos.

(32) A the party in whose favour judgment was to he given.

(33) Lit., ‘and judged for them the law’.

(34) Karna.

(35) Ex. XXIII. 8.

(36) [Deut. XVI, 19.

(37) Ex. XXIII, 8.

(38) Sc. with the intention of perverting judgment.

(39) For his professional services.

(40) Kid. 58, Bek. 29a.

(41) Lit ‘idleness’.

(42) Lit, ‘his Judgment is judgment’. a fee for acting as judge [the objection would arise: How could it be said,] ‘his decision is valid’, when in fact we have learned: 1 The

(43) So Bah. Cur. edd. ‘it was taught’.

(44) Lit., ‘but’.

(45) Lit., ‘idleness’.

(46) To advise the owner as to which wine could be stored for longer and which only for shorter periods.

(47) אמברא Rashi reads the noun in the pl., stores’.

(48) Lit., ‘and they gave him a zuz’ (v. Glos.). When acting as judge he was entitled to demand compensation for his loss.

(49) Lit., ‘like that’.

(50) ‘For the irrigation of my land’.

(51) בחריקאי, cf. supra p. 364. n. 4

(52) The smallest coin, v.Glos.

(53) Ex.XXIII,8.

(54) Deut. XVI, 19.

(55) Obviously not; how then is it likely that anyone would offer them any bribe

(56) Lit., ‘blindness of heart’.

Talmud - Mas. Kethuboth 105b

even one who is righteous in every respect and takes bribes will not depart from this world without [the affliction of] confusion of mind. When R. Dimi came[1] he related that R. Nahman b. Kohen made the following exposition: What was meant by the Scriptural text, The King by justice establisheth the land, but he that loveth gifts overthroweth it? If the judge is like a king who is not in need of anything[2] he establisheth the land, but if he is like a priest who moves to and fro among the threshing floors,[3] he overthroweth it.[4]

Rabbah b. R. Shila stated: Any judge who is in the habit of borrowing[5] is unfit to pronounce judgment. This, however, applies only where he possesses nothing to lend to others, but where he possesses things to lend [his borrowing] does not matter.[6] This, however, cannot surely be correct;[7] for did not Raba borrow things from the household of Bar Merion, although they did not borrow anything from him? — There he desired to give them better standing.[8]

Raba stated: What is the reason for [the prohibition[9] against taking] a gift?[10] Because as soon as a man receives a gift from another he becomes so well disposed towards him[11] that he becomes like his own person, and no man sees himself in the wrong.[12] What [is the meaning of] shohad?[13] She-hu had.[14]

R. Papa said: A man should not act as judge either for one whom he loves or for one whom he hates; for no man can see the guilt of one whom he loves or the merit of one whom he hates.

Abaye said: If a scholar[15] is loved by the townspeople [their love] is not due to his superiority but [to the fact] that he does not rebuke them for [neglecting] spiritual[16] matters.

Raba remarked: At first I thought that all the people of Mahuza[17] loved me. When I was appointed judge[18] I thought that some[19] would hate me and others[20] would love me. Having observed, however, that the man who loses[21] to-day[22] wins tomorrow I came to the conclusion that if I am loved they all love me and if I am hated they must all hate me.

Our Rabbis taught: And thou shalt take no gift;[23] there was no need to speak of [the prohibition of] a gift of money, but [this was meant:] Even a bribe of words[24] is also forbidden, for Scripture does not write, And thou shalt take no gain.[25] What is to be understood by ‘a bribe of words’?[24] — As the bribe offered to Samuel.[26] He was once crossing [a river] on a board[27] when a man came up and offered him his hand.[28] ‘What’, [Samuel] asked him, ‘is your business here?’ — ‘I have a lawsuit’, the other replied. ‘l’, came the reply, ‘am disqualified from acting for you in the suit’.

Amemar was once engaged in the trial of an action,[29] when a bird flew down upon his head and a man approached and removed it. ‘What is your business here?’ [Amemar] asked him. ‘I have a lawsuit’, the other replied. ‘I’, came the reply, ‘am disqualified from acting as your judge’.

Mar ‘Ukba once ejected some saliva[30] and a man approached and covered it. ‘What is your business here?’ [Mar ‘Ukba] asked him. ‘l have a lawsuit’, the man replied. ‘I’, came the reply, ‘am disqualified from acting as your judge’.

R. Ishmael son of R. Jose, whose aris[31] was wont to bring him a basket full of fruit[32] every Friday[33] but on one occasion[34] brought it to him on a Thursday, asked the latter, ‘Why the present change?’ I have a lawsuit’, the other replied, ‘and thought that at the same time[35] I might bring [the fruit] to the Master’. He did not accept it from him [and] said,’I am disqualified to act as your judge’. He thereupon appointed a couple of Rabbis to try the case for him. As he was arranging the affair[36] he [found himself] thinking, ‘If he[37] wished he could plead thus, or if he preferred he might plead thus’.[38] ‘Oh’, he exclaimed, ‘the despair that waits for those who take bribes’![39] If I, who have not taken [the fruit at all], and even if I had taken I would only have taken what is my own, am In such [a state of mind], show much more [Would that[40] be the state of] those who accept bribes’.

A man once brought to R. Ishmael b. Elisha[41] [a gift of] the firstfleece.[42] ‘Whence’,the latter asked him, ‘are you?’ — ‘From such and such a place’, the other replied. ‘But’, [R. Ishmael] asked, ‘was there no priest to whom to give it [in any of the places] between that place and this?’[43] — ‘I have a lawsuit’, the other replied, ‘and thought that at the same time[44] I would bring [the gift] to the Master’.He said to him, ‘I am unfit to try your action’,and refused to receive [the gift] from him. [Thereupon] he appointed two Rabbis to try his action. As he was arranging this affair[45] he [found himself] thinking, ‘If he[46] wished he could plead thus, or if he preferred he might plead thus’.[47] ‘Oh’, he exclaimed, ‘the despair that awaits those who take bribes! If I, who did not take [the gift], and even if l had taken it I would only have accepted that which is my due, am in such [a state of mind], how much more [would that be the case with] those who accept bribes’.

A man once brought to R. Anan a bale of small marsh fish.[48] ‘What is your business here’, the latter asked him. ‘I have a lawsuit’, the other replied. [R. Anan] did not accept it from him, and told him, ‘I am disqualified to try your action’. ‘I would not now request’, the other said to him, ‘the Master's decision [in my lawsuit]; will the Master, however, at least accept [the present] so that I may not be prevented from offering my first-fruit?[49] For it was taught: And there came a man from Baal-shalishah, and brought the man of God bread of the first-fruits, twenty loaves of barley, and fresh ears of corn in his sack;[50] but was Elisha[51] entitled to eat first-fruit?[52] This, however, was intended to tell you that one who brings a gift to a scholar [is doing as good a deed] as if he had offered first-fruits’. It was not my intention to accept [your gift’, R. Anan] said to him, ‘but now that you have given me a reason I will accept it’ — Thereupon he sent him to R. Nahman to whom he also dispatched [the following message:] ‘Will the Master try [the action of] this man, for I, Anan,[53] am disqualified from acting as judge for him’. ‘Since he has sent me such a message’, [R. Nahman] thought, ‘he must be his relative’ —[54] An orphans’ lawsuit was then in progress[55] before him; and he reflected:

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(1) From Palestine to Babylon.

(2) Sc. is independent of other people's help or favours.

(3) Collecting his dues.

(4) Cf Sanh. 7b.

(5) Any objects. The verb שאל, here used, does not apply to money.

(6) Lit., ‘we have nothing against it’.

(7) Lit., ‘Is it really so?’

(8) His borrowing was of no benefit to himself. Lit., ‘to cause them to be important’. For a similar reason Rabbah levied a contribution for charity on the orphans of the house of Bar Merion (cf. B.B. 8a).

(9) Upon a judge.

(10) Even where the judge intended to act justly.

(11) Lit., ‘his mind draws near to him’.

(12) Lit., ‘guilt’.
(13) שוחד, ‘gift’, ‘bribe’.
(14) שהוא חד, ‘that he (the recipient) is one (with the giver)’. This is not intended as etymology but as a word play.
(15) Lit., ‘one who has caught fire by (association with) Rabbis’.
(16) Lit ‘of heaven’.
(17) V. supra p. 319, n. 9’
(18) In that town.
(19) Who would lose their lawsuits.
(20) In whose favour judgment would be given.
(21) Lit, ‘who is made guilty’.
(22) Lit., ‘now’.
(23) Ex. XXIII, 8.
(24) Or ‘acts’.
(25) בצע which would have meant a monetary bribe.
(26) Lit., ‘as that of Samuel’.
(27) Or ‘ferry’.
(28) To assist him.
(29) Lit., ‘was sitting and deciding a law’.
(30) Lit., ‘threw saliva before him’.
(31) Gardener-tenant (v. Glos.).
(32) As rent, from R. Ishmael's garden which he cultivated.
(33) מעלי שבתא, lit., ‘entering of the Sabbath’, sc. Sabbath Eve.
(34) Lit., ‘day’.
(35) Lit., ‘by the way’.
(36) Lit., ‘went and came’.
(37) His aris.
(38) All possible pleadings in favour of the aris rose spontaneously to his mind.
(39) So Jast. תיפח נפשם, lit., ‘may their ghost blow out’, or ‘be blown’ (rt. נפח ‘to blow’).
(40) Cf. supra n.3.
(41) Who was a priest and entitled to the priestly does.
(42) Cf. Deut. XVIII, 4.
(43) Lit., ‘from there to here’.
(44) Lit., ‘by the way’.
(45) Lit., ‘went and came’.
(46) The man who offered him the priestly due.
(47) Cf. supra notes 1-5.
(48) בי גילי ‘among the marshes’. Sc. that live among the reeds in the swamps (Jast.). [Obermeyer p. 245. n. 1 suggests בי גילי to be the name of a place, Al Kil on the Tigris].
(49) Cf. Ex. XXIII, 19.
(50) II Kings IV, 42.
(51) Who was no priest. Tradition ascribes him to the tribe of Gad (cf. Pesah. 68a and Rosh. a.l.).
(52) Obviously not; why then did he accept ‘first-fruits’?
(53) Wanting in MS.M.
(54) It is forbidden to act as judge or witness in a relative's lawsuit.
(55) Lit., ‘was standing’.

Talmud - Mas. Kethuboth 106a

The one[1] is a positive precept and the other[2] is also a positive precept. but the positive precept of shewing respect for the Torah[2] must take precedence. He, therefore, postponed[3] the orphans’ case and brought up that man's suit. When the other party[4] noticed the honour he was shewing him[5] he remained speechless.[6] [Until that happened] Elijah[7] was a frequent visitor of R. Anan whom he was teaching the Order of Elijah.[8] but as soon as he[9] acted in the manner described[10] [Elijah] stayed away. He[9] Spent his time[11] in fasting, and in prayers for [God's] mercy, [until Elijah] came to him again; but when he appeared he greatly frightened him. Thereupon he[12] made a box [for himself] and in it he sat before him until he concluded his Order with him. And this is [the reason] why people speak of the Seder Eliyyahu Rabbah and the Seder Eliyyahu Zuta.[13]

In the days[14] of R. Joseph there was a famine.[15] Said the Rabbis to R. Joseph, ‘Will the Master offer prayers for [heavenly] mercy’? He replied, ‘If Elisha, with whom, when the [main body of] Rabbis had departed, there still remained two thousand and two hundred Rabbis,[16] did not offer up any prayers for mercy in a time of famine,[15] should I [at such a time venture to] offer prayers for mercy? But whence is it inferred that so many remained? — [From Scripture] where it is written, And his servant said: How should I set this before a hundred men.?[17] Now what is meant by [the expression.] ‘Before a hundred men’? If it be suggested that all[18] [was to be set] before the hundred men [one might well object that] in years of famine [all this] is rather a large quantity. Consequently it must be concluded[19] that each [loaf was set] before a hundred men.[20]

When the [main body of] Rabbis departed from the school of Rab there still remained behind one thousand and two hundred Rabbis; [when they departed] from the school of R. Huna there remained behind eight hundred Rabbis. R. Huna when delivering his discourses [was assisted] by thirteen interpreters.[21] When the Rabbis stood up after R. Huna's discourses[22] and shook out their garments the dust rose [so high] that it obscured the [light of] day, and people in Palestine[23] said, ‘They have risen after the discourses of R. Huna the Babylonian’ — When [the main body of] Rabbis departed from the schools of Rabbah and R. Joseph there remained four hundred Rabbis and they described themselves as orphans. When [the main body of] Rabbis departed from the school of Abaye (others say, From the school of R. Papa, while still others say, From the school of R. Ashi) there remained two hundred Rabbis, and these described themselves as orphans of the orphans.

R. Isaac b. Radifa said in the name of R. Ammi: The inspectors of [animal] blemishes[24] in Jerusalem received their wages from the Temple funds.[25] Rab Judah said in the name of Samuel: The learned men who taught the priests the laws of ritual slaughter received their fees from the Temple funds.[25] R. Giddal said in the name of Rab: The learned men who taught the priests the rules of kemizah[26] received their fees from the Temple funds.[25] Rabbah b. Bar Hana said in the name of R. Johanan: Book readers[27] in Jerusalem received their fees from the Temple funds.[28]

R. Nahman said: Rab stated that the women who wove the [Temple] curtains received their wages from the Temple funds[25] but I maintain [that they received them] from the sums consecrated for Temple repairs, since the curtains were a substitute for builder's work.

An objection was raised: The women who wove the [Temple] curtains, and the house of Garmo[29] [who were in charge] of the preparation of the shewbread,[30] and the house of Abtinas[29] [who were in charge] of the preparation of the incense,[31] received their wages from the Temple funds![32] — There[33] [it may be replied] the reference is [to the curtains] of the gates;[34] for R. Zera related in the name of Rab: There were thirteen curtains in the second Temple, seven corresponding to the seven gates,[35] one for the entrance to the Hekal,[36] one for the entrance to the ‘Ulam,[36] two[37] [at the entrance] to the Debir[36] and two [above them and] corresponding to them in the upper storey.[38]

Our Rabbis taught: The women who brought up their children for the [services of the red] heifer,[39] received their wages from the Temple funds. Abba Saul said: The notable[40] women of Jerusalem fed them and maintained them.

R. Huna enquired of Rab:

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(1) Lit., ‘that’, to judge the orphan.
(2) Respect for a man of learning (cf. B.K. 41b) and consequently also for those who are related to him.
(3) Lit., removed’, ‘put aside’.
(4) Lit., ‘the master of his law(suit’).
(5) His opponent. whom R. Nahman presumed to he R. Anan's relative.
(6) Lit., ‘his plea was stopped’.
(7) Cf supra p. 488, n. 6.
(8) סדר אליהו, a Rabbinic work of mysterious origin and authorship.
(9) R. Anan.
(10) Lit , ‘thus’. He allowed himself to be the unconscious tool of the man who cunningly bribed him.
(11) Lit., ‘sat’.
(12) R. Anan.
(13) The former was taught when P. Anan was without, the latter when he was within, the box (Rashi). [Tosaf.: the Treatise consists of a large and small book, hence the names Rabbah and Zuta. Both constitute the Midrash known as Tanna debe Eliyyaha].
(14) Lit., ‘years’. a reference perhaps to the period during which he was head of the academy.
(15) ריתחא, lit., ‘agitation’. excitement’, hence ‘anger’. Owing to God's anger the world was afflicted with famine (v. Rashi).
(16) To dine with him.
(17) II Kings IV, 43.
(18) Lit., ‘all of them’, i.e., the twenty loaves of barley and fresh ears of corn, enumerated in the preceding verse.
(19) Lit., ‘but’.
(20) There were twenty loaves of barley (II Kings II, 42). one loaf of bread of the first-fruits (ibid.) and one loaf of fresh ears of corn (ibid.). a total of twenty-two loaves. Since each loaf was set before a hundred men the total number of the men must have been (twenty-two times one hundred =) two thousand two hundred (Rashi).
(21) Each of whom addressed a section of the crowded audiences, v. Glos. s.v. Amora.
(22) Lit., ‘sitting’.
(23) Lit., ‘in the west’.
(24) מבקרי מומין, lit., ‘those who examine blemishes’, officials whose duty it was to ascertain whether any beast was unfit as a sacrifice owing to a disqualifying blemish.
(25) תרומת הלשכה, v. supra p. 673, n. 13.
(26) קמיצה, (rt. קמץ, ‘to close the hand’), ‘taking a handful’ from a meal-offering. Cf. e.g., Lev. II, 2 and Men. 11a.
(27) Who check scribal errors.
(28) In order to preserve the accuracy of the written word the services of the readers were placed free at the disposal of any member of the public (cf. Rashi).
(29) A priestly family.
(30) Cf. Ex. XXV. 30 and Yoma 38a.
(31) Cf. Ex. XXX, 23ff and Yoma 38a.
(32) An objection against R. Nahman.
(33) In the Baraitha just cited.
(34) Which cannot be regarded as forming a part of the structure of the building, while R.Nahman spoke of those curtains that replaced a wall that in the first Temple formed the partition between the Holy of Holies and the Hekal (v. infra n.5 and Yoma 51b).
(35) Of the Temple court.
(36) The Hekal (היכל) or ‘Holy’, was situated between the ‘Ulam (אולם) the Temple porch and the Debir (דביר), and contained the candlestick, the table for the shewbread and the golden altar. The Debir, or the Holy of Holies, contained the ark and the cherubim.
(37) With a space of one cubit between them in place of the thickness of the wall in the first Temple (cf. supra note 3).
(38) To form a partition between the chamber above the Debir and that above the Hekal.
(39) Cf. Num. XIX, 2ff. Certain services in connection with its preparation had to be entrusted to children who from birth were brought up under conditions of scrupulous ritual purity. For this purpose the mothers had to live in specially constructed buildings from the ante-natal period until the time the children were ready for their duties. (Cf. Suk. 21a).

(40) Rich (Rashi).

Talmud - Mas. Kethuboth 106b

May vessels of ministry[1] be procured[2] with the offerings consecrated to Temple repair? Are these [a part of] the equipment[3] of the altar and were, therefore,[4] purchased[5] with the offerings consecrated to Temple repair, or are they rather among the requirements of the sacrifices and were, therefore, procured[6] with the Temple funds? — ‘They’. the other[7] replied, ‘may be procured[2] with the Temple funds only’.

He raised an objection against him; And when they had made an end, they brought the rest of the money[8] before the King and Jehoiada,[9] whereof were made vessels for the house of the Lord, even vessels wherewith to minister[10] etc. — The other[11] replied: He that taught you the Hagiographa did not teach you the Prophets: But there were not made for the hose of the Lord cups[12] etc. for they gave that to them that did the work.[13] But if so,is there not a contradiction between the two Scriptural texts? — There is really no contradiction. The former is a case[14] where after the collections were made [for Temple repair] there remained a balance,[15] while the latter[14] is a case where no balance remained.[16] But even if there was a balance after the Collection had been made, what of it?[17] R. Abbahu replied: Beth din make a mental[18] Stipulation that if they[19] be required they should be utilized for their original purpose[20] and that if [they would] not [be required] they should be [spent] on vessels of ministry.

A Tanna of the school of R. Ishmael taught: Vessels of ministry were provided[21] from the Temple funds; for it is said in Scriptures The rest of the money,[22] now what funds shewed a balance?[23] Obviously[24] the Temple funds.[25] But might it not be suggested that only the balance itself [could be spent on the vessels of ministry]?[26] — As Raba said,[27] The burnt-offering[28] implies the first burnt-offering,[29] so must the money[30] imply the first money.[31] An objection was raised: The incense and all congregational sacrifices were provided[32] from the Temple funds; the golden altar,[33] the frankincense[34] and the vessels of ministry were provided from the residue of the drink-offerings;[35] the altar for the burnt-offerings,[36] the chambers and the courts were provided from the funds that were dedicated for Temple repair, [and whatever was situated] outside the court walls[37] was provided out of the surplus of the Temple funds;[38] and it is this that [explains what] we learned: The city wall and its towers and all other requirements of the city were provided from the surplus of the Temple funds?[39] — This [point[40] is in fact a question at issue between] Tannaim. For we learned: What were they doing[41] with the surplus of the offerings [for the Temple funds]?[42] Beaten gold [plates that served as] a covering for [the walls and floor][43] of the Holy of Holies. R. Ishmael said: The surplus of the fruit[44] [was spent on the purchase of sacrifices] for the dry season[45] of the altar, while the surplus of the offerings [for the Temple funds] was spent upon vessels of ministry. R. Akiba said: The surplus of the offerings [for the Temple funds was spent on sacrifices] for the dry season of the altar while the surplus of the drink-offerings[35] was used for [the purchase of] the vessels of ministry. R. Hanina, the deputy High Priest, said: The surplus of the drink-offerings [was spent on sacrifices] for the dry season of the altar, while the surplus of the offerings [for the Temple funds was spent] on vessels of ministry. And neither the one nor the other[46] admitted that [there ever was a surplus] in the [proceeds of the] fruit.[47]

What is [meant by] ‘fruit’?[48] — It was taught: What were they doing with the surplus of the offering [to the Temple funds]?[49] They bought fruit at a low price and sold it at a higher price, and with the profits sacrifices were purchased for the dry season of the altar; and it is this that [explains what] we learned: The surplus of the fruits was spent on sacrifices for the dry season of the altar. What is meant by ‘neither the one nor the other admitted that [there ever was a surplus] in [proceeds of the] fruit’?[50] — [The following of] which we learned: What were they doing with the surplus[51] of the Temple funds? They purchased therewith wines, oils and various kinds of fine flour, and the profit [resulting was credited] to the sacred funds; so R. Ishmael. R. Akiba said: No sale for profit is made with the sacred funds nor out of those of the poor.[52] Why [may no sales for profit be made] with sacred funds? — There must be no poverty where there is wealth. Why [is] no [sale for profit made] with the poor funds? — Because a poor man might come unexpectedly and there would be nothing to give him.

IF A MAN WENT TO A COUNTRY BEYOND THE SEA. It was stated: Rab ruled,

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(1) For use on the ‘external’ altar, a stone structure in the Temple court.
(2) Lit., ‘made’.
(3) Lit., ‘need’, ‘requirement’.
(4) Since the altar was builder's work.
(5) Lit. ‘come’.
(6) Lit., ‘they were making them’.
(7) Rab.
(8) That was dedicated to Temple repair.
(9) ‘The priest’ is in cur.edd. enclosed in parentheses. It does not appear in M.T.
(10) II Chron. XXIV, 14; which proves that offerings for Temple repair may be used for the provision of vessels of ministry. An objection against Rab.
(11) Rab
(12) Sc. vessels of ministry.
(13) II Kings XII. 14-15.
(14) Lit., ‘here’.
(15) Lit., ‘they collected and left over’; hence it was permissible to procure ‘vessels wherewith to minister’ with the balance.
(16) Lit., ‘where they collected and did not leave’.
(17) Cf. supra n.8 ab init.; how could funds collected for one purpose lawfully be used for another?
(18) Lit., ‘heart’.
(19) The funds collected.
(20) Lit., ‘if they were required they were required’.
(21) Lit., ‘come’.
(22) II Chron. XXIV, 14.
(23) Lit, ‘which is the money that has a remainder’.
(24) Lit.. ‘be saying, this’.
(25) Since after the current yearly expenses were met the balance was allowed to remain in the treasury.
(26) But the main funds could not.
(27) Pes. 58b, B.K. 111a.
(28) העֹלה Lev. VI, 5, emphasis on the definite article.
(29) Sc. that is offered on the altar every morning before all other sacrifices.
(30) הכסף (II Chron. XXIV, 14) emphasis again on the definite article (cf. supra n.21).
(31) I.e., the income of the current year, and not only the balance. Cf. infra p. 684, n. 7.
(32) Lit., ‘come’.
(33) Which, since it was not attached to the ground and was movable, was not regarded as a part of the structure of the building.
(34) That was placed at the side of the shewbread. The Wilna Gaon omits frankincense; v. J. Shek. IV, 3.
(35) This is explained in Men. 90a.
(36) The ‘external’ altar, cf. supra p. 682, n. 10.
(37) E.g., the women's court and the city walls.
(38) Sc. after the expenses for the current year have been met. Cf. supra p. 683, n. 24.
(39) Shek. IV, 2. Does not this Baraitha, which lays down that vessels of ministry were provided out of the surplus of the drink-offerings contradict the teaching of the school of R. Ishmael?
(40) From which funds the vessels of ministry were procured.

(41) When the new year began on the first of Nisan and the funds of the previous year were no longer allowed to be used for the purchase of congregational sacrifices.
(42) Of the previous year.
(43) Rashi.
(44) This is explained infra.
(45) קיץ המזבח. Sc. when no private offerings were available and the altar lay idle; v. Shebu., Sonc. ed. p. 50, n. 3.
(46) Lit., ‘and this and this’, sc. R. Akiba and R. Hanina.
(47) Shek. 6a. Thus it is shewn that the opinion expressed at the school of R. Ishmael is a question in dispute between Tannaim.
(48) In the Mishnah just cited.
(49) V. supra P. 684, n. 10.
(50) Sc. how could they be so sure of the conditions of the market at all times?
(51) Lit., ‘surplus of the remainder’.
(52) Shek. IV, 3. R. Akiba, and similarly R. Hanina (cf. supra n. 1). is thus of the opinion that there could never have been a surplus of tho fruit since it was never sold.

Talmud - Mas. Kethuboth 107a

An allowance for maintenance must be granted[1] to a married woman,[2] but Samuel ruled: No allowance may be granted[1] to a married woman.[2] Said Samuel: Abba[3] agrees with me [that no allowance is to be granted][4] during the first three months,[5] because no man leaves his house empty. In a case where a report was received[6] that he[7] was dead there is no difference of opinion between them.[8] They only differ when no one heard that he[7] was dead. Rab ruled, 'An allowance for maintenance must be granted' since he[7] is under an obligation [to maintain her]; on what ground however, did Samuel rule, 'No allowance may be granted'? — R. Zebid replied: Because it might well be assumed that he handed over to her some bundles [of valuables].[9] R. Papa replied: We must take into consideration the possibility that he told her, 'Deduct [the proceeds of] your handiwork[10] for your maintenance'.[11] What is the practical difference between them?[12] — The practical difference between them is the case of a woman who is of age[13] but [the proceeds of whose handiwork] did not suffice [for her maintenance],[14] or a minor[15] [the proceeds of whose handiwork] is sufficient [for her maintenance].[16]

We learned: IF A MAN WENT TO A COUNTRY BEYOND THE SEA AND HIS WIFE CLAIMED MAINTENANCE, HANAN RULED: SHE MUST TAKE AN OATH AT THE END BUT NOT AT THE BEGINNING. THE SONS OF THE HIGH PRIESTS, HOWEVER, DIFFERED FROM HIM AND RULED THAT SHE MUST TAKE AN OATH BOTH AT THE BEGINNING AND AT THE END. They thus[17] differ only in respect of the oath but [agree, do they not,] that maintenance must be given to her?[18] — Samuel explained [this to refer to a case] where a report had been received that [the absent husband] was dead. Come and hear: If [a husband] went to a country beyond the sea and his wife claimed maintenance she must, said the sons of the High Priests, take an oath,[19] Hanan said: She need not take an oath. If [the husband] came, however, and declared, 'I have provided for her maintenance'[20] he is believed.[21] Here also [it may be replied] is a case where a report was received that he was dead. But, did it not Say, 'If [the husband] came, however, and declared'?[22] [The meaning of the expression is,] If he came after the report had been received.

Come and hear: If [a husband] went to a country beyond the sea, and his wife claimed maintenance, and he returned and said [to her], 'Deduct your handiwork for your maintenance', he is entitled [to withhold it]. If Beth din, however, granted the allowance before [he returned] their decision is valid.[23] Here also it is a case where a report that he had died was received.

Come and hear: If [a husband] went to a country beyond the sea and his wife claimed maintenance, Beth din take possession of[24] his estate and provide food and clothing for his wife, but not for his sons and daughters or for anything else![25] — R. Shesheth replied; [Here it is a case] where a husband maintained his wife at the hands of a trustee.[26] If so, [should not maintenance be granted to] one's sons and daughters also?[27] [It is a case] where [a husband] made provision for the maintenance of his wife[28] but not of his daughters.[28]

Whence this certainty?[29] — This, however, said R. Papa, [is the explanation: This is a case] where she heard from one witness that [her husband] had died. To her, since she could Marry on the evidence of one witness, we must also grant maintenance; to his sons and daughters, however, since they, even if they desired it, could not be allowed to take possession of his estate on the evidence of one witness, maintenance also may not be granted — What [is meant by] 'anything else'? R. Hisda replied: Cosmetics. R. Joseph replied: Charity. According to him who replied, 'Cosmetics' the ruling[30] would apply with even greater force to

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(1) By the court, out of her husband's estate.

(2) Whose husband is away from home. אשת איש, lit., 'the wife of a man'.

(3) Sc. Rab who was also known as Abba Arika.

(4) Added by Bah in the text.
(5) Of the husband's absence.
(6) Lit., ‘when they heard’.
(7) The absent husband.
(8) Lit., ‘all the world (sc. Rab and Samuel) do not differ’; both agree that the woman is entitled to an allowance for maintenance.
(9) Out of which to defray the cost of her maintenance.
(10) Which are a husband's due.
(11) And that she may have consented.
(12) R. Zebid and R. Papa.
(13) Whom a husband might safely entrust with valuables.
(14) In consequence of which she would not have consented in return for her handiwork to forego her right to maintenance. Such a woman. according to R. Zebid, would still not be entitled to the court's ruling for her allowance, while according to R. Papa she would.
(15) Whom no husband would entrust with valuables.
(16) And who, in consequence, might have consented to forego her maintenance in return for her handiwork. Such a minor, according to P. Zebid, would, while according to R. Papa she would not. be entitled to the court's ruling for an allowance.
(17) Lit., ‘until here’ —
(18) An objection against Samuel.
(19) Cf. supra p. 672, n. 4.
(20) By entrusting her with some valuables.
(21) If he takes the prescribed oath, and the amount allowed by the court must be refunded to him. From here it obviously follows that the court does make an allowance from an absent husband's estate, a legal practice which is contrary to Samuel's ruling.
(22) A dead man, sorely, could not come and make a declaration.
(23) Tosef. Keth. XII. Lit. , ‘what they have fixed is fixed’; which proves that the court does make an allowance to a wife from her absent husband's estate, contrary to the ruling of Samuel,
(24) Lit ‘go down into’.
(25) This is explained infra. Cf. supra 48a. A contradiction thus arises (cf. supra n. 5) against Samuel's view.
(26) Who now refuses to continue to act on his behalf. A husband's appointment of a trustee conclusively proves that he has left no valuables with his wife for her maintenance, and that be could not have asked her to retain her handiwork for her maintenance. Hence it is quite proper for Beth din to arrange for her maintenance. Where no trustee, however, is appointed Samuel's ruling holds.
(27) Since it is assumed that he had entrusted the maintenance of his wife to a trustee, why not assume the same in regard to his sons and daughters?
(28) Lit., ‘for this’.
(29) That provision was made for the one and not for the others. The Baraitha, surely, draws no distinction.
(30) That ‘anything else’ was not to be provided for.

Talmud - Mas. Kethuboth 107b

charity[1] . He, however, who replied, ‘Charity’ [restricts the ruling to this alone] but cosmetics [he maintains] must be given to her, for [her husband] would not be pleased that she should lose her comeliness.[2]

Come and hear: A yebamah[3] during the first three months is maintained out of the estate of her husband — Subsequently[4] she is not to be maintained either out of the estate of her husband or out of that of the levir. If, however, [the levir] appeared in court[5] and then absconded she is maintained out of the estate of the levir![6] — Samuel can answer you: What possibility need we take into consideration in the case of this [woman]?[7] If that of[8] [having been entrusted[9] with] bundles of valuables[10] [one could well object that such a levir] is not well disposed towards her;[11] and if that of[12] [the remission of] her handiwork[13] [the fact is, it could be retorted, that] she is under no obligation to give it to him.[14]

Come and hear: A woman who went with her husband to a country beyond the sea and then came back and stated, ‘My husband is dead’, may, if she wishes, successfully claim her maintenance and, if she prefers, may equally claim her kethubah. [If she stated, however,] ‘My husband has divorced me’, she may be maintained[15] to the extent of her kethubah![16] — Here also [it may be replied, it is a case] where a report was received that he had died. Then[17] why [is she maintained] only to the extent of her kethubah? — Because she herself has brought the loss upon herself.[18]

Come and hear: In what circumstances was it laid down that [a minor who] exercised her right of refusal[19] is not entitled to maintenance? It cannot be said, In [those of] one who lives with her husband, since [in such circumstances] her husband is under an obligation to maintain her, but [in those], for instance, [of one] whose husband went to a country beyond the sea, and she borrowed money and spent it[20] and then[21] exercised her right of refusal. Now, the reason [why she is not entitled to maintenance is obviously] because she exercised her right of refusal; had she, however, not exercised her right of refusal, maintenance would have been granted to her?[22] — Samuel can answer you: What possibility need we provide against as far as she is concerned? If against that of[23] [having been entrusted with] bundles of valuables [it may be pointed out that] no one entrusts a minor with valuables; and if against that of [the man's remission of] her handiwork[24] [the fact is, it could be argued, that] the handiwork of a minor does not suffice [for her maintenance].[25] What is the ultimate decision?[26] When R. Dimi came[27] he related: Such a case was submitted to Rabbi at Beth She'arim[28] and he granted[29] the Woman[30] an allowance for her maintenance, [while a similar case was submitted] to R. Ishmael at Sepphoris[31] and he did not grant her any maintenance. R. Johanan was astonished at this decision — What reason [he wondered] could R. Ishmael see that [in consequence of it] he allowed her no maintenance? Surely the sons of the High Priests and Hanan differed only on the question of the oath,[32] but [they all agree, do they not, that] maintenance is to be given to her? — R. Shaman b. Abba answered him: Our Master, Samuel, in Babylon has long ago explained this [as being a case] where a report had been received that [the absent husband] had died. ‘You’, the other remarked, ‘explain so much with this reply’.

When Rabin came[27] he related: Such a case was submitted to Rabbi at Beth She'arim[28] and he did not grant the woman[30] any maintenance, [while in a similar case which was submitted] to R. Ishmael at Sepphoris[31] [the latter] granted her an allowance for her maintenance. Said R. Johanan: What reason could Rabbi see for not granting her an allowance, when Hanan and the sons of the High Priests obviously differed only in respect of the oath[32] but [agreed that] maintenance is to be given her? — R. Shaman b. Abba replied: Samuel in Babylon has long ago explained this [as being a case] where a report has been received that [the absent husband] had died. ‘You’,the other remarked, ‘explain so much with this answer’. The law, however, is in agreement with Rab,[33] and a married woman is to be granted an allowance for her maintenance. The law is also in agreement with a ruling which R. Huna laid down in the name of Rab, R. Huna having stated on the authority of Rab: A wife is within her rights when she says to her husband, ‘I desire no maintenance from, and refuse to do [any work for you]’. The law, furthermore, agrees with a ruling of R. Zebid[34] in respect of glazed vessels,[35] R. Zebid having laid down: Glazed vessels[35] are permitted[36] if they are white or black,[37] but forbidden[38] if green.[39] This,[40] however, applies only to such[41] as have no cracks[42] but if they have cracks they are forbidden.[38]

MISHNAH. IF A MAN WENT TO A COUNTRY BEYOND THE SEA AND SOMEONE CAME FORWARD[43] AND MAINTAINED HIS WIFE, HANAN SAID: HE LOSES HIS MONEY.[44] THE SONS OF THE HIGH PRIESTS[45] DIFFERED FROM HIM AND RULED: LET HIM TAKE AN OATH AS TO HOW MUCH HE SPENT AND RECOVER IT. SAID R. DOSA B. HARKINAS: [MY OPINION IS] IN AGREEMENT WITH THEIR RULING. R. JOHANAN B.

ZAKKAI SAID: HANAN SPOKE WELL [FOR THE MAN] PUT HIS MONEY ON A STAG'S HORN.[46]

GEMARA. Elsewhere we have learned: If a man is forbidden by a vow to have any benefit from another

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(1) Since a court which has no power to provide from a man's estate for his own wife's enjoyments would have much less power to exact charity from his estate.
(2) Supra 482.
(3) A woman whose husband died without issue, and who awaits levirate marriage or halizah which must not take place before the lapse of three months after her husband's death.
(4) Lit., 'from now and onwards'.
(5) To answer the widow's demand for marriage or halizah.
(6) Yeb. 41b. Is not this then (cf. supra P. 687, n. 5) an objection against Samuel's ruling?
(7) To deprive her in consequence of her maintenance.
(8) Lit., 'on account of'.
(9) By the absent levir, before his departure.
(10) To cover her cost of living.
(11) Lit., 'his mind is not near to her', and it is, therefore, most unlikely that he left any valuables with her.
(12) Lit., 'on account of'.
(13) Sc. that he might have allowed her to retain the proceeds of her handiwork to defray therewith her cost of living.
(14) Hence the indisputable right of the court to grant an allowance out of the absent levir's estate. In the case of an absent husband, however, where both possibilities must be taken into consideration, Samuel's ruling holds.
(15) Out of her husband's estate, by an order of the court.
(16) Because if she was10 fact divorced she is well entitled to her kethubah, and if she was not divorced she has a rightful claim to maintenance. Now, is not this ruling (cf. supra p. 687. n. 5) an objection against Samuel's ruling?
(17) Since the assumption is that she is a widow.
(18) By declaring that she had been divorced. A divorcee is entitled to her kethubah but, unlike a widow, is not entitled to maintenance.
(19) V. Glos. s.v. mi'un.
(20) Lit., 'and ate'.
(21) Lit., 'she stood up'.
(22) Which is an objection (cf. supra p. 687. n. 5) against Samuel.
(23) Lit., 'on account of'.
(24) V. supra p. 689, n. 3.
(25) And she would not have agreed to release her husband from his obligation to maintain her in return for the inadequate income from her handiwork.
(26) Lit., 'what is there about it?' Is maintenance to be allowed to a wife out of her absent husband's estate?
(27) From Palestine to Babylon.
(28) Cf. supra p. 663, n. 4.
(29) Out of the estate of her absent husband.
(30) Lit., 'her'.
(31) Cf. supra p. 410, n. 6.
(32) V. our Mishnah.
(33) Supra 107a ab init.
(34) [This is introduced here because R. Zebid figures in the above discussion; or, it is likely that both the rulings of R. Huna and R. Zebid were adopted at the same session, v. Shittah Mekubbezeth].
(35) If earthenware.
(36) For use (cf. infra note 5ff).
(37) These kinds of glaze prevent absorption despite the porous nature of the earthenware.
(38) To be used at all, if they once contained heathen foodstuffs or heathen wine of libation (nesek), or on the Passover if they ever contained frames, any foodstuffs that were not free from leavened substances of any of the five kinds of grain

(cf. Hal. I, i).

(39) Or ‘yellow’. The last mentioned glaze, unlike the former, contains crystals of alum which increase the absorptive capacity of the potsherd (cf. A.Z. 33b).

(40) That green (or yellow) glazed earthenware is permitted (v. sura note 4).

(41) Lit , ‘and it was not said but’.

(42) In the glazed surface.

(43) Lit., ‘and one rose’.

(44) He has no legal claim upon the husband who neither instructed him to advance the money nor promised to refund his expenses.

(45) Cf. supra p. 672, n. 7.

(46) Metaph. He could never recover the money from the stag, nor can he recover it from the woman or her husband (cf. p. 691 n. 12).

Talmud - Mas. Kethuboth 108a

the latter may nevertheless pay for him his shekel,[1] repay his debt[2] and restore to him any object he may have lost; but where a reward is taken,[3] the benefit is to be given[4] to the sacred funds.[5] Now, one can well be satisfied [with the ruling that] he may ‘pay for him his shekel’ [because by this payment] he merely performs a religious act,[6] for it was taught:[7] It is lawful to withdraw[8] [from the funds of the Temple treasury] on the account of that which was lost,[9] collected[10] or about to be collected;[11] and [the ruling that he may] restore to him any object he may have lost’ [is also intelligible since thereby] also he is performing a religious duty;[12] but [how could he be permitted to] ‘repay his debt’ [when thereby] he undoubtedly benefits[13] him? — R. Oshaia replied: ‘This ruling[14] is that of[15] Hanan who said: HE LOSES HIS MONEY.[16] Raba, however, replied: The ruling[14] may be said [to agree even with the view of] the Rabbis,[17] for here[18] we are dealing [with the case of a man] who borrowed money on the condition that he does not repay it [except when he is inclined to do so].[19] It is well that Raba does not give the same reply as R. Oshaia, since [he wishes] the ruling to agree even with the opinion of the Rabbis. On what ground, however, does not R. Oshaia [wish to] give the same reply as Raba? — R. Oshaia can answer you: Granted that he[20] has no actual benefit;[21]

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(1) His annual contribution to the fund for congregational sacrifices. According to Tosaf. (s.v. ועל) provided it was lost on its way to the Temple treasury, v. infra n. 10.

(2) Which he may be owing to a third party.

(3) For the return of a lost object; and this man either refuses to take it or where he, too, is forbidden by vow to derive any benefit from the other man, v. Ned. 33a.

(4) Lit., ‘shall fall’.

(5) Ned. 33a. The other may not retain the amount of the reward since it is legally due to the man from whom he is forbidden to derive any benefit.

(6) And confers no benefit upon the other.

(7) Cf. marginal note and Tosaf. B.M. 58a s.v. דתנן. Cur. edd. ‘we learned’.

(8) תורמין (rt. תרם ‘to lift’, ‘separate’). Such withdrawals were made three times a year (cf. Shek. III, i).

(9) Sc. the man whose shekel was lost has a share in the sacrifices purchased out of the funds as if his contribution had actually reached the treasury. According to Tosaf. (loc. cit.); provided it had been handed by him to the Temple treasurer, and it was lost after the withdrawal in the Temple had taken place.

(10) By an agent who lost it on the way. According to Tosaf., after the withdrawal in the Temple had taken place. Cf. supra note 10).

(11) B.M. 58a. From the first two mentioned cases it thus follows that the man whose shekel was lost (cf. notes 10 and 11) gains no benefit from the generosity of the man who paid his shekel in the circumstances mentioned (cf. supra note 2).

(12) And the question of conferring a benefit upon the other does not arise. His object is not the benefit of the man but the religious act.

(13) קמשתרשי, (rt. שרש, Hithpa.) ‘to take root’.
(14) That he may ‘repay his debt’.
(15) Lit.,’who is it?’
(16) Similarly anyone who repays a stranger's debt cannot reclaim it from him. Such a debtor, it follows, is not regarded as the recipient of the amount repaid. For the same reason he cannot be regarded as the recipient of a benefit.
(17) Who hold a man liable for any expenses any. body may have incurred on his behalf.
(18) Lit., ‘here in what?’
(19) V. Ned. Sonc. ed. p. 102, n. 5. Since the creditor in such circumstances can never exact payment from the debtor, any man who repays it confers no real benefit upon him.
(20) In the circumstances mentioned (cf. supra n. 7).
(21) From the repayment of the debt.

Talmud - Mas. Kethuboth 108b

has he not [some benefit in being spared] shame?[1] Another reading:[2] There also he has benefit, the benefit that he [need not] feel embarrassed in the other's presence.[3]

MISHNAH. ADMON LAID DOWN SEVEN RULINGS: —[4] IF A MAN DIES AND LEAVES SONS AND DAUGHTERS, IF THE ESTATE IS LARGE,[5] THE SONS INHERIT IT AND THE DAUGHTERS ARE MAINTAINED [FROM IT][6] AND IF THE ESTATE IS SMALL,[5] THE DAUGHTERS ARE MAINTAINED FROM IT, AND THE SONS CAN GO BEGGING.[7] ADMON SAID, ‘AM I TO BE THE LOSER BECAUSE I AM A MALE!’[8] R. GAMALIEL SAID; ADMON'S VIEW HAS MY APPROVAL.[9]

GEMARA. What does he[10] mean?[11] — Abaye replied: He means this; ‘AM I TO BE THE LOSER BECAUSE I AM A MALE and capable of engaging in the study of the Torah?’ Said Raba to him: Would, then, he who is engaged in the study of the Torah be entitled to heirship, while he who is not engaged in the study of the Torah not be entitled to be heir?[12] — But, said Raba, it is this that he[10] meant: AM I BECAUSE I AM A MALE, and entitled to be heir in the case of a large estate, TO BE THE LOSER [of my rights] in the case of a small estate?’

MISHNAH. IF A MAN CLAIMED FROM ANOTHER JARS OF OIL AND [THE LATTER] ADMITTED HIS CLAIM TO [EMPTY] JARS, ADMON RULED: SINCE HE ADMITTED A PORTION OF THE CLAIM HE MUST TAKE AN OATH,[13] BUT THE SAGES SAID: THE ADMISSION OF THE PORTION [OF THE CLAIM] IS NOT OF THE SAME KIND AS THE CLAIM.[14] R. GAMALIEL SAID; ADMON'S VIEW HAS MY APPROVAL.[12]

GEMARA. From this[15] it may be inferred that, according to the Rabbis,[16] [a man from] whom one claimed wheat and barley and he admitted the claim to the barley is exempt [from oath]. Must it then be said that this presents an objection against a ruling which R. Nahman laid down in the name of Samuel? For R. Nahman laid down in the name of Samuel: [A man from] whom one claimed wheat and barley and he admitted one of them is liable [to an oath]?[17] — Rab Judah replied in the name of Rab; [Our Mishnah deals with the case of one from] whom a certain quantity[18] [of oil] was claimed.[19] If so,[20] what could Admon's reason be? — This, however, said Raba, [is the explanation]: Both[21] [agree] that where [the claimant] said to the other, ‘I have the contents[22] of ten jars of oil in your tank’,[23] he claims from him the oil but not the jars, [and if he said], ‘You owe me[24] ten jars full of oil’, he claims both the oil and the jars; they only differ where [the claimant] said to him, ‘You owe me[24] ten jars of oil’. Admon maintains that in this expression a claim for the jars also is implied, and the Rabbis[25] contend that in this expression the jars were not implied.

The reason then[26] is because ‘in this expression the jars were not implied’, but if the jars had been implied in this expression he would apparently have been liable [to the oath]. Must it consequently be presumed that this presents an objection against a ruling of R. Hiyya b. Abba? For R. Hiyya b. Abbah[27] ruled: [A man from] whom one claimed wheat and barley, and he admitted one of them, is exempt [from an oath]? — R. Shimi b. Ashi replied: [The making of such a claim][28] is the same as if one had claimed from another a pomegranate with its peel.[29] To this Rabina demurred: A pomegranate without its peel cannot be preserved, but oil can well be preserved without jars![30] [The fact] however, is that[31] we are here[32] dealing [with the case of a man] who said to another, 'You owe me[33] ten jars of oil', and the other replied, 'The [claim for the] oil is a pure invention,[34] [and as to] the jars, too, I owe you[35] five and you have no [claim to any other] five'. Admon maintains that this expression implies a claim to the jars also and, since [the defendant] must take an oath in respect of the jars,[36] he must also take an oath by implication[37] in respect of the oil, while the Rabbis[38] are of the opinion that such an expression does not imply a claim for the jars [so that] what the one claims[39] the other did not admit, and what the latter admitted[40] the former did not claim.

MISHNAH. IF A MAN PROMISED[41] A SUM OF MONEY TO HIS [PROSPECTIVE] SON-IN-LAW AND THEN DEFAULTED,[42]

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(1) Of defaulting. Of course he has. Raba's reply. therefore, is unacceptable to R. Oshaia.

(2) So Bah and Rashal. Wanting in cur. edd.

(3) [The difference between the two versions is that whereas according to the former, the sparing of a feeling of shame is not considered an actual benefit, according to the latter it is regarded as such, v. Glosses of Bezalel Ronsburg].

(4) Lit., 'said seven'. Cf. supra p. 672 nn. 2 and 3.

(5) Lit., 'possessions are many'. The definition of 'large' and 'small' is given in B.B. Sonc. ed. p. 594.

(6) Until their majority or marriage.

(7) Lit., 'go about (people's) doors'.

(8) This is explained in the Gemara.

(9) Lit., 'I see the words of Admon.

(10) Admon.

(11) Sc. what reason is there to assume that, as regards maintenance, a male should be given any preference at all over a female?

(12) Obviously not. The Pentateuchal laws of inheritance. surely, draw no distinction between a learned, and an ignorant son.

(13) That he owes him no oil.

(14) The claim was for (a) jars and (b) oil, while the admission was in respect of the full claim of the former and of no part of the latter.

(15) The statement of the Sages in our Mishnah (cf.supra n. 7).

(16) Sc. THE SAGES.

(17) Shebu. 40a.

(18) Lit., 'measure'.

(19) JARS does not refer to the actual containers but to their measure or capacity, the jars themselves forming no part of the claim.

(20) That the jars admitted formed no part of the claim.

(21) Lit., 'that all the world', Admon and the Sages.

(22) מלא, lit., 'fulness'.

(23) בור, a receptacle in the oil press.

(24) Lit., 'l have with you'.

(25) Sc. THE SAGES.

(26) Why the Sages do not regard the admission of the claim to the jars as AN ADMISSION OF THE SAME KIND AS THE CLAIM.

(27) MS.M. inserts, 'in the name of R. Johanan'.

(28) 'Jars of oil'.

(29) Between the oil and the jars in which it is kept there exists a definite connection similar to that of the pomegranate and its peel; but between wheat and barley there exists no such connection. An admission of one of the two in the former cases may well be regarded as AN ADMission OF THE SAME KIND AS THE CLAIM though an admission of one of the two in the latter case cannot be so regarded.

(30) In the tank. How then could the one pair be compared to the other?

(31) Lit., 'in what?'

(32) In our Mishnah.

(33) Lit., 'I have with you'.

(34) Lit., 'the things never were'.

(35) Lit.,'you have'.

(36) Having clearly admitted a part of the claim.

(37) V. supra p. 549 n. 3.

(38) Sc. THE SAGES.

(39) Oil.

(40) Jars.

(41) Lit., 'fixed'.

(42) פשט לו את הרגל, lit., 'stretched out the leg towards him', as if to say, 'Take the dust of my foot', or 'hang me by the leg, l have nothing to give you' (Rashi).

Talmud - Mas. Kethuboth 109a

LET [HIS DAUGHTER] REMAIN [SINGLE][1] UNTIL HER HAIR GROWS GREY.[2] ADMON RULED: SHE MAY SAY,[3] 'HAD I MYSELF PROMISED THE SUM ON MY BEHALF I WOULD REMAIN [SINGLE][1] UNTIL MY HAIR GREW GREY, BUT NOW THAT MY FATHER HAS PROMISED IT, WHAT CAN I DO? EITHER MARRY ME OR SET ME FREE'. R. GAMALIEL SAID: ADMON'S WORDS HAVE MY APPROVAL.

GEMARA. Our Mishnah does not [uphold the same view] as that of the following Tanna. For it was taught: R. Jose son of R. Judah stated, There was no difference of opinion between Admon and the Sages that, where a man promised a sum of money to his [prospective] son-in-law and then defaulted, his daughter may say[3] My father has promised on my behalf, what can I do?' They only[4] differ where she herself promised a sum of money on her own behalf, in which case the Sages ruled: Let her remain [single][5] until her hair grows grey, while Admon maintained that she could say, 'I thought that my father would pay for me [the promised amount], but now that my father does not pay for me, what can I do? Either marry me or set me free'. Said R. Gamaliel: Admon's words have my approval.[6]

A Tanna taught: This[7] applies only to a woman who is of age but in the case of a minor compulsion may be used. Who is to be compelled? If the father [be suggested], should [not the ruling. it may be retorted,] be reversed?[8] — But, said Raba, compulsion is exercised against the [prospective] husband that he may give her a letter of divorce.

R. Isaac b. Eleazar laid down on the authority of Hezekiah: Wherever R. Gamaliel stated, 'Admon's words have my approval', the halachah agrees with him. Said Raba to R. Nahman, Even in the Baraitha?[9] — The other replied, Did we say 'In the Mishnah?' What we said was, 'Wherever R. Gamaliel stated'.[10]

Said R. Zera in the name of Rabbah b. Jeremiah: As to the two rulings which Hanan has laid down, the halachah is in agreement with him who followed his view,[11] but in respect of the seven rulings that were laid down by Admon, the halachah is not in agreement with him who followed his view.[12] What does he[13] mean? If it be suggested that he means this: As to the two rulings which Hanan has laid down, the halachah is in agreement with himself and with him who followed his view, and that in respect of the seven rulings that were laid down by Admon, the halachah is neither in agreement with himself nor with him who followed his view,[12] [it may be objected:] Did not R.

Isaac b. Eleazar lay down on the authority of Hezekiah that ‘wherever R. Gamaliel stated, "Admon's words have my approval", the halachah agrees with him’? — What he[13] meant, however, must have been this: As to the two rulings which Hanan has laid down, the halachah is in agreement with himself and with him who followed his view,[14] but in respect of the seven rulings that were laid down by Admon, the halachah does not agree with him who followed his view[15] but agrees with himself in all his rulings. But, surely, R. Isaac b. Eleazar laid down on the authority of Hezekiah that ‘wherever R. Gamaliel stated, ‘Admon's words have my approval" the halachah agrees with him’. [Does not this imply:] Only[16] where he stated;[17] but not where he did not state? — The fact, however, is that he[13] meant this; As to the two rulings which Hanan has laid down, the halachah is in agreement with himself and with him who followed him,[14] but of the seven rulings that were laid down by Admon, there are some concerning which the halachah is in agreement with himself and with him who followed his view[18] while there are others concerning which the halachah does not agree with him[19] but with him who followed his view,[15] [the rule being that] wherever R. Gamaliel stated, ‘Admon's words have my approval’ is the halachah in agreement with him, but not elsewhere.[20] MISHNAH. IF A MAN CONTESTS [THE OWNERSHIP OF] A FIELD ON [THE DEED OF SALE OF] WHICH HE IS SIGNED AS A WITNESS,[21] ADMON RULED; [HIS CLAIM IS ADMISSIBLE BECAUSE] HE CAN SAY,[22] ‘[LITIGATION WITH] THE SECOND[23] IS EASIER FOR ME, SINCE THE FIRST[24] IS A MORE DIFFICULT PERSON THAN HE’.[25] THE SAGES, HOWEVER, RULED THAT HE HAS LOST HIS RIGHT.[26] IF [THE SELLER][27] MADE IT[28] A [BOUNDARY] MARK FOR ANOTHER PERSON[29] [THE CONTESTANT][30] HAS LOST HIS RIGHT.[31]

GEMARA. Abaye said: This[32] was taught only [in respect of] A WITNESS, but a judge[33] does not lose his title;[34] for R. Hiyya taught Witnesses may not sign a deed unless they have read it[35]

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(1) Unmarried and undivorced.

(2) Sc. the son-in-law cannot be compelled either to marry her or to set her free.

(3) To her prospective husband.

(4) Lit., ‘concerning what?’

(5) Unmarried and undivorced.

(6) Tosef. Keth. XII.

(7) The ruling of the Baraitha.

(8) If compulsion is to be resorted to, this should not be in the case of a minor whose actions have no legal validity, but in that of one who is of age, whose undertaking is legally valid (v. Strashun).

(9) Just cited, where the dispute relates to a promise made by the daughter herself (cf. Rashi s.v. אפי and Tosaf. s.v. ואפילו a.l.). [R. Nissim; Does this principle apply elsewhere also in a Baraitha? — though here the halachah has been fixed according to the version of our Mishnah].

(10) The halachah, apparently contradictory, being determined by the version of the Mishnah and Baraitha respectively, (cf. Tosaf. l.c.). [Cf. however n. 6].

(11) כיוצא בו, lit., ‘like he who goes out with him’, sc. R. Johanan b. Zakkai (cf. the Mishnahs supra 105a and 107b). This is discussed anon. aliter; ‘Like that which goes out with it’, i.e., rulings similar to those laid down by Admon (v. Tosaf.) [According to Adreth a case similar to that of Admon's is provided by one who pays his fellow's debt to his creditor without his instructions. and where the claim is, say, for wheat and barley and the admission is only in regard to one of these, we have an instance similar to that of Admon].

(12) Sc. R. Gamaliel (cf. the Mishnahs supra 108b f). Cf. also p. 697, n.8 mutatis mutandis.

(13) R. Zera.

(14) V. p. 697, n. 8.

(15) I.e., R. Gamaliel (cf. supra note I) who agreed with him in three rulings only, for the halachah agrees with Admon in all his rulings.

(16) Lit. , ‘yes’.

(17) Is the halachah in agreement with Admon.

(18) Sc. the three rulings (cf supra n. 4).

(19) Rashal on the interpretation of Tosaf. (v. p. 697, n. 8) emends: ‘agrees neither with him nor with etc.’
(20) Lit., ‘not those’, sc. the rulings of Admon of which R. Gamaliel expressed no approval.
(21) His plea being that the seller has taken it from him by violence.
(22) So separate edd. of the Mishnah, Alfasi and Asheri.
(23) The buyer.
(24) The seller.
(25) Sc. he might plead that he signed as a witness, not because he acknowledged the seller to be the lawful owner, but in the hope that it would be easier for him to recover his field from the buyer than from the seller.
(26) By signing the deed of sale he is presumed to have acknowledged the seller as the lawful owner of that field.
(27) Whose title to the field is contested.
(28) The contested field.
(29) To whom he has sold a field adjacent to it.
(30) Who signed as a witness to the deed of sale in which the contested field was described as the property of the seller, and given as one of the boundaries of the field sold.
(31) Even according to Admon. The plea that the contestant preferred to litigate with the buyer is obviously inadmissible here, and the reason given supra note 6, applies.
(32) The ruling that the contestant HAS LOST HIS TITLE.
(33) Who attested the Signatures of the witnesses to a deed of sale.
(34) To the field sold and, despite his Signature, may reclaim it. A judge is concerned only with the attestation of the witnesses’ signature and not with the contents of the deed.
(35) Since it is the contents of the deed to which they must testify.

Talmud - Mas. Kethuboth 109b

but judges[1] may sign even though they have not read it.[2]

IF [THE SELLER] MADE IT A [BOUNDARY] MARK FOR ANOTHER PERSON. Abaye said: This was taught Only [where it was] FOR ANOTHER PERSON, but [if it was made a boundary mark] for himself[3] he does not lose his right; for he can say, ‘Had I not done that[4] for him he would not have sold the field to me’. What [possible objection can] you have?[5] That he should have made a declaration [to that effect]? Your friend [it can be retorted] has a friend, and the friend of your friend has a friend.[6]

A certain man once made a field[7] a [boundary] mark for another person,[8] [and one of the witnesses,] having contested [its ownership,][9] died, when a guardian was appointed [over his estate].[10] The guardian came to Abaye[11] who quoted to him: ‘IF [THE SELLER] MADE IT A [BOUNDARY] MARK FOR ANOTHER PERSON [THE CONTESTANT] HAS LOST HIS RIGHT’. ‘If the father of the orphans had been alive’, the other retorted, ‘could he not have pleaded, "l have conceded to him[12] only one furrow"?’[13] — ‘You speak well’, he said, ‘for R. Johanan stated, If he submitted the plea, "l have conceded to you only one furrow", he is believed’. ‘Proceed at any rate [Abaye later[14] told the guardian] to give him one furrow’.[15] On that [furrow, however,] there was a nursery of palm trees, and [the guardian] said to him, ‘Had the father of the orphans been alive, could he not have submitted the plea, "I have re-purchased it from him"?’[16] — ‘You speak well’, [Abaye] said to him, ‘for R. Johanan ruled, If he submitted the plea, "I have re-purchased it from him" he is believed’.[17] Said Abaye: Anyone who appoints a guardian should appoint one like this man who understands how to turn [the scales][18] in favour of orphans.

MISHNAH. IF A MAN WENT TO A COUNTRY BEYOND THE SEA AND [IN HIS ABSENCE] THE PATH TO HIS FIELD WAS LOST,[19] ADMON RULED: LET HIM WALK [TO HIS FIELD][20] BY THE SHORTEST WAY.[21] THE SAGES, HOWEVER, RULED: LET HIM EITHER PURCHASE A PATH FOR HIMSELF EVEN THOUGH IT [COST HIM] A HUNDRED MANEH OR FLY THROUGH THE AIR.

GEMARA. What is the Rabbis'[22] reason? Does not Admon speak well?[23] — Rab Judah replied in the name of Rab: [The ruling[24] refers to a field], for instance, which [the fields of] four persons surrounded on its four sides.[25] If that be so, what can be Admon's reason?[26] — Raba explained: Where four persons[27] succeeded[28] [to the adjacent fields] by virtue of the rights of four [persons respectively][29] or where four persons succeeded[28] [to them][30] by virtue of one,[29] all agree that these may turn him away.[31] They[32] only differ where one person succeeded[33] [to all the surrounding fields] by virtue of four persons.[34] Admon is of the opinion that [the claimant can say to that person,] ‘At all events[35] my path is in your territory’; and the Rabbis hold the opinion [that the defendant might retort,] ‘If you will keep quiet, well and good,[36] but if not l will return the deeds to their respective original owners whom you will have no chance of calling to law’.[37]

A [dying man][38] once instructed [those around him] that a palm tree shall be given to his daughters but the orphans proceeded to divide the estate and gave her no palm tree. R. Joseph [in considering the case] intended to lay down that it involved the very same principle as that of our Mishnah.[39] But Abaye said to him: Are [the two] alike? There,[40] each one can send [the claimant to the path] away;[41] but here, the palm tree is in their common possession.[42] What is their way out?[43] — They must give her a palm tree and divide [the estate] all over[44] again.

A [dying man][45] once instructed [those around him] that a palm tree shall be given to his daughter. When he died he left[46] two halves of a palm tree.[47] Sat R. Ashi [discussing the case] and grappled with this difficulty; Do people call two halves of palms trees a palm tree’ or not? — Said R. Mordecai to R. Ashi, Thus said Abimi of Hagronia[48] in the name of Raba: People do call two halves of palm trees ‘a palm tree’.[49]

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(1) Cf. supra n. 13.

(2) A judge's signature on a deed consequently does not prove that beyond the Signatures of the witnesses he was at all aware of its contents.

(3) Sc. if the contestant himself bought a field from the man whom he accuses of having stolen an adjacent field from him, and the latter, inserting the field in dispute as a boundary, described it as his own.

(4) Lit., ‘thus’, i.e., agreed to the description of the stolen field as the property of the seller.

(5) Against this plea.

(6) Popular saying. The declaration would eventually reach the ears of the seller who might in consequence cancel the sale.

(7) Which he was accused of having stolen.

(8) To whom he had sold a field adjacent to it.

(9) Cf. supra p. 699, n. I.

(10) To manage it for the orphans.

(11) To claim the field on behalf of his wards.

(12) Of the field in dispute.

(13) That was immediately next to the sold field. The orphans should, therefore, be entitled to reclaim the rest of the field.

(14) After proof had been adduced that the field had been stolen from the father of the orphans.

(15) The minimum which the deceased must have conceded.

(16) After it had been ascribed to him.

(17) [The reason for this ruling. according to Rashi, is because the field is known to have belonged to the contestant and but for his signature referred to, the present occupier has no proof of his title to the field. This admission on the part of the contestant is, however, cancelled by his declaration of having repurchased the field, v. supra 16a.]

(18) Lit.,’to turn over’.

(19) It being unknown in which of the surrounding fields it lay.

(20) He must be allowed a short path through one of the surrounding fields. (This is further explained infra).

(21) The minimum. He cannot claim more than what is, at all events, due to him.

(22) THE SAGES.
(23) The assumption now being that all the surrounding fields belonged to one person who must obviously be held responsible for the lost path.
(24) In our Mishnah.
(25) So that each person can shift responsibility on the others.
(26) How can one be held responsible when all the four are equally involved?
(27) The respective owners of the four surrounding fields.
(28) Lit., ‘came’.
(29) Sc. by purchase or gift.
(30) After the path was lost.
(31) Cf. supra note 8.
(32) Admon and the Sages.
(33) Lit., ‘came’.
(34) Sc. by purchase or gift.
(35) In whichever field the path was lost.
(36) Lit., ‘you will keep quiet’ (bis). He will sell him a path at a reasonable price (cf. Rashi). V . however, Tosaf. Yeb. 37b, s.v. דאמר.
(37) Lit., ‘and you will not be able to talk law with them’. Cf supra p. 701, n. 8.
(38) The verbal instructions of one in such circumstances have the force of a legally written document.
(39) Like the owners of the adjacent fields each of whom shifts the responsibility for the path on to the others. so can each brother shift the responsibility for the palms tree on to the other brothers.
(40) The case in our Mishnah.
(41) The One path can lie only in one person's held, and each of the defendants can, therefore, well plead that it did not lie in his.
(42) Lit., ‘with them’, the instructions of the deceased having been given before the division of the estate, and the duty of carrying out his wish is incumbent upon all the heirs jointly.
(43) Lit., ‘their correction’. ‘redress’ —
(44) Lit., ‘from the beginning’.
(45) V. supra note 2.
(46) Among his many palm trees.
(47) Sc. two palm trees in each of which he owned a half, and the heirs desired to assign them to the daughter in fulfilment of their father's instructions.
(48) One of the suburbs of Nehardea.
(49) And the brothers can assign these to the daughter despite the greater trouble involved in their cultivation.

Talmud - Mas. Kethuboth 110a

MISHNAH. IF A MAN PRODUCED A BOND OF INDEBTEDNESS AGAINST ANOTHER, AND THE LATTER PRO DUCED [A DEED OF SALE,[1] SHEWING] THAT THE FORMER HAD SOLD HIM A FIELD,[2] ADMON RULED; [THE OTHER] CAN SAY, HAD I OWED YOU [ANYTHING] YOU WOULD HAVE RECOVERED IT WHEN YOU SOLD ME THE FIELD’.[3] THE SAGES, HOWEVER, SAY; THIS [SELLER] MAY HAVE BEEN A PRUDENT MAN, SINCE HE MAY HAVE SOLD HIM THE LAND IN ORDER TO BE ABLE TO TAKE IT FROM HIM AS A PLEDGE.[4]

GEMARA. What is the reason of the Rabbis? Does not Admon speak well? — Where [the purchase] money is paid first and the deed is written afterwards, no one disputes that the [defendant] may well say [to the claimant], ‘You should have recovered your debt when you sold me the field’.[3] They only differ where the deed is written first and the purchase money is paid afterwards. Admon is of the opinion that [the claimant] should have made a declaration [of his motive],[5] while the Rabbis[6] maintain [that the claimant can retort,] ‘Your friend has a friend, and the friend of your friend has a friend’.[7]

MISHNAH. IF TWO MEN PRODUCED BONDS OF INDEBTEDNESS AGAINST ONE ANOTHER,[8] ADMON RULED; [THE HOLDER OF THE LATER BOND CAN SAY TO THE OTHER,] ‘HAD I OWED YOU [ANY MONEY] HOW IS IT THAT YOU BORROWED FROM ME?’[9] THE SAGES, HOWEVER, RULED: THE ONE RECOVERS HIS DEBT[10] AND THE OTHER RECOVERS HIS DEBT.[11] GEMARA. It was stated: If two men produced bonds of indebtedness against one another, R. Nahman ruled: The one recovers his debt and the other recovers his debt.[12] R. Shesheth said: What is the point[13] in exchanging bags?[14] The one rather retains his own [money][15] and the other retains his.

All agree[16] that if both [litigants possess land of the] best,[17] medium or worst quality [distraint for each on the other is] undoubtedly a case of changing bags.[14] They differ only where one [of the litigants] has land of medium quality and the other of the worst quality. R. Nahman is of the opinion that ‘the one recovers his debt and the other recovers his debt’ because in his view an assessment[18] is made on the basis of the debtor's[19] possessions,[20] [so that] the owner of the land of the worst quality proceeds to distrain on the medium quality [of the other][21] which then becomes with him the best; and the other can then proceed to take from him the worst only.[22] R. Shesheth, however, said, ‘What is the point in exchanging bags?’ because he is of the opinion that an assessment[23] is made on a general basis,[24] [so that] eventually when the original owner of the medium land[25] proceeds [to distrain on the property of the other][26] he will only take back his own medium land. But what [reason can] you see, according to R. Nahman, that the owner of the worst quality of land should proceed [to distrain] first? Why should not rather the owner of the medium quality come first and distrain on the worst [of the other] and then let him distrain on it?[27] — [But this ruling] applies only[28] where the [holder of the worst land] submitted his claim first. But after all when they come to distrain, do they not come simultaneously?[29] The fact, however, [is that the ruling] applies only[28] where one [of the litigants] has best and medium land, and the other has only of the worst. One Master[30] is of the opinion that an assessment[31] is made on the basis of the debtor's[32] possessions,[33] while the other Master[34] is of the opinion that an assessments is made on a general basis.[35]

We have learned: THE SAGES, HOWEVER, RULED: THE ONE RECOVERS HIS DEBT AND THE OTHER RECOVERS HIS DEBT![36] R. Nahman explained this, according to R. Shesheth, [as referring to a case,] for instance, where one borrowed for a period often, and the other for one of five years.[37] But how exactly are we to understand this? If it be suggested that the first [bond][38] was for ten years and the second for five, would Admon [it may be objected] have ruled [that the second can say to the first:] ‘HAD OWED YOU [ANY MONEY] HOW IS IT THAT YOU BORROWED FROM ME?’ The time for payment[39] surely, had not yet arrived.[40] If, however, [it be suggested that] the first was for five years and the second for ten, how [it may again be objected] is this to be understood? If the time for payment[39] had arrived,[40] what [it may be asked] could be the reason of the Rabbis?[41] And if the time for payment[39] had not yet arrived,[40] well, payment was not yet due and what [it may again be asked] is Admon's reason? — [This ruling was] required [in that case] only where [the holder of the earlier bond][42] came [to borrow] on the day on which the five years had terminated.[43] The Masters[44] are of the opinion that it is usual to borrow money for one day[45] and the Master[46] is of the opinion that one does not borrow money for one day.[47]

Rama b. Mama explained: We are here[48] dealing with [a case where one of the bonds was presented by] orphans[49] who are themselves entitled to recover a debt but from whom no debt may be recovered.[50]

Was it not, however, stated, THE ONE RECOVERS HIS DEBT AND THE OTHER RECOVERS HIS DEBT?[51] — [The meaning is:] The one recovers his debt, and the other is entitled to recover it but gets nothing. Said Raba: Two objections [may be advanced] against this explanation. Firstly, it was stated, ‘THE ONE RECOVERS HIS DEBT AND THE OTHER RECOVERS[51] HIS DEBT’;

and, secondly, could not [the other party] allow the orphans to distrain on a plot of land [of his] and then recover it from them,[52] in accordance with [a ruling of] R. Nahman, for R. Nahman said in the name of Rabbah b. Abbuha: If orphans collected a plot of land for their father's debt[53] the creditor[54] may re-collect it from them?[55] — This is a difficulty.

Why could it not be explained [that this is a case] where the orphans owned land of the worst quality and the other owned best[56] and medium quality, so that the orphans proceed to distrain on his medium land[57] and allow him to distrain on their worst only? For, even though[58] an assessment[59] is made on a general basis[60] is not payment from orphans' property recovered from their worst land only?[61] — This applies only where [the creditor] has not yet seized [their property] but where[62] he had seized it[63] he may lawfully retain it.[64]

MISHNAH. [THE FOLLOWING REGIONS ARE REGARDED AS] THREE COUNTRIES IN RESPECT OF MATRIMONY:[65] JUDAEA, TRANSJORDAN AND GALILEE. [A MAN] MAY NOT TAKE OUT [HIS WIFE WITH HIM][66] FROM ONE TOWN[67] TO ANOTHER[68] OR FROM ONE CITY[69] TO AN OTHER. WITHIN THE SAME COUNTRY, HOWEVER, HE MAY TAKE HER OUT WITH HIM FROM ONE TOWN INTO ANOTHER OR FROM ONE CITY INTO AN OTHER[70]

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(1) Bearing a later date than that of the bond.

(2) And thereby he seeks to prove that either he never borrowed the sum claimed or that he repaid It prior to his purchase of the field.

(3) By seizing the purchase price in payment of the debt. Since he did not do it is obvious that he owed bins nothing.

(4) Movables can be hidden away.

(5) And since he did not do so the defendant may well plead, 'HAD I OWED YOU' etc.

(6) THE SAGES.

(7) Cf. supra p. 700, n. 3 mutatis mutandis.

(8) One bond bearing an earlier date than the other.

(9) And this plea exempts him from payment.

(10) Lit., 'bond of his debt'.

(11) No balancing of amounts or exchange of bonds being allowed by the court. Each bond must be treated on its own merits and orders for distraint are given accordingly.

(12) V. p. 703, n. II.

(13) If the amounts of the two debts are equal (v. infra).

(14) Metaph. If the bags are of equal weight there is no advantage to an animal in changing them from one side to the other (Jast.) or to a human being in changing the burden from one hand to the other (Levy). מטרתא, 'leather bag' (Rashi). Cf. 'a liquid measure', 'cask'.

(15) Or property on which the other desires to distrain.

(16) Lit., 'all the world', R. Nahman and R. Shesheth.

(17) Lit., 'best and best'.

(18) On behalf of a creditor who distrains on the debtor's land.

(19) Lit., 'of his'.

(20) If the debtor, for instance, has only two kinds of land, medium and inferior quality, the former is regarded as 'best' and the creditor can only distrain on the inferior land. A creditor (cf. B.K. 7b) may distrain on the 'medium' land of the debtor if he possesses such, or on the 'worst'. He has no right to distrain on the 'best'.

(21) Being in fact the only kind of land the other possesses.

(22) He cannot reclaim the medium quality that was taken from him, since it is now regarded as its present owner's 'best' (cf. supra note 9).

(23) V.supra note 7.

(24) Lit., 'of all men'.

(25) Lit., 'that one'.

(26) Who had taken possession of his medium land.

(27) Cf. p. 704, n. 11. The other could not distrain on the medium which is now his best.
(28) Lit., 'is not required but'.
(29) Since both presented their bonds at court (v. our Mishnah ab init.). Why then should one be allowed an advantage over the other?
(30) R. Nahman.
(31) V. supra p. 704, n. 7.
(32) Lit., 'of his'.
(33) Cf. supra p. 704, n. 9. The owner of the worst land, if allowed to distrain on the other instead of keeping his own. is at an advantage in either case. whether he distrains first or last. If he distrains first he obtains, of course, the other's medium land which, becoming his 'best', cannot be distrained on by the creditor, and the other must consequently recoup himself from his worst. If, on the other hand, the owner of the best and medium land distrains first, it is again the other's worst land (the only kind he possesses) to which he can have recourse, while the other still distrains on his medium.
(34) R. Shesheth.
(35) Cf. supra p. 704. n. 13. Where, therefore, two bonds are simultaneously presented at court and the order would naturally be made that the owner of the worst land distrains first on the other's 'medium' and that the latter then distrains on the same 'medium', the procedure would be as useless as that of 'exchanging bags'.
(36) Is not this an objection against K. Shesheth?
(37) So that it is advantageous to the debtor of the loan for the longer period that his bond shall not be balanced against the other's.
(38) I.e., the one bearing the earlier date.
(39) Lit., 'its time'.
(40) When the second bond was written.
(41) It should be pretty obvious that the holder of the later bond should be believed mince he might well plead as Admon suggested.
(42) The five years' loan.
(43) Payment having been due on the following day.
(44) The Sages. Lit., 'master'.
(45) Hence their ruling that both bonds are valid.
(46) Admon.
(47) Hence the admissibility of the plea, 'HAD I OWED YOU etc'
(48) In our Mishnah.
(49) Who inherited it from their father.
(50) If they possessed no landed property. Orphans' movables may not be distrained on.
(51) Not merely, 'is entitled to recover etc.
(52) Cf. supra n. 12 mutatis mutandis.
(53) Which someone owed him.
(54) To whom their father owed money.
(55) Supra 92a, Pes. 31a, B.B. 125a.
(56) So cur. edd. and MS.M. R. Nissim and Maharsha omit.
(57) To which a creditor is entitled (cf. supra p. 704. n. 9 second clause).
(58) Lit , also'.
(59) Cf. supra p. 704. n. 7.
(60) Lit., 'of all men'.
(61) V. Git. 48b.
(62) MS.M. 'but here since'.
(63) As in the case under discussion where they seek to take it from him.
(64) Lit., 'he seized'.
(65) Sc. a man who married in one of these cannot compel his wife to go with him to any of the others.
(66) Except with her consent.
(67) כרך.
(68) In another country.

(69) [עיר According to Rashi כרך is larger than עיר. According to Krauss, the former denotes a city (large or small) surrounded by a wall, v. He'atid. III, 1ff.]
(70) Even if she objects.

Talmud - Mas. Kethuboth 110b

BUT NOT FROM A TOWN TO A CITY NOR FROM A CITY TO A TOWN.[1] [A MAN] MAY TAKE OUT [HIS WIFE WITH HIM] FROM AN INFERIOR[2] TO A SUPERIOR[3] DWELLING, BUT NOT FROM A SUPERIOR[3] TO AN INFERIOR[2] DWELLING. R. SIMEON B. GAMALIEL RULED: NOT EVEN FROM AN INFERIOR DWELLING TO A SUPERIOR DWELLING, BECAUSE THE [CHANGE TO A] SUPERIOR DWELLING PUTS [THE HUMAN BODY] TO A [SEVERE] TEST.[4]

GEMARA. One may readily grant [the justice of the ruling that a wife may not be compelled to move] FROM A CITY TO A TOWN, since everything [necessary] is obtainable in a city while not everything is obtainable in a town. On what grounds, however, [can she not be compelled to move] FROM A TOWN TO A CITY? — [This ruling] provides support for R. Jose b. Hanina who stated, ‘Whence is it deduced that city[5] life[6] is difficult?[7] [From Scripture] where it is said, And the people blessed all men that willingly offered themselves to dwell in Jerusalem.[8]

R.SIMEON B. GAMALIEL RULED etc. What [is meant by] PUTS [THE HUMAN BODY] TO A [SEVERE] TEST’?[9] — In agreement [with a saying] of Samuel. For Samuel said: A change of diet is the beginning of bowel trouble.[10]

It is written in the Book of Ben Sira: All the days of the poor[11] are evil;[12] but are there not the Sabbaths and festivals?[13] — [The explanation, however, is] according to Samuel. For Samuel said: A change of diet is the beginning of bowel trouble.[10] Ben Sira said: The nights also.[14] Lower than [all] the roofs is his roof,[15] and on the height of mountains is his vineyard,[16] [so that] the rain of [other] roofs [pours down] upon his roof and the earth of his vineyard [is washed down] into the vineyards [of others].[17] MISHNAH. [A MAN] MAY COMPEL ALL [HIS HOUSEHOLD] TO GO UP[18] [WITH HIM] TO THE LAND OF ISRAEL., BUT NONE MAY BE COMPELLED TO LEAVE IT. ALL [ONE'S HOUSEHOLD] MAY BE COMPELLED TO GO UP[18] TO JERUSALEM,[19] BUT NONE MAY BE COMPELLED TO LEAVE IT. [THIS APPLIES TO] BOTH MEN AND WOMEN.[20] IF A MAN MARRIED A WOMAN IN THE LAND OF ISRAEL AND DIVORCED HER IN THE LAND OF ISRAEL, HE MUST PAY HER [HER KETHUBAH] IN THE CURRENCY OF THE LAND OF ISRAEL. IF HE MARRIED A WOMAN IN THE LAND OF ISRAEL AND DIVORCED HER IN CAPPADOCIA HE MUST PAY HER [HER KETHUBAH] IN THE CURRENCY OF THE LAND OF ISRAEL.[21] IF HE MARRIED A WOMAN IN CAPPADOCIA AND DIVORCED HER IN THE LAND OF ISRAEL, HE MUST A GAIN PAY [HER KETHUBAH] IN THE CURRENCY OF THE LAND OF ISRAEL.[21] R. SIMEON B. GAMALIEL, HOWEVER, RULED THAT HE MUST PAY HER IN THE CAPPADOCIAN CURRENCY.

IF A MAN MARRIED A WOMAN IN CAPPADOCIA AND DIVORCED HER IN CAPPADOCIA, HE MUST PAY HER [HER KETHUBAH] IN THE CURRENCY OF CAPPADOCIA.

GEMARA. What [was the expression,] ‘MAY COMPEL ALL’[22] intended to include? — To include slaves.[23] What, however, [was the expression[22] intended] to include according to him who specifically mentioned ‘slaves’ [in our Mishnah]? — To include [removal] from a superior dwelling to an inferior one. What [was the expression,] ‘BUT NONE[24] MAY BE COMPELLED TO LEAVE IT’ intended to include? — To include a slave who fled from outside the Land [of Israel] into the

Land in which case his master is told,[25] ‘Sell him here, and go’, in order to [encourage] settlement in the Land of Israel. What [was the expression] ‘ALL[26] . . . MAY BE COMPELLED TO GO UP TO JERUSALEM’ intended to include? — To include [removal] from a superior dwelling to an inferior one. What [was the expression,] ‘BUT NONE[27] MAY BE COMPELLED TO LEAVE IT’ intended to include? — To include even [removal] from an inferior dwelling to a superior one; only since as it was stated in the earlier clause,[28] ‘NONE MAY BE COMPELLED TO LEAVE IT it was also stated in the latter clause,[29] ‘NONE MAY BE COMPELLED TO LEAVE IT’.[30]

Our Rabbis taught: If [the husband] desires[31] to go up[32] and his wife refuses[31] she must be pressed[33] to go up; and if [she does] not [consent] she may be divorced[34] without a kethubah. If she desires[31] to go up[32] and be refuses,[31] he must be pressed to go up; and if [he does] not [consent] he must divorce her and pay her kethubah. If she desires to leave[35] and he refuses to leave, she must be pressed not to leave, and if [pressure is of] no [avail] she may be divorced[34] without a kethubah. If he desires to leave[35] and she refuses he must be pressed not to leave, and if [coercion is of] no [avail] he must divorce her and pay her kethubah.[36]

IF A MAN MARRIED A WOMAN etc. Is not this self-contradictory? It was stated, IF HE MARRIED A WOMAN IN THE LAND OF ISRAEL AND DIvorced HER IN CAPPADOCIA HE MUST PAY HER [HER KETHUBAH] IN THE CURRENCY OF THE LAND OF ISRAEL, from which it clearly follows that we are guided by [the currency of the place where the] obligation[37] was undertaken.[38] Read, however, the concluding clause: IF HE MARRIED A WOMAN IN CAPPADOCIA AND DIVORCED HER IN THE LAND OF ISRAEL HE MUST AGAIN PAY HER [HER KETHUBAH] IN THE CURRENCY OF THE LAND OF ISRAEL, from which it follows, does it not, that we are guided by [the currency of the place] where collection is effected?[39] — Rabbah replied: [The rulings] taught here [are among those in which the claims relating to] a kethubah are weaker [than those of other claimants],[40] for [the author] is of the opinion that the kethubah is a Rabbinical enactment.[41] R. SIMEON B. GAMALIEL, HOWEVER, RULED THAT HE MUST PAY HER IN THE CAPPADOCIAN CURRENCY. He is of the opinion[42] that the kethubah is Pentateuchal.[43]

Our Rabbis taught: If a man produces a bond of indebtedness against another [and the place of issue] entered[44] therein was Babylon, [the debtor] must allow him to collect it in Babylonian currency. If [the place of issue] entered[44] therein was the Land of Israel he must allow him to collect it in the currency of the Land of Israel. If no place of issue was entered[44] he must, if it was presented in Babylon, pay him in Babylonian currency; and, if it was presented in the Land of Israel, he must pay him in the currency of the Land of Israel. If merely [a sum of] ‘silver [pieces]’[45] was entered, the borrower may pay the other whatever he wishes.[46] [This is a ruling] which does not apply to[47] a kethubah.[48] To what [ruling does this[49] refer]? — R. Mesharsheya replied: To that in the first clause,[50] thus indicating that the law is not in agreement with[51] R. Simeon b. Gamaliel who ruled that the kethubah is Pentateuchal.

‘If merely [a sum of] "silver [pieces]" was entered the borrower may pay the other whatever he wishes’. May not one say that [a ‘silver piece’ merely signified] a bar [of silver]? — R. Eleazar replied: [This is a case] where ‘coin’ was mentioned in the bond.[52] May not one suggest [that it signified] small change? — R. Papa replied: Small change is not made of silver.[53]

Our Rabbis taught: One should always live in the Land of Israel, even in a town most of whose inhabitants are idolaters, but let no one live outside the Land, even in a town most of whose inhabitants are Israelites; for whoever lives in the Land of Israel may be considered to have[54] a God, but whoever lives outside the Land may be regarded as one who has no God. For it is said in Scripture, To give you the Land of Canaan, to be your God.[55] Has he, then, who does not live in the Land, no God?[56] But [this is what the text intended] to tell you, that whoever lives outside the Land may be regarded as one who worships idols. Similarly it was said in Scripture in [the story of] David, For they have driven me out this day that I should not cleave to the inheritance of the Lord, saying: Go, serve other gods.[57] Now, whoever said to David, ‘Serve other gods’? But [the text intended] to tell you that whoever lives outside the Land[58] may be regarded as one who worships idols.[59]

R. Zera was evading Rab Judah because he desired to go up to the Land of Israel while Rab Judah had expressed [the following view:] Whoever goes up from Babylon to the Land of Israel transgresses a positive commandment, for it is said in Scripture,

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(1) The reason is stated infra.

(2) Lit., ‘bad’.

(3) Lit., ‘beautiful’.

(4) This is further explained by Samuel infra. בודק rt. בדק ‘to examine’, ‘test’, ‘try’. Aliter (Jast.): בדק ‘to penetrate’; ‘the removal to a better residence (and style of living) penetrates (the body and creates disease)’.

(5) Lit., ‘cities’.

(6) שישיבת, rt. ישב ‘to sit’, ‘dwell’.

(7) Lit., ‘hard’, owing to overcrowding, lack of pure country air and an insufficiency of parks and open spaces.

(8) Neh. XI, 2.

(9) בודק cf. supra note 1.

(10) חולי מעים, lit., ‘disease of the bowels’, ‘abdominal trouble’. Cf. B.B. 146a, Sonc. ed. p. 628 (where מעים is omitted) and Sanh. 101a, Sonc. ed. p. 683.

(11) So A.J.V.; A.V. and R.V. ‘afflicted’.

(12) Prov. XV, 15, Ben Sira XXXI, 5.

(13) During which days, at least, the poor were provided with substantial meals.

(14) Ben Sira loc. cit. Not only all the days.

(15) As a poor man he is compelled to live in a low-roofed hovel.

(16) Since he cannot afford a more costly vineyard in the valley.

(17) Ben Sira XXXI, 6-7.

(18) Lit., ‘cause to go up’.

(19) From any other Palestinian place.

(20) A wife also may compel her husband to live with her in Jerusalem or the Land of Israel and, if he refuses, she is entitled to demand a divorce and the payment of her kethubah.

(21) The Cappadocian coins were dearer than the corresponding ones of the Land of Israel.

(22) Emphasis on ‘ALL’.

(23) Hebrew slaves also may be compelled by their master to follow him to Jerusalem or to the Land of Israel.

(24) Emphasis on ‘NONE’.

(25) Lit., ‘we say to him’.

(26) Emphasis on ‘ALL’.

(27) Emphasis on ‘NONE’.

(28) In reference to the Land of Israel.

(29) In respect of Jerusalem.

(30) Though the latter clause is, in fact, redundant, it being self-evident that if a person may be compelled to leave a superior dwelling to move to an inferior one, provided the latter is in Jerusalem, he could not a fortiori be compelled to leave Jerusalem even for the sake of a change from an inferior to a superior dwelling.

(31) Lit., ‘says’.

(32) From a country outside the Land, to the Land of Israel, or from a province in the latter to Jerusalem.

(33) This law does not apply to the present time owing to the risks of the journey (Tosaf. s.v. הוא a.l.). Rabbenu Hayim also maintains that living in the Land of Israel is now not a religious act owing to the difficulty and impossibility of fulfilling many of the precepts attached to the soil (Tosaf. loc. cit. q.v.).

(34) Lit., ‘she goes out’.

(35) Jerusalem, for a provincial town in the Land of Israel, or the latter for a foreign country.

(36) Tosef. Keth. XII.

(37) To pay the kethubah.
(38) The obligation is undertaken at marriage and collection takes place on divorce (or the man's death).
(39) Cf. supra n. 2.
(40) Cf. supra p. 709, n. 4, B.B. 132b, Sonc. ed. p. 554, n. 9, Bek. 52a.
(41) Non-Pentateuchal (cf. infra n. 6 and text).
(42) Contrary to the view of the first Tanna (cf. supra n. 5).
(43) [In the Jerusalem Talmud the opinions are reversed: R. Gamaliel holds that the kethubah is Rabbinical, whereas the Sages consider it Biblical, the Palestinian giving preference to the Palestine coinage, v. supra 10a].
(44) Lit., ‘written’.
(45) No mention being made of the exact denomination.
(46) Since he may assert that the figure in the bond referred to the smallest silver coin.
(47) Lit., ‘which is not so in’.
(48) Tosef. Keth. XII.
(49) The last clause.
(50) Sc. unlike a creditor who, according to the first clause, is entitled to collect his due in the currency of the place of issue, a woman collects her kethubah in the cheaper currency only.
(51) Lit., ‘to bring out from’.
(52) Lit., ‘written in it .
(53) Lit., ‘small change of silver people do not make’. Cf. B.B. 165b f, Sonc. ed. p. 722f.
(54) Lit., ‘is like as if he has’.
(55) Lev. XXV, 38; implying apparently that only in the land of Canaan would He be their God.
(56) One surely may serve God anywhere.
(57) I Sam. XXVI, 19.
(58) David was compelled to seek shelter from Saul in the country of Moab and the land of the Philistines.
(59) Tosef. ‘A.Z. V.

Talmud - Mas. Kethuboth 111a

They shall be carried to Babylon, and there shall they be, until the day that I remember them, saith the Lord.[1] And R. Zera?[2] — That text[1] refers[3] to the vessels of ministry.[4] And Rab Judah? — Another text also is available:[3] I adjure you, O daughters of Jerusalem, by the gazelles, and by the hinds of the field, [that ye awaken not, nor stir up love,[5] until it please]’.[6] And R. Zera? — That[7] implies that Israel shall not go up [all together as if surrounded] by a wall.[8] And Rab Judah? — Another ‘I adjure you’[9] is written in Scripture. And R. Zera? — That text is required for [an exposition] like that of R. Jose son of R. Hanina who said: ‘What was the purpose of those three adjurations?[10] — One, that Israel shall not go up [all together as if surrounded] by a wall;[8] the second, that whereby the Holy One, blessed be He, adjured Israel that they shall not rebel against the nations of the world; and the third is that whereby the Holy One, blessed be He, adjured the idolaters that they shall not oppress Israel too much’. And Rab Judah? — It is written in Scripture, That ye awaken not, nor stir up.[11] And R. Zera? — That text is required for [an exposition] like that of R. Levi who stated: ‘What was the purpose of those six adjurations?[12] — Three for the purposes just mentioned and the others, that [the prophets] shall not make known the end,[13] that [the people] shall not[14] delay[15] the end,[13] and that they shall not reveal the secret[16] to the idolaters’.

By the gazelles, and by the hinds of the field.[17] R. Eleazar explained: The Holy One, blessed be He, said to Israel, ‘If you will keep the adjuration, well and good; but if not, I will permit your flesh [to be a prey] like [that of] the gazelles and the hinds of the field’.

R. Eleazar said: Whoever is domiciled in the Land of Israel lives without sin, for it is said in Scripture, And the inhabitant shall not say, ‘I am sick’, the people that dwell therein shall be forgiven their iniquity.[18] Said Raba[19] to R. Ashi; We apply this [text][18] to those who suffer from disease.

R.Anan said; Whoever is buried in the Land of Israel is deemed to be[20] buried under the altar; since in respect of the latter[21] it is written in Scripture, At altar of earth thou shalt make unto me,[22] and in respect of the former[23] it is written in Scripture, And his laud doth make expiation for his people.[24]

'Ulla was in the habit of paying visits to the Land of Israel but came to his eternal rest[25] outside the Land — [When people] came and reported this to R. Eleazar he exclaimed, 'Thou 'Ulla, shouldst die in an unclean land!.'[26] 'His coffin', they said to him, 'has arrived'.[27] 'Receiving a man in his lifetime', he replied, 'is not the same as receiving him after his death'.

A certain man[28] who fell under the obligation [of marrying][29] a sister-in-law[30] at Be Hozae[31] came to R. Hanina and asked him whether it was proper[32] to go down there to contract with her levirate marriage. 'His brother', [R. Hanina] replied, 'married a heathen[33] and died, blessed be the Omnipresent Who slew him, and this one would follow him!'

Rab Judah stated in the name of Samuel: As it is forbidden to leave the Land of Israel for Babylon so it is forbidden to leave Babylon[34] for other countries. Both Rabbah and R. Joseph said: Even from Pumbeditha[35] to Be Kubi.[36]

A man once moved from Pumbeditha to [settle in] Be Kubi and R. Joseph placed him under the ban.

A man once left Pumbeditha to [take up his abode at] Astunia,[37] and he died.[38] Said Abaye: 'If this young scholar wanted it, he could still have been alive'.[39]

Both Rabbah and R. Joseph stated: The fit[40] persons of Babylon are received[38] by the Land of Israel, and the fit[40] ones of other countries are received[41] by Babylon. In what respect?[42] If it be suggested: In respect of purity of descent,[43] surely [it may be objected,] did not the Master say, 'All countries are [like] dough[44] towards the Land of Israel,[45] and the Land of Israel is [like] dough towards Babylon'?[46] — The fact, however, [is that the 'fit'[47] are received] in respect of burial.[48]

Rab Judah said: Whoever lives in Babylon is accounted as though he lived in the Land of Israel; for it is said in Scripture, Ho, Zion, escape, thou that dwellest with the daughter of Babylon.[49]

Abaye stated: We have a tradition that Babel[50] will not witness the sufferings[51] [that will precede the coming] of the Messiah.[52] He [also] explained it[53] to refer[54] to Huzal[55] in Benjamin which would be named[56] the Corner of Safety.[57]

R. Eleazar stated: The dead outside the Land[58] will not be resurrected; for it is said in Scripture, And I will set glory[59] in the land of the living,[60] [implying] the dead of the land in which I have my desire[61] will be resurrected, but the dead [of the land] in which I have no desire will not be resurrected.

R. Abba b. Memel objected: Thy dead shall live, my dead bodies shall arise,[62] does not [the expression] 'Thy dead shall live' refer to the dead of the Land of Israel, and 'My dead bodies shall arise' to the dead outside the Land;[63] while the text,[64] And I will give glory[65] in the land of the living[60] was written of Nebuchadnezzar concerning whom the All-Merciful said, 'I will bring against them a king who is as swift as a stag'?[66] — The other replied: Master, I am making an ex position of another Scriptural text: He that giveth breath unto the people upon it,[67] and spirit to them that walk therein.[68] But is it not written, My dead bodies shall arise?[69] — That was written in reference to miscarriages.[70] Now as to R. Abba b. Memel, what [is the application] he makes of the text,[71] 'He that giveth breath unto the people upon it'? — He requires it for [an exposition] like that of R. Abbahu who stated: Even a Canaanite bondwoman who [lives] in the Land of Israel is assured of a place in[72] the world to come, [for in the context] here it is written, unto the people[73] upon it,[74] and elsewhere it is written, Abide ye here with[75] the ass[76] [which may be rendered][77] people that are like an ass'.[78]

And spirit to them that work therein.[74] [teaches], said R. Jeremiah b. Abba in the name of R. Johanan, that whoever walks four cubits in the Land of Israel is assured of a place[79] in the world to come. Now according to R. Eleazar,[80] would not the righteous outside the Land[81] be revived?[82] — R. Elai replied: [They will be revived] by rolling [to the Land of Israel]. R. Abba Sala the Great demurred: Will not the rolling be painful to the righteous? — Abaye replied: Cavities will be made for them underground.

Thou shalt carry me out of Egypt and bury me in their burying-place.[83] Karna remarked: [There must be here] some inner meaning. Our father Jacob well knew that he was a righteous man in every way, and, since the dead outside the Land will also be resurrected, why did he trouble his sons?[84] Because he might possibly be unworthy to [roll through] the cavities.[85]

Similarly you read in Scripture, And Joseph took an oath of the children of Israel, [saying....ye shall carry up my bones from hence],[86] and R. Hanina remarked: [There is here] an inner meaning. Joseph well knew himself to be a righteous man in every way, and, since the dead outside the Land[87] will be revived, why did he trouble his brothers [with a journey of] four hundred parasangs? Because he might possibly be unworthy to [roll through] the cavities.[88]

His brothers[89] sent [the following message] to Rabbah:[90] 'Jacob well knew that he was a righteous man in every way' etc.[91] Ilfa added to this the following incident. A man was once troubled on account of [his inability to marry] a certain woman[92] and desired to go down [to her country]; but as soon as he heard this[91] he resigned himself to his unmarried state[93] until the day of his death. Although you are a great scholar [you will admit that] a man who studies on his own cannot be on a par with a man who learns from his master. And perchance you might think that you have no master [good enough for you here, we may inform you that] you have one, and he is[94] R. Johanan. If you are not coming up, however, beware [we advise you] of three things. Do not sit too long, for [long] sitting aggravates one's abdominal troubles;[95] do not stand for a long time, because [long] standing is injurious to the heart; and do not walk too much, because [excessive] walking is harmful to the eyes. Rather [spend] one third [of your time] in sitting, one third in standing and one third in walking. Standing is better than sitting when one has nothing to lean against.

'Standing'! How can this be imagined in view of the statement that '[long] standing is injurious to the heart'? — What was meant in fact was this:[96] Better than sitting

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(1) Jer. XXVII, 22.

(2) How could he act against this text?

(3) Lit., 'is written'.

(4) Enumerated previously in the context (Jer. XXVII, 19ff).

(5) For the Land of Israel.

(6) Cant. II, 7. Before it pleased God to bring them back to their Land they must patiently remain in Babylon.

(7) The text of Cant. II, 7.

(8) Individuals, however, may well go there. Cur. edd., read בחומה MS. M., כחומה, 'like a wall'. So also Emden and Strashun.

(9) Cant. III, 5, which refers to individuals.

(10) The two mentioned (Cant. II, 7, Ill, 5) and the one in Cant. V, 8.

(11) Cant. II, 7, אם תעירו ואם תעוררו, the repetition of the root עור implies (a) all Israel together and (b) individuals.

(12) Each of the three adjurations (cf. supra n. 10) is repeated (cf. supra n. 11).

(13) Of the exile. The beginning of the Messianic era.

(14) By their misdeeds.

(15) ירחקו (rt. רחק 'to be far'). Aliter; Shall not regard the end (of the exile) as being too far off, and so lose hope (Maharsha). Var. ידחקו (rt. דחק 'to press'), 'force by excessive prayer'.

(16) Of intercalation Aliter: The secret of the reasons underlying the commandments in the Torah (Rashi).

(17) Cant. II, 7.

(18) Isa. XXXIII, 24.

(19) Read with עין יעקב 'Rabina', Yalkut: R. Abba, since Raba and R. Ashi were not contemporaries.

(20) Lit., 'as if'.

(21) Lit., 'here'.

(22) Ex. XX, 21.

(23) Lit., 'there'.

(24) Deut. XXXII, 43. The renderings of A.V., R.V. and A.J.V. respectively differ from each other and from the one given here.

(25) Lit., 'his soul rested'.

(26) The italicized words are a quotation from Amos VII. 17.

(27) In the Land of Israel for burial.

(28) Who lived in the Land of Israel.

(29) Lit. 'that fell to him'.

(30) V. Glos. s.v. yibbum.

(31) V. supra p. 504, n. 5.

(32) Lit., 'what is it?'

(33) כותית var. גויה). Apparently a term of contempt for the Jewish woman of Be Hozae (Golds.).

(34) Which was a centre of religion and learning.

(35) V. supra p. 325, n. 5.

(36) It is forbidden to move one's abode. בי כובי was the name of a village in the vicinity of Pumbeditha' (Rashi Kid. 70b); 'the fort of P.' (Jast.).

(37) אסתוניא a place near Pumbeditha. [Identified by Obermeyer (p. 229) with Piruz Shabur.]

(38) So MS.M. Cur. edd. omit the waw.

(39) His death was due to his departure from Pumbeditha.

(40) כשרין, either (a) of pure and legitimate descent or (b) worthy and righteous. V. infra n. 8.

(41) This is explained anon.

(42) Are the 'fit . . . received'.

(43) Cf. supra note 7 (a), sc. that such persons may marry into any pure families of the Land of Israel and Babylon respectively.

(44) Opp. to 'fine flour', sc. a mixed mass the ingredients of which cannot be determined. Metaph. for impurity or illegitimacy of descent.

(45) The families of the latter place would not allow, therefore, any person from the former to marry any of their members.

(46) Kid. 69b, 71a, which proves that as regards purity of descent Babylon stands higher than the Land of Israel. How then could it be said that only the 'fit persons of Babylon are received by the Land of Israel'? On the causes of the lower standard of genealogical purity in the Land of Israel v. Halevy's suggestion quoted in Kid., Sonc. ed. p. 350, n. 6.

(47) Cf. supra note 7 (b).

(48) Only the worthy men of Babylon and other countries should be allowed burial in the Land of Israel and Babylon respectively. Unworthy men should not be admitted to the former whose soil was sacred or to the latter which scholars and saints had made their home (cf. supra note 1).

(49) Zech. II, 11.

(50) בבל, usually rendered 'Babylon', but v. infra notes 6 and 7.

(51) Or 'travail'.

(52) חבלי דמשיח; 'but the more correct reading is חבליה דמשיח (Moore, G.F., Judaism II 361, n. 2).

חבלי המשיח ‘frequent in modern Christian books is fictitious’ (loc. cit.). The ‘sufferings’ or ‘travail’ are more fully described in Sanh. 97b, Sonc. ed. p. 654. These are the ‘throes of mother Zion which is in labor to bring forth the Messiah — without metaphor, the Jewish people’ (Moore, loc. cit. text).

(53) The tradition as to the immunity of Babel.

(54) Not, as might be assumed, to the well known Babylon (cf. supra note 2).

(55) הוזל, a village to the north of Jerusalem between Tel Al-Ful and Nob ‘the city of the priests’. It was known by many names including that of בבל (v. Horowitz, I.S., Palestine, p. 73. nn 3ff, s.v. אצל). Neubauer, (Geogr. p. 152) describes it as an old fortress in Palestine (v. Jast.). There was also a Huzal in Babylonia between Nehardea and Sura. Cf. Sanh. 19a, Sonc. ed. p. 98, n. 3 and Berliner, Beitr. z. Geogr. p. 32.

(56) וקרו ליה, lit., ‘and they would call it’. The pronoun according to Rashi refers to the ‘days of the Messiah’, but this is difficult.

(57) The noun הוצל is regarded here as the Hof. of נצל ‘to save’.

(58) Of Israel.

(59) צבי. Cf. infra notes13 and 18.

(60) Ezek. XXVI, 20.

(61) צביון containing the three letters of צבי (cf. supra note II). God's care for Palestine is taken for granted. Cf. e.g, A land which the Lord thy God careth for; the eyes of the Lord thy God are always upon it (Deut. XI, 12).

(62) Isa. XXVI, 19.

(63) Of Israel.

(64) Lit., ‘and what’.

(65) V. supra note II.

(66) צבי also means ‘stag’ (cf. supra note 11).

(67) The land of Israel.

(68) Isa. XLII, 5.

(69) Isa. XXVI, 19.

(70) Even they will be resurrected but only in the Land of Israel.

(71) Lit., ‘that’.

(72) Lit., ‘daughter of’.

(73) עַם

(74) Isa. XLII, 5.

(75) עִם.

(76) Gen. XXII, 5.

(77) The consonants עם being the same (cf. supra on. 7 and 9.)

(78) Sc. slaves who are considered the property of the master. As the ‘people’ spoken of in Isa. XLII, 5, are assured of a place in the world to come so are the ‘people’ referred to in Gen. XXII, 5. Moore describes this as ‘a specimen of exegetical whimsicality, rather than an eccentricity of opinion’ (Judaism, II, 380).

(79) Lit., ‘son of’.

(80) Who based his view on Ezek. XXVI, 20, supra.

(81) Of Israel.

(82) But this, surely. is most improbable.

(83) Gen. XLVII, 30.

(84) To carry him to Canaan?

(85) Var. lec., ‘because he did not accept the suffering of the pain of rolling through the cavities’ (Yalkut and עין יעקב).

(86) Gen. L, 25.

(87) Of Israel.

(88) V. p.717, n. 19.

(89) Who lived in Palestine and desired him to join them,

(90) Rabbah b. Nahmani who wad domiciled in Pumbeditha in Babylonia (cf. supra p. 325, n. 5).

(91) V. Karna's remark supra.

(92) Who refused to leave her home country outside Palestine to join him in Palestine.

(93) Lit ‘he rolled by himself’.

(94) Lit., ‘and who is he?’
(95) Pl. of תחתון ‘nethermost’, hence ‘piles’.
(96) Lit., ‘but’.

Talmud - Mas. Kethuboth 111b

with nothing to lean against is standing with something to lean against.

And thus [his brothers][1] proceeded to say [in their message]: — ‘Isaac and Simeon and Oshaia were unanimous in their view that[2] the halachah is in agreement with R. Judah in [respect of the mating of] mules’. For it was taught: If a mule was craving for sexual gratification it must not be mated with a horse or an ass[3] but [only with one of] its own species.[4]

R.Nahman b. Isaac stated; By ‘Isaac’[5] was meant[6] R. Isaac Nappaha. By ‘Simeon’,[5] R. Simeon b. Pazzi — others say: Resh Lakish;[7] and by ‘Oshaia’,[8] R. Oshaia[8] Berabbi.[9]

R. Eleazar said; The illiterate[10] will not be resurrected, for it is said in Scripture, The dead will not live etc.[11] So it was also taught: The dead will not live.[11] As this might [be assumed to refer] to all, it was specifically stated, The lax[12] will not rise,[11] [thus indicating] that the text speaks only of such a man as was lax in the study of the words of the Torah.[13] Said R. Johanan to him:[14] it is no satisfaction to their Master[15] that you should speak to them in this manner. That text[16] was written of a man who was so lax as[17] to worship idols. ‘I’, the other[18] replied, ‘make an exposition [to the same effect] from another text. For it is written in Scripture, For thy dew is as the dew of light, and the earth shall bring to life the dead.[19] him who makes use of the ‘light’ of the Torah will the ‘light’ of the Torah revive, but him who makes no use of the light of the Torah[20] the light of the Torah will not revive’. Observing, however, that he[21] was distressed, he[18] said to him, ‘Master, I have found for them[22] a remedy in the Pentateuch: But ye that did cleave unto the Lord your God are alive every one of you this day;[23] now is it possible to ‘cleave’ to the divine presence concerning which it is written in Scripture, For the Lord thy God is a devouring fire?[24] But [the meaning is this:] Any man who marries his daughter to a scholar, or carries on a trade on behalf of scholars,[25] or benefits scholars from his estate is regarded by Scripture[26] as if he had cleaved to the divine presence.[27] Similarly you read in Scripture, To love the Lord thy God, [to hearken to His voice,] and to cleave unto Him.[28] Is it possible for a human being to ‘cleave’ unto the divine presence? But [what was meant is this:] Any man who marries his daughter to a scholar, or carries on a trade for scholars, or benefits scholars from his estate is regarded by Scripture as if he had cleaved to the divine presence.

R. Hiyya b. Joseph said: A time will come when the just will break through [the soil] and rise up in Jerusalem, for it is said in Scripture, And they will blossom out of the city like grass of the earth,[29] and by ‘city’ only Jerusalem can be meant for it is said in Scripture, For I will defend this city.[30]

R. Hiyya b. Joseph further stated: The just in the time to come will rise [apparelled] in their own clothes.[31] [This is deduced] a minori ad majus from a grain of wheat. If a grain of wheat that is buried[32] naked sprouts up with many coverings how much more so the just who are buried in their shrouds.

R. Hiyya b. Joseph further stated: There will be a time when the Land of Israel will produce baked cakes of the purest quality[33] and silk[34] garments, for it is said in Scripture, There will be a rich[35] cornfield[36] in the land.[37]

Our Rabbis taught: There will be a rich cornfield in the Land upon the top of the mountains.[37] [From this] it was inferred that there will be a time when wheat will rise as high as a palm-tree and will grow on the top of the mountains. But in case you should think that there will be trouble in reaping it, it was specifically said in Scripture, its fruit shall rustle like Lebanon;[37] the Holy One, blessed be He, will bring a wind from his treasure houses which He will cause to blow upon it. This will loosen its fine flour and a man will walk out into the field and take a mere handful[38] and, out of it, will [have sufficient provision for] his own, and his household's maintenance.

With the kidney-fat of wheat.[39] [From this] it was inferred that there will be a time when a grain of wheat will be as large as the two kidneys of a big bull. And you need not marvel at this, for a fox once made his nest In a turnip and when [the remainder of the vegetable] was weighed, it was found [to be] sixty pounds in the pound weight of Sepphoris.[40]

It was taught: R. Joseph[41] related: It once happened to a man[42] at Shihin[43] to whom his father had left three twigs of mustard that one of these split and was found to contain nine kab of mustard, and its timber sufficed to cover a potter's hut.

R. Simeon b. Tahlifa[44] related. Our father left us a cabbage stack and we[45] ascended and descended it by means of a ladder.[46] And of the blood of the grape thou drankest foaming wine.[47] It was inferred: The world to come is not like this world. In this world there is the trouble of harvesting and treading [of the grapes], but in the world to come a man will bring one grape[48] on a wagon or a ship, put it in a corner of his house and use its contents as [if it had been] a large wine cask, while its timber[49] would be used to make fires for cooking.[50] There will be no grape that will not contain thirty kegs[51] of wine, for it is said is Scripture, And of the blood of the grape thou drankest foaming wine,[52] read not ‘foaming’[53] but homer.[54]

When R. Dimi came[55] he made the following statement: What is the implication in the Scriptural text, Binding his foal[56] unto the vine?[57] There is not a vine in the Land of Israel that does not require [all the inhabitants of] one city[58] to harvest it; And his ass's colt[59] into the choice[60] vine,[57] there is not even a wild[61] tree in the Land of Israel that does not produce a load of [fruit for] two she-asses.[62] In case you should imagine that it contains no wine, it was explicitly said in Scriptures, He washes his garments in wine.[57] And since you might say that it is not red it was explicitly stated, And of the blood of the grape thou drankest foaming wine.[63] And in case you should say that it does not cause intoxication it was stated, His vesture.[64] And in case you should think that it is tasteless it was expressly stated, His eyes shall be red[65] with wine,[66] any palate that will taste it says, ‘To me, to me’.[67] And since you might say that it is suitable for young people but unsuitable for old, it was explicitly stated And his teeth white with milk;[66] read not, ‘teeth white’[68] but ‘To him who is advanced in years’.[69]

In what [sense] is the plain meaning of the text[70] to be understood?[71] — When R. Dimi came[72] he explained: The congregation of Israel said to the Holy One, blessed be He, ‘Lord of the Universe, wink to me with Thine eyes,[73] which [to me will be] sweeter than wine, and shew[74] me Thy teeth which will be sweeter than milk’.[73] [This interpretation] provides support for R. Johanan who said; The man who [by smiling affectionately] shews[75] his teeth to his friend is better than one who gives bins milk to drink, for it is said in Scriptures, And his teeth white with milk,[70] read not ‘teeth white’ but ‘shewing the teeth’.[76]

R. Hiyya b. Adda[77] was the Scriptural tutor of the young children of Resh Lakish. [On one occasion] he took a three days’ holiday[78] and did not come [to teach the children]. ‘Why’, the other asked hiss when he returned, ‘did you take a holiday?’ ‘My father’, he replied, ‘left me one espalier[79] and on the first day I cut from it three hundred clusters [of grapes], each cluster yielding one keg. On the second day I cut three hundred clusters, each two of which yielded one keg. On the third day I cut three hundred clusters, each three of which yielded one keg, and so I renounced my ownership of more than one half of it’. ‘If you had not taken a holiday [from the Torah]’, the other told him, ‘it would have yielded much more’.[80]

Rami b. Ezekiel once paid a visit to Bene-berak[81] where he saw goats grazing under fig-trees while honey was flowing from the figs, and milk ran from them, and these mingled with each other. ‘This is indeed’, he remarked, ‘[a land] flowing with milk and honey’.[82]

R. Jacob b. Dostai related: From Lod[83] to Ono[84] [is a distance of about] three miles.[85] Once I rose up early in the morning and waded [all that way] up to my ankles in honey of the figs.

Resh Lakish said: I myself saw the flow of the milk and honey of Sepphoris[86] and it extended [over an area of] sixteen by sixteen miles.

Rabbah b. Bar Hana said: I saw the flow of the milk and honey in all the Land of Israel

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(1) V. nn. 4-5.
(2) Lit., ‘said one thing’.
(3) An act which is contrary to the law forbidding the hybridization of heterogeneous animals.
(4) Tosef. Kil. I, Hul. 79a.
(5) Referred to in the message supra
(6) Lit., ‘this’.
(7) Sc. R. Simeon b. Lakish.
(8) MS.M., Hoshaia.
(9) Or ‘Berebi’. A title of uncertain meaning. It denotes a scholar of any famous college or a qualified Rabbi who remained at college and acted as tutor to senior students. Cf. Mak. 5b, Sonc. ed. p. 25, n. 4 and Naz., Sonc. ed. p. 64, n. 1.
(10) עמי הארצות pl of ‘Am ha-’arez v. Glos.
(11) Isa. XXVI, 14.
(12) רפאים cf. רפי, רפה ‘to be or make lax’. A.V and R.V. ‘deceased’; R.V. marg. and A. J. V., ‘shades’.
(13) Sc. the illiterate (v. supra n. 9).
(14) A. Eleazar.
(15) God Who created all beings even the illiterate.
(16) Isa. XXVI, 14.
(17) Lit., ‘who makes himself lax’.
(18) R. Eleazar.
(19) Isa. XXVI, 19.
(20) Sc. the illiterate who does not engage in the study of the Torah.
(21) R. Johanan.
(22) The illiterate.
(23) Deut. IV, 4, emphasis on ‘cleave’.
(24) lbid. 24.
(25) Thus enabling them to devote their time to study. Aliter. Assigns them a share in his business as sleeping partners. V. Sanh., Sonc. ed. p. 671, n. 4.
(26) Lit ‘Scripture brings up on him’.
(27) The illiterate (v. supra p. 719. n. 19) need not, therefore, be in despair since, by practising any of these alternatives, they also will be included among the resurrected.
(28) Deut. XXX, 20.
(29) Ps. LXXII, 16.
(30) Referring to Jerusalem. II Kings XIX, 34.
(31) Which they wore during their lifetime (J.T. cited by Tosaf. s.v. בלבושיהן a.I.). The noun in the present context apparently refers to the shrouds (v. Tosaf. loc. cit.) and this may also be the opinion of one authority in J.T. (cf. Marginal Glosses to text.).
(32) Sown.
(33) Cf. Rashi and Jast. גלוסקא, ‘a brand of white flour’ or ‘a white and delicate bread’. (V. infra p. 721, nn. 2 and 3).

(34) Or ‘woollen’.

(35) Heb. פסת analogous to פסים (Gen. XXXVII, 3) (E.V. of many colours).

(36) Heb. בר signifies also ‘purity’.

(37) Ps. LXXII, 16.

(38) פיסת ידו (cf. supra n. 2).

(39) Deut. XXXII, 14.

(40) Cf. supra p. 410, n. 6.

(41) Read with MS.M. ‘R. Jose’.

(42) Halafta of Sepphoris.

(43) A town near Sepphoris.

(44) MS. M. and others (v. Wilna Gaon), ‘Halafta’.

(45) In order to gather its leaves.

(46) בסולם. MS. M., במעלות כסולם, ‘on steps as on a ladder’.

(47) Deut. XXXII, 14.

(48) Aliter: ‘Stalk of grapes’ (Jast.).

(49) The stalk of the grape. V. also p. 721, n. 15 Aliter: the wood of the cask which the husk had superseded (Maharsha).

(50) Lit., ‘under the dish’.

(51) Each measuring one se'ah (v. infra n. 5).

(52) Deut. XXXII, 14.

(53) חמר

(54) חמר the consonants of the two being identical A homer thirty se'ah.

(55) From Palestine to Babylon.

(56) עירה, absol. עיר (v. infra n 10)

(57) Gen XLIX, II.

(58) Heb. עיר (v. supra n. 8).

(59) אתונו, absol. אתון ‘she-ass’.

(60) שורקה v. infra n. 13).

(61) סרק analogous to סורקה the ש in שורקה (v. supra n. 12) being read as ס (cf. Maharsha)

(62) V. supra n. II. The number ‘two’ is perhaps derived from בני (in בני אתונו) which is taken as the pl. const. of בן and signifies no less than two.

(63) Deut. XXXII, 14. Read with MS.M. and עין יעקב, And his vesture in the blood of grapes, which is the conclusion of Gen. XLIX, 11, the text of the present exposition.

(64) סותה, derived from the rt. סות, ‘to incite’, ‘agitate’.

(65) חכלילי (v. infra n. 19).

(66) Gen. XLIX 12.

(67) חכלילי, (v.supra n. 17) is expounded as, the palate (will say:) To me, to me’

(68) לבן שנים

(69) לבן שנים lit., to a son of years’. לבן ‘white’ also means ‘to a son’, שנים ‘teeth’ may also mean, by a change of vowels ‘years’.

(70) Gen. XLIX. 12

(71) Lit. ‘is written’.

(72) From Palestine to Babylon

(73) חכלילי (cf. supra p. 722. nn. 17 and 19) is again read as חכ-לי-לי, but חכ is regarded as analogous to the rt. חוך ‘to laugh’, ‘to smile affectionately’, facial movements which involve the eyes and the teeth.

(74) V. infra note 6 and text.

(75) Lit., ‘makes white’ (cf. supra note 4).

(76) Lit., ‘whitening of the teeth’ (cf. supra l.c).

(77) [MS.M Abba; v. supra 8b].

(78) Lit., ‘he relaxed’.

(79) Or ‘a vine trained to an espalier’.

(80) Sc. the progressive daily decline of the yield was due to the corresponding increase in the number of days in which he failed to return to his sacred duty of teaching his pupils the word of God.

(81) One of the cities in the tribe of Dan (Josh XIX, 45); now the village Ibn Ibrak, north east of Jaffa (v. Horowitz, I.S , Palestine s.v.)

(82) Cf. e.g.. Ex. III, 8, Num. XIII, 27.

(83) Or Lydda, the Roman Diospolis, W.N.W. of Jerusalem.

(84) Modern Kafr Annah, between Jaffa and Lydda (v. supra note 2).

(85) The actual distance is rather seven miles (v. Horowitz, op. cit., s.v. אונו n. 1).

(86) V. supra p. 410. n. 6.

Talmud - Mas. Kethuboth 112a

and [the total area] was equal [to the land extending] from Be Mikse[1] to the Fort of Tulbanke,[2] [an area of] twenty-two parasangs in length and six parasangs in breadth.

R. Helbo, R. ‘Awira[3] and R. Jose b. Hanina once visited a certain place where a peach that was [as large] as a pot of Kefar Hino[4] was brought before them. (And how big is a pot of Kefar Hino? — Five se'ah.) One third [of the fruit] they ate, one third they declared free to all, and one third they put before their beasts. A year later R. Eleazar came there on a visit and [a peach] was brought to him. Taking it in his one hand[5] he exclaimed, A fruitful land into a salt waste, for the wickedness of them that dwell therein.[6]

R. Joshua b. Levi once visited Gabla[7] where he saw vines laden with clusters of ripe grapes[8] standing up [to all appearances] like calves. ‘Calves among the vines!’, he remarked. ‘These’, they told him, ‘are clusters of ripe grapes’.[8] ‘Land, O Land’, he exclaimed, ‘withdraw thy fruit; for whom art thou yielding thy fruit? For those Arabs[9] who rose up against us on account of our sins?’ Towards [the end[10] of that] year R. Hiyya happened to be there and saw them[11] standing up [to all appearances] like goats. ‘Goats among the vines’, he exclaimed. ‘Go away’, they told him, ‘do not you treat us as your friend did’.

Our Rabbis taught: In the blessed years[12] of the Land of Israel a beth se'ah[13] yielded fifty thousand[14] kor[15] though in Zoan,[16] even in the days of its prosperity,[17] a beth se'ah yielded [no more than] seventy kor.[15] For it was taught: R. Meir said, I saw in the valley of Beth Shean[18] that a beth se'ah[13] yielded seventy kor.[15] Now, among all the countries there is none more fertile than the land of Egypt, for it is said in Scripture, Like the garden of the Lord, like the land of Egypt;[19] and there is no more fertile spot in all the land of Egypt than that of Zoan where kings were brought up, for it is written in Scripture, For his princes[20] are at Zoan.[21] Furthermore, in all the Land of Israel there is no ground more rocky than at Hebron[22] where the dead[23] were buried. Hebron was nevertheless seven times as fertile[24] as Zoan; for it is written in Scripture, And Hebron was built in seven years before Zoan in Egypt,[25] now what [can be the meaning of] built? If it be suggested that it was actually built, is it possible [It may be objected that] a man[26] would build a house[27] for his younger son[28] before he built one for his elder son,[29] it being stated in Scriptures And the sons of Ham, Cush and Mizraim, and Put and Canaan?[30] [The meaning must] consequently be[31] that it was seven times as fertile[32] as Zoan.[33] This refers to stony ground, but [in ground] where there are no stones [a beth se'ah would yield] five hundred [kor].[34] This too refers to periods when the land was not blessed,[35] but [of the time] when it was blessed[35] it is written in Scripture, And Isaac sowed in that land, [and found in the same year a hundredfold].[36]

It was taught: R. Jose stated, One se'ah[37] in Judea yielded five se'ah: One se'ah of flour, one se'ah of fine flour, one se'ah of bran, one se'ah of coarse bran and one se'ah of cibarium.

A certain Sadducee[38] once said to R Hanina: ‘You may well sing the praises of your country. My father left me one beth se'ah[39] and from it [I obtain] oil, wine, corn and pulse, and my cattle also feed on it’.

An Amorite[40] once said to a Palestinian,[41] ‘How much do you gather[42] from that date tree that stands on the bank of the Jordan?’ — ‘Sixty kor’,[37] the other replied. ‘You have not improved it’. the former said to him, ‘but rather[43] ruined it; we used to gather[44] from it one hundred and twenty kor’. ‘I too’, the other replied ‘was speaking to you [of the yield] of one side only’.

R. Hisda stated: What [was meant] by the Scriptural text, I give thee a pleasant land, the heritage of the deer?[45] Why was the Land of Israel compared to a deer? — To tell you that as the skin of a deer[46] cannot contain its flesh[47] so cannot the Land of Israel contain its produce.[48] Another explanation: As the deer is the swiftest among the animals so is the Land of Israel the swiftest of all lands in the ripening of its fruit. In case[49] [one should suggest that] as the deer is swift but his flesh is not fat so is the Land of Israel swift to ripen but its fruits are not rich, it was explicitly stated in Scripture, Flowing with milk and honey[50] [thus indicating that they are] richer than milk and sweeter than honey.

When R. Eleazar went up to the Land of Israel he remarked, ‘I have escaped [one penalty]’.[51] When he was ordained he said, ‘I have now escaped two [penalties]’.[51] When he was given a seat on the council for intercalation he exclaimed, ‘I have escaped the three [penalties]’; for it is said in Scripture, And My hand shall be against the prophets that see vanity etc. They shall not be in the council of My people,[52] which refers to[53] the council for intercalation, neither shall they be written in the register of the house of Israel,[52] refers to[53] ordination; neither shall they enter into the land of Israel[52] [is to be understood] in accordance with its plain meaning.

When R. Zera went up to the Land of Israel and could not find a ferry wherein to cross [a certain river][54] he grasped a rope bridge and crossed. Thereupon a certain Sadducee sneered at him: ‘Hasty people, that put your mouths before your ears,[55] you are still, as ever, clinging to your hastiness’. ‘The spot’, the former replied. ‘which Moses and Aaron were not worthy [of entering] who could assure me that I should be worthy [of entering]?’ R. Abba[56] used to kiss the cliffs of Akko.[57] R. Hanina[56] used to repair its roads.[58] R. Ammi and R. Assi[59]

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(1) V. supra p. 408, n. 9.

(2) The latter was a place on Tel-ben-kaneh, one of the upper reaches of the Euphrates on the boundary between Babylonia and Palestine. Cf. Kid. Sonc. ed. p. 365. n. 8; Horowitz, op. cit. s.v. אקרא דתולבנקי; S. Funk, Juden in Bab. I, p. 13, n. 2.

(3) MS.M. עזריה

(4) [Identified by Klein (Beitrage, p. 184) with Kefar Hananiah in Galilee].

(5) It was so small.

(6) Ps. CVII, 34.

(7) Biblical Gebal, a district between Ammon and Amalek (cf. Ps. LXXXIII, 8) now known as A-gibal, S.E. of the Dead Sea. This Gebal is not to be confused with Gebal, a Zidonian town in the N.W. of Palestine (v. Horowitz, op. cit., s.v.).

(8) קטופי, pl. of קטופא (rt. קטף ‘to pluck’), ‘fruit ready to be plucked’.

(9) Bomb. ed., ‘heathens’.

(10) So Rashi. Cf Maharsha.

(11) The clusters of grapes.

(12) So Rashi. Lit. . ‘In her blessings’.

(13) An area of fifty cubits by fifty in which one se'ah (v. Glos.) of seed can be sown.

(14) Lit., ‘five myriads’.

(15) V. Glos.

(16) In the land of Egypt.

(17) Lit., ‘settlement’.

(18) In the Jordan plain, about twenty miles to the south of Tiberias. The town of Beth Shean is mentioned several times in the Bible (cf. e.g., Josh. XVII. 11 and 16, Judges I, 27, I Sam. XXXI, 10, I Chron. VII, 29). The town once belonged

to Egypt (it occurs in the Tel-el-Amarna letters under the name of Bitsani) while at other times in its history it formed part of the Land of Israel. In the post exilic period it belonged neither to the former nor (cf. Hul. 6b, 7a) the latter country, and is taken by R. Meir here as an example of the normal fertility of a neutral district in order to draw the inference that follows.
(19) Gen. XIII, 10.
(20) Sc. rulers, kings. Aliter: the princes of Israel flocked to Zoan to solicit the protection of the kings of Egypt (v. Rashi).
(21) Isa. XXX, 4.
(22) Sixteen miles S.S.W. of Jerusalem.
(23) Cf. Gen. XLIX, 31.
(24) Lit., 'built', 'cultivated'.
(25) Num. XIII, 22.
(26) Ham (v. Gen. X, 6)
(27) And much less a whole town.
(28) Canaan (v. ibid.).
(29) Mizraim (ibid.).
(30) Ibid.
(31) Lit., 'but'.
(32) Lit., 'built', 'cultivated'.
(33) Seven times seventy kor _ four hundred and ninety kor.
(34) At least; only ten more than rocky ground (v. supra n. 9).
(35) Cf. supra p. 725, n. 5.
(36) Gen. XXVI, 12. A hundred times five hundred _ five thousand (v. supra p. 725, nn. 7 and 10 and text).
(37) V. Glos.
(38) [Read with MS. M. Min (v. Glos.) and cf. Git 57a].
(39) Cf. supra p. 725, n. 6.
(40) Of the early inhabitants of Canaan (cf. e.g., Gen. XV, 21).
(41) Lit., 'to a son (inhabitant) of the Land of Israel'; to an Israelite who entered Palestine in the days of Joshua.
(42) Or 'cut' (cf. MS. M. גדריתון).
(43) Cf. Bah.
(44) Cf. supra n. 18.
(45) Jer. III, 19; נחלת צבי, A.V., goodly heritage.
(46) After it had been flayed.
(47) It cannot again be made to cover the full body of the animal.
(48) It grows in such abundance that all the store houses of the land cannot provide sufficient accommodation for its storage.
(49) Lit., 'if'.
(50) V. e.g., Ex. III, 8, Num. XIV, 8.
(51) This is explained anon.
(52) Ezek. XIII. 9.
(53) Lit., 'this'.
(54) The Jordan?
(55) Israel said נעשה, 'we will do' before ונשמע 'and we will hear' (Ex XXIV, 7).
(56) In his love for Palestine.
(57) Acre Or Ptolemais, a city and harbour on the northern end of Haifa Bay on the coast of Palestine.
(58) Lit., 'its stumblings', 'obstacles'.
(59) Cf. p. 727, n. 12.

Talmud - Mas. Kethuboth 112b

used to rise [from their seats[1] to move] from the sun to the shade[2] and from the shade to the sun.[3] R. Hiyya b. Gamda[4] rolled himself in its[5] dust, for it is said in Scripture, For Thy servants take pleasure in her stones, and love her dust.[6]

R. Zera said: R. Jeremiah b. Abba stated, ‘In the generation in which the son of David[7] will come there will be prosecution[8] against scholars’. When I repeated this statement in the presence of Samuel, he exclaimed, [There will be] test after test,[9] for it is said in Scripture, And if there be yet a tenth in it, it shall again be eaten up.[10]

R. Joseph learnt:[11] [There will be] plunderers[12] and plunderers of the plunderers.[13]

R. Hiyya b. Ashi stated in the name of Rab: In the time to come all the wild trees of the Land of Israel will bear fruit; for it is said in Scripture, For the tree[14] beareth its fruit, the fig-tree and the vine do yield their strength.[15]

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(1) Where they sat while delivering their discourses.

(2) In the summer when the heat is intense.

(3) In the cold days of the winter. In order to obviate any fault finding with the weather of Palestine (Rashi).

(4) In his love for Palestine.

(5) Palestine's.

(6) Ps. CII, 15.

(7) The Messiah.

(8) קטיגוריא

(9) Trials and calamities will follow each other in close succession. ‘One reduction after the other’ (Jast.). MS.M. adds, בוגדים בגדו ובגד בוגדים בגדו. (Isa. XXIV, 16) the assonance of which might have suggested R. Joseph's comment (v. infra n. 15).

(10) Isa. VI, 13.

(11) An exposition of the Isaiah text cited (v.supra n. 12). [Cf. Targum a.l. and B.K., Sonc. ed. p. 9. n. 9].

(12) Who will leave only ‘a tenth of it’.

(13) Inferred from ‘shall again be eaten up’. Aram. ובזוזי דבזוזי בזוזי (cf. supra note 11).

(14) Sc. ‘the wild tree’, since fruit-trees are specifically mentioned in the following clause (Rashi).

(15) Joel II, 22.

Talmud - Mas. Nedarim 2a

CHAPTER I

MISHNAH. ALL THE SUBSTITUTES FOR [THE FORMULAS OF] VOWS HAVE THE VALIDITY OF VOWS.[1] THOSE FOR HARAMIM ARE LIKE HARAMIM,[2] THOSE FOR OATHS ARE LIKE OATHS, AND THOSE FOR NEZIROTH ARE LIKE NEZIROTH.[3] IF ONE SAYS TO HIS NEIGHBOUR, ‘I AM DEBARRED FROM YOU BY A VOW, [OR] I AM SEPARATED FROM YOU,’ [OR] ‘I AM REMOVED FROM YOU, IN RESPECT OF AUGHT[4] THAT I MIGHT EAT OF YOURS OR THAT I MIGHT TASTE OF YOURS,’ HE IS PROHIBITED. IF HE SAYS: I AM BANNED TO YOU,’ THEN R. AKIBA WAS INCLINED TO GIVE A STRINGENT RULING.[5]

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(1) The principal form of a vow to abstain from anything is: ‘This shall be to me as a korban (Heb. sacrifice); korban was sometimes substituted by konam or konas.

(2) Herem (plural haramim): a vow dedicating something to the Temple or the priests.

(3) Neziroth: the vow of a nazirite. A nazirite had to abstain from grapes and intoxicating liquors and refrain from cutting his hair and defiling himself through the dead.

(4) [Reading שאני, Var. lec. שאיני ‘for I will eat naught of yours’.]

(5) I.e., declared the vow binding. [According to Maimonides, provided he adds: ‘for I will eat naught of yours’. Tosaf., however, (infra 7a) holds that the phrase by itself implies a vow to abstain from aught belonging to the other person.]

Talmud - Mas. Nedarim 2b

GEMARA. ALL THE SUBSTITUTES FOR [THE FORMULAS OF] VOWS HAVE THE VALIDITY OF VOWS: Why other clauses[1] not stated in [the Mishnah of] Nazir,[2] whilst [our Mishnah of] Nedarim includes them all? — Because oaths and Vows are written side by side [in the Bible][3] they are both stated, and since the two are mentioned, the others are stated also. Then let OATHS be taught immediately after VOWS? — Because he states vows In which the article is forbidden to the person, he follows it up with HARAMIM, where likewise the article is forbidden to the person. OATHS, however, are excluded [from the category of vows], since oaths bind the person to abstain from a thing;[4] [hence they cannot immediately follow vows].

The Mishnah commences with substitutes: ALL THE SUBSTITUTES FOR [THE FORMULAS OF] VOWS etc., yet proceeds to explain the laws of abbreviations of VOWS: IF ONE SAYS TO HIS NEIGHBOUR: I AM DEBARRED FROM YOU BY A VOW . . . WITH HIS VOW;[5] moreover, [the Tanna] has altogether omitted to state that abbreviations [are binding]? — [The Tanna does] speak of them, but our text is defective,[6] and this is what was really meant: ALL SUBSTITUTES and abbreviations OF VOWS HAVE THE VALIDITY OF VOWS. Then let substitutes be first explained? — The clause to which [the Tanna] has last referred is generally first explained, as we have learned: Wherewith may [the Sabbath lights] be kindled, and wherewith may they not be kindled? They may not be kindled etc.[7] Wherein may food be put away [to be kept hot for the Sabbath], and wherein may it not be put away? It may not be put away [etc.].[8] Wherewith may a woman go out (from her house on the Sabbath], and wherewith may she not go out? She may not go out from etc.[9] [Is it then a universal rule] that the first clause is never explained first? But we have learnt: Some relations inherit from and transmit [their estate] to others; some inherit but do not transmit. Now, these relations inherit from and transmit to each other etc.[10] Some women are permitted to their husbands but forbidden to their husbands’ brothers;[11] others are the reverse. Now, these are permitted to their husbands but forbidden to their husbands’ brothers etc.[12] Some meal offerings require oil and frankincense, others require oil but no frankincense. Now, these require both oil and frankincense etc.[13] Some mealofferings must be taken [by the priest to the south-west corner of the altar], but do not need waving;[14] others are the reverse. Now, these must be taken to the altar etc.[15] Some are treated as first-borns in respect of inheritance[16] but not in respect of the priest;[17] others are treated as first-borns in respect of the priest but not in respect of inheritance. Now who is regarded as a first-born in respect of inheritance but not in respect of the priest etc.?[18] — In these examples [the first clause is explained first] because it contains numerous instances [to which its law applies]. But, ‘Wherewith may a beast go out on the Sabbath, and wherewith may it not go out?’ where [the first clause does] not contain numerous instances, yet it is explained [first], viz., a camel may go out etc.?

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(1) Viz., HARAMIM, OATHS, AND VOWS.

(2) The tractate Nazir commences likewise: All substitutes for the nazirite vow are binding.

(3) Num. XXX, 3: If a man vow a vow unto the Lord, or swear an oath.

(4) A vow is thus taken: ‘This shall be forbidden tonic,’ the prohibition falling upon the thing. An oath, however, is thus taken: ‘I swear to abstain from a certain thing,’ the prohibition falling upon the person.

(5) Since the principal way of making a vow is to declare a thing to be as korban, the omission of such a declaration renders the vow merely an abbreviation or suggestion (lit., ‘a handle’) of a vow, V. Nazir (Sonc. ed.) p. 2.

(6) This may mean either that there is actually a lacuna in the text, words having fallen out, or that though it is correct in itself something has to be supplied to complete the sense; v. Weiss, Dor. III, p. 6. n. 14. The former is the most probable here.

(7) Shab. 20b.

(8) Ibid. 47b.

(9) Ibid. 57a. — In all these examples the second clause is first discussed.

(10) B.B. 108a.

(11) In Levirate marriage, v. Deut. XXV, 5 seq.

(12) Yeb. 84a.

(13) Men. 59a.

(14) A ceremony in which the priest put his hands under those of the person bringing the offering and waved them to and fro in front of the altar.

(15) Ibid. 60a

(16) I.e., they receive a double share of their patrimony; v. Deut. XXI, 17.

(17) They do not need redemption: v. Ex. XIII, 23.

(18) Bek. 46a. In all these examples the first clause is discussed first.

Talmud - Mas. Nedarim 3a

Hence there is no fixed rule: sometimes the first clause is explained first, at others the last clause is first explained. Alternatively: abbreviations are explained first, because they [sc. their validity] are deduced by exegesis.[1] Then let these be stated first? He [the Tanna] commences indeed with substitutes, since these are Scriptural,[2] and proceeds to explain abbreviations, which are inferred by interpretation only.[3] This harmonises with the view that substitutes are merely the foreign equivalents [of the word korban].[4] But what can be said on the view that they are forms expressly invented by the Sages for the purpose of making vows?[5] — Now, are abbreviations mentioned at all; were you not compelled to assume a defective text? Then indeed place abbreviations first. Thus: All abbreviations of VOWS have the validity of VOWS, and ALL SUBSTITUTES FOR VOWS HAVE THE VALIDITY OF VOWS. These are the abbreviations: IF ONE SAYS TO HIS NEIGHBOUR . . . And these are the substitutes: Konam, konas, konah.[6]

Now, where are abbreviations written? — When either a man or a woman shall separate themselves to vow a vow [lindor neder] of a nazirite [nazir le-hazzir];[7] and it has been taught: Nazir le-hazzir is to render substitutes and abbreviations of neziroth as neziroth.[8] From this I may infer only the law of neziroth; whence do we know that it applies to other vows too? This is taught by the verse: When either a man or a woman shall separate themselves to vow a vow of a nazirite to the Lord:[9] here ordinary vows are compared to neziroth and vice versa.[10] Just as in neziroth abbreviations are equally binding, so in the case of other vows; and just as in other vows, he who does not fulfil them violates the injunctions: He shall not break his word,[11] and Thou shalt not delay to pay it,[12] so in neziroth. And just as in other vows, the father can annul those of his daughter and the husband those of his wife, so with neziroth.

Wherein does neziroth differ? Because it is written nazir lehazzir! But [in the case of] vows too it is written, lindor neder;[13] then what need is there of analogy? — If the text were neder lindor just as ‘nazir le-hazzir’, it would be as you say, and the analogy would be unnecessary,’ since however, ‘lindor neder’ is written, the Torah spoke in the language of men.[14] This agrees with the view that the Torah spoke in the language of men; but he who maintains that the Torah did not speak in the language of men,[15] to what purpose does he put this ‘lindor neder’? — He interprets it to deduce that abbreviations of vows are as VOWS, and then neziroth is compared to vows; and as to ‘nazir le-hazzir’ he interprets it as teaching

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(1) But not explicitly stated in the Bible.

(2) I.e., their validity is explicitly stated in the Bible.

(3) When stating the law in general terms there is a preference for that which is best known; hence, substitutes, being explicitly taught, are first mentioned. But when going into details, the Tanna prefers to deal first with the lesser known.

(4) Hence their validity may be regarded as explicitly stated in the Bible, since it obviously does not matter in which language a vow is taken.

(5) V. infra, 10a.

(6) V. infra 9a.

(7) Num. VI. 2.

(8) Sc. equally binding.

(9) Ibid.

(10) Since they are coupled together. This method of exegesis is known as hekkesh.

(11) Ibid. XXX, 3.

(12) Deut. XXIII, 22.

(13) Lit., ‘to vow a vow — likewise a pleonastic form.

(14) The point is this: The usual grammatical form is for the verb to precede its cognate object. Hence, when this order is reversed, as in nazir le-hazir, one may directly infer something from the unusual order. When it is observed, however, nothing can be inferred.

(15) So that every pleonasm, even if in accordance with the general idiom, gives an additional teaching.

Talmud - Mas. Nedarim 3b

that one nazirite vow falls upon another.[1] Then he who maintains that the Torah spoke in the language of men, and interprets ‘nazir le-hazzir’ as teaching the validity of abbreviations of neziroth, whence does he learn that a nazirite vow can fall upon another? If he agrees with the view that a nazirite vow does not fall upon another, it is well; but if he agrees with the view that it does, whence does he know it? — Let Scripture say, li-zor [the kal form]; why ‘le-hazzir’ [the causative]? That you may infer both from it.[2] In the West[3] it was said: One Tanna deduces [the validity of] abbreviations from ‘lindor neder’; whilst another deduces it from [the ‘phrase], he shall do according to all that proceedeth out of his mouth.[4]

The Master said: ‘And just as in other vows, he who does not fulfil them violates the injunctions, he shall not break his wad, and thou shalt not delay to pay it, so in neziroth.’ Now, as for ‘he shall not break his word’ as applying to [ordinary] vows, it is well: it is possible e.g., if one says, ‘I vow to eat this loaf’, and does not eat it; he violates the injunction, ‘he shall not break his word’. But how is, ‘he shall not break [his word],’ possible in the case of neziroth.? For, as soon as one says, ‘Behold, I am a nazir’ he is one; if he eats [grapes], he is liable for, nor eat moist drapes or dried;[5] if he drinks [wine], he violates, he . . . shall drink no vinegar of wine, or vinegar of strong drink, neither shall he drink any liquor of grapes.[6] — Raba answered: It is to transgress two [injunctions].[7] How is 'thou shalt not delay to pay it,' referring to neziroth, conceivable? [For] as soon as one says 'Behold, I am a nazir', he is one; if he eats [grapes], he transgresses, 'neither' shall he . . . eat moist grapes or dried?' — When one says: 'when I wish, I will be a nazir'.[8] But if he says, 'when I wish', the injunction 'thou shalt not delay' does not apply?[9] — Said Raba: E.g., if he says, 'I must not depart this world before having been a nazir,' for he becomes a nazir from that moment.[10] For this is similar to one who says to his wife: 'Here is your divorce, [to take effect] one hour before my death,' where she is immediately forbidden to eat terumah.[11] Thus we see that we fear[12] that he may die at any moment: so here[13] too, he becomes a nazir immediately, for we say, Perchance he will die now.

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(1) A nazirite vow for an unspecified period means for thirty days. If one who is already a nazir takes a nazirite vow, it is binding, and becomes operative when the first ends. Thus he translates: a nazir can take a vow le-hazir, to become a nazir after his present vow terminates, v. infra isa.

(2) The heavier form le-hazzir implies intensity, therefore it is interpreted as meaning something additional to what might be inferred from the kal li-zor, which itself being pleonastic allows us to infer something not explicit in the verse.

(3) I.e., the Palestinian academies.

(4) Num. XXX, 3: this embraces every form in which a vow can be made.

(5) Ibid. VI, 3.

(6) Ibid. [It is assumed that the injunction 'he shall not break his word' can apply only to a case where the vow is nullified by his action, e.g., where he vows to eat and he does not eat, but not where he, for instance, vows not to eat and he does eat, where the vow has not been nullified but transgressed: and similarly in the case of a nazir.]

(7) [Raba extends the scope of the injunction to include cases where the oath is transgressed: and thus by drinking wine he transgresses 'he shall it drink', in addition to 'he shall not break his word'.]

(8) If he postpones becoming a nazir, he violates, 'thou shalt not delay etc'.

(9) Since there is no vow until he so desires.

(10) Not actually, but in the sense that he must assume his naziriteship without delay lest he dies the next moment.

(11) V. Glos.

(12) Lit., 'we say'.

(13) In the case of a nazirite.

Talmud - Mas. Nedarim 4a

R. Aha b. Jacob said: E.g., if one takes a nazirite vow whilst in a cemetery.[1] This agrees with the view that the naziriteship is not immediately binding. But on the view that it is immediately valid, is then, 'he shall not delay,' applicable?[2] Moreover, Mar, son of R. Ashi, said: The vow is immediately valid, and they differ[3] only on the question of flagellation? — Nevertheless he violates, 'thou shalt not delay,' because the [ritually] clean naziriteship is delayed. R. Ashi said: Since this is so, [it follows that] if a nazir intentionally defiles himself, he transgresses thou shalt not delay in respect to [the recommencement of] the clean naziriteship.

R. Aha, the son of R. Ika, said: He[4] might transgress 'that shalt not delay' in respect to shaving.[5] Now, this goes without saying according to the view that shaving is indispensable,[6] but even on the view that the shaving is not a bar [to the sacrifices], nevertheless he does not observe the precept of shaving. Mar Zutra the son of R. Mari said: He might violate 'Thou shalt not delay' in respect to his sacrifices. Is this deduced from here; surely, it is rather inferred from elsewhere: [When thou shalt vow a vow unto the Lord, thou shalt not slack to pay it, for the Lord thy God] will surely require it of thee:[7] this refers to sin-offerings and trespass-offerings?[8] — I might say that the Torah set up an anomaly[9] in the case of nazir.[10] What is the anomaly? Shall we say, the fact that a vow to bring the sin-offering of a nazir[11] is invalid: but a sin-offering for heleb[12] cannot be made obligatory by a vow,[13] yet one transgresses, 'thou shalt not delay'? But the anomaly is this: I might have thought, since even if one says, 'I will be a nazir only with respect to the kernels of grapes,'[14] he is a nazir in all respects. I would think that he does not violate, Thou shalt not delay'; therefore we are told [otherwise].[15] , Now, this is well according to the opinion that a vow of naziriteship in respect of the kernels of grapes makes one a nazir in all respects; but on the view of R. Simeon, viz., that one is not a nazir unless he separates himself from all, what can be said? Moreover, this is an anomaly in the direction of greater stringency?[16] — But the anomaly is this: I might have thought, since

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(1) A nazir may not defile himself through the dead. Consequently the vow does not become immediately operative, but he must not delay to leave the cemetery so that it shall become binding.

(2) Surely not, for he is an actual nazir, subject to all the provisions of a nazir.

(3) Sc. R. Johanan and Resh Lakish, in Nazir 16b.

(4) The nazirite.

(5) After the completion of his naziriteship: v. Num. VI, 9, and thus violate the injunction 'thou shalt not delay'.

(6) Lit., 'hinders' — the offering of the sacrifices on the completion of naziriteship, hence delay in shaving involves a delay in sacrifices.

(7) Deut. XXIII, 22.

(8) And this would cover the case of a nazirite. For what purpose then the application of the verse 'thou shalt not delay' to the nazirite?

(9) Lit., 'a novelty' — as such it cannot be included in other general laws, as it is a principle of exegesis that an anomaly stands in a class by itself.

(10) Which includes a nazir's sacrifices.

(11) By one who is not nazirite.

(12) Forbidden fat.

(13) A vow to bring a sin-offering which is normally due for eating heleb is not binding if the vower is not actually liable.

(14) V. Num. VI, 4.

(15) By the coupling of the nazirite vow with other vows in the same sentence.

(16) How then would we think that the injunction does not apply, so that it is more lenient

Talmud - Mas. Nedarim 4b

if he shaves himself for one [sacrifice] of the three, he fulfils his duty.[1] therefore he should not be subject to, 'Thou shalt not delay'; hence we are told [that it is not so]. An alternative answer is this: the anomaly is that it cannot be vowed; but as to your difficulty of the sin-offering for heleb,[2] — the sin-offering for heleb comes for atonement,[3] but for what does the sin-offering of anal come?[4] But the sin-offering of a woman who gave birth,[5] which does not come for an atonement, yet one violates, 'thou shalt not delay' on account thereof? — That permits her to eat of sacrifices.[6]

The Master said: 'And just as in other vows, the father can annul those of his daughter and the husband those of his wife, so in the case of neziroth, the father can annul the neziroth of his daughter and the husband that of his wife'. But what need is there of analogy; let us infer it from VOWS by general similarity?[7] — Perhaps he can annul only in the case of other vows, because their duration is unlimited; but with respect to neziroth, the duration of which is limited — for an unspecified vow of neziroth is for thirty days, — I might say that it is not so.[8] Hence we are informed [otherwise].[9]

IF ONE SAYS TO HIS NEIGHBOUR, I AM DEBARRED FROM YOU BY A VOW' etc. Samuel said: In all these instances he must say, 'in respect of aught that I might eat of yours or that I might taste of yours'. An objection is raised: [If one says to his neighbour], 'I am debarred from you by a vow,' [or] 'I am separated from you.' [or] 'I am removed from you', he is forbidden [to derive any benefit from him]. [If he says,] 'That which I might eat or taste of yours' [shall be to me prohibited], he is forbidden![10] — This is what is taught: When is this? If he adds 'in respect of aught that I might eat or taste of yours.' But the reverse was taught: [If one says to his neighbour,] 'That which I might eat or taste of yours' [shall be prohibited to me], he is forbidden; 'I am debarred from you by a vow', [or] 'I am separated from you', [or] 'I am removed from you,' he is [likewise] forbidden! — Read thus: Providing that he had first said, ‘I am debarred from you, etc.’[11] If so, it is identical with the first [Baraitha]?[12] Moreover, why teach further, ‘he is forbidden’ twice?[13] — But this is what Samuel really said: Because he said, ‘in respect of aught that I might eat of yours or that I might taste of yours’, the maker of the vow alone is forbidden while his neighbour is permitted;[14]

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(1) A nazir at the termination of his vow is bound to bring three sacrifices, viz., a burnt-offering, a sin-offering, and a peace-offering. Yet if he shaves and brings only one, the prohibitions of a nazir, such as the drinking of wine, etc., are lifted. This is a unique law, and in the direction of greater leniency.

(2) Supra p. 7, n. 10.

(3) Hence one violates the injunction by delaying to make atonement.

(4) Though technically a sin-offering, it is, in fact, merely part of a larger vow. Hence it is an anomaly that it cannot be vowed separately.

(5) V. Lev. XII, 6ff.

(6) Which may be an obligation. e.g., the eating of the Passover sacrifice. Hence ‘thou shalt not delay’ is applicable.

(7) Since naziriteship is a form of vow. [מה מצינו Lit., ‘as we find concerning’, a method of hermeneutics whereby an analogy is drawn from one case for one single similar case, as distinct from hekkesh (supra p. 4, n. 6) where the analogy is based on the close connection of the two subjects in one and the same context.]

(8) Since the vow will automatically lapse.

(9) By the analogy.

(10) The first clause proves that the vow is valid without the addition.

(11) According to this rendering, the bracketed ‘shall be prohibited to me’ must be deleted.

(12) Why then is the order reversed? This difficulty arises in any case. But if each clause is independent, it can be answered that the second Baraitha intentionally reverses the clauses, so as to make their independence obvious, since the interpretation ‘providing that he had first said’ is forced; whilst in the first Baraitha the assumption that the second clause is an addition to the first is quite feasible.

(13) Seeing that the whole refers to one vow.

(14) To benefit from him.

Talmud - Mas. Nedarim 5a

but if he merely says. ‘I am debarred from you by a vow,’ both are forbidden. Just as R. Jose son of R. Hanina said: [If one says to his neighbour] ‘I am debarred from you by a vow,’ both are forbidden.

We learnt: [If one says to his neighbour,] ‘Behold! I am herem[1] to you,’ the muddar[2] is forbidden.[3] But the maddir[2] is not [forbidden]?[4] — E.g., if he explicitly states, ‘but you are not [herem] to me’. [But does it not continue,] ‘You are herem to me’, the maddir is forbidden, [implying,] but not the muddar? — E.g., if he explicitly states, ‘but you are not [herem] to me.’ But what if it is not explicit: both are forbidden? But since the final clause teaches,’ I am [herem] to you and you are [herem] to me,’ both are forbidden, it is only in that case that both are forbidden, but in general he is forbidden while his neighbour is permitted?[5] But this is how R. Jose son of R. Hanina's [dictum] was stated: [If one says to his neighbour,] ‘I am under a vow in respect of you,’ both are forbidden; ‘I am debarred from you by a vow,’ he is forbidden but his neighbour is permitted. But our Mishnah teaches, ‘FROM YOU, yet our Mishnah was explained according to Samuel that in all cases he must say, ‘in respect of aught that I might eat of yours or that I might taste of yours’ — only then is he [alone] forbidden while his neighbour is permitted, but in the case of, ‘I am debarred from you by a vow,’ both are forbidden? But this is what was originally stated in Samuel's name: It is only because he said, ‘in respect of aught that I might eat of yours or that I might taste of yours,’ that he is forbidden only in respect of eating. But [if he only said,] ‘I am debarred from you by a vow,’ he is forbidden even benefit. If so, let Samuel state thus: But if he did not say, ‘In respect of aught that I might eat of yours or that I might taste of yours,’ even benefit is forbidden to him?[6] But this is what was stated: Only if he says, in respect of aught that I might eat of yours or that I might taste of yours', is he forbidden; but if he [merely] says, 'I am debarred from you by a vow,' it does not imply a prohibition at all. What is the reason? 'I am debarred from you,' [implies] 'I am not to speak to you ; 'I am separated from you' [implies] 'I all, to do no business with you'; 'I am removed from you' implies, 'I am not to stand within four cubits of you'.

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(1) V. Glos.

(2) Muddar is the object of the vow; maddir is the man who makes the vow.

(3) Infra 47b.

(4) This contradicts Samuel's dictum that without the addition the incidence of the vow is reciprocal.

(5) Which contradicts R. Jose b. R. Hanina.

(6) So the text as amended by Bah.

Talmud - Mas. Nedarim 5b

Shall we say Samuel holds the opinion that inexplicit abbreviations are not abbreviations?[1] — Yes. Samuel makes the Mishnah agree with R. Judah, who maintained: Inexplicit abbreviations are not abbreviations. For we learnt: The essential part of a Get[2] is, 'Behold, thou art free unto all men'. R Judah said: [To this must be added] 'and this [document] shall be unto thee from me a deed of dismissal and a document of release.'[3] Now, what forced Samuel to thus interpret the Mishnah, so as to make it agree with R. Judah: let him, make it agree with the Rabbis, that even inexplicit abbreviations [are binding]?[4] Said Raba: The Mishnah presents a difficulty to him: Why state, IN RESPECT OF AUGHT THAT I MIGHT EAT OF YOURS OR THAT I MIGHT TASTE OF YOURS, let him teach, IN RESPECT OF AUGHT THAT I MIGHT EAT OR THAT I MIGHT TASTE [and no more]? This proves that we require explicit abbreviations.

It was stated: Inexplicit abbreviations — Abaye maintained: They are [valid] abbreviations; while Raba said: They are not [valid] abbreviations. Raba said: R. Idi explained the matter to me. Scripture says, [When either a man or a woman shall] explicitly law a vow of a nazirite, to separate themselves unto the Lord: abbreviations of neziroth are compared to neziroth: just as neziroth must be explicit in meaning, so must their abbreviations be too.

Are we to say that they differ in the dispute of R. Judah and the Rabbis? For we learnt: The essential part of a Get is the words, 'Behold, thou art free unto all men.' R. Judah said: [To this must be added,] 'and this [document] shall be unto thee from me a deed of dismissal and a document of discharge and a letter of release': [Thus] Abaye rules as the Rabbis, and Raba as R. Judah? — [No.] Abaye may assert: My opinion agrees even with R. Judah's. Only in divorce does R. Judah insist that abbreviations shall be explicit, because 'cutting off'[5] is necessary, and this is lacking;[6] but do you know him to require it elsewhere too? Whilst Raba can maintain, My view agrees even with that of the Rabbis. Only in the case of divorce do they say that explicit abbreviations are not essential,

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(1) I.e., invalid. For the above forms are such, and Samuel maintains that they impose no prohibition at all without the explanatory clauses.

(2) V. Glos.

(3) Otherwise it is not clear that the divorce is to be effected by the Get. Thus he holds that inexplicit abbreviations are invalid.

(4) [For unless Samuel had cogent reasons to make the Mishnah agree only with R. Judah, he himself would not have accepted the view of R. Judah in preference to that of the majority of Rabbis (Ran).]

(5) [Referring to Deut. XXIV, 3: 'And he shall write unto her a writ of cutting off' (so literally).]

(6) If the abbreviation is inexplicit the severance is not complete.

Talmud - Mas. Nedarim 6a

because no man divorces his neighbour's wife;[1] but do you know then, [to rule thus] elsewhere?[2]

An objection is raised: [If one says,] ‘That is to me,’ [or] ‘this is to me,’ he is forbidden,[3] because it is an abbreviation of [‘that is as a] korban [to me].’[4] Thus, the reason is that he said, ‘unto me,’ but if he did not say, ‘unto me,’ it is not so:[5] this refutes Abaye? — Abaye replies thus: It is only because he said, ‘to me,’ that he is forbidden; but if he [merely] said, ‘behold, that is,’ without adding ‘to me’ he might have meant, ‘behold, that is hefker,’[6] or ‘that is for charity.’[7] But is it not stated, ‘because it is an abbreviation of, "a korban?"’[8] — But answer thus: Because he said, ‘to me,’ he [alone] is forbidden, but his neighbour is permitted; but if he said, ‘behold, that is’, both are forbidden, because he may have meant,[9] ‘behold that is hekdesh.[10]

An objection is raised: [If one says,] ‘Behold, this [animal] is a sin-offering,’ ‘this is a trespass-offering,’ though he is liable to a sin-offering or a trespass-offering, his words are of no effect. [But if he says,] ‘Behold, this animal is my sin-offering,’ or ‘my trespass-offering,’ his declaration is effectual if he was liable. Now, this is a refutation of Abaye![11] — Abaye answers: This agrees with R. Judah.[12] But Abaye said, My ruling agrees even with R. Judah?[12] — Abaye retracted. Are we to say [then] that Raba's ruling agrees [only] with R. Judah's?[13] — No. Raba may maintain: My view agrees even with that of the Rabbis. Only in the case of divorce do they say that explicit abbreviations are not essential, because no man divorces his neighbour's wife; but elsewhere explicit abbreviations are required.

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(1) I.e., even if the wording is inexplicit, the whole transaction makes its meaning perfectly clear. [This argument makes it evident that the point at issue between R. Judah and the Rabbis is mainly concerning the phrase [from me’, the Rabbis being of the opinion that since no man divorces his neighbour's wife, it is clear that the Get comes ‘from him’ (Ran); v. Git. 85b.]

(2) Elsewhere they may agree that inexplicit allusions are invalid.

(3) To benefit from it.

(4) So Rashi and Asheri. [Alternatively: Because it is an abbreviation valid for a korban (an offering), and therefore also valid in case of a vow.]

(5) Because it is an inexplicit abbreviation.

(6) Ownerless property. V. Glos.

(7) Hence it is not an abbreviation of a vow at all.

(8) [This is difficult. The meaning apparently is that the reason that it is an abbreviation valid for a korban, (v. n. 2) ought to apply also to the declaration ‘that is’ by itself, since such a declaration too is valid for a korban; v. Ran.]

(9) [Where the object vowed was not fit for sacrifice; v. n. 6.]

(10) Sanctified property. V. Glos.

(11) Since in the first clause the abbreviation is invalid because it is inexplicit.

(12) V. supra 5b.

(13) Since Abaye's view agrees only with that of the Rabbis.

Talmud - Mas. Nedarim 6b

R. Papa enquired: Are abbreviations valid in the case of kiddushin,[1] or not? Now, how does this problem arise? Shall we say thus: If one said to a woman, ‘Behold, thou art betrothed unto me, and said to her companion, ‘and thou too,’ it is obvious that this is actual kiddushin?[2] — But e.g., If one said to a woman, ‘Behold, thou art betrothed unto me,’ and then to her companion, ‘and thou’. Do we assume that he meant ‘and thou too,’ and so the second is betrothed;[3] or perhaps he said to her companion, ‘and do thou witness it’, and so she is not betrothed?

But is R. Papa really in doubt? But since he said to Abaye. Does Samuel hold that inexplicit abbreviations are valid?[4] it follows that he [R. Papa] holds that abbreviations are valid in the case of kiddushin? — R. Papa's question to Abaye was based on Samuel's opinion.[5]

R. Papa enquired: Are abbreviations binding in respect of pe'ah[6] or not? What are the circumstances? Shall we say that one said, 'Let this furrow be pe'ah. and this one too' — that is a complete [declaration of] pe'ah? — His problem arises, e.g., if he [merely] said, 'and this,' without adding 'too'.[7] (Hence it follows that if one says, 'Let the entire field be pe'ah', it is so?[8] — Yes. And it was taught likewise: Whence do we know that if one wishes to render his whole field pe'ah, he can do so? From the verse, [And when ye reap the harvest of thy land, thou shalt not wholly reap] the corner of the field.)[9] — Do we say, Since it [sc. pe'ah] is compared to sacrifices, just as abbreviations are binding in the case of sacrifices, so in the case of pe'ah too; or perhaps, the analogy holds good only in respect of [the injunction,] than shalt not delay?[10] Now, where is the analogy found? — For it was taught:

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(1) Betrothals. V. Glos.

(2) Not an abbreviation.

(3) Lit., 'kiddushin takes hold on her companion'.

(4) In reference to kiddushin, v. Kid. 5b.

(5) Recognising that Samuel held abbreviations to be valid in the case of kiddushin.

(6) Pe'ah-the corner of the field, which was left for the poor. v. Lev. XIX, 9.

(7) [Asheri seems to have read: Did he then mean 'and this too is for pe'ah' or 'and this is for personal expenses'.]

(8) The presumption is that R. Papa's problem arises only if the first furrow alone contained the necessary minimum, for otherwise the second would certainly be pe'ah; therefore the second furrow is in addition to the requisite minimum, and becomes pe'ah, if abbreviations are binding. But if more than the minimum can be pe'ah, it follows that even the whole field can be pe'ah.

(9) And not 'the corner in thy field'. Lev. MIX, 9.

(10) I.e., if pe'ah is not given within the fixed period, this injunction is violated.

Talmud - Mas. Nedarim 7a

[When thou shalt vow a vow unto the Lord thy God, thou shalt not delay to pay it, far the Lord will surely require it] of thee:[1] this refers to gleanings, forgotten sheaves, and pe'ah.[2]

Are abbreviations binding in the case of charity or not? How does this arise? Shall we say, that one said, 'This zuz[3] is for charity, and this one too,' that is a complete [declaration of] charity! — But, e.g., If one said, '[And] this,' omitting 'too'. What then: did he mean, 'and this too is for charity,' or, 'and this is for my personal expenditure,' his statement being incomplete?[4] Do we say, Since this is likened to sacrifices, as it is written' [That which is gone out of thy lips thou shalt keep and perform; even a free-will offering according as thou hast vowed unto the Lord thy God, which thou hast promised] with thy mouth, which refers to charity:[5] hence, just as abbreviations are valid for sacrifices, so with charity; or possibly the comparison is in respect of 'Thou shalt not delay' only?

Are abbreviations valid in respect of hefker or not? But that is charity?[6] — This problem is based on a presupposition:[7] Should you rule, abbreviations are valid in the case of charity, because there is no analogy by halves,[8] [what of] hefker?[9] Do we say: Hefker is charity; or possibly charity differs, charity being for the poor only, whilst hefker is both for the rich and the poor?

Rabina propounded: Are abbreviations effective in respect of a privy or not?[9] How does this arise? Shall we say, that he declared, 'Let this place be for a privy, and this one too,' then obviously it is one? — But e.g., if he declared, 'and this,' omitting 'too'. What then? Does '[and] this' mean 'and this too shall be a privy,' or perhaps, what is meant by 'and this'? In respect of general use? Now, this proves that it is certain to Rabina that designation is valid for a privy. But Rabina propounded: What if one designates a place for a privy' or for baths; is designation effective or not?[10] — Rabina propounded this problem on an assumption. [Thus:] Is designation effective or not, should you answer, Designation is effective, are abbreviations valid or not?[11] This question remains.

I AM BANNED TO YOU,' etc. Abaye said: R. Akiba admits in respect to lashes, that he is not flagellated;[12] for otherwise, let [the Mishnah] state, R. Akiba gave a stringent ruling.[13] R. Papa said: With respect to, 'I am isolated [nedinah] from you,' all agree that he is forbidden; 'I am accursed [meshamatna] from you,' all agree that he is permitted. Wherein do they differ?

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(1) Deut. XXIII, 22.

(2) Whilst he will surely require it refers to sacrifices, supra 4a. Hence they are assimilated to each other, being coupled in the same verse. The Hebrew for of thee is מעמך which can be rendered 'of that which is with thee', the reference being to the gleanings etc., which are to be left for those that are 'with dice', i.e., the poor. Ex. XXII, 24.

(3) Zuz, a silver coin, one fourth of a shekel.

(4) This alternative may apply to the query on pe'ah too: i.e., did he mean, 'and this furrow too', or, 'and this furrow be for my personal use?' V. p. 13, n. 7.

(5) This is deduced from the verse: the promise of charity is gone out of my mouth (Isa. S>V, 23, so translated here), where a promise by mouth refers to charity.

(6) Renunciation of one's property is the equivalent of giving it to charity. Thus the problem has already been stated.

(7) Lit., 'he sass, "if you should say".'

(8) I.e., it cannot be confined to certain aspects only.

(9) A place so appointed may not be used for reciting prayers, even before it was used as a privy.

(10) In the sense that this place may not be used henceforth for reciting prayers.

(11) In all the foregoing problems on kiddushin, pe'ah, charity etc., the abbreviations, though apparently not clear in meaning, since alternatives are given, are regarded as explicit, since the alternatives are, in every case, of a remote character, and the question then arises whether abbreviations, though explicit enough, are effective in these cases, v. Ran. 6b, s.v. בעי.

(12) If he breaks the vow.

(13) 'WAS INCLINED' shows that he entertained some doubt, and would therefore not inflict the penalty of lashes.

Talmud - Mas. Nedarim 7b

In the case of, 'I am banned to you,' R. Akiba maintaining that it is the equivalent of 'isolated' [nedinah], whilst the Rabbis hold that it means accursed' [meshamatna]. Now, this conflicts with R. Hisda's view. For a certain man, who declared, 'I am accursed in respect of the property of the son of R. Jeremiah b. Abba' went before R. Hisda. Said he to him, 'None pay regard to this [ruling] of R. Akiba'. [Thus] he holds that they differ in respect to' 'I am accursed' [meshamatna].

R. Elai said in the name of Rab. If [a Rabbi] places a person under a ban in his presence, the ban can be revoked only in his presence; if in his absence, it can be revoked both in his presence and in his absence. R. Hanin said in Rab's name. One who hears his neighbour utter God's name in vain[1] must place him under a ban; otherwise he himself must be under a ban,[2] because the unnecessary utterance of the Divine Name always leads to poverty, and poverty leads to death, as it is written, [And the Lord said unto Moses in Midian, Go, return unto Egypt]. For all the men are dead [which sought thy life];[3] and it was taught: Wherever the Sages cast their eyes [in disapproval] death or poverty has resulted.

R. Abba said: I was standing in the presence of R. Huna, when he heard a woman utter God's name in vain. Thereupon he banned her, but immediately lifted the ban in her presence. This proves three things: [i] He who hears his neighbour utter the Divine Name unnecessarily must excommunicate him; [ii] If [a Rabbi] bans a person in his presence, the ban must be lifted in his presence too. [iii] No time need elapse between the imposition and the lifting of a ban.[4]

R. Giddal said in Rab's name: A scholar may utter a ban against himself, and lift it himself. But is this not obvious? — I would think that a prisoner cannot free himself from prison; hence we are taught otherwise. Now, how can such a thing occur? — As in the case of Mar Zutra the Pious:[5] when a disciple incurred a ban,[6] [Mar Zutra] first excommunicated himself and then the disciple.[7] On arriving home, he lifted the ban from himself and then from the disciple.

R. Giddal also said in Rab's name:

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(1) Lit., the mentioning of the Name from his neighbour's mouth.

(2) [I.e., deserves to be placed under a ban, (Ran).]

(3) Ex. IV, 19. It is stated infra 64b that the reference is to Dathan and Abiram, who in fact were alive at Korah's rebellion, but had become poverty-stricken. Four are regarded as dead: a poor man, a leper, a blind person, and one who has no children. They were not blind, for it is written, wilt thou put out the eyes of these men? (Num. XVI, 14). Again, they were not lepers, for we find that they had not been excluded from the congregation: in the midst of all Israel (Deut. XI, 6). Even if they had been childless, they still could have been a source of danger to Moses before Pharaoh. Hence when God assured Moses that the danger was past, He meant that they were now poor and without influence (Ran).

(4) Hence, the ban may be merely a nominal punishment. V. J.E. art. Anathema. The term used here is niddui, and though it is stated there (p. 560, 2) that niddui is for seven days (M.K. 16a, 17b), it is evident from this passage that there was a formal ban too of no particular duration.

(5) Heb. hasida, (hasid). In Rabbinic literature the term is a title of respect denoting the type of an ideal Jew; (cf. Ta'an. 8a; Tem. 15b).

(6) [Here the term used is shamta, ‘desolation’, ‘curse’. According to Rashi, ‘shamta’ is a less severe form of ban than ‘niddui’; Maimonides, Yad, Talmud Torah, VII, 2, equates them. Nahmanides, Mishpat ha-Herem, considers shamta to be a general term for the more severe form of excommunication, the Herem, and the less severe, the Niddui.

(7) This was done to safeguard the honour of his disciple.

Talmud - Mas. Nedarim 8a

Whence do we know that an oath may be taken to fulfil a precept? From the verse, I have sworn, and I will perform it, that I will keep thy righteous judgments.[1] But is he not under a perpetual oath from Mount Sinai?[2] — But what [R. Giddal] teaches us is that one may stimulate himself.[3] R. Giddal also said in Rab's name: He who says, ‘I will rise early to study this chapter or this tractate,’ has vowed a great vow to the God of Israel. But he is under a perpetual oath from Mount Sinai, and an oath cannot fall upon another?[4] Then [again] if he informs us that a person may thus stimulate himself, it is identical with R. Giddal's first [statement]? — This is what R. Giddal teaches: The oath is binding, since one can free [i.e., acquit] himself by the reading of the Shema’ morning or evening.[5] R. Giddal said in Rab's name: If one says to his neighbour, ‘Let us rise early and study this chapter,’ it is his [the former's] duty to rise early, as it is written, And he said unto me, arise, go forth into the plain, and there I will talk with thee. Then I arose and went forth into the plain, and behold, the glory of the Lord stood there.[6]

R. Joseph said: If one was placed under a ban in a dream, ten persons are necessary for lifting the ban.[7] They must have studied halachah;[8] I but if they had only learnt [Mishnah],[9] they cannot lift the ban; but if such as have studied halachah are unavailable, then even those who have only learnt Mishnah], but had not studied [halachah] will do. But if even such are unavailable, let him go and sit at the cross-roads, and extend greetings[10] to ten men, until he finds ten men who have studied halachah.[11] Rabina asked R. Ashi: If he knew [in his dream] the person who placed him tinder a ban, can this person lift the ban? — He answered: He might have been appointed [God's] messenger to ban him, but not to revoke it. R. Aha asked R. Ashi: What if one was both banned and readmitted[12] in his dream? — Said he to him: Just as grain is impossible without straw,[13]

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(1) Ps. CXIX, 106.

(2) Every Jew is regarded as having sworn at Sinai to observe God's precepts.

(3) By an oath, to do what he is in any case bound to do.

(4) I.e., an oath is not valid when referring to that which is already subject to an oath.

(5) The passage commencing: Hear O Israel etc. (Deut. VI, 4 seq.). There is a definite obligation to study day and night, which is derived either from Deut. VI, 7 (and thou shalt teach them, etc.) or from Josh. I, 8 (This book of the law shall not depart out of thy mouth). But it is stated in Men. 95b that the obligation is fulfilled by the reading of the Shema' morning and evening.

(6) Ezek. III, 22, 23. The Lord, having instructed him to go forth, had preceded him.

(7) Dreams were widely held to have a positive significance; indeed, as almost partaking of the nature of prophecy. As we see here, a definite quality of reality was ascribed to them. V. J.E. s.v. 'Dreams'.

(8) Heb., hilketha, v. next note.

(9) So Rashi and Ran on the basis of our text. Mishnah is the law in broad outline, which characterises the whole of our present Mishnah, as compiled by R. Judah I. Hilketha (halachah) (law, rule) would appear to connote here the Talmudic discussion thereon, i.e., the amoraic development of the Mishnah. For tanu (תנו) referring to amoraic teaching instead of Tannaitic. cf. Kaplan, Redaction of the Talmud, pp. 209 seq. Ran, Asheri, and Tosaf, offer another interpretation, based on a slightly different reading: They must have taught law, but not merely learnt it (themselves).

(10) Lit., 'give peace' — the usual form of a Jewish greeting.

(11) Tosaf.: the greetings of ten men at the cross-roads will remove his grief; but ten scholars are necessary for the removal of the ban.

(12) Lit., 'it was loosened for him'.

(13) Cf. Jer. XXIII, 28.

Talmud - Mas. Nedarim 8b

so is there no dream without meaningless matter.[1]

Rabina's wife was under a vow; he then came before R. Ashi, asking. Can the husband become an agent for his wife's regret?[2] — He replied: If they [the three scholars] are ready assembled, he can do so: but not otherwise.[3] Three things may be inferred front this incident: [i] A husband can become an agent for his wife's regret. [ii] It is not seemly[4] for a scholar to revoke a vow in his teacher's town.[5] [iii] If they [the necessary scholars] are already assembled, it is well. But a scholar may lift a ban even in the vicinity of his master, and even a single ordained scholar[6] may lift a ban.

R. Simeon b. Zebid said in the name of R. Isaac b. Tabla, in the name of R. Hiyya Areka of the school of R. Aha, in the name of R. Zera in the name of R. Eleazar in the name of R. Hanania in the name of R. Mi'asha on the authority of R. Judah b. Il'ai: What is the meaning of, But unto you that fear my name shall the sun of righteousness arise with healing in its wings?[7] — This refers to those people who fear to utter the Divine name in vain.[8] 'The sin of righteousness with healing in its wings': Said Abaye, This proves that the motes dancing in the sun's rays have healing power. Now, he differs from R. Simeon b. Lakish, who said: There is no Gehinnom[9] in the world to come,[10] but the Holy One, blessed be He, will draw forth the sun from its sheath: the righteous shall be healed, and the wicked shall be judged and punished thereby. As it is written, But unto you that fear my name shall the sun of righteousness arise with healing in its wings.[11] Moreover, they shall be rejuvenated by it, as it is written, And ye shall go forth and grow up as calves of the stall.[12] But the wicked shall be punished thereby, as it is written, Behold, the day cometh that shall burn as an oven, and all the proud, yea, and all that do wickedly, shall be stubble; and the day that cometh shall burn them up, saith the Lord of Hosts, that it shall leave them neither root nor branch.[13]

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(1) I.e., the ban is not lifted.

(2) So as to have the vow cancelled. On regret (haratah). v. infra 21b, a.l.

(3) Because having troubled to assemble three scholars, he may be anxious that his trouble should not be unrewarded and so exceed his wife's instructions as to the grounds on which she desired absolution.

(4) This is the reading of Ran. Cur. edd. (quoted by Rashi too): a scholar is not permitted.
(5) Since Rabina, himself a Rabbi, did not act in the town of R. Ashi, his teacher.
(6) Mumhe, v. Glos.
(7) Mal. III. 20.
(8) The name of God represents the Divine nature and the relation of God to His people. As such it was understood as the equivalent of the Divine Presence, hence the awe with which it was surrounded, cf. Kid. 71a, Sanh. 99a.
(9) Gehinnom (Gehenna) as an equivalent of hell, purgatory, takes its name from the place where children were once sacrificed to Moloch, viz., ge ben Hinnom, the valley of the son of Hinnom, to the south of Jerusalem (Josh. XV, 8; 11 Kings XXIII, 10; Jer. VII, 32-32; XIX, 6. 13-14).
(10) [‘Olam ha-ba. Here, as it is clear from the context, the reference is to the Messianic days.]
(11) Thus, unlike Abaye, he applies the verse to the future world.
(12) Mal. III, 20.
(13) Mal. III, 19.

Talmud - Mas. Nedarim 9a

MISHNAH. [IF ONE SAYS] ‘AS THE VOWS OF THE WICKED, HE HAS VOWED IN RESPECT OF NEZIROTH, A SACRIFICE, AND AN OATH.[1] [IF HE SAYS:] ‘AS THE VOWS OF THE RIGHTEOUS,’ HIS WORDS ARE OF NO EFFECT. [BUT IF HE SAID,] ‘AS THEIR FREEWILL-OFFERINGS,’ HE HAS VOWED IN RESPECT OF A NAZIRITE VOW AND A SACRIFICE.[1]

GEMARA. But perhaps he meant thus: ‘I do not vow as the vows of the wicked?’ — Samuel answered: The Mishnah refers to one who said, ‘As the vows of the wicked behold I am,’ [or] ‘[I take] upon myself,’ [or] ‘[I am debarred] from it’: [which means,] ‘Behold, I am a nazir,’ [or] ‘I take upon myself [the obligation] to offer a sacrifice,’ [or] ‘I [am debarred] by an oath [to derive any benefit] therefrom. Behold, I am a nazir’: but perhaps he meant, ‘Behold, lam to fast’? — Said Samuel: That is if a nazir was passing in front of him.[2] ‘I am [debarred] by an oath [to derive any benefit] therefrom.’ But perhaps [hemennu] [from or of it] means ‘that I am to eat of it’? — Said Raba: It means that he said, ‘[I am debarred] from it not to eat it.’ If so, why state it?[3] — I would argue, But he has not explicitly taken an oath![4] Hence we are informed [otherwise].[5]

[IF HE SAYS], ‘AS THE VOWS OF THE RIGHTEOUS,’ etc. Which Tanna recognises a distinction between a vow and a freewill offering:[6] shall we say, neither R. Meir nor R. Judah? For it was taught: Better it is that thou shouldst not vow, than that thou shouldst vow and not pay.[7] Better than both is not to vow at all: thus said R. Meir. R. Judah said: Better than both is to vow and repay.[8] — You may even say that it is R. Meir:

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(1) I.e., his vow is valid in respect of these. This will be explained in the Gemara.
(2) So he meant, ‘such as he’.
(3) Since it is obvious.
(4) Hence it is not an oath.
(5) [The meaning of the Mishnah would be accordingly: If a nazirite is passing by and a man noticing him says. ‘Behold, I am as he who makes the vows of the wicked’, (meaning the nazirite, who in a sense is regarded as a sinner; v. infra 10a); or if a man with a beast before him says, ‘I take upon myself as the vows of the wicked’, or, with a loaf of bread before him, says. ‘From it as the vows of the wicked’, he becomes respectively a nazirite; Is obliged to bring a sacrifice; and is forbidden to eat of the loaf, each utterance being treated as an abbreviation of a vow (Ran).]
(6) In making a vow to offer a sacrifice, one says, ‘Behold, I will bring a sacrifice’; since he may forget to do so, it is considered wrong to make a vow. But a freewill donation is declared thus: ‘Behold, this animal is for a sacrifice’. Since the animal has already been put aside for the purpose, there is no fear of forgetfulness.
(7) Eccl. V, 4.
(8) Thus neither draw a distinction between a vow and a freewill-offering.

Talmud - Mas. Nedarim 9b

R. Meir spoke only of a vow, but not of a freewill-offering. But the Mishnah states: AS THEIR FREEWILL-OFFERINGS, HE HAS VOWED IN RESPECT OF NAZIR AND A SACRIFICE?[1] — Learn: HE HAS made a freewill-offering IN RESPECT OF NAZIR AND A SACRIFICE. Now, wherein does a vower differ, that he is not [approved]: because he may thereby come to a stumbling-block?[2] But a freewill-offering too can become a stumbling-block?[3] — [He does as] Hillel the Elder.[4] For it was taught: It was said of Hillel the Elder that no man ever trespassed through his burnt-offering;[5] he would bring it as hullin[6] to the Temple court, then sanctify it, and put his hand upon it[7] and slaughter it. That is well in respect of a freewill-offering of sacrifices; but what can be said of a freewill-offering of neziroth?[8] — It is as Simeon the Just.[9] For it was taught: Simeon the Just said: Only once in my life have I eaten of the trespass-offering brought by a defiled tear. On one occasion a nazir came from the South country, and I saw that he had beautiful eyes, was of handsome appearance, and with thick locks of hair symmetrically arranged. Said I to him: ‘My son, what [reason] didst thou see to destroy this beautiful hair of thine?’[10] He replied: ‘I was a shepherd for my father in my town. [Once] I went to draw water from a well, gazed upon my reflection in the water, whereupon my evil desires rushed upon me and sought to drive me from the world [through sin]. But I said unto it [my lust]: "Wretch! why dost thou vaunt thyself in a world that is not thine, with one who is destined to become worms and dust?[11] I swear[12] that I will shave thee off [his beautiful hair] for the sake of Heaven."’ l immediately arose and kissed his head, saying: ‘My son, may there be many nazirites such as thou in Israel! Of thee saith the Holy Writ, When either a man or a woman shall separate themselves to vow a vow of a nazirite, to separate themselves unto the Lord.[13]

R. Mani demurred: Wherein does the trespass-offering of an unclean nazirite differ, that he did not eat [thereof]: because it comes on account of sin? Then he should not have partaken [of] all trespass-offerings, since they come on account of sin? Said R. Jonah to him, This is the reason: When they regret [their evil deeds], they become nazirites, but when they become defiled, and the period of neziroth is lengthened,[14] they regret their vow, and thus hullin is brought to the Temple court.[15] If so, it is the same even with an undefiled nazir too?[16] — A clean nazir is not so, for he [previ ously] estimates his will-power, [and decides] that he can vow.

Alternatively:

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(1) Rashi: this implies that it is stated as a vow. Asheri: the use of both terms together, FREEWILL-OFFERINGS and HE HAS VOWED proves that the Tanna of our Mishnah recognises no difference between them.

(2) By forgetting to fulfil his vow.

(3) Because when an animal has been dedicated, it may not be put to any use; in a momentary forgetfulness, however, one may use it.

(4) ‘Elder’ (Heb. zaken) does not necessarily refer to age, but was a title of scholarship; cf. Kid. 32b; Yoma 28b; J.M.K. III, beginning of 81c.

(5) By putting it to secular use after dedication.

(6) Non-holy, v. Glos.

(7) Lev. I, 4: And he shall put his hand upon the lead of the burnt-offering.

(8) Since the possibility of violating one of the laws of neziroth constitutes a stumblingblock.

(9) So the text as emended by Ran. — One who takes the vow of a nazirite in such circumstances as those related by Simeon the Just need not fear a stumbling-block. Scholars differ whether he is identical with Simeon I (310-291 or 300-270 B.C.E.) or Simeon II (219-199 B.C.E.). v. Ab. (Sonc. ed.) p. 2, n. 1.

(10) V. Num. VI, 18.

(11) Meaning himself. In thus apostrophising his lust he did not ascribe any persona], independent identity to it, as is evident from the context.

(12) Lit., ‘by the service’ (of the Temple).

(13) Num. VI, 2. A nazirite vow made for such reasons may be regarded as the vow of the righteous. Simeon the Just's refusal to partake of these sacrifices must be regarded as a protest against the growing ascetic practice of taking vows to be a nazirite, — usually a sign of unhappy times; Weiss, Dor, I, 85, v. Nazir (Sonc. ed.) p. 13.

(14) Since they must recommence their neziroth; v’ Num. VI, 12.

(15) Actually, of course, the animal would be consecrated; but it is as though it were hullin, since their neziroth, on account of which the sacrifice is brought, was not whole-hearted.

(16) He may regret the vow before the expiration of his term.

Talmud - Mas. Nedarim 10a

You may even say that it [the Mishnah] agrees with R. Judah, for R. Judah said this[1] only of a freewill-offering, but not of a vow. But he teaches: Better than both is to vow and repay? — Learn: To make a freewill-offering and repay. Now, why is a vow objectional: because one may come thereby to a stumbling-block.[2] [Does not] the same apply to a free-will offering whereby too he may come to a stumbling-block? — R. Judah conforms to his other view, viz., that a person may bring his lamb to the Temple-court, consecrate and lay [hands] upon it, and slaughter it.[3] This answer suffices for a freewill-offering of a sacrifice; but what can be said of a free-will offering of neziroth? — R. Judah follows his view [there too]. For it was taught: R. Judah said: The early hasidim[4] were eager to bring a sin-offering, because the Holy One, blessed be He, never caused them to stumble. What did they do? They arose and made a free-will vow of neziroth to the Omnipresent, so as to be liable to a sin-offering to the Omnipresent.[5] R. Simeon said: They did not vow neziroth. But he who wished to bring a burnt-offering donated it freely, and brought it; if a peace-offering, he donated it freely and brought it; or if a thanks-offering and the four kinds of loaves,[6] donated it freely and brought it. But they did not take neziroth upon themselves, so as not to be designated sinners, as it is written, And [the priest] shall make atonement for him, for that he sinned against a soul.[7]

Abaye said: Simeon the Just, R. Simeon, and R. Eleazar hakappar, are all of the same opinion, viz., that a nazir is a sinner. Simeon the Just and R. Simeon, as we have stated. R. Eleazar ha-Kappar Berabbi,[8] as it was taught: And he shall make atonement for him, for that he sinned against a soul. Against which ‘soul’ then has he sinned? But it is because he afflicted himself through abstention from wine. Now, does not this afford an argument from the minor to the major? If one, who afflicted himself only in respect of wine, is called a sinner: how much more so one who ascetically refrains from everything. Hence, one who fasts is called a sinner. But this verse refers to an unclean nazir?[9] — That is because he doubly sinned.[10]

MISHNAH. ONE WHO SAYS, ‘KONAM,’ ‘KONAH,’ OR ‘KONAS,’[11] THESE ARE THE SUBSTITUTES FOR KORBAN.[12] ‘HEREK,’ ‘HEREK,’ [OR] ‘HEREF,’ THESE ARE SUBSTITUTES FOR HEREM.[13] ‘NAZIK,’ ‘NAZIAH,’ ‘PAZIAH,’ THESE ARE SUBSTITUTES FOR NEZIROTH;[14] ‘SHEBUTHAH,’ ‘SHEKUKAH,’ OR ONE WHO VOWS BY MOHI,[15] THESE ARE SUBSTITUTES FOR SHEBU'AH.[16]

GEMARA. It was stated: Substitutes: R. Johanan said: They are foreign equivalents [of the Hebrew]; R. Simeon b. Lakish said: They are forms devised by the Sages for the purpose of making vows; (and thus it is written, in the month which he had devised of his own heart).[17] And why did the Rabbis institute substitutes? — That one should not say korban. Then let him Say, korban? — Lest he say korban la-adonai [a sacrifice to the Lord]. And why not say korban la-adonai? — Lest one say la-adonai without korban, and thus utter the Divine Name in vain.[18] And it was taught: R. Simeon said:

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(1) That it is better to vow and repay.

(2) V. p. 21, nn. 1 & 6.

(3) It cannot become a stumbling-block, because it is hullin practically until it is killed.

(4) Hasid, PI. hasidim; lit., ‘pious ones’. The hasidim referred to here are definitely not the Essenes (Weiss, Dor, I, P’ 110). [Buchler, Types. p. 78, makes these early hasidim contemporaries of Shammai and Hillel.]

(5) V. Num. VI, 14.

(6) A thanks-offering was accompanied by forty loaves of bread, divided into four different kinds.

(7) Num. VI, 11 .

(8) [Or, Berebi, designation by which Bar Kappara is known to distinguish him from his father who bore the same name, v. Nazir, (Sonc. ed.) p. 64, n. 1.]

(9) How then can one deduce that a nazir in general is a sinner?

(10) The verse shews that a double sin is referred to, because ‘for that he sinned’ alone would have sufficed; ‘against a soul’ is superfluous, and teaches that he is a sinner in two respects: (i) by becoming a nazir at all; (ii) by defiling his neziroth (Ran). — The whole passage shows the Jewish opposition to asceticism, for Judaism rejects the doctrine of the wickedness of this life and the inherent corruption of the body, which is the basis of asceticism. Whilst the community as a whole fasted in times of trouble (cf. Esth. IV, 16; Ta'an. 10a, 15a), and certain Rabbis too were addicted to it (e.g. R. Ze'ira, B.M. 85a), yet individual fasting was discouraged, as here; v. Maim. Yad, De'oth, III, 1; VI, 1; Lazarus, Ethics of Judaism, ¤¤ 246-256.

(11) [Its derivation is probably from kenum, ‘self’, ‘person’, and then the object in an elliptical sentence, ‘I pledge (myself) my person with So-and-so (that I will not do this or that)’, v. Cooke, North Semitic Inscriptions, p. 34. This is a substitute for korban vow, in which he declares ‘this may be forbidden to me as is a sacrifice’. No satisfactory explanation has been given so far for the other terms, which seem to be corruptions of konam.]

(12) Heb. for sacrifice.

(13) Ban.

(14) The vow of a nazir: ‘Behold, I will be a nazir’. These words may be substituted for nazir.

(15) This is explained in the Gemara. [The Mishnayoth text reads ‘BY MOTHA’, an abbreviation of Momatha, the Aramaic equivalent of Shebu'ah.]

(16) Heb. for oath.

(17) I Kings XII, 33, referring to the unauthorised festival instituted by Jeroboam in the eighth instead of the seventh month. [The Heb. for ‘devised’, בדה is the same as used by R. Johanan in his definition. The bracketed words appear to be a copyist's gloss that has crept into the text. They do not occur in MS.M.]

(18) This machinery for vows, regulating the manner in which they were to be made, points to the practice as being very prevalent. V. Weiss, Dor, I, 85.

Talmud - Mas. Nedarim 10b

Whence do we know that one must not say, ‘Unto the Lord a burnt-offering,’ ‘unto the Lord a meal-offering,’ ‘unto the Lord a thanks-offering,’ or ‘unto the Lord a peace-offering’?[1] Because it is written, [If any man of you bring] an offering to the Lord.[2] And from the minor we may deduce the major: If concerning one who intended uttering the Divine Name only in connection with a sacrifice, the Torah taught, an offering to the Lord;[3] how much more [care must one take against its deliberate utterance] in vain!

Shall we say that this [conflict] is dependent on Tannaim? For it was taught: Beth Shammai maintain: Substitutes of substitutes are binding; whilst Beth Hillel Say: They are not.[4] Surely, the ruling that secondary substitutes are valid is based on the view that substitutes are foreign equivalents;[5] whilst he who says that they are invalid holds that they are forms devised by the Sages?[6] — No. All agree that substitutes are foreign words; but Beth Shammai hold that Gentiles speak in these [terms] too,[7] whilst Beth Hillel hold that they do not speak in these [terms]. Alternatively Beth Shammai hold: Secondary substitutes [are declared valid] as a precautionary measure on account of substitutes themselves;[8] but Beth Hillel maintain: We do not enact a precautionary measure for secondary substitutes on account of the substitutes themselves.

What forms do double modifications of vows take? — R. Joseph recited: Mekanamana, mekanehana, mekanesana. What are the secondary substitutes of herem? — Mafash'ah taught: harakim, harakim, harafim. Secondary substitutes of neziroth? — R. Joseph learnt: mehazakana, menazahana, mephana.[9] The scholars inquired: What of mipahazna, mithhazana, mith'azana?[10] Rabina asked R. Ashi: What of kinema: does it mean konam,[11] or perhaps, kinemon besem [sweet cinnamon]?[12] R. Aha, the son of R. Hiyya, asked R. Ashi: What of kinah: does it mean a fowl's sty,[13] or konam? These remain questions.[14]

What are secondary substitutes of oaths? — Shebuel, shebuthiel, shekukeel. But shebuel may simply mean Shebhuel the son of Gershon? But say thus: Shebubiel, shebuthiel shekukeel.[15] Samuel said: If one says ashbithah, he says nothing: ashkikah, he says nothing; karinsha, he says nothing.[16]

OR ONE WHO VOWS BY MOHI, THESE ARE SUBSTITUTES [FOR SHEBU'A]. It was taught: R. Simeon b. Gamaliel said: One who says ‘by Mohi’ [Moses][17] says nothing; ‘by Momtha which Mohi said,’[18] these are substitutes for an oath. MISHNAH. IF ONE SAYS [TO HIS NEIGHBOUR], ‘THAT WHICH I MIGHT EAT OF YOURS BE NOT[19] HULLIN,’[20] ‘BE NOT KASHER,’[21] ‘BE NOT PURE,’ ‘BE CLEAN OR UNCLEAN,’[22] ‘BE NOTHAR,’[23] OR PIGGUL,[24] HE IS FORBIDDEN.[25] AS THE LAMB,’[26] AS THE TEMPLE SHEDS OF CATTLE OR WOOD,’[27] ‘AS THE WOOD’ [ON THE ALTAR], AS THE FIRE [ON THE ALTAR],’[28] ‘ AS THE ALTAR,’ ‘AS THE TEMPLE, AS JERUSALEM;’ [OR] IF ONE VOWED BY REFERENCE TO THE ALTAR UTENSILS,[29] THOUGH HE DID NOT MENTION KORBAN, IT IS AS THOUGH HE HAD VOWED BY KORBAN.[30] R. JUDAH SAID: HE WHO SAYS JERUSALEM[31] HAS SAID NOTHING.

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(1) In this order, the Divine Name preceding.

(2) Lev. I, 1; thus the offering must precede.

(3) But not the reverse, lest one utter the Name in vain.

(4) Lit., ‘they are permitted’.

(5) Hence, the first modifications are correct foreign words, the substitutes thereof are corrupt, but also used, and hence valid for oaths.

(6) Hence secondary substitutes, not having been assigned by the Sages to that purpose, are invalid.

(7) Sc. secondary substitutes; hence they are valid.

(8) Which would otherwise be treated as invalid by the masses.

(9) [Read Menazakna . . . mepazahna, each of which consists ofthe three consonantal letters of the substitutes with prefix and suffix; v. Strashun].

(10) [Strashun reads: Mepahazna, menahazna, menakazna, the last consonantal letters of the substitutes being transposed. This receives support from MS.M.]. Are they binding or not?

(11) Hence it is valid.

(12) Ex. XXX, 23; i.e., it is not a vow-form at all.

(13) I.e., the fem. of קן (kin), a bird's nest.

(14) In all these doubtful forms the question arises when they were actually used to express vows, the question being whether they imply vows or something else — notwithstanding the intention of their user.

(15) מהו ‘What is the law’ in cur. edd. is to be deleted; Bah.

(16) These forms are ineffective for expressing oaths.

(17) [‘By Moses’, was one of the common forms of asseveration, cf. Bez. 38b; Shab. 101b. V. Chajes, Notes.]

(18) By the oath which Moses uttered. [The allusion is to Ex. II, 21, where ויואל משה is rendered, ‘Moses swore’. (Ran).]

(19) The Hebrew is la-hullin, here regarded as meaning: not hullin. V. also p. 28, n. 8.

(20) V. Glos.

(21) Lit., ‘fit’, ritually permitted for consumption.

(22) So cur. edd. Asheri explains: be as sacrifices, to which the laws of cleanliness and uncleanness apply — i.e., forbidden. Rashi's text reads simply: be not clean, be unclean, etc.

(23) Lit., ‘left over’. The flesh of an offering which remains over after the period in which it must be eaten, v. Ex. XXIX, 34, and Lev., VII, 17.

(24) Lit., ‘abomination’. The flesh of an animal sacrificed with the deliberate intention of eating it after the permitted period; it is then forbidden even within the period, v. Lev. VII, 18.

(25) To eat aught of his neighbour.

(26) I.e., the lamb of the daily sacrifice.

(27) The alternative is implied by the use of the plural in the Mishnah (Tosaf.).

(28) [So T.J. Others: Fire-offerings, cf. Lev. XXI. 6. (V. Asheri and Tosaf.)]

(29) I.e., your food be as the altar utensils unto me, hence, forbidden.

(30) V. Mishnah 20a.

(31) Without as i.e., ‘Your food be Jerusalem to me’.

Talmud - Mas. Nedarim 11a

GEMARA. The scholars presumed. What does la-hullin mean: Let it not be as hullin, [implying] but as a sacrifice. Who is the authority of our Mishnah? If R. Meir: but he does not hold that the positive may be inferred from the negative?[1] For we learnt, R. Meir said: Every stipulation which is not like the stipulation of the children of Gad and Reuben is invalid.[2] Hence it must be R. Judah.[3] Then consider the conclusion: R. JUDAH SAID: HE WHO SAYS JERUSALEM HAS SAID NOTHING. Now, since the conclusion is R. Judah, the former clause is not R. Judah?[4] — The whole Mishnah gives R. Judah's ruling, but this is what is stated: for R. JUDAH SAID: HE WHO SAYS JERUSALEM HAS SAID NOTHING.[5]

But if one says, ‘as Jerusalem,’ is he forbidden according to R. Judah? But it was taught: R. Judah said: He who says, ‘as Jerusalem,’ has said nothing, unless he vows by what is sacrificed in Jerusalem! — It is all R. Judah, and two Tannaim, conflict as to his views.[6]

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(1) To render it legally binding. Thus, if one says, ‘Iet it not be as hullin’, we may not infer that he meant, ‘but let it be as a korban’, and so declare it forbidden.

(2) Num. XXXII, 20-23; 29-30, q.v. We see there that Moses stipulated what was to happen in each case, and did not rely on one clause only, from which the reverse might be deduced, v. Kid. 61a.

(3) That the positive is inferred from the negative, and is then legally binding.

(4) Since it is specifically pointed out that the second clause is R. Judah.

(5) For that reason ‘as’ is specified in all the previous expressions.

(6) The Tanna of the Mishnah holding R. Judah's view to be that ‘as Jerusalem’ is a binding form, and the Tanna of the Baraitha that it is not.

Talmud - Mas. Nedarim 11b

It was taught: [If one says,] ‘That which I might eat of yours,’ or ‘that which I might not eat of yours, be hullin,’ or, ‘be the hullin,’ or, ‘be as hullin,’ he is permitted.[1] [If he says,] ‘That which I might eat of yours be not hullin,’ he is forbidden;[2] ‘that which I might not eat of yours be not hullin,’ he is permitted. Now with whom does the first clause agree? With R. Meir, viz., who does not hold that the positive may be inferred from the negative.[3] Then consider the latter clause: ‘That which I might not eat of yours be not hullin,’ he is permitted. But we learnt: [If one says,] ‘That which I might not eat of yours be not for korban’: R. Meir forbids [him]. Now we raised the difficulty: but he does not rule that the positive may be inferred from the negative?[4] And R. Abba replied: It is as though he said, ‘Let it [i.e., your food] be for the korban, therefore I will not eat of yours.’[5] Then here too’ perhaps, he meant, ‘Let it not be hullin; therefore I may not eat of yours’? — This Tanna agrees with R. Meir on one point, but disagrees with him on another. He agrees with him on one point. that the positive may not be inferred from the negative; but disagrees with him on another, [viz.,] on [the interpretation of] la-korban. R. Ashi said: In the one case he said le-hullin;[6] in the other[7] he said, ‘la-hullin’, which might mean, ‘let it not be hullin,[8] but as a korban’.

BE CLEAN OR UNCLEAN,' 'AS NOTHAR,' 'AS PIGGUL, HE IS FORBIDDEN. Rami b. Hama asked: What if one said: 'This be unto me as the flesh of a peace-offering after the sprinkling of the blood'? But if he vowed thus, he related [his vow] to what is permissible![9] — But (the question arises thus]: E.g., if there lay flesh of a peace-offering before him and permitted food lay beside it' and he said, 'This be like this'. What then: did he relate it to its original state,[10] or to its present [permitted] condition? — Raba answered: Come and hear: [We learnt:] IF ONE SAYS . . . AS NOTHAR, [OR] AS PIGGUL, [HE IS FORBIDDEN].

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(1) To eat or benefit from his neighbour.

(2) Rashi. Ran is inclined to delete the clause, since, as the Talmud shews, this Baraitha is taught according to R. Meir, who holds that the positive may not be inferred from the negative.

(3) Hence, when he Says, 'That which I might not eat of yours be hullin', we may not infer that that which he might eat should not be hullin, and so prohibited.

(4) The hypothesis being that he is forbidden on account of this inference.

(5) The Hebrew form is la-korban: in popular speech la 'to the' may be a hurried utterance of la' 'not'; therefore on the first assumption what he said was: 'shall not be a korban'; in the answer the preposition is given its normal meaning, viz., shall be for the korban.

(6) Meaning as (or, for) hullin. [This can by no means he taken to denote 'not', and since R. Meir does not infer the positive from the negative, he does not consider it a vow.]

(7) The case interpreted by R. Abba.

(8) [So Ran. curr. edd. la-hullin, 'not hullin'].

(9) His words imply no prohibition.

(10) Before the sprinkling of the blood, when it was forbidden.

Talmud - Mas. Nedarim 12a

Now, nothar and piggul[1] are [possible only] after the sprinkling of the blood! —[2] R. Huna the son of R. Nathan said to him, This refers to nothar of a burnt-offering.[3] Said he to him, If so, let him [the Tanna] teach: As the flesh of the burnt-offering?[4] — He proceeds to a climax.[5] [Thus:] It is unnecessary [to teach that if one relates his vow to] the flesh of a burnt-offering, that he is forbidden, since he referred it to a sacrifice. But it is necessary for him [to teach the case of] nothar and piggul of a burnt-offering. For I would think that he referred it to the prohibitions of nothar and piggul, so that it counts as a reference to what is inherently forbidden, and he is not prohibited;[6] hence he informs us [otherwise].

An objection is raised: Which is the bond mentioned in the Torah?[7] If one says, 'Behold! I am not to eat meat or drink wine, as on the day that my father or teacher died,' [or] 'as on the day when Gedaliah the son of Ahikam was slain,'[8] [or] 'as on the day that I saw Jerusalem in ruins.' Now Samuel commented thereon: Providing that he was under a vow in respect to that very day.[9] What does this mean? Surely that e.g., he stood thus on a Sunday, on which day his father had died, and though there were many permitted Sundays, it is taught that he is forbidden; this proves that the original [Sunday] is referred to.[10] — Samuel's dictum was thus stated: Samuel said, Providing that he was under a vow uninterruptedly since that day.[11]

Rabina said, Come and hear: [If one says, 'This be unto me] as Aaron's dough[12] or as his terumah', he is permitted.[13] Hence, [if he vowed,] 'as the terumah of the loaves of the thanksgiving-offering,'[14] he would be forbidden.[15]

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(1) Some delete piggul, since at no time was it permitted. If retained in the text, it is so because nothar and piggul are generally coupled; but Raba's deductions are from nothar only.

(2) The proof is this. A sacrifice is forbidden because at some time it was consecrated by a vow. With the sprinkling of its blood it loses its forbidden character until it becomes nothar, when it resumes it. But a direct reference to nothar itself is inadmissible in a vow, because nothar is Divinely forbidden, and not the result of a vow (v. text, and p. 30, n. 2). Hence the reference must have been to the condition of the flesh before the sprinkling of the blood.

(3) The flesh of which is not permitted even after the sprinkling of the blood: hence it proves nothing.

(4) Without reference to nothar at all.

(5) Lit., he states, ‘it is unnecessary’.

(6) When a man imposes a prohibition by referring one thing to another, the latter must be also artificially forbidden, e.g., a sacrifice, which was originally permitted, and then forbidden through consecration. But if it is Divinely forbidden, without the agency of man, the vow is invalid. Thus, if one says, ‘This be to me as the flesh of the swine’, it is not forbidden. Now, the prohibition of piggul and nothar are Divine: therefore, If the reference was in point of that particular prohibition, the vow would be invalid.

(7) Num. XXX, 3: If a man vow a vow unto the Lord, or swear an oath to bind his soul with a bond, he shall not break his word.

(8) After the destruction of the first Temple by Nebuchadnezzar in 586 B.C.E. and the deportation of the nobles and the upper classes to Babylon, Gedaliah the son of Ahikam was appointed governor of the small community that was left. As a result of a conspiracy he was slain on the second day of Tishri. Jer. XL-XLI.

(9) The assumed meaning is: he had vowed on the day of his father's death, or had once vowed not to eat meat on the day that Gedaliah the son of Ahikam was slain, and now he vowed a second time, ‘I am not to eat meat, etc. as on the day when I am forbidden by my previous vow, thus the second vow was related to an interdict which was itself the result of a vow (Ran.).

(10) I.e., the first Sunday distinguished by his former vow.

(11) I.e., he had been under a vow every Sunday until this present vow. Hence nothing can be proved. v. Shebu. (Sonc. ed.) p. 105.

(12) Num. XV, 20-21. Ye shall offer up a cake of the first of your dough for an heave offering. This, and terumah (v. Glos.) belonged to Aaron, i.e., the priest, and was prohibited to a star (I.e., a non-priest).

(13) To benefit therefrom. The vow is invalid, because the dough and the terumah, not being prohibited to all, are regarded as Divinely forbidden: v. p. 30, n. 2.

(14) V. Lev. VII, 22ff. Of the forty loaves brought (p. 32, n. 1) one out of each set of ten was terumah, and belonged to the priest.

(15) Because the prohibition of those is evidently due to a vow.

Talmud - Mas. Nedarim 12b

But the terumah of the thanksgiving loaves is [forbidden] only after the sprinkling of the blood![1] — [No.] Infer thus: [If he vows,] ‘as the terumah of the shekel-chamber,’[2] he is forbidden. But what if [he said,] ‘as the terumah of the thanksgiving loaves,’ he is permitted? Then let him [the Tanna] state the terumah of the thanksgiving loaves, then how much more so ‘his terumah’![3] — He teaches us this: The terumah of the thanksgiving loaves is ‘his terumah’.[4] Alternatively, the terumah of the thanksgiving loaves may also mean before the sprinkling of the blood,[5] e.g., if it was separated during the kneading [of the dough].[6] Even as R. Tobi b. Kisna said in Samuel's name: If the thanksgiving loaves are baked as four loaves [instead of forty], it suffices. But does not the Writ state forty?[7] — As a meritorious deed. But terumah has to be taken therefrom?[8] And should you answer that one loaf is taken for all, — but we learnt: [And of it he shall offer] one out of each oblation:[9] ‘one’ teaches that terumah is not to be taken from one oblation for another?[10] And should you say that a piece is taken from each, — but we learnt: ‘One’ teaches that a piece is not to be taken? But it must be that he separates it during kneading, taking one [part] of the leaven, one of the unleavened cakes, one of the unleavened wafer, and one of the fried cake;[11] [so here too].

Shall we say that this is dependent on Tannaim? [For it was taught: If one says,] ‘This be unto me as a firstling,’[12] R. Jacob forbids it, while R. Jose permits it. Now, how is this meant? If we say, before the sprinkling of the blood:[13] what is the reason of him who permits it? If after, on what grounds does the other forbid it? But it surely [means]

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(1) This itself is disputed. The view of R. Eliezer b. Simon is adopted here. Since, by deduction, this vow is binding, we evidently regard the reference as being to the present state.

(2) This refers to a special fund kept in the Temple for various purposes. mainly congregational sacrifices; Shek. III, 2: IV, 1. — This is the deduction to be made, not the previous one.

(3) If a vow referring to the terumah of the loaves of a thanks-offering is invalid, though in their origin their own prohibition is due to a vow, how much more will a vow referring to other terumah, which is Divinely forbidden, be valid. Also, it is a general rule that there is a preference for teaching the less likely, so that the more likely may be deduced therefrom a minori.

(4) I.e., the word ‘terumah’ embraces all forms of terumah.

(5) It is even then forbidden to a star, v. Glos.

(6) Although the loaves become sanctified only by the sprinkling of the blood, according to our premise, yet if the terumah was separated in the dough, it is consecrated.

(7) Not actually. But since the Writ speaks of four species, and terumah (I.e., one in ten) was to be given from each, it follows that forty had to be made.

(8) One from each ten.

(9) Lev. VII, 14.

(10) Each kind of loaf is here referred to as an oblation.

(11) V. Lev. VII, 12.

(12) v. Num. XVIII, 15.

(13) Of the firstling, when it is definitely forbidden.

Talmud - Mas. Nedarim 13a

that flesh of a firstling lay before him, and this other flesh lay at its side, and he declared, ‘this be as this,’ and [thus] it is a controversy of Tannaim?[1] — No. All treat of before the sprinkling of the blood; and what is the reason of him who permits it? The Writ States, If a man vow,[2] [teaching] that one must vow by that which is [itself] forbidden through a vow; thus excluding a firstling, which is an interdicted thing. And he who forbids it?[3] — The Writ states, ‘unto the Lord,’[2] to include an interdicted thing.[4] Then he who permits it, how does he interpret ‘unto the Lord’? — He employs it in respect of relating [a vow] to a sin-offering or a guilt-offering.[5] Now, what [reason] do you see to include a sin-offering and a guilt-offering and exclude the firstling? — I include the sin-offering and the guilt-offering which one sanctifies[6] by a vow,[7] but exclude the firstling, which is holy from its mother's womb. But he who forbids?[8] A firstling too one sanctifies by a vow. For it was taught: It was said on the authority of Rabbi, Whence do we know that one is bidden to consecrate the firstling born in one's house? — From the verse, [All] the firstling males [that come of thy herd and thy flock] thou shalt sanctify [unto the Lord].[9] But he who permits it [argues thus]: If he does not consecrate it, is it not holy?[10]

. . . AS THE LAMB, AS THE TEMPLE SHEDS etc. It was taught: A lamb, for a lamb, as a lamb; [or] sheds, for sheds, as sheds; [or] wood, for wood, as wood; [or] fire, for fire, as fire; [or] the altar, for the altar, as the altar; [or] the temple, for the temple, as the temple; or Jerusalem, for Jerusalem, as Jerusalem, — in all these cases, [if he says,] ‘what I might eat of yours,’ he is forbidden; ‘what I might not eat of yours,’ he is permitted.

Now which Tanna do we know draws no distinction between a lamb, for a lamb and as a lamb? — R. Meir.[11] Then consider the second clause: and in all these cases, [if he says], ‘that which I might not eat of yours [be so],’ he is permitted. But we learnt: [If one says to his neighbour,] ‘That which I might not eat of yours be not for korban, R. Meir forbids [him]. Now R. Abba commented thereon: It is as though he said, ‘Let it [i.e., your food] be for korban, therefore I may not eat of yours’? — This is no difficulty: in the one case he said, ‘lo le-imra’;[12] in the other he said, ‘le-imra’.[13] MISHNAH. IF ONE SAYS [TO HIS NEIGHBOUR], ‘THAT WHICH I MIGHT EAT OF YOURS BE

KORBAN', [OR]' A BURNT-OFFERING',[14] [OR] 'A MEAL-OFFERING', [OR]' A SIN-OFFERING [OR] 'A THANKSGIVING-OFFERING', [OR]' A PEACE-OFFERING, — HE IS FORBIDDEN.[15] R. JUDAH PERMITTED [HIM].[16] [IF HE SAYS,] 'THE KORBAN,' [OR] 'AS A KORBAN,' [OR]' KORBAN,[17] BE THAT WHICH I MIGHT EAT OF YOURS,' HE IS FORBIDDEN.[18] IF HE SAYS: THAT WHICH I MIGHT NOT EAT OF YOURS BE FOR A KORBAN,'[19] R. MEIR FORBIDS [HIM].

GEMARA. Now, the Mishnah teaches, [IF HE SAYS.] 'THE KORBAN,' [OR] 'AS KORBAN,' [OR] 'A KORBAN BE THAT WHICH I MIGHT EAT OF YOURS,' HE IS FORBIDDEN. Thus, it is anonymously taught as R. Meir, who recognises no distinction between 'it sheep' and 'for a sheep'.[20] But if so, then as to what he [the Tanna] teaches: 'THE KORBAN . . . [BE] THAT WHICH I MIGHT EAT OF YOURS,' HE IS FORBIDDEN. But it was taught: The Sages concede to R. Judah that if one says, 'Oh, korban,' or 'Oh, burnt-offering,' 'Oh, meal-offering,' 'Oh, sin-offering, what I will eat this of thine,' he is permitted, because he merely vowed by the life of the korban![21] —

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(1) Whether the reference is to its present (permitted) state or to its original (forbidden) condition.

(2) Num. XXX, 3.

(3) What is his reason?

(4) This will not apply to all Divinely forbidden things, but only to such as the firstling, as the Talmud proceeds to explain.

(5) That the vow is valid.

(6) Lit., 'seizes'.

(7) Though one cannot offer these as vows, without having incurred the obligation, the actual animal is forbidden as a result of the vow of consecration, since another could equally well have been sacrificed.

(8) How will he meet this argument?

(9) Deut. XV, 19. Thus, though Divinely consecrated, yet its owner must formally declare it holy, and hence it may be regarded as subject to a vow.

(10) Of course it is! Hence its interdict is not the result of a vow.

(11) Since R. Judah rules that if one says Jerusalem, without 'for' or 'as', the vow is invalid.

(12) 'Let it not be for the lamb' — hence it is permitted. [So cur. edd. MS.M. and Ran read: In one case he said la'-imra; 'let it not be the lamb'. V. supra. p. 28, n. 8.]

(13) 'Let it be for the lamb' — there he is forbidden.

(14) [The two may also be taken together and thus rendered 'a sacrifice of a burnt-offering'.]

(15) To eat aright of his neighbour's.

(16) Because he did not say, 'as a sacrifice', etc.

(17) In this last case korban is used as an oath: I swear by the sacrifice to eat naught of thine.

(18) Vowing by means of korban formula was a specifically Jewish practice: v. Josephus, Contra Apionem, 1, ¤¤ 22, Halevy, Doroth I, 3, pp. 314 f.

(19) In the Gemara these words are subsequently otherwise interpreted, but in the promise they are thus translated.

(20) V. supra p. 33, n. 6.

(21) That he would eat. Then why not assume the same in our Mishnah?

Talmud - Mas. Nedarim 13b

This is no difficulty: Here he said ha korban,'[1] there he said ha-korban.[2] What is the reason?[3] He meant, '[I swear] by the life of the sacrifice.'[4] He [the Tanna] teaches: THAT WHICH I MIGHT NOT EAT OF YOURS BE NOT FOR KORBAN, R. MEIR FORBIDS HIM. But R. Meir does not rule that the positive may be inferred from the negative?[5] R. Abba answered: it is as though he said: 'Let it be for korban, therefore I will not eat of yours'.[6]

MISHNAH. IF ONE SAYS TO HIS NEIGHBOUR, 'KONAM BE MY MOUTH SPEAKING

WITH YOU,’ [OR] ‘MY HANDS WORKING FOR YOU,’ [OR] ‘MY FEET WALKING WITH YOU,’ HE IS FORBIDDEN.[7]

GEMARA. But a contradiction is shown: There is greater stringency in oaths than in vows, and greater stringency in vows than in oaths. There is greater stringency in vows, for vows apply to obligatory as to optional matters,[8] which is not so in the case of oaths.[9] And there is greater stringency in oaths, for oaths are valid with respect to things both abstract and concrete, but vows are not so?[10] — Said Rab Judah: It means that he says,[11] ‘let my mouth be forbidden in respect of my speech,’ or ‘my hands in respect of their work’, or ‘my feet in respect of their walking’.[12] This may be inferred too, for he [the Tanna] teaches: ‘MY MOUTH SPEAKING WITH YOU,’ not, [‘konam] if I speak with you’.[13]

CHAPTER II

MISHNAH. NOW THESE ARE PERMITTED:[14] [HE WHO SAYS,] WHAT I MIGHT EAT OF YOURS BE HULLIN,’ ‘AS THE FLESH OF THE SWINE, AS THE OBJECT OF IDOLATROUS WORSHIP,’[15] AS PERFORATED HIDES,’[16] ‘AS NEBELOTH AND TEREFOTH’,[17] AS ABOMINATIONS AND REPTILES, AS AARON'S DOUGH OR HIS TERUMAH’,[18] — [IN ALL THESE CASES] HE IS PERMITTED. IF ONE SAYS TO HIS WIFE, ‘BEHOLD! THOU ART UNTO ME AS MY MOTHER,’[19] HE MUST BE GIVEN AN OPENING ON OTHER GROUNDS,[20] IN ORDER THAT HE SHOULD NOT ACT FRIVOLOUSLY IN SUCH MATTERS.[21]

GEMARA. Now, the reason is because he said, ‘WHAT I MIGHT EAT OF YOURS BE HULLIN’; but if he said, ‘What I might eat of yours be lehullin,’ it would imply: let it not be hullin but a korban.[22] Whose view is taught in our Mishnah? If R. Meir's, but he does not hold

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(1) The ha being a separate word, and thus an interjection expressing an affirmative oath — I will eat. [The vowel of the ha as interjection is, in addition, of a longer quality than that of ha as definite article.]

(2) Here the ha is an inseparate def. art.; hence he must have meant, ‘What I might eat of yours he a sacrifice’, and therefore he is forbidden.

(3) Of the Baraitha, that he is permitted.

(4) That I will eat of yours.

(5) And according to our premise the reason for R. Meir's ruling is that we deduce the opposite from his words, thus: ‘but that which I might eat of thine be for korban’.

(6) V. p. 28, n. 8.

(7) According to the terms of his vow.

(8) I.e., if one said, ‘I am forbidden by a vow to erect a sukkah (v. Glos.), or put on tefillin’, (v. Glos.) the vow is binding, although he is bound to do these things. and if he does them, he violates the injunction he shall not break his word.

(9) I.e., if he said, ‘I swear not to erect a sukkah, his oath is invalid.

(10) Vows being applicable to concrete things only. Walking, talking and working are regarded here as abstractions (by contrast with the vow that a loaf of broad etc shall be as a sacrifice and forbidden), yet the Mishnah states that the vows are valid.

(11) I.e., it is regarded as though he says.

(12) The reason for this assumption is this: the konam of the Mishnah may refer either to my mouth (concrete) or to my talking (abstract). In the former case the vow would be valid, but not in the latter. Since it is not clear which, we adopt the more rigorous interpretation.

(13) In which case the speaking would be the object of the vow: the speaking being abstract, the vow would be invalid.

(14) I.e., invalid.

(15) Lit., ‘as the worship of stars’.

(16) The hide was perforated opposite the heart, which was cut out from the living animal and offered to the idol. Cf.

‘A.Z. 29b and 32a.

(17) V. Glos. s.v. nebelah (pl. nebeloth) and terefoth (pl. terefoth).

(18) V. supra 12a, a.l.

(19) I.e., forbidden.

(20) Lit., ‘from another place’. I.e., when he wishes his vow to be annulled, the Rabbi, who must find for him some grounds of regret to invalidate his vow, must not do so by pointing out that such a vow is derogatory to his mother's dignity.

(21) His mother's honour is too easy a ground for regret, and if the vow is invalidated on that score it is an encouragement to make such vows lightly, since they can easily be annulled. The making of vows was discouraged: cf. 9a.

(22) And the vow would be binding.

Talmud - Mas. Nedarim 14a

that the positive may be inferred from the negative? But if R. Judah's, it is identical with the earlier Mishnah?[1] — Because he [the Tanna] teaches, ‘AS THE FLESH OF THE SWINE, AS THE OBJECT OF IDOLATROUS WORSHIP,’ he teaches hullin too.[2] Rabina said: This is what he teaches: NOW THESE ARE PERMITTED as [if he said WHAT I MIGHT EAT OF YOURS BE] HULLIN, VIZ., [IF ONE SAYS,] ‘AS THE FLESH OF THE SWINE AS THE OBJECT OF IDOLATROUS WORSHIP’; and if HULLIN were not stated, I would have thought that absolution[3] is required But could I possibly think so? Since the last clause teaches: IF ONE SAYS TO HIS WIFE, ‘BEHOLD! THOU ART UNTO ME AS MY MOTHER,’ HE MUST BE GIVEN AN OPENING ON OTHER GROUNDS, it follows that in the first cause absolution is unnecessary? But it is clear that HULLIN is mentioned incidentally.

Whence do we know it?[4] — Scripture states, If a man vow a vow unto the Lord:[5] This teaches that one must vow by what is [itself] forbidden through a vow.[6] If so, even [if one vows] by a [Divinely] interdicted object too, since it is written, to bind his soul with a bond?[7] — That is necessary for what was taught: Which is the bond referred to in the Torah etc.[8]

HE WHO SAYS TO HIS WIFE, BEHOLD! THOU ART UNTO ME AS MY MOTHER’, etc. But a contradiction is shewn: If one says to his wife, ‘Behold! thou art unto me as the flesh of my mother, as the flesh of my sister, as ‘orlah,[9] as kil'ayim[10] of the vineyard, his words are of no effect.[11] — Said Abaye: His words are of no effect by Biblical law, yet absolution is required by Rabbinical law. Raba answered: One refers to a scholar; the other refers to an ‘am haarez.[12] And it was taught even so: If one vows by the Torah,[13] his words are of no effect. Yet R. Johanan commented: He must retract [his vow] before a Sage; while R. Nahman observed: A scholar does not need absolution.

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(1) Supra 10b.

(2) I.e., hullin is unnecessary in itself, but mentioned merely for the sake of completeness.

(3) Lit., ‘a request’ (for revocation).

(4) That these vows are not binding.

(5) Num. XXX, 3.

(6) Translating: if a man vow by referring to a vow.

(7) Ibid. This may also be interpreted: to bind his soul by that which is already a bond, vis. something Divinely interdicted.

(8) V. supra 12a.

(9) V. Glos.

(10) V. Glos. Deut. XXII, 9.

(11) Because all these objects are forbidden by the Law.

(12) Lit., ‘people of the earth’ — an ignoramus. v. J.E. s.v. In the first case the vow is entirely invalid; but an ignoramus will treat vows too lightly if shewn leniency, and therefore needs absolution.

(13) (E.g., ‘I vow by the Torah not to eat of this loaf’ — in reality a kind of oath. V. infra (Ran).]

Talmud - Mas. Nedarim 14b

It was taught: If one vows by the Torah, his words are of no effect; by what is written therein, his vow is binding; by it and by what is written therein, his vow is binding. Since he states, ‘by what is written therein, his vow is binding,’ is it necessary to mention, ‘by it and by what is written therein?’ — R. Nahman answered: There is no difficulty: one means that a Torah is lying on the ground; the other, that [the vower] holds a Torah in his hand. If it is lying on the ground, his thoughts are of the parchment; if he holds it in his hand, his thoughts are of the Divine Names therein.[1] Alternatively, [both clauses mean] that it is lying on the ground, and we are informed this: even when it is lying on the ground, since he vows, ‘by what is written therein,’ his vow is valid;[2] and an anti-climax is taught.[3] A further alternative: the whole [Baraitha] indeed means that he holds it in his hand, and we are informed this:[4] Since he holds it in his hand, even if he merely says ‘by it,’ it is as though he said, ‘by what is written therein’.[5]

MISHNAH. [IF ONE SAYS,] ‘KONAM IF I SLEEP’, ‘IF I SPEAK’, OR ‘IF I WALK’;[6] OR IF ONE SAYS TO HIS WIFE, ‘KONAM IF I COHABIT WITH YOU,’ HE IS LIABLE TO [THE INJUNCTION] HE SHALL NOT BREAK HIS WORD.[7]

GEMARA. It was stated: [If one says,] ‘Konam be my eyes sleeping to-day, if I sleep to-morrow’ — Rab Judah said in Rab's name: He must not sleep that day, lest he sleep on the morrow. But R. Nahman said: He may sleep on that day, and we do not fear that he may sleep on the morrow. Yet Rab Judah agrees that if one says, ‘Konam be my eyes sleeping tomorrow, If I sleep to-day,’ he may sleep that day;

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(1) The Heb. bamah shekathuw bah may mean either, by what is written therein, or, by that whereon it (the Law) is written. Now if the Scroll is lying on the ground, and one says, ‘bamah shekathuw bah’, we assume that he thought that it was a mere scroll not written upon, since it had been irreverently placed on the ground, and his words refer to the actual parchment, unless he says ‘bah ubamah shekathuw bah’, which can only mean by the scroll and by what is written therein. A reference to the parchment is invalid; to the Divine Names, is binding.

(2) I.e we assume the Heb. bamah shekathuw bah to bear that meaning, not, ‘by that whereon it is written’.

(3) In the clause: ‘By it and by what is is written therein.’ Lit., ‘this, and the other goes without saying’.

(4) Bah. [Cur. ed.: ‘the whole also, the middle clause etc.’. Ran: ‘the final clause informs us this’. All of which shows the text is in disorder. An attempt may he made to restore the text on the basis of MS.M. and Ran: ‘The first clause (refers to the case) where it lies on the ground (MS.M.), the final clause (Ran) where he holds it in his hand (MS.M.). Such a text is also implied in the Ran on the passage.]

(5) I.e., bah u-bamah shekathuw bah are now translated ‘by it or by what is written therein’, the copulative sometimes meaning or. The text is not quite clear, that of the Ran has been adopted as giving the most plausible rendering.

(6) I.e., I am forbidden by a vow to sleep, etc. [Lit., ‘konam be that which I sleep’. V. Laible, MGWJ. 1916, pp. 29ff’.]

(7) Num. XXX, 3.

Talmud - Mas. Nedarim 15a

a person may be lax with respect to a condition, but he is observant of an actual prohibition.[1] We learnt: [IF ONE SAYS,] ‘KONAM IF I SLEEP, IF I WALK, IF I SPEAK, etc. How is it meant? If literally, ‘if I sleep,’ is such a vow valid? But it was taught: There is greater stringency in oaths than in vows, for oaths are valid with respect to things both abstract and concrete, but vows are not so; and sleep is an abstract thing! But if he said, ‘Konam be my eyes sleeping,’[2] then, if he states no time-limit, is he permitted to go on until he violates the injunction, he shall not break his word?’ But R. Johanan said: [If one says,] ‘I swear not to sleep for three days’, he is flagellated and may sleep immediately.[3] But if it means that he says, ‘Konam be my eyes sleeping tomorrow, if I sleep to-day[4] — surely you say that a person is observant in respect of an actual prohibition?[5] Hence it is obvious that he says, ‘Konam be my eyes sleeping to-day, if I sleep tomorrow. Now, if he did not sleep that first day, how can the injunction, he shall not break his word[6] apply, even if he slept on the second? Hence it surely means that he did sleep, thus proving that he is permitted to do so. This refutes Rab Judah! When is this stated? If he happened to sleep on the first day.[7] Rabina said: After all, it is as taught,[8] yet how can he shall not break his word apply? — By Rabbinical law.[9] But can the Biblical injunction apply by Rabbinical law?[10] — Yes. Even as it was taught: Things which are permitted, yet some treat them as forbidden, you must not permit them in their presence, because it is written, he shall not break his word.[11]

We learnt: [If one says to his wife, ‘Konam be] that which you benefit from me until Passover, if you go to your father's house until the Festival’,[12] if she went before Passover, she may not benefit from him until Passover. Now, only if she went before Passover is she forbidden, but not otherwise?[13] — R. Abba answered: If she went before Passover, she is forbidden and is flagellated;[14] If she did not go, she is merely forbidden. Then consider the second clause: After Passover, she is subject to he shall not break his word. Now if she did not benefit before Passover, how can the injunction apply? Hence it is obvious that she did benefit, which proves that this is permitted,

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(1) Thus, where the second day is merely a condition for the first, we fear that even after having slept on the first, he may do so on the second too, hut where the second day is the subject of the actual vow, we do not fear that having slept on the first he will disregard the prohibition of the second.

(2) Since the konam falls upon the eyes, the vow is valid, eyes being concrete.

(3) Because it is impossible to keep awake three consecutive days. Therefore his oath is inherently vain (v. Shebu. 25a); hence he is punished, and the oath is invalid.

(4) It cannot mean that he simply said, ‘konam be my eyes sleeping to-day’, as in that case it is obvious; hence the stipulation must be assumed, and the meaning of the Mishnah will be that he must take heed not to sleep on the first day, lest he sleep on the second too, and thereby violate the injunction, for on any other meaning the Mishnah is superfluous.

(5) So there is no reason for refraining from sleeping that day, since he will observe his oath on the next.

(6) Num. XXX, 3.

(7) Despite the prohibition for which very reason he may not sleep on the first.

(8) Literally, viz., ‘konam if I sleep’.

(9) Though by Biblical law the vow is invalid, since sleep is abstract, the Rabbis declared it binding, and therefore the injunction holds good.

(10) Lit., ‘is there (the transgression) he shall not break in a Rabbinic (law)’.

(11) When one is accustomed to treat a thing as forbidden, it is as though it were subject to a vow. Thus, though the prohibitive force of custom is Rabbinical only, the Biblical injunction applies to it.

(12) ‘The Festival’, without any further determinant, always refers to Tabernacles, six months after Passover.

(13) Though the condition extends to Tabernacles, we do not fear that she may yet violate it after Passover: this refutes Rab Judah.

(14) If she benefits from him.

Talmud - Mas. Nedarim 15b

thus refuting Rab Judah! — [No.] That Mishnah teaches that if she benefited, she is involved in, ‘he shall not break his word’.

We learnt: [If one says to his wife, ‘Konam be] that which you benefit from me until the Festival, if you go to your father's house before Passover’: if she goes before Passover, she may not benefit from him until the Festival, but is permitted to go after Passover. [Thus,] if she goes, she is forbidden, but not otherwise?[1] — Raba answered: The same law applies that even without going she is forbidden. But if she goes, she is forbidden [to benefit], and receives lashes [if she does]; if she does not go, she is merely forbidden.

An objection is raised: [If he says,] ‘This loaf [of bread be forbidden] to me to-day, if I go to such and such a place to-morrow: if he eats it, he is liable to an injunction, ‘he shall not go’![2] — Does he [the Tanna] teach: he may eat it — [surely] he teaches, ‘if he eats it’ so that if he eats it he is under the injunction not to go.[3] [The Baraitha continues:] If he goes, he violates the injunction, he shall not break his word.[4] But there is no [clause] teaching that he goes [on the second day]: this contradicts Rab Judah![5] — R. Judah answers you: In truth, he could teach, he goes: but since the first clause teaches, ‘if he eats’, not being able to teach.’he eats’.[6] the second clause too teaches, ‘if he goes

IF ONE SAYS TO HIS WIFE, KONAM IF I COHABIT WITH YOU.’ HE IS LIABLE TO [THE INJUNCTION,] HE SHALL NOT BREAK HIS WORD. But he is obligated to her by Biblical law, as it is written, her food, her raiment, and her marriage rights he shall not diminish?[7] — It means that he vows, ‘The pleasure of cohabitation with you be forbidden me’: thus he surely denies himself the enjoyment of cohabitation.[8] For R. Kahana said: [If a woman says to her husband,] ‘Cohabitation with me be forbidden to you,’ she is compelled to grant it, since she is under an obligation to him. [But if she says,] ‘The pleasure of cohabitation with you be forbidden me,’ he is forbidden [to cohabit]. Since one may not be fed with what is prohibited to him.[9]

MISHNAH. [IF HE SAYS,] ‘[I SWEAR] AN OATH NOT TO SLEEP, OR, ‘TALK,’ OR, ‘WALK,’ HE IS FORBIDDEN [TO DO SO]. [IF HE SAYS,] ‘A KORBAN BE WHAT I MIGHT NOT EAT OF YOURS,’[10] [OR] ‘OH KORBAN! IF I EAT OF YOURS,’ [OR] ‘WHAT I MIGHT NOT EAT OF YOURS BE NOT A KORBAN UNTO ME,’ HE IS PERMITTED [TO EAT OF HIS NEIGHBOURS’].

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(1) Though by going any time before Passover, subsequent to having benefited from her husband, the vow is violated. This contradicts Rab Judah.

(2) This too refutes Rab Judah, since he may eat the loaf on the first day.

(3) But actually this is forbidden.

(4) Num. XXX, 3.

(5) For if he may not eat the loaf on the first day. the Baraitha should teach such a clause on the assumption that he did not eat it.

(6) For it cannot be taught that he may eat — this being Rab Judah's opinion.

(7) Ex. XXI, 10. How then can he free himself by a vow?

(8) Hence his vow is valid, since it falls primarily upon himself.

(9) So here too. Where the husband or wife make a vow, depriving the other if his or her rights, it is invalid. But if the vow deprives its maker from the enjoyment of his or her privileges, it is valid, though the other is affected thereby too.

(10) An alternative is: ‘By the sacrifice (i.e., I swear by the sacrifice) I will not eat of yours.’ [On this interpretation, the declaration is a form of oath taken by the life of the korban which is not binding. V. supra 13a, (Ran).]

Talmud - Mas. Nedarim 16a

GEMARA. Whose view is taught in our Mishnah? — R. Meir's; for if R. Judah's, he recognises no distinction between a korban and Oh, korban.[1] Then consider the latter clause [IF HE SAYS,]. ‘WHAT I MIGHT NOT EAT OF YOURS BE NOT A KORBAN UNTO ME,’ HE IS PERMITTED. But we learnt: [If one says,] ‘That which I might not eat of yours be not for a korban unto me’: R. Meir forbids [him]. And R. Abba observed thereon: It is as though he said, ‘let it [i.e., your food] be for a korban, therefore I may not eat of yours.[2] — There is no difficulty: in the latter case he said, ‘le-korban’ [for a korban]; but here [in our Mishnah] he said, ‘la’-korban,’[3] which means: let it not be a korban. MISHNAH. [IF HE SAYS, ‘I TAKE] AN OATH [THAT] I WILL NOT EAT OF YOURS,’ [OR] ‘OH OATH THAT[4] I EAT OF YOURS,’ [OR ‘I TAKE] NO OATH [THAT] I WILL NOT EAT OF YOURS,’[5] HE IS FORBIDDEN.

GEMARA. This proves that ‘Oh oath that I eat of yours implies that I will not eat. Now this contradicts the following: Oaths are of two categories, which are extended to four, viz., ‘[I swear] that I will eat,’ ‘that I will not eat,’ ‘that I have eaten, ‘that I have not eaten’.[6] Now, since he enumerates, ‘that I will eat,’ ‘that I will not eat,’ ‘that I have eaten.’ ‘that I have not eaten, it follows that [the phrase,] ‘that I eat of yours’ implies, ‘I will eat’? — Abaye answered: ‘That I eat’ has two meanings. If one was being urged to eat, and he replied: ‘I will eat, I will eat, moreover. [I take] an oath that I eat,’ it implies, ‘I will eat.’ But if he said, ‘I will not eat, I will not eat,’ and then added: ‘[I take] an oath that I eat,’ it implies, ‘I will not eat’.[7] R. Ashi answered: ‘That I eat,’ in connection with an oath,[8] really means that he [actually] said, ‘I will not eat’.[9] If so, it is obvious: why state it? — I might think it is a mispronunciation[10] which caused him to stumble;[11] we are therefore taught [otherwise]. Abaye does not give R. Ashi's reason, because it is not stated, ‘That I will not eat.’ R. Ashi rejects Abaye's interpretation: he holds, ‘that I will not eat’ may also bear two meanings. [Thus:-] if one was being urged to eat, and he said, ‘I will not eat, I will not eat, and then added, ‘I [swear by] an oath’, whether [he concluded] ‘that I eat,’ or, ‘that I do not eat,’ it implies, ‘I will eat’. While the language, ‘An oath that I will not eat,’ may also be explained as meaning, ‘I swear [indeed] that I will not eat.’[12] But the Tanna[13] states a general rule: she-’okel [always] means that I will eat, and she-lo ‘okel, that I will not eat.[14] MISHNAH. IN THESE INSTANCES OATHS ARE MORE RIGOROUS THAN VOWS.[15] YET THERE IS [ALSO] GREATER STRINGENCY IN VOWS THAN IN OATHS. E.G., IF ONE SAYS, ‘KONAM BE THE SUKKAH THAT I MAKE,’ OR, ‘THE LULAB THAT I TAKE, OR, THE TEFILLIN[16] THAT I PUT ON:’ [WHEN EXPRESSED] AS VOWS THEY ARE BINDING, BUT AS OATHS THEY ARE NOT, BECAUSE ONE CANNOT SWEAR TO TRANSGRESS THE PRECEPTS.

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(1) This is argued from the fact the Mishnah does not include the form ‘korban be what I might eat of yours’, as permissible, as it does in the case of ‘Oh, korban’, which could be included according to R. Judah's opinion that the particle ‘as’ is necessary to render the oath binding, v. supra.

(2) Then why not assume the same here?

(3) So Ran. cur. edd. lo le-korban.

(4) V. Gemara.

(5) This even according to R. Meir, for the Talmud states (Shebu'oth 36a) that R. Meir holds that the positive may be inferred from the negative in oaths.

(6) The two categories are affirmative and negative oaths referring to the future, which are extended to include similar oaths in the past.

(7) The Heb. then means: ‘I swear in this matter of eating’ — viz., that I will not eat. [The whole turns on the meaning attached to שאוכל. The particle ש may denote ‘that’ or ‘if’ (or ‘that which’). In the first instance, the circumstance favours the former interpretation: ‘An oath that I eat’, i.e., ‘I swear that I eat’. In the latter, he probably meant: ‘An oath if (or that which) I eat, i.e., ‘I swear not to eat’, (or, ‘By oath be forbidden that which I eat); cf. Shebu. 19b.]

(8) I.e., the Mishnah, when employing this phrase in connection with oaths.

(9) I.e., the Mishnah merely indicates that his oath bore reference to eating, but actually it was a negative one.

(10) Lit ‘a twisting of the tongue’.

(11) Saying she-i-’okel instead of she-’okel, the difference in Hebrew being very slight. — This answer, as well as the discussion supra et passim on le-korban and lo korban, implies that the vows and oaths, as hypothetically posited in the Mishnah, were actually taken in Hebrew, not in another language. Thus Hebrew was generally spoken when the Mishnah was composed, and the Hebrew employed in the Mishnah would appear a natural, not an artificial language. V. M.H. Segal, Mishnaic Hebrew Grammar, Introduction.

(12) The text is not quite clear, but the general meaning appears to be this: When he says, ‘lo akilna, lo akilna (I will not eat),’ he may mean it positively, ‘I will certainly not eat’; when he further adds, ‘I swear that I will eat (she-’okel)’ or ‘that I will not eat’ he is strengthening his first statement, for ‘I swear that I will eat (she-’ohel)’ may mean, ‘I swear in respect of this matter of eating’. On the other hand, his first words may mean, ‘I will not eat’? — of course I will! Hence the subsequent oath confirms this, for ‘I swear that I will not eat (she-lo ‘okel)’ may mean, ‘An oath may be imposed upon what I will no eat, but not upon what I will eat.’ Hence, if Abaye's explanation is correct, that the Tanna teaches that she-’okel may imply a negative, he should also teach that she-lo ‘okel may imply an affirmative. [MS.M. preserves a better reading: . . , if one was being urged to eat . . . whether (he concluded) ‘that I eat’ or ‘that I do not eat’ he means ‘I shall not eat’, while the language ‘An oath that I will not eat’ may be explained ‘An oath that I do eat’. The meaning is thus clearer: When he first says ‘I will not eat’, his subsequent statement, whatever it is, will, on Abaye's explanation, be taken as confirming the first: If it is ‘An oath that I eat’ the particle שׁ (v. supra p. 43. n. 4) denotes ‘if’ or (‘that which’) and he means ‘I swear I eat’; if it is ‘An oath that I do not eat’ the particle is simply taken in the sense of ‘that’. And thus similarly on Abaye's view, the phrase ‘that I do not eat’ could also be explained in a positive sense: ‘I swear. . . if I do not eat’, viz., where it was preceded by the statement ‘I will eat’. This however, is impossible, in view of the Mishnah in Shebu'oth, which draws a distinction between ‘that I will eat’ and ‘that I will not eat’ and not between the circumstances that produced the oath.]

(13) Of the Mishnah in Shebu'oth.

(14) Disregarding the special cases where the general tenor of a person's speech or the inflection of his voice reverses the literal meaning of his oath.

(15) Since the Mishnah (15b) states that a vow in these terms is not binding.

(16) V. Glos. for these words.

Talmud - Mas. Nedarim 16b

GEMARA. MORE RIGOROUS? That implies that they are [valid] vows;[1] but it is taught, He is permitted?[2] — This is taught in reference to the second clause of the other section: [viz.,] [If one says,] [‘I swear] on oath not to sleep,’ or, ‘talk,’ or ‘walk,’ he is forbidden [to do so]: IN THESE INSTANCES OATHS ARE MORE RIGOROUS THAN vows.[3]

YET THERE IS GREATER STRINGENCY IN VOWS THAN IN OATHS etc. R. Kahana recited, R. Giddal said in Rab's name, and R. Tabyomi recited, R. Giddal said in Samuel's name: Whence do we know that one cannot swear [a valid oath] to violate the precepts? Front the verse, When a man . . . swear an oath . . . he shall not break his word,’[4] [this implies,] he may not break his word,[5] but he must break a word [i.e., an oath] in respect of Heavenly matters.[6] Now, why are vows different: because it is written, When a man vow a vow unto the Lord . . . he shall not break his word?[7] But [of] oaths too it is written, or swear an oath unto the Lord he shall not break his word?[8] — Abaye answered: In that case [vows] one says: ‘The pleasure of the sukkah be forbidden me’;[9] but in this case [oaths] one says; ‘I swear that I shall not benefit from the sukkah’.[10] Raba objected: Were the precepts then given for enjoyment?[11] But Raba answered: There [in the case of vows] one says, ‘The sitting in the sukkah be forbidden me’;[12] but here [oaths] one says, ‘I swear not to sit in the sukkah’.

Now, do we learn that one cannot swear to transgress the precepts from this verse: do we not rather deduce it from elsewhere? For it was taught: If one swears to annul a precept, and does not, I might think that he is liable,[13]

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(1) Save that their binding character is not so rigid as that of oaths; but if not binding at all, the term is inapplicable.

(2) V. Mishnah 25b; that indicates that these vows are quite invalid.

(3) For as stated in the Mishnah on 14b, such vows are indeed binding, but as explained by Rabina (v. 15a), only by Rabbinical Law; whereas oaths of a similar nature are Biblically valid.

(4) Num. XXX, 3.

(5) I.e., when it refers to human, optional matters.

(6) I.e., when the subject of the vow is obligatory.

(7) Ibid. Implying that it is binding even when referring to Divine, non-optional matters. This is inferred by regarding unto (ל) as meaning against: i.e., when a man vows contrary to the Lord's precepts.

(8) Ibid. Not actually; but as to the Lord immediately precedes or swear an oath, it may he regarded as referring to it.

(9) Hence it is binding, as one may not coy that which he has vowed not to enjoy.

(10) I.e., the oath falls primarily upon the person. v. supra 2b; but one cannot free himself from a Biblical obligation.

(11) Technically speaking, one cannot be said to drive physical enjoyment from the fulfilment of a precept, and therefore a vow in these terms would not be binding. One's highest enjoyment should be in obedience to God's word. [Apart from its halachic implications, the object of this saying was to keep the ethical principle free from any admixture of the idea of utility V. Lazarus, M. Ethics of Judaism, I, p. 284.]
(12) Thus the vow falls upon the sukkah, which is rendered forbidden, and upon the person; therefore it is valid.
(13) For swearing falsely.

Talmud - Mas. Nedarim 17a

hence the Bible teaches, [or if a soul swear, pronouncing with his lips] to do evil, or to do good etc.:[1] just as doing good refers to something optional,[2] so doing evil refers [only] to something optional. This excludes one who swears to annul a precept, and did not annul it,[3] because it is not optional! — One verse is to exempt him from the sacrifice due for [violating] an oath, and the other is to exempt him [from punishment[4] for having violated] the injunction concerning an oath.

MISHNAH. A VOW WITHIN A VOW IS VALID,[5] BUT NOT AN OATH WITHIN AN OATH. E.G., IF ONE DECLARES, ‘BEHOLD, I WILL BE A NAZIR IF I EAT [THIS LOAF].’ ‘I WILL BE A NAZIR IF I EAT [THIS LOAF],’ AND THEN EATS [IT], HE IS LIABLE IN RESPECT OF EACH [VOW].[6] BUT IF HE SAYS, ‘I SWEAR THAT I WILL NOT EAT [THIS LOAF],’ ‘I SWEAR THAT I WILL NOT EAT [THIS LOAF],’ AND THEN EATS [IT], HE IS LIABLE [TO PUNISHMENT] FOR ONE [OATH] ONLY.

GEMARA. R. Huna said: This holds good only if one says, ‘Behold, I will be a nazir to-day [if I eat this loaf]; I will be a nazir to-morrow [if I eat this loaf]’, since an extra day is added, the [second] neziruth[7] is binding in addition to the first.[8] But if he says, ‘Behold, I will be a nazir to-day, I will be a nazir to-day,’ the second neziruth is not valid in addition to the first. But Samuel said: Even if one declares, ‘Behold, I will be a nazir to-day, I will be a nazir to-day,’ the second neziruth is binding. Now, according to R. Huna, [the Mishnah,] instead of teaching BUT NOT AN OATH WITHIN AN OATH, should teach, Sometimes A VOW WITHIN A VOW IS VALID, and sometimes not. [If one says,] ‘Behold, I will be a nazir to-day; behold, I will be a nazir to-morrow,’ the vow within the vow is binding. But if he says, ‘Behold, I will be a nazir to-day, I will be a nazir to-day,’

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(1) Lev. V, 4.

(2) V. Shebu. Sonc. ed.) p. 147 for notes.

(3) Teaching that no penalty is incurred.

(4) [I.e., the penalty of lashed for transgressing ‘he shall not break his word’. He is however lashed for uttering a vain oath; v. Shebu. 29a (Tosaf).]

(5) Lit., ‘there is a vow within a vow’.

(6) And he must observe two periods of neziroth of thirty days each. This double vow relating to the same thing is called a vow within a vow.

(7) Abstract noun from nazir, ‘naziriteship’.

(8) And the full statutory period of thirty days must be observed for the second neziruth.

Talmud - Mas. Nedarim 17b

the second is not binding?[1] — This is a difficulty.

We learnt: A VOW WITHIN A VOW IS VALID, BUT NOT AN OATH WITHIN AN OATH. How is this? shall we say that one declared, ‘Behold, I will be a nazir to-day. Behold, I will be a nazir tomorrow’:[2] then an analogous oath is: ‘I swear not to eat figs. I swear not to eat grapes,’ why should this second oath be invalid? But the invalidity of all oath within an oath arises thus: ‘I swear not to eat figs, I swear not to eat figs.’ Then an analogous vow in respect of neziruth is: ‘Behold, I will be a nazir to-day; Behold, I will be a nazir to-day; and it is stated, A VOW WITHIN A VOW IS VALID. This refutes R. Huna? — R. Huna answers you: The Mishnah applies to one who said: ‘Behold, I will be a nazir to-day. Behold, I will be a nazir to-morrow;’[3] and an analogous oath is: ‘I swear not to eat figs I swear not to eat figs and grapes,’[4] the second oath being invalid. But did not Rabbah Say: [If one says,] ‘I swear not to eat figs,’ and then adds, ‘I swear not to eat figs and grapes’; if he eats figs, sets aside [an animal for] a sacrifice and then eats grapes, the grapes constitute [only] half the extent [of his second oath],[5] and a sacrifice is not brought for [the violation of] such. Front this we see that if one declares, ‘I swear not to eat figs,’ and then adds,’ I swear not to eat figs and grapes’: since the [second] oath is valid in respect of grapes, it is valid in respect of figs too? — R. Huna does not agree with Rabbah.

An objection is raised; If one made two vows of neziruth, observed[6] the first, set aside a sacrifice,[7] and then had himself absolved thereof [sc. the first vow], the second is accounted to him in [the observance of] the first.[8] How is this? Shall we say that he declared, ‘Behold, I will be a nazir to-day; Behold, I will be a nazir tomorrow’, why does the second replace the first; surely there is an additional day? But it is obvious that he said: ‘Behold, I will be a nazir to-day; Behold, I will be a nazir to-day.’

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(1) The point of the difficulty is that the Tanna should not draw a distinction between vows and oaths, when it can be drawn between vows themselves.

(2) The second vow being a real addition to the first.

(3) So that the second vow is identical with the first, save that a day is added.

(4) The second oath thus included the first, and added thereto.

(5) Which embraces grapes and figs.

(6) Lit., ‘counted’ — the days of his vow.

(7) Due on the expiration of neziroth.

(8) I.e., the term of neziroth already observed is accounted to the second view, since the first was revoked.

Talmud - Mas. Nedarim 18a

This contradicts R. Huna! — No. After all, [it means that he said,] ‘Behold, I will be a nazir to-day; Behold, I will be a nazir to-morrow; and how is it accounted to him? With the exception of that additional day. Alternatively, [it means], e.g that one undertook two periods of neziruth simultaneously.[1]

R. Hamnuna objected: To vow a vow of a Nazirite, declaring themselves it Nazirite [into the Lord]:[2] teaches hence [we learn] that neziruth falls upon neziruth.[3] For I would think, does it [the reverse] not follow a fortiori: If an oath, which is [more] stringent, is not binding upon another oath; how much more so neziruth, which is less rigorous![4] Therefore it is stated, ‘a nazirite, declaring himself a nazirite to the Lord’; from which [we learnt] that neziroth falls upon neziroth. Now how is this? Shall we say, that one said, ‘Behold, I will be a nazir to-day; Behold, I will be a nazir to-morrow, — is a verse necessary? But presumably it applies to one who said, ‘Behold, I will be a nazir to day, Behold, I will be a nazir to-day;’ and it is stated that the second [vow of] neziruth is binding in addition to the first?[5] — No. This refers to one who undertook two [periods of] neziruth simultaneously.

Now, wherein is an oath more rigorous than a vow? Shall we say in so far that it is applicable even to the abstract:[6] but a vow too is more stringent, since it is as valid in respect to a precept as in respect to anything optional?[7] — But it is because it is written in reference thereto, he shall not be held guiltless [that taketh my name in vain].[8]

BUT IF HE SAYS, ‘I SWEAR THAT I WILL NOT EAT [THIS LOAF],’ ‘I SWEAR THAT I WILL NOT EAT [THIS LOAF],’ AND THEN EATS IT, HE IS LIABLE [TO PUNISHMENT] FOR ONE [OATH] ONLY. Raba said: If he was absolved of the first, the second becomes binding. How is this deduced? Since it is not stated, It is only one [oath], but, HE IS LIABLE [TO PUNISHMENT] FOR ONE [OATH] ONLY: thus, there is no room for it;[9] but if the first is revoked, the second becomes binding. A different version [of Raba's dictum] is this: There is no penalty [for the second], yet it is an oath. For what purpose is it so?[10] — For Raba's dictum. For Raba said: If he was absolved of the first, the second takes its place. Shall we say that the following supports him: If one made two vows of neziruth, observed the first, set aside a sacrifice, and was then absolved thereof, the second [vow] is fulfilled in [the observance of] the first?[11] — [No.] This refers e.g., to one who vowed two periods of neziruth simultaneously.[12]

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(1) Declaring. 'I vow two periods of neziroth'.

(2) Num. VI, 2.

(3) I.e., a vow of neziruth is binding upon one who is already a nazir, translating thus: . . . of a nazirite, when he is already a nazirite to the Lord.

(4) The greater stringency of oaths is explained below. To shew that the second is binding-surely it is obvious!

(5) This contradicts R. Huna.

(6) V. supra 13b, a.l.

(7) V. Mishnah on 16a.

(8) Ex. XX, 7.

(9) I.e., for the second to impose a penalty, since that is incurred on account of the first.

(10) Since he is not punished for violating the second, whilst he is already bound by the first, what does it matter whether we regard the second as an oath or not?

(11) This proves that the second is actually valid.

(12) Hence the second is binding; but if one declares, 'I swear not to eat this loaf, I swear not to eat this loaf', it may be that his second statement has no validity at all. For further notes on this passage v. Shebu. (Sonc. ed.) pp. 150ff.

Talmud - Mas. Nedarim 18b

MISHNAH. UNSPECIFIED VOWS ARE INTERPRETED STRICTLY, BUT IF SPECIFIED,[1] LENIENTLY. E.G., IF ONE VOWS, BEHOLD! THIS BE TO ME AS SALTED MEAT,' OR, 'AS WINE OF LIBATION': NOW, IF HE VOWED BY ALLUSION TO A PEACEOFFERING,[2] HE IS FORBIDDEN;[3] IF BY AN IDOLATROUS SACRIFICE, HE IS PERMITTED, BUT IF IT WAS UNSPECIFIED, HE IS FORBIDDEN. [IF ONE DECLARES], 'BEHOLD! THIS BE TO ME AS HEREM': IF AS A HEREM TO THE LORD,[4] HE IS FORBIDDEN; IF AS A HEREM TO THE PRIESTS, HE IS PERMITTED.[5] IF IT IS UNSPECIFIED, HE IS FORBIDDEN. 'BEHOLD! THIS BE TO ME AS TITHE': IF HE VOWED, AS CATTLE TITHES, HE IS FORBIDDEN; IF AS CORN TITHES, HE IS PERMITTED; IF UNSPECIFIED, HE IS FORBIDDEN.[6] 'BEHOLD! THIS BE TO ME AS TERUMAH';[7] IF HE VOWED, AS THE TERUMAH OF THE TEMPLE-CHAMBER,[8] HE IS FORBIDDEN; IF AS THE TERUMAH OF THE THRESHING-FLOOR [I.E., OF CORN]. HE IS PERMITTED;[9] IF UNSPECIFIED, HE IS FORBIDDEN: THIS IS THE VIEW OF R. MEIR. R. JUDAH SAID; AN UNSPECIFied REFERENCE TO TERUMAH IN JUDEA[10] IS BINDING, BUT NOT IN GALILEE, BECAUSE THE GALILEANS ARE UNFAMILIAR WITH THE TERUMAH OF THE TEMPLE-CHAMBER.[11] UNQUALIFIED ALLUSIONS TO HARAMIM IN JUDEA ARE NOT BINDING. BUT IN GALILEE THEY ARE, BECAUSE THE GALILEANS ARE UNFAMILIAR WITH PRIESTLY HARAMIM.[12]

GEMARA. But we learnt: A doubt in neziruth is treated leniently?[13] — R. Zera answered; There is no difficulty; This [our Mishnah] agrees with the Rabbis; the other, with R. Eliezer. For it was taught: If one consecrates [all] his beasts and his cattle,[14] the koy[15] is included. R. Eliezer said: He has not consecrated the koy.[16] He who maintains that one permits doubt to extend to his chattels,[17] maintains likewise that he permits it to extend to himself too.[18] But he who holds that one does not permit doubt to extend to his chattels, will maintain this all the more of one's own person.

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(1) After the vow is made in general terms (Ran).

(2) [Var. lec. 'TO HEAVEN', v. next note.]

(3) To benefit from the object of his vow — i.e., his vow is valid.

(4) Lit., 'of Heaven'. For 'Heaven' as a synonym of god cf. I Macc. III, 18 (though some ancient authorities read there ‘the God of heaven’); Matt. XXI. 25; v. A. Marmorstein, The Old Rabbinic doctrine of God, I, pp. 14 and 105-106.

(5) That which was devoted (herem) to the Lord, i.e., to be utilized in or sold for Temple purposes, could not be redeemed, and hence was definitely forbidden for secular use (Lev. XXVII, 28); but if devoted to the priests. it might be so used once they had taken possession of it (Num. XVIII, 14); it is therefore regarded as permitted, and a reference to it in a vow has no validity.

(6) The cattle tithe had to be formally designated, hence it is regarded as humanly forbidden, and a reference to it is valid; but the corn tithe belonged automatically to the Levite, even if not formally designated; therefore it is regarded as Divinely forbidden; v. supra 13b.

(7) V. Glos.

(8) For congregational sacrifices; v. Shek. III. 2; IV. 1.

(9) V. p. 50. n. 8. The terumah of the Temple fund had to be formally designated, but that of corn was regarded as Divinely and automatically forbidden.

(10) I.e., the southern portion of Palestine.

(11) The Galileans, living at some distance from the Temple, did not think much about the Temple fund, consequently, when they spoke of terumah without any further qualification, they meant terumah if corn.

(12) As the priests lived mainly in Judea, priestly haramim were unusual in Galilee; hence a Divine Herem must have been meant.

(13) Toho. IV, 12. E.g., if one vows, ‘Behold! I will be a nazir if the man who is just passing is one’, and that person disappeared before it could be ascertained whether he was or not, the vow is not binding. This contradicts the Mishnah that an unspecified vow, the meaning of which is doubtful, is rigorously interpreted.

(14) So Rashi and Asheri. Ran: his beasts or his cattle; Tosaf. maintains that it refers to both cases The term ‘cattle’ (behemah) refers to domesticated animals; ‘beasts’ (hayyah) to wild or semi-wild animals.

(15) Probably a kind of bearded deer or antelope. It is doubtful whether this belongs to the genus of cattle or of beasts. This view is that the koy must be included in the one or the other. Or, according to the interpretation of the Ran, we are strict because of our doubt.

(16) Because his vow embraced animals of certain, but not of uncertain genus.

(17) I.e., in consecrating his cattle or his beasts, he meant it to include the lot, though aware that it is of doubtful genus.

(18) Thus, having subjected himself to an unspecified vow, his intention is that the most rigorous interpretation of his words shall apply.

Talmud - Mas. Nedarim 19a

Abaye said to him: How have you explained [the Mishnah] ‘A doubt in neziruth is ruled leniently’ — as being R. Eliezer's view? Then consider the latter clause: Doubtful first-borns, whether of man[1] or beast,[2] whether clean or unclean — the claimant must furnish proof [that they are first-borns].[3] And it was taught thereon: They may neither be sheared nor put to service![4] — He replied: Why do you compare innate sanctity[5] with man-made sanctity?[6] But if there is a difficulty, it is this: Doubtful fluids,[7] in respect of becoming unclean [themselves], are unclean; in respect of defiling others, they are clean:[8] this is R. Meir's view, and R. Eliezer agreed with him. But is it R. Eliezer's opinion that in respect of becoming unclean [themselves] they are unclean? But it was taught, R. Eliezer said: Liquids have no uncleanness at all [by Scriptural law]; the proof is that Jose b. Joezer of Zeredah[9] testified[10] that the stag locust[11] is clean [i.e., fit for food], and that the fluids[12] in the [temple] slaughter-house are clean?[13] Now, there is no difficulty according to Samuel's interpretation that they are clean [only] insofar that they cannot defile other liquids, but that nevertheless they are unclean in themselves; but according to Rab, who maintained that they are literally clean [even in respect of themselves], what can be said?[14] But [answer thus]: One [the Mishnah in Toharoth] teaches R. Judah's view; the other [our Mishnah] gives R. Simeon's. For it was taught: [If one says,] ‘Behold! I will be a nazir,’ if this stack contains a hundred kor,’[15] and he goes and finds it stolen or destroyed: R. Judah ruled that he is not a nazir: R. Simeon, that he is.[16]

Now, R. Judah is self-contradictory. Did he say that one does not place himself in a doubtful position?[17] Then a contradiction is shewn: R. JUDAH SAID: AN UNSPECIFIED REFERENCE TO

TERUMAH IN [JUDEA IS BINDING, BUT NOT IN GALILEE, BECAUSE THE GALILEANS ARE UNFAMILIAR WITH THE TERUMAH OF THE TEMPLE-CHAMBER. Thus the reason is that they are unfamiliar,

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(1) If, e.g., a woman gave birth to twins, a male and a female, and it is not known the head of which appeared first (this being legally regarded as birth). If of the male, he is a firstborn; but if of the female, the male is not a first-born even if he subsequently issued first.

(2) If, e.g., two cows calved, one a male and one a female, one a firstling and one not; and it is not known whether the male is the firstling. Only male firstlings belong to the priest.

(3) I.e., if the priest claims the firstling or redemption money for the first-born.

(4) Just as certain firstlings. (v. Deut. XV, 19). How then can this be the view of R. Eliezer, who holds that when in doubt the animal is not regarded as consecrated?

(5) Lit., ‘sanctity that comes of itself’, v. B.M. (Sonc. ed.) pp. 26ff.

(6) In the former case a rigorous view is naturally taken. But when man consecrates, he has in mind only that which certainty comes within the terms of his consecration.

(7) E.g., if an unclean person, whose touch defiles liquids. put his hand into a vessel, and it is not known whether he actually touched the liquid there or not.

(8) They do not defile them.

(9) I Kings XI, 26.

(10) On the historic occasion, when as a result of a dispute between R. Gamaliel and R. Joshua, the former was temporarily deposed from the Patriarchate, and R. Eliezer b. ‘Azariah appointed in his stead. An examination was then made of scholars’ traditions, which were investigated and declared valid or otherwise, v. ‘Ed. (Sonc. ed.) Introduction, XI.

(11) Heb. Ayil, of doubtful meaning.

(12) The flow of blood and water.

(13) Even by Rabbinical law. Since the general uncleanliness of liquids is rabbinical only, it was not imposed upon liquids in the temple slaughter house, so as not to defile the flesh of sacrifices. The language of this testimony is Aramaic, whereas all other laws in the Mishnah are couched in Hebrew. Weiss, Dor, I, 105, sees in this a proof of its extreme antiquity; v. A.Z. (Sonc. ed.) pp. 181ff for further notes.

(14) It may appear that this difficulty arises in any case. But if the Mishnah, ‘an uncertain vow of neziruth’, is not R. Eliezer's ruling, it can be answered that though the entire law of the uncleanness of liquids is rabbinical only, he is nevertheless stringent in a case of doubt. But if the Mishnah agrees with R. Eliezer, so that though neziruth and vows in general are Biblically binding, he is lenient in case of doubt, how can he treat liquids strictly, when the law is merely rabbinical?

(15) A measure of capacity: 36.44 litres in dry measure; 364.4 litres in liquid measure. J.E. ‘Weights and Measures’.

(16) Lit., ‘R. Judah permits. R. Simeon forbids’.

(17) I.e., he meant to be a nazir only if it certainly contained that measure.

Talmud - Mas. Nedarim 19b

but if they were familiar [therewith], it would be binding?[1] — Raba answered: In the case of the stack he holds that since doubt is graver than certainty, one will not put himself into that doubtful position. For if he is a certain nazir, he may shave[2] and offer his sacrifice, which may be eaten, but if he is a doubtful nazir, he may never shave.[3] R. Huna b. Judah asked Raba; But what if he said, ‘Behold! I will be a lifelong nazir’?[4] He replied; Even then, a lifelong nazir, his doubt is graver than his certainty; for a certain nazir lightens the burden of his hair and offers three animals,[5] but not so a doubtful nazir. But what if he said, ‘Behold! I will be a Samson nazirite’?[6] — He replied: A Samson nazirite was not included.[7] Said he to him: But R. Adda b. Ahabah said: A Samson Nazirite was taught?[8] He replied; If it was taught, it was taught.[9]

R. Ashi said: That [the Mishnah in Toharoth] gives the view of R. Judah quoting R. Tarfon.[10] For it was taught: R. Judah said on the authority of R. Tarfon: Neither is a nazir, because neziroth must be expressed with certainty.[11] If so, why particularly if the stack was stolen or destroyed?[12] — To shew how far-reaching is R. Simeon's view, that even if it was stolen or destroyed, he still maintains that one places himself in a doubtful position.

R. JUDAH SAID: AN UNSPECIFIED REFERENCE TO TERUMAH IN JUDEA etc. But if they were familiar therewith, it would be binding, which shews that the doubt is ruled stringently. Then consider the last clause: UNQUALIFIED ALLUSIONS TO HARA MIM IN JUDEA ARE NOT BINDING BUT IN GALILEE THEY ARE, BECAUSE THE GALILEANS ARE UNFAMILIAR WITH PRIESTLY HARAMIM. But if they were familiar, they would be invalid: thus in doubt we are lenient? — Abaye answered: The last clause is the view of R. Eleazar b. R. Zadok. For it was taught: R. Judah said: An unspecified [reference to] terumah in Judah is binding. R. Eleazar son of R. Zadok said: unspecified [references to] haramim in Galilee are binding.

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(1) Though it would still be doubtful to which he referred.

(2) On the expiration of his term of neziroth.

(3) Because this must follow his sacrifices. But being a doubtful nazir, he cannot offer any at all, lest he be not one, in which case the animal, having been wrongfully designated as a nazir's sacrifice, is hullin (q.v. Glos.), which may not be brought to the Temple Court.

(4) Here the doubt cannot he more stringent than the certainty, as the term never expires, and since R. Judah draws no distinction in neziroth, his ruling must apply even to such.

(5) V. Nazir, 4.

(6) V. ibid. In which case his hair may never be cut.

(7) The term nazir may include a lifelong nazir, but not a Samson nazir, which would require special mention.

(8) [I.e., that R. Judah declares that he is not a nazir even in the case of a Samson nazirite vow (Ran).]

(9) I cannot answer it.

(10) But not his own view.

(11) This refers to the following case: If two persons were walking together, and one said: ‘I will be a nazir, if the man who is coming towards us is one’; whereupon the other said: ‘I will be a nazir if he is not’, the vow is binding upon neither, because of the element of doubt in each when it was made, v. Naz. 34a.

(12) Even if the stack is intact and contains the stipulated measure, the vow of neziruth is invalid, since when it was taken it was unknown.

Talmud - Mas. Nedarim 20a

MISHNAH. IF ONE VIEWS BY HEREM,[1] AND THEN SAYS, ‘I VOWED ONLY BY A FISHING NET’,[2] BY KORBAN, AND THEN SAYS, I VOWED ONLY BY ROYAL GIFTS’,[3] [IF HE SAYS] BEHOLD! [I MYSELF] ‘AZMI BE A KORBAN’,[4] AND THEN STATES. ‘I VOWED ONLY BY THE EZEM [BONE] WHICH I KEEP FOR THE PURPOSE OF VOWING’;[5] [IF ONE SAYS,] ‘KONAM BE ANY BENEFIT MY WIFE HAS OF ME, AND THEN DECLARES, I SPOKE ONLY OF MY FIRST WIFE, WHOM I HAVE DIVORCED (IF NONE OF THESE [VOWS] DO THEY REQUIRE TO SEEK ABSOLUTION.[6] BUT IF A REQUEST FOR ABSOLUTION IS PREFERRED, THEY ARE PUNISHED AND TREATED STRICTLY: THIS IS THE VIEW OF R. MEIR, BUT THE SAGES SAY: THEY ARE GIVEN AN OPENING [FOR REGRET] (IN OTHER GROUNDS.[7] AND THEY ARE ADMONISHED SO THAT THEY DO NOT TREAT VOWS WITH LEVITY.

GEMARA. This is self-contradictory: You say, OF NONE OF THESE VOWS DO THEY REQUIRE TO SEEK ABSOLUTION; and then you continue: IF A REQUEST FOR ABSOLUTION IS PREFERRED, THEY ARE PUNISHED AND TREATED STRICTLY?[8] — Said Rab Judah, This is its meaning; OF NONE OF THESE VOWS DO THEY REQUIRE TO SEEK ABSOLUTION. This applies however only to a scholar;[9] and when ‘am ha-arez[10] applies for absolution, he is punished and treated strictly. Now ‘TREATED STRICTLY’ is well: it means that we do not suggest an opening for regret.[11] But how are they punished? — As it was taught: If one vowed neziroth and then violated his vow: his case is not examined unless he observes his vow for the full period that he had violated it: this is the view of R. Judah. R. Jose said: This applies only to short neziroth [i.e., thirty days]; but in the case of a long period of neziroth, thirty days are sufficient.[12] R. Joseph said: Since the Rabbis have decreed, his case is not to be examined, if a Beth din[13] does attend to it [before time], it does not act right [and must be reprimanded]. R. Aha b. Jacob said: It is banned.[14]

BUT THE SAGES SAY: THEY ARE GIVEN AN OPENING [FOR] REGRET etc. It was taught: Never make a practice of vowing, for ultimately you will trespass in the matter of oaths,[15] and do not frequent an ‘am ha-arez, for eventually he will give you tebalim;[16] and do not associate with a priest, an ‘am ha-arez, for ultimately he will give you terumah to eat;[17] and do not converse much with women, as this will ultimately lead you to unchastity.[18] R. Aha of the school of[19] R. Josiah said: He who gazes at a woman eventually comes to sin, and he who looks even at a woman's heel will beget degenerate children. R. Joseph said: This applies even to one's own wife when she is a niddah.[20] R. Simeon b. Lakish said: ‘Heel’ that is stated means the unclean part, which is directly opposite the heel.

It was taught: [And Moses said unto the people, fear not: for God is come to prove you,] that his fear may be before your faces:[21] By this is meant shamefacedness; that ye sin not[22] — this teaches that shamefacedness leads to fear of sin: hence it was said[23] that it is a good sign if a man is shamefaced.[24] Others say: No man who experiences shame[25] will easily sin; and he who is not shamefaced — it is certain that his ancestors were not present at Mount Sinai.

R. Johanan b. Dahabai said: The Ministering Angels told me four things: People are born lame because they [sc. their parents] overturned their table [i.e., practised unnatural cohabitation]; dumb, because they kiss ‘that place’; deaf, because they converse during cohabitation; blind, because they look at ‘that place’. But this contradicts the following: Imma Shalom[26] was asked: Why are

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(1) Viz., ‘This be herem unto me’.

(2) Herem meaning net too; i.e., ‘I did not vow at all’.

(3) Korban meaning an offering, and hence applicable to gifts or tribute to the king.

(4) Implying that he had consecrated himself to the Lord and needed redemption; v. Lev. XXVII, 1-8. (Rashi). [Or: May I myself be forbidden to you as korban (Ran).]

(5) [In order to give the impression to the hearer that I am making a vow.]

(6) Being invalid, according to the meaning assigned to them.

(7) Lit., ‘from another place’. I.e., they cannot obtain absolution on the plea that thy had attached an unusual significance to their words, for the phrase cf. supra 13b.

(8) The first implies that they are altogether invalid, whereas the second implies that they are valid vows.

(9) Who is careful about making vows.

(10) V. Glos.

(11) When one desired absolution, the Rabbi usually suggested grounds for granting it; here, however, such aid was to be withheld.

(12) E.g., if he had vowed to be a nazir a hundred days, violated his vow for fifty days, and then desired absolution, it is enough to observe thirty days only, and then he is absolved. Here too he is punished in this way.

(13) Lit., ‘house of law’: Jewish court of law. Any three persons could constitute themselves a Beth din, by request, and it is to such a constituted body of laymen that this dictum probably refers. [Absolution could he granted either by one Rabbi or by three laymen; infra.]

(14) On the term used shamta, v. supra p. 17, n. 2.

(15) Which are more stringent.

(16) Tebel, pl. tebalim, produce from which no tithes have been set aside.

(17) According to this reading the exhortation is to a zar. The Ran however reads: ‘unclean terumah’, which was forbidden even to a priest, in which case the exhortation is to a priest.

(18) The present statement is not meant to be derogatory to women, who were held in high esteem, but conditioned by the prevailing laxity in sexual matters which characterised many of the ancient peoples. V. Herford Talmud and Apocrypha, pp. 163ff.

(19) Berabbi or Beribbi is a contraction of Be Rab, belonging to the school of an eminent teacher (Jast.).

(20) A woman during her period of menstruation and seven days following.

(21) Ex. XX, 17.

(22) Ibid.

(23) This indicates a very ancient tradition; v. Frankel, Z.: Darke ha-Mishnah, p. 305; Bacher, Tradition und Tradenten, pp. 160, 171 seqq.

(24) Cf. Yeb. 79a, where a sense of shame is said to be one of the characteristics of the Jew; also Ab. V, 20, where ‘shamefacedness’ is contrasted with ‘bold-facedness’, i.e., impudence or insolence.

(25) I.e., who is not hardened or callous, but feels humiliated when he does wrong.

(26) The wife of R. Eliezer b. Hyrkanos, a sister of Gamaliel II.

Talmud - Mas. Nedarim 20b

thy children so exceedingly beautiful? She replied: [Because] he [my husband] ‘converses’ with me neither at the beginning nor at the end of the night, but [only] at midnight; and when he ‘converses’, he uncovers a handbreadth and covers a hand breadth, and is as though he were compelled by a demon. And when I asked him, What is the reason for this [for choosing midnight], he replied, So that I may not think of another woman,[1] lest my children be as bastards.[2] — There is no difficulty: this refers to conjugal matters;[3] the other refers to other matters.

R. Johanan said: The above is the view of R. Johanan b. Dahabai; but our Sages said: The halachah is not as R. Johanan b. Dahabai, but a man may do whatever he pleases with his wife [at intercourse]: A parable; Meat which comes from the abattoir, may be eaten salted, roasted, cooked or seethed; so with fish from the fishmonger.[4] Amemar said: Who are the ‘Ministering Angels’? The Rabbis. For should you maintain it literally, why did R. Johanan say that the halachah is not as R. Johanan b. Dahabai, seeing that the angels know more about the formation of the fetus than we? And why are they designated ‘Ministering Angels’? — Because they are as distinguished as they.[5]

A woman once came before Rabbi and said, ‘Rabbi! I set a table before my husband, but he overturned it.’ Rabbi replied: ‘My daughter! the Torah hath permitted thee to him — what then can I do for thee?’ A woman once came before Rab and complained. ‘Rabbi! I set a table before my husband, but he overturned it.’ Rab replied; Wherein does it differ from a fish?[6]

And that ye seek not after your own heart.[7] [Deducing] from this Rabbi taught: One may not drink out of one goblet and think of another.[8] Rabina said: This is necessary only when both are his wives.

And I will purge out from among you the rebels, and them that transgress against me.[9] R. Levi said: This refers to children belonging to the following nine categories: children of fear,[10] of outrage, of a hated wife, one under a ban,[11] of a woman mistaken for another,[12] of strife,[13] of intoxication [during intercourse], of a mentally divorced wife,[14] of promiscuity, and of a brazen woman.[15] But that is not so: for did not R. Samuel b. Nahmani say in the name of R. Jonathan: One who is summoned to his marital duty by his wife will beget children such as were not to be found even in the generation of Moses? For it is said, Take you wise men, and understanding [and known among your tribes, and I will make them rulers over you];[16] and it is written, So I took the chiefs of your tribes, wise men and known[17] but ‘understanding’ is not mentioned.[18] But it is also written, Issachar is a large-boned ass;[19] whilst elsewhere it is written, And of the children of Issachar, which were men that had understanding of the titles?[20] — [It is virtuous] only when the wife ingratiates herself [with her husband].[21]

CHAPTER III

MISHNAH. FOUR TYPES OF VOWS HAVE THE SAGES INVALIDATED;[22] VIZ., VOWS INCENTIVE, VOWS OF EXAGGERATION, VOWS IN ERROR, AND VOWS [BROKEN] UNDER PRESSURE.[23] VOWS INCENTIVE: E.G., IF ONE WAS SELLING AN ARTICLE AND SAID, KONAM THAT I DO NOT LET YOU HAVE IT FOR LESS THAN A SELA’’; AND THE OTHER REPLIED, KONAM THAT I DO NOT GIVE YOU MORE THAN A SHEKEL —

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(1) At the beginning of the night women are still going about in the streets; at the end, before morning, they are abroad again.

(2) Figuratively, of course. This shews that they did converse.

(3) That are permitted.

(4) [This parable serves to express the absence of reserve that may characterise the mutual and intimate relationship of husband and wife without offending the laws of chastity.]

(5) Rashi (in Kid. 71a): they are distinguished in dress, being robed in white and turbaned; cf. passage a.l.: Shah. 25b.

(6) V. supra.

(7) Num. XV, 39.

(8) Whilst cohabiting with one woman to think of another.

(9) Ezek. XX, 38.

(10) When a husband imposes himself upon his wife by force; Asheri reads: children of a maidservant (אמה instead of אימה); v. MGWJ 1934 p 136. n. 1.

(11) A person under a ban was forbidden to cohabit.

(12) Having intended to cohabit with one of his wives, he cohabited with another.

(13) Not a hated wife, but one with whom he had just then quarrelled.

(14) I.e., when her husband has decided to divorce her.

(15) One who openly demands her conjugal rights.

(16) Deut. I. 13.

(17) Ibid. I, 15.

(18) The Heb. נבונים is here taken to denote the highest degree of wisdom — but such could not be found.

(19) Gen. XLIX, 14; cf. Gen. XXX. 16-18. The allusion is to the legend that Leah heard the braying of Jacob's ass, and so came out of the tent and said to Jacob, thou must come in unto me. She had thus demanded her conjugal rights.

(20) I Chron. XII. 33; though such men were not to be found in the days of Moses. This was Leah's reward, thus proving that it is meritorious for a woman to demand her rights.

(21) She may shew her desires, as did Leah, who merely invited Jacob into her tent, but not explicitly demand their gratification.

(22) Lit., ‘permitted’.

(23) This is explained infra 27a.

Talmud - Mas. Nedarim 21a

BOTH ARE AGREED UPON THREE DENARII.[1]

GEMARA. FOUR VOWS HAVE THE RABBIS INVALIDATED etc. R. Abba b. Memel said to R. Ammi: You have told us in the name of R. Judah Nesi'ah:[2] Which Tanna holds this view? — R. Judah, who said on the authority of R. Tarfon: Neither is a nazir, because neziroth must be expressed with certainty.[3] Raba said: You may even say, The Rabbis. Does the Mishnah teach, both [subsequently] agreed — it teaches, BOTH ARE AGREED.[4]

Rabina asked R. Ashi: If he demanded more than a se'ah, and the other offered less than a shekel[5] is it a [valid] vow, or still a matter of incitement?[6] — He replied. We have learnt this. If one was urging his neighbour to eat in his house, and he answered: ‘Konam if I enter your house,’ or ‘if I drink a drop of cold water', he may enter his house and drink cold water, because he only meant eating and drinking in general.[7] But why? Did he not state, a drop of cold water? Hence this is the usual manner of speech.[8] Thus here too: this is the usual manner of speech![9] — He said to him:

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(1) A sela' _ two shekels _ four denarii.

(2) R. Judah, the Prince II.

(3) 19b. Thus here too, in the case of the incentive vow, since the two parties are dependent upon another, the vow is invalid.

(4) Thus, neither meant the vow seriously at all; but the conditional vow of neziroth was really meant.

(5) [I.e., the vendor demanded a sela' and a perutah (v. Glos.) and the buyer offered a shekel minus a perutah (Ran).]

(6) Since each was so exact, it may be that the sum was literally meant by both, and the vow likewise.

(7) But did not intend his words literally.

(8) For emphasis stating 'a drop of water', when in reality something substantial was meant.

(9) For emphasis: but neither meant his words literally, hence the vow is invalid.

Talmud - Mas. Nedarim 21b

How compare? In the case of cold water, 'the righteous promise little and perform much';[1] but here, It is really doubtful whether he [the vendor] implied that he would take less than a sela', and [the buyer] that he would give more than a shekel,[2] and it is [a vow of] incitement, or perhaps, each spoke literally, and it is a valid [vow]? This problem remains unsolved.

Rab Judah said in R. Assi's name: For these four vows [formal] absolution must be sought from a Sage. When I stated this before Samuel, he observed: The Tanna teaches, FOUR VOWS HAVE THE SAGES INVALIDATED,[3] yet you say. absolution must be sought from a Sage! R. Joseph reported this discussion in the following version: Rab Judah said in R. Assi's name: A Sage may remit only such [vows] as are similar to these four. Thus in his view mere regret is not given as an opening [for absolution].[4] A man once came before R. Huna [for absolution]. He asked him: 'Are you still of the same mind?' and he replied 'No!' Thereupon he absolved him. A man once came before Rabbah son of R. Huna, who asked him: 'Had ten men been present to appease you just then, would you have vowed?' On his replying 'No!' he absolved him. It was taught: R. Judah said: We ask him, 'Are you still of the same mind?' If he answers, No!' he is absolved. R. Ishmael son of R. Jose said on his father's authority: We say to him: 'Had ten men been present to appease you just then, would you have vowed?' If he replies in the negative, absolution is granted.

(Mnemonic: Assi and Eleazar, Johanan and Jannai).[5]

A man once came before R. Assi. He asked him: 'Do you now regret [that you ever vowed]?' and he replied, 'Do I not?' Thereupon he absolved him.[6] A man once came before R. Eleazar. He said to him, 'Do you desire your vow?'[7] 'He replied: 'Had I not been provoked, I certainly would not have desired aught.' 'Let it be as you wish,' answered he. A woman who had subjected her daughter to a vow[8] came before R. Johanan. Said he to her, 'Had you known that your neighbours would say of your daughter,

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(1) When the would-be host urged him to partake just a little, he understood that a full meal was intended, and therefore made the vow in the terms he did, meaning, however, to debar himself only from a substantial meal.

(2) Both intending to compromise on three denarii.

(3) I.e., they have no binding power at all.

(4) A definite reason for absolution is necessary, based on a fact which was unknown when the vow was made; consequently, it may be regarded as having been made in error. But if the only reason for cancellation is that the vower regrets it, absolution cannot be granted, v. infra 77b.

(5) A mnemonic is a short phrase or a string of words or letters each consisting of catchwords of statements or incidents, strung together as an aid to the memory.

(6) (He holds that mere regret is accepted as ground for revoking a vow, contrary to the view of Rab Assi in the name of Rab Judah, the author of this ruling here being Rabbi Assi, a Palestinian Amora as distinct from the former, who was a Babylonian. (Ran).]

(7) Ran: I.e., have you no regret that you ever made the vow except that you wish that it be no longer valid from now, in which case absolution cannot be granted. Rashi: 'Did you fully desire to vow, i.e., were you calm and composed, vowing with full deliberation' this seems more plausible.

(8) Not to benefit from her mother.

Talmud - Mas. Nedarim 22a

"If her mother had not seen something shameful[1] in her [behaviour], she would not have put her under a vow without cause" — would you have vowed?' On her replying in the negative, he absolved her. The grandson of R. Jannai the Elder[2] came before him Said he to him, 'Had you known that [when you vow] your ledger[3] is opened [in heaven] and your deeds examined — would you have vowed?' On his giving a negative reply, he absolved him R. Abba said: Which verse [teaches this]? After vows cometh examination.[4] But though R. Jannai proposed this as a ground for absolution, we may not do so.[5] Nor do we suggest the following, which Rabbah b. Bar Hanah related in R. Johanan's name: What opening did R. Gamaliel give to a certain old man? Thee is that speaketh like the piercings of a sword, but the tongue of the wise is health.[6] He who speaketh [a vow] is worthy of being pierced by the sword, but that the tongue of the wise [i.e., absolution] health. Nor do we suggest the following, viz., what was taught, R. Nathan said: One who vows is as though he built a high place,[7] and he who fulfils it is as though he sacrificed thereon. Now the first [half] may be given as an opening,[8] but as for the second, Abaye maintained: We suggest [it]; Raba said: We do not suggest [it]. This is the version of the discussion as recited by R. Kahana. R. Tabyomi reported it thus: We may not suggest the latter half;[9] but as for the first, — Abaye maintained: We suggest [it]; Raba said: We do not. The law is that neither the first [half] nor the second may be proposed.

Nor do we suggest the following dictum of Samuel, Viz., Even when one fulfils his vow he is called wicked. R. Abba said: Which verse [teaches this]? But if thou shalt forbear to vow, it shall be no sin in thee.[10] And [the meaning of] forbearance is learnt from forbearance as expressed elsewhere. Here it is written, But if thou shalt forbear to vow, and there it is written, There the wicked forbear from insolence.[11] R. Joseph said: We too have learnt so. [If one says:] 'As the vows of the righteous,' his words are of no effect. [But if he says:] 'As the vows of the wicked,' he has vowed in respect of a nazirite vow and a sacrifice.[12]

R. Samuel b. Nahmani said in the name of R. Jonathan: He who loses his temper is exposed to all the torments of Gehenna,[13] for it is written, Therefore remove anger from thy heart,' thus wilt thou put away evil from thy flesh.[14] Now 'evil' can only mean Gehenna, as it is written, The Lord hath made all things for himself yea, even the wicked for the day of evil.[15] Moreover, he is made to suffer from abdominal troubles, as it is written, But the Lord shall give thee there a trembling heart, and failing of eyes, and sorrow of mind.[16] Now what causes failing eyes and a sorrowful mind? Abdominal troubles.

When 'Ulla went up to Palestine,[17] he was joined by two inhabitants of Hozai,[18] one of whom arose and slew the other. The murderer asked of 'Ulla: 'Did I do well?' 'Yes,' he replied; 'moreover, cut his throat clean across.'[19] When he came before R. Johanan, he asked him, 'Maybe, God forbid, I have strengthened the hands of transgressors?' He replied, 'You have saved your life.'[20] Then R. Johanan wondered: The Lord shall give them there an infuriated heart[21] refers to Babylon?[22] 'Ulla replied, 'We had not yet

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(1) Lit., 'something best left alone'.

(2) Lit., ‘the son of the daughter’. Var. lec.: Jannai Rabbah, the Great. He was a Palestinian amora of the first generation (second and third generation); to be distinguished from Jannai the Younger, a Palestinian amora of the fourth generation.
(3) The notion that there is a Heavenly ledger in which man's doings are recorded (cf. Aboth, III, 20) is probably connected with the idea of the Book of Life, in which are inscribed on the Judgment Day of New Year those who are to be granted life for the ensuing year (cf R.H. 15b). The Sefer Hasidim (13th century) observes that God is in no need of a book of records: ‘the Torah speaks the language of man’, i e.. figuratively. Cf Aboth, (Sonc. ed .) p. 12, n. 9.
(4) Prov. XX, 25.
(5) Because it terrifies one too much, and makes him ready to express a regret which he may not feel.
(6) Ibid. XII, 18.
(7) For sacrifice — this being forbidden since the building of Solomon's Temple.
(8) Merely building a high place without sacrificing is not so heinous all offence, and therefore the suggestion is not so terrifying.
(9) All agreeing that it is too frightening.
(10) Deut. XXIII, 23.
(11) Job III, 17. Thus forbearing being employed of the wicked in the latter verse, its use in the former shews that he who vows is also so dubbed.
(12) Supra 9a.
(13) V. p. 19, n. 6.
(14) Ecc. XI, 10.
(15) Prov. XVI, 4. This is understood to mean Gehenna.
(16) Deut. XXVIII, 65.
(17) ‘Ulla was a Prominent Palestinian amora of the latter part of the third century and the beginning of the fourth. He frequently visited Babylonia, in pursuance of the general policy of maintaining intellectual intercourse between these two great centres, and his learning was very highly esteemed there; Bacher, Ag. Bab. Amor. pp. 93-97.
(18) [Or Be'Hozae, the modern Khuzistan, province S.W. Persia, Obermeyer, Die Landschaft Babylonien, pp. 204ff.]
(19) Fearing that disapproval would endanger his own life; moreover, he wished to hasten his death.
(20) The action was excusable, being in self-defence.
(21) Ibid.
(22) How then could one Jew become so angry with another in Palestine as to slay him?

Talmud - Mas. Nedarim 22b

crossed the Jordan [into Palestine].’

Rabbah son of R. Huna said: He who loses his temper, even the Divine Presence is unimportant in his eyes, as it is written, The wicked, through the pride of his countenance, will not seek God,’ God is not in all his thoughts.[1] R. Jeremiah of Difti[2] said: He forgets his learning and waxes ever more stupid, as it is written, For anger resteth in the bosom of fools;[3] and it is written, But the fool layeth open his folly.[4] R. Nahman b. Isaac said: It is certain that his sins out number his merits, as it is written, And a furious man aboundeth in transgressions.[5]

R. Adda son of R. Hanina said: Had not Israel sinned, only the Pentateuch and the Book of Joshua would have been given them, [the latter] because it records the disposition of Palestine [among the tribes].[6] Whence is this known? For much wisdom proceedeth from much anger.[7]

R. Assi said: Absolution is not granted for[8] [a vow in the name of] the God of Israel, except [the following]: ‘Konam be any benefit [by the God of Israel] my wife has of me, because she stole my purse or beat my child’; and it was subsequently learnt that she had done neither.[9]

A woman once came before R. Assi. He asked her, ‘How did you vow?’ She replied, ‘By the God of Israel.’ Said he to her, ‘Had you vowed by mohi, which is a mere substitute,[10] I would absolve you. Now that you did not vow by mohi, but by the God of Israel, I will not absolve you.

R. Kahana visited[11] R. Joseph's home. The latter said to him, ‘Eat something’; to which he replied, ‘No, by the Master of all, I will not taste anything.’ R. Joseph answered, ‘No, by the Master of all, you may not eat.’ Now R. Kahana rightly said, ‘No, by the Master of all, etc.’ [to strengthen his vow]; but why did R. Joseph repeat this? — This is what he said: ‘Since you have said, "No, by the Master of all", you may not eat.’[12]

Raba said in R. Nahman's name: The law is: Regret may be made an opening [for absolution], and absolution is granted for [a vow made in the name of] the God of Israel.

Raba was praising R. Sehorah to R. Nahman as a great man. Thereupon N. Nahman said: ‘When he comes to you, bring him to me.’ Now he [R. Sehorah] had a vow for absolution, so he went before R. Nahman, who asked him: ‘Did you vow bearing this[13] in mind?’ ‘Yes,’ he replied. ‘Or this?’ ‘Yes.’ This being repeated a number of times, R. Nahman became angry and exclaimed, ‘Go to your room!’[14] R. Sehorah departed, and found an opening for himself: Rabbi said: Which is the right course that man should choose for himself? That which he feels to be honourable to himself, and brings him honour from mankind.[15] But now, since R. Nahman has become angry, I did not vow on this understanding. He thus absolved himself.

R. Simeon son of Rabbi had a vow for absolution. He went before the Rabbis, who asked him, ‘Did you vow bearing this in mind?’ He replied, ‘Yes.’ ‘Or this?’ ‘Yes.’ [This was repeated] several times,

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(1) Ps. X, 4.

(2) V. p. 214, n. 2.

(3) Ecc. VII, 9.

(4) Prov. XIII, 26.

(5) Prov. XXIX, 22.

(6) But the other books, consisting mostly of the rebukings of the prophets, would have been unnecessary.

(7) Ecc. I, 18; i.e., the anger of God caused Him to send many prophets with their wise teachings. — We learn through error, and sin becomes the occasion of a fuller Revelation by God.

(8) Lit., ‘no (request for absolution) is attended to in the case of’.

(9) [This exception is made for the sake of restoring peace in the home.]

(10) V. Mishnah, supra 10a.

(11) Lit., ‘happened (to be) at’.

(12) I.e., Even if you desire, because one cannot be absolved from such an oath.

(13) Some fact mentioned.

(14) I cannot absolve you.

(15) V. Aboth II. 2 (Sonc. ed.) p. 12, n. 2 and 5.

Talmud - Mas. Nedarim 23a

and the Rabbis passed wearily to and fro ‘twixt sun and shade.[1] Said Botnith, the son of Abba Saul b. Botnith, to him, ‘Did you vow in order that the Rabbis should thus wearily pass from sun to shade and from shade to sun?’ ‘No,’ replied he. Thereupon they absolved him.

R. Ishmael son of R. Jose had a vow for absolution. He went before the Rabbis, who asked him, ‘Did you vow bearing this in mind?’ ‘Even so,’ replied he. ‘Or this?’ ‘ Yes.’ This was repeated several times. A fuller, seeing that he was paining the Rabbis, smote him with his basket.[2] Said he, ‘I did not vow to be beaten by a fuller,’ and so he absolved himself. R. Aha of Difti objected to Rabina: But this was an unexpected fact, as it had not occurred to him that a fuller would smite him, and we learnt: An unexpected fact may not be given as an opening?[3] — He replied: This is not unexpected, because scoffers[4] are common who vex the Rabbis.[5]

Abaye's wife had a daughter. He declared, ‘[She must marry] one of my relations,’ and she maintained, ‘one of mine’. So he said to her: ‘[All] benefit from me be forbidden to you if you disregard my wish and marry her to one of your relations.’ She went, ignored his desire, and married her to her relation. [Subsequently Abaye] went before R. Joseph [for absolution], who asked him: ‘Had you known that she would disregard your wish and marry her to her relation, would you have vowed?’ He answered, ‘No,’ and R. Joseph absolved him. But is such permitted?[6] — Yes, and it was taught : A man once imposed a vow on his wife not to make the festival pilgrimage [to Jerusalem]; but she disregarded his wish, and did go. He went to R. Jose [for absolution], who said to him, ‘Had you known that she would disregard your wish and make the journey, would you have imposed the vow on her?’ He answered, ‘No,’ and R. Jose absolved him.

MISHNAH. R. ELIEZER B. JACOB SAID: ALSO HE[7] WHO WISHES TO SUBJECT HIS FRIEND TO A VOW TO EAT WITH HIM, SHOULD DECLARE: EVERY VOW WHICH I MAY MAKE IN THE FUTURE SHALL BE NULL’. [HIS VOWS ARE THEN INVALID,] PROVIDING THAT HE REMEMBERS THIS AT THE TIME OF THE VOW.

GEMARA. But since he says, ‘Every vow which I may make in the future shall be null,’ he will surely not listen to him[8] and not come to [eat with] him? —

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(1) In an endeavour to find grounds for absolution.

(2) The Rabbis appear to have held open session.

(3) V. infra 64a. The tact must have been in existence, when the vow was made, but overlooked. If, however, it occurred only subsequently, it cannot be a ground for absolution.

(4) Apikora (pakar) etymologically should mean a loose, unbridled person. Its phonetic similarity phonetic similarity to Epicurus, the philosopher, stamped it with the meaning of sceptic, heretic, and that is its probable meaning in Sanh. XI, 2, where an apikoros is excluded from the world to come. The definition given in the Gemara, 99b, viz., one who is scornful of the Rabbis, which is the same as it bears here, was in all probability an extension of its meaning, due to feuds between the Rabbis and some sections of the people.

(5) And as their adherents naturally try to punish them, the incident could have been anticipated, and therefore is not regarded as unexpected

(6) The vow itself providing cause for absolution.

(7) The friend.

(8) This too is an example of a vow of incitement, v. Gemara.

Talmud - Mas. Nedarim 23b

The text is defective, and this is what was taught : He who desires his friend to eat with him, and after urging him, imposes a vow upon him, it is ‘a vow of incitement [and hence invalid]. And he who desires that none of his vows made during the year shall be valid, let him stand at the beginning of the year and declare, ‘Every vow which I may make in the future shall be null.[1] [HIS VOWS ARE THEN INVALID,] PROVIDING THAT HE REMEMBERS THIS AT THE TIME OF THE VOW. But if he remembers, he has cancelled the declaration and confirmed the vow?[2] — Abaye answered: Read: providing that it is not remembered at the time of the vow. Raba said, After all, it is as we said originally.[3] Here the circumstances are e.g., that one stipulated at the beginning of the year, but does not know in reference to what. Now he vows. Hence, if he remembers [the stipulation] and he declares: ‘I vow in accordance with my original intention’, his vow has no reality. But if he does not declare thus, he has cancelled his stipulation and confirmed his vow.

R. Huna b. Hinena wished to lecture thereon [sc. anticipatory cancellation] at the public session. But Raba remonstrated with him : The Tanna has intentionally obscured the law,[4] in order that vows should not be lightly treated, whilst you desire to teach it publicly!

The scholars propounded: Do the Rabbis disagree with R. Eliezer b. Jacob or not?[5] And should you say that they differ, is the halachah like him or not?[6] — Come and hear: For we learnt: If one says to his neighbour,

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(1) This may have provided a support for the custom of reciting Kol Nidre (a formula for dispensation of vows) prior to the Evening Service of the Day of Atonement (Ran.). The context makes it perfectly obvious that only vows, where the maker abjures benefit from aught. or imposes an interdict of his own property upon his neighbour, are referred to. V. J.E. s.v. Kol Nidre. Though the beginning of the year (New Year) is mentioned here, the Day of Atonement was probably chosen on account of its great solemnity. But Kol Nidre as part of the ritual is later than the Talmud, and, as seen from the following statement about R. Huna h. Hinena, the law of revocation in advance was not made public.

(2) Since, when vowing. he knows of his previous declaration, he obviously disregards it. as otherwise he would not vow at all.

(3) The received text is correct.

(4) By giving a defective text. This implies that here, at least, the lacuna is not accidental, due to faulty transmission, but deliberate; cf. p. 2, n. 3.

(5) But regard this as a binding vow.

(6) Since the Mishnah teaches it as an individual opinion.

Talmud - Mas. Nedarim 24a

‘Konam that I do not benefit from your if you do not accept for your son a kor of wheat and two barrels of wine,’ — his neighbour may annul his vow without [recourse to] a Sage, by saying: ‘Did you vow for any other purpose but to honour me? This [nonacceptance] is my honour.’ Thus, it is only because he asserts, ‘This is my honour’; but otherwise, it is [a binding] vow. Whose view is this? If R. Eliezer b. Jacob's, — it is a vow of incitement ?[1] Hence it must be the Rabbis,[2] thus proving that they disagree with R. Eliezer! — [No.] After all, it may be R. Eliezer b. Jacob's view: he admits that this is a [real] vow, for he [who makes it] says [in effect], ‘I am not a dog, that I should benefit from you without your benefiting from me.’

Come and hear: If one says to his neighbour, ‘ Konam that you benefit not from me, if you do not give my son a kor of wheat and two barrels of wine,’ — R. Meir rules: He is [so] forbidden until he gives; but the Rabbis maintain: He too can annul his vow without a Sage by declaring: ‘I regard it as though I have received it.’ Thus, it is only because he says, ‘I regard it as though I have received it’ ; but otherwise it is [a valid] vow. Whose view is this? If R. Eliezer b. Jacob's, — but it is a vow of incitement. Hence it must be the Rabbis’; thus proving that they disagree with him! — [No.] Verily, it may be R. Eliezer b. Jacob's view: he admits that this is a [real] vow, for he [who makes it] says, ‘I am not a king to benefit you without your benefiting me.’

Mar Kashisha son of R. Hisda said to R. Ashi, Come and hear: VOWS [BROKEN] UNDER PRESSURE: If one subjected his neighbour to a vow to dine with him,[3] and then he or his son fell sick, or a river prevented him [from coming to him]. But otherwise the vow is binding. Whose view is this? If R. Eliezer b. Jacob's, — but it is [a vow of] incitement. Hence it must be the Rabbis’, which proves that they disagree with him! — [No.] This may be R. Eliezer b. Jacob's view. Do you think that the inviter imposed the vow upon the invited? On the contrary, the invited imposed the vow upon the inviter. Thus: He said to his neighbour, ‘Do you invite me to your banquet?’ ‘Yes,’ replied he. ‘Then make a vow to that effect.’ So he vowed, and then he [the person invited] or his son fell sick, or was kept back by a river; such are vows [broken] under pressure.

Come and hear: R. Eliezer b. Jacob went even further [in his definition of vows of incitement]: If one says to his neighbour, ‘konam that I do not benefit from you if you will not be my guest and partake of fresh bread and a hot drink with me'; and the latter remonstrated in his turn — such too are vows of incitement.[4] But the Sages did not admit this. Now, to what does this disagreement refer? Surely,

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(1) Which is invalid in any case.

(2) The text is thus emended by Bah.

(3) Saying, 'You are forbidden to benefit from me if you do not eat with me'.

(4) [Although the fact that the invitation was so carefully worded, and that the other remonstrated would tend to indicate that the vower was in earnest.]

Talmud - Mas. Nedarim 24b

even to the first [illustration given by R. Eliezer b. Jacob]! This proves that the Rabbis dispute his ruling [in its entirety]. This proves it.[1] What is our final conclusion on the matter?[2] — Come and hear: For R. Huna said: The halachah is like R. Eliezer b. Jacob.[3]

MISHNAH. VOWS OF EXAGGERATION: WHEN ONE SAYS, 'KONAM IF I DID NOT SEE ON THIS ROAD AS MANY AS DEPARTED FROM EGYPT, OR 'IF I DID NOT SEE A SERPENT LIKE THE BEAM OF AN OLIVE PRESS.

GEMARA. It was taught: Vows of exaggeration are invalid, but oaths of such a nature are binding. How are such oaths possible? Shall we say that one said. 'I swear [so and so] if I have not seen etc.' — he said nothing![4] — Abaye answered: When one declares, 'I swear that I did see' etc.[5] Raba objected: If so, why teach it?[6] Moreover, it is taught parallel to vows![7] But, said Raba: When one says, 'May [all] the fruit in the world be forbidden me on oath if I did not see on this road as many as departed from Egypt.' Rabina said to R. Ashi: Perhaps this man saw an ant nest and designated them[8] 'those who left Egypt's his oath thus being genuine? —

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(1) So cur. edd. Asheri: No. The disagreement refers only to the latter example. Accordingly, the next question: what is our final conclusion, still refers to the same problem, whether the Rabbis disagree or not.

(2) Having proved that they disagree, whose view is law? V. preceding note.

(3) Ran: The answerer knew that R. Huna referred to the first too, or assumed that he would be referring to the Mishnah, which was well known by all, rather than the Baraitha, which was not so well known. Alternatively, the whole point of the question whether the Rabbis disagree is to know the correct halachah, for since they are in the majority it may not be as R. Eliezer b. Jacob. Now, however, that R. Huna gave his ruling that the halachah is as R. Eliezer b. Jacob in the whole matter, it makes no difference whether the Rabbis disagree with him or not.

(4) He did not complete his sentence.

(5) It is then not regarded as an intentionally false oath, meriting punishment, but as an oath of exaggeration.

(6) It is obvious.

(7) Just as vows seek to impose an interdict, so do these oaths too.

(8) On account of their large number.

Talmud - Mas. Nedarim 25a

He replied. One who swears, swears in our sense, and we do not think of an ant nest. Now, does one never swear in his own sense? But it was taught: When an oath is administered, he [the man swearing] is admonished: 'Know that we do not adjure you according to your own mind, but according to our mind[1] and the mind of the Court.' Now, what does this exclude? Surely the case of one who gave [his creditor] checkers [tokens in game] and [mentally] dubbed them coins; and since he is admonished, 'according to our intention,' it follows that [otherwise] one may swear in his own sense? — No. It excludes such an incident as Raba's cane. A man with a monetary claim upon his neighbour once came before Raba, demanding of the debtor, 'Come and pay me.' 'I have repaid you,’ pleaded he. ‘If so,’ said Raba to him, ‘go and swear to him that you have repaid.’ Thereupon he went and brought a [hollow] cane, placed the money therein, and came before the Court, walking and leaning on it. [Before swearing] he said to the plaintiff: ‘Hold the cane in your hand’. He then took a scroll of the Law and swore that he had repaid him all that he [the creditor] held in his hand.[2] The creditor thereupon broke the cane in his rage and the money poured out on the ground; it was thus seen that he had [literally] sworn to the truth.[3]

But even so, does one never swear in his own sense? But it was taught: Thus we find that when Moses adjured the children of Israel in the plains of Moab, he said unto them, ‘Know that I do not adjure you in your sense, but in mine, and in that of the Omnipresent’, as it is written, Neither with you only etc.[4] Now what did Moses say to Israel? Surely this: Lest you transgress my words[5] and then say. ‘We swore in our own sense’; therefore he exhorted them: [swear] in my sense. What does this exclude: surely the naming of idols ‘god’? This proves that one does sometimes swear in his own sense. — No. Idols too are called ‘god’, as it is written, And against all the gods of Egypt I will execute judgment.[6] Then let him adjure then, to fulfil the commands? — That might imply the commands of the King. Then let him adjure then, to fulfil all the commands? — That might imply [the precept of] fringes,[7] for a Master said, The precept of fringes is equal to all the [other] precepts of the Torah.[8] But why did not Moses simply adjure the Israelites to fulfil the Torah?[9] — Because that would imply one Torah only.[10] Then why not adjure then, to fulfil the Toroth?[11] — That might mean the Torah of the meal-offering, the Torah of the sin-offering, the Torah of the trespass-offering.[12] Then why not impose an oath to fulfil the whole Torah? — The whole Torah might mean merely to refrain from idolatry, as it was taught : Idolatry is so grave a sin that the rejection thereof is as the fulfilment of the whole Torah. Then why not impose an oath to observe the prohibition against idolatry and the whole Torah; or to fulfil the six hundred thirteen precepts? — Moses used a general expression without troubling [to enumerate details].[13]

OR IF I DID NOT SEE A SERPENT LIKE THE BEAMS OF AN OLIVE-PRESS. Is this impossible? Was there not a serpent in the days of King Shapur[14] before which thirteen stables of straw were laced, and it swallowed then, all?[15] — Samuel answered: He meant ‘as smooth as a bean, etc.’ But are not all serpents smooth? — We speak [of one who declared that] its back was smooth [not on]y the neck].[16] Then let him [the Tanna] state ‘smooth’? — He thereby informs us in passing that the beams of the olive-press must be smooth. How does this affect the law? — In respect of buying and selling: to tell you that if one sells the beams of an olive-press. the sale is valid only if they are smooth, but not otherwise.[17]

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(1) [In Shebu. 29b. the reading is ‘the mind of the Omnipresent’.]

(2) In his (the debtor's) possession i.e., all that he claimed of him.

(3) Hence the exhortation is needed to exclude such oaths, as the defendant may really believe that be is swearing truly. But no person regards his oath as true when he mentally attaches a particular meaning to his words.

(4) Deut. XXIX, 13; i.e., not merely according to your thoughts.

(5) [So Bah. cur. edd. ‘lest you do something’.]

(6) Ex. XII, 12.

(7) Num. XV, 38.

(8) Because it is written, and it shall be unto you for a fringe, that ye may look upon it, and remember all the commandments of the Lord. Ibid. 39.

(9) Instead of imposing an oath against idol worship, which, as shewn, is ambiguous.

(10) The written Law, but not the Oral law. The former is the Bible, more especially the Pentateuch, while the latter is the whole body of tradition and Rabbinical development thereof. It is generally assumed that the Oral Law was the matter In dispute between the Pharisees, who accepted it, and the Sadducees, who rejected it. Weiss, Dor, I, 116 seq.; Halevy, Doroth, I, 3, 360 seq. denies this ii to, and maintains that the Sadducees were purely a political party that rejected religious teaching altogether, and only later, through force of circumstances, attempted some interpretation of Scripture.

(11) Pl. of Torah.

(12) Each of which is referred to a ‘torah’: Lev. VI, 7, 18; VII, 1.

(13) The text of the whole passage is in some disorder, the translation is of the text as emended by Bah; for further notes v. Shebu. (Sonc. ed.) pp. 159ff.

(14) Shapur I, a contemporary of Samuel and King of Persia.

(15) This question assumes that the comparison is in point of size. — Aruch reads: thirteen hides full of straw’. Rashi in Shebu. 29b explains that it was a man-eating serpent. hot coals were concealed in the straw, and these killed it. [This is reminiscent of the Apocryphal story of Daniel and the Dragon]

(16) The backs of serpents are not smooth but somewhat scaly, caused by hard folds of skin, v. Lewysohn, Zoologie, p. 234.

(17) A number of other interpretations have been given to the whole passage. Rashi translates: spotted like a beam. Ran: incised like a beam; and an alternative, based on the Jerusalemi: square like a beam, instead of circular. Asheri inclines to the last interpretation.

Talmud - Mas. Nedarim 25b

MISHNAH. VOWS IN ERROR: [IF ONE SAYS, ‘KONAM,] IF I ATE OR DRANK, AND THEN REMEMBERED THAT HE HAD; OR, ‘IF I EAT OR DRINK,’ AND THEN FORGOT [HIS VOW] AND ATE OR DRANK; [OR] ‘KONAM BE ANY BENEFIT WHICH MY WIFE HAS OF ME, BECAUSE SHE STOLE MY PURSE OR BEAT MY CHILD, AND IT WAS SUBSEQUENTLY LEARNT THAT SHE HAD NOT BEATEN HIM NOR STOLEN; ALL THESE ARE VOWS IN ERROR. IF A MAN SAW PEOPLE EATING [HIS] FIGS AND SAID TO THEM, LET THE FIGS BE A KORBAN TO YOU,’ AND THEN DISCOVERED THEM TO BE HIS FATHER OR HIS BROTHERS,[1] WHILE OTHERS WERE WITH THEM TOO — BETH SHAMMAI MAINTAIN: HIS FATHER AND BROTHERS ARE PERMITTED, BUT THE REST ARE FORBIDDEN. BETH HILLEL RULE: ALL ARE PERMITTED.

GEMARA. It was taught: Just as vows in error are permitted, so are oaths in error.[2] What are oaths in error? — E.g., those of R. Kahana and R. Assi. One said, I swear that Rab taught this, whilst the other asserted, I swear that he taught this: thus each swore truthfully according to his belief.

IF A MAN SAW PEOPLE EATING [HIS] FIGS. We learnt elsewhere: The Sabbaths and festivals are suggested as an opening [for regret].[3] Before then the ruling was that for those day's the vow is canceled, but for others it is binding; until R. Akiba taught: A vow which is partially annulled is entirely annulled.

Rabbah said: All agree that if he said, ‘Had I known that my father was among you I would have declared, "You are all forbidden except my father",’ all are forbidden but his father is permitted. They differ only if he asserted, ‘Had I known that my father was among you. I would have said, "So-and-so are forbidden and my father is permitted".’[4]

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(1) Whom he would not have prohibited.

(2) V. Shebu. 28b.

(3) E.g., if one made a self-denying vow, the Rabbi may ask him, ‘Had you known that this is forbidden on Sabbaths and Festivals, would you have vowed?’ Should he answer ‘No’, he is absolved.

(4) In the former instance, the second declaration, apart from excluding his father, does not alter the vow at all, since just as he first vowed ‘you are all forbidden’, so now too. Therefore it is not regarded as even partially annulled. But in the second case, the actual form of the vow is changed from the inclusive you are all forbidden’ to the detailed enumeration ‘So-and-so are forbidden’, even if the enumeration covered all. Because of these two factors, viz., the exclusion of his father and the change in form in respect to the rest, it is regarded as partially annulled. Thus the view of Beth Hillel is in accordance with R. Akiba's dictum, whilst Beth Shammai's decision agrees with the earlier ruling. In many cases we find Beth Shammai adhering to the older view; cf. Weiss, Dor, I, 183.

Talmud - Mas. Nedarim 26a

But Raba maintained: All agree that if he declared, ‘Had I known that my father was among you I would have said, "So-and-so are forbidden but my father is permitted",’ all are permitted.[1] They are in dispute only if he declared, ‘Had I known that my father was among you, I would have said, "You are all forbidden except my father".’ Beth Shammai agree with R. Meir, who maintains, one's first words are to be reckoned with, and Beth Hillel agree with R. Jose who said, one's last words count.[2]

R. Papa objected to Raba: In what instance did R. Akiba rule that a vow which is partially annulled is entirely annulled? E.g., [If one said.] ‘Konam, that I do not benefit from any of you,’ if one was [subsequently] permitted [to afford him benefit], they are all permitted. [But if he said,] ‘Konam that I do not benefit from A, B, C,’ etc.: if the first was [subsequently] permitted, all are permitted; but if the last-named was permitted, he alone is permitted, but the rest are forbidden. As for Rabbah, it is well, [for] he can apply the first clause[3] to one who [in the first instance] enumerated A, B, C, etc.;[4] while the second clause[5] refers to one who [in the first instance] declared, ‘to any of you.’[6] But as for yourself: granted that you can apply the first clause to one who [in his second statement] declared, ‘to any of you.’[7]

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(1) Even Beth Shammai regard such as a partially annulled vow, and accept R. Akiba's dictum.

(2) The dispute refers to his second declaration, which is divided into ‘first words’ and ‘last words’. The first words are, ‘you are all forbidden’; since these are identical with his earlier declaration, Beth Shammai maintain that his vow has not even been partially annulled. His last words are ‘except my father’, since these definitely limit the scope of the earlier declaration, Beth Hillel maintain that the vow has thereby been partially, and consequently entirely, annulled.

(3) Viz., ‘konam that I do not benefit from all of you’.

(4) Subsequently altering it to the form given in the Mishnah.

(5) ‘Konam that I do not benefit from A, B, C’, etc.

(6) Hence the actual forms given refer to the second declaration. Now, Rabbah maintains that the dispute of Beth Hillel and Beth Shammai, as that of R. Akiba and his predecessors, refers to a case where the second declaration, besides excluding a particular person, differs in form from the first. Hence in the two instances dealt with here it is the view only of R. Akiba (and Beth Hillel) that that absolution extends to all; but his predecessors hold that even in these instances absolution is limited to the person definitely excluded. This explanation does not allow for the distinction drawn in the two subdivisions of the second clause, and Raba draws attention to it in his reply. — A number of varying interpretations have been given in this passage. The one adopted here is that of Tosaf.

(7) Hence, as explained by Raba above, this ruling is disputed by R. Akiba's predecessors; therefore it is given as an illustration of R. Akiba's view on), implying that his predecessors disagree.

Talmud - Mas. Nedarim 26b

But as for the second clause, where one enumerated, A, B, C — is this R. Akiba's view [only]: why do the Rabbis disagree therewith? But you say that all agree that the vow is entirely annulled? — Raba answered: Even according to Rabbah, is R. Akiba's ruling satisfactory? How have you explained it: that he said, ‘any of you’: who then is the ‘first’, and who is the ‘last’? But [explain it thus]: The first clause means that he said, ‘any of you’; but the second refers e.g., to one who made each dependent on the preceding, vowing, B be as A, C be as B, etc.[1] This may be proved too, for it is taught: if the middle person was permitted, those mentioned after him are [also] permitted, but not those named before.

R. Adda b. Ahaba objected to Raba: ‘Konam, if I taste onions, because they are injurious to the heart’: then one said to him, But the wild onion[2] is good for the heart — he is permitted to partake of wild onions, and not only of these, but of all onions. Such a case happened before R. Meir, who gave absolution in respect of all onions. Does it not mean that he declared, ‘Had I known that wild onions are good for the heart, I would have vowed: "all onions be forbidden me, but wild onions be permitted"'?[3] — No. This refers to one who declared, 'Had I known that wild onions are good for the heart, I would have vowed, "Such and such onions be forbidden me, but wild onions be permitted"'; and therefore R. Meir's ruling agrees with both R. Akiba and the Rabbis.

Rabina objected to Raba: R. Nathan said: A vow may be partly permitted and partly binding. E.g., if one vowed not to eat a basket [of figs],

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(1) Therefore if by his second statement A is excluded, the rest are likewise excluded. But if the last-named is excluded, the vow remains in full force with respect to those mentioned earlier.

(2) Rashi: the name of a place — probably Cyprus.

(3) This contradicts Raba's view that Beth Shammai's ruling, confining absolution only to that explicitly excluded, is in agreement with R. Meir. Here we see that R. Meir himself granted complete absolution.

Talmud - Mas. Nedarim 27a

among which were shuah[1] figs, and then declared, 'Had I known that shuali figs were among them, I would not have vowed' — the basket of figs is forbidden, but the shuah figs are permitted. Then R. Akiba came and taught: A vow which is partially annulled is entirely annulled. Does it not mean that he declared, 'Had I known that shuah figs were among them, I would have vowed: "The black figs and white figs be forbidden, but the shuah figs be permitted"?' Yet it is R. Akiba's view only, but the Rabbis dispute it.[2] — No. This refers to one who declared, 'Had I known that shuah figs were among them, I would have vowed, "Let the whole basket [of figs] be forbidden, but the shuah figs permitted."'

Which Tanna is the authority for the following dictum of the Rabbis? If one vowed simultaneously not to benefit from five men, if he is absolved in respect of one of them, he is absolved in respect of all; but [if he stated,] 'Except one of them,' that one is permitted, but the others are forbidden [to him]. According to Rabbah, the first clause agrees with R. Akiba [only], and the second clause with all.[3] According to Raba, the second clause agrees with the Rabbis [only], and the first clause with all.

MISHNAH. VOWS [BROKEN] UNDER PRESSURE: IF ONE SUBJECTED HIS NEIGHBOUR TO A VOW, TO DINE WITH HIM,[4] AND THEN HE OR HIS SON FELL SICK, OR A RIVER PREVENTED HIM [FROM COMING TO HIM] — SUCH IS A VOW [BROKEN] UNDER PRESSURE. GEMARA. A man once deposited his rights[5] at Beth din, and declared: 'If I do not appear within thirty days, these rights shall be void.' Subsequently he was unavoidably prevented from appearing. Thereupon R. Huna ruled: His rights are void. But Rabbah said to him, He was unavoidably prevented, and the Divine Law exempts such,for it is written, But unto the damsel shalt thou do nothing.[6] And should you answer, the death penalty is different ,[7] □ but we learnt ; VOWS [BROKEN] UNDER PRESSURE; IF ONE SUBJECTED HIS NEIGHBOUR TO A VOW TO DINE WITH HIM, AND THEN HE OR HIS SON FELL SICK, OR A RIVER PREVENTED HIM [FROM COMING TO HIM] — SUCH IS A VOW [BROKEN] UNDER PRESSURE![8] Now, according to Rabbah, wherein does this differ from what We learnt: [If one said to his wife,] 'Behold! this is thy divorce, [to be effective] from now, if I do not come back within twelve months', and he died within the twelve months, the divorce is valid?[9] Yet why so? was he not forcibly prevented! — I will tell you. There it may be different,

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(1) A species of white figs.

(2) This contradicts Raba's view that in such a case there is no dispute.

(3) In the first clause it is assumed that his partially revoking statement was, 'Had I known that X was in the group, I would have said, ' 'A, B, C, etc. be forbidden, but X be permitted".' This assumption is based on the contrast with the second clause, where one was excluded, from which it is assumed that his revoking statement was, ‘Had I known . . . I would have declared, "All of you be forbidden etc."’

(4) Saying, ‘You are forbidden to benefit from me if you do not eat with me’.

(5) A document embodying his rights (Tosaf.).

(6) Deut. XXII, 26. This refers to a betrothed maiden who was violated against her will; but if she was a consenting party, she was punished with death.

(7) Because of its gravity.

(8) Proving that such exemption holds good in all cases.

(9) And if she is childless she is free from Levirate marriage or the ceremony of loosening the ‘shoe (v. Deut XXV, 5. seq.), because she is not the deceased's widow.

Talmud - Mas. Nedarim 27b

because had he known that he would die, he would have decided and given the divorce so as to take effect immediately.[1] And how does it differ from the case of the man who declared, ‘If I do not come within thirty days from now, let it be a divorce. ‘ He came [on the last day], but was cut off through [the lack of] a ferry. [Yet though] he cried out, ‘See! I have come; see! I have come!’ Samuel ruled, That is not called coming[2] . But why: surely he was unavoidably prevented? — Perhaps an accident that can be foreseen is different, and [the lack of] a ferry could be foreseen.[3]

Now according to R. Huna, let us see; It is an asmakta,[4] and an asmakta gives no title?[5] — Here it is different, because he had deposited his rights.[6] And where they are deposited, is it not an asmakta? But we learnt: If one repaid a portion of his debt, and then placed the bond in the hands of a third party, and declared, ‘If I do not repay [the balance] within thirty days, return the bill to the creditor,’[7] and the time came and he did not repay, R. Jose maintained: He [the third party] must surrender the bond to the [creditor]; R. Judah maintained: He must not surrender it. And R. Nahman said in the name of Rabbah b. Abbahu in Rab's name: The halachah is not as R. Jose, who ruled that an asmakta gives a legal claim.[8] — Here it is different, because he had declared, ‘These rights shall be void.’[9] Now the law is: an asmakta does give a legal claim, providing that no unavoidable accident supervened and that a formal acquisition was made[10] at an authoritative Beth din.[11]

MISHNAH. ONE MAY VOW TO MURDERERS,[12] ROBBERS,[13] AND PUBLICANS THAT IT [THE PRODUCE WHICH THEY DEMAND] IS TERUMAH, EVEN IF IT IS NOT,[14] OR THAT IT BELONGS TO THE ROYAL HOUSE, EVEN IF IT DOES NOT. BETH SHAMMAI MAINTAIN: ONE MAY MAKE ANY FORM OF VOW,

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(1) So that the result would be the same.

(2) Because he had stipulated to come at a particular time.

(3) But the Mishnah refers to a river abnormally swollen by the rains and inciting snow.

(4) V. Glos.

(5) I.e., gives the claimant no rights, because it is presumed that such a promise was not meant seriously, but made only in order to give the transaction the character of good faith and solemnity.

(6) Not merely promised them.

(7) Who will thus be able to demand the full sum.

(8) V. B.B. (Sonc. ed.) p. 734.

(9) This is a stronger declaration than e.g., ‘I will not claim my rights’; hence it is valid.

(10) The conceding party formally ceded his rights. This was symbolically effected by one giving an article, e.g., a scarf, to the other.

(11) Rash and Maim.: an ordained Beth din; Ran: a Beth din with the power to enforce its decisions.

(12) I.e., robbers who kill if their demands are not granted.

(13) Rashi, Ran, Rosh and Tosaf. all interpret this as private robbers. Jast.: official oppressors. These are less desperate than murderers, and do not kill if their demands are refused.

(14) This vow is to save it from their hands, as terumah is forbidden to a zar, q.v. Glos. — It is remarkable that even murderers and robbers are assumed to respect the prohibition of terumah!

Talmud - Mas. Nedarim 28a

EXCEPTING THAT SUSTAINED BY AN OATH;[1] BUT BETH HILLEL MAINTAIN: EVEN SUCH ARE PERMISSIBLE.[2] BETH SHAMMAI RULE: HE MUST NOT VOLUNTEER TO VOW;[3] BETH HILLEL RULE: HE MAY DO SO. BETH SHAMMAI SAY: [HE MAY VOW] ONLY AS FAR AS HE [THE MURDERER, etc.] MAKES HIM VOW; BETH HILLEL SAY: EVEN IN RESPECT OF WHAT HE DOES NOT MAKE HIM VOW. E.G., IF HE [THE ROBBER] SAID TO HIM, SAY: KONAM BE ANY BENEFIT MY WIFE HAS OF ME'; AND HE DECLARED, 'KONAM BE ANY BENEFIT MY WIFE AND CHILDREN HAVE OF ME,' — BETH SHAMMAI RULE: HIS WIFE IS PERMITTED, BUT HIS CHILDREN ARE FORBIDDEN; BETH HILLEL RULE: BOTH ARE PERMITTED.

GEMARA. But Samuel said, The law of the country is law?[4] — R. Hinena said in the name of R. Kahana in the name of Samuel: The Mishnah refers to a publican who is not limited to a legal due.[5] The School of R. Jannai answered: This refers to an unauthorised collector.

OR THAT IT BELONGS TO THE ROYAL HOUSE, EVEN IF IT DOES NOT. How does he vow? — R. Amram said in Rab's name: By saying, 'May all the fruits of the world be forbidden me, if this does not belong to the royal house.' But if he said, 'may they be forbidden,' all the fruits of the world are forbidden to him.[6] — He adds, to-day. But if so, the publican will not accept it! — He mentally stipulates 'to-day,' but makes no explicit reservation; and though we [normally] rule that an unexpressed stipulation is invalid,[7] it is different when made under duress.

BETH SHAMMAI MAINTAIN: ONE MAY MAKE ANY FORM OF VOW . . . BUT BETH HILLEL RULE THAT EVEN SUCH ARE PER MISSIBLE. BETH SHAMMAI RULE: THE OWNER MUST NOT VOLUNTEER TO VOW; BETH HILLEL RULE: HE MAY DO SO. BETH SHAMMAI SAY: HE MAY VOW ONLY AS FAR AS HE [THE MURDERER] MAKES HIM VOW; BETH HILLEL SAY: EVEN IN RESPECT OF WHAT HE DOES NOT MAKE HIM VOW. E.G., IF HE [THE ROBBER] SAID TO HIM, SAY: KONAM BE ANY BENEFIT MY WIFE HAS OF ME'; AND THE OWNER DECLARED, 'KONAM BE ANY BENEFIT MY WIFE AND CHIldren HAVE OF ME — BETH SHAMMAI RULE: HIS WIFE IS PERMITTED, BUT HIS CHILDREN ARE FORBIDDEN; BETH HILLEL RULE: BOTH ARE PERMITTED.

R. Huna said: A Tanna taught: Beth Shammai maintain: He must not volunteer with an oath; Beth Hillel say: He may volunteer even with an oath. Now, in the view of Beth Shammai, only with an oath may he not volunteer, but he may volunteer a vow. But we learnt: BETH SHAMMAI RULE: THE OWNER MUST NOT VOLUNTEER TO VOW. Moreover, he may merely not volunteer an oath, but he may vow with an oath [if requested]; but we learnt, BETH SHAMMAI MAINTAIN: ONE MAY MAKE ANY FORM OF VOW, EXCEPTING THAT SUSTAINED BY AN OATH? — The Mishnah deals with a vow, to shew how far-reaching is Beth Shammai's ruling;[8] whilst the Baraitha treats of an oath, to shew the full extent of Beth Hillel's view.[9]

R. Ashi answered, This is what is taught: Beth Shammai say, There is no absolution for an oath; and Beth Hillel say, There is absolution for an oath.[10]

MISHNAH. [IF ONE SAYS,] 'LET THESE SAPLINGS BE KORBAN [I.E., CONSECRATED] IF THEY ARE NOT CUT DOWN'; OR, LET THIS GARMENT BE KORBAN IF IT IS NOT BURNT: THEY CAN BE REDEEMED.[11] [IF HE SAYS,] 'LET THESE SAPLINGS BE KORBAN UNTIL THEY ARE CUT DOWN ; OR, LET THIS GARMENT BE KORBAN UNTIL IT IS

BURNT’,

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(1) I.e. one may not vow, ‘may this corn be forbidden me by an oath if’ etc.

(2) Weiss, Dor I, p. 185, conjectures that this controversy arose out of Herod's demand that all the members of the nation should swear loyalty to him (Joseph. Ant. 15, ¤ 10).

(3) If the murderer does not demand a vow as an assurance, he must not offer to vow of his own accord.

(4) Therefore the publican has a legal claim: why then is the owner permitted to evade payment by a false vow?

(5) Under the Roman Procurators there was a tremendous amount of illegal extortion, particularly of octroi tolls, v. Sanh. (Sonc. ed.) p. 148.

(6) For if the vow contains no sort of evasion, it is binding whatever its purpose.

(7) Lit., ‘words that are in the heart are no words’.

(8) I.e., one may not volunteer even a vow, which is not as grave as an oath.

(9) That one may volunteer even an oath, in spite of its greater gravity.

(10) According to this, the Baraitha does not treat of vows under pressure at all. The Heb. lo yiftah (rendered ‘he may not volunteer’) will mean: He (the rabbi) must not give an opening for regret, i.e., must not grant absolution.

(11) They are duly consecrated, and must be redeemed before they are permitted for secular use.

Talmud - Mas. Nedarim 28b

THEY CANNOT BE REDEEMED.[1]

GEMARA. Let [the Mishnah] teach ‘they are consecrated!’[2] — Because the second clause must state ‘ THEY CANNOT BE REDEEMED,’[3] the first clause also states, ‘THEY CAN BE REDEEMED.

How was the vow made?[4] — Amemar answered: By saying, ‘. . . if they are not cut down to-day’; and the day passed without their being cut down. If so, why teach it: is it not obvious? — The need for teaching it arises e.g., when a strong wind is blowing.[5] But the same is taught with respect to a garment: and does a garment stand to be burnt? — Even so; e.g., when a fire has broken out. So here too [in respect of plants], a strong wind is blowing; and I might think that he thought that they would not be saved, and therefore vowed.[6] Hence the Mishnah informs us [that the vow is binding].

LET THESE SAPLINGS BE KORBAN etc. [Can they] never [be redeemed]?[7] — Said Bar Pada: If he redeems them, they revert to their sanctity; if he redeems them again, they again revert to their sanctity, until they are cut down.[8] When cut down, he redeems them once,[9] and that suffices. ‘Ulla said: Having been cut down, they require no further redemption.[10]

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(1) Because a definite limit having been set, even if they are redeemed, they revert to their consecrated state.

(2) Instead of the unusual ‘they can be redeemed’. This is the reading of Ran, Asheri, and one view of Tosaf. Rashi's reading, which is that of cur. edd. is, ‘let the Mishnah teach "they are consecrated" (in one respect) "and unconsecrated" (in another)’; the meaning of which is, they are consecrated in accordance with his vow’, but not so strongly that they cannot be redeemed. This aspect of non-consecration is merely by contrast with the case of the second clause, where, even if redeemed, they revert to their consecrated state. [Tosaf. in name of R. Isaac of Dampierre (Ri.) gives a more satisfactory interpretation to this reading: ‘They are consecrated’ as long as they are not cut down, and ‘unconsecrated’ when they are cut down.]

(3) It would be insufficient merely to state that they are consecrated, as the emphasis lies on the fact that redemption cannot release them.

(4) Since ultimately they have to be cut down, how’ and when can they become consecrated?

(5) In which case it might be assumed that he never for a moment thought it possible for the saplings to be spared and did not consecrate them with a perfect heart.

(6) But not really meaning it, and so the vow is invalid.

(7) Surely that is impossible, since the vow set a limit to their period of sanctity!

(8) V. p. 82, n. 3.

(9) V. infra.

(10) Since by the term of the vow their consecration lasts only until then.

Talmud - Mas. Nedarim 29a

Said R. Hamnuna to him: Whither then has their sanctity departed? What if one said to a woman, ‘Be thou my wife to-day, but to-morrow thou art no longer my wife’: would she be free without a divorce?[1] — Raba replied: Can you compare monetary consecration to bodily consecration?[2] Monetary sanctity may automatically end; but bodily consecration cannot end thus. Abaye objected to him: Cannot bodily consecration automatically cease? But it was taught: [If one says.] ‘Let this ox be a burntoffering for thirty days, and after that a peace-offering’:[3] it is a burntoffering for thirty days, and after that a peace-offering. Now why? it has bodily sanctity, yet it loses it automatically![4] — This deals with one who consecrated its value.[5] If so, consider the second clause: [If he says,] ‘Let it be a burnt-offering after thirty days, but a peace-offering from now’ [it is so]. Now, if you agree that one clause refers to bodily sanctity, and the other to monetary sanctity,

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(1) Notwithstanding that he had married her for a limited period. So here too, though he had declared, ‘let them be korban until they are cut down’; yet when they are, they do not automatically lose their sanctity. but must be redeemed.

(2) The plants have only a monetary consecration, i.e., they cannot themselves be offered in the Temple, but must be redeemed, and their redemption money is utilized in the Temple service. But a married woman is herself consecrated to her husband.

(3) I.e., if sacrificed within thirty days, it must be a burnt-offering; if after, a peace-offering.

(4) Its sanctity as a burnt-offering has automatically ceased, though it retains the sanctity of a peace-offering.

(5) I.e. , the value of this ox be consecrated as a burnt-offering for thirty days. viz., that if redeemed within thirty days, a burntoffering must be bought for the money; if after, a peace-offering.

Talmud - Mas. Nedarim 29b

hence the Tanna must teach both [clauses], because I would think that monetary consecration can automatically cease, but not so bodily sanctity; hence both are rightly taught. But if you maintain that the two refer to monetary consecration, why teach them both? If a higher sanctity can automatically give way to a lower sanctity, Surely it is superfluous to state that a lower sanctity can be replaced by a higher one?[1] Shall we say that this is a refutation of Bar Pada, who maintained that sanctity cannot cease automatically? — Said R. Papa, Bar Pada can answer thus: The text is defective,[2] and this is its meaning: If he did not say, ‘let this be a peace — offering from now, it remains a burnt-offering after thirty days.[3] This may be compared to the case of one who says to a woman, ‘Be thou betrothed unto me after thirty days’; she becomes betrothed [then], even though the money [of betrothal] has been consumed [in the meanwhile].[4] But is this not obvious?[5] — This is necessary only [to teach that] where he supplemented his first declaration [it is still ineffective].[6] Now that is well on the view that she [the woman] cannot retract;[7] but on the view that she can retract, what can be said?[8] — Even according to that view, this case is different, because a verbal promise to God is as actual delivery in secular transactions.[9]

R. Abin and R. Isaac b. Rabbi[10] were sitting before R. Jeremiah, who was dozing. Now they sat and stated: According to Bar Pada, who maintained that they revert to their sanctity,

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(1) The burnt-offering has a higher sanctity than a peace-offering.

(2) This is Rashi's reading, but is absent from the versions of Asheri, Ran, and Tosaf.

(3) The text is thus to be reconstructed: If one says, ‘Let this ox be a burntoffering for thirty days, and from now and after thirty days a peace-offering’: it is a burnt-offering for the first thirty days, and a peace-offering after that. But if he did not say, ‘Let it be a peace-offering from now and after thirty days’, but merely, ‘let it be a burnt-offering for thirty days; and a peace-offering afterwards'; it remains a burnt-offering after thirty days. In the former case, the sanctity pertaining to the burnt-offering automatically ceases, because that of the peace-offering is potentially concurrent therewith and extends beyond it; but in the latter case, the sanctity cannot automatically cease (Rashi). Ran, Asheri and Tosaf. explain it differently.

(4) So here too. When the second sanctity is not imposed concurrently with the first, the latter, on the completion of the thirty days, is similar to the money, which though consumed in the meanwhile, is nevertheless effective in betrothing the woman; so also the first sanctity remains though the period has been 'consumed'.

(5) Since it is taught that only when the second sanctity runs concurrently with the first does it take effect after thirty days, it is self-evident that if it is not imposed concurrently, the first sanctity remains after the period.

(6) I.e. , if after declaring. 'this ox be a burnt-offering for thirty days and after that let it be a peaceoffering' (in which case, as we have seen, it remains a burnt-offering), he made a supplementary statement, 'let it be a peace-offering from now and after thirty days', it will still remain a burnt-offering after that period, because this statement from now' must be made at the outset. Now, if only the first clause had been taught. viz., that if he imposed the second sanctity concurrently with

(7) During the interval and become betrothed to another man. So here too, unless the second sanctity was at the outset imposed concurrently with the first, the force of the latter remains.

(8) So here too by analogy, even if the second sanctity was not imposed concurrently with the first, it should cancel the first after the thirty days.

(9) I.e., the declaration, 'this ox be a burntoffering for thirty days', has more force than a normal promise affecting the interests of man only. but is regarded as though thereby the animal had actually been made into a burnt-offering. and therefore that sanctity, even though imposed for a limited period, remains after it, unless another was imposed concurrently therewith.

(10) [Read with MS.M 'b. Joseph'.]

Talmud - Mas. Nedarim 30a

you may solve the problem of R. Hoshaia. Viz., what if one gives two perutahs to a woman, saying to her, 'Be thou betrothed unto me for one of these to-day. and for the other be thou betrothed unto me after I divorce thee'?[1] [Now, from Bar Pada's ruling you may deduce that the second] is indeed [valid] kiddushin.[2] This the first the former is duly effective, I would think that it is so even if this concurrent sanctity was imposed only in a supplementary statement. Hence the need for the second clause, viz., that if the second sanctity was not (at the very outset) imposed concurrently with the first, it cannot come into effect. roused R. Jeremiah, and he said to them, Why do you compare redemption by the owner to redemption by others? Thus did R. Johanan say: If he himself redeems them, they revert to their sanctity; but if others redeem them, they do not.[3] Now a [divorced] woman may be compared to the case of redemption by others.[4] It was stated likewise: R. Ammi said in R. Johanan's name: Only if he himself redeems them was this taught [that they revert to their sanctity]; but when others redeem them, they do not revert to their sanctity.

MISHNAH. HE WHO VOWS [NOT TO BENEFIT] FROM SEAFARERS, MAY BENEFIT FROM LAND-DWELLERS; FROM LAND-DWELLERS, HE IS FORBIDDEN [TO BENEFIT] EVEN FROM SEAFARERS, BECAUSE SEAFARERS ARE INCLUDED IN THE TERM LAND-DWELLERS'; NOT THOSE WHO MERELY TRAVEL FROM ACCO TO JAFFA,[5] BUT THOSE WHO SAIL AWAY GREAT DISTANCES [FROM LAND].

GEMARA. R. Papa and R. Aha son of R. Ika — one referred it [the last statement] to the first clause, and the other to the second. Now, he who referred it to the first clause learnt thus: HE WHO VOWS [NOT TO BENEFIT] FROM SEAFARERS MAY BENEFIT FROM LAND-DWELLERS. Hence, he may not benefit from seafarers; NOT THOSE WHO MERELY

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(1) Is the second betrothal valid?

(2) For, just as the plants after redemption revert to their sanctity in virtue of an earlier declaration, so the woman, after being freed by a divorce, will revert to her betrothed state in virtue of the declaration prior thereto — Ran and Asheri. Rashi: For, when the plants are cut down, they should, according to the terms of the vow, lose their sanctity; yet in virtue of the first declaration they retain it until they are redeemed. So here too: though the divorce sets the woman free, the prior declaration is valid insofar as she becomes betrothed again. This interpretation is rather strained. Moreover, it would appear that the deduction is made from the fact that before being cut down the plants revert to their sanctity after being redeemed, and not because they require redemption even after being cut down. In Rashi's favour, however, it may be observed that this law of consecration after redemption is that of the Mishnah as explained both by Bar Pada and by ‘Ulla. So that the particular reference to Bar Pada may indicate that the solution in deduced from the continued sanctity of the saplings after they are cut down, which is maintained by Bar Pada only.

(3) For since they are redeemed by others, they are no longer under the authority of their first owner, therefore his first declaration is no longer valid.

(4) Because once divorced, she is no longer under her husband's authority, just as the plants, when redeemed by others, are not under the authority of their first owner.

(5) Acco (also called Acre). A city and seaport of Phoenicia on a promontory at the foot of mount Carmel (‘Cf. Josephus. Ant, II, 10, 2). Jaffa. A city of Palestine and a Mediterranean Port, 35 miles northwest of Jerusalem.

Talmud - Mas. Nedarim 30b

TRAVEL FROM ACCO TO JAFFA, as these are land-dwellers, BUT THOSE WHO SAIL AWAY GREAT DISTANCES [FROM LAND]. He who referred it to the second clause learnt thus: [IF ONE VOWS NOT TO BENEFIT] FROM LAND-DWELLERS, HE MAY NOT BENEFIT FROM SEAFARERS; [this applies] NOT ONLY TO THOSE WHO TRAVEL MERELY FROM ACCO TO JAFFA. BUT EVEN TO THOSE WHO TRAVEL GREAT DISTANCES, since they eventually land.

MISHNAH. HE WHO VOWS [NOT TO BENEFIT] FROM THE SEERS OF THE SUN, IS FORBIDDEN FROM THE BLIND TOO, BECAUSE HE MEANT THOSE WHOM THE SUN SEES’.[1]

GEMARA. What is the reason? — Since he did not say ‘from those who see,’ he meant to exclude only fish and embryos.[1]

MISHNAH. HE WHO VOWS [NOT TO BENEFIT] FROM THE BLACK-HAIRED MAY NOT [BENEFIT] FROM THE BALD AND THE GREY-HAIRED, BUT MAY [BENEFIT] FROM WOMEN AND CHILDREN, BECAUSE ONLY MEN ARE CALLED BLACKHAIRED.

GEMARA. What is the reason? — Since he did not say ‘from those who possess hair’.[2]

BUT MAY [BENEFIT] FROM WOMEN AND CHILDREN, BECAUSE ONLY MEN ARE CALLED ‘BLACK-HAIRED’. What is the reason? — Men sometimes cover their heads and sometimes not; but women's hair is always covered, and children are always bareheaded.[3] MISHNAH. ONE WHO VOWS [NOT TO BENEFIT] FROM YILLODIM [THOSE BORN] MAY [BENEFIT] FROM NOLADIM THOSE TO BE BORN]; FROM NOLADIM, HE MAY NOT [BENEFIT] FROM YILLODIM. R. MEIR PERMITTED [HIM TO BENEFIT] EVEN FROM YILLODIM; BUT THE SAGES SAY: HE MEANT ALL WHOSE NATURE IT IS TO BE BORN.[4]

GEMARA. Now, according to R. Meir, noladim go without saying;[5] who then is forbidden to him? — The text is defective, and thus to be reconstructed: ONE WHO VOWS [NOT TO BENEFIT] FROM YILLODIM MAY [BENEFIT] FROM NOLADIM; FROM NOLADIM, YILLODIM ARE FORBIDDEN TO HIM. R. MEIR SAID: ALSO HE WHO VOWS NOT TO BENEFIT] FROM NOLADIM MAY [BENEFIT] FROM YILLODIM, JUST AS HE WHO VOWS NOT TO BENEFIT FROM YILLODIM MAY [BENEFIT] FROM NOLADIM.[6]

R. Papa said to Abaye: Are we to conclude that noladim implies those about to be born? If so, does the verse, thy two sons, which noladim unto thee in the land of Egypt,[7] — mean 'who are to be born'?[8] — What then will you say: that it implies who were born? If so, what of the verse, behold a child nolad unto the house of David Josiah by name:[9] will you say that he was [already born]? but even Menasseh [Josiah's grandfather] was not yet born![10] But nolad implies both,[11] and in vows, we follow general usage.[12] BUT THE SAGES SAY: HE MEANT ALL WHOSE NATURE IT IS TO BE BORN. Excluding what? — It excludes fish and fowl.[13]

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(1) [I.e.. he might have intended the phrase 'those who see the sun' as an euphemism for 'those whom the sun sees', i.e., the blind (cf. Bek. VIII, 3, סכי שמש, 'looking to the sun' used euphemistically for 'squinting'). But since with vows we adopt the more rigorous interpretation, he is forbidden to benefit from those who see as well as from the blind (cf. Rabinowitz, M. Graber Otzar ha-Safruth II, 137ff.).]

(2) Therefore bald and grey-haired people are included, since they were once black-haired.

(3) Hence women would be referred to as 'those of covered hair', and children as 'the bare-headed'. — Ran. In Mishnaic times it was the universal practise for women's hair to be covered, and its violation was deemed sufficient ground for divorce without payment of the kethubah (Keth. 72a Mishnah.) From the present passage it appears that no distinction was drawn between married and unmarried women, but later on custom became more lenient with respect to unmarried women (Shulhan 'Aruk', O.H. 75, 2; cf. Sanh. (Sonc. ed.) p. 398. n. 1 , referring to Gentiles). As for men, it was considered a sign of reverence and piety to cover the head (Kid. 31a, Shab. 118b); nevertheless only in the case of great scholars was it held to be indispensable (cf. Kid. 8a.

(4) I.e., not hatched, and therefore including both those already born and those to be born.

(5) That they are permitted. since the Mishnah states, R. MEIR PERMITTED (HIM TO BENEFIT) EVEN FROM YILLODIM.

(6) I.e. in each case his words are taken literally.

(7) Gen. XLVIII.5.

(8) The reference being to Ephraim and Manasseh, who were already born.

(9) I Kings XIII, 2.

(10) This verse was spoken in the reign of Jeroboam I.

(11) Biblically. Sc. 'born' and 'to be born'.

(12) Lit., 'the language of the sons of men', which applies nolad to those who are yet to be born.

(13) Which are spawned and hatched respectively.

Talmud - Mas. Nedarim 31a

MISHNAH. HE WHO VOWS [NOT TO BENEFIT] FROM THOSE WHO REST ON THE SABBATH, IS FORBIDDEN [TO BENEFIT] BOTH FROM ISRAELITES AND CUTHEANS.[1] IF HE VOWS [NOT TO BENEFIT] FROM GARlic EATERS, HE MAY NOT BENEFIT FROM ISRAELITES AND CUTHEANS;[2] FROM THOSE WHO GO UP[3] TO JERUSALEM, HE IS FORBIDDEN [TO BENEFIT] FROM ISRAELITES BUT FROM CUTHEANS HE IS PERMITTED.[4]

GEMARA. What is meant by 'THOSE WHO REST ON THE SABBATH'? Shall we say, 'those who observe the Sabbath,' why particularly Cutheans: even heathens [if they observe the Sabbath] too? Hence It must mean 'those who are commanded to observe the Sabbath.'' If so, consider the last clause: FROM THOSE WHO GO UP TO JERUSALEM, HE IS FORBIDDEN [TO BENEFIT] FROM ISRAELITES BUT FROM CUTHEANS HE IS PERMITTED. But why so: are they not commanded too?[5] — Sand Abaye: In both clauses the reference is to those who are commanded and fulfil [their obligations]. Hence, in the first clause, both Israelites and Cutheans are commanded and observe [the Sabbath]; but those heathens who rest on the Sabbath do so without being obliged to. As for making pilgrimages to Jerusalem, Jews are commanded and observe it; but Cutheans, though commanded, do not.

MISHNAH. [IF ONE SAYS,] ‘KONAM THAT I DO NOT BENEFIT FROM THE CHILDREN OF NOAH,’ HE MAY BENEFIT FROM ISRAELITES, BUT NOT FROM HEATHENS.

GEMARA. But are then Israelites excluded from the children of Noah? — Since Abraham was sanctified, they are called by his name.[6]

MISHNAH. [IF ONE SAYS, ‘KONAM] THAT I DO NOT BENEFIT FROM THE SEED OF ABRAHAM,’ HE IS FORBIDDEN [TO BENEFIT] FROM ISRAELITES, BUT PERMITTED [TO BENEFIT] FROM HEATHENS.

GEMARA. But there is Ishmael?[7] — It is written, for in Isaac shall thy seed be called.[8] But there is Esau? — ‘In Isaac’,[9] but not all [the descendants of] Isaac.

MISHNAH. [IF ONE SAYS, ‘KONAM] THAT I DO NOT BENEFIT FROM ISRAELITES’, HE MUST BUY THINGS FROM THEM FOR MORE [THAN THEIR WORTH] AND SELL THEM FOR LESS.[10] [IF HE SAYS, ‘KONAM] IF ISRAELITES BENEFIT FROM ME, HE MUST BUY FROM THEM FOR LESS AND SELL FOR MORE [THAN THEIR WORTH], BUT NONE NEED CONSENT TO THIS.[11] THAT I MAY NOT BENEFIT FROM THEM, NOR THEY FROM ME, HE MAY BENEFIT ONLY FROM HEATHENS.[12]

GEMARA. Samuel said: If one takes an article from an artisan[13] on approval, and whilst in his possession it is accidentally damaged, he is liable for it. Hence we see that in his view the benefit is on the side of the buyer.[14] We learnt: [IF ONE SAYS, ‘ KONAM] THAT I DO NOT BENEFIT FROM ISRAELITES,’ HE MUST . . . SELL THEM FOR LESS. Hence he may not sell at its actual worth: but if the purchaser benefits [not the vendor], why not sell at its actual worth? — The Mishnah refers to an unsaleable article.[15] If so, consider the first statement : HE MUST BUY FOR MORE THAN THEIR WORTH.[16] Moreover, consider the second clause: [IF HE SAYS, ‘KONAM] IF ISRAELITES BENEFIT FROM ME,’ HE MUST BUY FROM THEM FOR LESS AND SELL FOR MORE THAN THEIR WORTH. But if this refers to unsaleable merchandise, even [to sell] at its actual worth [should be permitted]?[17] — The second clause refers to ‘keen’ merchandise.[18] If so, why must he purchase at a lesser [price]; he may even pay the full value?[19] —

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(1) Lit., ‘men of Cuth or Cuthah’; this was one of the five cities from which Sargon, King of Assyria, brought settlers for the depopulated Northern Palestine, after it had been conquered and its inhabitants deported (II Kings XVII, 24, 30). During the period of its depopulation the land had become overrun by lions, who now attacked the settlers; they took this as a sign of the wrath of the local deity, and so, after instruction, they became Jews, though continuing some of their heathen practices. The religious status of the Cutheans (also called Samaritans) was of rather a vacillating nature. The Cutheans observed the Sabbath.

(2) It was customary for these to eat garlic on Friday evenings. B.K. 82a.

(3) For the three Festivals v. Deut. XVI, 16.

(4) The Cutheans built a temple upon mount Gerizim, and though this was destroyed by John Hyrcanus, they continued to reverence the site and make pilgrimages thereto, instead of to Jerusalem.

(5) Since they regarded themselves as true Jews and had formally become converts.

(6) I.e., they are referred to as descendants ofabraham, not of Noah.

(7) Hence his descendants, who are heathens, should be included in the vow.

(8) Gen. XXI, 12.

(9) I.e. , only a portion of his descendants.

(10) Because if he trades on ordinary terms, he is benefiting from them.

(11) I.e., since others are not likely to trade on such terms, in practice he may not trade with them at all.

(12) The point is this. One might think that since it is almost impossible for such a vow to be kept, it is by its very nature invalid; hence it is taught that its observance is not impossible, as he can fall back upon heathens.

(13) Ran reads: from a tradesman.

(14) Trustees are divided into various categories, according to their degrees of responsibility, depending upon the benefit they derive from their trust. Only one who borrows an article is liable for accidental damage, because all the benefit is on his side, the lender receiving nothing in return. Since Samuel rules that the prospective purchaser is liable for accidental damage, it is evident that he puts him in the same category as a borrower, who is the only one to derive benefit.

(15) I.e., something for which there are no buyers. Hence the vendor benefits from the transaction, unless he sells below market price.

(16) But if it is unsaleable, even if he pays no more than its market value, he is not benefiting.

(17) Since the purchaser does not thereby benefit from him.

(18) Goods in keen demand.

(19) As the vendor does not benefit, since he can easily sell it to someone else.

Talmud - Mas. Nedarim 31b

But the Mishnah refers to average merchandise;[1] whilst Samuel refers to an article that is eagerly sought.

It was taught in agreement with Samuel : If one takes articles from a tradesman [on approval] to send them [as a gift] to his father-in-law's house, and stipulates: ‘if they are accepted, I will pay you their value, but if not, I will pay you for their goodwill benefit’:[2] if they were accidentally damaged on the outward journey, he is liable;[3] if on their return journey, he is not liable, because he is regarded as a paid trustee.[4]

A middleman [once] took an ass[5] to sell, but could not sell it. On his way back it was accidentally injured, [whereupon] R. Nahman held him liable to make it good. Raba objected: ‘if they were damaged on the outward journey, he is liable; if on their return journey. he is not!’ — Sand he to him: The return journey of a middleman counts as an outward journey, for if he finds a purchaser even at his doorstep, will he not sell [it] to him?

MISHNAH. [IF ONE SAYS,] ‘KONAM THAT I DO NOT BENEFIT FROM THE UNCIRCUMCISED, HE MAY BENEFIT FROM UNCIRCUMCISED ISRAELITES BUT NOT FROM CIRCUMCISED HEATHENS; THAT I DO NOT BENEFIT FROM THE CIRCUMCISED,’ HE IS FORBIDDEN TO BENEFIT FROM UNCIRCUMCISED ISRAELITES BUT NOT FROM CIRCUMCISED HEATHENS, BECAUSE ‘UNCIRCUMCISED’ IS A TERM APPLICABLE ONLY TO HEATHENS, AS IT IS WRITTEN, FOR ALL THE NATIONS ARE UNCIRCUMCISED AND ALL THE HOUSE OF ISRAEL ARE UNCIRCUMCISED IN THE HEART.[6] AND IT IS FURTHER SAID, AND THIS UNCIRCUMCISED PHILISTINE SHALL BE [AS ONE OF THEM],[7] AND IT IS FURTHER SAID, LEST THE DAUGHTERS OF THE PHILISTINES REJOICE, LEST THE DAUGHTERS OF THE UNCIRCUMCISED TRIUMPH.[8] R. ELEAZAR B. ‘AZARIAH SAID: THE FORESKIN IS LOATHSOME, SINCE IT IS A TERM OF OPPROBRIUM FOR THE WICKED, AS IT IS WRITTEN, FOR ALL THE NATIONS ARE UNCIRCUMCISED. R. ISHMAEL SAID, GREAT IS [THE PRECEPT] OF CIRCUMCISION, SINCE THIRTEEN COVENANTS WERE MADE THEREON.[9] R. JOSE SAID, CIRCUMCISION IS A GREAT PRECEPT, FOR IT OVERRIDES [THE SEVERITY OF] THE SABBATH.[10] R. JOSHUA B. KARHA SAID: GREAT IS [THE PRECEPT OF] CIRCUMCISION. FOR [NEGLECTING] WHICH MOSES DID NOT HAVE [HIS PUNISHMENT] SUSPENDED EVEN FOR A SINGLE HOUR[11] . R. NEHEMIAH SAID, GREAT IS [THE PRECEPT OF] CIRCUMCISION, SINCE IT SUPERSEDES THE LAWS OF LEPROSY.[12] RABBI SAID, GREAT IS CIRCUMCISION, FOR [NOTWITHSTANDING] ALL THE PRECEPTS WHICH ABRAHAM FULFILLED HE WAS NOT DESIGNATED PERFECT UNTIL HE CIRCUMCISED HIMSELF, AS IT IS WRITTEN, WALK BEFORE ME, AND BE THOU PERFECT.[13] ANOTHER EXPLANATION: GREAT IS CIRCUMCISION, SINCE BUT FOR THAT, THE HOLY ONE, BLESSED BE HE, WOULD NOT HAVE CREATED THE UNIVERSE, AS IT IS WRITTEN, BUT FOR MY COVENANT BY DAY AND NIGHT,[14] I WOULD NOT HAVE APPOINTED THE ORDINANCES OF HEAVEN AND EARTH.[15] GEMARA. It was taught: R. Joshua b. Karha said, Great is circumcision, for all the meritorious deeds performed by Moses our teacher did not stand him in stead when he displayed apathy towards circumcision, as it is written, and the Lord met him, and sought to kill him.[16] R. Jose sand, God forbid that Moses should have been apathetic towards circumcision, but he reasoned thus: ‘If I circumcise [my son] and [straightway] go forth [on my mission to Pharaoh], I will endanger his life, as it is written, and it came to pass on the third day, when they were sore.[17] If I circumcise him, and tarry three days, — but the Holy One, blessed be He, has commanded: Go, return unto Egypt.[18] Why then was Moses punished?

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(1) Which is neither a drag on the market nor in keen demand.

(2) Which he would derive from his father-in-law's knowing that he wished to make him a present. Although only a matter of goodwill a monetary value could be set upon it.

(3) This supports Samuel's ruling.

(4) Who is not liable for accidental damage; this is because he has derived some benefit through having had it in his charge; but he cannot be considered as a simple borrower, the sole benefit being his, since this benefit has by now ceased, B.M. (Sonc. ed.) p. 460.

(5) חמדא. The word may also mean ‘wine’.

(6) Jet. IX, 25. Thus, though there may be some circumcised among the heathens, they are collectively termed ‘uncircumcised’; similarly, when the Israelites are rebuked for their leanings to paganism, they are denounced as ‘uncircumcised of heart’.

(7) I Sam. XVII, 36, though he did not know whether Goliath was uncircumcised or not.

(8) II Sam. I, 20.

(9) In the passage dealing with God's command to Abraham to circumcise himself, the word ‘covenant’ occurs thirteen times. Gen. XVII.

(10) Circumcision, though entailing work, is performed on the Sabbath.

(11) This is discussed in the Gemara.

(12) A leprous spot, such as a swelling etc., may not be cut off (Deut. XXIV, is so interpreted); but if it is on the foreskin, it may be removed together with it.

(13) Gen. XVII, 1.

(14) This is taken to refer to circumcision, which, as shown above, is frequently designated as such.

(15) Jer. XXXIII, 25. This is the end of the Mishnah in our text, but other versions, including that of Ran and Tosaf., add the following: — Great is circumcision, for it counterbalances all other precepts put together, as it is written, behold he blood of the covenant, which he Lord hath made with you concerning all these words (Ex. XXIV, 8). All these words are understood to mean all God's precepts: and ‘the blood of the covenant’, though referring in its context to sacrifice, is applied to circumcision, on account of its frequent designation as covenant. Part of this reading is quoted in the Gemara as a Baraitha. — Weiss, Dor, II, 9. regards all these dicta as called forth by Christianity's abrogation of circumcision.

(16) Ex. IV, 24.

(17) Gen. XXXIV, 25. This refers to the inhabitants of the city of Shechem, who underwent circumcision. Moses considered it dangerous to take his son on a journey within the first three days of circumcision.

(18) Ex. IV, 19, implying without delay.

Talmud - Mas. Nedarim 32a

Because he busied himself first with the inn,[1] as it is written, And it came to pass by the way, in the inn.[2] R. Simeon b. Gamaliel sand: Satan[3] did not seek to slay Moses but the child, for it is written, [Then Zipporah took a sharp stone, and cut off the foreskin of her son, and cast it as his feet, and sand,] Surely a bloody hathan art thou to me.[4] Go forth and see: who is called a hathan? Surely the infant [to be circumcised].[5]

R. Judah b. Bizna lectured: When Moses was lax in the perform ance of circumcision, Af and Hemah[6] came and swallowed him up, leaving nought but his legs. Thereupon immediately Zipporah 'took a sharp stone and cut off the foreskin of her son';[7] straightway he let him alone.[8] In that moment Moses desired to slay them, as it is written, Cease from Af and forsake Hemah.[9] Some say that he did slay Hemah, as it is written, I have not Hemah.[10] But is it not written, for I was afraid of Af and Hemah?[11] — There were two [angels named] Hemah. An alternative answer is this: [he slew] the troop commanded by Hemah, [but not Hemah himself].

It was taught: Rabbi sand, Great is circumcision, for none so ardently busied himself with [God's] precepts as our Father Abraham, yet he was called perfect only in virtue of circumcision, as it is written, Walk before me and be thou perfect,[12] and it is written, And I will make my covenant between me and thee.[13] Another version [of Rabbi's teaching] is this: Great is circumcision, for it counterbalances all the [other] precepts of the Torah, as it is written, For after the tenor of these words I have made a covenant with thee and with Israel.[14] Another version is: Great is circumcision, since but for it heaven and earth would not endure, as it is written, [Thus saith the Lord,] But for my covenant by day and night,[15] I would not have appointed the ordinances of Heaven and earth.[16] Now this [statement][17] conflicts with R. Eleazar's: for R. Eleazar[18] said, Great is the Torah, since but for it heaven and earth could not endure, as it is written, But for my covenant by day and night, I would not have appointed the ordinances of heaven and earth.[19]

Rab Judah sand in Rab's name: When the Holy One, blessed be He, said to our Father Abraham, 'Walk before me and be thou perfect',[20] he was seized with trembling. 'Perhaps,' he said, 'there is still aught shameful in me!' But when He added, 'And I will make my covenant between me and thee', his mind was appeased.[21]

Aid he brought him forth abroad.[22] Now Abraham had said unto him, 'Sovereign of the Universe! I have gazed at the constellation which rules my destiny, and seen that I am not fated to beget children.' To which [God] replied: 'Go forth from thy astrological speculations: Israel is not subject to planetary influences.'

R. Isaac said: He who perfects himself, the Holy One, blessed be He, deals uprightly with him, as it is written, With the merciful thou wilt shew thyself merciful, and with the upright thou wilt shew thyself upright.[23] R. Hoshaia said: If one perfects himself, good fortune will be his,[24] as it is written, Walk before me and be thou perfect;[25] and it is further written, And thou shalt be a father of many nations.[26]

Rabbi[27] said: He who practises enchantment will be harassed by witchcraft, as it is written, For against him, of [the seed of] Jacob, there is enchantment.[28] But surely it is written with lamed aleph?[29] — But he is thus punished as measure for measure.[30] Ahabah the son of R. Zera learnt: He who does not practice enchantment is brought within a barrier [i.e., in proximity to God] which not even the Ministering Angeis may enter, as it is written, For there is no enchantment in Jacob, neither is there any divination in Israel: now it shall be asked [by the angels] of Jacob and Israel, What hath God wrought?[31]

R. Abbahu said in R. Eleazar's name: Why was our Father Abraham punished and his children doomed to Egyptian servitude for two hundred and ten years? Because he pressed scholars into his service, as it is written, He armed his dedicated servants[32] born in his own house.[33] Samuel[34] said: Because he went too far in testing the attributes [i.e., the promises] of the Lord, as it is written, [And he sand, Lord God,] whereby shall I know that I shall inherit it?[35] R. Johanan sand: Because he prevented men from entering beneath the wings of the Shechinah, as it is written, [And the king of Sodom said it to Abraham,] Give me the persons, and take the goods to thyself.[36]

And he armed his trained servants, born in his own house.[37] Rab said, he equipped them[38] by [teaching them] the Torah.[39] Samuel sand, he made them bright with gold [i.e., rewarded them for accompanying him]. Three hundred and eighteen:[40] R. Ammi b. Abba sand: Eliezer outweighed them all. Others say, It was Eliezer, for this is the numerical value of his name.[41]

R. Ammi b. Abba also said: Abraham was three years old when he acknowledged the Creator, for it is written, Because [Heb. ‘ekeb] that Abraham obeyed my voice:[42] the numerical value of ‘ekeb is one hundred seventy two.[43] R. Ammi b. Abba also said:

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(1) Instead of with circumcision.

(2) Ibid. IV, 24. This implies that as soon as he left the road he turned his attention to the inn, arranging his baggage, quarters, etc., instead of immediately circumcising his son.

(3) Var. lec. ‘that angel’. Generally speaking. Satan was regarded as man's adversary and accuser, but without independent power, which be must derive from God. (Cf. Job I, seq., Zech. III. 1f.) In the older Talmudic literature Satan is seldom mentioned, but his name is found more frequently in the amoraic period, and it may well be that the variant reading here (angel) is the original one. V. also Kid. (Son. ed.) p. 142, n. 5.

(4) Ex. IV, 25.

(5) Hathan generally means bridegroom, son-in-law: but in connection with circumcision it refers to the infant to be circumcised

(6) Wrath and anger personified.

(7) As the whole body was swallowed up save the legs. Zipporah understood that this was a punishment for neglecting the circumcision of the foreskin.

(8) Ex. IV, 26.

(9) Ps XXXVII, 8. Af and Hemah are regarded here as proper nouns.

(10) Isa. XXVII, 4. Spoken by God, and according to this interpretation, because Hemah had been slain.

(11) Deut. IX, 19. This refers to the sin of the Golden Calf, which was subsequent to the incident under discussion.

(12) Gen. XVII, 1, in reference to circumcision.

(13) Ibid. XVII, 2. [Indicating that Abraham was to attain perfection through the covenant of circumcision.] Rashi, without pointing out any incorrectness in the text, relates this verse to the next passage; v. next note.

(14) Ex. XXXIV, 27. After the tenor of these words is taken to refer to all God's precepts; by a ‘covenant’, ‘circumcision’ is understood; thus the two — all God's precepts and circumcision — are equated. Rashi appears to have the following reading: As it is written, Behold the blood of the covenant, which the Lord hath made with you concerning all these words (Ex. XXIV, 8); and it is also written. And I will mike my covenant between me and thee (Gen. XVII, 2). Just as ‘covenant’ in the latter verse refers to circumcision, so also in the former; whilst the end of that verse, ‘concerning all these words’, shews that circumcision is equal in importance to ‘all these words’, i.e., all God's commandments.

(15) V. p. 93, n. 8.

(16) Jer. XXXIII, 25.

(17) Which identifies ‘covenant’ here with circumcision.

(18) [So Pes. 68b. Cur. edd. R. Eliezer.]

(19) Thus, according to him, ‘covenant’ in this verse refers to the Torah, not to circumcision.

(20) Gen. XVII, 1.

(21) For be then understood that the imperfection was not in himself, but in the lack of a formal covenant between him and the Almighty.

(22) Gen. XV, 5.
(23) II Sam. XXII, 26.
(24) Lit., ‘the hour will stand by him’.
(25) Gen. XVII, 1.
(26) Ibid. XVII, 4. This should be his good fortune, as a reward for perfecting himself.
(27) Var. lec.: R. Levi.
(28) Num. XXIII, 23.
(29) Lo = not, so that the verse reads, Surely there is no enchantment in Jacob.
(30) I.e., this is not deduced from a Scriptural verse, but from the general axiom that punishment corresponds to the crime. Though the Jewish Sages attributed reality to supernatural agencies in general, they nevertheless sought to discourage superstitious practices; v. M. Joseph. Judaism as Creed and Life. pp. 79-81.
(31) Num. XXIII, 23. The Israelites, through not practising enchantments, are brought into such close contact with God, that they know secrets not entrusted to the angels.
(32) I.e., scholars dedicated to the study of the Torah. The word is treated as a derivative of hanok, to educate, dedicate.
(33) Gen. XIV, 14.
(34) Var. lec.: R. Samuel b. Nahmani.
(35) Gen. XV, 8.
(36) Ibid. XIV, 21. Abraham, by permitting this, instead of taking the persons himself, and teaching them to know’ God, is said to have prevented them from coming beneath the wings of the Divine Presence. This dictum seems to indicate that R. Johanan was in favour of proselytes.
(37) Ibid. XIV, 14.
(38) A variant reading is herikan; he emptied them from the Torah, i.e., disregarded their learning and forced them into service, or perhaps, withdrew them from their studies.
(39) Wa-yarek is here connected with yarak to make shine; cf. yerakrak., yellow (shining).
(40) Ibid.
(41) Hebrew letters are also used as numbers, and the numerical value of אליעזר is 318.
(42) Gen. XXVI, 5.
(43) The verse is therefore thus interpreted: 172 years hath Abraham obeyed my voice. As he lived 175 years in all, he was three years old when he acknowledged the Creator.

Talmud - Mas. Nedarim 32b

The numerical value of ha-satan [Satan] is three hundred sixty four.[1]

R. Ammi b. Abba also said: [First] Abram is written, then Abraham:[2] at first God gave him mastery over two hundred forty three limbs, and later over two hundred forty eight, the additional ones being the two eyes, two ears, and the membrum.[3]

R. Ammi b. Abba also said: What is the meaning of, There is a little city. etc.?[4] ‘A little city’ refers to the body; and ‘a few men within’ to the limbs; ‘and there came a great king against it and besieged [it]’ to the Evil Urge;[5] ‘and built great bulwarks against it’, to sin; ‘Now there was found in it a poor wise man, to the Good Urge; and he by his wisdom delivered the city, to repentance and good deeds; yet no man remembered that same poor man, for when the Evil Urge gains dominion, none remember the Good Urge.

Wisdom strengtheneth the wise more than ten mighty ones which are in the city.[6] ‘Wisdom strengtheneth the wise’ refers to repentance and good deeds; ‘more than ten mighty ones,’ viz., the two eyes, two ears, two hands, two feet, membrum and mouth.[7]

R. Zechariah said on R. Ishmael's authority: The Holy One, blessed be He, intended to bring forth the priesthood from Shem, as it is written, And he [sc. Melchizedek] was the priest of the most high God.[8] But because he gave precedence in his blessing to Abraham over God, He brought it forth from Abraham; as it is written, And he blessed him and said. Blessed be Abram of the most high God, possessor of heaven and earth, and blessed be the most high God.[9] Said Abraham to him, ‘Is the blessing of a servant to be given precedence over that of his master?’ Straightway it [the priesthood] was given to Abraham, as it is written, The Lord said unto my Lord,[10] Sit thou at my right hand, until I make thine enemies thy footstool;[11] which is followed by, The Lord hath sworn, and will not repent, Thou art a priest for ever, after the order of Melchizedek,’[12] meaning, ‘because of the words of Melchizedek.’[13] Hence it is written, And he was a priest of the most High God, [implying that] he was a priest, but not his seed.[14]

CHAPTER IV

MISHNAH. THE ONLY DIFFERENCE BETWEEN ONE WHO IS UNDER A VOW NOT TO BENEFIT AUGHT FROM HIS NEIGHBOUR, AND ONE WHO IS FORBIDDEN TO EAT OF HIS FOOD, IS IN RESPECT OF WALKING [OVER HIS PROPERTY] AND [THE USE OF] UTENSILS NOT EMPLOYED IN THE PREPARATION OF FOOD.[15] IF A MAN IS UNDER A VOW [NOT TO EAT] OF HIS NEIGHBOURS FOOD, THE LATTER MAY NOT LEND HIM A SIFTER, SIEVE, MILL-STONE OR OVEN,[16] BUT HE MAY LEND HIM A SHIRT, RING, CLOAK, AND EARRINGS.[17]

GEMARA. Which Tanna [is the authority of the Mishnah]?[18] — R. Adda b. Ahabah said, It is R. Eliezer. For it was taught: R. Eliezer said: Even the extra [given by a vendor to his customer] is forbidden to him who is under a vow not to benefit [by his neighbour].[19]

IF A MAN IS UNDER A VOW NOT TO [EAT] OF HIS NEIGHROUR'S FOOD, THE LATTER MAY NOT LEND HIM etc.

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(1) This indicates that his seductive powers over mankind are only for 364 days of the year. On the 365th, viz., the Day of Atonement, he has no power over man.

(2) The original name of Abram, whose numerical value is 243, was changed to Abraham, with the value 248, the numbers of members of man's body. V. Mak. (Sonc. ed.) p. 109. n. 5.

(3) As a reward for his undergoing circumcision he was given mastery over those limbs, which, through hearing and seeing, entice one to immorality; but now he was enabled by his will-power to forbid them to look upon or listen to sin. The last mentioned, of course, refers to the control of the sex-lust. Cf. Maim. ‘Guide’, III, ch. 49.

(4) Eccl. IX, 14f.

(5) One's evil inclinations personified; in B.B. 16a he is identified with Satan.

(6) Ibid. VII, 19.

(7) I.e., by repentance and good deeds one can conquer the evil desires of all these.

(8) Gen. XIV, 18. The Midrash identifies him with Shem, the son of Noah, Abraham's eighth ancestor.

(9) Ibid. 19f.

(10) Here taken as referring to Abraham; cf. Ber. 7b, where my lord is explicitly so explained.

(11) Ps. CX, 1.

(12) Ibid. CX, 4.

(13) I.e., because of his giving precedence to Abraham.

(14) Though Abraham was a descendant of Melchizedek, and thus the priesthood was inherited by the latter's seed, yet this was through the merit of Abraham, not of Melchizedek. — Ran.

(15) If he is forbidden all benefit, these are forbidden; but if the vow is only in respect of food, these are permitted.

(16) This teaches that not only are those utensils prohibited which are used in the immediate preparation of food for eating, such as a cooking pot. but even those employed in the early stages only.

(17) [Or ‘nose-rings].

(18) That even such a trifling benefit as walking over his property is forbidden.

(19) Since R. Eliezer held that the vow applied even to such trifles, he is the authority of our Mishnah.

Talmud - Mas. Nedarim 33a

But he vowed in respect of food?[1] — Said R. Simeon b. Lakish: This refers to one who said, 'The benefit of your food be forbidden me.'[2] But may it not mean that he is not to chew wheat [to a pulp] and apply it to his wound?[3] — Raba replied: The Mishnah refers to one who said: 'Any benefit from you leading to the enjoyment of food be forbidden me.' R. Papa said: A sack for bringing fruit, an ass for bringing fruit, and even a mere basket, all lead to the enjoyment of food. R. Papa propounded: What of a horse for travelling [to a banquet] or a ring to appear in;[4] or, what of passing over his land?[5] — Come and hear: BUT HE MAY LEND HIM A SHIRT, RING, CLOAK AND EARRINGS. How is this to be understood? Shall I say it is not to appear in them, need this be stated?[6] Hence it must mean to be seen in them, and it is taught that he may lend them to him! — No. After all, it does not mean to appear in them; but because the first clause teaches THE LATTER MAY NOT LEND HIM,[7] the second clause teaches HE MAY LEND HIM.[8]

MISHNAH. AND WHATEVER IS NOT EMPLOYED IN THE PREPARATION OF FOOD, WHERE SUCH ARE HIRED OUT, IT IS FORBIDDEN.[9]

GEMARA. Hence the first clause applies even where such things are not hired. Which Tanna [rules thus]?[10] — Said R. Adda b. Ahabah: It is R. Eliezer.[11]

MISHNAH. IF ONE IS UNDER A VOW NOT TO BENEFIT FROM HIS NEIGHBOUR, THE LATTER MAY PAY HIS SHEKEL,[12] SETTLE HIS DEBTS, AND RETURN A LOST ARTICLE TO HIM. WHERE PAYMENT IS TAKEN FOR THIS,[13] THE BENEFIT MUST ACCRUE TO HEKDESH.[14]

GEMARA. Thus we see that it is merely driving away a lion [from his neighbour's property],[15] and permitted. Which Tanna [rules thus]? — Said R. Hoshaia: This is

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(1) Which does not include these utensils.

(2) Instead of simply 'Your food be forbidden me'. The additional words, 'b. etc.' are understood to include something besides actual food, viz., utensils for its preparation.

(3) I.e., the longer form may imply that food is forbidden no matter how used, yet still be confined to actual foodstuffs.

(4) So as to be treated as an honoured guest.

(5) On the way to a feast.

(6) For then he does not benefit at all, and it is obvious that he may lend them to him.

(7) This must be taught; v. p. 100, n. 2.

(8) I.e., it is merely to round off the Mishnah, though it is self-evident.

(9) Even to one who is under a vow in respect of food as explained in the Gemara above, for the remission of the hiring fee is a benefit leading to the enjoyment of food.

(10) That even where the benefit is so trifling, since it can be borrowed without a fee, it is forbidden.

(11) V. p. 100, n. 5.

(12) There was an annual tax of half a shekel for the upkeep of the Temple; v. Shek. I, 1; Ex. XXX, 13.

(13) E.g., if he lost work through returning the article; v. B.M. 30b.

(14) V. Glos. This is discussed in the Gemara.

(15) I.e., he is merely performing a neighbourly action, without bestowing real benefit, for even if the other man does not pay the shekel, he still shares in the public sacrifices; also, when his debts are settled, the debtor personally receives nothing.

Talmud - Mas. Nedarim 33b

Hanan's view.[1] Raba said: You may even say that it agrees with all: [We suppose that] the man who is interdicted by vow not to benefit from his neighbour was lent [money] without obligation to repay.[2]

What is [the ruling of] Hanan? — We learnt: If a man departed overseas, and another arose and supported his wife: Hanan said: He has lost his money.[3] But the sons of the High priests[4] disputed this and maintained: He must swear how much he expended and is reimbursed [by the husband]. R. Dosa b. Harkinas ruled as they did; whilst R. Johanan b. Zakkai said: Hanan has ruled well — it is as though he had placed his money upon a deer's horn.[5]

Now, Raba did not say as R. Hoshaia, because he interpreted our Mishnah to harmonize with all views. R. Hoshaia did not say as Raba: [to settle a debt] that need not be repaid is forbidden as a preventive measure on account of [a debt] that must be repaid.[6]

AND RETURN A LOST ARTICLE TO HIM. R. Ammi and R. Assi [differ thereon] — one said: This is only when the property of the finder[7] is forbidden to the loser, so that in returning it to him, he returns what is his own.[8] But if the property of the loser is forbidden to the finder, he may not return it, because he benefits him by R. Joseph's perutah.[9] But the other maintained: Even if the finder may not benefit from the loser's property, he may return it, and as for R. Joseph's perutah, this is rare.[10]

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(1) This is explained further on.

(2) The creditor having lent it to be repaid at the debtor's leisure (Ran). Therefore, when his neighbour repays his debt, he confers no benefit upon him. Similarly, he may pay his shekel only when he is not bound to pay it himself, e.g., if he had already sent it and it was lost on the road.

(3) He has no claim upon the husband.

(4) There was a special court of priests, and this may be referred to here; v. Keth. 104b.

(5) I.e., he cannot expect its return.

(6) Lest it be thought that the latter too may be settled.

(7) Lit., ‘restorer’.

(8) So that the loser is not benefiting.

(9) Since when a person is engaged in the performance of one precept, he is exempt from another, the finder, when fulfilling this precept, may decline to give a perutah of charity to a poor man. This is referred to as R. Joseph's perutah, because he based a certain ruling upon this fact. B.K. 56b.

(10) One rarely avails himself of that privilege, hence the finder gains nothing.

Talmud - Mas. Nedarim 34a

We learnt: WHERE PAYMENT IS TAKEN FOR THIS, THE BENEFIT MUST ACCRUE TO HEKDESH. Now, that is well on the view that even if the finder must not benefit from the loser's property, he may also return it: hence it is taught: WHERE PAYMENT IS MADE FOR THIS, THE BENEFIT MUST ACCRUE TO HEKDESH.[1] But on the view that if the finder may not benefit from the loser he must not return it, why should the benefit accrue to hekdesh?[2] — This law refers to one case only.[3]

Others report it in the following version: R. Ammi and R. Assi differ thereon: one said: This was taught only if the finder may not benefit from the loser's property. R. Joseph's perutah being rare; but if the loser may not benefit from the finder's property, he may not return it, because he [the finder] benefits him. While the other maintained: Even if the loser may not benefit from the finder's property, he may return it, for he is only returning his own.

We learnt: WHERE PAYMENT IS TAKEN FOR THIS, THE BENEFIT MUST ACCRUE TO HEKDESH. Now that is well on the view that even if the loser may not benefit from the finder, he may also return it: thus he justifies WHERE [etc.],[4] but on the view that if the loser may not benefit from the finder, he may not return it, how is WHERE [etc.] explained?[5] This is a difficulty.

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(1) For since the finder cannot benefit from the loser, he cannot receive his fee from him; on the other hand, the loser is liable for it; therefore it goes to hekdesh; v. p. 104, n 2, for the reverse case.

(2) Since he may not return it, there is no fee.

(3) I.e., where the loser may not benefit from the finder. This is the interpretation of the passage according to our text. But the text of Ran is reversed, and (with its explanation) is as follows: This is well on the view that only if the loser may not benefit from the finder it may be returned, but not in the reverse case. Hence, the fee must go to the Temple treasury. if it is beneath the finder's dignity to accept it, for were the loser to retain it, he would be benefiting from the finder. But on the view that even if the finder must not benefit from the loser it may be returned, why must the fee go to the Temple treasury? If the finder declines it, the loser may retain it, since here is no prohibition upon him. If on the other hand the finder wishes to accept it, why may he not do so: in accepting it he is not benefiting from the loser, but merely being paid for lost time? The Talmud replies that though the law permitting the return of the lost article applies to both cases, the statement that the fee must go to the sanctuary applies only to one, viz., where the loser may not benefit from the finder.

(4) The law referring to this case, as explained above, where it is beneath the finder's dignity to accept the fee.

(5) For then it may be returned only if the loser may benefit from the finder; but in that case, why must the fee be given to hekdesh? If the finder does not accept it, the loser may retain it for himself.

Talmud - Mas. Nedarim 34b

Raba said: If a hefker loaf[1] lies before a man, and he declares, ‘This loaf be hekdesh’, and he takes it to eat it,he trespasses in respect of its entire value; if to leave it to his children, he trespasses in respect of its goodwill value only.[2] R. Hiyya b. Abin asked Raba: [What if one says to his neighbour,] ‘My loaf [be forbidden] to you,’ and then gifts it to him: now, he said, ‘my loaf,’ meaning only so long as it IS In his own possession;[3] or perhaps, having said ‘[be forbidden] to you,’ he has rendered it to him hekdesh?[4] — He replied: It is obvious that even if he gifted it to him, it is forbidden. For what was it [his vow] to exclude? Surely not the case where it would be stolen from him?[5] — He replied, No: It excludes the case where he invites him for it.[6]

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(1) V. Glos.

(2) A Zar (i.e., not a priest) is forbidden to eat consecrated food; if he does, he is guilty of trespass. and bound to make restitution of its value plus a fifth (Lev. XXII, 14). Now as soon as he takes this consecrated loaf, with the intent of eating it, he withdraws it from the possession of hekdesh into his own. Hence he has trespassed in respect of the whole of it. But if he merely intends leaving it to his children, he merely benefits by its goodwill value (i.e., the benefit he enjoys through his children's knowing that he wishes to leave it to them) and hence liable for that only. [Had, however, the loaf been his own, he would not have been guilty of a trespass by taking it up with the intent of eating it. Since it was all the time in his possession, both before and after the consecration, he would be treated in regard to it as a Temple Treasurer, to whom the law of trespass does not apply, v. B.K. (Sonc. ed.) p. 103.]

(3) Therefore now that he gave it to him, it is no longer his; hence permitted.

(4) So that the prohibition always remains.

(5) When A says to E, ‘My loaf be forbidden to you’, thus excluding B from its enjoyment, what is his purpose? Obviously, as long as it is in A's possession it is forbidden to B in any case, since it does not belong to him. Surely A did not intend his vow only in the unlikely event of the loaf being stolen? Hence he must have meant, ‘Even if I give you this loaf which is now mine, it shall be forbidden to you.’

(6) I.e., if A should invite B to dine with him off that loaf of bread, it should be forbidden to him; but not if he gives it to him. This interpretation follows Ran. Others explain the passage differently. According to all versions, לאו must be deleted from the text.

Talmud - Mas. Nedarim 35a

He objected: If A says to B, ‘Lend me your cow,’ and B replies, ‘Konam be [this] cow if I possess [another] for you,’[1] or, my property be forbidden you if I possess any cow but this’: [or,] ‘Lend me your spade,’ and he replies, ‘This spade be forbidden me if I possess [another];’ or ‘my property be forbidden me, if I possess any spade but this’, and it is discovered that he possesses [another]. During his, [B's] lifetime it is forbidden [him]; but if he dies, or it is given to him,[2] it is permitted?[3] — Said R. Aha son of R. Ika: That is if it was given to him through another.[4] R. Ashi said: This may be proved too, for it is stated, ‘it is given to him,’ not ‘he gives it to him.’[5]

Raba asked R. Nahman: Does the law of trespass apply to Konamoth?[6] — He replied, We have learnt this: WHERE PAYMENT IS TAKEN FOR THIS, THE BENEFIT MUST ACCRUE TO HEKDESH. This teaches that it is as hekdesh: just as the law of trespass applies to hekdesh, so it applies to Konamoth.

This is dependent on Tannaim: If one Says, ‘Konam, this loaf is hekdesh,’[7] then whosoever eats it, whether he or his neighbour, commits trespass; therefore the law of redemption applies to it.[8] [But if he says,] ‘This loaf is hekdesh to me’; [by eating it] he commits trespass; but his neighbour does not commit a trespass; therefore the law of redemption does not apply:[9] this is the view of R. Meir. But the Sages maintain: In both cases no trespass is involved, because the law of trespass does not apply to Konamoth.

R. Aha son of R. Avi asked R. Ashi: [If A says to B,] ‘My loaf be forbidden to you,’[10] and then makes a gift of it to him, who is liable for trespass? Shall the giver incur it but it is not forbidden to him? Is the receiver to incur it — but he can say, ‘I desired to accept what is permitted, not what is forbidden?’[11] — He replied: The receiver incurs the liability when he uses it, for whoever converts money of hekdesh into hullin,[12] thinks that it is hullin, yet he is involved in trespass;[13] so this one too is liable for trespass.

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(1) The actual wording is difficult, and the commentators attempt various explanations. The literal translation is given here.

(2) V. infra.

(3) This contradicts Raba.

(4) B gave it to C, who gave it to A. Since B voluntarily (in contradistinction to theft) let it out of his possession, his vow loses its validity.

(5) Though the Hebrew word is the same for both, by tradition it was to be read as a niphal, not as a kal.

(6) A term in us technicus for things interdicted by a vow, usually introduced with the formula konam. Since konam is a korban (a sacrifice) when one vows that a thing shall be konam, he declares it to be virtually consecrated, and hence if the vow is violated, it is as though trespass has been committed. Or it may be argued that in spite of its origin, konam is used without the suggestion of consecration, but merely to imply prohibition.

(7) Not specifying to whom, and therefore applying it to all, including himself. [Read with MS. M.: ‘This loaf is hekdesh’, omitting konam,’ v. also Shebu. 22a.]

(8) Since it is so much regarded as consecrated that by eating it one commits trespass, it is also so in respect of redemption, whereby it reverts to hullin (non-consecrated), whilst the redemption money becomes consecrated.

(9) Since it is not regarded as consecrated in respect of all.

(10) Using the formula ‘konam’.

(11) The receiver not knowing that this was the forbidden loaf.

(12) V. Glos.

(13) Because the law of trespass applies only to unwitting misuse of hekdesh.

Talmud - Mas. Nedarim 35b

MISHNAH. AND HE MAY SEPARATE HIS TERUMAH AND HIS TITHES WITH HIS CONSENT.[1] HE MAY OFFER UP FOR HIM THE BIRD SACRIFICES OF ZABIM AND ZABOTH[2] AND THE BIRD SACRIFICES OF WOMEN AFTER CHILDBIRTH, SIN-OFFERINGS AND GUILT-OFFERINGS.[3] HE MAY TEACH HIM MIDRASH, HALACHOTH AND AGGADOTH,[4] BUT NOT SCRIPTURE.[5] YET HE MAY TEACH SCRIPTURE TO HIS SONS AND DAUGHTERS.[6]

GEMARA. The scholars propounded: Are the priests [in sacrificing] our agents or agents of the All-Merciful? What is the practical difference? — In respect of one who is forbidden to benefit [from a priest]: if you say that they are our agents, surely he [the priest] benefits him [by offering up his sacrifices]; hence it is prohibited. But if you say that they are the agents of the All-Merciful, it is permitted. What [then is the ruling]? — Come and hear: We learnt: HE MAY OFFER UP FOR HIM THE BIRD SACRIFICES [etc.]. Now if you say that they are our agents, does he not benefit him? Then on your view, let him [the Tanna] teach, HE MAY OFFER UP SACRIFICES FOR HIM?[7] But those who lack atonement are different.[8] For R. Johanan said: All [sacrifices] require [the owner's] consent,[9] save for those lacking atonement; since a man brings a sacrifice for his sons and daughters when minors, for it is said, This is the law of him that hath issue,[10] [implying] both for a minor or an adult.[11] If so, according to R. Johanan, does, This is the law for her that hath born [a male or a female][12] imply both an adult or a minor? Is a minor capable of childbirth? But R. Bibi recited in R. Nahman's presence: Three women use a resorbent [to prevent conception]: a minor, a pregnant woman, and a woman giving suck: a minor, lest she conceive and die?[13] — That verse, ‘This is the law for her that hath born’, [teaches,] that it is a]] one whether the woman be sane or an imbecile, since one must offer a sacrifice for his wife, if an imbecile, in accordance with R. Judah's dictum. For it was taught. R. Judah said: A man must offer a rich man's sacrifice[14] for his wife, and all other sacrifices which are incumbent upon her; since he writes thus for her [in her marriage settlement]: [I shall pay] every claim you may have against me from before up to now.[15]

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(1) If A is forbidden to benefit from B, B (the maddir) may separate terumah on the produce of the former (called the muddar). The Gemara discusses whose consent is meant.

(2) V. Glos.

(3) Lev. XV, 14f, 29f, XII, 6-8. i.e., the maddir, if a priest, may offer these sacrifices for the muddar.

(4) The three branches of Jewish learning. Midrash (from darash, to study, investigate) means any kind of Biblical hermeneutics. In contradistinction to the peshat (literal interpretation) it denotes the deeper investigation into the text of the Bible in order to derive interpretations and laws not obvious on the surface. Halachoth is a term referring to religious law (embracing both civil and ritual law) whether based on Biblical exposition, (and thus arrived at by Midrash) or not. By Aggadah (or Haggadah, from higgid, to narrate) is meant the whole of the non-legal portion of the Talmud. Thus it includes narratives, homiletical exegesis of the Bible (which inculcate morals, beliefs, etc. but no actual laws) medicine, astronomy, dreams, legends and folklore in general.

(5) Lit., ‘that which is (to be) read’ sc. from a written text. The Pentateuch with its literal interpretations in contradistinction to Midrash, v. Aboth (Sonc. ed.) p. 75, n. 1. As will be seen on 37a, Scripture was generally regarded as the study of children only, adults usually investigating the deeper meaning too.

(6) From this we see that it was usual to teach the Bible to girls, in spite of the Talmudic deduction that daughters need not be educated (Kid. 30a). The opposition of R. Eliezer to teaching Torah to one's daughter (Sot. 20a: He who teaches his daughter Torah is as though he taught her lewdness) was probably directed against the teaching of the Oral Law, and the higher branches of study. [V. Maim. Yad. Talmud Torah, I, 13.] Yet even in respect of this, his view was not universally accepted, and Ben ‘Azzai (a.l.) regarded it as a positive duty to teach Torah to one's daughters. The context shows that the reference is to the higher knowledge of Biblical law. In point of fact, there were learned women in Talmudic times e.g., Beruriah, wife of R. Meir (Pes. 62b).

(7) Sacrifices, in general, not lust these.

(8) I.e., those who are unclean, and not permitted to eat holy food (e.g., the flesh of sacrifices) or enter the Sanctuary until their sacrifices have been offered up. This term however does not refer to sinners, whose sacrifice makes atonement for them. The sin- and guilt-offerings mentioned in the Mishnah will also refer to the former.

(9) Before the priest may offer them.

(10) Lev. XV. 32, referring to the sacrifices.

(11) The expression ‘this is the law’ is emphatic, and hence extends its provisions to include those who might otherwise not have been included. Since a minor cannot bring a sacrifice himself, his father must do so for him. Moreover, a minor has no legal consent. Thus, we see that these sacrifices can be brought without their owner's (i.e., those on whose behalf it is offered) consent. Since their consent is unnecessary, the priests do not act as their agents, and on that account it is permitted.

(12) Ibid. XII, 7.

(13) V. Yeb. 12b. Thus we see that a minor is incapable of childbirth. — Of course, the same might have been stated simply on physiological grounds.

(14) Certain sacrifices were variable, depending on their owner's financial position (v. Lev. V, 1-13; XII, 1-8). Now in a strictly legal sense every married woman is poor, since she has no proprietary rights, everything belonging to her husband. Nevertheless, if he is wealthy, he must bring the sacrifice of a rich person.

(15) [This clause is taken as referring to sacrifices for which she may have become liable after the betrothal.] So curr. edd. Ran omits ‘R. Judah said’ from the beginning of the Baraitha, and adds at this point: R. Judah said: Therefore, if he divorced her, he is free from this liability, for thus she writes (in the document acknowledging receipt of settlements due to her on divorce): (I free you) from all the liabilities hitherto borne by you in respect of me. From the Rashi in B.M. 104a, it appears that his version there was the same as the Ran's here. Now, reverting to the argument, since R. Judah (and the first Tanna) taught that a husband is liable for his wife's obligatory sacrifices, ‘this is the law’ may be interpreted as applying to an imbecile too, the liability resting with her husband. For if this principle of the husband's liability were not admitted, this interpretation would be impossible, since an imbecile herself is not a responsible person.

Talmud - Mas. Nedarim 36a

R. Simi b. Abba objected: If he [the maddir][1] is a priest, he may sprinkle for him the blood of his sin-offering and his guilt-offering?[2] — This refers to the blood of a leper's sin-offering and of a leper's guilt-offering [who lack atonement], as it is written, This shall be the law of the leper:[3] both an adult and a minor.[4]

We learnt: If priests render a sacrifice piggul[5] in the Temple, and do so intentionally, they are liable;[6] This implies [that if they do so] unwittingly, they are exempt, though it was taught thereon:[7] Yet their piggul stands.[8] Now, it is well if you say that they are the agents of the All-Merciful: hence their piggul stands. But if you say that they are our agents, why is it so; let him say to him, ‘I appointed you an agent for my advantage, not for my hurt’?[9] — I will tell you: Piggul is different, because the Writ saith, neither shall it be imputed unto him:[10] [implying that it is piggul] in spite of everything.[11]

The [above] text [states]: ‘R. Johanan said: All require [the owner's] consent, save for those lacking atonement, since one brings a sacrifice for his sons and daughters when minors.’ If so, let one offer a sin-offering on behalf of his neighbour for [eating] heleb,[12] since one brings [a sin-offering] for his insane wife?[13] Why then did R. Eleazar say: If a man set aside a sin-offering for heleb on his neighbour's behalf, his action is invalid?[14] — [Now consider:] In respect to his insane wife, what are the circumstances? If she ate [heleb] whilst insane, she is not liable to a sacrifice;[15] while if she ate it when sane, subsequently becoming insane, [there is the ruling of] R. Jeremiah who said in the name of R. Abbahu in R. Johanan's name: If a man ate heleb, set aside an offering, became insane, and then regained his sanity, it [the sacrifice] is unfit: having been once rejected, it remains so.[16]

Yet if so,[17] a man should be able to offer the passover sacrifice for his neighbour,[18] since he brings it for his sons and daughters, who are minors. Why then did R. Eleazar say: If a man sets aside a passover sacrifice for his neighbour his action[18] is null? — Said R. Zera: [The law, And they shall take to them every man] a lamb, according to the house of their fathers, [a lamb for a house],[19] is not Biblically incumbent [upon minors].[20] And how do we know this? — Because we learnt: If a man says to his sons [who are not of age], ‘I will slaughter the passover sacrifice for whomever of you first enters Jerusalem’, then as soon as the first of them enters with his head and the greater part of his body, he acquires his portion, and assigns a part thereof to his brothers with him. Now, if you maintain that 'a lamb, according to the house of their fathers' is Biblically applicable [to minors], then standing over the flesh, can he transfer a portion to his brethren?[21] If so, why did their father speak thus to them? — In order to stimulate them in [the performance of] precepts. It was taught likewise: it once happened [after their father had spoken thus] that the daughters entered [the city] before the sons, so that the daughters shewed themselves zealous, and the sons indolent.[22]

HE MAY SEPARATE HIS TERUMAH [etc.]

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(1) V. Glos.

(2) Now. since these offerings are unspecified, they must refer to all, even of those who do not lack atonement.

(3) Lev. XIV, 2, referring to his purificatory sacrifices.

(4) Therefore the same reasoning applies as in the case of a zab.

(5) v. Glos. Such a sacrifice is 'not acceptable' and does not acquit its owner of his liability, so that he is bound to offer another.

(6) To compensate the owner of the sacrifice.

(7) This is absent in our text, but supplied from Men. 49a.

(8) Though committed unwittingly, the sacrifice remains piggul.

(9) I.e., such an act committed on behalf of someone else can be repudiated.

(10) Lev. VII, 18.

(11) I.e., the priest is the owner's agent, yet the latter cannot repudiate him, because his power of rendering a sacrifice piggul is absolute and unconditional.

(12) Forbidden fat. The objection is not particularly in regard to this sin-offering, but to all sin-offerings brought on account of transgression. The addition of heleb merely illustrates the type of offering referred to, and is frequently used as the general designation of a sin-offering.

(13) Who also has neither legal consent nor knowledge.

(14) The animal not becoming sanctified.

(15) Not being responsible for her actions.

(16) I.e., when the transgressor lost his reason, his sacrifice became unfit for offering, because an insane person cannot offer, and it remains unfit even if he regains his sanity. Thus we see that even if a sane person sinned, he is not liable to a sacrifice on becoming insane. Therefore, one cannot bring a sin-offering for his insane wife for actual transgression; hence the proposed analogy cannot be drawn.

(17) Still objecting to R. Johanan's first ruling.

(18) Without his knowledge.

(19) Ex. XII, 3.

(20) The Passover sacrifice had to be definitely assigned (before the animal was slain) to a number of persons and anyone not so appointed was subsequently forbidden to cat thereof. But this assignment does not, by Scriptural law, apply to minors at all. For this reason the father could slaughter for them, since they did not need to be appointed. Hence, one cannot argue from this to an adult, to whom the law off appointment applies.

(21) For the assignment of the sacrifice can be made only before it is slain, not after (Pes. 89a). How then can one son assign a portion of the sacrifice to his brothers after it is killed? Therefore we must conclude that by Biblical law they are not bound to be appointed for the eating of the sacrifice at all.

(22) But it is not stated that they lost their portion, proving that assignment is not Biblically incumbent upon them.

Talmud - Mas. Nedarim 36b

The scholars propounded: If one gives terumah of his own for his neighbour's produce, does he require his consent or not? Do we say, since it is a benefit for him, his consent is unnecessary;[1] or perhaps, [the privilege of performing] the precept is his, and he prefers to perform it himself? Come and hear! HE MAY SEPARATE HIS TERUMAH AND HIS TITHES WITH HIS CONSENT. How is this meant: Shall we say, his own corn is used?[2] Then with whose consent? If with his own, who appointed him an agent?[3] But if it means with the owner's consent — does he not benefit him by acting as his agent?[4] Hence it must mean that he separates his own [i.e., the maddir's] produce for the owner's. Now, with whose consent? If with the owner's, does he not benefit him? Hence it must mean with his own knowledge [without informing the owner].[5] Now if you say that he requires his consent, does he not benefit him?[6] — [No.] After all, it means the owner's [produce] for the owner's produce; and it is as Raba said [elsewhere], That the owner had announced, ‘Whoever wishes to separate, let him do so;’ here, too, the owner had announced etc.[7]

R. Jeremiah asked R. Zera: If one separates of his own for his neighbour's [produce], to whom does the goodwill [value] belong?[8] Do we say, but for this man's produce, would the other's stack have been made fit to use?[9] Or perhaps, but for this man's stack, the other man's produce would not be terumah?[10] — He replied, Scripture saith, all the increase of thy seed . . . . and thou shalt give.[11]

He objected: HE MAY SEPARATE HIS TERUMAH AND HIS TITHES WITH HIS CONSENT. Now if you say that the goodwill belongs to the owner, surely he [the maddir] benefits him? Hence this proves that the goodwill is his![12] — I will tell you: it is not so. This means that the terumah belongs to the owner; ‘HIS CONSENT also referring to the owner, who had announced, ‘Whoever wishes to separate, let him do so.’

Come and hear: R. Abbahu said in R. Johanan's name: He who sanctifies the animal must add the fifth, whilst only he for whom atonement is made sanctifies a substitute;[13] and he who gives terumah of his own for another man's produce, the goodwill is his.[14]

HE MAY TEACH HIM MIDRASH, HALACHOTH, AND AGGADOTH, BUT NOT SCRIPTURE. Why not Scripture — because he benefits him? But [by] Midrash too he benefits him? — Said Samuel: This refers to a place where the teaching of Scripture is remunerated, but not that of Midrash. How state this definitely?[15] —

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(1) As it may be taken for granted.

(2) Lit., ‘(produce) of the owner of the stack (is separated as terumah, etc.) for produce belonging to the owner of the stack.’

(3) I.e., surely A cannot separate terumah for B, using B's produce, without the latter's consent.

(4) Whereas his vow forbids him to benefit him.

(5) [This is not regarded as a direct benefit, since he does not give him aught; v. Ran.]

(6) For by consenting he shews that he regards it as a benefit.

(7) Though such an announcement is a sufficient authorisation, the maddir is not thereby specially appointed an agent, and so does not directly benefit him.

(8) I.e., if another Israelite paid him something to give the terumah to a particular friend of his, to whom does that thing belong?

(9) Therefore the goodwill should belong to him who renders the terumah.

(10) Produce can he declared terumah only on account of other produce. But one cannot take some corn and declare it terumah.

(11) Deut. XIV, 25. In its context, thou shalt give refers to the changing of produce into money; but it is here taken out of its context and related to all the increase of thy seed, shewing that the goodwill belongs to the owner of the corn, no matter who actually separates the tithe. This is the reading of our text, and also that of Ran. But such forcible disregard of the context is not very plausible. Asheri prefers a preferable reading: (When thou hast made an end of tithing) All the tithes of thine increase . . . and thou shalt give it to the Levite; (Deut. XXVI, 12).

(12) This of course is on the assumption that the naddir gives his own corn as terumah.

(13) If A dedicates an animal for B's sacrifice and it subsequently receives a blemish and must be redeemed, then if A, who sanctified it, redeems it himself, he must add a fifth to its value, but nut if B redeems it (this is deduced from Lev. XXVII, 15). Again, if another animal is substituted for the first, both the original and its substitute are holy (ibid. 10). R. Johanan rules that this is only if B, on whose behalf the animal was sanctified, made the substitution, but not if A did so.

(14) Sc. the man who gives it.

(15) Seeing that the statement in the Mishnah is unqualified.

Talmud - Mas. Nedarim 37a

He [the Tanna] informs us this: that even where a fee is taken, it may be accepted only for Scripture, but not for Midrash. Now, why does Midrash differ, that remuneration is forbidden: because it is written, And the Lord commanded me at that time to teach you;[1] and it is also written, Behold I have taught you statutes and judgments, even as the Lord my God commanded me[2] just as I [taught you] gratuitously, so you must teach gratuitously? Then should not Scripture too be unremunerated? — Rab said: The fee is for guarding [the children]. R. Johanan maintained: The fee is for the teaching of accentuation.[3]

We learnt: HE MAY NOT TEACH HIM SCRIPTURE. Now that is well on the view that remuneration is for the teaching of accentuation. But on the view that payment is for acting as guardian — does an adult need one?[4] — It refers to a child. If so, consider the last clause: BUT HE MAY TEACH SCRIPTURE TO HIS SONS: can a child have children? — It is defective, and teaches thus: HE MAY NOT TEACH HIM SCRIPTURE in the case of a minor: but if he is an adult, HE MAY TEACH SCRIPTURE BOTH TO him and HIS SONS.

An objection is raised: Children are not to study a new portion of Bible on the Sabbath; but they may make a first revision on the Sabbath.[5] This is well on the view that remuneration is for the teaching of accentuation: hence a passage may not be read for the first time on the Sabbath;[6] but on the view that payment is for acting as guardian, why is it forbidden to teach a passage for the first time on the Sabbath, yet permitted to give a first revision on the Sabbath; surely there is pay for guardianship oil the Sabbath?[7] — Now, even according to your reasoning: is remuneration for teaching the accentuation on the Sabbath forbidden? Is it not included [in the weekly or monthly fee], which is permitted? For it was taught: If one engages a [day] labourer to look after a child,[8] or the heifer,[9] or to watch over the crops,[10] he may not pay him for the Sabbath:[11] therefore crops were specially guarded.

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[1] Deut. IV, 14.

[2] Ibid. 5.

[3] The whole system of punctuation and accentuation being post-Biblical, Moses' prohibition does not apply to it. The meaning of the phrase pisuk te' ammim is not altogether clear. Jastrow translates: 'the division of words into clauses in accordance with the sense, punctuation'. Be that as it may, it must at least refer to a particular manner of dividing the Biblical text with or without signs, over and above that which would naturally suggest itself by the subject matter. This conclusion must be drawn from the fact that it is regarded by Rab as non-Sinaitic: yet the clearly natural division, corresponding to peshat, could not have been thought of as introduced after Moses; what sense then did it make otherwise? There is mention of chanting in Meg. 32a, but there the reference is to the Mishnah as well as the Bible, the former being studied in a sort of chant, and the phrase pisuk te'ammim is not used there. [Berliner, A., however, in Bertr. z. hebr. Gram. p. 29, n. 1, quotes Rashi on Gen. Rab. XXXVI, (according to a M_nchen MS.) as explaining pisuk te'ammim as Tropen, cantillation.]

[4] Hence, Bible teaching to an adult should be unremunerated, in which case it should be permitted in the Mishnah.

[5] I.e., having studied it before, they may revise it even for the first time on the Sabbath.

[6] Because remuneration is made chiefly for teaching a passage for the first time, as that is the most difficult part of instruction. Hence, if a new passage is thus taught on the Sabbath, the teacher is paid chiefly for Sabbath labour, which is forbidden.

[7] What does it matter whether the passage is a new' one or not? The guardianship is the same in both cases, and remuneration for such work on the Sabbath is forbidden.

[8] That he should not ritually defile himself. It was customary for a child to draw the water from a well to mix with the ashes of the red heifer; this child had to be ritually clean.

[9] This refers to the red heifer. The guardian was to take care that 'no yoke came upon it' (Num. XIX, 2).

[10] This refers to the barley specially sown seventy days before Passover (Men. 85a) for the ceremony of 'sheaf waving' (v. Lev. XXIII. 11) and to the wheat of which were made the 'two wave-loaves' on Pentecost (ibid. 17). These

(11) Since each day is separately paid for, and payment for the Sabbath per se is forbidden.

Talmud - Mas. Nedarim 37b

if they are lost [or harmed] [on the Sabbath], he is not responsible. But if he was engaged by the week, month, year or septennate, he is paid for the Sabbath; consequently, if they are lost, he is responsible.[1] But in the matter of the Sabbath a new passage may not be studied for the first time for this reason: that the parents of the children may be free for the observance of the Sabbath. An alternative answer is this: because on the Sabbath they eat and drink [more than on weekdays] and feel sluggish;[2] as Samuel said: The change in one's regular diet is the beginning of digestive trouble.[3]

Now, he who maintains that remuneration is for the teaching of accentuation, — why does he reject the view that it is for acting as guardian? — He reasons: Do daughters then need guarding?[4] And he who maintains that the fee is for guardianship, — why does he reject the view that it is for teaching accents? — He holds that accents are also Biblical;[5] for R. Ika b. Abin said in the name of R. Hananel in Rab's name: What is the meaning of, And they read in the book, in the law of God, distinctly, and they gave the sense, so that they understood the reading?[6] 'They read in the book, it, the law of God,' refers to Scripture; 'distinctly,' to Targum;[7] 'and they gave the sense', to the division of sentences; 'so that they understood the reading,' to the accentuation; others say, to the masoroth.[8]

R. Isaac said: The textual reading,[9] as transmitted by the Soferim, their stylistic embellishments, [words] read [in the text] but not written, and words written but omitted in the reading, are all halachah from Moses at Sinai.[10] By textual reading is meant words as erez, shamayim, mizraim.[11] Stylistic embellishments: e.g., [and comfort ye your hearts;] after that ye shall pass on.[12] [Let the damsel abide with its a few days, at least ten:] after that she shall go. [Avenge the children of Israel of the Midianites;] afterwards, shalt thou be gathered unto thy people.[13] [The singers went before,] the players on instruments followed after.[14] Thy righteousness is like the great mountains.[15]

[Words] read [in the text] but not written: [the word] 'Euphrates' in [the verse] as he went to recover his border at the river [Euphrates];[16] [the word] 'man' in [the verse] And the counsel of Ahitophel . . . was as if a [man] had enquired of the oracle of God;[17] [the word] 'come' in [the verse] Behold, the days [come], saith the Lord, the city shall be built etc.;[18] 'for it' in [the verse] let there be no escape [for it]:[19] 'unto me' in [the verse] All that thou sayest [unto me] I will do; 'to me' [in the verse] And she went down unto the floor;[20] 'to me' in [the verse] And she said, These six measures of barley gave he unto me; for he said [to me],[21] All these [words] are read but not written.[22] The following are written but not read: [the word] 'pray' in forgive;[23]

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(1) Thus we see that the Sabbath may be paid for providing it is included in the general weekly agreement. Hence, though the main work in teaching lies in the first reading, this should be permitted on the Sabbath, since the fee is included in the general arrangements.

(2) Hence are not fit to study a portion for the first time.

(3) Lit., 'disease of the bowels'. The Sabbath being a day of delight, the parents naturally wish to play and amuse themselves with their children thereon. But if the children study a new passage on that day, since this requires great concentration, the parents may be afraid of distracting their attention. It is interesting to observe from actual life what the Sabbath meant to the people. In spite of the innumerable restrictions pertaining to that day, and on account of which the Sabbath has been severely criticised as an intolerable burden, right from the New Testament times down to the present day, this simple statement, teaching no doctrine or view of the Sabbath, but recording a simple fact, vividly illustrates the utter shallowness of all that misinformed criticism. Cf. Schechter, Studies in Judaism ('The Law and Recent Criticism, pp. 296f). — 'On the one side, we hear the opinions of so many learned professors, proclaiming ex cathedra that the Law was a most terrible burden, and the life under it the most unbearable slavery . . . On the other side we have the testimony of a literature extending over about twenty-five centuries, and including all sorts and conditions of men, scholars, poets, mystics, lawyers . . . schoolmen, tradesmen, workmen, women, simpletons, who all . . . give unanimous evidence in favour of this Law, and of the bliss and happiness of living and dying under it, — and this, the testimony of people who were actually living under the Law, not merely theorising upon it'.

(4) Girls are generally at home and do not venture into the streets; hence require no guarding. Now the Mishnah states in general terms that he may not teach Scripture. Though this, as explained, refers to a minor, yet even so the law holds good both of boys and of girls, since no limitations are given. But if payment is for guardianship, he should be permitted to teach girls, who do not need it. — Another reading is: does an adult need guarding? According to this, the explanation that the Mishnah refers to a minor is rejected as being too farfetched.

(5) I.e., the system of accentuations goes back to Moses: consequently it was included in Moses' prohibition.

(6) Neh. VIII, 8.

(7) Targum, 'translation', generally refers to the Aramaic translation of the Bible. In Mishnaic phraseology it might refer to a translation from Hebrew or the Bible into any language, (v. J. Kid. 59a, where it denotes a Greek version of Aquila; Meg. II, 1; Shab. 115a), but the word Targum by itself was restricted to the Aramaic version of the Bible. This Aramaic translation was publically read in the synagogue, along with the original text, and rules for reading it were formulated (v. Meg. II, 1; Tosef. Meg. II, V). This practice was an ancient institution, dating back to the Second Temple, and according to Rab, going back to Ezra, v. J.E., XII, p. 57.

(8) Masoroth: Tosaf and Asheri refer this to the plene and defective readings, e.g., where the 'o' is represented by waw (plene) and where it is missing (defective); where the 'i' is shewn by yod, and where not. Ran simply states: the traditional readings. The term 'masorah' occurs in Ezek. XX, 37, and means 'fetter'. Thus the masorah is a fetter upon the text, i.e., it fixes its reading. In course of time it was connected with masar (to hand down), and thus came to mean traditional reading. The old Hebrew text was in all probability written without any breaks. it was the work of the Masorites to make the divisions into words, books, sections, paragraphs, etc., and fix the orthography and pronunciation. The traditionally fixed text, especially with a view to its orthography, was called masoreth; the division into sense-clauses, pisuk te'ammim; the traditional pronunciation, mikra. V. J.E. s.v. Masorah.

(9) V. preceding note.

(10) I.e., though these were established by the Soferim (v. Glos.) they are based on usage going back to Moses.

(11) In pause (viz., an ethnahta or sof pasuk) the tone-vowels are lengthened. Since there is nothing in the lettering to indicate this grammatical change, it was the work of the Soferim to teach it.

(12) Gen. XVIII, 5.

(13) Num. XXXI, 2.

(14) Ps. LXVIII, 26.

(15) Ps. XXXVI, 7. In all these examples 'after' is strictly speaking superfluous, for the verses would have made the same sense without it (presumably by the use of the copulative). In the last example, the comparative kaf (like) is also unnecessary, being omitted in the parallel stich: thy judgements are a great deep. But they are inserted in the text in order to give it a smoother flow. Ran: In all these cases, 'after' (Heb. ahar). and in the last example, 'like the mountains' (Heb. keharere) bear a disjunctive accent, so as to elucidate the meaning. E.g., the first example (disregarding the accents) might read, 'and comfort ye your hearts after ye shall have passed', and so the other examples. The last example, owing to the disjunctive of ke-harere, is according to Ran to be translated: Thy righteousness, O God, is as (manifest as) the mountains. These disjunctives are referred to as the embellishments of the Soferim. Goldschmidt, Nedarim a.l. (p. 442, n. 84) observes that a copulative word has been omitted in all these texts, as is shewn by the Samaritan text and some MSS.

(16) II Sam. VIII, 3.

(17) Ibid. XVI, 23.

(18) Jer. XXXI, 38.

(19) Jer. L. 29.

(20) Ruth III, 5.

(21) Ibid. 17.

(22) Wilna Gaon adds the following examples, given in some editions, and also in Soferim VI, 8: But (the children of) Benjamin would not hearken (Jud. XX, 13); Because (Heb. Ki 'al ken: ken is read but not written) the king's son is dead (II Sam. XVIII, 20); The seal of the Lord of (hosts) (II Kings XIX, 31); Adrammelech and Sharaezer (his sons) smote him (Ibid. 37).

(23) II Kings V, 18.

Talmud - Mas. Nedarim 38a

‘these’ in Now [these] are the commandments.[1] ‘let him bend’ in Against him that bendeth [let him bend] the bow;[2] ‘five’ in and on the south side, four thousand and five [five] hundred;[3] ‘if’ in it is time that [If] I am thy near kinsman.[4] The foregoing are written but not read.[5]

R. Aha b. Adda said: In the West [i.e., Palestine] the following verse is divided into three verses, viz., And the Lord said unto Moses, Lo, I come unto thee in a thick cloud etc.[6]

R. Hama b. R. Hanina said: Moses became wealthy but from the chippings of the tablets, for it is written, Hew thee two tablets of stone like unto the first:[7] their chips be thine.

R. Jose son of R. Hanina said: The Torah was given only to Moses and his seed, for it is written, write thee these words[8] [and] Hew thee:[9] just as the chips are thine so is the writing thine.[10] But Moses in his generosity gave it to Israel, and concerning him it is said, He that hath a bountiful eye shall be blessed, etc.[11] R. Hisda objected: And the Lord commanded me at that time to teach you statutes and judgments?[12] — He commanded me, and I [passed it on] to you.[13] [A further objection:] Behold, I have taught you statutes and judgments, even as the Lord my God commanded me?[14] — He commanded me, and I taught you. Now, therefore, write this song for you![15] — This refers to the song alone.[16] That this song be a witness for the against the children of Israel?[17] — But only the [Scripture] dialectics [were given to Moses alone].[18]

R. Johanan said: The Holy One, blessed be He, causes His Divine Presence to rest only upon him who is strong, wealthy, wise and meek;[19] and all these [qualifications] are deduced from Moses. Strong, for it is written, And he spread abroad the tent over the tabernacle;[20] and a Master said, Moses our teacher spread it; and it is also written, Ten cubits shall be the length of the board.[21] Yet perhaps it was long and thin?[22] — But [it is derived] from this verse: And I took the two tables, and cast them out of my two hands, and broke them.[23] Now, it was taught: The tables were six [handbreadths] in length, six in breadth, and three in thickness.[24] Wealthy, [as it is written] Hew thee, [interpreted] the chips be thine. Wise: for Rab and Samuel both said, Fifty gates of understanding were created in the world, and all but one were given to Moses, for it is said, For thou hast made him [sc. Moses] a little lower than God.[25] Meek, for it is written, Now the man Moses was very meek.[26]

R. Johanan said: All the prophets were wealthy. Whence do we derive this? From Moses, Samuel, Amos and Jonah. Moses, because it is written, I have not taken one ass from them.[27] Now, if he meant without a hiring fee — did he then merely claim not to be one of those who take without a fee?[28] He must hence have meant, even with a fee.[29] But perhaps it was because of his poverty?[30] — But [it is derived] from the verse, Hew thee etc.: the chips be thine. Samuel, because it is written, Behold here I am: witness against me before the Lord, and before his anointed: whose ox have I taken, or whose ass have I taken?[31] Now, if he meant for nothing — did he then merely claim not to be one of those who take without payment? Hence he must have meant, even for payment. But perhaps it was due to poverty? — Rather from this verse, And his return was to Ramah: for there was his house.[32] Whereupon Raba observed, wherever he went, his house went with him.[33] (Raba said: A greater thing is said of Samuel than of Moses: for in the case of Moses it is stated, ‘I have not taken one ass from them’ implying even for a fee;[34] but in the case of Samuel, he did not hire it even with their consent, for it is written, And they said, thou hast not defrauded us, nor taken advantage of our willingness.)[35] Amos, because it is written, Then answered Amos and said to Amaziah, I was no prophet, neither was I a prophet's son, but I was a herdman and a gatherer of sycamore fruit;[36] which R. Joseph translated: Behold, I am the owner of flocks, and possess sycamore trees in the valley.[37] Jonah, as it is written [and he found a ship going to Tarshish:] so he paid the fare thereof, and went down into it.[38] And R. Johanan observed: He paid for the hire of the whole ship. R. Romanus said: The hire of the ship was four thousand gold denarii.

R. Johanan also said: At first Moses used to study the Torah and forget it, until it was given to him as a gift, for it is said, And he gave unto Moses, when he had made an end of communing with him [. . . two tables of testimony].[39]

MISHNAH. AND HE MAY SUPPORT HIS WIFE AND CHILDREN, THOUGH HE [THE MUDDAR] IS LIABLE FOR THEIR MAINTENANCE.[40] BUT HE MAY NOT FEED HIS BEASTS, WHETHER CLEAN OR UNCLEAN.[41] R. ELIEZER SAID: HE MAY FEED AN UNCLEAN BEAST OF HIS, BUT NOT A CLEAN ONE. THEY [THE SAGES] SAID TO HIM, WHAT IS THE DIFFERENCE BETWEEN AN UNCLEAN AND A CLEAN BEAST? HE REPLIED TO THEM, THE LIFE OF A CLEAN BEAST BELONGS TO HEAVEN, BUT THE BODY IS HIS OWN;[42] BUT AN UNCLEAN ANIMAL

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(1) Deut. VI, 1. Wilna Gaon deletes this example, as in fact ‘these’ is read. He substitutes ‘eth in As the Lord liveth (‘eth — sign of the accusative) that made us this soul (Jer. XXXVIII, 16). In Heb. Zoth (this) and ‘eth are similar, differing only in one letter, and this may have caused the error in the text.

(2) Jer. LI, 3.

(3) Ezek. XLVIII, 26.

(4) Ruth III, 12.

(5) Wilna Gaon adds the following examples: Ibid. XV, 21 Jer. XXXIX. These are given in Soferim VI.

(6) Ex. XIX, 9. [This is not to imply that in Palestine where the whole of the Pentateuch was read in three years, most verses were divided in two or three (v. Rappaport, Halichoth Kedem pp. 10 and 17). It only means that this was one of the few passages in which there existed a difference of division between the Palestinians and Babylonians; v. Blau, JQR, 1896, p. 143.]

(7) Ex. XXXIV, 1.

(8) Ibid. 27.

(9) Ibid. 1.

(10) The Torah is thy property.

(11) Prov. XXII, 9.

(12) Deut. IV, 24. This proves that it was not given to Moses for himself.

(13) This is the answer, which interprets the verse thus: And the Lord commanded me at that time, (and I determined) to teach you etc.

(14) Ibid. 5.

(15) Ibid. XXXI, 19. ‘For you’ shews that it was given to the Israelites in the first place.

(16) But the rest of the Torah was originally given to Moses alone.

(17) Deut. XXXI, 19. If the reference is to the song alone, how can that testify against Israel?

(18) And he taught them to the people.

(19) Cf. Maim. Guide, II, ch. 32. It seems strange that wealth should he regarded as a necessary qualification for prophecy. Poverty was not regarded as a fault, many of the Rabbis being poor (e.g., Hillel, before he became nasi; R. Joshua, the opponent of R. Gamaliel; R. Judah), yet were not thought of any the less. CF. also Aboth, VI, 4. Is it possible that ‘wealthy’ was included in order to oppose the N.T. teachings which imply that poverty in itself is a virtue? [According to Asheri these qualifications are deemed necessary for the gift of permanent prophecy. This would explain the inclusion of wealth, which dowers its possessor with the sense of independence. the better to proclaim the word of God and which commands greater respect.]

(20) Ex. XL, 19.

(21) Ex. XXVI, 16. This then was the height of the tabernacle: to have spread the tent over it he must have been extremely tall, and presumably correspondingly strong.

(22) In which case he would not necessarily be strong.

(23) Deut. IX, 17.

(24) These would be extremely heavy and require great strength to handle.

(25) Ps. VIII, 6.
(26) Num. XII, 3.
(27) Num. XVI, 15.
(28) Surely he did not pride himself on not being a thief!
(29) I.e., he had no need to hire an animal, possessing so many himself. Therefore he must have been wealthy.
(30) I.e., having so few possessions that he did not need one.
(31) I Sam. XII, 3.
(32) Ibid. VII, 17.
(33) I.e., he travelled about with all the retinue and baggage of his house: this could be done only by a wealthy man.
(34) This implies that he did not compel them to hire him an ass. Yet even when he merely requested it, they might have dissimulated their unwillingness through shame and hired it to him.
(35) Ibid. XII, 4.
(36) Amos VII, 14.
(37) Hence I have no need to turn my prophecy to professional uses. Boker, rendered in the A.V. 'herdman', is here translated 'owner of flocks'. [This is the rendering of Targum Pseudo-Jonathan; v. B.K. (Sonc. ed.) p. 9, n. 9.]
(38) Jon. I, 3.
(39) Ex. XXXI, 18. This shews that the two tables (i.e., the Torah) were made a gift to him.
(40) This continues the preceding Mishnahs. Tosaf.: this applies according to the Rabbis supra 33b, to maintenance above the minimum necessities, which is all a husband is liable For.
(41) Because a fattened animal has more value than otherwise; hence it is a direct benefit to the muddar.
(42) I.e., since it may be eaten, he directly benefits by its fattening

Talmud - Mas. Nedarim 38b

BELONGS BODY AND LIFE TO HEAVEN.[1] SAID THEY TO HIM, THE LIFE OF AN UNCLEAN BEAST TOO BELONGS TO HEAVEN AND THE BODY IS HIS. FOR IF HE WISHES, HE CAN SELL IT TO A HEATHEN OR FEED DOGS WITH IT.

GEMARA. R. Isaac b. Hananiah said in R. Huna's name: He who is under a vow not to benefit from his neighbour may give him his daughter in marriage. R. Zera pondered thereon: What are the circumstances? If the property of the bride's father is forbidden to the bridegroom, — is he not giving him a servant to serve him?[2] If again the bridegroom's property is forbidden to the father of the bride[3] — but even a greater thing was said: HE MAY SUPPORT HIS WIFE AND CHILDREN. THOUGH HE [THE MUDDAR] IS LIABLE FOR THEIR MAINTENANCE;[4] then you say, He may give him his daughter in marriage! — After all, this refers to the case where the property of the father of the bride is forbidden to the bridegroom, but this treats of his daughter, a bogereth,[5] [who marries] at her own desire. It was taught likewise: He who is under a vow not to benefit from his neighbour may not give him his daughter in marriage; but he may permit his daughter, a bogereth, to marry him at her own desire.

R. Jacob said: If a man imposes a vow on his son [to do no service for him], in order that his son may study,[6] the latter may fill a barrel of water and light the lamp for him.[7] R. Isaac said: He is permitted to broil him a small fish.

R. Jeremiah said in R. Johanan's name: If a man is under a vow not to benefit from his neighbour, the latter may offer him the cup of peace. What is that? — Here [in Babylon] it has been interpreted, the cup drunk in the house of mourning.[8] In the West [Palestine] it was said: the cup of the baths.[9]

BUT HE MAY NOT FEED HIS BEASTS, WHETHER etc. It was taught: Joshua of 'Uzza said: He may feed his Canaanitish [i.e., heathen] bondmen and bondwomen, but not his beasts, whether clean or unclean. Why so? Because slaves are for service;[10] beasts are for fattening.

MISHNAH. IF ONE IS FORBIDDEN TO BENEFIT FROM HIS NEIGHBOUR, AND HE PAYS HIM A VISIT [IN SICKNESS] HE MUST STAND, BUT NOT SIT; HE MAY AFFORD HIM A CURE OF LIFE, BUT NOT A CURE OF MONEY.[11]

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(1) Since it may not be eaten, he does not benefit through its fattening.

(2) Why is it then permitted? This is on the assumption that the reference is to a na'arah, (v. Glos.), whose labour belongs to her father, and who in turn transfers it to her husband.

(3) And R. Huna teaches that he may marry his daughter, though by maintaining her he indirectly benefits her father.

(4) So that he could support his daughter even when under her father's roof, and he is not considered as thereby benefiting her father. Surely then it is only too obvious that he may marry her.

(5) Over twelve years and six months and one day of age. She is no longer under her father's authority, and the profits of her labour belong to herself.

(6) Without interruption.

(7) For presumably his vow was not directed against such trifling services, which require very little time.

(8) It was customary to drink a special mourner's cup at the meals in a mourner's house. Keth. 8b.

(9) It was the custom to drink a cup of some beverage after a hot bath.

(10) Consequently their master does not gain anything when one feeds them. This refer, to extra food over the slave's requirements. — Ran.

(11) The meaning of this is discussed on 42b.

Talmud - Mas. Nedarim 39a

GEMARA. What are the circumstances? If the visitor's property is forbidden to the invalid, he may even sit? Whilst if the invalid's property is forbidden to the visitor, he may not even stand?[1] — Said Samuel: In truth, it means that the visitor's property is forbidden to the invalid, and applies to a place where a fee is received for sitting [with an invalid], but not for standing.[2] How state this definitely?[3] — He [the Tanna] teaches us thus: that even where it is customary to take a fee for visiting, one may receive it only for sitting, but not for standing.[4] An alternative answer is this: Just as R. Simeon maintained [elsewhere] that it is feared that he may tarry a long time whilst standing,[5] so here too it is feared that he may stay a long time if he sits.[6] ‘Ulla said: After all it means that the invalid's property is forbidden to the visitor, for[7] he did not vow where it affects his health.[8] If so, he may sit too? — Because he can stand.[9]

An objection is raised: If he fell sick, he may enter to visit him; if his son became ill, he may inquire [after his health] in the street.[10] Now this is well according to ‘Ulla, who maintains that it means that the invalid's property is forbidden to the visitor, for he did not vow where it affects his own health.[11] But on Samuel's explanation, that the visitor's property is forbidden to the invalid, what is the difference between himself and his son? — He can answer you: Our Mishnah means that the invalid may not benefit from the visitor; in the Baraitha, the case Is reversed. How state this definitely?[12] — Said Raba:

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(1) For by standing in his house he is regarded as benefiting.

(2) It was customary to have companions or visitors for invalids, to cheer them up. Therefore if the visitor gives the invalid his company without accepting a fee, he is benefiting him.

(3) That money is paid for sitting and not for standing.

(4) One who sits presumably stays a long time; but one who stands pays only a fleeting visit, and hence may not receive a fee.

(5) V. 42b.

(6) I.e., the Mishnah refers to an invalid who is forbidden to benefit from the visitor. The visitor may not sit, lest he stay a long time, which is certainly a benefit to the invalid.

(7) Generally the Heb. kegon states a particular instance. Here, however, it introduces a general statement. — Rashi, Ran, and Asheri.

(8) The invalid never intended that his neighbour should be so stringently forbidden to benefit from him as not even to stand in his house to cheer him up in his illness.
(9) For the invalid would not have the visitor benefit from him more than is strictly necessary.
(10) But not enter his house.
(11) Therefore, if his son fell sick, the visitor may not enter his house, because it is to be assumed that the question of his son's health did not come into consideration at the time of the vow.
(12) On what grounds is this difference based?

Talmud - Mas. Nedarim 39b

Our Mishnah presents a difficulty to Samuel: Why particularly teach that he may stand but not sit? Hence it must refer to a case where the invalid is forbidden to benefit from his visitor.[1]

Resh Lakish said: Where is visiting the sick indicated in the Torah? In the verse, If these men die the common death of all men, or if they be visited after the visitation of all men etc.[2] How is it implied? — Raba answered: [The verse means this:] If these men die the common death of all men, who lie sick a-bed and men come in and visit them, what will people say? The Lord hath not sent me[3] for this [task]. Raba expounded: But if the Lord make a new thing:[4] if the Gehenna[5] is already created, ‘tis well: if not, let the Lord create it. But that is not so, for it was taught: Seven things were created before the world, viz., The Torah, repentance, the Garden of Eden, Gehenna, the Throne of Glory, the Temple, and the name of the Messiah. The Torah, for it is written, The Lord possessed me [sc. the Torah] in the beginning of his way, before his works of old.[6] Repentance, for it is written, Before the mountains were brought forth, or ever thou hadst formed the earth and the world . . . Thou turnest man to destruction, and sayest, Repent, ye sons of men.[7] The Garden of Eden, as it is written, And the Lord God planted a garden in Eden from aforetime.[8] Gehenna, as it is written, For Tophet[9] is ordained of old.[10] The Throne of Glory, as it is written, Thy Throne is established from of old.[11] The Temple, as it is written, A glorious high throne from the beginning is the place of our sanctuary.[12] The name of the Messiah, as it is written, His name [sc. of Messiah] shall endure for ever, and [has existed] before the sun![13] — But Moses said thus: If a mouth has already been created for it [sc. Gehenna], ‘tis well; if not, let the Lord create one. But is it not written, There is no new thing under the sun?[14] — He said thus: If the mouth is not near to this spot, let it draw near.

Raba, or as others say, R. Isaac, lectured: What is meant by, The sun and the moon stood still in their zebul?[15] What were they doing in the zebul, seeing that they were set in the raki'a?[16] This teaches that the sun and the moon ascended from the raki'a to the :zebul and exclaimed before Him, ‘Sovereign of the Universe! If thou wilt execute judgment for Amram's son,[17] we will give forth our light; if not, we will not shine.’ In that moment He shot spears and arrows at them. ‘Every day,’ He rebuked them, ‘men worship you, and yet you give your light. For My honour you do not protest, yet you protest for the honour of flesh and blood.’ [Since then,] spears and arrows are shot at them every day before they consent to shine,[18] as it is written, And at the light of thy arrows they go, etc.[19]

It was taught: There is no measure for visiting the sick. What is meant by, ‘there is no measure for visiting the sick?’ R. Joseph thought to explain it: its reward is unlimited. Said Abaye to him: Is there a definite measure of reward for any precept? But we learnt: Be as heedful of a light precept as of a serious one, for thou knowest not the grant of reward for precepts? But Abaye explained it: Even a great person must visit a humble one. Raba said: [One must visit] even a hundred times a day. R. Abba son of R. Hanina said: He who visits an invalid takes away a sixtieth of his pain.[20] Said they to him: If so, let sixty people visit him and restore him to health? — He replied: The sixtieth is as the tenth spoken of in the school of Rabbi, and [providing further that] he [the visitor] is of his affinity.[21] For it was taught: Rabbi said: A daughter who enjoys maintenance from her brothers’ estate receives a tenth of the estate.[22] Said they to Rabbi: If so, if a man leaves ten daughters and one son, the latter receives nothing! He replied: The first [to marry] receives a tenth of the estate; the second, a tenth of the residue; the third, a tenth of what remains. [Now, if they all married at the same time], they redivide equally.[23]

R. Helbo fell ill. Thereupon R. Kahana went and proclaimed:

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(1) It is certainly true that one who forbids his neighbour to benefit from him does not do so at the cost of his own health. But then he would draw no distinction between standing and sitting, and would desire the visitor to have the benefit of sitting in his house too. Hence on ‘Ulla's interpretation the distinction in the Mishnah is wrong; therefore Samuel reverses it.
(2) Num. XVI, 29.
(3) Ibid.
(4) Ibid. 30.
(5) V. p. 19, n. 6.
(6) Prov. VIII, 22.
(7) Ps. XC, 2f. ‘Before’, etc. applies to ‘Repent’.
(8) Gen. II, 8.
(9) Another name for Gehenna.
(10) Isa. XXX, 33.
(11) Ps. XCIII, 2.
(12) Jer. XVII, 12.
(13) Ps. LXXII, 17. Now, according to this, Gehenna was definitely created before the world; how then could Moses be doubtful? — The general idea of this Baraitha is that these things are the indispensable prerequisites For the orderly progress of mankind upon earth. The Torah, the supreme source of instruction, the concept of repentance, in recognition that ‘to err is human’, and hence, if man falls, he needs the opportunity to rise again; the garden of Eden and the Gehenna symbolising reward and punishment, which, without conceding a purely utilitarian basis for ethical striving, are nevertheless powerful incentives thereto; the Throne of Glory and the Temple, indicating that the goal of creation is that the kingdom of God (represented by the Temple) should be established on earth as it is in Heaven; and finally, the name of Messiah, the assurance that God's purpose shall be eventually achieved.
(14) Ecc. I, 9.
(15) Hab. Ill, 11.
(16) According to tradition, there are seven heavens, zebul being one.
(17) By punishing Korah and his confederates.
(18) Accepting the Almighty's rebuke, they refuse to shine, because of the insult to His glory, until they are forced to.
(19) Ibid.
(20) A variant: his sickness.
(21) As the invalid. Born under the same planetary influence, Asheri; Rashi (and last.) ‘of the same age’.
(22) She can, on marriage, demand a tenth of the estate for a dowry and trousseau. V. Keth. 68a.
(23) I.e., after taking one tenth of the estate, and another a tenth of what is left, and a third likewise, etc., they pool the lot together, and divide it equally. — Thus here too, the first visitor with the same affinity takes away a sixtieth of the sickness; the second a sixtieth of the remainder, and so on. Hence he would not be completely cured.

Talmud - Mas. Nedarim 40a

R. Helbo is sick. But none visited him. He rebuked them [sc. the scholars], saying, ‘Did it not once happen that one of R. Akiba's disciples fell sick, and the Sages did not visit him? So R. Akiba himself entered [his house] to visit him, and because they swept and sprinkled the ground before him,[1] he recovered. ‘My master,’ said he, ‘you have revived me!’ [Straightway] R. Akiba went forth and lectured: He who does not visit the sick is like a shedder of blood.

When R. Dimi came,[2] he said: He who visits the sick causes him to live, whilst he who does not causes him to die. How does he cause [this]? Shall we say that he who visits the sick prays[3] that he may live, whilst he who does not prays that he should die, — ‘that he should die!’ can you really think so? But [say thus:] He who does not visit the sick prays neither that he may live nor die.[4]

Whenever Raba fell sick, on the first day he would ask that his sickness should not be made known to any one lest his fortune be impaired.[5] But after that, he said to them [his servants], ‘Go, proclaim my illness in the market place, so that whoever is my enemy may rejoice, and it is written, Rejoice not when thine enemy falleth . . . Lest the Lord see it, and it displeases him, and he turn away his wrath from him.[6] whilst he who loves me will pray for me.

Rab said: He who visits the sick will be delivered from the punishments of Gehenna, for it is written, Blessed is he that considereth the poor: the Lord will deliver him in the day of evil.[7] ‘The poor’ [dal] means none but the sick, as it is written, He will cut me off from pining sickness [mi-dalah];[8] or from this verse: Why art thou so poorly [dal], thou son of the King?[9] Whilst ‘evil’ refers to Gehenna, for it is written, The Lord hath made all things for himself’ Yea, even the wicked for the day of evil.[10] Now, if one does visit, what is his reward? [You ask,] ‘what is his reward?’ Even as hath been said; ‘he will be delivered from the punishment of Gehenna!’ — But what is his reward in this world? — The Lord will preserve him, and keep him alive, and he shall be blessed upon the earth; and thou wilt not deliver him unto the will of his enemies.[11] ‘The Lord will preserve him’. — from the Evil Urge, ‘and keep him alive’ — [saving him] from sufferings; ‘and he shall be blessed upon the’ earth,’ — that all will take pride in him;[12] ‘and the wilt not deliver him unto the will of his enemies’, — that he may procure friends like Naaman's, who healed his leprosy; and not chance upon friends like Rehoboam's, who divided his kingdom.

It was taught: R. Simeon b. Eleazar said: If the young tell you to build, and the old to destroy, hearken to the elders, but hearken not to the young, for the building of youth is destruction, whilst the destruction of the old is building. And a sign for the matter is Rehoboam the son of Solomon.[13]

R. Shisha son of R. Idi said: One should not visit the sick during the first three or the last three hours [of the day], lest he thereby omit to pray[14] for him. During the first three hours of the day his [the invalid's] illness is alleviated; in the last three hours his sickness is most virulent.[15]

Rabin said in Rab's name: Whence do we know that the Almighty sustains the sick? From the verse, The Lord will strengthen him upon the bed of languishing.[16] Rabin also said in Rab's name: Whence do we know that the Divine Presence rests above an invalid's bed? From the verse, The Lord doth set himself upon the bed of languishing.[17] It was taught likewise: He who visits the sick must not sit upon the bed, or on a stool or a chair, but must [reverently] robe himself and sit upon the ground, because the Divine Presence rests above an invalid's bed, as it is written, The Lord doth set himself upon the bed of languishing.

Rabin also said in Rab's name: [The swelling of] the Euphrates testifies abundantly to rain in the West.[18] Now, he disagrees with Samuel, who said: A river increases [in volume] from its bed.[19] Now, Samuel is self-contradictory. For Samuel said: Running water does not purify,

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(1) Asheri: R. Akiba, finding the chamber neglected, gave the necessary orders.

(2) From Palestine.

(3) Lit., ‘begs mercy for him’.

(4) Through the lack of his prayers, which might have been accepted, he is said to cause his death.

(5) If his illness became known, people might talk about it and thus affect his fate (Rashi).

(6) Prov. XXIV, 17f.

(7) Ps. XLI, 2.

(8) Isa. XXXVIII, 12.

(9) II Sam. XIII, 4.

(10) Prov. XVI, 4.

(11) Ps. XLI, 3.

(12) Lit., ‘all will be honoured in him’ — he will be a source of pride to all.

(13) His elder councillors advised him to submit to the malcontents, thus apparently weakening his authority; whilst his young friends advised him to strengthen his rule by rejecting their demands. As a result of listening to the young men his kingdom was split. Kings XII.

(14) Lit., ‘dismiss’ his mind from mercies.

(15) Consequently, a visitor in the first three hours may think him on the road to recovery, and consider prayer unnecessary; in the last three hours, on the other hand, he may feel that prayer is hopeless.

(16) Ps. XLI, 4.

(17) This is another rendering of the same verse. Rashi suggests another interpretation; for yisa'denu, meaning ‘he will strengthen him’, read yesharenu, ‘he will abide with him’.

(18) Palestine. When it rains in Palestine, which is higher than Babylon, the water flows down and causes the swelling of the Euphrates. This is another way of saying that the rise of a river is due to the rains. The practical bearing of this on ritual law is discussed below.

(19) Lit., ‘From its rock’: though it appears to swell through the rains, actually more water gushes upwards from the river bed than is added by the rain,

Talmud - Mas. Nedarim 40b

except the Euphrates in Tishri.[1] Samuel's father made mikwaoth for his daughters in Nisan[2] and had mats set for them in the days of Tishri.[3]

R. Ammi said in Rab's name: What is meant by the verse, Therefore, thou son of man, prepare thee stuff for removing?[4] This is a lamp, plate and

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(1) Tishri is the seventh month of the Jewish year, generally coinciding with September-October. If a mikweh (ritual bath) is made of collected rain water, it is efficacious only if its water is still, not running or flowing. On the other hand, a well or spring with its water gushing forth from its source is efficacious even when it flows onward. Now, during the whole year, the river may contain more rain water or melted snow than its own natural waters; consequently, it is all considered as rain water, which does not cleanse when in a running state. But in Tishri the rains have ceased, nor is there any melted snow in the river. Then it is like a well or spring, and even though running its water is efficacious for ritual cleansing. Now, according to this, the river's rise is caused mainly by rain. This conflicts with the view that at all times the water from its source is more.

(2) Nisan, the first Jewish month, corresponding to March-April. As the river is then swollen by rain, he did not permit them to take their ritual bath in the running river, but made special enclosed baths for them.

(3) In Tishri they performed their ablutions in the river. Now the bed of the river is miry, and should the feet sink into it, the water cannot reach them and the immersion is invalid; he therefore placed mats in the river bed for them to stand on. Ran gives another explanation: He hung up mats on the shore to serve as a screen, For modesty. [Obermeyer op. cit. p. 278: he set up for them tents made of reeds]. On both explanations this story is mentioned here in support of Samuel's second dictum.

(4) Ezek. XII, 3.

Talmud - Mas. Nedarim 41a

a rug.[1]

[And thou shalt serve thine enemies . . .] in want of all things.[2] R. Ammi said in Rab's name: This means without a lamp or table. R. Hisda said: Without a wife; R. Shesheth said: Without an attendant; R. Nahman said: Without knowledge. A Tanna taught: Without salt or fat. Abaye said: We have it on tradition that no one is poor save he who lacks knowledge. In the West [palestine] there is a proverb: He who has this, has everything; he who lacks this, what has he? Has one acquired this, what does he lack? Has he not acquired this, what does he possess?

R. Alexandri said in the name of R. Hiyya b. Abba: A sick man does not recover from his sickness until all his sins are forgiven him, as it is written, Who forgiveth all thine iniquities; who healeth all thy diseases.[3] R. Hamnuna said: He [then] returns to the days of his youth, for it is written, His flesh shall be fresher than a child's: he shall return to the days of his youth.[4]

Thou host turned his bed in his sickness.'[5] R. Joseph said: This means that he forgets his learning. R. Joseph fell ill and forgot his learning; but Abaye restored it to him. Hence it is frequently stated that R. Joseph said, 'I have not heard this law,' and Abaye reminded him, 'You yourself did teach it to us and did deduce it from this particular Baraitha.'

When Rabbi had studied his teaching in thirteen different interpretations, he taught R. Hiyya only seven of them. Eventually Rabbi fell sick [and forgot his learning]. Thereupon R. Hiyya restored to him the seven versions which he had taught him, but the other six were lost. Now, there was a certain fuller who had overheard Rabbi when he was studying them himself; so R. Hiyya went and learned them from the fuller, and then repeated these before Rabbi. When Rabbi met him, he said to him, 'Thou hast taught[6] both R. Hiyya and myself'. Others say that he spoke thus to him: 'Thou hast taught R. Hiyya, and he has taught me.

R. Alexandri also said in the name of R. Hiyya b. Abba: Greater is the miracle wrought for the sick than for Hananiah, Mishael and Azariah. [For] that of Hananiah, Mishael and Azariah [concerned] a fire kindled by man, which all can extinguish; whilst that of a sick person is [in connection with] a heavenly fire,[7] and who can extinguish that?

R. Alexandri also said in the name of R. Hiyya b. Abba, — others state, R. Joshua b. Levi said: When a man's end has come, all have dominion over him, for it is written, And it will be that whosoever findeth me will slay me.[8] Rab deduced it from this verse: They stand forth this day to receive thy judgments: for all are thy servants.[9]

Rabbah b. Shila was told that a tall man had died. [Now it happened thus:] This man was riding on a little mule and when he came to a bridge, the mule shied and threw the man, and he was killed. Thereupon Rabbah applied to him the verse, They stand forth this day to receive thy judgments etc.

Samuel saw a scorpion borne by a frog across a river, and then stung a man, so that he died. Thereupon Samuel quoted, They stand forth this day to receive thy judgments etc.[10]

Samuel said: Only a sick person who is feverish[11] may be visited. What does this exclude? It excludes those concerning whom it has been taught by R. Jose b. Parta in R. Eliezer's name, viz., One must not visit those suffering with bowel [trouble], or with eye disease, or from headaches. Now the first is well, the reason being through embarrassment;[12] but what is the reason of the other two? — On account of Rab Judah's dictum, viz., Speech is injurious to the eyes and to [people suffering from] headaches.[13]

Raba said: Feverishness, were it not a forerunner of the angel of death,[14] it would be as salutary

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(1) These are the minimum requisites of a wanderer.

(2) Deut. XXVIII, 48.

(3) Ps. CIII, 3.

(4) Job XXXIII, 25.

(5) Ps. XLI, 4.

(6) Lit., 'made'.

(7) I.e., his temperature rises.

(8) Gen. IV, 14; thus Cain, thinking that his end had arrived, recognised that everything would have power to slay him.
(9) Ps. CXIX, 91. I.e., all become servants to carry out God's judgment of doom.
(10) Though a scorpion cannot swim, he was carried across by the frog, in order to fulfil God's judgment.
(11) Lit., ‘when he is wrapped in heat’.
(12) He has his bowels frequently moved.
(13) This is the reading of Asheri; cur. edd. add, ‘and is good for fever’ and Wilna Gaon amends likewise.
(14) Both in the Bible and in the Talmud death is regarded as coming to man through an angel. Thus we find mention of the ‘angel of the Lord’ destroying 185,000 men in the Assyrian camp (II Kings XIX, 35); the destroying angel (II Sam. XXIV, 15); ‘the angel of the Lord’ whom David saw standing ‘between the earth and the heaven, having a drawn sword in his hand stretched out over Jerusalem’ (I Chron. XXI, 15). In the Talmud this angel is frequently referred to, and he was conceived as causing death by dropping gall into the mouth of the victim; ‘A.Z. 20b; v. J.E. IV, 480ff.

Talmud - Mas. Nedarim 41b

once in thirty days as thorns which surround [and protect] a palm tree, and as theriak[1] to the body[2] R. Nahman b. Isaac said: [I want] neither it nor its theriak.

Rabbah b. Jonathan said in R. Jehiel's name: ‘Arsan is beneficial for healing the sick. What is ‘arsan? — Said R. Jonathan: Old peeled barley which sticks to the sieve.[3] Abaye observed: They require boiling as the flesh of an ox. R. Joseph said: It is fine barley flour which sticks to the sieve; [whereupon] Abaye remarked: It needs as much boiling as the flesh of an ox.

R. Johanan said: We must not visit one afflicted with burdam,[4] nor mention its [real] name. What is the reason? — R. Eleazar said: Because it is like a gushing well.[5] R. Eleazar also said: Why is it called burdam? Because it is a gushing well.[6]

THE LATTER MAY AFFORD HIM A CURE OF LIFE BUT NOT A CURE OF MONEY. What does this mean? Shall we say that ‘A CURE OF LIFE means without payment, and ‘A CURE OF MONEY’ is for a fee?[7] Then let him [the Tanna] state: He may heal him without payment, but not for a fee? — But by ‘A CURE OF LIFE’ his own person is meant: whilst ‘A CURE OF MONEY’ refers to his cattle.[8] R. Zutra b. Tobiah said in Rab's name: Nevertheless he may tell him: this drug is beneficial for it, that drug is injurious for it.

MISHNAH. HE MAY BATHE TOGETHER WITH HIM IN A LARGE BATH, BUT NOT IN A SMALL ONE,[9] HE MAY SLEEP IN A BED WITH HIM. R. JUDAH SAID: [ONLY] IN SUMMER, BUT NOT IN WINTER, BECAUSE HE [THEREBY] BENEFITS HIM.[10] HE MAY RECLINE ON A COUCH[11] OR EAT AT THE SAME TABLE WITH HIM[12] BUT NOT OUT OF THE SAME DISH;[13] BUT HE MAY DINE WITH HIM OUT OF A BOWL WHICH RETURNS.[14]

GEMARA. It was taught: He may not bathe together with him in a bath, or sleep in a bed with him, whether large or small: this is R. Meir's ruling. R. Judah said: A large one in winter, and a small one in summer are permitted.[15] He may bathe with him in a large bath, and may take a hot air bath with him [even] in a small one.[16] He may recline on a couch with him, and eat at the same table, but not out of the same dish. Yet he may eat out of the same bowl that returns. R. Jose b. Hanina said: that means the bowl that returns to the host.[17]

MISHNAH. HE MAY NOT EAT WITH HIM OUT OF THE BOWL PUT BEFORE WORKMEN,[18] NOR MAY HE WORK WITH HIM ON THE SAME FURROW: THIS IS R. MEIR'S VIEW. BUT THE SAGES SAY: HE MAY WORK, PROVIDED HE IS AT A DISTANCE.

GEMARA. There is no dispute at all that they may not work near [each other]. They differ only in reference to [working at] a distance. R. Meir maintains: We forbid at a distance as a preventive measure on account of nearby, for he [the maddir] softens the ground before him; while the Rabbis hold: We do not enact a preventive measure.

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(1) A certain compound believed to be an antidote against poisonous bites.

(2) I.e., the fever has a purging and purifying effect on the body.

(3) On account of its fatness. Lit., 'of the top of the sieve'.

(4) Dysentery, bloody flux; Rashi quotes a version burdas.

(5) Not to shame the one afflicted with it.

(6) The word is a compound; bor dam, a well of blood.

(7) LIFE, Heb. nefesh. will then be the equivalent of desire (nefesh in Heb. sometimes bears that meaning, c.g., Gen. XXIII, 8: If it be your desire, Heb. nafshekem), i.e., of his own free will. The Mishnah then will refer to the doctor being a muddar (v. Glos.), who may not accept a fee from the invalid.

(8) Hence, nefesh in the Mishnah is translated 'his soul', i.e., himself, whilst mamon (money) refers to his chattels. According to this interpretation the invalid is the muddar; nevertheless, the saving of life overrules other considerations. This is so, even if another doctor is available, for the skill of the first may be greater. In fact, the prohibition to heal his cattle holds good only if another doctor can he obtained, — Ran.

(9) In a small one his own body perceptibly raises the level of the water, and also adds to its heat; he thereby benefits him.

(10) By adding warmth.

(11) Even in winter, as no benefit is gained.

(12) This is not forbidden lest he eat of the other's portion.

(13) A large bowl was sometimes placed on the table, from which all ate. The maddir and the muddar may not eat out of the same bowl, lest the former take too little from it and thereby benefit the latter.

(14) This is explained in the Gemara.

(15) In the first case the warmth is not appreciably increased, whilst in the second the increase is of no advantage.

(16) The addition of heat there being of no benefit.

(17) I.e., there is so much in it that it goes back to the host unemptied. Another meaning: that continually goes back to the host to be replenished. In that case the maddir does not benefit the muddar by taking a small portion.

(18) The employer used to provide a large bowl of food for his workmen, out of which they all ate.

Talmud - Mas. Nedarim 42a

MISHNAH. HE WHO IS FORBIDDEN BY VOW TO BENEFIT FROM HIS NEIGHBOUR, [IF THE VOW WAS IMPOSED] BEFORE THE SEVENTH YEAR,[1] MAY NOT ENTER HIS FIELD [IN THE SEVENTH YEAR][2] NOR TAKE OF THE OVERHANGING [FRUIT].[3] BUT IF [THE VOW WAS IMPOSED] IN THE SEVENTH YEAR, HE MAY NOT ENTER HIS FIELD, BUT MAY EAT OF THE OVERHANGING BRANCHES.[4] IF HE WAS [MERELY] FORBIDDEN IN RESPECT OF FOOD [BUT NOT ALL BENEFIT], [AND THE VOW WAS IMPOSED] BEFORE THE SEVENTH YEAR, HE MAY ENTER HIS FIELD, BUT MAY NOT EAT OF ITS FRUITS; BUT [IF IT WAS IMPOSED] IN THE SEVENTH YEAR, HE MAY ENTER [HIS FIELD] AND EAT [OF ITS FRUITS].

GEMARA. Rab and Samuel both ruled: [If one says to his neighbour], 'This my property [be forbidden] to you', [if he vowed] before the seventh year, he may not enter his field or take of the overhanging [fruits] even when the seventh year arrives. But if he vowed in the seventh year, he may not enter his field, yet may enjoy the overhanging [fruits]. R. Johanan and Resh Lakish both maintained [If one says to his neighbour,] 'This my property [be forbidden] to you'; [if he vowed] before the seventh year he may neither enter his field nor eat of the overhanging [fruits]; when the seventh year arrives, he may not enter his field, yet may eat of the overhanging [fruits].

Shall we say that they differ in this: Rab and Samuel hold that a man can prohibit [unto others] that which is in his ownership, [for the prohibition to be effective] even after it passes out of his ownership;[5] whilst R. Johanan and Resh Lakish maintain: One cannot prohibit [unto others] that which is in his ownership [for the prohibition to continue even] after it leaves his ownership? Now can you reason so? Does anyone rule that a person cannot declare prohibited that which is his, even after it passes out of his ownership? If so, let them differ with reference to ‘this property [be forbidden etc.],’ and how much more so would it apply to ‘this my property!’[6] Moreover, we have learnt that a person can declare prohibited that which is in his ownership for even after it leaves his ownership. For we learnt: If one says to his son, ‘Konam, if you benefit from me,’ — if he dies, he inherits him.[7] [But if he explicitly stipulates] during his lifetime and after his death,

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(1) Lev. XXV, 1-7. The seventh year was called the year of release. The land was not to be ploughed or sowed, and its crops, with certain reservations, were free to all.

(2) To gather of its crops, since he is forbidden ‘the treading of the foot’. Cf. Mishnah on 32b.

(3) I.e., if the maddir has a tree close to his boundary, and the fruit overhangs the muddar's field, so that it is possible for the muddar to take of the fruit without entering the maddir's land, he is still forbidden to do so.

(4) [Omitted in the printed Mishnayoth version].

(5) Consequently, though in the seventh year the crops do not belong exclusively to their owner, being free to all, yet the vow made before retains its validity, forbidding the muddar to take even of the overhanging fruits.

(6) I.e., even if one says, ‘This property be forbidden to you’, R. Johanan and Resh Lakish maintain that the vow is ineffective for the seventh year, when the crops are no longer his. The same will hold good with even greater force, if he vows ‘this my property’ etc., for in that case he appears to limit the incidence of the vow to the period in which it is his.

(7) For it is his by right.

Talmud - Mas. Nedarim 42b

if he dies he does not succeed him! — Here it is different, because he [explicitly] stated during his lifetime and after his death.[1] Yet at all events there is a difficulty?[2] — But [explain the dispute thus:] There is no dispute at all in respect of ‘this property etc.’[3] They differ [only] in respect of ‘My property etc.’ Rab and Samuel maintain: There is no difference between ‘This property’ or ‘my property’: one can prohibit [for all time]. But R. Johanan and Resh Lakish maintain: [By saying,] ‘This property,’ he can prohibit; my property,’ he cannot prohibit. But does anyone maintain that there is no difference between ‘this property’ and ‘my property’? But we learnt: If one says to his neighbour, ‘Konam, if I enter your house,’ or ‘if I purchase your field,’ and then the owner dies or sells it, he is permitted [to enter or buy it]. [But if he says, ‘Konam], if I enter this house’, or ‘if I purchase this field,’ and the owner dies or sells it, he is forbidden! — But [explain thus:] R. Johanan and Resh Lakish refer to ‘my property’; Rab and Samuel to ‘this property’: and they do not differ.

BUT [IF THE VOW WAS IMPOSED] IN THE SEVENTH YEAR, HE MAY NOT ENTER HIS FIELD etc. Why may he eat of the overhanging [fruits] — because they are [now] ownerless? But the land too is ownerless.[4] — Said ‘Ulla: This refers to trees standing on the border.[5] R. Simeon b. Eliakim said: It is forbidden lest he stand and linger there.[6]

MISHNAH. HE WHO IS FORBIDDEN BY VOW TO BENEFIT FROM HIS NEIGHBOUR MAY NEITHER LEND TO HIM NOR BORROW FROM HIM NOR ADVANCE HIM OR RECEIVE FROM HIM A LOAN.[7] HE MAY NEITHER SELL TO NOR PURCHASE FROM HIM.

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(1) But otherwise it may well be that the validity of a vow ceases when its subject is no longer under the control of the maddir.

(2) Sc. the first.

(3) The vow remains valid even in the seventh year.

(4) In the sense that every person has the right to enter and take of its crops.

(5) Therefore, since it is unnecessary to enter the field, it is not ownerless.

(6) The land is ownerless only in respect of entering and taking its crops: this done, it reverts to its real owner. But we

fear that the muddar, having eaten his fill, may tarry there, which is forbidden to him.
(7) Yalwenu (lawah) and yash'ilenu (sha'al) refer to money and utensils respectively.

Talmud - Mas. Nedarim 43a

GEMARA. As for ‘HE MUST NOT LEND TO HIM,’ that is well, since he [thereby] benefits him. But ‘HE MUST NOT BORROW FROM HIM’ — how does he benefit him? Further, [even] ‘HE MUST NOT RECEIVE A LOAN FROM HIM’ and ‘HE MUST NOT PURCHASE FROM HIM’ are well, since he [the muddar] may benefit.[1] But ‘HE MUST NOT BORROW FROM HIM’: how does he [the muddar] benefit? — Said R. Jose son of R. Hanina: It means e.g., that they made a vow not to benefit from one another. Abaye answered: He is forbidden to borrow, lest he also lend, and the same applies to the other clauses.[2]

MISHNAH. IF ONE SAYS TO ANOTHER, ‘LEND ME YOUR COW, TO WHICH THE OTHER REPLIES, ‘IT IS NOT FREE’; WHEREUPON HE EXCLAIMS, KONAM, IF I EVER PLOUGH MY FIELD WITH IT’, IF HE GENERALly PLOUGHED HIMSELF, HE IS FORBIDDEN,[3] BUT OTHERS ARE PERMITTED. BUT IF HE DID NOT GENERALLY PLOUGH HIMSELF, HE AND ALL MEN ARE FORBIDDEN.[4] IF ONE IS FORBIDDEN BY VOW TO BENEFIT AUGHT FROM HIS NEIGHBOUR, AND HE HAS NAUGHT TO EAT, HE [THE MADDIR] CAN GO TO THE SHOPKEEPER AND SAY, SO-AND-SO IS FORBIDDEN BY VOW TO BENEFIT AUGHT FROM ME, AND I DO NOT KNOW WHAT TO DO’. THE SHOPKEEPER MAY THEN SUPPLY HIM, AND COME AND RECEIVE PAYMENT FROM HIM [THE MADDIR]. IF HE HAD HIS [THE MUDDAR'S] HOUSE TO BUILD, OR HIS FENCE TO ERECT, OR HIS FIELD TO REAP, HE [THE MADDIR] MAY GO TO LABOURERS, AND SAY, ‘SO-AND-SO IS FORBIDDEN BY VOW TO BENEFIT AUGHT FROM ME, AND I DO NOT KNOW WHAT TO DO.’ THERE UPON THEY WORK FOR HIM [THE MUDDAR]. AND COME AND RECEIVE WAGES FROM HIM [THE MADDIR]. IF THEY ARE WALKING TOGETHER ON THE ROAD, AND HE [THE MUDDAR] HAS NOTHING TO EAT, HE [THE MADDIR] CAN MAKE A GIFT TO A THIRD PERSON, AND HE [THE MUDDAR] IS PERMITTED [TO HAVE] IT. IF THERE IS NO OTHER WITH THEM, HE PLACES IT ON A STONE OR A WALL, SAYING, ‘THIS IS FREE TO WHOMEVER DESIRES IT’; AND THE OTHER TAKES AND EATS IT. BUT R. JOSE FORBIDS THIS. GEMARA. R. Johanan said, what is R. Jose's reason? He maintains that hefker[5] is like a gift: just as a gift [is not valid] until it passes from the possession of the giver into that of the receiver, so hefker too [is not valid] until it passes into the ownership of him who acquires it.[6] R. Abba objected: And the other [the muddar] takes and eats it; but R. Jose forbids this. Said R. Jose: When is that? If the vow preceded his renunciation;

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(1) For the maddir may borrow worn coins, and return new ones. As the value of coins depended to some extent on their weight, the muddar would benefit. Likewise, the maddir may not purchase an article for which there is no demand, and for the same reason.
(2) By ‘other clauses’ the reference is only to borrowing money. — Asheri.
(3) To plough the field with that cow, if it is subsequently lent to him.
(4) For his vow must have referred to others.
(5) V. Glos.
(6) I.e., when a person declares a thing to be hefker, it does not immediately cease to be his, but remains his property until taken. Thus the muddar takes the maddir's food.

Talmud - Mas. Nedarim 43b

but if his renunciation preceded his vow, it is permitted. Now if you say [that it belongs to the first owner] until it comes Into the possession of him who acquires it, what does it matter whether his vow preceded his renunciation or the reverse? — He raised the objection and answered it himself:

He who vows has no thought of what he has renounced.

Raba objected: [If the dying person assigned] part [of his property] to the first, and all of it to the second, [and then recovered,] the first acquires, but not the second![1] But Raba said, This is R. Jose's reason: It is a preventive measure, on account of the gift of Beth Horon.[2]

It was taught: If one declares his field hefker: he can retract within the first three days, but not after.[3]

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(1) V. B.B. 148b. The law of a sick person likely to die is this: If he assigns all his property to anyone, and then recovers, his gift is invalid, it being assumed that it was made only on account of expected death. But if he leaves part for himself, it is valid; for, we argue, were it on account of approaching death, he would have left nothing for himself. Here, when he made the first assignation, part was still left for himself: hence it remains valid on his recovery. But after the assignation of the second nothing is left: consequently, on his recovery, it is null. Now, if it is maintained that a gift is not valid until the recipient actually takes possession, why is it more valid for the first than for the second: just as the portion assigned to the second is the residue left by the first, so that assigned to the first may be regarded as the residue left by the second? — So Rashi. On this interpretation, 'all of it' means 'the rest of it'. Asheri and Tosaf., however, point out that in such a case both gifts would be null on recovery, since he leaves after all nothing for himself. Accordingly, they explain thus: He assigned part of his property to A, then all to B, meaning also that already assigned to A. Consequently his gift to B was the result of a new intention, not borne in mind when making his first gift. Now, just as in making a gift, the donor intends it to apply even to that which he has already given away, as shewn, so when one vows, the vow is made even with respect to that which he has previously declared hefker. This refutes the distinction drawn by R. Abba. — Ran has a variant reading of this passage.

(2) V. 48a. There it is a case of a gift being an obvious evasion; so here too, his declaration of hefker does not appear genuine but as a mere evasion of his vow.

(3) This is in reference to the tithe. No tithe was due on produce taken from ownerless fields. Now, if he either revokes his declaration within the first three days, or takes possession without a formal retraction, his declaration is null: consequently, it has never been ownerless, and the crops must be tithed. But after three days, the declaration has legal force. Naturally, if no one else takes possession thereof, he can do so himself, but whether he or another, it is free from tithe.

Talmud - Mas. Nedarim 44a

If he declares, 'Let this field be hefker for one day, one week, one year, or one septennate';[1] before possession has been taken thereof, whether by himself or by a stranger, he can retract. But if it has [already] been acquired by himself or by a stranger, he cannot retract. [Must we assume that] the first clause agrees with the Rabbis, and the second with R. Jose?[2] — Said 'Ulla: The second clause too agrees with the Rabbis. If so, why 'before possession has been taken thereof, whether by himself or by a stranger, he can retract?' — [Hefker for] a year or a septennate is different, being unusual.[3] Resh Lakish said, Since the second clause agrees with R. Jose,[4] the first too must agree with him. But this is the reason of the first clause:[5] that the law of hefker may not be forgotten.[6] If so, let it be hefker even from the first day? — Said Rabbah, This is on account of evaders, who may declare their property hefker, and then reacquire it.[7] [Will you maintain] that by Biblical law it is not hefker:[8]

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(1) After the end of which it is to revert to himself, if no one has taken possession in the meanwhile.

(2) For since he cannot retract after three days even though no person has taken possession, it is evident that hefker is legally valid even before it reaches another. This agrees with the view of the Sages that the maddir can declare his property hefker and the muddar acquire it without its being regarded as passing direct from one to the other. But the second clause, stating that he can retract so long as no one has taken possession, shews that until then it is legally his. This agrees with R. Jose, that the maddir cannot declare his property hefker for the muddar to acquire it.

(3) 'Ulla interprets the whole Baraitha on the view of the Rabbis. Consequently, if one declares his property hefker, it immediately becomes so, and should the first owner take possession thereof, even immediately, the law of hefker applies thereto, rendering it free from tithe. That it is by Biblical law. Since, however, this is manifestly exposed to abuse, for by a legal fiction everyone could thus evade the tithe, the Rabbis enacted that the law of hefker should apply only after three days, during which a stranger can take possession. So Rashi and Asheri appear to interpret it, though according to the latter, if the first owner resumes possession within three days, explicitly declaring that he is acquiring hefker but not retracting, the crops are exempt From tithe. Ran and Tosaf. explain that within the first three days he can retract even if a stranger has already taken possession thereof. In N.M. 273, 9 the first interpretation is accepted. But in the second clause, the declaration itself is weak, being limited to a certain Period. Consequently the Rabbis admit that it is not valid until one has actually taken possession. — It may be asked, if it is hefker even if re-acquired by the first owner, of what use is the enactment? The answer is that to acquire hefker it is insufficient to make a mere declaration of acquisition, but some work must be done in the field. Before the owner has time to do this, he may be forestalled: that is regarded as a sufficient check to evasion (v. Rashi).

(4) Resh Lakish accepts the obvious implications.

(5) That 'after three days, the declaration is binding', even if no one has taken possession thereof.

(6) For if we rule that whenever the owner resumes possession, it is not regarded as hefker. it will be forgotten altogether that hefker is exempt from tithe. Therefore the Rabbis ruled that after three days the declaration is binding. Nevertheless, since on this view it is not, Biblically, hefker even after three days if no stranger has taken possession, the crops are not Free from tithe on the first owner re-acquiring them, for the Rabbis have no power to exempt crops which by Biblical law are liable, as is explained infra.

(7) V. p. 139, n. 5.

(8) V. n. 3.

Talmud - Mas. Nedarim 44b

but perhaps he will come to tithe from [produce] that is liable for [produce] that is exempt, or vice versa?[1] — He is told, 'When you tithe, tithe for it out of itself.'[2]

An objection is raised: If a man declares his vineyard hefker and rises early on the following morning and vintages it,[3] he is liable to peret,[4] 'oleloth,[5] the forgotten sheaves,[6] and pe'ah,[7] but he is exempt from tithe. Now as for 'Ulla, it is well: it states the rabbinic law, and states the Biblical law.[8] But on the view of Resh Lakish, why is he free from tithe?[9] — He answers you thus: My statement is based on R. Jose; whilst this accords with the Rabbis.[10]

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(1) The tithe could be separated from one lot of produce upon another (of the same species), providing that both bore the same liability. E.g if one harvests his two fields, he can take From one the tenth of the combined produce. If, however, he separates a tithe of one field, thus freeing the rest, he cannot take another tithe from the same for the second field. Similarly, if he has two lots of corn, one liable to tithe by Biblical law, and the other only by Rabbinical law, so that by Biblical law it is really exempt, he may not separate from the one for the other. Now it has been explained here that according to R. Jose, so long as no stranger has taken possession, it is not hefker by Biblical law even after three days. and consequently Biblically liable. But by Rabbinical law it is hefker, even if the original owner re-acquires it. Nevertheless, as explained on p. 139, n. 5, the Rabbis ordered that he shall tithe it. Thus, in this respect, the Rabbis restored it to Biblical law. But the owner, being told that it is hefker, may regard the liability to tithe as merely a Rabbinical measure, and therefore, if he has any other corn which is only Rabbinically liable, separate from the one, which is really Biblically exempt, For the Biblically liable, or vice versa.

(2) Only in this respect is it regarded as hefker even if the first owner resumes possession.

(3) Thus he resumed possession thereof.

(4) Single grapes fallen off during the cutting, which must be left for the poor. — Lev. XIX, 10.

(5) 'Olelah, 'oleleth, pl. 'oleloth, gleanings reserved for the poor; in general, a small single bunch on a single branch. Ibid. and Deut. XXIV, 21.

(6) Sheaves (here grapes) forgotten in the course of ingathering, which had to be left for the poor. — Deut. XXIV, 19.

(7) Pe'ah — corner; the corner of the field left for the poor. — Lev. XIX, 9.

(8) 'Ulla maintains that the Baraitha in stating that he can retract within the first three days, teaches the Rabbinical law, whereas this Baraitha states the Biblical law according to which it is hefker immediately.

(9) Since he maintains that within the first three days it is not hefker even by Biblical law, and hence subject to tithes, and even after that it is hefker only by Rabbinical law, why is it taught here that on the very next day it is free from tithe?
(10) Who maintain in the Mishnah that it is hefker immediately, hence free from tithe.

Talmud - Mas. Nedarim 45a

Alternatively: One case refers to hefker declared in the presence of two; the other, if declared before three. For R. Johanan said in the name of R. Simeon b. Jehozadak: Hefker declared in the presence of three is valid, but not in the presence of two.[1] R. Joshua b. Levi said: By the Torah, it is hefker even if declared in the presence of one: why then are three required? So that one can take possession, and the other two attest it.[2] [

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(1) Until one actually takes possession. Therefore, in the Mishnah, since no person is present, R. Jose maintains that if the maddir declares the food hefker, and the muddar takes it, he receives it directly from the maddir. But the vineyard, we assume, was renounced in the presence of three; therefore even R. Jose agrees that the renunciation is immediately valid. Hence, if he re-acquires it, it is exempt from tithe. The stronger validity of hefker in the presence of three is due to its greater publicity.
(2) For otherwise the first owner can deny his renunciation.

Talmud - Mas. Nedarim 45b

CHAPTER V

MISHNAH. IF [TWO] JOINT OWNERS MADE A VOW NOT TO BENEFIT FROM ONE ANOTHER, THEY MAY NOT ENTER THE COURTYARD.[1] R. ELIEZER B. JACOB SAID: EACH ENTERS INTO HIS OWN.[2]

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(1) Which belongs to both.
(2) He maintains that it is as though it had been stipulated when jointly acquiring the property, that it should belong to each partner separately for his entering therein. Consequently, when he enters, he is not benefiting from the other. The Sages do not accept this view.

Talmud - Mas. Nedarim 46a

AND BOTH ARE FORBIDDEN TO SET UP A MILL-STONE OR AN OVEN OR BREED FOWLS THEREIN.[1] IF [ONLY] ONE WAS FORBIDDEN BY VOW TO BENEFIT FROM THE OTHER, HE MAY NOT ENTER THE COURT. R. ELIEZER B. JACOB SAID: HE CAN MAINTAIN, ‘I AM ENTERING INTO MY OWN, NOT INTO YOURS.’ HE WHO THUS VOWED IS FORCED TO SELL HIS SHARE [OF THE COURT].[2] IF A MAN FROM THE STREET WAS FORBIDDEN BY VOW TO BENEFIT FROM ONE OF THEM, HE MAY NOT ENTER THE COURT. R. ELIEZER B. JACOB SAID: HE CAN MAINTAIN, ‘I ENTER YOUR NEIGHBOUR'S PORTION, AND I DO NOT ENTER INTO YOURS. IF ONE IS FORBIDDEN BY VOW TO BENEFIT FROM HIS NEIGHBOUR, AND THE LATTER POSSESSES A BATH-HOUSE OR AN OLIVE PRESS LEASED TO SOMEONE IN THE TOWN, AND HE HAS AN INTEREST THEREIN, HE [THE MUDDAR] IS FORBIDDEN [TO MAKE USE OF THEM]; IF NOT, HE is PERMITTED. IF A MAN SAYS TO HIS NEIGHBOUR, ‘KONAM, IF I ENTER YOUR HOUSE’, OR ‘IF I PURCHASE YOUR FIELD,’ AND THEN [THE OWNER] DIES OR SELLS IT TO ANOTHER, HE IS PERMITTED [TO ENTER OR BUY IT]; [BUT IF HE SAYS.] ‘KONAM, IF I ENTER THIS HOUSE, OR ‘IF I PURCHASE THIS FIELD,’ AND [THE OWNER] DIES OR SELLS IT TO ANOTHER, HE IS FORBIDDEN.

GEMARA. The scholars propounded: They differ when they interdicted themselves by vow. But what if each imposed a vow upon the other? Do we say, they differ [only] in the former case, but that in the latter the Rabbis agree with R. Eliezer b. Jacob, since they are involuntarily prohibited;[3] or perhaps the Rabbis dispute even in the latter case?[4] Come and hear: IF [ONLY] ONE WAS FORBIDDEN BY VOW[5] TO BENEFIT FROM THE OTHER . . . and the Rabbis dispute it! — Learn, forbade himself from his neighbour.[6] This is logical too, for the second clause states: NOW, HE WHO THUS VOWED IS FORCED TO SELL HIS SHARE OF THE COURT. Now, this is reasonable if the vow was self-imposed: hence he is compelled. But if you say that a vow was imposed against him, why is he compelled. Seeing that the position is not of his making?[7]

Rabbah said in Ze'iri's name:

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(1) R. Eliezer b. Jacob admits this, for joint owners can object to this. Consequently, if they do not, each benefits by the permission of the other.

(2) For since he may enter, but not the other (this being taught on the view of the Sages), the second, in resentment, might enter none the less in disregard of the vow.

(3) For if they voluntarily interdict themselves of all benefit, it may be maintained that each thereby renounces also his share, which is inseparable from his partner's. But when each forbids the other, it may be argued that neither can prohibit that which the other enjoys in his own right.

(4) For the prohibition arises because in their opinion it is impossible to distinguish between the portions belonging to each.

(5) Muddar is the hofal, and implies that the vow was imposed upon him by another.

(6) Nadur, passive Kal. implies self-imposed. No emendation is really made in the Mishnah, but the Talmud answers that muddar may be synonymous with nadur, self-imposed.

(7) Lit., ‘surely he is under constraint’. I.e., it is equitable to force him to sell, if as a result of his own vow he may come to transgression, but not otherwise.

Talmud - Mas. Nedarim 46b

The dispute is only if it [the court] is large enough to be divided; but if not, all agree that they are permitted.[1] Said R. Joseph to him: But what of a synagogue which is as a thing which cannot be divided,[2] yet we learnt, Both are forbidden [the use of] the [common] property of the town?[3] — But, said R. Joseph in Ze'iri's name, The controversy is only when it is not [large] enough to divide;[4] but if it is, all agree that both are forbidden. R. Huna said: The halachah is as R. Eliezer b. Jacob; and R. Eleazar said likewise: The halachah is as R. Eliezer b. Jacob.

IF ONE IS FORBIDDEN BY VOW TO BENEFIT FROM HIS NEIGHBOUR, AND THE LATTER POSSESSES A BATH-HOUSE etc. How much is meant by AN INTEREST THEREIN? — R. Nahman said: A half, third, or a quarter, but not less.[5] Abaye said, Even for less, he is forbidden. Under what conditions is he permitted? If he [the lessee] rents it in return for [the payment of] the land-tax.[6]

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(1) The smallest area of a court to be of any use as such is four square cubits. Now, only if it contains at least eight square cubits do the Rabbis maintain that each is forbidden to enter, since it is possible for them to divide, and yet each portion shall be large enough itself for a court; for then it cannot be said that when they purchased it jointly, each was entitled to the whole of it, as explained on p. 142, n. 2. But a lesser area cannot be divided, and therefore the original condition of purchase must have been that the whole belongs to each.

(2) Since its essential use is joint worship, and should it be divided, it ceases to be a synagogue.

(3) Infra 48a.

(4) Yet even then the Rabbis maintain that each is forbidden to enter.

(5) Less than a quarter is regarded as negligible. And the muddar is not forbidden to use it on its account. [Var. lec., ‘but for eggs it is permitted’. בבצים for בבציר, the reference being to the egg-shaped forms of clay which are placed in the oven of the bath-house for drying. If his interest consists in the use he makes of the bath-house for that purpose, it is not regarded of any consequence.]

(6) The tax must have been very high if the owner was prepared to forego any possible profit. — Taska was the Persian land tax. (v. Obermeyer. p. 221, n. 3), and the Mishnah, which was produced in Palestine, cannot actually refer to this tax. Abaye's interpretation must therefore be regarded merely as an illustration. [Aliter: If he (the lessee) obtained it on a rental; retaining all the profit to himself.]

Talmud - Mas. Nedarim 47a

IF ONE SAYS TO HIS NEIGHBOUR etc. Abim.[1] propounded: What [if one says to his neighbour.] ‘Konam, if you enter this house,’ and then he sells it or dies: Can one prohibit that which he owns [for the prohibition] to be effective even when it leaves his ownership, or not? — Said Raba, Come and hear: If one says to his son, ‘Konam that you benefit not from me,’ and he dies, he is his heir. [But if he explicitly stipulates] during his lifetime and he dies, he does not succeed him. This proves that one can prohibit that which he owns [for the prohibition] to hold good when it leaves his ownership. The proof is conclusive.

We learnt elsewhere: [If one says.] ‘Konam be these fruits to me,’ or, ‘Be they konam for my mouth,’ or, ‘Be they konam to my mouth’: he is forbidden [to benefit] from what has been exchanged for them or grown from them.[2] Rami b. Hama propounded. If he vows, ‘Konam be these fruits to So-and-so’, what of their exchange? Do we say, With respect to oneself, since he can forbid to himself [even] his neighbour's property, he can [likewise] forbid to himself what is not yet in existence;[3] but as for his neighbour, since one cannot prohibit another's produce to his neighbour, he likewise cannot prohibit what is non-existent;

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(1) Var. lec.: Abaye.

(2) Infra 57a.

(3) What may be given for the produce subsequent to the vow is regarded as non-existent when the vow is made.

Talmud - Mas. Nedarim 47b

or perhaps since what is taken in exchange is the same as what grows from its seed, there is no difference between oneself and his neighbour?[1] — Said R. Aha b. Manyumi, Come and hear: If a man says to his wife, ‘Konam, if I benefit thee,’ she may borrow [money], and the creditors come and exact it from him. Why can the creditors collect it [from him]: surely because what is taken in exchange is not the same as what grows from them?[2] Said Raba, possibly it is forbidden [to make an exchange] in the first place only, but if it has been done, it is valid.[3] But come and hear: If a man betroths [a woman] with ‘orlah,[4] she is not betrothed; but if he sells it and betroths her with the money thereof, she is betrothed![5] — [No.] Here too it may be forbidden in the first place only, but if done it is valid. MISHNAH. [IF A MAN SAYS TO HIS NEIGHBOUR.] ‘I AM HEREM TO YOU,’ THE MUDDAR IS FORBIDDEN [TO DERIVE BENEFIT]. ‘YOU ARE HEREM TO ME,’ THE MADDIR IS FORBIDDEN. I AM [HEREM] TO YOU, AND YOU ARE [HEREM] TO ME, BOTH ARE PROHIBITED. BOTH ARE PERMITTED [TO ENJOY THE USE OF] THOSE THINGS WHICH BELONG TO THOSE WHO CAME UP FROM BABYLON [TO PALESTINE],[6] BUT ARE FORBIDDEN [THE USE OF] THINGS THAT BELONG TO THAT TOWN.[7]

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(1) For it is obvious that the fruit which grows is forbidden to his neighbour, and possibly what is given in exchange is the same.

(2) Thus, in this case, the money she receives is not the same that is repaid.

(3) I.e., it can be maintained that the problem regarding what is exchanged for them, is whether one may deliberately exchange these fruits for something else, so that it shall be permitted to the muddar. But if they were exchanged, they certainly are permitted. Hence, in this case, since the wife receives the money before the creditors exact it from her husband, it is regarded as a fail accompli, the legality of which is not in doubt. (The explanation follows Asheri. Ran gives a different interpretation).

(4) ‘Fruit of uncircumcision. V. Lev. XIX, 23.

(5) This proves that the prohibition does not remain upon what has been exchanged for something forbidden.

(6) I.e., the band of immigrants who returned to Palestine under Zerubbabel, and later under Ezra and Nehemiah, who declared certain things inalienable property which can be deemed ownerless.

(7) In which each citizen has a share.

Talmud - Mas. Nedarim 48a

NOW, WHAT ARE THE THINGS THAT BELONG TO THEM THAT CAME UP FROM BABYLON? E.G., THE TEMPLE MOUNT, THE COURTS OF THE TEMPLE AND THE WELL ON THE MIDROAD.[1] WHAT ARE THE THINGS THAT BELONG TO THAT TOWN, E.G., THE PUBLIC SQUARE, THE BATH-HOUSE, THE SYNAGOGUE, THE ARK [IN WHICH THE SACRED SCROLLS WERE KEPT] AND THE BOOKS [OF THE LAW],[2] AND [THE ESTATE OF] HIM WHO ASSIGNS HIS PORTION TO THE NASI.[3] R. JUDAH SAID: IT IS THE SAME WHETHER HE ASSIGNS IT TO THE NASI OR TO A PRIVATE INDIVIDUAL, BUT WHAT IS THE DIFFERENCE? IF HE ASSIGNS IT TO THE NASI, HE NEED NOT [FORMALLY] CONFER TITLE;[4] WHILST IN THE CASE OF AN INDIVIDUAL IT IS NECESSARY TO CONFER TITLE.[5] BUT THE SAGES MAINTAIN: FORMAL GRANT OF TITLE IS NECESSARY IN BOTH CASES; THEY MENTIONED THE NASI IN PARTICULAR AS THIS IS USUAL.[6] R. JUDAH SAID: THE GALILEANS NEED NOT ASSIGN [THEIR PORTION], BECAUSE THEIR ANCESTORS HAVE ALREADY DONE SO FOR THEM.

GEMARA. Why is it forbidden?[7] — Said R. Shesheth, The Mishnah teaches thus: How can they repair their position?[8] Let them assign their portion to the nasi.[9]

R. JUDAH SAID: THE GALILEANS NEED NOT ASSIGN [THEIR PORTION]. BECAUSE THEIR ANCESTORS HAVE ALREADY DONE SO FOR THEM. It was taught: R. Judah said: the Galileans were quarrelsome and wont to make vows not to benefit from each other: so their fathers arose and assigned their portions to the nasi.

MISHNAH. IF ONE IS FORBIDDEN BY VOW TO BENEFIT FROM HIS NEIGHBOUR AND HAS NOTHING TO EAT, THE LATTER CAN GIVE IT [FOOD] TO A THIRD PARTY, AND THE FORMER IS PERMITTED TO USE IT. IT HAPPENED TO ONE IN BETH HORON[10] THAT HIS FATHER WAS FORBIDDEN TO BENEFIT FROM HIM. NOW HE [THE SON] WAS GIVING HIS SON IN MARRIAGE;[11] SO HE SAID TO HIS NEIGHBOUR, ‘THE COURTYARD AND THE BANQUET BE A GIFT TO YOU, BUT THEY ARE YOURS ONLY THAT MY FATHER MAY COME AND FEAST WITH US AT THE BANQUET. THEREUPON HE ANSWERED, ‘IF THEY ARE MINE, LET THEM BE CONSECRATED TO HEAVEN!’ ‘BUT I DID NOT GIVE YOU MY PROPERTY TO CONSECRATE IT TO HEAVEN, HE PROTESTED. YOU GAVE ME YOURS SO THAT YOU AND YOUR FATHER MIGHT EAT AND DRINK TOGETHER AND BECOME RECONCILED TO ONE ANOTHER, WHILST THE SIN [OF A BROKEN VOW] SHOULD DEVOLVE UPON HIS HEAD,’[12] HE RETORTED. [WHEN THE MATTER CAME BEFORE] THE SAGES, THEY RULED: EVERY GIFT WHICH IS NOT [SO GIVEN] THAT IF HE [THE RECIPIENT] CONSECRATES IT, IT IS CONSECRATED, IS NO GIFT [AT ALL].

GEMARA. [Does the Mishnah adduce] a Story to contradict [its ruling]?[13] — The text is defective, and was thus taught: But if the end proves [his intention] at the beginning,[14] it is forbidden, and so it happened in Beth Horon, in the case of one whose last action demonstrated his first [as a mere evasion].

Raba said: They [the Sages] taught [that it is forbidden] only if he said, ‘They are yours only in order that my father may come [etc.].’ But if he said, ‘They are yours so that my father may come, he meant, ‘It depends on your will.’[15] A different version is this: Raba said: Do not think that he is forbidden only if he said, ‘And they are yours only in order that my father may come’, but if he said, ‘They are yours so that my father may come’ it is permitted. [That is not so,] for even if he said, ‘They are yours: let my father come,’ it is forbidden. What is the reason? Because the banquet proves his intention.

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(1) Between Babylon and Palestine, for the supply of water to the pilgrims, v. 'Erub. 104b. These things were declared the property of all Israel.

(2) (Rashi. Asheri: Books purchased by the congregation for the reading of the general public.]

(3) The head of the Sanhedrin in Jerusalem and subsequent places. According to this reading, this portion too would be forbidden. But the Gemara amends the text of the Mishnah.

(4) I.e., by the mere documentary assignation it becomes the Nasi's property.

(5) E.g., one of the recognised methods of acquisition.

(6) For one would fear to assign his portion in communal property to an individual, lest he then forbid it to him. V. also Halevy, Doroth, I, 3, p. 61 and general discussion a.l.

(7) This question is based on the assumption that if the maddir assigns his portion to the nasi, the muddar is still forbidden.

(8) Since the use of communal property as defined in the Mishnah is essential to them.

(9) In cur. edd. a portion of the Mishnah is here reproduced in brackets, viz., 'R. Judah said, It is the same . . . this is usual'. But the quotation is pointless, and should be deleted.

(10) A border town between Benjamin and Ephraim.

(11) And desired his father's presence.

(12) [Probably a euphemism for 'my head'. J. reads 'my head'.]

(13) Surely not! For the Mishnah states that the maddir may make a gift for the muddar to benefit thereby, and then quotes a case where this was forbidden.

(14) That it was a mere device.

(15) Hence it is permitted.

Talmud - Mas. Nedarim 48b

A certain man had a son who used to carry off bundles of flax. Thereupon his father forbade his property to him.[1] 'But,' said others to him, 'what if the son of your son is a scholar?'[2] He replied, 'Let him acquire it, and if my[3] grandson be a scholar, it shall be his.'[4] Now, what is the law? — The Pumbedithans[5] ruled, This is a case of 'Acquire, in order to give possession,' and such does not give a legal title. R. Nahman said: He [the son] acquires [it], for [the giving of] a sudarium too is a case of 'Acquire, in order to give possession.'[6] R. Ashi demurred: But in the case of a sudarium, who tells you that if he retains it, it is not his?[7] Moreover, the sudarium is a case of 'Acquire in order to give possession,' and 'Acquire [it] from now.'[8] But as for this property, — when shall he acquire it? When his grandson is a scholar: [but] by then the sudarium [whereby the transference was made] has been returned to its owner.[9] Raba [also] questioned R. Nahman: But the gift of Beth Horon was a case of 'Acquire, in order to give possession,' yet it was invalid? Sometimes he answered, Because his banquet proves his intention;[10] sometimes he answered, This is taught in accordance with R. Eliezer, who maintained that even the extra [given by the vendor to a customer] is forbidden to one who is interdicted by vow to benefit.[11]

We learnt, THE SAGES RUled, EVERY GIFT WHICH IS NOT [SO GIVEN] THAT IF HE [THE BENEFICIARY] CONSECRATES IT, IT IS CONSECRATED, IS NOT A GIFT [AT ALL]. Now, what does EVERY include? Surely it includes such as this case of stealing flax?[12] — No. It includes the case of the second version of Raba's ruling.[13] [

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(1) Though, as stated above, (supra 47a) his son would still inherit it, this story may be explained on the supposition that he had two sons, and wished to give the whole of his estate to the second (Ran).

(2) At the time he had no grandson yet.

(3) This is Rashi's reading. Cur. edd.: and if . . . . [Var. lec. 'let him not acquire, and if . . .' v. Bah.]

(4) But if not, it reverts to my other son. — Ran.

(5) A great academy town in Babylonia, at the mouth of the Beditha (which is the meaning of the name), a canal of the

Euphrates.

(6) One of the methods of acquisition was by exchange (halifin), in which an object (a sudarium kerchief) was given by the purchaser or recipient to the vendor or donor as a symbolical substitute v. B.M. 47a. Now, actually. this was given merely in order that the latter might give legal possession to the former, and was generally returned, yet it was valid.

(7) I.e., though in fact it was only a symbol, and usually returned, yet it may be retained; but here it was not intended that the son should have possession at all but merely to be the medium of transference, for if his grandson would not be a scholar, the estate was to revert to his second son.

(8) [Ran reads: Acquire in order to give possession from now.] As soon as the vendor acquires the scarf, the purchaser is the legal owner of his purchase.

(9) [At the time when the title was granted the grandson was not yet in existence, and when he is ripe enough to receive the legacy the act of transference had long been a matter of the past, and no longer effective.]

(10) I.e., it was not a genuine gift at all.

(11) On account of this he ruled that he may not even walk over his field (32b), though ordinarily walking over another person's field is not accounted an encroachment of rights. Thus R. Eliezer treats vows far more stringently than other matters. Consequently, here too he rules the gift invalid. But the Sages, who disagree with him, would regard the gift of Beth Horon valid.

(12) That such a gift is invalid, not merely because of the greater stringency of vows, but because ‘Acquire in order to give possession’ confers no title. [This is the reading of Ran. Rashi and Asheri: Where the condition was repeated or cast in two forms (v. supra p. 149 n. 3). Our text presents a conflation of the two readings.]

(13) V. Supra.

Talmud - Mas. Nedarim 49a

CHAPTER VI

MISHNAH. HE WHO VOWS [NOT TO EAT] WHAT IS COOKED [MEBUSHAL] IS PERMITTED WHAT IS ROASTED OR SEETHED.[1] IF HE SAYS, ‘KONAM THAT I TASTE ANY COOKED DISH [TABSHIL]’ HE IS FORBIDDEN [TO EAT] FOOD LOOSELY COOKED IN A POT, BUT IS PERMITTED [TO PARTAKE] OF WHAT IS SOLIDLY PREPARED.[2] HE MAY ALSO EAT A HARD BOILED EGG[3] AND REMUZIAN CUCUMBERS.[4] HE WHO VOWS ABSTINENCE FROM FOOD PREPARED IN A POT, IS FORBIDDEN ONLY BOILED DISHES; BUT IF HE SAYS, ‘KONAM THAT I TASTE NOT WHATEVER DESCENDS INTO A POT, HE IS FORBIDDEN EVERYTHING PREPARED IN A POT.[5]

GEMARA. It was taught: R. Josiah forbids [them].[6] And though there is no proof of this,[7] there is some indication, for it is said, And they boiled[8] the Passover in fire, according to the law.[9] Shall we say that they differ in this: That R. Josiah holds: Follow Biblical usage; whilst our Tanna maintains: In vows follow the popular usage? No. All agree that in vows we must follow popular usage: but each [rules] according to [the usage] in his district. In the district of our Tanna roast is called roast, and cooked, cooked. But in R. Josiah's, even roast is called cooked. But he adduces a verse? — That is a mere support.[10]

[IF HE SAYS,] ‘KONAM THAT I TASTE NOT ANY COOKED DISH [TABSHIL]. But he vowed [abstinence] from a tabshil?[11] — Said Abaye: This Tanna designates everything with which bread is eaten a tabshil.[12] And it was taught [likewise], He who vows [abstinence] from a tabshil is forbidden all cooked food [tabshil], and whatsoever is roasted, seethed, or boiled; he is also forbidden soft preserves of gourds with which the sick eat their bread. But this is not so. For R. Jeremiah fell sick. When the doctor called to heal him, he saw a pumpkin lying in the house. Thereupon he left the house, saying. ‘The angel of death is in that house,[13] yet I am to cure him’![14] — That is no difficulty: the former refers to soft preserves; the latter to hard.[15] Raba b. ‘Ulla said: The latter refers to the pumpkin itself;[16] the former to its inner contents.[17] For Rab Judah said: The soft part of a pumpkin [should be eaten] with beet; the soft part of linseed is good with kutah.[18] But this may not be told to the ignorant.[19]

Raba said: By ‘the sick’, scholars are meant.[20] This agrees with another dictum of his. For Raba said:

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(1) Seethed. Heb. shaluk שלוק, denotes more thoroughly boiled than cooked (mebushal).

(2) Because (tabshil is only applicable to a loose liquid-like substance, but not to a dense mass.

(3) [טורמוטא, Gr. ** trembling, hence shrivelled up; v. Gemara. J. explains it as lightly boiled egg; cf. Krauss. T.A. I. pp. 125 and 515.]

(4) This is discussed on 51a.

(5) Both liquids and solids.

(6) Sc. what is roasted or seethed. This refers to the first clause of the Mishnah.

(7) That מבושל includes these.

(8) Heb. ויבשלו, impf. of בשל of which מבושל is a pass. part.

(9) II Chron. XXXV, 13. But the Passover Sacrifice had to be roasted; hence מבושל is applicable to roasts too. Yet this is not actual proof, because as stated infra, in vows the popular usage is the norm.

(10) His ruling, however, is not based thereon.

(11) Which implies both loosely cooked and a dense mass.

(12) But not otherwise; a dense mass cannot be eaten with bread.

(13) I.e the pumpkin is like poison for him.

(14) This shows that they are injurious to invalids.

(15) The soft are beneficial, the hard, injurious.

(16) I.e., the outer portion, which is hard and injurious.

(17) Its heart, which is soft and beneficial

(18) A preserve consisting of sour milk, bread-crusts and salt. — Jast.

(19) Lest they tear up the growing flax to obtain the seed (Ran). Because it will appear absurd to then, (Tosaf).

(20) I.e., in the Baraitha stating that ‘the sick’ eat their bread with soft preserves of gourds, the Rabbis and students are meant, not the literally sick. Hence there is no contradiction between that and the story of R. Jeremiah.

Talmud - Mas. Nedarim 49b

In accordance with whom is it that we pray for the invalid and the sick?[1] In accordance with R. Jose.[2] Since he said, ‘the invalid and the sick,’ It follows that ‘invalid’ is literal, and ‘the sick’ [metaphorically] means the Rabbis.[3]

BUT IS PERMITTED [TO PARTAKE] OF A DISH SOLIDLY PREPARED. Our Mishnah does not agree with the Babylonians, for R. Zera said: The Babylonians are fools, eating bread with bread.[4] R. Hisda said: There is none[5] to make enquiries of the epicureans[6] of Huzal[7] how porridge is best eaten, whether a wheat porridge with wheaten bread, and a barley porridge with barley bread, or perhaps [they are best reversed,] wheat with barley, and barley with wheat. Raba ate it with stunted [parched] grains. Rabbah son of R. Huna found R. Huna eating porridge with his fingers. So he said to him, ‘Why do you eat with your hands?’ He replied, Thus did Rah say, [To eat] porridge with [one] finger is well: how much more so with two or three! Rab said to his son Hiyya, and R. Huna said the same to his son Rabbah, ‘If you are invited to eat porridge, [you may even go] a parasang[8] for it; to eat beef, even three parasangs. Rab said to his son Hiyya, and R. Huna said likewise to his son Rabbah: You must never expectorate before your teacher, save [after eating] a pumpkin or porridge, because they are like lead pellets:[9] expectorate this even in the presence of King Shapur.[10]

R. Jose and R. Judah, — one ate porridge with his fingers, and one with a prick.[11] He who was eating with the prick said to him who was eating with the fingers, ‘How long will you make me eat your filth?’[12] The other replied, ‘How long will you feed me with your saliva?’[13]

Lesbian figs[14] were placed before R. Judah and R. Simeon. R. Judah ate; R. Simeon did not. [Whereupon] R. Judah asked him, ‘Why are [you], Sir not eating?’ He replied. ‘These never pass out at all from the stomach.’ But R. Judah retorted, ‘All the more [reason or eating them], as they will sustain us tomorrow.’[15] R. Judah was sitting before R. Tarfon, who remarked to him, ‘Your face shines to-day.’ He replied. ‘Your servants went out to the fields yesterday and brought us beets, which we ate unsalted, had we salted them, my face would have shone even more.

A certain matron[16] said to R. Judah, ‘A teacher and drunkard!’[17] He replied, You may well believe me that[18] I taste [no wine] but that of Kiddush and Habdalah[19] and the four cups of Passover,[20] on account of which I have to bind my temples from Passover until Pentecost;[21] but a man's wisdom maketh his face shine.[22] A min[23] said to R. Judah. ‘Your face is like that of a moneylender or pig breeder.’[24] He replied, ‘Both of these are forbidden to Jews; but there are twenty-four conveniences between my house and the School, and every hour I visit one of them.’

When R. Judah went to the Beth ha-Midrash,[25] he used to take a pitcher on his shoulders [to sit on], saying. ‘Great is labour, for it honours the worker.’[26] R. Simeon used to carry a basket upon his shoulders, saying likewise, ‘Great is labour, for it honours the worker.’

R. Judah's wife went out, brought wool, and made an embroidered cloak. On going to market she used to put it on, whilst when R. Judah went [to synagogue] to pray he used to wear it. When he donned it, he uttered the benediction, Blessed be He who hath robed me with a robe.[27] Now, it happened once that R. Simeon b. Gamaliel proclaimed a fast,[28] but R. Judah did not attend the fast-service.[29] Being informed that he had nothing to wear, he [R. Simeon b. Gamaliel] sent him a robe, which he did not accept.

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(1) In our daily prayers; v. P.B. p. 47.

(2) V. R.H. 16a. The Rabbis there maintain that a man is judged on New Year, and once he is sentenced, whether to life or death, the verdict cannot be reversed. Consequently, in their opinion it would be futile to pray for the recovery of the sick during the year. Hence the practice of praying for them accords with R. Jose's view, that man is judged every day.

(3) Who are weakened by their intensive studies.

(4) I. e., even food solidly prepared is eaten by them with bread consequently such would be included in the term ‘tabhshil’ and forbidden.

(5) So the text as emended by Bah. Asheri reads: Is there any one etc.

(6) Lit., ‘those who are very careful in their eating’. Rashi and one version of the Ran. Others: the fastidious.

(7) A very old town lying below Nehardea, but nearer to Sura and belonging to the judicial circuit of the latter: Obermeyer, p. 299.

(8) V. Glos.

(9) I.e., it is dangerous to swallow the saliva left in the mouth after eating these.

(10) Known otherwise as Shapur I. He was King of Persia and a friend of Samuel; Ber. 56a

(11) Used as a fork.

(12) They were both eating out of the same dish.

(13) Because the thorn was not wiped each time after being put into his mouth.

(14) Jast. These are very difficult to digest.

(15) As such below, R. Judah was extremely poor; hence this was a consideration to him, though there is probably an element of humour in his retort.

(16) This is mostly used of Roman ladies of noble birth.

(17) מורה ורוי i.e., you are a Sage, yet you are drunk! His faces was always red and shining, giving that impressions.

(18) Lit., ‘My faith in the hand of this woman if . . .’

(19) Kiddush: a short blessing of sanctification, recited at the commencement of Sabbaths and festivals. Habdalah, lit., ‘ separation’, a benediction said at the end of Sabbaths and festivals, thanking God for the distinction He created between holy and non-holy days. Both are recited over wine, which is drunk.

(20) Four cups of wine are drunk at the meals on the first evening (without Palestine, two evenings) of Passover.

(21) They gave him such a headache! Doubtlessly a metaphorical exaggeration.

(22) Ecc. VIII, 1.

(23) [So MS.M. (v. Glos.), cur. edd. ‘Sadducee’.]

(24) Their faces are always shining because of their great profits!

(25) School House.

(26) Lit., ‘its master’. Otherwise he would have had to sit on the floor. It is not clear whether the school was so deficient in equipment that this was really necessary, or he himself wished to shew his appreciation of labour. In the story of the deposition of R. Gamaliel (Ber. 27b-28a). It is stated that many additional seats were placed for the great accretion of new disciples, proving that it was not customary to sit on the floor. R. Judah belonged to the following generation.

(27) There is no such benediction in the statutory liturgy, and R. Judah probably uttered this without the use of the Divine Name and without mention of God's sovereignty. Through the omission of these it is not really a benediction at all, hence R. Judah might recite it. (Real benedictions may not be uttered save where the Rabbis have prescribed them).

(28) Over and above the statutory fasts special fasts were proclaimed in times of drought or on account of national disasters, such as pestilence, evil decrees, etc.; Ta'an. 19a.

(29) A special service was held: Ta'an. 15a.

Talmud - Mas. Nedarim 50a

Lifting up the mat [upon which he was sitting], he exclaimed to the messengers, ‘See what I have here,[1] but I do not wish to benefit from this world.’[2]

The daughter of Kalba Shebu'a[3] betrothed herself to R. Akiba.[4] When her father heard thereof, he vowed that she was not to benefit from aught of his property. Then she went and married him in winter.[5] They slept on straw, and he had to pick out the straw from his hair. ‘If Only I could afford it,’ said he to her, ‘I would present you with a golden Jerusalem.’[6] [Later] Elijah came to them in the guise of a mortal,[7] and cried out at the door. ‘Give the some straw, for my wife is in confinement and I have nothing for her to lie on.’ ‘See!’ R. Akiba observed to his wife, ‘there is a man who lacks even straw.’ [Subsequently] she counselled him, ‘Go, and become a scholar.’ So he left her, and spent twelve years [studying] under R. Eliezer and R. Joshua. At the end of this period, he was returning home, when from the back of the house he heard a wicked man jeering at his wife, ‘Your father did well to you. Firstly, because he is your inferior; and secondly, he has abandoned you to living widowhood all these years.’ She replied, ‘Yet were he to hear my desires, he would be absent another twelve years. Seeing that she has thus given me permission,’ he said, ‘I will go back.’ So he went back, and was absent for another twelve years, [at the end of which] he returned with twenty-four thousand disciples.[8] Everyone flocked to welcome him, including her [his wife] too. But that wicked man said to her, ‘And whither art thou going?’[9] ‘A righteous man knoweth the life of his beast,’[10] she retorted. So she went to see him, but the disciples wished to repulse her. ‘Make way for her,’ he told them, ‘for my [learning] and yours are hers.’ When Kalba Shebu'a heard thereof, he came [before R. Akiba] and asked for the remission of his vow and he annulled it for him.

From six incidents did R. Akiba become rich: [i] From Kalba Shebu'a.[11] [ii] From a ship's ram. For every ship is provided with the figurehead of an animal. Once this [a wooden ram] was forgotten on the sea shore, and R. Akiba found it.[12] [iii] From a hollowed out trunk.[13] For he once gave four it to sailors, and told them to bring him something [that he needed]. But they found only a hollow log on the sea shore, which they brought to him, saying, ‘Sit on this and wait’.[14] It was found to be full of denarii. For it once happened that a ship sunk and all the treasures thereof were placed in that log, and it was found at that time. [iv] From the serokita.[15] [v] From a matron.[16] [vi]

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(1) My a miracle, upon which he had relied, the place was filled with gold.

(2) This story shows that R. Judah, i.e R. Judah b. Ila'i, was extremely poor. In general the scholars of that generation lived in great poverty, as a result of the Hadrianic persecutions. V. A. Buchler, The Jewish Community of Sepphoris, pp. 67 seq.

(3) V. Git. 56a.

(4) Then a poor shepherd.

(5) An interval generally elapsed between betrothal (kiddushin) and marriage (nesu'in).

(6) A golden ornament with Jerusalem engraved thereon. V. ‘Ed. II. 7.

(7) Cf. Sanh. 109a, 113b; v. Tosaf. Hul. 6a. s.v. אשכחיה.

(8) Cur. edd.: ‘pairs of disciples’. But ‘pairs’ is absent in the version of Ket. 62b, and should be deleted here.

(9) Taunting her that she was too humble to be observed by so great a scholar.

(10) Prov. XII, 10.

(11) Who shared his wealth with him.

(12) It contained money.

(13) גוזא < גזע, a stem, trunk: Rashi translates: a ship's coffer, from גנז to hide, and גזא, treasure.

(14) [Lit., ‘make this a tarrying place’ (Goldschmidt); or ‘Let our master make this (a tarrying place)’, Rashi.]

(15) ‘Aruch translates: Ishmaelite traders. The phrase is missing in ‘En Jacob and unnoticed by the commentaries, and is obviously a corrupt dittography of ומן מטרוניתא (Jast.)

(16) A large sum of money was once needed for the school house. R. Akiba borrowed it from a matron, and at her request gave the Almighty and the sea as sureties for its punctual repayment. But when the money fell due, R. Akiba was unwell. Thereupon the matron stood at the edge of the sea did exclaimed, ‘Sovereign of the Universe! Thou knowest that to Thee and to the sea have I entrusted my money’. In reply, He inspired the Emperor's daughter with a mad fit, in the course of which she threw a chest full of treasures into the sea, which was washed up at the matron's feet. On his recovery, he brought her the money, with apologies for the delay: but she told him what had happened, and sent him away with many gifts.

Talmud - Mas. Nedarim 50b

The wife of Turnusrufus.[1] [vi] From Keti'a b. Shalom.[2]

R. Gamada gave four zuz to sailors to bring him something. But as they could not obtain it, they brought him a monkey for it. The monkey escaped, and made his way into a hole. In searching for it, they found it lying on precious stones, and brought them all to him.

The Emperor's[3] daughter said to R. Joshua b. Hananiah: ‘Such comely wisdom in an ugly vessel!’[4] He replied. ‘Learn front thy father's palace. In what is the wine stored?’ ‘In earthern jars.’ she answered. ‘But all [common] people store [wine] in earthern vessels and thou too likewise! Thou shouldst keep it in jars of gold and silver!’ So she went and had the wine replaced in vessels of gold and silver, and it turned sour. ‘Thus,’ said he to her, ‘The Torah is likewise!’ ‘But are there not handsome people who are learned too?’ ‘Were they ugly they would be even more learned,’ he retorted.

A certain woman of Nehardea came before Rab Judah[5] for a lawsuit, and was declared guilty by the court. ‘Would your teacher Samuel[6] have judged thus?’ she said. ‘Do you know him then?’ he asked. ‘Yes, He is short and big-stomached, black and large teethed.’ ‘What, you have come to insult him! Let that woman be under the ban!’ he exclaimed. She burst and died.

HE MAY ALSO EAT A WELL-BOILED EGG [BEZA TURMITA] — What is beza turmita? — Samuel said: The slave who can prepare one is worth a thousand denarii. For it must be placed a thousand times in hot water and a thousand times in cold, until small enough to be swallowed whole. If one is ulcerated, it attracts the matter to itself, and when it passes out the doctor knows what medicine is required and how to treat him. Samuel used to examine himself with Kulha,[7] [which weakened him so] that his household tore their hair [in despair].

We have learnt elsewhere: If one is working among kelusfin, [Lesbian figs], he may not eat of benoth sheba';[8] among benoth sheba', he may not eat of kelusfin. What are kelusfin? — A species of figs of which pap is made. A certain man once gave his slave to his friend to teach him a thousand different ways of making pap, but he taught him only eight hundred. So he summoned him to a lawsuit before Rabbi. Rabbi remarked, ‘Our fathers said, "We have forgotten prosperity,"[9] but we have never even seen it!’[10]

Rabbi made a wedding feast for his son Simeon, (and did not invite Bar Kappara).[11] He wrote above the banqueting-hall,[12] ‘Twenty-four thousand myriad denarii have been expended on these festivities ‘Thereupon Bar Kappara said, ‘If it is thus with those who transgress His will[13] , how much more so with those who do His will!’ When he [subsequently] invited him, he observed, ‘If it is thus with those who do His will in this world, how much more so [will it be] in the world to come!’

On the day that Rabbi laughed, punishment would come upon the world.[14] So he said to Bar Kappara [who was a humorist]. ‘Do not make me laugh, and I will give you forty measures of wheat.’ He replied. ‘But let the Master see

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(1) Tineius Rufus, a Roman governor of Judea. After her husband's death she became a convert and married R. Akiba, bringing him in much wealth. V.’A. Z. 20a.

(2) Keti'a b. Shalom was condemned to death by a Roman emperor — probably Hadrian — for giving counsel against the emperor and in favour of the Jews. He made R. Akiba his heir. — ‘A.Z. (Sonc. ed.) 10b, pp. 53ff.

(3) [Hadrian: v. J.E. VII. 291.

(4) He was very ugly.

(5) [At Pumbeditha where he had his school.]

(6) R. Judah was for a short time a pupil of Samuel, after the death of Rab and R. Asst: v. Yeb. 18a.]

(7) A stalk of some plant, which acted in the same way as the beza turmita.

(8) A different species of figs. The reference is to Deut. XXIII, 25: When thou comest into thy neighbour's vineyard, then thou mayest eat grapes until thy fill at thin own pleasure. The Rabbis interpret this as referring to workers, who may eat any of the fruit — not particularly grapes — upon which they are engaged, but must confine themselves thereto.

(9) Cf. Lam. III, 17, implying that they had once known it.

(10) I.e., it is extraordinary that in these bad times he should know as many as he did.

(11) The bracketed phrase is transposed its our editions.

(12) Where the festivities took place.

(13) A reference to the wrong done in not inviting him.

(14) Rabbi suffered internal pains for thirteen years, during which there was never a drought. — B.M. 85a.

Talmud - Mas. Nedarim 51a

that I may take whatever measure I desire.’ So he took a large basket, pitched it over,[1] placed it on his head, went [to Rabbi] and said to him. ‘Fill me the forty measures of wheat which I may demand front you.’ Thereupon Rabbi burst into laughter, and said to him, ‘Did I not warn you not to jest?’ He replied. ‘I wish but to take the wheat which I may [justly] demand.’

Bar Kappara [once] said to Rabbi's daughter. ‘Tomorrow I will drink wine to your father's dancing and your mother's singing.’[2]

Ben Eleasa, a very wealthy man, was Rabbi's son-in-law, and he was invited to the wedding of R. Simeon b. Rabbi. [At the wedding] Bar Kappara asked Rabbi, What is meant by to'ebah?[3] Now, every explanation offered by Rabbi was refuted by him, so he said to him, ‘Explain it yourself.’ He replied. ‘Let your housewife come and fill me a cup.’ She came and did so, upon which he said to Rabbi, ‘Arise, and dance for me, that I may tell it to you.’ Thus saith the Divine Law, ‘to'ebah’: to'eh attah bah.[4] At his second cup he asked him , ‘What is meant by tebel?’[5] He replied in the same manner as before, [until] he remarked, ‘Do [something] for me, and I will tell you.’ On his complying, he said ‘tebel hu’ means: Is there tablin [perfume] in it [the animal]? Is intimacy therewith sweeter than all other intimacies?[6] Then he further questioned, ‘And what is meant by zimmah?’[7] ‘Do as before, [and I will tell you.’] When he did so, he said, ‘zimmah’ means zu mah hi’.[8] Now, Ben Eleasa could not endure all this, so he and his wife left.

What is [known of] Ben Eleasa? — It was taught: Ben Eleasa did not disburse his money for nothing, but that he might achieve thereby the High Priest's style of hair-dressing, as it is written, They shall only poll their heads.[9] It was taught: [That means] in the Lulian fashion.[10] What was the Lulian style? — Rab Judah said: A unique style of hairdressing. How is that? — Raba said: The end [of one row of hair] reaching the roots of the other, and such was the hairdressing fashion of the High Priest.[11]

AND REMUZIAN CUCUMBERS [DELA'ATH HA-REMUZAH]. What is DELA'ATH HA-REMUZAH? — Samuel said, Karkuz pumpkins.[12] R. Ashi said, cucumbers baked in ashes. Rabina objected to R. Ashi: R. Nehemiah said: Syrian cucumbers, i.e., Egyptian cucumbers, are kil'ayim[13] in respect of Greek and Remuzian [cucumbers!][14] This refutation is unanswerable.

MISHNAH. HE WHO VOWS [ABSTINENCE] FROM FOOD PREPARED IN A POT IS FORBIDDEN ONLY BOILED DISHES. BUT IF ONE SAYS, ‘KONAM, IF I TASTE AUGHT THAT DESCENDS INTO A POT’, HE IS FORBIDDEN EVERYTHING PREPARED IN A POT.[15] GEMARA. It was taught: He who vows [abstinence] from what goes into a boiling pot, may not eat of what goes into a stew pot, because it has already entered the boiling pot before going into the stew pot; from what goes into a stew pot, he may eat of what goes into a boiling pot; from what is [wholly] prepared in a boiling pot, he may eat of what is prepared in a stew pot; from what is wholly prepared in a boiling pot, he may eat what is [partially] prepared in a stew pot. If he vows [abstinence] from what goes into an oven, only bread is forbidden him. But if he declares, ‘Everything made in an oven be forbidden me,’ he is forbidden everything that is made in an oven.

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(1) That it should retain the the wheat.

(2) Jast. lit., ‘croaking’, connecting קירקני will קירקור the croaking of frogs. Asheri, Rosh and Tosaf: ‘in the rounds’, perhaps connecting it with ** circus. (Goldschmidt). Rash: when she fills my clip.

(3) Abomination. Lev. XX, 13, referring to unnatural vice.

(4) Thou errest in respect of her, i e., by forsaking the permitted and indulging in the forbidden.

(5) Disgrace. Lev. XVIII, 23, referring to bestiality: E.V.: ‘confusion’.

(6) Lit., ‘different from’. That thou leavest thine own kind for it.

(7) Wickedness, Ibid. 17, referring to incest with a wife's daughter.

(8) Who is she, i.e. , through promiscuous intercourse the parentage is unknown, and thus a father might marry his daughter.

(9) Ezek. XLI, 20.

(10) Lulianus was a popular corruption of Julianus. V. Sanh. (Sonc. ed.) p. 128 n. 2.

(11) Eleasa expended huge sums to have his hair so dressed. Presumably it was a costly process known only to a few experts.

(12) That do not improve in cooking כרכוז. Obermeyer. op. cit. pp. 35f., identifies it with Circesium on the Euphrates. some 73 parasangs from Pumbeditha on the way to Palestine.

(13) V. Glos.

(14) And mayest be sown together with them, v. Deut. XXII, 9, which applies to all diverse species, cf Kil. I, 5. — This Baraitha proves that remuzah indicates the place of origin, not the manner of its preparation. Obermeyer a.l. regards הרמוצא as a form of הרמאס the river Hirmas which rises by Nisibis.

(15) This is repeated exactly in VI, 1. From Ran it would appear that it was absent in VI, 1, in his edition its correct place being here. Rashi, on the other hand, comments upon it in both places. It is possible that the words MISHNAH and GEMARA should be deleted, the whole being a quotation from the first Mishnah serving as a caption for the discussion in the Gemara (Marginal Gloss to Wilna ed.). — As to the difference between ‘boiled dishes’ and ‘food prepared in a pot', the first term applies to dishes completely boiled therein, the second to food only partially prepared therein and finished elsewhere.

Talmud - Mas. Nedarim 51b

MISHNAH. [IF HE VOWS ABSTINENCE] FROM THE PRESERVE, HE IS FORBIDDEN ONLY PRESERVED VEGETABLES;[1] [IF HE SAYS, 'KONAM,] IF I TASTE PRESERVE', HE IS FORBIDDEN ALL PRESERVES. 'FROM THE SEETHED,' HE IS FORBIDDEN ONLY SEETHED MEAT; 'KONAM, IF I TASTE SEETHED HE IS FORBIDDEN EVERY THING SEETHED.

GEMARA. R. Aha the son of R. Awia asked R. Ashi: If one said, 'That which is preserved,' 'that which is roasted,' 'that which is salted', what do these terms imply?[2] — This remains a problem.

MISHNAH. [IF ONE VOWS ABSTINENCE] 'FROM THE ROAST,' HE IS FORBIDDEN ONLY ROAST MEAT: THIS IS R. JUDAH'S OPINION. '[KONAM,] IF I TASTE ROAST', HE IS FORBIDDEN [TO PARTAKE] OF ALL FORMS OF ROAST. 'FROM THE SALTED, HE IS FORBIDDEN ONLY SALTED FISH; '[KONAM, IF I TASTED SALTED [FOOD].' HE IS FORBIDDEN [TO PARTAKE] OF EVERYTHING PRESERVED IN SALT. '[KONAM,] IF I TASTE FISH OR FISHES,'[3] HE IS FORBIDDEN [TO EAT] THEM, BOTH LARGE AND SMALL, SALTED AND UNSALTED, RAW AND COOKED. YET HE MAY EAT HASHED TERITH,[4] BRINE, AND FISH PICKLE.[5] HE WHO VOWS [ABSTINENCE] FROM ZAHANAH.[6] IS FORBIDDEN HASHED TERITH, BUT MAY PARTAKE OF BRINE AND FISH PICKLE. HE WHO VOWS [ABSTINENCE] FROM HASHED TERITH MAY NOT[7] PARTAKE OF BRINE AND FISH PICKLE.

GEMARA. It was taught: R. Simeon b. Eleazar said: [If he vows] '[Konam. If I taste] fish [day],' he is forbidden large ones but permitted small ones '[Konam] if I taste dagah,'[8] he is forbidden small ones , but permitted large ones . '[Konam,] if I taste dag [and] dagah,' he is forbidden both large and small ones. R. Papa said to Abaye: How do we know that '[Konam, If I taste] dag' implies large ones only? because it is written, Now the Lord had prepared a great fish dag] to swallow up Jonah?[9] But is it not written, Then Jonah prayed onto the Lord his God out of the fish's [dagah] belly?[10] — This is no difficulty: perhaps he was vomited forth by the large fish and swallowed again by a smaller one. But [what of the verse] And the fish [dagah] that was in the river died?[11] did only the small fish die, not the Iarge? — Hence dagah implies both large and small, but in vows human speech is followed.[12]

HE WHO VOWS [ABSTINENCE] FROM ZAHANAH. etc. Rabina asked R. Ashi: What if one says. 'Zihin be forbidden me'?[13] The problem remains.

MISHNAH. HE WHO VOWS [ABSTINENCE] FROM MILK MAY PARTAKE OF CURD.[14] BUT R. JOSE FORBIDS IT. 'FROM CURD,' HE IS PERMITTED MILK. ABBA SAUL SAID: HE WHO VOWS [TO ABSTAIN] FROM CHEESE, IS INTERDICTED THEREFROM, WHETHER SALTED OR UNSALTED. FROM MEAT,'

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(1) The use of the def. art. limits the vow to the most common form of preserve.

(2) Are they the equivalent of the definite art, and so limited, or not?

(3) 'Fish' refers to large ones, 'fishes' to small, which are sold in quantities.

(4) A certain fish. This is sold in slices, whereas his vow related to is hole ones only.

(5) This is absent from cur. edd., but is inserted by Bah.

(6) Mud-fish, small fish preserved in brine, similar to terith (Jast.).

(7) This is the reading of Rashi and Asheri. Other editions, likewise Ran, read 'may'.

(8) Fem. of dag used in the collective.
(9) Jon. II, 1.
(10) Ibid. 2, shewing that dagah too refers to large fish.
(11) Ex. VII, 21.
(12) In general usage, dag refers to large fish, dagah to small.
(13) Zihin, a preparation of small fish, is analogous to zahanah. The problem is whether he is allowed brine and fish pickle (muries).
(14) Maim: whey.

Talmud - Mas. Nedarim 52a

HE MAY PARTAKE OF BROTH AND THE SEDIMENTS OF BOILED MEAT;[1] BUT R. JUDAH FORBIDS THEM]. R. JUDAH SAID: IT ONCE HAPPENED THAT [IN SUCH A CASE] R. TARFON FORBADE US[2] [EVEN] EGGS BOILED THEREWITH. THEY REPLIED, THAT IS SO, BUT ONLY IF HE VOWS, 'THIS MEAT BE FORBIDDEN ME. FOR IF HE VOWS [TO ABSTAIN] FROM SOMETHING, AND IT IS MIXED UP WITH ANOTHER, IF IT [THE FORBIDDEN FOOD] IS SUFFICIENT TO IMPART ITS TASTE [TO THE OTHER]. IT[3] IS FORBIDDEN.[4] IF HE VOWS [TO ABSTAIN] FROM WINE, HE IS PERMITTED [TO FAT] FOOD WHICH CONTAINS THE TASTE OF WINE; BUT IF HE SAYS, 'KONAM IF I TASTE THIS WINE', AND IT FALLS INTO FOOD, IF IT IS SUFFICIENT TO IMPART ITS TASTE [TO THE FOOD]. IT IS FORBIDDEN.

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(1) Bits of meat that fall away from the piece in boiling and form a jelly.
(2) Ear. Iec. me.
(3) That other food.
(4) But if one vows abstinence from meat in general, the eggs boiled therewith, likewise the soup and meat sediment, are permitted.

Talmud - Mas. Nedarim 52b

GEMARA. But the following contradicts this. [If one vows abstinence] from lentils, lentil cakes are forbidden him; R. Jose permits then,![1] — There is no difficulty: each Master [rules] according to [the usage] of his locality. In that of the Rabbis, milk is called milk, and curd, curd; but in that of R. Jose, curd too is called curd of milk.

It was taught: He who vows [abstinence] from milk, is permitted curd; from curd,is permitted milk; from milk, is permitted cheese; from cheese, is permitted milk; from broth, is permitted meat sediment; from meat sediment, is permitted broth. If he says, 'This meat be forbidden me,' the meat itself, its broth and its sediment, are forbidden him. If he vows [to abstain] from wine, he may partake of food which contains the taste of wine; but if he says, 'Konam that I taste not this wine,' and it falls into food, if the taste of wine is [perceptible] therein, it is forbidden.

MISHNAH. HE WHO VOWS [ABSTINENCE] FROM GRAPES IS PERMITTED WINE: FROM OLIVES, IS PERMITTED OIL. IF HE SAYS, KONAM. THAT I TASTE NOT THESE OLIVES AND GRAPES', BOTH THEY AND THEIR JUICE[2] ARE FORBIDDEN.

GEMARA. Ram b. Hama propounded: Is 'these' essential, or 'that I taste not' essential?[3] (But, if you can think that 'these' is essential, why add 'that I taste not'? — He [the Tanna] may teach this [by the addition]: even if he Says. 'that I taste not.' yet only if he declares, 'these' is he prohibited, but not otherwise.) — Raba said. Come and hear: [If one says Konam be these fruits to me,'[4] 'Be they konam to my mouth,' he is forbidden [to benefit] from what is exchanged for them or what grows of their seeds. This implies that he may benefit from their juice![5] — In truth, even their juice is forbidden; but he [the Tanna] prefers to teach that what is exchanged for them is the same as what grows from their seeds.[6] Come and hear: 'That I eat not or taste not of them,' he is permitted [to benefit] from what is exchanged for them or what grows of their seeds.[7] This implies that their juice is forbidden![8] — Because the first clause does not mention their juice, the second clause omits it too.[9]

Come and hear: R. Judah said: It once happened that [in such a case] R. Tarfon forbade us [even] eggs boiled therewith. They replied, that is so. By only if he vows, 'This meat be forbidden me.' For if he vows [to abstain] from something, and it is mixed up with another, if it [the forbidden food] is sufficient to impart its taste [to the other], it is forbidden![10] — There is no question about 'these': that is certainly essential.[11] The problem is with respect to 'that I taste not': is that essential or not?[12] — Come and hear: ['Konam that I taste not fish or fishes'], he is forbidden [to eat] them, both large and small, salted and unsalted, raw and cooked. Yet he may eat hashed terith and brine![13] — Raba said: Providing it [the brine] had already issued from them [before the vow].[14]

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(1) Infra 53b. Thus R. Jose permits what is made from the forbidden substance, whilst in the Mishnah he declares curd forbidden under the term milk.

(2) Lit., 'what comes from them'.

(3) Since an ordinary vow does not interdict the juice (If grapes and olives, whilst in the second clause thus is forbidden, the question arises, on account of which particular phrase are they prohibited? Is it because he vowed 'these grapes', or because he added 'that I taste not', superfluous in itself, being implied in konam, and therefore perhaps extending the vow to oil and wine?

(4) Infra 57a.

(5) Though he said 'these'. This proves that the essential clause in the Mishnah is 'that I taste not'.

(6) Though the firmer is an entirely different thing: how much more than that which actually issues therefrom!

(7) This continues the quotation.

(8) For, according to the last answer, this is more likely to be forbidden than the others. Hence, were this permitted, it would be explicitly stated. This too proves that the essential clause is 'that I taste not'.

(9) For the sake of uniformity. But actually it may be permitted.

(10) This definitely proves that 'this' is essential.

(11) I.e., it is certain that 'these' alone extends the vow as indicated.

(12) Is that phrase alone sufficient to extend its scope?

(13) Brine is the juice that issues from the fish, yet it is permitted, though he said, 'that I taste not'. This proves that that alone is insufficient.

(14) But the brine which issues thereafter may be forbidden: hence the problem remains.

Talmud - Mas. Nedarim 53a

MISHNAH. HE WHO VOWS [ABSTINENCE] FROM DATES IS PERMITTED DATE HONEY; FROM WINTER GRAPES,'[1] HE IS PERMITTED VINEGAR MADE FROM WINTER GRAPES — R. JUDAH B. BATHYRA SAID: IF IT BEARS THE NAME OF ITS ORIGIN,[2] AND HE VOWS [TO ABSTAIN] FROM IT,[3] HE IS FORBIDDEN [TO BENEFIT] FROM WHAT COMES FROM IT. BUT THE SAGES PERMIT IT.

GEMARA. But the Sages are identical with the first Tanna? — They differ in respect of the following which was taught: R. Simeon b. Eleazar laid down this general rule: Whatever is eaten itself, and what comes from it too is eaten, e.g., dates and the honey of dates, and he vowed [abstinence] from the substance itself, he is forbidden that which comes from it;[4] but if he vows [abstinence] from what comes from it, he is also forbidden the substance itself.[5] But if the substance is not eaten itself, whilst what comes from it is,[6] and he vowed [abstinence] from the substance itself, he is forbidden only what comes from it,[7] because he meant nought else but what comes from it.[8]

MISHNAH. HE WHO VOWS [ABSTINENCE] FROM WINE MAY PARTAKE OF APPLE-WINE [CIDER]; FROM OIL HE IS PERMITTED SESAME OIL;[9] FROM HONEY, HE IS PERMITTED DATE HONEY; FROM VINEGAR, HE IS PERMITTED THE VINEGAR OF WINTER GRAPES; FROM LEEKS, HE IS PERMITTED PORRET;[10] FROM VEGETABLES, HE IS PERMITTED FIELD HERBS,[11] BECAUSE IT IS A QUALIFYING EPITHET.[12]

GEMARA. It was taught: He who vows [to abstain] from oil: to Palestine sesame oil is permitted him, but he is forbidden olive oil; in Babylon, he is forbidden sesame oil but permitted olive oil. In the place where they are both commonly used, both are forbidden. But that is obvious? — It is necessary to teach it only when most people use one: I might think that the majority must be followed. We are therefore taught that a doubtful prohibition is [resolved] stringently.[13]

He who vows [abstinence] from vegetables, in normal years is forbidden garden vegetables but permitted wild vegetables; in the seventh year. He is forbidden wild vegetables but permitted garden vegetables.[14] R. Abbahu said on the authority of R. Hanina b. Gamaliel:

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(1) סתוניות < סתוא winter, remaining on the tree till winter.

(2) As here, the vinegar being called 'winter grapes vinegar'.

(3) Sc. the article of its origin, i.e., winter grapes.

(4) T. J. has 'permitted', which Wilna Gaon regards as correct.

(5) V. preceding note.

(6) E.g winter grapes.

(7) If the substance is foresworn.

(8) The first Tanna, who rules that vinegar of winter grapes is permitted, disagrees with R. Simeon b. Eleazar, whilst the Sages agree with him. Hence, 'the Sages permit it', refers to the substance itself, when not usually eaten, but not to what comes from it

(9) שומשום (pl. שומשמין) probably fr. שמש (sun-flower), sesame.

(10) קפלוט pl. קפלוטות (**), is a species of leek with a head (porrum capitatum).

(11) Wild vegetables.

(12) The reason of all these is that is where a qualifying epithet is normally added to the name of the substance it is not included in the unspecified term: thus, in speaking of wine (unspecified), grape wine is meant, not apple wine: and so the rest.

(13) Consequently, though a particular oil is used by a minority only, yet if its usage is sufficiently prevalent to warrant the assumption that the vow may have been meant to include it, it is forbidden.

(14) Since none are planted then, by the unspecified term wild vegetables are meant.

Talmud - Mas. Nedarim 53b

This was taught only where vegetables are not imported into Palestine from abroad;[1] but where they are imported into Palestine from abroad, [garden vegetables] are forbidden. This is dependent on Tannaim: Vegetables may not be imported from abroad into Palestine; R. Hanina b. Gamaliel said: We may import them. What is the reason of him who prohibits it? — R. Jeremiah said: On account of the clods of earth.[2]

MISHNAH. [HE WHO VOWS TO ABSTAIN] FROM CABBAGE IS FORBIDDEN ASPARAGUS;[3] FROM ASPARAGUS, HE IS PERMITTED CABBAGE;[4] FROM POUNDED BEANS, HE IS FORBIDDEN MIKPEH:[5] R. JOSE PERMITS IT. [IF ONE VOWS TO ABSTAIN] FROM MIKPEH, HE IS FORBIDDEN GARLIC. R. JOSE PERMITS IT; FROM GARLIC, HE IS PERMITTED MIKPEH. FROM LENTILS, LENTIL CAKES ARE FORBIDDEN HIM. R. JOSE PERMITS THEM. FROM LENTIL CAKES, LENTILS ARE PERMITTED HIM. [IF ONE SAYS] 'KONAM, IF I TASTE HITTAH, HITTIN',[6] BOTH THE FLOUR THEREOF AND THE [BAKED] BREAD ARE FORBIDDEN TO HIM: IF I TASTE GERIS, GERISSIN',[7] HE IS FORBIDDEN [TO

PARTAKE] OF THEM WHETHER RAW OR COOKED. R. JUDAH SAID: [IF ONE DECLARES], ‘KONAM, IF I TASTE HITTAH OR GERIS,’ HE MAY CHEW THEM RAW.

GEMARA. It was taught: R. Simeon b. Gamaliel said: [If one vows ‘Konam,] if I taste hittah [wheat]’, baked wheat [i.e., flour] is forbidden him, but he may chew it raw; ‘[Konam,] if I taste hittin,’[8] he may not chew them raw, but if baked, they are permitted;[9] ‘If I taste hittah, hittin’, he may neither eat them baked nor chew them raw. [If he says. ‘Konam,] if I taste geris’, it is forbidden cooked, but may be chewed [raw]; ‘[Konam], if I taste gerrissin’, he is forbidden either to cook them or chew them raw. [

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(1) Lit., ‘outside the Land (of Israel)’.

(2) Which may adhere to the roots when they are brought: these clods were considered unclean, v. Shab. 15b.

(3) Being considered a species of the genus ‘cabbage’ (Jast.).

(4) The part is included in the whole, but the whole is not included in the part.

(5) A stiff mass of oil, grist, and onions (Jast.).

(6) hittah, a grain of wheat, also (generically) wheat; pl. hittim (in popular speech the Aramaic plural hittin, was used).

(7) Geris, a pounded bean, also used collectively: pl. gerissim.

(8) Wheat, but plural in form.

(9) Such are the respective meanings assigned in common speech to hittah and hittin: the same difference occurs in geris and gerissin.

Talmud - Mas. Nedarim 54a

CHAPTER VII

MISHNAH. HE WHO VOWS [TO ABSTAIN] FROM VEGETABLES IS PERMITTED GOURDS. R. AKIBA FORBIDS THEM. THE [SAGES] SAID TO HIM, BUT WHEN A MAN SAYS TO HIS AGENT ‘FETCH ME VEGETABLES, HE REPLIES, I COULD OBTAIN ONLY GOURDS. HE ANSWERED, EXACTLY: BUT WOULD HE SAY, ‘I COULD OBTAIN ONLY PULSE?’[1] BUT THAT GOURDS ARE INCLUDED IN VEGETABLES, WHILST PULSE IS [DEFINITELY] NOT. HE IS [ALSO] FORBIDDEN FRESH EGYPTIAN BEANS. BUT PERMITTED THE DRY SPECIES].[2]

GEMARA. HE WHO VOWS [TO ABSTAIN] FROM VEGETABLES etc. But he vowed [to abstain] from vegetables![3] — Said ‘Ulla: This refers to one who vows. ‘The vegetables of the pot [be forbidden] to me.’[4] But perhaps he meant vegetables which are eaten [with food cooked] in a pot?[5] — He said: ‘Vegetables that are cooked in a pot [he forbidden] to me.’[6]

Wherein do they differ? — The Rabbis maintain: Whatever an agent must inquire about does not belong to the same species;[7] but R. Akiba maintains, Whatever the agent needs inquire about is of the same species.[8] Abaye said: R. Akiba admits in respect to punishment that he is not flagellated.[9]

We learnt elsewhere: If the agent carried out his commission, the principal[10] is guilty of a trespass; if he did not carry out his commission, he himself is guilty of a trespass.[11] With which Tanna does this agree? R. Hisda said: Our Mishnah does not agree with R. Akiba. For we learnt:[12] Thus, if he said to him, ‘Give the guests meat, and he gave them liver; ‘[give them] liver,’ and he gave them meat, the agent is guilty of a trespass.[13] But if this agrees with R. Akiba: did he not say. Whatever an agent must inquire about, belongs to that species? In that case, the principal, and not the agent, should be liable to a trespass-[offering]?[14] Abaye said, This may agree even with R. Akiba:

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(1) If only pulse were obtainable, he would simply report that vegetables were unobtainable.

(2) These are two different species, the fresh regarded as a vegetable, the dry a cereal, because it is ground into flour.

(3) Which gourds are certainly not.

(4) And since gourds are boiled in pots, R. Akiba maintains that they are included.

(5) E.g., onions, which are put in a pot for seasoning.

(6) This most refer to something prepared for itself, and not mere seasoning.

(7) A servant, being told to buy vegetables and finding only gourds, would ask his master whether these would do.

(8) For if not, he would reject them immediately.

(9) For eating them. Though he forbids them, it is not certain that they are vegetables.

(10) Lit., 'householder'.

(11) V. Me'il, 20a. The reference is to hekdesh (q.v. Glos.), which must not be appropriated for secular use; if it is (unwittingly), a trespass-offering must be brought, v. Lev. V, 14. Now, if one instructs his agent to do this, and his instructions are exactly carried out, he is responsible; if not, the agent is held to have acted of his own accord and is himself responsible.

(12) Continuing the Mishnah quoted.

(13) It should be observed that by offering this hekdesh to the guests the agent has already misappropriated it by withdrawing it from sacred to secular ownership. The sacrifice is due for that withdrawal; hence when the guests eat it. It is no longer sacred, and no obligation rests upon them.

(14) For if one is sent to buy meat and finds only liver, he should certainly consult his master about it. Therefore, if the servant gave liver when ordered to give meat, on R. Akiba's view he carried out his master's instructions.

Talmud - Mas. Nedarim 54b

does not R. Akiba admit that he must consult [his principal]?[1] When this discussion was repeated before Raba, he remarked, Nahmani hath said well.[2]

Which Tanna disagrees with R. Akiba? — R. Simeon b. Gamaliel. For it was taught: He who vows [to abstain] from meat, is forbidden every kind of meat; he is also forbidden the head, feet, windpipe, liver, heart, and fowl; but he is permitted the flesh of fish and locusts. R. Simeon b. Gamaliel said: He who vows [to abstain] from meat is forbidden every kind of meat, but permitted the head, feet, windpipe, liver, heart and fowl, and it is superfluous to mention the flesh of fish and locusts.[3] And thus R. Simeon b. Gamaliel used to say: The entrails are not meat, and he who eats them is no man. In respect of what is this said?[4] [To teach that] he who eats them as meat is no man in respect of purchase.[5]

Why does the first Tanna declare fowl forbidden? Because the agent is wont to inquire about it! But the same applies to flesh of fish in regard to which the agent too, if he can obtain no meat, consults [his master] saying. 'If I cannot obtain meat, shall I bring fish?' Hence it should be forbidden? — Said Abaye: This refers to one who was bled [just before his vow] who [consequently] would not eat fish.[6] If so he would not eat fowl either, for Samuel said: If one is bled, and then eats fowl, his heart will palpitate like a fowl's. And it was taught: One must not be bled and eat fish, fowl, or pickled meat. And it was taught: If one is bled, he must not eat milk, cheese, eggs, cress owl, or pickled meat! — Fowl is different, because it may be eaten after being thoroughly boiled. Abaye [also] said:[7] It refers to one whose eyes ache, fish being injurious to the eyes. If so, he should eat fish, for Samuel said, Nun, Samek, 'Ayin[8] [read] Nuna [fish] sama [are a healing] la-'enayim [to the eyes]! — That is at the end of the illness.[9]

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(1) Though maintaining that it is of the same species, R. Akiba agrees that a servant should not take meat when ordered to get liver without further instructions. Consequently his action is regarded as his own.

(2) Abaye was an orphan brought up in the house of Rabbah b. Nahmani, who called him by the name of his father, v. Git. (Sonc. ed.) p. 240, n. 6.

(3) Thus he maintains that liver is not included in meat, and so differs from R. Akiba.

(4) Thus the reading as emended by Hart. Since R. Simeon does not exclude the entrails from the things forbidden, in what respect are they not meat?

(5) I.e., If one likes them as much as other meat and is prepared to pay the same price, he is regarded as irrational (Rashi). Tosaf. in Meil. 20b s v. קרביים explains this: If one buys an animal and finds that the entrails are unfit fir food, he cannot demand that the sale be nullified in that account, since they are not meant for human consumption.

(6) It was considered unhealthy to eat fish after being bled. Since then he would not have eaten fish in any case, his vow was not directed against it.

(7) ‘Also’ must be added if this reading be retained, since the first answer was also Abaye's. In Me'il. loc. cit., however, the reading is ‘R. Papa’.

(8) Three letters of the Hebrew alphabet in order.

(9) When the eyes are recovering, fish is beneficial, but at the beginning of the ailment of fish is injurious.

Talmud - Mas. Nedarim 55a

MISHNAH. HE WHO VOWS [TO ABSTAIN] FROM DAGAN [GRAIN] IS FORBIDDEN DRY EGYPTIAN BEANS: THIS IS R. MEIR'S VIEW, BUT THE SAGES SAY: ONLY THE FIVE PIECES ARE FORBIDDEN HIM.[1] R. MEIR SAID: IF HE VOWS [TO ABSTAIN] FROM TEBU'AH,[2] HE IS FORBIDDEN ONLY THE FIVE SPECIES; BUT ONE WHO VOWS [ABSTINENCE] FROM DAGAN, IS FORBIDDEN ALL; YET HE IS PERMITTED THE FRUITS OF THE TREE AND VEGETABLES.

GEMARA. Shall we say that DAGAN implies anything that can he heaped up?[3] To this R. Joseph objected: And as soon as the commandment came abroad, the children of Israel brought in abundance the first-fruits of corn [dagan] wine and oil, and honey, and of all the increase of the field; and the tithe of all things brought they in abundantly.[4] But should you say that DAGAN implies everything that can be heaped up, what is meant by, And as soon as the commandment came abroad they brought in abundance?[5] — Abaye answered: It is to include the fruits of the tree and vegetables.

R. MEIR SAID: IF ONE VOWS [TO ABSTAIN] FROM TEBU'AH, etc. R. Johanan said: All agree that if one vows [to abstain] from tebu'ah, the five species only are forbidden to him. It was taught likewise: And both[6] agree that if one vows [abstinence] from tebu'ah, only the five species are forbidden. But that is obvious? — Tonight argue, tebu'ah implies everything: therefore he teaches that it does not imply everything. R. Joseph objected: And as soon as the commandment came abroad, they brought in abundance etc.?[7] — Raba answered: Tebu'ah is one thing: tebu'ath sadeh is another.[8]

The Son of Mar Samuel ordered that thirteen thousand zuz worth of ‘allalta[9] from Nehar Pania[10] should be given to Raba. So Raba sent [an enquiry] to R. Joseph: what is meant by ‘allalta? — R. Joseph replied, It is [taught in] a Baraitha: And all agree that if he vows [abstinence] from tebu'ah, the five species only are forbidden him. Said Abaye to him. How compare? Tebu'ah implies only the five species, [whereas] ‘allalta implies everything. When this was repeated before Raba, he observed, I am in no doubt that ‘allalta means everything. My problem is this: What of the rent of houses and the hire of ships? Shall We say, Since they depreciate, they are not included in ‘allalta,’ or perhaps since the depreciation is imperceptible they [too] are termed ‘allalta?[11] The scholars narrated this to R. Joseph, ‘Since he does not need us!’ he exclaimed, ‘why did he send to us?’ And so R. Joseph was annoyed. When Raba learnt this, he went before him on the eve of the Day of Atonement, and found his attendant mixing him a cup of wine.[12] ‘Let me prepare it for him,’ said he. So he gave it to him, and he mixed the cup of wine. On drinking it he observed, ‘This mixture is like that of Raba the son of R. Joseph b. Hama. ‘It is indeed he,’ was his reply. He then said to him, ‘Do not take your seat[13] until you have explained this verse to me. [Viz.,] What is meant by, ‘And from the wilderness, Mattanah; and from Mattanah, Nahaliel; and from Nahaliel, Bamoth’?[14] — He replied , When one makes himself as the wilderness, which is free to all,[15] the Torah is presented to

in from the field’, is wider in scope, and applies to everything brought in from the field, even fruit and vegetables. him as a gift [mattanah] as it is written, ‘And from the wilderness, Mattanah’. And once he has it as a gift, God gives it to him as an inheritance [nahaliel],[16] as it is written, ‘And from Mattanah, Nahaliel;’ And when God gives it him as an inheritance, he ascends to greatness’ as it is written, ‘And from Nahaliel, Bamoth [heights’]. But if he exalts himself, the Holy One, blessed be He, casts him down, as it is written, ‘And from Bamoth, the valley’.[17] Moreover, he is made to sink[18] into the earth, as it is written, Which is pressed down[19] into the desolate soil. But should he repent, the Holy One, blessed be He, will raise him again,

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(1) Viz., Wheat, barley, rye, oats, and spell.

(2) Field produce.

(3) Heb. midgan: this being the reason that R. Meir forbids dry Egyptian beans under the term DAGAN.

(4) II Chron. XXXI, 5: The emphasis laid upon the abundance of their offering implies that they brought more tithes than required by Biblical law.

(5) Since they were obliged to tithe DAGAN by Biblical law, and DAGAN includes all things that can be heaped up, what did they add to the Biblical ordinance? (Rashi). Asheri explains: since DAGAN includes all things that can be heaped up, what else be implied by the phrase ‘and all the increase of the field’?

(6) R. Meir and the Sages.

(7) ‘And all the increase of the field’ (tebu'ath sadeh) is not confined there to the five species only (Rashi). Tosaf. remarks: And Abaye has already interpreted it as referring to vegetables and fruit.

(8) I.e. tebu'ah does mean the five species only: but tehu'ath sadeh, lit., ‘that which is brought

(9) ‘Allalta, connected with Heb. עלל (cf. Lam. I, 22: and do unto them, as thou has done unto me ועולל למו כאשר עוללת לי) denotes that which is produced (in the fields), and is the Aramaic equivalent of tebu'ah.

(10) [Harpania, a rich agricultural town in the Mesene district S. of Babylon situated on a hill and canal. Obermeyer (op. cit.) p. 198ff.]

(11) ‘Allalta, perhaps derived by popular etymology from עלל to enter, to come in (as revenue), applies to that which appreciates, not depreciates. viz., field produce, which from the time of sowing until it is ready for food appreciates in value. Once ready, it cannot depreciate as food, whereas a house, even when still fit for its purpose, continuously depreciates.

(12) Wine was not drunk raw, but had to be diluted with water.

(13) Lit., ‘sit on your legs’. V. Nazir (Sonc. ed.) p. 87, n. 7.

(14) Num. XXI, 19f.

(15) I.e., is prepared truly to teach the Torah to all.

(16) I.e., it becomes his safe possession.

(17) From the heights he is hurled down into the valley.

(18) Var. lec. pressed down — שוקפין — which has a more obvious connection with the verse adduced.

(19) ונשקפה E.V. ‘which looketh’, is here connected with שקף to strike (down).

Talmud - Mas. Nedarim 55b

as it is written, Every valley shall be exalted.[1]

It was taught: He who vows [to abstain] from dagan is also forbidden dry Egyptian beans; yet moist ones are permitted. He is also permitted rice, grist, groats and pearl-barley. He who vows [to abstain] from the fruits of that year, is forbidden all the fruit of that year, but is permitted goats, lambs, milk, eggs, and fledglings [of that year].[2] But if he vows, ‘The growths of this year [be forbidden] to me,’ all these are forbidden. He who vows [abstinence] from the fruits of the earth is forbidden all the fruits of the earth, yet is permitted mushrooms and truffles; but if he vows, ‘that which grows from the earth [be forbidden] to me,’ all these are forbidden him. But this contradicts the following: For that which does not grow from the earth, one must recite the benediction, ‘by whose word all things exist.’[3] And it was taught: For salt, brine mushrooms, and truffles, ‘by whose word all things exist’ is said![4] — Abaye answered, They do indeed grow out of the earth, but draw their sustenance from the air,[5] and not from the earth. But he [the Tanna] states: For that which does not grow out of the earth?[6] — Read: For that which does not draw its sustenance from the earth.[7]

MISHNAH. HE WHO VOWS [NOT TO BENEFIT] FROM GARMENTS IS PERMITTED SACK-CLOTH,[8] CURTAIN,[9] AND BLANKET WRAPPING. IF HE SAYS, ‘KONAM, IF WOOL COMES UPON ME,’ HE MAY COVER HIMSELF WITH WOOL FLEECES;[10] [KONAM] IF FLAX COMES UPON ME’, HE MAY COVER HIMSELF WITH FLAX BUNDLES.[11] R. JUDAH SAID: IT ALL DEPENDS UPON THE PERSON WHO VOWS, [THUS:] IF HE IS LADEN [WITH WOOL OR FLAX] AND PERSPIRES AND HIS ODOUR IS OPPRESSIVE, AND HE VOWS ‘KONAM’ IF WOOL OR FLAX COME UPON ME,’ HE MAY WEAR THEM, BUT NOT THROW THEM [AS A BUNDLE] OVER HIS BACK.[12]

GEMARA. It was taught: He who vows [not to benefit] from garments is permitted sack-cloth, curtain, and blanket wrapping. But he is forbidden a belt,[13] fascia,[14] scortea, a leather spread, shoes,[15] knee breeches breeches and a hat. What is a scortea? — Rabbah b. But Huna said: a leather coat.

It was taught: One may go out [on the Sabbath] wearing a thick sack-cloth, a coarse blanket, a curtain, and a blanket wrap, to keep off the rain;[16] but not with a box, basket[17] or matting for the sane purpose. Shepherds may go out with sacks;[18] not only shepherds, but all men, but that the Sages spoke of what is usual.

R. JUDAH SAID, IT ALL DEPENDS UPON THE PERSON WHO VOWED, etc. It was taught: How did R. Judah say, it all depends upon the person who vows? If he is wearing wool, and he is irritated and he vows ‘Konam, if wool comes upon me,’ he is forbidden to wear, but permitted to carry it; if he is laden with flax and perspires and vows, ‘Konam, if flax comes upon me, he may wear but must not carry it.

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(1) Isa. XL, 4.

(2) Though metaphorically they too might be regarded as the fruits of the year, the vow must be understood literally.

(3) This deals with the blessings to be recited before partaking of food or drink.

(4) The combination of these two statements proves that mushrooms and truffles are not earth-grown, and thus contradicts the ruling that a vow to abstain from what grows from the earth includes them.

(5) Therefore they are included in the vow, ‘growths of the earth’; yet since their sustenance is drawn chiefly from the air, they are not regarded as earth grown in respect of a benediction.

(6) Whilst according to Abaye they do.

(7) This is hardly an emendation, but rather an interpretation; cf. p. 3, n. 2.

(8) [Of goats-hair, v. Kel. XXVII, 1.]

(9) Some kind of rough, ready garment, which was not a garment proper.

(10) Because the vow implies garments which can he worn.

(11) אניצי פשתן flax — stalks after they are soaked, beaten and baked (Jast.).

(12) For in the circumstances it is evident that his vow referred to it as a load, not as a garment.

(13) The פונדא was a hollow belt used as a pouch.

(14) A band or sash; Lat. fascia.

(15) The word is the plural of **, impilia (pair of) felt shoes (Jast.).

(16) These, though not actually garments, are nevertheless counted as such, and hence permissible on the Sabbath.

(17) Placed over the head to ward off the rains.

(18) In the first clause, ‘sack-cloth’ would seem to refer to a rough garment; in the second, ‘sacks’ is probably to be understood literally’, put over one's head to ward off the rain.

Talmud - Mas. Nedarim 56a

MISHNAH. ONE WHO VOWS [NOT TO BENEFIT] FROM A HOUSE IS PERMITTED THE UPPER STOREY:[1] THIS IS R. MEIR'S VIEW. BUT THE SAGES SAY: THE UPPER STOREY IS INCLUDED IN ‘HOUSE’. HE WHO VOWS [NOT TO HAVE THE USE OF] THE UPPER STOREY IS PERMITTED [THE USE OF] THE HOUSE.

GEMARA. Which Tanna taught: [And I put a plague of leprosy] in a house [of the land of your possession]:[2] this includes the side-chambers;[3] ‘in a house’, this includes the upper storey? — R. Hisda said, It is R. Meir's teaching. For if the Rabbis’, why require ‘in a house’ to include the upper storey, since they say that an upper storey is an integral part of the house? Abaye said, it may agree even with the Rabbis, yet a verse is necessary. For you might think, [since] it is written, ‘in a house of the land of your possession’: that which is [directly] attached to the land[4] is called ‘house’, but the upper storey, not being attached to the land, [is not called ‘house’]. With whom does the following dictum of R. Huna b. Hiyya in ‘Ulla's name agree? Viz., [If one says,] I sell you a house[5] within my house,’ he can offer him an upper storey. Hence it is only because he says, ‘I sell you a house within my house’;[6] but in the case of ‘house’ without definition he cannot offer him the upper storey. Shall we say, It agrees with R. Meir? — You may even say, It agrees with the Rabbis: by ‘aliyyah, the best[7] of his houses is meant.[8]

MISHNAH. ONE WHO VOWS [ABSTINANCE] FROM A BED IS PERMITTED DARGESH:[9] THIS IS R. MEIR'S VIEW. BUT THE SAGES SAY: DARGESH IS INCLUDED IN ‘BED’. IF HE VOWS [ABSTINENCE] FROM A DARGESH, HE IS ALLOWED [THE USE OF] A BED.

GEMARA. What is dargesh? — ‘Ulla said: A bed reserved for the domestic genius.[10] Said the Rabbis to ‘Ulla: But we learnt, When he [sc. the High Priest] was given the mourner's meal,[11] all the people sat on the ground, whilst he reclined on the dargesh. Now, in normal times[12] he does not sit upon it, yet on that day he does! Rabina demurred to this: Let it be analogous to meat and wine, of which at other times[12] he partakes or not, as he pleases, whereas on that day we give them to him?[13] But this is the difficulty. for it was taught: The dargesh was not lowered[14] but stood up [on its legs]. Now if you say that it is the bed of the domestic genius, has it not been taught: He who lowers his bed, lowers not merely his own bed [as mourner], but all the beds of the house? — This is no difficulty:

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(1) These were quite distinct, often belonging to separate owners; cf. B.M. 116b.

(2) Lev. XIV, 34.

(3) יציע, V. B.B. 61a. So curr edd. Ran and Wilna Gaon emend it to צבוע painted walls, because side chambers are excluded in the Sifra from the laws of leprosy, and the teaching is that even these are subject to the lass of house leprosy. This is necessary, because leprosy in garments only applies to undyed materials. — Neg. XI, 3.

(4) This soil.

(5) [בית may mean either an apartment or a whole house, v. B.B. (Sonc. ed.) p. 247. n. 6.]

(6) ‘Apartment’.

(7) מעולה fr. עלה, lit., ‘the highest’.

(8) I.e., the purchaser can demand the best of his houses, the phrase in Hebrew בית שבביתי denoting the superlative. But if he simply sold him a בית he could give him an upper storey.

(9) V. Gemara.

(10) I.e., one not put to any use, but to bring good luck to the house.

(11) The first meal eaten by mourners after the funeral was called the סעודת הבראה meal of comfort or restoration, v. Sanh. 20a.

(12) Lit., ‘the whole year’.

(13) [On the wine drunk at the house of the mourner, v. Keth. 8a. There is however no law stated anywhere else that meat had to form part of the mourner's meal of comfort. The only reference in Sem. XIV speaks merely of a local custom (cf. Tur Yoreh De'ah, 282). It should however be noted that the parallel passages (Sanh. 20a and M.K. 27a) read: ‘Let it be analogous to eating and drinking’, and this is also the reading of MS.M. here.]

(14) As is the rule with all other stools and beds in a house of mourning.

Talmud - Mas. Nedarim 56b

for it may be similar to the trestle[1] reserved for utensils. For it was taught, If there was a trestle reserved for utensils [in the house], he need not lower it. But if there is a difficulty, it is this: For it was taught: R. Simeon b. Gamaliel said: As for the dargesh, its thongs are untied and it automatically collapses;[2] but if the dargesh is the bed of the domestic genius, has it then thongs? When Rabin came,[3] he said, I consulted one of the scholars named R. Tahlifa b. Tahlifa of the West,[4] who frequented the leather-workers' market, and he told me, What is dargesh.? A leather bed.[5] It has been stated: What is a mittah, and what a dargesh? — R. Jeremiah said, [In] a mittah [a bedstead] the strapwork is drawn on top; a dargesh has the strapwork inside.[6]

An objection is raised: From when are wooden articles ready to receive uncleanliness?[7] A mittah and a cradle from when they are smoothed [by being rubbed] with fish skin.[8] Now if the mittah has its strapwork drawn up on top, why must it be smoothed with fish skin?[9] But both [the mittah and the dargesh] have their strappings drawn inside: a mittah has its straps drawn in and on through slits [in the boards]; those of a dargesh go in and on through loops.

R. Jacob b. Aha said in Rabbi's name: A mittah whose poles[10] protrude [downwards][11] is set up [on its side], and that is sufficient.[12] R. Jacob b. Idi said in R. Joshua b. Levi's name: The halachah is as R. Simeon b. Gamaliel.[13]

MISHNAH. ONE WHO VOWS [NOT TO BENEFIT] FROM A TOWN, MAY ENTER THE TOWN TEHUM:[14] BUT MAY NOT ENTER ITS OUTSKIRTS.[15] BUT ONE WHO VOWS [ABSTINENCE] FROM A HOUSE, IS FORBIDDEN FROM THE DOOR-STOP[16] AND WITHIN.

GEMARA. Whence do we know that the outskirts of a town are as the town itself? — R. Johanan said, Because it is written, and it came to pass, when Joshua was in Jericho etc.[17] Now, what is meant by 'in Jericho'? Shall we say, actually in Jericho: but is it not written. Now Jericho was straitly shut up because of the children of Israel?[18] Hence it must mean in its outskirts.[19] Then say that it means even in the tehum?[20] — But with respect to the tehum it is written, And ye shall measure without the city [in the east side two thousand cubits etc.].[21]

BUT ONE WHO VOWS [ABSTINENCE] FROM A HOUSE IS FORBIDDEN FROM THE DOOR-STOP AND WITHIN. But not from the door-stop and without.[22] R. Mari objected: Then the priest shall go out of the house;[23] I might think that he goes home and then has it probably of the width. To these a cross-piece was attached, the whole forming a frame over which a net or curtain was slung. shut up; therefore it is taught, to the door of the house.[24] If [I had only to go by] 'to the door of the house,' I might think that he stands under the lintel and closes it; therefore, it is written, ['Then the priest shall go] out of the house', implying that he must go right out of it — How so? He must stand at the side of the lintel and close it. Yet how do we know that if he goes home and has it closed, or stands under the lintel and shuts it, that it is validly shut? From the verse, And shut up the house,[25] implying no matter how it be done.[26] — In the case of the [leprous] house it is different, because it is written 'out of the house', implying that he must go right out of the house.

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(1) מטה mittah, lit., 'bed'; this trestle must have been similar in shape to a bed.

(2) This too refers to a house of mourning.

(3) From Palestine.

(4) The Palestinian.

(5) Its strapping consisted of leather instead of ropes. Not being supported by long legs it stood very low. For this reason it is disputed in the Mishnah whether it is included in bed or not, and also whether it needs lowering during mourning. v.

Sanh. (Sonc. ed.) p. 107, n. 1.

(6) The straps are attached on the inside through slits in the frame.

(7) An article cannot become unclean unless it is completely finished for rise.

(8) To polish the surface, v. Kel. XXI, 1.

(9) By the mittah the bedstead itself, i.e., the framework, is understood. If this framework is always overlaid with straps; why need it he smoothed at all?

(10) נקליטין, two poles fixed at the head and foot of the bedstead, in the centre

(11) I.e., below the level of the bedding to the space underneath.

(12) The reference is to a house of mourning. Such a bed, if actually lowered, may appear to he standing in its usual position, since then the poles protrude upwards.

(13) That the thongs of a dargesh must be untied in a house of mourning.

(14) A distance of two thousand cubits right round the town boundaries.

(15) 70 2/3 cubits from the town borders. The two thousand cubits which is the permitted journey outside the town on the Sabbath, are calculated from the outer edge of these 70 2/3 cubits, v. ‘Er. 52b.

(16) The moulding of the door frame against which the door shuts.

(17) Josh. V, 13.

(18) Ibid. VI, 1.

(19) Which are referred to as the town itself.

(20) Perhaps Joshua was stationed within the tehum of Jericho which is spoken of as ‘in Jericho’.

(21) Num. XXXV. 5.

(22) I.e., the steps or threshold up to the doorstep are permitted.

(23) Lev. XIV, 38. The priest, after inspecting the leprous house for the first time, was to go out and have it sealed up for a week.

(24) Lev. XIV, 38.

(25) Ibid.

(26) Now, when one is outside the lintel, he is also, of course, outside the door-stop: yet he is not regarded here as being right out of the house, thus contradicting the implication of the Mishnah that without the door-stop is not part of the house.

Talmud - Mas. Nedarim 57a

MISHNAH. [IF A MAN SAYS]. ‘KONAM BE THESE FRUITS TO ME, BE THEY KONAM FOR MY MOUTH,’ OR ‘BE THEY KONAM TO MY MOUTH,’ HE IS FORBIDDEN [TO BENEFIT] FROM WHAT IS EXCHANGED FOR THEM OR WHAT GROWS FROM THEM. [IF HE SAYS KONAM] IF I EAT OR TASTE OF THEM, HE IS PERMITTED [TO BENEFIT] FROM WHAT IS EXCHANGED FOR THEM OR WHAT GROWS OF THEM, [THAT IS] IN A THING OF WHICH THE SEED ITSELF PERISHES: BUT IF THE SEED DOES NOT PERISH,[1] EVEN THAT WHICH GROWS OUT OF THAT WHICH [FIRST] GREW FROM IT IS FORBIDDEN. IF HE SAYS TO HIS WIFE, ‘KONAM BE THE WORK OF YOUR HANDS TO ME,’ .’KONAM BE THEY FOR MY MOUTH, OR ‘KONAM BE THEY TO MY MOUTH’:[2] HE IS FORBIDDEN THAT WHICH IS EXCHANGED FOR THEM OR GROWN FROM THEM. [IF HE SAID, KONAM] IF I EAT OR TASTE [THEREOF]’. HE IS PERMITTED WHAT IS EXCHANGED FOR THEM OR WHAT IS GROWN FROM THEM, THAT IS IN A THING OF WHICH PERISHES THE SEED ITSELF, BUT IF THE SEED DOES PERISH, EVEN THAT WHICH GROWS OUT OF THAT WHICH [FIRST] GREW FROM IT IS FORBIDDEN. [IF HE SAYS TO HIS WIFE, ‘KONAM THAT] WHAT YOU WILL PRODUCE I WILL NOT EAT THEREOF UNTIL PASSOVER’ OR ‘THAT WHAT YOU WILL PRODUCE, I WILL NOT WEAR UNTIL PASSOVER’, HE MAY EAT OR WEAR AFTER PASSOVER OF WHAT SHE PRODUCES BEFORE PASSOVER. ‘[THAT] WHAT YOU PRODUCE UNTIL PASSOVER I WILL NOT EAT’, OR ‘[THAT] WHAT YOU PRODUCE UNTIL PASSOVER I WILL NOT WEAR’, HE MAY NOT EAT OR WEAR AFTER PASSOVER WHAT SHE PRODUCES BEFORE PASSOVER.[3] [IF HE SAYS, KONAM] BE ANY BENEFIT YOU HAVE FROM ME UNTIL PASSOVER, IF YOU GO TO YOUR FATHER'S

HOUSE UNTIL THE FESTIVAL[4] IF SHE GOES BEFORE PASSOVER SHE MAY NOT BENEFIT FROM HIM UNTIL PASSOVER:

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(1) E.g., garlic or onions; these, when placed in the soil, do not rot away, but grow so that their growths always contain part of the original.

(2) And she was paid by means of agricultural produce.

(3) The reference is to her earnings in general, which he may not expend on food or clothing.

(4) [החג where unspecified denotes generally the Festival of Succoth, cf. I Kings VIII, 2.

Talmud - Mas. Nedarim 57b

IF SHE GOES AFTER PASSOVER[1] SHE IS SUBJECT TO, HE SHALL NOT BREAK HIS WORD.[2] [‘KONAM] BE ANY BENEFIT YOU HAVE FROM ME UNTIL THE FESTIVAL IF YOU GO TO YOUR FATHER'S HOUSE BEFORE PASSOVER’, IF SHE GOES BEFORE PASSOVER, SHE MAY NOT BENEFIT FROM HIM UNTIL THE FESTIVAL, BUT IS PERMITTED TO GO AFTER PASSOVER.

GEMARA. IF A MAN SAYS TO HIS WIFE, ‘KONAM BE THE WORK OF YOUR HANDS TO ME,’ ‘FOR MY MOUTH,’ OR ‘TO MY MOUTH, etc.’ Ishmael, of Kefar yama,[3] — others say, Kefar Dima[4] — propounded[5] the case of an onion that has been pulled up in the seventh year and planted in the eighth, and its growth exceeds the stock. And this is what he asked: The growth is permitted, whilst the stock is forbidden:[6] but since the growth exceeds the stock, the permitted growth comes and annuls what is forbidden;[7] or is it not so?[8] He came before R. Ammi, and he could not solve it. He then went before R. Isaac the smith,[9] who solved it from the following dictum of R. Hanina of Torata[10] in R. Jannai's name: If one plants an onion of terumah, and its increase exceeds the stock, it is [all] permitted.[11] Said R. Jeremiah, others state, R. Zerika, to him, Do you abandon two and follow one? Now who are the two? — [i] R. Abbahu, who said in R. Johanan's name: If a young tree[12] already with fruit is grafted on an old one, even if it multiplies two hundredfold, it [the original fruit] is forbidden.[13] [ii] R. Samuel son of R. Nahmani said in R. Jonathan's name: If an onion is planted in a vineyard and the vineyard is [subsequently] removed, it [the onion] is forbidden.[14]

Then he [Ishmael] again went before R. Ammi, who solved it from the following: For R. Isaac said in R. Johanan's name: If a litra[15] of onions was tithed[16] and then planted, the whole of it must be re-tithed.[17] This proves that the yield nullifies the stock.[18] Perhaps, however, this is different, being in the direction of greater stringency![19] — But [it can be solved] from the following: For it was taught: R. Simeon said:

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(1) After having enjoyed benefit from him.

(2) Num. XXX, 3.

(3) The former and modern Jabneel near Tiberias. V. Horowitz, Palestine, pp. 322ff.]

(4) In the original the difference is denoted by the single letter.

(5) Lit., ‘brought up in his hand’.

(6) The produce of the seventh year, if retained for private use after a certain period, were forbidden for use. V. p. 183, n. 16.

(7) If something forbidden becomes mixed up with something permitted, the latter exceeding the former (the ratio of excess differs: generally it must be sixty times as much), the latter annuls the former, and it is all permitted. Here too, the stock is used with the increase.

(8) Rashi, Tosaf. and Asheri regard the problem as referring only to annulment, but that it is certain that the increase itself is permitted. Ran, however, interprets the problem as relating to the increase: either it is permitted, in which case it also annuls the stock, or all is forbidden since it grew from prohibited stock.

(9) The Rabbinate being unpaid (cf. infra 37a), many Rabbis were tradesmen or workers. E.g., Hillel was a woodcutter before he became nasi; R. Joshua was a charcoal maker, and there was a R. Johanan who was a sandal maker.

(10) This is the conjectured meaning of תריתאה otherwise תורתייה.

(11) To a lay Israelite. So likewise in our problem.

(12) I.e., less than three years old, the fruit of which, called ‘orlah, is forbidden.

(13) Though elsewhere ‘orlah is nullified by such an increase.

(14) For when growing there together, they were ‘forbidden mixture’, (Deut. XXII, 9) and hence the onion was forbidden. Though the vines were removed, and the further growth of the onion permitted, yet the original remains forbidden. (Ran.: yet it is all, including the increase, forbidden). Both these statements are opposed to the first in R. Jannai's name.

(15) **, the Roman Libra, a pound.

(16) I.e., all the priestly dues were separated from it.

(17) I.e., both the stock and the increase.

(18) Though the stock had been tithed once, the whole must he re-tithed, the original being assimilated to the increase.

(19) I.e., whereby assimilating the original to the increase the law is more stringent, it is so assimilated. But the problem is whether the original is regarded as nullified though thereby a prohibition is raised.

Talmud - Mas. Nedarim 58a

For everything [forbidden] which can become permitted, e .g., tebel,[1] second tithe,[2] hekdesh,[3] and hadash,[4] the Sages declared no limit.[5] But for everything which cannot become permitted. e.g., terumah, the terumah of the tithe,[6] hallah,[7] ‘orlah,[8] and kil'ayim of the vineyard,[9] the Sages declared a limit.[10] Said they to him, But seventh year produce cannot become permitted, yet the Sages set no limit to it. For we learnt: Seventh year produce of no matter what quality renders its own kind forbidden![11] He replied, my[12] ruling too is only in respect of removal; but as for eating, [it renders it forbidden] only if sufficient to impart its taste thereto.[13] But perhaps this too is different, since [the nullification] is in the direction of greater stringency. But solve it from the following: We learnt: Onions [of the sixth year] upon which rain fell, and which grew [in the seventh], — if the leaves are blackish, they are forbidden; if greenish, they are permitted.[14] R. Hanina b. Antigonus said: If they can be pulled up by their leaves, they are forbidden.[15] Conversely, on the termination of the seventh year they are permitted.[16] This proves that the increase, which is permitted, nullifies that which is forbidden.[17] But perhaps it refers to crushed [onions]?[18] — But [it may be solved] from the following. For it was taught:

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(1) V. Glos. This is forbidden for use, ‘but becomes permitted oil payment of the priestly dues.

(2) A tithe which had to be eaten in Jerusalem, but forbidden elsewhere. It could, however, be redeemed, by allocating its value, plus a fifth, to he expended in Jerusalem, after which it might be enjoyed anywhere.

(3) Anything dedicated to the Temple which cannot be offered as sacrifice may be put to secular use after it is redeemed.

(4) Lit., ‘new’. The new crops which are forbidden until the offering of the ‘Omer, v. Lev. XXIII, 10-14.

(5) If these are mixed up with permitted food, the Sages do not rule that if the latter exceeds the former by a certain ratio the whole is permitted, as in the next clause. The reason is, since it is possible to cancel the prohibition in itself, there is no need to have recourse to nullification through excess.

(6) Of the tithe which the Levite received from the Israelite, he had to give one tenth to the priest.

(7) V. Glos. The last three are forbidden to a lay Israelite, and the prohibition itself cannot be cancelled.

(8) V. Glos.

(9) V. Glos.

(10) If these became mixed with other permitted substances, the latter nullifies them, providing they exceed them by certain fixed amounts.

(11) If mixed with other produce of the same kind, not of the seventh year, the latter is forbidden.

(12) So cur. edd., also Rashi and Asheri. Ran.: their ruling, which is more suitable to the context.

(13) The seventh year produce might he kept by its owner for his personal use only as long as like produce is still growing in the fields, and available to wild beasts. Once the produce has ceased from the fields the gathered species of the same produce must be ‘removed’. That time, the exact limits of which are given in Sheb. IX. 2 et seqq. is called the time of removal. Now R. Simeon answers the difficulty thus: If seventh year produce, of no matter what quality, is mixed with other produce before the time of removal, it all becomes as the former, and must be eaten before the time of removal. For, since it is permitted until then, there is no need to have recourse to nullification by excess. But if after the time of removal (and this has not been removed, so that it may not be eaten). He permitted produce is forbidden only if there is sufficient of the prohibited to impart its taste to the whole mixture. Of course, where they are both of the same kind, this is strictly speaking impossible, but it is calculated on the basis of two different kinds. Now what has been said with respect of a mixture of two lots of produce, seventh year and non-seventh year, also applies to a single plant which is partly seventh and partly non-seventh year produce. E.g., if a sixth year onion is planted and grows no matter how slightly in the seventh, the addition, even if but the smallest fraction of the original, renders the whole as seventh year produce, which is subject to the law of removal. This we see that the increase, though grown out of that which is permitted, is reckoned as distinct from the original, and can render it forbidden. Hence, contrariwise, if the increase is permitted and of sufficient quantity, it can nullify the prohibition attaching to the original.

(14) Whilst the onion is growing naturally from the soil, its leaves have a blackish tint. But sometimes, after its natural growth has ceased, the rain inflates it, giving it a sort of over-ripeness. Then its leaves bear a greenish and faded appearance. Hence in this case, if the leaves are blackish, it is a sign that the onion has naturally grown in the seventh year, and therefore the addition renders it all forbidden, i.e. ‘imposes upon the whole the law of seventh year produce. But if they are greenish, it has grown of itself, and hence permitted.

(15) Even if the leaves are not blackish, yet if they are strong enough for the whole onion to be pulled up by them without their breaking off, it is a sign if normal growth, and so forbidden.

(16) If seventh year onions were left in the soil and grew in the eighth, if the leaves go blackish, it is a sign of natural growth in the eighth, and therefore the whole onion is permitted. — Asheri observes that the two cases are not exactly similar. For the sixth year onion is

(17) And this solves the problem.

(18) I.e., if the onions were crushed and grated, so that the forbidden part no longer preserves its separate identity; in that case it is nullified by excess. But the problem arises only if the onion is intact.

Talmud - Mas. Nedarim 58b

If [a workman] is engaged in weeding leek plants[1] for a Cuthean,[2] he may make a light meal of them and must separate the tithes from them as certain.[3] R. Simeon b. Eleazar said: If [the labourer is employed by] an Israelite suspected of violating the laws of the seventh year,[4] he may make a light meal thereof [if working] in the eighth year.[5] This proves that the growth, which is permitted, nullifies [the original stock], which is rendered forbidden even by a slight increase in the seventh, whereas he seventh under the same conditions is rendered permitted only by an increase in the eighth at least greater than the original. Nevertheless, the general principle, that blackishness of the leaves indicates natural growth, is the same in both. forbidden. But perhaps it refers to a plant whose seed perishes [in the soil]? — But it is taught: The following are leek plants: The lof,[6] garlic and onions.[7] But Perhaps it refers to crushed plants?[8] — This teaches of one who is suspected of violating the Sabbatical year.[9] But perhaps it refers to a mixture?[10] — This teaches of one who is engaged in weeding.[11] Now, shall we say that this refutes R. Johanan and R. Jonathan?[12] — Said R. Isaac: The Sabbatical year produce is different; since the interdict is through the soil,[13] its nullification too is through the soil.[14] But the prohibition of the tithe is likewise through the soil,[15] yet it is not nullified by the soil. For it was taught: If a litra of tithe, itself tebel,[16] is sown in the soil and it improves [i.e.. increases], and is the equivalent of ten litras, it [sc. the whole] is liable to tithe[17] and [is subject to the laws of] the Sabbatical year,[18] whilst as for the [original] litra, a tithe thereof must be seperated from elsewhere,[19] according to calculation.[20]

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(1) The Talmud explains below what this is.

(2) V. Glos.

(3) If he wishes to make of them a regular meal. The obligation of tithing vegetables is Rabbinical only, not Biblical. When crops are tithed, and then resown, the new produce is again liable to the priestly dues. Nevertheless, a labourer engaged in working on crops may make a light meal of them. If, however, the crops originally sown were tebel (v. Glos.)

one may not even make a light meal of their produce whilst working on them. Now, this Baraitha is to some extent self-contradictory, but in reality represents a compromise. Thus, the Cutheans disregarded their tithe obligations. Consequently, it must be assumed with certainty that they have not set aside the tithes from their produce, of which no regular meal may be made without tithing. This is not regarded as a doubtful tithe, viz. , that it is not known whether the Cuthean fulfilled his obligations or not, but as a certain tithe. Yet since the entire obligation is Rabbinical only, the Rabbis did not carry through this assumption to its extreme logical conclusion and forbid a labourer engaged thereon to enjoy even a snack, but permitted it, as ordinary tithed plants which are resown. This leniency is based on another possible assumption, viz., only if crops are taken in through the front of the house they are tebel in the sense that one may not even make a light meal thereof before the priestly dues are rendered. Here it is possible that these crops were never thus taken in (Tosaf.).

(4) I.e., that he planted them in the seventh year.

(5) Lit., ‘the termination of the Sabbatical year’. Though the original is forbidden as seventh year produce, the increase nullifies it, and hence it is permitted to the labourer.

(6) A plant similar to colocasin, with edible leaves and roots, and bearing beans; and it is classified with onions and garlic (Jast.).

(7) Thus proving that it applies even to those plants whose original stock remain.

(8) The crushing obliterates the original stock.

(9) He would not trouble to crush it in order to evade the prohibition.

(10) I.e., the labourer may eat it only when it is mixed up with other plants, the excess of which nullifies the original forbidden stock.

(11) The labourer may eat while engaged in the act of weeding, though there is no mixture. Thus this definitely proves that the increase nullifies the original.

(12) V. supra 57b.

(13) Lev. XXV, 2: Then the land shall feet a sabbath unto the Lord

(14) But ‘orlah is prohibited through immaturity, and ‘diverse seeds’ (kil'ayim) through mixture.

(15) I.e., by replanting. For if one sows tithed grains the produce in tebel: thus, by putting it into soil, it becomes prohibited.

(16) I.e., the tithe of which had not been given, v. p. 183, n. 9.

(17) Although itself a tithe, the ordinary law of tebel applies to it, and it must be retithed (and terumah too must be given).

(18) If it grew in that year.

(19) I.e., a tithe — the terumah of the tithe due in the first place — must be given to the priest. This tithe must not be taken out of the resultant crop, but from the previous year's, of which the litra was part, because one must not tithe one year's grain with another's.

(20) This proves that the forbidden nature of the untithed tithe remains, in spite of the fact that it was sown in the soil.

Talmud - Mas. Nedarim 59a

— I will tell you: The tithe obligation is caused by the storing up [of the grain].[1] Rami b. Hama objected: [If a man says,] ‘KONAM BE THESE FRUITS TO ME, ‘BE THEY KONAM FOR MY MOUTH, OR ‘BE THEY KONAM TO MY MOUTH,’ HE IS FORBIDDEN [TO BENEFIT] FROM WHAT IS EXCHANGED FOR THEM OR WHAT GROWS FROM THEM. [IF HE SAYS, ‘KONAM] IF I EAT OR TASTE OF THEM,’ HE IS PERMITTED [TO BENEFIT] FROM WHAT IS EXCHANGED FOR THEM OR WHAT GROWS OF THEM, [THAT IS] IN A THING OF WHICH THE SEED ITSELF PERISHES; BUT IF THE SEED DOES NOT PERISH, EVEN THAT WHICH GROWS OF THAT WHICH [FIRST] GREW FROM IT IS FORBIDDEN![2] — Said R. Abba: Vows[3] are different: since if he wishes he can demand absolution from tithes, they are as [forbidden] things that may become permitted and [hence] are not nullified by excess.[4] But with terumah likewise he may, if he wishes, demand absolution from it,[5] and yet it can be nullified?[6] For we learnt : If a se'ah[7] of unclean terumah falls into less than a hundred of hullin it must [all] rot.[8] [This implies. but if it falls] into a hundred [se'ahs of hullin], it is nullified? — I will tell you: This refers to terumah in the priest's hands, in regard to which he can demand no absolution.[9] If so, consider the second clause: If it was undefiled, it should [all] be sold to a priest.[10] But this refers to [terumah in the hands of] an Israelite, who inherited it from his maternal grandfathers a priest.[11] But the second clause teaches, It must be sold to a priests save for the value of that se'ah?[12] — But answer thus: As for vows, it is well, since it is meritorious to seek absolution from them on account of R. Nathan's dictum, Viz., He who vows, is as though he built a high place; and he who fulfils it, is as though he burned incense thereon. But what merit is there in seeking absolution from terumah.?[13]

The text [above] states: ‘R. Johanan said: If a litra of onions was tithed and then planted, the whole of it must be retithed’. Now Rabbah[14] was sitting and stating this law, whereupon R. Hisda said to him: Who will obey you and R. Johanan your teacher: whither has the permitted portion in them departed? He replied: But did we not learn something similar? Viz., ‘Onions [of the sixth year] upon which rain fell, and which grew [in the seventh], —

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(1) Until the grain is harvested and actually piled up in a stack, there is no obligation for the priestly dues. Thus it is not an obligation caused by the soil.

(2) This proves that the increase does not nullify the original, thus refuting R. Ammi's view.

(3) Konamoth, Lit., ‘Vows expressed by Konam’.

(4) V. p. 183, n. 8.

(5) If one declares certain grain terumah in error, he can have this declaration nullified, and the grain reverts to its former state.

(6) Cur. edd. add ‘by mere excess’. Wilna Gaon deletes this, since mere excess is insufficient, a hundred times its quantity being required.

(7) V. Glos.

(8) Unclean terumah may not he eaten by anyone, and therefore nothing can be done with the mixture.

(9) The Israelite who declares it terumah can have his declaration nullified only before it reaches the hands of the priest but not after.

(10) Obviously then it was still in the hands of an Israelite.

(11) Thus it had already belonged to a priest, and cannot be revoked.

(12) Which belongs to the priest as terumah. But under the circumstances here posited, even that se'ah too belongs to the Israelite.

(13) Therefore something prohibited by a vow is treated as that which can become permitted, since it ought to be revoked; but this does not apply to terumah.

(14) Var. lec.: Raba.

Talmud - Mas. Nedarim 59b

if the leaves are blackish, they are forbidden; if greenish, they are permitted.’[1] But even if blackish, why are they forbidden? Let us say, whither has the permitted portion in them departed? — He replied: Do you think that it refers to the original stock? [Only] with respect to the increase is it taught. They are forbidden. If so, what does R. Simeon b. Gamaliel come to teach? For it was taught [thereon:] R. Simeon b. Gamaliel said: That which grew under the obligation [of removal][2] is under that obligation: that which grew in a state of exemption is exempt. Surely the first Tanna too says thus? — The whole Mishnah is stated by R. Simeon h. Gamaliel.[3] Yet you learn R. Simeon b. Gamaliel's view [to be thus] only where he took no trouble;[4] but where one takes trouble,[5] it [the stock] is nullified by the excess [of the increase].[6] Now, where one takes trouble, is it nullified by the excess? But what of the case of the litra of tithe, itself !ebel, where he took trouble, yet it is taught, ‘whilst as for the original litra, a tithe thereof must he separated from elsewhere according to calculation’?[7] — The tithe is different, because Scripture saith, Thou shalt surely tithe all the increase of thy sowing.’[8] and people sow what is permitted, but do not sow what is forbidden.[9]

The text [above states:] ‘R. Hanina of Torata said in R. Jannai's name: If one plants an onion of terumah, and its increase exceeds the stock, it is [all] permitted.’ Shall we say that the permitted increase

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(1) V. 58a.

(2) Viz., in the Sabbatical year.

(3) The second clause is merely stating a reason for the ruling in the first.

(4) As in this case, the sixth year onions having been left in the earth during the seventh year.

(5) Where he plants the onions.

(6) This is Rabbah's remark: though it would appear that R. Simeon b. Gamaliel's view is opposed to his, in reality it is not.

(7) V. supra 58b.

(8) Deut. XIV, 22.

(9) U.e., we oblige him to give terumah on the original tithe, since he did wrong in sowing it without rendering the terumah. It is thus in the nature of a fine, that he should not profit by his neglect. But normally the original stock is nullified, when lahour is required to produce the excess.

Talmud - Mas. Nedarim 60a

nullifies the forbidden [stock]? But we learnt: What grows from terumah is [likewise] terumah? — He [R. Haninah] refers to the second growth.[1] But we learnt this too: The second growth [of terumah] is hullin.?[2] — He teaches us this: (this is so] even where the stock does not perish in the earth. But we learnt: The growth of tebel is permitted in the case where the seed thereof [which is tebel] perishes [in the earth], but if it does not perish, [even] its second growth is forbidden! — He teaches us [that the second growth is permitted] when it exceeds the original.[3]

CHAPTER VIII

MISHNAH. [IF ONE VOWS,] ‘KONAM, IF I TASTE WINE TO-DAY, HE IS FORBIDDEN ONLY UNTIL IT GETS DARK; [IF HE SAYS] ‘THIS SABBATH,’[4] HE IS FORBIDDEN THE WHOLE WEEK AND THE SABBATH BELONGS TO THE PAST;[5] ‘THIS MONTH,’ HE IS FORBIDDEN THE WHOLE OF THAT MONTH, BUT THE BEGINNING OF THE [FOLLOWING] MONTH BELONGS TO THE FUTURE;[6] ‘THIS YEAR,’ HE IS FORBIDDEN THE WHOLE YEAR, WHIlst THE BEGINNING OF THE [FOLLOWING] YEAR BELONGS TO THE FUTURE; THIS SEPTENNATE,’[7] HE IS FORBIDDEN THE WHOLE OF THAT SEPTENNATE, AND THE [FOLLOWING] SABBATICAL YEAR BELONGS TO THE PAST.[8] BUT IF HE SAYS, ‘ONE DAY,’ ‘ONE SABBATH,’ ‘ONE MONTH,’ ‘ONE YEAR,’ [OR] ‘ONE SEPTENNATE,’ HE IS FORBIDDEN FROM DAY TO DAY.[9] [IF ONE VOWS,] ‘UNTIL PASSOVER, HE IS FORBIDDEN UNTIL IT ARRIVES; ‘UNTIL IT BE’ [PASSOVER], HE IS FORBIDDEN UNTIL IT GOES;[10] ‘UNTIL PENE[11] PASSOVER,’ R. MEIR SAID: HE IS FORBIDDEN UNTIL IT ARRIVES; R. JOSE SAID: UNTIL IT GOES.

GEMARA. ‘KONAM, IF I TASTE WINE’ etc. R. Jeremiah[12] said: At nightfall he must obtain absolution iron, a Sage.[13] What is the reason? — R. Joseph said: ‘To-day’ is forbidden as a precautionary measure on account of ‘one day’[14]

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(1) I.e., an onion of terumah having been planted and its yield replanted, the second crop is permitted, but the first is terumah.

(2) Then what does R. Hanina teach?

(3) Whilst the Mishnah stating that it is forbidden holds good only if the growth does not exceed the original.

(4) ‘Sabbath’ denotes both the Sabbath day and a calendar week.

(5) I.e., the Sabbath following his vow, belongs to the current week, not the following.

(6) And hence permitted

(7) I.e., the seven-year cycle.

(8) I.e., it ends the Septennate in which the vow was made, and hence is included. An alternate rendering of the whole passage is this: ‘This Sabbath’ (that is the actual word of the Mishnah; v. n. I): e.g., if one vows on the Sabbath day, the whole week is forbidden, and the Sabbath of the past week too, i.e., the day of his vow, though belonging to the past week, while the vow obviously refers to the coming one, is nevertheless included. ‘This month’, e.g., if he vows on new moon (Rosh hodesh), the whole of the following month is forbidden, and the new moon itself is also accounted to the next month. ‘This year’, i.e., if one vows on new year's day, the whole of the year is forbidden, including that day, which belongs to the future. ‘This septennate’, i.e., if one vows in the Sabbatical year, the following septennate is forbidden, and the Sabbatical year itself in which he vows, though really belonging to the past Septennate. — On this interpretation, if a vow is made on the Sabbath, New Moon, New Year's day or in a Sabbatical year, for a Sabbath (i.e., calendar week), month, year, or septennate respectively, the day itself on which the vow is made, and in the last case, the Sabbatical year itself, are forbidden. The different phraseology used to indicate this, reference being made to the future in two cases and to the past in two others, intimates the law, if one vows in the middle of the week, etc. Thus, if in the middle of the week or septennate, the following Sabbath

(9) I.e., a day of twenty-four hours; likewise a month of thirty days, a year of twelve months, and a septennate of seven years.

(10) I.e., the future tense is regarded as future perfect.

(11) [Var. lec.: lifene. Either word may denote (a) the turn of; (b) the face of; (c) until before.]

(12) Asheri in his ‘Pesakim’ reads: R. Jeremiah b. Abba.

(13) But the vow is not lifted automatically.

(14) If when one vows ‘to-day’, he is told that the vow’ automatically ends at nightfall, he may think the same of ‘one day’, which binds him, however, twenty-four hours.

Talmud - Mas. Nedarim 60b

Said Abaye to him: If so, let ‘One day’ be forbidden on account of ‘to-day’?[1] — He replied: ‘To-day’ may be mistaken for ‘one day’, but ‘one day’ cannot be mistaken for ‘to-day’.[2]

Rabina said: Meremar told me: Thus said your father in R. Joseph's name: With whom does this statement of R. Jeremiah b. Abba agree? With R. Nathan. For it was taught: R. Nathan said: Whoever vows is as though he built a high place, and who fulfils it, is as though he burnt incense thereon.[3]

and Sabbatical year are forbidden; in the middle of the month or year, the following New Moon or New Year's day are permitted. Ran, Asheri and Tosaf. prefer the former interpretation: Rashi the latter.

THIS SABBATH, HE IS FORBIDDEN THE WHOLE WEEK [AND THE SABBATH BELONGS TO THE PAST]. This is obvious? — I might think that he meant the [week] days of the Sabbath:[4] we are therefore taught [otherwise].

‘THIS MONTH,’ HE IS FORBIDDEN THE WHOLE OF THAT MONTH, BUT THE BEGINNING OF THE [FOLLOWING] MONTH BELONGS TO THE FUTURE. This is obvious? — It is necessary only when the [following] Month is defective: I might think that the new Moon belongs to the past, and is forbidden: it is therefore intimated that people call it new moon.[5]

‘THIS YEAR,’ HE IS FORBIDDEN THE WHOLE YEAR. The scholars propounded: What if one vows, ‘Konam, if I taste wine a day’? is its law as ‘to-day’ or ‘one day’? — Come and hear [a solution] from our Mishnah. ‘KONAM, IF I TASTE WINE TO DAY HE IS FORBIDDEN WINE ONLY UNTIL IT GETS DARK; hence ‘a day’ is as ‘one day’! Then consider the second clause: IF HE SAYS, ‘ONE DAY,’ HE IS FORBIDDEN FROM DAY TO DAY: hence a day’ is as ‘to-day’?[6] Thus nothing can be deduced from this.

R. Ashi said, Come and hear: ‘Konam, if I taste wine this year,’[7] if the year was intercalated, he is forbidden for the year and the extra month. How is this meant?

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(1) I.e., if he vows ‘one day’, let him be forbidden until the nightfall of the following day. Otherwise, if he terminates his vow in the middle of the day, twenty-four hours after its commencement, he may think that had he stated ‘today’, he could likewise end it in the middle of the day of his vow.

(2) I.e , if he vows ‘one day’, he may think that it ends at nightfall, just as ‘to-day’; but if he vows ‘to-day’, he cannot possibly think that it ends before the nightfall of the same day, since in ‘one day’ the vow lasts beyond nightfall and includes part of the following day too.

(3) I.e., because one does wrong in vowing at all, he is treated stringently and ordered to obtain absolution for his vow when it should lapse automatically. In Rashi's opinion, this conflicts with the reason given by R. Joseph. But Asheri regards it as complementary thereto: whilst accepting the reasoning, he regards the fear of mistaking ‘to-day’ for ‘one day’ as insufficient in itself to justify this precautionary measure: hence he adds the reason drawn from R. Nathan's dictum.

(4) The Sabbath being a day of delight, it might be assumed that he never intended to deny himself wine on that day, since week-days too are implied in that term.

(5) The months of the Jewish year consist of either twenty-nine or thirty days and generally alternate. Hence, if the following month is detective (i.e., of twenty-nine days), this one is full. In the month following a full one, the first two days are designated ‘new moon’, the first being really the thirtieth day of the past full month. Hence, if one vowed in a full month, it might be thought that he is bound on the first new moon day of the next. Therefore the Mishnah teaches that since it is called new moon, People generally regard it as part of the next month, and hence he is permitted thereon. — This is the reading of Asheri, Ran and Tosaf. But our editions, and Rashi too. have: I might think that the new moon belongs to the past, and should not be forbidden. This reading cannot be reconciled with the first interpretation of the Mishnah, but agrees with the second (q.v. p. 190, n. 5). If he vowed ‘this month’ on the first new moon day, I might think that since it actually belongs to the past month he is not forbidden thereon. Therefore it is taught that since it is designated new moon, he must have meant to include it.

(6) In Heb. ‘one’ is expressed by אחד, but the indef. ‘a’ is unexpressed, lit., ‘day’, and hence the problem, and the differentiation between ‘a day’ and one day’.

(7) Lit., ‘the year’.

Talmud - Mas. Nedarim 61a

Shall we say, [literally,] as taught? [Then] why state it?[1] Hence it must surely mean that he vowed ‘a year’:[2] this proves that ‘a year’ is as ‘this year’, and [consequently], ‘a day’ as ‘to-day’! — No! In truth, it means that he vowed, ‘this year’; yet I might think that the majority of years should be followed, which have no intercalated months;[3] therefore we are taught [otherwise].

The scholars propounded: What if one vows, ‘Konam, if I taste wine a Jubilee’:[4] Is the fiftieth year [counted] as before the fiftieth or as after?[5] Come and hear: For a conflict of R. Judah and the Rabbis has been taught: And ye shall hallow the fiftieth year:[6] you must count it as the fiftieth year, but not as the fiftieth and as the first year [of the following jubilee].[7] Hence they [the Sages] said: The Jubilee is not part of the [following] septennate. R. Judah maintained: The Jubilee is counted as part of the septennate. Said they to R. Judah, But Scripture saith, six years shalt thou sow thy field,[8] whereas here there are only five![9] He replied: But on your view, Surely it is said, and it shall bring forth fruit for three years.’[10] whereas here there are four![11] But it can be referred to other Sabbatical years; hence mine too[12] must be thus explained.

‘UNTIL PASSOVER’, HE IS FORBIDDEN etc. Shall we say that R. Meir holds that a man does not place himself.

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(1) It is obvious, since the addition is an integral part of the year.

(2) Only then is it necessary to state that the addition is forbidden him, i.e., ‘a year’ is as ‘this year’: for if it implied ‘one

year', he should be forbidden exactly twelve months.

(3) Hence the intercalated month is permitted.

(4) Ran observes that since the former problem is left unsolved, a day' would be the equivalent of 'one day' (since when in doubt the more stringent interpretation is adopted), and consequently a jubilee as one jubilee, and the problem cannot arise. Therefore he must have vowed 'this (the) jubilee'.

(5) On the former supposition it is forbidden; on the latter it is permitted.

(6) Lev. XXV, 10.

(7) I.e., that year is the fiftieth, the jubilee, and it cannot be counted also as the first of the following fifty and seven year. cycles.

(8) Ibid. 3.

(9) Since there is no sowing in the jubilee year.

(10) Ibid. 21.

(11) The forty-eighth year produce must suffice for itself, the forty-ninth, which is a Sabbatical year, the fiftieth, which is Jubilee, and until the harvesting of the fifty-first. This is a difficulty on any view, R. Judah's included: he posits it merely to prove that the Biblical statements about the Sabbatical year do not in any case apply to the Jubilee period, even on the view of the Rabbis.

(12) I.e., the verse by which you desire to refute me.

Talmud - Mas. Nedarim 61b

in a doubtful position, whilst R. Jose maintains that he does place himself in a doubtful position?[1] But the following contradicts it: If a man has two groups of daughters by two wives, and he declares, 'I have given one of my elder daughters in betrothal,[2] but do not know whether it was the eldest of the senior[3] group or of the junior group, or the youngest of the senior group, who is older than the eldest of the junior group': they are all forbidden,[4] except the youngest of the junior group:[5] this is R. Meir's view. R. Jose said: They are all permitted except the eldest of the senior group.[6] — Said R. Hanina b. Abdimi in Rab's name: The passage must be reversed.[7] And it was taught [even so]: This is a general principle: That which has a fixed time, and one vows, until the turn [pene] thereof, — R. Meir said: It means, until it goes; R. Jose maintained: Until it arrives.

MISHNAH. [IF HE VOWS,] 'UNTIL THE HARVEST, 'UNTIL THE VINTAGE, OR, UNTIL THE OLIVE HARVEST,' HE IS FORBIDDEN (ONLY UNTIL IT ARRIVES. THIS IS A GENERAL RULE WHATEVER HAS A FIXED TIME AND ONE VOWS, 'UNTIL IT ARRIVES, HE IS FORBIDDEN UNTIL IT ARRIVES; IF HE DECLARES, 'UNTIL IT BE', HE IS FORBIDDEN UNTIL IT GOES. BUT WHATEVER HAS NO FIXED TIME, WHETHER ONE VOWS, 'UNTIL IT BE,' OR 'UNTIL IT ARRIVES,' HE IS FORBIDDEN ONLY UNTIL IT ARRIVES. [IF HE SAYS,] 'UNTIL THE SUMMER [HARVEST],'[8] OR, 'UNTIL THE SUMMER [HARVEST] SHALL BE,' [HE IS FORBIDDEN] UNTIL PEOPLE BEGIN TO BRING [THE FIGS] HOME IN BASKETS;' UNTIL THE SUMMER [HARVEST] IS PAST,' [IT MEANS] UNTIL THE KNIVES[9] ARE FOLDED UP [AND LAID AWAY].[10]

GEMARA. A tanna taught: The basket referred to is the basket of figs, not of grapes.[11] It was taught: He who vows [abstinence] from summer fruits, is forbidden only figs. R. Simeon b. Gamaliel said: Grapes are include din figs.[12] What is the reason of the first Tanna? He holds that figs are plucked off by hand, whilst grapes are not plucked off by hand;[13] whereas R. Simeon b. Gamaliel maintains, Grapes too are plucked off by hand when quite ripe.[14]

UNTIL THE SUMMER [HARVEST] IS PAST,' [IT MEANS] UNTIL THE KNIVES ARE FOLDED UP [AND LAID AWAY]. A Tanna taught: Until most of the knives have been put away.

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(1) The expression until pene — or lifene — is a doubtful one. v. supra p. 191. n. 3. R. Meir, on this hypothesis, holds that when one vows he intends his words to hear only that meaning which can with certainty be attributed to them, not desiring to be in a position of doubt; while R. Jose controverts it.

(2) A father could betroth his daughter, if a minor, even without her knowledge; though v. Kid. 41a.

(3) I.e., by his first wife.

(4) Both to the groom, since they may be sisters of the betrothed, and to others, being possibly betrothed themselves.

(5) Who is permitted to strangers, since she is definitely not ‘the elder’.

(6) This shews that in R. Meir's view one intends his words or actions to bear even a meaning which can be attributed to it only with doubt, and R. Jose holds the opposite.

(7) I.e., the authorities of our Mishnah.

(8) The time for this is not fixed.

(9) Used for cutting off the figs from the tree.

(10) Other meanings: until the figs are arranged in layers; until the matting, on which the gigs are dried, is folded up.

(11) I.e., he is forbidden only until the figs are brought in in baskets, not the grapes, which are gathered in slightly later.

(12) I.e., in summer fruits.

(13) קיץ, the Heb. for summer (fruits), denotes the gathering or plucking (of the fruits). But as grapes are cut off from the vine with a pruning knife, the term is inapplicable in their case.

(14) Lit., ‘when about to be detached’ (from the tree). Asheri. [Rashi: ‘overripe’. Jast: ‘when their stems are thin’, cf. Ran.]

Talmud - Mas. Nedarim 62a

A Tanna taught: If most of the knives have been put away, they [the remaining figs] are permitted [to strangers] as far as theft is concerned, and are exempt from tithes.[1]

Rabbi and R. Jose son of K. Judah came to a certain place when most of the knives had been folded. Rabbi ate;[2] R. Jose son of R. Judah did not. Their owner came and said to them, ‘Why do the Rabbis not eat? most of the knives have been folded!’ Nevertheless R. Jose son of R. Judah did not eat, believing that the man had spoken [sarcastically] in a grudging spirit.

R. Mama son of R. Hanina came to a place when most of the knives had been folded. He ate; but [when] he offered [some] to his attendant, he would not eat. ‘Eat,’ said he; ‘thus did R. Ishmael son of R. Jose tell me on his father's authority: When most of the knives have been folded, they [the remaining figs] are permitted [to strangers] as far as theft is concerned ‘and are exempt from tithes’.

R. Tarfon was found by a man eating [of the figs] when most of the knives had been folded, [whereupon] he threw him into a sack and carried him, to cast him in the river. ‘Woe to Tarfon,’ he cried out, ‘whom this man is about to murder!’ When the man heard this,[3] he abandoned him and fled. R. Abbahu said on the authority of R. Hananiah b. Gamaliel: All his lifetime that pious man grieved over this, saying. ‘Woe is me that I made [profane] use of the crown of the Torah!’[4] For Rabbah b. Bar Hanah said in R. Johanan's name: Whoever puts the crown of the Torah to [profane] use, is uprooted from the world.[5] This follows a fortiori. If Belshazzar, who used the holy vessels which had become profaned, as it is written, For the robbers shall enter into it, and profane it:[6] [teaching], since they had broken in, they were profaned; yet he was uprooted from the world, as it is written, In that night was Belshazzar slain:[7] how much more so he who makes [profane] use of the crown of the Torah, which endureth for ever!

Now since R. Tarfon ate when most of the knives were folded, why did that man ill-treat him? — Because someone had been stealing his grapes all the year round, and when he found R. Tarfon, he thought that it was he. If so, why was he grieved [at revealing his identity]?[8] — Because R. Tarfon, being very wealthy, should have pacified him with money.[9]

It was taught: That thou mayest love the Lord thy God and that thou mayest obey his voice, and that thou mayest cleave unto him:[10] [This means] that one should not say, I will read Scripture that I may be called a Sage.’ I will study, that I may be called Rabbi, I will study,[11] to be an Elder, and sit in the assembly [of elders];[12] but learn out of love, and honour will come in the end, as it is written, Bind them upon thy fingers, write them upon the table of thine heart,’[13] and it is also said, Her ways are ways of pleasantness;[14] also, She is a tree of life to them that lay hold upon her: and happy is everyone that retaineth her.[15]

R. Eliezer son of R. Zadok said: Do [good] deeds for the sake of their Maker,[16] and speak of them[17] for their own sake. Make not of them a crown wherewith to magnify thyself, nor a spade to dig with.[18] And this follows a fortiori. If Belshazzar, who merely used the holy vessels which had been profaned, was driven from the world; how much more so one who makes use of the crown of the Torah!

Raba said: A man may reveal his identity where he is unknown, as it is said, but I thy servant fear the Lord from my youth.[19] But as for the difficulty of R. Tarfon,[20] — he was very wealthy, and should have pacified him with money.

Raba opposed [two verses]: It is written, But I thy servant fear the Lord for in my mouth,’ whilst it is also written, Let another man praise thee, and not thine own mouth?[21] One refers to a place where he is known; the other, to where he is unknown.

Raba said: A rabbinical scholar may assert, I am a rabbinical scholar; let my business receive first attention;[22] as it is written, And David's sons were priests,'[23] just as a priest receives [his portion] first, So does the scholar too. And whence do we know this of a priest? — Because it is written, Thou shalt sanctify him therefore, for he offereth the bread of thy God:[24] whereon the School of R. Ishmael taught: 'Thou shalt sanctify him' — in all matters pertaining to holiness:

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(1) Because once the knives are put away, the owner has, in effect, shewn that the remaining figs are unwanted by him and free to all, i.e., hefker, from which there are no priestly dues; cf. p. 139, n.2.

(2) Of the figs left on the fields.

(3) That he was R. Tarfon.

(4) I.e., over saving his life by revealing his identity.

(5) This is in accordance with the general view held that one should derive no benefit whatsoever from the Torah. Cf supra 37a and Aboth, IV,5. (Sonc. ed.) p. 47, n. 3.

(6) Ezek. VII, 22.

(7) Dan. V, 30.

(8) His grief would have been justified had the keeper been angry on account of R. Tarfon's action alone: For instead of saving himself by disclosing his name, he should have told him the law on the subject and offered to pay for what he had eaten, but if he was mistaken for an habitual thief, what else could he have done: should he have offered to make good the depredations of the whole year!

(9) Precisely so.

(10) Deut. XXX, 20.

(11) [So Bah. cur. edd.: אשנן 'I will teach.' I.e. he teaches others, so that his fame may spread and he may obtain a seat in the Academy.]

(12) 'Elder' may simply mean scholar (cf. Kid. 32b), or more exactly a member of the Sanhedrin; cf. Joseph. Ant. XII, 111, p. 3.

(13) Prov. VII, 3: i.e., make it an integral part of thyself, not as something outside thee, cherished only for its worldly advantages.

(14) Ibid. III, 17.

(15) Ibid. 18: this is quoted to shew that honour comes eventually.

(16) I.e., God Who decreed them (Ran.). [Or. 'the performance of them', i.e., for the sake of doing good (Bahja Ibn Pakuda, Duties of the Heart, Introduction.]

(17) VIz., the words of the Torah.

(18) In I Sam. XIII, 20. and Ps. LXXIV, 5, kardom means an axe. Possibly it was a two-sided tool, one side serving as a spade and the other as an axe.

(19) I Kings XVIII, 12

(20) V. supra.

(21) Prov. XXVII, 2.

(22) Lit., 'dismiss my case first'. E g., in a shop or market place. cf. the story in Kid. 70a.

(23) II Sam. VIII, 18. They were not priests, of course; hence the verse means that as scholars they were entitled to certain priestly privileges.

(24) Lev. XXI, 8.

Talmud - Mas. Nedarim 62b

to be the first to commence [the reading of the Law],[1] the first to pronounce the blessing,[2] and first to receive a good portion.[3]

Raba said: A rabbinical scholar may declare, I will not pay poll-tax, for it is written, [also we certify to you, that touching any of the priests . . . or ministers of this house of God,] it shall not be lawful to impose mindah [tribute,] belo [custom,] or halak [toll,] upon them:[4] whereon Rab Judah said: ‘mindah’ is the king's portion [of the crops]; ‘belo’ is a capitation tax, and ‘halak’ is arnona.[5] Raba also said: A Rabbinical scholar may assert, ‘I am a servant of fire, and will not pay poll-tax.’[6] What is the reason? Because it is [only] said in order to drive away a lion.[7] R. Ashi owned a forest, which he sold to a fire-temple. Said Rabina to R. Ashi: But there is [the injunction]. Thou shalt not put a tumbling-block before the blind![8] — He replied: Most wood is used for [ordinary] heating.[9]

MISHNAH. [IF HE VOWS,] ‘UNTIL THE HARVEST,’ [IT MEANS] UNTIL THE PEOPle BEGIN REAPING THE WHEAT HARVEST, BUT NOT THE BARLEY HARVEST.[10] IT ALL DEPENDS ON THE PLACE WHERE HE VOWED:[11] IF IN A HILL-COUNTRY. THE HILL-COUNTRY [HARVEST]; IF IN THE PLAIN, [THE HARVEST OF] THE PLAIN [IS MEANT].[12] [IF HE VOWS,] ‘UNTIL THE RAINS,’ [OR], ‘UNTIL THE RAINS SHALL BE’, [IT MEANS] UNTIL THE SECOND RAINFALL DESCENDS.[13] R. SIMEON B. GAMALIEL SAID: UNTIL THE [NORMAL] TIME FOR THE [FIRST] RAINFALL IS REACHED.[14] [IF HE VOWS,] ‘UNTIL THE RAINS CEASE,’ [IT MEANS] UNTIL THE END OF NISAN:[15] THIS IS R. MEIR'S VIEW. R. JUDAH SAID: UNTIL PASSOVER IS PAST.

GEMARA. It was taught: He who vows in Galilee, ‘until the fruit-harvest,’ and then descends to the valleys, though the fruit harvest has begun in the valley, he is forbidden [by his vow] until the fruit-harvest in Galilee.

[IF HE VOWS,] ‘UNTIL THE RAINS,’ [OR] ‘UNTIL THE RAINS SHALL BE,’ [IT MEANS] UNTIL THE SECOND RAINFALL DESCENDS. R. SIMEON B. GAMALIEL SAID, etc. R. Zera said: The dispute is only if he said, ‘until the rains’;[16] but if he declared, until the rain,’ he [certainly] meant, until the time of the [first] rain.[17]

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(1) In ancient times the public reading of the Law was done by those ‘called up’. The priest was to be called to read the first portion. v. Git. 59a.

(2) I.e., the blessing for bread prior to the meal, and grace after the meal.

(3) At a meal he must be served first. — Asheri: when sharing anything with an Israelite, the latter must divide the thing to be shared in two equal portions and give choice of pick to the priest.

(4) Ezra VII, 24.

(5) Or ‘annona’, produce tax. Jast. conjectures that הלך probably means a tax for the sustenance of marching troops.

(6) To the Persian it would suggest a fire worshipper, who was free from poll-tax. But the scholar making (his assertion should mean that he worships the Lord, who is designated ‘consuming fire’ in Deut. IV, 24. (Under Chapter II, fire worship became the national and state-aided religion of the Persians, and in order to win converts to that religion fire worshippers enjoyed exemption from poll-tax: v. Funk, S. Die Juden in Babylonien II. p. 3.)

(7) I.e., in self-defence, against irregular extortion. Ran states that Raba's dictum means that even a Rabbinical student may act thus, and it is not regarded as an untruth; the ordinary person may certainly do so.

(8) Lev. XIX. 14: i.e., nothing must be done to aid idolatry.

(9) Not for idolatrous service,

(10) Which is earlier.

(11) I.e., though normally ‘harvest’, unspecified, means the wheat harvest, if in a particular place one refers thus to the barley harvest it means until then. Likewise, as the Mishnah proceeds to explain.

(12) Harvesting is later in a hill-country than in a plain.

(13) I.e., until it commences. There are three winter rainfalls in Palestine. Their times are discussed on 63a. When he states, ‘until the rainfall’, without specifying which, it is assumed that he means the middle one, as he would have defined the first or last by name.

(14) Even if it does not rain then. Since the times of the rainfalls are not exact, he must have meant when the rainfall commences.

(15) The first month in the Jewish year, corresponding to March-April.

(16) The first Tanna maintains that the plural implies, until there shall have been at least two rainfalls; whilst in R. Simeon b. Gamaliel's opinion the terms of the vow are fulfilled when the time for the second rainfall comes, even though it did not actually rain.

(17) So Rashi.

Talmud - Mas. Nedarim 63a

An objection is raised: What is the time of the rainfall?[1] The earliest is on the third [of Marheshwan],[2] the middle [i.e., the second] on the seventh, and the last on the twenty-third: this is R. Meir's view. R. Judah said: The seventh, the seventeenth, and the twenty-third. R. Jose said: The seventeenth, the twenty-third, and the new moon of Kislew.[3] And R. Jose used likewise to rule that individuals must not fast [for rain] until Kislew has commenced.[4] Now we observed thereon: As for the first rainfall, it is well: [they differ] in respect of petitioning;[5] the third [likewise] is in respect of fasting.[6] But [as for] the second, in respect of what [is the controversy]? And R. Zera answered: In respect of one who vows.[7] Whereon we observed: With whom does the following Baraitha agree: R. Simeon b. Gamaliel said: If the rain descends for seven days in succession, it is counted as the first and second rainfall?[8] With whom does this agree? With R. Jose![9] — That refers to one who vows, ‘Until the rains.’

MISHNAH. [IF HE VOWS,] ‘KONAM THAT I TASTE NOT WINE FOR A YEAR’, IF THE YEAR IS INTERCALATED.[10] HE IS FORBIDDEN DURING THE YEAR AND ITS EXTENSION. [IF HE SAYS.] ‘UNTIL THE BEGINNING OF ADAR,’[11] [IT MEANS] UNTIL THE BEGINNING OF THE FIRST ADAR; ‘UNTIL THE END OF ADAR,’ UNTIL THE END OF THE FIRST ADAR.[12]

GEMARA. Thus we see that by stating Adar, without qualification, the first is meant. Shall we say that our Mishnah reflects R. Judah's views? For it was taught: For the first Adar, one writes ‘The first Adar’; for the second, simply ‘Adar’: this is R. Meir's view. R. Judah said: For the first Adar, one writes ‘Adar’; for the second, one writes ‘the second Adar’![13] — Abaye said: You may say that it agrees even with R. Meir: the latter is where he knew that it was a leap year; the former [i.e., the Mishnah], if he did not know.[14]

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(1) Sc. the winter rain, which generally came in three periods, as explained here. There was also, of course, the Spring rain. V. Ta'an. 6a.

(2) Marheshwan is the eighth month of the year, corresponding to October-November.

(3) Kislew is the ninth month of the year, corresponding to November-December.

(4) And rain has not yet fallen.

(5) For rain. A short prayer for rain — טל ומטר ‘(give) dew and rain’, called she'elah, request or petition, is inserted in the eighth benediction of the ‘amidah when the first rainfall is due. V. Ta'an. 10a.

(6) A public fast was proclaimed if the drought continued after the time of the third rainfall had arrived. V. Ta'an. I, 4-7: II, 1.

(7) I.e., if one vows, ‘until the rains’, it means until the second rainfall: hence the controversy as to when it is due.

(8) As we have seen, R. Simeon b. Gamaliel's own view is that the line of the rainfall is the deciding factor, whether it actually rains or not. But since the Rabbis maintain that the vow means until it rains, R. Simeon argued that even on their view, if it rains for seven days in succession, it should be considered as two rainfalls, and hence terminates the vow. It is now assumed that no dictinction is here made how he expressed his vow. But on R. Zera's view, that they all agree that where he says ‘until the rain’, the time of the first rainfall is the deciding factor, R. Simeon b. Gamaliel's remark is irrelevant.

(9) For in R. Meir's view there are only four days between the two rain-falls, and in R. Judah's there are ten.

(10) The Jewish year being lunar, an extra month is periodically intercalated to make it agree with the Solar year; v. J.E. art. ‘Calendar’.

(11) The twelfth month of the year == February-March.

(12) Var. lec.: SECOND ADAR. When a year is intercalated, a month is added after Adar, which is called the second Adar.

(13) This is in reference to the dating of documents.

(14) If he knew and stated Adar, without qualification, the second is meant, in R. Meir's view. But if he did not know, he must have meant the first, since he does not wish to be in doubt as to the length of his vow, that he should include the second Adar if the year is subsequently intercalated.

Talmud - Mas. Nedarim 63b

And it was taught even so: [If one writes.] ‘until the new moon of Adar,’ [it means] until the new moon of the first Adar; but if it was a leap year, until the new moon of the second Adar. Now, this proves that the first clause does not refer to leap year?[1] Hence the latter clause means, if he knew that it was a leap year; the former, if he did not know.

MISHNAH. R. JUDAH SAID: [IF ONE VOWS,- ‘KONAM THAT I TASTE NO WINE UNTIL PASSOVER SHALL BE,’ HE IS FORBIDDEN ONLY UNTIL THE PASSOVER NIGHT,[2] FOR HE MERELY MEANT, UNTIL THE EVENING OF PASSOVER, UNTIL THE HOUR WHEN MEN ARE WONT TO DRINK WINE.[3] IF HE VOWS, ‘KONAM THAT I TASTE NO MEAT UNTIL THE FAST [I.E., THE DAY OF ATONEMENT] SHALL BE,’ HE IS FORBIDDEN ONLY UNTIL THE EVE OF THE FAST, FOR HE MERELY MEANT, UNTIL PEOPLE USUALLY EAT MEAT.[4] R. JOSE, HIS SON, SAID: [IF HE VOWS,] KONAM, IF I TASTE GARLIC UNTIL THE SABBATH, HE IS FORBIDDEN ONLY UNTIL SABBATH EVE [I.E., FRIDAY NIGHT], FOR HE MEANT, UNTIL IT IS CUSTOMARY FOR PEOPLE TO EAT GARLIC.[5] IF HE SAYS TO HIS NEIGHBOUR ‘KONAM, IF I BENEFIT FROM YOU, IF YOU DO NOT COME AND ACCEPT FOR YOUR SONS A KOR OF WHEAT AND TWO BARRELS OF WINE, THE LATTER MAY ANNUL HIS VOW WITHOUT RECOURSE TO A SAGE, BY DECLARING, ‘DID YOU VOW FOR ANY OTHER PURPOSE BUT TO HONOUR ME? THIS [NON-ACCEPTANCES] IS MY HONOUR. LIKEWISE, IF HE SAYS TO HIS NEIGHBOUR, ‘KONAM, IF YOU BENEFIT FORM ME, IF YOU DO NOT GIVE MY SON A KOR OF WHEAT AND TWO BARRELS OF WINE’ — R. MEIR RULES: HE IS FORBIDDEN UNTIL HE GIVES; BUT THE SAGES MAINTAIN: HE TOO CAN ANNUL HIS VOW WITHOUT A SAGE, BY DECLARING, I REGARD IT AS THOUGH I HAVE RECEIVED IT. IF HE WAS URGING HIS NEIGHBOUR TO MARRY HIS SISTER'S DAUGHTER, AND HE EXCLAIMED, ‘KONAM, IF SHE EVER BENEFITS FROM ME’; LIKEWISE, IF HE IS DIVORCING HIS WIFE AND VOWS, ‘KONAM, IF MY WIFE HAS EVER BENEFIT FROM ME, — THEY ARE PERMITTED TO BENEFIT FROM HIM, BECAUSE HE MEANT ONLY MARRIAGE. IF HE WAS URGING HIS NEIGHBOUR TO EAT IN HIS HOUSE, AND HE REPLIED, ‘KONAM, IF I ENTER, OR, ‘THE DROP OF WATER THAT I DRINK, HE MAY ENTER HIS HOUSE AND DRINK COLD WATER BECAUSE HE ONLY MEANT EATING AND DRINKING IN GENERAL.[6] [

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(1) That is obviously impossible, since in that case ‘until the new moon of the first Adar’ is meaningless.

(2) So in Mishnayoth edd.

(3) This is the reading as amended by Bah.

(4) It was a widespread custom to eat meat on the eve of Atonement day. The point of these two rulings, as of the next too, is that although the expression might mean until Passover shall have been, etc., the imperfect being intended as a fut. perfect, yet since it is customary to drink wine in the first evening, he is assumed to have meant until it comes, which is also a possible rendering of his words. And the same applies to the vow regarding meat.

(5) I.e., on the eve if Sabbath; the institution thereof is ascribed to Ezra; v. B.K. 82a and supra 31a.

(6) But did not mean the expression to be taken literally.

Talmud - Mas. Nedarim 64a

CHAPTER IX

MISHNAH. R. ELIEZER SAID: ONE MAY SUGGEST TO A MAN AS AN OPENING [FOR ABSOLUTION][1] THE HONOUR OF HIS FATHER AND MOTHER BUT THE SAGES FORBID.[2] SAID R. ZADOK: INSTEAD OF GIVING THE HONOUR OF HIS FATHER AND MOTHER, LET US SUGGEST THE HONOUR OF THE ALMIGHTY AS AN OPENING.[3] IF SO, THERE ARE NO VOWS.[4] BUT THE SAGES ADMIT TO R. ELIEZER THAT IN A MATTER CONCERNING HIMSELF AND HIS FATHER AND MOTHER THEIR HONOUR IS SUGGESTED AS AN OPENING. R. ELIEZER ALSO RULED: A NEW FACT[5] MAY BE GIVEN AS AN OPENING; BUT THE SAGES FORBID IT. E.G., IF A MAN SAID, ‘KONAM THAT I BENEFIT NOT FROM SO AND SO, AND HE [THE LATTER] THEN BECAME A SCRIBE,[6] OR WAS ABOUT TO GIVE HIS SON IN MARRIAGE,[7] AND HE DECLARED, ‘HAD I KNOWN THAT HE WOULD BECOME A SCRIBE OR WAS ABOUT TO GIVE HIS SON IN MARRIAGE, I WOULD NOT HAVE VOWED;’ [OR IF HE SAID,] ‘KONAM, IF I ENTER NOT THIS HOUSE,’ AND IT BECAME A SYNAGOGUE, AND HE DECLARED, HAD I KNOWN THAT IT WOULD BECOME A SYNAGOGUE, I WOULD NOT HAVE VOWED: R. ELIEZER PERMITS IT,[8] BUT THE SAGES FORBID IT.

GEMARA. What is meant by THERE ARE NO VOWS? — Abaye said: If so, Vows are not properly revoked.[9]

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(1) Lit., ‘open for man’.

(2) V. p. 61, n. 7. Since vows are discreditable (v. supra 9a), to make them is to cast a reflection upon one's parents.

(3) One dishonours God by committing anything unworthy.

(4) The Talmud discusses the meaning of this. According to our text, this is still R. Zadok's speech, and a refutation of R. Eliezer. But Ran, Tosaf. and Asheri read: They (the Sages) said to him: If so, there are no vows. On this reading. R. Zadok agrees with R. Eliezer, but goes beyond him, whilst the Sages maintain that even on R. Eliezer's view, one could not go so far as to suggest the honour of God as an opening, for if so, there are no vows. But, as is evident from the Mishnah, they disagree with R. Eliezer too.

(5) Lit., ‘newly-born’, ‘unexpected’.

(6) I.e., a school teacher, whose services the maddir might require for his child; others: a notary, whose services might be essential to him.

(7) And the maddir wished to take part in the festivities.

(8) As an opening for absolution.

(9) Because a vow can be annulled only on grounds, which, when suggested, need not necessarily make him regret his vow, in which case when he is moved to repent, it is to be assumed that his repentance is genuine. But when it is suggested to him that by vowing he dishonoured God, no person is so impudent as to maintain that he would have vowed notwithstanding, even if he would have done so; consequently, his vow is not properly revoked.

Talmud - Mas. Nedarim 64b

Raba explained: If so no one will seek a Sage's absolution for his vow.[1]

We learnt: BUT THE SAGES ADMIT TO R. ELIEZER THAT IN A MATTER CONCERNING HIMSELF AND HIS FATHER AND MOTHER, THEIR HONOUR IS SUGGESTED AS AN OPENING. Now, as for Abaye, who explains [it as meaning], if so, vows are not properly revoked, it is well: here, since he has been [so] impudent, he is impudent.[2] But on Raba's explanation. Viz., if so, none will seek a Sage's absolution for his vow, why is such an opening suggested to him here?[3] — I will tell you. Since all [other] vows cannot be annulled without a Sage,[4] it may be offered as an opening here too.[5] R. ELIEZER ALSO RULED: A NEW FACT MAY BE GIVEN AS AN OPENING, etc. What is R. Eliezer's reason? — R. Hisda said: Because Scripture saith, [And the Lord said unto Moses in Midian, Go, return into Egypt:] for all the men are dead [which sought thy life].[6] But death was a new fact:[7] this proves that a new fact is given as an opening. What then is the reason of the Rabbis? — They argue thus: Did these men die? Surely R. Johanan said on the authority of R. Simeon b. Yohai: Wherever nizzim [quarrelling] or nizzawim [standing] is mentioned, the reference is to none but Dathan and Abiram?[8] But, said Resh Lakish, they had become poor.[9]

R. Joshua b. Levi said: A man who is childless is accounted as dead, for it is written, Give me children, or else I am dead.[10] And it was taught: Four are accounted as dead: A poor man, a leper, a blind person, and one who is childless. A poor man, as it is written, for all the men are dead [which sought thy life].[11] A leper, as it is written, [And Aaron looked upon Miriam, and behold, she was leprous. And Aaron said unto Moses . . .] let her not he as one dead.[12] The blind, as it is written, He hath set me in dark places, as they that be dead of old.[13] And he who is childless, as it is written, Give me children, or else I am dead.[14]

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(1) Since God's honour may apply to all vows, if such is suggested, every person will annul his vow himself, and thus the solemnity of vows be destroyed.

(2) For obviously, if he has been so impudent as to make such a vow, he is sufficiently brazen not to offer regard for his parents' honour as a ground for absolution, unless he has genuinely repented of having acted so contumaciously toward them.

(3) Since one can thus annul his own vow.

(4) This not being accepted as a ground in other vows.

(5) On account of other vows, it will be the practice to apply for absolution to a Sage, and that will be adhered to even in such an isolated ease as this, which is an exception to the general rule.

(6) Ex. IV. 19: the Talmud states below that Moses had vowed to Jethro not to return to Egypt, on account of the men who sought his life, and now God absolved Moses of his vow on the grounds that they were dead.

(7) I.e., one that arose subsequent to Moses' vow.

(8) Cf. Ex. II, 13: And when he went out on the second day, behold, two men of the Hebrews strove together (nizzim), with: That is that Dathan and Abiram, which were famous in the congregation, who strove against (hizzu. of which nizzim is a participle) Moses against Aaron. Cf. also, Ex. V, 20: And they met Moses and Aaron, who (sc. they) stood (nizzawim) in the way, with Num. XVI, 27. And Dathan and Abiram came out, and stood (nizzawim) etc. The similarity of language leads to the assumption that the same people are referred to in all cases, viz., Dathan and Abiram Now, it was on their account that Moses fled from Egypt, and God told him that they were dead. But they reappear in Korah's rebellion. Hence the statement that they were dead cannot be taken literally.

(9) Lit., 'they had descended from their property'. V. supra p. 16, n. 3 Now, though impoverishment was also a new fact, yet since it is of common occurrence (here regarded as more likely than death, as he left them, presumably, in good health), the Rabbis regard it as one which might be foreseen, and therefore a legitimate ground for absolution.

(10) Gen. XXX, 1.

(11) V. n. 2.

(12) Num. XII, 10-12.

(13) Lam. III, 6: this is interpreted: he hath set me in dark places, just as the blind, who are accounted as long since dead.

(14) Possibly the inclusion of the poor and childless was directed against the early Christian exaltation of poverty and celibacy.

Talmud - Mas. Nedarim 65a

It was taught: He who is forbidden to benefit from his neighbour can have the vow absolved only in his [neighbour's] presence.[1] Whence do we know this? — R. Nahman said: Because it is written, And the Lord said unto Moses, In Midian, go, return into Egypt, for all the men are dead which sought thy life.[2] He said [thus] to him: 'In Midian thou didst vow; go and annul thy vow in Midian.' [How do we know that he vowed in Midian?] — Because it is written, And Moses was content [wa-yo'el] to dwell with the man;[3] now alah[4] can only mean an oath, as it is written, and hath taken an [alah] oath of him.[5]

And also against King Nebuchadnezzar he rebelled, who had adjured him by the living God.[6]

What was [the nature of] his rebellion? — Zedekiah found Nebuchadnezzar eating a live rabbit.[7] ‘Swear to me,’ exclaimed he, ‘not to reveal this, that it may not leak out!’ He swore. Subsequently he grieved thereat, and had his vow absolved and disclosed it. When Nebuchadnezzar learned that they were deriding him, he had the Sanhedrin[8] and Zedekiah brought before him, and said to them, ‘Have ye seen what Zedekiah has done? Did he not swear by the name of Heaven not to reveal it?’ They answered him, ‘He was absolved of his oath.’ ‘Can then one be absolved of an oath?’ he asked them. ‘Yes,’ they returned. ‘In his presence or even not in his presence?’[9] — ‘[Only] in his presence,’ was their reply. ‘How then did ye act?’ said he to them: ‘why did ye not Say this to Zedekiah?’ Immediately, ‘The elders of the daughter of Zion sit upon the ground, and keep silence.’[10] R. Isaac said: This teaches that they removed the cushions from under them.[11]

MISHNAH. R. MEIR SAID: SOME THINGS APPEAR AS NEW FACTS, AND YET ARE NOT [TREATED] AS NEW;[12] BUT THE SAGES DO NOT AGREE WITH HIM.[13] E.G., IF ONE SAYS, ‘KONAM THAT I DO NOT MARRY SO AND SO, BECAUSE HER FATHER IS WICKED,’ AND HE IS [THEN] TOLD, HE IS DEAD, OR, HE HAS REPENTED; ‘KONAM, IF I ENTER THIS HOUSE, BECAUSE IT CONTAINS A WILD DOG, OR, ‘BECAUSE IT CONTAINS A SERPENT,’ AND HE IS [THEN] INFORMED, THE DOG IS DEAD, OR, THE SERPENT HAS BEEN KILLED, THESE ARE AS NEW FACTS, YET ACTUALLY NOT [TREATED] AS NEW FACTS. BUT THE SAGES DO NOT AGREE WITH HIM.[14]

GEMARA. ‘KONAM, IF I ENTER THIS HOUSE, BECAUSE IT CONTAINS A WILD DOG, etc.’ But if it died, it really is a new fact?[15] — Said R. Huna: It is as though he conditioned his vow by this fact. R. Johanan said: He was told, ‘He has already died,’ or, ‘already repented.’[16]

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(1) If A vowed not to benefit from B, A cannot have his vow absolved except in the presence of B. In the Jerusalem Talmud two reasons are given for this: (i) if his neighbour does not know of his absolution, he may suspect him of breaking his vow, (ii) he who vowed not to benefit from his neighbour — presumably for his neighbour's benefit — he should be put to shame for his niggardly spirit and he made to seek absolution in his presence. Therefore it is insisted upon.

(2) Ex. IV, 19.

(3) Ibid. II, 21.

(4) The root of wa-yo'el

(5) Ezek. XVII, 13.

(6) II Chron. XXXVI. 13.

(7) Other: a raw rabbit.

(8) The Jewish court.

(9) Sc. of the person to whom the oath was sworn.

(10) Lam. II, 10.

(11) A sign of their unworthiness and deposition.

(12) I.e., though occurring after the vow, they might have been anticipated.

(13) Var. lec.: and the Sages agree with him.

(14) Var. lec.: and the Sages agree with him.

(15) Not only in appearance.

(16) I.e., before the vow, and the vow was thus made in error. Therefore R. Meir teaches that in the former it is not treated as a novel occurrence and absolution may be granted on that score. The Sages disagree, holding that it may not be granted, as a precautionary measure.

Talmud - Mas. Nedarim 65b

R. Abba objected: [If one Vows,] ‘Konam that I do not marry that ugly woman, whereas she is beautiful; ‘that black[skinned] woman,’ whereas she is fair; ‘that short woman,’ who in fact is tall, he is permitted to marry her. Not because she was ugly and became beautiful [after the vow], black and turned fair, short and grew tall, but because the vow was made in error. Now, as for R. Huna, who explained it, It is as though he conditioned his vow by this fact, it is well: he [the Tanna] teaches the case of one who makes his vow dependent upon a fact, and the case of an erroneous vow. But according to R. Johanan, who explained [this Mishnah as meaning] that he had already died or repented,[1] why teach [two instances of erroneous vows]? This is a difficulty. MISHNAH. R. MEIR ALSO SAID: AN OPENING [FOR ABSOLUTION] MAY BE GIVEN FROM WHAT IS WRITTEN IN THE TORAH, AND WE SAY TO HIM. ‘HAD YOU KNOWN THAT YOU WERE VIOLATING [THE INJUNCTIONS]. THOU SHALT NOT AVENGE, THOU SHALT NOT BEAR A GRUDGE AGAINST THE CHILDREN OF THY PEOPLE. THOU SHALT LOVE THY NEIGHBOUR AS THYSELF.[2] OR THAT THY BROTHER MAY LIE WITH THEE;[3] OR THAT HE MIGHT BECOME POOR AND YOU WOULD NOT BE ABLE TO PROVIDE FOR HIM,[4] [WOULD YOU HAVE VOWED]?’ SHOULD HE REPLY, ‘HAD I KNOWN THAT IT IS SO, I WOULD NOT HAVE VOWED,’ HE IS ABSOLVED.

GEMARA. R. Huna son of R. Kattina said to the Rabbis:[5] But he can reply. Not all who become poor fall upon me [for support]; and as for my share of the [general] obligations, I can provide for him together with everyone else?[6] — He replied: I maintain, He who falls [upon the community] does not fall at the beginning into the hands of the charity overseer.[7]

MISHNAH. A WIFE'S KETHUBAH[8] MAY BE GIVEN AS AN OPENING [FOR ABSOLUTION]. AND THUS IT ONCE HAPPENED THAT A MAN VOWED NOT TO BENEFIT FROM HIS WIFE.[9] AND HER KETUBAH AMOUNTED TO FOUR HUNDRED DENARII.[10] HE WENT BEFORE R. AKIBA, WHO ORDERED HIM TO PAY HER THE KETHUBAH [IN FULL]. SAID HE TO HIM, ‘RABBI, MY FATHER LEFT EIGHT HUNDRED DENARII, OF WHICH MY BROTHER TOOK FOUR HUNDRED AND I TOOK FOUR HUNDRED: IS IT NOT ENOUGH THAT SHE SHOULD RECEIVE TWO HUNDRED AND I TWO HUNDRED?’ — R. AKIBA REPLIED: EVEN IF YOU SELL THE HAIR OF YOUR HEAD YOU MUST PAY HER HER KETHUBAH. HAD I KNOWN THAT IT Is SO,’ HE ANSWERED, I WOULD NOT HAVE VOWED.’ THEREUPON R. AKIBA PERMITTED HER [TO HIM].[11]

GEMARA. Is then movable property under a lien for the kethubah?[12] — Abaye said: [It refers to] real estate worth eight hundred denarii. But the hair of his head is mentioned, which is movable property! — It means thus: Even if you must sell the hair of your head for your keep.[13] This proves that the debtor's means are not assessed?[14] — Said R. Nahman son of R. Isaac: [No].

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(1) So that it was a vow in error.

(2) Lev. XIX. 18.

(3) Ibid. XXV, 36; e.g., when one forbids another to benefit from him.

(4) So the reading in Ran and Asheri.

(5) Asheri reads: Rabbah.

(6) I.e., I can still give my share through the communal charitable institutions. since it is not directly for him.

(7) Only as a last resource does one apply for communal relief. But in the first place one seeks private relief, which the man who made the vow is debarred from affording.

(8) Marriage settlement.

(9) He, being unable to live without benefiting from her, must divorce her and pay her marriage settlement.

(10) The kethubah as variable. The minima are two hundred denarii and one hundred denarii for a virgin and a widow respectively; Keth. 10b.

(11) Thus annulling the vow.

(12) This is the subject of a dispute between R. Meir and the Rabbis in Keth. 81b. — It is now assumed that the eight hundred denarii were in the form of movables.

(13) Lit., ‘and eat’. Even so, you are hound to hand over your real estate in payment of the kethubah.

(14) For the purpose of exempting him of payment, in whole or in part. This is disputed in B.M. 114a.

It means that the kethubah deed is not torn up.[1]

MISHNAH. THE SABBATHS AND FESTIVALS[2] ARE GIVEN AS AN OPENING. THE EARLIER RULING WAS THAT FOR THESE DAYS THE VOW IS CANCELLED, BUT FOR OTHERS IT IS BINDING; UNTIL R. AKIBA CAME AND TAUGHT: A VOW WHICH IS PARTIALLY ANNULLED IS ENTIRELY ANNULLED. E.G., IF ONE SAID, KONAM THAT I DO NOT BENEFIT FROM ANY OF YOU, IF ONE WAS [SUBSEQUENTLY] PERMITTED [To BENEFIT HIM], THEY ARE ALL PERMITTED. [BUT IF HE SAID, ‘KONAM] THAT I DO NOT BENEFIT FROM A, B, C, ETC.’, IF THE FIRST WAS PERMITTED, ALL ARE PERMITTED; BUT IF THE LAST-NAMED WAS PERMITTED, HE ALONE IS PERMITTED, BUT THE REST ARE FORBIDDEN. (IF THE MIDDLE PERSON WAS PERMITTED, THOSE MENTIONED AFTER HIM ARE [ALSO] PERMITTED, BUT THOSE MENTIONED BEFORE HIM ARE FORBIDDEN.)[3] [IF ONE VOWS,] ‘KORBAN BE WHAT I BENEFIT FROM THIS [MAN], KORBAN BE WHAT I BENEFIT FROM THAT [MAN],’ AN OPENING [FOR ABSOLUTION] IS NEEDED FOR EACH ONE INDIVIDUALLY. [IF ONE VOWS.] ‘KONAM, IF I TASTE WINE, BECAUSE IT IS INJURIOUS TO THE STOMACH: WHEREUPON HE WAS TOLD, BUT WELL-MATURED WINE IS BENEFICIAL TO THE STOMACH, HE IS ABSOLVED IN RESPECT OF WELL-MATURED WINE, AND NOT ONLY IN RESPECT OF WELL-MATURED WINE, BUT OF ALL WINE. KONAM, IF I TASTE ONIONS, BECAUSE THEY ARE INJURIOUS TO THE HEART’, THEN HE WAS TOLD, ‘BUT THE WILD ONION[4] IS GOOD FOR THE HEART,’ — HE IS PERMITTED TO PARTAKE OF WILD ONIONS, AND NOT ONLY OF WILD ONIONS, BUT OF ALL ONIONS. SUCH A CASE HAPPENED BEFORE R. MEIR, AND HE GAVE ABSOLUTION IN RESPECT OF ALL ONIONS.

GEMARA. IF THE LAST-NAMED WAS PERMITTED, HE ALONE IS PERMITTED, BUT THE REST ARE FORBIDDEN. Which Tanna [ruled thus]? — Raba said: It is R. Simeon, who maintained, unless he declared ‘i swear’ to each one separately.[5]

‘KONAM, IF I TASTE WINE,’ etc. But let it follow [from the fact] that it is not injurious?[6] — R. Abba said: It means: Moreover, it is beneficial.[7]

‘KONAM, IF I TASTE ONIONS,’ etc. But let it follow [from the fact] that they are not injurious? — Said R. Abba: It means: Moreover, they are beneficial.

MISHNAH. A MAN'S OWN HONOUR, AND THE HONOUR OF HIS CHILDREN, MAY BE GIVEN AS AN OPENING. [THUS:] WE SAY TO HIM, ‘HAD YOU KNOWN THAT TO-MORROW IT WILL BE SAID OF YOU, THAT IS HIS REGULAR HABIT TO DIVORCE HIS WIFE"; AND OF YOUR DAUGHTERS THEY WILL SAY, THEY ARE THE DAUGHTERS OF A DIVORCED WOMAN. WHAT FAULT DID HE FIND IN THIS WOMAN TO DIVORCE HER?"’[8] IF HE REPLIES, ‘HAD I KNOWN THAT IT IS SO. I WOULD NOT HAVE VOWED,’ HE IS ABSOLVED.

[IF ONE VOWS,] ‘KONAM IF I MARRY THAT UGLY WOMAN, WHEREAS SHE IS BEAUTIFUL; THAT BLACK [-SKINNED] WOMAN, WHEREAS SHE IS FAIR; ‘THAT SHORT WOMAN, WHO IN FACT IS TALL, HE IS PERMITTED TO MARRY HER, NOT BECAUSE SHE WAS UGLY, AND BECAME BEAUTIFUL, OR BLACK AND TURNED FAIR, SHORT AND GREW TALL, BUT BECAUSE THE VOW WAS MADE IN ERROR. AND THUS IT HAPPENED WITH ONE WHO VOWED NOT TO BENEFIT FROM HIS SISTER'S DAUGHTER, AND SHE WAS TAKEN INTO R. ISHMAEL'S HOUSE AND MADE BEAUTIFUL. MY SON, EXCLAIMED R. ISHMAEL TO HIM, ‘DID YOU VOW NOT TO BENEFIT FROM THIS ONE!’ ‘NO,’ HE REPLIED, WHERE UPON R. ISHMAEL PERMITTED HER [TO HIM]. IN THAT HOUR R. ISHMAEL WEPT AND SAID, ‘THE DAUGH TERS OF ISRAEL ARE BEAUTIFUL, BUT POVERTY DISFIGURES THEM.’[9] AND WHEN R. ISHMAEL DIED, THE DAUGHTERS OF ISRAEL RAISED A LAMENT, SAYING, YE DAUGHTERS OF ISRAEL WEEP FOR R. ISHMAEL. AND THUS IT IS SAID TOO OF SAUL, YE DAUGHTERS OF ISRAEL, WEEP OVER SAUL.[10]

GEMARA. A story [is quoted] contradicting [the ruling]![11] — The text is defective[12] and was thus taught: R. Ishmael said: Even if she was ugly and became beautiful, black and turned fair, or short and grew tall. AND THUS IT HAPPENED WITH ONE WHO COWED NOT TO BENEFIT FROM HIS SISTER'S DAUGHTER; SHE WAS TAKEN INTO R. ISHMAEL'S HOUSE AND MADE BEAUTIFUL, etc.

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(1) I.e.. though the debtor may he exempted of part payment now, the debt always remains, in case his prospects improve later. Thus R. Akiba merely meant that the debt of the kethubah would always hang over him.

(2) Here the reading is, The Festivals and the Sabbaths; but on 25b it is quoted in the order given here, and Asheri gives the same reading here too.

(3) This is quoted on 26b, but as part of a Baraitha, not a Mishnah; hence it should he omitted, and Asheri too omits it.

(4) Or, Cyprus onions.

(5) V. Shebu. 38a. If a man is dunned by a number of creditors, and he takes a false oath, saying, ‘I swear that I owe nothing to you, nor to you, nor to you etc.,’ he is liable only to one sacrifice, as for one false oath; unless he declares, ‘I swear that I owe nothing to you’, ‘I swear that I owe nothing to you’, ‘I swear that I owe nothing to you’, etc., in which case he is liable to a sacrifice for each false oath — this is R. Simeon's view. Thus here too, if he declared, ‘Korban be what I benefit from A’, ‘Korban be what I benefit from B’, etc., mentioning ‘Korban’ in the case of each separately, each is regarded as a separate vow. Otherwise they would all be forbidden or permitted alike by the same vow, or its absolution. (The earlier clause in which ‘Korban’ was not mentioned in the case of each refers to an enumeration in which each person was made dependent upon the preceding). Although the caption of this passage is. IF THE LAST-NAMED, ETC., it appears from Ran, Asheri and Tosaf. that the deduction as to authorship is based on ‘KORBAN BE WHAT I BENEFIT FROM THIS (MAN).

(6) Even if not beneficial, that is sufficient to annul the vow.

(7) I. e., firstly. it is not injurious, which itself is sufficient; but what is more, it is even beneficial.

(8) I.e., there must he something wrong with her, and her daughters probably follow in her footsteps. This refers to a vow to divorce one's wife.

(9) R. Ishmael flourished during the latter portion of the first century and the early part of the second C.E. This period, falling roughly between the destruction of the Temple and the Bar Cochba revolt, and extending some time beyond the fall of Bethar is 135 C.E., must have been one of hardship and poverty for many Jews.

(10) II Sam. I, 24. — In ancient days women were professional mourners, and chanted dirges in chorus at the bier of the dead.

(11) The Mishnah, after ruling that the vow is annulled only if she was actually beautiful when it was made, then quotes a story in which R. Ishmael annulled it in respect of a woman who was subsequently made beautiful.

(12) Cf. p. 2, n. 3.

Talmud - Mas. Nedarim 66b

A Tanna taught: She had a false[1] tooth, and R. Ishmael made her a gold tooth at his own cost. ‘When R. Ishmael died, a professional mourner commenced [the funeral eulogy] thus: Ye daughters of Israel, weep over R. Ishmael, who clothed you etc.[2]

A man once said to his wife, ‘Konam that you benefit not from me, until you make R. Judah and R. Simeon taste of your cooking.’ R. Judah tasted thereof, observing, ‘It is but logical:[3] If, in order to make peace between husband and wife, the Torah commanded, Let My Name, written to sanctity, be dissolved in "the utters that curse" ,[4] though ‘tis but doubtful,[5] how much more so I!’ R. Simeon did not taste thereof, exclaiming, ‘Let all the widows’ children perish,[6] rather than that Simeon be moved from his standpoint, lest they fall into the habit of vowing.’

A man once said to his wife, ‘Konam that you benefit not from me until you expectorate on R. Simeon b. Gamaliel.’ She went and spat upon his garment, and he [R. Simeon b. Gamaliel] absolved her.[7] R. Aha of Difti[8] said to Rabina: But his aim was to insult him! — He replied: To expectorate upon the garments of R. Simeon b. Gamaliel is a great insult.

A man once said to his wife, ‘Konam that you benefit not from me, until you shew aught beautiful[9] in yourself to R. Ishmael son of R. Jose.’ Said he to them:[10] ‘Perhaps her head is beautiful?’ — ‘It is round,’ they replied.[11] ‘Perhaps her hair is beautiful?’ — ‘It is like stalks of flax .’ ‘Perhaps her eyes are beautiful?’ — ‘They are bleared.’ ‘Perhaps her nose is beautiful?’ — ‘It is swollen.’ ‘Perhaps her lips are beautiful?’ — ‘They are thick.’ ‘Perhaps her neck is beautiful?’ — It is squat .’’Perhaps her abdomen is beautiful?’ — ‘It protrudes.’ ‘Perhaps her feet are beautiful?’ — ‘They are as broad as those of a duck.’ ‘Perhaps her name is beautiful?’ — ‘It is liklukith.’[12] Said he to them, ‘She is fittingly called liklukith, since she is repulsive through her defects’; and so he permitted her [to her husband].

A certain Babylonian went up to the Land of Israel and took a wife [there]. ‘Boil me two [cows’] feet,’ he ordered, and she boiled him two lentils,[13] which infuriated him with her. The next day he said, ‘Boil me a griwa’,.[14] so he boiled him a griwa. ‘Go and bring me two bezuni;’[15] so she went and brought him two candles.[15] ‘Go and break them on the head of the baba.’[16] Now Baba b. Buta was sitting on the threshold, engaged in judging in a lawsuit. So she went and broke them on his head. Said lie to her[17] , ‘What is the meaning of this that thou hast done?’ — She replied, ‘Thus my husband did order me.’ ‘Thou hast performed thy husband's will,’ he rejoined; ‘may the Almighty bring forth from thee two sons like Baba b. Buta.

C H A P T E R X

MISHNAH. IN THE CASE OF A BETROTHED MAIDEN,[18] HER FATHER AND HER BETROTHED HUSBAND ANNUL HER VOWS.[19]

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(1) Lit., ‘An inserted tooth’.

(2) Continuing as in II Sam. I, 24, q.v.

(3) Lit., ‘(it follows) a fortiori’ (that I should do so.

(4) V. Num. V, 23.

(5) Whether the wife was guilty of adultery.

(6) I.e., let the husband die, so that she becomes a widow, and all her children — of course, hardly to he taken literally.

(7) So emended by Bah.

(8) Identified with Bibtha in the vicinity of Wasit on the lower reaches of the Tigris; Obermeyer, op. cit., p. 197.

(9) So Bah. [Cur. ed. ‘a becoming defect’.]

(10) Either to the husband and wife, or to those who reported the matter to him.

(11) Perhaps it was Esquimaux-shaped, which both in the East and in the West would hardly he considered beautiful.

(12) Which means repulsive.

(13) Misunderstanding his Babylonian pronunciation, and mistaking telafe (feet) for telaf he (lentils) Rashi. Another version: Boil me two (meaning ‘some’) lentils, and she boiled him (just) two lentils, taking him literally.

(14) A large measure (of lentils). Thinking that she had intentionally boiled only two the previous day through laziness or meanness, he asked for an extraordinary large quantity, believing that she would scale it down.

(15) Denoting either ‘melons’ or ‘candles’.

(16) Threshold; i.e., break them on the top of the threshold.

(17) no note.

(18) There were two stages of marriage. (i) erusin, betrothal, and (ii) nissu'in, hometaking. The betrothed maiden was called arusah, and her husband arus. Erusin was as binding as marriage, and could be annulled only by divorce, but cohabitation was forbidden, and the arusah remained in her father's house until the nissu'in. By maiden — na'arah — a girl between twelve years and one day and twelve and a half years plus one day old is meant, after which she becomes a bogereth. The reference to a maiden here is to exclude a bogereth, not a minor.
(19) V. Num. XXX, 3ff. But not separately, because she is partly under the authority of both. A bogereth is not under her father's authority, and is therefore excluded.

Talmud - Mas. Nedarim 67a

IF HER FATHER ANNULLED [HER VOW] BUT NOT THE HUSBAND, OR IF THE HUSBAND ANNULLED [IT] BUT NOT THE FATHER, IT IS NOT ANNULLED; AND IT GOES WITHOUT SAYING IF ONE OF THEM CONFIRMED [IT].

GEMARA. But that[1] is the same as the first clause. HER FATHER AND HUSBAND ANNUL HER VOWS! — I might think that either her father or her husband is meant;[2] therefore we are taught [otherwise].

AND IT GOES WITHOUT SAYING IF ONE OF THEM CONFIRMED [IT]. Then why teach it? If we say that annulment by one without the other is invalid, what need is there to state ‘IF ONE OF THEM CONFIRMED [IT]?’ — It is necessary, in the case where one of them annulled it and the other confirmed it, and then the latter sought absolution of his confirmation.[3] I might think, that which he confirmed, he has surely overthrown;[4] there fore we are taught that they must both annul simultaneously.[5]

IN THE CASE OF A BETROTHED MAIDEN, HER FATHER AND HER HUSBAND ANNUL HER VOWS. Whence do we know this?[6] — Rabbah[7] said: The Writ saith, And if she be to an husband, when she vowed [. . . then he shall make her vow . . . of no effect]:[8] hence it follows that a betrothed maiden, her father and her husband annul her vows.[9] But perhaps this verse refers to a nesu'ah? — In respect to a nesu'ah there is a different verse, viz., And if she vowed in her husband's house, etc.[10] But perhaps both refer to a nesu'ah,[11] and should you object, what need of two verses relating to a nesu'ah? It is to teach that a husband cannot annul pre-marriage vows?

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(1) Viz., IF HER FATHER ANNULLED, etc.
(2) The ‘and’, Heb. ו, having the disjunctive force of ‘or’.
(3) By a Rabbi, who granted it to him just as he would for a vows.
(4) Either that the very revoking of his confirmation is in itself the equivalent of nullification, or, having revoked his confirmation, he is now free to nullify the vow.
(5) Not literally, for even if one annulled in the morning, and the other in the evening, it is valid. But there must be no invalidating act between the two nullifications, and here, since one confirmed it, the nullification of the other previous thereto is void.
(6) That her husband may annul her vows, though she has not yet entered his home.
(7) Yalkut reads: Raba.
(8) Num. XXX, 7-9.
(9) This verse is preceded by, But, if her father disallow her in the day that he heareth; not any of her vow . . . shall stand . . . because her father disallowed her. Then follows: And if she be etc. Now, Rabbah reasons thus: Since we have a different verse for a nesu'ah (a married woman, v. Glos.), as explained below, this verse must refer to an arusah, and consequently, the copulative ‘and’ must mark a continuation of the preceding verse; i.e., if in her father's house, the father has power to annul her vow, and if at the same time she is married, viz., an arusah, her husband too, in conjunction with her father, exercises this authority. For if the ‘and’ introduces a separate law, namely, that the husband of arusah can disallow her vows without her father, the verse referring to a nesu'ah is superfluous: if the husband can himself annul the vows of an arusah, surely it goes without saying that he can do so for a nesu'ah! Now this reasoning is implicit in the

first verse quoted, but the Talmud proceeds to elucidate it by means of question and answer.

(10) Ibid. II.

(11) But in the case of an arusah the father alone can annul her vows.

Talmud - Mas. Nedarim 67b

— But does that not follow in any case?[1] Alternatively, I might say ‘to be’ implies kiddushin.[2] But perhaps the father himself can annul?[3] — If so, what is the need of, ‘and bind himself by a bond, being in the father's house . . . if her father disallow . . . not any of her vows shall stand . . . because her father disallowed her’?[4] If the father can annul them alone even when there is an arus, surely he can do so when there is no arus! But perhaps the father needs the arus, but the arus can annul alone? And should you reply, If so, why does Scripture mention the father?[5] It is to shew that if he confirmed, the confirmation is valid![6] — If so, why write, ‘and if she vowed in her husband's house’: [since] it follows a fortiori: if the arus can annul alone even where there is a father,[7] is it necessary [to state it] when she is no longer under her father's control! But perhaps, ‘and if she vowed in her husband's house’, teaches that he cannot annul pre-marriage vows?[8] — From that fact itself [it is proved. That] an arus can annul pre-marriage vows: surely, that is [only] because of his partnership with the father.[9]

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(1) Rashi, Ran, and one alternative in Asheri explain: ‘And if she vowed in her husband's house’, which obviously refers to a nesu'ah, teaches at the same time that the vow must have been made in her husband's house, and not before marriage. So that ‘and if she be, etc.’, must refer to an arusah.

(2) The phrase ‘if she be’ denotes mere betrothal; it therefore refers to an arusah.

(3) Though it has been shewn that the husband can annul only in conjunction with the father, the latter, on the other hand, can perhaps act alone.

(4) Num. XXX, 4-6.

(5) I.e., why is and if she be at all to an husband coupled with because her father disallowed her; as explained p. 217, n. 5, that the and combines the two. But why combine them, if the arus can annul entirely without the father?

(6) I.e., the father still retains that authority. But if he is neutral, the arus alone can annul.

(7) I.e., when she is still under the paternal roof and to some extent under his authority; e.g., her earnings belong to her father.

(8) The question here is not the same as on 67a. There it was suggested that both ‘and if she be to an husband’ and, ‘and if she vowed in her husband's house’ refer to a nesu'ah, the latter verse teaching that the husband cannot annul pre-marriage vows. Here the question is: perhaps the first verse refers to an arus, and means that he can annul alone, and the second to a husband (after nissu'in)? But it does not teach that in the second case too he can annul, since this is obvious from the first a fortiori, but implies a limitation: that he cannot annul pre-marriage vows.

(9) It is obvious that an arus alone cannot wield greater authority than a husband. Hence, when we find that in one respect his power is greater, it must be because he does not exercise it alone, but in conjunction with the father, who can disallow his daughter's vows whenever made under his authority.

Talmud - Mas. Nedarim 68a

The School of R. Ishmael taught: [These are the statutes which the Lord commanded Moses] between a man and his wife, between the father and his daughter, [being yet in her youth in her father's house]:[1] this teaches that in the case of a betrothed maiden both her father and her husband annul her vows.[2] Now, according to the Tanna of the School of Ishmael, what is the purpose of ‘and if she be to an husband’?[3] — He utilizes it for Rabbah's other dictum.[4] Now, how does Raba utilize the verse adduced by the Tanna of the School of Ishmael?[5] — It is necessary to teach that the husband can annul vows which concern himself and his wife.[6]

The scholars propounded: Does the husband cut [the vow] or weaken [it]?[7] How does this problem arise? E.g., If she [the betrothed maiden] vowed not to eat the size of two olives [of anything],[8] and the arus heard of it and annulled the vow, and she ate them. Now, if we say that he cuts the vow apart, she is flagellated; but if he weakens it, it is merely forbidden.[9] What [is the law]? — Come and hear: When was it said that if the husband died, his authority passes over[10] to the father? In the case where the husband did not hear [the vow] before he died, or heard and annulled it, or heard it and was silent,[11] and died on the same day: this is what we learnt: If the husband died, his authority passes over to the father;[12]

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(1) Num. XXX, 17.

(2) The verse is interpreted as referring to one and the same woman; hence it states that her father and her husband have authority over her, and that is possible only in the case of a betrothed maiden.

(3) Which was utilized on 67a for this teaching.

(4) V. 70a.

(5) Since he deduces this from 'and if she be etc'.

(6) Deduced from 'between a man and his wife', i.e., only such vows as concern them and their mutual relationship.

(7) Does he completely nullify half the vow, leaving the other half for the father, or does he weaken the whole vow, whilst actually nullifying nothing of it? [The same question applies equally to the father (Ran).]

(8) Nothing whatsoever may be eaten of that which is forbidden, but the size of an olive is the smallest quantity for which punishment is imposed.

(9) If he cuts the vow in two, then the size of one olive remains forbidden in its full stringency, and therefore she is flagellated for the violation of her vow. But if he weakens the whole of the vow, though leaving it all forbidden, the prohibition is not so stringent that punishment should be imposed.

(10) Lit., 'emptied out'.

(11) So emended by Bah.

(12) In all these cases the husband had no actually confirmed the vow; therefore the father is left with the full authority to annul it.

Talmud - Mas. Nedarim 68b

but if he heard and confirmed it, or heard it and was silent, and died on the following day,[1] he [the father] cannot annul it.[2] If the father heard and annulled it, and died before the husband managed to hear of it, — this is what we learnt: If the father died, his authority does not pass over to the husband.[3] If the husband heard and annulled it, and died before the father managed to hear of it, — in this case we learnt: If the husband died, his authority passes over to the father.[4] If the husband heard and annulled it, and the father died before he managed to hear of it, the husband cannot annul it,[5] because the husband can annul only in partnership.

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(1) Having thus ipso facto confirmed it.

(2) Once the husband has confirmed, the father cannot annul it, even after the former's death.

(3) Infra 70a. With his death his annulment is void, and the husband is not empowered to nullify the vow himself, though in the reverse case the father could do so.

(4) The first clause of the Mishnah means that the father heard it before the husband's death; this clause, that the husband died before the father heard it. Now I might think that only if he had heard it in the husband's lifetime, and so could have annulled it together with him, does he inherit his authority, but if he had not heard of it in her husband's lifetime, his authority is not transmitted. Therefore this clause teaches otherwise,

(5) I.e., act in lieu of her father.

Talmud - Mas. Nedarim 69a

If the father heard and annulled it, and the husband died before he managed to hear of it, the father can again annul the husband's portion. R. Nathan said; That is the view of Beth Shammai; but Beth Hillel maintain: He cannot annul it [a second time]. This proves that according to Beth Shammai, he cuts it apart, whilst in the view of Beth Hillel he weakens it.[1] This proves it.[2]

Raba propounded: Can absolution be sought from confirmation,[3] or not? Should you say, no absolution can be sought front confirmation, is there absolution from annulment, or not?[4] — Come and hear: For R. Johanan said: One can seek absolution from confirmation but not from annulment.

Rabbah propounded: What if [he said], 'It is confirmed to thee, it is confirmed to thee,' and then sought absolution of his first confirmation? — Come and hear: For Raba said: If he obtained absolution from the first, the second becomes binding upon him.[5]

Rabbah propounded: What if [he declares]. 'It be confirmed unto thee and annulled unto thee, but the confirmation be not valid unless the annulment had operated?'[6]

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(1) Hence, according to Beth Shammai, when the father annulled it, the husband's portion remains, as it were, intact in all its stringency. The husband's right to annul the other half is sufficiently tangible, since that half is as stringent in itself as the whole, to be transmitted to the father. But in the views of Beth Hillel annulment by the father, as by the husband, merely weakens it; hence the husband's right to wipe off entirely a prohibition that is already weakened is too intangible to be transmitted to the father. — But in the first clause, where without the father having annulled his share, the husband annuls it and then dies, since the father can annul his own share he can annul too the weakened share of the husband (Asheri).

(2) And since in all disputes between Beth Shammai and Beth Hillel the halachah is in the latter, the final ruling is that the husband weakens the incidence of the whole vow.

(3) By a Sage, after expressing 'regret'.

(4) The confirmation of a vow is as a vow; hence the question whether it can be revoked. The revocation of the annulment of a vow should not be in question, since it might be assumed that one cannot revoke in order to impose a prohibition, but that elsewhere (76b) we find the two likened to each other.

(5) V. supra 18a: just as there, so here too, and hence the second confirmation retains its full force.

(6) Without the stipulation it is obvious that the annulment is invalid, for a vow once confirmed cannot be annulled. Since, however, one is made dependent upon the other, the question arises whether the annulment cancels the confirmation or not.

Talmud - Mas. Nedarim 69b

— Come and hear [a solution] from the controversy of R. Meir and R. Jose; For we learnt: [If one declares,] 'This [animal] be a substitute for a burnt-offering, a substitute for a peace-offering,' it is a substitute for a burnt-offering [only]; this is R. Meir's view. But R. Jose ruled: If that was his original intention,[1] since it is impossible to pronounce both designations simultaneously, his declarations are valid.[2] Now, even R. Meir asserted [that the second statement is disregarded] only because he did not say, 'Let the first not be valid unless the second take effect'; but here that he declared, 'but the confirmation be not valid unless the annulment has operated,' even R. Meir admits that the annulment is valid.

Rabbah propounded: What [if he declares], 'It be confirmed unto thee and annulled to thee simultaneously?'[3] — Come and hear: For Rabbah said: Whatever is not [valid] consecutively, is not valid even simultaneously.[4]

Rabbah propounded: What [if he declares], 'It be confirmed to thee to-day? Do we rule, it is as though he had said to her, 'but it be annulled unto thee to-morrow' [by implication], or perhaps he in fact did not declare thus?

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(1) To declare it a substitute for both.

(2) V. Lev. XXVII, 33; He shall not search whether it be good or bad, neither shall he change it: and if he change it at all, then both it and the change thereof shall be holy. This is interpreted as meaning that if an animal he dedicated for a particular sacrifice, e.g., a peace-offering, and then a second substituted for it, both are holy, the second having exactly the same holiness as the first. Now, R. Meir rules that if he declares it a substitute for two other consecrated animals in succession, only the first declaration is valid, and the second disregarded. But R. Jose maintains that if the second statement was not added as an afterthought, but formed part of the original intention, the whole is valid. Consequently, the animal must be sold, and the money expended half for a burnt-offering and half for a peace-offering.

(3) [Or, if he said at one and the same time 'It be confirmed and annulled to thee'].

(4) If one marries two sisters in succession, the second marriage is obviously invalid; hence, if one makes a simultaneous declaration of marriage to two sisters, such declaration is entirely null, v. Kid. 50b. Thus here too, since they could not both take effect if pronounced in succession, they are null when pronounced simultaneously. It is therefore as though he has not spoken at all, and he remains at liberty to confirm or annul the vow, as he pleases.

Talmud - Mas. Nedarim 70a

Now, if you say, he did not in fact declare thus, what if he declares, 'It be confirmed unto thee to-morrow';[1] do we rule, he is unable to annul it for to-morrow, since [by implication] he confirmed it for today;[2] or perhaps, since he did not state, 'It be confirmed unto thee to-day,' by declaring, 'It be annulled unto thee to-morrow,' he really meant from to-day? Now, should you say that even so, since he [implicitly] confirmed it to-day,[3] it is as though in force to-morrow too,[4] what if he declares, 'It be confirmed unto thee for an hour?' Do we say, It is as though he declared, 'It be annulled unto thee thereafter'; or perhaps, he in fact did not say thus to her? Should you rule, he did not in fact declare thus, what if he did explicitly annul it?[5] Do we say, Since he confirmed it, he confirmed it [for good]; or perhaps, as he is empowered to confirm and annul it the whole day, if he says, 'It be annulled unto thee after an hour,' his statement is efficacious? — Come and hear: [If a woman vows], 'Behold, I will be a nazirite'; and her husband on hearing it, exclaimed 'And l'; he cannot [subsequently] annul it.[6] But why so? Let us say that his exclamation, 'And I,' referred to himself only [viz.,] that he would be a nazirite, but as for her vow, 'Behold, I will be a nazirite,' he confirmed it [but] for one hour;[7] whilst thereafter, if he wishes to annul it, why cannot he do so? Surely it is because having confirmed it, he confirmed it [for good]! — No. He [the Tanna of that Mishnah] holds that every 'And I' is as though one declares, 'It be permanently confirmed unto thee.'

MISHNAH. IF THE FATHER DIES, HIS AUTHORITY DOES NOT PASS OVER TO THE HUSBAND; BUT IF THE HUSBAND DIES, HIS AUTHORITY PASSES OVER TO THE FATHER. IN THIS RESPECT, THE FATHER'S POWER IS GREATER THAN THE HUSBAND'S. BUT IN ANOTHER, THE HUSBAND'S POWER IS GREATER THAN THAT OF THE FATHER, FOR THE HUSBAND CAN ANNUL [HER VOWS] AS BOGERETH[8] BUT THE FATHER CANNOT ANNUL HER VOWS AS BOGERETH.[9]

GEMARA. What is the reason?'[10] — Because the Writ saith, In her youth, she is in her father's house.[11]

IF THE HUSBAND DIES, HIS AUTHORITY PASSES OVER TO HER FATHER. Whence do we know this?[12] — Said Rabbah:[13] Because it is written, And if she be at all to an husband and her vows be upon her:[14] [

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(1) Without first asserting, 'It be disallowed thee to-day'.

(2) A vow can be annulled only on the day the husband or father hears of it. — Num. XXX, 6-9, 13.

(3) Accepting the first alternative.

(4) Having confirmed it for the first day, he no longer has the power to annul it; hence his nullification from the morrow is invalid.

(5) I.e., it be confirmed to thee for an hour and thereafter annulled.

(6) Mishnah, Nazir 20b.

(7) Since he merely attached his vow to that of his wife, he must have meant momentarily to confirm the vow.

(8) V. Glos.

(9) The father can annul his daughter's vow only if a na'arah (v. Glos.)

(10) That the father's authority is not transmitted to the husband, as it is in the reverse case.

(11) Num. XXX, 17: i.e., as long as she is in her youth, she is under parental control. Hence if her father dies, his authority is not transferable.

(12) The first question was ‘what is the reason thereof’, because, granted that the husband's authority is transmitted, as stated in the second clause, why is the father's not? But now the Talmud asks, how do we know that the husband's authority is transmitted?

(13) This is alluded to in 68a, where the reading is Raba.

(14) Ibid. 7. The word for ‘being’ is repeated, from which it is deduced that two betrothals are referred to. This is preceded by a verse dealing with the father's powers of annulment, and as stated above (p. 217, n. 5), the ‘And’ commencing v. 7 combines the two verses, teaching that even in the case of marriage the father may still retain his authority.

Talmud - Mas. Nedarim 70b

hence the [vows made by her] previously to her second betrothal are assimilated to [those made] previously to her first betrothal;[1] just as those made before the first betrothal, the father can annul alone, so also those made before the second betrothal, the father can annul alone. But perhaps this is only in the case of vows which were unknown to the arus,[2] but those which were known to the arus the father is not able to annul?[3] — As to vows unknown to the arus, these[4] follow from ‘in her youth, she is in her father's house’.[5]

IN THIS RESPECT, THE FATHER'S POWER IS GREATER THAN THE HUSBAND'S etc. How is this meant?[6] Shall we say, that he betrothed her[7] whilst a na'arah, and then she became a bogereth? But consider: [her father's] death frees her from her father's authority, and the bogereth stage frees her from her father's authority; then just as at death, his authority does not pass over to her husband, so on puberty, his authority should not pass over to her husband?[8] Again, if he betrothed her as a bogereth, surely that has already been taught once, viz., A bogereth who tarried twelve months?[9] (Now this is self-contradictory. You say, ‘a bogereth who tarried twelve months’: in the case of a bogereth, why twelve months? thirty days are sufficient?[10] — Read: A bogereth and one [viz., a na'arah] who tarried twelve months.) But still the difficulty remains?[11] — I can answer either that here it is specifically taught, whilst there bogereth is mentioned because it is desired to state the controversy between R. Eliezer and the Rabbis. Or, alternatively, bogereth [there] is specifically taught; but [here], because the first clause states ‘IN THIS RESPECT etc.,’ a second [contrary] clause IN THIS RESPECT, is added.[12]

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(1) I.e., since the verse implies a reference to two betrothals, they are equalized, and therefore the periods preceding them too. The period preceding the second betrothal is of course after the first husband's death.

(2) Lit., ‘which were not seen by the arus’. I.e., the first arus died before becoming aware of them.

(3) Just as the vows made prior to her first betrothal.

(4) Sc. that the father can annul these alone after the death of the arus.

(5) Which implies that as long as there is no other authority over her, her father is in authority, and the very least to which this can be applied is to vows of which the arus was not aware, hence the deduction from, ‘and if she be at all to an husband’ must apply even to vows known to the arus before his death

(6) That the husband (arus) can annul the vows of a bogereth.

(7) I.e. by kiddushin, making her an arusah.

(8) Since she was under parental control when she made the vow.

(9) V. infra 73b; there it is seen that the arus can annul the vows of a bogereth.

(10) V. p. 216, n. 1; in the case of a na'arah the interval between kiddushin (erusin) and nissu'in might not be more than twelve months; in the case of a bogereth, not more than thirty days. After that, even if the nissu'in were not celebrated, the arus is responsible for her maintenance, though she is still in her father's house.

(11) Viz., that we know from elsewhere that the arus can annul the vows of a bogereth.

(12) Though really unnecessary here.

Talmud - Mas. Nedarim 71a

MISHNAH. IF ONE VOWED AS AN ARUSAH, WAS DIVORCED ON THAT DAY AND BETROTHED [AGAIN] ON THE SAME DAY, EVEN A HUNDRED TIMES,[1] HER FATHER AND LAST BETROTHED HUSBAND CAN ANNUL HER VOWS. THIS IS THE GENERAL RULE: AS LONG AS SHE HAS NOT PASSED OUT INTO HER OWN CONTROL FOR [BUT] ONE HOUR, HER FATHER AND LAST HUSBAND CAN ANNUL HER VOWS.[2]

GEMARA. Whence do we know that the last arus can annul vows known[3] to the first arus? — Said Samuel: Because it is written, And if she be at all to an husband, and her vows are upon her:[4] this implies, the vows that were already ‘upon her’.[5] But perhaps that is only where they [sc. her vows] were not known to her first arus, but those which were known to her first arus, the last arus cannot annul? — ‘Upon her’ is a superfluous word.[6] It was taught in accordance with Samuel: A betrothed maiden, her father and her husband annul her vows. How so? If her father heard and disallowed her, and the husband died before he managed to hear, and she became betrothed [again] on the same day, even a hundred times, her father and her last husband can annul her vows. If her husband heard and disallowed her, and before the father heard it the husband died, the father must again annul the husband's portion.[7] R. Nathan said; That is the view of Beth Shammai; but Beth Hillel maintain: He cannot re-annul.[8] Wherein do they differ?

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(1) To a hundred.

(2) I.e., that she has never been completely married (with nissu'in) and divorced, in which case she would be her own mistress.

(3) Lit., ‘seen by’.

(4) Num. XXX, 7.

(5) I.e., before she was betrothed.

(6) Because Scripture could state, now if she be at all to an husband, then as for her vows, or the utterance of her lips etc. Hence ‘upon her’ is added to intimate that the last arus can annul vows made during the first betrothal. Now actually the Mishnah may simply mean that if she was betrothed a number of times, the power of annulment always lies with her father and her last husband, and does not necessarily refer to vows made during an earlier betrothal; whilst the phrase ‘on that day’ may be due to her father, who of course can annul only on the day he heard her vow. But Samuel assumed that it does in fact refer to such vows, and therefore the passage may be understood as though it read, Samuel said; Whence do we know, etc.? Hence this law is ascribed to Samiel rather than to the Mishnah, and consequently the Talmud proceeds to quote a Baraitha in support of Samuel's ruling.

(7) It goes without saying that he must annul his own portion. But the Baraitha teaches that he must also annul the husband's portion, because the latter's action is rendered void by his death.

(8) Without the co-operation of the second arus. Thus, according to Beth Hillel the second arus has a right of annulment over the vows known to the first arus, which is in support of Samuel.

Talmud - Mas. Nedarim 71b

— Beth Shammai maintain that even in respect to vows known to the arus, his [the husband's] authority passes over to the father; also he [the husband] cuts [the vow] apart;[1] whilst Beth Hillel maintain: Her father and second husband [together] must annul her vow, and the husband does not cut it apart.[2]

The scholars propounded; Is divorce as silence or as confirmation?[3] What is the practical difference? E.g., if she vowed, her husband heard it, divorced and remarried her on the same day:

now, if you say it is as silence, he can now disallow her; but should you rule that it is as confirmation, he can not?

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(1) V. p. 220, n. 4; because he cuts the vow apart, therefore his powers therein are finished when he has annulled it, and consequently, even if she remarries, the father can annul the vow entirely alone, without the co-operation of the second arus.

(2) Therefore the husband only weakens it; hence he is not finished with it, and so, on remarriage, his authority is transmitted to the second husband (Ran). Asheri, however, explains that the question whether the father needs the co-operation of the second husband is independent of whether the husband cuts the vow apart or weakens the stringency of the whole; it is mentioned here merely because, as was stated on 69a, they do differ on this question too.

(3) If a woman made a vow, and her husband heard it and divorced her on that day, without first annulling the vow.

Talmud - Mas. Nedarim 72a

— Come and hear; When was it said that if the husband dies his authority passes over to the father? If the husband did not hear [the vow], or heard and annulled it, or heard it, was silent, and died on the same day.[1] Now, should you say that divorce is as silence, let him [the Tanna] also teach, ‘or heard it and divorced her’? Since it is not taught thus, it follows that divorce is as confirmation! — Then consider the second clause: But if he heard and confirmed it, or heard it, was silent, and died on the following day, he [the father] cannot annul it.[2] But if you maintain that divorce [too] is as confirmation, let him also state, ‘or if he heard it and divorced her.’ But since this is omitted, it proves that divorce is tantamount to silence! Hence no deductions can be made from this; if the first clause is exact, the second clause is stated [in that form] on account of the first; if the second is exact, the first is so taught on account of the second.[3]

Come and hear; IF SHE VOWED AS AN ARUSAH, WAS DIVORCED ON THAT DAY AND BETROTHED [AGAIN] ON THE SAME DAY, EVEN A HUNDRED TIMES, HER FATHER AND HER LAST HUSBAND CAN ANNUL HER VOWS; this proves that divorce is the equivalent of silence, for if it is as confirmation, can the second arus annul vows which the first arus confirmed?[4] — No. This refers to a case where the first arus did not hear thereof. If so, why particularly state ON THE SAME DAY? The same holds good even after a hundred days! — This refers to a case where the arus did not hear thereof, but her father did; so that he can annul only on the same day, but not afterwards.

Come and hear: If she vowed on one day, and he divorced her on the same day and took her back on the same day, he cannot annul it.[5] This proves that divorce is as confirmation! — I will tell you. This refers to a nesu'ah,[6] and the reason that he cannot annul is because a husband cannot annul pre-marriage vows.[7]

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(1) V. 68a, b, and notes.

(2) The silence of a whole day is the equivalent of confirmation.

(3) I.e., one clause must have been taught with exactitude, and the omission of divorce is intentional; but the other has been stated inexactly, for though divorce could have been included therein, it was omitted for the sake of parallelism.

(4) Surely not!

(5) Now it is assumed that it refers to mere betrothal.

(6) I.e., when she finally becomes married to him.

(7) I.e., in the case of a nesu'ah; v. supra 67a.

Talmud - Mas. Nedarim 72b

MISHNAH. IT IS THE PRACTICE OF SCHOLARS,[1] BEFORE THE DAUGHTER OF ONE OF THEM DEPARTS FROM HIM FOR NISSU'IN], TO DECLARE TO HER, ‘ALL THE VOWS

WHICH THOU DIDST VOW IN MY HOUSE ARE ANNULLED’. LIKEWISE THE HUSBAND, BEFORE SHE ENTERS INTO HIS CONTROL [FOR NISSU'IN] WOULD SAY TO HER, ‘ALL VOWS WHICH THOU DIDST VOW BEFORE THOU ENTERST INTO MY CONTROL ARE ANNULLED’; BECAUSE ONCE SHE ENTERS INTO HIS CONTROL HE CANNOT ANNUL THEM.[2]

GEMARA. Rami b. Hama propounded: Can a husband annul [a vow] without hearing [it]:[3] is, and her husband heard it,[4] expressly stated,[5] or not — Said Raba: Come and hear: IT IS THE PRACTICE OF SCHOLARS, BEFORE THE DAUGHTER OF ONE OF THEM DEPARTS FROM HIM, TO DECLARE TO HER, ‘ALL THE VOWS WHICH THOU DIDST VOW IN MY HOUSE ARE ANNULLED’. But he did not hear them![6] — Only when he hears them does he annul them. If so, why make a declaration before he hears?[7] — He [the Tanna] informs us this: that it is the practice of scholars to go over such matters.[8] Come and hear, from the second clause: LIKEWISE THE HUSBAND, BEFORE SHE ENTERS INTO HIS CONTROL, WOULD SAY TO HER [etc.]! — Here too it means that he said, ‘When I hear them.’[9]

Come and hear: If one says to his wife, ‘All vows which thou mayest vow until I return from such and such a place are confirmed,’ his statement is valueless;[10] [If he said] ‘Behold, they are annulled,’ R. Eliezer ruled: They are annulled. But he has not heard them![11] — Here too [it means] that he said, ‘When I hear them.’ Why then state it now? Let him disallow her when he hears it? — He fears, I may then be busily occupied.[12]

Come and hear: If one says to a guardian,[13] ‘Annul all the vows which my wife may make between now and my return from such and such a place’, and he does so: I might think that they are void, therefore Scripture teaches, her husband may establish it, or her husband may make it void.[14] This is the view of R. Josiah. Said R. Jonathan to him: But we find in the whole Torah that a man's agent is as himself![15] Now, even R. Josiah ruled thus only because it is a Scriptural decree, ‘her husband may establish it, or her husband may make it void’: but both agree that a man's agent is as himself;[16] but he [the husband] did not hear the vows![17]

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(1) Lit., ‘disciples of the Sages’.

(2) Because they are pre-nissu'in vows.

(3) I.e., can he declare that if his wife has vowed, he vetoes her vows?

(4) Num. XXX, 8.

(5) That he can annul only if he heard it.

(6) The fact that he generalises, ‘ALL THE VOWS’ proves this.

(7) Since his present annulment is, on this hypothesis, invalid.

(8) I.e., to mention this at frequent intervals; the daughter, on hearing this, may confess that she has vowed so and so, and then the father really annuls it.

(9) According to the reading of our text, this answer differs from the previous. There it was stated that the father can annul the vows only when he hears them, his purpose in generalizing being to induce his daughter to reveal that she had vowed. Here, however, the answer is that this general annulment will automatically become valid when the husband hears the vow, and another declaration is unnecessary. The reason for the difference is this: since she became a nesu'ah, and entirely freed from parental control, the father will not be in a position to annul her vows when he hears them; hence he cannot annul them in anticipation either. The husband, on the contrary, will have her even more under his authority when she actually vows; therefore his anticipatory veto is valid.

(10) So that he can subsequently annul them.

(11) Proving that this is unnecessary.

(12) And overlook it; hence the annulment is made now.

(13) I.e., one appointed to be in charge of his household in his absence.

(14) Num. XXX, 14.

(15) Hence the guardian's annulment is valid.

(16) So that but for the decree, the annulment would be valid.

(17) And if it were necessary for him to hear them before making them void, his authorisation to the guardian would be invalid, since a man cannot invest an agent with authority which he himself lacks.

Talmud - Mas. Nedarim 73a

— Here too it means that he said, ‘When I hear of it, annul it.’ But when he hears it, let him annul it himself? — He fears, I may then be busily occupied.

Rami b. Hama propounded: Can a deaf man disallow [the vows of] his wife? Now, should you rule that a husband can annul without hearing, that is because he is capable of hearing; but a deaf man, who is incapable of hearing, falls within R. Zera's dictum, viz., That which is eligible for mixing, [the lack of] mixing does not hinder its validity; whilst that which is not eligible for mixing, [the lack of] mixing hinders its validity?[1] Or perhaps, ‘and her husband heard it’[2] is not indispensable? — Said Raba, Come and hear: ‘And her husband heard’, — this excludes the wife of a deaf man. This proves it.

The scholars propounded: Can a husband disallow [the vows of] his two wives simultaneously: is the word ‘her’ particularly stated, or not?[3] — Said Rabina, Come and hear: Two suspected wives are not made to drink[4] simultaneously, because each is emboldened[5] by her companion.[6] R. Judah said: It is not [forbidden] on that score, but because it is written, and he shall make her drink.’[7] implying, her alone.[8]

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(1) The reference is to a meal-offering, in which the flour was mixed with oil. Not more than sixty ‘esronim (‘isaron, pl. ‘esronim, is the tenth part of an ephah) could be thoroughly mixed with oil in the vessels used for that purpose. Hence, if a person vowed a meal-offering of sixty-one ‘esronim, sixty were brought in one vessel, and one in another. Whereon R. Zera observed, though the meal-offering is in fact valid even if not mixed with oil at all, it must be capable of being mixed, and therefore sixty-one esronim in one utensil would be invalid. So here too, though it may be unnecessary for the husband actually to hear the vow, he must be physically able to hear it.

(2) I.e., the hearing of the husband.

(3) Num. XXX, 9, ‘but if her husband disallow her’. I.e., when Scripture uses the singular ‘her’ in this connection, does it expressly teach that only one wife can be disallowed at a time, or is no particular emphasis to be laid thereon, the singular being the usual mode of expression?

(4) V. Num. V, 2 ff.

(5) Lit., ‘her heart swells’.

(6) The consciousness that another is undergoing the same ordeal emboldens each not to confess.

(7) Ibid. 27; In Tosef. Neg. the verse quoted is, and the Priest shall bring her near, ibid. 16. [MS.M. reads: because it is written ‘her’, the reference either to verse 16 or 19, ‘The priest shall cause her to swear’. V. Sot. (Sonc. ed.) p. 32. n. 2.]

(8) Hence the same applies to vows: in R. Judah's view, two wives cannot have their vows disallowed simultaneously; in the opinion of the first Tanna, they can.

Talmud - Mas. Nedarim 73b

MISHNAH. [IN THE CASE OF] A BOGERETH WHO TARRIED TWELVE MONTHS, AND A WIDOW [WHO TARRIED] THIRTY DAYS,[1] — R. ELIEZER SAID; SINCE HER [BETROTHED] HUSBAND IS RESPONSIBLE FOR HER MAINTENANCE, HE MAY ANNUL. [HER VOWS]. BUT THE SAGES SAY: THE HUSBAND CANNOT ANNUL UNTIL SHE ENTERS INTO HIS CONTROL.[2]

GEMARA. Rabbah said: R. Eliezer and the early Mishnah[3] taught the same thing. For we learnt; A virgin is given twelve months to provide for herself.[4] When the twelve months expire,[5] she must be supported by him [i.e., her arus] and may eat terumah.[6] But the yabam[7] does not authorize her to eat terumah.[8] If she spent six months in the lifetime of[9] her husband [the arus], and six months in that of the yabam,[10] or even the whole period less one day in the lifetime of her husband, or the whole period less one day in that of the yabam, she may not eat terumah: this is the early Mishnah. But a subsequent Beth din[11] rules: No woman can partake of terumah until she enters the huppah.[12] Said Abaye to him, Perhaps it is not so. The early Mishnah informs us in respect of [her] eating terumah, which is [forbidden merely by] a Rabbinical enactment;[13] but as for vows, which are Biblically binding, I may say that it is not so. And you know R. Eliezer's view[14] only in respect to vows for the reason which R. Phinehas said in Raba's name, viz.: Every [woman] who vows, vows conditionally upon her husband's assent.[15] But as for terumah, it may well be that though [forbidden only by] a Rabbinical precept,[16] she may not eat thereof.

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(1) V. supra 70b.

(2) V. supra, 70b.

(3) ‘Early Mishnah’ bears various connotations. Sometimes it simply means the earlier view of a particular school, which subsequently gave a different ruling (v. Hag. 2a, where, however, the term does not occur in the Mishnah itself but is used by an Amora to differentiate between the earlier and the later views of Beth Hillel). Elsewhere it may denote the collection of Mishnaic material made by the ‘elders of Beth Shammai and Beth Hillel’; as such it is brought into contrast with the rulings of later Rabbis, e.g., R. Akiba; v. Sanh. III, 4; ‘Ed. VII, 2. But it is also used to differentiate between the views of earlier and later Rabbis. Thus, in the present instance, the term connotes the views of R. Tarfon and R. Akiba (v. Keth. 57a), with which ‘a later Beth din’ (v. text infra) differed; here, too the term is so used by an Amora.

(4) I.e., to make the necessary preparations for marriage, such as acquiring a trousseau; the reference is to an arusah, and twelve months is the maximum that may elapse before the nissu'in without either side having legal cause for complaint.

(5) While nissu'in was still postponed.

(6) If the daughter of an Israelite is betrothed to a priest, she may eat terumah, as is deduced from Lev. XXII, 11. By a Rabbinical law, however, she is forbidden until after the nissu'in: but if twelve months have elapsed, she is permitted.

(7) The levir, v. Glos.

(8) V. n. 5: on the priest's death she reverts to her former status, and even if there is no issue, so that she is bound to marry the yabam, this tie does not permit her to eat terumah.

(9) Lit., ‘in the presence of’.

(10) I.e., the arus having died within the twelve months.

(11) ‘Beth din’, which is now generally taken to mean a court of law, was originally the court or college which decided on civil and religious questions; (v. J.E., s.v. Beth din.)

(12) V. Glos. i.e., until the home-taking, v. Keth. 57a. — Thus both R. Eliezer in our Mishnah and the early Mishnah maintain that after twelve months they are regarded as completely married: R. Eliezer, in that the husband can annul her vows; the early Mishnah, in that his wife may eat terumah.

(13) V. p. 231, n. 5.

(14) That the period of twelve months establishes quasi nissu'in.

(15) Though the stipulation is not expressed, in recognition of her dependence upon him, since he maintains her. Hence the same holds good of an arus after twelve months, who also must provide for her.

(16) This interpretation of the phrase terumah of the Rabbis follows Asheri.

Talmud - Mas. Nedarim 74a

MISHNAH. IF A WOMAN WAITS FOR A YABAM,[1] WHETHER FOR ONE OR FOR TWO,[2] — R. ELIEZER RULED: HE [THE YABAM] CAN ANNUL [HER VOWS]. R. JOSHUA SAID: [ONLY IF SHE WAITS] FOR ONE, BUT NOT FOR TWO. R. AKIBA SAID; NEITHER FOR ONE NOR FOR TWO. R. ELIEZER ARGUED: IF A MAN CAN ANNUL THE VOWS OF A WOMAN WHOM HE ACQUIRED HIMSELF, HOW MUCH THE MORE CAN HE ANNUL THOSE OF A WOMAN GIVEN TO HIM BY GOD![3] SAID R. AKIBA TO HIM; IT IS NOT SO; IF YOU SPEAK OF A WOMAN WHOM HE ACQUIRES HIMSELF, THAT IS BECAUSE OTHERS HAVE NO RIGHTS IN HER; WILL YOU SAY [THE SAME] OF A WOMAN GRANTED TO HIM BY GOD, IN WHOM OTHERS TOO HAVE RIGHTS![4] R. JOSHUA SAID

TO HIM: AKIBA, YOUR WORDS APPLY TO TWO YEBAMIM; BUT WHAT WILL YOU ANSWER IF THERE IS ONLY ONE YABAM? HE REPLIED, THE YEBAMAH IS NOT AS COMPLETELY UNITED TO THE YABAM[5] AS AN ARUSAH IS TO HER [BETROTHED] HUSBAND.[6]

GEMARA. It is well according to R. Akiba, for he maintains that the bond [wherewith she is bound to the yabam] involves no legal consequences;[7] also according to R. Joshua, who maintains that the tie is a real one.[8] But what is R. Eliezer's reason? Even if the tie is a real one, selection is not retrospective?[9] — R. Ammi answered: [The circumstances are] e.g., that he [the yabam] made a [betrothal] declaration,[10] R. Eliezer ruling with Beth Shammai that a declaration completely acquires.[11] But R. Joshua says thus: That applies only to one yabam, but not to two yebamin; for can there be such a case that though when his brother comes he can prohibit her to him by cohabitation or divorce, and yet he [the first] can annul![12] Whilst R. Akiba maintains that the bond carries with it no legal consequences. Now, according to R. Eleazar,[13] who maintained that in the opinion of Beth Shammai a declaration is binding only in that it renders her co-wife[14] ineligible,[15] what can be said?[16] — The reference here is to one who had come before Court and been ordered to support her;[17] and [the law] is in accordance with the dictum of R. Phineas in Raba's name: Every woman who vows, vows conditionally upon her husband's assent.

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(1) This is the designation of the widow between the death of her husband and her union with or rejection by the yabam.

(2) If there is more than one, she waits for all, as anyone may marry or free her.

(3) Lit., ‘heaven’. The yabam acquires his sister-in-law through a Biblical precept.

(4) I.e., all the brothers of the deceased have the same rights in her.

(5) [MS.M.: HER HUSBAND v. infra p. 236, n. 3.]

(6) The meaning of this is discussed below.

(7) Lit., ‘there is no real tie’. E.g., in respect of vows this tie gives him no right of veto.

(8) Hence, if there is only one yabam, he can annul her vows, but not if there are two, since it is not clear which will take her.

(9) Bererah, a term denoting retrospective validity of a subsequent selection. CF. supra Mishnah 45b, v. Glos. Thus, here, when she vows, it is not clear which yabam will eventually marry her. [Unlike, however, elsewhere in the Talmud where this principle is debated and gives rise to difference of opinion, its application here would not be retro-active, as we are not considering whether the annulment by one yabam before marriage becomes effective after marriage, but whether it takes effect immediately. And in regard to this it is taken as axiomatic that there is no bererah, as in the case of two yebamim it cannot be stated with certainty which of the two will be her husband (cf. Adereth. S. Kiddushin). The term bererah is accordingly used here in a loose sense and in fact does not occur in the parallel passage, Yeb. 29b; v. a.l.]

(10) מאמר in reference to a yabam means a formal declaration, ‘be thou betrothed to me’.

(11) I.e., by means of this declaration she is his wife in all legal respects; hence that yabam can annul her vows. — The view of Beth Hillel is that only cohabitation effects this.

(12) I.e., even in Beth Shammai's view a declaration is a legal betrothal only if there is but one yabam, but not if there are two. Because even after the declaration, if the other cohabited with her or divorced her, she is forbidden to the first.

(13) An amora; the Tanna in the Mishnah is R. Eliezer.

(14) Two or more wives of the same husband are co-wives (Zaroth) to each other.

(15) Lit., to reject the co-wife’. In the following case; A, B and C, are three brothers, A and B being married to X and Y, two sisters. If A dies childless and C makes a declaration to X (but does not consummate the marriage), and then B dies childless too, Beth Shammai rule that X, A's widow, remains C's wife; hence Y, B's wife and the would-be co-wife of X, is ineligible to him, since one cannot take in marriage a yebamah who is also his wife's sister. Thus we see that Beth Shammai rule that the declaration made by C is Biblically valid as betrothal, for otherwise he would be regarded as having become the yabam of two sisters simultaneously, in which case a different law applies. Thereon R. Eleazar observed, only in this respect did Beth Shammai hold a declaration to be Biblically binding; but should he subsequently desire to free her, a divorce is not sufficient (as it would be had the marriage been consummated), but halizah too is needed.

(16) Since then she is not his wife in all respects, why can he annul her vows?

(17) If the yabam delayed to marry or free her, she could claim support from him. V. Yeb. 41b.

Talmud - Mas. Nedarim 74b

We learnt: R. ELIEZER ARGUED, IF HE CAN ANNUL THE VOWS OF A WOMAN WHOM HE ACQUIRED HIMSELF, SURELY HE CAN ANNUL THOSE OF A WOMAN GIVEN TO HIM BY GOD! But if it means that he made her a declaration, it is [also] a case of acquiring her himself? — It means that he acquired her himself through the instrumentality of Heaven.[1]

You may [now] solve Rabbah's problem? [Viz.,] in the view of Beth Shammai, does a declaration effect erusin or nissu'in?[2] You can solve it that it effects nissu'in; for if it effects erusin, surely we learnt, [In the case of] a betrothed maiden, her father and [betrothed] husband [jointly] annul her vows?[3] Said R. Nahman b. Isaac: What is meant by ‘He can annul [her vows]’? He can annul [them] in conjunction with her father.[4]

It was taught likewise as R. Ammi: If a woman waits for a yabam, whether for one or for two, — R. Eliezer ruled: he can annul [her vows]; R. Joshua said: [Only if she waits] for one, but not for two; R. Akiba said, Neither for one nor for two. R. Eliezer argued: If a woman, in whom he has no portion at all until she comes under his authority [by marriage], yet once she comes under his authority, she is completely his;[5] then a woman in whom he has a portion even before she comes under his authority,[6] when she does come under his authority, she is surely completely his! Said R. Akiba, No. If you say this in the case of a woman whom he acquires himself, that is because just as he has no portion in her [before marriage], so have others no portion in her; will you say [the same] of a woman gifted to him by God, in whom, just as he has a portion, so have others too a portion in her! Thereupon R. Joshua said to him: Akiba, your words apply to two yebamim: what will you answer in respect of one yabam? He replied: Have we then drawn a distinction [in other respects] between one yabam and two yebamim, whether he makes her a declaration or not? and just as it is in reference to other matters, so it is in reference to vows.[7] Thus did Ben ‘Azzai lament, ‘Woe to thee, Ben ‘Azzai, that thou didst not study under R. Akiba.’[8] How

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(1) Scripture in the first place giving him a unique right in her.

(2) On the hypothesis that the Mishnah refers to a yabam who made a declaration.

(3) Whilst this Mishnah merely mentions the yabam.

(4) Though the Mishnah does not state it, that is merely because it deals only with the question whether a yabam has annulment rights at all, without inquiring into the extent of such rights.

(5) That he may annul her vows either alone (after nissu'in) or in conjunction with her father.

(6) The yabam has a presumptive claim upon her as soon as her husband dies childless.

(7) The reference is explained on 75a; — hence, since one of two yebamim cannot annul, one himself is also unable to annul. Lit., ‘wait in attendance upon R. Akiba’.

(8) He was so impressed with the keen intellect displayed by R. Akiba in this controversy, that he voiced his regret at not having studied under him. — Ben ‘Azzai was a younger contemporary of Akiba, and in spite of this lament he followed R. Akiba in halachah and exegesis; whilst his tone towards him is that of a pupil to his teacher. For that reason the amoraim concluded that he was a disciple-colleague. V. Weiss. Dor. II, 112. Jer. B.B. IX, 17b; Bab. ibid. 158b; Jer. Shek. III, 47b.

Talmud - Mas. Nedarim 75a

does this Baraitha support R. Ammi? — Because it states, ‘whether he made her a declaration or not.’[1] Alternately, [it follows] from the first clause, which States, ‘then when she does come under his authority, she is surely completely his’: but if he did not betroth her, how is she completely his? Hence it follows that he had made a declaration to her.

What is meant by ‘and just as it is in reference to other matters, so it is in reference to vows’? — Said Raba, It means this: Do you not admit that one is not stoned for [violating] her, as in the case of a betrothed maiden?[2] R. Ashi said, The Mishnah too supports [this interpretation]:[3] THE YEBAMAH IS NOT AS COMPLETELY UNITED TO HER [BETROTHED] HUSBAND AS AN ARUSAH TO HER [BETROTHED] HUSBAND.[4]

MISHNAH. IF A MAN SAYS TO HIS WIFE, ‘ALL VOWS WHICH YOU MAY VOW FROM NOW UNTIL I RETURN FROM SUCH AND SUCH A PLACE ARE CONFIRMED,’ THE STATEMENT IS VALUELESS; [IF HE SAID] ‘BEHOLD, THEY ARE ANNULLED,’ — R. ELIEZER RULES, THEY ARE ANNULLED; THE SAGES MAINTAINED, THEY ARE NOT ANNULLED. SAID R. ELIEZER: IF HE CAN ANNUL VOWS WHICH HAVE ALREADY HAD THE FORCE OF A PROHIBITION,[5] SURELY HE CAN ANNUL THOSE WHICH HAVE NOT HAD THE FORCE OF PROHIBITION! THEY SAID TO HIM: BEHOLD, IT IS SAID, HER HUSBAND MAY ESTABLISH IT, AND HER HUSBAND MAY ANNUL IT:[6] THAT WHICH HAS ENTERED THE CATEGORY OF CONFIRMATION, HAS ENTERED THE CATEGORY OF ANNULMENT;[7] BUT THAT WHICH HAS NOT ENTERED THE CATEGORY OF CONFIRMATION, HAS NOT ENTERED THE CATEGORY OF ANNULMENT.

GEMARA. The scholars propounded: In R. Eliezer's view, do they take effect and [then] become annulled, or do they take no effect at all? What is the practical difference?

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(1) Which proves that the former is the case here, as otherwise this is irrelevant.

(2) Even if a declaration was made, her seducer is not stoned: this proves that she is not yet his wife, and therefore the same is true of vows.

(3) [That R. Akiba based his argument on the penalty for violation, and consequently that the Mishnah deals with the case where a declaration was made, (cf. Rashi).]

(4) [Since he is designated as her husband, this shows that we deal with a case where he made a declaration (Rashi); v. supra p. 233, n. 1.] And the reference can only be to the penalty for violation.

(5) I.e., after they are made.

(6) Num. XXX, 14.

(7) Having been made, it can be confirmed, and hence annulled too.

Talmud - Mas. Nedarim 75b

— E.g., if another man makes a vow dependent on this.[1] Now, if you say that [the wife's vows] take effect, the dependence is a real one;[2] but if you say that they take no effect, there is no substantiality in it.[3] What [is the law]? — Come and hear: SAID R. ELIEZER, IF HE CAN ANNUL VOWS WHICH HAVE ALREADY HAD THE FORCE OF A PROHIBITION, SURELY HE CAN ANNUL VOWS WHICH HAVE NOT HAD THE FORCE OF PROHIBITION! This proves that they take no effect at all. — [No.] Is it then stated, which do not have the force etc.: WHICH HAVE NOT HAD THE FORCE OF PROHIBITION is taught, [meaning], which have not yet had the force of a prohibition.[4]

Come and hear: R. Eliezer said to them. If where a man cannot annul his own vows, once he has vowed,[5] he can nevertheless annul his own vows before making them;[6] then where he can annul his wife's vows after she vowed, how much the more should he be able to annul them before she vows! Now, surely this means that his wife's [vows] are like his: just as his vows take no effect at all,[7] so his wife's vows too would take no effect at all! — No: each is governed by its own laws.[8]

Come and hear: They answered R. Eliezer: If a mikweh,[9] though it raises the unclean front their uncleanness, cannot nevertheless save the clean from becoming unclean;[10] then a man, who cannot raise the unclean from their uncleanness,[11] how much the more can he not save the clean from becoming unclean.[12] This proves that they[13] take no effect at all.[14]

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(1) Lit., ‘attached to them’. I.e., if the wife vowed, ‘Behold, I will be a nazirite’; and another person exclaimed, ‘And I likewise’.

(2) Hence the second vow is valid.

(3) And the vow made dependent upon the wife's vow is invalid.

(4) Yet they may take effect only, however, to be immediately made void.

(5) I.e., every person excepting a married woman.

(6) By an anticipatory declaration of annulment; v. supra 23b.

(7) If preceded by a declaration of annulment; for if they did take effect, only a Rabbi could grant absolution. Moreover, the anticipatory annulment, forgotten at the time of actual vowing, renders it a vow made in error, which ab initio is no vow. Cf. supra 23b.

(8) Though one is deduced from the other, it is not necessary to assume similarity in all respects. An anticipatory annulment of one's own vows prevents them from taking effect at all, whilst if applied to his wife's, they may take effect and become void.

(9) A ritual bath, by immersion in which unclean persons or things are purified.

(10) I.e., one cannot take a ritual bath to be kept clean, should he subsequently come into contact with defiling matter.

(11) Rashi; if a man swallowed an unclean ring and then took a ritual bath, the ring, since it is within him, is not purified, but remains defiled after excretion.

(12) If he swallows a clean ring, and then comes in contact with the dead, the ring ought to become unclean, whereas the law is that it remains clean (Ran), v. Hul. 71a. — So also, though a husband can annul a vow when made, he cannot before. So cur. edd. and Rashi. Asheri and Ran have a simpler and more effective reading: They replied to R. Eliezer, Let the mikweh prove it, which frees the unclean from their uncleanness, yet cannot prevent the clean from becoming unclean. So also, a husband may annul his wife's vow after it has become binding, but not before.

(13) Sc. the wife's vows annulled in anticipation.

(14) Since they draw an analogy from a mikweh, which cannot prevent a clean man from becoming unclean, it follows that in R. Eliezer's view the husband's annulment prevents the vow from taking effect at all.

Talmud - Mas. Nedarim 76a

Then consider the second clause: They [the Rabbis] said to R. Eliezer: If an unclean utensil is immersed in order to purify it, shall a clean utensil be immersed, so that on [subsequently] becoming defiled it shall [simultaneously] become clean![1] This proves that they do take effect.[2] — I will tell you: The Rabbis were not clear as to R. Eliezer's standpoint. Hence they said thus to him: What is your opinion? If you maintain that they [the vows] take effect, but are annulled, you are refuted by [the analogy of] a utensil; whilst if you do not hold that they take effect, the mikweh is your refutation.

Come and hear: R. Eliezer said to them: If defiled seeds are rendered clean by being sown in the soil, how much more so if [already] sown and rooted [in the soil]![3] This proves that they do not take effect at all.

Now, do not the Rabbis admit the validity of [such] an ad majus conclusion? Surely it was taught: I might think that a man can sell his daughter when a na'arah:[4] — But you can argue a minori: if she who was already sold goes free,[5] is it not logical that if not sold yet, she cannot be sold [now]![6]

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(1) Surely not.

(2) Since they compare it to the prior immersion of a utensil to render it clean after it has become defiled.

(3) That they certainly cannot be defiled. Thus also vows: if a vow can be annulled when already in force, surely the annulment can operate to prevent it from coming into force!

(4) The reference is to Ex. XXI, 7.

(5) On attaining the na'arah stage.

(6) V. Kid. 4a. This reasoning is exactly analogous to R. Eliezer's. The Talmud interposes that no verse is required.

Talmud - Mas. Nedarim 76b

— Yes: elsewhere they do draw an ad majus conclusion, but here it is different, because Scripture writes, Her husband may confirm it, and her husband may annul it:[1] [teaching], that which has entered the category of confirmation, has entered the category of annulment; but that which has not entered the category of confirmation, has not entered the category of annulment.

MISHNAH. [THE PERIOD ALLOWED FOR] THE ANNULMENT OF VOWS IS THE WHOLE DAY:[2] THIS MAY RESULT IN GREATER STRINGENCY OR GREATER LENIENCY.[3] THUS, IF SHE VOWED ON THE NIGHT OF THE SABBATH, HE CAN ANNUL ON THE NIGHT OF THE SABBATH AND ON THE SABBATH DAY UNTIL NIGHTFALL. IF SHE VOWED JUST BEFORE NIGHTFALL,[4] HE CAN ANNUL ONLY UNTIL NIGHTFALL: FOR IF NIGHT FELL AND HE HAD NOT ANNULLED IT, HE CAN NO LONGER ANNUL IT.

GEMARA. It was taught: [The period allowed for] the annulment of vows is the whole day. R. Jose son of R. Judah and R. Eliezer son of R. Simeon maintained: Twenty-four hours.[5] What is the reason of the first Tanna? — Scripture saith, [But if her husband disallowed her] on the day that he heard it.[6] And what is the reason of the Rabbis? — Because it is written, [But if her husband altogether holds his peace at her] from day to day.[7] But on the view of the first Tanna, surely it is written, ‘from day to day’? — That is necessary. For were [only] ‘on the day that he heard it’ [written], I would say, only by day,[8] but not by night; therefore it is written, ‘from day to day’.[9] Now, according to him who cites ‘from day to day’, is it not written, ‘on the day that he heard it’? — That is necessary. For were only ‘from day to day’ written, I would think that he can annul her vows from [e.g.,] the first day of one week to the first day of the following;[10] therefore it is written, ‘on the day that he heard it’.

R. Simon b. Pazzi said in the name of R. Joshua b. Levi: The halachah is not in accordance with that pair.[11] Levi wished to give a practical decision in accordance with these Tannaim; whereupon Rab said to him, Thus said my dear relative,[12] The halachah is not in accordance with that pair. Hiyya b. Rab used to shoot arrows and at the same time examine [a person] desirous of absolution;[13] Rabbah b. R. Huna would [repeatedly] sit down and stand up.[14]

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(1) Num. XXX, 14.

(2) In which the husband or father learns of the vow.

(3) ‘Stringency’ and ‘leniency’ are not quite relevant in this connection, the meaning being that by thus fixing a calendar day, i.e., a night and a day, the period for annulment may be shorter or longer, as the case might be.

(4) At the close of the Sabbath.

(5) Lit., ‘from time to time’, from the hour the vow is made until the same hour the following day.

(6) Num. XXX, 9. By ‘day’ a calendar day is understood: V. n. 6.

(7) Num. XXX. 15: v. p. 239, n. 8: the same is implied in ‘from day to day.’

(8) I.e., he can annul the vow.

(9) Which naturally includes the night.

(10) So interpreting the phrase.

(11) Viz., R. Jose b. R. Judah and R. Eliezer b. R. Simeon.

(12) Sc. Hiyya b. Rab, his uncle.

(13) Hiyya b. Rab just having been mentioned, another thing is stated about him, viz., that he took absolution very lightly, granting it even whilst engaged in other pursuits.

(14) In the earnestness of his examination, he could not keep in his place. [Cf. supra 23a. Ran: ‘would keep seated or standing’, not taking the matter too seriously.]

Talmud - Mas. Nedarim 77a

We learnt elsewhere: Vows may be annulled[1] on the Sabbath, and absolution from vows[2] may be sought where it is necessary for the Sabbath.[3] The scholars propounded: May vows be annulled on the Sabbath only if it is needed for the Sabbath, or perhaps, even if it is unnecessary?[4] Come and hear: For R. Zuti, of the school of R. Papi, learnt: Vows may be annulled [on the Sabbath] only if necessary for the Sabbath. Said R. Ashi: But we did not learn thus; IF SHE VOWED JUST BEFORE NIGHTFALL, HE CAN ANNUL ONLY UNTIL NIGHTFALL. But if you rule [that he can annul] only when it is necessary for the Sabbath, but not otherwise, why say, UNTIL NIGHTFALL; he cannot annul even by day,[5] since it is unnecessary for the Sabbath?[6] — It is a controversy of Tannaim: [The period allowed for] the annulment of vows is the whole day. R. Jose son of R. Judah and R. Eliezer son of R. Simeon maintained: Twenty-four hours. Now, on the view that [they can be annulled only] the whole of that day, but not thereafter, [it follows that] he can annul them even if unnecessary for the Sabbath;[7] but on the view [that he has] twenty-four hours, [he can annul] only if it is necessary for the Sabbath, but not otherwise.

‘And absolution from vows may be sought where it is necessary for the Sabbath’. The scholars propounded: Is that only if one had no time [to seek absolution before the Sabbath], or perhaps even if he had time? — Come and hear: For the Rabbis gave a hearing to the son of R. Zutra son of R. Ze'ira [to grant him absolution] even for vows for which there was time before the Sabbath.[8]

Now, R. Joseph thought to rule that absolution may be granted[9] on the Sabbath only by a single ordained scholar, but not by three laymen, because it would look like a lawsuit.[10] Said Abaye to him: Since we hold that [those who grant it] may stand, be relatives, and [absolve] even at night, it does not look like a lawsuit.[11]

R. Abba said in the name of R. Huna in the name of Rab: The halachah is that vows may be annulled on the Sabbath. But this is [explicitly taught in] our Mishnah: IF SHE VOWED ON THE NIGHT OF THE SABBATH [ETC.]?[12] — But say thus: The halachah is that absolution[13] may be sought at night. R. Abba said to R. Huna, Did Rab really say thus? Said he, He was silent.[14] Do you say, ‘He was silent’, or, ‘he was drinking’? asked he.[15] — R. Ika b. Abin said: Rab gave a hearing to Rabbah [to grant him absolution]

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(1) By a husband or father, as the case may he.

(2) From a sage.

(3) I.e., where the absolution is necessary for the Sabbath. E.g., if one vowed not to eat, which clashes with the joyous spirit of the Sabbath.

(4) I.e., does the last condition, ‘where it is necessary for the Sabbath,’ refer to the whole Mishnah, or only to absolution? — By ‘annulment’ the annulment by a father or husband is meant.

(5) The reference being to a vow made on the Sabbath; v. Mishnah.

(6) The vow having been made just before nightfall, it cannot be necessary for the sake of the Sabbath to annul it.

(7) Since we cannot abrogate his right of annulment altogether.

(8) Lit., ‘whilst yet day.’

(9) Lit., ‘sought’.

(10) Three judges are necessary for that, and it must not take place on the Sabbath.

(11) Because in a lawsuit the judges must be seated, may not be relatives of the litigants, and it may not take place at night.

(12) Which shows that the husband can annul vows on Sabbath.

(13) From a Sage.

(14) Heb. אישתיק; this bears a close resemblance to drinking, and R. Abba seems not to have quite caught his reply.

(15) So Rashi: Do you mean that you stated this halachah before him and that he remained silent, which you interpreted as assent: or that he was drinking at the time, and could make no comments? Other versions, based on different readings:

R. Huna asked, Would you offer me a drink, or do you say that he was silent, i.e., do you question me because you agree, and desire Rab's authority for it, or do you disagree, and suggest that Rab was silent when I stated this law, deeming it unworthy even of refutation? Or: do you offer me a drink (in approval), or silence me (in disapproval)? — In all these cases, the alternatives are expressed by words very similar to each other.

Talmud - Mas. Nedarim 77b

in a chamber of the College, whilst standing, alone, and at night.[1]

Raba said in R. Nahman's name: The halachah is that absolution from vows may be granted standing, alone, and at night, on the Sabbath, by relatives, and even if there was time before the Sabbath [to seek absolution]. ‘Standing’? But it was taught: R. Gamaliel descended from the ass, wrapped himself [in his robe], sat down, and absolved him?[2] — R. Gamaliel held that [the Rabbi] must give an ‘opening’ for regret, so that the vow may be revoked ab initio; this requires deep thought; therefore he sat down.[3] But in R. Nahman's opinion no opening for regret Is necessary;[4] therefore he [the Rabbi] can stand.[5]

Raba said to R. Nahman: Behold, Master, a scholar, who came from the west [i.e., Palestine], and related that the Rabbis gave a hearing to the son of R. Huna b. Abin and absolved him of his vow, and then said to him, ‘Go, and pray for mercy, for you have sinned. For R. Dimi, the brother of R. Safra, learnt: He who vows, even though he fulfils it, is designated a sinner.’ R. Zebid said: What verse [teaches this]? — But if thou shalt forbear to vow, it shall be no sin in thee;[6] hence, if thou hast not forborne, there is sin.

It was taught: If a man says to his wife, ‘[In respect to] all vows which you may make, I object to your vowing,’ or, ‘they are no vows,’ the declaration is valueless.[7] [If he says,] ‘You have done well,’ or, ‘there is none like you,’[8] or, ‘had you not vowed, I myself would have imposed a vow upon you.’[9] — these declarations are effective.[10]

A man should not say to his wife on the Sabbath, ‘It is annulled for you,’ or, ‘made void for you,’ as he would say on week-days, but, ‘Take and eat it,’ ‘Take and drink it,’[11] and the vow becomes automatically void.[12] R. Johanan observed: Yet he must annul it in his heart.[13] It was taught: Beth Shammai say: On the Sabbath he must annul it in his heart; on week-days he must express [his annulment] with his lips. But Beth Hillel say: In both cases he may annul it in his heart, and need not express it with his lips.[14]

R.Johanan said: If a Sage employs a husband's phraseology, or a husband that of a Sage, their pronouncements are invalid.[15] For it was taught: This is the thing [which the Lord hath commanded]:[16] [this teaches], only a Sage may absolve, but a husband cannot absolve.[17] For I might think, If a Sage, who cannot annul, can absolve, surely a husband, who may annul, can also absolve! Therefore it is stated,

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(1) The former question is left unanswered, but this incident is quoted to show that Rab himself acted on this ruling. — So cur. edd. But other readings introduce this by ‘come and hear.

(2) This happened once when R. Gamaliel was travelling from Acco to Chezib. On the way he was accosted by a man who demanded to be absolved from a vow.

(3) The Rabbi must find grounds sufficiently strong to make him regret his now (v. supra 21b). Such grounds are not easily found. But sitting is not essential for the actual granting of absolution.

(4) [Even if he expresses no regret for ever having made the vow, but merely wishes to be absolved from it from now on, the Sage may revoke it; (v. Rashi ‘Er. 64a).]

(5) So cur. edd. and Rashi, Ran and Asheri reverse the reading, though the final result remains unaltered. Thus: R. Gamaliel held that mere (present) regret does not afford an ‘opening’, i.e., grounds for absolution, but some fact, which, had it been present to the mind of the person vowing, would have caused him to desist, so that the vow may be voided from its very beginning, etc.

(6) Deut. XXIII, 23.

(7) Because it is not the correct way of annulment. — So Rashi, on the basis of our reading, and likewise one version of Ran.

(8) An expression of satisfaction.

(9) This must not be taken that in Talmudic times the husband could impose a vow upon his wife, the expression merely being one of approval. In the chapter dealing with vows (Num. XXX) the husband is merely given powers of annulment, not to impose vows; in fact, no person is empowered to impose vows upon another; but v. Weiss, Dor. 1, p. 15.

(10) I.e., they are perfect confirmations, which cannot be withdrawn by subsequent annulment. — 'Effective' is followed by two dots(:), which denotes the completion of a subject, the next word commencing a new one. As, however, the next passage is not preceded in our text by 'It was taught' nor by any other word which generally introduces a new passage, it is possible that the dots have crept into the editions in error. But in the version of Ran the next passage is preceded by 'It has been taught' (v. Marginal Glosses to Wilna edition).

(11) If she vowed not to eat or drink.

(12) To preserve the sanctity of the Sabbath one should not use the same phraseology as of week-days.

(13) Formally: 'it is annulled for thee.'

(14) Of annulment, it being sufficient to say 'Take and eat it.'

(15) A husband must say, מופר לך 'It is annulled for thee'; a Sage, מותר לך 'It is permitted thee'. [The difference in the phraseology employed by Sage and husband is determined by the distinct function of each. The Sage revokes the vow, rendering it void ab initio, whereas the husband annuls it that it may not be binding for the future (Ran).]

(16) Num. XXX, 2. 'This is the thing' implies that the following enactments must be exactly carried out.

(17) Absolution by a Sage is deduced from the next verse.

Talmud - Mas. Nedarim 78a

'This is the thing', [implying] only a Sage can absolve, but a husband cannot absolve. Another [Baraitha] taught: 'This is the thing', [teaches,] [only] a husband may annul, but a Sage cannot annul. For I might think, If a husband, who cannot absolve, can annul; surely a Sage, who may absolve, can also annul! Therefore it is stated, 'This is the thing', [implying,] a husband can annul, but a Sage cannot annul. [Further:] It is here stated, This is the thing; whilst elsewhere, in connection with [sacrifices] slaughtered without [the Temple Court], it is also written, This is the thing [which the Lord hath commanded]:[1] just as in the latter case, Aaron, his sons, and all Israel [are included in the law],[2] so does the chapter on vows relate to Aaron, his sons, and all Israel; and just as here, the heads of the tribes [are particularly addressed],[3] so there too [the reference is] to the heads of the tribes. In respect of what law [is this deduced] in the chapter of vows? — Said R. Aha b. Jacob: To teach that three laymen are qualified [to grant absolution]. But is not 'the heads of the tribes' stated?[4] — R. Hisda, — others state R. Johanan — answered: [That intimates that] a single ordained scholar [can absolve].[5] For what purpose are the heads of the tribes related to [sacrifices] slaughtered without? — R. Shesheth said: To teach that the law of revocation applies to hekdesh.[6] But according to Beth Shammai, who maintained that hekdesh cannot be revoked, for what purpose are the heads of the tribes related to [sacrifices] slaughtered without? — Beth Shammai do not admit [the validity of] this gezerah shawah. Now, for what purpose is 'this is the thing' written in the chapter on vows? — To teach that only a Sage may absolve, but a husband cannot absolve; and that only a husband can annul, but a Sage cannot annul. Why is 'this is the thing' related to [sacrifices] slaughtered without? — To teach that one incurs guilt only for slaughtering [without the prescribed place], but not for wringing [a bird's neck outside].[7]

Then on the view of Beth Shammai, whence do we know that three laymen are valid?[8] — They deduce it from [the teaching reported by] R. Assi b. Nathan. For it is written, And Moses declared unto the children of Israel the set feasts of the Lord.[9] Whereon it was taught. R. Jose the Galilean said: The festivals were stated, but not the Sabbath of the Creation[10] with them: Ben 'Azzai said: The festivals were stated, but not the chapter on vows with them. Now, this Baraitha was unintelligible to R. Assi b. Nathan, so he went to Nehardea, before R. Shesheth. Not finding him there, he followed him to Mahuza,[11] and said to him: 'The festivals were stated, but not the Sabbath of the Creation with them': but the Sabbath is written together with them![12] Furthermore, the festivals were stated, but not the chapter on vows with them, but that is written alongside thereof![13] — Said he to him, It means this:

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(1) Lev. XVII. 2.

(2) The verse commences, Speak unto Aaron, and unto his sons, and unto all the children of Israel.

(3) Num. XXX, 2: And Moses spake unto the heads of the tribes concerning the children of Israel.

(4) This, in the case of vows, implies the ordained scholars.

(5) For since the gezerah shawah (v. Glos.) based on 'this is the thing' relates all Israel to vows, whilst 'the heads of the tribes' specifies scholars, the discrepancy can be reconciled only by assuming that either one ordained scholar or three laymen may absolve. — One layman being insufficient, three (not two) are required, as in the case of a Beth din.

(6) V. Glos. I.e., if one consecrates an animal, which is really a form of vow, and then slaughters it without the Temple court, he can be absolved of his vow, thus revoking his consecration, whereby he is found to have slaughtered an unconsecrated animal.

(7) The passage reads: This is the thing which the Lord hath commanded . . . what man that slaughtered an ox . . . and bringeth it not unto the door of the tabernacle of the congregation, etc.; yishhat ('slaughtered'), implies cutting the throat (cf. shehitah). A bird sacrifice was killed by its neck being wrung, Lev. I, 15.

(8) Since they reject the gezerah shawah by which it is deduced in the Baraitha.

(9) Lev. XXIII, 44.

(10) Lit., 'the Sabbath of the beginning'. I.e., the Sabbath, so called because God rested on the seventh day.

(11) A large Jewish town on the Tigris, where Raba had his academy.

(12) At the beginning of Lev. XXIII, v. 3 and also in v. 38.

(13) Num. XXVIII-XXIX deal with the festivals, and XXX treats of vows.

Talmud - Mas. Nedarim 78b

[only] the festivals of the Lord need sanctification by Beth din,[1] but not the Sabbath of the Creation;[2] (further) the festivals of the Lord require an ordained scholar,[3] but absolution of vows requires no ordained scholar, for even a Beth din of laymen [may grant it]. But in the chapter on vows 'the heads of the tribes' is stated! — R. Hisda, others state, R. Johanan, said: That refers to a single ordained scholar.

R. Hanina said: He who keeps silence [when his wife vows] in order to provoke her[4] can annul even after ten days. Raba objected: When was it said that if the husband dies his authority is transferred to the father? If the husband did not hear [the vow], or heard it and was silent, or heard and annulled it and died on the same day. But if he heard and confirmed it, or heard it, was silent, and died on the following day, he [the father] cannot annul.[5] Now, surely it means that he kept his silence in order to vex her?[6] — No. It means that he was silent in order to confirm it. If so, it is tantamount to 'or if he heard and confirmed it?'[7] — But it means that he kept silent without specifying [his intentions].

R. Hisda objected: Confirmation is more stringent than annulment, and annulment is more stringent than confirmation. [Thus:] Confirmation is more stringent,

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(1) Beth din must declare which day is new moon, and thereby sanctify it, and thence the festival was calculated.

(2) The seventh day of the week is automatically sacred.

(3) To declare the sanctification of the New Moon, which cannot be done by a layman.

(4) Intending to annul the vow eventually, but keeping silence in the meantime to vex his wife, who may wish to be freed.

(5) V. supra 68a.

(6) And yet if he died the following day, his silence is regarded as confirmation.

(7) Why teach it in two clauses?

Talmud - Mas. Nedarim 79a

since silence confirms, but does not annul;[1] and if he confirms in his heart, he has confirmed it, [whereas] if he annuls in his heart, it is not annulled; [moreover], if he confirmed, he cannot annul, and if he annulled, he cannot confirm.[2] Now, this teaches that silence confirms. Surely it means silence in order to provoke? — No; [it means] that he was silent in order to confirm. If so, it is identical with 'if he confirms in his heart?' — But it means that he was silent with no specified intention.

Now we have seen that confirmation is more stringent than annulment; where do we find that annulment is more [stringent] than confirmation? — Said R. Johanan: One may seek absolution from confirmation, but not from annulment.

R. Kahana objected: But if her husband altogether hold his peace at her from day to day.[3] Scripture refers to silence in order to vex. You say, in order to vex. Perhaps this is not so, the reference being to silence with intention to confirm? Now, when it is said, because he held his peace at her,[4] Scripture already refers to silence in order to confirm; hence, to what can I apply the phrase, 'but if the husband altogether hold his peace at her? To silence in order to vex. That is indeed a refutation.[5] But let one [verse] be applied to silence in order to confirm, and the other to silence without specified intentions? — Additional verses are written.[6]

Raba objected: IF SHE VOWED JUST BEFORE NIGHTFALL, HE CAN ANNUL ONLY UNTIL NIGHTFALL: FOR IF NIGHT FELL AND HE HAD NOT ANNULLED IT, HE CAN NO LONGER DO SO: but why? Let it [at least] be counted as though he were silent in order to provoke her! This is a refutation.

R. Ashi objected: [If the husband declares,] 'I know that there were vows, but did not know that they could be annulled,' he may annul them [now].[7] 'I knew that they could be annulled, but did not know that this is a vow,'[8] R. Meir ruled: He cannot annul [now];[9] whilst the Sages maintain: He can annul. But why [not, according to R. Meir]; let it [at least] be as though he were silent in order to provoke! This is a refutation.

CHAPTER XI

MISHNAH. NOW THESE ARE THE VOWS WHICH HE[10] CAN ANNUL: VOWS WHICH INVOlve SELF-DENIAL.[11] [E.G.,]. 'IF I BATHE,' OR, 'IF I DO NOT BATHE,' 'IF I ADORN MYSELF,' OR, 'IF I DO NOT ADORN MYSELF.'

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(1) Which is viewed as greater stringency.

(2) This is not stated as an aspect of greater stringency in one or the other, but merely teaches a law.

(3) Num. XXX, 15.

(4) Ibid.

(5) Of R. Hanina.

(6) The idea of silence is expressed three times in that verse, But if her husband altogether keep silence — expressed in Heb. by החרש יחריש, which is a double expression, and, because he has kept silence — a third time; therefore every form of silence is meant.

(7) Because only when he knows his authority is the day regarded as 'the day on which he heard it.'

(8) Rashi: of a binding nature; Ran such as the husband may annul, (v. next Mishnah).

(9) For since he knew that the husband could annul vows, the day that he first learnt of his wife's vow is the day that he heard it.

(10) The husband.

(11) Cf. Num. XXX, 13.

Talmud - Mas. Nedarim 79b

R. JOSE SAID: THESE ARE NOT VOWS OF SELF-DENIAL, BUT THE FOLLOWING ARE VOWS OF SELF-DENIAL: VIZ., IF SHE SAYS, ‘KONAM BE THE PRODUCE OF THE [WHOLE] WORLD TO ME’, HE CAN ANNUL; ‘KONAM BE THE PRODUCE OF THIS COUNTRY TO ME,’ HE CAN BRING HER THAT OF A DIFFERENT COUNTRY;[1] ‘[KONAM BE] THE FRUITS OF THIS SHOP-KEEPER TO ME’, HE CANNOT ANNUL; BUT IF HE CAN OBTAIN HIS SUSTENANCE ONLY FROM HIM,[2] HE CAN ANNUL: THIS IS R. JOSE'S OPINION.

GEMARA. [He can annul] only vows of self-denial, but not if they involve no self-denial? But it was taught: Between a man and his wife, between thee father and his daughter:[3] this teaches that a husband can annul vows which [affect the relationship] between himself and his wife? — I will tell you: He can annul both; but vows of self-denial he can permanently annul;[4] but if they involve no self-denial, annulment is valid only so long as she is under him, but if he divorces her, the vow becomes effective. [This refers however] to matters affecting their mutual relationship but involving no self-denial; but if they involve self-denial, the vow does not become effective. Now, do vows involving no self-denial become effective if he divorces her? But we learnt: R. Johanan b. Nuri said: He must annul it, lest he divorce her and she thereby be forbidden to him.[5] This proves that if he divorces her after first having annulled the vow, the annulment remains valid? — I will tell you: in both cases the annulment stands; but vows of self-denial he can annul in respect of both himself and strangers,[6] whereas if they involve no self-denial, he can annul in respect of himself only, not of others;[7] and it is thus meant: THESE ARE THE VOWS WHICH HE CAN ANNUL in respect of both himself and others, viz., VOWS THAT INVOLVE SELF-DENIAL.

‘IF I BATHE.’ What does this mean? Shall we say, that she declared, ‘Konam be the fruit of the world to me, if I bathe’? then why annul it? Let her not bathe, and so the fruit of the world will not be prohibited to her! Moreover, could R. Jose maintain in this case that THESE ARE NOT VOWS OF SELF-DENIAL: perhaps she bathes, and the fruit of the world become forbidden to her?

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(1) Hence it is not a vow of self-deprival.

(2) E.g., if he must buy on credit, and no other tradesman trusts him.

(3) Num. XXX, 17.

(4) Even if he subsequently divorces her.

(5) If a woman vows that the work of her hands be forbidden to her husband, though the vow, through seeking to deprive the husband of his legal due, is invalid, R. Johanan b. Nuri ruled that the husband should nevertheless annul it. For, should he divorce her, the vow becomes valid, and therefore be could not remarry her, v. infra 85a.

(6) I.e., even if she marries another, the annulment holds good.

(7) I.e. if he divorces her and she marries another, the vow resumes its force.

Talmud - Mas. Nedarim 80a

Again, if she said, ‘Konam be the pleasure of bathing to me for ever, if I bathe [once]’, and the reason he can annul is because what can she do? if she bathes [once], the pleasure of [subsequent] bathing is forbidden her; if not, she becomes repulsive; whilst R. Jose maintains that she need not bathe, her repulsiveness being of no concern to us. But if so, it should be taught thus: R. Jose said:

This condition involves no self-denial? — Hence she must have vowed, ‘Konam be the pleasure of bathing to me for ever, if I bathe to-day,’ R. Jose maintaining that the disfigurement of one day's [neglect of bathing] is not disfigurement.

Talmud - Mas. Nedarim 80b

You have explained, ‘IF I BATHE’: how is ‘IF I DO NOT BATHE’ meant? Shall we say that she vowed, ‘The pleasure of bathing be forbidden me forever, if I do not bathe to-day, ‘why does she need annulment — let her bathe! — Said Rab Judah: [It means] that she said, ‘The pleasure of bathing be forbidden me for ever, if I do not bathe in the water of steeping.’[1] Then by analogy, ‘IF I DO NOT ADORN MYSELF’ means, ‘If I do not adorn myself with naphtha’: but that renders her filthy![2] — Said Rab Judah, She vowed, ‘The pleasure of bathing be forbidden me for ever, if I bathe to-day, and I swear not to bathe [to-day]’; ‘the pleasure of adornment be forbidden me for ever, if I adorn myself to-day, and I swear not to adorn myself [to-day]’. Rabina said to R. Ashi: If so, the Mishnah should state, THESE ARE THE VOWS and oaths! — He replied: Learn, THESE ARE THE VOWS and oaths. Alternatively, oaths too are included in vows, for we learnt, [if one says,] As the vows of the wicked, he has vowed in respect of a nazirite vow, a sacrifice and an oath.[3]

Now, did the Rabbis rule that bathing involves self-denial when one refrains therefrom? But the following contradicts it: Though all these are forbidden,[4] kareth[5] is incurred only for eating, drinking and performing work. But if you maintain that in refraining from bathing there is self-denial, then if one bathes on the Day of Atonement he should be liable to kareth?[6] — Raba answered: In each case our ruling is based on the Scriptural context. In reference to the Day of Atonement, where it is written, Ye shall afflict your souls,[7] something whereby affliction is there and then perceptible [is implied];[8] whereas [to refrain from] bathing is not an immediately perceptible affliction. But of vows, where it is written, Every vow and every binding oath to afflict the soul,[9] something which leads to affliction [is indicated],[10] and not to bathe [for a long time] results in affliction.

One ruling of R. Jose contradicts another of his: With respect to a well belonging to townspeople, when it is a question of their own lives or the lives of strangers,[11] their own lives take precedence;[12] their cattle or the cattle of strangers, their cattle take precedence over those of strangers; their laundering or that of strangers,[13] their laundering takes precedence over that of strangers. But if the choice lies between the lives of strangers and their own laundering, the lives of the strangers take precedence over their own laundering. R. Jose ruled: Their laundering takes precedence over the lives of strangers.[14] Now, if to (refrain merely from] washing one's garment is a hardship in R. Jose's view, how much more so with respect to the body? — I will tell you: In R. Jose's opinion laundering is indeed of greater importance than bathing. For Samuel said: Scabs of the head [caused by not washing] lead to blindness; scabs (arising through the wearing] of (unclean] garments cause madness; scabs (due to neglect] of the body cause boils and ulcers.[1]

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[1] I.e., the water in which flax was steeped; such water is foul and noisome, and it is an act of mortification to bathe therein.

[2] Surely ‘adorn’ would not be used in that sense!

[3] V. supra 9a.

[4] Viz., eating, drinking, etc., on the Day of Atonement.

[5] V. Glos.

[6] Since kareth is the penalty for not ‘afflicting one's soul’ — i.e., undergoing mortification; Lev. XXIII, 29.

[7] Ibid. XVI, 29.

[8] E.g., abstention from food.

[9] Num. XXX, 14.

[10] That follows from the infinitive.

[11] The well being the sole source of supply, sufficient only for the townspeople or for strangers, but not for both.

[12] They have a prior right thereto.

[13] The water being used for laundering purposes.

[14] In his opinion there is great self-denial in wearing unlaundered linen.

They sent word from there (sc. Palestine]:[2] Be on guard against scabs; take good care (to study] in company[3] and be heedful (not to neglect] the children of the poor,[4] for from them Torah goeth forth, as it is written, The water shall flow out of his buckets (mi-dalyaw]:[5] [meaning], from the dallim [poor] amongst them goeth forth Torah.[6] And why is it not usual for scholars to give birth to sons who are scholars? — Said R. Joseph, That it might not be maintained, The Torah is their legacy.[7] R. Shisha, the son of R. Idi, said: That they should not be arrogant towards the community. Mar Zutra said: Because they act high-handedly against the community.[8] R. Ashi said: Because they call people asses.[9] Rabina said: Because they do not first utter a blessing over the Torah.[10] For Rab Judah said in Rab's name: What is meant by, Who is the wise man, that he may understand this [. . . for what is the land destroyed etc.]?[11] Now, this question was put to the Sages, Prophets, and Ministering Angels,[12] but they could not answer it, until the Almighty Himself did so, as it is written, And the Lord said, Because they have forsaken my law which I set before them, and have not obeyed my voice, neither walked therein:[13] but is not ‘have not obeyed my voice’ identical with, ‘neither walked therein’? — Rab Judah said in Rab's name: [It means] that they did not first recite a benediction over the Torah.[14]

Isi b. Judah did not come for three days to the college of R. Jose. Wardimus, the son of R. Jose, met him and asked, ‘Why have you Sir, not been for these last three days at my father's school?’ He replied, ‘Seeing that I do not know your father's grounds [for his rulings], why should I attend?’ ‘Please repeat, Sir, what he told you,’ he urged; ‘perhaps I may know the reason.’ Said he, ‘As to what was taught, R. Jose said: Their laundering takes precedence over the lives of strangers, whence do we know a verse [to support this]? Said he, Because it is written, And the suburbs of them shall be for their cattle, and for their goods, and for all their beasts [hayyatham].[15] Now, what is meant by hayyatham: Shall we say, ‘beasts’ — but beasts are included in cattle? But if hayyatham means literally ‘their lives’, is it not obvious?[16] Hence it must surely refer to laundering,[17] since [neglect of one's clothes] causes the pains of scabs.[18]

R.JOSE SAID: THESE ARE NOT VOWS OF SELF-DENIAL. The scholars propounded: In the view of R. Jose, can he [the husband] annul them as matters affecting their mutual relationship?[19] — Come and hear: R. JOSE SAID: THESE ARE NOT VOWS OF SELF-DENIAL, implying however that they are matters affecting their mutual relationship.[20] — [No.] Perhaps he argues to them on their view. [Thus:] In my opinion they are not even matters affecting their mutual relationship: but you who maintain that they are vows of self-denial, should at least concede to me that these are not vows of self-denial.[21] What [is our decision on the matter]? — Adda b. Ahabah said: He can annul them, R. Huna said: He cannot annul,

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(1) Madness is the worst of the lot.

(2) This always refers to R. Eleazer b. Pedath — Sanh. 17b.

(3) This ensures greater keeness and understanding than studying alone.

(4) Or, not to neglect their teaching (Ran).

(5) Num. XXIV, 7.

(6) Adopting reading of ‘En Yakob. Water being symbolic of Torah: cf. Is. LV, 1.

(7) I.e., others should not complain that it is useless for them to study, or that they themselves should not think study unnecessary.

(8) Var. lec.: because they are arrogant etc.

(9) These observations shew that there was a mutual antipathy between the scholars and the masses. Cf. Graetz, Gesch. IV, p. 361. It is noteworthy however that, as evidenced by this passage, many Rabbis themselves criticised the attitude of scholars.
(10) As required.
(11) Jer. IX, 11.
(12) 'And ministering angels' is absent from our text, but added from the parallel passage in B.M. 85a.
(13) Ibid. 10.
(14) This follows since the Almighty Himself had to answer; had they neglected it altogether, the reason would have been patent to all. Hence it must mean that though they studied it, their motives were selfish, and not based on an appreciation of its own intrinsic worth. This is expressed by saying that they did not recite a benediction over it, i.e., they did not value it for itself. Ran.
(15) Num. XXXV, 3.
(16) That they use it to benefit their own lives.
(17) I.e., wells in their suburbs shall be put to this use.
(18) And as it is expressed by a word meaning life, we deduce that its importance is so great that it takes precedence over the lives of strangers.
(19) For the husband may assert that he personally is affected by his wife's refusal to bathe or adorn herself. On the difference between the grounds of annulment, v. supra, 79b.
(20) For otherwise he should simply state that the husband cannot annul them (Ran and Asheri).
(21) So that if you persist in conceding the husband the right to annul, it should be on the grounds of mutual concern, not mortification.

Talmud - Mas. Nedarim 81b

because no fox dies in the earth of its own lair.[1]

It was taught in accordance with R. Adda b. Ahabah: Vows involving self-denial he [the husband] can annul in respect of both himself and herself, and in respect to herself and strangers;[2] but if they involve no self-denial, he can annul in respect of himself and herself, but not in respect to herself and strangers. E.g., if she vows, 'Konam be fruit unto me'? he can annul: 'Konam that I prepare nought for my father,' 'for your brother,' 'for your father,' 'for my brother,' or 'that I place no straw before your cattle,' or, 'water before your herds,' he cannot annul.[3] '[Konam] that I may not paint or rouge or cohabit,' he can annul as a matter affecting their mutual relationship; 'that I do not make your bed,' or, 'prepare[4] you drink,' or, 'wash your hands or feet,' he need not annul.[5] R. Gamaliel said: He must annul [them], as it is written, he shall not break his word.[6] Alternatively, 'he shall not break his word' teaches that a Sage cannot absolve himself from his own vows. Now, whom do we know to regard [a vow], 'that I paint not nor rouge' as matters affecting their mutual relationship [and not of self-denial]? R. Jose;[7] yet it is stated that he can annul them as matters affecting their mutual relationship.

The Master said: ' . . . "or cohabit," he can annul as a matter affecting their mutual relationship.' How so? If she vows, 'The pleasure of cohabitation with me [be forbidden] to you', why annul it, seeing that she is bound to afford it to him?[8] — But it means that she vowed, 'the pleasure of cohabitation with you be forbidden me,' and it accords with R. Kahana's dictum, viz., [If she vows,] 'The pleasure of cohabitation with me [be forbidden] to you,' she is compelled to grant it; but if she vows, 'The pleasure of cohabitation with you [be forbidden] to me,' he must annul it, because no person may be fed with what is forbidden to him. Who is the author of what was taught: Things that are in themselves permissible, and yet are treated by others as forbidden, you may not treat them as permitted in order to nullify them? Who is the author? — R. Gamaliel. For it was taught: R. Gamaliel said: He must annul them, as it is written, he shall not break his word;[9] alternatively, 'he shall not break his word' teaches that a Sage cannot absolve himself from his own vows.[10]

Raba asked R. Nahman: In the Rabbis' view, is [a vow to refrain from] cohabitation [a vow of] self-denial or a matter affecting their mutual relationship? — He replied, We have learnt this: [If she vows,] 'May I be removed from all Jews,'[11]

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(1) I.e., being accustomed to it, he cannot be harmed thereby. Likewise, the husband, being accustomed to his wife, is unaffected by her refusal to bathe.

(2) V. 79b.

(3) Because it is not a vow of mortification, nor is she under any obligation to do these things.

(4) Lit., 'mix the cup' (of wine with water).

(5) Such vows are automatically invalid, since she is under an obligation to do these things.

(6) Num. XXX, 3; i.e., by a Rabbinical decree he must annul it, that she may not treat vows lightly. The law is not deduced from the verse, which is cited merely to shew the solemnity of vows.

(7) For the Rabbis of the Mishnah hold it to be a vow of mortification.

(8) Hence it is automatically invalid.

(9) Just as there, a self-imposed prohibition may not be lightly treated, so here too.

(10) Thus the text as amended by Bah.

(11) That no Jew shall cohabit with me.

Talmud - Mas. Nedarim 82a

he must annul his own part, and she shall minister to him, whilst remaining removed from all Jews.[1] But if you say that this is a vow of self-denial, why does she remain forbidden to all Jews?[2] This proves that it is [only] a matter affecting their mutual relationship! — [No.] This is asked according to the Rabbis, whereas 'May I be removed from the Jews' is the teaching of R. Jose [only]. For R. Huna said: This entire chapter states the ruling of R. Jose. Whence is this deduced? Since the Mishnah teaches, R. JOSE SAID: THESE ARE NOT VOWS OF SELF-DENIAL, why state again HE CAN ANNUL: THIS IS R. JOSE'S OPINION? It therefore follows that from this onward [the author] is R. Jose.[3]

Samuel said on Levi's authority: All vows the husband can annul to his wife, except 'my benefit [be forbidden] to so and so,' which he cannot annul.[4] But he can annul [the vow], 'the benefit of so and so [be forbidden] to me.'[5]

We learnt: '[KONAM] BE THE FRUIT OF THIS COUNTRY TO ME,' HE CAN BRING HER THAT OF A DIFFERENT COUNTRY?[6] — Said R. Joseph: It means that she vowed, '[KONAM BE THE FRUIT OF THIS COUNTRY TO ME] which you may bring'.[7] Come and hear: 'KONAM BE THE FRUIT OF THIS SHOP-KEEPER TO ME,' HE CANNOT ANNUL? — Here too it means that she said, 'which you may bring.' [But does it not state:] BUT IF HE CAN OBTAIN SUSTENANCE ONLY FROM THIS SHOP-KEEPER, HE CAN ANNUL. Now if you maintain that she vowed, 'which you may bring,' why can he annul it?[8] Hence, since the second clause must mean [even] those not brought by the husband, the first clause [too must refer to even] what she herself brings? — But in the first clause he cannot annul, though [her vow forbade even what] she herself brings;

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(1) I.e., if he divorces her.

(2) Since the husband can annul vows of self-denial.

(3) The Talmud leaves the problem unsolved and proceeds to another subject.

(4) Not being a vow of mortification; this is self-evident, but is mentioned as a contrast to the next clause.

(5) Though she may not be immediately in need thereof, she may need it later, and therefore it is a vow of mortification.

(6) If abstention from the produce of an entire country is no mortification, surely to be forbidden benefit from a single person is none!

(7) Hence there is no self-denial. But had she entirely forbidden them, it would certainly entail deprivation, and the same holds good if she forbids benefit from a single person.

(8) Let some other person, or herself, obtain supplies.

Talmud - Mas. Nedarim 82b

and our Mishnah states R. Jose's view. For R. Huna said: This entire chapter states the ruling of R. Jose. And what is meant by HE CANNOT ANNUL? On the score of self-denial, but he can annul it as a vow affecting their mutual relationship.[1]

Rab Judah said in Rab's name: If she vows [to abstain] from two loaves, [abstention from] one of which is self-denial, but not from the other:[2] since he [the husband] can annul in respect of that which causes self-denial, he can also annul in respect of the other. R. Assi said in R. Johanan's name: He can annul only in respect of that which causes self-denial, but not in respect of the other. Others say, R. Assi asked R. Johanan: What if she vows [to abstain] from two loaves, [abstention from] one of which is self-denial, but not from the other? — He answered: He can annul in respect of that which causes self-denial, but not in respect of the other. He objected: If a woman made a vow of a nazirite, and drank wine or defiled herself through the dead,[3]

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(1) Because he may find it necessary to maintain his wife with the provisions of that particular tradesman, and by forbidding benefit from him, his wife puts him to inconvenience. — Now, to revert to the subject, since this is the view of R. Jose only, in the Rabbis' opinion he could annul it as a vow of self-denial, in which case the annulment is wider in scope, as stated on 79b, and Samuel's dictum is in accordance with the Rabbis (Rashi and Ran). Asheri and Tosaf. explain that there may be two different answers here. Thus: (i) The Mishnah is taught according to R. Jose, whereas Samuel's dictum agrees with the Rabbis. Alternatively, (ii) by HE CANNOT ANNUL is meant that he cannot annul it as a vow of self-denial, but as a vow affecting them both. But Asheri and Tosaf. disagree on the interpretation of (ii). Asheri: and therefore Samuel's dictum may agree even with R. Jose, for Samuel too meant that he can annul it only as a vow affecting their mutual interests. Tosaf.: alternatively, the first clause could accord even with the Rabbis, who agree with R. Jose that this is no vow of mortification, being so limited in scope, yet it may be annulled as a vow of mutual concern, and Samuel too meant it in the same way.

(2) E.g., if one loaf was of fine flour and the other of coarse.

(3) Both of which are forbidden to a nazirite, Num. VI, 3, 6.

Talmud - Mas. Nedarim 83a

she receives forty [lashes].[1] If her husband disallowed her and she did not know that he disallowed her, and she drank wine and defiled herself through the dead, she does not receive forty [lashes]. But if you maintain, He can annul [only] in respect of that which causes self-denial, but not in respect of that which does not, perhaps he annulled her vow only in respect of wine, since [abstention therefrom] is a deprivation, but not of the kernels or husks [of grapes], abstention from which is no deprivation; hence let her receive forty?[2] — R. Joseph replied: There is [no state of] semi-neziruth.[3] Said Abaye to him: Does that imply that there is a sacrifice for semi-neziruth?[4] But, said Abaye, there is no semi-neziruth,[5] nor is there a sacrifice for semi-neziruth.

An objection is raised: If a woman made a vow of neziruth, set aside an animal, and then her husband disallowed her: she must bring the sin-offering of a bird, but not burnt-offering of a bird.[6] But if you say, a sacrifice is not incurred for half [the period of] neziruth, why must she bring the sin-offering of a bird? — What then: a sacrifice is incurred for half [the period of] neziruth — then she should bring three animals, [viz.,] a sin-offering, a burnt offering and a peace-offering?[7] But after all no sacrifice is incurred for half neziruth; whilst, as for the sin-offering of a bird which she must bring, that is because such is due even in case of doubt.[8]

He [further] objected: If a woman made a vow of a nazirite and became defiled, and then her husband disallowed her, she must bring the sin-offering of a bird, but not the burnt-offering of a bird. But if you rule, he can annul [only] in respect of what involves self-denial, but cannot annul that which involves no self-denial,

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(1) The usual punishment for violating a negative injunction. Actually only thirty-nine lashes were given.

(2) For 'she goes unpunished' implies for no matter which injunction of a nazirite she transgresses. By 'perhaps' etc., 'surely can annul only' is meant.

(3) One is either completely a nazirite or not at all. But the vow to abstain from two loaves is divisible.

(4) Surely not! Since R. Joseph replied that there is no state of semi-neziruth, it follows that there may be a sacrifice for semi-neziruth. E.g., if a woman vowed to become a nazirite, whose duration, if unspecified, is thirty days, and after fifteen her husband learnt of her vow and annulled it. Now, his annulment cancels the following fifteen days, but not the previous, and Abaye expresses his surprise that, as is implied in R. Joseph's answer, the sacrifices are to be offered for half the period of neziruth.

(5) I.e., that some provisions of neziruth shall apply whilst others do not.

(6) On the expiration of the neziruth, three sacrifices are due, a burnt-offering, a sin-offering, and a peace-offering; Num. VI, 14. If, however, a nazir comes defiled through the dead within his period he must bring one animal as guilt-offering and two turtle-doves or young pigeons, one as a sin-offering and the other as a burnt-offering, and then recommence the full period afresh; ibid. 10f. Now, this is the meaning of the Baraitha. If a woman made the vow of a nazirite, and separated the animal for a guilt-offering, became defiled, and then had the vow annulled, she must offer only the pigeon sin-offering, but not the pigeon burnt-offering. Tosaf. and Asheri both question the purpose of the clause 'and set aside her animal,' which is apparently irrelevant, and leave the difficulty unresolved. Ran explains that its purpose is to shew that even if she had gone so far as to dedicate her guilt-offering, annulment cancels the neziruth retrospectively.

(7) Since the annulment by the husband is not retrospective (v. supra p. 244, n. 1) the short period in which she practised neziruth stands and is for her regarded as the whole, at the termination of which the three animals enumerated above are due. Cf. Num. VI, 13: And this is the law of the nazirite, when the days of his separation are fulfilled etc. Since her husband annulled the vow, her days are fulfilled by whatever period she observed.

(8) E.g., if a pregnant woman miscarried, and it is unknown whether the fetus had attained viability, in which case the sacrifices of childbirth are due, or not, she must bring a fowl sin-offering. Since this sacrifice is brought even for a doubtful liability, she must also bring it here for the sin of having vowed to be a nazirite; cf. 10a.

Talmud - Mas. Nedarim 83b

perhaps he disallowed her [only] in respect of wine, [abstention from] which is a real hardship, but not in respect of defilement through the dead, since no hardship is involved?[1] I will tell you: [The prohibition of] defilement through the dead too involves hardship, for it is written, and the living will lay it to his heart;[2] whereon it was taught: R. Meir used to say, What is meant by. and the living will lay it to his heart? He who laments will be lamented; he who weeps will be wept for; he who buries will be buried.[3]

MISHNAH. [IF SHE VOWS], 'KONAM, IF I MIGHT BENEFIT FROM MANKIND,'[4] HE CANNOT ANNUL,[5] AND SHE CAN BENEFIT FROM THE GLEANINGS, FORGOTTEN SHEAVES, AND PE'AH.[6] [IF A MAN SAYS] 'KONAM BE THE BENEFIT WHICH PRIESTS AND LEVITES HAVE FROM ME, THEY CAN SEIZE (THEIR DUES] AGAINST HIS WILL.[7] [BUT IF HE VOWS,] 'KONAM BE THE BENEFIT THESE PRIESTS AND LEVITES HAVE FROM ME,' OTHERS TAKE [THE DUES].

GEMARA. Thus we see that she may derive her sustenance from his [her husband's goods],[8] thus proving that her husband is not included in 'MANKIND' (in the sense of her vow]. Then consider the second clause: AND SHE CAN BENEFIT FROM THE GLEANINGS, FORGOTTEN SHEAVES, AND PE'AH; but she may not eat of her husband's, which proves that he is included in 'MANKIND'? — Said 'Ulla: After all, the husband is not included, and [the Mishnah] teaches thus: moreover, he cannot annul because SHE CAN BENEFIT FROM THE GLEANINGS, FORGOTTEN SHEAVES, AND PE'AH.[9] Raba said: In truth, the husband is included in ‘mankind’, and (the second clause] states a reason. [Thus:] Why cannot he annul?[10] Because SHE CAN BENEFIT FROM THE GLEANINGS, FORGOTTEN SHEAVES, AND PE'AH.[11] R. Nahman said: In truth, the husband is not included in ‘MANKIND’, and the Mishnah teaches thus: if she was divorced, SHE CAN BENEFIT FROM THE GLEANINGS, FORGOTTEN SHEAVES, AND PE'AH.[12]

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(1) On ‘perhaps etc.’ v. p. 258, n. 1. Hence in spite of the annulment she ought to complete the full period and then offer the usual sacrifices. Tosaf. objects that the same answer could be given here as above, viz., there is no state of semi-neziruth; and replies that this perhaps holds good only of the kernels and husks of grapes, and everything appertaining thereto. But the prohibition of defilement is quite distinct from that of wine, (as is illustrated by a Samson nazirite. V. Nazir 4a) and therefore one may exist without the other.

(2) Ecc. VII, 2.

(3) I.e., one who pays the last respects to the dead will be similarly honoured, and, by implication, he who refrains will be likewise treated with contempt. It is therefore a matter of self-denial to abstain from death defilement, since thereby one forfeits the respects of his fellow-men at his own death.

(4) Lit., ‘creatures’.

(5) Discussed in the Gemara.

(6) These are free to all. Since these are hefker (v. Glos.), she does not benefit from mankind in taking them.

(7) Since these belong to them, he cannot prohibit them.

(8) As otherwise it is certainly a vow of self-denial, which he may annul. It is now assumed that ‘AND SHE CAN . . . PE'AH’ does not give the reason why he cannot annul, but is an independent statement. For surely abstention from all mankind, including her husband, is no less deprivation than abstention from a tradesman from whom alone the husband can obtain supplies, which is regarded as mortification (v. supra 79b), though there too recourse might be had to gleanings, etc.! (Ran.).

(9) I.e., in the first place he cannot annul because his own substance is available to her, but an additional reason is that SHE CAN, etc. This furnishes a reason only when taken in conjunction with the first, but not independently (Ran. v. n. 5).

(10) Seeing that she cannot benefit even from her husband.

(11) As for the argument in n. 5, Raba will maintain that abstention from a tradesman from whom alone the husband can obtain supplies constitutes mortification only in winter, when gleanings, etc. are not available (Ran).

(12) I.e., though the husband is not included when she vows, he is after divorcing her, and then she must have recourse to gleanings, etc.

Talmud - Mas. Nedarim 84a

Raba objected before R. Nahman: Now, is the husband not included in the term ‘MANKIND’? But we learnt: [If she vows,] ‘May I be removed from all Jews,’ he must annul his own portion therein, and she shall minister unto him, whilst remaining removed from all Jews.[1] But if you say that the husband is not included in MANKIND,[2] it is a vow of self-denial, which he should permanently annul?[3] — Here it is different, because it is obvious that she forbids to herself [primarily] what is [normally] permitted.[4]

SHE CAN BENEFIT FROM THE GLEANINGS, FORGOTTEN SHEAVES, AND PE'AH. Now the poor tithe is not included;[5] but it was taught in the Baraitha: And [she can benefit] from the poor tithe? — Said R. Joseph: That is no difficulty: one [teaching] agrees with R. Eliezer, the other with the Rabbis. For we learnt, R. Eliezer said: One need not designate the poor-tithe of demai;[6]

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(1) If she is divorced or becomes a widow. Infra 90a.

(2) [The terms ‘Jews’ and ‘mankind’ are taken to denote the same thing in relation to the husband.]

(3) For if the husband is not included in ‘mankind’, her vow cannot refer to cohabitation, which is forbidden in any case, but to benefit in general, and hence is a vow of mortification, which he can permanently annul (as stated on 79b); why then state ‘whilst remaining removed from all Jews,’ which, on this hypothesis, means that she may never benefit from them. So cur. edd. and as rendered by Asheri. Ran, Tosaf. and the chief reading of Asheri are much simpler: But if the husband is not included in mankind, why annul his own portion therein, seeing that the vow never referred to him?

(4) Hence she must have meant her husband too, it being altogether unlikely that her vow bore reference to after divorce. But normally the term does not include her husband.

(5) In the third and sixth years of the septennate a tithe was separated for the poor, the owner of the field giving it directly to whomsoever of the poor he pleased.

(6) V. next note.

Talmud - Mas. Nedarim 84b

whilst the Sages say: He must designate [it], but need not separate it.[1] Now surely he who maintains that the doubt[2] renders it tebel,[3] also holds that he [the owner] possesses the good will thereof,[4] and that being so, he may not benefit [her].[5] Whilst he who maintains that no designation is necessary, is of the view that the doubt does not render it tebel;[6] and wherever the doubt does not render it tebel, he [the owner] enjoys no goodwill therein,[7] and therefore she may benefit therefrom.[8] Said Abaye to him: [No.] All agree that the doubt renders it tebel, but R. Eliezer and the Rabbis differ in this: R. Eliezer maintains that the ‘amme ha-arez are not suspected of withholding the poor tithe, since should he renounce the title to his property and thus become a poor man, he may take [the tithe] himself; hence he suffers no loss.[9] But the Rabbis hold that no one will renounce ownership of his property, for he fears that another may acquire it;[10] therefore they are suspected.[11] Raba said: Here [the Mishnah] refers to the poor tithe distributed in the [owner's] house,[12] in connection wherewith ‘giving’ is mentioned, [viz.,] and thou shalt give it unto the Levite, the stranger, etc.;[13] therefore one [who vows not to benefit from mankind] may not benefit therefrom.[14] Whilst there [in the Baraitha] the reference is to the poor tithe distributed in the threshing floor; since it is written thereof, And thou shalt leave it at thy gates,[15] one may benefit therefrom.

‘KONAM BE THE BENEFIT PRIESTS AND LEVITES HAVE FROM ME,’ THEY CAN SEIZE, ETC. Thus we see that goodwill benefit has no monetary value.[16] Then consider the last clause: [BUT IF HE VOWS]. ‘KONAM BE THE BENEFIT THESE PRIESTS AND LEVITES HAVE FROM ME.’ OTHERS TAKE [THE DUES]: but not these, thus proving that goodwill benefit has monetary value? — Said R. Hoshaia:[17] There is no difficulty: the one [clause] accords with Rabbi, the other with R. Jose son of R. Judah. For it was taught: If one steals his neighbour's tebel and consumes it, he must pay him the value of the tebel:[18] that is Rabbi's ruling. R. Jose son of R. Judah said: He must pay him only for the value of its hullin. Now presumably they differ in this:

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(1) Demai, lit., ‘of what (nature),’ ‘dubious’ is the technical term for produce bought from a person who is not trusted to render the tithes, generally the ‘am ha-arez; (v. Glos.) such produce had to be tithed by the purchaser. R. Eliezer maintains that it is unnecessary to designate any portion thereof as the poor tithe, because even if the first owner has definitely not separated the poor lithe the produce is permitted. But the Sages hold that as long as the poor tithe has not been separated the produce may not be eaten; therefore, since the original owner is under suspicion, he must designate the poor tithe himself, i.e., declare, ‘this part of the produce is the poor tithe.’ On the other hand, he is not compelled to give it to the poor, as he can challenge them, ‘Prove that the first owner did not render the poor tithe.’

(2) Whether the poor tithe has been set aside or not.

(3) V. Glos.

(4) I.e., the owner can give the poor tithe to whomsoever of the poor he wishes.

(5) For the owner confers a definite benefit upon the person of his choice, since he could have given it to some other. Consequently, if a woman vows not to benefit from all mankind, she cannot take the poor tithe.

(6) Actually, according to this view, even if the poor tithe has definitely not been separated, it is not tebel; but since the discussion refers to demai, the doubt is mentioned.

(7) But must give it to the first poor man who applies. The interdependence of goodwill and tebel is deduced from Scripture.

(8) Lit., 'one'. For she does not benefit from the owner, but takes it in virtue of her own right.

(9) It is assumed that no person transgresses a law which he can observe without loss to himself. Hence there is no fear that the 'am ha-arez does not separate the poor-tithe. For he can designate part of the produce as poor tithe, formally renounce ownership if all his possessions, acquire the tithe, and then reacquire their possessions. Therefore when one purchases cereals from an 'am ha-arez, he may assume that the poor tithe has been separated, or that by formally renouncing ownership the peasant has exempted it.

(10) For such renunciation had to be in the presence of witnesses, supra 45a, one of whom might forestall the first owner and acquire it himself.

(11) Since Abaye had refuted R. Joseph's answer, the difficulty remains, and Raba proceeds to dispose of it.

(12) If for any reason the poor tithe was not distributed in the threshing floor, as it should have been, it must be done in the house.

(13) Deut. XXVI, 12.

(14) For 'thou shalt give' implies that the owner possesses disposal rights therein.

(15) Ibid. XIV, 28; this implies that it must be left for whomever wishes to take it, and that the owner cannot allot it to any line in particular.

(16) Since the priest and Levites, who may not benefit from him, can seize the dues against his wishes, though he possesses the right of disposing of them at will.

(17) Var. lec.: Joseph.

(18) I.e., the value of the hullin (v. Glos.) it contains and the monetary value of his disposal rights over the terumah and tithes therein.

Talmud - Mas. Nedarim 85a

Rabbi holds that goodwill benefit has money value, whilst R. Jose son of R. Judah holds that goodwill benefit has no money value.[1] — No. All agree that goodwill benefit has no monetary value, but here they disagree over unseparated [priestly] dues.[2] But since goodwill benefit has no monetary value, what does it matter whether they have been separated or not?[3] — But this is Rabbi's reason: the Rabbis penalised the thief, that he may not steal; whereas R. Jose son of R. Judah maintains that the Rabbis penalised the owner, that he should not delay with his tebel.[4] Raba said:[5] Terumah is different, this being the reason that they can take it against his will: for terumah is fit only for priests, and since he came and forbade it to them, he rendered it just like dust.[6]

MISHNAH. [IF SHE VOWS,] 'KONAM THAT I DO NOT AUGHT FOR[7] MY FATHER,' 'YOUR FATHER,' 'MY BROTHER,' OR, 'YOUR BROTHER,' [THE HUSBAND] CANNOT ANNUL IT. 'THAT I DO NOT AUGHT FOR YOU,' HE NEED NOT ANNUL.[8] R. AKIBA SAID: HE MUST ANNUL IT, LEST SHE EXCEED HER OBLIGATIONS.[9] R. JOHANAN B. NURI SAID: HE MUST ANNUL IT, LEST HE DIVORCE HER AND SHE THEREBY BE FORBIDDEN TO HIM.

GEMARA. Samuel said: The halachah is as R. Johanan b. Nuri. Shall we say that in Samuel's opinion a man can consecrate that which is non-existent?[10] But the following contradicts it: If a man consecrates his wife's handiwork [which she will produce],

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(1) Hence the first clause of the Mishnah under discussion agrees with R. Jose b. R. Judah, and the second with Rabbi.

(2) Rabbi regards the whole as hullin, whilst R. Jose b. R. Judah maintains that since they would have had to be separated eventually, they are regarded as though already removed from the whole, and therefore he must pay only for its hullin.

(3) Since they must eventually be separated.

(4) But render its dues immediately after harvesting. He therefore receives a payment only for its hullin. Presumably he is nevertheless required to render the priestly dues or their value on the stolen produce.

(5) In reconciling the discrepancy between the two clauses.

(6) I.e., entirely valueless, as far as he is concerned, and therefore the priests can take it.

(7) Lit., 'for the mouth'.

(8) Since she is bound to work for him.

(9) The amount of work she is obliged to do for him is prescribed in Keth. 64b. Her vow is valid in respect of everything above that, and therefore the husband must annul the vow.

(10) Lit., 'a thing that has not come into the world'. For the prohibition of a vow is a manner of consecration, v. p. 105, n. 8. Now, according to R. Johanan b. Nuri that prohibition is effective in respect of anything she may do after he divorces her, though as yet she is neither divorced nor has she produced anything: hence, just as a vow is valid in respect of the non-existent, so is consecration too, and since Samuel accepts this ruling as the halachah, it must be his view too.

Talmud - Mas. Nedarim 85b

she may work and provide for herself, and as for the surplus, R. Meir[1] rules that it is hekdesh.[2] R. Johanan the sandal-maker ruled that it is hullin.[3] Whereon Samuel said: The halachah is as R. Johanan the sandal-maker, thus proving that a man cannot consecrate the non-existent. And should you reply that he ruled that the halachah is as R. Johanan b. Nuri only in respect of the excess;[4] then he should have said, The halachah is as R. Johanan b. Nuri in respect of the excess, or, the halachah is as the first Tanna,[5] or, the halachah is not as R. Akiba? — But, said R. Joseph, konamoth[6] are different: since a man can interdict his neighbour's fruit to himself, he can prohibit to himself the non-existent.[7] Said Abaye to him: It is proper that one may prohibit his neighbour's fruit to himself, since he can forbid his own fruit to his neighbour: but shall he forbid the non-existent to his neighbour, seeing that he cannot interdict his neighbour's fruit to his neighbour![8] — But, said R. Huna the son of R. Joshua, it means that she vowed, 'My hands be consecrated in respect of what they may produce';[9] [the vow is valid even after divorce,] because her hands are already in existence. But if she vowed thus, would they be consecrated [and forbidden]? surely her hands are pledged to her husband.[10] She vowed, 'When he divorces me.' But now at least she is not divorced: how then do you know that such a declaration is valid?

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(1) Var. lec.: Tarfon.

(2) Because one can consecrate the non-existent.

(3) He holds that one cannot consecrate the non-existent.

(4) For since R. Johanan b. Nuri rejects R. Akiba's reason, it follows that in his opinion the surplus belongs to the husband, not to the wife.

(5) Who also holds that the excess belongs to the husband, since he maintains he need not annul.

(6) I.e., prohibitions, arising as a result of vows, v. supra p. 105, n. 8.

(7) For in real consecration one cannot consecrate his neighbour's property.

(8) Abaye objects that the analogy is defective. For in both cases cited by R. Joseph. viz., prohibiting his neighbour's produce and prohibiting the non-existent to himself, there is when vowing one element of the vow under his control — himself. But if a woman interdicts her earnings to her husband, neither her husband nor her future earnings are in her control when she vows.

(9) So that whatever my hands produce shall be forbidden.

(10) And since the vow cannot take immediate effect, it cannot become effective after divorce.

Talmud - Mas. Nedarim 86a

— Said R. Elai: What if a man declares to his neighbour, 'Let this field which I am selling you be consecrated when I buy it back from you', — is it not consecrated?[1] R. Jeremiah demurred to this: How compare! [In the case of] 'Let this field which I sell you [etc.],' it is now in his possession; but is it in a woman's power to consecrate the work of her hands?[2] This is [rather] to be compared only to a man who says to his neighbour, 'Let this field, which I have sold to you, be consecrated when I repurchase it from you,' — is it consecrated?[3] R. Papa demurred to this: How compare! In the case of purchase the matter is definitely closed;[4] but as for a woman, is the matter definitely closed?[5] This can only be compared to a man who declares to his neighbour. 'Let this field, which I have mortgaged to you, be consecrated when I redeem it from you', — is it not consecrated? R. Shisha the son of R. Idi demurred to this: How compare! As for the field, it is in his power to redeem it; but does it lie with a woman to be divorced? This is [rather] to be compared to one who says to his neighbour. 'Let this field, which I have mortgaged to you for ten years, be consecrated on its redemption,' — is it not consecrated?[6] R. Ashi demurred to this: How compare! There is a definite term [for redemption]; has then a woman a definite term [when she can encompass her divorce]?[7]

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(1) Surely it is! So here too the vow is valid in respect of a future state through it is not valid when made.

(2) Obviously not.

(3) Surely not. Thus, he argued, this analogy proves on the contrary that the woman's vow is invalid.

(4) Neither the field nor its produce belongs, for the time being, to the vower.

(5) For her body at least still belongs to herself.

(6) Surely it is, though it cannot be redeemed before a certain date; so in the case of a woman too, though she cannot procure her divorce. As far as actual law is concerned this Rabbi agrees with the preceding: he merely varies the analogy for the sake of greater accuracy, though the result is the same.

(7) Obviously not; hence it should follow that her vow is invalid.

Talmud - Mas. Nedarim 86b

But, said R. Ashi, konamoth are different, since they have the force of intrinsic sanctity;[1] and [it is] in accordance with Raba's dictum, For Raba said: Hekdesh,[2] [the prohibition of] leaven, and manumission [of a slave] release from [the burden of] mortgage.[3] If so, why state LEST HE DIVORCE HER?[4] — Learn: moreover, LEST HE DIVORCE HER.[5]

MISHNAH. IF HIS WIFE VOWED, AND HE TOUGHT THAT HIS DAUGHTER HAD VOWED, OR IF HIS DAUGHTER VOWED AND HE THOUGHT THAT HIS WIFE HAD VOWED; IF SHE TOOK THE VOW OF A NAZIRITE, AND HE THOUGHT THAT SHE HAD VOWED [TO OFFER] A SACRIFICE, OR IF SHE VOWED (TO OFFER] A SACRIFICE, AND HE THOUGHT THAT SHE VOWED A NAZIRITE VOW; IF SHE VOWED [TO ABSTAIN] FROM FIGS, AND HE THOUGHT THAT SHE VOWED FROM GRAPES, OR IF SHE VOWED [TO ABSTAIN] FROM GRAPES AND HE THOUGHT THAT SHE VOWED FROM FIGS,[6] HE MUST ANNUL [THE VOW] AGAIN.

GEMARA. Shall we say that ['if her husband] disallow her'[7] is precisely meant?[8]

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(1) Lit., 'bodily sanctity'. I.e., of objects consecrated in themselves, and which are offered on the altar; these are irredeemable. The term is opposed to 'monetary consecration,' i.e., objects which are consecrated so that they may be redeemed and their redemption money dedicated to Temple Service. As seen above (p. 105, n. 8), konam is really a form of consecration, and it is here stated that its prohibition is as strong as that which is intrinsically consecrated.

(2) V. Glos.

(3) If one pledges an unblemished animal for repayment of a debt, and then consecrates it, the intrinsic sanctity it acquires liberates it from the bond and the creditor cannot seize it in payment. Similarly, if one pledges leaven to a Gentile, the advent of Passover and the resultant prohibition cancels the pledge, and the Jew is bound to destroy it, like any other leaven. Likewise, if one mortgages a slave and then manumits him, he is released from the pledge, and the creditor cannot take him on payment. Hence, if a woman declares her hands konam, she thereby destroys their pledged character, and the vow is valid.

(4) For according to this the vow is valid even before.

(5) I.e., actually the vow is valid even now, since konam has the force of intrinsic consecration. But should you dispute this, for the Rabbis strengthened the husband's rights, so that not even konam may cancel them, the husband must still annul the vow, lest he divorce her. The objections raised above to the assumption that the vow has after-divorce validity are now inapplicable. Since in fact the vow should be valid immediately, but that the Rabbis, by a special decree, strengthened the husband's rights and rendered it valid, it follows that on divorce the law is restored to its proper basis.

— In Keth. 59b the text reads: ‘the Rabbis strengthened the husband's rights, so that the consecration should not be valid from now’; and the reading of Rashi, Tosaf. and Asheri is the same here too. Cur. edd., however, and also Ran, have the reading as given.

(6) And on these assumptions he annulled the vow.

(7) Num. XXX, 9.

(8) I.e., he must intend to disallow her, not a different person.

Talmud - Mas. Nedarim 87a

But what of the rents [for the dead], concerning which, for . . . for . . . is written, viz., [Then David took hold on his clothes and rent them . . .] for Saul and for Jonathan his son:[1] yet it was taught: If he was informed that his father had died, and he rent [his garments], and then it was discovered that it was his son, he has fulfilled the duty of rending?[2] — I will tell you: there is no difficulty. The one [teaching] refers to an unspecified action; the other to a specified one.[3] And it was taught [likewise]:[4] If he was informed that his father had died, and he rent his garments, and then it was discovered to be his son, he did not fulfil the duty of rending. If he was told that a relation of his had died, and thinking that it was his father, he rent [his garments], and then it was discovered to be his son, he fulfilled the duty of rending.[5] R. Ashi said: The one means [that he realised his error] within the period of an utterance;[6] the other, [that he realised it] after the period of an utterance. ([Thus:] Your ruling that his duty of rending is fulfilled holds good when it is discovered to be his son within the period of an utterance, whilst your ruling that his obligation remains unfulfilled is [if he learnt it] after such period of an utterance.)[7] And it was taught likewise: If one has all invalid in his house, who falls into a swoon and appears to be dead, and he rends his garments, and then he [the invalid] dies, his duty of rending is unfulfilled.[8] Said R. Simeon b. Pazzi in the name of R. Joshua b. Levi on the authority of Bar Kappara. This was taught only if he died after the period of an utterance; but [if he died] within the period of an utterance, he need not rend his garments again.[9] Now, the law is that [that which follows an action] within the period of an utterance is as [though it were simultaneous with] the utterance,[10] except in the case of blasphemy, idolatry, betrothal and divorce.[11]

MISHNAH. IF SHE VOWS, ‘KONAM, IF I TASTE THESE FIGS AND GRAPES, AND HE [THE HUSBAND] CONFIRMS [THE VOW] IN RESPECT OF FIGS, THE WHOLE [VOW] IS CONFIRMED; IF HE ANNULS IT IN RESPECT OF FIGS, IT IS NOT ANNULLED, UNLESS HE ANNULS IN RESPECT OF GRAPES TOO. IF SHE VOWS, ‘KONAM IF I TASTE FIGS’ AND ‘IF I TASTE GRAPES’, THEY ARE TWO DISTINCT VOWS.[12]

GEMARA. Who is the author of our Mishnah? — R. Ishmael. For it was taught: Her husband may confirm it, or her husband may make it void:[13] If she vows, ‘Konam, if I taste these figs and grapes’, and he [the husband] confirms [the vow] in respect of figs, the whole vow is confirmed;

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(1) II Sam. I, 11f. The repetition of ‘for’ implies that he made a rent for each specifically.

(2) Though it appears from the verse quoted that the rent must be for a particular person; the same then should hold good of annulment of vows.

(3) I.e., the Baraitha means that he rent his garment without specifying for whom (v. Tosaf.), but in the Mishnah he explicitly designated the wrong person.

(4) והתניא, v. note 6.

(5) Thus if he had explicitly rent his garments for the wrong person, his obligation is unfulfilled; but not if his error was a mental one only. [Some texts omit the last clause. The Baraitha just cited is thus regarded as contradictory to the first. On this reading והתניא (v. n. 5) introduces a question and is to be rendered ‘But was it not taught’. V. Asheri, 4a.)

(6) I.e., almost immediately after he rent his garments, within the time that it would take to make an utterance, e.g., a greeting, v. Nazir 20b.

(7) [On this reading, which is that of cur. edd., R. Ashi's main object is to reconcile the two Baraithas (v. n. 6), though his distinction in regard to the time when the error was discovered might serve also to explain our Mishnah (Ran). Some texts; however, omit the bracketed passage. On this latter reading R. Ashi's reply is intended solely to reconcile our Mishnah and the first cited Baraitha; v. Asheri, cur. edd. which retain the ‘last clause’ (v. n. 6) and this bracketed passage, present, on the view of Asheri, a conflated text.]

(8) Since he was alive when the garments were rent, that rending is invalid.

(9) So the text as emended by Bah.

(10) Hence cancelling or modifying the action, as the case may be.

(11) If one commits blasphemy or practises idolatry, and immediately, within the period of utterance, retracts, his retraction is unavailing. If a woman accepts kiddushin or a divorce, and immediately thereafter withdraws her consent, such withdrawal is invalid.

(12) And each can be annulled or confirmed without the other.

(13) Num. XXX, 14.

Talmud - Mas. Nedarim 87b

but if he annulled it in respect of figs, it[1] is not annulled, unless he annuls in respect of the grapes too: this is R. Ishmael's opinion. R. Akiba said: Behold, it is written, her husband may [yekimennu] confirm it or her husband may annul it [yeferenu]: just as yekimennu implies mimmennu [part of it],[2] so yeferenu means part thereof.[3] And R. Ishmael?[4] — Is it then written, he shall annul [part] thereof? And R. Akiba?[5] — Annulment is assimilated to confirmation: just as confirmation [denotes a part] thereof, so annulment too [denotes a part] thereof. R. Hiyya b. Abba said in R. Johanan's name: These are the views of R. Ishmael and R. Akiba. But the Sages maintain: Confirmation is assimilated to annulment: just as in the case of annulment, that which he annulled is void, so also in respect to confirmation, that which he confirmed is confirmed.[6]

IF SHE VOWS, ‘KONAM, IF I TASTE FIGS’ [AND ‘IF I TASTE GRAPES, etc.’]. Raba said: Our Mishnah agrees with R. Simeon, who ruled: He must say ‘I swear’ to each one separately.[7]

MISHNAH. [IF THE HUSBAND DECLARES,] ‘I KNOW THAT THERE WERE VOWS, BUT DID NOT KNOW THAT THEY COULD BE ANNULLED’, HE MAY ANNUL THEM [NOW]. [BUT IF HE SAYS:] ‘I KNOW THAT ONE CAN ANNUL, BUT DID NOT KNOW THAT THIS WAS A VOW,’ R. MEIR RULED: HE CANNOT ANNUL IT, WHILST THE SAGES MAINTAIN: HE CAN ANNUL.[8]

GEMARA. But the following contradicts this: [Or if he smote him with any stone, wherewith a man may die,] seeing him not [. . . then the congregation shall restore him to the city of his refuge]:[9] this excludes a blind man;[10] that is R. Judah's view. R. Meir said: It is to include a blind person![11] —

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(1) [a. Either the whole vow; or b. the part he did not annul (Ran); v. p. 270, n. 5.]

(2) Yekimennu is taken as a contraction of yakim mimmenu, ‘he shall confirm part of it’.

(3) Though yeferenu itself cannot bear that meaning, it is nevertheless so rendered by analogy with yekimennu. Hence if he annulled part thereof, the entire vow is annulled.

(4) How does he justify his view?

(5) And how does he dispose of this objection?

(6) On this reading, the Sages regard it as axiomatic that part of a vow can be annulled, and by analogy rule likewise for confirmation. Hence the statement of the Mishnah, that if he annulled the vow in respect of figs it is not annulled, must mean that the vow is not entirely void; the conflict in the Baraitha must also be interpreted on the same lines. But in the Tosefta it appears that if one annulled only part thereof the entire vow remains valid. Consequently the reading of some editions is preferable: But the Sages maintain, just as in the case of annulment, even that part which he annulled is not void, so is confirmation too — even that which he confirmed is not confirmed (Ran).

(7) V. supra p. 211, n. 3; so here too, only if she says ‘If I taste’ for each separately, is it regarded as two distinct vows.

(8) V. supra 79a for notes.

(9) Num. XXXV, 23f.

(10) Who is not exiled to the refuge cities for manslaughter.

(11) In Deut. XIX, 5, it is stated, as when a man goeth into a wood with his neighbour, etc. This implies that the unwitting murderer must have known where his victim was, but that he killed him unintentionally. If, however, he did not know of his presence, the law of exile is inapplicable. Now a blind person does not see his victim, nevertheless, owing to the greater keenness of his other faculties he senses the presence of the victim, though not knowing exactly where he is. R. Judah maintains that the partial knowledge of the blind is regarded as full knowledge, and would be sufficient for the law to operate. Consequently, when Scripture states, ‘seeing him not’, which implies that he might however have seen him, it must teach the exclusion of the blind. R. Meir's view is that partial knowledge is in itself not regarded as complete knowledge; hence, without any verse one would assume that a blind person is excluded. Consequently, ‘seeing him not’ cannot exclude the blind, since for that no verse is necessary, but must be translated, ‘though not seeing him’, i.e., though unable to see him, and the verse extends the law to the blind. Thus this contradicts the Mishnah, for there R. Meir rules that since he possessed the partial knowledge that a husband can annul vows, he is regarded as having possessed the complete knowledge, and therefore cannot annul after the day of hearing. Likewise R. Judah here is opposed to the Sages in the Mishnah, by whom R. Judah is meant, when they are in opposition to R. Meir (Rashi). Ran, Asheri and Tosaf. give different interpretations.

Talmud - Mas. Nedarim 88a

Raba answered: In each case (the ruling follows] from the context.[1] R. Judah reasons: Concerning a murderer it is written, As when a man goeth into a wood with his neighbour, etc.,[2] implying whoever can go into a ‘wood’, and a blind person too can enter a wood. Now, should you say that ‘seeing him not’ teaches the inclusion of the blind, that could be deduced from ‘a wood’. Hence ‘seeing him not’ must exclude the blind. But R. Meir maintains: It is written, [Whoso killeth his neighbour] without knowing,[3] [which implies] whoever that can know, whereas a blind person cannot know. Now, should you say that ‘seeing him not’ excludes the blind, that would follow from, ‘without knowing’. Consequently, ‘seeing him not’ must teach the inclusion of the blind.[4]

MISHNAH. IF A MAN IS UNDER A VOW THAT HIS SON-INLAW SHALL NOT BENEFIT FROM HIM,[5] AND HE DESIRES TO GIVE MONEY TO HIS DAUGHTER, HE MUST SAY TO HER, ‘THIS MONEY IS GIVEN TO YOU AS A GIFT, PROVIDING THAT YOUR HUSBAND HAS NO RIGHTS THEREIN, (FOR ONLY THAT IS YOURS] WHICH YOU MAY PUT TO YOUR PERSONAL USE.’[6]

GEMARA. Rab said: We learnt this only if he says to her, ‘WHICH YOU MAY PUT TO YOUR PERSONAL USE.’ But if he says, ‘Do what you please,’ the husband acquires it.[7] Samuel said: Even if he declares, ‘Do what you please,’ the husband has no rights therein. R. Zera demurred to this:

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(1) So cur. edd. Ran reads: In this case (sc. of a murderer) the ruling follows from the context.

(2) Deut. XIX, 5.

(3) Ibid. 4; i.e., by throwing a stone without knowing where it will fall.

(4) Thus their dispute does not centre on the question whether partial knowledge is as full knowledge or not, and hence has no bearing on our Mishnah.

(5) The text is uncertain.

(6) Lit., ‘put into your mouth.’

(7) For since she is able to put it to any use, her rights are automatically transferred to her husband.

Talmud - Mas. Nedarim 88b

With whom does this ruling of Rab agree? With R. Meir, who said: The hand of a woman is as the hand of her husband.[1] But the following contradicts it: How is a partnership formed in respect of an alley way?[2] One [of the residents] places there a barrel [of wine] and declares, ‘This belongs to all the residents of the alley way': and he transfers ownership to them through his Hebrew slave, male or female, his adult son or daughter, or his wife.[3] But if you say, her husband acquires it, the 'erub[4] has not left the husband's possession?[5] — Raba replied: Although R. Meir said, The hand of a woman is as the hand of her husband, he agrees in respect to 'partnership',[6] that since his object is to transfer it to others, she can acquire it from her husband. Rabina objected before R. Ashi: The following can acquire it on their behalf: his adult son or daughter, his Hebrew slave, male or female. But the following can not acquire it on their behalf: his son or daughter, if minors, his Canaanite slave, male or female, and his wife![7] — But, said R. Ashi, the Mishnah[8] holds good [only] when she possesses a court in that alley way,[9] so that since she can acquire part ownership [in the 'erub] for herself,[10] she can also acquire it on behalf of others.

MISHNAH. BUT EVERY VOW OF A WIDOW AND OF HER THAT IS DIVORCED . . . SHALL STAND AGAINST HER.[11] HOW SO? IF SHE DECLARED, BEHOLD, I WILL BE A NAZIRITE AFTER THIRTY DAYS', EVEN IF SHE MARRIED WITHIN THE THIRTY DAYS, HE CANNOT ANNUL IT.

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(1) I.e., she has no independent rights, v. Kid. 23b.

(2) By a legal fiction a partnership was formed by all the Jewish residents of an alley in respect thereto, that it might rank as a private domain, and carrying therein be permitted on the Sabbath. This was effected by placing in it some food of which all the residents became joint-owners, v. 'Er. 73b.

(3) Who accept it from him on behalf of the residents.

(4) Lit., 'mixture', 'combination', the technical terms for the thing deposited (v. Glos.).

(5) And that law is contained in an anonymous Mishnah, the author of which is R. Meir.

(6) Shittuf. The technical term for the partnership created for the purposes of the Sabbath law.

(7) The reference is the same as above. This shews that the wife, having no powers of acquisition apart from her husband, cannot be the medium of transference, and thus contradicts the Mishnah just quoted. This difficulty arises in any case, but Rabina adduces it here to refute the distinction posited by Raba.

(8) In 'Er.

(9) E.g., if she had inherited it before marriage, and the groom had written a deed renouncing all rights therein.

(10) Because that is in the husband's own interest, for carrying is forbidden in the alley unless every resident — and the wife ranks as one in her own rights, since she possesses a court — is part owner of the 'erub, whereas the other teaching (a Baraitha) refers to the case where she has no court of her own.

(11) Num. XXX, 10.

Talmud - Mas. Nedarim 89a

IF SHE VOWS WHILE UNDER HER HUSBAND'S AUTHORITY, HE CAN DISALLOW HER. HOW SO? IF SHE DECLARED, 'BEHOLD! I WILL BE A NAZIRITE AFTER THIRTY DAYS,' [AND HER HUSBAND ANNULLED IT], EVEN THOUGH SHE WAS WIDOWED OR DIVORCED WITHIN THE THIRTY DAYS, IT IS ANNULLED. IF SHE VOWED ON ONE DAY, AND HE DIVORCED HER ON THE SAME DAY AND TOOK HER BACK ON THE SAME DAY, HE CANNOT ANNUL IT. THIS IS THE GENERAL. RULE: ONCE SHE HAS GONE FORTH AS HER OWN MISTRESS [EVEN] FOR A SINGLE HOUR, HE CANNOT ANNUL.

GEMARA. It was taught: If a widow or a divorced woman declares, 'Behold! I will be a nazirite when I marry,' and she marries, — R. Ishmael said: He [the husband] can annul. R. Akiba ruled: He cannot annul. (And the mnemonic is Yelaly).[1] If a married woman declares, 'Behold! I will be a nazirite when I am divorced,' and she is divorced: R. Ishmael ruled: He cannot annul;[2] R. Akiba said: He can annul.[3] R. Ishmael argued: Behold, it is said, But every vow of a widow, and of her that is divorced . . . shall stand against her,[4] implying that the [incidence of] the vow must be in the period of widowhood or divorce.[5] [But] R. Akiba maintains: It is written, with whatever she hath bound her soul,[4] implying that the binding of the vow must be [created] in the period of widowhood or divorce.[6]

R. Hisda said: Our Mishnah agrees with R. Akiba.[7] Abaye said: It may agree even with R. Ishmael: in the Mishnah she made herself dependent upon a time factor; the period may end without her being divorced or the period may end without her being married;[8] but in the Baraitha she made the vow dependent upon marriage.[9]

‘This is the general rule,’ taught with respect to a betrothed maiden,[10] is to extend the law to where the father accompanied the [betrothed] husband's messengers, or the father's messengers accompanied the [betrothed] husband's messengers, — that in the case of a betrothed maiden her vows are annulled by her father and husband.[11] ‘THIS IS THE GENERAL RULE,’ taught in the chapter,[12] ‘Now these are the vows,’ is meant to extend [the law] to where the father delivered her to her [betrothed] husband's messengers, or where the father's agents delivered her to the messengers of the [betrothed] husband, [and it teaches] that the husband cannot annul [vows] made [by her] previously.[13]

MISHNAH. THERE ARE NINE MAIDENS WHOSE VOWS[14] STAND:[15] [i] A BOGERETH WHO [VOWED] AND IS AN ORPHAN;[16] [ii] A MAIDEN [WHO VOWED] AND [THEN] BECAME A BOGERETH AND IS AN ORPHAN;

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(1) I.e., in the clause just quoted, R. Ishmael rules Yafer, he may annul; R. Akiba: Lo yafer, he cannot annul. In the next clause it is the reverse, R. Ishmael says, Lo Yafer; and R. Akiba: Yafer.

(2) The husband's annulment whilst she is married is invalid after divorce.

(3) Thus in both cases R. Ishmael maintains that the woman's status when the vow is to take effect is the deciding factor, and R. Akiba holds that it depends on her status when she vows.

(4) Num. XXX, 10.

(5) And that in that case it ‘shall stand against her’, i.e., it cannot be annulled, proving that the incidence of the vow is what matters.

(6) I.e., that she makes the vow then, and that in that case her husband cannot annul.

(7) Since in both clauses of the Mishnah the matter is determined by the time when the vow was made.

(8) Adopting the reading of Bah. v. Ran.

(9) If she is unmarried, and vows to be a nazirite when she marries, there must he a change of status between the making of the vow and its incidence; in that case R. Ishmael rules that we regard the latter. But if she merely postpones the incidence of the vow, she may bear the same status when the vow becomes operative as when it is made; there R. Ishmael may admit that we regard the time of making the vow.

(10) Supra 71a. Whenever a general rule is stated, it is always meant to add to the specific case actually given.

(11) When the father gives over his daughter to the messengers of the husband to escort her to her new home, she is regarded as a nesu'ah, and has passed out of her father's authority. But if he or his messengers accompany her, together with her husband's messengers, she is yet under his authority, and he still shares the power to annul with her husband. On this home-taking ceremony v. Keth. 48b.

(12) I.e., in the present Mishnah, which forms part of Chapter XI.

(13) I.e., vows made before her homecoming. Having passed out of her father's authority, (v. n. 2) she is her own mistress until she enters her husband's home, and if she vowed in the interval, he cannot annul.

(14) ‘Maidens’ is not used here in the restricted sense of na'arah, but means girls and women in general who were betrothed while still in the stage of na'arah.

(15) I.e., they cannot be annulled.

(16) The reference is to ‘an orphan during her father's lifetime,’ i.e., one who was married with nissu'in, and then widowed or divorced. Even if she is still a minor, her father no longer has any authority over her, so she is called ‘an orphan during her father's lifetime.’

Talmud - Mas. Nedarim 89b

[iii] A NA'ARAH WHO IS NOT YET A BOGERETH, AND IS AN ORPHAN;[1] [iv] A BOGERETH [WHO VOWED] AND WHOSE FATHER DIED;[2] [v] A NA'ARAH [WHO VOWED] AND IS NOW A BOGERETH AND WHOSE FATHER DIED;[2] [vi] A NA'ARAH WHO IS NOT YET A BOGERETH AND WHOSE FATHER DIED; [vii] A MAIDEN WHOSE FATHER DIED, AND AFTER HER FATHER DIED SHE BECAME A BOGERETH;[3] [viii] A BOGERETH[4] WHOSE FATHER IS ALIVE; [ix] A MAIDEN TURNED BOGERETH, WHOSE FATHER IS ALIVE.[5] R. JUDAH SAID: ALSO ONE WHO MARRIED HIS DAUGHTER WHILST A MINOR, AND SHE WAS WIDOWED OR DIVORCED AND RETURNED TO HIM [HER FATHER] AND IS STILL A NA'ARAH.

GEMARA. Rab Judah said in Rab's name: These are the words of R. Judah. But the Sages say: The vows of three maidens stand: [i] a bogereth; [ii] an orphan; and [iii] an orphan during her father's lifetime.[6]

MISHNAH. [IF SHE VOWS,] ‘KONAM THAT I BENEFIT NOT FROM MY FATHER OR YOUR FATHER IF I PREPARE AUGHT FOR YOU,’[7] OR, ‘KONAM THAT I BENEFIT NOT FROM YOU, IF I PREPARE AUGHT FOR MY FATHER OR YOUR FATHER,’ HE CAN ANNUL.

GEMARA. It was taught: [If she vows, ‘Konam] that I benefit not from my father or your father, if I prepare aught for you,’ — R. Nathan said: He cannot annul;[8] the Sages maintain: He can annul.[9] ‘May I be removed from Jews,[10] if I minister to you,’ — R. Nathan said: He cannot annul: the Sages rule: He can annul.

A man once vowed not to benefit from the world if he should marry before having studied halachah:[11] he ran with ladder and cord,[12] yet did not succeed in his studies. Thereupon R. Aha son of R. Huna came and led him into error,[13] and caused him to marry;

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(1) So Asheri: A na'arah who vowed before becoming a bogereth, and was orphaned (and is still not a bogereth). [These three belong to the group of maidens whose vows cannot be annulled because they are orphans (as defined).]

(2) [She made a vow as na'arah, lost her father and is still a na'arah. These three belong to the group of maidens whose vows cannot be annulled because they have no fathers.]

(3) [She lost her father, vowed, and then became a bogereth.]

(4) I.e., who vowed as a bogereth.

(5) I.e., who vowed as a na'arah, but comes to enquire about annulment when she is a bogereth. [These three belong to the group of maidens whose vows cannot be annulled because they have reached the status of bogereth.]

(6) V. p. 275, n. 7. There is actually no conflict, R. Judah's nine being included in the Sages’ three. R. Judah's enumeration is merely in greater detail, and intended to sharpen his disciples’ minds (T. J. a.l.).

(7) Lit., ‘for thy mouth’.

(8) He does not regard it as a vow of self-denial, for she can refrain from doing anything for her husband.

(9) Since she is in duty bound to serve her husband.

(10) Cf. p. 279, n. 7.

(11) Laws. For a discussion of the full meaning of the term halachah v. Weiss, Dor. I, 70.

(12) גפא is the ladder by which one ascends the palm tree to gather its dates; תובילא is the cord whereby its branches are pulled down, to facilitate gathering whilst one stands on the ground. — The expression is metaphorical: he made every possible effort.

(13) By making him believe that if he married the vow would not be valid.

Talmud - Mas. Nedarim 90a

then daubed him with clay[1] and brought him before R. Hisda.[2] Said Raba: Who is so wise as to do such a thing if not R. Aha son of R. Huna, who is [indeed] a great man? For he maintains: Just as the

Rabbis and R. Nathan disagree in reference to annulment, so also with respect to absolution.[3] But R. Papi said: The disagreement is only in respect to annulment, R. Nathan holding that the husband cannot annul unless the vow has already become operative, for it is written, Then the moon shall be confounded;[4] whilst the Rabbis maintain: The husband can annul even before the vow takes effect, as it is written, He maketh void the intentions of the crafty.[5] But as for absolution, all agree that a Sage cannot permit anything until the vow is operative, for it is written, He shall not break his word.[6]

Shall we say that the following supports him? [If he vows,] ‘Konam that I benefit not from So-and-so, and from anyone from whom I may obtain absolution for him,’ he must obtain absolution in respect of the first, and then obtain absolution in respect of the second.[7] But if you say, absolution may be granted even before the vow takes effect, surely he can be absolved in whatever order he pleases![8] — And who knows whether this one is first and that the other is the second?[9]

Shall we say that this supports him: [If he vows,] ‘Konam that I benefit not from So-and-so, and behold! I will be a nazirite if I be absolved therefrom’; he must be absolved of his vow, and then of his naziriteship.[10] But if you say, absolution may be granted before the vow takes effect, if he wishes, let him first be absolved of his vow; and if he wishes, let him first be absolved of being a nazirite? — This agrees with R. Nathan.[11]

Rabina said: Meremar told me: Thus did your father say in R. Papi's name: The controversy is only in reference to annulment, but in respect to absolution all agree that he [the Sage] may grant it even before the vow is operative,[12] because it is written, ‘He shall not break his word,’

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(1) I.e., his garments. To show him that the services of other people were indispensable: he would straightway need someone to clean his garments (Ran).

(2) For absolution.

(3) V. supra 89b. R. Nathan maintains that since the vow is not yet operative, he cannot annul, whilst the Rabbis hold that he can annul it though as yet inoperative. So with reference to absolution: in R. Nathan's view, one can be absolved from his vow only when it is in effect etc. For that reason he caused him to marry first, and did not have the vow annulled immediately.

(4) Isa. XXIV, 23; Heb. וחפרה הלבנה. This is merely quoted as a sign. וחפרה is similar to והפרה (and he shall disallow her), whilst הלבנה is connected with בנה to build, and thus, by a play on words, the phrase is translated: and he shall disallow her, when the edifice (of the vow) be erected, i.e., when the vow is operative, but not before. [It is however omitted from MS.M.]

(5) Job V, 12, i.e., even when a vow is as yet merely an intention, not having taken effect, it can be annulled.

(6) Num. XXX, 3: Rashi translates: he (the Rabbi) shall not break (i.e., grant absolution for) his vow, i.e., as long as it is only a word, which has not yet taken effect. Asheri observes: from this we deduce, he (who vowed) may not break his word, but another (sc. a Sage) may break it, i.e., grant absolution, but that is only when ‘he must do according to all that proceedeth out of his mouth,’ viz., when the vow is operative.

(7) I.e., the Sages who became subject to the vow on account of having granted absolution.

(8) Lit., ‘if he wishes, he can be absolved of this one first, and if he wishes, he can be absolved of the other first.’ — Thus this supports R. Papa's contention.

(9) I.e., indeed that is so: ‘first’ and ‘second’ need not refer to the order in which he vowed, but to the order of absolution.

(10) Here it is explicitly stated that be can only be absolved of being a nazirite after absolution of his vow, when his conditional vow to be a nazirite has taken effect.

(11) I.e., R. Abba b. R. Huna may be correct in asserting that this is a matter of dispute, and this Baraitha is taught according to R. Nathan.

(12) The reverse of what was said above.

Talmud - Mas. Nedarim 90b

intimating that no act had yet taken place.[1]

An objection is raised: [If he vows,] ‘Konam that I benefit not from So-and-so, and from anyone from whom I obtain absolution for him’; he must be absolved in respect of the first, and then obtain absolution in respect of the second. But why so? Let him be absolved in whichever order he pleases![2] — Who knows which one is first or which one is second?[3]

An objection is raised: [If he vows,] ‘Konam that I benefit not from So-and-so, and behold! I will be a nazirite if I be absolved therefrom’: he must be absolved of his vow, and then of his naziriteship. But why so? If he wishes, let him first be absolved of his vow, and if he wishes, let him first be absolved of being a nazirite! This is indeed a refutation.

MISHNAH. AT FIRST IT WAS RULED THAT THREE WOMEN MUST BE DIVORCED AND RECEIVE THEIR KETHUBAH:[4] SHE WHO DECLARES: I AM DEFILED TO YOU’;[5] OR ‘HEAVEN IS BETWEEN YOU AND ME’;[6] AND ‘MAY I BE REMOVED FROM JEWS.’[7] BUT SUBSEQUENTLY, TO PREVENT HER FROM CONCEIVING A PASSION FOR ANOTHER[8] TO THE INJURY OF HER HUSBAND,[9] THE RULING WAS AMENDED THUS: SHE WHO DECLARED, ‘I AM DEFILED UNTO YOU,’ MUST BRING PROOF: ‘HEAVEN IS BETWEEN ME AND YOU’ — THEY SHOULD ENGAGE IN PRAYER,[10] AND ‘MAY I BE REMOVED FROM JEWS’ — HE [THE HUSBAND] MUST ANNUL HIS PORTION,[11] AND SHE SHALL MINISTER TO HIM, WHILST REMAINING REMOVED FROM JEWS.

GEMARA. The scholars propounded: If she declared to her husband, ‘I am defiled to you,’[12] may she eat of terumah?[13] — R. Shesheth ruled: She may eat thereof, so as not to cast a stigma upon her children.[14] Raba said: She may not eat, for she can eat hullin.[15] Raba said: Yet R. Shesheth admits that if she was widowed,[16] she may not eat: is his reason aught but that she should not cast a stigma upon her children? But if she was widowed or divorced [and she ceases to eat of terumah], it will be said, It is only now that she was seduced.[17]

R. Papa said, Raba tested us: If the wife of a priest was forcibly ravished,[18] does she receive her Kethubah or not? Since forcible seduction in respect to a priest is as voluntary infidelity in respect to an Israelite, she does not receive her Kethubah;[19] or perhaps she can plead, ‘I personally am fit;[20]

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(1) V. p. 278, n. 2; the vow was not yet operative, and we deduce that the Sage can cause him, by absolution, to break his word. So Ran. Rashi: thus asserting that the act (sc. of R. Abba b. R. Huna, v. 89b end) was unnecessary.

(2) V. p. 278, n. 4.

(3) V. p. 278, n. 5.

(4) V. Glos.

(5) I.e., unfaithful.

(6) I.e., her husband is impotent — a thing that, apart from herself, can be known only to Heaven.

(7) Including her own husband. By this vow she shewed that cohabitation was unbearable to her, and therefore could demand to be divorced and receive her Kethubah.

(8) Lit., ‘casting her eyes at another man.’

(9) [מקלקלת על בעלה. A difficult phrase. According to the rendering adopted, the meaning is: She will purposely make one of these declarations in order to obtain her freedom against his will. Ran explains: She may go to a place where nothing is known of her vow and marry there. He seemed to have taken this phrase as denoting: She will act unseemly (whilst still) with her husband, and as referring only to the declaration ‘May I be removed from Jews’.]

(10) That his impotency might cease (Tosaf.) [Lit., ‘They should act by way of a request’. Ran: attempts should be made to placate the wife. Rashi: the husband should be asked to agree to a divorce.]

(11) I.e., as far as he personally is concerned.

(12) This refers to the wife of a priest.

(13) If it is true, she certainly must not. Yet the Mishnah in its second recession ruled that she must first prove it. Now the question arises, Do we disbelieve her in all respects, in which case she may eat of terumah, or only in respect of a divorce?

(14) If she refrains, it will be assumed that she told the truth, in which case her children may be bastards.

(15) None will observe that she consistently refrains from eating terumah and no aspersions will be cast upon her children.

(16) Rashi and Tosaf. read: or divorced.

(17) Thus her refraining leaves the honour of her children unaffected.

(18) If the wife of an Israelite is seduced: if voluntarily, she becomes forbidden to him; if forcibly, she remains permitted. But the wife of a priest is forbidden in both cases.

(19) As is the case of an Israelite's wife who committed adultery of her own free will.

(20) Having been forcibly ravished, she has committed no wrong.

Talmud - Mas. Nedarim 91a

it is only the man whose field has been ruined?'[1] And we answered him, It is [taught in] our Mishnah: (SHE WHO DECLARES,] 'I AM DEFILED TO YOU,' RECEIVES HER KETHUBAH. Now to whom does this refer? Shall we say, to the wife of an Israelite: If of her own free will, does she receive her Kethubah? Whilst if by force, is she forbidden to her husband?[2] Hence it must refer to the wife of a priest: now, if of her own free will, does she receive the Kethubah? Is she of less account[3] than the wife of an Israelite, [who sinned] voluntarily? Hence it must surely mean by force; and it is stated that she receives her Kethubah.

The scholars propounded: What if she declares to her husband, 'You have divorced me'?[4] — R. Hamnuna said: Come and hear: SHE WHO DECLARES, 'I AM DEFIled TO YOU': Now even according to the later Mishnah,[5] which teaches that she is not believed, it is [only] there that she may lie, in the knowledge that her husband does not know;[6] but with respect to 'You have divorced me,' of [the truth of] which he must know, she is believed, for there is a presumption [that] no woman is brazen in the presence of her husband.[7] Said Raba to him: On the contrary. even according to the first Mishnah, that she is believed, it is [only] there, because she would not expose herself to shame;[8] but here it may happen that she is stronger [in character] than her husband,[9] and so indeed be brazen.

R. Mesharsheya objected: 'HEAVEN IS BETWEEN ME AND YOU,' as ruled by the early Mishnah, refutes Raba's view; for here it involves no shame for her, yet it is stated that she is believed? — Raba holds that there, since she cannot avoid declaring whether the emission is forceful or not, were it not as she said, she would not make the charge.[10]

But let 'HEAVEN IS BETWEEN US,' as ruled by the later Mishnah, refute R. Hamnuna's view, for here she knows that her husband knows,[11] yet it is taught that she is not believed? — R. Hamnuna maintains that here too she would argue to herself, 'Granted that he knows that cohabitation has taken place, does he know whether the emission is forceful'?[12] Therefore she may be lying.

A certain woman was accustomed to rise [in the morning] and wash her husband's hands whenever intimacy had taken place. One day she brought him water to wash. 'But,' exclaimed he, 'nothing has taken place to-day'! 'If so,' she rejoined, [it must have been] 'one of the gentile

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(1) I.e., it is his sanctity, not my wrong-doing, that prohibits me to him.

(2) Surely not! and there is no need to divorce her.

(3) I.e., is her sin of less account?

(4) Is she believed in spite of his denial, or may it be a ruse to gain her freedom?

(5) I.e., the Mishnah as it was subsequently amended.

(6) Whether her statement is true.

(7) I.e., she would not be brazen enough to tell such a lie in his presence, wherefore she is believed.

(8) If she had not actually been ravished.

(9) So Ran. Rashi: her husband might have ill-treated her; she has conceived a strong passion for (another) man.

(10) I.e., since it is a charge of extreme delicacy and unpleasantness, she would not make it if it were untrue.

(11) Whether the charge is true or not.

(12) Surely not, for only the woman can feel that.

Talmud - Mas. Nedarim 91b

perfume sellers[1] who were here to-day; if not you, perhaps it was one of them.' Said R. Nahman: She had conceived a passion for another, and her declaration has no substance.[2]

A certain woman shewed displeasure with her husband. Said he to her, 'Why this change now?' She replied, 'You have never caused me so much pain through intimacy as to-day.' 'But there has been none to-day!' he exclaimed. 'If so,' she returned, [it must have been] 'the gentile naphtha sellers who were here to-day; if not you, perhaps it was one of them.' Said R. Nahman: Disregard her; she had conceived a passion for another.

A certain man was closeted in a house with a [married] woman. Hearing the master [her husband] entering, the adulterer broke through a hedge and fled.[3] Said Raba: The wife is permitted; had he committed wrong, he would have hidden himself [in the house].[4]

A certain adulterer visited a woman. Her husband came, whereupon the lover went and placed himself behind a curtain before the door.[5] Now, some cress was lying there, and a snake [came and ate] thereof; the master [her husband] was about to eat of the cress, unknown to his wife. 'Do not eat it,' warned the lover, 'because a snake has tasted it.' Said Raba: The wife is permitted: had he committed wrong, he would have been pleased that he should eat thereof and die, as it is written, For they have committed adultery, and blood is in their hands.[6] Surely that is obvious? — I might think that he had committed wrong, and as for his warning, that is because he prefers the husband not to die, so that his wife may be to him as stolen waters are sweet, and bread eaten in secret is pleasant;[7] therefore he teaches otherwise.

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(1) Lit., 'dealers in aloe'.

(2) I.e., she is disbelieved. The reference here is to the wife of a priest; v. p. 280, n. 9. For if she were the wife of an Israelite, she would not be forbidden to him even if it were true. Ran.

(3) [In the presence of the husband ('Aruch).]

(4) That the husband should remain in ignorance of his presence.

(5) So Ran. 'Aruch: and placed himself in a concealed arch by the gate.

(6) Ezek. XXIII, 37.

(7) Prov. IX, 17. Though this Tractate ends with a number of stories referring to adultery, these are not to be taken as reflecting general conditions. The strong opposition to unchastity displayed by the Prophets and the Rabbis, as well as the practice of early marriage, would have conduced to higher moral standards. V. J.E. art. 'Chastity'.

Talmud - Mas. Nazir 2a

CHAPTER I

MISHNAH. ALL THE SUBSTITUTES FOR THE NAZIRITE VOW[1] ARE EQUIVALENT TO NAZIRITE VOWS. IF A MAN SAYS, ‘I SHALL BE [ONE].’ HE BECOMES A NAZIRITE. [IF HE SAYS.] ‘I SHALL BE COMELY, A NAZIRITE, A NAZIK,[2] A NAZIAH[2] A PAZIAH. HE BECOMES A NAZIRITE. [IF HE SAYS.] ‘I INTEND TO BE LIKE THIS,’ OR ‘I INTEND TO CURL [MY HAIR].’ OR ‘I MEAN TO TEND [MY HAIR].’ OR ‘I UNDERTAKE TO DEVELOP TRESSES,’ HE BECOMES A NAZIRITE. [IF HE SAYS.] ‘I TAKE UPON MYSELF [AN OBLIGATION INVOLVING] BIRDS,’ R. MEIR SAYS HE BECOMES A NAZIRITE, BUT THE SAGES SAY HE DOES NOT BECOME A NAZIRITE.

GEMARA. Seeing that the Tanna[3] is teaching the order Nashim,[4] why does he speak of the nazirite? — The Tanna had in mind the scriptural verse, Then it cometh to pass if she find no favour in his eyes, because he hath found some unseemly thing in her,[5] and he reasons thus. What was the cause of the woman's infidelity? Wine. Further, he proceeds, whosoever sees an unfaithful wife in her degradation[6] will take a nazirite's vow and abjure wine.[7]

[How is it that in enunciating the general rule,[8] the Mishnah] mentions first ‘substitutes’ and then gives examples of ‘allusions’?[9] — Raba, others say Kadi,[10] said: There is a hiatus [in the Mishnah] and it should read as follows: ‘All the substitutes for the nazirite vow are equivalent to nazirite vows, and all allusions to the nazirite vow are equivalent to nazirite vows. The following are allusions. If a man says.I shall be [one]." he becomes a nazirite [etc.].’ Ought not then the substitutes to be enumerated first?[11] — It is customary for the Tanna to explain first what he mentions last. Thus we learn: With what materials may [the Sabbath lamp] be kindled, and with what may it not be kindled?[12] and the exposition begins: It is forbidden to kindle etc. [Again, we learn:] With what materials may [hot victuals] be covered [on the Sabbath,][13] and with what may they not be covered?[14] and the exposition begins: It is forbidden to cover etc. [Again:] What may a woman ‘wear when she goes out [on the Sabbath], and what may she not wear when she goes out?[15] and the exposition begins: She must not go out etc.

But have we not learnt: With what trappings may an animal go out [on the Sabbath]. and with what may it not go out?[16] whilst the exposition begins: The camel may go out etc.; [and again:] Some both inherit and bequeath,[17] and some inherit but do not bequeath. Some bequeath and do not inherit, and some neither inherit nor bequeath,[18] whilst the exposition begins: The following both inherit and bequeath? The truth is that the Tanna adopts sometimes one method and sometimes the other, [according to circumstances]. In the first set of cases adduced, because the prohibition is a personal one,[19] this personal prohibition is expounded first. On the other hand, in the case of the animal, since the prohibition arises primarily through the animal,[20] those things which are permitted are mentioned first.

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(1) V. Num. VI, 2-22.

(2) These ‘substitutes’ are mutilations of the Hebrew word nazir. Cf. Ned. 10b.

(3) v. Glos.

(4) Nashim, the third of the six orders of the Mishnah contains the laws pertaining to women. The inclusion of the nazirite regulations appears at first sight incongruous.

(5) Deut. XXIV, 1. The verse is quoted in the concluding paragraph of M. Gittin. This suggests that the order of the treatises assumed was Gittin, Nazir, Sotah, the order of the Jerusalem Talmud. In Sot. 2a, a different reason is given assuming the order of the Babylonian Talmud, viz.: — Nedarim, Nazir, Sotah. V. however Tosaf. s.v. מאי

(6) Cf. Num. v, 11-31.

(7) For this reason Nazir is followed by Sotah.

(8) I.e., all the substitutes for the nazirite vow, etc.

(9) Viz., ‘I shall be one’ etc. Allusions, Heb. yadoth; lit., ‘handles’, phrases suggesting the nazirite's vow.

(10) Aliter, others quote the statement anonymously.

(11) Cf. Ned. 2bff

(12) Shah. 20b.

(13) To retain their warmth.

(14) Ibid. 47b.

(15) Ibid. 57a.

(16) Ibid. 52b.

(17) I.e., to those from ‘whom they inherit.

(18) B.B. 108a.

(19) He himself is forbidden to do the action.

(20) He may not allow the animal to wear the trappings.

Talmud - Mas. Nazir 2b

With inheritance, again. the basic type of inheritance is dealt with first. Granted all this, [in the case of the nazirite vow] why should not the substitutes be enumerated first? — There is a special reason, viz., that [the rule regarding the efficacy of] the allusions is derived [from the scriptural text] by a process of inference[1] and therefore the Tanna set a special value on it. Then why does he not mention them first? — For opening the subject the Tanna prefers to mention the basic type of vow,[2] but in his exposition, he illustrates the allusions first.

IF A MAN SAYS I SHALL BE [ONE].’ HE BECOMES A NAZIRITE. But might he not mean, ‘I shall keep a fast day’?[3] — Samuel said: We must suppose that a nazirite is passing by [when he makes this declaration]. Are we to infer from this that Samuel is of the opinion that allusions, the significance of which is not manifest,[4] have not the force of a direct statement?[5] — Let me explain. [What Samuel means is that] if a nazirite is passing by, there is no reason to suspect a different intention,[6] but without question, if no nazirite is passing by, we say that he might mean, ‘I shall keep a fast day.’[7] But perhaps his purpose was to free the other from his sacrifices?[8] — [We presume it to be known] that he added mentally [‘a nazirite’]. If so, it is surely obvious [that he becomes a nazirite]? It might be thought that we require his utterance and his intention to coincide, and so we are told [that this is not so].

I SHALL BE COMELY .. . HE BECOMES A NAZIRITE. Perhaps he means, ‘l shall be comely before Him in [the performance of] precepts. as has been taught: [The verse]. This is my God and I will glorify[9] Him[10] means, I will glorify Him in [the performance of] precepts; I shall build an attractive booth,[11] procure a faultless palm-branch.[11] wear elegant fringes, write a mangificent Scroll of the Law and provide it with wrappings of choicest silk? — Samuel said: [We assume that] he takes hold of his hair[12] when he says, ‘I shall be comely.’

[Seeing that to become] a nazirite is in a way a sin,[13] can it be termed comely? —

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(1) They are not mentioned explicitly, but are inferred from the redundant sequence of references to the Nazirite vow in Num,. VI, 2. V. Ned. 3a.

(2) Heb. ‘Korban’, ‘sacrifice’, the generic term for every kind of vow. The ‘substitutes’ are considered essential forms of the vow, the ‘allusions’ subsidiary forms.

(3) Lit., ‘I shall be in a fast’.

(4) As would be the case if a nazirite did not pass by at the time.

(5) Kid. 5a reports Samuel as holding the opposite.

(6) [Although the allusion is not particularly manifest, in accordance with Samuel's view, in Kid. loc. cit. Cf. Asheri.]

(7) And in the absence of an allusion of any likely significance, there is no obligation at all. Cf. Asheri.

(8) I.e., defray their cost. His meaning would then be, ‘I shall be in his place for the purpose of offering his sacrifices;’ cf. Num,. VI, 14ff..

(9) ‘Glorify’ and ‘comely’ are from the same Hebrew root.

(10) Ex. XV, 2.

(11) For the Feast of Tabernacles. Cf. Lev. XXIII, 42 and 40.

(12) And so the reference is to the naziriteship, when his hair would grow long.

(13) Because he denies himself that which the Torah has permitted.

Talmud - Mas. Nazir 3a

Yes. For even R. Eliezer ha-Kappar who says that a nazirite is accounted a sinner, means only the nazirite who has contracted ritual impurity; for, since he must nullify [his previous abstinence][1] in accordance with the rule laid down by the Merciful One, But the former days shall be void, because his consecration was defiled,[2] there is a danger that he may break his nazirite vow.[3] But a nazirite who remains ritually clean is not termed a sinner.[4]

I INTEND TO BE LIKE THIS: Granted that he takes hold of his hair, he does not say ‘I intend to be through this,’[5] [but only ‘like this’]? — Samuel said: We suppose that a nazirite is passing by at the time.

I INTEND TO CURL[6] [MY HAIR]. How do we know that this [word MESALSEL] refers to the curling of the hair? — From a remark made by a maidservant[7] of Rabbi's household, who said to a certain man: How much longer are you going to curl [mesalsel] your hair? But perhaps [it refers to] the Torah[8] in accordance with the verse, Extol her [salseleha] and she will exalt thee?[9] — Samuel said: Here, too, we suppose that he takes hold of his hair.

I MEAN TO TEND[10] [MY HAIR]. How do we know that this [word MEKALKEL] refers to the tending of his hair? — From what we learnt: ‘With regard to orpiment.[11] R. Judah said that there must be sufficient to depilate the kilkul,’[12] and Rab commented: [This means the hair of] one of the temples.[13] But might it not mean tending the poor. in accordance with the verse, And Joseph sustained [wa-yekalkel] his father and his brothers?[14] — Samuel said: Here too. we assume that he takes hold of his hair.

I UNDERTAKE TO DEVELOP[15] TRESSES,’[16] HE BECOMES A NAZIRITE. How do we know that this [word] shilluah signifies increase? — From the verse, Thy shoots [shelohayik] are a park of pomegranates.[17] But perhaps it has the significance of ‘removal’[18] in accordance with the verse, And sendeth [we-sholeah] waters upon the fields?[19] — The occurrence of the word pera’ [tresses] in connection with the nazirite gives the tanna the clue. It says here, He shall be holy. he shall let the locks [pera’] grow long.[20] and it says elsewhere regarding an ordinary priest,[21] Nor’ suffer their locks [pera’] to grow long [yeshallehu].[22] Alternatively, we can say that the sholeah used of water,[23] also signifies increase,[24] for when produce is watered it shoots up.

[IF HE SAYS] ‘I TAKE UPON MYSELF [AN OBLIGATION INVOLVING] BIRDS,’ R. MEIR SAYS HE BECOMES A NAZIRITE. What is R. Meir's reason? — Resh Lakish said: [In making this vow] he has in mind the birds that are coupled with hair in the scriptural verse, Till his hair was grown long like eagles’ feathers, and his nails like birds’ claws.[25] R. Meir is of the opinion that a man will refer to one thing when he means something else occurring in the same context,[26]

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(1) The period which elapsed before he became unclean.

(2) Num. VI, 22.

(3) He may not be able to control his desire for wine for the longer period.

(4) Cf. infra 29a, where the opposite is asserted.

(5) The text is uncertain. The meaning would apparently be: I intend to discipline myself through my hair, reading בזה instead of כזה in cur. edd.
(6) Heb. mesalsel.
(7) This maidservant always spoke Hebrew, v. Meg. 28a.
(8) I.e., he vows to engage in the study of Torah.
(9) Prov. IV, 8.
(10) Heb. mekalkel.
(11) Heb. sid, usually lime, here orpiment, used as a depilatory.
(12) The transference of this amount from a private to a public domain on the Sabbath constitutes an indictable offence.
(13) Shah. 80b.
(14) Gen. XLVII, 12.
(15) Heb. leshaleah.
(16) Heb. pera’.
(17) Cant. IV, 13.
(18) I.e., he vows to remove his hair.
(19) Job V, 10. I.e. transports the waters from field to field (cf. the context).
(20) Num. VI, 5.
(21) I.e., not the High Priest, who is subject to stricter regulations. V. Sanh. 22b.
(22) Ezek. XLIV, 20. In Sanh. 22b this same comparison is made to show that pera’ means a growth of thirty days’ duration (the normal duration of a nazirite vow). Thus whether shilluah means ‘grow’ or remove’, the nazirite vow is implicit in the word pera’.
(23) In the verse of Job.
(24) [Cur. edd. add in brackets, ‘as R. Joseph translated,’ referring to the Targum on the Prophets ascribed to R. Joseph. V. B.K. (Sonc. ed.) p. 9, n. 9. The reading that follows is, however, not found in our Targum.]
(25) Dan. IV, 30. It is assumed that he takes hold of his hair, or a nazirite is passing by (Rashi). Cf. below.
(26) Lit., ‘he is seized by what is close to it.’ E.g., here, he says ‘birds’ when he means ‘hair’.

Talmud - Mas. Nazir 3b

whilst the Rabbis are of the opinion that a man will not refer to one thing when he means another. R. Johanan said: Both [R. Meir and the Rabbis] are agreed that a man will not refer to one thing etc.,[1] and R. Meir's reason is that we take account of the possibility that what he had undertaken was to bring the birds of a ritually unclean nazirite.[2]

But if we are to take [possible meanings] into account, why should we not say that he was undertaking [to bring] a free will offering of birds? — in that event, he would have said, ‘I undertake to bring a nest.’[3]

But perhaps he meant: I undertake [to bring] the birds of a leper?[4] — We must suppose that a nazirite passes by at the time. But perhaps it was a ritually unclean nazirite and he desired to free him from his [obligatory] sacrifices? — We must suppose that a ritually clean nazirite passes by at the time.[5]

What [practical] difference is there between them?[6] — There would be a difference [for example] if he should say: I take upon myself [an obligation involving] the birds mentioned in the same context as hair. According to R. Johanan, notwithstanding that he says this, he becomes a nazirite if one is passing at the time, but not otherwise;[7] whereas according to R. Simeon b. Lakish, even though no nazirite passes by at the time [he becomes a nazirite].[8] But is there any authority who disputes that a man may refer to one thing and mean another occurring in the same context? Has it not been taught: If a man says, ‘[By] my right hand,’ it is accounted an oath.[9] Now, surely the reason for this is the verse, When he lifted up his right hand and his left hand unto heaven, and swore by Him who liveth for ever?[10] — Not so. It is because the expression ‘[By my] right hand,’ is itself an oath, as it has been taught: How do we know that if a man says. ‘[By] my right hand,’ it is accounted an oath? From the verse, The Lord hath sworn by his right hand.[11] And how do we know that if a man says. ‘By my left hand,’ it is accounted an oath? Because the verse continues, And by the arm of his strength.[11]

MISHNAH. [IF A MAN SAYS] ‘I DECLARE MYSELF A NAZIRITE [TO ABSTAIN] FROM PRESSED GRAPES, OR FROM GRAPE STONES, OR FROM POLLING, OR FROM [CONTRACTING] RITUAL DEFILEMENT, HE BECOMES A NAZIRITE AND ALL THE REGULATIONS OF NAZIRITESHIP APPLY TO HIM.

GEMARA. The Mishnah is not in agreement with R. Simeon, for it has been taught: R. Simeon says that he does not incur the liabilities [of a nazirite] unless he vows to abstain from everything [that is forbidden to a nazirite], whilst the Rabbis say that even though he vows to abstain from one thing only, he becomes a nazirite.

What is R. Simeon's reason?-Scripture says. [He shall eat] nothing that is made of the grape-vine, from the pressed grapes even to the grape-stone.[12] And what is the Rabbis’ reason? — The verse reads, He shall abstain[13] from wine and strong drink.[14] What does R. Simeon make of the statement, ‘He shall abstain from wine and strong drink’? — He requires it to prohibit wine the drinking of which is a ritual obligation as well as wine the drinking of which is optional. What is this [wine the drinking of which is obligatory]? The wine of Kiddush[15] and Habdalah,[15] [is it not]?

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(1) And therefore R. Meir's reason is not the one given by Resh Lakish.

(2) V. Num. VI, 10. [I.e., he undertook to bring such birds should he afterwards become unclean during his proposed naziriteship; hence he becomes a nazirite (Rashi).]

(3) As this was the usual manner in which free-will offerings of birds were made.

(4) Cf. Lev. XIV, 4. [That is he undertook to bring birds for a leper freeing him from his obligatory sacrifices. Asheri.] This question creates a difficulty both for R. Johanan and Resh Lakish (Rashi).

(5) And as such a one has not to bring the offering of birds, he must have referred to himself.

(6) Between R. Johanan and Resh Lakish.

(7) As he may simply be undertaking to bring an offering of birds.

(8) [That is, according to R. Meir; v. Rashi and Tosaf. This difference will, however, apply also on the view of the Rabbis, for where he explicitly states....’the birds mentioned in the same context as hair,’ the Rabbis would also agree according to Resh Lakish that he becomes a nazirite; cf. Rashi 2b (top).]

(9) Tosaf. Ned. I, e.g., if he says, ‘My right hand that I shall eat this loaf.’

(10) Dan. XII, 7; and when he refers to his right hand he means the oath in the same context.

(11) Isa. LXII. 8. [‘Arm of his strength’ refers to the left hand; ,’. Ber. 6a.]

(12) The emphasis is laid on the word ‘nothing’, so that the vow must expressly include everything. Num. VI, 4.

(13) Lit., ‘vow to abstain’.

(14) Ibid. VI, 3. Thus it is sufficient if his vow refers specifically to wine only. This verse is made here to refer to the actual taking of the nazirite vow; though from the context it might he thought to he part of the enumeration of objects forbidden the nazirite.

(15) V. Glos.

Talmud - Mas. Nazir 4a

But surely here he is bound by the oath taken on Mount Sinai?[1] — We must therefore suppose the following dictum of Raba to be indicated, [Viz.:] — [If a man says,] ‘I swear to drink [wine]’ and later says, ‘I wish to be a nazirite,’ the nazirite vow operates despite the oath.[2]

And do not the Rabbis also require [this verse] to prohibit wine, the drinking of which is a ritual obligation as well as wine the drinking of which is optional? — If this were its [sole] purpose, only wine need have been mentioned in the verse! [What is the purport of the addition] of ‘strong drink’! It is to enable us to infer both things.[3] And R. Simeon?[4] — He [will hold] that the reason for the addition of strong drink is to guide us in the interpretation of the same expression when used in connection with the Temple service, in the verse, Drink no wine nor strong drink, thou, nor thy sons with thee.[5] Just as for the nazirite, only wine is forbidden but not other beverages, so in connection with the Temple service, only wine is forbidden [to the priests], but not other intoxicating beverages. This conflicts with the opinion of R. Judah, for it has been taught: R.Judah said that [a priest] who eats preserved figs from Keilah,[6] or drinks honey or milk, and then enters the Temple, is guilty.[7] Alternatively,[8] R. Simeon rejects the Principle that a prohibition can come into operation when a prohibition [on a different count] is already present,[9] as has been taught: R. Simeon says that a man who eats carrion[10] on the Day of Atonement is not liable [to a penalty for breach of observance of the day].[11]

What do the Rabbis make of the verse, [‘He shall eat] nothing that is made of the grapevine’?[12] The Rabbis will tell you that this teaches that [the various kinds of food] forbidden to a nazirite can combine together.[13] R. Simeon. on the other hand, does not require a rule about combination, for it has been taught: R. Simeon says that a mite [of forbidden food] is sufficient [to entail liability] to stripes; a quantity equivalent to an olive is required only where a sacrifice is [the appropriate penalty].

MISHNAH. [IF A MAN SAYS] ‘I VOW TO BE LIKE SAMSON,[14] THE SON OF MANOAH, WHO WAS THE HUSBAND OF DELILAH, OR ‘WHO PLUCKED UP THE GATES OF GAZAH,’[15] OR ‘WHOSE EYES THE PHILISTINES PUT OUT,’[16] HE BECOMES A NAZIRITE LIKE SAMSON. GEMARA. Why must [the Mishnah] specify all these expressions? — All are necessary. For if he were to say. ‘I wish to be like Samson,’ I might think that some other Samson [was intended], and so we are told [that he must add] ‘like the son of Manoah.’ Again, if he were to add [only] ‘the son of Manoah,’ I might think that there is someone else so named, and so we are told [that he must add], ‘like the husband of Delilah,’ or ‘like him whose eyes the Philistines put out.’[17]

MISHNAH. WHAT DIFFERENCE IS THERE BETWEEN A NAZIRITE LIKE SAMSON AND A LIFE-NAZIRITE?[18] A LIFE-NAZIRITE. WHENEVER HIS HAIR BECOMES BURDENSOME, MAY THIN IT WITH A RAZOR AND THEN OFFER THREE ANIMAL SACRIFICES,[19] WHILST SHOULD HE BE RITUALLY DEFILED, HE MUST OFFER THE SACRIFICE [PRESCRIBED] FOR DEFILEMENT.[20] THE NAZIRITE LIKE SAMSON IS NOT PERMITTED TO THIN HIS HAIR SHOULD IT BECOME BURDENSOME, AND IF [RITUALLY] DEFILED, DOES NOT OFFER THE SACRIFICE [PRESCRIBED] FOR DEFILEMENT.

GEMARA. How does the life-nazirite come in here?[21] — There is a hiatus [in the Mishnah]. and it should read as follows: If a man says, ‘I intend to be a life-nazirite,’ he becomes a life-nazirite. What difference is there between a nazirite like Samson and a life-nazirite? A life-nazirite whenever his hair becomes burdensome may thin it with a razor and then offer three animal sacrifices, whilst should he be ritually defiled, he must offer the sacrifice [prescribed] for defilement. The nazirite like Samson is not permitted to thin his hair with a razor should it become burdensome,

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(1) I.e., surely his vow cannot annul obligations in existence since the giving of the law on Mount Sinai, so Rashi. Tosaf. (Rabbenu Tam) replaces the last two sentences by the following: ‘Can it be that the wine of Kiddush and Habdalah is indicated? But is he then bound by an oath taken on Mount Sinai?’ According to this view there is no scriptural obligation to drink wine at Kiddush and Habdalah. This is the view usually accepted.

(2) I.e., although this is wine the drinking of which is incumbent on him.

(3) Viz.: (i) wine the drinking of which is an obligation is forbidden the nazirite. (ii) though he vows to abstain from one thing only he becomes a nazirite.

(4) How will he meet the argument of the Rabbis?

(5) The verse was addressed to Aaron as High priest. Lev. x, 9.

(6) A town in the lowlands of Judea, cf. Josh. XV, 44’ v. Sanh. (Sonc. ed.) p. 481, n. 6.

(7) Of transgressing the prohibition against strong drink in Lev. X, 9.

(8) An alternative reason for R. Simeon's opinion that he does not become a nazirite unless he vows to abstain from everything, is being given (Rashi).

(9) In other words, an act already prohibited cannot he prohibited on another count. Hence, once his vow to abstain from wine begins to operate, he can no longer become a full nazirite (Rashi). This interpretation considers the statement, ‘I declare myself a nazirite (to abstain) from pressed grapes’ to consist of two parts in the following order: (i) I vow to abstain from pressed grapes; (ii) I declare myself a nazirite. For other interpretations, v. Tosaf. and Asheri.

(10) Heb. nebelah, v. Glos.

(11) Carrion being already in itself prohibited.

(12) V. supra p. 7, n. 4.

(13) I.e., supposing he eats less of each kind than the minimum size of an olive, yet the total quantity consumed is the size of an olive, he is liable to stripes.

(14) Samson was a nazirite to a limited extent only. V. next Mishnah.

(15) V. Judg. XVI, 3.

(16) V. Judg. XVI, 21.

(17) Thus the first three expressions are de rigueur, but for the third equivalents may he used.

(18) One who declares himself a nazirite for life. Samson was also a nazirite for life.

(19) A nazirite on terminating his abstinence was required to offer three animal sacrifices. V. Num. VI, 13ff

(20) Defilement of a nazirite. Num. VI, 9.

(21) Lit., ‘who mentioned its name’.

Talmud - Mas. Nazir 4b

and if ritually defiled does not offer the sacrifice [prescribed] for defilement. [You say that the nazirite like Samson] does not have to offer the sacrifice [prescribed] for defilement,[1] enabling me to infer that he is subject to the nazirite obligation [which forbids him to defile himself]. Who then is [the author of] our Mishnah, [seeing that] it can be neither R. Judah nor R. Simeon? For it has been taught: R. Judah said that a nazirite like Samson is permitted to defile himself [deliberately, by contact] with the dead, for Samson himself did so; R. Simeon says that if a man declares. ‘[I intend to be] a nazirite like Samson,’ his statement is of no effect, since we are not aware that Samson personally ever pronounced a nazirite vow.[2] [We ask then:] Who [is the author of our Mishnah]? It cannot be R. Judah, for he says that [a nazirite like Samson] may even [defile himself] intentionally. whereas our Mishnah [merely] states [that no sacrifice need be offered] if he has become defiled [accidentally]; nor can it be R. Simeon since he says that the vow does not become operative at all! — Actually it is R. Judah [and the nazirite like Samson is permitted to defile himself] but because in referring to the life-nazirite,[3] the Mishnah uses the expression ‘SHOULD HE BE [RITUALLY] DEFILED.’ the same expression is used in referring to the nazirite like Samson.[4]

May we say that the difference [of R. Judah and R. Simeon] is essentially the same as that of the following Tannaim? For it has been taught: [If a man says.] ‘This [food] shall be [as forbidden] for me as a firstling,’[5] R. Jacob says he may not eat it, but R. Jose says he may.[6] May we not say then that R. Judah agrees with R. Jacob in holding that the object [with which the comparison is made,][7] need not itself be one forbidden as the result of a vow, whilst R. Simeon agrees with R. Jose in holding that the object [with which comparison is made] must be one forbidden as the result of a vow? — This is not so. Both [R. Judah and R. Simeon] are agreed that it is necessary for the object [with which comparison Is made] to be one forbidden as the result of a vow, but the case of the firstling is different, since in the verse, [When a man voweth a vow][8] unto the Lord,[9] [the superfluous words ‘unto the Lord’] include the firstling[10] [as a legitimate object of comparison].

What does R. Jose reply [to this argument]? — He will say that the expression ‘unto the Lord’ serves to include the sin-offering and the guilt-offering[11] [but not the firstling]. [We may ask him:] On what ground, then, are the sin-offering and the guilt-offering included rather than the firstling? — [He would reply:] The sin-offering and the guilt-offering are included because they have to be expressly dedicated,[12] but the firstling is excluded since it need not be expressly dedicated. And R. Jacob? — He can rejoin: Firstlings too, are expressly dedicated, for it has been taught: [The members] of our Teacher's household[13] used to say: How do we know that when a firstling is born in a man's flock, it is his duty to dedicate it expressly [for the altar]? Because it says, The males shalt thou dedicate.[14] And R. Jose? — He can reply: Granted that it is a religious duty to dedicate it [expressly], yet if he fails to do so, is it not nevertheless sacred?[15]

[It may be said:] In the case of the nazirite, too, is there not a phrase ‘Into the Lord’?[16] — This is required for the purpose taught [in the following passage]: Simon the Just[17] said: In the whole of my life, I ate of the guilt-offering of a defiled nazirite [only once].[18] This man who came to me from the South country, had beauteous eyes and handsome features with his locks heaped into curls. I asked him: ‘Why, my son, didst thou resolve to destroy such wonderful hair?’ He answered: ‘In my native town. I was my father's shepherd, and, on going down to draw water from the well, I used to gaze at my reflection [in its waters]. Then my evil inclination assailed me, seeking to compass my ruin,[19] and so I said to it, "Base wretch! Why dost thou plume thyself on a world that is not thine own, for thy latter end is with worms and maggots. I swear[20] I shall shear these locks to the glory of Heaven!"’ Then I rose, and kissed him upon his head. and said to him: ‘Like unto thee, may there be many nazirites in Israel. Of such as thou art, does the verse say, When a man shall clearly utter a vow, the vow of a nazirite to consecrate himself unto the Lord.’[21]

But was not Samson a nazirite [in the ordinary sense]?[22] Surely the verse states, For the child shall be a nazirite into God from the womb![23] — It was the angel who said this.

How do we know that [Samson] did defile himself [by contact] with the dead? Shall I say, because it is written, With the jawbone of an ass have I smitten a thousand men,[24] but it is possible that he thrust it at them without touching them? But [we know it] again from the following. And smote thirty men of then and took their spoil.[25] But it is possible that he stripped them first and slew them afterwards? — It says clearly [first]. And he smote, [and then,] And took. But it is still possible that he [merely] wounded them mortally[26] [before stripping them]! — [We must say], therefore, that it was known by tradition [that he did come into contact with them]. Where does it state [in the Scriptures] that a life-nazirite [may thin his hair]? — It has been taught: Rabbi said that Absalom was a life-nazirite, for it says, And it came to pass at the end of forty years that Absalom said to the king: [pray thee, let me go and pay my vow which I have vowed unto the Lord in Hebron.[27] He used to cut his hair every twelve months, for it says. [And when he polled his head,] now it was at every year's [yamim] end [that he polled it],[28]

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(1) I.e., if he becomes unclean.

(2) Tosef. Nazir I, 3.

(3) Who is forbidden to defile himself.

(4) And the if is not to he pressed.

(5) The firstlings of clean domestic animals were the perquisite of the priests and could be eaten by them only. V. Num. XVIII, 15.

(6) V. Ned. 13a.

(7) E.g.. the firstling or Samson. It is impossible to vow not to eat a firstling as it is holy from birth.

(8) From this phrase we infer that the object used for comparison must be itself prohibited as the result of a vow. V. Ned. 13a.

(9) Num. XXX, 3.

(10) Since it must he dedicted unto the Lord by the owner.

(11) Being obligatory, they might he thought not to count as things dedicated by a vow.
(12) Lit., ‘they are seized by a vow’. Although the obligation to offer a sin-offering does not result through a vow, yet the animal to be used must he dedicated by the owner, ‘This is my sin-offering.’
(13) Probably R. Gamaliel III son of R. Judah ha-Nasi I (called simply Our Teacher) cf. Halikoth ‘Olam I, 3.
(14) Deut. XV, 19.
(15) And so the firstling must he excluded as an object of comparison.
(16) Num. VI, 2. And so should it not he possible to vow to become a nazirite like Samson?
(17) High Priest circa 300 B.C.E., v. however Aboth (Sonc. ed.) p. 2, n. 1.
(18) He feared that nazirites, after defilement would regret their vows because of the inevitable prolongation. As the sacrifice would then retrospectively prove to have been unnecessary, he refused to eat of it.
(19) Lit., ‘drive me from the world’.
(20) Lit., ‘by the (Temple) service’, a common form of oath at this period.
(21) Num. VI, 2. [The story has a parallel in the familiar Narcissus story, Ovid, Metamorphoses, III, 402ff; but its moral in endowing the youth with the power of self-mastery is evidently superior.]
(22) I.e., was not his naziriteship the result of a vow?
(23) Judg. XIII, 5.
(24) Judg. XV, 16.
(25) Judg. XIV, 19.
(26) [Defilement is communicated only after the last breath of life is gone.]
(27) The verse following states that Absalom vowed to serve the Lord. This, together with the known length of his hair, leads to the conclusion that he was a life-nazirite. II Sam. XV, 7.
(28) II Sam. XIV, 26; yamim usually means ‘days’.

Talmud - Mas. Nazir 5a

and the meaning of the word ‘yamim’ here is decided by its meaning when used in connection with houses in walled cities;[1] just as there it means twelve months,[2] so here it means twelve months. R. Nehorai said: [Absalom] used to poll every thirty days. R. Jose said: He used to poll on the eve of each Sabbath,for princes usually poll on the eve of each Sabbath.

[We have said that] Rabbi's reason [for interpreting ‘yamim’ as a year] is because of its occurrence in connection with houses in walled cities. But has not Rabbi himself said that ‘yamim’ [in that connection] means not less than two days?[3] — The only reason that he uses the comparison at all[4] is because of the reference to the heaviness [of Absalom's hair],[5] and two days’ growth is not heavy.[6]

Why should it not be two years, in accordance with the verse, And it came to pass at the end of two full years?[7] From a text containing ‘yamim’ without mention of years’ conclusions may be drawn concerning another text containing ‘yamim’ without mention of years’;[8] but no conclusion can be drawn here from this verse where there is mention of ‘years’.

Why should it not be thirty days, for there is a verse, but a whole month?[9] — From a text mentioning ‘yamim’ without ‘months’, conclusions may be drawn concerning another text mentioning ‘yamim’ without ‘months’,[10] but this verse affords no indication since ‘months’ are mentioned therewith.

Why should not the inference be made from mi-yamim yamimah [‘from days to days’]?[11] — Conclusions may be drawn concerning a text containing ‘yamim’. from another’ [text] containing ‘yamim’, but not from one containing ‘yamimah’.

But what is the difference [between ‘yamim’ and ‘yamimah’]? Have not the school of R. Ishmael taught that in the verses, And the priest shall come again,[12] Then the priest shall come in,[12] ‘coming again’ and ‘coming in’ mean one and the same thing?[13] — Inference [from nonidentical expressions] is permissible where there is no identical expression [on which to base the inference], but where an identical expression exists, the inference must be drawn from the identical expression.[14]

Another reply [to the suggestion that inference be made from ‘yamimah’]: How do we know [with certainty] that [they went] once every three months? May not the four times per annum have occurred alternately at intervals of four months and of two months?[15]

‘R. Nehorai said: [Absalom] used to poll every thirty days.’ What is his reason? — [Ordinary] priests [poll every thirty days][16] because [their hair] becomes burdensome, and so here it would become burdensome [after thirty days].[17]

‘R. Jose said: He polled on the eve of each Sabbath, [etc.]’ What difference then was there between him and his brothers?[18] — When a festival occurred in mid-week, his brothers polled, but he did not do so. Alternatively, his brothers [if they wished] could poll on Friday morning, but he could not do so until the late afternoon. What were the forty years referred to [by Absalom]?[19] — R. Nehorai, citing R. Joshua, said that it means ‘forty years after [the Israelites] had demanded a king.’[20] It has been taught: The year in which they demanded a king, was the tenth year [of the principate of] Samuel the Ramathean.[21]

MISHNAH. A NAZIRITE VOW OF UNSPECIFIED DURATION [REMAINS IN FORCE] THIRTY DAYS.

GEMARA. Whence is this rule derived?-R. Mattena said: The text reads He shall be [yihyeh] holy,[22] and the numerical value[23] of the word yihyeh is thirty.[24] Bar Pada said: [The duration of the vow] corresponds to the number of times that parts of the root nazar are found in the Torah,[25] viz., thirty less one.[26] Why does not R. Mattena derive [the number of days] from the [occurrences of the various] parts of nazar? — He will tell you that [some of] these are required for teaching special lessons. [Thus the verse.] He shall abstain [yazzir] from wine and strong drink,[27] is required to prohibit wine the drinking of which is a ritual obligation as well as wine the drinking of which is optional;[28] [whilst the verse,] Shall clearly utter a vow, the vow of a nazirite to consecrate himself,[29] teaches that one nazirite vow can be superimposed on another.[30]

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(1) V. Lev. XXV, 29.

(2) Since the word ‘year’ is used explicitly in the same connection.

(3) V. ‘Ar. 31a, where he infers from this text that redemption cannot take place before the second day, though it may take place any time within the year.

(4) The Gezerah shawah (v. GIos.).

(5) V. II Sam. XIV, 26.

(6) Hence the comparison must he with yamim in the sense of year, which it also hears in this passage; v. n. 4.

(7) Lit., ‘two years of yamim’, Gen. XLI, 1.

(8) E.g., from Lev. XXV, 29 to II Sam. XIV, 26.

(9) Lit., ‘a month of yamim’, Num. XI, 20.

(10) V. supra p. 14, n. 10.

(11) The reference is to Jephthah's daughter, visited by the Israelitish maidens ‘four days in the year’, i.e., apparently, at equal intervals of three months. Judg. XI, 40.

(12) Lev. XIV, 39-44. referring to an infected house.

(13) For purposes of inference, v. Hot. (Sonc. ed.). p. 57. n. II. How much more so then with words so similar as ‘yamim’ and ‘yamimah’!

(14) I.e., since there is another context where the word ‘yamim’ occurs, we learn from that and not from ‘yamimah’.

(15) It is impossible therefore to give an exact value to ‘yamimah’.

(16) V. Ta'an. 17a.

(17) And Absalom polled when his hair became heavy. II Sam. XIV, 26.

(18) Since all princes poll weekly.
(19) In II Sam. XV, 7.
(20) V.I Sam. VIII, 5'
(21) V. Seder 'Olam XIV.
(22) Num, VI, 5.
(23) Gematria, v.Sanh. (Sonc.ed.),p. 121, n. 4.
(24) יהיה Y = 10; H= 5; Y=10; H= 5. In Hebrew, as in Greek, the letters have numerical values.
(25) I.e., in the section on the nazirite vow. Num. VI, 1ff. Parts of the root nadar are included in the computation, but the nazar of verse 7 is omitted since it does not mean 'separation', but 'crown'.
(26) V. infra.
(27) Num. VI, 3.
(28) V. supra p. 8.
(29) Ibid. VI, 2.
(30) If he repeats the vow, he becomes a nazirite twice.

Talmud - Mas. Nazir 5b

To which Bar Pada can reply: Is there not even one [recurrence of a part of nazar] that is not needed for a special lesson? Since this one may be used for computation. ail may be used for computation.[1] We have learnt: A NAZIRITE VOW OF UNSPECIFIED DURATION [REMAINS IN FORCE] THIRTY DAYS. Now, this fits in well enough with the view of R. Mattena, but how can it be reconciled with Bar Pada's view?[2] — Bar Pada will tell you that because [the period of the vow closes with] the thirtieth day, on which the nazirite polls and brings his sacrifices, [the Mishnah] says thirty [days].

We have learnt: If a man says, 'I declare myself a nazirite,' he polls on the thirty-first day.[3] Now, this fits in well enough with the view of R. Mattena, but how is it to be reconciled with Bar Pada's view? — Bar Pada will say: Consider the clause which follows, [viz.:] Should he poll on the thirtieth day, his obligation is fulfilled. We see, then, that the second clause [of this Mishnah] lends support to his view, whilst the original clause [must be read] as though it contained the word [I declare myself a nazirite for thirty] 'whole' [days].[4] Does not this second clause need to be reconciled with R. Mattena's view?[5] — He considers part of a day equivalent to a whole day.[6]

But have we not learnt: '[Should someone say,] "I intend to be a nazirite for thirty days," and poll on the thirtieth day, his obligation is not fulfilled'?[7] — [We presume that] he said, 'whole days'.

We have learnt: If a man undertakes two naziriteships, he polls for the first one on the thirty-first day, and for the second on the sixty-first day.[7] This fits in well enough with the view of R. Mattena

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(1) As well as for teaching special lessons.
(2) According to which the period should be 29 days.
(3) V. infra 162.
(4) And therefore he polls on the 31st day.
(5) According to which the polling should he on the thirty-first day.
(6) Thus though he polls on the thirtieth day, he has kept thirty days of naziriteship.
(7) Infra p. 53.

Talmud - Mas. Nazir 6a

but how is it to be reconciled with Bar Pada's view? — Bar Pada will say: Consider the clause which follows, [viz.:] If, however, he should poll for the first on the thirtieth day, he can poll for the second on the sixtieth day. Thus the second clause lends support to his view, whilst the original clause [must be read] as though it contained the words ‘whole days’.

Is not R. Mattena in conflict with this second clause?[1] — R. Mattena can reply: This must be interpreted in the light of the next clause, which says that the thirtieth day counts as belonging to both periods.[2] This is taken to signify then that part of a day is equivalent to a whole day. But has he [the Tanna] not stated this once already?[3] — It might be thought that this is only true for one naziriteship but not for two, and so we are told [that it is also true for two].[4]

We have learnt: Should he poll on the day prior to the sixtieth, he has fulfillied his obligation. since the thirtieth day is included in the [required] number.[5] Now, this fits in well enough with the view of R. Mattena, but for Bar Pada what necessity is there [for this statement], since he says that [the normal duration] is thirty days less one? — He will say: This is the very passage on which I rely for my opinion.

We have learnt: If a person says, ‘I intend to be a nazirite’ and contracts ritual defilement on the thirtieth day, the whole period is rendered void.[5] Now, this fits in well enough with the view of R. Mattena, but does it not conflict with that of Bar Pada? —

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(1) Cf. 11. 4.

(2) As end of the first and beginning of the second naziriteship.

(3) As an inference from another clause of the same Mishnah (v. supra, p. 17); what necessity is there then for this latter clause?

(4) That one part of the day belongs to one and the other to the second period.

(5) Infra p. 53.

Talmud - Mas. Nazir 6b

Bar Pada will say: Consider the subsequent clause [which reads]: R. Eliezer says: Only the [next] seven days are void.[1] Now if you assume that thirty days are necessary [as the minimum period of nazirite separation], should not all be void?[2] [R. Mattena, however, will reply:] R. Eliezer is of the opinion that part of a day is equivalent to the whole.[3]

We have learnt: [If a man says] ‘I intend to be a nazirite for one hundred days,’ and contracts ritual defilement on the hundredth day, the whole period is rendered void. R. Eliezer said that only thirty days are rendered void.[4] Now, if we assume[5] that R. Eliezer considers part of a day to be equivalent to a whole day, surely only seven days should be annulled?[1] Again [on the other hand] if we assume[6] that he does not regard part of the day as equivalent to a whole day, should not the whole period be annulled?[7] — In point of fact, we do not regard part of a day as equivalent to a whole day. In that case, why is not the whole period annulled? — Said Resh Lakish: R. Eliezer's reason is as follows: Scripture says, And this is the law of the nazirite, [on the day] when the days of his consecration are fulfilled.[8] Thus the Torah expressly declares that if he contracts ritual defilement on the day of fulfilment, the law for a nazirite vow [of unspecified duration] is to be applied to him.[9] May we say [that the difference between R. Mattena and Bar Pada] is the same as that between the following Tannaim? [For it was taught:] From the verse, Until the days be fulfilled,[10] I can only infer that the vow must continue in force at least two days,[11] and so the text adds, He shall be holy; he shall let the locks grow long,[12] and hair does not ‘grow long’ in less than thirty days. This is the view of R. Josiah. R. Jonathan, however, said that this [reasoning] is unnecessary, for we have the text, Until the days be fulfilled.[12] What days then are those which have to be ‘fulfilled’? You must say the thirty days [of the lunar month].[13] May we assume that R. Mattena agrees with R. Josiah, and Bar Pada with R. Jonathan? — R. Mattena can maintain that both [authorities] agree that thirty days is the necessary period and the point at issue between them is whether the word ‘until’ [preceding a number] signifies the inclusion or exclusion [of the last unit of that number].[14] R. Josiah is of the opinion that in the term ‘until’ [the last unit] is not included,[15] whereas R. Jonathan is of the opinion that by the use of ‘until’, [the last unit] is included.[16] The Master stated: What days then are those which have to be ‘fulfilled’? You must say, The thirty days [of a lunar month]. But could it not be a week[17] — [In the case of] a week, what deficiency is there to make up?

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(1) Since he is unable to offer his nazirite sacrifices until he has been sprinkled with the ashes of the red heifer on the third and seventh days. V. Num. XIX, 1ff.

(2) Because the defilement takes place while the vow is still in force.

(3) Hence when the defilement takes place, the vow is no longer in force.

(4) Infra P. 53.

(5) As does R. Mattena.

(6) As does Bar Pada.

(7) For then the naziriteship is not complete until the close of the hundredth day and defilement during the naziriteship nullifies the whole preceding period.

(8) Num. VI, 13.

(9) I.e., he is to be a nazirite again for 30 days. [i.e., not more and not less, irrespective of the question whether or not part of the day is equivalent to a whole day (Tosaf.).]

(10) Ibid. 5.

(11) ‘Two’ being the minimum to which the plural ‘days’ could he applied.

(12) Num. VI, 5.

(13) An ordinary lunar month contains 29 days, a ‘full’ month 30 days.

(14) I.e., whether e.g. ‘until 30’ means 30 or 29.

(15) And the number thirty is derived by means of the rest of the verse, ‘He shall let the locks grow long’.

(16) And the number thirty is obtained from ‘Until the days be fulfilled’.

(17) Lit., ‘a Sabbath’, i.e., six working days completed by the Sabbath to make a week.

Talmud - Mas. Nazir 7a

Could it then not be a year?[1] — Are these reckoned in days? Surely the Rabbis of Caesarea[2] have said: How do we know that a year is not reckoned in days? Because Scripture says, months of the year:[3] [this signifies that] months are counted towards years but not days.

MISHNAH. IF HE SAYS, ‘I INTEND TO BE A NAZIRITE FOR ONE LONG [PERIOD,’ OR] ‘I INTEND TO BE A NAZIRITE FOR ONE SHORT [PERIOD],’ THEN EVEN [IF HE ADDS, ‘FOR AS LONG AS IT TAKES TO GO] FROM HERE TO THE END OF THE EARTH,’ HE BECOMES A NAZIRITE FOR THIRTY DAYS.

GEMARA. Why is this so? Has he not said, ‘from here to the end of the earth’?[4] — His meaning is: For me this business is as lengthy as if it would last from here to the end of the earth. We have learnt: [If a man says,] ‘I wish to be a nazirite as from here to such and such a place,’ we estimate the number of days’ journey from here to the place mentioned, and if this is less than thirty days, he becomes a nazirite for thirty days; otherwise he becomes a nazirite for that number of days.[5] Now why should you not say in this case also that [his meaning is]: For me, this business seems as if it would last from here to the place mentioned?[6] — Raba replied: We assume that [when he made the declaration] he was setting out on the journey.[7] Then why should he not [observe a naziriteship of thirty days] for each parasang?[8] R. Papa said: We speak of a place where they do not reckon [distances] in parasangs. Then let him [observe a naziriteship] for every stage [on the road]; for have we not learnt that [a man who says,] ‘I intend to be a nazirite as the dust of the earth,’ or ‘as the hair of my head,’ or ‘as the sands of the sea,’ becomes a life-nazirite, polling every thirty days?[9] — This [principle][10] does not apply to [a nazirite vow in which] a definite term is mentioned,[11] and this has indeed been taught [explicitly]: [A man, who says,] ‘I intend to be a nazirite all the days of my life,’ or ‘I intend to be a life-nazirite,’ becomes a life-nazirite,[12] but even [if he says] ‘a hundred years,’ or ‘a thousand years,’ he does not become a life-nazirite,[13] but a nazirite for life.[14]

Rabbah said: Hairs are different [from parasangs or stages], since each is separate from the others.[15]

In the case of days, do we not find the verse, And there was evening and there was morning, one day?[16] — There it is not because [days] are discrete entities [that the verse says one day] but to inform us that a day with the night [preceding it] together count as a day,[17] though they are really not discrete entities.

Raba said: Why raise all these difficulties? The case [in which he says ‘FROM HERE TO THE END OF THE EARTH’] is different, because he has already said: I INTEND TO BE A NAZIRITE FOR ONE [SINGLE PERIOD].

MISHNAH. [IF A MAN SAYS] ‘I INTEND TO BE A NAZIRITE, PLUS ONE DAY,’ OR ‘I INTEND TO BE A NAZIRITE, PLUS AN HOUR,’ OR ‘I INTEND TO BE A NAZIRITE, ONCE AND A HALF,’ HE BECOMES A NAZIRITE FOR TWO [PERIODS].

GEMARA. What need is there [for the Mishnah] to specify all these cases?[18] — They are all necessary. For had it mentioned only, ‘I INTEND TO BE A NAZIRITE, PLUS ONE DAY,’ [it might have been thought] that here only do we apply the rule that ‘there is no naziriteship for a single day,’ and so he must reckon two [periods], whereas [when he says] ‘I INTEND TO BE A NAZIRITE, PLUS AN HOUR,’ he is to reckon thirty one days. So this case is mentioned explicitly

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(1) And the ordinary year may be considered ‘deficient’ by the side of a leap year.
(2) [On the Rabbis of Caesarea v. Lieberman, S. The Talmud of Caesarea, pp. 9ff.]
(3) Ex, XII, 2.
(4) And he should be a nazirite for life.
(5) Infra p. 23.
(6) And his naziriteship should in any case not extend beyond thirty days.
(7) The presumption is, then, that the journey and the length of naziriteship are connected.
(8) A Persian mile.
(9) Infra p. 23.
(10) That he has to observe a succession of periods of naziriteship. polling at the end of each period.
(11) E.g., from here to such and such a place.
(12) And polls every thirty days.
(13) Having mentioned a definite term.
(14) I.e., he keeps one long naziriteship during which he can never poll. Tosef. Naz. I, 3.
(15) But distance is continuous. Hence if he mentions hairs, he is understood to mean a succession of short naziriteships, but if he mentions a distance, one long one.
(16) And so distance in terms of days is also discrete, yet the Mishnah quoted above confines the naziriteship to a single period, and not to a succession equal in number to the number of days.
(17) For the reckoning of Sabbaths and Festivals.
(18) One would be enough, and we could infer the others.

Talmud - Mas. Nazir 7b

Again.if it had simply added, ‘[I INTEND TO BE A NAZIRITE] PLUS AN HOUR,’ [it might have been thought that he must count two periods] because he was [clearly] not speaking with precision,[1] whereas the expression ‘ONCE AND A HALF’ is precise, and it might therefore have been thought that he should not reckon two [periods].[2] And so we are told that in each case, he becomes a nazirite for two periods.

MISHNAH. [IF A MAN SAYS,] ‘I INTEND TO BE A NAZIRITE FOR THIRTY DAYS PLUS AN HOUR,’ HE BECOMES A NAZIRITE FOR THIRTY-ONE DAYS, SINCE THERE IS NO NAZIRITESHIP FOR HOURS.

GEMARA. Rab said: This applies[3] only when he says, ‘thirtyone days,’ but if he says, ‘thirty days plus one day,’ he becomes a nazirite for two periods.[4] Rab follows R. Akiba whose method it was to lay stress on superfluities of expression, as we have learnt: [If a man sells a house, the sale includes] neither the cistern nor the cellar, even though he inserted the depth and the height [in the deed of sale]; he must, however, purchase for himself a right-of way.[5] This is the opinion of R. Akiba, but the Sages say that he need not purchase a right-of-way for himself.[6] R. Akiba does admit, however, that if he explicitly excludes [pit and cellar], he does not have to purchase a right-of-way.[7]

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(1) Since naziriteships are reckoned in days only.

(2) But forty-five days.

(3) The assumption of the Mishnah that a man can become a nazirite for thirty-one days.

(4) See last Mishnah and Gemara.

(5) I.e., He does not retain a right-of-way to the cistern and cellar, unless he explicitly reserves it for himself.

(6) Since the sale does not include the cistern and cellar, he may be presumed to have reserved a right of way to them.

(7) The insertion of this superfluous clause is taken by R. Akiba to indicate that he wished to retain a right of way; v. B.B. 64a.

Talmud - Mas. Nazir 8a

MISHNAH. [IF A MAN SAYS,] ‘I INTEND TO BE A NAZIRITE AS THE HAIRS OF MY HEAD, OR THE DUST OF THE EARTH, OR THE SANDS OF THE SEA,’ HE BECOMES A LIFE-NAZIRITE, POLLING EVERY THIRTY DAYS. RABBI SAID THAT SUCH A MAN DOES NOT POLL EVERY THIRTY DAYS;[1] THE MAN WHO POLLS EVERY THIRTY DAYS IS THE ONE WHO SAYS, ‘I UNDERTAKE NAZIRITESHIPS[2] AS THE HAIR ON MY HEAD, OR THE DUST OF THE EARTH, OR THE SANDS OF THE SEA.’ [IF HE SAYS,] ‘I INTEND TO BE A NAZIRITE AS THE CAPACITY OF THIS HOUSE, OR AS THE CAPACITY OF THIS BASKET,’ WE INTERROGATE HIM. IF HE SAYS THAT HE HAS VOWED ONE LONG PERIOD OF NAZIRITESHIP, HE BECOMES A NAZIRITE FOR THIRTY DAYS, BUT IF HE SAYS THAT HE HAS VOWED WITHOUT ATTACHING ANY PRECISE MEANING [TO HIS STATEMENT], WE REGARD THE BASKET AS THOUGH IT WERE FULL OF MUSTARD SEED, AND HE BECOMES A NAZIRITE FOR THE WHOLE OF HIS LIFE.[3] [IF HE SAYS,] ‘I INTEND TO BE A NAZIRITE, AS FROM HERE TO SUCH AND SUCH A PLACE,’ WE ESTIMATE THE NUMBER OF DAYS’ [JOURNEY] FROM HERE TO THE PLACE MENTIONED. IF THIS IS LESS THAN THIRTY DAYS, HE BECOMES A NAZIRITE FOR THIRTY DAYS; OTHERWISE HE BECOMES A NAZIRITE FOR THAT NUMBER OF DAYS. [IF HE SAYS], ‘I INTEND TO BE A NAZIRITE, AS THE NUMBER OF DAYS IN A SOLAR YEAR’’ HE MUST COUNT AS MANY NAZIRITESHIPS AS THERE ARE DAYS IN THE SOLAR YEAR. R. JUDAH SAID: SUCH A CASE ONCE OCCURRED, AND WHEN THE MAN HAD COMPLETED [HIS PERIODS], HE DIED.

GEMARA. WE REGARD THE BASKET AS THOUGH IT WERE FILLED WITH MUSTARD SEED, AND HE BECOMES A NAZIRITE FOR THE WHOLE OF HIS LIFE. But why [mustard seed]? Surely we could regard it as though it were full of cucumbers or gourds, and so provide him with a remedy?[4] — Hezekiah said: This is a matter on which opinions differ, the author [of our Mishnah] being R. Simeon, who has affirmed that people do undertake obligations in which the use of an ambiguous formula results in greater stringency than the use of a precise one.[5] For it has been taught: [If a man has said,] ‘I intend to be a nazirite provided this heap [of grain] contains a hundred kor,[6] and on going to it, he finds that it has been stolen or lost, R. Simeon declares him bound [to his vow] since whenever in doubt as to a nazirite's liabilities, we adopt the more stringent ruling.[7] R. Judah, however, releases him since whenever in doubt as to a nazirite's liabilities, we adopt the more lenient ruling.[8]

R. Johanan said: It is even possible that [the author of the Mishnah] is R. Judah. For in the case just mentioned, the man has possibly not entered into a naziriteship at all [if there were not one hundred kor in the heap],[9] whereas in this case [mentioned in the Mishnah,] he does at any rate enter into a naziriteship.[10] On what grounds can he be released from it?[11] But why not regard the basket as though it were full of cucumbers and gourds, and so provide him with a remedy?[12] — Such an idea ought not to cross your mind, for he has undertaken one [unbroken] naziriteship,[13]

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(1) But becomes a nazirite for life and may never poll.

(2) נזירות

(3) (a) One naziriteship for every grain of mustard, [or, (b) one long naziriteship during which he can never poll].

(4) [By enabling him to poll at the end of every thirty days (according to (b) p. 23, n. 6).]

(5) As here, the reference to a basketful without specifying its contents, results in naziriteship for life.

(6) A dry measure; v. Glos.

(7) So that, as we are not certain that the heap contained less than 100 kor, he must observe the naziriteship.

(8) Tosef. Naz. II, 2.

(9) And therefore we do not declare him a nazirite lest he should eventually bring profane animals into the sanctuary, v. infra p. 102.

(10) For some period of time, whatever the basket is regarded as containing.

(11) And therefore he must he a nazirite for life.

(12) I.e., let him keep as many naziriteships as the basket will contain gourds or cucumbers. The questioner imagines that in R. Judah's view he becomes a life-nazirite, who can poll every thirty days. cf. supra, p. 21, n. 4.

(13) And if he brings his sacrifices at the termination of the number of days that the basket would contain gourds or cucumbers, he may he bringing profane animals into the sanctuary, as his naziriteship may he of longer duration. Thus he becomes a nazirite for life, during which he can never poll.

Talmud - Mas. Nazir 8b

R. Judah agreeing with Rabbi, as we have learnt: RABBI SAID THAT SUCH A MAN DOES NOT POLL EVERY THIRTY DAYS. THE MAN WHO POLLS EVERY THIRTY DAYS IS THE ONE WHO SAYS, ‘I UNDERTAKE NAZIRITESHIPS AS THE HAIR OF MY HEAD, OR THE DUST OF THE EARTH, OR THE SANDS OF THE SEA.’

Is it then a fact that R. Judah agrees with Rabbi? Have we not learnt: [IF HE SAYS,] ‘I INTEND TO BE A NAZIRITE AS THE NUMBER OF DAYS IN A SOLAR YEAR,’ HE MUST COUNT AS MANY NAZIRITESHIPS AS THERE ARE DAYS IN THE SOLAR YEAR. R. JUDAH SAID: SUCH A CASE ONCE OCCURRED, AND WHEN THE MAN HAD COMPLETED [HIS PERIODS], HE DIED? Now if you say that this man, [by using this formula,][1] undertook [consecutive] naziriteships,[2] we can understand why [R. Judah says that] when he finished,[3] he died. But if you say that he undertook a single naziriteship,[4] could it ever be said of such a man that he had ‘COMPLETED’?[5] Moreover, could [R. Judah] possibly agree with Rabbi, seeing that it has been taught: R. Judah said: [If a man says,] ‘I intend to be a nazirite, as the number of heaps of the fig crop,[6] or the number of ears [in the field] in the Sabbatical year,’[7] he must count naziriteships as the number of heaps of the fig crop, or the number of ears [in the field] in the Sabbatical year?[8] — [Where he explicitly mentions the word] ‘number’,it is different.

But does Rabbi make a distinction where the word ‘number’ [is used]? Has it not been taught: [If a man says,] ‘I intend to be a nazirite as the number of days in a solar year,’ he must count as many naziriteships as there are days in the solar year; if [he says] ‘as the days of a lunar year,’ he must count as many naziriteships as there are days in a lunar year. Rabbi said that this does not hold unless he says, ‘I undertake naziriteships as the number of days in the solar year or as the number of days in the lunar year’?[9] — R. Judah agrees with Rabbi on one point, and differs from him on the other. He agrees with him on one point, viz: that what is undertaken is a [single] naziriteship,[10] but differs from him on the other, for whilst R. Judah distinguishes between [the cases] where the word ‘number’ is mentioned and where it is omitted, Rabbi does not so distinguish.

Our Rabbis taught: [A man who says,] ‘I wish to be a nazirite all the days of my life,’ or ‘I wish to be a life-nazirite,’ becomes a life-nazirite. Even if he says a hundred years, or a thousand years, he does not become a life-nazirite, but a nazirite for life.[11]

Our Rabbis taught: [If a man says,] ‘I wish to be a nazirite plus one,’ he must reckon two [naziriteships]. [If he adds,] ‘and another,’ he must reckon three, and if he then adds ‘and again’. he counts four. Surely this is obvious? — It might be thought that the words ‘and again’ refer to the whole [preceding number], making six in all, and so we are told that this is not so.

Our Rabbis taught: [When a man says,] ‘I wish to be a nazirite,’ Symmachos affirmed [that by adding] hen,[12] [he must reckon] one; digon,[13] two; trigon,[13] three; tetragon,[13] four; pentagon,[13] five [naziriteships].[14]

Our Rabbis taught: A house that is round, or digon,[15] or trigon,[15] or pentagon,[15] does not contract defilement through the plague [of leprosy]. One that is tetragon[15] does. What is the reason? — For Scripture, both in the latter part and in the earlier part of the passage [dealing with the leprosy of houses], puts walls [in the plural][16] instead of wall [in the singular], thus making four walls in all.[17] [

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(1) ‘I intend to he a nazirite, etc.’

(2) 365 naziriteships, each of thirty days duration.

(3) At the end of thirty years.

(4) He would then mean, ‘I undertake to be a nazirite for the number of the sun's days, i.e., for ever.’ (Rashi). [Alternatively: If you say he undertook a single naziriteship (i.e. of 365 days duration) could it be said of him that he had completed the amount of naziriteships required by the Rabbis, in support of whose view R. Judah cites the incident; v. Tosaf.]

(5) He could never bring sacrifices.

(6) Aliter; paths of the fig-gatherers. v. Kohut, Aruch.

(7) Aliter; field.paths in the Sabbatical year.

(8) Tosef. Naz. I. Whereas Rabbi holds that in such a case he would have to count only as many days as there are heaps of figs.

(9) Tosef. Naz. I. And, according to Rabbi, the same would be the case if he omitted the word ‘number’, the important thing being the use of the term, ‘nazirite’ or ‘naziriteships’.

(10) I.e., when he says, ‘I intend to be a nazirite as the capacity of this house’.

(11) Tosef. Naz. I, 3, and supra p. 21.

(12) Gr. **, once.

(13) The last syllable is probably a Hebraisation of ** Thus digon — ** — twice; and so on. V. Kohut, Aruch.

(14) Tosef. Naz. I.

(15) Here we have the normal meaning, two-sided, and so on.

(16) Lev. XIV, 39, and 37.

(17) Cf. Neg. XII, I.

Talmud - Mas. Nazir 9a

CHAPTER II

MISHNAH. [IF A MAN SAYS.] ‘I INTEND TO BE A NAZIRITE [AND ABSTAIN] FROM DRIED FIGS AND PRESSED FIGS’, BETH SHAMMAI SAY THAT HE BECOMES A NAZIRITE [IN THE ORDINARY SENSE].[1] BUT BETH HILLEL SAY THAT HE DOES NOT BECOME A NAZIRITE. R. JUDAH SAID: EVEN THOUGH BETH SHAMMAI DID AFFIRM [THAT THE FORMULA IS OF SOME EFFECT]. THEY MEANT ONLY WHERE HE SAID,[2] ‘THEY ARE [FORBIDDEN] TO ME, AS IS A SACRIFICE.’[3]

GEMARA. [IF A MAN SAYS,] ‘I INTEND TO BE A NAZIRITE [AND ABSTAIN] FROM DRIED FIGS AND PRESSED FIGS, BETH SHAMMAI SAY THAT HE BECOMES A NAZIRITE: But why? Does not the Divine Law say, nothing that is made of the grape-vine?[4] — Beth Shammai adopt the view of R. Meir, who said that a man does not make a declaration without meaning something,[5] whilst Beth Hillel adopt the view of R. Jose that a man's intentions are to be gathered from[6] the concluding portion of his statement [equally with the first portion], and [in consequence] the vow here carries with it its annulment.[7]

But surely Beth Shammai also agree that the vow here carries with it its annulment? — We must therefore say, that Beth Shammai adopt the view of R. Meir, who said that a man does not make a declaration without meaning something, and so immediately he utters the words ‘I INTEND TO BE A NAZIRITE’, he becomes a nazirite, and in adding ‘[AND ABSTAIN] FROM DRIED FIGS AND PRESSED FIGS, his purpose is to obtain release[8] [from his vow], and Beth Shammai [reject this] in accordance with their general principle that there can be no release from [vows made for] sacred purposes, and since there can be no release from [vows made for] sacred purposes, there can be no release from naziriteship. Beth Hillel, on the other hand, agree with R. Simeon, as we have learnt:[9] R. Simeon declared him free[10] [of obligation], since his offering was not undertaken in the customary manner:

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(1) I.e., he must abstain from wine and grapes.

(2) I.e., he added (Rashi). [Tosaf: . . as if he said’; Asheri: . . .here he intended’].

(3) They then become forbidden, but he does not become a nazirite even according to Beth Shammai.

(4) Num. VI, 4, which would show that naziriteship applies only to wine etc.

(5) Even though taken altogether his words are meaningless, and we therefore select that part which has a meaning and hold him to it.

(6) Lit., ‘a man is held by’.

(7) Lit., ‘its door’ for escape; by his concluding remarks, he has withdrawn from his nazirite vow.

(8) Lit, ‘to ask for remission.

(9) In connection with one who vowed to bring a meal-offering of barley flour; v. infra.

(10) From bringing the offering, since a meal-offering could be brought only of wheaten flour.

Talmud - Mas. Nazir 9b

Our Mishnah is not in agreement with the following tanna. For it has been taught: R. Nathan said that Beth Shammai declare him both to have vowed [to abstain from figs] and to have become a nazirite, whilst Beth Hillel declare him to have vowed [to abstain from figs], but not to have become a nazirite. [Here,] Beth Shammai agree with R. Meir[1] and R. Judah,[2] and Beth Hillel with R. Jose.[3] According to another report, R. Nathan said that Beth Shammai declare him to have vowed [to abstain from figs], but not to have become a nazirite, whilst Beth Hillel declare him neither to have vowed, nor to have become a nazirite. [Here,] Beth Shammai agree with R. Judah, and Beth Hillel with R. Simeon.[4]

We have learnt elsewhere: A man who says, ‘I undertake to bring a meal-offering of barley-flour,’ must [nevertheless] bring one of wheaten flour.[5] If he says, ‘of coarse meal,’ he must [nevertheless] bring fine meal. If,’without oil and frankincense,’ he must [nevertheless] add oil and frankincense; ‘of half a tenth,’ he must offer a whole tenth; ‘of a tenth and a half’, he must offer two tenths. R. Simeon declared him, free [of obligation], since his offering was not undertaken in the customary manner.[6]

Who is the Tanna [who asserts that] if anyone undertakes to bring a meal-offering of barley-flour, he must bring one of wheaten flour? — Hezekiah replied: The matter is a subject of controversy, [the Tanna here] representing Beth Shammai. For have not Beth Shammai averred that when a man says [‘I intend to be a nazirite and abstain] from dried figs and pressed figs,’ he becomes a nazirite? So too, if he says ‘of barley-flour’, he must bring one of wheatenflour. R. Johanan, on the other hand, replied that it is possible to maintain that [the passage quoted] represents the views of both [Beth Shammai and Beth Hillel] and that it refers to a man who says, ‘Had I known that such vows are not made, I should not have vowed in this wise, but in the [correct] manner

Hezekiah said: The rule just laid down applies only where he said ‘of barley’, but if he says ‘of lentils’,[7] he need bring nothing at all. [Can this be so?] Consider: To whom does Hezekiah ascribe the Mishnah [containing this ruling]? To Beth Shammai! Now lentils in regard to a meal-offering, are as dried figs to a nazirite, and there Beth Shammai declare him to be a nazarite?[8] Hezekiah relinquished that opinion.[9] Why did he relinquish it? —[10] Raba said: Because he found that Mishnah difficult to understand. Why does it say ‘barley’ and not ‘lentils’?[11] And so Hezekiah concluded that Beth Shammai's assertion was what R. Judah [maintained it to be].[12] R. Johanan, on the other hand, affirmed that [the rule of the Mishnah is applicable] even if he says ‘of lentils’. But was it not R. Johanan who averred that [he only brings the offering if] he affirms: Had I known that such vows are not made, I should not have vowed in this wise, but in the [correct] manner?[13] — He[14] was arguing on Hezekiah's premises. You relinquished your former opinion,[15] because [the Mishnah] does not mention [the case] ‘of lentils’. But might it not be a case of progressive argument, viz, not only is it true that when he says, ‘of lentils’ he must bring a proper mealoffering, since we may hold that he is there repenting [of his vow], and so we lay stress upon the opening portion of his statement, but even if he says ‘of barley’, where we could take it as certain that his intention is: If it can become consecrated after the manner of the ‘Omer meal-offering,[16]

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(1) That a man does not make a declaration without meaning something.

(2) Of our Mishnah.

(3) That a man's intention may be gathered from the concluding portion of his statement, and not like R. Simeon; cf. n. 7.

(4) That a vow must be undertaken in the customary manner.

(5) Which alone was permissible for a meal-offering. v. Lev. II. 2: And when anyone bringeth a meal-offering unto the Lord, his offering shall be of fine flour; and he shall pour oil upon it and put frankincense thereon.

(6) M. Men. 103a.

(7) There was an obligatory offering of barley for the ‘Omer but no offering of lentils at all (v. Lev. XXIII, 10ff.).

(8) And so here he ought to bring a meal-offering of wheaten Hour if he says ‘of lentils’.

(9) That the Tanna of the Mishnah of Men. 103a is Beth Shammai. [He will consequently accept the explanation of R. Johanan (Tosaf.).]

(10) He could still have maintained that the Mishnah of Men. represents the view of Beth Shammai, and retract from the second statement holding that the ruling applies even if the man said ‘of lentils’!

(11) If the view of Beth Shammai is that we hold a man to the first portion of his vow, then even if he says, ‘I intend to offer a mealoffering of lentils’, he should be obliged to bring one of wheaten flour.

(12) [The text is in disorder, and the interpretations suggested are many and varied. It appears to be best understood on the basis of Rashi's interpretation of R. Judah's statement in our Mishnah, viz., that he actually added, THEY ARE FORBIDDEN TO ME AS IS A SACRIFICE (v. supra p. 28, n. 2). On this view, even according to Beth Shammai, where he vowed to bring a meal-offering from barley, he would not be obliged to bring one of wheat unless he, e.g., explicitly stated that had he known that such vows are not made, he would have vowed in the correct manner, as R. Johanan (supra p. 30), but while such a plea would be accepted if he vowed barley because it could have been a bona-fide error, it could not be admitted if he undertook to offer ‘lentils’. Granted this, the Mishnah in Men. can represent the views of both Beth Hillel and Beth Shammai, as R. Johanan stated, hence the reason for Hezekiah relinquishing his former opinion (v. p. 30, 11. 4).]

(13) [A plea which is not admitted if he vowed to bring ‘lentils’, v. n. 4.]

(14) [R. Johanan, in affirming that the ruling is applicable even if he says ‘of lentils’.]

(15) [V. supra p. 30, n.4.]

(16) Which was of barley. v. Lev.XXIII, 10ff.

Talmud - Mas. Nazir 10a

or the meal-offering of the faithless wife,[1] then I desire it to become consecrated, but not otherwise — even there we are told that he must bring one of wheaten flour.[2]

MISHNAH. IF HE SAYS, ‘THIS HEIFER IS SAYING I SHALL BECOME A NAZIRITE IF I RISE,’[3] OR ‘THIS DOOR IS SAYING I SHALL BECOME A NAZI RITE IF I OPEN’, BETH SHAMMAI SAY THAT HE BECOMES A NAZIRITE, BUT BETH HILLEL SAY THAT HE DOES NOT BECOME A NAZIRITE. R. JUDAH SAID: EVEN THOUGH BETH SHAMMAI DID AFFIRM [THAT THE FORMULA WAS OF SOME EFFECT], IT WAS ONLY WHERE HE SAYS:[4] ‘THIS HEIFER SHALL BE [FORBIDDEN] TO ME AS IS A SACRIFICE, IF IT SHOULD STAND UP [OF ITSELF]’.

GEMARA. Is it possible for a heifer to talk? — Rami b. Hama replied: [The Mishnah] here, refers to where a heifer lay crouching before him, and he said, ‘This heifer thinks that it is not going to stand up. I intend to be a nazirite [and abstain] from its flesh, if it stands up of its own accord,’ and it then arose of its own accord. Beth Shammai now apply their customary view and Beth Hillel their customary view. Beth Shammai who affirm that [in spite of his saying], ‘from dried figs and pressed figs’, he becomes a nazirite, assert here that [even] when he says ‘from its flesh’, he becomes a nazirite, whilst Beth Hillel declare that he does not become a nazirite.

But have not Beth Shammai asserted this once, already? Raba replied: A second and a third time[5] [did they repeat it]. R. Hiyya, too, taught it a second and a third time, and so did R. Oshaia teach it a second and a third time, and they are all necessary statements; For if the rule had been stated merely in the case of dried figs and pressed figs, [it might have been argued] that Beth Shammai were of the opinion there that his words take effect and he becomes a nazirite because [figs and] grapes can be confused,[6] whereas flesh and grapes cannot be confused. Similarly had it been affirmed regarding flesh [it might have been argued] that Beth Shammai were of the opinion in this instance that he becomes a nazirite, because flesh and wine [are naturally associated],[7] but it would not apply to dried figs and pressed figs, and so this case also is given explicitly. Again, had it been affirmed in these two cases [only, it might have been argued] that only in these cases was Beth Shammai's assertion to be applied, whilst as concerns the door, they would defer to Beth Hillel.[8] Further, had only the door been referred to, [it might have been argued] that only in this case do Beth Hillel dissent, but in the other two they defer to Beth Shammai, and so we are told that this is not so.

[Nevertheless,] said Raba, does the Mishnah say if [the cow] rises of its own accord?[9] But, said Raba, we must explain thus: The heifer, for example, is recumbent before him, and he says, ‘I undertake to bring it as a sacrifice’.

This is all very well as regards the heifer which can be offered as a sacrifice but can a door be sacrificed?[10] — Raba therefore [corrected himself and] said: The heifer, for example, is recumbent before him,[11]

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(1) This was also barley, v. Num. V, 15.

(2) I.e. although his vow ban a certain meaning even if taken at face value, and there is no need for us to emphasise the first clause to the exclusion of the second, yet we do so.
(3) Apparently this is taken as a clumsy way of saying: ‘If I do not make this cow get up, I vow abstinence from its flesh.’
(4) Cf. supra p. 28, n. 2.
(5) The case of the DOOR.
(6) So that when he said figs he may have meant grapes.
(7) And when he spoke of the one, he thought of the other.
(8) Because there is no association between a door and grapes.
(9) Whilst admitting the necessity of restating the principle in our Mishnah, Raba objects to the explanation of Rami b. Hama on the ground that the word ‘rises’ might mean with the help of others, whereas according to Rami b. Hama the vow is effective only when the heifer rises of its own accord.
(10) Since the case of the door in the Mishnah is parallel to that of the heifer, any explanation applying to the heifer must hold good if the door is substituted.
(11) And appears as if it will never rise, even if force is used.

Talmud - Mas. Nazir 10b

and he says, ‘I undertake a nazirite-vow [to abstain] from wine if it does not stand up,’ and it then stood up of its own accord. In Beth Shammai's opinion, the substance[1] of this man's vow lay in his intention to cause [the heifer] to rise by force,[2] and this he did not do,[3] whereas Beth Hillel are of the opinion that [the vow was made] because [the heifer] was recumbent,[4] and it has risen.[5]

If this is [the meaning of the Mishnah], how is the subsequent clause to be understood, viz.: R. JUDAH SAID: EVEN THOUGH BETH SHAMMAI DID AFFIRM [THAT THE FORMULA WAS OF SOME EFFECT], IT WAS ONLY WHERE HE SAYS, AND SHALL BE FORBIDDEN TO ME AS A SACRIFICE ETC.’? Does [his vow] then, attach to the heifer at all?[6] — [It must be] therefore, that he said, for example, ‘I undertake a nazirite vow [to abstain] from its flesh if it should not stand up,’ and it then stands up of its own accord. In Beth Shammai's opinion, the substance of this man's VOW is his intention to cause [the heifer] to rise by force, and this he has not done, whereas according to Beth Hillel, the substance of his vow lies in the fact that [the heifer] was recumbent, and it has risen.[7]

But are Beth Hillel of the opinion that if [the heifer] does not stand up, [the man] becomes a nazirite? Have they not said that [by a vow to abstain] from flesh, he does not become a nazirite?[8] — They were arguing on the premises of Beth Shammai. In our opinion, he does not become a nazirite even if [the heifer] should not stand up, but you who say that he does become a nazirite[9] should at least admit that the substance of his vow lay in the fact that [the heifer] was recumbent, and it has since risen. Beth Shammai reply that this is not so, and the substance of the man's vow lay in his intention to cause [the heifer] to rise by force, and this he has not done.[10]

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(1) Lit., ‘the obligation’.
(2) Lit., ‘with his hand’. The word ‘stand up’ being taken to mean ‘stand up through me’.
(3) He therefore becomes a nazirite.
(4) And can only take effect if it remains recumbent.
(5) He does not therefore become a nazirite.
(6) The words ‘it is forbidden to me as a sacrifice’ imply that the heifer itself was the object of the vow, whereas in Raba's explanation it is the heifer's not standing up which is the condition for the operation of the man's naziriteship, and he has no intention of attaching any sanctity to the heifer.
(7) But if it did not rise he would be a nazirite.
(8) Even as in the case of a vow to abstain from pressed figs, v. supra p. 32.
(9) Where he says simply, ‘I undertake to he a nazirite (and abstain) from flesh.’

(10) And so he becomes a nazirite.

Talmud - Mas. Nazir 11a

MISHNAH. IF A CUP OF WINE DULY TEMPERED[1] IS OFFERED TO A MAN, AND HE SAYS, ‘I INTEND TO BE A NAZIRITE IN REGARD TO IT,’ HE BECOMES A NAZIRITE. ON ONE OCCASION A CUP OF WINE WAS OFFERED TO A WOMAN ALREADY INTOXICATED AND SHE SAID, ‘I INTEND TO BE A NAZIRITE IN REGARD TO IT. THE SAGES RULED THAT ALL THAT SHE MEANT WAS TO FORBID IT TO HERSELF, AS A SACRIFICE [IS FORBIDDEN]. GEMARA. You cite a case to disprove [the rule]! You begin by saying that HE BECOMES A NAZIRITE, and then quote the case of the woman [who does not become a nazirite], from which I should conclude that [by means of this formula] he forbids to himself only this [cup that is offered to him] but is allowed to drink other wine? — There is a hiatus [in the Mishnah], which should read: ‘If a cup of wine duly tempered is offered to a man, and he says "I undertake a nazirite vow [to abstain] from it", he becomes a nazirite.’ If, however, he was [already] intoxicated when he said ‘I intend to be a nazirite [and abstain] from it’,he does not become a nazirite,[2] (since he is accounted as having merely forbidden it to himself as a sacrifice is forbidden. If you should object that he ought to have said so [unambiguously], [the reply is] that he thought they would bring a fresh one and importune him, and so he thought, ‘I will say something to them which will leave them in no doubt [as to my intention]). ON ONE OCCASION, TOO, A WOMAN [ALREADY INTOXICATED etc.].

MISHNAH. [IF A MAN SAYS,] ‘I DECLARE MYSELF A NAZIRITE, ON CONDITION THAT I CAN DRINK WINE, OR CAN HAVE CONTACT WITH THE DEAD’, HE BECOMES A NAZIRITE, AND ALL THESE THINGS ARE FORBIDDEN HIM. [IF HE SAYS,] ‘I WAS AWARE THAT THERE IS SUCH A THING AS NAZIRITESHIP BUT I WAS NOT AWARE THAT A NAZIRITE IS FORBIDDEN TO DRINK WINE’, HE IS BOUND [TO HIS VOW].[3] R. SIMEON, HOWEVER, RELEASES HIM.[4] [IF HE SAYS,] ‘I WAS AWARE THAT A NAZIRITE IS FORBIDDEN TO DRINK WINE,[5] BUT I IMAGINED THAT THE SAGES WOULD GIVE ME PERMISSION, SINCE I CANNOT DO WITHOUT WINE’, OR ‘SINCE I AM A SEXTON’,[6] HE IS RELEASED.[7] R. SIMEON, HOWEVER, BINDS HIM [TO HIS VOW].[8] GEMARA. Why does R. Simeon not dissent from the first ruling [also]? — R. Joshua b. Levi said: R. Simeon did in fact dissent from the first ruling also. Rabina said: In the opening clause, R. Simeon does not dissent, because the condition [there attached to the vow][9] is contrary to an injunction of the Torah, and whenever a condition is contrary to an injunction of the Torah, it is void.[10] R. Joshua b. Levi, on the other hand, considered that the words ON CONDITION here are equivalent to ‘except’.[11]

It has been taught in support of Rabina's view: If he said, ‘I declare myself a nazirite, on condition that I may drink wine, or have contact with the dead,’ he becomes a nazirite and all these things are forbidden to him, since the condition he lays down is contrary to an injunction of the Torah; and whenever a condition is contrary to an injunction of the Torah,it is void.[12]

[IF HE SAYS] I WAS AWARE THAT A NAZIRITE IS FORBIDDEN TO DRINK WINE [etc.]: In the preceding clause,[13] we find it is [the Rabbis] who bind him [to his vow] and R. Simeon who releases him [and why is it not the same here]? — Here, too, it should read: [The Rabbis] bind him whilst R. Simeon releases.

Alternatively, you need not reverse the text,

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(1) Wine in ancient times was never drunk neat.

(2) His intention being to cease from drinking.

(3) I.e. be becomes a full nazirite

(4) He does not become a nazirite at all, P. Simeon being of opinion that a nazirite vow is not effective unless it comprises all the things forbidden to a nazirite, v. supra 3b.

(5) [Add, ‘or that a nazirite may have no contact with the dead.’]

(6) [And therefore thought the Rabbis would permit me to come in contact with the dead.]

(7) He does not become a nazirite at all.

(8) He becomes a full nazirite.

(9) That he should be allowed to touch a dead body or drink wine.

(10) And therefore the vow stands.

(11) Hence the vow was not all-inclusive, and therefore R. Simeon regards it as null.

(12) Tosef. Naz. II, 1.

(13) Where he says he did not know that wine is forbidden.

Talmud - Mas. Nazir 11b

[and we may explain thus]. In the first clause, where he makes a nazirite vow [to abstain] from one thing[1] only, according to the Rabbis, who hold that [the nazirite vow takes effect] even though he forswears one thing only, he becomes a nazirite and [the things forbidden to a nazirite] are forbidden to him; whereas according to R. Simeon who holds that [the nazirite vow does not take effect] until he forswears all of them, [all the things forbidden to a nazirite] are permitted to him. In the subsequent clause where he forswears all, and desires release as regards one thing, according to the Rabbis who declare him to be a nazirite even though he forswears one thing only, if he desires release as regards one only, he is released [from all]; according to R. Simeon who requires him to forswear them all, he cannot obtain release from one, until he obtains release from all. This is the reason we have the reading [in the second clause]: R. SIMEON BINDS HIM.

Yet another solution is possible. The controversy concerns vows [broken] under pressure,[2] and the difference [between R. Simeon and the Rabbis] is the same as that between Samuel and R. Assi [in the following passage]. For we have learnt: Four types of vows were remitted by the Sages,[3] incentive Vows,[4] vows of exaggeration,[5] inadvertent vows[6] and vows [broken] under pressure.[7] And [commenting thereon] R. Judah said: ‘R. Assi ruled that it was necessary with these four types of vow to seek remission from a Sage. When I told this to Samuel, he said to me, The Tanna says that the Sages have remitted them, and you say that they must still be asked to remit them!’ The Rabbis agree with Samuel,[8] R. Simeon with R. Assi.[9]

MISHNAH. [SHOULD A MAN SAY,] ‘I DECLARE MYSELF A NAZIRITE AND I UNDERTAKE TO POLL A NAZIRITE’,[10] AND SHOULD HIS COMPANION, HEARING THIS, SAY: ‘I TOO, AND I UNDERTAKE TO POLL A NAZIRITE’, THEN, IF THEY ARE CLEVER THEY WILL POLL EACH OTHER; OTHERWISE THEY MUST POLL OTHER NAZIRITES.

GEMARA. The question was propounded: If his companion, on hearing [his vow], says [simply]: ‘I TOO’, what are the consequences? Does [the remark] ‘I TOO’ embrace the whole of the original statement,[11] or does it embrace only half of it? If it should be decided that it embraces only half of the statement,is this to be the first half or the second half? — Come and hear: [AND HIS COMPANION, HEARING THIS, SAYS:] I TOO, AND I UNDERTAKE TO POLL A NAZIRITE, THEN IF THEY ARE CLEVER THEY WILL POLL EACH OTHER. From the fact that he is made to say both I TOO’ and ‘I UNDERTAKE ,it may be inferred that ‘I TOO’ has reference to half of the statement only.

Quite so: it has reference to half of the statement only, but is this the first half or the second half? — This follows from the same [passage]. For since he is made to say AND I UNDERTAKE TO POLL’[12] it follows that ‘I Too’ has reference to the first half.

R. Huna, the son of R. Joshua said to Raba: How can we be sure that this is so? May we not suppose that ‘I TOO’ really refers to the whole statement, and that the additional ‘AND I UNDERTAKE’, merely confirms his Undertaking? For if you do not admit this, [what do you make of] the subsequent [Mishnah] that reads: [Should a man say:] ‘I undertake half the polling of a nazirite’, and should his companion, hearing this, say: ‘I too, I undertake half the polling of a nazirite’?[13] Are there here two sections to which he can be referring? We can only suppose that there he is merely repeating ‘I have undertaken this obligation’, and in this case too [it is possible] that he is merely repeating ‘I have undertaken this obligation.’ Raba replied: How now! If you are prepared to say that in the first [Mishnah the words ‘I UNDERTAKE ETC.’] are of importance, but not in the subsequent one, then they are repeated in the subsequent one — unnecessarily, it is true — because they are included in the first one where it is important,[14] but if you maintain that it is of importance neither in the first [Mishnah] nor in the subsequent one, would it be included unnecessarily in both? R. Isaac b. Joseph citing R. Johanan said: If a man instructs his representative

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(1) I.e., one of the things forbidden a

(2) Viz., his inability to live without wine.

(3) I.e., without the need of remission being asked for.

(4) E.g.. ‘I vow . . . if I pay more’, made during bargaining to show himself in earnest.

(5) E.g., ‘I vow . . . if there were not a million people there’, the number being obviously exaggerated.

(6) E.g., ‘I vow . . . if I was there,’ and he later remembers that he was there.

(7) E.g., through illness. V. Ned. 20b.

(8) Since it is impossible for a nazirite to be a sexton, the vow is null of itself and he is not a nazirite.

(9) Though he cannot be a nazirite, the vow must be remitted by a Sage.

(10) I.e., enable a nazirite to poll by providing his sacrifices.

(11) I.e., both (i) ‘I wish to be a nazirite,’ and (ii) ‘I undertake to poll a nazirite.’

(12) And not merely ‘I Too’.

(13) Mishnah infra 12b.

(14) I.e., the second Mishnah repeats the phrasing of the first, for the sake of parallelism.

Talmud - Mas. Nazir 12a

to go and betroth for him a wife, without specifying any woman, he becomes [in the meanwhile] forbidden [to marry] any woman in the world, since it is presumed that the messenger carries out his commission, and since he did not specify [the woman], he does not know which he betrothed for him.[1] Resh Lakish raised an objection against R. Johanan [from the following]: If a dove of an indeterminate pair[2] should fly away into the air, or amongst those sin-offerings that have to be killed,[3] or if one of the pair should perish, a partner is to be taken for the other one.[4] [This implies that] with a determinate pair there is no remedy;[5] though all other pairs [in the world] would be valid.[6] Now why should this be so? Should we not say of each one, perhaps this is one [that flew away]?[7] He replied: I spoke of a woman who is stationary and you raise objections from prohibited things that are mobile![8] Should you argue further that here too the woman may be mobile, for it is possible that he may have met her in the street and betrothed her, [the cases are still different] for the woman returns to her customary place, but can the same be said of the bird-pair?

Raba said: R. Johanan would admit that a woman who has [among her unmarried relatives] neither daughter, daughter's daughter, nor son's daughter; neither mother nor maternal grandmother, nor sister, although she may have a sister who was divorced after [the representative was sent] — such a woman would be permitted to him,[9] because at the time that he gave his instructions, [the sister] was still married, and when a person appoints a deputy, it is [to perform] something that is possible at the time,[10] but for something that is not possible at the time he does not appoint a deputy.[11]

We have Iearnt: [SHOULD A MAN SAY:] ‘[11] DECLARE MYSELF A NAZIRITE, AND I

UNDERTAKE TO POLL A NAZIRITE,’ AND SHOULD HIS COMPANION, HEARING THIS, SAY: ‘I TOO, AND I UNDERTAKE TO POLL A NAZIRITE, THEN, IF THEY ARE CLEVER, THEY WILL POLL EACH OTHER; OTHERWISE THEY MUST POLL OTHER NAZIRITES. Now this [suggestion][12] is all very well as regards the latter, since the former had become [a nazirite] first,[13] but as to the former, was the latter a nazirite [when he made his vow]?[14]

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(1) Any woman may therefore be a relative, of a forbidden degree of kinship, of his betrothed wife.

(2) A pair of doves of which it has not yet been determined which is to be the sin-offering and which the burnt-offering.

(3) v. Kin. 1, 2.

(4) The pair is then to be determined in the usual way; Kin. II, I.

(5) Since it is not known which is the survivor.

(6) We assume that a random pair does not contain the missing dove, as we are guided by the majority.

(7) [And could not be offered except on behalf of the owner who originally determined it.]

(8) Where the objects are stationary (קבוע), a majority is not considered decisive, but any minority is as potent as the majority (cf. Sanh. [Sonc. ed.] p. 531. n. 4) and so there is an even chance that any woman is a near kinswoman of his betrothed wife.

(9) I.e., to betroth before the deputy returns.

(10) Here, to betroth an unmarried woman.

(11) Hence the deputy could not possibly have betrothed the other sister.

(12) Viz., that they should poll each other.

(13) Lit., ‘since the former was in his presence’; and so his vow to poll a nazirite can be understood as applying to the former.

(14) How then can his vow apply to the latter, if we accept Raba's contention that a man can appoint an agent only for something which is possible at the time.

Talmud - Mas. Nazir 12b

It follows therefore that he must have meant: ‘If I should find one who is a nazirite, I shall poll him’; and so here too, perhaps he means: ‘If you find one who is divorced, [you can] betroth her on my behalf’? — We may put [our maxim] thus. A person can appoint a deputy only for a commission that he himself can execute at the moment, but he cannot appoint him for a commission that he himself cannot execute at the moment [but can only do later].

But is that so? Come and hear: If a man says to his agent,[1] ‘You are to declare void any vows that my wife makes from the present moment until the time I return from such-and-such a place,’ and he does so,it might be imagined that they become void, but Scripture says: Her husband may let it stand, or her husband may make it void.[2] This is the opinion of R. Josiah. R. Jonathan said: In all circumstances do we find that a man's representative is equivalent to himself.[3] Now, [R. Josiah's] reason derives from the statement of the Divine Law, Her husband may let it stand, or her husband may make it void, and but for this, the agent would be able to declare them void, whereas where [the husband] himself is concerned, it has been taught: Should a man say to his wife, ‘All the vows that you may make from the present moment until I return from such-and-such a place are to stand,’ this is of no effect. [Should he say,] ‘They are to be void,’ R. Eliezer declares them void, but the Sages say that they are not void.[4] Now assuming that R. Josiah agrees with the Rabbis that he himself could not make them void, [we nevertheless find that] had not the Divine Law said, Her husband may let it stand or her husband may make it void, the agent could have declared them void?[5] — It is possible that he agrees with R. Eliezer that [the husband] can make them void [in advance]. If that is so, why does he trouble to appoint a deputy? Why does he not declare them void himself? — He fears that [at the moment of departure][6] he might forget, or be angry, or be too busy.

MISHNAH. [SHOULD A MAN SAY,] ‘I UNDERTAKE THE POLLING OF HALF A NAZIRITE,’[7] AND HIS COMPANION, HEARING THIS, SAY ‘I, TOO; I UNDERTAKE THE

POLLING OF HALF A NAZIRITE,' THEN, ACCORDING TO R. MEIR, EACH MUST POLL A NAZIRITE COMPLETELY, BUT THE SAGES SAY: EACH POLLS HALF A NAZIRITE.

GEMARA. Raba said: All agree that if he Says, 'I undertake half the sacrifices[7] of a nazirite,' he is obliged to bring only half the sacrifices;[8] if he says 'I undertake the sacrifices of half a nazirite,' he must bring a complete set of sacrifices, since partial naziriteship is impossible.[9] Where they differ is when the phraseology of the Mishnah [is used].[10] R. Meir considers that as soon as he says 'I undertake [to poll]' he becomes liable to the complete sacrifice of naziriteship, and when he [afterwards] specifies half a naziriteship, it is no longer within his power [to limit his obligation].[11] The Rabbis, on the other hand, look upon it as a vow accompanied by its own modification.[12]

MISHNAH. [SHOULD A MAN SAY,] '[11] UNDERTAKE TO BECOME A NAZIRITE WHEN I SHALL HAVE A SON,' AND A SON BE BORN TO HIM, HE BECOMES A NAZIRITE. IF THE CHILD BORN BE A DAUGHTER, OR SEXLESS, OR AN HERMAPHRODITE, HE DOES NOT BECOME A NAZIRITE. SHOULD HE SAY, WHEN I SHALL HAVE A CHILD,' THEN EVEN IF IT BE A DAUGHTER, OR SEXLESS, OR AN HERMAPHRODITE, HE BECOMES A NAZIRITE.

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(1) A person left by a man in charge of his household while he is away.

(2) Num. XXX, 14.

(3) Ned. 72b.

(4) Ned. 72a.

(5) Which seems to show that a man can appoint an agent for something which cannot be done at once but can be done later.

(6) Until then, he wishes to retain his option of declaring his wife's vows void or not, at his pleasure.

(7) I.e.,to bring half the sacrifices accompanying the polling of a nazirite.

(8) Because there is no ambiguity.

(9) The phrase 'half a nazirite' is meaningless and must therefore be replaced by 'a nazirite', since it is presumed that he intended to undertake a real obligation.

(10) Here the actual obligation, which is to provide sacrifices, is not mentioned explicitly but must be inferred. The position of the word 'half' is no longer decisive, since no other position yields more sense. Accordingly, its significance must be determined.

(11) Limitation is now only possible on application to a Sage, and so he must bring a complete sacrifice.

(12) And therefore only the modified vow comes into operation and it is sufficient for him to bring half the sacrifices. V. supra p. 28, n. 7.

Talmud - Mas. Nazir 13a

SHOULD HIS WIFE MISCARRY, HE DOES NOT BECOME A NAZIRITE. R. SIMEON SAID: [IN THIS CASE] HE MUST SAY, IF IT WAS A VIABLE CHILD, I AM A NAZIRITE OBLIGATORILY; OTHERWISE I UNDERTAKE A NAZIRITESHIP VOLUNTARILY.'[1] SHOULD [HIS WIFE] LATER BEAR A CHILD,[2] HE THEN BECOMES A NAZIRITE. R. SIMEON SAID: HE SHOULD SAY, 'IF THE FIRST WAS A VIABLE CHILD, THE FIRST [NAZIRITESHIP] WAS OBLIGATORY, AND THE PRESENT ONE WILL BE VOLUNTARY, OTHERWISE, THE FIRST ONE WILL HAVE BEEN VOLUNTARY, AND THE PRESENT ONE IS OBLIGATORY.

GEMARA. For what purpose are we told this?[3] — Because of the subsequent clause, viz.: — IF IT BE A DAUGHTER, OR SEXLESS, OR AN HERMAPHRODITE, HE DOES NOT BECOME A NAZIRITE. But is not this obvious? — It might be thought that his meaning was 'If I beget a child'[4] and so we are told that this is not so SHOULD HE SAY 'WHEN I SHALL HAVE A CHILD' etc.: But is not this obvious? — It might be thought that he only meant the child that is reckoned amongst men,[5] and so we are told [that any child is meant].

SHOULD HIS WIFE MISCARRY HE DOES NOT BECOME A NAZIRITE. The author of this statement is the R. Judah of the heap of grain.[6]

R. SIMEON SAID: HE SHOULD SAY, ‘IF THE CHILD WAS VIABLE, THEN I AM A NAZIRITE OBLIGATORILY; OTHERWISE I UNDERTAKE NAZIRITESHIP VOLUNTARILY.’ — R. Abba put the following question to R. Huna: Should a man say, ‘I undertake to become a nazirite when I shall have a son’, and his wife miscarries, and he set aside a sacrifice,[7] and then his wife gave birth [to a son],[8] what is the law?[9] From whose standpoint [was this problem propounded]? If from the standpoint of R. Simeon, what problem is there? Does not R. Simeon say that wherever there is a doubt in questions concerning naziriteship we adopt the more stringent ruling?[10] — It must therefore be from the standpoint of R. Judah, who maintains that in questions concerning naziriteship,if there is a doubt the more lenient ruling is adopted. The query then is whether [the animal] became sacred or not,[11] But what [practical] difference can it make [which it is]?[12] — [There would be the question of] whether he might shear it, or work with it.[13] The problem was unsolved. Ben Rehumi put the following question to Abaye: [Should a man say,] ‘I undertake to become a nazirite when I shall have a son, and his companion, hearing this, add ‘And I undertake likewise,’ what would be the law? Is the reference to his words[14] or to him himself?[15] Should your finding be that the reference is to him himself,[16] then if a man should say, ‘I undertake to become a nazirite when I shall have a son,’ and his companion, hearing this, add ‘I too , what would be the law? Is the reference to himself, I or does he mean, ‘I am as much your good friend as you are yourself’?[17] Should your finding be that whenever the other is present

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(1) And in either case he becomes a nazirite.

(2) After her miscarriage.

(3) That if a son is born, he becomes a nazirite.

(4) The Hebrew word בן son’, is a denominative of בנה ‘to beget children’, and might be used for any child (Rashi).

(5) I.e., a son through whom the family is propagated.

(6) v. supra 8a.

(7) To bring at the end of his proposed naziriteship.

(8) As a result of the same confinement.

(9) I.e., what about the sacrifice between the time it was set aside, and the time the second child was born. The question is made clearer anon.

(10) So that the husband was a nazirite in law, and the sacrifice properly set aside from the first.

(11) [Does the birth of the second child prove that the first was the result of the same pregnancy and consequently not premature and viable, or do we assume that it was the result of a later pregnancy and thus premature and non-viable?]

(12) Since it is now sacred.

(13) In the interval between the birth of the first and second child, as no benefit might be derived from sacred property.

(14) I.e., ‘I also undertake to become a nazirite when I have a son’.

(15) The former, i.e., I also undertake to become a nazirite when you have a son’.

(16) The latter, meaning, ‘I too shall be a nazirite when I have a son’.

(17) I.e., ‘I too shall be a nazirite when you have a son’.

Talmud - Mas. Nazir 13b

he would be ashamed [to refer to himself],[1] then if a man should say, ‘I undertake to be a nazirite when so-and-so has a son,’ and his companion, hearing this, add ‘I too,’ what would be the law? Would it be said then that because the other is not present he is referring to himself,[2] or does he mean, ‘I am as good a friend to him as you are’?[3]

The problem was left unsolved.

MISHNAH. [IF A MAN SAYS,] ‘I INTEND TO BE A NAZIRITE [NOW] AND A NAZIRITE WHEN I SHALL HAVE A SON’, AND BEGINS TO RECKON HIS OWN [NAZIRITESHIP]. AND THEN HAS A SON BORN TO HIM, HE IS TO COMPLETE HIS OWN NAZIRITESHIP] AND THEN RECKON THE ONE ON ACCOUNT OF HIS SON. [IF HE SAYS,] ‘I INTEND TO BE A NAZIRITE WHEN I SHALL HAVE A SON, AND A NAZIRITE [ON MY OWN ACCOUNT]’, AND HE BEGINS TO RECKON HIS OWN [NAZIRITESHIP] AND THEN HAS A SON BORN TO HIM, HE MUST INTERRUPT HIS OWN [NAZIRITESHIP], RECKON THE ONE ON ACCOUNT OF HIS SON, AND THEN COMPLETE HIS OWN. GEMARA. Raba put the following question. If he should say, ‘I wish to be a nazirite[4] after twenty days time,’ and then ‘For one hundred days commencing now’, what would be the law? Seeing that these hundred days will not be complete in twenty, are they to be inoperative [for the time being][5] or, seeing that there will remain sufficient time afterwards[6] for the hair to grow long,[7] do they come into operation [immediately]?[8]

Why does [Raba] not [first] raise the question of a [second] naziriteship of short duration?[9] It is a problem within a problem that he has raised:

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(1) And he must have meant, ‘I shall be a nazirite when you have a son.’

(2) I.e., ‘I too shall be a nazirite when I have a son.’

(3) I.e., ‘I too shall be a nazirite when so-and-so has a son.

(4) An ordinary naziriteship of thirty days.

(5) I.e., till thirty days after the twenty.

(6) At the termination of the ordinary naziriteship.

(7) A nazirite could not poll until his hair had grown for thirty days.

(8) He will count twenty days, observe an ordinary naziriteship of thirty days, and then count eighty days to complete the naziriteship of one hundred days.

(9) ‘I wish to be a nazirite after twenty days’, and then, ‘An (ordinary) nazirite commencing now.’

Talmud - Mas. Nazir 14a

Suppose it is decided that with a short naziriteship, since only ten days remain,[1] these ten days would certainly not be reckoned,[2] [what are we to say] of a naziriteship of a hundred days?[3] Seeing that eighty remain, would these [eighty days] be reckoned[2] or not?

And again, suppose it is decided that [the naziriteship] [in this case] operates [immediately], what would be the law if he were to say ‘I wish to be a nazirite after twenty days time’ and then ‘I wish to be a life nazirite now’,[4] would this become operative [at once] or not?[5] And again, supposing it is decided that in all these cases, since it is possible to secure release,[6] they become operative [at once],[7] what would be the law if he were to say ‘I wish to become a nazirite like Samson in twenty days time’, and then ‘I wish to be an ordinary nazirite now’? In this case, since release cannot be secured,[8] would it become operative or not?

If he were to say, ‘I desire to be as Moses on the seventh of Adar,’[9] what [would his meaning be]?[10]

Of these [questions], decide the first, [For it was taught: Should a man say] ‘I wish to be a nazirite after twenty days time,’ and then ‘For a hundred days from now,’ he reckons twenty days, and then thirty days, and then eighty days to complete the first naziriteship.[11] [SHOULD HE SAY, ‘I WISH TO BE A NAZIRITE WHEN I SHALL HAVE A SON, AND A NAZIRITE ON MY OWN ACCOUNT etc.’]

If he contracts ritual defilement[12] during the period [of naziriteship] on account of his son, R. Johanan said: This renders void [the first[13] period as well], but Resh Lakish said: It is not void. ‘R. Johanan said that it becomes void,’ — because [the whole] is one long period of naziriteship; ‘but Resh Lakish said that it is not void,’ — since his own naziriteship, and the one on account of his son are distinct.

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(1) If it is interrupted by a naziriteship after twenty days.

(2) As completing the first naziriteship by adding them to the twenty days, since ten days do not allow for the hair to grow long and therefore this naziriteship does not commence until the other one is finished.

(3) Is it on the same footing as the short one, or does it commence at once?

(4) Though a life-nazirite polls every thirty days, the naziriteship is continuous and cannot be interrupted. Thus once the life-naziriteship operates it is impossible for the ordinary naziriteship to take effect.

(5) I.e. , shall the life-naziriteship be suspended until the ordinary naziriteship has been observed, or does it become operative and he must obtain release from the other naziriteship.

(6) From the naziriteship which is to become operative in twenty days time.

(7) And he must secure release from the naziriteship which was to have operated after twenty days.

(8) A nazirite like Samson could never be freed from his vow, since Samson could not be freed.

(9) Supposed to be the date of the birth and death of Moses, v. Kid. 38a.

(10) Either ‘As after the death of Moses on the seventh of Adar’; when presumably many nazirite vows were made by the Israelites, or, ‘As after the birth of Moses on the seventh of Adar’, a festive occasion.

(11) Tosef. Nazir II.

(12) With the dead.

(13) The period counted before his son's naziriteship came into operation.

Talmud - Mas. Nazir 14b

If he contracts ritual defilement during the period that he is leprous.[1] R. Johanan said: This renders void [the earlier period of naziriteship]; but Resh Lakish said: It is not void. ‘R. Johanan said that it becomes void,’ — since he is in the midst of his period of naziriteship,[2] ‘but Resh Lakish said that it is not void,’ — because the period of leprosy and the naziriteship are distinct.

And it is necessary [to have both these controversies on record]. For if only the first[3] were recorded, [we might say that] there R. Johanan was of the opinion that [the first period] becomes void because the same term, naziriteship, applies to both, whereas in the other he would agree with Resh Lakish that the nazirite period and the leprosy are distinct. Similarly had only the other [regarding leprosy] been recorded, [we might suppose that] only there did Resh Lakish hold [the two periods to be distinct], whereas in the first he would agree with R. Johanan. Thus the necessity [for recording both controversies] is demonstrated. If he becomes unclean on a day [during the period that] his hair is growing.[4] — Rab said: This does not render void [the earlier period]; this even according to R. Johanan who said [above] that the [earlier period] does become void, for this is only so [when the uncleanness is incurred] during the naziriteship itself, but not during the period his hair is growing which is merely the complement of the naziriteship.[5] Samuel, on the other hand, said: It does render void [the earlier period]; and this even according to Resh Lakish who said [above] that [the earlier period] does not become void, for whereas there, there are two distinct naziriteships, here[6] there is but one naziriteship.[7]

R. Hisda said: All would agree that should his hair be still unshorn[8] when the blood [of his sacrifice had been sprinkled],[9] he would have no remedy.[10] With whose opinion does this statement accord? It cannot be with that of R. Eliezer,[11] for seeing that in his opinion polling estops [him from drinking wine, the uncleanness][12] is still prior to the ‘fulfilment of his [consecration]’[13] and [the whole period] should become void![14] Nor can it accord with the Rabbis, Seeing that they say that the polling does not estop [him from drinking wine]![15] -In point of fact, it does accord with the opinion of the Rabbis, the phrase, ‘he would have no remedy’, meaning, ‘he would have no means of fulfilling the precept of polling [in purity]’.

R. Jose son of R. Hanina said: A nazirite whose period is completed,is scourged for contracting ritual defilement,[16] but not for polling or for [drinking] wine. Why is he scourged for ritual defilement? [Assuredly] because Scripture says. All the days that he consecrateth himself unto the Lord [he shall not come near to a dead body],[17] thus including the days after fulfilment equally with the days before fulfilment! But in that case, for polling too he should be liable to scourging seeing that the All-Merciful Law Says. All the days of his naziriteship there shall cone no razor upon his head,[18] thereby including the days after fulfilment equally with the days before fulfilment. Again, All the days of his naziriteship shall he eat nothing that is made of the grape-vine,[19] should also include the days after fulfilment equally with the days before fulfilment? —

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(1) One who becomes leprous during his naziriteship completes it when the leprosy is cured.

(2) As is proved by the fact that when he recovers from his leprosy he completes his period.

(3) Relating the naziriteship on account of his son.

(4) If he had his hair polled by force, his naziriteship is not interrupted thereby and he completes his period. If this is less than thirty days, he must nevertheless allow his hair to grow for thirty days. The additional days constitute the ‘period that his hair is growing’.

(5) And not an integral part of it.

(6) When he allows his hair to grow after having been polled by force.

(7) The additional days are an integral part of naziriteship and not a mere complement.

(8) Lit., ‘hallowed’, cf. Num. VI, 11.

(9) And he became unclean.

(10) In regard to polling and wine drinking-so it is assumed at present.

(11) V. infra 472.

(12) He cannot drink wine after polling

(13) Cf. Num. VI, 13.

(14) Cf. ibid. 12, and he begins a new period at the end of which he finds the remedy.

(15) And defilement after the termination of his period does not affect the naziriteship.

(16) Before offering his sacrifices.

(17) Num. VI, 6.

(18) Ibid. VI, 5.

(19) Num. VI. 4.

Talmud - Mas. Nazir 15a

[Defilement] is different, for the All-Merciful Law says, And he defile his consecrated head,[1] showing that [the penalty for defilement lies] wherever the nazirite ship depends on the head.[2]

An objection was raised: A nazirite who has completed his period is forbidden to poll, or drink wine, or have contact with the dead. Should he poll or drink wine, or have contact with the dead he is to receive the forty stripes. [This is] a refutation of R. Jose son of R. Hanina.

MISHNAH. [SHOULD A MAN SAY.] ‘I UNDERTAKE TO BECOME A NAZIRITE WHEN I SHALL HAVE A SON, AND TO BE A NAZIRITE FOR ONE HUNDRED DAYS [ON MY OWN ACCOUNT],’ AND A SON BE BORN TO HIM BEFORE THE EXPIRATION OF SEVENTY DAYS, HE LOSES NONE OF THIS PERIOD;[3] BUT IF AFTER SEVENTY DAYS, THESE SEVENTY DAYS ARE VOID, SINCE THERE CAN BE NO POLLING FOR LESS THAN THIRTY DAYS.[4]

GEMARA. Rab said: The seventieth day itself is reckoned as part of both periods.[5]

We learnt: IF [A SON] BE BORN TO HIM BEFORE THE EXPIRATION OF SEVENTY DAYS, HE LOSES NONE OF THIS PERIOD. Now if you assume that [the day of birth] is reckoned as part of both periods,[not only does he not lose but] he actually profits![6] — Strictly speaking there should have been no mention of the period-before the seventieth day,[7] but because it says in the subsequent clause [of the Mishnah], that [birth] after the seventieth day renders these seventy days void, the period before the seventieth day is mentioned in the first clause.

Come [then] and hear the subsequent clause: 'IF IT BE BORN AFTER THE SEVENTIETH DAY,[8] THE SEVENTY DAYS ARE VOID[9] — The meaning of 'AFTER' is, after [the day] after [the seventieth day] ,[10] You say then that [a birth on] the day after [the seventieth day] itself,[11] would not render void [the previous period]. But if this is so, why should we be told that if the birth occurs before the seventieth day none of the period is lost, seeing that the same is true [of a birth occurring] on the day after the seventieth day? — It is consequently to be inferred that 'AFTER' means [the day] after literally, and thus the Mishnah unquestionably [contradicts] Rab.

Whose authority was Rab following in making this assertion? Shall we say it was Abba Saul, [in connection with whom] we have learnt: If a man bury his dead three days before a festival, the enactment of seven days' [full mourning] ceases to apply to him, if eight days before the festival, the enactment of thirty days [halfmourning] ceases to apply, and he may trim his hair on the eve of the festival. Should he, however, fail to trim his hair on the eve of the festival, he is not permitted to do so afterwards [until the thirty days' half-mourning elapse].

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(1) Num. VI, 9.

(2) I.e., as long as his head is unpolled. though the 'days of his consecration are fulfilled'.

(3) I.e., He counts a naziriteship of thirty days on account of his son, and then completes the hundred days on his own account.

(4) And since there are not thirty days left over from the first naziriteship, the whole of it becomes void, and he has to start his one hundred days over again.

(5) So that on the one hand seventy days of his own naziriteship are completed, and on the other he need only reckon twenty-nine more days for the naziriteship following the birth of his son. The same will of course be true of the last day of this naziriteship, when he must again commence the remainder of his own (Rashi).

(6) For each of the days between the naziriteships counts as two.

(7) Because there is no manner of doubt as to what the law should be and he does in fact gain.

(8) I.e., as we should suppose on the seventy-first.

(9) Whereas if Rab be right, a birth on the seventy-first day should not render void the previous period, since reckoning both ways, thirty days remain.

(10) I.e., The seventy-second day, which on any reckoning would not leave more than twenty-nine.

(11) I.e., seventy-first day.

Talmud - Mas. Nazir 15b

Abba Saul said: Even if he should fail to trim his hair before the festival, he is permitted to do so afterwards,for just as the observance of three days [before the festival] causes the enactment of seven days [full mourning] to lapse, so the observance of seven days [full-mourning before the festival] causes the enactment of thirty days [half-mourning] to lapse. Now, Abba Saul's reason is surely that the seventh day is reckoned as part both of [the full-mourning] and of [the halfmourning]![1] — Possibly Abba Saul only makes this avowal in connection with the periods of the seven days'[2] mourning which are a rabbinic enactment, whereas he would not do so in connection with naziriteship, a scriptural enactment?[3] It must therefore be that Rab follows R. Jose. for it has been taught: R. Jose said that a woman, 'on the wait' for gonorrhoenic issue,[4] on whose behalf [the paschal lamb] has been slaughtered and [its blood] sprinkled, on the second day [of her waiting], and who later [in the same day] observes an issue, may not eat [of the passover],[5] and does not have to prepare the second passover.[6] Now R. Jose's reason is surely because in his opinion, part of the day counts as a whole day, so that she becomes unclean only from the moment [of observing the issue] and thereafter.[7]

Is this indeed R. Jose's opinion?[8] Has it not been taught: R. Jose said that a sufferer from gonorrhoea who has observed unclean issue on two occasions, and on whose behalf [the paschal lamb] has been slaughtered and [its blood] sprinkled ‘on the seventh day [of his impurity], and Similarly a woman, on the wait’ for gonorrhoeic issue on whose behalf [the paschal lamb] has been slaughtered and [its blood] sprinkled — if they afterwards observe an unclean issue, then even though they render unclean couch and seat[9] retrospectively, they are not obliged to offer the second passover?[10] — [The uncleanness] is retrospective only by enactment of the Rabbis. This is indeed evident, for if it were scriptural, on what grounds would they be exempt from the second passover?[11] [No!][12] In point of fact it would be possible for the uncleanness [to be retrospective] in biblical law also, the concealed impurity[13] of gonorrhoea not being reckoned a ban [to the offering of the passover].

R. Oshaya. too, is of the opinion that the retrospective incidence is rabbinic in origin,[14] for it has been taught:[15] R. Oshaia said that one who observes a gonorrhoeic issue on his seventh day, renders void the preceding [seven days]. R. Johanan said to him: Only that day itself becomes void. But consider! [What is R. Johanan saying?] If it renders void at all, it should render all [seven days] void, otherwise it should not render void even the same day? — Read therefore: [R. Johanan said that] it does not even render void the same day,

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(1) In the same way as Rab reckons the 70th day twice over.

(2) The argument applying with greater force to the period of half-mourning.

(3) Hence Rab cannot appeal to his authority.

(4) V. Lev. XV, 25ff. Should a woman observe issue after her menstrual period, she becomes unclean until evening. From that time she is ‘on the wait’, and if there is an issue on the second day, she becomes unclean for seven days. A third day certifies her as gonorrhoeic, and she must then bring a sacrifice after purification; v. Sanh. (Sonc. ed.) p. 577. n. i. Whilst unclean she must not eat the flesh of sacrifices.

(5) For she is now unclean for seven days.

(6) On the 14th day of the following month, Iyar; v. Num. IX, 9ff.

(7) She was fit to offer the Passover, although she cannot now eat it. Adopting the reading of Tosaf., Asheri and others.

(8) That she becomes unclean only from that moment.

(9) Cf. Lev. XV, 4.

(10) Since they render unclean couch and seat retrospectively, the day must count as belonging wholly to the unclean period!

(11) Since they were already unclean when the paschal lamb was killed.

(12) This would afford no proof.

(13) Lit., ‘impurity of the abyss’, a technical term for an impurity of which there is no sign until its issue.

(14) In the opinion of R. Jose.

(15) [var. Iec.: For R. Oshaia said].

Talmud - Mas. Nazir 16a

. [R. Oshaia] replied: You have on your side R. Jose, who said that the uncleanness is incident [according to the Scripture] from the moment [of observation] and thereafter. Now was it not R. Jose who said that the uncleanness was retrospective? We see therefore that the retrospective incidence must [in his opinion] be rabbinic.[1]

Now seeing that R. Jose is of the opinion that part of a day counts as a whole day, how is it ever possible for there to be a certified[2] female sufferer from gonorrhoea to offer the [prescribed] sacrifice, for if the issue is observed in the second half of the day, then the first half of the day counts as the period of 'waiting'?[3] — It is possible either if she should have continual issue for three days, or alternatively, if she observes the issue on each of the three days shortly after sunset, so that there is no part of the day that can be reckoned [as a period of cleanness].

CHAPTER III

MISHNAH. IF A MAN SAYS, 'I INTEND TO BE A NAZIRITE', HE POLLS ON THE THIRTY-FIRST DAY, BUT SHOULD HE POLL ON THE THIRTIETH DAY, HIS OBLIGATION IS FULFILLED. [IF, HOWEVER, HE SAYS] 'I INTEND TO BE A NAZIRITE FOR THIRTY DAYS,' AND POLLS ON THE THIRTIETH DAY, HIS OBLIGATION IS NOT FULFILLED. IF A MAN UNDERTAKES TWO NAZIRITESHIPS, HE POLLS FOR THE FIRST ONE ON THE THIRTY-FIRST DAY, AND FOR THE SECOND ON THE SIXTY-FIRST DAY. IF, HOWEVER, HE SHOULD POLL FOR THE FIRST ON THE THIRTIETH DAY, HE CAN POLL FOR THE SECOND ON THE SIXTIETH DAY, WHILST SHOULD HE POLL ON THE DAY PRIOR TO THE SIXTIETH, HE HAS FULFILLED HIS OBLIGATION; FOR THIS WAS THE TESTIMONY THAT R. PAPAIAS BORE CONCERNING ONE WHO UNDERTAKES TWO NAZIRITESHIPS, VIZ., THAT IF HE SHOULD POLL FOR THE FIRST ON THE THIRTIETH DAY, HE IS TO POLL FOR THE SECOND ON THE SIXTIETH DAY, WHILST SHOULD HE POLL ON THE DAY PRIOR TO THE SIXTIETH DAY, HE HAS FULFILLED HIS OBLIGATION, THE THIRTIETH DAY COUNTING TOWARDS THE REQUIRED NUMBER. IF A MAN SAYS, 'I INTEND TO BE A NAZIRITE,' AND CONTRACTS RITUAL DEFILEMENT ON THE THIRTIETH DAY, HE RENDERS VOID THE WHOLE PERIOD. R. ELIEZER SAYS: ONLY THE SEVEN DAYS ARE VOID. [IF HE SAYS,] 'I INTEND TO BE A NAZIRITE FOR THIRTY DAYS, AND CONTRACTS RITUAL DEFILEMENT ON THE THIRTIETH DAY, THE WHOLE PERIOD IS VOID. [IF HE SAYS,] 'I INTEND TO BE A NAZIRITE FOR ONE HUNDRED DAYS,' AND CONTRACTS RITUAL DEFILEMENT ON THE HUNDREDTH DAY, HE RENDERS VOID THE WHOLE PERIOD. R. ELIEZER SAYS[4] : ONLY THIRTY DAYS ARE VOID. IF HE CONTRACTS DEFILEMENT ON THE HUNDRED AND FIRST DAY, THIRTY DAYS ARE VOID. R. ELIEZER SAYS: ONLY SEVEN DAYS ARE VOID.

GEMARA. IF A MAN SAYS, 'I INTEND TO BE A NAZIRITE' AND CONTRACTS RITUAL DEFILEMENT ON THE THIRTIETH DAY, HE RENDERS VOID THE WHOLE PERIOD. R. ELIEZER SAYS: ONLY THE SEVEN DAYS ARE VOID.

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(1) Otherwise he would he contradicting himself.

(2) One who has observed an issue on three successive days.

(3) During which she has been clean. and being clean part of the day. she is considered to have been clean all day.

(4) no note.

Talmud - Mas. Nazir 16b

R. Eliezer is of the opinion that any [defilement contracted] after the fulfilment'[of the period] renders only seven days void.[1]

[IF HE SAYS,] 'I INTEND TO BE A NAZIRITE FOR THIRTY DAYS, AND CONTRACTS RITUAL DEFILEMENT ON THE THIRTIETH DAY, THE WHOLE PERIOD IS VOID. Here, R. Eliezer does not dissent because [we assume that] the man said, 'whole days'.[2]

[IF HE SAYS,] 'I INTEND TO BE A NAZIRITE FOR A HUNDRED DAYS, AND CONTRACTS RITUAL DEFILEMENT ON THE HUNDREDTH DAY, HE RENDERS VOID

THE WHOLE PERIOD. R. ELIEZER SAYS: ONLY THIRTY DAYS ARE VOID. All this may be taken [in two ways,] according as we follow Bar Pada or R. Mattena as explained above.[3]

MISHNAH. IF A MAN MAKES A NAZIRITE VOW WHILST IN A GRAVEYARD, THEN EVEN IF HE REMAINS THERE FOR THIRTY DAYS, THESE ARE NOT RECKONED,[4] AND HE DOES NOT HAVE TO BRING THE SACRIFICE [PRESCRIBED] FOR RITUAL DEFILEMENT. IF HE LEAVES[5] IT AND RE-ENTERS,[6] [THE PERIOD][7] IS RECKONED, AND HE MUST BRING THE SACRIFICE [PRESCRIBED] FOR DEFILEMENT. R. ELIEZER SAID: NOT [IF HE RE-ENTERS] ON THE SAME DAY, FOR IT SAYS, BUT THE FORMER DAYS SHALL BE VOID,[8] [IMPLYING] THAT THERE MUST BE ‘FORMER DAYS’

GEMARA. It has been stated: If a man makes a nazirite vow whilst in a graveyard, then according to R. Johanan the naziriteship takes effect, but according to Resh Lakish it does not take effect. R. Johanan says: The naziriteship does take effect because he considers it merely to be suspended and in readiness, so that whenever he becomes ritually clean, it commences to operate; whereas Resh Lakish holds that, the naziriteship does not take effect; if he repeats [the vow] later [when he is clean], it will commence to operate, but not otherwise.

R. Johanan raised an objection to Resh Lakish [from the following]: IF A MAN MAKES A NAZIRITE VOW WHILST IN A GRAVEYARD, THEN EVEN IF HE REMAINS THERE FOR THIRTY DAYS, THESE ARE NOT RECKONED, AND HE DOES NOT HAVE TO BRING THE SACRIFICE [PRESCRIBED] FOR RITUAL DEFILEMENT. [This implies, does it not,] that it is only the sacrifice [prescribed] for ritual defilement that he does not have to bring, but [the vow] does take effect? — He replied: [Not so;] he does not come within the scope of the law, either of ritual defilement or of the sacrifice.

An objection was again raised by him [from the following]: If a man is ritually defiled, and vows to become a nazirite, he is forbidden to poll, or to drink wine, or to touch a dead body. Should he poll, or drink wine, or touch a dead body, he is to receive the forty stripes.[9] If now you admit that [the vow] takes effect, then we see why he receives the forty stripes; but if you say that it does not take effect, why should he receive the forty stripes? —

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(1) V. supra 6b.

(2) And the thirty are not yet completed.

(3) According to H. Mattena a naziriteship whose duration is not specified lasts thirty days, whilst Bar Pada says that it lasts twenty-nine days. The full discussion of the Mishnah occurs above, fols. 5b-7a.

(4) I.e., the naziriteship does not begin.

(5) [And submits to the process of purification.]

(6) After becoming clean, v. infra.

(7) He is considered an ordinary nazirite from the time he becomes clean until he re-enters the graveyard.

(8) Num. VI, 12.

(9) Tosef. Naz. II, 9.

Talmud - Mas. Nazir 17a

We are dealing here with the case in which he left [the graveyard] and re-entered it.[1]

A [further] objection was raised by him [as follows]: The only difference between a person ritually defiled who makes a nazirite vow, and a ritually clean nazirite who becomes unclean, is that the former reckons his seventh day [of purification] as part of his period [of naziriteship], whereas the latter does not reckon his seventh day [of purification] as part of his [new] period. If now you assume that [the vow of the unclean person] does not take effect, how is [the seventh day] to be counted [in his period]? — Mar b. R. Ashi said: Both [R. Johanan and Resh Lakish] agree that [the vow] does take effect; where they differ is whether there is [to be a penalty of] stripes.[2] R. Johanan is of the opinion that since [the vow] takes effect, he suffers the penalty of stripes, but Resh Lakish is of the opinion that there is no penalty of stripes, although [the vow] does take effect.

R. Johanan raised an objection to Resh Lakish [from the following]: IF A MAN MAKES A NAZIRITE VOW WHILST IN A GRAVEYARD, THEN EVEN IF HE SHOULD REMAIN THERE FOR THIRTY DAYS, THESE ARE NOT RECKONED, AND HE DOES NOT HAVE TO BRING THE SACRIFICE [PRESCRIBED] FOR RITUAL DEFILEMENT. [This implies, does it not,] that it is only the sacrifice prescribed for ritual defilement that he does not have to bring, but he does suffer stripes? — Strictly speaking, it should have stated that he does not receive stripes, but since it was requisite in the subsequent clause to mention that where HE LEAVES [THE GRAVEYARD] AND RE-ENTERS, THE [PERIOD] IS RECKONED, AND HE MUST BRING THE SACRIFICE [PRESCRIBED] FOR DEFILEMENT, the initial clause, too, mentions that he need not bring the sacrifice [prescribed] for ritual defilement.[3]

Come and hear: The only difference between a ritually defiled person who makes a nazirite-vow, and a ritually clean nazirite who becomes unclean, is that the former reckons his seventh day [of purification] as part of his period [of naziriteship], whereas the latter does not reckon his seventh day as part of his period. [Does not this imply] that as regards stripes, they are on a par? — He[4] replied: Not so. Where they are on a par is as regards polling.

[You aver, then,] that the latter receives stripes,[5] but the former does not do so. Why is this not mentioned? — The [Baraitha] is referring to that which is serviceable[6] to him, not to that which is to his detriment.[7]

Come and hear: Whosoever was ritually defiled and vowed to be a nazirite is forbidden to poll, or to drink wine. If he should poll, or drink wine, or come into contact with the [human] dead, he is to receive the forty stripes? This is undeed a refutation.[8]

Raba enquired: If a man vows to be a nazirite whilst in a graveyard, what is the law? Has he to be [in the graveyard] a certain time[9] for him to be liable to stripes, or not?

What are the circumstances? If he was told not to make a nazirite vow, why should any length of stay be necessary? What is the reason why no length of stay [in the graveyard] is necessary for the [ritually clean] nazirite [to be liable to stripes]? It is because he was forewarned;[10] and here too he was forewarned!

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(1) When he had become clean and repeated the vow.

(2) [For contracting defilement whilst making his vow in the graveyard.]

(3) Thus making the two clauses symmetrical in form.

(4) Resh Lakish.

(5) For defilement.

(6) To know when to commence the naziriteship.

(7) To receive stripes.

(8) Of Resh Lakish

(9) A minimum period. V. Shebu. 17a.

(10) Of the prohibition against defiling himself.

Talmud - Mas. Nazir 17b

We must suppose, therefore, that he entered [the graveyard] in a box, or a chest, or a portable turret,[1] and his fellow came and broke away the covering.[2] [The question then arises] whether [the rule requiring] a certain length of stay[3] was only laid down with reference to [defilement within] the Temple precincts, but not outside,[4] or whether there is no distinction.[5] The problem was unsolved.

R. Ashi raised the following question: If a man vows to become a nazirite whilst in a graveyard, is he required to poll or not? Is polling required only of a ritually clean nazirite who has contracted ritual defilement, because he has defiled his consecration,[6] and not of a ritually unclean person who makes a nazirite vow, or is there no difference [between the two]? — Come and hear: IF A MAN MAKES A NAZIRITE VOW WHILST IN A GRAVEYARD, THEN EVEN IF HE REMAINS THERE FOR THIRTY DAYS, THESE ARE NOT RECKONED, AND HE DOES NOT HAVE TO BRING THE SACRIFICE [PRESCRIBED] FOR RITUAL DEFILEMENT. [This implies, does it not,] that it is only the sacrifice prescribed for ritual defilement that need not be brought, but that polling is necessary! [That is not so.] The statement is made as a reason [for something else]. The reason that he need not bring the sacrifice prescribed for ritual defilement is that polling is unnecessary.[7]

Come and hear: The only difference between a ritually defiled person who makes a nazirite vow and a ritually clean nazirite who contracts ritual defilement is that the former reckons his seventh day [of purification] as part of his period [of naziriteship], whereas the latter does not reckon his seventh day as part of his [new] period. Surely, then, as regards polling both are on the same footing? — No! Where both are on the same footing is as regards stripes. In the case of polling, [you aver that] one polls and the other does not. Then why not mention this? — The seventh day is mentioned, and includes all observances dependent upon it.[8]

Come and hear: I am only told here[9] that the period of his ritual defilement is not reckoned [in the days of his naziriteship]. How do we know [that the same is true] of the period of declared leprosy?[10] This can be derived from an analogy [between the two]. Just as after the period of ritual defilement he is required to poll and bring a sacrifice, so after the period of declared leprosy he is required to poll and bring a sacrifice; and so just as the period of ritual defilement is not reckoned, the period of declared leprosy ought not to be reckoned. — Not so! For in the case of the period of defilement, it may he because this renders void the former reckoning[11] that it is not reckoned, whereas the period of declared leprosy does not render void the former reckoning,[12] and therefore it should itself be reckoned. — I will put the argument differently. Seeing that 'a nazirite in a graveyard',[13] whose hair is ripe for polling,[14] does not count [the days spent in the graveyard as part of his naziriteship], surely the period of declared leprosy, when his hair is not ripe for polling,[15] should not be counted.[16] Now surely polling as a result of his defilement is meant?[17] — No! the reference may be to polling [after observing the nazirite vow] in ritual purity.[18] This is indeed evident.

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(1) And therefore did not con-tract uncleanness when in the graveyard, being in a separate place.

(2) After he had vowed to become a nazirite.

(3) Viz., sufficient for prostration. V. Shebu. 17a.

(4) To cases not connected with the Temple, e.g.. when a nazirite becomes unclean inside the graveyard.

(5) And therefore in the graveyard also a certain length of stay is required.

(6) V. Num. VI, 9.

(7) The problem therefore remains.

(8) The seventh day is counted as part of his naziriteship because he need not bring a sacrifice, and he does not bring a sacrifice since he does not poll.

(9) In Num. VI, 22.

(10) Cf. Lev. XIII, 3ff.

(11) The period of naziriteship counted before defilement.

(12) The period counted before leprosy.

(13) I.e., one who made the vow of naziriteship in a graveyard.

(14) For he will poll automatically at the end of the seven days of purification, just as a ritually clean nazirite polls at the end of his naziriteship. This is the initial interpretation of the argument as understood by the Gemara.

(15) There is no definite period at which he has to poll, but he must wait until he recovers from the disease.

(16) The whole of the above paragraph is a quotation from Sifre on Num. VI, 12.

(17) I.e., surely the phrase 'whose hair is ripe for polling' means that he must poll as a result of his defilement in the graveyard, so that R. Ashi's question is answered in the affirmative.

(18) So that the argument is: Seeing that 'a nazirite in a graveyard' whose hair will be ripe for polling after he has purified himself and observed the period of his naziriteship, does not count etc., surely the leper, whose hair is not ripe for polling as part of his naziriteship because he must poll on recovery from his disease before he commences to count the naziriteship, ought not to count etc.

Talmud - Mas. Nazir 18a

For if you assume that polling as a result of the defilement is intended, does he not have to poll after the period of declared leprosy?[1] — No, [this does not constitute proof, for] the reference is to the polling on account of the naziriteship.[2]

Come and hear: The verse, And he defile his consecrated head[3] refers to a ritually clean [nazirite] who contracts ritual defilement; it enjoins on such a one to remove his hair and sacrifice birdofferings, but [by implication] exempts one, who vows to become a nazirite at a graveside, from removing his hair and sacrificing bird-offerings. For you might argue a fortiori: if the ritually clean [nazirite] who contracts ritual defilement must remove his hair and sacrifice bird-offerings, all the more must one who commenced [his naziriteship] whilst defiled remove his hair and sacrifice bird-offerings; therefore the text says expressly, 'And he defile his consecrated head', [implying] that only the ritually clean [nazirite] who contracts ritual defilement is required by Scripture to remove his hair and sacrifice bird-offerings, but not the person who vowed to become a nazirite at a graveside. This proves then [that the latter is exempt].

Who is the author of the following dictum, taught by the Rabbis, [viz.,] The only difference between a ritually defiled person who makes a nazirite vow, and a ritually clean nazirite who contracts ritual defilement, is that the former reckons his seventh day [of purification] as part of his period [of naziriteship],[4] whilst the latter does not reckon his seventh day as part of his [new] period? — R. Hisda said: It is Rabbi, for Rabbi has said that the naziriteship [after defilement] does not recommence until the eighth day of purification, for if you were to say it is R. Jose son of R. Judah, surely he holds that the naziriteship [after defilement] begins to operate on the seventh day of purification.

Where are these opinions of Rabbi and R. Jose son of R. Judah [to be found]? — It has been taught: And he shall hallow his head that same day;[5] Rabbi says [that this refers to] the day on which he offers his sacrifices,[6] but R. Jose son of R. Judah says [it refers] to the day on which he polls.[7]

And who is the author of the teaching that, 'A nazirite who contracts ritual defilement many times brings a single sacrifice only'?[8] — R. Hisda said: It is R. Jose son of R. Judah, who has said that the naziriteship [after defilement] recommences on the seventh day of purification. Thus the case [contemplated] could arise if he were to contract defilement on the seventh day [of purification][9] and then again on the seventh day after that,[10] nevertheless since there was no period when he could have brought his sacrifice,[11] he need offer one sacrifice only [for both defilements]. According to Rabbi, however, if he contracted ritual defilement on the seventh day and then again on the seventh day,[12] the whole is one long period of ritual defilement,[13] whilst if we suppose he contracts ritual defilement upon the eighth day and again upon the eighth day, then there is a point of time [on each occasion] when he could bring his sacrifice.[14]

What is Rabbi's reason [for his opinion]? — The verse says [first], And make atonement for him that he sinned by reason of the dead,[15] and then, And he shall hallow his head.[16] And what does R. Jose son of R. Judah [say to this]? — If this is its intention, the text should read simply, ‘And he shall hallow his head’.

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(1) So that the two cases are exactly analogous, and we cannot call one ‘ripe for polling’ and the other ‘not ripe for polling’.

(2) The defiled nazirite has to poll because he is a nazirite, whereas the leper polls because he was a leper. There would thus still be room for the argument even if the meaning were that ‘a nazirite in a graveyard’ must poll.

(3) Num. VI. 9.

(4) I.e., the seventh day is counted as the first day of his thirty days of naziriteship.

(5) Num. VI, 12.

(6) The eighth day after the occurrence of the defilement.

(7) The seventh day after the occurrence of the defilement.

(8) Ker. II, 3.

(9) After he has bathed.

(10) After the occurrence of the second defilement, so that this is a separate defilement. But if he became unclean on the sixth day, it would be the same defilement.

(11) Which has to be brought on the 8th day.

(12) After the occurrence of the second defilement.

(13) Hence we cannot say ‘many times’ as in the passage quoted.

(14) And he must bring a sacrifice for each period of defilement.

(15) Num. VI, 11.

(16) Hence the naziriteship is to recommence after the offering of the sacrifice, which took place on the eigth day.

Talmud - Mas. Nazir 18b

What is the purpose of [the additional phrase], ‘that day’? Since it cannot refer to the eighth day,[1] we may take it as referring to the seventh day. And Rabbi? He can say that the purpose of the phrase ‘that day’ is to tell us that even if he should fail to bring his sacrifices [the naziriteship commences].

Now what compelled R. Hisda to ascribe the authorship of this dictum to R. Jose son of R. Judah? Why should he not have interpreted it as referring to where he became unclean on the eighth night,[2] and ascribed the authorship to Rabbi?[3] Are we to understand from the fact that he does not ascribe the authorship to Rabbi, that in his opinion the night [before the day that his sacrifice is due] is not regarded as belonging to the preceding period?[4] — R. Adda b. Ahaba replied: One thing depends on the other. If we hold that the night [before the day his sacrifice is due] is regarded as belonging to the preceding period, then, since he can offer his sacrifice only in the morning, the naziriteship does not begin to operate until the morning;[5] whereas if the night [before the day his sacrifice is due] is not regarded as belonging to the preceding period, the naziriteship after purification [from defilement] begins in the evening.[6]

Our Rabbis taught:[7] If [a nazirite][8] contracts defilement on the seventh day [of purification], and then he again contracts defilement on the seventh day [following], he is only required to offer one sacrifice. If he contracts defilement on the eighth day, and then once more on the eighth day [following], he is required to offer a sacrifice for each [defilement]. He begins to reckon [the new naziriteship] immediately;[9] this is the opinion of R. Eliezer, but the Sages say: He is required to offer but one sacrifice for all [the defilements] so long as he has not yet offered his sin-offering.[10] If he has brought his sin-offering and then contracts defilement, and again offers his sin-offering and again contracts defilement, he is required to furnish a [full] sacrifice for each defilement. If he has furnished his sin-offering, but not his guilt-offering, he [nevertheless] commences to reckon [the new naziriteship]. R. Ishmael, the son of R. Johanan b. Beroka said: Just as his sin-offering estops him [from commencing to reckon the new naziriteship], so does his guilt-offering.

Now, all is in order according to R. Eliezer, for the verse says, And he shall hallow his head that same day,[11] even though he may not yet have provided the sacrifices. [And likewise] the Rabbis [explain] ‘that [day]’, [implying], even though he may not yet have provided the guilt-offering.[12] But what does R Ishmael, the son of R. Johanan b. Beroka make of the words ‘that [day]’? — He will reply: [His naziriteship commences] ‘that [day]’, even though he may not yet have provided the burnt offering. And the Rabbis? — They do not consider it necessary to have an excluding phrase for [permission to dispense with] the burnt offering, since it is [brought] simply as a gift.[13]

What is the Rabbis’ reason [for stating that the guilt-offering is no bar]? — It has been taught: What is the implication of the verse, And he shall consecrate unto the Lord the days of his Naziriteship, and shall bring a he-lamb of the first year for a guilt-offering?[14] Since we find that all other guilt-offerings mentioned in the Torah are a bar [to atonement so long as they are not brought], it might have been thought that this one is also a bar,

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(1) For if it did, it would be superfluous.

(2) I.e., the night preceding the eigth day.

(3) So that the defilements are separate, though in regard to sacrifices they would be considered one, seeing that no sacrifice can be brought at night.

(4) Lit., ‘wanting time. Although the sacrifice cannot be brought till the next day.

(5) So that there would still be only one defilement.

(6) And he would have to bring, according to Rabbi, a sacrifice for each defilement.

(7) [So Rashi; cur. edd., read, ‘The text (states)’. This term, however, would not have the same meaning here as elsewhere in the Talmud where the reference is to a text previously cited; v. Asheri.]

(8) Who became unclean.

(9) Though he has not yet offered his sacrifices.

(10) The sacrifice of a nazirite who had become unclean consisted of two doves, one a sin-offering, the other a burnt-offering, and also a he-lamb as a guilt-offering. V. Num. VI, 10-12.

(11) Num. VI, 11.

(12) But the new naziriteship cannot commence till he has brought the others.

(13) [And not to effect atonement, as the other sacrifices, v. Zeb. 7b.]

(14) Num. VI, 12.

Talmud - Mas. Nazir 19a

and so the text says, ‘And he shall consecrate . . . and shall bring [a guilt-offering]’ implying that even though he may not yet have brought [the guilt-offering], he is to consecrate. R. Ishmael, son of R. Johanan b. Beroka said: ‘And he shall consecrate . . . and shall bring’. When does he consecrate? After he has brought.[1]

Who is the Tanna of the following [teaching] taught by the Rabbis: ‘If a woman undertakes a nazirite vow, and contracts ritual defilement, and then her husband declares [her vow] void, she must bring the sin-offering of a bird, but not the burnt-offering of a bird'? — R. Hisda replied: It is R. Ishmael.[2] How comes [R. Ishmael] to this ruling? — If he holds that the husband nullifies [his wife's vow],[3] then she should not be required to bring the sinoffering of a bird, whilst if he holds that the husband only terminates[4] [the vow],[5] why should she not be required to bring the burnt-offering of a bird as well? — Actually he is of the opinion that a husband nullifies [his wife's vow], and he further agrees with R. Eleazar ha-Kappar. For it has been taught: R. Eleazar ha-Kappar, Berabbi,[6] said: Why does the Scripture say, And make atonement for him, for that he sinned by reason of the soul.[7] Against what 'soul' did he then sin? It can only be because he denied himself wine.[8] If then this man who denied himself wine only is termed a sinner, how much more so is this true of one who is ascetic in all things!

But the verse is referring to an unclean nazirite,[9] whilst we are applying it even to a ritually clean nazirite? — R. Eleazar ha-Kappar[10] is of the opinion that a ritually clean nazirite is also a sinner, and the reason that Scripture teaches this [lesson in connection] with a defiled nazirite is that he repeats his sin.[11]

IF HE LEAVES IT AND RE-ENTERS, THE DAYS ARE RECKONED. It is stated that they are reckoned.[12] Does then the naziriteship begin to operate merely because he has left [the graveyard]?[13] — Samuel said: [We are speaking of] where he has left it, been sprinkled [a first and] a second time and bathed.[14] But [are we to infer that] if he re-enters, then only are they reckoned, whilst if he does not re-enter, they are not reckoned? — The argument is progressive. Not only [do they count] if he leaves, but [they count] also if he re-enters [immediately after purification].[15]

R. Kahana and R. Assi asked Rab: Why have you not explained [the Mishnah] to us in this manner? — He replied: I was under the impression that you did not require [to be told]. R.ELIEZER SAID: NOT IF HE DOES SO ON THE SAME DAY, FOR IT SAYS, AND THE FORMER DAYS SHALL BE VOID, IMPLYING THAT THERE MUST BE FORMER DAYS. 'Ulla said: R. Eliezer was referring only to a ritually defiled person who makes a nazirite vow, but a ritually clean nazirite who contracts ritual defilement, makes [his naziriteship] void, even on the first day.[16]

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(1) The naziriteship begins anew after he has brought the guilt-offering.

(2) [Who, in contradistinction to the Rabbis, holds that the burnt-offering is not brought as a mere gift, but specifically as a sacrifice of a nazirite, and since her naziriteship is void, she brings no sin-offering.]

(3) Lit., 'uproots , i.e., that his action is retrospective and the vow has never been valid.

(4) Lit., 'cuts off'.

(5) When he disallows it; until then it was effective.

(6) [Or 'Berebi'. Designation by which Bar Kappara is known in order to distinguish him from his father who bore the same name. The meaning of the title is uncertain: (a) a compound of 'house', be, and 'rabbi', i,e., belonging to the school of an eminent teacher (Jast.), or (b) a compound of 'son', 'bir', and 'rabbi', 'a son of a scholar', i.e., 'a scholar', v. J.E. III, 52.]

(7) נפש, E.V.: 'dead'. Num. VI, II.

(8) And so the woman must bring the sin-offering because she wished to deny herself wine.

(9) The section of which it forms part begins (Num. VI, 9), If any man die suddenly upon him, so that he becomes defiled,. . .he shall bring two turtle doves, of which one was a sin-offering brought because, . . .he sinned by reason of the soul.

(10) Cf., however, supra 3a, where R. Eleazar ha-Kappar is reported as saying that a ritually clean nazirite is not a sinner.

(11) For the period before defilement is void and he must now recommence to count thirty days.

(12) So that he must bring the sacrifices of a nazir who becomes unclean.

(13) For he is still unclean.

(14) I.e., undergone the purification rites. V. Num. XIX, 19.

(15) In which case we might think that he is as at first.

(16) When there are no 'former days'.

Talmud - Mas. Nazir 19b

Raba added: R. Eliezer's reason[1] is that the text continues, Because his consecration was defiled,[2] i.e., because he undertook the naziriteship during defilement.

Abaye raised an objection [from the following]. [If a man says,] ‘I wish to be a nazirite for one hundred days,’ and contracts ritual defilement at the very beginning of them, it might be held that this makes void [the naziriteship], but the text reads, ‘And the former days shall be void’; there must first be ‘former days’, and here there are no former days. If he contracts ritual defilement at the end of the hundred days, it might be held that this makes void [the naziriteship], but the text reads, ‘And the former days shall be void’, implying that there are later days too’ and here there are no days to come. If he contracts ritual defilement on the ninety-ninth day. It might be held[3] that he should not make void the naziriteship, but the text reads, And the former days shall be void, implying that there must be days to come, and here there are both former days[4] and days to come. Now it cannot be said that we are dealing with a ritually defiled person who makes a nazirite vow, since the account begins. "’I wish to be a nazirite for a hundred days," and he contracts defilement at the very beginning of them,’ and yet it says that former days are necessary. — This indeed is a refutation [of ‘Ulla].

R. Papa asked Abaye: Regarding the days that are required, is it sufficient if one has passed and [the defilement occurs when] the second begins, or must two pass, and [the defilement occur when] the third has begun? — [Abaye] had no information on the subject, so [Rab Papa] went and asked Raba. He replied: The text reads they shall fall away.[5]

Both the word ‘days’, and the [plural] form, ‘they shall fall away’ are needed,[6] for if the Divine Law had used the word ‘days’ and not the form ‘they shall fall away’, it might have been held that it is sufficient if one day has passed, and the second begun,[7] and so the Divine Law wrote ‘they shall fall away’. And if it had used the form ‘they shall fall away’, and not [the plural] ‘days’, it might have been held that even one day is sufficient, and so the Divine Law uses the word days.

MISHNAH. IF A MAN VOWS A NAZIRITESHIP OF LONG DURATION AND COMPLETES IT AND THEN ARRIVES IN THE LAND [OF ISRAEL], BETH SHAMMAI SAY THAT HE IS A NAZIRITE FOR THIRTY DAYS, BUT BETH HILLEL SAY THAT HIS NAZIRITESHIP COMMENCES AGAIN AS AT FIRST. IT IS RELATED THAT QUEEN HELENA,[8] WHEN HER SON WENT TO WAR,[9] SAID: ‘IF MY SON RETURNS IN PEACE FROM THE WAR, I SHALL BE A NAZIRITE FOR SEVEN YEARS. HER SON RETURNED FROM THE WAR, AND SHE OBSERVED A NAZIRITESHIP FOR SEVEN YEARS. AT THE END OF THE SEVEN YEARS, SHE WENT UP TO THE LAND [OF ISRAEL][10] AND BETH HILLEL RULED THAT SHE MUST BE A NAZIRITE FOR A FURTHER SEVEN YEARS. TOWARDS THE END OF THIS SEVEN YEARS, SHE CONTRACTED RITUAL DEFILEMENT, AND SO ALTOGETHER SHE WAS A NAZIRITE FOR TWENTY-ONE YEARS. R. JUDAH SAID: SHE WAS ONLY A NAZIRITE FOR FOURTEEN YEARS.[11]

GEMARA. The first clause reads: BETH SHAMMAI SAY [HE] IS A NAZIRITE FOR THIRTY DAYS, BUT BETH HILLEL SAY THAT HIS NAZIRITESHIP COMMENCES AGAIN AS AT FIRST. May we say that the ground on which they differ is that Beth Shammai are of the opinion [Rabbis declared] foreign lands [to be unclean] on account of their soil,

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(1) For making a distinction between one who undertook the naziriteship in purity, and an unclean person who undertakes a naziriteship, where we require former days’.

(2) Num. VI, 12.

(3) Since there is only one day to come and not ‘days’.
(4) Viz., part of the ninety-ninth and the hundredth.
(5) Meaning that two complete days must have passed. So Rashi.
(6) [The text could have read ‘And he shall hallow his head on that day apart from the previous days’ (Tosaf.)]
(7) Because part of a day is like the whole. The reading of Rashi and the Bah. has been adopted. Our printed text reads: It might have been held that it is necessary for two days to have passed and the third begun, and so the Divine Law used the form ‘they shall fall away’. Thus the inference conflicts with the usually accepted interpretation of Raba's reply. The objection to it is that the Gemara above appears to imply that the two phrases are weak forms needing to be strengthened by the appearance of both. The printed text, on the other hand, at the last treats ‘days’ as a strong form.
(8) Queen of the Adiabene, circa 40 C.E., Mother of Izates, V. Josephus Ant. XX, 2-4.
(9) Possibly the war of the restoration of Artabanus as King of Parthia. Ibid. 3.
(10) Also recorded by Josephus 2, 5.
(11) V. the Gemara, infra.

Talmud - Mas. Nazir 20a

whilst Beth Hillel are of the opinion that it was on account of the air also?[1] — No! All are agreed that the enactment was because of the soil, but Beth Shammai are of the opinion that we penalise[2] him by [the imposition of] a naziriteship of normal length, whilst Beth Hillel are of the opinion that he is penalised from the very commencement of his naziriteship.

IT IS RELATED THAT QUEEN HELENA etc.: The question was asked: [Does R. Judah agree that] she contracted impurity, in which case his statement concurs with Beth Shammai's opinion,[3] or does he ‘deny that she contracted impurity, in which case his statement concurs with Beth Hillel's opinion?[4]

Come and hear: SHE WENT UP TO THE LAND [OF ISRAEL]. AND BETH HILLEL RULED THAT SHE MUST OBSERVE NAZIRITESHIP FOR A FURTHER SEVEN YEARS ETC. Now if you assume that she did contract impurity, and that [R. Judah] concurs with Beth Shammai, then the text should read: R. Judah said: She was a nazirite for fourteen years and thirty days, instead of [simply] fourteen years! There has also been taught in the same sense: R. Judah quoting R. Eliezer said that the implication of the verse, And this is the law of the Nazirite [on the day when the days of his separation are fulfilled][5] is: the Torah says that if he contracts ritual defilement on the day of his fulfilment, he is to be given the law of a nazirite.[6]

MISHNAH. WHERE TWO GROUPS OF WITNESSES GIVE EVIDENCE CONCERNING A MAN, ONE SAYING THAT HE VOWED TWO NAZIRITESHIPS[7] AND THE OTHER THAT HE VOWED FIVE, BETH SHAMMAI SAY THAT THE EVIDENCE IS CONFLICTING [IN TOTO], AND NO NAZIRITESHIP OPERATES AT ALL, BUT BETH HILLEL SAY THAT ‘FIVE’ INCLUDES ‘TWO’, SO THAT HE BECOMES A NAZIRITE FOR TWO PERIODS.

GEMARA. The Mishnah disagrees with the following Tanna. For it has been taught: R. Ishmael, the son of R. Johanan b. Beroka, said that Beth Shammai and Beth Hillel did not dispute that five included two where there are two groups of witnesses one saying five and one two. Where they differed was when of a single pair of witnesses, one says five and the other two, Beth Shammai averring that this is conflicting evidence, whilst Beth Hillel maintained that [here also], five includes two.

Rab said: All are agreed that where [the witnesses] enumerate [the evidence is conflicting]. R. Hama said to R. Hisda: What does this mean? It cannot mean that one says it was five and not two, and the other it was two and not five, for they plainly contradict each other. And if again it means that one says, [he vowed] a first and a second time, and the other a third, fourth and fifth time.

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(1) Hence according to Beth Hillel the defilement which he has contracted by being on a foreign land is much more severe.

(2) For incurring a defilement instituted by the Rabbis though not recognised by the Torah.

(3) That only thirty days are required, the second seven years being due to the impurity.

(4) That seven years are required, the fourteen being made up of the original seven, and the seven imposed because of absence from Palestine.

(5) Num. VI, 13.

(6) The implication is probably that R. Judah does require a nazirite who becomes defiled in his last day to observe thirty more days, so we are entitled to make an inference from the brief form 'fourteen years as is done in the text.

(7) So Tosaf. Rashi renders 'years of naziriteship'.

Talmud - Mas. Nazir 20b

[we may ask,] what need is there for the se cond to repeat [the first two]?[1] Seeing that [the second witness] testifies to the more stringent ones,[2] then he certainly testifies to [the first two] that are less stringent?[3] — In the West[4] they maintain that where there is enumeration, there is no conflicting [of evidence].[5]

CHAPTER IV

MISHNAH. SHOULD A MAN SAY, 'I INTEND TO BE A NAZIRITE, AND HIS COMPANION OVERHEAR AND ADD 'I TOO,' [AND THE NEXT REPEAT] 'I TOO', ALL BECOME NAZIRITES. IF THE FIRST IS RELEASED [FROM HIS VOW],[6] ALL ARE [AUTOMATICALLY] RELEASED, BUT IF THE LAST ONE IS RELEASED, HE ALONE BECOMES FREE, THE OTHERS REMAINING BOUND [BY THEIR VOWS]. IF HE SAYS, 'I INTEND TO BE A NAZIRITE, AND HIS COMPANION OVERHEARS AND ADDS, 'LET MY MOUTH BE AS HIS MOUTH AND MY HAIR AS HIS HAIR, HE [ALSO] BECOMES A NAZIRITE. [IF HE SAYS,] 'I INTEND TO BE A NAZIRITE, AND HIS WIFE OVERHEARS AND ADDS, 'I TOO,' HE CAN DECLARE HER [VOW] VOID,[7] BUT HIS OWN REMAINS BINDING. [IF A WOMAN SAYS,] 'I INTEND TO BE A NAZIRITE, AND HER HUSBAND OVERHEARS AND ADDS, 'I TOO,' HE CANNOT DECLARE [HER VOW] VOID.[8] [IF HE SHOULD SAY IN CONVERSATION WITH HIS WIFE,] 'I INTEND TO BE A NAZIRITE. WHAT ABOUT YOU?' AND SHE ANSWER 'AMEN,' HE CAN DECLARE HER [VOW] VOID, BUT HIS OWN REMAINS BINDING. [BUT IF SHE SHOULD SAY,] 'I INTEND TO BE A NAZIRITE, WHAT ABOUT YOU?' AND HE ANSWER, 'AMEN,' HE CANNOT DECLARE [HER VOW] VOID.[8]

GEMARA. Resh Lakish was [once] seated in the presence of R. Judah the Prince,[9] and discoursed as follows: [They become nazirites by saying 'I too,'] only if they all attach their vows within the interval of a break in conversation.[10] And how much is the length of such an interval? The time sufficient for a greeting. And how much is this? The time taken by a disciple to greet his master.[11] [R. Judah] said to him: You do not allow a disciple any further opportunity.[12]

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(1) There is still no conflict, although there is enumeration, for seeing that, etc.

(2) To the existence of a third, fourth, and fifth naziriteship.

(3) In this paragraph, the reading of Tosaf. has been adopted. [According to printed texts, render: 'Why was it necessary to state this; seeing that Rab ruled to this effect in a more stringent case, would he not rule likewise in a less stringent one?' The stringent case referred to is where the enumeration is made by two groups of witnesses, in which case Rab ruled (in a passage which Rashi cites from J. Sanh. V) that the evidence is conflicting.]

(4) I.e., in Palestine, cf. J. Sanh. V, 2.

(5) He is therefore required to observe two naziriteships, Rab's opinion being wrong. The second witness is not really contradicting the first, and thus there are two witnesses to the first two naziriteships.

(6) Under certain conditions release can be obtained from a vow on application to an authorised Rabbi. V. Ned. 78a.

(7) The husband has the power of confirming or declaring void his wife's vows ‘on the day that he hears them’ — v. Num. XXX, 9.

(8) For by attaching his vow to hers, he incidentally confirms her vow.

(9) Nesi'ah; R. Judah II.

(10) I.e., the normal interval between the remarks of two persons holding a conversation. Lit., ‘within the time sufficient for (the next) remark.’ The point of Resh Lakish's statement is that we do not consider the remark ‘I too’ as being like one of the ‘allusions’ of the beginning of the first chapter, but its validity depends solely on its being obviously a reference to the original vow. Hence it must follow it, as though they were part of the same conversation.

(11) I.e., to say the three words, Shalom ‘aleka Rabbi; ‘Peace unto Thee, Master’.

(12) Both to greet his master and say ‘I too’, ואני (one word), if he wishes to. According to Rashi, R. Judah agreed with Resh Lakish, but other commentators consider that he disagreed with Resh Lakish and allowed four words as the interval in this case.

Talmud - Mas. Nazir 21a

The same principle[1] is taught in the following passage: If a man says, ‘I intend to be a nazirite’ and his companion overhear and delay long enough to make a break in conversation and then add, ‘I too,’ he himself is bound [by his vow], but his companion is free. The length of a break in conversation is the time taken by a disciple to greet his master.[2]

May we say that the following [passage] corroborates [Resh Lakish's statement]? [For the Mishnah says:] SHOULD A MAN SAY, I INTEND TO BE A NAZIRITE, AND HIS COMPANION OVERHEAR AND ADD ‘I TOO,’ [AND THE NEXT REPEAT] ‘I TOO,’ [ALL BECOME NAZIRITES];[3] and carries the series no further?[4] — Do you expect the Tanna to string together a list like a pedlar [crying his wares]?[5] Then why should he not mention [‘I too’] once only and leave us to infer the rest?[6] — He could very well have done so, but because in the clause that follows he says: IF THE FIRST IS RELEASED [FROM HIS VOW] ALL ARE [AUTOMATICALLY] RELEASED, BUT IF THE LAST ONE IS RELEASED, HE ALONE BECOMES FREE, THE OTHERS REMAINING BOUND [BY THEIR vows], thus [using a phrasing which] implies that there is a person [or persons] in between, he mentions ‘I too,’ twice [in the opening clause].[7]

The question was propounded: Does each link up with his immediate predecessor, or do they all link up with [the utterance of] the first? The practical issue involved is whether the process can be continued indefinitely. If each links up with his immediate predecessor, then it would be possible to continue indefinitely,[8] but if they all link up with the first one, the process could not continue for longer than the space of a break in conversation.[9] What then is the law? — Come and hear: SHOULD A MAN SAY, I INTEND TO BE A NAZIRITE,’ AND HIS COMPANION OVERHEAR AND ADD ‘I TOO,’ [AND THE NEXT REPEAT] ‘I TOO’; without going further; and so we can infer that they all link up with the first,[10] for if it be the case that each links up with his immediate predecessor, why should not the phrase ‘I too’ be repeated many more times? — Do you expect the Tanna to string together a list like a pedlar [crying his wares]? Then let him mention [‘I too’] once, and indicate all the rest in this manner?[11] — Since he continues: IF THE FIRST IS RELEASED [FROM HIS VOW] ALL ARE [AUTOMATICALLY] RELEASED, BUT IF THE LAST ONE IS RELEASED, HE ALONE BECOMES FREE, THE OTHERS REMAINING BOUND [BY THEIR VOWS; thus using a phrasing] which implies that there are persons in between, he therefore mentions ‘I too’ twice [in the first clause].[12]

Come and hear: IF THE FIRST IS RELEASED [FROM HIS VOW] ALL ARE RELEASED; [it follows that] only [on the release of] the first are the others released, but not [on the release of] an intermediate one, and so we can infer that they all link up with the first one![13] — I can reply that actually each links up with his immediate predecessor, and the reason [why the first is mentioned] is that [the Tanna] desired to say that 'ALL ARE RELEASED', and if he had stated this in connection with the intermediate one there would have remained the first one unreleased; therefore he preferred to mention in this connection the first.[14]

Come and hear: IF THE LAST ONE IS RELEASED, HE ALONE BECOMES FREE, THE OTHERS REMAINING BOUND [BY THEIR VOWS]. [Now the reason for this is presumably because] there are no others following him,[15] but if the second one, who is followed by others, [were released,] these would also become free,[16] and so we can infer that each links up with his immediate predecessor! — In point of fact, I can argue that they all link up with the first, and that the expression 'THE LAST' [as used by the Tanna] refers to those in between [also], but because he speaks [in the preceding clause] of 'THE FIRST', he refers to the others as THE LAST.[17]

Come and hear [the following passage] where it is taught explicitly: If the first is released they all become free; if the last is released he alone becomes free, the rest remaining bound; if an intermediate one is released, those following him also become free, but those preceding him remain bound. This shows conclusively that each links up with his immediate predecessor.[18]

[IF HE SAYS,] 'I INTEND TO BE A NAZIRITE' AND HIS COMPANION OVERHEARS AND ADDS, 'LET MY MOUTH BE AS HIS MOUTH AND MY HAIR AS HIS HAIR,' [HE ALSO BECOMES A NAZIRITE]: Simply because he says, 'LET MY MOUTH BE AS HIS MOUTH AND MY HAIR AS HIS HAIR,' does he become a nazirite?[19]

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(1) According to the other commentators: To the same effect as Resh Lakish, as opposed to R. Judah.

(2) Tosef. Naz. III, 1.

(3) Which would show' that only two can attach themselves.

(4) The argument is: If the Tanna merely desired to state that any number of persons can become nazirites by saying 'I too', he should not have stopped after two. Since he does stop, he must have had a different aim, viz to fix the length of the interval that can elapse and the formula still be valid. The interval is naturally that of a break in conversation.

(5) Although the expression 'I too', is repeated only twice, there may be no limit to the number of persons who could become nazirites in this

(6) Viz. That it is possible for any number to become nazirites by saying 'I too'.

(7) To provide the extra person in between the first and the last.

(8) Since any number of persons could become nazirites by each saying 'I too' within the specified interval after his immediate predecessor's declaration, 'I too'.

(9) I.e., within the specified interval after the first person's declaration, 'I intend to be a nazirite.'

(10) So that not more than two persons can say 'I too', consecutively and became nazirites.

(11) I.e., since the Tanna does not wish to give a long list, why should he mention even as many as two persons. All the information is contained in the first statement that by saying 'I too' it is possible to become a nazirite.

(12) Thus indicating the person in between the first and the last.

(13) For otherwise all those who had spoken after any one of the intermediate ones should he released with that one.

(14) But in point of fact if any one of the others is released, all the succeeding ones are released.

(15) There are in existence several readings of the text at this point. We have adopted that of Tosaf., which keeps very close to the usual printed text.

(16) The Mishnah is taken to mean: Only if it is the last one who is released, do all the others remain bound by their vows.

(17) But his intention is to exclude only the first.

(18) The Gemara frequently attempts to obtain a ruling from a Mishnah even though a Baraitha states explicitly what is required.

(19) Which would seem to show that if he says, 'My mouth is a nazirite,' he is a nazirite.

Talmud - Mas. Nazir 21b

Does not this conflict with the following passage? [It has been taught that if a man says,] ‘Let my hand be a nazirite,’ or ‘Let my foot be a nazirite,’ his words are of no effect. [But if he says,] ‘Let my head be a nazirite,’ or ‘let my liver be a nazirite,’ he becomes a nazirite. The rule is: If the organ is one upon which life depends, he becomes a nazirite![1] — Rab Judah replied: [In the Mishnah] he is presumed to say, ‘Let my mouth be as his mouth as regards wine,’ or ‘my hair as his hair as regards shearing.’[2] [IF A WOMAN SAYS,] ‘I INTEND TO BE A NAZIRITE, AND HER HUSBAND OVERHEARS AND ADDS, ‘I TOO,’ HE CANNOT DECLARE [HER VOW] VOID: The question was propounded: Does the husband nullify[3] or does he only terminate [the vow]?[4] The difference is of importance for deciding the case of a woman who vows to be a nazirite and whose companion overhears and says, ‘I too,’ and whose husband subsequently hears of the matter and declares her vow void. If it be decided that he nullifies [her vow], her companion is also set free,[5] but if it be decided that he merely terminates [the vow], she herself will be released, and her companion will remain bound [to the vow]. What, then, is the law? Come and hear: [IF A WOMAN SAYS,] ‘I INTEND TO BE A NAZIRITE,’ AND HER HUSBAND OVERHEARS AND ADDS, ‘I TOO,’ HE CANNOT DECLARE [HER VOW] VOID. Now, should you suppose that the husband terminates [the vow], he ought to be able to declare his wife's [vow] void, whilst remaining bound himself.[6] It surely follows, therefore, [from the fact that he cannot do so] that a husband nullifies [his wife's vow]?[7] — Not at all! Strictly speaking, the husband [in general] only terminates [the wife's vow,] and here by rights he should be able to declare her vow void,[8] and the reason why he cannot do so is because his saying, ‘I too,’ is equivalent to saying, ‘I confirm it for you,’[9] and so if he [later] seeks to have the confirmation revoked,[10] he can then declare [his wife's vow] void,[11] but not otherwise.

Come and hear: If a woman undertakes a nazirite vow and sets aside the requisite animal [for the sacrifice] and her husband subsequently declares [the vow] void, then, if the animal was one of his own, it can be put to pasture with the herd,[12] but if it was one of hers, the sin-offering is to be left to die [etc.].[13] Now, should you suppose that the husband nullifies [the vow, the animal] should become profane?[14] It surely follows, therefore, that the husband [merely] terminates [the vow]?[15] — In point of fact, we can maintain that the husband nullifies [the vow], but [the animal remains sacred] for this reason. Since she no longer requires atonement,[16] [the case] is similar to that of a sin-offering whose owner has died, and it is a tradition that sin-offerings whose owners have died are left to die.

Come and hear: If a woman undertakes a nazirite vow and then drinks wine or is defiled by a corpse, she is to receive forty stripes.[17] What exactly are the circumstances? If her husband has not declared [the vow] void, would it have been necessary to tell us this?[18] Obviously, then, her husband must have declared [the vow] void.[19] Now if you suppose that the husband nullifies [the vow], why should she receive forty stripes?[20] It surely follows, therefore, that the husband [only] terminates [the vow]?[21] — In point of fact, we can maintain that the husband really nullifies [the vow], but [in this case] because we are told in the clause that follows: If her husband declares it void without her being aware of it, and she drinks wine or is defiled by a corpse, she does not receive the stripes;[22]

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(1) But it is possible to live without hair or mouth-hence the conflict. Tosef. Naz. III, 1.

(2) Thus expressly referring to the obligations of a nazirite. The statement is now very similar to the ‘allusions’ of Chapter I.

(3) Lit., ‘uproot’.

(4) I.e., is it as though the vow had never been made, or is the vow only cancelled from the time it is declared void? V. Num, XXX, 7ff.

(5) Since the words ‘I too’ have no object of reference.

(6) She would be free hereafter, whilst he would remain a nazirite. Because the termination, while freeing her, in no wise affects the force of his ‘I too’.

(7) And so he cannot declare his wife's vow void, for by so doing, he would incidentally retract his own vow, which is forbidden.

(8) Since the termination of her naziriteship does not affect his own naziriteship.

(9) Once the husband has confirmed his wife's vow, he can no longer declare it void; v. Num. XXX, 16.

(10) By applying to a Sage.

(11) And he himself will remain a nazirite.

(12) I.e., it ceases to be sacred and may be returned to the fold.

(13) I.e., it is still sacred, v. infra 24a.

(14) For the naziriteship is null, and the animal was set aside in error, v. infra 31a.

(15) And the animal is actually a sin-offering, but cannot be offered since the woman is no longer a nazirite.

(16) For she has ceased to be a nazirite; thus Rashi and the printed text, Tosaf. and other MSS. read: ‘Since she requires atonement,’ i.e., because she denied herself wine (v. supra 19a).

(17) Infra 23a.

(18) Viz., that she receives stripes. For she is no different from any other nazirite.

(19) After his wife drank wine.

(20) For we now see that she was not really a nazirite when she violated the rules of naziriteship.

(21) And though she is no longer a nazirite, she must receive stripes for drinking wine when she was a nazirite,

(22) Infra 23a.

Talmud - Mas. Nazir 22a

we are also taught in the first clause that, [if her husband does not annul her naziriteship,] she does receive [stripes].[1]

Come and hear: If a woman undertakes a nazirite vow and contracts ritual defilement, and then her husband declares [the vow] void, she is to bring a bird as a sin-offering, but not one as a burnt-offering.[2] Now if you suppose that the husband terminates [the vow], she ought also to bring a bird as a burnt-offering?[3] — What then would you have us think? That [the husband] nullifies [the vow]? Then she ought not to bring a bird as a sin-offering either?[4] — That is so. Here, however, we are being given the opinion of R. Eleazar ha-Kappar, for it has been taught: R. Eleazar ha-Kappar Berabbi said: [It may be asked,] Why does Scripture say, [And make atonement for him] for that he sinned by reason of the soul?[5] For against what soul has he sinned? [The reply is,] however, that because he denied himself wine, he is called a sinner. If then this man who denied himself wine only is called a sinner, how much more so is this true of one who is ascetic in all things![6]

Come and hear the following where it is taught explicitly: If a woman vows to be a nazirite and her companion overhears and says, ‘I too, and then the husband of the first woman declares [her vow] void, she is released [from her vow] but her companion remains bound.[7] From this it follows that the husband terminates [the vow].[8] R. Simeon however says[9] that where [her companion] says to her, ‘I undertake the same [obligation] as you,’ both become free.

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(1) Though here it is obvious,

(2) A nazirite who contracts defilement must bring one bird as a burnt offering and one as a sin-offering, (cf. Num. VI, 10, 11); v. supra 19a.

(3) For the husband does not affect the period before his declaration that the vow is to be void.

(4) Since she was not really a nazirite when she violated her vow.

(5) For notes v. supra p. 64.

(6) Thus she must bring a sin-offering even though the husband nullifies the vow, because she had denied herself wine.

(7) Tosef. Naz. III, 5.

(8) Continuation of the cited Baraitha.

(9) Since otherwise both women should become free together.

Talmud - Mas. Nazir 22b

Talmud - Mas. Nazir 22b

Mar Zutra, the son of Rab Mari said: The same problem is raised here as was raised by Rami b. Hama.[1] For Rami b. Hama wished to know the effect of saying, ‘Let these [victuals] be, as far as I am concerned, as the flesh of [this] peace-offering.’[2] Does a man, in thus linking one thing with another, refer to the original state [of the subject of comparison],[3] or to its ultimate state?[4]

But surely [the two cases] do not bear comparison?[5] For when he says in that case, ‘Let these [victuals], as far as I am concerned, be as the flesh of this peace-offering,’ [the fact remains that] even though once the blood is sprinkled, this may be eaten outside [the Temple precincts, yet it] is still sacred.[6] In our case, on the other hand, if we suppose that she has the ultimate state in mind, then the husband [of the first woman] has declared [the vow] void![7] Some consider that our problem and that of Rami b. Hama are undoubtedly identical.[8]

If [a woman] says to her [companion], ‘I intend to be a nazirite in your wake,’[9] what would the law be? Does ‘in your wake’ [mean,] ‘I intend to follow in your wake in every respect,’ so that she becomes free, or does it refer to her [companion's] condition before her husband declared [the naziriteship] void, so that she remains bound?

Come and hear: If a woman vows to be a nazirite and her husband overhears and adds, ‘I too’,[10] he cannot declare [her vow] void. Now should you assume that when he says, ‘I intend to follow in your wake,’[11] he has in mind the original situation,[12] why should he not be able to declare her [vow] void, whilst allowing his own to remain? Does it not follow, therefore, that what he refers to is the situation with all its developments, and so [it is only when] he himself [is involved that he] cannot declare [the vow] void,[13] but where [another] woman says, ‘I intend to follow in your wake,’ she would also be freed?[14] — This is not the case. In point of fact, he may be referring to the original situation, but in this case, when he says, ‘I too,’ it is as though he says. ‘I confirm it for you,’ and so if he consults [a wise man] in order to have his ratification upset, he will be able to declare [her vow] void, but not otherwise.

[IF HE SHOULD SAY IN CONVERSATION WITH HIS WIFE,] ‘I INTEND TO BE A NAZIRITE, WHAT ABOUT YOU’[15] AND SHE ANSWER’ AMEN,’ HE CAN DECLARE HER [VOW] VOID, BUT HIS OWN REMAINS BINDING: The following passage seems to contradict this statement. [If a man says to his wife,] ‘I intend to be a nazirite. What about you?’[16] if she answers ‘Amen,’ both become bound [to their vows],[17] but otherwise both are free, because he made his vow contingent on hers?[18] — Rab Judah replied: You should [emend the Baraitha to] read, He can declare her [vow] void, but his own remains binding.

Abaye said: It is even possible to leave the reading intact. The Baraitha supposes him to say to her, ‘I intend to be a nazirite with you,’ thus making his vow contingent on her vow;[19]

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(1) I.e., whether the vow of the second woman remains binding or not depends, not on the precise force of the husband's declaration that a vow is void, but on the alternatives enunciated by Rami b. Hama.

(2) This might not be eaten before its blood was sprinkled on the altar, but could be eaten afterwards.

(3) Here, the flesh before the sprinkling of the blood; so that the victuals indicated would also become forbidden. This problem is treated differently in Ned. 11b (q.v.).

(4) After the sprinkling of the blood, when the flesh may be eaten. Similarly in the case of the second woman the problem is: — Did she contemplate the original state of the first woman, so that she remains a nazirite, or did she also consider the possibility of the husband declaring the vow void, when her own would also become void. As the Baraitha says that her vow remains binding we may also infer that in Rami b. Hama's case the original state was meant and the victuals are forbidden. The word צננא used to convey the idea of a final state is usually taken from the root meaning ‘cold’, i.e., ‘when it had cooled down’. L. Goldschmidt suggests that it may be derived from a Syriac word ‘zenana’ meaning the savour of roast meat,’ and refers to the time when the flesh is prepared for food.

(5) And therefore the solution of the one problem obtained from the Baraitha, does not give the solution of the other.

(6) For it may be eaten for a limited period only, viz.: two days and one night (v. Zeb. V, 7), and so the victuals might also be subject to this restriction. Hence whichever of the alternatives enunciated by Rami is adopted, there is a restriction on the victuals.

(7) And the vow of the second will not operate. But she must have meant something by the vow, and we are therefore forced to conclude that she had only the original state in mind. Thus the solution of this problem given by the Baraitha affords no clue to the solution of Rami's problem.

(8) These do not consider the distinction drawn above decisive, for the woman may have considered it sufficient if she abstained from wine until the husband of the first one declared the vow void, and so once more we have two alternatives.

(9) And then the vow of the other is declared void.

(10) This is taken to be the same as ‘in your wake’, for since the husband can declare her vow void and the outcome of her vow is in his power, he would be referring to her ultimate as well as her present state.

(11) And all the more if he says, ‘I too’, to his wife.

(12) And he himself is not affected by any change in her vow.

(13) Since he would be freeing himself.

(14) If the husband annuls the first woman's vow’.

(15) Lit., ‘I intend . . . and thou . . .’

(16) Lit., ‘I intend . . . and thou.’

(17) But our Mishnah empowers him to declare her vow void,

(18) Tosef. Naz. III.

(19) Thus he cannot declare her vow void, for he would be nullifying his own at the same time.

Talmud - Mas. Nazir 23a

whilst our Mishnah supposes him to say to her, ‘I intend to be a nazirite. What about you?’[1] And so he may declare her [vow] void but his own remains binding.

MISHNAH. IF A WOMAN UNDERTAKES A NAZIRITE VOW AND THEN DRINKS WINE OR IS DEFILED BY A CORPSE,[2] SHE IS TO RECEIVE FORTY [STRIPES]. IF HER HUSBAND DECLARES IT VOID WITHOUT HER BEING AWARE OF IT, AND SHE DRINKS WINE OR IS DEFILED BY A CORPSE, SHE DOES NOT RECEIVE THE FORTY [STRIPES]. R. JUDAH SAID: ALTHOUGH [IT MAY BE A FACT THAT] SHE DOES NOT RECEIVE THE FORTY [STRIPES]. SHE SHOULD RECEIVE THE STRIPES INFLICTED FOR DISOBEDIENCE.[3]

GEMARA. Our Rabbis taught: [In the verse,] Her husband hath made them void,’ and the Lord will forgive her,[4] Scripture is speaking of a woman whose husband has declared her [vow] void without her knowledge .[5] [intimating] that she requires atonement and forgiveness. When R. Akiba reached this verse. he wept: ‘For if one who intended to take swine's flesh and by chance takes lamb's flesh[6] stands in need of atonement and forgiveness, how much more so does one who intended to take swine's flesh and actually took it, stand in need thereof’?[7]

A similar inference may be made [from the verse]. Though he know it not, yet is he guilty and shall bear his iniquity.[8] If of one who intends to take lamb's flesh and by chance takes swine's flesh, for instance in the case of [one who ate] a slice of fat concerning which it was uncertain whether it was of the permitted or the forbidden kind,[9] the text says, ‘and shall bear his iniquity’, how much more so [is this true] of one who intended to take swine's flesh and actually took it.

Isi b. Judah interpreted [the verse], Though he know it not, yet is he guilty and shall bear his iniquity, [as follows]. If of one who intends to take lamb's flesh and takes swine's flesh for instance in the case of [one who eats one of] two slices[10] of fat one of which is forbidden fat and the other permitted fat, the text says, and shall bear his iniquity, how much more so [is this true] of one who intended to take swine's flesh and actually took it. For this let them grieve that are fain to grieve.

But what need is there for all these cases?[11] — They are all necessary. For if we had only been told about the woman, [we might have thought] that atonement and forgiveness are necessary there,[12] because from the very beginning her intention was to do that which is forbidden, whereas with the slice concerning which it is uncertain whether it is forbidden or permitted fat, where his intention was to do that which is permitted,[13] [we might have thought] that atonement and forgiveness are not necessary. If, on the other hand, we had only been told about the latter, [we might have thought] that it is because there is a definite prohibition involved,[14] whereas the woman whose husband has declared her [vow] void and whose act is [consequently] permitted, should not require atonement and forgiveness. Again, if we had only been told of these two cases, we might have thought that in these two cases atonement and forgiveness suffice, since the presence of something forbidden is not definite, whereas with two slices of which one is forbidden and one permitted fat, where the presence of something forbidden is definite, atonement and forgiveness do not suffice.[15] We are therefore told that there is no difference.

Rabbah b. Bar Hana, quoting R. Johanan, said:[16] The verse, For the ways of the Lord are right, and the just do walk in them,' but transgressors do stumble therein,[17] may be illustrated by the following example. Two men roast their paschal lambs.[18] One eats it with the intention of fulfilling the precept[19] and the other eats it with the inten tion of having an ordinary meal. To the one who eats it to fulfil the precept [applies]. 'And the just do walk in them,' but to the one who eats it to have an ordinary meal [applies], 'but transgressors do stumble therein'. Resh Lakish remarked to him: Do you call such a man wicked? Granted that he has not fulfilled the precept in the best possible manner, he has at least carried out the passover rite. Rather should it be illustrated by two men, each of whom had his wife and his sister staying with him. One chances upon his wife and the other chances upon his sister. To the one who chances upon his wife [applies], 'And the just do walk in them', and to the one who chances upon his sister [applies], 'but transgressors do stumble therein'.

But are the cases comparable? We speak [in the verse] of one path, whereas here [in the example given] there are two paths.[20] Rather is it illustrated by Lot when his two daughters were with him.[21] To these [the daughters], whose intention it was to do right,[22] [applies], 'the just do walk in them', whereas to him [Lot] whose intention it was to commit the transgression [applies], 'but transgressors do stumble therein'.

But perhaps it was his intention also to do right? — [Do not think this for a moment, for][23] R. Johanan has said: The whole of the following verse indicates [Lot's] lustful character. And Lot lifted up[24] is paralleled by, And his master's wife lifted up her eyes upon;[25] 'his eyes' is paralleled by, for she hath found grace in my eyes[26] 'and beheld' is paralleled by, And Shechem the son of Hamor beheld her;[27] 'all the kikar ['plain'] of the Jordan' by For on account of a harlot, a man is brought to a kikar ['loaf'] of bread,'[28] and 'fat' it was well watered everywhere' by, I will go after my lovers, that give me my bread and my water, my wool and my flax, mine oil and my drink.[29]

But [Lot] was the victim of compulsion?[30] — It had been taught on behalf of R. Jose son of R. Honi that the dot[31] over the letter waw [_ 'and'] in the word U-bekumah ['and when she arose'][32] occurring in [the story of] the elder daughter, is to signify that it was her lying down that he did not notice, but he did notice when she arose. But what could he have done, since it was all over? — The difference is that he should not have drunk wine the next evening.

Raba expounded as follows: What is the significance of the verse, A brother offended is harder to be won than a strong city;

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(1) Thus his own naziriteship is independent of hers.

(2) Intentionally.

(3) These were administered at the discretion of the court and are Rabbinical in origin.
(4) Num. XXX, 13.
(5) Since the same words in verse 9 refer to a woman who knows that her husband has declared her vow void.
(6) I.e., the woman who thought to drink wine during her naziriteship, but was not really a nazirite.
(7) Tosef. Naz. III, 6.
(8) Lev. V, 27. with reference to the offering of a guilt-offering.
(9) Heb. Heleb, ‘suet’. Animal fat used in the sacrificial rite. This fat might not be eaten even in the case of ordinary animals.
(10) Isi b. Judah holds that this guilt-offering was not brought if he ate a slice concerning which it was doubtful whether it was permitted or forbidden fat, but only if he ate one of two slices and did not know if it was the permitted or the forbidden slice.
(11) R. Akiba's interpretation of the nazirite woman and the two cases of one who may have eaten forbidden fat.
(12) The passage in Lev. V. 27, says that a guilt-offering must be brought for ‘atonement’ and the offender will be ‘forgiven’.
(13) He thought it was the permitted kind of fat.
(14) For the slice might in fact be forbidden fat.
(15) And there must also be expiation. A guilt-offering could be brought only to make as atonement for an unintentional transgression.
(16) The whole passage from here to the next Mishnah occurs again in Hor. 10b-12b; for fuller notes v. Hor. (Sonc. ed.). p. 73.
(17) Hosea XIV, 20.
(18) The passover was to be eaten as the final course of the evening meal when the guests had already eaten their fill.
(19) To eat the passover offering. V. Ex. XII, 8.
(20) Each has done a different act.
(21) After the destruction of Sodom. V. Gen. XIX, 32.
(22) Viz., to preserve the human species, for they imagined that the rest of mankind had perished. V. Gen. XIX, 31.
(23) Inserted from ‘En. Jacob.
(24) Gen. XIII, 10.
(25) E.V., ‘east’ her eyes; Potiphar's wife to Joseph. Gen. XXXIX, 7.
(26) E.V., ‘For she pleaseth me well’; Samson of the Philistine woman. Jud. XIV, 3.
(27) Gen. XXXIV, 2.
(28) Prov. VI, 16.
(29) Hosea II, 7. ‘Watered’ and ‘drink’ are from the same root.
(30) His daughters first made him drunk.
(31) One of the puncta extraordinaria. V. Ges. K. Grammar, sec. 5n.
(32) ‘And the first born went in and lay with her father; and he knew not when she lay down,’ nor ‘when she arose’. Gen. XIX, 33.

Talmud - Mas. Nazir 23b

And their contentions are like the bars of a castle?[1] ‘A brother offended is harder to be won than a strong city’, refers to Lot who separated from Abraham,[2] ‘And their contentions are like the bars of a castle’, for he gave rise to contentions [between Israel and Ammon][3] for An Ammonite or a Moabite shall not enter into the assembly of the Lord.[4]

Raba and some say R. Isaac, expounded as follows: What is the significance of the verse, He that separateth himself seeketh his own desire and snarleth against all sound wisdom?[5] ‘He that separateth himself seeketh his own desire’ refers to Lot. ‘And snarleth [yithgale’] against all sound wisdom’, tells us that his disgrace was published [nithgaleh][6] in the Synagogues and Houses of Study, as we have learnt: An Ammonite and a Moabite[7] are forbidden [in marriage] and the prohibition is perpetual.[8]

‘Ulla said: Both Tamar[9] and Zimri[10] committed adultery. Tamar committed adultery and gave birth to kings and prophets.[11] Zimri committed adultery and on his account many tens of thousands of Israel perished.[12]

R. Nahman b. Isaac said: A transgression performed with good intention is better than a precept performed with evil intention.[13] But has not Rab Judah, citing Rab, said: A man should always occupy himself with the Torah and [its] precepts, even though it be for some ulterior motive,[14] for the result will be that he will eventually do them without ulterior motive?[15] — Read then: [A transgression performed with good intention is] as good as a precept performed for an ulterior motive, as it is written, Blessed above women shall Jael be, the wife of Heber the Kenite. Above women in the tent shall she be blessed,[16] and by ‘women in the tent’, Sarah, Rebecca, Rachel and Leah are meant.[17]

R. Johanan said: That wicked wretch [Sisera] had sevenfold intercourse [with Jael] at that time, as it says. At her feet he sunk, he fell, he lay,’ etc.[18] But she derived pleasure from his intercourse? — R. Johanan said:[19] All the favours of the wicked are evil to the righteous, for it says, Take heed to thyself that thou speak not to Jacob either good or bad.[20] Now [that he was not to speak] bad we can understand, but why was he not to speak good? Thus it may properly be inferred that the good of such a one is an evil. The above text [states]: Rab Judah, citing Rab, said: A man should always occupy himself with the Torah and [its] precepts, even though it be for some ulterior motive, for the result will be that he will eventually do them without ulterior motive. For as reward for the forty-two sacrifices which the wicked Balak offered,[21] he was privileged to be the progenitor of Ruth, for R. Jose son of R. Hanina has said that Ruth was descended from[22] Eglon, [the grandson of Balak,][23] king of Moab.

R. Hiyya b. Abba, citing R. Johanan. said: How do we know that the Holy One, blessed be He, does not withhold the reward even for a decorous expression? The elder daughter [of Lot] called her son Moab[24] and so the All-Merciful One said [to Moses]:[25] Be not at enmity with Moab, neither contend with them in battle.[26] Only war was forbidden, but they might be harassed. The younger daughter, on the other hand, called [her son's] name Ben-Ammi[27] and so it says, Harass them not, nor contend with them.[28] They were not to be harassed at all.

R. Hiyya b. Abin said: R. Joshua b. Korha said: A man should always be as alert as possible to perform a precept, for as reward for anticipating the younger by one night, the elder daughter [of Lot]

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(1) Prov. XVIII, 19.

(2) Thereby offending him. V. Gen. XIII, 11.

(3) Corrected from Hor. 10b. Thus Moab and Ammon, Lot's descendants, were barred from intermarriage with Israel because Lot offended Abraham. [The text here reads: ‘like bolts and the palace.’ I.e., the contentions constitute the bolts which bar the admission of Ammon and Moab into the house of Israel — the palace.]

(4) Deut. XXIII, 4.

(5) Prov. XVIII, 1.

(6) A play on the Hebrew roots indicated.

(7) But not an Ammonite woman or a Moabite woman.

(8) Yeb. 76b.

(9) With her father-in-law, Judah. V. Gen. XXXVIII, 14.

(10) With the Midianitish woman. V. Num. XXV, 14.

(11) David and his descendants were of the tribe of Judah; Amos and Isaiah are traditionally said to have been of the tribe of Judah. V. Sot. 10b.

(12) In the plague; v. Num. XXV, 9.

(13) For an example see below.

(14) לשמה ‘for its own sake’.
(15) An example of this occurs below.
(16) Jud. V, 24.
(17) The word ‘tent’ occurs in connection with each of these (Tosaf.). Rashi omits Rebecca and says that the reference is to the fact that each of the other three gage their handmaidens to their husbands with ulterior motive.
(18) The words ‘he sunk’, ‘he fell’, occur three times each, and the words ‘he lay’ once. Jud. V. 27.
(19) Var. lec., R. Johanan said R. Simon b. Yohai said (Hor. 10b).
(20) Gen. XXXI, 29.
(21) On the occasion of Balaam's attempt to curse Israel. V. Num. XXIII-XXIV.
(22) Lit., ‘the granddaughter of’, cf. Tosaf.
(23) Inserted from Hor. 10b.
(24) Lit., ‘of my father’.
(25) Inserted from Hor. 10b.
(26) Deut. II, 9.
(27) Lit., ‘son of my people’. A less shameless appellation.
(28) Deut. II, 19.

Talmud - Mas. Nazir 24a

was privileged to appear in the genealogical record of the royal house of Israel, four generations[1] earlier.

MISHNAH. IF A WOMAN MAKES A NAZIRITE VOW AND SETS ASIDE THE REQUISITE ANIMAL [FOR THE SACRIFICE] AND HER HUSBAND SUBSEQUENTLY DECLARES [THE VOW] VOID, THEN, IF THE ANIMAL WAS ONE OF HIS OWN, IT CAN BE PUT TO PASTURE WITH THE HERD,[2] BUT IF IT WAS ONE OF HERS, THE SIN-OFFERING IS TO BE LEFT TO DIE, THE BURNTOFFERING IS TO BE OFFERED AS AN [ORDINARY] BURNTOFFERING, AND THE PEACE-OFFERING IS TO BE OFFERED AS AN [ORDINARY] PEACE-OFFERING. THIS [LAST], HOWEVER, MAY BE EATEN FOR ONE DAY [ONLY],[3] AND REQUIRES NO LOAVES.[4] IF SHE HAS A LUMP SUM OF MONEY[5] [SET ASIDE FOR THE PURCHASE OF SACRIFICES]. IT IS TO BE USED FOR FREE-WILL OFFERINGS;[6] IF EARMARKED MONEY,[7] THE PRICE OF THE SIN-OFFERING IS TO BE TAKEN TO THE DEAD SEA;[8] THE USE OF IT IS FORBIDDEN, BUT INVOLVES NO MALAPPROPRIATION;[9] FOR THE SUM SET ASIDE FOR THE BURNT-OFFERING, A BURNT-OFFERING IS TO BE PROVIDED, THE USE OF WHICH INVOLVES MALAPPROPRIATION;[10] WHILST FOR THE SUM SET ASIDE FOR THE PEACE-OFFERING, A PEACE-OFFERING IS TO BE PROVIDED, WHICH MAY BE EATEN FOR ONE DAY [ONLY] AND REQUIRES NO LOAVES.[11]

GEMARA. Who is the Tanna [of our Mishnah, who intimates] that the husband is not liable for the wife's [sacrifices]?[12] — R. Hisda said: It is the Rabbis, for if you suppose it is R. Judah [then since he is liable,] why should [the animals] be sent to pasture with the herd?[13] For it has been taught: R. Judah says: A man [who can afford to do so] must offer the rich man's sacrifice[14] on his wife's behalf, as well as all other sacrifices for which she may be liable. For thus does he write to her [in the marriage settlement, viz.: I shall pay] every claim you may have against me from before up to now.[15]

Raba said: It may even be R. Judah. [The reply to R. Hisda's objection being that the husband] is liable only for something which she needs, but not for something which she does not need.[16] Another version [of the above discussion is as follows]. Who is the Tanna [of our Mishnah]? — R. Hisda said: It is R. Judah,[17] [the husband, however,] being liable only for something that she needs, but not for something that she does not need.[18] For if it were the Rabbis [do they not say that] he is not liable for her [sacrifices] at all?[19] The only possible interpretation of the liability [implicit in the

Mishnah][20] would be that he transferred [the animals] to her, but on transference it becomes her own property.[21]

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(1) Obed, Jesse, David and Solomon through Ruth; while Rehoboam was a son of Naamah, the Ammonitess.

(2) I.e., it ceases to be sacred and may be returned to the fold.

(3) Until midnight, the period allowed for a nazirite offering (v. Zeb. V, 6); whereas an ordinary peace-offering could be eaten for two days and a night. (V. Ibid. V, 7).

(4) Whereas a nazirite offering does require them. V. Num. VI, 15.

(5) I.e., if the sums to be spent on the separate sacrifices were still unspecified.

(6) Burnt-offerings, whose hides became the perquisite of the priests.

(7) I.e., divided into portions for the separate sacrifices.

(8) ‘Taken to the Dead Sea’ is the usual Talmudic mode of saying, ‘not applied to any useful purpose.’

(9) I.e., there is no penalty. For the rules regarding the unauthorised use of sacred property. v. Lev. V, 15.

(10) Heb. me'ilah, the diversion of sacred or priestly things to secular or lay uses. E.V. uses ‘trespass’, but ‘mal-appropriate’ expresses better the sense of the Hebrew word (cf. N.E.D.).

(11) Thus earmarked money is treated in the manner prescribed for sacrifices.

(12) By declaring that if she sets aside his animals without his consent, they do not remain sacred at all.

(13) They ought to remain sacred, because she had the right to take them.

(14) Where the kind of sacrifice to be offered depends upon a man's means. e.g., Lev. V, 7.

(15) This clause is taken as referring to sacrifices for which she may have become liable after the betrothal. This shows that in R. Judah's opinion the husband is liable. Other versions read instead of the last sentence: For thus does she write (in the receipt for her marriage-settlement when she claims it after divorce): And every claim that I may have had against you before now (is hereby discharged).

(16) And his annulment of her vow shows that there was no need for her sacrifice, which thereby loses its sanctity.

(17) Who says that a man must offer a rich man's sacrifice for his wife.

(18) And therefore when the husband declares the vow void, the animals lose their sanctity.

(19) What need therefore for the rule? She cannot make his animal sacred at all.

(20) Which in saying that the animals are sent to pasture only if the husband declares her vow void, implies that if he does not declare it void, they become sacred.

(21) And this ease is considered in the second clause of the Mishnah: ‘BUT IF IT WAS ONE OF HERS. Thus this interpretation on the view of the Rabbis is impossible.

Talmud - Mas. Nazir 24b

Raba said: It may even be the Rabbis, for even when he transfers it to her [his intention is] to provide something which she needs, but he does not transfer it to provide something she does not need.[1]

IF IT WAS ONE OF HERS, THE SIN-OFFERING IS TO BE LEFT TO DIE, THE BURNT-OFFERING IS TO BE OFFERED: Where did she get it from, seeing that it has been affirmed that whatever a woman acquires becomes her husband's? — R. Papa replied: She saved it out of her housekeeping money.[2] Another possibility is that it was given to her by a third person with the proviso that her husband should have no control over it.

THE BURNT-OFFERING IS TO BE OFFERED AS AN [ORDINARY] BURNT-OFFERING, AND THE PEACE-OFFERING IS TO BE OFFERED [etc.]. Samuel said to Abbahu b. Ihi: ‘You are not to sit down[3] until you explain to me the following dictum: ‘The four rams that do not require loaves [as an adjunct of the sacrifice] are the following: — his, hers, and those after death and after atonement!’[4] — [He explained as follows:] ‘Hers’ is the one referred to [in our Mishnah]. ‘His’ is referred to in the following [Mishnah]: For we learnt: A man is able to impose a nazirite vow on his son, whereas a woman cannot impose a nazirite vow on her son. Consequently, if [the lad] polls himself [within the period of his naziriteship] or is polled by his relatives, or if he protests[5] or his relatives protest on his behalf, then if a lump sum was set aside, it is to be used to provide free-will offerings, and if earmarked monies, the price of the sin-offering is to be taken to the Dead Sea, [the use of it is forbidden, but involves no malappropriation];[6] for the price of the burnt-offering, a burnt-offering is to be provided and this can involve malappropriation, whilst for the price of the peace-offering, a peace-offering is to be provided which may be eaten for one day only and requires no loaves.[7] Whence do we know [this of] ‘the one after death’? — For we have learnt: Should a man set aside money for his nazirite offerings, the use of it is forbidden but involves no malappropriation since it may all be expended on the purchase of a peace-offering.[8] If he should die, monies not earmarked are to be used for providing freewill-offerings, whilst with regard to earmarked monies, the price of the sin-offering is to be taken to the Dead Sea, the use of it is forbidden but involves no malappropriation; for the price of the burnt-offering, a burnt-offering is to be provided, and this does involve malappropriation; whilst for the price of the peace-offering, a peace-offering is to be provided, which may be eaten for one day [only] and requires no loaves.[9]

[That] ‘the one after atonement’ [requires no loaves] we learn by a process of reasoning. For the reason that the ‘one after death’ does not [require loaves] is because it is not eligible for the purposes of atonement,[10] but then neither is the ‘one after atonement’ eligible for the purpose.[11]

But are there no more? What of the following [passage that Levi taught]:[12] All other peace-offerings of a nazirite, not slaughtered in the prescribed manner[13] are fit [for the altar], but they do not count as fulfilment of their owner's obligation;[14] they may however be eaten for one day [only],[15] and do not require loaves or [the gift of] the shoulder[16] [to the priest]?[17] — The enumeration [of Samuel] includes [animals offered] in the prescribed manner but omits those not [offered] in the prescribed manner.

[‘If he should die,] and have a lump sum of money it is to be used for providing free-will offerings’.[18]

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(1) The transference is thus provisional, and this case is not the same as that of the second clause.

(2) Lit., ‘scraped it off her dough.’

(3) [Lit., ‘sit on your legs.’ with reference to their custom of sitting on the ground with the legs crossed under them, v. Orah Mishor, a.l.]

(4) ‘After atonement’ means an animal that was lost and replaced and then found. The others are explained below.

(5) Even if be does not poll.

(6) Added with R. Akiba Eger (d. 1837) from the Mishnah text infra 28b.

(7) Infra 28b. For the various terms used see our Mishnah (24a) and notes.

(8) A peaceoffering could not be malappropriated until after the ritual sprinkling of its blood, v. Me'il, 6b. For the other offerings extra money could be provided.

(9) Me'il III, 2.

(10) For the owner is dead and no further atonement is necessary.

(11) Because the atonement has already been made, and so here too loaves are not required.

(12) So Bah, cf. Men. 48b.

(13) The prescribed peace-offering for a nazirite is a ram of the second year.

(14) And he must offer another beast.

(15) V. supra p. 85, n. 10.

(16) V. Num. VI, 19.

(17) V. Tosef. Naz. IV.

(18) Quoted from Mishnah Me'il, cited above.

Talmud - Mas. Nazir 25a

But money for a sinoffering is included in it?[1] — R. Johanan said: This is a traditional rule[2] relating to the nazirite. Resh Lakish said: The Torah says, [in the verse] Whether it be any of their vows or any of their-freewill offerings.[3] This indicates that anything left over from [money subscribed for] vowed offerings is to be spent on freewill-offerings.[4]

Now if we accept the view of R. Johanan who says that this ruling concerning the nazirite is traditional, we can understand why it [applies only to] a lump sum of money and not to earmarked money.[5] But on Resh Lakish's view that it is derived from the verse, Whether it be any of their vows, or any of their freewill offerings, why should it apply only to money in a lump sum? Surely it should also apply to earmarked monies? — Raba replied: You cannot maintain that the reference is also to specific monies, for a Tanna of the School of R. Ishmael has already given a [different] decision [as follows]: The verse, Only thy holy things which thou hast and thy vows,[6] speaks of the offspring and substitutes[7] of sacred animals. What is to be done with them? Thou shalt take [them] and go unto the place which the Lord shall choose.[6] It might be thought [from this] that they are to be taken to the Temple and kept without food and drink until they perish, but Scripture continues, And thou shalt offer thy burnt-offerings, the flesh and the blood,[8] as much as to say, as you do with the burnt-offering so do with its substitute,[9] as you do with the peace-offering so do with its offspring [and substitutes]. It might further be thought that the same applies to the offspring [and substitutes] of a sin-offering and the substitute of a guiltoffering,[10] but the text states ‘only’ [precluding these].[11] The above is the opinion of R. Ishmael. R. Akiba says that it is unnecessary [to use this argument for the guilt-offering], for it says. It is a guiltoffering,[12] which shows that it retains its status.[13]

[The above passage] states: ‘It might be thought that they are to be taken to the Temple and kept without food and drink until they perish, but Scripture continues, And thou shalt offer thy burntofferings, the blood and the flesh.’ But why [should one think this]; seeing that only in regard to the sin-offering is there a traditional teaching that it is left to perish?[14] — Were it not for the verse, it might have been thought that the offspring of the sin-offering [may be allowed to perish] anywhere,

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(1) Should not this be ‘taken to the Dead Sea’?

(2) Lit., ‘a halachah’.

(3) Lev. XXII, 18.

(4) And here there is money left over from the naziriteship money.

(5) For presumably the tradition mentioned one and not the other.

(6) Deut. XII, 26. The words in themselves are superfluous.

(7) Substitution of a sacrifice was not allowed, and if it was attempted both animals became sacred, v. Lev. XXVII, 33.

(8) Deut. XII, 27.

(9) I.e., sacrifice it in the same way. ‘Offspring’ is not mentioned in connection with the burnt-offering or guilt-offering because these are males.

(10) That they be offered as guilt-offerings or sin-offerings.

(11) The particle, רק only, is one of the particles invariably considered to indicate a limitation of the rule that follows it.

(12) Lev. V, 19.

(13) The word הוא ‘it is’, is emphatic in the Hebrew’. Hence if money is ear-marked for a sin-offering etc., it cannot be used for voluntary offerings, but must be used in the manner described in the Mishnah.

(14) Tem. 21b.

Talmud - Mas. Nazir 25b

whilst the offspring of other sacred animals [are left to perish] in the Temple only;[1] hence we are told that they are not [left to perish at all].

It also states above: It might further be thought that the same applies to the offspring [and substitutes] of sin-offerings and the substitute of a guilt-offering, but the text states ‘only’ precluding [these]. But what need is there of a verse, for there is a traditional ruling that the offspring of a sin-offering is to perish? — That is so; but the verse is required for the guilt-offering.

But for the guilt-offering, too, there is a traditional ruling viz., that wherever [an animal] if intended as a sin-offering, is left to perish, if intended as a guilt-offering it is allowed to pasture [until a blemish appears]?[2] — If we had only the traditional ruling, it might be thought that the traditional ruling [is indeed so], but [nevertheless] should someone sacrifice [the animal] he would incur no guilt by so doing; hence the verse tells us that if someone should sacrifice it, he has transgressed a positive precept.[3]

‘R. Akiba says that it is unnecessary [to use this argument for the guilt-offering] for it says, It is a guilt-offering, which shows that it retains its status.’ What need is there of the verse, since we have it as a traditional ruling that wherever [an animal] if intended as a sin-offering is left to perish ‘ if intended as a guilt-offering it is to pasture [until a blemish appears]? — That is so, and the verse is only necessary for [the case described by] Rab. For R. Huna. citing Rab, said: If a guilt-offering which had been relegated to pasture[4] [until a blemish appears] was slaughtered as a burntoffering, it is a fit and proper [sacrifice].[5] This is true only if it was [already] relegated, but not otherwise, for the verse says, ‘It is [a guilt-offering,’ implying] that it retains its status.[6]

The master said [above]: ‘This is a traditional ruling[7] concerning the nazirite.’ Are there then no other spheres [in which it applies]? Has it not been taught: ‘And all others[8] required by the Torah to offer a nest of birds,[9]

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(1) Since it says, ‘Thou shalt take (them) etc.’

(2) When it would be sold and the money devoted to sacred purposes.

(3) Viz.: that only the others are to be sacrificed and not this one. A prohibition inferred from a positive command, as here, is called a positive precept.

(4) Lit., ‘was transferred (from the category of guilt-offering) to pasture.’

(5) And the flesh may be burnt on the altar.

(6) As a guilt-offering and if offered as a burntoffering, the flesh is not fit for the altar.

(7) That no account is taken of the presence of money that should have gone to purchase a sin-offering, but the whole of the money if in a lump sum is utilised for freewill-offerings.

(8) As well as the nazirite.

(9) E.g., a leper who must offer on recovery a sin-offering and a burnt-offering, and may provide birds if he cannot afford animals; v. Lev. XIV, 21ff.

Talmud - Mas. Nazir 26a

who set aside money for this purpose and then desire to use it to provide an animal[1] as sin-offering, or as burnt-offering can do so. Should such a one die and leave a lump sum of money, it is to be used to provide freewill-offerings’?[2] — He mentions the nazirite, meaning also [to include] those required to offer birds whose case is similar,[3] but excluding [the following case]. For it has been taught: If a man, under an obligation to offer a sin-offering, says, ‘I undertake to provide a burnt-offering,’ and sets aside money saying, ‘This is for my obligation,’ should he then desire to provide from it either a sin-offering or a burnt-offering he must not do so.[4] Should he die and leave a lump sum of money, it is to be taken to the Dead Sea.[5]

R. Ashi said: In the statement[6] that moneys earmarked must not be used [for freewill-offerings], you should not presume [the meaning to be] that he said, ‘This [portion] is for my sin-offering, this for my burnt-offering, and this for my peace-offering,’ for even if he says simply, ‘[All] this is for my sin-offering, burnt-offering and peace-offering,’ it counts as earmarked money.[7] Others say that R. Ashi said, Do not presume that he must say, ‘[All] this is for my sin-offering, burnt-offering and peace-offering,’ for even if he says, ‘[All] this is for my obligation,’ it is regarded as earmarked money.[8] Raba said: Though we have said that a lump sum of money is to be used for freewill-offerings, yet if the money for the sin-offering becomes separated from the rest,[9] all is regarded as earmarked. [

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(1) If they become more affluent.

(2) Thus the ruling applies to these as well as to the nazirite.

(3) Since their obligation to provide both a sin-offering and a burnt-offering springs from a single source, and they are not separate obligations.

(4) Here the obligations are separate. What he must do is to add more money and buy both animals at the same time (Tosaf.).

(5) The traditional ruling does not apply here, and there is now no remedy since a sin-offering cannot be brought after death. Tosef. Me'il. I, 5.

(6) In the various texts quoted above.

(7) And must not be used for freewill-offerings.

(8) And the sums required are regarded as unspecified only if he put them aside without stating their purpose.

(9) E.g., if sufficient for a sin-offering is lost, the rest is to be used as to half for a peace-offering and half for a burnt-offering.

Talmud - Mas. Nazir 26b

. It has been taught in agreement with Raba: [If a nazirite says,] ‘This is for my sin-offering and the remainder for the rest of my nazirite obligations,’ [and then dies,] the money for the sinoffering is to be cast into the Dead Sea, and the rest is to be used, half to provide a burnt-offering, and half, a peace-offering.[1] The law of malappropriation applies to the whole of it,[2] but not to any separate part of it.[3] [If he says,] ‘This is for my burnt-offering and the remainder for the rest of my nazirite obligations,’ [and then dies,] the money for the burnt-offering is to be used for a burntoffering and it can suffer malappropriation, whilst the rest is to be used to provide freewill-offerings and can suffer malappropriation.[4] Rab Huna, citing Rab, said that [our rule][5] applies only to money, but animals would be regarded as earmarked.[6] R. Nahman added that the animals that would be regarded as earmarked would only be unblemished animals, but not blemished ones.[7] [Three] bars of silver, on the other hand, would be counted as earmarked.[8] R. Nahman b. Isaac, however, considered even bars of silver as unspecified,[9] but not [three] piles of timber.[10]

R. Shimi b. Ashi asked R. Papa: What is the reason [for the distinctions made] by these Rabbis?[11] Is it that they interpret money’,[12] as meaning neither animals, nor bars of silver, nor piles of timber [as the case may be]? For if so, they should also say money’ but not birds.[13] Should you reply that they do make this distinction too, how comes R. Hisda to say that birds[14] do not become earmarked except [when earmarked] by the owner at their purchase, or by the priest at their preparation,[15] seeing that our tradition is that only money [is regarded as unspecified]? —

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(1) In agreement with Raba.

(2) Since the money for the burnt-offering can suffer malappropriation.

(3) Since the money for the peace-offering may be in the part used, and a peace-offering does not suffer malappropriation.

(4) Adopting an emendation of the Wilna Gaon after the text of Tosef. Me'il. I, 5. Our texts read: ‘The law of malappropriation applies to the whole of it, but not to any part of it.’ This cannot be the case since all the rest is to be used for freewill burnt-offerings which suffer malappropriation.

(5) Regarding the disposition of a lump sum of money.

(6) Even if they were not the animals that a nazirite must bring (v. Tosaf. and Asheri for various explanations of the distinctions). Possibly the reason is that it can be assumed that he intended to exchange each one for one of the animals suitable for his sacrifice.

(7) He would have to sell these first in order to purchase others, and would not think of them In terms of animals but in terms of money.

(8) He would not sell the silver to buy animals, in order not to lose on the two transactions, but would await his opportunity to barter for animals.

(9) They are easily convertible into money at a very small loss, and would therefore naturally be thought of in terms of money.

(10) Which would not be sold, in order to avoid loss, but bartered for animals.

(11) Rab, R. Nahman and R. Nahman b. Isaac.

(12) In the phrase, ‘money in a lump sum,’ occurring in our Mishnah and the other texts.

(13) I.e., they should regard birds as specified.

(14) Lit., ‘nests’, i.e., the pair of birds brought as offerings; cf. e.g., Lev. XII, 8.

(15) But not by the mere purchase. Hence if the owner dies, the pair is indeterminate and becomes a freewill-offering in the cases considered, contrary to the assumption that this is true only of money.

Talmud - Mas. Nazir 27a

He replied: But on your own argument [that all these are unspecified], how are we to explain [the following] which we learnt: R. Simeon b. Gamaliel said that if [a nazirite] brings three animals and does not say explicitly [what they are for], the one which is fit to be a sin-offering shall be offered as a sin-offering,[1] the one fit to be a burnt-offering[2] shall be offered as a burnt-offering and the one fit for a peace-offering[3] shall be offered as a peace-offering?[4] Now why should this be so? Do you not say that animals are not regarded as earmarked?[5] — [R. Shimi b. Ashi][6] rejoined: [The explanation is this.[7] In R. Hisda's case] the reason[8] is because the All-merciful has said, And she shall take [two turtle doves, the one for a burnt-offering and the other for a sin-offering],[9] and also, And [the priest] shall take [the one for a sin-offering and the other for a burntoffering[10] showing that they can be earmarked] either when the owner takes them or when the priest offers them. [In R. Simeon b. Gamaliel's case] too

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(1) The ewe lamb; v. Num, VI, 14.

(2) The one year old male lamb.

(3) The two year old ram.

(4) Infra 45a.

(5) Surely therefore we must regard them as earmarked and take the expression ‘money’ as excluding all else from being regarded as unspecified.

(6) So Asheri. According to Rashi, R. Papa is still speaking; but v. Yoma 41a where the statement following is attributed to R. Shimi b. Ashi.

(7) R. Shimi now assumes that unless there has been explicit earmarking, everything is unspecified, and he therefore goes on to explain why R. Hisda allows the priests to earmark the birds and the reason for R. Simeon b. Gamaliel's statement.

(8) That it is possible for the priest to sacrifice the birds even if the owner does not specify them, although birds are otherwise specified.

(9) Lev. XII, 8.

(10) Lev. XV, 30.

Talmud - Mas. Nazir 27b

would it be possible to say that the one that should be the sin-offering is to be the burnt-offering, seeing that one is female and the other male?[1]

R. Hamnuna raised an objection: Do we really say that an animal which has a blemish is regarded as unspecified? Come [then] and hear [the following]: What are the circumstances in which a man is permitted to poll at the expense of his father's naziriteship? Suppose his father had been a nazirite and had set apart the money for his nazirite sacrifices and died, and [the son then] said, ‘I declare myself a nazirite on condition that I may poll with my father's money,’[2] [then he may do so].[3] If he leaves unspecified moneys, they fall to [the Temple treasury to provide] freewillofferings. If there were animals set apart, the sin-offering is left to die, the burnt-offering is to be offered as a burnt-offering, and the one for a peace-offering is to be offered as a peaceoffering.[4] Is not this the case even if the animal is blemished?[5] — No; only if it is without blemish. But if a blemished one is unspecified, why is money’ mentioned?[6] The text ought to read: If he left a blemished animal, it is to be used to provide freewill-offerings?[7] — That is precisely what it means. For a blemished animal is made sacred purely in respect of the price it will bring; and this price is [included in] ‘money’.

Raba raised an objection: [It has been taught: The expression] his offering[8] [signifies] that he can discharge his obligation with his own offering but not with that of his father. It might be thought [that this means merely] that an obligation with regard to a serious offence cannot be discharged with an offering set aside by his father for a less serious offence or vice versa, whereas he could discharge an obligation entailed by a less serious offence, with an offering set aside by his father for a similar offence, or [an obligation] entailed by a more serious offence, with [an offering set aside for] a similar offence. Hence Scripture repeats the words, his offering,[9] [to show that] he can discharge an obligation with his own offering but not with that of his father [even in this instance]. Again, it might be supposed that [the rule that] he cannot discharge an obligation with his father's offering applies only if it is an animal set aside by his father albeit for an offence of a similar degree of gravity, since [there is a similar rule] that a man cannot make use of his father's [nazirite] animal for polling in respect of [his own] naziriteship,[10] but that he could discharge his obligation with motley set aside by his father, and even [transfer it] from a serious offence to one less serious or vice versa, for a man can make use of his father's [nazirite] money for polling in respect of [his own] naziriteship,

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(1) And so formal earmarking is not necessary, but in all other cases it is necessary and without it they are regarded as unspecified. Thus R. Shimi b. Ashi disagrees with the Rabbis mentioned above. Maim. Yad Neziruth IX, 5, also rules in agreement with this interpretation of R. Shimi's views.

(2) I.e., buy the sacrifices that must be offered on polling with my father's money.

(3) The quotation is incomplete. V. the Tosef. and cf. infra 30b.

(4) Tosef. Naz. III, 9.

(5) Viz., that it is left to die or to be used to provide a burnt-offering or a peace-offering, as the case may be. How then does R. Nahman (R. Hamnuna's contemporary) distinguish between blemished and unblemished animals?

(6) In the opening clause of the Baraitha.

(7) This is a finer distinction than the one between animals and money.

(8) Used with reference to the sacrifice a ruler must bring if he sins in error, Lev. IV. 23.

(9) Used also with reference to the goat brought as a sacrifice by one of the common people who sins in error, Lev. IV, 28.

(10) V. infra 30a.

Talmud - Mas. Nazir 28a

always provided that it is a lump sum and not earmarked money.[1] Hence Scripture repeats the expression his offering[2] [a third time, to show] that he can discharge his obligation with his own offering, but not with that of his father [even in this instance]. It might be thought, further, [that we can only lay down] that he is unable to discharge an obligation with money set aside by his father, albeit for an offence of equal gravity, but that he could discharge his obligation with an offering he himself has set apart, [even transferring it] from a less serious to a more serious offence, or vice versa. Hence Scripture uses the expression, his offering . . . for his sin,[3] to show that the offering must be for the particular sin. It might be argued, again, that [we can only lay down that] he cannot discharge his obligation with an animal which he has set apart for himself whether for an equally serious offence or for an offence of a different degree of gravity, since [we know that] if he sets aside an animal [to make atonement] for [the offence of eating] forbidden fat,[4] and [by mistake] sacrifices it for [the offence of eating] blood, or vice versa, he has not been guilty of malappropriation and [consequently] has not procured atonement;[5] but [we might think] that he could discharge his obligation with money which he set aside for himself whatever be the degree of gravity of the offence, since [we know that] if he set aside money for himself [to make atonement] for [the offence of eating] forbidden fat, and used it [by mistake] for [the offence of eating] blood, or vice versa, he is guilty of malappropriation and [consequently] does procure atonement,[6] and so Scripture says, for his sin[7] to show that the offering must be for the particular sin [even in such circumstances].[8] Now this passage refers simply to an animal.[9] Surely this includes even a blemished one?[10] — Not at all. One without blemish is meant. But if a blemished animal is regarded as not earmarked, why go on to speak of money set aside by his father when it could speak of an animal which has a blemish [instead]?[11] — That is precisely [what is meant], for the only use [of such an animal for sacrificial purposes] is for the price it will bring, and this price is ‘money’. MISHNAH. IF ONE OF THE KINDS OF BLOOD[12] HAS BEEN SPRINKLED ON HER BEHALF, [THE HUSBAND] CAN NO LONGER ANNUL [THE VOW].[13] R. AKIBA SAYS, IF EVEN ONE OF THE ANIMALS HAS BEEN SLAUGHTERED ON HER BEHALF, HE CAN NO LONGER ANNUL [THE VOW]. THE ABOVE IS TRUE ONLY IF SHE IS POLLING[14] [AFTER OBSERVING THE NAZIRITESHIP] IN PURITY, BUT IF SHE IS POLLING AFTER RITUAL DEFILEMENT, HE CAN [STILL] ANNUL [THE VOW], BECAUSE HE CAN SAY, ‘I CANNOT TOLERATE AN UNSEEMLY WIFE,’[15] RABBI[16] SAYS THAT HE CAN ANNUL [HER VOW] EVEN IF SHE IS POLLING [AFTER OBSERVING THE NAZIRITESHIP] IN PURITY, SINCE HE CAN AVER THAT HE CANNOT TOLERATE A WOMAN WHO IS POLLED.

GEMARA. Our Mishnah does not agree with R. Eliezer, for R. Eliezer says that polling is a bar [to the drinking of wine],[17] and since she has not polled, she is forbidden wine, and so since she is [still] unseemly, he is able to annul [her vow].

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(1) Ibid.

(2) Used also with reference to the lamb brought as a sacrifice by one of the common people who sins in error, Lev. IV, 32.

(3) ‘He shall bring for his offering a goat . . . for his sin which he hath sinned.’ Lev. IV, 28.

(4) Heb Heleb.

(5) He is guilty of malappropriation if he transfers an object in error from sacred to profane use, This cannot be done with animals intended for the altar, but only with objects intended for general temple use. Since an animal intended for the altar cannot be transferred from sacred to profane use, it cannot possibly become his again, and so once he sets aside an animal for the offence of eating forbidden fat, he cannot gain possession of it in order to use it to atone for his offence of eating blood.

(6) For malappropriating sacred money renders it his and it can now be used for any purpose he likes; v. note 2.

(7) Lev. IV, 18. The phrase used is the same as that from which the last inference was drawn. Rashi uses the verse in Lev. IV, 16, ‘as concerning his sin’; but the parallel quotation in Ker. 27b is identical with this.

(8) And so, although the transference in error was valid, he is unable to transfer it at will. This Baraitha occurs also in Ker. 27b.

(9) In mentioning that a nazirite cannot poll with his father's animal.

(10) And so we see that a blemished animal is regarded as specific.

(11) And so make the distinction finer.

(12) I.e., the blood of one of the sacrifices.

(13) And her hair must be shorn.

(14) I.e., bringing the sacrifices at the polling.

(15) A teetotaller. This is based on the verse in Zach. IX, 1. ‘New wine shall make the maids flourish.’

(16) Some versions read R. Meir.

(17) No wine may be drunk until after polling.

Talmud - Mas. Nazir 28b

Our Tanna [on the other hand] takes the view that as soon as the blood is sprinkled on her behalf, she is permitted to drink wine and as a result she is no longer unseemly, whilst R. Akiba is of the opinion that even though the animal has only been slaughtered, he is no longer able to annul [her vow] since destruction of sacred property [would result].[1]

R. Zera objected: But why [should there necessarily be destruction of sacred property, in such a case]? Could not the blood be sprinkled as though it were some other [sacrifice],[2] when it would be permitted to eat the flesh? For has it not been taught: If the lambs prepared for the Festival of Assembly[3] were slaughter ed as though they were a different sacrifice, or before or after the proper time,[4] the blood is to be sprinkled and the flesh can be eaten. Should [the mistake] occur on a Sabbath, [the blood] is not to be sprinkled, but if [notwithstanding] it is sprinkled, [the sacrifice] is acceptable, but the portions belonging to the altar must be roasted after dark?[5] — The reply is this. If it were the burntoffering or the peace-offering that had been slaughtered,[6] this [procedure] could be followed, but [the Mishnah] assumes that the sin-offering was slaughtered first [as could in fact happen], for we have learnt: If [the nazirite] polls after [the sacrifice] of any one of the three, his duty is performed.[7]

THE ABOVE IS TRUE ONLY IF SHE IS POLLING [AFTER OBSERVING THE NAZIRITESHIP] IN PURITY, BUT IF SHE IS POLLING AFTER RITUAL DEFILEMENT, HE CAN [STILL] ANNUL [THE VOW], BECAUSE HE CAN SAY, ‘I CANNOT TOLERATE AN UNSEEMLY WIFE.’ RABBI SAYS THAT HE CAN ANNUL [HER VOW] EVEN IF SHE IS POLLING [AFTER OBSERVING THE NAZIRITESHIP] IN PURITY, SINCE HE CAN AVER THAT HE CANNOT TOLERATE A WOMAN WHO IS POLLED. The first Tanna [does not allow this objection] because she can wear a wig, but Rabbi considers that [the husband] will not be satisfied with a wig because of the dirt [it collects].[8]

MISHNAH. A MAN IS ABLE TO IMPOSE A NAZIRITE VOW ON HIS SON,[9] BUT A WOMAN CANNOT IMPOSE A NAZIRITE VOW ON HER SON. IF[10] [THE LAD] POLLS HIMSELF OR IS POLLED BY HIS RELATIVES, OR IF HE PROTESTS OR HIS RELATIVES PROTEST ON HIS BEHALF, THEN IF [THE FATHER] HAD SET ASIDE AN ANIMAL [FOR THE SACRIFICE], THE SIN-OFFERING IS LEFT TO DIE, THE BURNT-OFFERING IS TO BE OFFERED AS AN [ORDINARY] BURNT-OFFERING, AND THE PEACE-OFFERING IS TO BE OFFERED AS AN [ORDINARY] PEACE-OFFERING. THIS [LAST], HOWEVER, MAY BE EATEN FOR ONE DAY [ONLY], AND REQUIRES NO LOAVES. IF HE HAD UNSPECIFIED MONIES, THEY FALL [TO THE TEMPLE TREASURY] TO PROVIDE FREEWILL-OFFERINGS: WHILST WITH REGARD TO EARMARKED MONIES, THE PRICE OF THE SIN-OFFERING IS TO BE TAKEN TO THE DEAD SEA, IT BEING NEITHER PERMISSIBLE TO USE IT, NOR POSSIBLE TO MALAPPROPRIATE IT; FOR THE PRICE OF THE BURNT-OFFERING, A BURNT-OFFERING IS TO BE PROVIDED AND THIS CAN SUFFER MALAPPROPRIATION, WHILST FOR THE PRICE OF THE PEACE-OFFERING, A PEACEOFFERING IS TO BE PROVIDED, WHICH MAY BE EATEN FOR ONE DAY ONLY AND REQUIRES NO LOAVES.

GEMARA. A man can [subject the son to a nazirite vow], but not a woman. Why? — R. Johanan said: It is a [traditional] ruling with regard to the nazirite.[11] R. Jose son of R. Hanina,

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(1) For the flesh could not be eaten. R. Akiba, however, would admit her right to drink wine after the sprinkling of the blood.

(2) Lit., ‘be sprinkled not in its own name.’

(3) Pentecost.

(4) [In the absence of a fixed calendar there was always the possibility of the festival sacrifice being offered on a day earlier or later, and this Baraitha explains the procedure to be followed should such an incident occur.]

(5) And thus we see that an animal slaughtered as though it were some other sacrifice need not be destroyed, but can be eaten.

(6) On behalf of the nazirite woman.

(7) And so if the husband is allowed to annul the vow, this sin-offering would have to be destroyed as is asserted by R. Akiba, like all sin-offerings the owners of which no longer stand in need of atonement. Infra 45a.

(8) And so in order not to provoke ill-feeling between them, the husband should be allowed to annul the vow and save her from polling.

(9) Until what age wall be discussed in the Gemara.

(10) [So Tosaf. and Asheri, omitting כיצד ('how?') in our texts which Bertinoro however explains: How (shall the offerings be treated) if the lad polls himself, etc.?]

(11) And requires no other justification. A tradition has the force of a Biblical injunction.

Talmud - Mas. Nazir 29a

citing Resh Lakish, said: So as to train him to [carry out his] religious duties.[1] If so, why should not a woman also be able to do so? — [Resh Lakish] holds that it is a man's duty to train his son to [carry out his] religious duties, but not a woman's duty to train her son.[2] Now on R. Johanan's view that it is a [traditional] ruling with regard to the nazirite vow, we can understand why he can do this with his son but not with his daughter,[3] but according to Resh Lakish, ought not the same to be true of a daughter? — He holds that it is his duty to train his son, but not to train his daughter.

Now on R. Johanan's view that it is a [traditional] ruling with regard to the nazirite, we can understand why he can impose naziriteship [on his son], but not [ordinary] vows;[4] but on Resh Lakish's view, why should he not be able [to impose ordinary] vows too? — [The Mishnah] argues progressively.[5] Not only is it his duty to train [his son] by [imposing upon him] vows which do not make him unseemly, but it is even his duty to impose a naziriteship, although this will make him unseemly.

Now on R. Johanan's view that it is a [traditional] ruling with regard to the nazirite, we can understand how it teaches: IF HE PROTESTS OR HIS RELATIVES PROTEST ON HIS BEHALF [THE NAZIRITESHIP IS VOID];[6] but on Resh Lakish's view, as cited by R. Jose son of R. Hanina, have relatives the power to tell [the father] not to instruct [the son] in religious duties? — He holds that [the son] objects to any training which is undignified.[7]

Now on R. Johanan's view that it is a [traditional] ruling with regard to the nazirite, we can understand why [the boy] is permitted to poll,[8] although [this means] rounding [the corners of the head];[9] but on Resh Lakish's view as cited by R. Jose son of R. Hanina that it is in order to train him to [carry out his] religious duties, he would be [transgressing] in rounding [the corners of his head]?[10] — [Resh Lakish] holds that the rounding of the whole head[11] is [prohibited only by] a rabbinic enactment,[12] and since training is [a duty] imposed by the Rabbis, [the duty as to] training imposed by the Rabbis can overrule the rabbinic enactment against rounding [the whole head].

Now on R. Johanan's view that it is a [traditional] ruling with regard to the nazirite, we can understand why [the boy] is allowed to poll and offer the sacrifices [of a nazirite]; but on the view of Resh Lakish as cited by R. Jose son of R. Hanina that it is in order to train him to [carry out his] religious duties, he would be bringing profane [animals] into the Temple court?[13] — [Resh Lakish] holds that [the prohibition against the bringing of] ordinary animals into the Temple-court is not Scriptural.[14]

Now on R. Johanan's view that it is a [traditional] ruling with regard to the nazirite, we can understand why if he contracts ritual defilement, he may bring an offering of a pair of birds, which the priest will eat after pinching off [the head];[15] but on Resh Lakish's view, as cited by R. Jose son of R. Hanina, he will be eating carrion?[16] — [Resh Lakish] agrees with R. Jose son of R. Judah that fowl do not require to be [ritually] slaughtered in Torah law, and considers that [the prohibition against bringing] non-sacred [fowl] into the Temple court is not Scriptural.[17]

Is this in fact R. Jose's opinion? Has it not been taught: R Jose son of R. Judah said: Whence do we infer that a sin-offering of fowl, brought in a doubtful case [of childbirth][18] is not to be eaten?[19] From the verse, And of then that have an issue, whether it be a man or a woman.[20] Woman is here compared to man.[21] Just as a man is required to bring an offering for [a transgression],[22] which has certainly been committed so must the woman bring an offering for [a childbirth] which has certainly occurred;[23] and just as there is an offering to be brought by a man after a doubtful [transgression], so must an offering be brought by a woman after a doubtful [childbirth]. Again, just as a man brings [an offering of] the same kind in a case of doubtful [transgression] as he does after a certain one,[24] so must a woman bring [an offering of] the same kind after a doubtful [childbirth] as she does after a certain one.[25] [Shall we] then [infer further that] just as [in a doubtful case] a man brings an offering that is eaten,[26] so is the offering brought by the woman to be eaten?

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(1) I.e., it is Rabbinic in its origin.

(2) And so she has not the power to impose upon him an obligation involving the offering of sacrifices.

(3) For the tradition was only known with regard to sons.

(4) The Mishnah mentions only naziriteship and not other vows.

(5) And the inference that he cannot impose ordinary vows is wrong.

(6) This being part of the tradition.

(7) On account of the need to shave his head. And so the relatives can protest on his behalf.

(8) On completing the term of naziriteship.

(9) Which is otherwise forbidden; v. Lev. XIX, 27.

(10) [Which vitiates the whole value of the training.]

(11) Which is the manner in which a nazirite polls.

(12) The Scriptural verse says that ‘the corners’ are not to be rounded, and this is taken to mean the corners by themselves, but not in conjunction with the rest of the head.

(13) I.e., offer profane animals on the altar, for as he is not a nazirite the animals do not become sacred. This is forbidden.

(14) And is therefore permitted in this instance.

(15) Birds offered as sacrifices were not slaughtered ritually with a knife, but the priest pinched off their heads with his thumb nail.

(16) Since there was no obligation to offer birds, these birds are not really an offering and should be killed in the usual way.

(17) There is a controversy on this point in Hul. 27b.

(18) After childbirth, or even a miscarriage, a mother was required to offer certain sacrifices, including a bird as sin-offering (v. Lev. XII, 6). In this Baraitha R. Jose son of R. Judah explains what is to happen if there is a doubt as to a birth (i.e., a true miscarriage) having taken place (cf. also Ker, I, 1).

(19) Although after certain childbirth it was eaten.

(20) Lev. XV. 33’

(21) I.e., cases in which a man (as well as a woman) is required to furnish an offering, with the ease in which only a woman can do so, viz.: childbirth,

(22) When the Torah prescribes an offering for some offence, e.g., the eating of forbidden fat, it is understood that there is to be no doubt that an offence was committed. Where a doubt existed a different offering, the guilt-offering, was prescribed (v. Lev. V, 17).

(23) I.e., Lev. XII, 6. which describes the offering, is referring to a certain and not a doubtful childbirth.

(24) Viz., an animal (and not a bird) in both cases if the offence is, e.g., the eating of forbidden fat.

(25) Including a sin-offering of a bird in both cases.

(26) [The flesh of a guilt-offering for a doubtful transgression was eaten, v. Zeb. 54b.]

Talmud - Mas. Nazir 29b

You cannot say so. Whilst this applies in the case of a man where only one forbidden act is involved,[1] you cannot argue that this should also be the case with a woman where two forbidden acts are involved. Now what are the two forbidden acts referred to? Are they not the prohibition against the eating of carrion,[2] and the prohibition against the entry of profane [sacrifices] into the Temple court?[3]

R. Aha, the son of R. Ika [however] demurred [to this inference[4] being drawn], for it is surely possible that [the eating was forbidden][5] because it would appear as though two rabbinic enactments were being transgressed.[6]

Can we say that [the controversy between R. Johanan and Resh Lakish] is the same as that between [the following] Tannaim? [For it has been taught:] Rabbi says that he can impose a nazirite vow on his son until his majority;[7] but R. Jose son of R. Judah says, [only] until he reaches the age of making vows [for himself].[8] Now surely [the controversy between R. Johanan and Resh Lakish] is the same as [that between these] Tannaim, Rabbi considering it to be a [traditional] ruling with regard to the nazirite, so that though [the son] may have reached the age of making vows [for himself, the father] can still impose a [nazirite] vow on him until he attains his majority, whereas R. Jose son of R. Judah who asserts [that he can do so only] until [the son] reaches the age of making vows [for himself] is of the opinion that [the father may impose a naziriteship] in order to train him to [carry out his] religious duties, and, now that he has passed out of his [father's] control,[9] there is no longer an obligation [to train him]?[10] — I will tell you; not at all. Both [Rabbi and R. Jose son of R. Judah may] agree that this is a [traditional] ruling with regard to the nazirite. Where they differ is about [the vows of] one who can discriminate[11] [but] who has not quite reached manhood. Rabbi considers that [a youth] who can discriminate [but] who has not quite reached manhood is [permitted to make vows] only by enactment of the Rabbis and so the right granted by the Torah [to the parent][12] overrules the Rabbinical right [of the youth];[13] whereas R. Jose son of R. Judah considers that [a youth] who can discriminate [but] who has not quite reached manhood, has a Scriptural right [to make vows].[14]

Alternatively, it may be that both [Rabbi and R. Jose son of R. Judah] would agree that [the father may impose a naziriteship] in order to train him to [carry out his] religious duties, and that [the right of a youth,] who can discriminate [but] who has not quite reached manhood, [to make vows] is Rabbinic. Rabbi, on the one hand, holds that [the parent's duty] to train, which is itself Rabbinic, overrules [the right of the youth,] who can discriminate [but] who has not quite reached manhood, [to make vows for himself] which is also Rabbinic;[15] whilst R. Jose son of R. Judah, who says [that the father's right lasts only] until [the lad] reaches the age of making vows, holds that the Rabbinic duty to train [the lad] does not set aside [the right of a youth] who can discriminate [but] who has not quite reached manhood [to make his own vows, although this is also Rabbinic].[16]

Can we say that [the controversy between] the above Tannaim[17] is the same as that between the following Tannaim?[18] For it has been taught: It is related that R. Hanina's father once imposed a nazirite vow upon him and then brought him before R. Gamaliel. R. Gamaliel was about to examine him to discover whether or not he had reached his majority[19] — according to R. Jose[20] it was to discover whether he had reached the age of making vows[21] — when [the young Hanina] said to him, ‘Sir, do not exert yourself to examine me. If I am a minor, then I am a nazirite because of my father's [imposition], whilst if I am an adult,[22] I undertake it on my own account.’ Thereupon R. Gamaliel rose and kissed him upon his head, and said, ‘I am certain that this [lad] will be a religious leader[23] in Israel.’ It is said that in a very short space of time, he became in fact a religious leader in Israel.[24]

Now on R. Jose son of R. Judah's view that [the father's control lasts only] until [the boy] reaches the age at which he can make vows [for himself], we can understand why he should have said, ‘If I am a minor,[25] I shall be [a nazirite] because of my father's [action, and so on].’ But on Rabbi's view that [it lasts] until manhood, [of what value was the statement], ‘whilst if I am an adult, I undertake it on my own account,’

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(1) If he was not in fact guilty, a profane animal was sacrificed on his behalf. This the Tanna of the Baraitha considers is forbidden.

(2) The bird, having its neck pinched, is carrion, pinching being only permitted to a true sacrificial bird.

(3) And thus we see that R. Jose considers both these acts forbidden by the Torah, in contradiction to the statement attributed to him above.

(4) That the above acts are forbidden by the Torah.

(5) Our text has, instead of this inserted phrase, ‘She is liable’, which gives no sense. We have therefore followed all the commentators and omitted it.

(6) I.e., the eating of the bird brought by the woman was forbidden not because the comparison with the guilt-offering brought by the man did not extend to cover it, but because two enactments of the Rabbis were involved, and this outweighs the analogy with the guilt-offering.

(7) Lit., ‘until two hairs appear’, i.e., until there is definite evidence that he has reached puberty, usually after the end of the thirteenth year.

(8) I.e., between the twelfth and thirteenth birthdays, when he understands the significance of a vow.

(9) For he can now make his own vows.

(10) And therefore he cannot impose one.

(11) I.e., who realises the significance of a vow.

(12) To impose a naziriteship. A halachah or traditional ruling has the force of a scriptural enactment.

(13) To make vow's himself.

(14) And when he reaches this age, his father can no longer impose a naziriteship upon him.

(15) And the father can impose a naziriteship until the boy is thirteen.

(16) And when the boy reaches the age of making vows, the father's right to impose a naziriteship ceases.

(17) Rabbi and R. Jose son of R. Judah.

(18) This is put as a question although the answer in this case is not negative. This is not uncommon (Asheri).

(19) Lit., ‘produced two hairs’, as a sign of puberty. On this view, he was thirteen years old at the time.

(20) I.e., R. Jose son of R. Judah. V. Tosaf.

(21) The boy was only twelve years old according to R. Jose.

(22) In regard to making vows.

(23) Lit., will render halachic decisions.’

(24) Tosef. Nid. V.

(25) It is here supposed that all the young R. Hanina meant was, ‘If I cannot yet make vows myself,’ no special significance attaching to his use of the word minor’.

Talmud - Mas. Nazir 30a

seeing that he was still under his father's control?[1] — [Rabbi will reply that] he really said, ‘I intend to be one on my father's account [if he still has the right to impose it],[2] and on my own account [otherwise].’ Now if he had in fact reached manhood at that time, his own naziriteship would take effect; if [he reached manhood] after [observing the naziriteship], he would have observed his father's naziriteship.[3] But suppose he reaches [manhood] during this period, what is to happen then?[4] Now on R. Jose son of R. Judah's view that [the father's right lasts] until the age at which he can make vows [for himself], all will be well,[5] but on Rabbi's view that [the right lasts] until he reaches manhood, how will you explain what happened?[6] — In point of fact, on Rabbi's view no other solution is possible,[7] than that he should observe [naziriteships] both on the father's account and on his own account.[8]

MISHNAH. A MAN CAN POLL [WITH OFFERINGS DUE FOR] HIS FATHER'S NAZIRITESHIP.[9] BUT A WOMAN CANNOT DO SO. WHERE, FOR EXAMPLE, A MAN'S FATHER HAD BEEN A NAZIRITE, AND HAS SET APART A LUMP SUM OF MONEY FOR [THE SACRIFICES OF] HIS NAZIRITESHIP AND DIED AND [THE SON THEN] SAID, ‘I DECLARE MYSELF A NAZIRITE ON CONDITION THAT I MAY POLL WITH MY FATHER'S MONEY. R. JOSE SAID THAT THESE MONEYS ARE TO BE USED FOR FREEWILL-OFFERINGS AND THAT SUCH A MAN CANNOT POLL AT THE EXPENSE OF HIS FATHER'S NAZIRITESHIP. WHO CAN DO SO? HE WHO WAS A NAZIRITE TOGETHER WITH HIS FATHER, AND WHOSE FATHER HAD SET APART A LUMP SUM OF MONEY FOR HIS NAZIRITE [SACRIFICES] AND DIED. [ONLY] SUCH A MAN CAN POLL AT THE EXPENSE OF HIS FATHER'S NAZIRITESHIP.[10]

GEMARA. Why [cannot a woman poll with her father's money]? — R. Johanan said: It is a [traditional] ruling with regard to the nazirite.[11] Surely this is obvious and so what purpose does [the ruling] serve, for a son inherits his father but a daughter does not do so?[12] — It is not necessary, except in the case where he had a daughter only.[13] It might have been thought that the tradition received was that [all] heirs [could poll][14]

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(1) So that although he could make vows himself, his father could still impose a naziriteship on him.

(2) I.e., minor means ‘under my father's control.’

(3) This is the explanation of R. Han. quoted in Tosaf.

(4) For his father's naziriteship will automatically lapse on his reaching manhood; v. Tosef. Naz. III.

(5) For on his reaching the age of making vows, vows imposed by his father beforehand are unaffected, and manhood is a long way off.

(6) I.e., how do you account for the acceptance by Rabban Gamaliel of the double vow without further ado, since R. Hanina might reach manhood during the naziriteship.

(7) If the boy does not wish to be examined.

(8) I.e,, observe a naziriteship of sixty days, instead of thirty, so that all contingencies are covered.

(9) I.e., may purchase the sacrifices due on polling with money set apart for his father's sacrifices.

(10) Many MSS. (v. Tosaf.) reverse these two examples, making R. Jose permit him to poll if he becomes a nazirite afterwards, but not if he is a nazirite together with his father. In the parallel passage Tosef. Naz. III, there is the same MS. confusion. Cf. also supra 17b, and infra 30b,

(11) No justification is therefore needed.

(12) And so she could not obtain the money. For the rules of inheritance, v. Num. XXVII, 6ff.

(13) In such a case the daughter inherits (ibid.).

(14) So that where there was no son, the daughter could poll.

Talmud - Mas. Nazir 30b

and so the ruling tells us [that this is not so].

The question was asked: Do the Rabbis differ from R. Jose or not;[1] and if it should be decided that they differ, whether with the first clause [only] or with the subsequent clause also?[2] Come and hear: In what circumstances was it said that a man may poll at the expense of his father's naziriteship? Where his father who had been a nazirite set apart money for [the sacrifices of] his naziriteship and died, and [the son then] said, ‘I declare myself a nazirite on condition that I may poll with my father's money,’ he [the son] is permitted to poll with his father's money. But where both he and his father were nazirites together, and his father set apart money for [the sacrifices of] his naziriteship and died, the money is to be used for freewill-offerings. The above is the opinion of R. Jose.[3] R. Eliezer,[4] R. Meir and R. Judah said: Just such a one may poll with his father's money.[5]

Rabbah raised the problem: Suppose [the nazirite] has two sons, both nazirites,[6] what is the law?

Did the tradition state [simply] that there is a halachah,[7] so that the one who was first [to become a nazirite] may poll, or did it state [that the son may use the money because it is his] inheritance and so they divide it?

Raba raised the problem: Suppose [the sons were] the firstborn[8] and another, what would the law be? Was the tradition received as a halachah and [the first-born] is therefore not entitled to receive for polling the same proportion as he receives [of the rest of the estate], or is [the money for the nazirite sacrifices, part of his] inheritance, and just as he takes a double portion there, so also is it with the [money for] polling?

Should it be decided that [the money for the nazirite sacrifices is part of] the inheritance, so that [the first-born] receives for polling in proportion to what he receives [of the rest of the estate], does [the first-born] receive a double portion only when [the money] is profane, but not when it becomes sacred,[9] or is there no difference, seeing that he has acquired [a double portion] for polling?[10]

Suppose his father was a life-nazirite[11] and he an ordinary nazirite, or his father an ordinary nazirite and he a life-nazirite, what would the law be?[12] Was the halachah received only with regard to ordinary naziriteships,[13] or is there no difference?[14]

Should it be decided that [such is the case] here [because] both the naziriteships[15] were discharged in ritual purity,[16] [then] R. Ashi raised a [further] problem. Suppose his father were an unclean nazirite[17] and he a clean nazirite,[18] or his father were a clean nazirite[19] and he an unclean nazirite,[20] what would be the law? The problem was unsolved.

CHAPTER V

MISHNAH. BETH SHAMMAI SAY THAT CONSECRATION IN ERROR IS [EFFECTIVE] CONSECRATION,

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(1) The problem arises because of the wording of our Mishnah. If no one differs from R. Jose, why say ‘R. Jose said’?

(2) I.e., do they permit the son to poll in both cases, or do they permit the one R. Jose forbids and vice versa.

(3) The opinion here ascribed to R. Jose is not that of our version of the Mishnah, but is that of the MS. versions. One or other must be emended, for consistency (v. Tosaf.).

(4) Our text, R. Eliezer, is a common scribal error for R. Eleazar b. Shamua, the colleague of the other Rabbis mentioned.

(5) Tosef. Naz. III. 9. Hence, (a) these Rabbis differ from R. Jose. (b) the difference covers both cases, for the ‘Just such a one’ is emphatic. So Rashi. Tosaf., Maim. Yad. (Neziruth VIII, 15), and most other commentators, however, consider that in the opinion of these Rabbis he may use his father's money under all circumstances.

(6) And then dies, leaving money for sacrifices.

(7) A ruling. Viz.: that it is possible for the son to use the money left by his father for his own naziriteship, no reason being given as to why he may do so.

(8) Who is entitled to a double portion of the heritage. V. Deut. XXI, 17.

(9) I.e., he receives two thirds of the money left towards his own nazirite sacrifices, but after the animals have been slaughtered and sacrificed he must return part of the sacred meat to his brother, so that each obtains just half of the meat which is to be eaten. — This question is raised because except for unslaughtered peace-offerings a first-born does not obtain a double portion of the sacred animals left at his father's death.

(10) And so he will also keep a double portion of the meat.

(11) And he put aside money for his naziriteship and died.

(12) I.e., may the son use the money for his own naziriteship or not?

(13) And he may not use the money.

(14) And he may use the money.

(15) Of the father and of the son.

(16) And there is no distinction between the kind of naziriteship undertaken.

(17) And he had set aside money to buy the sacrifices required for purification (v. Hum. VI, 10), and then died.

(18) I.e., may the son use the money towards the sacrifices he must offer on completing his naziriteship.

(19) And he had set aside money for the sacrifices and then died.

(20) I.e., may the son use the money towards the sacrifices of an unclean nazirite.

Talmud - Mas. Nazir 31a

BUT BETH HILLEL SAY THAT IT IS NOT EFFECTIVE. FOR EXAMPLE, IF SOMEONE SAYS, THE BLACK BULL THAT LEAVES MY HOUSE FIRST SHALL BE SACRED,’ AND A WHITE ONE EMERGES, BETH SHAMMAI DECLARE IT SACRED, BUT BETH HILLEL SAY THAT IT IS NOT SACRED. [OR IF HE SAYS,] ‘THE GOLD DENAR THAT COMES INTO MY HAND FIRST SHALL BE SACRED, AND A SILVER DENAR CAME TO HIS HAND BETH SHAMMAI DECLARE IT SACRED, WHILST BETH HILLEL SAY THAT IT IS NOT SACRED. [AGAIN, IF HE SAYS,] ‘THE CASK OF WINE THAT I COME ACROSS FIRST SHALL BE SACRED,’ AND HE COMES ACROSS A CASK OF OIL, BETH SHAMMAI DECLARE IT SACRED, BUT BETH HILLEL SAY THAT IT IS NOT SACRED.

GEMARA. BETH SHAMMAI SAY THAT CONSECRATION, etc.: Beth Shammai's reason is that they compare original consecration[1] with secondary consecration.[2] Just as substitution, even when made in error, is effective,[3] so [original] consecration, even when made in error, is effective. Beth Hillel, however, contend that this is true only of substitution,[4] but that no consecration in error can take effect in the first instance.

But suppose, according to Beth Shammai, someone says, ‘This [animal] is to replace that [one] at midday,’ it would surely not become a substitute [immediately] from that moment, but only when midday arrives, and so here too, [surely, consecration should not take effect] until the condition [under which it was made] becomes realized?[5] — R. Papa replied: The reason that [the word] ‘FIRST’ was mentioned by him was [simply] to indicate that one [of his black oxen] which should emerge first.[6] — But the text says, ‘the black bull,’ and surely it contemplates the case where he may have only the one?[7] — In the case considered, he is assumed to have two or three.[8] Beth Hillel, however, contend that if this [was his intention][9] it should have said, ‘[The black hull] that leaves earliest.’[10] — Raba of Barnesh[11] said to R. Ashi; Is this [called] consecration in error? It is surely intentional consecration?[12] — [He replied:] Quite so, but [it is called consecration in error] because at first the expression he used gave a wrong impression.[13]

Is it indeed Beth Shammai's opinion that consecration in error is not effective consecration?[14] Have we not learnt: If a man, who vows to be a nazirite, sets aside an animal [for the sacrifice], and [then] applies to the Sages [for absolution from his vow] and they release him, [the animal] goes forth and pastures with the flock.[15] Beth Hillel said to Beth Shammai: Do you not admit that this is a case of consecration in error,[16] and yet [the animal] goes forth and pastures with the flock?[17] Whence[18] it follows [does it not] that Beth Shammai hold consecration in error to be effective? — No; Beth Hillel were mistaken. They took the reason for Beth Shammai's view[19] to be that consecration in error is effective, but the latter replied that [the consecration is effective] not because it was consecration in error, but because at first the expression he used gave a wrong impression.[20]

But is it Beth Shammai's opinion that consecration in error is not effective? Come [then] and hear: If [some people] were walking along the road

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(1) Consecration of a profane object.

(2) Lit., ‘final consecration’. If anyone substitutes a profane animal for one already sacred, the substitution is not effective, but the profane animal becomes sacred too (v. Lev. XXVII, 20). Substitution is termed ‘secondary

consecration'.
(3) V. Tem. 27a.
(4) Since one animal was already sacred.
(5) But not where the stipulation was not fulfilled, as, e.g., a white bull emerged and not a black one. Thus the comparison with substitution is not borne out.
(6) R. Papa rejects the explanation of Beth Shammai's opinion given above, and says that even on Beth Shammai's view, it is the black bull that emerges first which becomes sacred. In other words we do not set aside his statement because a white bull emerged first, as 'FIRST' may be understood as applying to the black oxen only (Tosaf.).
(7) In which case, he could not mean 'the first of the black bulls.'
(8) I.e., unless he has two or three black bulls, the question of one bull becoming sacred does not arise.
(9) Viz., that the first black bull to emerge should become sacred, irrespective of whether others came out before it.
(10) [שיצא בראשון 'at first', which may also denote the first (black bull) that leaves.]
(11) [Near Sura, v. Obermeyer. Die Landschaft Babylonien, p. 296.]
(12) For on R. Papa's view, he intended to make the first black bull to emerge sacred.
(13) For he appears to mean that the black bull must come out before any other bull.
(14) As is maintained by R. Papa.
(15) I.e., it ceases to be holy.
(16) For when he consecrated the animal he believed himself liable, whilst his subsequent release showed that he was not.
(17) Infra 31b.
(18) From Beth Hillel's remark.
(19) That the first black bull is sacred.
(20) I.e., he really meant that bull to be sacred, but appeared to be saying something else.

Talmud - Mas. Nazir 31b

and [saw] someone coming towards them, and one said, 'I declare myself a nazirite if it is So-and-so,' whilst another said, 'I declare myself a nazirite if it is not So-and-so,' [and a third man,] 'I declare myself a nazirite if one of you is a nazirite, [a fourth, 'I declare myself a nazirite] if neither of you is a nazirite, [a fifth, 'I declare myself a nazirite] if both of you are nazirites,' [and a sixth, 'I declare myself a nazirite] if all of you are nazirites,' Beth Shammai say that all [six] of them are nazirites.[1] Now this is a case of consecration in error,[2] and yet [the Mishnah] teaches that all of them are nazirites? — From this it certainly follows that Beth Shammai are of the opinion that consecration in error is effective, but not from the other.[3]

Abaye said: You should not assume that [the declaration] was made in the morning.[4] We speak here of a case where it was already midday, and he then said, 'The black bull that left my house first [to day] shall be sacred,'[5] and when informed that a white one left [first], he remarked, 'Had I known that a white one left, I should not have said black.'[6] But how can you say that it refers to what took place at midday,[7] seeing that the text reads: THE GOLD DENAR THAT COMES?[8] — Read, 'that has come.'[9] [But the text also reads,] THE CASK OF WINE THAT I COME ACROSS?[8] — Read, 'that I came across.[9]

R. Hisda said: Black [oxen] amongst white [ones] spoil the herd.[10] White [patches] on black [oxen] are a blemish.

We have learnt: [IF SOMEONE SAYS,] 'THE BLACK BULL THAT IS THE FIRST TO LEAVE MY HOUSE [SHALL BE SACRED,' AND A WHITE ONE EMERGES, BETH SHAMMAI DECLARE] IT SACRED. Now when a person consecrates, he does so with an ill grace,[11] and yet Beth Shammai say that [the white bull] is sacred?[12] Do you suggest then that a person consecrates with a good grace?[13] [If so, how can we explain the following clause: IF HE SAYS,] 'THE GOLD DENAR THAT COMES INTO MY HAND FIRST [SHALL BE SACRED],' AND A SILVER

DENAR CAME TO HIS HAND, BETH SHAMMAI DECLARE IT SACRED?[14] — Do you submit, then, that a person consecrates with an ill grace? [Consider then the following: IF HE SAYS,] ‘THE CASK OF WINE THAT I COME ACROSS FIRST [SHALL BE SACRED],’ AND HE COMES ACROSS A CASK OF OIL, BETH SHAMMAI DECLARE IT SACRED,’ and yet oil is superior to wine? — That raises no difficulty, for it was taught with reference to Galilee where wine is superior to oil. But the first clause [of our Mishnah] seems to contradict R. Hisda? — R. Hisda will reply: My statement[15] referred to Carmanian[16] oxen.

R. Hisda also used to say: A black ox for its hide, a red one for its flesh, a white one for ploughing.[17] But R. Hisda said that black [oxen] amongst white ones spoil the herd?[18] — He said that with reference to Carmanian oxen.

MISHNAH. IF A MAN VOWS TO BE A NAZIRITE AND THEN SEEKS RELEASE FROM A SAGE[19] BUT IS FORBIDDEN [TO ANNUL HIS VOW], HE CAN RECKON [THE NAZIRITESHIP] FROM THE TIME THAT THE VOW WAS MADE.[20] IF HE SEEKS RELEASE FROM A SAGE AND IS ABSOLVED AND HAS AN ANIMAL SET ASIDE [FOR A SACRIFICE], IT GOES FORTH TO PASTURE WITH [THE REST OF] THE HERD.[21] BETH HILLEL SAID TO BETH SHAMMAI: DO YOU NOT ADMIT THAT HERE WHERE THE CONSECRATION IS IN ERROR,[22] [THE ANIMAL] GOES FORTH TO PASTURE WITH THE HERD?[23] BETH SHAMMAI REPLIED: DO YOU NOT ADMIT THAT IF A MAN IN ERROR CALLS THE NINTH [ANIMAL], THE TENTH,[24] OR THE TENTH THE NINTH, OR THE ELEVENTH THE TENTH, EACH BECOMES SACRED?[25] BETH HILLEL RETORTED: IT IS NOT THE ROD THAT MAKES THESE SACRED,[26] FOR SUPPOSE THAT IN ERROR HE PLACED THE ROD UPON THE EIGHTH OR UPON THE TWELFTH, WOULD THIS HAVE ANY EFFECT? [THE FACT IS] THAT SCRIPTURE WHICH HAS DECLARED THE TENTH TO BE SACRED, HAS ALSO DECLARED SACRED THE NINTH

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(1) Mishnah, infra 32b. q.v.

(2) Since they become nazirites whether or no their conditions are fulfilled.

(3) I.e., not from our own Mishnah, which is only apparently but not really a case of consecration in error, as explained by R. Papa and R. Ashi.

(4) I.e., that when the man said, ‘The black bull etc.’ he was referring to a future event and not a past one.

(5) [Vocalizing יצא instead of יצא]

(6) The case is now analogous to substitution in error, and Beth Shammai's reason will be that they infer consecration in error from substitution in error.

(7) I.e., to a past event.

(8) ‘Left’ and ‘will leave’ have the same consonants in Hebrew but are pronounced differently (v. p. 112, n. 7); but in these cases, the past has different consonants from the future and so cannot be confused with it.

(9) I.e., change the reading. Instead of יעלה read עלה and instead of תעלה read עלתה.

(10) Because black oxen are inferior to white ones.

(11) Lit., ‘malevolent eye’. He does not wish anything more than he has specified to become sacred.

(12) And so white bulls must be worth less than black ones.

(13) Lit., ‘benevolent eye’.

(14) Thus he is satisfied to give a silver coin instead of a gold one, but had he consecrated with a good grace, the silver would not become sacred.

(15) That white oxen are better than black.

(16) Carmania, a province of Persia, the oxen of which were generally employed for ploughing.

(17) I.e., each kind is most suitable for the purpose mentioned. Thus in respect to its hide, a black ox is superior to a white one. [V. Lewysohn, Zoologie, p. 131.]

(18) Yet here he says that their hides are superior.

(19) It is presumed that he had drunk wine in the interval.

(20) I.e., presumably, his transgression has not affected the validity of the period past.

(21) I.e., it ceases to be holy.
(22) Because his release shows that no sacrifice was necessary.
(23) And so no consecration in error should be effective.
(24) During tithing of cattle; cf. Lev. XXVII, 32.
(25) Thus consecration in error is effective.
(26) I.e., it is not his error in striking the wrong animal with the tithing rod that makes it sacred.

Talmud - Mas. Nazir 32a

AND THE ELEVENTH.[1]

GEMARA. Who can the author of [the first paragraph of] our Mishnah be? For it [agrees] neither with R. Jose nor with the Rabbis. For it has been taught: If a man vows [to be a nazirite] and transgresses a rule of his naziriteship, his case is not examined,[2] unless he [first] observes in [nazirite] abstinence as many days as he has passed in indulgence.[3] R. Jose said that thirty days are enough.[4] Now if [the author] be the Rabbis, [the case also of] naziriteship for a long period offers difficulty,[5] whilst if it be R. Jose, [the case of] naziriteship for a short period offers difficulty?[6] — It may be maintained either that [the author] is R. Jose, or that [the authors] are the Rabbis. It may be maintained that [the author] is R. Jose, by supposing that [the Mishnah refers] to a long period of naziriteship [only],[7] and [the Baraitha] to a short period of naziriteship [as well].[8] It can also be maintained that [the authors] are the Rabbis, in which case we must read [in the Mishnah] not, 'FROM THE TIME THAT THE VOW WAS MADE,'[9] but 'equal [to the period which has elapsed] since the vow was made.'[10]

IF HE SEEKS RELEASE FROM THE SAGES, AND THEY ABSOLVE HIM etc.: R. Jeremiah said: From [the opinion of] Beth Shammai we can infer that of Beth Hillel. Do not Beth Shammai assert that consecration in error is effective and yet when it becomes clear[11] that the nazirite vow is not valid, [the animal] goes forth to pasture with the herd? So too, for Beth Hillel. Although they say that substitution in error is effective substitution, this is only true where the original consecration remains,[12] but where the original consecration is revoked,[13] [the consecration resulting from] the substitution is also revoked.[14]

The Master said: 'DO YOU NOT ADMIT THAT IF HE CALLS THE NINTH THE TENTH, etc. It has been stated: In the case of the tithe, R. Nahman said that [this is the rule only] if this is done in error, not if it is done intentionally.[15] R. Hisda and Rabbah b. R Huna, however, said that [it is certainly the rule] if it is done in error, and all the more so if it is done intentionally.[16]

Raba said to R. Nahman: According to you who assert that [it is the rule only] if it is done in error and not if done intentionally, when Beth Shammai asked Beth Hillel, DO YOU NOT ADMIT THAT IF HE CALLED THE NINTH THE TENTH, THE TENTH THE NINTH, OR THE ELEVENTH THE TENTH, THAT ALL THREE ARE SACRED? and Beth Hillel were silent,[17] why could they not have answered that the case of tithes is different since these[18] cannot be made sacred intentionally?[19] — R. Shimi b. Ashi replied: The reason that they did not do so is because of an afortiori argument that might be based on this [by Beth Shammai].[20] For [Beth Shammai might have argued that] if tithes that cannot be consecrated [out of turn] intentionally can be so consecrated in error, then ordinary consecration that can be done intentionally should certainly take effect [in error].[21] This [argument], however, would be unsound, for [ordinary] consecration depends entirely upon the intention of the owner.[22] MISHNAH. IF A MAN VOWS TO BE A NAZIRITE AND ON GOING TO BRING HIS ANIMAL [FOR THE SACRIFICE] FINDS THAT IT HAS BEEN STOLEN, THEN IF HE HAD DECLARED HIMSELF A NAZIRITE BEFORE THE THEFT OF HIS ANIMAL,[23] HE IS [STILL] A NAZIRITE,

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(1) If they are struck in error; v. infra for source.

(2) Should he desire to be released from his vow.

(3) I.e., the number of days which have elapsed between his transgression and his seeking for absolution.

(4) Tosef. Ned. I; i.e., if his period of transgression was longer than thirty days, he is made to keep a naziriteship of thirty days, before being released.

(5) The Mishnah allows him to reckon in all cases the days of his transgression as part of his naziriteship, whilst the Rabbis do not do so.

(6) They would conflict in regard to the short period in the manner explained in the previous note. In regard to the long period they would not conflict, since R. Jose allows him to reckon all the period of transgression, which is more than thirty days, and it could be argued that this is all that the Mishnah means. The text adopted here is that of Tosaf.; Asheri, Maim. and most other commentators, agreeing with the quotation in Ned. 200. Our printed text, which reads that the short period offers a difficulty for the Rabbis and the long period for R. Jose, assumes a reading of the Tosefta which would agree with most MSS. of the Tosef. (Ned. I, 11) and with the Jerusalem Talmud (J. Naz. V, 4), but requires an argument at once more complicated and subtle.

(7) There being no conflict with R. Jose's view, as explained in the previous note.

(8) In this case only does R. Jose require the whole of the period of transgression to be counted afresh.

(9) Which implies that the period when there was transgression forms part of the naziriteship and so conflicts with the view of the Baraitha.

(10) Mishnah and Baraitha now agree.

(11) By the release that was granted.

(12) I.e., when the first animal for which the second is substituted is not afterwards declared profane.

(13) [E.g., owing to the remission of the naziriteship for which the animal was reserved.]

(14) I.e., the animal substituted also becomes profane.

(15) If he intentionally strikes the ninth animal as though it were the tenth, it does not become sacred.

(16) I.e., in either case the animal becomes sacred.

(17) I.e., they found no flaw in the argument itself, but were compelled to reply that it is only in this case that Scripture has declared consecration in error effective.

(18) I.e.,the ninth or eleventh animal.

(19) And since they did not say this, it follows that even if he strikes the ninth animal intentionally, it becomes sacred.

(20) If it is assumed that the cases are comparable.

(21) And Beth Hillel do not admit that consecration in error is effective.

(22) Whereas a man is bound to tithe his animals, and so the rules applying in the one case need bear no resemblance to those applying in the other. Hence R. Nahaman cannot be refuted from this (Tosaf.).

(23) I.e., the three animals which a nazirite offers on completing his vow.

Talmud - Mas. Nazir 32b

BUT IF HE HAD DECLARED HIMSELF A NAZIRITE AFTER THE THEFT OF HIS ANIMAL, HE IS NOT A NAZIRITE.[1] IT WAS ON THIS POINT THAT NAHUM THE MEDE FELL INTO ERROR WHEN NAZIRITES ARRIVED [IN JERUSALEM] FROM THE DIASPORA AND FOUND THE TEMPLE IN RUINS.[2] NAHUM THE MEDE SAID TO THEM, ‘HAD YOU KNOWN THAT THE TEMPLE WOULD BE DESTROYED, WOULD YOU HAVE BECOME NAZIRITES?’ THEY ANSWERED, NO, AND SO NAHUM THE MEDE ABSOLVED THEM.[3] WHEN, HOWEVER, THE MATTER CAME TO THE NOTICE OF THE SAGES THEY SAID: WHOEVER DECLARED HIMSELF A NAZIRITE BEFORE THE DESTRUCTION OF THE TEMPLE IS A NAZIRITE, BUT IF AFTER THE DESTRUCTION OF THE TEMPLE, HE IS NOT A NAZIRITE.

GEMARA. Rabbah said: The Rabbis overruled R. Eliezer and laid down [the law] in accordance with their own views. For we have learnt: It is permitted to grant release on the ground of improbable contingencies;[4] this is the opinion of R. Eliezer, but the Sages forbid this.[5]

Rabbah[6] said further: Although the Rabbis said that improbable contingencies cannot be made the grounds for release, yet conditions involving improbable contingencies can be made a ground for release. For example, it would have been possible to say to them: Suppose someone had come and said to you[7] that the Temple would be destroyed, would you have uttered your vow?

R. Joseph said: Had I been there, I should have said to them:[8] Is it not written, The temple of the Lord, the temple of the Lord, the temple of the Lord, are these,[9] which points to [the destruction of] the first and second temples?[10] — Granted that they knew it would be destroyed, did they know when this would occur?[11]

Abaye objected: And did they not know when? Is it not written, Seventy weeks are determined upon thy people, and upon thy holy city?[12] — All the same, did they know on which day?[13]

MISHNAH. IF [PEOPLE] WERE WALKING ALONG THE ROAD AND [SAW] SOMEONE COMING TOWARDS THEM, AND ONE SAID, ‘I DECLARE MYSELF A NAZIRITE IF IT IS SO-AND-SO, WHILST ANOTHER SAID, ‘I DECLARE MYSELF A NAZIRITE IF IT IS NOT SO-AND-SO,’ [AND A THIRD MAN,] ‘[7] DECLARE MYSELF A NAZIRITE IF ONE OF YOU IS A NAZIRITE,’ [A FOURTH, ‘I DECLARE MYSELF A NAZIRITE] IF NEITHER OF YOU IS A NAZIRITE,’ [A FIFTH, ‘I DECLARE MYSELF A NAZIRITE] IF BOTH OF YOU ARE NAZIRITES,’ [AND A SIXTH, ‘I DECLARE MYSELF A NAZIRITE] IF ALL OF YOU ARE NAZIRITES.’ BETH SHAMMAI SAY THAT ALL [SIX] OF THEM ARE NAZIRITES, BUT BETH HILLEL SAY THAT ONLY THOSE WHOSE WORDS WERE NOT FULFILLED, ARE NAZIRITES.[14] R. TARFON SAID: NOT ONE OF THEM IS A NAZIRITE. IF [THE PERSON APPROACHING] TURNED AWAY SUDDENLY[15] [WITHOUT BEING IDENTIFIED], HE[16] IS NOT A NAZIRITE. R. SIMEON SAYS: HE SHOULD SAY, ‘IF I WAS RIGHT,[17] I AM A NAZIRITE OBLIGATORILY, OTHERWISE I WISH TO BE A NAZIRITE, VOLUNTARILY.

GEMARA. Why should the ones whose words were not fulfilled become nazirites?[18] — Rab Judah replied: Read, ‘those whose words were fulfilled.’

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(1) As his vow had been made under a misapprehension.

(2) The nazirite vow was binding until the sacrifices had been offered.

(3) As the vow had been made under a misapprehension.

(4) I.e., the grounds for release need not have been anticipated at the time the vow was entered into.

(5) Mishnah, Ned. IX, 1. Here in Nazir, on the other hand, R. Eliezer's view is not quoted, showing that it was not considered permissible to rely on it under any circumstances whatsoever.

(6) Our text, in error, has Raba.

(7) When you were about to declare yourselves nazirites.

(8) To those who contended that the destruction of the Temple, being an event which could not have been foreseen, could not be used as a ground for release (Asheri).

(9) Jer. VII, 4.

(10) Since it indicates that there would be three temples. Thus the destruction was foretold and could have been anticipated.

(11) And so they could not anticipate it.

(12) Dan. IX, 24. This prophecy was uttered at the beginning of the seventy years captivity in Babylon. From the restoration to the second destruction is said to have been 420 years, making in all 490. i.e., seventy weeks of years.

(13) And since they did not know, they expected to offer their sacrifices before the destruction.

(14) This is explained in the Gemara.

(15) Lit., ‘he shuddered back’.

(16) I.e., one whose naziriteship was contingent oil the identity of the person approaching.

(17) In my identification.

(18) According to Beth Hillel.

Talmud - Mas. Nazir 33a

Abaye replied: We suppose him to have added, for example, ‘even if it be not So-and-so I intend[1] to be a nazirite,’ the meaning of the phrase HIS WORDS WERE NOT FULFILLED [used in the Mishnah] being, his first words were not fulfilled but his later ones were.[2]

IF [THE PERSON APPROACHING] TURNED AWAY SUDDENLY [WITHOUT BEING IDENTIFIED] HE IS NOT A NAZIRITE etc.: The reason [that he is not a nazirite] is because the other turned away, which would show that had the other come before us, he would become a nazirite. Who is the author [of this opinion)?[3]

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(1) [Read איהוי for אי הוי.]

(2) And so he becomes a nazirite.

(3) There is no Gemara on 33b, this page being taken up with Tosaf.

Talmud - Mas. Nazir 34a

Should you say it is R. Tarfon, would he become a nazirite? For since he did not know at the time he uttered the nazirite vow whether it was So-and-so or not, would the naziriteship have become operative [at all]? For have we not been taught: R. Judah on behalf of R. Tarfon said that not one of them[1] is a nazirite because naziriteship is not intended except when assumed unequivocally?[2] — It must,therefore, be R. Judah [who indicated this in connection] with the heap of grain. For it has been taught: [If a man says,] 'I declare myself a nazirite, provided that this heap of grain contains one hundred kor,' and then finds that [the heap] has been stolen or is lost, R. Simeon binds [him to a naziriteship], whilst R. Judah frees him [from the vow].[3] R. Simeon holds that since, had it not been stolen, it might have been found to contain one hundred kor, in which case he would have become a nazirite, he must now also become a nazirite. Here,[4] too, since, had the other come before us and we had known that it was So-and-so, he would have become a nazirite, now [that the other has not come] he also becomes a nazirite.

MISHNAH. IF [ONE MAN] SAW A KOY[5] AND SAID, 'I DECLARE MYSELF A NAZIRITE IF THAT IS A BEAST OF CHASE, [AND ANOTHER] 'I DECLARE MYSELF A NAZIRITE IF THAT IS NOT A BEAST OF CHASE,' [A THIRD SAID] 'I DECLARE MYSELF A NAZIRITE IF THAT IS CATTLE,' [A FOURTH SAID,] 'I DECLARE MYSELF A NAZIRITE IF THAT IS NOT CATTLE,' [A FIFTH SAID,] I DECLARE MYSELF A NAZIRITE IF THAT IS BOTH A BEAST OF CHASE AND CATTLE,' [AND A SIXTH SAID,] 'I DECLARE MYSELF A NAZIRITE IF THAT IS NEITHER BEAST OF CHASE NOR CATTLE.' [THEN A SEVENTH SAID,] 'I DECLARE MYSELF A NAZIRITE IF ONE OF YOU IS A NAZIRITE,' [AN EIGHTH SAID,] I DECLARE MYSELF A NAZIRITE IF NOT ONE OF YOU IS A NAZIRITE,' [WHILST A NINTH SAID,] 'I DECLARE MYSELF A NAZIRITE IF YOU ARE ALL NAZIRITES, THEN ALL OF THEM BECOME NAZIRITES.

GEMARA. In one [Baraitha] it is taught that nine [can become] nazirites,[6] and in another that nine naziriteships [can be undertaken].[7] Now there would be nine nazirites if, for example, a number of men referred to [the Koy] one after another;[8] but how is it possible for nine naziriteships [to be undertaken] by one man? There could indeed be six, as enumerated in our Mishnah,[9] but how could the other three be undertaken? — R. Shesheth replied: He could say,[10] 'I declare myself a nazirite and undertake the naziriteships of you all.'[11]

CHAPTER VI

MISHNAH. THREE THINGS ARE FORBIDDEN TO A NAZIRITE, VIZ.:- RITUAL DEFILEMENT, POLLING, AND PRODUCTS OF THE VINE. ALL PRODUCTS OF THE VINE CAN BE RECKONED TOGETHER[12] WHILST THERE IS NO PENALTY UNLESS HE EATS AN OLIVE'S BULK OF GRAPES,

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(1) One of those, mentioned in our Mishnah, who undertook a naziriteship if the person approaching were So-and-so.

(2) Tosef. Naz. III.

(3) Thus in R. Judah's view unless the vow is free from all doubt it does not become operative. Tosef. Naz. II. Cf., however, Ned. 192, where the view of R. Judah here, and R. Judah on behalf of R. Tarfon and held by R. Ashi to be identical.
(4) I.e., in the Mishnah.
(5) The Rabbis were uncertain whether the Koy, an animal permitted for food, should be considered of the genus cattle, בהמה or a beast of chase, חיה. V. Aruch s.v. כוי. [It is generally taken as a cross between a goat and some species of gazelle; v. Lewysohn, op. cit. p. 215.]
(6) By using different formulae and making the vow contingent on the Koy being a beast of chase or cattle.
(7) I.e., one man can undertake nine naziriteships by using different formulae with reference to the Koy.
(8) As described in our Mishnah.
(9) For the first six formulae could all be uttered by one man.
(10) Referring to nine men who had each undertaken a naziriteship in the manner of the Mishnah.
(11) I.e., ‘I undertake a naziriteship for each one of you who is a nazirite.
(12) To form a total of an olive's bulk in the case of solids, or as the earlier Mishnah has it, a quarter of a 108 in the case of fluids, for the consumption of which there is a penalty, viz. stripes. (Meiri's interpretation of a very difficult passage).

Talmud - Mas. Nazir 34b

[OR,] ACCORDING TO THE EARLIER MISHNAH,[1] UNLESS HE DRINKS A QUARTER [OF A LOG][2] OF WINE. R. AKIBA SAID THAT THERE IS A PENALTY EVEN IF HE SOAKS HIS BREAD IN WINE AND ENOUGH [is ABSORBED] TO MAKE UP ALTOGETHER[3] AN OLIVE'S BULK.[4]

THERE IS A SEPARATE PENALTY FOR WINE, FOR GRAPES, FOR HARZANIM AND FOR ZAGIM.[5] R. ELEAZAR B. AZARIAH SAID: THERE IS NO PENALTY [IN THE CASE OF THE LAST TWO SPECIES] UNLESS HE EATS TWO HARZANIM AND ONE ZAG.

BY HARZANIM AND ZAGIM ARE MEANT THE FOLLOWING. ACCORDING TO R. JUDAH, HARZANIM MEANS THE OUTER PORTION [OF THE GRAPE].[6] ZAG THE INNER PORTION,[7] BUT R. JOSE SAID: THAT YOU MAY NOT ERR, [THINK OF] THE ZOG [BELL] OF AN ANIMAL,[8] OF WHICH THE OUTER PART IS TERMED THE ZOG [HOOD].[9] AND THE INNER PART THE INBAL [CLAPPER].

GEMARA. THREE THINGS ARE FORBIDDEN TO A NAZIRITE, VIZ.: RITUAL DEFILEMENT etc.: Products of the vine are [forbidden] but not the vine itself, so that our Mishnah differs from R. Eleazar, for it has been taught: R. Eleazar said that even leaves and shoots [of the vine] are included [in the things forbidden to a nazirite].

Some draw the inference[10] from the subsequent clause, viz.: WHILST THERE IS NO PENALTY UNLESS HE EATS AN OLIVE'S BULK OF GRAPES. GRAPES only [carry a penalty] but not the vine itself, so that our Mishnah differs from R. Eleazar, for it has been taught: R. Eleazar said that even leaves and shoots are included.

In what [essentially] does the difference [between R. Eleazar and the Rabbis of our Mishnah] lie?-R. Eleazar interprets [certain scriptural passages as consisting of] ‘amplifications and limitations,’[11] whilst the Rabbis interpret [them as] general statements and specifications.[12] R. Eleazar [argues as follows:] He shall abstain from wine and strong drink[13] is a limitation,[14] whilst, Nothing that is made of the grape-vine[15] is an amplification. When a limitation is followed by an amplification all things are embraced.[16] What then does the amplification serves to include [here]? Everything [coining from the vine],[17] and what does the limitation exclude? Only the twigs.

The Rabbis, on the other hand, [argue as follows:] ‘He shall abstain from wine and strong drink’ is a specification;[18] '[He shall eat] nothing that is made of the grape-vine' is a general statement; 'from the pressed grapes even to the grape-stone'[19] is again a specification. When we have a specification, a generalisation, and a [second] specification, only what is similar to the specification may be adjudged [to be within the scope of the prohibition]. In the specification fruit[20] and fruit refuse[21] are particularised, and so whatever is fruit[22] or fruit refuse [is prohibited].[23] Should you object that in the specification ripe fruit is particularised, and so only what is ripe fruit [is prohibited],[24] the reply is that [in this view] nothing would be left implicit in Scripture, everything being explicitly mentioned.[25] Fresh grapes and dried grapes are mentioned, as are also wine and vinegar. It follows that the inference must be drawn not in the latter form,[26] but in the first form. Again, seeing that we finally include everything [similar to fruit or fruit refuse], for what purpose is 'from pressed grapes even to the grape-stone mentioned [separately from the other specification]?[27] To tell us that wherever a specification is followed by a general statement it is not permissible to extend [the terms of the specification] so as to include only whatever is similar to it, but the general statement widens the scope of the specification,[28] unless Scripture indicates the specification in the manner in which it is indicated in the case of the nazirite.[29]

The Master said: 'In the specification fruit and fruit refuse are particularised, and so whatever is fruit or fruit refuse [is prohibited].' 'Fruit' means grapes, but what is 'fruit refuse'? — Vinegar. What is meant by 'Whatever is fruit'? — Unripe grapes. And by 'whatever is fruit refuse'? — R. Kahana said that this serves to include worm-eaten grapes.[30] [And what is the significance of] 'even to the grape-stone'?[31] Rabina said that this serves to include the intermediate part.[32]

The Master said: 'Should you object that in the specification raw ripe fruit is particularised, and so only what is ripe fruit [is prohibited], the reply is that [on this view] nothing would be left implicit in Scripture, everything being explicitly mentioned. Fresh grapes and dried grapes are mentioned, as are also wine and vinegar. It follows that the inference must be drawn not in the latter form, but in the first form. Again, seeing that we finally include everything [similar to fruit or fruit refuse], for what purpose is from pressed grapes even to the grape-stone mentioned [separately from the other specification]? To tell us that wherever a specification is followed by a general statement it is not permissible to extend [the terms of the specification] as as to include only whatever is similar to It, but the general statement widens the scope of the specification, unless Scripture indicates the specification

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(1) [Or 'First Mishnah', a collection of Halachoth the compilation of which began according to Geonic accounts as early as Hillel and Shammai; v. Sanh. (Sonc. ed.) p. 163, n. 7.]

(2) A quarter of a log is between 50 and 60 c.c. (== the bulk of one and a half average-sized eggs).

(3) I.e., along with the bread.

(4) According to R. Akiba, an olive's bulk (less than 10 c.c.) carries with it a penalty in the case of liquids.

(5) There is no need to consume more than one variety to incur the penalty. All four species are mentioned in Num. VI, 3-4. harzanim being usually translated 'pressed grapes' and zag, 'grape-stone', following the opinion of R. Judah given later in the Mishnah.

(6) The skin.

(7) The stone.

(8) The bell suspended at the animal's neck.

(9) And so, too, zag of a grape is its skin.

(10) That our Mishnah and R. Eleazar differ.

(11) Ribbni u-Mi'ut. I.e., as consisting of clauses that amplify and clauses that restrict.

(12) Kelal u-ferat. The significance of these technical terms will become clearer in the argument set out below. For a full explanation of these terms, v. Shebu. (Sonc. ed.) p. 12, n. 3.

(13) Num. VI, 3.

(14) The things prohibited are confined to the things mentioned.

(15) Num. VI, 3. Lit., Of everything that is made . . he shall not eat.

(16) I.e., the scope, in this case of the prohibition, is as wide as possible, the restriction serving merely to exclude some one thing, here the twigs.
(17) And so also the leaves and the shoots.
(18) Of the things forbidden.
(19) Num. VI, 4; the concluding half of the last verse quoted.
(20) Grapes and wine.
(21) Vinegar.
(22) Including unripe grapes.
(23) Worm-eaten grapes.
(24) And thus unripe grapes would be excluded.
(25) I.e., there is no form of ripe fruit different from those mentioned in the verses quoted.
(26) Restricted to ripe fruit.
(27) I.e., why does not the whole specification precede the generalisation.
(28) And includes also things not similar to the specification.
(29) With the general statement interrupting it.
(30) That went bad before they ripened.
(31) In Num. VI, 3.
(32) What remains of the flesh after the wine has drained off.

Talmud - Mas. Nazir 35a

in the manner in which it is indicated in the case of the nazirite.

Now, R. Eleazar b. Azariah utilises the clause, ‘from the pressed grapes even to the grape stone’ for the inference that there is no penalty unless he eats two pressed grapes and one grape-stone.[1] Where does he find a [second] specification?[2] -He will agree with R. Eleazar who interprets [the passage as a clause that] amplifies [followed by a clause] that limits.[3] Alternatively, it can be argued that he agrees with the Rabbis, for [he might say] if [the sole object of this clause were the inference] of R. Eleazar b. Azariah, the Torah could have included, ‘from the pressed grapes even to the grape-stone’ with the other items specified.[4] Why then does it appear after the general statement? To show that the text is to be construed as a general statement followed by a specification. But why should not this be its sole object?[5] If this were so, the verse should have read either ‘pressed grapes and grape-stones [with both words in the plural] or ‘pressed grape and grape-stone [with both in the singular]. The reason why the All-merciful says, ‘from the pressed grapes even to the grape-stone’ can only be that we should both interpret as a general statement followed by a specification and infer [that there is no penalty] unless he eats two pressed-grapes and one grape-stone.

Now R. Eleazar interprets [the text as consisting of] a clause that amplifies and a clause that limits. Where then does he find [in the Scripture the typical example of] specification, general statement and second specification?-R. Abbahu said that he finds it in the following verse. If a man deliver unto his neighbour an ass, or an ox, or a sheep,[6] is a specification; or any beast is a generalisation; to keep is a further specification[7] and so we may infer only what is similar to the specification.[8]

Raba said that [R. Eleazar] could find one in the following verse. And if [his offering] be of [the flock][9] is a specifications the flock a general statement, and [whether of] the sheep, [or of] the goats a further specification, and so we may infer only what is similar to the specification.[10]

Rab Judah of Diskarta[11] asked Raba: Why should not [R. Eleazar] find it in the following verse? [Ye shall bring your offering] of[12] is a specification the cattle [beasts] a general statement, and [of] the herd [or of] the flock a further specification, and so only what is similar to the specification can be inferred?[13] — He replied: This is not a clear case, for if [he inferred it] from there it could be argued that [in the expression] ‘the cattle’,

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(1) V. our Mishnah supra.

(2) To be able to continue the argument as the Rabbis do.

(3) In R. Eleazar's argument no second specification is needed.

(4) In the verse preceding.

(5) Leaving no room for R. Eleazar b. Azariah's further ruling.

(6) As a bailment. Ex. XXIII, 9.

(7) For it excludes beasts of prey which cannot be ‘kept’, i.e. guarded.

(8) Domestic animals of any kind and also poultry.

(9) Lev. I, 10. The inference depends on the Hebrew construction which could have read ‘And if flock’, so that the expression ‘of the flock’ does limit the choice permitted.

(10) In this example it is not clear from the verse what is excluded. An animal that had been worshipped as a deity would be forbidden as a sacrifice, but the commentators differ as to whether Raba could have had this in mind.

(11) [Deskarah, sixteen parasangs N.E. of Bagdad Obermeyer op. cit. p. 146.]

(12) Lev. 1, 2. (V. note 4).

(13) Viz.: domestic clean animals, though the age would be immaterial.

Talmud - Mas. Nazir 35b

cattle includes beasts of chase.[1] — [Rab Judah] retorted: Could beasts of chase be included In ‘cattle’ [in this instance]? For ‘the herd and the flock’[2] are mentioned, making in fact a specifications a general statement, and a specifications and only what is similar to the specification can be inferred![3]

How do we know that [the rule] is correct?[4] -It has been taught: And thou shalt bestow the money for whatsoever thy soul desireth[5] is a general statement, for oxen or for sheep or for wine or for strong drink a specification, and or for whatsoever thy soul asketh of thee a further general statement, making a general statement, a specification and a second general statement. Only what is similar to the specification may be inferred,[6] and so because the specification particularises the product of that which is itself a product ,[7] whose sustenance is drawn from the earth ,[8] whatever is a product of a product-bearing species that draws its sustenance from the earth [may be purchased].[9]

Seeing that when there is a general statement, a specifications and a general statement, we infer whatever is similar to the specification, what is then the function of the second general statement? It is to add whatever resembles the things specified.[10] Again, seeing that when there is a specifications a general statement, and a specifications what is similar to the specification is inferred, what is the purpose of the second specification? — But for its presence it would be said that it is a case of general statement being added to the [first] specification.[11] Further, seeing that both when there are two general statements [separated by] a specification and when there are two specifications [separated by] a general statement, what is similar to the specification is inferred, what then is the difference between the two cases? — It is that whereas in the former case we include even things that resemble the specification In one respect only,[12] in the latter case we include only what resembles [the specification] in two respects, but not what resembles it in one respect.[13]

Seeing that when a specification is followed by a general statement, the general statement supplements the specification, all things being included, and again when a limitation is followed by an amplifying clause, this amplifies to the fullest extent, all things being included, what then is the difference between [the two cases]? — The difference is that whereas in the case of a specification followed by a general statement, both shoots and leaves [say],[14] would be included, in the case of a limitation followed by an amplifying clause, Only the shoots, but not the leaves [would be included].[15] R. Abbahu said: R. Johanan said that what is permitted is not reckoned together with what is forbidden[16] in the case of any prohibition of the Torah with the exception of the prohibitions of the nazirite where the Torah says explicitly, [Neither shall he drink] that which is soaked in grapejuice.[17]

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(1) And so the second specification is in any case necessary to exclude these, and we cannot use it to derive the method of specification etc.

(2) Which are domestic clean animals and not beasts of chase, and their mention serves to exclude beasts of chase.

(3) Thus beasts of chase would be automatically excluded by the operation of the rule, so that the rule can be applied.

(4) Viz.: that when there is more than one specification, whatever is similar can be inferred (Rashi).

(5) Deut. XIV, 26, referring to money converted from the second tithe.

(6) Thus the presence of a second generalisation alters the rule that applies when there is a single clause of each kind. The same is taken to be true when there is a second specification.

(7) Mineral substances are thus excluded.

(8) In contrast to fish.

(9) E.g., poultry also.

(10) Without the second general statement, only the things actually specified would be included in the scope of the subject under discussion.

(11) [In which case the rule is that even things that do not resemble the specification are included.]

(12) E.g., in the case of the second tithe we do not also require the thing purchased to be attached to the soil and so exclude poultry.

(13) And so, for example, vine shoots are not forbidden the nazirite although they may be edible.

(14) This is not referring to any particular case, but is simply an illustration of how the difference might arise.

(15) V. Shebu. (Sonc. ed.) p. 12, n. 3.

(16) I.e., there is no penalty unless a full olive's bulk of the forbidden food is consumed. Thus half an olive's bulk of forbidden fat and half of permissible meat would entail no penalty.

(17) E.V. ‘liquor’. Num. VI, 3. Hence an olive's bulk of, e.g., bread soaked in wine carries the penalty.

Talmud - Mas. Nazir 36a

Ze'iri said: Another [exception] is leaven which it is prohibited to burn [on the altar] .[1] According to whom [will Ze'iri infer this? Evidently] after the manner of R. Eleazar who interprets the particle kol [any].[2] But then should not another exception be leaven [on passover]?[3] — Quite so. But [Ze'iri wished to indicate his] dissent from the opinion of Abaye that the burning of even less than an olive's bulk counts as an offering,[4] and so he [incidentally] tells us that the burning of less than an olive's bulk does not count as an offering.[5]

As R. Dimi was once sitting and repeating the above reported decision [of R. Johanan][6] Abaye raised the following objection. [A Mishnah says:] If part of a stew of terumah[7] containing garlic and oil of hullin[8] is touched by a [defiled person who] had bathed that day,[9] the whole is rendered unfit [to be eaten].[10] If part of a stew of hullin containing garlic and oil of terumah is touched by a [defiled person who] had bathed that day, only that part that was touched becomes unfit [to be eaten].[11] Now, in discussing this it was asked why the part touched should become unfit[12] and Rabbah b. Bar Hanah quoting R. Johanan replied: The reason is that a layman[13] would be scourged for eating an olive's bulk.[14] Surely this

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(1) Lev. II, 11.

(2) Ibid. ‘any leaven’ as a sign that even in combination it is forbidden, with the full penalty for transgression.

(3) For here R. Eleazar explicitly makes this interpretation of kol, (v. Pes. 43b), and so why does not Ze'iri mention it.

(4) So that even if the total bulk burnt is less than an olive, there is a penalty. V. Men. 58a.

(5) Although not all the olive's bulk need be leaven. That leaven on passover is another exception we are expected to infer.

(6) That what is permitted does not combine with what is forbidden.

(7) The priestly heaveoffering (v. GIos.). It had to be kept in ritual purity.
(8) 'Profane food' i.e. not terumah.
(9) And would become ritually pure after sunset. Although counted as clean for many purposes he could still defile terumah.
(10) Including the garlic and the oil, which are regarded as though absorbed in the terumah.
(11) Teb. Y. II, 3.
(12) Seeing that hullin predominates.
(13) A non-priest who is forbidden to eat terumah.
(14) Thus the predominance of hullin does not take away the sacred character of the terumah contained in the mixture.

Talmud - Mas. Nazir 36b

is because permitted food combines with forbidden?[1] — [R. Dimi] replied: No! [What R. Johanan means] by an olive's bulk is that an olive's bulk [of actual terumah][2] would be consumed during the time taken to eat a peras.[3] [Abaye objected:] Is then the time taken to eat a peras [reckoned] as a meal by the Torah?[4] — [R. Dimi] replied: It is. Then, [Abaye asked], why do the Rabbis differ from R. Eleazar as regards Babylonian kutah?[5] [R. Dimi] replied: Let Babylonian kutah alone,[6] since there is no olive's bulk [of leaven] consumed in the time it takes to eat a peras. For if a man does gulp down [a large quantity] at once, we disregard such a fancy as being quite exceptional,[7] whilst if one merely dips [other food] into it, you will not find an olive's bulk [of the leaven] consumed in the time taken to eat a peras.[8]

He [Abaye] raised objection against [R. Dimi's ruling from the following passage]. [It has been taught:] If two [spice] mortars, one containing terumah and the other hullin stood near two pots, one containing terumah and the other hullin, and [the contents of] the first pair fell into the other pair,[9] both [dishes] may be eaten,[10] for we assume that hullin fell into hullin and terumah into terumah. Now if it is a fact that the consumption of an olive's bulk within the time taken to eat a peras is [prohibited by] the Torah, why do we make this assumption?[11] — But if, [granting your view, replied R. Dimi] permitted and forbidden foods combine, how again could the assumption be justified?[12] The fact is that no argument can be based on the terumah of spices, [for its sanctity is the result] of a rabbinic enactment.[13]

He [Abaye] raised a [further] objection. [It has been taught:] If two baskets, one containing terumah and the other hullin stood near two vessels,[14] one of terumah and the other of hullin and the former pair were tipped into the latter, both are permitted, for we assume that hullin fell into hullin and terumah into terumah.[15] Now if it is a fact that an olive's bulk consumed within the time taken to eat a peras is [prohibited by] the Torah, how can we make such an assumption?

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(1) Seeing that scourging is the penalty for eating an olive's bulk of the mixture.
(2) Not of the mixture.
(3) Lit. 'piece', a piece of bread equal in size to four average eggs. This interval constitutes a single meal (Ker. III, 3). Since the quantity of terumah contained in the amount of stew eaten in this interval was an olive's bulk, there would be a penalty of scourging for a layman. [According to Maimonides, Yad, Erubin I, 9, peras is equal to three average 'eggs'].
(4) So that stripes would be inflicted even if other food is taken in the same interval.
(5) A preserve of sour milk, bread crusts and salt used as a source. R. Eleazar considered it to be prohibited on Passover by the Torah, so that its consumption entailed a penalty, whilst the Rabbis considered it to be forbidden only by rabbinic decree; v. Pes. 43a.
(6) For if indeed permitted and forbidden foods combined, you would be still harder put to it to explain why the Rabbis would not consider it forbidden by the Torah-law! (So the text in yes. 44a).
(7) Because ordinary people do not use it as a food, his eccentric eating of it is not treated as eating to entail a penalty.
(8) And so it is only forbidden by rabbinic decree.
(9) Without it being known which was tipped into which.

(10) I.e., the dish of hullin may still be eaten by a layman.

(11) Since a mixture of terumah and hullin would be forbidden in Torah-law, our doubt concerning the dishes should be resolved (as it always is in cases of Torah-law) in the stricter sense, and both declared terumah.

(12) For then the doubt would certainly be concerned with Torah-law, so that both dishes should be forbidden.

(13) The Torah does not require terumah to be separated from spices. Hence the doubt concerns only what is forbidden by the Rabbis and so is resolved in the more lenient sense.

(14) Heb. Sa'in, plural of Sa'ah, a large dry measure, here assumed to contain grain.

(15) Tosef. Ter. VI, 15.

Talmud - Mas. Nazir 37a

On my view that what is permitted and what is forbidden combine fin general], this will offer no difficulty, for it may be taken for granted that hullin predominated;[1] whereas on your view [that there is a prohibition whenever] an olive's bulk is consumed within the time taken to eat a peras, what difference would the predominance of hullin make?[2] — [R. Dimi] replied: Do not seek to argue from terumah at the present time, for [its sanctity] is rabbinic.[3]

Abaye asked [R. Dimi]: What ground is there for assuming that the purpose of the phrase ‘soaked in’[4] is to indicate that what is permitted and what is forbidden combine,[5] for may not its purpose be to indicate that the taste is equivalent to the substance itself?[6] (Is not this curious? First Abaye is perplexed by R. Dimi's statement[7] and points out all the above contradictions, and then he suggests that perhaps, after all, the flavour is equivalent to the substance![8] — After [R. Dimi] had answered him,[9] he went on to suggest that perhaps its purpose is to indicate that the taste is equivalent to the substance itself.)[10] For it has been taught: The phrase ‘soaked in’ makes the taste equivalent to the substance itself, so that if [the nazirite] soaked grapes in water and this acquired the taste of wine, there would be a penalty [for drinking it].[11] From this case, an inference may be drawn applicable to all prohibitions of the Torah. For seeing that in the case of the nazirite where the prohibition is not permanent,[12] where he is not forbidden to derive any benefit [from wine],[13] and where he may even have the prohibition removed,[14] the taste was declared to be equivalent to the substance, then in the case of mixed seeds in the vineyard[15] where the prohibition is permanent, where it is forbidden to derive any benefit from them, and where there is no way in which the prohibition can be removed it surely follows that the flavour is to be equivalent to the substance itself. The same argument applies to Orlah[16] which has two [of these properties].[17] — [R. Dimi] replied:[18] The above represents the view of the Rabbis, whereas R. Abbahu, in making his statement [on behalf of R. Johanan],[19] was following the opinion of R. Akiba. To what [statement of] R. Akiba [does this refer]? Shall I say that it is the [dictum of] R. Akiba to be found here [in our Mishnah] where we learn: R. AKIBA SAID THAT THERE IS A PENALTY EVEN IF HE SOAKS HIS BREAD IN WINE AND ENOUGH [IS ABSORBED] TO COMBINE INTO AN OLIVE'S BULK;[20] But whence [do you know that the olive's bulk includes the bread eaten]?[21] May it not mean that the wine alone must be an olive's bulk! And should you object that the statement would then be obvious?[22] [To this we may reply] that its object is to indicate dissent from the opinion of the first Tanna[23] [that there is no penalty] Unless he drinks a quarter [of a log] of wine! It must therefore be the [statement of] R. Akiba to be found in the following Baraitha where it is taught: R: Akiba said that a nazirite who soaks his bread in wine and eats an olive's bulk of the bread and wine is liable [to the penalty]. R. Aha, the son of R. Iwia, asked R. Ashi: Whence will R. Akiba, who interprets the phrase ‘whatever is soaked in’ as implying that permitted and forbidden foods combine, derive the rule that the taste is equivalent to the substance itself?[24] — He can derive it from [the prohibition of] meat and milk [seethed together],[25] for there is no more than the mere taste in that case[26] and yet it is forbidden, whence we may infer that the same is true here.[27] The Rabbis do not allow this inference to be made from meat and milk because it is an anomalous [prohibition].[28]

What constitutes its anomaly? Shall I say it is the fact that each constituent is permitted separately, while the combination is forbidden? Surely also in the case of mixed [seeds][29] each constituent is permitted separately and the combination is forbidden![30] — It is, therefore, the fact that If soaked in milk all day long, [the meat] remains permitted, and yet on seething it becomes forbidden.[31]

Must not R. Akiba, too, agree that [the seething together of] meat and milk is an anomalous [prohibition]?[32] — It must therefore be

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(1) So that there would no longer be a Torah-prohibition, for the predominance of the hullin causes the terumah to lose its identity in Torah-law. This argument could not be used of spices since its flavour which permeates the whole dish is too strong to become neutralised.

(2) For it is unlikely that the Baraitha is assuming that there was so little in the baskets that a peras of the mixed contents afterwards contained less than an olive's bulk of the contents of one of them. The Torah-doubt would therefore remain.

(3) After the destruction of the Temple and the depopulation of Judea, many scriptural precepts, including the separation of tithes and terumah were still observed by the people, although not strictly binding on them in Torah law.

(4) V. supra p. 128, n. 6.

(5) In the case of the nazirite prohibitions only, as asserted by R. Dimi quoting R. Johanan. V. supra 35a, end.

(6) I.e., anything flavoured with a forbidden substance is equally forbidden, even as the forbidden substance itself. [That is, provided the forbidden substance consisted originally of the size of an olive. This requirement distinguishes Abaye's principle from the one reported by R. Dimi in virtue of which what is permitted combines with what is forbidden, even though the Iatter is less in size than an olive's bulk.]

(7) And considers that the same should be true of all prohibitions, not merely the nazirite prohibition.

(8) Thus rejecting the inference in toto!

(9) All the questions he put to him.

(10) The bracketed passage is an interjection.

(11) And so why does not R. Johanan make the same inference as the author of this Baraitha? The rest of the paragraph contains the concluding portion of the Baraitha.

(12) But lasts as long as the naziriteship, which may be as little as thirty days.

(13) He may, for example, sell it.

(14) By giving sufficient grounds for this to a Sage.

(15) It was forbidden to sow grain between the vines, v. Deut. XXII, 9.

(16) The fruit of a tree during its first three years after planting, v. Lev. XIX, 23.

(17) The prohibition is permanent, and it is forbidden to derive any benefit from it, but after the 3rd year the fruit may be eaten. — This ends Abaye's argument.

(18) [So Var. lec. Cur. edd.: ‘A certain scholar said to him’.]

(19) Supra 35b, that permitted and forbidden foods combine in the case of the nazirite prohibition.

(20) Supra 34b.

(21) To enable us to infer that permitted and forbidden foods combine.

(22) In which case there would have been no point in having it in the Mishnah.

(23) The Tanna of the ‘earlier Mishnah’ mentioned in our Mishnah.

(24) It is assumed that R. Akiba admits this rule.

(25) V.Ex. XXIII, 19.

(26) Since the meat by itself is forbidden owing to the taste of the milk it absorbed.

(27) I.c., that water having the taste of wine is forbidden the nazirite.

(28) And 50 cannot be made the basis of a general rule.

(29) The planting of mixed seeds in a vineyard, v. Deut. XXII, 9.

(30) So that milk and meat are not unique in this respect.

(31) Thus it is not the taste but the seething that is at the root of the prohibition.

(32) From which no analogies can be drawn.

Talmud - Mas. Nazir 37b

that he derives the rule from the [necessity for] scalding the vessels of a Gentile.[1] For the

All-Merciful Law has said, Everything that may abide the fire [ye shall make go through the fire etc,][2] telling us that they are [otherwise] forbidden. Now the scalding of a Gentile's vessels [must be done] because the mere taste is forbidden, and so here too, the same is true.

Then why should not the Rabbis also infer this rule from the scalding of a Gentile's vessels? — [Rab Ashi] replied: There [too] the prohibition is anomalous for everywhere else in the Torah whatever imparts a worsened flavour is permitted,[3] whereas in the case of the scalding of a Gentile's vessels a worsened [flavour][4] is forbidden.

Must not R. Akiba agree that this case is anomalous?[5] — R. Huna b. Hiyya replied: According to R. Akiba, the Torah only forbade utensils that had been used [by a gentile] on the same day, in which case the flavour is not detrimental.[6] And the Rabbis? — They considered that even with a pot that had been used on the same day it was impossible for the flavour not to be slightly detrimental. R. Aha, the son of R. Iwia, said to R. Ashi: The Rabbis' opinion should throw a certain light on the views of R. Akiba. For the Rabbis say that [the phrase] 'whatever is soaked in' has as its object to indicate that the taste is equivalent to the substance itself, and [further] that a rule may be derived from this applicable to all prohibitions of the Torah. And so, ought not R. Akiba also, who interprets this same [phrase] 'whatever is soaked in' as implying that what is permitted combines with what is forbidden, infer [further] from it a rule applicable to all prohibitions of the Torah?[7] [R. Ashi] replied: [He does not do so] because the nazirite and the sin-offering[8] are dealt with in two verses [of Scripture] from which the same inference[9] is possible, and whenever there are two verses from which the same inference is possible no other cases may be inferred.[10]

The nazirite [passage] is the one just explained.[11] What is [the inference from] sin-offering? It has been taught: [The verse] Whatsoever [food] shall touch the flesh thereof[12] shall be holy[13] might be taken to imply that [it becomes holy] even if none [of the sin-offering] is absorbed by it.[14] Scripture [however] says the flesh thereof, [this indicates that it becomes sacred] only when It absorbs from its flesh;[15] 'it [then] shall be holy', [that is, have the same degree of sanctity] as [the sin-offering] itself.[16] If the latter is ritually unfit [to be eaten][17] the other becomes unfit also, whilst if it is still permitted, the other is also permitted, only under the same conditions of stringency [as the sinoffering].[18]

What can the Rabbis [say to this argument]?[19] — They will contend that both verses are necessary.[20] For if the All-Merciful had inscribed only the verse relating to the sin-offering it would have been said that we have no right to infer from it the case of the nazirite, for we could not infer anything about the nazirite from [regulations applying to] sacrificial meats.[21] Again, had the All-Merciful inscribed only the verse relating to the nazirite, It could have been argued that no rule can be derived from the nazirite, since the prohibitions in his case are very severe indeed for he is forbidden even the skin of the grape. On this ground we should have been able to infer nothing. [Thus both verses are necessary.]

What is R. Akiba's reply [to this argument]? — He will reply that both verses are certainly not necessary. Granted that had the All-Merciful inscribed only the verse relating to the sin-offering, we could not have deduced the case of the nazirite because what is profane cannot be inferred from [regulations applying] to sacrificial meats,[22] yet the All-Merciful could have inscribed only the verse relating to the nazirite, and the case of the sin-offering could have been deduced from this, since [in any case] all other prohibitions of the Torah are inferred from the nazirite prohibition.[23] And the Rabbis? — They [can] reply that while the [verse relating to] sin-offering [tells us] that permitted and forbidden foods combine, we cannot infer from [regulations applying to] sacrificial meats any rule concerning profane food,[24] [whereas] when the phrase 'whatever is soaked in' tells us that the taste is equivalent to the substance itself, a rule is inferred from this applicable to all prohibitions of the Torah. And R. Akiba? — He considers that both verses are intended to tell us that what is permitted combines with what is forbidden, so that these are two verses from which the same inference can be made, and when two verses occur from which the same inference can be made, no other cases may be inferred.[25] R. Ashi said to R. Kahana: How are we to explain the following, where it is taught: '[The verse] Nothing that is made of the grape-vine, from the pressed grapes even to the grape-stone,[26] teaches that the things forbidden to a nazirite can combine together'?[27] For seeing that it is possible, according to R. Akiba, for what is permitted to combine with what is forbidden, need we be told that the same is true of two species of forbidden substances? — [R. Kahana] replied: What is permitted [combines with] what is forbidden only [if they are eaten] together, whereas two species of forbidden substances combine even [if eaten] consecutively.

Now R. Simeon

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(1) Before they can be used by Jews.

(2) Referring to the vessels captured by the Jews during the campaign against Midian. Num. XXXI, 23. The scalding prescribed causes the sides of the vessel to exude forbidden flavours that may have been absorbed.

(3) And consequently does not cause what is permitted to become forbidden. For the derivation of this rule v. A.Z. 67b.

(4) Any flavour exuded from the sides of a cooking-utensil nor properly scalded of course worsens the food.

(5) And so bow can it form the basis of our rule.

(6) And we may properly infer that the flavour of a forbidden substance is forbidden.

(7) Whereas R. Johanan, who is following the opinion of R. Akiba, expressly confines the rule to nazirite prohibitions only; v. supra 35b.

(8) This is explained immediately below.

(9) Viz.: That a permitted and a forbidden substance combine.

(10) Ordinarily a rule is derived from a single passage. If another passage occurs from which exactly the same rule would follow, it can only be because there is in fact no rule, and both the cases are exceptional; v. Sanh. (Sonc. ed.) p. 458, n. 9.

(11) Whatever is soaked in... Num. VI, 3-

(12) I.e. of the sin-offering.

(13) Lev. VI, 20.

(14) The meaning is: It might have been taken as implying this if the word flesh had not been used.

(15) In which case the permitted and forbidden foods have combined. R. Akiba's deduction now follows. [The text of cur. edd. is difficult. A better reading is preserved in the Sifra a.l. 'till it absorbs', omitting the words, 'into its flesh.]

(16) The sin-offering could be eaten only 'by the males of the priesthood, within the hanging of the court, the same day and evening until midnight'. (M. Zeb. V, 3; Singer's P. B. p. 12). For other meats there were other, often less stringent regulations. (Ibid.).

(17) E.g. because it is after midnight.

(18) See note 10.

(19) If the verses relating to nazirite and sin-offering both lead to the same inference how do they establish their rule about taste and substance?

(20) I.e. That it is in fact impossible to infer the rule from either one of the passages taken alone, since its presence would have been put down to other properties of the sinoffering or the nazirite, which are really irrelevant as far as the rule is concerned.

(21) Since no rule about profane things can be inferred from sacred ones. This is a general principle.

(22) So that the inference that could be drawn from the sin-offering is admittedly not exactly the same as that drawn from the nazirite prohibitions

(23) By the Rabbis. For no mention of the sin-offering is made in the Baraitha (supra 37a). Thus this verse would be altogether superfluous, and the principle of 'two verses from which the same inference can be drawn' can be applied.

(24) And so this principle is confined to sacred meats.

(25) And that is why R. Akiba confines the principle to the nazirite prohibitions.

(26) Num. VI, 4.

(27) So that provided an olive's bulk is consumed there is a penalty, even if the quantity of each constituent is less than this.

does not require the principle of combination.[1] What interpretation does he put on the verse, ‘Nothing that is made etc.’? — He requires it for the rule that one cannot become a nazirite without undertaking explicitly to abstain from all the things [that are forbidden a nazirite].[2]

R. Abbahu, quoting R. Eleazar, said: In none of the instances In the Torah requiring a quarter [of a log][3] does what is permitted combine with what is forbidden, with the exception of the quarter [of a log] of the nazirite, where the Torah uses the phrase ‘soaked in’.[4] What is the difference between R. Johanan[5] and R. Eleazar? — It is that the former includes solid foods,[6] the latter liquids only but no other things. R. Eleazar said that there are ten quarters [of a log][7] and R. Kahana knew for a fact[8] that five [involved] red [liquids][9] and five white.[10] For the five red ones [there is the following mnemonic]:[11] A nazirite and a celebrant of the passover who delivered judgment in the sanctuary and died. ‘A nazirite’ indicates the quarter [log] of wine [entailing a penalty] for the nazirite [who drinks it].[12] ‘A celebrant of the passover’ refers to the following dictum quoted by Rab Judah on behalf of Samuel viz: — Each of these four cups[13] should contain sufficient [undiluted wine] to make a quarter of a log [of diluted wine].[14] ‘Who delivered judgment’ [refers to the law that] one who has partaken of a quarter of a log of wine must not render a decision.[15] ‘In the sanctuary [refers to the law that a priest] who drinks a quarter of a log of wine and then enters the sanctuary renders himself liable to death penalty.[16] ‘And they died’ [indicates the following teaching]: For it has been taught, whence do we infer that a quarter of a log of blood taken from two corpses renders unclean the contents of a tent? Because it is said, Neither shall he go to any dead body.[17]

The five white [fluids are indicated in the following mnemonic]: The cake of a nazirite or a leper who were disqualified on the Sabbath. ‘The cake’ [signifies] the quarter of a log of oil for the cake;[18] ‘of a nazirite’, the quarter of a log of oil [that must be brought] by a nazirite;[19] ‘or a leper,’ the quarter of a log of water [that must be used] for a leper.[20] ‘Disqualified’ [indicates] what we have learnt: Other ritually defiled liquids render the body unfit[21] if a quarter of a log [is partaken of].[22] ‘On the Sabbath’ [indicates] what we have learnt: For all other liquids [the legal quantity][23] is a quarter of a log, and for all waste liquids [the legal quantity] is a quarter of a log.

But is there no instance other than [the ten mentioned, requiring a quarter of a log?] There is surely the case: ‘With a quarter [of a log of water] the hands of one person, and even of two may be washed [before food]’![24] Disputed cases are not included.[25] But we have [also the following case]: He brought an earthenware phial and poured into it half a log of water from the laver.[26] According to R. Judah it was only a quarter of a log’?[27] — Disputed cases are not included.

But we have [also the following]: ‘How much water must be poured [into the chamber-pot]?[28] As little as one pleases. R. Zakkai said: It must be a quarter of a log’.[29] — Disputed cases are not included.

But there is also the ritual-bath?[30] — [There are ten cases] besides this one, for the Rabbis [subsequently] disallowed this quantity.[31]

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[1] Because in his opinion there is a penalty even for a minute quantity of any one of the things forbidden the nazirite. V. supra 4a.

[2] Supra 3b.

[3] E.g., The quarter-log of blood that spreads defilement throughout a tent; Cf. infra 54a.

[4] Num. VI, 3.

[5] Who uses the term ‘all the prohibitions of the Torah’ instead of ‘all quarters (of a log) in the Torah’. Supra 35b.

[6] In the scope of the application of the principle.

(7) In ten instances the quantity of fluid required by the Law is a quarter of a log.
(8) Lit., 'held in his hand'.
(9) Wine or blood.
(10) Water or oil.
(11) Each term of the mnemonic indicates one of the instances.
(12) Mishnah supra 34b
(13) That must he partaken of at the passover meal; v. Pes. X, 1.
(14) Wine was usually diluted with three parts of water, v. Pes. 108b.
(15) Inferred from the juxtaposition of the forbidding of wine to priests about to enter the sanctuary (Lev. X, 9) and the statement that a priest's duty is to 'teach (lit., 'render decisions for') the children of Israel'. (Ibid. V, 11).
(16) M. Ker. III, 3, inferred from Lev. X. 9.
(17) Lev. XXI, 11. Heb. 'nafshoth' in the plural, and so two or more corpses, v. Sanh. 4a.
(18) I.e., the unleavened portion of the thankoffering, which required half of what was brought for the whole thank-offering. V. Lev. VII, 12 and Men. 8 (Tosaf).
(19) Num. VI, 15.
(20) Lev. XIV, 5.
(21) I.e., ritually unclean.
(22) V. Me'il. 17b. [There the reading is 'all liquids'. Our text is difficult to explain; cf. Bertinoro on Mik. x, 7.]
(23) The removal of which from a public to a private domain carries with it a penalty for breach of the Sabbath.
(24) Yad. I, 1.
(25) This is not a unanimous opinion, R. Jose contending that each person requires a quarter of a log (ibid.).
(26) The Mishnah is describing the preparation of the 'bitter waters' to be drunk by a faithless wife. V. Lev. V, 17.
(27) Sotah II, 2.
(28) To enable one to say one's prayers in the same room.
(29) Ber. 25b.
(30) A ritual-bath containing a quarter of a log might be used for dipping small vessels such as needles to remove ritual defilement; v. Pes. 17b.
(31) And enacted that only a full-size ritual-bath containing 40 seahs was to be used even for needles. V. Hag. 21b.

Talmud - Mas. Nazir 38b

WHILST THERE IS NO PENALTY UNLESS HE EATS AN OLIVE'S BULK OF GRAPES etc.:] The first Tanna[1] does not put all the things forbidden a nazirite on the same footing as drinking,[2] whereas R. Akiba, because of the verse nor eat fresh grapes nor dried,[3] says that just as in eating an olive's bulk [entails a penalty], so for all the prohibitions[4] an olive's bulk [is sufficient to entail a penalty].

THERE IS A SEPARATE PENALTY FOR WINE etc. Our Rabbis taught: [The verse,] 'Nor eat fresh grapes nor dried' indicates that there is a penalty for [eating] the one by itself, and a penalty for [eating] the other by itself.[5] From here a rule may be derived applicable to all prohibitions of the Torah.[6] Just as here where we have a single species [grapes] known by two different names [fresh and dried], each entails a distinct penalty, so wherever we find a single species known by two different names, each entails a penalty distinct from the other. In this way, new wine and grapes are included.[7]

Abaye said: For eating pressed-grapes [the nazirite] is scourged twice;[8] For eating grape-stones he is scourged twice; for eating both pressed-grapes and grape-stones he is scourged three times. Raba[9] said: He is scourged once only [in the first two cases] since we do not scourge for [breach of] the prohibition expressed in general terms.

R. Papa raised an objection: [It is taught] R. Eleazar said that a nazirite who drank wine all day long would be scourged once only. If, however, he was warned, 'Do not drink', and again 'Do not drink', [and so on], there would be a penalty for each [warning]. If he ate fresh grapes, dried grapes, pressed-grapes, grape-stones, and squeezed a cluster of grapes and drank [the liquor] he would be scourged five times.[10] Now if [Abaye is right] he should be scourged six times, including once on account of 'He shall eat nothing [that is made of the grape-vine]'? — [Abaye replied:] He mentioned some and omitted others.[11] But what other [count] is omitted, that the one referred to[12] should have been omitted?[13] — He omitted, He shall not break his word.[14] Had this last, however, been the only one, it would not have been considered an omission,[15] [as it could be argued that R. Eleazar] mentioned only [those prohibitions] that are not found elsewhere, whereas this one is found in connection with ordinary vows too.[16]

Rabina of Parazikia[17] said to R. Ashi: But he has in any case omitted the intermediate portion of the grape![18] — But said R. Papa[19] [in reply to the various arguments advanced]: Five is not actually mentioned [in the Baraitha].[20] But [R. Papa]

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(1) I.e. the 'earlier Mishnah' of our text, which prescribes a different legal quantity for drinking (viz.: a quarter of a log) than for eating.

(2) And so in other cases an olive's bulk entails a penalty. Thus the first Tanna makes no use of the arguments of R. Akiba given later at all.

(3) Num. VI, 3, the first half of which is the prohibition against drinking.

(4) Including drinking.

(5) So that in eating both together there will be a double penalty.

(6) Tosaf. has the preferable reading 'all prohibitions of the nazirite'.

(7) Although the first can be obtained simply by squeezing the second, a nazirite who partakes of both is scourged twice.

(8) The general prohibition contained in the verse, 'He shall eat nothing that is made of the grape-vine' is held by Abaye to add one scourging to the total number entailed by eating forbidden substances.

(9) In Pes. 41b, where this controversy also occurs, the names are interchanged, Raba's appearing before the statement here attributed to Abaye. V. D.S. a.l

(10) Tosef. Naz. IV, 1. (Here there is a variation based on the Mishnah infra 42a).

(11) I. e. 'five' does not represent the total number of counts, but there are five scourgings in addition to others on counts not mentioned.

(12) Viz., The general prohibition 'He shall eat nothing etc.'

(13) It is assumed that the Tanna would not ordinarily omit one count only.

(14) Num. XXX, 3. There would be stripes for breach of this injunction also.

(15) And so its omission cannot be used as a counter argument against Raba (Tosaf). Aliter 'This is not an omission at all, for R. Eleazar etc.' so that the original contradiction remains.

(16) There is thus a good reason for its omission, and so no objection to its being the only one omitted. (Tosaf.)

(17) [Or Parazika, Farausag, near Bagdad, Obermeyer, p. 269. Var. lec. Raba of Parazikia, v. B.B. (Sonc. ed.) p. 15.]

(18) The pulp, which entails a separate penalty, (v. supra, 34b near end). This would be present in the squeezed cluster, so that there should be six counts apart from the other two.

(19) [Var. lec. Rabina; cf. n. 7.]

(20) The correct reading is '. . . he would be scourged on each count', so that both Abaye and Raba can interpret it to suit their opinions. Incidentally the objection of Rabina of Parazikia is also disposed of.

Talmud - Mas. Nazir 39a

quoted the passage in contradiction [of Abaye] because of the five [scourgings], and if five is not mentioned in it, why did he quote it as a contradiction? — R. Papa said [to himself]: I imagined that [Abaye's opinion] was not a tradition [he had received], and so he would retract [on hearing my quotation], for I did not know that it was a tradition and that he would not retract.[1]

R. ELEAZAR B. AZARIAH SAID etc.: R. Joseph said: In agreement with whom is the rendering in the Targum[2] as 'from the kernels even unto the skins'?[3] — In agreement with the opinion of R.

Jose.[4]

MISHNAH. A NAZIRITESHIP OF UNSPECIFIED DURATION LASTS THIRTY DAYS.[5] SHOULD [THE NAZIRITE] POLL HIMSELF OR BE POLLED BY BANDITS,[6] THIRTY DAYS ARE RENDERED VOID.[7] A NAZIRITE WHO POLLS HIMSELF, NO MATTER WHETHER HE USES A SCISSORS OR A RAZOR, OR WHO TRIMS [HIS HAIR] HOWEVER LITTLE, INCURS A PENALTY.

GEMARA. [The Academy] wished to know whether the growth of the hair takes place at the roots or at the tips.[8] [The knowledge] is of importance for the case of a nazirite polled by bandits who left enough [of each hair] for the end to be curled in towards the root.[9] If [the hair] grows at the roots the consecrated part has been removed,[10] but if it grows at the tips, then the part he consecrated is still there.[11]

Judge from the live nit found at the root of a strand [of hair], for if it were true that the growth is at the root ought it not to be found at the tip?[12] — The growth may well be at the tip, but the nit, being alive, continually moves down [towards the root].

Judge[13] from a dead nit [that is found] at the end of a strand[of hair], for if it were true that the growth takes place at the end, ought it not to be found near the root? There again [it may well be] because it has no power [to grasp the hair][14] that it slides more and more along it.

Judge from the pigtails of heathens[15] that loosen near the root after growing [for some time]![16] There too, [it may well be] because of its being creased by his lying on it that it grows loose.[17]

Judge from the sekarta[18] for the wool grows fresh again underneath [the marking], and this is something which we learned [in a Mishnah];[19] further when old men dye their beards, these grow white again

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(1) Instead he tried to explain away the Baraitha as quoted, and so R. Papa explained that there was in fact no contradiction.

(2) V. Targum Onkelos on Num. VI, 4.

(3) Instead of from the ‘pressed-grapes (skins) even to the grape-stone as our versions have.

(4) V. Our Mishnah.

(5) This statement is repeated here (from supra 5a) to explain the rule of the next sentence.

(6) Before bringing his sacrifices.

(7) So that he should have a nazirite's poll when his sacrifices are offered and the vow terminated.

(8) I.e., Does the growth of the hair result from new portions emerging from beneath the scalp, so that the part at first in contact with the scalp is afterwards found at a distance from it; or does this part remain where it is, and the growth take place in the visible part of the hair?

(9) I.e., a seven-days growth, v. infra 39b.

(10) And so this nazirite would have to observe a further thirty days as enjoined in the Mishnah.

(11) And he may proceed to bring his sacrifices and poll in the ordinary manner. In this argument it is taken for granted that a nazirite consecrates the hair on his head at the time of his vow.

(12) Assuming that the nit stays on the same point of the strand all the time.

(13) Lit., ‘come and hear’.

(14) Now that it is dead.

(15) [Heb. belorith (etym. obscure), a heathen fashion of growing locks from the crown of the head hanging down in plaits at the back; v. Krauss, TA I, 645.]

(16) So that new hair must have appeared near the roots.

(17) And not because new hair has grown.

(18) A red paint with which the tenth animals were marked during tithing, v. Bek. IX, 7 (58a).

(19) The Mishnah (Bek. IX, 7) would not have suggested marking with sekarta if the markings were to become hidden shortly afterwards by a new growth. Mishnaic verification is always preferable to a mere argument.

Talmud - Mas. Nazir 39b

at the roots.[1] From this we can justly infer that hair increases at the roots. This proves it.

But it has been taught [as follows]: A nazirite polled by bandits who left sufficient [of each hair] for the end to be curled inwards towards the root is not required to render void [his naziriteship].[2] Now if it is true that the hair grows from beneath, why should he not render it void? — It is here assumed that they polled him after the termination [of his naziriteship], and the author is R Eliezer in whose opinion whatever happens after the termination of the naziriteship renders void only seven days,[3] his reason being that he applies the same rule to polling in ritual purity[4] as to polling after defilement. Just as in polling after defilement seven days become void,[5] so in polling in ritual purity seven days are to be come void; and the Rabbis knew for a fact that every seven days enough hair grows for the tip to be curled inwards towards the root.[6]

A NAZIRITE WHO POLLS HIMSELF, NO MATTER WHETHER HE USES A RAZOR OR A SCISSORS,[7] OR WHO TRIMS [HIS HAIR] HOWEVER LITTLE INCURS A PENALTY: Our Rabbis taught: [From the word] razor,[8] I only know [that he is forbidden to use] a razor. How do I know that if he pulls [his hair] out, or plucks it [with tweezers] or trims it however little [he is equally culpable]? The verse continues, He shall be holy, and shall let the locks of the hair of his head grow long.[9] The above is the opinion of R. Josiah, whereas R. Jonathan said that ‘razor’ implies razor only, and if he plucks [his hair] or pulls it out, or trims it but a little there is no penalty.[10] But it says, He shall be holy etc.?[11] — This is to tell us that if he removes it with a razor, he has transgressed both a positive and a negative precept.[12]

Another [Baraitha] taught: ‘Razor’ tells me only [that he is forbidden to use] a razor. How do l know that if he pulls out [his hair], or plucks it, or trims it but a little [he is equally culpable]? The verse reads, [A razor] shall not come upon his head.[13] Now seeing that we are finally [intended] to include all means [of removing the hair], why are we told that a razor shall not come upon his head? This is because we should not otherwise be able to infer that the final polling must be done with a razor.[14] For it is impossible to derive this from the leper[15]

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(1) So that the same is true of human hair as of sheep's wool.

(2) But may proceed to bring his sacrifices and Poll in the ordinary manner.

(3) This view is stated in connection with a nazirite who contracted defilement after the termination of his period. V. supra. Mishnah and Gemara 160.

(4) I.e. polling after the termination of the vow in ritual purity. Before the termination, in both cases thirty days become void according to R. Eliezer; Ibid.

(5) Viz.: the seven days during which he is unclean.

(6) So that if this amount was already left by the bandits, he need not wait at all.

(7) In the Mishnah the order is, scissors or razor’.

(8) ‘There shall no razor come upon his head’ (Num. VI, 5) — of the nazirite.

(9) Indicating that the objection is to removing the hair and not simply to the use of a razor, as the means of removing it.

(10) It is not even forbidden to do this according to R.Jonathan (v. Tosaf.).

(11) Implying at least that it is forbidden to remove his hair by any means, even if there is no penalty (see previous note).

(12) I.e., the implication is also a razor only, the prohibition of its use being merely strengthened.

(13) Interpreted, omitting the first word ‘razor’, as ‘he shall not remove (the hair) of his head’.

(14) At the termination of the naziriteship; v. Num. VI, 18, where the instrument to be used for polling is not mentioned, and so we infer it from the mention of the razor earlier in the passage.

(15) Who is also required to poll; v. Lev. XIV, 8-9.

Talmud - Mas. Nazir 40a

, since we could not argue to the less stringent[1] from the more stringent[2] and impose [on the former] greater stringency.[3] Rabbi said: This argument is unnecessary.[4] For the text [can be] read, A razor shall not come upon his head until [the days of his naziriteship] are fulfilled,[5] so that the Torah says explicitly that after fulfilment, polling is to be carried out only with a razor.

But it [also] says, A razor shall not come upon his head?[6] — This is to provide for a penalty on two counts.[7]

R. Hisda said that stripes are incurred by [removing] one hair; [the completion of his naziriteship] is held up if two hairs [remain];[8] [the naziriteship] does not become void unless the greater part of his hair is removed by a razor.

[Are we to understand that] a razor only [is meant by R. Hisda] but no other method? Is it not taught 'How do we know that all other methods of removing [the hair are equally forbidden] etc.'? — You must therefore say [in R. Hisda's dictum] 'removed as though by a razor.'[9]

Likewise has it been taught: A nazirite who pulls out [his hair], or plucks it, or trims it but a little [incurs a penalty, but he][10] does not render void [the previous period] unless [he shaves] the greater part of his head with a razor.[11] R. Simeon b. Judah in the name of R. Simeon said: Just as two hairs [if they are left] hold up [the termination of the naziriteship], so also [the removal of] two hairs renders void [the previous period].[12]

We learn elsewhere: There are three who must poll, and whose polling is a religious duty, the nazirite, the leper, and the levites.[13] If any one of them polled without a razor, or left behind two hairs, his act is invalid.[14]

The Master said, 'There are three who must poll and whose polling is a religious duty.' Surely this is obvious?[15] It might have been thought that they are simply required to remove their hair, and even smearing it with nasha[16] [is valid] and so we are told that this is not so.[17]

It is [also] stated, 'If any one of them polled without a razor etc. Now we can grant this in the case of a nazirite where there is written, There shall no razor come upon his head,[18] and of the levites where there is written, And let them cause a razor to pass over all their flesh,[19] but how do we know that a leper must use a razor? Should you reply that this can be inferred from the levites [by the following argument, viz.] The levities require to poll, and the polling must be performed with a razor, and so I will infer of the leper who is required to poll that the polling must be performed with a razor; [your argument] can be refuted. For although it is true of the levites [that they must use a razor, this may be] because they had to be offered as a wave-offering,[20] which is not the case with the leper. You will therefore attempt to infer it from the nazirite.[21] But [it may be asked] although it is true of the nazirite, [this may be] because his sacrifice must be accompanied by cakes,[22] whereas a leper's does not require this. It being thus impossible to infer what is required from one by itself, you will try to infer it from both together in the following way. You will infer it [using the above argument] from the levites. [To the objection] that although it is true of the levites [this may be] because they had to be offered as a wave-offering, [you will reply that] the nazirite will show [that this cannot be the reason].[23] [To the objection that] although it is true of the nazirite [this may be] because his sacrifice must be accompanied by cakes, [you will reply that] the levites show [that this cannot be the reason].[24] The argument thus goes round; what applies to one side does not apply to the other; and what applies to the other side does not apply to the one side. What they have in common is that they both require to poll[25] and this polling must be done with a razor, and so I will infer with regard to the leper[26] who is also required to poll that his polling must be done with a razor.

Said Raba of Barnesh[27] to R. Ashi: But can it not be objected that another common property of [the levites and the nazirite] is

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(1) The nazirite who polls only his head.
(2) The leper who must shave his wholy body.
(3) Requiring a razor to be used, because the leper uses a razor. It might well be that a nazirite could use any means for removing his hair.
(4) Viz.: The argument that because the word razor is superfluous in v. 5, polling in v. 18 means with a razor.
(5) By altering the punctuation in v. 5, which concludes ‘Until the days of his naziriteship are fulfilled he is holy to the Lord’.
(6) Implying equally that a razor only is forbidden during the naziriteship.
(7) There is a penalty for removing the hair, and a second penalty if a razor is used during the naziriteship.
(8) The polling is invalidated thereby, and the procedure at the termination cannot continue as long as these remain.
(9) I.e. close to the scalp.
(10) Added from the Tosef. agreeing with the reading of the various commentators.
(11) Thus the Baraitha agrees with R. Hisda.
(12) Tosef. Naz. IV, 2.
(13) When first appointed to office the levites had to poll. V. Num. VIII, 7.
(14) Neg. XIV, 4.
(15) For in each case there is a verse requiring them to poll.
(16) Or nesa, a plant the sap of which was used as a depilatory. [Others regard it as a poisonous drug. Krauss, op. cit. I, 642, takes nasa as a variant of nasam mentioned in Neg. X, 10.]
(17) But that a razor is essential.
(18) Num. VI, 5. From this it is inferred that only a razor may be used at the final polling. V. supra.
(19) Num. VIII, 7.
(20) V. Num. VIII, 11. To refute an argument of the above kind, it is sufficient to show some difference however trivial between the procedure to he followed in both cases.
(21) By an argument similar in the above.
(22) V. Num. VI, 15.
(23) For a nazirite was not required to be offered as a wave-offering yet had to use a razor.
(24) For although the same was not true of the levites, yet they had to use a razor.
(25) And it must be this common property that determines the other common property, viz.: that a razor must be used.
(26) Lit., ‘add to them the leper . . .’
(27) [Near Matha Mehasia, a suburb of Sura; Obermeyer op. cit. p. 297].

Talmud - Mas. Nazir 40b

that their sacrifice could not be offered in poverty,[1] whereas the sacrifice of a leper could be offered in poverty?[2]

Raba b. Mesharsheya said to Raba: This Tanna first asserts that [the rule of the nazirite] could not be deduced from that of the leper[3] because we must not argue to the less stringent from the more stringent in order to impose on it the same stringency, and then he goes on to say that [the case of the leper itself] should be inferred by argument,[4] whereas in fact we are not able to infer it from any argument![5] — [Raba] replied: The former discussion is based on the view of the Rabbis,[6] the latter on that of R. Eliezer,[7] for we have learnt:[8] Whilst there is no penalty[9] unless he plucks out [the hair] with a razor. R. Eliezer said that even if he plucks it with tweezers or with a rohitni[10] he incurs a penalty.[11]

What is the reason of the Rabbis?[12] It has been taught: Why does Scripture mention his beard?[13]

Because we find elsewhere[14] the verse, Neither shall they shave off the corners of their beards,[15] it might be thought that this applies even to [a priest who is] a leper. We are therefore told [that the leper must shave] ‘his beard’.[16] Whence [do we know] that he must use a razor? — It has been taught: [The verse,] Neither shall they shave off the corners of their beards[17] could mean that even if they shaved it with scissors there would be a penalty, and so we are told [elsewhere], Neither shalt thou mar [the corners of thy beard].[18] [This last verse alone] could mean that even if he plucks it out with tweezers or a rohitni there is a penalty, and so we are told, Neither shall they shave the corners of their beards. How [do we make the inferences from these verses]? The kind of shaving that also mars [the beard] is with a razor.[19]

But how does it follow?[20] For may it not well be that even if [the leper] uses tweezers or a rohitni he has carried out his religious duty, the purpose of the verse[21] being to tell us that even if he uses a razor there is no penalty? — I will explain. If you assume that even if he uses tweezers or a rohitni he has carried out his religious duty, the verse should have remained silent on the subject[22] and I should have argued as follows. Seeing that a nazirite, who has done what is forbidden,[23] is nevertheless obliged [to use a razor], then [the leper] who is here doing a religious duty[24] should certainly [be allowed to use a razor].

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(1) A nazirite or a levite who could not afford the necessary sacrifices was given no alternative but had to wait until he could do so.

(2) For a leper who was poor, special sacrifices of doves were permitted (v. Lev. XIV, 21ff.). Hence the leper is less stringent than either of the others, and so should perhaps not be obliged to use a razor for his ritual shaving.

(3) Thus assuming that a leper certainly has to use a razor (v. supra 39b end). Raba b. Mesharsheya is here taking it for granted that the two Baraithas to which he makes reference form a single text.

(4) For the gathering together of the three cases, nazirite, leper, and levites, into a single Baraitha is an indication that the case that is not explicit is deducible from those that are.

(5) Since the argument from the levites or the nazirite fails completely. Even to an argument from the common properties there is the objection of Raba of Barnesh. How then, Raba b. Mesharshaya asks, is the sequence of the two Baraithas to be explained?

(6) Who do in fact deduce that a leper must use a razor from an independent source. V. infra.

(7) Who deduces that a leper must use a razor from the nazirite obligation to do so. V. infra 41a.

(8) This Mishnah is quoted simply in order to show the existence of a controversy between R. Eliezer and the Rabbis, the Baraithas adduced to expound the sources of the controversy being anonymous.

(9) For rounding the corners of the head.

(10) Rohitni, usually a plane, here appears to mean some instrument for removing single hairs, since it is compared to a tweezers. V. Jastrow s.v.

(11) Mak. 202.

(12) I.e., what is their source for the case of the leper?

(13) In Lev. XIV, 9, of the leper, for we already know that he must shave ‘all his hair’.

(14) Of the priests.

(15) Lev. XXI, 5.

(16) Even if he is a priest.

(17) Lev. XXI, 5.

(18) Of ordinary Israelites, not priests. Here the word ‘mar’ is used and a scissors does not ‘mar’.

(19) And since what is forbidden the ordinary person is prescribed for the leper, as is inferred in the previous Baraitha, a leper can, nay must, use a razor.

(20) That he must use the razor.

(21) Which says that the leper must shave, and also that he must shave his beard, and not simply that he must remove the hair.

(22) Not using the word shave’.

(23) By becoming defiled; aliter, by becoming a nazirite at all, in accordance with the opinion of R. Eleazar ha-Kappar, v. supra 19a.

(24) He was not responsible for his leprosy, so that the act of purification is purely a religious duty, not an expiation.

Talmud - Mas. Nazir 41a

Moreover, should you assume that if he uses tweezers or a rohitni he has carried out his religious duty, then because a razor is not mentioned explicitly [it should be entirely forbidden][1] in accordance with the dictum of Resh Lakish who has said that wherever we find both a positive command and a prohibition[2] then, if it is possible to observe both[3] well and good, otherwise the positive command is to override the prohibition.[4]

And what is R. Eliezer's reason?[5] — It has been taught: Why does Scripture mention ‘his head’?[6] — Since it says in connection with the nazirite, There shall no razor come upon his head[7] it might be thought that this is true even of a nazirite who becomes a leper. We are therefore told that [the leper must shave] his head.[8]

How does it follow?[9] May it not well be that even if he uses tweezers or a rohitni he has carried out his religious duty? And should you object that the razor should not have been mentioned,[10] [the answer would be that] this tells us that [the leper] may use even a razor; for I might have thought that because a nazirite who uses a razor[11] incurs a penalty, so does a leper[12] who uses a razor incur a penalty, and so we are told that this is not so?[13] — If you assume that a leper who uses tweezers or a rohitni has carried out his religious duty, then because a razor is not mentioned explicitly [in his case, it should be forbidden entirely], in accordance with the dictum of Resh Lakish.[14]

What interpretation do the Rabbis put on [the mention of] ‘his head’?[15] — They require it to override the prohibition against rounding [the corners of the head] ‘ as it has been taught: [The verse] Ye shall not round the corners of your heads[16] might mean that the same is true of a leper, and we are therefore told [that he must shave] ‘his head’.

But this[17] can be deduced from [the mention of] ‘his beard’. For it has been taught: Why does Scripture mentions his beard? Since it says, Neither shall they shave off the corners of their beards,[18] it might be thought that even [a priest who is] a leper may not do so. And we are therefore told [that the leper must shave] ‘his beard’. Now why should it be necessary to mention both ‘his head’ and ‘his beard’?[19] — It is necessary. For had the All-Merciful mentioned ‘his beard’ and not ‘his head’ it might have been thought that the rounding of the whole head is not considered [as infringing the prohibition against] rounding,[20] and so the All-Merciful Law also mentions ‘his head’.[21]

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(1) I.e., even if the word ‘shave’ had been used without the additional use of the expression ‘his beard’ we should not have made the inference that he is allowed to use a razor because of the dictum of Resh Lakish now given.

(2) I.e., a command to do something (e.g., the leper is told to shave his beard) forbidden under certain circumstances.

(3) I.e., carry out the positive command without transgressing the other.

(4) The positive command must be fulfilled at all costs.

(5) I.e., what is his source for the law that a leper must use a razor, since he holds that the prohibition of marring his beard applies to all instruments, there is no proof that a leper is obliged to use a razor.

(6) Of a leper, seeing it has already said he must shave all his hair. Lev. XIV, 9.

(7) Num. VI, 5.

(8) And we see also that it must be with a razor, since it is this that is explicitly forbidden the nazirite.

(9) That he is obliged to use the razor.

(10) In Num. VI, 5, in connection with the nazirite, seeing that all things are forbidden him.

(11) During his naziriteship.

(12) [Who is also a nazirite.]

(13) But there is still no proof that he must use a razor.

(14) V. supra p. 149.

(15) Since they already know that a leper may use a razor.

(16) Which applies to all persons. Lev. XIX, 27.

(17) Viz. the fact that the injunction to the leper to shave overrides any prohibition that might otherwise prevent him from so doing.

(18) Lev. XXI, 5; of the priests.

(19) Seeing that either case could be inferred from the other.

(20) I.e., that shaving the head is permitted even to an ordinary person, only the rounding of the corners without the rest of the head being forbidden because it was a heathen practice. Whether this is in fact the case is discussed infra 57b-58, both sides of the question receiving arguments in its favour.

(21) Enabling us to infer that even the shaving of the whole head is also forbidden an ordinary person.

Talmud - Mas. Nazir 41b

Again, had 'his head' been mentioned and not 'his beard' I would have understood that two things are implied, first that the positive command [to shave] overrides the prohibition, and secondly that the rounding of the whole head is considered [to infringe the prohibition against] rounding, but there would still remain [the question], how do we know that a razor must be used?[1] And so the All-Merciful Law mentions his beard.[2]

And whence does R. Eliezer learn that a positive command overrides a prohibition? — He infers it from the [command to wear] twisted cords. For it has been taught: Thou shalt not wear a mingled stuff, [linen and wool together];[3]

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(1) For there the expression 'rounding' is used, and in fact 'rounding' is forbidden even if no razor is used.

(2) In this case the expression is 'shave' which has been shown (supra 40b) to imply the use of a razor.

(3) Deut. XXII, 11. The next quotation is the beginning of the next verse.

Talmud - Mas. Nazir 42a

but nevertheless, Thou shalt make thee twisted cords of them.[1]

The Master said: 'If any one of them polled without a razor, or left behind two hairs, his act is invalid.'[2] R. Aha the son of R. Ika said: This implies that Torah-law accepts [the principle that] the majority[3] counts as the whole.[4] In what way [does this follow]? — From the fact that the All-Merciful reveals in the cafe of the nazirite that, On the seventh day he shall shave it,[5] [for we infer that] here only [is his duty unfulfilled] until the whole [has been shaved],[6] whilst elsewhere the majority counts as the whole.

R. Jose son of R. Hanina demurred to this: But this [verse] is speaking of a defiled nazirite?[7]

In the West[8] they laughed at this [objection]. Consider, [they said]. That a defiled nazirite is required to use a razor [in shaving his head] is inferred from a ritually pure nazirite.[9] [It stands to reason then that] we can now infer the rule of the ritually pure nazirite from the defiled nazirite, viz. that just as when the latter leaves two hairs standing his act is invalid, so when the former leaves two hairs standing his act is invalid.

Abaye propounded [the following question]: What [would be the Law] if a nazirite shaved and left two hairs standing, and then when his head showed a new growth shaved off [those two hairs], would this hold up [the termination of the naziriteship] or not?

Raba propounded [the following question]: What [would be the law] if a nazirite shaved, leaving two hairs standing,[10] and then shaved one and one fell out?[11]

R. Aha of Difti[12] asked Rabina: Has Raba any doubt in the case where hair is shaved one at a time?[13] — [He replied], We must say then, [the question arises if] one fell out and he shaved the other.[14]

He then replied:[15] Here is no polling, for here is no hair.

But if there is no hair here, then polling has been performed?[16] — The meaning is: Although there is no hair left, the duty to poll has not been validly observed.[17]

MISHNAH. A NAZIRITE MAY SHAMPOO [HIS HAIR] AND PART IT [WITH HIS FINGERS] BUT MAY NOT COMB IT.[18] GEMARA. HE MAY SHAMPOO [HIS HAIR] AND PART IT [WITH HIS FINGERS]. Who is the author of this opinion? — It is R. Simeon who says a breach of the law which is not intended is allowed.[19] BUT HE MAY NOT COMB IT; here we come round to the opinion of the Rabbis.[20] [Are we then to understand that] the first clause is by R. Simeon and the next one by the Rabbis? — Rabbah replied: The whole is by R. Simeon, [for] a man who combs his hair intends to remove loose strands.[21]

MISHNAH. R. ISHMAEL SAID: HE IS NOT TO CLEANSE IT WITH EARTH BECAUSE IT CAUSES THE HAIR TO FALL OUT.

GEMARA. The Academy wished to know whether we read ‘because it causes the hair to fall out,’ or ‘because of [the kinds of earth that] cause the hair to fall out.’ Where would a practical difference arise? In the case where there is a variety of earth that does not cause it to fall out . If you say that we read ‘because it causes it to fall out,’ then wherever we know that it does not cause it to fall out, it could be used. But if you say ‘because of [the kinds of earth that] cause it to fall out’ that he may not use any kind at all! This was left undecided.

MISHNAH. A NAZIRITE WHO HAS DRUNK WINE ALL DAY LONG HAS INCURRED A SINGLE PENALTY ONLY. IF HE WAS TOLD ‘DO NOT DRINK,’ ‘DO NOT DRINK’ AND HE DRANK,[22] HE HAS INCURRED A PENALTY FOR EACH [WARNING].

FOR POLLING ALL DAY LONG HE INCURS ONE PENALTY ONLY. IF HE WAS TOLD, ‘DO NOT POLL,’ ‘DO NOT POLL AND HE DID POLL,[22] HE HAS INCURRED A PENALTY FOR EACH [WARNING]. FOR DEFILING HIMSELF [BY CONTACT] WITH THE DEAD ALL DAY LONG HE INCURS ONE PENALTY ONLY. IF HE WAS TOLD, DO NOT DEFILE YOURSELF, DO NOT DEFILE YOURSELF, AND HE DID DEFILE HIMSELF,[23] HE HAS INCURRED A PENALTY FOR EACH [WARNING].

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(1) From the juxtaposition of the two laws it is inferred that the second is to be carried out even at the cost of transgressing the first. A further discussion of this point will be found infra (58a-b).

(2) Supra 40a.

(3) Or the larger portion.

(4) I.e., is legally equivalent to the whole.

(5) Num. VI, 9. This sentence is a superfluous repetition of the previous one, ‘He shall shave his head on the day of his cleansing’, and is therefore taken as indicating that the whole head must be shaved

(6) Because here we have a special indication that the larger portion is insufficient

(7) Whereas according to the Baraitha, even a clean nazirite who leaves two hairs standing has not shaved effectively.

(8) I.e., the Palestinian Academies. [The reference elsewhere is to R. Jose b. Hanina. Here it may be to R. Eleazar. V. Sanh. 17b.]

(9) The razor mentioned in Num. VI, 5, refers to an undefiled nazirite.

(10) So that the polling is invalid and must be repeated on the remaining two hairs.

(11) So that he had not polled two hairs validly.
(12) [Dibtha below the Tigris, S.E. Babylon, Obermeyer, op. cit. 197.]
(13) There would finally remain two as in the present instance, and the polling of one would, R. Aha assumes, certainly complete the polling.
(14) Thus when he commenced the final polling, there were not two hairs left, but one.
(15) I.e., Raba answered his own problem (v. the parallel text in B.K. 105a).
(16) For he is only required to poll what is actually there.
(17) Since there were not two hairs when he started. He should therefore poll again later (v. Asheri and Maimonides, Yad Neziruth, VIII, 7); Rashi, here, does not require him to poll again.
(18) I. e., may not use a comb, because hair will come out.
(19) Provided that the act he is doing is permitted, he is not made to refrain because he may unintentionally also do something forbidden (v. Shab. 50b). So here, although hairs may detach themselves even if he uses only his fingers, we do not forbid him to use them.
(20) For here too it is not his intention to detach hairs.
(21) And this is forbidden.
(22) After each warning.
(23) After each warning.

Talmud - Mas. Nazir 42b

GEMARA. It was stated: Rabbah, citing R. Huna, said: Scripture [speaking of the nazirite] makes the comprehensive statement, He shall not make himself unclean;[1] when it adds, He shall not enter [by a dead body],[2] [its intention is] to utter a [separate] warning against defilement [by contact] and a [separate] warning against entering [a tent],[3] but not against defilement [by contact] from two scources [at the same time].[4] R. Joseph, however, said: By God! R. Huna said that even for defilement [by contact] from two sources [at the same time there are separate penalties]. For R. Huna has said that a nazirite, standing in a cemetery, who was handed the corpse of his own [relative] or some other corpse, and touched it incurs a penalty.[5] Now why should this be so? Is he not actually being defiled all the time?[6] It follows therefore that R. Huna must have said that even for defilement [by contact] from two sources [he is to receive separate penalties].

Abaye raised an objection from the following. [A Baraitha teaches:] ‘A priest,[7] carrying a corpse on his back, who was handed the corpse of his own [relative] or some other corpse and touched it, might be thought to have incurred a penalty,[8] but the text says, Nor profane [the sanctuary][9] [prescribing a penalty] for one not already profaned [and thus] excluding this man who is already profaned?[10] — [R. Joseph] replied: But our Mishnah should cause you the same perplexity, for we learn [there], FOR DEFILING HIMSELF [BY CONTACT] WITH THE DEAD ALL DAY LONG HE INCURS ONE PENALTY ONLY. IF HE WAS TOLD, ‘DO NOT DEFILE YOURSELF,’ ‘DO NOT DEFILE YOURSELF, AND HE DID DEFILE HIMSELF, HE HAS INCURRED A PENALTY FOR EACH [WARNING]. But why should this be so? Is he not already defiled? We can therefore only conclude that [the Mishnah and the Baraitha] contradict each other.[11]

[Abaye retorted:] There is no difficulty [in reconciling the Mishnah and the Baraitha]. The latter assumes that there is concatenation,[12] the former that there is no concatenation.

Is then defilement through concatenation a Torah enactment? Has not R. Isaac b. Joseph said: R. Jannai said that defilement through concatenation was held to be effective only as it affects terumah and sacrificial meats,[13] but not the nazirite or a celebrant of the passover?[14] Now, if as you assert, it is a Torah [defilement], why should there be this difference?[15] — There concatenation of one man with another is meant;[16] in our case concatenation of the man with the corpse.[17]

‘But not against defilement [by contact] from two sources [at the same time,’[18] said Rabbah] because he is actually defiled already. But in the case of defilement [by contact] and entering [a tent containing a corpse] is he not also already defiled?[19] — R. Johanan replied: In the latter case [he is supposed to enter] a house [whilst undefiled];[20] in the former, [which takes place] in the open [there cannot be two penalties].[21]

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(1) Num. VI, 7.

(2) E.v. 'come near to', Num. V. 6.

(3) Containing a dead body. So that a nazirite, duly warned, who enters a covered place containing a corpse and actually touches the corpse is scourged twice.

(4) I.e., for touching two corpses at the same time he is scourged only once, even if warned against each separately.

(5) I.e., a penalty for touching the corpse.

(6) By being in the cemetery.

(7) Some versions (including Tosaf. and Asheri) read 'a nazirite'.

(8) I.e., a further penalty for the second contact.

(9) Of the High Priest. Lev. XXI, 12; so our text. Tosaf. and others read the verse, 'to profane himself' (Ibid. 4) spoken of an ordinary priest. In either case it is presumed that the same is true of the nazirite.

(10) Whereas according to R. Joseph there should be an extra penalty. Hence the contradiction.

(11) And I, says R. Joseph, agree with the Mishnah which is more important.

(12) I.e., that the person and the two corpses are in contact at the same time, and that is why there is no extra penalty. Where there is contact at different times there is an additional penalty.

(13) I.e., a person defiled through concatenation (in what way is explained below) is forbidden to eat terumah (v. Glos.) or sacrificial meats for seven days, as though there had been direct contact with the corpse.

(14) These observe defilement for one day only.

(15) Hence concatenation is not a Torah enactment, and why should there be the difference between the Mishnah and the Baraitha.

(16) I.e., a man touching a second man in contact with a corpse. Here the defilement for seven days instead of one is rabbinic.

(17) If he then touches a second corpse there is no further defilement and so no further penalty.

(18) The Torah does not prescribe two scourgings in such a case, v. supra.

(19) Why then does Rabbah say that he is to receive two scourgings in this case?

(20) So that he both enters the house of the dead and becomes defiled at the same instant. Hence both prohibitions are transgressed together.

(21) Because he becomes unclean by the first contact and then no further penalty can lie for contact or entering a tent of the dead.

Talmud - Mas. Nazir 43a

But even [on entering] a house, as soon as his hands are inside he becomes unclean,[1] so that when he has gone right in he is already unclean?[2] — As a matter of fact, said R. Eleazar, if he put his hands together and entered there would be [a penalty only] for defilement but none for entering, but if he drew himself up[3] and entered, defilement and entering occur at the same moment.

But it is impossible for his nose not to go in first? — As a matter of fact, said Raba, if he introduces his hand[4] there would be [a penalty] for defilement and not for entering, but if he introduces his body,[5] defilement and entering are simultaneous.

But it is impossible for his toes not to enter first? — R. Papa therefore said: It is supposed that he entered in a box, or a chest, or a turret,[6] and his fellow came and broke away the covering,[7] so that defilement and entering are simultaneous. Mar b. R. Ashi said: It is supposed that he entered whilst the other lay dying,[8] and whilst he was sitting there the spirit departed so that defilement and entering were simultaneous.

Our Rabbis taught: To profane himself[9] signifies that until the time that the other dies [he is permitted to remain with him].[10] Rabbi said that, When they die[11] signifies that he may be in contact with them until they die.

What is the difference between these two [alternative reasons]?[12] — R. Johanan said that they differ only as to the texts selected.[13] Resh Lakish said: They differ as regards the rule for a dying man. The one who takes the text 'To profane himself' considers a dying man [as profanation],[14] whilst the one who takes, 'When they die', says that [there is no prohibition] until he is dead, and so none in the case of one who is dying.

Now, according to the one who derives [the law] from 'to profane himself', is there not the text, 'When they die'?[15] — He requires this for [the following inference] of Rabbi. For it has been taught: Rabbi said that 'When they die' he is forbidden to defile himself, but he may defile himself [by association with them] when they are suffering from leprosy[16] or an issue.[17]

But does not the one who derives [the law] from 'when they die' also require it for this inference? — If this is [its sole purpose], the text should read 'When dead'. Because it says 'When they die' we infer both things.

Now according to the one who derives [the law] from 'When they die', is there not the verse, 'to profane himself'?[18] — 'To profane himself' signifies the following, viz: — that one who is not profaned [incurs a penalty] but not the one who is already profaned.[19]

But does not the one who derives [the law] from 'to profane himself' also require it for this inference? — If this were its sole purpose, the text should read 'to profane'. Because it reads, 'to profane himself' we infer both things.

An objection was raised. [We have learnt:] A man does not spread defilement until his life departs. Not even one whose arteries are severed or who is in the throes of death does so.[20] Now according to the one who bases the rule on 'to profane himself',[21] does it not say here that they do not spread defilement?[22] — Defilement is not spread until the life departs, but there is profanation already.[23]

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(1) Defilement is supposed to pervade the whole of the interior of a house containing a corpse, and so any organ introduced has touched the source of defilement.

(2) And thus even with a house there can be no additional penalty for entering.

(3) I.e., kept his hands at his sides.

(4) Or any other organ. Asheri reads here 'head'.

(5) Keeping his head and arms well back.

(6) Being in a separate domain he would not then become unclean.

(7) Making the interior of the box part of the interior of the tent. [It is assumed that he too helped in the removal of the covering, or otherwise he would incur no penalty (Asheri)].

(8) [As a priest he had no right to enter a house where a person lay dying, v. infra (Asheri)].

(9) Spoken of the priests in connection with the prohibition against defiling themselves with the dead other than near kin, Lev. XXI, 4.

(10) I.e., only the actual profanation is forbidden.

(11) Spoken of the nazirite prohibition against defilement even with near kin. Num. VI, 7.

(12) I.e., what difference in law results.

(13) Lit., 'the implications of the phrases in need of interpretation'. There is no practical difference.

(14) For most people who are dying do die and so actual defilement is very probable. The risk therefore counts as profanation.

(15) What is his interpretation of the latter verse?

(16) V. Lev. XIII, 1ff.

(17) Gonorrhoea, v. Lev. XV, 1ff.
(18) What is his interpretation of it?
(19) Cf. supra 42b.
(20) Oh. 1, 6.
(21) To include a dying man as profanation, as the Rabbis interpret this verse in the opinion of Resh Lakish.
(22) Contradicting Resh Lakish.
(23) A priest is accordingly forbidden to come in contact with the dying.

Talmud - Mas. Nazir 43b

R. Hisda, citing Rab, said: [A priest] if his father was decapitated, must not defile himself for him, For what reason? The text says for his father,[1] meaning when he is whole and not when he is defective.[2] R. Hamnuna said to him: In that case, suppose [the father] were travelling through the valley of ‘Araboth[3] and robbers cut off his head, would you also maintain that [the son] is not to defile himself for him?[4] — He replied: You raise the question of a meth mizwah![5] Seeing that we consider it his duty [to defile himself under such circumstances] to strangers,[5] how much more so is this true of his father!

But is this considered a meth mizwah? Has it not been taught: A meth mizwah is [a corpse] with none to bury him. Were he able to call and others answer him,[6] he is not a meth mizwah;[7] and here this man has a son?[8] — Because they are travelling on the road, it is as though he had none to bury him.

An objection was raised [from the following]: [It has been taught,] For her may he defile himself[9] signifies that he may defile himself for her herself but not for one of her limbs; for he may not defile himself for a limb cut off [even] from his father[10] whilst still alive; but he may search for a bone the size of a barleycorn.[11] Now what means ‘he may search for a bone the size of a barleycorn’? Surely that if there is a small part missing [he may nevertheless defile himself]?[12] — No. The author of that statement is R. Judah. For it has been taught.’ R. Judah said that he may defile himself for her, but not for her limbs; for he is forbidden to defile himself for limbs severed from his father whilst still alive; but he may defile himself for limbs severed from his father after death.

But R. Kahana taught amongst [the Baraithas of] R. Eliezer b. Jacob [the following one]: ‘For her may he defile himself,’ but he must not defile himself for limbs, thus excluding an olive's bulk of [the flesh of] a corpse, or an olive's bulk of nezel[13] or a spoonful of rakab.[13] It might be thought that he is also forbidden to defile himself for the spinal column, or the skull, or the greater part of the bodily frame [of his sister's corpse][14] or the majority [of its bones],[14] but since it is written, and say unto them,[15] it follows that Scripture has permitted you an additional defilement.

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(1) Although the priest is forbidden to defile himself for the dead yet he may defile himself for near relatives such_as his father, Lev. XXI. 2.
(2) If the head is severed from the body, even though it is beside it, the corpse is considered defective.
(3) A valley in Babylonia, notorious for its robber bands. (Jast.).
(4) R. Hamnuna assumes rightly that R. Hisda would not deny this.
(5) A corpse whose burial is a religious duty, v. Glos. Infra 44a.
(6) I.e., if he has relatives to provide for his burial.
(7) And a priest must not defile himself by undertaking his burial.
(8) Who could arrange for other people to bury his father. If, then, he is allowed to do so himself it must be because decapitation does not matter; which contradicts R. Hisda.
(9) Of the spinster sister of a priest, Lev. XXI, 3.
(10) Who is a closer relation.
(11) I.e., if he is engaged in burying his father he may search for any parts missing to restore them to the corpse.

(12) And since no other opinion is mentioned, it is to be presumed that no-one disagrees with the statement; and thus R. Hisda is contradicted.

(13) V. Mishnah infra 49b.

(14) Each of these counts as a whole corpse for the purposes of defilement in a tent.

(15) Lev. XXI. 1. The phrase is superfluous, for the verse begins, Speak unto the priests . . . .

Talmud - Mas. Nazir 44a

It might be thought [further] that he is not to defile himself for the spinal column, or the skull, or the greater part of the bodily frame or the majority of the bones of the other [relations],[1] but I will tell you [why that is not so]. His sister is distinguished [from strangers] by the fact that her body depends on him [for its burial], and he is required to defile himself for the spinal column, or the skull, or the greater part of its bodily frame or the majority [of its bones], and so in all cases where the body depends on him [for burial], he is required to defile himself, for its spinal column, or its skull, or the greater part of its bodily frame, or the majority [of its bones]. [This contradicts Rab, does it not?][2] — The author of this [Baraitha] too is R. Judah, whereas Rab agrees with the following Tanna. For it has been taught: The story is told that the father of R. Isaac [the priest][3] died at Ginzak[4] and he was informed three years later. He went and asked R. Joshua b. Elisha and the four Elders with him,[5] and they replied: For his father[6] when he is whole, but not when he is defective.[7]

MISHNAH. THREE THINGS ARE FORBIDDEN THE NAZIRITE, VIZ: — DEFILEMENT, POLLING AND PRODUCTS OF THE VINE. DEFILEMENT AND POLLING HAVE A STRINGENCY NOT POSSESSED BY PRODUCTS OF THE VINE IN THAT DEFILEMENT AND POLLING RENDER VOID [THE PREVIOUS PERIOD], WHEREAS [PARTAKING OF] PRODUCTS OF THE VINE DOES NOT DO SO. PRODUCTS OF THE VINE HAVE A STRINGENCY NOT POSSESSED BY DEFILEMENT OR POLLING IN THAT PRODUCTS OF THE VINE PERMIT OF NO EXCEPTION FROM THE GENERAL PROHIBITION,[8] WHEREAS DEFILEMENT AND POLLING ARE ALLOWED AS EXCEPTION FROM THE GENERAL PROHIBITION IN THE CASE WHERE POLLING IS A RELIGIOUS DUTY,[9] OR WHERE THERE IS A METH MIZWAH[10] . DEFILEMENT ALSO HAS A STRINGENCY NOT POSSESSED BY POLLING, IN THAT DEFILEMENT RENDERS VOID THE WHOLE OF THE PRECEDING PERIOD,[11] AND ENTAILS THE OFFERING OF A SACRIFICE, WHEREAS POLLING RENDERS VOID ONLY THIRTY DAYS AND DOES NOT ENTAIL A SACRIFICE.

GEMARA. Why should not defilement also permit of no exception from the general prohibition, in virtue of the following a fortiori argument from wine? Seeing that wine which does not render void [the previous period] permits of no exception from the general prohibition, then defilement which does render void [the previous period] should certainly not permit of an exception from the general prohibition? — The text says, Nor defile himself for his father or for his mother,[12] signifying that it is only for his father or for his mother that he is forbidden to defile himself, whereas he is required to defile himself for a meth mizwah.

Then why should not wine permit of an exception from the general prohibition because of the following a fortiori argument from defilement? Seeing that defilement, which renders void [the previous period], permits of an exception from the general prohibition, then wine which does not render void [the previous period] should certainly permit of an exception from the general prohibition? — The verse says, He shall abstain from wine and strong drink,[13] thus forbidding wine that should be drunk as a ritual obligation[14] as well as wine that he might drink from choice.[15]

Then why should not wine render void the whole [of the previous period] because of the following a fortiori argument from defilement? Seeing that defilement which permits of an exception from the general prohibition renders void [the previous period], then wine which permits of no exception should certainly render void [the preceding period]? — The verse says, But the former days shall be void because his consecration was defiled,[16] signifying that defilement renders void, but wine does not do so.

Why should not polling render void the whole [of the previous period][17] because of the following a fortiori argument from defilement? Seeing that defilement, the agent of which is not subjected to the same [penalty] as the patient,[18] renders void the whole [of the previous period], then polling where the agent is subject to the same penalty as the patient,[19] should certainly render void the whole [of the preceding period]? — The verse says, But the former days shall be void because his consecration was defiled[20] signifying that defilement renders void the whole [of the preceding period], but polling does not do so.

Why should not the agent be subject to the same [penalty] as the patient in the case of defilement, because of the following a fortiori argument from polling? Seeing that in the case of polling, where only thirty days are rendered void, the agent is subject to the same [penalty] as the patient, then in the case of defilement where the whole [of the preceding period] is rendered void, the agent should certainly be subject to the same [penalty] as the patient? The verse says, And he defile his consecrated head[21] signifying [that the penalty is only] for him who defiles his [own] consecrated head.

Then polling should not result in the agent being subject to the same [penalty] as the patient, because of the following a fortiori argument from defilement. Seeing that in the case of defilement, where the whole [of the preceding period] is rendered void, the agent is not subject to the same [penalty] as the patient, then in the case of polling, which does not render void the whole [of the preceding period], the agent should certainly not be subject to the same [penalty] as the patient? — The verse says, There shall no razor come upon his head,[22] and can be read as signifying that he shall not make it come himself, and that no other shall make it come either.[23]

Polling should not permit of an exception from the general prohibition because of the following a fortiori argument front wine. Seeing that wine which does not render void [the preceding period] permits of no exception from the general prohibition, then polling which does render void [the preceding period] should certainly permit of no exception? — The All-Merciful mentions both his hair and his beard.[24]

Then polling should not render void any [of the preceding period] because of the following a fortiori argument from wine. Seeing that wine which permits of no exception does not render void, polling which does permit of an exception from the general prohibition should certainly not render void? — We require a sufficient growth of hair and this would be lacking.[25]

Why should not wine render void thirty days because of the following a fortiori argument from polling? Seeing that polling, which permits of an exception from the general prohibition, renders void [thirty days], then wine which permits of no exception from the general prohibition should certainly do so? — Is not the only reason[26] because there must be a sufficient growth of hair? After wine his hair is still intact.[27]

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(1) Mentioned in the verse before the one dealing with his spinster sister.

(2) For according to this Baraitha, too, he is permitted to defile himself for a part of the body, in contradiction to the statement made by R. Hisda in the name of Rab. The Baraithas of R. Eliezer b. Jacob were highly esteemed and that is why this one is quoted, although the reply may seem obvious. It would now be necessary to show some other Baraitha agrees with Rab.

(3) Var. lec. R. Zadok the priest. [V. Tem. XII. Hyman, Toledoth, I, p. 202 gives preference to our text, since R. Zadok was present at his father's death.]

(4) [Ganzaka, N.W. of Persia; v, A.Z. (Sonc. ed.) p. 165, n. 5.]
(5) Whether he might personally arrange his removal to the family sepulchre (Rashi).
(6) Lev. XXI, 2.
(7) After three years he would undoubtedly be defective. Thus this Baraitha agrees with Rab.
(8) I.e. under no circumstances is a nazirite ever permitted to drink wine.
(9) As when a nazirite becomes a leper and then recovers from the disease.
(10) A corpse without relatives to provide for its burial must be buried by the first person who can do so, be he nazirite, priest, or even High Priest; cf. infra 47a seq.
(11) However long it should be.
(12) Lev. XXI, 11; although referring to the High Priest, the same applies to the nazirite.
(13) Num. VI, 3; wine is mentioned specifically to tell us that it is to permit of no exception.
(14) E.g. if the person had sworn to drink wine before becoming a nazirite, he must not do so not with standing.
(15) Cf. supra 3b.
(16) Num. VI. 12.
(17) Instead of only thirty days.
(18) There is no penalty attached to one who defiles a nazirite.
(19) Both are scourged, v. infra.
(20) Num. VI, 12.
(21) Ibid. 9.
(22) Ibid. 5.
(23) The verb is written defectively and may therefore be read as an active mood instead of a passive one. There is now no agent mentioned who ‘causes it to come upon his head’ and so whoever uses the razor on the nazirite is also a transgressor. [This follows Rashi's reading. Asheri seems to have had a smoother text which simply took ‘razor’ as subject of ‘come upon his head’, thus making no distinction as to who passes the razor over the nazirite.]
(24) In Lev. XIV, 9, whence is derived that the leprous nazirite must poll, v. supra 41a.
(25) After he had once polled illegitimately. Hence he must render thirty days void, before terminating the naziriteship.
(26) Why polling renders void thirty days.
(27) And so there is no point in requiring him to render any period void.

Talmud - Mas. Nazir 44b

MISHNAH. HOW WAS [THE RITE OF] THE POLLING AFTER DEFILEMENT [PERFORMED]? HE WOULD BE SPRINKLED ON THE THIRD AND SEVENTH DAYS,[1] POLL ON THE SEVENTH DAY AND BRING HIS SACRIFICES ON THE EIGHTH DAY. IF HE POLLED ON THE EIGHTH DAY,[2] HE WOULD BRING HIS SACRIFICES ON THAT SAME DAY. THIS IS THE OPINION OF R. AKIBA. R. TARFON ASKED HIM: WHAT DIFFERENCE IS THERE BETWEEN THIS [NAZIRITE] AND A LEPER?[3] HE REPLIED: THE PURIFICATION OF THIS MAN DEPENDS ON THE [LAPSE OF SEVEN] DAYS ONLY], WHEREAS THE PURIFICATION OF A LEPER DEPENDS [ALSO] ON HIS POLLING,[4] AND HE CANNOT BRING A SACRIFICE UNLESS THE SUN HAS SET UPON HIM [AFTER HIS RITUAL BATH].[5]

GEMARA. Did [R. Tarfon] accept this answer or not?[6] — Come and hear: Hillel[7] learnt: If [the nazirite] polled on the eighth day, he was to bring his sacrifices on the ninth. Now if you assume that he accepted the answer, should he not bring his sacrifices on the eighth day?[8] — Raba said: This creates no difficulty,[9] for the one case[10] assumes that he bathed on the seventh day, and the other[11] that he did not bathe on the seventh day.[12]

Abaye said: I came across the colleagues of R. Nathan b. Hoshaia, seated [at their studies] and reporting the following [teaching]. [Scripture says,] And come before the Lord unto the door of the tent of meeting and give them unto the priest.[13] When is he to come?[14] If he has bathed and waited until after sunset he may [come], but if he has not bathed and waited until after sunset he may not do so. Thus we see [they said] that [this Tanna] is of the opinion that a tebul yom[15] after gonorrhoea is still like a sufferer from gonorrhoea.[16] I [Abaye] then said to them: If that is so,[17] then in the case of a defiled nazirite where we find the verse, He shall bring too turtle doves . . . to the priest to the door of the tent of meeting[18] [we should also say] that he is to come only if he has bathed and waited until after sunset.[19]

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(1) After defilement, with water mixed with ashes of the red heifer, v. Num. XIX.

(2) Instead of the seventh.

(3) A leper who polled on the eighth day instead of the seventh was required to wait until the ninth day before offering his sacrifices. [V. Sifra on Lev. XIV, 9, where this, R. Akiba's view in the case of the leper is stated. According to some texts, however, R. Akiba is of the opinion that the leper could bring his sacrifices on the same day (v. Malbim, a.l.). On this reading, adopted by Rashi, Maimonides, and others, the Mishnah is to be interpreted thus: SAID R. TARFON TO HIM, IF SO WHAT IS THE DIFFERENCE BETWEEN THE NAZIRITE AND THE LEPER (SINCE BOTH ARE IN THIS RESPECT ALIKE). HE REPLIED, (THEY DIFFER IN THIS:) THE PURIFICATION OF THIS MAN DEPENDS ON THE LAPSE OF SEVEN DAYS (ONLY) — i.e., he becomes clean on the seventh day even if he did not poll — WHEREAS THE PURIFICATION OF A LEPER DEPENDS ALSO ON HIS POLLING (v. n. 6); AND (THERE IS A FURTHER DIFFERENCE IN THAT A NAZIRITE) DOES NOT BRING A SACRIFICE UNLESS THE SUN HAS SET UPON HIM (AFTER HIS RITUAL BATH) — i.e., whenever he immersed whether on the seventh or eighth day, he brings the sacrifice only on the following day, whereas the leper who immersed on the eighth day may bring the sacrifice on the same day, since he has been declared by the Torah clean as a result of the first polling and immersion, v. Lev. XIV, 8.]

(4) He does not take a ritual bath until after the polling (Lev. XIV, 8); the nazirite took it before.

(5) Until evening he is a tebul yom (v. Glos.) and so cannot bring sacrifices.

(6) I.e. , does he now agree with R. Akiba, or does he still contend that the nazirite who polls on the eighth day must wait like the leper until the ninth before bringing his sacrifices?

(7) The Amora of that name; not the Patriarch Hillel.

(8) So that unless R. Tarfon still disagreed with R. Akiba there would be no author for this Baraitha of Hillel.

(9) Even if R. Tarfon agreed with R. Akiba.

(10) That of the Mishnah which permits him to offer his sacrifices on the eighth day.

(11) The Baraitha which compels him to wait until the ninth day.

(12) And could not bring sacrifices before sunset on the day he bathed (the eighth day), and so had to wait until the ninth day.

(13) Lev. XV, 24. Referring to the sacrifices of one who has recovered from an unclean issue. V. 13 requires him to bathe on the seventh day after the cessation of the issue.

(14) I.e. , when is he permitted to enter the Temple precincts again?

(15) V. Glos.

(16) And so could not enter the Temple mount to give his sacrifices to the priest. Further, on the Eve of Passover it would be forbidden to slaughter a Paschal lamb on his behalf and he would have to wait until the second Passover (v. Ker. 10a).

(17) I. e. , if the reason just given is in fact the Tanna's reason for requiring him to wait until after sunset.

(18) Num. VI, 10. In this context, too, the previous verse requires him to bathe first.

(19) And so a nazirite after defilement should also be forbidden to enter the temple mount in just the same way as one who has recovered from gonorrhoea is forbidden to do so.

Talmud - Mas. Nazir 45a

Now where were the Gates of Nicanor[1] situated? At the entrance to [the camp of] the Levites[2] [were they not]? And yet it has been taught: One who is defiled by a corpse is allowed to enter the camp of the Levites; and not merely one defiled by a corpse, but even the corpse itself [may enter there], for it Says, And Moses took the bones of Joseph with him;[3] the meaning of with him is ‘in his own section , i.e. in the camp of the Levites.[4] It must therefore be,[5] said Abaye, that a tebul yom after gonorrhoea is not like a sufferer from gonorrhoea,[6] but in spite of this, because he still lacks atonement, he is not to enter [into the Temple precincts].[7] For seeing that the reference is to the Camp of the Levites,[8] why is it called [in the verse], ‘the Tent of Meeting’? To tell us that just as one who lacks atonement might not enter there,[9] so one who lacks atonement may not enter the Camp of the Levites.[10]

How is it known in that case?[11] — It has been taught: He shall be unclean,[12] includes also a tebul yom; his uncleanness is yet upon him[13] includes also one who lacks atonement.

MISHNAH. HOW WAS [THE RITE OF] POLLING IN RITUAL PURITY[14] PERFORMED? HE WOULD BRING THREE ANIMALS, A SIN-OFFERING, A BURNT-OFFERING, AND A PEACE-OFFERING, SLAUGHTER THE PEACE-OFFERING AND POLL THEREAFTER. THIS IS THE OPINION OF R. JUDAH. R. ELEAZAR SAID: HE WOULD POLL ACTUALLY AFTER THE SIN-OFFERING, FOR IN ALL CASES [THE SACRIFICE OF] THE SIN-OFFERING TAKES PRECEDENCE.[15] BUT IF HE POLLED AFTER [THE SLAUGHTER] OF ANY ONE OF THE THREE HIS OBLIGATION WOULD BE DISCHARGED.[16]

R. SIMEON B. GAMALIEL SAID: IF HE BROUGHT THREE ANIMALS WITHOUT SPECIFYING [WHAT THEY WERE FOR],[17] THE ONE SUITABLE FOR A SIN-OFFERING[18] WAS TO BE SACRIFICED AS A SIN-OFFERING, FOR A BURNT-OFFERING[19] AS A BURNT-OFFERING, AND FOR A PEACE-OFFERING[20] AS A PEACEOFFERING.

GEMARA. Our Rabbis taught: [When it says], And the nazirite shall shave at the door of the tent of meeting,[21] Scripture is speaking of the peace-offering[22] of which it is said, And kill it at the door of the tent of meeting.[23] You say that Scripture is speaking of the peace-offering, but may it not mean literally ‘at the door of the tent of meeting’?[24] I will explain. If that were its meaning, it would show contempt [for the Sanctuary] — R. Josiah said: It is unnecessary [to rely on a mere assertion] —[25] For the Torah says, Neither shalt thou go up by steps upon Mine Altar,[26] and how much more so should it be forbidden to show contempt.[27]

R. Isaac said: This argument is unnecessary.[28] For the verse continues, And shall take the hair of his consecrated head and put it on the fire [which is under the sacrifice of peace-offerings),[29] referring to one who needs only to take it and put it [on the fire], and thus excluding [the case contemplated],[30] where he would need to take it, fetch it,[31] and put it [on the fire].

Another version [of R. Isaac's dictum].[32] R. Isaac said: Scripture is there[33] speaking of the peace-offering. You say it is speaking of the peace-offerings but may it not mean literally ‘at the door of the tent of meeting’? The verse continues, And shall take the hair of his consecrated head [etc.], signifying that he shaved where he broiled [the peace-offering].[34]

Abba Hanan, on behalf of R. Eliezer, said: ‘And the nazirite shall shave at the door of the tent of meeting’ signifies that whenever the door of the tent of meeting is not open,[35] he is forbidden to shave.

R. Simeon [of] Shezuri said: ‘And the nazirite shall shave at the door of the tent of meeting’, but not a female nazirite,

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(1) It was to the Gates of Nicanor, which separated the Women's Court from the rest of the Temple precincts, that the sacrifices were brought. [The Nicanor Gate was situated on the West of the Women's Court, and was an entrance to the Inner Court. For a full discussion of the apparent discrepancies between the Talmudic sources and Josephus on the situation of the Nicanor Gate, v. Buchler, JQR, 1898, 687ff, and Hollis, F. J., The Archaeology of Herod's Temple. pp. 180ff.]

(2) The division of the encampment of the Israelites in the wilderness into three camps of varying degrees of sanctity, viz.: (i) The Camp of Israel. (ii) The Camp of the Levites, (iii) The Camp of the Divine Presence, was transferred to the Temple at Jerusalem, the three divisions being known by the same names (v. Sifre Num. I, 1).

(3) Ex. XIII, 19.

(4) Thus the nazirite even before purification could enter the Camp of the Levites, which makes the above deduction after the fashion of the colleagues of R. Nathan b. Hoshaya absurd. (V. Tosef. Kelim Kamma, I, 7.)

(5) What follows is the text and version of Tosaf. That of Rashi is given below, note 8.

(6) And might have a Paschal lamb slaughtered on his behalf.

(7) I.e. , he is forbidden to enter the Camp of the Levites to give his sacrifices to the priest, not because he is treated as though he were still suffering from the issue, but because he is lacking in atonement, i.e., has not yet offered the necessary sacrifices. And although, in general, a person lacking in atonement was not forbidden to enter the Camp of the Levites, but only the Camp of the Divine Presence, here for the reason to be given immediately entry even into the Camp of the Levites is forbidden until after sunset.

(8) For the sacrifices had only to be taken as far as the Gates of Nicanor in the Camp of the Levites.

(9) The proof is given below.

(10) Whereas the nazirite is not considered lacking in atonement since his defilement arose from external causes (contact with the dead) and not from internal ones (leprosy or issue). Thus far the version of Tosaf. Rashi reads as follows: ‘(The colleagues of R. Nathan replied): As a matter of fact, a tebul yom after gonorrhoea does count as a sufferer from gonorrhoea, whilst even in the case you mention (of the nazirite) he should not enter (the Camp of the Levites, although a corpse itself might do so) because he lacks atonement. For if it is only the Camp of the Levites that is in question (i.e., if in any case the defiled nazirite can enter the Camp of the Levites and has to penetrate no further), why is it referred to in the verse as ‘the Tent of Meeting’ (which is part of the Camp of the Divine Presence)? To tell us that just as one who lacks atonement may not enter (the latter place), so he may not enter the Camp of the Levites’. It will be observed that apart from the obvious difference at the beginning, Tosaf. does not consider a defiled nazirite as coming within the category of ‘lacking atonement’ whilst Rashi does.

(11) I.e., how do we know that one who lacks atonement is forbidden to enter the Camp of the Divine Presence?

(12) Num. XIX, 13; this refers to a person defiled by a corpse who has not bathed; and in the context he is forbidden to enter the Sanctuary. The use of the future tense in the verb is taken as a sign that even a tebul yom must not enter there.

(13) Ibid. The inference is from the redundancy of these words.

(14) At the termination of the naziriteship; v. Num. VI, 14ff.

(15) V. Zeb. 900.

(16) I.e., the opinions of R. Judah and R. Eleazar give the normal procedure, but a variation in the order would not invalidate the polling.

(17) Cf. supra 28b.

(18) A ewe-lamb in its first year.

(19) A he-lamb in its first year.

(20) A two-year old ram.

(21) Num. VI, 18.

(22) I.e., the nazirite is to shave after the slaughter of the peace-offering.

(23) Lev. III, 2.

(24) And so be referring to the place, not the time of polling.

(25) We can infer directly from the Torah that a disdainful proceeding is not to be allowed, and need not rely on our feelings on the subject.

(26) ‘That thy nakedness be not uncovered there’, Ex. XX, 23.

(27) We have given our printed text as interpreted by the early commentators (Rashi, Asheri). In Sifre Num. Sect. 34 (in VI, 28), the words ‘R. Josiah said: It is unnecessary’ are lacking. Recent Talmud editions insert in square brackets an alternative text from the Midrash Rabbah on Numbers, beginning with ‘R. Josiah said: Scripture is speaking etc.’ There is also a version of the Wilna Gaon (v. Ed. Romm, Marginal Annotations), concluding, ‘This is the opinion of R. Josiah’. All these alternatives make what our text gives as two opinions, one opinion.

(28) I.e., It is unnecessary to make use of the argument that to shave at the door of the tent of meeting would show contempt.

(29) Num. VI, 18.

(30) I.e. , that the nazirite should shave at the door of the tent of meeting.

(31) From "here he shaved to the place where the nazirites used to broil the peace-offering. It follows then that the first half of the verse cannot be taken literally as referring to place, but must be referring to time, viz.: after the slaughter of the peaceoffering. [The chamber where the Nazirites broiled their peace-offering was situated on the South East of the women's court, Mid. II, 6.]

(32) This is the version in Sifre (ibid.).

(33) In Num. VI, 18, And the nazirite shall shave at the door etc.

(34) Asheri pertinently points out that there is no Scriptural proof that the broiling was not to take place at the door.

(35) פתח, 'door' means 'opening'. Abba Hanan prefers an interpretation as near as possible to the literal one, if the literal one itself cannot be used.

Talmud - Mas. Nazir 45b

lest the young priests become assailed by temptation through her.[1] [R. Simeon's colleagues] said to him: The case of the faithless wife[2] disproves your point, for there it is written, And [the priest] shall set her before the Lord,[3] and we are not afraid lest the young priests be assailed by temptation, through her.[4] He replied: [The woman nazirite] pencils [her eyebrows] and applies rouge, whilst [the faithless wife] uses neither pencil nor rouge.[5]

MISHNAH. HE THEN TOOK THE HAIR OF HIS CONSECRATED HEAD AND THREW IT UNDER THE CAULDRON.[6] IF HE SHAVED IN THE 'PROVINCE'[7] HE DID NOT THROW IT UNDER THE CAULDRON: THE ABOVE REFERS ONLY TO POLLING IN RITUAL PURITY.[8] WHEREAS IN POLLING [AFTER] RITUAL DEFILEMENT HE DID NOT CAST IT UNDER THE CAULDRON; R. MEIR SAID: ALL [NAZIRITES] THREW IT UNDER THE CAULDRON WITH THE SOLE EXCEPTION OF A DEFILED NAZIRITE [WHO POLLED] IN THE 'PROVINCES.

GEMARA. HE THEN TOOK THE HAIR OF HIS CONSECRATED HEAD. Our Rabbis taught: He then took the broth,[9] put it along with the hair of his consecrated head and threw it under the cauldron containing the peace-offering. But if he threw it under the cauldron containing the sin-offering or the guilt-offerings his obligation would also be discharged.

But is there a guilt-offering in the case of a ritually pure nazirite?[10] — Raba replied: It means that if a ritually defiled nazirite threw it under the pot of the guilt-offerings his obligation would be discharged.

How do we know this?[11] — Raba replied: The verse says, 'Which is under the sacrifice of the peace-offerings', signifying that part of its sacrifice should be underneath it.[12]

'But if he threw it under the cauldron containing the sin-offering [or the guilt-offering] his obligation would also be discharged.' Why?[13] — The verse says, The sacrifice of,' thereby including the sin-offering and the guilt-offering.[14]

But have you not made use of the words 'the sacrifice of' for [the rule concerning] the broth? — If that is its whole significance the verse should have said, 'Of the broth of the peace-offerings.' Why then does it say 'the sacrifice of'? Clearly to include the sin-offering and the guilt-offering.

But perhaps its whole significance is this inference of the sin offering and the guilt-offering?[15] — If so, the verse should have read 'the peace-offering or the sacrifice'. Why does it say, 'the sacrifice of the peace-offering'? We are thus entitled to infer both things.

Our Rabbis taught: All [nazirites] threw [their hair] beneath the cauldron with the exception of a defiled nazirite who polled in the 'province', because his hair had to be buried.[16] This is the opinion of R. Meir. R. Judah said: Ritually clean [nazirites] whether in the one place or the other[17] threw it under; ritually defiled nazirites whether in the one place or the other[17] did not throw it under, whilst the Sages said: None threw it under the cauldron excepting a clean [nazirite who polled] in the sanctuary, because [the polling] had then been properly done in the prescribed manner.[18]

MISHNAH. HE EITHER BOILED OR HALF-BOILED[19] THE PEACE-OFFERING. THE PRIEST THEN TOOK THE BOILED SHOULDER OF THE RAM,[20] AN UNLEAVENED CAKE FROM THE BASKET, AND AN UNLEAVENED WAFER, PLACED THEM ON THE NAZIRlte'S HANDS[21] AND WAVED THEM. AFTER THIS, THE NAZIRITE WAS ALLOWED TO DRINK WINE AND DEFILE HIMSELF FOR THE DEAD.

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(1) The female nazirite was therefore required to poll in private, but not a male nazirite. [R. Simeon, according to Tosaf. understood ‘door’ in the literal sense, and consequently differs from the Mishnah Mid. II, 6, which provides for the polling a special chamber, v. supra p. 168, n. 10).

(2) Or Sotah, v. Num. V, 11ff.

(3) Num. V, 16. The hair was uncovered during the ceremony of administering the ‘bitter waters’. V. 17.

(4) The purpose of the verse cannot be therefore to require a woman nazirite to poll in private. In fact, she need not do so.

(5) And is therefore not attractive. R. Simeon retained his opinion that a woman nazirite was to poll in private, and a male in public.

(6) In which his peace-offering was being prepared.

(7) I.e., outside the Temple precincts, he did not have to bring the hair into the temple. Thus the Babylonian version of the Mishnah. The Jerusalem version reads here also, ‘he threw it under’

(8) At the termination of the naziriteship.

(9) Of the peace-offering.

(10) The sacrifices mentioned (supra 45a) are sin-offering, burnt-offering, peace-offering.

(11) That the broth had also to be cast under the cauldron.

(12) The inference is from the superfluous words ‘the sacrifice of’: showing that the fire was beneath the sacrifice itself, and not merely beneath the pot.

(13) I.e., why not say that the peace-offering only is meant, since it is mentioned explicitly.

(14) Although it should preferably be the peace-offering.

(15) And not the rule concerning the broth.

(16) V. Tem. 34a.

(17) Whether in the Temple or in the ‘province’.

(18) Tosef. Naz. IV, 5.

(19) [שולק . So Rashi. according to Tosaf. the word denotes ‘overdone’.]

(20) [The Mishnah does not mention the ‘breast’ and the ‘shoulder’, Num. VI, 20), as it deals only with such rites as are distinct to the peace-offering of the nazirite; v. Petuchowski, a.l.]

(21) V. Num. VI, 19.

Talmud - Mas. Nazir 46a

R. SIMEON SAID THAT AS SOON AS ONE KIND OF BLOOD[1] HAD BEEN SPRINKLED ON HIS BEHALF THE NAZIRITE COULD DRINK WINE AND DEFILE HIMSELF FOR THE DEAD.[2]

GEMARA. Our Rabbis taught: And after that the nazirite may drink wine[3] means after [the performance of] all that has to be done.[4] This is the opinion of R. Eliezer, but the Sages said that [it means] after any Single act.[5]

What is the Rabbis’ reason? — In this verse it is written, ‘And after that the nazirite may drink wine,’ whilst in the preceding verse occur the words, After he has shaven his consecrated head,[6] and so just as there [‘after’] means after the single act, here too it means after a single act.

But may it not mean after both acts?[7] — If that were so, there would be no need for the similarity of phrase.[8]

Rab said: The rite of ‘waving’ in the case of the nazirite is indispensable.[9]

Whose opinion does this follow? Shall I say that of the Rabbis? Surely, since the Rabbis do not consider polling indispensable, the ‘waving’ is certainly not so![10] It must therefore be that of R. Eliezer. But then it is obvious, for R. Eliezer has said that [the verse[11] means] ‘after all that has to be done’? — It might be thought that since in the matter of atonement it is merely a non-essential feature[12] of the [sacrificial] rite,[13] it is also not indispensable here, and so we are told [by Rab that this is not so].[14]

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(1) I.e., the blood of any one of the three sacrifices.

(2) He did not have to wait until the whole rite was completed.

(3) Num. VI, 20.

(4) I.e., all the rites of the preceding verses.

(5) After even the first of the acts, viz.: the sprinkling of one kind of blood (Tosaf.).

(6) Num. VI, 19.

(7) I.e., after the polling of the preceding verse, as well as the sacrifice.

(8) The Gezerah Shawah, v. Glos. For it would have been more natural for the verse to have said simply ‘and then he may drink etc.’ instead of ‘and after etc.’

(9) Lit., ‘holds up’ the nazirite from wine and defilement,

(10) V. Num. VI, 19-20, for the ‘waving’ follows the polling.

(11) ‘And after that the nazirite may drink wine’ ibid. 21.

(12) Although part of the normal procedure; v. Yoma 5a.

(13) Lit., ‘relics of a precept’.

(14) And that it is here indispensable, in the view of R. Eliezer.

Talmud - Mas. Nazir 46b

But is it in fact indispensable? Has it not been taught: This is the law of the nazirite[1] [signifies] whether he has hands or not?[2] — But then, when we are taught: ‘This is the law of the nazirite’ signifies whether he has hair or not,[3] would this also mean that [polling] can be dispensed with?[4] Are we not taught further: A bald nazirite, say Beth Shammai, need not pass a razor over his head, whereas Beth Hillel say that he must pass a razor over his head;[5] and Rabina has explained that Beth Shammai's ‘need not’ signifies that he has no remedy,[6] whilst in Beth Hillel's view there is a remedy?[7]

The above interpretation [by Rabina of the Baraitha] agrees with that of R. Pedath. For R. Pedath has said that Beth Shammai [in this Baraitha] and R. Eliezer hold the same opinion. The [dictum of] R. Eliezer referred to [is the following]. It has been taught: If [the leper] has no [right] thumb or great toe[8] he can never become clean. This is the opinion of R. Eliezer. R. Simeon said that [the blood] should be put on their place and this would be valid, whilst the Sages said that it should be put on his left [thumb and great toe] and this would be valid.[9]

Another version.[10] Raba[11] said: The rite of ‘waving’ in the case of the nazirite is indispensable.

Whose opinion does this follow? Shall I say that of R. Eliezer? It would be obvious. Since R. Eliezer said that [the nazirite cannot drink wine until] after [the completion of] all that has to be done! Therefore it must be that of the Rabbis. But seeing that the Rabbis say that polling [itself] is not indispensable, certainly the waving' [which follows polling] can be dispensed with?

But can it be dispensed with? Has it not been taught: 'This is the law of the nazirite' signifies whether he has hands or no?[12] — But then when we are taught: 'This is the law of the nazirite' signifies whether he has hair or no, would this also mean that [polling] is indispensable?[13] Have we not been taught further: A bald nazirite, say Beth Shammai, need not pass a razor over his head whilst Beth Hillel say that he must pass a razor over his head?[14] — R. Abina replied: 'Must' according to Beth Hillel signifies that he has no remedy,[15] whereas according to Beth Shammai he has a remedy.

This interpretation [of the Baraitha by R. Abina] differs from that of R. Pedath.[16]

MISHNAH. SHOULD HE POLL AFTER ONE OF THE SACRIFICES AND THIS BE FOUND INVALID,[17] HIS POLLING IS INVALID[18] AND HIS SACRIFICES[19] DO NOT COUNT: [THUS][20] SHOULD HE POLL AFTER THE SIN-OFFERING, WHICH WAS NOT OFFERED AS SUCH,[21] AND THEN OFFER THE OTHER SACRIFICES UNDER THEIR CORRECT DESIGNATIONS, HIS POLLING IS INVALID AND [NONE OF] HIS SACRIFICES COUNTS FOR HIM. [SIMILARLY], SHOULD HE POLL AFTER THE BURNT-OFFERING OR THE PEACE-OFFERING, WHICH HAVE NOT BEEN OFFERED AS SUCH, AND THEN OFFER THE OTHER SACRIFICES UNDER THEIR CORRECT DESIGNATION, HIS POLLING IS INVALID AND [NONE OF] HIS SACRIFICES COUNTS FOR HIM. R. SIMEON SAID: THAT PARTICULAR SACRIFICE DOES NOT COUNT,[22] BUT HIS OTHER SACRIFICES DO COUNT.

SHOULD HE POLL AFTER ALL THREE SACRIFICES AND ONE OF THEM BE FOUND VALID, HIS POLLING IS VALID AND HE HAS [ONLY] TO BRING THE OTHER SACRIFICES.

GEMARA. R. Adda b. Ahaba said: This [Mishnah] tells us that R. Simeon is of the opinion that a nazirite who polls after offering a voluntary peace-offering has fulfilled his religious obligation.[23] Why is this so? Because the verse Says, And put it on the fire which is under the sacrifice of peace-offerings,[24] and not 'his peaceofferings'.[25]

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(1) Num. VI, 21.

(2) Tosef. Naz. I, 6. The meaning is here assumed to be, 'if he has no hands, the waving-rite can be omitted', so that even if he has hands it does not prevent him from drinking wine before it has taken place.

(3) Tosef. Naz. I, 6.

(4) By the same argument as before, assuming that if he has no hair the ceremony of shaving need not be performed.

(5) Tosef. Naz. I, 7 and Yoma 61b with the ascriptions reversed. Nazir contains a number of such passages both tannaitic and of later date (e.g. supra 38b. Abaye and Raba reversed in Pes. 41b). Cf. Tosaf. Men. 58b, s.v. ואיכא .

(6) Since he can never shave, he will never be able to drink wine.

(7) He can perform the motions of the rite — pass a razor over his head — although the actual shaving is impossible. And so above the true interpretation is that he must do what is possible consistent with his lack of hands, e.g.. use his arms. But the 'waving' can by no means be dispensed with,

(8) One of the rites to be performed during the purification of the leper was the sprinkling of blood of the sacrifice on his right thumb and great toe; Lev. XIV, 14.

(9) Neg. XIV, 9.

(10) Of the dictum attributed above to Rab, and of the discussion round it.

(11) Our printed text has Rab. But all the commentators appear to have had Raba, not Rab.

(12) The ceremony must be performed, and thus is indispensable. Here the interpretation is the reverse of what it was in the earlier version.

(13) I.e., whether he has hair or not, shaving must be done.

(14) So that the act of polling is not indispensable according to Beth Hillel, and consequently the waving should also be considered not indispensable.
(15) For he has no hair to shave, and therefore can never terminate his naziriteship. Similarly the wave-offering is indispensable.
(16) For according to R. Abina, Beth Shammai allow him a remedy, whereas R. Pedath (v. supra) says that they do not allow him a remedy.
(17) As explained later in the Mishnah (Rashi); or by the blood being upset before the sprinkling, or the sacrifice becoming defiled (Tosaf.).
(18) And he must wait thirty days according to the Rabbis, or seven according to R. Eliezer before bringing fresh sacrifices; v. Mishnah supra 39a.
(19) Other sacrifices offered after the polling.
(20) The word 'thus' is added by Rashi, who considers what follows explanatory of the opening phrase of the Mishnah. Tosaf. considers it a new section, explaining the first clause differently: (v. note 5).
(21) But was sacrificed as a peace-offering instead.
(22) Where the burnt-offering or peace-offering was sacrificed under an incorrect designation (Rashi); they count as voluntary peace-offerings (v. Zeb. 2a), but for the purpose of liberating the nazirite must be replaced by other animals. [A sin-offering, however, sacrificed under an incorrect designation is entirely disqualified. v. Zeb. ibid.]
(23) Since R. Simeon's dictum refers to a nazirite who polled after a voluntary-offering (v. previous note).
(24) Num. VI, 18.
(25) Hence any peace-offering is valid.

Talmud - Mas. Nazir 47a

MISHNAH. IF [A NAZIRITE] ON WHOSE BEHALF ONE KIND OF BLOOD[1] HAS BEEN SPRINKLED BECOMES UNCLEAN, R. ELIEZER SAID EVERYTHING IS RENDERED VOID,[2] WHILST THE SAGES SAID: HE IS TO BRING HIS REMAINING SACRIFICES AFTER PURIFICATION. THEY SAID TO [R. ELIEZER]: IT IS RELATED OF MIRIAM OF TARMOD[3] THAT ONE KIND OF BLOOD WAS SPRINKLED ON HER BEHALF WHEN SHE WAS TOLD THAT HER DAUGHTER WAS DANGEROUSLY ILL. SHE WENT AND FOUND HER DEAD,[4] AND THE SAGES TOLD HER TO OFFER HER REMAINING SACRIFICES AFTER PURIFICATION.

GEMARA. The Mishnah says: R. ELIEZER SAID EVERYTHING IS RENDERED VOID. But R. Eliezer has said that whatever occurs after the fulfilment [of the nazirite period] renders void seven days?[5] — Rab replied: By 'IS RENDERED VOID' here, R. Eliezer means 'renders his sacrifices void'.[6] This is also clear from the sequel. viz: — WHILST THE SAGES SAID: HE IS TO BRING HIS REMAINING SACRIFICES AFTER PURIFICATION.[7] IT IS RELATED FURTHER, OF MIRIAM OF TARMOD, THAT ONE KIND OF BLOOD WAS SPRINKLED ON HER BEHALF WHEN SHE WAS TOLD THAT HER DAUGHTER WAS DANGEROUSLY ILL. SHE WENT AND FOUND HER DEAD, AND THE SAGES TOLD HER TO OFFER THE REMAINING SACRIFICES AFTER PURIFICATION. This proves it.[8]

CHAPTER VII

MISHNAH. A HIGH PRIEST AND A NAZIRITE MAY NOT DEFILE THEMSELVES [BY CONTACT] WITH THEIR [DEAD] RELATIVES, BUT THEY MAY DEFlle THEMSELVES WITH A METH MIZWAH.[9]

IF THEY WERE WALKING BY THE WAY AND FOUND A METH MIZWAH, R. ELIEZER SAYS THAT THE HIGH PRIEST SHOULD DEFILE HIMSELF BUT NOT THE NAZIRITE, BUT THE SAGES SAY: THE NAZIRITE SHOULD DEFILE HIMSELF BUT NOT THE COMMON PRIEST.[10] R. ELIEZER SAID TO THEM: RATHER SHOULD THE PRIEST, WHO DOES NOT

OFFER A SACRIFICE ON DEFILEMENT, DEFILE HIMSELF, THAN THE NAZIRITE WHO MUST OFFER A SACRIFICE ON DEFILEMENT.[11] THEY REPLIED: RATHER SHOULD THE NAZIRITE WHOSE CONSECRATION IS NOT PERMANENT,[12] DEFILE HIMSELF, THAN THE PRIEST WHOSE CONSECRATION IS PERMANENT.[13]

GEMARA. It is clear that as between a High Priest and a nazirite, the one [authority][14] is of the opinion that the High Priest is of superior sanctity,[15] and the other[16] that the nazirite is of superior sanctity.[17]

As between [a High Priest] anointed with the anointing oil,[18] [

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(1) I.e., the blood of one of the three sacrifices.

(2) Explained in the Gemara.

(3) A nazirite, Tarmod or Tadmor Palmyra. (V. I Kings, IX, 18).

(4) Thus becoming accidentally unclean.

(5) Supra 16a-b. If then ‘EVERYTHING’ means the nazirite period, R. Eliezer is contradicting himself.

(6) I.e., the sacrifice the blood of which had been sprinkled is invalid and must be replaced, in accordance with R. Eliezer's view that the whole termination ceremony of the nazirite hangs together; v. supra 46a.

(7) The words in cur. edd. ‘This proves it’ are to be deleted.

(8) That the point at issue was only the validity of the first sacrifices.

(9) I.e., a corpse without relatives at hand to bury it; v. Glos.

(10) Some versions read ‘High Priest’. The argument is not affected.

(11) V. Num. VI, 9ff.

(12) It lapses at the end of the period of his naziriteship, or he can obtain release from his vow by application to a sage (Tosaf.).

(13) It is a result of his birth.

(14) I.e., the Sages.

(15) I.e., if both come upon a corpse which has no relatives to bury it, the nazirite must defile himself in order to bury it.

(16) R. Eliezer.

(17) And the High Priest must bury the corpse.

(18) V. Ex. XXX, 30. The High Priest ceased to be consecrated with this oil in the days of Josiah (c. 620 B.C.E.); v. Hor. 120 and Yoma 52b. After this, consecration took place by investing the priest with the garments of a High Priest.

and [one consecrated by wearing] the additional garments,[1] the former is of superior sanctity,[2] for the former must offer the bullock brought for breach of any of ‘all the commandments’,[3] but the latter cannot offer it.[4]

As between an anointed [High Priest] who has been superseded[5] and one consecrated by [wearing] the additional garments,[6] the latter is of superior sanctity,[7] for he performs the Temple service, whilst the former is not permitted to perform the Temple service.[8]

As between one superseded on account of a [nocturnal] mishap,[9] and one superseded on account of a deformity,[10] the former is of superior sanctity,[11] for he will be fit to perform the Temple service on the morrow, whilst the one superseded on account of his deformity is not fit to perform the Temple service.[12]

The question was propounded: As between [the High Priest] anointed for a war,[13] and the deputy [High Priest],[14] which is of superior sanctity? Does the [High Priest] anointed for war take precedence, because he is qualified to go to war, or does the deputy take precedence, because he is qualified to perform the Temple service?[15] — Come and hear: For it has been taught: The only difference between a [High Priest] anointed for war and a deputy is that if they were both walking by the way and encountered a meth mizwah, the [High Priest] anointed for war is to defile himself, but not the deputy. But has it not been taught: A [High Priest] anointed for war takes precedence of a deputy? — Mar Zutra replied: As far as saving his life is concerned,[16] the [High Priest] anointed for war has a superior claim for many [people] depend upon him,[17] but as regards defilement, the deputy is of superior sanctity, as has been taught: R. Hanina b. Antigonus said that the reason the office of deputy to the High Priest was created,[18] was that should any disqualification happen to him [the High Priest], he can enter and minister in his stead.

[Now Eliezer and the Sages] differ only as regards a High Priest and a nazirite walking together, but each one by himself would be required to defile himself.[19] How is it known that this is so? — Our Rabbis have taught: To what does the passage. Neither shall he go in to any dead body[20] refer? It can hardly be to strangers, since this could be inferred a fortiori [by the following argument]. Seeing that a common priest, who is allowed to contract defilement in the case of kinsmen, is forbidden to do so in the case of strangers,[21] the High Priest who is not permitted to contract defilement in the case of kinsmen should certainly not be permitted to do so in the case of strangers. It follows that the passage refers to kinsmen, [and when therefore the text says.] Nor for his father[22] is he permitted to defile himself, [we infer that] he is permitted to defile himself in the case of a corpse [the burial of] which is a religious duty.

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(1) The High Priest wore eight garments and the common priest four. V. Ex. XXVIII.

(2) And if both encounter a corpse, the latter must bury it.

(3) V. Lev. IV, 2ff.

(4) V. Hor. 11b.

(5) If the High Priest could not officiate on the Day of Atonement, another Priest was appointed to his office for that day only. As soon as the former was able to perform his duties, the latter was superseded.

(6) And who is the regular High Priest.

(7) And the former must defile himself if the latter is the only other person present and they encounter a corpse.

(8) Having officiated as High Priest, he was not allowed to act as a common priest, nor could he officiate as High Priest whilst the other lived, as this would cause jealousy. v. Hor. 12b.

(9) Lev. XV, 16.

(10) Lev. XXI, 27.

(11) And the latter must defile himself in the event of both meeting with a corpse.

(12) Until the deformity disappears.
(13) V. Deut. XX.
(14) Segan, who deputised for the High Priest if he was unable to perform the Temple service on the Day of Atonement. On Segan, v. Sanh. (Sone. ed.) p. 97, n. 1.
(15) But once a priest had been anointed for war, he could no longer take part in the Temple service.
(16) Should both be in danger.
(17) For he is to go to war on their behalf.
(18) This saying occurs also in Yoma 39a, where the reading is: ‘R. Hanina, the priestly deputy, said that the reason the deputy stands at his (the High Priest's) right is that . . .’ on the whole passage v. Hor. (Sonc. ed.) pp. 97ff.
(19) If they came upon a corpse whose burial is a religious duty.
(20) Lev. XXI, 21.
(21) V. Lev. XXI. 2 and 3.
(22) Since this part of the verse is superfluous. Lev. XXI, 22.

Talmud - Mas. Nazir 48a

[The words,] Nor for his mother form the basis of the Gezerah shawah used by Rabbi. For it has been taught: Rabbi said: In the case of a nazirite, when they die,[1] he is not allowed to defile himself on their account, but he may defile himself [if they are unclean] through [leprous] plague or unclean issue. But this covers the nazirite only. How are we to infer the same for a High Priest? As follows: There is no need for the expression, his mother[2] in the case of the High Priest, and Scripture need not have mentioned this, since the same may be derived from the following a fortiori argument. Seeing that though a common priest may defile himself on account of his brother by the same father,[3] yet a High Priest may not defile himself on account of his father,[4] then if a common priest may not defile himself on account of his brother by the same mother,[5] surely [it follows that] a High Priest may not defile himself on account of his mother. Since this can be inferred by a process of reasoning, why does Scripture mention ‘his mother’ in connection with the High Priest? It is available for purpose of comparison and to set up a Gezerah shawah [from like expressions]. The phrase ‘his mother’ occurs in connection with the nazirite and the phrase ‘his mother’ occurs in connection with the High Priest, and so just as in the case of the nazirite it is to his mother [etc.], ‘when they die’ that he is forbidden to defile himself, but not when they are unclean through leprosy or unclean tissue, so in the case of the High Priest, it is to his mother [etc.], when they die that he is forbidden to defile himself, but not when they are unclean through leprosy or unclean issue.

We have thus found the sanction for a High Priest.[6] How is the same known of a nazirite? It has been taught: From the passage, All the days that he separateth himself unto the Lord, he shall not come near to a [dead][7] body [nefesh],[8] it might be concluded that even the body [nefesh] of an animal is intended, the word [nefesh] being used as in the verse, And he that smiteth [the nefesh of] a beast.[9] Therefore Scripture says, ‘he shall not come near to a dead body,’ indicating that a human body [nefesh] is being referred to. R. Ishmael says: It is unnecessary [to argue in this manner]. Since it says, ‘he shall not come’, Scripture is referring to bodies which cause defilement merely on coming [under the same roof].[10] [Futher],for his father, or for his mother,[11] he may not defile himself, but he may defile himself for a meth mizwah. But even if this [expression] did not occur, I could infer it as follows: Seeing that a High Priest whose consecration is permanent may defile himself for a meth mizwah, then surely a nazirite whose consecration is not permanent[12] may defile himself?[13] But this inference is not valid. For if it is true in the case of a High Priest,it may be because he is not required to offer a sacrifice as a consequence of his defilement, whereas a nazirite must offer a sacrifice as a consequence of his defilement, [and it might be objected that] since he must offer a sacrifice in consequence of his defilement,[14] he may not defile himself for a meth mizwah. And so Scripture says, He shall not make himself unclean for his father, or for his mother, [implying], ‘but he may make himself unclean for a meth mizwah’. But perhaps [the correct inference is that] he may not defile himself for his father or for his mother, but he may defile himself for other corpses?[15] This follows by an argument a fortiori. Seeing that a common priest who may defile himself for his kinsmen is forbidden to defile himself for other dead,[16] then a nazirite who may not defile himself for kinsmen is surely forbidden to defile himself for other dead.

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(1) Num. VI, 7. Referring to a nazirite's relatives.

(2) Lev. XXI, 11. A High Priest may not defile himself for his mother's corpse.

(3) But not the same mother.

(4) Though a father is nearer kin than a brother.

(5) But not the same father.

(6) I.e., that a High Priest must defile himself for a corpse the burial of which is a religious duty.

(7) Some authorities omit the word ‘dead’ from the Talmud text, since the assumed inference would only follow if it were lacking in the Bible.

(8) Num. VI, 6.

(9) Lev. XXIV, 28.

(10) This applies to human corpses. Animal corpses defile only if touched or carried.

(11) Num. VI, 7.

(12) But only for as long as he has undertaken to he a nazirite, or until he seeks release at the hands of a Sage.

(13) And the phrase, ‘For his father etc.’ is unnecessary to teach that he may defile himself for a corpse whose burial is a religious duty.

(14) V. Num. VI, 9ff.

(15) I.e., nonkinsmen whose death he would not mourn so much.

(16) V. Lev. XXI, 2.

Talmud - Mas. Nazir 48b

And so why does Scripture say, ‘for’ his father, or ‘for his mother’? For his father or for his mother he is forbidden to defile himself, but he may defile himself for a meth mizwah. But even if this[1] were not written,I could infer it as follows: A general prohibition[2] is stated for the High Priest, and a general prohibition[3] is stated for the nazirite, and so just as, though there is a general prohibition for the High Priest, he is forbidden to defile himself for his father, but he may defile himself for a meth mizwah, so when there is a general prohibition for the nazirite [it signifies that] he may not defile himself for his father but he may defile himself for a meth mizwah.[4] But it is possible to argue in another direction. A general prohibition is stated for the common priest,[5] and a general prohibition is stated for the nazirite, and so just as, though there is a general prohibition stated for the common priest, he may defile himself for his father, so too though there is a general prohibition stated for the nazirite he may defile himself for his father. Scripture therefore says, ‘He shall not make himself unclean for his father, or for his mother,’ but he may make himself unclean for a meth mizwah.

But surely this is needed to tell us [the plain fact] that he may not defile himself for his father?[6] — In point of fact, ‘for his father’ tells us that he may not defile himself for his father;[7] ‘for his brother’[8] he may not defile himself but he may defile himself for a corpse [the burial of] which is a religious duty; ‘or for his mother’[8] is used to form the basis of a Gezerah shawah after the manner of Rabbi;[9] whilst ‘or for his sister’[8] is required for the following [teaching]. For it has been taught: For what purpose is ‘for his sister’ mentioned?[10] If a [nazirite] was on his way to slaughter his Paschal lamb, or to circumcise his son and he heard that a near kinsmen had died, it might be thought that he ought to defile himself. It therefore says, ‘He shall not make himself unclean’. But it might [then] be thought he should not defile himself for a meth mizwah. The text therefore adds, ‘for his sister’, [implying that] for his sister he is forbidden to defile himself, but he may defile himself for a meth mizwah.

R.Akiba said:[11] [‘Nefesh’] ‘body’ refers to strangers; ‘dead’ to kinsmen, ‘For’ his father or for his mother’ [teaches that] he is forbidden to defile himself for these, but he may defile himself for a meth mizwah. ‘For his brother’ [tells us] that if he he both High Priest and a nazirite, it is for his brother that he is forbidden to defile himself, but he may defile himself for a corpse [the burial of] which is a religious duty. ‘For his sister’ [is required] as has been taught: ‘If a man was on his way to slaughter his Paschal lamb or circumcise his son etc.’

Whence does R. Akiba derive the lesson learnt by Rabbi from the Gezerah shawah? — He will reply: Since it has been said that if he be both High Priest and a nazirite it is for his brother that he is forbidden to defile himself but he may defile himself for a meth mizwah,[12] what difference does it make whether he is simply High Priest or High Priest and a nazirite.[13]

And whence does R. Ishmael derive the rule about a High Priest who is a nazirite?[14] — Since the All-Merciful allows [the breach of] a single prohibition in connection with a meth mizwah, what does it matter whether there is only one prohibition or two?

[In that case] for what purpose is for his sister required?[15] — You might assume that in connection with a meth mizwah the All-Merciful permitted [the defilement of] a nazirite and a priest because this is an offence which is merely prohibited but where the neglect of circumcision and the Paschal lamb entailing kareth[16] is involved, [the nazirite or priest] should not defile himself for a meth mizwah[17] and so we are told [that he should].

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(1) The phrase ‘For his father or for his mother’.

(2) ‘Neither shall he go in to any dead body’; Lev. XXI, 11.

(3) ‘He shall not come near to a dead body’. Num. VI, 6.

(4) And ‘For his father etc.’ is superfluous.

(5) ‘There shall none defile himself for the dead amongst the people’, Lev. XXI. 1.

(6) And it is not meant merely to provide the ground for the inference, that a nazirite may defile himself for a corpse whose burial is a religious duty.

(7) And since he may not defile himself for his father, he may not for his brother, since the father is nearer kin.

(8) Num. VI, 7.

(9) Supra 48a.

(10) For since he may not defile himself for his father, he may not for his sister.

(11) R. Akiba is interpreting Num. VI, 6 and 7, in a different manner to R. Ishmael.

(12) So that the inference, when they die, but not when they have plague also refers to the kinsmen of a nazirite who is High Priest.

(13) In either case be is not forbidden to touch them if they have leprosy or unclean issue.

(14) That he may defile himself to bury a neglected corpse.

(15) If a nazirite must defile himself to bury a neglected corpse, he must also defile himself for this purpose even when on his way to slaughter his paschal lamb.

(16) V. Glos.

(17) When about to slaughter his paschal lamb.

Talmud - Mas. Nazir 49a

On the view of R. Akiba, seeing that whether he be simply a High Priest or whether he be a High Priest who is also a nazirite, we can infer from ‘for his brother’ [that he may defile himself for a neglected corpse], what is the purpose of ‘for his father and for his mother’? — They are both necessary. For were only his father mentioned, it might be thought that the reason why he may not defile himself for him is that there is merely a presumption [of paternity],[1] whereas for his mother who we know bore him, he should defile himself. Again, if the All-Merciful had mentioned his mother, it might be thought that he may not defile himself for his mother because her children[‘s descent] is not reckoned through her,[2] whereas for his father, since it has been affirmed, ‘by their families, by their fathers’ houses’,[3] it might be said that he should defile himself. We are therefore told [that he may defile himself for neither].

[On the view of R. Akiba] what is the purpose of ‘Neither shall he go in to any dead body’?[4] —

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(1) His wife may have committed adultery.

(2) But through the male line.

(3) Num. I, 2. From this verse the inference is drawn that descent is counted in the male line; v. B.B. 109b.

(4) Lev. XXI, 12. Said of the High Priest.

Talmud - Mas. Nazir 49b

‘To any’ excludes strangers;[1] ‘dead’ excludes kinsmen, ‘body’ [nafshoth] excludes a quarter [of a log] of blood coming from two corpses, [and informs us] that it renders unclean by being under a covering [with it], as it is written, ‘neither shall he go in to any dead body [nafshoth]’.[2]

MISHNAH. THE NAZIRITE MUST POLL FOR [DEFILEMENT CONTRACTED FROM] THE FOLLOWING SOURCES OF DEFILEMENT:FOR A CORPSE, OR AN OLIVE'S BULK OF [THE FLESH OF] A CORPSE, OR AN OLIVE'S BULK OF NEZEL,[3] OR A LADLEFUL OF CORPSE-MOULD,[4] OR THE SPINAL COLUMN, OR THE SKULL, OR ANY LIMB [SEVERED] FROM A CORPSE OR ANY LIMB [SEVERED] FROM A LIVING BODY THAT IS STILL PROPERLY COVERED WITH FLESH,[5] OR A HALF-KAB[6] OF BONES, OR A HALF-LOG[6] OF BLOOD, WHETHER [THE DEFILEMENT IS CON TRACTED] FROM CONTACT WITH THEM, FROM CARRYING THEM, OR FROM OVERSHADOWING[7] THEM; FOR [DEFILEMENT CONTRACTED FROM] A BARLEY-GRAIN'S BULK OF BONE, WHETHER BY CONTACT OR CARRYING. ON ACCOUNT OF THESE, A NAZIRITE MUST POLL AND BE SPRINKLED ON THE THIRD AND SEVENTH DAYS; SUCH [DEFILEMENT] MAKES VOID THE PREVIOUS PERIOD, WHILST HE DOES NOT BEGIN TO COUNT ANEW [HIS NAZIRITESHIP] UNTIL HE HAS BECOME CLEAN AND BROUGHT HIS SACRIFICES.

GEMARA. Our Rabbis taught: After the demise of R. Meir, R. Judah said to his disciples, ‘Do not allow the disciples of R. Meir to enter here, for they are disputatious and do not come to learn Torah, but come to overwhelm me with citations from tradition.’ Symmachus forced his way through and entered. He said to them, ‘Thus did R. Meir teach me: The nazirite must poll for [defilement contracted from] the following sources of defilement: for a corpses or for an olive's bulk of [the flesh of] a corpse.’ R. Judah was wroth and said to them, ‘Did I not tell you not to allow the pupils of R. Meir to enter here, because they are disputatious? If he must poll for an olive's bulk of [the flesh of] a corpse, then certainly he must poll for the corpse itself![8]

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(1) I.e., that he may not defile himself by touching their corpses.

(2) The Hebrew has the plural of nefesh, indicating two corpses. The nefesh is identified with the blood (v. Deut. XII, 23) hence R. Akiba's inference; v. Sanh. (Sonc. ed.) pp. 22 and 14.

(3) Coagulated corpse-dregs; v. infra 50a.

(4) The earth of a decomposed body.

(5) Sufficient flesh for the limb to have maintained itself when attached to the body.

(6) V. Glos. for these measures.

(7) This type of defilement is caused by being, either under the same roof as, or perpendicularly above or below, the source of defilement; cf. Num. XIX, 14ff.

(8) And this does not require explicit mention.

Talmud - Mas. Nazir 50a

R. Jose’ commented: People will say, ‘Meir is dead, Judah is angry, Jose is silent, what is to become of the Torah?’ And so R. Jose explained: It was only necessary [to mention the corpse itself explicitly] for the case of a corpse that has not an olive's bulk of flesh upon it. — But it can still be objected: If [the nazirite] must poll for a [single] limb, then surely he must poll for the whole [skeleton]! — It must therefore be as R. Johanan explained [elsewhere],[1] that it was only necessary [to mention the corpse itself] for the case of an abortion in which the limbs were not bound together by the sinews, and here too it refers to an abortion in which the limbs are not bound together by the sinews.[2]

Raba said: It is only necessary [to mention the corpse itself] for the case where there is the greater part[3] of the frame [of a corpse][4] or the majority [of its bones],[4] which do not amount altogether to a quarter [kab] of bones.[5]

FOR AN OLIVE'S BULK OF [THE FLESH OF] A CORPSE, OR AN OLIVE'S BULK OF NEZEL: And what is NEZEL? The flesh of a corpse that has coagulated, and liquid secretion [from a corpse] that has been heated [and has congealed].[6]

What are the circumstances? If it be not known to belong to [the corpse], what does it matter if it has coagulated?[7] Whilst if we know that it pertains to [the corpse], then even though it has not coagulated [it should defile]! — R. Jeremiah replied: [Secretion] of uncertain origin is referred to. If it coagulates,it is [cadaverous] secretion,[8] otherwise it may be phlegm or mucus.[9]

Abaye inquired of Rabbah: Is there [defilement through] corpsedregs in the case of [defilement caused by] animals[‘ corpses], or not?[10] Was the tradition only that corpse-dregs coming from man [defile], but not corpse-dregs coming from animals, or is there no difference?[11] According to the opinion that the uncleanness is of the heavier type[12] only until [the animal is unfit to be eaten by]a stranger,[13] and is then of the lighter type[14] until [it is unfit to be eaten by] a dog,[15] there is no difficulty,[16] but according to the opinion that the uncleanness remains of the heavier type until [it is unfit to be eaten by] a dog, what answer can be given?[17] — Come and hear: If he melted [unclean fat] with fire, it remains unclean, but if in the sun,[18] it becomes clean. Now if you assume [that the animal remains unclean] until [it is unfit to be eaten by] a dog, then even if [the fat has been melted] in the sun, it should also [remain unclean]![19] — It only melts after it has decomposed in the sun, and since it has decomposed it is [nothing but] dust.[20]

We have learnt elsewhere: Any jet of liquid [poured from a clean to an unclean vessel] is clean[21] save only [a jet of] thick honey[22] and heavy batter.[23]

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(1) The reference here is thought to he to Oh. II,1, dealing with defilement by overshadowing, where the same phrase occurs. But the only occurrence of this statement of R. Johanan is found in Hul. 89b, with reference to our Mishnah; v. Tosaf. Naz. and Hul.

(2) A single limb of such an abortion not containing an olive's bulk of flesh, would not convey defilement, but the whole does.

(3) The greater part being equivalent to the whole.

(4) V. infra 52b for the explanation of these terms.

(5) And but for the fact that it constitutes the greater part of the frame of the corpse it would not convey defilement.

(6) [Nezel is thus derived from נצל to separate’, cf. Gen. XXXI. 9 (Rashi); Petuchowski connects it with נזל ‘to flow’, ‘melt away’.]

(7) It should not convey defilement.

(8) And causes defilement.

(9) Which do not defile.

(10) This question has no bearing on the nazirite, who does not lose any of his period for defilement caused by an animal corpse.

(11) And animal corpse-dregs also defile.

(12) Defiling man by contact or carrying.

(13) V. Bek. 23b. A Jew may not eat the flesh of an animal which dies of itself, but may give it to a stranger; v. Deut. XIV, 21.

(14) Defiling food only but not man.

(15) After which it ceases to defile.

(16) For corpse-dregs are unfit to be eaten by a human being.

(17) For corpse-dregs are fit to be eaten by a dog.

(18) When it becomes corpse-dregs.

(19) It is assumed that though the sun turns the fat into corpse-dregs, it is still fit to be eaten by a dog.

(20) And unfit for a dog. Hence it becomes clean.

(21) I.e.,it does not convey defilement from the unclean to the clean vessel.

(22) Aliter; The honey of Zifim; (cf. Josh. XV, 24). V.Sot. 48b.

(23) So the Aruch.

Talmud - Mas. Nazir 50b

Beth Shammai say: Also one of a porridge of grist or beans, because [at the end of its flow] it springs back.[1]

Rammi b. Hama asked: is there [transference of defilement through] a jet in the case of foodstuffs,[2] or does [transference of defilement through] a jet not apply to foodstuffs? Do we say [that the principle applies to thick honey and batter] because they contain liquor,[3] whereas [foodstuffs] contain no liquor,[4] or is it perhaps because they are compact masses[5] and [foodstuffs] are also compact masses?[6] — Raba replied: Come and hear: A whole piece of fat[7] from a corpse, if melted, remains unclean, but if it was in pieces[8] and they were melted, it remains clean.[9] Now if you assume [that the principle of transference of defilement through] a jet does not apply to foodstuffs, [then even if it be] whole and then melted it should become clean![10] — R. Zera commented: I and Mar, son of Rabina, interpreted [the above teaching as follows]: It refers to where at the time of melting, the column of fire ascended to the mouth of the vessel[11] and [the fat] coagulated whilst it was all together.[12]

Rabina said to R. Ashi: Come and hear [the following]: Beth Shammai say: Also one of a porridge of grist or of beans, because [at the end of its flow] it springs back![13] — What does this prove? In the other cases[14] it may be the fact that they are compact masses [which causes defilement] though here it is because of the liquor.[15]

OR A LADLEFUL OF CORPSE-MOULD: And what is its size? — Hezekiah said: The palm of the hand full. R. Johanan said: The hollow of the hand[16] full.

It has been taught: The [measure of the] ladleful of corpsemould mentioned is,from the bottom of the fingers upwards.[17] So R. Meir. The Sages say [it means] the hollow of the hand full.[18] Now R. Johanan at least agrees with the Rabbis; but with whom does Hezekiah agree, neither with R. Meir, nor with the Rabbis? — I will tell you. The palm of the hand full and from the joints of the fingers upwards is the same measure.[19] R. Shimi b. Adda said to R. Papa: How is it known that 'from the joints of the fingers and upwards' means towards the tips? Perhaps it means lower down the hand[20] when [the measure] is the palm of the hand full?[21] This was not solved.[22]

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(1) Being thick liquids, they have such elasticity that when he ceases to pour out the liquid, the lower end of the jet, which has touched the unclean vessel, springs back into the upper vessel. M. Maksh. V. 9.

(2) Viz, if he melted some solid food, e.g.,fat, and poured it from a clean to an unclean vessel.

(3) And it is the presence of the liquor which causes the jet to shrink backwards.

(4) Whence they would not transfer defilement from the lower end of the jet to the upper end.

(5) And so transfer defilement; in the same way as any solid becomes wholly unclean even if part of it is defiled.
(6) And transfer defilement.
(7) Of an olive's bulk.
(8) Each smaller than an olive. When smaller than an olive, unclean flesh loses its defiling property.
(9) Though now solidified to one piece larger than an olive's bulk. Tosaf. Oh. IV, 3.
(10) Whilst being melted, the fat would move from side to side of the vessel and so there would be less than an olive's bulk of the fat in one spot, if the jet of liquid fat be not counted as joined together.
(11) And the vessel was at rest when heated so that the fat was heated all together.
(12) Without moving from its original position, so Rashi. Tosaf. and Asheri give the following reading: ‘It refers to where at the time of melting a column [of fat] rose and sublimed at the mouth of the vessel’. In either case there is no flow.
(13) It is now assumed that the Rabbis disagree with Beth Shammai only as regards grist and beans, but accept his criterion of springing back. This occurs in the presence of a liquid only.
(14) I.e., thick honey and batter.
(15) And the Rabbis disagree as to the criterion. Beth Shammai say it is liquor and the Rabbis, perhaps, the fact that it is a compact mass.
(16) Formed by bending the fingers to touch the wrist.
(17) I.e., presumably towards the tips of the fingers.
(18) Tosef. Oh. II, 2.
(19) And he agrees with R. Meir.
(20) Upwards in the direction of the shoulder.
(21) And there is no difficulty for Hezekiah.
(22) These words occur in the printed texts, but are omitted by Tosaf. and others.

Talmud - Mas. Nazir 51a

Our Rabbis taught: What type of corpse produces corpsemould [that can defile]? A corpse buried naked in a marble sarcophagus or on a stone floor is a corpse which produces corpse-mould. If it is buried in its shroud, or in a wooden coffin, or on a brick floor, it is a corpse which does not produce corpse-mould [that can defile].[1]

‘Ulla said: Corpse-mould [to defile] must come from flesh and sinew and bone. Raba raised [the following] objection to ‘Ulla. [It has been taught:] Corpse-mould derived from flesh is clean. This implies that if it be from bones it is unclean, even though there be no flesh present? — Say rather as follows: Corpse-mould derived from flesh is clean, unless there be bone in the flesh. But there are no sinews!?[2] — It is impossible that there should be flesh and bones without sinews.

Rab Samuel[3] b. Abba said that R. Johanan said: Two corpses buried together act as gilgelin[4] to each other. R. Nathan [son of R. Oshaia][5] raised the following objection. [It has been taught that corpse-mould] derived from two corpses is unclean? — Said Raba, [we suppose that] each was buried separately and decayed and together’ formed a ladleful of corpse-mould.[6]

Rabbah b. Bar Hanah said that R. Johanan said: If a man cut [the corpse's] hair and buried it with it, it acts as gilgelin [and the resultant mould does not defile].

We have learnt elsewhere: Every part of a corpse is unclean except the teeth, the hair and the nails; but whilst still attached [to the corpse], they are all unclean.[7] Hezekiah propounded: What is the law in the case of hair long enough to be polled,[8] and nails long enough to be pared?[9] Do we say that anything which is fit to be cut is as though already cut,[10] or perhaps they are after all still attached?[11] — But cannot the question be resolved from [the dictum of] Rabbah b. Bar Hanah?[12] The reason [that the hair acts as gilgelin] is because he cut it, but if he does not cut it, it does not?[13] He [Rabbah b. Bar Hanah] might have meant this: If he cut it, it acts as gilgelin; but if he did not cut it, he was in doubt [as to its effect].[14]

R. Jeremiah propounded: What is the law regarding corpsemould coming from the heel?[15] Does our tradition specify corpsemould derived from a whole corpse, but not corpse-mould resulting from [the decomposition of] the heel, or is there no difference? — Come and hear: R. Nathan son of R. Oshaia learnt that corpsemould derived from two corpses is unclean. Now if you assume that what comes from the heel is not [counted as corpse-mould], then, if we look to the one [corpse], [the mould in the mixture] may have been taken from the heel, and if to the other, it may have been taken from the heel?[16] — Where the whole corpse has decayed and [the corpse-mould] has been taken from the heel, there it would certainly be [counted as corpse-mould],[17] but here the question is when one limb[18] has decomposed and [the mould] has been taken from the heel. This was left unsolved.

R. Jeremiah propounded: Does a fetus in a woman's womb act as gilgelin or not? Since a Master has affirmed that a fetus counts as the thigh of its mother, is it therefore part of her body and so does not act as gilgelin, or perhaps since it would eventually leave [the womb], does it count as separated from her? Should you decide that since a fetus will eventually leave [the womb], it is separate from her,

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(1) For the resultant mould will be mixed with fragments of cloth, wood, or brick, since these crumble. Tosef. Oh. II, 2.

(2) And ‘Ulla said all three are necessary.

(3) Var. lec. Shaman.

(4) A covering or girdle. lit., ‘wrappers’; so that the corpse. mould which results does not defile, just as it does not when the corpse is buried in a shroud.

(5) Inserted from Bah.

(6) In such a case, the joint mixture causes defilement; but if buried together, the resultant mould does not defile.

(7) Oh. III, 3.

(8) Hair that is long and would have been polled had not death intervened.

(9) Does the resultant corpse-mould defile? — So Rashi. According to Tosaf. the question is: Is the hair unclean or not?

(10) And prevents the formation of corpse-mould.

(11) And count as part of the body.

(12) ‘If he cut the hair and buried it, it acts as gigelin’.

(13) Thus attached hair counts as part of the corpse.

(14) And this was the very question of Hezekiah.

(15) The lower part of the body.

(16) And the resulting mixture should not defile, if corpsemould from the heel does not.

(17) This is shown by R. Nathan's dictum.

(18) One of the lower limbs.

Talmud - Mas. Nazir 51b

what would be the law regarding semen in a woman s womb? Do we say that because it has not yet formed [into an embryo] it counts as part of her body,[1] or perhaps seeing it has come from elsewhere, it is not [part of the body]?[2]

R. Papa propounded: What about excrement? Seeing that one cannot exist without food, is it part of one's life,[3] or perhaps this too comes from elsewhere?[4]

R. Aha son of R. Ika propounded: What about his skin?[5]

R. Huna b. Manoah propounded: What about his phlegm and his mucus?

R. Samuel b. Aha said to R. Papa: If now you assume that all these mentioned act as gilgelin, how can there be corpse-mould which defiles? — If he was given to drink water from [the Well of] the Palm Trees,[6] depilated with nasha,[7] and was steeped in the [hot] springs of Tiberias.[8]

Abaye said: We hold a tradition that a corpse that has been ground to powder does not come under [the law of] corpse-mould. The following was propounded: If it were ground and then decayed, what would be the law? Is the reason [that corpse-mould defiles] solely because flesh and bones and sinews are present, and here they are present, or do we require it [to have become corpsemould] as in its original form, and this has not occurred? This was left unsolved.

'Ulla b. Hanina learned: A defective corpse[9] does not come under [the law of] corpse-dust,[10] nor does it acquire the soil on which it lies,[11] nor does it help to make an area into a graveyard.[12] The following objection was raised. [We have learnt:] No! Because you say this[13] of a corpse to which [the law concerning] 'the greater part, a quarter [kab]' and 'a ladleful of corpse-mould' applies, would you say it of a living body to which [the laws concerning] 'the greater part, a quarter [kab of bones]' and 'a ladleful of corpse-mould' do not apply?[14] What are the circumstances?[15] [Surely,] that one limb has decayed.[16] And similarly[17] in the case of a corpse, even if one member [has decomposed, the law of] corpse-dust applies?[18] — Does it say, 'whereas in the case of a corpse [the law of corpse-dust applies]'?[19] What we are told is that there are corpses to which [the law of] corpse-dust applies,[20] but there are no living bodies to which [the law of] corpse-dust applies.

Raba propounded: If [a man's limb] decayed whilst he was alive and he then died,[21] what would the law be?[22] Does the tradition specify corpse-mould which decayed when he was dead, or perhaps it is enough that he is now dead? — Come and hear [the following]. [We have learnt:] No! Because you say this of a corpse to which [the laws concerning] 'the greater part', 'a quarter [kab of bones]' and 'a ladleful of corpse-mould' apply, would you say it of a living body etc. The reason [that the law of corpse-mould does not apply to a living body] is because it is alive, from which we infer that if he died [the law of] corpse-mould would apply.[23] — Does it say, 'whereas if he died [the law of corpse-mould applies]'? What we are told is that there are corpses to which [the law of] corpse-mould applies, but there are no living bodies to which [the law of] corpsemould applies.[24]

Raba propounded: What is the law concerning a defective[25] ant?[26] Does the tradition specify [a certain] size[27] and this is wanting, or does it specify a [separate] creature[28] and this it is? —

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(1) And does not act as gilgelin.

(2) And acts as gilgelin.

(3) And so does not act as gilgelin.

(4) And not being part of the body acts as gilgelin.

(5) Does it act as gilgelin or not? Rashi translates: What about his spittle?

(6) A violent purgative; v. Shab. 110a.

(7) A natural depilatory, v. supra p. 164, n. 4.

(8) To remove the skin.

(9) One lacking a member.

(10) When it decays, a ladleful of its corpse-dust does not defile by 'overshadowing'.

(11) Lit., 'take possession'. If a complete corpse is unearthed, the soil round about it must be removed with the body; v. infra Mishnah 64b.

(12) Lit., 'It has not (the law of) the area of a cemetery'. If three complete corpses are found together, the place where they are found must be converted into a graveyard. Ibid.

(13) That an olive's bulk of its flesh defiles by 'overshadowing'.

(14) V. 'Ed. VI, 3.

(15) Under which the law of corpse-mould does not apply to a living body.

(16) I.e., only part of the body.

(17) Since the cases are parallel.

(18) Contradicting ‘Ulla b. Hanina's teaching.
(19) Which would imply that the comparison was exact.
(20) Viz., whole bodies.
(21) And the body crumbled into corpse-dust, together with the limb which decayed during his lifetime.
(22) Does the law of corpse-dust apply or not?
(23) Thus Raba's question is answered in the affirmative.
(24) And the question remains.
(25) One lacking a limb.
(26) Does he receive stripes for eating it or not? — V. Mak. 13a.
(27) That the creature eaten must be the size of an ant.
(28) That what is eaten must be a separate creature.

Talmud - Mas. Nazir 52a

R. Judah of Diskarta[1] replied: Judge from the following. [It has been taught: From the verse, Whosoever doth touch] them [. . . shall be unclean],[2] it might be thought that this is [only if he touches] whole [reptiles], and so Scripture says, [And upon whatsoever any] of them [. . . doth fall].[3] From ‘of them’ [alone] it might be thought that part of them [defiles], and so Scripture says ‘them’. How are [the texts to be] reconciled? [He is not unclean] unless he touches a part of one equivalent to a whole one and the Sages estimated this to be the size of a lentil, since the sand-lizard[4] at its first formation[5] is of the size of a lentil. Hence it follows that tradition specifies [a certain] size.[6] R. Shemaya demurred: The reason that we require a [particular] size, so that if it is not the size of a lentil it does not defile, is because there is no life in it,[7] but when there is life in it, [it may be that] no [minimum size is required].[8] It is this question that is being put to you.[9]

THE BACKBONE AND THE SKULL: The question was propounded: Does the Mishnah say the backbone and the skull,[10] or does it say perhaps the backbone or the skull?[11] — Raba replied: Come and hear: A backbone that has been stripped of most of its ribs[12] is clean,[13] but if it is in the grave, even though it is broken in pieces or separated [into parts], it is unclean,[14] because of the grave.[15] Now the reason [that the backbone is clean] is that it has been stripped, but if it were not stripped,it would be unclean,[16] and so may we [not] infer from this that the correct reading is, either the backbone or the skull? — Does it say, ‘But if etc.’?[17] What we are told is that when [the backbone is] stripped, it is clean;[18] but the other case[19] still remains doubtful.

Come and hear: R. Judah says: Six things were declared unclean by R. Akiba and clean by the Sages, and R. Akiba retracted his opinion. It is related that a basket full of [human] bones was taken into the Synagogue of the Tarsians[20] and placed in the open air.[21] Then Theodos, the Physician, together with all the physicians, entered, and said that there was not the backbone of a single corpse there.[22] The reason [that it was declared clean] is that there was not a backbone from a single [corpse], but had there been either a backbone or a skull from a single [corpse],[23] a nazirite would have been required to poll because of it, whence it follows that we read in our Mishnah, either the backbone or the skull? The case was put strongly. Not only was there not the backbone and skull of a single corpse, but there was not even the backbone of a single corpse or the skull of a single corpse.

Judge[24] from the enumeration [of the six things]: And what are the six things that R. Akiba declared unclean and the Sages clean? A limb set up[25] from two corpses, a limb set up [from bones sever ed] from two living men, and a half-kab of bones taken from two corpses, a quarter [log] of blood taken from two [corpses], a barleycorn's bulk of bone broken into two parts, the backbone and the skull.[26]

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(1) V. supra p. 126, n. 6.
(2) Lev. XI, 31. Referring to dead reptiles.

(3) Ibid. 32. ‘of’ meaning even ‘part of’.
(4) One of the reptiles which defile; v. Ibid. 30.
(5) But if less, it does not defile.
(6) For the sand-lizard is the size of a lentil when whole.
(7) As in the case of the dead sand-lizard.
(8) But only that the creature should be alive.
(9) And R. Judah of Diskarta has not answered this.
(10) That both must be in the room for the nazirite to poll.
(11) And he must poll if only one is there.
(12) Cf. the Tosef. where the reading is probably, ‘vertebrae’.
(13) I.e., it does not defile through ‘overshadowing’.
(14) And defiles if ‘overshadowed’.
(15) Which joins the pieces together. Tosef. Oh.II, 3.
(16) Though the backbone alone is mentioned in the Tosefta.
(17) Adopting reading of Asheri.
(18) Perhaps even when the skull is there too.
(19) Stripped and the skull removed.
(20) Other renderings are, ‘weavers’, ‘bronzeworkers’; v. Aruch and A.S. 27b. [We find a synagogue of Tarsians in Jerusalem, Tiberias and Lydda. According to Krauss, Synagogale Altertumer, p. 201, they are identical with the synagogues of Alexandrians, who had brought over with them, to Palestine, the industry in Tarsian carpets — an industry which flourished greatly in Egypt; v. also TA. II, 625.]
(21) I.e., under an opening in the roof to prevent it conveying uncleanness by ‘overshadowing’.
(22) And so it could not convey defilement by ‘overshadowing’. Tosef. Oh. IV, 2.
(23) And a nazirite had ‘overshadowed’ it.
(24) Lit., ‘come and hear’.
(25) I.e., made by taking one bone from one corpse and another bone from a second corpse.
(26) This enumeration appears to be a digest of Oh. II, 6 and 7, or Tosef. ‘Ed. I, 6; but is not quite identical with either.

Talmud - Mas. Nazir 52b

Now if you assume that either the backbone or the skull [alone is unclean] there would [surely] be seven things there? — When [the number six] was mentioned,[1] it referred to all those things where the majority differed from him, but excluded [the case of] a barley-corn's bulk of bone, since it is an individual who differed from him,[2] for we have learnt: If a barley-corn's bulk of bone is divided into two, R. Akiba declares it unclean and R. Johanan b. Nuri clean.[3]

Alternatively, [the number six] referred to members coming from a corpse, but it did not refer to [the case of] a member [severed] from a living being.[4]

Alternatively, [the number six] referred to all those [cases] where a nazirite must poll because of ‘overshadowing’ them, but excludes [the case of] a barley corn's bulk of bone,[5] since he need not.

Alternatively, [the number six] referred to all those [cases] from which he retracted, but excludes [the case of] a quarter [log] of blood, from which he did not retract. For Rabbi said to Bar Kappara, ‘Do not include [the case of] a quarter [-log] of blood amongst the retractions,for R. Akiba had that as a [traditional][6] teaching, and furthermore the verse, Neither shall he go in to any dead body,[7] supports him. — R. Simeon says: All his life he declared [a quarter-log of blood from two corpses] unclean, whether he retracted after his death, I do not know.[8] — A Tanna taught that [R. Simeon's] teeth grew black because of his fasts.[9] Come and hear: It has been taught: Beth Shammai say that a quarter [-kab] of bones, be they any of the bones, whether from two [limbs] or from three,[10] [is sufficient to cause defilement by overshadowing]. And Beth Hillel say, a quarter [-kab of bones] from a [single] corpse [is required], [and these bones must be derived] from [those bones which form] the greater part [of a skeleton] either in frame[11] or in number.[12] R. Joshua asserted: I can make the statements of Beth Shammai and Beth Hillel one.[13] For [when] Beth Shammai say ‘from two [limbs] or from three,’ [they mean] either from two shoulders and one thigh, or from two thighs and one shoulder, since this is the major part of a man's structure in height, whilst Beth Hillel say [the quarter kab must be taken] from the corpse, [viz.] from the greater part either in structure[14] or in number, for this [numerical majority] is to be found in the joints of the hands and feet.[15] Shammai says even a [single] bone, from the backbone or from the skull [defies by overshadowing]![16] — Shammai is different, as he takes the more stringent view.[17]

Can one infer from this that Shammai's[18] reason is that he takes the stricter view, but the Rabbis would require both backbone and skull? — No! For the Rabbis may only disagree with Shammai concerning a single bone coming from the backbone or the skull, but where these are complete one alone [may be sufficient].

Rammi b. Hama propounded: What is the law in the case of a quarter [-kab] of bones [coming] from the backbone and the skull? When [our Mishnah] stated that a half-kab of bones [is required], was it only where there are present [bones] from its other limbs [too], but since [the bones] from the backbone and skull are treated more seriously, even a quarter [-kab] of bones [is sufficient], or perhaps there is no difference?[19] — Raba replied: Come and hear: [We learnt:] THE BACKBONE AND THE SKULL.[20] Now if you assume that a quarter [-kab] of bones coming from the backbone and the skull is to be taken more seriously,[21] it should state ‘for a quarter [-kab] of bones coming from the backbone etc.’?[22] —

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(1) In the text there occurs here the following mnemonic for the alternative methods of arriving at the number six: ‘The mnemonic is: An individual who polls and another’.

(2) In which case the norm is in accordance with R. Akiba.

(3) Oh. II, 7.

(4) This excludes the case of a limb set up from bones severed from two living beings: Tosaf. reads here: ‘Only those cases relating to corpses are included (in the six), not those relating to living bodies’.

(5) V. our Mishnah.

(6) So Asheri.

(7) Lev. XXI, II; v. supra 38a.

(8) Tosef. Oh. IV, 2.

(9) To atone for the not quite respectful reference to his teacher. Cf. Hag. 22b.

(10) I.e., the quarter-kab must contain parts of more than one bone. Some (e.g. Maimonides to ‘Ed. I, 7) interpret: from two corpses or from three.

(11) Lit., ‘building’ i.e. those bones which go towards forming the greater part of the frame, e.g.’ the shoulder and thigh bones.

(12) A body contains 248 bones, whence the greater part in number is 125 bones. V. Mak. (Sonc. ed.) p. 169, n. 5.

(13) So that the two schools refer to different things and their opinions are not mutually exclusive.

(14) This is the shoulder and thigh.

(15) I.e., the bones in the hands and feet form the greater number of bones in the body, without being so important that they form the major part of the structure.

(16) Thus backbone or skull is meant. This should solve the reading in the Mishnah. Part of this Baraitha occurs as a Mishnah, ‘Ed. I, 7.

(17) He holds that even a single bone defiled, hence does not require both the skull and backbone, but the Rabbis may disagree.

(18) The printed text reads in error ‘Beth Shammai’.

(19) And even here a half-kab is necessary. The Wilna Gaon deletes the last sentence as an interpolation based on false premises. He asserts that the query is whether a quarter-kab of bones from the skull or backbone conveys uncleanness by overshadowing, even as a quarter-kab derived from the great part of a skeleton either in frame or in number, and connects with Oh. II, 1 q.v.

(20) According to Rashi the Tosef. quoted at foot of 52a is referred to, Tosaf. thinks it is our Mishnah, whilst the Wilna Gaon refers it to Oh. II,1.
(21) R. Elijah of Wilna reads: is unclean.
(22) For this is less than a whole skull and includes it.

Talmud - Mas. Nazir 53a

But it was Raba himself who said that [special mention] was required only for a backbone and a skull containing less than a quarter [-kab] of bones?[1] — After hearing R. Akiba's opinion, [he altered his own opinion].[2]

Come and hear: Shammai says, even a single bone, from the backbone or from the skull [defiles by ‘overshadowing’]![3] Shammai is different, for he takes the much more stringent view.[4]

Can we infer from this that Shammai's reason[5] is that he is strict, but according to the Rabbis [there is no defilement by overshadowing’] unless there is a half-kab of bones? — Perhaps the Rabbis only disagree with Shammai where there is a single bone, but where there is a quarter [kab] of bones even the Rabbis agree [that this is sufficient].

R. Eliezer said: The Elders of an earlier generation [were divided]. Some used to say that a half-kab of bones and a half-log of blood [is required] for everything,[6] whilst a quarter [-kab] of bones and a quarter [-log] of blood is not sufficient for anything. Others used to say that even a quarter [-kab] of bones and a quarter [-log] of blood [is enough] for everything. The Court that came after them said that a half-kab of bones and a half-log of blood [is the quantity] for [making unclean] everything, a quarter [-kab] of bones and a quarter [-log] of blood [is sufficient] in the case of terumah[7] and sacred meats,[8] but not in the case of a nazirite or one preparing the paschal lamb.[9] But surely the compromise of the third [opinion] IS no [true] compromise?[10] — R. Jacob b. Idi replied: They had it as a tradition deriving from Haggai, Zechariah and Malachi.

ON ACCOUNT OF THESE A NAZIRITE MUST POLL: The word THESE,[11] in the first clause serves to exclude a barley-corn's bulk of bone, for touching or carrying which he must [poll] though not for overshadowing it — The word THESE in the next clause serves to exclude a rock overhanging a grave.[12]

OR A HALF-KAB OF BONES:

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(1) And how can he infer from the mention of the backbone and skull that a quarter kab of bones from the backbone and skull does not defile.
(2) And the reply to Rammi b. Hama was given before he heard it. This last phrase is authenticated by the MSS. but its meaning is obscure. The Wilna Gaon reads: (That statement of Raba's was) in accordance with the view of Beth Shammai: a reading in keeping with his text.
(3) The rule for these being more stringent, as seen from Shammai's ruling, a quarter of a kab should suffice according to the Rabbis.
(4) But the Rabbis disagree.
(5) That a single bone suffices.
(6) I.e., conveys defilement by ‘overshadowing’ in all cases.
(7) V. Glos.
(8) After being under the same roof with a quarter-kab of bones, a man may not eat terumah or sacred meats.
(9) These are not rendered unclean so as to cause the nazirite to lose the period already counted, or to prevent the passover celebrant from offering the paschal lamb.
(10) And cannot be accepted as the final decision; for it is not arrived at by logical argument, but by accepting part of each of the other opinions; v. Rashi.

(11) I.e., but no others.

(12) Although he becomes unclean by touching the stone, he need not poll; cf. Shab. 82b.

Talmud - Mas. Nazir 53b

[We see that] only if there is a half-kab of bones [must the nazirite poll], but not if there is a quarter [-kab] of bones. What are the circumstances? For if we assert that there are amongst them bones of a barley-corn in size, then we can give as the reason [that the nazirite must poll, the presence of] a barley-corn's bulk of bone? — The reference is to where [the bone] was crushed into powder.

OR ANY LIMB [SEVERED] FROM A CORPSE OR ANY LIMB [SEVERED] FROM A LIVING BODY THAT IS STILL PROPERLY COVERED WITH FLESH: What are the consequences if sufficient flesh is not attached [and a nazirite is defiled by touching or carrying such a bone]?[1] — R. Johanan said that the nazirite is not required to poll because of them. Resh Lakish said that the nazirite must poll because of them. R. Johanan said that the nazirite is not required to poll because of them, for it says in the first [Mishnah][2] only ANY LIMB [SEVERED] FROM A CORPSE OR ANY LIMB [SEVERED] FROM A LIVING BODY THAT IS STILL PROPERLY COVERED WITH FLESH, [implying] ‘but not otherwise’; whilst Resh Lakish said that he must poll, since this case is not mentioned in the subsequent [Mishnah].[3] [To the argument of Resh Lakish] R. Johanan will reply that whatever can be inferred from the rule [of our Mishnah] is not mentioned in the subsequent [Mishnah]. But what of the half-kab of bones [mentioned in our Mishnah] which implies that only half a kab of bones [can defile] but not a quarter [kab] of bones, and yet the subsequent [Mishnah] mentions [explicitly] that a quarter [-kab] of bones [do not defile]? — In that instance were a quarter [-kab] of bones not [mentioned]. I should have thought that he need not [poll] even [if defiled] through contact with it or carrying it, and so the Mishnah had to mention the [case of a] quarter [-kab] of bones [in order to teach] that it is only for overshadowing them that the nazirite is not required to poll.[4]

But what of the half-log of blood [mentioned in our Mishnah], from which it may be inferred that only [if the nazirite is defiled by ‘overshadowing’] a half-log of blood, [is he required to poll] but not by a quarter [-log] of blood, and yet the subsequent [Mishnah] mentions [explicitly that] a quarter [-log] of blood [does not defile]? — In that case, the purpose [of mentioning it in the next Mishnah] is to dissent from the view of R. Akiba, for R. Akiba has stated that a quarter [-log] of blood coming from two corpses conveys defilement by overshadowing.[5]

How are we to picture this limb [severed] from a corpse? For if it has a bone of a barley-corn's bulk, what is R. Johanan's reason [for saying that a nazirite need not poll if he touches it], whilst if it has not a bone of a barley-corn's bulk, what is Resh Lakish's reason [for saying that the nazirite must poll if he touches it]? — Resh Lakish will reply that in point of fact it has not a bone of a barley-corn's bulk, and in spite of this, the All-Merciful has included it [amongst the things which cause defilement]. For it has been taught; [The verse,] And whosoever in the open field toucheth one that is slain with a sword, or one that dieth of himself [....shall be unclean seven days,[6] has the following significance]. In the open field’ refers to one who overshadows a corpse. ‘One that is slain’[7] refers to a limb [severed] from a living body which is in such condition that [if attached to the body] it could have been restored. ‘A sword’ signifies that this is of the same [degree of defilement][8] as the slain body. ‘Or one that dieth of himself’ refers to a limb severed from a corpse. ‘Or a bone of a man’ refers to a quarter [-kab] of bones. ‘Or a grave’ refers to a close grave;[9]

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(1) It is assumed that the bone has not the bulk of a barley-corn.

(2) Supra 49b.

(3) Infra 54a, where the kinds of defilement for which the nazirite need not poll are enumerated.

(4) But be must poll if he touches it or carries it.

(5) Supra 38a; 49b. And so we are told that a nazirite is not required to poll for defilement conveyed by a quarter-log of blood. [Asheri and others omit 'for R. Akiba . . . by overshadowing', the reference being to R. Akiba's view' given infra 56b that a nazir must poll for coming in contact with a quarter-log of blood.]

(6) Num. XIX, 16.

(7) Lit., 'that which is severed'.

(8) If used to slay a person.

(9) I.e., one in which there is no hollow space of a handbreadth between the corpse and the roof of the grave.

Talmud - Mas. Nazir 54a

for a Master said that defilement breaks through [the ground] and ascends, and breaks through [the ground] and descends.[1] [Thus far defilement by 'overshadowing' has been discussed,] whilst as regards [defilement by] contact, Rab Judah said that it has been taught: [The verse]. And upon him that touched the bone, or the slain[2] [etc.] [has the following significance]. 'The bone' refers to a barley-corn's bulk of bone. 'Or the slain' refers to a limb severed from a living body which is not in such condition that [if attached to the body] it could have been restored. 'Or the dead' refers to a limb severed from a corpse. 'Or the grave' refers, said Resh Lakish, to the grave, [of those buried] before the revelation [at Sinai].[3]

Now what is meant by 'a limb [severed] from a corpse'? For if it has a bone of a barley-corn's bulk, it is [covered by the rule concerning] one who touches a bone! We must therefore suppose that it has not a bone of a barley-corn's bulk, and in spite of this the All-Merciful Law has included it [amongst the things whose contact defiles].

R. Johanan, on the other hand, will say that in point of fact [the limb severed from a corpse] has [a barley-corn's bulk of bone] in it, and if [the verse] is unnecessary for teaching [that the limb defiles by] contact,[4] you can use it to teach[5] [that it defiles through] carrying.[6]

AND BE SPRINKLED ON THE THIRD AND SEVENTH DAYS AND IT MAKES VOID etc.: The question was propounded: When the Mishnah teaches UNTIL HE HAS BECOME CLEAN, does it refer to the seventh day, meaning until after sunset, so that the author is R. Eliezer,[7] or does it perhaps refer to the eighth day, the words UNTIL HE HAS BECOME CLEAN, meaning until he has brought his sacrifices, so that it gives the view of the Rabbis? — Judge[8] from the following. Since it teaches in the subsequent [Mishnah] that he commences to count immediately [after purification],[9] it follows that UNTIL HE HAS BECOME CLEAN in the first [Mishnah][10] means, until he has brought his sacrifices, and the ruling is that of the Rabbis who assert that naziriteship after purification does not operate until the eighth day.

MISHNAH. BUT FOR [DEFILEMENT CAUSED BY] SEKA KOTH [OVERHANGING BOUGHS][11] OR PERA'OTH [PROTRUDING BRICKS][12] OR A [FIELD THAT IS A] BETH PERAS,[13] OR LAND OF THE GENTILES[14] OR THE GOLEL [COVERING STONE] OR DOFEK [SIDE STONES] OF A TOMB,[15] OR A QUARTER [-LOG] OF BLOOD, OR A TENT [IN WHICH IS A CORPSE],[16] OR A QUARTER [-KAB] OF BONES, OR UTENSILS THAT HAVE BEEN IN CONTACT WITH A CORPSE, OR [THE DEFILEMENT OF A LEPER'S] TALE OF DAYS[17] OR HIS PERIOD OF DECLARED LEPROSY;[18] FOR ALL THESE THE NAZIRITE IS NOT REQUIRED TO POLL. HE MUST, HOWEVER, BE SPRINKLED ON THE THIRD AND SEVENTH [DAYS],

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(1) So that any one walking above or beneath such a grave is accounted as 'overshadowing' it and becomes unclean. Cf. Oh. VII. 1.

(2) Num. XIX, 18.

(3) Lit., 'before the Word'. I.e., the bodies of Israelites buried before the revelation, though they do not defile by ‘overshadowing’, are treated like bodies of gentiles that defile at least by contact.

(4) For we already know this from the rule of one who touches a bone.

(5) [In accordance with the principle of Talmudic hermeneutics to apply a Biblical statement superfluous in respect of its own law to some other subject.]

(6) And we cannot infer from this that a limb which has not a bone of a barley-corn's bulk defiles a nazirite who touches it.

(7) The controversy concerns the question whether the naziriteship after purification commences immediately or whether it does not begin until the necessary sacrifices have been offered; v. supra 18b.

(8) Lit., ‘come and hear’.

(9) With reference to the defilements for which a nazirite need not poll; infra 54b.

(10) Where it does not say immediately’.

(11) Under which there is a source of defilement, the exact branch being unknown. Such a branch would defile by ‘overshadowing’, and the person becomes unclean because of the doubt that has arisen.

(12) The meaning is mutatis mutandis, the same as in previous note.

(13) A field in which a grave has been ploughed becomes a beth peras, and renders unclean through contact for a distance of half a furrow of one hundred cubits in each direction. Peras Half.

(14) V supra 19b.

(15) According to Rabbenu Tam, ‘the tombstone and the side stones on a grave’. [The tombs in ancient times were closed by means of large stones in order to protect them against the ravenous jackals (v. J.E. XII, p. 188). According to Levy the golel was an upright stone put up at the entrance of every niche or chamber כוך (v. B.B. (Sonc. Ed.) pp. 422ff, for illustrations) into which the bodies were deposited; and the dofek is the buttressing stone which was placed in front of the golel to prevent it from falling. For other views v. Krauss TA. II, pp. 488ff.]

(16) According to Tosaf. the meaning is ‘a quarter-log of blood or a quarter-kab of bones in a tent.’

(17) V. Lev. XIV, 8.

(18) According to Rashi; the period during which he offers his sacrifices for purification after the tale of days; v. Lev. XIV, 9ff.

Talmud - Mas. Nazir 54b

WHILST [THE UNCLEANNESS] DOES NOT RENDER VOID THE FORMER PERIOD,[1] BUT HE COMMENCES TO RESUME COUNTING [HIS NAZIRITESHIP] IMMEDIATELY [AFTER PURIFICATION] AND THERE IS NO SACRIFICE.[2] [THE SAGES] SAID IN FACT[3] THAT THE DAYS OF [DEFILEMENT OF] A MALE OR FEMALE SUFFERER FROM GONORRHOEA[4] AND THE DAYS THAT A LEPER IS SHUT UP[5] ARE RECKONED [AS PART OF THE NAZIRITESHIP].

GEMARA. By SEKAKOTH is meant a tree that overhangs the ground and by PERA'OTH protrusions from a fence.[6]

OR LAND OF THE GENTILES: The question was propounded: Did [the Rabbis] enact that the land of the Gentiles [causes defilement] because of the air,[7] or did they, perhaps, enact only because of the soil?[8] — Come and hear: HE MUST, HOWEVER, BE SPRINKLED ON THE THIRD AND SEVENTH [DAYS]. Now if you suppose that it was [declared unclean] because of the air, what need is there for sprinkling?[9] Does it not follow then that it was because of the soil? — No. In point of fact, it may have been because of the air, and when the Mishnah teaches [that he must be sprinkled] it refers to the other instances. This indeed appears to be the case, since UTENSILS THAT HAVE BEEN IN CONTACT WITH A CORPSE are mentioned. Do such utensils necessitate sprinkling?[10] Thus it follows from this that [sprinkling] applies to the remainder only.[11]

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(1) I.e.,the period before defilement.

(2) I.e., the sacrifice prescribed for a nazirite after defilement

(3) באמת Lit., ‘In truth did they say’. Rashi remarks that this phrase denotes a halachah received by Moses at Sinai.

V. B.M. 60a. Cf., however, below (56b) where this is derived by interpretation of the verses. [Rosenthal, F., Hoffmann Festschrift, p. 40, explains the phrase as the latin vero _ ‘in fact’; and here is used to affirm the view that only the days of defilement of a male or female sufferer from gonorrhoea and the days that a leper is shut up are reckoned, but not the days of the leper's tale and his period of declared leprosy. This affirmation was necessary in view of the suggestion supra 56b that even in the latter case the days should be reckoned.]

(4) Cf. Lev. XV.

(5) Cf. Lev. XIII, 4ff

(6) Oh. VIII, 2, and Tosef. Oh. IX, 4.

(7) So that entering the atmosphere of a foreign country renders unclean. For the time when this enactment was promulgated. v. Shah. 15a.

(8) And one who does not touch the soil remains clean.

(9) Defilement from the air would be mild and would not necessitate sprinkling.

(10) In many instances they do not. [Vessels that come in contact with the dead do not communicate defilement to man so as to render him a principal source of uncleanness. The only question arises in case of metal vessels which, according to some authorities, become as grave a source of uncleanness as the dead itself. V. Tosaf. a.l.]

(11) I.e., to those to which we know it applies on other grounds. Thus the air of the lands of the gentiles may defile and the Mishnah affords no evidence about it.

Talmud - Mas. Nazir 55a

Can we say [that the controversy about the air of a foreign country] is the same as that between the following Tannaim? [It has been taught:] If a person enters a foreign country in a box, or a chest, or a portable turret, Rabbi declares him unclean, while R. Jose son of R. Judah declares him clean. Is not this because Rabbi holds that [the uncleanness of the lands of the Gentiles][1] is because of the air[2] and R. Jose son of R. Judah holds that it is because of the soil?[3] — No. Both would agree that [foreign countries defile] because of the soil. The latter, however, holds that a tent in motion is still counted a tent,[4] whilst the former holds that a tent in motion does not constitute a tent.[5] But have we not been taught: R. Jose son of R. Judah says that if a chest is full of utensils and someone throws it in front of a corpse in a tent, it becomes unclean,[6] whilst if it were there already [in the tent], it remains clean?[7] — It must therefore be that both [Rabbi and R. Jose son of R. Judah agree that foreign countries defile] because of the air. The latter holds that since [travelling in a chest] is not common the Rabbis did not intend the enactment to apply [to such a case].[8] whilst the former holds that although it is unusual, the Rabbis intended the enactment to apply to it. It has been taught to the same effect:[9] A person who enters a foreign country in a box, or a chest, or a portable turret remains clean, whilst [if he enters] in a carriage. or a boat, or a ship with a mast,[10] he becomes unclean.[11]

Alternatively,[12] [Rabbi and R. Jose son of R. Judah] may dis agree here on the question [whether a man travelling in a chest was declared unclean] for fear lest he put out his bead or the greater part of his [body].[13] It has been taught to this effect. R. Jose son of R. Judah says, a person who enters a foreign country in a box, or a chest, or a portable turret is clean until he puts out his head or the greater part of his [body].

BUT HE COMMENCES TO RESUME COUNTING [IMMEDIATELY etc.]: R. Hisda said: It was taught [that the days of declared leprosy are not counted] only in the case of a short naziriteship,[14] but in the case of a long naziriteship[15] they also help to discharge [the days of his naziriteship]. R. Sherabya objected: HE COMMENCES TO RESUME COUNTING IMMEDIATELY AND DOES NOT ANNUL THE PREVIOUS PERIOD.[16] What are the circumstances? For if it is speaking of a short naziriteship, he requires [thirty days] growth of hair,[17]

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(1) [It is suggested that the uncleanness of the land of gentiles was decreed in the days of Alcimus in order to stem the tide of immigration from Palestine that had set in as a result of his persecutions. v. Weiss, Dor I, 105.]

(2) And even in a chest, he touches the air.

(3) And since he has not touched the soil, he is clean.
(4) And protects whatever is inside from defilement from outside.
(5) And whatever is inside is accounted as having contact with the ground and becomes unclean.
(6) Together with its contents.
(7) Which proves that R. Jose b. R. Judah does not consider that a tent in motion affords protection from defilement.
(8) And so the person inside remains clean.
(9) That the reason R. Jose declares him clean is that this method of travelling is uncommon.
(10) אסקריא. So Jast.; or better, ‘sailing boat’, v. Krauss TA. II, p. 341, who connects it with Grk. **]
(11) Tosef. Oh. XVIII, 2.
(12) It is now assumed: (i) That the enactment was because of the soil. (ii) That a tent in motion affords protection from defilement. (iii) When a chest full of utensils is thrown in front of a corpse, it becomes unclean because it ceases to have the character of a tent, protecting from defilement, and is treated as a utensil.
(13) When he would become unclean because of ‘overshadowing’ the soil.
(14) Of thirty days duration.
(15) Longer than thirty days when even if the period of leprosy is counted, thirty days still remain.
(16) It is clear from this that there has been a break in the counting.
(17) And so must ignore what has gone before and count thirty days.

Talmud - Mas. Nazir 55b

and so it surely refers to a long naziriteship, and yet it teaches that HE COMMENCES TO COUNT IMMEDIATELY? — [R. Sherabya] put the question and answered it himself. [The Mishnah is speaking] of a naziriteship of, say, fifty days, of which he had observed twenty [days] when he became leprous. He must then poll for his leprosy [when he is healed] and observe a further thirty days of the nazirite [obligation], in which case he has a [thirty days] growth of hair.[1]

Rami b. Mama raised the following objection:[2] [We have learnt:] A nazirite, who was in doubt whether he had been defiled[3] and in doubt whether he had been a declared leper,[4]

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(1) The days of declared leprosy cannot then be counted since he would not have thirty days left.
(2) To refute R. Hisda's statement.
(3) On the day he became a nazirite.
(4) On the day that he became a nazirite, having perhaps been healed the same day. A nazirite who becomes unclean must poll on becoming clean, and a leper shaves his body twice on recovering. Since this nazirite may not have been unclean nor may he have been a leper, he cannot shave his head during the period of his naziriteship. He must therefore count the full period before shaving because of the doubt, and allow a similar period to pass before the second and third shaving. Since he may have been both a leper and unclean because of touching a dead body, he must count a fourth period for his naziriteship in purity.

Talmud - Mas. Nazir 56a

may eat sacred meats after sixty days.[1] and drink wine and touch the dead after one hundred and twenty days.[2] In connection with this passage it has been taught: This is only true of a short naziriteship, but in the case of a naziriteship of [say,] a year, he may eat sacred meats [only] after two years, and drink wine and touch the dead after four years.[3] Now if you suppose that the days [of declared leprosy] help to discharge his [naziriteship], then three years and thirty days should be enough?[4]

R. Ashi raised the following objection:[5] I am only told that the days Of his defilement are not reckoned in the number [of days of his naziriteship]. How do we know [that the same is true] of the days of his declared leprosy? This follows by analogy. [After] the days of defilement, he must poll and bring an offering, and [after] the days of his declared leprosy, he must poll and bring an offering.

Whence we should infer that just as the days of his defilement are not reckoned in the number [of days of his naziriteship], so the days of his declared leprosy are not reckoned in the number! No! If you say this of the days of his defilement, where the previous days[6] are rendered void because of them, would you also say it of the days of his declared leprosy where the previous days are not rendered void because of them? I can argue then in the following manner. Seeing that a nazirite [who undertakes his naziriteship] at the graveside, whose hair is ripe for polling because of his naziriteship, does not count [the time spent at the grave] in the number [of days of his naziriteship].[7] surely the days of his declared leprosy when his hair is not ripe for polling because of the naziriteship[8] should not be counted. In this way we may only infer that the period of his declared leprosy [may not be counted]. How do we know that [the same is true] of his tale of days?[9] This follows by analogy.

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(1) When he will have shaved twice for his leprosy.

(2) After polling once for his defilement and again on terminating his naziriteship, v. infra 59b.

(3) Tosef. Ha. VI, 1.

(4) The third polling taking place after two years and thirty days, thirty days being the time for a growth of hair and the rest of the year will be coincident with the time of his leprosy. Since this is not the case, it follows that the days of his leprosy are not reckoned towards the naziriteship.

(5) To refute R. Hisda.

(6) The period of naziriteship counted before defilement.

(7) I.e., he does not poll for his defilement, but begins his naziriteship after leaving the grave and becoming clean and then polls on completing his naziriteship.

(8) He has to poll because he was a leper; cf supra 17b.

(9) The seven days that he ‘tells’ on recovery; v. Lev. XIV. 8.

Talmud - Mas. Nazir 56b

Just as [after] the days of his declared leprosy he must poll,[1] so [after] his tale of days [he must poll],[2] and so, just as the days of his declared leprosy are not reckoned in the number [of days of his naziriteship], so his tale of days [are not counted]. It might be thought that the same is true of the days that he is shut up,[3] and this too could be derived by analogy. A declared leper defiles both couch and seat,[4] and during the days that he is shut up, he defies both couch and seat. And so if you infer that the days of his declared leprosy are not counted in the number [of days of his naziriteship], neither should the days when he is shut up be counted in the number. But this is not so. If it is true of the days of his declared leprosy [that the days are not counted], it is because [after] his declared leprosy, he must poll and bring an offering and therefore they are not counted, whereas since [after] the days that he is shut up he does not need to poll nor need he bring an offering, therefore they can be counted in the number [of days of his naziriteship]. From these arguments [the Rabbis] inferred that the days of [the leper's] telling and the days of his declared leprosy are not counted in the number [of days of his naziriteship], but the days [of defilement] of a male or female sufferer from gonorrhoea, and the days when a leper is shut up are counted.[5]

Now one of the arguments mentioned is: ‘No! If you say this of the days of his defilement where the previous days are rendered void because of them, would you also say it of the days of his declared leprosy [where the previous days are not rendered void]’. What kind [of naziriteship is referred to]? Should it be a short naziriteship,[6] then we require a [thirty days] growth of hair and there is not such a growth.[7] Thus it must be a long naziriteship [which is referred to] and yet it says that they are not reckoned in the number [of days of the naziriteship]. From this it follows [that the period of declared leprosy is never counted].[8] This proves it.

MISHNAH. R. ELIEZER[9] SAID ON BEHALF OF R. JOSHUA THAT EVERY DEFILEMENT [CONVEYED] BY A CORPSE FOR WHICH A NAZIRITE MUST POLL ENTAILS A

LIABILITY FOR ONE ENTERING THE SANCTUARY[10] [WHILST THUS DEFILED], AND EVERY DEFILEMENT [CONVEYED] BY A CORPSE FOR WHICH A NAZIRITE IS NOT REQUIRED TO POLL DOES NOT ENTAIL A LIABILITY FOR ONE ENTERING THE SANCTUARY [WHILE SO DEFILED]. R. MEIR SAID: SUCH [DEFILEMENT] SHOULD NOT BE LESS SERIOUS THAN [DEFILEMENT THROUGH] A REPTILE.[11]

GEMARA. Did R. Eliezer receive this [statement] in the name of R. Joshua?[12] Did he not receive it in the name of R. Joshua b. Memel, as has been taught: R. Eliezer[13] said: When I went to ‘Ardacus[14] I found R. Joshua b. Pethar Rosh[15] sitting and expound ing points of law in the presence of R. Meir. [One of them was as follows.] Every defilement [conveyed] by a corpse for which a nazirite must poll entails a penalty for entering the Sanctuary, and every defilement [arising] from a corpse for which a nazirite is not required to poll, does not entail a penalty for entering the Sanctuary. [R. Meir] said to him; Such [defilement] should not be less stringent than [defilement by] a reptile? I then asked [R. Joshua b. Pethar Rosh]. ‘Are you at all versed in [the sayings of] R. Joshua b. Memel?’ He replied. ‘I am’. Thus did R. Joshua b. Memel tell me in the name of R. Joshua: Every defilement [arising] from a corpse for which a nazirite must poll, entails a penalty for entering the Sanctuary, and every defilement [arising] from a corpse for which a nazirite is not required to poll, does not entail a penalty for entering the Sanctuary.[16] Thus we see that it was in the name of R. Joshua b. Memel that [R. Eliezer] received it? — They replied:[17] From this it follows that whenever a tradition is transmitted through three [men], the first and the last [name] are mentioned, whilst the middle [name] is not mentioned.[18]

R. Nahman b. Isaac said: We, too. have learned to the same effect: Nahum the Scribe[19] said, This was transmitted to me from R. Measha, who received it from his father, who received it from ‘the Pairs’,[20] who received it from the Prophets as a tradition [handed] to Moses on Mt. Sinai: If a man who has sown his field with two varieties of wheat collects them on one threshing floor,[21] he need leave [only] one pe'ah,[22] but if he collects them on two threshing floors,[23] he must leave two pe'ahs.[24] Now here, Joshua and Caleb are not mentioned [between Moses and the Prophets]. Thus it follows from this [that intermediate names may be omitted].

MISHNAH. R. AKIBA SAID: I ARGUED IN THE PRESENCE OF R. ELIEZER[25] AS FOLLOWS. SEEING THAT A BARLEY-CORN'S BULK OF BONE WHICH DOES NOT DEFILE A MAN BY ‘OVERSHADOWING’, COMPELS A NAZIRITE TO POLL SHOULD HE TOUCH IT OR CARRY IT, THEN SURELY A QUARTER [-LOG] OF BLOOD WHICH DEFILES A MAN BY ‘OVERSHADOWING, SHOULD CAUSE A NAZIRITE TO POLL IF HE TOUCHES IT OR CARRIES IF?[26] HE REPLIED: WHAT NOW, AKIBA! TO ARGUE FROM THE LESSER TO THE GREATER IS NOT PERMITTED IN THIS INSTANCE.’ WHEN I AFTERWARDS WENT AND RECOUNTED THESE WORDS TO R. JOSHUA, HE SAID TO ME, ‘YOUR ARGUMENT WAS SOUND, BUT [IN THIS CASE] THIS HAS BEEN DECLARED AS A FILED HALACHAH.[27]

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(1) Lev. XIV, 8.

(2) Ibid. v. 9.

(3) A doubtful case of leprosy is isolated for seven days; v. Lev. XIII, 4-6.

(4) V. Lev. XV, 4, for this type of defilement.

(5) The whole of the last paragraph occurs in Sifre to Num. VI, 12. R. Ashi now proceeds with his objection.

(6) And we are told that the period before the declared leprosy is counted, but not the period of leprosy.

(7) If we reckon the days before leprosy.

(8) Thus R. Hisda's statement is refuted.

(9) [Read with I. ‘R. Eleazar (b. Shammua)’, a disciple of R. Akiba. R. Eliezer b. Hyrcanus the teacher of R. Akiba could not have reported a teaching in the name of R. Joshua a disciple of his disciple. V. also n. 10 and p. 201 n. 1.]

(10) The Temple precincts. The liability is a sacrifice, if the offence is committed unwittingly.

(11) R. Meir's argument is: Since there is a penalty for entering the Temple after defilement by a reptile, although the person so defiled does not have to be sprinkled on the third and seventh days, then in the case of defilement by a corpse for which a nazirite need not poll. Just as he need not after defilement by a reptile, there should be a penalty on entering the Temple, for in this case he must be sprinkled on the third and seventh days.
(12) R. Joshua b. Hananiah (c. 100 C.E.).
(13) [Var. lec. R. Eleazar.]
(14) Identified with Damascus (Jast.). [Or, with Ard a-Suk near the source of the Jordan (Horowitz I. S. Palestine, p. 78).]
(15) [Var. lec. ‘b. Pethora’; ‘b. Bathyra’. V. Zuckermandel Tosefta p. 290.]
(16) Tosef. Naz. V, 3. Tos. Oh. IV, 7.
(17) [Asheri and Tosaf. omit ‘they replied’.]
(18) Thus in our Mishnah though the tradition was received from R. Joshua through R. Joshua b. Memel and R. Eliezer, only the first and last of these is mentioned.
(19) Heb. לבלר _ libellarius.
(20) Zugoth (Pairs), from Jose B. Jo'ezer and Jose B. Johanan to Hillel and Shammai; v. Aboth (Sonc. ed.) p. 3, n. 8.
(21) I.e., does not keep them separate.
(22) Pe'ah. The corner of the field that was left for the poor. V. Lev. XXIII, 22.
(23) Thus treating them as two separate crops.
(24) Pe'ah II, 6. The text here has been emended after all the commentators to agree with the Mishnah in Pe'ah. The text, which is supported by the MSS., quotes instead Pe'ah III, 2, as the tradition of Nahum: If a man sowed dill or mustard seed in two or three separate places, he must leave pe'ah from each.
(25) R. Eliezer b. Hyrcanus. In the last Mishnah by R. Eliezer, R. Eleazar b. Shammua is meant. V. supra p. 208, n. 4.
(26) Yet the Mishnah 54a counts the quarter-log of blood as one of the things for which a nazirite need not poll.
(27) As a tradition from Sinai and no inference may be drawn.

Talmud - Mas. Nazir 57a

GEMARA. The question was propounded: Was it [the law concerning] a barley-corn's bulk of bone[1] that was a halachah and that of the quarter [-log] of blood [that was being derived] by argument, and [this is what is meant by saying that] an argument from the lesser to the greater is not permitted in the case of a halachah?[2] Or, was it [the law concerning] a quarter [-log] of blood[3] that was a halachah, while [the law concerning] a barley-corn's bulk of bone [was simply used] for the argument, and [this is what is meant by] saying that an argument from the lesser to the greater is not permitted in the case of a halachah?[4] — Come and hear: [It has been taught: The rulings concerning] a barley-corn's bulk of bone is a halachah,’ [the rulings of] a quarter [-log] of blood [can be derived] by an argument; but an argument from the lesser to the greater is not permitted in the case of a halachah.[5]

CHAPTER VIII

MISHNAH. TWO NAZIRITES TO WHOM SOMEONE SAYS, I SAW ONE OF YOU DEFILED, BUT I DO NOT KNOW WHICH OF YOU IT WAS,’ MUST [BOTH] POLL[6] AND BRING SACRIFICES [PRESCRIBED] FOR DEFILEMENT AND SACRIFICES [DUE ON TERMINATING A NAZIRITESHIP] IN PURITY,[7] [AND ONE OF THEM] MUST SAY, ‘IF I AM UNCLEAN, THE SACRIFICES FOR DEFILEMENT ARE MINE, AND THE SACRIFICES IN PURITY ARE YOURS, WHILST IF I AM THE ONE WHO IS CLEAN, THE SACRIFICES IN PURITY ARE MINE AND THE SACRIFICES FOR DEFILEMENT ARE YOURS.’ THEY MUST THEN COUNT THIRTY [MORE] DAYS[8] AND BRING SACRIFICES IN PURITY AND [ONE OF THEM] MUST SAY, IF I AM THE ONE WHO WAS UNCLEAN, THE SACRIFICES FOR DEFILEMENT WERE MINE, THE SACRIFICES IN PURITY WERE YOURS, AND THESE ARE MY SACRIFICES IN PURITY, WHILST IF I WAS THE ONE WHO WAS CLEAN, THE SACRIFICES IN PURITY WERE MINE, THE SACRIFICES FOR DEFILEMENT WERE

YOURS, AND THESE ARE YOUR SACRIFICES IN PURITY.

GEMARA. The Mishnah Says: TWO NAZIRITES TO WHOM SOMEONE SAYS, ‘I SAW ONE OF YOU DEFILED, BUT I DO NOT KNOW WHICH OF YOU IT WAS [etc.]: Now why [is this necessary]?[9] For whence do we derive all [the laws concerning] doubtful defilement [arising] in a private domain?[10] [Is it not] from [the regulations regarding] a faithless wife?[11] [Whence it may be in ferred that] just as in the case of a faithless wife [only] the lover and his mistress are together,[12] so in every case of doubtful defilement in a private domain [the defilement is assumed to be definite] only if there were but two persons present, whereas in the present instance, the two nazirites and the one standing near[13] make three, so that it becomes [the same as] a case of doubtful defilement in a public domain [and the rule is:] Every case of doubtful defilement in a public domain remains clean?[14] — Rabbah son of R. Huna replied: [The Mishnah assumes that the third person] says, ‘I saw a source of defilement thrown between you?[15] R. Ashi commented: This is also indicated [in the language of the Mishnah]

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(1) Viz., that a nazirite must poll if he touches a bone of that size.

(2) And this was the reason that R. Akiba's argument was not accepted.

(3) Viz., that it defiles by overshadowing’.

(4) I.e., no new properties may be added by an argument to what is traditionally known.

(5) Thus the first alternative is meant.

(6) When both have completed their periods of naziriteship.

(7) One set of each kind of sacrifice.

(8) The usual period of naziriteship.

(9) Why should either of them have to take account of the possibility that he has become unclean?

(10) Viz.: That cases of doubtful defilement in a private domain are treated as if definitely unclean.

(11) Cf. Num. V, 11ff. The woman is regarded as having defiled her marital relationship and must undergo the ordeal of the bitter waters though there is no evidence of unfaithfulness; v. Sot. 28b.

(12) Proceedings involving the drinking of bitter waters can be taken against a faithless wife only if there is no eye-witness of unfaithfulness; v. Num. V, 13. and Sot. 2b.

(13) Who asserts that he saw one of them become unclean.

(14) And so each nazirite should regard himself as clean and need bring no sacrifice for defilement.

(15) And the third person was at a distance, so that the conditions for a private domain were fulfilled.

Talmud - Mas. Nazir 57b

for it says: BUT I DO NOT KNOW WHICH OF YOU IT WAS, which proves [that he was not in their company].[1]

THEY MUST POLL AND BRING [etc.]: But why [should they be allowed to poll]? Perhaps they are not unclean and they will [nevertheless] have rounded [the corners Of the head]?[2] -Samuel replied: [The Mishnah is speaking] Of a woman or a minor.[3]

Why does he not regard [the Mishnah] as speaking of an adult [male nazirite], the rounding of the whole head not being considered [an infringement of the prohibition against] rounding?[4] — Since he does not do so ,it follows that Samuel holds that the rounding of the whole head is considered [an infringement of the prohibition against] rounding.

Mar Zutra taught this exposition of Samuel with reference to a subsequent Mishnah [which reads]: A nazirite who was in doubt whether he had been defiled and in doubt whether he had been a certified leper may eat sacred meats after sixty days [etc.][5] and must shave four times.[6] [But why?][7] Will he not have marred [the corners of his beard]?[8] — Samuel replied: [The Mishnah is speaking] of a woman or a minor.[9]

R. Huna said: One who rounds [the head of] a minor is guilty.[10] R. Adda b. Ahabah said to R. Huna: Then who shaves your [children's heads]? He replied: Hoba.[11] [Rab Adda exclaimed:] Does Hoba wish to bury her children?[12] During the whole of R. Adda b. Ahabah's lifetime, none of R. Huna's children survived.[13] Seeing that both [R. Huna and R. Adda] hold that rounding the whole head is [an infringement of the rule against] rounding,[14] wherein do they differ?[15] — R. Huna holds that [the verse,] Ye shall not round the corners of your heads, neither shalt thou mar the corners of thy beard,[16] [signifies] that to whomsoever marring is applicable,[17] rounding is applicable, and since marring does not apply to women, rounding, too, does not apply to them.[18] R. Adda b. Ahabah, on the other hand, holds that both he who rounds and he who is rounded are included [in the prohibition],[19] the one who rounds being compared to the one who is rounded, [to the effect that] wherever the one who is rounded is guilty, the one who rounds is also guilty. Hence, since a child is not punishable[20] and so is not guilty [of the offence of rounding], he who rounds [the child] is also not guilty.[21]

Can we say that [the question of] rounding the whole head is the subject of [controversy between] Tannaim? For our Rabbis have taught: Why does Scripture mention his head?[22] Since it says, ye shall not round the corners of your heads,[23]

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(1) For otherwise it should have read: ‘And I have forgotten which of you it was’.

(2) Which is forbidden except to a nazirite or a leper; v. Lev. XIX. 27.

(3) For whom there is no prohibition against rounding.

(4) Cf. supra 41a.

(5) Infra 59b; v. supra 55b for relevant notes.

(6) ‘And drink wine and have contact with the dead after one hundred and twenty days’, which occurs in the Mishnah is here contracted to ‘shave four times’ after the Baraitha quoted on page 60a.

(7) Inserted with Bah, i.e., why may he shave in case of doubt?

(8) And this is forbidden (v. Lev. XIX, 27) unless he is actually a leper. The reading we have adopted is that of Rashi and Tosaf. Our printed text has: ‘Will he not have rounded?’ in which case there is no difference between Mar Zutra and the earlier statement. On our reading the point of Mar Zutra's statement is that we are without definite evidence of Samuel's opinion on the subject of rounding the whole head.

(9) Who have no beards.

(10) Of transgressing the command not to round.

(11) The wife of R. Huna, who, being a woman, was not commanded not to round.

(12) If the rounding of a child's head is forbidden, it is also forbidden for a woman to round it.

(13) Although R. Adda himself would have allowed the children's heads to be rounded even by a man (v. infra), his unfortunate forecast proved true during his lifetime.

(14) For the point at issue was whether this was permitted in the case of a minor, but both agreed that it is forbidden with an adult. Why does the one permit a woman to round a child and the other not allow it.

(15) What is the point at issue?

(16) Lev. XIX, 27.

(17) I.e. men who have beards.

(18) I.e., There is no penalty even if a woman rounds an adult. But a man may not round a minor.

(19) I.e., ‘Ye shall not round’ refers to both.

(20) For any offence.

(21) Hence even an adult may round a child. Thus when R.Adda said that Hoba should not poll the children, he was arguing on R. Huna's premises.

(22) Of the leper; although it has already said that he must shave all his hair; Lev. XIV,9.

(23) Speaking of all persons Lev. XIX,27.

Talmud - Mas. Nazir 58a

it might be thought that the same is true of a leper, therefore Scripture says ‘his head’.[1] And another [Baraitha] taught: Why does Scripture mention ‘his head’?) Since it says with reference to the nazirite, There shall no razor come upon his head,[2] it might be thought that the same is true of a nazirite who becomes a leper, therefore Scripture says ‘his head’.[3] Now surely there is here a difference of opinion between Tannaim [on the question of rounding the whole head]. The [Tanna] who refers [‘his head’] to the nazirite holding that the rounding of the whole head does not count as rounding,[4] and that the purpose of the text[5] is to override the prohibition and positive command [incumbent on the nazirite],[6] whilst the other [Tanna] holds that the rounding of the whole head does count as rounding[7] and the purpose of the verse is to override a simple prohibition![8] — Said Raba: [It may be that] both [Tannaim] agree that the rounding of the whole head does not count as rounding, and the purpose of the verse [according to the latter Tanna][9] is [to permit rounding] where he first rounds [the corners only] and then shaves [the rest of the head]. Since he would not be guilty if he shaved it all at the same time, he is not guilty if he first rounds [the corners] and then shaves [the rest].[10]

But could Scripture possibly intend this?[11] Has not Resh Lakish said that wherever we find a positive command and a prohibition [at variance], then if it is possible to observe both, well and good, otherwise the positive command overrides the prohibition?[12] — We must therefore say that both [Tannaim] agree that the rounding of the whole head counts as rounding [the corners], and that the authority who utilises the verse [‘his head’ to prove that a positive command] may override both a prohibition and a positive command, infers that a simple prohibition [can be overridden] from [the command to wear] twisted cords. For the verse says, Thou shalt not wear a mingled stuff,[13] and it has been taught [in explanation of this]: Thou shalt not wear a mingled stuff, [wool and linen together], but nevertheless, Thou shalt make thee twisted cords[14] of them.

Why does not the one who infers this [rule][15] from ‘his head’ infer it from ‘twisted cords’? — He will reply that [the latter] is required for [the following dictum of] Raba. For Raba noted the following contradiction. It is written, And that they put with the fringe of each corner, [i.e.,] of the same [material] as the corner[16] must there be a thread of blue.[17] Yet it is [also] written wool and linen together.[18] How are these to be reconciled? Wool and linen discharge [the obligation to provide fringes] both for [garments of] their own species,[19] and also for other species,[20] but other kinds [of material] discharge [this obligation] only for [garments of] the same species but not for [garments of] a different species.[21]

And whence does the Tanna who utilizes ‘his head’ for [the inference that a positive command overrides] a simple prohibition learn that the positive command[22] overrides both a prohibition and a positive command?[23] — He infers it from [the expression] ‘his beard’.[24] For it has been taught: Why does Scripture mention ‘his beard’?[25] Since it says,[26] neither shall they shave off the corners of their beard,[27] it might be thought that the same is true of a priest who is a leper, and so Scripture says ‘his beard’.[28]

Why does not the [Tanna] who utilizes ‘his head’ for [teaching that] the positive command and prohibition [can be overruled by a positive command] infer it from [the words] ‘his beard’? — But according to your view[29] when we have the rule elsewhere

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(1) The leper must even shave his head.

(2) Num. VI, 5.

(3) Even a nazirite must shave his head if he becomes a leper. Cf. the somewhat different discussion of these two Baraithas, supra 41a.

(4) And so no special permission is required to round the head of a leper on shaving him.

(5) ‘His head’.

(6) Viz.: There shall no razor come upon his head (Num. VI. 5) and, He shall let the locks of the hair of his head grow long (Ibid.). In spite of these verses, the leprous nazirite is to shave his head.

(7) And it might be thought that even an ordinary leper must not round his head.

(8) I.e., one which has no accompanying positive command to the same effect.

(9) Who uses it to allow rounding in the case of an ordinary Ieper.

(10) I.e., the verse tells us that even if he shaves his head without avoiding the transgression of the prohibition against rounding, where is no penalty.

(11) Viz.: no permit infringement of a prohibition when it can he avoided.

(12) And here, if rounding the whole head is not an infringement, he should shave the whole head at once.

(13) Deut. XXII, 21.

(14) The next verse. The inference is that fringes of wool may be placed on a linen garment, the prohibition of the preceding verse notwithstanding.

(15) That a positive command overrides a simple prohibition.

(16) This is inferred from the redundant ‘each corner’. Since we know from the preceding phrase that the fringes are to he on the corners, Raba concludes that the fringes must he of the same material as the garment.

(17) Num. XV, 38.

(18) Deut. XXII, 21, followed by Thou shalt make thee twisted cords, implying apparently that fringes must be made of wool and linen only.

(19) Wool and linen.

(20) Wool fringes may be put on a silk or linen garment.

(21) Silk fringes do nor count as fringes if put on a woollen garment.

(22) In the case of the leper.

(23) If the nazirite becomes leprous he may shave his head on recovering.

(24) Lev. XIV, 9 of a leper.

(25) Since he must shave the whole of his body.

(26) Of the priests.

(27) Lev. XXI, 5. This is the prohibition. The positive command is contained in the next verse. They shall be holy unto their God.

(28) Even a priest must shave his beard if he is a leper.

(29) That we make the inference from ‘his beard’, so that the case of the leprous nazirite can be deduced from that of the leprous priest.

Talmud - Mas. Nazir 58b

that a positive command cannot override a prohibition accompanied by a positive command, let it be inferred from the [case of a leprous] priest that it can override?[1] [To this you reply] that we can make no inference from the [case of a leprous priest], [because] the case of the priest is different since the prohibition [overridden] does not apply to all people equally.[2] So, too, we are unable to infer the nazirite [leper] from the priest [leper] since the prohi bition [overridden in the case of the priest] does not apply equally to all people.[3]

Now to what use does the [Tanna] who utilizes [the phrase] ‘his head’ for the nazirite [leper], put [the phrase] ‘his beard’?[4] — He requires it for [the following] that has been taught:[5] [From the verse] Neither shall they shave off the corners of their beard,[6] it might be thought that even if he shaved it with a scissors, he would be guilty, and so Scripture says [elsewhere], neither shalt thou mar [the corners of thy beard].[7] If it had [only written] ‘neither shalt thou mar’ It might have been thought that if he plucked it out with tweezers or a rohitni,[8] he would be guilty, and so Scripture says, ‘neither shalt they shave off the corners of their beard’. What sort of shaving also mars? I should say that this is [shaving with] a razor.[9] Now according to the other tanna who utilizes the phrase, ‘his head’ for [overriding] a simple prohibition, why is it necessary to write both ‘his head’ and ‘his beard’? [For since the expression ‘his head’] can be understood as implying the overriding of a simple prohibition[10] and it can be understood also as implying the overriding of a prohibition accompanied by a positive command,[11] it can be applied indifferently to both,[12] and both could be inferred?[13] — The priest [leper] cannot be inferred from the nazirite [leper], since the latter can secure release [from his nazirite vow].[14] The nazirite [leper] cannot be inferred from the priest [leper], since the [latter] prohibition does not apply equally to all people.[15] [Finally,] we cannot infer from these a rule for other cases,[16] since the previously mentioned objections could be raised.[17]

Rab said: A man may thin [the hair of] his whole body with a razor. An objection was raised. [It has been taught:] One who removes [the hair of] the armpits or the private parts is to be scourged?[18] — This [refers to removal] by a razor whereas the other of [Rab refers to removal] by a scissors. But Rab also mentions a razor? — [He means closely] as though with a razor.

R. Hiyya b. Abba, citing R. Johanan said: One who removes [the hair of] the armpits or of the private parts is to be scourged. An objection was raised. [It has been taught:] Removal of hair is not [forbidden] by the Torah, but only by the Soferim?[19] — What he too meant by scourging is [scourging inflicted] by the Rabbis .[20]

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(1) For your question assumes that there is no difference between this case and others.

(2) It refers to priests but not to ordinary Israelites. A prohibition which applies to all equally must be considered of greater force and, therefore, if accompanied by a positive command, it cannot be overruled.

(3) But anyone can become a nazirite and so the nazirite prohibition is of greater force, and a rule which applies to priests cannot be taken as applying to nazirites.

(4) For the priest leper can be inferred from the nazirite leper.

(5) Our text repeats here the Baraitha about a priest leper quoted before: Why does Scripture mention ‘his beard’? Because it says, neither shall they share off the corners of their beard, it might be thought that the same is true of a priest who is a leper, and so Scripture says ‘his beard’. And how do we know that this must be done with a razor? It has been taught: This passage appears to have been omitted by all the commentators and so we omit it with the Bail.

(6) Lev. XXI, 5.

(7) Lev. XIX, 27 of an ordinary Israelite. Scissors do not mar.

(8) V. Glos.

(9) And the phrase, ‘his beard’ teaches us that the leper too must shave with a razor; cf. supra 40b.

(10) By inference from the verse, ‘ye shall not round the corners of your head’ as in the first Baraitha supra.

(11) From the nazirite as in the second Baraitha.

(12) I.e., seeing that the method of inference is the same in both cases, we should have inferred both.

(13) What need is there of ‘his beard’? The priest-leper can be inferred from the naziriteleper.

(14) By applying to a sage. And since the prohibition is not a permanent one, it might be thought that only here can a positive command override a prohibition accompanied by a positive command but not in the case of a priest-Ieper.

(15) But only to priests, whereas anyone can become a nazirite. Hence if the fact that a priest-Ieper may shave were taught, it would not be possible to infer in the case of a nazirite-leper that the prohibition and positive command to let his hair grow are overruled by the positive command for a leper to shave.

(16) Lit., ‘we cannot infer other cases from them’. I.e., that in all cases a positive command overrides a prohibition accompanied by a positive command.

(17) Viz.: That the case of the nazirite and the priest are special instances and cannot be generalised.

(18) For infringing the prohibition against a man appearing as a woman; v. infra.

(19) Lit. ‘by the Scribes’ (v. Sanh., Sonc. ed., p. 360, n.7). Why then does R. Johanan say that the penalty is scourging.

(20) I.e. not the statutory 39 stripes, but a scourging prescribed at the discretion of the Rabbis for transgressing a non-Biblical law.

Talmud - Mas. Nazir 59a

Others say [that the above argument took the following form]. R. Hiyya b. Abba, citing R. Johanan, said: One who removes [the hair of] the armpits or the private parts is to be scourged because of [infringing the prohibition] neither shall a man put on a woman's garment.[1] An objection was raised. [We have been taught:] Removal of hair is not [forbidden] by the Torah, but only by the

Soferim? — That statement [of R. Johanan] agrees with the following Tanna. For it has been taught: One who removes [the hair of] the armpits or the private parts infringes the prohibition, neither shall a man put on a woman's garment.

What interpretation does the first Tanna[2] put on [the verse] ‘neither shall a man put on a woman's garment’? — He requires it for the following that has been taught: Why does Scripture say, A woman shall not wear that which pertaineth unto a man [etc.]?[3] If merely [to teach] that a man should not put on a woman's garment, nor a woman a man s garment, behold it says [of this action] this is an abomination[4] and there is no abomination here![5] It must therefore mean that a man should not put on a woman's garment and mix with women, nor a woman a man's garment and mix with men. R. Eliezer b. Jacob says: How do we know that a woman should not go to war bearing arms? Scripture says, ‘A woman shall not wear that which pertaineth unto a man.’ [The words] ‘Neither shall a man put on a woman's garment,’ [signify] that a man is not to use cosmetics as women do.

R. Nahman said that a nazirite is permitted [to remove the hair of his armpits],[6] but this is not the accepted ruling. The Rabbis said to R. Simeon b. Abba: We have seen that R. Johanan has no [hair in his armpits].[7] [R. Simeon] said to then,: It has fallen out because of his old age.

A certain man was sentenced to scourging before R. Ammi, and when his armpits became bared,[8] he noticed that they were not shaven. R. Ammi said to then,: Let him go free. This man must be a member of the [learned] fraternity.[9]

Rab asked R. Hiyya whether [it was permitted] to shave[10] [the armpits]. He replied: It is forbidden. [Rab] then asked: But it grows?[11] He replied: SOn of great ancestors,[12] there is a limit. If it continues to grow [beyond this] it falls out.

Rab asked R. Hiyya whether [it was permitted] to scratch [the armpits to remove the hair]. He replied: It is forbidden. [To the further question] whether he might [scratch] through his garment,[13] he replied that it was permitted. Some say that he asked him whether he might [scratch] through his garment during prayers[14] and he replied that it was forbidden; but this is not the accepted ruling.[15]

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(1) Deut. XXII, 5. It was customary only for women to shave the hair of the body.

(2) Who holds that the removal of this hair is not forbidden by the Torah.

(3) Ibid.

(4) The end of the verse reads: ‘whosoever doeth these things is an abomination to the Lord’. This word, ‘abomination’, is used of forbidden intercourse.

(5) The mere act of putting on the garments is not wrong.

(6) At the same time as he shaves his head when he would in any case be unattractive.

(7) How is it possible, if the removal is forbidden.

(8) As he was stripped to receive the punishment.

(9) As the fact that his armpits were unshaven proved.

(10) With scissors.

(11) Uncomfortably long, and one should be allowed to remove it for the sake of comfort without transgressing the prohibition.

(12) Lit., ‘Son of princes’. A favourite appellation of Rab, used by his uncle R. Hiyya.

(13) I.e. whether he might scratch on top of his shirt, without touching the bare flesh.

(14) To remove a source of irritation. It is forbidden to touch the bare skin during prayers.

(15) I.e. scratching through a garment is allowed.

Talmud - Mas. Nazir 59b

MISHNAH. IF ONE OF THEM DIES;[1] R. JOSHUA SAID THAT [THE OTHER] SHOULD SEEK

SOME THIRD PERSON[2] PREPARED TO UNDERTAKE A NAZIRITE-VOW TOGETHER WITH HIM, AND SAY: IF I WAS DEFILED, YOU ARE TO BE A NAZIRITE IMMEDIATELY, BUT IF I WAS CLEAN, YOU ARE TO BECOME A NAZIRITE AT THE END OF THIRTY DAYS.' THEY THEN COUNT THIRTY DAYS AND BRING SACRIFICES FOR DEFILEMENT AND SACRIFICES [DUE ON TERMINATING A NAZIRITESHIP] IN PURITY AND [THE FIRST ONE] SAYS, 'IF I AM THE ONE WHO WAS DEFILED, THE SACRIFICES FOR DEFILEMENT ARE MINE AND THE SACRIFICES IN PURITY ARE YOURS, WHILST IF I AM THE ONE WHO REMAINED CLEAN, THE SACRIFICES IN PURITY ARE MINE AND THE SACRIFICES AFTER DEFILEMENT ARE [SACRIFICES OFFERED] IN DOUBT.'[3] THEY THEN COUNT [A FURTHER] THIRTY DAYS AND BRING [ONE SET OF] THE SACRIFICES IN PURITY AND [THE FIRST ONE] SAYS, 'IF I AM THE ONE WHO WAS DEFILED, THE SACRIFICE FOR DEFILEMENT [OFFERED PREVIOUSLY] WAS MINE AND THE SACRIFICE IN PURITY WAS YOURS, AND THIS IS MY SACRIFICE IN PURITY, WHILST IF I WAS THE ONE WHO REMAINED CLEAN, THE SACRIFICE IN PURITY WAS MINE AND THE SACRIFICE AFTER DEFILEMENT [WAS OFFERED] IN DOUBT AND THIS IS YOUR SACRIFICE IN PURITY.

BEN ZOMA SAID TO [R. JOSHUA]: WHO WILL LISTEN TO [THIS MAN] AND UNDERTAKE A NAZIRITE-VOW TOGETHER WITH HIM? WHAT HE MUST DO IS TO BRING[4] A BIRD AS A SINOFFERING AND AN ANIMAL AS A BURNT-OFFERING AND SAY, IF I WAS DEFILED, THE SIN-OFFERING IS PART OF MY DUE[5] AND THE BURNT-OFFERING IS A VOLUNTARY OFFERING, WHILST IF I REMAINED CLEAN, THE BURNT-OFFERING IS PART OF MY DUE AND THE SIN-OFFERING [A SACRIFICE OFFERED] IN DOUBT.' HE MUST THEN COUNT THIRTY DAYS AND BRING THE SACRIFICES IN PURITY AND SAY, IF I WAS DEFILED, THE FORMER BURNT-OFFERING WAS A VOLUNTARY ONE AND THIS IS THE OBLIGATORY ONE, WHILST IF I REMAINED CLEAN, THE FORMER BURNT-OFFERING WAS THE OBLIGATORY ONE AND THIS THE VOLUNTARY ONE. THESE [OTHERS] ARE THE REST OF MY SACRIFICES.' R. JOSHUA RETORTED: THE RESULT WILL BE THAT THIS [NAZIRITE] WILL BRING HIS SACRIFICES HALF AT A TIME![6] THE SAGES, HOWEVER, AGREED WITH BEN ZOMA.

GEMARA. But let him bring them [half at a time]?[7] — Rab Judah citing Samuel said: R. Joshua only said this in order to sharpen [the wits of] the students.[8] R. Nahman[9] said, What would R. Joshua do with the intestines to prevent them decomposing?[10]

MISHNAH. A NAZIRITE WHO WAS IN DOUBT WHETHER HE HAD BEEN DEFILED AND IN DOUBT WHETHER HE HAD BEEN A CONFIRMED[11] LEPER, MAY EAT SACRED MEATS AFTER SIXTY DAYS,[12] AND DRINK WINE AND TOUCH THE DEAD AFTER ONE HUNDRED AND TWENTY DAYS,[13] SINCE POLLING ON ACCOUNT OF [LEPROUs] DISEASE OVERRIDES [THE PROHIBITION AGAINST] THE POLLING OF THE NAZIRITE ONLY THEN [THE LEPROSY] IS CERTAIN, BUT WHEN IT IS DOUBTFUL IT DOES NOT OVERRIDE IT.[14]

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(1) One of the two men mentioned in the last Mishnah 57a.

(2) Lit. 'someone from the street'.

(3) Its flesh would be interred and not eaten, as in the case with a sacrifice brought for certain defilement; v. supra 29a.

(4) On completing his naziriteship.

(5) He must offer the sin-offering because he cannot commence to count the naziriteship in purity until it is sacrificed, if he had been in fact defiled. The other sacrifices can be dispensed with in the circumstances; v. supra 18b.

(6) If he was in fact clean, his burnt-offering will have been brought thirty days before the other sacrifices.

(7) I.e., What is the point of R. Joshua's objection to the procedure of Ben Zoma.

(8) It was not a real objection. R. Joshua merely wanted the students to learn not to forbear from raising an objection because it may have no basis.

(9) Both Rashi and Tosaf. have: ‘R. Nahman b. Isaac’.

(10) If we were to do as R. Joshua suggests, the fat of the intestines (which must be offered on the altar) would decompose whilst both nazirites were being shaved prior to the waving. Surely, this is as great an objection as the bringing of the sacrifices at different times. R. Nahman points out that not merely is there no technical objection to the procedure of Ben Zoma but R. Joshua's cannot even be considered preferable. Tosaf.

(11) מוחלט ‘confirmed’: a person afflicted with leprosy who, on the first examination or after the period of confinement, is declared by the priest to he a leper; v. Lev. XIII, 45ff.

(12) I.e., after counting two nazirite periods of thirty days.

(13) After four nazirite periods. V. supra 55b for relevant notes.

(14) But the period of naziriteship must he observed before polling; v. Gemara following.

Talmud - Mas. Nazir 60a

GEMARA. A Tanna taught: [The procedure laid down in the Mishnah] applies only in the case of a short naziriteship,[1] but in the case of a naziriteship of [say,] a year, he may eat sacred meats [only] after two years, and drink wine and touch the dead after four years ,[2] It has been taught further in connection with this: He must poll four times.[3] At the first polling he brings a pair of birds, a bird as a sin-offering, and an animal as a burnt-offering.[4] At the second [polling] he brings a bird as a sin-offering and an animal as a burnt-offering. At the third he [again] brings a bird as a sin-offering and an animal as a burnt-offering. At the fourth he brings the sacrifice [due on terminating the naziriteship] in purity.

It has just been said: ‘At the first polling he brings etc.’ [In this way] whatever the facts are he offers the correct [sacrifice]. For if he was certainly a leper but was not defiled, the pair of birds are [in discharge of] his obligation,[5] the bird as a sin-offering [is a sacrifice offered] in doubt and is to be buried, and the burntoffering is a free-will offering. He cannot however be shaved [a second time] seven days hence,[6] for perhaps he is not a confirmed leper and the All-Merciful has said [of the nazirite]. There shall no razor come upon his head until [the days] be fulfilled.[7] If, on the other hand, he was not certainly a leper but he was defiled, then the bird as a sin-offering is [in discharge of] his obligation,[8] the pair of birds, being prepared without [the Temple court][9] are not [in the category of] profane [animals] brought into the Temple-court,[10] whilst the animal as a burnt-offering is a freewill-offering. Finally, if he was neither a leper nor defiled, then the pair of birds are [in any case] prepared without [the Temple-court] ,[11] the bird as a sin-offering is to be buried, and the animal as a burnt-offering is [in discharge of] his obligation [as a clean nazirite].[12]

But surely he requires a guilt-offering?[13] — [The author of this Baraitha] is R. Simeon who says that he brings one and makes a stipulation.[14]

At the second and third polling a pair of birds is unnecessary for these have been prepared.[15] What [doubt] is there [remaining]? That perhaps he was actually a confirmed leper?[16] [Because of this he offers] one [of the two birds as a sin-offering,][17] for the doubt on account of the tale of days[18] and one for the doubt on account of defilement.[19]

At the fourth polling he brings the sacrifice in purity and stipulates

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(1) Of thirty days duration.

(2) Tosef. Naz. VI, I.

(3) At the end of each thirty days or year.

(4) The purpose of the offerings will be explained immediately.

(5) V. Lev. XIV, 2.

(6) The normal period of separation between the two pollings of a leper; Lev. XIV, 9.

[7] Num. VI, 5. He must therefore wait another whole period before he can shave the second time. Hence he can eat sacred meats only after two periods have elapsed.

[8] Ibid.10.

[9] Lev. XIV, 5 seq.

[10] And so can be offered even though he may not have been a leper.

[11] And so can be offered even if he is not a leper.

[12] This permits him to poll and the other sacrifices can be brought later.

[13] After the second polling on recovery from leprosy (Lev. XIV, 10). Until it was brought he could not eat sacred meats.

[14] V. Men. 105a. He stipulates that if a guilt-offering is not due, the animal is to be a voluntary peace-offering. Since the author is R. Simeon, there was no need to mention the guiltoffering.

[15] At the first polling.

[16] When he must now bring sacrifices due after his tale of days; Lev. XIV,9.

[17] Brought at the second and third pollings.

[18] The seven days that must be counted between the two pollings of a nazirite, but which have here become a whole period.

[19] The burnt-offering is brought on each occasion in case he should have completed his naziriteship in purity.

Talmud - Mas. Nazir 60b

that if he Was actually a [clean] nazirite,[1] the first burntoffering was [in discharge of] his obligation and the present one is a freewill-offering, whilst if he was defiled and a confirmed leper, the first burnt-offering was a freewill-offering and this one is [in discharge of] his obligation and the other [animals] are the rest of his sacrifice.

[A nazirite] who was in doubt whether he had been defiled but certainly been a confirmed leper, may eat sacred meats after eight days,[2] and may drink wine and touch the dead after sixty-seven days,[3] One who was in doubt whether he had been a confirmed leper but had certainly been defiled, may eat sacred meats after thirty-seven days ,[4] and may drink wine and touch the dead after seventy-four days.’ One who was certainly defiled and certainly a confirmed leper may eat sacred meats after eight days, and may drink wine and touch the dead after forty-four days.[5]

R. Simeon b. Yohai was asked by his disciples: May a ritually clean nazirite who was a leper poll once only[6] and have it reckoned for both purposes?[7] — He replied: He cannot poll in this way.[8] They then asked him: Why? — He replied: If both [the nazirite and the leper polled] in order that it should grow again,[9] or both [polled] In order to remove [the hair],[10] your suggestion would be sound, but as it is the nazirite [polls] to remove [the hair] and the leper [polls] to let it grow again. [They then said:] Granted that it should not count [for both pollings] after the period of confirmed leprosy, let it still count [for both] after his tale of days?[11] — He replied: If both were required to poll before the sprinkling of the blood [of the sacrifice], your suggestion would be sound, but here the leper polls before the sprinkling of the blood[12] and the nazirite after the sprinkling of the blood.[13] [They next suggested that though the one polling] should not count both for the days of his leprosy and his naziriteship, yet it ought to count for the days [both] of his leprosy and of his defilements.[14] [R. Simeon, however,] said to them: If both [polled] before bathing, your proposal would be sound, but the defiled [nazirite polls] after bathing[15] and the leper[16] before bathing.[17]

[Another version of the discussion is as follows.][18] They said to him: You have given a good reason why ii should not count [both] for his tale of days and for his naziriteship, but why should not [one polling] count for his period of confirmed leprosy as well as for his defilement, since in both cases [the polling] is to allow [the hair] to grow? — He replied: In the case of a ritually clean nazirite who is a leper, [the purpose of] the one [polling][19] is for [the hair] to grow again and the other[20] is to remove [the hair], whilst in the case of a defiled nazirite who is a leper, the latter [polling takes place] before bathing and the former after bathing.

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(1) And was never a leper nor unclean.

(2) Since the shaving for leprosy may take place immediately he is seen to be clean and he has still to walt eight days.

(3) For he must wait thirty days after the second polling for leprosy before he may shave on account of the doubt whether he was defiled, and then he counts thirty days for his naziriteship in purity.

(4) As a defiled nazirite, he polls on becoming clean at the end of seven days and then again for his clean naziriteship after thirty days. Since he may have been a leper, these two pollings now count for the leprosy and as he was certainly unclean he can poll after seven days for the uncleanness and again after thirty days for his clean naziriteship.

(5) Seven for the leprosy, seven for the defilement and thirty for the clean naziriteship; Tosef. Naz. VI, z.

(6) If the termination of his naziriteship and his recovery from the disease coincided.

(7) This is really an objection to the Mishnah which requires him to poll four times, i.e., separately for each contingency. (R. Asher.)

(8) And he must poll twice.

(9) I.e., if both were required to remove the hair a second time as the leper must.

(10) With no subsequent obligation to let it grow.

(11) Since after the tale of days (Lev. XIV,9), the leper also polls to remove his hair.

(12) He shaves on the seventh day and offers the sacrifice on the eighth day. (Lev. XIV, 9-10).

(13) V. Num. VI, 16-18.

(14) I.e., when the end of leprosy and defilement coincide.

(15) He shall shave his head on the day of his cleansing (Num. VI,9) i.e., after bathing.

(16) V. Lev. XIV,9.

(17) Tosef. Naz. V,4’ where the arguments are transposed in part.

(18) So Tosaf. and R. Asher consider the next passage.

(19) Viz., the polling because of the confirmed leprosy.

(20) Viz., the polling after the naziriteship.

Talmud - Mas. Nazir 61a

R. Hiyya taught [the following differences: The leper polls] before bathing, [the unclean nazirite] after bathing; the former before the sprinkling of the blood, the [clean nazirite] after the sprinkling of the blood.

SINCE POLLING ON ACCOUNT OF [LEPROUs] DISEASE etc. Rami b. Hama propounded: Are the four pollings required[1] for carrying out a religious duty,[2] or whether they are merely in order to remove defiled hair?[3] The practical issue is whether this may be removed with nasha.[4] For if we say that they are a religious duty It would not be permitted to treat [the hair] with nasha, whereas if their purpose is simply the removal of defiled hair, treatment with nasha would be permitted. What, then, is the law?-Raba replied: Come and hear: And he is required to undergo four pollings.[5] Now if you assume that their purpose is simply the removal of defiled hair, three [pollings] alone should suffice.[6] Hence you may prove that they are [all] a religious duty. This proves It.

CHAPTER IX

MISHNAH. GENTILES HAVE NO [COMPETENCE FOR] NAZIRITESHIP,[7] BUT WOMEN AND SLAVES[8] HAVE. THE NAZIRITE VOW IS MORE STRINGENT IN THE CASE OF WOMEN THAN IN THE CASE OF SLAVES, FOR A MAN CAN COMPEL HIS SLAVE [TO BREAK HIS VOW][9] BUT HE CANNOT COMPEL HIS WIFE [TO DO SO].

GEMARA. The Mishnah teaches that GENTILES HAVE NO [COMPETENCE FOR] NAZIRITESHIP [etc.]. How do we know this? — For our Rabbis taught: [Scripture says] Speak unto the children of Israel,[10] but not to Gentiles; and say unto them, thereby including slaves.[11]

But what need is there of a Verse,[12] Seeing that there is a principle that every precept incumbent on women is also incumbent on slaves?[13] — Raba replied: [Naziriteship] is different [from other laws]. For there is a verse, [When a man voweth a vow] to bind his soul with a bond,[14] which thus refers to one who is his own master[15] and excludes slaves who are not their own masters.[16] Now because [slaves] are not their own masters it might be thought that they are precluded from making nazirite-vows[17] and so we are told [this is not so]. The Master stated: 'Speak in to the children[18] of Israel but not to Gentiles.' But does the mention of Israel always exclude Gentiles?[18] Is there not written in connection with 'Arakin,[19] Speak unto the children of Israel,[20] and yet it has been taught: 'Israelites can vow 'Arakin but not Gentiles. It might be thought that [Gentiles] cannot be the subject of 'Arakin vows either,[21] but the verse says A man'?[22] — [Naziriteship] is different, for here there is a verse, He shall not make himself unclean for his father or his mother,[23] which shows that [the passage] is referring to such as have a [legal] father,[24] and thus excluding Gentiles who have no [legal] father. In what respect have Gentiles no father? Shall I say it is as regards inheritance?[25] Surely R. Hiyya b. Abin, citing R. Johanan has said that a Gentile inherits his father in Torah-law, for there is a verse, Because I have given Mount Seir to Esau for an [inheritance]![26] — You must therefore mean that such as are bound to honour their fathers [are referred to].[27] But does it say Honour thy father in connection with nazirites?[28] , — We must therefore say that the verse, 'He shall not make himself unclean for his father or his mother' shows that only those to whom [the laws of] defilement apply [can assume naziriteship]

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(1) For a nazirite who was both doubtfully a leper and doubtfully defiled.

(2) I.e., whether each one is a religious duty requiring a razor.

(3) And only the polling of a clean nazirite requires a razor.

(4) A plant depilatory. v. supra p. 146, n. 4.

(5) The Baraitha cited above.

(6) For only the first three pollings are because of the doubtful leprosy and defilement. The fourth is certainly an ordinary polling of a clean nazirite. Hence since the Baraitha makes no distinction between them, they must all be equally a religious duty.

(7) I.e., if a gentile undertakes to be a nazirite, the vow is of no effect.

(8) I.e., non — Jewish slaves who, after having submitted to circumcision and the prescribed ablution, are subject to the fulfilment of certain precepts.]

(9) As long as the slave belongs to him.

(10) Num. VI, 2; opening the chapter on naziriteship.

(11) 'Israel' is not repeated, and thus we infer that others than Israelites can undertake naziriteship, i.e., slaves also.

(12) To allow slaves to undertake naziriteship.

(13) Women are explicitly allowed to become nazirites (Num. VI, 2). For the principle. v. Chag. 4a.

(14) Num. XXX, 3 which lays down that vows are binding.

(15) Lit., 'whose soul (person) belongs to himself'.

(16) A slave's vows are not binding.

(17) Since they are also a kind of vow.

(18) From the scope of the scriptural passage in which it occurs.

(19) Vows of' valuation, v. Lev. XXVII.

(20) Lev. XXVII, 1.

(21) I.e., that an Israelite cannot vow to give the valuation of a Gentile.

(22) Ibid. v.2; 'When a nun shall clearly utter a row of persons unto the Lord according to thy valuation'. Thus we see that 'Israel' in v. 1 does not exclude Gentiles entirely from the scope of the chapter, but only disqualifies them from vowing 'Arakin. Similarly, since the word 'man' also occurs in connection with naziriteship (Num. VI, 2). Gentiles should not he wholly excluded from naziriteship.

(23) Num. VI, 7.

(24) Viz.: Jews, who in all matters belong to their fathers' family, Gentiles, on the other hand, are held in Jewish law to count descent from the mother.

(25) I.e., that a Gentile should not inherit his father.

(26) E.V. ‘possession. Deut. II, 5.

(27) V. Num. VI, 7. And since a Gentile is nor hound by the commandment, he cannot become a nazirite.

(28) That you hold Gentiles to be excluded from the scope of the chapter.

Talmud - Mas. Nazir 61b

but not gentiles to whom [the laws of] defilement do not apply. How do we know that [the laws of] defilement do not apply to them? — The verse says. But the man that shall be unclean and shall not purify himself that soul shall be cut off from the midst of the kahal [assembly],[1] referring to such as form a kahal and excluding [gentiles] who do not form a kahal.[2]

How does it follow [that the laws of defilement do not apply to gentiles]? Perhaps [all that is meant is that] he is not liable to kareth [excision],[3] but [the laws of] defilement do apply [to him]?[4] Scripture Says, And the clean person shall sprinkle upon the unclean,[5] [teaching that] whoever can become clean,[6] becomes unclean, and whoever cannot become clean does not become unclean.[7] But perhaps we may say that while [the laws of] purification do not apply to [gentiles], yet [the laws of] defilement do apply?[8] — Scripture says, But the man that shall be unclean aid shall not purify himself.[9] R. Aha b. Jacob said: [Naziriteship] is different,[10] for here there is a verse, And ye may make them an inheritance for your children after you.[11] [From this we learn that] to whomsoever [the laws of] inheritance [of slaves] apply, to him [the laws of] defilement apply, and to whomsoever [the laws of] inheritance [of slaves] do not apply, to him [the laws of] defilement do not apply.[12]

If that is the reason [that gentiles cannot become nazirites],[13] then slaves too should not be able [to become nazirites]?[14] — In point of fact, said Raba, [the following is the reason that gentiles are wholly excluded from naziriteship].[15] It is quite permissible in the case of ‘Arakin [to argue thus:] when it says, ‘the children[16] of Israel’ [it implies that] Israelites can vow ‘Arakin but not gentiles. I might go on to infer from this that [gentiles] cannot be the subject of ‘Arakin vows either,[16] Scripture [therefore] says ‘all’[17] [But you cannot similarly argue] here, [in the case of naziriteship as follows: The words ‘children of Israel’ imply that] Israelites can undertake nazirite — vows and bring the offering [due on terminating the naziriteship], but not gentiles.[18] I might go on to infer from this that [gentiles] cannot become nazirites at all. Scripture [therefore] says ‘man’.[19] For I will say such an argument is inadmissable[20] since [the exclusion of gentiles] from [bringing the nazirite] offering is not inferred from this [verse], but from elsewhere, [as has been taught:] R. Jose, the Galilean said, [the verse] for a burnt-offering[21] serves to exclude [a gentile] from [bringing] the nazirite-offerings.[22] Why not argue [as follows: The words ‘children of Israel’ imply that] Israelites can undertake life-naziriteships but not gentiles. I might go on to infer from this that [gentiles] cannot undertake [ordinary] nazirite-vows either,[23] Scripture [therefore] says ‘man’?[24] R.Johanan replied: Is the life-nazirite mentioned [in Scripture]?[25] Why not argue [as follows: The words children of Israel imply that] Israelites can impose nazirite-vows upon their children, but not gentiles. I might go on to infer from this that [gentiles] cannot become nazirites [at all]. Scripture [therefore] says ‘man’?[26] But R. Johanan has said that this is a [traditional] ruling with regard to the nazirite![27]

Why not argue [as follows: The words ‘children of Israel’ imply that] Israelites can poll [with the offerings due] for their father's nazirite-sacrifices,[28] but not gentiles.

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(1) Num. XIX, 20.

(2) The term ‘kahal is used of Jews only.

(3) If he enters the Temple whilst defiled; for the word kahal is used in the phrase referring to excision. On kareth v. Glos.

(4) I.e., he can become unclean and defile others.

(5) Num. XIX, 19.
(6) I.e., by undergoing the purification rites. [These rites are specially prescribed for the congregation of the children of Israel. V. Num. XIX, 9.]
(7) And since a gentile cannot undergo the purification rites, he does not become unclean.
(8) I.e., having become unclean, he can defile others and remains unclean himself, but he cannot become clean again.
(9) Num. XIX, 20. Implying that wherever there can be no purification, there is no defilement.
(10) From ‘Arakin. And when we said that gentiles have no legal father, it was in respect of slaves.
(11) Lev. XXV, 46. Referring to gentile slaves. A gentile cannot bequeath his slaves in Torah-law; v. Git. 38a.
(12) And since the laws of defilement do not apply to gentiles, they cannot become nazirites.
(13) Viz., that they cannot bequeath their slaves to their heirs.
(14) For the laws of inheritance do not apply to slaves. A slave's property becomes his masters.
(15) Although the mention of ‘children of Israel’ does not necessarily exclude gentiles from the scope of a scriptural passage.
(16) I.e., that gentiles are wholly excluded from the scope of the passage dealing with ‘Arakin.
(17) And gentiles may be the subject of an ‘Arakin vow though they cannot make such a vow.
(18) Thus the mention of ‘children of Israel’ excludes gentiles from the scope of the nazirite passage.
(19) Num. VI, 2. The mention of ‘man’ now partially includes gentiles within the scope of the passage. They can become nazirites, but may not bring the offerings due on terminating the naziriteship.
(20) I.e., it is impossible to utilise the words ‘children of Israel’ merely in order to exclude gentiles from bringing the nazirite offerings.
(21) Lev. XXII, 18.
(22) V. Men. 73b. Thus the words ‘children of Israel’ must wholly exclude gentiles from naziriteship.
(23) I.e., gentiles are wholly excluded from the scope of the nazirite passage.
(24) They can become ordinary nazirites.
(25) We learnt about it from the case of Absalom (supra 4b). Hence the verse cannot be referring to the life-nazirite at all.
(26) They can themselves under — take nazirite-vows but cannot impose them upon their children.
(27) Supra 28b. Hence, Scripture cannot be referring to this ruling.
(28) Supra 30a.

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I might go on to infer from this that [gentiles] cannot become nazirites [at all]. Scripture [therefore] says man? — But it has been stated: R. Johanan said, This is a [traditional] ruling with regard to the nazirite.[1]

Now if it is a fact [that ‘man’ includes gentiles],[2] what need is there for the expression, When a man shall clearly utter a vow . . . according to thy valuation[3] occurring in connection with ‘Arakin? For consider! ‘Arakin are compared [in this verse] with vows, as it says, When a man shall clearly utter a vow . . . according to thy valuation,[3] and it has been taught in connection with vows: Scripture mentions the word man[4] in order to include gentiles, who are allowed to vow vowed-offerings[5] and freewill-offerings,[6] just as Israelites do.[7] What need then is there for the verse, ‘When a man shall clearly utter’ in connection with ‘Arakin?[8] — In point of fact, this [word] ‘man’ is required for the inclusion of [a youth] who can discriminate but has not quite reached manhood.[9]

This is all very well [if we accept the view of] the authority[10] who considers that a youth who can discriminate but has not quite reached manhood has a Scriptural right [to make Vows],[11] but [if we accept the view of] the authority[12] who considers this right to be rabbinic, what need is there for, When a man shall clearly utter [etc.]?[13] It serves to include a gentile [youth] who can discriminate but has not quite reached manhood.[14]

This is all very well if we accept the view of the authority[15] who argues [as follows: The words ‘children of Israel’ imply that] Israelites can be the subject of ‘Arakin vows but not gentiles. I might go on to infer from this that [gentiles] cannot vow ‘Arakin, Scripture [therefore] says man.[16] If, however, we accept the view of the authority[17] who argues [as follows: The words children of Israel imply that] Israelites can vow ‘Arakin but not gentiles. I might go on to infer from this that [gentiles] cannot be the subject of ‘Arakin, Scripture [therefore] says man: [our difficulty remains]. For seeing that even a baby a month old can be the subject of an ‘Arakin vow, what need is there of, ‘when [a man] shall clearly utter’?[18] — R. Adda b. Ahaba replied: Its purpose is to bring within the scope of the rule an adult gentile who although he is an adult [cannot make even ordinary vows, if he] cannot discriminate.[19]

Now what need is there of [the phrase,] ‘when [a man] shall clearly utter’ mentioned in connection with the naziriteship? For seeing that the naziriteship is compared with [ordinary] vowing[20] what need is there of ‘when [a man] shall clearly utter’? — It serves to include allusions the significance of which is not manifest.[21] For it has been stated: Abaye said that allusions whose significance is not manifest have the force of a direct statement, whilst Raba said that they have not the force of a direct statement.[22] Now if we accept Abaye's view, there is no difficulty,[23] but if we accept Raba's view what can we reply?[24] In point of fact ‘when [a man] shall clearly utter’ is necessary for R. Tarfon's case. For it has been taught: R. Judah on behalf of R. Tarfon said that not one of these people[25] is a nazirite, because naziriteship is not intended except when assumed unequivocally.[26] This is all very well if we accept the view of R. Tarfon, but [if we accept the view of] the Rabbis what can you reply?[27] In point of fact it is necessary for [the following] which has been taught: Annulment of vows has no foundation[28] and is without [Scriptural] support.[29] R. Eliezer says that it has [Scriptural] support, for Scripture says twice ‘when [a man] shall clearly utter’?[30] one signifies a distinct binding expression,[31] and one a distinctness [which opens the way] to annulment.[32]

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(1) Hence Scripture cannot be referring to it and the words, ‘children of Israel’, must entirely exclude gentiles from undertaking naziriteships.

(2) The upshot of the previous discussion is a vindication of the assertion that ‘man’ usually includes gentiles. It is only because it cannot possibly have that meaning in connection with naziriteship, that it is not so interpreted there. Hence the Gemara now enquires whether gentiles would not have been included for the purposes of ‘Arakin even without ‘man’ being mentioned.

(3) Lev. XXVII,2.

(4) V. Lev. XXII, 18. Whoever he be (lit., a man, a man) . . . that bringeth his offering, whether it be of their vows etc. The reference in the following discussion II to vowing sacrifices for the altar. [The text adopted follows Bah. Cur. edd. read: Scripture should have mentioned (only) ‘a man’ why does it state ‘a man, a man’. Though the reading is supported by the parallel passages, it hardly fits in with the trend of the passage where the word ‘man’ in itself is taken to include gentiles.]

(5) Heb. נדר.

(6) Heb. נדבה. The difference between a vowedoffering and a freewill offering is this. The former, if it dies or is lost, must be replaced, but the latter need not be replaced.

(7) Cf. Tem. 2b.

(8) For ‘Ar. are covered by the interpretation of Lev. XXII, 18 in the Baraitha.

(9) He too may make vows. V. supra 29b.

(10) R. Jose b. R. Judah. V. supra 29b.

(11) This right is then inferred from the word ‘man’ in Lev. XXVII, 2.

(12) R. Judah the prince (Ibid.).

(13) I.e., We are still without a use for the word ‘man’ in this verse.

(14) R. Judah the prince also agreeing that his right to make vows is Scriptural.

(15) R. Judah; V. ‘Ar. 5b.

(16) Thus permitting gentile youths who have not yet reached manhood to make ‘Arakin (and other) vows.

(17) R. Meir. Ibid.

(18) For it can no longer refer to gentile youths since no gentile can make an ‘Arakin vow.

(19) The inference being: Only a gentile who knows what he is uttering can make even ordinary vows (Tosaf.).
(20) V. Ned. 3a. And ‘shall clearly utter’ already occurs in connection with vows in Lev. XXVII, 2.
(21) V. supra 2a-b.
(22) And the vow fails to take effect.
(23) The interpretation will be: The vow must be uttered clearly or it is of no effect.
(24) I.e., what use does be make of the phrase ‘to utter clearly?’
(25) Who vow naziriteships of the form. If the person approaching is So and so, I will become a nazirite.
(26) V. supra 34a.
(27) I.e., what use do they make of ‘shall clearly utter’?
(28) Lit., ‘fly in the air’.
(29) I.e., the possibility of annulling vows is purely a traditional law.
(30) Once in Lev. XXVII, 2 of ‘Arakin and once in Num. VI, 2 of nazirite vows.
(31) I.e., once the vow is clearly undertaken, it remains binding.
(32) If annulment is sought, the vow ceases to be binding.

Talmud - Mas. Nazir 62b

MISHNAH. [THE NAZIRITE-VOWS OF] SLAVES ARE MORE STRINGENT THAN [THOSE OF] WOMEN; FOR HE CAN DECLARE VOID THE VOWS OF HIS WIFE, BUT HE CANNOT DECLARE VOID THE VOWS OF HIS SLAVES. IF HE DECLARES HIS WIFE'S [VOW] VOID, IT IS VOID FOR EVER, BUT IF HE DECLARES HIS SLAVE'S VOW VOID, HE BECOMES FREE AND MUST COMPLETE HIS NAZIRITESHIP.[1] GEMARA. Our Rabbis taught: What can his master compel him [to disregard]? [The vow of] Naziriteship, but not [other] vows, or [vows involving] ‘Arakin.[2]

Why this difference in the case of the nazirite-vow? — The Allmerciful has said, To bind his soul with a bond,[3] showing that only those who are their own masters[4] are referred to, and excluding slaves, who are not their own masters. But if this is the reason, the same should be true of [other] vows?[5] — R. Shesheth replied: We suppose here[6] that a cluster of grapes lay before [the slave].[7] In the case of vows, where if this [cluster] becomes prohibited to him, others will not become prohibited, [his master] cannot compel him [to eat this one]. But in the case of a nazirite-vow, if this one becomes forbidden,[8] all others become forbidden; and that is why he can compel him [to eat it].[9]

But do not [ordinary] vows[10] include the possibility that there is available Only the one cluster of grapes in question, so that if he does not eat it he will grow weak[11] [and yet the vow takes effect]? — Raba therefore said: We suppose that a pressed grape lay before him.[12] In the case of vows, he is prohibited from eating that one only, and so [his master] cannot compel him [to break his vow]. But in the case of the nazirite-vow where he is also prohibited from eating others, he can compel him [to break his vow].

But do not [ordinary] vows include the possibility that there is available only the one pressed grape in question, so that if he does not eat it he will grow weak [and yet the vow takes effect]? Abaye therefore replied: [The Baraitha really means] what is his master obliged to compel him [to disregard]? [The vow of] naziriteship.[13] but he does not [even] have to compel him [to disregard ordinary] vows or oaths.[14] This is because the verse says [If any one swear] to do evil or to do good.[15] Just as doing good is a voluntary undertaking, so must the doing of evil be a voluntary undertaking, the doing of evil to others being thereby excluded, since he has not the right [to harm others].[16]

MISHNAH. SHOULD [THE SLAVE] FLEE FROM [HIS MASTER'S] PRESENCE,[17] R. MEIR SAID THAT HE MUST NOT DRINK WINE, BUT R. JOSE SAID THAT HE MAY.

GEMARA. Is it possible that [R. Meir and R. Jose] differ in regard to the following dictum of Samuel? For Samuel has said: Should a man renounce ownership of his slave, he becomes free, no deed of emancipation being required. Does R. Meir agree with Samuel[18] and R. Jose differ from him? — No; both hold this opinion of Samuel.[19] But the one who says he should drink considers that since he is ultimately to return to his master, he ought to drink in order not to grow emaciated. The other, who says that he should not drink considers that he should feel the pangs of deprivation in order that he should return [to his master].

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(1) Thus our text, and so Maimonides (Mishnah Commentary a.l. and Yad. Neziruth II, 18). Raabad however, reads ‘and he afterwards becomes free, then he must complete his vow’.

(2) Tosef. Naz. VI, where ‘oaths’ replaces ‘Arakin’, for which v. Glos.

(3) Num. XXX, 3 of ordinary vows.

(4) V. supra p. 228, n.9.

(5) Seeing that the passage in which the verse occurs refers to ordinary vows.

(6) In the Baraitha which distinguishes nazirite-vows from other vows.

(7) And his vow, nazirite or ordinary, was made with reference to that bunch of grapes.
(8) I.e. if the nazirite-vow does become operative.
(9) [So as to have his strength unimpaired.]
(10) As referred to in the Baraitha.
(11) And so injure his master.
(12) [It is assumed that abstention from the pressed grape cannot affect his strength (Asheri)].
(13) If he does not wish it to take effect.
(14) These being automatically of no effect.
(15) Lev. V, 4.
(16) And since a slave's vows harm his master, they are inoperative.
(17) Run away after making a nazirite-vow.
(18) And assume that the owner despairs of the slave's return and thus renounces his ownership. The slave being free must therefore complete his naziriteship (v. previous Mishnah).
(19) And do not consider the owner to have renounced his possession of the slave.

Talmud - Mas. Nazir 63a

MISHNAH. IF A NAZIRITE POLLS AND THEN DISCOVERS THAT HE WAS DEFILED, THEN IF THE DEFILEMENT IS DEFINITE [THE NAZIRITESHIP] IS RENDERED VOID, BUT IF IT IS A DEFILEMENT OF THE DEPTH,[1] IT IS NOT RENDERED VOID, BEFORE POLLING, HOWEVER, EITHER [TYPE OF DEFILE MENT] RENDERS [THE NAZIRITESHIP] VOID. [THE LAW REGARDING ‘DEFILEMENT OF THE DEPTH’ IS] AS FOLLOWS. IF HE GOES DOWN INTO A CAVERN TO BATHE, AND A CORPSE IS FOUND FLOATING AT THE MOUTH OF THE CAVERN,[2] HE IS [DEFINITELY] UNCLEAN. IF IT IS FOUND EMBEDDED IN THE FLOOR OF THE CAVERN,[3] THEN IF HE WENT IN MERELY TO REFRESH HIMSELF HE REMAINS CLEAN,[4] BUT IF IT WAS TO PURIFY HIMSELF AFTER DEFILEMENT THROUGH CONTACT WITH THE DEAD HE REMAINS UNCLEAN,[5] BECAUSE WHERE THE STATUS QUO IS ONE OF DEFILEMENT THE DEFILEMENT REMAINS, BUT WHERE IT IS ONE OF PURITY, HE REMAINS CLEAN, THIS BEING THE PRESUMPTION [IN EACH CASE].[6]

GEMARA. How do we know this?[7] — R. Eliezer said: A verse reads, And if any man die very suddenly beside him,[8] ‘beside him’ Signifying that it is evident to him.[9] Resh Lakish said: A verse reads, If [any man . . .] shall be unclean by reason of a dead body or be on the road, afar off,[10] signifying that [the uncleanness] must be like a road. Just as a road is visible, so must uncleanness be visible. If these be correct,[11] what of the following where we learnt: ‘Defilement of the depth’ is such [defilement] as is not known even to a single person living anywhere in the world. If, however, it is known to someone living even at the end of the world, it is not defilement of the depth.[12] Now on [Resh Lakish's] view that [defilement] should be [visible] like a road, there is no difficulty,[13] but on [R. Eleazar's] view that it must be evident to him, what matters it if there is someone at the end of the world who knows of it? Further, there is the following: If a man finds a corpse lying [buried] across the road,[14] he becomes unclean in respect of terumah,[15] but remains clean as regards naziriteship and celebration of the passover.[16] But what is the difference?[17] — We must therefore say that [the rule of] defilement of the depth is known by tradition.[18] BEFORE POLLING, HOWEVER, etc.: Who is the author [of the Mishnah]?[19] R. Johanan replied: R. Eliezer, who considers that polling estops [him from drinking wine].[20]

Rami b. Mama propounded: What would be the law if [the nazirite] became unclean during the fulfilment of [his naziriteship], but discovered this after the fulfilment.[21] Is it [the moment of] discovery that is important,[22] and this occurred after fulfilment, or not,[23] the practical difference being [the period that is] to be rendered void?[24]

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(1) טומאת התהום. A particular type of uncertain defilement, defined later in the Mishnah.
(2) The cavern is a tent for the purposes of defilement. Although the corpse was discovered after he left the cavern, the defilement is regarded as a certain one, the doubt having arisen in a private domain (v. supra 212f).
(3) This is the ordinary case of defilement of the depth, the source of defilement being ‘below ground’. V. Gemara below.
(4) To the extent that if he does not discover the incident until after polling, there is no effect on the naziriteship. But if he discovers it earlier, then he is unclean.
(5) Definitely unclean, for the purposes of our Mishnah.
(6) Lit., ‘the matter has feet’; i.e., a basis of support.
(7) Viz. that defilement of the depth does not necessarily render void a naziriteship.
(8) Num. VI, 9, on the defilement of a nazirite.
(9) Defilement of the depth, as described in the Mishnah, is not evident to him, for he could not know’ of the corpse's existence beneath the floor of the cavern.
(10) E.V. ‘In a journey’. Num. IX, 10 of the second passover. Defilement of the depth was treated leniently as regards celebrants of the passover also.
(11) Viz., that the regulations concerning ‘defilement of the depth’ are deduced from Scripture.
(12) Tosef. Zabim II, 5.
(13) The fact that one man knows of it is enough to make it ‘visible’ for legal purposes.
(14) I.e., a defilement of the depth, it being uncertain whether the man overshadowed it.
(15) V. Glos.
(16) Ibid.
(17) If he is clean, he is clean for all things. Otherwise he is unclean for all things.
(18) And tradition confines the leniency only to naziriteship and the passover.
(19) Which implies that the naziriteship is over only after the polling, even if the sacrifices have been offered.
(20) Supra 24b.
(21) After counting the whole period of the naziriteship but before the termination (sacrifices or polling according to the Rabbis or R. Eliezer).
(22) And he counts as unclean henceforth.
(23) And he is unclean retrospectively.
(24) Uncleanness after fulfilment renders a shorter period void than uncleanness during the period; v. supra 16a-b.

Talmud - Mas. Nazir 63b

Raba replied: Come and hear: BEFORE POLLING, HOWEVER, EITHER [TYPE OF DEFILEMENT RENDERS IT VOID]. How are we to understand this? If he discovered [the defilement] during the period of fulfilment would it be necessary to tell us [that the naziriteship is void]?[1] It follows that after fulfilment is meant. Hence [discovery after fulfilment renders void]. The question, however, still remains whether the whole [period] is rendered void or only seven [days].

But on whose [view is this question asked]?[2] Shall I say on the Rabbis’ view? It is obvious that the whole period becomes void! Whilst on R. Eliezer's view any [defilement contracted] after fulfilment renders only seven days void? — The reply is [that R. Eliezer said] this of one who actually becomes unclean after fulfilment, whereas here [the defilement of the depth] occurred before the fulfilment.[3] [Do we then say that the whole is rendered void] or is this case different since discovery did not come until after fulfilment? — The same passage [answers this question too]. For it says: EITHER [TYPE OF DEFILEMENT] RENDERS IT VOID, making no distinction between them.[4]

Our Rabbis taught: If a man finds a corpse lying across the road,[5] he becomes unclean in respect of terumah,[6] but remains clean in respect of the nazirite-vow and celebrating the passover.[7] This is only true if there was no room for him to pass [without actually walking over the corpse], but if there was room for him to pass, he remains clean even in respect of terumah.[8] [Further], it is only true[9] if [the corpse] was found whole, but if it was found [with its limbs] broken or dislocated, even though there was no room to pass[10] we conceive that he may perhaps have passed between the pieces.[11] If, however, [the corpse] was in a grave, then, even if [its limbs were] broken or dislocated, he becomes unclean because the grave unites it. [Further,] we say this[12] only of one who was walking on foot, but if he was carrying a load or riding, he becomes unclean,[13] because it is possible for one walking on foot to avoid either touching [the corpse] or making it vibrate,[14] or overshadowing it, but it is impossible for one carrying a load or riding to avoid either touching it or making it vibrate or overshadowing it. [Further,] this ruling[15] applies only to a 'defilement of the depth', but if it was a known [source of] defilement, all three become unclean. A defilement of the depth is one which is not known to anyone [living even] in any part of the world. If, however, someone [living even] at the other end of the world knows about it. It is not [regarded as] a defilement of the depth.[16] If [the corpse] was hidden in straw or in pebbles, it counts as a defilement of the depth,[17] [but if] in the sea or by darkness or in a cleft of the rocks, this does not count as a defilement of the depth.[18] 'Defilement of the depth' was held to apply only in the case of a corpse.[19] [THE LAW REGARDING DEFILEMENT OF THE DEPTH IS] AS FOLLOWS.

IF HE GOES DOWN: A [dead] reptile when floating, does not defile.[20] For it has been taught: If there is a doubt concerning a [source of defilement] floating in a vessel or on the earth,[21] it is treated as clean. R. Simeon said that in a vessel [the doubtful object] is treated as unclean, whilst on the earth it is treated as clean.[22]

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(1) For there is no question that defilement of the depth counts as ordinary defilement as regards the future. It is only retrospectively that con — cessions are made to nazirites and celebrants of the passover.

(2) The Gemara here interrupts the argument to analyse the question.

(3) If it is the time of defilement that is important, then the whole period may be rendered void. Hence the question is asked of R. Eliezer and not of the Rabbis.

(4) And thus the defilement is retrospective, there being no half measures. Except for the nazirite who has entirely completed his naziriteship and the passover celebrant who did not learn of the incident soon enough to prevent the sacrifice of the passover-offering, defilement of the depth is true defilement.

(5) I.e., if the corpse is found buried after he has passed, making defilement of the depth. V. infra.

(6) V. Glos. And may not eat it.

(7) Retrospectively only: v. infra.

(8) Since there is now a genuine doubt occurring in a public place as to whether he did become defiled.

(9) That he is unclean as regards terumah.

(10) Had he walked straight on. But it is assumed that there is nowhere an unbroken line of pieces stretched across the road.

(11) I.e. walked irregularly and not straight on, therefore he remains clean.

(12) That he remains clean in the case of a dislocated corpse

(13) And may not eat terumah.

(14) By stepping on some object which will move the corpse.

(15) That there is a difference between terumah and the others.

(16) But as a certain source of defilement.

(17) For it is possible that new straw was blown across it and pebbles rolled against it and nobody knew of its existence.

(18) Since someone has probably looked in and seen the corpse.

(19) Tosef. Zabim II, 5.

(20) I.e. if there is a doubt as to whether a floating reptile was touched, we assume that it was not touched.

(21) A pool in the ground.

(22) Tosef. Toharoth V, 4.

Talmud - Mas. Nazir 64a

What is the first Tanna's reason?[1] R. Isaac b. Abudimi said: Scripture says. [Ye shall not mistake yourselves abominable] with any swarming thing that swarms,[2] signifying no matter where it swarms,[3] and says further, ‘On the earth’.[4] How are these verses to be reconciled? Where there is no doubt that he touched it he is [always] unclean, but if there is a doubt he remains clean.[5]

And what is R. Simeon's reason? — ‘Ulla said: Scripture says, Nevertheless a fountain [. . . shall be clean][6] and continues [But he who toucheth their case] shall be unclean.[7] How are we to reconcile these? Whilst floating in a vessel [a doubtful object] is treated as unclean, but on the earth it is treated as clean.

Our Rabbis taught: Where there are doubts concerning any [source of defilement] that is carried[8] or dragged along, the objects are regarded as unclean, because it is as though they are at rest,[9] but where the doubt concerns things that are thrown,[10] they are treated as clean, with the exception of an olive's bulk of a corpse, one who overshadows a source of defilement, and all [other] things that propagate defilement upwards as well as downwards,[11] [This last expression] serves to include sufferers from gonorrhoea, male and female.[12]

Rami b. Hama propounded: What is the law concerning a corpse[13] lying in a vessel floating on the surface of the water. Is the vessel the criterion,[14] or the corpse?[15] Should it be decided that the vessel is the criterion,[16] what would be the law if the [fragment of] a corpse was lying on a [dead] reptile?[17] Seeing that the latter defiles only until evening and the former for seven days, are we to consider it as though it were lying in a vessel,[18] or should it perhaps be considered a compact source of defilement?[19] Should it be decided [further] that this is considered as though it were lying in a vessel, and therefore is treated as though defilement were certain, what would be the law if a [dead] reptile were lying on a floating animal carcase? Seeing that both defile only until evening, are they to be regarded as a compact source of defilement, or should we consider rather that of the one an olive's bulk is necessary,[20] whilst of the other a lentil's bulk is sufficient? [Further] what would be the law if one reptile lay on the other? Here certainly the measure is the same,[21] but perhaps, seeing that they are distinct, we should regard it as lying in a vessel? Again, should it be decided that in the case of one reptile lying on another, it is regarded as though it lay in a vessel because the [two reptiles] are distinct, what would be the law regarding a reptile floating on a liquefied animal carcase?[22] Seeing that it has been liquefied is it to be regarded as liquid,[23] or do we perhaps say that after all it is [now] a solid?[24] [Again], should you decide that it is a solid, what would be the law regarding a reptile [floating] on an effusion of semen? Should you decide that the latter, because it originates by detachment [from the human body] is a solid, what would be the law regarding a reptile floating on Water of Cleansing,[25] that was floating on the surface of [ordi nary] water?[26] — We do not know. All these problems remain unsolved.

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(1) I.e., what is the source of his opinion?

(2) Lev. XI, 43 continuing Neither shall ye defile yourselves with them.

(3) Even on the surface of water.

(4) Ibid v. 44. Neither shall ye defile yourselves with any manner of swarming thing that moveth upon the earth.

(5) In the case where the reptile was floating.

(6) Lev. XI, 36. This signifies that even if there is a (dead) reptile in the fountain, there would be no defilement.

(7) Ibid. Signifying whatever the circumstances.

(8) Or ‘suspended’ (Tosef. and Maimonides, Yad Aboth ha-Tumeoth, XIV,3).

(9) Since they are in contact with the ground or the person carrying them all the time.

(10) The doubt being whether it brushed against the person in transit.

(11) Tosef. Zabim III, 8. In these cases, the defilement being of a more stringent type, even doubts as to projectiles are sufficient to render unclean. The corpse defiles in a tent i.e., upwards.

(12) The gonorrhoeic sufferer defiles anything pressing on him from above even if it is not in direct contact with him.

(13) Maimonides, Aboth ha-Tumeoth XIV, 4 reads ‘reptile’.

(14) And the corpse is at rest in the vessel. The doubt is as to whether it was touched, the person concerned being in no doubt that he did not overshadow' it.

(15) Which is floating. Tosaf. read 'Or the water' which is moving. The problem is whether this is a floating source of defilement or not.

(16) So that in cases of doubt, uncleanness is assumed.

(17) Here, and in the other cases below, the second object is to be taken as Boating on the surface of water. Maimonides reads here 'A reptile lying on a corpse. There are many, not particularly important variations, in the readings of questions that follow; v. Marginal notes of the Wilna Gaon.

(18) So that in cases of doubt, uncleanness is assumed.

(19) I.e., as one source floating on water. Then, provided it is certain that there was no overshadowing, cleanness will be assumed.

(20) Of the carcase, an olive's bulk must be present before defilement ensues. This 'measure', and the 'lentil's bulk' for reptiles are Rabbinic traditions.

(21) I.e., for both a lentil's bulk is sufficient to defile.

(22) That had afterwards coagulated.

(23) So that the reptile is really floating on the water.

(24) Lit., 'a food', the generic word for solids.

(25) I.e., the water containing the ashes of the Red Heifer, which also defiled by contact. V. Num. XIX, 1 seq.

(26) Would the Water of Cleansing, thickened by the ashes, count as a solid, and so as a vessel, or not?

Talmud - Mas. Nazir 64b

R. Hamnuna said: A nazirite or a celebrant of the passover who walks over a grave of the depth on his seventh day [of purification after defilement][1] is clean,[2] the reason being that defilement of the depth is not potent enough to render void [the naziriteship or the passover]. Raba objected: IF IT WAS TO PURIFY HIMSELF AFTER DEFILEMENT[3] THROUGH CONTACT WITH THE DEAD HE REMAINS UNCLEAN, BECAUSE WHERE THE STATUS QUO IS ONE OF DEFILEMENT THE DEFILEMENT REMAINS, BUT WHERE IT IS ONE OF PURITY HE REMAINS CLEAN?[4] — [R. Hamnuna] replied: I admit you are right in the case of a nazirite who needs polling.[5] Raba [then] said to him: And I admit you are right in the case of a celebrant of the passover who has completed all preliminaries.[6] Abaye said [to Raba]: But has he not still to wait for the sun to set?[7] — He replied: The sun sets of its own accord.[8]

Abaye, too, gave up this opinion, for it has been taught: If it is on the day of fulfilment,[9] she must bring [a further sacrifice], but if during fulfilment she need not bring one.[10] It might be thought that she is not required to bring [a sacrifice] for a birth occurring during the fulfilment, but must bring one for a birth occurring after the fulfilment,[11] and discharge her obligation for both births,[12] and so Scripture says, And when the days of her purification are fulfilled,[13] which signifies that if it occurs on the day of fulfilment she must bring [a sacrifice] but not if it occurs during the fulfilment. [Whereon] R. Kahana explained that the difference[14] was due to the fact that she needed to bring a sacrifice.[15] Now, in the other case, has she not still to wait for the sun to set?[16] — Abaye replied: the sun sets of its own accord.[17]

MISHNAH. IF A MAN FINDS A CORPSE FOR THE FIRST TIME[18] LYING IN THE USUAL POSITION,[19] HE MAY REMOVE IT TOGETHER WITH THE SOIL THAT IT OCCUPIES.[20] [IF HE FINDS] TWO, HE MAY REMOVE THEM TOGETHER WITH THE GROUND THEY OCCUPY. IF HE FINDS THREE, THEN IF THE DISTANCE BETWEEN THE FIRST AND THE LAST IS FROM FOUR TO EIGHT CUBITS,[21] THIS IS A GRAVEYARD SITE.[22]

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(1) When sunset would make him clean.

(2) Provided that he does not learn of the incident until the naziriteship is done with; v. our Mishnah.

(3) That he entered the cave containing a grave of the depth.

(4) And the Mishnah is speaking of the seventh day of purification after defilement, and so contradicts R. Hamnuna.

(5) The unclean nazirite does not complete his purification until he has polled. That is why the presumption of uncleanness is considered to be still present on the seventh day of purification.
(6) And thus has a presumption of purity.
(7) The purification is not really complete until sunset even in the case of a celebrant of the passover.
(8) He himself has nothing more to do.
(9) The reference is to a miscarriage occurring within the term of purification after childbirth, viz. 41 days for a male child and 81 days for a female child. V. Lev. XII, I ff. The period of purification and all other obligations follow a miscarriage as well as a normal birth.
(10) The reason is explained below.
(11) I.e. after the term of fulfilment, reckoning from the first birth, but before the term of fulfilment reckoning from the subsequent one, for which as we have been told no sacrifice is needed.
(12) I.e., bring two sacrifices, one for the first birth and one for the third.
(13) Lev. XII, 6 continuing, She shall bring a lamb etc.
(14) Between the case where the second birth occurs on the day of fulfilment and she is required to bring a second sacrifice, and that where the third birth occurs after the first fulfilment and she is not required to bring a sacrifice.
(15) In the latter case, she was still unclean at the time of the third birth, owing to the intervention of the second one, and so the first sacrifice was not yet due. She is therefore considered to be within the period of fulfilment. Not so in the former case.
(16) Before she becomes clean, and fit to eat of sacrifices.
(17) Thus we see that Abaye does not regard the necessity of waiting for sunset as interfering with the presumption of cleanness.
(18) Without previously having found a corpse in the same spot, and without knowing that it was there.
(19) Prostrate: the only way Jews were buried.
(20) For reburial elsewhere, v. Gemara.
(21) Which is an indication that he has stumbled on an old burial vault.
(22) The bodies must not be removed, but have to be reburied where found.

Talmud - Mas. Nazir 65a

HE MUST THEN SEARCH BEYOND FOR A DISTANCE OF TWENTY CUBITS.[1] IF HE FINDS A SINGLE [CORPSE] AT THE END OF TWENTY CUBITS, HE MUST SEARCH BEYOND FOR ANOTHER TWENTY CUBITS. THE REASON[2] IS THAT THERE IS [NOW] A PRESUMPTION,[3] WHEREAS IF HE HAD FOUND IT FIRST, HE WOULD HAVE BEEN ABLE TO REMOVE IT TOGETHER WITH THE SOIL IT OCCUPIES.[4]

GEMARA. Rab Judah said: IF A MAN FINDS, but not if [he knows] it is to be found there;[5] A CORPSE, but not one who had been killed;[6] LYING, but not seated;[7] IN THE USUAL POSITION, but not with its head lying between its thighs.[7] ‘Ulla b. Hanina taught: A defective corpse[8] does not acquire the ground it occupies, nor does it help to form a graveyard site.

Why does not [the law of the Mishnah] apply to all these? — Because we say that perhaps it is [the body of] a heathen.[9] If he finds two [corpses] with the head of one beside the feet of the second, and the head of the second beside the feet of the first, they do not acquire the soil which they occupy and do not help to form a graveyard site.[10] If he finds three [corpses] one of which was known to be there while the others [were found] for the first time, or if two [were found] for the first time and two were known [to be there] they do not acquire the soil they occupy[11] and do not form a graveyard site.

It is related that R. Yeshobab once searched [a certain spot] and found two [bodies] which were known to be there and one [which was discovered] for the first time, and he wanted to declare them a graveyard site.[12] R. Akiba said to him: All your trouble was for nothing. [The Rabbis] did not declare a graveyard site save where three [corpses] were known to be there, or three [were found] for the first time.[13]

[IF HE FINDS] TWO, HE MAY REMOVE THEM TOGETHER WITH THE SOIL THEY OCCUPY: Where is this law of the soil [a corpse] occupies to be found?[14] — R. Judah said: The verse says, Thou shalt carry me out of Egypt,[15] [signifying] carry with me [some Egyptian soil].[16] And what is the quantity of earth] which it occupies? — R. Eleazar[17] explained that he takes the loose earth[18] and digs up three finger-breadths of the virgin soil.[19]

The following objection was raised — [It has been taught:] And what quantity [of earth] are we to understand by 'the ground which it occupies?' R. Eleazar b. R. Zadok explained that he takes the chips [of the coffin][20] and the lumps of earth,[21] discarding what certainly [did not belong to the body] and leaving whatever was doubtful [for removal].[22] The remainder adds together to form the major part of the structure of the corpse, the quarter [kab] of bones and the spoonful of corpse — mould?[23] — [R. Eleazar] agrees with the following Tanna. For it has been taught: What quantity of [earth is meant by] 'the ground which it occupies?' R. Johanan,[24] citing Ben 'Azzai, said: He takes the loose earth and digs up three finger-breadths of virgin soil.

HE MUST THEN SEARCH BEYOND IT:

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(1) For other vaults.

(2) That he must continue to search if he finds one only.

(3) That the field is a graveyard site; since twenty cubits would not be an abnormal distance between two vaults; cf. supra p. 237, n. 5.

(4) Oh. XVI, 3. On the measurements v. B.B. (Sonc. ed.) p. 426 and notes.

(5) In that case he may not remove it (Tosaf.).

(6) In which case it is assumed that it was buried there for convenience and not that there was an old cemetery there.

(7) Jewish bodies were always buried prostrate; hence this cannot be an old Jewish cemetery. In these last three cases, he removes the body for reburial elsewhere.

(8) A corpse lacking a member essential to life. (Tosef. Oh. XVI, 2).

(9) Hence the site is not declared a Jewish cemetery and the bodies can be removed for burial elsewhere.

(10) Jews were not buried in this manner.

(11) Thus our text and Rashbam in B.B. 101b; but this as it stands contradicts our Mishnah, and it is therefore better to read with Tosef. Oh. XVI, 2 'Or if one (was found) for the first time and two were known, they are entitled to the ground they occupy, but do not form a graveyard site'.

(12) This would entail examining for twenty cubits.

(13) And whilst they may not be removed, they do not form a graveyard site. V. Tosef. Oh. XVI,2 where the last paragraph occurs with variations.

(14) [So Aruch; cur. edd. 'What means the ground it occupies'?]

(15) Gen. XLVII,30; spoken by Jacob to Joseph.

(16) Interpreting the verse, 'carry with me of Egypt'.

(17) R. Eleazar b. Pedath. Our texts have in error R. Eleazar b. R. Zadok.

(18) Formed through the decomposition of the body.

(19) This being the depth to which any blood etc., coming from the body would penetrate.

(20) Which was usually of stone (Tosaf.). Aliter The chips of spices put in with the body; cf. II Chronicles XVI,14.

(21) Into which the decomposing corpse congealed.

(22) When the body was removed. Hence the part to be removed contained no virgin soil, contrary to the opinion of R. Eleazar.

(23) Required to propagate uncleanness in a tent. (V. supra 49b, 50a). Tosef. Oh. II, 2 with variations.

(24) R. Johanan b. Nuri.

Talmud - Mas. Nazir 65b

Raba said: If he searched, [found a corpse][1] and removed it, searched [again and found another] and removed it, [and then] searched [again] and found [a third corpse], he must not remove this one [for reburial] with the other two,[2] nor the other two [for reburial] with this one.[3] Others say that Raba said: As permission had been given to remove [the others],[4] he may remove them [all].[5] But why should not [the field] become a graveyard site?[6] — Resh Lakish said: [The Rabbis] seized upon any pretext to declare the Land of Israel clean.[7]

Suppose he searched [beyond it],[8] for twenty cubits [in one direction only][9] and did not find [another corpse], what is the law?[10] — R. Monashya b. Jeremiah, citing Rab, replied: This is the graveyard site.[11] What is the reason [that we say this?][12] — Resh Lakish said: They seized on any pretext to declare the Land of Israel clean.

MISHNAH. EVERY DOUBTFUL CASE OF [LEPROUS] DISEASE[13] ENCOUNTERED FOR THE FIRST TIME BEFORE UN CLEANNESS HAS BEEN ESTABLISHED[14] IS CLEAN.[15] AFTER UNCLEANNESS HAS BEEN ESTABLISHED DOUBTFUL CASES ARE UNCLEAN.[16]

GEMARA. How do we know this?[17] — Rab Judah citing Rab, said: The verse says, to pronounce it clean, or to pronounce it unclean.[18] Scripture mentions cleanness first.[19] In that case even after uncleanness has been established, doubtful cases should be clean?[20] — We must therefore say that this dictum of Rab, quoted by R. Judah was uttered in connection with the following.[21] [A Mishnah says:] If the bright spot[22] appears before the white hair,[23] he is unclean, but if the white hair appears before the bright spot he is clean. If there is a doubt, he is unclean. R. Joshua said: It is doubtful.[24] What is meant by ‘it is doubtful’? — Rab Judah[25] replied: It is doubtful and [consequently] clean.[26] May it not mean that it is doubtful and [consequently] unclean? — Rab Judah citing Rab said: The verse says, to pronounce it clean, or to pronounce it unclean;[27] Scripture mentions cleanness first.[28]

MISHNAH. A PERSON SUFFERING FROM A FLUX IS EX AMINED REGARDING SEVEN THINGS,[29] BEFORE THE PRESENCE OF GONORRHOEA HAS BEEN ESTABLISHED,[30] VIZ.: — WITH REGARD TO FOOD,[31] DRINK, BURDENS,[32] LEAPING,[33] SICKNESS, A VISION[34] OR AN IMPURE THOUGHT.[35] ONCE GONORRHOEA IS ESTABLISHED, HE IS NO LONGER EXAMINED. [FLUX RESULTING] FROM AN ACCIDENT[36] TO HIM, DOUBTFUL [FLUX].[37] AND HIS ISSUE OF SEMEN ARE UNCLEAN, FOR THERE IS A PRESUMPTION [OF UNCLEANNESS].[38]

IF A MAN GIVES ANOTHER A BLOW FROM WHICH HE WAS EXPECTED TO DIE AND HE PARTIALLY RECOVERED AND THEN GREW WORSE AND DIED [THE OTHER] IS LIABLE [FOR MURDER]. R. NEHEMIAH EXEMPTS HIM SINCE THERE IS A PRESUMPTION [IN HIS FAVOUR].[39]

GEMARA. How do we know this?[40] — Nathan said: The verse says. And of the gonorrhoeic[41] that have the issue,[42] [whether it be a man or a woman].[43] [The male] at his third experience of issue is compared to the female.[44] But have we not been taught: R. Eliezer Says: At the third [issue] we examine him but not at the fourth?[45] In point of fact they disagree on [the question of stressing the particle] ‘the’.[46] R. Eliezer lays stress on [the particle] ‘the’, whilst the Rabbis do not do so.

[FLUX RESULTING] FROM AN ACCIDENT TO HIM, DOUBTFUL FLUX:

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(1) For the first time.

(2) Since the region is now revealed as a graveyard site.

(3) Once removed legally they need not be brought back.

(4) I.e., since the removal of the two was legal.

(5) The third corpse counts as newly found.

(6) Since three bodies have been uncovered in it.

(7) I.e. in order to declare a region in the land of Israel clean, the least pretext was considered sufficient. Rashi suggests another rendering, viz.: ‘They found a rib and declared the Land of Israel clean’; i.e., the Jews on entering Palestine found a human rib buried and thereupon declared the whole of the rest of Palestine clean, no further search after graveyard sites being necessary. Hence any pretext to avoid declaring parts of Palestine unclean will do.

(8) Referring to the Mishnah that he must search beyond the three corpses found to a distance of twenty cubits.

(9) Tosaf. v. next note.

(10) Must he search in other directions or not? (Tosaf.). Aliter. Do these three alone form a graveyard site or not? (Rashi). Aliter: If he has searched in all directions and found nothing, must he search more thoroughly and dig more deeply? (Asheri).

(11) But no other part of the field.

(12) I.e., why are we not stricter in our requirements?

(13) Referring to a doubt that has arisen as to whether an affected spot has spread or not (v. Lev. XIII), e.g., two persons are examined by a priest and have different-sized areas of disease. The following week both ‘areas are the size of the larger of the two and the priest is uncertain which one has increased, v. Neg. V,4.

(14) Lit., ‘so long as he has not become bound to the uncleanness’. Before the patient has been declared unclean.

(15) Both men remain clean.

(16) If a similar doubt arises as to whether the diseased part has diminished in size.

(17) That there is any difference between the two cases quoted in the Mishnah.

(18) Lev. XIII, 59, concluding the chapter on the symptoms of leprous disease.

(19) Hence doubtful cases should also be regarded as clean.

(20) Thus there is no ground for basing the distinction on this verse.

(21) And the law of the Mishnah is not derived from a verse, but follows from the fact that in the first case there is no presumption of uncleanness and in the second case there is.

(22) Of Ieprous disease, v. Lev. XIII, 2.

(23) The symbol of uncleanness. Ibid. v. 3.

(24) Neg. IV, 11. The word rendered ‘doubtful’ is the technical term for ‘dim’ used of a diseased spot, (v. Lev. XIII, 6). For a discussion of the reading here v. Tosaf. Sanh. 87b, I.v.

(25) Parallel passages (Sanh. 87b) have Rabbah.

(26) I.e.,it is considered to have become dim and is therefore clean.

(27) Lev. XIII, 59.

(28) The disease is to be pronounced clean unless it certainly has the symptoms of uncleanness described in that chapter.

(29) To determine whether any of these seven things was not the cause of the flux, as it would not then be evidence of gonorrhoea.

(30) I.e., before there has been a flux on three occasions, v. Zabim II, 2.

(31) Whether he had eaten too much.

(32) Whether he had carried heavy loads.

(33) Any kind of strain through physical exercise might cause flux.

(34) The sight of two people in coition.

(35) A similar thought.

(36) I.e., after one of the seven things mentioned.

(37) See the Gemara.

(38) V. Zabim II, 2.

(39) The recovery creates a presumption that death was not caused by the blow. [Maim. Yad., Rozeah, IV, 5 explains contrariwise: The fact that he ultimately died creates a presumption that death was caused by the blow, the last clause being thus explanatory of the views of the Rabbis.]

(40) That after gonorrhoea is established, he is not questioned as to possible causes.

(41) E.V. ‘And of them’. Indicating the first issue.

(42) Expressed in Heb. by the nota accusativi, ‘eth’. Indicating the second issue.

(43) Indicating the third issue; Lev. XV, 33.

(44) Who becomes gonorrhoeic whatever the cause. Hence at the third issue gonorrhoea is established whatever its cause.

(45) And on the present interpretation of the verse, he is not examined for the third issue.

(46) The Hebrew particle governing the accusative. This particle can be omitted and so its presence is taken by R. Eliezer to indicate another issue before the comparison is made of man with woman.

Talmud - Mas. Nazir 66a

Raba said: Do not suppose [that the meaning of ‘doubtful flux’ is] that there is a doubt whether there was an issue or not. In point of fact, the issue must be a certain one,[1] the doubt being whether it was due to an issue of semen[2] or whether it was caused by [a separate gonorrhoeic] attack.[3] Once uncleanness has been established, if there is a doubt, he is unclean.[4]

HIS ISSUE OF SEMEN IS UNCLEAN: In what respect [is the semen unclean]? For if it be in respect of touching it,[5] how is it worse than the issue of semen of a clean person?[6] — It must therefore mean that the semen of a sufferer from gonorrhoea defiles through being carried. But who is known to hold the view that the issue of semen of a sufferer from gonorrhoea defiles if carried? For if you say that it is the following Tanna, as has been taught: ‘R. Eliezer says that the issue of semen of a sufferer from gonorrhoea does not defile if carried, whilst R. Joshua says that it does defile if carried, because it is impossible that it should not be diluted with gonorrheic fluid’ — even R. Joshua only says this[7] because it is diluted with gonorrhoeic fluid, but not when it is undiluted?[8] — In point of fact, said R. Adda b. Ahabah, [the purpose of the Mishnah is] to lay down that [subsequent gonorrhoeic issue] is not ascribed to [the prior flow of semen].[9] R. Papa tried to argue with Raba that this[10] was because the flow resulted from his weakness [following the gonorrhoea].[11] Raba said to him: Have we not learnt: A proselyte defiles if subject to a gonorrhoeic flow immediately after conversion?[12] — He replied: There cannot be greater sickness than this.[13]

We must say in fact[14] that [to what extent semen of a sufferer from gonorrhoea defiles] is a controversy of Tannaim — For it has been taught: The semen of a sufferer from gonorrhoea defiles for twenty — four hours[15] if carried. R. Jose however, Says; for the whole of the same day.[16]

Wherein does their controversy lie?[17] — In respect of the point raised by Samuel. For Samuel noted the following contradiction. It is written, If there be among you any man that is not clean by reason of that which chanceth him by night [etc.][18] and it is written [further], when evening cometh on he shall bathe himself in water.[19] The one who says twenty-four hours infers this from when evening cometh on,[20] and the other infers it from, ‘that which chanceth him by night’.[21] Now to the one who infers it from ‘when evening cometh on,’ [it may be objected] it is written, ‘that which chanceth him by night’? — He will reply that it is customary for an emission to occur at night.[22]

MISHNAH. SAMUEL WAS A NAZIRITE IN THE OPINION OF R. NEHORAI, AS IT SAYS, AND THERE SHALL NO RAZOR [MORAH] COME UPON HIS HEAD.[23] IT SAYS WITH REFERENCE TO SAMSON, AND [NO] RAZOR [MORAH][24] AND IT SAYS WITH REFERENCE TO SAMUEL, AND [NO] RAZOR [MORAH]; JUST AS MORAH IN THE CASE OF SAMSON [IS USED OF] A NAZIRITE,[25] SO [WE SHOULD SAY] MORAH IN THE CASE OF SAMUEL [IS USED OF] A NAZIRITE. R. JOSE OBJECTED: BUT HAS NOT MORAH REFERENCE TO [FEAR[26] OF] A HUMAN BEING? R. NEHORAI SAID TO HIM: BUT DOES IT NOT ALSO SAY, AND SAMUEL SAID; ‘HOW CAN I GO? IF SAUL HEAR IT HE WILL KILL ME’[27] [WHICH SHOWS] THAT HE WAS IN FACT AFRAID OF A HUMAN BEING?[28]

GEMARA. Rab said to his son Hiyya:

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(1) Examination must show the presence of gonorrhoeic matter.

(2) When it only adds one day to his period of counting.

(3) When he would have to begin to count his seven clean days over again, (v. Lev. XV, 13).

(4) And the gonorrhoeic matter is ascribed to an attack of gonorrhoea and not to the issue of semen.

(5) That one who touches the semen of a sufferer from gonorrhoea becomes unclean.

(6) Which also renders unclean by contact. Lev. XV, 16, 17.

(7) Viz.: That the semen defiles if carried.

(8) Which is the case contemplated by the Mishnah. The question still remains, why does the Mishnah say that the semen of a sufferer from gonorrhoea is unclean?

(9) As would be the case for twenty-four hours after an emission of semen in the case of a normal person. v. Zabim II, 3.

(10) The reason that it is not ascribed to the issue of semen once gonorrhoea is established.

(11) And was due to the gonorrhoea and not a consequence of the emission of semen.

(12) Zabim II, 3; If an issue of semen preceded conversion and gonorrhoeic flow followed, it is not ascribed to the emission, but counts as a first gonorrhoeic flow.

(13) The emotional effect of the conversion is sufficient sickness to occasion the flow, but does not render it nugatory as the seven things of the Mishnah do (Rashi). Tosaf. achieves better sense by omitting ‘he replied’, and making the whole part of Raba's objection, viz.: ‘Can there be greater weakness than that which results from the emotional effect of conversion?’ and yet the flow is considered unclean. Hence R. Papa's reason is not correct.

(14) Although R. Adda attempted to argue to the contrary.

(15) I.e., if the semen issues within twenty-four hours of the gonorrhoeic flow.

(16) If it comes before the evening; here there is no mention of dilution of the semen by gonorrhoeic fluid. Thus these Tannaim differ from R. Eliezer and R. Joshua, and the Mishnah represents their opinion, that the semen renders unclean if carried.

(17) The controversy of R. Jose and the other Tanna.

(18) Deut. XXIII, II. Interpreted as meaning: If he should chance to have an emission of semen during the day, consequent on a gonorrhoeic issue during the previous night.

(19) Ibid. v. 12.

(20) Which indicates that though night has already fallen he still remains unclean; i.e., until the end of the period of twenty — four hours.

(21) Which he interprets as meaning, ‘until nightfall’; but as soon as night has fallen he becomes clean and an emission will not then defile, if carried.

(22) But there is no particular significance in the use of the word night.

(23) I Sam. I, 11.

(24) Judges XIII, 5. ‘And no razor shall come upon his head’.

(25) Ibid. ‘for the child shall be a nazirite unto God’.

(26) Reading מורה as מורא (fear) from ירא the verb having adopted a ה ל ending: Jast. s.v. מורה II interprets from a root מר meaning ‘authority’.

(27) I Sam. XVI, 2.

(28) Lit., ‘flesh and blood’. Hence morah cannot mean ‘fear’ or Hannah's prediction would have been false. It must therefore mean ‘a razor’.

Talmud - Mas. Nazir 66b

Snatch [the cup] and say grace.[1] So also did R. Huna say to his son Rabbah. Snatch [the cup] and say grace.

Does this mean that it is better to say the blessing [than to make the responses]? Has it not been taught: R. Jose says that he who responds. ‘Amen’, is greater than he who says the blessing, and R. Nehorai said to him: I swear[2] that this is so. In proof of this, [it may be noted] that the ordinary soldiers begin a battle but the picked troops gain the victory?[3] — There is a difference of opinion between Tannaim on this matter. For it has been taught: Both the one who says the blessing and the one who responds, ‘Amen’, are included [in this verse].[4] Nevertheless, [reward] is given first to the one who says the blessing.

R. Eleazar,[5] citing R. Hanina, said: The disciples of the sages increase peace throughout the world, as it is said, And all thy children shall be taught of the Lord; and great shall be the peace of thy children.[6]

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(1) You be the one who takes the cup of wine to say the grace, and let the others answer, ‘Amen’ to your blessings.
(2) Lit., ‘by heaven’.
(3) A reference to the Roman practice of saving the veteran soldiers until the enemy's resistance had been weakened by the less experienced soldiers. We see then that the one who completes the blessing by responding is greater.
(4) Ps. XXXIV, 3, ‘O magnify the Lord with me, and let us exalt His name together’. (Rashi).
(5) V. Yeb. 122b.
(6) Isa. LIV, 13.

Talmud - Mas. Sotah 2a

C H A P T E R I

MISHNAH. IF ONE WARNS[1] HIS WIFE [NOT TO ASSOCIATE WITH A CERTAIN MAN]. R. ELIEZER SAYS: HE WARNS HER ON THE TESTIMONY OF TWO WITNESSES,[2] AND MAKES HER DRINK [THE WATER OF BITTERNESS] ON THE TESTIMONY OF ONE WITNESS[3] OR HIS PERSONAL TESTIMONY. R. JOSHUA SAYS: HE WARNS HER ON THE TESTIMONY OF TWO AND MAKES HER DRINK ON THE TESTIMONY OF TWO.

HOW DOES HE WARN HER? IF HE SAYS TO HER IN THE PRESENCE OF TWO, DO NOT CONVERSE WITH THAT MAN, AND SHE CONVERSED WITH HIM, SHE IS STILL PERMITTED TO HER HUSBAND[4] AND PERMITTED TO PARTAKE OF THE HEAVE-OFFERING.[5] SHOULD SHE HAVE ENTERED A PRIVATE PLACE WITH HIM AND STAYED WITH HIM A TIME SUFFICIENT FOR MISCONDUCT TO HAVE OCCURRED, SHE IS FORBIDDEN TO HER HUSBAND[6] AND FORBIDDEN TO PARTAKE OF THE HEAVE-OFFERING. IF [HER HUSBAND] DIED,[7] SHE PERFORMS THE CEREMONY OF HALIZAH[8] BUT CANNOT CONTRACT A LEVIRATE MARRIAGE.

GEMARA. Now that the Tanna has finished [Tractate] Nazir, what is his reason for continuing with [Tractate] Sotah?[9] — It is according to the view of Rabbi; for it has been taught: Rabbi says, Why does the section of the Nazirite adjoin that of the suspected woman?[10] To tell you that whoever witnesses a suspected woman In her disgrace should withhold himself from wine.[11] But [the Tanna in the Mishnah] should treat of [Tractate] Sotah first and afterwards that of Nazir![12] — Since he treated of [Tractate] Kethuboth [marriage-settlements] and dealt with the theme, ‘He who imposes in vow upon his wife’,[13] he next treated of [Tractate] Nedarim [Vows]; and since he treated of [Tractate] Nedarim, he proceeded to treat of [Tractate] Nazir which is analogous to Nedarim,[14] and then continues with Sotah for the reason given by Rabbi.

IF ONE WARNS HIS WIFE. As an accomplished fact[15] it is allowable, but as something still to be done it is not. Consequently our Tanna holds that it is forbidden to give a warning.[16]

R. Samuel b. R. Isaac said: When Resh Lakish began to expound [the subject of] Sotah, he spoke thus: They only pair a woman with a man according to his deeds;[17] as it is said: For the sceptre of wickedness shall not rest upon the lot of the righteous.[18] Rabbah b. Bar Hanah said in the name of R. Johanan: It is as difficult to pair them as was the division of the Red Sea; as it is said: God setteth the solitary in families: He bringeth out the prisoners into prosperity![19] But it is not so; for Rab Judah has said in the name of Rab: Forty days before the creation of a child, a Bath Kol[20] issues forth and proclaims, The daughter of A is for B;[21] the house of C is for D; the field of E is for F! — There is no contradiction, the latter dictum referring to a first marriage and the former to a second marriage.

R. ELIEZER SAYS, HE WARNS HER ON THE TESTIMONY OF TWO WITNESSES etc. So far only do [R. Eliezer and R. Joshua] differ, viz. in the matter of warning and seclusion, but in the matter of misconduct [they agree] that one witness is believed.[22] We similarly learn in the Mishnah: If one witness says: I saw that she committed misconduct, she does not drink the water.[23] Whence is it derived according to Torah-law that one witness is believed? As our Rabbis taught: And there be no witness against her[24] — the text refers to two witnesses.[25] But perhaps it is not so and even one [suffices]! There is a teaching to declare, One witness shall not rise up against a man.[26]

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(1) Lit., ‘is jealous of, i.e., he gives her a warning because he feels jealous.

(2) There must be two witnesses that he had warned her in their presence; otherwise he cannot require her to drink the water of bitterness.

(3) That she had secluded herself with the man, after due warning had been given.
(4) Lit., ‘to her house’. Marital relations may continue.
(5) If her husband is a priest. The heave-offering could be eaten by any member of the priest's household who was ritually clean; Num. XVIII, 8ff.
(6) Forthwith, before the water is drunk.
(7) Before she had undergone the ordeal.
(8) V. Glos.
(9) What is the association of ideas between the subject of the Nazirite and the woman suspected of infidelity?
(10) In Num. V and VI.
(11) Immoderate use of wine is a source of immorality. v. Ber. 63a.
(12) That being the order in which they are dealt with in Scripture.
(13) The opening words of Keth. VII.
(14) A man becomes a nazirite by imposing a vow upon himself.
(15) This is derived from the addition of the definite article, the literal sense being: he who warns, i.e., he who has given a warning.
(16) Different views are taken on this question; v. p. 8.
(17) Only if his actions are righteous does he have a faithful wife.
(18) Ps. CXXV, 3.
(19) Ibid. LXVIII, 7. The first clause refers to marriage-making, the second to the release of prisoners. Therefore the two are declared identical as regards difficulty.
(20) V. Glos.
(21) Since the marriage is ordained even before birth, it cannot be dependent upon a man's conduct.
(22) [After due warning had been given and seclusion taken place]. And without drinking the water she leaves her husband's house and does not receive what would normally have been due to her under the marriage-contract.
(23) Infra 31a.
(24) Num. V, 13.
(25) I.e., wherever Scripture uses the word witness, even in the singular, it denotes two.
(26) Deut. XIX, 15.

Talmud - Mas. Sotah 2b

From the fact that it is stated: ‘[A] witness[1] shall not rise up against a man’, do I not know that one is intended? Why is there a teaching to declare ‘one witness’?[2] This establishes the rule that wherever it is stated ‘witness’, it signifies two unless the text specifies ‘one’; and [in the case under discussion] the All-Merciful declares that when there are not two witnesses against her but only one, and she has not been violated,[3] she is forbidden [to her husband].[4] Now the reason for that[5] is because it is written: One witness shall not rise up against a man. Were it however not so [stated], I might have supposed that ‘witness’ in the verse relating to a suspected woman means one.[6] But if there be not even one witness against her, why should she then be prohibited [to her husband]? — [The verse: One witness etc.] is necessary, because otherwise it might have occurred to me to suppose that ‘there be no witness against her’ means, he is not believed against her. He is not believed against her! What, then, [does the text] want unless there are two witnesses?[7] Let the Scriptural text be silent on the point [and not mention it at all], since the rule could have been deduced by analogy from the occurrence of the word dabar[8] in the verse relating to civil actions, and I would know that it applies to every case of testimony mentioned in the Torah! — It was necessary [for Scripture to have mentioned it], because otherwise it might have occurred to me to suppose that the matter is different in the case of a suspected woman inasmuch as there was some basis for the charge, seeing that he had warned her and she had been secluded [with the man]; consequently one witness should be believed against her. But how is it possible to say [that if the Torah had not specified that ‘witness’ always means two, I might have supposed that the intention of ‘there be no witness against her’ was] that he is not believed against her and she is permitted to her husband? Surely from what is written: ‘and she had not been violatedð ,[9] it is implied that she is forbidden to him! It was necessary [for Scripture to have mentioned this], because otherwise it might have occurred to me to suppose that [the evidence against her] is not believed unless there are two witnesses,[10] and [that the verse means] that she had not been violated on the evidence of two witnesses. We are consequently taught [that one witness is believed].

R. JOSHUA SAYS: HE WARNS HER ON THE TESTIMONY OF TWO etc. What is R. Joshua's reason? Scripture states ‘against her’ — I.e., ‘against her’ [in the matter of misconduct][11] but not in the matter of warning, ‘against her’ [in the matter of misconduct] but not in the matter of seclusion. R. Eliezer, [on the other hand] says: ‘Against her’ [in the matter of misconduct] but not in the matter of warning only. Perhaps, however, ‘against her’ does mean, and not in the matter of seclusion! — Seclusion is compared to ‘defilement’ [misconduct], for it is written, and he kept close and she be defiled.[12] But warning also is compared to ‘defilement’, for it is written, and he be jealous of his wife and she be defiled![13] — The All-Merciful excluded this by the phrase ‘against her’.[14] But what leads you to this conclusion?[15] — It is obvious that seclusion is more serious [than warning] because she is forthwith prohibited to her husband as with ‘defilement’. On the contrary, warning is more serious since it is the root cause [of her seclusion rendering her forbidden to her husband]![16] — If there was no seclusion, would there have been any warning?[17] But if there was no warning, what effect would seclusion have? — Nevertheless seclusion is the more serious since it is the beginning of ‘defilement’.

Our Mishnah does not agree with the following Tanna. For it has been taught: R. Jose son of R. Judah says in the name of R. Eliezer: He who warns his wife does so on the testimony of one witness or his personal testimony, and makes her drink [the water of bitterness] on the testimony of two witnesses. The Sages replied: According to the view of R. Jose son of R. Judah, there is no purpose in the matter.[18] What is the reason of R. Jose son of R. Judah? — Scripture states ‘against her’, i.e., ‘against her’ [in the matter of misconduct] but not in the matter of seclusion. Perhaps, however, ‘against her’ means: and not in the matter of warning? — Warning is compared to ‘defilement’, for it is written, and he be jealous of his wife and she be defiled. But seclusion is also compared to ‘defilement’, for it is written, and he kept close and she be defiled? — That refers to a length of time sufficient for ‘defilement’ to have occurred.[19]

[It was stated above:] ‘The Sages replied: According to the view of R. Jose son of R. Judah, there is no purpose in the matter’. What does this mean? — There may be times when he did not warn her and he claims that he did warn her.[20] Is there, then, according to our Mishnah any purpose in the matter, since there may be times when she had not been secluded with the man and the husband claims that she had been secluded?[21] — R. Isaac b. Joseph said in the name of R. Johanan, [Read] also according to the view of R. Jose son of R. Judah, there is no purpose in the matter. ‘Also according to the view of R. Jose son of R. Judah’ [you say]; is there, then, no question with respect to our Mishnah? On the contrary, according to our Mishnah there is foundation [for the charge], but in the other case [the view of R. Jose son of R. Judah] there may be no foundation![22] — But if the teaching is reported, it must be in this form: R. Isaac b. Joseph said in the name of R. Johanan: ‘According to the view of R. Jose son of R. Judah, and also according to our Mishnah, there is no purpose in the matter.’

R. Hanina of Sura said: Nowadays a man should not say to his wife, ‘Do not be secluded with So-and-so’, lest we decide according to R. Jose son of R. Judah who said: A warning [is effective] if given on [the husband's] personal testimony. If she then secluded herself with the man, since we have not now the water for a suspected woman to test her, the husband forbids her to himself for all time.

Resh Lakish said: What is the meaning of the term kinnui?[23] A matter which causes hatred [Kin'ah] between her and others. Consequently he holds that the warning can be on [the husband's] personal testimony; and since not everybody knows that he gave her a warning and they say: ‘What has happened that she holds herself aloof?’ they will proceed to cause hatred against her. R. Jemar b. Shelemia said in the name of Abaye: [Kinnui means] a matter which causes hatred between husband and wife. Consequently he holds that the warning must be on the testimony of two witnesses and everybody is aware that he gave her a warning,[24] and it is he who proceeds to cause hatred against her.

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(1) And not witnesses.

(2) The word one is superfluous if a single witness is intended, since it would have been sufficient to state a witness.

(3) But consented to the act. Num. V, 13. The English Version translates the verb she be not taken in the act; but the Rabbis understood it in the sense that she was not forced to misconduct and was a consenting party. Cf. the use of the same verb in Deut. XXII, 28. If she had been violated, she was exempt from the ordeal.

(4) Infra 31b. [This proves that in the matter of misconduct one witness is believed, as otherwise whence is it known that she was not violated?]

(5) For maintaining that the term witness’ in the case of the Sotah denotes two.

(6) ‘And there be no witness against her’ means not even one.

(7) What is the purpose of the words if the meaning of there be no witness indicates only one and that his evidence is not accepted?

(8) In connection with infidelity the text has he hath found some unseemly matter (dabar) in her (Deut. XXIV, 1), and in connection with civil actions At the mouth of two witnesses, or at the mouth of three witnesses, shall a matter (dabar) be established (ibid. XIX, 15). By the rule of Gezerah Shawah, analogy of expression, the principle of the latter with regard to the number of witnesses required is also applied to the former.

(9) Therefore it is maintained that misconduct has occurred with her consent.

(10) In a charge of misconduct.

(11) One witness is sufficient; but for warning and seclusion two are necessary.

(12) Num. V, 13.

(13) Ibid. 14.

(14) The phrase ‘against her’ was explained above as relating only to misconduct.

(15) That ‘against her’ excludes the idea that warning is to be compared to misconduct, and that only seclusion is to be likened to it.

(16) Without previous warning she would not be prohibited to her husband because of seclusion.

(17) There must have been seclusion to cause jealousy and consequently a warning.

(18) In requiring the husband's personal testimony, since, as the Gemara will explain, it may be false.

(19) So that if the time of seclusion was insufficient, she is not required to drink the water.

(20) So what purpose is there in requiring the husband's unsupported evidence?

(21) The Mishnah compels the woman to drink the water on the unsupported evidence of the husband.

(22) According to the Mishnah there must have been warning on the testimony of two witnesses, so there is some foundation for the charge; but according to R. Jose the husband can give her warning on his uncorroborated testimony which might be groundless.

(23) That is the term used in Num. V, 14, ‘he be jealous’.

(24) Since the witnesses are likely to talk of it to others.

Talmud - Mas. Sotah 3a

Conclude that they hold that it is forbidden to give a warning;[1] but according to him who says that it is permissible to give a warning, what is the meaning of Kinnui? — R. Nahman b. Isaac said: Kinnui means nothing but ‘warning;’ and thus Scripture states: Then the Lord warned [wa-yekna] his land.[2]

It has been taught: R. Meir used to say: If a person commits a transgression in secret, the Holy One, Blessed be He, proclaims it against him in public; as it is said: And the spirit of jealousy came upon him;[3] and the verb ‘abar [came upon] means nothing but ‘proclaiming’, as it is said: And Moses gave commandment, and they caused it to be proclaimed throughout the camp.[4] Resh Lakish said: A person does not commit a transgression unless a spirit of folly [shetuth] enters into him; as it is said: If any man's wife go aside.[5] [The word is] written [so that it can be read] sishteh.[6]

The School of R. Ishmael taught: Why does the Torah believe one witness in the case of a suspected woman? Because there was some basis for the charge, seeing that he had warned her and she had secluded herself with the man, and one witness testifies that she had ‘defiled’ [misconducted] herself. R. Papa said to Abaye, But the warning is mentioned in the text after the seclusion and misconduct?[7] — He replied to him, We'abar [means] there had already come upon him.[8] But can that interpretation be also applied to, And every armed man of you will pass over?[9] — In that passage, since it is written: And the land will be subdued before the Lord, then afterward ye shall return,[10] it follows that the reference is to the future; but here, if it should enter your mind that we follow the order of the text [and we'abar signifies ‘will come’], of what use is a warning after misconduct and seclusion had taken place?

The School of R. Ishmael taught: A man does not warn his wife unless a spirit[11] enters into him; as it is said: ‘And the spirit of jealousy came upon him and he be jealous of his wife’. What is the meaning [of the word] ‘spirit’? — The Rabbis declare, It is a spirit of impurity;[12] but R. Ashi declares, It is a spirit of purity.[13] Reasonable is the view of him who declares that it is a spirit of purity, because it was taught: and he be jealous of his wife — this is voluntary[14] in the opinion of R. Ishmael; but R. Akiba says: It is obligatory. It is well if you say that it means a spirit of purity, then everything is right; but if you say that it means a spirit of impurity, is it voluntary or obligatory for a man to introduce a spirit of impurity into himself!

[To turn to] the main text: And he be jealous of his wife — this is voluntary in the opinion of R. Ishmael; but R. Akiba says: It is obligatory. For her he may defile himself[15] — this is voluntary in the opinion of R. Ishmael; but R. Akiba says: It is obligatory. Of them shall ye take your bondmen for ever[16] — this is voluntary in the opinion of R. Ishmael; but R. Akiba says: It is obligatory. R. Papa said to Abaye — others declare it was R. Mesharsheya who said to Raba: Is this to say that R. Ishmael and R. Akiba differ in this way throughout the Torah, one maintaining that [a precept] is voluntary and the other that it is obligatory? — He replied, They only differ here over texts: And he be jealous of his wife — it is voluntary in the opinion of R. Ishmael; but R. Akiba says: It is obligatory. What is the reason of R. Ishmael? — He holds the same view as that of the following teacher. It has been taught: R. Eliezer b. Jacob says: Since the Torah declares, Thou shalt not hate thy brother in thine heart,[17] it is possible to think that this applies also in such a circumstance;[18] therefore there is a text to say: And the spirit of jealousy came upon him and he be jealous of his wife.[19] And [what is the reason of] R. Akiba? — The word ‘jealous’ occurs a second time in the verse.[20] And [how does] R. Ishmael [explain the repetition of jealous]? — Since it was necessary to write, And she be defiled and afterwards and she be not defiled, the Torah wrote and he be jealous of his wife.[21] This is in agreement with the teaching of the School of R. Ishmael; for it was taught in the School of R. Ishmael; Wherever a Scriptural passage is repeated, it is only repeated because of some new point contained therein. [Similarly] ‘For her he may defile himself — this is voluntary in the opinion of R. Ishmael; but R. Akiba says: It is obligatory. What is the reason of R. Ishmael? — Since it is written: Speak unto the priests the sons of Aaron and say unto them, There shall none defile himself for the dead among his people,[22] it was likewise necessary to write, For her he may defile himself. And [from where does] R. Akiba [learn that a priest may so defile himself]? — He derives it from, Except for his kin;[23] what then is the purpose of, For her he should defile himself? [It is to indicate that] it is obligatory. And [how does] R. Ishmael [explain the addition of these words]? — ‘For her’ he may defile himself but not for any of her limbs.[24]

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(1) Because they explain Kinnui in the sense of hatred, and it is not allowed to create hatred.

(2) Joel II, 18. (E.V. ‘Then the Lord was jealous for his land’.)

(3) Num. V, 14.

(4) Ex. XXXVI, 6.
(5) Num. V, 12. The word for ‘go aside’ is sisteh.
(6) I.e., act in folly.
(7) The matter of seclusion and misconduct is mentioned in Num. V, 12f, and the warning from jealousy in verse 14.
(8) [ועבר is treated as pluperfect.]
(9) Num. XXXII, 21 where the same word, we'abar, occurs.
(10) Ibid. 22.
(11) Introduced into him by God to warn him of what had occurred.
(12) An instigation by Satan.
(13) Which revolts against immorality.
(14) The husband can ignore the matter if he so wishes.
(15) Lev. XXI, 3. Does it mean he may or he should; and similarly with the other instances discussed.
(16) Ibid. XXV, 46.
(17) Ibid. XIX, 17.
(18) That a husband may overlook his wife's seclusion with another man and not warn her.
(19) He interprets the words as meaning: if the spirit of jealousy came upon him and he wishes to warn his wife.
(20) He understands the second clause as he should be jealous and warn her.
(21) The words are repeated because of the two contingencies mentioned and no such deduction is to be drawn as R. Akiba suggests.
(22) Lev. XXI, 1.
(23) Ibid. 2.
(24) An amputated limb of a body defiles in the same way as the whole body. V. Nazir 43b.

Talmud - Mas. Sotah 3b

[What reply does] R. Akiba [make to this explanation]? — If that were the sole intention, the All-Merciful should have written ‘for her’ and then stop; what is the purpose of the words ‘he should defile himself? Deduce therefrom.[1] [How does] R. Ishmael [meet this argument]? — Since the Torah wrote ‘for her’, it likewise wrote ‘he may defile himself this is in agreement with the teaching of the School of R. Ishmael; for it was taught in the School of R. Ishmael: Wherever a Scriptural passage is repeated, it is only repeated because of some new point contained therein. [And similarly,]’Of them shall ye take your bondmen for ever[2] — this is voluntary in the opinion of R. Ishmael; but R. Akiba says: It is obligatory. What is the reason of R. Ishmael? — Since it is written: Thou shalt save alive nothing that breatheth,[3] it was likewise necessary to write, ‘Of them shall ye take your bondmen for ever’, in order to indicate that if a man belonging to any other Gentile people has intercourse with a Canaanite woman[4] and begets a son by her, it is permissible to purchase him as a slave. For it has been taught: Whence is it that if a man belonging to any other Gentile people has intercourse with a Canaanite woman and begets a son by her, it is permissible to purchase him as a slave? There is a text to declare, Moreover of the children of the strangers that do sojourn among you, of them shall ye buy.[5] It is possible to think that also if a Canaanite had intercourse with a woman belonging to any other Gentile people and he begets a son by her, it is permissible to purchase him as a slave; therefore there is a text to declare, Which they have begotten in your land[6] — from those born in your land[7] and not from those who dwell in your land.[8] And [from where does] R. Akiba [learn this rule]? — He derives it from, ‘Of them shall ye buy’; what then is the purpose of, ‘Of them ye shall take your bondmen for ever’? [It indicates that] it is obligatory. And [how does] R. Ishmael [explain the addition of these words]? — ‘Of them’ [he may purchase] but not of your brethren. [From where does] R. Akiba [derive this rule]? — It is deduced from the mention of ‘your brethren’ at the end of the verse: But over your brethren the children of Israel ye shall not rule, one over another, with rigour.[9] [How does] R. Ishmael [meet this argument]? — Since the Torah wrote ‘But over your brethren’, it likewise wrote ‘of them’. This is in agreement with the teaching of the School of R. Ishmael; for it was taught in the School of R. Ishmael: Wherever a Scriptural passage is repeated, it is only repeated because of some new point contained therein.

R. Hisda said: Immorality in a house is like a worm in the sesame plant. Further said R. Hisda: Anger in a house is like a worm in the sesame plant. Both these statements refer to a woman, but in the case of a man there is no objection.[10] Further said R. Hisda, At first, before Israel sinned [against morality], the Shechinah abode with each individual; as it is said: For the Lord thy God walketh in the midst of thy camp.[11] When they sinned, the Shechinah departed from them; as it is said: That he see no unclean thing in thee and turn away from thee.[12]

R. Samuel b. Nahmani said in the name of R. Jonathan: Whoever performs one precept in this world, it precedes him for the world to come; as it is said: And thy righteousness shall go before thee;[13] and whoever commits one transgression in this world, it clings to him and precedes him for the Day of Judgment, as it is said: The paths of their way are turned aside; they go up into the waste and perish.[14] R. Eleazar says: It attaches itself to him like a dog; as it is said: He hearkened not unto her, to lie by her, or to be with her[15] — to lie by her in this world, or to be with her in the world to come.

We learn elsewhere: It is a proper conclusion that if the first evidence [that the woman had secluded herself with the man], which does not prohibit her [to her husband] for all time,[16] is not established by fewer than two witnesses, is it not right that the final evidence [that she had misconducted herself] which prohibits her to him for all time, should not be established by fewer than two witnesses! Therefore there is a text to state, ‘And there be no witness against her’, [implying that], whatever [evidence] there may be against her [is believed, even if it be only one witness]. And with respect to the first evidence [about her seclusion with the man, that one witness suffices may be argued by] a fortiori reasoning as follows: If the final evidence [regarding misconduct], which prohibits her to her husband for all time, is established by one witness, is it not proper that the first evidence, which does not prohibit her to him for all time, should be established by one witness! Therefore there is a text to state, Because he hath found some unseemly matter in her,[17] and elsewhere it states: At the mouth of two witnesses, or at the mouth of three witnesses shall a matter be established;[18] as the ‘matter’ mentioned in this latter case must be confirmed by the testimony of two witnesses, so also here [in the case of the suspected woman] the ‘matter’ must be confirmed by the testimony of two witnesses.[19] Is this deduction to be drawn from the words, ‘Because he hath found some unseemly matter in her’? It ought to be derived from ‘against her’ — i.e., ‘against her’ [in the matter of misconduct] but not in the matter of warning, ‘against her’ [in the matter of misconduct] but not in the matter of seclusion![20] — He also says similarly[21] [and his teaching is to be cited as follows]: Therefore there is a text to state ‘against her’ [in the matter of misconduct] but not in the matter of warning, ‘against her’ [in the matter of misconduct] but not in the matter of seclusion; and whence is it that merely in a case of misconduct, where there had been no warning or seclusion one witness is not believed? It is stated here, ‘Because he hath found some unseemly matter in her’, and elsewhere it states: ‘At the mouth of two witnesses, or at the mouth of three witnesses, shall a matter be established’; as in the ‘matter’ mentioned in the latter case two witnesses are required, so also here [where there has been misconduct without warning and seclusion] two witnesses are required. Our Rabbis have taught: Which is the ‘first testimony’? Evidence of seclusion, and the ‘final testimony’ is evidence of ‘defilement’ [misconduct].

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(1) That it is obligatory.

(2) Lev. XXV, 46.

(3) Deut. XX, 16.

(4) The woman belonged to the seven nations which had to be exterminated.

(5) Lev. XXV, 45.

(6) Ibid. I.e., the original natives of Canaan.

(7) [Whose father belongs to another land.]

(8) [I.e., the original natives of Canaan]. It is to be noted that descent is traced through the father, whereas in the case of a Jew descent is traced through the mother.

(9) Lev. XXV, 46.

(10) This opinion is contradicted by popular proverbs quoted in the Talmud, viz., ‘He among the full-grown pumpkins and his wife among the young ones’ (infra, p. 45), and ‘He who gives vent to his anger destroys his house’ (Sanh. 102b).

(11) Deut. XXIII, 15.

(12) Ibid.

(13) Isa. LVIII, 8.

(14) Job VI, 18.

(15) Gen. XXXIX, 10.

(16) Because the water may prove her innocent.

(17) Deut. XXIV, 1.

(18) Ibid. XIX, 15.

(19) Infra 31a-b.

(20) V. supra p. 5.

(21) The teacher in the Mishnah accepts the deduction from ‘against her’ and uses the argument from the occurrence of the word ‘matter’ for another purpose. He had been quoted wrongly and the Gemara proceeds with the correct form of the teaching.

Talmud - Mas. Sotah 4a

And how long is the duration in the matter of seclusion? Sufficient for misconduct, i.e., sufficient for coition, i.e., sufficient for sexual contact, i.e., sufficient for a person to walk round a date-palm. Such is the view of R. Ishmael; R. Eliezer says: Sufficient for preparing a cup of wine;[1] R. Joshua says: Sufficient to drink it; Ben Azzai says: Sufficient to roast an egg; R. Akiba says: Sufficient to swallow it; R. Judah b. Bathyra says: Sufficient to swallow three eggs one after the other; R. Eleazar b. Jeremiah says: Sufficient for a weaver to knot a thread; Hanin b. Phineas says: Sufficient for a woman to extend her hand to her mouth to remove a chip of wood [from between the teeth]; Pelemo says: Sufficient for her to extend her hand to a basket and take a loaf therefrom. Although there is no proof for this [last opinion] there is an indication, viz., For on account of a harlot, to a loaf of bread.[2] What is the purpose of all these definitions? — They are necessary; because if we were only taught sufficient for misconduct, I would have thought that it meant sufficient time for her misconduct and her submission;[3] therefore it is defined as sufficient for coition.[4] If, however, it were only taught sufficient for coition, I would have thought that it meant sufficient time for completed coition; therefore it is defined as sufficient for sexual contact. If, further, we had only been taught sufficient for sexual contact, I would have thought that it meant sufficient time for sexual contact and her submission; therefore it is defined as sufficient for misconduct. And how much is the time sufficient for sexual contact? Sufficient for a person to walk round a date-palm.

In contradiction of the above [I quote the following]: And be kept close[5] — but how long is the duration in the matter of seclusion we have not heard. Since, however, it states ‘and she be defiled’, deduce that it is time sufficient for misconduct, i.e., sufficient for coition, i.e., sufficient for sexual contact, i.e., sufficient for a date-palm to rebound.[6] Such is the view of R. Eliezer; R. Joshua says: Sufficient for preparing a cup of wine; Ben Azzai says: Sufficient to drink it; R. Akiba says: Sufficient to roast an egg; R. Judah b. Bathyra says: Sufficient to swallow it.[7] Now it is assumed that walking round a date-palm and the rebound of a date-palm are identical [in length of time, and the question thus arises:] R. Ishmael said above, ‘Sufficient for a person to walk round a date-palm’, and R. Eliezer disagreed with him; and here R. Eliezer says: ‘Sufficient for a date-palm to rebound’! — Abaye said: ‘Walking round’ means on foot, and ‘rebound’ means by the force of the wind. R. Ashi asked: How is ‘rebound’ to be understood? Does it mean that the palm is blown in one direction and then in its opposite, or perhaps that it is blown in one direction and then in its opposite and finally returns to its original position? — The question remains unanswered.

R. Eliezer said above: ‘Sufficient for preparing a cup of wine’, and here he says: ‘Sufficient for a date-palm to rebound’! — They are alike in duration. R. Joshua said above, ‘Sufficient to drink it’, and here he says: ‘Sufficient for preparing a cup of wine’! — Say [that the correct version is], Sufficient for preparing a cup of wine and drinking it. But why not say rather that they are alike in duration? — If so, he would agree with R. Eliezer's view.[8] Ben Azzai said above ‘Sufficient to roast an egg’, and here he says: ‘Sufficient to drink [a cup of wine]’! — They are alike in duration. R. Akiba said above, ‘Sufficient to swallow [a roasted egg]’, and here he says: ‘Sufficient to roast an egg’! — Say [that the correct version is], Sufficient to roast an egg and swallow it. But why not say rather that they are alike in duration? — If so, he would agree with Ben Azzai's view. R. Judah b. Bathyra said above, ‘Sufficient to swallow three eggs one after the other’, and here he says: ‘Sufficient to swallow [one roasted egg]’! — He spoke in accordance with the view of R. Akiba who said that we fix as the duration a length of time sufficient to roast and swallow an egg, [and with reference to this he said,] ‘speak rather only of the duration of swallowing’, that is ‘sufficient time to swallow three eggs one after the other’, for that is the same as roasting and swallowing [one egg].[9]

‘R. Eleazar b. Jeremiah says: Sufficient for a weaver to knot a thread’. R. Ashi asked: Does this mean two ends which are distant or near?[10] — The question remains unanswered.

‘Hanin b. Phineas said: Sufficient for a woman to extend her hand to her mouth to remove a chip of wood’. R. Ashi asked: Does this mean wedged tightly [between the teeth] or not? — The question remains unanswered.

‘Pelemo said: Sufficient for her to extend her hand to a basket and take a loaf therefrom’. R. Ashi asked: Is it [a loaf] which is wedged in tightly or not, a new or old [basket],[11] a hot or cold [loaf],[12]

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(1) By diluting it with water.

(2) Prov. VI, 26. This is the literal rendering of the Hebrew.

(3) I.e., that he should make improper advances and induce her to submit.

(4) Consequently she must have secluded herself with the intention of committing misconduct.

(5) Num. V, 13.

(6) After having been bent by the wind.

(7) Tosef. Sot. I, 2.

(8) That cannot be, because he gives a different definition, and so it is impossible to think them alike in duration.

(9) [Why introduce at all the act of roasting, seeing that the act of swallowing by itself can afford a suitable standard for defining the duration?]

(10) I.e., does it include the time spent in bringing the threads together as well as tying them?

(11) In a new basket the ends of straws protrude and catch in the loaves, so that it takes longer to get one out.

(12) A warm loaf has to be drawn out with greater care and therefore takes longer.

Talmud - Mas. Sotah 4b

wheaten or of barley,[1] soft or hard-baked? — The question remains unanswered.

R. Isaac son of R. Joseph said in the name of R. Johanan: Each of the teachers defined the duration [of coition] from his own experience. But they included Ben Azzai who was unmarried! — If you wish I can say that he had married and separated [from his wife],[2] or that he had heard it from his master, or that The secret of the Lord is with them that fear him.[3]

R. ‘Awira expounded sometimes in the name of R. Ammi and at other times in the name of R. Assi: Whoever eats bread without previously washing the hands is as though he had intercourse with a harlot ; as it is said , For on account of a harlot, to a loaf of bread.[4] Raba said: [On that interpretation] the verse, ðFor on account of a harlot, to a loaf of bread’ should have read: ‘On account of a loaf of bread, to a harlot'! But, said Raba, [the meaning is:] Whoever has intercourse with a harlot will in the end go seeking a loaf of bread.

R. Zerika said in the name of R. Eleazar: Whoever makes light of washing the hands [before and after a meal] will be uprooted from the world. R. Hiyya b. Ashi said in the name of Rab: With the first washing [before the meal] it is necessary to lift the hands up; with the latter washing [after the meal] it is necessary to lower the hands . There is a similar teaching: Who washes his hands [before the meal] must lift them up lest the water pass beyond the joint,[5] flow back and render them unclean. R. Abbahu says: Whoever eats bread without first wiping his hands is as though he eats unclean food; as it is stated: And the Lord said: Even thus shall the children of Israel eat their bread unclean.[6]

And[7] what means, And the adulteress hunteth for the precious life? — R. Hiyya b. Abba said in the name of R. Johanan: Every man in whom is haughtiness of spirit will in the end stumble through an [unfaithful] married woman; as it is said: 'And the adulteress hunteth for the precious life'. Raba said: [On that interpretation] the word 'precious' should have been 'haughty'! Furthermore the verse should have read, [The haughty soul] hunteth [the adulteress]! But, said Raba, [the meaning is:] Whoever has intercourse with a married woman, even though he had studied Torah, of which it is written: It is more precious than rubies,[8] i.e., above a High Priest who enters into the innermost part of the Sanctuary, she will hunt him to the judgment of Gehinnom.[9] R. Johanan said in the name of R. Simeon b. Yohai: Every man in whom is haughtiness of spirit is as though he worships idols; it is written here, Every one that is proud in heart is an abomination to the Lord,[10] and it is written elsewhere, Thou shalt not bring an abomination into thine house.[11] R. Johanan himself said: He is as though he had denied the fundamental principle;[12] as it is said: Thine heart be lifted up and thou forget the Lord thy God, etc.[13] R. Hama b. Hanina said: He is as though he had broken all the laws of sexual morality;[14] it is written here, Every one that is proud in heart is an abomination to the Lord, and it is written elsewhere, For all these abominations, etc.[15] 'Ulla said: He is as though he had erected an idolatrous altar; as it is said: Cease ye from man whose breath is in his nostrils;[16] for wherein [bammeh] is he to be accounted of?[17] — read not bammeh but bamah [an idolatrous altar].

What means, Hand to hand, he shall not escape punishment?[18] Rab said: Whoever has intercourse with a married woman, though he proclaim the Holy One, blessed be He, to be Possessor of heaven and earth as did our father Abraham, of whom it is written: I have lift up mine hand unto the Lord, God Most High, Possessor of heaven and earth,[19] he will not escape the punishment of Gehinnom. The students of the School of R. Shila objected: [On that interpretation] the phrase 'Hand to hand etc.' should have read: 'Of my [God's] hand will not escape punishment'! But, said they of the School of R. Shila, [the meaning is:] Though he received the Torah as did our teacher Moses, of whom it is written: At his right hand was a fiery law unto them,[20] he will not escape the punishment of Gehinnom. R. Johanan objected: [On that interpretation] the phrase 'Hand to hand' should have read 'Hand from hand'![21] But, said R. Johanan,

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(1) A wheaten loaf is smoother and has to be grasped more firmly; and similarly with one which is soft-baked.

(2) The passage in Yeb. 63b does not make it clear whether Ben Azzai was censured for remaining a bachelor or for having married and not begetting children.

(3) Ps. XXV, 14. The knowledge was revealed to him.

(4) Prov. VI, 26. (E.V. 'For on account of a harlot a man is brought to a loaf of bread'). [As much as to say that the disregard of one Rabbinic precept leads to the disregard of another.]

(5) When washing the hands for a meal, the water should reach the second joint of the fingers; Hul. 106a. The hands beyond the joint having been left unwashed are deemed unclean.

(6) Ezek. IV, 13.

(7) The Gemara now continues the discussion of prov. VI, 26 quoted above.

(8) Prov. III, 15. מפנינים

(9) לפני ולפנים, a play upon the word מפנינים v. n. 4.

(10) Prov. XVI, 5.
(11) Deut. VII, 26, the reference being to an idolatrous image.
(12) Viz., the existence of God.
(13) lbid. VIII, 14.
(14) Enumerated in Lev. XVIII.
(15) Lev. XVIII, 27.
(16) Understood in the sense: who is proud.
(17) Isa. II, 22.
(18) Prov. XVI, 5.
(19) Gen. XIV, 22.
(20) Deut. XXXIII, 2.
(21) Since the interpretation implies that the adulterer receives from, and does not give to.

Talmud - Mas. Sotah 5a

[the meaning is:] Though he practise charity in secret,[1] concerning which it is written: ‘A gift in secret pacifieth anger,[2] he will not escape the punishment of Gehinnom. Whence is there a prohibition for the haughty of spirit? — Raba said in the name of Ze'iri: Hear ye, and give ear; be not proud.[3] R. Nahman b. Isaac said: [It is derived] from this passage, Thine heart be lifted up, and thou forget the Lord thy God,[4] and it is written: Beware lest thou forget the Lord thy God.[5] This is in accord with what R. Abin said in the name of R. Elai; for R. Abin said in the name of R. Elai: Wherever it is stated ‘Beware’ ‘lest’ and ‘Do not’ the reference is to a prohibition.

R. ‘Awira expounded, sometimes he said it in the name of R. Assi and at other times in the name of R. Ammi: Every man in whom is haughtiness of spirit will in the end be reduced in rank; as it is said: They are exalted, there will be reduction of status;[6] and lest you think that they remain in existence, the text continues, ‘And they are gone’. If, however, he changes [and becomes humble], he will be gathered [to his fathers] in his due time like our father Abraham; as it is said: But when they are lowly, they are gathered in like all[7] — i.e., like Abraham, Isaac and Jacob in connection with whom the word ‘all’ is used.[8] If not, They are cut off as the tops of the ears of corn.[9] What means ‘as the tops of the ears of corn’? R. Huna and R. Hisda [explain it]. One says that it means like the awn of the grain, and the other that it means like the ears themselves . This is quite right according to him who says that it means like the awn of the grain, since it is written ‘as the tops of the ears of corn’; but according to him who says that it means like the ears themselves, what signifies ‘as the tops of the ears of corn’? — R. Assi said, and it was similarly taught in the School of R. Ishmael: It is like a man who enters his field; he gleans the tallest ears.

With him also that is of a contrite and humble spirit.[10] R. Huna and R. Hisda [explain it]. One says that it means the contrite is with Me, and the other that I [God] am with the contrite. The more probable view is in accord with him who holds the meaning to be I am with the contrite; for behold, the Holy One, blessed be He, ignored all the mountains and heights and caused His Shechinah to abide upon Mount Sinai, but did not elevate Mount Sinai [up to Himself].

R. Joseph said: Man should always learn from the mind of his Creator; for behold, the Holy One, blessed be He, ignored all the mountains and heights and caused His Shechinah to abide upon Mount Sinai, and ignored all the beautiful trees and caused His Shechinah to abide in a bush.[11]

R. Eleazar also said: Every man in whom is haughtiness of spirit is fit to be hewn down like an Asherah.[12] It is written here, The high ones of stature shall be hewn down,[13] and elsewhere it is written: And ye shall hew down their Asherim.[14] Further said R. Eleazar, Every man in whom is haughtiness of spirit, his dust will not be disturbed [for the Resurrection]; as it is said: Awake and sing, ye that dwell in the dust[15] — it is not said ‘ye that lie in the dust’, but, ‘ye that dwell [shokne] in the dust', i.e., each one who during his lifetime made himself a neighbour [shaken] to the dust [by his humility]. Further said R. Eleazar: Over every man in whom is haughtiness of spirit the Shechinah laments; as it is said: But the haughty he knoweth from afar.[16]

R. Awira expounded, and according to another version it was R. Eleazar: Come and see that the manner of the Holy One, blessed be He, is not like the manner of human beings. The manner of human beings is for the lofty to take notice of the lofty and not of the lowly; but the manner of the Holy One, blessed be He, is not so. He is lofty and He takes notice of the lowly, as it is said: For though the Lord be high, yet hath he respect unto the lowly.[17]

R. Hisda said, and according to another version it was Mar 'Ukba: Every man in whom is haughtiness of spirit, the Holy One, blessed be He, declares, I and he cannot both dwell in the world; as it is said: Whoso privily slandereth his neighbour, him will I destroy; him that hath an high look and a proud heart will I not suffer[18] — read not 'him' [I cannot suffer], but 'with him'[19] I cannot [dwell]. There are some who apply this teaching to those who speak slander; as it is said,'whoso privily slandereth his neighbour, him will I destroyð.

R. Alexandri said: Every man in whom there is haughtiness of spirit, even the slightest wind will disturb;[20] as it is said: But the wicked are like the troubled sea.[21] If the sea, which contains so many quarters of a log,[22] is ruffled by the slightest wind, how much more so a human being who contains but one quarter of a log.[23]

R. Hiyya b. Ashi said in the name of Rab: A disciple of the Sages should possess an eighth [of pride].[24] R. Huna the son of R. Joshua said: [This small amount of pride] crowns him like the awn of the grain. Raba said: [A disciple of the Sages] who possesses [haughtiness of spirit] deserves excommunication, and if he does not possess it he deserves excommunication.[25] R. Nahman b. Isaac said: He should not possess it or part of it; is it a trifling matter concerning which it is written: Every one that is proud in heart is an abomination to the Lord![26]

Hezekiah said: A man's prayer is not heard unless he makes his heart [soft] like flesh; as it is said , And it shall come to pass, that from one new moon to another, shall all flesh come to worship, etc.[27] R. Zera said: Concerning flesh it is written: And it is healed;[28] but it is not written concerning man, And he is healed.

R. Johanan said: The word for man [adam] indicates dust, blood and gall;[29] the word for flesh [basar] indicates shame, stench and worm. Some declare that [instead of 'stench' we should have the word] Sheol, since its initial letter corresponds.[30]

R. Ashi said: Every man in whom is haughtiness of spirit will in the end be degraded; as it is said,

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(1) He gives from 'hand to hand'.

(2) Prov. XXI, 14.

(3) Jer. XIII, 15.

(4) Deut. VIII, 14.

(5) Ibid. 11.

(6) Job XXIV, 24.

(7) lbid.

(8) V. Gen. XXIV, 1, XXVII, 33 and XXXIII, 11.

(9) Job loc. cit.

(10) Isa. LVII, 15.

(11) Ex. III, 2. Similarly should man associate with the humble.

(12) An object of idolatrous worship.

(13) Isa. X, 33.
(14) Deut. VII, 5.
(15) Isa. XXVI, 19. ‘Ye that lie in the dust’ would apply to all mortals.
(16) Ps. CXXXVIII, 6. The Hebrew word translated knoweth, ידע , is understood in the sense of punish, cf. Jud. VIII. 16.
(17) lbid.
(18) Ps. CL. 5.
(19) Involves a slight change in the vocalization.
(20) [The smallest disappointment is liable to discomfit him.]
(21) Isa. LVII, 20.
(22) A liquid measure, equal to the contents of six eggs.
(23) This was considered the minimum quantity of blood in the body essential to life.
(24) He should have a little pride to maintain his self-respect.
(25) To have too much is bad, and also too little because it prevents a Rabbi from exercising his authority.
(26) Prov. XVI, 5.
(27) Isa. LXVI, 23.
(28) Lev. XIII, 18. Hence only one whose heart is soft like flesh will be healed, and not a man in his full pride.
(29) The initials of these words in Hebrew form adam.
(30) The initial of the word for ‘stench’ is samek, whereas the second letter in basar is similar in form to that of ‘Sheol’.

Talmud - Mas. Sotah 5b

For a rising and for a scab,[1] and se'eth [‘rising’] means nothing else than elevation, as it is said: Upon all the high mountains, and upon all the hills that are nisaoth [lifted up].[2] Sappahath [‘scab’] means nothing else than attachment; as it is said: Attach me, I pray thee, into one of the priests’ offices, that I may eat a morsel of bread.[3]

R. Joshua b. Levi said: Come and see how great are the lowly of spirit in the esteem of the Holy One, blessed be He, since when the Temple stood, a man brought a burnt-offering and received the reward of a burnt-offering, a meal-offering and he received the reward of a meal-offering; but as for him whose mind is lowly, Scripture ascribes it to him as though he had offered every one of the sacrifices; as it is said: The sacrifices of God are a broken spirit.[4] More than that, his prayer is not despised; as it continues: A broken and a contrite heart, O God, thou wilt not despise.

R. Joshua b. Levi further said: He who calculates his ways in this world will be worthy to behold the salvation of the Holy One, blessed be He; as it is said: To him that ordereth his way will I show the salvation of God[5] — read not we-sam [that ordereth] but we-sham [who calculates] his way.[6]

HOW MUST HE WARN HER? etc. This is self-contradictory. You declare, IF HE SAYS TO HER IN THE PRESENCE OF TWO, DO NOT CONVERSE WITH THAT MAN — consequently conversation is the equivalent of seclusion.[7] He then proceeds to teach: AND SHE CONVERSED WITH HIM, SHE IS STILL PERMITTED TO HER HUSBAND AND PERMITTED TO PARTAKE OF THE HEAVEOFFERING — consequently conversation is nothing! — Abaye said: This is what he means: [If he said to her,] Do not converse, and she conversed with him, Do not converse, and she secluded herself with him, that is nothing; [but if he said to her,] Do not be secluded with him, and she conversed with him, she is still permitted to her husband and permitted to partake of the heave-offering. Should she have entered a private place with him and stayed a time sufficient for misconduct to have occurred, she is forbidden to her husband and forbidden to partake of the heave-offering.

IF [HER HUSBAND] DIED, SHE PERFORMS THE CEREMONY OF HALIZAH. Why so? Let her also contract a levirate marriage! — R. Joseph said: Scripture declared: And when she is departed out of his house, she may go and be another man's wife[8] — she may marry ‘another’ man but not her brother-in-law.[9] Abaye said to him, According to your argument, Halizah also should be unnecessary! He replied to him, If the husband is living, is not a Get required?[10] So here likewise Halizah is necessary.[11] Another version is: R. Joseph said: The All-Merciful declared: And when she is departed out of his house, she may go and be another man's wife, so as not to destroy his house;[12] and you argue, let her also contract a levirate marriage![13] Abaye said to him, According to your argument, she should never marry again so as not to destroy another man's house! — He replied to him,

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(1) Lev. XIV, 56 interpreted as: having first been elevated, he will become something superfluous among men, and therefore esteemed as nothing.

(2) Isa. II, 14.

(3) I Sam. II, 36. The Hebrew for the verb attach resembles the word for scab, v. Shebu, 6b.

(4) Ps. LI, 19.

(5) Ibid. L, 23.

(6) He calculates the loss incurred in fulfilling a precept against the reward it will bring him, v. Aboth, II, 1.

(7) Since it justifies a warning from the husband.

(8) Deut. XXIV, 2.

(9) [‘Another’ excludes the brother-in-law whose marriage to her is but a continuation, so to speak, of her first marriage. The derivation is based on the superfluous word ‘another’ which is taken to refer to a case where the wife was charged with an ‘unseemly thing’ and her husband died. The meaning of the verse would accordingly be as follows: If she found no favour . . . because he hath found some unseemly thing, he shall write her a bill of divorcement. When she departs out of his house (whether on his death or on divorce) and she goeth and becometh another man's wife, implying she can become the wife only of another man but not the brother-in-law.]

(10) Despite her misconduct. Ibid. 3 mentions, and write her a bill of divorcement. The technical term for this document is Get.

(11) [The brother-in-law taking the place of the dead husband.]

(12) V. supra p. II where it is taught that the wife's immorality destroys the husband's house.

(13) And perhaps destroy the brother-in-law's house.

Talmud - Mas. Sotah 6a

Do we compel any other man to marry her [as in the case of a brother-in-law where it is a duty]! Another version is: R. Joseph replied: The text calls [the second husband] ‘another’, because he is not the equal of the first husband, since the latter removes wickedness from his house [by divorcing his wife] whereas the other introduces wickedness into his house [by marrying such a woman]; and you argue, let her also contract a levirate marriage! Abaye said to him, According to your argument, if she does marry another man and he died without issue, she may not contract a levirate marriage since the text calls him ‘another’![1] — While living with the second husband she may have been of spotless reputation! Raba said: It is an a fortiori argument:[2] if she is forbidden to [her husband] to whom she is [otherwise] allowed, how much more so to [her brother-in-law] to whom she is [normally] forbidden! Abaye said to him, According to your argument, if a High Priest betrothed a widow and he died and had a brother who was an ordinary priest, she may not marry him, since if she becomes forbidden to one to whom she is [otherwise] allowed, how much more so to one to whom she is [normally] forbidden![3] [You say,] ‘If she becomes forbidden’ — she is actually forbidden;[4] ‘to one to whom she is allowed’ — he is forbidden [to marry her]! But [ask rather as follows: According to Raba's argument] if the wife of a priest had been violated and he died, and he had a brother who was disqualified,[5] she may not marry him, since if she is forbidden to [her husband][6] to whom she is [otherwise] allowed, how much more so to one to whom she is [normally] forbidden![7] — A woman who had been violated is permitted to a non-priest and the prohibition does not apply in his case.[8]

MISHNAH. THE FOLLOWING[9] ARE PROHIBITED TO PARTAKE OF THE HEAVE-OFFERING:[10] SHE WHO SAYS, ‘I AM UN CLEAN TO THEE’;[11] WHEN WITNESSES CAME [AND TESTIFIED] THAT SHE HAD Mlsconducted HERSELF;[12] SHE WHO SAYS, I REFUSE TO DRINK [THE WATER]’; WHEN THE HUSBAND IS UNWILLING TO MAKE HER DRINK [THE WATER]: AND WHEN THE HUSBAND COHABITED WITH HER ON THE JOURNEY.[13]

GEMARA. R. Amram said: The following did R. Shesheth tell us and enlighten our eyes from our Mishnah:[14] In the case of a suspected woman where the witnesses against her are in a far-distant land,[15] the water does not prove her.[16] What is the reason? Because Scripture states: And be kept close and she be defiled and there be no witness against her[17] — this is when there is nobody who knows anything against her, thus excluding the case when there are men who know something against her.[18] And he enlightened our eyes from our Mishnah where it is taught: WHEN WITNESSES CAME [AND TESTIFIED] THAT SHE HAD MISCONDUCTED HERSELF. When did the witnesses come? If we say that they came before she drank the water, she is an adulteress;[19] consequently they could only have come after she had drunk the water. This is quite right if you say that the water does not prove her,[20] then all is clear; but if you say that [in such a circumstance] the water does prove her, the water may demonstrate retrospectively that the witnesses were false![21] — R. Joseph said to him, Still I maintain that the water does prove her, and answer that some merit she possesses causes the water to suspend its effect.[22] In what do [R. Joseph and R. Shesheth] differ? — In the matter of her becoming ill, according to the teaching of Rabbi. For we learn: Rabbi says: Merit [in the woman] causes the water of bitterness to suspend its effect, and she never bears a child or thrives, but she gradually grows ill and finally dies through that death.[23] R. Shesheth is of the opinion that both in the view of Rabbi and of the Rabbis she grows ill;[24] and R. Joseph is of the opinion that in the view of Rabbi she grows ill but in the view of the Rabbis she does not.[25]

R. Shimi b. Ashi raised an objection: R. Simeon says: Merit does not cause the water of bitterness to suspend its effect; and if you say that merit does cause the water of bitterness to suspend its effect, you discredit the water in the case of all the women who drink it and defame the pure woman who drank it, since people will say: They were unclean, only their merit caused the water to suspend its effect upon them.[26] But if it is so,[27] then through [the teaching], ‘Where the witnesses against her are in a far-distant land’, you likewise defame the pure women who drank and people will say: They were unclean, only the witnesses against them are in a far-distant land! — [The reply to R. Shimi is:] You quote R. Simeon; but as R. Simeon holds that merit does not cause the water to suspend its effect, he similarly holds that the existence of witnesses does not cause it to suspend its effect.

Rab raised an objection: The following have their meal-offerings destroyed:[28]

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(1) [And how can we compel the brother-in-law to marry her?]

(2) [To forbid her to the brother-in-law.]

(3) As wife of his brother. The conclusion is false, because such a levirate marriage is permissible.

(4) A High Priest is not allowed to marry a widow; Lev. XXI, 14.

(5) From the priesthood because he was the issue of another marriage which was illegal.

(6) A priest could not continue to live with his wife after she had been violated.

(7) The argument is false, because the man disqualified from the priesthood could marry his childless brother's widow if she had been violated.

(8) I.e., a non-priest was not obliged to divorce his wife who was the victim of violation.

(9) Wives of priests.

(10) For all time, even if the woman be a priest's daughter (v. Bertinoro).

(11) She admits misconduct.

(12) Even if she had successfully come through the ordeal, v. Gemara.

(13) To Jerusalem, where alone the ordeal was carried out. V. Mishnah p. 30.

(14) He found support for his teaching in the statement of the Mishnah.
(15) And unable to appear before a Court to give evidence that she misconducted herself.
(16) It has no effect, though she be guilty.
(17) Num. V, 13.
(18) 'No witness' is now interpreted literally, and not as before, viz., only one witness.
(19) As the result of their evidence; [consequently she is forbidden to partake of the heave-offering, v. Yeb. 44b].
(20) If there are witnesses of her misconduct who have not testified.
(21) Because, if she came through successfully, her reputation is cleared. [Why then should she be prohibited to partake of the heave-offering for all time?]
(22) This point is discussed immediately. If this view is accepted, the water does not affect her although the witnesses are true.
(23) Through her belly swelling and her thigh falling (Num. V, 27). The passage is cited from infra 22b.
(24) And the Sages only disagree with him on the question whether she dies. In any case, if she does not grow ill, it cannot be attributed to her merit but to the fact that there are witnesses who have not given evidence.
(25) So that on either view, if the water has no effect, it is due to her merit.
(26) Also quoted from infra 22b.
(27) Viz., that the existence of absent witnesses causes the water not to take effect.
(28) V. Num. V, 15 for this offering. In the cases mentioned, it is not burnt upon the altar or redeemed by payment in money of its value, but destroyed by fire.

Talmud - Mas. Sotah 6b

She who says: 'I am unclean'; and when witnesses came [and testified] that she had misconducted herself.[1] When did the witnesses come? If I say that they came before the offering was hallowed,[2] then it can become non-holy?[3] Consequently they could only have come after it had been hallowed. This is quite right if you say that the water proves her;[4] consequently she is qualified to have [the flour] hallowed and offered on her behalf, and since it was hallowed from the commencement, it is certainly holy[5] and for that reason her meal-offering is destroyed. But if you say that the water does not prove her, it becomes evident retrospectively that the hallowing was from the commencement in error,[6] and therefore [the flour] becomes non-holy![7] — Rab Judah of Diskarta[8] said: Suppose that [after the hallowing] she committed adultery within the Temple-precincts,[9] since it was hallowed from the commencement, it is certainly holy! R. Mesharsheya objected: But do not the priestly novitiates accompany her?[10] — Rab Judah [meant,] She committed adultery with one of these novitiates. R. Ashi[11] said: Suppose it was necessary for her to relieve herself, do you think that the priestly novitiates hang on to her headgear![12] R. Papa said: The matter is certainly as we originally explained;[13] and when you argue, [The offering] becomes non-holy, [the answer is that the rule by which the offering is destroyed] is a decree of the Rabbis lest it should be said, we may take [the flour] out of the ministering vessel for secular use.

R. Mari raised an objection: If her offering became ritually defiled before it became hallowed in the vessel, behold it is like all meal-offerings[14] and is redeemed; but if [it became defiled] after it had been hallowed in the vessel, behold it is like all meal-offerings [in such a circumstance] and is destroyed.[15] If the handful of flour[16] was hallowed but there was not sufficient time to offer it before [the husband] died[17] or she died, behold it is like all the meal-offerings and must be destroyed. If the handful had been offered but there was not sufficient time [for the priest] to eat the remainder[18] before [the husband] died or she died, behold it is like all the meal-offerings and is eaten; because it was brought from the commencement in connection with a matter of doubt,[19] it atoned for the doubt which is now ended. If witnesses came [and testified] against her that she had misconducted herself, her meal-offering is destroyed; should the witnesses against her be proved to be perjurers,[20] her meal-offering is non-holy?[21] — You mention perjured witnesses; the fact that they were perjured witnesses is generally known.[22]

There is a teaching in accord with the view of R. Shesheth[23] but not for the same reason as his,[24] viz., If she be clean[25] — [this indicates] there are no witnesses against her in a far-distant land;[26] ‘and if she be clean’ — [the addition of and indicates] it is not merit that causes the water to suspend its effect; [‘and if] she [be clean’] — [meaning that she has escaped the effect of the water because she is in fact clean] and not because women who spin by moonlight were discussing her.[27] Now as for R. Simeon,[28] agreed that he does not expound the conjunction and;[29] still there is the case

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(1) Quoted from infra p. 144.
(2) By the priest placing the flour in one of the ministering vessels.
(3) By being redeemed; so why does the Mishnah say it is destroyed?
(4) And she drank the water before witnesses testified.
(5) Even after the witnesses gave evidence.
(6) Since witnesses proved her guilty and the ordeal was unnecessary.
(7) And does not even have to be redeemed since the hallowing was based on an error.
(8) [Deskarah, 16 miles N.E. of Bagdad; Obermeyer, Die Landschaft Babylonian, p. 116.]
(9) And witnesses came to testify concerning this act of infidelity.
(10) So that adultery could not occur there.
(11) Who rejects the thought that she could be guilty with one of the novitiates.
(12) When she retired to relieve herself. Consequently she could have the opportunity with another than the novitiates.
(13) That the witnesses came concerning the first act of infidelity.
(14) Which became defiled before being hallowed.
(15) Mishnah, p. 114. What follows is cited in the main from Tosefta Sotah II.
(16) Num. V, 26.
(17) In the event of the husband's death she does not drink the water.
(18) Of the flour which is not burnt upon the altar and is the priest's perquisite.
(19) The woman's chastity.
(20) Zomemim v. Glos. Before the meal-offering was burnt upon the altar.
(21) Though it has been placed in the vessel; and we do not say, as above, that by a Rabbinic decree, it must be destroyed. This contradicts the view given by R. Papa.
(22) So that it will be recognised that the offering was never holy.
(23) Viz., that the water does not take effect when there are absent witnesses.
(24) Which is based on the phrase ‘No witness against her’ (v. supra p. 24). The teaching finds another derivation in support.
(25) Num. V, 28.
(26) The verse is thus explained; if she be really pure and did not escape the effect of the water through the witnesses being far away, then she will conceive.
(27) Women gather together in the moonlight to spin and gossip. To be talked about by them was a sufficient disgrace to suspend the effect of the water.
(28) Who holds that merit does not suspend the effect of the water.
(29) To derive from it a Scriptural basis for his view.

Talmud - Mas. Sotah 7a

where there are witnesses against her in a far-distant land![1] — That is uncommon.[2]

MISHNAH. HOW DOES [THE HUSBAND] DEAL WITH HER? HE BRINGS HER TO THE COURT OF JUSTICE IN THE PLACE WHERE HE RESIDES, AND THEY ASSIGN TO HIM TWO DISCIPLES OF THE SAGES[3] LEST HE COHABIT WITH HER ON THE JOURNEY.[4] R. JUDAH SAYS, HER HUSBAND IS TRUSTED WITH HER.[5]

GEMARA. Two [disciples of the Sages] and he make three. Is this to say that it supports the teaching of Rab? For Rab Judah said in the name of Rab: [The Rabbis] did not teach [that a woman may be in the company of two men] except in a city; but on a journey there must be three, in case one of them should have need to relieve himself and consequently one of them will be left alone with [the possibility of] immorality![6] — No; here the reason is that they should be witnesses against him.[7] [But the fact that] disciples of the Sages are necessary and not ordinary men, does this not support another teaching of Rab? For Rab Judah said in the name of Rab: [The Rabbis] did not teach [that a woman may be in the company of two men] except in the case of pure men; but in the case of dissolute men not even with ten. It once happened that ten men carried a [live] woman [out of the city] in a coffin [to violate her]! — No; here the reason is that they will know to warn him.[8]

R. JUDAH SAYS, HER HUSBAND etc. It has been taught: R. Judah says: By a fortiori reasoning [it is deduced] that a husband is trusted.[9] If a husband is trusted in the matter of his wife during menstruation where the penalty is excision,[10] how much more so in the matter of his wife under suspicion in connection with which there is a mere prohibition.[11] And [how do] the Rabbis [meet this argument]? — The same reasoning establishes [their view]: in the case of a wife during menstruation where the penalty is excision, since it is so stringent, the husband is trusted; but in the case of a wife under suspicion where [cohabitation] is a mere prohibition, since there is no stringent [penalty] for him, he is not trusted. But does R. Judah derive his view from a fortiori reasoning? He surely derives it from a Scriptural text; for it has been taught: Then shall the man bring his wife unto the priest[12] — according to the Torah it is the husband who has to bring his wife; but said the Sages, They assign to him two disciples of the Sages lest he cohabit with her on the journey. R. Jose says: By a fortiori reasoning [it is deduced] that a husband is trusted with her. If a husband is trusted in the matter of his wife during menstruation where the penalty is excision, how much more so in the matter of his wife while under suspicion in connection with which there is a mere prohibition. [The Sages] replied to him, No; if you argue [that he may be trusted] in the case of his wife during menstruation to whom he will have a right [on her recovery], will you argue so in the case of his wife under suspicion when he may never have a right to her![13] It further states: Stolen waters are sweet, etc.![14] R. Judah says: According to the Torah it is the husband who has to bring his wife; as it is said: Then shall the man bring his wife![15] — At first he argued his view to [the Sages] by a fortiori reasoning; but when they refuted it, he then quoted the text to them. But R. Judah's opinion is the same as that of the first Tanna![16] — There is a point of difference between them, viz., [the continuation], ‘But, said the Rabbis’ etc.[17]

MISHNAH. THEY BRING HER UP TO THE GREAT COURT OF JUSTICE WHICH IS IN JERUSALEM, AND [THE JUDGES] SOLEMNLY CHARGE HER IN THE SAME WAY THAT THEY CHARGE WITNESSES IN CAPITAL CASES[18] AND SAY TO HER,’ MY DAUGHTER, WINE DOES MUCH, FRIVOLITY DOES MUCH, YOUTH DOES MUCH, BAD NEIGHBOURS DO MUCH.[19] DO IT[20] FOR THE SAKE OF HIS GREAT NAME WHICH IS WRITTEN IN HOLINESS SO THAT IT MAY NOT BE OBLITERATED BY THE WATER.’[21] AND THEY RELATE TO HER MATTERS WHICH NEITHER SHE NOR ALL THE FAMILY OF HER FATHER'S HOUSE IS WORTHY TO HEAR.[22] — IF SHE SAID, ‘I HAVE MISCONDUCTED MYSELF’, SHE GIVES A QUITTANCE FOR HER MARRIAGE-SETTLEMENT[23] AND DEPARTS;[24] BUT IF SHE SAYS, ‘I AM PURE’, THEY BRING HER UP TO THE EAST GATE WHICH IS BY THE ENTRANCE OF NICANOR'S GATE[25] WHERE THEY GIVE SUSPECTED WOMEN THE WATER TO DRINK, PURIFY WOMEN AFTER CHILDBIRTH AND PURIFY LEPERS.[26] A PRIEST SEIZES HER GARMENTS[27] — IF THEY ARE RENT THEY ARE RENT, AND IF THEY BECOME UNSTITCHED THEY ARE UNSTITCHED UNTIL HE UNCOVERS HER BOSOM,[28] AND HE UNDOES HER HAIR. R. JUDAH SAYS: IF HER BOSOM WAS BEAUTIFUL HE DOES NOT UNCOVER IT, AND IF HER HAIR WAS BEAUTIFUL HE DOES NOT UNDO IT. — IF SHE WAS CLOTHED IN WHITE, HE CLOTHES HER IN BLACK. IF SHE WORE GOLDEN ORNAMENTS

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(1) Which is deduced from Scripture as suspending the effect of the water; consequently there is still the objection that it

causes pure women to be suspected.
(2) It is so rare for witnesses to be far away that no suspicion would be created on that ground.
(3) To accompany him and his wife on the journey.
(4) To Jerusalem where the ordeal takes place.
(5) That he will not cohabit; if he does, the ordeal is not held.
(6) V. Kid. 81a.
(7) In the event of the husband cohabiting with her.
(8) Should he wish to cohabit, so that the ordeal be not held.
(9) In this matter of cohabitation and witnesses are unnecessary.
(10) Kareth v. Glos. Lev. XX, 18. A husband may occupy the same room as his wife while she is in that condition and he is trusted not to cohabit.
(11) Without any penalty attached thereto, v. Yeb. 11b.
(12) Num. V, 15.
(13) If she is proved guilty, he must divorce her. Consequently the temptation is greater in the latter case.
(14) Prov. IX, 17.
(15) [R. Judah thus derives his ruling from a Scriptural text and not from a fortiori reasoning?]
(16) Quoted at the end of the last paragraph who cites Num. V, 15.
(17) With which R. Judah disagrees.
(18) V. Sanh. 37a.
(19) I.e., there may be some excuse for your behaviour.
(20) Confess if you are guilty, and so make the ordeal unnecessary which includes the use of the Divine Name.
(21) V. Num. V, 23.
(22) Instances of persons in Israel's history who confessed their guilt.
(23) I.e., she admits misconduct in writing and the forfeiture of the sum due to her under the marriage-settlement,
(24) After being formally divorced.
(25) Two gates of Corinthian bronze presented to the Temple by an Alexandrian named Nicanor. They were located between the Court of Israelites and the Court of women. V. Nazir (Sonc. ed.) p. 165, n. 11.
(26) I.e., the place where such persons, who are not allowed through uncleanness to enter the Temple-precincts, bring their purificatory offerings.
(27) At the neck.
(28) Lit., ‘heart’.

Talmud - Mas. Sotah 7b

AND NECKLACES, EAR-RINGS AND FINGER-RINGS, THEY REMOVE THEM FROM HER IN ORDER TO MAKE HER REPULSIVE. AFTER THAT [THE PRIEST] TAKES A COMMON ROPE[1] AND BINDS IT OVER HER BREASTS.[2] WHOEVER WISHES TO LOOK UPON HER COMES TO LOOK WITH THE EXCEPTION OF HER MALE AND FEMALE SLAVES, BECAUSE HER HEART IS MADE DEFIANT THROUGH THEM. ALL WOMEN ARE PERMITTED[3] TO LOOK UPON HER, AS IT IS SAID, THAT ALL WOMEN MAY BE TAUGHT NOT TO DO AFTER YOUR LEWDNESS.[4]

GEMARA. Whence is this?[5] — R. Hiyya b. Gamda said in the name of R. Jose b. Hanina: From the analogous use of the word ‘law’. It is written here, And the priest shall execute upon her all this law;[6] and elsewhere it is written: According to the tenor of the law which they shall teach thee.[7] As in this latter case it is [the Court of] seventy-one,[8] so also in the former it is [the Court of] seventy-one.

AND [THE JUDGES] SOLEMNLY CHARGE HER etc. I quote in contradiction: Just as they solemnly charge her not to drink,[9] so they solemnly charge her to drink, saying to her, ‘My daughter, if the matter is clear to thee that thou art pure, rely upon thy purity and drink; because the water of bitterness is only like dry powder which is placed upon living flesh. If there is a wound, it penetrates and goes through [the skin]; and if there is no wound, it has no effect.[10] — There is no contradiction; here [they charge her not to drink] before [the writing on] the scroll is blotted out,[11] and there [they charge her to drink] after it has been blotted out.[12]

AND SAY TO HER etc. Our Rabbis have taught: He tells her narratives and incidents which occurred in the early writings;[13] for instance, Which wise men have told and have not hid it [from their fathers],[14] namely Judah confessed and was not ashamed; what was his end? He inherited the life of the world to come. Reuben confessed and was not ashamed; what was his end? He inherited the world to come. And what was their reward? What was their reward [you ask]! It was as we have just mentioned. But [the meaning is], What was their reward in this world? Unto them alone the land was given, and no stranger passed among them.[15] It is quite right with Judah; we find that he confessed, for it is written: And Judah acknowledged them, and said: She is more righteous than I.[16] Whence, however, is it that Reuben confessed? — As R. Samuel b. Nahmani said in the name of R. Johanan: What means that which is written: Let Reuben live and not die; and this for Judah?[17] All the years that the Israelites were in the wilderness, Judah's bones[18] kept turning in his coffin until Moses arose and begged mercy for him. He said before Him, Lord of the Universe, who caused Reuben to confess? It was Judah,[19] [as it is stated], ‘And this for Judah’; immediately [after Moses prayed], ‘Hear, Lord, the voice of Judah’, each limb entered its socket.[20] But [the angels] would not permit him to enter the heavenly Academy;[21] [so Moses prayed], ‘And bring him in unto his people’. He was unable to discuss the theme which the Rabbis were then debating; [so Moses prayed], ‘With his hands let him contend for himself.[22] He was still not able to secure a decision in accordance with the traditional practice; [so Moses prayed], ‘Be an help against his adversaries’.[23] It is quite right that Judah confessed so that Tamar should not be burnt; but why did Reuben confess? Surely R. Shesheth has declared: Consider him shameless who [publicly] specifies his sins! — [Reuben confessed] so that his brothers should not be suspected [of his offence].

IF SHE SAID, ‘I HAVE MISCONDUCTED MYSELF’ etc. Is it to be concluded from this that a quittance is written out?[24] — Abaye said: Read [in our Mishnah]: [The document of the marriage-settlement] is torn. Raba replied to him, But the Mishnah mentions A QUITTANCE! But, said Raba, we deal here with places where they do not write a document for a marriage-settlement.[25]

BUT IF SHE SAYS, ‘I AM PURE’, THEY BRING HER UP TO THE EAST GATE. ‘THEY BRING HER UP’?

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(1) The Palestinian Gemara explains it as ‘an Egyptian cord’ which is used because she followed the immoral practices of Egypt. More probably it means a cord made of twisted strips of the bark of the palm-tree. It was the commonest form of rope and used here as a mark of contempt.

(2) To prevent her clothing from falling down.

(3) Interpreted in the Gemara to mean that they should as a duty look.

(4) Ezek. XXIII, 48.

(5) That the water must be administered by the great Court in Jerusalem.

(6) Num. V, 30.

(7) Deut. XVII, 11. The reference is here to the Supreme Court.

(8) V. Sanh. 14b and 86a.

(9) If guilty, but make confession.

(10) Quoted from Tosefta Sotah I, 6.

(11) Num. V, 23, so that the Divine Name may not be obliterated in vain.

(12) To encourage her to go through the ordeal if she is convinced of her innocence.

(13) The Pentateuch.

(14) I.e., they confessed, Job XV, 18. (E.V. ‘Which wise men have told from their fathers and have not hid it’).

(15) Ibid. 19.

(16) Gen. XXXVIII, 26.

(17) Deut. XXXIII, 6f.

(18) According to tradition, the bones of all Jacob's sons were carried out of Egypt.

(19) When he confessed, Reuben followed his example.

(20) Of the skeleton and ceased rolling about.

(21) Where the Torah is studied.

(22) May he be able to prevail in the debate.

(23) V. B.M. 86a.

(24) The question whether a quittance is given or the document of the marriage-settlement torn is discussed in B.B. 170b.

(25) This was sometimes not done because there was an established rule about the amount due to a wife from her husband, v. B.M. (Sonc. ed.) p. 107, n. 4.

Talmud - Mas. Sotah 8a

But she is already there![1] — They lead her up[2] and lead her down, for the purpose of wearying her.[3] For it has been taught: R. Simeon b. Eleazar says: The Court causes the witnesses to be taken from place to place that their mind may become confused and they retract [their evidence, if false].[4]

WHERE THEY GIVE SUSPECTED WOMEN THE WATER TO DRINK etc. This is quite right in the case of suspected women; because it is written: And the priest shall set the woman before the Lord.[5] Likewise is it with lepers; because it is written: And the priest that cleanseth him shall set the man . . . . before the Lord.[6] But why a woman after childbirth? Is it to say because they come to stand by their offerings; for it has been taught: A person's offering is not sacrificed until he stands by it? If so, it should also apply to men and women with a running issue![7] — It does indeed also apply to them, and the Tanna [in the Mishnah] only specifies one of them.[8] Our Rabbis have taught: They do not give two suspected women the water to drink at the same time, so that the heart of one should not become defiant because of the other.[9] R. Judah says: It is not from this reason, but Scripture declares, [The priest shall cause] her [to swear][10] — her alone. And for the first Tanna it is likewise written ‘her’![11] — The first Tanna is R. Simeon who expounds the reason of Scriptural texts[12] and [here] he states the reason: What is the meaning of ‘her’? Her alone, so that the heart of one should not become defiant because of the other. What difference is there, then, between them? — The difference between them is the case of a woman who is trembling.[13] But even if [a woman] is trembling, may we give her the water to drink [simultaneously with another woman] when, behold, we may not perform precepts in bundles?[14] For we have learnt: They do not give two suspected women the water to drink at the same time, nor purify two lepers at the same time, nor bore the ears of two slaves at the same time,[15] nor break the necks of two calves at the same time,[16] because we may not perform precepts in bundles! — Abaye said, but others declare it was R. Kahana: There is no contradiction; the latter case referring to one priest,[17] the other to two priests.

A PRIEST SEIZES HER GARMENTS. Our Rabbis have taught: And let the hair of the woman's head go loose.[18] I only have here mention of her head; whence is it derived that it applies to her body?[19] The text states: ‘the woman's’.[20] If so, what is the object of the text declaring, ‘And let the hair of the head go loose’? It teaches that the priest undoes her hair.[21]

R. JUDAH SAYS, IF HER BOSOM WAS BEAUTIFUL etc. Is this to say that R. Judah is afraid of impure thoughts being aroused and the Rabbis do not fear this? Behold we have heard the opposite opinion of them; for it has been taught: In the case of a man [who is to be stoned] they cover him with one piece of cloth in front, and in the case of a woman with two pieces, one in front and one behind, because the whole of her is considered nudity. This is the statement of R. Judah; but the Sages say: A man is stoned naked but a woman is not stoned naked![22] — Rabbah answered: What is the reason here?[23] Lest she go forth from the Court innocent, and the priestly novitiates become inflamed through her, whereas in the other case she is stoned. Should you reply that it may cause them to be inflamed by another woman, Raba[24] declared: We have learnt a tradition that the evil impulse only bears sway over what a person's eyes see. Raba asked: Is it, then, that R. Judah contradicts himself and the Rabbis do not contradict themselves? But, said Raba, R. Judah does not contradict himself as we have just explained[25]

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(1) V. Mishnah p. 30.
(2) The Temple-mount to be charged by the judges, then lead her to the bottom, and finally up again.
(3) So that she may be more disposed to confess.
(4) V. Sanh. 32b.
(5) Num. V, 18.
(6) Lev. XIV, 11.
(7) Ibid. XV, 14, 29.
(8) Who do not enter the Temple precincts owing to a condition of defilement, and consequently stand at Nicanor's gate.
(9) One may be guilty and the other not. The first may refuse to confess because the other does not confess.
(10) Num. V, 19. V. Ned. 73a.
(11) So why does he give his own reason?
(12) V. B.M. 115a.
(13) And therefore we cannot say she is defiant, and on the view of the first Tanna, as explained, she might be submitted to the ordeal at the same time with another suspected woman.
(14) Each must have separate attention.
(15) Ex. XXI, 6.
(16) Deut. XXI, 1 ff.
(17) Administering the water to two women, when it would be performing a precept in bundles.
(18) Num. V, 18.
(19) That be uncovers her bosom, as stated in the Mishnah.
(20) And not merely ‘the hair of her head’.
(21) And unravels the locks.
(22) V. Sanh. 45a.
(23) That R. Judah is against the exposure of her bosom.
(24) In the parallel passage in Sanh. 45a the name is Rabbah.
(25) The case of a suspected woman is not analogous to that of a woman who is to be stoned.

Talmud - Mas. Sotah 8b

, and the Rabbis likewise do not contradict themselves. What is the reason here?[1] Because [it is written], That all women may be taught not to do after your lewdness.[2] In the other case [of stoning], however, there cannot be a severer warning than that.[3] Should you argue, Let both be inflicted upon her,[4] R. Nahman said in the name of Rabbah b. Abbuha: The text states: Thou shalt love thy neighbour as thyself[5] — choose for him [or her] a light death. Is this to say that Mishnaic teachers disagree [with respect to this teaching] of R. Nahman?[6] — No; everybody is in agreement with R. Nahman's teaching, but they differ here on the following point: [the Rabbis] hold that disgrace is worse than physical pain, and [R. Judah] holds that physical pain is worse than disgrace.[7] IF SHE WAS CLOTHED IN WHITE etc. It has been taught: If black garments became her, they clothe her in mean garments.

IF SHE WORE GOLDEN ORNAMENTS etc. This is obvious. Since she has to be made repulsive how much more is it necessary to do this![8] — What you might have thought is that with these ornaments upon her, the disgrace would be greater; as the proverb declares, ‘Stripped naked, yet wearing shoes’. Therefore we are taught [that all ornaments must be removed].

AFTER THAT [THE PRIEST] TAKES A COMMON ROPE etc. R. Abba asked R. Huna, Does [the absence of] a common rope invalidate the ceremony of a suspected woman? If the purpose is that her garments should not slip down from her, then a small belt would also suffice; or is it perhaps as the Master said: ‘She girded herself with a belt [to adorn herself] for him,[9] therefore the priest takes a common rope and binds it over her breasts’, and consequently [its absence] does invalidate the ceremony? — He replied: You have [the reason stated:] After that he takes a common rope and binds it over her breast so that her garments should not slip down from her.

WHOEVER WISHES TO LOOK UPON HER COMES TO LOOK etc. This is self-contradictory! You say: WHOEVER WISHES TO LOOK UPON HER COMES TO LOOK; consequently it makes no difference whether they be men or women. Then it is taught: ALL WOMEN ARE PERMITTED TO LOOK UPON HER — hence women are [permitted] but men are not! — Abaye answered: Explain it[10] as referring to women. Raba said to him, But the Mishnah states: WHOEVER WISHES TO LOOK UPON HER COMES TO LOOK! But, said Raba, [the meaning is:] WHOEVER WISHES TO LOOK UPON HER COMES TO LOOK, it makes no difference whether they be men or women; but women are obliged[11] to look upon her, as it is said: ‘That all women may be taught not to do after your lewdness.’ MISHNAH. IN THE MEASURE WITH WHICH A MAN MEASURES IT IS METED OUT TO HIM. SHE ADORNED HERSELF FOR A TRANSGRESSION; THE HOLY ONE, BLESSED BE HE, MADE HER REPULSIVE. SHE EXPOSED HERSELF FOR A TRANSGRESSION; THE HOLY ONE, BLESSED BE HE, HELD HER UP FOR EXPOSURE. SHE BEGAN THE TRANSGRESSION WITH THE THIGH AND AFTERWARDS WITH THE WOMB; THEREFORE SHE IS PUNISHED FIRST IN THE THIGH AND AFTERWARDS IN THE WOMB,[12] NOR DOES ALL THE BODY ESCAPE.GEMARA. R. Joseph said: Although the measure[13] has ceased, [the principle] IN THE MEASURE has not ceased.[14] For R. Joseph said, and similarly taught R. Hiyya: From the day the Temple was destroyed, although the Sanhedrin ceased to function, the four modes of execution[15] did not cease. But they did cease! — [The meaning is:] The judgment[16] of the four modes of execution did not cease. He who would have been condemned to stoning either falls from a roof [and dies] or a wild beast tramples him [to death]. He who would have been condemned to burning either falls into a fire or a serpent stings him. He who would have been condemned to decapitation is either handed over to the [Gentile] Government[17] or robbers attack him. He who would have been condemned to strangulation either drowns in a river or dies of a quinsy.[18]

It has been taught: Rabbi[19] used to say: Whence is it that in the measure with which a man measures it is meted out to him? As it is said: By measure in sending her away thou dost contend with her.[20] I have here only a se'ah;[21] whence is it to include a trikab and half a trikab, a kab and half a kab, a quarter, an eighth, a sixteenth and a thirtysecond part of a kab? There is a text to state, For all the armour of the armed man in the tumult.[22] And whence is it that every perutah[23] reckons together into a great sum? There is a text to state, Laying one thing to another to find out the account.[24] Thus we find in the case of a suspected woman that in the measure with which she measured it was meted out to her. She stood at the entrance of her house to display herself to the man; therefore a priest sets her by the Nicanor-gate and displays her disgrace to all. She wound a beautiful scarf about her head for him; therefore a priest removes her headgear and places it under her feet. She beautified her face for him; therefore

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(1) That the Rabbis do not scruple to disgrace the suspected woman, whereas in the case of the woman who is stoned they do.

(2) Ezek. XXIII, 48.

(3) Viz., the stoning itself; therefore the Rabbis are against the exposure of the body.

(4) Disgrace as well as death by stoning.

(5) Lev. XIX, 18.

(6) That when R. Judah says a woman is stoned naked except for a loin-cloth in front and behind he evidences disagreement with R. Nahman.

(7) Therefore the former believe that a woman about to die would prefer to be clothed although it may involve a more

protracted death, while R. Judah takes the opposite view, v. Sanh. (Sonc. ed.) pp. 294-5.
(8) Why, then, does the Mishnah mention it?
(9) Her paramour; v. infra p. 38.
(10) The phrase, WHOEVER WISHES etc.
(11) The word מותרות, ‘are permitted’, is apparently derived here from the root תרה ‘to warn’; hence ‘are warned, obliged’.
(12) V. Num. V, 21 f.
(13) Meted out by a Jewish Court of Justice.
(14) Referring to Divine retribution.
(15) V. Sanh. 90a.
(16) Through Divine intervention.
(17) Which executes him by the sword.
(18) V. Sanh. (Sonc. ed.) p. 236.
(19) [The parallel passage in Sanh. 100a has ‘R. Meir’].
(20) Isa. XXVII, 8.
(21) The word for by measure is connected by Rabbi with se'ah, a dry measure of which a trikab (equals three kab) is a half. Se'ah is taken as representing a very serious offence.
(22) Isa. IX, 4, E.V. 5. The Hebrew words for ‘armour’ סאון and ‘armed man’ סואן are likewise connected with se'ah.
(23) A small coin, here representing a minor offence which is not overlooked for punishment.
(24) Eccl. VII, 27.

Talmud - Mas. Sotah 9a

her face is made to turn green in colour.[1] She painted her eyes for him; therefore her eyes protrude. She plaited her hair for him; therefore a priest undoes her hair. She signalled to him with her finger; therefore her fingernails fall off. She girded herself with a belt for him; therefore a priest takes a common rope and ties it above her breasts. She thrust her thigh towards him; therefore her thigh falls. She received him upon her body; therefore her womb swells. She gave him the world's dainties to eat; therefore her offering consisted of animal's fodder.[2] She gave him costly wine to drink in costly goblets; therefore a priest gives her water of bitterness to drink in a potsherd. She acted in secret; and He that dwelleth in the secret place of the Most High[3] directed His face against her [to punish her], as it is said: The eye also of the adulterer waiteth for the twilight, saying: No eye shall see me.[4] Another version is: She acted in secret; the All-present proclaims it in public, as it is said: Though his hatred cover itself with guile, his wickedness shall be openly shewed before the congregation.[5]

Since [the teaching that even the slightest sin is punished] is derived from ‘Laying one thing to another to find out the account’, why do I require ‘For all the armour of the armed man in the tumult’? — That [the punishment is] according to measure. But since that is derived from ‘For all the armour of the armed man in the tumult’, why do I require ‘By measure in sending her away thou dost contend with her’? — It is in accord with the teaching of R. Hinena b. Papa; for R. Hinena b. Papa said: The Holy One, blessed be He, does not exact punishment of a nation until the time of its banishment into exile, as it is said: ‘By measure in sending her away, etc’. But it is not so; for Raba has said: Why are three cups mentioned in connection with Egypt?[6] One which she drank in the days of Moses; one which she drank in the days of Pharaoh-Necho;[7] and one which she is destined to drink with her allies! Should you reply that they passed away, and these are different [Egyptians],[8] behold it has been taught: R. Judah said: Minyamin, an Egyptian proselyte, was a colleague of mine among the disciples of R. Akiba; and Minyamin, the Egyptian proselyte, told me: ‘I am an Egyptian of the first generation,[9] and I married an Egyptian woman of the first generation; I will marry my son to an Egyptian woman of the second generation so that my grandson may be permitted to enter the Community’![10] — But if the above statement was made it was made as follows: R. Hinena b. Papa said: The Holy One, blessed be He, does not exact punishment of a king until the time of his banishment into exile, as it is said: ‘By measure in sending her away, etc’. Amemar applied this teaching of R. Hinena b. Papa to the following: What means the text: For I the Lord change not; therefore ye, O sons of Jacob, are not consumed’?[11] ‘I the Lord change not’ — I have not smitten a people and repeated it;[12] ‘therefore ye, O sons of Jacob, are not consumed’ — that is what is written: I will spend Mine arrows upon them[13] — Mine arrows will be spent, but [the sons of Jacob] will not cease.R. Hamuna said: The Holy One, blessed be He, does not exact punishment of a man until his measure [of guilt] is filled; as it is said: ‘In the fullness of his sufficiency he shall be in straits, etc’.[14] R. Hinena b. Papa expounded: What means the text: Rejoice in the Lord, O ye righteous; praise is comely for the upright?[15] Read not praise is na'wah [‘comely’], but praise is neweh [‘a habitation’]. This alludes to Moses and David over whose works [in erecting a Sanctuary] their enemies had no power.[16] Of [the Temple planned by] David, it is written: Her gates are sunk in the ground.[17] With regard to Moses the Master said: After the first Temple was erected, the Tent of Meeting was stored away, its boards, hooks, bars, pillars and sockets. Where [were they stored]? — R. Hisda said in the name of Abimi: Beneath the crypts of the Temple.

Our Rabbis have taught: The suspected woman[18] set her eyes on one who was not proper for her; what she sought was not given to her[19] and what she possessed was taken from her;[20] because whoever sets his eyes on that which is not his is not granted what he seeks and what he possesses is taken from him.

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(1) This, and the protruding of the eyes, are the effect of drinking the water; v. Mishnah 20a.

(2) Barley meal, Num. V, 15.

(3) Ps. XCI, I.

(4) Job XXIV, 15. No eye etc. is explained in the sense, God will not observe me.

(5) Prov. XXVI, 26.

(6) The word ‘cup’ occurs three times in Gen. XL, 11, and is a symbol of calamity.

(7) When Egypt was defeated by Babylon (Jer. XLVI. 2). The third ‘cup’ refers to the Messianic era. The conclusion is, therefore, that punishment is not exacted of a nation only at the time of banishment.

(8) The original Egyptians had disappeared and their land was inhabited by a different race.

(9) That means, he had been personally converted to Judaism and was not the son of a proselyte.

(10) V. Deut. XXIII, 9, E.V. 8. This proves that the original Egyptians are considered as still extant.

(11) Mal. III, 6.

(12) The Hebrew word for ‘change’ שנה also means ‘repeat’.

(13) Deut. XXXII, 23.

(14) Job XX, 22.

(15) Ps. XXXIII, 1.

(16) I.e.,the enemies of Israel did not profit by any of the materials when the Temple was destroyed.

(17) Lam. II, 9.

(18) Who is guilty.

(19) She is not allowed to marry her lover.

(20) She dies if she drinks the water, and is divorced with loss of her settlement if she confesses.

Talmud - Mas. Sotah 9b

We thus find it with the primeval serpent [in the Garden of Eden] which set its eyes on that which was not proper for it; what it sought was not granted to it and what it possessed was taken from it. The Holy One, blessed be He, said: I declared: Let it be king over every animal and beast; but now, Cursed art thou above all cattle and above every beast of the field.[1] I declared, let it walk with an erect posture; but now it shall go upon its belly. I declared: Let its food be the same as that of man; but now it shall eat dust. It said: I will kill Adam and marry Eve; but now, I will put enmity between thee and the woman, and between thy seed and her seed.[2] Similarly do we find it with Cain, Korah, Balaam, Doeg, Ahitophel, Gehazi, Absalom, Adonijah, Uzziah and Haman, who set their eyes upon that which was not proper for them; what they sought was not granted to them and what they possessed was taken from them.

SHE BEGAN THE TRANSGRESSION WITH THE THIGH etc. Whence is this? Shall I say because it is written: When the Lord doth make thy thigh to fall away and thy belly to swell?[3] But it is likewise written: Her belly shall swell and her thigh shall fall away![4] — Abaye said: When [the priest] utters the curse, he first curses the thigh and then curses the belly; but when the water produces its effect it does so in its normal order, viz., the belly first and then the thigh. But also in connection with the curse, it is written: Make thy belly to swell and thy thigh to fall away![5] — That is what the priest informs her, viz., that it affects her belly first and then the thigh so as not to discredit the water of bitterness.[6]

MISHNAH. SAMSON WENT AFTER [THE DESIRE OF] HIS EYES; THEREFORE THE PHILISTINES PUT OUT HIS EYES, AS IT IS SAID, AND THE PHILISTINES LAID HOLD ON HIM, AND PUT OUT HIS EYES.[7] ABSALOM GLORIED IN HIS HAIR; THEREFORE HE WAS HANGED BY HIS HAIR. AND BECAUSE HE COHABITED WITH THE TEN CONCUBINES OF HIS FATHER, THEREFORE HE WAS STABBED WITH TEN LANCES, AS IT IS SAID, AND TEN YOUNG MEN THAT BARE JOAB'S ARMOUR COMPASSED ABOUT.[8] AND BECAUSE HE STOLE THREE HEARTS, THE HEART OF HIS FATHER, THE HEART OF THE COURT OF JUSTICE, AND THE HEART OF ISRAEL, AS IT IS SAID, SO ABSALOM STOLE THE HEARTS OF THE MEN OF ISRAEL,[9] THEREFORE THREE DARTS WERE THRUST THROUGH HIM, AS IT IS SAID, AND HE TOOK THREE DARTS IN HIS HAND, AND THRUST THEM THROUGH THE HEART OF ABSALOM.[10] — IT[11] IS THE SAME IN CONNECTION WITH THE GOOD. MIRIAM WAITED A SHORT WHILE FOR MOSES, AS IT IS SAID, AND HIS SISTER STOOD AFAR OFF;[12] THEREFORE ISRAEL WAS DELAYED FOR HER SEVEN DAYS IN THE WILDERNESS, AS IT IS SAID, AND THE PEOPLE JOURNEYED NOT TILL MIRIAM WAS BROUGHT IN AGAIN.[13] JOSEPH EARNED MERIT BY BURYING HIS FATHER AND THERE WAS NONE AMONG HIS BROTHERS GREATER THAN HE; AS IT IS SAID, AND JOSEPH WENT UP TO BURY HIS FATHER, ETC.,[14] AND THERE WENT UP WITH HIM BOTH CHARIOTS AND HORSEMEN.[15] WHOM HAVE WE GREATER THAN JOSEPH SINCE NONE OTHER THAN MOSES OCCUPIED HIMSELF WITH HIS BURIAL? MOSES EARNED MERIT THROUGH THE BONES OF JOSEPH AND THERE WAS NONE IN ISRAEL GREATER THAN HE, AS IT IS SAID, AND MOSES TOOK THE BONES OF JOSEPH WITH HIM.[16] WHOM HAVE WE GREATER THAN MOSES SINCE NONE OTHER THAN THE OMNIPRESENT OCCUPIED HIMSELF [WITH HIS BURIAL], AS IT IS SAID, AND HE BURIED HIM IN THE VALLEY?[17] NOT ONLY CONCERNING MOSES DID THEY SAY THIS, BUT CONCERNING ALL THE RIGHTEOUS, AS IT IS SAID, AND THY RIGHTEOUSNESS SHALL GO BEFORE THEE, THE GLORY OF THE LORD SHALL BE THY REARWARD.[18]

GEMARA. Our Rabbis have taught: Samson rebelled [against God] through his eyes, as it is said: And Samson said unto his father, Get her for me, because she is pleasing in my eyes;[19] therefore the Philistines put out his eyes, as it is said: And the Philistines laid hold on him and put out his eyes.[20] But it is not so; for behold it is written: But his father and his mother knew not that it was of the Lord![21] — When he went [to choose a wife] he nevertheless followed his own inclinations.[22] It has been taught: Rabbi says: The beginning of his [Samson's] degeneration occurred in Gaza; therefore he received his punishment in Gaza. ‘The beginning of his [Samson's] degeneration was in Gaza’, as it is written: And Samson went to Gaza, and saw there an harlot etc.;[23] ‘therefore he received his punishment in Gaza,’ as it is written: And they brought him down to Gaza.[24] But behold it is written: And Samson went down to Timnah![25] — Nevertheless the beginning of his degeneration occurred in Gaza.[26]

And it came to pass afterward, that he loved a woman in the valley of Sorek, whose name was Delilah.[27] It has been taught: Rabbi says: If her name had not been called Delilah, she was fit that it should be so called. She weakened[28] his strength, she weakened his heart, she weakened his actions. ‘She weakened his strength’, as it is written: And his strength went from him.[29] ‘She weakened his heart’, as it is written: And when Delilah saw that he had told her all his heart.[30] ‘She weakened his actions’ since the Shechinah departed from him, as it is written: But he wist not that the Lord had departed from him.[31]

‘And when Delilah saw that he had told her all his heart’. How did she know this?[32] R. Hanin said in the name of Rab: Words of truth are recognisable. Abaye said: She knew that this righteous man would not utter the Divine Name in vain; when he exclaimed: I have been a Nazirite unto God,[33] she said: Now he has certainly spoken the truth.

And it came to pass, when she pressed him daily with her words, and urged him.[34] What means ‘and urged him’? R. Isaac of the School of R. Ammi said: At the time of the consummation, she detached herself from him.

Now therefore beware, I pray thee, and drink no wine nor strong drink, and eat not any unclean thing.[35] What means ‘any unclean thing’? Furthermore, had she [Samson's mother] up to then eaten unclean things? R. Isaac of the School of R. Ammi said: [She had hitherto eaten] things forbidden to a Nazirite.

But God clave the hollow place that is in Lehi.[36] R. Isaac of the School of R. Ammi said: He [Samson] lusted for what was unclean;[37] therefore his life was made dependent upon an unclean thing.[38]

And the spirit of the Lord began, etc.[39] R. Hama b. Hanina said: Jacob's prophecy became fulfilled, as it is written: Dan shall be a serpent in the way.[40]

To move him in Mahaneh-Dan.[41] R. Isaac of the School of R. Ammi said: This teaches that the Shechinah kept ringing in front of him like a bell;[42] it is written here to move him [lefa'amo] in Mahaneh-Dan, and it is written elsewhere A golden bell [pa'amon] and a pomegranate.[43] Between Zorah and Eshtaol[44] — R. Assi said: Zorah and Eshtaol are two great mountains, and Samson uprooted them and ground one against the other.

And he shall begin to save Israel.[45] R. Hama b. Hanina said:

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(1) Gen. III, 14.

(2) Ibid. 15.

(3) Num. V, 21. ‘Thigh’ is mentioned first.

(4) Ibid. 27. Here ‘thigh’ is mentioned second.

(5) Ibid. 22.

(6) If the effects were produced in the reverse order.

(7) Judg. XVI, 21.

(8) And slew Absalom, II Sam. XVIII, 15.

(9) Ibid. XV, 6.

(10) Ibid. XVIII, 14.

(11) The principle of measure for measure.

(12) Ex. II, 4.

(13) Num. XII, 15.

(14) Gen. L, 7.

(15) Ibid. 9.

(16) Ex. XIII, 19.

(17) Deut. XXXIV, 6.

(18) Isa. LVIII, 8. The verb translated ‘shall be thy rearward’ seems to be taken here in its literal sense, shall gather thee sc. to thy fathers.

(19) Judg. XIV, 3.

(20) Ibid. XVI, 21.

(21) Ibid. XIV, 4.

(22) And not the will of God.

(23) Judg. XVI, I.

(24) Ibid. 21.

(25) Ibid. XIV, 1.

(26) He lawfully married the woman in Timnah but not the woman in Gaza.

(27) Ibid. XVI, 4.

(28) Dildelah, a play on her name.

(29) Ibid. 19.

(30) Ibid. 18.

(31) Ibid. 20.

(32) He had previously told her several falsehoods; so how did she know that he had now spoken the truth?

(33) Ibid. 17.

(34) Ibid. 16.

(35) Ibid. XIII, 4.

(36) Judg. XV, 19.

(37) Philistine women.

(38) The ass's jawbone (lehi) out of which he drank in his thirst.

(39) Ibid. XIII, 25.

(40) Gen. XLIX, 17. This prophecy alluded to Samson who was of the tribe of Dan.

(41) The word in Judg. XIII, 25 for ‘move’ is commonly used of striking a bell.

(42) To direct him where he was to go.

(43) Ex. XXVIII, 34.

(44) Judg. XIII, 25.

(45) Ibid. 5. The word ‘begin’ (יחל) is connected with a similar root (חלל) meaning become void.

Talmud - Mas. Sotah 10a

The oath of Abimelech became void, as it is written: That thou wilt not deal falsely with me, nor with my son, nor with my son's son.[1]

And the child grew, and the Lord blessed him.[2] Wherewith did He bless him? — Rab Judah said in the name of Rab: With his physique which was like that of other men but his manly strength was like a fast-flowing stream.[3]

And Samson called unto the Lord, and said: O Lord God, remember me, I pray Thee and strengthen me, I pray Thee, that I may be at once avenged of the Philistines for my two eyes.[4] Rab said: Samson spoke before the Holy One, blessed be He, Sovereign of the Universe, Remember on my behalf the twenty[5] years I judged Israel, and never did I order anyone to carry my staff from one place to another.

And Samson went and caught three hundred foxes.[6] Why just foxes? — R. Aibu b. Nagari said in the name of R. Hiyya b. Abba: Samson declared: Let [the animal] come which turns backward[7] and exact punishment of the Philistines who went back on their oath.[8]

It has been taught: R. Simeon the Pious said: The width between Samson's shoulders was sixty cubits, as it is said: And Samson lay till midnight, and arose at midnight and laid hold of the doors of the gate of the city, and the two posts, and plucked them up, bar and all, and put them upon his shoulders;[9] and there is a tradition that the gates of Gaza were not less than sixty cubits [in width]. And he did grind in the prison house.[10]

R. Johanan said: 'Grind' means nothing else than [sexual] transgression; and thus it is stated: Then let my wife grind unto another.[11] It teaches that everyone brought his wife to him to the prison that she might bear a child by him [who would be as strong as he was]. R. Papa said: That is what the proverb tells, 'Before the wine-drinker [set] wine, before a ploughman a basket of roots.'

R. Johanan also said: Whoever is faithless, his wife is faithless to him; as it is said: If mine heart have been enticed unto a woman, and I have laid wait at my neighbour's door[12] and it continues, Then let my wife grind unto another, and let others bow down upon her. That is what the proverb tells, 'He among the full-grown pumpkins and his wife among the young ones'.

R. Johanan also said: Samson judged Israel in the same manner as their Father in heaven; as it is said: Dan shall judge his people as One.[13] R. Johanan also said: Samson was called by the name of the Holy One, blessed be He; as it is said: For the Lord God is a sun and a shield.[14] According to this argument, [his name] may not be erased![15] — The intention is that [his name] was typical of the name of the Holy One, blessed be He;[16] as the Holy One, blessed be He, shields the whole world, so Samson shielded Israel during his generation.

R. Johanan also said: Balaam was lame in one leg, as it is said: And he went shefi;[17] Samson was lame in both legs, as it is said: An adder in the path.[18]

Our Rabbis have taught: Five were created after the likeness of Him Who is above, and all of them incurred punishment on account of [the feature which distinguished] them: Samson in his strength, Saul in his neck,[19] Absalom in his hair,[20] Zedekiah in his eyes, and Asa in his feet. 'Samson [was punished] in his strength', as it is written: And his strength went from him.[21] 'Saul [was punished] in his neck', as it is written: Saul took his sword and fell upon it.[22] 'Absalom [was punished] in his hair',as we shall have occasion to explain later. Zedekiah [was punished] in his eyes, as it is written: They put out the eyes of Zedekiah.[23] Asa [was punished] in his feet, as it is written: But in the time of his old age he was diseased in his feet;[24] and Rab Judah said in the name of Rab, Podagra [gout] attacked him.

Mar Zutra, son of R. Nahman, asked R. Nahman, What is Podagra like? — He answered: Like a needle in living flesh. How did he know this? — Some say he suffered from it himself; others say that he heard it from his teacher;[25] and others declare, The secret of the Lord is with them that fear Him, and He will shew them His covenant.[26]

Raba expounded: Why was Asa punished? Because he imposed forced labour[27] upon the disciples of the Sages, as it is said: Then King Asa made a proclamation unto all Judah; none was exempted.[28] What means 'none was exempted'? — Rab Judah said in the name of Rab: Even the bridegroom from his chamber and the bride from her canopy.

It is written: And Samson went down to Timnah,[29] and it is written: Behold, thy father-in-law goeth up to Timnah![30] R. Eleazar said: Since in the case of Samson he was disgraced there, it is written in connection with it 'went down;' but in the case of Judah, since he was exalted in it,[31] there is written in connection with it 'goeth up'. R. Samuel b. Nahmani said: There are two places named Timnah; one [was reached] by going down and the other by going up. R. Papa said: There is only one place named Timnah; who came to it from one direction had to descend and from another direction had to ascend, as, e.g., Wardina, Be Bari and the market-place of Neresh.[32]

She sat in the gate of Enaim.[33] R. Alexander said: It teaches that she [Tamar] went and sat at the entrance [of the hospice] of our father Abraham, to see which place all eyes [‘enaim] look. R. Hanin said in the name of Rab: It is a place named Enaim, as it states: Tappuah and Enam.[34] R. Samuel b. Nahmani said: [It is so called] because she gave eyes to her words.[35] When [Judah] solicited her, he asked her, ‘Art thou perhaps a Gentile?’ She replied: ‘I am a proselyte’. ‘Art thou perhaps a married woman?’ She replied: ‘I am unmarried’. ‘Perhaps thy father has accepted on thy behalf betrothals?’[36] She replied: ‘I am an orphan’. ‘Perhaps thou art unclean?’ She replied: ‘I am clean’.

And he planted a tamarisk tree in Beer-sheba.[37] Resh Lakish said: It teaches that he [Abraham] made an orchard and planted in it all kinds of choice fruits. R. Judah and R. Nehemiah [differ in this matter]; one said that it was an orchard and the other that it was a hospice. It is right according to him who said that it was an orchard, since it is written ‘and he planted’; but according to him who said that it was a hospice, what means ‘and he planted?’ — It is similarly written: And he shall plant the tents of his palace, etc.[38]

And he called there on the name of the Lord, the Everlasting God.[39] Resh Lakish said: Read not ‘and he called’

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(1) Gen. XXI, 23. The alliance between the Israelites and Philistines ended in the time of Samson.

(2) Judg. XIII, 24.

(3) The point underlying this piece of Rabbinic hyperbole is that it was through Samson's inordinate passion for Philistine women that he came in contact with their people and brought about Israel's release from their power.

(4) Ibid. XVI, 28.

(5) Some edd. read ‘twenty-two’ in error; v. ibid. 31.

(6) Judg. XV, 4.

(7) When a fox is hunted, it does not run ahead but in a roundabout course.

(8) Between Isaac and Abimelech; v. supra.

(9) Ibid. XVI, 3.

(10) Ibid. 21.

(11) Job XXXI, 10.

(12) Ibid. 9.

(13) Gen. XLIX, 16, the One being God.

(14) Ps. LXXXIV, 12, E.V.11 The word for sun is shemesh which is the basis of Samson's name, Shimshon.

(15) As it is forbidden to erase the Divine Name.

(16) The word sun is not God's Name but a simile.

(17) Num. XXIII, 3. (E.V. ‘ To a bare height’). The Hebrew word is explained as ‘lame’.

(18) Gen. XLIX, 17. The word for adder is shefifon which looks like a duplicated form of shefi from the root שוף , ‘to dislocate’.

(19) Cf. I Sam. X, 23.

(20) Cf. II Sam. XIV, 26. There is no Biblical reference in connection with Zedekiah and Asa.

(21) Judg. XVI, 19.

(22) I Sam. XXXI, 4. The sword passed through his neck.

(23) II Kings XXV, 7.

(24) I Kings XV, 23.

(25) His teacher was a Rabbi named Samuel who was a physician.

(26) Ps. XXV, 14. The information was revealed to him by God.

(27) In the public service.

(28) I Kings XV, 22.

(29) Judg. XIV. I.

(30) Gen. XXXVIII, 13. Why does one text say ‘down’ and the other ‘goeth up’?

(31) Perez was born there from whom David was descended.

(32) Towns in Babylonia situated on mountain slopes on the east bank of the Euphrates, v. Obermeyer, op. cit., p. 309.
(33) Gen. XXXVIII. 14.
(34) Josh. XV, 34. Enam is identified with Enaim.
(35) Tamar gave convincing replies to Judah's questions as to whether she was permitted to him.
(36) [And thou thus belongest to another man.]
(37) Gen. XXI, 33. The explanation 'hospice' is obtained by taking each letter of the word אשל 'tamarisk-tree', and making them the initials of three Hebrew words meaning 'eating, drinking, lodging'.
(38) Dan. XI, 45.
(39) Gen. l.c.

Talmud - Mas. Sotah 10b

but 'and he made to call', thereby teaching that our father Abraham caused the name of the Holy One, blessed be He, to be uttered by the mouth of every passer-by. How was this? After [travellers] had eaten and drunk, they stood up to bless him; but, said he to them, 'Did you eat of mine? You ate of that which belongs to the God of the Universe. Thank, praise and bless Him who spake and the world came into being'.

When Judah saw her, he thought her to be an harlot; for she had covered her face.[1] Because she had covered her face he thought her to be an harlot! — R. Eleazar said: She had covered her face in her fatherin-law's house;[2] for R. Samuel b. Nahmani said in the name of R. Jonathan: Every daughter-in-law who is modest in her father-in-law's house merits that kings and prophets should issue from her. Whence is this? From Tamar. Prophets [issued from her], as it is written: The vision of Isaiah the son of Amoz,[3] and kings [issued from her] through David; and R. Levi has said: This is a tradition in our possession from our fathers that Amoz and Amaziah[4] were brothers.

When she was brought forth.[5] Instead of muzeth the verb should have been mithwazzeth![6] R. Eleazar said: [The verb in the text implies] that after her proofs[7] were found, Samael[8] came and removed them, and Gabriel[9] came and restored them. That is what is written: For the Chief Musician, the silent dove of them that are afar off. Of David, Michtam[10] — R. Johanan said: At the time when her proofs were removed, she became like a silent dove. 'Of David', 'Michtam' — [that means] there issued from her David who was meek [mach] and perfect [tam] to all. Another explanation of 'Michtam' is: his wound [makkah][11] was whole [tammah], since he was born already circumcised. Another explanation of 'Michtam' is: just as in his youth [before he became king] he made himself small in the presence of anyone greater than himself to study Torah, so was he the same in his greatness.[12]

She sent to her father-in-law, saying: By the man whose these are, am I with child.[13] She ought to have told [the messenger] plainly![14] — R. Zutra b. Tobiah said in the name of Rab — another version is, R. Hama b. Bizna said in the name of R. Simeon the Pious; and still another version is, R. Johanan said in the name of R. Simeon b. Yohai: Better for a man to cast himself into a fiery furnace rather than shame his fellow in public. Whence is this? From Tamar.[15]

Discern, I pray thee.[16] R. Hama b. Hanina said: With the word 'discern' [Judah] made an announcement to his father, and with the word 'discern' an announcement was made to him. With the word 'discern' he made an announcement — Discern now whether it be thy son's coat or not;[17] and with the word 'discern' an announcement was made to him — Discern, I pray thee, whose are these.[16] The word 'na' ['I pray thee'] is nothing else than an expression of request. She said to him, 'I beg of thee, discern the face of thy Creator and hide not thine eyes from me'.[18]

And Judah acknowledged them, and said: She is more righteous than I.[19] That is what R. Hanin b. Bizna said in the name of R. Simeon the Pious: Joseph who sanctified the heavenly Name in private[20] merited that one letter should be added to him from the Name of the Holy One, blessed be He, as it is written: He appointed it in Joseph for a testimony.[21] Judah, however, who sanctified the heavenly Name in public merited that the whole of his name should be called after the Name of the Holy One, blessed be He.[22] When he confessed and said: She is more righteous than I, a Bath Kol[23] issued forth and proclaimed, ‘Thou didst rescue Tamar and her two sons from the fire. By thy life, I will rescue through thy merit three of thy descendants from the fire’. Who are they? Hananiah, Mishael and Azariah.[24] ‘She is more righteous than I’ — how did he know this?[25] A Bath Kol issued forth and proclaimed, ‘From Me came forth secrets.’[26]

And he knew her again no more.[27] Samuel the elder, father-in-law of R. Samuel b. Ammi said in the name of R. Samuel b. Ammi: Having once known her,[28] he did not separate from her again. It is written here, ‘And he knew her again no more [Yasaf], and elsewhere it is written: With a great voice increasing [Yasaf].[29]

ABSALOM GLORIED IN HIS HAIR etc. Our Rabbis have taught: Absalom rebelled [against his father] through his hair, as it is said: There was none to be so much praised as Absalom for his beauty . . . And when he polled his head, now it was at every year's end that he polled it because the hair was heavy on him therefore he polled it, he weighed the hair of his head at two hundred shekels, after the king's weight.[30] It has been taught that [the king's weight] was the weight with which the men of Tiberias and Sepphoris weigh. Therefore he was hanged by his hair, as it is said: And Absalom chanced to meet the servants of David. And Absalom rode upon his mule, and the mule went under the thick boughs of a great oak, and his head caught hold of the oak, and he was taken up between the heaven and the earth,; and the mule that was under him went on.[31] He took a sword and wished to cut himself loose;[32] but it was taught in the School of R. Ishmael, At that moment Sheol was split asunder beneath him.[33]

And the king was much moved, and went up to the chamber over the gate, and wept; and as he went, thus he said: O my son Absalom, my son, my son Absalom! would God I had died for thee, O Absalom, my son, my son.[34] And the king covered his face, and the king cried with a loud voice, O my son Absalom, O Absalom my son, my son.[35] Why is ‘my son’ repeated eight times? Seven to raise him from the seven divisions of Gehinnom; and as for the last, some say to unite his [severed] head to his body and others say to bring him into the World to Come.

Now Absalom in his lifetime had taken and reared up.[36] What means ‘had taken’? — Resh Lakish said: He had made a bad purchase for himself.[37] The pillar which is in the king's dale, etc. — R. Hanina b. Papa said: In the deep plan of the King of the Universe;[38]

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(1) Ibid. XXXVIII, 15.

(2) So that Judah had never seen it and did not recognise her.

(3) Isa. I, 1.

(4) King of Judah, and since he was a descendant of David and Amoz was his brother, it is true that prophets and kings issued from Tamar.

(5) Gen. XXXVIII, 25.

(6) The verbal form used in the text could be translated ‘was found’, and the alternative suggested would have clearly indicated ‘brought forth’.

(7) The signet, cord and staff.

(8) Angel of evil, later identified with Satan.

(9) One of the four Archangels.

(10) Ps. LVI, I.

(11) I.e., the place where there should have been a wound after circumcision.

(12) After he became king, he humbled himself to study. So he was meek and perfect.

(13) Gen. XXXVIII, 25.

(14) That Judah was the father of her child. Why the circumlocution?

(15) She risked being burnt to death rather than publicly shame Judah.

(16) Ibid.

(17) Ibid. XXXVII, 32.

(18) That is how ‘Discern, I pray thee’ is explained.

(19) Ibid. XXXVIII, 26.

(20) When he resisted Potiphar's wife.

(21) Ps. LXXXI, 6, E.V. 5. Here in the Hebrew the letter ‘he’, one of the letters of the Tetragrammaton, is added to Joseph's name: יהוסף.

(22) The four letters of the Tetragrammaton occur in Judah's name יהודה.

(23) V. Glos.

(24) See Dan. III.

(25) Since she might have cohabited with other men.

(26) V. Mak. 23b.

(27) Gen. XXXVIII, 26.

(28) That she was righteous.

(29) Deut. V, 19. The two verbs are really distinct, but the Rabbi connected them both with the root אסף and accordingly explained the phrase in Gen. as ‘and he knew her again without ceasing’, v. Sanh. 17a.

(30) II Sam. XIV, 25f.

(31) II Sam. XVIII. 9.

(32) The first half of this sentence is omitted in some edd.

(33) So that had he cut through his hair he would have fallen into Sheol.

(34) Ibid. XIX, 1. E.V. XVIII, 33.

(35) Ibid. 5, E.V. 4.

(36) Ibid. XVIII, 18.

(37) The verb signifies both took and purchased. The meaning appears to be that his conduct resulted in his having to buy a monument to preserve his memory instead of his succeeding his father; hence it was a bad bargain for him.

(38) The word ‘dale’ means ‘deep’, and ‘king’ is applied to God Who had decided that this should happen as a punishment for his sin with Bathsheba.

Talmud - Mas. Sotah 11a

as it is written: I will raise up evil against thee out of thine own house.[1] Similarly it is stated: So he sent him [Joseph] out of the vale of Hebron.[2] R. Hanina b. Papa said: [The meaning is:] It was through the deep plan of that righteous man [Abraham] who had been buried in Hebron; as it is written: Know of a surety that thy seed shall be a stranger in a land that is not theirs.[3]

For he said: I have no son.[4] Had he, then, no sons? Behold it is written: And unto Absalom there were born three sons and one daughter![5] — R. Isaac b. Abdimi said: [His meaning was] that he had no son fit for the kingship. R. Hisda said: There is a tradition that whoever burns his neighbour's produce will not leave a son to succeed him; and he [Absalom] had burnt [the produce] of Joab, as it is written: Therefore he said unto his servants, See, Joab's field is near mine, and he hath barley there; go and set it on fire. And Absalom's servants set the field on fire.[6]

IT IS THE SAME IN CONNECTION WITH THE GOOD. MIRIAM etc. Is this like [the other cases mentioned]? There she waited a short while [for Moses], here [the Israelites waited for her] seven days?[7] — Abaye said: Read that in connection with the good [the principle of measure for measure] does not apply. Raba said to him, But the Mishnah teaches IT IS THE SAME IN CONNECTION WITH THE GOOD! But, said Raba, the Mishnah must be understood thus: It is the same in connection with the good that there is the same measure; nevertheless the measure in the case of the good is greater than the measure in the case of punishment.[8]

And his sister stood afar off.[9] R. Isaac said: The whole of this verse is spoken with reference to the Shechinah: 'and stood', as it is written: And the Lord came and stood etc.[10] 'His sister', as it is written: Say unto wisdom, thou art my Sister.[11] 'Afar off, as it is written: The Lord appeared from afar unto me.[12] 'To know', as it is written: For the Lord is a God of knowledge.[13] 'What', as it is written: What doth the Lord require of thee?[14] 'Done', as it is written: Surely the Lord God will do nothing.[15] 'To him', as it is written: And called it Lord is peace.[16]

Now there arose a new king etc.[17] Rab and Samuel [differ in their interpretation]; one said that he was really new, while the other said that his decrees were made new. He who said that he was really new did so because it is written 'new'; and he who said that his decrees were made new did so because it is not stated that [the former king] died and he reigned [in his stead]. Who knew not Joseph — he was like one who did not know [Joseph] at all.

And he said unto his people, Behold the people of the children of Israel.[18] A Tanna taught: He [Pharaoh] originated the plan first, and therefore was punished first. He originated the plan first, as it is written: And he said unto his people; therefore he was punished first, as it is written: Upon thee, and upon thy people, and upon all thy servants.[19]

Come, let us deal wisely with him[20] — it should have been with them! — R. Hama b. Hanina said: [Pharaoh meant,] Come and let us outwit the Saviour of Israel. With what shall we afflict them? If we afflict them with fire, it is written: For, behold the Lord will come with fire,[21] and it continues, For by fire will the Lord plead etc.[22] [If we afflict them] with the sword, it is written: And by His sword with all flesh.[23] But come and let us afflict them with water, because the Holy One, blessed be He, has already sworn that he will not bring a flood upon the world; as it is said: For this is as the waters of Noah unto Me, etc.[24] They were unaware, however, that He would not bring a flood upon the whole world but upon one people He would bring it; or alternatively, He would not bring [the flood] but they would go and fall into it. Thus it says: And the Egyptians fled towards it.[25] This is what R. Eleazar said: What means that which is written: Yea, in the thing wherein they zadu [dealt proudly] against them?[26] In the pot in which they cooked were they cooked. Whence is it learnt that 'zadu' means cooking? — Because it is written: And Jacob sod [wa-yazed] pottage.[27]

R. Hiyya b. Abba said in the name of R. Simai: There were three in that plan,[28] viz. Balaam, Job[29] and Jethro. Balaam who devised it was slain; Job who silently acquiesced was afflicted with sufferings; Jethro, who fled, merited that his descendants should sit in the Chamber of Hewn Stone,[30] as it is said: And the families of scribes which dwelt at Jabez; the Tirathites, the Shimeathites, the Sucathites. These are the Kenites that came of Hammath, the father of the house of Rechab;[31] and it is written: And the children of the Kenite, Moses' father-in-law etc.[32]

And fight against us and get them up out of the land[33] — it should have read 'and we will get us up!'[34] — R. Abba b. Kahana said: It is like a man who curses himself and hangs the curse upon somebody else.

Therefore they did set over him taskmasters[35] — it should have read 'over them'! — It was taught in the School of R. Eleazar b. Simeon, It indicates that they brought a brick-mould and hung it round Pharaoh's neck; and every Israelite who complained that he was weak was told, 'Art thou weaker than Pharaoh?'

Missim ['taskmasters'] — i.e., something which forms [mesim].[36] 'To afflict him with their burdens'- it should have read 'them'! — The [meaning is] to afflict Pharaoh with the burdens of Israel.[37]

And they built for Pharaoh store cities [miskenoth]. Rab and Samuel [differ in their interpretation]; one said, [They were so called] because they endangered [mesakkenoth] their owners,[38] while the other said because they impoverished [memaskenoth] their owners,[39] for a master has declared that whoever occupies himself with building becomes impoverished.[40]

Pithom and Raamses[35] — Rab and Samuel differ [in their interpretation];[41] one said: Its real name was Pithom, and why was it called Raamses? Because one building after another collapsed [mithroses]. The other said that its real name was Raamses, and why was it called Pithom? Because the mouth of the deep [pi tehom] swallowed up one building after another.

But the more they afflicted him, the more he will multiply and the more he will spread abroad[42] — it should have read ‘the more they multiplied and the more they spread abroadð! — Resh Lakish said: The Holy Spirit announced to them. ‘The more he will multiply and the more he will spread abroad’.

And they were grieved [wa-yakuzu] because of the children of Israel[42] — this teaches that they were like thorns [kozim] in their eyes.

And the Egyptians made the children of Israel to serve

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(1) Ibid. XII, 11.
(2) Gen. XXXVII, 14. Here ‘vale’ is also explained as deep plan.
(3) Ibid. XV, 13.
(4) II Sam. l.c.
(5) Ibid. XIV, 27.
(6) II Sam. 30.
(7) So how does the principle of measure for measure apply?
(8) The reward for a good deed exceeds the actual merit of an action and is not merely a quid pro quo as with a wrong deed.
(9) Ex. II, 4.
(10) I Sam. III, 10.
(11) Prov. VII, 4. Wisdom is an emanation from God.
(12) Jer. XXXI, 3.
(13) I Sam. II, 3.
(14) Deut. X, 12.
(15) Amos III, 7.
(16) Judg. VI, 24. The Hebrew word ‘it’ is the same as ‘to him’.
(17) Ex. I, 8.
(18) Ex. 9.
(19) Ibid. VII, 29.
(20) Ibid. I, 10. The Hebrew is literally with him.
(21) Isa. LXVI, 15.
(22) Ibid. 16.
(23) Ibid. Some edd. quote as the proof text: With his sword drawn in his hand (Num. XXII, 23).
(24) Isa. LIV, 9.
(25) Ex. XIV, 27. So the Hebrew literally.
(26) Ibid. XVIII, II. The verb ‘they dealt proudly’ resembles in form another with the meaning ‘they cooked’ זדו.
(27) Gen. XXV, 29.
(28) To destroy Israel through the decree: Every son that is born ye shall cast in the river, Ex. I, 22.
(29) Various opinions are expressed in the Talmud regarding the age in which he lived. According to one view he was born in the year that Jacob settled in Egypt and died at the time of the Exodus, v. B.B. 15a-b.
(30) In the Temple where the Sanhedrin met.
(31) I Chron. II, 55. The various names are understood in the sense that they were eminent scholars.

(32) Judg. I, 16; v. Sanh. (Sonc. ed.) p. 722.
(33) Ex. I, 10.
(34) I.e., we will be driven out of the land.
(35) Ibid. 11, the text is literally him.
(36) Viz., bricks, referring to the brick-mould which Pharaoh had to wear.
(37) He had to carry the brick-mould as the pattern for the Israelites to work upon.
(38) Led to the destruction of the Egyptians.
(39) When they were spoiled by the Israelites before the Exodus.
(40) [According to this dictum the interpretation 'memaskenoth' is general in its application and has no particular reference to the Egyptians. Some edd. accordingly omit the last sentence.]
(41) They agreed that only one store city was built.
(42) Ex. 12. So the Hebrew literally.

Talmud - Mas. Sotah 11b

with rigour [parek].[1] R. Eleazar said: [It means] with a tender mouth [peh rak];[2] R. Samuel b. Nahmani said: [It means] with rigorous work [perikah]. And they made their lives bitter with hard service, in mortar and in brick etc. Raba said: At first it was in mortar and in brick; but finally it was in all manner of service in the field. All their service wherein they made them serve with rigour.[3] R. Samuel b. Nahmani said in the name of R. Jonathan: They changed men's work for the women and the women's work for the men; and even he who explained [parek] above as meaning 'with tender mouth' admits that here it means 'with rigorous work'.

R. Awira expounded: As the reward for the righteous women who lived in that generation were the Israelites delivered from Egypt. When they went to draw water, the Holy One, blessed be He, arranged that small fishes should enter their pitchers, which they drew up half full of water and half full of fishes. They then set two pots on the fire, one for hot water and the other for the fish, which they carried to their husbands in the field, and washed, anointed, fed, gave them to drink and had intercourse with them among the sheepfolds, as it is said: When ye lie among the sheepfolds etc.[4] As the reward for ' When ye lie among the sheepfolds', the Israelites merited the spoliation of the Egyptians, as it is said: As the wings of a dove covered with silver, and her pinions with yellow gold.[5] After the women had conceived they returned to their homes; and when the time of childbirth arrived, they went and were delivered in the field beneath the apple-tree, as it is said: Under the apple-tree I caused thee to come forth [from thy mother's womb] etc.[6] The Holy One, blessed be He, sent down someone from the high heavens who washed and straightened the limbs [of the babes] in the same manner that a midwife straightens the limbs of a child; as it is said: And as for thy nativity, in the day thou wast born thy navel was not cut, neither wast thou washed in water to cleanse thee.[7] He also provided for them two cakes, one of oil and one of honey, as it is said: And He made him to suck honey out of the rock, and oil etc.[8] When the Egyptians noticed them, they went to kill them; but a miracle occurred on their behalf so that they were swallowed in the ground, and [the Egyptians] brought oxen and ploughed over them, as it is said: The ploughers ploughed upon my back.[9] After they had departed, [the Israelite women with their babes] broke through [the earth] and came forth like the herbage of the field, as it is said: I caused thee to multiply as the bud of the field;[10] and when [the babes] had grown up, they came in flocks to their homes, as it is said: And thou didst increase and wax great and didst come with ornaments[11] — read not with ornaments [ba'adi 'adayim] but in flocks [be'edre 'adarim]. At the time the Holy One, blessed be He, revealed Himself by the Red Sea, they recognised Him first, as it is said: This is my God and I will praise Him.[12]

And the king of Egypt spake to the Hebrew midwives etc.[13] Rab and Samuel [differ in their interpretation]; one said they were mother and daughter, and the other said they were daughter-in-law and mother-in-law. According to him who declared they were mother and daughter, they were Jochebed and Miriam; and according to him who declared they were daughter-in-law and mother-in-law, they were Jochebed and Elisheba.[14] There is a teaching in agreement with him who said they were mother and daughter; for it has been taught: ‘Shiphrah’[15] is Jochebed; and why was her name called Shiphrah? Because she straightened [meshappereth] the limbs of the babe. Another explanation of Shiphrah is that the Israelites were fruitful [sheparu] and multiplied in her days. ‘Pu'ah’ is Miriam; and why was her name called Puah? Because she cried out [po'ah] to the child[16] and brought it forth. Another explanation of Pu'ah is that she used to cry out through the Holy Spirit[17] and say: ‘My mother will bear a son who will be the saviour of Israel’.

And he said: When ye do the office of a midwife to the Hebrew women etc.[18] What means ‘obnayim’?[19] R. Hanan said: He entrusted them with an important sign and told them that when a woman bends to deliver a child, her thighs grow cold like stones [‘abanim’].[20] Another explains [the word ‘obnayim’] in accordance with what is written: Then I went down to the potter's house, and, behold, he wrought his work on the wheels.[21] As in the case of a potter, there is a thigh on one side, a thigh on the other side and the wooden block in between, so also with a woman there is a thigh on one side, a thigh on the other side and the child in between.

If it be a son, then ye shall kill him.[22] R. Hanina said: He entrusted them with an important sign, viz., if it is a son, his face is turned downward and if a daughter, her face is turned upward.[23] But the midwives feared God, and did not as the king of Egypt spoke to them.[24] Instead of alehen [‘to them’] we should have had ‘lahen’![25] — R. Jose son of R. Hanina said: It teaches that he solicited them for immoral intercourse,[26] but they refused to yield. But saved the men children alive — A Tanna taught: Not only did they not put them to death, but they supplied them with water and food.[27] And the midwives said unto Pharaoh, Behold the Hebrew women are not as the Egyptian women etc.[28] What means hayoth?[29] If it is to say they were actually midwives,[30] do you infer that a midwife does not require another midwife to deliver her child! — But [the meaning is] they said to him, This people are compared to an animal [hayyah] — Judah [is called] a lion's whelp;[31] of Dan [it is said] Dan shall be a serpent;[32] Naphtali [is called] a hind let loose;[33] Issachar a strong ass;[34] Joseph a firstling bullock;[35] Benjamin a wolf that ravineth.[36] [Of those sons of Jacob where a comparison with an animal] is written in connection with them, it is written: but [in the instances where such a comparison] is not written, there is the text: What was thy mother? A lioness; she couched among lions etc.[37]

And it came to pass, because the midwives feared God, that He made them houses.[38] Rab and Samuel [differ in their interpretation]; one said they are the priestly and Levitical houses, and the other said they are the royal houses. One who says they are the priestly and Levitical houses: Aaron and Moses; and one who says they are the royal houses: for also David descended from Miriam, as it is written: And Azubah died, and Caleb took unto him Ephrath, which bare him Hur,[39] and it is written: Now David was the son of that Ephrathite etc.[40]

And Caleb the son of Hezron begat children of Azubah his wife and of Jerioth,’ and these were her sons: Jesher and Shobab and Ardon.[41] ‘The son of Hezron’? He was the son of Jephunneh![42] — [It means] that he was a son who turned [panah] from the counsel of the spies. Still, he was the son of Kenaz, as it is written: And Othniel the son of Kenaz, Caleb's younger brother, took it![43] — Raba said: He was the stepson of Kenaz.

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(1) Ibid. 13.

(2) They induced the Israelites to work by using smooth words to them.

(3) Ibid. 14.

(4) Ps. LXVIII, 14, E.V., 13.

(5) Ps. LXVIII, 14, E.V., 13. The dove is often used by the Rabbis as a symbol of Israel.

(6) Cant. VIII, 5. That is how the verb is interpreted here.

(7) Ezek. XVI, 4. There was no midwife present to cut the navel-string, nor was ordinary water used.
(8) Deut. XXXII, 13.
(9) Ps. CXXIX, 3.
(10) Ezek. XVI, 7.
(11) Ibid.
(12) Ex. XV, 2. The word ‘this’ implies that He had been previously seen; therefore it must have been by the former babes.
(13) Ibid. I, 15.
(14) She was Aaron's wife (Ex. VI, 23).
(15) Ibid. I, 15.
(16) Rashi explains: she uttered soothing words which induced the child to come forth. She blew a charm into the mother's ear and brought forth the child (Jast.).
(17) I.e., the prophetic gift.
(18) Ibid. 16.
(19) This word in the verse is translated birthstool.
(20) By means of this symptom they would be able to detect a mother who tried to conceal a birth.
(21) Jer. XVIII, 3 . The word for wheels is ‘obnayim’.
(22) Ex. I, 16.
(23) At the time of birth (Nid. 31a).
(24) Ibid. 17.
(25) The latter is the more usual form since no direct speech follows.
(26) The preposition ‘el, which occurs in the text, is employed in this sense.
(27) The text does not state, ‘they did not kill’; therefore ‘saved alive’ is so explained.
(28) Ex. I, 19.
(29) The word in this verse translated lively.
(30) That is the significance the word has in Rabbinic Hebrew.
(31) Gen. XLIX, 9.
(32) Ibid. 17.
(33) Ibid. 21.
(34) Ibid. 14.
(35) Deut. XXXIII, 17.
(36) Gen. XLIX, 27.
(37) Ezek. XIX, 2.
(38) Ex. I, 21.
(39) I Chron.II, 19.
(40) I Sam. XVII, 12.
(41) I Chron. II, 18.
(42) V. Num. XIII, 6.
(43) Judg. I, 13.

Talmud - Mas. Sotah 12a

There is also evidence for this, since it is written, [And Caleb the son of Jephunneh] the Kenizzite.[1] Conclude, therefore, that Azubah is identical with Miriam; and why was her name called Azubah? Because all men forsook her [‘azabuhah] at first.[2] ‘Begat!’[3] But he was married to her! — R. Johanan said: Whoever marries a woman for the name of heaven,[4] the text ascribes it to him as though he had begotten her. ‘Jerioth’ — [she was so named] because her face was like curtains.[5] ‘And these were her sons’ — read not baneha [her sons] but boneha [her builders].[6] ‘Jesher’ [he was so called] because he set himself right [yishsher].[7] ‘Shobab’ — [he was so called] because he turned his inclination aside [shibbeb].[8] ‘And Ardon’ — [he was so called] because he disciplined [radah] his inclination. Others say: Because his face was like a rose [wered].

And Ashhur the father of Tekoa had two wives, Helah and Naarah.[9] Ashhur is identical with Caleb; and why was his name called Ashhur? Because his face was blackened [hushheru] through his fasts.[10] 'The father'- he became a father to her.[11] 'Tekoa'- he fixed [taka'] his heart on his Father in heaven.[12] 'Had two wives' — [this means] Miriam became like two wives. 'Helah and Naarah' — she was not both Helah and Naarah, but at first she was Helah [an invalid] and finally Naarah [a young girl].[13] And the sons of Helah were Zereth, Zohar and Ethnan.[14] 'Zereth' — [Miriam was so called] — because she became the rival [zarah] of her contemporaries [in beauty]. 'Zohar' — because her face was [beautiful] like the noon [zoharayim]. 'Ethnan' — because whoever saw her took a present ['ethnan] to his wife.[15]

And Pharaoh charged all his people.[16] R. Jose son of R. Hanina said: He imposed the same decree upon his own people.[17] R. Jose son of R. Hanina also said: He made three decrees: first, 'if it be a son, then ye shall kill him'; then 'every son that is born ye shall cast into the river'; and finally he imposed the same decree upon his own people.

And there went a man of the house of Levi.[18] Where did he go? R. Judah b. Zebina said that he went in the counsel of his daughter. A Tanna taught: Amram was the greatest man of his generation; when he saw that the wicked Pharaoh had decreed 'Every son that is born ye shall cast into the river', he said: In vain do we labour. He arose and divorced his wife.[19] All [the Israelites] thereupon arose and divorced their wives. His daughter said to him, 'Father, thy decree is more severe than Pharaoh's; because Pharaoh decreed only against the males whereas thou hast decreed against the males and females. Pharaoh only decreed concerning this world whereas thou hast decreed concerning this world and the World to Come.[20] In the case of the wicked Pharaoh there is a doubt whether his decree will be fulfilled or not, whereas in thy case, though thou art righteous, it is certain that thy decree will be fulfilled, as it is said: Thou shalt also decree a thing, and it shall be established unto thee![21] He arose and took his wife back; and they all arose and took their wives back.

And took to wife[18] — it should have read 'and took back'![22] R. Judah b. Zebina said: — He acted towards her as though it had been the first marriage; he seated her in a palanquin, Aaron and Miriam danced before her, and the Ministering Angels proclaimed, A joyful mother of children.[23]

A daughter of Levi.[18] How is this possible! She was one hundred and thirty years old, and he calls her 'a daughter'! (For R. Hama b. Hanina said: This[24] refers to Jochebed whose conception occurred during the journey [to Egypt] and her birth between the walls;[25] as it is said: Who was born to Levi in Egypt[26] — her birth occurred in Egypt but her conception did not occur there.)[27] — Rab Judah said: [She is called 'a daughter'] because the signs of maidenhood were reborn in her.[28]

And the woman conceived and bare a son.[29] But she had already been pregnant three months![30] — R. Judah b. Zebina said: It compares the bearing of the child to its conception; as the conception was painless so was the bearing painless. Hence [it is learnt] that righteous women were not included in the decree upon Eve.[31]

And when she saw him that he was good.[29] It has been taught: R. Meir says: His name was Tob [good]; R. Judah says: His name was Tobiah; R. Nehemiah says: [She foresaw that he would be] worthy of the prophetic gift; others say: He was born circumcised; and the Sages declare, At the time when Moses was born, the whole house was filled with light — it is written here, And when she saw him that he was good, and elsewhere it is written: And God saw the light that it was good.[32]

She hid him three months.[29] [She was able to do this] because the Egyptians only counted [the period of her pregnancy] from the time that she was restored [to youth], but she was then already pregnant three months.

And when she could not longer hide him[33] — why? She should have gone on hiding him! — But whenever the Egyptians were informed that a child was born, they would take other children there so that it should hear them [crying] and cry with them; as it is written: Take us the foxes, the little foxes etc.[34]

She took for him an ark of bulrushes[33] — why just bulrushes? R. Eleazar said: Hence [it is learnt] that to the righteous their money is dearer than their body;[35] and why so? — That they should not stretch out their hand to robbery.[36] R. Samuel b. Nahmani says: [She selected them] because they are a soft material which can withstand both soft and hard materials.[37]

And daubed it with slime and with pitch[38] — A Tanna taught: The slime was inside and the pitch outside so that that righteous child should not smell the bad odour.

And she put the child therein and laid it in the reeds [suf][38] — R. Eleazar said: In the Red [suf] Sea; R. Samuel b. Nahmani said:

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(1) Josh. XIV, 6, and not the son of Kenaz.
(2) She was an invalid so that nobody would marry her.
(3) The Hebrew text could be translated: and Caleb begat Azubah.
(4) From a pious motive, as in this case where through illness Miriam remained unmarried.
(5) She also is identified with Miriam. Through illness her face was pale like the colour of curtains (yeri'oth).
(6) Through them she attained the dignity of motherhood.
(7) Viz., Caleb escaped the error of the other spies.
(8) From following the rest of the spies.
(9) I Chron. IV, 5.
(10) He mortified himself to resist joining the other spies.
(11) To Miriam who, on account of illness, required constant attention.
(12) For will-power not to join in the evil report.
(13) I.e., she recovered and became young in appearance.
(14) I Chron. IV, 7.
(15) His passion was aroused by the sight of Miriam.
(16) Ex. I, 22.
(17) To kill the male children, because the astrologers had warned him that a boy was soon to be born who would overthrow him.
(18) Ex. II, 1.
(19) Since all the male children to be born would be killed, and the primary object of marriage was the procreation of sons.
(20) The drowned babes would live again in the Hereafter; but unborn children are denied that bliss.
(21) Job XXII, 28.
(22) His wife, according to the story just related.
(23) Ps. CXIII, 9.
(24) ‘The daughter of Levi’.
(25) I.e., just as the caravan arrived at Egypt.
(26) Num. XXVI, 59. The Torah mentions that the Israelites numbered seventy who came to Egypt, whereas there are only sixty-nine names in the list. Hence this statement about Jochebed.
(27) From that time one hundred and thirty years had elapsed.
(28) Although so old, she became young in form and appearance.
(29) Ex. II, 2.
(30) Viz., before she was restored to youth, as will be explained.
(31) That she would bear children in pain (Gen. III, 16).
(32) Gen. I, 4.

(33) Ex. II, 3.

(34) Cant II, 15.

(35) She selected bulrushes because of their cheapness, although hard wood would have been better for the welfare of the child.

(36) They are frugal in expenditure upon their comforts so as not to be tempted to dishonesty for the gratification of their needs.

(37) Hard wood would be more easily split, whereas bulrushes yield under pressure.

(38) Ex. II, 3.

Talmud - Mas. Sotah 12b

It means reeds, as it is written: The reeds and flags shall wither away.[1]

And the daughter of Pharaoh came down to bathe at the river.[2] R. Johanan said in the name of R. Simeon b. Yohai: It teaches that she went down there to cleanse herself of her father's idols;[3] and thus it says: When the Lord shall have washed away the filth of the daughters of Zion etc.[4] And her maidens walked along etc.[5] R. Johanan said: The word for ‘walk’ means nothing else than death; and thus it says: Behold I am going to die.[6] And she saw the ark among the reeds.[2] When [the maidens] saw that she wished to rescue Moses, they said to her, ‘Mistress, it is the custom of the world that when a human king makes a decree, though everybody else does not obey it, at least his children and the members of his household obey it; but thou dost transgress thy father's decree!’ Gabriel came and beat them to the ground.

And sent her handmaid to fetch it[2] — R. Judah and R. Nehemiah [differ in their interpretation]; one said that the word means ‘her hand’ and the other said that it means ‘her handmaid’. He who said that it means ‘her hand’ did so because it is written ammathah;[7] he who said that it means ‘her handmaid’ did so because the text has not yadah [her hand]. But according to him who said that it means ‘her handmaid’,it has just been stated that Gabriel came and beat them to the ground![8] — He left her one, because it is not customary for a king's daughter to be unattended. But according to him who said that it means ‘her hand’, the text should have been yadah! — It teaches us that [her arm] became lengthened; for a master has said: You find it so[9] with the arm of Pharaoh's daughter and similarly with the teeth of the wicked, as it is written: Thou hast broken [shibbarta] the teeth of the wicked,[10] and Resh Lakish said: Read not shibbarta but shirbabta [thou has lenghtened].[11]

She opened it and saw the child[12] — it should have been ‘and saw’. R. Jose b. R. Hanina said: She saw the Shechinah with him.[13]

And, behold, the boy wept[12] — he is called a ‘child’ and then a ‘boy’! — A Tanna taught: He was a child but his voice was like that of a grown boy; such is the view of R. Judah. R. Nehemiah said to him, If so, you have made our master Moses into one possessed of a blemish;[14] but it teaches that his mother made for him a canopy [such as is used at the marriage] of boys[15] in the ark, saying: ‘Perhaps I may not be worthy [to be present at] his marriage-canopy’.

And she had compassion on him and said: Of the Hebrews’ children is this.[12] How did she know it? — R. Jose b. R. Hanina said: Because she saw that he was circumcised. ‘Is this’ — R. Johanan said: It teaches that she unwittingly prophesied that ‘this’ one will fall [into the river] but no other will fall.[16] That is what R. Eleazar said: What means the text: And when they shall say unto you, Seek unto them that have familiar spirits and unto the wizards, that chirp and that mutter?[17] They foresee and know not what they foresee; they mutter and know not what they mutter. They saw that Israel's saviour would be punished through water; so they arose and decreed, Every son that is born ye shall cast into the river.[18] After they had thrown Moses [into the water], they said: ‘We do not see that sign any longer’;[19] they thereupon rescinded their decree. But they knew not that he was to be punished through the water of Meribah.[20] That is what R. Hama b. Hanina said: What means the text: These are the waters of Meribah, because they strove?[21] These are [the waters] about which Pharaoh's magicians saw and erred; and concerning this Moses said: Six hundred thousand footmen etc.[22] Moses said to Israel, ‘On my account were all of you delivered [from drowning by the edict of Pharaoh]’.

R. Hanina b. Papa said: That day[23] was the twenty-first of Nisan,[24] and the Ministering Angels spoke before the Holy One, blessed be He, ‘Lord of the Universe! Shall he who will utter a song to Thee by the Red Sea on this day be punished on this day?’ R. Aha b. Hanina said: That day was the sixth of Sivan,[25] and the Ministering Angels spoke before the Holy One, blessed be He, ‘Lord of the Universe! Shall he who will receive the Torah on Mount Sinai on this day be punished on this day?’ It is quite right according to him who said that it was the sixth of Sivan, for then it occurred three months [after his birth]; for a master has said: Moses died on the seventh of Adar[26] and was born on the seventh of Adar, and from the seventh of Adar to the sixth of Sivan is three months. But according to him who said that it was the twenty-first of Nisan, how could it have been?[27] — That year was a leap year;[28] the greater part of the first [Adar] and the greater part of the last [Nisan] and a full month in between.[29]

Then said his sister to Pharaoh's daughter, Shall I go and call thee a nurse of the Hebrew women?[30] Why just ‘of the Hebrew women’? — It teaches that they handed Moses about to all the Egyptian women but he would not suck. He[31] said: Shall a mouth which will speak with the Shechinah suck what is unclean! That is what is written: Whom will He teach knowledge etc.?[32] — To whom will He teach knowledge and to whom will He make the message understandable? To them that are weaned from the milk, and drawn from the breasts.

And Pharaoh's daughter said unto her, Go etc.[33] R. Eleazar said: It teaches that she went quickly like a young woman.[34] R. Samuel b. Nahmani said: [She is called] the maid [‘almah] because she made the words secret.[35]

And Pharaoh's daughter said unto her, Take this child away.[36] R. Hama b. Hanina said: She prophesied without knowing what she prophesied — Heliki [‘take away’] — behold what is thine [ha sheliki].

And I will give thee thy wages.[36] R. Hama b. Hanina said: Not enough that the righteous have their loss restored to them but they also receive their reward in addition.

And Miriam the prophetess, the sister of Aaron, took etc.[37] The ‘sister of Aaron’ and not the sister of Moses! — R. Amram said in the name of Rab, and according to others it was R. Nahman who said in the name of Rab: It teaches that she prophesied while she yet was the sister of Aaron only[38]

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(1) Isa. XIX, 6.

(2) Ex. II, 5.

(3) Since immersion is part of the ceremony of conversion, it is assumed that she became a proselyte.

(4) Isa. IV, 4.

(5) Ex. II, 5.

(6) Gen. XXV, 32.

(7) The text could be read either as amathah ‘her maid’ or ‘ammathah ‘her arm’. The Targum of Onkelos renders by ‘her arm’.

(8) Therefore they were all dead; so how could the princess send her handmaid?

(9) [The lengthening of a limb, v. Meg. 15b.]

(10) Ps. III, 8.

(11) [The reference is to Og, King of Bashan, v. Ber. 54b.]

(12) Ex. II, 6. The text is literally: she saw him the child.
(13) The suffix hu (him) is explained as God and the particle eth as ‘with’ and not the sign of the accusative: she saw Him with the child’.
(14) His voice would be abnormal, and this disqualified a Levite from the Temple-ministry.
(15) [Or. ‘canopy of youth’, i.e., a bridal canopy.]
(16) Because on that day the decree to drown the males was rescinded.
(17) Isa. VIII, 19.
(18) Ex. I, 22.
(19) Indicating that the peril to Pharaoh was averted by this action.
(20) [And that this was the meaning of the sign they had seen.]
(21) Num. XX. 13.
(22) Ibid. XI, 21. Footmen is in Hebrew ragli which can also mean ‘for my sake’.
(23) [On which Moses was cast into the Sea.]
(24) The first month in the Jewish year. It was on that day later on that the Egyptians were drowned.
(25) The third month, the date of the Revelation.
(26) The twelfth month.
(27) The difference between the two dates is only one month and fourteen days.
(28) When a thirteenth month is inserted between Adar and Nisan.
(29) This gives in round figures the three months required.
(30) Ex. II, 7.
(31) Some authorities explain ‘He’ as referring to God.
(32) Isa. XXVIII, 9.
(33) Ex. II, 8.
(34) The word in the verse ‘almah ‘maid’ is connected with its analogous root in Aramaic which means ‘to be vigorous’.
(35) ‘Alam means ‘to hide’; she did not disclose her relationship to the child.
(36) Ex. II, 9.
(37) Ibid. XV, 20.
(38) Before Moses’ birth.

Talmud - Mas. Sotah 13a

and said: ‘My mother will bear a son who will be the saviour of Israel’. When Moses was born, the whole house was filled with light; and her father arose and kissed her upon her head, saying ‘My daughter, thy prophecy has been fulfilled’; but when they cast him into the river, her father arose and smacked her upon her head, saying: ‘Where, now, is thy prophecy!’ That is what is written: And his sister stood afar off to know what would be done to him[1] — what would be the fate of her prophecy.

JOSEPH EARNED MERIT etc. Why the difference that first it is written: And Joseph went up to bury his father, and with him went up all the servants of Pharaoh etc.,[2] followed by, And all the house of Joseph, and his brethren, and his father's house,[3] and in the sequel it is written: And Joseph returned into Egypt, he and his brethren,[4] followed by, And all that went up with him to bury his father? — R. Johanan said: At first, before [the servants of Pharaoh] beheld the glory of the Israelites, they did not treat them with respect;[5] but in the sequel, when they beheld their glory, they treated them with respect. For it is written: And they came to the threshing-floor of Atad;[6] but is there a threshing-floor for brambles? — R. Abbahu said: It teaches that they surrounded Jacob's coffin with crowns like a threshing-floor which is surrounded with a hedge of brambles, because the sons of Esau, of Ishmael and of Keturah also came. A Tanna taught: They all came to wage war [against the Israelites]; but when they saw Joseph's crown hanging upon Jacob's coffin, they all took their crowns and hung them upon his coffin. A Tanna taught: Sixty-three crowns were hung upon Jacob's coffin.

And there they lamented with a very great and sore lamentation.[7] It has been taught: Even the horses and asses [joined in the lamentation]. When [the cortege] arrived at the Cave of Machpelah, Esau came and wished to prevent [the interment there], saying to them, Mamre, Kiriath-arba, the same is Hebron[8] — now R. Isaac has said: Kiriath-arba [is so called] because four couples [were buried there], viz. Adam and Eve, Abraham and Sarah, Isaac and Rebekah, and Jacob and Leah — [Jacob] had buried Leah in his portion and what remains belongs to me'. They replied to him, 'Thou didst sell it'. He said to them, 'Granted that I sold my birth-right, but did I sell my plain heir's right!' They replied: 'Yes, for it is written: In my grave which I [Jacob] have digged for me',[9] and R. Johanan has said in the name of R. Simeon b. Jehozadak: The word kirah [dig] means nothing else than 'sale' [mekirah], and thus in the coast-towns they use kirah as a term for 'sale'. — He said to them, 'Produce a document [of sale] for me'. They replied to him, 'The document is in the land of Egypt. Who will go for it? Let Naphtali go, because he is swift as a hind'; for it is written: Naphtali is a hind let loose, he giveth goodly words[10] — R. Abbahu said: Read not 'goodly words' [imre shefer] but imre sefer [words of a document]. Among those present was Hushim, a son of Dan, who was hard of hearing; so he asked them, 'What is happening?' They said to him, '[Esau] is preventing [the burial] until Naphtali returns from the land of Egypt'. He retorted: 'Is my grandfather to lie there in contempt until Naphtali returns from the land of Egypt!' He took a club and struck [Esau] on the head so that his eyes fell out and rolled to the feet of Jacob. Jacob opened his eyes and laughed; and that is what is written: The righteous shall rejoice when he seeth the vengeance; he shall wash his feet in the blood of the wicked.[11] At that time was the prophecy of Rebekah fulfilled, as it is written: Why should I be bereaved of you both in one day?[12] Although the death of the two of them did not occur on the one day, still their burial took place on the same day. — But if Joseph had not occupied himself with [Jacob's burial] , would not his brethren have occupied themselves with it? Behold it is written: For his sons carried him into the land of Canaan![13] — They said [among themselves], 'Leave him [to conduct the interment]; for the honour [of our father] will be greater [when it is conducted] by kings than by commoners'.

WHOM HAVE WE GREATER THAN JOSEPH etc.? Our Rabbis have taught: Come and see how beloved were the commandments by Moses our teacher; for whereas all the Israelites occupied themselves with the spoil, he occupied himself with the commandments, as it is said: The wise in heart will receive commandments etc.[14] But whence did Moses know the place where Joseph was buried? — It is related that Serah, daughter of Asher, was a survivor of that generation. Moses went to her and asked: 'Dost thou know where Joseph was buried?' She answered him, 'The Egyptians made a metal coffin for him which they fixed in the river Nile so that its waters should be blessed'. Moses went and stood on the bank of the Nile and exclaimed: 'Joseph, Joseph! the time has arrived which the Holy One, blessed be He, swore, "I will deliver you", and the oath which thou didst impose upon the Israelites[15] has reached [the time of fulfilment]; if thou wilt shew thyself, well and good; otherwise, behold, we are free of thine oath'. Immediately Joseph's coffin floated [on the surface of the water]. Be not astonished that iron should float; for, behold, it is written: As one was felling a beam, the axe-head fell into the water etc. Alas, my master, for it was borrowed. And the man of God said: Where fell it? And he shewed him the place. And he cut down a stick and cast it in thither, and made the iron to swim.[16] Now cannot the matter be argued by a fortiori reasoning — if iron floated on account of Elisha who was the disciple of Elijah who was the disciple of Moses, how much more so on account of Moses our teacher! R. Nathan says: He was buried in the sepulchre of the kings; and Moses went and stood by the sepulchre of the kings and exclaimed. 'Joseph! the time has arrived which the Holy One, blessed be He, swore "I will deliver you", and the oath which thou didst impose upon the Israelites has reached [the time of fulfilment]; if thou wilt shew thyself, well and good; otherwise, behold, we are free of thine oath'. At that moment, Joseph's coffin shook, and Moses took it and carried it with him. All those years that the Israelites were in the wilderness, those two chests, one of the dead and the other of the Shechinah,[17] proceeded side by side, and passersby used to ask: 'What is the nature of those two chests?' They received the reply: 'One is of the dead and the other of the Shechinah'. 'But is it, then, the way of the dead to proceed with the Shechinah?' They were told,

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(1) Ibid. II, 4.
(2) Gen. L, 7.
(3) Gen. L, 8.
(4) Ibid. 14. The order of the procession is now reversed.
(5) And proceeded in front of them.
(6) Ibid. 10. As a common noun ‘atad’ means ‘brambles’.
(7) Gen. L, 10.
(8) Ibid. XXXV, 27. Kiriath — ‘arba is literally ‘the burial of four’. He claimed that only four couples were to be buried there, and demanded the one remaining sepulchre for himself. The explanatory remark of R. Isaac is interpolated into Esau's words.
(9) Ibid. L, 5.
(10) Gen. XLIX, 21.
(11) Ps. LVIII, 11.
(12) Gen. XXVII, 45.
(13) Ibid. L, 13. It is not stated that Joseph did this.
(14) Prov. X, 8.
(15) To carry Joseph's bones out of Egypt (Exod. XIII, 19).
(16) II Kings VI, 5f.
(17) Aron means in Hebrew both an ark and a coffin. It here refers to the Ark of the Covenant.

Talmud - Mas. Sotah 13b

‘This one [Joseph] fulfilled all that was written in the other’.[1] But if Moses had not occupied himself with him, would not the Israelites have occupied themselves with him? Behold, it is written: And the bones of Joseph which the children of Israel brought up out of Egypt buried they in Shechem![2] Furthermore, if the Israelites had not occupied themselves with him, would not his own sons have done so? And, behold, it is written: And they became the inheritance of the children of Joseph![3] — They[4] said [to one another], ‘Leave him; his honour will be greater [when the burial is performed] by many rather than by few’; and they also said: ‘Leave him; his honour will be greater [when the burial is performed] by the great rather than by the small’.

Buried they in Shechem.[3] Why just in Shechem? — R. Hama son of R. Hanina said: From Shechem they stole him,[5] and to Shechem we will restore what is lost. The following verses are contradictory: it is written: And Moses took the bones of Joseph with him,[6] and it is written: And the bones of Joseph which the children of Israel brought up[7] etc.! — R. Hama son of R. Hanina said: Whoever performs a task without finishing it and another comes and completes it, Scripture ascribes it to the one who completed it as though he had performed it. R. Eleazar said: He[8] is likewise deposed from his greatness; for it is written: And it came to pass at that time that Judah went down.[9] R. Samuel b. Nahmani said: He also buries his wife and children; for it is written: Shua's daughter, the wife of Judah, died etc.,[10] and it is written: But Er and Onan died.[11]

Rab Judah said in the name of Rab: Why was Joseph called ‘bones’ during his lifetime?[12] Because he did not interfere to safeguard his father's honour when [his brothers] said to him, Thy servant our father[13] and he made no reply to them. Rab Judah also said in the name of Rab, and others declare that it was R. Hama son of R. Hanina: Why did Joseph die before his brothers? Because he gave himself superior airs.

And Joseph was brought down to Egypt.[14] R. Eleazar said: Read not ‘was brought down’ but ‘brought down’, because he brought Pharaoh's astrologers down from their eminence.[15] And Potiphar, an officer of Pharaoh's bought him, Rab said: He bought him for himself;[16] but Gabriel came and castrated him,[17] and then Gabriel came and mutilated him [pera’], for originally his name is written Potiphar but afterwards Potiphera.[18]

WHOM HAVE WE GREATER THAN MOSES etc. And the Lord said unto me, Let it suffice thee.[19] R. Levi said: With the word ‘suffice’ [Moses] made an announcement and with the word ‘suffice’ an announcement was made to him. With the word ‘suffice’ he made an announcement: ‘Suffice you’;[20] and with the word ‘suffice’ an announcement was made to him: ‘Let it suffice thee’. Another explanation of ‘Let it suffice [rab] thee’ is, Thou hast a master [rab], viz., Joshua.[21] Another explanation of ‘Let it suffice thee’ is, That people should not say: How severe the Master is and how persistent the pupil is.[22] And why so? In the School of R. Ishmael it was taught: According to the camel is the burden.[23]

And he said unto them, I am an hundred and twenty years old this day.[24] Why does the text state ‘this day?’ [The meaning is], This day are my days and years completed.[25] Its purpose is to teach you that the Holy One, blessed be He, completes the years of the righteous from day to day, and from month to month; for it is written: The number of thy days I will fulfil.[26] I can no more go out and come in[24] — what means ‘go out and come in’? If it is to be understood literally, behold it is written: And Moses was an hundred and twenty years old when he died; his eye was not dim, nor his natural force abated;[27] it is also written: And Moses went up from the plains of Moab unto mount Nebo;[28] and it has been taught: Twelve steps were there, but Moses mounted them in one stride! — R. Samuel b. Nahmani said in the name of R. Jonathan: [It means] to ‘go out and come in’ with words of Torah, thus indicating that the gates of wisdom were closed against him. And Moses and Joshua went, and presented themselves in the tent of meeting.[29] A Tanna taught: That was a Sabbath when two teachers [gave discourses] and the authority was taken from one to be transferred to the other. It has further been taught: R. Judah said: Were it not for a Scriptural text, it would be impossible to utter the following. Where did Moses die? In the portion of Reuben, for it is written: And Moses went up from the plains of Moab unto mount Nebo, and Nebo was located in the portion of Reuben, for it is written: And the children of Reuben built . . . and Nebo etc.[30] — It was called Nebo because three prophets [nebi'im] died there, viz. Moses, Aaron, and Miriam. — And where was Moses buried? In the portion of Gad, for it is written: And he provided the first part for himself etc.[31] Now what was the distance between the portion of Reuben and that of Gad? Four mil.[32] Who carried him those four mil? It teaches that Moses was laid upon the wings of the Shechinah, and the Ministering Angels kept proclaiming, He executed the justice of the Lord, and His judgments with Israel,[33] and the Holy One, blessed be He, declared: Who will rise up for Me against the evil-doers? Who will stand up for Me against the workers of iniquity?[34]

Samuel[35] said [that God declared], Who is as the wise man? and who knoweth the interpretation of a thing?[36] R. Johanan said [that God declared], Where shall wisdom be found?[37] R. Nahman said [that God announced], So Moses died there etc.[38] Semalyon[39] said: So Moses died there, the great Sage of Israel.[40]

It has been taught: R. Eliezer the Elder said: Over an area of twelve mil square, corresponding to that of the camp of Israel, a Bath Kol made the proclamation, ‘So Moses died there’, the great Sage of Israel. Others declare that Moses never died; it is written here, ‘So Moses died there’, and elsewhere it is written: And he was there with the Lord.[41] As in the latter passage it means standing and ministering, so also in the former it means standing and ministering.

And He buried him in the valley in the land of Moab over against Beth-peor.[42] R. Berechyah said: Although [Scripture provides] a clue within a clue, nevertheless no man knoweth of his sepulchre.[42] The wicked Government once sent to

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(1) The Ark contained the tables of the Decalogue.

(2) Josh. XXIV,32.

(3) Josh. XXIV, 32.
(4) Joseph's sons.
(5) His brothers. Cf. Gen. XXXVII, 12.
(6) Ex. XIII, 19.
(7) Josh. XXIV, 32.
(8) Viz., he who does not finish his undertaking.
(9) Gen. XXXVIII, 1, i.e., descended from his greatness, because he began to rescue Joseph but did not complete it.
(10) Ibid. 12.
(11) Ibid. XLVI, 12. They were Judah's sons.
(12) Cf. L, 25.
(13) Ibid. XLIV, 31.
(14) Ibid. XXXIX, 1.
(15) He interpreted the dreams which baffled them.
(16) For an immoral purpose, being inflamed by Joseph's beauty.
(17) The word Hebrew for ‘officer’ also means eunuch.
(18) . Cf. Gen. XLI, 45.
(19) Deut. III, 26.
(20) Num. XVI, 3.
(21) The meaning is that his leadership was coming to an end and Joshua was about to succeed him.
(22) Do not petition Me more, lest the people make reflections on My nature.
(23) God is stricter with the righteous because their faith will stand the test.
(24) Deut. XXXI, 2.
(25) It was his birthday.
(26) Ex. XXIII, 26.
(27) Deut. XXXIV, 7.
(28) Ibid. 1.
(29) Deut. XXXI, 14.
(30) Num. XXXII. 37f.
(31) Deut. XXXIII, 21. It continues, For there was the lawgiver's portion reserved.
(32) A mil equalled 2,000 cubits, or 3,000 feet.
(33) Ibid.
(34) Ps. XCIV, 16. I.e., now that Moses is dead.
(35) The Rabbi of that name.
(36) Eccl. VIII, 1.
(37) Job XXVIII, 12.
(38) Deut. XXXIV, 5.
(39) Rashi explains it as the name of a wise man. Others take it as the designation of an angel who made the proclamation, v. Aruch.
(40) [ספרא רבא . Lit., ‘the Great Scribe’. Moses is so designated because he wrote the Torah (Maharsha). Krauss, S., (Hagoren, VII, p. 32ff) attempts to connect this appellation with the mythological idea of a heavenly Scribe by the side of the Deity determining the fate of nations and individuals].
(41) Ex. XXXIV, 28. The word there is common to both verses.
(42) Deut. XXXIV, 6.

Talmud - Mas. Sotah 14a

the governor[1] of Beth-peor [the message], ‘Shew us where Moses is buried’. When they stood above, it appeared to them to be below; when they were below, it appeared to them to be above. They divided themselves into two parties; to them who were standing above it appeared below, and to those who were below it appeared above. This is in fulfilment of what is said: ‘No man knoweth of his sepulchre’. R. Hama son of R. Hanina said: Even Moses our teacher does not know where he is buried; it is written here, ‘No man knoweth of his sepulchre’, and it is written elsewhere, And this is the blessing wherewith Moses the man of God blessed.[2] R. Hama son of R. Hanina also said: Why was Moses buried near Beth-peor? To atone for the incident at Peor.[3]

R. Hama son of R. Hanina further said: What means the text: Ye shall walk after the Lord your God?[4] Is it, then, possible for a human being to walk after the Shechinah; for has it not been said: For the Lord thy God is a devouring fire?[5] But [the meaning is] to walk after the attributes of the Holy One, blessed be He. As He clothes the naked, for it is written: And the Lord God made for Adam and for his wife coats of skin, and clothed them,[6] so do thou also clothe the naked. The Holy One, blessed be He, visited the sick, for it is written: And the Lord appeared unto him by the oaks of Mamre,[7] so do thou also visit the sick. The Holy One, blessed be He, comforted mourners, for it is written: And it came to pass after the death of Abraham, that God blessed Isaac his son,[8] so do thou also comfort mourners. The Holy one, blessed be He, buried the dead, for it is written: And He buried him in the valley,[9] so do thou also bury the dead.

'Coats of skin' — Rab and Samuel [differ in their interpretation]; one said that it means a material that grows from the skin, and the other a material from which the [human] skin derives pleasure.[10]

R. Simlai expounded: Torah begins with an act of benevolence[11] and ends with an act of benevolence. It begins with an act of benevolence, for it is written: And the Lord God made for Adam and for his wife coats of skin, and clothed them;[12] and it ends with an act of benevolence, for it is written: 'And He buried him in the valley'.

R. Simlai expounded: Why did Moses our teacher yearn to enter the land of Israel? Did he want to eat of its fruits or satisfy himself from its bounty? But thus spake Moses, 'Many precepts were commanded to Israel which can only be fulfilled in the land of Israel. I wish to enter the land so that they may all be fulfilled by me'. The Holy One, blessed be He, said to him, 'Is it only to receive the reward [for obeying the commandments] that thou seekest? I ascribe it to thee as if thou didst perform them'; as it is said: Therefore will I divide him a portion with the great, and he shall divide the spoil with the strong; because he poured out his soul unto death, and was numbered with the transgressors; yet he bare the sins of many, and made intercession for the transgressors.[13] 'Therefore will I divide him a portion with the great' — it is possible [to think that his portion will be] with the [great of] later generations and not former generations; therefore there is a text to declare, 'And he shall divide with the strong', i.e., with Abraham, Isaac and Jacob who were strong in Torah and the commandments. 'Because he poured out his soul unto death' — because he surrendered himself to die, as it is said: And if not, blot me, I pray thee etc.[14] 'And was numbered with the transgressors' — because he was numbered with them who were condemned to die in the wilderness. 'Yet he bare the sins of many' — because he secured atonement for the making of the Golden Calf. 'And made intercession for the transgressors' — because he begged for mercy on behalf of the sinners in Israel that they should turn in penitence; and the word pegi'ah ['intercession'] means nothing else than prayer, as it is said: Therefore pray not thou for this people, neither lift up cry nor prayer for them, neither make intercession to Me.[15]

CHAPTER II

MISHNAH. [THE HUSBAND] BRINGS HER MEAL-OFFERING[16] IN A BASKET OF PALM-TWIGS AND PLACES IT UPON HER HANDS IN ORDER TO WEARY HER. WITH ALL OTHER MEAL-OFFERINGS, THE BEGINNING AND END OF THEIR [SACRIFICE] ARE IN MINISTERING VESSELS; BUT WITH THIS, ITS BEGINNING IS IN A BASKET OF PALM-TWIGS AND ITS END IN A MINISTERING VESSEL. ALL OTHER MEAL-OFFERINGS REQUIRE OIL AND FRANKINCENSE, BUT THIS REQUIRES NEITHER OIL NOR FRANKINCENSE. ALL OTHER MEAL-OFFERINGS CONSIST OF WHEAT, BUT THIS CONSISTS OF BARLEY. THE MEAL-OFFERING OF THE 'OMER,[17] ALTHOUGH

CONSISTING OF BARLEY, WAS IN THE FORM OF GROATS; BUT THIS WAS IN THE FORM OF COARSE FLOUR. RABBAN GAMALIEL SAYS: AS HER ACTIONS WERE THE ACTIONS OF AN ANIMAL, SO HER OFFERING [CONSISTED OF] ANIMAL'S FODDER.GEMARA. It has been taught: Abba Hanin says in the name of R. Eliezer: What is the purpose [of placing the basket upon her hands]? In order to weary her so that she may retract.[18] If the Torah has such consideration[19] for them who transgress His will, how much more so for them who perform His will. But whence is it [known that the object of this regulation is] to show consideration; perhaps it is to avoid [the Divine Name on] the scroll being obliterated? — He is of the opinion

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(1) This is Rashi's explanation of the word gastera. Goldschmidt, accepting it, identifies it with the latin quaestor; but Jastrow and Krauss render ‘camp’, connecting it with castra.

(2) Ibid. XXXIII, 1. The word ‘man’ is common to both passages.

(3) V. Num. XXV, 1 ff.

(4) Deut. XIII, 5.

(5) Ibid. IV, 24.

(6) Gen. III, 21.

(7) Ibid. XVIII, 1. Since the preceding verses deal with Abraham's circumcision, it is deduced that the occasion was when he was recovering.

(8) Gen. XXV, 11.

(9) Deut. XXXIV, 6.

(10) I.e., wool and linen respectively.

(11) [Gemiluth hasadim, lit., ‘doing deeds of loving kindness’. The inner meaning of the phrase is ‘making good’, ‘requiting’ — a making good to man for the goodness of God and it is connected with tenderness and mercy to all men and all classes. V. J. Pe'ah. IV.]

(12) Gen. III, 21.

(13) Isa. LIII, 12.

(14) Ex. XXXII, 32.

(15) Jer. VII, 16. [It is suggested that the application of these verses to Moses was a tacit parrying of the use made of that passage by Christian apologists. V. Moore, Judaism III, p. 166, n.254.]

(16) Num. V, 15.

(17) Lev. II, 14. The Talmud (Men. 68b) argues that it consisted of barley.

(18) And confess, if guilty.

(19) In its endeavour to make the woman avoid the serious consequences of drinking the water.

Talmud - Mas. Sotah 14b

that she is first given the water to drink and then the offering is sacrificed,[1] so that if it be [suggested that the reason is] because of the scroll, [the writing] has already been obliterated.

WITH ALL OTHER MEAL-OFFERINGS etc. The following is quoted in contradiction: How is the procedure of meal-offerings? A man brings a meal-offering from his house[2] in silver or golden baskets, places it in a ministering vessel, hallows it in a ministering vessel, adds to it its oil and frankincense, and carries it to a priest who carries it to the altar and brings it near unto the south-west corner opposite the point of the altar's horn, and that suffices. He then moves the frankincense to one side [of the vessel], takes a handful [of the flour] from a place where its oil is abundant, sets it in a ministering vessel, hallows it in a ministering vessel, gathers its frankincense and places it on the top thereof, and sets it upon the altar and fumigates it in a ministering vessel. He next salts [the handful of flour] and sets it upon the fire. When the handful has been offered, the remainder may be eaten, and the priests are allowed to mix it with wine, oil and honey, and are only forbidden to make it leaven.[3] Now here it is taught that [meal-offerings are brought only] in silver or golden baskets![4] — R. Papa said: The correct version [of the Mishnah] is: in vessels which are proper to be used as ministering vessels. It therefore follows that a basket of palm-twigs is not proper to be used as a vessel. This would not agree with the view of R. Jose son of R. Judah; for it has been taught: As regards a ministering vessel of wood, Rabbi disqualifies it but R. Jose son of R. Judah allows it! — If you wish you may say that it is in accord even with the view of R. Jose son of R. Judah, because he is referring to [wooden vessels which are] valuable, but does he say that with regard to [wooden vessels which are] inferior![5] Does R. Jose son of R. Judah not hold with the text: Present it now unto thy governor?[6]

'Places it in a ministering vessel and hallows it in a ministering vessel'. Is the conclusion to be drawn from this that the ministering vessels only hallow when such is the intention![7] — The correct version is: places it in a ministering vessel in order to hallow it in a ministering vessel. 'Adds to it its oil and frankincense'; as it is said: He shall pour oil upon it, and put frankincense thereon.[8] 'And carries it to a priest'; for it is written: And he shall bring it to Aaron's sons etc.[9] 'Who carries it to the altar'; for it is written: And he shall bring it unto the altar.[10] Brings it near unto the south-west corner opposite the point of the altar's horn, and that suffices'. Whence is this? — For it is written: And this is the law of the meal-offering: the sons of Aaron shall offer it before the Lord, before the altar;[11] and it has been taught: 'Before the Lord' — it is possible [to think that this means] on the west [side of the altar],[12] therefore the text declares, 'Before the altar'.[13] If [Scripture only had] 'before the altar', it is possible [to think that this means] on the south side, therefore the text declares, 'Before the Lord'. So what was the procedure? He sets it on the south-west corner opposite the point of the altar's horn, and that suffices. R. Eleazar says: It is possible [to think that the meaning is] he sets it on the west of the horn or the south of the horn; but you can answer: Wherever you find two texts, one self-confirmatory and confirming the words of the other, whereas the second is self-confirmatory but annuls the words of the other, we abandon the latter and accept the former. Thus when you emphasize 'before the Lord' on the west [side of the altar],[14] you annul 'before the altar' on the south side;[15] but when you emphasize 'before the altar' on the south side,[14] you confirm 'before the Lord' on the west side.[14] What, then, is the procedure? He brings it on the south of the horn. But how do you confirm it?[16] — R. Ashi said: This Tanna holds that the whole of the altar stood in the north.[17]

What means 'and that suffices'?[18] — R. Ashi said: It was necessary [to mention this], because otherwise it may have occurred to me to say that the bringing of the meal-offering itself [to the altar without the ministering vessel] is required. Consequently we are informed [that the contrary is the correct procedure]. But say that it is really so [and the ministering vessel is not necessary]! — The text states: And it shall be presented unto the priest, and he shall bring it unto the altar[19] — as the presentation to the priest is in a [ministering] vessel, so also the bringing to the altar must be in a [ministering] vessel.

'He then moves the frankincense to one side [of the vessel]', so that none of it may be included in the handful taken of the meal-offering; as we have learnt: If, when he took a handful, there came into his hand a pebble or particle of salt or grain of frankincense, it is disqualified.[20] 'Takes a handful [of flour] from a place where its oil is abundant' — whence is this? For it is written: Of the fine flour thereof and of the oil thereof;[21] of the bruised corn thereof and of the oil thereof.[22] 'Sets it in a ministering vessel and hallows it in a ministering vessel' — for what purpose, since he has already hallowed it once? — It is analogous to the case of blood: although the knife[23] hallows it in the animal's neck, [the priest] again hallows it in a ministering vessel;[24] so here, too, there is no difference. 'Gathers its frankincense and places it on the top thereof; for it is written: And all the frankincense which is upon the meal-offering.[25] 'And sets it upon the altar

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(1) This question is discussed infra 19a. The effects of the water take place only after the offering of the meal-offering.

(2) To the Temple-court.

(3) V. Tosefta Men. I, 16f. The whole passage is explained anon.

(4) And not in ministering vessels as taught in the Mishnah.

(5) E.g., of palm-twigs.

(6) Mal. I, 8. The context is a denunciation of offering inferior animals. The same rule applies to vessels used in the Temple.

(7) On this there is a difference of opinion, one being that the vessels automatically hallow their contents, v. Men. 7a.

(8) Lev. II, 1. This is done by the person who presents the offering.

(9) Ibid. 2.

(10) Ibid. 8.

(11) Ibid. VI, 7, E.V. 14.

(12) Since this side faced the Holy of Holies which was located in the west of the Temple-area.

(13) Lit., ‘before the face of the altar’. I.e., the face of the altar which was towards the south. [Since the north side of the altar was designated ‘the side’ ירך , i.e., the rear (v. Lev. I. 11) the face of the altar must denote the south side.]

(14) V. note 6.

(15) V. note 7.

(16) If the meal-offering is to be brought to the south side of the altar, it is not opposite the entrance of the Sanctuary, which is on the West.

(17) Of the Temple-area. So that the south of the altar faced the entrance of the Sanctuary and is thus described as ‘before the Lord’.

(18) What else could he think was necessary?

(19) Lev. II, 8.

(20) As not being a complete handful.

(21) Ibid. 2.

(22) Ibid. 16.

(23) Which is regarded as a utensil of the Sanctuary.

(24) I.e., the basin in which the blood is received.

(25) Lev. VI, 8, E.V. 15.

Talmud - Mas. Sotah 15a

and fumigates it in a ministering vessel’. He fumigates it in a ministering vessel’ [you say]![1] — The correct version is: and sets it upon the altar in a ministering vessel to fumigate it. He next salts [the handful of flour] and sets it upon the fire’; for it is written: And every oblation of thy meal-offering shalt thou season with salt.[2] ‘When the handful has been offered, the remainder may be eaten’. Whence is this? — For it is written: And the priest shall burn the memorial of it etc.,[3] and it is written: And that which is left of the meal-offering shall be Aaron's and his sons’.[4] ‘When the handful has been offered etc.’ — this[5] is differently explained by two teachers; for it has been reported: From what time does the taking of the ‘handful’ render the eating of the remainder permissible? R. Hanina says: When the fire takes hold of it; R. Johanan said: When the fire burns the greater part of it. ‘And the priests are allowed to mix it with wine, oil and honey’ — for what reason? The text states: By reason of the anointing,[6] i.e., as a mark of eminence, in the same manner as kings take their food. ‘And are only forbidden to make it leaven’; for it is written: It shall not be baked with leaven, their portion[7] — R. Simeon b. Lakish says: [It means] that even their portion must not be baked with leaven.

WITH ALL OTHER MEAL-OFFERINGS etc. But do all other meal-offerings[8] require oil and frankincense? Behold, there is the meal-offering of the sinner concerning which the All-Merciful said: He shall put no oil upon it, neither shall he put any frankincense thereon![9] — This is what he intends: All other meal-offerings require oil and frankincense, and consist of wheat in the form of fine flour; but the meal-offering of the sinner, although it does not require oil and frankincense, consists of wheat in the form of fine-flour; the meal-offering of the ‘omer, although it consists of barley, requires oil and frankincense and is in the form of groats; but this one [of the suspected woman] does not require oil and frankincense, and consists of barley in the form of coarse flour.

It has been taught: R. Simeon said: It is right that the meal-offering of a sinner should require oil and frankincense, so that a sinner should not gain;[10] why, then, are they not required? That his offering should not be luxurious. It is also right that an ordinary sin-offering[11] should require drink-offerings, so that a sinner should not gain; why, then, are they not required? That his offering should not be luxurious. The sin-offering of a leper, however, and his trespass-offering do require drink-offerings because they are not due to sin. But that is not so; for, behold R. Samuel b. Nahmani said in the name of R. Jonathan: On account of seven faults does the plague of leprosy occur etc.![12] — In this case he received atonement [of his sin] by the plague[13] he suffered; and when he brings an offering, it is only to allow him to participate in what is holy.[14] According to this conclusion, the sin-offering of a Nazirite should require drink-offerings, since it is not due to a sin! He holds with R. Eliezer ha-Kappar who said: A Nazirite is also a sinner.[15]

RABBAN GAMALIEL SAYS, AS etc. It has been taught: Rabban Gamaliel[16] said to the Sages: Learned men, permit me to explain this allegorically.[17]

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(1) [Surely the fumigation does not take place at this stage! Rashi deletes the words ‘in a ministering vessel’, as the question is concerned only with the act of fumigation].

(2) Lev. II, 13.

(3) Ibid. 16.

(4) Ibid. 10.

(5) The meaning of the term offered used in this connection.

(6) Num. XVIII, 8. Anointing occurred at the induction of a priest and a king.

(7) Lev. VI, 10.

(8) With the exception of that of the suspected woman.

(9) Ibid. V, 11.

(10) By being spared the cost of these ingredients.

(11) Lit., ‘sin-offering of (forbidden) fat’, because the words ye shall eat neither fat nor blood (Lev. III, 16) are followed by Chap. IV which deals with the sin-offering.

(12) Enumerated in ‘Ar. 16a, v. Shebu. 8a.

(13) Suffering, according to the Rabbis, is a means of atonement.

(14) The offerings were purificatory in their intention, and unlike an ordinary sin-offering, which is brought in expiation.

(15) Because he abstained from wine. V. Naz. 22a.

(16) [Apparently Gamaliel III, the son of R. Judah ha-Nasi, a contemporary of R. Meir; v. Chayes. Z.H., notes; and Lauterbach, JQR (N.S.), I, p. 514, where the whole passage is discussed. V. also Wahrmann, Untersuchungen, I, p. 26ff.]

(17) חמר For the term here used, v. Lauterbach op. cit. I 291ff,, 503ff, especially p. 509 and Kid. 22b.

Talmud - Mas. Sotah 15b

He had heard R. Meir say: She fed him with the dainties of the world; therefore her offering is animal's fodder.[1] Then said he to him, You may be right about a rich woman, but what of a poor woman! But [the reason is], As her actions were the action of an animal, so her offering [consisted of] animal's fodder.

MISHNAH. [THE PRIEST] TAKES AN EARTHENWARE BOWL AND POURS HALF A LOG OF WATER INTO IT FROM THE LAVER. R. JUDAH SAYS: A QUARTER [OF A LOG]. JUST AS [R. JUDAH] REDUCES THE AMOUNT OF WRITING,[2] SO HE REDUCES THE QUANTITY OF WATER. [THE PRIEST] ENTERS THE TEMPLE AND TURNS RIGHT. THERE WAS A PLACE THERE A CUBIT SQUARE IN EXTENT WITH A MARBLE TABLET, TO WHICH A RING WAS ATTACHED. HE LIFTS THIS OUT, TAKES SOME DUST FROM BENEATH IT WHICH HE PUTS [INTO THE BOWL] JUST SUFFICIENT TO BE VISIBLE ABOVE THE WATER; AS IT IS SAID, AND OF THE DUST THAT IS ON THE FLOOR OF THE TABERNACLE THE PRIEST SHALL TAKE, AND PUT IT INTO THE WATER.[3]

GEMARA. A Tanna taught: [The priest takes] a new earthenware bowl — such is the opinion of R. Ishmael. What is R. Ishmael's reason?[4] — He derives it from the common use of the word ‘vessel’ [here and in the law] of a leper. As with the latter new earthenware was required, so here likewise was new earthenware required. Whence is it that there [with a leper it must be new]? — For it is written: And the priest shall command to kill one of the birds in an earthen vessel over running water[5] — as it must be running water which has not been previously used, so also it must be a vessel which has not been previously used. According to this argument, as there [with a leper] it had to be running water, so also here [with a suspected woman] it had to be running water! — In the view of R. Ishmael that is indeed so; for R. Johanan said the water from the laver[6] was according to R. Ishmael spring-water, and the Sages declare that it can be ordinary water. It may, however, be objected [to this argument] that as with a leper it is necessary to have cedar wood, hyssop and scarlet,[7] [so are these required with the water of bitterness]![8] — Rabbah said: The text mentions in an earthen vessel,[9] i.e., a vessel to which I referred previously.[10] Raba said: [The Rabbis in our Mishnah] did not teach [that a used vessel may be employed] except when its exterior is not blackened [by smoke]; but if its exterior is blackened it is unfit for use. What is their reason? — It is analogous to the water: just as the water must not be changed in appearance,[11] so also the vessel must not be changed in appearance. Raba asked: How is it if the earthenware had been blackened and re-whitened by being passed through the furnace again? Do we say that since it has once been rejected, it remains rejected; or perhaps, since it has been restored, it is suitable? — Come and hear: ‘R. Eleazar says: If a man twisted cedar wood, scarlet and hyssop into a cord for the purpose of carrying his bundle on his back, they are unfit [to be used in the ceremony of purification];’ and yet they are here again smoothed out![12] But in that case we suppose that [some of the material] has been peeled off.[13]

[THE PRIEST] ENTERS THE TEMPLE AND TURNS RIGHT etc. For what reason? Because a Master has declared: All the turns which thou dost make must only be to the right.

THERE WAS A PLACE THERE A CUBIT etc. Our Rabbis have taught: ‘And of the dust that is etc.’ — it is possible to think that [the priest] may prepare [dust] from outside and bring it in; therefore there is a text to state, ‘On the floor of the tabernacle’. If ‘on the floor of the tabernacle’, it is possible to think that he may dig for it with an axe; therefore there is a text to state ‘that is’. How was it done? If [dust] is there, take of it; if none is there, put some there [and take of it]. Another [Baraitha] taught: ‘And of the dust that is’ — this teaches that he prepares some from outside and brings it in. ‘On the floor of the tabernacle’ — Issi b. Judah says: It includes the floor

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(1) V. supra p. 75.

(2) V. next Mishnah, p. 87.

(3) Num. V, 17.

(4) For requiring a new bowl.

(5) Lev. XIV, 5.

(6) [Which water was used for the water of bitterness.]

(7) V. ibid. 4.

(8) The Torah does not require these things, and so the analogy is false.

(9) [And not ‘he shall take a vessel and put in it etc.’]

(10) Viz., in the law of the leper. Hence it is established that a new vessel is also necessary in the ceremony of the water of bitterness.

(11) Although they do not insist on running water, it must not be discoloured by dirt.

(12) When they are disconnected. So by analogy the earthenware cannot be made fit for use by re-whitening.

(13) While it was used as a cord; therefore the restoration is not complete. But in the case of the vessel there is complete restoration and so it is allowed.

[of the Tabernacle] in Shiloh, Nob, Gideon and the permanent Temple; Issi b. Menahem says: It is unnecessary [to include the permanent Temple];[1] if in the case of a minor defile ment[2] Scripture does not differentiate [between the temporary Tabernacle and the permanent Temple], in the case of the defilement of a married woman[3] how much more so [is it unnecessary to differentiate]. Why, then, does the text state 'on the floor of the tabernacle'? He may not take it from the midst of a heap.[4]

The following question was asked: If there is no dust, how is it about putting ashes there? According to the view of Beth Shammai, the question does not arise because they said that we never find ashes called dust; but the question does arise according to the view of Beth Hillel because they said that we do find ashes called dust.[5] How is it then? Although the word 'dust' is used, it is here written 'on the floor of the tabernacle';[6] perhaps, however, the phrase 'on the floor of the tabernacle' is intended to be understood according to the interpretation of Issi b. Judah and Issi b. Menahem?[7] — Come and hear: for R. Johanan said in the name of R. Ishmael: In three places the halachah crushes the Scriptural text under heel:[8] the Torah states with dust,[9] whereas the halachah allows [the blood to be covered] with anything; the Torah states no razor,[10] whereas the legal decision is [that a Nazirite may not shave] with anything; the Torah states a book,[11] whereas the legal decision [allows] any [form of document]. Now if this[12] is so, it should also have been enumerated! — He taught [some instances] and omitted others. What else, then, did he omit?[13] — He omitted [the shaving] of a leper;[14] for it has been taught: And it shall be on the seventh day that he shall shave all his hair — that is a generalization; off his head and his beard and his eyebrows — that is a particularization; even all his hair he shall shave off[15] — that is again a generalization. Now [the rule of exegesis is]: when there is a general proposition, followed by the enumeration of particulars, and this is followed by a general proposition, include only that which resembles the particulars.[16] As the particulars refer to a part [of the body] where the hair grows and is visible, so every place where the hair grows and is visible [comes within the scope of the law]. What does it include? It includes the hair on the private part. What does it exclude? It excludes that of the arm-pit and the whole body [which is normally covered]. The halachah, however, is: he shaves himself as smooth as a gourd.[17] For we have learnt: When [the priest] comes to shave the leper, he passes a razor over all his flesh;[18] and it continues,[19] On the seventh day he shaves[20] the second shaving after the manner of the first.[21] R. Nahman b. Isaac said: [R. Johanan] enumerated instances where the halachah crushes the Scriptural text under heel; but here it crushes a Rabbinical teaching[22] under heel.[23] R. Papa said: [R. Johanan] enumerated instances where the halachah crushes the Scriptural text under heel and overthrows it; but here it crushes the text under heel and extends it.[24] R. Ashi said: According to whom is this teaching [that only the visible parts of the body are to be shaved]? It is R. Ishmael who expounds [the Torah] by the rule of generalization and particularization.[25]

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(1) In Jerusalem.

(2) I.e., entrance into the Temple-precincts while ritually unclean. This is not an offence punished by a Court with death.

(3) Which is a capital crime.

(4) It must first be scattered on the floor. [In contradiction to the second Baraitha cited which permits the bringing in dust from elsewhere and putting it forthwith into the water].

(5) This matter, with reference to covering the blood after slaughter of an animal, is discussed in Hul. 88b.

(6) So it is impossible to think that ashes could be meant.

(7) If these words intend the inclusion of temporary Sanctuaries and the Temple, then 'dust' could here signify ashes.

(8) I.e., practice goes beyond the letter of the Torah.

(9) Lev. XVII, 13.

(10) Num. VI, 5.

(11) So literally, of a letter of divorcement (Deut. XXIV, I).

(12) The use of ashes instead of dust.

(13) [He would not in enumeration just stop short at one point.]

(14) This refers to the second act of shaving. The leper was shaved twice; see Lev. XIV, 8 and 9.
(15) Lev. XIV, 9.
(16) V. Shebu (Sonc. ed.) p. 13, n. 3.
(17) I.e., all over his body.
(18) Neg. XIV. 2.
(19) Ibid 3.
(20) [This is a reading of Rashi which is preferable to that of the cur. edd: 'on the seventh day he shall shave', as this is a quotation of Neg. XIV. 3.]
(21) Over all the body.
(22) [A teaching derived from Rabbinic exegesis. MS.M. reads 'Midrash'; v. Chajes, Z.H. ntes.]
(23) And therefore R. Johanan's list of three cases is complete.
(24) [By shaving the whole body the demands of the text are not set aside but extended.]
(25) He elaborated thirteen rules of interpretation, and that quoted above is one of them. [And so according to R. Ishmael in whose name the above enumeration was reported by R. Johanan the list is complete].

Talmud - Mas. Sotah 16b

According to whom [is the teaching that he must be shaved the second time] as smooth as a gourd? It is R. Akiba who expounds [the Torah] by the rule of amplification and limitation; for it has been taught: 'And it shall be on the seventh day that he shall shave all his hair' — that is an amplification; 'off his head and his beard and his eyebrows' — that is a limitation; 'even all his hair he shall shave off — that is again an amplification. Now [the rule of exegesis is]: Where there is an amplification, followed by a limitation, and this is followed by an amplification, the amplification applies to the whole. In which respect is there an amplification? It includes all the body [to be shaved]. In which respect is there a limitation? It excludes the hair which grows inside the nostril. How is it, then, with our original question [whether ashes may be used when there is no dust]? — Come and hear: For R. Huna b. Ashi said in the name of Rab: If there is no dust there, he brings decayed herbage and hallows it! — But this is no proof. Decayed herbage may indeed be [called] dust but not ashes.

JUST SUFFICIENT TO BE VISIBLE ABOVE THE WATER. Our Rabbis have taught: Three things must be visible, viz., the dust in the ceremony of the suspected woman, the ashes in the ceremony of the red heifer[1] and the spittle in the ceremony of Halizah.[2] They said in the name of R. Ishmael, Also the blood of the bird.[3] What is R. Ishmael's reason? — Because it is written: And shall dip them in the blood of the bird etc.;[4] and it has been taught: 'in the blood' — it is possible [to think that they must be dipped] in blood and not in water; therefore the text declares '[over the running] water'. If Scripture [had only mentioned] 'water', it would be possible [to think that they must be dipped] in water and not in blood; therefore the text declares 'in the blood'. What, then, was the procedure? He brings water in which the blood of the bird is recognisable. What is the quantity? A quarter [of a log]. And [why is this instance not included in their enumeration by] the Rabbis? — That is part of the subject-matter; for thus said the All-Merciful, Dip in blood and water.[5] [How is this argument met by] R. Ishmael? — In that case, the All-Merciful should have written: 'And he shall dip in them'; so why [is it stated] in blood and in water? That [the blood] must be recognisable. And [how is this argument met by] the Rabbis? — If the All-Merciful had written: 'And he shall dip in them', I might have imagined [that he was to dip] in each separately; therefore He wrote 'in blood and in water' to indicate that they must be mixed. [How does] R. Ishmael [answer this point]? That they are to be mixed [is learnt from] another verse; it is written: And kill one of the birds in an earthen vessel over running water.[6] [How do] the Rabbis [answer this point]? — If [we had to learn it] from that passage, we might have thought that he is to kill it near a vessel, press the jugular veins,[7] and receive the blood in another vessel. Hence we are informed [by this verse that the killing must be done over the vessel containing the water].

R. Jeremiah asked R. Zera, How is it if [the bird] was so big that [its blood] effaced [all trace of] the water, or if it was so small that [all trace of its blood] was effaced by the water? He answered: Have I not told thee not to take thyself beyond the legal decision?[8] The Rabbis estimated [the quantity of a quarter of a log] by a free bird;[9] and this is never so big that [its blood] should efface [all trace of] the water, nor so small that [all trace of its blood] should be effaced by the water.

Our Rabbis have taught: If he put the dust [in the bowl] before the water, it is invalid; but R. Simeon allows it. What is the reason of R. Simeon? — Because it is written: And for the unclean they shall take of the dust of the burning of the sin-offering;[10] and it has been taught: R. Simeon said: Was it dust and not ashes? The text changes the expression to indicate that a conclusion was to be drawn from it by the rule of analogy: it is mentioned here 'dust', and there [in the ceremony of the suspected woman] it is also mentioned 'dust'; as in the second instance the dust had to be placed over the water,[11] so also here the dust had to be placed over the water; and further, as it is valid here if he put the dust on before the water, so also there [in the ceremony of the suspected woman] it is valid if he put the dust on before the water.[12] Whence is this derived there [in the rite of the red heifer]? — There are two texts: It is written thereto,[13] consequently the ashes are first; and it is written running water in a vessel, consequently the water is first. So what was the procedure? He can put either in first. [How is this interpretation answered by] the Rabbis?[14] — 'In a vessel' — precisely so;[15] 'thereto'- that they are to be mixed. But say rather that 'thereto' means precisely so;[16] and 'in a vessel' means that the water must be poured directly into the vessel from the spring![17] — As we find that everywhere it is the qualifying element which is on top,[18] so also here[19] the qualifying element must be on top.

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(1) Num. XIX.

(2) V. Glos.

(3) Used in the purificatory rites of a leper.

(4) Lev. XIV, 6.

(5) So long as there is some blood in the water, even if it cannot be distinguished.

(6) Lev. XIV, 5.

(7) So that no blood escapes while carrying it to the other vessel.

(8) Not to raise questions about exaggerated points in connection with the decisions.

(9) Such as flies in and out of a house. [A swallow; v. Lewysohn Zoologic, p. 206ff].

(10) Num. XIX, 17. The text has the word for dust, not 'ashes'.

(11) As stated in Num. V, 17.

(12) As explained anon.

(13) Ibid., running water shall be put thereto.

(14) Who declare that the rite is invalid if the dust is placed in the bowl before the water.

(15) I.e., the water must be poured in first.

(16) The water to be poured on the ashes.

(17) It must be running water, and not poured from another vessel.

(18) [In the case of a suspected woman, and of a leper, the qualifying elements — i.e., the dust which gives the water of bitterness its efficacy and the blood of the bird — must be placed on top as indicated by the plain meaning of the Scriptural texts: Num. V, 17, and Lev. XIV, 6.]

(19) With the ashes of the red heifer.

MISHNAH. WHEN HE COMES TO WRITE THE SCROLL, FROM WHAT PLACE DOES HE WRITE? FROM IF NO MAN HAVE LAIN WITH THEE[1] . . . BUT IF THOU HAST GONE ASIDE, BEING UNDER THY HUSBAND ETC.[2] HE DOES NOT, HOWEVER, INCLUDE, THEN THE PRIEST SHALL CAUSE THE WOMAN TO SWEAR,[3] BUT CONTINUES WITH, THE LORD MAKE THEE A CURSE AND AN OATH . . . AND THIS WATER THAT CAUSETH THE CURSE SHALL GO INTO THY BOWELS AND MAKE THY BELLY TO SWELL, AND THY THIGH TO FALL AWAY.[4] HE DOES NOT, HOWEVER, INCLUDE, AND THE WOMAN SHALL SAY, AMEN, AMEN. R. JOSE SAYS, HE MAKES NO OMISSIONS.[5] R. JUDAH SAYS, HE WRITES NONE OF ALL THIS EXCEPT, THE LORD MAKE THEE A CURSE AND AN OATH ETC. AND THIS WATER THAT CAUSETH THE CURSE SHALL GO INTO THY BOWELS ETC. AND DOES NOT INCLUDE, AND THE WOMAN SHALL SAY, AMEN, AMEN.

GEMARA. On what point do they differ? — They differ in [the interpretation of] the following verse: And the priest shall write these curses in a book.[6] R. Meir[7] is of the opinion that curses denotes [the passages which are] actually curses;[8] the curses[9] is to include the curses which result from the benedictions;[10] ‘these’ is to exclude the curses in Deuteronomy;[11] ‘the these’ is to exclude instructions [given to the officiating priest] and the responses of Amen [made by the woman]. R. Jose agrees with all that has been stated, except that he interprets the particle ‘eth[12] as indicating the inclusion of instructions and responses, whereas R. Meir draws no deductions from the occurrences of the particle ‘eth. R. Judah, on the other hand, expounds all the above points as implying limitation; ‘curses’ denotes [the passages which are] actually curses; ‘the curses’ is to exclude the imprecations which result from the benedictions; ‘these’ is to exclude the imprecations in Deuteronomy; ‘the these’ is to exclude instructions and responses. What is the difference that R. Meir interprets the definite article [in the curses] as implying amplification and the definite article [in the these] as implying limitation? — When the definite article occurs in connection with amplification[13] it also denotes amplification, and when it occurs in connection with limitation[14] it also denotes limitation. But R. Meir does not accept the rule that an affirmative is to be deduced as the corollary of a negative![15] — R. Tanhum said: It is written hinnaki.[16]

R. Akiba expounded: When husband and wife are worthy, the Shechinah abides with them; when they are not worthy fire consumes them.[17] Raba said: [The fire which results] from the woman is severer than that from the man.[18] What is the reason? In the case of the former [the letters aleph and shin] are consecutive, but not in the case of a man.[19]

Raba said: Why does the Torah command that dust should be provided for [the ceremony of] a suspected woman? If she be innocent, there will issue from her a son like our father Abraham, of whom it is written: Dust and ashes;[20] and if she be not innocent, she reverts to dust.[21]

Raba expounded: As a reward for our father Abraham having said: ‘I am but dust and ashes’, his descendants were worthy to receive two commandments, viz., the ashes of the red heifer and the dust [of the ceremony] of a suspected woman. But there is likewise dust for the covering of the blood![22] — In this case [the use of dust is merely] the completion of the commandment without any advantage [to the performer].[23]

Raba expounded: As a reward for our father Abraham having said: I will not take a thread nor a shoelatchet,[24] his descendants were worthy to receive two commandments, viz.,the thread of blue[25] and the thong of the phylacteries. It is right in the case of the thong of the phylacteries, for it is written: And all the peoples of the earth shall see that thou art called by the name of the Lord,[26] and it has been taught: R. Eliezer the Elder says: This refers to the phylactery worn upon the head;[27] but what is [the advantage to him who performs the law] of the thread of blue? — It has been taught: R. Meir used to say: Why is blue specified from all the varieties of colours? Because blue resembles [the colour of] the sea, and the sea resembles [the colour of] heaven, and heaven resembles [the colour of] the Throne of Glory, as it is said: And they saw the God of Israel and there was under His feet as it were a paved work of sapphire stone, and as it were the very heaven for clearness,[28] and it is written: The likeness of a throne as the appearance of a sapphire stone.[29]

MISHNAH. HE WRITES NEITHER ON A [WOODEN] TABLET NOR ON PAPYRUS NOR ON

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(1) Num. V, 19, — ‘be thou free from this water of bitterness’.

(2) Ibid. 20, — [This is taken to imply a curse; v. infra].

(3) Ibid. 21.

(4) Ibid. 22.

(5) And the whole Scriptural passage is included.

(6) Num. V, 23.

(7) Who is the author of the anonymous statement in the Mishnah, v. Sanh. 86a.

(8) ‘The Lord make thee etc.’, verse 20.

(9) According to Hebrew idiom, ‘these curses’ is literally ‘the curses the these’.

(10) [I.e., ‘if no man have lain with thee . . . be thou free’ implies that ‘if thou hast gone aside . . . be thou not free’].

(11) If the text of Num. V, 23 had read ‘and the priest will write the curses in a book’ it might have been understood as referring to the curses in Deut. XXVIII, 16ff.

(12) The sign of the accusative before ‘these curses’.

(13) The phrase ‘and the priest will write’ is a general statement — an amplification.

(14) ‘These’ is a limited term.

(15) How then does he consider verse 20 to imply a curse, v. Kid. 61a-62a and Shebu. 36a.

(16) ‘Be free’ in Num. V, 19. Since the word is defectively spelt without the mater lectionis, and the Hebrew letter he closely resembles the letter heth, it might be taken to mean ‘be strangled’; and so an imprecation is mentioned and it has not to be deduced as a corollary, v. Shebu (Sonc. ed.) p. 213, n. 6.

(17) The letters of the word for ‘husband’ are aleph, yod and shin, and for ‘wife’ aleph, shin and he. The yod and he form the Divine Name; but if omitted, only aleph and shin are left which form the word esh ‘fire’.

(18) I.e., a bad wife is more destructive of domestic happiness than a bad husband.

(19) The first and second letters of the word for ‘woman’ or ‘wife’ form esh; but in the word for ‘husband’ or ‘man’ they are the first and third letters.

(20) Gen XVIII, 27.

(21) Dies from the effect of the water.

(22) Of a slaughtered animal (Lev. XVII, 13).

(23) Whereas the dust in the ceremony of the ordeal helps to restore the confidence of a husband in his wife or punishes immorality and the ashes of the red heifer serve to cleanse the unclean.

(24) Gen. XIV, 23.

(25) On the fringes of the garment (Num. XV, 38).

(26) Deut. XXVIII, 10.

(27) Hence its advantage to him who performs the precept.

(28) Ex. XXIV, 10.

(29) Ezek. I, 26. [And he who fulfils the precept is blessed, as it were, with the Divine Presence (Rashi).]

Talmud - Mas. Sotah 17b

DIFTERA[1] BUT ON A [PARCHMENT] SCROLL, AS IT IS SAID, IN A BOOK.[2] NOR DOES HE WRITE WITH A [PREPARATION OF] GUM OR VITRIOL[3] OR WITH ANYTHING WHICH INDENTS [THE PARCHMENT] BUT WITH INK,[4] AS IT IS SAID, AND BLOT OUT[5] — WRITING WHICH IS CAPABLE OF BEING BLOTTED OUT.

GEMARA. Raba said: A scroll for a suspected woman which one wrote at night is invalid. What is the reason? An analogy is drawn between two passages where the word ‘law’ occurs: here it is written: And the priest shall execute upon her all this law,[6] and elsewhere it is written: According to the tenor of the law which they shall teach thee, and according to the judgment.[7] As judgment [could only be delivered] in the daytime,[8] so a scroll for a suspected woman [could only be written] in the daytime. If he wrote the text not in its proper order,[9] it is invalid; for it is written: And he shall write these curses[10] — just as they are written [in the Scriptural text]. If he wrote it before she took the oath upon herself, it is invalid; as it is said: He shall cause her to swear and after that, He shall write.[11] If he wrote it in the form of a letter,[12] it is invalid — ‘in a book’ said the All-merciful.

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(1) Animal's hide prepared with salt and flour but not with gallnut. It was consequently more absorptive than fully prepared parchment. V. Krauss, T A. II, 262, v. Git. (Sonc. ed.) p. 87, n. 2.

(2) Num. V, 23. The book was then in the form of a scroll.

(3) [Kankantun, v. Git. (Sonc. ed.) p. 10, n. 8.]

(4) It was really black paint, consisting of lampblack mixed with oil. V. Krauss, op. cit., III, 148ff., v. Git. (Sonc. ed.) p. 70, n. 9.

(5) Num. V, 23.

(6) Num. V, 30.

(7) Deut. XVII, II.

(8) This was the rule of judicial procedure; v. Sanh. 32a.

(9) [Lit., ‘backward’; probably as an incantation, v. Blau, Das altjudische Zauberwesen, pp. 146ff.]

(10) Num. V, 23.

(11) Ibid. 19 and 23.

(12) I.e., without first tracing lines to secure evenness of script, as is required with a scroll of the Law, v. Git. (Sonc. ed.) p. 20, n. 3.

Talmud - Mas. Sotah 18a

If he wrote it on two folios it is invalid; the All-merciful spoke of one ‘book’ and not of two or three books. If he wrote one letter and blotted it out [with the water of bitterness] and then wrote another letter and blotted it out[1] it is invalid; for it is written: And the priest shall execute upon her all this law.

Raba asked: How is it if he wrote two scrolls for two suspects and blotted them in one vessel of water? Do we only require that the writing should be expressly for each case? That we have here; or perhaps it is also necessary to have obliteration expressly for each case! If, furthermore, you conclude that we also require obliteration expressly for each case, how is it if he obliterated them in two vessels and then mixed them? Do we only require that the obliteration should be expressly for each case? That we have here; or perhaps each of the women does not drink the water prepared for her! If, furthermore, you conclude that [this renders the rite invalid because] each of the women does not drink the water prepared for her, how is it if he again divided the water into two parts [after having mixed it]? Is there or is there not a retrospective differentiation?[2] — The questions remain unanswered. Raba asked: How is it if he made her drink through a straw or tube? Is that to be regarded as a mode of drinking or not? — The question remains unanswered. R. Ashi asked: How is it if some of the water was spilt or remained over? The question remains unanswered.

R. Zera said in the name of Rab: Why are two oaths mentioned in connection with a suspected woman?[3] One [was imposed] before [the writing on] the scroll was blotted out and the other after it was blotted out. Raba demurred: They are both written [in the Scriptural text] before [the inscription on] the scroll was obliterated! But, said Raba, with one oath a curse was connected[4] and not with the other. What was the formula of the oath with which a curse was connected? — R. Amram said in the name of Rab: ‘I make thee swear that thou hast not misconducted thyself, for if thou hast, may [the curses] befall thee.’ Raba asked: [In this wording] the curse and the oath are distinct![5] But, said Raba, [the formula is], ‘I make thee swear that if thou hast misconducted thyself, may [the curses] befall thee’.[6] R. Ashi asked: [In this wording] there is a curse but no oath! But, said R. Ashi, [The formula is], ‘I make thee swear that thou hast not misconducted thyself; and that if thou hast, may [the curses] befall thee’.

MISHNAH. TO WHAT DOES SHE RESPOND ‘AMEN, AMEN’? AN ‘AMEN’ OVER THE CURSE AND AN ‘AMEN’ OVER THE OATH; AN ‘AMEN’ WITH RESPECT TO THIS MAN[7] AND AN ‘AMEN’ WITH RESPECT TO ANY OTHER MAN;[8] AN ‘AMEN’ THAT I DID NOT GO ASTRAY AS A BETROTHED MAIDEN OR MARRIED WOMAN

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(1) He did not write out the text in full before obliterating it.

(2) Bererah v. Glos. Do we regard the water now divided as being differentiated and identical with the original quantities of water?

(3) V. Num. V, 19, 21.

(4) Verse 21 where the phrase oath of cursing occurs.

(5) [The oath here is not connected with the curse, but relates to the wife's fidelity.]

(6) [The oath relates only to the wife's conduct and is not connected with the curse.]

(7) Who is the cause of the ordeal.

(8) With whom she may have associated without her husband's knowledge.

Talmud - Mas. Sotah 18b

OR [A CHILDLESS WIDOW] WAITING FOR MY BROTHER-IN-LAW'S [DECISION WHETHER HE WOULD MARRY ME] OR TAKEN TO HIS HOUSE,[1] AND AN ‘AMEN’ THAT I HAVE NOT MISCONDUCTED MYSELF AND IF I HAVE MAY [THE CURSES] BEFALL ME. R. MEIR SAYS: ONE ‘AMEN’ IS THAT I HAVE NOT MISCONDUCTED MYSELF AND THE OTHER ‘AMEN’ THAT I WILL NOT MISCONDUCT MYSELF.

ALL AGREE THAT A MAN CANNOT MAKE A STIPULATION WITH HER IN RESPECT OF THE TIME BEFORE SHE WAS BETROTHED[2] OR AFTER SHE IS DIVORCED. IF SHE SECLUDES HERSELF WITH ANOTHER MAN[3] AND MISCONDUCTS HERSELF AND SUBSEQUENTLY [HER HUSBAND] TAKES HER BACK, HE CANNOT MAKE A STIPULATION WITH HER [IN RESPECT OF THIS].[4] THIS IS THE GENERAL RULE: HE CANNOT MAKE A STIPULATION WITH HER IN RESPECT OF ANY ACT OF COHABITATION WHICH DOES NOT RENDER HER PROHIBITED TO HIM.

GEMARA. R. Hamnuna said: [A childless widow] waiting for her brother-in-law's [decision whether he would marry her] who acted immorally is forbidden to her levir.[5] Whence is this? Since the Mishnah teaches: [A CHILDLESS WIDOW] WAITING FOR MY BROTHER-IN-LAW'S [DECISION WHETHER HE WOULD MARRY ME] OR TAKEN TO HIS HOUSE. This is quite right if you say that she is prohibited [to her brother-in-law] then he can make a stipulation with her;[6] but if you say that she is not prohibited to him,[7] how can he make a stipulation with her; for we have learnt: THIS IS THE GENERAL RULE: HE CANNOT MAKE A STIPULATION WITH HER IN RESPECT OF ANY ACT OF COHABITATION WHICH DOES NOT RENDER HER PROHIBITED TO HIM! In the West,[8] however, they said: The legal decision is not in agreement with R. Hamnuna. But whose [then] is the teaching concerning [A CHILDLESS WIDOW] WAITING FOR HER BROTHER-IN-LAW OR TAKEN TO HIS HOUSE? — It is R. Akiba's; for he said: No betrothal can take effect in cases which are subject to a mere negative prohibition,[9] and he regards her[10] act as equal to an incestuous union.[11]

R. Jeremiah asked: Can he make a stipulation in connection with a first marriage[12] or her marriage with his brother?[13] — Come and hear: THIS IS THE GENERAL RULE: HE CANNOT MAKE A STIPULATION WITH HER IN RESPECT OF ANY ACT OF COHABITATION WHICH DOES NOT RENDER HER PROHIBITED TO HIM. Consequently when it would render her prohibited to him he can make a stipulation with her. Draw that conclusion.[14]

R. MEIR SAYS: ONE ‘AMEN’ IS THAT I HAVE NOT MISCONDUCTED MYSELF etc. It has been taught: When R. Meir declares, AND THE OTHER ‘AMEN’ THAT I WILL NOT MISCONDUCT MYSELF, it does not imply that if she in the future misconducts herself, the water affects her now; but should she later misconduct herself, the water will bestir and affect her.

R. Ashi asked: Can a man make a stipulation with regard to remarriage?[15] [Do we argue] that for the present she is not prohibited to him [and therefore he cannot make a stipulation with her], or that it may happen that he will divorce and remarry her [and therefore can make a stipulation]? — Come and hear: ALL AGREE THAT A MAN CANNOT MAKE A STIPULATION WITH HER IN RESPECT OF THE TIME BEFORE SHE WAS BETROTHED OR AFTER SHE IS DIVORCED. IF SHE SECLUDES HERSELF WITH ANOTHER MAN AND MISCONDUCTS HERSELF AND SUBSEQUENTLY [HER HUSBAND] TOOK HER BACK, HE CANNOT MAKE A STIPULATION WITH HER [IN RESPECT OF THIS]. Hence if he takes her back and she then misconducts herself, he can make a stipulation [in respect of this]. Draw that conclusion.[16]

Our Rabbis have taught: This is the law of jealousy[17] — it teaches that a woman may drink [the water of bitterness] and do so again.[18] R. Judah says: ‘This’[19] indicates that a woman does not drink and do so again. R. Judah said: It happened that Nehonia the welldigger[20] testified before us that a woman had drunk [the water of bitterness] and had done so a second time. We accepted his testimony as relating to two husbands but not one husband. The Sages, however, declared that a woman does not drink and do so again, whether it be in respect of one husband or two husbands. But for the first Tanna [cited above] it is likewise written ‘This’![21] And for the latter Rabbis [cited above] it is likewise written ‘the law of![22] — Raba said: In the case of the same husband and the same paramour none differ that a woman does not drink and do so again,

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(1) For the purpose of marriage, but before its consummation.

(2) That she had never acted immorally.

(3) After being divorced, and the divorce was not on account of misconduct because in that event there could be no re-marriage.

(4) In respect of what she may have done after the divorce.

(5) Because she is regarded as a wife who was unfaithful to her husband.

(6) In respect of her conduct before he married her; and if she was immoral, he may not marry her.

(7) For immorality before marriage.

(8) The Palestinian Schools.

(9) Without carrying with them the death penalty or of kareth. There is such a prohibition in connection with a childless widow's marriage (v. Deut. XXV, 5) v. Yeb. 10b.

(10) The childless widow who acted immorally.

(11) [And therefore forbidden to her brother-in-law just as a wife who misconducted herself is forbidden to her husband.]

(12) When he had remarried her after divorcing her can he make her swear that she had been faithful to him during their first marriage?

(13) After he had gone through the levirate-marriage with her, can he make her swear that she had not misconducted herself whilst living with his brother?

(14) In both of the contingencies mentioned immorality would render her prohibited; so he can make the stipulation.

(15) Since R. Meir interprets ‘Amen’ as referring to what may occur in the future, suppose a husband makes a condition that his wife shall not misconduct herself if he divorces her and remarries her, and after remarriage she is unfaithful?

(16) That such a stipulation is permissible.

(17) Num. V, 29. The text is literally ‘law of jealousies’, which is taken to mean: the law is to be applied in every instance of suspicion.

(18) If suspected a second time.

(19) The word has an exclusive meaning, and equals this is the only time the woman undergoes the ordeal.

(20) [V. B.K. (Sonc. ed.) p. 287. He however could not have testified before R. Judah who lived about 200 years later. The text must accordingly be connected with the parallel passage in J. Sotah II, where the reading is Nehemia of Shihin testified in the name of R. Akiba v. Hyman, A Toledoth, p. 924.]

(21) He permits a woman to drink a second time; why does he not interpret ‘This’ is an exclusive sense?

(22) Why do they not understand this as not permitting the second ordeal?

Talmud - Mas. Sotah 19a

for it is written ‘This’. In the case of two husbands and two paramours none differ that a woman drinks and does so again, for it is written ‘the law of. Where they differ is in the case of the same husband and two paramours, or two husbands and the same paramour. The first Tanna holds that ‘the law of indicates the inclusion of them all, and ‘This’ indicates the exclusion of the case of the same husband and the same paramour. The Rabbis hold that ‘This’ indicates the exclusion of them all, and ‘the law of indicates the inclusion of the case of two husbands and two paramours. R. Judah holds that ‘This’ is to exclude two cases and ‘the law of is to include two cases. ‘This’ is to exclude two cases, viz., the same husband and the same paramour, and the same husband and two paramours; ‘the law of is to include two cases, viz., two husbands and the same paramour, and two husbands and two paramours.

CHAPTER III

MISHNAH. HE[1] TAKES HER MEAL-OFFERING OUT OF THE BASKET OF PALM-TWIGS AND PLACES IT IN A MINISTERING VESSEL AND SETS IT UPON HER HAND; AND THE PRIEST PLACES HIS HAND UNDER HERS AND WAVES IT.[2]

HAVING WAVED IT, HE BROUGHT A HANDFUL [TO THE ALTAR], FUMIGATED IT, AND THE REMAINDER WAS EATEN BY THE PRIESTS. HE [FIRST] GIVES [HER THE WATER OF BITTERNESS] TO DRINK, AND THEN SACRIFICES HER MEAL-OFFERING. R. SIMEON SAYS: HE SACRIFICES HER MEAL-OFFERING AND THEN GIVES HER TO DRINK, AS IT IS SAID, AND AFTERWARD SHALL MAKE THE WOMAN DRINK THE WATER;[3] BUT IF HE GAVE HER TO DRINK AND THEN SACRIFICED HER MEAL-OFFERING IT IS VALID.

GEMARA. R. Eleazar said to R. Joshiah his contemporary:[4] You shall not sit down[5] until you have explained the following: Whence is it that the meal-offering of a suspected woman requires to be waved? ‘Whence have we it? It is written In connection therewith, And shall wave[6] — But [my question is], whence [is it that it has to be done] with [the co-operation of] the owner?’[7] — It is derived from the analogous use of the word ‘hand’ in connection with the peace-offering. Here it is written: ‘The priest shall take out of the woman's hand’, and there it is written: His own hands shall bring.[8] As in this present case it refers to the priest [who waves the offering of the suspected woman], so there it refers to the priest;[9] and as there [in the waving of the peace-offering] the owner [holds it during the rite] so here the owner [holds it]. What, then, was the procedure? — [The priest] places his hand under the hands of the owner and waves.

HAVING WAVED IT, HE BROUGHT A HANDFUL... HE [FIRST] GIVES [HER THE WATER OF BITTERNESS] TO DRINK, AND THEN SACRIFICES HER MEAL-OFFERING. But he has already offered it![10] — This is what is intended:[11] What is the procedure in connection with meal-offerings? He waves, brings a handful [to the altar]. fumigates it and the remainder is eaten by the priests. As to the giving of the water to drink, on this R. Simeon and the Rabbis differ; because the Rabbis hold that he gives her to drink and then sacrifices her meal-offering, whereas R. Simeon holds that he sacrifices her meal-offering and then gives her to drink, as it is said: ‘And afterwards shall make the woman drink’.

BUT IF HE GAVE HER TO DRINK AND THEN SACRIFICED HER MEAL-OFFERING IT IS VALID.

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(1) According to Rashi it is the husband; other commentators declare it is the priest.

(2) The offering, forward and backward, and up and down.

(3) Num. V, 26.

(4) This is added to distinguish him from an earlier Rabbi of that name.

(5) Lit., ‘sit on your legs’, v. Nazir (Sonc. ed.) p. 87, n. 9.

(6) Ibid. 25.

(7) In this instance, the suspected woman; and the verse declares, The priest shall take the meal-offering of jealousy out of the woman's hand and shall wave, Ibid.

(8) Lev. VII, 30.

(9) Who performs the act of waving although it is not explicitly mentioned.

(10) Since the Mishnah stated: HE BROUGHT A HANDFUL (TO THE ALTAR), FUMIGATED IT.

(11) This Mishnah is describing the order of the sacrifice without any reference to whether it comes before or after the drinking of the water.

Talmud - Mas. Sotah 19b

Our Rabbis taught: And when he hath made her drink[1] — what does this intend to tell us since It has already been stated: And he shall make the woman drink?[2] [It informs us] that if [the writing on] the scroll has been obliterated and she says: ‘I refuse to drink’, they exert influence upon her and make her drink by force. Such is the statement of R. Akiba. R. Simeon says: ‘And afterwards shall make the woman drink’ — what does this intend to tell us since it has already been stated: ‘And he shall make the woman drink’? [It informs us] that it only takes place after all the rites mentioned above have been carried out, thus indicating that three things prevent [the giving of the water to drink]: [the priest] must have offered the handful, [the writing on] the scroll must have been blotted out, and [the woman] must have taken the oath. ‘[The priest] must have offered the handful’ — R. Simeon is consistent with his opinion when he said that the priest sacrifices her meal-offering and then gives her to drink. ‘[The writing on] the scroll must have been blotted out’ — [obviously so], for what else could he give her to drink![3] — R. Ashi said: No, it is necessary [to mention this for the case where] a trace of the inscription is recognisable.[4] ‘[The woman] must have taken the oath.’ [This means] merely she does not drink, but they write the scroll for her [before she takes the oath]? But Raba has said: If he wrote the scroll for a suspected woman before she took the oath, what he did was Invalid! — [R. Simeon] mentioned this[5] unnecessarily. On what, then, do they differ? — There are three verses: first ‘he shall make the woman drink’, second ‘and afterward shall make drink’, and third ‘and when he hath made her drink’. The Rabbis hold that the first phrase is required for the subject-matter, i.e., he gives her to drink and then sacrifices her meal-offering; the phrase ‘and afterward shall make drink’ is necessary [to cover the case where] a trace of the inscription is recognisable; and the third phrase indicates that if [the writing on] the scroll has been obliterated and she says ‘I refuse to drink’, they exert influence upon her and make her drink by force. R. Simeon, on the other hand, holds that ‘and afterward shall make drink’ is required for the subject-matter. i.e., he sacrifices her meal-offering and then gives her to drink. The first phrase is to indicate that if he first gave her to drink and afterward sacrificed her meal-offering it is valid; and the third phrase denotes that if [the writing on] the scroll has been obliterated and she says ‘I refuse to drink’, they exert influence upon her and make her drink by force. The Rabbis, however, do not hold that the text opens with [a commandment which is only valid as] an accomplished fact.[6]

Does R. Akiba hold that they give her to drink by force? Surely it has been taught: R. Judah says: They insert iron tongs into her mouth, so that if [the writing on] the scroll has been obliterated and she says ‘l refuse to drink’, they exert influence upon her and make her drink by force. R. Akiba says: Do we require anything else than to prove her, and is she not actually proved![7] But so long as the priest has not offered the handful, she can retract;[8] and when he has offered the handful, she cannot retract! — But, even on your reasoning, the teaching is inconsistent. It states: ‘When he has offered the handful, she cannot retract’, but is she not actually proved![9] [You must perforce say] that there is no contradiction; as one case is where she retracts through trembling and the other where she retracts through defiance;[10] and this is what he means: when [she retracts] through defiance she does not drink at all; but when it is through trembling, so long as the priest has not offered the handful she is able to retract, since [the writing on] the scroll had not yet been obliterated, or even if it had been obliterated because the priests acted illegally in obliterating it; but if he had offered the handful, in which case the priests acted legally in obliterating it, she is unable to retract.[11]

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(1) Num. V. 27.

(2) Ibid. 24. In the consonantal text the two verbs look the same, but there is a grammatical difference.

(3) Since the writing was an essential ingredient of what she drank.

(4) R. Simeon insists on total obliteration.

(5) That she first takes the oath before drinking; for it must have been done before the scroll was written.

(6) A Biblical precept states what is or is not to be done, not that something should not be done but, if accomplished, it is allowed to stand. For this reason they reject R. Simeon's explanation of the first phrase.

(7) Her refusal to drink is interpreted as an admission of guilt. R. Akiba is therefore against force being used.

(8) And admit guilt, and so avoid force.

(9) By refusing to drink before the handful was offered.

(10) Only in the latter is the refusal considered an admission of guilt.

(11) [Similarly R. Akiba in stating in the first Baraitha that she is given to drink by force refers to the case when it is through trembling.]

Talmud - Mas. Sotah 20a

But R. Akiba [nevertheless] contradicts himself; he declared above that it was the obliteration [of the inscription] which prevents [her from retracting], and here he declares that [the offering of the] handful prevents her! — There are two Tannaim [who take opposite sides on this question] in the view of R. Akiba.

The question was asked, how is it if she said: ‘I refuse to drink’ through defiance and she retracts and says ‘I am willing to drink’? Is it that since she said: ‘I refuse to drink’ she admitted ‘I am unclean’, and having presumed her self to be unclean, she is unable to retract; or perhaps, since she says ‘I am willing to drink’, she evidences that she first spoke in terror? — The question remains unanswered. Samuel's father said: It is necessary to put something bitter into the water. What is the reason? Scripture declares, The water of bitterness[1] — i.e., [water] which had been previously made bitter.

MISHNAH. IF, BEFORE [THE WRITING ON] THE SCROLL HAD BEEN BLOTTED OUT, SHE SAID ‘I REFUSE TO DRINK’, HER SCROLL IS STORED AWAY[2] AND HER MEAL-OFFERING IS SCATTERED OVER THE ASHES.[3] HER SCROLL IS NOT VALID TO BE USED IN GIVING ANOTHER SUSPECTED WOMAN TO DRINK. IF [THE WRITING ON] THE SCROLL HAS BEEN BLOTTED OUT AND SHE SAID ‘I AM UNCLEAN’, THE WATER IS POURED AWAY AND HER MEAL-OFFERING IS SCATTERED IN THE PLACE OF THE ASHES.[4] IF [THE WRITING ON] THE SCROLL HAD BEEN BLOTTED OUT AND SHE SAID

‘I REFUSE TO DRINK’, THEY EXERT INFLUENCE UPON HER AND MAKE HER DRINK BY FORCE.

SHE HAD SCARCELY FINISHED DRINKING WHEN HER FACE TURNS GREEN, HER EYES PROTRUDE AND HER VEINS SWELL;[5] AND IT IS EXCLAIMED, REMOVE HER THAT THE TEMPLE-COURT BE NOT DEFILED’.[6] IF SHE POSSESSED A MERIT, IT [CAUSES THE WATER] TO SUSPEND ITS EFFECT UPON HER. SOME MERIT SUSPENDS THE EFFECT FOR ONE YEAR, ANOTHER FOR TWO YEARS, AND ANOTHER FOR THREE YEARS. HENCE DECLARED BEN AZZAI, A MAN IS UNDER THE OBLIGATION TO TEACH HIS DAUGHTER TORAH, SO THAT IF SHE HAS TO DRINK [THE WATER OF BITTERNESS], SHE MAY KNOW THAT THE MERIT SUSPENDS[7] ITS EFFECT. R. ELIEZER SAYS: WHOEVER TEACHES HIS DAUGHTER TORAH TEACHES HER OBSCENITY. R. JOSHUA SAYS: A WOMAN PREFERS ONE KAB[8] AND SEXUAL INDULGENCE TO NINE KAB[9] AND CONTINENCE. HE USED TO SAY, A FOOLISH PIETIST, A CUNNING ROGUE, A FEMALE PHARISEE, AND THE PLAGUE OF PHARISEES[10] BRING DESTRUCTION UPON THE WORLD.

GEMARA. Rab Judah declared that Samuel said in the name of R. Meir: When I studied Torah with R. Akiba, I used to put vitriol[11] into the ink and he said nothing to me; but when I went to R. Ishmael, he said to me, ‘My son, what is thy occupation?’ I answered: ‘I am a scribe’.[12] He told me: ‘My son, be careful, because thy work is the work of Heaven; if thou omittest a single letter or addest a single letter, thou dost as a consequence destroy the whole world’.[13] I said to him, ‘There is an ingredient which I put into the ink, and its name is vitriol’. He asked me, ‘May we put vitriol into the ink? The Torah has said: He shall blot out,[14] i.e., writing which can be blotted out!’ What did [R. Ishmael] intend to tell [R. Meir] that the latter answered him in that manner?[15] — [R. Meir] meant, Obviously, I am skilled in the rules of defective and plene spelling;[16] but I even have no reason to fear lest a fly should come and settle upon the crownlet of the letter D and obliterate it so that it makes it look like the letter R.[17] There is an ingredient which I put into the ink, and its name is vitriol. But it is not so, for it has been taught: R. Meir said: When I studied Torah with R. Ishmael, I used to put vitriol into the ink and he said nothing to me; but when I went to R. Akiba, he forbade it to me! Here is an inconsistency in [the order of the Rabbis upon whom R. Meir] attended, and an inconsistency in [the name of the Rabbi who] forbade it. It is quite right, there is no inconsistency in [the order of the Rabbis upon whom R. Meir] attended; he first went to R. Akiba, but when he was unable [to follow his arguments],[18] he went to R. Ishmael. After having studied[19] with him, he returned to R. Akiba whose reasoning he was then able to grasp. But there is an inconsistency in [the name of the Rabbi who] forbade it! — That is a difficulty.

It has been taught: R. Judah says: R. Meir used to declare that for all [kinds of script] we may put vitriol into the ink

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(1) Num. V, 18.

(2) It was not destroyed because the inscription included the Divine Name.

(3) Of the Temple-offerings.

(4) This was a special Court in the Temple where the refuse of sacrifices was destroyed.

(5) Literally, she becomes filled with veins.

(6) The reason is discussed in the Gemara.

(7) [MS.M.: ‘suspended’. In the absence of such a knowledge, the woman who passed through the ordeal unscathed may be led to doubt the efficacy of the water of bitterness searching out sin, and thus indulge in further immoral practices. By realising however that merit has suspended the effects, she would pause and be in constant dread of the fate hanging over her.]

(8) Metaphorical for a scanty livelihood.

(9) Luxurious style of living.

(10) All these phrases will be explained in the Gemara.

(11) V. supra p. 90. n. 8.

(12) Of Torah-scrolls for use in the Synagogue.

(13) Such an error might turn a phrase into blasphemy.

(14) Num. V, 23.

(15) By mentioning the use of vitriol.

(16) I.e., the use of vowel letters which are sometimes added and sometimes omitted.

(17) [Changing, e.g., ד אחד ‘the Lord is one’ into אחר ‘another.’]

(18) Which, through lack of knowledge, were beyond his comprehension.

(19) [Lit., ‘learned Gemara’. On the term Gemara v. B.M. (Sonc. ed.) p. 206. n. 6. Here it denotes the summary of Tannaitic teachings preserved in early Mishnas and Baraithas; v. Epistle of Sherira Gaon, p. 44.]

Talmud - Mas. Sotah 20b

except only for the portion concerning the suspected woman. R. Jacob says in his [R. Meir's] name, Except the portion of the suspected woman [written] in the Temple.[1] What is the difference between them? — R. Jeremiah said: The point between them is [whether it is permissible] to blot out from the Torah [-scroll the passage required for the rite of the water of bitterness];[2] and these teachers [differ on the same issue] as the following teachers, for it has been taught: Her scroll is not valid to be used in giving another suspected woman to drink. R. Ahi b. Joshiah says: Her scroll is valid to be used in giving another suspected woman to drink.[3] R. papa said: perhaps it is not so, the first teacher only gives his opinion there because [the scroll] was designated for Rachel and cannot therefore be re-designated for Leah, but since the text of the Torah-scroll is written without reference to any individual, we may obliterate [the passage]. R. Nahman b. Isaac said: perhaps It is not so; R. Ahi b. Joshiah only gives his opinion there in the case of a scroll which was written for the purpose of the curses; but with a Torah-scroll which is written for the purpose of study, we may not obliterate [the passage]. Does not, then, R. Ahi b. Joshiah accept what we learnt: If a man wrote [a document] to divorce his wife but changed his mind, and then met a man who resided in the same city[4] and said to him, ‘My name is identical with yours and my wife's name identical with your wife's name’, it is invalid [as a document] wherewith to divorce?[5] — They answer: There [in connection with divorce] the All-Merciful declared: He shall write for her[6] — we require that it should be written expressly for her; here likewise [it is stated], Shall execute upon her[7] — what is intended by the word ‘execute’? The obliteration [of the writing].[8]

SHE HAD SCARCELY FINISHED DRINKING WHEN HER FACE etc. Whose [teaching] is this?[9] — It is R. Simeon's, because he said that [the priest] sacrifices her meal-offering and then gives her to drink,[10] since the water does not affect her so long as her meal-offering is not sacrificed, as it is written: A meal-offering of memorial, bringing iniquity to rememberance.[11] But cite the continuation [of the Mishnah]: IF SHE POSSESSED A MERIT, IT [CAUSES THE WATER] TO SUSPEND ITS EFFECT UPON HER — this accords with the view of the Rabbis; because if [it be supposed that it accords with the view of] R. Simeon, behold he has declared: Merit does not cause the water of bitterness to suspend its effect![12] — R. Hisda said: Whose is it, then? It is R. Akiba's, because he said: He sacrifices her meal-offering and then gives her to drink, and on the question of [the effect of] merit he agrees with the Rabbis.

AND IT IS EXCLAIMED, ‘REMOVE HER’ etc. What is the reason? — Perhaps she dies. Is this to say that a corpse is forbidden in the camp of the Levites?[13] But it has been taught: One who is defiled through contact with a corpse is permitted to enter the camp of the Levites; and not only did they say this of one who is defiled through contact with a corpse but even the corpse itself [may be taken there], as it is said: And Moses took the bones of Joseph with him[14] — ‘with him’, i.e., in his division![15] — Abaye said: [The reason is] lest she become menstruant.[16] Is this to say that a sudden fright brings on [menstruation]? — Yes, for it is written: And the queen was exceedingly grieved,[17] and Rab said, [It means] that she became menstruant. But we have learnt: Trembling holds back [the menstrual] flow! — Fear holds it back but a sudden fright brings It on.

IF SHE POSSESSED A MERIT etc. Whose teaching is our Mishnah? It is not that of Abba Jose b. Hanan, nor of R. Eleazar b. Isaac of Kefar Darom, nor of R. Ishmael; for it has been taught: If she possess a merit, it suspends [the effect of the water] for three months, sufficiently long for pregnancy to be recognisable. Such is the statement of Abba Jose b. Hanan; R. Eleazar b. Isaac of Kefar Darom says: For nine months, as it is stated: Then she shall be free and shall conceive seed,[18] and elsewhere it declares, A seed shall serve him, it shall be related[19] — i.e., a seed which is fit to be related .[20] R. Ishmael says: For twelve months, and although there is no proof of this, yet there is some indication; because it is written, Wherefore, O king, let my counsel be acceptable unto thee, and break off thy sins by righteousness, and thine iniquities by showing mercy to the poor,'

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(1) Specially prepared for the ordeal.

(2) According to R. Jacob it is not permissible, and consequently one may use vitriol for writing that portion in the Torah-scroll.

(3) The point here also is whether the scroll must be expressly written for the ordeal.

(4) The name of the city is inserted in the document.

(5) The second woman, since it must be written expressly for the woman who is to be divorced, v. Git. 24a.

(6) Deut. XXIV. 1.

(7) Num. V, 30.

(8) Only the obliteration, but not the writing, must be expressly for the woman who is being tried.

(9) That the water takes effect as soon as she drinks it.

(10) V. supra 19a.

(11) Ibid. 15.

(12) V. supra p. 25. Consequently the above teaching cannot be R. Simeon's.

(13) The Court of the Levites in the Temple where the Court of Women and the Nicanor Gate (v. supra p. 30, n. 9.) were located.

(14) Ex. XIII, 19.

(15) Which was the camp of the Levites.

(16) As the result of her agitation.

(17) Est. IV, 4.

(18) Num. V, 28.

(19) Ps. XXII, 31.

(20) Viz., at birth, and so the period of nine months is required. Rashi explains differently.

Talmud - Mas. Sotah 21a

if there may be a lengthening of thy tranquility,[1] and it is written: All this came upon king Nebuchadnezzar,[2] and it is written: At the end of twelve months!'[3] — [The teaching is] certainly R. Ishmael's and he found a verse which mentions [the period] and repeats it; for it is written: Thus saith the Lord: For three transgressions of Edom.[4] But why [was it said] that although there is no proof of this, yet there is some indication?[5] — It may be different with heathens upon whom [God] does not execute judgment immediately.

AND ANOTHER FOR THREE YEARS etc. What sort of merit? If I answer merit of [studying] Torah, she is [in the category] of one who is not commanded and fulfils![6] — Rather must it be merit of [performing] a commandment. But does the merit of performing a commandment protect as much as that? — Surely it has been taught: The following did R. Menahem son of R. Jose expound: For the commandment is a lamp and Torah is light[7] — the verse identifies the commandment with a lamp and Torah with light; the commandment with a lamp to tell thee that as a lamp only protects temporarily, so [the fulfilment of] a commandment only protects temporarily; and Torah with light to tell thee that as light protects permanently, so Torah protects permanently; and it states: When thou walkest it shall lead thee etc.[8] — ‘when thou walkest it shall lead thee’, viz., In this world; ‘when, thou sleepest it shall watch over’ thee , viz., in death; and when, thou awakest it shall talk with thee, viz.,in the Hereafter. Parable of a man who is walking in the middle of the night and darkness, and is afraid of thorns, pits, thistles, wild beasts and robbers, and also does not know the road in which he is going. If a lighted torch is prepared for him, he is saved from thorns, pits and thistles; but he is still afraid of wild beasts and robbers, and does not know the road in which he is going. When, however, dawn breaks, he is saved from wild beasts and robbers, but still does not know the road in which he is going. When, however, he reaches the cross-roads, he is saved from everything.[9] Another explanation is: A transgression nullifies[10] [the merit of] a commandment but not of [study of] Torah; as it is said: Many waters cannot quench love![11] — Said R. Joseph: A commandment protects and rescues[12] while one is engaged upon it; but when one is no longer engaged upon it, it protects[13] but does not rescue. As for [study of] Torah, whether while one is engaged upon it or not, it protects and rescues. Raba demurred to this: According to this reasoning, did not Doeg and Ahitophel engage upon [study of] Torah; so Why did it not protect them?[14] — But, said Raba, while one is engaged upon [study of] Torah, it protects and rescues, and while one is not engaged upon it, it protects but does not rescue. As for a commandment whether while one is engaged upon it or not, it protects but does not rescue.

Rabina said: It is certainly merit of [the study of] Torah [which causes the water to suspend its effect]; and when you argue that she is in the category of one who is not commanded and fulfils, [it can be answered] granted that women are not so commanded, still when they have their sons taught Scripture and Mishnah and wait for their husbands until they return from the Schools,[15] should they not share [the merit] with them?

What means ‘the cross-roads’ [in the parable related above]? — R. Hisda said: It alludes to a disciple of the Sages and the day of his death. R. Nahman b. Isaac said: It alludes to a disciple of the Sages and his fear of sin.[16] Mar Zutra said: It alludes to a disciple of the Sages when the tradition cited by him is in accord with the halachah.[17] Another explanation is: A transgression nullifies [the merit of] a commandment but not of [study of] Torah. R. Joseph said: R. Menahem son of R. Jose expounded that verse[18] as though [it were Interpreted] from Sinai, and had Doeg and Ahitophel expounded it [similarly], they would not have pursued David, as it is written, saying: God hath forsaken him, etc.[19] What verse did they expound?[20] — That he see no unclean thing in thee etc.[21] They did not know, however, that a transgression nullifies [the merit of] a commandment but not of [study of] Torah.[22] What means He would utterly be contemned?[23] — ‘Ulla said: Not like Simeon the brother of Azariah nor like R. Johanan of the Prince's house[24] but like Hillel[25] and Shebna. When R. Dimi came[26] he related that Hillel and Shebna were brothers; Hillel engaged in [study of] Torah and Shebna was occupied in business. Eventually [Shebna] said to him, ‘Come, let us become partners and divide [the profits]’. A Bath Kol[27] issued forth and proclaimed. If a man would give all the substance of his house etc.[28]

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(1) Dan. IV, 24.

(2) Ibid. 25.

(3) Ibid. 26.

(4) Amos I, II. The respite of a year is trebled and this period corresponds to that given in the Mishnah.

(5) The texts quoted did afford proof!

(6) The duty of Torah-study is not obligatory upon a woman; therefore she cannot acquire so much merit even if she does so, v. A.Z. 3a.

(7) Prov. VI, 23.

(8) Ibid. 22.

(9) The commandment is the torch, Torah the dawn, and death the cross-roads.

(10) Lit., ‘extinguishes’.

(11) Cant. VIII. 7. This shows that a commandment has no great protective powers.

(12) ‘Protects’ from sufferings and ‘rescues’ from the urge of the evil inclination.

(13) The merit of its fulfilment can thus protect the woman against the effects of the water.

(14) [This is used in a loose sense. The question is the Torah should have ‘rescued’ them (Tosaf. of Sens.)

(15) These were often a distance from the home and involved a long absence. V. Ber. 17a.

(16) His study of Torah imbues him with a fear of sin which withholds him from transgression. His clear conscience serves him well at the time of death.

(17) This is proof that he had studied correctly and the consciousness of this also calms his mind at the end of his life.

(18) Viz., Prov. VI, 23.

(19) Ps. LXXI, 11, i.e., David because of his sin with Bathsheba, and so they imagined they could pursue him with impunity.

(20) To support them in their view.

(21) Deut. XXIII, 15, E.V. 14. The continuation is: and turn away from thee. Now the phrase ‘unclean thing’ usually means an immoral act, and it was so understood by Doeg and Ahitophel.

(22) And David was still protected by his zeal in Torah-study. This is the exposition of R. Menahem son of R. Jose.

(23) Cant. VIII, 7.

(24) Simeon studied while supported by his brother, and R. Johanan was subsidised by R. Judah II, the Prince. Each, therefore, forfeited some of the merit which accrued from his study.

(25) Who studied in the direst poverty; v. Yoma 35b.

(26) From Palestine to Babylon.

(27) V. Glos.

(28) Cant. VIII, 7. Hillel, unlike the others named, declined to barter the merit he earned by devotion to Torah.

Talmud - Mas. Sotah 21b

HENCE DECLARED BEN AZZAI: A MAN IS UNDER THE OBLIGATION TO TEACH . . . R. ELIEZER SAYS: WHOEVER TEACHES HIS DAUGHTER TORAH TEACHES HER OBSCENITY. Can it enter your mind [that by teaching her Torah he actually teaches her] obscenity! — Read, rather: as though he had taught her obscenity. R. Abbahu said: What is R. Eliezer's reason? — Because it is written: I wisdom have made subtilty my dwelling,[1] i.e., when wisdom enters a man subtilty enters with it.

And what do the Rabbis[2] make of the words ‘I wisdom’? — They require them in accordance with the teaching of R. Jose son of R. Hanina; for R. Jose son of R. Hanina said: Words of Torah only remain with him who renders himself naked[3] on their behalf; as it is said: ‘I wisdom have made nakedness my dwelling’. R. Johanan said: Words of Torah only remain with him who makes himself like one who is as nothing, as it is said: Wisdom shall be found from nothing.[4]

R. JOSHUA SAYS: A WOMAN PREFERS etc. What does he intend? — He means that a woman prefers one kab and sensuality with it to nine kab with continence.

HE USED TO SAY, A FOOLISH PIETIST etc. What is a foolish pietist like? — E.g., a woman is drowning in the river, and he says: ‘It is improper for me to look upon her and rescue her’. What is the cunning rogue like? — R. Johanan says: He who explains his case to the judge before the other party to the suit arrives.[5] R. Abbahu says: He who gives a poor man a denar to bring his possessions to the total of two hundred zuz;[6] for we have learnt; He who possesses two hundred zuz may not take gleanings, forgotten sheaves, the produce of the corner of the field, or the poor tithe;[7] but should he lack one denar of the two hundred [zuz], even if a thousand persons give him [the gleanings, etc.] simultaneously, he may accept.[8] R. Assi said in the name of R. Johanan: [A cunning rogue is] he who gives advice to sell an estate which is inconsiderable;[9] for R. Assi said in the name of R. Johanan: If the male-orphans sold an inconsiderable estate before [the daughters established their claim at a Court], their act of selling is legal. Abaye said: [A cunning rogue is] he who gives advice to sell property in accordance with the view of Rabban Simeon b. Gamaliel; for it has been taught: [If a man said], ‘My property is for you and after you for So-and-so’, and the first person went and sold it and ate up [the proceeds], the second man can recover from the purchaser. Such is the statement of Rabbi; Rabban Simeon b. Gamaliel says: The second only receives what the first left.[10] R. Joseph b. Mama said in the name of R. Shesheth: He who induces others to follow in his ways.[11] R. Zerika said in the name of R. Huna: He who is lenient with himself[12] and strict with others. ‘Ulla said: He

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(1) Prov. VIII, 12. Subtilty is not desirable in a woman.

(2) Those who disagree with R. Eliezer.

(3) He neglects everything else, and is therefore destitute. The Hebrew word for ‘subtilty’ is connected with a root meaning ‘to be naked’.

(4) Sic., Job XXVIII, 22.

(5) Such an action is illegal; v. Shebu. 31a.

(6) In order to prevent him from taking advantage of the law, so that he can retain the produce for his own kinsfolk.

(7) V. Lev. XXIII, 22, Deut. XXIV, 19.

(8) Pe'ah VIII, 8.

(9) The law of inheritance is that where the estate is small, the daughters inherit ‘and the sons can go begging’ (B.B. 140a).

(10) Cf. Keth. 95b; and B.B. 137a.

(11) By hypocritically pretending to be pious.

(12) In the interpretation of the Law.

Talmud - Mas. Sotah 22a

who learnt Scripture and Mishnah but did not attend upon Rabbinical scholars.[1]

It has been reported, If one has learnt Scripture and Mishnah but did not attend upon Rabbinical scholars, R. Eleazar says he is an ‘Am ha-arez’[2] R. Samuel b. Nahmani says he is a boor; R. Jannai says he is a Samaritan;[3] R. Aha b. Jacob says he is a magician.[4] R. Nahman b. Isaac said: The definition of R. Aba b. Jacob appears the most probable; because there is a popular saying: The magician mumbles and knows not what he says; the tanna[5] recites and knows not what he says.

Our Rabbis taught: Who is an ‘Am ha-arez? Whoever does not recite the Shema’[6] morning and evening with its accompanying benedictions; such is the statement of R. Meir. The Sages say: Whoever does not put on the phylacteries. Ben Azzai says: Whoever has not the fringe upon his garment.[7] R. Jonathan b. Joseph says: Whoever has sons and does not rear them to study Torah. Others say: Even if he learnt Scripture and Mishnah but did not attend upon Rabbinical scholars, he is an ‘Am ha-arez. If he learnt Scripture but not Mishnah, he is a boor; if he learnt neither Scripture nor Mishnah, concerning him Scripture declares, I will sow the house of Israel and the house of Judah with the seed of man and with the seed of beast.[8]

My son, fear thou the Lord and the king, and mingle not with them that are given to change.[9] R. Isaac said: They are the men who learn legal decisions.[10] This is self-evident![11] — [It is not, because] you might have supposed [that the text meant], they who repeat a sin, and that it is according to the teaching of R. Huna; for R. Huna said: When a man commits a transgression and repeats it, it becomes to him something which is permissible. Therefore he informs us [that this is not the intention of the text]. A Tanna taught: The Tannaim[12] bring destruction upon the world. How can it occur to you to say that they bring destruction upon the world! Rabina said: Because they decide points of law from their teachings.[13] It has been similarly taught: R. Joshua said: Do they destroy the world? Rather do they cultivate the world, as it is said: As for the ways, the world is for him.[14] But [the reference is to] those who decide points of law from their teachings.

A FEMALE PHARISEE etc. Our Rabbis have taught: A maiden who gives herself up to prayer,[15] a gadabout widow,[16] and a minor whose months are not completed[17] — behold these bring destruction upon the world. But it is not so; for R. Johanan has said: We learnt fear of sin from a maiden [who gave herself up to prayer] and [confidence in] the bestowal of reward from a [gadabout] widow! Fear of sin from a maiden — for R. Johanan heard a maiden fall upon her face and exclaim, ‘Lord of the Universe! Thou hast created Paradise and Gehinnom; Thou hast created righteous and wicked. May it be Thy will that men should not stumble through me’. [Confidence in] the bestowal of reward from a widow — a certain widow had a Synagogue in her neighbourhood; yet she used to come daily to the School of R. Johanan[18] and pray there. He said to her, ‘My daughter, is there not a Synagogue in your neighbourhood?’ She answered him, ‘Rabbi, but have I not the reward for the steps!’[19] — When it is said [that they bring destruction upon the world] the reference is to such a person as Johani the daughter of Retibi.[20] What means ‘a minor whose months are not completed’? — They explained it thus: It refers to a disciple who rebels against the authority of his teachers. R. Abba said: It refers to a disciple who has not attained the qualification to decide questions of law and yet decides them; for R. Abbahu declared that R. Huna said in the name of Rab, What means that which is written: For she hath cast down many wounded, yea, all her slain are a mighty host?[21] ‘For she hath cast down many wounded’ — this refers to a disciple who has not attained the qualification to decide questions of law and yet decides them; ‘yea, all her slain are a mighty host’ — this refers to a disciple who has attained the qualification to decide questions of law and does not decide them.

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(1) To attain higher learning in Torah. He thus makes a pretence of a scholarship which he really does not possess.

(2) Lit., ‘people of the earth’; the description of those Jews who are careless about religious duties.

(3) And his bread and wine must not be used by an observant Jew.

(4) Who deceives the people.

(5) V. Glos., s.v. Tanna (b).

(6) V. Glos. For the benedictions, V. Singer P. B. pp- 39ff, 96ff.

(7) V. Num. XV, 37ff [Zeitlin, S. (JQR (NS) XXIII, p. 58) sees in this an allusion to the early Jewish Christians who, as is known from the N.T. and the early Church Fathers, objected to the Shema’, phylacteries and fringes.]

(8) Jer. XXXI, 27.

(9) Prov. XXIV, 21. The word for ‘that are given to change’ is shonim from shanah which in later Hebrew means ‘learn’ or ‘repeat’.

(10) And do not study with the scholars to understand their scope and derivation from Scripture.

(11) So why is it mentioned?

(12) Who only report teachings without giving their derivations, cf. Glos. s.v. (b), and supra p. 103, n. 2.

(13) [The Baraithas and Mishnas which they memorized without knowing perfectly the reasoning on which they were based.]

(14) Sic., Hab. III, 6. In Meg. 28b this is explained: Read not halichoth ‘ways’, but halachoth ‘legal decisions’, i.e., as for him (who studies) legal decisions, the world exists on account of him.

(15) In the J. Talmud there is a variant: ‘gives herself up to fasting’. We seem to have here an expression of disapproval of conventual life.

(16) Her chastity is open to suspicion.

(17) Explained below.

(18) Where Services were held.

(19) I.e., for the extra distance she walked to attend the Services.

(20) She was a widow who by witchcraft made childbirth difficult for a woman and then offered prayer for her.

(21) Prov. VII, 26.

Talmud - Mas. Sotah 22b

At what age [is he qualified]? — At forty.[1] But it is not so, for Rabbah decided questions of Law![2]

— [He did so only in a town where the Rabbis] were his equals.[3]

AND THE PLAGUE OF PHARISEES etc. Our Rabbis have taught: There are seven types of Pharisees: the shikmi Pharisee, the nikpi Pharisee, the kizai Pharisee, the 'pestle' Pharisee, the Pharisee [who constantly exclaims] 'What is my duty that I may perform it?', the Pharisee from love [of God] and the Pharisee from fear. The shikmi Pharisee — he is one who performs the action of Shechem.[4] The nikpi Pharisee — he is one who knocks his feet together.[5] The kizai Pharisee — R. Nahman b. Isaac said: He is one who makes his blood to flow against walls.[6] The 'pestle' Pharisee — Rabbah b. Shila said: [His head] is bowed like [a pestle in] a mortar. The Pharisee [who constantly exclaims] 'What is my duty that I may perform it?' — but that is a virtue! — Nay, what he says is, 'What further duty is for me that I may perform it?'[7] The Pharisee from love and the Pharisee from fear — Abaye and Raba said to the tanna [who was reciting this passage], Do not mention 'the Pharisee from love[8] and the Pharisee from fear'; for Rab Judah has said in the name of Rab: A man should always engage himself in Torah and the commandments even though it be not for their own sake,[9] because from [engaging in them] not for their own sake, he will come [to engage in them] for their own sake. R. Nahman b. Isaac said: What is hidden is hidden, and what is revealed is revealed; the Great Tribunal will exact punishment from those who rub themselves against the walls.[10]

King Jannai[11] said to his wife', 'Fear not the Pharisees and the non-Pharisees but the hypocrites who ape the Pharisees; because their deeds are the deeds of Zimri[12] but they expect a reward like Phineas'.[13] MISHNAH R, SIMEON SAYS: MERIT DOES NOT CAUSE THE WATER OF BITTERNESS TO SUSPEND ITS EFFECT, AND IF YOU SAY THAT MERIT DOES CAUSE THE WATER OF BITTERNESS TO SUSPEND ITS EFFECT, YOU DISCREDIT THE WATER IN THE CASE OF ALL THE WOMEN WHO DRINK IT AND DEFAME THE PURE WOMAN WHO DRANK IT, SINCE PEOPLE WILL SAY, THEY WERE UNCLEAN, ONLY THEIR MERIT CAUSED THE WATER TO SUSPEND ITS EFFECT UPON THEM. RABBI SAYS: MERIT CAUSES THE WATER OF BITTERNESS TO SUSPEND ITS EFFECT, AND SHE NEVER BEARS A CHILD OR THRIVES, BUT SHE GRADUALLY GROWS ILL AND FINALLY DIES THROUGH THAT DEATH.[14]

IF HER MEAL-OFFERING BECAME DEFILED BEFORE IT BECAME HALLOWED IN THE [MINISTERING] VESSEL, BEHOLD IT IS LIKE ALL MEAL-OFFERINGS [SIMILARLY DEFILED] AND CAN BE REDEEMED;[15] BUT IF [IT BECAME DEFILED] AFTER IT HAD BEEN HALLOWED IN THE [MINISTERING] VESSEL, BEHOLD IT IS LIKE ALL MEAL-OFFERINGS [SIMILARLY DEFILED] AND IS DESTROYED. THE FOLLOWING HAVE THEIR MEAL- OFFERINGS DESTROYED:

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(1) Tosaphoth explains this to mean after forty years of study. It may, however, be connected with the statement in Ab. V, 24, At forty for understanding.

(2) He died at the age of forty; v. R. H. 18a.

(3) Since they were not his superiors in learning, he decided questions although less than the requisite age. [Tosaf. s.v. שוין explains that Rabbah surpassed all other scholars in his town, and the restriction applies only where there are others equal in learning to the young scholar. For further notes on the passage, v. A.Z. (Sonc. ed.) p. 101.]

(4) Who was circumcised from an unworthy motive (Gen. XXXIV). The J. Talmud (Ber. 14b) explains: who carries his religious duties upon his shoulder (shekem), i.e., ostentatiously.

(5) He walks with exaggerated humility. According to the J. Talmud: He says: Spare me a moment that I may perform a commandment.

(6) In his anxiety to avoid looking upon a woman he dashes his face against the wall. The J. Talmud explains: calculating Pharisee, i.e., he performs a good deed and then a bad deed, setting one off against the other.

(7) As though he had fulfilled every obligation.

(8) [Abaye and Raba understood 'love' and 'fear' to denote love of the rewards promised for the fulfilment of precepts and fear of punishment for transgressing them. In J. Ber., however, they are both taken in reference to God — i.e., love of God and fear of Him.]

(9) From pure and disinterested motives.

(10) In simulated humility. Others render: who wrap themselves in their cloaks. The meaning is that hypocrisy is of no avail against the Judge Who reads the heart.

(11) Alexander Jannaeus. For his advice, given on his death-bed to his wife Salome, v. Josephus, Ant. XIII, XV, 5.

(12) Num. XXV, 14.

(13) Ibid. 11ff. [He probably had in mind the treacherous act by a group of Zealots — not Pharisees — in resisting foreign assistance — Demetrius Eucerus, King of Syria — in their struggle with Alexander Jannaeus. Josephus, op. cit. XIII, 13, 5. V. Klausner, היסטוריה 11, 128.

(14) Caused by the symptoms described in Num. V, 27.

(15) By paying its value into the Temple treasury.

Talmud - Mas. Sotah 23a

SHE WHO SAYS, ‘I AM UNCLEAN TO THEE’,[1] WHEN WITNESSES CAME [AND TESTIFIED] THAT SHE HAD MISCONDUCTED HERSELF, SHE WHO SAYS I REFUSE TO DRINK, WHEN THE HUSBAND REFUSES TO LET HER DRINK, AND WHEN HER HUSBAND COHABITED WITH HER ON THE JOURNEY [TO JERUSALEM]. FURTHERMORE, THE MEAL-OFFERINGS OF ALL WOMEN MARRIED TO PRIESTS ARE DESTROYED.[2] THE MEAL-OFFERING OF THE DAUGHTER OF AN ISRAELITE[3] WHO IS MARRIED TO A PRIEST IS DESTROYED. BUT THE MEAL-OFFERING OF A PRIEST'S DAUGHTER WHO IS MARRIED TO AN ISRAELITE IS EATEN. WHAT [DIFFERENCES ARE THERE IN LAW] BETWEEN A PRIEST AND A PRIEST'S DAUGHTER? THE MEAL-OFFERING OF A PRIEST'S DAUGHTER IS EATEN BUT THE MEAL-OFFERING OF A PRIEST IS NOT EATEN.[4] A PRIEST'S DAUGHTER MAY BECOME DECLASSED,[5] BUT A PRIEST DOES NOT BECOME DECLASSED.[6] A PRIEST'S DAUGHTER MAY RENDER HERSELF UNCLEAN BY CONTACT WITH THE DEAD, BUT A PRIEST MAY NOT RENDER HIMSELF UNCLEAN BY CONTACT WITH THE DEAD. A PRIEST EATS OF THE MOST HOLY [CLASS OF OFFERINGS],[7] BUT A PRIEST'S DAUGHTER MAY NOT EAT OF THE MOST HOLY.

WHAT [DIFFERENCES ARE THERE IN LAW] BETWEEN A MAN AND A WOMAN? A MAN RENDS HIS CLOTHES AND LOOSENS HIS HAIR,[8] BUT A WOMAN DOES NOT REND HER CLOTHES AND LOOSEN HER HAIR. A MAN MAY VOW THAT HIS SON WILL BECOME A NAZIRITE, BUT A WOMAN MAY NOT VOW THAT HER SON WILL BECOME A NAZIRlte.[9] A MAN MAY BE SHAVED ON ACCOUNT OF THE NAZIRITESHIP OF HIS FATHER,[10] BUT A WOMAN CANNOT BE SHAVED ON ACCOUNT OF THE NAZIRITESHIP OF HER FATHER. A MAN MAY SELL HIS DAUGHTER,[11] BUT A WOMAN MAY NOT SELL HER DAUGHTER. A MAN MAY GIVE HIS DAUGHTER IN BETROTHAL,[12] BUT A WOMAN MAY NOT GIVE HER DAUGHTER IN BETROTHAL. A MAN IS STONED NAKED, BUT A WOMAN IS NOT STONED NAKED.[13] A MAN IS HANGED,[14] BUT A WOMAN IS NOT HANGED. A MAN IS SOLD FOR HIS THEFT,[15] BUT A WOMAN IS NOT SOLD FOR HER THEFT.

GEMARA. Our Rabbis taught: The meal-offerings of all women who had married into the priesthood are to be destroyed.[16] How is this? In the case of the daughter of a priest, Levite or Israelite who had married a priest, her meal-offering is not eaten because he has a share in it,[17] nor is it treated as a holocaust[18] because she[19] has a share in it; but the handful is offered separately and the remainder separately. But there is to be applied here the rule that whatever sacrifice has a portion thereof treated as ‘offerings made by fire’ comes under the law of ye shall not burn![20] — R. Judah, son of R. Simeon b. Pazi said: They are burnt as fuel,[21] in accordance with the statement of R.

Eliezer; for it has been taught: R. Eliezer says: For a sweet savour[22] thou mayest not bring it [upon the altar] but thou mayest bring it as fuel. This is right for R. Eliezer who holds this opinion; but what is there to say as regards the Rabbis who do not hold this opinion? — [They declare that] it is to be treated according to the view of R. Eleazar b. Simeon; for it has been taught: R. Eleazar b. Simeon says: The handful[23] is offered separately and the remainder is scattered upon the place of the ashes.

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(1) To her husband through infidelity.

(2) Although not defiled. The law of Lev. II, 3 does not apply, v. Gemara.

(3) A non-priest.

(4) V. Lev. VI, 16.

(5) By contracting an illegal marriage. Even after divorce or in widowhood she loses her privileges.

(6) Permanently by contracting an illegal marriage. After divorce or his wife's death he regains his privileges.

(7) A sin-offering or guilt-offering.

(8) When declared a leper (Lev. XIII, 45).

(9) V. Nazir 28b.

(10) I.e., in the event of his father's death, he can go through the ceremony described in Num. VI, 18, v. Nazir 30a.

(11) As a bondwoman (Ex. XXI, 7).

(12) Without her consent when she is a minor.

(13) V. Sanh. 44b.

(14) After capital punishment (Deut. XXI, 22).

(15) Ex. XXII, 2.

(16) And not eaten by the priests.

(17) The flour belongs to him, and so the offering in fact comes under the law of Lev. VI, 16.

(18) Which is the way the meal-offering of a priest is treated

(19) Who is a non-priest.

(20) Lev. II, 11. In this verse the word mimmennu ‘of it’ appears to be superfluous, and the deduction is drawn that the parts of a sacrifice which are designated as not to be burnt upon the altar must not be burnt upon it. How, then, can it be stated that ‘the remainder’ is to be burnt separately?

(21) Upon the altar but not as part of the sacrifice.

(22) Ibid. 12.

(23) Of a meal-offering for a sin brought by a priest. Lev. VI, 16 speaks of a freewill-offering.

Talmud - Mas. Sotah 23b

And even the Rabbis only differ from R. Eleazar b. Simeon in the matter of the meal-offering brought by a sinner from among the priests which is something to be offered [in its entirety],[1] but even here[2] the Rabbis admit.[3]

[THE MEAL-OFFERING] OF THE DAUGHTER OF AN ISRAELITE WHO IS MARRIED etc. What is the reason? — Because Scripture declared: And every meal-offering of the priest shall be wholly burnt; it shall not be eaten[4] — ‘of the priest’ but not of a priest's daughter.[5]

A PRIEST'S DAUGHTER MAY BECOME DECLASSED, BUT A PRIEST DOES NOT BECOME DECLASSED. Whence have we this? — Because Scripture declared: He shall not profane his seed among his people[6] — his seed may become profaned,[7] but he himself cannot become profaned.

A PRIEST'S DAUGHTER MAY RENDER HERSELF UNCLEAN etc. What is the reason? — Scripture declared: Speak unto the priests the sons of Aaron[8] — ‘the sons of Aaron’ but not the daughters of Aaron.

A PRIEST EATS OF THE MOST HOLY — for it is written: Every male among the children of Aaron shall eat of it.[9]

WHAT [DIFFERENCES ARE THERE IN LAW] BETWEEN A MAN etc. Our Rabbis taught: [He is a leprous] man.[10] I have here only mention of a man; whence is it [that the law applies to] a woman? When it states: And the leper in whom [the plague is],[11] behold here are two.[12] If so, what does the word ‘man’ indicate? [It is to be applied] to the subject-matter of what follows, viz., it is a man who rends his clothes etc, [but not a woman].

A MAN MAY VOW THAT HIS SON WILL BECOME A NAZIRITE, BUT A WOMAN CANNOT VOW THAT HER SON WILL BECOME A NAZIRITE. R. Johanan said: This is a legal decision [traditionally handed down] in connection with a Nazirite.[13]

A MAN MAY BE SHAVED ON ACCOUNT OF THE NAZIRITESHIP OF HIS FATHER, BUT A WOMAN CANNOT BE SHAVED ON ACCOUNT OF THE NAZIRITESHIP OF HER FATHER. R. Johanan said: This is a legal decision [traditionally handed down] in connection with a Nazirite.[14]

A MAN MAY GIVE HIS DAUGHTER IN BETROTHAL, BUT A WOMAN CANNOT GIVE HER DAUGHTER IN BETROTHAL. Because it is written: I gave my daughter unto this man.[15]

A MAN MAY SELL HIS DAUGHTER, BUT A WOMAN MAY NOT SELL HER DAUGHTER. Because it is written: And if a man sell his daughter.[16]

A MAN IS STONED NAKED etc. What is the reason? — And stone him[17] — what means ‘him’? If I say that it means him and not her, behold it is written: Then shalt thou bring forth that man or that woman![18] But [the meaning is] ‘him’ without his clothing but not her without her clothing.

A MAN IS HANGED etc. What is the reason? — Scripture declared: And thou hang him on a tree[19] — ‘him’ but not her.

A MAN IS SOLD FOR HIS THEFT, BUT A WOMAN IS NOT SOLD FOR HER THEFT. What is the reason? — Scripture declared: Then he shall be sold for his theft[20] — ‘for his theft’ but not for her theft.

CHAPTER IV

MISHNAH. A BETROTHED MAIDEN AND A CHILDLESS WIDOW WAITING FOR HER BROTHER-IN-LAW [TO DECIDE WHETHER HE WILL MARRY HER] DO NOT DRINK [THE WATER OF BITTERNESS][21] AND DO NOT RECEIVE WHAT IS DUE UNDER THE MARRIAGE-SETTLEMENT; AS IT IS SAID, WHEN A WIFE, BEING UNDER HER HUSBAND, GOETH ASIDE,[22] THUS EXCLUDING A BETROTHED MAIDEN AND A CHILDLESS WIDOW WAITING FOR HER BROTHER-IN-LAW. A WIDOW WHO HAD MARRIED A HIGH PRIEST,[23] A DIVORCED WOMAN OR A HALUZAH[24] WHO HAD MARRIED AN ORDINARY PRIEST, AN ILLEGITIMATE

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(1) According to the Rabbis, this sin-offering is to be dealt with in the same manner as the ordinary meal-offering of the priest and burnt in its entirety without the handful being first removed and offered.

(2) With the meal-offering of a priest's wife which is not something to be wholly offered, since this is treated like a non-priest.

(3) That the remainder is not to be offered, but should be scattered.

(4) Lev. VI, 16.

(5) Consequently if the woman is a priest's wife but not a priest's daughter her offering is destroyed.
(6) Lev. XXI, 15.
(7) As the result of an illegal marriage.
(8) Ibid. 1.
(9) Ibid. VI, 11.
(10) Ibid. XIII, 44.
(11) Ibid. 45.
(12) Since these words are otherwise redundant after the preceding verse.
(13) V. Nazir 28b.
(14) V. Nazir 30a.
(15) Deut. XXII, 16. The subject is ‘the damsel's father’.
(16) Ex. XXI, 7.
(17) Lev. XXIV, 14.
(18) Deut. XVII, 5.
(19) Ibid. XXI, 22.
(20) Ex. XXII, 2. E.V. 3.
(21) In the event of seclusion with another man after receiving due warning.
(22) Num. V. 29.
(23) All the marriages enumerated here are illegal.
(24) V. Glos.

Talmud - Mas. Sotah 24a

OR A NETHINAH[1] WHO HAD MARRIED AN ISRAELITE, AND AN ISRAELITE'S DAUGHTER WHO HAD MARRIED AN ILLEGITIMATE OR A NATHIN DO NOT DRINK [THE WATER OF BITTERNESS] AND DO NOT RECEIVE WHAT IS DUE UNDER THE MARRIAGE-SETTLEMENT.

THE FOLLOWING DO NOT DRINK AND DO NOT RECEIVE THE MARRIAGE-SETTLEMENT: SHE WHO SAYS ‘I AM UNCLEAN WHEN WITNESSES CAME [AND TESTIFIED] THAT SHE HAD MISCONDUCTED HERSELF, AND SHE WHO SAYS ‘I REFUSE TO DRINK’. WHEN HER HUSBAND IS UNWILLING TO LET HER DRINK, OR WHEN HER HUSBAND COHABITED WITH HER ON THE JOURNEY [TO JERUSALEM]. SHE RECEIVES THE MARRIAGE-SETTLEMENT BUT DOES NOT DRINK. IF THE HUSBANDS DIED BEFORE [THE WOMEN] DRANK, BETH SHAMMAI DECLARE THAT THEY RECEIVE THE MARRIAGE-SETTLEMENT BUT DO NOT DRINK, AND BETH HILLEL DECLARE THAT THEY EITHER DRINK OR DO NOT RECEIVE THE MARRIAGE-SETTLEMENT.

[A WIFE] WHO WAS PREGNANT BY A FORMER HUSBAND OR WAS SUCKLING A CHILD BY A FORMER HUSBAND[2] DOES NOT DRINK AND DOES NOT RECEIVE THE MARRIAGE-SETTLEMENT. SUCH IS THE STATEMENT OF R. MEIR; BUT THE RABBIS DECLARE THAT HE IS ABLE TO SEPARATE FROM HER AND TAKE HER BACK AFTER THE PERIOD [OF TWO YEARS]. A WOMAN INCAPABLE OF CONCEPTION,[3] ONE TOO OLD TO BEAR CHILDREN, AND ONE WHO IS UNFIT TO BEAR CHILDREN[4] DO NOT RECEIVE THE MARRIAGE-SETTLEMENT AND DO NOT DRINK.[5] R. ELIEZER SAYS: HE IS ABLE TO MARRY ANOTHER WIFE[6] AND HAVE OFFSPRING BY HER. AS FOR ALL OTHER WOMEN, THEY EITHER DRINK OR DO NOT RECEIVE THE MARRIAGE-SETTLEMENT.

THE WIFE OF A PRIEST DRINKS AND IS PERMITTED TO HER HUSBAND.[7] THE WIFE OF A EUNUCH[8] DRINKS. THROUGH [SECLUSION WITH] ALL PERSONS FORBIDDEN TO

HER IN MARRIAGE[9] JEALOUSY [NECESSITATING THE ORDEAL] IS ESTABLISHED WITH THE EXCEPTION OF A MINOR[10] AND ONE NOT A MAN.[11]

IN THE FOLLOWING CASES A COURT OF LAW CAN GIVE WARNING:[12] WHEN THE HUSBAND IS A DEAF-MUTE OR HAS BECOME INSANE OR IS IMPRISONED. NOT FOR THE PURPOSE OF MAKING HER DRINK DID THEY SAY THIS, BUT TO DISQUALIFY HER IN CONNECTION WITH THE MARRIAGE-SETTLE MENT. R. JOSE SAYS: ALSO TO MAKE HER DRINK; WHEN HER HUSBAND IS RELEASED FROM PRISON HE MAKES HER DRINK.

GEMARA. [In the instances enumerated by the Mishnah, the husband] does not let her drink, but he may give her a warning.[13] Whence is this learnt? — Our Rabbis taught: Speak unto the children of Israel and say[14] — [the addition of ‘and say’] is to include a betrothed maiden and a childless widow waiting for her levir in the law respecting the warning. Whose is [the teaching of] our Mishnah? — It is R. Jonathan's; for it has been taught: Being under thy husband[15] excludes a betrothed maiden. It is possible to think that we are also to exclude a childless widow; therefore the text repeats the word ‘man’.[16] Such is the statement of R. Joshiah. R. Jonathan says: ‘Being under thy husband’ excludes a childless widow. [It is possible to think that] we exclude a childless widow waiting for her levir but not a betrothed maiden; therefore there is a text to declare, When a wife, being under her husband, goeth aside,[17] thus excluding a betrothed maiden. One teacher[18] considers a betrothed maiden as more bound to him since the marriage ensues through him and they stone her on his account;[19] whereas the other teacher considers that a childless widow is more bound to [her brother-in-law] since the nuptial surrender is not lacking.[20] What, then, does R. Jonathan make of the repetition of the word ‘man’? — He requires it to include the wife of a deaf-mute man, the wife of an imbecile, and the wife of

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(1) A descendant of the Gibeonites (Josh. IX) with whom Israelites were not allowed to intermarry. An illegitimate was debarred under the law of Deut. XXIII, 3, E.V. 2.

(2) Under Rabbinic Law, a pregnant woman who had been divorced or widowed should not marry for two years. This Mishnah deals with the case where she married within that period and her husband became jealous of her.

(3) Lit., ‘ram-like’, v. Keth. 11a.

(4) This refers to a woman who lost the capability of bearing by taking some drug and not just barren or too old to bear children.

(5) Because marriage with such as these is forbidden to one who has no children.

(6) In addition to her; he therefore regards such a marriage as valid.

(7) If proved innocent.

(8) Who became so after marriage.

(9) E.g., her father or brother.

(10) Under the age of nine years.

(11) Explained in the Gemara.

(12) Instead of the husband, when they have cause to suspect the wife.

(13) Not to associate with the man, in order to deny her right to the marriage. settlement if she disobeyed.

(14) Num. V, 12.

(15) Ibid. 19.

(16) In verse 12 any man's wife is literally: a man, a man, his wife. The addition of the word ‘man’ is taken to include the case of a childless widow, waiting for her levir.

(17) Ibid. 29.

(18) R. Jonathan.

(19) If she is unchaste (Deut. XXII, 24).

(20) By the death of her husband she ipso facto becomes the wife of her brother-in-law if he wishes to take her, and an act of cohabitation constitutes a marriage.

Talmud - Mas. Sotah 24b

Talmud - Mas. Sotah 24b

a weak-minded man.[1] And what does R. Joshiah make of the phrase ‘being under her husband’? — He requires it to draw an analogy between a husband and wife and between a wife and husband.[2] Now the reason [given why a betrothed maiden is excluded] is because these Scriptural texts occur, otherwise I would have said that a betrothed maiden must drink; but when R. Aha b. Hanina came from the South he brought this teaching with him: Besides thine husband[3] — i.e., when intercourse with a husband had preceded intercourse with a paramour and not when intercourse with a paramour had preceded intercourse with a husband![4] — Rami b. Hama said, [It is necessary to rely upon the texts] for such a contingency as when the fiance had had intercourse with her in her father's house.[5] Similarly with a childless widow the texts would be required for the contingency as when the brother-in-law had had intercourse with her in her father-in-law's house;[6] but can you call her a childless widow waiting for her levir’? [In such circumstances], Surely she is his legal wife; for Rab has said: He[7] has acquired her [as his wife] in every respect![8] — It is as Samuel said: He has only acquired her for the objects mentioned in the Scriptural portion.[9] If that is so, are we to say that Rab agrees with R. Joshiah[10] and Samuel with R. Jonathan?[11] — Rab can reply. I even agree with R. Jonathan, because from the fact that it was necessary for the text to exclude her,[12] it follows that she is his legal wife.

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(1) V. infra 27a.

(2) This is likewise expounded infra 27a.

(3) Num. V, 20.

(4) Consequently a betrothed maiden is excluded from the law.

(5) Before marriage.

(6) After her husband's death.

(7) The levir.

(8) By cohabitation. If, e.g., he is a priest, she partakes of the heave-offering.

(9) Deut. XXV, 5-10. viz., to be his brother's heir and free himself from the ceremony of Halizah; but cohabitation would not constitute a marriage to give her the right to partake of the heave.offering if he was a priest.

(10) Who says that a childless widow waiting for her levir drinks, and that can arise in the case where the cohabitation occurred in her father's house.

(11) Who holds that she does not drink, for cohabitation does not constitute full marriage.

(12) A childless widow who cohabited with her brother-in-law.

Talmud - Mas. Sotah 25a

Similarly Samuel can reply. I even agree with R. Joshiah. because from the fact that it was necessary for the text to include her, it follows that she is not his wife at all.

The question was asked: Does a woman who transgresses [the Jewish] ethical code[1] require to be warned in order to make her lose her marriage-settlement or does she not require it? Do we say that since she transgresses the ethical code she does not require to be warned; or perhaps warning is necessary because she may reform? — Come and hear: A BETROTHED MAIDEN AND A CHILDLESS WIDOW WAITING FOR HER BROTHER-IN-LAW[2] DO NOT DRINK AND DO NOT RECEIVE WHAT IS DUE UNDER THE MARRIAGE-SETTLEMENT. [In these instances the man] does not let her drink but he may give her warning. But for what purpose [does he warn her]? Is it not to make her lose her marriage-settlement![3] — Abaye said: No; [the purpose is] to prohibit her to himself [in marriage]. R. Papa said: [The purpose is] to make her drink when she is married;[4] as it has been taught: We may not warn a betrothed maiden with the object of making her drink while she is betrothed; but we may warn a betrothed maiden with the object of making her drink when she is married.

Raba said: Come and hear: A WIDOW WHO HAD MARRIED A HIGH PRIEST, A DIVORCED WOMAN OR A HALUZAH WHO HAD MARRIED AN ORDINARY PRIEST, AN ILLEGITIMATE OR A NETHINAH WHO HAD MARRIED AN ISRAELITE, AND AN ISRAELITE'S DAUGHTER WHO HAD MARRIED AN ILLEGITIMATE OR A NATHIN DO NOT DRINK AND DO NOT RECEIVE WHAT IS DUE UNDER THE MARRIAGE-SETTLEMENT. They do not drink but they receive a warning. But for what purpose? If [you answer] to make them prohibited to the husband, behold they are already prohibited;[5] rather must it be to make them lose the marriage-settlement! — Rab Judah of Diskarta[6] said: No; [the purpose is] to prohibit her to the paramour as to the husband; as we learn: Just as she is prohibited to the husband so is she prohibited to the paramour.[7]

R. Hanina of Sura said; Come and hear: IN THE FOLLOWING CASES A COURT OF LAW CAN GIVE WARNING: WHEN THE HUSBAND IS A DEAF-MUTE OR HAS BECOME INSANE OR IS IMPRISONED. NOT FOR THE PURPOSE OF MAKING HER DRINK DID THEY SAY THIS BUT TO DISQUALIFY HER IN CONNECTION WITH THE MARRIAGE-SETTLEMENT. Conclude from this that she does require to be warned! That conclusion is to be drawn. But why did not [the other Rabbis] draw the inference from this passage? — [They thought] perhaps it is different in the circumstance where she had no cause at all to be afraid of her husband.[8]

The question was asked: If a woman transgresses [the Jewish] ethical code and the husband desired to retain her, may he do so or may he not? Do we say that the All-Merciful depends upon the husband's objection [to her conduct],[9] and in this case he does not object; or, perhaps, since [a husband normally] objects, he must object [and divorce her]? — Come and hear: IN THE FOLLOWING CASES A COURT OF LAW CAN GIVE WARNING: WHEN THE HUSBAND IS A DEAF-MUTE OR HAS BECOME INSANE OR IS IMPRISONED. Should you maintain that if the husband desired to retain her he may do so, can the Court of Law do something of which the husband may not approve?[10] — As a general rule, when a woman transgresses the ethical code, [the husband] is agreeable [to the warning].

The question was asked: If a husband retracted his warning, is the warning retracted or not?[11] Do we say that the All-Merciful depends upon the husband's warning and here the husband retracted it; or perhaps since he already gave a warning he is unable to withdraw it? — Come and hear: IN THE FOLLOWING CASES A COURT OF LAW CAN GIVE WARNING: WHEN THE HUSBAND IS A DEAF-MUTE OR HAS BECOME INSANE OR IS IMPRISONED. Should you maintain that if a husband retracted his warning his warning is retracted, can we[12] perform an action which the husband may come and retract![13] — As a general rule, a man agrees with the opinion of a Court of Law.[14]

Come and hear: And they assign to him two disciples of the Sages lest he cohabit with her on the journey.[15] Should you maintain that if a husband retracted his warning the warning is retracted, let him then withdraw it and cohabit with her! — Why are disciples of the Sages specified? Because they are learned men, so that if he wishes to cohabit with her, they say to him, ‘Withdraw your warning and cohabit with her’.[16]

Come and hear: R. Joshiah said: Three things did Ze'ira tell me as emanating from the men of Jerusalem:[17] If a husband retracted his warning the warning is retracted; if a Court of Law wished to pardon an elder who rebelled [against their decision] they may pardon him; and if the parents wished to forgive a stubborn and rebellious son[18] they may forgive him.[19] When, however, I came to my colleagues in the South, they agreed with me in respect of two but did not agree with me in respect of the rebellious elder, so that disputes should not multiply in Israel. Deduce therefrom that if a husband retracted his warning the warning is retracted. Draw that conclusion.

In this connection R. Aha and Rabina differ. One said that [the warning can be] retracted before seclusion but not after seclusion, and the other said that also after seclusion it can be retracted. The more probable view is that of him who said that it cannot be retracted. Whence is this learnt? — [It is to be inferred] from the answer which the Rabbis gave to R. Jose; for it has been taught: R. Jose says: By a fortiori reasoning [it is deduced] that a husband Is trusted with her. If a husband is trusted in the matter of his wife during menstruation where the penalty is excision, how much more so in the matter of his wife while under suspicion in connection with which there is a mere prohibition! [The Rabbis] replied to him, No; if you argue [that he may be trusted] in the case of his wife during menstruation to whom he will have a right [on her recovery], will you argue so in the case of his wife while under suspicion when he may never have a right to her![20] Now if you maintain that [a warning may be] retracted after seclusion, then it can happen that he may again have a right to her; because if he so desire, he can retract his warning and cohabit! Therefore deduce from this that after seclusion it cannot be retracted. Draw that conclusion.

IF THE HUSBANDS DIED BEFORE [THE WOMEN] DRANK, BETH SHAMMAI etc. On what point [do the two Schools] differ?

Beth Shammai are of opinion that a bond which is due for redemption is considered as having been redeemed;[21]

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(1) And thereby shows an indifference for public opinion; such a woman is put away without recovering her kethubah, v. Keth. 72a.

(2) These too had transgressed the ethical code by their act of seclusion.

(3) Consequently, without warning she would not lose it.

(4) If she secluded herself with a man after marriage, then the warning which the husband gave her for a previous action, while she was betrothed, is still valid.

(5) Since such a marriage is contrary to law.

(6) V. supra p. 26, n. 7.

(7) V. infra 27b.

(8) Since he was incapacitated; but in normal circumstances, they imagined that she would lose her marriage-settlement without a warning.

(9) Because Scripture declares, ‘and he be jealous of his wife’. If he is not jealous, is her conduct to be overlooked?

(10) The Court, representing the husband, would thereby involve him in an act which was contrary to his wish, and this is not legally possible, v. Keth. 11a.

(11) [Assuming that the husband may retain a wife who transgresses the ethical code, the question still arises whether he can retract or not in the case where he had given her a warning.]

(12) I.e., the Court.

(13) And then offer an affront to the court.

(14) But if he wishes to retract he may do so.

(15) V. supra 7a.

(16) This is a reply to the question. The husband indeed can withdraw, and that is the very reason why disciples of the Sages are specified.

(17) [Rashi: who was of the men of Jerusalem].

(18) Cf. Deut. XXI, 18ff.

(19) For further notes v. Sanh. (Sonc. ed.) p. 585.

(20) V. supra 7a.

(21) If the bond was on the security of the borrower's property, then at the time of the redemption the property is considered as automatically passing into the possession of the creditor pending payment. By analogy, the widow is automatically entitled to her marriage-settlement on the husband's death and the onus is upon the heirs to prove that she had forfeited it by producing witnesses that she had committed adultery.

Talmud - Mas. Sotah 25b

Talmud - Mas. Sotah 25b

whereas Beth Hillel are of opinion that a bond which is due for redemption is not considered as having been redeemed.[1]

[A WIFE] WHO WAS PREGNANT BY A FORMER HUSBAND etc. R. Nahman said in the name of Rabbah b. Abbuha: The dispute[2] is in connection with a barren woman and one too old to bear children; but as for a woman incapable of conception, all agree that she does not drink and does not receive her marriage-settlement, as it is said: Then she shall be free and shall conceive seed[3] — i.e., one whose way it is to conceive seed, thus excluding one whose way is not to conceive seed. An objection was raised: 'If a man gives a warning to his betrothed or to his brother's childless widow, should she seclude herself [with the other man] before the marriage, she does not drink and does not receive her marriage-settlement'.[4]

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(1) As the creditor must first establish his right to the debtor's property, so the widow must prove her right to the marriage-settlement by drinking the water, since she is under suspicion; for fuller notes v. Shebu. (Sonc. ed.) p. 298, n. 5.

(2) Viz., R. Eliezer says: He is able to marry another wife and have offspring by her.

(3) Num. V, 28.

(4) V. Tosef. Sotah v, 4.

Talmud - Mas. Sotah 26a

'[A wife] who was pregnant by a former husband or was suckling a child by a former husband does not drink and does not receive the marriage-settlement.'[1] Such is the statement of R. Meir; because R. Meir says: A man may not marry a woman who is pregnant by a former husband or is suckling a child by a former husband, and if he married her he must let her go and never take her back; the Sages, on the other hand, say: He must let her go, but when the time arrives when he may marry her[2] he marries her. 'If a youth married a barren woman or one too old to bear, and he did not previously have a wife and children, she does not drink and does not receive the marriage-settlement. R. Eliezer says: He is able to marry another wife and have offspring by her'.[3] But 'if a man gives a warning to his betrothed or to his brother's childless widow and she secluded herself after marriage, she either drinks or does not receive the marriage-settlement. If the wife is pregnant or suckling a child by himself,[4] she either drinks or does not receive the marriage-settlement. And if a youth married a barren woman or one too old to bear, and he already had a wife and children, she either drinks or does not receive the marriage-settlement. The legal wife of an illegitimate,[5] the legal wife of a Nathin, the wife of a proselyte or freed slave, and a woman incapable of conception either drink or do not receive the marriage-settlement.[6] Here the woman incapable of conception is specified [among the woman who are required to drink]! It is a refutation of R. Nahman.[7]

R. Nahman can reply, [That which I stated above is a difference between] Tannaim, whereas I agree with the following Tanna. For it has been taught: R. Simeon b. Eleazar says: A woman incapable of conception does not drink and does not receive the marriage-settlement, as it is said: Then she shall be free and shall conceive seed[8] — i.e., one whose way is to conceive seed, thus excluding one whose way is not to conceive seed.[9] What, then, do the Rabbis make of the phrase 'Then she shall be free and shall conceive seed'? They require it in accordance with the following teaching: 'Then she shall be free and conceive seed' — so that if she had been barren, she now becomes visited.[10] Such is the statement of R. Akiba. R. Ishmael said to him, In that case, all barren women will seclude themselves and be visited, and since this one did not seclude herself she will be the loser![11] If so, what is the purpose of 'Then she shall be free and shall conceive seed'? If she formerly bore children in pain she will now bear with ease; if formerly girls she will now give birth to boys; if formerly short she will now bear tall children; if formerly dark she will now have fair children.

‘The legal wife of an illegitimate [either drinks or does not receive the marriage-settlement]’ — this is self-evident![12] — What you might have said was that disqualified [members of the Community] should not be multiplied.[13] Therefore he informs us [that such a marriage is treated like any other].

‘The wife of a proselyte or freed slave and a woman incapable of conception [either drink or do not receive the marriage-settlement]’ — this is self-evident! — What you might have said was, Speak unto the children of Israel[14] — but not to proselytes. Therefore he informs us [that proselytes are included in the law]. Or as an alternative answer: And say[15] is to be interpreted as including [the wife of a proselyte, etc.].

THE WIFE OF A PRIEST DRINKS etc. This is self-evident! — What you might have said was, And she had not been violated[16] — then she is prohibited [to her husband];[17] hence if she had been violated she is permitted to him; but this woman [being the wife of a priest] is prohibited to him even if she had been violated,and consequently she does not drink. Therefore he informs us [that she does undergo the ordeal].

AND IS PERMITTED TO HER HUSBAND. This is self-evident! — R. Huna said: [This refers to a case where] she becomes ill.[18] But if she becomes ill, the water has proved her [guilty]! — [It refers to a case where] she becomes ill in other limbs.[19] What you might have said was that she had committed adultery, and the fact that the water did not affect her in the usual way was due to her having acted immorally under force and as such she is prohibited to a priest. Therefore he informs us [that she is permitted to her husband].

THE WIFE OF A EUNUCH DRINKS. This is self-evident! — What you might have said was, Besides thine husband[20] declared the All Merciful, and this man [being a eunuch] does not come within the category [of husband]. Therefore he informs us [that he is considered to be her husband for the law of the ordeal].

THROUGH [SECLUSION WITH] ALL PERSONS FORBIDDEN TO HER IN MARRIAGE JEALOUSY IS ESTABLISHED. This is self-evident!

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(1) Ibid. 6.

(2) I.e., after the lapse of two years from the birth of the child.

(3) Tosef. ibid. 5. The last sentence occurs in the Mishnah p. 120, and instead the Tosef. reads: R. Eliezer says: He is able to separate from her and take her back after a time.

(4) I.e., by the husband who gives her warning.

(5) Viz., a woman who was competent to marry such a man, and she secluded herself after warning.

(6) Tosef. ibid. 1-4.

(7) He asserted above, ‘All agree that she does not drink’.

(8) Num. V, 28.

(9) Tosef. ibid. 4.

(10) The Biblical term used of barren women who conceive.

(11) By remaining loyal to her husband and avoiding all suspicion a barren woman will continue sterile!

(12) Since her marriage is legal.

(13) The purpose of the Torah cannot be to restore harmony between such a couple, since the offspring of the union would be disqualified from membership in the Community.

(14) Num. V, 12.

(15) Ibid.

(16) Num. V, 13; i.e., she had been a consenting party.

(17) V. supra 2b.
(18) After drinking the water.
(19) Not those enumerated in Num. V, 22.
(20) Ibid. 20.

Talmud - Mas. Sotah 26b

— What you might have said was, The phrase ‘and she be defiled’ occurs twice[1] — once with respect to the husband and the other with respect to the paramour[2] — but it only applies when she becomes prohibited [to the paramour] by this act of adultery; but where she was in any event forbidden to him, conclude that she is not [barred from marrying him]. Therefore he informs us [that she has to undergo the ordeal although the paramour was forbidden to her in any case and if guilty she cannot marry her paramour].

WITH THE EXCEPTION OF A MINOR etc. A man[3] declared the All-Merciful, not a minor. AND ONE NOT A MAN. Whom does this exclude? If I answer that it is to exclude one whose flesh is wasted,[4] behold Samuel has said: A warning [against seclusion] can be given in connection with a man who is wasting and he disqualifies for partaking of the heave-offering![5] (A warning [against seclusion] can be given in connection with him — this is self-evident! — What you might have said was, ‘And a man lie with her carnally’ declared the All-Merciful and such a one does not come within that category; therefore he informs us [that seclusion with him does bring the woman within the scope of the law]. And he disqualifies for partaking of the heave-offering — that is self-evident! — What you might have said was, He shall not profane his seed[6] declared the All-Merciful-one who had ‘seed’ can profane,[7] but one who had no ‘seed’ cannot profane; therefore he informs us [that he can profane].[8]) If, on the other hand, it is to exclude a gentile, behold R. Hamnuna has said: A warning [against seclusion] can be given in connection with a gentile and he disqualifies for partaking of the heave-offering! (A warning [against seclusion] can be given in connection with him — this is self-evident! — What you might have said was, The phrase ‘and she be defiled’ occurs twice — once with respect to the husband and the other with respect to the paramour — but it only applies when she becomes prohibited [to the paramour] by this act of adultery; but where she was in any event forbidden to him,[9] conclude that she is not [warned against seclusion]. Therefore he informs us [that a warning can be given with respect to a gentile]. And he disqualifies for partaking of the heave-offering — this is self-evident! — What you might have said was, And if a priest's daughter be married unto a stranger[10] declared the All-Merciful, i.e., when there was a legal marriage-status, but not when there is no legal marriage-status. Therefore he informs us [that a gentile] does disqualify her. This is in agreement with R. Johanan who said in the name of R. Ishmael: Whence is it that a gentile or a slave who had intercourse with a priest's daughter or Levite's daughter or an Israelite's daughter disqualifies her [for the heave-offering]? As it is said: But if a priest's daughter be a widow, or divorced[11] — only In the case of a man where her widowhood or divorce [is legally recognised],[12] thus excluding a gentile or slave where her widowhood or divorce is not [legally recognised].)[13] What, then, [does the phrase AND NOT A MAN] exclude? — R. Papa said: It excludes an animal, because there is not adultery in connection with an animal.[14]

Raba of Parazika[15] asked R. Ashi, Whence is the statement which the Rabbis made that there is no adultery in connection with an animal? — Because it is written: Thou shalt not bring the hire of a harlot or the wages of a dog etc.;[16] and it has been taught: The hire of a dog[17] and the wages of a harlot[18] are permissible, as it is said: Even both these[19] — the two [specified in the text are abominations] but not four.[20]

What is the purpose [of the Scriptural phrase] carnally?[21] — It is required for this teaching: ‘Carnally’ to the exclusion of something else. What means ‘something else’? — R. Shesheth said: It excludes the case where he warned her against unnatural intercourse. Raba said to him, [It excludes the case where he warned her against] unnatural intercourse? It is written: As lying with womankind![22] But, said Raba,it excludes the case where he warned her against contact of the bodies.[23] Abaye said to him, That is merely an obscene act [and not adultery], and did the All-Merciful prohibit [a wife to her husband] for an obscene act? But, said Abaye, it excludes the case where he warned her against external contact. This is quite right according to him who maintains that by sexual contact is to be understood insertion[24] inasmuch as external contact is not regarded, and consequently the Scriptural phrase is intended to exclude the latter; but according to him who maintains that sexual contact is the external contact what is there to say? — Certainly [the Scriptural phrase is intended to exclude the case where] he warned her against contact of the bodies; and should you argue that the All-Merciful made it depend upon the husband's objection [to such conduct] and behold the husband did object,[25] therefore he informs us [that the phrase ‘carnally’ is to exclude this].

Samuel said: Let a man marry

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(1) Ibid. 13f.

(2) She must be divorced by her husband and is not allowed to marry her paramour. V. Mishnah p. 135.

(3) Lie with her carnally. Num. V, 13.

(4) Tosef. Bek. V, 4, identifies the term with he who hath his stones broken in Lev. XXI, 20.

(5) If he married a priest's daughter when he was so afflicted, she loses the right to eat of the heave-offering.

(6) Lev. XXI, 15.

(7) A priest's daughter by marriage.

(8) Consequently a person who is so afflicted is regarded as ‘a man’ and cannot be intended by the Mishnah.

(9) He being a gentile.

(10) Lev. XXII, 12.

(11) Lev. XXII, 13.

(12) Does she return to her father's house and eat the heave-offering.

(13) Therefore a gentile cannot be intended by the Mishnah.

(14) She would not be prohibited to her husband for such an act.

(15) Farausag near Bagdad v. B.B. (Sonc. ed.) p. 15. n. 4. He is thus distinguished from the earlier Rabbi of that name

(16) Deut. XXIII, 19.

(17) Money given by a man to a harlot to associate with his dog. Such an association is not legal adultery.

(18) If a man had a female slave who was a harlot and he exchanged her for an animal, it could be offered.

(19) Are an abomination unto the Lord (ibid.).

(20) Viz., the other two mentioned by the Rabbis.

(21) In Num. V, 13, since the law applies to a man who is incapable.

(22) Lev. XVIII, 22. The word for ‘lying’ is in the plural and is explained as denoting also unnatural intercourse.

(23) With the other man, although there is no actual coition.

(24) Which is legally equal to complete coition.

(25) As evidenced by his warning.

Talmud - Mas. Sotah 27a

a woman of ill-repute rather than the daughter of a woman of ill-repute, since the former comes from pure stock and the latter from impure stock.[1] R. Johanan, however, said: Let a man marry the daughter of a woman of ill-repute rather than a woman of ill-repute, since the former is presumably chaste whereas the latter is not. An objection was raised: One should marry a woman of ill-repute! — Raba said: Can you possibly think that [the meaning is that] he should marry [a woman of ill-repute who is such] at the outset? But the statement should take this form: ‘If a man married [a woman of ill-repute’]; and similarly [read] ‘the daughter of a woman of ill-repute’.[2] But the legal decision is: Let a man marry the daughter of a woman of ill-repute rather than a woman of ill-repute; because R. Tahlifa, the son of the West,[3] recited in the presence of R. Abbahu, If a woman is an adulteress, her children are legitimate since the majority of the acts of cohabitation are ascribed to the husband.

R. Amram asked: How is it if she was excessively dissolute?[4] According to him who maintains that a woman only conceives immediately before her period the question does not arise, because [the husband] may not know [when this is] and does not watch her; but the question does arise according to him who maintains that a woman only conceives immediately after the time of her purification. How is it then? Does he watch her since he knows when this occurs; or perhaps this is of no account since she is excessively dissolute?[5] The question remains unanswered.

IN THE FOLLOWING CASES A COURT OF LAW etc. Our Rabbis taught: ‘Man’ — why does Scripture repeat the word?[6] To include the wife of a deaf man, the wife of an imbecile, the wife of a weak-minded man, and cases where the husband has gone on a journey to a distant country or is imprisoned, that a Court of Law can give them warning to disqualify them in connection with the marriage-settlement. It is possible [to think that the warning] is also to make them drink; therefore there is a text to say: Then shall the man bring his wife.[7] R. Jose says: It is also to make the woman drink so that when the husband is released from prison he makes her drink.[8] On what do they differ? — The Rabbis are of the opinion that we require that the same man who ‘warned’ her must ‘bring’ her,[9] whereas R. Jose is of the opinion that we do not require that the same man who ‘warned’ her must ‘bring’ her.[10]

Our Rabbis taught: When a wife, being under her husband, goeth aside[11] — this is to compare a husband with a wife and a wife with a husband. For what practical purpose? — R. Shesheth said: Just as he does not make her drink if he is blind, as it is written: And it be hid from the eyes of her husband,[12] so she does not drink if she is blind. R. Ashi said: Just as a woman who is lame or armless does not drink, for it is written,

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(1) [As it is not known with whom the mother had relation.]

(2) [Since the Baraitha has to be amended in any case we might just as well amend ‘a woman’ into ‘the daughter of a woman etc.’.]

(3) I.e., the Palestinian.

(4) Are the children legitimate?

(5) And she may deceive him although he is careful to watch her.

(6) In the Hebrew text of Num. V, 12.

(7) Ibid. 25.

(8) V. supra 24a.

(9) To the ordeal, and only the husband can bring her.

(10) And so he gives the Court power to warn her for the purpose of the ordeal.

(11) Num. V. 29.

(12) Ibid. 13. He presumably could see.

Talmud - Mas. Sotah 27b

And the priest shall set the woman before the Lord . . . and put the meal-offering in her hands,[1] so he does not make her drink if he is lame or armless. Mar son of R. Ashi said: Just as a dumb woman does not drink, for it is written And the woman shall say Amen, Amen,[2] so he does not make her drink if he is dumb.

CHAPTER V

MISHNAH. JUST AS THE WATER PROVES HER SO THE WATER PROVES HIM;[3] AS IT IS SAID, ‘AND SHALL ENTERð TWICE.[4] JUST AS SHE IS PROHIBITED TO THE HUSBAND[5]

SO IS SHE PROHIBITED TO THE PARAMOUR;[6] AS IT IS SAID, DEFILED . . . AND IS DEFILED.[7] THIS IS THE STATEMENT OF R. AKIBA. R. JOSHUA SAID: THUS USED ZECHARIAH B. HAKAZAB TO EXPOUND.[8] RABBI SAYS: THE WORD DEFILED OCCURS TWICE IN THE SCRIPTURAL PORTION,[9] ONE REFERRING [TO HER BEING PROHIBITED] TO THE HUSBAND AND THE OTHER TO THE PARAMOUR.

ON THAT DAY,[10] R. AKIBA EXPOUNDED, AND EVERY EARTHEN VESSEL, WHEREINTO ANY OF THEM FALLETH, WHATSOEVER IS IN IT SHALL BE UNCLEAN,[11] IT DOES NOT STATE TAME [IS UNCLEAN] BUT YITMA',[12] I.E. TO MAKE OTHERS UNCLEAN. THIS TEACHES THAT A LOAF WHICH IS UNCLEAN IN THE SECOND DEGREE,[13] MAKES [WHATEVER IT COMES IN CONTACT WITH] UNCLEAN IN THE THIRD DEGREE. R. JOSHUA SAID: WHO WILL REMOVE THE DUST FROM THINE EYES, R. JOHANAN B. ZAKKAI, SINCE THOU SAYEST THAT ANOTHER GENERATION IS DESTINED TO PRONOUNCE CLEAN A LOAF[14] WHICH IS UNCLEAN IN THE THIRD DEGREE ON THE GROUND THAT THERE IS NO TEXT IN THE TORAH ACCORDING TO WHICH IT IS UNCLEAN![15] IS NOT R. AKIBA THY PUPIL?[16] HE ADDUCES A TEXT IN THE TORAH ACCORDING TO WHICH IT IS UNCLEAN, VIZ., 'WHATSOEVER IS IN IT SHALL BE UNCLEAN'.

ON THAT DAY R. AKIBA EXPOUNDED, AND YE SHALL MEASURE WITHOUT THE CITY FOR THE EAST SIDE TWO THOUSAND CUBITS ETC.[17] BUT ANOTHER TEXT STATES, FROM THE WALL OF THE CITY OUTWARD A THOUSAND CUBITS ROUND ABOUT.[18] IT IS IMPOSSIBLE TO SAY THAT IT WAS A THOUSAND CUBITS SINCE IT HAS BEEN ALREADY STATED TWO THOUSAND CUBITS'; AND IT IS IMPOSSIBLE TO SAY THAT IT WAS TWO THOUSAND CUBITS SINCE IT HAS BEEN ALREADY STATED 'A THOUSAND CUBITS'! HOW WAS IT THEN? A THOUSAND CUBITS FOR THE SUBURB[19] AND TWO THOUSAND CUBITS FOR THE SABBATH-LIMIT.[20] R. ELIEZER THE SON OF R. JOSE THE GALILEAN SAYS: A THOUSAND CUBITS FOR THE SUBURB AND TWO THOUSAND CUBITS FOR FIELDS AND VINEYARDS.[21]

ON THAT DAY R. AKIBA EXPOUNDED, THEN SANG MOSES AND THE CHILDREN OF ISRAEL THIS SONG UNTO THE LORD AND SPAKE, SAYING,[22] THERE WAS NO NEED FOR THE WORD 'SAYING', SO WHY WAS IT ADDED? IT TEACHES THAT THE ISRAELITES RESPONDED TO EVERY SENTENCE AFTER MOSES, IN THE MANNER OF READING HALLEL,[23] 'I WILL SING UNTO THE LORD, FOR HE HATH TRIUMPHED GLORIOUSLY,[24] ON THAT ACCOUNT IS THE WORD 'SAYING' MENTIONED. R. NEHEMIAH SAYS: IN THE MANNER OF READING THE SHEMA'[25] AND NOT HALLEL.

ON THAT DAY R. JOSHUA B. HYRCANUS EXPOUNDED: JOB ONLY SERVED THE HOLY ONE, BLESSED BE HE, FROM LOVE: AS IT IS SAID, THOUGH HE SLAY ME, YET WILL I WAIT FOR HIM.[26] AND SHOULD IT BE STILL DOUBTFUL WHETHER THE MEANING IS 'I WILL WAIT FOR HIM' OR 'I WILL NOT WAITǒ,[27] THERE IS ANOTHER TEXT TO DECLARE, TILL I DIE I WILL NOT PUT AWAY MINE INTEGRITY FROM ME.[28] THIS TEACHES THAT WHAT HE DID WAS FROM LOVE. R. JOSHUA [B. HANANIAH] SAID: WHO WILL REMOVE THE DUST FROM THINE EYES, R. JOHANAN B. ZAKKAI, SINCE THOU HAST BEEN EXPOUNDING ALL THY LIFE THAT JOB ONLY SERVED THE ALL-PRESENT FROM FEAR, AS IT IS SAID, THAT MAN WAS PERFECT AND UPRIGHT, AND ONE THAT FEARED GOD. AND ESCHEWED EVIL![29] DID NOT JOSHUA, THE PUPIL OF THY PUPIL,[30] TEACH THAT WHAT HE DID WAS FROM LOVE?[31]

GEMARA. [The Mishnah states: SO THE WATER PROVES] HIM. Whom? If I say that it is the husband, what has the husband done? Should you reply

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(1) Num. V, 18.
(2) Ibid. 22.
(3) Her paramour.
(4) Num. V, 24, 27.
(5) He must divorce her if she is guilty.
(6) He is not allowed to marry her.
(7) Ibid. 29. The and is redundant; it is therefore employed by R. Akiba for an exegetical purpose.
(8) He similarly explained the redundant and.
(9) In verses 14 and 29. It also occurs in verse 13; but that is expounded in a different connection. V. fol. 2b, p. 5.
(10) When the preceding was taught. It was the important occasion when R. Eleazar b. Azariah was appointed Principal of the School in place of Rabban Gamaliel II. V. Ber. 27b et seq. (Rashi). V. ‘Ed. (Sonc. ed.). Introduction p. XI. [Geiger, Lesestucke aus der Mischnah, p. 37: on the same day on which the previous teachings were presented.]
(11) Lev. XI, 33. The reference is to unclean creeping things.
(12) Since the text was unpointed R. Akiba read the word as yetamme’, i.e., ‘makes (others) unclean’.
(13) The vessel becomes unclean first and then defiles the loaf in it.
(14) [Even in holy food like that of the heave-offering.]
(15) (Even in common food.)
(16) [He was not the pupil of R. Johanan b. Zakkai, but of his disciple R. Eliezer b. Hyrcanus, yet he is so described on account of his eminence. (Maim.).]
(17) Num. XXXV, 5, defining the limits of the cities of refuge.
(18) Ibid. 4.
(19) Open spaces for cattle.
(20) Beyond the city an additional space was included equal to the extreme point one was allowed to proceed to from an inhabited spot on the Sabbath. viz., 2000 cubits. This latter space was inclusive of the suburb.
(21) This was also inclusive of the suburb.
(22) Ex. XV, 1.
(23) This will be explained in the Gemara. Hallel, lit., ‘praise’, is the name given to Pss. CXIII-CXVIII, cf. Suk. III, 10.
(24) Ex. XV, 1.
(25) V. Glos. The method of recital is explained in the Gemara.
(26) Job XIII, 15.
(27) There is a variant in the text which gives the alternative translation. V. R.V. margin.
(28) Ibid. XXVII, 5.
(29) Ibid. I, 1.
(30) He was the pupil of Akiba.
(31) [Buchler, Sin and Atonement, p. 140, suggests this controversy to have arisen in connection with the discussion whether the book of Job should be included in the Canon.]

Talmud - Mas. Sotah 28a

that if there be sin in him[1] the water proves him, [it may be asked] should there be sin in him on his own account does the water prove her for her own sin, and behold it has been taught: And the man shall be free from iniquity, and that woman shall bear her iniquity,[2] i.e., so long as the husband is free from iniquity the water proves his wife, but if the husband is not free from iniquity the Water does not prove his wife! — Should [the Mishnah, on the other hand, refer] to the paramour, it should have used the same phraseology as in the continuation, viz., ‘Just as she is prohibited to the husband so is she prohibited to the paramour’![3] — It certainly refers to the paramour; but in the first clause since it uses the word ‘HER’ it uses the word HIM and in the continuation since it used the word ‘HUSBAND’ it used the word ‘PARAMOURð.

AS IT IS SAID ‘AND SHALL ENTER’ TWICE. The question was asked: Does [the teacher in the Mishnah] mean ‘shall enter and shall enter’ or ‘and shall enter and shall enter’?[4] — Come and hear: JUST AS SHE IS PROHIBITED TO THE HUSBAND SO IS SHE PROHIBITED TO THE PARAMOUR; AS IT IS SAID, DEFILED. . . AND IS DEFILED.[5] But it is still questionable whether [the teacher in the Mishnah] draws the conclusion from the repetition of 'defiled' or from the conjunction in 'defiled . . . and is defiled'! — Come and hear: Since he states in the continuation, RABBI SAYS: THE WORD DEFILED OCCURS TWICE IN THE SCRIPTURAL PORTION, ONE REFERRING TO THE HUSBAND AND THE OTHER TO THE PARAMOUR, it follows that it is R. Akiba who expounds the conjunction 'and'. Consequently for R. Akiba there are six texts [containing the phrase 'and shall enter'][6] — one for the command regarding her[7] and one for the command regarding him;[8] one for the action regarding her and one for the action regarding him;[9] one for the notification[10] regarding her and one for the notification regarding him. For Rabbi,[11] on the other hand, there are three texts — one for the command, one for the action and one for the notification.[12] But whence does Rabbi derive the teaching: JUST AS THE WATER PROVES HER SO THE WATER PROVES HIM? — He derives it from [the following teaching]: For it has been taught: And make the belly to swell and the thigh to fall away,[13] i.e., the belly and thigh of the paramour. You say it is the belly and thigh of the paramour; perhaps it is not so, but the belly and thigh of the adulteress! Since it is stated and her belly shall swell and her thigh shall fall away,[14] here it is clearly the belly and thigh of the adulteress which are referred to; so how am I to explain 'and make the belly to swell and the thigh to fall away'? It refers to the belly and thigh of the paramour. And the other?[15] — It indicates that the priest informs her that [the water] affects the belly first and then the thigh so as not to discredit the water of bitterness.[16] And the other?[17] — If that were so, It should have been written 'her belly and her thigh'; what means 'belly and thigh' [without specification]? Conclude that the reference is to the paramour. But am I to suppose that [the phrase without specification] is intended only for this?[18] — If that were so, it should have been written 'his belly and his thigh'; what means 'belly and thigh'? Draw two inferences therefrom.[19]

R. JOSHUA SAID, THUS USED ZECHARIAH etc. Our Rabbis taught: Why is it mentioned three times in the Scriptural portion if she be defiled,[20] she be defiled,[21] and she is defiled?[22] One [to make her prohibited] to the husband, one to the paramour, and one for partaking of the heave-offering. This is the statement of R. Akiba. R. Ishmael said: It is an a fortiori conclusion; if a divorced woman,[23] who is allowed to partake of the heave-offering, is prohibited [to marry into] the priesthood, how much more must a woman who is prohibited from partaking of the heave-offering[24] be prohibited [to marry into] the priesthood![25] For what purpose[26] is it stated and she be defiled . . . and she be not defiled?[27] If she be defiled, why should she drink; and if she be not defiled, why does he make her drink! Scripture informs you that in a doubtful case she is prohibited. From this you can draw an analogy [with respect to the defilement caused] by a creeping thing:[28] if in the case of a suspected woman, where the effect is not the same should the act be in error or in presumption, under compulsion or of free will,[29] there is the consequence [of being prohibited] when there is a doubt as when there is certainty; how much more so must there be the consequence [of defilement] in a case of doubt as in a case of certainty with a creeping thing where the effect is the same whether [the contact was] in error or in presumption, or whether it was under compulsion or of free will!

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(1) By having cohabited with her after she had secluded herself with the other man.

(2) Nun,. V, 31.

(3) And state, 'so the water proves the paramour'.

(4) I.e., is the inference drawn from the redundant and or from the repetition of the word?

(5) Similarly in the first clause the deduction is drawn from the redundant and.

(6) In verses 22. 24 and 27, the conjunction 'and' duplicating each.

(7) verse 24, where God decreed that the water should have the effect of proving her.

(8) The paramour.

(9) verse 27, where the assurance is given that the water would take effect.

(10) Of the priest, in verse 22.

(11) Who draws no conclusion from 'and'.

(12) As regards the woman only in each instance.

(13) Num. V, 22. The pronoun 'thy' in the E.V. does not occur in the Hebrew. Therefore the reference is taken to be the paramour.

(14) Ibid. 27.

(15) I.e., how does R. Akiba explain the phrase 'and make the belly etc.'?

(16) V. supra 9b.

(17) How does Rabbi meet this argument?

(18) To teach that it refers to the paramour.

(19) That it refers to the paramour and also that it indicates the order in which the effect of the water is felt.

(20) Num. V, 27.

(21) Ibid. 14.

(22) Ibid. 29.

(23) Viz., a priest's daughter who had been married to a non-priest, v. Lev. XXII, 13.

(24) Because of suspected adultery.

(25) This will be explained anon.

(26) The exposition that follows is independent of the preceding.

(27) Num. V, 14.

(28) Viz., when it is doubtful whether defilement has been caused.

(29) If the woman acted in error or under force, she does not undergo the ordeal.

Talmud - Mas. Sotah 28b

And from the position you have taken up[1] [proceed to draw the following deductions]: As [the case of doubt in connection with] the suspected woman can only occur in a private domain [where seclusion takes place],[2] so [the case of doubt in connection with] a creeping thing can only occur [when the contact takes place] in a private domain.[3] And as [the case in connection with] a suspected woman is a matter where there is a rational being to be interrogated,[4] so [in the case of doubt in connection with] a creeping thing it must be a matter where there is a rational being to be interrogated.[5] Hence [the Rabbis] said: Where there is a rational being to be interrogated, should a doubtful [case of defilement] occur in a private domain it is regarded as unclean, but should it occur in a public place as clean; and when there is no rational being to be interrogated whether it occurs in a private domain or in a public place a doubtful [case of defilement] is regarded as clean.[6]

R. Akiba dealt above with [the woman being prohibited to partake] of the heave-offering, and R. Ishmael answers him with a statement about the priesthood![7] And further, whence does R. Akiba derive [the rule that the suspected woman cannot marry into] the priesthood? Should you answer that with reference to [this rule about] the priesthood a Scriptural text is not necessary,

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(1) Viz., drawing the above analogy.

(2) As distinct from a public place.

(3) If the doubt occurred about contact in a public place, there is no defilement.

(4) As to whether she had misconducted herself or not.

(5) There must have been a person present who can be questioned about the probability of the contact having taken place.14

(6) Thus the end of the cited Baraitha.

(7) Into which an adulteress cannot marry. The reply was quite irrelevant to the issue.

Talmud - Mas. Sotah 29a

since a woman about whom there is a doubt whether she is immoral is treated like an immoral woman,[1] then [for the rule about] the heave-offering a Scriptural verse should likewise be unnecessary, since a woman about whom there is a doubt whether she is immoral is treated like an immoral woman![2] — But according to R. Akiba, there are four texts [where the word ‘defiled’ occurs][3] — one [to prohibit the woman] to the husband, one to the paramour, one to the priesthood and one for the heave-offering. Whereas according to R. Ishmael there are [only] three texts[4] — one [to prohibit her] to the husband, one to the paramour, and one for the heave-offering; and [the prohibition] regarding the priesthood he deduces by a fortiori reasoning. Whence, however, does R. Ishmael [know] that a text is required for the heave-offering and that [the prohibition] regarding the priesthood is to be deduced by a fortiori reasoning; perhaps [a text] is required as regards the priesthood and the heave-offering is permitted to her![5] — He can reply to you, This is proved by the analogy of the husband and paramour: just as [the prohibition] respecting husband and paramour is in force already during the lifetime [of the husband],[6] so also [the prohibition] respecting the heave-offering is likewise to come into force during his lifetime, to the exclusion of that respecting the priesthood which comes into effect after death.[7] R. Akiba, on the other hand,[8] does not accept the analogy of the husband and paramour; and even if he accepted it, a teaching which is deducible by a fortiori reasoning Scripture took the trouble to write down.[9]

R. Giddal said in the name of Rab: The [difference between] a case where there is a rational being to be interrogated and one where there is no rational being to be interrogated is derived from the following texts: And the flesh that toucheth any unclean thing shall not be eaten[10] — when the thing is certainly unclean it may not be eaten; hence when there is a doubt whether it is unclean or clean it may be eaten. Consider now the continuation: And as for the flesh, all that is clean shall eat [sacrificial] flesh[11] — [A man who is] certainly clean may eat, but when there is a doubt whether he is unclean or clean he may not eat![12] Is not, then, the conclusion to be drawn from this that in one case there is a rational being to be interrogated and not in the other?[13] The statement of R. Giddal in the name of Rab was necessary, and it was also necessary to derive [the rule of defilement caused by a creeping thing] from the case of the suspected woman; for if [it had only been based on] the teaching of Rab, I would have said that the rule was the same whether [the defilement occurred] in a private domain or a public place; therefore it was also necessary to derive it from the case of a suspected woman.[14] If, further, it [had been derived solely] from the case of the suspected woman, I would have said that the rule[15] only applied when that which was touched and that which touched it were both rational beings.[16] So it is necessary [to have Rab's teaching].[17]

ON THAT DAY R. AKIBA EXPOUNDED, AND EVERY EARTHEN VESSEL etc. Since it has no [basis in Scripture according to which it is unclean],[18] why should it be unclean? — Rab Judah said in the name of Rab, It has none from the Torah, but it has one as a deduction from a fortiori reasoning: If a tebul yom,[19] who is allowed with non-holy food,[20] disqualifies[21] the heave-offering,[22] how much more so must a loaf unclean in the second degree, which is disqualified in the case of non-holy food,[23] render the heave-offering unclean in the third degree! It can, however, be objected, This[24] applies to a tebul yom because he may be a source of primary defilement.[25] [But it may be answered,] You can draw [the necessary conclusion]

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(1) ‘A harlot’ (Lev. XXI, 7) whom a priest may not marry.

(2) And if a priest's daughter loses the right to eat of the heave-offering though lawfully married to a non-priest (Lev. XXII, 12), how much more must she forfeit it if she is immoral; v. Yeb. 68a.

(3) In Num. V, 17, 28 and 29. In the last verse it is preceded by ‘and’, which is understood as the duplication of the term.

(4) He does not expound ‘and’.

(5) Why does he not apply one occurrence of the word ‘defiled’ to the matter of the priesthood instead of the heave-offering?

(6) She is forbidden to the paramour whilst the husband is yet alive.

(7) During the husband's lifetime she cannot in any way marry into the priesthood since a priest may not marry a divorcee; the prohibition is consequently to refer here to after the husband's death, that even then a priest may not marry the suspected woman. Since the analogy does not apply, the text cannot be applied to this prohibition.

(8) Who bases the prohibition of marriage with a priest on a text.

(9) So the fact that the rule could be arrived at by deduction does not obviate R. Akiba's contention that it is based on a text.

(10) Lev. VII, 19.

(11) Ibid., sic.

(12) Contrary conclusions are drawn from the verse.

(13) The clause ‘and as for flesh etc.’ speaks of a man who is the object of uncleanness and a rational being to be interrogated; whereas the former ‘and the flesh that toucheth etc.’ refers to where there is no rational being to be interrogated.

(14) From which it is learnt that the rule is not the same in both localities.

(15) About a doubtful case of defilement being regarded as unclean.

(16) As happens with the suspected woman.

(17) That it is sufficient if the object touched is a rational being for a doubtful case to be unclean. It is not required that the defiling agent should also be a rational being.

(18) As R. Johanan declares in the Mishnah; and yet he held it to be defiled.

(19) Lit., ‘bathed during day’, i.e., an unclean person who has undergone immersion but awaits sunset before he regains his state of purity. V. Lev. XXII, 7.

(20) And does not defile it.

(21) [פסול This term denotes the last degree of uncleanness which cannot communicate defilement to any other object coming into contact with it.]

(22) By touching it so that it may not be eaten by a priest. v. Yeb. 74b.

(23) [If a creeping thing touches an object which in turn comes into contact with non-holy food, the latter, which is in the second degree of uncleanness, is disqualified; v. Lev. XI, 33.]

(24) The disqualifying of the heave-offering.

(25) Lit., ‘father of defilement’. By, e.g., having touched a corpse or by himself being a leper. Tebul yom cannot thus be made the basis of deduction.

Talmud - Mas. Sotah 29b

from a tebul yom [who was defiled] by a creeping thing.[1] [Should it be objected that] it applies [only] to a tebul yom [who was defiled] by a creeping thing because he belongs to that category in which there may be a primary source of defilement],[2] the case of an earthenware vessel proves [the contrary].[3] [And should it be objected that] it applies to an earthenware vessel because its interior space renders unclean,[4] the case of tebul yom proves [the contrary].[5]

Thus the original reasoning [by a fortiori] holds good, since the characteristic [of the tebul yom] is unlike the characteristic [of the earthenware vessel][6] and vice versa;[7] the point they have in common is that they are allowed with non-holy food but disqualify the heave-offering.[8] How much more, then, must a loaf unclean in the second degree, which disqualifies in the case of non-holy food, disqualify the heave-offering! ANOTHER GENERATION,[9] however, might object. What is the point common to them both? That in each there is a characteristic which makes for severity![10] But R. Johanan does not raise an objection on the ground that there is in each a characteristic which makes for severity.[11]

It has been taught: R. Jose said: Whence is it that with sacrificial food there is disqualification with the fourth degree of defilement? It is a deduction [from a fortiori reasoning]: If one lacking atonement,[12] who is permitted with the heave-offering,[13] is dis qualified as regards sacrificial food,[14] how much more does the third degree, which is disqualified with the heave-offering,[15] create a fourth degree of defilement with sacrificial food! We learnt [the rule about] a third degree of defilement with sacrificial food from the Torah and a fourth degree from a fortiori reasoning;[16] whence have we it from the Torah that there is a third degree with sacrificial food? — As it is written: And the flesh that toucheth any unclean thing shall not be eaten[17] — do we not deal here with [flesh] that touched something unclean in the second degree?[18] And the All-Merciful declared:

‘It shall not be eaten’. A fourth degree [is derived] from a fortiori reasoning as we stated above.

R. Johanan said: I do not understand the Master's[19] reason[20] since its refutation is by its side, viz., food which is made unclean by contact with a tebul yom proves [the contrary], inasmuch as it is disqualified in the case of heave-offering but does not create a fourth degree of defilement with sacrificial food. For it has been taught: Abba Saul said: A tebul yom is unclean in the first degree as regards sacrificial food to create two further degrees of defilement[21] and one degree of disqualification.[22] R. Meir Says: He creates one further degree of defilement and one of disqualification. The Sages Say: Just as he disqualifies food or liquids of the heave-offering,[23] so he disqualifies sacrificial food and drinks.[24] To this R. Papa demurred: Whence is it that R. Jose holds the same view as the Rabbis? perhaps he holds the same view as Abba Saul who says [that the tebul yom] creates two further degrees of defilement and one of disqualification! — If it enter your mind that he holds the same view as Abba Saul, let him [deduce the rule about] a fourth degree of defilement with sacrificial food from the case of food that is rendered unclean by contact with a tebul yom [as follows]: If a tebul yom is himself allowed with non-holy food,[25] and yet you say that food which is unclean through him creates a fourth degree with sacrificial food,

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(1) He is then unclean in the first degree but not a source of primary cause of defilement. A creeping thing is a primary source of defilement.

(2) [A man who touches a dead body becomes a primary source of uncleanness. This does not apply to foodstuffs.]

(3) Since it can never be a primary source of defilement and yet defiles the heave-offering by contact.

(4) Without actual contact, v. Lev. XI, 33.

(5) Because he obviously cannot defile except by direct contact and yet he disqualifies the heave-offering by touching it.

(6) Since the latter unlike the former defiles by its interior space.

(7) The former, unlike the latter, being possibly a primary source of defilement.

(8) [This is difficult to explain, since an earthenware vessel does disqualify non-holy food (v. Lev. Xl, 33ff). Rashi suggests another reading which is not free from difficulty. Tosaf. of Sens explains the reference to be to a broken earthenware vessel which in respect of non-holy food communicates no defilement.]

(9) Which would not regard this as unclean.

(10) In the law relating thereto, viz., the tebul yom can be a primary source of defilement and the interior space of an earthenware vessel can render unclean.

(11) Because the characteristic of severity is peculiar to each and not common to both.

(12) E.g., a leper on his recovery, (v. Lev. XIV, 9ff). The seventh day the sacrifice had not yet been offered, and he may not partake of sacrificial food until this has been done.

(13) And does not disqualify it by his touch.

(14) I.e., he disqualifies it by his touch.

(15) As proved on a fortiori reasoning, supra.

(16) [Once the third degree is derived from the Torah, it is possible to employ the a fortiori reasoning in regard to the fourth degree. Were it not so, we should have required the a fortiori reasoning for the third degree only.]

(17) Lev. VII, 19.

(18) Since ‘unclean thing’ means that which had been rendered unclean by something else. The flesh was accordingly unclean in the third degree.

(19) V. Nazir (Sonc. ed.) p. 64, n. 1.

(20) R. Jose's argument as given in the preceding paragraph with respect to a fourth degree with holy food.

(21) What touches him is unclean in the second degree and what this touches is unclean in the third.

(22) If the heave-offering was touched by the object unclean in the third degree it would become disqualified but would not create a fourth degree.

(23) But does not create any further degree of defilement.

(24) [Without creating a further degree of defilement. Whereas, adopting R. Jose's arguments the food touched by the tebul yom should on a fortiori reasoning produce here a disqualification in the fourth degree.]

(25) And does not disqualify it.

then that which is unclean in the third degree through contact with what is unclean in the second degree — the second degree which is itself forbidden in the case of non-holy food[1] — must all the more create a fourth degree with the holy![2] And should you reply [as stated above], ‘It can, however, be objected.It applies to a tebul yom because he may be a primary source of defilement’, behold he [R. Jose] derived his argument from one lacking atonement and [he] did not raise this objection.[3]

R. Assi said in the name of Rab — another version is Rabbah b. Issi said in the name of Rab — , R. Meir, R. Jose, R. Joshua, R. Eleazar and R. Eliezer all hold the view that what is unclean in the second degree does not create a third degree with non-holy food. R. Meir — for we have learnt: Everything that requires immersion in water according to the statement of the scribes[4] defiles the holy, disqualifies the heave-offering, and is permitted with the non-holy and with the tithe. Such is the statement of R. Meir; but the Sages prohibit in the case of the tithe.[5] R. Jose — as we have stated above; for if it were so,[6] then let him derive a fourth degree with the heave-offering and a fifth with the sacrificial food.[7] R. Joshua — for we have learnt: R. Eliezer Says: He who eats food unclean in the first degree is unclean in the first degree; [if he eats] food unclean in the second degree he is unclean in the second degree; and similarly with the third degree. R. Joshua Says: He who eats food unclean in the first or second degree is unclean in the second degree; [if he eats food unclean] in the third degree, he is unclean in the second degree as regards the sacrificial food but not unclean in the second degree as regards the heave-offering. This[8] is said of non-holy food which was prepared in the purity of the heave-offering.[9] [This means, does it not,] ‘When it is in the purity of the heave-offering’ but not when it is in the purity of the sacrificial food?[10] Conclude, then, that he holds that [normally] what is unclean in the second degree does not create a third degree with the non-holy. R. Eleazar — for it has been taught: R. Eleazar says: The following three are alike: the first degree of defilement in the case of the sacrificial food, the non-holy and the heave-offering; it creates two further degrees of defilement and one of disqualification with the sacrificial food;[11] it creates one further degree of defilement and one of disqualification with the heave-offering;[12] and it creates one degree of disqualification with the non-holy.[13] R. Eliezer-for we have learnt: R. Eliezer Says: Hallah[14] may be taken from [dough] which is pure on account of that which is defiled. How is this? There are two portions of dough, one pure and the other defiled. He takes a quantity sufficient for hallah[15] from the dough from which its hallah had not been removed,[16] and places a piece less than the size of an egg[17] in the centre [of the defiled dough] so that [it may be considered that hallah] had been taken from the mass [of the defiled dough].

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(1) Non-holy food can become unclean in the second degree.

(2) [The advantage of this deduction consists in that it is more direct than that of R. Jose, which involves a second a fortiori reasoning to prove that there is a disqualification in the third degree in the case of the heave-offering (v. p. 145, n. 3) Tosaf.]

(3) I.e., that one lacking atonement is different since he may be a primary source of defilement. The reason R. Jose did not raise this objection is evidently because he is no longer regarded as unclean, and the same applies to a tebul yom. Consequently R. Jose cannot be said to agree with Abba Saul, but must agree with the Rabbis, hence the question of R. Johanan.

(4) Viz., things which, according to the Torah, are clean, but the Rabbis take a stricter view.

(5) To be eaten; v. Parah, XI, 5.

(6) That there was a third degree of defilement with the non-holy.

(7) From his own a fortiori reasoning cited above.

(8) That food in the third degree renders the one eating it unclean in respect of sacrificial food.

(9) I.e., when a priest took upon himself that even the non-holy food he ate should be in the same state of purity as the heave-offering. But ordinary non-holy food cannot become unclean in the third degree.

(10) [As non-holy food cannot be raised to the level of purity of sacrificial food. Rashi reads: ‘but not when it is ordinary non-holy food’. This is also the reading of MS.M.]

(11) There is thus a fourth degree of defilement.
(12) There is then a third degree.
(13) And so there is no third degree with the non-holy.
(14) Part of the dough presented to the priest; v. Num. XV, 17-21.
(15) One twenty-fourth of the whole in the case of an individual and half of that proportion in the case of a baker.
(16) The pure dough.
(17) A quantity less than the size of an egg cannot communicate defilement.

Talmud - Mas. Sotah 30b

The Sages, however, forbid this. And it has also been taught: [The quantity[1] may be] equal to the size of an egg. — [Now the schoolmen] held that both [these teachings][2] refer to dough which is unclean in the first degree, and that non-holy food from which hallah had not yet been taken is not like hallah.[3] Is it not, then, to be supposed that they differ on this point: One[4] holds that a second degree of defilement does not create a third with the non-holy,[5] whereas the others hold that it does create a third degree with the non-holy?[6] R. Mari b. R. Kahana said: All agree that a second degree of defilement does not create a third with the non-holy; but here they differ with regard to non-holy food from which hallah had yet to be taken. One holds that it is like hallah;[7] the other holds that it is not like hallah. If you like I can say that all agree that non-holy food from which hallah had yet to be taken is not like hallah and a second degree of defilement does not create a third with the non-holy; and here they differ on whether it is permitted to apply the laws of defilement to non-holy food in the land of Israel.[8] One[9] holds that it is permitted to apply the laws of defilement to non-holy food in the land of Israel, the others hold that it is prohibited.[10]

ON THAT DAY R. AKIBA EXPOUNDED, [AND YE SHALL MEASURE] etc. On what do they[11] differ? — One holds that the regulations concerning the Sabbath-limit are an institution of the Torah,[12] whereas the other holds they are an institution of the Rabbis.

Our Rabbis taught: On that day R. Akiba expounded: At the time the Israelites ascended from the Red Sea, they desired to utter a Song; and how did they render the song? Like an adult who reads the Hallel [for a congregation][13] and they respond after him with the leading word.[14] [According to this explanation] Moses said: ‘I will sing unto the Lord’ and they responded, ‘I will sing unto the Lord’; Moses said: ‘For He hath triumphed gloriously’ and they responded, ‘I will sing unto the Lord’. R. Eliezer son of R. Jose the Galilean declares, Like a minor who reads the Hallel [for a congregation], and they repeat after him all that he Says.[15] [According to this explanation] Moses said: ‘I will sing unto the Lord’ and they responded, ‘I will sing unto the Lord’; Moses said: ‘For He hath triumphed gloriously’ and they responded, ‘For He hath triumphed gloriously’. R. Nehemiah declares: Like a school-teacher[16] who recites[17] the Shema’ in the Synagogue, viz., he begins first and they respond after him.[18] On what do they differ? — R. Akiba holds that the word ‘saying’[19] refers to the first clause;[20] R. Eliezer son of R. Jose the Galilean holds that ‘saying’ refers to every clause; and R. Nehemiah holds that ‘and spake’ indicates that they sang all together ‘and saying’ that Moses began first.

Our Rabbis taught: R. Jose the Galilean expounded: At the time the Israelites ascended from the Red Sea, they desired to utter a Song; and how did they render the song? The babe lay upon his mother's knees and the suckling sucked at his mother's breast; when they beheld the Shechinah, the babe raised his neck and the suckling released the nipple from his mouth, and they exclaimed: This is my God and I will Praise Him;[21] as it is said: Out of the mouths of babes and sucklings hast thou established strength.[22] R. Meir used to say: Whence is it that even the embryos in their mothers’ womb uttered a song? As it is said,

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(1) [According to R. Eliezer.]

(2) [The one that holds that the quantity should be less than the size of an egg as well as the other, that it may be the size of an egg.]
(3) I.e., like heave-offering in respect of the law of defilement. [But is treated like non-holy, both on the view of R. Eliezer and the Rabbis. For this reason even if the quantity placed between the two doughs is of the size of an egg it does not communicate the defilement in the second degree, which it contracts from the defiled dough to the pure one, since there is no third degree with non-holy.]
(4) R. Eliezer.
(5) [For this reason he allows in the second teaching a quantity of the size of an egg; and the reservation in the first teaching is merely as a precaution lest the piece of dough may come in contact with impure dough after the hallah has been designated.]
(6) This shews that R. Eliezer holds that there is no third degree with non-holy food.
(7) The Rabbis consider that it can create a third degree.
(8) In Ber. 47b R. Meir defines an ‘Am ha-arez (v. supra p. 110) as one who does not eat his non-holy food in a condition of ritual purity; but the Rabbis give a different definition.
(9) R. Eliezer.
(10) [And their concern is with the piece of dough placed between the two doughs which, though less than the size of an egg, can yet contract defilement.]
(11) R. Akiba and R. Eliezer, son of R. Jose of Galilee.
(12) R. Akiba takes this view; and therefore, according to him, the Torah had to make provision for the Sabbath-limit in the cities of refuge.
(13) He acts as precentor and his rendering is on their behalf so that they may thereby fulfil their duty to recite it.
(14) Lit., ‘heads of chapters’. According to a statement in Suk. 38a, the response consisted of the word Hallelujah.
(15) Since he was a minor, his rendering would not exempt them from saying every word.
(16) Whose class was usually in the Synagogue and so he acted as Precentor.
(17) The word pores is lit., ‘divide’, and its exact meaning is disputed. V. Elbogen. Der judische Gottesdienst, pp. 514ff and the references cited there.
(18) Elbogen takes this to mean that the Precentor and Congregation read the verses alternately. Rashi's explanation is: he reads the benedictions preceding the Shema’ which they repeat after him and then they read the Shema in unison. According to this explanation, Moses and the Israelites were divinely inspired so that they independently sang the same words in unison.
(19) In Ex. XV, 1.
(20) ‘I will sing unto the Lord’, and that only was the Israeliteðs. response.
(21) Ibid. 3.
(22) Ps. VIII, 3. E.V. 2.

Talmud - Mas. Sotah 31a

Bless ye the Lord in the Congregations, even the Lord, from the fountain of Israel.[1] But these could not behold [the Shechinah]! — R. Tanhum said: The abdomen became for them a kind of transparent medium and they did behold it.

ON THAT DAY R. JOSHUA B. HYRCANUS EXPOUNDED, JOB ONLY SERVED etc. But let him see how the word ‘lo’[2] is spelt; if it is written with lamed and aleph then it means ‘not’, and if with lamed and waw then it means for Him’![3] But is the meaning ‘not’ wherever the spelling is lamed and aleph? Can it apply to: In all their affliction there was affliction to Him?[4] [The word ‘lo’, ‘to Him’] is spelt lamed and aleph, but does it here also signify ‘not’! And should you say that here too [it means ‘not’], behold it continues with: And the angel of His presence saved them![5] But sometimes it has one meaning and at other times the other meaning.

It has been taught: R. Meir Says: It is declared of Job one that feared God,[6] and it is declared of Abraham thou fearest God;[7] just as ‘fearing God’ with Abraham indicates from love, so ‘fearing God’ with Job indicates from love. Whence, however, have we it in connection with Abraham himself [that he was motived by love]? As it is written: The seed of Abraham who loved Me.[8] What difference is there between one who acts from love and one who acts from fear? — The difference is that indicated in this teaching: R. Simeon b. Eleazar says: Greater is he who acts from love than he who acts from fear, because with the latter [the merit] remains effective for a thousand generations but with the former it remains effective for two thousand generations. Here it is written: Unto thousands of them that love Me and keep My commandments[9] and elsewhere it is written: And keep His commandments to a thousand generations.[10] But in this latter passage it is likewise written: ‘With them that love Him and keep His commandments to a thousand generations! — In the first verse cited [the word ‘thousand’] is attached [to them that love Me,] whereas in the second verse [cited the word ‘thousand’] is attached [to keep His commandments].[11]

Two disciples were once sitting in the presence of Raba. One said to him, In my dream they read to me, O how great is Thy goodness which Thou hast laid up for them that fear Thee.[12] The other said to him, In my dream they read to me, But let all those that put their trust in Thee rejoice, let them ever shout for joy, because Thou defendest them; let them also that love Thy name be joyful in Thee.[13] He replied to them, Both of you are completely righteous Rabbis, but one is actuated by love and the other by fear.

CHAPTER VI

MISHNAH. IF A MAN WARNED HIS WIFE AND SHE SECLUDED HERSELF [WITH ANOTHER MAN], EVEN IF HE HEARD [THAT SHE HAD DONE SO] FROM A FLYING BIRD,[14] HE DIVORCES HER AND GIVES HER THE MARRIAGE-SETTLEMENT.[15] SUCH IS THE STATEMENT OF R. ELIEZER. R. JOSHUA SAYS: [HE DOES NOT DO THIS] UNTIL WOMEN WHO SPIN BY MOONLIGHT DISCUSS HER.[16]

IF ONE WITNESS SAID, I SAW THAT SHE COMMITTED MISCONDUCT, SHE DOES NOT DRINK THE WATER.[17] NOT ONLY THAT, BUT EVEN A SLAVE, MALE OR FEMALE,[18] IS BELIEVED ALSO TO DISQUALIFY HER FOR THE MARRIAGE-SETTLEMENT. HER MOTHER-IN-LAW, HER MOTHER-IN-LAW'S DAUGHTER, HER ASSOCIATE-WIFE,[19] HER SISTER-IN-LAW[20] AND HER STEPDAUGHTER[21] ARE BELIEVED, NOT TO DISQUALIFY HER FOR THE MARRIAGE-SETTLEMENT BUT THAT SHE SHOULD NOT DRINK.

IT[22] IS A PROPER CONCLUSION THAT IF THE FIRST EVIDENCE [THAT THE WOMAN HAD SECLUDED HERSELF WITH THE MAN], WHICH DOES NOT PROHIBIT HER [TO HER HUSBAND] FOR ALL TIME,[23] IS NOT ESTABLISHED BY FEWER THAN TWO WITNESSES, IS IT NOT RIGHT THAT THE FINAL EVIDENCE [THAT SHE HAD MISCONDUCTED HERSELF] WHICH PROHIBITS HER TO HIM FOR ALL TIME, SHOULD NOT BE ESTABLISHED BY FEWER THAN TWO WITNESSES! THEREFORE THERE IS A TEXT TO STATE, AND THERE BE NO WITNESS AGAINST HER,[24] I.E., WHATEVER [EVIDENCE] THERE MAY BE AGAINST HER [IS BELIEVED, EVEN IF IT BE ONLY ONE WITNESS]. AND WITH RESPECT TO THE FIRST EVIDENCE [ABOUT HER SECLUSION WITH THE MAN, THAT ONE WITNESS SUFFICES MAY BE ARGUED BY] A FORTIORI REASONING AS FOLLOWS IF

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(1) Ibid. LXVIII, 27, E.V. 26. ‘From the fountain’ indicates those who were still in the womb.

(2) In Job XIII, 15.

(3) So how could the Mishnah state that there is a doubt about the meaning?

(4) Isa. LXIII, 9.

(5) These words prove that ‘lo’ in the preceding clause cannot mean ‘notð

(6) Job I, 1.

(7) Gen. XXII, 12.

(8) Isa. XLI, 8, sic.
(9) Ex. XX, 6. ‘Thousands’ is interpreted as generations, and the plural indicates at least two thousand.
(10) Deut. VII. 9.
(11) So in the former the motive is love, in the latter fear of punishment.
(12) Ps. XXXI, 20.
(13) Ibid. V, 12.
(14) It was only a vague rumour that came to his ears. [The rumour was concerning (a) seclusion only (Rashi); (b) misconduct (Maim.). — ‘A FLYING BIRD’ may denote a talking bird, a parrot (v. Maim. and Strashun.)
(15) He gives this to her if he was unwilling for her to drink the water, (Rashi). [According to this interpretation the husband, if he wishes, can make her drink even on the strength of a vague rumour, even as he can on the evidence of one witness to the seclusion, according to R. Eliezer. Rashbam, however, holds that a vague rumour is not on par with one witness and the husband therefore, though he cannot make her drink, must put her away and give her the marriage-settlement. (V. Tosaf. Sens): Similarly on the view of Maimonides (v. n. 1) the divorce is compulsory. though in the absence of real evidence of misconduct she does not forfeit the marriage-settlement.]
(16) Her behaviour had given rise to public scandal.
(17) One witness is accepted and she is divorced besides losing the marriage-settlement. V. supra 2a.
(18) Whose evidence is not accepted in an ordinary case.
(19) The husband had more than one wife.
(20) Viz., the wife of her husband's brother whom she was due to marry if she was left a childless widow.
(21) All these are presumably ill-disposed towards her, and their evidence would not have been accepted in any other kind of charge.
(22) V. supra 3b.
(23) Because the water may prove her innocent.
(24) Num. V, 13.

Talmud - Mas. Sotah 31b

THE FINAL EVIDENCE [REGARDING MISCONDUCT], WHICH PROHIBITS HER TO HER HUSBAND FOR ALL TIME, IS ESTABLISHED BY ONE WITNESS, IS IT NOT PROPER THAT THE FIRST EVIDENCE, WHICH DOES NOT PROHIBIT HER TO HIM FOR ALL TIME, SHOULD BE ESTABLISHED BY ONE WITNESS! THEREFORE THERE IS A TEXT TO STATE, BECAUSE HE HATH FOUND SOME UNSEEMLY MATTER IN HER,[1] AND ELSEWHERE IT STATES, AT THE MOUTH OF TWO WITNESSES, OR AT THE MOUTH OF THREE WITNESSES, SHALL A MATTER BE ESTABLISHED;[2] AS THE ‘MATTER’ MENTIONED IN THIS LATTER CASE MUST BE CONFIRMED BY THE TESTIMONY OF TWO WITNESSES, SO ALSO HERE [IN THE CASE OF THE SUSPECTED WOMAN] THE ‘MATTER’ MUST BE CONFIRMED BY THE TESTIMONY OF TWO WITNESSES.

IF ONE WITNESS SAYS THAT SHE MISCONDUCTED HERSELF AND ANOTHER WITNESS SAYS THAT SHE DID NOT,[3] OR IF A WOMAN SAYS [OF HER] THAT SHE MISCONDUCTED HERSELF AND ANOTHER WOMAN SAYS THAT SHE DID NOT, SHE DRINKS THE WATER. IF ONE WITNESS SAYS THAT SHE MISCONDUCTED HERSELF AND TWO SAY THAT SHE DID NOT, SHE DRINKS THE WATER. IF TWO SAY THAT SHE MISCONDUCTED HERSELF AND ONE SAYS THAT SHE DID NOT, SHE DOES NOT DRINK IT.

GEMARA. [Why does the teacher in the Mishnah use] the Scriptural text: ‘Because he hath found some unseemly matter in her’? He should have used [the teaching]: ‘Against her’ — i.e., ‘against her’ [in the matter of misconduct] but not in the matter of warning, ‘against her’ [in the matter of misconduct] but not in the matter of seclusion![4] — He does also intend to say this: Therefore there is a text to state ‘against her’ — i.e., ‘against her’ [in the matter of misconduct] but not in the matter of warning, ‘against her’ [in the matter of misconduct] but not in the matter of seclusion. Whence, however, have we it that one witness is not believed in an ordinary charge of infidelity where there was neither warning nor seclusion? Here [in connection with infidelity] the word ‘matter’ occurs and it also occurs [in the law of evidence]; as with the latter [a charge is established] by two witnesses so [is the former established] by two witnesses.

IF ONE WITNESS SAYS THAT SHE MISCONDUCTED HERSELF. The reason [why one witness is not accepted] is because there is another who contradicts him; but where nobody contradicts him one witness is believed — Whence have we this rule? Because our Rabbis have taught: ‘And there be no witness against her’ — the text refers to two witnesses. You say that it refers to two witnesses; but perhaps it is not so and even one [suffices]! There is a teaching to declare, One witness shall not rise up against a man etc.[5] From the fact that it is stated: ‘[A] witness shall not rise up against a man,’ do I not know that one is intended? Why is there a teaching to declare one witness’? This establishes the rule that wherever it is stated witness, it signifies two unless the text specifies ‘one’, and [in the case under discussion] the All-Merciful declares that when there are not two witnesses against her but only one, ‘and she has not been violated,’ she is forbidden [to her husband].[6]

But since, according to the Torah one witness is believed, how is it possible for another to contradict him? Surely ‘Ulla has said: Wherever the Torah accepts the testimony of one witness, he is regarded as two, and the evidence of one is of no account when opposed by two![7] — But, said ‘Ulla, read the Mishnah as, ‘She does not drink’;[8] and R. Isaac similarly declared that she does not drink, but R. Hiyya said that she does drink. The view of ‘Ulla creates a difficulty against the statement of R. Hiyya![9] — There is no difficulty; one statement refers to evidence given simultaneously[10] and the other when one witness follows the other.[11]

We learnt: IF ONE WITNESS SAYS THAT SHE MISCONDUCTED HERSELF AND TWO SAY THAT SHE DID NOT, SHE DRINKS THE WATER. Consequently if there was one [against her] and one [for her], she would not drink; this is a refutation of R. Hiyya! — R. Hiyya can reply: And according to your view [that she does not drink] consider the next clause: IF TWO SAY THAT SHE MISCONDUCTED HERSELF AND ONE SAYS THAT SHE DID NOT, SHE DOES NOT DRINK IT. Consequently if there was one [against her] and one [for her], she would drink! But the whole [of this section of Mishnah] refers to disqualified witnesses,[12] and it is R. Nehemiah's teaching; for it has been taught: R. Nehemiah says: ‘Wherever the Torah accepts the testimony of one witness, [the decision] follows the majority of persons [who testify]’, so that two women against one man is identical with two men against one man. But there are some who declare that wherever a competent witness came [and testified] first, even a hundred women are regarded as equal to one witness;[13]

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(1) Deut. XXIV, 1.

(2) Ibid. XIX, 15.

(3) At the time of seclusion.

(4) For notes v. supra 3b.

(5) Deut. XIX, 15.

(6) For notes v. supra 3b.

(7) So that the evidence of the first witness, being accepted by the Torah, must stand though it is contradicted by another.

(8) Instead of ‘she drinks the water’, and she is held to be guilty.

(9) If the Torah accepts one witness, why should she drink the water?

(10) If it is contradictory it is not accepted.

(11) If one witness had testified and been accepted, another cannot come subsequently and offer contradictory evidence.

(12) Viz., women and slaves; and it teaches that two witnesses of this class can discredit the evidence of a competent witness.

(13) And they cannot upset his testimony.

and with what circumstance are we dealing here?[1] For example, if it was a woman who came first [and testified]; and R. Nehemiah's statement is to be construed thus: R. Nehemiah says: ‘Wherever the Torah accepts the testimony of one witness, [the decision] follows the majority of persons [who testify]’, so that two women against one woman is identical with two men against one man, but two women against one man is like half and half.[2] Why, then, have we two teachings concerning disqualified witnesses?[3] What you might have said was that when we follow the majority of persons [who testify] it is for taking the severer view, but to take the lenient view we do not follow [the majority]. Therefore [the Mishnah] informs us [of one case where the accused must drink and one where she does not drink, and in each the majority is followed].

CHAPTER VII

MISHNAH. THE FOLLOWING MAY BE RECITED IN ANY LANGUAGE: THE SECTION CONCERNING THE SUSPECTED WOMAN,[4] THE CONFESSION MADE AT THE PRESENTATION OF THE TITHE,[5] THE SHEMA’,[6] THE ‘PRAYER’,[7] THE GRACE AFTER MEALS,[8] THE OATH CONCERNING TESTIMONY[9] AND THE OATH CONCERNING A DEPOSIT.[10]

THE FOLLOWING ARE RECITED IN THE HOLY TONGUE:[11] THE DECLARATION MADE AT THE OFFERING OF THE FIRSTFRUITS,[12] THE FORMULA OF HALIZAH,[13] THE BLESSINGS AND CURSES,[14] THE PRIESTLY BENEDICTION,[15] THE BENEDICTION OF THE HIGH PRIEST,[16] THE SECTION OF THE KING,[17] THE SECTION OF THE CALF WHOSE NECK IS BROKEN,[18] AND THE ADDRESS TO THE PEOPLE BY THE PRIEST ANOINTED [TO ACCOMPANY THE ARMY] IN BATTLE.[19]

WHENCE IS IT THAT THE DECLARATION MADE AT THE OFFERING OF THE FIRST-FRUITS [MUST BE IN HEBREW]? [IT IS STATED]. AND THOU SHALT ANSWER AND SAY BEFORE THE LORD THY GOD,[20] AND ELSEWHERE IT IS STATED, AND THE LEVITES SHALL ANSWER AND SAY;[21] AS THE LATTER MUST BE IN THE HOLY TONGUE,[22] SO MUST THE FORMER BE IN THE HOLY TONGUE. WHENCE IS IT THAT THE FORMULA OF HALIZAH [MUST BE IN HEBREW]? [IT IS STATED]. AND SHE SHALL ANSWER AND SAY,[23] AND ELSEWHERE IT IS STATED, AND THE LEVITES SHALL ANSWER AND SAY’; AS THE LATTER MUST BE IN THE HOLY TONGUE. SO MUST THE FORMER BE IN THE HOLY TONGUE. R. JUDAH SAYS: [IT IS DERIVED FROM THE TEXT], AND SHE SHALL ANSWER AND SAY THUS[24] — I.E., SHE MUST SAY IT IN THIS LANGUAGE.

HOW WERE THE BLESSINGS AND CURSES [PRONOUNCED]? WHEN ISRAEL CROSSED THE JORDAN AND CAME TO MOUNT GERIZIM AND MOUNT EBAL WHICH ARE BY SAMARIA, (THIS IS IN THE VICINITY OF SHECHEM WHICH IS IN THE VICINITY OF THE TEREBINTHS OF MOREH, AND IT IS SAID, ARE THEY NOT BEYOND JORDAN ETC.[25] AND ELSEWHERE IT STATES, AND ABRAM PASSED THROUGH THE LAND UNTO THE PLACE OF SHECHEM UNTO THE TEREBINTH OF MOREH;[26] AS THE TEREBINTH OF MOREH MENTIONED IN THIS LATTER VERSE IS SHECHEM, SO THE TEREBINTH OF MOREH MENTIONED IN THE FORMER VERSE IS SHECHEM.) SIX TRIBES ASCENDED THE SUMMIT OF MOUNT GERIZIM, SIX TRIBES ASCENDED THE SUMMIT OF MOUNT EBAL, AND THE PRIESTS AND LEVITES WITH THE ARK WERE STATIONED BELOW IN THE CENTRE, THE PRIESTS SURROUNDING THE ARK, THE LEVITES [SURROUNDING] THE PRIESTS, AND ALL ISRAEL ON THIS SIDE AND THAT SIDE; AS IT IS SAID, AND ALL ISRAEL, AND THEIR ELDERS AND OFFICERS, AND THEIR JUDGES STOOD ON THIS

SIDE THE ARK AND ON THAT SIDE ETC.[27] THEY TURNED THEIR FACES TOWARDS MOUNT GERIZIM AND OPENED WITH THE BLESSING:BLESSED BE THE MAN THAT MAKETH NOT A GRAVEN OR MOLTEN IMAGE',[28] AND BOTH PARTIES[29] RESPOND AMEN. THEY THEN TURNED THEIR FACES TOWARDS MOUNT EBAL AND OPENED WITH THE CURSE: CURSED BE THE MAN THAT MAKETH THE GRAVEN OR MOLTEN IMAGE', AND BOTH PARTIES RESPOND 'AMENð. [SO THEY CONTINUE] UNTIL THEY COMPLETE THE BLESSINGS AND CURSES. AFTER THAT THEY BROUGHT THE STONES,[30] BUILT THE ALTAR AND PLASTERED IT WITH PLASTER, AND INSCRIBED THEREON ALL THE WORDS OF THE TORAH IN SEVENTY LANGUAGES,[31] AS IT IS SAID, VERY PLAINLY.[32] THEN THEY TOOK THE STONES[33] AND WENT

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(1) When the Mishnah teaches: IF ONE WITNESS . . . AND TWO SAY etc.

(2) One witness against one witness; if they testified simultaneously the evidence is not accepted.

(3) In these last two clauses of the Mishnah which have been explained as referring to the evidence of women and slaves.

(4) The exhortation addressed to her by the priest (Num. V, 19ff).

(5) Deut. XXVI, 13ff.

(6) V. Glos.

(7) 'The Eighteen Benedictions' recited twice daily. V. P.B. pp. 44ff.

(8) Op. cit. pp. 280ff.

(9) Against the withholding of evidence (Lev. V, 1ff.).

(10) That it had not been misappropriated if the bailee declares that it had been stolen or is missing.

(11) Hebrew.

(12) Deut. XXVI, 9ff.

(13) Ibid. XXV, 9.

(14) Ibid. XXVII, 15ff.

(15) Num. VI, 24ff.

(16) V. infra. Mishnah p. 198.

(17) V. infra, Mishnah p. 202.

(18) Deut. XXI, 7f.

(19) Ibid. XX, 3ff.

(20) Ibid. XXVI, 5.

(21) Ibid. XXVII, 14.

(22) This will be demonstrated in the Gemara.

(23) Ibid. XXV, 9.

(24) He attaches the word 'thus' to what precedes.

(25) Deut. XI, 30. The verse ends with: beside the terebinths of Moreh.

(26) Gen. XII, 6.

(27) Josh. VIII, 33.

(28) The reverse of Deut. XXVII, 15.

(29) On the two mounts.

(30) V. Deut. XXVII, 2ff.

(31) The total number of languages in the world as the Rabbis thought.

(32) Ibid. 8.

(33) After the sacrifices had been offered, the altar was taken to pieces.

Talmud - Mas. Sotah 32b

AND SPENT THE NIGHT IN THEIR PLACE.[1]

GEMARA. Whence have we it that the section concerning the suspected woman [may be recited in any language]? — As it is written: And the priest shall say unto the woman[2] — in whatever language he speaks.

Our Rabbis taught: They explain to her in any language she understands for what reason she is about to drink the water, in what [sort of vessel] she drinks, why she had misconducted herself and in what manner she had misconducted herself. For what reason she is about to drink the water — because of [her husband's] warning and her subsequent seclusion. In what [sort of vessel] she drinks — in a potsherd.[3] Why she had misconducted herself- because of levity and childishness. And in what manner she had misconducted herself — whether in error or deliberately, under compulsion or of free will. But why all this? So as not to discredit the water of bitterness.[4]

THE CONFESSION MADE AT THE PRESENTATION OF THE TITHE. Whence have we it that this [may be recited in any language]? — As it is written: And thou shalt say before the Lord thy God, I have put away the hallowed things out of mine house,[5] and the deduction is to be drawn from the analogous use of the word ‘say’ in connection with the suspected woman that it may be in whatever language he speaks. R. Zebid said to Abaye, But let the deduction be drawn from the analogous use of the word ‘say’ in connection with the Levites[6] [as follows]: As there it means that it must be in the holy tongue so here it must be in the holy tongue! — [He answered], We deduce [the meaning of] an unqualified use of ‘say’ from another occurrence of an unqualified use of ‘say, but we do not deduce [the meaning of] an unqualified use of ‘say’ from a passage where the expression ‘answer and say’ occurs.[7]

It has been taught: R. Simeon b. Yohai said: A man should recount what is to his credit in a low voice and what is to his discredit in a loud voice. That he is to recount what is to his credit in a low voice [is learnt] from the confession made at the presentation of the tithe, and what is to his discredit in a loud voice from the declaration made at the offering of the first-fruits.[8] But should one recount what is to his discredit in a loud voice? Surely R. Johanan has said in the name of R. Simeon b. Yohai: Why was It instituted that the ‘prayer’[9] should be recited softly? So as not to put transgressors to shame;[10] for behold, Scripture made no distinction as to the place of a sin-offering or burnt-offering![11] — Do not read [in R. Simeon's statement] ‘his discredit’ but ‘his trouble’;[12] as it has been taught: And he shall cry, Unclean, unclean[13] — it is necessary [for the leper] to make his trouble known to the multitude so that the multitude may pray on his behalf; and thus everybody to whom a calamity has occurred should make it known to the multitude so that the multitude may pray on his behalf. The [above] text states: ‘R. Johanan said in the name of R. Simeon b. Yohai: Why was it instituted that the ‘prayer’ should be recited softly? So as not to put transgressors to shame; for, behold, Scripture made no distinction as to the place of a sin-offering or burnt-offering.’ But it is not so, for there is a difference in the treatment of the blood. The blood of a sin-offering [was applied] above [the red line which ran round the altar], whereas the blood of a burnt-offering [was applied] below it! — Only the priest would know that. There is, however, the difference that for a sin-offering a female animal was sacrificed and for a burnt-offering a male! — Being covered by the fat tail [the sex would not be recognised]. That is quite right with a female lamb, but what of a female goat?[14] — In that case the man brought the shame upon himself, because he should have offered a lamb but offered a goat. What, however, of the sin-offering brought for idolatry when only a goat suffices![15] — In that case let him experience shame so that he may receive atonement.

THE SHEMAð. Whence have we it that this [may be recited in any language]? As it is written: Hear, O Israel[16] — in any language you understand.

Our Rabbis taught: The Shema’ must be recited as it is written.[17] Such is the statement of Rabbi but the Sages say: In any language. What is Rabbi's reason? — Scripture declares, And [these words] shall be,[18] i.e., they must remain as they are. And [what is the reason of] the Rabbis? — Scripture declares, ‘Hear, O Israel’ — in any language you understand. But for the Rabbis it is likewise written: ‘And [these words] shall be’![19] — That indicates that one may not read it in the wrong order.[20] And whence does Rabbi derive the rule that one may not read it in the wrong order? — From the fact that the text uses ‘these words’ and not merely ‘words’. And the Rabbis?[21] — They draw no inference from the use of ‘these words’ instead of ‘words’. But for Rabbi it is likewise written: ‘Hear’! — He requires that for the rule: Make audible to your ears what you utter with your lips.[22] And the Rabbis? — They agree with him who said that if one has not recited the Shema’ audibly he has fulfilled his obligation. It is possible to say that Rabbi holds

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(1) Viz., in Gilgal where they were again set up (Josh. IV, 20).

(2) Num. V, 21.

(3) V. supra p. 38.

(4) So that if she had offended in error or under compulsion and the water did not affect her, she should not think there would have been no effect if she had offended deliberately or of her free will.

(5) Deut. XXVI, 13.

(6) V. ibid. XXVII, 14 and Mishnah p. 157.

(7) Viz., in connection with the Levites. Consequently the analogy is drawn with the reference to the suspected woman and not the Levites.

(8) In the former he tells how he had done his duty (V. Deut. XXVI, 13f.) and in that connection the unqualified ‘say’ occurs. In the latter he tells of his humble ancestry (ibid. 5ff.) and in that connection ‘answer and say’, i.e., say aloud, occurs.

(9) V. supra p. 157, n. 4.

(10) Who confess their sins in the course of prayer.

(11) They were offered on the same side of the altar, and an onlooker would not be able to tell which offering was being sacrificed.

(12) In the declaration made over the first-fruits, the allusion was to the vicissitudes of the patriarch; and such should be spoken aloud.

(13) Lev. XIII, 45.

(14) Which has no fat tail.

(15) V. Num. XV, 27, 29.

(16) Deut. VI, 4. The word for ‘Hear’ also means ‘understand’.

(17) Only in Hebrew.

(18) Ibid. 6.

(19) Why do they not explain them: they must remain as they are?

(20) V. supra p. 91.

(21) What do they derive from the use of ‘these words’?

(22) I.e., the Shema’ must be recited audibly.

Talmud - Mas. Sotah 33a

that the whole Torah may be read in any language; for if you maintain that it may be read[1] only in the holy tongue, wherefore had the All-Merciful to write ‘And [these words] shall be’? — It is necessary because it is written ‘Hear’.[2] It is likewise possible to say that the Rabbis hold that the whole Torah must be read in the holy tongue; for if you maintain that it can be read in any language, wherefore had the All-Merciful to write the word ‘Hear’? — It is necessary because it is written ‘And [these words] shall be’.[3]

THE ‘PRAYER’. [It may be recited in any language because] it is only supplication, and one may pray in any language he wishes. But may the ‘prayer’ be recited in any language? Behold Rab Judah has said: A man should never pray for his needs in Aramaic. For R. Johanan declared: If anyone prays for his needs in Aramaic, the Ministering Angels[4] do not pay attention to him, because they do not understand that language! — There is no contradiction, one referring to [the prayer] of an individual and the other to that of a Congregation.[5] And do not the Ministering Angels understand Aramaic? Behold it has been taught: Johanan, the High Priest, heard a Bath Kol[6] issue from within the Holy of Holies announcing, 'The young men who went to wage war against Antioch[7] have been victorious.[8] It also happened with Simeon the Righteous[9] that he heard a Bath Kol issue from within the Holy of Holies announcing, 'Annulled is the decree which the enemy intended to introduce into the Temple'. Then was Caius Caligula[10] slain and his decrees annulled. They noted down the time [when the Bath Kol spoke] and it tallied.[11] Now it was in Aramaic that it spoke! — If you wish I can say that it is different with a Bath Kol since it occurs for the purpose of being generally understood;[12] or if you wish I can say that it was Gabriel who spoke; for a Master has declared: Gabriel came and taught [Joseph] the seventy languages.[13]

THE GRACE AFTER MEALS. [That this may be recited in any language is derived from] the text: And thou shalt eat and be full, and thou shalt bless the Lord thy God[14] — in any language wherein thou utterest a benediction.

THE OATH CONCERNING TESTIMONY. [That this may be uttered in any language is derived from] the text: And if any one sin, in that he heareth the voice of adjuration[15] — in whatever language he hears it.

THE OATH CONCERNING A DEPOSIT. [That this may be uttered in any language] is derived from the analogous use of the phrase 'if any one sin' in the oath concerning testimony.[16]

THE FOLLOWING ARE RECITED IN THE HOLY TONGUE: THE DECLARATION MADE AT THE OFFERING OF THE FIRST-FRUITS, THE FORMULA OF HALIZAH, etc. down to: WHENCE IS IT THAT THE DECLARATION MADE AT THE OFFERING OF THE FIRST-FRUITS [MUST BE IN HEBREW]? [IT IS STATED], AND THOU SHALT ANSWER AND SAY BEFORE THE LORD THY GOD, AND ELSEWHERE IT IS STATED, AND THE LEVITES SHALL ANSWER AND SAY; AS THE LATTER MUST BE IN THE HOLY TONGUE, SO MUST THE FORMER BE IN THE HOLY TONGUE. But whence have we it of the Levites themselves [that they used Hebrew]? — It is derived from the analogous use of the word 'voice' in connection with Moses. Here it is written with a loud voice,[17] and elsewhere it is written: Moses spake and God answered him by a voice;[18] as in the latter passage it was in the holy tongue, so also in the other passage it means in the holy tongue.

WHENCE IS IT THAT THE FORMULA OF HALIZAH etc. What, then, do the Rabbis make of the word 'thus'?[19] — They require it to indicate that each act[20] invalidates [the ceremony by its omission]. And R. Judah?[21] — From the use of 'Kakah' instead of koh.[22] And the Rabbis? — They draw no inference from the use of 'Kakah' instead of koh.

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(1) In the synagogue (Rashi).

(2) If he were of the opinion that the Torah can only be read in Hebrew, it would necessarily apply to the Shema'. Why, then, should he draw a conclusion from shall be? He does so to oppose the inference which the Rabbis draw from Hear.

(3) Which might otherwise be taken to indicate that the Shema' must be read in Hebrew.

(4) Who convey the petitions to the Throne of Glory.

(5) With the latter, the help of the angels is not required.

(6) V. Glos. This is evidently the incident related by Josephus (Ant. XIII, X, 3) of John Hyrcanus.

(7) [Antiochus Cyzicenus, over whom the children of John Hyrcanus were victorious, v. loc. cit., and Derenbourg, Essai, p. 47.]

(8) This and the following announcements were made in Aramaic, so the angels must have understood it.

(9) Possibly the High Priest Simon, son of Boethus, also called Cantheras, as Josephus describes him (op. cit. XIX, VI, 2). [For other views v. HUCA VIII-IX, p. 300.]

(10) The name is corrupted in the text. He ordered that his statue should be placed in the Temple and worshipped (Josephus, War II, X, 1.)

(11) With the time of Caligula's assassination.

(12) And Aramaic was the vernacular of the period.
(13) V. infra. Gabriel was exceptional; but the other angels were ignorant of Aramaic.
(14) Deut. VIII, 10.
(15) Lev. V, 1.
(16) V. ibid. 21.
(17) Deut. XXVII, 14.
(18) Ex. XIX, 19.
(19) Upon which R. Judah bases the teaching that the formula must be in Hebrew.
(20) Mentioned in Deut. XXV, 9, viz., loosing the shoe, spitting in his face, and pronouncing the formula.
(21) From where does he derive this teaching?
(22) Both words signify ‘thus’; and since the text has the longer form, he takes it as an indication that the formula must be in Hebrew and also that the omission of an act invalidates the ceremony.

Talmud - Mas. Sotah 33b

What, then, does R. Judah make of the phrase ‘and she shall answer and say’?[1] — He requires it for the purpose of deducing that the Levites [must pronounce the blessings and curses] in the holy tongue.[2] But let him derive that from the analogous use of the word ‘voice’ in connection with Moses! — He had learnt [from his teacher] to draw an inference from the analogous use of the word ‘answer’ but not from ‘voice’.[3] It has been similarly taught: R. Judah says: Wherever [in Scripture the words] ‘thus’, both in the form of ‘koh’ and ‘kakah’, or ‘answer and say’ occur, [what has to be spoken] must only be in the holy tongue. The word ‘koh’ is found in ‘Thus ye shall bless’,[4] ‘kakah’ in connection with Halizah, and ‘answer and say’ with the Levites.

HOW WERE THE BLESSINGS AND CURSES [PRONOUNCED]? WHEN ISRAEL CROSSED THE JORDAN etc. Our Rabbis taught: Are they not beyond Jordan?[5] [This means] on the other side of the Jordan and beyond; such is the statement of R. Judah. Behind the way of the coming of the sun[6] — the place where the sun dawns.[7] In the land of the Canaanites which dwell in the Arabah[6] — i.e., mount Gerizim and mount Ebal where the Cutheans[8] dwell. Over against Gilgal[6] — [this means] near Gilgal.[9] Beside the terebinths of Moreh[6] — [this means] Shechem. Elsewhere it states: And Abram passed through the land unto the place of Shechem unto the terebinth of Moreh;[10] as the terebinth of Moreh mentioned in this latter verse is Shechem, so in the former verse it means Shechem.

It has been taught:[11] R. Eleazar son of R. Jose said: In this connection I proved the Samaritan Scriptures[12] to be false. I said to them, ‘You have falsified your Torah[13] but you gained nothing thereby.[14] You declare that ‘the terebinths of Moreh’ means Shechem; we too admit that ‘the terebinths of Moreh’ means Shechem. We learnt this by an inference from analogy;[15] but how have you learnt it!’[16]

R. Eleazar said: ‘Are they not beyond the Jordan’? [This means] near the Jordan; because if it signified on the other side of the Jordan and beyond, is it not written: And it shall be when ye are passed over Jordan![17] ‘Behind the way of the coming of the sun’ — [this means] the place where the sun sets.[18] ‘In the land of the Canaanites’ — i.e., the land of the Hivites. ‘Which dwell in the Arabah’ — but do they not dwell among mountains and hills![19] ‘Over against Gilgal’ — but they could not see Gilgal![20] — R. Eliezer b. Jacob says: Scripture has here only the intention of pointing out to them the route for the second [part of the journey] as it had pointed out to them the route for the first [part of the journey].[21] ‘The way’ — [this means], Proceed along the high-road and not through fields and vineyards. ‘Which dwell’ — [this means], Pass through inhabited territory and not through deserts. ‘In the Arabah’ — [this means], Pass through the plain and not through mountains and hills.

Our Rabbis taught: How did Israel cross the Jordan? Each day [during the journey in the wilderness] the ark journeyed behind two standards,[22] but on this day [of crossing] it journeyed in front; as it is said: Behold, the ark of the covenant of the Lord of all the earth passeth over before you.[23] Each day the Levites carried the ark, but on this day the priests carried it; as it is said: And it shall come to pass, when the soles of the feet of the priests that bear the ark of the Lord etc.[24] — It has been taught: R. Jose says: On three occasions the priests carried the ark: when they crossed the Jordan, when they walked round Jericho,[25] and when they deposited it in its place.[26] —

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(1) Since he does not follow the Rabbis in basing upon it the rule that the formula must be in Hebrew.

(2) Since the phrase 'answer and say' occurs in Deut. XXVII, 14.

(3) [No inference can be drawn from the analogous use of a word (a Gezerah shawah, v. Glos.) which has not been received on tradition from a teacher.]

(4) Num. VI, 23, the priestly benediction which must be in Hebrew.

(5) Deut. XI, 30. This might have been interpreted as close to the other side of the Jordan.

(6) Ibid.; 'coming' is usually understood as 'setting', but it is here explained as 'coming up, rising'.

(7) [The East. The phrase means accordingly: Far away from the Eastern bank of the Jordan where the Israelites were at the time towards the West. The term אחרי as distinct from אחר denotes 'greatly separated'.]

(8) Samaritans, so called because they were brought by Sargon, King of Assyria, from Cuthea, to take the place of the exiled Israelites.

(9) [Not the Gilgal east of Jericho, but another place of that name identified with Juleijil, east of Mt. Gerizim; v. p. 166, n. 3.

(10) Gen. XII, 6.

(11) As Rashi remarks, the words 'it has been taught' should be deleted, as it is the continuation of the Baraitha, v. Sifre, a.l.

(12) For sifre 'Scriptures' we must read with the J. Talmud Sofre 'scribes, learned men'.

(13) The Samaritan recension of the Pentateuch. In Deut. XI, 30 it adds 'over against Shechem' which does not appear in the Hebrew version.

(14) I.e., your addition of the words was unnecessary.

(15) Gezerah shawah (v. Glos.).

(16) By tampering with the text.

(17) Ibid. XXVII, 4. This is explained: as soon as you have passed over; therefore it must have been a place close to the Jordan.

(18) [The West, and the verse means far away from the Western towards the Eastern bank of the Jordan.]

(19) Arabah signifies the plain.

(20) They lived at a distance from it; so why is this mentioned? [Rashi, who seems to have another and preferable text, explains the question: 'but they (these places) are far from Gilgal' Gilgal being East of Jericho (v. p. 165, n. 5), why then mention it, cf. also Rashi on Deut. XI, 30.]

(21) When Israel left Egypt a pillar of fire and cloud directed them; but this ceased on the death of Moses. Scripture therefore gives them directions, and its purpose is not to explain the location of Gerizim and Ebal.

(22) Of the tribes; v. Num. X, 11ff.

(23) Josh. III, 11.

(24) Ibid. 13.

(25) Ibid. VI, 6.

(26) In Solomon's Temple (I Kings VIII, 3).

Talmud - Mas. Sotah 34a

When the feet of the priests were dipped in the water, the water flowed backward; as it is said: And when they that bore the ark were come unto the Jordan . . . that the waters which came down from above stood and rose up in one heap.[1] What was the height of the water? Twelve mil by twelve mil in accordance with the dimensions of the camp of Israel.[2] Such is the statement of R. Judah; and R. Eleazar b. Simeon said to him, According to your explanation, which is swifter, man or water?

Surely water is swifter; therefore the water must have returned and drowned them![3] It rather teaches that the waters were heaped up like stacks to a height of more than three hundred mil, until all the kings of the East and West saw them; as it is said: And it came to pass, when all the kings of the Amorites, which were beyond Jordan westward, and all the kings of the Canaanites, which were by the sea, heard how that the Lord had dried up the waters of Jordan from before the children of Israel until they were passed over, that their heart melted, neither was there spirit in them any more, because of the children of Israel.[4] And also Rahab the harlot said to Joshua's messengers, For we have heard how the Lord dried up the water of the Red Sea etc.;[5] and it continues, And as soon as we heard it, our hearts did melt neither did there remain any more etc.[6]

While they were still in the Jordan, Joshua said to them, Know why you are crossing the Jordan; it is on condition that you disinherit the inhabitants of the land from before you; as it said: Then ye shall drive out all the inhabitants of the land from before you etc.[7] If you do this, well and good; otherwise the water will return and drown you [othekem].[8] — What means ‘othekem’? Me and you. While they were still in the Jordan, Joshua said to them, Take you up every man of you a stone upon his shoulder, according unto the number of the tribes of the children of Israel etc.;[9] and it continues, That this may be a sign among you, that when your children ask in time to come, saying: What mean ye by these stones? etc.[10] It was to be a monument for the children that their fathers had crossed the Jordan. While they were still in the Jordan, Joshua said to them. Take you hence out of the midst of the Jordan, out of the place where the priests’ feet stood firm, twelve stones, and carry them over with you, and lay them down in the lodging place, where ye shall lodge this night etc.[11] It is possible [to think that they were to deposit them] in any lodging place; therefore there is a text to state, ‘Where ye shall lodge this night’.

R. Judah[12] said: Abba Halafta, R. Eliezer b. Mathia and Hananiah b. Hakinai stood upon those stones and estimated that each was equal to about forty se'ah.[13] There is a tradition that the weight which a man can raise upon his shoulder is a third of the weight he can carry;[14] so from this you may calculate what was the weight of the cluster of grapes,[15] as it is said: And they bare it upon a staff between two.[16] From the fact that it is stated upon a staff do I not know that it [was carried] between two? Why, then, is there a text to state ‘between two’? [It means] on two staffs. R. Isaac said: [It means] a series of balancing poles.[17] How was it? Eight [spies] carried the grape-cluster,[18] one carried a pomegranate, one carried a fig, and Joshua and Caleb did not carry anything. If you wish I can say [that they did not carry anything] because they were the most distinguished of them,[19] or alternatively that they did not have a share in the plan.[20]

R. Ammi and R. Isaac the smith differ in opinion. One said: According to the statement of R. Judah,[21]

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(1) Josh. III, 15f.

(2) supra p. 71. So that as soon as the last Israelite had crossed over, the waters returned.

(3) If the water rose to twelve mil only to subside again, they would not have been able to traverse a sufficient distance to escape the returning water.

(4) Josh. V, 1.

(5) Ibid. II, 10.

(6) Ibid. 11.

(7) Num. XXXIII. 52.

(8) This is an unusual Hebrew form, and is taken as a combination of othi, ‘me’ and ethkem ‘you’.

(9) Josh. IV, 5.

(10) Ibid. 6.

(11) Josh. IV, 3.

(12) The reading should be: R. Jose.

(13) The se'ah was a measure of capacity; so what is here meant is a weight equal to that of forty se'ah of wheat.

(14) . When others help to set it upon his shoulder. Consequently the weight of each was 120 se'ah.
(15) Carried by the spies.
(16) Num. XIII, 23.
(17) For four couples of carriers.
(18) [The weight of which would have been on this calculation 960 se'ahs, that is 8 times 120.]
(19) And so it was beneath their dignity.
(20) The bringing of the fruit was part of the plan to discourage the community. They would judge from its size what must be the stature of the inhabitants.
(21) That the water was twelve mil in height.

Talmud - Mas. Sotah 34b

they crossed over in the formation of their encampment, and according to the statement of R. Eleazar b. Simeon[1] they crossed over in single file.[2] The other said: According to the statement of both teachers they crossed over in the formation of their encampment. One teacher was of the opinion that man was swifter, and the other that water was swifter.[3] Send for thee men[4] — Resh Lakish said: [‘For thee’ means] from thine own mind;[5] because does anybody choose a bad position for himself?[6] That is what is written: And the thing pleased me well[7] — Resh Lakish said: It pleased me [Moses] well but not the All-Present.

That they search the land for us[8] — R. Hiyya b. Abba said: The spies aimed at nothing else than discrediting the land of Israel. Here it is written: That they may search [we-yahperu] the land for us, and elsewhere it is written: Then the moon shall be confounded [we-haferah] and the sun ashamed etc.[9]

And these were their names: of the tribe of Reuben, Shammua the son of Zaccur.[10] R. Isaac said: It is a tradition in our possession from our forefathers that the spies were named after their actions, but only with one has it survived with us: Sethur the son of Michael.[11] [He was named] Sethur because he undermined [sathar] the works of the Holy One, blessed be He; and Michael [was so named] because he suggested that God [el] was weak [mak].[12] R. Johanan said: We can also explain [the name] Nahbi the son of Vophsi.[13] [He was named] Nahbi because he hid [hikbi] the words[14] of the Holy One, blessed be He; and Vophsi [was so named] because he stepped over [pasa’] the attributes[15] of the Holy One, blessed be He.

And they went up by the South and he came unto Hebron[16] — it should have read ‘and they came’! — Raba said: It teaches that Caleb held aloof from the plan of the spies and went and prostrated himself upon the graves of the patriarchs, saying to them, ‘My fathers, pray on my behalf that I may be delivered from the plan of the spies’. (As for Joshua, Moses had already prayed on his behalf; as it is said: And Moses called Hoshea the son of Nun Joshua,[17] [meaning], May Jah save thee [yoshi'aka] from the plan of the spies.) That is the intention of what is written: But My servant Caleb, because he had another spirit with him.[18]

And there were Ahiman, Sheshai and Talmai[19] — Ahiman [was so named because he was] the strongest [meyuman] of them; Sheshai because he made the earth like pits [shehithoth];[20] Talmai because he made the earth like furrows [telamim]. Another explanation:[21] Ahiman built ‘Anath, Sheshai built Alash, and Talmai built Telbesh.[22] The children of Anak — [they are so called] because they wore the sun as a necklace [ma'anikin] owing to their stature.

Now Hebron was built seven years[19] — what means ‘was built’? If I say that it means actually built, is it possible that a man constructs a house for his younger son before his elder son; as it is written: And the sons of Ham: Cush and Mizraim?[23] But [the intention is], it was seven times more productive than Zoan. There is no worse stony ground in all the land of Israel than Hebron, and that is why they bury the dead there; and there is none among all the countries superior to the land of Egypt, as it is said: Like the garden of the Lord, like the land of Egypt;[24] and there is no place superior to Zoan In all the land Egypt, as it is written: For his princes are at Zoan.[25] Nevertheless Hebron was seven times more productive than Zoan. But was Hebron stony ground; behold it is written: And it came to pass at the end of forty years, that Absalom said unto the king, I pray thee, let me go [and pay my vow . . . in Hebron];[26] and R. Iwya — another version is, Rabbah b. Bar Hanan-said: He went to fetch lambs from Hebron; and there is also a teaching: [The best] rams are from Moab and lambs from Hebron! — From that very fact [it is proved that the land was stony]; because the soil is thin it produces pastures[27] and the cattle grow fat there.

And they returned from spying out the land . . .

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(1) That the height was over three hundred mil.

(2) The time of crossing was much longer; consequently the heap of water had to be of greater height.

(3) For that reason they suggest different heights for the water to enable the people to escape.

(4) Num. XIII, 2. So the Hebrew literally.

(5) I.e., the plan did not emanate from God but from Moses.

(6) Would God have sanctioned a plan which He knew was to end in disaster?

(7) Deut. I, 23.

(8) Ibid. 22. The word for search is here given the meaning ‘confound’.

(9) Isa. XXIV, 23.

(10) Num. XIII, 4.

(11) Ibid. 13.

(12) Lit., ‘he made himself to be weak’ — a reverential avoidance of a disparaging reference to God. He was the man who said: ‘Even the master of the house cannot remove his furniture from there’ (infra 35a).

(13) Ibid. 14.

(14) Did not truthfully report them.

(15) He misrepresented them.

(16) Ibid. 22. So the Heb. literally.

(17) Num. XIII, 16.

(18) Ibid. XIV, 24. It continues: I will bring him into the land whereinto he went, viz. Hebron. V. Josh. XIV, 14.

(19) Num. XIII, 22.

(20) Through his heavy tread.

(21) These words should be deleted, and do not occur in the parallel passage Yoma 10a.

(22) [Identified by Obermeyer (op. cit. pp. 102-3) with ‘Anah, Alusa and Telbeth, three fortified island-towns on the Northern Euphrates.]

(23) Gen. X, 6. Canaan was the youngest of his sons and Mizraim the second.

(24) Ibid. XIII, 10.

(25) Isa. XXX, 4.

(26) II Sam. XV, 7.

(27) It does not yield any other produce.

Talmud - Mas. Sotah 35a

and they went and came.[1] R. Johanan said in the name of R. Simeon b. Yohai, It compares the going to the coming back; as the coming back was with an evil design, so the going was with an evil design.[2] And they told him and said: We came etc.,[3] and it continues, Howbeit the people are strong.[4] R. Johanan said[5] in the name of R. Meir, Any piece of slander, which has not some truth in the beginning, will not endure in the end.[6]

And Caleb stilled [wa-yahas] the people concerning Moses[7] — Rabbah said, [It means] that he won them over [hissithan] with words. When Joshua began to address them, they said to him, ‘Would this person with the lopped-off head[8] speak to us!’ [Caleb] said [to himself], If I address them [in the same strain as Joshua], they will answer me in like manner and silence me; so he said to them, ‘Is it this alone that Amram's son has done to us!’[9] They thought that he was speaking to censure Moses, so they were silent. Then he said to them, ‘He brought us out of Egypt, divided the Red Sea for us and fed us with manna. If he were to tell us, Prepare ladders and ascend to heaven, should we not obey him! Let us go up at once and possess it etc.’[10]

But the men that went up with him said: We will not be able etc.[11] R. Hanina b. Papa said: A grievous statement did they make at that moment, viz. For they are stronger than we — read not than we but than He;[12] as it were even the master of the house cannot remove his furniture from there.[13]

It is a land that eateth up the inhabitants thereof.[14] Raba expounded: The Holy One, blessed be He, said: I intended this for good[15] but they thought it in a bad sense. I intended this for good, because wherever [the spies] came, the chief [of the inhabitants] died, so that they should be occupied [with his burial] and not inquire about them.[16] (Others say that Job died then and the whole world was occupied with mourning for him.) But they thought it in a bad sense: It is a land that eateth up the inhabitants thereof.[17]

And we were in our own sight as grasshoppers, and so we were in their sight.[18] R. Mesharsheya said: The spies were liars. As regards ‘we were in our own sight as grasshoppers’, very well; but how could they know that ‘so we were in their sight’? But it is not so;[19] for when [the inhabitants] held their funeral-meal[20] they ate it beneath cedar trees, and when [the spies] saw them they climbed the trees and sat there. Then they heard them say: ‘We see men like grasshoppers in the treesð.

And all the congregation lifted up their voice and wept.[21] Rabbah said in the name of R. Johanan: That day was the ninth of Ab;[22] and the Holy One, blessed be He, said: They are now weeping for nothing, but I will fix [this day] for them as an occasion of weeping for generations.

But all the congregation bade them stone them with stones,[23] and it continues, And the glory of the Lord appeared in the tent of meeting. R. Hiyya b. Abba said: It teaches that they took stones and hurled them against Him Who is above.[24] Even those men that did bring up an evil report of the land died by the plague.[25] R. Simeon b. Lakish said: They died an unnatural death.[26] R. Hanina b. Papa said: R. Shila of Kefar Temarthah expounded; It[27] teaches that their tongue was elongated and reached down to their navel, and worms issued from their tongue and penetrated their navel and from their navel they penetrated their tongue. R. Nahman b. Isaac said: They died of croup.[28]

When[29] the last of the Israelites ascended from the Jordan, the waters returned to their place; as it is said: And it came to pass, when the priests that bore the ark of the covenant of the Lord were come up out of the midst of the Jordan, and the soles of the priests’ feet were lifted up unto the dry ground, that the waters of Jordan returned unto their place, and went over all its banks, as aforetime.[30] Consequently the ark and its bearers and the priests were on one side [of the Jordan] and the Israelites on the other![31] The ark carried its bearers and passed over [the river]; as it is said: And it came to pass, when all the people were clean passed over, that the ark of the Lord passed over, and the priests, in the presence of the people.[32] On that account was Uzza punished, as it is said: And when they came unto the threshing-floor of Chidon, Uzza put forth his hand to hold the ark.[33] The Holy One, blessed be He, said to him, ‘Uzza, [the ark] carried its bearers; must it not all the more [be able to carry] itself!’

And the anger of the Lord was kindled against Uzzah; and God smote him there for his error [shal] etc.[34] R. Johanan and R. Eleazar [differ on the interpretation of the word ‘shal’]. One said [that it means] on account of the act of error [shalu];[35] the other said [that it means] he relieved himself in its presence.[36]

And there he died by[37] the ark of God. R. Johanan said: Uzzah entered the World to Come, as it is stated ‘with the ark of God’ — as the ark endures for ever, so Uzzah entered the World to Come.

And David was angry, because the Lord had broken forth upon Uzzah.[38] R. Eleazar said: His face was changed [so that it became in colour] like a cake baked upon the coals [hararah]. Are we to infer from this that wherever wa-yihar occurs it has this meaning? — In other passages the word ‘af [anger] is added but here it is not added.

Raba expounded: Why was David punished?[39] Because he called words of Torah ‘songs’, as it is said: Thy statutes have been my songs in the house of my pilgrimage.[40] The Holy One, blessed be He, said to him, ‘Words of Torah, of which it is written: Wilt thou set thine eyes upon it? It is gone,[41] thou recitest as songs! I will cause thee to stumble in a matter which even school-children know.’ For it is written: But unto the sons of Kohath he gave none, because the service of the sanctuary etc.;[42] and yet [David] brought it in a waggon.

And he smote of the men of Beth-Shemesh, because they looked into the ark.[43] God smote them because they looked into the ark! R. Abbahu and R. Eleazar [differ in their interpretation]; one said that they went on reaping while they prostrated themselves [before the ark];[44] the other said that they also used this [disrespectful] language to it,

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(1) Num. XIII, 25f.

(2) They planned at the outset to bring back a discouraging report.

(3) Ibid. 27.

(4) Ibid. 28.

(5) The Gemara inserts here: mnemonic — truth, alone, interment. These are keywords to assist in remembering the sequence of the passages treated.

(6) On that account the report opened with a true description of the land's fertility.

(7) Ibid. 30. I.e., he silenced them to hear something about Moses. E.V. ‘before’.

(8) An allusion to the fact that he was childless. What interest could he have in the conquest since he had no children to possess the land! (Rashi).

(9) He chose his words that the people should imagine he was against Moses, and so they would listen to him. ‘Alone’ in this sentence is the key-word of the mnemonic.

(10) Ibid.

(11) Ibid. 31.

(12) [ממנו instead of ממנו a difference of pronounciation in the Babylonian Masora, in order to distinguish between the 1st. masc. plur and 3rd. sing, (v. Ges. K. 1910 para. m, n. 1), and cf. Ibn Ezra on Ex. I, 9.]

(13) Even God is powerless against them.

(14) Num. XIII, 32.

(15) Viz., that many Canaanites die there. Hence the word ‘interment’ in the mnemonic.

(16) This is how the spies were able to return unmolested.

(17) This fate would befall the Israelites if they settled there.

(18) Ibid. 33.

(19) The spies did not lie in this matter.

(20) After burying the dead, as mentioned above.

(21) Ibid. XIV, 1.

(22) Fifth month. On that date the two Temples were destroyed, and the day is observed as a fast.

(23) Ibid. 10.

(24) The word ‘them’ includes God,

(25) Num. XIV, 37.

(26) That is the meaning of ‘by the plague’.

(27) The definite article in ‘the plague’ shows that it was not an ordinary epidemic.

(28) It was regarded as the severest form death could take (Ber. 8a) and was the fate of the slanderer (Shab. 33b).
(29) After this long digression there is resumed the narrative of the crossing of the Jordan.
(30) Josh. IV, 18.
(31) The text is understood in the same sense that the priests who carried the ark dipped their feet in the Jordan and the waters remained parted so long as the feet were kept there. When the Israelites had crossed, the priests lifted their feet out of the water, stepping back upon the bank. They were consequently on the other side; so how did they get over?
(32) Ibid. 11. Note that the ark ‘passed over’, and was not carried over.
(33) I Chron. XIII, 9.
(34) II Sam. VI, 7.
(35) [שלו error, neglect, cf. Ezra IV, 12.]
(36) Shal is connected with the root nashal ‘to drop off.
(37) Lit., ‘with’.
(38) II Sam. VI, 8. ‘Angry’ is ‘wa-yihar’ lit., ‘be kindled’. The explanation is intended to avoid the thought that David was angered against God.
(39) That Uzzah died through him.
(40) Ps. CXIX, 54. When he fled from his enemies, he entertained himself by treating Scriptural passages as songs. He thus made a profane use of them.
(41) Prov. XXIII, 5 — i.e., the Torah is beyond human understanding.
(42) Num. VII, 9. The ark had to be carried upon the shoulders of the Levites.
(43) I Sam. VI, 19.
(44) [The phrase ראו בארון is taken to signify ‘they gazed at the ark’ with unbecoming interest, v. Driver, S.R., Samuel, a.l.]

Talmud - Mas. Sotah 35b

‘Who embittered thee that thou wast thus embittered,[1] and what has come upon thee that thou art now appeased?’ Even He smote of the people seventy men and fifty thousand men.[2] R. Abbahu and R. Eleazar [differ in their interpretation]; one said that there were only seventy men [smitten] each of whom was the equal of fifty thousand men, while the other said that there were fifty thousand men [smitten] each of whom was equal to the seventy who constituted the Sanhedrin.

And it was so, that when they that bore the ark of the Lord had gone six paces, he sacrificed an ox and a fatling,[3] and it is also written, [They sacrificed] seven bullocks and seven rams![4] — R. Papa said in the name of Samuel: [The two passages are reconciled by supposing that] at each pace an ox and a fatling [were offered] and at each six paces seven bullocks and seven rams. R. Hisda said to him, On your theory you filled the whole of the land of Israel with high places! But, said R. Hisda, at each six paces an ox and a fatling [were offered] and at each six sets of six paces seven bullocks and seven rams.

[In one place the name of the threshing-floor] is written Chidon [and in another] Nacon![5] — R. Johanan said: At first [it was called] Chidon and afterwards Nacon.[6]

In consequence [of what is related in the Scriptures], you must conclude that there were three sets of stones: one which Moses caused to be erected in the land of Moab, as it is said: Beyond Jordan, in the land of Moab, began Moses to declare etc.,[7] and elsewhere it states: Thou shalt write upon the stones all the words of this law [very plainly],[8] and the inference is drawn from the use of the analogous word [that as in the latter passage stones were employed, they were similarly employed in connection with what is narrated in the first passage]. The second set was that which Joshua caused to be erected in the midst of the Jordan, as it is said: And Joshua set up twelve stones in the midst of Jordan.[9] The third set was that which he caused to be erected in Gilgal, as it is said: And those twelve stones which they took.[10]

Our Rabbis taught: How did the Israelites inscribe the Torah? — R. Judah says: They inscribed it upon the stones, as it is stated: ‘Thou shalt write upon the stones all the words of this law etc.’ After that they plastered them over with plaster. R. Simeon said to him, According to your explanation, how did the nations of that period learn the Torah![11] — He replied to him, The Holy One, blessed be He, endowed them with exceptional intelligence; and they sent their scribes who peeled off the plaster and carried away [a copy of the inscription]. On that account was the verdict sealed against them [to descend] to the pit of destruction, because it was their duty to learn [Torah] but they failed to do so. R. Simeon says: They inscribed it upon the plaster and wrote below, That they teach you not to do after all [their abominations].[12] Hence you learn that if they turn in penitence they would be accepted. Raba b. Shila said: What is R. Simeon's reason? — Because it is written: And the peoples shall be as the burnings of lime[13] — i.e., on account of the matter of the plaster.[14] And [how does] R. Judah [explain this verse]? — [Their destruction will be] like plaster — as there is no other remedy for plaster except burning, so there is no other remedy for those nations [who cleave to the abominations] except burning. According to whom [is the following teaching] which has been taught: And thou carriest them away captive[15] — this is to include Canaanites who reside outside the land [of Israel] so if they turn in penitence they will be accepted.

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(1) And didst not release thyself from the Philistines.

(2) I Sam. VI, 19. [In M.T. the particle ו (‘and’) is missing.]

(3) II Sam. VI, 13.

(4) I Chron. XV, 26.

(5) Cf. II Sam. VI, 6 with I Chron. XIII, 9.

(6) Chidon means ‘a spear’, an appropriate name for the place where Uzzah lost his life; Nacon means ‘established’, and alludes to the fact that the ark was established there.

(7) Deut. I, 5. The Hebrew for ‘declare’ is be'er.

(8) Ibid. XXVII, 8. The Hebrew for ‘plainly’ is ba'er.

(9) Josh. IV, 9.

(10) Josh. IV, 20.

(11) Since the inscription was covered with plaster.

(12) Deut. XX, 18. The command to destroy was limited to those of the seven nations who resided in Canaan. Those of them who lived outside its borders could survive by giving up their abominable practices.

(13) Isa. XXXIII, 12. The word for ‘lime’ is the same as for plaster.

(14) The nations will be destroyed because they neglected to pay heed to the teachings inserted on the plaster.

(15) Deut. XXI, 10.

Talmud - Mas. Sotah 36a

According to whom is this? — According to R. Simeon.

Come and see how many miracles were performed on that day. Israel crossed the Jordan, came to mount Gerizim and mount Ebal [thus traversing a distance of] more than sixty mil, no creature was able to withstand them and whoever withstood them was immediately panic-stricken; as it is said: I will send My terror before thee, and will discomfort all the people to whom thou shalt come, etc.,[1] and it states: Terror and dread falleth upon them . . . till Thy people pass over, O Lord.[2] This alludes to the first advance [of Israel in the days of Joshua]; and ‘Till the people pass over which Thou hast gotten’[2] alludes to the second advance [in the days of Ezra]. Conclude from this that the Israelites were worthy that a miracle should be performed on their behalf during the second advance as in the first advance, but sin caused [it to be withheld].

After that they brought the stones, built the altar, and plastered it with plaster, and inscribed thereon all the words of the Torah in seventy languages; as it is said: Very plainly.[3] Then they sacrificed burnt-offerings and peace-offerings, ate and drank and rejoiced, pronounced the blessings and the curses,[4] packed up the stones, and came and lodged in Gilgal; as it is said: Carry them over with you and lay them down in the lodging place.[5] It is possible [to think that they were to deposit them] in any lodging place; therefore there is a text to state, Where ye shall lodge this night,[5] and then it is written: And those twelve stones, which they took [out of Jordan, did Joshua set up in Gilgal].[6]

A Tanna taught: The hornet did not pass over [Jordan] with them; but behold it is written: And I will send the hornet before thee![7] — R. Simeon b. Lakish said: It stood by the bank of the Jordan and injected a virus [into the Canaanites] which blinded their eyes above and castrated them below; as it is said: Yet destroyed I the Amorite before them, whose height was like the height of the cedars, and he was strong as the oaks; yet I destroyed his fruit from above and his roots from beneath etc.[8] R. Papa said: There were two hornets, one in the period of Moses and the other in the period of Joshua; the former did not pass over [Jordan] but the other did.

SIX TRIBES ASCENDED THE SUMMIT OF MOUNT GERIZIM etc. What means and the half of them?[9] — R. Kahana said: As they were divided here [on the mounts][10] so were they divided on the stones of the ephod.[11] An objection was raised: The High priest had two precious stones on his shoulders, one on this side and one on the other side; upon them were inscribed the names of the twelve tribes, six on one stone and six on the other, as it is said: Six of their names on the one stone, [and the names of the six that remain on the other stone, according to their birth].[12] [This indicates that] the second six were to be according to their birth, but the first six were not to be according to their birth; because [the name of] Judah came first, and there were fifty letters, twenty-five on each stone. R. Hanina b. Gamaliel says:

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(1) Ex, XXIII. 27.

(2) Ibid. XV, 16.

(3) Deut. XXVII. 8.

(4) [Wilna Gaon deletes ‘and the curses’, and refers the blessings to the Grace after meals, since the blessings and curses on the Mounts were pronounced before the altar was built, v. Mishnah.]

(5) Josh. IV, 3.

(6) Ibid. 20.

(7) Ex. XXIII, 28.

(8) Amos II, 9.

(9) Josh. VIII, 33. The Hebrew has the definite article which seems superfluous.

(10) Simeon, Levi, Judah, Issachar, Joseph and Benjamin on Mount Gerizim, and Reuben, Gad, Asher, Zebulun, Dan and Naphtali on Mount Ebal, v. Deut. XXVII, 12-13.

(11) Six tribes in the same order on each stone; v. Ex. XXVIII, 9ff.

(12) Ibid. 10.

Talmud - Mas. Sotah 36b

They were not apportioned upon the stones as they were apportioned in the Book of Numbers[1] but as they were apportioned in the second Book of the Pentateuch.[2] How then [were they arranged]? The sons of Leah in order of seniority [on one stone, and on the other] the sons of Rachel, one on top and the other at the bottom, with the sons of the hand-maids in the centre.[3] In that case, how am I to explain ‘according to their birth’? [It means that the inscription was] according to the names which their father called them and not according to the names which Moses called them — Reuben and not Reubeni, Simeon and not Simeoni, Dan and not had-Dani, Gad and not hag-Gadi.[4] This is a refutation of R. Kahana![5] The refutation [is unanswered].

What, then, is the meaning of ‘and the half of them’? — It has been taught: ‘The half in front of mount Gerizim was larger than that in front of mount Ebal, because [the tribe of] Levi was below [with the ark].'[6] On the contrary, for the reason that Levi was below it must have been smaller![7] — This is what he intends: Although Levi was below [the party on mount Gerizim was still larger] because the sons of Joseph were included with them [and they were very numerous]; as it is said: And the children of Joseph spake unto Joshua, saying: Why hast thou given me but one lot and one part for an inheritance, seeing I am a great people? . . . And Joshua said unto them, If thou be a great people, get thee up to the forest.[8] He said to them, 'Go, hide yourselves in the forests that the evil eye[9] may not have sway over you'. They replied to him, 'The evil eye can bear no sway over the seed of Joseph'; for it is written: Joseph is a fruitful bough, a fruitful bough by a fountain,[10] and R. Abbahu said: Read not 'ale 'ayin [by a fountain] but 'ole 'ayin [overcoming the eye]. R. Jose b. Hanina said: [It is derived] from this passage, And let them grow [we-yidgu] into a multitude in the midst of the earth[11] — as the water covers the fish [dagim] in the sea so that the [evil] eye bears no sway over them, so the [evil] eye bears no sway over the seed of Joseph.

[It was stated above that on the stones of the ephod] were fifty letters; but there were fifty less one! — R. Isaac said: One letter was added to the name of Joseph, as it is said: He appointed it in Joseph for a testimony, when he went out over the land of Egypt.[12] R. Nahman b. Isaac objected: We require according to their birth![13] — But [the correct explanation is] that throughout the whole Torah Benjamin's name is spelt without the letter yod [before the final letter], but here [on the ephod] it was spelt complete with yod; as it is written: But his father called him Benjamin.[14]

R. Hana[15] b. Bizna said in the name of R. Simeon the Pious: Because Joseph sanctified the heavenly Name in private one letter was added to him from the Name of the Holy One, blessed be He; but because Judah sanctified the heavenly Name in public, the whole of his name was called after the Name of the Holy One, blessed be He. How was it with Joseph [that he sanctified the Name]? — As it is written: And it came to pass about this time, that he went into the house to do his work.[16] R. Johanan said: This teaches that both [Joseph and Potiphar's wife] had the intention of acting immorally. 'He went into the house to do his work' — Rab and Samuel [differ in their interpretation]. One said that it really means to do his work; but the other said that he went to satisfy his desires.[17] 'And there was none of the men of the house etc. — is it possible that there was no man in a huge house like that of this wicked [Potiphar]! — It was taught in the School of R. Ishmael: That day was their feast-day, and they had all gone to their idolatrous temple; but she had pretended to be ill because she thought, I shall not have an opportunity like to-day for Joseph to associate with me. And she caught him by his garment, saying etc.[18] At that moment his father's image came and appeared to him through the window and said: 'Joseph, thy brothers will have their names inscribed upon the stones of the ephod and thine amongst theirs; is it thy wish to have thy name expunged from amongst theirs and be called an associate of harlots?' (As it is written: He that keepeth company with harlots wasteth his substance.)[19] Immediately his bow abode in strength[20] — R. Johanan said in the name of R. Meir: [This means] that his passion subsided. And the arms of his hands were made active[20] — he stuck his hands in the ground so that his lust came out from between his finger-nails. 'By the hands of the Mighty One of Jacob'[20] — Who caused his name to be engraven upon the stones of the ephod but the Mighty One of Jacob? 'From thence is the shepherd, the stone of Israel'[21] — from there was he worthy to be made a shepherd, as it is said: Give ear, O Shepherd of Israel, Thou that leadest like the flock of Joseph.[22]

It has been taught: Joseph was worthy that twelve tribes should issue from him as they issued from his father Jacob, as it is said: These are the generations of Jacob, Joseph;[23] but his lust came out from between his finger-nails.[24] Nevertheless they[25] issued from his brother Benjamin and were given names on his own account; as it is said: And the sons of Benjamin: Bela and Becher and Ashbel etc.[26] [He was called] Bela, because [Joseph] was swallowed up [nibla'] among the peoples. [He was called] Becher, because [Joseph] was the firstborn [bekor] of his mother. [He was called] Ashbel, because God sent [Joseph] into captivity [sheba'o el]. [He was called] Gera, because [Joseph] dwelt [gar] in lodgings [in a strange land]. [He was called] Naaman, because he was especially beloved [na'im]. [They were called] Ehi and Rosh, because [Joseph] is my brother [ahi] and chief [rosh]. [They were called] Muppim and Huppim, because [Benjamin said: Joseph] did not see my marriage-canopy [huppah] and I did not see his.[27] [He was called] Ard, because [Joseph] descended [yarad] among the peoples. Others explain [that he was called] Ard, because [Joseph's] face was like a rose [wered].

R. Hiyya b. Abba said in the name of R. Johanan: At the moment when Pharaoh said to Joseph, And without thee shall no man lift up his hand etc.,[28] Pharaoh's astrologers exclaimed: ‘Wilt thou set in power over us a slave whom his master bought for twenty pieces of silver!’ He replied to them, ‘I discern in him royal characteristics.’ They said to him, ‘In that case he must be acquainted with the seventy languages’. Gabriel came and taught [Joseph] the seventy languages, but he could not learn them. Thereupon [Gabriel] added to his name a letter from the Name of the Holy One, blessed be He, and he learnt [the languages] as it is said: He appointed it in Joseph[29] for a testimony, when he went out over the land of Egypt, where I [Joseph] heard a language that I knew not.[30] On the morrow, in whatever language Pharaoh conversed with him he replied to him; but when [Joseph] spoke to him in the holy tongue he did not understand what he said. So he asked him to teach it to him; he taught it to him but he could not learn it. [Pharaoh] said to him, ‘Swear to me that thou wilt not reveal this’;[31] and he swore to him. When [Joseph] later said to him, My father made me swear, saying,[32] he remarked to him, ‘Go, ask [to be released from] thine oath.’[33] He replied to him, ‘I will also ask [to be released from my oath] concerning thee’.[34] Therefore, although it was displeasing to him, [Pharaoh] said to him, Go up and bury thy father, according as he made thee swear.[35]

What was it that Judah did?[36] — As it has been taught: R. Meir said: When the Israelites stood by the Red Sea, the tribes strove with one another, each wishing to descend into the sea first. Then sprang forward

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(1) V. I, 5ff.

(2) V. Ex. I, 2ff.

(3) On the one stone were Reuben, Simeon, Levi, Judah, Issachar and Zebulun; on the other Benjamin, Dan, Naphtali, Gad, Asher and Joseph.

(4) The latter are the tribal as distinct from the personal names.

(5) Who said that the tribes were divided on the stones of the ephod as on the two mounts; and this has been shewn to be incorrect.

(6) [The article ‘the’ denotes that those who stood on Ebal represented the full contingent of half the tribes. Whereas on Gerizim one of the tribes — Levi — was missing (Maharsha)].

(7) Since Levi should have been among the first six tribes.

(8) Josh. XVII, 14f.

(9) The personification of envy which causes harm to those who enjoy good fortune. Their numerical strength would excite envy.

(10) Gen. XLIX, 22.

(11) Ibid. XLVIII, 16, referring to Joseph's sons.

(12) Ps. LXXXI, 6. In this verse Joseph's name is spelt with five letters instead of the usual four, v, supra p. 50, n. 2.

(13) As explained above, viz., the name as given by Jacob; consequently we cannot use the exceptional form of his name as it occurs here.

(14) Gen. XXXV, 28; here it is spelt with the yod.

(15) In the parallel passage, supra 10b the name is Hanin.

(16) Ibid. XXXIX, 11.

(17) I.e., for an immoral purpose.

(18) Ibid. 12.

(19) Prov. XXIX. 3.

(20) Gen. XLIX, 24.

(21) Gen. XLIX, 24.

(22) Ps. LXXX, 2, E.V. 1., sic. Hence Israel is called Joseph's flock and he is the shepherd.
(23) Gen. XXXVII, 2.
(24) As mentioned above, and so his power to beget was diminished.
(25) I.e., ten sons, who, added to Joseph's two, made the total of twelve.
(26) Ibid. XLVI, 21.
(27) The derivation of Muppim has fallen out of the text, but is found in Tanhuma to Genesis (ed. Buber, p. 206), viz., his mouth (pi) was like that of our father, i.e., he learnt Torah from Joseph as from Jacob.
(28) Ibid. XLI, 44
(29) V. p. 179, n. 7.
(30) Ps. LXXXI, 6.
(31) That he was ignorant of Hebrew, and a king was expected to know every language.
(32) Ibid. L, 5, viz., that he should inter his body in Canaan.
(33) In Jewish Law only proper authorities could release a man from his oath. Pharaoh did not wish Joseph to leave Egypt to bury his father.
(34) I.e., if Pharaoh refused him permission, he would take steps to enable him to disclose the king's ignorance of Hebrew.
(35) Ibid. 6.
(36) That he sanctified God's Name publicly.

Talmud - Mas. Sotah 37a

the tribe of Benjamin and descended first into the sea; as it is said: There is little Benjamin their ruler[1] — read not rodem [their ruler] but rad yam [descended into the sea]. Thereupon the princes of Judah hurled stones at them; as it is said: The princes of Judah their council.[2] For that reason the righteous Benjamin was worthy to become the host of the All-Powerful,[3] as it is said: He dwelleth between his shoulders.[4] R. Judah said to [R. Meir]: That is not what happened; but each tribe was unwilling to be the first to enter the sea. Then sprang forward Nahshon the son of Amminadab[5] and descended first into the sea; as it is said: Ephraim compasseth me about with falsehood, and the house of Israel with deceit; but Judah yet ruleth with God.[6] Concerning him it is stated in Scripture,[7] Save me O God, for the waters are come in unto my soul. I sink in deep mire, where there is no standing etc.[8] Let not the waterflood overwhelm me, neither let the deep swallow me up etc.[9] At that time Moses was engaged for a long while in prayer; so the Holy One, blessed be He, said to him, ‘My beloved ones are drowning in the sea and thou prolongest prayer before Me!’ He spake before Him, ‘Lord of the Universe, what is there in my power to do?’ He replied to him, Speak unto the children of Israel that they go forward. And lift thou up thy rod, and stretch out thy hand etc.[10] For that reason Judah was worthy to be made the ruling power in Israel, as it is said: Judah became His sanctuary, Israel his dominion.[11] Why did Judah become His sanctuary and Israel his dominion? Because the sea saw [him] and fled.[12]

It has been taught. R. Eliezer b. Jacob says: It is impossible to declare that Levi [was stationed] below since it is stated that he was above,[13] and it is impossible to declare that he was above since it is stated that he was below;[14] so how was it? The elders of the priests and Levites were below and the rest above. R. Joshiyah said: All [the Levites] who were qualified to serve [as bearers of the ark] were below and the rest above. Rabbi says: Both [the priests and Levites] and also [the Israelites] were standing below.[15] They turned their faces towards mount Gerizim and opened with the blessing, and then towards mount Ebal and opened with the curse; for what means ‘al?[16] It means ‘near to’; as it has been taught: And thou shalt put pure frankincense near [‘al] each row[17] — Rabbi says: ‘Al means ‘near to’. You declare that ‘al means ‘near to’; but perhaps it is not so and the signification is actually ‘upon’? Since it states: Thou shalt put a veil ‘al the ark,[18] conclude that ‘al means ‘near to’.

THEY TURNED THEIR FACES TOWARDS MOUNT GERIZIM AND OPENED WITH THE

BLESSING etc. Our Rabbis taught: There was a benediction in general and a benediction in particular, likewise a curse In general and a curse in particular.[19] [Scripture states]: to learn, to teach, to observe and to do;[20] consequently there are

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(1) Ps. LXVIII, 28, E.V. 27.

(2) Ibid. The word for council has the same root as the verb ‘to stone’; so it is here understood as ‘their stoners’.

(3) The Temple was erected on the territory of Benjamin, v. Yoma 12a.

(4) Deut. XXXIII, 12, i.e., God dwells in the land of Benjamin.

(5) He was the prince of the tribe of Judah (Num. VII, 12).

(6) Hos. XII, 1. The last words are rod ‘im el, which are interpreted: he descended (into the sea because his trust was) with God.

(7) Kabbalah, lit., ‘tradition’, a term used for the Biblical canon other than the Pentateuch, v. B.K. (Sonc. ed) p. 3. n. 3.

(8) Ps. LXIX, 2f.

(9) Ibid. 16.

(10) Ex. XIV, 15f.

(11) Ps. CXIV. 2. The Temple was in the kingdom of Judah. ‘His dominion’ is understood as Judah's rule over Israel.

(12) Ibid. 3.

(13) On Gerizim (Deut. XXVII, 12).

(14) Josh. VIII, 33.

(15) This seems to be implied in Josh. l.c.

(16) In Deut. XXVII, 12, translated ‘upon’.

(17) Lev. XXIV, 7.

(18) Ex. XL, 3. The veil was not ‘upon’ the ark but ‘near to, i.e., in front of it.

(19) The general blessing or curse was in connection with Deut. XXVII, 26, and the particular blessing or curse for the actions specified in that chapter.

(20) Cf. ibid. v. I and Xl, 19.

Talmud - Mas. Sotah 37b

four [duties associated with each commandment]. Twice four are eight[1] and twice eight are sixteen.[2] It was similar[3] at Sinai and the plains of Moab; as it is said: These are the words of the covenant which the Lord commanded Moses etc.’[4] and it is written: Keep therefore the words of this covenant etc.[5] Hence there were forty-eight covenants in connection with each commandment.[6] R. Simeon excludes [the occasion of] Mount Gerizim and Mount Ebal[7] and includes that of the Tent of Meeting in the wilderness.[8] The difference of opinion here is the same as that of the teachers in the following: R. Ishmael says: General laws were proclaimed at Sinai and particular laws in the Tent of Meeting. R. Akiba says: Both general and particular laws were proclaimed at Sinai, repeated in the Tent of Meeting, and for the third time in the plains of Moab. Consequently there is not a single precept written in the Torah in connection with which forty-eight covenants were not made. R. Simeon b. Judah of Kefar Acco[9] said in the name of R. Simeon: There is not a single precept written in the Torah in connection with which forty-eight times six hundred and three thousand, five hundred and fifty[10] covenants were not made. Rabbi said: According to the reasoning of R. Simeon b. Judah of Kefar Acco who said in the name of R. Simeon that there is not a single precept written in the Torah in connection with which forty-eight times six hundred and three thousand, five hundred and fifty covenants were not made, it follows that for each Israelite there are six hundred and three thousand, five hundred and fifty commandments.[11] What is the issue between them? — R. Mesharsheya said: The point between them is that of personal responsibility and responsibility for others.[12]

R. Judah b. Nahmani, the lecturer[13] of Simeon b. Lakish, expounded: The whole section [of the blessings and curses] refers to none other than the adulterer and adulteress. [It states,] Cursed be the man that maketh a graven or molten image etc.[14] Does it suffice merely to pronounce cursed with such a person![15] — But it alludes to one who has immoral intercourse, and begets a son who goes to live among heathens[16] and worships idols; cursed be the father and mother of this man since they were the cause of his sinning.[17]

Our Rabbis taught: Thou shalt set the blessing upon Mount Gerizim and the curse etc.[18] What is the purpose of this text? If it is to teach that the blessing [is to be pronounced] on Mount Gerizim and the curse on mount Ebal, it has already been said: These shall stand upon mount Gerizim to bless the people,[19] and it continues, And these shall stand upon mount Ebal for the curse![20] But [the purpose is to indicate] that the blessing must precede the curse. It is possible to think that all the blessings must precede the curses; therefore the text states ‘blessing’ and ‘curse, I.e., one blessing precedes a curse and all the blessings do not precede the curses. A further purpose is to draw a comparison between blessing and curse to tell us that as the curse is pronounced by the Levites so the blessing must be pronounced by the Levites; as the curse is uttered in a loud voice so must the blessing be uttered in a loud voice; as the curse is said in the holy tongue[21] so must the blessing be said in the holy tongue; as the curse is in general and particular terms so must the blessing be in general and particular terms; and as with the curse both parties respond with Amen so with the blessing both parties respond with Amen.

MISHNAH. HOW WAS THE PRIESTLY BENEDICTION [PRONOUNCED]? IN THE PROVINCE[22] IT WAS SAID AS THREE BLESSINGS,[23] BUT IN THE TEMPLE AS ONE BLESSING.[24] IN THE TEMPLE THE NAME WAS UTTERED

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(1) In connection with every command there is a covenant for each of the four duties. So there were four blessings and four curses pronounced with each precept.

(2) Eight blessings and curses with the general commandment and eight with the particular commandments.

(3) Viz., there were sixteen blessings and curses implied with the covenants entered into in each of the two places named.

(4) Deut. XXVIII, 69. apart from the section at Mt. Gerizim.

(5) Ibid. XXIX, 8.

(6) Sixteen in each of the three places.

(7) Because not all the commandments formed the covenant there.

(8) After its erection God spoke to Moses from thence (Lev. I, 1).

(9) [Caphare Accho in lower Galilee, mentioned in Josephus, Wars II, 20, 6; v. Hildesheimer, Beitrage, p. 81.]

(10) The number of male Israelites, with each of whom the covenants were made.

(11) And forty-eight covenants were made in connection with each of them.

(12) If it is held according to the Rabbis that each Israelite is responsible for the conduct of the rest, then the number must be squared to get the total.

(13) It was customary for a teacher to impart the lesson to a lecturer who delivered it to the disciples.

(14) Deut. XXVII, 15.

(15) The penalty is death.

(16) [Being the offspring of an adulterous union, he is debarred from the Assembly and cannot marry an Israelite woman.]

(17) [And not only with idolatry. His heathen association will lead him to commit the other offences in this section, provoking upon his parents the enumerated curses; v., however, Rashi.]

(18) Ibid, XI, 29.

(19) Ibid. XXVII, 12.

(20) Ibid. 13.

(21) V. supra 33a.

(22) I.e., outside the Temple.

(23) As divided in Num. VI, 24ff., and after each sentence there was a response of Amen.

(24) There was no interruption because the response of Amen was not made in the Temple.

Talmud - Mas. Sotah 38a

AS WRITTEN,[1] BUT IN THE PROVINCE IN ITS SUBSTITUTED NAME.[2] IN THE PROVINCE THE PRIESTS RAISE THEIR HANDS IN A LINE WITH THEIR SHOULDERS, BUT IN THE TEMPLE ABOVE THEIR HEADS, EXCEPT THE HIGH PRIEST WHO DOES NOT RAISE HIS HANDS HIGHER THAN THE PLATE.[3] R. JUDAH SAYS: ALSO THE HIGH PRIEST RAISES HIS HANDS HIGHER THAN THE PLATE, AS IT IS SAID, AND AARON LIFTED UP HIS HANDS TOWARD THE PEOPLE AND BLESSED THEM.[4]

GEMARA. Our Rabbis taught: On this wise ye shall bless[5] — i.e., in the holy tongue. You say that it means in the holy tongue; but perhaps it is not so and it means in any language! It is stated here, ‘On this wise ye shall bless,’ and elsewhere it is stated: These shall stand to bless the people,’[6] as in this latter passage it was in the holy tongue, so also in the former it was in the holy tongue. R. Judah says: [This deduction] is unnecessary, because it states ‘on this wise’ [which signifies] that they must pronounce it in this language [as written in Scripture].[7]

Another [Baraitha] taught: ‘On this wise ye shall bless’ — i.e., standing. You say that it means standing; but perhaps that is not so and [the benediction may be pronounced] even sitting! It is stated here, ‘On this wise ye shall bless,’ and elsewhere it is stated: ‘These shall stand to bless’ — as here it was standing so in the former passage it was standing. R. Nathan says: [This deduction] is unnecessary; behold it states: To minister unto Him and to bless in His name[8] — as [the priest] ministers standing so he blesses standing. Whence is it that the ministering itself [was performed standing]? Because it is written: To stand to minister.[9]

Another [Baraitha] taught: ‘On this wise ye shall bless’ — i.e., with raising of the hands. You say that it means with raising of the hands; but perhaps that is not so [and the benediction can be pronounced] without raising of the hands! It is stated here, ‘On this wise ye shall bless’, and elsewhere it is stated: ‘And Aaron lifted up his hands toward the people and blessed them’;[10] as in this latter passage it was with raising of the hands, so also in the former passage it was with raising of the hands. R. Jonathan raised the question: If [your reasoning is valid], then as in that passage[10] [the benediction was pronounced] by the High Priest, on the new moon[11] and in the service of the Community, so also here it must be the High Priest, on the new moon and in the service of the Community! R. Nathan says: [This deduction] is unnecessary; behold it states: Him and his sons for ever,[12] comparing him and his sons — as [the High Priest pronounced the benediction] with raising of the hands, so also his sons with raising of the hands. Furthermore it is written for ever,[13] and a comparison is drawn between the benediction and ministering.[14]

Another [Baraitha] taught: ‘On this wise ye shall bless the children of Israel’ — with the use of the Shem Hameforash.[15] You say that it means with the Tetragrammaton; but perhaps that is not so and a substituted name was used![16] There is a text to say: So shall they put My name[17] — My name which is unique to Me. It is possible to think that [the Shem Hameforash was also used] in places outside the Temple; but it is stated here, ‘So shall they put My name’ and elsewhere it is stated: To put His name there[18] — as in this latter passage it denotes in the Temple so also in the former passage it denotes in the Temple. R. Joshiah says: [This deduction] is unnecessary; behold it states: In every place where I cause My name to be remembered I will come unto thee.[19] Can it enter your mind that every place is intended?[20] But the text must be transposed thus: In every place where I will come unto thee and bless thee will I cause My name to be remembered; and where will I come unto thee and bless thee? In the Temple; there, in the Temple, will I cause My name to be remembered.

Another [Baraitha] teaches: ‘On this wise ye shall bless the children of Israel’ — I have here only the children of Israel; whence is it that proselytes, women and enfranchised slaves [are included]? There is a text to state, Ye shall say unto them[21] — i.e., to all of them.

Another [Baraitha] teaches: ‘On this wise ye shall bless’ — i.e., face to face.[22] You say that it means face to face; but perhaps that is not so and it means the face [of the priests] towards the back [of the people]! There is a text to state, ‘Ye shall say unto them’ — i.e., like a man who talks to his companion.

Another [Baraitha] teaches: ‘On this wise ye shall bless — i.e., in a loud voice. But perhaps it is not so and the meaning is softly! There is a text to state, ‘Ye shall say unto them’ — like a man who talks to his companion.

Abbaye said: We have a tradition that [the Precentor][23] exclaims ‘Kohanim!’ when [at least] two are present but he does not exclaim ‘Kohen!’ when only one is there;[24] as it is said: Ye shall say unto them — i.e., [at least] unto two. R. Hisda said: We have a tradition that [when the Precentor is himself] a kohen he exclaims ‘Kohanim!’ but a lay-Israelite does not; as it is said: ‘Ye shall say unto them’ — the saying

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(1) The Tetragrammaton YHWH.

(2) Viz., Adonai.

(3) Worn on the forehead (Ex. XXVIII, 36).

(4) Lev. IX, 22.

(5) Num. VI. 23.

(6) Deut. XXVII, 12.

(7) V. supra 33b, p. 164.

(8) Ibid. X, 8.

(9) Ibid. XVIII, 5.

(10) Which refers to the special occasion when the Tent of Meeting was dedicated.

(11) That day on which the Tabernacle was set up was New Moon, v. Ex. XL, 2.

(12) Deut. XVIII, 5.

(13) He thus answers the argument that the benediction should only be pronounced by the High Priest and on the new moon.

(14) I.e., although Deut. XVIII, 5 only mentions ministering and not blessing, yet from the phrase to minister and to bless (ibid. X. 8) it is concluded that they are analogous.

(15) [Lit.. ‘the Distinguished Name’, synonymous with Shem Hameyuhad, ‘the Unique Name’ and generally held identical with the Tetragrammaton, uttered as written, v. Sanh. (Sonc. ed.) p. 408, n. 1.]

(16) [I.e., as read Adonai, v. Tosaf.]

(17) Num. VI, 27.

(18) Deut. XII, 5.

(19) Ex. XX, 24.

(20) [That the Divine presence will come there. Surely this is restricted to the Sanctuary or Temple; v. Rashi.]

(21) Num. VI, 23.

(22) The priests and people must face one another.

(23) When calling upon the Kohanim (v. Glos., s.v. Kohen) in the Synagogue to pronounce the benediction.

(24) [But the priest turns his face to bless the people of his own accord; v. ‘Atereth Zekenim Sh. ‘A. Orah Hayyim 128, 10.]

Talmud - Mas. Sotah 38b

must come from one of their own body. The legal decision is in accord with the view of Abaye and not according to R. Hisda.

(Mnemonic.[1] Desires, for the benediction, platform, in the ‘Service’, cup, recognise, accepts hospitality, heifer.)

R. Joshua b. Levi said: Whence is it that the Holy One, blessed be He, desires the priestly benediction? As it is said: So shall they put My name upon the children of Israel; and I will bless them.[2] R. Joshua b. Levi also said: Every kohen who pronounces the benediction is himself blessed, but if he does not pronounce it he is not blessed; as it is said: I will bless them that bless thee.[3] R. Joshua b. Levi also said: Any kohen who refuses to ascend the platform[4] transgresses three positive commandments, viz., ‘On this wise shall ye bless’, ‘Ye shall say unto them’, and ‘So shall they put My name’. Rab said: We have to take into consideration that he might be the son of a divorcee or the son of a Haluzah.[5] But [R. Joshua and Rab] are not at variance, one referring to a case where he ascends [the platform] occasionally,[6] the other to a case where he does not occasionally ascend it.

R. Joshua b. Levi also said: Any kohen who does not ascend [the platform] in the ‘Service’[7] may not ascend later; as it is said: And Aaron lifted up his hands toward the people, and blessed them, — and he came down from offering the sin-offering and the burnt-offering and the peace-offering.[8] As in this passage [the benediction occurred] during the ‘Service’, so here [in the Synagogue] it must be [during the prayers relating to] the ‘Service’. But that is not so, seeing that R. Ammi and R. Assi ascended [at a later point in the liturgy]! — R. Ammi and R. Assi had already moved their feet [at the proper point to ascend the platform] but did not reach there [in time]. This is as R. Oshaia taught, [The statement that the kohen may not ascend after that point in the liturgy] does not apply except when he had not moved his feet, but if he had moved his feet he may ascend. It has been similarly learnt: If he[9] is confident that he can raise his hands [for the benediction] and resume the prayers [without an error], he is permitted to do so;[10] on arguing in this connection that he surely does not move [his feet],[11] [the reply was] that he shifts a little [to one side]; so also in the present instance, if [a kohen] moves a little [to ascend at the right point, it is sufficient].

R. Joshua b. Levi also said: We give the cup of blessing[12] for the recital of the Grace after meals only to one who is of a generous disposition,[13] as it is said: He that hath a bountiful eye shall be blessed, for he giveth of his bread to the poor[14] — read not yeborak [‘shall be blessed’] but yebarek [shall say the Benediction]. R. Joshua b. Levi also said: Whence is it that even the birds recognise those who have a niggardly spirit?[15] As it is said: For in vain is the net spread in the eyes of any bird.[16] R. Joshua b. Levi also said: Whoever accepts hospitality of men of niggardly spirit transgresses a prohibition; as it is said: Eat thou not the bread of him that hath an evil eye, [neither desire thou his dainties]. For as he reckoneth within himself; so is he; eat and drink, saith he to thee, [but his heart is not with thee].[17] R. Nahman b. Isaac said: He transgresses two prohibitions, ‘Eat thou not’ and ‘Neither desire thou’. R. Joshua b. Levi also said: [The necessity for] the heifer whose neck is to be broken[18] only arises on account of the niggardly of spirit, as it is said: Our hands have not shed this blood.[19] But can It enter our minds that the elders of a Court of Justice are shedders of blood! The meaning is, [The man found dead] did not come to us for help and we dismissed him, we did not see him and let him go — i.e., he did not come to us for help and we dismissed him without supplying him with food, we did not see him and let him go without escort.[20]

Adda said in the name of R. Simlai: In a Synagogue where all the worshippers are kohanim, they all ascend the platform. For whom, then, do they pronounce the benediction? R. Zera answered: For their brethren [working] in the fields.[21] But it is not so; for Abba the son of R. Minyamin b. Hiyya taught: The people who are behind the kohanim do not come within the scope of the benediction![22] — There is no contradiction; the former refers to men who are compelled [to be absent] and the latter to men who are not compelled [to be stationed behind the kohanim]. But R. Shimi of the Fort of Shihori taught: In a Synagogue where all the worshippers are kohanim, some ascend [the platform] and the rest respond with Amen! — There is no contradiction; the latter refers to where ten remain [to respond Amen] and the former where ten do not remain.

The [above] text stated: ‘Abba the son of R. Minyamin b. Hiyya taught: The people who are behind the kohanim do not come within the scope of the benediction.’ It is obvious that the tall do not create an obstruction for the short,[23] nor does the ark [where the Torah-scrolls are deposited] create an obstruction; but how is it with a partition [within the Synagogue]? — Come and hear: R. Joshua b. Levi said: Even a partition of iron does not divide between Israel and their Father in heaven. The question was asked: How is it with those standing on the side [of the kohanim]? — Abba Mar son of R. Ashi said: Come and hear: We have learnt: If he intended to sprinkle[24] in front of him

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(1) V. p. 171, n. 6.

(2) Num. VI, 27. [By blessing the people, the priests place, so to speak, to the delight of God, His name upon them (Rashi)].

(3) Gen. XII, 3.

(4) From which the benediction is pronounced.

(5) V. Glos. His father may have contracted a marriage which is forbidden to a kohen, in which case the son was disqualified.

(6) On some of the Festivals and then declines to do so on others; in which case we do not suspect him of being disqualified.

(7) I.e., the paragraph of the Eighteen Benedictions referring to the Temple-service. That is the point at which the kohen ascends the platform. V. P.B. p. 238a.

(8) Lev. IX, 22.

(9) The case is where the Precentor is the only kohen in the Synagogue. He is not required to ‘raise his hands’, because it might confuse him and lead to a mistake in the rendering of the prayers.

(10) V. Ber. 34a.

(11) From the reading desk to ascend the platform, so how can he ‘raise his hands’?

(12) A cup of wine is used in the recital of Grace.

(13) Lit., ‘good of eye’, the opposite of bad of eye, i.e., envious.

(14) Prov. XXII, 9.

(15) Lit., ‘narrow of eye’. Birds avoid such as these.

(16) Prov. I, 17. verse 19 continues, So are the ways of everyone that is greedy of gain.

(17) Ibid. XXIII, 6f.

(18) Cf. Deut. XXI, 1ff.

(19) Ibid. 7.

(20) A man without escort was liable to be set upon and murdered.

(21) Who were prevented by their work from being present.

(22) R.H. 35a. So how much more, they who are not present!

(23) Although the latter are shut out from the view of the kohanim, they are not excluded from the benediction.

(24) The purifying water to remove the defilement of vessels (v. Num. XIX, 18).

Talmud - Mas. Sotah 39a

and he sprinkled behind him, or vice versa, the sprinkling is invalid; [but if he intended to sprinkle] in front of him and did so on the sides in front of him, his sprinkling is valid.[1]

Raba son of R. Huna said: When the Torah-scroll is unrolled[2] it is forbidden to converse even on matters concerning the law; as it is said: And when he opened it all the people stood up,[3] and standing up signifies nothing else than silence, as it is said: And I wait because they speak not, because they stand still and answer no more.[4] R. Zera said in the name of R. Hisda: [It may be derived] from this passage, And the ears of all the people were attentive unto the book of the law.[5]

R. Joshua b. Levi also said: Any kohen who has not washed his hands may not lift them up [to pronounce the benediction]; as it is said: Lift up your hands in holiness and bless ye the Lord.[6]

His disciples asked R. Eleazar b. Shammua, ‘How have you prolonged your life?’ He replied:

‘Never have I made use of a Synagogue as a short cut,[7] nor stepped over the heads of the holy people,[8] nor lifted up my hands [as a kohen] without first uttering a benediction.’ What benediction did he utter? — R. Zera said in the name of R. Hisda: ‘[Blessed art Thou, O Lord our God, King of the Universe] Who hast commanded us with the sanctity of Aaron and hast commanded us to bless Thy people Israel in love’.[9] When he [the priest] moves his feet [to ascend the platform] what does he say? — ‘May it be pleasing before Thee, O Lord our God, that this benediction wherewith Thou hast commanded us to bless Thy people Israel may be free from stumbling and iniquity.’ When he turns his face from the Congregation [to the ark after pronouncing the benediction] what does he say? — R. Hisda led R. ‘Ukba forward[10] and the latter explained [that what he says is], ‘Lord of the Universe, we have performed what Thou hast decreed upon us;[11] fulfil with us

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(1) Consequently those standing on the side are within the scope of the benediction.

(2) For the lection in the Synagogue.

(3) Neh. VIII, 3, describing the reading of the Torah to the assembly.

(4) Job XXXII, 16.

(5) Neh. VIII, 3.

(6) Ps. CXXXIV, 2.

(7) In Ber. 62b it is stated: If one enters a Synagogue not for the purpose of making it a short cut, he may use it in that manner. But R. Eleazar took a stricter view.

(8) I.e., made his way to his seat by passing through the students who sat on the floor. He either arrived first or sat on the outside.

(9) This formula has been adopted in the ritual; P.S. p. 238a. [Cf. Rashi, Num. VI, 23 (quoting from Midrash): Ye shall not bless them hurriedly and hastily but devoutly and with a perfect heart.]

(10) [אדבריה Rashi (Bezah. 29a), ‘took him out for a walk’; R. Hananeel (a.l.): ‘put the words in his mouth’ — i.e., prepared the exposition for him. R. ‘Ukba was Exilarch and had his public discourses prepared by R. Hisda.]

(11) [I.e., although we are not worthy to bless; v. Tikkin Tefillah., Ozar ha- Tefilloth, (Wilna, 1923) p. 941.]

Talmud - Mas. Sotah 39b

what Thou hast promised us, viz., Look down from Thy holy habitation, from heaven etc.’[1]

R. Hisda said: The kohanim are not permitted to bend their fingerjoints[2] until they turn their faces from the congregation.

R. Zera said in the name of R. Hisda: The Precentor is not permitted to exclaim ‘Kohanim!’[3] until the response of Amen [to the preceding benediction] had been completed by the congregation; and the kohanim are not permitted to begin the benediction until the announcement [of ‘Kohanim!’] had been completed by the Precentor; and the congregation is not permitted to respond Amen until the benediction had been completed by the kohanim, — and the kohanim are not permitted to begin another section of the bene diction until the response of Amen had been completed by the congregation [to the preceding].

R. Zera also said in the name of R. Hisda: The kohanim are not permitted to turn their faces from the congregation ‘until the Precentor begins the paragraph ‘Grant peace’;[4] nor are they permitted to move their feet and descend until the Precentor has finished ‘Grant peace’.

R. Zera also said in the name of R. Hisda: The congregation is not permitted to respond Amen until a benediction had been completed by the Precentor; and the reader is not permitted to read in the Torah until the response of Amen [to the preliminary benediction] had been completed by the congregation; and the translator[5] is not permitted to begin the translation until the verse had been completed by the reader; and the reader is not permitted to begin another verse until the translation [of the preceding verse] had been completed by the translator.

R. Tanhum said in the name of R. Joshua b. Levi: He who is to read the lection from the prophets must first read [a passage] in the Torah.[6] R. Tanhum also said in the name of R. Joshua b. Levi: He who is to read the lection from the prophets is not permitted to begin his recital until the Torah-scroll is rolled up.[7] R. Tanhum also said in the name of R. Joshua b. Levi: The Precentor is not permitted to strip the ark bare in the presence of the Congregation because of the dignity of the congregation.[8] R. Tanhum also said in the name of R. Joshua b. Levi: The congregation is not permitted to depart until the Torah-scroll is removed[9] and deposited in its place. Samuel said: [They may not depart] until [the Pre centor] has gone out.[10] There is no variance between them; the former refers to when there is another exit,[11] the latter to when there is not another exit. Raba said: Bar Ahina explained to me [that the Scriptural basis for this regulation is], Ye shall walk after the Lord your God.[12]

While the kohanim are blessing the people[13] what do the latter say? — R. Zera declared in the name of R. Hisda: Bless the Lord, ye angels of His, ye mighty in strength . . . Bless the Lord, all ye His hosts, ye ministers of His that do His pleasure. Bless the Lord, all ye His works, in all places of His dominion. Bless the Lord, O my soul.[14] What do they say [during the benediction] in the additional service of the Sabbath?[15] — R. Assi declared: A Song of Ascents, Behold, bless ye the Lord, all ye servants of the Lord . . . Lift up your hands in holiness and bless ye the Lord.[16] Blessed be the Lord Out of Zion, Who dwelleth at Jerusalem. Praise ye the Lord.[17] But they should also say: The Lord bless thee out of Zion[18] which occurs in that context! — Judah the son of R. Simeon b. Pazzi answered: Since he commenced with the blessings of the Holy One, blessed be He, he should conclude with His blessings. What do they say in the afternoon — service of a fast-day?[19] — R. Aha b. Jacob declared: Though our iniquities testify against us, work Thou for Thy name's sake . . . O Thou hope of Israel, the Saviour thereof in the time of trouble, why shouldest Thou be as a sojourner in the land . . . Why shouldest Thou be as a man astonied, as a mighty man that cannot save? etc.[20]

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(1) Deut. XXVI, 15.

(2) The fingers are outstretched during the benediction.

(3) On hearing which word they begin to bless the congregation.

(4) V. P.B., p. 53.

(5) In the ancient Synagogue the recital of each verse of the Scriptural section was followed by a translation into the vernacular.

(6) This custom is still preserved in the Synagogue, except that the lection from Scripture is read by the Precentor and not the person called up to the reading of the Law.

(7) The purpose is that they who are rolling it should not be prevented from listening to the recital.

(8) The ark was adorned with hangings, and these must not be removed so long as the worshippers are Present.

(9) [From the ark. The Scroll was removed from the synagogue after service for safe custody. The words, ‘and deposited in its place’ are difficult to explain. Rashi does not appear to have had them, nor do they occur in MS.M.]

(10) He used to carry the Scroll with him to his house for safe custody.

(11) [In which case the congregation can depart through the other exit as soon as the Scroll is removed, even before it leaves the synagogue (Rashi).]

(12) Deut. XIII, 5.

(13) On week-days according to the old usage.

(14) Ps. CIII, 20ff. Each of the Scriptural selections consists of three verses, one for each part of the priestly benediction.

(15) According to modern usage the kohanim do not utter the benediction on the Sabbath, with the exception of the Day of Atonement which falls on a Sabbath.

(16) Ibid. CXXXIV, If.

(17) Ibid. CXXXV, 21.

(18) Ibid. CXXXIV, 3.

(19) This is not the modern practice.

(20) Jer. XIV, 7ff.

Talmud - Mas. Sotah 40a

Talmud - Mas. Sotah 40a

What do they say in the concluding service of the Day of Atonement?[1] — Mar Zutra declared — according to another version, there is a teaching to this effect — :Behold, thus shall the man be blessed that feareth the Lord. The Lord shall bless thee out of Zion, and thou shalt see the good of Jerusalem all the days of thy life. Yea, thou shalt see thy children's children. Peace be upon Israel.[2] Where did they say these verses? — R. Joseph answered: Between each benediction. R. Shesheth answered: At the mention of the Divine Name. R. Mari and R. Zebid differ on this matter; one said: A verse [by the congregation is to be recited] simultaneously with a verse [by the kohanim], while the other said, [The congregation recites] the whole for each verse [by the kohanim]. R. Hiyya b. Abba said: Whoever recites them outside the Temple simply errs.[3] R. Hanina b. Papa said: Know that even in the Temple it is unnecessary to recite them; for is there a servant whom one blesses without his listening! R. Aha b. Hanina said: Know that even outside the Temple it is necessary to recite them; for is there a servant whom one blesses without his face brightening![4]

R. Abbahu said: At first I used to recite them; but when I saw that R. Abba of Acco did not recite them I also did not. R. Abbahu also said: At first I used to think that I was humble; but when I saw R. Abba of Acco offer one explanation and his Amora[5] offer another without his taking exception. I considered that I was not humble. How did R. Abbahu display humility? — The wife of R. Abbahu's Amora said to R. Abbahu's wife, ‘My husband has no need of [instruction from] your husband; and when he bends down[6] and straightens himself, he merely pays him respect’.[7] R. Abbahu's wife went and reported this to him, and he said to her, ‘Why worry about it? Through me and him the All-Highest is praised’. Further, the Rabbis decided to appoint R. Abbahu as principal [of the Academy]; but when he saw that R. Abba of Acco had numerous creditors [pressing for payment], he said to the Rabbis, ‘There is a greater [scholar than I for the office]’. R. Abbahu and R. Hiyya b. Abba once came to a place; R. Abbahu expounded Aggada[8] and R. Hiyya b. Abba expounded legal lore. All the people left R. Hiyya b. Abba and went to hear R. Abbahu, so that the former was upset. [R. Abbahu] said to him: ‘I will give you a parable. To what is the matter like? To two men, one of whom was selling precious stones and the other various kinds of small ware. To whom will the people hurry? Is it not to the seller of various kinds of small ware?’ Everyday R. Hiyya b. Abba used to accompany R. Abbahu to his lodging-place because he was esteemed by the Government; but on that day R. Abbahu accompanied R. Hiyya b. Abba to his lodging-place, and still his mind was not set at rest.

While the Precentor recites the paragraph ‘We give thanks’[9] what does the congregation say? — Rab declared: ‘We give thanks unto Thee, O Lord our God, because we are able to give Thee thanks’. Samuel declared: ‘God of all flesh, seeing that we give Thee thanks’. R. Simai declared: ‘Our Creator and Creator of all things in the beginning, seeing that we give Thee thanks.’ The men of Nehardea[10] declared in the name of R. Simai: ‘Blessings and thanksgiving to Thy great Name because Thou hast kept us alive and preserved us, seeing that we give Thee thanks’. R. Aha b. Jacob used to conclude thus: ‘So mayest Thou continue to keep us alive and be gracious to us; and gather us together and assemble our exiles to Thy holy courts to observe Thy statutes and to do Thy will with a perfect heart, seeing that we give Thee thanks’. R. Papa said: Consequently let us recite them all.[11]

R. Isaac said: Let respect for the congregation be always upon thee; for behold, the kohanim had their faces towards the people and their backs towards the Shechinah.[12] R. Nahman said: It is derived from this text: Then David the king stood up upon his feet and said: Hear me, my brethren and my people.[13] If [he called them] ‘my brethren’ why ‘my people’, and vice versa? — R. Eleazar said: David told the Israelites, If you listen to me, you are my brethren; if not, you are my people and I will rule you with a rod. The Rabbis said: It is derived from the regulation that the kohanim are not permitted to ascend the platform wearing their shoes. This is one of the ten ordinances which R.

Johanan b. Zakkai instituted. What was the reason? Was it not out of respect for the congregation? — R. Ashi said: No; [the reason] there was lest the shoe-lace become untied and he proceeds to retie it, and people will say: 'He is the son of a divorcee or a Haluzah'.[14]

BUT IN THE TEMPLE AS ONE BLESSING etc.

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(1) This also is omitted in the modern ritual.

(2) Ps. CXXVIII, 4ff.

(3) They should be said only in the Temple where alone the Tetragrammaton is used, since they are a blessing upon the Divine Name.

(4) Therefore the recital of these verses, in acknowledgement, by the congregation is acceptable to God.

(5) V. Glos. Who should have conveyed the Rabbi's explanation to the disciples.

(6) To receive the teaching from the Rabbi.

(7) Because he was highly regarded by the Government. V. infra and Hag. 14a, Sanh. 14a.

(8) The non-legal part of Rabbinic lore which is the more popular, v. Glos.

(9) V. P.B. p. 51.

(10) A town in S. Babylonia where Rab founded his School.

(11) The accepted version combines them all. V. P.B. p. 51.

(12) I.e., the Ark in which the Torah-Scrolls are kept.

(13) I Chron. XXVIII, 2.

(14) Disqualified for priestly service. A derisive taunt at him for his undignified behaviour by stooping on the platform to retie his shoelace.

Talmud - Mas. Sotah 40b

For what reason is this? — Because the response of Amen was not made in the Temple.

Our Rabbis taught: Whence is it that the response of Amen was not made in the Temple? As it is said: Stand up and bless the Lord your God from everlasting to everlasting.[1] And whence is it that every benediction must be followed by an expression of praise? As it is said: And blessed be Thy glorious name which is exalted above all blessing and praise[2] — i.e., upon every benediction ascribe praise to Him.

MISHNAH. WHAT WAS THE PROCEDURE WITH THE BENEDICTIONS OF THE HIGH PRIEST?[3] THE SYNAGOGUE ATTENDANT TAKES A TORAH-SCROLL AND HANDS IT TO THE SYNAGOGUE-PRESIDENT. THE SYNAGOGUE-PRESIDENT HANDS IT TO THE DEPUTY[4] AND HE HANDS IT TO THE HIGH PRIEST. THE HIGH PRIEST STANDS, RECEIVES [THE SCROLL] AND READS [THEREIN] AFTER THE DEATH[5] AND HOWBEIT ON THE TENTH DAY.[6] THEN HE ROLLS THE TORAH-SCROLL TOGETHER, PLACES IT IN HIS BOSOM AND EXCLAIMS, 'MORE THAN I HAVE READ BEFORE YOU IS WRITTEN HERE!' THE PASSAGE 'ON THE TENTH DAY', WHICH IS IN THE BOOK OF NUMBERS, HE READS BY HEART,[7] AND HE RECITES EIGHT BENEDICTIONS IN CONNECTION THEREWITH, VIZ., OVER THE TORAH, FOR THE TEMPLE-SERVICE, FOR THE THANKSGIVING, FOR THE PARDON OF SIN, OVER THE TEMPLE, OVER ISRAEL, OVER THE PRIESTS, OVER JERUSALEM, AND THE REST OF THE PRAYER.[8]

GEMARA. Is it to be deduced from this[9] that honour may be paid to a disciple in the presence of his master? — Abaye said: [No]; all this was done for the purpose of honouring the High Priest.

THE HIGH PRIEST STANDS, RECEIVES [THE SCROLL] AND READS etc. [Since it is stated that] he stands, it follows that he had been sitting; but a Master has said: In the Temple-court the kings of the house of David alone were allowed to sit, as it is said: Then David the king went in, and sat before the Lord, and he said: Who am I? etc!'[10] — It is as R. Hisda declared, [This occurred] in the Court of Women;[11] and here also [with the reading of the High Priest] it was in the Court of Women. An objection was raised: Where did the lection take place? In the Temple-court; R. Eliezer b. Jacob declares it was on the Temple Mount, as it is said,

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(1) Neh. IX, 5. This was the response to be used in the Temple; not Amen. [No satisfactory reason has so far been given for this regulation. Graetz MGWJ 1872, pp. 492ff., suggests that this does not mean that the response Amen was not allowed in the Temple, but that the solemnity of its service, heightened by the pronunciation of the Tetragrammaton as written, demanded a more extensive and impressive formula than the single Amen. V. also Blau, L. REJ, XXXIX, p. 188.]

(2) Ibid. The word 'above' is understood as 'upon'.

(3) What is described here followed the completion of the rites connected with the sacrifices of the Day of Atonement. The Synagogue referred to was that situated on the Temple Mount.

(4) Segan. Of the High Priest who took his place if he became defiled or incapacitated during the Day of Atonement (Rashi); v. however Sanh. (Sonc. ed.) p. 97, n. 1.

(5) I.e., Lev. XVI.

(6) Ibid. XXIII, 26-32.

(7) Num. XXIX, 7-11, to obviate the necessity of unrolling the Scroll from the former passage in Leviticus.

(8) The separate editions of the Mishnah and the J. Talmud omit 'over Jerusalem', and to complete the number eight read 'and over the rest of the prayer'.

(9) That the Torah was handed to his inferiors before being delivered to the High Priest.

(10) II Sam. VII, 18.

(11) A part of the Temple-precincts which was non-holy.

Talmud - Mas. Sotah 41a

And he read therein before the broad place that was before the water gate.[1] R. Hisda said: In the Court of Women.

AND READS [THEREIN] AFTER THE DEATH AND HOWBEIT ON THE TENTH DAY. I quote in contradiction: We may skip a passage in the Prophets but not in the Torah![2] — Abaye said: There is no contradiction; the latter teaching refers to a case where the passage skipped is sufficiently long to interrupt the translator, whereas [in the Mishnah] it is not sufficiently long to interrupt the translator.[3] On this point, however, it has been taught: We may skip a passage in the Prophets but not in the Torah. How much may be skipped [in the reading of the Prophets]? A passage which is not sufficiently long to interrupt the translator. Consequently so far as the Torah is concerned nothing at all [may be skipped]! — But Abaye said: There is no contradiction; the teaching [that we may skip a passage in the reading of the Torah] applies to where there is one theme,[4] the other teaching to where there are two themes. Thus it has been taught: We may skip [a passage] in the Torah where there is one theme and in the Prophets where there are two themes, but in either case only when it is not sufficiently long to interrupt the translator. We may not, however, skip from one Prophetical Book to another; but with a book of the Minor Prophets[5] we may skip [from one to another] except that this may not be done from the end of the Book to its beginning.[6]

THEN HE ROLLS THE TORAH-SCROLL TOGETHER, PLACES IT IN HIS BOSOM etc. Why all this?[7] — So as not to discredit the Torah-Scroll.[8]

THE PASSAGE 'ON THE TENTH DAY', WHICH IS IN THE BOOK OF NUMBERS, HE READS BY HEART. Let him roll up the Scroll and recite [the passage]![9] — R. Huna b. Judah said in the name of R. Shesheth: Because we do not roll up a Torah-scroll in the presence of a congregation.[10] Then let another Torah-scroll be brought and read [it therein]! — R. Huna b. Judah said: [No], because it would discredit the first.[11] R. Simeon b. Lakish said: Because we may not pronounce an unnecessary benediction.[12] Do we, then, pay attention to [the reason that it would] discredit [the first Scroll]? Behold, R. Isaac the smith said: When the new moon of Tebeth[13] falls on the Sabbath, three Scrolls are brought: the first for the lection of the [Sabbath] day, the second for [the portion of] the new moon, and the third for [the portion of] Hanukkah![14] — When three men [read] in three Scrolls, there is no fear about [a Scroll] being discredited, but when one man [reads] in two Scrolls there is this fear.

AND HE RECITES EIGHT BENEDICTIONS IN CONNECTION THEREWITH etc. Our Rabbis taught: [The High Priest] pronounces a benediction over the Torah just as we do in Synagogue;[15] for the Temple-service for the thanksgiving,[16] and for the pardon of sin as usual;[17] over the Temple separately,[18] over the priests separately, over the Israelites separately — and over Jerusalem separately.

AND THE REST OF THE PRAYER. Our Rabbis taught: The rest of the prayer consists of petitions song and supplication that Thy people Israel is in need of salvation; and he concludes with, ‘[Blessed art Thou, O Lord,] Who hearkenest unto prayer.’ From this point onward,[19] each individual brings a Torah-scroll from his house and reads therein. For what purpose is this done? To display its beauty in public.[20] MISHNAH. WHAT WAS THE PROCEDURE IN CONNECTION WITH THE PORTION READ BY THE KING? AT THE CONCLUSION OF THE FIRST DAY OF THE FESTIVAL [OF TABERNACLES] IN THE EIGHTH,[21] I.E., THE END OF THE SEVENTH,[22] THEY ERECT A WOODEN DAIS IN THE TEMPLE COURT, UPON WHICH HE SITS; AS IT IS SAID, AT THE END OF EVERY SEVEN YEARS, IN THE SET TIME etc.[23] THE SYNAGOGUE-ATTENDANT[24] TAKES A TORAH-SCROLL AND HANDS IT TO THE SYNAGOGUE PRESIDENT,[25] AND THE SYNAGOGUE-PRESIDENT HANDS IT TO THE [HIGH PRIEST'S] DEPUTY. HE HANDS IT TO THE HIGH PRIEST WHO HANDS IT TO THE KING. THE KING STANDS AND RECEIVES IT, BUT READS SITTING. KING AGRIPPA[26] STOOD AND RECEIVED IT AND READ STANDING, FOR WHICH ACT THE SAGES PRAISED HIM. WHEN HE REACHED, THOU MAYEST NOT PUT A FOREIGNER OVER THEE,[27] HIS EYES RAN WITH TEARS.[28] THEY SAID TO HIM, ‘FEAR NOT, AGRIPPA, THOU ART OUR BROTHER, THOU ART OUR BROTHER!’ [THE KING] READS FROM THE BEGINNING OF DEUTERONOMY UP TO THE SHEMA’,[29] THE SHEMA’, AND IT SHALL COME TO PASS IF YE HEARKEN,[30] THOU SHALT SURELY TITHE,[31] WHEN THOU HAST MADE AN END OF TITHING,[32] THE PORTION OF THE KING,[33] AND THE BLESSINGS AND CURSES, UNTIL HE FINISHES ALL THE SECTION. THE KING PRONOUNCES THE SAME BENEDICTIONS AS THE HIGH PRIEST, EXCEPT THAT HE SUBSTITUTES ONE FOR THE FESTIVALS INSTEAD OF ONE FOR THE PARDON OF SIN. GEMARA. Does it enter your mind [that the Mishnah means] the eighth [day of the Festival]! — Read ‘the eighth [year].[34] But why all this?[35] — It is all necessary; for if the All-Merciful had only written ‘at the end’, I might have thought that the reckoning was to be from then[36] although they had not observed a year of release;[37] therefore the All-Merciful wrote in ‘the year of release’, If the All-Merciful had only written ‘the year of release’, I might have thought that this means the end of the year of release;[38] therefore the All-Merciful wrote ‘in the set time.[39] If He had only written ‘in the set timeð, I might have thought that this means at the New Year festival; therefore the All-Merciful wrote ‘in the feast of tabernacles’. And if the All-Merciful had only written ‘in the feast of tabernacles’, I might have thought that this means on the last day of the festival; therefore the All-Merciful wrote ‘when all Israel is come’[40]

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(1) Neh. VIII, 3.

(2) When read in the Synagogue.

(3) While he is translating the last passage from Lev. XVI, it would be possible to turn up chap. XXIII. v. supra p. 199, nn. 2-3.

(4) As here, since both passages deal with the Day of Atonement.

(5) These are regarded as one Book.
(6) I.e., it is not allowed to turn back in the reading.
(7) Viz., his exclamation, ‘More than I have read’ etc.
(8) The people should not imagine it was a defective Scroll and for that reason he read a portion by heart.
(9) Since he does not read it from the Scroll, why is it left open?
(10) In modern practice this is done.
(11) People would conclude that it had some defect, and for that reason another was brought.
(12) Over the use of the second Scroll.
(13) The tenth month.
(14) The Feast of Dedication which occurs at the end of Kislev and the beginning of Tebeth. Why are not all three portions read from one Scroll?
(15) V. P.B. p. 147.
(16) Op. cit., 50f.
(17) [As we have it in the Day of Atonement liturgy (Rashi, Yoma 70).]
(18) This and the following benedictions are not in the existing liturgy.
(19) I.e., after the High Priest had finished the benedictions.
(20) It was considered praiseworthy to possess a beautiful copy of the Torah-scroll.
(21) This is explained in the Gemara.
(22) The years were arranged in Cycles of seven, the seventh being ‘the year of release’ (Deut. XV, 1ff).
(23) Deut. XXXI, 10.
(24) [Hazzan. There is no certainty either in regard to the original function or rank of the Hazzan. Here he appears as second to the synagogue president; v. n. 5.]
(25) [ראש הכנסת . Identified with the **, the officer who administered the external affairs of the Synagogue; v. Krauss, Synagogale Altertumer pp. 116ff and JE II, 86.]
(26) Agrippa I. His reading occurred in the year 41 C.E. [Others ascribe this incident to Agrippa II. V. Derenbourg. op. cit. p. 217, and Buchler, Priester und der Cultus pp. 12ff.]
(27) Ibid. XVII, 15.
(28) Because on his father's side he was not of Jewish descent.
(29) I.e., down to ibid. VI, 4.
(30) Ibid. Xl. 13-25.
(31) Ibid. XIV, 22ff.
(32) Ibid. XXVI, 12ff.
(33) Ibid. XVII, 14ff.
(34) The word should have the feminine form, not masculine as in the Mishnah, to make it clear that the year and not the day is intended.
(35) Viz., the elaborate description of the time when the reading takes place as it is given in Deut. XXXI. 10.
(36) From the fortieth year after the Exodus.
(37) The observance only began seven years after the land had been divided among the Israelites.
(38) I.e., before the eighth year.
(39) The word for ‘set time’ usually denotes a festival; hence it refers to a festival in the eighth year.
(40) Deut. XXXI, 11. referring to the pilgrimage to the Sanctuary which was on the first day.

Talmud - Mas. Sotah 41b

, i.e., the beginning of the Festival.

THE SYNAGOGUE-ATTENDANT TAKES A TORAH-SCROLL AND HANDS IT TO THE SYNAGOGUE-PRESIDENT. Is it to be deduced from this that honour may be paid to a disciple in the presence of his master?[1] — Abaye said: [No]; all this was done for the purpose of honouring the king.

THE KING STANDS AND RECEIVES IT, BUT READS SITTING. KING AGRIPPA STOOD

AND RECEIVED IT AND READ STANDING. [Since it is stated that] he stands, it follows that he had been sitting. But a Master has said: In the Temple-court the kings of the House of David alone were allowed to sit; as it is said: Then David the king went in, and sat before the Lord, and he said etc.![2] — It is as R. Hisda declared: [This occurred] in the Court of Women, and here also [with the reading by the king] it was in the Court of Women. FOR WHICH ACT THE SAGES PRAISED HIM. Since they praised him, it follows that he acted rightly; but R. Ashi has said: Even according to him who maintains that when a Nasi[3] forgoes the honour due to him one may avail himself of the permission, when a king forgoes the honour due to him one may not avail himself of the permission; as it is said: Thou shalt set a king over thee[4] — that his authority[5] may be over thee! — It is different [with the fulfilment of] a precept.[6]

WHEN HE REACHED ‘THOU MAYEST NOT PUT [etc.]’. A Tanna taught in the name of R. Nathan: At that moment[7] the enemies of Israel[8] made themselves liable to extermination, because they flattered Agrippa. R. Simeon b. Halafta said: From the day the fist of flattery prevailed, justice became perverted, conduct deteriorated, and nobody could say to his neighbour, ‘My conduct is better than yours’. R. Judah the Palestinian — another version, R. Simeon b. Pazzi — expounded: It is permitted to flatter the wicked in this world, as it is said: The vile person shall be no more called liberal, nor the churl said to be bountiful[9] — consequently it is allowed in this world. R. Simeon b. Lakish said: [It may be derived] from this text: As one seeth the face of God, and thou wast pleased with me.[10] On this point he is at variance with R. Levi; for R. Levi said: A parable of Jacob and Esau: To what is the matter like? To a man who invited his neighbour to a meal, and the latter perceived that he wished to kill him. So he said to him, ‘The taste of this dish of which I am partaking is like the dish I tasted in the king's palace’. The other said [to himself]. ‘He is acquainted with the king!’ So he became afraid and did not kill him.[11] R. Eleazar said: Every man in whom is flattery brings anger upon the world: as it is said: But they that are flatterers at heart lay up anger.[12] Not only that, but their prayer remains unheard; as it continues, They cry not for help when He chasteneth them.[13] (Mnemonic:[14] Anger, embryo, Gehinnom, in his hand, menstruant, exile).

R. Eleazar also said: As for any man in whom is flattery, even the embryos in their mothers’ wombs curse him; as it is said: He that saith unto the wicked, Thou art righteous, peoples shall curse him, nations shall abhor him[15] — the word kob [‘abhor’] means nothing but ‘curse’, as it is said: Whom God hath not cursed;[16] and le'om [nation] means nothing but ‘embryo’, as it is said: And the one le'om [nation] shall be stronger than the other nation.[17] R. Eleazar also said: Every man in whom is flattery will fall into Gehinnom; as it is said: Woe unto them that call evil good, and good evil etc.[18] What is Written after that? Therefore as the tongue of fire devoureth the stubble, and as the dry grass sinketh down in the flame etc.[19] R. Eleazar also said: Whoever flattereth his neighbour[20] will finally fall into his hand; if he does not fall into his hand, he will fall into the hand of his sons; and if he does not fall into his sons’ hand, he will fall into the hand of his grandsons; as it is stated: And Jeremiah said to Hananiah, Amen; the Lord do so; the Lord perform thy words,[21] and it is written,

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(1) V. infra 40b.

(2) II Sam. VII, 18.

(3) The Chief of the Great Sanhedrin.

(4) Deut. XVII, 15.

(5) Lit., ‘fear’.

(6) A king may forgo his honour when fulfilling it.

(7) When the Rabbis said: ‘Thou art our brother’.

(8) An euphemism for Israel.

(9) Isa. XXXII. 5. This verse alludes to the Hereafter.

(10) Gen. XXXIII, 10. The words were spoken in flattery by Jacob to the wicked Esau.

(11) Similarly Jacob's words were not flattery, but spoken with the intention of frightening Esau.

(12) Job XXXVI, 13.

(13) Because their cry receives no response.
(14) V. p. 171, n. 6. The first word refers to what has just preceded.
(15) Prov. XXIV, 24.
(16) Num. XXIII, 8.
(17) Gen. XXV, 23. The context deals with the unborn sons of Rebekkah.
(18) Isa. V, 20.
(19) Ibid. 24.
(20) [Var. lec. ‘the wicked’]
(21) Jer. XXVIII, 6. In the Massoretic text the reading is ‘The prophet Jeremiah said: Amen; the Lord etc.’

Talmud - Mas. Sotah 42a

And when he was in the gate of Benjamin, a captain of the ward was there, whose name was Irijah, the son of Shelemiah, the son of Hananiah,’ and he laid hold on Jeremiah the prophet, saying: Thou fallest away to the Chaldeans. Then said Jeremiah, It is false,’ I fall not away to the Chaldeans etc.,[1] and it continues, So he laid hold on Jeremiah and brought him to the princes.[2] R. Eleazar also said: Any community in which is flattery is as repulsive as a menstruant woman; as it is said: ‘For the community of flatterers is galmud’[3] — and in over-sea towns they call a menstruant woman galmudah. What means galmudah? — She is separated [gemulah da] from her husband. R. Eleazar also said: Any community in which is flattery will finally go into exile. It is written here, ‘For the community of flatterers is galmud’, and elsewhere it is written: Then shalt thou say in thine heart, Who hath gotten me these, seeing I have been bereaved of my children, and am solitary [galmudah], an exile and wandering to and fro etc.[4]

R. Jeremiah b. Abba said: Four classes will not receive the presence of the Shechinah: the class of scoffers, the class of flatterers, the class of liars, and, the class of slanderers. The class of scoffers, as it is written: He stretched out His hand against scorners.[5] The class of flatterers, as it is written: For a flatterer shall not come before Him.[6] The class of liars, as it is written: He that speaketh falsehood shall not be established before Mine eyes.[7] The class of slanderers, as it is written: For Thou art not a God that hath pleasure in wickedness; evil shall not sojourn with Thee[8] — i.e., Thou art righteous, O Lord, evil may not sojourn in Thy habitation.

CHAPTER VIII

MISHNAH. AT THE TIME WHEN THE ANOINTED FOR BATTLE[9] ADDRESSES THE PEOPLE HE SPEAKS IN THE HOLY TONGUE, AS IT IS SAID, AND IT SHALL BE, WHEN YE DRAW NIGH UNTO THE BATTLE, THAT THE PRIEST SHALL APPROACH[10] — I.E., THE ANOINTED FOR BATTLE; AND SPEAK UNTO THE PEOPLE — I.E., IN THE HOLY TONGUE; AND SHALL SAY UNTO THEM, HEAR, O ISRAEL, [YE DRAW NIGH THIS DAY UNTO BATTLE AGAINST YOUR ENEMIES][11] — ‘AGAINST YOUR ENEMIES’ BUT NOT AGAINST YOUR BRETHREN, NOT JUDAH AGAINST SIMEON NOR SIMEON AGAINST BENJAMIN, SO THAT IF YOU[12] FALL INTO THEIR HAND THEY SHALL HAVE MERCY UPON YOU, AS IT IS SAID, AND THE MEN WHICH HAVE BEEN EXPRESSED BY NAME ROSE UP, AND TOOK THE CAPTIVES, AND WITH THE SPOIL CLOTHED ALL THAT WERE NAKED AMONG THEM, AND ARRAYED THEM, AND SHOD THEM, AND GAVE THEM TO EAT AND TO DRINK, AND ANOINTED THEM, AND CARRIED ALL THE FEEBLE OF THEM UPON ASSES, AND BROUGHT THEM TO JERICHO, THE CITY OF PALM TREES, UNTO THEIR BRETHREN; THEN THEY RETURNED TO SAMARIA ETC.[13] AGAINST YOUR ENEMIES DO YOU MARCH, SO THAT IF YOU FALL INTO THEIR HAND THEY WILL HAVE NO MERCY UPON YOU. LET NOT YOUR HEART FAINT; FEAR NOT NOR TREMBLE ETC.[14] — ‘LET NOT YOUR HEART FAINT’ AT THE NEIGHING OF THE HORSES AND THE BRANDISHING OF SWORDS; ‘FEAR NOT’ BECAUSE OF THE CRASH

OF SHIELDS AND THE TRAMP OF THE SOLDIERS’ FOOTWEAR; — ‘NOR TREMBLE’ AT THE SOUND OF TRUMPETS; ‘NEITHER BE YE AFFRIGHTED’ AT THE SOUND OF BATTLE-CRIES. FOR THE LORD YOUR GOD IS HE THAT GOETH WITH YOU[15] THEY COME [RELYING] UPON THE MIGHT OF FLESH AND BLOOD, BUT YOU COME [RELYING] UPON THE MIGHT OF THE ALL-PRESENT. THE PHILISTINES CAME [RELYING] UPON THE MIGHT OF GOLIATH; BUT WHAT WAS HIS FATE? IN THE END HE FELL BY THE SWORD AND THEY FELL WITH HIM. THE AMMONITES CAME [RELYING] UPON THE MIGHT OF SHOBACH;[16] BUT WHAT WAS HIS FATE? IN THE END HE FELL BY THE SWORD AND THEY FELL WITH HIM. BUT WITH YOU IT IS OTHERWISE; ‘FOR THE LORD YOUR GOD IS HE THAT GOETH WITH YOU TO FIGHT WITH YOU ETC.’ [THIS ALLUDES TO] THE CAMP OF THE ARK.[17]

GEMARA. How does [the author of the Mishnah] prove his point?[18] — He proves it thus: It is stated in this connection ‘and speak’, and elsewhere it states: Moses spake, and God answered him by a voice;[19] as in the latter passage it was in the holy tongue, so also in the former it was in the holy tongue.

Our Rabbis taught: The priest shall approach and speak unto the people.[20] It is possible to think that any priest who so desires [may address them]; therefore there is a text to state, And the officers shall speak[21] — as the officers must have been appointed so must the priest have been appointed [for the purpose]. But I might say that it is the High Priest [who addresses them]! — It is analogous to the case of an officer; as an officer has a superior appointed over him,[22] so also the priest [who addresses the people] has a superior appointed over him.[23] But the High Priest likewise [has a superior over him]. viz., the king! — He is referring to his service.[24] But I might say that it is the deputy High Priest [who addresses them]![25] — The deputy High Priest is not considered appointed; as it has been taught: R. Hanina, the deputy of the priests,[26] said: For what is the priests’ deputy appointed? If any disqualification should occur to the High Priest, he enters and functions in his stead.[27]

‘And shall say unto them, Hear, O Israel’. Why must he just [open with the words] ‘Hear, O Israel’? — R. Johanan said in the name of R. Simeon b. Yohai: The Holy One, blessed be He, said to Israel, Even if you only fulfilled morning and evening the commandment to recite the Shema’,[28] you will not be delivered into [the enemy's] hand.

‘Let not your heart faint; fear not’ etc. Our Rabbis taught: He addresses them twice: once on the boundary[29] and once on the battle-field. What does he say on the boundary?

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(1) Ibid. XXXVII, 13f. Note the captain was the grandson of Hananiah.

(2) [The M.T. reads ‘So I Irijah laid hold etc.’]

(3) Job XV, 34. The usual translation of galmud is ‘barren’.

(4) Isa. XLIX, 21.

(5) Hos. VII, 5 sic., i.e., God kept them at a distance.

(6) Job XIII, 16.

(7) Ps CI, 7.

(8) Ibid. V, 5. The Psalm deals with the evil of slander.

(9) The priest designated to accompany the army to battle.

(10) Deut. XX, 2.

(11) Ibid., 3.

(12) I.e., any Israelite falls into the hand of another Israelite in battle.

(13) II Chron. XXVIII, 15.

(14) Deut. XX, 3.

(15) Deut. XX, 4.

(16) Cf. II Sam. X, 14ff

(17) I.e., the Israelite army which was accompanied by the ark.
(18) That the priest addresses the people in Hebrew.
(19) Ex. XIX, 19.
(20) Deut. XX, 2.
(21) Ibid. 5.
(22) Viz., the judge whose decisions the officer enforces.
(23) Therefore the High Priest is excluded.
(24) In the Temple. In this sphere the High Priest is supreme.
(25) V. p. 199, n. 1.
(26) V. Aboth. (Sonc. ed.) III, 2.
(27) But so long as the High Priest could officiate, the deputy ranked as an ordinary priest.
(28) V. Glos. This also opens with ‘Hear, O Israel’.
(29) Before marching into the enemy's territory.

Talmud - Mas. Sotah 42b

‘Hear the words of the War-regulations and return home’.[1] What does he say to them on the battle-field? ‘Let not your heart faint; fear not, nor tremble, neither be ye affrighted’. [These four expressions] correspond to the four means adopted by the nations of the world [to terrorise the enemy]: they crash [their shields], sound [trumpets], shout [battle-cries] and trample [with their horses].

THE PHILISTINES CAME [RELYING] UPON THE MIGHT OF GOLIATH etc. Goliath [was so named], said R. Johanan, because he stood with affrontery [gilluy panim] before the Holy One, blessed be He; as it is said: Choose you a man for you, and let him come down to me.[2] The word ‘man’ signifies none other than the Holy One, blessed be He, as it is said: The Lord is a man of war.[3] The Holy One, blessed be He, declared: Behold, I will bring about his downfall through the hand of a son of man; as it is said: David was the son of that man of Ephrath.[4]

R. Johanan said in the name of R. Meir: In three places did his mouth trap that wicked man:[5] first, ‘Choose you a man for you, and let him come dawn to me’;[2] second, ‘If he be able to fight with me, and kill me etc.,’[6] and third, ‘Am I a dog, that thou comest to me with staves?’[7] David likewise replied to him, Thou contest to me with a sword, and with a spear, and with a javelin;[8] and he continued, But, I come to thee in the name of the Lord of hosts, the God of the armies of Israel, which thou hast defied.[8]

And the Philistine drew near morning and evening.[9] R. Johanan said: To make them omit the recital of the Shema’ morning and evening.

And presented himself forty days.[9] R. Johanan said: [The period] corresponds to the forty days in which the Torah was given.[10]

And there went out a champion [benayim] out of the camp of the Philistines etc.[11] What means ‘benayim’? — Rab said: That he was built up [mebunneh] without any blemish. Samuel said: He was the middle one [benoni] of his brothers.[12] In the School of R. Shila they explained: He was made like a building [binyan]. R. Johanan said: He was the son of a hundred fathers and one mother [ben nane].[13] ‘Named Goliath of Gath’ — R. Joseph learnt: [He is so described] because all men pressed his mother like a wine-press [gath].

The text has ma'aroth[14] but we read the word as ma'arkoth! R. Joseph learnt: Because all had intercourse [he'eru] with his mother. The text has Harafah and also Orpah![15] — Rab and Samuel [differ in their interpretation]. One said that her name was Harafah and why was she called Orpah?

Because all had intercourse with her from the rear ‘orfin] — The other said: Her name was Orpah; and why was she called Harafah? Because all ground her like a bruised corn [harifoth]. Thus it states: And the woman took and spread the covering over the well's mouth and strewed harifoth [bruised corn] thereon.[16] If you like, I can derive [the meaning of harifoth] from this verse: Though thou shouldest bray a fool in a mortar with a pestle among harifoth [bruised corn].[17]

These four were born to Harafah in Gath; and they fell by the hand of David, and by the hand of his servants.[18] Who were they? — R. Hisda said: Saph, Madon, Goliath and Ishbi-benob.[19] ‘And they fell by the hand of David, and by the hand of his servants’, as it is written: And Orpah kissed her mother-in-law, but Ruth clave unto her.[20] R. Isaac said: The Holy One, blessed be He, spake, May the sons of the one who kissed[21] come and fall by the hand of the sons of the one who clave.

Raba expounded: As a reward for the four tears which Orpah dropped upon her mother-in-law, she merited that four mighty warriors should issue from her; as it is said: And they lifted up their voice and wept again.[22]

The text further has hez [the arrow] of his spear but we read ‘ez [the staff] of his spear![23] — R. Eleazar said: [It indicates that] we have not reached half [hazi] the praise of that wicked man.[24] Hence [it is learnt] that it is forbidden to recount the praise of the wicked. Then [Scripture] should not have begun to recount it at all! — [The object] is to proclaim the praise of David [who conquered such a giant].

THE AMMONITES CAME [RELYING] UPON THE MIGHT OF SHOBACH etc. [The name] is written Shobach and also Shofach![25] — Rab and Samuel [differ in their interpretation]. One said that his name was Shofach; and why was he called Shobach? Because he was made like a dove-cote [shobak].[26] The other said that his name was Shobach; and why was he called Shofach? Because whoever beheld him was [through terror] poured out [nishpak] before him like a ewer. Their quiver [‘ashpah] is an open sepulchre, they are all mighty men.[27] Rab and Samuel [differ in their interpretation]; another version is, R. Ammi and R. Assi [differ in their interpretation]. One said: At the time when they shot an arrow they made heaps upon heaps [ashpatoth] of slain; and should you say that this was only because they were only skilled in fighting, there is a text to state, They are all mighty men.[28] The other said: At the time when they relieved themselves they made heaps and heaps of excrement; and should you say that this was due to disorder of the bowels, there is a text to state, They are all mighty men.[29] R. Mari said: Infer from this that whoever has excessive excrement suffers from disorder of the bowels. What is the practical purpose of this? — He should take steps [to cure himself].

Heaviness in the heart of a man maketh it stoop [yashhennah].[30] — R. Ammi and R. Assi [differ in their interpretation]. One said, [The last word means], let him dismiss it [yissehennah] from his mind; the other said, [it means], let him talk of it [yesihenah] with others.

BUT WITH YOU IT IS OTHERWISE etc. Why all this?[31] Because the Name[32] and all His substituted names

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(1) Viz., those who are qualified for exemption. V. ibid. 5ff.

(2) I Sam. XVII, 8.

(3) Ex. XV, 3.

(4) I Sam. XVII, 12.

(5) Goliath's words brought calamity upon him.

(6) I Sam. XVII, 9. David did kill him.

(7) Ibid. 43.

(8) Ibid. 45.

(9) Ibid. 16.
(10) V. Ex. XXIV, 18. [Ginzberg (Legends, VI, p. 250) quotes in this connection Philo, who explains the forty days as corresponding to the number of days wherein Israel feasted when they received the law in the wilderness. ‘For forty days’ said Goliath ‘I will reproach them and after that I will fight them’. V., however, Rashi.]
(11) I Sam. XVII, 4.
(12) The third of four brothers. V. infra.
(13) Nana, Pers. for mother.
(14) ‘Out of the ranks’, ibid. 23.
(15) Cf. II Sam. XXI, 18 and Ruth I, 4. The first is taken as a proper noun and identified with the second.
(16) II Sam. XVII, 19.
(17) Prov. XXVII, 22.
(18) II Sam. XXI, 22.
(19) V. ibid. 18, 20 (translated a man of great stature), 19 and 16.
(20) Ruth I, 14.
(21) Goliath and his brothers were sons of Orpah who is identified with Naomi's daughter-in-law.
(22) Ibid. ‘Again’ denotes that they wept twice, and a tear dropped from each eye on each occasion.
(23) In I Sam. XVII, 7.
(24) Scripture has not described in full the prowess of Goliath.
(25) Cf. II Sam. X, 16 and I Chron. XIX, 16.
(26) He was excessively tall.
(27) Jer. V, 16.
(28) So it was due to their extraordinary strength.
(29) As giants they ate abnormal quantities of food.
(30) Prov. XII, 25.
(31) Viz., ‘For the Lord your God etc.’ and not simply, Your God is with you.
(32) The Tetragrammaton.

Talmud - Mas. Sotah 43a

were deposited in the ark. Thus it states: And Moses sent them, a thousand of every tribe, to the war, them and Phinehas[1] — ‘them’ refers to the Sanhedrin; ‘Phinehas’ was the [priest] Anointed for Battle; ‘with the vessels of the sanctuary’ i.e., the ark and the tablets [of the decalogue] which were in it; ‘and the trumpets for the alarm’ i.e., the horns.[2] — A Tanna taught: Not for naught did Phinehas go to the battle [against Midian] but to exact judgment on behalf of his mother's father [Joseph]; as it is said: And the Midianites sold him into Egypt etc.[3] Is this to say that Phinehas was a descendant of Joseph? But behold it is written: And Eleazar Aaron's son took him one of the daughters of Putiel to wife; [and she bare him Phinehas]![4] Is it not to be supposed, then, that he was a descendant of Jethro who fattened [pittem][5] calves for idolatry? — No; [he was a descendant] of Joseph[6] who mastered [pitpet] his passion. But did not the other tribes despise him[7] [saying], ‘Look at this son of Puti, the son whose mother's father fattened calves for idolatry; he killed a prince in Israel!’[8] But, if his mother's father was descended from Joseph, then his mother's mother was descended from Jethro; and if his mother's mother was descended from Joseph, then his mother's father was descended from Jethro. This is also proved as a conclusion from what is written: ‘One of the daughters of Putiel’, from which are to be inferred two [lines of ancestry].[9] Draw this conclusion.

MISHNAH. AND THE OFFICERS SHALL SPEAK UNTO THE PEOPLE, SAYING, WHAT MAN IS THERE THAT HATH BUILT A NEW HOUSE, AND HATH NOT DEDICATED IT? LET HIM GO AND RETURN TO HIS HOUSE — ETC.[10] IT IS ALL ONE WHETHER HE BUILT A BARN FOR STRAW, A STABLE FOR CATTLE, A SHED FOR WOOD, OR A STOREHOUSE;[11] IT IS ALL ONE WHETHER HE BUILT, PURCHASED, INHERITED IT OR SOMEBODY HAD GIVEN IT TO HIM AS A PRESENT.[12] AND WHAT MAN IS THERE THAT HATH PLANTED A VINEYARD, AND HATH NOT USED THE FRUIT THEREOF? ETC.[13] IT

IS ALL ONE WHETHER HE PLANTED A VINEYARD OR PLANTED FIVE FRUIT-TREES[14] AND EVEN OF FIVE SPECIES;[15] IT IS ALL ONE WHETHER HE PLANTED, BENT[16] OR GRAFTED IT, OR WHETHER HE PURCHASED, INHERITED OR SOMEBODY HAD GIVEN IT TO HIM AS A PRESENT. AND WHAT MAN IS THERE THAT HATH BETROTHED A WIFE? ETC.[17] IT IS ALL ONE WHETHER HE HAD BETROTHED A VIRGIN OR A WIDOW, OR EVEN A CHILDLESS WIDOW WAITING FOR HER BROTHER-IN-LAW, OR EVEN IF A MAN HEARD THAT HIS BROTHER HAD DIED IN BATTLE,[18] HE RETURNS HOME. ALL THESE HEAR THE PRIEST'S WORDS CONCERNING THE WAR-REGULATIONS AND RETURN HOME; BUT THEY SUPPLY WATER AND FOOD AND REPAIR THE ROADS [FOR THE ARMY].

THE FOLLOWING DO NOT RETURN HOME: HE WHO BUILT A LODGE,[19] A LOGGIA OR A VERANDAH; HE WHO PLANTED FOUR FRUIT-TREES OR FIVE TREES WHICH ARE NOT FRUIT-BEARING; HE WHO TOOK BACK HIS DIVORCED WIFE. IF A HIGH PRIEST MARRIED A WIDOW, OR AN ORDINARY PRIEST MARRIED A DIVORCEE OR A HALUZAH,[20] OR A LAY ISRAELITE MARRIED AN ILLEGITIMATE OR A NETHINAH,[21] OR THE DAUGHTER OF AN ISRAELITE MARRIED AN ILLEGITIMATE OR A NATHIN, HE DOES NOT RETURN HOME.[22] R. JUDAH SAYS: ALSO HE WHO REBUILT A HOUSE UPON ITS FOUNDATIONS DOES NOT RETURN HOME. R. ELIEZER SAYS: ALSO HE WHO BUILT A BRICK-HOUSE IN SHARON[23] DOES NOT RETURN HOME.

THE FOLLOWING DO NOT MOVE FROM THEIR PLACE.[24] HE WHO BUILT A NEW HOUSE AND DEDICATED IT, PLANTED A VINEYARD AND USED ITS FRUIT, MARRIED HIS BETROTHED, OR TOOK HOME HIS BROTHER'S CHILDLESS WIDOW; AS IT IS SAID, HE SHALL BE FREE AT HOME ONE YEAR[25] — ‘AT HOME,’ THIS REFERS TO HIS HOUSE; ‘SHALL BE’ REFERS TO HIS VINEYARD; ‘AND SHALL CHEER HIS WIFE’ REFERS TO HIS WIFE; WHICH HE HATH TAKEN’ IS TO INCLUDE HIS BROTHER'S CHILDLESS WIDOW. THESE DO NOT SUPPLY WATER AND FOOD AND REPAIR THE ROADS [FOR THE ARMY]. GEMARA. Our Rabbis taught: ‘And the officers shall speak’ — it is possible to think that this refers to their own words;[26] but when it states: And the officers shall speak further,[27] behold this is to be understood as their own words; so how am I to explain ‘And the officers shall speak’? Scripture alludes to the words of the priest Anointed for Battle. So what was the procedure? A priest speaks [the words] and an officer proclaims them [to the army]. One [authority] taught: A priest speaks [the words] and an officer proclaims them; another taught: A priest speaks [the words] and a priest proclaims them; while yet another taught: An officer speaks [the words] and an officer proclaims them! — Abaye said: What, then, was the procedure? From ‘when ye draw nigh’ down to ‘and the officers shall speak’[28] a priest speaks and a priest proclaims. From ‘and the officers shall speakð down to ‘and the officers shall speak further’[29] a priest speaks and an officer proclaims. From ‘and the officers shall speak’ onwards an officer speaks and an officer proclaims.

WHAT MAN IS THERE THAT HATH BUILT A NEW HOUSE? etc. Our Rabbis taught: ‘That hath built’ — I have here only the case where he built; whence is it [that the law applies also to a case where] he purchased, inherited or somebody gave it to him as a present? There is a text to state, What man is there that hath built a house.[30] I have here only the case of a house; whence is it that it includes a barn for straw, a stable for cattle, a shed for wood and a storehouse? There is a text to state ‘that hath built’ — i.e., whatever [structure be erected]. It is possible to imagine that I am also to include one who built a lodge, loggia or verandah; there is a text to state ‘a house’ — as ‘house’ implies a place suitable for habitation so every [building for which exemption may be claimed must be] suitable for habitation. R. Eliezer b. Jacob says: [The word] ‘house’ [is to be interpreted] according to its usual definition; [and the fact that Scripture does not read] ‘and hath not dedicated’ but and hath not dedicated it[31] is to exclude a robber.[32] Is this to say that [this teaching] is not in agreement with that of R. Jose the Galilean?[33] For if it agreed with R. Jose the Galilean, behold he has said: Fainthearted[34] i.e., he who is afraid

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(1) Num. XXXI, 6.

(2) [Shofaroth (pl. of Shofar) — i.e., the instruments which were called in those days Shofaroth and not by the biblical term hazozeroth; v. Shab. 36a (Strashun).]

(3) Gen. XXXVII, 36.

(4) Ex. VI, 25.

(5) Putiel is explained as ‘one who fattened (calves) for a god’.

(6) Identified with Putiel.

(7) Phinehas.

(8) Viz., Zimri (Num. XXV. 7ff). Consequently Phinehas was considered by his contemporaries to have descended from Jethro. V. Sanh. 82b.

(9) The name Putiel is spelt with a yod which is usually the sign of the plural. Hence both the explanations given are possible, viz., Putiel can be identified either with Joseph or Jethro.

(10) Deut. XX, 5.

(11) For wine, oil, produce etc.

(12) So long as it was new to him, he was exempt from service.

(13) Ibid. 6.

(14) The minimum number to warrant exemption.

(15) May be included in the requisite number of plantings.

(16) The vine so that the end is embedded in the soil and brings forth a new shoot.

(17) Deut. XX, 7.

(18) Leaving no offspring, and it is his duty to marry the widow.

(19) Lit., ‘house of the gate’.

(20) V. Glos.

(21) V. p. 119, n. 5.

(22) Because these are illegal marriages.

(23) A place in Palestine which is very sandy; so a house built there does not last long.

(24) To join the army and then claim exemption.

(25) Deut. XXIV, 5.

(26) I.e., spoken by the officers and not by the priest.

(27) Deut. XX, 8. The addition of ‘further’ is the basis of the deduction.

(28) I.e., the exhortation in Deut. XX, 3ff.

(29) Ibid. 5-7.

(30) This is understood as: whatever man built a new house, the present owner of it is exempt.

(31) The suffix is superfluous.

(32) A man who steals a new house is not exempt.

(33) Who exempts a sinner; v. supra p. 222.

(34) Deut. XX, 8.

Talmud - Mas. Sotah 43b

because of the transgressions he had committed![1] — You may even say that it agrees with R. Jose the Galilean, as, e.g., when the man had repented and restored the monetary value. But in that event he becomes the purchaser, and as such returns home! — Since it originally came into his possession as the result of robbery, he does not [return home].

AND WHAT MAN IS THERE THAT HATH PLANTED A VINEYARD? etc. Our Rabbis taught: ‘That hath planted’ — I have here only the case where he planted; whence is it [that the law applies also to a case where] he purchased, inherited or somebody gave it to him as a present? There is a text to state, And what man is there that hath planted a vineyard. I have here only the case of a vineyard; whence is it that it includes five fruit-trees and even of other kinds [of plantings]? There is a text to state 'that hath planted'. It is possible to think that I am also to include one who planted four fruit-trees or five trees which are not fruit-bearing; therefore there is a text to state 'a vineyard'. R. Eliezer says: [The word] 'vineyard' [is to be interpreted] according to its usual definition; [and the fact that Scripture does not read] 'one hath not used the fruit' but 'and hath not used the fruit thereof is to exclude one who bends or grafts [the vine]. But we have the teaching: IT IS ALL ONE WHETHER HE PLANTED, BENT OR GRAFTED IT! — R. Zera said in the name of R. Hisda: There is no contradiction, the latter referring to a permitted grafting and the former to a prohibited grafting.[2] What is an instance of this permitted grafting? If I say a young shoot on a young shoot, it follows that he ought to return home on account of [planting] the first young shoot! It must therefore be [grafting] a young shoot on an old stem. But R. Abbahu has said: If he grafted a young shoot on an old stem, the young shoot is annulled by the old stem and the law of 'orlah[3] does not apply to it! — R. Jeremiah said: It certainly refers to a young shoot on a young shoot, and [the case of a permitted grafting is where], e.g., he planted the first [stem] for a hedge or for timber; as we have learnt: He who plants for a hedge or for timber is exempt from the law of 'orlah.[4]

What is the distinction that a young shoot is annulled [when grafted] on an old stem[5] but not [when grafted] on a young shoot?[6]

In the former case if he reconsiders his intention with regard to it, it is incapable of retraction;[7] but in the latter case if he reconsiders his intention with regard to it, it is capable of retraction[8] since it is then analogous to [plants which] grow of themselves;[9] for we have learnt: When they grow of themselves they are liable to 'orlah. But let him explain [the Mishnah[10] as dealing with] the case of a vineyard belonging to two partners, where each returns home on account of his own [grafting]![11] — R. Papa declared: This is to say that in the case of a vineyard belonging to two partners, the war-regulations do not apply to it.[12] Why, then, is it different with five brothers, one of whom dies in battle,[13] that they all return home? — In the latter illustration we apply the words 'his wife' to each one of them;[14] but in the other we cannot apply the words 'his vineyard' to each one of them.[15]

R. Nahman b. Isaac said: [The Mishnah deals with the] case where he grafted[16] a tree into vegetables, and this accords with the view of the teacher responsible for the following teaching: If one bends[17] a tree into vegetables — Rabban Simeon b. Gamaliel allows it in the name of R. Judah b. Gamda of Kefar Acco,[18] but the Sages forbid it. When R. Dimi came [from Palestine to Babylon] he reported in the name of R. Johanan, Whose teaching is it?[19] It is that of R. Eliezer b. Jacob. Did not R. Eliezer b. Jacob declare above, The word 'vineyard' [is to be interpreted] according to its usual definition? So here also 'planted' [is to be interpreted] according to its usual definition; hence if he planted he does [return home], but if he bends or grafts he does not.[20]

When R. Dimi came he reported that R. Johanan said in the name of R. Eliezer b. Jacob: A young shoot less than a handbreadth in height is liable for 'orlah so long as it appears to be a year old;[21] but this only applies where there are two plants with two other plants parallel to them and one in front.[22] Should, however, the entire vineyard [consist of such shoots], then it is talked about.[23]

When R. Dimi came he reported that R. Johanan said in the name of R. Eliezer b. Jacob: A dead body affects four cubits with respect to the recital of the shema',[24] as it is said: Whoso mocketh the poor reproacheth his Maker.[25] R. Isaac declared that R. Johanan said in the name of R. Eliezer b. Jacob: A step-daughter reared with her [step-] brothers is forbidden to marry one of them because she appears to be their sister. But this is not so since the relationship is generally known.[26]

R. Isaac also declared that R. Johanan said in the name of R. Eliezer b. Jacob: If gleanings, forgotten sheaves and the corner of the field[27] are gathered into a barn, they become subject to the tithe.[28] 'Ulla said: He only intended this to refer to a rural district, but in the city the fact [that the owner is a poor man who collected the produce from the fields of others] is generally known.

R. Isaac also declared that R. Johanan said in the name of R. Eliezer b. Jacob: A shoot which is less than a handbreadth in height does not make the seeds forfeit;[29] but this only applies when there are two plants with two other plants parallel to them and one in front. Should, however, the entire vineyard [consist of such shoots] it does make [the seeds] forfeit.

R. Isaac also declared that R. Johanan said in the name of R. Eliezer b. Jacob:

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(1) Consequently a robber may return home.

(2) Two different species.

(3) Lit., 'circumcision', the Law of Lev. XIX, 23 forbidding the enjoyment of the fruit of a tree during the first three years of growth. Since this regulation does not apply to a young shoot grafted on an old stem, it is not regarded as a new planting.

(4) And similarly he would not have to return on account of it.

(5) And its fruit is not subject to 'orlah.

(6) [Since it has been stated that one returns on account of a young shoot grafted on to another which has been planted for timber.]

(7) An old stem can never become young again, consequently the young shoot grafted to it becomes annulled.

(8) The planter can change his mind within the first three years, and determine the purpose of the young shoot, originally grafted for timber, to be for fruit, so that it becomes itself subject to 'orlah.

(9) And at the time of their plantation there was no definite purpose in the mind of the planter whether it was for fruit or timber.

(10) Which rules that one returns on account of grafting.

(11) [Instead of the far-fetched circumstance where the first young shoot was planted for timber.]

(12) Lit., 'they do not return on account of it from the army'. The partners do not have exemption for a new planting or grafting which belongs to them jointly, so that the Mishnah cannot deal with such a case.

(13) Leaving no offspring so that his wife is due to marry one of his brothers.

(14) Since it is not determined which one will marry her.

(15) Because it belongs to them jointly.

(16) [So Rashi. Rabina is answering the question in the Mishnah exempting one who grafts, cur. edd: 'bent'.]

(17) [Tosef. Kil. I, has 'grafts'.]

(18) [Being a permissible grafting it exempts the owner.]

(19) Viz., the statement above: is to exclude one who bends or grafts (the vine).

(20) [Even in a permissible case of bending or grafting.]

(21) Because if he uses its fruit, it might seem to others that he was doing what was forbidden.

(22) Five plants so arranged are considered a vineyard, to which all agree that the law of 'orlah applies, v. Ber. 35a.

(23) It is generally known that the vineyard has this peculiarity, and he may use the fruit.

(24) It may not be recited within the four cubits.

(25) Prov. XVII, 5. To perform a precept near a corpse is to deride it, since it is denied the privilege.

(26) That they have neither father or mother in common.

(27) V. Lev. XIX, 9f. and Deut. XXIV, 19.

(28) Because people may think that it is the produce of the man's field.

(29) Under the law forbidding mixture; v. Deut. XXII, 9.

Talmud - Mas. Sotah 44a

A dead body affects four cubits with respect to communicating defilement.[1] Similarly teaches a Tanna: With a fore-court of a burial vault,[2] whoever stands within it is clean, provided there is in it a space of four cubits.[3] Such is the statement of Beth Shammai; but Beth Hillel declare, [A space of] four handbreadths'.[3] When does this[4] apply? If the entrance is from above; but if the entrance is from the side,[5] all agree that [a space of] four cubits [is necessary]. This should be just the reverse![6] On the contrary, when [the entrance is] from the side, he merely steps aside and goes out; but when it is from above it is impossible for him to avoid forming a cover![7] — But read thus: when does [the statement of Beth Hillel] apply? To [a vault] whose entrance is from the side; but if the entrance is from above [a space of] four cubits [is necessary].[8] Now [the teaching that one is clean who stands therein] only holds good of a fore-court of a burial vault where the partitions [between the graves and the fore-court] are distinctly marked, but a corpse in general affects four cubits.[9]

AND WHAT MAN IS THERE THAT HATH BETROTHED A WIFE? etc. Our Rabbis taught: 'That hath betrothed' — it is all one whether he betrothed a virgin or a widow or a childless widow waiting for her brother-in-law; and even when there are five brothers, one of whom died in battle, they all return home.[10] [The fact that Scripture does not read] 'and hath not taken' but 'and hath not taken her' is to exclude a High Priest who married a widow, an ordinary priest who married a divorcee or a Haluzah, a lay Israelite who married an illegitimate or a Nethinah, or a daughter of an Israelite married to an illegitimate or a Nathin. Is this to say that [this teaching is] not in agreement with R. Jose the Galilean? For if it agreed with R. Jose the Galilean, behold he has said: 'Fainthearted' i.e., he who is afraid because of the transgressions he had committed![11] — You may even say that it agrees with R. Jose the Galilean, and it is in accord with Rabbah; for Rabbah said: He is certainly not guilty until he has cohabited with her. For what is the reason [of the prohibition] shall he not take?[12] So that he shall not profane [his seed].[13] Hence he does not receive the punishment of lashes[14] until he has cohabited with her. Our Rabbis taught: [The order of the phrases is] 'that hath built', 'that hath planted', 'that hath betrothed'. The Torah has thus taught a rule of conduct: that a man should build a house, plant a vineyard and then marry a wife. Similarly declared Solomon in his wisdom, Prepare thy work without, and make it ready for thee in the field, and afterwards build thine house[15] — 'prepare thy work without', i.e., a dwelling. place; 'and make it ready for thee in the field', i.e., a vineyard; 'and afterwards build thine house', i.e., a wife. Another interpretation is: 'prepare thy work without', i.e., Scripture; 'and make it ready for thee in the field', i.e., Mishnah; 'and afterwards build thine house', i.e., Gemara. Another explanation is: 'prepare thy work without', i.e., Scripture and Mishnah; 'and make it ready for thee in the field', i.e., Gemara; 'and afterwards build thine house,' i.e., good deeds. R. Eliezer, son of R. Jose the Galilean says: 'Prepare thy work without,' i.e., Scripture: Mishnah and Gemara; 'and make it ready for thee in the field,' i.e., good deeds; 'and afterwards build thine house,ð i.e., make research [in the Torah] and receive the reward.

THE FOLLOWING DO NOT RETURN HOME: HE WHO BUILT A LODGE etc. A Tanna taught: If [when rebuilding the house] he adds a row [of fresh bricks] to it, he does return home.[16]

R. ELIEZER SAYS: ALSO HE WHO BUILT A BRICK-HOUSE IN SHARON DOES NOT RETURN HOME. A Tanna taught: [The reason is] because they have to renew it twice in a period of seven years.

THE FOLLOWING DO NOT MOVE FROM THEIR PLACE: HE WHO BUILT A NEW HOUSE AND DEDICATED IT etc. Our Rabbis taught: A new wife[17] — I have here only 'a new wife'; whence is it [that the law applies also to] a widow and divorcee? There is a text to state 'wife', i.e.,in every case. Why, however, does the text state 'a new wife'? [It means] one who is new to him, thus excluding the case of a man who takes back his divorced wife, since she is not new to him.

Our Rabbis taught: He shall not go out in the host[18] — and it is possible to think that he does not go out in the host, but he supplies water and food and repairs the roads [for the army]; therefore there is a text to state, 'Neither shall he be charged with any business'. It is possible to think that I am also to include [among those who do not move from their place] the man who built a house but did not dedicate it, or planted a vineyard and did not use its fruit, or betrothed a wife but did not take her; therefore there is a text to state, 'Neither shall he be charged' — but you may charge others.[19] Since, however, it is written 'Neither shall he be charged', what is the purpose of 'He shall not go out in the host'?[20] So that a transgression of the Law should involve two prohibitions.

MISHNAH. AND THE OFFICERS SHALL SPEAK FURTHER UNTO THE PEOPLE ETC.[21] R. AKIBA SAYS: 'FEARFUL AND FAINTHEARTEDð IS TO BE UNDERSTOOD LITERALLY VIZ., HE IS UNABLE TO STAND IN THE BATTLE-RANKS AND SEE A DRAWN SWORD. R. JOSE THE GALILEAN SAYS: 'FEARFUL AND FAINTHEARTED' ALLUDES TO ONE WHO IS AFRAID BECAUSE OF THE TRANSGRESSIONS HE HAD COMMITTED; THEREFORE THE TORAH CONNECTED ALL THESE[22] WITH HIM THAT HE MAY RETURN HOME ON THEIR ACCOUNT.[23] R. JOSE SAYS: A HIGH PRIEST WHO MARRIED A WIDOW, AN ORDINARY PRIEST WHO MARRIED A DIVORCEE OR HALUZAH, A LAY ISRAELITE WHO MARRIED AN ILLEGITIMATE OR NETHINAH, AND THE DAUGHTER OF AN ISRAELITE WHO MARRIED AN ILLEGITIMATE OR A NATHIN-BEHOLD SUCH AN ONE IS 'FEARFUL AND FAINTHEARTED'.[24]

AND IT SHALL BE, WHEN THE OFFICERS HAVE MADE AN END OF SPEAKING UNTO THE PEOPLE, THAT THEY SHALL APPOINT CAPTAINS OF HOSTS AT THE HEAD OF THE PEOPLE.[25] AND AT THE REAR OF THE PEOPLE THEY STATION GUARDS IN FRONT OF THEM AND OTHERS BEHIND THEM, WITH IRON AXES IN THEIR HANDS, AND SHOULD ANYONE WISH TO FLEE, THEY HAVE PERMISSION TO SMITE HIS THIGHS,

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(1) Whoever comes within that distance is rendered unclean.

(2) V. B.B. (Sonc. ed.) p. 422 for diagram.

(3) V. op. cit. p. 423.

(4) The more lenient requirement of the School of Hillel.

(5) [This means apparently that the sepulchral chambers surrounded the fore-court only on three sides, the fourth side being left open. V. R. Samson of Sens commentary on Oh. loc. cit.]

(6) Viz., that when the entrance is from the side the requirement should be less strict.

(7) When he climbs up to get out he may put his hands upon the graves; therefore a larger space should be required since the probability of contracting defilement is greater.

(8) [This is the end of the cited Mishnah Oh. XV, 8. What follows is from a Baraitha another version of which is to be found in Tosef. Oh. XV.]

(9) [Even according to Beth Hillel, otherwise what need for their ruling in the case of one standing in a fore-court? The Tanna of the cited Mishnah is thus in support of R. Eliezer b. Jacob.]

(10) V. supra p. 214.

(11) If that is so, the men who contracted an illegal marriage should return home.

(12) Lev. XXI, 14, referring to the women forbidden in marriage to a High Priest.

(13) Ibid. 15.

(14) And but for the verse 'and hath not taken her', they would not be exempted where there was betrothal.

(15) Prov. XXIV, 27.

(16) It is then regarded as a new house.

(17) Deut. XXIV, 5.

(18) Ibid.

(19) E.g., who have built a house and not dedicated it or betrothed a woman and not taken her to wife.

(20) The former surely includes the latter.

(21) Deut. XX, 8.

(22) Those who had exemption because of a new house etc.

(23) Otherwise anyone who claimed exemption because of sinfulness had to expose himself publicly as a transgressor.

(24) The difference in the point of view of R. Jose the Galilean and R. Jose will be explained in the Gemara.

(25) Deut. XX, 9.

Talmud - Mas. Sotah 44b

BECAUSE THE BEGINNING OF FLIGHT IS FALLING,[1] AS IT IS SAID, ISRAEL IS FLED BEFORE THE PHILISTINES, AND THERE HATH BEEN A GREAT SLAUGHTER AMONG THE PEOPLE;[2] AND FURTHER ON IT STATES, AND THE MEN OF ISRAEL FLED FROM BEFORE THE PHILISTINES AND FELL DOWN SLAIN ETC.[3]

TO WHAT DOES ALL THE FOREGOING APPLY? TO VOLUNTARY WARS, BUT IN THE WARS COMMANDED BY THE TORAH[4] ALL GO FORTH EVEN A BRIDEGROOM FROM HIS CHAMBER AND A BRIDE FROM HER CANOPY.[5] R. JUDAH SAYS: TO WHAT DOES ALL THE FOREGOING APPLY? TO THE WARS COMMANDED BY THE TORAH; BUT IN OBLIGATORY WARS[6] ALL GO FORTH, EVEN A BRIDEGROOM FROM HIS CHAMBER AND A BRIDE FROM HER CANOPY.

GEMARA. What is the difference between R. Jose and R. Jose the Galilean?[7] — The issue between them is the transgression of a Rabbinical ordinance.[8] With whom does the following teaching accord: He who speaks between [donning] one phylactery and the other[9] has committed a transgression and returns home under the war-regulations? With whom [does it accord]? With R. Jose the Galilean. Who is the Tanna of the following: Our Rabbis taught: If he heard the sound of trumpets and was terror-stricken, or the crash of shields and was terror-stricken, or [beheld] the brandishing of swords and the urine discharged itself upon his knees, he returns home? With whom [does it accord]? Are we to say that it is with R. Akiba and not R. Jose the Galilean?[10] — In such a circumstance even R. Jose the Galilean admits [that he returns home], because it is written: Lest his brethren's heart melt as his heart.[11]

AND IT SHALL BE, WHEN THE OFFICERS HAVE MADE AN END etc. The phrase, BECAUSE THE BEGINNING OF FLIGHT IS FALLING should be, ‘because falling is the beginning of flight’! Read [in the Mishnah]: Because falling is the beginning of flight.

TO WHAT DOES ALL THE FOREGOING APPLY? TO VOLUNTARY WARS etc. R. Johanan said: [A war] which is [designated] voluntary according to the Rabbis is commanded according to R. Judah,[12] and [a war] which is [designated] commanded according to the Rabbis is obligatory according to R. Judah.[13] Raba said:[14] The wars waged by Joshua to conquer [Canaan] were obligatory in the opinion of all; the wars waged by the House of David for territorial expansion were voluntary in the opinion of all; where they differ is with regard to [wars] against heathens so that these should not march against them. One[15] calls them commanded and the other voluntary, the practical issue being that one who is engaged in the performance of a commandment is exempt from the performance of another commandment.[16]

CHAPTER IX

MISHNAH. [THE DECLARATION OVER] THE HEIFER WHOSE NECK IS TO BE BROKEN MUST BE IN THE HOLY TONGUE; AS IT IS SAID, IF ONE BE FOUND SLAIN IN THE EARTH . . . THEN THY ELDERS AND THY JUDGES SHALL COME FORTH.[17] THREE USED TO GO FORTH FROM THE SUPREME COURT IN JERUSALEM; R. JUDAH SAYS: FIVE, AS IT IS STATED, THY ELDERS, I.E., TWO, ‘AND THY JUDGES’ I.E., TWO, AND SINCE A COURT OF JUSTICE CANNOT CONSIST OF AN EVEN NUMBER, THEY ADD ONE MORE.

IF [THE CORPSE] WAS FOUND HIDDEN IN A HEAP OF STONES, OR HANGING ON A TREE, OR FLOATING UPON THE SURFACE OF THE WATER, THEY DO NOT BREAK [A HEIFER'S NECK]. BECAUSE IT IS STATED, ‘IN THE EARTH’ — AND NOT HIDDEN IN A HEAP OF STONES, NOR HANGING ON A TREE IN A FIELD, NOR FLOATING UPON THE SURFACE OF THE WATER. IF IT WAS FOUND NEAR TO THE FRONTIER, OR A CITY THE MAJORITY OF WHOSE INHABITANTS WERE HEATHENS, OR A CITY IN WHICH THERE

IS NO COURT OF JUSTICE, THEY DO NOT BREAK [A HEIFER'S NECK]. THEY ONLY MEASURE[18] THE DISTANCE TO A CITY IN WHICH THERE IS A COURT OF JUSTICE.

GEMARA. How does [the author of the Mishnah] prove his point?[19] — R. Abbahu said: This is what he intends: It is stated: And they shall answer and say[20] and elsewhere it is stated: And the Levites shall answer and say etc.,[21] as the answering mentioned in this latter passage was in the holy tongue, so here also it was in the holy tongue, and as to the procedure in the ceremony of the heifer whose neck was to be broken — IF ONE BE FOUND SLAIN IN THE EARTH . . . THEN THY ELDERS AND THY JUDGES SHALL COME FORTH. THREE USED TO GO FORTH FROM THE SUPREME COURT IN JERUSALEM; R. JUDAH SAYS: FIVE etc.

Our[22] Rabbis taught: ‘Then thy elders and thy judges shall come forth’ — ‘thy elders’, i.e., two, ‘and thy judges’, i.e., two, and since a Court of justice cannot consist of an even number, they add one more; hence there were five. Such is the statement of R. Judah; but R. Simeon says: ‘Thy elders’, i.e., two, and since a Court of Justice cannot consist of an even number, they add one more; hence there were three. But for R. Simeon also it is written ‘and thy judges’! — He requires that for [the teaching that they must be] the most distinguished of thy judges. And [where does] R. Judah [derive the teaching that they must be the most distinguished]? — It follows from ‘thy’ in ‘thy elders’.[23] [How does] R. Simeon [meet this argument]? — If the All-Merciful had only written ‘elders’, I might have thought that even old men from the market-place [would suffice]; therefore the All-Merciful wrote ‘thy elders’. If, further, the All-Merciful had only written ‘thy elders’, I might have thought that even [members of] a minor Sanhedrin[24] [would suffice]; therefore the All-Merciful wrote ‘and thy judges’ i.e., the most distinguished of thy judges. [Where does] R. Judah [derive the teaching that they must be members of the Supreme Court]? — He draws an analogy between the use of the word ‘elders’ here and in the phrase the elders of the Congregation;[25] as it there denotes the most distinguished men of the congregation so here also it denotes the most distinguished men of the congregation. If he makes a deduction, then let him deduce the whole from there and what is the necessity of ‘and thy judges’![26] — But the ‘and’ in ‘and thy judges’ [denotes that the phrase is to be used] for obtaining the requisite number. [How does] R. Simeon [meet this argument]?[27]

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(1) The Gemara reverses the wording here.

(2) I Sam. IV, 27.

(3) Ibid. XXXI, I.

(4) E.g., the conquest of Canaan and the annihilation of the Amalekites (Deut. XXV, 19).

(5) The women provided food for the troops.

(6) In defence against attack.

(7) Since they agree in defining ‘fainthearted’ as one afraid of his sins.

(8) R. Jose does not consider this sufficient to warrant exemption; therefore in the Mishnah he instances marriages forbidden by the Torah as the kind of transgression for which exemption may be claimed.

(9) Upon the arm and the forehead. It is forbidden to speak between the putting on of the two.

(10) Since the latter does not understand ‘fainthearted’ as relating to physical fear.

(11) Deut. XX, 8.

(12) They differ in terminology but agree that a bridegroom does not serve.

(13) They agree that a bridegroom must serve.

(14) Raba explains R. Johanan's statement.

(15) R. Judah.

(16) If it is to be considered a war commanded by the Torah, those engaged in it are exempt from the performance of other commandments.

(17) Deut. XXI, 1ff.

(18) The distance between the corpse and the nearest city (ibid. 2).

(19) That the declaration must be in Hebrew. The verse adduced affords no proof.

(20) Ibid. 7.

(21) Ibid. XXVII, 14.

(22) On the whole passage, v. Sanh. (Sonc. ed.) pp. 66ff.

(23) It would have been sufficient for the text to read: Then elders shall go forth.

(24) Consisting of twenty-three members, and not the Great Sanhedrin in Jerusalem of seventy-one members.

(25) E.g., in Lev. IV, 15.

(26) In Sanh. 3b it is argued that Lev. IV, 15 must be interpreted in the sense that five elders are required; that being so, why does not R. Judah use that argument and not ‘and thy judges’ for his opinion that five are necessary?

(27) Since he only requires three.

Talmud - Mas. Sotah 45a

He draws no deduction from ‘and’;[1] (for what then does the All-Merciful intend by the phrase? — They are to be the most distinguished of thy judges.)[2] But on this line of argument: ‘and they shall come forth’[3] i.e., two, ‘and they shall measure’ i.e., two; according to R. Judah, then, there must be nine and according to R. Simeon there must be seven![4] — [No; the two phrases] are required for the following teaching:[5] ‘They shall come forth’ — they and not their agents; ‘and they shall measure’ — even if it is found obviously near to a particular city,[6] they must still measure since it is a commandment to carry out the measurement.

Our Mishnah is not in agreement with R. Eliezer b. Jacob; for it has been taught: R. Eliezer b. Jacob says: ‘Thy elders’ i.e., the Sanhedrin; ‘thy judges’ i.e., the king and High priest-the king, for it is written: The king by judgment establisheth the land;[7] and the High priest, for it is written: And thou shalt come unto the priests the Levites, and unto the judge that shall be etc.[8] The question was asked: Is R. Eliezer b. Jacob only at variance [in defining ‘judges’] as the king and High priest, but as regards [the number of members of] the Sanhedrin does he agree with R. Judah or R. Simeon; or perhaps he is also at variance on that matter too and requires the whole of the Sanhedrin? — R. Joseph said: Come and hear: If they[9] found a rebellious elder[10] in Beth Pagi,[11] and he rebelled against them,[12] it is possible to think that his act of rebellion is punishable; therefore there is a text to State, Then shalt thou arise and get thee up unto the place.[13] This teaches that the ‘place’ determines [whether the act of rebellion is punishable].

Now how many of them had gone forth [from the Great Sanhedrin to Beth Pagi]? If I say that only a part of them had gone forth, perhaps they who remain behind are of the same opinion as the accused![14] It is therefore evident that all must go forth. And for what purpose? If for a secular object, was it possible for them all to go? For behold it is written: Thy navel is like a round goblet, wherein no mingled wine is wanting,[15] so that should a member have need to go out [from the hall where the Sanhedrin was in session], he may only do so if twenty-three [of his colleagues] remain, corresponding to the number of a minor Sanhedrin, otherwise he may not leave! Obviously, then, [they had gone forth] for a religious object. For what object? Must it not be to measure in connection with the heifer, according to the opinion of R. Eliezer b. Jacob?[16] — Abaye said to [R. Joseph], No; [they may all go forth for such a purpose as] to add to the boundaries of the city [of Jerusalem] or the Temple-courts; as we have learnt: We do not add to the boundaries of the city [of Jerusalem] or the Temple-courts except by a Court of seventy-one.[17] There is a teaching in agreement with R. Joseph: If they[18] met in Beth Pagi, and [an elder] rebelled against them; e.g., they went forth to carry out a measurement in connection with the heifer, or to add to the boundaries of the city [of Jerusalem] or the Temple-courts,[19] it is possible to think that his act of rebellion is punishable; therefore there is a text to State, Then shalt thou arise and get thee up [etc.].[13] This teaches that the ‘place’ determines [whether the act of rebellion is punishable]. IF [THE CORPSE] WAS FOUND HIDDEN IN A HEAP OF STONES, OR HANGING ON A TREE. Is this to say that our Mishnah agrees with R. Judah and not the Rabbis? For it has been taught: And hast forgot a sheaf in the field[20] — this excludes [a sheaf] which was hidden; such is the statement of R. Judah, but the Sages declare that ‘in the field’ is to include a hidden sheaf![21] — Rab said: You may even maintain that it agrees with the

Rabbis since each case is to be explained in the light of its context. [In connection with the corpse] it is written: ‘If one be found slain,’ i.e., wherever it be found; ‘in the earth’, i.e., to the exclusion of one which is hidden. The other case [of the sheaf] is to be explained in the light of the context; for it is written: ‘When thou reapest thine harvest in thy field and hast forgot a sheaf. There is an analogy between the forgotten sheaf and the harvesting: as the harvesting is visible to all so the forgotten sheaf must be visible to all;[22] and the fact that the All-Merciful wrote ‘in the field’ is to include a hidden sheaf. Then let R. Judah likewise draw an analogy between the forgotten sheaf and the harvesting![23] — He actually does so; but [he argues], What is the purpose of ‘in the field’? It is required to include standing-corn which is forgotten.[24] From where, then, do the Rabbis derive the regulation of standing-corn which is forgotten? — They derive it from, When thou reapest thine harvest in thy field [and hast forgot].[25] And [how does] R. Judah [explain this phrase]? — He requires it for the teaching of R. Abbahu in the name of R. Eleazar; for R. Abbahu said in the name of R. Eleazar: It excludes the case where sheaves were carried [by the wind] into his neighbours’ field.[26] And [from where] do the Rabbis [derive this regulation]? — From the fact that Scripture has ‘thy field’ and not merely ‘the field’. And [what of] R. Judah? — He draws no inference from ‘thy field’ as distinct from ‘the field’. R. Jeremiah asked: How is it if sheaves were carried[27] into his own field? Is the air-space above a field identical with the field or not? — R. Kahana said to R. Papi another version is, R. Kahana said to R. Zebid, The problem is to be solved from the teaching of R. Abbahu who said in the name of R. Eleazar, ‘It excludes the case where sheaves were carried [by the wind] into his neighbour's field,’ implying, does it not, that only [when they are carried into] his neighbour's field they are [excluded], but [if the wind drops them] into his own field they are not![28] But according to your reasoning, [it would follow that] if the sheaves were carried into his neighbour's field [and alighted upon a stone, etc.,] they are excluded, but should they lie [upon the ground] they are not;[29] surely we require [the sheaves to be] ‘in thy field’, but they are not there! Rather must they [argue thus:[30] ‘It excludes when the sheaves were] in his neighbour's field’ even if actually lying upon the ground; and the expression ‘carried’ is only employed because this could have happened only if they were ‘carried’ [by the force of the wind].

Come and hear: If he laid hold of a sheaf to convey it into the city, placed it on top of another sheaf belonging to his neighbour and forgot it, the lower is considered to be a forgotten sheaf but not the upper. R. Simeon b. Judah says in the name of R. Simeon: Neither is a forgotten sheaf, the lower because it is hidden and the upper because it is suspended.[31] Hence they only differ as regards the lower, but with respect to the upper they all agree that it is not a hidden sheaf![32] — It is different in this circumstance, because having taken hold of it he has the right to it. If that is so,[33] why use the argument ‘placed it on top of another sheaf belonging to his neighbour’? It would have been the same if he had laid it upon the field [of his neighbour]! — That is so; but he used the illustration of ‘on top of another sheaf belonging to his neighbour’, because of the instance of the lower sheaf [about which there was a difference of opinion]. Why, then, should he use the phrase ‘because it is suspended’![34] — Read: because it is like something suspended.[35]

Abaye said: Behold I am like Ben Azzai in the streets of Tiberias.[36] So one of the Rabbis asked Abaye, If there were two corpses, one on top of the other,[37] from which is the measurement taken? [Do we argue that with] two things of the same kind [the lower] is regarded as hidden and with two things of the same kind [the upper] is not regarded as suspended, so that he takes the measurement from the upper; or perhaps with two things of the same kind [the upper] is regarded as suspended and with two things of the same kind [the lower] is not regarded as hidden, so that he takes the measurement from the lower; or perhaps with two things of the same kind [the lower] is regarded as hidden and with two things of the same kind [the upper] is regarded as suspended, so that he takes measurement neither from the lower nor the upper! — He replied to him,

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(1) I.e., he does not expound the analogy.

(2) [This passage, which is bracketed in cur. edd., is rightly omitted in some texts.]

(3) Deut. XXI, 2.
(4) The former obtained the number five from ‘thy elders and thy judges’ and now four more are to be added.
(5) And are not to be used to add to the number of elders.
(6) So that there is no need for measuring.
(7) Prov. XXIX, 4.
(8) Deut. XVII, 9. ‘And’ is understood as ‘evenð; therefore the priests acted as judges; and since one in particular is specified in ‘the judge’ it must be the High Priest.
(9) The number of the Great Sanhedrin.
(10) One who refused to abide by the decision of the Sanhedrin, Deut. XVII, 8.
(11) A place within the walls of Jerusalem. Origen mentions that it was a village inhabited by priests.
(12) Against the decision of the local Sanhedrin to whom a disputed point of law was submitted.
(13) Deut. XVII, 8, i.e., the Temple mount, the locale of the Great Sanhedrin.
(14) How then could the rebellious elder be condemned?
(15) Cant. VII, 3, E.V. 2. This verse is applied to the Sanhedrin, called ‘navel’, because it sat in a place which was considered to be the centre of the world. ‘Mingled wine’ is defined (Shab. 77a) as diluted with two-thirds of water. Hence one third of the Sanhedrin must at least be present at a session.
(16) Who, ex hypothesi, requires the presence of the entire Sanhedrin.
(17) Sanh. I, 5.
(18) The Great Sanhedrin.
(19) So it is possible that they all went out to do the measuring.
(20) Deut. XXIV, 19.
(21) The former explains ‘in the field’ as lying about upon the surface of the field; the Rabbis understand it as hidden somewhere in the field.
(22) And the reaper merely overlooked it.
(23) And not maintain that it is excluded.
(24) If he forgot to cut down a portion of the corn, this remains for the poor.
(25) They connect ‘forgot’ with ‘thy field’, so that the forgetting applies also to corn standing in the field.
(26) And thinking that they were not his, he left them.
(27) Some texts read ‘afu (flew) instead of zafu. The question relates to the circumstance where the sheaves did not fall upon the field but upon a stone or something similar, so that they were suspended above the field.
(28) Consequently so long as the sheaves are in his own field, they come within the law of the forgotten sheaf.
(29) And come within the law of the forgotten sheaf.
(30) With reference to the teaching of R. Abbabu.
(31) Not lying upon the ground.
(32) This conclusion would therefore answer R. Jeremiah's question.
(33) That his having taken hold of it precludes it from being regarded as a forgotten sheaf.
(34) Since it was irrelevant to the issue.
(35) It is exempt from the law of the forgotten sheaf because, having been in the owner's hand, it is like something suspended and not lying upon the ground.
(36) I.e., in his own town of Pumbeditha he felt as competent to solve difficult problems as did Ben Azzai in his city of Tiberias.
(37) The top one is not fully over the other, so that if the measurements are taken from the two, a different city would be the nearest in each case.

Talmud - Mas. Sotah 45b

You have it stated: ‘If he laid hold of a sheaf to convey it into the city, placed it on top of another sheaf belonging to his neighbour and forgot it, the lower is considered to be a forgotten sheaf but not the upperð. R. Simeon b. Judah says in the name of R. Simeon: Neither is a forgotten sheaf, the lower because it is hidden and the upper because it is suspended. Now they were[1] of the opinion that these Tannaim agreed with R. Judah who said: ‘In the field’, i.e., to the exclusion of one which is hidden. Do they, then, not differ on this issue: One holds that with two things of the same kind [the lower] is regarded as hidden, and the other holds it is not regarded as hidden? — No; if they were of the same opinion as R. Judah, they all agree that with two things of the same kind [the lower] is regarded as hidden; but here the difference is the same as that of R. Judah and the Rabbis. The Rabbis here agree with the Rabbis there,[2] and R. Simeon b. Judah agrees with R. Judah.[3] If that is so, why use the argument ‘on top of another sheaf belonging to his neighbour’? It would have been the same if he had placed it on the earth or on pebbles! That is so; but the purpose was to let you know how strong is the position of R. Judah who said that even with two things of the same kind [the lower] is regarded as hidden.

Our Rabbis taught: ‘Slain,’ but not strangled,[4] ‘slain,’ but not one who is expiring;[5] ‘in the land’, but not hidden in a heap of stones; ‘lying’, but not hanging on a tree; ‘in the earth’, but not floating upon the surface of the water. R. Eleazar says: In all these cases, if the person had been slain, they break the heifer's neck. It has been taught: R. Jose b. Judah said: They asked R. Eleazar, Do you not admit that if he had been strangled and was lying upon a dung-heap,[6] they do not break the heifer's neck?[7] [Yes:] consequently [you must agree that] ‘slain’ indicates one who is not strangled; similarly ‘in the earth’ indicates one who is not hidden in a heap of stones, ‘lying’ one who is not hanging on a tree, ‘in the earth’ one who is not floating upon the surface of the water! [How does] R. Eleazar [meet this argument]? — The word ‘slain’ is written redundantly.[8]

IF IT WAS FOUND NEAR TO THE FRONTIER, OR A CITY THE MAJORITY OF WHOSE INHABITANTS WERE GENTILES etc. Because it is written ‘be found’, thus excluding what commonly occurs.[9] OR A CITY IN WHICH THERE IS NO COURT OF JUSTICE. Because we require ‘the elders of that city’, and such are not [forthcoming].

THEY ONLY MEASURE THE DISTANCE TO A CITY [IN WHICH THERE IS A COURT OF JUSTICE]. This is obvious! Since he stated: OR A CITY IN WHICH IS NO COURT OF JUSTICE [etc.], I know that they only measure the distance to a city in which there is a Court of Justice! — He thereby informs us what is taught in the following: Whence is it that if it was found near a city in which there is no Court of Justice, they leave [the city out] and measure to [the nearest] city which has a Court of Justice? There is a text to state, The elders of that city shall take,[10] i.e., in every case.[11]

MISHNAH. IF [THE CORPSE] WAS FOUND EXACTLY BETWEEN TWO CITIES, BOTH OF THEM BRING TWO HEIFERS [BETWEEN THEM]. SUCH IS THE STATEMENT OF R. ELIEZER;[12] BUT JERUSALEM DOES NOT BRING A HEIFER WHOSE NECK IS TO BE BROKEN. IF THE HEAD WAS FOUND IN ONE PLACE AND THE BODY IN ANOTHER PLACE, THEY CARRY THE HEAD TO THE BODY. SUCH IS THE STATEMENT OF R. ELIEZER.[13] R. AKIBA SAYS: [THEY CARRY] THE BODY TO THE HEAD. FROM WHAT PART [OF THE BODY] DO THEY MEASURE? R. ELIEZER SAYS: FROM THE NAVEL; R. AKIBA SAYS: FROM THE NOSE; R. ELIEZER B. JACOB SAYS: FROM THE PLACE WHERE HE WAS MADE A SLAIN PERSON, FROM THE NECK.

GEMARA. What is R. Eliezer's reason?[13] — He holds that it is possible to make an exact measurement; and the word ‘nearest’[14] holds good of even more than one city. BUT JERUSALEM DOES NOT BRING A HEIFER WHOSE NECK IS TO BE BROKEN. Because Scripture declares, To possess it,[15] and he is of the opinion that Jerusalem was not apportioned among the tribes.

IF THE HEAD WAS FOUND IN ONE PLACE etc. In what do they differ? If I should say that they differ on the question from where the measurement is to be taken, behold since [the author of the Mishnah] states in the sequel: FROM WHAT PART [OF THE BODY] DO THEY MEASURE? it follows that we are not dealing here with the subject of measurement! — R. Isaac said: They differ because of the regulation that a meth mizwah[16] acquires his place; and thus he means to say: He acquires his place for burial, and where the head is found in one place and the body in another, they carry the head to the body [and bury it there]. Such is the statement of R. Eliezer; but R. Akiba says, [They carry] the body to the head [and bury it there]. In what do they differ? One is of the opinion that the body is in the place where it fell and the head rolled away, while the other is of the opinion that the head remains in the place where it falls while the body falls some way off.

FROM WHAT PART [OF THE BODY] DO THEY MEASURE? In what do they differ? One is of the opinion that the source of existence is in the nose, while the other is of the opinion that the source of existence is in the navel. Is this to say [that they differ on the same point] as the following teachers: From where is the embryo formed? From the head, and thus it states: Thou art He that took me [gozi] out of my mother's womb,[17] and it further states: Cut off [gozi] thine hair and cast it away etc.[18] Abba Saul Says: It is from the navel, and its root spreads in all directions [from there]! — You may even say that Abba Saul [agrees with R. Akiba], because Abba Saul's statement only applies to the formation, that when an embryo is formed it is formed from the centre, but with respect to existence all agree that [its source is] in the nose; for it is written: All in whose nostrils was the breath of the spirit of life etc.[19]

R. ELIEZER B. JACOB SAYS: FROM THE PLACE WHERE HE WAS MADE A SLAIN PERSON, FROM THE NECK. What is the reason of R. Eliezer b. Jacob? — Because it is written: To lay thee upon the necks of the wicked that are slain.[20]

MISHNAH. WHEN THE ELDERS OF JERUSALEM[21] HAD DEPARTED AND GONE AWAY, THE ELDERS OF THAT CITY[22] TAKE A HEIFER OF THE HERD[23] WHICH HAS NOT DRAWN IN THE YOKE, AND A BLEMISH DOES NOT DISQUALIFY IT. THEY BRING IT DOWN TO A RAVINE WHICH IS STONY[24] — ‘ETHAN’ IS TO BE UNDERSTOOD IN ITS LITERAL SENSE OF ‘HARD’ — BUT EVEN IF IT BE NOT STONY, IT IS FIT [FOR THE CEREMONY]. THEY THEN BREAK ITS NECK WITH A HATCHET FROM BEHIND.[25] THE SITE MAY NEVER BE SOWN OR TILLED, BUT IT IS PERMITTED TO CARD FLAX AND CHISEL STONES THERE. THE ELDERS OF THAT CITY THEN WASH THEIR HANDS WITH WATER IN THE PLACE WHERE THE HEIFER'S NECK WAS BROKEN AND DECLARE, OUR HANDS HAVE NOT SHED THIS BLOOD, NEITHER HAVE OUR EYES SEEN IT.[26] BUT CAN IT ENTER OUR MINDS THAT THE ELDERS OF A COURT OF JUSTICE ARE SHEDDERS OF BLOOD! [THE MEANING OF THEIR STATEMENT IS], HOWEVER, [THE MAN FOUND DEAD] DID NOT COME TO US [FOR HELP] AND WE DISMISSED HIM WITHOUT SUPPLYING HIM WITH FOOD, WE DID NOT SEE HIM AND LET HIM GO WITHOUT ESCORT.[27]

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(1) The scholars who thought of solving the question from this Baraitha.

(2) Who maintained that a hidden sheaf came within the law of the forgotten sheaf.

(3) Who excludes a hidden sheaf from the law.

(4) The Hebrew for slain (halal) denotes by the sword.

(5) Not actually dead.

(6) So the body was not hanging, hidden or floating.

(7) For the reason that he was not ‘slain’.

(8) It occurs four times in Deut. XXI, 1-9; emphasing that he must be ‘slain’ and not ‘strangled’.

(9) It frequently happened that dead bodies were found in such localities.

(10) Deut. XXI, 3.

(11) The measurement must always be made and the nearest city containing ‘elders’ ascertained.

(12) [J. adds: BUT THE SAGES SAY ONLY ONE CITY BRINGS A HEIFER WHOSE NECK IS TO BE BROKEN BUT TWO CITIES DO NOT BRING.]

(13) For requiring two heifers if the body is found equidistant between two cities.

(14) Deut. XXI, 3.

(15) Deut. XXI, I.
(16) Lit., ‘a dead body which is a commandment’; i.e., an unattended corpse, and it is the duty of whoever finds it to be concerned with its burial. The Talmud (B.K. 81b) relates that when Joshua divided out the land, he imposed a condition that a meth mizwah should be buried in whatever spot he is found.
(17) Ps. LXXI, 6.
(18) Jer. VII, 29. On the basis of the similar word in this verse, it is explained in the former as ‘the place where my hair grows’, i.e., the head.
(19) Gen. VII, 22.
(20) Ezek. XXI, 34.
(21) The members of the Great Sanhedrin whose duty it was to make the measurement.
(22) Which is found to be nearest the corpse.
(23) Defined in Parah I, 1 as less than a year old.
(24) The word ethan (Deut. XXI, 4) is interpreted by Maimonides in the sense given in the E.V. viz., running water.
(25) Not in front as in the act of ritual slaughter.
(26) Deut. XXI, 7.
(27) [In the J. text of the Mishnah and in MS.M. the words ‘without . . . food’ and ‘without escort’ are missing, and in the Gemara there it is stated that the reference is not, as maintained by the Babylonian scholars, to the murdered person, but to the murderer. The elders, that is to say, declare that ‘he did not come to us and we dismissed him or allowed him to go unpunished.’]

Talmud - Mas. Sotah 46a

THEN THE PRIESTS EXCLAIM, FORGIVE, O LORD, THY PEOPLE ISRAEL, WHOM THOU HAST REDEEMED, AND SUFFER NOT INNOCENT BLOOD TO REMAIN IN THE MIDST OF THY PEOPLE ISRAEL.[1] THERE IS NO NEED FOR THEM TO SAY, AND THE BLOOD SHALL BE FORGIVEN THEM;[2] BUT THE HOLY SPIRIT ANNOUNCES TO THEM, ‘WHEN YOU ACT THUS, THE BLOOD IS FORGIVEN YOU.’

GEMARA. But that a blemish disqualified a heifer may be deduced by a fortiori reasoning from the instance of the [red] cow:[3] if a blemish disqualifies a cow which is not disqualified on account of age,[4] how much more must a blemish disqualify a heifer which is disqualified on account of age! — It is different there, because Scripture stated: Wherein is no blemish[5] — a blemish disqualifies [a red cow] but does not disqualify a heifer. According to this argument,[6] the other disqualifications on account of work having been done by it should not apply [to the red cow];[7] why, then, did Rab Judah say in the name of Rab, If a person laid a bundle of sacks upon it ,[8] it is disqualified, but with a heifer [it is not disqualified] until it draws [a load]![9] — It is different with a [red] cow, because we derive the meaning of the term ‘yoke’ [in connection with a red cow] from its occurrence in connection with a heifer.[10] But let [the deduction that a blemish disqualifies] a heifer be also drawn from the instance of a [red] cow on the basis of a common use of the term ‘yoke’! — Behold the All-Merciful has excluded that by using the word ‘wherein’ [bah]. But with the heifer it is likewise written ‘wherewith’ [bah]![11] — This is required to exclude animals destined as sacrifices which are not disqualified by having been used for work; because it might have occurred to you to say: Let us draw a conclusion by a fortiori reasoning from the heifer: if a heifer which is not disqualified by a blemish is disqualified by having been used for work, how much more must animals destined as sacrifices, which are disqualified by a blemish, be disqualified by having been used for work! It can, however, be objected: This is right for a heifer because it is also disqualified by an age-limit! — Do you mean to say, then, that there are no animals destined as sacrifices which are disqualified by an age-limit? Hence a text is necessary for those offerings which are disqualified by an age-limit.[12] Is, however, [the regulation that] animals destined as sacrifices are not disqualified by having been used for work derived from here?[13] Surely it is derived from the following: Blind, or broken, or maimed, or having a wen, or scurvy or scabbed, ye shall not offer these unto the Lord[14] — these ye shall not offer, but you may offer animals as sacrifices which have been used for work! — [This verse][15] is necessary, because it might have occurred to you to say: This only applies where they have been used for permissible work, but where it was for prohibited work[16] conclude that they are forbidden [as sacrifices]! So it was necessary [to have this verse from which we infer that the animals may be offered even if they had been used for prohibited work]. But it could likewise have been derived from the following: Neither from the hand of a stranger shall ye offer the bread of your God of any of these[17] — these you shall not offer, but you may offer animals which have been used for work! — [This verse][15] is necessary, because it might have occurred to you to say: This only applies when they were worked while they were still not designated as sacrifices, but when they were worked after having been designated as sacrifices conclude that they are forbidden! So it was necessary [to have this verse from which we infer that even then they are acceptable as offerings].

The above text [teaches]: 'Rab Judah said in the name of Rab: If a person laid a bundle of sacks upon it, it is disqualified; but with a heifer [it is not disqualified] until it draws [a load]'. It is objected: Yoke[18] — I have only mention of a yoke; whence is it that there are other [disqualifications on account of] work having been done by it? You may argue by a fortiori reasoning: if a heifer which is not disqualified by a blemish is disqualified by having been used for work, how much more must a [red] cow, which is disqualified by a blemish, be disqualified by having been used for various kinds of work! And if you like you may argue:[19] It is stated here 'yoke' and there [with the heifer] it is stated 'yoke', as there the various kinds of work disqualify, so here [with the red cow] the various kinds of work disqualify. But why have this alternative argument?[20] — Because you might reply [as mentioned above], 'It can, however, be objected: This is right for a heifer because it is also disqualified by an age-limit'. Or it might also [be objected] that the case of animals destined as sacrifices proves [the contrary, thus:] a blemish disqualifies them but the fact that they were used for work does not disqualify them. [Therefore the alternative line of reasoning is employed:] It is stated here 'yoke' and there [with the heifer] it is stated 'yoke'; as there the various kinds of work [disqualify], so here [with the red cow] the various kinds of work [disqualify].

Now from the same line of reasoning: You may conclude as there [with the heifer it is not disqualified] until it draws [a load], so here [with the red cow it is not disqualified] until it draws [a load]![21] — This is a matter disputed by Tannaim. Some of them deduce it from the instance of the heifer,[22] while others deduce it from [the law of the red] cow itself.[23] For it has been taught: 'Yoke' — I have mention only of a yoke; whence is it that various kinds of work [disqualify]? There is a text to state, Upon which never came yoke[24] i.e., [work] of any sort. If that is so, why is 'yoke' specified? A yoke disqualifies whether during the time of work or not during the time of work,[25] but the various kinds of work only disqualify during the time of work.[26] But say that 'upon which never came' is general and 'yoke' is particular, and where there is a case of general and particular, only what is in the particular is in the general[27] — viz., a yoke only [disqualifies] and nothing else! The phrase 'which' is inclusive [of various kinds of work], and there is a similar teaching in connection with the heifer as follows: Yoke[28] — I have mention only of a yoke; whence is it that various kinds of work [disqualify]? There is a text to state, 'Which hath not been wrought with' — i.e., [work] of any sort. If that is so, why is 'yoke' specified? A yoke disqualifies whether during the time of work or not during the time of work, but the various kinds of work only disqualify during the time of work. But say that 'which hath not been wrought with' is general and 'yoke' is particular, and where there is a case of general and particular, only what is in the particular is in the general — viz. a yoke [disqualifies] and nothing else![29] — The phrase 'which' is inclusive [of various kinds of work].

R. Abbahu said: I asked R. Johanan, To what extent must there be drawing by a yoke [to constitute a disqualification]?[30] — He replied: The full extent of the yoke. The question was asked: Does this mean its length or breadth? One of the Rabbis, named R. Jacob, answered: The statement of R. Johanan was explained to me as indicating drawing by a yoke to the extent of a handbreadth in its breadth. Then [R. Johanan] should have said: A handbreadth!-He intended to inform us that the minimum of a yoke [in its breadth] is a handbreadth. For what purpose does he deduce this? — For buying and selling. R. Johanan b. Saul said: Why does the Torah mention that he should bring a heifer into a ravine? The Holy One, blessed be He, said: Let something which did not produce fruit[31] have its neck broken in a place which is not fertile and atone for one who was not allowed to produce fruit. What [does this last word] ‘fruit’ mean? If I answer [that it means] offspring, then according to this argument we should not break a heifer's neck if [the man found dead] was old or castrated! Therefore [by ‘fruit’ must be understood the performance of] commandments.[32]

AND BRING IT DOWN TO A RAVINE WHICH IS STONY ‘ETHAN’ IS TO BE UNDERSTOOD IN ITS LITERAL SENSE OF ‘HARD’. Our Rabbis taught: Whence is it that ‘ethan’ means ‘hard’? As it is said,

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(1) Deut. XXI, 8.

(2) Ibid.

(3) Num. XIX. How can the Mishnah declare that a blemish does not disqualify it?

(4) It may be more than a year old.

(5) Ibid. 2.

(6) That ‘wherein’ (bah) is a restrictive particle.

(7) Since it is merely stated ‘upon which never came yoke’ and not, as with the heifer, ‘wherewith (bah) it hath not been wrought and which hath not drawn (Deut. XXI, 3), the ‘wherewith’ restricting it to the heifer.

(8) The red cow, and no yoke was placed upon it.

(9) Because the text states explicitly ‘which hath not drawn’.

(10) And the restrictive word ‘wherewith’, stated with the heifer, is required for another purpose.

(11) Cf. p. 236, n. 7.

(12) E.g., the lambs offered on the Passover are specified as being of the first year, (Num. XXVIII, 19).

(13) From the restrictive particle written with the heifer.

(14) Lev. XXII, 22.

(15) The ‘wherewith’ stated with the heifer.

(16) E.g., on the Sabbath.

(17) Ibid. 25.

(18) Num. XIX, 2.

(19) Not by a fortiori reasoning but from the analogous occurrence of ‘yoke’.

(20) Why does not the first suffice?

(21) Which refutes Rab Judah.

(22) This is the Tanna of the Baraitha cited. He will accordingly not disqualify the cow until it draws.

(23) The Tanna who follows.

(24) Num. XIX, 2.

(25) If he put the yoke on the animal to ease the load and not for the purpose of drawing it.

(26) If, e.g., he put sacks upon it not as a burden, there is no disqualification. Where, however, the sacks were placed as a load there is immediate disqualification, even though the cow did not draw. This is in agreement with Rab Judah.

(27) The general rule must be restricted in application to what is contained in the particular.

(28) Deut. XXI, 3.

(29) This is one of the principles of hermeneutics according to R. Ishmael. V. B.K., 54a.

(30) With a heifer.

(31) A heifer less than a year old could not bring forth young.

(32) Which produces a harvest of merit; and he was prevented by his murder from doing this.

Talmud - Mas. Sotah 46b

Strong [ethan] is thy dwelling-place, and thy nest is set in the rock;[1] and it states: Hear, O ye mountains, the Lord's controversy, and ye enduring foundations [ethanim] of the earth.[2] Others, however, say: Whence is it that ‘ethan’ means ‘old’? As it is stated: It is an ethan nation, it is an ancient nation.[3]

THEY THEN BREAK ITS NECK WITH A HATCHET FROM BEHIND. What is the reason [that it is done from behind]? — He derives it by the analogous word ‘breaking’ [stated] in the case of a bird brought as a sin.offering.[4]

THE SITE MAY NEVER BE SOWN OR TILLED. Our Rabbis taught: Which is neither plowed nor sown[5] — this refers to the past; such is the statement of R. Joshiah. R. Jonathan says: It refers to the future. Raba said: Nobody disputes as to the future since it is written: It shall not be sown;[6] when they differ as to the past, R. Joshiah argues, Is it written: ‘And it shall not be tilled’?[7] And R. Jonathan argues, Is it written: ‘Which has not been tilled’?[8] And [how does] R. Joshiah [meet R. Jonathan's argument]? — The relative pronoun ‘which’ must be understood of the past.[9] And R. Jonathan? — ‘Which’ is employed in an inclusive sense.[10]

BUT IT IS PERMITTED TO CARD FLAX AND CHISEL STONES THERE. Our Rabbis taught: ‘Which is neither plowed nor sown’ — I have here only sowing; whence is it that the other kinds of agricultural work [are prohibited]? There is a text to state, ‘which is neither plowed’ — i.e., [agricultural labour] in any form. If that is so, why is it stated ‘nor sown’?[11] Its purpose is to inform us that as sowing is special since it is connected with the soil itself, so everything which is connected with the soil itself [is forbidden], to the exclusion of carding flax and chiselling stones which are not connected with the soil itself. But argue that ‘which is neither plowed’ is general and ‘nor sown’ particular, and where there is a case of general and particular, only what is in the particular is in the general — viz. sowing only [is forbidden] but nothing else! — The term ‘which’ is employed in an inclusive sense.

THE ELDERS OF THAT CITY THEN WASH THEIR HANDS etc. Our Rabbis taught: And all the elders of that city, who are nearest unto the slain man, shall wash their hands over the heifer whose neck was broken in the valley.[12] There was no need to state, ‘whose neck was broken’![13] Why, then, is ‘whose neck was broken’ added? [It signifies], Over the place of the heifer's neck where it was broken. They then declare, ‘Our hands have not shed this blood, neither have our eyes seen it’. But can it enter our minds that [the members of a] Court of Justice shed blood! [The meaning of their statement is], however, [The man found dead] did not come to us for help and we dismissed him without supplying him with food, we did not see him and let him go without an escort.It has been taught: R. Meir used to say: We may compel a person to escort [a traveller],[14] because the reward for escorting is limitless; as it is said: And the watchers saw a man come forth out of the city, and they said unto him, Shew us, we pray thee, the entrance into the city, and we will deal kindly with thee.[15] It continues, And he shewed them the entrance into the city.[16] What was the kindness they did to him? They slew the whole of the city at the edge of the sword, but let that man and his family go.

And the man went into the land of the Hittites, and built a city, and called the name thereof Luz: which is the name thereof unto this day.[17] It has been taught: That is the Luz in which they dye the blue;[18] that is the Luz against which Sennacherib marched without disturbing it,[19] against which Nebuchadnezzar marched without destroying it, and even the Angel of Death has no permission to pass through it, but when the old men there become tired of life[20] they go outside the wall and then die. For is not the matter[21] an a fortiori inference? If this Canaanite, who did not utter a word or walk a step,[22] caused deliverance to come to himself and his seed unto the end of all generations, how much more so he who performs the act of escorting by actually going with the person! How did he show them [the way]? — Hezekiah said: He just curved his mouth for them;[23] R. Johanan said: He pointed for them with his finger. There is a teaching in agreement with R. Johanan, viz., Because this Canaanite pointed with his finger, he caused deliverance to come to himself and his seed unto the end of all generations.

R. Joshua b. Levi said: Whoever is on a journey and has no escort should occupy [his mind] with Torah;[24] as it is said: For they shall be a chaplet of grace unto thy head, and chains about thy neck.[25] R. Joshua b. Levi also said: Because of the four paces with which Pharaoh accompanied Abraham, as it is said: And Pharaoh gave men charge concerning him etc.,[26] he [was allowed to] enslave the latter's descendants for four hundred years, as it is said: And shall serve them, and they shall afflict them four hundred years.[27] Rab Judah said in the name of Rab: Whoever accompanies his neighbour four cubits in a city will come to no harm [when on a journey]. Rabina accompanied Raba b. Isaac four cubits in a city; danger threatened him but he was saved.

Our Rabbis taught: A teacher [accompanies] his pupils until the outskirts[28] of a city; one colleague [accompanies] another up to the Sabbath-limit;[29] a pupil [accompanies] his master a distance without limit.[30] But how far?[31] — R. Shesheth said: Up to a parasang. This only applies when his master is not a distinguished scholar; but should his master be a distinguished scholar [he accompanies him] three parasangs.

R. Kahana once accompanied R. Shimi b. Ashi from Pum-Nahara to Be-Zinyatha.[32] When they arrived there, he said to him, ‘Is it true what you say, that these palms of Babylon are from the time of Adam?’ He answered: ‘You have reminded me of something which R. Jose b. Hanina said, viz., What means that which is written: Through a land that no man passed through, and where no man dwelt?[33] Since no man passed through it, how could anyone dwell there, and since nobody dwelt there how could anyone pass through it! But [the meaning is], A land concerning which Adam decreed that it should be inhabited has become inhabited, and a land concerning which Adam did not so decree has not been inhabited’.[34] R. Mordecai accompanied R. Ashi from Hagronia[35] to Be-Kafi;[36] another version is to Be-Dura.[37] R. Johanan said in the name of R. Meir: Whoever does not escort others or allow himself to be escorted is as though he sheds blood; for had the men of Jericho escorted Elisha he would not have stirred up bears against the children, as it is said: And he went up from thence unto Bethel; and as he was going up by the way, there came forth little children out of the city, and mocked him, and said unto him, Go up, thou bald head; go up, thou bald head.[38] What they said to him was, ‘Go up, thou who hast made this place bald for us!’[39] What means ‘little children’?[40] — R. Eleazar said: Ne'arim [children] means they were bare [menu'arim] of precepts; ‘little’ means they were little of faith.[41] A Tanna taught: They were youths [ne'arim] but they behaved like little children. R. Joseph demurred to this: But perhaps they were so called after the name of the place; for is it not written: And the Syrians had gone out in bands, and had brought away captive out of the land of Israel a little maid,[42] and the question is asked by us a maid [na'arah] and little?[43] And R. Pedath explained: She was a little girl from a place called Ne'uran![44] — In this passage her place is not specified,[45] but in the other their place is specified.[46]

And he looked behind him and saw them, and cursed them in the name of the Lord.[47] What did he see? — Rab said: He actually looked upon them, as it has been taught: Rabban Simeon b. Gamaliel says: Wherever the Sages set their eyes there is either death or calamity.[48] Samuel said: He saw that their mothers had all become conceived with them on the Day of Atonement.[49] R. Isaac the smith said: He saw that their hair was plaited as with Amorites.[50] R. Johanan said: He saw that there was no sap of the commandments in them. But perhaps there would have been such in their descendants![51] — R. Eleazar said: Neither in them nor in their descendants unto the end of all generations.

And there came forth two she-bears out of the wood, and tore forty and two children of them.[52]

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(1) Num. XXIV, 21.

(2) Micah VI, 2. ‘Foundations’, being parallel to ‘mountains’, has a similar meaning.

(3) Jer. V, 15. The true meaning here is ‘enduring’, but the word is taken as defined by what follows.

(4) Cf. Lev. V, 8 where the Hebrew is ‘from the back of the neck’.

(5) Deut. XXI, 4.

(6) So the Hebrew literally. They all agree that the site may not be sown or tilled after the ceremony has taken place there.

(7) Since the text has not this form, it must refer to the past.

(8) Consequently it can only refer to the future.

(9) Since it would not be used if a command were implied, and the Torah would have stated: ‘it shall not be tilled’.

(10) To include all kinds of agricultural work, as explained below.

(11) Since sowing is included in agricultural labour.

(12) Deut. XXI, 6.

(13) The words seem redundant.

(14) [Or the court compels a town to provide escorts for travellers.]

(15) Judg. I, 24.

(16) Ibid. 25.

(17) Ibid. 26.

(18) For the fringes (Num. XV, 38). The purpose of this statement and what follows is to illustrate the words ‘which is the name thereof unto this day’, showing that the city survived destruction and still exists.

(19) By not plundering it and exiling the inhabitants.

(20) Lit., ‘their mind becomes loathsome to them’.

(21) That the reward for escorting is limitless.

(22) It merely states ‘he showed them’.

(23) I.e., he made inarticulate sounds.

(24) As a means of protection.

(25) Prov. I, 9. The Hebrew word for chaplet is the same as for ‘escort’.

(26) Gen. XII, 20.

(27) Ibid. XV, 13.

(28) [I.e., seventy cubits and two thirds beyond the outer range of the houses of the city. V. Ned. 56a.]

(29) V. p. 136, n. 7.

(30) [It is one of those deeds of kindliness to the performance of which no maximum is set; v. next note.]

(31) [I.e., what minimum distance must he accompany his teacher?]

(32) [Lit., ‘Among the Palms’, the former was near the Tigris, the latter was the district of the old city of Babylon, to which Sura belonged and which was rich in palms; cf. Sanh. 96b (Obermeyer, op. cit. p. 295).]

(33) Jer. II, 6.

(34) Accordingly Adam must have decreed that those palms should grow there.

(35) Outside Nehardea.

(36) [Be Kufai. A village four parasangs west of Bagdad, v. Obermeyer, op. cit. p. 267.]

(37) [Be-Duraja, S.W. of Bagdad. This would be about two hours beyond Be Kafi; (Obermeyer, op. cit., p. 268)]. This is cited to show how far a disciple escorted his teacher.

(38) II Kings II, 23. ‘He went up’ implies that he was unaccompanied.

(39) He had sweetened the waters in that place (ibid. 19ff.) and so had caused loss to the people of the vicinity who had profited by selling drinkable water. Hence the ill-feeling against him.

(40) ‘Little’ appears to be superfluous.

(41) Because they worried about their livelihood since they could no longer sell water.

(42) Ibid. V, 2.

(43) Na'arah implies that she was young (v. Glos.).

(44) Therefore it is suggested that in the other verse ne'arim means ‘men of Ne'uran’. In Josh. XVI, 7 there is a town called Naarath.

(45) It is merely stated ‘out of the land of Israel’, so Na'arah could possibly indicate a place name.

(46) We gather from the context that the children belonged to Jericho.

(47) II Kings II, 24.

(48) It was believed that the Rabbis were endowed with this power and the Talmud relates several anecdotes on the subject.

(49) When cohabitation is forbidden.

(50) Lit., ‘he saw they had a belorith’. They aped heathen manners. On belorith v. Sanh. (Sonc. ed.) p. 114. n. 5.
(51) So why should they have perished on that account?
(52) II Kings II, 24.

Talmud - Mas. Sotah 47a

Rab and Samuel [differ in their interpretation]; one said it was a miracle, while the other said it was a miracle within a miracle. He who said it was a miracle did so because there was a forest but there were no bears;[1] he who said it was a miracle within a miracle did so because there was no forest nor were there any bears. [But according to the latter interpretation] there need have been [provided] bears but not a forest! — [It was required] because [the bears] would have been frightened.[2]

R. Hanina said: On account of the forty-two sacrifices which Balak, king of Moab, offered,[3] were forty-two children cut off from Israel. But it is not so; for Rab Judah has said in the name of Rab: Always should a man occupy himself with Torah and the commandments even though it be not for their own sake,[4] for from [occupying himself with them] not for their own sake he comes to do so for their own sake; because as a reward for the forty-two sacrifices which Balak, king of Moab, offered,[5] he merited that Ruth should issue from him and from her issued Solomon concerning whom it is written: A thousand burnt-offerings did Solomon offer![6] And R. Jose b. Honi said: Ruth was the daughter of Eglon the son of Balak![7] — Nevertheless his desire was to curse Israel.[8] And the men of the city said unto Elisha, Behold, we pray thee, the situation of this city is pleasant, as my lord seeth etc.[9] [But how could it be so] since 'the water is naught and the land miscarrieth'! What, then, was its pleasantness? — R. Hanin said: The favour of a place in the estimation of its inhabitants. R. Johanan said: There are three kinds of favour: the favour of a locality in the estimation of its inhabitants, the favour of a woman In the estimation of her husband, and the favour of an article in the estimation of its purchaser.

Our Rabbis taught: Elisha was afflicted with three illnesses: one because he stirred up the bears against the children, one because he thrust Gehazi away with both his hands, and one of which he died; as it is said: Now Elisha was fallen sick of his sickness whereof he died.[10]

Our Rabbis have taught: Always let the left hand thrust away and the right hand draw near. Not like Elisha who thrust Gehazi away with both his hands (and not like R. Joshua b. Perahiah who thrust one of his disciples away with both his hands).[11] How is it with Elisha? As it is written: And Naaman said: Be content, take two talents,[12] and it is written: And he said unto him, Went not my heart with thee when the man turned again from his chariot to meet thee? Is it a time to receive money, and to receive garments, and oliveyards, and sheep and oxen, and manservants and maidservants?[13] But had he received all these things? Silver and garments were what he had received! — R. Isaac said: At that time Elisha was engaged [in the study of the Law concerning] the eight kinds of [unclean] creeping things;[14] so he said to [Gehazi], 'You wicked person, the time has arrived for you to receive the reward for [studying the law of] the eight creeping things.'[15] The leprosy therefore of Naaman shall cleave unto thee and unto thy seed for ever.[16] Now there were four leprous men[17] — R. Johanan said: This refers to Gehazi and his three sons. And Elisha came to Damascus[18] — why did he go there?[19] — R. Johanan said: He went to induce Gehazi to repent but he refused. He said to him, 'Repent'; but he replied: 'Thus have I received from thee that whoever sinned and caused others to sin is deprived of the power of doing penitence'. What had he done? Some say: He applied a loadstone to the idolatrous image of Jeroboam[20] and suspended it between heaven and earth. Others say: He engraved upon it the Name [of God] so that it used to exclaim, 'I [am the Lord thy God]' and 'Thou shalt have no [other God beside me]' — Still others say: He drove the Rabbis from before him, as it is written: And the sons of the prophets said unto Elisha, Behold now, the place where we dwell before thee is too strait for us[21] — hence, up to then it had not been too strait.

What[22] was the incident with R. Joshua b. Perahiah? — When King Jannaeus[23] put the Rabbis to death, Simeon b. Shetah was hid by his sister, whilst R. Joshua b. perahiah fled to Alexandria in Egypt. When there was peace,[24] Simeon b. Shetah sent [this message to him]: 'From me, Jerusalem, the Holy city, to thee Alexandria in Egypt. O my sister, my husband[25] dwelleth in thy midst and I abide desolate'. [R. Joshua] arose and came back and found himself in a certain inn where they paid him great respect. He said: 'How beautiful is this 'aksania'![26] One of his disciples[27] said to him, 'My master, her eyes are narrow!' He replied to him, 'Wicked person! Is it with such thoughts that thou occupiest thyself !' He sent forth four hundred horns and excommunicated him.[28] [The disciple] came before him on many occasions, saying'Receive me'; but he refused to notice him. One day while [R. Joshua] was reciting the Shema', he came before him. His intention was to receive him and he made a sign to him with his hand, but the disciple thought he was repelling him. So he went and set up a brick and worshipped it. [R. Joshua] said to him, 'Repent'; but he answered him, 'Thus have I received from thee that whoever sinned and caused others to sin is deprived of the power of doing penitence'. A Master has said: The disciple practised magic and led Israel astray.

It has been taught: R. Simeon b. Eleazar says: Also human nature[29] should a child and woman thrust aside with the left hand and draw near with the right hand.[30]

MISHNAH. IF THE MURDERER WAS DISCOVERED BEFORE THE HEIFER'S NECK WAS BROKEN, IT GOES FREE AND FEEDS WITH THE HERD; BUT IF AFTER THE HEIFER'S NECK WAS BROKEN, IT IS BURIED IN THAT PLACE BECAUSE IT CAME THERE FROM THE OUTSET IN CONNECTION WITH A MATTER OF DOUBT,[31] AND ATONED FOR THE DOUBT WHICH IS NOW GONE. IF THE HEIFER'S NECK WAS BROKEN AND AFTERWARDS THE MURDERER IS DISCOVERED, BEHOLD HE IS EXECUTED.

IF ONE WITNESS SAYS 'I SAW THE MURDERER' AND ONE WITNESS SAYS 'YOU DID NOT SEE HIM';[32] OR IF A WOMAN SAYS 'I SAW HIM' AND ANOTHER WOMAN SAYS 'YOU DID NOT SEE HIM', THEY BREAK ITS NECK. IF ONE WITNESS SAYS 'I SAW HIM' AND TWO SAY 'YOU DID NOT SEE HIM', THEY BREAK ITS NECK. IF TWO SAY 'WE SAW HIM' AND ONE SAYS TO THEM 'YOU DID NOT SEE HIM', THEY DO NOT BREAK ITS NECK.[33] WHEN MURDERERS MULTIPLIED THE CEREMONY OF BREAKING A HEIFER'S NECK WAS DISCONTINUED. THAT WAS WHEN ELIEZER B. DINAI, ALSO CALLED TEHINAH B. PERISHAH, APPEARED;[34] HE WAS AFTERWARDS RENAMED 'SON OF THE MURDERER — WHEN ADULTERERS MULTIPLIED THE CEREMONY OF THE BITTER WATER WAS DISCONTINUED AND IT WAS R. JOHANAN B. ZAKKAI WHO DISCONTINUED IT, AS IT IS SAID, I WILL NOT PUNISH YOUR DAUGHTERS WHEN THEY COMMIT WHOREDOM, NOR YOUR BRIDES WHEN THEY COMMIT ADULTERY, FOR THEY THEMSELVES ETC.[35] WHEN JOSE B. JOEZER OF ZEREDAH AND JOSE B. JUDAH OF JERUSALEM DIED, THE GRAPE-CLUSTERS[36] CEASED, AS IT IS SAID, THERE IS NO CLUSTER TO EAT; MY SOUL DESIRETH THE FIRST RIPE FIG.[37]

JOHANAN THE HIGH PRIEST[38] BROUGHT TO AN END THE CONFESSION MADE AT THE PRESENTATION OF THE TITHE.[39] HE ALSO ABOLISHED THE WAKERS AND THE KNOCKERS[40]

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(1) These were miraculously created for the occasion.

(2) If there was no forest provided for them in which they could hide, they would not have dared to attack the children.

(3) Num. XXIII, 1, 14, 29.

(4) Without the expectation of reward.

(5) Although he did not offer them for their own sake.

(6) I Kings lii, 4. V. Hor. (Son. ed.) p. 75.

(7) So this was Balak's reward and not the death of the children.

(8) And so he had his reward in the death of these children.

(9) II Kings II, 19.

(10) Ibid. XIII, 14. Sick and sickness denote two, apart from his fatal illness.

(11) MSS. and old editions read Jesus the Nazarene. R. T. Herford sees in Gehazi a hidden reference to Paul. Cf. his Christianity in Talmud and Midrash, pp. 97ff.
(12) II Kings V, 23.
(13) Ibid. 26.
(14) Name of the Chapter in Mishnah Shabbath, XIV, I, cf. Lev. XI, 29ff.
(15) Referring to the eight kinds of presents he had accepted. That will be his reward in this world so that he may be punished in the Hereafter. For a fuller version v. Sanh. (Sonc. ed.) p. 735.
(16) II Kings V, 27. 'For ever' indicates the World to Come.
(17) II Kings VII, 3.
(18) Ibid. VIII, 7.
(19) V. Sanh. (Sonc. ed.) p. 734, n. 8.
(20) Cf. I Kings XII, 28.
(21) II Kings VI, I.
(22) The following paragraph is deleted in censored editions, v. Sanh. (Sonc. ed.) p. 736, n. 2.
(23) Alexander Jannaeus, king of Israel from 104 to 78 B.C.E., a persecutor of the Pharisees. The chronological discrepancy is obvious since he lived a century before Jesus, v. however, Sanh. (Sonc. ed.) loc. cit.
(24) On his death-bed the King advised the Queen to put her confidence in the Pharisees. V. Josephus, Ant. XIII, XV, 5.
(25) His teacher, R. Joshua.
(26) The word means 'inn' and 'female innkeeper'. The Rabbi intended it in the first sense, Jesus in the second.
(27) MSS.: 'Jesus'.
(28) A horn is blown at the ceremony of excommunication. The large number used on this occasion indicated the extreme severity of the penalty.
(29) One must learn to control it so as to avoid extremes.
(30) [One must not be too severe in chiding a child or reproving a wife lest they be driven to despair.]
(31) The unknown murderer.
(32) [I.e., 'I was present with you at the time of the alleged murder and testify that it did not take place.' J. reads 'I did not see it', and similarly in the following clause substitutes the first person for the second.]
(33) The single witness does not upset the evidence of two, so there is no doubt about the murderer.
(34) He was a notorious bandit who committed numerous murders; (v. Josephus, Ant. XX, 6, I; 8, 5.)
(35) Hos. IV, 14.
(36) Descriptive of Rabbis of exceptional learning. These two Rabbis flourished in the first half of the second cent. B.C.E. and were the first of the Zugoth or 'Pairs' of teachers who preserved and passed on the Torah-lore accumulated by the men of the Great Assembly. [Lauterbach. J.Z. (JQR VI, p. 32, n. 34) explains this to mean that with his death teachers ceased to act as a body, reporting only such teachings as represented the opinion of the whole group to which they belonged, but began to report rulings of individual teachers.]
(37) Micah VII, 1.
(38) John Hyrcanus who reigned over Judea from 135 to 104 B.C.E.
(39) Cf. Deut. XXVI, 13f.
(40) These terms are explained in the Gemara.

Talmud - Mas. Sotah 47b

. UP TO HIS DAYS THE HAMMER USED TO STRIKE[1] IN JERUSALEM, AND IN HIS DAYS THERE WAS NO NEED TO INQUIRE ABOUT DEMAI.[2]

GEMARA. Our Rabbis taught: Whence is it that if the heifer's neck had been broken, and the murderer is afterwards discovered, they do not set him free? There is a text to state, And no expiation can be made for the land for the blood that is shed therein, but by the blood of him that shed it.[3]

IF ONE WITNESS SAYS, 'I SAW THE MURDERER' etc. The reason [why his evidence is not accepted] is because there is somebody who contradicts him; therefore if there is nobody who contradicts him, one witness is believed. Whence is this? — As our Rabbis taught: And it be not known who hath smitten him[4] — hence if it be known who had smitten him, even by one person at the other end of the world, they do not break the neck. R. Akiba says: Whence is it that if the Sanhedrin saw a person commit murder, but they do not recognise him, the neck of the heifer is not broken? There is a text to state, Neither have our eyes seen it;[5] but [in this case] they had seen it.[6]

Now that you admit that one witness is believed, how is it possible for another individual to contradict him? Surely ‘Ulla has said: Wherever the Torah accepts the testimony of one witness, he is regarded as two [witnesses], but the evidence of one is not regarded as the evidence of two![7] ‘Ulla can reply to you, Read in the Mishnah: They do not break its neck. Similarly said R. Isaac, Read in the Mishnah: They do not break its neck; but R. Hiyya said: Read in the Mishnah: They break its neck. Then R. Hiyya is in conflict with the teaching of ‘Ulla! — There is no contradiction, one case referring to evidence given simultaneously[8] and the other when one witness follows the others.[9]

The Mishnah declares: IF ONE WITNESS SAYS ‘I SAW THE MURDERER’ AND TWO SAY ‘YOU DID NOT SEE HIM’, THEY BREAK ITS NECK. Consequently if there is one against one, they do not break its neck; and this is a refutation of R. Hiyya's statement![10] — But according to your own argument, cite the con tinuation: IF TWO SAY ‘WE SAW HIM’ AND ONE SAYS TO THEM ‘YOU DID NOT SEE HIM’,THEY DO NOT BREAK ITS NECK. Consequently if — there is one against one, they do break its neck![11] But our Mishnah deals entirely with disqualified witnesses,[12] and is in accord with R. Nehemiah who said,[13] Wherever the Torah accepts the testimony of one witness, [the decision] follows the majority of persons [who testify], so that two women against one woman is identical with two men against one man. But there are some who declare that wherever a competent witness came [and testified] first, even a hundred women are regarded as equal to one witness; and with what circumstance are we dealing here? For example, if it was a woman who came first [and testified]; and R. Nehemiah's statement is to be construed thus: R. Nehemiah Says: Wherever the Torah accepts the testimony of one witness, [the decision] follows the majority of persons [who testify], so that two women against one woman is identical with two men against one man, but two women against one man is like half and half. Why, then, have we two teachings concerning disqualified witnesses?[14] What you might have said was that when we follow the majority of persons [who testify] it is for taking the severer view, but to take the lenient view we do not follow [the majority]. Therefore [the Mishnah] informs us [of one case where the neck is broken and one where it is not, and in each the majority is followed].

WHEN MURDERERS MULTIPLIED etc. Our Rabbis taught: When murderers multiplied the ceremony of breaking a heifer's neck was discontinued, because it is only performed in a case of doubt; but when murderers multiplied openly, the ceremony of breaking a heifer's neck was discontinued.

WHEN ADULTERERS MULTIPLIED etc. Our Rabbis taught: And the man shall be free from iniquity[15] — at the time when the man is free from iniquity, the water proves his wife; but when the man is not free from iniquity, the water does not prove his wife. Why, then, [was it necessary for the Mishnah to add]: AS IT IS SAID, ‘I WILL NOT PUNISH YOUR DAUGHTERS WHEN THEY COMMIT WHOREDOM etc’? Should you say that his own iniquity [prevents the water from proving his wife] but the iniquity of his sons and daughters does not, come and hear: ‘I WILL NOT PUNISH YOUR DAUGHTERS WHEN THEY COMMIT WHOREDOM, NOR YOUR BRIDES WHEN THEY COMMIT ADULTERY’. And should you say that his sin with a married woman [prevents the water from proving his wife] but not if it was with an unmarried woman, come and hear: FOR THEY THEMSELVES GO ASIDE WITH WHORES AND WITH THE HARLOTS etc.’ What means And the people that doth not understand shall be overthrown?[16] R. Eleazar said: The prophet spoke to Israel, If you are scrupulous with yourselves, the water will prove your wives; otherwise the water will not prove your wives.

When hedonists multiplied, justice became perverted;[17] conduct deteriorated and there is no satisfaction [to God] in the world. When they who displayed partiality in judgment multiplied, the command Ye shall not be afraid [of the face of man][18] became void and Ye shall not respect [persons in judgment][19] ceased to be practised; and people threw off the yoke of heaven and placed upon themselves the yoke of human beings. When they who engaged in whisperings in judgment[20] multiplied, fierceness of [the divine] anger increased against Israel and the Shechinah departed; because it is written: He judgeth among the judges.[21] When there multiplied [men of whom it is said] Their heart goeth after their gain,[22] there multiplied they who call evil good and good evil.[23] When there multiplied they 'who call evil good and good evil', woes[24] increased in the world. When they who draw out their spittle[25] multiplied, the arrogant increased, disciples diminished, and Torah went about [looking] for them who would study it. When the arrogant multiplied, the daughters of Israel began to marry arrogant men, because our generation looks only to the outward appearance. But that is not so; for a Master has declared: An arrogant person is not acceptable even to the members of his household, as it is said: A haughty man one abideth not at home[26] — i.e., even in his own house! — At first they jump round him, but in the end he becomes repugnant to them.

When there multiplied they who forced their goods upon householders,[27] bribery increased as well as miscarriage of justice, and happiness ceased. When there multiplied [judges] who said 'I accept your favour' and 'I shall appreciate your favour', there was an Increase of Every man did that which was right in his own eyes;[28] common persons were raised to eminence, the eminent were brought low, and the kingdom [of Israel] deteriorated more and more. When envious men and plunderers [of the poor] multiplied, there increased they who hardened their hearts and closed their hands from lending [to the needy], and they transgressed what is written in the Torah, viz., Beware that there be not etc.[29] When there multiplied women who had stretched forth necks and wanton eyes,[30] [the need] increased for the bitter water but it ceased [to be used]. When receivers of gifts multiplied, the days [of human life] became fewer and years were shortened; as it is written: But he that hateth gifts shall live.[31] When the haughty of heart multiplied, dissensions increased in Israel. When the disciples of Shammai and Hillel multiplied who had not served [their teachers] sufficiently, dissensions increased in Israel and the Torah became like two Toroth. When there multiplied they who accepted charity of Gentiles, Israel became on top and they below, Israel went forward and they backward.[32]

WHEN JOSE B. JOEZER DIED etc. What does 'grape-clusters' [eshkoloth] mean? — Rab Judah said in the name of Samuel: A man in whom is everything [ish she-hakol bo].

JOHANAN THE HIGH PRIEST BROUGHT TO AN END THE CONFESSION MADE AT THE PRESENTATION OF THE TITHE etc. What was his reason? — R. Jose b. Hanina said: Because people were not presenting it according to the regulation; for the Allmerciful said that they should give it to the Levites

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(1) V. note on the Gemara infra.

(2) Produce about which there is uncertainty whether it had been tithed. The Gemara will explain what is intended.

(3) Num. XXXV, 33.

(4) Deut. XXI, I.

(5) Ibid. 7.

(6) Consequently the ceremony is not performed.

(7) But according to the Mishnah, if one is contradicted by one, the former is not accepted and the neck is broken.

(8) Then one witness can contradict another.

(9) The evidence of the first witness having been accepted is regarded as that of two.

(10) He proposed that when one is against one the Mishnah should read: They break its neck.

(11) Which supports R. Hiyya and in apparent contradiction to the first clause.

(12) Women and slaves.

(13) What follows is quoted from supra 31b et seq., q.v. for notes.
(14) In the two clauses of our Mishnah which have been explained as referring to the evidence of women and slaves.
(15) Num. V, 31.
(16) Hos. IV, 14.
(17) Judges accepted bribes.
(18) Deut. I, 17.
(19) Ibid.
(20) To influence the judges in favour of one party.
(21) Ps. LXXXII, I, i.e., God is only with honest judges.
(22) Ezek. XXXIII, 31.
(23) Isa. V, 20.
(24) The word woe occurs frequently in Isa. V.
(25) As a mark of ostentation.
(26) Hab. II, 5 sic.
(27) Judges who compelled them to buy against their will.
(28) Judg. XVII, 6.
(29) Deut. XV, 9.
(30) Isa. III, 16.
(31) Prov. XV, 27.
(32) A euphemism for the reverse: Israel became below etc. This sentence has fallen out of the text in some modern editions.

Talmud - Mas. Sotah 48a

whereas we present it to the priests.[1] Then let them make the confession over the other tithes![2] — Resh Lakish said: Any household which does not make the confession over the first tithe may not make it over the other tithes. For what reason? — Abaye said: Because Scripture deals with that first;[3] This implies that they had separated it [before proceeding to the other tithes]. But surely it has been taught: He also annulled the confession and decreed in respect of demai;[4] because he sent [inspectors] throughout the Israelite territory and discovered that they only separated the great terumah[5] but as for the first and second tithes some fulfilled the law while others did not.[6] So he said to [the people], ‘My sons, come, I will tell you this. Just as in [the neglect] of the "great terumah" there is mortal sin,[7] so with [the neglect] to present the terumah of the tithe and with the use of untithed produce there is mortal sin’. He thus arose and decreed for them that whoever purchases fruits from an ‘Am ha-arez[8] must separate the first and second tithes therefrom. From the first tithe he separates the terumah of the tithe and gives it to a priest, and as for the second tithe he should go up and eat it in Jerusalem. With regard to the first tithe and the tithe of the poor[9] whoever demands them from his neighbour has the onus of proving [that they had not been already apportioned]![10] [Johanan] made two decrees: he abolished the confession [over the presentation of the first tithe] in the case of the Haberim[11] and decreed in regard to the demai[12] of the ‘Amme ha-arez.[13]

HE ALSO ABOLISHED THE WAKERS. What does ‘WAKERS’ mean? — Rehabah said: The Levites used daily to stand upon the dais and exclaim, Awake, why sleepest Thou, O Lord?[14] He said to them, Does, then, the All-Present sleep? Has it not been stated: Behold, He that keepeth Israel shall neither slumber nor sleep![15] But so long as Israel abides in trouble and the Gentiles are in peace and comfort, the words ‘Awake, why sleepest Thou, O Lord’? [should be uttered].[16]

AND KNOCKERS. What does ‘KNOCKERS’ mean? — Rab Judah said in the name of Samuel: They used to make an incision on the calf between its horns[17] so that the blood should flow into its eyes.[18] [Johanan] came and abolished the practice because it appeared as though [the animal had] a blemish. There is a Baraitha which teaches: They used to strike [the animal] with clubs as is the practice with idolatry. [Johanan] said to them, How long will you feed the altar with nebeloth![19]

[How could he have described the carcasses as] nebeloth when they had been properly slaughtered! — Rather [should they be described as] terefoth,[20] since the membrane of the brain may have been perforated. He [thereupon] arose and ordained rings for them in the ground.[21]

UP TO HIS DAYS THE HAMMER USED TO STRIKE IN JERUSALEM. On the intermediate days of the Festival.[22]

ALL HIS DAYS[23] THERE WAS NO NEED TO INQUIRE ABOUT DEMAI. As we have explained above.[24]

MISHNAH. WHEN THE SANHEDRIN CEASED [TO FUNCTION], SONG CEASED FROM THE PLACES OF FEASTING; AS IT IS SAID, THEY SHALL NOT DRINK WINE WITH A SONG ETC.[25]

WHEN THE FORMER PROPHETS[26] DIED, THE URIM AND THUMMIM[27] CEASED. WHEN [THE SECOND] TEMPLE WAS DESTROYED, THE SHAMIR AND NOPHETH ZUFIM[28] CEASED, AND MEN OF FAITH DISAPPEARED FROM ISRAEL; AS IT IS SAID, HELP, LORD, FOR THE GODLY MAN CEASETH ETC.[29] RABBAN SIMEON B. GAMALIEL SAYS: R. JOSHUA TESTIFIED THAT FROM THE DAY THE TEMPLE WAS DESTROYED, THERE IS NO DAY WITHOUT A CURSE, THE DEW HAS NOT DESCENDED FOR A BLESSING, AND THE FLAVOUR HAS DEPARTED FROM THE FRUITS. R. JOSE SAYS: THE FATNESS[30] WAS ALSO REMOVED FROM THE FRUITS. R. SIMEON B. ELEAZAR SAYS; [THE CESSATION OF] PURITY HAS REMOVED TASTE AND FRAGRANCE [FROM FRUITS]; [THE CESSATION OF] THE TITHES HAS REMOVED THE FATNESS OF CORN. BUT THE SAGES SAY: IMMORALITY AND WITCHCRAFT DESTROYED EVERYTHING.

GEMARA. How do we know that the text, [‘They shall not drink wine with a song’] — applies to the time when the Sanhedrin ceased? — R. Huna, son of R. Joshua, said: Because Scripture states: The elders have ceased from the gate, the young men from their music.[31]

Rab said: The ear which listens to song should be torn off. Raba said: When there is song in a house there is destruction on its threshold; as it is stated: Their voice shall sing in the windows, desolation shall be in the thresholds, for He hath laid bare the cedar work.[32] What means ‘for he hath laid bare [‘erah] the cedar work’? — R. Isaac said: Is a house panelled with cedar-wood a city [‘irah]?[33] But [the meaning is] even a house panelled with cedars will be overthrown [mithro'ea’].[34] R. Ashi said: Infer from this that when destruction begins, it begins on the threshold; as it is stated: ‘Desolation shall be in the thresholds’ — Or if you will, deduce it from here: And the gate is smitten with destruction.[35] Mar, son of R. Ashi said: I have personally seen him,[36] and he gores like an ox.

R. Huna said: The singing of sailors and ploughmen is permitted, but that of weavers is prohibited.[37] R. Huna abolished singing, and a hundred geese were priced at a zuz[38] and a hundred se'ahs of wheat at a zuz and there was no demand for them [even at that price];[39] R. Hisda came and [ordered R. Huna's edict to be] disregarded, and a goose was required [even at the high price of] a zuz but was not to be found.[40] R. Joseph said: When men sing and women join in it is licentiousness; when women sing and men join in it is like fire in tow.[41] For what practical purpose is this mentioned? — To abolish the latter before the former.[42]

R. Johanan said: Whoever drinks to the accompaniment of the four musical instruments[43] brings five punishments to the world; as it is stated: Woe unto them that rise up early in the morning, that they may follow strong drink, that tarry late into the night, till wine inflame them! And the harp, and the lute, the tabret and the pipe, and wine, are in their feasts; but they regard not the work of the Lord.[44] What is written after this? ‘Therefore My people are gone into captivity for lack of knowledge' — they therefore cause captivity in the world; 'and their honourable men are famished' — they therefore bring hunger into the world; and their multitude are parched with thirst[45] — they therefore cause Torah to be forgotten by its students. And the mean man is bowed down and the great man is humbled[46] — they therefore cause humiliation to the haters of God[47] — and 'man' signifies none other than the Holy One, blessed be He, as it is said: The Lord is a man of war,'[48] 'and the eyes of the lofty are humbled' they therefore cause the humiliation of Israel. And what is written after that? Therefore

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(1) Deut. XXVI, 13 requires that the first tithe should be given to the Levites; but it is related in Yeb. 86b that because the Levites refused to join in the return from Babylon, Ezra punished them by having the tithe transferred to the priests.

(2) The second and poor tithes.

(3) The Rabbis explain the verse as follows: 'Thou shalt give it unto the Levite' i.e., the first tithe; 'and unto the stranger' i.e., the tithe of the poor; 'within thy gates' i.e., the second tithe.

(4) The reason given by R. Jose b. Hanina.

(5) The part which is separated in the first instance is the 'great terumah' or offering for the priests, to distinguish it from the 'terumah of the tithe', i.e., the tenth part given by the Levite of the tithe he receives, to the priest; then the first tithe is taken from the remainder for the Levites; after that the second tithe is removed to be eaten by the owner in Jerusalem (Deut. XIV, 22ff.); and each third year a tithe is allocated to the poor (ibid. XXVI, 12); v. Glos., s.v. Terumah.

(6) I. H. Weiss (Dor I p. 119) suggests that at that time there was a growing aversion against paying the tithe to the Levites, firstly because their status had changed from the period when the land was apportioned among the tribes and they had no share; and secondly because part of the produce had to be paid as a tax to the Government and the law of the tithe pressed very heavily upon the people.

(7) I.e., the penalty involved is death at the hands of Heaven.

(8) V. p. 110 n. 1.

(9) Since they are non-holy and may be eaten by any person.

(10) This shows that the people neglected the separation of the tithe to the Levite.

(11) The opposite of the 'Amme ha-arez. They were most scrupulous in the allocation of the tithes. The reason for his edict was, as stated, because the tithe was presented to a priest and not a Levite.

(12) 'Doubtful produce', corn purchased from a farmer about which there is a doubt whether the tithes had been apportioned.

(13) Because he learnt from his inspectors that the law was being. neglected. It could therefore be safely assumed that the 'Amme ha-arez, were not observing it. Consequently if one purchased their produce, he had the responsibility of apportioning the tithes.

(14) Ps. XLIV, 24.

(15) Ibid. CXXI, 4.

(16) Since his reign was blessed with peace and prosperity, he felt it was unnecessary for the Levites to use the words.

(17) Before it was slaughtered for the altar.

(18) To prevent it from seeing what was to happen so that it should not struggle.

(19) I.e., animals which died not by the act of ritual slaughter.

(20) Animals found to possess a disqualification during the examination which followed the act of slaughter.

(21) To hold the animals fast so that they should not struggle, and the other methods were discontinued.

(22) I.e., work used to be done on those days, which were a semi-festival, and he abolished the practice.

(23) [The actual reading in our Mishnah is 'IN HIS DAYS'.]

(24) The purchaser had the responsibility of separating the tithe himself, so there was no need to inquire whether the produce had been tithed before the sale.

(25) Isa. XXIV, 9' The authority of the Sanhedrin was ended by the Roman General Gabinius in the middle of the first cent. B.C.E. Cf. Josephus, Ant. XIV, v. 4.

(26) The phrase is explained in the Gemara.

(27) V. Ex. XXVIII, 30.

(28) Shamir is the name of a worm which tradition relates had the power of splitting the hardest stone. The Gemara will explain Nopheth Zufim, a phrase occurring in Ps. XIX, 11, lit., 'the droppings of the honeycomb'.

(29) Ps. XII, 2. That the second and not the first Temple is intended here is proved in Tosaf. to Git!. 68a.

(30) Nourishing quality.
(31) Lam. V, 14. The elders sat in the gate of the city to judge.
(32) Zeph. II, 14. The last clause is understood as: even a cedar house, i.e., even the strongly-built house, will be destroyed.
(33) So Maharsha. Rashi explains differently.
(34) Hath laid bare (‘erah) is connected with a root רעע ‘to be razed’.
(35) Isa. XXIV, 12.
(36) The demon of destruction, v. B.K. 21a.
(37) Singing helps the former in their work, but with the latter it is done out of frivolity.
(38) A small coin worth about sevenpence.
(39) Through the decline of feasting.
(40) The demand for geese had become so great.
(41) A woman's singing aroused sexual passion. The latter is more serious, because it implies a wilful act on the part of the men to listen to the female voices.
(42) If both cannot be suppressed at the same time, the latter should receive more attention as being the worse of the two.
(43) Mentioned in the verse to be quoted.
(44) Isa. V, 11f.
(45) Ibid. 23.
(46) Ibid. 15.
(47) A euphemism for God Himself.
(48) Ex. XV, 3.

Talmud - Mas. Sotah 48b

Sheol hath enlarged her desire and opened her mouth without measure; and their glory, and their multitude, and their pomp, and he that rejoiceth among them, descend into it.[1]

WHEN THE FORMER PROPHETS DIED. Who are the former prophets? — R. Huna said: They are David, Samuel and Solomon. R. Nahman said: During the days of David, they were Sometimes successful[2] and at other times unsuccessful; for behold, Zadok consulted it and succeeded, whereas Abiathar consulted it and was not successful, as it is said. And Abiathar went up.[3] Rabbah b. Samuel objected: [It is written], And he[4] set himself to seek God all[5] the days of Zechariah who had understanding in the vision of God.[6] Was this not by means of the urim and Thummim?[7] — No, it was through the prophets.

Come and hear: When the first Temple was destroyed — the cities with pasture land[8] were abolished, the Urim and Thummim ceased, there was no more a king from the House of David; and if anyone incites you to quote, And the governor said unto them that they should not eat of the most holy things till there stood up a priest with Urim and Thummim,[9] reply to him: [It is only a phrase for the very remote future] as when one man says to another, ‘Until the dead revive and the Messiah, son of David, comes’! — But, said R. Nahman: Who are the former prophets? [The term ‘former’] excludes Haggai, Zechariah, and Malachi who are the latter [prophets]. For our Rabbis have taught: When Haggai, Zechariah and Malachi died, the Holy Spirit[10] departed from Israel; nevertheless they made use of the Bath Kol.[11] On one occasion [some Rabbis] were sitting in the upper chamber of Gurya's house in Jericho; a Bath Kol was granted to them from heaven which announced, ‘There is in your midst one man who is deserving that the Shechinah should alight upon him, but his generation is unworthy of it’. They all looked at Hillel the elder; and when he died, they lamented over him, ‘Alas, the pious man! Alas, the humble man! Disciple of Ezra!’ On another occasion they were sitting in an upper chamber in Jabneh; a Bath Kol was granted to them from heaven which announced, ‘There is in your midst one man who is deserving that the Shechinah should alight upon him, but his generation is unworthy of it’. They all looked at Samuel the Little;[12] and when he died, they lamented over him, ‘Alas, the humble man! Alas, the pious man! Disciple of Hillel!’ At the time of his death he also said,[13] ‘Simeon and Ishmael[14] [are destined] for the sword and their colleagues for death, and the rest of the people for spoliation, and great distress will come upon the nation.’ They also wished to lament over R. Judah b. Baba,[15] ‘Alas, the pious man! Alas, the humble man!’ But the times were disturbed and they could not lament publicly over those who had been slain by the government.

WHEN [THE SECOND] TEMPLE WAS DESTROYED, THE SHAMIR CEASED etc. Our Rabbis taught: With the Shamir Solomon built the Temple,[16] as it is said: And the house, when it was in building, was built of stone made ready at the quarry.[17] The words are to be understood as they are written;[18] such is the statement of R. Judah. R. Nehemiah asked him, Is it possible to say so? Has it not been stated: All these were of costly stones . . . sawed with saws![19] If that be so, why is there a text to State, There was neither hammer, nor axe nor any tool of iron heard in the house, while it was in the building?[20] [It means] that they prepared them outside and brought them within. Rabbi said: The statement of R. Judah is probable in connection with the stones of the Sanctuary, and the statement of R. Nehamiah in connection with [Solomon's] house. For what purpose, then, according to R. Nehemiah, was the Shamir necessary? — It was required as taught in the following: We may not write with ink upon these stones,[21] because it is said: Like the engravings of a signet,[22] nor cut into them with a knife because it is said: In their settings;[23] but he writes with ink upon them, shows the Shamir [the written strokes] on the outside, and these split of their own accord,[24] like a fig which splits open in summer and nothing at all is lost, or like a valley which splits asunder in the rainy season and nothing at all is lost.

Our Rabbis taught: The Shamir is a creature about the size of a barley-corn, and was created during the six days of Creation.[25] No hard substance can withstand it. How is it kept? They wrap it in tufts of wool and place it in a leaden tube full of barley-bran.

R. Ammi said: When the first Temple was destroyed, fringed[26] silk and white glass[27] ceased to be used. There is a teaching to the same effect: When the first Temple was destroyed, fringed silk and white glass and iron chariots ceased to be used. Some say: Also wine-jelly[28] which comes from Senir[29] and resembles cakes of figs.

AND NOFETH ZUFIM. What means NOFETH ZUFIM? — Rab said: The fine flour which floats [zofah] upon the top of a sieve [nafah] and resembles dough kneaded with honey and oil. Levi said: It is two loaves attached to [opposite sides of] an oven which keep on swelling until they touch one another.[30] R. Joshua b. Levi said: It is the honey which comes from the hills [zofim].[31] How is this known?[32] — As R. Shesheth[33] translated:[34] When the bees spring forth and fly in the heights of the world and collect honey from the herbage on the mountains.

We have learnt there:[35] Whatever is poured out[36] is clean with the exception of thick honey and batter.[37] What means zifim [thick]? — R. Johanan said: Honey used for adulteration [ziyyef]; and Resh Lakish said: It is named after its place, as it is written: Zif, Telem and Bealoth.[38] You may similarly quote, When the Zifites came and said to Saul, Doth not David etc.[39] What means Zifites? — R. Johanan said: Men who falsify their words; and R. Eliezer says: They are named after their place, as it is written: Zif Telem, and Bealoth.[38]

AND MEN OF FAITH DISAPPEARED. R. Isaac said: These are men who had faith in the Holy One, blessed be He. For it has been taught: R. Eliezer the Great[40] declares: Whoever has a piece of bread in his basket and Says. ‘What shall I eat tomorrow?’ belongs only to them who are little in faith. And that is what R. Eleazar said: What means that which is written: For who hath despised the day of small things?[41] [It signifies,] What is the cause that the tables of the righteous are despoiled in the Hereafter?[42] The smallness [of faith] which was in them, that they did not trust in the Holy One, blessed be He. Raba said: They are the little ones[43] among the children of the wicked of Israel

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(1) Isa. V, 14.
(2) In obtaining knowledge of the future by consulting the Urim and Thummim.
(3) II Sam. XV, 24. This is explained by the Rabbis: he retired from the priesthood because he received no reply from the Urim and Thummim.
(4) Uzziah, King of Judah.
(5) [M.T. reads ‘in the days of.]
(6) II Chron. XXVI, 5.
(7) Therefore there were Urim and Thummim in the days of King Uzziah, contrary to the view of R. Huna.
(8) For the Levites; v. Num. XXXV, 2.
(9) Ezra II, 63. From this verse it would appear that the Urim and Thummim continued up to the destruction of the first Temple, contrary to the view of R. Huna.
(10) Divine inspiration.
(11) V. Gios.
(12) A famous pupil of Hillel who died about a decade after the destruction of the second Temple.
(13) Under the influence of the Holy Spirit.
(14) Probably Simeon b. Gamaliel and Ishmael b. Elisha who were put to death after the capture of Jerusalem. See the full discussion in R.T. Herford, op. cit., pp. 129ff.
(15) A victim of the Hadrianic Persecution. For further notes on this passage, v. Sanh. (Sonc. ed.) p. 46.
(16) V. Git. (Sonc. ed.) p. 323, n. 2.
(17) I Kings VI, 7. The Hebrew is ‘perfect stone’.
(18) I.e., the stones were naturally in a hewn state, as though they had been cut in a quarry.
(19) Ibid. VII, 9 referring to Solomon's house.
(20) Ibid. VI, 7 referring to the Temple.
(21) On the ephod and High Priest's breastplate.
(22) Ex. XXVIII, 11.
(23) Ibid. 20. Lit., ‘in their fullnesses’, i.e., no part of the stones may be cut away.
(24) Through the action of the Shamir the stones are split open along the written lines without any part of the stones being cut away.
(25) According to Ab. v. 9 it was one of the ten things created in the twilight of the sixth day, before the first Sabbath.
(26) Perles, Etymol. Studien, p. 51, identifies the word with the Persian parand or barand.
(27) V. B.M. (Sonc. ed.) p. 184, n. 3.
(28) Lit., congealed wine; perhaps identical with ‘wine mixed with snow (Neg. I, 2).
(29) A northern peak of Mt. Hermon mentioned in the Bible as famed for its cypresses.
(30) The dough is blessed and so increases in size. The loaves float (Zaf) in the space of the oven.
(31) There is another reading: zipya which Jastrow explains as the inner cells of the honeycomb.
(32) That bees gather honey from the hills.
(33) [Var. lec. ‘R. Joseph’, v. B.K. (Sonc. ed.) p. 9, n. 9.]
(34) The words ‘as bees do’ in Deut. I, 44.
(35) Nazir 50a.
(36) If something is poured from a clean vessel into an unclean vessel, what is in the former is not defiled by the fact that the latter is unclean.
(37) Being thick the outflow connects what is in the two vessels.
(38) Josh. XV. 24.
(39) Ps. LIV, 2 (in the E.V. it is part of the heading of the Psalm).
(40) Eliezer b. Hyrcanus.
(41) Zech. IV, 10.
(42) They do not receive their full reward.
(43) Children who died young.

Talmud - Mas. Sotah 49a

who despoil the verdict upon their fathers in the Hereafter, Saying before Him, ‘Sovereign of the Universe! Since thou art about to exact punishment of them, why hast Thou blunted their teeth?’[1]

R. Elai b. Jebarekya said: Had it not been for the prayer of David, all Israel would have been sellers of rubbish,[2] as it is stated: Grant them esteem, O Lord.[3]

R. Elai b. Jebarekya also said: Had it not been for the prayer of Habakkuk, two disciples of the Sages would have to cover themselves with one garment[4] and occupy themselves with Torah; as it is stated: O Lord, I have heard the report of Thee and am afraid; O Lord, revive Thy work in the midst of the years[5] — read not ‘in the midst of the years [bekereb shanim]’ but in the drawing together of two [bekerub shenayim].[6]

R. Elai b. Jebarekya also said: If two disciples of the Sages proceed on a journey and there are no words of Torah between them, they are deserving of being burnt with fire; as it is stated: And it came to pass, as they still went on, that, behold, a chariot of fire etc.[7] The reason [why the chariot of fire appeared] was that there was discussion [of Torah between them]; hence if there had not been such discussion, they would have deserved to be burnt.

R. Elai b. Jebarekya also said: If two disciples of the Sages reside in the same city and do not support each other in [the study of] the law, one dies and the other goes into exile;[8] as it is stated: That the manslayer might flee thither, which slayeth his neighbour without knowledge,[9] and ‘knowledge’ means nothing but Torah, as it is stated: My people are destroyed for lack of knowledge.[10]

R. Judah, son of R. Hiyya said: Any disciple of the Sages who occupies himself with Torah in poverty will have his prayer heard; as it is stated: For the people shall dwell in Zion at Jerusalem; thou shalt weep no more; He will surely be gracious unto thee at the voice of thy cry; when He shall hear, He will answer thee,[11] and it continues, And the Lord will give you bread in adversity and water in affliction.[12] R. Abbahu said: They also satisfy him from the lustre of the Shechinah, as it is stated: Thine eyes shall see thy Teacher.[13] R. Aha b. Hanina said: Neither is the veil[14] drawn before him, as it is said: ‘Thy teacher shall no more be hidden.’

RABBAN SIMEON B. GAMALIEL SAYS IN THE NAME OF R. JOSHUA:[15] FROM THE DAY THAT THE TEMPLE WAS DESTROYED, THERE IS NO DAY etc. Raba said: And the curse of each day is severer than that of the preceding, as it is stated: In the morning thou shalt say: Would God it were even! and at even thou shalt say: Would God it were morning.[16] Which morning [would they long for]? If I say the morning of the morrow, nobody knows what it will be. Therefore [it must be the morning] which had gone.[17] How, in that case, can the world endure?[18] — Through the doxology recited after the Scriptural reading,[19] and [the response of] ‘May His great Name [be blessed]’ [which is uttered in the doxology] after studying Aggada;[20] as it is stated: A land of thick darkness, as darkness itself, a land of the shadow of death, without any order.[21] Hence if there are Scriptural readings, it is illumined from the thick darkness.

THE DEW HAS NOT DESCENDED FOR A BLESSING AND THE FLAVOUR HAS DEPARTED FROM THE FRUITS etc. It has been taught: R. Simeon b. Eleazar Says: [The cessation of] purity has removed taste and fragrance [from fruits]; [the cessation of] tithes has removed the fatness of corn. R. Huna once found a juicy date which he took and wrapped in his mantle. His son, Rabbah, came and said to him, ‘I smell the fragrance of a juicy date’. He said to him, ‘My son, there is purity in thee’,[22] and gave it to him. Meanwhile [Rabbah's] son, Abba, came; [Rabbah] took it and gave it to him. [R. Huna] said to [Rabbah], ‘My son, thou hast gladdened my heart[23] and blunted my teeth’.[24] That is what the popular proverb Says, ‘A father's love is for his children; the children's love is for their own children.’ R. Aha b. Jacob reared R. Jacob, his daughter's son. When he grew up, [the grandfather] said to him, ‘Give me some water to drink’. He replied: ‘I am not thy son’.[25] That is what the popular proverb says: ‘Rear me, rear me;[26] I am thy daughter's son’.

MISHNAH. DURING THE WAR WITH VESPASIAN[27] THEY [THE RABBIS] DECREED AGAINST [THE USE OF] CROWNS WORN BY BRIDEGROOMS AND AGAINST [THE USE OF] THE DRUM.[28] DURING THE WAR OF QUIETUS[29] THEY DECREED AGAINST [THE USE OF] CROWNS WORN BY BRIDES AND THAT NOBODY SHOULD TEACH HIS SON GREEK. DURING THE FINAL WAR[30] THEY DECREED THAT A BRIDE SHOULD NOT GO OUT IN A PALANQUIN[31] IN THE MIDST OF THE CITY, BUT OUR RABBIS DECREED THAT A BRIDE MAY GO OUT IN A PALANQUIN IN THE MIDST OF THE CITY.

WHEN R. MEIR[32] DIED, THE COMPOSERS OF FABLES CEASED. WHEN BEN AZZAI[33] DIED, THE ASSIDUOUS STUDENTS [OF TORAH] CEASED. WHEN BEN ZOMA[34] DIED, THE EXPOSITORS CEASED.[35] WHEN R. AKIBA[36] DIED, THE GLORY OF THE TORAH CEASED. WHEN R. HANINA B. DOSA DIED, MEN OF DEED[37] CEASED. WHEN R. JOSE KETANTA DIED, THE PIOUS MEN CEASED; AND WHY WAS HIS NAME CALLED KETANTA? BECAUSE HE WAS THE YOUNGEST[38] OF THE PIOUS MEN.[39] WHEN R. JOHANAN B. ZAKKAI[40] DIED, THE LUSTRE OF WISDOM CEASED.[41] WHEN RABBAN GAMALIEL THE ELDER DIED, THE GLORY OF THE TORAH CEASED, AND PURITY AND ABNEGATION PERISHED. WHEN R. ISHMAEL B. FABI[42] DIED, THE LUSTRE OF THE PRIESTHOOD CEASED. WHEN RABBI DIED, HUMILITY AND FEAR OF SIN CEASED.[43] R. PHINEAS B. JAIR SAYS: WHEN [THE SECOND] TEMPLE WAS DESTROYED, SCHOLARS[44] AND NOBLEMEN WERE ASHAMED AND COVERED THEIR HEAD,[45] MEN OF DEED WERE DISREGARDED, AND MEN OF ARM AND MEN OF TONGUE[46] GREW POWERFUL. NOBODY ENQUIRES,[47] NOBODY PRAYS [ON THEIR BEHALF], AND NOBODY ASKS.[48] UPON WHOM IS IT FOR US TO RELY? UPON OUR FATHER WHO IS IN HEAVEN. R. ELIEZER THE GREAT SAYS: FROM THE DAY THE TEMPLE WAS DESTROYED, THE SAGES BEGAN TO BE LIKE SCHOOL-TEACHERS,[49] SCHOOL-TEACHERS LIKE SYNAGOGUE-ATTENDANTS, SYNAGOGUE-ATTENDANTS LIKE COMMON PEOPLE, AND THE COMMON PEOPLE

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(1) Caused them suffering in this world by our death in childhood. By this plea the bereaved parents are spared punishment.

(2) Earning a precarious livelihood.

(3) Ps. IX, 21 (E.V. ‘Put them in fear’). [‘Them’ are Israel, and the prayer is that God will bestow on them worldly goods which will secure for them the esteem of the nations.]

(4) Through poverty.

(5) Hab. III, 2.

(6) ‘Thy work’ is the study of Torah; and ‘drawing together of two’ refers to two students sharing one garment.

(7) II Kings II, 11.

(8) One being the cause of the other's death, he has, so to speak, to flee to a city of refuge; he is exiled.

(9) Deut. IV, 42.

(10) Hos. IV, 6.

(11) Isa. XXX, 19. The people dwelling in Zion symbolise students of Torah.

(12) Ibid. 20 sic.

(13) Ibid. ‘Teacher’ is applied to God.

(14) Hiding the glory of God from man.

(15) The wording in the Mishnah is: R. Joshua testified.

(16) Deut. XXVIII, 67.

(17) Because yesterday was less severe than today. Therefore they longed for its return.

(18) If every day is worse than the preceding day.

(19) [Kidushah-de-Sidra. Lit., ‘the doxology of the order’. This name is given to the passage recited at the conclusion of the morning service which begins ‘And a Redeemer shall come unto Zion’ (v. P.B. p. 73) and which consists of Scriptural verses including the doxology in Hebrew and Aramaic. It was designed according to Rashi to take the place of the daily study of the law which is enjoined upon every Jew. For other explanations v. Abrahams, I., Companion to the Daily Prayer Book, p. LXXXIII.]
(20) V. p. 197, n. 1.
(21) Job X, 22. The word for ‘order’ is the same as that for the Scriptural reading.
(22) For that reason he was able to smell its fragrance.
(23) With his purity.
(24) By displaying more love for the son than the father, because he gave him the date.
(25) He claimed that the duty of honouring parents did not apply to grandparents, although he had been reared by him.
(26) And yet I have not the duty of a son.
(27) Which ended in the destruction of the second Temple.
(28) At wedding festivities.
(29) The text has Titus; but Neubauer's Mediaeval Jewish Chronicles, II p. 66 has the correct reading. Quietus was a Moorish prince, appointed by Trajan to command the army which overran Babylon in 116 C.E.
(30) Rashi explains: when the Temple was destroyed. More probably it refers to the last stand against Rome under Bar Kochba in 135 C.E.
(31) In which she was conveyed to her husband's house.
(32) He was renowned for his fables, V. Sanh, 38b.
(33) He was wedded to the Torah. V. supra p. 15.
(34) He was a famous expositor. V. Ber. 12b.
(35) [The text of the separately printed Mishnah adds: WHEN R. JOSHUA DIED, GOODNESS DEPARTED FROM THIS WORLD. WHEN R, SIMEON B. GAMALIEL DIED, THE LOCUST CAME AND TROUBLE INCREASED. WHEN R. ELEAZAR B. AZARIAH DIED, WEALTH DEPARTED FROM THE SAGES.]
(36) He studied every letter of the Torah and derived ideas from every peculiarity of expression.
(37) The phrase has been variously interpreted. V. Buchler, Some Types of Jewish-Palestinian Piety, pp. 79ff, He explains it as men who devoted their lives to deeds of loving kindness.
(38) I.e., the last of them. There is no other mention of him in Rabbinic literature.
(39) [J. B.K. III, makes him identical with Jose the Babylonian, the son of Akabia b. Mahalaliel. V. Derenbourg. Essai, p. 483.]
(40) His disciples called him ‘the lamp of Israel’. V. Br. 28b.
(41) [On the wide sweep of his knowledge embracing the whole gamut of sciences known in his day v. B.B. 134a.]
(42) Appointed High Priest by Agrippa II in 59 C.E. He was executed in Cyrene after the destruction of the Temple (Josephus, War VI, II, 2.).
(43) Since Rabbi (Judah I, the Prince) was the redactor of the Mishnah, this paragraph is clearly a later addition. V. Bacher, Agada der Tannaiten, II, p. 222, n. 4.
(44) Haberim, v, Glos.
(45) Through the insolence of inferior Persons who grew powerful.
(46) Demagogues.
(47) Concerning Israel's plight.
(48) About the welfare of his neighbour.
(49) They deteriorated in quality.

Talmud - Mas. Sotah 49b

BECAME MORE AND MORE DEBASED; AND THERE WAS NONE TO ASK, NONE TO INQUIRE. UPON WHOM IS IT FOR US TO RELY? UPON OUR FATHER WHO IS IN HEAVEN. IN THE FOOTSTEPS OF THE MESSIAH[1] INSOLENCE WILL INCREASE AND HONOUR DWINDLE;[2] THE VINE WILL YIELD ITS FRUIT [ABUNDANTLY] BUT WINE WILL BE DEAR;[3] THE GOVERNMENT WILL TURN TO HERESY[4] AND THERE WILL BE NONE [TO OFFER THEM] REPROOF; THE MEETING-PLACE [OF SCHOLARS] WILL BE

USED FOR IMMORALITY; GALILEE WILL BE DESTROYED, GABLAN[5] DESOLATED, AND THE DWELLERS ON THE FRONTIER WILL GO ABOUT [BEGGING] FROM PLACE TO PLACE WITHOUT ANYONE TO TAKE PITY ON THEM; THE WISDOM OF THE LEARNED[6] WILL DEGENERATE, FEARERS OF SIN WILL BE DESPISED, AND THE TRUTH WILL BE LACKING; YOUTHS WILL PUT OLD MEN TO SHAME, THE OLD WILL STAND UP IN THE PRESENCE OF THE YOUNG, A SON WILL REVILE HIS FATHER, A DAUGHTER WILL RISE AGAINST HER MOTHER, A DAUGHTER-IN-LAW AGAINST HER MOTHER-IN-LAW, AND A MAN'S ENEMIES WILL BE THE MEMBERS OF HIS HOUSEHOLD;[7] THE FACE OF THE GENERATION WILL BE LIKE THE FACE OF A DOG,[8] A SON WILL NOT FEEL ASHAMED BEFORE HIS FATHER. SO UPON WHOM IS IT FOR US TO RELY? UPON OUR FATHER WHO IS IN HEAVEN.

GEMARA. Rab said: [The decree against the use of a crown] applies only to one made of salt and brimstone,[9] but if made of myrtle or roses it is permitted; and Samuel said: Also one made of myrtle or roses is prohibited, but if made of reeds or rushes it is permitted; and Levi said: Also one made of reeds or rushes is prohibited. Similarly taught Levi in his Mishnah:[10] It is also prohibited if made of reeds or rushes.

AND AGAINST [THE USE OF] THE DRUM [IRUS]. What means IRUS? — R. Eleazar said: A drum with a single bell.[11] Rabbah b. R. Huna made a tambourine for his son; his father came and broke it, saying to him, ‘It might be substituted for a drum with a single bell. Go, make for him [an instrument by stretching the skin] over the mouth of a pitcher or over the mouth of a kefiz’.[12]

DURING THE WAR OF QUIETUS THEY DECREED AGAINST [THE USE OF] CROWNS WORN BY BRIDES etc. What means ‘crowns worn by brides’? — Rabbah b. Bar Hanah said in the name of R. Johanan: A [miniature] golden city.[13] There is a teaching to the same effect: What are ‘crowns worn by brides’? — A golden city. But one may make a cap for her out of fine wool. A Tanna taught: They also decreed against [the use of] the canopy of bridegrooms. What means ‘canopy of bridegrooms’? — Crimson silk embroidered with gold. There is a teaching to the same effect. The canopy of bridegrooms is crimson silk embroidered with gold. But we may make a framework of laths and hang on it anything one desires.

AND THAT NOBODY SHOULD TEACH HIS SON GREEK. Our Rabbis taught: When the kings of the Hasmonean house fought one another,[14] Hyrcanus was outside and Aristobulus within. Each day[15] they used to let down denarii in a basket, and haul up for them [animals for] the continual offerings. An old man there, who was learned in Greek wisdom,[16] spoke with them[17] in Greek,[18] saying: ‘As long as they carry on the Temple-service, they will never surrender to you’. On the morrow they let down denarii in a basket, and hauled up a pig.[19] When it reached half way up the wall, it stuck its claws [into the wall] and the land of Israel was shaken over a distance of four hundred parasangs. At that time they declared,- ‘Cursed be a man who rears pigs and cursed be a man who teaches his son Greek wisdom!’ Concerning that year we learnt that it happened that the ‘omer[20] had to be supplied from the gardens of Zarifim and the two loaves from the valley of En-Soker.[21] But it is not so![22] For Rabbi said: Why use the Syrian language in the land of Israel? Either use the holy tongue or Greek! And R. Joseph said: Why use the Syrian language in Babylon? Either use the holy tongue or Persian! — The Greek language and Greek wisdom are distinct.[23] But is Greek philosophy forbidden? Behold Rab Judah declared that Samuel said in the name of Rabban Simeon b. Gamaliel, What means that which is written: Mine eye affecteth my soul, because of all the daughters of my city?[24] There were a thousand pupils in my father's house; five hundred studied Torah and five hundred studied Greek wisdom, and of these there remained only I here and the son of my father's brother in Assia![25] — It was different with the household of Rabban Gamaliel because they had close associations with the Government;[26] for it has been taught: To trim the hair in front[27] is of the ways of the Amorites;[28] but they permitted Abtilus b. Reuben[29] to trim his hair in front because he had close associations with the Government. Similarly they permitted the household of Rabban Gamaliel to study Greek wisdom because they had close associations with the Government.

DURING THE FINAL WAR THEY DECREED THAT A BRIDE SHOULD NOT GO OUT IN A PALANQUIN etc. Why? — For reasons of chastity.[30]

WHEN RABBAN JOHANAN [B. ZAKKAI] DIED, [THE LUSTRE OF] WISDOM CEASED. Our Rabbis taught: When R. Eliezer died, the Torah-scroll was hidden away.[31] When R. Joshua died, counsel and thought ceased.[32] When R. Akiba died, the arms of the Torah ceased and the fountains of wisdom were stopped up. When R. Eleazar b. Azariah died, the crowns of wisdom ceased, because the crown of the wise is their riches.[33] When R. Hanina b. Dosa died, men of deed ceased. When Abba[34] Jose b. Ketanta died, the pious men ceased; and why was his name called Abba Jose b. Ketanta? Because he was the youngest of the pious men. When Ben Azzai died, the assiduous students [of Torah] ceased. When Ben Zoma died, the expositors ceased. When Rabban Simeon b. Gamaliel died, locusts[35] came up and troubles increased. When Rabbi died, troubles were multiplied twofold.

WHEN RABBI DIED, HUMILITY AND FEAR OF SIN CEASED. R. Joseph said to the tanna,[36] Do not include [when reciting this Mishnah] the word ‘humility’, because there is I.[37] R. Nahman said to the teacher, Do not include ‘fear of sin’, because there is I.[38]

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(1) Just before his advent.

(2) Jast. renders; the nobility shall be oppressed. In Sanh. 97a there is a variant: honour will be perverted; or, according to Jast. the nobility will pervert (justice).

(3) Through the spread of drunkenness.

(4) These words are omitted in the Talmud ed. of the Mishnah. The meaning is: The Roman Empire will go over to Christianity. V. Herford, op. cit., p. 207.

(5) Perhaps Gebal of Ps. LXXXIII, 8, i.e., the Northern part of Mount Seir. [Others: Gaulan, E. of the Sea of Galilee and the Upper Jordan.]

(6) Lit., ‘scribes’.

(7) V. Micah VII, 6.

(8) Impervious to shame. [In some editions the whole of this passage beginning ‘R. Phineas b. Jair’ is introduced with ‘Our Rabbis taught’, and not as part of the Mishnah.]

(9) Rashi explains that it was a crown cut out of a block of salt upon which figures were traced with brimstone.

(10) His own collection of traditional teachings.

(11) Lit., ‘mouth’.

(12) A vessel of the capacity of three log.

(13) According to Shab. 59a a golden crown designed in the form of Jerusalem. V. Krauss. Tal. Arch., I, p. 662 n. 961.

(14) The allusion is to the struggle between the two sons of Alexander Jannaeus, Hyrcanus had the assistance of the Romans who besieged Jerusalem.

(15) According to Josephus Ant. XIV, II, 2, this demand for animals was for the Passover only.

(16) [Sophistry, v, Graetz, Geschichte. III, 710ff.]

(17) He was in Jerusalem and addressed his words to the besiegers. He spoke in Greek because the people in the city did not understand it.

(18) Lit., ‘in great wisdom’.

(19) In Josephus’ version, they took the money but sent up no animals. So the men in Jerusalem ‘prayed to God that He would avenge them on their countrymen. Nor did He delay that punishment, but sent a strong and vehement storm of wind that destroyed the fruits of the whole country.’

(20) The sheaf of the first fruits and the meal-offering of two tenth parts of an ephah (Lev. XXIII, 10, 13) should consist of produce grown in the vicinity of Jerusalem. But that year the surroundings were devastated and the produce had to be brought from distant places.

(21) For further notes on this passage v. B.K. (Sonc. ed.) pp. 469ff.

(22) That it is forbidden to teach Greek.

(23) The language is permitted but not the wisdom,

(24) Lam. III. 51.

(25) So Greek wisdom was studied by Rabban Gamaliel's pupils. Assia was a town east of the lake of Tiberias, v. Sanh. (Sonc. ed.) p. 151, n, 1.

(26) An exception was made in their case.

(27) Forming a fringe on the forehead and letting the curls hang down over the temples. V. Krauss, op. cit., I. p, 647 n. 845.

(28) A heathenish practice which is forbidden.

(29) Nothing more is recorded of him in Rabbinic literature.

(30) There was danger of her being attacked.

(31) A tribute to his great learning.

(32) He was a protagonist of Judaism against heathen attacks. V. Hag. 5b.

(33) Prov. XIV, 24. He was extremely wealthy. V. Shab. 54b.

(34) Abba, ‘father’, was a title of affection given to a number of Rabbis.

(35) Some understand this literally; others see a reference to exacting tax-gatherers who despoiled the people. [The reference is said to be to R. Simeon II b. Gamaliel II, (the father of Rabbi) and to the plague of locusts and pestilence that broke out in the year 164 C.E. — about the time of his death. V. Kerem Chemed IV, p. 220.]

(36) Who conveyed his teaching to the students, v. Glos. s.v. (b).

(37) He claimed to be humble, [V. Hor. (Sonc. ed.) p. 105.]

(38) [In the separate printed editions of the Mishnah there follows: R. PHINEAS B. JAIR USED TO SAY: HEEDFULNESS LEADS TO CLEANLINESS; CLEANLINESS LEADS TO PURITY; PURITY LEADS TO ABSTINENCE; ABSTINENCE LEADS TO HOLINESS; HOLINESS LEADS TO HUMILITY; HUMILITY LEADS TO FEAR OF SIN; FEAR OF SIN LEADS TO SAINTLINESS; SAINTLINESS LEADS TO (THE POSSESSION) OF THE HOLY SPIRIT; THE HOLY SPIRIT LEADS TO THE RESURRECTION OF THE DEAD; AND THE RESURRECTION OF THE DEAD COMETH THROUGH ELIJAH OF BLESSED MEMORY, AMEN. On this passage which has been named the Saint's Progress, v. A.Z., 20b. (Sonc. ed.) p. 106.]

Talmud - Mas. Gittin 2a

C H A P T E R I

MISHNAH. THE BEARER OF A BILL OF DIVORCE [GET] FROM [A HUSBAND IN] FOREIGN PARTS[1] [TO THE LAND OF ISRAEL] IS REQUIRED TO DECLARE [ON PRESENTING IT TO THE WIFE]. ‘IN MY PRESENCE IT WAS WRITTEN AND IN MY PRESENCE IT WAS SIGNED.’ RABBAN GAMALIEL SAYS: [THIS DECLARATION IS] ALSO [REQUIRED] IF HE BRINGS IT FROM REKEM OR FROM HEGAR.[2] R. ELEAZAR SAYS: EVEN IF HE BRINGS IT FROM KEFAR LUDIM TO LUD.[3] THE SAGES, HOWEVER, SAY THAT THE DECLARATION ‘IN MY PRESENCE IT WAS WRITTEN AND IN MY PRESENCE IT WAS SIGNED’ IS REQUIRED ONLY FROM ONE WHO BRINGS A BILL OF DIVORCE [FROM FOREIGN PARTS TO THE LAND OF ISRAEL] OR WHO TAKES IT [FROM THE LAND OF ISRAEL TO FOREIGN PARTS].[4] THE BEARER [OF SUCH A DOCUMENT] FROM ONE PROVINCE TO ANOTHER IN FOREIGN PARTS IS ALSO REQUIRED TO DECLARE, IN MY PRESENCE IT WAS WRITTEN AND IN MY PRESENCE IT WAS SIGNED.’ RABBAN SIMEON B. GAMALIEL SAYS IT IS REQUIRED EVEN IF HE TAKES IT FROM ONE GOVERNORSHIP[5] TO ANOTHER. R. JUDAH SAYS: [FOREIGN PARTS EXTEND] FROM REKEM EASTWARDS, REKEM BEING INCLUDED; FROM ASKELON SOUTHWARDS, ASKELON INCLUDED; AND FROM ACCO[6] NORTHWARDS, ACCO INCLUDED. R. MEIR, [HOWEVER,] HELD THAT ACCO COUNTS AS ERETZ ISRAEL IN THE MATTER OF BILLS OF DIVORCE. THE BEARER OF A BILL OF DIVORCE [FROM ONE PLACE TO ANOTHER] IN THE LAND OF ISRAEL IS NOT REQUIRED TO DECLARE, ‘IN MY PRESENCE IT WAS WRITTEN AND IN MY PRESENCE IT WAS SIGNED;’ IF ITS VALIDITY IS CHALLENGED IT MUST BE ESTABLISHED THROUGH THE SIGNATURES.[7] GEMARA.

What is the reason [for this requirement]? Rabbah Says:

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(1) Lit., ‘province of the sea’: a name given to all countries outside of Palestine and Babylonia.

(2) The Biblical Kadesh and Bared (Gen. XVI, 14), on the southern border of Palestine, [v. Targum Onkelos loc. cit. Josephus (Ant. IV. 7, 1) who names the place Arekem (cf. הרקם in our Mishnah) identifies it with Petra. Hegar is identified by Hildesheimer, Beitrage zur Geographie Palastinas (pp. 53 and 68) with the wilderness of Shur on the South-western Palestine border of Egypt].

(3) Lydda. Two neighbouring places on opposite sides of the border. [Kefar Ludim was about two hours walking distance from Lud on the north-west, v. Kaftorhwa-Ferah (Luncz ed.) p. 128].

(4) The point of this remark is discussed infra 4b.

(5) GR. **. V. infra 4b.

(6) The modern Acre.

(7) I.e., by bringing proof that the signatures are authentic.

Talmud - Mas. Gittin 2b

It is because [the Jews in foreign parts] are [for the most part] ignorant of the rule of ‘special intention’.[1] Raba says: It is because it is not easy to find witnesses who can confirm the signatures.[2] What difference does it make [in practice] which reason we adopt? — [It does] in the case where the Get has been brought by two persons;[3] or again, where it has been taken from one province to another in the Land of Israel;[4] or again, from one place to another in the same foreign country.[5] Seeing that Rabbah's reason is that Jews abroad are ignorant of the rule of ‘special intention’, why does he not require that the Get should be brought by two bearers, so as to bring this case into line with the general rule of the Torah regarding evidence?[6] — One witness is sufficient where the question at issue is a ritual prohibition.[7] But presumably the rule that one witness is sufficient where the question at issue is a ritual prohibition applies for instance to the case of a piece of fat of which we do not know whether it is permitted or forbidden, there being no prima facie ground for declaring it prohibited. Here, however, since there is prima facie ground for assuming the prohibition regarding a married woman,[8] the question becomes one of prohibited sex relationship, and for disproving such a relationship the evidence of two witnesses is required?[9] — Most [of the Jews abroad] are acquainted [with the rule of ‘special intention’].[10] And even if, following the practice of R. Meir, we take account of the exceptions, [it will make no difference.] for most of the scribes of the Beth din know the law, and it was the Rabbis who [on their own authority] insisted [on this declaration], and in this case,

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(1) לשמה Lit., ‘for her name’: the rule that the Get must from its inception have been intended expressly for that woman.

(2) In case the husband comes and questions the validity of the Get, and the declaration of the bearer is regarded as an authentication of the signatures by two witnesses.

(3) Rabbah would still require the declaration, Raba not.

(4) Here Raba would require the declaration, Rabbah not.

(5) Here Rabbah would require the declaration, Raba not.

(6) By the mouth of two witnesses a matter shall be established, Deut. XIX, 15.

(7) As opposed to a pecuniary liability.

(8) Since the recipient of the Get is a married woman she is prima facie (until we know that the Get is valid) forbidden to all other men.

(9) V. Sot. 3.

(10) Hence we do not suspect the husband of having broken this rule.

Talmud - Mas. Gittin 3a

on account of the danger of the woman becoming a ‘deserted wife’, those [same] Rabbis made a concession[1] [by allowing one bearer to suffice]. You call this a concession? It is rather a hardship. since if you require that the Get should be brought by two [bearers], there is no danger of the husband coming and challenging it[2] and getting it declared invalid; but if only one is required, he will be able to do so? — No. You know what a Master has told us:[3] [‘On the question] how many persons must be present when he [the bearer] gives [the writ] to her [the wife], there was a difference of opinion between R. Johanan and R. Haninah, one holding that [at least] two were required, and the other that [at least] three.’ This being so, [the bearer] will make sure [of the husband's intentions] from the first, and [the husband] will not come [and invalidate the Get] and bring himself into trouble later.[4] Since Raba's reason is that it is not easy to find witnesses to confirm the signatures, why does not he also require two [bearers]. so as to bring this document into line with all others [which may require such confirmation]? — One witness is sufficient where the question at issue is a ritual prohibition. But presumably the rule that one witness is sufficient where the question at issue is a ritual prohibition applies for instance to the case of a piece of fat of which we do not know whether it is permitted or forbidden, there being no prima facie ground for declaring it prohibited. Here, however, since there is prima facie ground for assuming the prohibition regarding a married woman, the question becomes one of prohibited sex relationship, and for disproving such a relationship the evidence of two witnesses is required? — By rights no witnesses should be required for confirming [the signature on] other documents[5] either, as may be inferred from the dictum of Resh Lakish, that signatures of witnesses to a document are just as reliable as if their evidence had been sifted in the Beth din. It is the Rabbis who on their own authority insisted [on two witnesses for this], and here on account of the danger of the woman becoming a ‘deserted wife’, these [same] Rabbis made a concession. You call this a concession? It is rather a hardship, since if you require that the Get should be brought by two bearers, there is no danger of the husband coming and challenging it and getting it declared invalid; but if only one is required, he will be able to do so? — No. You know what a certain Master has told us: [‘On the question] how many persons must be present when he gives her the Get, there was a difference of opinion between R. Johanan and R.

Haninah, one holding that [at least] two were required and the other [at least] three.’ This being so, the bearer will make sure of the husband's intentions, and [the husband] will not come [and invalidate the Get] and bring himself into trouble later.

Why did not Raba give the same reason that Rabbah gave? — He will tell you: Does the Mishnah then require him to declare, ‘In my presence it was written in her name, in my presence it was signed in her name’? And Rabbah? — He might retort that by rights the formula ought to run thus, and the reason why it does not is because if you give the bearer too many words to say, he will leave out some. As it is he may leave something out? — He might omit one word out of three,[6] he will hardly omit one word from two.[7]

Why did not Rabbah give the reason which Raba gave? — He will tell you: If this were the reason the Mishnah should require the bearer to declare simply, ‘In my presence it was signed’ and no more, the fact that he has also to say, ‘In my presence it was written’ shows that ‘Special intention’ is required. And Raba? — He might retort that by rights the formula should run thus, but if it did the impression might be created that the confirmation of signatures to documents in general requires only one witness. And Rabbah? — He might rejoin that the two cases[8] are not similar. There the formula is, ‘We know [this to be So-and-so's signature],’ here it is, ‘In my presence etc.’; there a woman is debarred,[9] here a woman is not debarred;[10] there the party concerned[11] is debarred, here the party concerned is not debarred.[12] And Raba? — He could rejoin that here also if [the bearer] says ‘I know etc.’ his word is accepted, and since this is so there is a danger[13] of creating the impression that confirmation of signatures to documents in general requires only one witness.

According to Rabbah, as we have seen, the reason [for requiring the declaration] is that [Jews outside the Land of Israel] are not familiar with the rule of ‘special intention’. [Assuming that this is so,] who is the authority that requires the Get to be both written

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(1) To enable her to remarry.

(2) Finding some flaw in the drafting or procedure.

(3) Infra 5b.

(4) [Lit., ‘do injury’ to himself (i.e., to his reputation). He realises that no attack against the validity of the Get is likely to be admitted merely on his own word so as to reverse the decision of the two or three before whom it had been presented. V. Rashi and Adreth, Hiddushim a.l., and infra p. 14, n. 2.]

(5) I.e., relating to money matters.

(6) If he says ‘In my presence it was written in her name’ which in Hebrew is expressed in three words.

(7) The formula in the Mishnah is expressed in two Hebrew words.

(8) The case of a Get and the case of documents in general.

(9) From attesting.

(10) V. infra 23b.

(11) The party claiming on the document.

(12) Because a woman may act as bearer of her own Get. Infra 23b.

(13) If he says only, ‘In my presence it was signed’.

Talmud - Mas. Gittin 3b

and signed with special reference to that woman? It cannot be R. Meir, for he requires only that it should be signed, but not that it should be written with this intention, as we learn:[1] ‘A Get must not be written on something still attached to the soil. If it was written on something still attached to the soil, then torn off, signed and given to the woman, it is valid.’[2] Nor again can it be R. Eleazar, for [as we know] R. Eleazar requires that it should be written but not necessarily that it should be signed with ‘special intention’.[3] Nor can you maintain that after all it is R. Eleazar, and that in saying that ‘special intention’ is not required, he means ‘not required by the Torah’, but he admits that it is required by the Rabbis. This cannot be; for there are three kinds of Get [which the Rabbis have declared invalid, though they are not invalid according to the Torah], and R. Eleazar does not include among them one which has not been signed with ‘special intention’, as appears from the following Mishnah:[4] Three kinds of Get are invalid, but if a woman marries on the strength of one of them, the child is legitimate. [One,] if the husband wrote it with his own hand but it was attested by no witnesses; [a second,] if there are witnesses to it but no date; [a third,] if it has a date but the signature of only one witness. These three kinds of Get are invalid, but if the woman remarries on the strength of one of them, the child is legitimate. R. Eleazar says that even though it was not attested by witnesses at all, so long as he gave it to her in the presence of witnesses it is valid, and on the strength of it she may recover her kethubah from mortgaged property, since signatures of witnesses are required to a Get only as a safeguard.[5] Are we to say then that after all R. Meir is the authority, and that he dispenses with ‘special intention’ only as a requirement of the Torah but not as a requirement of the Rabbis? How can this be, in view of what we have been told by R. Nahman, that R. Meir used to rule that even if the husband found a Get ready written on a rubbish heap

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(1) Infra 21b.

(2) Which shows that if the signing is in order, the writing does not matter.

(3) Because according to R. Eleazar, it is not necessary that the Get should be signed at all.

(4) V. infra 86a.

(5) This shows that R. Eleazar does not require the Get to be signed with ‘special intention’.

Talmud - Mas. Gittin 4a

and signed it and gave it to her, it is valid? Nor can you say that this ruling means ‘valid as far as the Torah is concerned,’ for in that case R. Nahman should have said not, ‘R. Meir used to rule,’ but ‘It is a rule of the Torah’? — After all, we come back to the opinion that R. Eleazar was the authority, and [we say that] where he dispenses with the requirement of ‘special intention’ is in the case where there are no witnesses at all, but if [the Get] is signed, it must be signed with such intention. This accords with the statement of R. Abba, that R. Eleazar admitted that a Get which contains a flaw in itself[1] is invalid.

R. Ashi said: Shall I tell you who the authority [of the Mishnah] is? It is R. Judah, as shown by the following Mishnah: R. Judah declares the Get invalid unless it has been both written and signed on something not attached to the soil.[2] Why did we not at the outset declare R. Judah to be the authority? — We tried if possible [to base ourselves on the authority of] R. Meir because, where a Mishnah is stated anonymously [its author is] R. Meir.[3] We also try if possible [to base ourselves on the authority of] R. Eleazar, because it is generally agreed that his ruling is decisive in questions of writs of divorce.

Our Mishnah says: RABBAN GAMALIEL SAYS, THE DECLARATION MUST ALSO BE MADE BY ONE WHO BRINGS A GET FROM REKEM AND FROM HEGAR. R. ELEAZAR SAYS, EVEN IF HE BRINGS IT FROM KEFAR LUDIM TO LUD. [Commenting on this passage,] Abaye said that it refers to places adjoining[4] the Land of Israel and to places within the ambit of[5] the Land of Israel.[6] Rabbah b. Bar Hanah said: I have myself seen that placed and am able to state that the distance[7] is the same as from Be Kubi to Pumbeditha. Now [from the words of the Mishnah just quoted] we infer that the first Tanna[8] was of opinion that in these cases the declaration was not necessary. May we assume that the point of divergence between them is that one authority[9] holds that the reason why the declaration is required is because [Jews outside of the Land of Israel] are not familiar with the rule of ‘special intention’, and he excepts [the Jews of] these places because they are familiar,[10] whereas the other authority[11] holds that the reason [why the declaration is required] is because it is not easy to find witnesses to confirm the signatures, and he [includes the Jews of] these places because here too it is not easy?[12] — No. Rabbah can account for the difference in his way and

Raba in his way. Rabbah can account for it thus: All the authorities are agreed that the reason for requiring the declaration is because of the unfamiliarity [of the Jews outside Eretz Israel] with the rule of ‘special intention’, and the point of divergence between them is that the first Tanna is of opinion that in these places on account of their proximity to Eretz Israel the Jews are familiar with the rule, whereas Rabban Gamaliel held that this was so only in the case of places which lay within the ambit of Eretz Israel but not in those which merely adjoined it, and R. Eleazar would not allow it to be so even in the case of places which lay within the ambit, no distinction being made among places which belong to ‘foreign parts’. Raba accounts for the difference thus: All the authorities are agreed that the reason for requiring the declaration is because it is not easy to find witnesses to confirm the signatures, and the point of divergence between them is that the first Tanna is of opinion that in these places, on account of their proximity to the Land of Israel, it is easy to find witnesses, whereas Rabban Gamaliel held that this was so only in places which lie within the ambit of Eretz Israel, but not in those which only adjoin it, and R. Eleazar would not allow it to be so even in places lying within the ambit, as no distinction is to be made among places which belong to ‘foreign parts’.

Our Mishnah says: [THE SAGES SAY] THE DECLARATION, ‘IN MY PRESENCE IT WAS WRITTEN AND IN MY PRESENCE IT WAS SIGNED IS REQUIRED ONLY FROM ONE WHO BRINGS A GET FROM FOREIGN PARTS AND FROM ONE WHO TAKES IT THERE. We infer from this that in the opinion of the first Tanna the bearer [of a bill of divorce] to foreign parts is not required to make the declaration. May we assume that the point of divergence between the two authorities is that one holds that the reason why the declaration is required is because [Jews in foreign parts] are not familiar with the rule of ‘Special intention’,

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(1) E.g., a wrong date, a wrong signature, etc.

(2) Infra 21b.

(3) V. Sanh. 86a.

(4) I.e., Rekem and Hegar.

(5) Lit., ‘swallowed in’.

(6) I.e., Kefar Ludim. This place, though outside the boundary, would lie within a straight line drawn between two other places on the boundary, and so is said to be ‘swallowed’ in the Land of Israel.

(7) From Kefar Ludim to Lud.

(8) The authority for the first clause in the Mishnah.

(9) The first Tanna and R. Gamaliel.

(10) Being in the neighbourhood of Palestine.

(11) R. Eleazar.

(12) Because there is no commercial intercourse between the two places. (Rashi).

Talmud - Mas. Gittin 4b

and he excepts the bearer of a Get from Eretz Israel because there they are familiar, whereas the other authority held the reason to be because it is not easy to find witnesses to confirm the signatures, and this applies to ‘foreign parts’ also? — No. Rabbah[1] can account for the difference in his way and Raba in his way. Rabbah explains thus: Both authorities are agreed that the reason for requiring the declaration is because of the unfamiliarity [of the Jews outside Eretz Israel] with the rule of ‘special intention’, and where they diverge is on the question whether we extend the obligation properly meant for the bearer from foreign parts to the bearer to foreign parts, one holding that we do make this extension, the other that we do not. Raba explains thus: Both authorities agree that the reason for requiring the declaration is because it is not easy to find witnesses to confirm the signatures, and the Rabbis mentioned in the second clause merely made explicit what was in the mind of the first Tanna.

Our Mishnah says: THE BEARER OF A GET FROM ONE PROVINCE TO ANOTHER IN

FOREIGN PARTS IS REQUIRED TO DECLARE, ‘IN MY PRESENCE IT WAS WRITTEN AND IN MY PRESENCE IT WAS SIGNED’; from which we infer that if he takes it from one place to another in the same province ‘in foreign parts’. he need not make the declaration. This conforms with the view of Raba but conflicts with that of Rabbah, [does it not]? — No. You must not infer [that if the Get is taken] from one place to another in the same province ‘in foreign parts’, the declaration is not required. What you have to infer is that if it is taken from one province to another in the Land of Israel the declaration is not required. But this is stated distinctly in the following clause of the Mishnah: THE BEARER OF A GET [FROM ONE PLACE TO ANOTHER] IN THE LAND OF ISRAEL IS NOT REQUIRED TO DECLARE, ‘IN MY PRESENCE IT WAS WRITTEN AND IN MY PRESENCE IT WAS SIGNED’! — If I had only that to go by I should say that while this omission does not invalidate the Get retroactively. It is not permissible in the first instance; now I know that this is also the case.[2]

The objection here raised is also stated in the following form: I infer that the bearer of a Get from one province to another in the Land of Israel is not required to make the declaration. This is in conformity [is it not] with the view of Rabbah but conflicts with that of Raba? — You must not infer that [if it is taken] from one province to another in the Land of Israel the declaration is not required. The proper inference to draw is that it is not required from the bearer from one part to another of the same country in foreign parts. What then? From the bearer from one province to another in the Land of Israel it is required? Then it would be sufficient for the Mishnah to say, ‘The bearer of a Get from one province to another’ [without mentioning ‘foreign parts’]? — The fact is that it is not necessary for the bearer from one province to another in the Land of Israel either,[3] since on account of the festival pilgrimages [to Jerusalem] it is always possible to find witnesses. This may have been a good reason so long as the Temple was standing, but what of the time when there is no Temple? — Since there are [Jewish law] courts regularly established, witnesses can always be found.

We have learnt: Our Mishnah says: RABBAN SIMEON BEN GAMALIEL SAYS, EVEN THE BEARER FROM ONE GOVERNORSHIP TO ANOTHER, and commenting on this R. Isaac said that there was a certain city in Eretz Israel, ‘Assasioth by name,[4] in which were two Governors at variance with each other,[5] and that is why the Mishnah had to put in the clause ‘from governorship to governorship’. Now this ruling conforms with the view of Raba, [does it not,] but conflicts with that of Rabbah? — Rabbah accepts Raba's reason also.[6] Where then does a difference arise between them in practice? — If the Get was brought by two bearers, or if it was brought from one place to another in the Same province in a ‘foreign country’.[7]

We have learnt: Where the bearer of a Get from foreign parts is not able to declare, ‘in my presence it was written and in my presence it was signed’, if the Get has been signed by witnesses, its validity can be established through the signatures.[8] We were perplexed by the expression, ‘is unable to say’.

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(1) .

(2) .

(3) And yet this does not conflict with the view of Raba.

(4) [Horowitz, I. Palestine p. 63 identifies it with Essa, east of the Lake Kinnereth, which was in his view divided into two governorships, Essa and Gerasa.]

(5) So that there was no intercourse between them.

(6) So that Rabbah requires the declaration to be made in all cases in which Raba requires it, but not vice versa.

(7) In both of which cases Rabbah requires the declaration to be made but Raba does not.

(8) Infra 9a.

Talmud - Mas. Gittin 5a

Shall we say it refers to a deaf-mute? But can a deaf-mute be the bearer of a Get, seeing that we learn, ‘All persons are qualified to be bearers of a Get except a deaf-mute, a lunatic, and a minor’? And this difficulty was solved by R. Joseph, who said that we are dealing here with a case in which he gave the woman the Get while he was still in possession of his faculties, but before he could say the formula was struck deaf and dumb. Now this conforms with the view of Raba, [does it not,] but conflicts with that of Rabbah?[1] — [This Mishnah was formulated] after the rule [of ‘special intention’] had become generally known. If that is the case, even if the bearer is able to repeat the formula, [what need is there for him to do so]? — This was a precaution in case there is a return of the abuse. If that is the case, even if the bearer is not able to repeat the formula [it should still be required]? — For a man to be suddenly struck dumb is an exceptional occurrence, and the Rabbis did not take precautions against such exceptional cases. [Is that so?] For a woman to be the bearer of her own Get is very exceptional, and yet we learn:[2] The wife can act as bearer of her own Get [to a specified Beth din], and she is equally required to declare, ‘In my presence it was written and in my presence it was signed’? — The reason for this is to avoid making any distinction between bearer and bearer. If that is so, the same rule [should apply to the] husband; why then has it been taught: If the husband brings the Get personally, he is not required to declare, ‘In my presence it was written and in my presence it was signed’? — The reason why the Rabbis insisted on this declaration in the first instance was to provide against the danger of the husband coming to challenge and invalidate the Get. In this case, seeing that he brings it himself, is it conceivable that he should raise objections against it?

Come and hear: Samuel put the following question to R. Huna: If a Get is brought from foreign parts by two bearers, are they required to declare, ‘In our presence it was written and in our presence it was signed’, or are they not? And [R. Huna] answered that they are not required, because should they declare, ‘In our presence he divorced her,’ would their word not be accepted? This conforms, [does it not,] with the view of Raba and conflicts with that of Rabbah? — This Mishnah was formulated after the rule [of ‘special intention’] had become generally known. If that is so, even if there is only one bearer, [the declaration should not be required]? — This was a precaution in case there is a recurrence of the abuse. If that is so, the same precaution should be taken when there are two bearers? — For a Get to be brought by two persons is exceptional, and the Rabbis did not take precautions against exceptional cases. [Is this so?] For a woman to be the bearer of her own Get is very exceptional, and yet we learn: The wife can act as bearer of her own Get, but she is equally required to declare, ‘In my presence, etc.’? — The reason for this is to avoid making any distinction between bearer and bearer. If that is so, the same rule should apply to the husband; why then is it taught, If the husband brings the Get personally, he is not required to declare, ‘In my presence, etc.’? — The reason why the Rabbis insisted on this declaration in the first instance was to provide against the danger of the husband coming to challenge and invalidate the Get. In this case, seeing that he brings it himself, is it conceivable that he should raise objections against it?

Come and hear: If the bearer of a Get from foreign parts gave it to the wife but did not declare, ‘In my presence etc.’, if the genuineness of the signatures [attached to the Get] can be established, it is valid, and if not it is invalid. From this we deduce that the purpose of requiring this declaration is to make the process of divorce easier and not more difficult.[3] This conforms, [does it not,] with the opinion of Raba and conflicts with that of Rabbah? — This Mishnah was formulated after the rule [of ‘special intention’] became generally known. But you yourself have maintained that it is necessary to take precautions in case there is a recurrence of the abuse? — We are dealing here with the case where the woman has remarried.[4] If so, how can you say, ‘From this we deduce that this requirement is intended to make the process of divorce easier and not more difficult’? The reason why we allow the validity of the Get to be established through its signatures is because she has remarried? — We must read the passage thus: ‘[The Get is valid if the signatures can be confirmed.] And should you think that if she has remarried we should be more strict and force [her husband] to put her away, we must bear in mind that the purpose of requiring this declaration is to make the process of divorce easier and not more difficult. The whole reason

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(1) [For according to Rabbah even if the signatures are authenticated it does not follow that the Get was written with ‘special intention’.]

(2) Infra 23b.

(3) It saves the trouble of securing a witness to attest the signatures.

(4) And her disregard of the precaution does not warrant the enforcement of a separation.

Talmud - Mas. Gittin 5b

why it is required is as a precaution against the risk of the husband coming to challenge and invalidate [the Get]. Seeing that here the [first] husband is raising no objection, shall we go out of our way to do so?’

[An identical] difference of opinion [had already been recorded] between R. Johanan and R. Joshua b. Levi,[1] one of whom held that the reason [for requiring the declaration] was because the Jews outside the Land of Israel were not familiar with the rule of ‘special intention’, and the other that it was because witnesses could not easily be found to confirm the signatures. We may conclude that it was R. Joshua b. Levi who gave the reason, ‘because they are not familiar with the rule of "special intention",’ from the following incident. R. Simeon b. Abba once brought a Get before R. Joshua b. Levi, and said to him: Am I required to declare, ‘I was present when it was written and present when it was signed’? and he replied: You need not make the declaration. It was only required in former generations, when the rule of ‘special intention’ was not generally known, but not in these times when the rule is known. We may therefore conclude [that it was R. Joshua b. Levi who gave this reason]. [Was this a good ruling,] seeing that Rabbah accepts Raba's reason also, and further that, as we have said, precaution should be taken in case there is a recurrence of the abuse? — There was another man with him,[2] although he is not mentioned [in the passage quoted] out of respect for R. Simeon.

It has been stated: [On the question] how many persons must be present when the bearer of the Get gives it to the wife there was a difference of opinion between R. Johanan and R. Haninah, one holding that a minimum of two were required and the other a minimum of three. It may be concluded that it was R. Johanan who held that two were sufficient, [from the following incident]. Rabin son of R. Hisda brought a Get before R. Johanan, and the latter said to him: Go and give it to her in the presence of two persons, and say to them, ‘In my presence it was written and in my presence it was signed.’ We may therefore conclude [that R. Johanan held two to be sufficient]. May we assume that the point on which R. Johanan and R. Haninah diverge is that the one who held two persons to be sufficient considered the reason for requiring the declaration to be the general ignorance of the rule of ‘special intention’,[3] while the one who insisted on three considered the reason to be the difficulty of finding witnesses?[4] — [Can this be so?] We have found that it is R. Joshua who assigns as the reason ignorance of the rule of ‘special intention’, and so it must be R. Johanan who assigns as the reason the difficulty of finding witnesses. How then can it be R. Johanan who here says that two persons are sufficient? Moreover [is it not a fact] that Rabbah also accepts Raba's reason? No. [The reason of the declaration is because] we need witnesses who should be available to validate the Get, and the point at issue here is whether it is permitted to an agent to act as a witness and a witness as a judge. The authority who says that two persons are sufficient holds that an agent may act as witness and a witness may act as judge,[5] whereas the one who insists on three holds that while an agent may act as witness, a witness may not act as judge. But has it not been laid down that in the case of evidence required only by the Rabbis[6] [but not by the Torah] a witness may act as judge? No. The real point at issue is this, that one authority held that since a woman is qualified to bring the Get there is a danger [if only two persons are required] that we may rely upon her,[7] while the other held that everyone knows that a woman is not qualified [to complete a Beth din], and therefore there is no danger.

It has been taught in agreement with R. Johanan: If the bearer of a Get from foreign parts gave it to the wife without declaring, ‘In my presence it was written and in my presence it was signed,’ if she marries again the second husband must put her away and a child born from the union is a mamzer.[8] This is the opinion of R. Meir. But the Rabbis say that the child is not a mamzer. What should be done [to rectify matters?] The bearer should take the Get back from the woman, and then present it to her in the presence of two persons, declaring at the same time, In my presence it was written, and in my presence it was signed. [Are we to suppose then that] according to R. Meir, because the bearer failed [in the first instance] to make this declaration, the second husband has to put away the woman, and the child is a mamzer? — Yes: R. Meir in this is quite consistent; for so R. Hamnuna has told us in the name of ‘Ulla, that R. Meir used to affirm: If any variation whatever is made in the procedure laid down by the Sages for writs of divorce, the second husband has to put the woman away and the child is a mamzer.

Bar Hadaya once desired to act as bearer of a Get.[9] Before doing so he consulted R. Ahi, who was a supervisor of writs of divorce.[10] Said R. Ahi to him: You must watch the writing of every letter of the document. He then consulted R. Ammi and R. Assi, who said to him: This is not necessary, and if you think to be on the safe side, you must consider that by doing so you will be discrediting previous writs of divorce.[11] Rabba b. Bar Hanah once acted as bearer of a Get[12] of which half had been written in his presence and half not. He consulted R. Eleazar, who told him that even if only one line of it had been written with ‘special intention’ that was sufficient. R. Ashi said:

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(1) Two Amoraim of an earlier generation than Rabbah and Raba.

(2) And therefore Raba's reason did not apply.

(3) And therefore it is sufficient if two can testify to the delivery of the Get, after having heard the bearer make, in their presence, the proper declaration.

(4) And therefore we require three persons to be available (in case the husband comes and challenges the Get), since the confirmation of signatures must take place in the presence of three, constituting a kind of Beth din; (v. Keth. 21b).

(5) And therefore the bearer of the Get may join with the two witnesses of the delivery to form a Beth din.

(6) Under which category comes the confirmation of signatures. V. Keth. l.c.

(7) To form a third or to enable us to dispense with a third.

(8) The product of an incestuous union. V. Glos.

(9) From Babylon to Palestine.

(10) An expert officer was appointed to see that the procedure was in conformity with all the regulations. (Rashi).

(11) The bearers of which were not so particular.

(12) See p. 15 n. 4.

Talmud - Mas. Gittin 6a

Even if he only heard the scratching of the pen and the rustling of the sheet,[1] it is sufficient. It has been taught in agreement with R. Ashi: ‘If a Get is brought from foreign parts, even if the bearer was downstairs while the scribe was upstairs, or upstairs while the scribe was downstairs, the Get is valid, or even if he was going in and out all day, the Get is valid.’ [Now in the case where] he is downstairs and the scribe is upstairs [you may ask, how can this be,] seeing that the bearer cannot have seen him [while writing]?[2] Obviously [what is meant is] that he, for instance, heard the scratching of the pen and the rustling of the sheet.[3]

The Master said: ‘Even if he was going in and out all day the Get is valid’. Who is referred to by ‘he’? Shall I say it is the bearer? Hardly; for if the Get is valid even when he was in a different room and so did not see it at all, is there any question that it is valid when he simply was going in and out [of the same room]? [Shall I say] then it is the scribe? Surely this is self-evident. Because he leaves the room sometimes [in the middle of writing]. is that any ground for declaring the Get invalid? — It is not [so self-evident]. It is necessary to state the case where he went out into the street and returned. You might say that another man [of the same name] has come across him and commissioned him to write a Get.[4] Now we know [that this objection is not maintained].

It has been stated: Babylonia has been declared by Rab to be in the same category with the Land of Israel in respect of writs of divorce, and by Samuel to be in the same category with foreign parts.[5] May we assume their point of divergence to be this, that one of them held the reason for requiring the declaration to be that [Jews outside the Land of Israel] are not familiar with the rule of ‘special intention’, so that [the Babylonians,] being familiar, [are in the same category with the Palestinians], whereas the other held the reason to be the difficulty of finding witnesses to confirm [the signatures], and the same difficulty is found [in Babylonia]? — Can you really presume this, seeing that Rabbah also accepts Raba's reason? No. Both [Rab and Samuel] agree that the Get requires confirmation. Rab, however, is of opinion that since there are Talmudical Colleges in Babylonia witnesses can always be found,[6] while Samuel is of opinion that the Colleges are taken up with their studies.[7] It has also been stated that R. Abba said in the name of R. Huna: ‘In Babylonia we have put ourselves on the same level as Eretz Israel in respect of bills of divorce from the time when Rab came to Babylon.’[8] R. Jeremiah raised an objection: R. JUDAH SAYS, FOREIGN PARTS EXTEND FROM REKEM EASTWARDS, REKEM BEING INCLUDED; FROM ASKELON SOUTHWARD, ASKELON BEING INCLUDED: AND FROM ACCO NORTHWARDS, ACCO BEING INCLUDED. Now Babylon is north of Eretz Israel, as we learn from the verse of the Scripture, And the Lord said to me, Out of the north the evil shall break forth.[9] It is true, the Mishnah continues: R. MEIR SAYS, ACCO COUNTS AS PART OF THE LAND OF ISRAEL IN THE MATTER OF BILLS OF DIVORCE; but even R. Meir only excepted Acco, which is close to Eretz Israel, but not Babylon, which is remote![10] — R. Jeremiah asked the question and he himself answered [by saying that] ‘Babylon is an exception.

How far does Babylon extend? — R. Papa says: On this question there is the same difference of opinion in respect of bills of divorce as there is in respect of family descent.[11] R. Joseph, however, says that the difference of opinion exists only in respect of family descent, but in respect of bills of divorce all parties are agreed that Babylonia extends to the second boat of the [floating] bridge.[12] R. Hisda required [the declaration to be made by the bearer of a Get] from Ktesifon to Be-Ardashir, but not [by one who brought it] from Be-Ardashir to Ktesifon.[13] May we presume that he considered the reason [for requiring the declaration to be that Jews in foreign parts] are not familiar with the rule of ‘special intention’, and that the people of Be-Ardashir are familiar? — How can you presume this, seeing that Rabbah accepts Raba's reason also? But in point of fact all authorities are agreed that confirmation [of the Get] is required, and the reason of R. Hisda is that as the people of Be-Ardashir go to Ktesifon to market, the inhabitants of the latter are familiar with their signatures,[14] but not vice versa, because the Be-Ardashir [buyers] are busy with their marketing. Rabba b. Abbuha required [the declaration to be made if the Get was brought] from one side of the street to the other; R. Shesheth if it was brought from one block [of buildings] to another; and Raba even [from one house to another] within the same block. But was it not Raba who said that the reason was because it was not easy to find witnesses to confirm the signatures? — The people of Mahuzah[15] are different, because they are always on the move.[16]

R. Hanin related the following: R. Kahana brought a Get either from Sura to Nehardea or from Nehardea to Sura, I do not know which, and consulted Rab as to whether he was required to declare, ‘In my presence it was written and in my presence it was signed.’ Rab said to him: You are not required,

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(1) Aliter ‘the sound of the pen and the paper as they were being prepared’.

(2) [It is assumed that where the bearer is upstairs he can see the scribe who is working downstairs. V. Trani, who preserves a reading to this effect.]

(3) And this is deemed to be sufficient.

(4) And therefore the Get was not written expressly for the woman to whom the bearer is intended to take it.

(5) חוצה לארץ lit., 'outside the Land'.

(6) As students and other people are always going from various places to the colleges.

(7) And therefore the students there do not recognise the signatures.

(8) In the year 219 C.E. [He founded, after his return the second time from Palestine, the school of Sura to which there flocked students from all parts. This gave an impetus to the study of the Law and made Babylonia a centre of learning for centuries (Rashi). Tosaf.: Since Rab came and insisted that Babylonia never ceased to be a centre of Torah study, since the days of the exile of Jehoiachin with the flower of Judea. V. II Kings XXIV, 14. Obermeyer. Die Landschaft Babylonien. p. 306, points out that the name 'Babylon' stands here, as in other places in the Talmud, for Sura which was in the neighbourhood of the old great city, Babylon, and in contradistinction to Nehardea, where he had his former seat.]

(9) Jer. I, 14.

(10) [Tosaf. appeals to this question in support of its interpretation cited n. 3.]

(11) The Jews of Babylonia being reputed to have preserved their racial purity more strictly than the Jews of any other part. v. Kid. 72a.

(12) [Over the Euphrates north of Samosata, v. Berliner, A., Beitrage p. 21; v. also Kid. 72a.]

(13) [Two neighbouring places, the former on the eastern, the latter on the western bank of the Tigris. Ktesifon was the larger place of the two, and a marketing centre for the neighbouring towns. V. Obermeyer op. cit. pp. 164ff.]

(14) Because the Be-Ardashir people often buy their goods on credit against promissory notes which they leave with the Ktesifon merchants.

(15) Where Raba had his seminary.

(16) [To sell their merchandise which was brought along the Tigris and Euphrates and caravan routes to Mahuzah which was a great trading centre. V. Obermeyer op. cit. p. 173.]

Talmud - Mas. Gittin 6b

but if you have done so, so much the better. What [did Rab] mean by these last words? — [He meant] that if the husband came and raised objections against the Get, they would pay no attention to him;[1] as it has been taught: A man once brought a Get before R. Ishmael, and asked him whether he was required to declare, 'In my presence etc. Said R. Ishmael to him: My son, from where are you? He replied: Rabbi, I am from Kefar Sisai. Whereupon R. Ishmael said to him: It is necessary for you to declare that It was written and signed in your presence, so that the woman should not require witnesses [in case the husband raises objections]. After the man left, R. Ila'i came in to R. Ishmael and said to him: Is not Kefar Sisai[2] within the ambit of the border-line of Eretz Israel, and is it not nearer to Sepphoris than Acco is, and does not the Mishnah tell us that R. MEIR HELD THAT ACCO COUNTS AS ERETZ ISRAEL IN MATTERS OF BILLS OF DIVORCE,[3] [and even the Rabbis differ from R. Meir only in regard to Acco, which is some distance away, but not in regard to Kefar Sisai which is near?][4] R. Ishmael said to him: Say nothing, my son, say nothing; now that the thing has been declared permissible, let it remain so. [Why should R. Ila'i have thought otherwise], seeing that [R. Ishmael] also gave as a reason 'that the woman should not require witnesses'? — [R. Ila'i] had not been told of these concluding words.

R. Abiathar sent to R. Hisda [the following instruction:] [The bearers of] writs of divorce from there [Babylon] to here [Eretz Israel] are not required to declare, 'In my presence it was written and in my presence it was signed.' May we presume that he was of opinion that the reason for requiring the declaration is because the [Jews outside Palestine] are not familiar with the rule of 'special intention', while these [the Babylonians] are familiar? — Can you really presume this, seeing that Rabbah accepts Raba's reason? No. All agree that [the reason is] because we require someone who can confirm the signatures if necessary, and in this case, as there are always people going to and fro between Babylon and Eretz Israel, witnesses can easily be found.

Said R. Joseph: Can it be maintained that R. Abiathar is an authority who can be relied upon? [Have we not] moreover evidence to the contrary? For it was he who sent a statement to Rab Judah, [running,] ‘Jews who come from there [Babylon] to here [Eretz Israel] fulfil in their own persons the words of the Scripture: They have given a boy for a harlot and sold a girl for wine and have drunk,[5] and he wrote the words from Scripture without ruling lines under them, although R. Isaac has said that a quotation of two words [from Scripture] may be written without lines but not of three (in a Baraitha it was taught that three may be written without lines but not four)? — Said Abaye to him: Because a man does not know this rule of R. Isaac, is he therefore not to be counted a great scholar? If it were a rule established by logical deduction, we might think so.[6] But it is purely a tradition,[7] and it is a tradition which R. Abiathar had not heard. Nay more, R. Abiathar is the authority whose view was confirmed by his Master,[8] [in the following way]. Commenting on the text, And his concubine played the harlot against him,[9] R. Abiathar said that the Levite found a fly with her, and R. Jonathan said that he found a hair on her. R. Abiathar soon afterwards came across Elijah and said to him: ‘What is the Holy One, blessed be He, doing?’ and he answered, ‘He is discussing the question of the concubine in Gibea.’ ‘What does He say?’ said Elijah: ‘[He says], My son Abiathar says So-and-so, and my son Jonathan says So-and-so,’ Said R. Abiathar: ‘Can there possibly be uncertainty in the mind of the Heavenly One?’ He replied: Both [answers] are the word of the living God. He [the Levite] found a fly and excused it, he found a hair and did not excuse it. Rab Judah explained: He found a fly in his food and a hair in loco concubitus; the fly was merely disgusting, but the hair was dangerous. Some say, he found both in his food; the fly was not her fault, the hair was.

R. Hisda said: A man should never terrorise his household. The concubine of Gibea was terrorised by her husband and she was the cause of many thousands being slaughtered in Israel. Rab Judah said in the name of Rab: If a man terrorises his household, he will eventually commit the three sins of unchastity,[10] blood-shedding,[11] and desecration of the Sabbath.[12] Rabba b. Bar Hanah said:’ The three things which a man has to say to his household just before Sabbath commences, ‘Have you set aside the tithe? Have you placed the ‘Erub? Light the lamp,’[13]

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(1) Once the declaration was made.

(2) Or Simai, identified with Kefar Sumeija, N.W. of Kefar Hananiah (‘Anan); v. Kaftor wa-Ferah, p. 270, and Klein, S., Beitrage, p. 29, n. 4.

(3) Hence the declaration should not be required.

(4) [The bracketed sentence is not in the Tosef. Git. I. whence this passage is quoted.]

(5) Joel IV, 3. [He disapproved of the practice of Babylonian students marrying before graduation and then betaking themselves to the Palestinian schools for the completion of their studies, leaving their wives and children in utter destitution. (V. Nashi and Tosaf.)]

(6) As this would show R. Abiathar to be deficient in logical acumen.

(7) [The whole regulation requiring Biblical passages to be underlined is based on an ancient oral tradition going back to Moses at Sinai; v. Soferim I.]

(8) God Himself.

(9) Judg. XIX, 2.

(10) By having intercourse with his wife when she is unclean, because she is afraid to tell him.

(11) Because the members of his household run away from him and meet with fatal accidents.

(12) Because his wife through fear of him lights the lamp after dark.

(13) V. Shah. 34a.

Talmud - Mas. Gittin 7a

should be said by him gently, so that they should obey him readily. R. Ashi said: I was never taught that rule of Rabba b. Bar Hanah, but I observed it because my own sense told me to.

R. Abbahu said: A man should never terrorise his household. For there was a certain great man who terrorised his household, and in consequence they fed him with a thing to eat which is a great sin. This was R. Hanina b. Gamaliel. Do you mean to say they actually fed him with it? Why, even the beasts of the righteous are not allowed by the Holy One, blessed be He, to offend;[1] how then shall the righteous themselves be allowed so to sin? — Say, they wanted to feed him. And what was it they set before him? A piece of flesh cut from an animal still living.[2]

Mar ‘Ukba[3] sent for advice to R. Eleazar, saying: Certain men are annoying me, and I am able to get them into trouble with the government; shall I do so? He traced lines on which he wrote [quoting], I said, I will take heed to my ways, that I sin not with my tongue, I will keep a curb upon my mouth while the wicked is before me;[4] [that is,] he added, although the wicked is before me, I will keep a curb on my mouth. Mar ‘Ukba again sent to him saying: They are worrying me very much, and I cannot stand them. He replied [with the quotation], Resign thyself unto the Lord, and wait patiently [hitholel] for him;[5] [that is to say,] he added, wait for the Lord, and He will cast them down prostrate [halalim] before thee; go to the Beth-Hamidrash early morning and evening and there will soon be an end of them. R. Eleazar had hardly spoken the words when Geniba[6] was placed in chains [for execution].[7]

An inquiry was once addressed to Mar ‘Ukba: Where does Scripture tell us that it is forbidden [in these times] to sing [at carousals]? He sent back [the following quotation] written on lines: Rejoice not, O Israel, unto exultation like the peoples, for thou hast gone astray from thy God.[8] Should he not rather have sent the following: They shall not drink wine with music, strong drink shall be bitter to them that drink it?[9] — From this verse I should conclude that only musical instruments are forbidden, but not song; this I learn [from the other verse].

R. Huna b. Nathan asked R. Ashi: What is the point of the verse, Kinah and Dimonah and Adadah?[10] — He replied: [The text] is enumerating towns in the Land of Israel. Said the other: Do l not know that the text is enumerating towns in the Land of Israel? But I want to tell you that R. Gebihah from [Be]Argiza[11] learnt a lesson from these names: ‘Whoever has cause for indignation [kinah] against his neighbour and yet holds his peace [domem], He that abides for all eternity [‘ade ‘ad] shall espouse his cause; said the other: If that is so, the verse Ziklag and Madmanah and Sansanah[12] should also convey a lesson? — He replied: If R. Gebihah from [Be] Argiza were here, he would derive a lesson from it. R. Aha from Be Hozae[13] expounded [it as follows]: ‘If a man has just cause of complaint against his neighbour for taking away his livelihood [za'akath legima] and yet holds his peace [domem], He that abides in the bush [shokni sneh] will espouse his cause.

The Exilarch[14] said to R. Huna: On what ground is based the prohibition of garlands? — He replied: This was imposed by the Rabbis on their own authority. For so we have learnt: At the time of the invasion of Vespasian they prohibited the wearing of garlands by bridegrooms and the [beating of] drums [at weddings].[15] R. Huna then got up to leave the room. R. Hisda[16] thereupon said to him [the Exilarch]: There is scriptural warrant for it: Thus saith the Lord God, The mitre shall be removed and the crown taken off this shall be no more the same; that which is low shall be exalted and that which is high abased,[17] [It may be asked, he continued] what the mitre has to do with the crown. It is to teach that when the mitre is worn by the High priest,[18] ordinary persons can wear the crown,[19] but when the mitre has been removed from the head of the High priest, the crown must be removed from the head of ordinary persons. At this point R. Huna returned, and found them still discussing the matter. He said: I swear to you that the prohibition was made by the Rabbis on their own authority, but as your name is Hisda [favour], so do your words find favour. Rabina found Mar son of R. Ashi weaving a garland for his daughter. He said to him: Sir, do you not hold with the interpretation given above of ‘Remove the mitre and take off the crown’? — He replied: The men [have to follow] the example of the High Priest, but not the women.

What is the meaning of the words in this passage, ‘This not this’?[20] R. ‘Awira gave the following exposition, sometimes in the name of R. Ammi and sometimes in the name of R. Assi: When God said to Israel, ‘Remove the mitre and take off the crown’, the ministering angels said, Sovereign of the Universe, is ‘this’ for Israel who at Mount Sinai said ‘we will do’ before ‘we will hear’?[21] Should not ‘this’ be for Israel, replied the Holy One, blessed be He, who have made low that which should be exalted and exalted that which should be low, and placed an image in the sanctuary? R. ‘Awira also gave the following exposition, sometimes in the name of R. Ammi and sometimes in the name of R. Assi; What is the meaning of the verse, Thus saith the Lord, though they be in full strength and likewise many, even so shall they be sheared off[22] and he shall cross etc.?[23] If a man sees that his livelihood is barely sufficient for him, he should give charity from it, and all the more so if it is plentiful.[24] What is the meaning of the words, ‘Even so they shall be sheared and he shall cross’? — In the school of R. Ishmael it was taught: Whoever shears off part of his possessions and dispenses it in charity is delivered from the punishment of Gehenna. Picture two sheep crossing a river, one shorn and the other not shorn; the shorn one gets across, the unshorn one does not.

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(1) V. Hul. 7a. The story is told there of the ass of Phineas b. Yair which refused to touch untithed corn.

(2) A piece of meat had been mislaid and the servant attempted to substitute for it flesh cut from a living animal.

(3) [Mar ‘Ukba II the Exilarch. On the great influence he wielded in government circles v. Funk, Die Juden in Babylonien I pp. 106ff. and n. 4; and Halevy. Doroth, II, p. 248.]

(4) Ps. XXXIX, 2.

(5) Ibid. XXXVII, 7.

(6) Who was one of his antagonists.

(7) [V. J. Git. VI, 5.]

(8) Hos. IX, 1.

(9) Isa. XXIV, 9.

(10) Josh. XV, 22.

(11) [Obermeyer, op. cit. p. 144, locates it near Be Kathil, on the Tigris, N. of Bagdad; v. B.K. (Sonc. ed.) p. 465, n. 10.]

(12) Ibid. 31.

(13) [The modern Khuzistan, province of S.W. Persia, Obermeyer, op. cit. p. 204ff.]

(14) [Mar ‘Ukba II.]

(15) V. Sot. 49a.

(16) He was R. Huna's disciple, and therefore did not like to answer in his presence.

(17) Ezek. XXI, 31.

(18) I.e., while the Temple is still standing.

(19) I.e., garland.

(20) E.V. ‘This shall be no more the same’, quoted above.

(21) Thus showing their devotion to God. Ex. XXIV, 7.

(22) E.V. ‘cut down’.

(23) E.V. ‘pass away Nah. I, 12.

(24) Translating, ‘If they be . . . and all the more.’

Talmud - Mas. Gittin 7b

And though I have afflicted thee:[1] Mar Zutra said: Even a poor man who himself subsists on charity should give charity. I will afflict thee no more:[2] R. Joseph learnt: If he does that, [Heaven] will not again inflict poverty upon him.

R. JUDAH SAYS, FROM REKEM EASTWARDS etc. This would seem to imply that Acco is at the [extreme] north of Eretz Israel. Does not this conflict with the following: ‘[Suppose a traveller] follows the road from Acco to Chezib.[3] Then all the country on his right, east of the road, partakes of the uncleanness of the "land of the Gentiles",[4] and the obligations of tithe and sabbatical year do not apply to it, save where it is definitely known to be liable.[5] The country on his left hand, west of the road, does not partake of the uncleanness of the "land of the Gentiles", and is subject to the rules of tithe and sabbatical year, save where [the reverse] that it is exempt, is definitely known.[6] Up to what point [does this hold good]? As far as Chezib. R. Ishmael the son of R. Jose says in the name of his father, As far as Lablabu.'[7] — Said Abaye: A narrow strip does in fact jut out [beyond Acco].[8] And is this important enough for the Tanna to define it so precisely?[9] — It is, for the Scripture also gives indications in the same way, in the following passage: And they said, Behold there is the feast of the Lord from year to year in Shiloh. which is on the north of Bethel, on the east side the highway that goeth up from Bethel to Shechem, and on the south of Lebonah;[10] And R. Papa pointed out, that it means 'the east side of the highway.'[11]

One [Baraitha] teaches: 'If a man brings a Get by boat[12] he is in the same category as if he brought it [from place to place] in Eretz Israel;'[13] and another [Baraitha] teaches that he is in the same category with one who brings it [from place to place] in foreign parts.[14] Said R. Jeremiah: The contradiction can easily be explained: the latter view is based on the ruling of R. Judah, the former on that of the Rabbis, as we have learnt: [Plants grown in] earth from foreign parts which is carried in a boat in Eretz Israel are subject to the obligations of tithe and Sabbatical year. R. Judah says: This is the case only if the boat touches bottom, but if not, the obligations do not apply.[15] Abaye says that both [authorities] follow R. Judah, and there is no contradiction between them, the one[16] referring to a boat which does not touch bottom and the other to one which does.

Said R. Ze'ira: The case of a plant pot with a hole in the bottom resting on a stand[17] may be variously decided according as we follow R. Judah or the Rabbis [in this case]. Said Rabba: This is open to question. Possibly R. Judah would say [that actual contact with the soil was necessary to make the plant liable to tithe] only in the case of a boat,

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(1) Ibid.

(2) Ibid.

(3) [The Biblical Achzib, between Acre and Tyre. Josh. XIX, 29.]

(4) Those parts of Palestine of which the population was preponderatingly Samaritan or non-Jewish, and on which a Jew could not set foot without becoming ritually unclean. V. Nazir, (Sonc. ed.) p. 204, n. 1.

(5) Because the territory is known to belong to Eretz Israel.

(6) (V. Tosef. Oh. XVIII and J. Sheh. where the reading is reversed: '. . . . East of the road does not partake of the uncleanness; west of the road does partake etc.' This reading, as the Wilna Gaon points out, is to be given preference, since Acco is situated on the West of Palestine, whereas our reading assumes that it is on the Eastern border; v. also Schwarz, J. Tebuoth ha-'Arez (ed. Luncz) p.8, n. 1.]

(7) [Tosef. loc. cit. Kalabu; neither names are definitely identified; v. Neubauer p. 233, who locates the former on the outskirts of Acco, the latter east of Tyre.] This shows that the extreme northern point is Chezih or Lablabu and not Acco.

(8) [Though Acco is on the extreme North, the narrow strip of territory jutting out beyond Acco leading to Chezib belongs to Eretz Israel (Rashi); Kaftor wa-Ferach p. 276, in name of Maimonides, reverses: Eretz Israel stretches to Chezib which is in the extreme north, but a strip of territory belonging to the land of the Gentiles juts out from Chezib to Acco; v. also Tosaf. Yom Tob, Sheb. VI, 1.]

(9) So Nashi. Tosaf., however, renders: 'Is a road so important that the Tanna in speaking of "east" and "west" had to refer to it?' which seems to suit the context better.

(10) Jud. XXI, 19.

(11) [The text might be taken to mean that Shiloh is on the N.E. of Bethel; v. Strashun a.l.]

(12) It is assumed that it was written on the boat in Eretz Israel waters.

(13) The river being reckoned an integral part of Eretz Israel.

(14) The river not being reckoned an integral part of Eretz Israel.

(15) Hal. II, 2. The laws of tithing and Sabbatical year apply only to Palestinian grown products.

(16) Who says that the Get is in the same category as one brought from place to place in foreign parts.

(17) I.e., the question whether the plant in it is subject to tithe, seeing that it does not touch the ground.

Talmud - Mas. Gittin 8a

which is usually on the move, but in the case of a pot which is motionless it is not necessary. And again, perhaps the Rabbis would say that only in the boat [is there this obligation even if it is not touching bottom], since there is no air in between [the boat and the bottom], the water being reckoned as earth for purposes of contact, but not in the case of the pot where the air underneath breaks its contact with the earth. R. Nahman b. Isaac said: In regard to a boat on a river in Eretz Israel there is no difference of opinion between the authorities.[1] Where the difference arises is in the case of a boat in the open sea, as may be seen from the following: What do we reckon as Eretz Israel and what do we reckon as foreign parts? From the top[2] of the Mountains of Ammanon[3] inwards is ‘Eretz Israel’, and from the top of the Mountains of Ammanon outwards is ‘foreign parts’. [For determining the status of] the islands in the sea, we imagine a line drawn from the Mountains of Ammanon to the Brook of Egypt.[4] All within the line belongs to Eretz Israel and all outside the line to foreign parts. R. Judah, however, holds that all islands fronting the coast of Eretz Israel are reckoned as Eretz Israel, according to the verse of Scripture, And for the western border, ye shall have the Great Sea for a border; this shall be your west border.[5] [To determine the status of] the islands on the border line,[6] we imagine a line drawn [due west] from Kapluria[7] to the Ocean[8] and another from the Brook of Egypt to the Ocean. All within these lines belong to Eretz Israel and all outside to foreign parts. How do the Rabbis expound the superfluous words, ‘and for the border’? They say it is required to [bring in] the islands.[9] And R. Judah? — He will rejoin that for the inclusion of the islands no special indication is required.[10]

R. MEIR SAYS: ACCO IS IN THE SAME CATEGORY AS ERETZ ISRAEL etc. The following inquiry was propounded to R. Hiyya b. Abba: If a man sells his slave into Syria,[11] is he reckoned as selling him into foreign parts or not? — He replied: You have learnt it: R. MEIR SAYS: ACCO IS IN THE SAME CATEGORY AS ERETZ ISRAEL IN RESPECT OF BILLS OF DIVORCE; in respect of bills of divorce, that is, but not in respect of slaves. And if this is the case with Acco, how much more so with Syria, which is much further from Eretz Israel.

Our Rabbis have taught: ‘In three respects Syria is in the same category as Eretz Israel and in three others in the same category as foreign parts.’ (Mnemonic: ‘AB Bor Rek).[12] Its earth is unclean like that of foreign parts, and to sell a slave to Syria is like selling him to foreign parts, and a Get brought from Syria is reckoned as one brought front foreign parts. [On the other hand,] it is in three respects like Eretz Israel: It is subject to the obligations of tithe and Sabbatical year like the Land of Israel, it is permissible for an Israelite to enter it in a state of ritual purity, and a field bought in Syria

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(1) All agreeing that a river in Eretz Israel is an integral part of the land.

(2) Lit., ‘Whatever slopes down.’

(3) The Targum, Pseudo-Jonathan, of ‘Hor the mountain’, the northern boundary of Eretz Israel, Num. XXXIV, 7. [This is not to be confused with Mount Hor by the border of the land of Edom which is in the South East. Mount Ammanon is in the N.W. of Syria and is generally identified with Mount Amanus, the modern Giaour Dagh.]

(4) [Identified by Saadia with the Wady-el-Arish, twenty miles South of Gaza; v. Schwarz, op. cit. p. 27, and Rosenbaum-Silbermann's Rashi. Deut. p. 211.]

(5) Num. XXXIV, 6.

(6) I.e., due west of the coast beyond the southern and northern extremities of the border of Palestine.

(7) At the northern extremity of Mount Hor. [The place is not identified. V. Neubauer, pp. 8ff. and 433.]

(8) The Atlantic Ocean.

(9) Immediately fronting the coast.

(10) And the words ‘and for the border’ include the more distant islands.

(11) The Biblical Aram Zoba which was conquered by David and added by him to Eretz Israel (II Sam. VIII).

(12) Lit., ‘Cloud, Pit, Empty’. Key-words to aid the memory made up of Hebrew initials of the rulings that follow.

Talmud - Mas. Gittin 8b

is like one bought on the outskirts of Jerusalem.'[1]

[Our authority says that Syria] 'is subject to the obligations of tithe and Sabbatical year': [obviously] he is of opinion that the conquest of an individual[2] is a valid conquest.[3] [He further says that] 'it is permissible to enter Syria in a state of ritual purity.' How can this be, seeing that you say that its earth is unclean? — What is meant is that he may enter it in a box, chest, or portable turret, as has been taught: If one enters the land of the Gentiles in a box, chest, or portable turret, Rabbi declares him to be unclean, but R. Jose son of R. Judah does not. And even Rabbi makes this rule only for the land of the Gentiles, the soil and the air of which were proclaimed unclean by the Rabbis, but in regard to Syria they proclaimed only the soil unclean but not the air.[4]

[Our authority further says that] 'a field bought in Syria is like one bought on the outskirts of Jerusalem'. What rule of conduct can be based on this? — R. Shesheth Says: It means that a contract for selling it [to a Jew] can be drawn up even on Sabbath. What? On Sabbath? — You know the dictum of Raba, 'He tells a non-Jew to do it.' So here, he tells a non-Jew to draw up the contract. And although there is a Rabbinical prohibition[5] against telling a non-Jew to do things on Sabbath [which we may not do ourselves], where it was a question of furthering the [Jewish] settlement of Eretz Israel the Rabbis did not apply the prohibition.

Our Rabbis have taught: If a slave brings before the Beth din his deed of manumission[6] in which is written, 'Your own person and my property are made over to you', he becomes [ipso facto] his own master[7] but not owner of the property.[8]

The question was propounded: [Suppose the document ran:] 'All my property is made over to you',[9] what is the ruling? — Abaye said: Since the document makes him his own master, it makes him owner of the property also.[10] Said Raba to him: I agree that he becomes his own master, because [in respect of himself his document] is on a par with the Get of a wife. But he must not become owner of the property, because [in respect of the property his Get] requires confirmation like any other document. Abaye then corrected himself and said: Since he does not become by means of his document the owner of the property, he does not become his own master either. Said Raba to him: I agree that he should not become owner of the property, because in respect of the property [his document] requires confirmation like any other document; but he should become his own master, because [in respect of himself, his document] is on a par with the Get of a wife. The fact of the matter is, continued Raba, that both with the one [wording] and the other, he becomes his own master but not owner of the property.

Said R. Abba b. Mattena to Raba: This ruling accords with the principle laid down by R. Simeon, that a single statement may receive two diverse applications, for we have learnt: If a man assigns all his property to his slave, the latter becomes ipso facto free, but if he excepted a piece of land, however small, he does not become free.[11] R. Simeon, however, holds

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(1) Tosef Kelim B. K. I.

(2) King David, as opposed to the national conquest in the time of Joshua.

(3) I.e., the land acquired becomes an integral part of Eretz Israel.

(4) V. Nazir 55a.

(5) שבות , Lit., 'rest', an occupation prohibited by the Rabbis on Sabbath and Festivals as being inconsistent with the spirit of the celebration of the day.

(6) Lit., 'his Get'.

(7) Because if he says, 'It was written in my presence', his word is taken and no witnesses are required to confirm the validity of the Get.

(8) Because for this purpose witnesses are required to confirm the validity of the Get.

(9) This is taken to include his own person since he is part of the property.

(10) And we do not give the statement two diverse applications, one in respect of himself and one in respect of the property.

(11) Because we say that since he excepts the land he excepts the slave also.

Talmud - Mas. Gittin 9a

that in any case the slave becomes free[1] unless he declares [in writing] ‘All my property is left to So-and-so my slave except one ten-thousandth part thereof.’[2] [But can Raba then rule thus, Seeing that] R. Joseph b. Manyumi said in the name of R. Nahman: Although R. Jose commended R. Simeon, the halachah follows R. Meir.[3] For it has been taught: When the discussion was reported to R. Jose, he applied to him [R. Meir] the Scriptural words, He shall be kissed upon the lips that giveth a right answer.[4]

But was this R. Nahman's opinion?[5] Has not R. Joseph b. Manyumi said in the name of R. Nahman: If a man lying dangerously ill assigned all his possessions to his slave and then recovered, he may retract the grant of the property but not the grant of freedom. He may retract the grant of the property because it is a gift made on a death bed.[6] He may not retract the grant of the freedom because the slave has already become known as a free man![7] — In fact, said R. Ashi, [R. Nahman's reason] in the former case [where he said that in practice R. Meir was to be followed] was because the document did not expressly sever the connection between the slave and his master,[8] [and not because the same statement cannot receive two applications].[9] IF ITS VALIDITY IS CHALLENGED, IT MUST BE ESTABLISHED THROUGH THE SIGNATURES. Challenged by how many? Shall I say by one person? Has not R. Johanan laid down that a challenge must come from two at least? Shall I say then two? In that case there are two on each side, and why should you give credence to one set rather than to the other? — The challenge meant is that of the husband.

MISHNAH. WHERE THE BEARER OF A GET FROM FOREIGN PARTS IS NOT ABLE TO DECLARE ‘IN MY PRESENCE IT WAS WRITTEN AND IN MY PRESENCE IT WAS SIGNED, IF THE GET HAS BEEN SIGNED BY WITNESSES, ITS VALIDITY CAN BE ESTABLISHED THROUGH ITS SIGNATORIES. WRITS OF DIVORCE AND WRITS OF EMANCIPATION ARE SUBJECT TO THE SAME RULES WHEN TAKEN [FROM THE LAND OF ISRAEL TO FOREIGN PARTS] OR VICE VERSA,[10] THIS BEING ONE OF THE POINTS IN WHICH WRITS OF DIVORCE ARE ON A PAR WITH WRITS OF EMANCIPATION.

GEMARA. What is the meaning of the expression, ‘IS NOT ABLE TO DECLARE’? Shall I say it means that the bearer is a deaf-mute? Can a deaf-mute then be the bearer of a Get, seeing that we have learnt:[11] ‘All persons are qualified to be bearers of a Get except a deaf-mute, a lunatic, and a minor?’ — R. Joseph said: Here we are dealing with a case in which he gave the woman the Get while he was still in possession of his faculties, but before he could utter the formula was struck deaf and dumb.

WRITS OF DIVORCE AND WRITS OF EMANCIPATION etc. Our Rabbis taught: ‘In three points writs of divorce are on a par with writs of emancipation. One is in the matter of being taken [from Eretz Israel to foreign parts] or vice versa.[12] [Secondly,] any document witnessed by a Cuthean[13] is invalid, except writs of divorce and emancipation. [Thirdly,] all documents

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(1) Since this seems to be the plain intention of the document.

(2) Because this part may include the slave, v. B.B. 149b.

(3) R. Simeon's disputant and the anonymous first Tanna of the Mishnah, that the slave should not go free.

(4) Prov. XXIV, 26.

(5) That we do not give two diverse applications to a single statement.

(6) Which can be nullified by the dying man on recovery. v. B.B. 146b.

(7) Thus R. Nahman applies the instruction diversely to the slave and to the property.

(8) Since the grant of the slave's freedom was not specifically mentioned in the document, and we require such severance, because a Get of emancipation is on the same footing as a Get of divorce, which is termed in the Scripture ‘a document of severance’ or ‘cutting off’ (Deut. XXIV, 1).

(9) [Seeing that R. Meir denies the slave his freedom even if the property specifically excepted was land, his view being that since the master limited the scope of this document by excluding ‘some thing’, whatever it may be, the Get is no longer effective as an instrument of complete severance (Rashi).]

(10) Lit., or ‘he who brings it’.

(11) Infra 23a.

(12) The bearer in both cases being required to declare, ‘In my presence etc.’

(13) A Samaritan.

Talmud - Mas. Gittin 9b

entered in heathen courts, even if the signatures in them are those of heathens, are valid, except writs of divorce and of emancipation. According to R. Meir there are four points [the fourth being this]: If a man says, Give this Get to my wife and this writ of emancipation to my slave, he is at liberty, if he wishes, to retract from both. So says R. Meir’.[1] We can understand the Rabbis [specifying the number] three, [because they desired] to except the point stated by R. Meir. But what did R. Meir desire to except by specifying the number [four]? — [He desired] to except the following case which has been taught: If the witnesses are not able to sign their names, we make dents on the sheet and they fill them in with ink. Rabban Simeon b. Gamaliel says: This applies only to writs of divorce. With writs of emancipation and all other documents, if the witnesses are able to read and to sign their names, they sign, and if not, they do not sign. How does ‘reading’ come in here? — There is something omitted, and the passage should run thus: ‘If the witnesses cannot read, the document is read to them and they then sign, and if they are unable to sign, dents are made for them.’

Are there no more points [of resemblance]? Is there not [for example this one]: ‘If a man says, Give this Get to my wife and this writ of emancipation to my slave and he dies [before they were given], they should not be given after his death. If, however, he said, Give a maneh to So-and-so, it should be given after his death’?[2] — [The passage above was] dealing only with points which do not apply to documents in general,[3] not with such as apply to all documents. [And this is such a point;] for Rabin sent [the following message] in the name of R. Abbahu: ‘Be it known to you that R. Eleazar sent to the Diaspora[4] in the name of Our Master[5] the following instruction: If a dying man said, Write down and give a maneh to So-and-so, and then died, his words are not committed to writing nor is the gift made, since perhaps he intended only to make the gift through the instrumentality of the document, and a document does not confer possession after the death [of the author].’[6]

But is there not the point of ‘special intention’ [in which writs of divorce and of emancipation are on a par]? For Rabbah, indeed, this raises no difficulty, since it is identical with the point of bringing to and from [Eretz Israel],[7] but for Raba it does raise a difficulty. And again, whether we accept Rabbah's view or Raba's, there is the law of mehubar?[8] — [The passage above] reckoned only the flaws laid down by the Rabbis[9] [on their own authority], not those deriving from the Torah. But [the fact of originating in] a Gentile court is a flaw [in the Get] according to the Torah, and yet this point is also reckoned above? — [We are dealing there with the case where there are] witnesses to the delivery [of the document], and the passage follows the opinion of R. Eleazar, who said that it is the witnesses to the delivery [of the Get] who really make it effective.[10] [Is that so?] It says later in the passage:[11] R. Simeon says that these also [writs of divorce signed by non-Jews] are valid; and [commenting on this] R. Zera said that R. Simeon was here following the view of R. Eleazar, who said that the witnesses to the delivery [of the Get] make it effective; from which we gather that the first Tanna[12] was not [of this opinion]?[13]

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[1] V. infra 11b.

[2] V. infra 13a.

[3] I.e., where the points of resemblance are limited to writs of divorce or emancipation.

[4] [Heb. Golah denoting, at that time, Nehardea; v. B.B. (Sonc. ed.) p. 571, n. 7.]

[5] Rab.

[6] V. B.B. 152a. Just as in the case of writs of divorce and emancipation.

[7] Since according to Rabbah the declaration was required only because of the general ignorance of the rule regarding ‘special intention’.

[8] Lit., ‘attached (to the soil)’, viz., that both the writ of emancipation and the writ of divorce must be written on something not attached to the soil.

[9] [The requirement of the declaration ‘in my presence it was written etc.’ is Rabbinical and so is the disqualification of a Samaritan for evidence purposes in case of other documents likewise only Rabbinical.]

[10] Lit., ‘who cut asunder’. And therefore the fact of its originating in a heathen court is a flaw only according to the Rabbis and, not the Torah.

[11] In the Mishnah dealing with documents drawn up in heathen courts, infra 10b.

[12] In that Mishnah who says that these are not valid.

[13] That the witnesses to delivery make the Get effective, and therefore a non-Jewish signature is a flaw according to the Torah.

Talmud - Mas. Gittin 10a

Where he and the first Tanna differed was in the case where the names are obviously heathen.[1] But what of the point about retracting, which [invalidates the Get even] according to the Torah, and yet is reckoned in this passage? — The proper answer [to the original question] is that only those points are reckoned which did not apply to betrothals, but not such as are found in connection with betrothals also.[2] But this very point of retracting applies to betrothals also?[3] — We are dealing here with a case where the whole commission is to be carried out without the consent of the recipient; this is possible in the case of divorces but not of betrothals.

MISHNAH. NO DOCUMENT ATTESTED BY THE SIGNATURE OF A CUTHEAN[4] IS VALID,[5] UNLESS IT IS A WRIT OF DIVORCE OR A WRIT OF EMANCIPATION. IT IS RELATED THAT A WRIT OF DIVORCE WAS ONCE BROUGHT BEFORE RABBAN GAMALIEL AT KEFAR ‘UTHNAI[6] AND ITS WITNESSES WERE CUTHEANS, AND HE DECLARED IT VALID.

GEMARA. Who is [the Tanna] of our Mishnah? For it cannot be either the first Tanna, or R. Eleazar or Rabban Simeon ben Gamaliel [in the following Baraitha]: For it has been taught: ‘It is permissible to eat [on Passover] unleavened bread made by a Cuthean, and the eating of such bread satisfies the requirement of the Passover.[7] R. Eleazar forbids [the eating of such bread], because [the Samaritans] are not familiar with the minutiae of the precepts. Rabban Simeon b. Gamaliel says that in all the precepts which the Cutheans do observe they are much more particular than the Jews themselves.’ Whom now does our Mishnah follow? Shall I say the first Tanna? In that case other documents also should be valid [if attested by a Cuthean]. Shall I say R. Eleazar? In that case a writ of divorce should also be invalid. Shall I say Rabban Simeon b. Gamaliel? In that case, if they observe [the regulations of documents], then other documents attested by them should also be valid, and if they do not observe [these regulations], then even a writ of divorce attested by them should not he valid. And should you reply that in fact Rabban Simeon b. Gamaliel is the authority and that our Mishnah holds that the Cutheans observe the regulations concerning writs of divorce and emancipation but not concerning other documents — in that case why [does the Mishnah] speak of one [Cuthean witness only]? [The Get should be equally valid] even if there were two;[8] and if that were so, why has R. Eleazar said [that a Get of this kind] has been declared valid only if there is not more than one Cuthean signature to it? — The authority followed by our Mishnah is in fact R. Eleazar, and it speaks of the case where an Israelite signs last,[9]

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(1) R. Simeon holding that no danger can arise from this of heathens also being asked to witness the delivery of the Get, while the Rabbis held that there was such a danger.

(2) [The law of 'special intention' and in regard to mehubar applies to writs of betrothals equally with writs of divorce, whereas the declaration, 'In my presence it was written, etc.' is limited to Get as explained supra 2b-3a. Similarly the validity of the signature of a Samaritan witness is limited to Get (v. infra 10b); nor would the Rabbis invalidate a writ of betrothal originating in a heathen court, provided Jewish witnesses were present at the delivery.]

(3) I.e., if a man gives a written agreement of betrothal to a bearer, he can withdraw it so long as it has not been delivered.

(4) Samaritan.

(5) Because they were looked upon as untruthful.

(6) [Identified with Kefr Kud (Capar Cotani) on the border of Galilee and Samaria. V. Klein, Beitrage p. 29, n. 2.]

(7) That the unleavened bread eaten on the first night should be expressly prepared for it in accordance with the words, And ye shall watch the unleavened bread (Ex. XII, 17).

(8) I.e., if both witnesses were Samaritan and neither an Israelite.

(9) After the Samaritan.

Talmud - Mas. Gittin 10b

for we assume in that case that if the Cuthean were not a Haber[1] , the Israelite would not let him sign before him. In that case, why are not other documents also valid? Consequently the truth is that we say, 'he left room for someone senior to himself.'[2] But if that be so cannot we say here too that he left room for someone senior to himself? — Said R. Papa: This proves that the witnesses to a Get do not sign save in one another's presence.[3] What is the reason for this? — R. Ashi says that it is to prevent any infringement of the rule concerning 'all of you'.[4]

The text above [states]: 'R. Eleazar said [that a Get of this kind] has been declared valid only if there is not more than one Cuthean signature to it.' What does he teach us by this statement? Has not the Mishnah already told us that NO DOCUMENT ATTESTED BY THE SIGNATURE OF A SAMARITAN etc.? — If I had only the Mishnah to go by, I should say that even with two [Cuthean signatures the Get is valid], and that the reason why one [only is mentioned] is to show that other documents are rendered invalid even by one Samaritan signature; hence [R. Eleazar's statement] is necessary. But [is a Get] with two [Cuthean signatures] invalid? Does not the Mishnah say: IT IS RELATED THAT A WRIT OF DIVORCE WAS BROUGHT BEFORE RABBAN GAMALIEL [AT KEFAR 'UTHNAI] AND ITS WITNESSES WERE CUTHEANS, AND HE DECLARED IT VALID? — Abaye says: Read 'its witness Raba says: It is quite correct that there were two, and the fact is that Rabban Gamaliel differs [from the first authority], and there is an omission [in the Mishnah, which should] read as follows: 'Rabban Gamaliel declares [a Get] valid with two [Cuthean signatures], and it is actually related that a Get was brought before Rabban Gamaliel at Kefar 'Uthnai and its witnesses were Cutheans and he declared it valid.'

MISHNAH. ALL DOCUMENTS WHICH ARE ACCEPTED IN HEATHEN COURTS,[5] EVEN IF THEY THAT SIGNED THEM WERE GENTILES, ARE VALID [FOR JEWISH COURTS] EXCEPT WRITS OF DIVORCE AND OF EMANCIPATION. R. SIMEON SAYS: THESE ALSO ARE VALID; THEY WERE ONLY PRONOUNCED [TO BE INVALID] WHEN DRAWN UP BY UNAUTHORISED PERSONS.

GEMARA. [Our Mishnah] lays down a comprehensive rule in which no distinction is made between a sale and a gift. We can understand that the rule should apply to a sale, because the purchaser acquires the object of sale from the moment when he hands over the money in their[6] presence, and the document is a mere corroboration; for if he did not hand over the money in their presence, they would not take the risk[7] of drawing up a document of sale for him. But with a gift [it is different]. Through what [does the recipient] obtain possession? Through this document, [is it not]? And this document is a mere piece of clay?[8] — Said Samuel: The law of the Government is law.[9] Or if you prefer, I can reply: Instead of ‘except writs of divorce’ in the Mishnah, read, ‘except [documents] like writs of divorce.’[10]

R. SIMEON SAYS: THESE ALSO ARE VALID etc. How can this be, seeing that to heathens the act of ‘severance’[11] is not applicable? — Said R. Zera: R. Simeon here accepts the view of R. Eleazar, who said that the separation is actually effected by the witnesses to the delivery [of the document]. But has not R. Abba said that R. Eleazar used to admit [that a Get] which in itself contained a flaw was invalid?[12] — We are dealing here

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(1) V. Glos. In which case R. Eleazar's objection does not apply.

(2) The Jew signed first below thinking that another Jew would sign above, but the lender got the signature of a Samaritan instead.

(3) So that it is impossible for us to say that the husband brought a Samaritan to sign without the knowledge of the Jewish witness.

(4) That if he said to ten persons, ‘All of you write’, one writes and all the rest sign in one another's presence, otherwise the Get is not valid; infra, 66b.

(5) ערכאות , GR. **, ‘office’ ‘registry’.

(6) The non-Jewish judges’.

(7) Lit., ‘do injury to themselves (to their reputation)’.

(8) Assuming a deed originating in a non-Jewish court does not constitute an instrument of acquisition, why should the deed be deemed valid?

(9) V. B.B. (Sonc. ed.) p. 222, n. 6.

(10) I.e., all which in themselves make the transaction effective, such as the record of a gift.

(11) Lit., ‘cutting’, Deut. XXIV, 1.

(12) And the signature of witnesses who are not competent to sign would be counted by R. Eleazar as a flaw because it might give the impression that these were competent as witnesses to the delivery.

Talmud - Mas. Gittin 11a

with signatures which are obviously those of heathens.[1] Can you give some examples of names which are obviously those of heathens? — Said R. Papa: For instance, Hannez and Abudina, Bar Shibthai, Bar Kidri, Batti and Nakim and Una. What then if the signatures are not obviously those of heathens? [The document, you will say,] is invalid? If so, instead of going on to say, ‘THEY WERE ONLY PRONOUNCED TO BE INVALID WHEN DRAWN UP BY UNAUTHORISED PERSONS, R. Simeon should draw a distinction between [the signatures] themselves, and should continue thus: ‘when I say [they are valid, I mean] when the names are obviously [heathen], but otherwise they are invalid!’ — This in fact is what he does mean, viz.: ‘When I say [they are valid I mean] when the names are obviously [heathen], but where they are not so, the document is on a par with one drawn up by unauthorised persons and is invalid.’ Or if you like I can reply that the last clause [of the Mishnah] refers to monetary documents, and the meaning is as follows: ‘Monetary documents were not pronounced to be invalid save when they were drawn up by unauthorised persons.’ It has been taught: R. Eleazar said in the name of R. Jose: Thus did R. Simeon say to the Rabbis in Sidon: R. Akiba and the Sages were agreed in reference to all documents entered in heathen courts that even if those that signed them were heathens they are valid, including also writs of divorce and of emancipation. They differed only in the case where they were drawn up by unauthorised persons, R. Akiba declaring all such documents to be valid and the Sages declaring them all invalid, save only writs of divorce and of emancipation. Rabban Simeon b. Gamaliel says that these too are valid only in places where Jews are not allowed to sign documents,[2] but where Jews are allowed to sign documents they are not valid. Why does not Rabban Simeon b. Gamaliel declare them invalid even in places where Jews are allowed to sign, for fear lest they should come to be deemed valid even in places where they are not? — Names may be confused but not places. Rabina had a mind to declare valid a document which had been drawn up in a gathering[3] of Arameans. Said Rafram to him: ‘We learnt [distinctly] "COURTS".’

Raba said:[4] A document drawn up in Persian which has been handed over in the presence of Jewish witnesses is sufficient warrant for recovering from property on which there is no previous lien. But the witnesses to the transfer cannot read it? — We speak of the case where they can. But we require writing which cannot be erased? — We speak of a case where the sheet has been dressed with gall-nut juice.[5] But we require the rule [to be observed] that the gist of the document must be summarised in the last line?[6] — We speak of a case where this has been done. If so, why not recover from mortgaged property also? — [The contents of a document of this kind] do not become generally known.[7]

Resh Lakish put the following question to R. Johanan:

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(1) In which case there is no danger that their witnessing to the Get would create a wrong impression as to their competence.

(2) Where there is no danger that the witnesses who signed the Get will be deemed competent to attest delivery.

(3) I.e., not an official body.

(4) V. infra 19b.

(5) So that the ink cannot be erased.

(6) E.g., ‘I have received from So-and-so all the sums mentioned above’. This was not the custom with Persian documents.

(7) Lit., ‘it has no voice’. Since there are no Jewish witnesses to the deed to give publicity to the transaction, thus keeping off prospective buyers from the property; v. infra 19b. And therefore the creditor from the first never expected to recover from such property.

Talmud - Mas. Gittin 11b

‘If a Get[1] is attested by witnesses with heathen names, how do we proceed?’ — He replied: ‘The only [heathen names] that have come before us in this way were Lucus and Lus, and in both cases we declared [the Get] valid.’[2] This ruling applies strictly to names like Lucus and Lus[3] which are never borne by Israelites, but not to heathen names which are also borne by Israelites.[4] He [thereupon] raised an objection [from the following]: ‘Writs of divorce brought from foreign parts and attested by signatures, even if the names are like those of heathens, are valid, because most Jews in foreign parts bear heathen names!’[5] — There the reason is as given, because most Jews in foreign parts bear heathen names.[6] According to another version, Resh Lakish put the question to R. Johanan on the lines of the Baraitha [just quoted],[7] and he answered him by quoting [the second] clause of the Baraitha.[8]

MISHNAH. IF A MAN SAYS: GIVE THIS WRIT OF DIVORCE TO MY WIFE AND THIS BILL OF EMANCIPATION TO MY SLAVE, HE IS AT LIBERTY IF HE PLEASES TO COUNTERMAND BOTH INSTRUCTIONS.[9] THIS IS THE RULING OF R. MEIR. THE SAGES, HOWEVER, SAY THAT HE MAY COUNTERMAND IN THE CASE OF THE GET BUT NOT IN THAT OF THE WRIT OF EMANCIPATION, ON THE PRINCIPLE THAT A BENEFIT MAY BE CONFERRED ON A MAN IN HIS ABSENCE BUT A DISABILITY MAY BE IMPOSED ON HIM ONLY IN HIS PRESENCE; FOR IF HE DOES NOT WANT TO MAINTAIN HIS SLAVE HE IS NOT BOUND TO DO SO,[10] BUT IF HE DOES NOT WANT TO GIVE MAINTENANCE

TO HIS WIFE HE IS STILL ROUND TO DO SO. SAID R. MEIR TO THEM: DOES HE NOT DISQUALIFY HIS SLAVE FROM EATING THE PRIESTLY HEAVE-OFFERING [BY EMANCIPAT[10] NG HIM] IN THE SAME WAY AS HE DISQUALIFIES HIS WIFE [BY DIVORCING HER]?[11] — THEY REPLIED: [THE SLAVE IS DISQUALIFIED] BECAUSE HE IS THE PRIEST'S PROPERTY.

GEMARA. R. Huna[12] and R. Isaac b. Joseph were sitting [studying] before R. Jeremiah whilst R. Jeremiah was sitting and dozing, when R. Huna remarked that we learn from the ruling of the Rabbis [in our Mishnah] that if a man seizes the goods [of a third party] on behalf of a creditor, he acquires [them].[13] Said R. Isaac b. Joseph to him: Even if by doing so he causes loss to others?[14] — He replied: Yes. At this point R. Jeremiah woke up [and overheard them]. He said: Youngsters, this is what R. Johanan said: If a man seizes goods on behalf of a creditor when by so doing he causes loss to others, he does not acquire. If you ask [how this can be reconciled with] our Mishnah,[15] [the answer is that] for a man to say ‘give’ is equivalent to saying ‘acquire on behalf of’.

R. Hisda says: [The case of the man] who seizes goods on behalf of a creditor and by so doing causes loss to others admits of the same difference of opinion as we find between R. Eliezer and the Rabbis. For we learnt:[16] If a man garners the corner [of his field], and said: This is for such-and-such a poor man, he acquires it on his behalf. The Sages, however, say that he must give it to the first poor man that comes along. Said Amemar (others say it was R. Papa:)

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(1) Coming from Palestine.

(2) I.e., I relied upon the witnesses to delivery.

(3) Lucius and Gaius (Jast.).

(4) Because in that case the witnesses, even if Gentiles, might be presumed to be competent.

(5) This apparently contradicts R. Johanan.

(6) Hence it is safe to presume that the witness with a Gentile name is a Jew, but this is not the case in Palestine.

(7) Viz., ‘What is the rule about writs of divorce brought from foreign parts with heathen signatures.’

(8) Viz., ‘they are valid etc.’

(9) Because this is a disability for both of them, and the agent does not become possessed of the bills, on the principle that ‘a disability may not be inflicted on a man save in his presence.’

(10) Hence emancipation involves no disability for the slave.

(11) Vid. Lev. XXII, 11; Num. XVIII, 11. So that emancipation does involve a disability for the slave even as divorce for the wife.

(12) Tosaf. points out that this is not the R. Huna usually mentioned in the Talmud, who was much senior to R. Jeremiah.

(13) For the creditor and the owner cannot recover from him any more than he can withdraw the bill of emancipation from the agent.

(14) I.e., if the man had other creditors also.

(15) Which seems to say that he does become legal possessor.

(16) For notes v. B.M. (Sonc. ed.) p. 49 ff.

Talmud - Mas. Gittin 12a

Perhaps the two cases are not on all fours. R. Eliezer's reason there [for allowing the owner of the field to acquire on behalf of the poor man] may be only because if he desires he can declare his field public property and so become himself a poor man and entitled to [the gleanings], and since he can acquire it for himself [we concede that] he can acquire it for his fellow; whereas [this reasoning] does not apply to our present case. And the Rabbis’ reason in the case of the poor man may be only that in the text it is written thou shalt not glean, for the poor man,[1] ‘thou shalt not glean for the poor man’, but here they would not [apply the same principle]. What lesson then does R. Eliezer derive from these words, ‘thou shalt not glean, for the poor’? — He sees in them an admonition to a poor man [who himself owns a field] in regard to his own gleanings.[2]

FOR IF HE CHOOSES NOT TO MAINTAIN HIS SLAVE, etc. We understand from this, [do we not,] that a master can say to his slave: Work for me but I will not support you! — [No!] Here we deal with the case in which the master says: Keep what you can earn as the equivalent of your maintenance. Similarly in the case of the woman[3] we likewise must suppose that the husband says to her: Keep what you can earn as the equivalent of your maintenance. [But if this is so] why, in the case of the wife should he not [be permitted to refuse to maintain her]? — Because she cannot earn enough [for her keep]. But a slave too may not be able to earn enough for his keep? — If a slave's [work] is not worth the food he eats, what do his master and mistress want him for!

Come and hear: If a slave has fled to one of the cities of refuge,[4] his master is under no obligation to support him; and moreover whatever he earns belongs to his master. We understand from this, do we not, that a master can say to a slave, ‘Work for me, but I will not support you’? — We are dealing here with the case in which the master said to him, ‘You may keep what you earn as the equivalent of your maintenance’. In that case why does it say that what he earns belongs to the master? — This applies to what he earns over and above his keep. There is surely no need to tell us that? — [There is, because otherwise] you might think that, since the master does not give him anything when he does not earn, he should not take anything from him when he does earn; but now you know [that this is not so]. But why should this rule apply specially to cities of refuge? — I might think [that cities of refuge are an exception],[5] because the words ‘that he might live’ [used in connection with them[6] are interpreted to mean that] special provision must be made [for one who is exiled there]; but now I know [that they are no exception].[7] But now look at the continuation [of the passage quoted]: But if a woman is exiled to a city of refuge, her husband is under obligation to maintain her. Obviously this speaks of a case where the husband did not say to her, [‘You may keep your earnings etc.’,] because if he did, why should he have to support her? And since that is the case here, then we presume that the first part of the passage also deals with the case in which the master did not say to the slave, [‘Keep your earnings’ etc.]?[8] — No. [The cases considered are those in which the master or husband] did say so, and the reason In the case of the wife[9] is because she cannot keep herself. But look at the further continuation [of the passage]: If he says to her, I allow you to keep your earnings in place of your maintenance, he is within his rights. This shows, does it not, that the preceding clause deals with the case where he did not say so? — We interpret [the last clause] thus: If she can earn sufficient [for a living] and he said to her: Keep your earnings in place of your maintenance, he is within his rights. What is the point of bringing in the case where she can earn sufficient [for a living]? — You might think that even so she should not go about to earn a living because, as Scripture says, the honour of the king's daughter [i.e. the Jewish woman] lies it privacy;[10] but now you know [that this is not so].

May we say that the same difference of opinion is found between the Tannaim [mentioned in the following passage]? [For it was taught:] Rabban Simeon b. Gamaliel says: A slave can say to his master in a year of scarcity, ‘Either maintain me or let me go free’; whereas the Sages say that the master can do as he pleases. Shall we say that the point at issue between them is this, that the one authority holds that a master can say to his slave, ‘Work for me but I will not support you’, and the other holds that he cannot? — Do you really think so? In that case why does it say, ‘either maintain me or let me go free’? It should Say, ‘either maintain me or let me keep my earnings in place of my maintenance’. And besides, why should the rule apply specially to years of scarcity? The fact is that the case put is one in which the master has said to the slave, ‘Keep your earnings as the equivalent of your maintenance’,[11] and in a year of scarcity he cannot earn enough. [In that case] Rabban Simeon b. Gamaliel holds that the slave can say to the master, ‘Either maintain me or let me go free, so that people may see me and have pity on me’, whereas the Rabbis hold the view that those who pity free men pity also slaves.[12]

Come and hear: Rab said: If a man dedicates to the Sanctuary[13] the hands of his slave, that slave may borrow money, eat, work and repay [his loan with his earnings].[14] We may conclude from this, [may we not,] that the master can say to the slave, ‘Work for me, but I will not maintain you’? — [No.] The case contemplated here is one in which the master provides the slave with his keep. If so, why

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(1) Lev. XXIII, 22. [They join ‘for the poor man’ with ‘Thou shalt not gleam on the principle of Siddur she-nehelak, mentioned in the Mishnah of H. Eliezer b. Jose the Galilean, that a context which has been disrupted by a disjunctive accent is reconnected for exegetical purposes.]

(2) He must leave gleanings in his own field.

(3) Mentioned in our Mishnah.

(4) Having killed someone by accident.

(5) To the rule that the master may take the slave's earnings.

(6) Deut. IV. 42.

(7) In respect of allowing the slave the excess of his earnings over and above his keep.

(8) Which proves that a master can say to a slave ‘work for me but I will not support you’.

(9) That the husband has still to keep her.

(10) Ps. XLV, 14.

(11) And both authorities hold that the master may not say, ‘Work for me etc.’

(12) And therefore there is no need to let him go free.

(13) Lit., ‘sanctifies’; cf. Lev. XXVII.

(14) Cf. p. 44, nn. 1-2.

Talmud - Mas. Gittin 12b

does he borrow for his food? — He borrows for extras. But the Sanctuary can say to him, ‘Just as you could do without extras hitherto, so you can do without extras now’? — The Sanctuary itself prefers this, so that its slave should be in good condition. You say that he works and pays from his earnings. How can he do this, seeing that every penny as he earns it becomes sanctified?[1] — [He keeps on paying his earnings] before they amount to a perutah.[2] This view [that Rab's dictum refers to the case where the master provides the slave's keep] is borne out by this other dictum of Rab: If a man sanctifies the hands of his slave, that same slave can go on working for his keep, for if he does not work, who will look after him? If you say that the first dictum refers to the case where the master provides [the slave's keep], and that in consequence a master is not at liberty [to say to his slave, ‘Work for me, but I shall not maintain you’], and that the latter dictum refers to a case where he does not provide for him, all is plain; but if you say that the first dictum refers to the case where the master does tot provide the slave's keep, and [so we rule that] he can say [to the slave, ‘You must work for me etc.’, what is the sense of saying [in the second dictum], ‘if he does not work who will look after him?’ Let anyone who will look after him![3] We conclude therefore that the ruling is that a master cannot say [to his slave, ‘Work for me, but I shall not support you.’]

Come and hear: R. Johanan says that if a man cuts off the hand of another man's slave, he must make good to his master his ‘loss of time’[4] and the cost of his medical attendance, and the slave must live on charity. We understand from this,[5] [do we not,] that the master can say to the slave, ‘Work for me, but I shall not maintain you’? — No. Here we are dealing with a case in which the master does provide the slave's keep. If that is so, why [does it say that] he must live on charity? — This refers to extras. If that is so, it should say not ‘live on’ but ‘be supported by’? We therefore conclude that the master can say [to the slave, ‘You must work for me etc.’]. This proves it.

The Master said: ‘He must make good to his master "loss of time" and the cost of his medical attendance’. [What need is there to tell me this in] the case of the ‘loss of time’, which is obvious? — The ‘loss of time’ is mentioned because the medical costs [had to be mentioned]. Surely the medical costs go to the slave, for he needs them for his cure? — This must be stated in view of a case where it was calculated that he requires five days [treatment] and by the application of a painful remedy he was cured in three. You might think that in this case [the whole of the estimated medical cost goes to the slave since] the extra pain is his; but now know [that it does not].

It has been taught R. Eliezer said: We said to R. Meir, Is it not a benefit for the slave to obtain his liberty? — He replied, It is a disability for him, since if he was the slave of a priest he can no longer eat of the terumah. We said to him: If the priest chooses not to give him his keep, is he not at liberty to do so?[6] — He replied: If the slave of a priest runs away, or if the wife of a priest flouts her husband,[7] they can still eat of the terumah, but this one cannot. For a woman, however, certainly it is a disadvantage [to be divorced] since she becomes disqualified to eat the terumah [if she was married to a priest] and forfeits her maintenance [in any case].[8] What did they mean by their question and what was the point of [R. Meir's] remark, [If a priest's slave runs away etc.]? — What he said in effect was this: ‘You have refuted me in the matter of maintenance,[9] but what answer can you give in the matter of the terumah? For if you should say that, if the master likes, he can throw the writ of emancipation to the slave and so disqualify him [and therefore giving the writ to a bearer is not a disadvantage to the slave], [I answer that] the slave can [prevent this by] leaving him and running away.[10]

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(1) I.e., as the property of the Sanctuary, it must not be touched by outsiders.

(2) Because a sum less than a perutah cannot become sanctified.

(3) As much as to say: Let him starve!

(4) V. Ex. XXI, 19 and B.K. 83b.

(5) From the fact that the master takes the money he is capable of earning even in his maimed condition, while he is living on charity.

(6) And what does he lose therefore by being emancipated?

(7) I.e., refuses him his conjugal rights.

(8) Tosef. Git. I.

(9) I.e., I admit that the slave does not necessarily lose maintenance by being emancipated.

(10) And as he is still a priest's slave, lie can still eat the priestly dues.

Talmud - Mas. Gittin 13a

Seeing then that a priest's slave who runs away and a priest's wife who flouts her husband can still eat of the terumah while this one [who is emancipated] cannot, [is it not a disadvantage to him to be emancipated]?’ This was a good rejoinder, [was it not]? — Said Raba: That is the point of the answer of the Rabbis [recorded] in the Mishnah, ‘BECAUSE HE IS HIS PROPERTY,’ [by which they meant to say] that if the master wants lie can take four zuz from a non-priestly Israelite [as the price of the slave], and so disqualify him wherever he is. Let us grant that R. Meir has made out his case with regard to the slave of a priest; how does he make it out with regard to the slave of an ordinary Israelite? — Said R. Samuel son of R. Isaac: [Emancipation is a disadvantage to the slave] because it disqualifies him from marrying a Gentile bondwoman. [On the contrary it is a benefit] because it qualifies him to marry a free woman? — A slave prefers a common woman; she allows him to take liberties, she is at his beck and call, she is not coy with him.

MISHNAH. IF A MAN SAYS, GIVE THIS GET TO MY WIFE, THIS DEED OF EMANCIPATION TO MY SLAVE, AND DIES [BEFORE THEY ARE GIVEN], THEY ARE NOT TO BE GIVEN AFTER HIS DEATH. [IF HE SAID], GIVE A MANEH TO SO-AND-SO AND DIED, THE MONEY SHOULD BE GIVEN AFTER HIS DEATH.

GEMARA. R. Isaac b. Samuel b. Martha said in the name of Rab: [This money is] only [to be given] if it has actually been put aside in a special place.[1] With what case are we dealing here? Shall

I say the man was in health [when he gave the instruction]? What difference does it make that the money is available, seeing that the recipient has not yet performed the act of ‘pulling’?[2] And if he was on his death bed, why must the money have been put on one side? Even if it has not been put on one side, it is to be given, because the instruction of a man on his death bed has the same force as a written document formally handed over![3] R. Zebid said: We are in fact [dealing here] with the case of a man in health, and [our Mishnah is] in agreement with [the following dictum enunciated by] R. Huna in the name of Rab: [If a man says], You owe me a maneh, give it to So-and-so, [if he said this] in the presence of the third party,[4] [the last named] becomes legally entitled to it.[5] R. Papa said that we are indeed dealing here with the case of a man on his death bed, and [the Mishnah is] in agreement with another dictum of Rab, Viz.: ‘If a man on his death bed says, Give a maneh to So-and-so out of my belongings, if he said, give this maneh, it is to be given, but if he said simply a maneh it is not to be given, because perhaps he was thinking of a buried maneh. The law is, however, that we do not suspect that anything is buried. Why did not R. Papa take the same view as R. Zebid?

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(1) Lit., ‘heaped up in a corner’.

(2) Meshikah, v. Glos. Until this has been performed, the donor can retract, as also his heir.

(3) V. B.B. 151a.

(4) Lit., ‘in the presence of these three’.

(5) [V. B.B. (Sonc. ed.) p. 616, nn. 15-16. This principle known as Ma'amad shlashtan which provides for the transfer of claims to a third party is assumed by R. Zebid to apply only to deposits because they are considered to be in the legal possession of the owner wherever they may be at the time. Similarly in the Mishnah it is necessary for the money to be specially set aside.]

Talmud - Mas. Gittin 13b

— R. Papa was of opinion that Rab's dictum was meant to apply equally whether [the sum in question was] a loan[1] or a deposit. Why did not R. Zebid adopt the view of R. Papa? — Because [the language of] the Mishnah is not consistent with [the theory that it speaks of a man on his death bed]. How do we make this out? — Because it says: IF A MAN SAYS, GIVE THIS GET TO MY WIFE AND THIS DEED OF EMANCIPATION TO MY SLAVE, AND DIES BEFORE THEY WERE GIVEN, THEY ARE NOT TO BE GIVEN AFTER HIS DEATH. The reason is that he died; had he continued alive, they would have been given. And the reason why we say this[2] is that he said ‘Give’ [and not merely ‘write’]; had he not said ‘give’, they would not have to be given,[3] whereas in the case of a man on his death bed, although he did not use the word ‘give’, [the Get] is still to be given, as we learn [from the following Mishnah]: ‘At first it was laid down that if a man was being led out in fetters [to execution] and said, "Write a Get for my wife", [the Get] was to be written and delivered. Later they laid down that the same rule applied to one who was leaving for a sea journey or joining a caravan [across the desert]. R. Simeon Shezuri said: It also applies to a man lying dangerously ill.’[4] To this R. Ashi demurred: How do we know, he said, that our Mishnah adopts the View of R. Simeon Shezuri? Perhaps it adopts the view of the Rabbis.[5]

The text above stated: ‘R. Huna said in the name of Rab: If a man says, You owe me a maneh, give it to So-and-so, [if he said this] in the presence of the third party, [the last-named] becomes legally entitled to it.’ [Commenting on this,] Raba said, This dictum of Rab appears to be sound where [the money in question] is a deposit but not where it is a loan.[6] But, by God! Rab said that it applies even where it is a loan. It has also been stated that Samuel said in the name of Levi: If a man says. You owe me some money, give it to So-and-so, [if he said so] in the presence of the third party. [the last-named] becomes the legal owner. What is the reason? — Amemar said: [The borrower in such case] is regarded as having pledged himself at the time of borrowing the money to repay it either to the lender or to anyone coming on his behalf. Said R. Ashi to Amemar: But on your showing, if the lender transferred the debt to children who had not yet been born when the loan was made, they would not acquire possession?[7] For even according to R. Meir, who said that it is possible to transfer possession of things that do not yet exist,[8] [the transference must be] to something that is existing, not to something that does not yet exist: The truth is, said R. Ashi,

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(1) [Though it cannot be regarded as being in the possession of the creditor, since the debtor is entitled to spend it. Consequently where a transfer is made by means of ma'amad shlashtan there would be no need for the money in question to be specially set aside.]

(2) That they would have to be given if he continued alive.

(3) Even had he lived.

(4) V. infra 65b.

(5) And therefore in the case of the dying man also the rule applies only in the case where he said ‘give’.

(6) V. supra p. 47. nn. 2 and 3.

(7) Because the borrower could not be considered to have pledged himself to repay them.

(8) E.g., fruit that will grow on a tree hereafter, v. B.M. 33b.

Talmud - Mas. Gittin 14a

that for the sake of the benefit which the borrower derives from the difference [in time of payment] between the old debt and the new one, he willingly pledges himself to the new creditor.[1] Said Huna Mar the son of R. Nehemiah to R. Ashi: If that is so, what of people like those from the house of Bar Eliashib, who force their debtors to pay at once? Do they not acquire possession in such a case as this?[2] And if you say they do, then you apply different standards to different people? — The truth is, said Mar Zutra, that there are three laws which the Rabbis have laid down arbitrarily without [giving] a reason. One is this one. A second is the one laid down by Rab Judah in the name of Samuel: If a [dying] man assigns in writing all his property to his wife, he only makes her a trustee for it.[3] The third is the one laid down by R. Hananiah: If a man celebrates the marriage of his son who is over age in a special house, the son becomes the owner of the house.[4]

Rab once said to R. Aha Bardala: You have a kab of saffron of mine, give it to So-and-so, and I am telling you in his presence that I do not mean to change my mind. Are we to understand from this that if he had desired to change his mind he could have done so? — What Rab meant was that instructions such as these[5] cannot be retracted. But this has already been laid down by Rab, since R. Huna said in the name of Rab: If a man says to another, You have a maneh of mine in your possession, give it to So-and-so, if he says this in the presence of the third party, [the latter] becomes legal owner? — If I had only that dictum to go by, I should suppose that this rule applies only to a big gift, but that for a small one it is not necessary for the third party to be present: now I know [that this is not so].

Some market gardeners [who were in partnership] once squared accounts with one another, and found that one had five staters[6] too much. Said the others to him in the presence of the owner of the land, ‘Give it to the owner of the land’ ,[7] and they duly acquired’ from him.[8] Afterwards he reckoned up by himself, and found that he had nothing over. He went to consult R. Nahman. Said [the latter] to him: What can I do for you? For one thing, there is the rule laid down by R. Huna in the name of Rab,[9] and for another thing, they[10] duly ‘acquired’ from you. Said Raba to him: Does this man say. I am unwilling to pay? What he pleads is, I do not owe the money. Whereupon R. Nahman said: If so, possession has been transferred in error, and in such a case the money must always be returned.

It has been stated: If a man says to another, ‘Take to So-and-so the maneh which I owe him’, Rab says. he continues to be responsible for it, and he is not at liberty to retract the commission, whereas Samuel says that since he is still responsible he is at liberty to retract. May we presume that the point at issue between them is this, that one authority[11] was of opinion that ‘take’ is equivalent to ‘accept on behalf of’,[12] and the other[13] was of opinion that ‘take’ is not equivalent to ‘accept on behalf of’?

— No. Both are agreed that ‘take’ is equivalent to ‘accept on behalf of’, and the point at issue is this, that one was of opinion that we make one ruing[14] because of another,[15] and the other was of opinion that we do not. It has been taught in agreement with Rab:[16] If a man says to another, Take to So-and-so the maneh which I owe him, give So-and-so the maneh which I owe him, take to So-and-so the maneh which he has given me in trust, give So-and-so the maneh which he has given me in trust, he remains responsible for the money, yet if he wishes to retract the commission he is not at liberty to do so. Why should he not be able to retract in the case of trust money, on the plea that [the depositor] does not desire his money to be in the hand of another [party]? — R. Zera answered: We assume that [the sender in this case] is known as a man who denies [his obligations].[17] R. Shesheth had some money owing to him in Mahuza for some cloaks [which he had sold there]. He said to R. Joseph b. Hama [who was going there]: When you come back from there, bring the money with you. [R. Joseph] went [to them] and they gave him the money. They said to him: ‘Give us a quittance’.[18] At first he said, ‘yes’, but afterwards he excused himself. When he returned, R. Shesheth said to him: You acted quite rightly,[19] not to make yourself a borrower [who] is the slave of the lender.[20] According to another version he said to him: You acted quite rightly: ‘a borrower is the slave of the lender.’[21]

R. Ahi the son of R. Josiah had a silver cup[22] in Nehardea.

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(1) Even if the latter had not yet been born at the time of the loan.

(2) If the debt is transferred to them.

(3) And not absolute owner.

(4) For fuller notes v. B.B. (Sonc. ed.) pp. 616 ff.

(5) Made in the presence of the third party.

(6) A silver stater = half a zuz.

(7) [Trani adds: for ground-tax.]

(8) [So Trani. That is, they made him obligate himself by means of a Kinyan (v. Glos.) to carry out his undertaking: cur. edd. ‘he’ is evidently an error.]

(9) [That a transfer of claims made in the presence of the third party takes immediate effect.]

(10) [So cur. edd.]

(11) Nab.

(12) For this reason he may not retract, though he still continues to he responsible, as the creditor did not give him the permission to entrust the money to the bearer.

(13) Samuel.

(14) That he is at liberty to retract: lit., ‘that we say since’.’

(15) That he is still responsible.

(16) Tosef. Git. I.

(17) And therefore the recipient is satisfied that the money should be in the hands of the hearer.

(18) Lit., ‘let us obtain a kinyan from you’, relieving us of all further responsibility.

(19) In refusing to assume responsibility.

(20) Prov. XXII, 7.

(21) I.e., my debtors are still under obligation to me.

(22) [GR. **, v. Krauss. TA. II, 415.]

Talmud - Mas. Gittin 14b

He said to R. Dosethai the son of R. Jannai and to R. Jose b. Kifar [who were going there]: When you come back from there, bring it with you. They went and got it [from the people who had it]. They said to them: ‘Give us a quittance’. They said, ‘No’. ‘Then give it back’, they said. R. Dosethai the son of R. Jannai was willing, but R. Jose b. Kifar refused. They gave him a thrashing,[1] and said to R. Dosethai: ‘See what your friend[2] is doing’. He replied: ‘Thrash him well’.[3] When they returned to R. Ahi, R. Jose said: ‘Look, sir, not only did he not assist me, but he said to them, "Thrash him well". ‘He said to R. Dosethai: ‘Why did you do so?’ He replied: ‘Those people are like posts, and their hats as long as themselves.[4] Their voice comes from their boots,[5] and their names are outlandish — Arda and Arta and Pili Baris.[6] If they give the order to arrest, you are arrested; to kill, you are killed. If they had killed [poor] Dosethai, who would have given Jannai my father a son like me?’ ‘Have these men’, he asked, ‘influence with the Government?’ ‘Yes’, he replied. ‘Have they a retinue [mounted on] horses and mules?’[7] ‘Yes’. ‘If that is so’, he said, ‘you acted rightly’.

If a man said to another, Take a maneh to So-and-so, and he went and looked for him, but did not find him [alive], one [Baraitha] teaches he must return the money to the sender, and another [Baraitha] teaches he must give it to the heirs of the man to whom it was sent. Shall we say that the point at issue [between the two authorities] is that one is of opinion that ‘take’ is equivalent to accept on behalf of’, and the other that it is not? — Said R. Abba b. Memel: No. Both are agreed that ‘take’ is not equivalent to accept on behalf of’, and there is no difference of opinion between them, as the one speaks of a sender who is in health and the other of one who is on a death bed.[8] R. Zebid said: Both speak of a sender who is on a death bed, but the one [has in mind the case] where the recipient is alive at the time when the money was given [to the bearer], and the other [the case] where he was not alive at the time. R. Papa says: Both speak of a case where the sender was in health,[9] but the one [had in mind the case] where the recipient died while the sender was still alive,[10] and the other [the case] where the sender died[11] while the recipient was still alive.[12]

May we assert that the question whether ‘take’ is equivalent to accept on behalf of’ is one on which there was a difference of opinion among the Tannaim, as it has been taught: [If a man said to another,] Take a maneh to So-and-so, and he went and looked for him and did not find him [alive], he must return the money to the sender. If the sender has also died meanwhile, R. Nathan and R. Jacob say that he should return it to the heirs of the sender; or as some say, to the heirs of the person to whom the money was sent; R. Judah the Prince said in the name of R. Jacob, who said it in the name of R. Meir, that it is a religious duty to carry out the wishes of the deceased: The Sages say that the money should be divided: while here [in Babylon][13] they say that the bearer should use his own discretion. R. Simeon the Prince said: I had to deal with a case of this kind, and it was decided that the money should be returned to the heirs of the sender. May we regard the point at issue here as being this, that the first Tanna was of opinion that ‘take’ is not equivalent to ‘accept on behalf of’, and that R. Nathan and R. Jacob were of the same opinion and also held that even where the sender has died in the meanwhile we do not in this case say that it is a religious duty to carry out the wishes of the deceased; that the ‘some’ [authorities] held that ‘take’ is equivalent to ‘accept on behalf of’; that R. Judah the Prince speaking in the name of R. Jacob who again spoke in the name of R. Meir held that ‘take’ is not equivalent to ‘accept on behalf of’, only where the sender has died [in the meanwhile] we do say that it is a religious duty to carry out his wishes; that the Sages who say they should divide are in doubt [as to which principle to adopt], while here [in Babylon, other authorities] think that the bearer can best estimate for himself; and as for R. Simeon the Prince, he simply desired to give an illustration? — No. If the sender is in health, all authorities are agreed [that ‘take’ is not equivalent to ‘accept on behalf of’]. Here, however, we are dealing [with the case] where [the sender is] on a death bed, and the dispute here is analogous to the dispute between R. Eleazar and the Rabbis. For we learnt: If a man divides his property among his heirs by word of mouth, R. Eleazar says that whether he is in health or dangerously ill, immovable property can be transferred to the new owners only by money payment, by document, or by act of possession, and movable property only by ‘pulling’, whereas the Sages say that transference of ownership is effected in both cases by his mere word of mouth. Said [the Sages] to him: There is the case of the mother of the sons of Rokel who was ill and said, Let my brooch be given

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(1) Lit., ‘they vexed him’.

(2) Lit., ‘the master’.

(3) Al. ‘He deserves his thrashing’.

(4) Lit., ‘they are a cubit and their hats are a cubit’.

(5) Lit., ‘they speak from their middles’.

(6) [On this passage. and for an attempt to explain the names mentioned, v. Rappaport, Kerem Chemed VII p. 199.]

(7) Lit., ‘have they horses and mules running before them’.

(8) Whose verbal instructions have the character of a written deposition. v. supra 15a.

(9) And his verbal instructions have not the force of a written deposition.

(10) And it goes back to the sender.

(11) (At which point the gift takes immediate effect because the carrying out of the wishes of the dead is deemed a religious obligation.]

(12) And the money now goes to the heirs of the recipient.

(13) [This is quoted by Chajes in support of Sherira's view in his Epistle that Babylon was a centre of Torah studies from the earliest days, ever since the first deportation of Jews in 596 B.C.E. V. supra p. 17, n. 3 and Halevy, Doroth II, pp. 82ff.]

Talmud - Mas. Gittin 15a

to my daughter, it is worth twelve maneh; and then she died and the Sages carried out her instruction? He replied: The sons of Rokel — may their mother bury them![1] The first Tanna [in our passage] holds with R. Eleazar,[2] and R. Nathan and R. Jacob also hold with R. Eleazar, [so much so] that although the owner dies, we do not say that it is a religious duty to carry out his wishes. ‘Some’ [authorities] hold with the Rabbis. R. Judah speaking in the name of R. Jacob who himself spoke in the name of R. Meir held with R. Eleazar, only where the sender had died in the meanwhile he applied the principle of carrying out the wishes of the deceased. The Sages said the money should be divided, because they were in doubt. ‘Here’ [in Babylon] they said that the bearer could best estimate for himself, while R. Simeon the Prince merely desired to give an illustration.

A question was asked in the Beth Hamidrash: Was R. Simeon the Prince really a prince,[3] or did he speak in the name of the Prince? — Come and hear: R. Joseph said that the halachah follows the ruling of R. Simeon the Prince. But the question still remains whether he was a Prince or only spoke in the name of a Prince? — Let it stand over.

The text above says: R. Jose said that the halachah follows the ruling of R. Simeon the Prince. But is it not an established rule that the words of a man on his death bed have the same force as if they were written and delivered? [R. Joseph] understands [the Baraitha] to be speaking of the case [where the sender was] in good health. But R. Simeon said it should be returned ‘to the heirs of the sender’. though all are agreed it is a fixed rule that it is a religious duty to carry out the instructions of the deceased? — Read[4] : ‘returned to the sender’.

CHAPTER II

MISHNAH. IF THE BEARER OF A GET FROM ‘FOREIGN PARTS’ DECLARES: ‘IT WAS WRITTEN IN MY PRESENCE BUT NOT SIGNED IN MY PRESENCE’, [OR]. ‘IT WAS SIGNED IN MY PRESENCE BUT NOT WRITTEN IN MY PRESENCE’, [OR] ‘THE WHOLE OF IT WAS WRITTEN IN MY PRESENCE BUT ONLY ONE OF THE WITNESSES SIGNED IN MY PRESENCE’,[5] [OR] ‘ONLY HALF WAS WRITTEN IN MY PRESENCE THOUGH BOTH WITNESSES[6] SIGNED IN MY PRESENCE’ — IN ALL THESE CASES THE GET IS INVALID.[7] IF ONE [PERSON] DECLARES ‘IT WAS WRITTEN IN MY PRESENCE AND ANOTHER SAYS, ‘IT WAS SIGNED IN MY PRESENCE . THE GET IS INVALID. IF TWO [PERSONS] DECLARE, ‘IT WAS WRITTEN IN OUR PRESENCE AND ANOTHER SAYS, ‘IT WAS SIGNED IN MY PRESENCE’, IT IS INVALID: R. JUDAH, HOWEVER, DECLARES IT VALID. IF ONE DECLARES, ‘IT WAS WRITTEN IN MY PRESENCE’ AND TWO SAY, ‘IT WAS SIGNED IN OUR PRESENCE’, IT IS VALID.

GEMARA. Why this repetition? Is it not all included in what we have already learnt: The bearer of a Get from 'foreign parts' is required to declare, 'In my presence it was written and in my presence it was signed'?[8] — If I had only that to go by, I might think that [though] he is required [to make this declaration], yet if he omitted [to do so the Get is still] valid. Now I know that [this is not the case].

ONLY HALF OF IT WAS WRITTEN IN MY PRESENCE THOUGH BOTH WITNESSES SIGNED IN MY PRESENCE. Which half is referred to? If you say the first half, what of the dictum of R. Eleazar, that if only one line[9] is written with special reference to the woman for whom it is intended, the rest requires no such ['special intention']? — R. Ashi therefore said that the second half is meant.

THE WHOLE WAS WRITTEN IN MY PRESENCE BUT ONLY ONE WITNESS SIGNED IN MY PRESENCE. R. Hisda said: Even if two other persons attest the signature of the second witness, the Get is still invalid. What is the reason for this? — In regard to both signatures alike[10] we must either insist on confirmation[11] or follow the regulation of the Rabbis.[12] Raba demurred strongly to this [reasoning]. Is there anything, he said, which is declared valid on the word of one witness[13] and invalid on the word of two? No, said Raba; what we must say is that even

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(1) As much as to say, they are men of such bad character that their name is not fit to be mentioned in the Beth Hamidrash, and they do not form a precedent. For fuller notes v. B.B. (Sonc. ed.) p. 679.

(2) Who makes no distinction between a man in health or dying, while 'take' is not treated as 'accept on behalf'.

(3) Nasi, the title of the officially recognised head of the Jewish community in Palestine under the Roman Empire, corresponding to the Resh Galutha in Babylonia. [The name of Simeon the 'Prince' does not occur elsewhere, hence the question whether his designation was 'the Prince' or whether the words 'in the name of the Prince' are omitted from the text. For a similar omission cf. B.K. 39b, 1, v. Tosaf.]

(4) .

(5) Lit., 'half of it was signed in my presence'.

(6) Lit., 'the whole of it was signed'.

(7) The rule being that it must all be written and signed by two witnesses in his presence.

(8) Which implies that it was completely written and completely signed in his presence. (Rashi).

(9) Viz., the line containing the name of the man and of his wife and the date.

(10) Lit., 'the whole of it'.

(11) By the attestation of two witnesses. V. supra 2b.

(12) Which requires a declaration from the bearer.

(13) Viz, the bearer, whose word is taken if he says that he recognises the signature of the witness; supra 3a.

Talmud - Mas. Gittin 15b

if the bearer and another person confirm the signature of the second witness,[1] [the Get] is invalid,[2] because this might be taken as a precedent for the attestation of other documents, and in this way three-quarters[3] of a sum in dispute might be assigned on the word of one witness.[4] R. Ashi strongly demurred to this [reasoning]. Is there anything. he said, which if stated by one persons is valid, but becomes invalid if another joins with him? No, said R. Ashi, what we have to say is that even if the bearer Says. 'I myself am the second witness', [the Get] is invalid, because in regard to both signatures alike we must either insist on confirmation or follow the regulation of the Rabbis.

We learnt: [IF HE DECLARES.] 'THE WHOLE WAS WRITTEN IN MY PRESENCE BUT ONLY ONE WITNESS SIGNED IN MY PRESENCE', THE GET IS INVALID. What now about the other witness? Do we presume that there is no-one who attests his signature? That cannot be; for even where one [person declares] IT WAS WRITTEN IN MY PRESENCE' AND ANOTHER

SAYS ‘IT WAS SIGNED IN MY PRESENCE’, in which case one testifies to the whole of the writing and the other to the whole of the signing [— even in that case the Get] is invalid; how much more so then if only half [of the signing is attested]? No; this shows that the proper explanation is either that of Raba or of R. Ashi, and that R. Hisda's is to be excluded.[5] And R. Hisda? — He can rejoin: On your theory,[6] what need is there to specify the case of ‘in my presence it was written but not signed’ [etc.]? Obviously the Mishnah was giving first a weaker and then a stronger instance;[7] so here, the Mishnah gives first a weaker and then a stronger instance.[8]

R. Hisda said: An embankment five handbreadths deep and a fence [on it] five handbreadths high are not reckoned together [to form a single partition of ten handbreadths];[9] the whole of the ten must be contained either in the embankment or in the fence. Meremar, however, in an exposition, [taught] that an embankment of five handbreadths and a fence on it of five handbreadths are reckoned together; and the law is that they are reckoned together.

Ilfa inquired: Can the hands be half clean and half unclean, or can they not be? How is this question to be understood? Does it mean that two persons wash their hands from a revi'ith?[10] Regarding this we have already learnt that a revi'ith is sufficient for washing the hands of one [person] and even of two.[11] Is the case then that he washes one hand at a time? In regard to this too we have learnt[12] that if a man washes one hand by pouring water over it and the other by dipping [it in a river] the hands are clean. Is it then that he washes a half of his hand at a time? Regarding this it has been laid down in the school of R. Jannai that the hands cannot be made clean by halves. — The question may still be asked in regard to the case where the water is still dripping [from one hand[13] when he washes the second]. And suppose the water is dripping, what does it matter? Have we not learnt:

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(1) I.e., declare that they know this to be his signature.

(2) In spite of the fact that if the bearer testifies alone, it is valid.

(3) Lit., ‘deducting a fourth’.

(4) If a document is brought into court signed by two witnesses, A and B, of whom B is dead, and if A together with a third party attests the signature of B, then if money were to be awarded on the strength of that document, three-quarters of it would be awarded on the evidence of the one witness A, which is against the rule, as each witness must be responsible for a half, v. Keth. 21b.

(5) The Mishnah quoted above (‘if he says the whole was written in my presence but only one witness signed in my presence’) has just been shown to be superfluous, and we are therefore entitled to infer some lesson from it. That inference, however, should be restricted to a minimum, and therefore the opinions of Raba and R. Ashi are preferable to that of R. Hisda.

(6) That an apparent superfluity must be made the basis of some lesson.

(7) Lit., ‘not only this (but) also this’. I.e., first ‘in my presence it was not signed (at all)’, and then ‘in my presence only one witness signed’, the first case being contained in the second.

(8) First where one attests the writing and the other the signatures, and then where one signature is left unattested.

(9) So as to enclose a space which can be considered as ‘private domain’ for the purposes of transportation on Sabbath.

(10) A quarter of a log, about 1 1/2 eggs; the minimum required for the ritual washing of the hands before meals.

(11) Naz. 382. Yad. I, 2.

(12) Yad. II, 1.

(13) So that it is possible still to regard the hands as being washed together.

Talmud - Mas. Gittin 16a

‘A jet of water [from a jug] or water flowing down a slope, or dripping water, does not form a connection so as to make [the water] unclean[1] or clean?[2] — The question is still required for the case where the dripping is considerable.[3] But regarding this also we have been taught that where the dripping is considerable, it does form a connection. — Perhaps this dictum refers only to a mikweh,[4] and follows the opinion of R. Judah: For we learnt: ‘If a mikweh contains exactly forty se'ahs of water and two persons bathe in it, if they both are in the water together they are both clean, but if one enters after the other has left, the first is clean but the second not’.[5] R. Judah said that if the feet of the first were still touching the water [when the second entered]. the second is also clean.[6]

R. Jeremiah said: It has been laid down that if a person plunges the greater part of his body in water drawn [through a pipe],[7] or if three logs of such water are poured over the greater part of the body of a clean person, he is unclean.[8] R. Jeremiah then propounded: Suppose he plunges half of his [body into such water] and three logs of it fall on the other half, is he unclean? This question was left unanswered. R. Papa said: It has been laid down that if a sick person had a seminal emission and nine kabs of water are thrown over him, he is clean. R. papa then asked: If he dips half his [body in water] and [water is] thrown over the other half, is he clean? This question was also left unanswered.

IF ONE DECLARES, ‘IT WAS WRITTEN IN MY PRESENCE AND THE OTHER, etc.’ R. Samuel b. Judah said in the name of R. Johanan: This rule applies only to the case where the Get was not brought by both as joint bearers, but if it is brought by both of them

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(1) I.e., if water is falling or dripping from a receptacle containing ‘clean’ water into one containing ‘unclean’ it does not thereby communicate the uncleanness of the lower to the upper.

(2) [I.e., if a mikweh has less than 40 se'ahs, water dripping from another mikweh it cannot make up the deficiency; but v. Tosaf. s.v. הניצוק]

(3) Lit., ‘enough to make wet’.

(4) V. Glos. And not to the washing of the hands.

(5) [Because the first had taken away some water on the body and thus rendered the mikweh deficient from the minimum of 40 se'ahs.]

(6) [On the principle גוד אחית (lit., ‘stretch and bring down’) whereby a partition is supposed to be prolonged so as to reach down to the ground. Similarly here the first man is treated as forming part of the partition of the mikweh reaching down to the mikweh proper. This principle may be adopted even if that of חיבור ‘connection’ is not.]

(7) Or any vessels. And not flowing in directly without any artificial intermediary.

(8) For eating terumah. V. Shab. 14a.

Talmud - Mas. Gittin 16b

it is valid. We conclude that he was of opinion that if a Get was brought by two bearers from ‘foreign parts’, they are not required to declare ‘In our presence it was written and in our presence it was signed.’[1] Said Abaye to him: Taking this view [as correct], let us look at the clause which follows: IF TWO SAY, ‘IT WAS WRITTEN IN OUR PRESENCE’, AND ONE SAYS, ‘IT WAS SIGNED IN MY PRESENCE’, IT IS INVALID; R. JUDAH, HOWEVER, DECLARES IT TO BE VALID. The reason, you say, why the Rabbis declare it invalid is because it was not brought by both of them as bearers. Are we to suppose then that if both of them did act as bearers, the Rabbis hold the Get to be valid? — He replied: That is so. In the case then where both do not act as bearers of the Get, what is the ground of the difference [between R. Judah and the Rabbis]? — One authority [the Rabbis] held that there is a risk of the procedure [in the case of a Get] being taken as an example for allowing one witness to confirm [signatures] of documents in general, and the other held that there is no such danger.

Another version [of the above passage is as follows]. R. Samuel b. Judah said in the name of R. Johanan: Even if both witnesses have acted as bearers of the Get, it is invalid. We conclude that he was of opinion that if two persons act as joint bearers of a Get from ‘foreign parts’, they are required to declare, ‘In our presence it was written and in our presence it was signed’. Said Abaye to him: Accepting this view [as correct], let us look at the next clause: IF TWO SAY, ‘IT WAS WRITTEN IN OUR PRESENCE, AND ONE SAYS, ‘IT WAS SIGNED IN MY PRESENCE’, IT IS INVALID.

R. JUDAH, HOWEVER, DECLARES IT VALID. Then the Rabbis declare it invalid even if both have acted as bearers? — He replied: That is so. What is the point at issue between R. Judah and the Rabbis? — One authority [the Rabbis] was of opinion that the reason why the declaration is required is because [the Jews outside Palestine] are not familiar with the rule of ‘special intention’,[2] and the other [R. Judah], because witnesses cannot easily be found to attest the signatures.[3] May we infer from this that the dispute between Rabbah and Raba goes back to the Tannaim? — No. Raba adopts the first version of the passage just quoted.[4] Rabbah, [adopting the second], can maintain that both authorities require the declaration on account of the rule of ‘special intention’, and here we are dealing with the period when this had become generally known, and the point at issue between R. Judah and the Rabbis is whether there is a danger of a reversion to the former ignorance, one [the Rabbis] holding that there was such a danger and it was necessary to take precautions against it, and the other that it was not. But according to this, R. Judah should join issue in the first clause[5] also? — This is in fact the case, as has been stated: ‘Ulla said that R. Judah differed from the Rabbis in the first case also. R. Oshiah raised an objection to ‘Ulla. [It has been taught:] R. Judah declares [the Get] valid in this case, and not in the other. Does he not mean by this, [he said,] to except the case where one says ‘It was written in my presence’ and one says ‘it was signed in my presence’? — No. He means to except the case where one says, ‘It was signed in my presence but not written in my presence’. I might think that since R. Judah does not think it necessary to guard against the danger of a recurrence of the ignorance,[6] so also he does not think it necessary to guard against the danger of confusing writs of divorce with other documents through allowing confirmation by one witness.[7] Now I know [that this is not the case]. It has also been stated:[8] Rab Judah said: In the matter of a Get which is brought by two bearers from ‘foreign parts’, we find a difference of opinion between R. Judah and the Rabbis.

Rabbah b. Bar Hanah was once ill, and Rab Judah and Rabbah went to inquire how he was. While with him, they put to him the question: If two bearers’ bring a Get from ‘foreign parts’, are they required to declare, ‘In our presence it was written and in our presence it was signed’, or are they not required? — He replied: They are not required. For if they were to say, ‘In our presence he divorced her’, would we not take their word? At this point a Gueber[9] came in

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(1) Since the reason for this declaration (which is because there may not be witnesses available to attest the signatures, v. supra 2b) does not apply where there are two bearers.

(2) And therefore where there are two bearers, they must make the whole declaration.

(3) And therefore two bearers are not required.

(4) According to which two bearers are not required.

(5) If one says that it was written in his presence and one that it was signed in his presence. Since the bearers are two and he does not fear the reversion to their former ignorance.

(6) By declaring the Get invalid if one declares that he has seen it written and one that he has seen it signed.

(7) If one witness is allowed to confirm the signature to the Get.

(8) In support of the second version of R. Johanan.

(9) A member of the fanatical sect of fire-worshippers who became powerful in the Persian Empire in the fourth century.

and took away their lamp;[1] whereupon Rabbah b. Bar Hanah ejaculated: ‘O All Merciful One! either in Thy shadow or in the shadow of the son of Esau!’[2] This is as much as to say, [is it not,] that the Romans are better than the Persians? How does this square with what R. Hiyyah taught: ‘What is the point of the verse, God understood her way and he knew her place?[3] It means that the Holy One, blessed be He, knew that Israel would not be able to endure the persecution of the Romans, so he drove them to Babylon’?[4] — There is no contradiction. One dictum refers to the period before the Guebers came to Babylon, the other to the period subsequent to their coming.[5]

IF ONE SAYS, IT WAS WRITTEN IN MY PRESENCE’ AND TWO SAY IT WAS SIGNED IN OUR PRESENCE , IT IS VALID. R. Ammi said in the name of Johanan: This applies only to the case in which the Get is produced by the witness to the writing [as bearer]. since in that case there is the equivalent of two witnesses[6] to the writing and two to the signing. If, however, it is produced by the witnesses to the signing [as bearers], [the Get] is invalid. This would show, [would it not,] that he is of opinion that if two [bearers] bring a Get from ‘foreign parts’, they are required to declare, ‘It was written in our presence and signed in our presence’? Said R. Assi to him: Accepting this view, look at the preceding clause: IF TWO SAY, ‘IT WAS WRITTEN IN OUR PRESENCE’ AND ONE SAYS, ‘IT WAS SIGNED IN MY PRESENCE’, IT IS INVALID: R. JUDAH, HOWEVER, DECLARES IT VALID. Do the Rabbis declare it invalid even if the Get is produced by both [as bearers]? — He replied: That is so. At another time R. Assi found R. Ammi poring [over the Mishnah] and saying that even if the Get [is produced] by the witnesses to the signing [as bearers],[7] it is valid. This seemed to show that he was of opinion that if two [bearers jointly] brought a Get from foreign parts, they are not required to declare, ‘It was written in our presence and signed in our presence’. Said R. Assi to him: If that is so, what of the preceding clause: IF TWO SAY, ‘IT WAS WRITTEN IN OUR PRESENCE’ AND ONE SAYS, ‘IT WAS SIGNED IN MY PRESENCE’, THE GET IS INVALID; R. JUDAH, HOWEVER, DECLARES IT VALID. The reason why the Rabbis declare it invalid is because the Get is not produced by both [as bearers]. If then it is produced by both [as bearers], do the Rabbis declare it valid? — He replied: That is so. But, said R. Assi, at another time you told me differently? — He said: This is a peg which cannot be dislodged.[8]

MISHNAH. IF [A GET WAS] WRITTEN BY DAY AND SIGNED ON THE [SAME] DAY, WRITTEN BY NIGHT AND SIGNED ON THE [SAME] NIGHT, WRITTEN BY NIGHT AND SIGNED ON THE DAY [FOLLOWING],[9] IT IS VALID. IF IT WAS WRITTEN BY DAY AND SIGNED ON THE NIGHT [FOLLOWING],[10] IT IS INVALID. R. SIMEON, HOWEVER, DECLARES IT VALID, SINCE R. SIMEON USED TO SAY THAT ALL DOCUMENTS WRITTEN BY DAY AND SIGNED ON THE [FOLLOWING] NIGHT ARE INVALID EXCEPT BILLS OF DIVORCE.

GEMARA. It has been stated: Why did [the Rabbis] ordain that bills of divorce should be dated? — R. Johanan says: Lest [the husband] might shield his sister's daughter:[11] Resh Lakish said: So that he should not sell the increment of his wife's property.[12] Why did Resh Lakish not give the reason that R. Johanan gave? — He might argue

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(1) Because it was some Gueber festival on which the lighting of fire was forbidden.

(2) I.e., the Roman Empire.

(3) Job XXVIII, 23.

(4) Apparently this refers to the larger number of Jews inhabiting Babylon as compared with Palestine in the day of R. Hiyya.

(5) [After 226 when Ardashir I, having defeated the last of the Parthian kings. Artaban V, established the Sassanid dynasty that held sway over Babylon for several centuries. The Sassanides, whose original home was Haber near Shiraz, S. Persia, (hence the name הבר , Gueber) were ardent and zealous supporters of the Zoroastrian faith and very intolerant of the other faiths their antipathy to which found expression in persecution; v. Keth. 63b and Kid. 73a, Obermeyer op. cit. p. 262, and B.K. (Sonc. ed.) p. 699. n. 2 (where the date should be 226) and n. 3.]

(6) Because the bearer who makes the declaration is regarded as equivalent to two witnesses.

(7) And not the witness to the writing.

(8) I.e., you may take this as fixed and certain.

(9) Which is still the same date, the Jewish day being from evening to evening.

(10) Which is a different date.

(11) Who is his wife. If she misconducted herself, he might, out of affection for his sister, say that it was after he had given her the divorce.

(12) Lit., 'on account of the usufruct'. The so-called 'property of sucking' (mulug) which was settled on the wife at the time of marriage but of which the husband was to have the usufruct so long as they were married. (V. Glos. and B.B., Sonc. ed., p. 206, n. 7). If the Get was undated, he might wrongfully assert that he had sold the increment before the divorce.

Talmud - Mas. Gittin 17b

that adultery is exceptional.[1] And why did R. Johanan not give the reason that Resh Lakish gave? — He was of opinion that the increment of the wife's property belongs to the husband until the Get is actually delivered.[2] On the theory of Resh Lakish we can understand why R. Simeon should declare valid [a Get signed on the following night].[3] But on the theory of R. Johanan, what is R. Simeon's reason for declaring such a Get valid?[4] — R. Johanan might answer that his theory is not meant to square with the view of R. Simeon but with the view of the Rabbis. On the theory of R. Johanan[5] we understand why R. Simeon and the Rabbis differ;[6] but on the theory of Resh Lakish, why should there be any difference between them? — They differ with regard to the increment that accrues between the time of writing [the Get] and the time of signing it.[7] But have we not been told just the opposite [with regard to R. Johanan and Resh Lakish]? For it has been stated: 'From what point of time can the divorced woman begin to draw the increment? R. Johanan says: From the time [when the Get] is written; Resh Lakish says: From the time when it is delivered'? — Reverse the names.

Said Abaye to R. Joseph: [We have learnt that] three kinds of Get are invalid,[8] but if a woman marries again on the strength of them [and bears a child], the child is legitimate. This being so, what good have the Rabbis done with their regulation [that the Get should be dated]? — They at least raise an initial bar against her marrying again.[9] Suppose the husband cut off the date and gave it to her? — He replied: We do not take precautions against a fraud [of this kind]. Suppose it is dated only by the septennate,[10] by the year, by the month, by the week? — He replied: It is valid. What good then have the Rabbis done with their regulation? — It is of value [where a question arises] about the septennate before or the septennate after.[11] For if you say this is of no value, [I might retort,] even when the day is specified, do we know whether the morning or the evening is meant? What [it does is] to distinguish it from the day before and the day after. So here, [by specifying the septennate] we are enabled to distinguish it from the septennate before and the septennate after [should a question arise about them].

Rabina said to Raba: If a man writes a Get

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(1) And therefore it was unnecessary to make a special regulation dealing with it.

(2) Hence dating the Get would not help the wife to recover the increment from the purchasers as long as the woman could not produce evidence when she received the Get.

(3) Because according to R. Simeon he loses his title to the increment when he decides to divorce her; v. infra 18b.

(4) Seeing that it gives him an improper opportunity of shielding his sister's daughter.

(5) That the Rabbis required the Get to be dated so that the husband should not shield the wife and R. Simeon so that he should not draw the increment.

(6) On the question of a Get signed on the following night.

(7) The Rabbis holding that the husband is entitled to it till the time of signing. Hence if it is dated the previous day he loses a day, and therefore the Get is invalid. For R. Simeon, however, who holds that the husband loses his title from the time he decided to divorce her, this objection does not apply.
(8) One of them being an undated Get; infra 86a.
(9) Because the scribes will be unwilling to write and the witnesses to sign a Get without a date.
(10) The seven-year period between one Sabbatical year and the next.
(11) E.g., if the alleged unchastity took place in the septennate before, or if the husband continued to draw the increment in the septennate after.

Talmud - Mas. Gittin 18a

and puts it in his pocket, thinking that he may yet make friends with his wife[1] [and eventually gives it to her], what is the ruling? — He replied: A man does not meet trouble half way.[2] Said Rabina to R. Ashi: In the case of writs of divorce from 'foreign parts' which are written in Nisan and do not reach their destination till Tishri, what good have the Rabbis done with their regulation?[3] — He replied: People hear of such documents.[4]

It has been stated: From what point do we commence to count [the three months] from a divorce?[5] Rab says: From the time [the Get] is delivered; Samuel says: From the time it is written. R. Nathan b. Hoshia strongly demurred to this opinion. According to Samuel, are people to say, [he asked,] here are two women in the same house,[6] one of whom may marry and the other may not? — Said Abaye to him: [That is so]: the one like the other must go by the date of her Get.[7] It has been taught in accordance with Rab and it has been taught in accordance with Samuel. It has been taught in accordance with Rab: If a man sends a Get to his wife and the bearer lingers on the road three months, she has to wait three months from the time the Get is delivered to her, nor do we concern ourselves lest it should have become an 'old Get',[8] because the husband has not been alone with her in the interval. It has been taught in accordance with Samuel: If a man entrusts to a third party a Get for his wife, and says to him, 'Do not give it to her till three months have passed', she is at liberty to marry from the moment he has given it to her, nor do we concern ourselves lest it should have become an 'old Get', since he has not been alone with her in the interval.

R. Kahana, R. Papi and R. Ashi acted on the principle that the Get is valid from the time of writing; R. Papi and R. Huna the son of R. Joshua that it is valid from the time of delivery. The law is that it is valid from the time of writing.

It has been stated: From what point does a Kethubah [marriage settlement][9] fall under the law of the Sabbatical year?[10] Rab says: From the moment when the woman takes part payment and converts [the rest into a loan];[11] Samuel says: [From the moment when] she takes part payment even though she does not convert [the rest into a loan], or converts [the whole into a loan] without taking part payment. It has been taught in accordance with Rab and it has been taught in accordance with Samuel. It has been taught in accordance with Rab: From what point does a Kethubah fall under the law of the Sabbatical year? From the moment when the woman takes part payment and converts [the rest into a loan]; if she takes part payment and does not convert [the rest into a loan], or converts [it all into a loan] and does not take part payment, it does not fall under the law of the Sabbatical year; she must both take part payment and convert the rest into a loan. It has been taught in accordance with Samuel: ['The fines] for violation,[12] for wife-slander,[13] and for seduction,[14] and a wife's Kethubah, if converted into loans, are subject to the law of the Sabbatical year, but otherwise are not subject. From what point are they regarded as converted into loans? From the time [the case is] brought into court.' Samuel said: A Kethubah is on a par with a deed drawn up by the Beth din. Just as a deed drawn up by a Beth din may be written by day and signed on the following night,[15] so a Kethubah may be written by day and signed on the following night. The Kethubah[16] of R. Hiyya b. Rab was written by day and signed the following night. Rab himself was present and made no objection. Are we to infer from this that he is of the same opinion as Samuel? — They were engaged on that matter during the whole of the interval; [and in such a case it is permissible], as it has been taught: R. Eleazar son of R. Zadok said: This rule [not to sign documents on the following night] applies only where [the parties concerned] were not engaged on that matter during the whole of the interval; but if they were so engaged, the document so signed is valid.

R. SIMEON DECLARES IT VALID. Raba said: What is R. Simeon's reason? — He was of opinion that so soon as the husband makes up his mind to divorce the wife, he is not entitled any more to the increment from her property. Resh Lakish said: R. Simeon declared [the Get] valid only if it was signed on [the night] immediately [following], but if it was not signed till ten days afterwards it is not valid.

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(1) Lit., ‘if he should pacify her, she would be appeased.’

(2) I.e., such a case is hardly likely to occur. Unless a man is intent on divorcing his wife he does not as a rule write a writ of divorce.

(3) Because even with the date the husband will now find it easy to shelter the wife in case of misconduct, and, further, the date places at a disadvantage persons who in the interval between the writing and the giving of the Get have inadvertently bought the increment of the wife's property from the husband, as she can now recover this from them. V. Tosaf. s.v.

(4) And know that the Get was given long after it was written, and in those cases, evidence as to the date of delivery is decisive.

(5) A divorced woman was required to wait three months before remarrying to make sure she was not with child. V. Yeb. 42a.

(6) Two wives of one man who gave them both writs of divorce on the same day before going abroad, but one Get bore an earlier date than the other.

(7) Lit., ‘For this one, her Get affords proofs, and for this one her Get etc.’

(8) If after writing a Get and before delivering it the husband has intercourse with his wife, such a Get is called an ‘old Get’ and is not valid; v. infra 76b.

(9) V. Glos.

(10) V. Deut. XV. The Sabbatical year brought release from the obligation to repay loans, but not the kethubah.

(11) By drawing up a bond in which the balance is recorded as a loan.

(12) V. Deut. XXIII, 28, 29.

(13) Lit,, ‘fine’. V. Deut. XXIII, 13-19.

(14) V. Ex. XXII, 15,16.

(15) As it is only a record of a decision arrived at by the court.

(16) V. Glos. s.v. (b).

Talmud - Mas. Gittin 18b

since there is a possibility that he made it up with her [in the interval].[1] R. Johanan, however, says that even if it was signed ten days later [it is valid, because] if he had made it up with her, people would have got to know.

It has been stated: If a man said to ten persons, ‘Write a Get for my wife’, according to R. Johanan, two of them sign as witnesses and the rest [simply] because he made it a condition,[2] while according to Resh Lakish, all of them sign as witnesses. How are we to understand this? Are we to suppose that he did not say to them ‘all of you [write]’? [This cannot be] because we have learnt: If he says to ten persons, ‘Write a Get for my wife’ [without saying ‘all of you’], one writes and [only] two sign![3] — We suppose then that he used the words ‘all of you’. What is the practical difference between R. Johanan and Resh Lakish?[4] — The practical difference arises where two of them signed on the same day and the rest ten days later. According to the authority [R. Johanan] who said [that the rest only sign] because he made it a condition, [the Get is] valid, but according to the authority who says [that they all sign] as witnesses, [the Get is] invalid. Or again [there is a difference] where, for example, one of the persons [who signed it] was found to be a relative or in some way disqualified [from acting as witness]. According to the authority who said [that the rest sign] because he made it a condition, [the Get is] valid, but according to the authority who says [that they all sign] as witnesses [it is] invalid.[5] If [the relative or disqualified person] signs first, some say [that the Get is] valid and some that [it is] invalid. Some say [it is] valid because [the person thus signing may be regarded as fulfilling] the condition. Some say [it is] invalid because [otherwise] a precedent may be set for the signing of documents in general.

A certain man said to ten persons, [All of you][6] write a Get for my wife, and two signed on the same day and the rest ten days later. [The question of its validity] came before R. Joshua ben Levi. He said:

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(1) Cf. p. 66, n. 3.

(2) The fulfilment of which he insisted upon, because it was his intention to shame her in the presence of all these people.

(3) V. infra 66b.

(4) Since all have in any case to sign.

(5) According to Sanhedrin 9a, if there are a hundred witnesses and one of them is a relative or otherwise disqualified, the evidence is not accepted.

(6) These words are not in the text, but, as Rashi points out, they are necessary for the sense, because if they were not used, according to all authorities it is necessary for only two to sign.

Talmud - Mas. Gittin 19a

R. Simeon's authority[1] is good enough to follow in an emergency.[2] But did not Resh Lakish say that R. Simeon declared [the Get] valid only if it was signed [the night] immediately [following] but not if it was signed ten days later? — On that point he [R. Joshua ben Levi] agreed with R. Johanan. But did not R. Johanan say that only two [of them sign] as witnesses and the rest [simply because he made it] a condition?[3] — On that point he agreed with Resh Lakish.

MISHNAH. THE GET MAY BE WRITTEN WITH ANY MATERIAL, WITH DEYO,[4] WITH SAM,[5] WITH SIKRA,[6] WITH KUMUS[7] AND WITH KANKANTUM[8] OR WITH ANYTHING WHICH IS LASTING. IT MAY NOT RE WRITTEN WITH LIQUIDS OR WITH FRUIT-JUICE OR WITH ANYTHING THAT IS NOT LASTING. [THE GET] MAY BE WRITTEN ON ANYTHING — ON AN OLIVE LEAF [ETC.] [HE MAY WRITE IT] ON THE HORN OF AN OX AND GIVE HER THE OX, OR ON THE HAND OF A SLAVE AND GIVE HER THE SLAVE. R. JOSE THE GALILEAN SAYS: [A GET IS] NOT [TO BE WRITTEN] ON ANYTHING LIVING OR ON FOODSTUFF.

GEMARA. DEYO: this is ink.[9] SAM: this is paint.[10] SIKRA: Rabbah b. Bar Hanah says: Its name is dekarta [red paint]. KUMUS: this is gum. KANKANTUM: Rabbah b. Samuel says: This is blacking used by bootmakers. ANYTHING THAT IS LASTING. What do these words add [to the list]? — They add the content of the following [teaching] which R. Hanina learnt: If [the Get is] written with the juice of wine-lees[11] or gall-nut [juice], it is valid.

R. Hiyya taught: If the Get is written with lead, with black pigment or with coal,[12] it is valid.

It has been stated: If a man goes over red paint writing with ink on Sabbath, R. Johanan and Resh Lakish both agree that he is punishable on two counts, one for writing and one for effacing.[13] If he goes over ink with ink or red paint with red paint, he is not punishable.[14] If he goes over ink with red paint, some say he is punishable and some say he is not punishable. Some say he is punishable because he effaces [the previous writing], some say he is not punishable because he only spoils [the previous writing]. Resh Lakish inquired of R. Johanan: If witnesses are unable to sign their names, is it permissible to write the names for them in red paint and let them go over in ink? Does the upper writing count as writing or not? — He replied: It does not count as writing. But, said he, has not your honour[15] taught us that in respect of Sabbath observance the upper writing is counted as writing?[16] — He replied: Because we have a certain idea, shall we base our practice upon it?[17]

It has been stated: If the witnesses are unable to sign their names, Rab says that incisions are made for them on the sheet[18] which they fill in with ink, and Samuel says that a copy is made with lead. ‘With lead’? How can this be, seeing that R. Hiyya has taught that if the Get is written with lead, with black pigment or with coal it is valid?[19] — There is no contradiction; the one case speaks of lead, the other of water in which lead has been soaked. R. Abbahu said that the copy is made with water in which ground gall-nuts[20] have been soaked. But has not R. Hanina taught that if the Get is written with juice of wine-lees or of gall-nuts it is valid? — There is no contradiction: in the one case the sheet has been prepared with gall-nut juice, in the other not; gall-nut water does not show on gall-nut water.[21] R. Papa says [that the copy may be made] with spittle, and so R. Papa actually showed Papa the cattle dealer. All this applies only to writs of divorce, but not to other documents;[22] for a man who actually did this with another document was ordered by R. Kahana to be flogged.

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(1) That it may be written by day and signed by night.

(2) Supposing the husband has gone away or she has married again.

(3) And therefore it should he valid even according to the Rabbis.

(4) ‘Ink’,

(5) ‘Paint’.

(6) Lit., ‘red’.

(7) GR. ** , ‘gum’.

(8) Calcanthum, vitriol. These terms are explained infra.

(9) [Chiefly made in Talmudic days of soot hardened into a tough pitchy substance by means of olive oil or balsam-gum, and finally dissolved in liquid before use; v. Blau, Buchwesen, pp. 153ff.]

(10) [Orpiment; v. Krauss, op. cit. III, pp. 150 and 511.]

(11) [מי תריא meaning uncertain: either rain water or juice of some fruit.]

(12) [So Jast. Rashi ‘with coal or blacking used by bootmakers’. Here too the Hebrew terms שחור and שיחור are of uncertain meaning, but the Syriac ‘Shekiro’ for vitriol is in favour of Rashi; Krauss, op. cit. p. 311.]

(13) The effacement of writing on Sabbath is an offence if it is done with the purpose of writing afresh, otherwise not.

(14) Because he neither writes nor effaces.

(15) Lit., ‘our master’.

(16) When ink is written over red paint.

(17) I.e., shall we go so far as to permit a doubtful action on Sabbath, or similarly count such a signature as valid in the case of a Get?

(18) [נייר , a leaf of white papyrus. v, however Krauss, op. cit. III, pp. 146ff.]

(19) And therefore lead counts as writing, and so if it is gone over in ink, we have writing on top of writing, which is not permissible.

(20) [מי מילין , juice made from the rind of the ash-tree (GR. **), a popular writing material prepared by the Romans, v. Kraus, op. cit. III, 148.]

(21) And therefore where the sheet has been prepared with gall-nut juice, it is permissible to make a copy with gall-nut water.

(22) For which it is necessary to find witnesses who can sign their names.

Talmud - Mas. Gittin 19b

It has been taught in accordance with Rab: If witnesses are unable to sign their names, incisions are made for them on the sheet which they fill in with ink. Said Rabban Simeon b. Gamaliel: This applies only to writs of divorce; but in the case of writs of emancipation and other documents, if the witnesses are able to read and to sign, they sign, and if not they do not sign. How does 'reading' come in here? — There is an omission which is to be supplied as follows: 'If the witnesses are unable to read, the document is read to them and they sign, and if they are unable to sign etc.' Said Rabban Simeon b. Gamaliel: 'This refers only to writs of divorce; but in the case of writs of emancipation and other documents, if they are able to read and sign, they sign, and if not, they do not sign.' Said R. Eleazar: What is the reason of R. Simeon [for ruling so]? In order that the daughters of Israel may not become 'deserted'[1] wives. Raba said: The halachah is according to the ruling of R. Simeon b. Gamaliel. R. Gamda, however, said in the name of Raba that the halachah is not according to his ruling. According to whose ruling then is it? According to that of the Rabbis?[2] Was not a man who actually followed this course with regard to another document ordered to be flogged by R. Kahana? — Explain [that as referring to the rule] about reading,[3] Rab Judah used to exert himself[4] so as to read [a document submitted to him] and [only then] sign. Said 'Ulla to him: This is not necessary, for R. Eleazar, the Master of the Land of Israel,[5] used to have the document read to him and then sign. R. Nahman also had [the document] read to him by the scribes of the court judges and then signed. This procedure was correct for R. Nahman and the scribes of the court judges, because they were afraid [of him][6] but it would not be with R. Nahman and any other scribes, or with the scribes of the court judges and any other person.

When R. Papa was called upon to deal with a Persian document drawn up in a heathen registry, he used to give it to two heathens to read, one without the other, without telling them what it was for,[7] and [if they agreed] he would recover on [the strength of] it even from mortgaged property. R. Ashi said: R. Huna b. Nathan has told me that Amemar has laid down that a Persian document signed by Israelite witnesses is sufficient warrant for recovering even from mortgaged property. But they are not able to read it? — [We speak of the case] where they are able. But the writing has to be such that it cannot be altered [without leaving a mark], and here it is not so?[8] — [We speak of a sheet which has been treated] with gall-nuts. But the rule is that the gist of the document has to be repeated in the last line, and that is not the case here?[9] — [We speak of the case where] it is repeated. But when all is said and done, what does this statement teach us? That [a document] may be written in any language? This we have already learned:[10] If a Get is written in Hebrew and signed in Greek,[11] or written in Greek and signed in Hebrew, it is valid. — If I had only that to go by, I should say that this is the case only with writs of divorce, but not with other documents. Now I know [that this applies to other documents also].

Samuel said: If a man gives his wife a blank sheet and says to her, 'This is thy Get', she is divorced, because we consider it possible that he may have written it with gall-nut water.[12] An objection was raised [from the following]: [If a man said to his wife], 'Here is your Get', and she took it and threw it into the sea or the fire or destroyed it in any other way, and if he then in turn said that it was a sham promissory note[13] or an amanah[14] ' she is none the less divorced, and he has no power to prevent her from remarrying.[15] [Is not] the reason for this that there was some writing on the sheet, so that if there was no writing [she was] not [divorced]?[16] — When Samuel said she is divorced, he meant, only after we have tested [the sheet] with violet water.[17] If the letters come to light, then obviously there was writing, and if not, then there is nothing in it. And if the letters do come to light, what of it? It is only now that they come to light?[18] Samuel also only said, 'we consider it possible.'[19]

Rabina said: Amemar has told me that Meremar has laid down in the name of R. Dimi that the two persons in whose presence the Get is delivered[20] must read it. An objection was raised [from the following passage]: [If a man said to his wife] 'Here is your Get', and she took it and threw it into the sea or the fire or destroyed it in some other way, and if he then in turn said that it was a sham promissory note or an amanah, she is [none the less] divorced and he has no power to prevent her from remarrying. Now if you say that they [the witnesses to the delivery] are required to read it, can he possibly say this after they have read it? — The ruling is still necessary for the case in which after the witnesses have read it he takes it from them and puts it under his coat and takes it out again. It might be argued in that case that he has changed it [for some other document], but now I know [that this argument is of no avail].

A certain man threw a document to his wife and it fell between the jars. Afterwards a mezuzah[21] was found there. Said R. Nahman: A mezuzah is not usually found among the jars.[22] This reasoning holds good if only one was found, but if there were two or three we say that just as mezuzahs got there so a Get may have got there, and that the Get itself was removed by mice.

A certain man went to the synagogue and took a scroll of the Law and gave it to his wife saying. ‘Here is thy Get’. Said R. Joseph: Why should we take any notice of it? Shall we say that the Get was written in gall-nut water [on the outside of the scroll]? Gall-nut water does not make any mark on [a sheet treated with] gall-nut

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(1) Agunah, v. Glos.

(2) Who allow all documents to be signed by witnesses who cannot write.

(3) That provided they can sign their names, though they cannot read, they may still act as witnesses if the document is read to them.

(4) Being nearly blind, owing to old age.

(5) V. Nid. 20a.

(6) And therefore could be relied upon to read correctly. R. Nahman was himself the chief judge in Nehardea, having been appointed by the Exilarch, who was his father-in-law, v. infra 67b.

(7) Lit., ‘talking, in his simplicity’.

(8) As this was not insisted on in the Persian courts.

(9) V. supra 11a.

(10) Infra 87b.

(11) I.e., in Greek script.

(12) And the writing has faded.

(13) Lit., ‘persuasion’, פסים , (Cf. Grk. **). A bond which A gives B merely that the latter may make a show with it.

(14) A bond given for money which has not yet been borrowed but may be borrowed later, v. Keth. 19b.

(15) Tosef. Git. VI.

(16) As otherwise it would have been stated above, ‘If he said that there was no writing on it’. This refutes Samuel.

(17) מים דנרא , decoction of the bark of the pomegranate tree. V. fast. s.v דנרא .

(18) And when she was divorced there was no writing.

(19) I.e., the divorce is only a doubtful one, sufficient to prohibit her to a priest, but not to allow her to remarry.

(20) V. supra 5b.

(21) V. Glos.

(22) And therefore we presume that what he threw was a mezuzah and not a Get.

Talmud - Mas. Gittin 20a

water.[1] Shall we say that the scroll is itself a Get because of the portion it contains relating to ‘cutting off’?[2] We require that it should be written for that woman specifically,[3] which is not here the case. If you should plead that possibly he gave, beforehand, a fee[4] to the scribe [to write the passage in the scroll specifically for her], this also is unavailing, since we require [the insertion[5] of] his name and her name, the name of his town and the name of her town, which we do not [find here]. What does [then] R. Joseph teach us here?[6] — That gall-nut water makes no writing on [a sheet treated with] gall-nut water.

R. Hisda said: If a Get was written not expressly for a certain woman, and the writing was then gone over with a pen with specific reference to that woman, the same difference of opinion may arise as we find between R. Judah and the Rabbis. For it has been taught: If a scribe [copying a scroll of the Law] had to write in a certain place the Tetragrammaton[7] and intended to write instead the name Judah[8] and by mistake left out the letter daleth [thus actually writing the Tetragrammaton], he may go over the letters with his pen and so sanctify the Name. This is the opinion of R. Judah, but the Sages say that such a Name is not of the choicest. Said R. Aha b. Jacob: The analogy is not altogether sound; for perhaps the Rabbis ruled thus in regard to the Tetragrammaton on account of the maxim indicated in the words, This is my God and I will beautify him,[9] but here they would not [object]. R. Hisda said: I am able to invalidate all the bills of divorce ever written. Said Raba to him: How so? Is it because the Scripture says, And he shall write,[10] and in this case it is she who writes for him?[11] Perhaps the Rabbis declare him to be the owner [of the money which she gives to the scribe].[12] Is it because it is written, And he shall give,[13] and here he does not give her anything [of any value]? Perhaps the delivery of the Get is referred to. That this is so is proved by the instruction sent from Eretz Israel: ‘If the Get was written on something from which it is forbidden to derive any benefit,[14] it is still valid.’

The text above [stated:] ‘The instruction was sent from Eretz Israel: If the Get is written on something from which it is forbidden to derive a benefit, it is still valid’. R. Ashi said: We have also learned [to the same effect]: [A Get may be written] ON AN OLIVE LEAF.[15] But perhaps an olive leaf is different because [although worth nothing in itself] it may yet be combined [with other things to enhance the value of the whole]?[16]

It has been taught: Rabbi said that if the Get is written on something from which it is forbidden to derive a benefit, it is still valid. Levi went about stating this ruling in the name of Rabbi, and it was not approved.[17] He then stated it in the name of the main body of the Rabbis[18] and it was approved. From this we may conclude that the law follows his ruling.[19]

Our Rabbis have taught: ‘[The Scripture says] And he shall write ["the writ of divorce"], which implies that he is not to grave it.’ From this we would conclude that graving is not counted as writing. This, however, seems to be in contradiction with the following: A slave who produces a deed engraved on a tablet or a board is legally emancipated, but not if the writing is woven into a woman's headband or a piece of embroidery?[20] — Said ‘Ulla in the name of R. Eleazar: There is no contradiction. Graving is invalid if the letters are in relief,[21] but valid if they are hollowed out.[22] [You say that if the letters are] in relief it is not [valid]. Does not this contradict the following? ‘The writing [on the High priest's plate][23] was not sunk in but projected like that on gold coins.’ And is not [the inscription on] gold denarii in relief? — [It was] like [the inscription on] gold denarii and yet not like it. [It was] like it in the fact that it projected, but it was unlike it because there [in gold denarii the metal is hollowed] round the letters,[24] but here [in the High Priest's plate] the letters themselves[25] were hollowed out.

Rabina inquired of R. Ashi: Does a stamp scrape out or does it force together?[26] — He replied: It makes a depression. [Rabina] thereupon raised the following objection: [It has been taught] ‘The writing [on the High Priest's plate] was not sunk in but was in relief, like the [inscription on] gold denarii’. Now if a stamp makes a depression round the letters,

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(1) At that time all parchment scrolls of the Law were treated in this way. Hence there was no proper writing from the outset, and consequently no Get.

(2) Deut. XXIV, 1.

(3) Lit., ‘he shall write for her’ (which means) ‘in her name’.

(4) Lit., ‘a zuz’.

(5) [his rendering omits the word שינה which is inserted in the text only inadvertently as a quotation from infra 80a; v. Rashi.

(6) Seeing that all this is obvious.

(7) The four letters Yod, He, Waw, He.
(8) The five letters Yod, He, Daleth, Waw, He.
(9) Ex. XV, 2. The words are expounded to signify. 'Beautify thyself before Him in the performance of religious duties'.
(10) Deut. XXIV, 1.
(11) By paying the scribe's fee, which she was required to do according to the Rabbinical rule, v. B.B. 168a.
(12) According to the principle. 'The Beth din has power to expropriate'. V. infra 36b.
(13) Deut. ibid.
(14) E.g.. a leaf of a tree of 'orlah (v. Glos.). Such things had naturally no monetary value.
(15) Which is also worthless.
(16) E.g., a pile of olive leaves may be bought for lying on or for feeding cattle. The Mishnah affords then no support to the message from Eretz Israel.
(17) Lit., 'it was not praised'.
(18) Lit., 'of many'.
(19) Because when it was not approved at first, Levi took the trouble to obtain additional authority.
(20) So Rashi. Jastrow, however, (s.v. אנדכתרי) translates, 'a slave does not go free in virtue of wearing a freedman's cap or of a vindicto (manumission by declaration before a court).'
(21) Lit., 'if he carved out the interior (of the plate)'.
(22) Lit., 'if he carved out the thighs (of the letters)'.
(23) V. Ex. XXVIII, 36.
(24) Lit., 'the interior'.
(25) Lit., 'the thighs'. They were pressed forward from the back and so projected in front.
(26) If it scrapes out the metal round the letters, the use of it is not writing; but it is if the letters are formed by compression.

Talmud - Mas. Gittin 20b

it does not write, and [for the plate] 'writing' was required?[1] — It was like [the inscription on] gold denarii and yet not like it. It was like it in the fact that it stood out, but not like it in the fact that there [in a coin] the pressure is applied on the same side [as the inscription], but here [in the plate] it was from the other side.

Raba inquired of R. Nahman: If a man writes a Get on a plate of gold and says to his wife, 'Receive herewith your Get and receive herewith your kethubah', what is the ruling? — He replied: Both her Get and her kethubah have been legally received by her. [Raba] thereupon raised an objection. [We have been taught,] If a man says, 'Receive herewith your Get and the rest can go to your kethubah', the Get has been legally received by her and the rest goes to the kethubah. Now the reason is that there is something over, but otherwise not? — No. The same rule applies even if there is nothing over, and what this [statement] teaches us is that even if there is something over, if he tells her [to take that in payment of her kethubah] she takes it, but if not, not. For what reason? — Because [in that case the rest] is [reckoned merely as] the margin of the Get.

Our Rabbis taught: [If a man says to his wife.] 'Here is your Get, but the sheet belongs to me', she is not divorced,[2] [but if he said.] On condition that you return the sheet to me, she is divorced.[3] R. Papa inquired: Suppose he says, [On condition that] the space between the lines, or between the words [is to belong to me], what is the ruling? — This question was left over. But cannot the question be decided from the fact that the Divine Law said 'a writ', that is to say one writ, and not two or three?[4] — The difficulty still remains in the case where it is all linked together.[5]

Rami b. Hama propounded: Suppose a slave [is brought into court] who is known to have belonged to the husband, and a Get is written on his hand and he comes before us as the slave of the wife, how are we to decide? Do we presume that the husband transferred the slave to the wife [along with the Get],[6] or do we argue that perhaps he went to her of his own accord? — Said Raba: Cannot the question be decided on the ground that the writing is such as to admit of falsification?[7] But does not Raba's difficulty apply also to our Mishnah which says that a Get may be written ON THE HAND OF A SLAVE? — We understand that the Mishnah presents no difficulty to Raba. [The Mishnah was speaking of a case] where [the Get was] delivered before witnesses,[8] in accordance with the ruling of R. Eleazar.[9] The difficulty,[10] however, arises on [the question of] Rami b. Hama![11] — According to Rami b. Hama there is no difficulty, as he is speaking of the case [where the Get was] tattooed [on the slave's hand].[12] If you take that line, you can say that the Mishnah also presents[13] no difficulty, as it was speaking of tattooing. What then is the answer [to Rami b. Hama's question]? — Come and hear: Resh Lakish has laid down that there is no presumptive title to living creatures.[14]

Rami b. Hama inquired: If a tablet was known to have belonged to the wife, and a Get is written on it, and it is produced by the husband, what do we decide? Do we say that she made it over to him, or do we argue that a woman does not know how to make over things [temporarily]?[15] — Said Abaye: Come and hear: He[16] also testified regarding a small village adjoining Jerusalem in which lived an old man who used to lend money to all the people of the village, and he used to write the bond and others signed it, and the case was brought before the Sages and they declared the bonds valid. Now how could they do this, seeing that there must be a ‘writ of transfer’.[17] Obviously the reason is that we say that he made over the bonds to them.[18] Said Raba: What is the difficulty? Perhaps

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(1) Ex. XXVIII, 30.

(2) Because he has to ‘give’ her the writ, and here there is no giving.

(3) Because a gift which is made conditionally on its being returned is still counted a gift.

(4) And in this case he makes it into several.

(5) I.e., by long letters like the final nun, which obliterate the spaces between the lines.

(6) V. Mishnah 19a.

(7) And therefore it is no Get.

(8) Who read it, and who could testify in case of falsification.

(9) Who says that the witnesses to delivery make the Get effective.

(10) Which Raba put to him.

(11) Because he was speaking of the case where there were no witnesses to delivery.

(12) And so could not be effaced.

(13) [So Var. lec., cur. edd., read ‘to Raba’.]

(14) Lit., ‘those kept in folds’, because they are liable to stray; hence their being found in a certain man's possession is not presumptive evidence that he is the owner, and the same applies to a slave, v. B.B. 36a.

(15) Of such a nature where the transfer is a mere legal fiction designed to place the tablet in the temporary ownership of the husband to enable him to write the Get on it. Consequently the Get is not valid since it must be written on material belonging to the husband.

(16) R. Judah b. Baba. V. ‘Ed. II, 3.

(17) ספר מקנה (Jer. XXXII, 10). which is taken to mean ‘a document written by the transferor’. V. Kid. 26a.

(18) And they returned them to him. So here we may say that even if the wife does not intend to leave the tablet in the husband's hands permanently, yet for the time being she has given it to him, and he can therefore ‘give’ it to her as a Get.

Talmud - Mas. Gittin 21a

an old man is different, because he knows how to make over things. But no, said Raba; [we decide] from the following: ‘If the signature of the security [for another] appears below the signatures to the bond, the lender may recover from his [the security's] unmortgaged property.[1] Said R. Ashi: What is the difficulty? Perhaps a man is different, because he knows how to make over things. No, said R. Ashi; we decide from the following: A woman may write her own Get[2] and a man may write his own receipt,[3] because a document is only rendered valid by its signatures.[4]

Raba said: If a man writes a Get for his wife and entrusts it to his slave, and also writes a deed assigning the slave to her, she becomes the legal owner of the slave and she is divorced by the Get. Why should this be? The slave is a moving courtyard,[5] and a moving courtyard cannot transfer ownership. And should you reply that we speak of a slave who stands still, has not Raba laid down that things which do not transfer ownership when moving do not transfer it when standing or sitting? The law, however, is [that the Get is valid if the slave] is bound.[6]

Raba also said: If a man wrote a Get for his wife and put it in his courtyard and then wrote a deed assigning her the courtyard, she becomes owner of the courtyard and is divorced by the Get. Both of these statements of Raba are necessary. For if he had confined himself to the first statement, about the slave, I should have said that this applies strictly to a slave, but in the case of a courtyard [I should declare the Get invalid], so as not to set a precedent for a courtyard which comes into her possession subsequently.[7] And again, if he had stated only the rule about a courtyard, I should have said that this applies strictly to a courtyard, but in the case of a slave I should debar one who is bound so as not to set a precedent for one who is not bound. Now I know [that this is not so].

Said Abaye: Let us see. From what expression in the Scripture do we infer the rule about a courtyard? From the words 'her hand'.[8] Therefore, just as, if he gives the Get into her hand, the husband can divorce her with her consent or without her consent, so if he places it in the courtyard he should be able to divorce her with her consent or without her consent. But the gift [of the courtyard] can be made only with her consent and not against her will.[9] R. Shimi b. Ashi demurred to this objection. There is, [he said,] the case of her appointing an agent to receive the Get from the husband,[10] which appointment can be made only with her will but not against her will, and yet the agent is duly authorised?[11] And Abaye? — He rejoins: The rule of agency is not derived from the term 'her hand'; the rule regarding agency is derived from the superfluous letter in the word we-shilhah[12] ['and he send her'].[13] Or if you prefer, I can reply that we find cases where an agent for receiving [the Get is also appointed] without the consent [of the wife], since a father can accept a Get for his daughter who is still a child[14] without her consent.

ON AN OLIVE LEAF etc. We understand the ruling (in the case of a Get written] on the hand of a slave[15]

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(1) V. B. B. (Sonc. ed.) p. 773, n. 12. In this case the lender gives the bond to the security who is the transferor to sign, and then takes it back from him.

(2) And then give it to the husband, who gives it back to her.

(3) For the kethubah, and give it to the wife, who then signs it and returns it to him.

(4) V. infra 22b.

(5) Giving it to the slave is like putting it in a courtyard and telling her to take it from there, only the slave is moving from place to place; on the transfer of ownership by means of a court, v. B.M. 9b.

(6) For then he is indeed on a par with the courtyard.

(7) If the husband places the Get in the courtyard of a third party which subsequently comes into possession of the wife, the Get is not effective, v. infra 24a and 63b.

(8) The term 'her hand' in Deut. XXIV. 1, is taken to include courtyard, v. B.M. 9b.

(9) And therefore the dictum of Raba falls to the ground, does it not?

(10) שליח לקבלה . In which case the woman is divorced from the very moment the agent receives the Get.

(11) Lit., 'he becomes an agent for receiving'.

(12) Lit., '(instead of) and he send (it is written) and he send her'. V. Kid. 410.

(13) Deut. XXIV, 1, (v. infra, 62b), and consequently there is no warrant for insisting on drawing an analogy between 'hand' and 'agency'.

(14) I.e., under twelve years of age, v. Keth. 47a.

(15) That the slave is then given to her.

Talmud - Mas. Gittin 21b

, because it is not possible to cut off the hand [and give it to her]. But where [it is written] on the horn of an ox [why need the ox be given to her]? Let the husband cut it off and give it to her? — Scripture says, He shall write and give to her.[1] [This means that the Get must be on something] which requires only to be written on and to be given [to make it effective]: it excludes [something like] this which requires to be written on, to be cut off, and to be given [before it can become effective].

R. JOSE THE GALILEAN SAYS etc. What is the reason of R. Jose the Galilean? — As it has been taught: [From the word] sefer[2] I understand [that the husband must give the wife] a ‘book’.[3] How do I know that any thing will serve the purpose? Because it says, ‘and he write her’, that is to say, any form of written document — If so why does it specify ‘book’? To show that, just as a ‘book’ is not animate and does not eat, so the document used for the Get must be inanimate and not a thing which eats. What do the Rabbis [who allow this say to this]? — [They can reply:] If the text had written be sefer [‘in a book’], your deduction would be correct, but as it writes sefer it refers only to the record [sefirath,][4] of the circumstances. What do the Rabbis make of the word we-kathab [‘and he shall write’]?[5] — They require it to [deduce therefrom the rule that a woman] is divorced by a written document and not by a money gift. For you might think that her separation from her husband is to be effected in the same way as her union with him:[6] just as the union was effected by a money payment,[7] so also the separation. Now I know [that this is not so]. From whence then does R. Jose derive this lesson?[8] — From the words ‘a writ of cutting off’: a written [document] effects the ‘cutting’ [separation] and not anything else. What then do the Rabbis make of these words?[8] — They deduce from them that [for a Get] we require something which genuinely cuts off the husband from the wife, as it has been taught: ‘[If a man says to his wife], Here is your Get on condition that you never drink wine, that you never go to your father's house, this is no "cutting off".[9] But if he says, on condition that you do not do so for thirty days, this is "cutting off".’ Whence does R. Jose derive this lesson?[8] — From [the fact that the text uses the word] kerithuth when it might use the simpler form kareth.[10] What do the Rabbis make of this?[8] — They do not stress the difference between kerithuth and kareth.

MISHNAH. [A GET] MUST NOT BE WRITTEN ON SOMETHING STILL ATTACHED TO THE SOIL. IF, HOWEVER, IT WAS WRITTEN ON SOMETHING STILL ATTACHED TO THE SOIL AND THEN DETACHED AND SIGNED AND GIVEN TO THE WIFE, IT IS VALID. R. JUDAH DECLARES IT INVALID UNLESS IT IS BOTH WRITTEN AND SIGNED ON SOMETHING NOT ATTACHED TO THE SOIL. R. JUDAH B. BATHYRA SAYS THAT [A GET] MUST NOT BE WRITTEN ON A SHEET FROM WHICH WRITING HAS BEEN ERASED[11] NOR ON DIFTERA,[12] BECAUSE WRITING ON IT CAN BE ALTERED [WITHOUT BEING NOTICEABLE]. THE SAGES, HOWEVER, DECLARE SUCH A GET VALID.

GEMARA. IF IT IS WRITTEN ON SOMETHING ATTACHED TO THE SOIL. Does not the Mishnah say just before this that it must not be so written? — Rab Judah said in the name of Samuel: It may be so written if a place is left blank for the substantive part.[13] The same statement was made by R. Eleazar in the name of R. Oshiah: It may [be so written] if a place is left blank for the substantive part. The same statement was also made by Rabbah b. Bar Hanah in the name of R. Johanan: It may [be so written] if a place is left blank for the substantive part. And [our Mishnah] follows R. Eleazar, who says that it is the witnesses to delivery who [make the Get] effective, and it is to be interpreted as follows: ‘The formal[14] part [of the Get] must not be written [on something attached to the soil] lest one should come to write thereon the substantive part also. If, however, the formal part was written [on something still attached to the soil] and then detached and the substantive part was then filled in and [the Get] given to her, it is valid.’ Resh Lakish, however, said:

Our Mishnah says distinctly, AND SIGNED’. [This shows that] it follows the view of R. Meir who said that the signatures of the witnesses make [the Get] effective, and it is to be interpreted as follows: ‘The substantive part must not be written [on something still attached to the soil] for fear lest the signatures should also be affixed to it [while in that state]. If, however, the substantive part was so written, and the Get was then detached and signed and given to her, it is valid.’

If it is written on the surface of an earthenware flowerpot with a hole at the bottom[15] it is valid, because he can take the pot and give it to her.[16] If it is written on a leaf inside a flowerpot with a hole at the bottom, Abaye says it is valid and Raba says it is not valid. Abaye says it is valid

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(1) Deut. XXIV, 1.

(2) E.V. ‘writ’. Deut. XXIV. 1.

(3) I.e., of Parchment.

(4) Lit., ‘telling’.

(5) Which includes any form of written document.

(6) In Deut. XXIV,2 the two words denoting separation and union, ויצא והיתה lit., ‘she shall deport’ and ‘she shall be (another man's wife) occur in close juxtaposition, hence the suggested comparison.

(7) A money gift is one of the forms of betrothal. V. Kid. ad init.

(8) Lit., ‘and the other’.

(9) Because there is always some link between him and her. V. infra 83b.

(10) Both words mean ‘cutting off’, the former however being the reduplicated and intensive form.

(11) Because if the text is altered it will not be noticeable.

(12) A kind of skin. V. infra 22a.

(13) תורף viz., the names and the date, v. B.M. (Sonc. ed.) p. 35, n. 4.

(14) תופס , GR. **, v. B.M. (Sonc. ed.), p. 35, n. 3.

(15) Which might therefore be regarded as still attached to the soil.

(16) And there is in fact no detaching from the soil.

Talmud - Mas. Gittin 22a

because he can take the whole pot and give it to her. Raba says it is not valid, because [if we declare it so], there is a danger lest he should pluck the leaf [and give it to her].

If a flowerpot belongs to one person and the seeds in it to another, then if the owner of the pot sells the pot to the owner of the seeds, as soon as the latter pulls it into his possession[1] he becomes the legal owner. If, however, the owner of the seeds sells [the seeds] to the owner of the pot, [the latter] does not acquire possession [of them] till he performs some act of hazakah.[2] If the pot and the seeds both belong to the same man and he sells them to another, [the latter,] as soon as he has performed hazakah on the seeds, [ipso facto] acquires possession of the pot. This accords with the rule which we have learned:[3] Movable property is transferred along with immovable property through money payment, through deed of assignment, and through hazakah. If he performs hazakah on the pot, he does not acquire possession even of the pot:[4] hazakah must be performed if at all on the seeds. If the inside of the pot is in Eretz Yisrael but the leaves of the plant extend outside of Eretz Yisrael,[5] Abaye says that we go by the inside,[6] and Raba says that we go by the leaves. If the plant has taken root, all authorities agree [that it is subject to tithe]. Where they differ is when the plant has not taken root. But is there no difference in the case where it has taken root? Have we not learnt: ‘If two gardens adjoin, one being higher than the other, and vegetables grow on the slope between,[7] R. Meir says they belong to the upper garden and R. Judah to the lower’? — The reason for the difference in that case is stated [in the Mishnah itself]: ‘Said R. Meir: If the owner of the upper garden wants to take away his earth, there will be no vegetables. To which R. Judah rejoined: If the owner of the lower one wants to fill in his garden [to the level of the higher], there would be no vegetables there.’[8] But we may still [question whether] there is not a difference in the case where [the plant] has taken root, seeing that it has been taught: ‘If part of a tree is in Eretz Yisrael and part of it outside, then titheable and non-titheable produce are mixed up in it. This is the view of Rabbi. Rabban Simeon b. Gamaliel, however, holds that that part of its fruit which grows in the place liable to tithe[9] is titheable, and that part which grows in the place not liable to tithe[10] is non-titheable.’[11] Now here we speak, [do we not], of a tree of which part of the branches are in Eretz Yisrael and part outside?[12] — No: [we speak of one of which] some of the roots are in Eretz Yisrael and some outside. What then is the reason of Rabban Simeon b. Gamaliel? — [He speaks of a case] where a piece of hard stone separates [the roots inside and outside]. What is the reason of Rabbi? — He holds that in spite of this the saps mix again [higher up]. What is their difference in principle? — One holds that the air mingles the saps, and the other holds that each side remains separate.[13]

R. JUDAH B. BATHYRA SAYS etc. R. Hiyya b. Assi said in the name of ‘Ulla: There are three kinds of skins, mazzah, hifa, and diftera. Mazzah, as its name implies,[14] [is a skin] that has been neither salted nor treated with flour nor with gall-nut. What bearing has this distinction upon the halachah? — In respect of carrying on Sabbath — How much of it may be carried? As learnt by R. Samuel b. Judah: Enough to wrap a small weight [of lead] in.[15] How much is that? — Abaye answered: About a ‘fourth of a fourth’ of Pumbeditha. Hifa [is skin] that is salted but not treated with flour or gall-nut. What bearing has this upon the halachah? — In respect of carrying on Sabbath. How much of it may be carried? — Even as we have learnt: ‘[The permitted quantity of skin] is enough to make an amulet[16] out of.’ Diftera [is skin] which is salted and treated with flour but not with gall-nut.[17] What bearing has this upon the halachah? — In respect of carrying on Sabbath. How much of it may be carried? — Enough for writing a Get upon.

BUT THE SAGES DECLARE IT VALID. Who are ‘THE SAGES’? — Rab Eleazar [the Amora] said:

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(1) The recognised form of transfer of movable articles, y. Glos. s.v. meshikah.

(2) As for immovable property. V. glos.

(3) Kid. 26a.

(4) Because hazakah does not effect transfer of movable articles.

(5) The pot being exactly on the border.

(6) In determining whether it is subject to tithe.

(7) Being thus rooted in the soil of the upper garden while the leaves spread out into the air space of the lower.

(8) But they agree that in ordinary cases we go by the root, v. B.M. 118b.

(9) I.e., in Eretz Yisrael.

(10) I.e., outside Eretz Yisrael.

(11) B.B. 27b.

(12) But the whole of the roots are either on one side or the other, and yet they differ,

(13) Where however, the entire roots are in Eretz Yisrael all agree that the position of the branches is of no consequences.

(14) Lit., ‘unleavened bread’.

(15) To save it from wearing away.

(16) A small ornament used as a charm.

(17) [Cf. Gk. ** . The list includes only hides that are partly prepared for writing, and therefore omits קלף which has gone through the whole process and hence is no longer regarded as hide, but as parchment. (Rashi)].

Talmud - Mas. Gittin 22b

R. Eleazar [the Tanna] is meant, for he said that it is the witnesses to the delivery who make [the Get] effective. R. Eleazar further said: R. Eleazar declared [such a Get] valid only if brought [by the woman] before the Beth din immediately,[1] but not if it is brought ten days later, because in that case we have to consider the possibility that there was some condition in it and she altered it.[2] R. Johanan, however, said [that it is valid] even if produced ten days later, because if there was any condition in it the witnesses [to the delivery] will still remember it. R. Eleazar further said: R. Eleazar declared valid a document [of this kind] only if it was a Get,[3] but no other documents,[4] in virtue of the Scriptural verse, And thou shalt put them in an earthenware vessel, in order that they may stand many days.[5] R. Johanan, however, held that even other documents of this nature are valid.[6] But does not Scripture say, 'In order that they may stand'? — That is merely a piece of good advice.

MISHNAH. ALL [PERSONS] ARE QUALIFIED TO WRITE A GET, EVEN A DEAF-MUTE, A LUNATIC AND A MINOR. A WOMAN MAY WRITE HER OWN GET AND A MAN HIS OWN RECEIPT [FOR THE KETHUBAH], SINCE THE DOCUMENT IS MADE EFFECTIVE ONLY BY THE SIGNATURES ATTACHED TO IT.[7]

GEMARA. [How can a deaf-mute etc. be qualified to write] seeing that they do not understand[8] [what they are doing and therefore will not write with special reference to the woman in question]? — Said R. Huna:

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(1) I.e., on the same day, in order to notify them that she obtained her divorce.

(2) And meanwhile the witnesses to the delivery have forgotten it.

(3) Because once it has been produced in the Beth din the matter is known, and therefore the Get need not be kept.

(4) E.g., bonds and promissory notes. These are necessary for substantiating the claim at a later date and there is a possibility of altering any condition contained in them without necessarily arousing the suspicion of the witnesses. (Rashi).

(5) Jer. XXXII, 14.

(6) [Consistent with his view that witnesses will recall any condition that might have been inserted. (Tosaf.)].

(7) Lit., 'by them that sign it'.

(8) Lit., 'not men of knowledge'.

Talmud - Mas. Gittin 23a

(They are permitted] only if an adult is standing by them [and telling them to write for such-and-such a purpose]. Said R. Nahman to him: If that is so, then if a heathen [writes] while a Jew stands by him, [the Get] ought still to be valid? And should you say that this actually is so, has it not been taught that a heathen is not qualified [for this purpose]? — A heathen will follow his own idea.[1] Later R. Nahman corrected himself, saying: What I said was all wrong. For since [the Mishnah] expressly disqualifies a heathen from being the bearer [of a Get],[2] we may infer that he is qualified to write one. But is it not taught that he is disqualified? — That is in accordance with the view of R. Eleazar, who said that the witnesses to delivery make [the Get] effective and [consequently] that it must be written with 'special intention'[3] and certainly the heathen will follow his own idea.

R. Nahman said: R. Meir used to say that even if [the Get] was found on a rubbish heap and was then signed and given to the wife, it is valid.[4] Raba raised an objection to this: [The Scripture says], 'he shall write for her', [which we interpret to mean] 'expressly for her name' — Does not this refer to the actual writing of the Get? — No: it refers to the signing by the witnesses, Raba raised another objection: [We have learnt that] 'any Get that is not written expressly for the woman [to be divorced] is invalid'? — Read 'that is not signed expressly.' He again raised an objection: [It has been taught] When he writes, it is as if he writes it expressly 'for her name.' Does not this mean that if he writes the substantive part 'for her name' it is reckoned as if he had written the formal part also 'for her name'? — No: what it means is that if he has it signed expressly 'for her name', it is as if he had written it also expressly 'for her name'. Or if you prefer I can answer that these teachings follow R. Eleazar who says that the witnesses to delivery make [the Get] effective.

Rab Judah said in the name of Samuel that [a deaf-mute etc. is qualified to write] only if he leaves the formal part a blank. So too said R. Haga in the name of ‘Ulla: [A deaf-mute etc. is qualified to write] only if he leaves the formal part a blank. [The Mishnah thus] follows R. Eleazar. R. Zerika, however, said in the name of R. Johanan: This is not Torah.[5] What does he mean by saying, ‘This is not Torah’? — Said R. Abba: Here [the Mishnah] makes known to us that there is no force in [the ruling that the Get should be written with] ‘special intention’, and it follows the view of R. Meir who said that it is the signatures of the witnesses which make [the Get] effective. But did not Rabba b. Bar Hana say in the name of R. Johanan that [the Mishnah] follows Rabbi Eleazar? — Two Amoraim[6] report R. Johanan differently.

MISHNAH. ALL [PERSONS] ARE QUALIFIED TO ACT AS BEARERS OF A GET EXCEPT A DEAF-MUTE, A LUNATIC, AND A MINOR, A BLIND MAN AND A HEATHEN. IF AFTER BEING ENTRUSTED [WITH THE GET BUT BEFORE DELIVERING IT] THE MINOR BECAME OF AGE OR THE DEAF-MUTE RECOVERED HIS SPEECH OR THE BLIND PERSON HIS SIGHT OR THE LUNATIC HIS REASON OR THE HEATHEN BECAME A PROSELYTE, [THE GET] IS [STILL] INVALID. BUT IF THE BEARER [BEING ORIGINALLY] OF SOUND SENSES BECAME A DEAF-MUTE AND THEN RECOVERED HIS SPEECH, OR [BEING] WITH SIGHT BECAME BLIND AND RECOVERED HIS SIGHT, OR [BEING] SANE BECAME INSANE AND RECOVERED HIS REASON, [THE GET] IS VALID. THE GENERAL PRINCIPLE IS THAT ANY BEARER WHO COMMENCES AND FINISHES [HIS MISSION] IN FULL POSSESSION OF HIS MENTAL FACULTIES[7] IS QUALIFIED.

GEMARA. We understand a deaf-mute, a lunatic, and a minor being disqualified, because they do not know what they are doing; also a heathen, because in any case he himself cannot release.[8] But why should a blind person be disqualified? — R. Shesheth says: Because he does not know from whom he takes [the Get] and to whom he delivers it. R. Joseph strongly demurred to this. In that case, [he said,] how is it permitted to a blind man to associate with his wife, or to any men to associate with their wives at night time? Is it not by recognising the voice? So here, [a blind person] can recognise the voice! No, said R. Joseph; the fact is that here we are speaking of [a Get brought from] foreign parts, [the bearer of which] has to declare, ‘In my presence it was written and in my presence it was signed’, and a blind man cannot say this. Said Abaye to him: If that is so, then a person who becomes blind [after receiving the Get] ought to be qualified, and yet [the Mishnah] states expressly that IF [BEING] WITH SIGHT HE BECAME BLIND AND RECOVERED HIS SIGHT [THE GET] IS VALID, which shows [it is valid] only if he recovered his sight, but if he did not recover his sight that he is not qualified? — He is qualified even if he does not recover his sight. Since, however, the Mishnah employed the formula, ‘OR [BEING] SANE HE BECAME INSANE AND RECOVERED HIS REASON’ — which was necessary in that case because the reason [why it is valid] is because he recovers his reason, but if he does not recover it, [the Get] is not valid — it uses a similar wording in the next clause: ‘BEING WITH SIGHT HE BECAME BLIND AND RECOVERED HIS SIGHT. Said R. Ashi: There is an indication of this in [the language of] the Mishnah itself, since it says: THIS IS THE GENERAL PRINCIPLE; ANY BEARER WHO IS IN FULL POSSESSION OF HIS MENTAL FACULTIES AT THE BEGINNING AND END [OF HIS MISSION] IS QUALIFIED, and it does not say, ‘anyone who is qualified at the beginning and end [of his mission].’ This shows [that what was said above about the bearer who becomes blind, is correct].[9]

A question was put to R. Ammi: May a slave be made an agent on behalf of a woman to receive her writ of divorce from her husband? — He replied: Since the [Mishnah] declares a heathen disqualified,[10]

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(1) And not write with special reference to the woman concerned, even if he is told.

(2) Infra.

(3) Since he considers signatures not essential for the Get, the words and he write for her are to be interpreted as requiring writing with ‘special intention’, v. infra.

(4) According to another interpretation we translate above, instead of ‘and certainly the heathen etc.’ ‘But will not the heathen etc.’ the words being an objection raised by R. Nahman's interlocutor, and the next statement is R. Nahman's reply.

(5) By allowing a deaf-mute etc. to write.

(6) K. Zerika and Rabbah b. Bar Hanah.

(7) Lit., ‘of knowledge’.

(8) Since tbe Jewish law of marriage and divorce does not apply to him, and he cannot do on behalf of another what he cannot do on behalf of himself.

(9) [The stress is laid on the possession of mental faculties at the beginning and the end but not of sight provided it was there at the beginning enabling him to make the necessary declaration.]

(10) To become the bearer of the Get, which includes his acting as the wife's agent to receive the Get.

Talmud - Mas. Gittin 23b

we may infer that a slave is qualified. R. Assi said in the name of R. Johanan: A slave cannot be appointed an agent by a woman to receive a Get on her behalf from her husband, because he does not come within the [provisions of the Jewish] law in regard to divorce and marriage. R. Eleazar strongly demurred to this. Your reason, [he said,] is [that the slave cannot be an agent to do for another] a thing which he cannot do for himself. This would imply that he can be an agent for a thing which he can do for himself. How does this square with the fact that a heathen or a Samaritan can give terumah for himself, as we have learnt: ‘If a heathen or a Samaritan gives terumah from his own produce, what is so given is genuine terumah,[1] and yet we also learn [in another place]: ‘If a heathen gives terumah from the produce of an Israelite even with the latter's permission, what is so given is not regarded as terumah’?[2] The reason is, is it not, that Scripture says, you also shall give your heave-offering,[3] and we take the superfluous word ‘also’ to indicate that just as you are Israelites, — so your agents must be Israelites?[4] — In the school of R. Jannai they replied: No! [The proper inference from the word ‘also’ is]: Just as you are sons of the Covenant, so must your agents be sons of the Covenant.[5]

R. Hiyya b. Abba said in the name of R. Johanan: A slave cannot he made an agent by a woman to receive a Get on her behalf from her husband because he does not come within [the provisions of the Jewish] law in regard to divorce and marriage, and [this] in spite of the fact that we have a teaching: [If a man says to his female slave], ‘You are a slave, but your child is free’, if she was pregnant at the time she acquires freedom for it [the child].[6] What is the point of [quoting]: ‘if she was pregnant, she acquires freedom for it’?[7] — When R. Samuel b. Judah came [from Palestine], he said: R. Johanan said two things. [One was the dictum regarding a Get quoted above]. The other was this: It seems a reasonable view that a slave can receive a writ of emancipation on behalf of another slave from the master of that slave but not from his own master.[8] And if someone should whisper in your ear[9] that there is a halachah laid down which contradicts this, [viz.] ‘If she was pregnant, she acquires freedom for it,’[10] reply to him that two great authorities in their generation, R. Zera and R. Samuel b. Isaac, explained the matter. One said that this [teaching] follows the opinion of Rabbi who said that if a man emancipates the half of his slave, the slave acquires [freedom in regard to the one half], and the other said [in further explanation] that the reason of Rabbi [for applying this to the present case] is that he looks upon the embryo as part of the mother, and therefore the master [in freeing the child] as it were made her owner of one of her own limbs. MISHNAH. EVEN THE WOMEN WHOSE WORD IS NOT ACCEPTED AS EVIDENCE[11] IF THEY SAY THE HUSBAND [OF A CERTAIN WOMAN] IS DEAD ARE ACCEPTED AS BEARERS OF HER GET. NAMELY, HER MOTHER-IN-LAW, HER MOTHER-IN-LAW'S DAUGHTER, HER HUSBAND'S OTHER WIFE,[12] HER HUSBAND'S BROTHER'S WIFE, AND HER HUSBAND'S DAUGHTER.[13] WHY IS A GET DIFFERENT FROM [A REPORT OF] DEATH? BECAUSE THE WRITING AFFORDS PROOF. A WOMAN MAY BE THE BEARER OF HER OWN GET,[14] ONLY SHE IS REQUIRED TO DECLARE,[15] ‘IN MY PRESENCE IT WAS WRITTEN AND IN MY PRESENCE IT WAS SIGNED.’

GEMARA. [How can you say this] seeing that it has been taught: Just as these women's word is not accepted as evidence that her husband is dead, so they are not accepted as bearers of her Get? — R. Joseph replied: There is no contradiction. The one rule is for Eretz Yisrael, the other for outside Eretz [Yisrael]. In Eretz Yisrael, where we do not rely upon her [word],[16] such a woman is permitted to bring the Get: outside Eretz [Yisrael], where we should have to rely upon her [word],[17] she is not permitted to bring it. Said Abaye to him: On the contrary, the opposite is more reasonable: in Eretz Yisrael, where if the husband comes and challenges [the Get] we take note of his objection,[18] it could be argued that the woman has been deliberately trying to make mischief, and therefore she should not be trusted, but outside, where if the husband comes and challenges [the Get] we do not pay any attention to him,[19] she should be trusted.[20] It has been taught in accordance with the view of Abaye: R. Simeon b. Eleazar says in the name of R. Akiba: That a woman may be trusted to bring her own Get may be established a fortiori. For since those women whose word [the Rabbis] declared to be inacceptable as evidence that her husband is dead can be trusted as bearers of her Get, does it not follow that she herself whose word is accepted as evidence that her husband is dead should be trusted to bring her own Get?

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(1) Ter. III, 9.

(2) Ibid. I, 1.

(3) Num. XVIII, 28.

(4) Which shows that the implication is wrong, and so the original idea must also be wrong.

(5) And a slave was regarded as a ‘son of the Covenant’, on the strength of Deut. XXIX, 9ff., Ye are standing all this day before the Lord your God . . . from the hewer of thy wood to the drawer of thy water . . . . to enter into the covenant of the Lord. Thus a slave can be an agent.

(6) Tem. 25a.

(7) As this refers to a writ of emancipation, how can we derive a ruling from it for a writ of divorce?

(8) I.e., if the slave to be emancipated belongs to the same master as he himself. The reason is that he is regarded as merely the hand of his master, and therefore does not become owner of the writ on behalf of his fellow-slave.

(9) Seeking to mislead you.

(10) Which shows that a slave can accept a writ of emancipation on behalf of another slave even from his own master.

(11) Lit., ‘who are not believed’.

(12) Lit., ‘her rival’.

(13) These women are suspect of bearing a grudge against the wife and of harbouring a desire to spite her.

(14) To a place which the husband specifies.

(15) Before a Beth din in the place specified.

(16) Because witnesses to the signatures are always available.

(17) I.e. on the declaration, ‘In my presence’ etc.

(18) The declaration ‘in my presence’ etc., not having been made.

(19) Because the Get has been certified by virtue of the declaration in my presence etc.

(20) Because she cannot be trying to make mischief.

Talmud - Mas. Gittin 24a

And on the same basis it may be concluded that just as they are required to declare, ‘In our presence it was written, and in our presence it was signed’, so she is required to declare, ‘In my presence etc.’ [which shows that the rule refers to outside of Eretz Yisrael]. R. Ashi said: Our Mishnah also bears out [this view], since it says, THE WIFE HERSELF MAY BRING HER GET, ONLY SHE IS REQUIRED TO SAY etc., which shows that it refers to outside Eretz Yisrael. Does then R. Joseph take the earlier clause [in the Mishnah][1] and the later one[2] to refer to Eretz Yisrael, and the middle one[3] to outside Eretz [Yisrael]? — Yes; he refers the earlier and later clauses to Eretz Yisrael and the middle clause to outside. On what does he base this view [about the middle one]? — Because the Mishnah says, WHY IS A GET DIFFERENT FROM [THE REPORT OF] DEATH? BECAUSE THE WRITING AFFORDS PROOF, and it does not say, 'the writing and the declaration[4] afford proof.'[5]

THE WIFE HERSELF MAY ACT AS BEARER etc. Is not the wife divorced as soon as the Get comes into her hand?[6] — R. Huna said: This rule is for the case where he says to her, 'You will not be divorced by this [Get] except in the presence of such-and-such a Beth din.' But all the same, when she comes there she is divorced?[7] — In fact, said R. Huna b. Manoah in the name of R. Aha the son of R. Ika: [the rule is for the case] where he says to her: When you come there, put it on the ground and take it up again.[8] If so, he as much as says to her: Take your Get from the floor, and has not Raba laid down that if he says, Take your Get from the floor, it is no divorce?[9] No. [The rule applies to the case] where he said to her, 'Be my agent for taking [the Get] till you come there, and when you come there be your own agent for receiving [it, and take it].' But in this case the agent cannot return to [report to] the sender?[10] — He says to her: Be my agent for taking [the Get] till you come there, and when you come there appoint an agent for receiving [it].[11] — This is all very well on the view that a woman may appoint an agent to receive her Get from the agent of her husband, but on the view that a woman may not appoint an agent to receive her Get from the agent of her husband[12] what is to be said?[13] — What is the reason for the latter view? That it shows a contempt for the husband;[14] and in this case the husband is [evidently] not particular.[15] This is a valid answer according to the view that such a proceeding is forbidden because it shows a contempt for the husband, but on the view that the reason is because of [the resemblance of this agent to] a courtyard which comes [into her possession] subsequently,[16] what are we to say? — He says to her: Be my agent for taking [the Get] till you come there, and when you come there appoint another agent for taking it[17] and [later] receive your Get from him. Or if you prefer I can say that he says to her: Be my agent for taking [it] till you come there, and when you come there declare in presence of the Beth din, 'In my presence it was written and in my presence it was signed,' and [then] make the Beth din an agent [for receiving] and they will give it to you.

CHAPTER III

MISHNAH. ANY BILL OF DIVORCE WHICH IS NOT WRITTEN [EXPRESSLY] FOR THE WOMAN [FOR WHOM IT IS INTENDED] IS INVALID. FOR INSTANCE, IF A MAN PASSING THROUGH THE STREET HEARS THE VOICE OF A SCRIBE DICTATING[18] 'SO-AND-SO DIVORCES SO-AND-SO FROM SUCH AND SUCH A PLACE' AND HE SAYS 'THAT IS MY NAME AND THAT IS THE NAME OF MY WIFE, IT IS NOT A VALID [DOCUMENT] TO DIVORCE HIS WIFE WITH. MOREOVER: IF HE WROTE [A GET] TO DIVORCE HIS WIFE AND CHANGED HIS MIND AND A FELLOW-TOWNSMAN MET HIM AND SAID TO HIM, MY NAME IS THE SAME AS YOURS AND MY WIFE'S NAME THE SAME AS YOUR WIFE'S', IT IS NOT VALID [FOR THE SECOND] ONE TO DIVORCE HIS WIFE WITH.

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(1) Where it states a blind man is qualified to bring a Get.

(2) Where a wife is declared competent to bring her own Get.

(3) 'Even the women whose word etc.'

(4) Lit., 'mouth'.

(5) [Because the clause refers to Eretz Yisrael no declaration is required. Abaye, on the other hand, may argue that there is no need to mention 'declaration' which is common to both Get and the report of death, since the latter too is accompanied by a 'declaration' made by the woman. (Rashi)].

(6) What need has she then to bring it before the Beth din?

(7) And she is still not the same as a bearer who has to make the declaration.

(8) Thus she is a bearer till she comes there and is divorced by the act of lifting the Get from the ground.

(9) Because he must 'give' it to her.

(10) Lit., ‘the message has not returned to the owner’. Because meanwhile she has become a principal in the transaction and has ceased to be an agent, whereas the law of agency requires that the agent should report to the principal that he has carried out his charge. V. infra 63b.

(11) Here she never ceased being an agent and can well report to the husband, the sender.

(12) V. 63b.

(13) The wife should not be able to appoint an agent to receive the Get on her behalf from herself who is the agent of her husband.

(14) As much as to say she considers it beneath her dignity to accept it in person from the agent appointed by her husband.

(15) Since this procedure was at his express instructions.

(16) [V. supra 21a. The courtyard might be treated as the husband's agent to take the Get to the wife and on coming into her possession it becomes her agent for receiving it; and should it be ruled that a woman may appoint an agent to receive her Get from the agent of her husband, we might be led to rule that a courtyard which comes into her possession subsequently confers possession. The fact, however, is that it does not, because a courtyard comes under the category of ‘hand’ (v. loc. cit.) and at the time when the husband placed the Get in the courtyard, not being hers, it could not be considered her ‘hand’].

(17) Her task as the husband's agent ceases at that moment and she can report back to her husband that she has discharged her mission.

(18) Lit., ‘causing (the pupils) to read;’ to train them in drafting the formula of a Get.

Talmud - Mas. Gittin 24b

MOREOVER: IF HE HAD TWO WIVES WITH THE SAME NAME AND WROTE A GET WITH WHICH TO DIVORCE THE ELDER, HE MUST NOT USE IT TO DIVORCE THE YOUNGER. MOREOVER: IF HE SAID TO THE SCRIBE,[1] WRITE AND I WILL DIVORCE WHICHEVER I CHOOSE,’ IT IS NOT VALID TO DIVORCE THEREWITH EITHER.

GEMARA. [The second clause of the Mishnah puts the case where] HE WROTE [A GET] TO DIVORCE HIS WIFE AND CHANGED HIS MIND. What then is the case put in the first clause? — R. Papa said: We are dealing there with scribes practising [to write bills of divorce]. R. Ashi said: The language of the Mishnah bears this out, since it says ‘DICTATING’ and not ‘reading’, which shows that R. Papa is right.

What is the point of the word MOREOVER? — The school of R. Ishmael taught: ‘Not only is a Get invalid that has not been written for purposes of divorce [but for practice]. but also one that has been written for purposes of divorce [but not of this man's wife]; and not only is this [one invalid] that has not been written for the purposes of his divorce, but even the other one that has been written for the purposes of his divorce is invalid; and not only is this [one invalid] which has not been written for divorcing this [wife], but even the other one which has been written for divorcing this [wife] is invalid’. What is the reason? — If [the Scripture] had written, ‘he shall give a writ of divorce into her hand,’ I should say that this excludes the first case [mentioned above] where [the Get is not written] for the purpose of effecting a divorce, but that if a husband writes [a Get] to divorce his wife and then changes his mind, seeing that the document is meant to effect a divorce I should say it is valid; therefore the Divine Law says, ‘and he write’[2] . And if it had merely said and he write, I should have said that this excludes the case where he does not write [the Get] for her,[3] but if he has two wives [and writes for one or other of them] in which case he does [in a way] write for her, I should say that it is valid: therefore the text says, for her, that is to say. for her name. Why then is the last case specified?[4] — To show that there is no [such thing as] a retrospective decision.[5]

IF HE WROTE A GET WITH WHICH TO DIVORCE THE ELDER, HE MUST NOT USE IT TO DIVORCE THE YOUNGER. It is the younger only whom he must not divorce with it, but he may divorce with it the elder.[6] Raba said: This means to say that if there are two men named Joseph

b. Simeon living in a town, either can claim from a third party on the strength of a bond [written in his name].[7] Said Abaye to him: On your reasoning, from the first clause of the Mishnah which says that if a man says to another MY NAME IS THE SAME AS YOURS [and takes a Get from him]. HE MAY NOT USE IT TO DIVORCE HIS WIFE, I understand that it is the second only who may not use it but the first may; but how can this be seeing that it is laid down[8] [in reference to the case of two men named Joseph b. Simeon] that a third party cannot claim against either of them on the strength of the bond?[9] The truth is that [in regard to the latter kind of Get written by one man and used by another] we say it is valid [if used by the first] only if there are witnesses to the delivery,[10] [the Mishnah] following R. Eleazar. So too [in regard to the former kind of Get where the two wives have the same name the Get is valid if given to the one for whom it was written] only if there are witnesses to the delivery, [the Mishnah following] R. Eleazar.[11]

Raba said: All the kinds [of Get mentioned in our Mishnah] disqualify [the woman named in them from living with her husband] if he is a priest,[12] except the first,[13] Samuel said that the first also disqualifies. Samuel applies here the principle which he had elsewhere laid down, that wherever the Rabbis have declared a Get invalid, it does not effect divorce but it does disqualify [the wife of a priest from living with him], and wherever they have declared a halizah[14] invalid it does not release[15] [the sister-in-law] but it does disqualify her from [marrying] any of the brothers-in-law. In the West[16] they said in the name of R. Eleazar: [If the halizah was performed with] the left hand or by night, it does not release [the woman] but it does disqualify her;[17]

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(1) לבלר , Librarius.

(2) I.e., with intent to divorce.

(3) For this particular wife.

(4) Since this would seem to be included in the previous two.

(5) Bererah, (v. Glos.).

(6) In spite of the danger of her being confused with the younger.

(7) I.e., either can claim that he is the Joseph b. Simeon mentioned in the bond.

(8) B.B., 172a.

(9) Because he can plead that the other is meant. So here the husband can plead that another man of the same name wrote the Get.

(10) And not merely to the signing.

(11) [Where, however, there are witnesses to the signing only, the Get cannot be used to divorce therewith even the elder, and similarly in the case of two men named Joseph b. Simeon living in the same town neither can claim from a third party on the strength of a bond.]

(12) The law being that a priest must not marry a divorced woman. Lev. XXI, 7.

(13) Because it was never intended to be a Get.

(14) V. Glos.

(15) I.e., enable her to marry someone else.

(16) Eretz Yisrael.

(17) From marrying her brother. in-law.

Talmud - Mas. Gittin 25a

[if it was performed to] a minor or with a sock,[1] it does not release [the woman] but neither does it disqualify her. Ze'iri said: None of the kinds [of Get] mentioned disqualify the woman [from living with her husband if a priest] save the last.[2] So did Rab also lay down: None of these disqualify save the last. R. Johanan, however, said that even the last does not disqualify.[3] R. Johanan follows the principle he has enunciated elsewhere, since R. Assi said in the name of R. Johanan: If two brothers divide an inheritance, they are reckoned as having purchased each his share from the other,[4] and each restores his share to the other at the Jubilee.[5] And both statements [of R. Johanan] are necessary. For if I had only the statement about the Get to go by. I should say that in that case there can be no retrospective decision [as to which (wife) he meant] because we require the [Get to be written] for ‘her’, [namely] for the name [of the woman concerned], but there [in the case of an estate], the All Merciful said that it is a sale which has to be returned at the Jubilee but not an inheritance or a gift.[6] If again I had only the Statement regarding the field to go by, I might say that he takes the stricter line,[7] or again that he thinks the property should revert to its original state,[8] but here [in the case of a Get] this does not apply.[9] [Hence both statements were] necessary.

R. Hoshaiah put a question to Rab Judah: If a man said to a scribe, Write [a Get] for whichever [of my wives] shall go out of doors first, what is the ruling? — He replied: We have learnt: MOREOVER: IF HE SAID TO THE SCRIBE, WRITE AND I WILL DIVORCE WHICHEVER I CHOOSE, IT IS NOT VALID TO DIVORCE THEREWITH [EITHER]. We infer from this that there is no such thing as a retrospective decision. [R. Hoshaiah] raised an objection [against this from the following passage]: If a man says to his sons, ‘I am going to kill the paschal lamb for whichever of you will first enter Jerusalem’,[10] as soon as the first of them enters with his head and the greater part of his body. he becomes entitled to his portion[11] and makes his brothers entitled to their portions along with him.[12] — He replied: Hoshaiah, my son, what has the Paschal lamb to do with bills of divorce? In this connection it has been recorded that R. Johanan said that the reason is to make them eager to perform the mizwoth.[13] This is also indicated [by the language of the passage itself], which states, as soon as the first has entered with his head and the greater part of his body, he becomes entitled to his portion and makes his brothers entitled to theirs along with him.’ If now you say that the father mentally reckoned them all as of his company[14] from the first, this is intelligible. But if you say that he did not so reckon them, can they be counted in after the lamb is killed? Have we not learnt: ‘Persons can be counted in to a company and withdraw until the lamb is killed [but not after].’?[15] It has also been taught to the same effect: It happened once that the daughters came before the sons. the former showing themselves diligent and the latter slack.[16]

Abaye said: [R. Hoshaiah] questioned him [Rab Judah] with reference to the case where he leaves the choice to another,[17] and Rab Judah answers him by citing the case where he retains the choice in his own hands, and then R. Hoshaiah raises an objection from the case where he leaves the choice to others again! — Said Raba: What is the difficulty? Perhaps according to the authority who says there is [such a thing as] retrospective decision, it makes no difference whether he leaves the choice to another or retains it in his own hand; in either case he holds there is retrospective decision; whereas according to the authority who says there is no [such thing as] retrospective decision it makes no difference whether he keeps the choice in his own hand or leaves it to others: in either case he holds there is no retrospective decision. Said R. Mesharsheya to Raba: But is there not R. Judah, who holds that when the man keeps the choice in his own hands we do not decide retrospectively but when he leaves the choice to others he holds that we do decide retrospectively? That [R. Judah] holds that he is permitted to decide retrospectively when he keeps the choice in his own hands [is shown by the following Baraitha]. For it was taught: If a man buys wine from the Cutheans, he can say. ‘Two logs which I intend to set aside [from each hundred] are to be the priest's due;[18] ten [logs] the first tithe;[19] and nine [logs][20] the second tithe,’[21]

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(1) Or ‘a shoe made of felt’.

(2) Because we say that possibly there is such a thing as a retrospective decision, and therefore this Get has a certain validity.

(3) Since there certainly is no such thing as retrospective decision.

(4) [For the portion chosen by each brother for himself could not be considered as having retrospectively become the very inheritance designated for him, because he does not uphold bererah, v. B.K.. (Sonc. ed.) P. 399 and notes.]

(5) In accordance with Lev. XXV, 13.

(6) And therefore we may say retrospectively that each son took the part which the father intended.

(7) I.e., his reason for deciding as he did was because he was not absolutely certain that there is retrospective decision, and so he wished to be on the safe side.

(8) Where the estate belonged to the person in spite of the fact that normally there is retrospective decision.
(9) And we have to say that his reason is because there is no such thing as retrospective decision.
(10) I.e., as assumed at present he alone shall have a real right to a portion in it.
(11) From which we should infer that the father selects him retrospectively.
(12) Pes. 89a.
(13) Precepts. The father never had any intention of making the first entry into Jerusalem determine the title to the Paschal lamb.
(14) The company which was to eat that particular lamb. V. Ex. XII, 4: According to every man's eating ye shall make your count for the lamb.
(15) Pes. ibid.
(16) But it does not say that the sons were not reckoned in, which proves that the father originally counted all his sons in.
(17) I.e., the husband leaves the choice to the woman who will first go out of doors.
(18) The amount of the terumah is not specified in the Scripture, but the Rabbis considered two parts in a hundred a fair proportion.
(19) For the Levites, v. Num. XVIII, 21.
(20) From the remaining ninety.
(21) To be consumed in Jerusalem. V. Deut. XIV, 22ff.

Talmud - Mas. Gittin 25b

and he then begins[1] to drink from it at once. This is the ruling of R. Meir. R. Judah and R. Jose and R. Simeon, however, prohibit [him from doing so].[2] That [according to R. Judah] we do decide retrospectively where he leaves the choice to others [is shown by the following Mishnah].[3] For we learnt: ‘What is the status of the woman [who has received a conditional Get[4] from a sick husband] during those days [between the giving of the Get and his death]? R. Judah says that she is a married woman in every respect,’[5] and yet when the husband dies the Get takes effect.[6] R. Mesharsheya said further to Raba: There is also R. Simeon who holds that when the man keeps the choice in his own hands we do not decide retrospectively, but when he leaves the choice to others he holds that we do. That according to R. Simeon we do not decide retrospectively when he keeps the choice in his own hands [is shown] by [the teaching] just quoted. That [according to him] where he leaves the choice to others we do so decide is shown by the following [teaching]: [If a man says to a woman], I betroth thee by means of this intercourse[7] on condition that thy father consents, even if the father does not consent she is betrothed. R. Simeon b. Judah said in the name of R. Simeon that if the father consents she is betrothed,

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(1) v. Tosaf. s.v.
(2) Which shows that he cannot decide retrospectively. (For fuller notes v. B.K. (Sonc. ed.) p. 399.)
(3) Infra 83b.
(4) I.e., if he says to her, ‘This shall be thy Get from now if I die.’ V. infra 72a.
(5) And therefore if the husband is a priest she may eat terumah.
(6) Hence when God, to whom he has left the choice, decides that he should die, it is decided retrospectively that she was divorced from the moment he gave her the Get.
(7) This being one of the methods of affiancing; v. Kid. ad. init.

Talmud - Mas. Gittin 26a

and if not she is not betrothed.[1] — Raba answered him: Both according to R. Judah and according to R. Simeon, it makes no difference whether he keeps the choice in his own hands or leaves it to another: in either case we do decide retrospectively. There [in the case of the Cuthean wine], however, the reason [for their prohibiting] is as given [in the Mishnah quoted]: ‘They said to R. Meir, Do you not admit that if the wine-skin should burst [and the wine be spilt][2] the man would be found to have drunk wine which had not been freed for ordinary use? He answered them: Wait till it does burst.’[3]

MISHNAH. IF [A SCRIBE] WRITES OUT FORMULAS OF BILLS OF DIVORCE[4] HE MUST LEAVE BLANK SPACES FOR THE NAME OF THE MAN AND THE NAME OF THE WOMAN AND THE DATE. [IF HE WRITES FORMULAS OF] BONDS OF INDEBTEDNESS HE MUST LEAVE BLANK SPACES FOR THE NAME OF THE LENDER, THE NAME OF THE BORROWER, THE AMOUNT LENT AND THE DATE. [IF HE WRITES] FORMS OF CONTRACTS OF SALE HE MUST LEAVE BLANK SPACES FOR THE NAME OF THE VENDOR, THE NAME OF THE PURCHASER, THE PURCHASE MONEY, THE PROPERTY AND THE DATE, TO PREVENT HARD SHIP.[5] R. JUDAH DECLARES ALL. SUCH [FORMULAS] INVALID [EVEN IF THE BLANKS HAVE BEEN LEFT]. R. ELEAZAR DECLARES ALL OF THEM VALID [IF THE BLANKS HAVE BEEN LEFT] EXCEPT WRITS OF DIVORCE, BECAUSE SCRIPTURE SAYS, HE SHALL WRITE FOR HER, WHICH MEANS, EXPRESSLY FOR HER.

GEMARA. Rab Judah said in the name of Samuel: [The scribe] must also leave space for the words. ‘You are permitted to [marry] any man.’[6] And [the Mishnah] follows R. Eleazar who said that the witnesses to delivery make [the Get] effective and the [Get] must [consequently][7] be written expressly for the woman concerned. And it was necessary [for Samuel to tell us here that the Mishnah follows R. Eleazar although he has already twice told us so]. For if he had only told us so on the first occasion,[8] [I might think that the reason why we interpret] that [Mishnah] so as to make it agree with R. Eleazar is to reconcile the contradiction between the first statement of the Mishnah, ‘[A Get] must not be written’ etc. and the second, ‘If it was written [on something attached to the soil it is valid],’ but [all the same] in connection with the next [Mishnah][9] where it also says that a Get is made effective only by the signatures attached to it, I might think that [the Mishnah is there] following R. Meir who said that the witnesses to the signatures make [the Get] effective[10] [unless Samuel told us the contrary]. If again Samuel had only told us there [that the Mishnah] follows R. Eleazar, [I might think that that is because] there also it is possible to interpret [the Mishnah] in this way, but here [in speaking of the scribe who writes out formulas] since the last [ruling] given is that of R. Eleazar, I should say that the first [ruling, ‘If a scribe writes our formulas of bills of divorce etc.’] is not that of R. Eleazar.[11] Therefore [Samuel] had to tell us this also.[12]

TO PREVENT HARDSHIP. Hardship to whom? — R. Jonathan said: Hardship to the scribe, [the Mishnah] following R. Eleazar who said that the witnesses to delivery make [the Get] effective. By rights therefore it should not be permitted to write [beforehand] even the formula of the Get, but to make matters easier for the scribes the Rabbis allowed it. R. JUDAH DECLARED THEM ALL INVALID: he forbade the formulas for fear that the substantive part might also be written in and [he forbade the scribes to write] the formulas of bonds of indebtedness for fear [that they might also write] the formulas of bills of divorce. R. ELEAZAR DECLARED ALL OF THEM VALID EXCEPT BILLS OF DIVORCE: he forbade the formulas for fear that the substantive part might also be written, but he did not forbid the writing of bonds out of fear [that it might lead to the writing] of bills of divorce.

BECAUSE SCRIPTURE SAYS, ‘HE SHALL WRITE FOR HER.’ Rut do not the words ‘for her’ in the text refer to the substantive part of the Get? — Explain [R. Eleazar's reason thus]: Because it is written ‘he shall write for her’, which means ‘expressly for her’, [therefore we forbid the writing of the form for fear it may lead to the writing of the substantive part].

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(1) Keth. 73b. Which shows that we do decide retrospectively where he leaves the choice to others.

(2) So that it will no longer be possible to set aside the various dues.

(3) Lit., ‘when it does burst’. I.e., the danger is remote and there is no need to provide against it.

(4) In order to have them ready at hand whenever the

(5) Lit., ‘on account of the takkanah (adjustment)’: an expression used in connection with regulations laid down by the Rabbis without Scriptural warrant to prevent abuses or for the smoother working of social relations. The question what hardship is meant is discussed in the Gemara.
(6) Because this is also an essential part of the Get.
(7) V. supra 23a.
(8) Supra 21b, in connection with the Mishnah ‘A Get must not be written on something attached to the soil’.
(9) ‘All persons are qualified to write a Get,’ supra 22b.
(10) And there is no need to leave a blank space for the substantive part.
(11) And there is no need to leave a blank space for ‘You are permitted etc.’, except for the names, for the reason given infra.
(12) That the first ruling too follows R. Eleazar, he being represented by two varying opinions.

Talmud - Mas. Gittin 26b

Does not R. Eleazar here contradict himself?[1] — Two Tannaim report R. Eleazar differently.

R. Shabbathai said in the name of R. Hezekiah: [The words TO PREVENT HARDSHIP] mean ‘to prevent quarrelling’, [the Mishnah] following R. Meir who said that the signatures of the witnesses make [the Get] effective. and by rights it should be permitted to the scribe to write [beforehand] even the substantive part, but in that case it might happen that a woman might hear a scribe [reading over] what he had written and she might think that her husband had told him to write and so fall out with him. R. Hisda said in the name of Abimi: It is for the relief of deserted wives. Some say [that this interpretation] follows R. Meir, and some say that it follows R. Eleazar. Some say it follows R. Meir who held that the witnesses to the signatures make [the Get] effective, and therefore by rights it is permissible to put in beforehand even the substantive part of the Get, only it may happen sometimes that a husband falls out with his wife and in a passion throws her [the Get] and then makes her remain a deserted wife.[2] Some again say it follows R. Eleazar who held that the witnesses to delivery make [the Get] effective, and therefore by rights even the formula [of the Get] should not be written beforehand,[3] only it may happen sometimes that the man wants to go abroad and does not find a scribe ready and so he leaves her [without giving her the Get] and thus makes her a deserted wife [if he is lost].[4]

AND FOR THE DATE. The Mishnah makes no distinction between [a Get which dissolves] a marriage and [a Get which dissolves] a betrothal. In the case of [a Get which dissolves] a marriage this is a proper [regulation], whether on the view [that the date is required] to prevent a man shielding his sister's daughter or on the view that [it is required] on account of the usufruct.[5] In [a Get which dissolves] a betrothal, however, the regulation certainly is reasonable on the view that the date is required to prevent a man shielding his sister's daughter, but on the view that it is required on account of the usufruct — does the law of usufruct apply to a betrothed woman?[6] — R. Amram said: I heard a certain remark from ‘Ulla, who said ‘it is to safeguard the interest of the child’, and I did not know what he meant. [I discovered it, however], when I came across the following statement:[7] If a man says, ‘Write a Get for my fiancee, I will divorce her with it after I marry her,’ it is no Get. And commenting on this ‘Ulla said: What is the reason? Because people may say that her Get came [before] her child.[8] So here, [the date has to be put in] lest people should say that her Get [came] before her child.

R. Zera said in the name of R. Abba b. Shila who said it in the name of R. Hamnuna the Elder who had it from R. Adda b. Ahaba who had it from Rab: The halachah follows the ruling of R. Eleazar.[9] Rab designated R. Eleazar ‘the happiest of the wise men.’ Does then the [halachah] follow him in regard to other documents also?[10] Has not R. Papi said in the name of Raba: If an authentication of the Beth din[11] is written before the witnesses have testified to their signatures, it is invalid? The reason is that it seems to contain a falsehood.[12] So here, the documents seem to contain a falsehood?

— This is no objection, as shown by the statement of R. Nahman, who said: R. Meir used to say that even if a man found [a Get] on a rubbish heap and had it signed and delivered to the wife, it is valid. And even the Rabbis do not differ from R. Meir save in regard to writs of divorce, which have to be written with 'special intention', but not in regard to other documents, since R. Assi said in the name of R. Johanan: If a man gives a bond for a loan and repays the loan [on the same day], he may not use the same bond for another loan because the obligation contained in it is already cancelled. The reason is that the obligation contained in it is cancelled, but the fact that it may appear to contain a falsehood[13] is of no concern.

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(1) By laying down in the first clause of this Mishnah that the formulas may be written and in the second that they may not.

(2) Because since the Get is written but not signed she is neither divorced nor married.

(3) For fear that it may lead to the writing of the substantive part.

(4) Because according to Jewish law death cannot be presumed.

(5) V. supra 17a.

(6) There are no provisions entitling the bridegroom to the usufruct of his bride's property.

(7) Yeb. 52a.

(8) I.e., that she was divorced while still only affianced, and that therefore her child was born out of wedlock.

(9) That even the formula of the Get may not be written beforehand.

(10) The formulas of which he allows to be written out beforehand.

(11) Certifying that the signatures to such-and-such a document are genuine.

(12) Since it runs: 'While we sat as a court of three there came before us So-and-so who testified to their signatures etc.'

(13) In not being written originally for the loan which is now being contracted.

Talmud - Mas. Gittin 27a

MISHNAH. IF THE BEARER OF A GET LOSES IT. ON THE WAY, IF HE FINDS IT AGAIN IMMEDIATELY IT IS VALID, AND IF NOT IT IS NOT VALID.[1] IF HE FINDS IT IN A HAFISAH OR IN A DELUSKAMA[2] OR[3] IF HE RECOGNISES IT, IT IS VALID.

GEMARA. Is there not a contradiction [between this Mishnah and the following]:[4] 'If a man finds bills of divorcement of wives or of emancipation of slaves or wills or deeds of gift or receipts, he should not deliver them,[5] for I say that after they were written [the writer] changed his mind and decided not to give them'. I infer from this, do I not, that if he had said 'Give them,'[6] they are to be given, even if a long interval had elapsed? — Rabbah replied: There is no difficulty. Here [in our Mishnah the reference] is to a place where caravans pass frequently, there [the other] to a place where caravans do not frequently pass.[7] And even in a place where caravans frequently pass, [the Get is invalid] only if there are presumed to be two men named Simon ben Joseph in the same town. For if you do not [understand Rabbah thus], then there is a contradiction between this statement of Rabbah and another of his. For a Get was once found in the Beth din of R. Huna in which was written, 'In Shawire, a place by the canal Rakis', and R. Huna said: The fear that there may be two Shawires is to be taken into account;[8] and R. Hisda said to Rabbah: Go and look it up carefully, because to-night R. Huna will ask you about it, and he went and looked up and found that we had learnt [in a Mishnah]: 'Any document which has passed through a Beth din is to be returned'.[9] Now the Beth din of R. Huna was on a par with a place where caravans pass frequently, and Rabbah decided that the document should be delivered. From this we conclude that if there are known to be two men named Simon ben Joseph in the town it is [not to be returned], but otherwise it is.[10] In the case of a Get which was found 'among the flax' in Pumbeditha, Rabbah acted according to the rule just laid down.[11] Some say it was found in the place where flax was soaked, and although there were two persons of the same name known to be in the place, he ordered it to be returned because it was not a place where caravans passed frequently. Some again say that it was the place where flax was sold, and there were not two persons of the same name known to be there though caravans did pass frequently.

R. Zera pointed to a contradiction between the Mishnah and the following Baraitha, and also resolved it. We learn here: IF THE BEARER OF A GET LOSES IT ON THE WAY AND FINDS IT AGAIN IMMEDIATELY, IT IS VALID, AND IF NOT IT IS NOT VALID. This seems to contradict the following: If a man finds a bill of divorce in the street, if the husband acknowledges it he should deliver it to the woman, but if the husband does not acknowledge it he should give it neither to one nor to the other.[12] It says here at any rate

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(1) Because perhaps it is not the same one but another with the same names.

(2) Names of receptacles, explained infra 28a.

(3) V. Rashi.

(4) B.M. 18a. For fuller notes on this whole section, v. B.M. (Sonc. ed.) pp. 110-115.

(5) Either to the writer or the recipient.

(6) As in the case of a Get sent by a bearer.

(7) And therefore other documents containing the same names may also have been dropped.

(8) And therefore the claimant may not be the person who dropped the Get and it is not to be delivered.

(9) Because if the writer had not meant it to be delivered, he would not have brought it to the Beth din to be confirmed.

(10) Because two men of the same name were not known to be in that town.

(11) That the Get is to he delivered unless there are two reasons — of the place and of the name — to the contrary.

(12) B.M. 18b.

Talmud - Mas. Gittin 27b

that when the husband acknowledges it he should give it to the woman, even if a long time has elapsed? — R. Zera answered himself by saying that [in the Mishnah] here we speak of a place where caravans pass frequently and there [the other passage] of a place where caravans do not pass frequently. Some add [in quoting the answer of R. Zera]: And even [the Mishnah says] it should not be delivered only if there are presumed to be two men of the same name, which is the view of Rabbah. Some again report R. Zera as having said ‘even though there are not presumed etc., he should not deliver,’ and so as differing from Rabbah. We can understand why Rabbah did not raise the difficulty in the form in which it was raised by R. Zera: he thought there was more force in opposing one Mishnah to another.[1] But why did not R. Zera raise it in the form in which it was raised by Rabbah? — R. Zera might answer: Does the [other Mishnah] state, ‘If the husband has said, Give, it is to be given even after the lapse of some time’?[2] possibly what it means is that if he has said ‘give’ it is given only in the recognised way, i.e. immediately.[3] R. Jeremiah said: [The Get is delivered after a lapse of time only] if, for instance, the witnesses say, ‘We have never signed more than one Get in the name of Joseph ben Simeon.’ If that is so, what does [the Mishnah] tell us? — You might think that we [still do not declare the Get valid] for fear that the name may happen to be the same and the witnesses may happen to be the same. Now we know [that we disregard this possibility]. R. Ashi said: [The Get is delivered after a lapse of time only] if the bearer can say, ‘there is a hole at the side of such-and-such a letter,’ which is a precise distinguishing mark. And that is, provided he says, ‘at the side of such-and-such a letter’, which is a precise distinguishing mark, and not simply ‘a hole’. [R. Ashi ruled thus] because he was not certain if the rule about distinguishing marks[4] is derived from the Torah or was laid down by the Rabbis [on their own authority].[5]

Rabbah b. Bar Hanah lost a Get in the Beth Hamidrash. He said [to the Beth din]: If you want a distinguishing mark, I can give one, and if you want me to recognise it by sight, I can do so. They gave it back to him. He said: I do not know if they gave it back because I was able to give a distinguishing mark,[6] and they thought that the rule about such marks[7] was derived from the Torah, or because I was able to recognise it by sight. And for this only a Talmudical student would be trusted, but not any ordinary person.

AND IF NOT IT IS NOT VALID. Our Rabbis have taught: What is it that we call ‘not immediately’? R. Nathan says: If he has allowed an interval to elapse long enough for a caravan to pass by and encamp. R. Simeon b. Eleazar says: [It is called ‘immediately’] so long as someone stands there and sees that no-one passes there; some say, that no-one has stopped there. Rabbi says: [If he waits long enough] for the Get to be written. R. Isaac says: Long enough to read it. According to others, to write and to read it. Even if a considerable time did elapse, if there are [precise] distinguishing marks they are taken as evidence, e.g., if the bearer says that there is a hole at the side of such-and-such a letter. The general characteristics [of the Get], however, are no evidence, e.g., if he said that it was long or short. If the bearer found it tied up in a purse, a bag, or a ring,

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(1) Viz., our Mishnah and the Mishnah from Baba Mezi'a.

(2) This being the assumption made above.

(3) Hence there is no contradiction in the Mishnah from Baba Mezi'a, and therefore R. Zera raised the difficulty from a Baraitha.

(4) That a claimant to a lost article could make good his claim by mentioning a sign, and had not necessarily to bring witnesses.

(5) I.e., if the Torah required witnesses and the Rabbis dispensed with this on their own authority, in the case of a Get, in view of the grave implications involved, a very clear mark would be required.

(6) Though it was not a precise mark.

(7) That it was sufficient for a claimant to give a sign, and therefore even a Get should be restored.

Talmud - Mas. Gittin 28a

or among his clothes, even after a considerable time, it is valid.

It has been stated: Rab Judah said in the name of Samuel: The halachah is that [the found Get is valid] if no-one has stopped there, whereas Rabbah b. Bar Hanah said the halachah is [that it is valid] if no-one has passed by there. Why does not Rab Judah say that the halachah follows [this] Master,[1] and Rabbah b. Bar Hanah say that it follows [the other] Master?[2] — Because there is another reading which reverses the names.[3]

IN A HAFISAH OR A DELUSKAMA. What is a hafisah? — Rabbah b. Bar Hanah says: A small pouch. What is a deluskama? — The kind of box used by old men.[4]

MISHNAH. IF, WHEN THE BEARER OF A GET LEFT, THE HUSBAND WAS AN OLD MAN OR SICK, HE SHOULD YET DELIVER IT TO THE WIFE ON THE PRESUMPTION THAT HE IS STILL ALIVE. IF THE DAUGHTER OF AN ORDINARY ISRAELITE[5] IS MARRIED TO A PRIEST AND HER HUSBAND GOES ABROAD, SHE GOES ON EATING OF THE TERUMAH ON THE PRESUMPTION THAT HE IS STILL ALIVE.[6] IF A MAN SENDS A SIN-OFFERING FROM ABROAD IT IS SACRIFICED ON THE ALTAR ON THE PRESUMPTION THAT HE IS STILL ALIVE.[7]

GEMARA. Raba said: [This Mishnah] speaks only of an old man who has not reached the years of ‘strength’[8] and of a man who is just ill, because most invalids recover, but not if he has attained ‘years of strength’ or was in a dying condition, because most persons in a dying condition die. Against this [opinion] Abaye raised the following objection: ‘If when the bearer left the husband was old, even a hundred years old, he yet gives it to the wife on the presumption that he is alive.’ This is a refutation. I might, however, still answer that if a man reaches such an age he is altogether exceptional.[9] Abaye pointed out to Rabbah a contradiction. We learn: IF, WHEN THE BEARER LEFT, THE HUSBAND WAS OLD OR SICK, HE SHOULD YET DELIVER IT TO THE WIFE

ON THE PRESUMPTION THAT HE IS STILL ALIVE. This seems to contradict the following [Baraitha]: ‘If a priest said to his wife, "Here is thy Get [to come into force] an hour before my death",[10] she is forbidden to eat the priestly dues immediately’?[11] — He replied: Do you compare terumah with bills of divorce? To terumah there is an alternative,[12] but to the Get there is no alternative.[13] Why not oppose two statements regarding terumah itself? For we learn here: IF THE DAUGHTER OF AN ORDINARY ISRAELITE IS MARRIED TO A PRIEST AND HER HUSBAND GOES ABROAD, SHE GOES ON EATING THE TERUMAH DUES ON THE PRESUMPTION THAT HE IS STILL ALIVE. Does not this contradict the following [Baraitha]: ‘If a Priest says to his [non-priestly] wife, "Here is thy Get [to come into force] an hour before my death", she is forbidden to eat the terumah immediately’? — R. Adda the son of R. Isaac answered: There the case is different, because he prohibited her to himself one hour before his death.[14] R. Papa strongly demurred to this, saying: How do you know that he will die first? Perhaps she will die first?[15] In fact, said Abaye. the solution of the contradiction is that the one passage follows R. Meir who disregards the chance of dying, and the other follows R. Judah who takes this chance into account, as we have learnt:[16] If a man buys wine from the Cutheans, he can say, Two logs which I intend to set aside are to be reckoned as terumah [on a hundred], ten logs as first tithe, and nine logs as second tithe, and then begin to drink at once. This is the view of R. Meir. R. Judah, R. Jose and R. Simeon forbid him to do this.[17] Raba said:

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(1) The opinion assigned to ‘some say’; supra.

(2) The opinion assigned to R. Simeon, supra.

(3) The opinions assigned to R. Simeon and ‘some say’.

(4) To keep documents in. [The word is also frequently spelt Geluskama, probably from Grk. ** receptacle.]

(5) One who is not a kohen.

(6) Although if a widow she would not be allowed to eat terumah (v. Glos.).

(7) Although if he is dead the animal should not be sacrificed.

(8) I.e., eighty years, in allusion to Ps. XC, 10.

(9) And may go on living.

(10) [Lit., ‘his death’, a euphemism. V. Tosef. Git. IV (Zuckemandel p. 330), where some texts read ‘my death’.]

(11) As we fear at every moment that he will die within the next hour.

(12) I.e., she can eat other food.

(13) There is no alternative way of saving her from becoming a ‘deserted wife’.

(14) But his chance of dying does not enter into consideration.

(15) I.e., we have to take the chance of his dying into consideration, as otherwise it would not be a Get.

(16) V. Supra 25a.

(17) Because they take into account the chance of the skin bursting, whereas R. Meir does not.

Talmud - Mas. Gittin 28b

We disregard the chance of his having died,[1] but take into account the chance that he may die.[2] Said R. Adda b. Mattena to Raba: What of the wine-skin [in the case of the terumah, the chance of which breaking is] like the chance that the man may die[3] and yet the authorities differ in regard to it?[4] — Said R. Judah from Diskarta:[5] A wine-skin is different, because it can be handed over to someone to keep. R. Mesharshe ya strongly objected to this, saying: Your security himself requires a security.[6] — In fact, said Raba, the chance that he has died we do not take into account:[7] whether we take into account the chance that he may die is a question on which Tannaim differ.[8]

IF A PERSON SENDS A SIN-OFFERING FROM ABROAD etc. But is not laying-on of hands required?[9] R. Joseph replied that [the Mishnah refers] to an offering sent by a woman,[10] R. Papa said that it refers to the sin-offering of a bird.[11]

[All three clauses in the Mishnah] are necessary. For if the rule [that the person in question is presumed to be alive] were stated merely in regard to a Get, I should say the reason is because there is no alternative,[12] but in the case of terumah where there is an alternative, it does not apply. And if the rule had been stated with regard to terumah, I should say that the reason is because sometimes there is no alternative,[13] but in the case of the sin-offering of the bird I should say that, as there is a doubt [whether the person who sent it is still alive], we should not [take the risk of] bringing profane things into the Temple court. Hence [all three clauses] are necessary.

MISHNAH. THREE STATEMENTS WERE MADE BY R. ELEAZAR B. PERATA BEFORE THE SAGES, WHO FORMALLY APPROVED OF THEM. [HE SAID] THAT [PEOPLE IN] A BESIEGED TOWN, [PEOPLE] IN A SHIP STORM-TOSSED AT SEA, AND A MAN WHO HAS BEEN BROUGHT TO COURT TO BE TRIED [FOR HIS LIFE] ARE PRESUMED TO BE ALIVE [SO LONG AS THEY ARE NOT KNOWN TO BE DEAD]. [PEOPLE, HOWEVER,] IN A BESIEGED TOWN WHICH HAS BEEN CAPTURED OR [IN] A SHIP WHICH HAS BEEN LOST AT SEA OR A MAN WHO HAS BEEN LED OUT TO EXECUTION ARE PRESUMED TO BE EITHER ALIVE OR DEAD ACCORDING TO WHICHEVER VIEW ENTAILS THE GREATER RIGOUR. [HENCE] THE DAUGHTER OF AN ORDINARY ISRAELITE WHO HAS MARRIED A PRIEST OR THE DAUGHTER OF A PRIEST WHO HAS MARRIED AN ORDINARY ISRAELITE MAY NOT EAT OF THE TERUMAH [IF THE HUSBAND HAS DISAPPEARED IN THIS WAY].[14]

GEMARA. R. Joseph said: This rule [with regard to a man led out to execution] applies only to Israelite courts,[15] but in the case of a heathen court once he is condemned to execution, [there is no question that] he is executed.[16] Said Abaye to him: Do not the heathen courts sometimes take a bribe? — He replied: If they do, it is only before the writ is signed with the words Pursi shanmag,[17] but after it has been signed pursi shanmag they will not take a bribe.

An objection was raised [from the following]: ‘Whenever two persons come forward and say, We testify against So-and-so that he was condemned to death in such-and-such a Beth din, So-and-so and So-and-so being the witnesses against him, such a man has to be put to death’?[18] — Perhaps [a condemned person] who escapes is different.[19] Come and hear: If he heard [a report] from an Israelite court that So-and-so died or was put to death, they allow his wife to marry again [If, however, the report came] from heathen[20] jailers that he died or was put to death, they do not allow his wife to marry again. Now what is meant here by ‘died’ and ‘put to death’? Shall I say these terms are to be taken literally? Then why in the case of heathens is the wife not allowed to marry again, seeing that it is a recognised principle that [the word of] a heathen speaking without ulterior motive[21] is to be accepted [in questions relating to marriage]?[22] I must therefore understand the words ‘died’ and ‘put to death’ in the sense of ‘Taken out to die’[23] or ‘to be put to death’; and yet it states [that if the report comes] from an Israelite court they do allow the wife to marry again?[24] — [The passage quoted means] really ‘died’ and really ‘put to death’, and as for your question why in such a case [if the report comes] from a heathen court is she not allowed to marry again, seeing that it is a recognised principle with us that [the word of] a heathen speaking without ulterior motive is to be accepted, [the answer is that] this applies only to a matter in which they themselves have not participated,[25] but where the matter is one in which they themselves have participated, they are prone to indulge in falsehood.[26]

[The following is] another version [of the above passage]. R. Joseph said: This rule applies only to heathen courts,

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(1) Before the bearer delivers the Get, as in the former case.

(2) At any moment, as in the latter case where he gives her the divorce to come into force an hour before his death.

(3) Referring as it does to a contingency of the future.

(4) R. Meir not taking this chance into account.

(5) Deskarah, N.E. of Bagdad.
(6) I.e. perhaps the other person will also neglect to look after the wine-skin.
(7) So that our Mishnah agrees with all.
(8) R. Meir and R. Simeon, and the Baraitha will represent the view of R. Simeon.
(9) According to Lev. I, 4: And he (the bringer of the sacrifice) shall lay his hands on the head of the sin. offering.
(10) Who was not required to lay on hands, v. Kid. 36a.
(11) Which did not require laying-on of hands. V. Lev. I, 14.
(12) V. supra. p. 112, n. 7.
(13) E.g., if she is very poor.
(14) In the former case we presume the husband to be dead, in the latter, to be alive.
(15) Because new evidence may come to light and he may be tried again and acquitted. V. Sanh. 42b.
(16) And therefore we do not presume him to be alive for any purposes.
(17) According to Jastrow puris nameh, Persian for ‘investigation paper’, ‘verdict’.
(18) Which seems to show that after condemnation by an Israelite court we do not assume the possibility that he might have subsequently been acquitted as a result of new evidence; v. Mak. 7a.
(19) The passage speaks of one who escaped justice. His flight is a proof of his guilt.
(20) קומנטריסין cf. Lat. commentariensis, registrars of prisoners, jailers (Jast.).
(21) Lit., ‘talking in his simplicity’.
(22) And therefore we regard the first husband as dead.
(23) [By some means other than the four prescribed deaths, v. Sanh. 81b; or in the case of a heathen court, by casting into a furnace, (Rashi)].
(24) Which seems to contradict the Mishnah as interpreted by R. Joseph.
(25) And which therefore they cannot boast about.
(26) E.g., that their Court has executed a Jew, though they have not actually seen the execution. [This reading follows Rashi, cur. edd.: to hold firm to their falsehood.]

Talmud - Mas. Gittin 29a

but in the case of an Israelite court once it condemns him to execution he is executed. Said Abaye to him: In an Israelite court also it is possible that some circumstance may be found in his favour [after his condemnation]? — Such a circumstance happens before the sentence is pronounced; after the sentence is pronounced it does not happen.[1] May we say that this view is supported by the following: Whenever two persons come forward and say. We testify against So-and-so that he was condemned to death in such-and-such a Beth din, So-and-so and So-and-so being witnesses against him, such a man has to be put to death’? — Perhaps a condemned man who has escaped is different. Come and hear: If he heard [a report] from an Israelite court that So-and-so died or was put to death, they allow his wife to marry again. [If, however, the report came], from a heathen court that he died or was put to death, they do not allow his wife to marry again. Now what is meant here by ‘died’ and ‘put to death’? Shall I say these terms are to be taken literally? Then why in the case of a heathen court is the wife not allowed to marry again, seeing that it is a recognised principle that [the word of] a heathen speaking without ulterior motive is to be accepted [in questions relating to marriage]? I must therefore understand the words ‘died’ and ‘put to death’ in the sense of ‘taken out to die’ or ‘to be put to death’; and yet it states [that if the report comes] from an Israelite court they do allow the wife to marry again![2] [The passage means] really ‘died’ and really ‘put to death’,[3] and as for your question why in such a case [if the report comes] from a heathen court is she not allowed to marry again, seeing that it is a recognised principle with us that the word of a heathen speaking without ulterior motive is to be accepted, [the answer is that] this applies only to a matter in which the heathen has not participated, but where the matter is one in which they have themselves participated, he is prone to indulge in falsehood.

MISHNAH. IF THE BEARER OF A GET IN ERETZ YISRAEL FALLS ILL, HE CAN SEND IT ON BY ANOTHER. IF, HOWEVER, [THE HUSBAND] SAID TO HIM, TAKE FOR ME[4]

SUCH-AND-SUCH AN ARTICLE FROM HER, HE MAY NOT SEND IT [THE GET] ON BY ANOTHER, SINCE THE HUSBAND MAY NOT WANT HIS PLEDGE TO BE IN THE HAND OF ANOTHER.

GEMARA. R. Kahana said: We have learnt specifically. IF HE FALLS ILL, Cannot I see that for myself? — [Unless R. Kahana had pointed this out] you might think that the same rule applies even if he does not fall ill, and that [the Mishnah] merely mentioned a usual case. Hence he tells us [that this is not so], How [am I to] understand [the Mishnah]? If the husband said to the bearer simply ‘take this [Get]’, then surely even if he did not fall ill he can send it on by another? If, however, the husband said, ‘You take this,’ then even if he did fall ill he cannot send it on by another? And if [the Mishnah] follows R. Simeon b. Gamaliel, then even if he fell ill [although the husband merely said ‘take’] he cannot [send it on by another], as it has been taught: ‘If a man said, Take this Get to my wife, [the bearer] can send it on by another. If he said, You take this Get to my wife, [the bearer] cannot send it on by another. R. Simeon b. Gamaliel said: In either case one agent cannot appoint another’? — If you like I can answer that he said ‘Take,’ for [even this formula authorises the bearer to send it on by another] only if he falls ill; or if you like I can say that he said ‘You take’, for only where he falls ill it is different:[5] and if you like I can say that the Mishnah is in agreement with R. Simeon b. Gamaliel,[6] only where the bearer falls ill it is different.

We learnt: IF THE BEARER OF A GET IN ERETZ YISRAEL FALLS ILL, HE CAN SEND IT ON BY ANOTHER. Does not this contradict the following? [For we learnt:] ‘If a man says to two persons, "Give a Get to my wife," or to three persons, "Write a Get and give it to my wife," they are to write and give it’:[7] [which implies, does it not, that] they themselves are [to write it] but not an agent [of theirs]? — Abaye replied: There the reason is that they should not put the husband to shame,[8] but here the husband is not particular.[9] Raba said: [The reason there is that he only gave them] verbal instructions, and verbal instructions cannot be transmitted to an agent. Does any difference arise in practice between the two? — It does: in the case of a gift,[10] their difference being in principle the same as that between Rab and Samuel, Rab holding that a gift is not on all fours with a Get and Samuel holding that it is.

IF THE HUSBAND SAID TO HIM, TAKE FOR ME SUCH-AND-SUCH AN ARTICLE FROM HER. Resh Lakish said: Here Rabbi meant [merely] to teach us that the borrower may not lend the article he has borrowed further, nor may the hirer hire it out further.[11] Said R. Johanan to him: This even schoolchildren know. What we should say is that sometimes [if the bearer did send the Get on by another bearer] the Get itself is no Get, because he puts himself in the same position as the bearer who was told by the husband not to divorce the wife except in the lower room and he divorced her in the upper room, or who was told not to divorce her except with the right hand and he divorced her with the left. Now both authorities are agreed that where she goes out to meet him [the second bearer] and gives him the article and then takes from him the Get, it is a perfectly valid Get.[12] Where they differ is in the case where the husband said to the bearer,

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(1) [I.e., it may happen but rarely (Rashi)].

(2) Which supports R. Joseph.

(3) And so the passage does not support R. Joseph.

(4) When delivering the Get to her.

(5) This formula prohibits the agent from sending it on only when he is well, but not when he falls ill.

(6) That an agent may not appoint an agent.

(7) Infra 66a.

(8) Because if they tell a third party to write it. more people will know that the husband is unable to write it himself.

(9) As there is nothing to be particular about

(10) If a man said to two or three persons. ‘Write me a deed of gift for So-and-so.’ Here the question of saving the face of the donor does not arise, as the donor was not supposed to write out his own deed of gift. (V. B.B., 167b).

(11) The ruling in the Mishnah is merely intended to state a prohibition, without affecting the validity of the Get should the bearer send it on by someone else.

(12) [Although the husband may not approve of his pledge being in the possession of a third party, the Get is not invalidated since there has been no departure from the husband's instructions in regard to the delivery of the Get itself.]

Talmud - Mas. Gittin 29b

Take the article from her and then give her the Get,[1] and he went and gave her the Get and then took from her the article. In such a case R. Johanan declares [the Get] invalid even if [delivered] by [the first bearer] himself, and all the more if by his agent, whereas Resh Lakish declares it valid even if [delivered] by the agent and all the more so if by [the first bearer] himself.[2]

MISHNAH. IF THE BEARER OF A GET FROM FOREIGN PARTS FALLS ILL, HE GOES BEFORE A BETH DIN AND APPOINTS AN AGENT AND SENDS HIM[3] [ON WITH THE GET,] DECLARING BEFORE THEM, ‘IN MY PRESENCE IT WAS WRITTEN AND IN MY PRESENCE IT WAS SIGNED.’ THE LAST AGENT IS NOT REQUIRED TO MAKE THIS DECLARATION: HE MERELY DECLARES, ‘I AM THE MESSENGER OF THE BETH DIN.’[4]

GEMARA. The Rabbis said to Abimi the son of R. Abbahu: Enquire of R. Abbahu, Can the agent of the original bearer appoint a further agent or not? — He replied: You have no need to ask this. For since it says [in the Mishnah], ‘THE LAST AGENT [and not ‘the second’] you may conclude that he may appoint another agent. What you should ask, however, is whether, when he appoints an agent, he does so before a Beth din or even without a Beth din. They said to him: We have no need to ask this, since [the Mishnah] says, HE SAYS, I AM THE MESSENGER OF THE BETH DIN. R. Nahman b. Isaac reported the discussion thus: The Rabbis said to Abimi the son of R. Abbahu: Enquire of R. Abbahu, When the agent of the original bearer appoints a second agent, does he do so before the Beth din or even without the Beth din? — He replied: You ought to ask [first] whether he can appoint a second agent at all. They said: This we have no need to ask, since the Mishnah speaks of ‘THE LAST AGENT, which shows that the second bearer can appoint a third. What, however, we want to know is whether he must do so before the Beth din or whether he does not need the Beth din. He said to them: This also you need not ask, since it says, HE SAYS, I AM THE MESSENGER OF THE BETH DIN. Rabbah said: A bearer in Eretz Yisrael can appoint any number of further bearers[5] [without needing any Beth din].[6] R. Ashi said: If the first one dies,[7] they all cease to function. Mar son of R. Ashi said: This statement of my father dates from his youth.[8] If the husband dies, is there any substance left in them? From whom do they all derive their status? From the husband. As long as the husband is alive, they are all agents; if the husband dies they all cease to be agents.

A certain man wanted to send a Get to his wife. The messenger said to him, I do not know her. So the husband said to him, Go and give it to Abba b. Manyumi who knows her, and he will go and give it to her. The man took the Get,[9] but did not find Abba b. Manyumi [in town]. He found R. Abbahu and R. Hanina b. Papa and R. Isaac Nappaha [sitting as a Beth din] with R. Safra also present. They said to him: Transmit your commission to us, so that when R. Abba b. Manyumi comes we can give him [the Get] and he can go and give it to the woman. Said R. Safra to them: But this man has not been made an agent for effecting the divorce?[10] They were nonplussed. Said Raba: R. Safra tripped up[11] three ordained Rabbis. R. Ashi, however, said: How did he trip them up? Did the husband say to the man, Abba b. Manyumi [shall deliver the Get] and not you?[12] According to another version, Raba said: R. Safra thinks he has tripped up, but he is mistaken, three ordained Rabbis. Said R. Ashi: Where is the mistake? What did the husband say to the bearer? ‘Abba b. Manyumi [shall give it] and not you.’[13]

A certain man sent a Get to his wife, telling the bearer not to give it to her till thirty days had passed. Before the thirty days had passed, the man found he could not carry out the commission. He therefore consulted Raba. Said Raba: Why is a bearer who falls ill [allowed to appoint another bearer]? Because he is prevented by circumstances [from carrying out his commission]. This man also is prevented by circumstances [from carrying out his commission]. So he said to the man: Transmit your commission to us, so that after thirty days we can appoint a bearer who will give the Get to the wife. Said the Rabbis to Raba: But he is not [at this moment] commissioned to effect the divorce? — He replied: Since he can divorce her after thirty days, he is practically [now] an agent commissioned to divorce her. They rejoined: Do we not take account of the chance that the husband may have made friends with her [within the thirty days]? Have we not learnt: '[If a man says, This is a Get] from now onward if I do not come within twelve months, if he dies within the twelve months, it is a Get,'[14] and in discussing this we raised the question. Do we not take account of the chance that he may [in the meantime] have made friends with her, and Rabba son of R. Huna said: Abba Mari has explained in the name of Rab that this applies to the case where the husband says [on handing the Get to the agent].[15] 'Her word is to be accepted if [on being challenged] she says, I did not come [near him within the twelve months]'?[16] Raba was nonplussed. Later it turned out that the woman in this case was only betrothed. Raba thereupon said: If they said in regard to a married woman [that there is a chance of his making it up with her], it does not follow that they said so in regard to a betrothed woman.[17]

Said Raba: The real question is this.

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(1) The validity of the Get was apparently made conditional upon the carrying out of the procedure.

(2) Resh Lakish is of the opinion that the husband did not intend his instructions to be treated as strict orders of procedure.

(3) Var. lec., 'He appoints a court and sends it on (by another agent)'.

(4) And therefore presumably the Get is in order.

(5) I.e., the second may appoint a third, and so forth.

(6) Since the first need not declare, 'In my presence it was written etc.,' the last need not declare, 'I am the messenger of the Beth din'. [Rabbah (Var. lec. Raba) extends the ruling of the Mishnah to Eretz Yisrael where it might be maintained the second could not appoint a third since his own appointment need not necessarily have been made in the presence of a Beth din (Trani)].

(7) Before the Get was delivered to the woman.

(8) And is open to criticism.

(9) Lit., 'came'.

(10) But only for giving the Get to Abba b. Manyumi, and therefore he cannot hand it to another.

(11) Lit., 'hamstrung'.

(12) 'Was not therefore the bearer also an agent for delivering the Get?

(13) And therefore he was no agent for delivering the Get.

(14) Infra 76a.

(15) Whom he commissioned to hand over the Get to the wife at the end of the twelve months.

(16) But otherwise we do take this chance into account, and the man is not an agent for divorcing her.

(17) And the man therefore is an agent and can commission us.

Talmud - Mas. Gittin 30a

When the Beth din appoint an agent, do they do so in the presence of the original agent or not in his presence? He himself decided the matter [saying]: They can do so either in his presence or not. [A message] was sent from there [Eretz Yisrael]: [They may do so] either in his presence or not in his presence.

A certain man once said: This shall be a Get if I do not come within thirty days. He did come, but could not get across the river, so he cried out, 'See, I have come, see, I have come.' Samuel said: This is no 'coming'.[1]

A certain man said to the Beth din, If I do not make it up with her in thirty days, it will be a Get. He went and tried to make up with her, but she would not be reconciled. Said R. Joseph: Has he offered her a bag[2] of gold coins and yet not been able to appease her?[3] According to another version, R. Joseph said: Must he offer her a bag of gold coins? He has done his best to make it up with her, but she would not be reconciled. [The latter version] fits in with the view that in the matter of a Get allowance is made for circumstances over which one has no control,[4] and the [former] with the view that no such allowance is made. MISHNAH. IF A MAN LENDS MONEY TO A PRIEST OR A LEVITE OR A POOR MAN ON CONDITION THAT HE CAN RECOUP HIMSELF FROM THEIR DUES,[5] HE MAY DO SO, IN THE PRESUMPTION THAT THEY ARE STILL ALIVE, AND HE DOES NOT TAKE INTO ACCOUNT THE CHANCE THAT THE PRIEST OR THE LEVITE MAY HAVE DIED OR THE POOR MAN MAY HAVE BECOME RICH. IF [HE KNOWS THAT] THEY HAVE DIED, HE MUST OBTAIN THE PERMISSION OF THE HEIRS. IF HE MADE THE LOAN IN THE PRESENCE OF THE BETH DIN, HE NEED NOT OBTAIN PERMISSION FROM THE HEIRS.

GEMARA. [Can he do this] even if the dues have not come into the hands [of those who are entitled to them]?[6] — Rab said: [The Mishnah speaks of] priests and Levites with whom he is familiar.[7] Samuel says: He conveys possession to them through a third party.[8] ‘Ulla said: This ruling is based on the view of R. Jose, who said that [in many places] possession is reckoned to have been acquired though strictly speaking it has not been acquired.[9] [The reason why] all [the authorities] do not concur with Rab is because the Mishnah does not mention [the man's] acquaintance. [The reason why] all do not concur with Samuel is because the Mishnah does not mention transferring possession. [The reason why] all do not concur with ‘Ulla is because we do not base a ruling on the opinion of an individual [Rabbi].[10]

Our Rabbis have taught: ‘If a man lends money to a priest or a Levite or a poor man, on condition that he may recoup himself from their dues, he may do so in the presumption that they are still alive. He may stipulate with them to get the benefit of a lower market price,[11] and this is not reckoned as taking interest. The seventh year does not release it. If he desires to retract, he is not permitted to do so. If he gave up all hope of recovering[12] [but afterwards found that he could recover],[13] he does not appropriate any dues [in payment of the debt]. because dues are not set aside from that which has been given up as lost.’

The Master says: ‘He may stipulate to get the benefit of a lower market price.’ Surely this is self-evident?[14] — He informs us that even though he did not stipulate this expressly, he is reckoned as having done so.

‘This is not reckoned as interest’: why so? — Since when he has nothing he does not give, when he has something [and gives less][15] this is not counted as interest.

‘The seventh year does not release it’: because we do not apply here the verse, he shall not press.[16]

‘If he desires to retract, he is not permitted’: R. Papa said: This rule applies only to the owner vis-a-vis the priest, but if the priest wants to retract, he may, as we have learnt:[17] If he [the purchaser] has given him [the seller] money but has not yet pulled into his possession the produce, he can retract.[18]

‘If the owner has given up all hope of recovering he does not appropriate any dues, because dues are not set aside from that which has been given up as lost’: Is not this obvious? — It required to be stated for the case where the corn was in stalk [before it was blighted]. You might think that in that case the corn is counted as something [of value].[19] Now I know [that this is not so].

It has been taught: R. Eleazar b. Jacob says: If a man lends a priest or a Levite money in the presence of the Beth din and they die [before repaying], he sets aside dues for them as belonging to the whole tribe [and recovers therefrom].[20] [If he lent] to a poor man before the Beth din and he died, he sets aside dues for him as belonging to the poor of Israel [and recovers therefrom]. R. Ahi said: As belonging to all the poor.[21] What is the practical difference between them?

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(1) Because allowance is not made in the case of a Get for unforeseen circumstances, or, if it is, this circumstance, not being unusual, should have been provided for.

(2) Lit., 'a tarkabful (two kabs)'.

(3) I.e., has he done his very best?

(4) I.e., he can plead that he has not a bag of gold coins.

(5) Lit., 'that he may set apart for them what would be their share', i.e., instead of paying them their dues, heave-offering, tithe, or poor-man's tithe, respectively, he would utilize them as part or whole payment of his debt. He would sell the heave-offering to another priest, since it is forbidden to a lay Israelite, whilst he would retain the tithe or poor-man's tithe for himself, after having set aside the 'heave-offering of the tithe' which too is forbidden to a lay Israelite.]

(6) Because in this case they do not yet belong to them, so how can they he given back in payment of the debt?

(7) Makkire Kehunah, lit., 'acquaintances of priesthood', to whom he is accustomed to give the dues year by year, so that they have a presumptive ownership without having handled the dues; v. B.B. (Sonc. ed.) p. 513, n. 11.

(8) I.e., he transfers the dues, after setting them aside, to a third party on their behalf, and the latter returns them to him in payment of the debt.

(9) V. infra 59b, and B.M. 12b.

(10) Such as R. Jose here, where the majority do not concur with him.

(11) I.e., if at the time when he sets aside the dues the price is lower than when he lent the money, he may give himself the benefit of the drop by appropriating a larger amount of produce.

(12) Because his corn appeared to be blighted. and the condition was that he should recoup himself from the crop of that year.

(13) Because he obtained a harvest after all.

(14) What objection can there be to such a proceeding? V. B.M. 72b.

(15) I.e., keeps more for himself

(16) Deut. XV, 2; since he cannot claim anything from the debtors.

(17) V. B.M. 44a.

(18) The owner is regarded as purchasing the dues from the priest or Levite. The latter has received the money, but the former has not yet handled the goods.

(19) Because if the corn was in the stalk it has a chance of recovering.

(20) The rest of the tribe being regarded as his heirs, and so liable for the debt.

(21) Lit., 'the Poor of the world'.

Talmud - Mas. Gittin 30b

— Where there are Cuthean poor.[1] If the poor man became rich, he does not set aside dues for him, and that man becomes possessor of what he has.[2] Why did the Rabbis safeguard [the lender] in the case of the poor man dying[3] and not in the case of his becoming rich?[4] — It is a common thing for people to die, but not to become rich.[5] R. Papa said: This is borne out by the common saying: 'If [you hear that] your neighbour has died, believe it: if [you hear that] he has become rich, do not believe it.'

IF HE DIES, HE MUST OBTAIN PERMISSION FROM THE HEIRS. It has been taught: Rabbi says. Heirs that have inherited. Are there any heirs that do not inherit? — R. Johanan explained it to mean heirs that inherit land[6] but not money.'[7] R. Jonathan said: If he left a mere needleful[8] [of land], the other can recoup himself only to the extent of a needleful,[9] and if he left an axeful,[10] the other can recoup himself to the extent of an axeful. R. Johanan said: Even if he only left a needleful he can recoup himself to the extent of an axeful,[11] as in the incident of the small field of Abaye.[12]

Our Rabbis have taught: If an Israelite says to a Levite, ‘I have set aside a tithe for you.’ he need not be concerned about the priest's due in the tithe.[13] If, however, he said, ‘I have set aside a kor as tithe for you,’ he has to concern himself about the priest's due in the tithe. What does all this mean? — Abaye said: It means this. If an Israelite said to a Levite, ‘I have set aside tithe for you, and here is money for it’, he has no need to worry lest the Levite should have made[14] that produce the priestly due on produce received by him from elsewhere.[15] If, however, he said, ‘I have set aside a kor of tithe for you and here is the money for it’, he has to worry lest the Levite should have [already] made it the priestly due on tithe from elsewhere.[16] Are we then dealing with rogues who take money and make it [the produce] priestly due on tithe from elsewhere?[17] — In fact, said R. Mesharsheya the son of R. Idi, [the Baraitha] means this: If the Israelite said to the son of a [deceased] Levite, I have set aside tithe for your father and here is the money for it, he need not worry lest the father had made it priestly due on tithe from elsewhere. If, however, he said, I have set aside a kor of tithe for your father and here is the money, he has to worry lest the father had made it priestly due on tithe from elsewhere.[18] Can we than suspect Haberim[19] of setting aside the priestly due from produce in another place?[20] — In fact, said R. Ashi, it means this: If a son of a [deceased] Israelite says to a Levite, My father told me [before his death] that he had set aside tithe for you or for your father, he [the Levite] has to worry about the priest's due in it, since as [the quantity is] indefinite, the owner's father may not have made it available for ordinary use [by setting aside the priestly due in it]. If, however, he says, I have a kor of tithe set aside for you or for your father, there is no need to worry lest the priestly due is still contained in it, since as [the quantity] is definite, he may be sure that the owner made it right [before his death]. But has the owner the right to set aside the terumah from the Levite's tithe? — Yes. Such is the ruling of Abba Eleazar b. Gamala, as it has been taught: Abba Eleazar b. Gamala says. It is written, And your heave-offering shall be reckoned to you.[21]

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(1) And in the opinion of the first Tanna, the Samaritans were not genuine proselytes and could not inherit the poor man who died.

(2) I.e., he need not repay the debt.

(3) By allowing him to set aside dues and recover.

(4) By not forcing the poor man to repay, although he is no longer entitled to any dues.

(5) And we do not legislate for exceptional cases.

(6) Who are thus liable to pay their father's debts.

(7) [For a creditor cannot recover his debt from immovable property of orphans. v. B.K. 8b.]

(8) I.e., a mere patch of land.

(9) This refers to the case where the loan was made before the Beth din. V. Tosaf. s.v. תניא .

(10) I.e., enough to be worth working.

(11) I.e., the amount of his debt.

(12) V. Keth. 91b. A man who owed a hundred zuz left a field worth fifty. The creditor seized it and the heirs induced him to quit it by paying fifty. He again seized it and they again paid. So here, he recovers again and again.

(13) V. Num. XVIII, 26, according to which the Levite had himself to set aside a tithe from his own tithe for the priest.

(14) [As soon as he had made it over to the owner, before he actually received the money.]

(15) Because it was not yet specified.

(16) Because it is specific.

(17) [Before they receive the money. and so prevent the Israelite from using it. V. Tosaf. s.v. הילך .]

(18) After learning that the kor had been set aside for him.

(19) V. Glos., s.v. Haber. All Levites were presumed to be Haberim.

(20) Lit., ‘from that which is not brought near’. It was forbidden to a Haber to say. ‘The produce which I have in such-and-such a place shall be terumah for this before me, for fear that produce is not extant at the time.

(21) Num. XVIII, 27.

Talmud - Mas. Gittin 31a

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Scripture speaks of two heave-offerings, one the ‘great terumah’[1] and the other the terumah from the Levite's tithe. Just as the ‘great terumah’ is set aside by estimate[2] and by intention,[3] so the terumah of the tithe is set aside by estimate and by intention; and just as the owner has the right to set aside the ‘great terumah’, so he has the right to set aside the terumah of the tithe.[4]

MISHNAH. IF A MAN SETS ASIDE PRODUCE WITH THE IDEA OF RECKONING IT AS TERUMAH AND TITHE,[5] OR MONEY WITH THE IDEA OF RECKONING IT AS SECOND TITHE,[6] HE CAN GO ON SO RECKONING IN THE PRESUMPTION THAT THEY ARE STILL EXISTING. IF THEY ARE LOST, HE HAS TO PROVIDE AGAINST THE RISK[7] FOR TWENTY-FOUR HOURS.[8] THIS IS THE RULING OF R. ELEAZAR [B. SHAMMUA]. R. JUDAH SAYS: WINE [SO SET ASIDE] HAS TO BE EXAMINED AT THREE SEASONS OF THE YEAR:[9] WHEN THE EAST WIND BEGINS TO BLOW AT THE END OF THE FEAST [OF TABERNACLES], WHEN THE BERRIES FIRST APPEAR [ON THE VINE], AND WHEN THE JUICE BEGINS TO FORM IN THE GRAPES.

GEMARA. What is meant by FOR TWENTY-FOUR HOURS? — R. Johanan says: The twenty-four hours before his examining.[10] R. Eleazar b. Antigonus says in the name of R. Eleazar son of R. Jannai:

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(1) V. Glos.

(2) It was not necessary to measure out the fiftieth part usually given for the terumah.

(3) A man could mentally set aside one portion of a heap of produce as terumah and immediately eat of the rest.

(4) Even before giving it to the Levite.

(5) Lit., ‘of setting aside on their account’, i.e., with the idea of making it terumah or tithe for other produce.

(6) The tithe which had to be turned into money to be spent in Jerusalem. V. Deut. XIV, 22-27.

(7) That he may have been eating untithed produce in reliance on the produce which has been lost.

(8) The meaning of this is discussed in the Gemara.

(9) To see that it has not turned sour.

(10) I.e., he can assume that it has been lost not more than twenty-four hours, and he puts aside fresh tithe etc. only for what he has consumed in that period.

Talmud - Mas. Gittin 31b

The twenty-four hours from his setting aside. We learnt: IF THEY ARE LOST, HE PROVIDES AGAINST THE RISK FOR TWENTY-FOUR HOURS. If this means twenty-four hours from his last examination, the expression is intelligible.[1] But if it means twenty-four hours from the setting-aside, it should say not for twenty-four hours but up to twenty-four hours,[2] should it not? — This is a difficulty.

THIS IS THE RULING OF R. ELEAZAR [B. SHAMMU'A]. R. Eleazar [b. Pedath] Says: R. Eleazar's colleagues did not concur with him, as we have learnt: ‘If a ritual bath was measured and found to be too small, all the purifications that have been made in it, whether it is in a private or a public placed are retrospectively ineffective.’[3] Cannot I see for myself that they do not concur?[4] — But for R. Eleazar, I might think that ‘retrospectively’ means ‘for twenty-four hours back’. Now I know [that this is not so].

R. JUDAH SAYS, AT THREE SEASONS OF THE YEAR etc. A Tanna taught: when the east wind [blows] at the conclusion of the festival in the cycle of Tishri.[5] It has been taught: R. Judah says: Produce is sold at three seasons of the year — before sowing time, at sowing time,[6] and shortly before[7] Passover. Wine is also sold at three seasons — shortly before Passover, shortly before

Pentecost, and shortly before Tabernacles. Oil is sold from Pentecost onwards. What is the legal bearing of this remark? — Raba, or, some say R. Papa says: As a guide to partners.[8] After that, what is the rule? — Raba said: Every day is the season [for selling it].

And it came to pass when the sun arose that the Lord prepared a sultry East wind [harishith].[9] What is the meaning of harishith? — Rab Judah said: When it blows it makes furrows in the sea.[10] Said Rabbah to him: If that is so, what do you make of the words, And the sun beat upon the head of Jonah that he fainted?[11] No, said Rabbah; [what it means is that] when it blows it stills all other winds.[12] Similarly it is written, How thy garments are warm when the earth is still by reason of the south wind,[13] [in explanation of which] R. Tahlifa son of R. Hisda said in the name of R. Hisda: When are thy garments warm? When He maketh the earth still from the south; for when the wind from this quarter blows, it stills all other winds before it.

R. Huna and R. Hisda were once sitting together when Geniba passed by them. Said one of them: Let us rise before him, for he is a learned man. Said the other: Shall we rise before a quarrelsome man?[14] When he came up to them he asked them what they were discussing. They replied: We were talking about the winds. He said to them: Thus said R. Hanan b. Raba in the name of Rab: Four winds blow every day and the north wind blows with all of them, for were it not so the world would not be able to exist for a moment. The south wind is the most violent of all, and were it not that the Son of the Hawk[15] keeps it back, it would devastate the whole world; for so it says, Doth the hawk soar by thy wisdom, and stretch her wings towards the south?[16]

Raba and R. Nahman b. Isaac were once sitting together, when R. Nahman b. Jacob passed by in a gilt carriage and wearing a purple cloak. Raba went to meet him, but R. Nahman b. Isaac did not stir, for he said: ‘Perhaps it is one of the court of the Exilarch, and Raba needs them but I do not.’[17] When he saw R. Nahman b. Jacob approaching he bared his arm and said, ‘The south wind[18] is blowing.’ Raba said: Thus said Rab: A woman bears prematurely [when this wind blows]. Samuel said: Even pearls in the sea rot away. R. Johanan said: Even the seed in a woman's womb putrefies. Said R. Nahman b. Isaac: All these three Rabbis derived their statements from the same verse of Scripture, viz., Though he be fruitful among his brethren, an east wind shall come, the breath of the Lord coming up from the wilderness, and his spring shall become dry and his fountain shall be dried up, he shall spoil the treasure of all pleasant vessels.[19] ‘The spring’ is the source of a woman; ‘the fountain shall be dried up’ refers to the seed in the woman's womb; ‘the treasure of all pleasant vessels’ is the pearl in the sea.

Raba said: This one comes from Sura where they examine the Scripture minutely. What is the meaning of the words, ‘Though he be fruitful [yafri] among his brethren’? — Raba said: Even

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(1) He assumes that it was lost twenty-four hours after he set it aside, and must put aside fresh tithe etc. for all he has consumed in the interval.

(2) Reckoning backwards.

(3) And not only for twenty-four hours back, Mik. II, 2.

(4) With R. Eleazar in our Mishnah.

(5) The year was divided into the four tekufoth or cycles — of Tishri. Tebeth. Nisan and Tammuz — each of which commenced on a fixed date of the solar year. Tabernacles fell sometimes in the cycle of Tishri and sometimes in that of Tammuz; v. Sanh. (Sonc. ed.) p. 49, n. 5.

(6) At the end of sowing time. V. Tosaf. s.v. לפני .

(7) Lit., ‘in the dividing of,’ i.e., in the middle of the period during which the laws of the festival were compounded.

(8) I.e., at these seasons a man may sell without consulting his partner, and if the price subsequently rises the latter has no ground of complaint against him.

(9) Jonah IV. 8.

(10) The word harishith being connected with harash, ‘to plough’.

(11) Ibid. This shows that the wind cannot have been violent.

(12) Harishith being connected with harash, ‘to be still’.

(13) Job XXXVII, 17.

(14) Geniba was at variance with Mar ‘Ukba, the Exilarch. V. supra p. 23, n. 4.

(15) An angel so named. Cf. B.B. 25a.

(16) Job XXXIX. 26.

(17) Being the son-in-law of the Exilarch (Rashi). [Tosaf.: ‘Being a wealthy man’; Tosaf. being of the opinion that it was R. Nahman b. Jacob who was the Exilarch's son-in-law. For an explanation of Rashi's view, v. Hyman. Toledoth II p. 930.]

(18) Al. ‘east wind’. Al. ‘a she-devil’.

(19) Hos. XIII, 15.

the pin in the handle of the plough[1] becomes loose [rafia]. R. Joseph said: Even a peg in a wall becomes loose. R. Aha b. Jacob said: Even a cane in a wicker basket becomes slack.[2]

CHAPTER IV

MISHNAH. IF A MAN AFTER DISPATCHING A GET TO HIS WIFE MEETS THE BEARER, OR SENDS A MESSENGER AFTER HIM, AND SAYS TO HIM, THE GET WHICH I HAVE GIVEN TO YOU IS CANCELLED, THEN IT IS CANCELLED. IF THE HUSBAND MEETS THE WIFE BEFORE [THE BEARER] OR SENDS A MESSENGER TO HER AND SAYS, THE GET I HAVE SENT TO YOU IS CANCELLED, THEN IT IS CANCELLED. ONCE, HOWEVER, THE GET HAS REACHED HER HAND, HE CANNOT CANCEL IT. IN FORMER TIMES A MAN WAS ALLOWED TO BRING TOGETHER A BETH DIN[3] WHEREVER HE WAS AND CANCEL THE GET. RABBAN GAMALIEL THE ELDER, HOWEVER, LAID DOWN A RULE THAT THIS SHOULD NOT BE DONE, SO AS TO PREVENT ABUSES.[4]

GEMARA. [The Mishnah] does not say ‘meets him,’ but simply ‘MEETS’, that is to say, even accidentally; and we do not say in that case that he merely desires to annoy his wife.[5] OR SENDS A MESSENGER AFTER HIM etc. Why state this?[6] — You might think that the commission given to the second has no more force than that given to the first and therefore should not countermand it. Now I know [that this is not so]. IF HE MEETS HIS WIFE BEFORE THE BEARER etc. Why state this? — You might think that although we rejected [above the idea] that he desires to annoy [his wife]. this is only when he says to the bearer [that the Get is cancelled]. but [if he says so] to [the wife] herself he certainly does mean merely to annoy her. Now I know [that this is not so]. OR SENDS A MESSENGER TO HER. Why state this? — You might think that while he would not put himself out merely to annoy her, yet if he sends a messenger, to whose trouble he is indifferent, he certainly desires merely to annoy her. Now I know [that this is not so]. ONCE THE GET HAS REACHED HER HAND HE CANNOT CANCEL IT. Is not this self-evident? — It required to be stated in view of the case where he made efforts from the very first to cancel it. You might think that in this case, subsequent events prove him to have actually annulled [the Get]. Now I know [that this is not so]. Our Rabbis have taught: [If he says,] ‘It is canceled [batel]’, ‘I don't want it,’ his words take effect. [If he said,] ‘It is invalid’, ‘it is no Get,’ his words are of no effect.[7] This means to say, does it not, that the expression batel[8] is equivalent to ‘let it be canceled.’[9] How can this be, seeing that Rabbah b. Aibu has said in the name of R. Shesheth (or, according to others, Rabbah b. Abbuah said), If the recipient of a gift says after it has come into his possession. ‘This gift is to be cancelled,’ ‘let it be cancelled’, ‘I don't want it,’ his words are of no effect,[10] but if he said, ‘It is canceled [batel],’ ‘it is no gift’, his words have effect. This shows, does it not, that batel means ‘cancelled from the outset’?[11] — Abaye replied: The expression batel

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(1) Which fastens the handle to the blade.

(2) The meaning is that this wind causes things which are usually closely united like brothers to fall apart, the word yafri (פרה) being interpreted as yarfi (רפה) ‘loosens’ or ‘slackens’.

(3) I.e. , three persons.

(4) Lit., ‘for the better ordering of society’. Lest the bearer should give it to her in ignorance that it was annulled and she marry on the strength of it.

(5) By holding up the Get for a month or two; for had he been intent on annulling it he would have made a special effort to overtake the bearer.

(6) It seems self-evident.

(7) Because he is describing its character wrongly.

(8) Present tense.

(9) And not a description of its character.

(10) [As he cannot by a mere declaration annul a thing already in his possession].

(11) [And therefore the gift had never passed into possession. Applying this mutatis mutandis in the case of a Get, batel should have no effect, because it is a wrong description of the character of the Get].

Talmud - Mas. Gittin 32b

has two meanings: it means ‘canceled already’ and it means ‘will be canceled’. If used either of a Get or of a gift, it is used in the sense most effective for the purpose.

Abaye said: We have it on authority that the bearer of a gift is on the same footing as the bearer of a Get. The outcome of this [principle] is that the expression ‘take’ has not the same force as ‘take on behalf of.’[1]

Rabina found R. Nahman b. Isaac leaning against the bolt of the door and revolving the question: What of the expression ‘batel’?[2] This was left unanswered. R. Shesheth said or, according to others, it has been laid down in a Baraitha: [If a man said] ‘This Get shall not avail’, ‘shall not release [the woman]’, ‘shall not part’,[3] ‘shall not dismiss’ , ‘shall not divorce’, ‘let it be a potsherd’, ‘let it be like a potsherd,’ his words take effect.[4] If he said, ‘It does not avail’, ‘it does not free’, ‘it does not part’, ‘it does not dismiss’, ‘it does not divorce’, ‘it is a potsherd’, ‘it is like a potsherd’, his words are of no effect.[5] The question was raised: What of the expression ‘Behold it is a potsherd’? — Rabina said to R. Aha the son of Raba, or, according to others, R. Aha the son of Raba said to R. Ashi: How does this differ from the expression, ‘Behold it is sanctified’, ‘behold it is common property’?[6]

Can the man afterwards [use the same Get to] divorce with or not? — R. Nahman says that he may use it again to divorce with, R. Shesheth says he may not. The law is according to the ruling of R. Nahman. Is that so? Has it not been laid down that the law [in the case of a betrothed woman] is according to the ruling of R. Johanan, who said that she may retract?[7] — Are [the two cases] parallel? There it is a case of words merely on each occasion: one set of words comes and cancels another.[8] Here, even granted that the husband cancels the commission of the bearer, he surely does not cancel the Get itself.

IN FORMER TIMES etc. It has been stated: How many must be present at the cancelling? — R. Nahman says two, R. Shesheth says three. R. Shesheth says three, because the Mishnah speaks of a ‘BETH DIN’; R. Nahman says two, because two are also called a Beth din. Said R. Nahman: What is my ground for saying this? Because we have learnt: ‘ [He says:] I hand over in the presence of you

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(1) I.e., if a man says. Take this gift to So-and-so, the bearer does not become a recipient, and the giver may still retract, even as in the case of a Get.

(2) Without the words ‘it is’.

(3) Lit., ‘will not cause to leave’.

(4) Because he is correctly stating his intention.

(5) Because he is wrongly describing the Get.

(6) Which does take effect.

(7) If a man said to her, ‘Be betrothed to me at the end of thirty days’ time with this money,’ and she consented, she may retract within the thirty days. Just as the betrothal is there cancelled, so the Get should be here.

(8) Her ‘I will not’ cancels her ‘I will’.

Talmud - Mas. Gittin 33a

So-and-so and So-and-so the judges in such-and-such a place.’[1] And R. Shesheth? — [He may rejoin:] Is the Tanna to reckon them out like a pedlar selling his wares?[2] Said R. Nahman [again]: What is my ground for saying so? Because we have learnt: ‘And the judges sign below or the witnesses.'[3] Are not the judges here placed on a par with the witnesses, so that just as two witnesses suffice, So two judges suffice? And R. Shesheth? — [He can reply:] Is this an argument? Judges and witnesses each follow their own rule. [And if you ask] why [the Mishnah] mentions both witnesses and judges, it is to teach us that it makes no difference if they word the document as judges[4] and then sign as witnesses or if they word the document as witnesses[5] and then sign as judges.

TO PREVENT ABUSES, What is referred to? — R. Johanan said: To prevent illegitimacy. Resh Lakish said: To prevent wife-desertion. 'R. Johanan said to prevent illegitimacy,' for he held with R. Nahman who said [that the Get could be cancelled] before [a Beth din of] two: [the proceedings] of two are not generally known, so she, not having heard and not knowing [that the Get is cancelled] might go and marry again, and bear illegitimate children.[6] 'Resh Lakish said to prevent wife-desertion,' for he again held with R. Shesheth who said [that he has to cancel it] before [a Beth din of] three. The proceedings of three are generally known, so she hearing and knowing [that the Get was cancelled] would remain unmarried, and we have therefore to save her from being a deserted wife.[7]

Our Rabbis have taught: If [the husband] did cancel [the Get before a Beth din] it is cancelled.[8] This is the ruling of Rabbi. Rabban Simeon b. Gamaliel, however, says that he can neither cancel it nor add any additional conditions, since if so, what becomes of the authority of the Beth din?[9] And is it possible then, that where a Get is according to the Written Law cancelled we should, to save the authority of the Beth din, [declare it valid and] so allow a married woman to marry another? — Yes. When a man betroths a woman, he does so under the conditions laid down by the Rabbis, and in this case the Rabbis annul his betrothal. Said Rabina to R. Ashi: This is quite right if the husband had originally betrothed his wife with money.[10] But if he had betrothed her by the act of marriage,[11] what can we say? — The Rabbis declared the act of marriage to be retrospectively nonmarital.

Our Rabbis have taught: 'If a man said to ten persons, Write a Get for my wife,[12] he can countermand the order to each of them separately.[13] This is the ruling of Rabbi. Rabban Simeon b. Gamaliel, however, says that he can only countermand the order when they are together.'[14] What is the point at issue between them? — The point at issue is whether if part of an evidence has been nullified the whole of it is nullified. Rabbi was of opinion that if part of an evidence has been nullified

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(1) Sheb. X, 14, v. infra 36a in connection with the prosbul.

(2) I.e., the fact that he says twice 'So-and-so' is of no significance.

(3) Ibid.

(4) I.e., 'We, So-and-so, acting as a Beth din. '

(5) I.e., 'This is a record of the testimony given before us . . .'

(6) Heb. Mamzerim, v. Glos.

(7) Hence the enactment of R. Gamaliel the Elder.

(8) In spite of the regulation of Rabban Simeon b. Gamaliel.

(9) Lit., 'how is the power of the Beth din (left) unimpaired.' The Beth din of Rabban Gamaliel which made the regulation.

(10) Because the Beth din can declare the money he gave her as kiddushin, public property (hefker,) v. infra 36b.

(11) V. Kid. 2a.

(12) In which case one writes and two sign. Infra 66b.

(13) In spite of the regulation of Rabban Gamaliel.

(14) As to do otherwise would be to disregard the regulation.

Talmud - Mas. Gittin 33b

the whole of it is not nullified. If therefore those [who have not heard the order countermanded] go and write [the Get] and give it to her, their action is quite proper.[1] Rabban Simeon b. Gamaliel was of opinion that if part of an evidence is nullified the whole is nullified. [If therefore] those [who] do not know [that the order is countermanded] go and write [the Get] and give it to her, then they are enabling a married woman to marry again. Or if you like I can say that both Rabbi and Rabban Simeon b. Gamaliel are agreed that if part of an evidence is nullified the whole is not nullified, and the reason of Rabban Simeon b. Gamaliel here is that in his opinion a thing which is done in the presence of ten can only by undone in the presence of ten.[2]

The question was raised: Suppose he said ‘All of you write,’[3] what are we to say?[4] Do we say that the reason of Rabban Simeon b. Gamaliel [for forbidding in the case where he did not say ‘all of you’] is that in his opinion if part of an evidence is nullified the whole is nullilied,[5] and since he said to these ‘all of you,’ they cannot write the Get and give it [without these two],[6] or is his reason that in his opinion a thing which has been done in the presence of ten can only be undone in the presence of ten, and therefore even if he said ‘all of you’ [he can only countermand the order when they are all together]?[7] — Come and hear: If a man said to two persons, Give a Get to my wife, he can countermand the order to one without the other. This is the ruling of Rabbi. Rabban Simeon b. Gamaliel, however, says that he can only countermand it to both of them together.[8] Now two here are equivalent to ‘all of you,’[9] and yet we see that Rabbi and Rabban Simeon differ?[10] — Said R. Ashi: If the two are witnesses to the Get, then Rabban Simeon would also admit [that he can countermand separately].[11] Here, however, we are dealing with witnesses to the taking of the Get.[12] This opinion is borne out by the conclusion of the passage quoted: ‘If he told each of them separately [in the first instance], he can countermand to them separately.’[13] For if you say that it speaks of witnesses to the taking of the Get, this is intelligible.[14] But if you say that it speaks of the witnesses to the writing of the Get, how can these be joined together [if they were at first separate]? Has not the Master said: ‘Their [separate] evidences are not combined [to form a whole]; they must both see [the event] together’?[15] — [This, however, is not conclusive], since perhaps [the teaching quoted] follows the view of R. Joshuah b. Korhah.[16]

R. Samuel b. Judah said: I have heard R. Abba give rulings on both [these points],[17] one following Rabbi and the other following Rabban Simeon b. Gamaliel, but I do not know which one follows Rabbi and which Rabban Simeon b. Gamaliel. Said R. Joseph: We are able to throw light on this. For when R. Dimi came [from Palestine], he reported to us that Rabbi once in an actual case decided according to the ruling of the Sages,[18] and R. Parta the son of R. Eleazar b. Parta and the grandson of the great R. Parta said to him: If that is so, what authority do you leave to the Beth din,[19] and Rabbi thereupon reversed his decision and followed the ruling of R. Simeon b. Gamaliel.[20] And since the ruling in this case follows Rabban Simeon b. Gamaliel,[21] in the other it follows Rabbi. R. Josiah from Usha was also of opinion that the ruling in one case followed the opinion of Rabbi and in the other of Rabban Simeon b. Gamaliel. For Rabbah b. Bar Hanah said: We were sitting five elders before R. Josiah from Usha and a certain man came before him whom he compelled to give a Get against his will, and he said to them [the witnesses, after compelling him], Go and conceal yourselves [from him] and write her [the Get]. Now if you assume that he ruled according to the opinion of Rabbi, if they did conceal themselves what difference did it make?[22] This shows that [in this point] he followed Rabban Simeon b. Gamaliel. But should you assume further that in the other point also he held with Rabban Simeon b. Gamaliel, [we can ask,] why should they have hidden themselves? It would have been sufficient if they had separated.[23] This shows that he held with Rabbi in regard to one point and with Rabban Simeon b. Gamaliel in regard to the other. Raba, however, said in the name of R. Nahman that the halachah follows Rabbi in both points. But does not R. Nahman hold that the authority of the Beth din must be upheld? Did not R. Nahman say in the name of Samuel,

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(1) Because as the Get has not been annulled the regulation is not disregarded.

(2) Hence the practical difference between Rabbi and Rabban Simeon b. Gamaliel is that according to the former he can at least prevent any two from signing, whereas according to the latter he cannot even do this, unless he forbids them all together.

(3) In which case one must write and all sign. Infra, 66b.

(4) Does Rabban Simeon still forbid him from preventing one or two separately?

(5) And therefore if we allowed this harm would ensue, as the rest might sign when they had no right to do so.

(6) And therefore no harm can ensue and he may do this.

(7) And the two whom he forbids can disregard his instruction.

(8) Tosef. Git. III.

(9) As one cannot sign the Get without the other.

(10) And Rabban Simeon requires that they must all be together.

(11) Because no harm can possibly ensue, as one signature by itself is worthless.

(12) I.e., he appointed the two as bearers to take the Get to the wife, in which case one might take it to her without the other, being unaware that the husband had countermanded the commission.

(13) As countermanding the order to one does not affect the order to the other.

(14) Since no question of evidence arises in connection with the act of taking the Get.

(15) Keth. 26b; B.B. 32a. Similarly here both witnesses must receive in each other's presence the mandate to write the Get.

(16) Who holds that they need not be together.

(17) Viz., the annulling of the Get in another place and the countermanding of one witness not in the presence of the other.

(18) That if the judges estimated an article at a sixth more or less than its real value, the sale is invalid. Keth. 99b.

(19) v. supra p. 135. n. 1.

(20) Which shows that the authority of the Beth din is in all cases to be upheld.

(21) Viz., that the annulment in another place is ineffective, since, if not, the authority of the Beth din is not upheld. (V. Tosaf. s.v. **).

(22) He can find two other persons and annul it in their presence.

(23) Because he cannot countermand it to each witness separately.

Talmud - Mas. Gittin 34a

‘If orphans [under age] desire to divide the property left to them by their father, the Beth din appoints for each of them a guardian who sees that he obtains a fair share. When they grow up, however, they are able to object,’ and did not R. Nahman, speaking in his own name, hold that they are not at liberty to object, because if they are, what becomes of the authority of the Beth din? — The question there was one of money, here it is one of a forbidden act.[1]

Giddal b. Re'ilai sent a Get to his wife. The bearer went and found her weaving. He said to her, Here is your Get. She said to him: Go away now at any rate and come again tomorrow. He went back to him and told him, whereupon he exclaimed, Blessed be He who is good and does good![2] Abaye said, ‘Blessed is He who is good and does good,’ and the Get itself is not cancelled,[3] and Raba said, ‘Blessed is He who is good and does good,’ and the Get is cancelled. What is the point at issue between them? — The point at issue is the revealing of intention in respect of a Get. Abaye holds that the revealing of intention in respect of a Get makes a difference, and Raba held that it makes no difference. Said Raba: What makes me take this view? Because R. Shesheth compelled a man to consent to give a Get, and the man said afterwards [to the witnesses], I heard R. Shesheth say to you, ‘Let the Get be cancelled,’ and R. Shesheth forced him to give another Get.[4] And did R. Shesheth then, asked Abaye, cancel other men's bills of divorce? In fact the man himself cancelled it, and the reason why he used these words[5] was on account of his [R. Shesheth's] beadles.[6]

Said Abaye: What makes me take my view? Because Rab Judah once forced the son-in-law of R. Jeremiah Bira'ah to give his wife a Get, and he cancelled it, whereupon he forced him again. He cancelled it again and he again forced him to give it, and he said to the witnesses, stuff grass[7] into your ears and write it.[8] Now if you assume that the revealing of intention makes a difference in a Get, do they not see him running after them? And Raba? — [He will reply that they may think] the reason why he ran after them was to tell them to make sure to give it to her so that he could put an end to his troubles.

Said Abaye further: What makes me take this view? Because there was a man who said to the witnesses, If I do not come within thirty days, this shall be a Get. He came on the thirtieth day, but could not get across the river,[9] and he called to them, ‘See that I have come, see that I have come,’ and Samuel said that this was no coming.[10] And Raba? — [He can rejoin,] In that case did he want to annul the Get? What he wanted was but to fulfil his condition, and his condition was not fulfilled.[11]

A certain man said [on writing a Get for his betrothed], If I do not marry her within thirty days, this shall be a Get. When the thirtieth day came, he said, See, I am busy making the preparations. Now why should we have any doubts [about the validity of the Get]? If because the man was forcibly prevented [from marrying], force majeure is no plea in regard to a Get. If again because he revealed his intention [of annulling it], on this point there is a difference of opinion between Abaye and Raba.[12]

A certain man said [on writing a Get for his betrothed]. If I do not marry by the first day of Adar, this will be a Get. When the first of Adar came he said, I meant the first of Sivan. Now should we have any doubts about the validity of the Get? If because he was forcibly prevented, force majeure does not invalidate a Get. If because he revealed his intention, on this point there is a difference of opinion between Abaye and Raba.[13]

The law[14] follows Nahman, and the law follows Nahman,[15] and the law[16]

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(1) Viz., of allowing a married woman to marry again, and where this was involved the Rabbis disregarded the authority of the Beth din.

(2) In giving him a chance to change his mind.

(3) But can still be used to divorce the woman.

(4) Because he had made it clear that he did not desire the Get to be given.

(5) I.e., why he mentioned R. Shesheth.

(6) Who beat him and asked him why he had cancelled it. Thus according to Abaye there was here not a mere revealing of intention but an actual annulment.

(7) Lit., ‘pumpkins’.

(8) That you may not hear the annulment.

(9) Lit., ‘the ferry prevented him’, as there was no ferry available for him to cross.

(10) This proves that his revealing of his intention to annul the Get made no difference.

(11) By calling ‘See, I have come’ he ‘did not mean to annul the Get, but simply to announce that he had endeavoured to fulfil the condition which should invalidate the Get.

(12) According to Abaye, the revealing of his intention makes no difference, according to Raba he reveals his intention not to annul the Get but to fulfil his condition. Both, however, agree that the Get is valid.

(13) V. preceding note.

(14) That the Get can be annulled in the presence of two.

(15) Who said that the halachah is according to Rabbi in both points in dispute.

(16) In regard to the revealing of intention.

Talmud - Mas. Gittin 34b

follows Nahmani.[1]

MISHNAH. ORIGINALLY THE HUSBAND WAS ALLOWED TO GIVE [IN THE GET] AN ADOPTED NAME[2] OF HIMSELF OR OF HIS WIFE, OR AN ADOPTED TOWN OF HIMSELF OR OF HIS WIFE.[3] RABBAN GAMALIEL THE ELDER MADE A REGULATION THAT HE SHOULD WRITE, ‘THE MAN SO-AND-SO OR BY WHAT EVER NAMES HE IS KNOWN,’[4] ‘THE WOMAN SO-AND-SO OR BY WHATEVER NAMES SHE IS KNOWN,’ TO PREVENT ABUSES.[5]

GEMARA. Rab Judah said in the name of Samuel: The Jews from overseas sent to Rabban Gamaliel the following inquiry: If a man comes here from Eretz Yisrael whose name is Joseph but who is known here as Johanan, or whose name is Johanan but who is known here as Joseph, how is he to divorce his wife? Rabban Gamaliel thereupon made a regulation that they should write in the Get, The man So-and-so or by whatever names he is known, the woman So-and-so or by whatever names she is known, to prevent abuses.[6] R. Ashi said: This is necessary only if the man is known to have two [or more] names. Said R. Abba to R. Ashi: R. Mari and R. Eleazar concur with you in this. It has been taught in agreement with R. Ashi: If a man has two wives, one in Judea and the other in Galilee, and he has two names by one of which he is known in Judea and by the other in Galilee, and if he divorces his wife in Judea under the name which he bears in Judea and his wife in Galilee under the name which he bears in Galilee, the divorce is not effective: it does not become so until he divorces his wife in Judea under the name he bears in Judea with the addition of the name he bears in Galilee, and his wife in Galilee under the name he bears in Galilee with the addition of the name he bears in Judea.[7] If, however, he goes away to another place[8] and gives a divorce under one of the names only, the divorce is effective. But did you not just say, ‘with the addition of the name he bears in Galilee’?[9] This shows that the one rule[10] applies where he is known [to have more than one name], and the other rule[11] applies where he is not known [to have more than one name].

There was a woman who was known to most people as Miriam but to a few as Sarah, and the Nehardeans ruled that [in a Get she should be referred to as] ‘Miriam or any other name by which she may be called’ and not ‘Sarah or any other name by which she may be called.’[12] MISHNAH. A WIDOW HAS [BY RIGHTS] NO POWER TO RECOVER [HER KETHUBAH][13] FROM THE PROPERTY OF ORPHANS SAVE ON TAKING AN OATH.[14] BUT THEY [THE RABBIS] REFRAINED FROM IMPOSING AN OATH ON HER.[15] RABBAN GAMALIEL THE ELDER THEREUPON MADE A REGULATION THAT SHE SHOULD TAKE ANY VOW[16] WHICH THE ORPHANS CHOSE TO IMPOSE ON HER AND SO RECOVER HER KETHUBAH. AND [SIMILARLY] WITNESSES SIGN THEIR NAMES TO A GET TO PREVENT ABUSES.[17] HILLEL THE ELDER ALSO INSTITUTED THE PROSBUL[18] TO PREVENT ABUSES.

GEMARA. Why is this rule [about an oath] laid down with reference to a widow, seeing that it applies to everybody, since it is an established rule that ‘one who seeks to recover payment from the property of orphans[19] cannot recover save on taking an oath’?[20] — There is a special reason for the mention of a widow. For it might occur to you to say that

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(1) Abaye, so called because he was brought up by Rabbah b. Nahmani, who called him by the name of his father (Rashi). [According to Aruch, Abaye's real name was Nahmani after his grandfather. but he was nicknamed Abaye (‘Little father’) by his uncle Rabbah b. Nahmani, who had adopted him at an early age, in order to avoid confusion with his grandfather.]

(2) Lit., ‘he used to change’.

(3) Supposing he had changed his residence temporarily and assumed another name.

(4) According to Tosaf., this means that all his other names should be specifically mentioned. V. Infra

(5) Lit., ‘for the better ordering of society.’

(6) I.e., to prevent people in case she remarries, from saving that the first husband never divorced her.

(7) This seems to confirm the opinion of Tosaf., that all the names must be written in the Get.

(8) Neither in Judea nor Galilee.

(9) Which shows that his other names must be included.

(10) That his other name must be included.

(11) That one name is sufficient.

(12) This would seem to show that the Mishnah is to be taken in its literal sense and not as interpreted by Tosaf.

(13) V. Glos.

(14) That she had not received any part of the kethubah.

(15) V. infra.

(16) E.g., a vow to abstain from certain kinds of food if it should be found that she had already received any part of the kethubah.

(17) V. infra. Lit., 'for the better ordering of society.'

(18) V. Glos. and infra.

(19) For a debt incurred by their father.

(20) B.B. 5b; Keth. 872.

Talmud - Mas. Gittin 35a

in order [to render marriage] more attractive[1] the Rabbis made a concession in her case. We are told [therefore that this is not so].

THEY [THE RABBIS] REFRAINED FROM IMPOSING AN OATH ON HER. What was the reason of this refusal? Shall we say it is to be found in the incident reported by R. Kahana, or, according to others by Rab Judah in the name of Rab, viz., that in a year of scarcity a certain man deposited a denar of gold with a widow, who put it in a jar of flour. Subsequently she baked the flour and gave [the loaf] to a poor man. In course of time the owner of the denar came and said to her, 'Give me back my denar, and she said to him: May death seize upon one of my sons[2] if I have derived any benefit for myself from your denar, and not many days passed — so it was stated — before one of her sons died. When the Sages heard of the incident they remarked: If such is the fate of one who swears truly, what must be the fate of one who swears falsely! Why was she punished? Because she had derived advantage from the place of the denar.[3] How then could the Sages speak of her as one who had sworn truly? — What they meant was, One who might be said to have sworn truly. If that is the reason [why the Rabbis refrained from imposing an oath], why only to a widow? Why not also to a divorced woman? Why has R. Zera said in the name of Samuel, 'This rule applies only to a widow, but to a divorced woman an oath is administered'? — There is a special reason in the case of a widow, because she finds a justification for herself [for swearing falsely] on account of the trouble she has taken on behalf of the orphans.[4]

Rab Judah stated in the name of R. Jeremiah b. Abba: Rab and Samuel were both agreed that this rule applied only to an oath imposed in the Beth din, but outside the Beth din an oath may be imposed on a widow.[5] Is this so? Is it not a fact that Rab would not enforce payment of a kethubah [by orphans] to a widow?[6] — This is a difficulty. This is the version given in Sura. In Nehardea the version is as follows, Rab Judah said in the name of Samuel: This rule applies only to an oath imposed in the Beth din, but outside the Beth din an oath may be imposed on a widow. Rab, however, held that even outside the Beth din an oath may not be imposed on her. [This dictum of] Rab [is] in conformity with his expressed view, for Rab would not enforce payment of a kethubah to a widow. Why did he not make her take a vow[7] and so let her recover? — In the time of Rab, vows were not treated lightly.

A certain woman appealed to R. Huna [to enforce payment of her kethubah]. He said to her, What can I do for you, seeing that Rab would not enforce payment of a kethubah to a widow? She said to him: Is not the only reason the fear that perhaps I have already received part of my kethubah? By the Lord of Hosts I swear that I have not received a penny from my kethubah. Said R. Huna: Rab would admit [that we enforce payment] where the widow takes the oath spontaneously.[8]

A certain woman appealed to Rabbah son of R. Huna [to enforce payment of her kethubah]. He said to her: What can I do for you seeing that Rab would not enforce payment of a kethubah and my father also would not enforce payment of a kethubah to a widow? She said to him: At least grant me maintenance. He replied: You are not entitled to maintenance either, since Rab Judah has said in the name of Samuel: If a woman claims her kethubah in the Beth din, she has no claim to maintenance.[9] She said to him: Turn his seat upside down![10] He gives me [the worst of] both authorities.[11] They turned his seat over[12] and put it straight again, but even so he did not escape an illness. Rab Judah said to R. Jeremiah Bira'ah: impose a vow on her in the Beth din and administer an oath to her outside the Beth din, and see that the report reaches my ears, since I desire to make this a precedent.[13]

[The text above stated:] ‘R. Zera said in the name of Samuel: This rule applies only to a widow, but to a divorced woman an oath is administered.’ Cannot then a divorced woman recover her kethubah on [merely] taking a vow? Was not [a communication] sent from there[14] saying that ‘So-and-so the daughter of So-and-so received a Get from the hand of Aha b. Hedia who is also known as Ayah Mari and took a vow binding herself to abstain from all produce whatsoever if she should be found to have received of her kethubah anything besides a blanket, a book of the Psalms, a copy of Job and a copy of Proverbs much worn,

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(1) To women in general by making it easier for them to recover their kethubahs.

(2) Lit., ‘May the poison of death have benefit from one of the sons of this woman.’

(3) Which saved her the corresponding quantity of flour.

(4) For which she considers she is entitled to some compensation.

(5) Within the Beth din she would be required to take a scroll of the Law or a pair of phylacteries in her hand and swear by one of the divine Names, but outside the Beth din these solemnities would be dispensed with.

(6) Surely he could have had an oath imposed on her outside the Beth din.

(7) In accordance with the regulation if Rabban Gamaliel. V. Mishnah.

(8) Lit., ‘jumps forward’.

(9) V. Keth. 542.

(10) [May he be humiliated (Rashi) — a curse the allusion of which is not quite clear. Goldschmidt connects it with the action of overturning the seat of one who died.]

(11) I.e., you follow Rab in refusing to collect the kethubah and Samuel in refusing maintenance.

(12) [That the force of the curse should find itself spent in its literal fulfilment].

(13) Rab Judah was a disciple of Samuel, and desired to impose his ruling on R. Huna and the other disciples of Rab.

(14) From Eretz Yisrael to Babylon.

Talmud - Mas. Gittin 35b

and we valued them at five maneh. When she presents herself to you, empower her to collect the rest.’[1] — R. Ashi said: The Get in that case was one given by a brother-in-law.[2]

RABBAN GAMALIEL THE ELDER MADE A REGULATION THAT SHE SHOULD TAKE A VOW, etc. R. Huna said: This rule applies only if she is not married again, but if she is married, she cannot take the vow. What is the reason why she cannot take it if she is married? Because her husband may annul it.[3] Even if she is not married, cannot the husband annul it when she marries again? — A husband cannot annul vows taken previously to his marriage with her.[4] But is there not a possibility that she may apply to a Sage[5] and obtain release from him? — R. Huna held that the particulars of the vow must be stated to the Sage.[6] R. Nahman held that even after the [second] marriage [she may take the vow]. But if she is married there is no question that the husband can annul the vow? — The vow must be taken by her in the presence of a company.[7]

An objection [against R. Huna's ruling] was raised [from the following]: If she has married again, she may recover her kethubah provided she has taken a vow. Does not this mean ‘if she takes a vow now’? — No; it means, if she has taken a vow before [the second] marriage. But has it not been taught: ‘If she marries again, she can take a vow and recover her kethubah’? — There is a difference on this point between Tannaim, since there is an authority who holds that a vow which has been taken in the presence of a company can be annulled, and there is an authority who holds that it cannot be annulled.[8]

The question was raised in the Academy: Is it necessary to state the particulars of the vow [on seeking annulment] or is it not necessary? — R. Nahman said that it is not necessary, R. Papa said that it is necessary. R. Nahman said that it is not necessary, because if you say that it is, it may happen that the applicant will not state the case fully[9] and the Sage will act on what he has been told.[10] R. Papa said it is necessary, to prevent forbidden things being done.[11]

We have learnt:[12] ‘If [a priest] marries a woman whom he should not,[13] he is disqualified [from participating in the Temple service] until he vows to have no benefit [from his wife]:’[14] and in this connection it was taught, he can take the vow and participate in the service and give the divorce when he descends.[15] Now if you say that it is not necessary to state particulars of the vow, is there not a possibility that he may apply to a Sage and obtain release?[16]

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(1) Apparently the couple had gone from Babylon to Palestine and the husband had given the divorce there, but his property was in Babylon.

(2) Who divorced her after having married her as levir, and the kethubah to which she was entitled was that given by the first husband, and therefore she claimed it as a widow and not as a divorced woman.

(3) In accordance with the law laid down in Num. XXX, 8.

(4) This rule is based on the words, And if she vowed in her husband's house in Num. XXX, 11.

(5) If a vow was found to be impossible of fulfilment, a Sage was empowered to discover a loophole for remitting it, v. Ned. 21ff.

(6) And if the woman stated that her reason was to obtain money to which she was not entitled, he would certainly not release her.

(7) Lit., ‘many’, i.e., ten or more, R. Nahman holding that such a vow could not be remitted.

(8) And this authority therefore allows her to recover the kethubah on taking such a vow even after she is married.

(9) Lit., ‘will cut short his account.’

(10) And he may grant release where it should be withheld or vice versa.

(11) E.g., to prevent the woman from obtaining money wrongfully or to prevent someone from doing a wrong act from which he has vowed to abstain.

(12) Bek. 45b.

(13) Lit., ‘in transgression’, e.g., a divorced woman.

(14) I.e., to divorce her (Rashi).

(15) From the altar after finishing the service.

(16) So that retrospectively he proves to have taken part in the service when disqualified.

Talmud - Mas. Gittin 36a

— We assume that the vow is taken by him in the presence of a company. This is a valid reason for one who holds that a vow which has been taken in the presence of a company cannot be annulled. But what are we to say to one who holds that it can be annulled? — We must say that the vow is imposed on the authority[1] of the company. For Amemar has said: The law is that even according to those who hold that a vow made in the presence of a company cannot be annulled, one made on the authority of a company cannot be annulled. This, however, is the case only with a vow relating to some optional action, but if it interferes with a religious duty, it can be annulled. A case in point is that of the teacher of children whom R. Aha bound by a vow on the authority of a company [to give up teaching], because he maltreated the children, but Rabina reinstated him because no other teacher could be found as thorough as he was.

WITNESSES SIGN A GET TO PREVENT ABUSES. [Is this rule only] to prevent abuses?[2] It derives from the Scripture, does it not, since it is written, And subscribe the deeds and seal them?[3] — Rabbah said: [All the same this reason] is necessary on the view of R. Eleazar, who said that the witnesses to delivery make [the Get] effective. The Rabbis nevertheless ordained that there should be witnesses to sign [as well], to prevent abuses, since sometimes the witnesses [to delivery] may die or go abroad. R. Joseph said: You may even say [that this reason is necessary] on the view of R. Meir,[4] [and what] they ordained was that the witnesses should subscribe their names in full,[5] to prevent abuses, as it has been taught: At first the witness used simply to write, ‘I, So-and-so,[6] subscribe as witness. ‘If then his writing could be found on other documents,[7] the Get was valid, but if not, it was invalid. Said Rabban Gamaliel: A most important regulation was laid down [by the Rabbis], that the witnesses should write their names in full in a Get, to prevent abuses.[8] But is not a mark enough? Did not Rab [sign by] drawing a fish and R. Hanina by drawing a palm-branch, R. Hisda with a Samek,[9] R. Hoshaia with an Ayin, and Rabbah son of R. Huna by drawing a sail?[10] — The Rabbis are different, because their marks are well known. How did they make these signs known to begin with? — On letters.[11]

HILLEL INSTITUTED THE PROSBUL. We have learnt elsewhere: A prosbul prevents the remission of debts [in the Sabbatical year]. This is one of the regulations made by Hillel the Elder. For he saw that people were unwilling to lend money to one another and disregarded the precept laid down in the Torah, Beware that there he not a base thought in thine heart saying, etc.[12] He therefore decided to institute the prosbul. The text of the prosbul is as follows: ‘I hand over to you, So-and-so, the judges in such-and-such a place, [my bonds], so that I may be able to recover any money owing to me from So-and-so at any time I shall desire’;[13] and the prosbul was to be signed by the judges or witnesses.[14]

But is it possible that where according to the Torah the seventh year releases Hillel should ordain that it should not release? — Abaye said: He was dealing with the Sabbatical year in our time,[15] and he went on the principle laid down by Rabbi, as it has been taught: Rabbi says: [It is written], Now this is the matter of the release; [every creditor] shall release.[16] The text indicates here two kinds of release,[17] one the release of land[18] and the other the release of money. When the release of land is in operation the release of money is to be operative, and when the release of land is not operative the release of money is not to be operative.[19]

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(1) Lit., ‘by the knowledge’ or ‘will of’; i.e., they say to him, ‘We administer this vow to you on our responsibility.’

(2) And so of Rabbinical sanction only.

(3) Jer. XXXII, 44.

(4) That the witnesses who sign the Get make it effective.

(5) I.e., their name and that of their father, e.g., Reuben ben Jacob, and not merely their own name, which would be sufficient from the point of view of the Torah. [V. Strashun and cf. following note].

(6) [Without specifying his name (Rashi). The term ‘So-and-so’ however, hardly bears this interpretation. Tosef. Git, VII omits ‘So-and-so’ and reads simply ‘I am witness’; cf. previous note].

(7) Through which his identity could be established.

(8) Because now it would be possible to find witnesses who recognised their signatures.

(9) One letter of his Hebrew name.

(10) Al. ‘boat’; al. ‘mast’.

(11) ** ‘discs’, ‘tablets’, ‘official letters’.

(12) Deut. XV, 9. The verse proceeds, The seventh year is at hand, and thine eye be evil against thy poor brother and give him nought.

(13) Even after the Sabbatical year.

(14) Sheb. x, 3. [The principle underlying the prosbul is founded on the passage ‘that which is thine with thy brother thine hand shall release’ (Deut. XV, 2). From this there had been derived the law that the operation of the year of release did not affect debts of which the bonds had been delivered to the Court before the intervention of the year of release (v. Sifre. a.l. and infra p. 38), such debts being regarded as virtually exacted’ and hence not coming under the prohibition ‘he shall not exact’. By a slight extension of this precedents the prosbul was instituted, which in effect amounted to entrusting the Court with the collection of the debt. Without actually handing over the bond to the court, as required by the existing law, the creditor could secure his debt against forfeiture by appearing in person before the Beth din and making the prescribed declaration. For a fuller examination of the nature and legal effect of the prosbul as well as a survey of the proposed derivations of the term, v. Blau, L. Prosbul im Lichte der Griechischen Papyri und der Rechtsgeschichte.]

(15) After the destruction of the first Temple.

(16) Deut. XV, 2.

(17) By the juxtaposition of the two words, שמיטה (‘release’) and שמוט (‘shall release’).

(18) At the Jubilee. V. Lev. XXV, 13.

(19) The Jubilee was not operative in the time of the Second Temple because the land was not fully occupied by Israel. But v. Tosaf. s.v. בזמן .

Talmud - Mas. Gittin 36b

The Rabbis, however, ordained that it should be operative, in order to keep alive the memory of the Sabbatical year, and when Hillel saw that people refrained from lending money to one another, he decided to institute the prosbul.[1]

But is it possible that where according to the Torah the seventh year does not release, the Rabbis should ordain that it does release?[2] — Abaye replied: It is a case of ‘sit still and do nothing’.[3] Raba, however, replied: The Rabbis have power to expropriate [for the benefit of the public][4] For R. Isaac has said: How do we know that the Rabbis have power to expropriate? Because it says, And that whosoever came not within three days according to the counsel of the princes and the elders, all his substance should be forfeited, and himself separated from the congregation of the captivity.[5] R. Eleazar said: We derive it from here: These are the inheritances which Eleazar the priest and Joshua the son of Nun and the heads of the fathers’ houses etc.[6] Now why is the word ‘fathers’ [here] put next to ‘heads’?[7] To show that just as fathers transmit to their children whatever property they wish, so the heads transmit to the public whatever they wish.

The question was raised: When Hillel instituted the prosbul, did he institute it for his own generation only or for future generations also? What is the practical bearing of this question?[8] — [In case we should desire] to abolish it. If you say that Hillel instituted the prosbul only for his own generation, then we may abolish it, but if for future generations also, [this would not be easy] since one Beth din cannot annul the decisions of another unless it surpasses it in wisdom and in numbers.[9] What [then is the answer]? — Come and hear, [since] Samuel has said: We do not make out a prosbul save either in the Beth din of Sura[10] or in the Beth din of Nehardea.[11] Now if you assume that Hillel instituted the prosbul for all generations, then it should be made out in any Beth din? — perhaps when Hillel instituted it for all generations, he meant it to be issued by a Beth din like his [Samuel's] or like that of R. Ammi and R. Assi, which are strong enough to enforce payment [where necessary], but not for the ordinary Beth din.

Come and hear: Samuel said: This prosbul is an assumption[12] on the part of the judges; if I am ever in a position, I will abolish it.[13] He abolish it? How so, seeing that one Beth din cannot annul the decision of another unless it is superior to it in wisdom and numbers? — What he meant was: If ever I am in a stronger position than Hillel, I will abolish it.[14] R. Nahman, however, said: I would confirm it. Confirm it? Is it not already firmly established? — What he meant was: I will add a rule that even if it [the prosbul] is not actually written it shall be regarded as written.

The question was raised [in the Academy]: Does this word ‘ulbana mean ‘assumption’ or ‘convenience’?[15] — Come and hear, for ‘Ulla once exclaimed:[16] O shameless [‘alubah][17] bride, to be false under the very bridal canopy![18] Said R. Mari the son of Samuel's daughter [in reference to this]: What scriptural verse indicates this? The verse, While the king sat at his table my spikenard sent forth its fragrance.[19] Rab said: The [sacred author] still shows his love for us by writing ‘sent forth’ and not ‘made foul’.

Our Rabbis taught: ‘They who suffer insults [ne'elabin][20] but do not inflict them, who hear themselves reviled and do not answer back, who perform [religious precepts] from love and rejoice in chastisement, of such the Scripture says, And they that love him are like the sun when he goeth forth in his might.’[21]

What is the meaning of the word ‘prosbul’? — R. Hisda says: Pruz buli u-buti.[22]

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(1) Which therefore meant rescinding only a regulation of the Rabbis, not a precept of the Torah.

(2) For by so doing they rob creditors of their just due.

(3) They do not tell the debtors to commit an actual trespass hut merely to refrain from paying debts.

(4) Lit., ‘(Anything declared) hefker (ownerless) by the Beth din is hefker’.

(5) Ezra, X, 8.

(6) Josh. XX, 51.

(7) It would have been sufficient to say, ‘heads of the tribes’.

(8) In any case the regulation goes in till it is rescinded.

(9) A.Z. 36a.

(10) The Beth din of Rab.

(11) His own Beth din.

(12) Heb. ‘ulbana. The meaning of this word is discussed later.

(13) Which shows that Hillel ordained it only for his own generation.

(14) Even without a superior Beth din.

(15) I.e., did Samuel mean that it was an assumption on the part of the judges to seize money wrongfully, or that it was a convenience for the judges that creditors did not ask them to secure payment of their debts for them before the seventh year.

(16) In reference to the making of the Golden Calf.

(17) This proves that the root ‘alab means ‘to be shameless’ or ‘arrogant’.

(18) I.e., shameless Israel, to be false to God while the Shechinah still hovered over them at Mount Sinai.

(19) Cant. I, 12.

(20) A further proof that the root ‘alab means ‘to insult’.

(21) Judg. V, 31.

(22) This seems to conceal the Greek ** (before the Council).

Talmud - Mas. Gittin 37a

Buli means the rich, as it is written, And I will break the pride of your power,[1] and R. Joseph explained: These are the bula'oth[2] in Judah. Buti means the poor, as it is written, Thou shalt surely lend him sufficient.[3] Raba asked a certain foreigner,[4] What is the meaning of prosbul? He replied: The porsa[5] of the matter.

Rab Judah said in the name of Samuel: Orphans do not require a prosbul. So too Rami b. Hama learnt: Orphans do not require a prosbul, because Rabban Gamaliel[6] and his Beth din are the parents of orphans.

We have learnt elsewhere: A prosbul is not made out unless [the debtor has] some land. If he has none, the creditor can present him with a spot from his own.[7] How much is a ‘spot’? — R. Hiyya b. Ashi said in the name of Rab: Even a stalk of a carob [is enough]. Rab Judah said: Even if he only lends him a space sufficient for his stove and oven, a prosbul may be made out on the strength of it. Is this so? Has not Hillel[8] learnt: ‘A prosbul may be made out only [if the debtor] has a flowerpot with a hole in it’, that is, if it has a hole, a prosbul may be made out,[9] but otherwise not. Now why should this be, seeing that the place it occupies [belongs to the debtor]?[10] — This rule applies only where the pot rests on some sticks.[11] R. Ashi would transfer to the debtor the trunk[12] of a date tree and then write a prosbul for the creditor. The Rabbis of the Academy of R. Ashi used to transfer their debts[13] to one another.[14] R. Jonathan transferred his debt to R. Hiyya b. Abba. Do I require anything more? he asked him. You do not, he replied.

Our Rabbis taught; If the debtor has no land but one who is security for him has land, a prosbul may be made out for him. If neither he nor his security has land but a man who owes him money has land, a prosbul may be made out for him. [This is based] on the ruling of R. Nathan, as it has been taught: R. Nathan says: If a man lends another a maneh, and this one lends to a third, how do we know that the Beth din can take from the last [named] and give to the first [creditor]? Because it says, And he shall give it unto him in respect of whom he has been guilty.[15]

We have learnt elsewhere: The seventh year brings release from a debt, whether contracted with a bond or without a bond.[16] Both Rab and Samuel explain that ‘with a bond’ here means that the debtor has given a lien on his property [for the debt] and ‘without a bond’ means that he has given no lien. A fortiori then does the seventh year release from a debt contracted verbally. R. Johanan and R. Simeon b. Lakish, however, explain that ‘with a bond’ means a bond that does not contain a lien clause,[17] and ‘without a bond’ means a debt contracted verbally. A bond which secures a lien, however, is not cancelled.[18] It has been taught in agreement with R. Johanan and R. Simeon b. Lakish: A bond for a debt is cancelled [by the seventh year], but if it contains a lien clause it is not cancelled. It has further been taught: If the debtor has specified a certain field to the lender [as security] for his loans, it is not cancelled. Nay more: Even if he writes [only] ‘All my property is security and guarantee for you,’ it is not cancelled.

A relative of R. Assi had a bond containing a lien clause. He came before R. Assi and said to him: Is this cancelled [by the seventh year] or not? — He replied: It is not cancelled. He left him and went to R. Johanan [and asked the same question]. [R. Johanan] replied: It is cancelled. R. Assi went to R. Johanan and asked him: Is it cancelled or not cancelled? — He replied: It is cancelled. But you yourself [once] said[19] that such a bond is not cancelled? — He replied: Because we have an opinion of our own [different from what we have learnt], are we to act on it? Said R. Assi: But there is a Baraitha in support of your opinion? — He replied: perhaps that follows Beth Shammai, who said[20] that a bond which is perfectly in order[21] is like one which has already been put into operation.

We have learnt elsewhere: If a man lends another money on a pledge or if he hands his bonds to the Beth din, the debts are not cancelled [by the seventh year].[22] That this should be so in the latter case we understand, because it is the Beth din which seizes the debtor's property.[23] But why should it be so in the case of a loan given on a pledge? — Raba replied: Because [the lender] is already in possession of it.[24] Said Abaye to him: If that is so, suppose a man lends another money[25] and lives in his courtyard, in which case he is also in possession, is the debt in this case too not cancelled?[26] — He replied: A pledge[27] is different, because the holder becomes also its owner, according to the dictum of R. Isaac, who said, How do we know that a creditor becomes the owner of a pledge [given for the debt]? Because it says, And it shall be righteousness unto thee.[28] If he is not the owner, what righteousness is there [in restoring the pledge]? Hence we learn that a creditor becomes owner of the pledge.

We have learnt elsewhere:[29]

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(1) Lev. XXVI, 19.

(2) City councils, Gr. **.

(3) Deut. XV, 8. The Hebrew root for lend is ‘abat, which is somewhat fancifully connected with buti. The prosbul benefits the rich because it secures them their loans, and the poor because it enables them to borrow. [Goldschmidt suggests in this connection the derivation from ** and ** ‘provision against loss’].

(4) Heb. la'oza, a man speaking a foreign languages. Possibly we should translate ‘linguist’.

(5) Cf. Gr. ** ‘manner’, ‘order’.

(6) Who was the supreme authority at the time when the Baraitha was first taught.

(7) [In which case the debt is regarded as having been refunded to the court who virtually hold the land in payment of the debt on behalf of the creditor, v. p. 148, n. 4.].

(8) Not the author of the prosbul.

(9) Because the earth-pot is then connected with the soil and so the debtor may be regarded as possessing land.

(10) And it is therefore analogous to the stove, on which a prosbul may he made out.

(11) It occupies no place on the ground, in which case unless it has a hole to connect it with the soil, it cannot serve as basis for a prosbul.

(12) Al. ‘branch’.

(13) Lit., ‘commit their words’; i.e., the verbal instructions relating to the recovery of their debts.

(14) I.e., used to appoint one another a Beth din for the receiving of their debts without the formality of writing out a prosbul.

(15) Num. V, 7. Hence the land of A's debtor can serve as the basis for a prosbul against A.

(16) Sheb. X, 1.

(17) I.e., a mortgage on his property.

(18) Because it is looked upon as having been already enforced, so that there really is no debt.

(19) supra.

(20) Sot. 25a.

(21) Lit., ‘which is ready to be enforced.’

(22) Sheb. X, 2.

(23) And the Beth din have power to expropriate, and therefore the creditor is not guilty of ‘exaction’ in recovering after the seventh year.

(24) And he does not ‘exact’ anything from the debtor.

(25) On the security of his courtyard. V. Tosaf. [Evidently in the case where the debt was contracted verbally.]

(26) [Whereas in B.M. 67b it is stated that the debt in such a case is cancelled, (Tosaf.).]

(27) Of movable property (Rashi).

(28) Deut. XXIV, 13. The ‘righteousness’ is in restoring the pledge to the poor man at sunset.

(29) Sheb. X, 8.

Talmud - Mas. Gittin 37b

If a man repays another money which he owes him in the seventh year, the other should say to him, I remit it.[1] If the debtor then says, ‘All the same [take it]’, he may take it from him. [This rule is based on] the text, Now this is the word[2] of the release.[3] Rabbah said: The creditor may tie him up[4] till he says so. Abaye raised an objection [from the following]: When [the debtor] offers him the money he should not say, This is in payment of my debt, but, ‘It is my [money] and I make you a present of it’? — Rabbah replied: Yes; he ties him up until he says so.

Abba b. Martha, who was the same as Abba b. Manyumi,[5] was pressed by Rabbah for repayment of money he had lent him. He brought it to him in the seventh year.[6] Rabbah said, I remit it. So he took it and went away. Abaye afterwards found Rabbah looking sad. He said to him, Why are you sad? He told him what had happened. So Abaye went [to Abba] and said to him, Did you offer money to Rabbah? I did, he said. And what did he say to you? — I remit it. And did you say to him, Even so take it? — He replied, I did not. Abaye thereupon said to him: If you had said to him, All the same take it, he would have taken it. Now at any rate go and offer it to him and say, All the same take it. He went and offered it to him, saying, All the same take it. He took it from him and said, This rabbinical student did have the sense to see this from the beginning!

Rab Judah said in the name of R. Nahman: We take a man's word if he says, I had a prosbul and lost it. What is the reason? Since the Rabbis have instituted a prosbul, a man would not [as we say] ‘leave on one side permitted [food] and eat forbidden.’[7] When such a man came before Rab, he said to him, Have you had a prosbul and lost it? This is a case for opening thy mouth for the dumb.[8] We have learnt [in opposition to this]: ‘Similarly if a creditor produces a bond for a debt without a prosbul, he cannot recover payment’?[9] — There is a difference on this point between Tannaim, since it has been taught: If a man produces a bond for a debt [after the seventh year] he must show a prosbul with it. The Sages, however, say that this is not necessary.[10]

MISHNAH. SHOULD A [NON-JEWISH] SLAVE [OF A JEW] BE CARRIED OFF BY ROBBERS AND RANSOMED [BY A THIRD PARTY],[11] IF [HE IS RANSOMED] AS A SLAVE HE GOES BACK TO SLAVERY, BUT IF [HE IS RANSOMED] AS A FREE MAN HE DOES NOT GO BACK TO SLAVERY. RABBAN SIMEON B. GAMALIEL SAYS THAT IN EITHER CASE HE GOES BACK TO SLAVERY.

GEMARA. With what case are we here dealing? Shall we say that the ransom was effected before [the owner of the slave] had given up hopes [of recovering him]? If so, even if [he is ransomed] as a free man, why should he not go back to slavery?[12] Shall we say then it was after the owner had given up hopes of recovering him? Then even if [he is ransomed] as a slave, why should he go back to slavery?[13] — Abaye said: The case indeed is one in which [the master] has not yet given up hopes. If then [he is ransomed] as a slave he goes back to slavery to his first master. If [he is ransomed] as a free man, he is no longer enslaved either to the first master or to the second; to the second, because he ransomed him as a free man, to the first because [if people know that he is to go back to slavery] perhaps they will refrain from ransoming him.[14] RABBAN SIMEON B. GAMALIEL SAYS, IN EITHER CASE HE GOES BACK TO SLAVERY, [since] he holds that, as it is a religious duty to ransom free men, so it is a religious duty to ransom slaves.[15] Raba said that the case dealt with is indeed where [the owner] has given up hopes of recovery. If then [he is ransomed] as a slave, he becomes enslaved to the second master. If he [is ransomed] as a free man, he becomes enslaved neither to the first master nor to the second; not to the second, because he ransomed him as a free man, and not to the first either, because he has given up hopes of recovering him. RABBAN SIMEON B. GAMALIEL SAYS, IN EITHER CASE HE GOES BACK TO SLAVERY, adopting in this the view [also] held by Hezekiah, who said: Why was it laid down that in either case he should go back to slavery? So that slaves should not go and throw themselves into the hands of robber bands and so liberate themselves from their masters.

An objection was raised [against Raba from the following]: Rabban Simeon b. Gamaliel said to them, Just as it is a religious duty to redeem free men, so it is a religious duty to redeem slaves. Now if we adopt the view of Abaye that the case dealt with is where [the owner] has not yet given up hope of recovery — we understand why Rabban Simeon b. Gamaliel said, ‘Just as etc.’[16] But on the view of Raba, that the case is one where [the owner] has given up hope, why, ‘just as’? [Rabban Simeon's reason] is the dictum of Hezekiah! — To which Raba can reply; Rabban Simeon b. Gamaliel was not certain to what the Rabbis were referring, and he argued with them thus: If you are speaking of the case where [the owner] has not yet given up hope, then I say ‘just as [etc.]’: and if you speak of the case where he has given up hope, then I apply the dictum of Hezekiah.

Now on the view of Raba that the case referred to is where [the owner] has given up hope and that the slave [if ransomed as a slave becomes enslaved] to the second master, [we have to ask], from whom does the second master acquire him? [You must say], From the brigands. Is the brigand himself his rightful owner? — Yes; he was his owner in respect of his labour. For Resh Lakish has said; How do we know that one heathen can own another in respect of his labour? — It says, Moreover of the strangers that shall sojourn among you, of them shall ye acquire.[17] [This indicates that] you may acquire from them,

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(1) The release of the seventh year, according to the Rabbis, took place only at the end. Hence the word 'seventh year' here is explained to mean 'in the period when the rule of the seventh year is in force,' and the repayment is supposed to be offered after the seventh year (Rashi).

(2) Heb. dabar (E.V. 'manner').

(3) Deut. XV, 2.

(4) Lit., 'hang him'.

(5) [Martha was the name of his mother by whose name he was designated, because she it was who once cured him from the bite of a mad dog, v. Yoma 84a].

(6) V. supra, n. 4.

(7) I.e., he would not have neglected in the first instance to obtain a prosbul, and then afterwards come and claimed the money wrongfully.

(8) I.e., where the judges suggest a plea to one of the parties. The expression is taken from Prov, XXXI, 8.

(9) Even if he pleads that he lost the prosbul.

(10) But he can plead that he lost it.

(11) Jews.

(12) Because whatever the ransomer may stipulate with the captor, the slave is still the property of his master.

(13) Viz., to his first master, seeing that he has ceased to be his property.

(14) The implication is that there is some merit in restoring the slave to freedom.

(15) I.e., from heathen masters, so that they may resume the performance of certain precepts in the service of their Jewish masters. Hence since it is a religious duty, there is no fear that people will refrain from ransoming him.

(16) I.e., it was necessary for R. Simeon to adduce this reason.

(17) Lev. XXV, 45.

Talmud - Mas. Gittin 38a

but they cannot acquire from you nor can they acquire from one another. Shall I then say that they cannot acquire one another? [What do you mean by saying,] Shall I say that they cannot acquire one another? Have you not just said that they cannot acquire from one another?[1] — What it means is this: They cannot acquire [slaves] from one another as far as their person is concerned.[2] Shall I say also that they cannot acquire them for [their] labour? You may conclude [that this is not so] by an argument a fortiori. A heathen may acquire an Israelite [for his labour];[3] surely then all the more so another heathen. But may I not say that such acquisition can only be by purchase,[4] but not by hazakah?[5] — R. Papa said: The territory of Ammon and Moab became purified [for acquisition by the Israelites] through [the occupation of] Sihon.[6] We have satisfied ourselves that a heathen [can acquire] a heathen [by act of possession]. How do we know that a heathen [can acquire] an Israelite [in the same way]? — From the text, And he took some of them captive.[7]

R. Shaman b. Abba said in the name of R. Johanan: A slave who escapes from prison becomes a free man, and what is more, his master may be compelled to make out a deed of emancipation for him. We have learnt: RABBAN SIMEON B. GAMALIEL SAYS, IN EITHER CASE HE RETURNS TO SLAVERY, and Rabbah b. Bar Hanah has stated in the name of R. Johanan that wherever Rabban Simeon b. Gamaliel records a statement in our Mishnah, the halachah is in accordance with him, except in the matters of the surety,[8] of Sidon,[9] and the latter proof.[10] Now on the view of Abaye [that the Mishnah speaks of the case where the master has not yet given up hope of recovering], there is no conflict [between the two statements of R. Johanan], since he makes the latter[11] refer to [the period] before [the master has] given up hope and the former [to the period] after he has given up hope. But on the view of Raba that [the latter also] refers to [the period] after [the master] has given up hope, there is a conflict, is there not, between the two statements of R. Johanan? — Raba can reply: What is R. Simeon's reason? The statement of Hezekiah [that the slave may give himself up to raiders]. But this does not apply to one who escapes; seeing that he risks his life [to do so], is it likely that he will throw himself into the hands of raiders?

A female slave of Mar Samuel was carried off [by raiders]. Some [Israelites] ransomed her as a slave and sent her to him, along with a message saying, We hold with Rabban Simeon b. Gamaliel,[12] but even if you hold with the Rabbis [you may accept her], because we have ransomed her as a slave. They thought that he had not yet given up hope [of recovering her], but this was not correct, as he had given up hope [of recovering her], and Samuel not only refrained from making her a slave again but he did not even require her to obtain a deed of emancipation. In this he followed his own maxim that 'if a man declares his slave common property,[13] he becomes a free man and does not require a deed of emancipation, since it says, Every man's servant that is bought for money.'[14] Does this mean the servant of a man and not of a woman? No; it means that a slave over whom his master still has control is called a slave, but a slave over whom his master has no control is not called a slave.

A female slave of R. Abba b. Zutra was carried off by raiders. A certain [heathen] from Tarmud[15] ransomed her in order to marry her. They[16] sent a message to him [R. Abba] saying, If you wish to act well, send her a deed of emancipation. What was the point of this message? If they were able to redeem her,[17] why did they want a deed of emancipation?[18] If they were not able to ransom her, of what good would a deed of emancipation be? — The fact was that it was possible to ransom her, and if he sent them a deed of emancipation, they would club together and [find the money] to ransom her. Or if you like I can say that they were not [at first] able to ransom her, but if the master would send her a deed of emancipation she would go down in the esteem of the heathen[19] and he would consent to her ransom. But has not a Master said that the heathen like the cattle[20] of Israel better than their [own] wives? — This is their real sentiment, but they think it beneath their dignity to show it.

There was a certain female slave in Pumbeditha who was used by men for immoral purposes — Abaye said: Were it not that Rab Judah has said in the name of Samuel that whoever emancipates his [heathen] slave breaks a positive precept, I would compel her master to make out a deed of emancipation for her. Rabina said; In such a case, Rab Judah would agree [that this is proper], in order to check immorality. And would not Abaye [act in the same way] to prevent immorality, seeing that R. Hanina b. Kattina has reported in the name of R. Isaac that the master of a certain woman who was half slave and half free[21]

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(1) And still less from an Israelite, so how can they acquire at all?

(2) So that if he escapes he becomes free without a deed of emancipation.

(3) This is based on the verse, And if a stranger or sojourner with thee be waxen rich etc. Lev. XXV, 47.

(4) [Lit., 'money.' Lev. XXV, 47. from which we learn that a heathen may acquire an Israelite as slave, speaks expressly of 'purchase money', v. verse 51.]

(5) This word seems here to have the double meaning of 'presumptive title' (supposing that the original owner has given up hopes of recovering him), and 'act of possession,' e.g., making the slave serve him. The question thus remains. — Was the brigand the rightful owner?

(6) Israel were forbidden to occupy the territory of Ammon and Moab (Deut. II, 9, 19). Sihon had taken some of the land of Moab (Num. XXI, 26), and this the Israelites were permitted to conquer from him and occupy. (Cf. Jud. XI, 15 ff.). This shows that a heathen can acquire ownership by act of possession.

(7) Num. XXI, 1. The lesson is derived from the fact that the Israelites taken by the king of Arad are called 'captives'.

(8) V. B.B. 173a.

(9) V. infra 74a and notes.

(10) V. Sanh. 31a.

(11) That in any case the slave returns to slavery.

(12) That even if we ransomed her for freedom, she must again become a slave.

(13) Which is equivalent to giving up hope of recovery.
(14) Ex. XII, 44.
(15) Palmyra.
(16) The Jewish authorities in the district.
(17) I.e., if the heathen was willing to surrender her for a ransom.
(18) They could redeem her back into slavery.
(19) Because it would become generally known that she was the slave of a Jew.
(20) And therefore the slaves also.
(21) Cf. infra 42a.

Talmud - Mas. Gittin 38b

was compelled by the Beth din to emancipate her, the reason being, as R. Nahman b. Isaac stated, that they used her for immoral purposes? — Can you compare the two cases? In this latter case, the woman [if not emancipated] is not qualified to marry either a slave or a free man;[1] in the other case, it is possible for the master to appoint her his slave, and he will look after her.

The text above stated: Rab Judah said in the name of Samuel: Whoever emancipates his heathen slave breaks a positive precept, since it is written, They shall be your bondmen for ever.[2] An objection was raised [against this from the following]: ‘On one occasion R. Eliezer came into the synagogue and did not find [the quorum of] ten there, and he immediately emancipated his slave to make up the ten’? — Where a religious duty [has to be performed], the rule does not apply.

Our Rabbis taught: ‘They shall be your bondmen for ever’: This is optional. Such is the opinion of R. Ishmael. R. Akiba, however, holds that it is an obligation. Now perhaps R. Eliezer held with the one who says that it is optional?[3] — Do not imagine such a thing, since it has been taught distinctly: R. Eliezer says that it is obligatory.

Rabbah said: For these three offences men become impoverished: for emancipating their [heathen] slaves, for inspecting their property on Sabbath, and for taking their main Sabbath meal at the hour when the discourse is given in the Beth Hamidrash. For so R. Hiyya b. Abba related in the name of R. Johanan, that there were two families in Jerusalem, one of which used to take its main meal on Sabbath [at the hour of the discourse] and the other on the eve of Sabbath,[4] and both of them became extinct.

Rabbah said in the name of Rab; If a man sanctifies his slave, he becomes a free man. What is the reason? Because he does not sanctify[5] his body,[6] nor does he say that he is sanctified in respect of his money value. What he must mean, therefore, is that he is to become a member of the ‘holy people’.[7] R. Joseph, however, reported Rab as saying; If a man declares his slave common property he becomes a free man. The one who applies this rule where the slave is sanctified would apply it all the more where he is declared common property; but he who applies it where the slave is declared common property, would not necessarily apply it where he is sanctified, because the master may have been referring to his money value.

The question was asked: [Does a slave who is thus liberated] require a deed of emancipation or not? — Come and hear: R. Hiyya b. Abin said in the name of Rab; Both the one and the other become free men, and they require deeds of emancipation. Rabbah said: I raise an objection against my own statement[8] from the following: ‘If a man sanctifies his property and some slaves are included in it, the treasurers [of the Sanctuary] are not allowed to emancipate them,[9] but they must sell them to others,[10] and these others are allowed to emancipate them. Rabbi says: My view is that the slave can pay his own purchase price[11] and liberate hiniself,[12] because the treasurer in that case as it were sells him to himself’? — Do you seek to confute Rab from the Mishnah? Rab is himself [considered] a Tanna and is allowed to differ.

Come and hear [an objection to Rabbah]: ‘Notwithstanding no devoted thing . . . whether of man etc. [shall be redeemed];[13] these are his Canaanitish men-servants and maid-servants’?[14] — We are presuming in this case that he says, [I vow] their money value.[15] If that is so, cannot I say the same in the other case also? — If that were so, what of the words ‘the treasurers are not allowed to liberate them’? Why are the treasurers mentioned?[16] And further: ‘But they can sell them to others, and these others are allowed to liberate them.’ Why are ‘others’ mentioned? And again: ‘Rabbi says: My view is that he may pay his own purchase price and so liberate himself, because the treasurer in that case as it were sells him to himself.’ Now if only his money value is devoted, what is the point of the words, ‘because as it were he sells him to himself’?

Come and hear: If a man sanctifies his slave, he [the slave] may go on supporting himself from his own labour, because only his money value has been sanctified![17]

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(1) Being forbidden to the one as a Jewess and to the other as a slave.

(2) Lev. XXV, 46.

(3) And if so, what need to explain his action on the around that where a religious duty is to be performed the rule does not apply?

(4) Instead of in the daytime. So Rashi. According to others, however, ‘used to dine on Friday afternoon.’ This, as Rashi points out, was actually forbidden, because it prevented a man entering on the Sabbath with a good appetite.

(5) I.e., devote to the Sanctuary.

(6) Since it cannot be used either for a sacrifice or for repairing the Temple.

(7) Deut. XIV, 2.

(8) Made in the name of Rab, that a slave who is sanctified becomes free.

(9) Because their persons are not acquired by the Sanctuary.

(10) This shows that the slave's money value is sanctified.

(11) v. Kid. 23b.

(12) Hence Rabbi also holds that the money value is sanctified.

(13) Lev. XXVII, 28.

(14) As this objection is from the Scripture, it cannot he answered like the last.

(15) And he does not mention sanctification.

(16) Lit., ‘What have they to do’. If the slaves are not sanctified.

(17) And he remains the slave of his master. This is in opposition to Rab.

Talmud - Mas. Gittin 39a

— Whose opinion is this? It is the opinion of R. Meir, who holds that when a man says a thing he must mean something by it[1] That this view is probably correct is shown by the succeeding clause: Similarly if a man sanctifies himself he maintains himself from his own labour, since he has sanctified only his money value. Now if you say that this follows R. Meir, there is no difficulty.[2] But if you say it follows the Rabbis,[3] we can indeed understand [the rule] in reference to the slave, because he has a purchase price, but has the man himself a purchase price?[4]

May we say that the same difference[5] is found between Tannaim [in the following passage]:[6] If a man sanctifies his slave, then making use of him does not constitute me'ilah [trespass].[7] Rabban Simeon b. Gamaliel says: Use of his hair constitutes trespass.[8] Now is not the point at issue between the two authorities this, that one holds that the slave is sanctified and the other that he is not? — Do you really think so? Why then the expressions, ‘constitutes trespass’ and ‘does not constitute trespass’? It should be, ‘he is sanctified’ and ‘he is not sanctified’? No. Both hold that he is sanctified,[9] and the point at issue here is that the one puts him in the same class with fixed property and the other with movable property.[10] If that is so, while they differ with regard to his hair should they not differ with regard to his whole body? — The truth is, both hold that a slave is in the same category as fixed property, and they differ here in respect of his hair which is ready for cutting, the one holding that such hair is regarded as already cut, and the other that it is not.

Shall we say that the difference between these Tannaim[11] is the same as the difference between these other Tannaim, as we have learnt: R. Meir says, There are certain things which both are and are not in the same category as fixed property,[12] but the Sages do not agree with him. For instance, if a man says, I entrusted to you ten vines laden with fruit , and the other says, There were only five, R. Meir requires him to take an oath,[13] but the Sages say that anything attached to the soil is in the same category as the soil.[14] And [commenting on this] R. Jose son of R. Haninah said that the practical difference between them arose in the case of grapes which were ripe for gathering, R. Meir holding that they were regarded as already gathered and the Rabbis that they were not so regarded? — You may even say that R. Meir [does not differ in the case of the hair]. For R. Meir would apply this principle[15] only to the case of grapes which would spoil by being left, but not to hair which improves the longer it is left.

When R. Hiyya b. Joseph went up [to Palestine], he reported this dictum[16] of Rab to R. Johanan. Said the latter: Did Rab really say that? But did not R. Johanan himself say the same?[17] Has not ‘Ulla said in the name of R. Johanan: If a man declares his slave common property, he becomes a free man, but he requires a deed of emancipation? — What R. Johanan meant was, Did Rab really take the same view as I [take]? Others report that [R. Hiyya] did not give him the whole of Rab's statement,[18] and he said to him, And did not Rab say that he requires a deed of emancipation? In this R. Johanan would be consistent, since ‘Ulla said in the name of R. Johanan, If a man declares his slave common property, he becomes a free man, but he requires a deed of emancipation.

The text above [stated]: ‘Ulla said in the name of R. Johanan: If a man declares his slave common property, he becomes a free man, but requires a deed of emancipation.’ R. Abba raised the following objection against ‘Ulla: ‘If a proselyte dies [without heirs] and Israelites seize[19] his property,[20] if there are slaves included in it, whether grown up or not grown up, they become their own masters as free men. Abba Saul. however, says that the grown-ups become their own masters as free men[21] but the minors become the property of whoever first seizes them.’[22] Now who has written a deed of emancipation for these?[23] — ‘Ulla replied: This Rabbi seems to imagine that people do not study the law. But what after all is the reason [why the slaves require no deed of emancipation]? — R. Nahman replied: ‘Ulla was of opinion that the slave of a proselyte comes under the same rule as his wife. Just as his wife is liberated[24] [after his death] without a Get, so his slave is liberated without a deed of emancipation. But if that is so, the same rule[25] should apply to an Israelite? — Scripture says, And ye shall make them (Canaanitish slaves) an inheritance for your children after you to hold for a possession.[26] If that is the case, then if a man declares his slave common property and then dies, the slave should also [not require a deed of emancipation].[27] How is it then that Amemar has said that if a man declares his slave common property and then dies, nothing can be done for the slave?[28] — [This saying] of Amemar is indeed a difficulty.

R. Jacob b. Idi said in the name of R. Joshua b. Levi: The halachah follows Abba Saul.[29] R. Zera asked R. Jacob b. Idi:

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(1) Lit., ‘a man does not utter his words idly’. Even though, taken in their literal sense, his words are meaningless. So here, if he declares his slave sanctified, since the person of the slave cannot be sanctified, we take it to mean that his money value is sanctified in the first instance, v, ‘Ar. 5a.

(2) Because, since he cannot sanctify himself, we suppose the man to mean that he sanctifies his money value.

(3) Who say that the words ‘I sanctify So-and-so’ actually mean, ‘I sanctify the purchase price of his person,’ I.e. the price which he may fetch when sold as a slave.

(4) Surely the freeman cannot be sold as slave.

(5) As to the rule where one sanctifies his slave.
(6) Sanh. 15a
(7) The technical word for applying holy things to secular purposes.
(8) V. infra.
(9) For his money value, contrary to the opinion of Rab.
(10) Me'ilah could not be committed against fixed property; v. Me'i, 18b.
(11) As to whether hair that is ripe for cutting is to be regarded as cut.
(12) I.e., though still attached to the soil, they are subject to the rule of movable and not of fixed property.
(13) That he was not responsible for the other five,
(14) In the case of landed property, an oath was not required of the defendant who admitted part of the claim; v. Shebu. 42b.
(15) That something ready to be done is regarded as already done.
(16) That if a man declares his slave common property, he goes free.
(17) And if so, why was he so surprised?
(18) He merely reported Rab's ruling as reported by R. Joseph and not the whole of it as reported by R. Hiyya b. Abin, supra 38b.
(19) Lit., ‘plunder’.
(20) If a proselyte dies without (Jewish) issue, any Israelite may seize his property and become his heir.
(21) I.e., they are allowed to marry Jewesses.
(22) Kid. 232.
(23) Which is required according to R. Johanan.
(24) I.e., becomes free to marry again.
(25) That the slaves whom he leaves behind should become free.
(26) Lev. XXV, 46.
(27) Because the sons never have been his owners.
(28) To enable him to marry either a slave woman or a Jewess; having been declared common property he is deemed partly free, yet he needs a deed of emancipation to complete his freedom, which deed however cannot be made out for him by the heirs, since they have never been his owners. V. infra 402.
(29) That the grown-up slaves become free, but not the child-slaves.

Talmud - Mas. Gittin 39b

Did you actually hear this [from R. Joshua], or do you infer it [from something he said]? — Infer it from what? [he replied]. — From the following statement of R. Joshua b. Levi: ‘They put the following question to Rabbi: If a man says, I give up hope of recovering my slave So-and-so,[1] what [is the status of the latter]? Rabbi said to them, In my view he has no remedy[2] save through a deed [of emancipation].’ Referring to this R. Johanan said: What was Rabbi's reason? He laid stress on the occurrence of the word ‘to her’ [in the Scripture] in connection both with a slave and a wife,[3] and drew the lesson that just as a woman requires a document [a Get] [to enable her to marry],[4] so does a slave [who has been declared public property]. Now, [continued R. Zera] I assume that you draw [from Rabbi's statement the inference that] just as the woman [is released (by the deed) from] a ritual prohibition[5] and not a monetary obligation, so the slave [is one who is released from] a ritual prohibition and not [from] a monetary obligation.[6] [R. Jacob replied:] Suppose I have only made an inference, what [difference does it make]? — He replied: On the contrary, you can draw just the opposite inference: Just as the woman can be either a grown-up or a child, so the slave[7] can be either a grown-up or a child. [R. Jacob then] said to him: I heard it distinctly [from R. Joshua b. Levi].

R. Hiyya b. Abba, however, said in the name of R. Johanan that the halachah does not follow Abba Saul. Said R. Zera to R. Hiyya b. Abba: Did you actually hear this [from R. Johanan], or do you infer it [from something you heard]? — Infer it from what? [he said.] — From the following statement of R. Joshua b. Levi: ‘The following question was put to Rabbi: If a man says, I give up hope of recovering my slave So-and-so, what [is the status of the latter]? Rabbi said to them: In my view he has no remedy save through a deed of emancipation. Referring to this R. Johanan said: What was Rabbi's reason? He laid stress on the occurrence in the Scripture of the words ‘to her’ in connection [both with a slave] and with a wife, drawing the lesson that just as a [divorced] wife requires a document [to enable her to marry], so does a slave [who has been declared public property].’ Now [continued R. Zera], I assume that you draw from Rabbi's statement the inference that just as the wife may be either grown-up or not grown-up, so the slave may be either grown-up or not grown-up. [R. Hiyya replied:] Suppose I have only made an inference, what [difference does it make]? — He replied: On the contrary, you can draw just the opposite inference: just as the woman is [released from] a ritual prohibition and not a monetary obligation, so the slave is one who is [released from] a ritual prohibition and not a monetary obligation. R. Hiyya then said: I heard it distinctly [from R. Johanan].

The Master said: ‘[Rabbi] said to them, In my view he has no remedy save through a deed of emancipation.’ But has it not been taught: ‘Rabbi says, The slave can also offer his own purchase price and so liberate himself, because the treasurer [of the sanctuary] as it were sells him to himself’?[8] — What he meant was this: [A liberated slave can become enabled to marry] either by ransoming himself or by obtaining a deed of emancipation; and in this case[9] the ownership has ceased.[10] Rabbi thus rejects the view of the following Tanna. It has been taught, namely: R. Simeon says in the name of R. Akiba, May we presume that money payment completes her emancipation in the same way as a deed completes her emancipation?[11] [This cannot be,] since it says, and she be not at all redeemed.[12] The keywords of the whole section[13] are because she was not free.[14] This shows that a document completes her emancipation, but not a money payment.[15]

Rami b. Hama said in the name of R. Nahman that the halachah [in this matter] follows R. Simeon, and R. Joseph b. Hama said in the name of R. Johanan that the halachah does not follow R. Simeon. R. Nahman b. Isaac once came across Raba b. She'ilta as he was standing at the entrance of the synagogue, and said to him, Does the halachah follow R. Simeon or does it not? — He replied, I say that it does not, but the Rabbis who have come from Mahuza report that R. Zera said in the name of R. Nahman that it does. When I was in Sura I came across R. Hiyya b. Abin and said to him, Tell me now what were the essential facts of the case.[16] He said to me: There was a certain female slave whose master was at the point of death. So she came crying to him and saying, How long am I to go on being a slave? He thereupon took his cap and threw it to her saying, Go and acquire this and acquire yourself with it.[17] The case was brought before R. Nahman and he said, His action was null and void. Those who were present thought that R. Nahman's reason for his decision was that the halachah follows R. Simeon,[18] but this is not correct; his reason was that the man used an article belonging to the transferor.[19]

R. Samuel b. Ahithai said in the name of R. Hamnuna the Elder, who said it in the name of R. Isaac b. Ashian who said it in the name of R. Huna who said it in the name of R. Hamnuna: The halachah follows R. Simeon. This, however, is not correct; the halachah does not follow R. Simeon.

R. Zera said in the name of R. Hanina who said it in the name of R. Ashi;[20] Rabbi said, If a slave marries a free woman in the presence of his master,

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(1) This is equivalent to saying, ‘I declare him common property.

(2) To enable him to marry, cf. n. 5.

(3) V. Infra 41b.

(4) Even if the husband declared her common property.

(5) Viz., the prohibition of marrying.

(6) Hence Rabbi must have been speaking of grown-up slaves who can acquire their own persons (v. supra) and, as soon as they are declared common property by the owner, cease to be his possession. In their case, the deed affects only a prohibition in that it permits them to marry a Jewess. In the case of minors, however, upon whose persons the owner still retains his claim even after having declared them common property, the deed affects money matters, and to such a deed Rabbi was not referring, it not being like that of the woman. Consequently the prohibition of marrying does not apply to children.

(7) Who is liberated by the death of his master.

(8) Supra 38b. This shows that money payment is also effective.

(9) Of the man who declares his slave common property.

(10) Hence there is no-one from whom the slave can purchase his freedom and his only remedy is through a document.

(11) The reference is to a female slave who is half emancipated and betrothed to a Hebrew slave. The question under discussion is, if some other person has intercourse with her after she has been redeemed by a money payment but before she has received a deed of emancipation, is he to suffer the death penalty for having violated a free woman who is betrothed, or is he merely to bring a guilt-offering in accordance with the rule laid down in Lev. XIX, 20.

(12) Lev. loc. cit.

(13) Lit., 'the whole section is closely linked with.'

(14) The verse runs: And whosoever lieth carnally with a woman that is a bondmaid betrothed to a husband, and not at all redeemed nor freedom given her, they shall be punished, they shall not be put to death, because she was not free. The words 'not at all redeemed' (lit., 'redeemed she was not redeemed') are interpreted to mean, 'she was redeemed and yet not redeemed,' i.e., redeemed with money but not with a document.

(15) As much as to say, she has not the status of a free woman until she receives her deed of emancipation.

(16) In which R. Nahman decided that the halachah follows R. Simeon.

(17) His intention was to transfer her to herself by means of a kinyan (v. Glos.) of which the cap was the symbol.

(18) That a deed is necessary in such a case to enable her to marry an Israelite.

(19) And the rule is that to make the kinyan valid, the article must belong to the transferee, v. B.M. 47b.

(20) The mention of R. Ashi in this connection is very strange.

Talmud - Mas. Gittin 40a

he automatically becomes a free man.[1] Said R. Johanan to him: Are you really sure of that?[2] What I have learnt is, if a man writes a deed of betrothal[3] for his female slave, R. Meir says that she becomes betrothed and the Sages say that she is not betrothed.[4] The explanation is similar to that given by Rabbah son of R. Shilah, who said [in an analogous case], 'When his master puts the phylacteries on him.'[5] So here, the slave becomes free when the master actually gives him a wife.[6]

But is it possible that there can be an action involving a breach of the law which a man would not allow to be done on behalf of his slave but would perform on his own behalf?[7] — R. Nahman b. Isaac said; We are assuming here that in giving her the deed of betrothal] he says, Become free with this and be betrothed with this.[8] R. Meir held that this expression ['be betrothed'] includes emancipation, and the Rabbis held that it does not include emancipation.

R. Joshua b. Levi said: If a servant puts on phylacteries in the presence of his master, he becomes a free man. An objection was raised; 'If his master borrows [money] from his slave, or if his master appoints him administrator of his affairs, or if he puts on phylacteries in the presence of his master, or if he reads three verses in his presence in the synagogue, he does not [thereby] become a free man'? — Rabbah son of R. Shila explained that [R. Joshua b. Levi was speaking of the case] where his master [himself] put the phylacteries on him.[9]

When R. Dimi came [from Palestine] he reported [the following ruling] in the name of R. Johanan: If a man when on the point of death says, I do not want my female slave So-and-so to be used as a slave after my death, the heirs can be compelled to make out for her a deed of emancipation. R. Ammi and R. Assi [expostulated with him] saying, Do you not admit that her children will be slaves?[10] When R. Samuel b. Judah came, he said in the name of R. Johanan: If a man when on the point of death says, My female slave So-and-so has given me great satisfaction, let something be done to satisfy her, the heirs may be compelled to satisfy her.[11] The reason is that it is a religious duty to carry out the wishes of the deceased.

Amemar said: If a man declares his slave common property, nothing can be done for the slave.[12] Why so? Because he no longer possesses his body, but he is still bound by the prohibition,[13] and this he cannot transfer to him. Said R. Ashi to Amemar: But has not ‘Ulla said in the name of R. Johanan and R. Hiyya b. Abin in the name of Rab, In either case[14] he becomes a free man and requires a deed of emancipation? — He replied: He requires one, but nothing can be done for him.

According to another version, Amemar said: If a man declares his slave common property and then dies, nothing can be done for the slave. Why so? Because he no longer owns his body, but he is still bound by the prohibition, and this he cannot bequeath to his son. Said R. Ashi to Amemar: But when R. Dimi came he reported a ruling of R. Johanan [which conflicts with this]?[15] — R. Dimi's statement was erroneous.[16] Where, he rejoined, was the error? That the man did not say distinctly that the slave should be emancipated? But if he had done so, then they would have had to write her a deed of emancipation, [would they not]? — Said Amemar: I hold with R. Samuel b. Judah.[17]

A certain settlement of slaves was sold [by their Jewish masters] to heathens. When the second masters died, they applied to Rabina,[18] and he said to them, Go and find the sons of your first masters, and they will write you out deeds of emancipation. The Rabbis expostulated with Rabina, saying, Has not Amemar laid down that if a man declares his slave common property and then dies, nothing can be done for the slave? — He replied: I adopt the view of R. Dimi. But, they said to him, R. Dimi's statement was erroneous! — He replied: What was the mistake? That the man did not say distinctly that the slave should be emancipated. But if he had said so, the heirs would have had to emancipate her, [would they not]?[19] The law is as stated by Rabina.

A certain slave was owned by two men [in partnership], and one of them emancipated his half. The other thereupon thought to himself: If the Rabbis hear of this, they will force me to give him up.[20] So he went and transferred him to his son who was still under age. R. Joseph the son of Raba submitted the case to R. Papa. He sent him back answer: As he has done so it shall be done to him; his dealing shall return upon his own head.[21] We all know that a child is fond of[22] money. We shall therefore appoint for him a guardian,

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(1) Because we assume that if the master had not emancipated him he would not allow him to do this.

(2) That Rabbi said this.

(3) ‘Behold thou art betrothed to me.’

(4) Because we do not assume that he has emancipated her. The Sages here would include Rabbi.

(5) Infra.

(6) As in this case there can be no doubt that he has emancipated him.

(7) Viz., his marrying his female slave before making out for her a deed of emancipation.

(8) Where, however, he says merely ‘Be betrothed’ it is assumed that he had emancipated her already.

(9) The master would not have conferred upon him this dignity had he not already emancipated him.

(10) I.e. , the expression, ‘do not use her as a slave,’ only means that they should not make her work too hard, not that she should be freed.

(11) Even to the point of emancipating her.

(12) To enable him to marry either a free woman or a slave. [According to Tosaf., however, he may still marry a slave. V. Tosaf. s.v. וכתב].

(13) To marry a Jewess, which remains in force until the slave obtains a deed of emancipation.

(14) Whether sanctified or declared common property. V. supra 38b, 39a.

(15) Viz., that the heirs can be compelled to write a deed of emancipation, though they could claim to no ownership of the body of the slave in view of the father's instructions. V. supra.

(16) As shown by R. Ammi and R. Assi supra.

(17) According to whose version of R. Johanan's ruling, the heirs can use their own judgment.

(18) To make them eligible for marrying Jewesses.

(19) And so here, though the first masters declared them free as far as they were concerned, the heirs can nevertheless write them a deed of emancipation.

(20) Lit., 'cause me to lose him', i.e., to allow him to purchase the other half of himself from me.

(21) Obad. I, 15.

(22) Lit., 'is attracted to'.

Talmud - Mas. Gittin 40b

and [the slave] will rattle some coins before the child, and [the guardian] will write out a deed of emancipation for the slave in his name.[1]

Our Rabbis have taught: If a man says, 'I have made my slave So-and-so free' , 'he is hereby declared free', 'I declare him free,' then he becomes a free man. [If he says,] 'I shall make him free,' Rabbi says that he acquires possession [of himself],[2] but the Sages say that he does not.[3] R. Johanan explained that in every case we suppose a deed to have been made out.[4]

Our Rabbis have taught: If a man says, 'I have given such-and-such a field to So-and-so'; 'It is presented to So-and-so'; 'I declare it to be his,' then it is his. If he says, 'I shall give it to So-and-so,' R. Meir[5] says that he acquires ownership of it, but the Sages say that he does not acquire ownership. R. Johanan explained that in every case we suppose a deed to have been given.

Our Rabbis have taught: If a man says, 'I have made my slave So-and-so free,' and the slave says, 'You have not freed me', we take into account the possibility that he has presented him a deed of emancipation through a third party.[6] If, however, the master says, 'I have written and given to him,' and he says, 'He has not written for me nor given to me,' this is a case where the admission of the litigant is worth the evidence of a hundred witnesses. If a man says, 'I have given such-and-such a field to So-and-so', and the latter says, 'He has not given it to me,' we take into account the possibility that he may have presented it to him through a third party. If he says, 'I have written [a deed] and presented it to him,' and the other says, 'He has not written nor presented to me,' then in that case the admission of the litigant is worth the evidence of a hundred witnesses. [In such a case] who is entitled to the produce? — R. Hisda says the donor is entitled to the produce, whereas Rabbah says that the produce is entrusted to a third party.[7] There is no conflict between the two rulings; the one applies to the father, the other to the son.[8]

MISHNAH. IF A MAN MAKES HIS SLAVE SECURITY[9] [FOR A DEBT] TO ANOTHER MAN AND HE EMANCIPATES HIM, IN STRICT JUSTICE THE SLAVE IS NOT LIABLE FOR ANYTHING, BUT TO PREVENT ABUSES[10] HIS MASTER IS COMPELLED TO EMANCIPATE HIM. AND HE GIVES A BOND FOR HIS PURCHASE PRICE. RABBAN SIMEON B. GAMALIEL SAYS THAT HE DOES NOT GIVE A BOND BUT HE EMANCIPATES HIM.[11]

GEMARA. IF A MAN MAKES HIS SLAVE SECURITY FOR A DEBT AND HE EMANCIPATES HIM. Who emancipates him? — Rab says, his first master. In strict justice the slave is then not liable for anything to his second master, according to the dictum of Raba, that 'sanctification,[12] leaven,[13] and emancipation release from a creditor's lien.'[14] To prevent abuses, however, [that is to say, for fear] lest he should find him in the street

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(1) A minor could not be compelled to emancipate his slaves, nor could his guardian do so for him. On the other hand, a minor was competent to sell movables. Hence if the slave could induce him to sell to him his half, well and good, and the function of the guardian was only to see that he obtained a fair price. According to Tosaf., the deed is made out in the name of the guardian. V. Tosaf. s.v. 2031.

(2) Along with the deed of emancipation in which these words are written.
(3) Because this is only a promise that he will liberate him subsequently by means of another deed.
(4) But if it is merely a verbal declaration, the master can retract.
(5) Var. lec.; Rabbi.
(6) Without the slave's knowledge. In such a case the slave would be liberated on the principle that a benefit may be conferred on a man without his knowledge.
(7) Who puts it on one side till the ‘coming of Elijah’, i.e., till the truth of matter is ascertained.
(8) We accept the disclaimer of the man who is alleged to have received the gift, but not of his son, as witnesses may still be found to prove that the gift was actually made.
(9) אפותיקי , Gr. **.
(10) Lit., ‘for the better ordering of the world’.
(11) The whole of this Mishnah is explained in the Gemara.
(12) If a man pledges an animal as security and then devotes it for a sacrifice.
(13) If a man borrows from a Gentile on the security of leaven and the Passover intervenes, rendering the leaven forbidden for use.
(14) V. B.K. 90a.

Talmud - Mas. Gittin 41a

and say to him ‘you are my slave,’[1] his second master is compelled to emancipate him, the slave giving him a bond for his purchase price.[2] R. Simeon b. Gamaliel says that it is not the slave but the one who emancipates him who has to give a bond. In regard to what point do the two authorities join issue? — In regard to the person who injures an object pledged as security to another, one[3] holding that he is liable [to make it good] and the other that he is not liable.[4] It has also been stated [elsewhere]: On the question of the man who injures an object which has been pledged as security to another, we find a difference of opinion between R. Simeon b. Gamaliel and the Rabbis.

‘Ulla explains [as follows]: Who emancipates him? His second master. In strict justice the slave is still not liable for the performance of religious precepts [incumbent on free men only]. To prevent abuses,[5] however — since he has been reported to be free — his first master is compelled to liberate him, and he [the servant] gives him a bond for his purchase price.[6] R. Simeon b. Gamaliel says that he does not give the bond, but the one who emancipates him gives the bond. On what point do the two authorities join issue? — On the question of damage which is not recognisable,[7] the one[8] holding [that in the eye of the law] this is genuine damage and the other that it is not.[9]

Why did not ‘Ulla accept the explanation of Rab? — He will say to you, Can you call the second his master?[10] Why did not Rab adopt the explanation of ‘Ulla? — He will say to you, Do you call the second the one who emancipates him?[11]

It has been stated: If a man makes a field of his security [for a debt] to another, and it is flooded by a river, Ammi Shapir Na'eh[12] says in the name of R. Johanan that he cannot recover his debt from the remaining property of the debtor. The father of Samuel, however, says that he can recover from the remainder of his property. Said R. Nahman b. Isaac: Because he is Ammi Shapir Na'eh he makes pronouncements which are not commendable.[13] But we must explain his reported ruling to refer to the case where the debtor has said to the creditor: ‘You shall not be able to recover save from this’.[14] It has been taught to the same effect: If a man makes a field of his security for a debt to another and it is flooded by a river, [the creditor] may recover from the remainder of his property. If, however, he said to him, ‘You shall not be able to recover save from this’, he cannot recover from the remainder of his property. Another [Baraitha] taught: If a man makes his field security for a debt to his creditor or for a woman's kethubah, they may recover from the remainder of his property.[15] R. Simeon b. Gamaliel, however, says that [while] a creditor may so recover a woman cannot recover from the remainder, because it is not seemly for a woman to keep on coming to court.[16]

MISHNAH. ONE WHO IS HALF A SLAVE AND HALF FREE[17] WORKS FOR HIS MASTER AND FOR HIMSELF ALTERNATE DAYS.[18] THIS WAS THE RULING OF BETH HILLEL. BETH SHAMMAI SAID: YOU HAVE MADE MATTERS RIGHT FOR THE MASTER BUT NOT FOR THE SLAVE. IT IS IMPOSSIBLE FOR HIM TO MARRY A FEMALE SLAVE BECAUSE HE IS ALREADY HALF FREE.[19]

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(1) And so defame his children.

(2) To compensate him for the loss of his security.

(3) R. Simeon.

(4) V. B.K. 33b.

(5) I.e., lest he should marry a Jewess while in this state.

(6) In so far as this is in excess of the debt.

(7) Here, the emancipation of the slave, v. infra 53a.

(8) R. Simeon.

(9) Therefore the second has to give no bond, but the slave must do so in return for the benefit he has received in being emancipated.

(10) And the Mishnah says, 'His master is compelled'.

(11) Seeing that he was not his master, how could he be said to emancipate him?

(12) So called on account of his beauty (v. n. 7) Rash. Nid. 19b.

(13) A play on the word shapir, which means 'beautiful', 'commendable', as also does na'eh.

(14) For this reason he cannot recover from any other property.

(15) I.e., the debtor can sell this field and let the creditors recover from the rest of his property.

(16) And for this reason the husband specially made this field responsible, so that she should not have to go to law with the purchasers of his other fields, not knowing which had bought first and which last.

(17) Explained in the Gemara; v. n. 9 and p. 178, n. 9.

(18) Lit., 'serves his master one day and himself one day'.

(19) And so an Israelite.

Talmud - Mas. Gittin 41b

IT IS IMPOSSIBLE FOR HIM TO MARRY A FREE WOMAN BECAUSE HE IS HALF A SLAVE.[1] SHALL HE THEN REMAIN UNMARRIED?[2] BUT WAS NOT THE WORLD ONLY MADE TO BE POPULATED, AS IT SAYS, HE CREATED IT NOT A WASTE, HE FORMED IT TO BE INHABITED?[3] TO PREVENT ABUSES,[4] THEREFORE, HIS MASTER IS COMPELLED TO LIBERATE HIM AND HE GIVES HIM A BOND FOR HALF HIS PURCHASE PRICE. BETH HILLEL THEREUPON RETRACTED [THEIR OPINION AND] RULED LIKE BETH SHAMMAI.

GEMARA. Our Rabbis taught: If a man emancipates half his slave,[5] Rabbi says that the latter becomes his own master to that extent, and the Rabbis say that he does not. Rabbah says: The dispute [between them relates only to the case] where [the master has made out] a deed of emancipation. Rabbi holds, [since it says] And she be not at all redeemed nor freedom given her,[6] we apply the same rule to a deed as to money.[7] Just as with money the slave can acquire either the half or the whole of himself,[8] so with a deed, he can acquire either the half or the whole of himself. The Rabbis, however, base their ruling on the occurrence of the word 'to her' [in connection both with a female slave] and with a [divorced] wife.[9] Just as a wife cannot be divorced by halves, so a slave cannot acquire himself by halves. With money, however, both agree that he can so acquire himself. May we say that the point at issue between them [Rabbi and the Rabbis] is this, that [where a ruling may be based either on an analogy or a gezerah shawah][10] one holds that preference is to be given to the analogy and the latter to the gezerah shawah? — No; both agree that preference is to be given to the gezerah shawah,[11] but there is a special reason [for not doing so here, because the validity of the gezerah shawah] may be questioned thus: [This rule[12] may well apply to] a woman since she cannot be liberated by money, but how infer from her to a slave who is liberated by money?

R. Joseph said that [the dispute between Rabbi and the Rabbis is where] the half-emancipation is made for money payment. Rabbi holds that the words ‘redeeming she is not redeemed’ indicate that she is [half] redeemed but not [wholly] redeemed, whereas the Rabbis hold that the Torah was here using an ordinary form of speech.[13] Where, however, [the half-emancipation is made by] a deed, both [according to R. Joseph] agree that the slave does not acquire [that half of himself].

An objection was raised [from the following]: if a man emancipates half his slave with a deed, Rabbi says that the slave acquires that half of himself, while the Rabbis say that he does not acquire it. Is not this a refutation of R. Joseph? — It is. [And I infer from this Baraitha] that Rabbi and the Rabbis differ only where the emancipation is effected by a deed, but where it is effected by money payment they do not differ; in which case there will be a double refutation of R. Joseph?[14] — R. Joseph may reply: [What the Baraitha shows is] that they differ in regard to a deed, and this applies also to money payment; and the reason why their difference is mentioned only in regard to a deed is to show to what lengths Rabbi is prepared to go.[15] But why should not their difference be mentioned with reference to money payment to show to what lengths the Rabbis are prepared to go?[16] — It prefers [to note] the strength [of this conviction] where it leads to a permission.[17] Come and hear: ‘And redeemed’: I might take this to mean ‘entirely [redeemed]’, therefore it says, ‘she was not redeemed’. If ‘she was not redeemed,’ I might think it means ‘not at all’? Therefore it says, ‘And redeemed’. How then do we explain? She is redeemed and yet not redeemed, with money or with the equivalent of money. I only know so far that this is the case[18] with money [payment]; how do know that it is so with a deed? It says, ‘And redeemed she was not redeemed, nor was her freedom given to her,’ and in another place it says, And he shall write for her a bill of divorcement.[19] Just as there the woman is liberated by a deed, so here. I only know so far that a half-emancipation [can be effected] by money or a full one[20] by a deed. How do I know that a half-emancipation [can be effected] by a deed? It says, ‘And redeemed she be not redeemed or her freedom be not given to her.’ The deed is here put on the same footing as money payment, [whence I conclude that] just as with money either a half or a full emancipation [can be effected], so with a deed. Now there is no difficulty here if we accept the view of R. Joseph after he was refuted:[21] this [Baraitha] agrees with Rabbi.[22] But on the view of Rabbah[23] we must say that the first half[24] agrees with all and the second[25] only with Rabbi?[26] — To which Rabbah replies: That is so: the first half agrees with all and the second is according to Rabbi [only]. R. Ashi said: It follows Rabbi [throughout].[27] But then, what of the Mishnah, which says, ONE WHO IS HALF A SLAVE AND HALF FREE? This presents no difficulty on the view of Rabbah, because he can suppose it to refer to [one who has been emancipated] by money payment, and it represents the view of all, but on the view of R. Joseph[28] are we to say that it represents the view of Rabbi and not of the Rabbis? — Rabina replied:

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(1) And so not an Israelite.

(2) Lit., ‘shall he abstain’.

(3) Isa. XLV, 18.

(4) Lit., ‘for the better ordering of the world’.

(5) He says ‘I emancipate half of you’.

(6) Lev. XIX, 20.

(7) Applying the word ‘redeemed’ to emancipation for money payment and freedom’ to emancipation by deed and drawing an analogy (hekkesh) between the two.

(8) As derived infra from the same verse.

(9) Nor freedom given to her (lah) (Lev. XIX, 20), and And he write for her (lah) (Deut. XXIV, 1). The inference is drawn on the strength of the hermeneutical rule called gezerah shawah (v. Glos.).

(10) V. supra n. 2.

(11) Because the inference in this case is either based on a redundancy in the text or else on a very ancient tradition.

(12) That there is no half-liberation by means of a deed.
(13) Lit., ‘speaking in the language of human beings.’ i.e., using the words ‘redeemed she was not redeemed,’ to mean simply, ‘she was not at all redeemed,’ so that we cannot learn from these words that half-emancipation can be obtained by money payment.
(14) Who said that the Rabbis do not admit half-emancipation even with money payment.
(15) Lit., ‘to show the strength of Rabbi’. Namely, even to the extent of ignoring the gezerah shawah which points in the other direction.
(16) Even to the extent of ignoring the analogy which points in the other direction.
(17) Here, the permission of the slave to emancipate half of himself, whereas the strength of the Rabbis’ conviction leads them to prohibit him.
(18) That a slave can be half emancipated.
(19) Deut. XXIV, 1.
(20) Because there is no half-liberation by a deed for a wife.
(21) I.e., after the first half of his statement, that Rabbi dues nut admit half emancipation with a deed, had been refuted, but he had defended the other half, that the Rabbis did not admit it for money.
(22) Who also said, according to the revised opinion, that half-emancipation could be effected either with a deed or with money.
(23) Who said that according tithe Rabbis there is no half-emancipation by deed.
(24) Which states that money effects half-emancipation.
(25) Which states that even a deed effects half-emancipation.
(26) And not the Rabbis who do not admit half-emancipation by deed.
(27) Rabbi holding that the slave obtains half-emancipation in both cases.
(28) According to whom the Rabbis hold that there is no half-emancipation whether by money or by deed.

Talmud - Mas. Gittin 42a

The Mishnah [according to R. Joseph] is speaking of a slave belonging to two partners.[1]

Rabbah says: The dispute [between Rabbi and the Rabbis] concerns the case where [the master] liberates the half of the slave and keeps the other half, but if he liberates one half and sells the other half or makes a gift of it to someone[2] since, the slave emerges completely from his ownership, both Rabbi and the Rabbis would agree that he acquires [the half of himself]. Said Abaye to him: And do they not differ even [where the master parts] with the whole? Has not one [authority] taught: ‘If a man assigns in writing his property to two of his slaves,[3] they acquire ownership and emancipate one another,’[4] while it has been taught by another, If a man says, ‘All my property is made over to my slaves So-and-so and So-and-so’, they do not acquire ownership even of themselves? Now are we not to say that the one [authority][5] concurs with Rabbi and the other with the Rabbis? — No; both concur with the Rabbis, [only] the one [refers to the case] where [the man] assigned the whole [of his property to both slaves],[6] while the other [refers to the case] where he says half [to one and] half [to the other].[7] But the second clause goes on: ‘If he says, half [to one] and half [to the other] they do not acquire ownership.’ Does not this show that the first clause refers to the case where he says ‘the whole’? — This second clause explains the first, [thus:] ‘They do not acquire ownership even of themselves. When is this so? If, for instance, he says, half [to one] and half [to the other].’ This supposition is reasonable, since if we assume the first clause [to refer to the case] where he says ‘the whole’, seeing that where he says ‘the whole they do not acquire ownership, is it necessary [to tell us that they do not do so] where he says ‘half and half’? — This is not a conclusive argument. [It may be that] the second clause was put in to make clear [the reference in] the first: lest you might think that the first clause [refers to] where he said half [to one] and half [to the other], leaving us to infer that where he said ‘the whole’ they acquire ownership, he adds in the second clause, ‘where he says half and half,’ which shows that the first clause [speaks of the case] where he says ‘the whole,’ and even so they do not acquire ownership. Or if you like I can say that there is no contradiction, as the one authority is speaking of one document[8] and the other of two documents. [If he is speaking of] one document, what is the point of ‘half [to one] and half [to the other]’? Even if he said, ‘[Let each take] the whole,’ they do not acquire ownership?[9] — This in fact is what he does say, [as what he means is:] ‘They do not acquire even themselves. When do we say this? [When he makes out] only one deed. If, however, [he makes out] two deeds, they do acquire ownership. And if he says half [to one] and half [to the other], even with two deeds they do not acquire ownership.’[10] If you like again I can say that there is no contradiction; in the one case [the two deeds] are given at one and the same time, in the other case one after the other.[11] [If that is so], I can understand why the second does not acquire ownership, because the first has already become his owner; but why does not the first acquire both himself and the other? No; the best [solutions are] those which were given first. R. Ashi said:[12] The case is different there, because he calls them ‘my slaves’.[13] Said Rafram to R. Ashi: perhaps he means, ‘who were my slaves’? Have we not learnt: If a man assigns in writing all his property to his slave, the latter becomes free; if he excepts a piece of land however small, he does not become free.[14] R. Simeon says: He becomes free in all cases unless the master says, ‘The whole of my property is assigned to my slave So-and-so except one ten-thousandth part thereof’?[15] Now the reason for this is that he added these words, otherwise he would be free.[16] But [it may be asked], why, seeing that he calls him ‘my slave’? Obviously he means, ‘who was hitherto my slave’; so here he means, ‘who were hitherto my slaves’.

[If a slave who is half-emancipated] is gored by an ox, if it is on a day on which he belongs to the master, the [compensation[17] goes] to the master, if on the day when be belongs to himself, it goes to himself. If that is so, then on his master's day he should be allowed to marry a slave-woman and on his own day a free woman? — We do not apply this principle where a religious prohibition is involved.

Come and hear: If [an ox] kills one who is half a slave and half free, the owner gives half the fine[18] to his master

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(1) And even the Rabbis would admit that one of them can liberate the half belonging to him, since, as far as he is concerned, this is a complete liberation, analogous to that if a wife.

(2) At the same time as or just before he liberates him.

(3) By means of two deeds which he gives to a messenger on their behalf at the same time, so that each is entitled to a half.

(4) I.e., each emancipates the half of the other which he has acquired.

(5) Who says that a slave is emancipated by halves.

(6) In which case even the Rabbis admit that they acquire ownership, because, as they are both liberated at once, they emerge completely from his ownership.

(7) In which case they do not emerge from his ownership, even if he presented both of the deeds at the same moment, because it is possible that he assigns the same half of his property to both, and so half of each of them is still left enslaved.

(8) In which case they are not liberated, just as two women cannot become divorced with one Get.

(9) Because two slaves cannot be emancipated with one deed.

(10) Because they do not emerge completely from the ownership of the master.

(11) In both cases the whole being assigned to both.

(12) R. Ashi seeks to reconcile the two authorities cited above.

(13) In the deed they are designated as slaves, hence it is to be assumed that it was not his intention to liberate them but merely to make them a present of his property, which, however, as slaves they are not competent to acquire.

(14) Since we do not know which fraction was excepted, the slave acquires no land, and since he acquires no land he does not acquire himself, since we cannot divide the assignment of himself from the assignment of the land, v. supra p. 30.

(15) R. Simeon holds that we can in this case divide the assignments, but we do not know whether the ten-thousandth part does not refer to the slave himself.

(16) Lit., ‘acquire’.

(17) The so-called ‘damage’ (nezek), the depreciation in his money value.
(18) Of thirty pieces of silver, according to Ex. XXI, 32.

Talmud - Mas. Gittin 42b

and half the ransom[1] to his heirs.[2] Why [should this be so]? Let us say that on his master's day [the money goes] to his master and on his own day to himself? — The case is different here, because the principal[3] is consumed —[4] What sort of case is it then in which the principal is not consumed?[5] — If, for instance, [the ox] wounded him on his hand, causing it to shrivel, but so that it will eventually be healed. This answer is satisfactory if we accept the view of Abaye, who said that he is compensated [in such circumstances] both for the larger incapacitation and the smaller incapacitation.[6] But on the view of Raba who said that he is only compensated for his incapacitation from day to day,[7] [it may be objected that] we are dealing with an ox, and an ox [makes the master liable] only for payment of damage?[8] — If you like I can say [that this rule[9] applies only] when the blow is given by a man,[10] and if you like I can say that the passage above is only an expression of opinion,[11] and it is one with which Raba does not hold.

The question was raised: If an [emancipated] slave[12] has not yet received his deed of emancipation, is a fine to be paid for him or not [if he is killed by a goring ox]? Thirty shekels of silver he shall give to his master[13] said the All-Merciful, and this [man] is not his master; or do I say that since the slave is still short of a deed of emancipation, we do call him a master? — Come and hear: If an ox kills one who is half a slave and half free, the owner gives half the fine to the master and half the ransom to the slave's heirs. Now this is so, is it not, on the basis even of the later teaching?[14] — No; only on the basis of the earlier teaching.[15]

Come and hear: If a man knocks out a tooth of his slave and also blinds him of an eye, the slave is liberated on account of the tooth and receives compensation for the eye.[16] If now you say that a fine must be paid for him and the fine belongs to his master, seeing that when others injure him they pay the master, when the master himself injures him is he to pay to the slave?[17] — Perhaps this passage agrees with the authority who says that he does not need a deed of emancipation, since it has been taught: For all these [maimings][18] a slave is liberated; he requires, however, a deed of emancipation from his master. R. Meir says he does not require one; R. Eliezer says he does require one; R. Tarfon says he does not require one; R. Akiba says he does require one. Those who determine [the issue] in the presence of the Sages[19] say: The opinion of R. Tarfon is to be preferred in the case of a tooth and an eye, because the Torah [itself] conferred on him [his freedom in this case];[20] but the opinion of R. Akiba in the case of the other members, because [the liberation] in that case is a fine imposed by the Sages [on the master]. A fine, you call it? They deduce it from the text of the Scripture![21] — Let us say, therefore, because it is a deduction of the Sages.[22]

The question was raised: If a [liberated] slave [of a priest] is still short of a deed of emancipation, may he eat terumah or not? The All-Merciful has laid down that [terumah may be eaten] by [one who is] the purchase of his [the priest's] money,[23] and this one is no longer ‘the purchase of his money’; or perhaps since he is short of a deed of emancipation do we still call him ‘the purchase of his money’? — Come and hear: R. Mesharsheya has said:[24] If the child of a priestess has become interchanged with the child of her female slave, both may eat terumah[25] and must take their portion together from the threshing floor.[26] When the changelings grow up, they emancipate one another.[27] Are these two cases parallel? In the latter case, should Elijah[28] come and declare one of them to be a slave, we should call him ‘the purchase of his money’; but in the other case he is not the ‘purchase of his money’ at all.

The question was raised: If a man sells his slave in respect of the fine only,[29] he sold or not sold? The question is pertinent whether we adopt the view of R. Meir or whether we adopt that of the

Rabbis.[30] It is a question for R. Meir, [since we may say that] when R. Meir laid down that a man can transfer something which does not yet exist,[31] [he was thinking] for instance of the fruit of a date tree which is expected to come into existence later, but in this case who can tell if the slave will actually be gored? And even if he is gored, how can we tell that the owner of the ox will pay?

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(1) Due to him as a free man, according to Ex. XXI, 30.

(2) The Gemara discusses later what heirs a slave can have.

(3) I.e., the slave himself.

(4) And the division of days no longer applies here.

(5) For which the owner of the ox, according to the first passage cited above, pays to the master or to the slave, as the case may be.

(6) The larger incapacitation is his depreciation in money value were he to be sold immediately on his injury as slave, technically known as ‘nezek’ (damage). The smaller incapacitation is the money which, even with his injured hand, he could earn as a watcher in a cucumber field if he were not confined to his bed.

(7) That is to say, for the money which he loses through not being able to follow his usual occupation, and not his depreciation in money value, v. B.K. 86a.

(8) And not for the kind of compensation mentioned by Raba, which comes only under the head of ‘incapacitation’.

(9) That on his master's day the money goes to the master and on his own day to himself.

(10) Who is liable also for incapacitation. The wording of the first passage will thus have to be amended.

(11) And not a Mishnah or Baraitha.

(12) Belonging to the classes mentioned above (sanctified, declared common properly, and half free) whose master can be forced to emancipate him but who still requires a deed of emancipation.

(13) Ex. XXI, 32.

(14) The reference is to the ruling given by Beth Hillel after they had been convinced by Beth Shammai that the master of a half-free slave could be forced to emancipate him, supra 43b.

(15) When Beth Hillel said that he could not be forced, and was therefore still master in the full sense of the term. This, however, is not the halachah.

(16) As being now a free man, v. Ex. XXI, 26. It is being, however, assumed at the present stage that the slave still needs a deed to complete his emancipation.

(17) We must say therefore that as soon as the tooth is knocked out he is no longer a slave, though he has not yet received a deed of emancipation. Hence we infer that a fine need not be paid for him either if he is killed by a goring ox.

(18) The Rabbis enumerated twenty-four maimings for the infliction of which by the master the slave obtained his freedom. V. Kid. 242, b.

(19) Who precisely these were is not recorded.

(20) Ex. XXI, 26, 27.

(21) In Kid. loc. cit.

(22) And not on a par with an express statement of the Torah.

(23) Lev. XXII, 11.

(24) [Or ‘reported’. The passage quoted is actually a Mishnah. This is apparently another example of a ruling of a Tannaitic teaching reported by an Amora which found subsequently its way into the Mishnah, cf. Hoffmann, D. Die Erste Mishnah, pp. 156ff.]

(25) One as a priest and the other as the slave of a priest.

(26) The Rabbis ordained that a priest's slave should not collect the terumah from the threshing floor unless his master was with him, for fear that he might himself claim to be a priest.

(27) And yet until the deed of emancipation is given the one of them who was a slave could eat the terumah.

(28) Who can ascertain the truth of matter.

(29) I.e., he sells only his right to receive the thirty shekels, should the slave be gored to death.

(30) On the question whether it is possible to transfer ownership of something that does not yet exist.

(31) Lit., ‘that has not come into the world’.

Talmud - Mas. Gittin 43a

perhaps he will confess and release himself.[1] It is also a question for the Rabbis, [since we may say that] when the Rabbis said that a man cannot transfer something which does not yet exist, they were thinking for instance of the fruit of a date tree which at this moment at any rate does not exist, but in this case the ox exists and the slave exists. What [is the answer]? — R. Abba said: Come and hear: Such as are born in his house.[2] What is the point of these words? If the 'purchase of his money' can eat [terumah] how much more so one born in the house? If that were so, I should say, Just as the 'purchase of his money' must be one who has a money value, so the one 'born in his house' must have a money value. How then should I know that even one who has no money value[3] [may eat the terumah]? Because it says, 'such as are born in the house': in all circumstances. I might still maintain that one who is born in the house may eat whether he has a money value or not, but the purchase of his money' may eat only if he has a money value, but if he has no money value he may not eat. Therefore it says, 'The purchase of his money and one born in his house'. Just as one born in the house may eat whether he has a money value or not, so the purchase of his money may eat whether he has a money value or not. Now if you say that a slave who is sold by his master in respect of the fine only is actually sold, [the question can be asked], Is there a slave who is not worth selling for his fine?[4] — Yes, there is the one who has not long to live.[5] But he is still capable of waiting on him?[6] — We suppose him also to be loathsome or covered with boils.[7]

The question was raised: If one who is half a slave and half free affiances a free woman, how do we decide? Should you point out that if a son of Israel says to a daughter of Israel, 'Be affianced to half of me,'[8] she is affianced, [I may reply that this is so] because she is qualified for the whole of him, but this one is not qualified for the whole of him.[9] If again you point out that when an Israelite affiances half a woman she is not affianced,[10] [I may reply that this is so] because he left something over from his acquisition, but the slave leaves nothing over from his acquisition.[11] What [are we to say]? — Come and hear: If an [ox] kills one who is half a slave and half free, the owner gives half the fine to the master and half the ransom to the heirs of the slave. Now if you say that his betrothal is null and void, whence come heirs to him? — R. Adda b. Ahabah said: [We speak of the case] where [the ox] made him terefah,[12] and by 'heirs' is meant himself. Raba said: There are two objections to this answer. One is that it distinctly says 'heirs', and further [the sum paid] is a 'ransom', and Resh Lakish has laid down that a 'ransom' is only paid after death! — No, said Raba: [what we must say is that] he ought to receive the ransom, but he does not.[13] Raba said: Just as, if one affiance's half a woman, she is not affianced, so if a woman who is half a slave and half free is affianced, her betrothal is no betrothal. Rabbah son of R. Huna stated in a discourse: Just as if a man affiances half a woman she is not affianced, so if a woman who is half a slave and half free is affianced, she is not really betrothed. Said R. Hisda to him: Are the two cases similar? In the one [the man] leaves something over from his acquisition, in the other he leaves nothing over from his acquisition. Rabbah son of R. Huna thereupon called upon a public orator,[14] who discoursed as follows: 'This stumbling-block is under thy hand.[15] A man does not fully understand the words of the Torah until he has come to grief over them.[16] Although they have said that if a man affiances half a woman she is not affianced, yet if one who is half a slave and half free is affianced, her betrothal is a genuine one. What is the reason [for the difference]? In the one case he leaves something over from his acquisition, in the other case he leaves nothing over from his acquisition.' R. Shesheth, however, said: Just as if a man affiances half a woman she is not affianced, so if a woman who is half a slave and half free is affianced, her betrothal is no genuine one. If someone should whisper to you [the teaching], 'Who is the designated bondwoman?[17] The one who being half bondwoman and half free is betrothed to a Hebrew slave,'[18] which shows that she is capable of being betrothed, say to him, Go to R. Ishmael who says that [the Torah here speaks] of a Canaanitish bondwoman who is betrothed to a Hebrew slave.[19] Now is a Canaanitish bondwoman capable of being betrothed? We say therefore that by 'betrothed' R. Ishmael means 'allocated'.[20] So here too 'betrothed' means 'allocated'. R. Hisda said: If [a woman] half slave and half free is affianced to Reuben and then emancipated and then affianced to Simeon[21] and both of them [Reuben and Simeon] die, she may contract a levirate marriage with Levi

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(1) The rule was that if a man admitted in the Beth din that he was liable to a fine before the evidence was brought against him, he was quit, v. B.K. 74b.

(2) This passage is a midrashic exposition of the verse, But if a priest buy any soul, the purchase of his money, he shall eat of it (the terumah); and such as are born in his house, they shall eat of his bread. Lev. XXII, 11.

(3) E.g., through being diseased or incapacitated.

(4) And if so, how can we speak of ‘he purchase of his money’ who is worth nothing?

(5) Lit., ‘torn’ (terefah): a name properly applied to animals which owing to certain disablements, e.g. the loss of certain limbs or the piercing of certain membranes, could not possibly live more than twelve months. A fine had not to be paid in respect of such a one.

(6) And therefore still has a money value.

(7) So that he is fit for nothing.

(8) Meaning, If I desire, I shall take a second wife, v. Kid. 72.

(9) Viz., for that part of him which is slave, and therefore she is not affianced.

(10) Since he should have affianced the whole of her, as a woman cannot have two husbands, v. Kid. ibid.

(11) And therefore she is affianced.

(12) I.e., unable to live more than twelve months. V. supra, note 2.

(13) Since he is as dead and has no heirs to whom to transmit it, as he cannot legally affiance a free woman.

(14) Lit., ‘caused an Amora to stand by him’; the so-called ‘Amora’ or ‘Meturgeman’ who received the heads of the discourse from the Rabbi and then expatiated on them to the public.

(15) Isa. III, 6 (E.V. ‘Let this ruin be under thy hand’). The term ‘stumbling-block’ is here applied to the Torah.

(16) Lit., ‘been tripped up over them.’ Rabbah b. R. Huna was referring to himself and acknowledging his mistake.

(17) I.e., the woman referred to in Lev. XIX, 20, by the words נחרפת לאיש (E.V. ‘bondwoman betrothed to a man’).

(18) Ker. 11a.

(19) Ibid.

(20) The word being used loosely and not in its strict legal sense which does not apply to a bondwoman.

(21) Reuben's brother.

Talmud - Mas. Gittin 43b

, and we do not place her in the category of the widow of two husbands.[1] For whichever way you take it, if the affiancing of Reuben was effective then the affiancing of Simeon was not effective, and if the affiancing of Simeon was effective then the affiancing of Reuben was not effective.[2]

It has been stated: If [a woman] who is half slave and half free was affianced to Reuben and then emancipated and became affianced to Simeon, R. Joseph said in the name of R. Nahman that [by means of the emancipation] the affiancing of the first is nullified,[3] whereas R. Zera said in the name of R. Nahman that it was consummated.[4] Said R. Zera: My view is the more probable since it is written, They shall not be put to death for she us not freed;[5] which implies that if she has been freed they are to be put to death. Said Abaye to him: And on the view of the Tanna of the school of R. Ishmael who said that [the verse speaks] of a Canaanitish bondwoman who is affianced to a Hebrew slave, are we to say that in this case also if she has been freed they are to be put to death?[6] What of course you have to assume in that case is that after she was freed she became affianced again.[7] Here too then we speak of a case where she was freed and became affianced again.[8]

R. Huna b. Kattina said: There was an actual case of a woman who was half slave and half free whose master they compelled to liberate her. Whose authority did they follow? — That of R. Johanan b. Baroka, who said: In reference to both of them [man and woman] the verse says. And God blessed then and God said unto them, Be fruitful and multiply etc.[9] — Said R. Nahman b. Isaac: This is not so; [the reason was that] they used her for immoral purposes.[10]

MISHNAH. IF A MAN SELLS HIS SLAVE TO A HEATHEN OR OUTSIDE THE LAND [OF ISRAEL] HE GAINS HIS FREEDOM.[11]

GEMARA. Our Rabbis have taught: If a man sells his slave to a heathen he gains his freedom, but he [still] requires a deed of emancipation[12] from his first master. Said Rabban Simeon b. Gamaliel: This is the rule if he did not make out a deed of oni.[13] If, however, he made out a deed of oni for him, this constitutes his emancipation. What is meant by oni? — R. Shesheth said: If he writes in it to this effect, viz., ‘If you run away from him, I have no claim on you.’

Our Rabbis taught: ‘If a man borrows money from a heathen giving his slave as pledge, so soon as the heathen has fixed’ to him his nimus, he gains his freedom [if he escapes]. What is meant by ‘his nimus’?[14] — R. Huna b. Judah said: It means, his collar.[15] R. Shesheth raised an objection [against this explanation from the following]: Metayers,[16] tenants,[17] and hereditary metayers, and a heathen who has mortgaged his field to an Israelite, even though he did fix to him a nimus, are not liable to tithe.’[18] If now you assume that nimus means a chain, can a chain be applied to a field? No, said R. Shesheth; what it means is a time limit.[19] Then the time limit has two opposite effects?[20] — There is no contradiction; in the one case [of the slave] we suppose the period to have terminated, in the other not. In the case of a slave whose period has expired do we need to be told [that he gains his freedom]? — No. Both refer to the case where the period has not expired, and still there is no contradiction, [since in] the one case the body [is transferred and in] the other only the increment.[21]

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(1) According to Yeb. 31b, if a woman's husband dies without issue and his brother makes formal declaration betrothing her but dies before marrying her, a second brother may not marry her but must give her halizah.

(2) If we suppose that a woman half slave and half free can be affianced, she was affianced to Reuben, and could not afterwards be affianced to Simeon. If again we suppose that such a woman cannot be affianced, she was not affianced to Reuben at all and therefore could be affianced to Simeon. In either case she was only affianced to one.

(3) Even if we regard it as effective, because the emancipation makes her as it were a new creature.

(4) So that if a man now has intercourse with her he is punishable with death and is not merely condemned to bring a guilt-offering, as laid down in Lev. XIX, 21.

(5) Ibid. 20.

(6) This cannot be, seeing that, as a bondwoman, she was never properly affianced.

(7) And then you can infer from the text that if she was freed they are to be put to death (if she thereafter commits adultery).

(8) And it is the betrothal of the second which is effective and not of the first.

(9) Gen. I, 28. This shows that marriage is as much incumbent on the woman as on the man.

(10) V. supra 382.

(11) If he escapes from his new master or if his first master is ordered by the Beth din to redeem him. V. infra.

(12) In order to marry an Israelitish woman.

(13) Prob. Gr. ** ‘sale’.

(14) Prob. Gr. ** lit., ‘law’, ‘custom’, i.e., what the law or custom requires. v. Jast. [Buchler REJ, XLVIII, p. 32ff., brilliantly connects the words with the Gr. ** = ‘enjoyment of possession’, an act conferring ‘ownership’.]

(15) Hung round the neck of a slave to show to whom he belongs. Al. ‘bracelet’, ‘seal’.

(16) I.e., Israelites who lease land in Eretz Israel from heathens for a fixed proportion of the produce.

(17) Who lease land for a fixed payment in kind.

(18) Because in each case the land still belongs to the heathen proprietor, and this action does not signify Jewish ownership.

(19) Viz., the time within which the heathen should have paid his debt.

(20) Lit., ‘there is a contradiction from "time" to "time"’. In the case of the field the expiry of the time does not remove it from the ownership of the first proprietor, in the case of the slave it does.

(21) In the case of the slave the body itself is sold at the expiry of the time (if the debt is not paid), and since the master transgressed a regulation of the Sages by selling his slave to a heathen they penalised him by cancelling his ownership even before the expiry of the time. But the field itself is not sold (to the Israelite) if the loan is not repaid at the expiry of the time, only the increment, and therefore it does not become liable to tithe.

Talmud - Mas. Gittin 44a

Or if you like I can say that it refers to the case where he borrowed on condition that he should pledge and he did not pledge.[1]

Our Rabbis taught: If [a heathen] seizes the slave [of a Jew] on account of money owing to him, or if he is taken by the sicaricon,[2] he does not become free [if he escapes]. Is this really the rule if he is seized on account of debt?[3] [If so,] it would seem to conflict with the following: ‘If the king's officers seize the corn in a man's granary, if it is on account of a debt due from him he must give tithe for it,[4] but if it is on account of anparuth,[5] he is not under obligation to give tithe?’ — There the case is different, because they confer some advantage on him.[6] Come and hear: ‘Rab said: If a man sells his slave to a heathen parhang[7] he becomes free [if he escapes]!’ — There the reason is that he ought to have persuaded him to take something else, and he did not do so.

The text above [stated]: ‘Rab said that if a man sells his slave to a heathen parhang he becomes free. What was he to do? — He should have persuaded him to take something else and he did not do so.’ R. Jeremiah raised the question: Suppose he sold him for thirty days,[8] how do we decide? — Come and hear: Rab said, ‘If a man sells his slave to a heathen parhang he becomes free’. — That refers to a heathen’ parhang who is not likely to return. If he sells him [for all purposes] except for work,[9] how [do we decide]? If he sells him [for all purposes] save where a breach of the Jewish law is involved,[10] how [do we decide]? If he sells him [for work at all times] save on Sabbaths and festivals, how [do we decide]? If he sells him to a resident alien[11] or non-observant Israelite,[12] how [do we decide]? [If] to a Cuthean, how [do we decide]? — One of these questions at any rate may be definitely answered — A resident alien is on the same footing as a heathen. As for a Cuthean and a nonobservant Israelite, some say he is [on the same footing] as a heathen, and some [that he is on the same footing] as an Israelite.[13]

A question was asked of R. Ammi: If a slave throws himself into the hands of bandits and his master is unable to procure his return through the agency either of an Israelite or Gentile court, is he at liberty to receive payment for him [if offered]? — Said R. Jeremiah to R. Zerika: Go outside and look through your notes.[14] He went out, looked, and found that it was taught: If a man sells his house [in the land of Israel] to a heathen, the money paid for it is forbidden. If, however, a heathen forcibly takes a house of an Israelite, and the latter is unable to recover it either in a heathen or a Jewish court, he may accept payment for it and he may make out a deed for it and present it in heathen courts,[15] since this is like rescuing [money] from their hands.[16] But perhaps this applies only to a house, because since [a man] cannot do without a house he will not be induced[17] to sell it, but since [a man] can do without a slave, shall we say that [if we make this rule] he may be induced to sell? — R. Ammi sent back answer; From me, Ammi son of Nathan, the rule is issued to all Israel that if a slave throws himself into the hands of bandits and his master is unable to recover him either in a Jewish or a heathen court , [his master] is permitted to accept payment for him, and he may make out a deed and present it in heathen courts, because this is like rescuing [money] from their hands.

R. Joshua b. Levi said: If a man sells his slave to a heathen he can be penalised [by having to ransom him for] as much as a hundred times his value. Is the expression ‘a hundred’ here used exactly or loosely? — Come and hear, since Resh Lakish has said: If a man sells an ox to a heathen, he can be penalised by having to ransom it for as much as ten times its value.[18] Perhaps the rule for a slave is different, because every day he is kept away from religious observances. According: to another version R. Joshua b. Levi said: If a man sells his slave to a heathen he may be penalised by having to ransom him for as much as ten times his value. Is the expression ‘ten’ here used exactly or loosely? Come and hear, since Resh Lakish has said: If a man sells an ox to a heathen, he can be penalised by having to ransom it for as much as a hundred times its value.[19] — The rule for a slave is different, because he is not restored to him. The reason then why in the case of an animal [the penalty is so high] is because it is returned to him. If so, the excess penalty should be the bare value of the animal?[20] — In fact the real reason is [that for a man to sell] a slave is unusual, and the Rabbis did not prescribe for unusual cases.[21]

R. Jeremiah enquired of R. Assi: If a man sells his slave and then dies, is there ground for penalising his son after him ? It is true you can point [to the rule that] if a priest mutilates the ear of a firstling[22] and then dies, his son is penalised after him; but this may be because he has broken a rule based on the Torah, whereas here we are dealing with a rule of the Rabbis.

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(1) At the expiry of the time. In the case of the field which the heathen offers to pledge to the Israelite, so long as the Israelite does not actually take it in pledge he may eat of the produce without giving tithe, because the field still belongs to the heathen. But if the Israelite offers to pledge the slave to the heathen and the latter has not yet taken him in pledge, should the slave escape the Sages forbade the Jew from claiming him as a punishment for offering to pledge him to a heathen (Rashi).

(2) Usually taken as = sicarius, brigands who infested Judea after the revolt of Bar Cochba. More probably a corruption of ** the Imperial fiscus in Judea. V. infra p. 252, n. 2.

(3) Lit., ‘and for his debt, no’.

(4) Which shows that this is regarded as a kind of sale, and the seller is therefore penalised.

(5) [This apparently means a debt payable by instalments, with the condition of forfeiture on missing one payment, distraint on account is which was reckoned as misappropriation. V. infra p. 272.]

(6) [By making him after all quit of the debt, therefore he is liable to give tithe. But in the case of the slave where the cancellation of the master's ownership is merely a punitive measure for transgressing the Rabbinic regulation, no such penalty can be inflicted where the slave was taken against his will.]

(7) Apparently, forced labour exacted by the Government or bandits.

(8) I.e., do we regard this as a breach of the regulation of the Rabbis and penalise him?

(9) I.e, he sells him to marry to a Canaanitish bond woman.

(10) Lit., ‘save for the precepts’.

(11) A heathen who settles in the land of Israel on condition of abstaining from idolatry, but without adopting the Jewish religion.

(12) Heb. מומר Lit. , ‘a changed (Israelite.)’ a Jew who neglects the practices without discarding the beliefs of Judaism.

(13) Because they kept certain of the commandments.

(14) Lit., ‘your mekilta’ (measure) a record of halachahs made by R. Zerika for his private use.

(15) For the signatures to be confirmed, although as a rule the Rabbis depreciated resulting to heathen courts.

(16) Which answers the question propounded to R. Ammi.

(17) By the knowledge that he can keep the money.

(18) A.Z. 15. This shows that the ‘hundred’ mentioned in the case of a slave is a hyperbole.

(19) And the same should apply to a slave.

(20) Because this is all the advantage that one who sells an ox has over one who sells a slave.

(21) To impose a particularly heavy fine.

(22) And so disqualifies it for being brought as a sacrifice. and thus enables himself to consume it as common flesh.

Talmud - Mas. Gittin 44b

If again you point [to the rule] that if a man prepares to do work during the half-festival[1] and then dies, his son is not penalised after him, the reason may be because he did not actually do anything forbidden. What do we say here?[2] Did the Rabbis penalise only the man but he no longer exists, or did they penalise his money and this does exist?[3] — He replied: [The answer is to be found in] what you have already learnt: ‘If a field has been cleared of thorns in the seventh year it can be sown on the expiration of the seventh year. If it has been manured or if cattle have been turned out[4] there in the seventh year, it must not be sown at the expiration of the seventh year';[5] and [commenting on this] R. Jose son of R. Hanina said: We lay down that if he manured it and then died, his son may sow it. From this [we may infer] that the Rabbis penalised him but not his son.

Abaye said: We have it on tradition that if a man renders unclean stuff belonging to another which he desired to keep ritually clean, and then dies, [the Rabbis] have not penalised his son after him. What is the reason? Damage which is not perceptible[6] is not legally counted as damage [according to the Torah], and the penalty for it is Rabbinical in origin, and the Rabbis penalised the man who does the damage, but they did not penalise his son. OR ABROAD. Our Rabbis taught: 'If a man sells his slave abroad, he becomes free but he requires a deed of emancipation from his second master. Rabban Simeon b. Gamaliel says: Sometimes he becomes free and sometimes he does not become free. For instance, if the master says, I have sold my slave So-and-so to So-and-so an Antiochian, he does not become free.[7] If he says, To an Antiochian in Antioch, he does become free'. But has it not been taught: '[If a man says,] I have sold him to an Antiochian, he becomes free, but if he says, to an Antiochian living in Lydda,[8] he does not become free'? — There is no contradiction: in the one case we suppose he has a house in Eretz Israel, in the other that he has only a place of stay in Eretz Israel.[9]

R. Jeremiah put the question: If a Babylonian [Jew] marries a woman from Eretz Yisrael and she brings him in[10] male and female slaves and his intention is to return [to Babylon], what is the rule?[11] We have to ask this whether we accept the view that the husband has the right, or whether we accept the view that the wife has the right.[12] We have to ask it on the view that the wife has the right. Shall we say that since she has the right they are regarded as hers,[13] or perhaps since they are made over to him as far as the increment[14] is concerned they are regarded as his?[15] The question has equally to be asked on the view that the husband has the right. Seeing that he has the right, are they to be regarded as his, or since he does not acquire the body[16] are they still regarded as hers? — This must stand over.

R. Abbahu said: R. Johanan taught me, If a servant accompanies[17] his master to Syria[18] and his master sells him there, he becomes free. But R. Hiyya teaches that he loses his right?[19] There is no contradiction: in the one case we presume that his master intended to return,[20] in the other that he did not intend to return, as it has been taught: 'A slave must leave Eretz Israel with his master for Syria . . ., Must leave, you say? Assuredly he need not leave, seeing that we have learnt, 'Not all may take out.'[21] What [you mean is]: 'if a slave accompanies his master[22] from Eretz Israel to Syria and his master sells him there, if it was his master's intention to return he is compelled to emancipate him,[23] but if it was not his intention to return, he is not compelled.'

R. 'Anan said: I was told by Mar Samuel two things, one in relation to this point,[24] and one in relation to the statement, If a man sells his field in the Jubilee year, Rab says that it is sold but must be immediately returned,[25] whereas Samuel says that it is not sold in the first instance. In one case [he said] the purchase money is returned and in the other case it is not returned,[26] and I do not know which is which. Said R. Joseph: Let us see.[27] Since it is stated in the Baraitha that if a man sells his slave abroad he becomes free and requires a deed of emancipation from his second master, we infer that the second master became his legal owner and that the purchase money is not to be returned,[28] and therefore that when Samuel said in the other case [of the field] that the field is not sold in the first instance, the money is returned.

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(1) Work, the neglect or postponement of which would involve definite loss, was allowed to be done on the intermediate days of Passover and Tabernacles. If, however, a man deliberately brought a piece of work before the festival into such a condition that it would be spoilt if not finished during the festival, he was not allowed to finish it.

(2) Where the dead man did do a forbidden act.

(3) In she hands of the son, who therefore has to redeem the slave.

(4) For manuring purposes.
(5) Sheb. IV, 2.
(6) Such as rendering stuff ritually unclean.
(7) Because we presume that the Antiochian lives or is going to live in Eretz Israel.
(8) A town in Eretz Israel, on the border of Syria.
(9) But his real home is abroad, and therefore the slave sold to him becomes free.
(10) As that part of her dowry known as the 'property of the iron flock,' (Zon barzel, v. Glos) which the husband took over from her at a fixed valuation which was to be returned to her in case of his death or a divorce.
(11) Are they regarded as sold abroad or not?
(12) In case if a divorce, there is a difference of opinion among the authorities whether she has the right to claim the return of the original property, or whether he has the right to make her the money payment stipulated, v. Yeb. 66b.
(13) And therefore are not sold, and so may safely be taken to Babylon.
(14) In this case, the labour of the slaves.
(15) And he is regarded as having purchased them from the wife, and therefore they may not be taken to Babylon.
(16) I.e., complete ownership of the slaves, since if he dies or divorces her, they are returned to her.
(17) Of his own free will.
(18) The Biblical Aram Zoba, which was conquered by King David, but was not regarded as an integral part of Eretz Israel.
(19) By leaving Eretz Israel.
(20) And the slave followed him on that assumption.
(21) Keth. 110b. The rule is there laid down that a master cannot force his slave to leave Eretz Israel with him.
(22) Of his own free will.
(23) Even though the slave accompanied him voluntarily.
(24) Of a slave sold abroad.
(25) In accordance with the law of the Jubilee, Lev. XXV, 10, 12.
(26) These are the two things told by Samuel to R. 'Anan.
(27) The emphasis is on the 'us'.
(28) For otherwise he ought to obtain his deed of emancipation from the first master.

Talmud - Mas. Gittin 45a

Rab 'Anan, however, was not acquainted with this Baraitha,[1] and as to Samuel's dictum, how could he infer from it that, the field not being sold, the money was to be returned? Perhaps, though the field was not sold, the money was to be regarded as a gift, on the analogy of a man who affiances his sister, in regard to which it has been stated. 'If a man affiances his sister,[2] Rab says that the [betrothal] money is to be returned, while Samuel says that it is to be regarded as a gift'.

Said Abaye to R. Joseph: Why should you want us to penalise the purchaser?[3] Let us penalise the vendor! — He replied. It is not the mouse that is the thief but the hole. If there were no mouse, he retorted, how should the hole come by it? — It is only reasonable that where the forbidden stuff is found,[4] there we should impose the penalty.

A certain slave escaped from abroad to Eretz Israel and was pursued by his master. The [latter eventually] came before R. Ammi, who said to him, Let him make you out a bond for his value, and you must make out a deed of emancipation for him; otherwise I will make you forfeit him in accordance with the view of R. Ahi son of R. Josiah. For it has been taught: '[It is written], They shall not dwell in thy land lest they make thee sin against me, etc.[5] Shall I say that the text speaks of a heathen who has undertaken not to practise idolatry? [This cannot be, because] it is written, Thou shalt not deliver unto his master a servant which is escaped from his master unto thee.[6] What is to be done with him? He shall dwell with thee etc.'[7] R. Josiah found it difficult to accept this explanation, because instead of 'from his master' it should be 'from his father'.[8] Therefore R. Josiah explained the verse to speak of a man who sells his slave abroad. R. Ahi son of R. Josiah in turn found it difficult [to accept this explanation], because instead of ‘which is escaped unto thee’ it should be ‘which is escaped from thee.’ R. Ahi son of R. Josiah therefore explained the verse to speak of a slave who escapes from abroad to Eretz Israel.[9]

Another [Baraitha] taught: ‘Thou shalt not deliver unto his master a servant’: Rabbi says that the verse is speaking of a man who buys a slave on the understanding that he will emancipate him.[10] How are we to understand this? — R. Nahman b. Isaac said: He makes out a deed in these terms: ‘When I buy you, you shall be regarded as having been your own master [retrospectively] from now.

A slave of R. Hisda's escaped to the Cutheans. He sent word to them that they should return him. They quoted to him in return the verse, ‘Thou shalt not deliver unto his master a servant’.[11] (He quoted to them in return, So thou shalt do with his ass and so thou shalt do with his garment; and so shalt thou do with every lost thing of thy brother's.[12] But, they retorted, it is written, ‘Thou shalt not deliver unto his master a servant’?) He sent to them to say: That refers to a slave who escapes from abroad to Eretz Israel, as explained by R. Ahi son of R. Josiah. Why did he quote to them the interpretation of R. Ahi son of R. Josiah [and not rather that of Rabbi]?[13] — Because this accords more with the literal meaning of the verse.[14]

Abaye lost an ass among Cutheans. He sent to them saying, Send it back to me. They sent to him saying, Give us a mark of identification. He sent word to then, that its belly was white. They sent him back word: Were you not Nahmani,[15] we would not send it to you. Have not all asses white bellies?

MISHNAH. CAPTIVES SHOULD NOT BE REDEEMED FOR MORE THAN THEIR VALUE, TO PREVENT ABUSES.[16] CAPTIVES SHOULD NOT BE HELPED TO ESCAPE, TO PREVENT ABUSES.[17] RABBAN SIMEON B. GAMALIEL SAYS [THAT THE REASON IS] TO PREVENT THE ILL-TREATMENT OF FELLOW CAPTIVES.[18]

GEMARA. The question was raised: Does this prevention of abuses relate to the burden which may be imposed on the community or to the possibility that the activities [of the bandits] may be stimulated? — Come and hear: Levi b. Darga ransomed his daughter for thirteen thousand denarii of gold.[19] Said Abaye: But are you sure that he acted with the consent of the Sages? perhaps he acted against the will of the Sages.

CAPTIVES SHOULD NOT BE HELPED TO ESCAPE, TO PREVENT ABUSES. RABBAN SIMEON B. GAMALIEL SAYS, THE REASON IS TO PREVENT THE ILL-TREATMENT OF FELLOW CAPTIVES. What practical difference does it make which reason we adopt? — The difference arises where there is only one captive.[20]

The daughters of R. Nahman used to stir a cauldron with their hands when it was boiling hot.[21] R. ‘Ilish was puzzled about it. It is written [he said], One man among a thousand have I found, but a woman among all those have I not found:[22] and here are the daughters of R. Nahman![23] A misfortune happened to them and they were carried away captive, and he also with them. One day a man was sitting next to him who understood the language of birds. A raven came and called to him, and R. ‘Ilish said to him, What does it say? It says, he replied, "’Ilish, run away, ‘Ilish, run away". He said, The raven is a false bird, and I do not trust it. Then a dove came and called. He again asked, What does it say? It says, the man replied, "’Ilish, run away, ‘Ilish run, away." Said [‘Ilish]: The community of Israel is likened to a dove;[24] this shows that a miracle will be performed for me. He then [said to himself], I will go and see the daughters of R. Nahman; if they have retained their virtue, I will bring them back. Said he to himself: Women talk over their business in the privy. He overheard them saying, These men are [our] husbands just as the Nehardeans [were] our husbands. Let us tell our captors to remove us to a distance from here, so that our husbands may not come and hear [where we are] and ransom us. R. ‘Ilish then rose and fled, along with the other man. A miracle was performed for him, and he got across the river,[25] but the other man was caught and put to death. When the daughters of R. Nahman came back, he said, They stirred the cauldron by witchcraft.

MISHNAH. NEITHER SHOULD SCROLLS OF THE LAW, PHYLACTERIES AND MEZUZOTH[26] BE BOUGHT FROM HEATHENS AT MORE THAN THEIR VALUE,

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(1) About the slave, to enable him to solve the question himself.

(2) An action in itself null and void.

(3) Who buys the slave.

(4) Viz., in the hands of the purchaser.

(5) Ex. XXIII, 33.

(6) Deut. XXIII, 16.

(7) Which shows that heathens who do not practise idolatry are allowed to dwell in the land.

(8) Another reading is. ‘From his god’. The meaning is in either case the same.

(9) In which case he is not to be delivered to his master.

(10) And from that moment he is compelled to free him.

(11) The passage in brackets is omitted in some texts.

(12) Deut. XXII, 3.

(13) Who was a greater authority.

(14) And the Samaritans had more regard for the Written Law than for the Rabbis.

(15) V. supra 34a. The meaning is: If we did not know you for a pious man who would not deceive us.

(16) Lit., ‘for the good order of the world’. I.e., so that the captors should not demand excessive ransoms.

(17) Lest captors might put their captives in chains and otherwise maltreat them.

(18) Lit., ‘for the good of the captives’. And not of captives in general.

(19) This shows that if an individual is willing to pay more he may do so, and the reason is because of the burden imposed on the community.

(20) In this case the reason of Rabban Simeon b. Gamaliel does not apply, and according to him the captive may be helped to escape.

(21) Without scalding their hands, apparently on account of their piety.

(22) Eccl. VII, 28.

(23) Who apparently are righteous.

(24) E.g., in the verse, Open to me, my sister, my love, my dove, my undefiled (Cant. V, 2).

(25) Lit., ‘the ferry’.

(26) V. Glos.

Talmud - Mas. Gittin 45b

TO PREVENT ABUSES.[1]

GEMARA. R. Budia said to R. Ashi: [The Mishnah says that] they must not be bought at more than their value, but [presumably] they may be bought at their value. This would show that a scroll of the Law which is found in the possession of a heathen may be read?[2] — Perhaps it can be bought to be stored away. R. Nahman said: We have it on tradition that a scroll of the Law which has been written by a Min[3] should be burnt, and one written by a heathen should be stored away. One that is found in the possession of a Min should be stored away; one that is found in the possession of a heathen according to some should be stored away and according to others may be read. With regard to a scroll of the Law which has been written by a heathen, it has been taught by one authority that it should be burnt, and it has been taught by another authority that it should be stored away, and it has been taught by another authority that it may be read. There is, however, no contradiction. The view that it should be burnt follows R. Eliezer, who said that the intention of the heathen is normally idolatrous;[4] the view that it should be stored away follows the Tanna of the following passage: For

R. Hamnuna the son of Raba of Pashrunia learnt that a scroll of the Law, phylacteries and mezuzoth written by a Min,[5] an informer, a heathen, a slave, a woman, a minor, a Cuthean[6] and an irreligious Jew[7] are disqualified, since it says. And thou shalt bid them . . . and thou shalt write them,[8] which indicates that those who are subject to 'bind' may 'write', but those who do not 'bind' may not 'write'. The statement that such a scroll may be read follows the Tanna [of the following passage] where it has been taught: Scrolls of the Law may be bought from heathens in all places, provided only that they are written in the prescribed manner. A case arose of a heathen in Sidon who used to write scrolls of the Law, and Rabban Simeon b. Gamaliel permitted them to be bought from him.[9] Seeing that Rabban Simeon b. Gamaliel requires the tanning of the parchment to have been for the specific purpose,[10] will he not require the writing to have been for the specific purpose? For it has been taught: If a man overlays the phylacteries with gold or covers them with the skin of an unclean animal, they are disqualified; [if with] the skin of a clean animal, they are fit for use, even though he did not tan it for the specific purpose. Rabban Simeon b. Gamaliel says: Even if covered with the skin of a clean animal they are disqualified unless it has been tanned for the specific purpose![11] — Rabbah b. Samuel explained that [the heathen of Sidon was] a proselyte who had reverted to his previous errors.[12] But that is worse, for he is a Min?[13] R. Ashi said: It means one who reverted to his old religion out of fear.[14]

Our Rabbis taught: 'The price offered may exceed their value to the extent of a tropaic.'[15] How much is a tropaic? — R. Shesheth says: An aster.[16]

An Arab woman brought a bag of phylacteries to Abaye. Let me have them, he said, at a couple of dates for a pair. She became furious and took them and threw them into the river. Said Abaye: I should not have made them look so cheap to her as all that.

MISHNAH. IF A MAN DIVORCES HIS WIFE BECAUSE OF ILL FAME, HE MUST NOT REMARRY HER.[17] IF BECAUSE SHE MAKES A VOW,[18] HE MUST NOT REMARRY HER. R. JUDAH SAYS: [IF HE DIVORCES HER] FOR VOWS WHICH SHE MADE PUBLICLY, HE MAY NOT REMARRY HER, BUT IF FOR VOWS WHICH SHE DID NOT MAKE PUBLICLY, HE MAY REMARRY HER.[19] R. MEIR SAYS, [IF HE DIVORCES HER] FOR A VOW WHICH REQUIRES THE INVESTIGATION OF A SAGE,[20] HE MAY NOT REMARRY HER, BUT IF FOR ONE WHICH DOES NOT REQUIRE THE INVESTIGATION OF A SAGE, HE MAY REMARRY HER.[21] R. ELIEZER SAYS THAT ONE WAS ONLY FORBIDDEN ON ACCOUNT OF THE OTHER. R. JOSE SON OF R. JUDAH SAID: A CASE HAPPENED IN SIDON OF A MAN WHO SAID TO HIS WIFE, KONAM,[22] IF I DO NOT DIVORCE YOU, AND HE DID DIVORCE HER,[23] AND THE SAGES PERMITTED HIM TO REMARRY HER — ALL THIS TO PREVENT ABUSES.[24]

GEMARA. R. Joseph b. Manyumi said in the name of R. Nahman: The rule [that he must not remarry her] applies only if he says to her, 'I am divorcing you on account of your evil name',

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(1) Lit., 'for the good order of the world'. Viz., so that an excessive price should not be demanded.

(2) A question on which a difference of opinion is expressed lower down.

(3) Apparently this name is applied here to a heathen bigot or fanatic, v. Glos.

(4) So that the scroll was written for an idolatrous purpose.

(5) In some texts this word is omitted.

(6) The Cutheans (Samaritans) kept certain of the commandments, but were not regarded as genuine proselytes.

(7) Heb. מומר , V. supra p. 190, n. 9.

(8) Deut. VI, 8, 9.

(9) Tosef. A.Z. III.

(10) Lit., 'for its own name,' which of course could not be done by a heathen.

(11) V. Sanh. 48b.

(12) He knew that they must be written for the specific purpose.
(13) V. supra p. 199, n. 1.
(14) Of the other heathens.
(15) I.e., we are not particular to this amount.
(16) Half a denar.
(17) Even if the scandal proves to be unfounded. The reasons for this and the following rules are discussed in the Gemara.
(18) A habit of which he may disapprove, even though the vow may be annulled.
(19) R. Judah was of opinion that vows made publicly could not be annulled.
(20) [I.e., one which can be remitted only by a Sage after due investigation by him of the circumstances in which the vow was made, (cf. supra 35b) and which the husband could not annul on his own account.]
(21) [R. Eliezer differs from R. Meir, and holds that a man may not remarry his wife if he divorces her for a vow which does not require the investigation of a Sage, and since he is forbidden in this case, he is forbidden in the other also.]
(22) A species of vow. V. infra.
(23) The bearing of this on the subject in hand is discussed in the Gemara.
(24) Lit., 'for the good order of the world'. The Gemara discusses which part of the Mishnah these words refer to.

Talmud - Mas. Gittin 46a

'I am divorcing you on account of your vow'. His view was that the reason [why he must not remarry her] was to prevent [him making] mischief subsequently.[1] If he uses these words to her he can make mischief for her,[2] but if not, he cannot make mischief for her.[3] Some there are who report: R. Joseph b. Manyumi said in the name of R. Nahman: He has to say to her, 'Understand that I am divorcing you on account of your evil name'; 'I am divorcing you on account of your vowing'. His view was that the reason [why he must not remarry her] is to prevent the daughters of Israel from becoming dissolute or too prone to vows;[4] hence he is required to address her thus.[5]

There is a teaching in support of the first version and a teaching in support of the second version. It has been taught in support of the first version: R. Meir says: Why has it been laid down that if a man divorces his wife on account of ill fame or on account of a vow he must not remarry her? For fear that she may go and marry another and then it may be discovered that the charge against her was unfounded and he will say, Had I known this was the case, I would not have divorced her even for a hundred manehs, and so the Get becomes retrospective]y void[6] and her children [from the second husband] illegitimate. Therefore they say to him [when he comes to give the divorce], Know that a man who divorces his wife on account of ill fame must not remarry her, or [if he divorces her] on account of a vow he must not remarry her.[7] It has been taught in support of the second version: R. Eleazar son of R. Jose says: Why has it been laid down that if a man divorces his wife on account of a scandal he should not remarry her, or on account of a vow that he should not remarry her? In order that the daughters of Israel should not become dissolute or too prone to vows.[8] Therefore they tell him: Say to her, Understand that I am divorcing you on account of your ill fame, I am divorcing you on account of a vow.

R. JUDAH SAYS: IF HE DIVORCES HER FOR VOWS WHICH SHE MADE PUBLICLY, HE MAY NOT REMARRY HER,[9] BUT IF FOR A VOW WHICH SHE DID NOT MAKE PUBLICLY, HE MAY REMARRY HER.[10] R. Joshua b. Levi said: What is the reason of R. Judah [for holding that a vow made publicly may not be annulled]? Because the Scripture says, And the children of Israel smote them not, because the princes of the congregation had sworn unto them.[11] And what do the Rabbis[12] [make of this verse]? — [They reply:] Did the oath there become binding upon them at all? Since they [the Gibeonites] said, We are come from a far country,[13] whereas they had not come from one, the oath was never binding; and the reason why the Israelites did not slay them was because [this would have impaired] the sanctity of God's name.[14]

How many form a ‘public’?[15] — R. Nahman says, three, R. Isaac says, ten. R. Nahman says three, [interpreting] ‘days’ [to mean] two and ‘many’ three.[16] R. Isaac says ten, because the Scripture calls ten a ‘congregation’.[17]

R. MEIR SAYS, EVERY VOW THAT REQUIRES etc. It has been taught: ‘R. Eleazar says: A vow requiring [investigation] was made a ground for prohibition only on account of a vow which does not require [investigation].[18] What is the point at issue [between R. Meir and R. Eleazar]? — R. Meir held that a man does not mind the indignity of his wife appearing in a Beth din,[19] whereas R. Eleazar held that a man is averse to subjecting his wife to the indignity of appearing in a Beth din.[20]

R. JOSE SON OF R. JUDAH SAID, A CASE HAPPENED IN SIDON etc. What has preceded that this should be given as an illustration?[21] — There is a lacuna, and the Mishnah should run thus: ‘These rules apply only in the case where the wife vowed, but if he vowed he may remarry, and R. Jose son of R. Judah adduced a case which happened in Sidon of a man who said to his wife, Konam if I shall not divorce you, and he did divorce her, and the Sages permitted him to remarry her, to prevent abuses.’

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(1) [I.e., attacking the validity of the second marriage, which the woman might contract, and the legitimacy of the ensuing offspring by saying that if he had known that the charge against her was false, or that the vow could have been annulled, he would not have divorced her. V. infra.]

(2) By saying that he gave the Get under a misapprehension. But if he cannot remarry her, he has no motive to do so.

(3) And therefore there is no reason why we should forbid him to remarry her.

(4) Since the possibility of their being divorced in this way will act as a deterrent.

(5) But even if he does not, he still may not remarry her, this being her punishment.

(6) As having been given under a misunderstanding.

(7) And if in spite of this he divorces her, he shows that he is not fond of her, and cannot subsequently say that the Get was given under a misapprehension.

(8) As explained p. 201, n. 7.

(9) Because such a vow cannot be annulled and the woman is punished for making it.

(10) R. Judah holds that the reason why he must not remarry her is to prevent the women becoming too prone to vows, and this reason does not apply if the vow in question is one that can be annulled.

(11) Josh. IX, 18. The reference is to the Gibeonites who were spared although belonging to the ‘seven nations’. Had the oath not been given in public, a way could have been found to annul it, since it was given under a misapprehension.

(12) Who hold that vows made publicly may be annulled.

(13) Josh. IX. 9.

(14) Since the princes had sworn to them by the Lord, ibid.

(15) רבים , lit., ‘many’.

(16) In the verse, And if a woman have an issue of her blood many days (Lev. XV, 25), ‘many’ denoting there ‘three’, v. Nid. 73a.

(17) Num. XIV, 27: How long shall I bear with this evil congregation, where the reference is to ten of the twelve spies, v. Sanh. 2a.

(18) V. infra n. 6.

(19) To be questioned about her vow. R. Meir was of opinion that the reason of the prohibition was to prevent the husband from making mischief subsequently, and this he could do only if the vow was one which he could not annul but which a Sage could remit.

(20) And therefore by rights we should not prohibit remarrying if the divorce was given on the ground of a vow of this kind, since the husband cannot afterwards make mischief. R. Eleazar, however, holds that if the vow is one which the husband could have annulled (though he did not know it at the time), he can make mischief, and we do prohibit the remarriage, and since we prohibit in this case we prohibit also in the other.

(21) Hitherto the Mishnah has spoken of vows made by the wife, and R. Jose gives an instance of a vow made by a husband.

Talmud - Mas. Gittin 46b

Talmud - Mas. Gittin 46b

What konam[1] was there here? — R. Huna said: We suppose he said, Every species of produce shall be forbidden to me if I do not divorce you.

AND THEY PERMITTED HIM TO REMARRY HER. This surely is self-evident? — You might think that we should prohibit him on account of the dictum of R. Nathan, as it has been taught: R. Nathan says: To make a vow is like building a high place[2] and to keep it[3] is like bringing an offering thereon. Therefore we are told [that this is not so].

TO PREVENT ABUSES. What prevention of abuses is there here? — R. Shesheth said that the words refer to the earlier clauses [of the Mishnah]:[4] Rabina said that they refer indeed to the last clause, and the meaning is, There was no ground for forbidding this on the score of preventing abuses.

MISHNAH. IF A MAN DIVORCES HIS WIFE BECAUSE [HE FINDS HER] TO BE INCAPABLE OF BEARING,[5] R. JUDAH SAYS HE MAY NOT REMARRY HER,[6] BUT THE SAGES SAY THAT HE MAY REMARRY HER.[7] IF SHE MARRIES AGAIN AND HAS CHILDREN FROM THE SECOND HUSBAND AND THEN DEMANDS HER KETHUBAH SETTLEMENT FROM THE FIRST,[8] R. JUDAH SAYS, HE CAN SAY TO HER, THE LESS YOU SAY THE BETTER.[9]

GEMARA. This would seem to show that R. Judah takes into account the possibility of mischief-making and the Rabbis do not take it into account. But we have found the opposite opinions ascribed to them, as we have learnt: If a man divorces his wife on account of ill fame or on account of a vow she has made, he must not remarry her. R. Judah says: If the vow was made publicly, he may not remarry her, but if it was not made publicly he may remarry her.[10] This seems to show that the Rabbis take account of the possibility of mischief-making and R. Judah does not take account of it? — Samuel said: Reverse the names.[11] But since the Mishnah goes on to say, IF SHE MARRIES AGAIN AND HAS CHILDREN FROM THE SECOND HUSBAND, AND THEN DEMANDS HER KETHUBAH SETTLEMENT FROM THE FIRST, R. JUDAH SAYS THAT HE CAN SAY TO HER, THE LESS YOU SAY THE BETTER, we can conclude that R. Judah does take into account the possibility of mischief making? — Reverse the names here also.[12] Abaye said. There is no need to reverse, since R. Judah in that[13] case concurs both with R. Meir and with R. Eleazar. In the case [of a vow] which requires [the investigation of a Sage] he concurs with R. Eleazar,[14] and in the case [of a vow] which does not require [investigation] he concurs with R. Meir.[15] Raba said: Is there a contradiction between the statements of R. Judah and no contradiction between the statements of the Rabbis?[16] — No, said Raba; Between the statements of R. Judah there is no contradiction, as has been explained. Between the statements of the Rabbis there is also no contradiction. For who are the Sages [here]? R. Meir, who said that we require the condition to be duplicated,[17] and here we are dealing with a case where he did not duplicate his condition.[18]

MISHNAH. IF A MAN SELLS HIMSELF AND HIS CHILDREN TO A HEATHEN, HE IS NOT TO BE REDEEMED. HIS CHILDREN, HOWEVER, ARE TO BE REDEEMED AFTER THE DEATH OF THEIR FATHER.

GEMARA. R. Assi said: This rule applies only if he sold himself a second and a third time. Certain [Jews of] Bemekse[19] borrowed money from heathens, and when they were unable to pay the latter seized them for slaves. They appealed to R. Huna, who said: What can I do, seeing that we have learnt IF A MAN SELLS HIMSELF AND HIS CHILDREN TO A HEATHEN HE IS NOT TO BE REDEEMED? R. Abba thereupon said to him: You have taught us, Master, that this applies only if he has so sold himself a second and a third time. R. Huna replied: These men do this habitually.

A certain man sold himself to the Lydians[20] and then appealed to R. Ammi saying,

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(1) The effect of a konam is to declare something forbidden to him who utters it in the same way as sanctified stuff. (Konam is probably derived from Aramaic kenom 'self', 'person' and is thus the object of an elliptical sentence, 'I pledge (myself) my person with So-and-so (that I will, or will not, do this or that)'; v. Cooke, North Semitic Inscriptions p. 34; and Ned. 2a.)

(2) In the periods when the high places were forbidden, i.e., when the Temple stood.

(3) Instead of seeking absolution from a wise man.

(4) The prohibition to remarry.

(5) איילונית lit., 'ramlike', manlike, v. Keth. 11a.

(6) For fear that she may marry another and bear him children and the first husband may then say that he only divorced her with the intention of remarrying her if she should become capable of bearing, and so throw suspicion on the validity of the Get. But if he knows from the outset that he cannot remarry her, he will not do this.

(7) As this danger is too remote to need providing against.

(8) Which she did not receive on divorce, v. Keth. 100b.

(9) Lit., 'your silence is better than your speech'.

(10) Mishnah, supra 45b.

(11) In the first clause of our Mishnah.

(12) In the second clause of our Mishnah.

(13) In the earlier Mishnah.

(14) That a man does not like his wife to be brought before the Beth din. Hence in this case he cannot say, 'if I had known etc.' and there is no likelihood of his making trouble if she marries another.

(15) That the husband will be fully cognisant of the kind of vow which he can annul, and so in this case also there is no likelihood of his making trouble. Where, however, there is a possibility of his making trouble, R. Judah will agree that we have to provide against it.

(16) They seem to contradict themselves as much as R. Judah.

(17) I.e., expressed both positively and negatively. V. infra, 75a.

(18) I.e., he did not say 'I divorce you because you are barren, and if you are not barren this is no Get', so that the condition has no effect upon the Get.

(19) [A frontier town on the South-western border of Babylon. (Obermeyer. op. cit. p. 334)]-

(20) לודאי A tribe of cannibals (Rashi). [Or 'ludarii' [ludi], people who arrange and hire men for gladiatorial contests to kill off with the finishing stroke the enraged beasts; v. Graetz, Geschichte, IV, p. 238, and Krauss, AT, I. p. 701.]

Talmud - Mas. Gittin 47a

Redeem me. So he said:[1] We have learnt, IF A MAN SELLS HIMSELF AND HIS CHILDREN TO A HEATHEN HE IS NOT TO BE REDEEMED, BUT HIS CHILDREN ARE TO BE REDEEMED AFTER THE DEATH OF THEIR FATHER, to prevent their going astray.[2] All the more so then here, where there is a danger of their being killed. The Rabbis said to R. Assi: This man is a non-observant Israelite, who has been seen eating non-Jewish meat.[3] He said to them: possibly he did so because he wanted[4] [meat, and could get no other]? They said: There have been times when he had the choice of permitted and forbidden meat and he left the former and took the latter. He thereupon said to the man: Be off; they will not let me ransom you.

Resh Lakish[5] once sold himself to the Lydians. He took with him a bag with a stone in it, because, he said, it is a known fact that on the last day they grant any request [of the man they are about to kill] in order that he may forgive them his murder.[6] On the last day they said to him, What would you like? He replied: I want you to let me tie your arms and seat you in a row and give each one of you a blow and a half with my bottle. He bound them and seated them, and gave each of them a blow with his bag which stunned him. [One of them] ground his teeth at him. Are you laughing at me? he said. I have still half a bag left for you. So he killed them all and made off. As he was once seated [on the ground] eating and drinking,[7] his daughter said, Don't you want something to recline on? He replied: Daughter, my belly is my cushion.[8] At his death he left a kab[9] of saffron, and he applied to himself the verse, And they shall leave to others their substance.[10]

MISHNAH. IF A MAN SELLS HIS FIELD TO A HEATHEN, HE HAS TO BUY [YEARLY] THE FIRSTFRUITS FROM HIM AND BRING THEM TO JERUSALEM,[11] TO PREVENT ABUSES.[12]

GEMARA. Rabbah said: Although a heathen cannot own property in the land of Israel so fully as to release it from the obligation of tithe, since it says, For mine is the land,[13] as much as to say, mine is the sanctity of the land,[14] yet a heathen can own land in the Land of Israel so fully as to have the right of digging in it pits, ditches and caves, as it says, The heavens are the heavens of the Lord, but the earth he gave to the sons of man.[15] R. Eleazar, however, said: Although a heathen can own land so fully in the land of Israel as to release it from the obligation of tithe, since it says, [The tithe of] thy corn,[16] which implies, ‘and not the corn of the heathen,’ yet a heathen cannot own land in the Land of Israel so fully as to have the right of digging in it pits, ditches and caves, since it says, The earth is the Lord's.[17] What is the point at issue between them? — One[18] holds that [we interpret the word ‘thy corn’] to mean ‘thy corn and not the corn of the heathen’ and the other holds that we interpret it to mean, ‘thy storing and not the storing of the heathen.’[19] Rabbah said: Whence do I derive my view? Because we have learnt: Gleanings, forgotten sheaves, and produce of the corner belonging to a heathen are subject to tithe unless he has declared them common property.[20] How are we to understand this? Are we to say that the field belongs to an Israelite and the produce has been gathered by a heathen? If so, what is the meaning of ‘unless he declared them common property,’ seeing that they are already such?[21] We must therefore say that the field belongs to a heathen and an Israelite has gathered the produce, and the reason why he has to give no tithe from them is because he declared them common property, but otherwise he would be liable![22] — This is not conclusive. I may still hold that [the field spoken of] belongs to an Israelite and that a heathen has gathered the produce; and as for your argument that it is already declared common property, granted that it is such in the eyes of the Israelite, is it such in the eyes of the heathen?[23]

Come and hear: If an Israelite bought a field from a heathen before the produce was a third grown and sold it back to him after it was a third grown, it is subject to tithe,[24] because it was so already[25] [before he sold it back]. The reason is [is it not] because it was so already, but otherwise it would not be subject?[26] — We are dealing here with a field in Syria, and [the author of this dictum] took the view that the annexation of an individual[27] is not legally counted as annexation.[28] Come and hear: ‘If an Israelite and a heathen buy a field in partnership.

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(1) [R. Ammi to the scholars present. The word ‘to him’ in current editions is to be deleted, v. Bah.]

(2) By learning the ways of the heathen, of which there was not so much danger when their father was alive.

(3) Lit., ‘nebelah and terefah’, i.e., meat from an animal not killed according to the Jewish rite or disqualified on account of some physical defect. V. Glos.

(4) Lit., ‘for desire’ to satisfy the appetite.

(5) In his early years Simeon b. Lakish was a brigand.

(6) Lit., ‘his blood’. [Aruch ‘that his blood may be sweet’. By fulfilling his wishes they will enjoy his blood without remorse].

(7) It was one of the characteristics of Resh Lakish that he never made provision for the morrow.

(8) It was his custom to lie on his stomach. Cf. Zeb. 5.

(9) A small measure.

(10) Ps. XLIX, 11.

(11) This is the rendering of Rashi. According to another reading, which Tosaf. considers preferable, we should translate ‘Anyone who buys it from him has to bring the firstfruits etc.’

(12) I.e., to deter people from selling their land to heathens, or to stimulate them to redeem it if they have sold it.

(13) Lev. XXV, 23.

(14) That is to say, it remains holy even in the hand of the heathen, and tithe must be brought from it.

(15) Ps. CXV, 16.

(16) Deut. XIV, 23.

(17) Ps. XXIV, 1.

(18) R. Eleazar.

(19) [The obligation for tithing comes into force only after the crop has been finally turned into corn (v. Ma'as I, 6); and according to Rabbah the verse exempts only such corn as has been at that time in the ownership of the non-Jew. Where, however, a Jew had been responsible for the final process as owner, there is liability although the crop grew in soil belonging to a non-Jew, because a non-Jew cannot own property in Eretz Israel so fully as to release it from the obligation to tithe.]

(20) Pe'ah IV, 9.

(21) Ipso facto, even without any declaration on the part of the owner, v. Lev. XIX. 9, 10.

(22) Which would show that normally a field sold to a heathen is still subject to tithe.

(23) [Consequently should a Jew buy these gleanings from the non-Jew, he will have to give tithes unless the original owner had declared them common property.]

(24) Should another Jew buy the produce from the heathen and turn it into grain.

(25) The rule was that produce became liable for tithe as soon as it was a third grown. R.H. 12.

(26) Which would show that normally a field sold to a heathen is not subject to tithe.

(27) King David. V. supra p. 25, n. 3.

(28) [And ownership of a field in Syria by a heathen does release the produce from the tithing obligation, which is there merely of rabbinic origin.]

Talmud - Mas. Gittin 47b

tebel and hullin[1] are inextricably mixed up in it.[2] This is the view of Rabbi. Rabban Simeon b. Gamaliel says that the part belonging to the heathen is exempt [from tithe], and the part belonging to the Israelite is subject to it’.[3] Now [are we not to say that] the extent of their difference consists in this, that the one authority [R. Simeon] holds that a distinction can be made retrospectively,[4] while the other holds that no distinction can be made retrospectively, but both are agreed that a heathen can own land in the land of Israel so fully as to release it from the obligation of tithe?[5] — Here too we are dealing with land in Syria, and [R. Simeon] took the view that the annexation of an individual is not legally regarded as annexation. R. Hiyya b. Abin said: Come and hear. IF ONE SELLS HIS FIELD TO A HEATHEN, HE MUST BUY FROM HIM THE FIRSTFRUITS AND TAKE THEM

TO JERUSALEM, TO PREVENT ABUSES. That is to say, the reason is to prevent abuses, but the Torah itself does not prescribe this?[6] — R. Ashi replied: There were two regulations. At first they [the sellers of the fields] used to bring the firstfruits as enjoined in the Torah. When [the Sages] saw that they made the recital [over them][7] and still sold [fields], being under the impression that the fields still retained their holiness, they ordained that [the firstfruits] should not be brought. When they saw that those who were short of money still sold and the fields remained in the hands of the heathen, they ordained that they should be brought.[8]

It has been stated: If a man sells his field in respect of the produce only,[9] R. Johanan says that [the purchaser] brings the firstfruits and makes the recital [over them],[7] while Resh Lakish says that he brings them but makes no recital.[10] R. Johanan who says that he brings and recites is of the opinion that the possession of the increment is equivalent to possession of the [parent] body, while Resh Lakish who says that he brings without reciting is of opinion that the possession of the increment is not equivalent to the possession of the [parent] body.[11]

R. Johanan raised an objection against Resh Lakish [from the following]: [And thou shalt rejoice in all the good which the Lord hath given to thee] and to thy house:[12] this teaches that a man brings the firstfruits of his wife[13] and makes the recital! — Resh Lakish rejoined: There is a special reason there,[14] because the text says ‘his house’.[15] According to another report, Resh Lakish raised an objection against R. Johanan [by quoting to him]: ‘And to thy house:’ this shows that a man brings the firstfruits of his wife and makes the recital. This, [continued Resh Lakish,] is the rule in the case of the wife, because the text says and to thy house, but in other cases not! — R. Johanan replied: I derive my reason also from the same verse.[16] He [then] raised an objection [from the following]: ‘If while he was on the road bringing the firstfruits of his wife he heard that his wife had died, he brings them and makes the recital,’ which means, [I take it], that if she did not die he does not make the recital?[17] — No, [he replied]; the rule is the same even if she did not die, but it had to be stated also in regard to the case of her dying, [for this reason]. It might have occurred to us that [in this case] we should as a precaution prohibit [the husband from reciting] on account of the ruling of R. Jose b. Hanina who laid down that if a man gathered his grapes and commissioned another man to bring them [to Jerusalem] and the person commissioned died on the way, he [himself] brings them but does not make the recital, because it says, and thou shalt take . . .[18] and thou shalt bring,[19] which implies that the taking and the bringing must be performed by the same person.[20] We are therefore told [that we do not take this precaution].

R. Johanan and Resh Lakish are herein true to their own principles, as stated elsewhere: If a man sells his field

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(1) Tebel is produce from which tithe and other dues have not yet been separated. Hullin is produce which may be consumed without scruple by laymen.

(2) Even if they each take the produce of a separate half of the field.

(3) Tosef. Ter. II.

(4) Lit., ‘there is bererah’, (v. Glos.). I.e., we suppose that the part which the heathen took eventually was intended for him from the beginning.

(5) Which refutes Rabbah.

(6) I.e., according to the Torah, the heathen is the legal owner, and therefore tithe need not be brought, which refutes Rabbah.

(7) V. Deut. XXVI, 1-11.

(8) So that they should be impelled to buy the fields back.

(9) I.e., on the understanding that the purchaser is to acquire the produce for a certain number of years but not to become owner of the soil.

(10) Because the recital contains the words the fruit of the ground which thou, O Lord, hast given me, which could be said with propriety only by the owner of the soil.

(11) As appears later, the difference here between R. Johanan and Resh Lakish in respect to firstfruits refers to the time when the law of Jubilee was no longer in force, i.e., after the tribes of Reuben and Gad were carried off by Sennacherib (v. 2 Kings XV, 29) till the rebuilding of the Second Temple.
(12) Deut. XXVI, 11.
(13) From the so-called ‘property of mulug’ (v. Glos.) which belonged to the wife but of which the husband had the management and usufruct. ‘House’ here as in many cases is taken by the Rabbis as equivalent to ‘wife’.
(14) Why the firstfruits are brought by one who does not own the soil.
(15) The Torah has made a special exception in the case of the wife's produce.
(16) I.e., R. Johanan takes the case of the wife as being not exceptional but typical.
(17) Presumably because his relation to the field is still that of purchaser.
(18) Deut. XXVI, 2 and 10.
(19) This is implied in the text, which thou shalt bring (ibid) cf. verse 10.
(20) And here the husband having in the interval been transformed from a purchaser into an heir is in a way no longer the same person.

Talmud - Mas. Gittin 48a

in the period when the law of the Jubilee is in force,[1] R. Johanan says that he brings the firstfruits and makes the recital, while Resh Lakish says that he brings them without making the recital. R. Johanan who says that he brings them and makes the recital takes the view that the possession of the increment is equivalent to the possession of the [parent] body, while Resh Lakish, who says that he brings without making the recital, takes the view that the possession of the increment is not equivalent to the possession of the [parent] body. It was necessary [to state the difference between R. Johanan and Resh Lakish] in both cases. For if it had been stated only in the latter case,[2] I might have said that Resh Lakish rules as he does there because when the purchaser buys[3] [the field] he actually has in mind only the produce,[4] but in the other case, where he has in mind the land itself, I might think that he agrees with R. Johanan. if again I had only the other case I might think that there [only] R. Johanan rules in this way, but in this case he agrees with Resh Lakish. Hence [both] had to be [stated].

Come and hear:[5] If a man buys a tree and the soil under it, he brings the firstfruits from it and makes the recital![6] — We are speaking here of the period when the Jubilee is not observed. Come and hear:[5] ‘If a man buys two trees in another man's field, he brings the firstfruits but does not make the recital,’[7] which implies that if he buys three[8] he does make the recital? — There too we speak of the period when the Jubilee is not observed. Now, however, that R. Hisda has stated that the controversy [between R. Johanan and Resh Lakish] refers only to the period of the second Jubilee,[9] but In the period of the first Jubilee[10] both agree that he [the purchaser] had to bring and recite, since they still could not rely on the fields being returned, there is no difficulty: the one [R. Johanan] speaks of the first Jubilee and the other of the second Jubilee. Shall we say that we find in the following passage[11] the same difference between Tannaim: ‘How do we know that if a man buys a field from his father and then sanctifies it and his father subsequently dies,[12] it is reckoned as "a field of possession"?[13] Because Scripture says, And if he sanctifies . . . a field which he hath bought which is not of the field of his possession [he shall give thine estimation].[14] [This signifies] a field which is not capable of becoming a "field of possession,"[15] [and we therefore] except [from this rule] such a one as this which is capable of becoming a "field of his possession".[16] This is the opinion of R. Judah and R. Simeon. R. Meir says: From where do we know that if a man buys a field from his father and his father dies and he then subsequently sanctifies the field, it is reckoned as a field of his possession? Because it says, If he sanctifies a field which he hath bought which is not of the field of his possession. [This signifies] a field which is not a "field of possession", and we therefore except from this rule such a one as this which is [now] a field of his possession.’[17] Now R. Judah and R. Simeon, [while agreeing that in the case] where his father died and then he sanctified the field[18] [it is reckoned a ‘field of possession’], do not require a text to indicate this.[19] Is not then the point at issue between them this: R. Meir held that the possession of the increment is equivalent to the possession of the [parent] body, and in this case therefore on the death of his father he does not inherit anything, and therefore if his father died and he sanctified it subsequently a text is necessary to indicate [that it is ‘a field of his possession’],[20] whereas R. Judah and R. Simeon held that the possession of the increment is not equivalent to the possession of the [parent] body, and in this case on the death of his father he does inherit the field, and therefore if he sanctifies it after the death of his father no text is necessary [to indicate that it is ‘a field of his possession’], and where a text is required is to indicate [that it is ‘a field of his possession’ even] when he sanctified it before the death of his father?[21] — R. Nahman b. Isaac said: All the same I may still maintain that in general R. Judah and R. Simeon held that the possession of the increment is equivalent to the possession of the parent body, but in this case R. Judah and R. Simeon found a text which they interpreted [to the contrary effect]: The Divine Law [they said,] might have written, ‘If he sanctifies a field which he has bought, which is not his possession.’ What is the force of the words, ‘Which is not of the field of his possession’? [It signifies], one which is not capable of becoming the field of his possession, [and we] except from the rule one that is capable of becoming the field of his possesslon.[22]

R. Joseph said: Had R. Johanan not maintained that the possession of the increment is not equivalent to the possession of the [parent] body, he would not have had a leg to stand on[23] in the Beth Hamidrash. For R. Assi said in the name of R. Jonathan that if brothers divide an inheritance they stand to one another in the relation of purchasers and have to restore their shares to one another at the Jubilee.[24] Now [this being so], should you assume [that the possession of the increment is] not equivalent to the possession of the [parent] body, then you would not find anyone qualified to bring firstfruits save an only son who had inherited from an only son up to the days of Joshua son of Nun.[25]

Raba said: Both Scripture and a Baraitha support Resh Lakish. Scripture,

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(1) In which case there is no question that the purchaser does not become owner of the soil, as he has to return the land at the Jubilee.

(2) Where the land is purchased in the epoch of the Jubilee.

(3) Lit., ‘he descends into’.

(4) I.e., he never for a moment imagines himself to be the owner of the land.

(5) An argument against Resh Lakish.

(6) Bek. I, 11. Although the land is returnable at the Jubilee.

(7) Ibid. I, 6.

(8) In which case he automatically acquires the land under and between the trees, v. B.B. 81a.

(9) I.e., the period of the Second Temple, when the Jews observed the law of the Jubilee strictly.

(10) [I.e., of the first Temple, where it was not strictly observed (Rashi). Maim., Yad Bikkurim IV, 6. takes the first and second Jubilee in a literal sense — the first and second Jubilee cycles observed by the Jews].

(11) B.B. 72b.

(12) Before the Jubilee, when the field would automatically revert to him.

(13) And not one of ‘purchase’, and therefore liable to be redeemed at a lower rate. V. Lev. XXVII, 16-23.

(14) Lev. XXVII, 22, 23.

(15) E.g., one which he bought from any other man and which would have to be restored to him or to his heirs at the Jubilee.

(16) By inheritance.

(17) But not one which is only capable of becoming such subsequently.

(18) The case put by R. Meir.

(19) While R. Meir does.

(20) And not a field of purchase, in spite of the fact that he originally purchased it from his father.

(21) In spite of the fact that he purchased it from his father.

(22) For fuller notes on the whole of this passage, v. B.B. (Sonc. ed.) pp. 285ff.

(23) Lit., 'he would not have found his hands and feet.'

(24) B.K. 69b and supra 25a.

(25) So that the property had never been divided, for as soon as it was divided it was in effect sold, and had no owner capable of bringing firstfruits.

Talmud - Mas. Gittin 48b

where it says, According to the number of years of the crops he shall sell unto thee.[1] A Baraitha, as it has been taught: A firstborn son receives a double portion of a field which [was due to] be restored to his father at the Jubilee.[2]

Abaye said: We have it on tradition that a husband [before going to law] about property belonging to his wife requires authorization from her.[3] This, however, is the case only if the suit does not concern the produce. But if the suit concerns the produce, while he is putting forward claims to the produce he can put forward claims to the land itself as well.

CHAPTER V

MISHNAH. COMPENSATION FOR DAMAGE[4] IS PAID OUT[5] OF [PROPERTY OF] THE BEST QUALITY, A CREDITOR OUT OF LAND OF MEDIUM QUALITY, AND A WOMAN'S KETHUBAH OUT OF LAND OF THE POOREST QUALITY. R. MEIR, HOWEVER, SAYS THAT A WOMAN'S KETHUBAH IS ALSO PAID OUT OF MEDIUM [QUALITY LAND]. PAYMENT CANNOT BE RECOVERED FROM MORTGAGED PROPERTY WHERE THERE ARE FREE ASSETS AVAILABLE, EVEN IF THEY ARE ONLY LOWEST GRADE LAND. PAYMENT FROM ORPHANS CAN BE RECOVERED ONLY FROM LOWEST GRADE LAND. INDEMNIFICATION FOR PRODUCE CONSUMED[6] AND FOR THE BETTERMENT OF PROPERTY [DURING WRONGFUL TENURE] [AND PAYMENT] FOR THE MAINTENANCE [BY A MAN'S HEIRS] OF HIS WIDOW AND DAUGHTERS[7] IS NOT ENFORCED FROM MORTGAGED PROPERTY, TO PREVENT ABUSES.[8] THE FINDER OF A LOST ARTICLE CANNOT BE REQUIRED TO TAKE AN OATH, TO PREVENT ABUSES.[8]

GEMARA. [COMPENSATION . . . PROPERTY OF THE BEST QUALITY.] Is this only an ordinance to prevent abuses?[9] It derives from the Scripture, as it is written, The best of his field and the best of his vineyard he shall pay![10] — Abaye replied: This statement holds good only if we take the view of R. Ishmael who said that according to the Torah the assessment is made on the property of the claimant of damage;[11] we are then told here that to prevent abuses[12] we make the assessment on the property of the defendant. What statement of R. Ishmael is referred to? — As it has been taught: 'The best of his field and the best of his vineyard he shall pay': [that is to say,] the best of the field of the claimant and the best of the vineyard of the claimant.[13] So R. Ishmael. R. Akiba said: The whole purpose of the text is to allow compensation for damage to be recovered from the best property [of the defendant]: and all the more so in the case of the Sanctuary.[14]

Now according to R. Ishmael,[15] if [a man's beast] ate the vegetables from a rich bed, he [naturally] repays the value of a rich bed, but if it ate from a poor bed is he to repay the value of a rich one? — R. Idi b. Abin said: We are dealing here with a case where it ate one bed out of a number and we do not know whether it was a rich one or a poor one; in this case he repays the value of the best. Said Raba. Seeing that if where we know that it ate a poor one he repays only the value of a poor one, here, where we do not know, is he to pay the value of a rich one? Does not the onus probandi fall on the claimant? — R. Aha b. Jacob therefore suggested

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(1) Lev. XXV, 15. This indicates that, at the time of the Jubilee, the crops were sold, not the land.

(2) A firstborn takes a double portion only of property which was actually in possession of the father at the time of death, not of that which is to accrue subsequently. If, therefore, he takes a double portion of this field, it shows that his father, in spite of having sold it, was still reckoned as owner.

(3) Because although he owns the produce (v. Glos. s.v. Mulug), this is not equivalent to owning the land itself.

(4) Cf. Ex. XXII, 4.

(5) Lit., ‘they value’.

(6) [If A wrongfully acquires a field from B and sells it to C who was unaware that it was stolen and C spends money on improving it and a crop is produced, B may come and seize the field, crop and improvements, after paying C his costs in connection with the improvements. B is then entitled to recover from A the price he paid him for the field even from A's mortgaged property, but the value of the crop and increased value of the field due to the improvements only from A's unmortgaged property.]

(7) V. Keth. 52b.

(8) Lit., ‘for the good order of the world’. [This refers to all the rulings given in this Mishnah and supplies the connecting link between this chapter and the preceding one, as well as the reason for its inclusion in this tractate (v. Tosaf).]

(9) I.e., is its sanction only Rabbinic?

(10) Ex. XXII, 4.

(11) I.e., he can claim only property of the same quality as the best of his own, even if this is not equal to the best of the defendant's.

(12) The abuse to be prevented is explained lower down.

(13) The meaning of this is discussed presently.

(14) B.K. 6b. This is explained lower down.

(15) Who apparently says that according to Scripture damage is to be estimated in all cases as if done to the best of the claimant's land.

Talmud - Mas. Gittin 49a

that the case here considered is one where the best of the claimant is equal [in quality] to the worst of the defendant, in which case R. Ishmael held that we assess on the land of the claimant,[1] whereas R. Akiba held that we assess on the land of the defendant.[2] What is R. Ishmael's reason? — The word ‘field’ occurs both in the earlier[3] and the later[4] clause; just as in the earlier clause it refers to the field of the claimant, so in the later it refers to the field of the claimant. R. Akiba, on the other hand, held that the words, from the best of his field he shall make restitution mean, from the best of him who makes restitution. What does R. Ishmael say to this? — [He says that] the gezerah shawah[5] has its lesson and the text has its lesson. The lesson of the gezerah shawah is what we have said.[6] The lesson of the text is that if the defendant has high grade and low grade land and his low grade land is not equal to the best of the claimant, he pays him from the best.[7]

‘R. Akiba says: The whole purpose of the text is to allow compensation for damage to be recovered from the best property of the defendant; and all the more so in the case of the Sanctuary.’ What is the meaning of ‘all the more so in the case of the Sanctuary’? Are we to say that [this rule applies] where our ox has gored the ox of the Sanctuary? [This cannot be, because] the Divine Law says, [if one man's ox hurt] the ox of one's neighbour,[8] but not an ox of the Sanctuary.[9] Shall we say then that what is meant is that if a man says, ‘I take upon myself to give a maneh for the repair of the Temple,’ the treasurer can come and collect it from the best [of his land]? Surely he is in no better position than a creditor, and a creditor has a right to collect only from the medium property![10] And should you contend that R. Akiba holds that a creditor can collect from the best like a [claimant for] damages, we may still object, how can you draw an analogy from a [private] creditor, who is at an advantage in that he can claim compensation for damages, to the Sanctuary, which has no right [ever] to claim compensation for damages?[11] — I may still say that [these words refer to the case where] our ox gored the ox of the Sanctuary, for R. Akiba held the same view as R. Simeon b. Menasya, as it has been taught: R. Simeon b. Menasya says: If an ox of the Sanctuary gores an ox of a layman, there is no liability, but if the ox of a layman gores an ox of the sanctuary, whether it was tam[12] or mu'ad,[12] the owner has to pay compensation in full.[13] If that is the case, why should you say that R. Akiba and R. Ishmael differ [as to what is to be done] when the best of the claimant is equal to the worst of the defendant? Perhaps in that case both agree that we assess on the land of the claimant,[14] and their dispute here[15] is the same as that between R. Simeon b. Menasya and the Rabbis, R. Akiba adopting the same view as R. Simeon b. Menasya and R. Ishmael adopting the view of the Rabbis?[16] — If that were the case, why should R. Akiba have said ‘The whole purpose of the text etc.,’[17] and again, what means ‘All the more so in the case of the Sanctuary’?[18] And besides, R. Ashi has told us,

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(1) I.e., the quality of the field paid by the defendant as damages need not exceed the best quality of the claimant's estate. Hence in this case, he can claim only the worst of the defendant's.

(2) Who therefore has to pay out of his best.

(3) If a man shall cause a field or vineyard to be eaten. Ex. XXII, 4.

(4) Of the best of his own field shall he make restitution. Ibid.

(5) Of ‘field’ ‘field’. V. Glos.

(6) That we assess on the estate of the claimant.

(7) Even though this is much better than the best of the claimant.

(8) Ex. XXI, 35.

(9) For the damage to which there is no liability.

(10) As laid down in our Mishnah.

(11) As stated supra.

(12) V. Glos.

(13) B.K. 37b, q.v. for notes.

(14) And where the claimant's best equals the defendant's worst, the latter will perhaps suffice according to all opinions.

(15) In the Baraitha quoted supra 48b.

(16) I.e., R. Akiba differed from R. Ishmael only in the second part of his statement, regarding the Sanctuary, but not the first.

(17) Which indicates that the interpretation of the verse (Ex. XXII, 4) is the point at issue.

(18) [As according to the view requiring full payment in all cases, the quality of the payment for damage done to sacred property may be higher than that paid for damage done to ordinary property, and in fact nothing less than the very best of the defendant's estate would suffice.]

Talmud - Mas. Gittin 49b

It has been taught expressly: From the best of his field and the best of his vineyard he shall make restitution:[1] this means the best of the field of the claimant and the best of the vineyard of the claimant. So R. Ishmael. R. Akiba, however, says it means, the best of the field of the defendant and the best of the vineyard of the defendant.[2]

Rabina said: We may maintain after all that the Mishnah follows R. Akiba,[3] who said that according to the Torah we assess on the land of the defendant, and it also follows here R. Simeon whose custom it was to expound the reasons of Scriptural injunctions,[4] and its later clause gives the reason for the earlier,[5] thus: Why is compensation for damage assessed on the best property? To prevent abuses, as it has been taught: R. Simeon said: Why was it laid down that compensation for damages should be paid out of the best land? As a deterrent to those who plunder or take by violence,[6] so that a man should say to himself, Why should I plunder or take by violence, seeing that to-morrow the Beth din will come down[7] on my property and take my best field, basing themselves on what is written in the Torah, ‘from the best of his field and the best of his vineyard he shall make restitution’? For that reason they laid down that compensation for damages should be assessed on the best land.

Why did they lay down that a creditor should recover only from medium land? So that a man, on seeing his neighbour possessed of a fine field or a fine house, should not be tempted to say, I will induce him to borrow money of me so that I can get them on account of my debt. For this reason they laid down that a creditor should recover only from medium land. But if that is so, he should be allowed to recover only from the lowest grade? — This would be closing the door in the face of borrowers.

A woman's Kethubah can be collected only from land of the poorest quality. So R. Judah; R. Meir, however, says, from medium land also. R. Simeon said: Why did they lay down that a woman's Kethubah is to be collected from poor land? Because the woman wants to be married more than the man wants to marry. Another explanation is that a woman is put away whether she will or not, but a man puts her away only if he wants to. How is this 'another explanation'?[8] — [What it means is]: Should you say that just as when the husband divorces the wife the Rabbis provided that she should obtain a Kethubah from him, so when she leaves him they should provide for him a Kethubah from her, then I would point out[9] that a woman is divorced whether she wants to be or not, but a man divorces only if he wants to, since he can always keep her waiting for a Get.

A WOMAN'S KETHUBAH ONLY FROM LAND OF THE POOREST QUALITY. Mar Zutra the son of R. Nahman said: This is the rule only [where the Kethubah is recovered] from the orphans,[10] but from the husband himself it can be demanded out of medium property. If [the Mishnah refers to] orphans, why does it specify a woman's Kethubah, seeing that the same applies to all payments, as we have learnt, 'PAYMENTS FROM ORPHANS CAN BE RECOVERED ONLY FROM LOWEST GRADE LAND.' Are we not [therefore obliged to say] that the Mishnah is referring to the husband himself?[11] — In point of fact it is to the orphans, and there was a reason for specifying the woman's Kethubah. For I might have thought that the Rabbis granted her a concession in order that she might look more favourably on suitors.[12] We are therefore told [that this is not so].

Raba said: Come and hear: R. MEIR SAYS, A WOMAN'S KETHUBAH CAN ALSO BE COLLECTED FROM MEDIUM QUALITY LAND. From whom? Shall I say from the orphans? Does R. Meir then not accept [the rule] which we have learnt: PAYMENT FROM ORPHANS CAN BE RECOVERED ONLY FROM THE LOWEST GRADE? We must say therefore that he means, from the husband himself; from which we can infer that in the opinion of the Rabbis[13] [payment can be claimed even from the husband] only in poor land. — No; [R. Meir] indeed [also referred] to orphans, and there is a special reason why [in his opinion] a woman's Kethubah [should be collected even from their medium land], namely, to make her favourably disposed to suitors. Abaye said: Come and hear: COMPENSATION FOR DAMAGE IS PAID OUT OF [PROPERTY OF] THE BEST QUALITY, A CREDITOR OUT OF LAND OF MEDIUM QUALITY, AND A WOMAN'S KETHUBAH OUT OF LAND OF THE POOREST QUALITY. [Collected] from whom? Shall we say, from orphans? If so, why only the woman's Kethubah [from the poorest land]? Why not [all the claims of] others as well? — R. Aha b. Jacob said: We are dealing here with a case where a man became surety for compensation for damage due from his son, for his son's debt, and for his daughter-in-law's Kethubah. Each item then follows its own rule.[14] Compensation and debts which are usually paid in the lifetime [of the person responsible] are paid in this case also as though in the lifetime of the person responsible.[15] The woman's Kethubah which is usually paid after the death of the person responsible — and by whom? by the orphans — is paid in this case as after the death of the person responsible.[16] But cannot this rule be derived from the fact that a surety for a Kethubah is not responsible [for its payment]?[17] — We speak of a kabbelan [go-between].[18] This solves the problem for one who holds that a kabbelan is responsible even though the borrower has no property,[19] but what answer is to be given to one who holds that if the borrower has property he is responsible but if the borrower has no effects he is not responsible?[20] — If you like I can say that in this case we suppose [the son to have] had property[21] which was subsequently destroyed,[22] or if you like I can say that in respect of his son a man would in all cases regard himself as responsible.

It has been stated [elsewhere]: With regard to a surety[23] for a Kethubah, all authorities are agreed that he does not become responsible.[24]

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(1) Ex. XXII, 4.

(2) For all this section v. B.K. (Sonc. ed.) pp. 21-24.

(3) And not R. Ishmael, as we have been presuming hitherto.

(4) E.g., that of 'he shall not multiply wives to himself,' B.M. 115a.

(5) Although the rule laid down in the earlier derives from the Torah and not merely from the Rabbis.

(6) [המסנין , i.e. who appropriate forcibly but offer payment, in contradistinction from גזלנין , who plunder without compensating the owner; v. B.K. 62a.]

(7) Lit., 'jump', 'come forward'.

(8) This being a fresh point, not a reason why the Kethubah is to be paid out of the worst land.

(9) Lit., 'come and hear'.

(10) After the death of the husband.

(11) In case of divorce.

(12) Lit., 'for the sake of favour.' This would more naturally mean, that she should find favour in the eyes of the men, and so indeed it is taken by R. Hananel. V. Tosaf. s.v.

(13) With whom he joins issue on this point.

(14) Viz., compensation for damage from the best property and debts from the second best, as they would have been by the son himself had he been alive.

(15) Viz., by the father if the son dies without having paid.

(16) Viz., from the lowest grade property, as it would be by orphans. In ordinary cases, however, a husband, according to R. Aba b. Jacob, pays the Kethubah from medium property.

(17) V. infra.

(18) V. Glos. The meaning is that he entered into an agreement with his daughter-in-law that she could claim either from him or from his son at will.

(19) At the time when the debt is contracted.

(20) Since no one would guarantee a loan where it is known that the debtor has no means wherewith to repay. A guarantee in such a case cannot therefore be taken seriously. V. B.B. 174b. And the presumption is here that the husband had no effects when the contract was made. (V. Tosaf.).

(21) When the liability was contracted.

(22) Lit., 'blighted'.

(23) 'Areb., v. Glos.

(24) Because she has not actually parted with anything.

Talmud - Mas. Gittin 50a

With regard to a kabbelan for a debt, all are agreed that he does become responsible.[1] With regard to a surety for a debt and a kabbelan for a Kethubah there is a difference of opinion, some holding that even though [the debtor] had no property they become responsible, and others holding that if he had effects they become responsible, but if he had no effects they do not. The law in all these cases is that even if [the debtor] had no property [the surety or go-between] becomes responsible, save in the case of the surety for a Kethubah, who does not become responsible even if [the husband] has effects. The reason is that he performs a pious action,[2] and he does not cause the woman any loss.[3]

Rabina said:[4] Let us look at the basis of our regulation. It is that more than the man desires to marry the woman desires to be married. Now if you suppose [that the Mishnah refers] to orphans [when it says that the woman collects from the poorest land], then the reason would be that they are orphans. Is this not a refutation of Mar Zutra? — It is.[5]

Mar Zutra the son of R. Nahman said in the name of R. Nahman: If a claim is made from orphans on the strength of a bond [given by their father], even though the best land is mentioned in it, payment can be recovered only from the worst. Abaye said: The proof of this[6] is that although a creditor has ordinarily the right to collect from medium land, from orphans he can recover only from the worst land. Said Raba to him: Is this really so?[7] According to Scriptural law, a creditor can claim only from the worst land, as laid down by ‘Ulla; for ‘Ulla said, ‘The Torah has enacted that a creditor should collect from the worst land. For it says Thou shalt stand without, and the man[8] etc. What would a man naturally bring out in such a case? His least valuable articles. Why then did they [the Rabbis] say that a creditor should collect from medium property? So as not to place obstacles in the way of borrowers. Where orphans are concerned, however, they left the law as it was laid down in the Torah.’[9] But here, since according to the Torah he can claim from the best land,[10] [I should say that] from orphans also he can claim from the best land? How can Raba [maintain this], seeing that Abram [of] Hozae[11] learnt, ‘Claims on orphans can be recovered only from their poorest land, even if these are in [compensation] for damage,’ and the law that compensation for damage can be claimed from the best is of the Torah? — We are presuming here[12] that the best of the claimant was only equal to the worst of the defendant, and are following R. Ishmael who said that the law of the Torah is that we should assess on the property of the claimant, but to prevent abuses the Rabbis ordained that the assessment should be made on the property of the defendant, and where orphans were concerned [the Rabbis] left the law as laid down in the Torah. Still did not R. Eliezer the Nabatean state that ‘payment recoverable from the property of orphans can be claimed only from their worst land, even if it is the best’? Now what is meant by the words, ‘even if it is the best’? Does it not mean, ‘even if the best is stipulated in the bond’?[13] — No; what is meant by ‘the best’ here is the strips of the best,[14] even as [mentioned also by] Raba. For Raba said: ‘If the damage was done to the worst land, the claimant recovers from the best; if to the strips of the best, he recovers from the medium.’[15] Where orphans however were concerned the Rabbis left the law as laid down in the Torah.[16]

PAYMENT FROM ORPHANS CAN BE RECOVERED ONLY FROM THE POOREST LAND. R. Ahadboi b. Ammi asked: Are the orphans spoken of here minors, or are grown-ups also included? [That is to say,] were the Rabbis here taking a measure for [the protection of] orphans,[17] in which case they meant it to apply only to minor orphans but not to grown-ups, or was their reason that a lender does not ordinarily take into account the risk of the debtor dying and leaving his property to his orphans, so that there is no question of placing obstacles[18] in the way of borrowers,[19] and [consequently the regulation applies] to grown-ups also? — Come and hear what Abaye the elder stated, viz., that the orphans spoken of here mean grown-ups, and a fortiori the rule applies to minors. But perhaps this statement [was made] in connection with the administering of an oath,[20] because a grown-up is also like a child in relation to his father's affairs,[21] and this is not [the rule for payment out of] lowest-grade land? The law however is

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(1) In all circumstances.

(2) By enabling a marriage to be consummated.

(3) In so far as she does not actually part with anything. For fuller notes on this section v. B.B. (Sonc. ed., p. 770.

(4) Referring to the original statement of Mar Zutra, that save in the case of orphans, a Kethubah is collected from medium land.

(5) And we therefore interpret the Mishnah to mean that a Kethubah is in all cases collected only from the worst land.

(6) That such a stipulation is of no avail where orphans are concerned.

(7) That such a stipulation is of no avail.

(8) Deut. XXIV, 11.

(9) V. B.K. 8a.

(10) In virtue of the stipulation.

(11) V. infra p. 413, n. 1.

(12) In the teaching of R. Abram of Hozae.

(13) This refutes Mar Zutra's ruling.

(14) Strips of good land adjoining a river reserved for pasturage and therefore liable to be overflowed, and so of less real value than even the worst land. V. Tosaf.

(15) This land being so very inferior.

(16) This last statement is not part of Raba's statement but explains the reason of R. Eleazar the Nabatean.

(17) So that their guardians should exert themselves to dispose of their worst land.

(18) Lit., 'so that this should bar the door'.

(19) Even if the lender knows that in case of the borrower dying he will only be able to recover from the worst land, whether the orphans are minors or grown up.

(20) I.e., with the rule that anyone claiming from orphans a debt contracted by their father, even if he produced a bond, had to take an oath. V. Shebu. 41b.

(21) I.e., he cannot be expected to know whether his father had paid the debt or not.

Talmud - Mas. Gittin 50b

that the orphans spoken of are grown-ups, and the rule applies a fortiori to minors, whether in connection with an oath or [with payment out of] the worst land.

PAYMENT CANNOT BE RECOVERED FROM MORTGAGED PROPERTY WHEN THERE ARE FREE ASSETS AVAILABLE. R. Ahadboi b. Ammi asked: What is the rule in the case of a gift? Are we to say that this regulation was made for the protection of purchasers[1] against loss and it therefore does not apply to a gift,[2] where there is no question of loss to purchasers, or do we say this even in the case of a gift for if the recipient did not derive some benefit from it it would not have been given to him and therefore his loss is on the same footing as the loss of the purchaser? — [In reply] Mar Kashisha the son of R. Hisda said to R. Ashi: Come and hear 'If a dying man says, Give two hundred zuz to So-and-so, three hundred to So-and-so, and four hundred to So-and-so, we do not say that one who is mentioned earlier in the deed has a superior title to one who is mentioned later.[3] Consequently if a bond is produced against the donor [after his death], the claimant can collect from all of them. If, however, he said, Give two hundred zuz to So-and-so and then[4] to So-and-so and then to So-and-so, we do say that whoever is mentioned earlier in the deed has the better title. Consequently if a bond is produced against the donor, the claimant collects first from the last recipient; if he has not enough, he comes on to the one before him, and if he has not enough, to the one before him;'[5] and even though [so it would appear] the first was given medium land and the last poor land, [the claimant] has to collect from the poor before the medium.[6] This shows, [does it not], that the Rabbis meant their regulation to apply to a gift also?[7] — [Not necessarily, as] we may here be speaking of the payment of debts [and not of a gift].[8] But the man said 'give'? — He meant, 'Give in payment of my debt.' If so, we can see whose bond is prior? — We assume there is no bond. But [the passage quoted] says, 'Whoever is mentioned earlier in the deed'? — This means, the deed containing his instructions. Or if you like I can say the reference is also to a gift, and still there is no difficulty, since the words 'he collects from the last' mean, 'only the last [of the three] is the ultimate loser.'[9] Or if you like again I can say that the gifts of all were equal.[10]

INDEMNIFICATION FOR PRODUCE CONSUMED CANNOT BE ENFORCED etc. What is the reason? — 'Ulla said in the name of Resh Lakish: Because these[11] were not mentioned [in the deed of sale].[12] Said R. Abba to 'Ulla: But what of the maintenance of a woman and her daughters which is taken as written[13] and yet [the Mishnah] states that it is not enforceable? — He replied: The regulation[14] was so framed from the outset they are taken as written so far as concerns free assets but not so far as concerns property on which there is a lien. R. Assi also stated in the name of R. Johanan[15] that [the reason is] because they were not mentioned in the deed. Said R. Zera to R. Assi: But what of the maintenance of wife and daughters which also is taken as written and yet [the Mishnah] states that it is not enforceable? — He replied. The regulation was so framed from the outset: they are taken as written where free assets are concerned, but not where there is a lien on the property. R. Hanina, however, said: [The reason is] because they are not of a definite [amount].[16] The question was raised: In order [that a debt may be enforceable from property on which there is a lien] does R. Hanina require that it should be both definite and written down,

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(1) Who bought land from a man after he had contracted a debt to a third party.

(2) And recovery can he made from land which has been given away, even if there are free assets available.

(3) Tosaf. points out that if the three gifts were equal we should say that he intended the earlier to take precedence, as otherwise he would have said, Give six hundred zuz to So-and-so and So-and-so and So-and-so.

(4) Lit., 'and after him.'

(5) V. B.B. 138a.

(6) In spite of the fact that a creditor can collect from medium land.

(7) Since the last gift was a 'free' asset by comparison with the first.

(8) I.e., we do not say in the case of a gift that a creditor cannot collect from the gift when there are free assets available.

(9) [The phrase, that is to say, does not mean that he collects only from the last, for where the first was the recipient of medium land and the last poor land, he would certainly be entitled to collect from the first, since the rabbinic regulation does not apply to a gift. What the phrase does mean is that only the last is the ultimate loser because the first can, after all, come on to him for what the creditor has taken from him.]

(10) And only in this case can the first recipient force the creditor to recover first of all from the last.

(11) The improvements and crops.

(12) Implying that if they were, it would be enforceable. The deed is that given by the robber to the purchaser. V. supra p. 216, n. 3.

(13) V. Mishnah Keth. 52b.

(14) Relating to the maintenance of wife and daughters.

(15) Who here consequently agrees with Resh Lakish.

(16) [The exact quantity of the produce to be raised hereafter could not be known when the field was first appropriated, and therefore subsequent purchasers could not be expected to allow a sufficient margin for their indemnification. On this view, they would not be enforceable even if mentioned in the deed.]

Talmud - Mas. Gittin 51a

or is it sufficient that it should be definite even without being written down? — Come and hear: It has been stated: If a man dies and leaves two daughters and a son, and if the first [daughter] took her tenth of the property[1] before the son died but the second had not time to take her tenth before the son died, R. Johanan says that the second has forfeited [her tenth].[2] R. Hanina remarked to him: The [Rabbis] went even further than this by laying down that payment may be enforced for [marriage] provision[3] though not for maintenance, and how can you say then that the second forfeits her tenth?[4] Now [marriage] provision is a definite sum but it is not written down, and we see [that R. Hanina says that] it is enforceable? — There is a special reason in the case of [marriage] provision; it gets talked about and therefore it is as good as written.[5] R. Huna b. Manoah raised an objection [from the following]: 'If [both husbands] died,[6] the daughters[7] are maintained from free assets, but she[8] is maintained [also] from mortgaged property, because she is in the position of a creditor'?[9] — We presume that in this case there was a formal transfer.[10] If that is the case, then the daughters[7] also should draw on mortgaged property]? — We presume that the transfer was made on behalf of the one but not of the others. On what ground do you decide thus? — Because the daughter of his wife who was already born at the time of the transfer can benefit from the transfer, but his own daughter who was not yet born at the time of the transfer cannot benefit from it. But are we not to assume that both had already been born at the time of the transfer, [and if you ask how can this be, I answer,] supposing he had divorced her and then taken her back?[11] — No; what we must say is that his own daughter who is entitled to maintenance on the strength of the stipulation of the Beth din[12] derives no benefit from the transfer, whereas his wife's daughter who is not entitled to maintenance on the strength of the stipulation of the Beth din does derive benefit from the transfer.[13] Is then his own daughter to be in an inferior position? — No; since his daughter is entitled to maintenance on the strength of the stipulation of the Beth din, we presume that [at his death] he gave her a purse of money.[14] Come and hear: R. Nathan says: When [does this rule about consumable produce etc.

apply]? When the purchase of the second[15] preceded the betterment of the first. But if the betterment of the first preceded the purchase of the second, [the former] can recover from property on which there is a lien. We see therefore that the reason is because he did not improve the field first [and not because the produce is not mentioned in the deed or is not a definite sum]? — This is a point on which Tannaim also differed, as it has been taught: Indemnification for produce consumed and for betterment of land and [outlay] for maintenance of widow and daughters cannot be enforced from property on which there is a lien, to prevent abuses, since they are not written in any deed.[16] R. Jose said: What prevention of abuses is there here,[17] seeing that they are not definite?[18]

THE FINDER OF A LOST ARTICLE CANNOT BE REQUIRED TO TAKE AN OATH. R. Isaac said: [If a man says to another], ‘You found two purses tied together,’ and the other says, ‘I found only one,’ he can be forced to swear, [If he says,] ‘You found two oxen tied together,’ and the other says. ‘There was only one,’ he cannot be forced to swear. Why this difference? Because oxen can get loose from one another, but purses cannot.[19] [If he says.] ‘You found two oxen tied together,’ and the other says. ‘I did find, and I restored to you one of them,’ he has to take an oath.[20] Does then R. Isaac not accept the rule that A FINDER OF A LOST ARTICLE CANNOT BE REQUIRED TO TAKE AN OATH, TO PREVENT ABUSES?

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(1) The rule was that an orphan daughter was entitled to a tenth of her father's property on becoming of age or marrying, apart from her maintenance up to that time.

(2) Because she now becomes joint heiress to the whole property.

(3) I.e. from anyone who should have bought property from the brother.

(4) If she can recover from others, how can we ask her to give up what is already in her hands?

(5) Hence we may still maintain that R. Hanina requires both written and definite.

(6) The case is one in which a woman with a daughter marries a man with the stipulation that he will maintain her daughter for a definite period, and within the period he divorces her and she marries another man with the same stipulation. Each husband has then to give the full allowance for the daughter's maintenance according to stipulation, v. Keth. 101b.

(7) Which this woman bore to them.

(8) The woman's daughter.

(9) Because the term of years was definite, although there was no written contract. This contradicts ‘Ulla.

(10) A Kinyan, v. Glos. Which would naturally he recorded in writing.

(11) And afterwards made the agreement along with the transfer. Hence the transfer cannot be the reason.

(12) The rule that an unmarried orphan daughter is entitled to maintenance, v. Keth. 52b.

(13) An thus the transfer is after all the reason.

(14) In settlement of her maintenance dues, and this is why the transfer does not apply to her.

(15) I.e., one who bought a second field from the robber on which the first purchaser wishes to distrain.

(16) And no-one would buy land if he was afraid it might be claimed on account of obligations not recorded in writing.

(17) Why introduce here this consideration?

(18) This alone is sufficient to debar enforcement from mortgaged property, which shows that R. Jose holds that even if they were written they would not be enforceable.

(19) Hence in the case of the purses the claimant could be positive, but not in the case of the oxen, and the oath is administered only if the claimant is positive.

(20) That he has restored one of them, since he has admitted part of the charge, which was that he found two. There is another reading (preferred by Tosaf.) ‘It has also been taught to the same effect, (If a man says,) ‘You found two oxen together’ and the other says, ‘I only found one,’ he does not take an oath. If the first says, ‘You found two purses tied together’ and the other says. ‘I did, and I gave you back one of them,’ he has to take an oath.’ V. p. 281, n. 4.

Talmud - Mas. Gittin 51b

— He adopted the view of R. Eliezer b. Jacob, as it has been taught: R. Eliezer b. Jacob says, There are times when a man has to take an oath on account of his own plea. For instance: If a man says, ‘Your father lent me a maneh and I returned him half of it,’ he has to take an oath, this being the kind of person who has to take an oath on account of his own plea. The Sages, however, say that he is on the same footing as one who restores a lost article, and he is exempt [from an oath].[1] But does R. Eliezer b. Jacob not hold that one who restores a lost article is exempt? — Rab said: [He speaks of a case] where the claim is made by a minor.[2] Does any weight attach to the claim of a minor, seeing that we have learnt, ‘An oath is not administered on the claim of a deaf-mute, an idiot or a minor’?[3] — By ‘minor’ R. Eliezer means here a grown-up, and the reason why he calls him ‘minor’ is because in respect of the affairs of his father he is no better than a minor. If that is the case, why does he say, ‘on account of his own plea’? It is the plea of someone else? — He means, the plea of someone else and his own admission. But all charges can be called ‘the plea of someone else and his own admission’? — The truth is that they [R. Eliezer and the Rabbis] differ over the point raised by Rabbah; for Rabbah said: Why did the Torah lay down that one who admits part of the charge against him should take an oath [that he is not liable for the rest]?[4] The presumption is that a man will not be brazen enough in the presence of his creditor [to deny a debt outright]. Now this man would like to deny the whole, and the reason why he does not deny the whole is because he is not brazen enough.[5] On the other hand, he would also like to admit the whole, and the reason why he does not do so is to gain time, as he thinks to himself, When l have money I will pay him.[6] The All-Merciful therefore said: Impose an oath on him, so that he will admit the whole. Now R. Eliezer was of opinion that whether he is dealing with [the lender] himself or with his son, [the debtor] would not be brazen enough [to deny the debt outright], and therefore in neither case is he like one who restores a lost article.[7] The Rabbis, however, were of opinion that he would not be brazen enough [to deny the debt to the creditor] himself but he would to his son. Hence since he is not so brazen, he is regarded as one restoring a lost article.[8]

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(1) Shebu. 42a; Keth. 18a.

(2) Which he calls ‘his own plea’.

(3) Shebu. 38b.

(4) V. Ex. XXII, 10.

(5) Hence when he acknowledges part, he is not trusted in regard to the rest.

(6) Hence we are willing to trust his oath.

(7) Against whom no claim is brought in the first instance.

(8) Because he acts spontaneously. For fuller notes on this passage v. Shebu. (Sonc. ed.) pp. 258-9, and B.M. pp. 8 and 9. [R. Eliezer b. Jacob will accordingly also accept the ruling of the Mishnah that no data are required of a restorer of a lost article. Consequently he cannot be in agreement with R. Isaac, who in turn will have to fall back on the Baraitha cited above for his sole support. This argument leads Tosaf. to give preference to the reading cited supra p. 230, n. 1.]

Talmud - Mas. Gittin 52a

MISHNAH. IF ORPHANS BOARD WITH A HOUSEHOLDER OR IF THEIR FATHER APPOINTED A GUARDIAN FOR THEM, IT IS HIS DUTY TO TITHE THEIR PRODUCE. A GUARDIAN WHO WAS APPOINTED BY THE FATHER OF THE ORPHANS IS REQUIRED TO TAKE AN OATH [WHEN THEY COME OF AGE],[1] BUT IF HE WAS APPOINTED BY THE BETH DIN HE NEED NOT TAKE AN OATH. ABBA SAUL, SAYS THAT THE RULE IS THE REVERSE.[2]

GEMARA. A contradiction was pointed out [between this Mishnah and the following]: [Thus] ye [also shall offer]:[3] [that means to say,] you and not partners,[4] you and not metayers,[5] you and not guardians, you and not one who tithes from property not his own! — R. Hisda replied: There is no contradiction; in the one case the produce referred to is meant for consumption, in the other for storing.[6] So it has been taught: ‘Guardians set aside terumah and tithe [from the produce of their wards] which is meant for consumption[7] and not for storing. They can also sell on their behalf cattle, slaves, male and female, houses, fields and vineyards in order to purchase food with the money but not to put it aside. They can also sell for them produce, wine, oil and flour, to purchase [other] food with the money but not to set it aside. They can make for them a lulab[8] and willow,[9] a sukkah[10] and fringes and anything else involving a defined outlay (this includes a shofar),[11] and they can buy for them a scroll of the Law, phylacteries and mezuzoth[12] and anything involving a defined outlay (which includes a megillah).[13] They cannot, however, undertake on their behalf to give charity or to redeem captives or to do anything involving an unspecified outlay (which includes comforting mourners). Guardians are not allowed to enter into lawsuits concerning the property of orphans, or to entail obligations on it or to secure benefit for it.' Why can they not secure benefit? — It means, to entail obligations for the purpose of procuring benefits for the property of orphans.[14] 'The guardians are not at liberty to sell a distant [field] of their wards in order to redeem one that is near by[15] or to sell in a bad [year] with the idea of redeeming in a good one,[15] since there is a risk that the crops may be struck with blight.[16] The guardians are not at liberty to sell fields and buy slaves with the proceeds, but they can sell slaves and buy fields with the proceeds. Rabban Simeon b. Gamaliel says that they may not even sell slaves and buy fields, since there is a risk that they will not be left in peaceable possession.[17] The guardians are not empowered to emancipate slaves; they may, however, sell them to others who can emancipate them. Rabbi says: I maintain that the slave may pay his own purchase money and become free, since then the owner as it were sells him to himself.[18] The guardian must give an account of his guardianship at its close. Rabban Simeon b. Gamaliel, however, says that this is not necessary. Women, slaves and minors should not be made guardians: if, however, the father of the orphans chooses to appoint one, he is at liberty to do so.'

There was a certain guardian in the neighbourhood of R. Meir who was selling land and buying slaves [with the proceeds], but R. Meir forbade him. A voice said to him[19] in a dream, 'l want to destroy, and will you build'? Even so, however, he paid no heed, saying, Dreams are of no effect either one way or the other.[20]

There were two men who, being egged on by Satan, quarrelled with one another every Friday afternoon. R. Meir once came to that place and stopped them from quarrelling there Friday afternoons. When he had finally made peace between them, he heard Satan say: Alas for this man[21] whom R. Meir has driven from his house!

A certain guardian in the neighbourhood of R. Joshua b. Levi was selling land and buying cattle with the proceeds. [The Rabbi] said nothing to him, being of the same mind as R. Jose, as it has been taught: R. Jose said: All my life I have never called my wife my wife nor my ox my ox but my wife my house and my ox my field.[22]

Certain orphans who boarded with an old woman had a cow which she took and sold. Their relatives appealed to R. Nahman saying, What business had she to sell it? He said to them: We learnt: IF ORPHANS BOARD WITH A HOUSEHOLDER.[23] [But, they said, the cow] is now worth more[24] [than she sold it for]. [He replied,] It has become more valuable in the possession of the purchaser. But, they said, they have not yet received the money. If so, he replied, we can apply the rule of R. Hanilai b. Idi following Samuel. For R. Hanilai b. Idi said in the name of Samuel that the property of orphans is on the same footing as that of the Sanctuary, and is not transferred save on the payment of money.[25]

The wine of Rabbana 'Ukba the orphan was 'pulled'[26] [by purchasers who bought it at] four zuz [the cask]. The price [of wine] subsequently rose, so that it was worth six zuz. The case was brought before R. Nahman who said: Here the rule of R. Hanilai b. Idi applies; for R. Hanilai b. Idi said in the name of Samuel that the property of orphans is on the same footing as that of the Sanctuary, and is not transferred save through money payment.[25]

If purchasers have 'pulled[26] the produce of orphans [without paying], and [the price subsequently] rises, the rule of R. Hanilai b. Idi applies.[27] If [the price] falls, then surely a layman should not be more privileged than the Sanctuary.[28] If vendors have sold produce to orphans by ‘pulling’,[29] and [the price subsequently] rose, then we say that the layman should not be more privileged than the Sanctuary.[30] If [the price] falls, the students were inclined to think that here the rule of R. Hanilai b. Idi would apply,[31] but R. Shisha the son of R. Idi said to them: This would be detrimental to them, since they may one day require produce and no-one will sell to them unless they pay money down. If the orphans give money for produce [without taking delivery] and [the price] subsequently falls, then we say that a layman should not be more privileged than the Sanctuary.[32] If it rises, the students were inclined to think that the rule of R. Hanilai b. Idi would apply,[33] but R. Shisha b. Idi said to them: This might be detrimental to them,

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(1) That he is not retaining any of their property.

(2) All these rules are also ‘to prevent abuses’.

(3) Num. XVIII, 28, speaking of the tithe given by the levite to the priest.

(4) I.e., not one partner for another.

(5) Since they are not the owners of the produce.

(6) And therefore the tithing can wait.

(7) Because otherwise it could not be eaten.

(8) V. Glos.

(9) Used with the palm branch on Tabernacles. This word is omitted in some readings.

(10) V. Glos.

(11) V. Glos.

(12) V. Glos.

(13) V. Glos.

(14) Because perhaps their plans will go wrong and they will cause loss to the orphans.

(15) V. ‘Ar. 30a.

(16) And so what appears to be a good bargain may result in loss.

(17) As their title to the fields may be disputed.

(18) V. supra 38b.

(19) Lit., ‘they showed him’.

(20) Lit., ‘words of dreams neither cause to ascend or descend.

(21) Meaning himself.

(22) Hence buying cattle was equivalent to buying land.

(23) Which shows that such a householder is on the same footing as a guardian, who has the right to sell cattle.

(24) And this should warrant the cancellation of the sale.

(25) Hence the transaction could still be cancelled.

(26) As a sign of transference of ownership. V. Glos. s.v. Meshikah.

(27) And the orphans can retract.

(28) I.e., the purchasers could not withdraw even if the vendor was a layman (v. B.M. 44a), still less then in this case.

(29) Lit., ‘They made pull to orphans’ i.e., the orphans ‘pulled’ the produce they purchased.

(30) I.e., the vendors could not withdraw even if the purchaser was a layman, still less here.

(31) And the orphans could pay the lower price and keep the wine.

(32) And even a layman could withdraw in such a case.

(33) And the vendors should not be able to retract.

Talmud - Mas. Gittin 52b

since the sellers would be able to say to them, Your wheat has been burnt in the storehouse.[1] If [purchasers] have given money to orphans for produce and [the price] rises [before delivery has been made], then we say that the layman should not be more privileged than the Sanctuary.[2] If [the price] falls, then the students thought that here the rule of R. Hanilai b. Idi would apply,[3] but R. Shisha the son of R. Idi said to them, This might be detrimental to them, for they might sometimes want money, and no-one would give them before they delivered the produce.

R. Ashi said: I and R. Kahana signed as witnesses to the deed of sale of the mother of the orphan Ze'ira, who sold some land in order to pay the poll tax without giving public notice.[4] For the Nehardeans have ruled that to raise money for the poll tax, for food and for burial, land may be sold without public notice.[5]

Amram the dyer was the guardian of [some] orphans. The relatives came to R. Nahman and complained that he was [buying] clothes[6] for himself from the property of the orphans. He said: [He dresses so] in order to command more respect.[7] [But, they said,] he eats and drinks out of their [money], as he is not a man of means. I would suggest, [he replied], that he had a valuable find. [But, they said,] he is spoiling [their property].[8] He said: Bring evidence that he is spoiling it and I will remove him. For R. Huna our colleague said in the name of Rab: If a guardian spoils the orphans' property we remove him. For it has been stated: 'If a guardian spoils the property, R. Huna says in the name of Rab that we remove him, while the School of R. Shilah say that we do not remove him.' The law, however, is that we remove him.

A GUARDIAN WHO WAS APPOINTED BY THE FATHER OF THE ORPHANS IS REQUIRED TO TAKE AN OATH. What is the reason? — If he were not to derive some benefit from this, he would not become a guardian, and he will not be deterred by the requirement of an oath, IF, HOWEVER, THE BETH DIN APPOINTED HIM HE IS NOT REQUIRED TO TAKE AN OATH. [The reason is that] he assumes the office only to oblige the Beth din, and if an oath is to be imposed on him he would refuse. ABBA SAUL SAYS THAT THE RULE IS THE REVERSE. What is the reason? — If the Beth din appoint him he is to take an oath, because for the sake of the benefit he derives from the reputation of being a trustworthy man on whom the Beth din relies he is not deterred by [the prospect of] an oath. [If, however,] the father of the orphans appoints him, he does not take an oath, as it was simply a friendly action between the two, and if you impose an oath on him he would refuse. R. Hanan b. Ammi said in the name of Samuel: The law follows Abba Saul.

It has been taught: R. Eliezer b. Jacob says that both should take an oath, and so is the halachah.[9] R. Tahalifa the Palestinian[10] stated in the presence of R. Abbahu: A guardian who was appointed by the father of the orphans is required to take an oath, because he receives a fee. The Rabbi said to him: You have brought a kab and measured it out for him?[10] Rather say, 'because he is like one who receives a fee'.[11]

MISHNAH. ONE WHO RENDERS UNCLEAN [ANOTHER'S FOODSTUFFS][12] OR MIXES [TERUMAH WITH THEM][13] OR MAKES A LIBATION [WITH HIS WINE],[14] IF HE DOES SO INADVERTENTLY, IS FREE FROM LIABILITY, BUT IF DELIBERATELY IS LIABLE [TO COMPENSATE HIM].[15]

GEMARA. It has been stated: [With regard to the expression] 'MAKES A LIBATION', Rab says that it means literally making a libation[16] [to a heathen deity], while Samuel says that it means only mixing [Jewish with heathen wine].[17] Why did the one who says it means mixing not accept the view that it means making a libation? — He will tell you the latter offence involves a heavier penalty.[18] What does the other say [to this]? — Even as R. Jeremiah. For R. Jeremiah said that he [a robber] acquires possession from the moment he lifts the wine from the ground, whereas he does not become liable to capital punishment until he actually pours out the wine.[19] Why does the one who says that it means making a libation not accept the view that it means mixing? — He will tell you, mixing wine

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(1) I.e., suppose the produce was accidentally burnt, the orphans could not say that they were not yet the owners of it and demand their money back, v. B.M. (Sonc. ed.) p. 282, n. 7.

(2) And delivery could not be demanded even from a layman in such a case; the sale can accordingly be cancelled.

(3) And the purchasers should not be able to retract.
(4) It was usual to give thirty days' notice of the sale of property.
(5) V. B.M. (Sonc. ed.) p. 620, n. 4.
(6) Lit., 'he clothes and covers'.
(7) Lit., 'that his words should be heard'.
(8) E.g., by cutting down trees.
(9) [Read with Trani הלכה not הלכתא or cur. edd.]
(10) Lit., 'the son of the West'.
(11) I.e., what proof have you that he received a fee?
(12) Whether terumah or ordinary food.
(13) Thus rendering them forbidden to a layman.
(14) The meaning of this is discussed infra.
(15) Unclean terumah could not be eaten and could be used by the priests only for feeding cattle or for fuel. Non-sacred food also if unclean was rejected by the stricter sort (Perushim). Food mixed with terumah became prohibited to a layman and therefore had to be sold to a priest at a loss. Wine poured out in libation was forbidden. Hence in all these cases loss was involved.
(16) I.e., stirring it with his hand as preparatory to pouring it out.
(17) Which was sufficient to make it prohibited.
(18) Viz., the death penalty; and the rule is that a lighter penalty is not inflicted when a heavier one is involved for the same offence.
(19) I.e., the defendant has become liable for the payment of the wine in the capacity of a robber even before he commenced to commit the capital offence of idolatrous libations, and since the civil liability is neither for the same act nor for the same moment which occasions the liability for capital punishment, each liability stands.

Talmud - Mas. Gittin 53a

is practically the same as mixing terumah. What says the other [to this]? — [He says that the penalty for this is of the nature of] a fine,[1] and we do not base rules for imposing fines on mere inference.[2] But those who hold that the imposition of fines can be based on mere inference — why do they require all the items to be specified? They are all necessary. For if [the Mishnah] had mentioned only one who renders foodstuffs unclean, then, supposing the food was terumah, I would say that the reason [why compensation has to be made] is because he spoils it completely,[3] and if the food was non-sacred, because it is forbidden to cause uncleanness to non-sacred food in Eretz Israel,[4] but one who mixes ordinary food with terumah I should say need not make compensation. Again, if one who mixes ordinary food with terumah had been mentioned I should say the reason is because this is a common occurrence,[5] but in the case of one who renders foodstuffs unclean, which is not a common occurrence, I should say the rule does not apply. If again both one who renders unclean and one who mixes had been specified, I should say the reason with them [for requiring compensation] is that no heavier penalty is involved, but I should not apply this rule to one who makes a libation, where a heavier penalty is involved. Therefore we are told [that we apply here] the principle of R. Jeremiah.[6]

But if we accept [the teaching] learnt by the father of R. Abin, 'At first they said, The one who renders unclean and the one who makes a libation, but later they added also the one who mixes,' why do I require all the items?[7] — They are still necessary. For if only the one who renders unclean had been mentioned, I should have said that the reason is because no greater penalty is involved, but I should not have applied the rule to one who makes a libation, where a greater penalty is involved. If again the one who makes a libation had been mentioned, I should have said this was because the stuff is spoilt entirely, but I should not have applied the rule to one who renders unclean, where the stuff is not spoilt entirely. If again these two had been mentioned, I should say the reason is because the loss involved is considerable, but I should not apply the rule to one who mixes, where the loss involved is small.[8] Hence all were necessary.

Hezekiah said: The rule of the Torah is that one who commits these offences whether inadvertently or deliberately is liable to pay compensation. The reason is that damage of which there is no visible sign[9] is legally accounted as damage.[10] Why then did the Rabbis lay down that [if one does these things] inadvertently he is not liable? So that they should tell [the victims].[11] If that is the reason, then one who does these things presumptuously should also be quit? — How can you think so? Seeing that he deliberately tries to injure him, will he not certainly tell him?[12] R. Johanan said that the rule of the Torah is that whether one commits these offences innocently or deliberately he is not liable, the reason being that damage of which there is no visible sign is not legally accounted damage. Why then did the Rabbis ordain that [one who does them] presumptuously is liable? So that it should not become a common thing for a man to go and render unclean the foodstuffs of his neighbour and say, I have no liability.

We have learnt: 'If priests render the sacrifice piggul[13] in the Sanctuary, if they did so presumptuously they are liable [to make compensation];'[14] and in connection therewith it was taught: 'To prevent abuses.'[15] Now if you hold that damage which is not visible is legally accounted damage, then it should say, 'if they did so innocently they are not liable, to prevent abuses'?[16] — This in fact is what is meant: 'If they act presumptuously they are liable; from which we infer that if they acted innocently they are not liable, to prevent abuses.' R. Eleazar [raised the following as] an objection: 'If one does work with the waters of purification and with the heifer of purification,[17] he is exempt before the earthly court but liable before the heavenly court.'[18] Now if you maintain that damage which is invisible is legally accounted as damage, then he should be liable also before the earthly court? — He raised the objection and he himself answered it, thus: [The work referred to in the case of] the heifer [was] that he brought it into the stall with the intention of letting it suck and then threshing with it;[19] in the case of the water [the work referred to was] that he balanced weights against it.[20] But has not Raba said that water of purification

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(1) Kenas v. Glos. Because the damage done is not visible. This point is discussed infra.

(2) But the rule must be stated expressly in each case. Lit., 'we do not derive from Kenas'.

(3) I.e., as food for the priest. V. supra p. 236, n. 7.

(4) On account of the Perushim. V. p. 236, n. 7.

(5) And therefore it was deemed necessary to impose a fine.

(6) From which we learn that the lighter penalty stands in this case, v. supra p. 237. n. 4.

(7) Surely if there is liability for libation which involves a heavier penalty there must be a penalty for mixing.

(8) Because the stuff can still be sold to a priest at no great sacrifice.

(9) E.g., here, where the stuff is in exactly the same condition after the offence has been committed as before.

(10) And the Torah in the case of damage done by man makes no distinction between innocent and presumptuous, v. B.K. 85b.

(11) And so save them from eating terumah etc. unwittingly.

(12) Since his whole purpose is to vex him.

(13) V. Lev. XIX, 7: And if it (the flesh of the peace-offering) be eaten on the third day, it is an abomination (piggul). The Rabbis derived from the language of the text the rule that the flesh became piggul even if there was merely an intention of eating it on the third day.

(14) To the bringer of the sacrifice, who now has to bring a new one.

(15) Lit., 'for the good order of the world'. I.e., this is a Rabbinic, not a Scriptural rule.

(16) So that they should tell the owners. Because according to the Torah they are liable. V. supra, n. 2.

(17) The 'red heifer': v. Num. XIX. It was forbidden to do any work work with it.

(18) V. B.K. 56a. I.e., he is punished by the hands of heaven but not with any earthly punishment.

(19) I.e., he had not yet done with it any work for which the earthly court could punish him, but he is punished by heaven for his intention.

(20) We assume that the exact weight of the water was known to him. In this case he had done no actual work with the water.

Talmud - Mas. Gittin 53b

against which weights have been balanced is not disqualified? — There is no contradiction; the one [Raba] speaks of weighing against the water, the other of weighing in it.[1] When he weighs in it he is doing work with it,[2] and if damage which is intangible is legally accounted damage he should be punishable also in a human court? — We must say therefore that both speak of weighing against the water, and still there is no contradiction: the one [R. Eleazar] speaks of where he forgot for the moment [that it was water of purification][3] and the other of where he did not forget.

R. Papa raised an objection [from the following]: If a man robbed another of a coin which afterwards was withdrawn from circulation,[4] or terumah which became unclean, or leaven and the Passover intervened,[5] he can say to him, Here is your property, take it.[6] Now if you say that damage of which there is no visible sign is legally accounted as damage, this [man] is a robber, and ought to pay the value in full?[7] — This is a refutation.

May we say that Tannaim also [differ on this point]? [For it was taught:] If one defiles [another's foodstuffs] or mixes terumah with them or pours a libation from his wine, whether inadvertently or deliberately, he is liable [to make compensation]. So R. Meir. R. Judah says: If inadvertently he is not liable, if deliberately he is liable. Is not the point at issue between them this, that the one authority holds that damage of which there is no visible sign is legally accounted damage, while the other holds that it is not legally accounted damage? — R. Nahman b. Isaac said: Both agree that damage of which there is no visible sign is not legally accounted damage, and here the point at issue between them is whether the inadvertent [act] should be penalised on account of the presumptuous one,[8] one holding that the innocent act is penalised on account of the presumptuous one and the other that it is not so penalised.

A contradiction was now pointed out between two statements of R. Meir, and also between two statements of R. Judah. For it has been taught: ‘If one cooks food on Sabbath, if by inadvertence he may eat it, but if deliberately he may not. So R. Meir. R. Judah says: If [it was cooked] inadvertently he may eat it after the expiration of Sabbath, but if deliberately he may never eat it. R. Johanan ha-Sandalar[9] says: If [it was cooked] inadvertently it may be eaten after the expiration of the Sabbath by others but not by the one who cooked it, if deliberately it may never be eaten either by him or by others’.[10] One statement of R. Meir seems to contradict another[11] and one statement of R. Judah seems to contradict another? — Between the two statements of R. Meir there is no contradiction: where he imposes a fine is for [innocently breaking] a regulation of the Rabbis[12] but not for [breaking] a rule of the Torah.[13] But pouring a libation is forbidden by the Torah, and yet he imposes a fine for doing so [innocently]? — This is because of the special seriousness of the sin of idolatry. Between the statements of R. Judah there is no contradiction: where he imposes no fine is for [breaking] a rule of the Rabbis, but for [breaking] a rule of the Torah he imposes a fine.[14] But pouring a libation is forbidden by the Torah and he imposes no fine for doing so? — Because of the seriousness of the sin of idolatry people keep clear of it.

But even in respect of rules of the Torah one statement of R. Meir was contrasted with another. For it has been taught: ‘If a man plants a tree on Sabbath, if inadvertently, he may keep it, but if deliberately, it must be uprooted. If in the Sabbatical year, however, whether he plants it inadvertently or deliberately, it must be uprooted. This is the ruling of R. Meir.[15] R. Judah says: In the Sabbatical year, if inadvertently, he may keep it,[16] but if deliberately he must uproot it: [if planted] on Sabbath, whether inadvertently or deliberately, he must uproot it’! — While you are looking for contradictions,[17] why not point one out in this statement itself? See now: the one [planting on Sabbath] and the other [planting in the Sabbatical year] are both forbidden by the Torah; why then should there be a difference between them? But the reason for that, you must say, is as was taught: Said R. Meir: Why do I say that [if he plants inadvertently] on Sabbath he may keep it and if deliberately he must uproot it, whereas [if he plants] in the Sabbatical year whether inadvertently or deliberately he must uproot it? Because Israel reckon from the Sabbatical year[18]

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(1) Like butchers, who place meat in water to see how far it will rise, and judge the weight accordingly.

(2) And so disqualifying it.

(3) Lit., 'he diverted his mind'. And since it says, the water shall be to you for a charge, this disqualifies the water, though it does not render him liable to an earthly court.

(4) By the Government.

(5) Rendering the leaven forbidden for any use, v. Pes. II, 2.

(6) And he has no further liability, although the property has meanwhile become worthless, because the robbed article is deemed to have been all the time in the possession of the owner; v. B.K. 96b.

(7) [Since there has been a change in the misappropriated goods they passed into the possession of the robber who should therefore have to make full restitution, Tosaf. V. B.K. 91bff. The words 'this man is a robber' are nevertheless difficult, and best left out with MS.M.]

(8) Even though according to strict justice he should not be so penalised.

(9) 'The sandal-maker'.

(10) B.K. 71a. (Sonc. ed.) pp. 408-9. q.v. for notes.

(11) For cooking innocently on the Sabbath he imposes no fine but for defiling foodstuffs he does impose one.

(12) Defiling foodstuffs etc. A fine is necessary because people are more careless about Rabbinical ordinances.

(13) Breaking the Sabbath.

(14) Because the offence is more serious.

(15) Which shows that he does impose a fine for breaking a rule of the Torah innocently.

(16) Which shows that R. Judah does not impose a fine for innocently breaking a rule of the Torah, so that he also contradicts himself in the same way as R. Meir.

(17) Lit., 'on your view'.

(18) E.g., for the years of 'uncircumcision' (v. Lev. XIX, 23ff.) Hence they remember if a tree was planted in the Sabbatical year, and if it were allowed to remain they might take it as a precedent, and so it was necessary to impose a fine in this case.

Talmud - Mas. Gittin 54a

, but they do not reckon from Sabbaths. An alternative reason is that Israel are suspect with regard to the Sabbatical year but not with regard to Sabbath. Why give an alternative reason? — What he meant was this. Should you object that it sometimes happens that the thirtieth day [before the New Year of the Sabbatical year][1] falls on Sabbath, so that if he plants on that day he has a year [before the New Year], but otherwise not, then I give you an alternative reason that[2] Israel are suspect with regard to the Sabbatical year but not with regard to Sabbath.[3] Between the statements of R. Judah there is also no contradiction, since in the district of R. Judah the Sabbatical year was regarded as very important.[4] For [when] a certain man there called after another, 'You are a stranger[5] and your mother was a stranger,' he retorted, 'I do not eat fruit of the Sabbatical year like you.

Come and hear [a proof that R. Meir does not impose a fine for innocently breaking a Rabbinical rule]: 'If a layman [inadvertently] ate terumah, even unclean, he must make restitution with [ritually] clean non-sacred food. If he pays unclean non-sacred food, what is the law? Symmachus said in the name of R. Meir that if [he paid it] unknowingly this is accounted restitution,[6] but if deliberately it is not so accounted, whereas the Sages said that in either case it is accounted restitution, but he has still to pay clean non-sacred food.'[7] We were puzzled over this to know why [according to Symmachus] his restitution is not complete. Surely he deserves thanks[8] for eating something which a priest cannot eat even when he is unclean[9] and repaying him with something which he can eat at least when he is unclean![10] Thereupon Raba, or as some say Kadi,[11] said that there is a lacuna, and we should read thus: 'If one ate unclean terumah, he repays in anything.[12] If he ate clean terumah he repays clean non-sacred food. If he repaid unclean non-sacred food, what is the law? Symmachus said in the name of R. Meir that if [he repaid] without knowing, this is accounted a full restitution, but if deliberately it is not accounted a full restitution, whereas the Sages say that in either case it is full restitution, but he has still to pay him clean non-sacred food.' On this R. Aha son of R. Ika said that [R. Meir and the Sages] differ here on the question whether the innocent [act should be penalised on account of the presumptuous, R. Meir holding that the innocent act is not penalised on account of the presumptuous one[13] and the Sages holding that it is![14] — Is this reasoning sound?[15] Here the man wants to pay, and shall we get up and fine him?

Come and hear: 'If the blood [of a sacrifice] has become unclean and was yet sprinkled on the altar, if it was done without knowing then the sacrifice has been accepted [for the bringer of the sacrifice], but if deliberately, the sacrifice has not been accepted'?[16] — R. Meir can reply: Is there any comparison? There the man[17] really desires to make atonement,[18] and shall we get up and penalise him?

Come and hear: 'If a man separates tithe on Sabbath,[19] if inadver tently, the food may be eaten, but if deliberately, it may not be eaten'? — Is there any comparison? There the man is trying to do his duty, and shall we get up and penalise him? Come and hear: 'If a man dips vessels[20] on Sabbath, if inadvertently they may be used, but if deliberately they may not be used'? — Is there any comparison? There the man is desirous of purifying his vessels, and shall we get up and fine him?

A contradiction was also pointed out between two statements of R. Judah with regard to rules of the Rabbis. For it has been taught:

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(1) If a tree was planted more than thirty days before the entry of the Sabbatical year, that period was counted as one of the years of 'uncircumcision'. Hence if the thirtieth day before the Sabbatical year fell on a Sabbath, and he planted on it, this would be remembered and might be taken as a precedent. How then can you say that the Jews do not reckon from Sabbaths?

(2) Lit., 'come and hear'.

(3) [So that there is a special reason for R. Meir's ruling in the case of planting in the Sabbatical year and it cannot be contrasted with his ruling in the case of cooking on Sabbath.]

(4) And therefore in this particular case he sees no need to impose a fine for unwittingly breaking it.

(5) I.e., proselyte.

(6) It receives the character of unclean terumah.

(7) As a fine, but this does not become terumah; v. Yeb. 90a.

(8) Lit., 'may blessing come upon him.'

(9) Unclean terumah could in no circumstances be eaten, but it could only be used as food for cattle or for fuel.

(10) Viz., unclean non-sacred food.

(11) Or, 'an unknown authority'; v. B.K. (Sonc. ed.) p. 3, n. 3.

(12) I.e., clean or unclean non-sacred food. Although, as stated supra p. 243 n. 6, the food receives the character of terumah, he nevertheless had the intention to repay him food which he could eat at all times (Rashi).

(13) And therefore if he repaid without knowing that it was unclean he is not penalised by having to pay again.

(14) [This proves that R. Meir does not penalise the innocent for the presumptuous where the breach of a rabbinical law is concerned. Here the transgression involved is rabbinical, since according to the Torah he has discharged his liability by repaying the amount he had eaten. V. Yeb. 90a.]

(15) Lit., 'how so'. i.e., can we ascribe this to R. Meir as a general principle, seeing that here there is a special reason, namely that here etc.

(16) And the Rabbis ordained that the flesh may not be eaten, though expiration has been made for the bringer of the sacrifice.

(17) I.e., the priest.

(18) I.e., he desires to do a meritorious action, which is not the case with one who mixes terumah with other food, etc. Hence we do not penalise his error.

(19) This was forbidden by the Rabbis but not by the Torah, v. Bezah 36a.

(20) For ritual purification. This also was forbidden by the Rabbis on Sabbath; v. Bezah, 18a.

Talmud - Mas. Gittin 54b

If these nuts [of ‘uncircumcision’][1] fell among others and were then broken, whether [the act was done] inadvertently or deliberately they are not merged in the mass.[2] This is the ruling of R. Meir and R. Judah. R. Jose and R. Simeon, however, say that if [it was done] inadvertently they are merged, but if deliberately they are not. Now here is a case where according to the rule of the Torah [the forbidden element] loses its identity [if its proportion is not more than] one to two, and it is the Rabbis who decreed [that the proportion must be less than one to two hundred], and yet R. Judah imposes the line [in the case of innocent transgression]? — R. Judah there is influenced by the special consideration that [without this penalty] the offender may act with guile.[3] A contradiction was also pointed out between two statements of R. Jose. For we have learnt: If a sapling of ‘uncircumcision or of the mixed plants of the vineyard becomes mixed up with other saplings, its fruit should not be gathered,[4] but if gathered it becomes merged in two hundred and one times the quantity [of permitted fruit], provided, however, that the gathering was not done with that purpose in view. R. Jose says, Even if it was gathered deliberately, it is merged in two hundred and one times [its own quantity!][5] — [This is no difficulty] since with reference to this it has been recorded: Raba said: The presumption is that a man does not make his whole vineyard forbidden for the sake of a single sapling.[6] So too when Rabin came [from Palestine] he said in the name of R. Johanan: The presumption is that a man will not make his whole vineyard forbidden for the sake of a single sapling.

MISHNAH. PRIESTS WHO MADE THE FLESH IN THE SANCTUARY PIGGUL,[7] IF THEY DID SO DELIBERATELY ARE LIABLE TO PAY COMPENSATION.[8]

GEMARA. Our Rabbis taught: If a man is helping another to prepare ritually clean things, and he says to him, The clean things that I have prepared with you have been defiled, or if he is helping him with sacrifices and he says to him, The sacrifices with which I have been helping you have been rendered piggul, his word is taken. If, however, he says, The clean things which I was assisting you to prepare on such and such a day have become unclean, or the sacrifices with which I was assisting you on such and such a day have been rendered piggul, his word is not taken. Why is the rule different in the first case from that of the second? — Abaye replied: So long as it is in his power to do [again what he says he has done], his word is taken.[9] Rab said: [Where we do not believe is] if, for instance, he came across him and said nothing to him and then came across him again and told him.[10]

A certain man said to another: The clean things which I helped you to prepare on such and such a day have become unclean. He applied to R. Ammi, who said to him: According to the strict letter of the law, you need not believe him. R. Assi observed to him: Rabbi, this is what you say, but R. Johanan has distinctly said in the name of R. Jose: What can I do, seeing that the Torah has declared him credible?[11] Where has it declared him credible? — R. Isaac b. Bisna replied: The proof is from the high priest on the Day of Atonement, since if he says [that his sacrifice[12] was] ‘piggul’, we believe him. Now how do we know [that he made it ‘piggul’ when he was doing the service], seeing that it is written, And there shall be no man in the tent of meeting?[13] The reason must therefore be that he is credible. But perhaps this is because we heard him make it ‘piggul’?[14] — If he were not credible, we could not believe him even if we heard him, since he might have said this after performing the ceremony.[15] But perhaps it means that we saw him through the pispas?[16] — This is indeed a difficulty.[17]

A certain man appeared before R. Ammi and said to him: In a scroll of the Law which I have written for So-and-so I have not written the names [of God] with proper intention.[18] He asked him:

Who has the scroll? — He replied: The purchaser. Whereupon he said to him: Your word is good to deprive you of your fee, but it is not good to spoil a scroll of the Law. Said R. Jeremiah to him: Granted that he has lost his fee for the names, is he to lose it for the whole of the scroll? He replied: Yes, because a scroll in which the names of God have not been written with proper intention is not worth anything. But cannot he go over them with a pen and so sanctify them? What authority would allow this? Not, we would say, R. Judah; for we have learnt, 'Suppose the scribe had to write the tetragrammaton, and he intended [instead] to write Yehwdah [Judah][19] and he made a mistake and left out the daleth,[19] he can go over it with a pen and sanctify it. So R. Judah. The Sages, however, say that this name is not of the best'? — You may even say that he is in accord with R. Judah. For R. Judah would allow this only in the case of one mention of the Name, but not throughout a whole scroll, because it would make it look bizarre.

A certain man came before R. Abbahu saying, I have written a scroll of the Law for So-and-so but did not prepare the parchments for the purpose.[20] He asked him, Who has the scroll? — He replied, The purchaser. He said to him: Since your word is good to deprive you of your fee, it is also good to spoil the scroll.

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(1) I.e., in the first three years after the planting of the tree. V. Lev. XIX, 23. Certain species of nuts, on account of their particular value, as long as they are whole do not lose their identity in whatever large mass they may happen to become mixed up. When cracked, however, they are treated like ordinary nuts and are neutralized if their proportion to the permitted element is not more than one to one hundred. 'V. 'Orlah III, 6-8.

(2) Lit., 'they do not rise in the scale', i.e., they are not neutralized, but still retain their identity as something forbidden.

(3) I.e., he will mix them purposely and pretend that it was done innocently.

(4) Because it still retains its identity as long as it is attached to the soil, and is not merged in the field as a whole.

(5) V. 'Orlah, I, 6. Which seems to conflict with R. Jose's ruling with regard to the nuts.

(6) By planting in it one sapling of 'uncircumcision' without some clear sign. Such a thing being exceptional, we do not impose a special penalty for an offence to which it may accidentally lead.

(7) By declaring at the time of bringing the sacrifice that they intended the flesh to be eaten after the prescribed time. V. Supra, p. 239, n. 5.

(8) I.e., to provide a fresh sacrifice, since the first owing to their action has not brought expiation.

(9) We understand the Baraitha therefore to be speaking of a case where he says this while he is still helping the other; e.g., while the blood is being sprinkled he may say that the killing was piggul. We then believe him because he can still render the sprinkling piggul.

(10) Because then we suppose that he merely says this to vex him. But otherwise we do believe him, even if he only says so afterwards. According to Raba we have to translate, 'If a man was helping . . . and afterwards said etc.'

(11) Even when he declares if after some time.

(12) I.e. his ceremonies in the inner shrine. V. Lev. XVI, 12-17.

(13) Ibid. 17.

(14) He was heard to say, e.g., that he sprinkles the blood with the intention to burn the fat after the specified time.

(15) In which case it would not be piggul.

(16) One of two small gateways between the inner part of the Temple (hekal) and the place where the knives were kept. Zeb. 55. He was seen through the pispas to make the piggul declaration whilst sprinkling the blood.

(17) Against the dictum of R. Isaac b. Bisna.

(18) V. infra.

(19) Thus leaving the letters of the divine name, YHWH, written however without proper intention.

(20) Which would disqualify the scroll. V. supra 20a.

Talmud - Mas. Gittin 55a

What is the difference between this case and that of R. Ammi? — In that case it might be argued that the scribe mistakenly adopted the view of R. Jeremiah,[1] but here, since he stakes the whole of his fee and yet comes and tells, we presume that he is telling the truth.

MISHNAH. R. JOHANAN B. GUDGADA TESTIFIED[2] THAT A DEAF-MUTE GIRL WHO HAS BEEN GIVEN IN MARRIAGE BY HER FATHER CAN BE PUT AWAY WITH A GET,[3] AND THAT

A MINOR [ORPHAN] DAUGHTER OF A LAY ISRAELITE MARRIED TO A PRIEST CAN EAT OF THE TERUMAH,[4] AND THAT IF SHE DIES HER HUSBAND INHERITS HER, AND THAT IF A BEAM WHICH HAS BEEN WRONGFULLY APPROPRIATED IS BUILT INTO A PALACE[5] RESTITUTION FOR IT MAY BE MADE IN MONEY,[6] SO AS NOT TO PUT OBSTACLES IN THE WAY OF PENITENTS, AND THAT A SIN-OFFERING WHICH HAS BEEN WRONGFULLY OBTAINED, SO LONG AS THIS IS NOT [KNOWN] TO MANY,[7] MAKES EXPIATION, TO PREVENT LOSS TO THE ALTAR.[8]

GEMARA. Raba said: From the testimony of R. Johanan b. Gudgada we learn that if a man said to the witnesses [to the Get],[9] See this Get which I am about to give to her [my wife], and then he said to his wife, Take this bond, the divorce is valid. For did not R. Johanan b. Gudgada affirm that the consent of the wife is not necessary? So here we do not require her knowledge.[10] Surely this is obvious? [It required to he stated] because you might have thought that his saying to her ‘take this bond’ rendered the Get void. [Raba therefore] teaches us that if he had meant to annul it he would have said so to the witnesses, and the reason why he spoke so to the wife was because he was ashamed [to call it a Get].

THAT A MINOR [ORPHAN] DAUGHTER OF A LAY ISRAELITE. A deaf-mute woman, however, [according to this] cannot eat.[11] What is the reason? — As a precaution against a deaf-mute priest giving a deaf-mute woman [terumah] to eat.[12] And suppose she does? She would only be like a child eating forbidden meat?[13] — It is a precaution against the possibility of a deaf-mute priest giving terumah to a wife in possession of her faculties. But allow him at least to give her terumah which is such only by the rule of the Rabbis?[14] — This is a precaution against the risk of her eating terumah which is such according to the Torah.

AND THAT IF A BEAM WRONGFULLY APPROPRIATED HAS BEEN BUILT INTO A PALACE. The Rabbis taught: If a man wrongfully takes a beam and builds it into a palace, Beth Shammai say that he must demolish the whole palace and restore the beam to its owner. Beth Hillel, however, say that the latter can claim only the money value of the beam, so as not to place obstacles in the way of penitents.[15]

THAT A SIN OFFERING WHICH HAS BEEN WRONGFULLY OBTAINED. ‘Ulla said: According to the rule of the Torah, whether the [fact is generally] known or not, [the offering] does not make expiation, the reason being that Renunciation[16] does not of itself confer ownership [on the robber].[17] Why then was it laid down that if [the fact is] not known the offering is expiatory? — So that the priests should not be grieved.[18] Said the Rabbis to ‘Ulla: But our Mishnah says TO PREVENT LOSS TO THE ALTAR? — He replied to them: When the priests are grieved the altar is not attended to. Rab Judah, however, said: According to the rule of the Torah, whether the fact [of its having been wrongfully acquired] is known or not known, the offering is expiatory, the reason being that Renunciation does of itself confer ownership [on the robber].

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(1) That he would lose only the fee for the names, and he was willing to risk this to annoy the purchaser.

(2) V. ‘Ed. VII, 9.

(3) Although being deaf-mute she is not capable of giving consent, and although her marriage having been contracted by her father is a binding one.

(4) Although her marriage is valid only by the rule of the Rabbis and not of the Torah. But she may eat only such as is terumah in Rabbinic law alone, but not what is terumah in Biblical law, which does not recognise her as the priest's wife.

(5) Or any other building.
(6) Instead of the actual beam being restored. V. infra.
(7) [Three persons (v. J. a.l.)].
(8) Lit., 'for the good order of the altar'. This is discussed in the Gemara infra.
(9) Not in the wife's presence.
(10) Which in this case includes consent.
(11) As otherwise R. Johanan b. Gudgada would have stated the rule in reference to such a one.
(12) The marriage of a deaf-mute priest to a deaf-mute woman was valid only by Rabbinical rule, and therefore she was not permitted to eat terumah.
(13) Nebelah, v, Glos. And according to some authorities the Beth din do not step in to prevent this, v. Yeb. 114a.
(14) The marriage, valid in rabbinical law, should be recognised in regard to such terumah.
(15) As if they had to destroy the whole building they would not offer to make restitution.
(16) Ye'ush. The abandonment by the owner of the hope of recovery.
(17) Unless there has also been a change of ownership from the robber to a third party.
(18) When they find out that they have eaten from a non-sacred animal that has been killed within the temple precincts, the flesh of which was forbidden, v. B.K. 67a.

Talmud - Mas. Gittin 55b

Why then was it laid down that if [the fact is] known it is not expiatory?[1] In order that people should not say that the altar is fed from [the proceeds of] robbery. If we accept 'Ulla's view we quite understand why the Mishnah says 'SIN-OFFERING'.[2] But if Rab Judah's view is right, why does it say 'SIN-OFFERING'? The same would apply to a burnt-offering also?[3] — A stronger instance is taken: not only is this the case with a burnt-offering which is entirely [consumed on the altar], but even in the case of a sin-offering where only the fat and blood are put on the altar and the rest is eaten by the priests, even there they applied the rule, in order that people should not say that the altar is fed from robbery.

We learnt: THAT A SIN-OFFERING WHICH HAS BEEN WRONGFULLY OBTAINED, SO LONG AS THIS IS NOT KNOWN TO MANY, MAKES EXPIATION SO AS NOT TO CAUSE LOSS TO THE ALTAR. This raises no difficulty if we accept the view of 'Ulla, but on the view of Rab Judah we ought to have the opposite?[4] — This in fact is what he means: if [the fact is] not known it is expiatory, but if it is known it is not expiatory, to prevent loss to the altar.[5]

Raba raised an objection [from the following]: 'If a man stole [a beast] and sanctified it and then slaughtered and sold it, he makes twofold restitution but not four and fivefold.[6] And with reference to this it was taught: If [after dedication] he should kill the animal outside the precincts, his penalty is kareth.'[7] Now if you say that Renunciation does not of itself confer ownership [on the robber], how does kareth come in?[8] — R. Shezbi replied: It means, the kareth decreed by the Rabbis. They laughed at him: Is there such a thing, [they said,] as kareth decreed by the Rabbis? — Said Raba to them: When a great man has said something, do not laugh at him; he means, kareth which comes to him through their regulation; for it was the Rabbis who declared it to be in his possession[9] so that he might be liable for it. Raba further said: What I should like to know is this: When the Rabbis declared him to be the owner, did they mean this to apply from the time of stealing or from the time of sanctifying? What practical difference does it make? [It makes a difference] in respect of the fleece and the young;[10] what is the law? — Raba then [answered his own question] saying: It is reasonable to suppose that it is from the time that he sanctified them, so that a sinner should not profit from his offence.

MISHNAH. THERE WAS NO SICARICON[11] IN JUDEA FOR THOSE KILLED IN WAR.[12] AS FROM [THE TERMINATION OF] THE SLAUGHTER OF THE WAR[13] THERE HAS BEEN SICARICON THERE. HOW DOES THIS RULE APPLY? IF A MAN BUYS A FIELD FROM

THE SICARICON AND THEN BUYS IT AGAIN FROM THE ORIGINAL OWNER, HIS PURCHASE IS VOID,[14] BUT IF HE BUYS IT FIRST FROM THE ORIGINAL OWNER AND THEN FROM THE SICARICON IT IS VALID. IF A MAN BUYS [A PIECE OF A MARRIED WOMAN'S PROPERTY][15] FROM THE HUSBAND AND THEN BUYS IT AGAIN FROM THE WIFE, THE PURCHASE IS VOID,[16] BUT IF HE BUYS IT FIRST FROM THE WIFE AND THEN FROM THE HUSBAND IT IS VALID. THIS WAS [THE RULING] OF THE FIRST MISHNAH.[17] THE SUCCEEDING BETH DIN,[18] HOWEVER, LAID DOWN THAT IF A MAN BUYS PROPERTY FROM THE SICARICON HE HAD TO GIVE THE ORIGINAL OWNER A QUARTER [OF THE VALUE].[19] TH[19] S,[20] HOWEVER, IS ONLY THE CASE WHEN THE ORIGINAL OWNER IS NOT IN A POSITION TO BUY IT HIMSELF, BUT IF HE IS HE HAS THE RIGHT OF PRE-EMPTION. RABBI ASSEMBLED A BETH DIN AND THEY DECIDED BY VOTE THAT IF THE PROPERTY HAD BEEN IN THE HANDS OF THE SICARICON TWELVE MONTHS, WHOSOEVER FIRST PURCHASED IT ACQUIRED THE TITLE, BUT HE HAD TO GIVE A QUARTER [OF THE PRICE] TO THE ORIGINAL OWNER.

GEMARA. If there was no sicaricon for those killed in the war is it possible that there should have been after the termination of the war? — Rab Judah said: It means that the rule of sicaricon was not applied.[21] For R. Assi has stated: They [the Roman Government] issued three successive decrees. The first was that whoever did not kill [a Jew on finding him] should himself be put to death. The second was that whoever killed [a Jew] should pay four zuz.[22] The last was that whoever killed a Jew should himself be put to death.[23] Hence in the first two [periods], [the Jew], being in danger of his life, would determine to transfer his property[24] [to the sicaricon] but in the last [period] he would say to himself, Let him take it today; tomorrow I will sue him for it.[25]

R. Johanan said: What is illustrative of the verse, Happy is the man that feareth alway, but he that hardeneth his heart shall fall into mischief?[26] The destruction of Jerusalem came through a Kamza and a Bar Kamza;[27] the destruction of Tur Malka[28] came through a cock and a hen; the destruction of Bethar came through the shaft of a leather. The destruction of Jerusalem came through a Kamza and a Bar Kamza in this way. A certain man had a friend Kamza and an enemy Bar Kamza. He once made a party and said to his servant, Go and bring Kamza. The man went and brought Bar Kamza. When the man [who gave the party] found him there he said, See, you tell tales about me; what are you doing here? Get out. Said the other: Since I am here, let me stay, and I will pay you for whatever I eat and drink.

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(1) This is not distinctly stated in the Mishnah, but is clearly implied.

(2) Because only in this case where the priests eat of the flesh is there any danger of their becoming grieved.

(3) Which is wholly burnt,

(4) Viz., ‘a sin-offering . . . if this is generally known, makes no expiation’.

(5) By giving it a bad name.

(6) B.K. 68b (Sonc. ed.) p. 395, q.v. for notes.

(7) V. Glos. For killing a sacred animal outside the precincts of the Temple.

(8) Because when he dedicated it the animal was not his, and therefore when he killed it it was not sacred.

(9) When he dedicated it.

(10) If he was declared owner from the time of the theft, then the fleece was grown or the calf was born while the animal was in his possession, and he has not to make restitution for these.

(11) This word is usually regarded as being connected with the Latin sicarius, and is explained to mean a Roman soldier who threatened to kill a Jew but let him go on being given some of his property. Jastrow, however, very plausibly suggests that it is a corruption of GR. **, the Imperial fiscus which after the war of Bar Cochba confiscated and appropriated the property of Jews who had fought against the Romans.

(12) The Gemara will explain the meaning of this passage. It is not clear whether only the war of Bethar is meant or the earlier war against Titus as well.

(13) V. infra in the Gemara.

(14) Because we say that the owner only sold it out of fear, and with a mental reservation.
(15) Settled on her by her Kethubah. V. B.B. 49b.
(16) Because we assume that she only consented to the sale to oblige her husband.
(17) V. Sanh. (Sonc. ed.) p. 163, n. 7.
(18) Lit., ‘the Beth din of those who came after them.’
(19) It being estimated that the sicaricon would take a quarter less than the real value.
(20) That a purchase from the sicaricon is valid.
(21) [I.e., the heirs could not come and invalidate the sale to the third party. According to J. and Tosef. this rule was instituted in order to promote the settlement of Jews in Judea שוב המדינה , otherwise Jews would be afraid to purchase fields from the sicaricon for fear that the heirs would come and claim the return of their property.]
(22) As a fine.
(23) [Halevy Doroth, I.e., attempts on the basis of Josephus Wars VI, 9, 2; VII, 6; VII, 6.6, to place the three decrees shortly after the year 70 C.E.]
(24) And therefore the purchase of it from the sicaricon by a third party was valid. [The phrase גמר ומקני is here used in a loose sense and is not to be taken literally. It signifies that the owner despairs of the field and will make no attempt to recover it. Similarly in the case of the Mishnah, the heirs to those fields that had been seized of those killed in the war, had given up all hope of recovering the fields. Though legally, since there has been no actual transfer, they could by rights reclaim the fields when the opportunity presented itself it was nevertheless ruled that the sale to the third party is valid for the reason stated in n. 3. This removes the contradiction which Solomon Adreth points out in his Hiddushin between our Talmud and the Tosefta.]
(25) And since the original owner had not waived his title, the purchase by a third party was not valid. [And similarly in the case of the heirs of those who are killed after the war, since they do not despair, the law of sicaricon applies. That is, the non-Jew who seized the land is treated as an ordinary robber and his sale of the field to a third party is invalid. The reason of שוב המדינה is not applicable in this case since the heir himself will see to it to recover the property. For attempts to solve the problems connected with the subject, v. Elbogen MGWJ. 1925, pp. 349ff. Feist, MGWJ. 71, pp. 138, Gulak, Tarbiz, V, p. 23ff., and Halevy, Doroth, I.e., p. 130e.]
(26) Prov. XXVIII, 14. What follows illustrates the endless misery and mischief caused by hardness of heart.
(27) Lit., ‘locust and son of locust’. The meaning is that a very trivial cause set in motion the train of events which led to the destruction of Jerusalem; and similarly with the slaughter which accompanied and followed the war of Bar Cochba.
(28) [‘The Mountain of the King’. V. Pseudo-Jonathan, Judges IV, 5, where Mt. Ephraim is rendered by Tur Malka. According to Horowitz, Palestine, p. 240, it denotes the whole mountainous region stretching from the Valley of Jezreel to the south of Judah, including the mountains of Samaria, known also by the Hebrew name Har ha-Melek. (V. also Buchler, JQR, XVI, pp. 180ff.) There is still some uncertainty whence this name was derived. Was it perhaps because this region lay within the great conquests of John Hyrcanus that it was given the name? v. p. 77a n. 3a. The destruction of Tur Malka is placed by Buchler, op. cit. p. 186ff. during the war 66-70].

Talmud - Mas. Gittin 56a

He said, I won't. Then let me give you half the cost of the party. No, said the other. Then let me pay for the whole party. He still said, No, and he took him by the hand and put him out. Said the other, Since the Rabbis were sitting there and did not stop him, this shows that they agreed with him. I will go and inform against then, to the Government. He went and said to the Emperor, The Jews are rebelling against you. He said, How can I tell? He said to him: Send them an offering and see whether they will offer it [on the altar]. So he sent with him a fine calf.[1] While on the way he made a blemish on its upper lip, or as some say on the white of its eye, in a place where we [Jews] count it a blemish but they do not. The Rabbis were inclined to offer it in order not to offend the Government. Said R. Zechariah b. Abkulas to them: People will say that blemished animals are offered on the altar. They then proposed to kill Bar Kamza so that he should not go and inform against them, but R. Zechariah b. Abkulas said to them, Is one who makes a blemish on consecrated animals to be put to death? R. Johanan thereupon remarked: Through the scrupulousness[2] of R. Zechariah b. Abkulas our House has been destroyed, our Temple burnt and we ourselves exiled from our land.[3]

He [the Emperor] sent against them Nero the Caesar.[4] As he was coming he shot an arrow towards the east, and it fell in Jerusalem. He then shot one towards the west, and it again fell in Jerusalem. He shot towards all four points of the compass, and each time it fell in Jerusalem. He said to a certain boy: Repeat to me [the last] verse of Scripture you have learnt. He said: And I will lay my vengeance upon Edom by the hand of my people Israel.[5] He said: The Holy One, blessed be He, desires to lay waste his House and to lay the blame on me.[6] So he ran away and became a proselyte, and R. Meir was descended from him .[7]

He then sent against them Vespasian the Caesar[8] who came and besieged Jerusalem for three years. There were in it three men of great wealth, Nakdimon b. Gorion, Ben Kalba Shabua' and Ben Zizith Hakeseth. Nakdimon b. Gorion was so called because the sun continued shining for his sake.[9] Ben Kalba Shabua 'was so called because one would go into his house hungry as a dog [keleb] and come out full [sabea']. Ben Zizith Hakeseth was so called because his fringes [zizith] used to trail on cushions [keseth]. Others say he derived the name from the fact that his seat [kise] was among those of the nobility of Rome. One of these said to the people of Jerusalem, I will keep them in wheat and barley. A second said, I will keep them in wine, oil and salt. The third said, I will keep them in wood. The Rabbis considered the offer of wood the most generous,[10] since R. Hisda used to hand all his keys to his servant save that of the wood, for R. Hisda used to say, A storehouse of wheat requires sixty stores of wood [for fuel]. These men were in a position to keep the city for twenty-one years.

The biryoni[11] were then in the city. The Rabbis said to them: Let us go out and make peace with them [the Romans]. They would not let them, but on the contrary said, Let us go out and fight them. The Rabbis said: You will not succeed. They then rose up and burnt the stores of wheat and barley so that a famine ensued. Martha the daughter of Boethius was one of the richest women in Jerusalem. She sent her man-servant out saying, Go and bring me some fine flour. By the time he went it was sold out. He came and told her, There is no fine flour, but there is white [flour]. She then said to him, Go and bring me some. By the time he went he found the white flour sold out. He came and told her, There is no white flour but there is dark flour. She said to him, Go and bring me some. By the time he went it was sold out. He returned and said to her, There is no dark flour, but there is barley flour. She said, Go and bring me some. By the time he went this was also sold out. She had taken off her shoes, but she said, I will go out and see if I can find anything to eat. Some dung stuck to her foot and she died.[12] Rabban Johanan b. Zakkai applied to her the verse, The tender and delicate woman among you which would not adventure to set the sole of her foot upon the ground.[13] Some report that she ate a fig left by R. Zadok, and became sick and died. For R. Zadok observed fasts for forty years in order that Jerusalem might not be destroyed, [and he became so thin that] when he ate anything the food could be seen [as it passed through his throat.] When he wanted to restore himself, they used to bring him a fig, and he used to suck the juice and throw the rest away. When Martha was about to die, she brought out all her gold and silver and threw it in the street, saying, What is the good of this to me, thus giving effect to the verse, They shall cast their silver in the streets.[14]

Abba Sikra[15] the head of the biryoni in Jerusalem was the son of the sister of Rabban Johanan b. Zakkai. [The latter] sent to him saying, Come to visit me privately. When he came he said to him, How long are you going to carry on in this way and kill all the people with starvation? He replied: What can I do? If I say a word to them, they will kill me. He said: Devise some plan for me to escape. Perhaps I shall be able to save a little. He said to him: Pretend to be ill, and let everyone come to inquire about you. Bring something evil smelling and put it by you so that they will say you are dead. Let then your disciples get under your bed, but no others, so that they shall not notice that you are still light, since they know that a living being is lighter than a corpse. He did so, and R. Eliezer went under the bier from one side and R. Joshua from the other. When they reached the door, some men wanted to put a lance through the bier. He said to them: Shall [the Romans] say. They have pierced their Master? They wanted to give it a push. He said to them: Shall they say that they pushed their Master? They opened a town gate for him and he got out.

When he reached the Romans[16] he said, Peace to you, O king, peace to you, O king. He [Vespasian] said: Your life is forfeit on two counts, one because I am not a king and you call me king, and again, if I am a king, why did you not come to me before now? He replied: As for your saying that you are not a king,

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(1) Lit., 'a third calf'. (a) Reached a third of its growth, (b) the third-born, (c) in its third year.

(2) Lit., 'the humility'.

(3) [V. Josephus, Wars, II, 17, 2, who ascribes the beginning of the war to the refusal to accept the offering of the Emperor in 66 C.E.]

(4) Nero himself never came to Palestine,

(5) Ezek., XXV, 14.

(6) Lit., 'to wipe his hand'.

(7) [This story may be an echo of the legend that Nero who had committed suicide was still alive and that he would return to reign (v. JE. IX, 225).]

(8) [Who ultimately was known as the Caesar; v. Halevy, Doroth. I.e. p. 2.]

(9) It is related in Ta'anith, 19b, that this Nakdimon once prayed that the sun might continue shining (nakad) to enable him to discharge a certain debt he had incurred on behalf of the people, and his prayer was granted.

(10) Lit., 'they praised'.

(11) Perhaps == palace guards (from biryah). The reference is obviously to the Zealot bands who defended Jerusalem.

(12) From the shock.

(13) Deut. XXVIII, 57.

(14) Ezek. VII, 19.

(15) [Lit., Father of the Sicarii.' His real name was Ben Batiah, Ekah Rab, I. The term sicarii here is not to he confused with the sicaricon mentioned in the Mishnah, V. Rosenthal, MGWJ, 1893, p. 58].

(16) Lit. 'there'.

Talmud - Mas. Gittin 56b

in truth you are a king, since if you were not a king Jerusalem would not be delivered into your hand, as it is written, And Lebanon shall fall by a mighty one.[1] 'Mighty one' [is an epithet] applied only to a king, as it is written, And their mighty one shall be of themselves[2] etc.; and Lebanon refers to the Sanctuary, as it says, This goodly mountain and Lebanon.[3] As for your question, why if you are a king, I did not come to you till now, the answer is that the biryoni among us did not let me. He said to him; If there is a jar of honey round which a serpent is wound, would they not break the jar to get rid of the serpent?[4] He could give no answer. R. Joseph, or as some say R. Akiba, applied to him the verse, [God] turneth wise men backward and maketh their knowledge foolish.[5] He ought to have said to him: We take a pair of tongs and grip the snake and kill it, and leave the jar intact.[6]

At this point a messenger came to him from Rome saying, Up, for the Emperor is dead, and the notables of Rome have decided to make you head [of the State]. He had just finished putting on one boot. When he tried to put on the other he could not. He tried to take off the first but it would not come off. He said: What is the meaning of this? R. Johanan said to him: Do not worry: the good news has done it, as it says, Good tidings make the bone fat.[7] What is the remedy? Let someone whom you dislike come and pass before you, as it is written, A broken spirit drieth up the bones.[8] He did so, and the boot went on. He said to him: Seeing that you are so wise, why did you not come to me till now? He said: Have I not told you? — He retorted: I too have told you.

He said; I am now going, and will send someone to take my place. You can, however, make a request of me and I will grant it. He said to him: Give me Jabneh and its Wise Men,[9] and the family chain of Rabban Gamaliel,[10] and physicians to heal R. Zadok. R. Joseph, or some say R. Akiba, applied to him the verse, ‘[God] turneth wise men backward and maketh their knowledge foolish’. He ought to have said to him; Let them [the Jews] off this time. He, however, thought that so much he would not grant, and so even a little would not be saved.

How did the physicians heal R. Zadok? The first day they let him drink water in which bran had been soaked; on the next day water in which there had been coarse meal;[11] on the next day water in which there had been flour, so that his stomach expanded little by little.

Vespasian sent Titus who said, Where is their God, the rock in whom they trusted?[12] This was the wicked Titus who blasphemed and insulted Heaven. What did he do? He took a harlot by the hand and entered the Holy of Holies and spread out a scroll of the Law and committed a sin on it. He then took a sword and slashed the curtain. Miraculously blood spurted out, and he thought that he had slain himself,[13] as it says, Thine adversaries have roared in the midst of thine assembly, they have set up their ensigns for signs.[14] Abba Hanan said: Who is a mighty one like unto thee, O Jah?[15] Who is like Thee, mighty in self-restraint,[16] that Thou didst hear the blaspheming and insults of that wicked man and keep silent? In the school of R. Ishmael it was taught; Who is like thee among the gods [elim]?[17] Who is like thee among the dumb ones [illemim]. Titus further took the curtain and shaped it like a basket and brought all the vessels of the Sanctuary and put them in it, and then put them on board ship to go and triumph with them in his city, as it says, And withal I saw the wicked buried, and they that come to the grave and they that had done right went away from the holy place and were forgotten in the city.[18] Read not keburim [buried] but kebuzim [collected]; read not veyishtakehu [and were forgotten] but veyishtabehu [and triumphed]. Some say that keburim [can be retained], because even things that were buried were disclosed to them. A gale sprang up at sea which threatened to wreck him. He said: Apparently the power of the God of these people is only over water. When Pharaoh came He drowned him in water, when Sisera came He drowned him in water. He is also trying to drown me in water. If he is really mighty, let him come up on the dry land and fight with me. A voice went forth from heaven saying; Sinner, son of sinner, descendant of Esau the sinner, I have a tiny creature in my world called a gnat. (Why is it called a tiny creature? Because it has an orifice for taking in but not for excreting.) Go up on the dry land and make war with it. When he landed the gnat came and entered his nose, and it knocked against his brain for seven years. One day as he was passing a blacksmith's it heard the noise of the hammer and stopped. He said; I see there is a remedy. So every day they brought a blacksmith who hammered before him. If he was a non-Jew they gave him four zuz, if he was a Jew they said, It is enough that you see the suffering of your enemy. This went on for thirty days, but then the creature got used to it.[19] It has been taught: R. Phineas b. ‘Aruba said; I was in company with the notables of Rome, and when he died they split open his skull and found there something like a sparrow two sela's in weight. A Tanna taught; Like a young dove two pounds in weight. Abaye said; We have it on record that its beak was of brass and its claws of iron. When he died he said: Burn me and scatter my ashes over the seven seas so that the God of the Jews should not find me and bring me to trial.

Onkelos son of Kolonikos[20] was the son of Titus's sister. He had a mind to convert himself to Judaism. He went and raised Titus from the dead by magical arts, and asked him; ‘Who is most in repute in the [other] world? He replied: Israel. What then, he said, about joining them? He said: Their observances are burdensome and you will not be able to carry them out. Go and attack them in that world and you will be at the top as it is written, Her adversaries are become the head[21] etc.; whoever harasses Israel becomes head. He asked him:

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(1) Isa. X, 34.

(2) Jer. XXX, 21.

(3) Deut. III, 25.

(4) So you should have broken down the walls to get rid of the biryoni.

(5) Isa. XLIV, 25.
(6) So they were waiting for some opportunity to get rid of the biryoni.
(7) Prov. XV, 30.
(8) Ibid. XVII, 22.
(9) I.e., leave to found a seminary at Jabneh (Jamnia).
(10) That the R. Gamaliel dynasty be spared. R. Johanan was particularly solicitous for R. Gamaliel and his family, as they were supposed to be of the house of David.
(11) Coarse bran mixed with flour (Rashi).
(12) Deut. XXXII, 37.
(13) Euphemism for God.
(14) Ps. LXXIV, 4.
(15) Ibid. LXXXIX, 9.
(16) Lit., ‘and hard’.
(17) Ex. XV, 11.
(18) Eccl. VIII, 10.
(19) Lit., ‘since it trod, it trod.’
(20) V. A.Z. (Sonc. ed.) p. 55, n. 1.
(21) Lam. I, 5.

Talmud - Mas. Gittin 57a

What is your punishment [in the other world]? He replied: What decreed for myself. Every day my ashes are collected and sentence is passed on me and I am burnt and my ashes are scattered over the seven seas. He then went and raised Balaam by incantations. He asked him: Who is in repute in the other world? He replied: Israel. What then, he said, about joining them? He replied: Thou shalt not seek their peace nor their prosperity all thy days for ever.[1] He then asked: What is your punishment? He replied: With boiling hot semen.[2] He then went and raised by incantations the sinners of Israel.[3] He asked them: Who is in repute in the other world? They replied: Israel. What about joining them? They replied: Seek their welfare, seek not their harm. Whoever touches them touches the apple of his eye. He said: What is your punishment? They replied: With boiling hot excrement, since a Master has said: Whoever mocks at the words of the Sages is punished with boiling hot excrement. Observe the difference between the sinners of Israel and the prophets of the other nations who worship idols. It has been taught: Note from this incident how serious a thing it is to put a man to shame, for God espoused the cause of Bar Kamza and destroyed His House and burnt His Temple.

‘Through a cock and a hen Tur Malka was destroyed’. How? — It was the custom that when a bride and bridegroom were being escorted a cock and a hen were carried before them, as if to say, Be fruitful and multiply like fowls. One day a band of Roman soldiers passed by and took the animals from them, so the Jews fell on them and beat them. So they went and reported to the Emperor that the Jews were rebelling, and he marched against them. There came against them one Bar Daroma[4] who was able to jump a mile, and slaughtered them. The Emperor took his crown and placed it on the ground, saying, Sovereign of all the world, may it please thee not to deliver me and my kingdom into the hands of one man. Bar Daroma was tripped up by his own utterance, as he said, Hast not thou, O God, cast us off and thou goest not forth, O God, with our hosts.[5] But David also said thus? — David wondered if it could be so. He went into a privy and a snake came, and he dropped his gut [from fright] and died. The Emperor said: Since a miracle has been wrought for me, I will let them off this time. So he left them alone and went away. They began to dance about and eat and drink and they lit so many lamps that the impress of a seal could be discerned by their light a mile away from the place. Said the Emperor; Are the Jews making merry over me? And he again invaded them. R. Assi said; Three hundred thousand men with drawn swords went in to Tur Malka, and slaughtered for three days and three nights, while on the other side dancing and feasting was going on, and one did not know about the other.

The Lord hath swallowed up all the habitations of Jacob and hath not pitied.[6] When Rabin came he said in the name of R. Johanan; These are the sixty thousand myriads of cities which King Jannai had in the King's Mountain.[7] For R. Judah said in the name of R. Assi: King Jannai had sixty myriads of cities in the King's Mountain, and in each of them was a population as large as that of the Exodus, save in three of them which had double as many. These were Kefar Bish,[8] Kefar Shihlayim,[9] and Kefar Dikraya.[10] [The first was called] Kefar Bish [evil village] because they never gave hospitality to visitors. The second was called Kefar Shihlayim because they made their living from shihlayim [watercress]. Kefar Dikraya [village of males] according to R. Johanan, was so called because women used to bear males first and finally a girl and then no more. ‘Ulla said: I have seen that place, and it would not hold even sixty myriads of reeds. A certain Min said to R. Hanina: You tell a lot of lies.[11] He replied: Palestine is called ‘land of the deer’.[12] Just as the skin of the hind cannot hold its flesh,[13] so the Land of Israel when it is inhabited can find room but when it is not inhabited it contracts.

Once when R. Manyumi b. Helkiah and R. Helkiah b. Tobiah and R. Huna b. Hiyya were sitting together they said: If anyone knows anything about Kefar Sekania of Egypt,[14] let him say. One of them thereupon said; Once a betrothed couple [from there] were carried off by heathens who married them to one another. The woman said: I beg of you not to touch me, as I have no Kethubah[15] from you. So he did not touch her till his dying day. When he died, she said: Mourn for this man who has kept his passions in check more than Joseph, because Joseph was exposed to temptation only a short time, but this man every day. Joseph was not in one bed with the woman but this man was; in Joseph's case she was not his wife, but here she was. The next then began and said: On one occasion forty bushels [of coin] were selling for a denar, and the number went down one, and they investigated and found that a man and his son had had intercourse with a betrothed maiden on the Day of Atonement, so they brought them to the Beth din and they stoned them and the original price was restored. The third then began and said: There was a man who wanted to divorce his wife, but hesitated because she had a big marriage settlement. He accordingly invited his friends[16] and gave them a good feast and made them drunk and put them all in one bed. He then brought the white of an egg and scattered it among them and brought witnesses[17] and appealed to the Beth din. There was a certain elder there of the disciples of Shammai the Elder, named Baba b. Buta, who said: This is what I have been taught by Shammai the Elder, that the white of an egg contracts when brought near the fire, but semen becomes faint from the fire. They tested it and found that it was so, and they brought the man to the Beth din and flogged him and made him pay her Kethubah. Said Abaye to R. Joseph: Since they were so virtuous, why were they punished? — He replied: Because they did not mourn for Jerusalem, as it is written; Rejoice ye with Jerusalem and be glad for her, all ye that love her, rejoice for joy with her all ye that mourn over her.[18]

‘Through the shaft of a litter Bethar[19] was destroyed.’ It was the custom when a boy was born to plant a cedar tree and when a girl was born to plant a pine tree, and when they married, the tree was cut down and a canopy made of the branches. One day the daughter of the Emperor was passing when the shaft of her litter broke, so they lopped some branches off a cedar tree and brought it to her. The Jews thereupon fell upon them and beat them. They reported to the Emperor that the Jews were rebelling, and he marched against them.

He hath cut off in fierce anger all the horn of Israel.[20] R. Zera said in the name of R. Abbahu who quoted R. Johanan: These are the eighty [thousand][21] battle trumpets which assembled in the city of Bethar when it was taken and men, women and children were slain in it until their blood ran into the great sea. Do you think this was near? It was a whole mil[22] , away. It has been taught: R. Eleazar the Great said: There are two streams in the valley of Yadaim,[23] one running in one direction and one in another, and the Sages estimated that [at that time] they ran with two parts water to one of blood. In a Baraitha it has been taught: For seven years the Gentiles fertilised[24] their vineyards with the blood of Israel without using manure.

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(1) Deut. XXIII, 7.
(2) Because he enticed Israel to go astray after the daughters of Moab. V. Sanh. 106a.
(3) [MS.M. Jesus].
(4) Lit., ‘Son of the South’.
(5) Ps. LX, 12.
(6) Lam. II, 2.
(7) V. supra, p. 251, n. 4.
(8) [Identified with Kafarabis in Upper Idumea mentioned in Josephus Wars, IV, 9, 9. V. Buchler op. cit. p. 191].
(9) [Identified with Sachlin near Ascalon. Klein, D. ZDPV. 1910, 35.]
(10) [Dikrin, N. of Beth Gubrin (Eleutheropolis); v. EJ. 9, 1132].
(11) Referring to the exaggerated statements about the King's Mountain.
(12) E.V. ‘glorious’, Jer. III, 19; a play on the word צבי , which means either ‘glorious’ or ‘deer’.
(13) Because after the hind is killed the skin shrinks.
(14) [Klein, S. Beitrage, p. 20, n. 1. suggests the reading נוצרים (Nazarenes) instead of מצרים (Egypt). It is thus the Kefar Sekania (Suchnin) in Galilee (v. A.Z., Sonc. ed. p. 85. n. 1) a place with Nazarene associations. It was probably to contrast the erstwhile loyalty of the place to the then prevailing defection that the incidents that follow were related].
(15) According to Rabbinic law it is forbidden or a man to live with his wife unless he made out for her a kethubah.
(16) ‘Shoshbin’ ‘best men’, ‘Groomsmen’; v. B.B. (Sonc. ed.) p. 618, n. 10.
(17) To prove that they had abused his wife.
(18) Isa. LXVI, 10.
(19) In Southern Palestine, the centre of the revolt of Bar Cochba.
(20) Lam. II, 3.
(21) This word is bracketed in the text.
(22) [J., reads ‘four mils’. The site of Bethar is still uncertain, v. JE. s.v.].
(23) [Rappaport, ‘Erech Millin refers this to the Roman devastation of the Jewish quarter in Alexandria in the days of Alexander Tiberius. The Valley of Yadayim (‘Hands’) is thus the Delta of the Nile. Graetz, Geschichte IV, p. 425 places this in the Bar Cochba war and identifies the Valley with Beth Rimmon Valley.]
(24) Lit., ‘gathered the vintage from.’

Talmud - Mas. Gittin 57b

R. Hiya b. Abin said in the name of R. Joshua b. Korhah: An old man from the inhabitants of Jerusalem told me that in this valley Nebuzaradan the captain of the guard killed two hundred and eleven myriads,[1] and in Jerusalem he killed ninety-four myriads on one stone, until their blood went and joined that of Zechariah,[2] to fulfil the words, Blood toucheth blood.[3] He noticed the blood of Zechariah bubbling up warm, and asked what it was. They said: It is the blood of the sacrifices which has been poured there. He had some blood brought, but it was different from the other. He then said to them: If you tell me [the truth], well and good, but if not, I will tear your flesh with combs of iron. They said: What can we say to you? There was a prophet among us who used to reprove us for our irreligion, and we rose up against him and killed him, and for many years his blood has not rested. He said to them: I will appease him. He brought the great Sanhedrin[4] and the small Sanhedrin[5] and killed them over him, but the blood did not cease. He then slaughtered young men and women, but the blood did not cease. He brought school-children and slaughtered them over it, but the blood did not cease. So he said; Zechariah, Zechariah. I have slain the best of them; do you want me to destroy them all? When he said this to him, it stopped. Straightway Nebuzaradan felt remorse. He said to himself: If such is the penalty for slaying one soul, what will happen to me who have slain such multitudes? So he fled away, and sent a deed to his house disposing of his effects and became a convert. A Tanna taught: Naaman was a resident alien;[6] Nebuzaradan was a righteous proselyte;[7] descendants of Haman learnt the Torah in Benai Berak; descendants of Sisera taught children in Jerusalem; descendants of Sennacherib gave public expositions of the Torah. Who were these? Shemaya and Abtalion.[8] [Nebuzaradan fulfilled] what is written, I have set her blood upon the bare rock that it should not be covered.[9] The voice is the voice of Jacob and the hands are the hands of Esau:[10] 'the voice' here refers to [the cry caused by] the Emperor Hadrian[11] who killed in Alexandria of Egypt sixty myriads on sixty myriads, twice as many as went forth from Egypt. 'The voice of Jacob': this is the cry caused by the Emperor Vespasian[12] who killed in the city of Bethar four hundred thousand myriads, or as some say, four thousand myriads. 'The hands are the hands of Esau:' this is the Government of Rome which has destroyed our House and burnt our Temple and driven us out of our land. Another explanation is [as follows]: 'The voice is the voice of Jacob:' no prayer is effective unless the seed of Jacob has a part in it. 'The hands are the hands of Esau:' no war is successful unless the seed of Esau has a share in it. This is what R. Eleazar said:[13] Thou shalt be hid from the scourge of the tongue;[14] this means, thou shalt be protected from the heated contests[15] of the tongue.

Rab Judah said in the name of Rab: What is meant by the verse, By the rivers of Babylon there we sat down, yea, we wept when we remembered Zion?[16] This indicates that the Holy One, blessed be He, showed David the destruction both of the first Temple and of the second Temple. Of the first Temple, as it is written, 'By the rivers of Babylon there we sat, yea we wept'; of the second Temple, as it is written, Remember, O Lord, against the children of Edom[17] the day of Jerusalem, who said, rase it, rase it, even unto the foundation thereof.[18]

Rab Judah said in the name of Samuel, or it may be R. Ammi, or as some say it was taught in a Baraitha; On one occasion four hundred boys and girls were carried off for immoral purposes. They divined what they were wanted for and said to themselves, If we drown in the sea we shall attain the life of the future world. The eldest among them expounded the verse, The Lord said, I will bring again from Bashan, I will bring again from the depths of the sea.[19] 'I will bring again from Bashan,' from between the lions' teeth.[20] 'I will bring again from the depths of the sea,' those who drown in the sea. When the girls heard this they all leaped into the sea. The boys then drew the moral for themselves, saying, If these for whom this is natural act so, shall not we, for whom it is unnatural? They also leaped into the sea. Of them the text says, Yea, for thy sake we are killed all the day long, we are counted as sheep for the slaughter.[21] Rab Judah, however, said that this refers to the woman and her seven sons.[22] They brought the first before the Emperor and said to him, Serve the idol. He said to them: It is written in the Law, I am the Lord thy God.[23] So they led him away and killed him. They then brought the second before the Emperor and said to him, Serve the idol. He replied: It is written in the Torah, Thou shalt have no other gods before me.[24] So they led him away and killed him. They then brought the next and said to him, Serve the idol. He replied: It is written in the Torah, He that sacrifices unto the gods, save unto the Lord only, shall be utterly destroyed.[25] So they led him away and killed him. They then brought the next before the Emperor saying, Serve the idol. He replied: It is written in the Torah, Thou shalt not bow down to any other god.[26] So they led him away and killed him. They then brought another and said to him, Serve the idol. He replied: It is written in the Torah, Hear, O Israel, the Lord our God, the Lord is one.[27] So they led him away and killed him. They then brought the next and said to him, Serve the idol. He replied; It is written in the Torah, Know therefore this day and lay it to thine heart that the Lord He is God in heaven above and on the earth beneath; there is none else.[28] So they led him away and killed him. They brought the next and said to him, Serve the idol. He replied: It is written in the Torah, Thou hast avouched the Lord this day . . . and the Lord hath avouched thee this day;[29] we have long ago sworn to the Holy One, blessed be He, that we will not exchange Him for any other god, and He also has sworn to us that He will not change us for any other people. The Emperor said: I will throw down my seal before you and you can stoop down and pick it up,[30] so that they will say of you that you have conformed to the desire[31] of the king. He replied; Fie on thee, Caesar, fie on thee, Caesar; if thine own honour is so important, how much more the honour of the Holy One, blessed be He! They were leading him away to kill him when his mother said: Give him to me that I may kiss him a little. She said to him: My son, go and say to your father Abraham, Thou didst bind one [son to the] altar, but I have bound seven altars. Then she also went up on to a roof and threw herself down and was killed. A voice thereupon came forth from heaven saying, A joyful mother of children.[32]

R. Joshua b. Levi said: [The verse, ‘Yea, for thy sake we are killed all the day long’] can be applied to circumcision, which has been appointed for the eighth [day]. R. Simeon b. Lakish said: It can be applied to the students of the Torah who demonstrate the rules of shechitah on themselves; for Raba said: A man can practise anything on himself except shechitah,[33] and something else. R. Nahman b. Isaac said that it can be applied to the students who kill themselves for the words of the Torah, in accordance with the saying of R. Simeon b. Lakish; for R. Simeon b. Lakish said: The words of the Torah abide only with one who kills himself for them, as it says, This is the Torah, when a man shall die in the tent etc.[34]

Rabbah b. Bar Hanah said in the name of R. Johanan: Forty se'ahs

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(1) V. II Kings XXV, 8ff.
(2) The son of Jehoiada the high priest. V. II Chron. XXIV, 22.
(3) Hos. IV, 2.
(4) The high court of 71 members.
(5) The lesser court of 23 members.
(6) One who merely abstains from idolatry but does not keep the commandments.
(7) Who accepts all the laws of Judaism with no ulterior motive.
(8) The predecessors of Hillel and Shammai. V. Aboth, I.
(9) Ezek. XXIV, 8.
(10) Gen. XXVII, 22.
(11) [Graetz, Geschichte, IV, p. 426, on the basis of parallel passages emends; ‘Trajan’, the reference being to the massacre of Alexandrian Jews by Trajan as a result of an insurrection. V. Suk. 51b.]
(12) This seems a mistake here for Hadrian. [V. J. Ta'an. IV.]
(13) The remark made above that through malicious speech the Temple was destroyed etc. (Rashi). [Maharsha refers it to the efficacy of the ‘voice of Jacob.’]
(14) Job V, 21.
(15) Apparently this means ‘slander’. [According to Maharsba render: ‘Thou shalt be protected (find refuge) in the heated contests of the tongue’, i.e., prayer’.]
(16) Ps. CXXXVII, 1.
(17) Stands for Rome.
(18) lbid. 7.
(19) Ps. LXVIII, 23.
(20) בין שן of which בשן is taken as a contraction.
(21) Ibid, XLIV, 23.
(22) The same story is related of Antiochus Epiphanes in the second book of the Maccabees.
(23) Ex. XX, 2.
(24) Ibid, 3.
(25) Ibid, XXII, 19.
(26) Ibid, XX, 5.
(27) Deut. VI, 4.
(28) Ibid, IV, 39.
(29) Deut. XXVI, 17, 18.
(30) The seal had engraved on it the image of the king and by stooping down to pick it up he will make it appear as if he is worshipping the image (Rashi).
(31) Lit., ‘accept the authority’.
(32) Ps. CXIII, 9.
(33) For fear that he might accidentally cut his throat.

(34) Num. XIX, 14. The meaning in the context is of course quite different.

Talmud - Mas. Gittin 58a

of phylactery boxes[1] were found on the heads of the victims of Bethar. R. Jannai son of R. Ishmael said there were three chests each containing forty se'ahs. In a Baraitha it was taught: Forty chests each of three se'ahs. There is, however, no contradiction; the one was referring to the phylactery of the head, the other to that of the arm.[2]

R. Assi said; Four kabs of brain were found on one stone. ‘Ulla said: Nine kabs. R. Kahana — or some say Shila b. Mari — said: Where do we find this in the Scripture? [In the verse], O daughter of Babylon that art to be destroyed, happy shall he be that rewardeth thee . . . happy shall he be that taketh and dasheth thy little ones against the rock.[3]

[It is written]: The precious sons of Zion, comparable to fine gold.[4] What is meant by ‘comparable to fine gold’? Shall l say it means that they were covered with gold? [This can hardly be] seeing that in the school of R. Shila it was stated that two state weights of fine gold came down into the world, one of which went to Rome and the other to the rest of the world! No: what it means is that they used to eclipse fine gold with their beauty. Before that the notables of the Romans used to keep an amulet set in a ring in front of them when they had sexual intercourse, but now they brought Israelites and tied them to the foot of the bed. One man asked another: Where is that written [in the Scripture]? He replied: Also every sickness and every plague which is not written in the book of this law.[5] Said the other: How far am I from that place? — He replied: A little,[6] a page and a half. Said the other: If I had got so far, I should not have wanted you.

Rab Judah reported Samuel as saying in the name of Rabban Simeon b. Gamaliel; What is signified by the verse, Mine eye affecteth my soul, because of all the daughters of my city?[7] There were four hundred synagogues in the city of Bethar, and in every one were four hundred teachers of children, and each one had under him four hundred pupils,[8] and when the enemy entered there they pierced them with their staves, and when the enemy prevailed and captured them, they wrapped them in their scrolls and burnt them with fire.

Our Rabbis have taught: R. Joshua b. Hananiah once happened to go to the great city of Rome,[9] and he was told there that there was in the prison a child with beautiful eyes and face and curly locks.[10] He went and stood at the doorway of the prison and said, Who gave Jacob for a spoil and Israel to the robbers?[11] The child answered, Is it not the Lord, He against whom we have sinned and in whose ways they would not walk, neither were they obedient unto his law.[12] He said: I feel sure that this one will be a teacher in Israel. I swear that I will not budge from here before I ransom him, whatever price may be demanded. It is reported that he did not leave the spot before he had ransomed him at a high figure, nor did many days pass before he became a teacher in Israel. Who was he? — He was R. Ishmael b. Elisha.

Rab Judah said in the name of Rab: It is related that the son and the daughter of R. Ishmael b. Elisha were carried off [and sold to] two masters. Some time after the two met together, and one said, I have a slave the most beautiful in the world. The other said, I have a female slave the most beautiful in the world. They said: Let us marry them to one another and share the children. They put them in the same room. The boy sat in one corner and the girl in another. He said: I am a priest descended from high priests, and shall I marry a bondwoman? She said: I am a priestess descended from high priests, and shall I be married to a slave? So they passed all the night in tears. When the day dawned they recognised one another and fell on one another's necks and bemoaned themselves with tears until their souls departed. For them Jeremiah utters lamentation, For these I am weeping, mine eye, mine eye drops water.[13]

Resh Lakish said: It is related of a certain woman named Zafenath bath Peniel (she was called Zafenath because all gazed [zofin] at her beauty, and the daughter of Peniel because she was the daughter of the high priest who ministered in the inner shrine)[14] that a brigand abused her a whole night. In the morning he put seven wraps round her and took her out to sell her. A certain man who was exceptionally ugly came and said: Show me her beauty. He said: Fool, if you want to buy her buy, for [I tell you that] there is no other so beautiful in all the world. He said to him: All the same [show her to me]. He took seven wraps off her, and she herself tore off the seventh and rolled in the dust, saying, Sovereign of the universe, if Thou hast not pity on us why hast thou not pity on the sanctity of Thy Name? For her Jeremiah utters lamentation, saying, O daughter of my people, gird thee with sackcloth and wallow thyself in ashes; make thee mourning as for an only son, for the spoiler shall suddenly come upon us.[15] It does not say upon thee,' but 'upon us:' the spoiler is come, if one may say so, upon Me and upon thee.

Rab Judah said in the name of Rab: 'What is signified by the verse, And they oppress a man and his house, even a man and his heritage?[16] A certain man once conceived a desire for the wife of his master, he being a carpenter's apprentice. Once his master wanted to borrow some money from him. He said to him: Send your wife to me and I will lend her the money. So he sent his wife to him, and she stayed three days with him. He then went to him before her. Where is my wife whom I sent to you? he asked. He replied: I sent her away at once, but I heard that the youngsters played with her on the road. What shall I do? he said. If you listen to my advice, he replied, divorce her. But, he said, she has a large marriage settlement. Said the other: I will lend you money to give her for her Kethubah. So he went and divorced her and the other went and married her. When the time for payment arrived and he was not able to pay him, he said: Come and work off your debt with me. So they used to sit and eat and drink while he waited on them, and tears used to fall from his eyes and drop into their cups. From that hour the doom was sealed; some, however, say that it was for two wicks in one light.[17]

IF A MAN BUYS FROM THE SICARICON etc. Rab said: This holds good only where he [the original owner] said to him[18] [mere ly]: Go, take possession[19] and acquire ownership. If, however, he gave him a written deed, he does acquire title. Samuel said: Even with a written deed he does not acquire title, unless he expressly makes himself responsible.[20]

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(1) Not counting the straps (Rashi). [Others: 'capsules'; each phylactery box of the head contains four capsules or sections, v Aruch.]

(2) [Rashi assumes that the phylactery of the head consisting as it does of four capsules had a wider base than that of the arm.]

(3) Ps. CXXXVII, 8, 9. The 'dashing against the rock' will be 'measure for measure'.

(4) Lam. IV, 2.

(5) Deut. XXVIII, 61.

(6) Al. 'go on' (Jastrow).

(7) Lam. III, 51.

(8) This is obviously a conventional expression for 'very many'.

(9) [Perhaps in the year 95, v. Hor. (Sonc. ed.) p. 70, n. 12. Tosef. Hor. II omits Rome.

(10) Lit., 'his curly hair arranged in locks.

(11) Isa. XLII, 24.

(12) Ibid.

(13) Lam. I, 16.

(14) Heb. 'Pene'.

(15) Jer. VI, 26.

(16) Mic. II, 2.

(17) I.e., one woman marrying two men.

(18) To the buyer.
(19) By doing a little work on the property.
(20) For reimbursing him if his title should prove invalid.

Talmud - Mas. Gittin 58b

It has been taught in agreement with Samuel: ‘R. Simeon b. Eleazar says: If a man buys [a married woman's property] from the wife and then buys it again from the husband, his purchase is effective. But if he first buys from the husband and then from the wife the purchase is invalid,[1] unless she expressly makes herself responsible.’ Are we to say that this confutes Rab's view? — Rab can answer you: What is meant by ‘making herself responsible’? Giving a written deed.[2]

Our Rabbis have taught: If a man bought [property] from the sicaricon and had the use of it[3] for three years in the presence of the original owner,[4] and then sold it to another, the original owner has no claim against the [second] purchaser. How are we to understand this? If the [second] purchaser pleads, He bought it from you,[5] the rule would be the same in the case of the first [purchaser].[6] If he does plead, He bought it from you, then the rule does not apply to the second either?[7] — R. Shesheth said: We do in fact assume that he does not advance this plea, [and yet the rule applies] because in a case like this we [the Beth din] suggest a plea to the heir and suggest a plea to the purchaser;[8] whereas the first if he pleads [of his own accord] can acquire a title, but otherwise not.

Our Rabbis have taught: ‘If [a heathen] seizes the land[9] [of an Israelite] on account of a debt or of an anparuth[10] this rule of sicaricon does not apply to it;[11] [and land seized] on account of anparuth must remain in his hands twelve months.’[12] But you just said that the rule of sicaricon does not apply to it? — What he means is, [Land bought from] the sicaricon itself must remain in his hands twelve months.[13] R. Joseph said: I have authority for saying that there is no anparuth in Babylonia. But we see that there is? — You should say, the law of anparuth[14] does not apply in Babylonia. Why so? — Since there is a Court and yet [the victim] does not go and complain, we presume that he has waived his claim.

Giddal son of Re'ilai took a field[15] from the owners of a certain stretch[16] on condition of paying the tax on it.[17] He paid in advance the money for three years. The first owners eventually[18] came back and said to him: You paid the tax for the first year and have had the produce. Now we will pay and I will have the produce. They appealed to R. Papa, who was minded to make him out a warrant against the owners of the stretch.[19] R. Huna the son of R. Joshua, however, said to R. Papa: This will mean applying the law of sicaricon?[20] No, said R. Huna the son of R. Joshua; he has risked his money and lost.[21]

THIS WAS THE FIRST MISHNAH. THE SUCCEEDING BETH DIN RULED THAT ONE WHO BUYS FROM THE SICARICON SHOULD GIVE THE ORIGINAL OWNER A QUARTER. Rab said: This means either a quarter in land or a quarter In money;[22] Samuel said: It means a quarter in land,[23] which is [equivalent to] a third of the money. What is the ground of their difference? — One [Samuel] holds that he buys the land for a quarter less than its value,[24] and the other that he buys the land for a fifth less than its value.[25] An objection was raised: ‘This was the first Mishnah. The succeeding Beth din laid down that one who purchases from the sicaricon gives to the original owner a fourth, the latter having his choice of taking the payment either in land or in money. When is this the case? So long as he is not himself in a position to buy. But if the original owner is in a position to buy, he has the right of pre-emption. Rabbi assembled a Beth din and they decided by vote that if the property had been in the hands of the sicaricon twelve months the first comer had the right to purchase, but he had to give the original owner either a fourth in land or a fourth in money’?[26] — R. Ashi replied: That teaching applies, after the money has come into his hands.[27]

Rab said:

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(1) I.e., apparently, even if she gives him a written deed.
(2) Without a guarantee of reimbursement.
(3) Lit., 'he ate'.
(4) Without him protesting.
(5) In which case the onus probandi would be on the claimant.
(6) I.e., this plea would be valid in the mouth of the first purchaser, and a fortiori in that of the second. Why then was not the rule stated in connection with the first?
(7) On the principle that, to confer usucaption, occupation, even if unchallenged, must be supported by a plea of right. V. B.B. 41a.
(8) On the ground that they were not likely to know whether the first had in fact purchased it or not.
(9) Lit., 'he who comes'.
(10) A debt payable by instalments, v. supra 44a.
(11) If he retains it for twelve months and then sells it to a Jew, the purchaser cannot be quit of the original owner by giving him merely a quarter, but he has to return him the whole, since he has never waived his title. [Trani reverses: The original owner has no claim to the field since he could have redeemed it, or in the case of anparuth recovered it at court (v. infra) and therefore it is to be assumed that he waived his right to the field. This interpretation is more in keeping with the reading, 'the rule of sicaricon does not apply', which varies but slightly from that of the Mishnah, whereas in Rashi's interpretation it is taken in a different sense.]
(12) Apparently, as in the case of the sicaricon.
(13) Before it can be sold to a Jew.
(14) That the purchaser has to restore the land gratis to the original owner.
(15) The owners of which had gone away.
(16) Who were assessed for the land-tax jointly.
(17) I.e., the pro rata share of that field.
(18) After one year.
(19) For the two years' tax which he had paid in advance.
(20) [By making the other owners pay him, just as the purchaser of a field from the sicaricon pays the original owner a quarter; and this is not right, since there is no question of sicaricon here, as no one forced him to pay three years' tax in advance.]
(21) Lit., 'he has put his money on the horn of the deer', an expression used for a risky speculation.
(22) [That is, the quarter of the purchase price is repaid to the original owner either in land or in money (v. Tosaf.).]
(23) A quarter of the field bought.
(24) I.e., he buys land which is worth four manehs for three manehs. Hence a quarter of the value of the land is equal to a third of the purchase price.
(25) I.e., he buys land which is worth five manehs for four manehs. Hence he returns either a fifth of the land which is the equivalent of the quarter of the purchase price, or one maneh.
(26) As stated by Rab, and in contradiction of Samuel.
(27) I.e., it is a fourth of the total sum paid by the purchaser both to the sicaricon and to the owner.

Talmud - Mas. Gittin 59a

I was in that assembly of Rabbi, and my vote was taken first. [How could this be], seeing that we have learnt: 'In [taking decisions on] money matters and cases of cleanness and uncleanness, they commence from the principal [of those present]; in capital cases, they commence from the side'?[1] Rabbah the son of Raba, or as some say R. Hillel the son of R. Wallas said: The voting at the court of Rabbi was different, as in all cases it commenced from the side.[2]

Rabbah the son of Raba, or as some say R. Hillel the son of R. Wallas also said: Between Moses and Rabbi we do not find one who was supreme both in Torah and in worldly affairs.[3] Is that so?

Was there not Joshua? — There was Eleazar [with him]. But there was Eleazar?[4] — There was Phinehas [with him]. But there was Phinehas?[5] — There were the Elders[6] [with him]. But there was Saul?[7] — There was Samuel [with him]. But Samuel died [before Saul]? — We mean, [supreme] all his life. But there was David? — There was Ira the Jairite[8] [with him]. But he died [before David]? — We mean, [supreme] all his life. But there was Solomon? — There was Shimei ben Gera[9] with him. But he killed him? — We mean, all his life. But there was Hezekiah? — There was Shebnah[10] [with him]. But he was killed?[11] — We mean, all his life. But there was Ezra? — There was Nehemiah son of Hachaliah with him. R. Aha son of Raba said: I too say that between Rabbi and R. Ashi there was no-one who was supreme both in Torah and in worldly affairs. Is that so? Was there not Huna b. Nathan [with him]? — We do not count Huna b. Nathan because he used to defer to R. Ashi.

MISHNAH. A DEAF-MUTE CAN HOLD CONVERSATION BY MEANS OF GESTURES.[12] BEN BATHYRA SAYS THAT HE MAY ALSO DO SO BY MEANS OF LIP-MOTIONS,[13] WHERE THE TRANSACTION CONCERNS MOVABLES. THE PURCHASE OR SALE EFFECTED BY YOUNG CHILDREN[14] IN MOVABLES IS VALID.

GEMARA. R. Nahman said: The difference between Ben Bathyra and the Rabbis is only on the question of movables, but where a Get is concerned both agree that gestures [must be used].[15] Surely this is obvious; Ben Bathyra says distinctly ‘MOVABLES’? — You might take this to mean ‘where movable also are concerned’; hence we are told [that this is not so].

THE PURCHASE OR SALE EFFECTED BY YOUNG CHILDREN IN MOVABLES. What is the youngest age [at which they can do so]?[16] — R. Judah pointed out to R. Isaac his son: About six or seven. R. Kahana said: About seven or eight. In a Baraitha it was taught: About nine or ten. There is no contradiction: Each [child] varies according to his intelligence. What is the reason [why this is allowed in the case of movables]? — R. Abba b. Jacob said in the name of R. Johanan: In order that they may procure ordinary necessities.[17]

And he said to him that was over the meltaha. Bring forth vestments for all the worshippers of Baal.[18] What is meltaha?[19] — R. Abba b. Jacob said in the name of R. Johanan: Something which is drawn out thin by fingering[20] [nimlal we-nimtah]. When R. Dimi came [from Palestine] he said in the name of R. Johanan: Bonias son of Nonias[21] sent to Rabbi a sibni and a homes[22] and salsela and malmela.[23] The sibni and homes [folded tip] into the size of a nut and a half, the salsela[24] and malmela into the size of a pistachio-nut[25] and a half. What is malmela? Something which fingering draws out thin.[26]

Up to what point [can advantage be taken of] their mistake? — R. Jonah said in the name of R. Zera: Up to a sixth, as with a grown-up.[27] Abaye inquired: What of the gift of such a one?[28] — R. Yemar replied. His gift is no gift. Mar, the son of R. Ashi, however, said that it is a valid gift. The [members of the Academy] communicated this statement to R. Mordecai with the names reversed.[29] He replied: Go and tell the son of the Master[30] that this does not correspond with the facts. As the Master was once standing with one foot on the ground and one on the steps[31] we asked him, What of his gift, and he answered us, His gift is a valid gift, no matter whether made when he is ill or when he is well, whether it is a big gift or a small one.

MISHNAH. THE FOLLOWING RULES WERE LAID DOWN IN THE INTERESTS OF PEACE.[32] A PRIEST IS CALLED UP FIRST TO READ THE LAW[33] AND AFTER HIM A LEVITE AND THEN A LAY ISRAELITE, IN THE INTERESTS OF PEACE. AN ‘ERUB[34] IS PLACED IN THE ROOM WHERE IT HAS ALWAYS BEEN PLACED,[35] IN THE INTERESTS OF PEACE.[36]

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(1) I.e., from the youngest, as Rab would be, v. Sanh. 32a.
(2) On account of his humility.
(3) Lit., ‘Torah and greatness in one place’.
(4) After the death of Joshua.
(5) After the death of Eleazar.
(6) V. Jud. II, 7.
(7) According to the Talmudic tradition (‘Er. 53a), Saul was well versed in the Torah but he did not expound.
(8) Chief Minister to David, II. Sam. XX, 26; cf. M.K. 16b.
(9) V. II Sam. XIX, 18.
(10) V. Sanh. 26a.
(11) By Sennacherib. For fuller notes v. Sanh. (Sonc. ed.) p. 227.
(12) Lit., ‘Can gesticulate and be gesticulated to’.
(13) Lit., ‘can speak with movements (of the mouth) and be spoken to by movements’. This is not as clear as gesticulations with the fingers.
(14) From six to nine or ten, v. infra 63b.
(15) In spite of the fact that a deaf-mute may betroth by means of lip motions.
(16) Lit., ‘up to what age (are they in this matter regarded as children).’
(17) Lit., ‘for the provision of his livelihood’.
(18) II Kings X, 22. As R. Abba b. Jacob has just been mentioned, another saying recorded by him in the name of R. Johanan is adduced.
(19) E.V. ‘vestry’.
(20) I.e., fine linen.
(21) In ‘Er. 85, the name is given as Bonias b. Bonias.
(22) Head-coverings of fine linen. [Aruch reads: subni and homes subni. For subni cf. Gr. ** (sabanum) a ‘head-cover’; homes is derived from Gr. ** (half). On this reading the meaning is, he sent him a full size subanum and a half size sabanum. V. Krauss, TA I, p. 521.]
(23) Names of various kinds of fine linen.
(24) Cf. Heb. סלסל ‘to turn’, ‘to plait’, hence ‘to weave’.
(25) Rashi: ‘Acorn’.
(26) The word is derived from מלל ‘to crush’, ‘to rub between fingers’. [The reference is to the head-coverings made from fine elastic material worn by the Egyptian and Ethiopian nobility in antiquity. Krauss, op cit. p. 522].
(27) Provided the error is rectified. The rule was that if an article was inadvertently bought or sold for more than a sixth of its value, the transaction could be declared void, v. B.M. 49b.
(28) Since the consideration stated in connection with buying and selling does not apply in the case of a gift.
(29) I.e., making R. Ashi's son say that the gift was no gift.
(30) R. Ashi, whose disciple was R. Mordecai.
(31) Leading up to the Academy.
(32) Lit., ‘on account of ways of peace’.
(33) At the public reading in the synagogue etc.
(34) Lit., ‘mixture’, ‘combination’, a measure introduced to enable tenants in a courtyard to have unrestricted access to the premises of other tenants. This is done by depositing some food in which all have a share in the house of one of the tenants. V. ‘Er. VI-VII.
(35) Lit., ‘an old house’.
(36) Between the residents, each of whom might want to have the erub in his own room.

Talmud - Mas. Gittin 59b

THE PIT WHICH IS NEAREST THE [HEAD OF THE] WATERCOURSE[1] IS FILLED FROM IT FIRST,[2] IN THE INTERESTS OF PEACE. [THE TAKING OF] BEASTS, BIRDS AND FISHES FROM SNARES [SET BY OTHERS] IS RECKONED AS A KIND OF ROBBERY,[3] IN THE INTERESTS OF PEACE. R. JOSE SAYS THAT IT IS ACTUAL ROBBERY.[4] [TO TAKE AWAY] ANYTHING FOUND BY A DEAF-MUTE, AN IDIOT OR A MINOR IS RECKONED AS A

KIND OF ROBBERY,[5] IN THE INTERESTS OF PEACE. R. JOSE SAYS: IT IS ACTUAL ROBBERY. IF A POOR MAN GLEANS ON THE TOP OF AN OLIVE TREE, [TO TAKE THE FRUIT] THAT IS BENEATH HIM[6] IS COUNTED AS A KIND OF ROBBERY.[7] R. JOSE SAYS IT IS ACTUAL ROBBERY. THE POOR OF THE HEATHEN MAY NOT BE PREVENTED FROM GATHERING GLEANINGS,[8] FORGOTTEN SHEAVES,[9] AND THE CORNER OF THE FIELD,[10] IN THE INTERESTS OF PEACE.

GEMARA. [A PRIEST IS CALLED UP FIRST TO READ THE LAW]. What is the warrant for this? — R. Mattenah said: Because Scripture says, And Moses wrote this law and gave it to the priests the sons of Levi.[11] Now do we not know that the priests are the sons of Levi? What it means therefore is that the priests [are first] and then the sons of Levi. R. Isaac Nappaha said: We derive it from this verse, viz., And the priests the sons of Levi shall draw near.[12] Now do we not know that the priests are the sons of Levi? What it signifies therefore is that the priests are first and then the sons of Levi. R. Ashi derived it from this verse, The sons of Amram were Aaron and Moses, and Aaron was separated to sanctify him as most holy.[13] R. Hiyya b. Abba derived it from the following, And thou shalt sanctify him,[14] This implies, [Give him precedence] in every matter which involves sanctification. A Tanna of the school of R. Ishmael taught: ‘And thou shalt sanctify him’, to wit, [give him precedence] in every matter involving sanctification, to open proceedings, to say grace first, and to choose his portion first.[15]

Said Abaye to R. Joseph: Is this rule only [a Rabbinical one] in the interests of peace? It derives from the Torah? — He answered: It does derive from the Torah, but its object is to maintain peace. But the whole of the Law is also for the purpose of promoting peace, as it is written, Her ways are ways of pleasantness and all her paths are peace?[16] — No, said Abaye; we have to understand it in the light of what was said by the Master,[17] as it has been taught: Two persons wait for one another with the dish,[18] but if there are three they need not wait.[19] The one who breaks bread[20] helps himself to the dish[21] first, but if he wishes to pay respect to his teacher or to a superior he may do so.[22] Commenting on this, the Master said: This applies only to the table,[23] but not to the synagogue, since there such deference[24] might lead to quarrelling. R. Mattenah said: What you have said about the synagogue is true only on Sabbaths and Festivals, when there is a large congregation, but not on Mondays and Thursdays.[25] Is that so? Did not R. Huna read as kohen[26] even on Sabbaths and Festivals? — R. Huna was different, since even R. Ammi and R. Assi who were the most distinguished kohanim of Eretz Israel paid deference to him.

Abaye said: We assume the rule to be that if there is no kohen there, the arrangement no longer holds.[27] Abaye further said: We have it on tradition that if there is no Levite there, a kohen reads in his place. Is that so? Has not R. Johanan said that one kohen should not read after another, because this might cast a suspicion on the first,[28] and one Levite should not read after another because this might cast a suspicion on both? — What we meant was that the same kohen [should read in the place of the Levite].

Why just in the case of the Levites should there be a reflection on both of them? Because, [you say,] people will say that one [or other] of them is not a Levite? If one kohen reads after another, they will also say that one of them is not a kohen? — We assume that it is known that the father of the second was a kohen.[29] But in the same way we may say that it is known that the father of the second [Levite] was a Levite?[30] — They might say that he [the father] married a bastard or a nethinah[31] and disqualified his offspring. In the same way they might say that [the father of the second priest] married a divorced woman or a haluzah[32] and disqualified his offspring? — In any case [if he were suspect] would he read as Levi?[33] And who would suspect him? Those who remain in the synagogue?[34] They see [that he counts as one of the seven]![35] — It must be then, those who go out of synagogue.[36]

The Galileans sent to inquire of R. Helbo: After them [the kohen and levi,]

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(1) I.e., nearest the river which feeds the watercourse.
(2) And meanwhile he owner of the pit has the right to dam the watercourse.
(3) And whatever is taken has to be returned to the one who laid the snare, though according to the Torah the latter has not acquired ownership till it has actually come into his possession.
(4) And the culprit becomes disqualified from giving evidence.
(5) Although these cannot legally acquire ownership.
(6) That has fallen as a result of his gleaning.
(7) Although he does not become owner till he has actually handled it.
(8) Lev. XIX, 9ff.
(9) Deut. XXIV, 19.
(10) Lev. XIX, 9ff.
(11) Deut. XXXI, 9.
(12) Deut. XXI, 5.
(13) I Chron. XXIII, 13.
(14) Lev. XXI, 8.
(15) Where he has to divide an article with a lay Israelite.
(16) Prov. III, 17.
(17) His teacher, Rabbah b. Nahmani.
(18) [When one interrupts his eating, the other must wait till he resumes. This was according to the old custom when all guests ate from the same dish.]
(19) If one of them interrupts his eating.
(20) And says the Grace, generally the host.
(21) Lit., ‘stretches forth his hand’.
(22) V. ‘Er. 47a.
(23) Lit., ‘meal’.
(24) By a priest to a teacher or a superior, because it might be misunderstood by other people. Hence here the rule of the Torah requires to be reinforced.
(25) On which days the Torah is also read, v. B.K. 82a.
(26) I.e., first, although only a lay Israelite; v. Glos.
(27) Lit., ‘the bundle is separated,’ i.e., it is not necessary to call up a Levite first; (v. Rashi).
(28) This is explained immediately.
(29) And therefore it is only the first on whom suspicion falls.
(30) And the second Levite was called up not as Levi but as Yisrael. The order of calling up is, Kohen, Levi, Yisrael.
(31) A descendant of the Gibeonites, v. Sanh. (Sonc. ed.) p. 340, n. 12.
(32) V. Glos.
(33) If he was disqualified from being called up first qua kohen, he would not be called up earlier than third.
(34) Till the reading of the law is finished.
(35) And therefore know that the reason why another priest or Levite was called up was not because he was disqualified.
(36) Before the reading of the Law is concluded.

Talmud - Mas. Gittin 60a

who are to be called up? He did not know what to reply, so he went and asked R. Isaac Nappaha. who said to him: After them are called up the scholars who are appointed Parnasim[1] of the community, and after them scholars who are qualified to be appointed Parnaasim of the community, and after them the sons of scholars whose fathers had been appointed Parnasim of the community and after them heads of synagogues[2] and members of the general public.

The Galileans sent to inquire of R. Helbo: Is it permissible to read separate humashin [of each book of the Torah][3] in the synagogue in public? He did not know what to answer, so he inquired in the Beth Hamidrash. They settled the question in the light of what R. Samuel b. Nahmani had said in the name of R. Johanan, that a scroll of the Law which is short of one flap may not be read from. This, however, is not conclusive: in that case something essential was lacking, in this case nothing essential is lacking. Rabbah and R. Joseph both concurred in ruling that separate humashin should not be read from out of respect for the congregation. Rabbah and R. Joseph also concurred in ruling that a scroll containing only the haftarahs[4] should not be read from on Sabbath. What is the reason? Because it is not proper to write [sections of the prophets separately]. Mar son of R. Ashi said: It is forbidden also to carry them on Sabbath, for the reason that they are not fitting to be read from.[5] This, however, is not correct: it is permitted to carry them and it is permitted to read from them. For R. Johanan and R. Simeon b. Lakish used to look through a book of Aggada on Sabbath. Now Aggada is not meant to be written down?[6] We say, however, that since this cannot be dispensed with,[7] when it is a time to work for the Lord, they break thy Torah.[8] Here too, since it cannot be dispensed with,[9] we say, ‘when it is a time to work for the Lord, they break the law.’

Abaye asked Rabbah: Is it permitted to write out a scroll [containing a passage] for a child to learn from? This is a problem alike for one who holds that the Torah was transmitted [to Moses] scroll by scroll,[10] and for one who holds that the Torah was transmitted entire. It is a problem for one who holds that the Torah was transmitted scroll by scroll: since it was transmitted scroll by scroll, may we also write separate scrolls, or do we say that since it has all been joined together it must remain so? It is equally a problem for one who holds that the Torah was transmitted entire: since it was transmitted entire, is it improper to write [separate scrolls], or do we say that since we cannot dispense with this we do write them? — He replied: We do not write. What is the reason? — Because we do not write.[11] He then raised an objection: ‘She[12] also made a tablet of gold on which was written the section of the Sotah’?[13] — R. Simeon b. Lakish had [already] explained in the name of R. Jannai: Only the first letters[14] [of each word were written there]. He then raised [the following objection]: ‘As he[15] writes he looks at the tablet and writes what is written in the tablet’? — Read, ‘He writes according to what is written in the tablet.’ He then raised [the following objection]: ‘As he writes he looks at the tablet and writes what is written in the tablet, If one lay, if one did not lie.’[16] — What is meant is that it was written irregularly.[17] On this point Tannaim differ [as we were taught]: ‘A scroll should not be written for a child to learn from; if, however, it is the intention of the writer to complete it, he may do so. R. Judah says: He may write from Bereshith[18] to [the story of the generation of the] Flood, or in the Priests’ Law[19] up to, And it came to pass on the eighth day.’[20] R. Johanan said in the name of R. Bana'ah: The Torah was transmitted in separate scrolls, as it says, Then said I, Lo I am come, in the roll of the book it is written of me.[21] R. Simeon b. Lakish said: The Torah was transmitted entire, as it says, Take this book of the law.[22] What does the other make of this verse ‘Take etc.’? — This refers to the time after it had been joined together. And what does the other [Resh Lakish] make of the verse, ‘in a roll of the book written of me’? — That is [to indicate] that the whole Torah is called a roll, as it is written, And he said unto me, what seest thou? And I answered, I see a flying roll.[23] Or perhaps [it is called roll] for the reason given by R. Levi, since R. Levi said: Eight sections were given forth[24] on the day on which the Tabernacle was set up. They are: the section of the priests,[25] the section of the Levites,[26] the section of the unclean,[27] the section of the sending of the unclean [out of the camp],[28] the section commencing ‘After the death’,[29]

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(1) [Plur. of Parnas. In Galilee the office of Parnas was connected with the political organization of the town and its title denoted usually a general leader of the people and sometimes also a member of the council. Elsewhere the function of the Parnas was that of a charity overseer. V. Buchler, Sepphoris, pp. 14ff.]

(2) [The archisynagogos, the supreme authority over the synagogues in the town. V. Sot. (Sonc. ed,) p. 202, n. 5.]

(3) Plur. of Humesh, one of the five books of the Pentateuch. In olden days these too were written on scrolls.

(4) The portions from the prophets read after the weekly portion of the Law.

(5) On the principle that what may not be used on Sabbath may not be carried.

(6) According to the rule laid down infra.

(7) As otherwise the Aggada might be forgotten.

(8) Ps. CXIX, 126. E.V. ‘It is a time to work for the Lord, for they have broken thy commandments.’
(9) Since some congregations cannot obtain a complete copy of the Prophets.
(10) I.e., as each section was transmitted to Moses, he wrote it down, and in the end joined all the sections together.
(11) I.e., there is no reason, it is a tradition.
(12) Queen Helena of Adiabene, v. Yoma 37a, and Nazir 119b.
(13) Unfaithful wife. V. Num. V, 11ff. This proves that separate sections may be written.
(14) Lit., ‘Alphabetically’.
(15) The priest who transcribes the section of the Sotah.
(16) This should be, If thou hast gone aside . . . if thou hast nor gone aside. Ibid. 19, 20.
(17) Only the beginnings of the verses were in full and the later words with first letter only.
(18) ‘In the beginning’. Gen. I, 1.
(19) Leviticus.
(20) Lev., IX, 1. I.e., the whole of the rules of the sacrifices, and so with any other complete section.
(21) Ps. XL, 8. According to the Rabbis, this is a reference to the story of Lot and his daughters, to which David here appeals as a proof against his calumniators that his coming was heralded in the Torah, he being descended from Ruth the Moabite.
(22) Deut. XXXI, 26.
(23) Zech. V, 2. This is interpreted by the Rabbis to refer to the Torah.
(24) And written by Moses on separate rolls, before the writing down of the whole Torah.
(25) Lev. XXI, containing the rules of uncleanness for the priests.
(26) Num. VIII, 5-26. The Levites were required for the service of song on that day.
(27) Who would be required to keep the Passover in the second month, Num. IX, 9-14.
(28) Ibid. V, 1-4. This also had to take place before the Tabernacle was set up.
(29) Lev. XVI, dealing with the service of the Day of Atonement, which, as stated in the text, was transmitted immediately after the death of the two sons of Aaron.

Talmud - Mas. Gittin 60b

the section dealing with the drinking of wine [by priests],[1] the section of the lights[2] [of the candlestick], and the section of the red heifer.[3] R. Eleazar said: The greater portion of the Torah is contained in the written Law[4] and only the smaller portion was transmitted orally,[5] as it says, Though I wrote for him the major portion of [the precepts of] my law, they were counted a strange thing.[6] R. Johanan. on the other hand, said that the greater part was transmitted orally and only the smaller part is contained in the written law, as it says, For by the mouth of these words.[7] But what does he make of the words, ‘Though I write for him the major portion of my law’? — This is a rhetorical question: Should I have written for him the major portion of my law? [Even now] is it not accounted a strange thing for him? And what does the other make of the words, ‘For by the mouth of these words’? — That implies that they are difficult to master.[8]

R. Judah b. Nahmani the public orator[9] of R. Simeon b. Lakish discoursed as follows: It is written, Write that these words,[10] and it is written, For according to the mouth of these words.[11] ‘What are we to make of this? — It means: The words which are written thou art not at liberty to say by heart, and the words transmitted orally thou art not at liberty to recite from writing. A Tanna of the school of R. Ishmael taught: [It is written] These:[12] these thou mayest write, but thou mayest not write halachoth.[13] R. Johanan said: God made a covenant with Israel only for the sake of that which was transmitted orally, as it says, For by the mouth of these words I have made a covenant with thee and with Israel.[14]

AN ‘ERUB SHOULD BE PLACED IN THE ROOM WHERE IT HAS ALWAYS BEEN PLACED, IN THE INTERESTS OF PEACE. ‘What is the precise reason?[15] Shall we say it is out of respect for the owner of the room? Then what of the shofar[16] which at first was in the house of Rab Judah and later in that of Rabbah and then in the house of R. Joseph and then in the house of Abaye and finally in the house of Raba? — The real reason is, so as not to excite suspicion.[17]

THE PIT WHICH IS NEAREST THE HEAD OF THE WATERCOURSE. It has been stated: [‘Where fields] adjoin a river, Rab says that the owners lower down have the right to draw off water first, while Samuel says that the owners higher up have the right to draw off water first. So long as the water is allowed to flow, both agree that no problem arises.[18] Where they differ is on the question of damming for the purpose of watering. Samuel says that those above can draw off water first, for they can say ‘We are nearer to the source’, while Rab holds that those below can draw off first, for they can say ‘The river should be allowed to take its natural course’.[19] ‘We have learnt: THE PIT WHICH IS NEAREST TO THE HEAD OF THE WATERCOURSE MAY BE FILLED FROM IT FIRST, IN THE INTERESTS OF PEACE![20] — Samuel explained this on behalf of Rab to refer to a watercourse which passes close to a man's pit.[21] If so, what is the point of the remark? — You might think that the others can say to him, ‘Close up the mouth of your pit so as to take in water only in due proportion’; we are therefore told [that this is not so].

R. Huna b. Tahalifa said: Seeing that the law has not been determined one way or the other, each must fend for himself.[22] R. Shimi b. Ashi presented himself before Abaye with a request that he should give him lessons.[23] He replied: I use my time for my own studies. Then, he said, would your honour teach me at night. He said: I have to do some irrigation. Said the other: I will irrigate for your honour by day, and do you teach me by night. Very well, he said. So he went to the people higher up and said to them: The people lower down have the right to draw water first. Then he went to those lower down and said, The people higher up have the right to draw water first. Meanwhile he had dammed the watercourse and irrigated Abaye's fields. ‘When he presented himself before Abaye, the latter said to him: You have acted on my behalf according to two contradictory authorities;[24] and Abaye would not taste of the produce of that year.

Certain peasants in Be Harmak[25] went and dug a trench from the upper waters of the canal Shanwatha and brought it round [their fields] to the lower waters. Those higher up came and complained to Abaye, saying, They are spoiling our river.[26] He said to them: Deepen the bed a little [before it reaches them]. They said to him: If we do this, our trenches will be dry.[27] He then said to the first set: Leave the river alone.[28]

[THE TAKING OF] BEASTS, BIRDS AND FISHES. If loose or close nets are used,

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(1) Ibid. X, 8-11.

(2) Num. VIII, 1-4.

(3) Ibid. XIX. These last three injunctions came into force as soon as the Tabernacle was set up.

(4) Either explicitly or implicitly.

(5) I.e., as a pure tradition, without any basis in the written law.

(6) Hos. VIII, 12.

(7) Ex. XXXIV, 27. E.V. ‘for by the tenor of these words.’

(8) As if they had not been written down.

(9) The so-called meturgeman. V. Glos.

(10) Ex. XXXIV, 27.

(11) Ibid.

(12) Ibid.

(13) I.e., the Oral Law.

(14) Ex. XXXIV, 27.

(15) I.e., what reason have we for thinking that this promotes peace and good fellowship?

(16) Which was used for announcing the advent of the Sabbath. According to another explanation it was a receptacle in which were placed the contributions sent on behalf of the students of the Yeshibah.

(17) Lest, if people come into the room where they have been used to see the ‘erub and miss it, they will think that the

residents of the court have neglected to make an ‘erub.
(18) All having an equal right to draw at any time.
(19) Till they have drawn off the water they require.
(20) Which seems to support the opinion of Samuel.
(21) So that he could fill it without damming.
(22) Lit., ‘Whoever is stronger (whether by argument or force) prevails.’ V. B.B. 34b.
(23) Lit., ‘let the Master allow’ me to sit for awhile.’
(24) Rab and Samuel.
(25) [Near Pumbeditha. v. Aruch, s.v. בר שניא , in name of Hai Gaon.]
(26) Owing to its longer course, the current of the river was now slower, and the waters above the trench were not carried off and overflowed the adjoining fields.
(27) If there was not much water, the level of the river would fall and it would not flow into the trenches.
(28) Lit., ‘depart from there.’

Talmud - Mas. Gittin 61a

there is no difference of opinion between the Rabbis and R. Jose.[1] Where they differ is when fishhooks and traps[2] [are used].

[TO TAKE AWAY] ANYTHING FOUND BY A DEAF-MUTE, AN IDIOT OR A MINOR . . . R. JOSE SAYS THAT THIS IS ACTUAL ROBBERY. R. Hisda says: [R. Jose means], actual robbery according to the Rabbis.[3] ‘What [then] is the practical effect of R. Jose's ruling? — That the article can be recovered by process of law.[4]

IF A POOR MAN IS GLEANING THE TOP OF AN OLIVE TREE, TO TAKE THE FRUIT BENEATH HIM. A Tanna taught: If the poor man had gathered the fruit and placed it on the ground with his hands, to take it is actual robbery.[5] R. Kahana was once going to Huzal[6] when he saw a man throwing sticks [at a tree] and bringing dates down,[7] so he went and picked up some and ate them. Said the other to him: See, Sir, that I have thrown them down with my own hands. He said to him: You are from the same place as R. Josiah.[8] and he applied to him the verse, The righteous man is the foundation of the world.[9]

THE POOR OF THE HEATHEN ARE NOT PREVENTED FROM GATHERING GLEANINGS, FORGOTTEN SHEAVES AND THE CORNER OF THE FIELD, TO AVOID ILL FEELING. Our Rabbis have taught: ‘We support the poor of the heathen along with the poor of Israel, and visit the sick of the heathen along with the sick of Israel, and bury the poor of the heathen along with the dead of Israel,[10] in the interests of peace’.

MISHNAH. A WOMAN MAY LEND TO ANOTHER WHO IS SUSPECTED OF NOT OBSERVING THE SABBATICAL YEAR[11] A FAN OR A SIEVE OR A HANDMILL OR A STOVE, BUT SHE SHOULD NOT SIFT OR GRIND WITH HER. THE WIFE OF A HABER[12] MAY LEND TO THE WIFE OF AN ‘AM HA-AREZ[12] A FAN OR A SIEVE AND MAY WINNOW AND GRIND AND SIFT WITH HER, BUT ONCE SHE HAS POURED WATER OVER THE FLOUR SHE SHOULD NOT TOUCH ANYTHING WITH HER, BECAUSE IT IS NOT RIGHT TO ASSIST THOSE WHO COMMIT A TRANSGRESSION.[13] ALL THESE RULES[14] WERE LAID DOWN ONLY IN THE INTERESTS OF PEACE. HEATHENS MAY BE ASSISTED[15] IN THE SABBATICAL YEAR BUT NOT ISRAELITES, AND GREETING MAY BE GIVEN TO THEM, IN THE INTERESTS OF PEACE.[16]

GEMARA. Why is the rule in the first case[17] different from that in the second?[18] — Abaye said: Most ‘amme ha-arez separate their tithes.[19] Raba said: [We are speaking] here of the ‘am ha-arez [specified] by R. Meir[20] and the cleanness and uncleanness recognised [only] by the Rabbis,[21] as it has been taught: Who is an ‘am ha-arez? One who does not insist on eating ordinary food in a ritually clean condition.[22] So R. Meir. The Sages, however, say it is one who does not tithe his produce. But since it says in the later clause of the Mishnah, ONCE SHE HAS POURED WATER OVER THE FLOUR SHE SHOULD NOT TOUCH ANYTHING WITH HER,[23] does not this show that the earlier clause[24] is not speaking of cleanness and uncleanness?[25] — Both the earlier and the later clause speak of cleanness and uncleanness, the former, however, of the uncleanness of ordinary food and the latter of that of the hallah.[26]

The following was adduced in contradiction:[27]

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(1) As these, having a hollow, certainly confer ownership on the one who set them, and to take the contents would be robbery.
(2) Made of little joists.
(3) And not according to the Torah.
(4) But the robber is not disqualified from giving evidence, whereas according to the Rabbis the article cannot even be recovered by process of law.
(5) Because by handling it he had acquired possession.
(6) [Between Neahardea and Sura (Obermeyer, op. cit. p. 300).]
(7) So Rashi. Tosaf., however, translates, ‘was throwing down twigs (which he cut of) from a tree, and dates fell off,’ which certainly renders the incident more intelligible.
(8) And have learnt from his teaching.
(9) Prov. X, 25. E.V., ‘the righteous is an everlasting foundation.’
(10) I.e., if there is no-one else to bury them, but not in the same cemetery.
(11) I.e., of keeping produce which has been gathered after the inauguration of the Sabbatical year.
(12) V. Glos.
(13) In the case of the Sabbatical year, by breaking the precept of eating produce of the year; in the case of the ‘am ha-arez, the (Rabbinical) precept of preserving the loaf from uncleanness.
(14) That assistance may be given other than at the time of the actual breaking of the precept.
(15) To what extent is discussed in the Gemara.
(16) V. supra p. 279, n. 1.
(17) Not to grind with one who does not observe the Sabbatical year.
(18) That grinding may be done with the wife of an ‘am ha-arez.
(19) And with the ordinary ‘am ha-arez this would be forbidden.
(20) Whereas the first clause deals with a woman who is suspected in regard to the Sabbatical year.
(21) Being only Rabbinic we need not be so particular.
(22) Even though he is careful about tithes.
(23) Apparently because the water renders the flour capable of becoming unclean.
(24) That she shall not sift etc.
(25) I.e., that the reason is not anything to do with uncleanness, and must therefore be because of tithe.
(26) Lit. , ‘loaf’: ‘the first of the dough’ which had to be offered as a heave-offering. Num. XV, 19. As this was a precept of the Torah, greater care had to be exercised not to assist in its transgression.
(27) Of the statement that it is permitted to help an ‘am ha-arez to grind.

Talmud - Mas. Gittin 61b

‘It is allowed to grind corn and to deposit it with those who eat produce of the Sabbatical year and those who eat their produce in uncleanness,[1] but not for those who eat the produce of the Sabbatical year and for those who eat their produce in uncleanness’? — Abaye replied: ‘We are dealing there with a priest who is suspected of eating terumah in uncleanness, the uncleanness there being of a kind recognised by the Torah. If that is so, how could the food be entrusted to him? ‘Would not that contradict the following: ‘Terumah may be entrusted to an Israelite ‘am ha-arez but not to a priest ‘am ha-arez, because he might take liberties with it?’[2] — R. Elai said: ‘We are speaking here of [produce in] an earthenware vessel with a close fitting cover.[3] But is there not a danger that his wife might move it while niddah?[4] — R. Jeremiah replied: [Even so] there is no contradiction: in the one case we speak of produce which has become capable of receiving uncleanness,[5] in the other of produce which is not so capable.[6] A further contradiction was raised:[7] 'If a man takes wheat to a miller who is a Cuthean[8] or a heathen, it is presumed to remain in its original condition[9] as regards tithe or Sabbatical produce, but not as regards uncleanness'?[10] — 'What refutation is there here? Have you not just explained that the reference is to produce which has not been rendered capable of receiving uncleanness?[11] 'What then was the point of the question? — Because the questioner wanted to adduce another contradiction[12] [as follows]; [You have just said], It is presumed to have remained in its original condition as regards tithe and Sabbatical year, that is to say, we have no fear of its having been changed. This seems to contradict the following: If a man [a haber] gives produce to his mother-in-law [the wife of an 'am ha-arez],[13] he tithes what he gives to her[14] and what he takes back from her, because she is suspected of changing anything that becomes spoilt?[15] — There the reason is as was stated: 'R. Judah said; She is anxious for the well-being of her daughter and she is ashamed for her son-in-law.' But in general are we not afraid [of food being changed]? Have we not learnt:[16] 'If a student gives produce to the mistress of his boarding house, he tithes what he gives to her and what he takes back from her, because she is likely to change it'? — There she finds an excuse for herself, saying. Let the student eat hot and I will eat cold.[17] And still we ask, in general are we not afraid? Has it not been taught: 'The wife of a haber can grind along with the wife of an 'am ha-arez, when she is ritually unclean,[18] but not when she is ritually clean.[19] R. Simeon b. Eleazar says; Even when she is ritually unclean she should not grind with her, because the other

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(1) We do not fear lest they exchange it for some produce of their own or defile it by touching it.

(2) Being used to eating terumah.

(3) Which does not become unclean by touching, v. Hul. 24b.

(4) V. Glos. This is known as hesset, a defilement communicated by moving an object without actually touching it.

(5) By means of a liquid, v. Lev. XI, 38.

(6) And it is this which may be entrusted to a priest who is suspected of eating terumah in uncleanness.

(7) V. Demai III, 4.

(8) V. Glos.

(9) I.e., not to have been exchanged or mixed.

(10) I.e., it may have been touched by the miller, whereas in the first Baraitha it is permitted.

(11) I.e., grain on which water has not yet fallen.

(12) I.e., not on the point of uncleanness but of tithe etc.

(13) To prepare a dish for him.

(14) So that she should not through him eat something untithed.

(15) Demai III, 6.

(16) [This is no Mishnah, and preference is to be given to והתניא in MS.M.]

(17) Al. 'Is the student to eat hot and I cold?' V. Tosaf.

(18) Because she is not likely to put anything in her mouth.

(19) Because being clean she might inadvertently put untithed food in her mouth.

is likely to give her something which she may put in her mouth.’ Seeing now that she [the wife of the ‘am ha-arez] is capable of stealing,[1] will she not also exchange? — R. Joseph said; There too she finds an excuse [for stealing] by saying, The ox eats of his threshing.[2]

R. Jose b. ha-Meshullam testified[3] in the name of R. Johanan his brother who had it from R. Eleazar b. Hisma, that a hallah[4] is not to be set aside [by a baker haber] for an ‘am ha-arez in ritual purity,[5] but [the baker] can make his ordinary dough[6] in ritual purity and take from it enough for a hallah and put it in a double basket[7] or on a tray,[8] and when the am ha-arez comes he can take both and [the baker] need not be afraid [that any harm will ensue].[9] Again, [olive pressers who are kaberim] should not set aside terumah from his olives in ritual purity,[10] but they can prepare his olives in ritual purity[11] and take from them sufficient for terumah, and put it in the vessels of a haber, and when the am ha-arez comes he can take both of them, and the others need not fear [lest harm should ensue]. Now what is the reason [for these concessions]? — R. Johanan said; To enable the baker and the olive presser to earn a livelihood. And both statements were necessary. For if I had been given only the one about the baker, I might have said that the reason [why the concession was made in his case] is because he does not earn much, and that this does not apply to an olive presser who gets a good wage. And again, if I had been given only the statement about the olive presser. I might have said that the reason is because he has not constant employment, and that this does not apply to a baker who has constant employment. Hence both were necessary.

The Master said above: ‘He takes from it enough for a hallah and puts it in an inverted basket or on a tray. and when the ‘am ha-arez comes he can take both and the other need not be afraid.’ But he surely ought to be afraid that he has touched it? — We suppose that we say to him, Mind you don't touch it or it will become tebel[12] again. But he must be afraid that he will not listen to him? — Seeing that his whole object is to keep it right,[13] will he not then listen to him?

The Master said above; ‘He can take from it sufficient for terumah and put it in the vessels of a haber, and when the ‘am ha-arez comes, he can take both, and the other need not fear.’ But surely he ought to be afraid lest he has touched it? In the other case, it is true, [we can find a reason why he should not], because it has some distinguishing mark,[14] but here what distinguishing mark is there? — That he puts it in a vessel made of baked ordure, of stone, or of earth. If that is so, why does it say. ‘in vessels of a haber’? Those of an ‘am ha-arez would do as well? — That in fact is what is meant; vessels of an ‘am ha-arez which a haber can also use.[15]

ASSISTANCE MAY BE GIVEN TO HEATHENS IN THE SABBATICAL YEAR. Assistance may be given to them? Has not R. Dimi b. Shishna said in the name of Rab; It is not right to hoe with heathens in the Sabbatical year nor to give a double greeting[16] to heathens? — It is quite correct; what is meant is, just to say to them, Ahzuku![17] Thus R. Judah used to say to them, Ahzuku! R. Shesheth used to say to them, Asharta![18]

‘Nor to give double greeting to heathens.’ R. Hisda used to give them greeting first. R. Kahana used to say; Peace [to you,] sir. GREETING MAY BE GIVEN TO THEM, IN THE INTERESTS OF PEACE. Seeing that we may encourage them at their work, do we need to be told that we may give them greeting? — R. Yeba said; The rule had to be stated only for their feast days. For it has been taught; ‘A man should not enter the house of a heathen on his feast day, nor give him greeting.[19] Should he meet him in the street, he should greet him in a mumbling tone and with downcast head.’ As R. Huna and R. Hisda were once sitting together. Geniba[20] began to pass by. Said one to the other, Let us rise before him, since he is a learned man.[21] The other replied; Shall we rise before one who is quarrelsome? At this point he came up to them and said, Peace to you, kings, peace to you, kings. They said to him; Whence do you learn that the Rabbis are called kings? He replied; Because it is written, By me [wisdom][22] kings reign.[23] They then said; And whence do you learn that double greeting is to be given to kings? He replied; From what Rab Judah said in the name of Rab; 'How do we know that double greeting should be given to a king? Because it says, Then the spirit came upon Amasai who was chief of the thirty etc.[24] They said to him; Would you care for a bite with us? He replied; Thus said Rab Judah in the name of Rab; It is forbidden to a man to taste anything until he has given food to his beast, as it says [first]. And I will give grass in thy field for thy cattle, and then, Thou shalt eat and be full.[25] [

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(1) By giving her something without her husband's permission.

(2) V. Deut. XXV, 4.

(3) V. supra 55a.

(4) V. supra p. 117, n. 6.

(5) Since the priest relying on the haber may think that it is clean, whereas the whole of the dough has already become unclean in the hands of the 'am ha-arez.

(6) Which does not become capable of ritual uncleanness till water has been poured on it, v. Lev. XI, 38.

(7) I.e., a basket with a horizontal partition in the middle and open at both ends.

(8) But not in the kind of receptacle ordinarily used for this purpose. V. infra.

(9) I.e., it will be quite safe for the priest to eat it.

(10) Lest the priest relying on them should think that they are clean, whereas they may have already become unclean through the touch of the 'am ha-arez.

(11) Before they were passed through the vat and so were not yet capable of becoming unclean.

(12) Produce from which the dues have not yet been separated. V. Glos.

(13) To have the hallah separated in such a way that it will be fit for the priest.

(14) Being put in an exceptional kind of vessel, so that he is likely to remember our warning.

(15) I.e., vessels which are not capable of receiving uncleanness.

(16) I.e. , 'Peace, Peace.'

(17) Lit., 'be strong.' or 'be assisted' — a gesture of encouragement.

(18) Lit., 'firmness', 'strength'.

(19) Lest he might take it a; a compliment to his god.

(20) V. supra. p. 7, where it is stated that Geniba used always to annoy Mar 'Ukba.

(21) Lit., 'son of the law'.

(22) I.e., the Torah.

(23) Prov. VIII, 15.

(24) I Chron. XII, 19. The verse continues, Peace, peace be upon thee.

(25) Deut. XI, 15.

Talmud - Mas. Gittin 62b

CHAPTER VI

MISHNAH. IF A MAN SAYS [TO ANOTHER], RECEIVE THIS GET ON BEHALF OF MY WIFE, OR, CONVEY THIS GET TO MY WIFE, IF HE DESIRES TO RETRACT [BEFORE THE WIFE RECEIVES IT] HE MAY DO SO. IF A WOMAN SAYS [TO A MAN], RECEIVE MY GET ON MY BEHALF, [AND HE DOES SO]. IF [THE HUSBAND] DESIRES TO RETRACT HE IS NOT AT LIBERTY TO DO SO.[1] CONSEQUENTLY [WHAT IS THE HUSBAND TO DO?][2] IF THE HUSBAND SAID TO HIM, I AM NOT AGREEABLE THAT YOU SHOULD RECEIVE IT ON HER BEHALF, BUT CONVEY IT AND GIVE IT TO HER, THEN IF HE DESIRES TO RETRACT HE MAY DO SO.[3] R. SIMEON B. GAMALIEL SAYS: EVEN IF THE WIFE SAYS [MERELY]. TAKE FOR ME,[4] [AND HE DOES SO]. HE IS NOT AT LIBERTY TO RETRACT.

GEMARA. R. Aha the son of R. 'Awia said to R. Ashi: The reason why [in the first case the husband may retract] is because she [the wife] did not make [the man] her agent for receiving [the

Get], from which we infer that if she had made him the agent for receiving [the Get], the husband would not be at liberty to retract. This would show that ‘convey’ is equivalent to ‘take possession of’ [would it not]?[5] — No; I may still maintain that ‘convey’ is not equivalent to ‘take possession’,[6] and nevertheless it was necessary to specify the case where the husband said, Receive this Get on behalf of my wife.[7] For I might have argued that since the husband is not competent to make him an agent for receiving the Get,[8] therefore even if the Get reached her hand it would not be valid, and we are therefore told that in saying ‘receive’ he also implied ‘and convey’.

We learnt: IF A WOMAN SAYS, RECEIVE A GET ON MY BEHALF, IF HE DESIRES TO RETRACT HE IS NOT AT LIBERTY TO DO SO. Does not this apply equally whether the husband [on handing the Get] used the expression of ‘receiving’ or of ‘conveying’?[9] — No; only if he said ‘receive’.[10] Come and hear: CONSEQUENTLY IF THE HUSBAND SAID TO HIM, I AM NOT AGREEABLE THAT YOU SHOULD RECEIVE IT ON HER BEHALF, BUT HERE, CONVEY IT AND GIVE IT TO HER, THEN IF HE DESIRES TO RETRACT HE MAY DO SO. The reason is, is it not, that he Says. ‘I am not agreeable’, but if he does not say, ‘I am not agreeable’. then if he desires to retract he may not do so, which would show that ‘convey’ ‘ is equivalent to ‘take possession’? — Perhaps we should read, Here you are.[11]

It goes without saying that a man may be an agent for conveying the Get, seeing that a husband may himself convey a Get to his wife.[12] A woman may [similarly] be an agent for receiving, seeing that a woman receives a Get from the hand of her husband. What of a man becoming agent for receiving and a woman agent for conveying? — Come and hear: IF A MAN SAYS, RECEIVE THIS GET ON BEHALF OF MY WIFE OR CONVEY THIS GET TO MY WIFE, IF HE DESIRES TO RETRACT HE MAY DO SO. IF A WOMAN SAYS, RECEIVE MY GET ON MY BEHALF, IF HE DESIRES TO RETRACT HE MAY NOT DO SO. Does not this mean, where there is the same agent for both, which would show that the one who is qualified for conveying is also qualified for receiving? — No; we speak of two agents.

Come and hear; CONSEQUENTLY IF THE HUSBAND SAID TO HIM, I AM NOT AGREEABLE THAT YOU SHOULD RECEIVE IT ON HER BEHALF, BUT CONVEY IT AND GIVE IT TO HER, THEN IF HE DESIRES TO RETRACT HE MAY DO SO. Now here he says this to the same agent [as she appointed], and this shows that he is qualified to receive as to convey. We can conclude from this that a man is qualified to receive, [as is also natural,] since a father may receive a Get on behalf of his minor daughter.[13] Whether a woman may become an agent for conveying is still a question. R. Mari said: Come and hear: ‘Even the women whose word cannot be taken if they report her husband to be dead can be trusted to bring her her Get,.[14] ‘and there they are agents for conveying. R. Ashi said: We could infer the same from the last clause [of that Mishnah], which runs, ‘A woman herself may bring her Get, only she is required to declare, in my presence it was written and in my presence it was signed;’ and we explained this to mean that she conveyed it.[15]

It has been stated: ‘[If a woman says to her agent]. Bring me my Get, and [he says to the husband]. Your wife said to me, Receive my Get on my behalf, and the husband said, Here you are as she said,’ in such a case R. Nahman said in the name of Rabbah b. Abbahu, who had it from Rab, that even when the Get reached her hand it would not be valid.[16] From this we should conclude that the husband was relying on his [the agent's] word,[17] since if he was relying on the wife's word,[18] she would at any rate be divorced when the Get reached her hand. Said R. Ashi: Is that so?

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(1) The woman becomes divorced as soon as the Get came into the hands of her agent.

(2) In the latter case if he wants to retain the possibility of retracting.

(3) Because now he is no longer the wife's agent but his agent.

(4) Instead of ‘receive for me’.

(5) For otherwise, the Get would still belong to the husband and he could withdraw it so long as it had not reached the wife's hand, v. supra 14a.

(6) And therefore the bearer is the husband's agent and not the wife's, and the husband may retract in any case.

(7) From which we should naturally infer that the case dealt with is one where the wife did not make him her agent.

(8) On the principle that a disadvantage cannot be imposed on a man without his consent.

(9) And if he used the latter, this would show that ‘convey’ is equivalent to ‘take possession of’.

(10) In which case the bearer still remains the agent of the wife.

(11) הילך , instead of הולך ‘take’. By saying ‘here you are’, he accepts the man as the agent of the wife.

(12) And whatever a man may do his agent may do for him.

(13) V. Keth. 46b.

(14) Supra 24b.

(15) Ibid. and 5a.

(16) Because the wife had not made him an agent for receiving the Get and the husband had not made him an agent for taking the Get.

(17) I.e., he really supposed the wife to have told the agent to receive the Get.

(18) That is to say, if he had allowed for the possibility of his wife having told the agent to bring the Get, and had accordingly made him his agent for conveying it.

Talmud - Mas. Gittin 63a

I grant you that if the statement had been in the reverse form, thus, ‘[If the wife said]. Receive my Get on my behalf, and [he said], Your wife told me to bring it, and the husband says. Here you are as she said,’ and if R. Nahman had said in the name of Rabbah b. Abbuha in the name Rab, ‘Once the Get comes into his hand, she is divorced,’ then I could infer that he relies upon her word;[1] or again, if he had said, ‘[Once the Get reaches] her hand [she is divorced]’, I could have inferred that the husband relies upon the agent's word.[2] As it is, however, the reason why [the Get is not valid] is because the agent completely nullified his agency by saying ‘I am willing to be an agent for receiving and not for conveying’.[3]

R. Huna b. Hiyya said [in refutation of R. Nahman]: Come and hear: IF A MAN SAYS, RECEIVE THIS GET ON BEHALF OF MY WIFE, OR, CONVEY THIS GET TO MY WIFE, IF HE DESIRES TO RETRACT HE MAY DO SO. The reason [why the Get is not effective] is that he desires to do so; if he does not [and lets the Get reach her], the Get is valid. Now why should this be, seeing that the husband is not competent to appoint an agent for receiving the Get? The reason must be because we say that once he has made up his mind to divorce her, he says to himself, Let her be divorced in any way possible.[4] So here also, since he made up his mind to divorce her, he says to himself, Let her be divorced in any way possible?[5] — Are the two cases comparable? In that case [of the Mishnah], a man knows that he cannot appoint an agent for receiving the Get and decides to give it to the agent for the purpose of conveying; but here he gives it under a misapprehension.[6]

Raba said: Come and hear: If a girl under age said, Receive my Get on my behalf, it is not effective until it reaches her hand.[7] Now at any rate [according to this] when it reaches her hand she is divorced, and yet why should this be, seeing that the husband did not make him an agent for conveying?[8] We say however, that since the husband made up his mind to divorce her, he says to himself, Let her be divorced in any way possible;[9] so here, since he made up his mind to divorce her, he says, Let her be divorced in any way possible?[10] — But are these two cases comparable? There, a man knows that a minor cannot appoint an agent, and therefore he decides to give it to the agent for the purpose of being conveyed on his own behalf; but here he gives it under a misapprehension.

Come and hear: [If a woman says to an agent], Bring me my Get, and [the agent says to the husband], Your wife told me to receive her Get for her, or if the wife says, Receive my Get for me, and he says, Your wife told me to bring her Get, and the husband says to him, Convey and give it to her, take possession on her behalf and receive on her behalf, if he desires to retract he may do so, but once the Get reaches her hand she is divorced.[11] Now does not here the husband's saying ‘receive’ correspond to the agent's saying ‘receive’, and the husband's saying ‘convey’ to the agent's saying ‘convey’?[12] — No; ‘receive’ corresponds to ‘bring’ and convey’ to ‘receive’.[13] If ‘receive corresponds to ‘bring’, then [if the husband relies on the wife's word] the Get should be effective as soon as it comes into the agent's hand;[14] [and since this is not so] it shows that he relies on his word?[15] — How can you say so? In that case[16] he says to him, ‘Here you are, as she said;[17] in this case does he say, ‘Here you are as she said?[18]

Our Rabbis taught: [If a woman says to an agent], Receive my Get for me, and [he says to the husband], Your wife told me to receive her Get for her, and the husband says, Convey it and give it to her, take possession of it on her behalf, or receive it on her behalf, if he desires to retract he is not at liberty to do so.[19] R. Nathan says: If he says, Convey and give it to her, he can retract,[20] but if he says, Take possession of it and receive it for her, he cannot retract. Rabbi says, [If he uses] any of these formulas he cannot retract, but if he says, I am not agreeable that you should receive for her, but convey it and give it to her, then if he desires to retract he may do so.[21] Does not Rabbi merely repeat the first Tanna?[22] — If you like I can say that [he did so because] he desired to add the clause about not being agreeable, or if you like I can say that the repetition is meant to inform us that the first Tanna is Rabbi.

The question was raised: According to R. Nathan, is ‘here you are’ equivalent to ‘take possession’ or not? Come and hear: IF A MAN SAYS, RECEIVE THIS GET ON BEHALF OF MY WIFE OR CONVEY THIS GET TO MY WIFE, IF HE DESIRES TO RETRACT HE MAY DO SO. IF A WOMAN SAYS, RECEIVE A GET ON MY BEHALF, IF HE DESIRES TO RETRACT HE IS NOT AT LIBERTY TO DO SO.

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(1) Because if he had taken the agent's word that she told him to bring it, she would not be divorced even when it came into her hand.

(2) And so makes him an agent for conveying it.

(3) And so when the husband says, ‘here you are as she said,’ he cannot become his agent [or conveying either. For fuller notes v. B.M. (Sonc. ed.) pp. 440ff

(4) And when he says ‘receive’ he implies also ‘convey’.

(5) And similarly, once the Get has reached her, he makes the wife's agent retrospectively his agent for conveying.

(6) Thinking that the wife has appointed him her agent for receiving when she has not.

(7) V. infra 65a.

(8) And the girl being a minor has no power to make him an agent for receiving.

(9) I.e., he makes him his agent nor conveying retrospectively.

(10) This refutes R. Nahman.

(11) V. Tosef. Git. IV.

(12) [I.e., we suppose that if the agent says he was appointed to receive, the husband says to him ‘receive’, and if he says he was appointed to bring, the husband says to him ‘convey’. The fact that in the former case when the Get reaches her hand she is divorced show's that though the woman had appointed him to bring it to her, when the husband says receive’ this is equivalent to ‘convey’; all the more so then is the divorce valid if he says, ‘here it is as she said’. This refutes R. Nahman.]

(13) And we suppose the husband to be relying on the wife's word, who made him in the first case an agent for receiving and in the second an agent for bringing, and for this reason the woman becomes divorced at least when the Get reaches her hand.

(14) Because the wife made him agent for receiving.

(15) [That he was made by the woman an agent for bringing and when the husband says ‘receive’ he means ‘receive and convey’, as inferred supra in the hypothetical case posited by R. Ashi.]

(16) The case posited by R. Ashi.

(17) [Which on the statement of the agent makes him an agent for conveying, and should we decide, in that case, that the woman is divorced on receiving the Get, this will prove that he relies on the agent's word.]

(18) [The husband merely says ‘take possession on her behalf’ or receive on her behalf’, which can only be taken in conjunction with the statement of the agent who said that he was appointed agent for bringing. Had, however, the husband said ‘here you are as she said’, the divorce, it might indeed be said, would become immediately effective, the husband relying on her word.]
(19) ‘Convey’ being equivalent to ‘take possession of’, so that as soon as it comes into the agent's hand it is effective.
(20) ‘Convey’ not being regarded as equivalent to ‘take possession of’.
(21) V. Tosef. Git. IV.
(22) In the first part of his statement.

Talmud - Mas. Gittin 63b

Does not this mean, if he said, ‘here you are’,[1] the opinion recorded being that of R. Nathan?[2] — No; It means, if he said ‘convey’,[3] the opinion recorded being that of Rabbi.

Come and hear: CONSEQUENTLY IF THE HUSBAND SAID, I AM NOT AGREEABLE THAT YOU SHOULD RECEIVE IT FOR HER, BUT CONVEY IT AND GIVE IT TO HER, THEN IF HE DESIRES TO RETRACT HE MAY DO SO. Now the reason why he may retract is because he said, I am not agreeable etc., and if he did not say so he may not retract. Does not this mean, after he says, ‘Here you are , the opinion recorded being that of R. Nathan? — No; it means [even] after he says, ‘Convey’, the opinion recorded being that of Rabbi.

Come and hear: ‘[If a man says], Convey this Get to my wife, if he desires to retract he may do so, but if he says, Here is[4] this Get for my wife, if he desires to retract he may not do so.’ What authority do you find for the view that if the husband says ‘convey’ he is at liberty to retract? R. Nathan; and he lays down that if the husband says ‘here you are’ he is not at liberty to retract. This proves conclusively that ‘here you are’ is [according to R. Nathan][5] equivalent to ‘take possession’.

It has been stated: [If the wife says], Receive my Get for me, and [the agent says to the husband], Your wife told me to receive her Get for her, and the husband says, Convey and give it to her, R. Abba said in the name of R. Huna, who had it from Rab, that he becomes both her agent and his agent, and [in case of need][6] she must perform halizah.[7] This would seem to show that Rab was in doubt whether ‘convey’ is equivalent to ‘take possession’ or not.[8] Yet how can this be, seeing that it has been stated: [If a man says], Take this maneh to so-and-so to whom I owe it, Rab says that he is responsible for it [till it is delivered][9] and he cannot retract?[10] — [There is still a doubt, but] in that case the doubt concerns the ownership of money, and Rab takes the more lenient view,[11] in this case it concerns a religious offence[12] and he takes the more stringent view.

Rab said: A woman cannot appoint an agent to receive her Get from the agent of her husband. R. Haninah, however, said that a woman may appoint an agent to receive her Get from the agent of her husband. What is Rab's reason? — If you like I can say, to avoid showing contempt for the husband, and if you like I can say, because of [the resemblance of the agent to] a courtyard which comes [in to her possession] subsequently.[13] What difference does it make in practice which reason we adopt? — The difference arises in the case where she had appointed her agent first.[14]

A certain man sent a Get to his wife, and the bearer found her kneading [flour]. He said to her, Here is your Get. She replied You take it.[15] R. Nahman thereupon said: If [I knew that] R. Haninah is right. I would count this a valid Get. Said Raba to him: And even if R. Haninah is right, would you count this valid? There has been no time for the agent to return to the husband [and report]?[16] They sent to consult R. Ammi,[17] and he replied: The husband's commission has not been performed.[18] R. Hiyya b. Abba, however, said: We must consider the matter. They again sent to consult R. Hiyya b. Abba.[17] He said: How many more times will they send? Just as they are unable to decide, so we are unable to decide. The danger of forbidden relationship,[19] is involved, and wherever a sex prohibition is involved, the woman must perform halizah.[20] In a case which actually happened, R. Isaac b. Samuel b. Martha declared both a new Get and halizah to be required. [Why] both? — A Get [if she desired to marry while the husband] was alive, and halizah [if she wanted to marry] after his death.

There was a certain woman named Nafa'atha, and the witnesses to the Get[21] wrote it Tafa'atha. R. Isaac b. Samuel b. Martha thereupon said in the name of Rab: The witnesses have discharged their commission.[22] Rabbah strongly demurred to this, saying. Did the husband say to them, Write out a piece of clay and give it to her? No, said Rabbah. [This is not so,] but in truth, if the witnesses had written a proper Get and it had been lost [before being given to her], then we should say that they had discharged their commission. R. Nahman strongly demurred to this, saying: Did he say, Write it and put it in your bag?[23] The fact is, said R. Nahman, that the Get can be written and given a hundred times [till it comes right].

Raba inquired of R. Nahman: If a man said [to the witnesses], Write [the Get] and give it to a bearer, how do we decide? Have they been discharged,[24] or did he merely want to save them trouble? Rabina asked R. Ashi: Suppose he adds the words, ‘And let him take it,’ what do we say? — These questions can stand over.

R. SIMEON B. GAMALIEL SAID: EVEN IF THE WIFE SAYS [MERELY] ‘TAKE FOR ME’ [AND HE DOES SO], HE IS NOT AT LIBERTY TO RETRACT.

Our Rabbis taught: ‘Take for me, carry for me,’ ‘keep for me’[25] are all equivalent to receive.

MISHNAH. A WOMAN WHO SAYS [TO AN AGENT] ‘RECEIVE MY GET FOR ME’ REQUIRES TWO SETS OF WITNESSES, TWO [WITNESSES] TO SAY, IN OUR PRESENCE SHE TOLD HIM, AND TWO TO SAY, IN OUR PRESENCE HE RECEIVED [THE GET] AND TORE IT.[26] IT IS IMMATERIAL IF THE FIRST SET ARE IDENTICAL WITH THE LAST

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(1) הילך .

(2) Who would accordingly hold that ‘here you are’ is equivalent to ‘take possession’.

(3) הולך .

(4) Lit., ‘here you are’.

(5) And a plus forte raison according to Rabbi.

(6) I.e., if the husband dies childless before she receives the Get.

(7) But must not marry the husband's brother, because it is doubtful whether she was not divorced before the husband's death, (v. Glos.).

(8) If it is equivalent to ‘take possession’, the man is still agent for the wife, and the Get is valid as soon as it comes into his hands.

(9) Because the creditor did not tell him to send it.

(10) Which would show that ‘convey’ is equivalent to ‘take possession’; v. supra 14a.

(11) I.e., the one more favourable to the recipient.

(12) The possibility of a man marrying the divorced wife of his brother.

(13) After the Get had been placed in it. A Get must either be given into a woman's hand or placed in property belonging to her, (v. infra 77a). If the husband threw the Get into a courtyard not belonging to the wife and it subsequently came into her possession while the Get was still there, the Get is not valid. There is a certain analogy between this and the wife appointing an agent to receive from the husband's agent, so that if the latter were permitted, people might think that the former was also permitted. v. supra p. 95, n. 9,

(14) There is now no analogy with the courtyard. but the reason of contempt still applies.

(15) Lit., ‘let it be in your hand’ , i.e., she appointed him her agent for receiving it.

(16) V. supra p. 95, n. 3, And consequently the second agency nullifies the first.

(17) In Palestine.

(18) Lit., ‘the agency has not returned to the husband’.

(19) Viz,, of a man marrying his brother's divorcee.
(20) And not marry the husband's brother.
(21) Who were commissioned to write and deliver it.
(22) After delivering it to her, and have no power to make out a new, and proper Get.
(23) So that it should not be lost.
(24) And if the bearer loses it they must not write another,
(25) Lit., 'let it be for me in thy hand.'
(26) The point of this is discussed in the Gemara.

Talmud - Mas. Gittin 64a

OR IF THERE WAS ONE MAN IN THE FIRST SET AND ONE IN THE SECOND AND THE SAME MAN JOINED WITH BOTH OF THEM.

GEMARA. It has been stated: If the husband says, [I gave you the Get] in deposit, and the depository says, [You gave it to me] to divorce [your wife with], which is to be believed? — R. Huna said: The husband's word is to be taken. R. Hisda said: The depository's word is to be taken. R. Huna said the husband's word is to be taken, because if he had meant to give it to him for divorcing the wife, he would have given it to the wife herself.[1] R. Hisda said the depository's word is to be taken, because we see that the husband trusted him.

R. Abba raised an objection against R. Huna from the following: 'The admission of the litigant is equivalent to the testimony of a hundred witnesses, and the depository is more credible than either litigant. If, for instance, one says one thing and one another, the depository's word is to be taken'?[2] — Money is different, because the claim to it can be waived.[3] But it is taught [in the passage cited], 'And so with gittin'?[4] — This refers to money gittin.[5] But it is taught [in the passage cited]: 'And so with shetaroth'?[6] — Were they both taught together?[7]

We have learnt: A WOMAN WHO SAYS [TO AN AGENT] 'RECEIVE MY GET FOR ME' REQUIRES TWO SETS OF WITNESSES, TWO TO SAY, IN OUR PRESENCE SHE TOLD HIM, AND TWO TO SAY, IN OUR PRESENCE HE RECEIVED AND TORE IT. Why so? Cannot we take the word of the depository?[8] — Does he produce the Get that we should take his word?[9] This explains why witnesses are required for the telling. Why are they required for the receiving?[10] Rabbah replied: Who is the authority for this? R. Eleazar, who held that the witnesses to the delivery [of the Get] make it effective. Why must he tear it? — R. Judah answered in the name of Rab: This was taught in the time of the persecution.[11] Rabbah said: R. Huna admits that if the wife says, The depository told me that he gave it to him to divorce with, her word is to be taken. [How can this be?] Is there any statement which we would not accept from the depository himself and yet we would accept from her on his behalf? — What it should be is: If she said, in my presence he gave it to him to divorce me with, her word is taken, because if she liked she could have said that he gave it to her direct.[12]

If the husband says [that he gave it to the depository] to divorce with, and the depository says [it was given] to divorce with, and the wife says, He gave it to me but it has been lost, R. Johanan says: This is a statement bearing on forbidden relationships, and a statement bearing on a forbidden relationship must be substantiated by not less than two witnesses. But why so? Why not believe the depository? — Is he able to produce the Get that we should believe him? Then let us believe the husband, in accordance with what R. Hiyya b. Abin said in the name of R. Johanan: If a husband says, I have divorced my wife, his word can be taken? — Does he here say, I have divorced her?[13] Then let us say that the presumption is that the agent carries out his commission, since R. Isaac has said: If a man says to his agent, Go and betroth for me any woman you please,[14] and the agent dies, the man is forbidden to marry any woman in the world,[15] because the presumption is that the agent carries out his commission?

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(1) We presume that they are all in the same town.

(2) Kid. 65b; B.M. 3b.

(3) And by trusting the depository, we maintain that the claimant waived his claim to the money, since if he likes he can make a present of the money to whomsoever be wishes, but he cannot make a present of his wife to another man.

(4) Which usually means bills of divorce,

(5) V. Glos. s.v. Get,

(6) Another word for documents', Since these must refer to money, it would seem that the gittin mentioned above do not refer to money.

(7) They are separate Baraithas and the two words are used by two different authorities, but in the same sense.

(8) I.e., the agent.

(9) Having torn the Get (v. infra) he is no longer in a position to deliver it to her and therefore his word is not to be taken.

(10) Seeing that he himself produces the Get in our presence.

(11) Lit 'the decree', forbidding the Jews to practise their religion. [V. Tosef. Keth. IX. Jew's were deprived of the right to draft their own legal documents after the War 70, and also during the Hadrianic persecutions. V. Blau, L. Ehescheidung, II pp. 58ff.]

(12) And the rule is that we believe a plea where a stronger one could equally well have been adduced without fear of contradiction.

(13) He appointed an agent to hand it over to her.

(14) Lit,, 'unspecified'.

(15) Lest she should be of a prohibited degree of consanguinity with the woman whom the agent betrothed, v. Nazir 12a.

Talmud - Mas. Gittin 64b

— That is so where [it has the effect of making the law] more stringent, but not where [it makes it] more lenient.[1] Then let us believe the woman herself, in accordance with R. Hamnuna; for R. Hamnuna said: If a woman says to her husband, You have divorced me, her word is taken, since the presumption is that a woman would not have the impudence to say this in the face of her husband [if it were not true]? — That is so where she has no confirmation; but where she has some confirmation,[1] she certainly would not shrink from doing so.

MISHNAH. IF A YOUNG GIRL[2] IS BETROTHED,[3] BOTH SHE AND HER FATHER MAY RECEIVE HER GET.[4] R. JUDAH, HOWEVER, SAID THAT TWO [DIFFERENT] HANDS CANNOT TAKE POSSESSION TOGETHER: HER FATHER ALONE MAY RECEIVE HER GET. ONE WHO IS NOT ABLE TO KEEP HER GET IS NOT CAPABLE OF BEING DIVORCED.[5]

GEMARA, What is the difference in principle [between the Rabbis and R. Judah]? — The Rabbis held that the All-Merciful conferred upon her an extra hand, whereas R. Judah held that where her father can act, her own hand counts as nothing.

ONE WHO IS NOT ABLE TO KEEP HER GET, etc. Our Rabbis taught: A child[6] who knows how to keep her Get can be divorced, but if she does not know how to keep her Get she cannot be divorced. Whom do we mean by a child who knows how to keep her Get? One who keeps her Get and something else. What is the meaning of this? — R. Johanan said: It means, one who keeps something else in place of her Get.[7] R. Huna b. Manoah strongly demurred to this, saying, Such a one is a mere idiot? No, said R. Huna b. Manoah, quoting R. Aha the son of R. Ika: It means one who can distinguish between her Get and another object.

Rab Judah said in the name of R. Assi: [A child which if offered] a stone throws it away [but if offered] a nut takes it becomes possessor of anything given to itself[8] but not [of anything given to it to give] to another.[9] [If when given] an article [to play with] it will return it after a time [when asked], it can become possessor either for itself or for others. When I stated this in the presence of Samuel, he said to me, Both cases are just the same. What is the meaning of ‘both cases are just the same’? — R. Hisda replied: In either case the child becomes possessor for itself but not for others. R. Hinnena Waradan[10] raised an objection: How can [all the residents][11] become partners in an alley-way?[12] One of them places a jar of wine there, saying, This is for all the residents of the alley-way, and he may confer possession upon them through his grown-up son or daughter or through his Hebrew manservant or maidservant. Now how are we to understand this maidservant? If she has grown two hairs,[13] what is she doing with him?[14] We must suppose therefore that she has not yet grown two hairs, and yet we are told that she can take possession on behalf of others?[15] — The case of partnership in an alley-way is different, because [the prohibition of taking things out there] is only Rabbinical.[16] R. Hisda said: Waradan was reduced to silence. What could he have answered? — [He could have said that] the Rabbis gave to their regulations

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(1) As here.

(2) A Na'arah, v. Glos. From twelve years and a day to twelve and a half years plus one day.

(3) V. Glos. s.v. Erusin.

(4) [I.e. , either she or her father, so Rashi, Being a na'arah (v. Glos.), she is no longer a minor and therefore is competent to receive her Get. Her father, however, still retains the right since she is still under his authority. As to a minor, i,e., who has not reached 12 years and one day, opinions differ: Rashi does not declare her competent to receive her Get, where she has a father, whereas Tosaf, (s.v. נערה) holds that there is no difference in this respect between a na'arah and a minor, na'arah being specified in the Mishnah to emphasise the extreme view of R. Judah.]

(5) She being still strictly speaking a minor. For the reason v, infra. [Here too opinions differ, Rashi: not even if her father receives the Get on her behalf, whereas Rabbenu Tam allows her divorce to be effected through her father, v. Tosaf.]

(6) Less than twelve years and one day.

(7) If the Get should be lost.

(8) So that the donor cannot take it back.

(9) And the donor can take it back.

(10) [I.e. , from Baradan, on the Eastern bank of the Tigris, two hours distance from N. of Bagdad (Obermeyer op. cit. p. 269)].

(11) In the courts abutting on an alley-way.

(12) So as to be allowed to carry articles into it and through its whole extent on Sabbath, v. ‘Er. 73b.

(13) I.e., reached the age of puberty.

(14) Since it is his duty to emancipate her.

(15) Which seems to refute the dictum of Samuel.

(16) And therefore it does not matter if she did not strictly obtain possession.

Talmud - Mas. Gittin 65a

the force of rules of the Torah. What could the other say to this? — That the Rabbis gave to their regulations the force of rules of the Torah in matters which have some basis in the Torah, but not in a matter which has no basis in the Torah.[1]

R. ‘Awia raised an objection: What device may be adopted [to avoid paying an extra fifth][2] for second tithe? A man can say to his grown-up son and daughter, or to his Hebrew manservant or maidservant, Take this money and redeem with it this second tithe.[3] Now how are we to understand this maidservant? If she has grown two hairs, how comes she to be with him? We must say, therefore, that she has not grown two hairs?[4] — We are speaking here of tithe in the present epoch,[5] which is Rabbinical. But is the rule regarding a Hebrew maidservant in force in the present epoch? Has it not been taught: ‘The laws relating to a Hebrew servant are in force only when the Jubilee is observed'? — We must therefore say that [it refers to tithe from] a pot which has no hole at the bottom,[6] [the rule regarding] which is Rabbinical.[7]

Raba said: There are three grades in a child.[8] [If on being given] a stone he throws it away but [on being given] a nut he takes it, he can take possession for himself but not for others. A girl of corresponding age can be betrothed so effectively as not to be released [on becoming of age] without definitely repudiating the betrothal.[9] Pe'utoth[10] can buy and sell movables with legal effect, and a girl of the corresponding age can be divorced from a betrothal contracted by her father.[11] When they reach the age at which vows are tested,[12] their vows and their sanctifications are effective, and a girl of corresponding age performs halizah.[13] The [landed] property of his [deceased] father, however, he cannot sell till he is twenty.

MISHNAH. IF A YOUNG GIRL[14] SAYS [TO AN AGENT], RECEIVE MY GET FOR ME, IT IS NO GET TILL IT REACHES HER HAND. CONSEQUENTLY IF [THE HUSBAND] WISHES TO RETRACT HE IS [TILL THEN] AT LIBERTY TO RETRACT, SINCE A MINOR CANNOT APPOINT AN AGENT. IF HER FATHER SAID TO HIM, GO AND RECEIVE MY DAUGHTER'S DIVORCE FOR HER, THE HUSBAND [AFTER GIVING IT TO HIM] IS NOT AT LIBERTY TO RETRACT.[15] IF A MAN SAYS, GIVE THIS GET TO MY WIFE IN SUCH-AND-SUCH A PLACE AND HE GIVES IT TO HER IN AN OTHER PLACE, [THE GET IS] INVALID.[16] [IF HE SAYS,] SHE IS IN SUCH-AND-SUCH A PLACE, AND HE GIVES IT TO HER IN ANOTHER PLACE, [IT IS] VALID. IF A WOMAN SAYS, RECEIVE MY GET IN SUCH-AND-SUCH A PLACE AND HE RECEIVES IT FOR HER IN ANOTHER PLACE, [IT IS] INVALID. R. ELEAZAR,[17] HOWEVER, DECLARES IT VALID. [IF HE SAYS,] BRING ME MY GET FROM SUCH-AND-SUCH A PLACE AND HE BRINGS IT FROM SOMEWHERE ELSE, [IT IS] VALID.

GEMARA. Why does R. Eleazar make a distinction between the first ruling,[18] which he does not dispute and the second ruling, which he does dispute? — The husband who divorces of his own free will, [when he specifies the place] is particular;[19] the wife, who is divorced willy-nilly, [when she specifies the place] is merely giving a direction.[20]

MISHNAH. [IF A WOMAN SAYS TO AN AGENT], BRING ME MY GET, SHE MAY EAT TERUMAH[21] TILL THE GET REACHES HER HAND. [IF, HOWEVER, SHE SAYS,] RECEIVE FOR ME MY GET, SHE IS FORBIDDEN TO EAT TERUMAH IMMEDIATELY.[22] [IF SHE SAYS,] RECEIVE FOR ME MY GET IN SUCH-AND-SUCH A PLACE, SHE CAN EAT TERUMAH TILL THE GET REACHES THAT PLACE. R. ELEAZAR[23] SAYS THAT SHE IS FORBIDDEN IMMEDIATELY.

GEMARA [Although he receives the Get in another place] nevertheless [you say here] that it is a Get, whereas previously[24] it was stated that it would not be a Get?[25] — This ruling applies to a case where, for instance, she said, Receive my Get for me in Matha Mehasia,[26] but sometimes you may find him in Babylon.[27] What she means therefore is, Take it from him wherever you find him,

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(1) Like that of carrying from one domain into another in an alley-way.

(2) The rule was that if a man redeemed his second tithe (which otherwise had to he taken to Jerusalem), he had to add a fifth to its value, but not if he redeemed someone else's.

(3) So as to give it back to him. Our texts add here in brackets the words, 'And he eats it without adding a fifth.' V. M.Sh. IV, 4.

(4) And yet she can take possession of the tithe on his behalf, which seems to refute Samuel.

(5) Since the destruction of the Temple.

(6) So that the earth in it is not attached to the soil.

(7) Even in the epoch of the Jubilee.

(8) In case of a boy, under thirteen years and one day.
(9) Mi'un, the refusal of a woman to continue the work contracted by her, a fatherless girl, during her minority. Such a refusal annuls the marriage, but if she is betrothed at a younger age, the betrothal automatically lapses on her becoming of age.
(10) Young children from six to eight or nine, according to their intelligence. V. supra 59a.
(11) I.e.,if she is an orphan she can receive the divorce herself.
(12) In the case of a boy, at twelve years and one day, and eleven years and one day with a girl. If they make a vow at this age, they are examined to see whether they understand the nature of their vow.
(13) If the brother of her betrothed dies without children.
(14) A ketannah. Less than twelve years and a day old.
(15) And the Get is effective as soon as it comes into his hand.
(16) For the reason, v. infra.
(17) Var. lec. R. Eliezer.
(18) That if the husband told him to give the Get in one place and he gave it in another, it is invalid.
(19) Because he does not want himself to be talked about in another place.
(20) And similarly if the husband says, She is in such-and-such a place.
(21) V. Glos. If she is the wife of a priest.
(22) Because the Get becomes effective as soon as it reaches his hand, and he may meet the husband soon after he leaves her.
(23) Var. lec. R. Eliezer.
(24) In the preceding Mishnah.
(25) According to the Rabbis.
(26) A suburb of Sura.
(27) In the neighbourhood of Sura, v. supra p. 17, n. 3.

Talmud - Mas. Gittin 65b

but it will not be a Get till you come to Matha Mehasia.

R. ELEAZAR SAYS THAT SHE IS FORBIDDEN IMMEDIATELY. This is self-evident, [is it not,] since she is only giving him a direction [to find the husband]? — The statement was required for the case where she said to him, ‘Go to the east because he is in the east’, and he went to the west. You might argue in that case that [as] he is certainly not in the west [she should be permitted to eat the terumah]. We are therefore told that while going in that direction he may still come across him, and he may give him the Get.

If a man said to his agent, Make me an ‘erub[1] with dates and [the other] made an ‘erub with figs, or [if he told him to make] with figs and he made with dates, one [Baraitha] taught that the ‘erub is effective, while another taught that it is not effective. Rabbah said: This need cause no difficulty: the one [Baraitha] follows the Rabbis and the other follows R. Eleazar. The one follows the Rabbis, who said [in the case of the Get] that [the wife] is particular. The other follows R. Eleazar, who said that she merely gives him a direction.[2] R. Joseph, however, said: Both [Baraithas] follow the Rabbis; the one [who says that the ‘erub is effective] means, when the fruit is his own,[3] the other, when it is someone else's.[4] Said Abaye to him: But what will you make of the following that has been taught: ‘If a man says to his agent, Make me an ‘erub in a tower,[5] and he made one in the dovecote, or if he told him to make in the dovecote and he made it in the tower,’ in regard to which it was taught by one [Baraitha] that his ‘erub is effective and by another that it is not? In that case what difference does it make whether it is his own or his neighbour's?[6] — There too there is [a difference between] the fruit of the tower and the fruit of the dovecote.[7]

MISHNAH. IF A MAN SAYS, ‘WRITE A GET AND GIVE IT TO MY WIFE, DIVORCE HER,’[8] ‘WRITE A LETTER AND GIVE HER,’ THEN THOSE SO INSTRUCTED SHOULD

WRITE AND GIVE HER.[9] IF HE SAID, ‘RELEASE HER’, ‘PROVIDE FOR HER’, ‘DO THE CUSTOMARY[10] THING FOR HER’, ‘DO THE PROPER THING FOR HER’, HIS WORDS ARE OF NO EFFECT.[11]

GEMARA. Our Rabbis taught: [If he said], ‘Send her away,’[12] ‘Let her go,’[13] ‘Drive her out,’ then they should write and give her. If he said, ‘Release her,’ ‘provide for her,’ ‘Do the customary thing for her,’ ‘Do the proper thing for her,’ his words are of no effect. It has been taught: R. Nathan said: If he said, ‘Patteruha,’ his words take effect; if he said ‘Pitruha’, his words are of no effect.[14] Raba said: R. Nathan being a Babylonian distinguishes between pitruha and patteruha, but our Tanna being from Eretz Yisrael does not distinguish.[15]

The question was raised: If he said, ‘Put her out,’what is the law?[16] If he said ‘Izbuha’,[17] what is the law? If he said, ‘Hattiruha,’[18] what is the law? If he said, ‘Let her be,’ what is the law? If he said, ‘Confer a benefit on her,’ what is the law? If he said, ‘Do to her according to the law,’ what is the law? — One of these questions may at any rate be answered, since it has been taught: If a man says, ‘Do to her according to the law,’ ‘Do to her the proper customary thing,’ ‘Do to her the proper thing,’ his words are of no effect.

MISHNAH. ORIGINALLY THEY LAID DOWN THAT IF A MAN WAS BEING LED OUT TO EXECUTION[19] AND SAID, WRITE A GET FOR MY WIFE,[20] THEY MAY WRITE AND GIVE [IT TO HER].[21] LATER THEY ADDED, ALSO IF HE WERE LEAVING FOR A SEA VOYAGE OR FOR A CARAVAN JOURNEY. R. SIMEON SHEZURI SAID, ALSO IF HE WERE DANGEROUSLY ILL.

GEMARA. Geniba was being led out to execution. On his way out he said, Give four hundred zuz to Rabbi Abina of the wine [which I have] of Neharpania.[22] Said R. Zera:

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(1) I.e., place some food two thousand cubits from the town boundary. V. Glos.

(2) So here, in saying ‘dates’ he merely meant some kind of fruit.

(3) As in that case the Rabbis would admit that he is not particular.

(4) Who allowed him specifically to use one kind and not the other.

(5) Meaning presumably that he told him to place it in the tower at the end of two thousand cubits from the town boundary.

(6) I.e., even if it is his neighbour's, can we suppose that he will be particular?

(7) The reference is not to the place where the ‘erub is to be placed but from where to take the fruit for the ‘erub. And if the fruit was his neighbour's, he might be particular.

(8) Lit., ‘drive her out’.

(9) Because the word ‘Get’ has in popular usage become synonymous with a bill of divorce. Similarly the word ‘driving out’ (gerushin) is commonly used for divorce, while the name ‘letter’ is applied to the Get in the document itself.

(10) GR. ** .

(11) Because all these expressions can apply to other things equally with divorce.

(12) This is the biblical expression, Deut. XXIV, 1.

(13) Shabkuha. This expression is also found in the Get.

(14) Patteruha is the imperative pa'el of the Aramaic word petar, one of the meanings of which is ‘to divorce’. Pitruah is the imperative kal of the Hebrew word patar which means ‘to declare quit’ from a liability (Rashi) v. next note.

(15) And he would take patteruha to be the imperative pi'el of the Hebrew word patar, with the same meaning as the kal (Rashi).

(16) The doubt arises because we find in the Scripture the expression ‘and she go forth from his house’.

(17) The Hebrew equivalent of the Aramaic word Shabkuha (let her go) which above was declared to be legitimate.

(18) Which might either mean ‘make her permitted to all other men,’ and so would be legitimate, or ‘release her from a vow.’

(19) Lit., ‘who goes forth in chains (GR. **)’.

(20) Without adding, ‘and give it to her’.

(21) Because we suppose he was too agitated to express himself clearly.

(22) [Also known as Harpania, a rich agricultural town in the Mesene district, S. of Babylon. (Obermeyer, op. cit. p. 197).]

Talmud - Mas. Gittin 66a

Let R. Abina put his pack on his shoulder and go off to R. Huna his teacher,[1] since R. Huna had laid down that a man's Get[2] is on the same footing as his gift; just as if he recovers he can withdraw his gift, so if he recovers he can withdraw his Get. Similarly [we may argue], just as in the case of his Get, even though he did not express himself clearly, if he says ‘write’ even though he does not say also ‘give’ [it is sufficient], so with his gift, since he has said ‘give’, even though no token was given,[3] [it is sufficient]. R. Abba strongly demurred to this [dictum of R. Huna], saying, [Shall I argue on this principle that] just as a gift may take effect after death, so a Get may take effect after death?[4] — Is there any comparison? A gift can take effect after death, but is there such a thing as a Get after death?[5] No; R. Abba's real difficulty was this. [Geniba's gift] was a gift made by one about to die of part of his property, and a gift made by one about to die of part of his property needs to be confirmed by a token gift.[6] This would seem to show that according to R. Huna[7] it does not need to be confirmed by a token gift, and yet we know for a fact that it does require a token gift? — There is a special reason here, because he was giving his last dispositions.[8] This again would show that in R. Abba's opinion even where one gives his last dispositions, there must be a token gift, and we know for a fact that this is not the case? — No; the real difficulty of R. Abba is this. He did not say, [Give] wine,[9] nor did he say, [Give] the money value of wine.[10] What he said was ‘of the wine’.[11] — What does the other [R. Zera] [make of this]? — [He says that] he used the expression ‘of the wine’ to make his title more secure.[12] They sent from there [Palestine] to say, ‘Of the wine’ makes his title more secure.

MISHNAH. IF A MAN HAD BEEN THROWN INTO A PIT AND CRIED OUT[13] THAT WHOEVER HEARD HIS VOICE SHOULD WRITE A GET FOR HIS WIFE, THE GET SHOULD BE WRITTEN AND PRESENTED TO HER.

GEMARA. But is there not a possibility that it may be a demon? — Rab Judah said: We assume that he can be seen to have the appearance of a man. But the demons also can look like men? — We assume that they see his shadow. But they also have a shadow? — We assume they see a shadow of a shadow. But perhaps they also have a shadow of a shadow? — R. Hanina said: Jonathan my son has taught me that they have a shadow, but not a shadow of a shadow. But perhaps it is her rival?[14] — A Tannah of the school of R. Ishmael taught: In time of danger[15] we can write and [give a Get], even if we do not know him.[16]

MISHNAH. IF A MAN IN HEALTH SAYS, WRITE A GET FOR MY WIFE,[17] HIS INTENTION IS MERELY TO PLAY WITH HER. IT ONCE HAPPENED WITH A MAN IN GOOD HEALTH WHO SAID, WRITE A GET FOR MY WIFE, AND THEN WENT UP ON TO A ROOF AND FELL DOWN FROM IT AND DIED, AND RABBAN SIMEON B. GAMALIEL SAID THAT IF HE HAD THROWN HIMSELF DOWN THIS WAS A GET,[18] BUT IF THE WIND HAD BLOWN HIM OVER IT WAS NO GET.

GEMARA. The instance adduced disproves the rule, [does it not]?[19] — There is a lacuna, and the Mishnah should run thus: ‘If his subsequent conduct reveals his intention [to kill himself], the Get is valid. IT ONCE HAPPENED WITH A MAN IN GOOD HEALTH WHO SAID, WRITE A GET FOR MY WIFE, AND THEN WENT UP TO A ROOF AND FELL DOWN FROM IT AND DIED, AND RABBAN SIMEON B. GAMALIEL SAID: IF HE HAD THROWN HIMSELF DOWN THIS WAS A GET, B UT IF THE WIND HAD BLOWN HIM OVER IT WAS NO GET.

A certain man went into the synagogue and found a teacher of children and his son sitting there and a third man sitting by them. He said to them: I want two of you to write a Get for my wife. Before the Get was given[20] the teacher died. [The question arose], Do people usually make a son their agent in the place of his father or not?[21] — R. Nahman said: People do not make a son the agent in the place of his father, while R. Papi said that people do make a son their agent in the place of his father.[22] Raba said: The law is that people do make a son the agent in place of the father.

MISHNAH. IF A MAN SAID TO TWO PERSONS, GIVE A GET TO MY WIFE,[23]

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(1) Who would confirm his title.

(2) Given on a sick bed.

(3) I.e., there was no kinyan. v. Glos.

(4) The wife becomes automatically released on the death of her husband, so that no Get can be effective after death. The Get is in fact meant to take effect before death, to release the wife from the obligation of halizah.

(5) Where the husband made such a stipulation.

(6) Because by giving only part, he shows that he has in mind the possibility of recovery, and therefore the gift is on the same footing as one given by a healthy person, v. B.B. 151b.

(7) Since R. Huna would, it is held, confirm the title to the gift.

(8) Lit., ‘ordering by reason of death’.

(9) To the value of four hundred zuz.

(10) I.e., sell four hundred zuz worth and give him the money.

(11) I.e., money from wine, which has no meaning.

(12) So that he should have a lien on the whole of the wine in case any of it went sour or the money obtained from the sale of it was lost, the words ‘of wine’ including both the wine and its money value.

(13) Giving his name and the name of his town.

(14) Who wants her to obtain a Get so that she may marry again and become forbidden to her present husband.

(15) As in the case of one who is in imminent danger of death.

(16) I.e., whether he is the man who he says he is.

(17) Without adding, Give it to her.

(18) Because, having had the intention to commit suicide, he was on the same footing as one in imminent danger of death.

(19) Since the rule is given without qualification.

(20) Lit., ‘At the end’.

(21) The husband had gone away, and the question was whether when the man said ‘two of you’, his words could apply equally to the son alone as well as to the father alone in conjunction with the third man, or to the father only, the son being ineligible when the father was present.

(22) And the son can form the second man to write the Get.

(23) But did not say write’.

Talmud - Mas. Gittin 66b

OR TO THREE PERSONS, WRITE A GET AND GIVE IT TO MY WIFE, THEY SHOULD WRITE AND GIVE IT. IF HE SAID TO THREE PERSONS, GIVE A GET TO MY WIFE,[1] THEY MAY TELL OTHERS TO WRITE[2] BECAUSE HE HAS MADE THEM A BETH DIN.[3] THIS IS THE VIEW OF R. MEIR, AND THIS IS THE HALACHAH WHICH R. HANINA A MAN OF ONO[4] BROUGHT [FROM R. AKIBA IN] PRISON:[5] ‘I HAVE IT FROM MY TEACHERS THAT IF A MAN SAYS TO THREE PERSONS, GIVE A GET TO MY WIFE, THEY MAY TELL OTHERS TO WRITE IT, BECAUSE HE HAS CONSTITUTED THEM A BETH DIN. R. JOSE SAID: WE SAID TO THE MESSENGER, WE ALSO HAVE IT ON TRADITION FROM OUR TEACHERS THAT EVEN IF HE SAID TO THE GREAT BETH DIN IN JERUSALEM,[6] GIVE A GET TO MY WIFE, ‘THEY SHOULD LEARN[7] AND WRITE AND GIVE IT. IF A MAN SAYS

TO TEN PERSONS, WRITE A GET AND DELIVER IT TO MY WIFE, ONE WRITES, AND TWO SIGN AS WITNESSES. [IF HE SAID,] ALL OF YOU WRITE, ONE WRITES AND ALL SIGN. CONSEQUENTLY IF ONE OF THEM DIES, THE GET IS INVALID.

GEMARA. R. Jeremiah b. Abba said: An inquiry was sent from the school of Rab[8] to Samuel: Would our teacher inform us: If a man said to two persons, Write and deliver a Get to my wife, and they told a scribe and he wrote it and they themselves signed it, what is the law?[9] — He sent back word: She must leave [her second husband],[10] but the matter requires further study. What did he mean by saying that the matter requires further study? Shall we say it is because only a verbal instruction[11] was given to them,[12] and Samuel is in doubt whether a verbal instruction can be passed on to another agent or not? Has not Samuel said in the name of Rabbi that the halachah follows R. Jose who said that verbal instructions cannot be passed on to another agent?[13] — No; what Samuel wanted to know was this. [When the husband said to the men], 'write', did he mean their signatures or the Get?[14] — Cannot this be determined from the Mishnah: IF A MAN SAID TO TWO PERSONS, GIVE A GET TO MY WIFE, OR IF HE SAID TO THREE, WRITE A GET AND GIVE [IT] TO MY WIFE, THEY SHOULD WRITE AND DELIVER [IT]? — Here too he was in doubt whether 'WRITE' meant their signatures or the actual Get. Surely it is obvious that it must be the Get, from what we read in the later clause: R. JOSE SAID, WE SAID TO THE MESSENGER, WE TOO HAVE IT ON TRADITION FROM OUR TEACHERS THAT EVEN IF HE SAID TO THE GREAT BETH DIN IN JERUSALEM, GIVE A GET TO MY WIFE, THEY SHOULD LEARN AND WRITE AND GIVE TO HER.[15] Now if you say that the writing of the Get is meant, this creates no difficulty, but if you say it is the writing of the signatures, surely there is no Beth din, the members of which do not know how to sign their names? — Yes; this might happen in a new Beth din.

Now if we adopt the opinion that 'write' means 'write your signatures,' but as to the actual Get, it is in order even if written by others [how can this be seeing that] Samuel said in the name of Rabbi that the halachah is in accordance with R. Jose who said that verbal instructions cannot be passed on to another agent? — We might reply that if we adopt the opinion that 'write' means the signatures, then as far as the writing of the Get is concerned it is as though the husband had given instructions that they should tell [the scribe], and R. Jose admits that [the Get written by the scribe is valid] where he said, Tell [the scribe to write it].

But does R. Jose admit that it is valid where he says to them, Tell [the scribe]? Have we not learnt: 'If the scribe wrote and there was one witness [besides], the Get is valid,'[16] and R. Jeremiah said in regard to this, Our Version is, If the scribe signs,[17] and R. Hisda said, Whom does the Mishnah follow? R. Jose, who said that verbal instructions cannot be passed on to another agent.[18] Now if you assume that R. Jose admits [that the Get is valid] where he says, Tell [the scribe], then a calamity may result, since sometimes he will say to two persons,

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(1) Without saying 'write'.

(2) And sign.

(3) And they have authority to do this.

(4) In Benjamin near Lydda. I Chron. VIII, 12.

(5) Var. lec. Which R. Hanina sent from prison.

(6) The Synhedrion.

(7) How to write.

(8) [Probably after the death of Rab (247 C.E.) or simply 'from the school'.]

(9) Are the words THEY SHOULD WRITE in the Mishnah to be taken literally or do they denote merely the signatures.

(10) If she has married again on the strength of the Get.

(11) Lit., 'words'.

(12) And they were not given the actual Get to deliver.

(13) And therefore if these tell a scribe to write the Get it is invalid, v. supra 29a.

(14) If he meant them to write only the signatures the Get is valid, and therefore he was in doubt.

(15) Infra 71b.

(16) [Our Mishnah text actually reads: WRITE AND GIVE, but this Gemarah reading is supported by the J. Mishnah.]

(17) He signs the Get as witness, in conjunction with another witness.

(18) Consequently we may safely assume that the scribe was commissioned to sign by the husband himself, and there is no fear that the agent told him to do so on his own authority, so as not to offend the scribe.

Talmud - Mas. Gittin 67a

Tell the scribe to write and So-and-so and So-and-so to sign, and out of fear of offending the scribe they will agree that one of them should sign and the scribe with him, which is not what the husband said?[1] — Since a Master has said[2] [that a Get of this kind[3] is] valid but this should not be done in Israel, it is not usual.[4] But is there not the possibility that he may say to two persons, Tell the scribe to write and do you sign, and they will go and in order not to offend the scribe let the scribe sign along with one of them, which is not what the husband said? — We say here also: Such a Get is valid, but this should not be done in Israel.[5] This is a sufficient answer for one who holds that it is valid but should not be done, but to one who holds that it is valid and may be done what are we to say? — The truth is that R. Jose laid down two [disqualifications],[6] and Samuel concurred with him in regard to one and differed from him in regard to the other.[7] The text above [states]: ‘Samuel said in the name of Rabbi that the halachah is in accordance with R. Jose, who said that verbal instructions cannot be passed on to an agent’. R. Simeon son of Rabbi said to him: Seeing that R. Hanina of Ono and R. Meir take a different view from R. Jose, what was Rabbi's reason for saying that the halachah follows R. Jose? — He replied: Say nothing, my son, say nothing; you have never seen R. Jose. Had you seen him, [you would know] that he always had good ground for his views.[8] For so it has been taught: Issi b. Judah used to specify the distinctive merits of the various Sages. R. Meir [he said], was wise and a scribe.[9] R. Judah was wise when he desired to be.[10] R. Tarfon was a heap of nuts.[11] R. Ishmael was a well-stocked shop.[12] R. Akiba was a storehouse with compartments.[13] R. Johanan b. Nuri was a basket of fancy goods.[14] R. Eleazar b. Azariah was a basket of spices.[15] The Mishnah of R. Eliezer b. Jacob [the Elder] was little and good.[16] R. Jose always had his reasons. R. Simeon used to grind much and let out little. A Tanna [explained this to mean that] he used to forget little, and what he let go from his mind was only the bran.[17] So too said R. Simeon to his disciples: My sons, learn my rules,[18] since my rules are the cream of the cream[19] of R. Akiba's. The text above [states]. ‘If a man said to two persons, Tell the scribe to write and So-and-so and So-and-so to sign, R. Huna said in the name of Rab that [the Get is] valid, but this should not be done in Israel.’ Said ‘Ulla to R. Nahman (or, according to others, R. Nahman said to ‘Ulla): Seeing that [the Get is] valid, why should this not be done in Israel? — He replied: We are afraid lest she might suborn witnesses.[20] But do we entertain any such fear? Has it not been taught: Once the witnesses have signed to a deed of purchase of a field or the Get of a woman, the Sages entertain no doubts about their reliability? They would not do anything wrong,[21] but they might say something.

If a man said to two persons, Tell the scribe to write and do you sign, R. Hisda said [that the Get would be] valid but this should not be done; Rabbah b. Bar Hanah said that it is valid and this may be done; R. Nahman said it is valid and this may not be done; R. Shesheth said it is valid and this may be done; Rabbah said it is valid and this may not be done; R. Joseph said it is valid and this may be done.

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(1) He appointed special witnesses for the signature. This proves that the view that the scribe may witness the Get is not compatible with the view that the husband can say to the agent, Tell the scribe.

(2) Infra.

(3) ‘Tell the scribe to write and So-and-so etc., to sign.’

(4) And therefore R. Jose would not make provision against so remote a danger.

(5) And therefore this also is unusual.

(6) That the Get is invalid whether he told three persons to write and they told a scribe to write, or whether he told two persons to tell a scribe to write and two persons to sign, and they did so.

(7) [Samuel agreed that if he did not say ‘tell the scribe’ the Get is invalid, since oral instructions cannot he committed to an agent, but he held that if he did say so the Get would he valid. Hence, as regards the query sent to Samuel, if the word ‘write’ meant only the signature, they would he able to tell the scribe to write. And it was with reference to this that Samuel required the matter to he studied further.]

(8) Lit., ‘his depth is with him’, or ‘his nomikon (logic)’.

(9) This was his profession. V. Sotah, 20.

(10) I.e. , when he was not too hasty, he could be even wiser than R. Meir (Tosaf.).

(11) When he was asked a question, his instances came out like a heap of nuts toppling over one another.

(12) Where it is not necessary to keep the customer waiting while the article required is brought from outside.

(13) All his learning being classified under various heads Scripture, Halachah, Aggadah, etc. like different kinds of corn in a storehouse.

(14) Apparently this indicates that while his knowledge was well arranged like that of R. Akiba, it was not so well unified and correlated.

(15) Apparently, less in quantity than R. Johanan's.

(16) Lit., ‘a kab and fine’. So that wherever he gives an opinion, the halachah follows him.

(17) I.e., those statements which were not followed by the halachah.

(18) Lit., ‘measures’.

(19) Lit., ‘the terumah of the terumah’.

(20) To say this to the scribe and the witnesses in the name of her husband.

(21) E.g., sign their own names.

Talmud - Mas. Gittin 67b

Some reverse [the names in] the last two statements.

IF HE SAID TO TEN PERSONS, WRITE A GET. Our Rabbis taught: If he says to ten persons, Write a Get and give it to my wife, one writes on behalf of all of them. [If he says,] All of you write, one writes In the presence of all of them. If he says [to ten], Take a Get to my wife, one takes it on behalf of all of them. If he says, All of you take it, one takes it in the company of the rest. The question was raised: If he enumerated them [one by one], what is the law? — R. Huna said: Enumeration is not the same as saying ‘all of you’; R. Johanan said in the name of R. Eleazar from Ruma[1] that enumeration is the same as saying ‘all of you’. R. Papa said: They are not in conflict: the one speaks of where he enumerated all of them and the other of where he enumerated only some of them. Some explain this in one way and some explain it in the opposite way.[2]

Rab Judah made a regulation that in a Get [which the husband had ordered with the word] ‘all of you’ [they should insert[3] the words, He said to us], Write either all of you or any one of you; Sign either all of you or any two of you; Convey all of you or any one of you.[4] Raba said: Sometimes a man cuts his words short and says ‘all of you’ without adding, ‘any one of you,’ and he can afterwards come and declare the Get invalid. Raba therefore said that [they should insert the words], Write any one of you, Sign any two of you, Convey any one of you.[5]

CHAPTER VII

MISHNAH. IF A MAN IS SEIZED WITH A KORDIAKOS[6] AND SAYS, WRITE A GET FOR MY WIFE, HIS WORDS ARE OF NO EFFECT. IF HE SAYS, WRITE A GET FOR MY WIFE, AND IS THEN SEIZED WITH A KORDIAKOS AND THEN SAYS, DO NOT WRITE IT, HIS LATER WORDS ARE OF NO EFFECT. IF HE IS STRUCK DUMB, AND WHEN THEY SAY TO

HIM, SHALL WE WRITE A GET FOR YOUR WIFE, HE NODS HIS HEAD, HE IS TESTED WITH THREE QUESTIONS.[7] IF HE SIGNIFIES ‘NO’ AND ‘YES’ PROPERLY EACH TIME, THEN THE GET SHOULD BE WRITTEN AND GIVEN FOR HIM.

GEMARA. What is kordiakos? — Samuel said: Being overcome[8] by new wine from the vat. Then why does it not Say. If one is overcome by new wine? — The mode of expression teaches us that this spirit [which causes the dizziness] is called kordiakos. Of what use is this [knowledge]? — For a charm. What is the remedy for it? Red[9] meat broiled on the coals, and wine highly diluted.

Abaye said: My mothers told me that for a sun-stroke [fever] the remedy is on the first day to take a jug of water, [if it lasts] two days to let blood, [if] three days to take red meat broiled on the coals and highly diluted wine. For a chronic heat stroke, he should bring a black hen and tear it lengthwise and crosswise and shave the middle of his head and put the bird on it and leave it there till it sticks fast, and then he should go down [to the river] and stand in water up to his neck till he is quite faint, and then he should swim out and sit down. If he cannot do this, he should eat leeks and go down and stand in water up to his neck till he is faint and then swim out and sit down. For sunstroke one should eat red meat broiled on the coals with wine much diluted. For a chill[10] one should eat fat meat broiled on the coals with undiluted wine. When the household of the Exilarch wanted to annoy R. Amram the Pious,[11] they made him lie down in the snow. On the next day they said, What would your honour like us to bring you? He knew that whatever he told them they would do the reverse, so he said to them, Lean meat broiled on the coals and wine much diluted. They brought him fat meat broiled on the coals and undiluted wine. Yaltha[12] heard and took him in to the bath, and they kept him there till the water turned to the colour of blood[13] and his flesh was covered with bright spots. R. Joseph used to cure the shivers by working at the mill, R. Shesheth by carrying heavy beams. He said: Work is a splendid thing to make one warm.[14]

The Exilarch once said to R. Shesheth, Why will your honour not dine with us? He replied: Because your servants are not reliable, being suspected of taking a limb from a living animal. You don't say so,[15] said the Exilarch. He replied, I will just show you. He then told his attendant to steal a leg from an animal and bring it. When he brought it to him he said [to the Servants of the Exilarch], place the pieces of the animal before me. They brought three legs and placed them before him. He said to them, This must have been a three-legged animal. They then cut a leg off an animal and brought it. He then said to his attendant, Now produce yours. He did so, and he then said to them, This must have been a five-legged animal. The Exilarch said to him, That being the case, let them prepare the food in your presence[16] and then you can eat it. Very good, he replied. They brought up a table and placed meat before him, and set in front of him a portion with a dangerous bone.[17] He felt it and took and wrapped it in his scarf. When he had finished they said to him

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(1) [In the neighbourhood of Zepphoris. V. Klein, NB p. 22.]

(2) Some say that if he enumerated all of them this is equivalent to saying ‘all of you’. whereas if he enumerated only some, this shows that he abandoned his intention of making all of them responsible, and it is sufficient if any two of those enumerated sign. Others explain that if he enumerated some, this shows that he was particular that all these should sign, whereas if he enumerated all without saying ‘all of you,’ this shows that he desired any two to sign, but in the presence of the rest.

(3) To provide against the possibility that the husband may insist that he meant that it should be signed by all.

(4) Should one of them be absent at the writing or fail to sign the Get.

(5) Omitting ‘all of you’.

(6) A kind of delirium in which he does not know exactly what he is saying. V. Infra. Apparently == GR. **, which, however, is not found in this sense. Goldschmidt derives it from GR. **

(7) Lit., ‘three times’, to see if he is still compos mentis.

(8) Lit., ‘bitten’.

(9) I.e.. without much fat. (5) V. Kid. 31b.

(10) Lit., ‘snow’.
(11) Because he used to vex them with his numerous restrictions.
(12) The daughter of the Exilarch and wife of R. Nahman.
(13) From the perspiration.
(14) Lit., ‘to make warm its master’.
(15) Lit., ‘who will say’.
(16) According to another reading ‘in the presence of your servant,’ as R. Shesheth was blind.
(17) Lit., ‘the portion which chokes the mother-in-law’. According to Rashi, this was a part above the hind leg containing a very small bone.

Talmud - Mas. Gittin 68a

. A silver cup has been stolen from us.[1] In the course of their search for it they found the meat wrapped in his scarf, whereupon they said to the Exilarch, See, sir, that he does not want to eat, but only to vex us. He said, I did eat, but I found in it the taste of a boil. They said to him, No animal with a boil has been prepared for us to-day. He said to them, Examine the place [where my portion came from].[2] since R. Hisda has said that a white spot on black skin or a black spot on white skin is a mark of disease.[3] They examined and found that it was so. When he was about to depart they dug a pit and threw a mat over it, and said to him, Come, sir, and recline. R. Hisda snorted behind him.[4] and he said to a boy. Tell me the last verse you have learnt.[5] The boy said. Turn thee aside to thy right hand or to thy left.[6] He said to his attendant, What can you see? He replied. A mat thrown across [the path]. He said, Turn aside from it. When he got out, R. Hisda said to him, How did you know, sir? He replied. For one thing because you, sir, snorted [behind me], and again from the verse which the boy quoted, and also because the servants are suspect of playing tricks.[7]

I gat me sharim and sharoth,[8] and the delights of the sons of men, Shidah and shidoth.[9] ‘Sharim and Sharoth’, means diverse kinds of music; ‘the delights of the sons of men’ are ornamental pools and baths. ‘Shidah and shidoth’: Here [in Babylon] they translate as male and female demons. In the West [Palestine] they say [it means] carriages.

R. Johanan said: There were three hundred kinds of demons in Shihin, but what a shidah is I do not know.[10]

The Master said: Here they translate ‘male and female demons’. For what did Solomon want them? — As indicated in the verse, And the house when it was in building was made of stone made ready at the quarry, [there was neither hammer nor axe nor any tool of iron heard in the house while it was in building];[11] He said to the Rabbis, How shall I manage [without iron tools]? — They replied, There is the shamir[12] which Moses brought for the stones of the ephod. He asked them, Where is it to be found? — They replied, Bring a male and a female demon and tie them together; perhaps they know and will tell you. So he brought a male and a female demon and tied them together. They said to him, We do not know, but perhaps Ashmedai the prince of the demons knows. He said to them, Where is he? — They answered, He is in such-and-such a mountain. He has dug a pit there, which he fills with water and covers with a stone, which he then seals with his seal. Every day he goes up to heaven and studies in the Academy of the sky and then he comes down to earth and studies in the Academy of the earth, and then he goes and examines his seal and opens [the pit] and drinks and then closes it and seals it again and goes away. Solomon thereupon sent thither Benaiahu son of Jehoiada, giving him a chain on which was graven the [Divine] Name and a ring on which was graven the Name and fleeces of wool and bottles of wine. Benaiahu went and dug a pit lower down the hill and let the water flow into it[13] and stopped [the hollow] With the fleeces of wool, and he then dug a pit higher up and poured the wine into it[14] and then filled up the pits. He then went and sat on a tree. When Ashmedai came he examined the seal, then opened the pit and found it full of wine. He said, it is written, Wine is a mocker, strong drink a brawler, and whosoever erreth thereby is not wise,[15] and it is also written, Whoredom and wine and new wine take away the understanding.[16] I will not drink it. Growing thirsty, however, he could not resist, and he drank till he became drunk, and fell asleep. Benaiahu then came down and threw the chain over him and fastened it. When he awoke he began to struggle, whereupon he [Benaiahu] said, The Name of thy Master is upon thee, the Name of thy Master is upon thee. As he was bringing him along, he came to a palm tree and rubbed against it and down it came. He came to a house and knocked it down. He came to the hut of a certain widow. She came out

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(1) A mere pretext in order to search him.

(2) I.e., the skin.

(3) Of the flesh.

(4) As a signal.

(5) For an omen; cf. supra 56a.

(6) II Sam. II, 21.

(7) Lit., ‘of not being good’.

(8) E.V. ‘men-singers and women-singers’.

(9) Eccl. II. 8.

(10) Al. ‘the real mother of the demons I do not know’.

(11) I Kings VI, 7.

(12) A fabulous worm which could cut through the sharpest stone. [So Maimonides, Aboth, v. 6. and Rashi, Pes. 54a, though none of the old Talmudic sources states explicitly whether the Shamir was a living creature or a mineral. The Testament of Solomon, however, seems to regard it as a stone. V. Ginzberg Legends, V, p. 55, n. 105, and VI, p. 299, n. 82, also Aboth, (Sonc. ed.) p. 63, n. 6.]

(13) From Ashmedai's pit by means of a tunnel connecting the two.

(14) So that it should flow into Ashmedai's pit.

(15) Prov. XX, 1.

(16) Hos, IV, 11.

Talmud - Mas. Gittin 68b

and besought him, and he bent down so as not to touch it, thereby breaking a bone. He said, That bears out the verse, A soft tongue breaketh the bone[1] He saw a blind man straying from his way and he put him on the right path. He saw a drunken man losing his way and he put him on his path. He saw a wedding procession making its way merrily and he wept. He heard a man say to a shoemaker, Make me a pair of shoes that will last seven years, and he laughed. He saw a diviner practising divinations and he laughed. When they reached Jerusalem he was not taken to see Solomon for three days. On the first day he asked, Why does the king not want to see me? They replied, Because he has overdrunk himself. So he took a brick and placed it on top of another. When they reported this to Solomon he said to them, What he meant to tell you was, Give him more to drink. On the next day he said to them, Why does the king not want to see me? They replied, Because he has over-eaten himself. He thereupon took one brick from off the other and placed it on the ground. When they reported this to Solomon, he said, He meant to tell you to keep food away from me. After three days he went in to see him. He took a reed and measured four cubits and threw it in front of him, saying, See now, when you die you will have no more than four cubits in this world. Now, however, you have subdued the whole world, yet you are not satisfied till you subdue me too. He replied: I want nothing of you. What I want is to build the Temple and I require the shamir. He said: It is not in my hands, it is in the hands of the Prince of the Sea who gives it only to the woodpecker,[2] to whom he trusts it on oath. What does the bird do with it? — He takes it to a mountain where there is no cultivation and puts it on the edge of the rock which thereupon splits, and he then takes seeds from trees and brings them and throws them into the opening and things grow there. (This is what the Targum means by nagar tura).[3] So they found out a woodpecker's nest with young in it, and covered it over with white glass. When the bird came it wanted to get in but could not, so it went and brought the shamir and placed it on the glass. Benaiahu thereupon gave a shout, and it dropped [the shamir] and he took it, and the bird went and committed suicide on account of its oath.

Benaiahu said to Ashmedai, Why when you saw that blind man going out of his way did you put him right? He replied: It has been proclaimed of him in heaven that he is a wholly righteous man, and that whoever does him a kindness will be worthy of the future world. And why when you saw the drunken man going out of his way did you put him right? He replied, They have proclaimed concerning him in heaven that he is wholly wicked, and I conferred a boon on him in order that he may consume [here] his share [in the future].[4] Why when you saw the wedding procession did you weep? He said: The husband will die within thirty days, and she will have to wait for the brother-in-law who is still a child of thirteen years.[5] Why, when you heard a man say to the shoemaker, Make me shoes to last seven years, did you laugh? He replied: That man has not seven days to live, and he wants shoes for seven years! Why when you saw that diviner divining did you laugh? He said: He was sitting on a royal treasure: he should have divined what was beneath him.

Solomon kept him with him until he had built the Temple. One day when he was alone with him, he said, it is written, He hath as it were to'afoth and re'em,[6] and we explain that to'afoth means the ministering angels and re'em means the demons.[7] What is your superiority over us?[8] He said to him, Take the chain off me and give me your ring, and I will show you. So he took the chain off him and gave him the ring. He then swallowed him,[9] and placing one wing on the earth and one on the sky he hurled him four hundred parasangs. In reference to that incident Solomon said, What profit is there to a man in all his labour wherein he laboureth under the sun.[10]

And this was my portion from all my labour.[11] What is referred to by ‘this’? — Rab and Samuel gave different answers, one saying that it meant his staff and the other that it meant his apron.[12] He used to go round begging, saying wherever he went, I Koheleth was king over Israel in Jerusalem.[13] When he came to the Sanhedrin, the Rabbis said: Let us see, a madman does not stick to one thing only.[14] What is the meaning of this? They asked Benaiahu, Does the king send for you? He replied, No. They sent to the queens saying, Does the king visit you? They sent back word, Yes, he does. They then sent to them to say, Examine his leg.[15] They sent back to say, He comes in stockings, and he visits them in the time of their separation and he also calls for Bathsheba his mother. They then sent for Solomon and gave him the chain and the ring on which the Name was engraved. When he went in, Ashmedai on catching sight of him flew away, but he remained in fear of him, therefore is it written, Behold it is the litter of Solomon, threescore mighty met, are about it of the mighty men of Israel. They all handle the sword and are expert in war, every man hath his sword upon his thigh because of fear in the night.[16]

Rab and Samuel differed [about Solomon]. One said that Solomon was first a king and then a commoner,[17] and the other that he was first a king and then a commoner and then a king again.

For blood rushing to the head the remedy is to take shurbina[18] and willow and moist myrtle and olive leaves and poplar and rosemary and yabla[19] and boil them all together. The sufferer should then place three hundred cups on one side of his head and three hundred on the other. Otherwise he should take white roses with all the leaves on one side and boil them and pour sixty cups over each side of his head. For migraine one should take a woodcock and cut its throat with a white zuz[20] over the side of his head on which he has pain, taking care that the blood does not blind him, and he should hang the bird on his doorpost so that he should rub against it when he goes in and out.

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(1) Prov. XXV, 15.

(2) Lit., ‘Cock of the prairie’.

(3) Lit., ‘One that saws the rock’: the rendering in Targum Onkelos of the Hebrew דוכיפת generally rendered by hoopoe; Lev. XI, 19.

(4) That there may remain no share for him to enjoy in the hereafter.
(5) Before he can give her halizah (v. Glos.) and enable her to marry again.
(6) Num. XXIV, 8. E.V., ‘the strength of a wild ox’.
(7) So Targum Onkelos.
(8) That you should be a standard of comparison for Israel.
(9) Al. ‘it’ (the ring).
(10) Eccl. I, 3. [No satisfactory explanation has yet been given of the name of Ashmedai. Ginzberg (JE. II s.v. Asmodeus) gives it an Aramaic derivation. Kaminka JQR. (NS) XIII. p. 224 connects it with Smerdis, the magician, a hero in a Persian legend preserved by Herodotus, which has many points of similarity with the Ashmedai story.]
(11) Ibid. II, 10.
(12) Al. ‘his platter’, v. Sanh. (Sonc. ed.) p. 110 and notes.
(13) Ibid. I, 12.
(14) I.e., if Solomon were mad, he would show it by other things as well.
(15) Because a demon's legs are like those of a cock, v. Ber. 6a.
(16) Cant. III, 7, 8.
(17) That is to say, that though he was restored to his kingdom, he did not rule over the unseen world as formerly, v. Sanh. loc. cit.
(18) A kind of cedar.
(19) A certain herb, cynodon.
(20) I.e., a white silver coin.

Talmud - Mas. Gittin 69a

. For a cataract he should take a scorpion with stripes of seven colours and dry it out of the sun and mix it with stibium in the proportion of one to two and drop three paint — brushfuls into each eye — not more, lest he should put out his eye. For night blindness[1] he should take a string made of white hair and with it tie one of his own legs to the leg of a dog, and children should rattle potsherds behind him saying ‘Old dog, stupid cock’. He should also take seven pieces of raw meat from seven houses and put them on the doorpost and [let the dog] eat them on the ashpit of the town. After that he should untie the string and they should say, ‘Blindness of A, son of the woman B, leave A, son of the woman B,’ and they should blow into the dog's eye. For day blindness he should take seven milts from the insides of animals and roast them in the shard of a blood-letter, and while he sits inside the house another man should sit outside and the blind man should say to him, ‘Give me to eat, and the other, the seeing man, should answer, ‘Take and eat,’ and after he has eaten he should break the shard, as otherwise the blindness may come back. To stop bleeding at the nose he should bring a kohen whose name is Levi and write Levi backwards, or else bring any man and write, I Papi Shila bar Sumki, backwards, or else write thus: Ta'am deli beme kesaf, ta'am deli be-me pegam.[2] Or else he can take root of clover and the rope of an old bed and papyrus and saffron and the red part of a palm branch and burn them all together and then take a fleece of wool and weave two threads and steep them in vinegar and roll them in the ashes and put them in his nostrils. Or he can look for a watercourse running from east to west and stand astride over it and pick up some clay with his right hand from under his left leg and with his left hand from under his right leg and twine two threads of wool and rub them in the clay and put them in his nostrils. Or else he can sit under a gutter pipe while they bring water and pour over him saying, ‘As these waters stop, so may the blood of A, son of the woman B, stop’. To stop blood coming from the mouth he should [first] be tested with a wheat straw. If the blood sticks, It comes from the lungs and can be cured, but if not it comes from the liver and cannot be cured. Said R. Ammi to R. Ashi: But we have learnt the opposite:[3] ‘[The animal is trefa] if the liver has been removed and nothing of it is left, or if the lung is pierced or defective’?[4] — He replied: Since it comes away from his mouth, we assume that the liver has been entirely dissolved [in the lung].[5]

The Master just said: If it comes from the lung, there is a remedy for it. What is the remedy? Let him take seven handfuls of hashed beets and seven handfuls of mashed leeks and seven handfuls of jujube berry and three handfuls of lentils and a handful of camon and a handful of flax[6] and a quantity equal to all these of the ileum of a first-born animal and let him cook the mixture and eat it, washing it down with strong beer made in [the month of] Tebeth.[7] For toothache Rabbah b. R. Huna says that he should take the top of a garlic with one stalk only and grind it with oil and salt and put it on his thumb nail on the side where the tooth aches and put a rim of dough round it, taking care that it does not touch his flesh, as it may cause leprosy. For swollen glands,[8] R.Johanan said that pellitory leaves are as good as mamru[9] and the root of pellitory better than mamru, and he should put them in his mouth. This is to prevent it from spreading. To soften it he should take bran that came to the top of the sieve and lentils with the earth still on them and clover and hemlock flower and the bud of cuscuta, and he should put about the size of a nut in his mouth. To make it burst, someone should blow into his throat seeds of unripe dates, through a wheat straw. To make the flesh close he should bring dust from the shadow of a privy and knead it with honey and eat. This is effective. For catarrh[10] he should take about the size of a pistachio of gum-ammoniac and about the size of a nut of sweet galbanum and a spoonful of white honey and a Mahuzan natla[11] of clear[12] wine and boil them up together; when the gum-ammoniac boils, it is all boiled enough. If he cannot manage this, let him take a revi'ith of milk of a white goat

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(1) [Shabrire, a shaf'el form of ברר ‘clear’, a euphemism for ‘blindness’. In this infliction, ascribed to the demons, a distinction was made between day-shabrire and night-shabrire which is said to correspond with hemeralopia and nyctalopia. V. Preuss, Biblisch-talmudische Medizin, p. 312, and A.Z., (Sonc. ed.) p. 64, n. 4.]

(2) Lit., ‘The taste of the bucket in water of silver, the taste of the bucket in water of blemish’.

(3) Hul. 42a.

(4) This would show that if the blood comes from the lungs it is more fatal than from the liver.

(5) And the blood is really from the liver.

(6) [Var. lec. ‘spices’].

(7) In the winter when the brew is made strong.

(8) So Rashi. Jast.: ‘jaws’.

(9) A kind of herb.

(10) [So Rashi. Preuss (op. cit. p. 198) Pleurisy.]

(11) About a revi'ith (1/4 log).

(12) I.e., not dark.

Talmud - Mas. Gittin 69b

and let it drip on three stalks of carob and stir it with a piece of stem of marjoram; when the stem of marjoram is boiled it is all boiled enough. He can also take the excrement of a white dog and knead it with balsam, but if he can possibly avoid it he should not eat the dog's excrement as it loosens the limbs. For gira[1] he should take an arrow of Lilith[2] and place it point upwards and pour water on it and drink it. Alternatively he can take water of which a dog has drunk at night, but he must take care that it has not been exposed.[3] For [drinking] water which has been exposed let him take an anpak of undiluted wine. For an abscess, an anpak of wine with purple-coloured aloes. For palpitations of the heart he should take three barley-cakes and streak them with liamak[4] which has been made less than forty days before, and eat it and wash it down with wine well diluted. Said R. Aha from Difti to Rabina: This will make his heart palpitate all the more! — He replied: I was speaking of heaviness of heart. For palpitations of the heart he should take three cakes of wheat and streak them with honey and eat them and wash them down with strong wine. For pressure of the heart he should take the size of three eggs of mint and an egg of camon and an egg of sesame and eat them. For pain in the stomach he should take three hundred long pepper grains and every day drink a hundred of them in wine. Rabin of Naresh[5] used for the daughter of R. Ashi a hundred and fifty of our grains; it cured her. For intestinal worms, an anpak[6] of wine with bay leaves. For white intestinal worms he should take eruca seed and tie it in a piece of cloth and soak it in water and drink it, taking care not to swallow the pips, since they may pierce his bowels. For looseness of the bowels, moist polio in water. For constipation, dry polio in water. The mnemonic[7] is, ‘dry twigs stop the stream’. For swelling of the spleen, let him take seven leeches and dry them in the shade and every day drink two or three in wine. Alternatively he may take the spleen of a she-goat which has not yet had young, and stick it inside the oven and stand by it and say, ‘As this spleen dries, so let the spleen of So-and-so son of So-and-so’ dry up’. Or again he may dry it between the rows of bricks in a house and repeat these words. Or again he may look out for the corpse of a man who has died on Sabbath and take his hand and put it on the spleen and say, ‘As this hand is withered so let the spleen of So-and-so son of So-and-so wither.’[8] Or again, he can take a fish and fry it in a smithy and eat it in the water of the smithy[9] and wash it down with the water of the smithy. A certain goat which drank from the water of a smithy was found on being killed to have no spleen. Another remedy is to open a barrel of wine expressly for him.[10] Said R. Aha the son of Raba to R. Ashi: If he has a barrel of wine, he will not come to consult your honour.[11] No; [what you should say is that] he should take regularly a bite early in the morning, as this is good for the whole body. For anal worms he should take acacia and aloe juice and white-lead and silver dross[12] and an amulet-full of phyllon[13] and the excrement of doves and tie it all up in linen rags in the summer or in cotton rags in the winter.[14] Alternatively, let him drink strong wine well diluted. For hip disease[15] let him take a pot of fish brine and rub it sixty times[16] round one hip and sixty times round the other. For stone in the bladder let him take three drops of tar and three drops of leek juice and three drops of clear wine and pour it on the membrum of a man or on the corresponding place in a woman — Alternatively he can take the ear of a bottle and hang it on the membrum of a man or on the breasts of a woman. Or again he can take a purple thread which has been spun by a woman of ill repute or the daughter of a woman of ill repute and hang it on the membrum of a man or the breasts of a woman. Or again he can take a louse from a man and a woman and hang it on the membrum of a man and the corresponding place in a woman; and when he makes water he should do so on dry thorns near the socket of the door, and he should preserve the stone that issues, as it is good for all fevers. For external fever[17] he should take three sacks of date stones and three sacks of adra[18] leaves and boil each separately while sitting between them and put them in two basins and bring a table and set them on it and bend first over one and then over the other until he becomes thoroughly warmed, and then he should bathe himself in them, and in drinking thereof[19] afterwards he should drink only of the water of the adra leaves but not of the date stones, as they cause barrenness. For internal fever he should take seven handfuls of beet from seven beds and boil them with their earth and eat them and drink adra leaves in beer

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(1) Perhaps a kind of fever.

(2) Probably a kind of meteoric stone.

(3) For fear a snake may have injected venom into it.

(4) A Persian sauce of milk.

(5) [Identical with Nars on the canal of the same name, on the East bank of the Euphrates. Obermeyer op. cit. p. 307.]

(6) About a revi'ith.

(7) For remembering when to use the dry and when the moist.

(8) Mentioning his own name and the name of his mother.

(9) Used for cooling the metal.

(10) I.e., he should drink plenty of wine.

(11) The wine he has would protect him from such a disease.

(12) Used for cooling the metal.

(13) A kind of scent often carried by women in a little case attached to their necklaces.

(14) Applying it to the affected part.

(15) [Apparently lumbago. v. Preuss, op. cit. p. 355.]

(16) [A round number, I. e., many times, v. Preuss, loc. cit. n. 5.]

(17) I.e., eruptions.

(18) [A species of cedar, probably Spanish juniper.]

(19) [As is usual after a hot bath, v. Shab. 41a.]

Talmud - Mas. Gittin 70a

or grapes from a vine trailed on a palm tree in water. For lichen,[1] he should take seven Arzanian wheat stalks[2] and roast them over a new hoe and smear himself with the juice that exudes from them. R. Shimi b. Ashi used this remedy for a heathen for something else,[3] and it cured him.

Samuel said: If a man has been wounded by a Persian lance[4] there is no hope for him. All the same, however, he should be given fat roast meat and strong wine, as this may keep him alive long enough to enable him to give his last instructions. R. Idi b. Abin said: If a man has swallowed a wasp there is no hope for him. It is as well, however, to give him a revi'ith of Shamgaz vinegar[5] to drink, as this may keep him alive long enough to enable him to give his last instructions.

R. Joshua b. Levi said: If a man eats beef with turnips and sleeps in the moon on the nights of the fourteenth and fifteenth of the month in the cycle of Tammuz,[6] he is liable to ahilu.[7] To this a gloss was added: If one gorges himself with anything, he is liable to ahilu. R. Papa said: This applies even to dates. Is not this obvious? — [Not so: for] you might argue thus: Seeing that a Master has said, Dates fill and warm and promote digestion and strengthen and do not spoil the taste,[8] I might think [that dates are] not [included]; hence we are told [that they are]. What is ahilu? — R. Eleazar said: A burning in the bones.[9] (What is meant by a burning of bones? — Abaye replied: A burning in the bones.)[10] What is the remedy for it? — Abaye said: I have been told by my mother that all medicines are to be taken either three days or seven or twelve, but with this he must go on till he is cured. All other medicines must be taken on an empty stomach; this one, however, [is different]. After he has eaten and drunk and relieved himself and washed his hands, they must bring him a handful of shatitha[11] with lentils, and a handful of old wine, and mix them together, and he must then eat it and wrap himself in his cloak and sleep, and he must not be disturbed till he wakes of himself. When he wakes he must remove his cloak, otherwise the illness will return.

Elijah once said to R. Nathan: Eat a third and drink a third and leave a third for when you get angry, and then you will have had your fill.[12]

R. Hiyya taught: If a man wants to avoid stomach trouble, he should take tibbul[13] regularly summer and winter. In a meal which you enjoy indulge not too freely, and do not wait too long to consult nature.

Mar ‘Ukba said: If a man drinks white tilia,[14] he will be subject to debility. R. Hisda said: There are sixty kinds of wine; the best of all is red fragrant wine, the worst is white tilia. Rab Judah said: If a man sits by the fire on the mornings of Nisan and rubs himself with oil and then goes out and sits in the sun, he will be liable to debility.

Our Rabbis taught: If a man lets blood and then has marital intercourse his children [born therefrom] will be weaklings. If both man and wife let blood before intercourse their children will be liable to ra'athan.[15] R. Papa said: This is the case only if they did not take anything to eat [in between], but if they took something to eat, there is no harm. Rabbah b. Bar Huna said: If a man immediately on returning from a journey has marital intercourse, his children will be weaklings. The Rabbis taught: On coming from a privy a man should not have sexual intercourse till he has waited long enough to walk half a mil, because the demon of the privy is With him for that time; if he does, his children will be epileptic. The Rabbis taught: If a man has sexual intercourse standing, he will be liable to convulsions; if sitting, to spasms;[16] if she is above and he below, he will be subject to delaria [diarrhoea]. What is delaria![17] R. Joshua b. Levi says: The cure for diarrhoea is dardara. What is dardara? — Abaye said: The ‘crocus of thorns’.[18] R. Papa used to crunch it in his teeth and swallow it: R. Papi used to crunch it and spit it out.

Abaye said: One who is not conversant with the ‘way of the world’[19] should take three kefizi[20] of safflower and grind it and boil it in wine and drink it. R. Johanan said: This is just what restored me to my youthful vigour.

Three things weaken a man's strength, namely, anxiety, travelling and sin. Anxiety, as it is written, My heart fluttereth, my strength faileth me.[21] Travelling, as it is written, He weakened my strength it, the way.[22] Sin, as it is written, My strength faileth because of mine iniquity.[23]

Three things enfeeble a man's body, namely, to eat standing, to drink standing, and to have marital intercourse standing.

Five are nearer to death than to life, namely, one who eats and rises immediately, or who drinks and rises immediately, or who lets blood and rises immediately, or who rises immediately on waking or after marital intercourse.

If one does the following six things [together], he will die immediately: if he comes weary from a journey, lets blood and has a bath and drinks himself drunk and lies down to sleep on the floor and has marital intercourse. R. Johanan said: That is, if he does them in this order; Abaye said: If he does them in this order he will die; if not in this order he will fall ill. Is that so? Did not [a certain] Me'orath do three of these things to her slave and he died? — He was a weakling.

There are eight things which in large quantities are harmful but in small quantities are beneficial, namely, travelling, the ‘way of the world’, wealth, work, wine, sleep, hot baths, and blood-letting.

Eight things cause a diminution of seed, namely, salt, hunger, scalls, weeping, sleeping on the ground, lotus, cucumbers out of season, and bloodletting below, which is as bad as any two. A Tanna taught: As it is as bad as any two below, so it is as good as any two above. R. Papa said:

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(1) A kind of skin disease.

(2) Which were noted for their size.

(3) I.e., leprosy.

(4) The tip of which was usually poisoned.

(5) [Shamgaz is probably the name of a place. Others simply: Strong vinegar.]

(6) I.e., the three summer months. v. p. 128, n. 7.

(7) A chili or fever. V. infra.

(8) I.e.,make one fastidious.

(9) Lit., ‘a fire of bones’.

(10) [Abaye is but giving an Aramaic version of R. Eleazar's definition in Hebrew.]

(11) A kind of sauce made with flour and honey.

(12) As much as to say, Otherwise when you fall into a passion you will burst.

(13) Lit., ‘dippings’: bread or other food dipped in wine or vinegar as a relish.

(14) An inferior kind of wine.

(15) A kind of skin disease.

(16) Reading אלריא , s.v. Aruch, curt. edd. read דלריא (delaria) v. infra.

(17) The answer to this question seems to have dropped out of the text.

(18) Cantharus tinctorius.

(19) A euphemism for marital intercourse.

(20) A small measure.

(21) Ps. XXXVIII, 11.

(22) Ibid. CII, 24.

(23) Ibid. XXXI, 11.

Talmud - Mas. Gittin 70b

: ‘Below’ means below the middle,[1] and ‘above’ means above the middle. In regard to cucumbers out of season a gloss was added: As they are bad out of season, so they are good in season. R. Papa said: ‘In season’ means Tammuz; ‘out of season’ means Tebeth; round about Nisan and Tishri they are neither good nor bad.

IF HE SAYS, WRITE A GET FOR MY WIFE, AND IS THEN SEIZED WITH A KORDIAKOS AND THEN SAYS, DO NOT WRITE, HIS LAST WORDS ARE OF NO EFFECT. R. Simeon b. Lakish said: The Get may be written immediately;[2] R. Johanan, however, said that it is not to be written till he comes to himself again. What is the reason of Resh Lakish? — Because it is stated, HIS LAST WORDS ARE OF NO EFFECT. To this R. Johanan replies that the words HIS LAST WORDS ARE OF NO EFFECT’ mean that when he recovers the scribe need not consult him again, but all the same the Get is not written until he comes round. In what do they differ in principle? — Resh Lakish puts the man on a par with one who is asleep and R. Johanan with a madman. Why should not R. Johanan put him on the same footing as a sleeper? — A sleeper needs no treatment, this man does. Why does not Resh Lakish put him on the same footing as a madman? — For a madman we have no cure, for this man we have, namely red flesh broiled on the coals and wine much diluted.[3] But can R. Johanan have said this, seeing that Rab Judah has said in the name of Samuel, If a man had two passages[4] or the greater part of two passages cut and he indicated by a gesture[5] that they should write a Get for his wife, the Get should be written and given,[6] and it has also been taught, ‘If people saw him hacked or nailed to a cross and he indicated by a gesture, Write a Get for my wife, they should write and deliver it’? — Are the two cases comparable? In that case his mind was clear, and only physical weakness had set in,[7] but here his mind is clouded. But did Samuel really say this? Did not Rab Judah say in the name of Samuel: If he had two passages or the greater part of two passages cut and ran away, those who saw him can testify that he is dead.[8] Now if we presume that he is alive [after the passages have been cut],[9] why can they testify that he is dead? — We say that he is alive, but he is bound to die. But if that is the case, [the man who cut his throat] [accidentally] should be exiled [to a city of refuge] on account of him; why then has it been taught, ‘If one cut [accidentally] two passages or the greater part of two passages of [the throat of] another, he is not exiled’? — It has been explained in regard to this that R. Oshaia said: We consider it possible that the wind troubled him or that he hastened his own death.[10] What difference does it make which reason we adopt? — There is a difference where he killed him in a marble room and he struggled,[11] or where he killed him outside and he did not struggle.

IF HE IS STRUCK DUMB AND THEY SAY TO HIM, SHALL WE WRITE A GET FOR YOUR WIFE etc. But is there not a possibility that he was seized [just then] with an involuntary nodding of the head in a negative or a positive sense?[12] — R. Joseph b. Manyumi said, in the name of R. Nahman: [We suppose that] we question him at intervals. But perhaps the involuntary nodding seized him at the same intervals? — We suppose that we ask him two [questions requiring a] negative [answer] and one [requiring an] affirmative [answer], or two [requiring an] affirmative and one a negative [answer]. In the school of R. Ishmael it was taught: They talk to him about the requirements of the summer season in the rainy season and of the rainy season in the summer season. What is referred to here? Shall we say winter coat and summer coat? Perhaps just then he was seized with a shiver or a perspiration?[13]

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(1) E.g., the legs and thighs.

(2) After the last words are uttered.

(3) As supra p. 415.

(4) The windpipe and the oesophagus.

(5) I.e., he nodded assent when they asked him.

(6) Apparently the questioner puts such a man on the same footing as one suffering from kordiakos. But in this case it is not easy to see why the question was not raised against the Mishnah itself and not against R. Johanan (v. Tosaf.).
(7) Lit., ‘had begun with him’.
(8) So that his wife can marry again.
(9) So that his Get is valid.
(10) And therefore we do not hold the man who cut his throat guilty even of accidental homicide.
(11) In which case his death could not have been due to the wind, and therefore if we adopt the first reason the other man would be guilty of homicide.
(12) Lit., ‘a bending of no, no"! or "yes, yes"! I.e., sideways or forwards, so that he was not giving any answer to the question.
(13) And even if he asked for a summer coat in winter or vice-versa, his answer might still be rational.

Talmud - Mas. Gittin 71a

— The proper way is to ask him about fruit.[1]

R. Kahana said in the name of Rab: If a deaf-mute can signify his meaning by writing, a Get may be written and given to his wife.[2] Said R. Joseph: What does this tell us [that we do not know already]? We have learnt: IF A MAN IS STRUCK DUMB AND WHEN THEY SAY TO HIM, SHALL WE WRITE A GET FOR YOUR WIFE, HE NODS HIS HEAD, HE IS TESTED WITH THREE QUESTIONS. IF HE SIGNIFIES ‘NO’ AND ‘YES’ PROPERLY EACH TIME, THEN THE GET SHOULD BE WRITTEN AND GIVEN FOR HIM?[3] — R. Zera replied to him: You have quoted a statement about an illem [mute]. An illem is different, as it has been taught: One who can speak but not hear is called heresh,[4] and one who can hear but not speak is called illem, and both are considered to be in possession of their faculties for all purposes. What is your warrant for saying that one who can speak but not hear is called heresh, and one who can hear but not speak is called illem? — Because it is written, But I am as a deaf man [heresh] I hear not, and I am as a dumb man [illem] that openeth not his mouth.[5] Or if you like I can say that we know it from the colloquial description[6] of a dumb man as Ishtekil Miluleh.[7]

R. Zera said: If I do find any difficulty [in R. Kahana's remark] it is this, that it has been taught: ‘If he do not utter it.[8] This excludes a mute who cannot utter’. Now why should this be, seeing that [according to R. Kahana] he can signify by writing? — Abaye replied to him: You are speaking of testimony, and testimony comes under a different rule, because the All-Merciful has said that it must be from their mouths,[9] and not from their writing.

[The following] was raised in objection [to Abaye's statement]: In the same way as he[10] is tested in connection with a Get, so he is tested in connection with business transactions, with testimony, and with bequests. Now ‘testimony’ is mentioned here? — R. Joseph b. Manyumi said in the name of R. Shesheth: This applies only to testimony regarding the status of a woman,[11] with which the Rabbis were not so strict. But it also says ‘bequests’?[12] — R. Abbahu said: It refers to the inheritance of his eldest son.[13] But it also says ‘in connection with business transactions’, and this presumably means anyone's? — No, it refers only to his own.

[The following] was then raised in objection: The directions of a deaf-mute given by gestures, by lip-movements, and by writing are to be followed only in regard to the transfer of movables, but not to a Get?[14] — There is in truth a difference of opinion on this point between Tannaim, as it has been taught: R. Simeon b. Gamaliel says: This[15] is the case only with one who was a deaf-mute from the outset, but one who was originally whole and became a deaf-mute after marriage can write a Get for himself which others can sign.[16]

But cannot one who was originally a deaf-mute give a Get? As he married her by gesture, cannot he also divorce her by gesture? — If [we were speaking] of his wife, this would indeed be the case, but [in fact] we are dealing with his sister-in-law.[17] His sister-in-law from whom? Are we to say, one who fell to his lot from his [de ceased] brother who was also a deaf-mute? [In that case], just as she was married by gesture,[18] so she can be put away by gesture! No; it is one who fell to his lot from a brother in possession of his faculties.[19] Alternatively I may say that she did fall to his lot from a brother who was a deaf-mute, and we forbid the [wife of a] deaf-mute to be divorced by gesture so as not to set a precedent for [the wife of] one who was sound. If that is the case, should we not forbid him to divorce his wife also?[20] — A sister-in-law can be confused with a sister-in-law, but not with a wife. But do we indeed forbid [a deaf-mute] because [of a sound one]?

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(1) I.e., whether he wants freshly plucked fruit when they are out of season.

(2) I.e., if he was whole at the time of marriage and so made a proper betrothal. If he was deaf and dumb before marriage, he betroths by gesture and can also divorce by gesture, v. infra.

(3) And writing is surely as effective as nodding.

(4) In Biblical phraseology. Whereas in Rabbinical language heresh generally denotes a deaf-mute, and it is to a deaf-mute that R. Kahana refers.

(5) Ps. XXXVIII, 14.

(6) Lit., ‘as men say’.

(7) I.e., ‘his speech has been taken away from him’.

(8) Lev. V, 1, of one who is called on to testify and withholds his evidence.

(9) Deut. XIX, 15, ‘At the mouth of two witnesses . . . shall a matter be established’.

(10) The reference is to one who is struck dumb.

(11) I.e., whether she may contract a certain marriage or not on his evidence regarding the death of her husband.

(12) Which presumably means, giving evidence about other people's bequests.

(13) I.e., his signifying that his eldest son should not have a double portion (Rashi), or that one of his sons was the eldest (Tosaf).

(14) This refutes R. Kahana.

(15) That the directions of a deaf-mute are not to be followed in regard to a Get.

(16) In agreement with R. Kahana.

(17) A deaf and dumb man cannot give halizah (v. Glos.), because he cannot say ‘I do not desire to marry her’. He must therefore contract the levirate marriage, and as the betrothal of the first husband was effected by word of mouth, he cannot undo it by a gesture or by writing.

(18) By the first husband.

(19) And as the betrothal of the first husband was effected by word of mouth, he cannot undo it by a gesture or by writing.

(20) Lest she should set a precedent for the sister-in-law.

Talmud - Mas. Gittin 71b

Have we not learnt, ‘If two brothers, deaf-mutes, were married to two sisters who were not deaf-mutes or to two sisters who were deaf-mutes or to two sisters one of whom was a deaf-mute and the other not, and similarly if two sisters who were deaf-mutes were married to two brothers who were not deaf-mutes or to two brothers who were deaf-mutes or to two brothers one of whom was a deaf-mute and the other not, these sisters[1] are free from the obligation of halizah or levirate marriage.[2] If however, the women were not related to one another, they must contract the marriage,[3] and if [the second husband] desires to put her away[4] he may do so’?[5] — The truth is that the first answer is the best.

R. Johanan said: R. Simeon b. Gamaliel's colleagues[6] differed from him. Abaye said: We have also learnt to the same effect:[7] If the wife became insane, he cannot put her away. If he became deaf and dumb or insane, he can never put her away.[8] What is meant by never’? Surely it means, even if he can signify his intention in writing? — R. Papa said: But for the statement of R. Johanan, I would have said that R. Simeon b. Gamaliel intended only to explain the statement of the previous Tanna, and that ‘never’ means, ‘even though we see that he is intelligent’.[9] Or, I might have said, the word ‘never’ indicates the lesson taught by R. Isaac. For R. Isaac said: According to the rule of the [written] Torah, an insane wife can be divorced, being on the same footing as a sound woman who is divorced without her own consent. Why then did the Rabbis lay down that she should not be divorced? In order that she should not be used for immoral purposes.[10]

MISHNAH. IF THEY SAID TO HIM, SHALL WE WRITE A GET FOR YOUR WIFE, AND HE SAID TO THEM, WRITE, AND IF THEY THEN TOLD A SCRIBE AND HE WROTE AND WITNESSES AND THEY SIGNED, EVEN THOUGH THEY HAVE ALREADY WRITTEN AND SIGNED IT AND GIVEN IT TO HIM AND HE IN TURN HAS GIVEN IT TO HER, THE GET IS VOID UNLESS HE HIMSELF HAS SAID TO THE SCRIBE ‘WRITE’ AND TO THE WITNESSES, ‘SIGN’.

GEMARA. The reason [why it is invalid] is because he did not say ‘give’ [instead of ‘write’].[11] We presume, therefore, that if he said ‘give’ they [may tell others to write and] give.[12] Whose view is this? R. Meir's, who said that verbal instructions can be entrusted to an agent.[13] Read now the later clause: UNLESS HE HAS SAID TO THE SCRIBE, ‘WRITE’ AND TO THE WITNESSES ‘SIGN’. This brings us round to the view of R. Jose who said that verbal instructions cannot be entrusted to an agent. Are we to say then that the first clause follows R. Meir and the second R. Jose? — Yes; the first follows R. Meir and the second R. Jose. Abaye, however, said: The whole follows R. Meir, and we are dealing here [in the last clause] with the case where he did not say ‘give’.[14] If that is the case, it should say, ‘he must say, Give’?[15] — In fact the case here is one in which he did not tell three persons.[16] If that is the case, it should say, ‘He must tell three’? — Hence the whole follows R. Jose, and the case here is one in which he did not say, ‘Tell’.[17] If that is the case, it should say, ‘He must say, Tell’? And besides, does R. Jose admit that the Get is valid where he says ‘tell’? Have We not learnt: ‘If a scribe wrote and a witness signed, it is valid’, and R. Jeremiah explained that what is meant is that the scribe [also] signed, and R. Hisda said, Whom does this Mishnah follow?

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(1) The widow of any of the brothers who died without issue.

(2) That is to say, although the marriage was contracted at least on one side by gesture only, it is sufficiently valid to release the wife's sister from the obligation of giving halizah to or to bar her from marrying the husband, v. Yeb. I, 1.

(3) Not being able to give halizah because either he or she cannot recite the requisite formula.

(4) I.e., after having Performed the levir marriage.

(5) V. Yeb. 110b. Which shows that we do not forbid a deaf-mute to divorce the wife of his deceased brother who was also a deaf-mute.

(6) The representatives of the anonymous view mentioned in the Baraitha cited supra p. 338.

(7) The view of the Rabbis which R. Simeon opposes.

(8) Yeb. 110b.

(9) But not, ‘even though he can write’, so that this Mishnah would not differ from R. Simeon.

(10) The insertion of the word ‘never’ in the second clause is not intended to exclude the deaf-mute's divorce by writing, but is meant to indicate that the rule regarding the husband has the sanction of the Torah, whereas the one regarding the wife mentioned in the first clause has the sanction only of the Rabbis.

(11) V. Rashi a.I.

(12) That is to say, if there were three of them, in which case the word ‘give’ constitutes them a Beth din to write and deliver the Get.

(13) I.e., that the agent is at liberty to instruct someone else to carry out the instructions which were given to him, v. supra 29b.

(14) I.e., in such a case the Get is invalid unless he tells the scribe etc.

(15) Instead of ‘write’. And there is no need to mention the case of his telling the scribe personally.

(16) And if he told only two, even if he used the word ‘give’, they would not be at liberty to tell a scribe.

(17) I.e., tell the scribe to write etc.

Talmud - Mas. Gittin 72a

R. Jose, who said that instructions are not transmitted to a messenger? Now if you should assume that R. Jose admits that the Get is valid where he said 'tell,'[1] then serious results may sometimes ensue, for it may happen that he says to two persons, 'Tell the scribe to write and So-and-so and So-and-so to sign', and they, in order not to offend the scribe, let him sign, and this is not what the husband said?[2] — The best view therefore is that the first clause follows R. Meir and the later one R. Jose.

R. Ashi said: The whole follows R. Jose, and [the last clause] forms a climax: Not only where he omitted to say 'give' [is the Get invalid] but even where he said 'give', and not only where he did not tell three persons but even where he told three persons, and not only where he did not say 'tell' but even where he said 'tell' [the Get is invalid till he says to the scribe etc.].

It has been taught in accord with R. Ashi: 'In the case where the scribe wrote and the witnesses signed for her name, though they had written and signed it and given it to him and he had given it to her, the Get is void unless they had heard him saying with his own voice to the scribe, Write, and to the witnesses, Sign'. The word 'hear' excludes the opinion [mentioned above], that R. Jose admits that the Get is valid where the husband said 'tell'. 'His voice' excludes the statement made by R. Kahana in the name of Rab.[3]

MISHNAH. [IF A MAN SAYS] THIS IS YOUR GET IF I DIE, THIS IS YOUR GET [IF I DIE][4] FROM THIS ILLNESS, THIS IS YOUR GET AFTER [MY] DEATH, HIS WORDS ARE OF NO EFFECT.[5] [IF HE SAYS], FROM TODAY IF I DIE, FROM NOW IF I DIE, THE GET IS VALID.[6] [IF HE SAYS], FROM TODAY AND AFTER [MY] DEATH, IT IS BOTH A GET AND NO GET, AND IF HE DIES [WITHOUT ISSUE] SHE MUST GIVE HALIZAH[7] BUT SHE CANNOT MARRY THE HUSBAND'S BROTHER.[8] [IF HE SAID], THIS IS YOUR GET FROM TODAY IF I DIE FROM THIS ILLNESS, AND HE THEN GOT UP AND WENT ABOUT AND FELL SICK AND DIED, WE MUST ESTIMATE [THE PROBABLE CAUSE OF HIS DEATH]; IF HE DIED FROM THE FIRST ILLNESS, THE GET IS VALID, BUT OTHERWISE NOT.

GEMARA. [IF HE SAID, THIS IS YOUR GET IF I DIE etc.] This would indicate that the formula 'IF I DIE' is equivalent to 'AFTER [MY] DEATH'; yet in the next clause we are told that [the Get is valid if he says] 'FROM TODAY IF I DIE, FROM NOW IF I DIE', which would indicate that it is not equivalent to 'AFTER DEATH'! — Abaye explained that the expression 'IF I DIE' can have two implications, viz., either 'as from now' or 'as from the time of my death'. If he [further] said to her 'from to-day', it is equivalent to saying to her 'as from now'; if he did not say to her 'from to-day', it is equivalent to saying to her 'from the time of my death'.

IF HE SAID, THIS IS YOUR GET IF I DIE, HIS WORDS ARE OF NO EFFECT. R. Huna said: The wife none the less must give halizah. But it is taught 'HIS WORDS ARE OF NO EFFECT'? — His words are of no effect to the extent that she remains prohibited to all other men and also to the brother-in-law. But since in the later case[9] it says specifically that SHE GIVES HALIZAH, we understand that in the earlier case[10] [where it does not say so] she may also marry the brother-in-law? — The Mishnah follows the view of the Rabbis and R. Huna that of R. Jose, who said that the date of the document is sufficient indication.[11] If we follow the View of R. Jose, she should not require to give halizah either?[12] perhaps you will aver that R. Huna was uncertain whether the halachah follows R. Jose or not.[13] But can you indeed say so? For once when Rabbah b. Abbuha was ill, R. Huna and R. Nahman went to visit him, and R. Huna said to R. Nahman, Ask Rabbah b. Abbuha whether the halachah follows R. Jose or not,[14] and R. Nahman answered, I do not know R. Jose's reason, and how can I ask him the halachah, whereupon R. Huna said, You ask him the halachah and I will tell you the reason. He therefore asked him, and he replied: Thus said Rab: the halachah is according to R. Jose. When he came out he [R. Huna] said to him, The reason of R. Jose is this; he held that the date of the document is sufficient indication. [This then cannot be R. Huna's reason]! — We must suppose therefore that he was uncertain

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(1) I.e., where the scribe signed on the instructions not of the husband but of his agent.

(2) V. supra 67a and notes.

(3) That a deaf-mute may give instructions in writing.

(4) [The bracketed words are supplied from the printed texts of the Mishnayoth. Rashi, however, omits these words and takes the phrase ‘THIS IS YOUR GET FROM THIS ILLNESS’ to mean that the Get is to take effect after this illness.]

(5) Because there is no such thing as a Get after death.

(6) The Get in this case comes retrospectively into force at the moment of his death.

(7) For fear it was no Get.

(8) As levir, for fear it was a Get.

(9) Where he says, ‘FROM TODAY AND AFTER MY DEATH’.

(10) Where it is laid down that his words are of no effect.

(11) Lit., ‘is the proof thereof’. The document referred to is one in which a man assigns all his property to his sons in his lifetime, intending to keep the usufruct for himself. According to the Rabbis, if he desires to transfer to them the body of the property at once, he must insert the words ‘from to-day and after my death’: according to R. Jose this is not necessary, the date of the document being sufficient to give this indication. V. B.B. 136a.

(12) Since the date makes it a valid Get immediately.

(13) And therefore he treated the document as a ‘Get and no Get’.

(14) In the matter of transference of property.

Talmud - Mas. Gittin 72b

whether R. Jose meant his ruling to apply to a verbal declaration[1] or not. But was he uncertain? Have we not learnt, ‘If a man said, This is your Get if I do not return within twelve months from now,[2] and he died within the twelve months, the Get is not valid’,[3] and in this connection it was taught: ‘Our Rabbis allowed her to marry’, and we stated [in the Beth Hamidrash], Who are ‘our Rabbis’? and Rab Judah said in the name of Samuel, The Beth din which permitted oil,[4] and they took the same view as R. Jose?[5] — We must therefore say that R. Huna's uncertainty was as to whether the halachah follows R. Jose where the declaration was made by word of mouth or not. But can he have been in doubt about this, seeing that Raba has said, If a man says, ‘This is thy Get if I die’, or ‘supposing I die’, the Get is valid, but if he said, ‘When I die,’ or ‘After [my] death,’ the Get is not valid. Now, how are we to understand this? Are we to suppose that he [also] said ‘from to-day’,and [that Raba adopted the view of] the Rabbis? Surely there is no need to tell us this, seeing that we have learnt, IF HE SAID, FROM TO-DAY IF I DIE, THE GET IS VALID. We must therefore suppose that he does not say to her ‘from to-day’, and that Raba adopted the view of R. Jose; which shows that the halachah is in accordance with R. Jose,[6] [does it not]? — Raba was quite sure on the point, R. Huna was uncertain. Alternatively I may suppose [Raba to have meant that] the man does say ‘from to-day’, and that he was giving the view of the Rabbis, and that his purpose was to explain in regard to these various expressions that ‘supposing I die’ is equivalent to ‘if I die’, and ‘when I die’ to ‘after [my] death’.

Some connect [R. Huna's remark] with the latter clause [of the Mishnah], thus: IF A MAN SAYS, THIS IS YOUR GET AFTER [MY] DEATH, HIS WORDS ARE OF NO EFFECT: R. Huna said, If we accept the view of R. Jose, she must give halizah. Surely this is obvious: since in the later case[7] the ruling of the Rabbis [requires her to] give halizah, in the earlier case also the ruling of R. Jose [must require her to] give halizah? — You might think that in this case R. Jose concurs with Rabbi who said that it is an unexceptionable Get[8] and that she would not require to give halizah either, R. Huna therefore tells us that neither did Rabbi concur with R. Jose nor R. Jose with Rabbi. Rabbi did not concur with R. Jose because he stated expressly ‘a Get like this is valid’, to exclude one allowed by R. Jose.[8] R. Jose did not concur with Rabbi, because he stated expressly, ‘a Get like this is valid’, to exclude one allowed by Rabbi. In what connection did Rabbi use these words? — As it has been taught: [If a man says,] From to-day and after my death, this is a Get and no Get. So the Rabbis; but Rabbi says, A Get like this is valid.[9] In what connection did R. Jose use these words? — As we have learnt: [If a man says,] Write and give a Get to my wife if I do not come within twelve months from now, if then they wrote it within the twelve months and gave it after the twelve, it is no Get. R. Jose, however, said: A Get like this is valid.[10]

IF HE SAYS, THIS IS YOUR GET FROM TO-DAY IF I DIE AND HE GETS UP AND GOES ABOUT etc. R. Huna said: His[11] Get is on the same footing as his gift; just as if he gets up he can withdraw his gift, so if he gets up he can withdraw his Get. And just as his Get, even though he does not express his intention precisely, is valid once he says ‘write’, even though he does not add ‘give’, so his gift is valid as soon as he says ‘give’ even though no token gift is made.[12] We have learnt: IF HE SAYS, THIS IS YOUR GET FROM TO DAY IF I DIE FROM THIS ILLNESS, AND HE THEN GOT UP AND WENT ABOUT AND FELL SICK AND DIED, WE MUST ESTIMATE THE PROBABLE CAUSE OF HIS DEATH: IF HE DIED FROM THE FIRST ILLNESS, THE GET IS VALID, BUT OTHERWISE NOT. Now if you say that if he gets up he can retract, why do I require an estimate? We see that he has got up?[13] — Mar the son of R. Joseph said in the name of Raba: We suppose he has passed from one illness into another.[14] But it says that ‘HE GETS UP’? — He gets up from one illness and falls into another. But it says ‘HE GOES ABOUT’? — It means that he goes with a crutch;

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(1) I.e., where the words ‘THIS IS YOUR GET IF I DIE’ if used at all were not inserted in the document, but spoken by word of mouth.

(2) Which is equivalent to saying ‘if I die’.

(3) V. infra 76b.

(4) R. Judah Nesi'a, (the Prince), the grandson of Rabbi, permitted the oil of heathens to be used. A.Z. 37a.

(5) Which shows that according to R. Jose the formula ‘if I die’ spoken by word of mouth makes the Get valid, and R. Huna could not have been uncertain on this point.

(6) Even when the declaration was made by word of mouth.

(7) Where he said, ‘from to-day and after death’.

(8) V. infra.

(9) To exclude where he said merely ‘after death’, which, according to R. Jose is sufficient.

(10) V. infra 76b. But not where he said ‘from to-day and after death’, since the words ‘after death’ may be interpreted as retracting the words ‘from to-day’. Although in the matter of transference of property R. Jose will hold the gift valid, because the declaration there can be explained as intended to reserve the usufruct for the donor during his lifetime.

(11) The reference is to a sick person on the point of death.

(12) V. supra p. 66a and notes.

(13) And the Get is ipso facto annulled.

(14) [Since in the Mishnah it was specifically made conditional on his dying, (v. Tosaf.). Trani is of the opinion that in every case the Get is rendered void, any deposition made by a dying man being understood to be conditional. The same holds good of a gift.]

Talmud - Mas. Gittin 73a

and this is to show us that it is when he goes on a crutch that an estimate must be made, but that in the other case we do not even require to estimate.[1] Are we to understand from this that the gift of a sick person who passes from one illness to another [and dies] is valid? — Yes, since R. Eleazar has said in the name of Rab, The gift of a sick person who passes from one illness into another is valid.

Rabbah and Raba did not concur in this opinion of R. Huna,[2] as they were afraid it might lead people to think that a Get could be given after death.[3] But is it possible that where a Get is invalid according to the Torah[4] we should, for fear [of misleading people], declare it effective for making a married woman marriageable? — Yes; whoever betroths a woman does so on the conditions laid down by the Rabbis, and the Rabbis have nullified the betrothal of such a one.[5] Said Rabina to R. Ashi: This can well be where he betrothed by means of a money gift, but if he betrothed by means of intercourse what can we say? — He replied: The Rabbis declared his intercourse to be fornication.[6]

Our Rabbis taught: If he says, This is thy Get from to-day if I die from this illness, and the house fell on him or a serpent bit him, it is no Get. If he said, If I do not get up from this illness, and the house fell on him or a serpent bit him, it is a Get. Why is the rule different in the first case and in the second?[7] — They sent from there[8] to say [in answer to an inquiry], If a lion consumed him, we cannot consider [it a Get].[9]

A certain man sold a field to his neighbour, guaranteeing him against any accident that might happen to it. Eventually they [the Government] turned a river through it. He consulted Rabina, who said to him, You must go and clear it for him, since you have guaranteed him against any accident which may happen to it. Thereupon R. Aha b. Tahalifa remarked to Rabina: It is an exceptional kind of accident. Various opinions were taken[10] and the matter was at last laid before Raba, who said, it is an exceptional kind of accident. Rabina raised [the following] objection against Raba: '[Where he said] If I do not get up from this illness, and the house fell on him or a serpent bit him, this is a Get'? — Raba replied: Why do you not quote the earlier clause, where it says, 'It is no Get'? — Said R. Aha from Difti to Rabina: Because the first clause conflicts with the second, may we not raise an objection from the latter? — He replied: That is so; since the first clause conflicts with the second, the latter was not discussed in the Beth Hamidrash, and it is not authentic. [You must therefore] follow your own reason.[11]

R. Papa and R. Huna the son of R. Joshua bought some sesame on the bank of Nehar Malka,[12] and they hired some boatmen to bring it across[13] with a guarantee against any accident that might happen to it. After a time the Nehar Malka canal was stopped up. They said to them: Hire asses and deliver the stuff to us, since you have guaranteed us against any accident. They appealed to Raba, who said to them: White ducks[14] who want to strip men of their clothes, it is an exceptional kind of accident.[15]

MISHNAH. SHE[16] SHOULD NOT CONSORT WITH HIM[17] SAVE IN THE PRESENCE OF WITNESSES, THOUGH A SLAVE OR A BONDWOMAN IS SUFFICIENT — NOT, HOWEVER, HER OWN BONDWOMAN, SINCE SHE CAN TAKE LIBERTIES WITH HER OWN HANDMAID.[18] WHAT IS HER STATUS DURING THOSE DAYS?[19] R. JUDAH SAYS THAT

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(1) And even if he passes from one illness to another, we presume that he died from the first illness.

(2) That a sick man on getting up can withdraw his Get, even if he had not used the formula 'if I die'. But v. Tosaf. 72b s.v. אמר .

(3) When they see a Get which would become void if he recovered taking effect after his death if he does not recover.

(4) Because the condition that he should die is not fulfilled.

(5) By means of this Get.

(6) V. supra, 33a.

(7) [The answer to the questions left unanswered here is supplied by the Jerusalem Talmud. In the first case he did not die from that illness. Whereas in the second, where the emphasis was on his 'getting up', the Get is valid since he did not after all 'get up'. Our Talmud however, did not evidently accept this distinction, seeing that in both cases the words 'from this illness' form part of the condition, and thus rejects the Baraitha. Tosaf.]

(8) Palestine.

(9) Because this is an exceptional accident which he cannot have had in his mind when he said 'if I die'.

(10) Lit., 'the matter was circulated'.

(11) Which would tell you that he did not have such an exceptional accident in his mind.

(12) [Alfasi reads Nehar Malka Saba, the Grand Canal connecting the Euphrates with the Tigris, (Obermeyer op. cit. p. 171). V. also B.M. (Sonc. ed.) p. 609, n. 5.]

(13) To Naresh (v. supra p. 330, n. 1.) the home of R. Papa. The boats had for this purpose to sail up the Euphrates and thence pass into the canal Nars (loc. cit. p. 171).

(14) I.e., greybeards (Rashi). Cf. Keth. 85a. [Obermeyer loc. cit. Pelican, a bird which owing to its large pouch on its lower jaw for the storage of fish is a symbol among orientals for greediness.]

(15) And therefore they are not responsible.

(16) A woman to whom her husband has given a Get with the words 'from now if I die'.

(17) Because if she is still his wife and he has intercourse with her she will require a second Get, and if she is not his wife he commits an offence by consorting privately with an unmarried woman.

(18) Lit., 'her heart in her is proud towards her handmaid', i.e., she feels no shame in her presence.

(19) Between the delivery of the Get and his death.

Talmud - Mas. Gittin 73b

SHE IS REGARDED AS A MARRIED WOMAN IN EVERY RESPECT; R. JOSE SAYS THAT SHE IS BOTH DIVORCED AND NOT DIVORCED.

GEMARA. Our Rabbis taught: If people have observed that she consorted with him in the dark or slept with him under the foot of the bed, they do not suspect them of having engaged in something else',[1] but they do suspect them of loose conduct, and they do not suspect that he has betrothed her. R. Jose son of R. Judah, however, says, They also suspect him of having betrothed her. What is the meaning of this?[2] — R. Nahman said in the name of Rabbah b. Abbuha, The meaning is this: If they saw him have intercourse with her, they suspect he has done so as a method of betrothing her.[3] If he [afterwards] gave her money, they suspect that it was on account of fornication, as we say that he gave it her for her hire; but we do not suspect it was for betrothal. R. Jose son of R. Judah, however, says that in this case also we have to suspect that it may have been for betrothal. On which of these views can we justify the statement made by Rabbah b. Bar Hanah in the name of R. Johanan: 'The difference[4] arises only in the case where they saw her have intercourse, but if they did not see her have intercourse, both sides agree that she does not require from him a second Get'. On which view can this be justified? — On both views.[5]

Abaye strongly demurred to the explanation [given by R. Nahman]. Is the giving of money, [he said,] mentioned?[6] — No, said Abaye; the meaning is this. If they saw her have intercourse they suspect[7] her of fornication but do not suspect it was for betrothal. R. Jose son of R. Judah says, We also suspect that it may have been for betrothal. On which of these views can we justify the statement made by Rabbah b. Bar Hanah in the name of R. Johanan: 'The difference arises only in the case where they saw her have intercourse, but if they did not see her have intercourse, both sides agree that she does not require from him a second Get'? On which view can this be justified? On the view of R. Jose.[8] Raba strongly demurred to this, [saying,] If so, what is the point of 'also'?[9] — No, said Raba; the meaning is this. R. Jose, son of R. Judah, says that even if they did not see her have Intercourse,[10] we still suspect he may have betrothed her. On which of these views can we justify the statement of Rabbah b. Bar Hanah in the name of R. Johanan: 'The difference arises where they saw her have intercourse, but if they did not see her have intercourse, both sides agree that she does not require from him a second Get?' On whose view is this justified? — On neither.[11]

WHAT IS HER STATUS DURING THOSE DAYS? R. JUDAH SAYS THAT SHE IS REGARDED AS A MARRIED WOMAN IN ALL RESPECTS; R. JOSE SAYS THAT SHE IS DIVORCED AND NOT DIVORCED. A Tanna taught:[12] Provided he dies.[13] And when he dies will it be a Get?[14] Is it not an established maxim that there is no Get after death? — Rabbah replied: We presume that what he said to her was, [This will be a Get] from the time that I am still in the world.[15]

Our Rabbis taught: In the days between,[16] her husband is entitled to her finds and the product of her labour, he can annul her vows, he inherits her,

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(1) I.e., sexual intercourse.

(2) I.e., how explain the apparent contradiction between the various clauses.

(3) Intercourse being one of three methods of betrothal, v. Kid. 2a, she will now require another Get.

(4) Between Beth Hillel and Beth Shammai, infra 81a. If a man has divorced his wife and she stays in the same inn with him, Beth Hillel require him to give her a second Get, but Beth Shammai do not.

(5) Because both the first Tanna and R. Jose agree that where she was not seen to have intercourse a second Get is not required.

(6) In the Baraitha quoted, and how could so essential a point have been omitted?

(7) The word ‘suspect’ is used loosely here, and is equivalent to ‘put it down to’.

(8) For according to the first Tanna a second Get is not required even where they saw her. This therefore must also be the view of Beth Hillel, as the first Tanna is not likely to follow Beth Shammai in preference to Beth Hillel with whom the halachah generally rests.

(9) In the observation of R. Jose. Since the assumption that this is a case of fornication saves her from the necessity of another Get, R. Jose should have merely said, ‘They suspect him of having betrothed her’.

(10) But only consort with him.

(11) Since the first Tanna does not require a second Get even where she was seen, and R. Jose requires it even where she was not seen.

(12) In connection with the statement of R. Jose.

(13) If he does not die, she remains a married woman, with certain consequences which are discussed presently.

(14) I.e., if it was not a Get at some time during his life, how can it become one upon his death?

(15) Which denoted the period immediately preceding his death. R. Judah being of the opinion that the Get comes into force only at the moment before his death, whereas according to R. Jose the Get is in doubtful operation all the time as every moment from the time of delivery may be deemed as the possible moment before his death. Tosaf. suggests a slight change in reading, according to which the rendering would be: ‘(When he says, "from to-day if I die", this is equivalent to saying) from the time that I am in the next world’.’ According to Rabbah the dispute of R. Judah and R. Jose is not concerned with the opening case when he said ‘from now if I die’, where all would agree that the Get becomes retrospectively valid at the time of his death.

(16) The giving of the Get and his death.

Talmud - Mas. Gittin 74a

, and he defiles himself for her [corpse];[1] in a word, she is his wife in all respects, save that she does not require from him a second Get.[2] This is the view of R. Judah. R. Meir says that if she has intercourse [with another man], judgment on it must be suspended.[3] R. Jose says that its character is doubtful,[4] while the Sages say that she is divorced and not divorced, provided only that he dies. How would the difference between R. Meir and R. Jose work out in practice? — R. Johanan says: In respect of a guilt-offering brought out of doubt;[5] according to R. Meir the man does not bring a guilt-offering out of doubt,[6] according to R. Jose he does. ‘The Sages say that she is divorced and not divorced’: the Sages say the same thing as R. Jose, do they not? — A practical difference arises in the application of the rule laid down by R. Zera; for R. Zera said in the name of Rabba b. Jeremiah who had it from Samuel: Wherever the Sages have said that a woman ‘is divorced and not divorced’, the husband is under obligation to maintain her.

MISHNAH. [IF A MAN SAYS], THIS IS YOUR GET ON CONDITION THAT YOU GIVE ME TWO HUNDRED ZUZ, SHE IS DIVORCED THEREBY AND SHE HAS TO GIVE [HIM THE MONEY]. [IF HE SAYS], ON CONDITION THAT YOU GIVE [IT] ME WITHIN THIRTY DAYS FROM NOW, IF SHE GIVES HIM WITHIN THIRTY DAYS SHE IS DIVORCED, BUT IF NOT SHE IS NOT DIVORCED. RABBAN SIMEON B. GAMALIEL SAID: IT HAPPENED IN SIDON

THAT A MAN SAID TO HIS WIFE, THIS IS YOUR GET ON CONDITION THAT YOU GIVE ME [BACK] MY ROBE, AND HIS ROBE WAS LOST, AND THE SAGES SAID THAT SHE SHOULD GIVE HIM ITS VALUE IN MONEY.

GEMARA. What precisely is meant by the words 'AND SHE HAS TO GIVE HIM'? — R. Huna says it means, 'and she shall [thereafter] give him'; Rab Judah says it means, 'when she gives him'. What difference does it make in practice which view we adopt? — It makes a difference if the Get is torn or lost [before the money is given]. According to R. Huna who said it means that she is [thereafter] to give, she does not require from him a second Get,[7] according to Rab Judah who said that it means 'when she gives', she requires from him a second Get.[8] In connection with betrothals also we have an analogous statement, as we have learnt: 'If a man says to a woman, Behold thou art betrothed to me on condition that I give thee two hundred zuz, she is betrothed to him and he is to give her the money,[9] 'and in the discussion thereon it was said, What is meant by 'he is to give', and R. Huna said, It means, he shall [thereafter] give,while Rab Judah said, It means, When he gives. What practical difference does it make which view we adopt? — A difference arises if she puts forth her hand and receives betrothal money from another. According to R. Huna who said that it means, 'he shall [thereafter] give', the giving is a mere condition, and he has only to fulfil his condition,[10] whereas according to Rab Judah who said that it means 'when he gives', the betrothal takes effect only when he gives, but at the time it is no betrothal. And both cases required to be stated. For if the rule had been stated only in regard to betrothal, I might have thought that in that case R. Huna said that it means 'and he is to give', because his intention is to bring her nearer [to himself],[11] but in the case of divorce where his intention is to put her away [from himself][12] I might have thought that he accepts the view of Rab Judah. If again it had been stated in regard only to divorce, I might have thought that in that case R. Huna said it means 'he shall [thereafter] give' because he would not be shy to ask her,[13] but in the case of betrothal where she might be diffident to ask him, I might have thought that he would accept the view of Rab Judah. Again, if the rule had been stated in connection only with betrothal, I might have thought that Rab Judah said that in that case It means 'when she gives' because she is diffident to ask him, but in the case of divorce where he would not be shy to ask her I might have thought that he accepts the view of R. Huna. And if the rule had been stated only in connection with divorce, I might have thought that in that case Rab Judah says it means 'when she gives', because his intention is to put her away [from him], but in the case of betrothal where his intention is to bring her nearer [to him] I might have thought that he accepts the view of R. Huna. Therefore [both statements] were necessary.

An objection was raised [If a man says,] This is your Get on condition that you give me two hundred zuz, even though the Get is torn or lost she is divorced, though she cannot marry any other man until she gives him the money.[14] Further it has been taught: [If a man says,] This is your Get on condition that you give me two hundred zuz and he dies, if she has already given [before he dies] she is not in any way tied to the brother-in-law, but if she has not yet given she is tied to the brother-in-law. Rabban Simeon b. Gamaliel Says, She can give the money to his father or his brother or to one of the relatives.[15] Now the two authorities here differ only to this extent, that one holds that '[give] me' means 'to me but not to my heirs', and the other holds that it means 'to me or even to my heirs', but both hold that it is a mere condition. This would seem to be a refutation of Rab Judah! — Rab Judah, however, may answer: Who is the authority for this view? It is Rabbi, since R. Huna has said in the name of Rabbi, The formula 'on condition' is equivalent to 'from now';[16] but the Rabbis join issue with him, and I follow the Rabbis.

R. Zera said: When we were in Babylon, we used to state that [the ruling] which R. Huna said in the name of Rabbi, that the formula 'on condition' is equivalent to 'from now', is disputed by the Rabbis. When I went up [to Eretz Yisrael], I found R. Assi sitting and saying in the name of R. Johanan, All agree that the formula 'on condition' is equivalent to 'from now'; a difference of opinion arose only with regard to the formula 'from to-day and after [my] death',

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(1) Even if he is a priest.

(2) If he had intercourse with her and died subsequently, since the Get takes effect just immediately before his death.

(3) If the husband dies, she was divorced at the time, and there is no penalty for the intercourse; if the husband recovers, the man has to bring a sin-offering.

(4) If the husband dies, R. Jose is doubtful whether retrospectively the Get had or had not taken effect when the intercourse took place, and consequently whether the man is or is not liable to a guilt-offering.

(5) I.e. where he is in doubt as to whether the sin has been committed or not. V. Lev. V, 17ff.

(6) If the husband dies.

(7) Because the Get takes effect retrospectively whenever the money is paid.

(8) The Get comes into force only from the moment of payment, but since at that time the Get is no longer in existence it has no effect.

(9) Kid. 60a.

(10) When his betrothal takes retrospective effect, so that that of the second is null and void.

(11) And therefore he meant it to take effect at once.

(12) Which he wishes to delay as long as possible.

(13) And therefore he does not mean to make the operation of the Get conditional on the receipt of the money, but intends it to take effect at once.

(14) Because she may after all not give, so that the Get will never take effect retrospectively.

(15) Tosef. Git. V.

(16) And makes the Get take effect retrospectively as soon as the condition is fulfilled.

Talmud - Mas. Gittin 74b

, as it has been taught: ‘[If he says] From to-day and after [my] death, it is a Get and no Get. This is the opinion of the Sages. Rabbi says, One like this is a Get’.[1] Now if Rab Judah is right in saying that they differ [as to the effect of] ‘on condition’, instead of joining issue [in the Baraitha] on the question of ‘from now and after my death’, let them join issue on ‘on condition’? — This is to show you how far Rabbi is prepared to go.[2] But let them differ about ‘on condition’ to show how far the Rabbis are prepared to go?[3] — The Tanna [of the Baraitha] preferred to make the stronger instance one of permission.

ON CONDITION THAT YOU GIVE ME WITHIN THIRTY DAYS FROM NOW. Surely this is obvious? — You might think that he is really not particular and that he only wants to urge her on.[4] We are told therefore that this is not so.

RABBAN SIMEON B. GAMALIEL SAID: IT HAPPENED IN SIDON etc. Of what statement is this given as an illustration?[5] — There is a lacuna, and we should read thus: If he said to her, On condition that you give me my robe, and his robe was lost, we rule that he meant his particular robe and nothing else. Rabban Gamaliel says that she can give him the money value; and [in confirmation] R. Simeon b. Gamaliel further said that a case happened in Sidon where a man said to his wife, This is your Get on condition that you give me my robe, and his robe was lost, and the Sages said that she should give him the money value of it.

R. Assi inquired of R. Johanan: [If a man said,] This is your Get on condition that you give me two hundred zuz, and he then changed his mind and said, You can keep the money,[6] what is the law? This is equally a problem whether we adopt the view of the Rabbis or whether we adopt that of Rabban Simeon b. Gamaliel. From the standpoint of the Rabbis it is a problem, because [we may hold that] the Rabbis only ruled as they did in the other case [of the robe] because he did not forgo his claim, but here we see that he tells her that she can keep the money. Or we may also hold that Rabban Simeon b. Gamaliel ruled as he did only because she made it good for him with a money payment, but where she pays him nothing at all he would not say [that she is divorced]? — He replied: She is not divorced. He [R. Assi] therefore raised [the following] objection: If a man says to another Konam[7] be whatever benefit you have of me unless you give my son a kor of wheat and two barrels of wine, R. Meir says he is forbidden [to have any benefit of him] until he gives, but the Sages say that such a man also may release himself from his own Vow without consulting a wise man by saying to himself, I regard myself as having received them [on his behalf]?[8] — Are these two cases parallel? In that case his intention is to give her trouble and he has not done so, but in this case he was trying to obtain some positive advantage and found he could do without it.

A certain man said to his metayer, The general rule is that [a metayer] irrigates [the land] three times [a year] and takes a fourth of the produce [as his share]. [I want] you to irrigate four times and take a third. Before [he had finished irrigating] the rain came. R. Joseph said, He has not actually irrigated [the fourth time].[9] Rabbah said, There was no need [for a fourth irrigation].[10] May we say that R. Joseph adopted the point of view of the Rabbis[11] and Rabbah that of Rabban Simeon b. Gamaliel? — Can you really maintain this, seeing that it is a fixed rule with us that the law follows Rabbah,[12] and in this matter the halachah does not follow Rabban Simeon b. Gamaliel?[13] — No. There can be no question that the law is as determined by the Rabbis.[14] R. Joseph follows the Rabbis without question, while Rabbah can say to you, My view can be justified even from the standpoint of the Rabbis. For the reason why the Rabbis ruled as they did in that case was only because his intention was to give her trouble,[15] but here he was after some advantage and he found that he could do without it.

We have learnt in another place: At first a man [who had bought a house from another in a walled city] used to hide himself on the last day of the twelve-month period, so that [the house] should become his for ever.[16] Hillel the Elder, therefore, ordained that he [the owner] should throw his money into a certain chamber and that [having done so] he should be at liberty to break the door open and enter, and the other whenever he liked should come and take his money.[17] Raba remarked upon this: From this regulation of Hillel we may learn that if a man said, This is your Get on condition that you give me two hundred zuz, and she gave it to him, if he accepted the money willingly she is divorced, but if she had to force it on him she is not divorced. For since Hillel found it necessary to ordain in this instance that a gift forced on the donee should be accounted a gift,

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(1) V. supra 72b. And since they differ on ‘from today etc.’ we presume that they agree on ‘on condition’. V. Tosaf. s.v.

(2) In permitting her to marry again.

(3) In forbidding her to marry.

(4) To fulfil the condition the sooner.

(5) Lit., ‘what did he teach that he states an incident’. Seeing that there has been no mention of money so far.

(6) Lit., ‘they are forgiven thee’.

(7) V. Glos.

(8) V. Ned. 24a. Which shows that to waive the claim is equivalent to receiving the money.

(9) And decided in favour of the owner, assigning the metayer only a fourth.

(10) And decided in favour of the metayer, since after all the field had been properly watered.

(11) That the condition must be fulfilled to the letter.

(12) V. B.B. 114b.

(13) V. infra p. 75a.

(14) The rain being to irrigation as money to the robe.

(15) As a man who divorces his wife may be presumed to dislike her, we suppose that the reason why he made it a condition that she should give him money was in order to annoy her and not because he wanted to make some Profit.

(16) V. Lev. XXV, 29, 30.

(17) V. ‘Ar. 31b.

Talmud - Mas. Gittin 75a

, we conclude that in general a gift forced on the donee is not accounted a gift. R. Papa (or as some say R. Shimi b. Ashi) strongly demurred to this, [saying:] But perhaps Hillel thought there was need for a special regulation only where the money was given not in the donee's presence, but where it was made to him personally, the gift would be effective whether he was willing to receive it or not? According to another version, Raba said: From the regulation of Hillel we may infer that if he said, This is your Get on condition that you give me two hundred zuz and she gave them to him, whether he accepted them willingly or she forced them on him, the transfer is effective. For Hillel felt the need for a special regulation only where the money was given not in his presence, but if given to him personally the gift, whether accepted or forced on one, is effective. To this R. Papa (or some say R. Shimi b. Ashi) strongly demurred, [saying], Perhaps even if made to him personally the gift if made with his consent is effective but if against his will not, and Hillel made only the adjustment which was required?[1]

Rabbah b. Bar Hanah said in the name of R. Johanan: Wherever Rabban Simeon b. Gamaliel gives a ruling in our Mishnah, the halachah follows him, save in the matters of the ‘Areb’,[2] of ‘Sidon’[3] and of the ‘later proof’.[4]

Our Rabbis taught: If a man says, This is your Get on condition that the paper belongs to me, she is not divorced;[5] if he says, On condition that you return me the paper, she is divorced.[6] Why this difference between the two cases?[7] — R. Hisda replied: The authority followed here is Rabban Simeon b. Gamaliel, who said [in an analogous case that] she should give the money value; so here too, it is possible for her to make it right for him with a money payment.[8] Abaye strongly demurred to this, saying: I grant you that Rabban Simeon b. Gamaliel meant this ruling to apply where the object for which compensation is given cannot be produced,[9] but would he have said the same where it can be produced? No, said Abaye: the authority followed here is R. Meir, who said that a condition to be binding must be duplicated,[10] and here he has not duplicated his condition.[11] Raba strongly objected to this, saying, The reason [according to you] is that he did not duplicate the condition, so that if he had duplicated the condition it would not have been a Get. Let us see now. Whence do we derive [the rule governing] conditions? From [the condition] of the children of Gad and the children of Reuben.[12] Therefore just as there the condition was mentioned before the act conditional on it,[13] so in all cases the condition should be mentioned before the act, and that excludes the present case where the act is mentioned before the condition.[14] No, said Raba: the reason is that the act is mentioned before the condition. R. Ada b. Ahabah strongly objected to this, saying, The reason [according to you] is that the act was mentioned before the condition, so that if the condition were mentioned before the act it would not be a divorce. Let us see now. Whence do we derive the rule of conditions? From that of the sons of Gad and the sons of Reuben. Therefore just as there the condition relates to one thing and the act to another,[15] so it should be in all cases, to exclude such a one as this

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(1) He found that the owners hid themselves and consequently made the necessary regulation. And if it had been a common thing to refuse the payment when offered, he would have ordained that the gift should be effective in this case also, and therefore the money for the Get cannot be forced on him against his will.

(2) ‘Surety’. V. B.B. 173a, on the law of recovering from a surety if the borrower has assets.

(3) Our own Mishnah.

(4) I.e., evidence brought after the time allowed by the Beth din. Sanh. 31a.

(5) Because he does not carry out the injunction, ‘he shall give into her hand’, Deut. XXIV, I.

(6) V. supra 20b.

(7) [It is assumed that in the latter case the Get comes into force only after the return of the paper when the condition has been fulfilled. Hence the question.]

(8) And as the condition can be fulfilled the Get is valid.

(9) As in the case of the lost robe.

(10) I.e., expressed both affirmatively and negatively. Kid. 61a

(11) And therefore it is a Get unconditionally.
(12) Num. XXXII, 20ff, ‘If ye shall do this thing . . . then this land shall be unto you a possession; and if ye shall not do so . . . behold ye have sinned, etc.
(13) [‘If ye shall do this thing . . . (condition), then his land shall be unto you a possession’ (act).]
(14) [He said first ‘this is your Get and then added the condition that ‘the paper belongs to me’.]
(15) The condition to crossing the Jordan, and the act to their taking possession of the land of Sihon and Og.

Talmud - Mas. Gittin 75b

where both the condition and the act relate to the same thing?[1] No, said R. Ada b. Ahabah: the reason [why she is divorced] is because the condition and the act relate to the same thing. R. Ashi, however, said: The authority followed here is Rabbi; for R. Huna has said in the name of Rabbi: The formula on condition’ is equivalent to ‘from now’.[2]

Samuel laid down that a Get given by a man on a sick bed[3] should run, ‘If I do not die, this will not be a Get, and if I die it will be a Get’. Why not rather say, If I die it will be a Get and if I do not die it will not be a Get?[4] — A man does not like to commence with a mention of evil for himself. But why should he not say, This will not be a Get if I do not die?[5] — The condition must be mentioned before the act. Raba strongly questioned [Samuel's dictum]: Let us see, he said; whence do we derive the rule for conditions? From the condition of the sons of Gad and the sons of Reuben. Therefore just as there the affirmative comes before the negative, so it should be in all cases, which would exclude this one where the negative comes before the affirmative? No, said Raba; the Get should run as follows: ‘If I do not die it will not be a Get: if I die it will be a Get, if I do not die it will not be a Get.’ [We write] ‘If I do not die it will not be a Get’, so as to avoid his commencing with a mention of evil for himself. [Then we say] ‘If I die it will be a Get, if I do not die it will not be a Get’, so that the affirmative may precede the negative.

MISHNAH. [IF A MAN SAYS], HERE IS YOUR GET ON CONDITION THAT YOU LOOK AFTER MY FATHER, ON CONDITION THAT YOU GIVE SUCK TO MY CHILD, (HOW LONG IS SHE TO GIVE IT SUCK? TWO YEARS.[6] R. JUDAH SAYS, EIGHTEEN MONTHS), IF THE CHILD DIES OR THE FATHER DIES,[7] THE GET IS VALID. [IF HE SAYS], THIS IS YOUR GET ON CONDITION THAT YOU LOOK AFTER MY FATHER FOR TWO YEARS, ON CONDITION THAT YOU GIVE SUCK TO MY CHILD FOR TWO YEARS, THEN IF THE CHILD DIES OR IF THE FATHER SAYS, I DON'T WANT YOU TO LOOK AFTER ME, EVEN THOUGH SHE HAS GIVEN NO CAUSE FOR COMPLAINT, THE GET IS NOT VALID. RABBAN SIMEON B. GAMALIEL, HOWEVER, SAYS THAT A GET LIKE THIS IS VALID. RABBAN SIMEON B. GAMALIEL LAID IT DOWN AS A GENERAL RULE THAT WHEREVER THE OBSTACLE DOES NOT ARISE FROM HER SIDE, THE GET IS VALID.

GEMARA. Do we require so long a period [as two years]? The following seems to contradict this: If she waited on him one day, or gave the child suck one day, the Get is valid?[8] — R. Hisda replied: There is no contradiction; one statement gives the view of the Rabbis, the other that of Rabban Simeon b. Gamaliel. Our Mishnah gives the view of Rabban Simeon b. Gamaliel,[9] and the Baraitha that of the Rabbis.[10] But since the later clause in our Mishnah states the view of Rabban Simeon b. Gamaliel, it follows [does it not] that the earlier clause states a view which is not that of Rabban Simeon b. Gamaliel? — We must say therefore that the Baraitha gives the view of Rabban Simeon b. Gamaliel, who insists only on a minimum fulfilment of[11] conditions, while the Mishnah gives the view of the Rabbis. Raba said: There is no contradiction; in the one case [the Mishnah] we suppose he mentions no time limit, in the other case he mentions a definite time limit.[12] Upon which R. Ashi remarked: Wherever no time limit is mentioned,it is the same as mentioning a limit of one day.[13]

We have learnt: HOW LONG IS SHE TO GIVE IT SUCK? TWO YEARS, RABBI JUDAH

SAYS, EIGHTEEN MONTHS. If we accept the view of Raba, this creates no difficulty, but if we accept that of R. Ashi, why should we require two years or eighteen months? One day should be enough? — What it means is this: One day in the next two years, to exclude the period after two years; one day in the next eighteen months, to exclude the period after eighteen months. An objection was raised [against this from the following]: [IF HE SAYS] THIS IS YOUR GET ON CONDITION THAT YOU LOOK AFTER MY FATHER FOR TWO YEARS, ON CONDITION THAT YOU SUCKLE MY CHILD FOR TWO YEARS, THEN IF THE CHILD DIES, OR THE FATHER SAYS, I DON'T WANT YOU TO LOOK AFTER ME, EVEN THOUGH SHE GAVE NO CAUSE FOR COMPLAINT, THE GET IS NOT VALID.

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(1) The Get itself which has to be returned and so become a Get.

(2) [Contrary to what has been assumed hitherto (p. 357, n. 7) the Get therefore, is valid retrospectively, when she returns the paper, the gift of which is regarded as a temporary one.]

(3) In order to release the wife from all ties to her brothers-in-law.

(4) So as to commence with the affirmative condition.

(5) Why did Samuel insist on the exact words of the formula?

(6) I.e., until it is two years old, (v. Keth. 60b). The words in brackets are best taken as a parenthesis.

(7) According to Rashi, this means, before the time has expired; according to Tosaf., even before she has commenced her duties.

(8) V. Tosef. Cit. V.

(9) Who said above that if the robe is lost she can give the money value, which shows that in his opinion, the husband's object in making a condition is to obtain some substantial advantage, and therefore she may have to suckle the child for as much as two years.

(10) Who said that she must give the robe itself, which shows that the condition is to be taken au pied de la lettre, and therefore one day is sufficient.

(11) Lit., ‘who is lenient in regard to’.

(12) He said one day.

(13) [R. Ashi has no intention for the present to reconcile the Mishnah and Baraitha; he merely disagrees with Raba's opinion.]

Talmud - Mas. Gittin 76a

This creates no difficulty for Raba, who may say that the previous clause[1] speaks of the case where he does not mention any time limit and this where he does.[2] But on R. Ashi's view, why should the ruling be different in the first case from that in the second?[3] — This is indeed a difficulty.

Our Rabbis taught: [If a man says,] This is your Get on condition that you look after my father for two years, or on condition that you suckle my child for two years, even though the condition is not fulfilled, the Get is valid because he did not say to her, [first] ‘if you look after’ [and then] ‘if you do not look after’, ‘if you suckle’ and ‘if you do not suckle’.[4] This is the view of R. Meir. The Sages, however, say that if the condition is fulfilled it is a Get and if not it is no Get. Rabban Simeon b. Gamaliel says: There is no condition in the Scriptures which is not duplicated.[5] According to one explanation, he addressed this remark to R. Meir, and according to another he addressed it to the Sages. According to one view he addressed his remark to R. Meir, and what he meant was this: There is no condition in the Scriptures which is not duplicated. Hence in this connection we have two texts from which the same inference may be drawn, and wherever we have two texts from which the same inference may be drawn, we do not base a rule upon them.[6] According to another explanation he addressed his remark to the Rabbis, and what he meant was this: There is no condition in the Scripture which is not duplicated and we base our rules upon them.

A contradiction was raised [from the following]: [If a man said], This is your Get on condition that you look after my father for two years, on condition that you suckle my child for two years, then if the father or the child dies the Get is not valid. This is the view of R. Meir. The Sages, however, say that although the condition has not been fulfilled the Get is valid, since she can say to him, Produce your father and I will wait on him, produce your child and I will suckle it. Now, R. Meir would seem to be in contradiction with himself, and the Rabbis would also seem to be in contradiction with themselves? — Between the two statements of R. Meir there is no contradiction: the former [speaks of] where [the man] did not double his condition, the latter of where he did double it. Between the two statements of the Rabbis there is also no contradiction; for by the 'Sages' here mentioned we understand Rabban Simeon b. Gamaliel, who said that wherever the obstacle does not arise from her side the Get is valid.

Our Rabbis taught: If a man said to his wife in the presence of two witnesses, Here is your Get[7] on condition that you look after my father for two years, and he subsequently said to her in the presence of two witnesses, Here is your Get on condition that you give me two hundred zuz, the second statement does not nullify the first,[8] and she has the option of either waiting on the father or giving the husband the two hundred zuz. If, however, he said to her in the presence of two witnesses, Here is your Get on condition that you give me two hundred zuz, and he subsequently said to her in the presence of two witnesses, Here is your Get on condition that you give me three hundred zuz, the second statement nullifies the first, nor can one of the first two witnesses and one of the second combine to form a pair.[9] To which ruling [does this last statement belong]? It cannot be the second one, because [the first condition there] is nullified?[10] Rather it is the first one. But in this case it is self-evident?[11] — You might think that all [the witnesses who can help] to establish that there was a condition can be joined together. We are therefore told [that this is not so].

MISHNAH. [IF A MAN SAYS,] THIS IS YOUR GET IF I DO NOT RETURN WITHIN THIRTY DAYS, AND HE WAS ON THE POINT OF GOING FROM JUDEA TO GALILEE, IF HE GOT AS FAR AS ANTIPRAS[12] AND THEN TURNED BACK, HIS CONDITION IS BROKEN.[13] [IF HE SAYS,] HERE IS YOUR GET ON CONDITION THAT I DO NOT RETURN WITHIN THIRTY DAYS, AND HE WAS ON THE POINT OF GOING FROM GALILEE TO JUDEA, IF HE GOT AS FAR AS KEFAR 'UTHNAI[14] AND THEN TURNED BACK, THE CONDITION IS BROKEN. [IF HE SAID,] HERE IS YOUR GET ON CONDITION THAT I DO NOT RETURN WITHIN THIRTY DAYS, AND HE WAS ON THE POINT OF GOING INTO FOREIGN PARTS, IF HE GOT AS FAR AS ACCO [ACRE] AND TURNED BACK HIS CONDITION IS BROKEN. [IF HE SAID,] HERE IS YOUR GET SO SOON AS I SHALL HAVE KEPT AWAY FROM YOUR PRESENCE THIRTY DAYS, EVEN THOUGH HE CAME AND WENT CONSTANTLY, SO LONG AS HE WAS NOT CLOSETED WITH HER, THE GET IS VALID.

GEMARA. [IF HE GOT AS FAR AS ANTIPRAS,] This would seem to imply that Antipras is in Galilee,[15] which [apparently] contradicts the following: 'Antipras is in Judea and Kefar 'Uthnai in Galilee. The space between the two is subject to the disabilities of both[16] so that [if he gets there and returns] she is divorced

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(1) 'If the child dies . . . the Get is valid'.

(2) [For the fact of his mentioning a time limit shows that he is particular about the child being suckled for two years. So Rashi; but v. Tosaf.]

(3) I.e., in the first case also, if the child dies before she has suckled it one day, why should not the Get be void?

(4) I.e., he did not state the condition both affirmatively and negatively, after the model of the condition of the sons of Gad and Reuben.

(5) E.g., Gen. XXIV, 3ff.; Num. XIX, V, 19ff.; Is., I, 19, 20.

(6) V. Sanh. (Sonc. ed.) p. 458, n. 9.

(7) I.e., showing it to her without giving it to her.

(8) Because the condition is of an entirely different nature.

(9) To testify that there was a certain condition attached to the Get though not inserted in writing.

(10) And even if the two witnesses to that condition came together, their evidence would be of no effect.

(11) Because they cannot both testify to the same thing.

(12) Antipatris, on the borders of Judea and Galilee.

(13) This is explained infra, in the Gemara.

(14) On the borders of Galilee and Judea, v. supra p. 34, n. 4.

(15) The Gemara understands the Mishnah thus: If he actually went to Galilee but did not stay there thirty days, the Get is void, as his condition has not been fulfilled. If, however, he returns before reaching Galilee, he has not broken his condition, and is still able to fulfil it by going to Galilee and remaining there thirty days. Hence, since by going to Antipras and returning at once he makes the Get void, Antipras must be in Galilee, and similarly Kefar ‘Uthnai must be in Judea.

(16) That is to say, we reckon the condition as both broken and not broken, to the wife's disadvantage.

Talmud - Mas. Gittin 76b

and not divorced?[1] — Abaye replied: [We suppose that] he makes two conditions with her, thus: If I reach Galilee, this will be a Get at once, and also if I remain on the road thirty days and do not return it will be a Get. If then he reached Antipras and came back, so that he did not get to Galilee nor did he remain on the road thirty days, his condition has been broken.

HERE IS YOUR GET ON CONDITION THAT I DO NOT RETURN WITHIN THIRTY DAYS [AND HE GOT AS FAR AS ACCO]. This would imply that Acco is in foreign parts.[2] But how can this be, seeing that R. Safra has said: When the Rabbis took leave of one another,[3] they did so in Acco, because it is forbidden for those who live in Eretz Yisrael to go out of it? — Abaye replied: He made two conditions with her, thus: If I reach foreign parts, this will be a Get at once, and if I remain on the road and do not return within thirty days it will be a Get. If he got as far as Acco and returned, so that he neither reached foreign parts nor remained on the road thirty days, his condition is broken.

HERE IS YOUR GET SO SOON AS I SHALL KEEP AWAY etc. But he does not keep away?[4] — R. Huna replied: What is meant by ‘PRESENCE here? Marital intercourse. And why is it called PRESENCE’? A polite expression is used. R. Johanan, however, said: The word ‘PRESENCE is to be taken literally. For it does not say that [if he comes and goes] she is divorced, but ‘THE GET IS VALID’, that is to Say, it does not become an ‘old’ Get[5] and when thirty days have passed [without his seeing her] it is a valid Get. It has been taught in accordance with R. Johanan: ‘[If he says,] Here is your Get so soon as I shall keep away from your presence thirty days, even though he was constantly coming and going, so long as he was not closeted with her the Get is valid, and we have no fear of its being an ‘old’ Get, since he was not closeted with her.’ But is there not the possibility that he made it up with her?[6] — Rabbah son of R. Huna replied: Thus said my father, my teacher, in the name of Rab: This rule applies where he gives an undertaking[7] that he will accept her word if she says he did not come [to her]. Some attach this statement to the Mishnah,[8] thus: [If a man says, this is your Get] from now if I do not return within twelve months, and he died within the twelve months, the Get is valid. But is there not the possibility that he made it up with her? Rabbah son of R. Huna replied: Thus said my father, my teacher in the name of Rab: The rule applies where he gives an undertaking that he will accept her word if she says that he did not come to her. Those who attach this statement to the Mishnah would without question attach it to the Baraitha[9] also. But those who attach it to the Baraitha might hesitate to attach it to the Mishnah, because [as far as we know] he has not come to see her.[10]

MISHNAH. [IF A MAN SAYS,] THIS IS YOUR GET IF I DO NOT RETURN WITHIN Twelve MONTHS, AND HE DIES WITHIN TWELVE MONTHS, IT IS NO GET.[11] [IF HE SAYS,] THIS IS YOUR GET FROM NOW IF I DO NOT RETURN WITHIN TWELVE MONTHS, AND HE

DIES WITHIN TWELVE MONTHS, IT IS A GET. [IF HE SAYS,] IF I DO NOT COME WITHIN TWELVE MONTHS, WRITE A GET AND GIVE IT TO MY WIFE, AND THEY WROTE A GET BEFORE TWELVE MONTHS HAD PASSED AND GAVE IT AFTER, IT IS NO GET. [IF HE SAID,] WRITE A GET AND GIVE IT TO MY WIFE IF I DO NOT COME WITHIN TWELVE MONTHS, AND THEY WROTE IT BEFORE THE TWELVE MONTHS HAD PASSED AND GAVE IT AFTER, IT IS NO GET. R. JOSE, HOWEVER, SAYS THAT A GET LIKE THAT IS VALID.[12] IF THEY WROTE IT AFTER TWELVE MONTHS AND DELIVERED IT AFTER TWELVE MONTHS AND HE DIED, IF THE DELIVERY OF THE GET PRECEDED HIS DEATH THE GET IS VALID, BUT IF HIS DEATH PRECEDED THE DELIVERY OF THE GET IT IS NOT VALID. IF IT IS NOT KNOWN WHICH WAS FIRST, THE WOMAN IS IN THE CONDITION KNOWN AS ‘DIVORCED AND NOT DIVORCED’.[13]

GEMARA. A Tanna taught: ‘Our Rabbis allowed her to marry’.[14] Who are meant by ‘our Rabbis’? — Rab Judah said in the name of Samuel: The Beth din which permitted the oil [of heathens].[15] They concurred with R. Jose, who said that the date of the document is sufficient indication.[16]

R. Abba the son of R. Hiyya bar Abba said in the name of R. Johanan: R. Judah the Prince, the son of Rabban Gamaliel the son of Rabbi, gave this ruling, but none of his colleagues [saya'to] agreed with him, or, as others report, [his ruling did not find acceptance] during the whole of his life [sha'ato].

R. Eleazar asked a certain elder [who had been present there]: When you permitted her to marry, did you permit her to do so at once,[17] or after twelve months?[18] Did you permit it at once, since there is no chance of his coming again, or did you permit it only after twelve months, when his condition would be fulfilled? — But should not this question be attached to the Mishnah: [IF HE SAYS, THIS IS YOUR GET] FROM NOW IF I DO NOT COME WITHIN TWELVE MONTHS, AND HE DIED WITHIN TWELVE MONTHS, THIS IS A GET: would it be a Get at once, seeing that he will not come again, or only after twelve months when his condition will have been fulfilled? — Indeed it might have been, but it was put in this way because he [the old man] asked had been present on that occasion.[19]

Abaye said: All are agreed that if he Says, ‘When the sun issues from its sheath’

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(1) The condition not having been broken, the Get is valid to the extent that she may not eat terumah. The condition having been broken, the Get is invalid and she cannot marry again on the strength of it.

(2) V. supra 7b.

(3) I.e., those who came from abroad to study were escorted by those of Palestine as far as Acre.

(4) Since it says, IF HE CAME AND WENT etc.

(5) A Get is called ‘old’ if after it was written the husband and wife were closeted together. Such a Get is invalid. V. infra 79b.

(6) And so after divorcing her he may bring a charge that he was closeted with her in this period.

(7) At the time of making the condition.

(8) Infra.

(9) For since we see him coming and going, the undertaking is all the more necessary.

(10) And therefore perhaps the undertaking is not necessary.

(11) And the levirate law still applies to her if the husband dies without issue.

(12) The reason is given in the Gemara.

(13) v. supra.

(14) Even though he did not say ‘from now’, since it is understood that he meant this.

(15) V. supra 72b.

(16) V. supra 72a.

(17) As soon as the death of the husband was announced.
(18) I.e., had she to wait twelve months to he free from the levirate obligation.
(19) [When the vote was taken to grant her permission to remarry; v. A.Z. 37a.]

he means that [the Get is to take effect only] when the sun does come out, and if he dies in the night it would be a Get after death.[1] If, again, he says, ‘On condition that the sun issues from its sheath,’ he means it to take effect as from now, since R. Huna has said in the name of Rabbi, The formula ‘on condition’ Is equivalent to ‘as from now’. Where opinions differ is when he says ‘if it shall issue’, One authority[2] adopts the view of R. Jose who said that the date of the document is sufficient indication, so that his words are analogous to ‘from to-day if I die, from now if I die,’[3] while the other[4] did not accept the view of R. Jose, and his words are analogous to the bare ‘if I die’.[5]

WRITE A GET AND GIVE IT TO MY WIFE, IF I DO NOT COME WITHIN TWELVE MONTHS, IF THEY WROTE etc. Said R. Yemar to R. Ashi: May we conclude from this that in R. Jose's opinion, if one writes a Get subject to a certain condition [even if the condition is not fulfilled] the document is a valid one? — No; I may still hold that it is not valid, and R. Jose has a special reason here, because he ought to have said ‘If I do not come, write and deliver’, and he actually said, ‘Write and deliver if I do not come’, and [we presume him] therefore to have meant, Write from now and deliver if I do not come. The Rabbis, however, do not differentiate between the two forms.

Our Rabbis taught: [If he says, ‘This is your Get if I do not return] till after the septennate,’ we wait an extra year;[6] ‘till after a year’, we wait a month; ‘till after a month’, we wait a week. If he Says, ‘till after the Sabbath’,[7] what [do we do]? — When R. Zera was once sitting before R. Assi, or, as others report, when R. Assi was sitting before R. Johanan, he said: The first day of the week and the second and third are called ‘after the Sabbath’; the fourth and fifth days and the eve of Sabbath are called ‘before the Sabbath.’

It has been taught: [If he says] ‘Till after the festival’, we wait thirty days. R. Hiyya went forth and preached this in the name of Rabbi, and he was commended [for doing so].[8] He then preached it in the name of the majority and was not commended.[9] This shows that the law is not as laid down by him.[10]

CHAPTER VIII

MISHNAH. IF A MAN THROWS A GET TO HIS WIFE WHILE SHE IS IN HER HOUSE OR IN HER COURTYARD,[11] SHE IS THEREBY DIVORCED. IF HE THROWS IT TO HER INTO HIS HOUSE OR INTO HIS COURTYARD, EVEN THOUGH HE IS WITH HER ON THE SAME BED, SHE IS NOT THEREBY DIVORCED. IF HE THROWS IT INTO HER LAP OR INTO HER WORK-BASKET,[12] SHE IS THEREBY DIVORCED.

GEMARA. What is the Scriptural warrant for this rule? — As our Rabbis taught: ‘And give it in her hand:[13] this only tells me that [the Get may be placed] in ‘her hand’. Whence do I learn that [it may also be placed] on her roof, or in her courtyard or enclosure? The text says significantly. ‘And he shall give’, which means, in any manner.[14] It has been taught in a similar manner regarding a thief: His hand:[15] this tells me on]y that [he is liable if the theft is found] in his hand. Whence do I learn that [he is equally liable if it is found] on his roof, or in his courtyard or his enclosure? From the significant words, ‘If it be found at all’, which means, under all circumstances.[16] And [both expositions are] necessary. For had I only the one regarding the Get, l should have said that the reason is because [she is divorced] against her will,[17] but [that this rule does] not apply to a thief who cannot become such against his will.[18] And had I been given the rule in regard to the thief only, I should have said [that it applied to him] because the All-Merciful imposed a fine upon him,[19] but not to a Get. Hence both were necessary.

It says]. HER COURTYARD. [How can this be, Seeing that] whatever a woman acquires belongs to her husband? — R. Eleazar said: We presume him to have given her a written statement that he has no claim on her property. But suppose he did do so, what difference does it make, seeing that it has been taught.[20] ‘If a man says to another [a partner.] I have no claim on this field, I have no concern in it, I entirely dissociate myself from it, his words are of no effect’?[21] — The school of R. Jannai explained: We suppose him to have given her this written statement while she was still betrothed, and we adopt [at the same time] the maxim of R. Kahana; for R. Kahana said that a man may stipulate beforehand that he will not take up a prospective inheritance from an outside source.[22] This too is based on a ruling of Raba, who said: If one says.

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(1) And therefore of no effect.

(2) R. Judah the Prince.

(3) And therefore in the case of the Mishnah, where he said ‘IF I DO NOT RETURN’, if he died within the twelve months the Get takes effect retrospectively.

(4) The Tanna of our Mishnah.

(5) Where the Get is not valid (v. supra 72a), and similarly in the case of the Mishnah, the Get takes effect only after twelve months and should he die in the meantime the Get is no Get.

(6) To allow for the ‘after’.

(7) Sabbath in Hebrew denotes either week or Sabbath.

(8) Lit., ‘it was praised’. Because he reported this ruling as the opinion of one individual which need not be accepted.

(9) For reporting a non-recognised teaching in the name of many.

(10) Cf. supra p. 77 and notes.

(11) I.e., the so-called ‘property of plucking’ (v. Glos. s.v. mulug) of which the husband has the usufruct while the wife retains the ownership.

(12) GR. **.

(13) Deut. XXIV, 1.

(14) For notes v. B.M. (Sonc. ed.) p. 58.

(15) Ex. XXII, 3.

(16) For notes v. op. cit. p. 56.

(17) And therefore her courtyard serves the purpose equally with her hand.

(18) Hence, if, for instance, an animal entered his courtyard and he locked it in without touching it, I might think that he would not be liable.

(19) To repay double. Ex. loc. cit. This would indicate that the law was in general more severe with him.

(20) Cf. B.B. 43a.

(21) [Unless and until he makes it over as a gift.]

(22) I.e., not his father, or next-of-kin according to the Torah.

Talmud - Mas. Gittin 77b

I do not care to avail myself of the regulation of the Sages, in a case like this he is allowed to have his way. What did he mean by ‘in a case like this’? — He was referring to the case mentioned by R. Huna in the name of Rab; for R. Huna said in the name of Rab, A woman is at liberty to say to her husband, You need not maintain me and I will not work for you.[1]

Raba said: Does not her hand also belong to her husband? The fact is that her hand and her Get become hers simultaneously. So also her courtyard and her Get become hers simultaneously. Said Rabina to R. Ashi: Can Raba have found any difficulty about the woman's hand?[2] Granted that the husband owns the labour of her hands, does he own the hand itself? — He replied: Raba's difficulty was [really] with the hand of a slave. For on the view of the authority who holds that a slave may acquire his freedom by means of a document which he receives himself,[3] [we may ask,] how can this be, seeing that the hand of the slave is like that of the master? Only we must suppose that his hand and his deed of emancipation become his simultaneously. So here, her Get and her courtyard become hers simultaneously.

A certain man who was lying very ill wrote a Get for his wife on the eve of the Sabbath and had not time to give it to her [before Sabbath]. On the next day his condition became critical.[4] Raba was consulted, and he said: Go and tell him to make over to her the place where the Get is, and let her go and close and open a door there and so take formal possession of it, as we have learnt:[5] 'If one does anything in the way of locking up or fencing or breaking open, this constitutes formal occupation.'[6] Said R. 'Ilish to Raba: But whatever a woman acquires belongs to her husband? — He was nonplussed. Eventually it transpired that she was only betrothed. Thereupon Raba said: If this rule was laid down for a married woman,[7] is it to apply to a betrothed woman? Later Raba corrected himself and said: No matter whether she is married or betrothed, her Get and her courtyard become hers simultaneously. But this is just what Raba said?[8] — When he did say it first, it was in connection with this incident.

WHILE SHE IS IN HER HOUSE. 'Ulla said: That is so, provided she is standing by the side of her house or by the side of her courtyard. R. Oshaia said: She may even be in Tiberias and her courtyard in Sepphoris or she may be in Sepphoris and her courtyard in Tiberias; she is still divorced. But it says. WHILE SHE IS IN HER HOUSE OR IN HER COURTYARD? — What it means is, While she is virtually in her own house or in her own courtyard on account of the fact that the courtyard is being kept [for her] with her knowledge and consent, and therefore she is divorced.

May we say that the point at issue between them[9] is this, that the one authority ['Ulla] holds that [the rule about] a courtyard is derived from 'her hand', and the other from its being regarded as analogous to her agent?[10] — No; both are agreed that the [rule about] a courtyard is derived from 'her hand'. One, however, interprets the analogy thus: just as her hand is close to her, so her courtyard must be close to her. And the other? — He will rejoin: Since her hand is attached to her, has her courtyard also to be attached to her? But [you must say] it is like her hand in this sense. Just as her hand is kept for her with her knowledge, so her courtyard must be kept for her with her knowledge, and what we exclude therefore is a courtyard which is kept for her [even] without her knowledge.[11]

A certain man threw a Get to his wife as she was standing in a courtyard and it went and fell on a block of wood. R. Joseph thereupon said: We have to see. If the block was four cubits by four, it forms a separate domain, but if not, it is one with the courtyard. What case are we dealing with? Are we to say that the courtyard is hers? If so, what does it matter if the block is four cubits by four?[12] Is the courtyard his? Then if it is not four by four what does it matter?[13] — [R. Joseph's ruling] applies where he lent her the place, since men will usually lend one place but not two places.[14] Further, we do not say [that it is one with the court] save only if it is not ten handbreadths high; but if it is ten handbreadths high, we do not say so, even if it is not four cubits by four. Nor even so do we say that it is included save only if it has no

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(1) The regulation having been made for her benefit, she is not bound to avail herself of it. So too in the case of an heir-at-law outside those mentioned in the Torah, v. B.K. 8b.

(2) That he had to give a special reason for legalising it.

(3) Kid. 22.

(4) Lit., 'the world was heavy for him'. And he was anxious to divorce her so that she should not become subject to the levirate law, but he could not give her the Get, as it was not allowed to be carried on Sabbath.

(5) B.B. 42a.

(6) [And by obtaining possession of the courtyard the Get automatically passes into her possession on the principle that movable property may be acquired along with immovable property; v. Kid. 26a (Rashi).]

(7) That to the husband belongs whatever the woman acquires.

(8) Why then was he nonplussed?

(9) 'Ulla and R. Oshaia.

(10) And therefore she may be at any distance from it; v. supra 21a and B.M. 10b.
(11) Which would include her slave. V. infra.
(12) In either case she is divorced.
(13) In either case she is not divorced.
(14) [Therefore where the block was four cubits by four it forms a separate domain and is not one with the courtyard lent to her.]

Talmud - Mas. Gittin 78a

individual name,[1] but if it has a special name [it is not included] even though it is not ten handbreadths high and is not four cubits by four.

EVEN THOUGH HE IS WITH HER ON THE SAME BED. Raba said: This applies only if the bed is his, but if it is her bed, she is divorced. It has been taught to the same effect: R. Eliezer says: If it is on his bed she is not divorced, but if it is on her bed she is divorced. And if it is on her bed is she divorced? Is it not a case of the vessels of the purchaser in the domain of the vendor?[2] This shows [does it not] that if [the article purchased is placed in] the vessels of the purchaser standing in the domain of the vendor, the purchaser acquires possession?[3] — This, however, is not conclusive, as we may suppose the bed to be ten handbreadths high.[4] But there is the place of the legs?[5] — Men are not particular about the place of the legs.

IF HE THROWS IT INTO HER LAP OR INTO HER WORK-BASKET SHE IS THEREBY DIVORCED. Why so? This is a case of the vessels of the purchaser in the domain of the vendor? — Rab Judah said in the name of Samuel: We suppose, for instance, that her work-basket was hanging from her. So too R. Eleazar said in the name of R. Oshaia: We suppose, for instance, that her work-basket was hanging from her. R. Simeon b. Lakish said that [it would be sufficient] if it was tied to her even without hanging from her. R. Adda b. Ahabah said: If, [or instance, her work-basket was between her legs.[6] R. Mesharsheya son of R. Dimi said: If her husband was a seller of handbags.[7] R. Johanan said: The place occupied by the folds of her dress is acquired by her and the place occupied by her work-basket is acquired by her. Raba said: What is R. Johanan's reason? Because a man is not particular about the place occupied by the folds of her dress or the place occupied by her work-basket. If has also been taught to the same effect: ‘If he threw her [the Get] into her lap or into her work-basket or into anything like her work basket, she is thereby divorced.’ What is added by ‘anything like her work-basket’? — It adds the dish from which she eats dates.

MISHNAH. IF HE SAID TO HER, TAKE THAT BOND, OR IF SHE FOUND IT BEHIND HIM AND READ IT AND IT TURNED OUT TO BE HER GET, IT IS NO GET, UNTIL HE SAYS TO HER, THERE IS YOUR GET. IF HE PUT IT INTO HER HAND WHILE SHE WAS ASLEEP AND WHEN SHE WOKE UP SHE READ IT AND FOUND IT WAS HER GET, IT IS NO GET UNTIL HE SAYS TO HER, THAT IS YOUR GET.

GEMARA. And suppose he says to her, That is your Get, what does it matter?[8] It is the same as if he said, Pick up your Get from the floor, and Raba has laid down that [if a man says,] Pick up your Get from the floor, his words are of no effect?[9] — We must suppose that she pulls it out from behind him.[10] And suppose even that she pulls it out, do we not require that ‘he give it into her hand,’[11] and this condition is not fulfilled? — The rule would apply where he jerked his side towards her and she pulled it out.[12] It has been taught to the same effect: ‘If he said to her, Take this bond [and she did so], or if she pulled it out from behind him[13] and on reading it found it was her Get, it is no Get until he says to her, That is your Get. This is the ruling of Rabbi. R. Simeon b. Eleazar Says: It does not become a Get until he takes it from her and gives it to her again, saying, That is your Get. If he puts it into her hand while she is asleep and when she wakes she reads it and finds it is her Get, it is no Get until he says to her, That is your Get. So Rabbi. R. Simeon b. Eleazar Says, [It is no Get] until he takes it from her and gives it to her again saying, That is your Get.' [Both cases] required [to be stated]. For if only the former had been stated, I might say that Rabbi ruled [as he did there] because she was at the time capable of being divorced, but where he put it into her hand while she was asleep, seeing that she was not at the time capable of being divorced, I might think that he accepts the view of R. Simeon b. Eleazar. If again only the latter case had been stated, I might have thought that R. Simeon b. Eleazar meant his ruling to apply to that case only,[14] but in the other he accepts the view of Rabbi. Hence [both statements were] necessary.

Raba said: If he wrote a Get for her and put it in the hand of her slave while he was asleep and she was watching him, it is a Get,[15] but if he is awake it is no Get,[16] But why should this be, seeing that he is a 'moving courtyard', and a 'moving courtyard' does not confer ownership? And should you reply that the fact of his being asleep makes a difference, has not Raba said, That which does not confer ownership when moving about does not confer ownership when standing still or sitting? — [The law is as stated by Raba][17] when the slave is bound.[18]

MISHNAH. IF SHE WAS STANDING ON PUBLIC GROUND AND HE THREW IT TO HER, IF IT LANDS NEARER TO HER SHE IS DIVORCED, BUT IF IT LANDS NEARER TO HIM SHE IS NOT DIVORCED. IF IT LANDS MIDWAY,[19] SHE IS DIVORCED AND NOT DIVORCED.[20] SIMILARLY WITH BETROTHALS AND SIMILARLY WITH A DEBT. IF A MAN SAYS TO HIS DEBTOR, THROW ME MY DEBT [IN PUBLIC GROUND] AND HE THROWS IT, IF IT LANDS NEARER TO THE LENDER, IT BECOMES THE PROPERTY OF THE LENDER; IF IT LANDS NEARER TO THE BORROWER, HE STILL OWES THE MONEY; IF IT LANDS MIDWAY, THEY DIVIDE.

GEMARA. How are we to understand NEARER TO HIM and how are we to understand NEARER TO HER? — Rab said: Within four cubits of her is nearer to her, within four cubits of him is nearer to him.[21] How are we to understand 'MIDWAY'? — R. Samuel son of R. Isaac replied: If, for instance, they were both within four cubits of the Get. In that case let us see which was there first?[22] And should you retort that perhaps both came together — it is impossible that they should come exactly at the same moment?[23] — R. Kahana therefore said: We suppose here that they are exactly eight cubits from each other,

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(1) Lit., 'an attached name', but is merely referred to as 'the block'.

(2) Concerning which there is a difference of opinion whether the purchaser acquires the article of purchase put therein; v. B.B. (Sonc ed.) 85b p. 348 q.v. for notes.

(3) I.e, we decide the question in B.B. From here.

(4) And so it forms a domain of its own and is not merely a vessel.

(5) The place occupied by the legs which belongs to the husband.

(6) In which case he would not be particular about the place occupied by it, even if it rested on the ground.

(7) In which case also he would not be particular about the place occupied by it.

(8) In the case where she found the Get behind him.

(9) V. supra 24a.

(10) From where it was stuck between his girdle and his robe.

(11) Deut. XXIV, 3.

(12) As this is also a kind of giving.

(13) Not merely 'found it' as our reading in the Mishnah has it.

(14) Because she was not at the time capable of being divorced.

(15) Because the slave is reckoned as her courtyard and it is being kept for her.

(16) Because the slave when awake is regarded as looking after himself.

(17) Var. lec., 'We must say that Raba means.'

(18) V. supra 212.

(19) Lit., 'half by half'.

(20) V. supra p. 350.

(21) On the principle that a man's four cubits in a public ground acquire possession, v. B.M. 102.

(22) And so established a prior right to the four cubits.

(23) Lit., ‘to be exact’.

Talmud - Mas. Gittin 78b

and the Get extends from the four cubit space nearer to him into the four cubit space nearer to her.[1] But then it is still [partly] attached to him?[2] — Therefore Rabbah and R. Joseph [gave a different reply], both saying that we are dealing here with a case where there are two groups of witnesses, one of which says that it was nearer to her and the other that it was nearer to him. R. Johanan said: The words of our text are NEARER TO HER [which can include] even a hundred cubits away, and NEARER TO HIM, [which can include] even a hundred cubits away.

How are we to understand MIDWAY? — R. Shaman b. Abba said: It was explained to me by R. Johanan that where he is able to look after it[3] but she is not able to look after it, this is NEARER TO HIM. Where she is able to look after it, but he is not, this is NEARER TO HER. If both of them are able to look after it, or neither of them is able [separately][4] to look after it, this is MIDWAY. The Rabbis repeated this explanation before R. Johanan as having been given by R. Jonathan.[5] He thereupon remarked: Do our colleagues in Babylon also know how to give this explanation? It has been taught to the same effect: ‘R. Eliezer says: Even though it is nearer to her than to him and a dog came and ran off with it, she is not divorced.’ She is not divorced, you say? How long is she to go on keeping it?[6] No; what he means to say is this: If it is nearer to her than to him, yet so placed that if a dog came and tried to make off with it he could save it but she could not, she is not divorced. Samuel said to Rab Judah: Shinena,[7] it must be so near that she can stoop down and pick it up, but do you not actually [declare it valid] until it comes into her hand.[8] R. Mordecai said to R. Ashi: There was an actual case of this kind,[9] and she was compelled to give halizah.

SO TOO IN REGARD TO BETROTHALS. R. Assi said in the name of R. Johanan: This rule[10] was made with reference to bills of divorce and not to anything else. R. Abba thereupon pointed out to R. Assi the statement, SO TOO IN REGARD TO BETROTHALS. [He replied]: There is a special reason for that, because it is written, she may go forth and be [another man's wife].[11] He raised an objection: SIMILARLY WITH A DEBT. IF THE LENDER SAYS [TO THE BORROWER], THROW ME MY DEBT, AND HE THROWS IT, IF IT LANDS NEARER TO THE LENDER IT BECOMES THE PROPERTY OF THE LENDER; IF IT LANDS NEARER TO THE BORROWER, HE STILL OWES THE MONEY; IF IT LANDS MIDWAY, THEY DIVIDE? — The case we are dealing with here is when he says, Throw me what you owe me and be quit. If that is all [he rejoined], what need was there to state it? — It is necessary [to state it] when he says, Throw me my debt in the same way as a Get. Still, what need is there to state even this? — You might think that he can say to him, I was only making fun of you; therefore we are told [that this is no plea].

R. Hisda said: If the Get is in her hand and the string[12] in his hand, and he is able to pull it with a jerk to himself, she is not divorced, but if not, she is divorced. What is the reason? We require a ‘cutting off’, and this is not realised.[13] Rab Judah said: If she held her hand sloping[14] and he threw it to her, even if the Get reached her hand she is not divorced. Why so? When it falls to the ground it falls within four cubits of her? — We assume that it does not come to rest there. But should she not be divorced by dint of its having come into the air of the four cubits? [And since this is not so] may we decide from this the question raised by R. Eleazar, whether the four cubits spoken of include the air above them or not? May we decide that they do not include the air? — [No;] we suppose here that she is standing on the brink of a river, so that from the outset it is liable to be lost [if it falls from her hand].[15]

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(1) I.e., part of it is nearer to him and part nearer to her.
(2) And it is requisite that the whole should be given to her.
(3) E.g., to prevent a dog snatching it.
(4) V. Tosaf., s.v.
(5) R. Jonathan was a Babylonian, R. Johanan a Palestinian.
(6) As much as to say, Surely from the moment it comes near her she is divorced.
(7) Lit., ‘sharp one’, i.e., scholar with keen sharp mind. For other interpretations v. B.K. (Sonc. ed.) p. 60, n. 2.
(8) Though it was near to her people might malign her by saying it was far away.
(9) Where it landed nearer to her.
(10) That it is sufficient for the document to land near the person to whom it is thrown.
(11) Deut. XXIV, 2. Her ‘being another man's wife’ is put on the same footing as her ‘going forth’.
(12) Tied round the Get.
(13) V. B.M. 7a.
(14) Lit., ‘like a gutter’. Gr. **:.
(15) And in such a case the air certainly does not confer possession.

Talmud - Mas. Gittin 79a

MISHNAH. IF SHE WAS STANDING ON A ROOF AND HE THREW IT UP TO HER, AS SOON AS IT REACHES THE AIRSPACE OF THE ROOF, SHE IS DIVORCED. IF HE WAS ABOVE AND SHE BELOW AND HE THREW IT TO HER, ONCE IT HAS LEFT THE SPACE OF THE ROOF, EVEN THOUGH [IMMEDIATELY AFTERWARDS] THE WRITING WAS EFFACED[1] OR IT WAS BURNT,[2] SHE IS DIVORCED.

GEMARA. [AS SOON AS IT REACHES THE AIR-SPACE OF THE ROOF etc.] But it is not yet in safe keeping?[3] — Rab Judah said in the name of Samuel: We speak of a roof which has a parapet. ‘Ulla b. Menashia said in the name of Abimi: The reference here is to [the air space] within three handbreadths of the roof, since any space less than three handbreadths from the roof is reckoned as the roof.

IF HE WAS ABOVE etc. But it is not yet in safe keeping?[4] — Rab Judah said in the name of Samuel: [The rule applies] if for instance the lower partitions[5] overtop the upper ones.[6] So too R. Eleazar said in the name of R. Oshaia, If, for instance the lower partitions overtop the upper ones; and so too ‘Ulla said in the name of R. Johanan, If, for instance, the lower partitions overtop the upper ones. Said R. Abba to ‘Ulla: With whose view does this accord? With that of Rabbi, who said that being embraced [by the air space] is equivalent to coming to rest [upon the ground]?[7] — He replied: You can even say that it has the authority of the Rabbis, since the Rabbis might differ from Rabbi only in the case of Sabbath, but here the deciding factor is whether it is in safe keeping, and in fact it is in safe keeping.[8] So too, when R. Assi said in the name of R. Johanan, For instance, if the lower partitions overtop the higher, R. Zera said to R. Assi, With whose view does this accord? With that of Rabbi, who said that being embraced by the air space is equivalent to coming to rest [on the ground,] and he replied, You can even say that it has the authority of the Rabbis, since the Rabbis might differ from Rabbi only in the case of the Sabbath, but here the deciding factor is whether it is in safe keeping, and in fact it is in safe keeping.

THOUGH THE WRITING WAS EFFACED. R. Nahman said in the name of Rabbah b. Abbuha: This applies only if it was effaced while [the Get was] falling,[9] but if it was effaced while [the Get was] ascending it is not so. Why? Because from the outset it was not destined to come to rest [in that way].[10]

OR IT WAS BURNT. R. Nahman said in the name of Rabbah b. Abbuha: This applies only if the Get was thrown before the fire was started, but if the fire was started first, it is not so. Why is this?

Because from the outset it was destined to be burnt.

R. Hisda said: Spaces marked off from one another[11] remain distinct for purposes of bills of divorce.[12] Said Rami b. Hama to Raba: Whence does the old man derive this idea? — He replied: It is from our Mishnah: If SHE WAS STANDING ON THE ROOF AND HE THREW IT TO HER, AS SOON AS THE GET REACHES THE AIR SPACE OF THE ROOF SHE IS DIVORCED. Now with what circumstances are we dealing? Are we to say that the roof is hers and the courtyard is hers? If so, why do I require even the air space of the roof? What then? His roof and his courtyard? In that case, even if it reaches the air space of the roof, what of it? Obviously therefore we must suppose the roof to be hers and the courtyard to be his. Now let us look at the next clause: IF HE WAS ABOVE AND SHE BELOW AND HE THREW IT TO HER, SO SOON AS IT LEFT THE SPACE OF THE ROOF, EVEN THOUGH THE WRITING WAS EFFACED OR IT WAS BURNT SHE IS DIVORCED. Now if the roof is hers and the courtyard his, why is she divorced? It must be therefore that the roof is his and the courtyard hers. Now can it be that the first clause speaks of where the roof is hers and the courtyard his, and the second of where the roof is his and the courtyard hers? [Hardly so;] and it must be that he lends her a place,[13] [and this shows] that men will lend one place but not two places! — He replied: Is this conclusive? Perhaps each case stands on its own footing, the first clause speaking of where the roof is hers and the courtyard his, and the second of where the roof is his and the courtyard hers.[14]

Raba said: There are three cases in which a Get forms an exception to a general rule.[15] One is the rule laid down by Rabbi that being embraced [by the air space] is equivalent to coming to rest on the ground, regarding which the Rabbis joined issue with him. They only differed with regard to Sabbath, but here [in the case of a Get] the decisive factor is whether it is in safe keeping, and in fact it is in safe keeping. The second is the rule laid down by R. Hisda: If a man stuck in private ground a pole, on the top of which was a basket, and he threw up something[16] and it came to rest on it, even if it is a hundred cubits high he is liable, because private ground extends upwards to the sky. This applies only to Sabbath, but here[17] the decisive factor is whether it is in safe keeping, and in fact it is not in safe keeping.[18]

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(1) E.g., by rain.

(2) By a fire in the courtyard.

(3) Because it may be blown away by the wind before landing.

(4) Because it may be blown by the wind outside of the court.

(5) Those of the courtyard.

(6) Those of the roof. Hence even when the Get was thrown over the parapet of the roof, it was still within the enclosure of the courtyard.

(7) Shab. 97. The discussion there relates to an article thrown from one point to another in public ground across private ground, Rabbi holding that this constitutes a change of domain, v. also B.K. 70b.

(8) Being all the time surrounded by the partitions of the courtyard, and the question of change of domain does not arise.

(9) Over the parapet.

(10) And therefore so long as it was ascending it is not regarded as having been ‘given’.

(11) E.g., a roof and a courtyard.

(12) I.e., if the outer one was lent to the wife for the purpose of receiving the Get therein, it does not follow that the inner one was lent with it.

(13) The roof or the courtyard as the case may be.

(14) But where it is not originally hers but lent to her by the husband it may be assumed that the loan of the one includes the other.

(15) Lit., ‘three measures’, ‘norms’, in regard to a Get.

(16) From a public domain.

(17) If the husband throws a Get into a basket on top of a high pole stuck in her ground.

(18) Because it may be blown by the wind outside the court.

Talmud - Mas. Gittin 79b

The third is the rule laid down by Rab Judah in the name of Samuel; A man should not stand on one roof and gather rain water from his neighbour's roof, because just as dwellings are distinct below so they are distinct above. This applies to Sabbath, but in regard to a Get the decisive factor is whether the owner is particular, and to this extent men are not particular.[1]

Abaye said: If there are two courtyards one within the other, the inner one belonging to her and the outer one to him, and the outer partitions are higher than the inner ones, if he throws it to her, as soon as it reaches the air-space of the partitions of the outer one she is divorced, the reason being that the inner one itself is protected by the partitions of the outer one. The same, however, does not hold good with baskets; if there were two baskets one inside the other, the inner one belonging to her and the outer one to him and he threw the Get to her, even if it came into the air space of the inner one[2] she is not divorced, the reason being that it has not come to rest.[3] And supposing even that it comes to rest, what of it? It is a case of the vessels of the purchaser in the domain of the vendor?[4] — We are speaking here of a basket which has no bottom.[5]

MISHNAH. BETH SHAMMAI SAY THAT A MAN MAY DIVORCE HIS WIFE WITH AN OLD GET, BUT BETH HILLEL FORBID THIS. WHAT IS MEANT BY AN OLD GET? ONE AFTER THE WRITING OF WHICH HE WAS CLOSETED WITH HER. GEMARA. What is the ground of their difference? — Beth Shammai hold that we are not to prohibit her [to marry again] out of fear that people may [afterwards] say that her Get came before her child,[6] whereas Beth Hillel hold that we do prohibit her for fear people will say her Get came before her child. R. Abba said in the name of Samuel: If she married [on the strength of such a Get][7] she need not leave [the second husband]. According to another report, R. Abba said in the name of Samuel, If she was divorced [with such a Get], she has full liberty to marry again.[8]

MISHNAH. IF THE GET WAS DATED BY A REIGN WHICH OUGHT NOT TO COUNT,[9] BY THE EMPIRE OF MEDIA,[10] BY THE EMPIRE OF GREECE,[11] BY THE BUILDING OF THE TEMPLE OR BY THE DESTRUCTION OF THE TEMPLE,[12] OR IF BEING IN THE EAST THE WRITER DATED IT FROM THE WEST, OR BEING IN THE WEST HE DATED IT FROM THE EAST, THE WOMAN [WHO MARRIES AGAIN ON THE STRENGTH OF IT] MUST LEAVE BOTH HUSBANDS[13] AND REQUIRES A GET FROM BOTH AND HAS NO CLAIM EITHER FOR A KETHUBAH OR FOR INCREMENT[14] OR FOR MAINTENANCE OR FOR WORN CLOTHES[15] FROM EITHER OF THEM: IF SHE TAKES THESE FROM EITHER OF THEM SHE MUST RETURN THEM. A CHILD BORN TO HER FROM EITHER OF THEM IS A MAMZER.[16] NEITHER OF THEM [IF A PRIEST] IS TO DEFILE HIMSELF FOR HER: NEITHER OF THEM HAS A RIGHT TO HER FINDS OR TO THE PRODUCT OF HER LABOUR, AND NEITHER CAN ANNUL HER VOWS. IF SHE IS THE DAUGHTER OF A LAY ISRAELITE SHE IS DISQUALIFIED FOR MARRYING A PRIEST.[17]

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(1) And if he lends her one roof for receiving the Get, this is held to include the next adjoining to it.

(2) But was then destroyed before it came to rest at the bottom of the basket.

(3) And the sides of a basket do not afford safe keeping.

(4) V. supra 782.

(5) I.e., the outer basket has no bottom, so that the inner basket rests on the ground and is not in the husband's domain.

(6) Suppose he used the Get to divorce her a year or two after it was written and she had had a child from him in the meanwhile.

(7) Without the permission of the Beth din.

(8) I.e., the Beth din do not prevent her.

(9) [Lit., ‘unworthy’; v. the Gemara infra. Mishnayoth texts read ‘another’; i.e., he dated the Get by a Government not corresponding to the country in which the Get was written.]

(10) I.e., by the Achemenid era.

(11) I.e., by the Seleucid era, beginning 311 B.C., v. A.Z. (Sonc. ed.) p. 42, n. 7.

(12) [The reference is, according to Blau Ehescheidung I, p. 66, to the First Temple, since documents were dated from the destruction of the Second, v. A.Z. 92].

(13) I.e., she must leave the second husband and cannot remarry the first.

(14) Her 'property of plucking' (v. Gloss. s.v. Mulug); she loses the right to be redeemed from captivity, which the Sages assigned to her in lieu of such increment.

(15) From what she brought in with her dowry.

(16) V. Glos.

(17) Being regarded as a 'loose woman'.

Talmud - Mas. Gittin 80a

IF SHE IS THE DAUGHTER OF A LEVITE, SHE BECOMES DISQUALIFIED FOR EATING TITHE,[1] AND IF THE DAUGHTER OF A PRIEST FOR EATING TERUMAH.[2] THE HEIRS NEITHER OF THE ONE HUSBAND NOR THE OTHER INHERIT HER KETHUBAH,[3] AND IF THEY DIE BROTHERS OF BOTH ONE AND THE OTHER OF THEM [IF NECESSARY] TAKE HALIZAH BUT NEITHER CAN MARRY HER. IF HIS NAME OR HER NAME OR THE NAME OF HIS TOWN OR THE NAME OF HER TOWN WAS WRONGLY GIVEN, SHE MUST LEAVE BOTH HUSBANDS AND ALL THE ABOVE PENALTIES APPLY TO HER.

IF ANY OF THE NEAR RELATIVES CONCERNING WHOM IT IS LAID DOWN THAT THEIR RIVALS[4] ARE PERMITTED TO MARRY [WITHOUT GIVING HALIZAH] WENT AND MARRIED AND IT WAS THEN FOUND THAT THIS ONE[5] WAS INCAPABLE OF BEARING,[6] THE ONE WHO MARRIED MUST LEAVE BOTH HUSBANDS[7] AND ALL THESE PENALTIES APPLY TO HER. IF A MAN MARRIES HIS SISTER-IN-LAW AND HER RIVAL[8] THEN WENT AND MARRIED ANOTHER MAN AND IT WAS FOUND THAT THE FIRST ONE WAS INCAPABLE OF BEARING, THE OTHER MUST LEAVE BOTH HUSBANDS AND ALL THESE PENALTIES APPLY TO HER.[9]

IF A SCRIBE WROTE A GET FOR THE HUSBAND AND A RECEIPT FOR THE WIFE[10] AND BY MISTAKE GAVE THE GET TO THE WIFE AND THE RECEIPT TO THE HUSBAND AND THE TWO EXCHANGED THEM AND AFTER A TIME THE GET WAS PRODUCED BY THE MAN AND THE RECEIPT BY THE WOMAN, SHE MUST LEAVE BOTH HUSBANDS AND ALL THESE PENALTIES APPLY TO HER. R. ELEAZAR[11] SAID: IF [IT IS PRODUCED] AT ONCE,[12] IT IS NO GET, BUT IF [IT IS PRODUCED] AFTER A TIME, IT IS A GET; IT IS NOT IN THE POWER OF THE FIRST TO RENDER VOID THE RIGHT OF THE SECOND.[13]

GEMARA. What is meant by A REIGN WHICH OUGHT NOT TO COUNT? — The empire of the Romans.[14] Why is it called A REIGN WHICH OUGHT NOT TO COUNT? — Because it has neither a script nor a language [of its own].[15]

'Ulla said: Why was it laid down that [the year of] the reign should be stated in a Get? For the sake of keeping on good terms with the Government. And for the sake of keeping on good terms with the Government is the woman to leave her husband and the child to be a mamzer.? — Yes. R. Meir in this is quite consistent, since R. Hamnuna said in the name of 'Ulla: R. Meir used to say, If any alteration is made in the form which the Sages fixed for bills of divorce, the child is a mamzer.[16]

BY THE EMPIRE OF GREECE. All [these eras] had to be mentioned.[17] For if I had been told only the REIGN WHICH OUGHT NOT TO COUNT, I might have thought that the objection to it is that it bears sway now, but in regard to the Empire of Media and Greece I might think that what is past is past.[18] And if I had been told the empires of Media and Greece, I might have thought that the objection is that they were once empires, but as regards the building of the Temple, what is past is past. And if I had been told the building of the Temple, I might have thought that the objection is because they might say that the Jews are recalling their former glory, but this does not apply to the mention of the destruction of the Temple, which recalls their sorrow.[19] Hence all were necessary.

IF BEING IN THE EAST THE WRITER DATED IT FROM THE WEST. Who is referred to? Is it the husband? Then this is the same as IF HIS NAME OR HER NAME OR THE NAME OF HIS TOWN OR OF HER TOWN WAS WRONGLY GIVEN! It must be then the scribe; and so Rab said to his scribe, and R. Huna also said to his scribe, When you are in Shili,[20] write ‘at Shili’, even though you were commissioned in Hini, and when you are in Hini, write ‘at Hini’, even though you were commissioned in Shili.[21]

Rab Judah said in the name of Samuel:

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(1) V. Yeb. 912.

(2) v. Sot. 28A.

(3) The kethubah referred to here is a stipulation made by her with her husband that, should she die in his lifetime, her sons should inherit her property over and above their share in their father's inheritance, v. Yeb. 91A.

(4) I.e., (potential) co-wives. Cf. 1. Sam. I, 6. The reference is to two women within the forbidden degrees of consanguinity who married two brothers, v. Yeb. 22.

(5) The wife of the brother still living.

(6) Her marriage consequently was void, and hence the sister-in-law could have married the deceased husband's brother and had no right to contract another marriage without giving halizah.

(7) I.e., she must leave her husband and cannot marry the brother-in-law.

(8) I.e., another wife of the dead brother. Where there are two wives, only one may contract the levirate marriage.

(9) V. Yeb. 94b.

(10) To hand over to the husband on payment of her kethubah.

(11) [Var. lec. ‘R. Eliezer’.]

(12) Explained in the Gemara.

(13) Because we suspect collusion between the wife and the first husband.

(14) [The reference is to the Eastern Roman Empire; v. next note].

(15) V. A.Z. (Sonc. ed.) p. 50, n. 2.

(16) Cf. supra, 5b.

(17) To make it clear that the Get should be dated according to the era of the State where it is made out.

(18) And therefore dating by it would cause no jealousy on the part of the Government.

(19) On the eras mentioned in this passage v. A.Z. (Sonc. ed.) p. 42, n. 7, and p. 47, n. 2.

(20) Shili and Hini were two places within walking distance of each other. V. B.B. (Sonc. ed.) p. 753, n. 6.

(21) The local of the deed is the place where the deed is written and this must be entered in the deed, not the place where the transaction recorded took place.

Talmud - Mas. Gittin 80b

This[1] is the ruling of R. Meir, but the Sages say that even though he dated it only by the term of office of the Santer[2] in the town, she is divorced. A certain Get was dated by the term of office of the prefect[3] of Bashcar.[4] R. Nahman son of R. Hisda sent to Rabbah to inquire how to deal with it. He sent him back reply: Such a one even R. Meir would accept. What is the reason? Because he is an official of the proper Government. But why should he be different from the Santer in the town? — To date it that way is an insult to them,[5] but to date it this way is a compliment to them.

R. Abba said in the name of R. Huna who had it from Rab: This is the ruling of R. Meir, but the Sages say that the child is legitimate. The Sages, however, agree with R. Meir that if his name or her name or the name of his town or her town was wrongly given, the child is a mamzer. R. Ashi said: We find this also implied in our Mishnah: IF HIS NAME OR HER NAME OR THE NAME OF HIS TOWN OR HER TOWN WAS WRONGLY GIVEN, SHE MUST LEAVE BOTH HUSBANDS AND ALL THESE PENALTIES APPLY TO HER. Now who is the authority for this statement? Shall I say R. Meir? If so, the two rulings[6] might have been run into one? We conclude therefore that it was the Rabbis.

IF ANY OF THE NEAR RELATIVES CONCERNING WHOM etc. [They are penalised] if they MARRY, which implies, ‘but not if they misconduct themselves’.[7] May we take this as a refutation of R. Hamnuna, who said that if a woman while waiting for her brother-in-law misconducted herself, she is forbidden to her brother-in-law?[8] — No; [it means,] if they marry, and the same is the rule if they misconduct themselves; and the reason why the word MARRY was used was as a polite expression. Some report the discussion thus: [They are penalised] if they marry, and the same rule [we should say,] applies if they misconduct themselves. May we presume then that the Mishnah supports R. Hamnuna, who said that if a woman while waiting for her brother-in-law misconducted herself she is forbidden to her brother-in-law? — No; the rule applies only where they actually married, because in that case they may be confused with a woman whose husband went abroad.[9]

IF A MAN MARRIES HIS SISTER-IN-LAW etc. Both cases[10] required to be stated. For had I only the first one, I might say the reason [why she is penalised][11] is because the precept of levirate marriage has not been carried out, but here where this precept has been carried out I might say that the rule does not apply. If again I had been told only in this case, I might have said that the reason is because she was put at his disposal,[12] but in the other case where she is not put at his disposal[13] I might say that she should not be penalised. Hence [both statements were] necessary.

IF THE SCRIBE WROTE AND BY MISTAKE GAVE THE GET TO THE WIFE AND THE RECEIPT TO THE HUSBAND . . . R. ELEAZAR SAYS, IF [IT WAS PRODUCED] AT ONCE etc. How do we define AT ONCE and how do we define AFTER A TIME? — Rab Judah said in the name of Samuel: The whole of the time during which they are sitting and dealing with that matter is called AT ONCE; once they have risen it is called AFTER A TIME. R. Adda b. Ahabah, however, said: So long as she has not married, it is called AT ONCE, but once she has married, it is called AFTER A TIME. We have learnt: IT IS NOT IN THE POWER OF THE FIRST TO RENDER VOID THE RIGHT OF THE SECOND. Now if we take the view of R. Adda b. Ahabah, it is quite correct to mention here the SECOND; but on Samuel's view, what are we to make of SECOND? —

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(1) That the year of the current reign must be mentioned.

(2) Probably = Senator: an elder whose office it was to decide questions regarding boundaries between fields, v. B.B. (Sonc. ed.) p. 270, n. 10.

(3) [Pers. Astandar, a district (astan) deputy (dar) of the king. Obermeyer op. cit. p. 92.]

(4) More correctly Kashkar (Jastrow). [According to Obermeyer loc. cit. Kashkar was the name given to the whole of the Mesene district (S. E. Babylon) of which it was the capital during the Sassanian period.]

(5) Viz., to the Government, the Santer being a minor official.

(6) This and the one regarding the year of the reign.

(7) [In which case she is forbidden to her brother-in-law for fear people will say that he had already given her halizah before she remarried and is now taking her unto himself as a wife, which. is not allowed.]

(8) V. Yeb. 81a.

(9) [If such a woman was informed on good authority that her husband had died and she married again and then her husband returned, she is forbidden to go back to him, for fear people might say that the husband had in reality divorced her before she remarried and that now he is taking her back, which is forbidden (v. Deut. XXIV, 4). If the sister-in-law in this case were allowed to marry the brother-in-law after marrying another, this might create a precedent (cf. n. 2), but not if she misconducted herself.]

(10) This and the one about the forbidden degrees.

(11) And forbidden to the brother-in-law.

(12) Lit., 'thrown before him', after the death of her husband, and therefore should not have remarried till she made sure that the levirate marriage of her rival was in order.

(13) [Her potential rival exempts her forthwith on the death of her husband from levirate marriage and halizah.]

Talmud - Mas. Gittin 81a

It means, the prospective right of the second.

MISHNAH. IF A MAN WROTE A GET WITH WHICH TO DIVORCE HIS WIFE AND THEN CHANGED HIS MIND, BETH SHAMMAI SAY THAT HE HAS THEREBY DISQUALIFIED HER FOR MARRYING A PRIEST.[1] BETH HILLEL, HOWEVER, SAY THAT EVEN THOUGH HE GAVE IT TO HER ON A CERTAIN CONDITION, IF THE CONDITION WAS NOT FULFILLED, HE HAS NOT DISQUALIFIED HER FOR MARRYING A PRIEST.

GEMARA. R. Joseph the son of R. Manasseh of Dewil sent an inquiry to Samuel saying: Would our Master instruct us with regard to the following problem. If a rumour spread that So-and-so, a priest, has written a Get for his wife, but she still lives with him and looks after him, what are we to do?[2] — He sent back a reply: She must leave him, but [first] the case must be examined. What are we to understand by this? Shall we say that we examine whether we can put a stop to the rumour or not? [This cannot be] because Samuel lived in Nehardea, and in Nehardea it was not the rule [of the Beth din] to put a stop to rumours.[3] But we do examine whether people speak of 'giving' also as 'writing'.[4] But granted that they call 'giving' 'writing', do they not also call 'writing' itself 'writing'? — That is so; and [the reason why she has to leave him is] because if it is found that 'giving' is called 'writing', perhaps the people [when they say he has 'written'] mean that he has 'given' [her the Get].[5] And still must she leave him? Has not R. Ashi said: We pay no regard to any rumour [that is spread] after the marriage? — When it says 'she must leave', it means 'she must leave the second husband'.[6] If that is so, you cast a slur on the children of the first?[7] — Since it is from the second that we separate her and we do not separate her from the first, people will say that he divorced her just before his death.[8]

Rabbah b. Bar Hanah reported R. Johanan as saying in the name of Rabbi Judah b. Ila'i: What a difference we can observe between the earlier generations and the later! (By the earlier generations he means Beth Shammai, and by the later R. Dosa). For it has been taught : 'A woman who has been carried away captive may still eat terumah,[9] according to the ruling of R. Dosa. Said R. Dosa: What after all has this Arab done to her? Because he squeezed her breasts, has he disqualified her for marrying a priest?'[10] Rabbah b. Bar Hanah further quoted R. Johanan as saying in the name of Rabbi Judah b. Ila'i: What a difference we can observe between the earlier generations and the later! The earlier generations used to bring in their produce by way of the kitchen garden[11] so as to make it liable to tithe, whereas the later generations bring in their produce over roofs and through enclosures so as not to make it liable for tithe, R. Jannai laid down that tebel[12] is not liable for tithe[13] until it has come in front of the house, since it says, I have put away the hallowed things out of mine house.[14] R. Johanan, however, says that even a courtyard[15] imposes the liability, as it says, That they may eat within thy gates and be filled.[16]

MISHNAH. IF A MAN HAS DIVORCED HIS WIFE AND THEN STAYS WITH HER OVER NIGHT IN AN INN, BETH SHAMMAI SAY THAT SHE DOES NOT REQUIRE FROM HIM A SECOND GET, BUT BETH HILLEL SAY THAT SHE DOES REQUIRE A SECOND GET FROM HIM. THIS, HOWEVER, IS ONLY WHEN THE DIVORCE IS ONE AFTER MARRIAGE; [FOR BETH HILLEL] AGREE THAT IF THE DIVORCE IS ONE AFTER BETROTHAL,[17] SHE DOES NOT REQUIRE A SECOND GET FROM HIM, BECAUSE HE WOULD NOT [YET] TAKE LIBERTIES WITH HER.

GEMARA. Rabbah b. Bar Hanah said in the name of R. Johanan: The difference of opinion [recorded here] relates only to the case where she was seen to have intercourse,

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(1) A priest being forbidden to marry a divorced woman.

(2) Shall we make her leave him so that people should not say that a priest has been allowed to divorce his wife and take her back?

(3) V. infra 89.

(4) In which case the rumour is a serious one.

(5) And we adopt the more rigorous construction.

(6) Supposing the first husband died and she afterwards married a priest, which, if she was really divorced, she may not do.

(7) If they were born after the alleged divorce.

(8) And there can be no question about the qualifications of his children.

(9) V. Glos.

(10) Whereas Beth Shammai disqualified her merely because her husband had written a Get, even if he did not give it.

(11) Where it would come in sight of the house.

(12) Produce from which the sacred dues have not yet been separated. V. Glos.

(13) I.e., it may be consumed casually, but not for a fixed meal. V. Tosaf. s.v. דרך.

(14) Deut. XXVI, 12.

(15) As soon as it comes in the courtyard.

(16) Ibid. 12.

(17) V. Glos. s.v. Erusin.

Talmud - Mas. Gittin 81b

Beth Shammai holding that a man [in such a case] will not scruple to commit fornication, whereas Beth Hillel hold that a man will scruple to commit fornication.[1] Where, however, she was not seen to have intercourse, both agree that she does not require a second Get from him.

We learn: [BETH HILLEL] AGREE THAT IF THE DIVORCE IS ONE AFTER BETROTHAL, SHE DOES NOT REQUIRE A SECOND GET FROM HIM, BECAUSE HE WOULD NOT TAKE LIBERTIES WITH HER. Now [if a second Get is required] where she was seen to have intercourse, what difference does it make whether it was after betrothal or after marriage?[2] — We must suppose therefore that the Mishnah speaks of a case where she was not seen to have intercourse, and that R. Johanan was giving the view of the following Tanna, as it has been taught: ‘R. Simeon b. Eleazar said: Beth Shammai and Beth Hillel were of accord that where she was not seen to have intercourse she does not require from him a second Get. Where they differed was when she was seen to have intercourse, Beth Shammai holding that a man would not scruple [in such a case] to commit fornication, and Beth Hillel holding that a man would scruple to commit fornication’. But according to the Mishnah, which we have explained to refer to the case where she was not seen to have intercourse, what are we to say is the [ground of] difference [between Beth Shammai and Beth Hillel]? — We must suppose there were witnesses to their being alone together but no witnesses to the intercourse, in which case Beth Shammai hold that we do not regard the witnesses to their being alone together as being ipso facto witnesses to their intercourse, whereas Beth Hillel hold that we do regard the witnesses to their being alone together as being ipso facto witnesses to their intercourse.[3] Beth Hillel admit, however, that if the divorce is one after betrothal she does not require a second Get from him, because since he would not take liberties with her we do not regard them as being ipso facto witnesses to intercourse.[4] But did R. Johanan say this?[5] Did not R. Johanan say that the halachah follows the anonymous Mishnah,[6] and we have explained the Mishnah to be referring to the case where she was not seen to have intercourse? — Different Amoraim report R. Johanan's opinion differently.

MISHNAH. IF A MAN MARRIES A [DIVORCED] WOMAN ON THE STRENGTH OF A ‘BALD’ GET,[7] SHE MUST LEAVE BOTH HUSBANDS AND ALL THE ABOVE-MENTIONED PENALTIES APPLY TO HER. A ‘BALD’ GET MAY BE COMPLETED BY ANYONE'S SIGNATURE.[8] THIS IS THE VIEW OF BEN NANNOS, BUT R. AKIBA SAYS THAT IT MAY BE COMPLETED ONLY BY RELATIVES WHO ARE QUALIFIED TO TESTIFY ELSEWHERE.[9] WHAT IS A ‘BALD’ GET? ONE WHICH HAS MORE FOLDS THAN SIGNATURES.[10]

GEMARA. What is the reason for [invalidating] A ‘BALD’ GET? — As a precaution, in case he said ‘All of you [write]’.[11]

A ‘BALD’ GET MAY BE COMPLETED BY ANYONE'S SIGNATURE. Why does R. Akiba not permit a slave [to sign]? — Because this might lead people to say that he is competent to bear witness [in general]. But in the same way they might be led to say that a near relative is competent to bear witness? — The fact is that the reason why he does not allow a slave is because people might be led to think him of Israelite parentage.[12] According to this a robber who could prove his Israelitish descent[13] should be competent. Why then do we learn here: R. AKIBA SAYS, IT MAY BE COMPLETED ONLY BY RELATIVES WHO ARE QUALIFIED TO TESTIFY ELSEWHERE, which would imply that a relative may testify but not a robber? — We must say therefore that the reason in the case of a slave is that people might be led to say that he has been emancipated; and similarly in the case of a robber people might be led to say that he has reformed himself. But as to a relative what objections can be raised? Everyone knows that a relative is a relative.

R. Zera said in the name of Rabbah b. She'ilta who had it from R. Hamnuna the elder who had it from R. Adda b. Ahabah: If a ‘bald’ Get has seven folds and six witnesses, or six folds and five witnesses, or five folds and four witnesses, or four folds and three witnesses, then Ben Nannos and R. Akiba differ [as to how it is to be completed]. But if it has three folds and two witnesses both agree that only a relative may complete it. Said R. Zera to Rabbah b. She'ilta: Let us see now. Three in a folded Get correspond to two in a plain Get.[14] Seeing then that a relative is forbidden to sign the latter, should he not be forbidden to sign the former also? — He replied: I was also perplexed by this, and I asked R. Hamnuna, who in turn asked R. Adda b. Ahabah, who replied, Don't bother about three on a folded Get, since these are not required by the Torah.[15] It has been taught to the same effect: A ‘bald’ Get which has seven folds but six witnesses, six folds and five witnesses, five folds and four witnesses, or four folds and three witnesses is judged differently by Ben Nannos and R. Akiba, to the extent that if it was completed by a slave Ben Nannos says that the child [born from a marriage contracted on the strength of such a Get] is legitimate while R. Akiba says that it is a mamzer. If, however, it has three folds and two witnesses, both agree that only a relative may complete it.

R. Joseph read [in the statement of R. Zera] ‘a competent witness’ [instead of ‘relative’]. But in the Baraitha it says ‘relative’? — R. Papa said: Read, ‘a competent witness’.

R. Johanan said: Only one relative has been declared eligible to sign as witness on it but not two, for fear lest it should be confirmed on the strength of the signatures of two relatives and one competent witness.[16] Said R. Ashi: This is indicated in the Baraitha also

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(1) And therefore he meant the intercourse to be a method of betrothal, and since he has married her again he must give her a second Get.

(2) In either case according to Beth Hillel he has married her again.

(3) And we take the mere fact of their having been alone together as sufficient proof that they have married again.

(4) And therefore do not presume that they have married again.

(5) That where she was not seen to have intercourse she does not require a second Get even according to Beth Hillel.
(6) I.e., not stated in the name of any particular authority, so that it may be regarded as the view of the majority and therefore authoritative.
(7) V. note 7.
(8) I.e., even of persons who ordinarily are not eligible to give evidence.
(9) I.e., who are not disqualified on other grounds, such as being a robber etc.
(10) If the husband did not wish to act too impetuously, he could have the Get written in folds, the scribe folding the paper over after every two or three lines and a witness signing on the back. If any fold was left without a signature. the Get was called 'bald' and was not valid, v. B.B. (Sonc. ed.) p. 699 nn. 1-3 and 6 and diagram p. 704.
(11) In which case we presume that the number of folds corresponds to the number of persons who were present at the time, and that one of these neglected to sign. As stated supra 66b, this would invalidate the Get.
(12) Lit., 'raise him in regard to the pedigree'.
(13) Lit., 'who has a pedigree'.
(14) Three being the minimum for a folded Get as two for a plain one, in order to protract the proceedings for the reason stated supra p. 391. n. 7.
(15) And therefore a concession was made in this case.
(16) If doubt is thrown on the validity of the Get, it can be established by proving the genuineness of three of the signatures on it, provided at least two of these are not relatives. If two relatives had signed, it might happen that these were the two whose signatures were confirmed

Talmud - Mas. Gittin 82a

by the fact that it goes by steps from one number to the next,[1] which shows [that it is as R. Johanan said]. Abaye said: It also shows that the relative may sign where he pleases, at the beginning or in the middle or at the end; we gather this from the fact that no fixed place is assigned to him. It also shows that the Get can be confirmed on the strength of any three signatures and we do not require three next to one another, for if you should suppose that we do require them to be together, a place could be assigned to the relative before or between or after every two competent ones,[2] and several [relatives] should be allowed.[3]

When a party came before R. Ammi,[4] she said, Go and complete it with the signature of a slave from the street.[5]

C H A P T E R I X

MISHNAH. IF A MAN ON DIVORCING HIS WIFE SAYS TO HER, YOU ARE HEREBY FREE TO MARRY ANY MAN BUT SO-AND-SO, R. ELIEZER PERMITS HER [TO MARRY ON THE STRENGTH OF THIS GET], BUT THE RABBIS FORBID HER. WHAT MUST HE DO? HE MUST TAKE IT BACK FROM HER AND GIVE IT TO HER AGAIN SAYING, YOU ARE HEREBY FREE TO MARRY ANY MAN. IF HE WROTE IT[6] IN THE GET, EVEN THOUGH HE SUBSEQUENTLY ERASED IT, IT IS INVALID.

GEMARA. The question was raised: Has the word BUT here the force of 'except' or of 'on condition'? Shall we say it means 'except', and it is where he said 'except [So-and-so]' that the Rabbis differ from R. Eliezer, on the ground that he has left an omission in the Get,[7] but that where he says 'on condition [that you do not marry So-and-so]' they agree with R. Eliezer, placing this condition on a par with any other?[8] Or should we say perhaps that [BUT here] means 'on condition', and it is where he says 'on condition' that R. Eliezer differs from the Rabbis,[9] but where he says except' he agrees with them, on the ground that he has left an omission in the Get? — Rabina replied: Come and hear: 'All houses are defiled by strokes of leprosy but those of heathen'.[10] Now if you say that it means 'on condition', are we to understand that it is only on condition that the houses of heathens are not defiled that the houses of Israelites are defiled, which would imply that if the houses of heathens are defiled the houses of Israelites are not defiled? And besides, can the houses of heathens be defiled, seeing that it has been taught: ‘And I put the plague of leprosy. in a house of the land of your possession:[11] [this implies] that the land of your possession is defiled by plague of leprosy, but houses of heathens are not defiled by plague of leprosy’ ? — We must understand therefore that ‘but’ means ‘except’; and this may be taken as proved.

The Mishnah is not in agreement with the Tanna of the following [passage]. where it is taught: R. Jose said in the name of R. Judah: R. Eliezer and the Rabbis were agreed that if a man on divorcing his wife said to her, You are hereby permitted to any man except So-and-so, she is not divorced. Where they differed was if a man on divorcing his wife said to her, You are hereby permitted to marry any man on condition that you do not marry So-and-so

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(1) The Baraitha does not instance the case where the folds are more in number than the witnesses by two.

(2) I.e., in such a way that two competent ones should always be together.

(3) Because there would now be no danger that out of any three signatures two might be those of relatives.

(4) With a ‘bald’ Get, all the witnesses who had signed still being present.

(5) Thus showing that the halachah followed Ben Nannos.

(6) This reservation is discussed infra.

(7) In not making her free to marry any man.

(8) And the Get is effective at once, while the condition has to be fulfilled later. V. supra 74a.

(9) Because this condition is held to be on a par with other conditions.

(10) Neg. XII, 1.

(11) Lev. XIV, 34.

Talmud - Mas. Gittin 82b

. in which case R. Eliezer allowed her to marry anyone except that man and the Rabbis forbade her [to marry at all on the strength of that Get]. What is R. Eliezer's reason? — He puts the condition on the same footing as any other condition. And the Rabbis? — They say that any other condition does not involve an omission in the Get, but this one involves an omission in the Get.

And in the Mishnah, where, as we have decided, he means ‘except’, what is the reason of R. Eliezer? — R. Jannai answered in the name of a certain elder: Because the text says. She shall depart from his house and go and be another man's wife,[1] which implies that if he permitted her to marry only one other man she is divorced. And the Rabbis? — The word ‘man’ here means any other man. R. Johanan, however, says that R. Eliezer derived his reason from this verse: Neither shall they [the priests] take a woman put away from her husband.[2] This shows that even though she is only divorced from her husband [without being permitted to any other man], she is disqualified from the privileges of priesthood, which shows that the Get is valid.[3] And the Rabbis? — The prohibition of priestly privileges is on a different footing.[4]

R. Abba raised the question: What is the rule [if a man uses these words] in betrothing?[5] The answer is not self-evident whether we adopt the view of R. Eliezer or that of the Rabbis. If we adopt R. Eliezer's view, are we to say that R. Eliezer ruled as he did here [in the case of divorce] only because this is indicated in the Scripture, but in the case of betrothal we require an effective acquisition?[6] Or shall we say that R. Eliezer applies the principle of she shall depart and be [married]?[7] Again, if we adopt the view of the Rabbis, are we to say that the Rabbis ruled as they did here [in the case of divorce] only because we require a ‘cutting off’,[8] but in the other case any kind of acquisition is sufficient, or shall we say that they apply the analogy of ‘she shall depart and be’? — After stating the problem he himself solved it, saying: Whether we adopt the view of R. Eliezer or that of the Rabbis, we require that the analogy of ‘she shall depart and be’ should hold good.

Abaye said: If we can assume that the answer of R. Abba was sound, then if Reuben came and betrothed a woman with a reservation in favour of [his brother] Simeon, and then Simeon came and betrothed her with a reservation in favour of Reuben, and both of them died, she contracts a levirate marriage with Levi, [the third brother] and I do not call her ‘the wife of two dead’,[9] the reason being that the betrothal of Reuben was effective but the betrothal of Simeon was not effective.[10] And in what circumstances would she be the wife of two dead?[11] — If, for instance, Reuben came and betrothed her with a reservation in favour of Simeon and then Simeon came and betrothed her without any reservation, in which case the betrothal of Reuben availed to make her forbidden to all other men and the betrothal of Simeon to make her forbidden to Reuben.[12]

Abaye raised the question: If he said to her, ‘You are hereby permitted to any man except Reuben and Simeon’, and then said ‘to Reuben and Simeon’ what is to be done? Do we say that [by these words] he permits what he had forbidden,[13] or are we to say that he both permits what he had forbidden and forbids what he had permitted?[14] And assuming the answer to be

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(1) Deut. XXIV, 2.

(2) Lev. XXI, 7.

(3) Hence if he permits her to one man only, she is divorced.

(4) Being subject to numerous regulations, and therefore we cannot argue from it to a Get in general.

(5) I.e., ‘Be betrothed to me so as to be forbidden to any man except So-and-so.’

(6) In the phraseology of the Mishnah, a woman is ‘acquired’ by means of betrothal. Kid. ad. init.

(7) Deut. XXIV, 2. On the strength of this analogy, whatever applies to divorce applies also to betrothal.

(8) V. Deut. l.c. and supra p. 83.

(9) If a man makes the formal declaration to marry his deceased childless brother's wife, and dies before doing so, she is called ‘the wife of two dead’, and must not marry a second brother but must give him halizah. v. Yeb. 31b.

(10) Because when he forbade her to all the world except Reuben, the condition was null, as she was already forbidden to all the world by her betrothal with Reuben.

(11) In similar circumstances.

(12) And so whichever of them has died first, the other has promised to marry her.

(13) I.e., he means, You are permitted to Reuben and Simeon also.

(14) I.e., he means now, You are permitted only to Reuben and Simeon.

Talmud - Mas. Gittin 83a

that he permits what he had forbidden, if he says only ‘To Reuben’,[1] what is to be done? Do we take the words ‘To Reuben’ to apply also to Simeon, presuming that why he now says Reuben is because he had been mentioned first, or does he mean Reuben and Reuben only? And assuming that he means Reuben only, if he says ‘To Simeon’ what is to be done? Do we take the words ‘To Simeon’ to apply to Reuben also, presuming that why he now says Simeon is because he had just mentioned him, or does he mean Simeon and Simeon only? R. Ashi asked,[2] If he said, Also to Simeon, what are we to do? Do we take ‘also’ to mean ‘besides Reuben’, or ‘besides everyone else’ [but not Reuben]? — These questions are left undecided.

Our Rabbis taught: After the demise of R. Eliezer, four elders came together to confute his opinion. They were R. Jose the Galilean, R. Tarfon, R. Eleazar b. Azariah, and R. Akiba. R. Tarfon argued as follows:[3] Suppose this woman went and married the brother of the man to whom she had been forbidden and he died without children, would not the first be found to have uprooted an injunction from the Torah?[4] Hence you may conclude that this is no ‘cutting off’.[5] R. Jose the Galilean then argued as follows: Where do we find the same thing should be forbidden to one and permitted to another? What is forbidden is forbidden to all alike and what is permitted is permitted to all alike. Hence we may conclude that this is no ‘cutting off’. R. Eleazar b. Azariah then argued as follows: ‘Cutting off’ means something which completely cuts him off from her. Hence you may conclude that this is no cutting off’. R. Akiba then argued as follows: Suppose this woman went and married some other man and had children from him and was then widowed or divorced from him, and she afterwards went and married this man to whom she had been forbidden, would not her original Get have to be declared void and [consequently] her children bastards? From this we conclude that this is no cutting off’. Or alternatively I may argue: Suppose the man to whom she was forbidden was a priest and the man who divorced her died, then in respect of the priest she would be a widow[6] and in respect of all other men a divorcee.[7] There then follows an argument a fortiori: Seeing that she would have been forbidden to the priest qua divorcee, though this involves but a minor [transgression],[8] should she not all the more as a married woman, which is a much more serious affair,[9] be forbidden to all men?[10] From this we may conclude that this is no ‘cutting off’. R. Joshua said to them: You should not seek to confute the lion after he is dead.[11] Raba said: All these objections can be countered except that of R. Eleazar b. Azariah, in which there is no flaw. It has been taught to the same effect: R. Jose said: I consider the argument of R. Eleazar b. Azariah superior to all the others.

The[12] Master said above: R. Tarfon argued thus: Suppose she went and married the brother of the man to whom she was forbidden and he died without children, would not the first be found to have uprooted an injunction from the Torah? Uprooting, [you say]? He uprooted?[13] — You should read, He stipulates to uproot an injunction from the Torah. He stipulates? Is there any word about it? Can she not do without marrying the brother of that man? — You should read, He may possibly cause an injunction to be uprooted from the Torah. But in that case a man should be forbidden to marry his brother's daughter, since perhaps he will die without children and he will thus cause an injunction to be uprooted from the Torah?[14] — This is the flaw in the argument. In what case then [does R. Tarfon assume R. Eliezer to differ from the Rabbis]? Is it where the husband says ‘except’? In that case R. Eliezer would allow her to marry him,[15] as it has been taught: ‘R. Eliezer agreed that if a man divorced his wife Saying to her, You are hereby permitted to any man except So-and-so, and she went and married some other man and was widowed or divorced, she is permitted to marry the man to whom she had been forbidden.’ It must be therefore where he says ‘on condition’.[16]

‘R. Jose the Galilean argued as follows: Where do we find that the same thing should be forbidden to one and permitted to another? What is forbidden is forbidden to all and what is permitted is permitted to all’. Is that so? What of terumah and holy meats which are forbidden to one class[17] and permitted to another?[18] — We are speaking of sexual prohibitions. But what of forbidden degrees of consanguinity? — We speak of marriage. But there is the case of a married woman?[19] — This is the flaw in the argument. In what case then [does R. Jose assume R. Eliezer to differ from the Rabbis]? Is it where he says ‘on condition’ [that you do not marry So-and-so]? She is permitted to him in the way of fornication![20] — It must be then where he says ‘except’.[21]

‘R. Akiba argued as follows: Suppose she went and married some other man and had children from him and was then widowed or divorced and she went and married the man to whom she had been forbidden, would not her original Get have to be declared void and her children bastards?’ If that is so, then wherever there is a condition in the Get she should not marry, for fear lest she should not fulfil the condition and the Get would prove to be void and her children bastards. This is the flaw in the argument. In what case then [does R. Akiba suppose R. Eliezer to differ from the Rabbis]? It cannot be where he says ‘except’, because there R. Eliezer permits her, as it has been taught, ‘R. Eliezer agrees that if a man divorced his wife saying to her, You are hereby permitted to any man except So-and-so, and she went and married some other man and became widowed or divorced, she is permitted to the man to whom she was originally forbidden’?[22] — It must be therefore if he says ‘on condition’. ‘Alternatively [R. Akiba argued]: Suppose the man to whom she was forbidden was a priest and the man who divorced her died, then she would be a widow in respect of the priest and a divorcee in respect of all other men. There thus follows an argument a fortiori. Seeing then that she would be forbidden to the priest qua divorcee, though this involves but a minor [transgression], should she not all the more as a married woman, which is a much more serious affair, be forbidden to all men'. In what case then [does R. Akiba assume R. Eliezer to have differed from the Rabbis]? Is it where he says 'on condition'?

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(1) To supplement his first statement.

(2) On the assumption that in the last case he means 'to Simeon only'.

(3) Lit., 'answered and said'.

(4) Because now she cannot fulfil the law of the levirate marriage.

(5) V. supra p. 83.

(6) Because as far as he went she had never been divorced.

(7) And consequently still forbidden to the priest, since she had at any rate been divorced from her husband. V. supra.

(8) The marriage of a divorcee to a priest involves the breach of an ordinary prohibition which carries with it no death penalty.

(9) Involving, as it does, the penalty of death.

(10) In virtue of this peculiar divorce, she becomes at the time of divorce on one side a divorcee in respect of men in general, while on the other side she remains a married woman in respect of the priest. Seeing that the divorced side was sufficient to prohibit her to the priest, should not the married side be sufficient to prohibit her to all other men?

(11) As much as to say, If R. Eliezer had been alive, he could have found answers to your objections.

(12) The flaws in the objections are now pointed out.

(13) That is to say, he has done nothing positive to this effect.

(14) Because the widow cannot possibly marry the husband's brother.

(15) Viz., the divorcee to marry the brother of the second husband, in the case put by R. Tarfon, so that there would be no point in his objection.

(16) Where failure to fulfill the condition renders the Get void.

(17) Laymen.

(18) Priests.

(19) Who is permitted to her husband and forbidden to others.

(20) And therefore there is no point in his objection.

(21) Which forbids her to the said man also in the way of fornication.

(22) And so there is no point in R. Akiba's objection.

Talmud - Mas. Gittin 83b

In that case she is for purposes of fornication a divorcee in respect of him?[1] — It must be therefore where he says 'except'. Now if R. Akiba [thought that the difference is where he says] 'except', why did he not bring [merely] the objection which applied to that case,[2] and if [he thought that it was where he says] 'on condition', why does he not bring [merely] the objection applying to that case?[3] — R. Akiba had heard one report according to which R. Eliezer said 'except', and another according to which he said 'on condition'. For the version which gave 'except' he had one objection, and for the version which gave 'on condition' he had another objection. And what is the flaw [in the second objection of R. Akiba]? We cannot say it is that the prohibition of her marrying a priest is on a special footing,[4] because R. Eliezer also bases his ruling[5] on the priestly prohibition?[6] — Raba follows the version which R. Jannai gave in the name of a certain elder.[7]

'R. Joshua said to them, You should not seek to confute the lion after he is dead.' This would imply that R. Joshua concurred with him. But how can this be, seeing that he himself also brought an objection against him?[8] — What he meant was this: I also have objections to bring, but whether for me or for you, it is not fitting to seek to confute the lion after he is dead. What was the objection of R. Joshua? — As it has been taught: R. Joshua said: Scripture compares her status before the second marriage to the one before the first marriage.[9] Just as before the first marriage she must not be tied to any other man, so before the second marriage she must not be tied to any other man.

[To revert to] the above text: ‘R. Eliezer agreed that if a man divorced his wife saying to her, You are permitted any man except So-and-so, and she went and married some other man and became widowed or divorced, she is then permitted to marry the man to whom she was at first forbidden.’ R. Simeon b. Eleazar argued against R. Eliezer's view, saying, Where do we find that what one man renders forbidden can be made permissible by another?[10] But are there no such cases? Is there not that of the sister-in-law who is rendered forbidden[11] by the husband and permissible by the brother-in-law?[12] — In that case it is really the brother-in-law who makes her forbidden, since as far as the husband is concerned she is permitted.[13] But what of vows, where the one who makes the vow forbids and the wise man permits?[14] — [This is not really so], as R. Johanan has said that the wise man does not release except where there is a change of mind.[15] But there is the husband's power of disallowing, since the wife vows but the husband disallows?[16] — The answer to that is provided by what R. Phineas said in the name of Raba; for R. Phineas said in the name of Raba: A woman who makes a vow always does so subject to the consent of her husband.

‘R. Eleazar b. Azariah argued as follows: "Cutting off"[17] means something that cuts him off from her. From this we conclude that this is not "cutting off".’ What do the [other] Rabbis[18] make of this ‘cutting off’? — They require it for the ruling contained in the following, as had been taught: ‘[If a man says], This is your Get on condition that you never drink wine, on condition that you never go to your father's house, this is not "cutting off".[19] [If he says], For thirty days, this is "cutting off".’ And the other [R. Eleazar]? — We can learn this, [he says,] from the use of the form kerithuth in place of kareth.[20] And the Rabbis? — They do not stress the difference between kareth and kerithuth.[21]

Raba said: [If a man said,] This is your Get on condition that you do not drink wine all the days of my life, this is no ‘cutting off’, but if he said, All the days of So-and-so's life, this is ‘cutting off’. Why this difference? [If you say that where he says] ‘the life of So-and-so’, it is possible that he may die and she may fulfil the condition, [I may rejoin that where he says] ‘my life’, there is also a possibility that he may die and she may fulfil the condition? — We should read therefore, [If he says,] All the days of your life,[22] this is no ‘cutting off’, but if he says, All the days of my life or of So-and-so's life, this is cutting off’.

Raba put the following question to R. Nahman: [If he says], To-day you are not my wife, but to-morrow you will be my wife, what is to be done? The answer is not clear whether we accept the view of R. Eliezer[23] or that of the Rabbis. We ask: If we adopt the view of R. Eliezer, are we to say that in that case R. Eliezer ruled as he did, because as he permitted her she is permitted in perpetuity, but here[24] he would not do so, or are we to say that he makes no difference? And we ask, if we adopt the view of the Rabbis, are we to say that in that case the Rabbis ruled as they did because she is not entirely separated from him, but here they would say that once she is separated she is separated?[25] Having asked the question he himself answered it:

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(1) As in respect of all other men, and therefore the a fortiori argument adduced above does not apply.

(2) Viz., the first of his objections.

(3) Viz., the second of his objections.

(4) And therefore we cannot argue from the case where the man to whom she is forbidden is a priest to cases in general.

(5) In our Mishnah that the Get is valid as it stands.

(6) V. supra, 82b.

(7) That R. Eliezer bases his ruling on the text ‘and she marry another man’, v. supra.

(8) V. infra.

(9) Because it is written, When a man taketh a wife (Deut. XXIV, 1), referring to the first marriage, and afterwards, and she be another man's wife (ibid. 2), referring to the second marriage.

(10) As here, where the first man makes her forbidden to a certain man, and the second renders her permissible, v. Tosef. Git. VII.

(11) To all other men.
(12) By means of halizah (v. Glos.).
(13) As soon as he is dead.
(14) By remitting the vow, v. supra 36b.
(15) By pointing out the consequences of the vow, so that the one who made it can say, Had I known this I would not have vowed, and the revision renders the vow void retrospectively.
(16) The vow, that is to say, is not rendered void, only the husband disallows her observing it; v. Ned, 68a.
(17) Deut. XXIV, 1.
(18) Viz., R. Tarfon, R. Jose the Galilean and R. Akiba.
(19) Because she is tied to him till her death.
(20) I.e., the use of the double form where the single would have sufficed implies that another lesson may be learnt in addition to this.
(21) V. supra p. 83.
(22) V. note 10.
(23) Who says in our Mishnah that a substantive reservation in the Get does not necessarily invalidate it.
(24) Where the divorce is only for one day.
(25) And the condition is worthless.

Talmud - Mas. Gittin 84a

It is reasonable to suppose that whether [we adopt the view of] R. Eliezer or of the Rabbis, [we should decide that] once she is separated from him she is separated.

Our Rabbis taught: [If a man says.] This is your Get on condition that you marry So-and-so, she should not marry, but if she does marry she need not leave the second husband. What does this mean? — R. Nahman said: What it means is this: She must not marry that man, for fear that people should say that men may make presents of their wives. If, however, she marries anyone else, she need not leave him. And do we not as a precaution make her part from him, and [are we not afraid that] we may be permitting a married woman to another?[1] R. Nahman thereupon said: What is meant is this: She must not marry that man, for fear people should say that men can make presents of their wives, but if she does marry him she need not part from him since we do not separate them merely as a precaution.[2] Said Raba to him: [According to you] it is that man whom she must not marry, which implies that she may marry another. But [how can this be] seeing that she has to carry out his condition? And should you say that it is possible for her to marry [another] to-day and be divorced to-morrow,[3] and so fulfil the condition, comparing this case to that in regard to which you joined issue with Rab Judah, as it has been stated: If a man says, I forbid myself to sleep to-day if l shall sleep to-morrow, Rab Judah says that he should not sleep to-day lest perhaps he should sleep to-morrow, whereas R. Nahman says that he may sleep today and we disregard the possibility of his sleeping to-morrow?[4] But how can you compare the two cases? In that case [of the sleeper] the matter lies in the man's own hands, since if he likes he can keep himself from sleeping by pricking himself with thorns, but in this case does it lie with her whether she is divorced or not?[5] — No, said Raba; [what we must say is] that she must not marry either that man or any other; she must not marry him for fear people should say that men may make presents of their wives, nor must she marry another since she has to fulfil the condition. If, however, she marries that man, she need not part from him since we do not separate them merely out of precaution, whereas if she marries another she must leave him since she is required to fulfil the condition. It has been taught in accordance with Raba: This woman must not marry either that man or any other. If, however, she has married him she need not part from him, but if she marries another she must part from him.

Our Rabbis taught: [If a man says.] ‘This is your Get on condition that you go up to the sky’, ‘on condition that you go down to the abyss’, ‘on condition that you swallow a reed four cubits long’ ‘on condition that you bring me a reed of a hundred cubits’, on condition that you cross the great sea on foot,’ this is no Get. R. Judah b. Tema, however, says that one like this is a Get. And R. Judah b. Tema laid it down as a general principle that if any condition impossible at any time of fulfilment was laid down by him at the outset, he must be regarded as merely trying to put her off,[6] and [the Get] is valid.

R. Nahman said in the name of Rab that the halachah follows the view of R. Judah b. Tema. R. Nahman b. Isaac said: This is indicated by [the language of] the Mishnah,[7] since it says, ‘Wherever a condition possible at any time of fulfilment is laid down at the outset, it is a valid condition.’ This implies that if it is impossible of fulfilment it is void,[8] and so we may conclude.

The question was raised: [If a man says,] ‘Here is your Get on condition that you eat swine's flesh,’ what is the law? — Abaye replied: That is exactly a case in point.[9] Raba, however, replied: It is possible for her to eat and be scourged.[10] Abaye stresses the words ‘general principle’ [used by R. Judah b. Tema], so as to cover [the eating of] swine's flesh; Raba stresses the words ‘one like this is a Get’ to exclude [the eating of] swine's flesh.

Objection was raised [against Raba] from the following: [If a man says,] ‘Here is your Get on condition that you have intercourse with So-and-so’, if the condition has been fulfilled this is a Get, otherwise not. [If he says,] ‘On condition that you do not have intercourse with my father or your father’, we disregard the possibility of her having intercourse with them.[11] Now this ruling does not contain the words ‘On condition that you have intercourse with my father or your father’,[12] This is intelligible from the standpoint of Abaye,[13] but creates a difficulty from the standpoint of Raba?[14] — Raba may reply to you: There is a reason why [the eating of] swine's flesh should be a valid condition, because it is possible for her to eat it and be scourged. ‘So-and-so’ also it is possible for her to persuade by a money present [to marry her]. But does it lie with her to have intercourse with his father or her father? Even supposing that she would commit the offence, would his father or her father commit the offence? We must therefore say that according to Raba the words ‘general principle’ [in the statement of R. Judah b. Tema] are meant to cover the case of his father and her father,[15] and the words ‘one like this is a Get’, to exclude the case of swine's flesh,[16]

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(1) Seeing that she has not carried out the condition, the Get may be void and she may still be the wife of the first husband.

(2) I.e., out of fear that people will say this.

(3) And then marry the man mentioned in the Get.

(4) V. Ned. 14b. And so here we disregard the possibility that she will after all not be divorced and not carry out her condition.

(5) By the second man. So as to be able to marry the man mentioned in the Get.

(6) I.e., to annoy her.

(7) In B.M. 94a.

(8) And therefore its non-fulfilment does not affect the validity of the document.

(9) Of a condition which R. Judah b. Tema would declare void.

(10) And R. Judah would not declare the condition void, and the Get would not be valid till it had been fulfilled.

(11) And the Get is valid at once.

(12) Which is prohibited.

(13) Since in this case the condition would be void.

(14) For in his view R. Judah b Tema would still make the validity of the Get depend on the fulfilment of the condition.

(15) Which is also considered a condition that cannot be fulfilled.

(16) Which is considered one capable of fulfilment,

Talmud - Mas. Gittin 84b

while according to Abaye ‘general principle’ covers swine's flesh and ‘one like this’ excludes

‘So-and-so’.[1]

An objection was brought [from the following]: [If he says], ‘Here is your Get on condition that you eat swine's flesh’, or, supposing she was a lay woman, ‘on condition that you eat terumah’, or, supposing she was a nazirite, ‘on condition that you drink wine’, then if the condition has been fulfilled this is a Get, and if not it is not a Get.[2] This is consistent with the view of Raba but conflicts with that of Abaye, [does it not]? — Abaye may reply to you: Do you imagine that this ruling represents a unanimous opinion? This represents the view of the Rabbis. But could he [Abaye] not base his view on the ground that [such a Get contains] a stipulation to break an injunction laid down in the Torah, and wherever a stipulation is made to break an injunction laid down in the Torah, the condition is void?[3] — R. Adda the son of R. Ika replied: When we say that where a stipulation is made to break an injunction laid down in the Torah the condition is void, we refer for instance to a stipulation to withhold the food, raiment and marriage duty [of a married woman], where it is the man who nullifies the injunction, but here it is she who nullifies it, Rabina strongly demurred to this [saying], Is not her whole purpose in nullifying only to carry out his condition, so that in point of fact it is he who nullifies? No, said Rabina. When we say that wherever a stipulation is made to break an injunction laid down in the Torah the condition is void, we mean, for instance, [a stipulation] to withhold her food, raiment and marriage duty, where he is unquestionably nullifying [the injunction]. But in this case [will anyone tell her that] she is absolutely bound to eat? She need not eat and will not be divorced.

WHAT MUST HE DO? HE MUST TAKE IT FROM HER, etc. Who is the authority for this ruling?-Hezekiah said: It is R. Simeon b. Eleazar, as it has been taught: R. Simeon b. Eleazar says, [It is no Get] until he takes it from her and again gives it to her saying, Here is your Get.[4] R. Johanan said, You may even hold that it is Rabbi;[5] your colleague[6] has suggested that there is a special reason here, since she has already become possessed of it[7] to the extent of being disqualified in regard to the priesthood.[8]

IF HE WROTE IT IN THE GET. R. Safra said: The words here are[9] IF HE WROTE IT IN THE GET. Surely this is self-evident? It says, IF HE WROTE IT IN THE GET?-You might think that this is the case[10] only [if he inserts them] after the substantive part of the Get[11] [has been written],[12] but where [he made the reservation] before the substantive part [has been written], then even [if he made it] orally [the Get] should be invalid. Therefore [R. Safra] tells us [that this is not so]. Raba on the other hand held that the rule[13] applies only if [he made the reservation] after the substantive part [was written], but if before the substantive part was written then even if made orally [the Get] is invalid. Raba was quite consistent in this, as he used to say to the scribes who wrote bills of divorce, Silence the husband till you have written the substantive part [of the Get].[14]

Our Rabbis taught: All conditions [written] in a Get make it invalid. This is the view of Rabbi. The Sages, however, say that a condition which would render it invalid if stated orally makes it invalid if written, but one which does not invalidate it if stated orally does not invalidate it if written. [Hence] the word ‘except’[15] which invalidates it [if expressed] orally also invalidates it [if inserted] in writing, whereas [‘on condition’] which does not invalidate it [if expressed] orally does not invalidate it [if inserted] in writing.

R. Zera said: They disagree only where [the reservation is inserted] after the substantive part [was written], Rabbi holding that we disallow ‘on condition’ in virtue of having disallowed ‘except’,[16] while the Rabbis considered that we need not disallow ‘on condition’ in virtue of having disallowed ‘except’. If, however, [the reservation is inserted] after the substantive part [has been written].

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(1) Since she may be able to persuade him with money to marry her, the condition is considered capable of fulfilment.

(2) Though the condition cannot be fulfilled without incurring the liability of a flogging.

(3) V. B.M. 51a; 94a.

(4) Supra 78a.

(5) Who in that case held that he need not actually give it to her again.

(6) R. Kahana, R. Johanan was apparently speaking to some disciples of his from Babylon, whence R. Kahana also came; V. B.K. 117a. V, also Tosaf. s.v,

(7) By his first delivery of it,

(8) Even though she is not yet divorced, she is treated as a divorcee and must not marry a priest should the husband die without giving her the Get a second time as required.

(9) Lit., ‘we learn here’.

(10) Viz., that merely speaking them does not invalidate the Get,

(11) His name and her name, the name of his town and her town. V. supra.

(12) And a fortiori if before.

(13) That words which invalidate when written do not invalidate if only spoken.

(14) Lest he should say something which might invalidate it.

(15) V. supra.

(16) I.e., for fear one might be confused with the other.

Talmud - Mas. Gittin 85a

, both sides agree that [the Get is still] valid. As for the Mishnah which says. IF HE HAS WRITTEN IT, and which we have explained as referring to ‘except’, so that ‘on condition’ would not invalidate [the Get], if you like I can say that it is assuming it [to be inserted] before the substantive part [has been written], so that it concurs with the Rabbis, or if you like I can say that it is assuming it [to be inserted] after the substantive part [has been written], so that it concurs with both authorities. Raba, however, said that they [Rabbi and the Rabbis] disagree in the case where [the reservation is inserted] after the substantive part has been written, Rabbi holding that we disallow the insertion in this case in virtue of having disallowed it before the substantive part [has been written], while the Rabbis considered that we need not disallow one in virtue of the other; but if [it is inserted] before the writing of the substantive part, both sides agree that [the Get is] invalid. As for the Mishnah which says. IF HE HAS WRITTEN IT. and which we have explained as referring to ‘except’, so that ‘on condition’ would not invalidate [the Get], it is assuming it to be inserted after [the writing] of the substantive part, and it follows the Rabbis.

The father of R. Abin recited before R. Zera: ‘If he wrote the Get with [the insertion of] a condition, the unanimous ruling is that it is invalid,’ [He said to him:] The unanimous ruling is that it is invalid? [How can this be] seeing that there is a dispute on the subject? What you must say is, The unanimous ruling is that it is valid. And in what circumstances? If the words are inserted after the writing of the substantive part. Why did not R. Zera say to him, [Say,] This is invalid, [the ruling then being] according to Rabbi? — [R. Zera reasoned] that the tanna[1] had been taught to say ‘The unanimous ruling is’, and that he might confuse ‘valid’ and ‘invalid’, but that he would not confuse ‘this is’ with ‘the unanimous ruling is’.[2]

MISHNAH. [IF HE SAID,] YOU ARE HEREBY PERMITTED TO ANY MAN RUT MY FATHER AND YOUR FATHER, MY BROTHER AND YOUR BROTHER, A SLAVE. A HEATHEN, OR ANYONE TO WHOM SHE IS INCAPABLE OF BEING BETROTHED, THE GET IS VALID.[3] [IF HE SAYS.] YOU ARE HEREBY PERMITTED TO ANYONE BUT A HIGH PRIEST (SUPPOSING SHE WAS A WIDOW) OR, (SUPPOSING SHE WAS A DIVORCEE OR A HALUZAH),[4] AN ORDINARY PRIEST, OR, (SUPPOSING SHE WAS A BASTARD OR A NETHINAH),[5] A LAY ISRAELITE, OR, (SUPPOSING SHE WAS OF ISRAELITISH BIRTH). A BASTARD OR A NATHIN, OR ANYONE WHO IS CAPABLE OF BETROTHING HER ALBEIT IN TRANSGRESSION OF THE LAW,[6] THE GET IS INVALID.

GEMARA. The general statement in the first clause brings under the rule all other persons who become liable to kareth[7] [by having intercourse with her]; the general statement in the second clause brings under the rule all other persons who are forbidden [to marry her] only in virtue of a negative command,[8] (such as, for instance, an Ammonite, a Moabite,[9] a Nathin, an Egyptian and an Edomite).[10] Raba inquired of R. Nahman: [If he says, you may marry anyone] except [that you may not] be betrothed to a minor, what is the law?[11] Do we emphasise the fact that at the present at any rate he is not capable of betrothing her[12] or rather the fact that he will one day be capable? — He replied: [We have a teaching:] 'A girl under age can be divorced [after her father's death] even though her betrothal was contracted by her father.'[13] Now why should this be, seeing that we require that her separation should be on the same footing as her union?[14] The reason must be, because she will one day be capable of betrothal; so here we say that he will one day be capable of betrothal.[15]

[Suppose he says, You may marry anyone] except those still to be born, what is the law? Do we lay stress on the fact that as yet at any rate they are not born, or on the fact that one day they will be born? — He replied: We have the answer in our Mishnah: [IF HE SAID, ANY MAN BUT] A SLAVE, A HEATHEN, [IT IS VALID]. Now if we suppose [that this constitutes a reservation in the Get], then [the excepting of] a slave and a heathen also [should constitute a reservation in the Get], since it is possible for them to become proselytes?-[To this Raba rejoined:] Those are not bound to become proselytes in the ordinary course of things, these will be born in the ordinary course of things. [If he said she may marry anyone] except the husband of her sister, what is the law? Do we lay stress on the fact that now at any rate she is not eligible for him, or rather perhaps on the fact that possibly her sister will die and she will become eligible for him? — He replied: We have [the answer] in our Mishnah: [ANY MAN BUT] A SLAVE, A HEATHEN. Now [the excepting] of a slave and heathen also [should constitute a reservation] since they can become proselytes? — [He rejoined]: Conversion is not a usual occurrence, death is.

[If he said, you may marry] excepting you commit fornication, what is the law? Do we lay stress on the fact that he left no reservation in the sphere of marriage, or on the fact that he did leave a reservation in the sphere of intercourse? — He replied: We have [the answer] in our Mishnah: [ANY MAN BUT] MY FATHER AND YOUR FATHER. Now to what [does the exception apply]? Shall I say to marriage? But are his father and her father capable of marrying her? It must be then to fornication, and when he excepts his father and her father this is no reservation,[16] which shows that when he excepts anyone else, it is counted as a reservation? — [He rejoined:] perhaps the exception refers after all to marriage, since he may transgress the law and marry her.

[If he says], Excepting unnatural intercourse, what is the law? Do we lay stress on the fact that he made no reservation in the sphere of natural intercourse, or on the fact that the text says, as with a woman?[17] [If he says], Except [that I reserve to myself] the right of annulling your vows, what is the law? Do we lay stress on the fact that he has left no reservation in the sphere of marriage, or rather perhaps on the text, her husband may establish it or her husband may make it void?[18] [If he says], Except that you may not eat terumah,[19] what is the law? Do we lay stress on the fact that he has left no reservation in the sphere of marriage, or on the fact that it is written the purchase of his money [shall eat of it]?[20] Suppose he said, Excepting that I shall inherit you, what is the law? Do we lay stress on the fact that he has left no reservation in the sphere of marriage or that the text says, to his kinsman and he shall inherit it?[21] [If he says,] Except for your being betrothed by a document, what is the law? Do we say that it is possible for one to betroth her by a money present or by intercourse,[22] or rather perhaps do we go by the text and she shall depart and marry,[23] which indicates that all kinds of marrying are on the same footing? — These questions are left undecided.

MISHNAH. THE ESSENCE OF THE GET IS THE WORDS, BEHOLD YOU ARE HEREBY PERMITTED TO ANY MAN.

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(1) The father of R. Abin.
(2) Hence he emended the word ‘invalid’ into ‘valid’, but not ‘the unanimous ruling is’ into ‘this is’, although the latter in itself would have been preferable.
(3) Because the expression ‘you are permitted to any man’ still covers all possible cases and there is no reservation.
(4) V. Glos.
(5) Fem. of Nathin. A descendant of the Gibeonites who were accepted into the community of Joshua, but who were forbidden to intermarry with the Israelites. V. Josh. X, and Sanh. (Sonc. ed.) p. 340. n. 12.
(6) [The act of betrothal, that is to say, is valid, though they are not allowed to marry. Whereas with those enumerated in the first part of the Mishnah the betrothal is of no effect and no divorce is necessary to separate them.]
(7) I.e., those mentioned in Lev. XX. For kareth, v. Glos.
(8) Which carries with it only flogging but no death penalty nor kareth.
(9) V. Deut. XXIII,4.
(10) Ibid, 8. The words in brackets are omitted in some texts.
(11) I.e., does this constitute a reservation invalidating the Get or not.
(12) And therefore that it is no reservation.
(13) I.e., even though her marriage was a binding one.
(14) Lit., ‘[the rule of] she shall go forth and be’. And therefore only her father should have power to receive her Get for her.
(15) And the Get is invalid, owing to the reservation it contains.
(16) Since she is in any case forbidden to them.
(17) Lev. XX, 13. The Hebrew is משכבי, lit., ‘lyings’, the plural form being taken to indicate both natural and unnatural intercourse.
(18) Num. XXX, 13.
(19) If she marries a priest. V. Glos.
(20) Lev, XXII, 11. And since she may not eat of it she is not the ‘purchase of his money’, and therefore is not fully permitted to marry ‘any man’.
(21) Num. XXVII, 11. Since he is to inherit her, she thus remains in a sense his wife.
(22) V. Kid. 2a.
(23) Deut. XXIV, 2.

Talmud - Mas. Gittin 85b

. R. JUDAH SAYS: [HE MUST ADD,] AND THIS SHALL BE TO YOU FROM ME A WRIT OF DIVORCE AND A LETTER OF RELEASE AND A BILL OF DISMISSAL. WHEREWITH YOU MAY GO AND MARRY ANY MAN THAT YOU PLEASE. THE ESSENCE OF A DEED OF EMANCIPATION IS THE WORDS, BEHOLD YOU ARE HEREBY A FREE WOMAN, BEHOLD YOU BELONG TO YOURSELF.

GEMARA. There is no question that if a man says to his wife, Behold you are hereby a free woman, his words are of no effect,[1] and if he says to his bondwoman, Behold you are hereby permitted to any man, his words are of no effect.[2] If he said to his wife, Behold you belong to yourself, what are we to say? Does he mean, you belong to yourself entirely, or only as far as your work is concerned? — Rabina said to R. Ashi: Come and hear: Since we have learnt: THE ESSENCE OF A DEED OF EMANCIPATION IS THE WORDS, BEHOLD YOU ARE HEREBY A FREE WOMAN, BEHOLD YOU BELONG TO YOURSELF. Now seeing that a slave whose body belongs [to his master] becomes his own owner when he says to him, Behold you belong to yourself, how much more so with a wife whose body does not belong to him?

Rabina asked R. Ashi: If a man said to his slave, I have no concern with you, what [are we to say]? — R. Hanin said to R. Ashi, or, according to another report, R. Hanin of Huzna'ah[3] said to R. Ashi: Come and hear, as it has been taught:[4] If a man sells his slave to a heathen, he thereby becomes emancipated, but he requires a deed of emancipation from his first master. Rabban Simeon

b. Gamaliel said: This is the case only if he did not write out an oni for him, but if he wrote out an oni for him, this is his deed of emancipation. What is an oni? — R. Shesheth said: If he gave him a written statement saying. If you escape from him, I have no concern with you.[5]

RABBI JUDAH SAYS. [HE MUST ADD], AND THIS SHALL BE TO YOU FROM ME A WRIT OF DIVORCE AND A LETTER OF RELEASE. What is the ground of the difference [between the Rabbis and R. Judah]? — The Rabbis held that an indication[6] which is not definite can still count as an indication,[7] and so though he did not insert the words ‘and this’, the circumstances show that he was divorcing her with this Get. R, Judah on the other hand held that an indication not definite does not count as an indication, and the reason why the Get is valid is because he has inserted the words ‘and this’ , which show that he was divorcing her with this Get, but if he did not insert these words, people will say that he divorced her by word of mouth, and the document is merely a corroboration.

Abaye said: The one who writes out the Get should not spell ודין which might be read we-din [and it is just], but ודן.[8] He should not spell איגרת which might be read igarath [a roof], but אגרת.[9] He should not write לימהך[10] which might be read li-mehak [to me from this], nor should he spell למחך[11] which might be understood ‘as a joke’. The words and דיתיהויין, and דיתיצביין[12] should have each three yods [at the end], as two might be read di-tehewjan[13] [that they may be] and de-tezibjan[13] [whom they may like]. The waw of the words תירוכין[14] and שבוקין[15] should be lengthened[16] as otherwise the words might be read terikin [those who are divorced] and shebikin [those that are released].[17] The waw of כדו[18] should also be lengthened so as not to read כדי which means ‘in vain’. He should not write לאיתנסבא which might be read la-yithnesseba [she shall not be married], but להתנסבא.[19]

The question was raised: Are the words ‘and this’ required or not? — Come and hear: Raba laid down the formula of the Get thus: ‘[We are witnesses] how So-and-so son of So-and-so dismissed and divorced his wife from this day and for all time’. We see that he does not mention ‘and this’. But if we are to go by this, we might ask, did he mention all the rest of the Get? Nevertheless we require the rest, and so we require [this also].

The words ‘from this day’ are to rule out the view of R. Jose who said that the date of the document is sufficient indication.[20] The words ‘for all time’,

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(1) Because she is already free.

(2) Because not having been emancipated as far as work is concerned, she cannot marry an Israelite.

(3) [Or Hozae, the modern Khuzistan, S.W. Persia. V. Kid. 6b.]

(4) Supra 43b, q.v.

(5) Which shows that these words confer emancipation.

(6) Heb. ‘yadayim’, ‘hands’.

(7) Lit., ‘hands which do not prove are still counted hands’, v. Kid. 5b.

(8) We-den, ‘and this’.

(9) Iggereth, ‘a letter’.

(10) In place of li-mehak למהך ‘to go’. [In other words, Abaye rules out the matres lectionis in these three words, in view of the ambiguity they may give rise to.]

(11) [The ה and ח are interchangeable letters in Semitic languages.]

(12) Di-tehewjen, di-tezbijen, ‘that you may marry’, ‘whom you please’.

(13) Third pers. plur. fem.

(14) Terukin, ‘release’,

(15) Shebukin, ‘divorce’,

(16) So as not to look like a yod.

(17) I.e., not an abstract noun but a participle passive.

(18) Kedu, ‘accordingly’.
(19) Le-hithnasseba, ‘to be married’,
(20) Supra 72a.

Talmud - Mas. Gittin 86a

are to rule out the formula about which Raba questioned R. Nahman, viz., if he said, ‘To-day you are not my wife but to-morrow you will be my wife’.[1]

THE ESSENCE OF A DEED OF EMANCIPATION IS THE WORDS, BEHOLD YOU ARE HEREBY A FREE WOMAN, BEHOLD YOU BELONG TO YOURSELF. Rab Judah laid down the following formula for the deed of sale of a slave: ‘This slave is legally adjudicated to bondage, and is absolved and dissociated from all freedom and claims and demands of the King and the Queen,[2] and there is no mark of any [other] man upon him, and he is clear of all blemishes and from any boil that may come out within two years,[3] whether new or old.’ What is the remedy for such a boil? — Abaye said: [A mixture of] ginger and silver dross and sulphur and vinegar of wine and olive oil and white naphtha laid on with a goose's quill.

MISHNAH. THE FOLLOWING THREE BILLS OF DIVORCE ARE INVALID BUT IF A WOMAN MARRIES ON THE STRENGTH OF THEM THE CHILD [BORN OF SUCH MARRIAGE] IS LEGITIMATE: [ONE.] IF THE HUSBAND WROTE IT WITH HIS OWN HAND BUT IT WAS ATTESTED BY NO WITNESSES; [A SECOND]. IF THERE ARE WITNESSES TO IT BUT NO DATE; [A THIRD,] IF IT HAS A DATE BUT THE SIGNATURE OF ONLY ONE WITNESS. THESE THREE BILLS OF DIVORCE ARE INVALID, BUT IF SHE MARRIES THE CHILD IS LEGITIMATE. R. ELEAZAR, HOWEVER, SAYS THAT EVEN THOUGH IT WAS NOT ATTESTED BY WITNESSES AT ALL, SO LONG AS HE GAVE IT TO HER IN THE PRESENCE OF WITNESSES IT IS VALID,[4] AND ON THE STRENGTH OF IT SHE MAY RECOVER HER KETHUBAH FROM MORTGAGED PROPERTY, SINCE SIGNATURES OF WITNESSES ARE REQUIRED ON THE GET ONLY AS A SAFEGUARD.[5]

GEMARA. Are these all?[6] Is there not also the ‘old’ Get?[7] — With an ‘old’ Get she need not part [from her second husband], with one of these she must. This is a good answer for one who holds that with one of these she must part, but to one who holds that she need not part,[8] what can we reply? — With an ‘old’ Get her marriage is permitted in the first instance,[9] with one of these only retrospectively. But there is a ‘bald’ Get?[10] — With such a Get the child born is a bastard, but here the child is legitimate. This answer is satisfactory if we adopt the view of R. Meir, (who said that wherever any alteration is made in the form prescribed by the Sages for bills of divorce, the child is a bastard).[11] but if we accept the view of the Rabbis what reply can be made? — With a ‘bald’ Get she must part [from the second husband], here she need not. This is a satisfactory answer if we accept the view that here she need not part, but if we adopt the view that here also she must part, what reply can be given? — The Mishnah is not dealing with a folded Get.[12] But there is the Get with an improper reign inserted?[13] — There she must leave the husband, here she need not leave him. This is a good enough reason for one who holds that here she need not part, but to one who holds that she must part what answer can be made? — (There the child is a bastard, here the child is legitimate. This accords well enough with the view of R. Meir, but if we adopt the view of the Rabbis what can be said?)[14] — We must suppose that the Mishnah follows R. Meir, so that there the child is a bastard but here it is legitimate.

[Which kinds of Get] are excluded by the specific number mentioned at the beginning of the ruling, and which by the specific number mentioned at the end? — The first number excludes those we have mentioned.[15] The second number excludes the one regarding which it has been taught: ‘If a man brings a Get from abroad and gives it to the wife without saying, In my presence it was written and in my presence it was signed’. [the second husband] must put her away and the child is a bastard. This is the opinion of R. Meir.[16] The Sages, however, say that the child is not a bastard.[17] What should the man do? He should take it from her and give it to her again in the presence of two witnesses and say, In my presence it was written and in my presence it was signed.[18]

IF THE HUSBAND WROTE WITH HIS OWN HAND BUT IT WAS ATTESTED BY NO WITNESSES. Rab said: It is definitely stated here, WITH HIS OWN HAND. To what [was Rab referring]? Shall I say to the first clause of the ruling?[19] Then what has he told us? It says distinctly, WITH HIS OWN HAND? [Shall l say] to the middle clause?[20] [In this case it can hardly matter],[21] since it is attested by witnesses? — He must refer then to the last clause, IF IT HAS A DATE BUT THE SIGNATURE OF ONLY ONE WITNESS.

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(1) Supra 83b.

(2) As an offender against the law, v. B.M. 80a.

(3) So Rashi; others; four years. Jastrow, however, translates ‘any boil, even up to a white spot’.

(4) R. Eleazar holding that the witnesses to delivery make the Get effective. V. supra 17b.

(5) Lit., ‘for the good order of the world’, In case the witnesses die and the husband challenges the validity of the Get.

(6) Bills of divorce which are invalid without however rendering the offspring of the subsequent marriage illegitimate.

(7) V. supra 79b.

(8) V. the discussion infra.

(9) V. supra.

(10) V. supra 81b.

(11) The words in brackets are omitted in some texts, but they seem to be requisite for the argument.

(12) V. supra 81b.

(13) Lit, ‘the rule regarding the peace of the government’. V. supra 79b.

(14) The words in brackets are omitted in some texts, and appear to be superfluous.

(15) The Mishnah adopting the view of R. Meir that in these cases the child is a bastard.

(16) The Mishnah here too adopting the view of R. Meir.

(17) Although the Get is up to this point ineffective.

(18) V. supra. 5b.

(19) I.e., to the case where there are no witnesses.

(20) Where there is no date.

(21) Whether he wrote it with his own hand or not.

Talmud - Mas. Gittin 86b

[Rab tells us that in this case the child is legitimate only] if [the Get is] written with his own hand, but if the scribe has written it and there is only one witness, the child is not [legitimate]. Samuel, however, said that even if the scribe had written it and there was [the signature of only] one witness, [the child is] legitimate, since we have learnt, If the scribe wrote and there was the signature of a witness, the Get is valid.[1] And Rab? — [He might rejoin:] Is there any comparison? There her marriage is permitted in the first instance,[2] but here only retrospectively.[3] And Samuel? — [He can rejoin:] There is no difficulty;[4] there we assume that the scribe is fully competent,[5] here that he is not so competent.[6] So too R. Johanan said: The Mishnah definitely stated, WITH HIS OWN HAND. Said R. Eleazar to him, But it is attested by the signature of witnesses?[7] — He replied: [I refer] to the last clause.

Rab sometimes ruled [in such cases] that [the woman] should leave [the second husband] and sometimes that she need not leave him. How was this? If she had children [he ruled that] she need not leave,[8] if she had no children she must leave. Mar Zutra b. Tobia raised an objection [from the following]: ‘If any of these[9] had been doubtfully betrothed or doubtfully divorced, they must give halizah but cannot marry the brother-in-law’. What is meant by ‘doubtfully’ betrothed? If, for instance, he had thrown to her the betrothal token, and it was doubtful whether it landed nearer to him or nearer to her, this is a doubtful betrothal. A doubtful divorce is where he wrote [the Get] with his own hand but it was not attested with the signature of witnesses, or if it was attested but had no date, or if it had a date but the signature of only one witness; this is a doubtful divorce. Now if you say that [a woman so divorced] should not leave [her second husband],[10] then her co-wife[11] on the strength of such a one might come to marry the brother-in-law?[12] — [He replied]: Let her marry him; it is of no consequence, since the only danger is of breaking a rule of the Rabbis.[13] Levi said: In neither case need she leave [the second husband]. So too said R. Johanan: In neither case need she leave the second husband. So too R. Johanan said to the sons of R. Halafta of Huna:[14] Thus said your father, In neither case need she leave, and the karzith in the stacked corn does not spoil the water of purification.[15] What is a karzith? — Abaye explained: The large fly found among the stacks,[16] R. Daniel the son of R. Kattina raised an objection against this [from the following]: 'All birds spoil the water of purification [by drinking of it] except the pigeon, because it swallows the water completely.'[17] Now if what has been said is correct, it should say, 'except the pigeon and the karzith?' — The authority could not speak definitely, as the big one does not spoil but the small one does spoil. Up to what size [is it reckoned small]? — R. Jeremiah (or it may have been R. Ammi) said, Up to the size of an olive.

R. ELEAZAR SAYS THAT EVEN THOUGH etc. Rab Judah said in the name of Rab: The halachah follows R. Eleazar in the matter of bills of divorce.[18] When [he continued] I stated this in the presence of Samuel, he said, In the matter of [commercial] documents also. Rab however, said, Not in the matter of documents. But it is stated [in the Mishnah]: SHE MAY RECOVER HER KETHUBAH FROM MORTGAGED PROPERTY?[19] — R. Eleazar gave two rulings. and Rab concurred with him in one but differed from him in regard to the other. So too R. Jacob b. Idi said in the name of R. Joshua b. Levi: The halachah follows R. Eleazar in bills of divorce. R. Jannai, however, said that such a document has not even a tincture of a Get in it.[20] Does not R. Jannai accept the ruling of R. Eleazar? — What he meant was, According to the Rabbis, such a document has not even a tincture of a Get. So too R. Jose son of R. Haninah said in the name of Resh Lakish: The halachah follows R. Eleazar in the matter of bills of divorce. R. Johanan, however, said that such a document has not even a tincture of a Get. Are we to say that R. Johanan does not accept the ruling of R. Eleazar? — What he meant was, According to the Rabbis such a document has not even the tincture of a Get.

R. Abba b. Zabda sent to Mari b. Mar saying, Inquire of R. Huna whether the halachah follows R. Eleazar in the matter of bills of divorce or not. Before he could do so, R. Huna died, but Rabbah his son said to him, Thus said my father in the name of Rab: The halachah follows R. Eleazar in the matter of bills of divorce. Moreover our teachers who are well versed in the halachah said in the name of our Master,[21] The halachah follows R. Eleazar in the matter of bills of divorce, since R. Hama b. Guria said in the name of Rab, The halachah follows R. Eleazar in the matter of bills of divorce. According to another version: And our Colleagues[22] that are well versed in the halachah and the disciples of our Teacher [Rab] said that the halachah follows R. Eleazar in the matter of bills of divorce. For R. Hisda said in the name of R. Hama b. Guria in the name of Rab that the halachah follows R. Eleazar in the matter of bills of divorce. So too when Rabin came [from Palestine] he said, R. Eleazar[23] says that the halachah follows R. Eleazar in the matter of bills of divorce.

MISHNAH. IF TWO MEN SENT [TO THEIR WIVES] TWO BILLS OF DIVORCE WITH THE SAME NAMES AND THEY BECAME MIXED UP [THE BEARER] MUST GIVE BOTH OF THEM TO EACH OF THE WOMEN. CONSEQUENTLY, IF ONE OF THEM WAS LOST THE OTHER BECOMES VOID.[24] IF FIVE MEN WROTE JOINTLY IN THE SAME DOCUMENT, SO-AND-SO DIVORCES SO-AND-SO AND SO-AND-SO SO-AND-SO, AND IF THE WITNESSES DULY SIGNED BELOW, ALL ARE VALID AND THE GET IS TO BE GIVEN TO EACH OF THE WOMEN. IF THE SCRIBE WROTE OUT THE FORMULA[25] FOR EACH ONE

AND THE WITNESSES SIGNED BELOW, THE ONE TO WHICH THE SIGNATURES ARE ATTACHED[26] IS [ALONE] VALID.

GEMARA. Who is the authority [for this rule]?[27] — R. Jeremiah said: It is not R. Eleazar. For if we were to follow R. Eleazar, since he holds that it is the witnesses to delivery[28] that make [the Get] effective, [they could not do so in this case] since they do not know with which [Get] either of the women is divorced. Abaye said: It is possible to ascribe this ruling to R. Eleazar also, since I may say, Granting that R. Eleazar requires the Get to be written in the name of that particular woman, does he also require it to be given in the name of that particular woman?[29]

IF FIVE WROTE JOINTLY etc, What is meant by JOINTLY and what is meant by FORMULA? — R. Johanan said: If there is one date for all it is a ‘joint’ [Get], if there is a separate date for each it is a formula [Get]. Resh Lakish, however, said

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(1) V. supra 66b.
(2) And so we suppose that the scribe not only wrote but also signed.
(3) If he wrote himself, and therefore if the scribe wrote without signing, the child is not legitimate.
(4) Even if we assume in each case that the scribe wrote without signing.
(5) And knows that he is not to write save on definite instruction from the husband. V. supra. 71b-72a.
(6) And he might have written on the instruction of a third party, in which case the Get is invalid. V. supra ibid.
(7) R. Eleazar thought he referred to the middle clause.
(8) So as not to cast a slur on the children.
(9) Women within the fifteen forbidden degrees of consanguinity to the deceased husband's brother, v. Yeb. 30b and supra p. 383. n. 5.
(10) Because the divorce is regarded as valid.
(11) I.e., the co-wife of one of those women of forbidden degrees of consanguinity who was divorced with such a Get.
(12) Since she is no longer regarded as a co-wife of a woman forbidden to the brother-in-law.
(13) Biblically the Get is valid,
(14) [Read with var. lec. Haifa.]
(15) By drinking from it; v. Num. XIX. For explanation, v. infra.
(16) [So Rashi. It is not clear what species of insect is referred to; v. Lewysohn, Zoologie p. 315.]
(17) Whereas others let some drip back from their beaks, and so spoil the water.
(18) That the witnesses to delivery render them effective.
(19) Which would seem to show that the rule applies to commercial documents also.
(20) And does not disqualify the woman from marrying a priest on her husband's death, much less does it enable her to marry again.
(21) Rab.
(22) R. Hisda being one of them.
(23) The Amora of that name.
(24) Since we do not know for which it was meant.
(25) **, V. infra in the Gemara.
(26) Lit., ‘with which the witnesses are read’.
(27) That the matter may be rectified by giving both documents to each woman.
(28) I.e., the delivery by the bearer to the woman.
(29) [Once the Get has been written in the name of the woman there is no need for such a special intention to accompany the delivery of the Get.]

Talmud - Mas. Gittin 87a

: Even if there is one date for all it is still called a formula [Get],[1] and a ‘joint’ [Get] is where he writes ‘We, So-and-so and So-and-so have divorced our wives So-and-so and So-and-so’[2] R. Abba strongly demurred to this. If we accept the view of R. Johanan, he said, that a ‘joint’ [Get] is one where there is the same date for all, have we not to consider the possibility that when the witnesses sign they are attesting only the last? Has it not been taught: 'If witnesses subscribe to an expression of kind regards in a Get, [the Get] is invalid, since we apprehend that they may have attested the expression of kind regards'?[3] — Has it not been stated in connection with this: R. Abbahu said: It was explained to me by R. Johanan that if it is written 'they gave him greeting,'[4] it is invalid, but if 'and they gave', it is valid? So here we suppose that what is written is, 'So-and-so and So-and-so and So-and-so'.[5] Moreover, if we accept the view of R. Johanan that a 'formula' [Get] is one where there is a separate date for each, why [should it be invalidated][6] as being a 'formula' [Get]? Why not rather as being one which is 'written by day and signed by night'?[7] — Mar Kashisha the son of R. Hisda said to R. Ashi: We state as follows in the name of R. Johanan, that [this rule applies] where it is written with each one, On the first day of the week, on the first day of the week.[8]

Rabina said to R. Ashi: On the view of Resh Lakish — that a 'formula' [Get] is also one in which there is one date for all, and that a 'joint' [Get] is one in which it is written thus: 'We, So-and-so and So-and-so have divorced our wives So-and-so and So-and-so, it follows that two women would be divorced with the same Get, and the Torah has laid down that he must write 'for her', [which implies, for her] and not for her and her neighbour? — [We must suppose] that he further writes, So-and-so divorced So-and-so and So-and-so divorced So-and-so. Rabina thereupon said to R. Ashi: How does this differ from the case regarding which it has been taught: 'If a man makes over all his property in writing to two of his slaves, they acquire possession and emancipate one another'?[9] — [He replied]:Have we not explained this to apply only where he writes two deeds.[10]

It has been taught in agreement with R. Johanan and it has been taught in agreement with Resh Lakish. It has been taught in agreement with R. Johanan: 'If five men wrote in the same Get, So-and-so divorces So-and-so and So-and-so So-and-so and So-and-so So-and-so, and one date [is written] for all of them and the witnesses are subscribed below, all are valid and the document must be given to each woman. If there is a [separate] date for each one and the witnesses are subscribed at the bottom, the one to which the signatures are attached is [alone] valid. R. Judah b. Bathyra says that if there is a space between them it is invalid but if not it is valid, since the date does not constitute a division'. It has been taught in agreement with Resh Lakish: 'If five persons wrote jointly in the same Get, We, So-and-so and So-and-so have divorced our wives So-and-so and So-and-so, So-and-so divorcing So-and-so and So-and-so divorcing So-and-so, and there is one date for all and the witnesses are signed below, all are valid and the document must be given to each one. If there is a [separate] date for each one or space between one and another and the witnesses are signed at the bottom, the one to which the signatures are attached is valid. R. Meir says that even if there is no space between them it is invalid since the date makes a division,' But on the view of Resh Lakish why is it required here that there be a [separate] date for each one,[11] seeing that he has said that even if there is one date for all it is still a 'formula' [Get]? — That is the case only where they were not lumped together at the beginning,[12] but here where they were lumped together at the beginning, if the various parts are separated by dates, there is a division, but otherwise not.

MISHNAH, IF TWO BILLS OF DIVORCE ARE WRITTEN [ON THE SAME SHEET] SIDE BY SIDE AND THE SIGNATURES OF TWO WITNESSES IN HEBREW[13] RUN FROM UNDER ONE TO UNDER THE OTHER AND THE SIGNATURES OF TWO WITNESSES IN GREEK[14] RUN FROM UNDER ONE TO UNDER THE OTHER,[15] THE ONE TO WHICH THE TWO FIRST SIGNATURES ARE ATTACHED IS [ALONE] VALID.[16] IF THERE IS ONE SIGNATURE IN HEBREW AND ONE IN GREEK AND THEN AGAIN ONE IN HEBREW AND ONE IN GREEK RUNNING FROM UNDER ONE [GET] TO UNDER THE OTHER,[17] BOTH ARE INVALID.

GEMARA. Why should not one be rendered valid by the signature Reuben [under it] and the other by the signature 'son of Jacob witness'[18] [under it] seeing that we have learnt, 'The signature "son of So-and-so, witness" [renders a document] valid'? — We suppose that he writes 'Reuben son of' under the first Get and ‘Jacob witness’ under the second. But cannot the first be rendered valid by ‘Reuben son of’ and the second by ‘Jacob witness’, since we have learnt, ‘The subscription, "So-and-so witness" [renders the document] valid’? — We suppose he did not add ‘witness’. Or alternatively I may say that he does add ‘witness’, but we know that this is not the signature of Jacob.[19]

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(1) And only the last one is valid, because this separates all the others from the signatures.

(2) In this case the signatures can apply to all.

(3) And not to the Get itself, v, B. B. 176a.

(4) Lit., ‘they inquired (of his welfare)’.

(5) Hence there is no separation.

(6) As far as the upper names are concerned.

(7) Which is invalid. V. supra, 17a. The questioner presumes that the various divorces bear different dates, with the result that all the divorces except the last have not been signed on the same day as written.

(8) I.e., they are all written and signed on the same day.

(9) Supra 42a. Here too the two slaves are emancipated with the one document; and it is a principle that the emancipation of slaves is regulated by the same laws as those of divorce.]

(10) Ibid.

(11) In order to make it a ‘formula’ Get, with only the last one being valid.

(12) With the formula ‘we, So-and-so’.

(13) Lit., ‘Hebrew witnesses’.

(14) Lit., ‘Greek witnesses’.

(15) All the signatures being under one another.

(16) The Gemara discusses why the other is not also valid.

(17) As neither has two names attached immediately beneath it.

(18) I.e., supposing the signature is ‘Reuben son of Jacob’ and ‘Reuben’ comes under the first Get on the right and son of Jacob’ under the second on the left. We can then suppose that we have two distinct signatures, one for each Get.

(19) But of his son.

Talmud - Mas. Gittin 87b

But perhaps he signed the name of his father? — A man would not omit his own name and sign the name of his father. But perhaps he uses it as a mark?[1] Did not Rab [for his signature] draw a fish, R. Hanina a palm branch, R. Hisda a samek, R. Hoshaya an ayin, and Rabbah son of R. Hanah a mast?[2] — A man would not take the liberty of using his father's name as a mark. But cannot the one Get be rendered valid by two Hebrew signatures and the other by two Greek signatures,[3] since we have learnt, ‘A Get written in Hebrew and signed in Greek or written in Greek and signed in Hebrew is valid’? And should you object that since [the second Get] is separated [from its signatures] by two lines[4] it is not valid, has not Hezekiah said: If he filled up the space[5] [with the signatures of] relatives,[6] it is still valid? — Ze'iri has in fact taught that both of them are valid. What then [is the reason of] our Tanna? — [He thinks perhaps] the [Greek] signatures are reversed,[7] so that all are subscribed to the one Get.

ONE SIGNATURE IN HEBREW AND ONE IN GREEK. But cannot one Get be rendered valid by one Hebrew signature and one Greek and the other also by one Hebrew signature and one Greek, since we have learnt that if there is one Hebrew signature and one Greek the document is valid? — Ze'iri has in fact taught that both are valid. What then [is the reason of] our Tanna? — He thinks that perhaps one of the signatures is reversed,[8] so that there are three signatures to one Get and only one to the other.

MISHNAH. IF SOME OF THE GET WAS LEFT OVER [FROM THE FIRST SHEET] AND IS WRITTEN ON THE NEXT SHEET[9] AND THE WITNESSES [SIGN] BELOW, [THE GET IS]

VALID. IF THE WITNESSES HAVE SIGNED AT THE TOP OF THE SHEET OR AT THE SIDE OR ON THE BACK OF AN UNFOLDED GET,[10] IT IS INVALID. IF THE TOP OF ONE GET IS FASTENED TO THE TOP OF ANOTHER AND THE WITNESSES' SIGNATURES ARE BETWEEN THE TWO, BOTH OF THEM ARE INVALID.[11] IF THE TWO ARE ATTACHED END TO END AND THE WITNESSES' SIGNATURES ARE BETWEEN, THE ONE ON WHICH THE WITNESSES SIGNATURES FOLLOW DIRECTLY[12] IS VALID. IF THE TOP OF ONE IS ATTACHED TO THE BOTTOM OF THE OTHER AND THE WITNESSES SIGNATURES ARE IN THE MIDDLE, THE ONE IN WHICH THE SIGNATURES COME AT THE END IS VALID. A GET OF WHICH THE TEXT IS IN HEBREW AND THE SIGNATURES IN GREEK, OR THE TEXT IN GREEK AND THE SIGNATURES IN HEBREW, OR WHICH HAS ONE HEBREW SIGNATURE AND ONE GREEK, OR WHICH WAS WRITTEN BY A SCRIBE AND SIGNED BY ONE WITNESS, IS VALID. IF A MAN SIGNS, 'SO-AND SO, WITNESS,' IT IS VALID. IF HE SIGNS, 'SON OF SO-AND-SO, WITNESS, IT IS VALID, IF HE SIGNS, 'SO-AND-SO SON OF SO-AND-SO WITHOUT ADDING 'WITNESS', IT IS VALID. THIS WAS THE CUSTOM OF THE MORE ELEGANT CIRCLES[13] IN JERUSALEM.[14] IF HE WROTE HIS OWN FAMILY NAME AND HERS,[15] THE GET IS VALID.

GEMARA. [IF SOME OF THE GET IS WRITTEN ON THE NEXT SHEET.] But is there not a danger that these were originally two distinct bills, and he has kept the date of the first and the witnesses of the last and cut off the date of the second and the signatures of the first?[16] — R. Abba said in the name of Rab: We suppose there is a space at the bottom.[17] But is there not a danger that he has cut off the date of the second?[18] — As R. Abba in the name of Rab answered in the previous instance, that we suppose there is a space at the bottom,

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(1) As special signature for the left hand text.

(2) V. supra 36a.

(3) Rashi says that a 'Greek' signature means one in which the name of the father comes before the name of the son, but it is more natural to suppose that it means simply one written in the Greek way, i.e., from left to right, so that the substantive signature would come under the left-hand Get and he separated from it by two lines containing the names of the fathers of the Hebrew signatories.

(4) Since the signatures to the first would come partly under this Get. V. previous note.

(5) Between the text and the signatures.

(6) Who are not eligible as witnesses.

(7) I.e., that they may have written from right to left, so as to correspond with the Hebrew signatures.

(8) One of the witnesses either Greek or Hebrew might have, under the influence of the preceding signatures, signed in a reverse manner respectively either to the left or to the right, with the result that three of the signatures belong to one document only.

(9) I.e., the next column of the roll.

(10) V. supra.

(11) Because the signatures do not follow immediately on either document.

(12) I.e., without turning the document upside down.

(13) נקיי תדעת v. Sanh. (Sonc. ed.) p. 131, n. 2.

(14) I.e., to sign only 'So-and-so son of So-and-so'. According to another reading, this sentence is placed after the next, and the custom referred to will then be that of writing the family name. V. Tosaf. 88a s.v. וכך.

(15) Or any other descriptive name instead of his father and her father.

(16) I.e., the bottom of the first sheet and the top of the second, taking care that the text shall still be continuous.

(17) Which shows that it has not been cut off.

(18) By 'date' we must understand all that part which is already found on the first sheet.

Talmud - Mas. Gittin 88a

so here we suppose that there is a space at the top. But perhaps he changed his mind [before completing it] and then after all wrote [the rest subsequently]?[1] — We suppose that ‘You are hereby’ comes at the end of one sheet and ‘permitted’ at the top of the next. But perhaps he just happened [to change his mind at that point]? — Such a possibility[2] we do not apprehend. R. Ashi said: We assume that we can tell from the bottom of the roll.[3]

IF THE WITNESSES HAVE SIGNED AT THE TOP OF THE SHEET etc. Is that so? Did not Rab sign at the side? — It is all right if the top of the signature is towards the text.[4] In that case why does it state IF THE TOP OF ONE IS FASTENED TO THE TOP OF THE OTHER AND THE SIGNATURES ARE BETWEEN, BOTH OF THEM ARE INVALID? Cannot we see which signature is turned towards the text,[5] and declare that Get valid? We suppose there that the signatures run from one to the other like a cross bar.[6] Then what about the next clause: IF THE TOP OF ONE IS ATTACHED TO THE BOTTOM OF THE OTHER AND THE WITNESSES’ SIGNATURES ARE IN THE MIDDLE, THE ONE IN WHICH THE SIGNATURES COME AT THE END IS VALID? If they run from one to the other like a bar, they are read neither with one nor with the other? — The fact is that Rab only signed thus on letters.[7]

A GET OF WHICH THE TEXT IS IN HEBREW AND THE SIGNATURES IN GREEK . . . OR WHICH WAS WRITTEN BY A SCRIBE AND SIGNED BY ONE WITNESS IS VALID. R. Jeremiah said: What we have learnt [in explanation of this] is, if the scribe signed.[8] R. Hisda said: Who is the authority for this ruling? R. Jose. A certain marriage kethubah was brought before R. Abbahu in which the handwriting of the text and the signature of one witness could be identified. He thought of declaring it valid, but R. Jeremiah said to him, What we have learnt is that the scribe signed.[9]

IF HE WROTE HIS FAMILY NAME AND HER FAMILY NAME, IT IS VALID. Our Rabbis taught: The family name of ancestors allowed in bills of divorce is one which has been in use at any time in the past ten generations. R. Simeon b. Eleazar says: If it has been in use within three generations, it is valid, but if only beyond that, [the Get is] invalid. Whose authority is followed in the dictum of R. Hanina: ‘An ancestral family name which has been in use within three generations may be inserted in bills of divorce’? — The authority of R. Simeon b. Eleazar. R. Huna said: Where do we find this in the Scripture? [In the verse], When thou shalt beget children and children's children, and ye shall have been long in the land.[10]

R. Joshua b. Levi said: The land of Israel was not laid waste until seven Courts of Justice had sanctioned idolatry, namely, [those of] Jeroboam son of Nebat, Baasha son of Ahiah, Ahab son of Omri,[11] Jehu son of Nimshi, Pekah son of Remaliah,[12] Menahem son of Gadi, and Hoshea son of Elah, as it says, She that hath borne seven languisheth, she hath given up the ghost, her sun is gone down while it was yet day, she hath been ashamed and confounded.[13] R. Ammi said: Where is this intimated in the Torah? — [In the verse], When thou shalt beget children and children's children.[14]

R. Kahana and R. Assi said to Rab: It is written of Hoshea son of Elah: And he did that which was evil in the sight of the Lord yet not as the kings of Israel,[15] and it is also written, Against him came up Shalmaneser king of Assyria[16] etc.? — He replied to them: Jeroboam had stationed guards on the roads[17] to prevent the Israelites from going up [to Jerusalem] for the festivals, and Hoshea disbanded them, and for all that the Israelites did not go up to the festivals. Thereupon God decreed that for those years during which the Israelites had not gone up to the festival they should go a corresponding number into captivity.

R. Hisda said in the name of Mar ‘Ukba, or, according to others, R. Hisda said in the name of R. Jeremiah: Meremar discoursed as follows. What is the point of the words, Therefore hath the Lord watched over the evil and brought it upon us: for the Lord our God is zaddick [righteous].[18] Because the Lord is righteous, does He therefore watch over the evil and bring it upon us? The truth is that

God did a kindness [zedakah] with Israel by driving forth the captivity of Zedekiah while the captivity of Jeconiah was still intact — For it is written of the captivity of Jeconiah, And the harash [craftsmen] and the masger [smiths] a thousand.[19] [They were called] harash [dumb] because when they opened their mouths all became as it were dumb, [and they were called] masger [closer] because if they once closed [a discussion], no-one would re-open it. How many were they? — A thousand. 'Ulla said: [The righteousness consisted] in anticipating by two years [the numerical value of] we-noshantem ['and ye grow old'].[20]

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(1) In which case it is as if he annulled the first part so rendering the Get invalid, v. supra, 32b. But v. Tosaf. s.v. ודלמא.

(2) That he would break off in the middle of a sentence.

(3) That it has not been cut.

(4) [Because then it cannot be the signature of another document at right angles to the first, whereas our Mishnah speaks of a case where the foot of the signature is towards the text which may indicate that it belongs to another document which has been removed.]

(5) Presuming that, the signatures are written parallel to the text.

(6) And therefore there is no sure clue to which they belong.

(7) V. supra 66b.

(8) For notes v. supra 66b, 71b.

(9) With the witness.

(10) Deut. IV, 25. As much as to say, beyond three generations it is reckoned as antiquated.

(11) Ahab is made responsible rather than Omri as being more prominent.

(12) Shallum, Zechariah and Zimri are not reckoned as they reigned less than a year.

(13) Jer. XV, 9.

(14) ['When thou shalt beget' indicating one generation, and 'children', 'children's' and 'children' two each, (Tosaf.)].

(15) II Kings XVII, 2.

(16) Ibid. 4.

(17) V. B.B. 121b, Ta'an. 28a.

(18) Dan. IX, 14.

(19) II Kings XXIV, 16. The Rabbis take this to refer to the men of learning.

(20) In Deut. IV, 25. The numerical value of the letters of this word is 852. For the sake of these two years, the curse of 'Ye shall soon utterly perish' (Ibid. 26) was not fulfilled in them.

Talmud - Mas. Gittin 88b

R. Aha b. Jacob said: This shows [that the word] soon' [used] by the Master of the Universe means eight hundred and fifty-two years.[1]

MISHNAH. A GET GIVEN UNDER COMPULSION [EXERCISED] BY AN ISRAELITE COURT IS VALID, BUT BY A HEATHEN COURT IS INVALID. A HEATHEN COURT, HOWEVER, MAY FLOG A MAN AND SAY TO HIM, DO WHAT THE ISRAELITE [AUTHORITIES] COMMAND YOU, (AND IT IS VALID).[2]

GEMARA. R. Nahman said in the name of Samuel: A Get given under compulsion [exercised] by an Israelite court with good legal ground[3] is valid, but if without sufficient legal ground, it is invalid,[4] but it still disqualifies [the woman for a priest].[5] If enforced by a heathen court on good legal grounds, it is invalid, but disqualifies; if without sufficient legal ground, there is no tincture of a Get about it. How can you have it [both ways]? If the [heathens are] competent to apply compulsion, then it should actually be valid. If they are not competent to apply compulsion, it should not disqualify! — R. Mesharsheya explained: According to the strict rule of the Torah, a Get enforced by a heathen court is valid, and the reason why [the Rabbis] declared it invalid was to prevent any [Jewish woman] from attaching herself to a heathen and so releasing herself from her husband.[6] If that is so, [why did Samuel say that] if it is enforced [by a heathen court] without sufficient legal ground, it has not even the tincture of a Get? Let it at least be on a par with the similar Get exacted by an Israelite court, and disqualify the woman [for] a priest? — The truth is that R. Mesharsheya's [explanation] is erroneous.[7] And what is the reason? — [A Get enforced by a heathen court] on legal grounds is liable to be confused with [a Get enforced by] an Israelite court on legal grounds,[8] but [a Get enforced by a heathen court] without proper grounds will not be confused with [a Get enforced by] a Jewish court with legal grounds.

Abaye once found R. Joseph sitting in court and compelling certain men to give a bill of divorce. He said to him: Surely we[9] are only laymen,[10] and it has been taught: R. Tarfon used to say: In any place where you find heathen law courts,[11] even though their law is the same as the Israelite law, you must not resort to them since it says , These are the judgments which thou shalt set before them,[12] that is to say, 'before them' and not before heathens. Another explanation, however, is that it means 'before them' and not before laymen? — He replied: We are carrying out their commission,[13] just as in the case of admissions and transaction of loans.[14] If that is the case [he rejoined], we should do the same with robberies and injuries?[15] — We carry out their commission in matters which are of frequent occurrence, but not in matters which occur infrequently.[16]

MISHNAH. IF COMMON REPORT IN THE TOWN DECLARES A WOMAN TO BE BETROTHED, SHE IS REGARDED [BY THE BETH DIN] AS BETROTHED;[17] IF TO BE DIVORCED, SHE IS REGARDED AS DIVORCED.[18] [THIS, HOWEVER, IS ONLY THE CASE] PROVIDED THE REPORT HAS NO QUALIFICATION.[19] WHAT IS MEANT BY A QUALIFICATION? [IF THE REPORT IS,] SO-AND-SO DIVORCED HIS WIFE CONDITIONALLY, HE THREW HER THE BETROTHAL MONEY, BUT IT IS UNCERTAIN WHETHER IT LANDED NEARER TO HER OR NEARER TO HIM — THIS IS A QUALIFICATION.[20]

GEMARA. And do we [on the strength of such a report] declare her[21] prohibited to her husband? Has not R. Ashi said that we take no notice of reports spread after marriage? — What [the Mishnah] means is this: 'If common report declares her to be betrothed, we regard her as betrothed; if it declares her to have been betrothed and then divorced,

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(1) For fuller notes on this passage v. Sanh. (Sonc. ed.) p. 239.

(2) [The bracketed words are left out in some texts without however affecting the meaning.]

(3) Cf. Keth. 77a.

(4) And she cannot marry again on the strength of it.

(5) She must not marry a priest if her husband dies before giving her another Get, or if her husband is a priest she must leave him.

(6) By inducing the non-Jew to go and extort a Get from him; v. B.B. 48a.

(7) בדותא v. B.M., (Sonc. ed.) p. 47, n. 1. And the heathen court is in fact not competent to enforce the giving of a Get.

(8) And if we allowed the woman after receiving such a Get to live with a priest, it might be thought that she is allowed also after receiving a similar Get enforced by a Jewish court.

(9) In Babylonia.

(10) I.e., not fully ordained, v. Glos. s.v,. Hedyot, this being impossible outside the Land of Israel. V. Sanh. 14a.

(11) אגוריאות cf. Gr. **, 'market-place'.

(12) Ex. XXI, 1.

(13) Of the Sanhedrin in Palestine.

(14) Claims supported by witnesses attesting the defendant's former admission of his liability, or who were actually present at the time of the transaction. V. Sanh. 2b.

(15) Whereas the law is that for them ordained judges are necessary. V. ibid.

(16) V. B.K. 84b.

(17) And she must not marry another man without receiving a Get from the first.

(18) Apparently this means that if the husband is a priest, she can no longer continue to live with him. But v. the Gemara infra.

(19) אמתלא, a reason for correcting the report.

(20) And no attention is paid to the report.

(21) The one reported to have been divorced.

Talmud - Mas. Gittin 89a

, she is regarded as divorced.'[1] On what ground? Because the report[2] is accompanied by its own neutralisation.

Raba said: If she was reported in the town to have misconducted herself,[3] we take no notice, as we can put it down to mere looseness of behaviour which has been observed in her. [The same difference of opinion is found] between Tannaim: 'If she ate in the street, if she quaffed[4] in the street, if she suckled in the street,[5] in every case R. Meir says that she must leave her husband. R. Akiba says she must do so as soon as gossips who spin in the moon begin to talk about her. R. Johanan b. Nuri thereupon said to him: If you go so far, you will not leave our father Abraham a single daughter who can stay with her husband,[6] whereas the Torah says, If he find in her some unseemly thing,[7] and it further says, At the mouth of two witnesses or at the mouth of three witnesses shall a thing be established;[8] and just as there the 'thing'[9] must be clearly ascertained, so here it must be clearly ascertained.

Our Rabbis taught: [If the report is] that she was lain with we take no notice of it;[10] [if that she is] a married woman, we take no notice; [if that she is] a betrothed woman, we take no notice; [if the name of] the man is not mentioned, we take no notice of it; [if the report is that she has been betrothed] in another town, we take no notice; [if that] she is a bastard, we take no notice; [if that] she is a bondwoman, we take no notice. [If there is report that] So-and-so sanctified his possessions or declared them common property, we take no notice. 'Ulla said: It is not sufficient that a mere rumour should have been heard; [we take notice] only if lights have been seen burning and couches spread and people entering and leaving, and then they said, So-and-so is being betrothed to-day. 'Being betrothed' 'you say? Perhaps even so she was not betrothed?[11] — You should say: [People say that] So-and-so was betrothed to-day. So Levi also taught: 'It is not enough that a mere rumour should be spread; [we only take notice] if lights have been seen burning and couches spread and women spinning by lamplight and congratulating her and saying [to one another], So-and-so is being betrothed to-day.' 'Being betrothed' do you say? Perhaps after all she was not betrothed? — R. Papa said: You must say, [and what they say is] , 'So-and-so has been betrothed to-day'. Rabbah b. Bar Hanah said in the name of R. Johanan: It is not enough that there should be a mere rumour. If, however, lights have been seen burning and couches spread and people entering and leaving, then if they say something[12] this is a report', but if they do not say something this is a qualification.[13] How can this be, seeing that they have not said anything? — [The object of this statement is] to repudiate the view of Rabbah b. R. Huna who said that the 'qualification' referred to can be something said ten days later. [R. Johanan here] tells us that if [in such conditions] people said nothing at the time, this is a qualification of the report, but if they said something [of a qualifying nature] after ten days, this is no qualification. R. Abba said in the name of R. Huna: It is not sufficient to hear a mere rumour; we take notice only if on asking, Who told So-and-so, we are informed, So-and-so, and he again heard from So-and-so, and so on until our inquiries bring us to a reliable statement. But a reliable statement is valid evidence?'[14] — The fact is that when R. Samuel b. Judah came, he said in the name of R. Abba who had it from R. Huna who had it from Rab: It is not enough that they should have merely heard a rumour; it is requisite that they should inquire, Where did So-and-so learn this, and they should be told, He heard it from So-and-so who heard it from So-and-so, and they have gone abroad.

Abaye said to R. Joseph: Do we suppress a report[15] or not? — He replied: Since R. Hisda has said that [the Beth din takes no notice] till they hear it from reliable persons, we may infer that we do suppress a report.[16] On the contrary, he rejoined; since R. Shesheth has said that even if spread only by women it is a report to be considered, we may infer that we do not suppress a report. He replied: It depends on the place. In Sura they suppress a report, in Nehardea they do not suppress a report.

A certain woman was reported to have become engaged to a Rabbinical student. R. Hama sent for her father and said to him, Tell me the facts of the case. He replied: He affianced her conditionally, [on condition, that is,] that he would not go to Be Hozai,[17] and he went there. He thereupon said: Since at the time when the report was first spread there was no qualification, it is not in your power to add one now.[18] A certain woman was reported to have been affianced with the flesh sticking to date stones by the well of Be Shifi. R. Idi b. Abin sent to inquire of Abaye what was to be done in such a case. He replied: Even those authorities who say that as a rule we should not suppress a report would here advise that it should be suppressed, because people will then say that the Rabbis examined her engagement gift and found that it did not contain the value of a perutah.[19]

A certain woman was reported to have become engaged

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(1) And may marry anyone without a Get from the fiance.

(2) That she was betrothed.

(3) With a heathen or a slave, and so disqualified herself for marrying a priest.

(4) So Jast. Rashi: walks with outstretched neck.

(5) I.e. if she was reported to have done so before marrying a priest (Tosaf.).

(6) Because enemies may always spread false reports about her.

(7) Deut. XXIV, 1.

(8) Ibid. XIX, 15.

(9) The matter testified to.

(10) To prohibit her to marry a high priest.

(11) I.e., the report does not definitely say that she was betrothed.

(12) I.e., that she has been betrothed.

(13) Which deprives the report of its force.

(14) And more than a mere report.

(15) If after investigation we cannot confirm it.

(16) If there is a prima facie ground for considering it wrong.

(17) V. supra p. 413, n. 1.

(18) And she cannot become engaged again till she is divorced from the first.

(19) V. Kid. 2a. So that she never was really engaged to the first. Hence no harm can ensue from the suppression of the report.

Talmud - Mas. Gittin 89b

to one of the sons of a certain man. Raba thereupon said: Even those authorities who hold that we should not as a rule suppress a report would advise that here we should suppress it, as people will only say that the Rabbis examined her engagement and found that it was contracted by a minor.

A certain woman was reported to have become engaged to a minor who looked like an adult. In connection with this R. Mordecai said to R. Ashi: In a similar case which occurred, they said that he had not yet attained to ‘the divisions of Reuben’,[1] referring to the verse, Among the divisions of Reuben there were great searchings of heart.[2]

PROVIDED THE REPORT HAS NO QUALIFICATION. Rabbah b. R. Huna said: The ‘qualification’ they had in mind might be made ten days later. R. Zebid said: If there is room for a qualification,[3] we suspect a qualification. R. Papa raised to R. Zebid an objection from the following: PROVIDED THE REPORT HAS NO QUALIFICATION? — He replied: It means, provided there is no room for a qualification. Said R. Kahana to R. Papa: Do you not concur with this, seeing that we have learnt,[4] ‘If a woman [who heard from one witness that her husband had died] became betrothed and then her husband turned up, she is allowed to return to him’.[5] Now is not the reason [for disregarding the report] because we say that the second betrothed her conditionally?[6] — There is a special reason there, namely that the husband challenges the betrothal.[7] If that is the case, then why cannot she return to him even if she married the second? — By marrying she committed an offence[8] and therefore the Rabbis penalised her, but in becoming betrothed she committed no offence and therefore the Rabbis did not penalise her.

R. Ashi said: A report which has not been confirmed in the Beth din[9] is no report. R. Ashi further said: We pay no heed to reports spread after marriage. This implies that we do pay heed to reports spread after betrothal? — R. Habiba said: We pay no attention to reports spread after betrothal either. The law is that we pay no heed to such reports.

R. Jeremiah b. Abba said: The disciples of Rab sent to Samuel saying: Would our Master be so good as to instruct us. If a woman was reported to have been engaged to one man, and then another came and betrothed her with full formality,[10] what is to be done? He sent back reply: She must leave him, but I want you to ascertain the facts and inform me. What did he mean by saying, ‘I want you to ascertain the facts’? Shall I say his object was that if it turned out that the first betrothal was not a valid one the report should be suppressed? How can this be seeing that Samuel was located in Nehardea, and in Nehardea it was not the custom to suppress a report?[11] — His object must therefore have been that if it turned out that the first betrothal was a valid one she would not require a Get from the second. In this he joined issue with R. Huna, who said that if a married woman put out her hand and took the betrothal money from another, she thereby became engaged. [This again is based] on the dictum of R. Hamnuna who said: If a woman says to her husband, You have divorced me, her word is to be accepted, since the presumption is that a woman would not be so brazen as to say this in front of her husband [if it was not true].[12] And the other [Samuel]?- [He can reply:] R. Hamnuna would maintain this only where she speaks in the presence of the husband, but if he is not present she would certainly be impudent enough to say this. Suppose they could not ascertain the truth of the matter, what [was to happen]? — R. Huna said: The first would have to divorce her and the second could then marry her; but it would not be right for the second to divorce her and the first to marry her. What is the reason? Because people might say that here is a man who is taking back a woman who has been betrothed to him and divorced.[13] R. Shinnena[14] the son of R. Idi, however, said that it is allowable also for the second to divorce her and the first to marry her, because people would merely say that the Rabbis had examined the betrothal [of the second] and found it invalid .[15]

Suppose she was reported [to have become betrothed] to both one[16] and the other, what is to be done? — R. papa said: In this case also the first must divorce her and the second can then marry her. Amemar, however, said that she is allowed to marry either,

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(1) I.e., to years of discretion. People would conclude that in spite of his appearance he was not yet grown-up, and therefore the suppression of the report would do no harm.

(2) Jud. V, 15. The verse is rendered thus: ‘Among the divisions of Reuben it is only the grownups who are rational’.

(3) I.e., if the circumstances were such that the report might have been qualified, though it actually was not.

(4) Yeb. 92a.

(5) Here apparently is a case of a report without qualification that a woman is engaged being disregarded.

(6) Viz., on condition that her husband had divorced her, and although this qualification was not actually added to the report, there was room for it, and therefore we allow it to neutralise the report.

(7) He is there to say that he never divorced his wife in the first instance, and therefore the betrothal to the second was invalid.

(8) Although in such a case the Rabbis permitted her to marry, yet they expected her to make further inquiries, and if after she married the first husband turned up, they penalised her, v. Yeb. 87b.

(9) And found to have some substance.

(10) Lit., 'betrothed according to the Torah'. I.e., in the presence of witnesses.

(11) And though in Sura, the place of Rab, it was the custom, Samuel would naturally rule according to the custom of his own place.

(12) V. supra 64b.

(13) After having become the wife of another man, in violation of Deut. XXIV, 2.

(14) Al. Shisha.

(15) And so no scandal would arise,

(16) The betrothal to the second was also based on mere report.

Talmud - Mas. Gittin 90a

and the law is that she is allowed to marry either.

MISHNAH. BETH SHAMMAI SAY: A MAN SHOULD NOT DIVORCE HIS WIFE UNLESS HE HAS FOUND HER GUILTY OF SOME UNSEEMLY CONDUCT, AS IT SAYS, BECAUSE HE HATH FOUND SOME UNSEEMLY THING[1] IN HER.[2] BETH HILLEL, HOWEVER, SAY [THAT HE MAY DIVORCE HER] EVEN IF SHE HAS MERELY SPOILT HIS FOOD,[3] SINCE IT SAYS,[4] BECAUSE HE HATH FOUND SOME UNSEEMLY THING IN HER.[5] R. AKIBA SAYS, [HE MAY DIVORCE HER] EVEN IF HE FINDS ANOTHER WOMAN MORE BEAUTIFUL THAN SHE IS, AS IT SAYS, IT COMETH TO PASS, IF SHE FIND NO FAVOUR IN HIS EYES.[6]

GEMARA. It has been taught: Beth Hillel said to Beth Shammai: Does not the text distinctly say 'thing'?[7] Beth Shammai rejoined: And does it not distinctly say 'unseemliness'? Beth Hillel replied: Had it said only 'unseemliness' without 'thing', I should have concluded that she should be sent away on account of unseemliness, but not of any [lesser] 'thing'. Therefore 'thing' is specified. Again, had it said only 'thing' without 'unseemliness', I should have concluded that [if divorced] on account of a 'thing' she should be permitted to marry again, but if on account of 'unseemliness', she should not be permitted to remarry. Therefore 'unseemliness' is also specified. And what do Beth Shammai make of this word 'thing'?[8] — [They use it for the following lesson.] It says here 'thing', and it says in another place 'thing', viz. in the text, 'By the mouth of two witnesses or by the mouth of three witnesses a thing shall be established':[9] just as there two witnesses are required, so here two witnesses are required. And Beth Hillel? — [They can retort:] Is it written 'unseemliness in a thing'? And Beth Shammai? — Is it written, 'either unseemliness or a thing'? And Beth Hillel? — For this reason it is written 'unseemliness of a thing', which can be taken either way.[10]

R. AKIBA SAYS, EVEN IF HE FOUND ANOTHER. What is the ground of the difference here [between the various rulings]? — It is indicated in the dictum of Resh Lakish, who said that ki[11] has four meanings- 'if', 'perhaps', 'but', 'because'. Beth Shammai held that we translate here: 'It cometh to pass that she find no favour In his eyes, because he hath found some unseemly thing in her,' while R. Akiba held that we translate, 'Or if again he hath found some unseemly thing in her'.[12] R. Papa asked Raba: If he has found in her neither unseemliness nor any [lesser] thing, [and still divorces her], what are we to do [according to Beth Hillel]? — He replied: Since in the case of a man who has committed a rape the All-Merciful has specifically laid down that 'he may not put her away all his days',[13] which implies that [if he does so] all his days he is under obligation to take her back, in that case only has the All-Merciful made this the rule, but here, what is done is done.[14] R. Mesharsheya said to Raba: If a man has made up his mind to divorce his wife, but she still lives with him and waits on him, what are we to do with him?- [He replied:] We apply to him the verse, Devise not evil against thy neighbour, seeing he dwelleth securely by thee.[15]

It has been taught: R. Meir used to say: As men differ in their treatment of their food, so they differ in their treatment of their wives. Some men, if a fly falls into their cup, will put it aside and not drink it. This corresponds to the way of Papus b. Judah who used, when he went out, to lock his wife indoors. Another man, if a fly falls into his cup, will throw away the fly and then drink the cup. This corresponds to the way of most men who do not mind their wives talking with their brothers and relatives. Another man, again, if a fly falls into his soup, will squash it and eat it. This corresponds to the way of a bad man who sees his wife go out with her hair unfastened and spin cloth in the street

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(1) Lit., ‘unseemliness of a thing’.

(2) Deut. XXIV, 1. [The emphasis is on ‘unseemliness’, (cf. Mishnah ed. Lowe), ‘as it says "unseemliness"’), and ערות דבר is taken to mean, דבר ערוה ‘a thing of unseemliness’].

(3) [‘Bad cooking is a more serious ground for divorce than some modern ones’ (Moore, Judaism II, 124, 4, 1.) It has been suggested that the expression is merely figurative pointing to some indecent conduct].

(4) [The emphasis is on ‘thing’. (cf. loc. cit. ‘as it says "thing"’), and the phrase is taken literally, ‘the unseemliness of a thing’.]

(5) V. the discussion in the Gemara infra.

(6) Ibid.

(7) Which implies that he may divorce her for any cause.

(8) Which on their view is apparently superfluous.

(9) Deut. XIX, 15.

(10) To imply both that a ‘thing’ is sufficient warrant for divorcing, and that he cannot be compelled to divorce unless there is sufficient evidence of misconduct.

(11) Translated here ‘if’ (he find), ‘because’ (he hath found etc.).

(12) This being an alternative reason to her not finding favour in his eyes.

(13) Deut. XXII, 19.

(14) And he is not forced to take her back.

(15) Prov. III, 29.

Talmud - Mas. Gittin 90b

with her armpits uncovered and bathe with the men. Bathe with the men, you say? — It should be, bathe in the same place as the men. Such a one it is a religious duty to divorce, as it says, because he hath found some unseemly thing in her . . . and he sendeth her out of his house and she goeth and becometh another man's wife.[1] The text calls him ‘another’, implying that he is not the fellow of the first; the one expelled a bad woman from his house, and the other took a bad woman into his house. If the second is lucky,[2] he will also send her away, as it says, and the latter husband hateth her,[3] and if not she will bury him, as it says, or if the latter husband die;[4] he deserves to die since the one expelled a wicked woman from his house and the other took her into his house.

For a hateful one put away:[5] R. Judah said: [This means that] if you hate her you should put her away. R. Johanan says: It means, He that sends his wife away is hated. There is really no conflict between the two, since the one speaks of the first marriage and the other of the second, as R. Eleazar said: If a man divorces his first wife, even the altar sheds tears, as it says,[6] And this further ye do, ye cover the altar of the Lord with tears, with weeping and with sighing, insomuch that he regardeth not the offering any more, neither receiveth it with good will at your hand. Yet ye say, Wherefore? Because the Lord hath been witness between thee and the wife of thy youth, against whom thou hast dealt treacherously, though she is thy companion and the wife of thy covenant.[7]

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(1) Deut. XXIV, 1, 2.

(2) Lit., ‘has merit’.

(3) Ibid. 2.
(4) Ibid.
(5) Mal. II, 16.
(6) Ibid. 13, 14.
(7) [On the subject of Jewish divorce discussed in the closing section of this tractate v. Abrahams, I. Studies in Pharisaism and the Gospels, First Series, pp. 66ff.]

Talmud - Mas. Kiddushin 2a

CHAPTER I

MISHNAH. A WOMAN IS ACQUIRED [IN MARRIAGE] IN THREE WAYS AND ACQUIRES HER FREEDOM[1] IN TWO. SHE IS ACQUIRED BY MONEY, BY DEED, OR BY INTERCOURSE. ‘BY MONEY’: BETH SHAMMAI MAINTAIN, A DENAR[2] OR THE WORTH OF A DENAR; BETH HILLEL RULE, A PERUTAH OR THE WORTH OF A PERUTAH.[3] AND HOW MUCH IS A PERUTAH? AN EIGHTH OF AN ITALIAN ISSAR.[4] AND SHE ACQUIRES HER FREEDOM BY DIVORCE OR BY HER HUSBAND'S DEATH. A YEBAMAH[5] IS ACQUIRED BY INTERCOURSE, AND ACQUIRES HER FREEDOM BY HALIZAH[6] OR BY THE YABAM'S DEATH.[7]

GEMARA. A WOMAN IS ACQUIRED. Why does he [the Tanna] state here, ‘A WOMAN IS ACQUIRED,’ Whilst elsewhere[8] he teaches ‘A man may betroth’ [etc.]?[9] — Because he wishes to state ‘MONEY’; and how do we know that money effects betrothal? By deriving the meaning of ‘taking’ from the field of Ephron:[10] Here it is written: If any man take a wife;[11] whilst there it is written: I will give thee money for the field: take it of me.[12] Moreover, ‘taking’ is designated acquisition, for it is written, the field which Abraham acquired;[13]

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(1) Lit., ‘acquires herself.’

(2) V. Glos.

(3) I.e., goods to its value.

(4) V. Glos. The ordinary issar = 1124th of a denar (denarius); the Italian issar = 1116th.

(5) v. Glos.

(6) V. Glos.

(7) v. Glos.

(8) At the beginning of Chapter II, infra 41a.

(9) Thus here too he should have stated: ‘A woman is betrothed.’ ‘Betroth’ in this sense, and as it is generally used in the Talmud, is the first stage of marriage. A betrothed woman could not be freed without a divorce, though cohabitation was still forbidden. V. Glos. s.v. erusin. As far as practicable in this translation, ‘betrothed’ is employed to denote this first stage, and ‘marriage’ to denote the second (nissu'in), after which the couple may live together.

(10) Lit., ‘taking,’ ‘taking’ is deduced from the field of Ephron. This method of exegesis is designated ‘gezerah shawah,’ whereby the use of the same word in two passages indicates that their laws or connotations are similar.

(11) Deut. XXII, 13.

(12) Gen. XXIII, 13. Just as ‘take’ in the latter verse refers to money, so in the former too: the wife is ‘taken,’ i.e., betrothed by money.

(13) Gen. XLIX, 30. The quotation is not exact in the Talmud.

Talmud - Mas. Kiddushin 2b

alternatively, men shall acquire fields for money;[1] therefore, he teaches: A WOMAN IS ACQUIRED. Then let him state there,[2] ‘A man acquires’? — He [the Tanna] first employs Biblical phraseology, but subsequently, the Rabbinical idiom. Now what does the Rabbinical term connote?[3] — That he [the husband] interdicts her to all [men] as hekdesh.[4] But, why not teach here, ‘A man acquires’?[5] — Because he desires to teach the second clause, AND ACQUIRES HER FREEDOM, which refers to her [the woman], he therefore teaches the first clause likewise with reference to her. Then let him state, ‘A man acquires . . . and makes [her] acquire’?[6] — Because there is the husband's death where it is not he who frees her, but it is Heaven who confers [her freedom] on her.[7] Alternatively, were it taught ‘he acquires.’ I might have thought, even against her will, hence It is stated ‘A WOMAN IS ACQUIRED,’ implying only with her consent, but not without.[8] Now, why does he [the Tanna] choose to teach shalosh? Let him teach sheloshah?[9] — Because he desires to state derek [way], which is feminine, as it is written, and thou shalt shew them the way wherein [bah] they must walk.[10] ‘If so, when we learnt, a zab[11] is examined in seven [shiv'ah] ways [derakim.]’:[12] let him [the Tanna] employ sheva’?[13] — Because he desires to state derek, which we find designated as masculine, as it is written, they shall come out against thee in one way [be-derek ehad], and flee before thee seven ways [shiv'ah derakim].[14] If so, the verses are contradictory, and the Mishnahs likewise? — The verses are not contradictory: here [the first verse quoted], the reference being to the Torah,[15] which is a feminine noun, as it is written: The law [torah] of the Lord is perfect [temimah], restoring [meshibath] the soul:[16] the feminine form is employed. There, however, the reference is to war, and it is the practice of man to wage war, not of woman — therefore the masculine is employed. The Mishnahs are [likewise] not contradictory: here, since the reference is to a woman, It is couched in the feminine form. There, the reference being to a man, since it is the nature of a man to be examined, but not of a woman, for a woman becomes unclean even through an accident,[17] the masculine form is employed.

Now, why does he employ shalosh? on account of derakim [ways]! Then let him teach debarim [things] and sheloshah?[18] — Because he wishes to mention INTERCOURSE, which is designated ‘way’, as it is written, and the way of a man with a maid. . . Such is the way of an adulterous woman.[19] Now, that answers for intercourse; but what can you say of MONEY AND DEED? — [They are] on account of INTERCOURSE.[20] And are two taught on account of one?[21] — These too are adjuncts of intercourse.[22]

Alternatively I can say: The author of this [Mishnah] is R. Simeon. For it was taught: R. Simeon said: Why did the Torah state, If any man take a wife,[23] and not ‘if a woman be taken to a man’? Because it is the way of a man to go in search of a woman, but it is not the way of a woman to go in search of a man. This may be compared to a man who lost an article: who goes in search of whom? The loser goes in search of the lost article.[24] Now, as to what we learnt: ‘a zab is examined in seven ways’: let it state [seven] ‘things’?[25] — There we are informed this: it is the nature [way] of excessive eating to cause gonorrhoea, and it is the nature [way] of excessive drinking to cause gonorrhoea. Further, as to what we learnt: ‘The citron is comparable to a tree in three ways’[26] — let him state [in three] things? — Because he wishes to teach the second clause: and to vegetables in one way.[27] Then in the second clause too’ let him state, [and to vegetables in one] ‘thing’?

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(1) Jer. XXXII, 44.

(2) Infra 41a.

(3) The Heb. mekaddesh literally means ‘consecrates.’ Why is this employed by the Rabbis for betrothal?

(4) V. Glos.; hekdesh is forbidden for secular use.

(5) Granted that Biblical usage demands a verb of acquisition, yet just as the Mishnah on 41a states: ‘a man betroths,’ so here too it should have been, ‘a man acquires.’

(6) Both clauses referring to his action.

(7) Hence this could not be referred to as his (voluntary) action.

(8) By referring it to her, the Tanna shews that the validity of acquisition is dependent on her consent.

(9) Shalosh (three) is used with fem. substantives; sheloshah with masc. ones, which is the more usual.

(10) Ex. XVIII, 20: bah is feminine (in her), the masc. being bo.

(11) V. Glos, cf. p. 3, n. 1.

(12) Pl. of derek.

(13) Shiv'ah with masc., sheva’ with fem. substantives.

(14) Deut. XXVIII, 27: in both clauses the numerals are masculine.

(15) When Jethro said to Moses, and thou shalt shew them the way wherein they must walk, by ‘way’ he meant the Torah.

(16) Ps. XIX, 8; both the adjective and the participle are feminine.

(17) A man is unclean as a zab only if the discharge comes of itself, without being caused by external factors (technically called accidents); e.g., the eating of certain foods, physical overstrain, etc.; seven such factors might have caused the discharge, and consequently he had to be examined in respect of these. But a woman is unclean even then; hence there is no purpose in examining her.

(18) A woman is acquired by three things; debarim is masc.

(19) Prov. XXX, 19 f.

(20) Since derek is required for cohabitation, it is also used for the others.

(21) Surely the idiom should be primarily adapted to the majority?

(22) They are not separate and complete acts, but preliminaries to cohabitation.

(23) Deut. XXII, 13.

(24) But the lost article does not seek the loser. Thus, man having lost his rib, he seeks to recover it. — Since R. Simeon says 'It is the way of a man, etc.' he also teaches: 'A WOMAN IS ACQUIRED IN THREE WAYS. 'Derek' (way) is applicable to something that happens in conformity with nature or normal practice.

(25) Because generally speaking the masculine is preferable.

(26) Viz., in respect of 'orlah (q.v. Glos.), fourth year fruits, and the year of release. The fruit gathered in the fourth year of a tree's planting was to be eaten in Jerusalem, like the second tithe (v. note 4). Special laws governed the produce of every seventh year (v. Lev, XXV, 1-7), but the definitions of 'seventh year' varied. In respect to trees it meant the fruit that grew in the seventh year, even if not harvested until the eighth; while in speaking of vegetables it applies to the time of gathering: the citron is assimilated to trees in this matter.

(27) Viz., in respect of tithing. In the first, second, fourth, and fifth years after the 'year of release', the first and second tithe were separated, the first being given to the Levite and the second eaten by its owners in Jerusalem; in the third and sixth years the first and third tithes were due, the latter being given to the poor. Here too, trees were determined by the time when their fruit grew; vegetables by their gathering; the citron was assimilated to vegetables in this matter.

Talmud - Mas. Kiddushin 3a

— There we are informed this: that the nature [way] of a citron is like that of vegetables. Just as it is the nature of vegetables to grow by means of all waters,[1] and its tithing is determined by the time when it is gathered;[2] so is it the nature of the citron to grow by means of all waters, and [therefore] its tithing is determined by its gathering.[3] Again, when we learnt: A koy[4] is, in some ways, similar to beasts of chase;[5] and in other ways to cattle; and [again], in some ways to both beasts of chase and cattle, and in other ways to neither beasts of chase nor cattle[6] — let it be taught, [in some] 'things'? Moreover, when we learnt: This is one of the ways wherein women's divorce deeds are similar to slaves' writs of liberation[7] — let him state, [this is one of the] 'things' etc.? — But [answer thus]: wherever a distinction is drawn, 'ways' is employed: wherever there is no distinction, 'things' [respects] is taught.[8] This may be proved too, for the second clause teaches: R. Eliezer maintained: The citron is equal to trees in all things.[9] This proves it.

What does the number of the first clause exclude, and what does the number of the second exclude?[10] — The number of the first clause excludes huppah.[11] But according to R. Huna, who maintained: Huppah [as an act of betrothal] acquires [a woman], by inferring it a minori,[12] what does it exclude? — It excludes barter.[13] I might have thought, since we learn the meaning of 'taking' from Ephron's field:[14] then just as a field may be acquired by barter, so may a woman too be acquired by barter: hence we are informed [otherwise]. And let us say: That indeed is so? — Barter is possible with less than a perutah's worth;[15] whilst a woman will not cede herself [in marriage] for less than a perutah's worth.[16]

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(1) I.e., artificial irrigation, which is normally impossible in the case of wheat and the vine.

(2) V. nn. 3 and 4.

(3) Thus by employing 'way,' the Tanna teaches the reason of its similarity in tithing, viz., because it is also similar in the nature (way) of its growth.

(4) [Generally taken as a cross between a goat and some species of gazelle; v. Lewysohn, Zoologie, p. 115.]

(5) Heb. hayyah, beast of chase, opposed to behemah, cattle. The Rabbis were uncertain whether the koy should be considered of the genus of cattle or a beast of chase.

(6) Its heleb (hindquarter fat) is forbidden like that of cattle, its blood must be covered after slaughter, like that of a beast of chase, it must be ritually killed before it is fit for food, like both, it must not be made to copulate with either. — Since its status is undetermined, we impose the stringencies of both beasts of chase and cattle.

(7) Viz., if one is brought from overseas, the messenger must declare, ‘It was written and attested in my presence.’

(8) E.g., in some respects the citron is similar to trees; in others to vegetables: hence a distinction is drawn. The same applies to the other passages quoted. But if one thing is entirely like another, we employ ‘things’ (dabar).

(9) Thus ‘way’ is not used here, since no distinction is drawn.

(10) It is unnecessary to state, A WOMAN . . . THREE WAYS . . . TWO, since these are actually enumerated. The explicit statement of the number must therefore emphasize that only three ways are valid, not more.

(11) If a father delivers his daughter to huppah as an act of betrothal (kiddushin), it is not valid as such. (Rashi). [The word חופה from the root חפף , denotes the baldachin or canopy wherein the bridegroom received the bride at the nuptials. A good deal of uncertainty exists as to the signification of this ceremony; (v. Shulhan ‘Aruk, Eben ha-’Ezer, I, XV, 1). Rashi, it appears, regards huppah as a mere symbol of traditio puellae, a handing over of the maiden by the father to the husband into whose control she now passes, (cf. Keth. 48a), in contradistinction to Maim., (Yad, Ishuth, X, 1), who saw in it a symbol of the marital union, copula carnalis, cf. Neubauer J. pp. 57 and 226ff.]

(12) V. infra 50.

(13) A woman cannot be bartered, i.e., become betrothed in exchange for an article. — On ‘barter’ v. infra 28a, Mishnah.

(14) V. supra 2a.

(15) V. B.M. 47a.

(16) Because it is derogatory to her dignity.

Talmud - Mas. Kiddushin 3b

The number of the second clause excludes halizah.[1] For I might have thought, this may be inferred a minori from a yebamah: if a yebamah, who is not freed by divorce, is freed by halizah; then this one [a married woman], who is freed by divorce, is surely freed by halizah. Therefore we are informed [otherwise]. And let us say: That indeed is so? — Scripture states, [then he shall write her] a writ of divorcement:[2] Thus, a ‘writ’ may divorce her, but nothing else may divorce her.

BY MONEY. Whence do we know this? Moreover, when we learned, A father has a privilege over his daughter [if a minor] in respect of her kiddushin[3] by money, deed, or intercourse:[4] How do we know that she can be acquired by money and that the money belongs to her father? — Said Rab Judah in Rab's name, Because Scripture saith, then she shall go out for nothing, without money:[5] no money is due to this master [when she leaves his control], but money is due to another master, viz., her father.[6] Yet perhaps it belongs to her?[7] — How now! her father receives her kiddushin [on her behalf], for it is written, [and the damsel's father shall say. . .] I gave my daughter unto this man;[8] shall she take the money? [Surely not!] But perhaps this applies only to a minor [ketannah], who has no power to accept kiddushin; but as for a na'arah,[9] who is empowered to accept kiddushin — let her betroth herself and take the money![10] — The Writ saith, in her youth[11] in her father's house:[12] teaching, all the profit of youth belongs to her father.

If so, when R. Huna said in Rab's name: Whence do we know that a daughter's labour belongs to her father? — From the verse: And if a man shall sell his daughter to be a maidservant:[13] just as a maidservant's labour belongs to her master, so does a daughter's labour belong to her father; learn it rather from, ‘in her youth, in her father's house’? But [you must answer], that refers to the annulment of vows.[14] So here too, [you must admit] that it is written in reference to annulment of vows![15] And should you argue, We may learn therefrom[16] — but civil law[17] cannot be deduced from ritual law.[18] And should you say, we may learn it from kenas[19] — but civil law cannot be deduced from kenas?[20] And should you say: We may learn it from [the indemnity payable for her] shame and depreciation[21] — yet shame and depreciation are different, since her father has an interest therein.[22] — But [answer thus:] it is logical that when a limitation is made,

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(1) V. Glos. The marriage bond cannot be dissolved by halizah.
(2) Deut. XXIV, 1.
(3) V. Glos.
(4) He can accept money or a deed as her kiddushin, the former belonging to him, or deliver her to intercourse, v. Keth. 46b.
(5) Ex. XXI, 11: this refers to a Hebrew maidservant.
(6) When she leaves him on marriage. Hence her father has a right to the money given as kiddushin.
(7) The verse merely implying that no money is payable when she leaves this master, but it is when she leaves another master, viz., her father. But nothing shews that the money belongs to her father, which would follow only if Scripture had written: ‘without money to him’.
(8) Deut. XXII, 16; thus shewing that the privilege rests entirely with him.
(9) V. Glos.
(10) A minor cannot enter into a legal contract; hence it is but equitable that her father has full power over her in respect to marriage. But a na'arah can make valid transactions and acquire property; the father therefore should have no rights in respect to her kiddushin. — Though the verse quoted, dealing with the slandering of a woman's honour, explicitly refers to a na'arah — Then shall the father of the na'arah (E.V. damsel) etc., — she may have been betrothed while a minor.
(11) I.e., when a na'arah, to which the Heb. term bi-ne'ureha corresponds.
(12) Num. XXX, 17.
(13) Ex. XXI, 7.
(14) Teaching that the father can annul his unmarried daughter's vows, if a na'arah; but it has no bearing on her labour.
(15) Not kiddushin.
(16) Just as a father can annul his daughter's vows, so has he a title to her betrothal money.
(17) Lit., ‘money’.
(18) Lit., ‘prohibition’. The title to betrothal money is purely a question of civil law, whereas the binding character of vows and their annulment belong to ritual law.
(19) Lit., ‘fine’; v. Glos. If a man seduces, violates, or slanders a na'arah, he must pay a fixed fine to her father: Ex. XXII, 15f; Deut. XXII, 13-19; 28f. Hence in the case of kiddushin too the money belongs to her father.
(20) This is a general principle. Kenas is not regarded as equitable indemnification for loss sustained, for then the amounts would vary, but as a Biblical decree. As such, it stands in a category by itself, and ordinary civil law cannot be compared with it.
(21) Besides the fixed kenas, the seducer must pay her father for the shame she sustained and her loss in social standing, which has a monetary value. These are ordinary payments for injury inflicted and therefore provide a basis for analogy.
(22) For her father could inflict these on her by marrying her to a man suffering from repulsive disfigurement.

Talmud - Mas. Kiddushin 4a

it applies to an analogous going forth.[1] But the one departure is dissimilar to the other: there [sc. a maidservant] she passes from her master's authority completely; whereas here she yet wants being given over for huppah?[2] — Nevertheless, she passes out of his control in respect of annulment of vows; for we learnt: A betrothed maiden — her father and husband [together] may annul her vows.[3]

Now, this verse: ‘and she shall go out for nothing’ — does it come to teach this? Surely it is needed for what was taught, viz., ‘And she shall go out for nothing’ — this refers to the days of bagruth;[4] without money — to the days of na'aruth![5] — Said Rabina: If so, Scripture should have written, en kesef [without money]; why write, eyn kesef[6] — [To teach:] no money is due to this master, but money is due to another, viz., her father.[6] And how do you know that such exegesis is permissible?[7] — Because it was taught: [If a priest's daughter also be married unto a stranger, she may not eat of an offering of the holy things. But if the priest's daughter be a widow, or divorced,] and have no [eyn] child [. . . she shall eat of her father's meat].[8] I only know [that] her own child [disqualifies her]; whence do I know [the same of] her child's child?[9] From the verse: ‘and have no [eyn] child’, [teaching] examine her [for issue].[10] Again, I only know [that] legitimate seed [disqualifies her]: whence do I know it of illegitimate [pasul] seed?[11] From the verse, and have no [eyn] child: examine her [for any issue whatsoever]. But you have employed this for her child's child? — For her child's child no verse is required, because grand-children are as children;[12] [hence] the verse is required only for her illegitimate seed.

Now, how does the Tanna[13] himself know that such exegesis is permissible? — I will tell you. It is written: Baalam doth not consent [me'en],[14] and my husband's brother doth not consent [me'en][15] neither of which contain a yod, whereas here [in the verses under discussion] a yod is written:[16] this proves that it [sc. the yod] comes for exegesis. Now, it is necessary to state that in the case of a na'arah, both her kiddushin and her labour belong to her father.[17] For had Scripture written that her kiddushin belongs to her father, I might have thought, That is because she takes no pains with it; but her labour, for which she toils, I would say is her own. And if we were told about her labour, that is because she lives thereby;[18] but her kiddushin, which comes from elsewhere, I would think is hers: thus both are necessary.

The [above] text [says:] ‘And she shall go out for nothing — this refers to the days of bagruth; without money — to the days of na'aruth.’ Then Scripture should have written na'aruth, which renders bagruth superfluous?[19] — Said Rabbah: One comes and illumines the other.[20] For this may be compared to the case of toshab and sakir,[21] as was taught: Toshab means one [a Hebrew slave] acquired in perpetuity;[22] sakir, one purchased for a period of [six] years.[23] Now, let toshab be stated, but not sakir, and I would reason: if one acquired in perpetuity may not eat, how much more so one purchased only for a period of [six] years?[24] Were it so, I would say, toshab is one purchased for a limited period, but one acquired in perpetuity may eat. Therefore sakir comes and illumines [the meaning of] toshab, [teaching] that though he is purchased for ever, he may not eat. Said Abaye to him: How compare! There they are two persons, and even had Scripture [explicitly] written, a toshab whose ear was bored,[25] and then added the other, sakir would be something which might be inferred a minori; and a thing which is derived a minori Scripture [often] takes the trouble to write. But here [in the case of a maidservant] she is only one person: having departed in na'aruth, what business has she with him in bagruth? — But, said Abaye, it is necessary only for the majority of a [constitutionally] barren woman:[26] I might have thought, she [a Hebrew maidservant] is freed only by na'aruth, but not by bagruth: hence we are informed [otherwise]. Mar, son of R. Ashi, demurred: But does this not follow a minori? If symptoms [of na'aruth], which do not free her from parental authority,[27] free her from her master's authority: then bagruth, which liberates from parental authority, surely liberates her from her master's authority! — But, said Mar, son of R. Ashi: This is necessary only in respect of the sale itself of a barren woman:[28] I might have thought, with one who will [subsequently] produce evidence of na'aruth, the sale is valid: but with one who will not produce such evidence[29] the sale is altogether invalid:

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(1) After all, the matter is deduced from ‘and she shall go out for nothing’ without money, the reasoning being as follows: The verse teaches that only for a maidservant is no payment due for gaining her freedom. Now, if it were due, it would obviously be her master's; hence when we learn that elsewhere, sc. marriage, payment is due, it is likewise due to the master whom she leaves, viz., her father.

(2) Before which her father is still entitled to her labour, and acts as her heir.

(3) But the father no longer enjoys undivided control.

(4) V. Glos.

(5) V. Glos. Thus the verse merely teaches that something else, not money, frees her, but implies no other exclusion.

(6) Rabina assumes that ‘without money’ could be written, אן (en); the inserted yod י (אין eyn) is superfluous, so expresses a further limitation.

(7) I.e., that the yod (י) may be regarded as superfluous?

(8) Lev. XXII, 12f.

(9) Her own being dead.

(10) [עיין לה , a play on the word אין or an interchange of the א with the ע, as is frequent in Semitic languages].

See if she has any descendants. This is deduced from the superfluous yod.

(11) ‘Illegitimate’ not in the modern sense, but e.g., a child born of adultery.

(12) This is deduced in Yeb. 62b.

(13) V. Glos.

(14) Num. XXII, 14.

(15) Deut. XXV, 7.

(16) It is assumed that me'en is derived from en.

(17) These were deduced from two separate verses on 3b.

(18) She must work for her keep, hence her earnings belong to her father, who keeps her. — Tosaf. in Git. 47b s.v. ץולביתך

(19) If she is freed at na'aruth, which is earlier, surely she is freed at bagruth!

(20) The two phrases must refer to two ages, na'aruth and bagruth. But if only one were written — and she shall go out for nothing — I would apply it to bagruth only.

(21) The reference is to Lev. XXII, 10: a toshab (E.V. sojourner) of the priest, or a sakir (E.V. hired servant), shall not eat of the holy thing.

(22) I.e., until Jubilee; v. Ex. XXI, 5f.

(23) V. ibid. 2.

(24) For the former is more of the priest's chattel (v. Lev. XXII, 11) than the latter.

(25) V. Ex. ibid.

(26) She has no symptoms of na'aruth, and attains her majority (bagruth) at the age of twenty.

(27) V. p. 7.

(28) I.e., a minor who shews symptoms of constitutional barrenness.

(29) V. n. 5.

Talmud - Mas. Kiddushin 4b

therefore the verse: ‘and she shall go out for nothing etc.’, teaches us [otherwise]. Now, according to Mar, son of R. Ashi, who objected, does this not follow a minori, but we have said: Scripture takes pains to write something which could be inferred a minori? — That is only if no other answer is possible; but if it is, we answer.[1]

But this Tanna adduces it[2] from the following. For it was taught: When a man taketh a wife, and hath intercourse with her, then it shall be, if she find no favour in his eyes, because he hath found some unseemly thing in her, etc.;[3] ‘taking’ is only by means of money, and thus it is written: I will give the money for the field: take it of me.[4] But does this not follow a minori: if a Hebrew maidservant, who cannot be acquired by intercourse, can be acquired by money; this one [a wife], who may be acquired [in marriage] by intercourse, can surely be acquired by money? Let a yebamah prove [the contrary:] she may be acquired by intercourse, yet she is not acquired by money. As for a yebamah, that may be because she cannot be acquired by deed: will you say the same of this one [a wife], who can be acquired by deed? Therefore Scripture teaches: ‘when a man taketh, etc.’[5] But what need of a verse for this: it has been inferred![6] — Said R. Ashi: Because one can argue, The deduction is vitiated ab initio:[7] whence do you adduce it? From a Hebrew maidservant! As for a Hebrew maidservant, that [her acquisition is by money] is because she is freed by money: will you say the same of this one [a wife], who is not freed by money? Therefore Scripture teaches: ‘when a man taketh a wife’.

Now, both ‘and she shall go out for nothing’[8] and ‘when a man taketh’ must be written. For had Scripture written: ‘when a man taketh’, I would have thought, the kiddushin given to her by the husband is her own: therefore Scripture [also] writes, ‘and she shall go out for nothing.’ And had Scripture written: ‘and she shall go out for nothing,’ I would have thought, if she [the wife] gives him [the husband] money and betroths him,[9] it is valid kiddushin:[10] therefore Scripture wrote, ‘when a man taketh’, but not, ‘when a woman taketh’.[11] ‘And hath intercourse with her’: this teaches that she may be acquired by intercourse. But does this not follow a minori? If a yebamah, who cannot be acquired by money, is acquired by intercourse; then this one [a wife], who is acquired by money, can surely be acquired by intercourse! — Let a Hebrew maidservant prove [the contrary], for she may be acquired by money, yet she is not acquired by intercourse. As for a Hebrew maidservant, that is because her acquisition is not for conjugal purposes; will you say the same of this one, who is acquired for conjugal purposes? Therefore it is stated: ‘and has intercourse with her’. But what need of a verse: it has been inferred? — Said R. Ashi: Because one can argue, the deduction is vitiated ab initio: whence do you adduce it? From a yebamah! As for a yebamah, that is because she already stands tied;[12] can you say [the same] of this one, who does not stand tied? Therefore it is taught: ‘and hath intercourse with her’.

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(1) By making the verse apply to something else.

(2) Sc. that kiddushin is effected by money.

(3) Deut. XXIV, 1.

(4) Gen. XXIII, 13.

(5) That ‘taking’ means by money.

(6) A minori, the refutation from yebamah being refuted itself.

(7) Without referring to a yebamah.

(8) V. supra 3b and 4a.

(9) Saying to him, ‘I am betrothed unto thee in virtue of the money I give thee.’

(10) Since that verse does not shew who must give the money.

(11) Hence he must give the money.

(12) To the yabam (q.v. Glos.), on account of her deceased husband, hence cohabitation merely completes the bond.

Talmud - Mas. Kiddushin 5a

And whence do we know that [a woman may be acquired] by deed too? But may it not be inferred a minori: if money, which cannot free, effects betrothal;[1] then deed, which frees,[2] can surely tie? — [No.] As for money, that is because hekdesh and second tithe[3] can be redeemed therewith;[4] can you say likewise of a deed, by which hekdesh and second tithe cannot be redeemed, for it is written, [and if he that sanctified the field will in any wise redeem it,] then he shall add the fifth part of the money of thy estimation, and it shall be assured to him.[5] Therefore Scripture saith, And when she is departed [out of his house, she may go] and be [another man's wife]:[6] thus ‘be — coming’ [betrothed] is assimilated to ‘departure’ [divorce]; just as the ‘departure’ is by deed, so is ‘becoming’ too. Then let ‘departure be assimilated to ‘becoming’: just as the ‘becoming’ may be by money, so the ‘departure’ too may be effected by money? — Abaye replied: Then it will be said: Money unites and money sunders:[7] shall the defender become the prosecutor![8] If so, of deed too it will be said: Deed sunders and deed unites: shall the prosecutor become the defender! — The contents[9] of each deed are distinct.[10] Then here too, [the purpose of] this money is distinct and that of the other is distinct? — Nevertheless, the impress [of the coin] is the same.

Raba said: Scripture saith, then he shall write her [a writ of divorcement]:[11] [hence], she can be divorced by writing, not by money. Say rather, she can be divorced by ‘writing’, but not betrothed by writing? — But it is written, and when she is departed, she may go and be, etc., assimilating etc.[12] And why do you choose thus?[13] — It is logical: when treating of divorce, one excludes [a particular method of] divorce; but when dealing with divorce, shall one exclude [a form of] marriage? [Surely not!]

Now, according to R. Jose the Galilean, who utilises this verse [‘then he shall write, etc.’], for a different purpose,[14] how do we know that she cannot be divorced by money? — The Writ saith, ‘a writ of divorcement’ — a deed can divorce her, but nothing else can divorce her. Now, how do the Rabbis employ this word ‘divorcement’?[15] — They employ it [to shew] that it must be an instrument which [completely] sunders them from each other. Even as it was taught: [If the husband says,] ‘Behold, here is your divorce, on condition that you drink no wine or do not visit your father's house for ever,’ that is no ‘divorcement’:[16] ‘for thirty days,’ that is a ‘divorcement’.[17] And R. Jose the Galilean?[18] — He deduces it from the use of kerithuth instead of koreth.[19] And the Rabbis?[20] — In their opinion, the use of kerithuth instead of koreth has no particular significance.

Now, one could not be inferred from another; yet let one be inferred from two others?[21] — Which could be inferred: should Scripture omit deed, that it might be inferred from the others? But as for the others, that is because their pleasure is great![22] Should Scripture omit intercourse, that it might be inferred from the others? But as for the others, that is because their powers of acquisition are great![23] Should Scripture omit money, that it might be inferred from the others? But as for the others, that is because they have compulsory powers![24] And should you argue, money too has compulsory powers over a Hebrew maidservant[25] — nevertheless, we do not find this in respect to conjugal relationship.[26] R. Huna said: Huppah acquires [a woman], a minori. If money, which does not authorize one to eat terumah,[27] effects possession;[28] then huppah, which authorizes one to eat terumah, surely effects possession![29] Yet does not money authorize the eating [of terumah]? But ‘Ulla said: By Biblical law, an arusah[30] may eat of terumah, for it is said: And if a priest acquire any soul, the purchase of his money, [he shall eat out],[31] and this one [a betrothed woman] too is the purchase of his money. Why then did they [the Sages] say that she may not eat [thereof]? For fear lest a cup [of wine of terumah] be mixed for her[32] in her father's house,[33] and she give it to drink to her brothers and sisters. But argue thus: if money, which does not complete [marriage],[34] acquires [in marriage],[35] then huppah, which completes [marriage], surely acquires! As for money, [it may be asked,] that is because hekdeshoth[36] and second tithe are redeemed therewith![37] Let then intercourse prove it.[38] As for intercourse, that is because it acquires in the case of a yebamah! Then let money prove it.[39] And thus the argument revolves: the distinguishing feature of one is not that of the other, nor is the distinguishing of this one that of the other; the feature common to both is that they acquire elsewhere, and acquire here [in marriage]; so do I adduce huppah, which acquires elsewhere[40] and acquires here too.[41] [No.]

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(1) Lit., ‘brings in’ — a woman, into the bond of matrimony.

(2) I.e., the deed of divorce, which frees a woman from marriage.

(3) v. p. 4, n. 4.

(4) When an article of hekdesh cannot itself be used in the Temple service, it is redeemed, reverts to a secular status, and the redemption money is dedicated to the Temple. Similarly, if the second tithe cannot be carried to Jerusalem, it is redeemed, becomes secular, and the redemption money is consumed in Jerusalem. — Since then money is potent in respect of these, it may also effect marriage.

(5) Lev. XXVII, 19. The text gives only a paraphrase of this, then he shall give the money and it shall be assured to him; v. Tosaf. Shab. 128a s.v. ונתן also p. 276, n. 4.

(6) Deut. XXIV, 2.

(7) Lit., ‘money leads in and money leads out.’

(8) It is illogical that the same thing should have two opposing effects.

(9) Lit., ‘words’.

(10) Hence it is not the same instrument in both cases.

(11) Deut. XXIV, 1.

(12) Supra, proving that she can be married by writing.

(13) To exclude money for divorce and include deed for marriage; perhaps one should reverse it?

(14) Git. 21b.

(15) Lit., ‘cutting off.

(16) Since she remains bound in a particular respect to her husband all her life.

(17) Fur after that she is completely cut off from him.

(18) How does he know this?

(19) He regards the longer form as more emphatic; hence it teaches that the cutting apart must be absolute, as in the

Baraitha.

(20) Why state the whole phrase, when the word keritkuth itself is sufficient?

(21) It was proved above that no one method of acquisition may be inferred from another a minori, hence a verse is necessary for each. Now the Talmud asks, Only two are required then the third follows by analogy: just as the two are methods of acquisition elsewhere, and also in marriage, so is the third. For each effects possession elsewhere, money and deed in ordinary purchases, and cohabitation in the case of a yebamah.

(22) Both money and cohabitation confer pleasure upon the recipient, but a deed does not.

(23) Both give a title to land and slaves, which cohabitation does not.

(24) Cohabitation acquires a yebamah even against her will, and a deed divorces a woman likewise even against her desire.

(25) A father can sell his daughter, the transaction being effected by money, against her will (Rashi). Tosaf.: Having bought a Hebrew maidservant, her master can declare that the money paid was for betrothal, even against her will and that of her father.

(26) According to Rashi's interpretation, the sense is obvious. Tosaf.: Money has no power of matrimonial compulsion at the outset, for in the first place the money is given for a maidservant, not a wife.

(27) V. Glos. If a priest betroths an Israelite's daughter with money, she may not eat terumah until the huppah.

(28) Of a woman in marriage, and she becomes an arusah (q.v. Glos.).

(29) To make a woman an arusah.

(30) V. Glos.

(31) Lev. XXII, 11.

(32) Wine was diluted before drinking.

(33) Cohabitation being forbidden until huppah, the arusah naturally lived in her father's house until then.

(34) The money makes her an arusah only, and her father is still her heir, and entitled to her labour; v. supra.

(35) Effecting betrothal, which is marriage in so far as divorce is required to free her.

(36) V. Glos. hekdesh, pi. hekdeshoth.

(37) V. p. 12, n. 5.

(38) Which acquires a woman though lacking this power.

(39) Which cannot acquire a yebamah, yet effects betrothal.

(40) After betrothal.

(41) I.e., it can effect the first stage of marriage, sc. betrothal.

Talmud - Mas. Kiddushin 5b

The feature common to both is that they confer much pleasure![1] Let deed then prove it.[2] As for deed, that is because it frees an Israelitish daughter![3] Then let money and cohabitation prove it. And thus the argument revolves: the distinguishing feature of one is not that of another, nor is the distinguishing feature of this one that of the other:[4] the feature common to all is that they acquire in general and here too; so do I adduce huppah, that it acquires in general and here too. [No.] As for the common feature, it is that they have powers of compulsion.[5] And R. Huna?[6] — Money at least has no compulsory powers in matrimonial relationships.

Raba said: There are two refutations of the matter:[7] firstly, we learnt THREE, not ‘four’; and secondly, can then huppah complete [marriage] but through [prior] kiddushin; are we then to deduce huppah, when not as a result of kiddushin, from the same when preceded by kiddushin? — Abaye answered him: As for your objection, we learnt THREE, not ‘four’: [only] what is explicitly stated [in Scripture] is taught, but not what is not explicitly stated.[8] And as to your objection; can then huppah complete [marriage] but through [prior] kiddushin — that indeed is R. Huna's argument: if money_ which cannot complete [marriage] after money,[9] nevertheless acquires; then huppah, which completes [marriage] after money, can surely acquire.[10]

Our Rabbis taught: How [is a woman acquired] by money? If a man gives her [a woman] money or its equivalent and declares to her, ‘Behold, thou art consecrated unto me,’ [or] ‘thou art betrothed unto me', [or] 'Behold, thou art a wife unto me' — then she is betrothed.[11] But if she gives him [money or its equivalent] and says 'Behold, I am consecrated unto thee,' 'I am betrothed unto thee,' 'I am a wife unto thee,' she is not betrothed. R. Papa demurred: Thus it is only when he both gives [the money] and makes the declaration [that the betrothal is valid]; but if he gives [it] and she speaks, she is not betrothed. Then consider the second clause: But if she gives [it] to him, and she makes the declaration, the kiddushin is not valid. [Hence,] it is only when she both gives [the money] and speaks, but if he gives the money and she speaks, the kiddushin is valid? — The first clause is exact, while the second is mentioned incidentally.[12] But may a statement be made in the second clause contradictory to the first?[13] — But this is its meaning: If he gives [the money] and he speaks, the kiddushin is obviously valid; [but] if he gives, and she speaks, it is accounted as though she both gives and speaks, so that the kiddushin is not valid. Alternatively, if he gives and speaks, she is betrothed; if she gives and speaks, she is [certainly] not betrothed; but if he gives and she speaks, it is doubtful, and as a Rabbinical measure we fear [the validity of the kiddushin].[14]

Samuel said: In respect to kiddushin, if he gave her money or its equivalent and declares, 'Behold, thou art consecrated,' 'Behold, thou art betrothed,'[or] 'Behold, thou art a wife,' — then she is betrothed. [If he declares,] 'Behold, I am thy husband,' 'Behold, I am thy master,'[15] 'Behold, I am thy arus,'[16] — there are no grounds for fear.[17] The same applies to divorce: If he gives her [the document of divorce] and declares, 'Behold, thou art sent forth,' 'Behold, thou art divorced,'[18] [or] 'Thou art [henceforth] permitted to any man, — then she is divorced. [But if he declares,] 'I am not thy husband,' 'I am not thy master,' 'I am not thy arus,' there are no grounds for fear.[19]

R. Papa said to Abaye: Shall we say that in Samuel's opinion inexplicit abbreviations are [valid] abbreviations?[20] But we learnt: If one declares, 'I will be,' he becomes a nazir. Now we pondered thereon: but perhaps he meant, 'I will fast'?[21] And Samuel answer — ed: That is only if a nazir was passing before him.[22] Thus, it is only because a nazir was passing before him, but not otherwise.[23] — The circumstances here are that he said 'unto me.' If so, what does he inform us?[24] — His teaching is with respect to these

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(1) Cf. p. 14, n. 5; no pleasure however, is derived from huppah.

(2) Which gives us pleasure, yet effects betrothal.

(3) I.e., it effects divorce.

(4) Regarding money and cohabitation as one proposition, and deed as another.

(5) V. supra p. 14, nn. 7, 8.

(6) How does he dispose of this?

(7) Sc. R. Huna's statement.

(8) Money and deed, though deduced by exegesis, are regarded as explicit, since they are intimated in Scripture. But huppah is only inferred a minori.

(9) I.e., when betrothal (erusin) is effected by money, the marriage cannot he completed by giving money a second time.

(10) A woman in the first stage of marriage — kiddushin.

(11) Lit., 'consecrated,' i.e., she becomes an arusah.

(12) In contrast to the first, but its implication is not to be stressed.

(13) Even if mentioned incidentally, it must be essentially, and in its implications, correct.

(14) She is neither married nor unmarried, and if another man betroths her she must be divorced by both, since we do not know her rightful husband.

(15) Heb.בעל = husband.

(16) V. Glos.

(17) It is definitely not valid betrothal, as below. Consequently, if another betroths her, the second kiddushin is valid.

(18) The Heb. verb גרש, garesh, literally means 'to expel', 'drive forth'.

(19) The divorce is definitely invalid.

(20) Lit., 'handles'. In the above, the formulas are abbreviations, since he declares 'Behold, thou art betrothed,' omitting 'unto me. Moreover, their purport is not explicit and beyond doubt, for he may have been speaking and acting on another man's behalf, yet Samuel rules that since he was the speaker, she is betrothed to him, thus shewing that he holds these to be valid.

(21) Lit., ‘I will be in a fast’.

(22) Then it is obvious that he meant, ‘I will be like him.’

(23) Which proves that Samuel holds that abbreviations must be beyond doubt.

(24) It is obvious.

Talmud - Mas. Kiddushin 6a

latter expressions.[1] [For] here it is written, when any man taketh [a woman],[2] but not that he taketh himself [as a husband], and there it is written, and when he send her away,[3] but not that he sends himself away.

Our Rabbis taught: [if one declares,] ‘Behold, thou art my wife,’ ‘Behold, thou art my arusah,’ ‘Behold, thou art acquired to me,’ she is betrothed; ‘Behold, thou art mine,’ ‘Behold, thou art under my authority,’ ‘Thou art tied unto me,’ she is betrothed. Then let them all be combined and taught in one clause?[4] — The tanna[5] heard each three separately, and memorized them [in that order]. The scholars propounded: [What if one declares,] ‘Thou art singled out for me,’[6] ‘Thou art designated unto me,’[7] ‘Thou art my help,’[8] ‘Thou art meet for me,’[9] ‘Thou art gathered in to me,’ ‘Thou art my rib,’[10] ‘Thou art closed in to me,’[11] ‘Thou art my replacement,’[12] ‘Thou art kept [seized] unto me,’ [or,] ‘Thou art taken by me’? — One at least you may solve. For it was taught: If one declares, ‘Thou art taken by me,’ she is betrothed, for it is written, when a man taketh a wife.[13]

The Scholars propounded: What of ‘Thou art my harufah [betrothed]?[14] — Come and hear: For it was taught: If a man declares, ‘Be thou my harufah,’ she is betrothed,for in Judea an arusah is called harufah. Is Judea then the greater part of the world?[15] — It is meant thus: If he declares, ‘Be thou my harufah,’ she is betrothed, for it is said: ‘that is a bondmaid, neherefeth [betrothed] to a man’; moreover, in Judea an arusah is called harufah. Is [the practice in] Judea to support Scripture![16] — But it means thus: If he says in Judea, ‘Be thou my harufah,’ she is betrothed, because in Judea an arusah is called harufah.

What are the circumstances:[17] shall we say, that he was not speaking to her about her divorce or kiddushin,[18] how does she know what he means?[19] But if he was speaking to her about her divorce or kiddushin, then even if he said nothing at all [but gave her money], she is also [betrothed]. For we learnt: If a man was speaking to a woman on matters concerning her divorce or betrothal, and gave her her divorce or kiddushin, but made no explicit declaration — R. Jose said: It is sufficient; R. Judah maintained: He must make an explicit declaration. Whereon R. Huna said in Samuel's name: The halachah[20] agrees with R. Jose! — I will tell you: after all, it refers to a case where he was speaking to her about her divorce or betrothal; now, had he given her [the money or the deed of divorce] and remained silent, that indeed would be so.[21] But the circumstances here are that he gave [them] to her and made one of these declarations. And this is the problem: did he employ these expressions in the sense of kiddushin, or perhaps he meant them in reference to work?[22] The questions stand over.

The [above] text [stated]: ‘If a man was speaking to a woman on matters concerning her divorce or betrothal, and gave her her divorce or kiddushin, but made no explicit declaration — R. Jose said: It is sufficient; R. Judah maintained: He must make an explicit declaration’. Said Rab Judah in Samuel's name: Providing that they were engaged on that topic [when the divorce or kiddushin was given]. R. Eliezer said likewise in R. Oshaia's name: Providing that they were engaged on that topic.[23]

This is disputed by Tannaim; Rabbi said: Providing that they were engaged on that topic; R.

Eleazar son of R. Simeon said: Even if they were not engaged on that topic. But if they were not engaged on that topic, how does she know what he meant? — Abaye answered: [They travelled] from one matter to another in the same topic.[24] R. Huna said in Samuel's name: The halachah agrees with R. Jose. R. Yemar asked R. Ashi: Then when Rab Judah said in Samuel's name: He who does not know the peculiar nature of divorce and betrothal[25] should have no business with them[26] — [does it hold good] even if he is ignorant of this ruling of R. Huna in Samuel's name? — Even so, he replied.

‘The same applies to divorce: If he gives her [the document of divorce,] and declares, "Behold, thou art sent forth," "Behold, thou art divorced," [or] "Thou art permitted to any man," — then she is divorced.’[27] Now it is obvious, if he gives a divorce to his wife and says to her, ‘Behold, thou art a free woman,’

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(1) Sc. ‘I am thy husband,’ etc., that these are certainly invalid.

(2) Deut. XXIV, 5.

(3) Ibid. 2.

(4) Instead of stating ‘she is betrothed’ twice.

(5) V. Glos. s.v. (b.).

(6) Rashi translates: ‘Thou art one with me’; cf. Gen. II, 24: and they shall be one flesh.

(7) Heb.מיועדת. meyu'edeth, cf. Ex. XXI, 8: if she please not her master who hath designated her (ye'adah, E.V. betrothed her) for himself

(8) Cf. Gen. II, 18; It is not good that man should be alone; I will make him an help meet for (נגד, neged) him.

(9) נגדתי, negdathi from neged; preceding note. [Or, ‘my counterpart’ — another possible rendering of neged (against), v. Yeb. 63a.]

(10) Cf. Gen. II, 21: and he took one of his ribs.

(11) סגורתי Cf. ibid.: . . . and closed up the flesh ויסגור.

(12) תחתי, tahti; cf. ibid.: instead thereof תחתינה.

(13) Deut. XXIV, 1.

(14) Cf. Lev. XIX, 20: That is a bondmaid, betrothed (נחרפת neherefeth=harufah); this really applies to a bondmaid designated for her master.

(15) Surely local practice cannot settle the law for all places.

(16) Its validity being derived from Scripture, surely no local practice is required as further proof!

(17) Of the above expressions, concerning which the scholars were in doubt.

(18) [‘Divorce’ is mentioned here merely incidentally as part of a current phrase ‘ashggarath lashon’. The text of Tosaf. Ri did not seem to have it.]

(19) Even if these terms imply kiddushin, she may not know that he intends them in that sense: consequently her consent is lacking.

(20) V. Glos.

(21) She would certainly be betrothed or divorced.

(22) E.g., ‘thou art one with me,’ to cooperate with me in work; similarly the rest.

(23) But if they had passed on to some other topic, all agree that she is not betrothed or divorced. [Although the woman's consent is not necessary by law in the case of divorce, she must nevertheless be aware of the character of the document that is being given to her, Tosaf. Ri; v. Git.78a.]

(24) E.g., they were no longer speaking of marriage, but about dowry, means of livelihood, etc.

(25) I.e., the laws by which they are governed.

(26) To celebrate a marriage or function as a Rabbi in divorce proceedings.

(27) Supra 5b; Samuel's dictum.

Talmud - Mas. Kiddushin 6b

his words are null.[1] If he says to his female slave, ‘Thou art permitted to all men,’ his words are [likewise] null.[2] [But] what if he says to his wife, ‘Behold, thou art for thyself,’ do we say, he meant it in respect of labour; or perhaps he meant it absolutely?[3] — Said Rabina to R. Ashi: Come and hear: For we learnt: The essential part of a deed of manumission is, 'Behold, thou art a free man,' 'Behold, thou art for thyself.' Now if a heathen[4] slave, whose body belongs to him [his master], yet when he says to him, 'Behold, thou art for thyself,' he means it absolutely; how much more so in the case of a wife, who does not belong bodily to him.

Rabina asked R. Ashi: What if he says to his slave, 'I have no concern with you'? Do we say, he means, 'I have absolutely no concern with you;'[5] or perhaps he says it to him in reference to work? — R. Nahman observed to R. Ashi-others state, R. Huna of Hoza'ah[6] to R. Ashi: Come and hear: If one sells his [heathen] slave to a heathen, he is emancipated,[7] and requires a deed of manumission from his first master.[8] Said R. Simeon b. R. Gamaliel: When does this hold good? If he [the vendor] did not make out for him an oni;[9] but if he did, that is his [deed of] emancipation.[10] What is meant by 'oni'? — Said R. Shesheth: If he wrote for him, 'When you escape from him [the heathen buyer], I have no concern with you.'[11]

Abaye said: If a man betroths [a woman] with a debt,[12] she is not betrothed;[13] with the benefit of a debt,[14] she is betrothed; yet this may not be done, as it constitutes an evasion of usury.[15] This 'benefit of a debt,' how is it meant? Shall we say, that he fixed [the interest] as a loan, he having said, [I am lending you] four [zuz] for five.[16] — but that is real usury![17] Moreover, it is, in point of fact, a debt![18] — This holds good only if he extended the term [for repayment].[19] Raba said: [If he says,] 'Take this maneh[20] on condition that you return it to me,' — in respect to purchase, he acquires no title;[21] in the case of a woman,[22] she is not betrothed; in the matter of a redemption of the firstborn,[23] the firstborn is not redeemed: in respect of terumah,[24] he fulfils the duty of 'giving', yet it is forbidden to act thus, as it looks like a priest who assists in the threshing floor.[25] What is Raba's opinion: if he holds that a gift on condition that it be returned is a valid gift, then even the others too [are valid]; whilst if he holds that it is not a valid gift, then even in the case of terumah it is not [valid]? Furthermore, It was Raba who ruled: A gift on condition that it is returned is valid. For Raba said: [If one says to another,] 'Here you have this citron, on condition that you return it to me,' if [the other] takes and [then] returns it, he fulfils his duty; if not, he does not fulfil [it]![26] — But said R. Ashi: in the case of all it [the conditional gift] is valid, with the exception in that of a woman, because a woman cannot be acquired by barter.[27] R. Huna Mar, son of R. Nehemiah, said to R. Ashi: We teach in Raba's name even as you [have stated].

Raba said: [If a woman says,] 'Give a maneh to So-and-so,

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(1) Because this expression applies only to liberation from bondage.

(2) Because this applies to divorce.

(3) In the sense of divorce.

(4) Lit., 'Canaanite.'

(5) I.e., you are free.

(6) [Be Hozai, the modern Khusiztan, S.W. of Bagdad. V. Git. (Sonc. ed.) p. 413, n. 1.]

(7) A Gentile slave in a Jewish household was practically a semi-Jew, being obliged to fulfil those precepts which are incumbent on women. The master who sold him to a Gentile, thus freeing him from that obligation, was punished by being forced to buy him back, even at a greatly enhanced price, and the slave then became free.

(8) To be accounted a free man and a Jew — as a slave he was circumcised-that he might marry a free Jewess.

(9) Prob. = Gr. '**.

(10) And nothing else is needed.

(11) This proves that the expression connotes freedom.

(12) Saying, 'Thou art betrothed unto me by the debt you owe me.

(13) Because something must be actually given as kiddushin or betrothal, whereas money formerly lent had already passed into her possession before then.

(14) The meaning of this is discussed below.

(15) Since the lender thereby benefits from the loan.
(16) And he now offers the remission of the fifth zuz for kiddushin.
(17) Not merely an evasion.
(18) [Since she owes him the zuz which he offers to remit as kiddushin.]
(19) Rashi and others: If the creditor extended the period of repayment to the woman, and said to her, ‘You might have given money to a third party, or to myself, to persuade me to this extension; hence by this extension I, on my own accord, am saving you this expenditure and thus confer a financial benefit upon you here and now, and by that benefit I betroth you.’ Similarly, if he remits the entire debt and says to her, ‘I betroth you by the benefit that has now accrued to you by this remission,’ his declaration is valid. But when he betroths her with money owing, he is offering a past benefit, hence the betrothal is invalid. R. Tam: If a woman owes money, and a third party gives the creditor a sum of money for an extension, and betroths her with that benefit which he has conferred upon her, for which he has actually given something.
(20) V. Glos.
(21) V. infra 26a; real estate is acquired by money, but not if it is stipulated that the money shall be returned.
(22) If it was offered as kiddushin.
(23) Lit., ‘son,’ v. Ex. XIII, 13.
(24) V. Glos. If terumah is given to the priest on this condition.
(25) Of an Israelite, in order to receive the terumah. The Rabbis considered this undignified, and enacted that such a priest should not receive terumah. Now, if a priest accepts terumah on this condition, he offers an inducement to the Israelite to give it to him in the future too, and therefore Raba forbade the practice, though valid if done.
(26) The reference is to Lev. XXIII, 40: And ye shall take you on the first day (of the Feast of Tabernacles) the fruit of goodly trees (interpreted by the Rabbis as referring to the citron), branches of palm trees etc. The Rabbis ruled that this ‘taking’ requires one's own fruit, and to this Raba alludes. If the recipient carries out the stipulation, it was his for the period of ‘taking’, and so he fulfils his duty; otherwise, it was not his even then, and his duty is not fulfilled. Thus Raba holds a conditional gift valid.
(27) V. infra 28a; the article given as barter was generally returned, and so when money is thus given as kiddushin, it looks like barter.

Talmud - Mas. Kiddushin 7a

and I will become betrothed to thee,’[1] she is betrothed by the law of a surety:[2] a surety, though he personally derives no benefit [from the loan], yet obligates himself [to repayment]; so this woman too, though she personally derives no benefit [from the money], obligates and cedes herself [in betrothal]. [If a man says,] ‘Take this maneh and be betrothed to So-and-so,’[3] she is betrothed by the law of a Canaanite slave:[4] a Canaanite slave, though he himself loses nothing,[5] yet acquires himself [his freedom]; so this man too though he personally loses nothing, acquires this woman. [If the woman declares,] ‘Give a maneh to So-and-so, and I will become betrothed to him,’ she is betrothed by the laws of both: a surety, though he personally derives no benefit, obligates himself, so this woman too’ though she personally derives no benefit, cedes herself. [And should you object:] How compare: as for a surety, he who acquires a title[6] loses money,[7] — but shall this man acquire the woman at no cost to himself? Then let a Canaanite slave prove it, who loses no money[5] and yet acquires himself. [And if you demur:] How compare: there, he who gives possession[8] acquires [the money given for the slave's freedom]; but here, shall this woman cede herself though she acquires nothing whatsoever? Then let a surety prove it: though he personally receives no benefit, he obligates himself.

Raba propounded: What [if a woman declares,] ‘Here is a maneh and I will become betrothed unto thee?’[9] Mar Zutra ruled in R. Papa's name: She is betrothed. R. Ashi objected to Mar Zutra: If so, property which ranks as security [real estate] is acquired as an adjunct to property which does not rank as security [movables];[10] whereas we learnt the reverse: Property which does not rank as security may be acquired in conjunction with property which ranks as security by money, deed, or hazakah?[11] — Said he to him: Do you think that she said to him, ‘Along with’?[12] Here the reference is to an important personage: in return for the pleasure [she derives] from his accepting a gift from her, she completely cedes herself.[13] It has been stated likewise in Raba's name: The same applies to monetary matters.[14] Now, both are necessary: had we been informed this of kiddushin [only], that is because a woman is pleased [even] with very little, in accordance with Resh Lakish's dictum, for Resh Lakish said: It is better to dwell in grief with a load[15] than to dwell in widowhood;[16] but as for money, I would say it is not so. And if we were informed this of monetary matters, that is because it is subject to remission;[17] but as for kiddushin, I would say it is not so.[18] Hence both are necessary. Raba said: [If a man declares,] ‘Be thou betrothed to half of me,’ she is betrothed: ‘half of thee be betrothed to me,’ she is not betrothed. Abaye demurred before Raba: Why does ‘half of thee be betrothed to me’ differ, that she is not betrothed? Because Scripture said, [when a man take] a wife,[19] but not half a wife? Then here too Scripture saith, ‘a man’, but not half a man? — How now! he rejoined. There, a woman is not eligible to two [men]; but is not a man eligible to two [women]? Hence this is what he said to her: ‘Should I desire to marry another, I may do so.’ Mar Zutra, son of R. Mari, said to Rabina: Yet let the kiddushin spread through the whole of her.[20] Has it not been taught: If one declares, ‘Let the foot of this [animal] be a burnt-offering,’ the whole of it is a burnt-offering? And even on the view that it is not all a burnt-offering, that is only if one dedicates a limb[21] upon which life is not dependent; but if he dedicates a limb upon which life is dependent [e.g., the heart], it is all a burnt-offering![22] — How compare? There it is an animal, whereas here we have an independent[23] mind.[24] This can only be compared with R. Johanan's dictum: An animal belonging to two partners: — if one [of them] dedicates half, and then purchases it [the other half] and dedicates it, it is holy, yet cannot be offered up;[25] and it establishes [the sanctity of] a substitute,[26] and the substitute is as itself.[27] This proves three things:

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(1) And he does, and says to her, ‘Thou art betrothed unto me by the maneh I gave to So-and-so.’

(2) One who stands surety for the repayment of a debt by the debtor.

(3) Who had deputed him, but that the agent gave his own money instead of that of the principal.

(4) V. infra 22b.

(5) When another gives his master money for his freedom.

(6) Viz., the creditor, to the obligation of the surety.

(7) I.e., he first gives money to the debtor.

(8) Sc. the master, who cedes the slave to himself.

(9) And the man accepted it, saying: ‘Be thou betrothed unto me therewith’.

(10) A creditor could collect his debt out of the debtor's real estate, even if sold after the debt was contracted, but not out of movables, if sold; hence the former is termed property which ranks as security, the latter, property which does not rank as security. Human beings are on a par with the former, and R. Ashi assumed that the woman is acquired in conjunction with the maneh.

(11) V. infra 26a for explanatory notes.

(12) ‘Here is this maneh and acquire me along with it.’

(13) Though normally the man must give the money (supra 5b), yet if he is eminent his acceptance confers pleasure, which in turn is considered of financial value.

(14) If A says to B, ‘Give money to C, in return for which my field is sold to you,’ the sale is valid, by the law of surety: ‘Take a maneh, and let your field be sold to C,’ C acquires it by the law of a Canaanite slave; ‘Give money to C and let him thereby acquire my field,’ he acquires it by the laws of both — all as explained with reference to kiddushin.

(15) So Jast.; Rashi, ‘two bodies’.

(16) I.e., a woman prefers an unhappy married life to a happy single life.

(17) The purchase price can be altogether remitted, as in the case of a gift.

(18) A woman cannot forego the money of kiddushin. Since it is such a strong obligation, I would think that it must pass from the man who betroths to the woman who is betrothed.

(19) Deut. XXIV, 1.

(20) When he says: ‘half of thee betrothed to me.’

(21) Lit., ‘thing’.

(22) And surely life is dependent on half a woman's body.

(23) Lit., ‘another’.

(24) The woman refuses to let the kiddushin spread through the whole of her.

(25) Since it was not fit for offering originally, as the half belonging to the other partner was yet secular. Hence it must now be sold, and an animal purchased with the proceeds and sacrificed. Thus the sanctity of the half does not spread over the whole, since the partner does not wish it.

(26) The reference is to Lev. XXVII, 33: neither shall he change it (sc. a consecrated animal): and if he changed it at all, then both it and the change thereof shall be holy. Thus here too, if one substituted another animal for this one, the substitute also is holy.

(27) It may not be sacrificed, but must be sold, as in n. 7.

Talmud - Mas. Kiddushin 7b

[i] Live animals may be rendered [permanently] rejected;[1] [ii] that which is rejected ab initio is rejected;[2] [iii] rejection applies to monetary sanctity.[3]

Raba propounded: What [if one declares,] ‘Thy half [be betrothed to me] for half a perutah, and thy [other] half for half a perutah’? Since he says to her, ‘for half a perutah,’ he divided it;[4] or perhaps, he was proceeding with his enumeration?[5] Should you rule, he was proceeding with his enumeration: what [if he declares,] ‘Thy half [be betrothed unto me] for a peru!ah, and thy [other] half for a perutah’? Since he said to her, ‘for a perutah’ ‘and a perutah’, he divided his proposal;[6] or perhaps, providing it was on the same day, he was proceeding with his enumeration? Should you answer: Providing it was on the same day, he was proceeding with his enumeration: What [if he declares,] ‘Thy half [be betrothed to me] for a perutah to-day, and thy [other] half for a perutah tomorrow’? Since he said to her, ‘To-morrow,’ he divided it; or perhaps he meant thus: the kiddushin commence immediately, but shall not be completed until to-morrow? [Further,] what [if he says], ‘Thy two halves for a perutah’: here he certainly proposed to her in once; or perhaps a woman cannot be betrothed at all by halves? The questions stand over.

Raba propounded: What [if he declares,] ‘Thy two daughters [be betrothed] to my two sons for a perutah’? Do we consider the giver and the receiver, so that there is money;[7] or perhaps, we consider them [who betroth and are betrothed], and there is not? The question stands over.

R. Papa propounded: What [if he declares,] ‘Thy daughter and thy cow [be mine] for a perutah’? Do we say [it means,] thy daughter for half a perutah, and thy cow for half a perutah:[8] or perhaps [he meant,] ‘Thy daughter by a perutah, and thy cow by meshika’?[9] The question stands over.

R. Ashi propounded: What [if one declares,] ‘Thy daughter and thy land [be mine] for a perutah’? Does he mean, ‘Thy daughter for half a perutah and thy land for half a perutah’; or perhaps, ‘Thy daughter for a perutah, and thy land by hazakah’?[10] The question stands over.

A certain man betrothed [a woman] with silk.[11] Rabbah ruled: No valuation is necessary;[12] R. Joseph maintained: It must be valued. Now, if he declared to her, ‘[Be thou betrothed to me] for whatever it is worth,’ all agree that valuation is unnecessary.[13] If he declared to her, ‘[Be thou betrothed to me] for fifty [zuz],’ and this [the silk] is not worth fifty: then of course it is not worth it![14] They differ only if he stipulated fifty and it was worth fifty. Rabbah maintained: [Prior] valuation is unnecessary, since it is worth fifty: R. Joseph said: [Prior] valuation is required: Since the woman has no expert knowledge of its value, she does not rely thereon.[15] Others state: They disagree in the case of ‘for whatever it is worth’ too. R. Joseph maintained: The equivalent of money must be as money itself: just as the latter is definite,

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(1) As here: the animal having been rendered ineligible when dedicated, since half remained secular, it remains so even when the other half too is dedicated. There is an opposing view that only a dead animal can be rendered permanently ineligible, v. Yoma 64a.

(2) This animal was not eligible to be dedicated by a single partner from the very outset. There is an opposing view that an animal can be rendered unfit only if it was originally rejected permanently.

(3) This animal was sanctified from the very outset only for its value, i.e., that the money which its sale would furnish should be expended for a sacrifice; nevertheless it becomes permanently ineligible for the altar. This excludes the view that might have been held that only an animal that was fit in the first place to be dedicated to the altar can be rendered permanently ineligible.

(4) I.e., he betrothed her as two separate halves, and neither is valid.

(5) He meant that as he was betrothing her entirely for a perutah, he was thereby betrothing each half for half a perutah.

(6) For it is less plausible here to assume that he was proceeding with his enumeration, since he could have betrothed her entirely for the first perutah.

(7) A perutah is given and received by one person; less than a perutah is not money.

(8) And therefore the kiddushin is invalid.

(9) V. Glos. and infra 25b.

(10) V. Glos. and infra 26a.

(11) In accordance with the Mishnah on 2a: ‘OR THE WORTH OF A PERUTAH.’

(12) The silk need not be valued beforehand so that the woman might know how much it is worth.

(13) Since they are obviously worth at least a perutah.

(14) And the kiddushin is invalid.

(15) That it is worth so much, unless it is assessed by experts.

Talmud - Mas. Kiddushin 8a

so must the equivalent be definite.[1]

R. Joseph said: Whence do I know it? For it was taught: [If there be yet many years, according unto them he shall give back the price of his redemption] out of the money with which he was acquired:[2] thus he[3] may be acquired by money, but not by produce or utensils. Now, what is meant by ‘produce or utensils’? Shall we say, that he cannot be acquired through these at all? But Scripture saith, ‘he shall return the price of his redemption,’ to include the equivalent of money as money?[4] Whilst if they are worth less than a perutah, why specify ‘produce and utensil’? The same applies to money too? Hence it must surely mean that they are worth a perutah, but since they are not definite, they cannot [acquire the slave].[5] And the other?[6] — This is its meaning: he can be acquired in virtue of money, but not in virtue of produce or utensils. And what is that? Barter.[7] But according to R. Nahman, who ruled: produce cannot effect a barter,[8] what can be said? — But after all it means that they are not worth a perutah: and as to your objection, why specify ‘produce and utensils’? The same applies to money? He [the Tanna] proceeds to a climax.[9] [Thus:] It is unnecessary [to state] that money, only if worth a perutah is it valid,[10] not otherwise. But as for produce and utensils, I might argue, Since the benefit derived is immediate,[11] he resolves and lets himself be acquired. Therefore we are informed [otherwise].

R. Joseph said: How do I know it? For it was taught: [If one declares,] ‘This calf be for my son's redemption,’[12] ‘this garment be for my son's redemption,’ his declaration is invalid.[13] ‘This calf, worth five sela's,[14] be for my son's redemption,’ or ‘this garment, worth five sela's, be for my son's redemption,’ — his son is redeemed. Now, how is this redemption meant? Shall we say that it [the calf or the garment] is not worth [five sela's]? does it rest with him![15] Hence it must surely mean even if it is worth [it]; yet since it was not defined, it is not valid![16] — No. After all, it means that it was not worth [it], but, we suppose the priest accepted it [for the full value], as in the case of R. Kahana, who accepted a scarf for a son's redemption,[17] observing to him,[18] ‘To me it is worth five sela's’ R. Ashi said: This holds good only of, e.g., [a man like] R. Kahana, who is a great man and needs a scarf[19] for his head; but not of people in general.[20] Thus it happened that Mar, son of R. Ashi, bought a scarf from the mother of Rabbah of Kubi[21] worth ten for thirteen.

R. Eleazar said: [If a man declares,] ‘Be betrothed to me with a maneh,’ and he gives her a denar, she is betrothed, and he must complete [the amount]. Why? Since he stipulated a maneh but gave her a denar, it is as though he had said to her ‘on condition’ [that I give you a maneh], and R. Huna said in Rab's name: He who says on condition,’ is as though he says ‘from now’.[22] An objection is raised: [If a man declares,] ‘Be betrothed to me with a maneh,’ and is proceeding with the counting out [of the money], and either party wishes to retract, even at the last denar he [or she] can do so![23] — The reference here is to one who declares, ‘With this maneh.’[24] But since the second clause refers to ‘this maneh,’ the first treats of an unspecified maneh? For the second clause teaches: If he declares to her, ‘Be thou betrothed unto me by this maneh,’ and it is found to be a maneh short of a denar or containing a copper denar,[25] she is not betrothed: [if it contained] a debased denar,[26] she is betrothed, but he must change it. — No: the first and the second clauses [both] refer to ‘with this maneh,’ ‘the second [being] explanatory of the first. [Thus:] if either party wishes to retract, even at the last denar, he [or she] can do so. How so? E.g., if he said to her, ‘for this maneh.’ Reason too supports this view, for should you think that the first clause refers to an unspecified maneh: seeing that it is not kiddushin in the case of an unspecified maneh: is it necessary [to teach it] in the case of ‘for this maneh?’ — As for that,it does not prove it: the second clause may be stated in order to illumine the first, that you should not say: The first clause deals with ‘this maneh,’ but in the case of an unspecified maneh it is valid kiddushin: therefore the second clause is taught with reference to ‘this maneh,’ whence it follows that the first refers to an unspecified maneh, yet even so, the kiddushin is null. R. Ashi said:[27] If he is proceeding with the counting it is different, because [then we assume] her mind is set on the whole sum.

This ‘copper denar,’ how is it meant? If she knew thereof, then she understood and accepted? — This is only if he gave it to her at night, or she found it among the other zuz. How is this ‘debased denar’ meant? If it has no currency, is it not the same as a copper denar?[28] — Said R. Papa, E.g.,it circulates with difficulty.[29]

Raba said in R. Nahman's name: If he says to her, ‘Be thou betrothed to me with a maneh,’ and gives her a pledge on it, she is not betrothed:

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(1) Its value must be exactly known.

(2) Lev. XXV, 51; this refers to the redemption of a Hebrew slave.

(3) The Hebrew slave.

(4) ‘He shall return’ implies that a return may be made in any way desired, i.e., by goods of monetary value; obviously then he can be purchased on the same terms.

(5) And the same holds good of a woman.

(6) Rabbah: How does he refute this proof?

(7) Whatever is given for a slave, be it money or property, must be given as money. Produce and utensils too can be given under that designation, but not in the nature of barter, in exchange for the slave: for barter can acquire only movables, whereas human beings rank as real estate.

(8) An article must be given, but not produce.

(9) Lit., ‘he says, it is unnecessary.’

(10) Lit., ‘yes’.

(11) They can be put to immediate use, unlike money, which must first be expended.

(12) V. infra p. 138.

(13) Lit., ‘he has said nothing.’

(14) Sela’ — Biblical Shekel.

(15) To assign to it an artificial valuation — surely not!

(16) For the only possible difference between the two clauses is that in the first it was not formally valued, whereas in the second it was.

(17) Although it was certainly not worth five sela's.

(18) The father who redeemed his son.

(19) [A sudarium, which served as a distinctive head-gear for scholars. V. Krauss, T.A., I, 167.] Hence he would be willing to pay an enhanced price for it when necessary.

(20) I.e., a priest cannot place a fictitious price upon an article unless it may conceivably be worth it for him.

(21) Neubauer, Geographie, p. 397, is unable to identify this. [MS.M.: Raba b. Kahana.]

(22) Thus here it is as though he said: ‘Be betrothed to me immediately for a denar, on condition that I give you a maneh later.’

(23) The kiddushin being invalid until the whole sum is given. This contradicts the view that the first denar immediately effects betrothal.

(24) Therefore the woman desires the whole of that maneh before she consents.

(25) A maneh — a hundred silver denarii.

(26) E.g., underweight.

(27) Answering the objection against R. Eleazer.

(28) Why then is she betrothed?

(29) Only few people accept it.

Talmud - Mas. Kiddushin 8b

here is neither a maneh nor a pledge.[1] Raba raised an objection against R. Nahman: ‘If he betroths her with a pledge she is betrothed’? — There the reference is to a pledge belonging to others, and it is in accordance with R. Isaac. For R. Isaac said: How do we know that a creditor has a title to a pledge? Because it is written, [And if the man be poor, thou shalt not sleep with his pledge: thou shalt surely restore to him the pledge when the sun goeth down . . .] and it shall be accounted unto thee a charitable deed:[2] if he has no title thereto, whence is his charity? This proves that the creditor has a title to the pledge.[3]

The sons of R. Huna b. Abin bought a female slave for copper coins. Not having them [the coins] at hand, they gave a silver ingot in pledge. Subsequently the slave's value increased,[4] so they came before R. Ammi. Said he to them: There are neither coins nor an ingot.[5]

Our Rabbis taught: [If a man says to a woman,] ‘Be thou betrothed unto me with a maneh,’ and she takes and throws it into the sea, the fire, or into anything where it is lost, she is not betrothed. Then if she throws it down before him — it is valid kiddushin? But she [thereby] declares to him, ‘Take it: I do not want it!’ — He [the Tanna] proceeds to a climax.[6] [Thus:] It is unnecessary [to state that] if she throws it down before him it is not kiddushin; but if she throws it into the sea or the fire, I might argue, Since she is now liable for it, she has certainly permitted herself to be betrothed: and the reason that she acted thus was because she thought, ‘I will test this man, whether he is hot-tempered or not.’ Therefore we are informed [otherwise].

Our Rabbis taught: [If a man says to a woman,] ‘Be thou betrothed unto me with a maneh,’ [and she replies,] ‘Give it to my father’ or ‘thy father,’ she is not betrothed; ‘on condition that they accept it for me,’ she is betrothed. ‘My father’ is mentioned to shew you how far-reaching is the first clause;[7] ‘your father,’ to shew how far-reaching is the second.[8] [If he says] ‘Be thou betrothed unto me with a maneh’, [and she replies] ‘Give it to So-and-so’, she is not betrothed. ‘On condition that So-and-so accepts it for me’, she is betrothed. And both these cases are necessary. For if we were taught the law with respect to ‘my father’ and ‘thy father’, [I might have thought that] only there is she betrothed when she replies, on condition that they accept it for me,’ because she relies upon them, thinking, ‘They will [certainly] act as agents for me’; but in the case of ‘So-and-so,’ it is not thus. While if we were taught the case of ‘So-and-so’, [I might have thought that] only there is the kiddushin invalid when she says: ‘Give it to So-and-so,’ because she Is not sufficiently intimate with him to present it [the maneh] to him as a gift.[9] But as for ‘my father’ or ‘thy father,’ with whom she is intimate, I might think that she was making a gift of it to them. Thus both are necessary.

Our Rabbis taught: [If he says,] ‘Be thou betrothed unto me with a maneh,’ [and she replies,] ‘Place it on a rock’, she is not betrothed; but if the rock was hers, she is betrothed. R. Bibi asked: What if the rock belonged to both of them? The question stands over. [If he says,] ‘Be thou betrothed unto me for a loaf of bread’, [and she replies,] ‘Give it to the dog’, she is not betrothed; but if it was her dog, she is betrothed. R. Mari asked: What if the dog was pursuing her? [Do we say that] in return for the benefit of saving herself from it she resolves and cedes herself to him; or perhaps she can say to him, ‘By Biblical law you were indeed bound to save me’? The question stands over. [If he says,] ‘Be thou betrothed unto me with a loaf,’ [and she replies,] ‘Give it to the poor man’: she is not betrothed, even if he was a poor man who relies on her. Why? — She can say to him, ‘Just as I have a duty towards him, so hast thou a duty to him’.

A man was selling

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(1) I.e., she neither received the maneh nor did he actually give her a pledge, since that must be returned. [V. Tosaf.; Asheri: Where there is no liability there can be no pledge, for no man can pledge himself for something which he does not owe. Similarly here, since he does not owe her the maneh, for he may retract if he wishes to do so, the pledge is no pledge.]

(2) Deut. XXIV, 12f.

(3) It is legally his whilst in his possession. Therefore he may validly offer it as kiddushin.

(4) And the vendor wished to withdraw from the bargain.

(5) As on p. 30, n. 6: the coins have not been received, whilst the ingot was not given to effect the purchase. Therefore it can be cancelled.

(6) V. p. 28, n. 7.

(7) Even then, she is not betrothed.

(8) Even then, she is betrothed.

(9) Therefore her reply was a contemptuous rejection of the proposal.

Talmud - Mas. Kiddushin 9a

glass beads, when a woman came and said to him, ‘Give me a string [of these].’ ‘If I give it you,’ he replied: ‘will you become betrothed to me?’ ‘Oh, indeed do give it to me,’ she retorted. Said R. Hama: Every [such expression,] ‘Oh, indeed do give it to me’ means nothing.[1] A man was drinking wine in a tavern, when a woman came and said to him, ‘Give me a cup.’ ‘If I give you,’ he replied: ‘will you become betrothed to me?’ ‘Oh, indeed do let me have a drink,’ she retorted. Said R. Hama: Every [such expression,] ‘Oh, indeed do let me have a drink’ means nothing.

A man was throwing down dates from a palm tree, when a woman came and said to him, ‘Throw me down two’. ‘If I throw them down to you, he replied: ‘will you become betrothed to me?’ ‘Oh, indeed do throw them down,’ she retorted. Said R. Zebid: Every [such expression,] ‘Oh, indeed, do throw them down’ means nothing.

The scholars propounded: What [if she replies,] ‘Give me,’ ‘let me drink,’ or ‘throw them down?’[2] — Rabina ruled: She is betrothed;[3] R. Sammia b. Raktha said: By the royal crown, she is not betrothed. And the law is: She is not betrothed. The law is also: the silk needs no valuation;[4] and the law agrees with R. Eleazar;[5] and the law agrees with Raba's dictum in R. Nahman's name.[6]

Our Rabbis taught: By deed: how so? If A writes for B on a paper or a shard, even if not intrinsically worth a perutah, ‘Thy daughter be consecrated unto me,’ ‘thy daughter be betrothed unto me,’ [or] ‘thy daughter be my wife,’ she is betrothed. R. Zera b. Mammel demurred: But this deed is dissimilar from a deed of purchase: there the vendor writes, ‘My field is sold to thee,’ whereas here the husband writes, ‘Thy daughter be consecrated unto me!’[7] — Raba replied: There [the form is determined] by Scriptural context, and here [likewise] by Scriptural context. There it is written, and he sell some of his possessions:[8] thus Scripture made it dependent on the vendor: whereas here it is written, when a man [taketh a woman],[9] thus making it dependent upon the husband. But there too it is written, men shall buy fields for money?[10] — Read: Men shall transmit [i.e., sell].[11] Now, why do you read ‘transmit’? because it is written: ‘and he sell’! Then here too read: If a man be taken, for it is written: I gave my daughter unto this man for wife?[12] — But said Raba: These are traditional laws, which the Rabbis supported by Scriptural verses.[13] Alternatively, there too it is written, so I took the deed of the purchase.[14]

Raba said in R. Nahman's name: If one writes on a paper or shard, even if not intrinsically worth a perutah, ‘Thy daughter be consecrated unto me,’ ‘thy daughter be betrothed unto me,’ [or] ‘thy daughter be my wife,’ whether [she accepts it] through her father or herself, she is betrothed by his [sc. her father's] consent,[15] providing that she has not attained her majority.[16] If he writes on a paper or a shard, even if not intrinsically worth a perutah, ‘Behold, thou art consecrated unto me,’ ‘Behold, thou art my wife,’ ‘Behold, thou art betrothed unto me,’ she is betrothed, whether [it is accepted] by her father or herself, with her consent, providing that she is of age.

R. Simeon b. Lakish propounded: What if a deed of betrothal was not written expressly for her sake?[17] Do we assimilate modes of betrothal[18] to divorce:[19] just as

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(1) She merely emphasized her request, but did not consent. In this and the following stories, the answer was expressed by the repetition of the verb, — an expression of impatience.

(2) Without repeating the verb; v. p. 32, n. 2.

(3) These answers denote assent.

(4) V. supra 8b.

(5) Who rules on 8a: If a man says: ‘Be thou betrothed unto me with a maneh’, and gives her a denar, she is betrothed, and he must complete the amount.

(6) Who ruled, here is neither a maneh nor a pledge; v. supra 8a bottom and 8b.

(7) And he is in the position of the vendor; how then do we know that such a deed is valid?

(8) Lev, XXV, 25.

(9) Deut. XXIV, 2.

(10) Jer. XXXII, 44.

(11) This requires a mere change of punctuation, the letters remaining the same.

(12) Deut. XXII, 16.

(13) But they are not actually deduced from them.

(14) Jer. ibid. 11; this shews that Jeremiah, the purchaser, received the deed, which must have been drawn up by the vendor.

(15) I.e., if she accepts it herself, she must have had her father's authority.

(16) I.e., she is not yet a bogereth (q.v. Glos.), and so still under her father's control,

(17) It was originally written for another woman. In the case of divorce, such a document is invalid. E.g., if a husband indites a divorce for his wife and does not use it, the same may not be used by another man to divorce his wife, even if all the relevant particulars, viz., names and places and date, coincide.

(18) Lit., ‘becoming’ (a wife).

(19) Lit., ‘goings forth’ (from the married state).

Talmud - Mas. Kiddushin 9b

divorce must be expressly for her sake,[1] So must betrothal be too; or perhaps, different modes of betrothal are assimilated to each other: just as betrothal by money need not be for her sake,[2] so betrothal by deed need not be for her sake? — After putting the question he, himself, decided it: betrothal is assimilated to divorce, for Scripture writes, and when she is departed [i.e., divorced] . . . she may be [another man's wife].[3]

It has been stated: If it [the deed of betrothal] is written for her sake, but without her knowledge: Raba and Rabina rule: She is betrothed; R. Papa and R. Sherabia say: She is not betrothed. Said R. Papa: I will explain their reason and I will explain mine. I will explain their reason: Because It is written, and when she is departed. . . she may be [another man's wife], assimilating betrothal to divorce: just as divorce must be [written] for her sake yet without her consent,[4] so must betrothal be for her sake, yet without her consent. And I will explain my reason: And when she departeth . . . then she shall be [etc.]: this assimilates betrothal to divorce: as in divorce, the giver's knowledge is required,[5] so in betrothal, the giver's knowledge is required.[6]

An objection is raised: Deeds of erusin and nissu'in[7] may only be written with the knowledge of both. Surely actual deeds of erusin and nissu'in are meant? — No: [the reference is to] deeds of apportionment,[8] and it is in accordance with R. Giddal's dictum in Rab's name, viz., How much do you give your son? — So much. How much do you give your daughter? — So much. If they [thereupon] arose and made a betrothal, they acquire a title [to the promised sums], and these are the things which are acquired by a verbal undertaking.[9]

OR BY INTERCOURSE. Whence do we know this? — R. Abbahu said in R. Johanan's name: Because Scripture saith, If a man be found lying with a woman] who had intercourse with a husband,[10] thus teaching that he became her husband through intercourse. R. Zera said to R. Abbahu-others state, Resh Lakish said to R. Johanan: Is this what Rabbi taught unsatisfactory, [viz.,] [When a man taketh a wife] and hath intercourse with her:[11] this teaches that she is acquired by intercourse? — If from there, I might have thought: He must first betroth her [e.g., by money] and then cohabit with her:[12] [therefore] we are informed [otherwise]. R. Abba b. Mammel objected: If so,[13] when Scripture decrees stoning in the case of a betrothed maiden,[14] how is it conceivable? If he [first] betrothed and then cohabited with her, she is a be'ulah;[15] if he betrothed but did not cohabit with her, it is nothing.[16] The Rabbis answered this before Abaye; It is possible if the arus cohabited with her unnaturally.[17] Thereupon Abaye observed to them: Even Rabbi and the Rabbis dispute [this matter] only in reference to a stranger: but as for the husband, all agree that if he cohabits with her unnaturally he renders her a be'ulah! (What is this?[18] For it was taught: If ten men cohabited [unnaturally] with her [sc. a betrothed maiden] and she is still a virgin, all are stoned. Rabbi said: I maintain, the first is stoned, but the rest are strangled.)[19] R. Nahman b. Isaac said: It would be possible if he betrothed her by deed: since it completely sunders,[20] it completely unites.[21]

And R. Johanan: How does he utilize this, and hath intercourse with her? — He needs that [to shew]: she [a wife] is acquired by cohabitation, but not a Hebrew bondmaid. For I might have thought, it may be inferred a minori from a yebamah: if a yebamah, who cannot be acquired by money, is acquired by cohabitation; this one [Hebrew bondmaid] who can be acquired by money, may surely be acquired by cohabitation. [No.] As for a yebamah, that is because she is already tied![22] — I might have argued, since it is written: If he take him another [wife],[23] Scripture compared her [the bondsmaid] to the ‘other’ [the wife]: just as the other is acquired by intercourse, so is a Hebrew bondsmaid acquired thus; therefore we are informed [otherwise].[24]

And Rabbi: how does he know this conclusion? — If so,[25] Scripture should have written; and hath intercourse: why [state] ‘and hath intercourse with her?’ Thus both are deduced.[26] But according to Raba, who said: Bar Ahina explained it to me: ‘When a man taketh a woman and hath intercourse with her’: [this teaches:] kiddushin[27] that can be followed by[28] intercourse is [valid] kiddushin, that which cannot be followed by intercourse is not [valid] kiddushin;[29] what can one say?[30] — If so,[31] Scripture should have written, or ‘hath intercourse with her’: why [state], ‘and hath intercourse with her?’[32] Thus all are inferred.

And Rabbi: how does he employ this phrase,’ who had intercourse [be'ulath] with a husband?’ —

He utilizes it [to teach:] her husband renders her a be'ulah unnaturally,[33] but not a stranger.[34] But does Rabbi hold this view? Has it not been taught: If ten men cohabited [unnaturally] with her [sc. a betrothed maiden] and she is still a virgin, all are stoned. Rabbi said: I maintain, the first is stoned, but the rest are strangled.[35]

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(1) Deduced from, then he shall write her a bill of divorcement (Deut. XXIV, 2).

(2) I.e., the money is not minted expressly to betroth that woman.

(3) Thus, betrothal and divorce are stated in proximity to each other, shewing that they are compared.

(4) In ancient Jewish law a wife's consent to divorce was not required. In the Middle Ages this was amended, and her consent became necessary.

(5) I.e., the husband's, who gives the woman her freedom.

(6) I.e., the woman's, who gives herself in marriage.

(7) v. Glos. for both.

(8) I.e., the amounts which the parents promise to settle on their son or daughter on marriage,

(9) Normally, a promise is binding only if the recipient performs an act of acquisition. i.e., he takes an article, not necessarily the thing promised, from the promisor. Here, however, the promise itself is binding. And the Baraitha quoted teaches that the witnesses may not draw up bonds to that effect unless both parties consent.

(10) Deut. XXII, 22.

(11) Ibid. XXIV, 1.

(12) But that cohabitation alone is not betrothal.

(13) That this verse might be interpreted as meaning that both betrothal and cohabitation are necessary, but that without the latter she is not even betrothed.

(14) Who commits adultery.

(15) I.e., no longer a virgin, whereas stoning is only for a virgin; v. Deut. XXII, 23f.

(16) She is not betrothed on this hypothesis.

(17) Leaving her a virgin.

(18) Concerning which Rabbi and the Rabbis are in dispute.

(19) Which is the punishment for committing adultery with a be'ulah. Thus the Rabbis regard her as a virgin all the time, whereas Rabbi maintains that she is a be'ulah after the first. This dispute, however, applies only to strangers.

(20) I.e., a deed is the only thing required for divorce.

(21) Lit., ‘brings in.’ Yet it might be that money betrothal must be followed by cohabitation.

(22) To the yabam, v. Deut. XXV, 5.

(23) Ex. XXI, 10: ‘another’ i.e., in addition to the Hebrew bondsmaid.

(24) By ‘and he hath intercourse with her’, as above.

(25) That the verse teaches only that intercourse is one of the methods of betrothal.

(26) (i) that a woman may be acquired by intercourse and (ii) a Hebrew bondsmaid cannot be so acquired.

(27) Implied by, when a man taketh.

(28) Lit., ‘that is given over to.’

(29) V. infra 51a.

(30) For the verse is needed for this purpose.

(31) That the only purpose of the verse is to shew that a bondsmaid cannot be acquired by intercourse.

(32) ‘And’ implies that the taking — i.e., kiddushin — and the cohabitation are interdependent.

(33) I.e., by unnatural cohabitation.

(34) Because ‘be'ulah’ is connected with ‘a husband’: if she had cohabited with her husband, no matter how, she is a be'ulah.

(35) V. supra.

Talmud - Mas. Kiddushin 10a

— Said R. Zera: Rabbi admits in respect to the fine, that they must all pay.[1] Wherein does it differ from the death penalty?[2] — There it is different, because Scripture writes, then the man alone that lay with her shall die.[3] And the Rabbis: how do they employ this word ‘alone’? — They need it even as it was taught: [If a man be found lying with a woman married to a husband], then they shall both of them die:[4] [this implies,] they must both be equal as one:[5] this is R. Josiah's view. R. Jonathan maintained: ‘then the man alone that lay with her shall die’.[6] And R. Johanan: how does he know this ruling?[7] — If so,[8] Scripture should have written, who had intercourse with a man; why [state], ‘who had intercourse with a husband’? Hence both are inferred.[9]

The scholars propounded: Does the beginning of intercourse acquire [the woman] or the end of intercourse? The practical difference is, e.g., if he performed the first stage of intercourse, and then she stretched out her hand and accepted kiddushin from another man;[10] or whether a High Priest may acquire a virgin by intercourse.[11] What then [is our ruling]? — Said Amemar in Raba's name: The mind of him who has intercourse is set on the completion of intercourse.[12] The scholars propounded: Does intercourse effect nissuin or erusin? The practical difference is in respect of his being her heir, defiling himself on her account and annulling her vows. If you say it effects nissu'in, he [the husband] succeeds her as heir, must[13] defile himself for her,[14] and can annul her vows.[15] But if you say that it effects only erusin, he does not succeed her as heir, may not defile himself on her account, and cannot annul her vows. What is our ruling? — Said Abaye: Come and hear: A father has a privilege over his daughter [if a minor] in respect of her kiddushin by money, deed or intercourse. And he is entitled to her findings, her labour, and the annulment of her vows; he can accept her divorce;[16] but he does not enjoy usufruct during her lifetime.[17] If she was married,[18] her husband's rights exceeds his,[19] in that he enjoys the usufruct during her lifetime. Now, intercourse is taught, and yet he [the Tanna] also teaches: If she was married![20] — ‘If she married’ may have been taught in reference to the other [privileges]. Raba said: Come and hear: A maiden aged three years and a day may be betrothed by intercourse, and if the yabam has intercourse with her, he acquires her. The penalty of adultery may be incurred through her: [if a menstruant,] she defiles him who has connections with her,

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(1) If a man violates an unbetrothed virgin he must pay a fine of fifty shekels: (Deut. XXII, 28f.) if a number of men violate her unnaturally, leaving her a virgin, they must all pay the same, as for a virgin.

(2) That there Rabbi regards her a be'ulah.

(3) Ibid. 25; now, this is superfluous. since the next verse states: But unto the damsel thou shalt do nothing; hence it teaches that only the first man is stoned, but after he seduces her, even unnaturally, she is a be'ulah, and her ravishers are strangled.

(4) Ibid. 22.

(5) Rashi: both must have attained their majority and be liable to punishment, thus excluding an adult who violates a minor. Tosaf.: they must both be liable to the same death penalty; the reference is to R. Meir's view on this matter, q.v. Sanh. 66b.

(6) I.e., the man stands in a separate category, and need not be equal to the woman.

(7) That only the husband renders her a be'ulah by unnatural intercourse etc.

(8) That the verse teaches only that cohabitation acquires a woman.

(9) The emphasis on ‘husband’ shews that only he renders her a be'ulah etc.

(10) If the beginning acquires, she belongs to the first; if not, to the second.

(11) A High Priest must marry a virgin; Lev. XXI, 13. Now, if the first stage acquires, he may betroth her by intercourse; but if the last stage, he may not, because immediately after the first stage she ceases to be a virgin, yet does not belong to him.

(12) Hence the last stage is necessary.

(13) Or ‘may’, v. Sotah, 3a.

(14) Even if he is a priest.

(15) Alone, without her father.

(16) Even without her authority, if she was divorced whilst an arusah, and a na'arah.

(17) If she inherit property through her maternal relations, her father has no claim to its usufruct while she is alive.

(18) Lit., ‘became a nesu'ah’.

(19) The husband's rights over his wife after nissu'in are greater than the father's over his daughter before nissu'in.

(20) Subsequent to intercourse; this proves that intercourse only effects erusin.

Talmud - Mas. Kiddushin 10b

so that he in turn defiles that upon which he lies, as a garment which has lain upon [a zab].[1] If she married[2] a priest, she may partake of terumah;[3] if any of the forbidden degrees[4] interdicted by Scripture cohabited with her, they are executed on her account,[5] but she is exempt;[6] if an unfit person[7] cohabits with her, he disqualifies her from priesthood.[8] Thus [here too] intercourse is taught,[9] and also ‘if she married’! — This may be its meaning: If this marriage[10] was with a priest, she may partake of terumah.

Come and hear: Johanan b. Bag Bag had already sent [word] to R. Judah b. Bathyra at Nisibis:[11] I have heard of you that you maintain, An arusah, the daughter of an Israelite [betrothed to a priest], may eat terumah. He sent back: And do you not rule likewise? I am certain of you that you are well versed in the profundities[12] of the Torah [and able] to infer a minori. Do you not know: if a Gentile bondmaid, whose intercourse does not permit her to eat of terumah,[13] yet her money[14] permits her to eat of terumah; then this one [an arusah], whose intercourse [with a priest] permits her to eat of terumah, surely her money[15] permits her to eat terumah. But what can I do, seeing that the Sages ruled: An arusah, the daughter of an Israelite, may not eat terumah until she enters huppah?[16] How so? If [the reference is to] intercourse following huppah, and money followed by huppah, in both cases she may certainly eat. But if to intercourse with huppah, and money without huppah: here there are two, while there is only one,[17] Hence it must surely refer to both intercourse and money without huppah. Now, if you say that it [intercourse] effects nissu'in, it is well: hence it is obvious to him that Intercourse is stronger than money.[18] But if you say that it effects only kiddushin [i.e., erusin], why is he certain in the one case and doubtful in the other? — Said R. Nahman b. Isaac: After all, I can tell you that [the reference is to] intercourse with huppah and money without huppah. And as to your objection, here there are two, while there is only one: nevertheless the a minori proposition holds good, and it was thus he sent word to him: If a Gentile bondmaid, whose intercourse does not permit her to eat of terumah even after huppah, yet her money even without huppah authorizes her to eat terumah,’ then this one, whose intercourse when accompanied by huppah permits her to eat terumah, Surely her money even without intercourse permits her to eat terumah. But what can I do, seeing that the Sages ruled: An arusah, the daughter of an Israelite, may not partake of terumah until she enters huppah, on account of ‘Ulla's statement.[19] And [Johanan] b. Bag Bag?[20] — In the case of a Gentile bondmaid he omits nothing of her acquisition;[21] but here he has left undone part of her acquisition.[22] Rabina said: By Biblical law he was quite certain that she may eat, and it was only by Rabbinical law that he [R. Johanan b. Bag Bag] sent word to him [that she is forbidden], and he sent thus to him: I have heard of you that you rule: An arusah, the daughter of an Israelite, may eat of terumah, and you disregard the possibility of nullification.[23] He sent back: And do you not rule likewise? I am certain that you are well versed in the profundities of the Torah, [and able] to infer a minori. Do you not know: if a Gentile bondmaid, whose intercourse does not permit her to eat terumah, yet her money does, and we do not fear the possibility of nullification;[24] then this one [sc. an arusah], whose intercourse permits her to eat terumah,[25] surely her money does, and we may disregard the possibility of nullification. But what can I do, seeing that the Sages ruled: An arusah, the daughter of an Israelite, may not partake of terumah so that the marriage cannot be consummated, and hence she may not eat terumah.

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[1] A man who has sexual connections with a menstruant woman defiles that upon which he lies, even if he does not actually touch it. But the degree of uncleanliness it thereby acquires is not the same as that of the bedding upon which she herself or a zab (v. Glos.) lies. For in the latter case, the bedding in turn defiles any person or utensil with which it comes into contact; whereas in the former, it can only defile foodstuffs and liquids. This is the same degree of uncleanliness possessed by a garment which has lain upon or been borne by a zab, v. Nid. 44b.

[2] V. n. 8.

[3] As an Israelite's adult daughter who married a priest. But if she is less than three years old, she is sexually immature,

(4) E.g., her father or brother.

(5) If they are of those forbidden on pain of death.

(6) Being a minor.

(7) E.g., a heathen or bastard.

(8) I.e., she may not marry a priest.

(9) Proving that intercourse only effects erusin.

(10) Sc. the intercourse mentioned in the first clause.

(11) A city in N.E. Mesopotamia; its Jewish population was already of importance during the second Temple. J.E. s.v.; Obermeyer, p. 229.

(12) Lit., ‘chambers’.

(13) If a priest cohabits with her without having previously acquired her with money.

(14) I.e., the money given for her by a priest.

(15) Whereby she is acquired as an arusah.

(16) I.e., becomes a nesu'ah.

(17) How can money without huppah be deduced from intercourse and huppah?

(18) And it certainly authorises her to eat terumah, and he proceeds to deduce that money has the same power.

(19) V. supra 5a bottom.

(20) Does he not accept this a minori deduction?

(21) Once he gives the money, she is absolutely his.

(22) After intercourse she still lacks huppah before he ranks as her heir and may defile himself on her account.

(23) Through a bodily defect discovered in the woman, which may invalidate the betrothal. Hence this has no bearing on the question of the status conferred by intercourse, since all admit that even an arusah may, Biblically speaking, eat terumah.

(24) A bodily defect which may entitle the priest to cancel the purchase.

(25) [Since the arus would not have had intercourse with her without first making enquiries concerning her (Tosaf.).]

Talmud - Mas. Kiddushin 11a

until she enters huppah, on account of ‘Ulla's statement. And the son of Bag Bag?[1] — He disregards the possibility of nullification in the case of slaves: if there are open bodily defects — then he has seen them.[2] If on account of concealed bodily defects, what does it matter to him? He needs him for work, and so does not care. If he [the slave] is found to be a thief or a rogue,[3] he is his.[4] What can you say: he was discovered to be an armed robber or proscribed by the State[5] — these are well known.[6] Let us see: both agree that she [an arusah] may not eat:[7] wherein then do they differ? — They differ where he [the husband] accepted [bodily defects],[8] or he [the father] delivered [her to the husband's messengers to be taken to her husband's home],[9] or if they [the father's messengers] were on the way with [the husband's messengers to escort the bride to her new home].[10]

‘BY MONEY: BETH SHAMMAI MAINTAIN, BY A DENAR etc. What is Beth Shammai's reason? — Said R. Zera: Because a woman is particular about herself and will not [permit herself to] become betrothed with less than a denar. Abaye objected to him: If so, then e.g., R. Jannai's daughters, who are particular about themselves and will not become betrothed with less than a tarkabful[11] of denarii, if she stretches out her hand and accepts a zuz from a stranger [as kiddushin], is the kiddushin indeed invalid?[12] — He replied: If she stretches out her hand and accepts. I do not say thus: I refer to a case where he betroths her at night,[13] or if she appoints an agent.[14] R. Joseph said: Beth Shammai's reason is in accordance with Rab Judah's dictum in R. Assi's name, viz., Wherever ‘money’[15] is mentioned in Scripture: Tyrian coinage is meant; whereas the Rabbinical usage[16] refers to provincial coinage.[17]

It was stated above: Rab Judah said in R. Assi's name: Whenever ‘money’ is mentioned in Scripture: Tyrian coinage is meant; whereas the Rabbinical usage refers to provincial coinage. Now, is this a universal rule?

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(1) Does he not admit the force of this argument?

(2) And the purchaser cannot invalidate the transaction.

(3) Jast.: a swindler; Tosaf.: a gambler; Rashi: a kidnapper. The last might suit the context here, but not elsewhere.

(4) The purchaser's: he cannot annul the purchase, because the average slave is one of these.

(5) I.e., under sentence of death. fast.: levied for royal service.

(6) And the purchaser would not buy him in ignorance.

(7) For R. Judah b. Bathyra also admits that she may not eat, in accordance with ‘Ulla.

(8) According to Johanan b. Bag Bag, she may then eat terumah, since there is no fear of nullification; in the opinion of R. Judah b. Bathyra she is forbidden, since ‘Ulla's reason holds good here.

(9) ‘Ulla's reason no longer holds good since her brothers and sisters are not then with her, but there is still the possibility of nullification.

(10) V. preceding note, which applies here too.

(11) Tarkab — two kabs (later = three kabs): 1 kab = 1/6th of a se'ah.

(12) Surely not!

(13) And she does not see what is given her.

(14) To accept kiddushin on her behalf, without telling him what is the minimum which he shall accept.

(15) Lit., ‘silver’.

(16) Lit., ‘that — sc. money of their (sc. the Rabbis’) words.’

(17) Viz., current coinage. The latter is an eighth of the former; i.e., a provincial shekel = 1/8th of a Tyrian shekel, a provincial denar = 1/8th of a Tyrian, etc.; v. J.E. IX, 351, and Zuckermann, Tal. Mun. pp. 15-33. Tyrian is further to be identified with Jerusalem (coins). Krauss, T.A., 11-405 and n. 639 a.l., v. B.K. (Sonc. ed.) p. 204, n. 11. Now, since kiddushin by money is Biblical (supra 2a), it cannot be a copper perutah, for there were no copper coins in the Tyrian system: hence, the perutah being excluded, it is evident that a coin of considerable value is required, and this was fixed at a denar.

Talmud - Mas. Kiddushin 11b

But what of a claim, concerning which it is written: If a man shall deliver unto his neighbour money or utensils to keep etc.[1] yet we learnt: ‘The oath taken before judges [is imposed] for a [minimum] claim of two silver [ma'ahs] and an admission of a perutah’?[2] — There it is similar to ‘utensils’: just as ‘utensils’ implies [at least] two, so must ‘money’ refer to two [coins],[3] and just as ‘money’ implies something of worth,[4] so does ‘utensils’ mean something of worth.[5] But [what of the second] tithe, in regard to which it is written, [Then thou shalt turn it into money] and bind up the money in thine hand,[6] yet we learnt: ‘If one changes a sela’ of second tithe [copper] coins . . .’?[7] — ‘The money’ is an extension,[8] But what of hekdesh,[9] concerning which it is written, then he shall give the money, and it shall be assured to him,[10] yet Samuel said: If hekdesh worth a maneh is redeemed with the equivalent of a perutah, it is redeemed?[11] — There too, we deduce the meaning of ‘money’ from tithes.[12]

But what of a woman's kiddushin, concerning which it is written: When a man taketh a wife, and marry her,[13] and we deduce the meaning of ‘taking’ from the field of Ephron,[14] yet we learnt: BETH HILLEL RULE, BY A PERUTAH OR THE WORTH OF A PERUTAH; shall we say [then] that R. Assi ruled in accordance with Beth Shammai?[15] — But if stated, it was stated thus: Rab Judah said in R. Assi's name: Whenever a fixed sum of money is mentioned in the Torah, Tyrian coinage is meant; whereas the Rabbinical usage refers to provincial currency.[16] Then what does he teach us? We have already learnt it: The five sela's mentioned in connection with a firstborn,[17] the thirty of a slave,[18] the fifty of a ravisher and a seducer,[19] and the hundred of a slanderer[20] — all these are [computed] by the holy shekel according to the Tyrian maneh![21] — He wishes to state, ‘whereas the Rabbinical term refers to provincial currency,’ which we did not learn. For we learnt: If one boxes his neighbour's ears,[22] he must pay him a sela’. Now, you should not say, what is a sela’? Four zuz,’[23] but what is a sela’? Half a zuz, for it happens that people call half a zuz ‘istira’.[24]

R. Simeon b. Lakish said: Beth Shammai's reason is in accordance with Hezekiah. For Hezekiah said: Scripture saith, then shall he let her be redeemed[25] — this teaches that she deducts from her redemption [money] and goes out [free]. Now, if you say that he [the master] gave her a denar,[26] it is well: hence she can go on deducting until a perutah. But if you say that he gave her a perutah: what can be deducted from a perutah?[27] But perhaps Scripture ordered thus: if he gave her a denar, she can go on deducting until a perutah; [but] if he gave her a perutah, she cannot deduct at all?

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(1) Ex. XXII, 6; in B.K. 107a it is deduced from this verse that an oath is imposed upon a defendant only if he admits part of the claim and denies part.

(2) Rashi: This proves that no particular sum is meant by the term ‘money,’ but that in all cases it was left for the Rabbis to determine. For if a particular sum is meant, granted that a ma'ah is the smallest Tyrian coin, why two? Tosaf. and others: the smallest Tyrian coin is a denar, whereas a ma'ah = 1/6th of a denar. (Though the actual coin is not mentioned in the quotation, ma'ah is assumed, because ‘two’ is in the fem. form, agreeing with ma'ah, whereas denar is masc.).

(3) So that the claim must be at least for two silver pieces, i.e., ma'ahs.

(4) I.e., two ma'ahs.

(5) So that if a man claimed two needles, one of which was admitted, no oath is imposed, since these are not worth two ma'ahs (Rashi). Tosaf. and others with different reading of the text: just as ‘utensils’ implies something of value, so does ‘money’ apply to that likewise, and a ma'ah is a coin of value; whilst ‘two’ is likewise deduced from the plural, ‘utensils’. [Whereas according to Rashi's reading the minimum value required in the case of ‘utensils’ is determined by the significance attached to the word ‘money’, according to that of Tosaf., the value of ‘utensils’ is judged by their own merits, so that even a couple of needles are to be treated as things of worth in view of the use to which they can be put].

(6) Deut. XIV, 25, q.v.

(7) A dispute follows as to how many of the coins should be changed. Now, this shews that in the first place the tithe was redeemed with copper coins, though Scripture mentions ‘money’ in this connection.

(8) Shewing that even copper coins may be used.

(9) V. Glos.

(10) V. B.M. (Sonc. ed.) p. 321, n. 1.

(11) V. n. 2; the same applies here.

(12) Since in the latter instance the money extends the law to copper coins, these are valid for the redemption of hekdesh too.

(13) Deut. XXIV, 1.

(14) V. p. 1, n. 12. Thus it is as though ‘money’ were written in this passage.

(15) It is a fixed principle that in all disputes between these two schools the halachah agrees with Beth Hillel.

(16) But no fixed sum is mentioned for kiddushin.

(17) V. Num. XVIII, 15f: Nevertheless the firstborn of man thou shalt surely redeem . . . for the money of five shekels. — ‘Shekels’ is the Biblical term for sela’.

(18) Ex. XXI, 32: If the ox gore a manservant or a maidservant he (the owner) shall give unto their master thirty shekels of silver.

(19) Deut. XXII, 28f: If a man find a damsel that is a virgin which is not betrothed, and lay hold on her, and lie with her, and they be found; then the man that lay with her shall give unto the damsel's father fifty shekels of silver.

(20) Ibid. 13 et seqq.: If a man take a wife . . . and hate her . . . and bring an evil name upon (i.e., slander) her, and say: I took this woman, and . . . I found not in her tokens of virginity . . . then the elders of that city shall amerce him in a hundred shekels of silver.

(21) 1 Tyrian maneh = 25 holy shekels.

(22) Others: shouts into his neighbour's ear.

(23) I.e., the Tyrian currency.

(24) A silver coin, equal to the provincial sela’ = 1/2 zuz.

(25) Ex. XXI, 8; v. infra 14b, 15a for the full reference.

(26) In buying her. The money given for a Hebrew maidservant may also be regarded as kiddushin, since in virtue thereof he can take her to wife; v. Ex. ibid.

(27) Seeing that it is the smallest coin.

Talmud - Mas. Kiddushin 12a

— You cannot think so, [for] it is similar to designation:[1] just as designation, though he [the master] can designate her or not, as he will, yet where he may not designate her, the sale is invalid;[2] so here too, where he cannot deduct, the sale is invalid.[3] And a woman's kiddushin, according to Beth Shammai, is deduced from a Hebrew maidservant: just as a Hebrew maidservant cannot be acquired for a perutah,[4] so a woman cannot be betrothed by a perutah.[5] Then say half a denar, or two perutahs? — Since a perutah was excluded, it was fixed at a denar.[6] Raba said: This is Beth Shammai's reason, [viz.,] that the daughters of Israel should not be treated as hefker.[7] AND BETH HILLEL RULE, BY A PERUTAH. R. Joseph thought to rule, A perutah, whatever it is.[8] Said Abaye to him: But thereon we learnt: AND HOW MUCH IS A PERUTAH? AN EIGHTH OF AN ITALIAN ISSAR. And should you answer: That was only in the time of Moses, but nowadays it is as generally estimated — but when R. Dimi came,[9] he said: R. Simai computed in his time: how much is the perutah? An eighth of an Italian issar.[10] And when Rabin came, he said: R. Dosethai, R. Jannai and R. Oshiah estimated: how much is a perutah? A sixth of an Italian issar! — R. Joseph answered him: If so,[11] when we learnt,[12] Go out and estimate: how many perutahs are there in two sela's? More than two thousand. Seeing that there are not even two thousand, can he [the Tanna] call it more than two thousand?[13] Thereupon a certain old man said to him, I learnt it, close on two thousand. But even so, it is only one-thousand-five-hundred-thirty-six! — Since it passes beyond half [a thousand], it is called close on two thousand.

It was just stated: When R. Dimi came, he said: R. Simai computed in his time, How much is a perutah? An eighth of an Italian issar. And when Rabin came, he said: R. Dosethai, R. Jannai, and R. Oshiah estimated: How much is the perutah? A sixth of an Italian issar. Said Abaye to R. Dimi: Shall we say that you and Rabin differ in the dispute of the following Tannaim? For it was taught: The perutah which the Sages mentioned is an eighth of an Italian issar. [Thus:] one denar =six silver ma'ahs; one ma'ah =two pundion, one pundion = two issars, one issar = two musmis, one musmis = two kuntrunk, one kuntrunk =two perutahs.[14] Hence the perutah is an eighth of an Italian [Roman] issar. R. Simeon b. Gamaliel said: three hadrisin = one ma'ah, two hanzin = one hadris, two shamnin = one hanez, two peutahs = one shamin:[15] hence a perutah equals one sixth of an Italian issar.[16] Shall we say that you agree with the first Tanna, whilst Rabin holds with R. Simeon b. Gamaliel? — He replied: Both Rabin and I agree with the first Tanna, yet there is no difficulty: here the issar bears its full value; there, it had depreciated. Here the issar bears its full value, twenty-four going to the zuz; there it had depreciated, thirty-two going to the zuz.[17]

Samuel said: If a man betrothed a woman[18] with a date, even if a kor[19] stood at a denar,[20] she is nevertheless betrothed: we fear that it may be worth a perutah in Media.[21] But we learnt: BETH HILLEL RULE, BY A PERUTAH OR THE WORTH OF A PERUTAH?[22] — There is no difficulty: the one refers to certain kiddushin; the other to doubtful kiddushin.[23]

A certain man betrothed [a woman] with a bundle of tow cotton. Now, R. Simi b. Hiyya sat before Rab and examined it: if worth a perutah, it is well:[24] if not, not. Now, if not worth a perutah, it is not well? But Samuel said: ‘We fear [etc.]’! — There is no difficulty: in the former case it is certain kiddushin; in the latter doubtful kiddushin. A certain man betrothed [a woman] with a black marble stone. Now, R. Hisda was sitting and appraising it: if worth a perutah, it is well;[25] if not, not. Now, if not worth a perutah, it is not well? But Samuel said: ‘We fear [etc.]’! — R. Hisda did not accept Samuel's [view]. Said his mother to him: But on the day he betrothed her it was worth a perutah![26] It does not rest entirely with you, replied he, to render her forbidden to the other man.[27]

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(1) sugh or sughh, the betrothal of a Hebrew handmaid to her master or his son in virtue of having been bought, no other than the purchase money being necessary.

(2) I.e., she cannot be sold, e.g., to her brother, since she may not be designated to him.

(3) Since Scripture teaches that a deduction is made, the sale must be capable of one.

(4) As just proved.

(5) V. Glos.

(6) For the exclusion of a perutah shews that a sum of considerable value is required.

(7) V. Glos., which is acquired without much trouble; thus to acquire a woman by merely a perutah would be derogatory to her status.

(8) No matter how it is debased in the course of time, providing that it is called a perutah.

(9) To Babylon. R. Dimi was a fourth century Amora of Palestine, who settled in Babylon on account of Constantine's decree of banishment against the Jewish teachers of Palestine. But even before this scholars regularly travelled to and fro between the Palestine and the Babylonian academies, and R. Dimi and Rabin (i.e., R. Abin) were specially designated for this task, to provide a cultural link between the two. I. Halevy, Doroth, II, 467-473.

(10) A woman having been betrothed for a perutah, he stated that it must be equal to an eighth of an Italian issar, and was not satisfied with the mere designation of a perutah.

(11) That the perutah must not be less than this.

(12) In the Sifra, a Midrashic commentary on Leviticus, also called ‘The Law of the priests.’

(13) The table is given below.

(14) These are Roman coins, the names being corrupted. Kuntrunk. < quadrans (**), a Roman value equal to three Roman ounces, also called terunicius; musmis or messimis < semissis = 1/2 as; pundion < dupundium = two ases.

(15) Hadris is perhaps a corruption of darosah = 1 3/4 as; hanez < nez (blossom); shamnim < shamin (Heb. hbhna, shemini — an eighth) 1/8 of an Italian issar. [For a full discussion of these terms, v. Krauss, TA, pp. 408ff.]

(16) For the issar = 1/2 4th denar; now one denar = six ma'ahs = a hundred and forty-four perutahs, according to his table; therefore one perutah — 1/6th issar.

(17) Thus one denar = a hundred and ninety-two perutahs, in accordance with the first Tanna. The perutah remained stable, but the issar fluctuated. In R. Simai's age the issar was at par, i.e., twenty-four =one denar: therefore one perutah = 1/8th issar. But in the age of R. Dosethai etc., it had slumped to 1/3 2nd of a denar, therefore one perutah =1/6th of an issar.

(18) Lit., ‘her’.

(19) A measure of capacity; v. J.E. XII, 489, Table 3.

(20) So that one date is worth far less than a perutah.

(21) Where dates were very dear. Or perhaps Media is mentioned as an example of elsewhere.

(22) And in Samuel's view anything may be worth a perutah somewhere.

(23) If the article is worth a perutah where it is given, the woman is certainly betrothed, and another man's betrothal is invalid. But if it is not worth a perutah there, she is in a position of doubt: she cannot be free without a divorce, yet should another betroth her before she is divorced, his act may be valid, and she then requires a divorce from both, being in the meantime forbidden to both and to everyone else.

(24) The betrothal is valid.

(25) The kiddushin is valid.

(26) Though by the time you came to value it, it had depreciated.

(27) To whom one had, in the meantime, become betrothed. I.e., your evidence cannot be accepted.

Talmud - Mas. Kiddushin 12b

For is this not comparable to the case of Judith, R. Hiyya's wife, who had severe travail in childbirth.[1] Said she to him: My mother told me: ‘Your father accepted kiddushin on your behalf [from another man] when you were a child.’[2] He replied to her: It does not rest entirely with your mother to forbid you to me. The Rabbis protested to R. Hisda: Why so? But there are[3] witnesses In Idith[4] who know that on that day it was worth a perutah! — Nevertheless, at present they are not before us. Is this not analogous to R. Hanina's dictum, For R. Hanina said: Her witnesses are in the north,[5] yet she is to be forbidden![6] Abaye and Raba, [however], do not agree with this ruling of R. Hisda: if they [the Rabbis] were lenient in respect of a captive woman,[7] who suffered disgrace under her captors,[8] shall we be [equally] lenient in the case of a married woman?[9] Some of that family remained in Sura,[10] and the Rabbis held aloof from them;[11] not because they agreed with Samuel, but because they agreed with Abaye and Raba.[12]

A certain man betrothed [a woman] with a myrtle branch in a market place. Thereupon R. Aha b. Huna sent [a question] to R. Joseph: How is it in such a case? — He sent back: Have him flagellated, in accordance with Rab; and demand a divorce, in accordance with Samuel.[13] For Rab punished any man who betrothed [a woman] in a market place, or by intercourse,[14] or without [previous] shiddukin,[15] or who annulled a divorce,[16] or who lodged a protest against a divorce,[17] or harassed a messenger of the Rabbis,[18] or per — mitted a ban to remain upon him thirty days,[19] and a son-in-law who dwelt in his mother-in-law's house thirty days.[20] Only him who dwelt, but not him who merely passed by [his mother-in-law's house]? But a certain son-in-law passed by his mother-in-law's door, for which R. Shesheth chastised him? — There his mother-in-law was [already] under suspicion through him. The Nehardeans maintained: For all these Rab inflicted no punishment, excepting for betrothing [a woman] by intercourse without shiddukin — others state, even with shiddukin, on account of licentiousness.[21]

A certain man betrothed [a woman] with a mat of myrtle twigs. Said they to him, ‘But it is not worth a perutah!’[22] ‘Then let her be betrothed for the four zuz it contains,’ replied he.[23] Having taken it, she remained silent. Said Raba: It is silence after receipt[24] of the money, and such silence has no significance.[25] Raba said: Whence do I know[26] this? For it was taught: If he says to her, ‘Take this sela’ as a bailment ,’ and then he says to her, ‘Be thou betrothed unto me therewith’, [if he made the declaration] when giving the money [and she accepted it without protest], she is betrothed; after giving the money: if she consented, she is betrothed; if not, she is not betrothed. What is meant by ‘she consented,’ ‘she did not consent’? Shall we say: ‘she consented’ means that she said ‘yes’, and ‘she did not consent,’ that she said: ‘no’? Then it follows that the first clause means

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(1) [She used to give birth to twins, v. Yeb. 65b.]

(2) And therefore I am forbidden to you.

(3) So cur. edd. Ri, Bah and Tosaf. read: but people say that there are; v. also Tosaf. a.I. s.v. tv.

(4) So cur. edd. Tosaf. reads: in Arith, i.e., in the west, sc. in Palestine, which lies to the west of Babylon. Levy, Worterbuch, s.v. , אורי , mentions a conjecture that the word may mean ‘north’, and denotes generally a distant, unknown country.

(5) Heb. Istan, v. B.B. (Sonc. cd.) p. 568, n. 9.

(6) Surely not! for the allusion v. Keth. 23a.

(7) To whom R. Hanina's dictum applied.

(8) [Or, ‘who makes herself look repulsive in the presence of her captors’ so as to keep them away from her.]

(9) Tosaf. explains thus (on a reading which omits the phrase ‘who... captors’): Even if witnesses attest her captivity, a priestly marriage is forbidden her only by Rabbinical law, for fear that she was outraged by her captors; hence we are lenient where the existence of such witnesses is only alleged. But in the case under discussion, should witnesses attest that the stone was worth a perutah when given, she is certainly a married woman and forbidden to others; therefore regard must be paid to the allegation that such witnesses exist elsewhere.

(10) The woman married another, and her descendants were in Sura. — Sura was a town in Southern Babylon between the canals, and seat of the famous academy founded by Rab. V. Obermeyer 283 et seqq.

(11) From contracting a marriage with them.

(12) That the alleged existence of witnesses could not be disregarded; hence these were tainted with the suspicion of bastardy.

(13) For the myrtle branch may be worth a perutah elsewhere.

(14) Notwithstanding the Mishnah.

(15) V. Glos. He regarded these as licentiousness.

(16) After sending it to his wife, but before she received it, in which case it is annulled. But the messenger may not know of this and deliver the divorce, and the wife contract another marriage.

(17) A divorce had to be given of the husband's free will. Even when he was forced (e.g., for refusal of conjugal rights, Keth. V. 6; impotence, Ned. XI, 12), he had to declare that he was giving it voluntarily. Yet he might secretly lodge a protest before witnesses that he was giving it under compulsion, in which case it was invalid.
(18) Sent to summon him to court.
(19) Without seeking its remission by expressing his regret at the offence which had occasioned it and undertaking to amend his ways. Buchler in MGWJ 1934 (Festschrift) p. 129, observes that as far as known the ban, during the days of Jamnia and Usha (first century) was imposed only on scholars, but that in the early amoraic period all were subject to it, as here (v. note 3, a.l.).
(20) Contrary to modern belief, the love between these two was regarded as so strong as to endanger their morals; cf. Pes. 113a.
(21) Tosaf.: this view is relied upon nowadays, in that sons-in-law live with their mothers-in-law.
(22) Matting must have been extremely cheap. Tosaf. Ri, however, translates: a bundle of myrtle twigs.
(23) The money was wrapped up in the mat or bundle.
(24) Lit., ‘the giving’.
(25) Though normally silence gives consent. For when she took the matting, she knew that it was not worth a perutah, and therefore it was unnecessary for her to reject the proposal. Her subsequent silence makes no difference.
(26) Lit., ‘say’.

Talmud - Mas. Kiddushin 13a

that even if she said ‘no,’ it is [valid] kiddushin. But why, seeing that she said ‘no’? Hence surely, ‘she consented’ means that she said ‘yes’, whilst ‘she did not consent, that she kept silence; thus proving that silence after receipt of money has no significance. A difficulty was raised thereon at Pum Nehara[1] in the name of R. Huna, son of R. Joshua. How compare? There it was given her as a deposit: [therefore] she thought, ‘If I throw it away and it is broken, I am liable for it.’ But here he gave it to her as kiddushin: if she did not want it [as such], she should have thrown it away! — R. Ahai retorted: Do then all women know the law? Here too she might have thought, ‘If I throw it away and it is broken, I will be held responsible for it.’ R. Aha b. Rab sent [an inquiry][2] to Rabina: What is the ruling in such a case? He sent back: We have not heard this [objection] of R. Huna, son of R. Joshua;[3] but you, who have heard it,[4] must have regard to it.[5] A certain woman was selling silk skeins,[6] when a man came and snatched one away from her. ‘Give it back to me,’ she exclaimed. ‘If I give it to you,’ he queried, ‘will you become betrothed to me?’ She took it and was silent. Thereupon R. Nahman ruled: She can say: ‘Indeed, I took it, and ‘twas my own I took’.[7] Raba objected before R. Nahman: If he betroths her with [an article] of robbery, violence, or theft,[8] or if he snatches a sela’ from her hand and betroths her, she is [validly] betrothed? — There it means that he had discussed the preliminaries [of marriage].[9] And how do you know that we draw a distinction between one who discussed the preliminaries and one who did not? — Because it was taught: If one says to a woman,[10] ‘Take this sela’ which I owe thee,’ and then he says: ‘Be thou betrothed unto me therewith’: [if he said this] when giving the money and she consented, she is betrothed; if she did not consent , she is not betrothed; after giving the money, even if she consented, she is not betrothed. Now, what is the meaning of ‘she consented,’ ‘she did not consent’? Shall we say: ‘she consented’ means that she said ‘yes’, ‘she did not consent’, that she said ‘no’: but if she remained silent, the kiddushin is valid? Then it should simply have been taught: ‘she is betrothed’,just as there.[11] But [we must say,] ‘she consented’ means that she said ‘yes,’ whilst ‘she did not consent,’ that she was silent, and it was taught that she is not betrothed. What is the reason? Because she can say: ‘Indeed, I took it, and ‘twas mine I took.’ But in that case, this [Baraitha], ‘If he betroths her with robbery, violence, or theft, or if he snatches a sela’ from her hand and betroths her, she is betrothed,’ presents a difficulty. Hence it must surely be inferred that in the one case he had discussed the preliminaries,[12] whereas in the other he had not.

When R. Assi died, the Rabbis went up to assemble his legal traditions. Said one of the Rabbis, R. Jacob by name, to them: Thus did R. Assi say in R. Mani's name: Just as a woman cannot be acquired by less than a perutah's worth, so can real estate not be acquired with less than a perutah's worth. But, they protested to him, it was taught: Although a woman cannot be acquired for less than a perutah's worth, land can be acquired for less than a perutah's worth? — That was taught only in respect to barter, he answered them. For it was taught: Acquisition can be effected through an article, even if it is not worth a perutah.[13] Again they sat and related: In reference to Rab Judah's statement in Rab's name, [that] one who does not know the peculiar nature of divorce and betrothal should have no business with them,[14] R. Assi said in R. Johanan's name: And they[15] are more harmful to the world than the generation of the flood, for it is written: By swearing, and lying, and killing, and stealing, and committing adultery, they spread forth, and blood toucheth blood.[16] How does this imply [it]? — As R. Joseph translated:[17] They beget children by their neighbour's wives,[18] thus piling evil upon evil.[19] And it is written: Therefore shall the land mourn and everyone that dwelleth therein shall languish, with the beasts of the field and the fowls of heaven: yea, the fishes of the sea also shall be taken away.[20] Whereas in the case of the generation of the flood nought was decreed against the fish of the sea, for it is written, of all that was in the dry land, died:[21] [implying] but not the fish in the sea, whilst here even the fish of the sea [are to be destroyed]. But perhaps that is only when all these are perpetrated?[22] — You cannot think so, for it is written, for because of swearing the land mourneth.[23] Yet perhaps swearing stands alone, and these others [combined] alone?

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(1) A town lying. as its name signifies, at the mouth of a canal (Nehar Sura = ‘the Sura canal’), where it debouches into another, not far from Humanya on the Tigris. It had an all-Jewish population. Obermeyer, pp. 194 et seqq.

(2) MS.M. reads: Such an occurrence happened, (and) R. Ahab. Rab sent etc.

(3) Rashi: we have heard it neither from him nor from anyone else in his name — which is not very satisfactory, seeing that they were evidently aware of it, whoever their informant was. Kaplan, Redaction of the Talmud, p. 138 translates: We have not found the view of R. Huna the son of R. Joshua as logically correct.

(4) I.e., agree with the force of the objection; v. preceding note.

(5) Therefore the kiddushin has at least doubtful validity (v. p. 47, n.10); Tosaf. Ri the Elder. — Kaplan. loc. cit., assumes that R. Aha b. Rab, Rabina and R. Ahai, otherwise known as the Sabora R. Ahai of Hatim, appear here as contemporaries. On the strength of this he identifies Rabina with Rabina b. R. Huna, the last president of Sura, and not Rabina, the colleague of R. Ashi. Actually however, there is nothing here to indicate that they were contemporaries, the reply of R. Ahai possibly having been made at a later date.

(6) Others: beads, silk fillets.

(7) Hence she is not betrothed.

(8) v. p. 263, n. 3.

(9) Then her silence is consent.

(10) Lit., ‘her’.

(11) Sc. in the Baraitha quoted at the bottom of 12b.

(12) Then she is betrothed.

(13) Barter (Heb. halifin) is a system of symbolic exchange, the article with which it is effected symbolically representing the larger article or the money which is actually the purchase price: consequently it may be worth less than a perutah. But when acquisition is effected through money itself, or an article valued as money, what is not worth a perutah does not rank as such.

(14) V. supra 6a for notes.

(15) Who take part in these matters without sufficient knowledge.

(16) Hos. IV, 2.

(17) So Targum, Pseudo.Jonathan, v. B.K. (Sonc. ed.) p. 9, n. 9.

(18) Understanding ‘spread forth’ in that sense; cf. Ex. I, 12: But the more they afflicted them, the more they multiplied and spread forth.

(19) So interpreting ‘blood toucheth blood.’ — Men of insufficient knowledge who take part in the solemnising of marriage and divorce likewise cause this, married women often being declared free illegally.

(20) Ibid. 3.

(21) Gen. VII, 22.

(22) Viz., those enumerated in the first verse quoted, but not for adultery alone.

(23) Jer. XXIII, 10. This shews that a single crime is sufficient.

Talmud - Mas. Kiddushin 13b

— Is it then written ‘and they spread forth’:[1] ‘they spread forth is written.[2]

Again they sat and related: In reference to what we learnt: If a woman brought her sin-offering [after childbirth] and then died, her heirs must bring her burnt-offering,[3] Rab Judah said in Samuel's name: Providing that she had separated it[4] during her lifetime, but not otherwise; thus proving that in his opinion the hypothecary obligation[5] is not Biblical.[6] [But] R. Assi said in R. Johanan's name: Even if she did not separate it during her lifetime, thus proving that he holds that hypothecary obligation is Biblical.[7] But they have already disputed this matter once. For Rab and Samuel both maintained: A debt [contracted] by word of mouth cannot be collected from heirs or purchasers;[8] while R. Johanan and Resh Lakish both rule: A debt [contracted] by word of mouth can be collected both from heirs and purchasers? — Both are necessary. For if it were stated in the latter case [alone]: Only there [I would say] did Samuel rule [thus] because it is not a debt decreed in Scripture; but in the former instance I might say that he agrees with R. Johanan and Resh Lakish.[9] And if we were taught this [dispute] in the former instance: only there, [I would say,] did R. Johanan rule [thus], because a debt decreed in Scripture is as one indited in a bond; but in the latter case, I might say that he agrees with Samuel. Hence both are necessary.

R. Papa said: The law is: A debt [contracted] by word of mouth can be collected from heirs, but not from purchasers. It can be collected from heirs: because the hypothecary obligation involved is Biblical. And it cannot be collected from the purchasers: because it [the debt] is not generally known.[10]

AND SHE ACQUIRES HER FREEDOM BY DIVORCE OR HER HUSBAND'S DEATH. As for divorce, It is well, since it is written, then he shall write her a bill of divorcement;[11] but whence do we know [that she is freed by] her husband's death? — It is logic: he [the husband] bound her; hence he frees her. But what of consanguineous relations, whom he binds, and nevertheless does not free?[12] — But since Scripture decreed that a yebamah without children is forbidden [to the outside world], it follows that if she has children she is permitted. Yet perhaps, if she has no children she is forbidden to the world but permitted to the yabam, whereas if she has children she is forbidden to all? — But since Scripture states that a widow is forbidden to a High Priest,[13] it follows that she is permitted to an ordinary priest.[14] Yet perhaps [she is forbidden] to a High Priest by a negative injunction, and to all others by an affirmative precept?[15] — What business has this [alleged] affirmative precept? If her husband's death has effect, let her be entirely free; and if not, let her remain in her original status![16] Why not? It [sc. her husband's death] withdraws her from [the penalty of] death and places her under [the interdict of] an affirmative precept. For this may be analogous to consecrated animals rendered unfit [for sacrifice], which originally [before they became unfit] involved a trespass-offering[17] and might not be sheared or worked with; yet when they are redeemed, they no longer involve a trespass-offering, but may still not be sheared or worked with?[18] — But [it is known] since Scripture said, [And what man is there . . . his house,] lest he die in the battle and another man take her.[19] To this R. Shisha son of R. Idi demurred: Perhaps who is meant by ‘another man: the yabam?[20] — Said R. Ashi, There are two answers to this: firstly, the yabam is not designated ‘another man’: and furthermore, it is written. And if the latter husband hate her, and write her a bill of divorcement . . . or if the latter husband die:[21] thus death is compared to divorce: just as divorce completely frees[22] her, so does death completely free her.

A YEBAMAH IS ACQUIRED BY INTERCOURSE. Whence do we know [that she is acquired] by intercourse? — Scripture saith,

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(1) The conjunction would denote that they must be combined.
(2) Without a conjunction, shewing that that itself merits the punishment stated in the following verse.
(3) These two sacrifices were due after childbirth; v. Lev. XII, 8.
(4) Sc. an animal, for a burnt-offering.
(5) Involved by debt.
(6) E.g., if a man borrows money, we do not say that his property is automatically mortgaged for its repayment, so that in the event of his death his heirs are Biblically liable, since they inherit mortgaged property, unless the debtor explicitly mortgages his goods in a bond, v. B.B. 175b. For here too, the woman is under an obligation to God to bring a sacrifice, yet since she did not separate an animal for it, no obligation lies on the heirs.
(7) I.e., every debt carries with it a pledge of the debtor's property in favour of the creditor.
(8) If the debtor's land was sold, the property not having been mortgaged for repayment, the creditor cannot collect from the vendees.
(9) The sacrifice being a Scriptural precept, the liability is stronger than that of an ordinary debt.
(10) Lit., ‘has no voice.’ Therefore to safe-guard the vendee's interests, the Rabbis deprived the creditor of his rights.
(11) Deut. XXIV, 1.
(12) A woman may not marry her father-in-law even after her husband's death; thus the interdict which he imposed on her by marriage remains even when he dies.
(13) Lev. XXI, 14.
(14) And by the same reasoning, to all other men.
(15) Lev. XXI, 24 is in the form of a negative injunction, the violation of which is punished by flagellation (malkoth), whereas that of an affirmative precept goes unpunished by Biblical law. Tosaf.: the affirmative precept may be the verse: Therefore shall a man . . . cleave to his wife (Gen. II, 24). implying, but not to his neighbour's wife (cf. Sanh. 58a). — An interdict implied by an affirmative precept is itself regarded as such, and not as a negative command.
(16) As a married woman she is forbidden to others by a negative precept under pain of death (Lev. XVIII, 20: XX, 10; Deut. XXII, 22); there are no grounds for supposing that her husband's death leaves the interdict but changes its nature.
(17) For secular use, e.g., ploughing with them.
(18) V. Bek. 15a. This proves that a certain fact may leave the interdict but change its penalty, and the same may apply to the husband's death.
(19) Deut. XX, 7.
(20) But not others.
(21) Ibid. XXIV, 3.
(22) Lit., ‘permits.’

Talmud - Mas. Kiddushin 14a

Her husband's brother shall go in unto her, and take her to him to wife.[1] Then perhaps she is like a wife in all respects?[2] — You may not think so. For it was taught: I might think that money or deed can complete her acquisition, just as intercourse does; therefore it is written, and perform the duty of an husband's brother unto her:[3] teaching, intercourse alone completes the acquisition of her, but money or deed does not complete the acquisition of her. Yet perhaps what is the purpose of ‘and perform the duty of an husband's brother unto her’? It is that he can take her by force?[4] — If so, Scripture should have stated: ‘and perform the duty of a husband's brother’,[5] why [add] ‘unto her’? Hence both are learnt from it.[6]

[AND ACQUIRES HER FREEDOM] BY HALIZAH. Whence do we know it?[7] — From the verse: And his name shall be called in Israel, The house of him that hath his shoe loosed:[8] once there has been the loosening of the shoe in her case, she is permitted to all Israel. Does then this [word] ‘Israel’ come to teach this? But it is necessary for what R. Samuel b. Judah learnt: [Halizah must be performed] at a Beth din of [naturally born] Israelites, but not at a Beth din of proselytes. — ‘In Israel’ is written twice.[9] Yet it is still required for what was taught: R. Judah said: We were once sitting before R. Tarfon, when a woman came to perform halizah. Thereupon he instructed us, Do all of you respond and say: ‘He that hath his shoe loosed, he that hath his shoe loosed’?[10] — That is derived from, and his name shall be called.[11]

OR THE YABAM'S DEATH. How do we know it? — A fortiori: if a married woman, who is [forbidden to others] on pain of strangulation, is freed[12] by her husband's death; then a yebamah, who is [forbidden only] by a negative precept,[13] is surely [freed by the yabam's death]. As for a married woman, [it may be asked] that is because she is freed[14] by divorce! Will you say [the same] of this one a yebamah], who is not freed [from the Levirate tie] by divorce? — She too is freed by halizah.[15] But [refute it thus]: as for a married woman, that is because he who binds her frees her![16] — Said R. Ashi: In her case too, he who binds her frees her: the yabam binds her, the yabam frees her.[17]

Now, let a married woman be freed by halizah, a minori: if a yebamah, who is not freed by divorce, is freed by halizah; then this one [a married woman], who is freed by divorce, is certainly freed by halizah! — Scripture saith, [then he shall write her] a deed of divorcement,[18] thus, a deed may divorce her, but nothing else can divorce her. Now, let a yebamah be freed by divorce, a minori: if a married woman, who is not freed by halizah, is freed by divorce: then this one [a yebamah], who is freed by halizah, is surely freed by divorce! — Scripture states: Thus [shall it be done, etc.][19] and ‘thus’ intimates indispensableness.[20] Now, wherever there is an intimation of indispensableness, do we not infer a minori? But what of the Day of Atonement, where ‘lot’ and ‘statute’ are written,[21] yet it was taught: [And Aaron shall present the goat upon which the lot fell for the Lord,] and offer him for a sin-offering:[22] the lot renders it a sin-offering, but designation does not render it a sin-offering.[23] For I might have thought, Does not [the reverse] follow a minori: if designation sanctifies where lot does not,[24] how much the more would designation satisfy where lot does! Therefore it is said: ‘and offer him for a sin-offering,’ teaching, the lot renders it a sin-offering, but designation does not render it a sin-offering. Thus, it is only because Scripture excluded it [designation]; but otherwise we would infer a minori, notwithstanding that statute is written![25] — Scripture saith, ‘[then he shall write] her [a deed of divorcement]’: for ‘her’, but not for a yebamah. Yet perhaps ‘her’ teaches that it must be for her sake?[26] — ‘Her’ is written twice.[27] Yet even so they are needed: one ‘her’ [intimating that it must be] for her sake; and the other ‘her’ teaching, but not for her and her companion?[28] — But Scripture saith, ‘[the house of him that hath a] shoe [loosed]:’ only a shoe [can set her free], but nothing else can.[29] Does ‘shoe’ come to teach this? But it is necessary for what was taught: ‘And she shall loose his shoe:[30] I know only [that she must loosen] his shoe; whence do I know [that it may be] any man's shoe?[31] From the verse: ‘[the house of him that hath] the shoe [loosed]:’ ‘shoe’ is an extension.[32] ‘If so, who state, ‘his shoe’? — ‘His shoe’ [intimates that it must fit him, [thus] excluding one [too] large, in which he cannot walk, and one [too] small, which does not cover the greater part of his foot, excluding

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(1) Ibid. XXV, 5.

(2) To be acquired by money or deed too?

(3) I.e., have intercourse with her. Ibid. This is really a repetition of the first part of the verse, and therefore emphasizes intercourse.

(4) That being taught by the repetition.

(5) This would have sufficed to emphasize intercourse alone as a means of acquisition.

(6) ‘unto her’ implying even against her will.

(7) The passage a.I. does not state that halizah frees her, but merely that it must be performed if the yabam refuses her.

(8) Ibid. 10.

(9) In Deut. XXV, 7 and 10.

(10) Heb. haluz ha-na'al, haluz ha-na'al — i.e., those present must actually say these words as part of the ceremony.

(11) Leaving ‘in Israel’ free for another purpose.

(12) Lit., ‘permitted’.

(13) Ibid. 5: the wife of the dead shall not marry without unto a stranger.

(14) Lit., ‘goes out’.

(15) Thus another means of freedom being found for each, the a fortiori argument holds good.
(16) But a yebamah is forbidden to others on account of her dead husband, whereas it is to be proved that the yabam's death frees her.
(17) But for the existence of the yabam, her husband's death would have freed her. Hence it is really he who is responsible.
(18) Deut XXIV, 1.
(19) Ibid. XXV, 9.
(20) The emphatic ‘thus’ indicates that the ceremony prescribed is indispensable. and that nothing else can achieve the same result.
(21) And it is a principle that ‘statute’ likewise indicates indispensableness.
(22) Lev. XVI, 9.
(23) If he merely designates it a sin-offering, without having previously chosen it by lot, it is invalid.
(24) Sc. in the case of the two pigeons, one a sin-offering and the other a burnt-offering. brought for the offences enumerated in Lev. V, 1-4. If he designates each for a particular sacrifice, the designation stands and cannot be revoked. But if he casts lots, it is of no avail, and he can then sacrifice each as he wishes.
(25) And this shall be a statute for ever unto you; Lev. XVI, 29.
(26) V. p. 34. n. 8.
(27) In Deut. XXIV. 1 and 3.
(28) If a man has two wives of the same name, he cannot divorce both with the same document, even though it is expressly written for them, v. Git.87a.
(29) Rashi: because ‘shoe’ is superfluous, as the verse could have read: ‘the house of him that was loosed’.
(30) Deut. XXV, 9.
(31) Which the yabam is wearing.
(32) Shewing that any person's may be used. The E.V. has ‘his shoe’ here too, but ‘his’ is not in the original.

Talmud - Mas. Kiddushin 14b

a sandal consisting of a mere sole, which has no heel! — If so,[1] Scripture should have written ‘shoe’; why ‘the shoe’? That both may be inferred therefrom.[2]

MISHNAH. A HEBREW SLAVE IS ACQUIRED BY MONEY AND BY DEED; AND ACQUIRES HIMSELF BY YEARS,[3] BY JUBILEE,[4] AND BY DEDUCTION FROM THE PURCHASE PRICE.[5] A HEBREW MAIDSERVANT IS MORE [PRIVILEGED] IN THAT SHE ACQUIRES HERSELF BY ‘SIGNS’.[6] HE WHOSE EAR IS BORED[7] IS ACQUIRED BY BORING, AND ACQUIRES HIMSELF BY JUBILEE OR HIS MASTER'S DEATH.

GEMARA. A HEBREW SLAVE IS ACQUIRED BY MONEY. How do we know this? — Scripture states, [he shall give back the price of his redemption] out of the money that he was bought for:[8] this teaches that he was acquired by money. We have [thus] learnt[9] it in the case of a Hebrew slave sold to a heathen, since his sole method of acquisition is by money:’[10] how do we know it of one sold to an Israelite?[11] — Scripture states: Then shall he let her be redeemed:[12] this teaches that she deducts [part] of her redemption money and goes out [free].[13] We have thus learned it in the case of a Hebrew bondmaid: since she is betrothed with money,[14] she is acquired with money; how do we know it of a Hebrew Slave? — The Writ saith, If thy brother, an Hebrew man, or an Hebrew woman be sold unto thee, and serve thee six years:[15] thus a Hebrew manservant is assimilated to a Hebrew maidservant. We have now learnt it of one sold by Beth din,[16] since he was sold against his will;[17] how do we know it of one who sells himself? — We learn [identity of law from] the repeated use of ‘sakir’.[18] Now, that is well according to him who accepts the deduction of the repeated use of ‘sakir’;[19] but according to him who does not , what can be said? — Scripture states, and if a stranger or sojourner with thee be waxen rich,[20] thus continuing[21] the preceding section,[22] so that [the subject] above may be deduced from [that] below.[23]

And which Tanna does not admit the deduction from the repeated use of sakir? — The following Tanna. For it was taught: He who sells himself may be sold for six years or more than six years; if sold by Beth din, he may be sold for six years only. He who sells himself may not be bored;[24] if sold by Beth din, he may be bored. He who sells himself, has no gift made to him;[25] if sold by Beth din, a gift is made to him.[26] To him who sells himself, his master cannot give a Canaanite bondmaid;[27] if sold by Beth din, his master can give him a Canaanite bondmaid. R. Eleazar[28] said: Neither may be sold for more than six years; both may be bored; to both a gift is made; and to both the master may give a Canaanite bondmaid. Surely they differ on this point: the first Tanna does not admit the deduction of the repeated use of sakir, while R. Eleazar does?[29] Said R. Tabyomi in Abaye's name: All admit the deduction of the repeated use of sakir, but here they differ on the following: What is the reason of the first Tanna, who maintained, He who sells himself may be sold for six years or more than six years? [Because] Scripture expressed a limitation In connection with one sold by Beth din: and he shall serve thee six years:[30] ‘he,’ but not one who sells himself. And the other?[31] — ‘And he shall serve thee’ [intimates] ‘thee’, but not thine heir.[32] And the other?[33] — Another ‘served thee’ is written.[34] And the other?[35] — That comes [to teach] that the master must be willing [to make a gift].[36]

What is the reason of the first Tanna who maintained that one who sells himself is not bored? Because Scripture expressed a limitation in connection with one sold by Beth din: and his master shall bore his ear through with an awl,[37] [implying] his ear, but not the ear of him who sold himself.[38]

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(1) That its only purpose is to shew that any persons shoe may be used.

(2) The def. art. shews that a shoe is the means of freeing her, and nothing else can.

(3) I.e., when he has served six years. Ex. XXI, 2.

(4) If this intervened before he had completed his six years of servitude.

(5) At any time by a pro rata repayment, taking into account the time he still has to serve.

(6) Of puberty.

(7) I.e., a slave who refuses his freedom at the expiration of six years; v. Ex. XXI, 5f.

(8) Lev. XXV, 51.

(9) Lit., ‘found’.

(10) It is stated infra 26a, that movables are acquired by meshikah (v. Glos.); this, however, holds good only of a Jewish purchaser, not a Gentile, who can acquire them only by giving the money.

(11) The whole discussion turns on the question which act formally consummates the transaction. Though a purchase is naturally effected by money, in the case of some property the delivery of money does not consummate the transaction, and both sides may retract. On the other hand, meshikah (q.v. Glos.) in the case of movables completes the transaction even before the delivery of the purchase price, which ranks as an ordinary loan. Hence the question here: how do we know that the delivery of money consummates the purchase of a Hebrew slave?

(12) Ex. XXI, 8.

(13) [R. Tam: Just as she acquires herself by money so is she acquired by money.] Rashi: Since Scripture writes, ‘then shall he let (or cause) her to be redeemed’, not, then shall she be redeemed, it shews that the master must help her redemption by accepting less than he paid for her, on a pro rata basis, as explained on p. 59, n. 6; hence she must have been bought with money — otherwise, from what is a deduction to be made? Of course, as pointed out on p. 59, n. 12, it is understood that money was paid. But the point is this: This exegesis shews that immediately on repaying the money she becomes free and no other formality is necessary. But if the purchase itself required some form of acquisition apart from the payment of the purchase price, e.g., deed, she would require the same on buying herself back (Maharam).

(14) Which is also a form of acquisition.

(15) Deut. XV, 12.

(16) For ‘if thy brother be sold’ implies by someone else, viz., Beth din, for theft: v. Ex. XXII, 2.

(17) Therefore, a strong form of acquisition, e.g., the symbolical act of hazakah (v. infra 26a and Glos.) is unnecessary, and the delivery of money suffices.

(18) Hired servant; this word is used in connection with both. One who sells himself, Lev. XXV, 39f: And if thy brother

. . . sell himself unto thee . . . as an hired servant (sakir) he shall be with thee. One sold by Beth din, Deut. XV, 12-18: If thy brother . . . be sold unto thee . . . it shall not seem hard unto thee, when thou lettest him go free from thee; for to the double of the hire of a hired servant (sakir, E.V. 'hireling') hath he served thee six years. The use of 'sakir' in both cases teaches that the same method of purchase holds good in both cases.

(19) Lit., 'who infers 'sakir' from 'sakir'.

(20) Lev. XXV, 47.

(21) Lit., 'adding to'.

(22) Lit., 'subject'.

(23) It is an exegetical principle that when a passage commences with 'and', this conjunction links it to the previous portion, and a law stated in one applies to the other too. Thus this 'and' links vv. 39-46, dealing with a Hebrew slave who sells himself to a Jew, with vv.47-55, treating of one who sells himself to a non-Jew. Just as the purchase of the latter is consummated by money, so is that of the former too.

(24) He must accept his freedom at the end of six years, and the provisions of Ex. XXI, 5f (q.v.) do not apply to him.

(25) By his master, on attaining his freedom.

(26) Deut. XV, 13f: And when thou lettest him go free from thee, . . . thou shalt furnish him liberally out of thy flock etc.

(27) To beget slaves for him.

(28) This is the reading of most editions: Tosaf. (15a s.v.Ishtu) gives another reading, R. Eliezer, which will refer to R. Eliezer b. Hyrcanus. There were several Tannaim of the first name, and the halachah may agree with them; but if Tosaf.'s reading is correct, the halachah is definitely not so, for it is a principle that the halachah never agrees with R. Eliezer b. Hyrcanus when he is in dispute with others (v. B.M. 59b, (Sonc. ed.) pp. 352f, for reason).

(29) Hence they are alike in all respects.

(30) Deut. XV, 12: this refers to a person sold by Beth din; v. p. 60, n. 4.

(31) R. Eleazar: does he not admit the force of this limitation?

(32) Other than a son; v. infra 17b.

(33) The first Tanna: does he not admit that the word is required for the latter purpose.

(34) Ibid. 18, quoted p. 60, n. 6; in Heb. the same word is used here for both tenses, the difference being indicated by the so-called waw conversive; v. Davidson, Heb. Grammar, ** 23, 3.

(35) R. Eleazar: how does he utilize the second 'served thee?'

(36) 'Served thee' in v. 18 is written in connection with this.

(37) Ex. XXI, 6; the whole passage a.l. refers to one sold by Beth din; v. pp. 64ff.

(38) Rashi: Because 'his ear' is superfluous, as it is written in Deut. XV,17: then thou shalt take on owl, and thrust it through his ear unto the door.

Talmud - Mas. Kiddushin 15a

And the other?[1] — That comes for the purpose of a gezerah shawah.[2] For it was taught: R. Eliezer said: How do we know that the boring must be through the right ear? Here is said: 'ear': and elsewhere is said, [and the priest shall take some of the blood . . . and put it upon the tip of the right] ear etc.,:[3] just as there the right is meant, so here too, the right is meant. And the other?[4] — If so,[5] Scripture should have written 'ear'; why 'his ear'?[6] And the other?[7] — That is needed: 'his ear', but not her ear.[8] And the other? — He deduces that from, but if the bondsman shall plainly say:[9] the bondsman, but not the bondmaid. And the other? — He needs that [to teach]: he must say it while yet a slave.[10] And the other? — That is derived from 'the bondsman' [instead of] bondsman.[11] — And the other? — [The difference between] the bondsman and bondsman affords no basis for exegesis.

What is the reason of the first Tanna who maintained, He who sells himself, no gift is made to him? — Scripture expressed a limitation in connection with one sold by Beth din: thou shalt furnish him liberally;[12] 'him', but not one who sells himself. And the other?[13] — He needs that: 'him', but not his heirs.[14] ('His heirs': why not? The All-Merciful designated him a hired servant [sakir]: just as the wages of a hired servant belong to his heirs,[15] So here too, his wages[16] belong to his heirs? — But [say thus:]) 'him', but not his creditor.[17] [This is necessary,] because elsewhere we agree with R.

Nathan, as it was taught: R. Nathan said: How do we know that if a man claims from another and then one claims [the same amount] from a third, that we collect from the last named and give it to the first [creditor]? From the verse, and he shall give it unto him to whom he is indebted.[18] Therefore 'him' comes to exclude that [from the case of a slave]. And the other? — Elsewhere we do in fact disagree with R.Nathan.[19]

What is the reason of the first Tanna who maintained, To him who sells himself, his master cannot give a Canaanite bondsmaid? Scripture expressed a limitation in connection with one sold by Beth din: If his master give him a wife,[20] [implying], him, but not one who sells himself. And the other? — 'Him' [intimates] even against his will. And the other?[21] — That is deduced from, for to the double of the hire of a hired servant [hath he served thee].[22] For it was taught: 'For to the double of the hire of a hired servant hath he served thee:' a hired servant works by day only, whereas a Hebrew slave works by day and night. Yet can you really imagine that a Hebrew slave works by day and night: is it not written, because he is well with thee,[23] [teaching] that he must be [on a par] with thee in food and drink? and R. Isaac answered thus: From this follows that his master can give him a Canaanite bondmaid.[24] And the other?[25] — If from there, I might have said: That is only with his consent, but not against his will; therefore we are told [otherwise].

Then which Tanna does not accept the deduction from the repetition of 'sakir'? — It is this Tanna. For it was taught: And if thy brother sell himself unto thee . . . he shall serve thee unto the years of jubilee. And then . . . he shall returns unto his family, etc.:[26] R. Eliezer b. Jacob said: Of whom does Scripture speak? If of him who sells himself — then it was already stated.[27] If of him whose ear was bored — that too was already stated.[28] Hence Scripture refers [here] only to him whom Beth din sold two or three years before jubilee, [thus teaching] that jubilee liberates him. Now, should you think that he [R. Eliezer b. Jacob] accepts the deduction of the repeated use of 'sakir', why is it [the verse cited] necessary; let him make the aforementioned deduction?[29] — Said R. Nahman b. Isaac: After all, he does make this deduction; nevertheless it [the verse quoted] is necessary. I might have thought, only he who sells himself,[30] because he committed no offence; but as for one sold by Beth din, who committed an offence, I might say: Let him be punished; therefore we are informed [that it is not so].

The Master said: 'If of him whose ear was bored — that too was already stated.' What is this?[31] — For it was taught: [It shall be a jubilee unto you;] and ye shall return every man unto his possession, and ye shall return every man unto his family.[32] To what does Scripture refer? If to one who sells himself — it was already stated;[33] if to one sold by Beth din — that [too] was already stated.[34] Hence the Writ can only refer to one whose ear was bored two or three years before jubilee, [teaching] that jubilee liberates him. How is this implied?[35] — Said Raba b. Shila: Scripture saith, [and ye shall return every] man: now, what thing is practised in the case of a man but not of a woman? Say: boring. Now, [both cases,] one sold by Beth din, and one who was bored,[36] must be written. For had we been informed [this] of him whom Beth din sold, [I might say] that is because his term had not expired;[37] but as for him whose ear was bored, seeing that his term had already expired, I might have said: let him be punished![38] And if we were informed [this] of him whose ear was bored, [I might say] that is because he had already served six years; but as for him who has been sold by Beth din, who had not yet served six years, I might have argued: he is not [liberated]. Thus both are necessary.

Now, both 'and ye shall return' and '[and he shall serve him] for ever'[39] must be written .[40] For had the All-Merciful written 'for ever' [only], I would have thought, literally for ever; therefore the All-Merciful wrote 'and ye shall return'. And had the All-Merciful written 'and ye shall return' [only], I would have thought: when is that?[41] If he had not served six years [after being bored]; but if he had already served six years, his last phase should not be more stringent than his first: just as his first phase[42] was for six years, so should his last be for six years [only]; hence 'for ever' teaches us, for the eternity of jubilee.[43]

Then [the question again arises,] which Tanna does not accept the deduction of ‘sakir’, ‘sakir’? — It is Rabbi. For it was taught:

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(1) R. Eleazar: What does ‘his ear’ teach, on his view?
(2) V. Glos.
(3) Lev. XIV, 25, also in v. 28. This refers to a poor leper, and the whole section on the sprinkling etc., is superfluous, since is stated in vv. 14ff., in connection with a leper of means: hence it is for the purpose of exegesis (Rashi).
(4) The first Tanna: whence does he know this?
(5) That its only purpose is the gezerah shawah.
(6) Surely to intimate the limitation stated above.
(7) R. Eleazar: why state, ‘his’?
(8) Teaching that a Hebrew bondsmaid cannot be bored.
(9) Ex. XXI, 5f., q.v.
(10) I.e., before the expiration of his six years.
(11) The def. art. emphasizes that he must still be a slave when he refuses his freedom. Hence the substantive itself excludes a bondsmaid.
(12) Deut. XV, 14.
(13) R. Eleazar: how does he utilize ‘him’?
(14) If the slave dies before his master makes him the gift.
(15) If he dies before receiving them.
(16) Of which this gift is part.
(17) If the slave owes money, the gift is not to be given to his creditor. — The Wilna Gaon substitutes the following for the bracketed passage: And the other? (The first Tanna: whence does he exclude the heirs?) — ‘Him’ is written twice, (of that wherewith the Lord thy God hath blessed thee thou shalt give unto him). And the other? — That is needed: ‘him’, but not his creditor.
(18) Num. V, 7: translating, and he (the last debtor) shall give it unto him (the first creditor), to whom he (the second creditor) is indebted. By analogy, the master ought to deliver the gift direct to the slave's creditor.
(19) Hence no particular verse is needed for a slave.
(20) Ex. XXI, 4.
(21) The first Tanna: how does he know this?
(22) Deut. XV, 18.
(23) Ibid. 16.
(24) This must be the night service referred to.
(25) Why deduce it from ‘him’?
(26) Lev. XXV, 39f: the word translated ‘sell himself may also mean ‘be sold.’
(27) ‘He shall serve thee unto the year of Jubilee’, when he obviously returns to his family.
(28) The Talmud asks below, where?
(29) From which the same follows.
(30) Is thus prematurely liberated by jubilee.
(31) I.e., where was it stated?
(32) Lev. XXV, 10.
(33) As mentioned in the passage above. — It should be observed that the Talmud refers to a law as ‘already stated,’ even when it occurs further on in the chapter or book, as here; thus it is the equivalent of ‘stated elsewhere.’
(34) Then he shall return unto his family (Ibid. 41), interpreted above as referring to this case.
(35) In the verse.
(36) Each two or three years before jubilee.
(37) Lit., ‘his time (for freedom) had not come,’ and it was his good fortune that the jubilee supervened.
(38) For voluntarily choosing servitude when he might have been free. — This hypothetical reasoning may appear curious: but it arises out of the Jewish insistence on the fundamental freedom of man.
(39) Ex. XXI, 6.

(40) Both refer to one whose ear was bored: the first, by inference; the second, explicitly (vv. 5, 6). On the surface, they are contradictory.

(41) That he must wait for jubilee.

(42) I.e., when first sold.

(43) I.e., , he is a slave until then, no matter how long.

Talmud - Mas. Kiddushin 15b

And if he be not redeemed by these, etc.:[1] Rabbi said: He may be redeemed by these, but not by Six [years].[2] For I might have argued, Does it not follow a minori: if he[3] who cannot be redeemed by these[4] is redeemed by six [years], then this one, who may be redeemed by these, is surely redeemed by six years? Therefore it is written: ‘by these’: teaching, he may be redeemed by these, but not by six years. Now, should you think that he [Rabbi] accepts the deduction from ‘sakir’, used twice, why does he Say, ‘if he who cannot be redeemed by these’: let us deduce [similarity of law from] the repetition of sakir?[5] — Said R. Nahman b. Isaac: After all, he does accept the deduction of ‘sakir’, ‘sakir’; yet here it is different, because Scripture saith, [one of his brethren] shall redeem him.[6] [implying] him, but not another.[7]

And what Tanna disagrees with Rabbi? — R. Jose the Galilean and R. Akiba. For it was taught: ‘And if he be not redeemed by these’ — R. Jose the Galilean said: If ‘by these’, it is for freedom, if by strangers,[8] it is for servitude.[9] R. Akiba said: If ‘by these’,it is for servitude: if by strangers, it is for freedom. What is the reason of R. Jose the Galilean? — Scripture saith, ‘And if he be not redeemed by these’ — but by a stranger — ‘then he shall go out in the year of jubilee’.[10] While R. Akiba interprets: ‘And if he be not redeemed by any but these, then he shall go out in the year of jubilee’. And R. Jose the Galilean?[11] — Is it then written: ‘by any but these’?[12] But they differ in respect of the following verse: Or his uncle, or his uncle's son may redeem him:[13] this is redemption by relations; or if he be waxen rich:[13] this is self redemption: and he shall be redeemed:[13] this is redemption by strangers. Now, R. Jose the Galilean holds: a verse is interpreted with what precedes it. [Hence] link[14] redemption by relations with self-redemption: just as self-redemption is for freedom, so is that by relatives. While R. Akiba maintains: a verse is interpreted with what follows: [hence] link redemption by strangers with self redemption: just as the latter is for freedom, so is the former. If so, why state ‘by these’?[15] — But for ‘by these’, I would have said: the verse is interpreted with what precedes and what follows it, so that [the redemption of] all is for freedom. If so, the difficulty remains in[16] its place?[17] — But they differ on a matter of logic. R. Jose the Galilean holds: It is logical that redemption by strangers is for servitude; for should you say it is for freedom, they will refrain from redeeming him. While R. Akiba holds: It is logical that redemption by kinsmen is for servitude: for should you say that it is for freedom, he will go every day and sell himself![18] R. Hiyya b. Abba said: These are the views of R. Jose the Galilean and R. Akiba: but the Sages maintain, [The redemption of] all is for freedom. Who are the Sages? — Rabbi, who employs this ‘by these’ for a different exegesis,[19] while the verse is interpreted with both what precedes and what follows it.[20]

And Rabbi, how does he utilize this [verse] ‘then he shall go out in the year of jubilee’? — He needs it for what was taught: ‘Then he shall go out in the year of jubilee’:

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(1) Lev. XXV, 54: the section deals with the Hebrew slave of a Gentile, and ‘these’ refers to his relatives, mentioned in vv. 48f.

(2) I.e., he is not set free after six years of service.

(3) Sc. a Hebrew slave sold to a Jew.

(4) Redemption by relatives is not mentioned in his case.

(5) V. p. 60, n. 6.

(6) Ibid. 48.

(7) Sc. a slave sold to a Jew.
(8) Lit., 'the rest of people.'
(9) If a relation redeems him, he goes free; if a stranger, he becomes his slave.
(10) And until then he is the stranger's slave.
(11) How does he refute R. Akiba?
(12) Surely not! This is the reading in the curr. edd. Other versions, more plausibly: And R. Akiba: is it then written, etc.? This is both more logical and in keeping with what follows.
(13) Lev. XXV, 49.
(14) Lit., 'cast.'
(15) Which implies: if he is not redeemed by these, but by relatives, then he shall go out etc.; this contradicts R. Akiba.
(16) Lit., 'reverts to.'
(17) Since this verse may mean that he is free no matter who redeems him, how can R. Akiba interpret v. 54 as meaning that if redeemed by relatives it is for servitude?
(18) And it is unfair to saddle his relations with the duty of redeeming him.
(19) As stated supra.
(20) Hence contrari-wise, R. Jose the Galilean and R. Akiba reject Rabbi's deduction.

Talmud - Mas. Kiddushin 16a

this refers to a heathen who is under your rule.[1] Yet perhaps it is not so, the reference being to a heathen who is not under your rule? — You can answer; [if so,] what can be done to him?[2] Hence Scripture speaks only of a heathen who is under your rule.

AND BY DEED. Whence do we know it? — Said 'Ulla, Scripture saith, If he take him another [wife]:[3] thus the Writ assimilated her [the Hebrew bondmaid] to another [wife]: just as the other [sc. the wife] is acquired by deed, so is a Hebrew maidservant acquired by deed. Now, that is well on the view that the deed of a Hebrew bondmaid is written by her master;[4] but on the view that her father writes it, what can be said? For it has been stated: As to the deed of a Hebrew bondmaid, who writes it? R. Huna maintained: The master writes it; R. Hisda said: Her father writes it. [Hence] it is well according to R. Huna; but on R. Hisda's view, what can be said? — R. Aha b. Jacob answered: Scripture saith, she shall not go out as the menservants do:[5] [implying,] but she may be acquired as [heathen] menservants are;[6] and what is that? By deed. Then say: but she may be acquired as [heathen] menservants are, and what is that? Hazakah![7] — Scripture saith, And ye shall make them [the heathen slaves] an inheritance for your children after you:[8] only they [are acquired] by hazakah, but not another.[9] Then say: Only they [are acquired] by deed, but not another? — But it is written, she shall not go out as menservants do.[10] And why do you prefer it so?[11] — It is logical that 'deed' is included [as a means of acquisition], since it divorces an Israelite daughter.[12] On the contrary, one should rather include hazakah, since it acquires the property of a proselyte?[13] — Still we do not find it in marriage relationship.[14] Alternatively, if 'he take another' serves that very purpose.[15] And R. Huna: how does he expound this [verse,] She shall not go out as the menservants do?[16] — He employs that as intimating that she does not go out [free] through [the loss of her] outstanding limbs, as a [heathen] slave.[17] And R. Hisda?[18] — If so, Scripture should have written: 'she shall not go out as menservants'; why, as the going out of menservants?[19] That both may be inferred.[20]

AND ACQUIRES HIMSELF BY YEARS. For it is written, six years he shall serve: and in the seventh he shall go out free for nothing.[21] AND BY JUBILEE. For it is written, he shall serve with thee unto the year of jubilee.[22]

AND BY DEDUCTION FROM THE PURCHASE PRICE. Hezekiah said: Because Scripture saith, Then shall he let her be redeemed:[23] this teaches that she makes a deduction from her redemption money and goes out [free].[24]

A Tanna taught: And he may acquire himself by money, its equivalent, and by deed. Now, as for money, 'tis well, for it is written, [he shall give back the price of his redemption] out of the money he was bought for.[25] As for its equivalent too — Scripture wrote, 'he shall give back the price of his redemption,' to include the equivalent of money as being equal to money.[26] But this deed, how is it meant? Shall we say that he [the slave] indites a bond for the [redemption] money? Then it is money! But if it is [a deed of] manumission, why is a deed necessary? Let him say to him in the presence of two, or in the presence of a Beth din, 'Go'? — Said Raba: This proves that a Hebrew slave belongs bodily [to his master]:[27] hence if the master remits his deduction,[28] the deduction is not remitted.[29]

A HEBREW MAIDSERVANT IS MORE [PRIVILEGED] THAN HE. Resh Lakish said: A Hebrew bondmaid is freed[30] from her master's authority by her father's death, a minori: if signs,[31] which do not free her from her father's authority, free her from the authority of her master;[32] then how much the more death, which frees her from her father's authority, should free[33] her from her master's authority! R. Hoshea raised an objection: A HEBREW MAIDSERVANT IS MORE [PRIVILEGED] THAN HE, IN THAT SHE ACQUIRES HERSELF BY 'SIGNS'; but if this [Resh Lakish's dictum] be so, let her father's death also be stated? — He [the Tanna] teaches [some ways,] and omits[34] [others]. But what else does he omit, that he omits this?[35] — He omits her master's death.[36] If it is on account of her master's death[37] — that is no omission; since that applies to a male [slave] too, it is not taught. Then let it be taught![38] — That which may be fixed is taught;[39] that which can not be fixed is not taught. But 'SIGNS', which are not fixed,[40] are nevertheless taught? — Said R. Safra: They are not fixed above, yet are fixed

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(1) Lit., 'hand.' Even then, the Jew must remain his slave until jubilee.

(2) How can he be forced to provide facilities for redemption?

(3) Ex. XXI, 10; i.e., in addition to the Hebrew bondmaid.

(4) I.e., he who acquires her, just as the husband writes the deed to acquire his wife.

(5) Ibid. 7; the comparison is with heathen slaves, who go free if their master blinds them or knocks out their teeth (vv. 26f). Hebrew slaves, however, are not freed, but merely compensated.

(6) Lit., 'as the acquisition of menservants.'

(7) Glos. and V. infra 22b.

(8) Lev. XXV, 46.

(9) Sc. Hebrew slaves. The Heb. והתנחלתם we-hithnahaltem, is really applicable to land, and intimates that heathen slaves are transmitted and acquired like land, viz. , by hazakah.

(10) From which it was deduced that she can be acquired by deed.

(11) Lit., 'what (reason) do you see' (for interpreting it thus)? Perhaps Lev. XXV, 46 teaches, only they are acquired by deed, but not another, while Ex. XXI, 7 intimates, she shall not go out . . . but may he acquired as menservants, viz., by hazakah?

(12) Hence, just as it is effective in one instance, so also in another, viz., the acquisition of a slave. — Tosaf.: he could also have said: Because it brings a Jewish daughter into the married state, which is more appropriate, both then referring to acquisition, but a 'deed' is explicitly stated in connection with divorce. A proselyte who dies without Jewish issue has no legal heirs and his property after death falls to the first occupier by means of hazakah.

(13) And since it can acquire in one case, it can do so in another.

(14) And the purchase of a Hebrew bondmaid is also this: v. p. 45, nn. 7, 9.

(15) To shew that 'she shall not go out etc.', teaches that she may be acquired by deed, as is implied by the analogy of 'another'.

(16) Since on his view, 'if he take another' is sufficient to shew that she is acquired by deed.

(17) V. p. 68, n. 4, which is extended to outstanding limbs.

(18) Surely that is the purpose of the verse!

(19) Lit., translation.

(20) The law itself, as stated by R. Huna; while the emphasis on going out' shews that she may, however, come in, i.e., be acquired as they are.

(21) Ex. XXI, 2.

(22) Lev. XXV, 40.
(23) Ex. XXI, 8.
(24) V. p. 60, n. 1, and the same applies to a bondman.
(25) Lev. XXV, 51.
(26) He shall return implies that a return may be made in any way desired.
(27) [In so far as the master could assign to him a Canaanite maidservant for procreation. Nahmanides, quoted by S. Adreth, Kiddushin, a.l.]
(28) I.e., the sum due for the remainder of the term of bondage.
(29) And the master can reclaim him whenever he wishes. Therefore it is insufficient merely to dismiss him, but he must give him a deed.
(30) Lit., 'acquires herself.'
(31) I.e., evidence of puberty.
(32) As stated in the Mishnah, 14b.
(33) In that he does not transmit his rights to her earnings to his heirs.
(34) Lit., 'leaves over.'
(35) It is reasonable that several items are omitted, but not just one.
(36) For his heirs do not inherit her; infra 17b.
(37) That you say the Tanna also omits her father's death.
(38) That the maid is freed by her father's death, since nothing else is omitted.
(39) The term of six years and the proportionate repayment of the purchase price and the Jubilee are all fixed and ascertainable.
(40) Not all women receive the evidences of puberty at the same age.

Talmud - Mas. Kiddushin 16b

below.[1] For ii was taught: If a male, aged nine years, grew two hairs,[2] it is a mole;[3] from nine years and a day until twelve years and a day, remaining in him,[4] they are a mole. R. Jose son of R. Judah said: They are a 'sign'.[5] At thirteen years and one day, all admit that they are a 'sign'.[6]

R. Shesheth objected: R. Simeon said: Four are presented with gifts [on becoming free], three in the case of a man, and three in the case of a woman. And you cannot say four in the case of either, because 'signs' do not apply to a man, nor boring to a woman.[7] Now if this[8] be correct, the father's death should also be taught? And if you answer: Here too he teaches [some] and omits [others] — but he states 'four'?[9] And if you answer: He teaches [only] that which is fixed, but not that which is not fixed — but what of 'signs', which are not fixed and which he nevertheless teaches? And if you reply: Here too it is as R. Safra — but there is the master's death, which is likewise not fixed, and yet taught? — The master's death too is not taught. Then what are the four? — [i] Years, [ii] jubilee,[10] [iii] jubilee for him whose ear was bored, and [iv] a Hebrew bondmaid [freed] by 'signs'. Reason too supports this view. For the second part teaches: 'And you cannot say four in the case of either, because "signs" do not apply to a man, nor boring to a woman. Now if it be so,[11] then in the case of a woman at least four may be found.[12] This proves it.

R. 'Amram objected: Now, the following are furnished with gifts: He who is freed by [six] years, by jubilee, and by his master's death, and a Hebrew bondsmaid [freed] by 'signs'. But if this be correct, the father's death too should be taught. And should you answer: He teaches and leaves over-but he states 'the following'?[13] And should you reply: He teaches that which is fixed, but not that which is not fixed — but what of 'signs', which are not fixed, and which he nevertheless teaches? And should you answer: Here too, it is as R. Safra — but there is the master's death! This refutation of Resh Lakish is indeed a refutation. But Resh Lakish reasoned a minori! — It is an a minori which can be refuted. For one can refute it [thus]: as for 'signs', that is because there is a physical change [in her];[14] will you say [the same] of her father's death, seeing that there is no physical change?[15]

One [Baraitha] taught: The outfit of a Hebrew male slave[16] belongs to himself, and that of a Hebrew female slave to herself. While another [Baraitha] taught: the outfit of a Hebrew female slave, and her findings, belong to her father, and the master can claim only for loss of time.[17] Now surely one [Baraitha] refers to where she was liberated by ‘signs’,[18] while the other means that she was liberated by her father's death?[19] — No: both [Baraithas] refer to liberation by ‘signs’, yet there is no difficulty. In the one case she has a father, in the other she has not.

Now, as for [teaching,] ‘The outfit of a female slave belongs to herself,’ that is well, [for] it is to exclude her brothers,[20] For it was taught: And ye shall make them [the heathen slaves] an inheritance for your sons after you[21] — ‘them’ for your sons, but not your daughters for your sons. Hence we learn that one cannot transmit his rights in his daughters to his sons. But as for ‘the outfit of a male slave belongs to himself — that is obvious! to whom else should it belong? — Said R. Joseph: I see here a yod [turned into a] town.[22] Abaye said: Thus did R. Shesheth say: Who is the authority for this? Totai. For it was taught: Totai said: [Thou shalt furnish] him [liberally][23] — him, but not his creditor.[24]

[To turn to] the main text [above:] ‘Now, the following are furnished with gifts: — He who is freed by years, jubilee, and his master's death, and a Hebrew bondmaid [freed] by "signs". But no gift is made to a runaway, or him who is freed by a deduction from his purchase price. R. Meir said: No gift is made to a runaway; but he who is freed by a deduction from the purchase price is furnished with a gift. R. Simeon said: Four are presented with gifts, three in the case of a man, and three in the case of a woman. And you cannot say four in the case of either, because "signs" do not apply to a man, nor boring to a woman’. How do we know this? — For our Rabbis taught: I might think that only he who is freed by six [years] is furnished with a gift; how do I know to include one who is freed by jubilee or by his master's death, and a Hebrew bondmaid [freed] by signs? From the verses, thou shalt let hint go free from thee. And when thou lettest him go free from thee.[25] [Again] I might think that I include a runaway and one who goes out through a deduction from the purchase price — therefore it is stated: ‘and when thou lettest hint go free from thee,’ teaching, only he whose dismissal is from thee,[26] thus excluding a runaway and one who is freed by deduction from the purchase price, whose dismissal is not from thee.[27] R. Meir said: A runaway is not furnished with a gift, since his dismissal is not from thee: but one who is freed by deduction from the purchase price, whose dismissal is from thee,[28] [is presented with a gift]. A runaway? But he must complete [his term]?[29] For it was taught: How do we know that a runaway is bound to complete [his term]? From the verse, six years he shall serve.[30]

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(1) [They serve as evidence whenever they appear after a certain age, but not if they appear before.]

(2) The normal evidence of puberty.

(3) But not signs of puberty; hair grows out of a mole.

(4) All the time, and not falling out.

(5) Of puberty. But had they fallen out, he too admits that it is only a mole.

(6) Even if they subsequently fall out.

(7) R. Shesheth assumes that the four are: (i) one who is freed on the expiration of six years; (ii) by jubilee; (iii) he whose ear was bored, freed by his master's death; and (iv) a Hebrew bondmaid freed by ‘signs.’

(8) Resh Lakish's ruling.

(9) Which shews that the number is exact.

(10) If it comes before the end of six years.

(11) That the master's death is taught, as originally assumed.

(12) (i) Her master's death; (ii) six years; (iii) jubilee, and (iv) ‘signs.’

(13) Which indicates only those.

(14) Having attained puberty, she is not really the same person who was sold.

(15) Surely not.

(16) I.e., the gifts with which he is sent away at the end of six years.
(17) Involved in her finding.
(18) Her father still being alive — then the gift belongs to her father.
(19) Which supports Resh Lakish.
(20) Though it would have belonged to her father, had he lived, he does not transmit it as a legacy to his sons, her brothers.
(21) Lev. XXV, 46.
(22) ‘A mountain out of a molehill’: the yod, being only a small letter, has grown into a whole town! The Tanna has swelled his Baraitha by the inclusion of superfluous matter.
(23) Deut. XV, 14.
(24) The gift must not be passed on to the slave's creditor, and that is the Baraitha's teaching.
(25) Ibid. 12, 13 ; the repetition teaches that whatever the cause of his freedom, he must be furnished with a gift.
(26) I.e., with the master's good will.
(27) Since the master is bound to accept a refund, even against his will.
(28) So he regards it.
(29) After which he should certainly receive a present.
(30) Ex. XXI, 2; he must complete the period.

Talmud - Mas. Kiddushin 17a

I might think, even if he fell sick,[1] therefore, it is stated, and in the ‘seventh he shall go outfree’! — R. Shesheth answered: The reference here is to one who escaped, and then jubilee supervened:[2] I might have thought, since jubilee would have emancipated him, we apply to him, ‘his dismissal is from thee,’ and do not punish but furnish him with a gift. Therefore we are informed [that it is not so].

The Master said: ‘I might think, even if he fell sick, therefore it is stated: "and in the seventh he shall go out free ". ‘Even if he was sick the whole of the six [years]? But it was taught: If he was sick three years and served three years , he is not bound to complete [his term]; but if he was ill the whole of the six years, he is bound to make it up! — R. Shesheth replied: This means that he was able to perform needle-work.[3]

This is self-contradictory. You say: ‘If he was sick three years and served three years, he is not bound to complete [his term]’: which implies, if four years he must complete [it]. Then consider the second clause: ‘but if he was ill the whole of the six years, he is bound to make it up’ — implying, if [only] four, he is not? — This is its meaning:[4] if he was four years ill, it is accounted as though he were indisposed the whole of the six years, and he must make it up.

Our Rabbis taught : With how much is he [the freed slave] presented? With five sela's [worth] of each kind,[5] which is fifteen sela's in all: this is R. Meir s view. R. Judah maintained: Thirty, as the thirty [paid] for a [heathen] slave.[6] R. Simeon said: Fifty, as the fifty of ‘arakin.[7]

The master said: ‘With five sela's [worth] of each kind, which is fifteen sela's: this is R. Meir's view.’ Does then R. Meir come to teach us arithmetic? — He tells us this: He may not indeed diminish his total, but if he gives him less of one kind and more of another, we have no objection. What is R. Meir's reason? — He learns the meaning of ‘empty’ from a firstborn:[8] just as there, five sela's is meant , so here too five sela's is meant. Then perhaps five sela's in all? — Were ‘empty’ written at the end [of the verse],[9] [it would be] as you say. Now, however, that ‘empty’ is written at the beginning,[10] apply [the word] ‘empty’ to ‘flock’, ‘threshing-floor,’ and ‘wine-press’ individually. But let us learn the meaning of ‘empty’ from the pilgrimage burnt-offering?[11] — Scripture saith, as the Lord thy God hath blessed thee [thou shalt give unto him].[12]

‘R. Judah maintained: Thirty, as the thirty [paid] for a [heathen] slave.’ What is R. Judah's reason? — He learns the meaning of ‘giving’ from a slave:[13] just as there, thirty is meant, so here too, thirty is meant. But let us learn the meaning of ‘giving’, from ‘arakin:[14] just as there, fifty, so here too, fifty? — Firstly, because if you seize much, you cannot hold; if you seize little, you can hold;[15] moreover, one should rather deduce slave from slave. ‘R. Simeon said: Fifty, as the fifty of ‘arakin.’ What is R. Simeon's reason? — He learns the meaning of ‘giving’ from ‘arakin: just as there, fifty, so here too, fifty. But perhaps [the comparison is] with the least [sum] of ‘arakin?[16] — It is written, as the Lord thy God hath blessed thee.[17] But let us learn the meaning of ‘giving’ from a slave: just as there, thirty, so here too thirty: [for] firstly, if you seize much, you cannot hold; if you seize little, you can hold; and moreover, one should rather deduce slave from slave? — R. Simeon deduces ‘poverty’ from ‘poverty’.[18]

Now, as for R. Meir, it is well: for that reason[19] ‘flocks, threshing floor’ and ‘wine.press’ are [specifically] stated. But on the views of R. Judah and R. Simeon, why are these necessary?[20] — They are necessary, even as it was taught: I might think that the gift can be made only of flocks, the threshing-floor, and the wine-press: how do I know that all things are included? From the verse: ‘as [i.e., with whatever] the Lord thy God hath blessed thee thou shalt give unto him’. If so, why state ‘flocks, threshing-floor, and wine-press’? To inform you: just as these are distinguished in that they fall within the scope of ‘blessing’, so must everything [given to the slave] fall within the scope of ‘blessing’, thus excluding cash money:[21] this is R. Simeon's view. R. Eliezer b. Jacob said: excluding mules.[22] And R. Simeon?[23] — Mules are themselves capable of improvement. And R. Eliezer b. Jacob?[24] — One can engage in business with money.[25] Now, they are [all] necessary. For had Scripture mentioned ‘flocks’, I would have thought, only livestock [may be given], but not agricultural produce: [therefore] Scripture wrote ‘threshing.floor’. And had it written ‘threshing-floor’, I would have said, only agricultural produce; [therefore] Scripture wrote ‘threshing-floor’. And had it written ‘threshing-floor’, I would have said, only agricultural produce, but not livestock: hence Scripture wrote ‘flocks’. Why do I need ‘wine-press’?

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(1) During the period, he is bound to make up for it after the six years.

(2) Immediately — say, a day after.

(3) I.e., light work — then he is not bound to complete his term. — Krauss, T.A. 1, 159 translates: Schneiderhandwerk, hand tailoring.

(4) Of the second clause.

(5) Viz., ‘out of thy flock, and out of thy threshing floor (i.e., grain), and out of thy winepress’ — Deut. XV, 14.

(6) Killed by an ox, v. Ex. XXI, 32.

(7) V. Glos. If one vows his own worth to the Temple. he must pay according to a fixed scale, which in the case of an adult man is fifty sela's; Lev. XXVII, 3.

(8) Here: thou shalt not let him go empty — Deut. XV, 13 ; firstborn; All the firstborn of thy sons thou shalt redeem. And none shall appear before me empty — Ex. XXXIV, 20. A firstborn is redeemed with five shekels — Num. XVIII, 16.

(9) ‘Thou shalt furnish . . . thy wine-press; and thou shalt not let him go empty.

(10) Before the enumeration of the three kinds.

(11) Lit., ‘the burnt offering of appearing’ cf. Ex. XXIII, 14, 15: Three times thou shalt keep a feast unto me in the year . . . and none shall appear before me empty. This is interpreted in Hag. 2a and 6a that a burnt-offering must be brought, the minimum value of which must be either two silver ma'ahs or one silver ma'ah according to Beth Shammai and Beth Hillel respectively. Why then not assume the same here?

(12) Deut. XV, 14; hence the deduction of the larger sum from the firstborn.

(13) Here: thou shalt give unto him; slave: If the ox gore a manservant or a maidservant, he shall give unto that master thirty shekels of silver — Ex. XXI, 32.

(14) Actually, ‘giving’ is not mentioned in the whole passage on ‘arakin (Lev. XXVII, 1-8). It is probable, however, that the Talmud here relies on a Baraitha in Hul. 139a, which states that the verse, then he shall give thine estimation in that day, as a holy thing unto the Lord (v. 23) refers to the valuation of man, notwithstanding that the section as a whole (vv. 22f) deals with the sanctification of fields (S. Strashun).

(15) I.e., given a choice of two deductions, select that which gives the smaller number.

(16) Five shekels, Lev. XXVII, 6.

(17) V. p. 75, n. 5.

(18) [Or, ‘he learnt on tradition (from his teacher; the deduction of) ‘arakin ‘poverty" (from) ‘poverty" ‘it being the rule that no one may draw a conclusion from a qezerah shawah on one's own authority, v. Pes. 66a and Rashi.] Not ‘giving’ from ‘giving’. — Slave: and if thy brother be waxen poor with thee, and sell himself unto thee — Lev. XXV, 39: ‘arakin: but if he be poorer than thy estimation etc., — ibid. XXVII, 8. Hence the two passages illumine each other, and shew that a slave's gift is fifty sela's.

(19) Sc. the deduction of ‘empty’ should be applied to each kind separately.

(20) Since the sum is learnt from elsewhere, while the gift need not be of these three in particular, as stated in the following Baraitha.

(21) These may be blessed by God in respect of natural increase. But money has no natural increase.

(22) Which were considered unproductive; cf. Meg. 13 b, Gen. Rab.41 ; the mule was held to be a hybrid. cf. Pes. 54a: Adam took two animals (of different kinds) . . . and from them ‘came forth a mule’: v. Lewysohn, Zoologie, p. 144.

(23) Why does he not exclude mules?

(24) Why does he not exclude money?

(25) And it is thus capable of a blessing.

Talmud - Mas. Kiddushin 17b

— According to one Master, to exclude money; according to the other, to exclude mules.

Our Rabbis taught : 'As the Lord thy God hath blessed thee': I might think, if the house was blessed on his account 'a gift is made to him; but if the house was not blessed on his account, no gift is made to him; therefore Scripture states, thou shalt surely furnish him [etc.], teaching, in all cases.[1] If so, what is intimated by 'as [the Lord thy God] hath blessed thee'? Give him according to thy blessing.[2] R. Eleazar b. Azariah said: The matter is as it is written: if the house was blessed on his account, a gift is made to him; if the house was not blessed on his account, no gift is made to him. If so, what is intimated by 'thou shalt surely furnish him'? The Torah employed human idiom.[3]

Our Rabbis taught: A Hebrew male slave serves [his master's] son, but does not serve [his] daughter;[4] a Hebrew female slave serves neither son nor daughter; one who was bored, or is sold to a heathen, serves neither son nor daughter. The Master said: 'A Hebrew male slave serves [his master's] son, but not [his] daughter.' How do we know this? — For our Rabbis taught: [If thy brother . . . be sold unto thee,] he shall serve thee six years[5] — thee, but not thine heir'.[6] You say: 'thee, but not thine heir': yet perhaps it is not so, but 'thee, but not thy son'? When it is said, six years he shall serve,[7] the son is included;[8] then how am I to interpret,[9] he shall serve thee six years? Thee, but not thine heir. Why do you choose[10] to include the son and exclude the brother? I include the son, because he arises in his father's place to designate her,[11] and in respect of an ancestral field.[12] On the contrary, I should include the brother, since he takes his brother's place for yibum?[13] Is there yibum excepting in the absence of a son? but if there is a son, there is no yibum. Now it is only because there is this refutation; but otherwise, the brother would be preferable? Yet it [the reverse] may be inferred from the fact that here [in the case of a son] there are two [points in his favour], whereas there, only one? — [The preference for a son in respect of] an ancestral field is likewise inferred from this same refutation: is there yibum excepting in the absence of a son?[14]

'A Hebrew female slave serves neither son nor daughter.' Whence do we know this? — Said R. Papa, Because Scripture writes, [And . . . if he say unto thee, I will not go out from thee . . . then thou shalt take an awl, and thrust it through his ear . . .] and also unto thy bondwoman thou shalt do likewise:[15] thus Scripture assimilated her to one who is bored. Just as the latter serves neither son nor daughter, so the former too serves neither son nor daughter. Now this [verse,] 'and also unto thy bondwoman thou shalt do likewise' — does it come to teach this? But it is required for what was taught: And also unto thy bondwoman thou shalt do likewise — i.e., furnish [her with] a gift. You say, furnish a gift; yet perhaps it is not so, but in respect to boring? When it is stated: But if the manservant shall plainly say,[16] boring is already dealt with:[17] how then do I interpret[18] and also unto thy bondwoman thou shalt do likewise? In respect of a gift! If so,[19] Scripture should write, 'and also to thy bondwoman likewise;[20] why state, 'thou shalt do'? [Hence] both may be inferred.

'One who was bored, or is sold to a heathen, serves neither son nor daughter.' One who was bored, for it is written, and his master shall bore his ear through with an awl: and he shall serve him for ever,[21] — but neither son nor daughter. Whence do we know it of one who is sold to a heathen? — Said Hezekiah, because Scripture writes, And he shall reckon with his purchaser[22] — but not with his purchaser's heirs. Raba said: By Biblical law, a heathen is his father's heir, for it is said: 'and he shall reckon with his purchaser', [implying,] but not with his purchaser's heirs, whence it follows that he has heirs. [But the succession of] a proselyte [to the estate of] a heathen is not in accordance with Biblical law but by the law of the Soferim.[23] For we learnt: If a proselyte and a heathen succeed their father, a heathen: the proselyte may say to the heathen, 'You take the idols, I [will take] money'; 'you take the wine of libation[24] and I will take fruit.' But once they[25] have come into the proselyte's possession, this [exchange] is forbidden.[26] Now, should you think that [the proselyte succeeds] by Biblical law, even if they have not yet come into his possession, when he takes [the money or the produce], he takes something in exchange for an idol![27] Hence it [his succession] is [only] by Rabbinical law, the Rabbis having enacted a preventive measure, lest he return to his evil ways.[28] It has been taught likewise: When was this said? If they inherited [the property]. But if they went into partnership,[29] it is forbidden.[30] A heathen [succeeds] a proselyte, or a proselyte [succeeds] a proselyte, neither by Biblical law nor by the law of the Soferim. For we learnt:[31] If a man borrows money from a proselyte whose children were converted together with him, he must not return it to his children,[32] and if he does, the spirit of the Sages is not pleased with him. But it was taught:[33] The spirit of the Sages is pleased with him? — There is no difficulty. The former refers to where his [sc. the child's] conception and birth were not In sanctity:[34]

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(1) Expressed by the emphasis in the doubling of the verb (translated here, 'surely'; E.V. 'liberally').

(2) Rashi: the amounts stated above are the minimum, but should be increased proportionately to the blessing received.

(3) Where this repetition of the verb is quite common, and has no particular significance, v. B.M. 31b.

(4) If the master died within the six years, leaving one of these as his heir.

(5) Deut. XV, 12.

(6) Other than the son.

(7) Ex. XXI, 2.

(8) Lit., 'stated,' since 'thee' is not mentioned.

(9) Lit., 'fulfil'.

(10) Lit., 'see'.

(11) Sc. a female slave, as his wife; v. p. 45, n. 9.

(12) If one sanctifies an ancestral field, he can redeem it at a fixed rate, proportionate to its area, after which it belongs to him for good. If he does not redeem it, the Temple treasurer sells it, and it belongs to the purchaser until jubilee, when it becomes the property of the priests. But if the sanctifier's son redeems it, it is as though he himself does so, and it remains his for good.

(13) V. Glos.

(14) But it is not explicitly stated. For fuller notes, v. B.B. (Sonc. ed.) pp. 449ff.

(15) Deut. XV, 16f.

(16) Ex. XXI, 5.

(17) I.e., manservant excludes maidservant.

(18) Lit., 'fulfil'.

(19) That the only purpose of the verse is as stated before.

(20) Which would suffice for the analogy.

(21) Ex. XXI, 6.

(22) Lev. XXV,50; the verse treats of redeeming a Jewish slave from a heathen owner.

(23) Lit., 'scribes,' the designation of the early body of teachers beginning with Ezra and ending with Simeon the Just, though sometimes it would appear to apply to later Talmudists too; e.g., in R.H. 19a. The Rabbis derive the word from safar, to count: hence the body who counted the letters of the Torah or grouped subjects by number; e.g., four chief causes of damage, thirty-nine principal modes of labour forbidden on the Sabbath (infra 30a; Sanh. 106b). Weiss, Dor, I, 50, maintains that they were so called on account of their skilled calligraphy; and also, because they taught from a scroll (sefer). This body has been identified with the Men of the Great Synagogue (Z. Frankel, Darke ha-Mishnah, p. 8; N. Krochmal, More Nebuke ha-Zeman, ch. X, 186). Weiss op. cit. p. 58 maintains that they were separate bodies, though their objects were alike. The Soferim were the theoretical scholars who interpreted the law; the Men of the Great Synagogue were the practical legislators.

(24) Wine handled by a Gentile, so called as he might have dedicated the wine for a libation to a heathen deity.

(25) Sc. the idols or the wine.

(26) Because one may not benefit from these in any way.

(27) For if he inherits by Biblical law, he automatically has a half-share in everything, whether he has taken possession or not.

(28) For the sake of the estate. — The reason that he cannot succeed by Biblical law is that 'a proselyte is as a new-born babe,' who has no kinsmanship whatsoever with any of his pre-conversion relations.

(29) In a business, or in property, among which were idols and forbidden wine.
(30) Which proves that he does not inherit by Biblical law, for in that case it would be partnership.
(31) [This is no Mishnah, hence Var. lec. ‘it has been taught’.]
(32) Because they are not his heirs.
(33) [This is a Mishnah, Sheb. X, 9, hence Var. lec., ‘we learnt’.]
(34) I.e., before the father's conversion. If the debtor returns the money to his child, he ipso facto recognises him as heir against the desire of the Rabbis, who held that there is absolutely no relationship between them.

Talmud - Mas. Kiddushin 18a

the latter to where his conception was not In sanctity, but his birth was.[1] R. Hiyya b. Abin said in R. Johanan's name: A heathen succeeds his father by Biblical law, since it is written, because I have given Mount Seir unto Esau for an inheritance.[2] Yet perhaps an apostate Israelite is different?[3] — But [it follows] from this: Because I have given Are unto the children of Lot as a heritage.[4] Now, R. Hiyya b. Abin, why does he not agree with Raba? — Is it then written: ‘And he shall reckon with his purchaser’ but not with his purchaser's heirs! And Raba, why does he not agree with R. Hiyya b. Abin? — There it is different, [it being] on account of Abraham's honour.[5]

Our Rabbis taught: A Hebrew bondman has features which a Hebrew bondwoman lacks, and there are features in a Hebrew bondwoman which a Hebrew bondman lacks. A Hebrew bondman has [these] features, viz.: he goes out [free] through [the passage of six] years, by jubilee, and by his master's death, which is not so in the case of a Hebrew bondwoman. And a Hebrew bondwoman has [these] features, viz.: a Hebrew bondwoman goes out by ‘signs’, she cannot be sold and re-sold, and is redeemed against her will, which is not so in the case of a Hebrew bondman.

The Master said: ‘A Hebrew bondman has features which a Hebrew bondwoman lacks.’ But the following contradicts this: A HEBREW MAIDSERVANT IS MORE [PRIVILEGED] THAN HE, IN THAT SHE ACQUIRES HERSELF BY ‘SIGNS’![6] — Said R. Shesheth: E.g., if he designated her [as his wife].[7] ‘He designated her?’ But that is obvious: she needs a divorce! — I might have thought, The regulations[8] are not annulled in her case. Hence we are informed otherwise. If so, why does she go out free by ‘signs’? — This is its meaning: If he [her master] did not designate her, she goes out free by ‘signs’ too.

‘And she cannot be sold and re-sold.’ Hence it follows that a Hebrew male slave may be sold and re-sold. But it was taught: [If he have nothing, then he shall be sold] for his theft,[9] but not for his double repayment;[10] ‘for his theft,’ but not for his refuted testimony;[11] for his theft’: having been sold once, he may not be sold again! — Said Raba: There is no difficulty: the latter refers to one theft, the former to two thefts. Abaye demurred: ‘for his theft’ may imply even many thefts![12] But, said Abaye, there is no difficulty; the latter refers to one man, the former to two men.[13]

Our Rabbis taught: If his theft was thousand [zuz], and he was [only] worth five hundred, he is sold and then sold again.[14] If his theft was five hundred, whereas he is worth thousand, he is not sold at all. R. Eliezer said: If his theft corresponded to his purchase price,[15] he is sold; if not, he is not sold. Raba said: In this matter R. Eliezer triumphed over the Rabbis. For why is it different if his theft was five hundred and he was worth thousand, that he is not sold: because Scripture said: ‘then he shall be sold’ — all of him, but not half? Then here too,[16] Scripture ordered, ‘he shall be sold for his theft,’ but not for half his theft.

‘And is redeemed against his will.’ Raba thought to interpret: against the master's will. Said Abaye to him: How so — that a bond is drawn up for him for her value? But why:[17] he holds a pearl in his hand — shall we give him a shard?[18] But, said Abaye, against her father's will,[19] on account of the family disgrace. If so, in the case of a Hebrew bondman too, let the members of his family [be forced to redeem him] on account of the family disgrace? — Then he will go and sell himself again. Then here too, he [the father] will go and sell her again? — Was it not taught: She cannot be sold and then sold again? And this agrees with R. Simeon. For it was taught: A man may sell his daughter for marital relationship, and then repeat it;[20] for servitude, and then repeat it,[21] for marriage after servitude,[22] but not for servitude after marriage. R. Simeon said: Just as a man cannot sell his daughter for servitude after marriage, so a man cannot sell his daughter for servitude after servitude. Now this enters into the dispute of the following Tannaim. For it was taught: [To sell her unto a strange people he shall have no power], seeing he hath dealt deceitfully with her [be-bigedo bah]:[23]

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(1) Then the Rabbis are pleased that he returns it (Rashi).

(2) Deut. II, 5.

(3) Esau having been such. — Though all people, including Abraham and his descendants, were accounted as Noachides until the Revelation, and thus not subject to Jewish law (cf. Sanh. p. 384, n. 6), it would appear that this was not held to apply to inheritance, probably because Palestine itself was given to the Jews as a heritage from Abraham.

(4) Deut. II, 9.

(5) For that reason the descendants of Lot, Abraham's nephew, were given the privilege of inheritance.

(6) 'More privileged' implies that 'signs' are additional.

(7) Then she is not freed by these.

(8) Relating to a Hebrew bondwoman.

(9) Ex. XXII, 2.

(10) A convicted thief had to repay double; ibid. 3.

(11) Lit., 'his scheming.' If one preferred a false charge, he was punished with the same penalty that he had sought to impose; v. Deut. XIX, 19. But if he falsely testified to theft, though he thereby sought to have the accused sold as a slave, if he could not make restitution, he is nevertheless not sold himself.

(12) 'Theft' being understood generically.

(13) If he robs one man, even twice, and is charged with both thefts simultaneously, he can only be sold once. But if he robs two men, each of whom sues him at court at different times, he may be sold twice. Tosaf. reverses it.

(14) This is the reading of curr. edd. The Wilna Gaon and Maim. read: he is sold but not sold again. This is preferable, and agrees with the previous statements.

(15) Being neither more nor less.

(16) If his theft was thousand and he is worth five hundred.

(17) Must he accept it?

(18) With a double meaning: he holds something of value, must he accept something valueless; also, must he accept the shard on which such a bond may be written?

(19) If he can afford it, he is forced to redeem her (Rashi). Tosaf.: the family is compelled to redeem her against her father's desire, who may not wish to have her back at home and to keep her.

(20) One may accept kiddushin on behalf of his daughter, a minor: and if she is widowed or divorced while an arusah (q.v. Glos.) he can do so again, on each occasion the money of kiddushin belonging to himself.

(21) If she became free through six years, jubilee, or her master's death, and is still a minor (ketannah).

(22) Having been freed from servitude, she can then be given in marriage.

(23) Ex. XXI, 8.

Talmud - Mas. Kiddushin 18b

once he spread his cloak over her,[1] he can no longer sell her: this is R. Akiba's view.[2] R. Eliezer said: seeing he hath dealt deceitfully with her — having dealt deceitfully with her,[3] he may not sell her [again]. Wherein do they differ? R. Eliezer maintains: the traditional text [i.e., letters without vowels] is authoritative;[4] R. Akiba maintains: the text as read is authoritative; whereas R. Simeon holds: both the traditional text and the vocalization are authoritative.[5]

Rabbah b. Abbuhah propounded: Does designation[6] effect nissu'in or erusin? The difference is in respect of inheriting her property, defiling himself on her account, and annulling her vows.[7] What is the law? — Come and hear: ‘Seeing that he hath dealt deceitfully with her [be-bigedo bah]: once he spread his cloak over her, he can no longer sell her’. Thus, he merely may not sell her, yet may indeed designate her.[8] But if you say, it effects nissu'in, once she was married,[9] her father has no more authority over her. Hence we may surely infer that it effects erusin. R. Nahman b. Isaac said: The reference here is to kiddushin in general,[10] and this is its meaning: Once her father delivers her to one who becomes responsible for ‘her food, raiment and conjugal rights,’[11] he may no longer sell her.

Come and hear: He [the father] may not sell her to relations.[12] On the authority of R. Eliezer it was said: He may sell her to relations. And both agree that he may sell her, if a widow, to a High Priest, and if divorced, or a haluzah,[13] to a common priest.[14] Now [as to] this widow, how is it meant? Shall we say, that she accepted kiddushin for herself: can she be called a widow![15] Then It means that her father betrothed her — but a man cannot sell his daughter for servitude after marriage! And thereon R. Amram said in R. Isaac's name: The reference here is to the kiddushin of designation,[16] and [was taught] according to R. Jose son of R. Judah, who maintained: The original money was not given as kiddushin.[17] But if you say: It effects nissu'in: once she is married, her father no longer has any authority over her! — What then: it effects erusin? [Then how say,] ‘and both agree’ etc.; surely a man cannot sell his daughter to servitude after marriage! Then what can you answer: her own erusin differs from her father's?[18] Then even if you say that it effects nissu'in: her own nissu'in differs from her father's. How now? As for erusin differing from erusin, that is well;[19] but can nissu'in differ from nissu'in?[20]

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(1) I.e., given her in marriage; for this idiom cf. Ruth III, 9: spread therefore thy skirt over thy handmaid (i.e., take me in marriage).

(2) Deriving be-bigedo fr. beged, a garment.

(3) I.e., disgracefully, by selling her into slavery.

(4) V. Sanh. (Sonc. ed.) p. 4, n. 4.

(5) The traditional text is be-bagedo, seeing that he hath deceived, i.e., sold her; it is vocalised be-bigedo, with his garment, i.e., having married her.

(6) V. p. 45, n. 9.

(7) The heir of an arusah is her father; of a nesu'ah, her husband. A priest must (or may, v. Sotah 3a) defile himself on account of his deceased wife, if a nesu'ah, but not if an arusah. The vows of an arusah, if a na'arah (q.v. Glos.) can only be annulled by her husband and father jointly; those of a nesu'ah, by her husband alone.

(8) I.e., give her in marriage.

(9) I.e., with nissu'in.

(10) I.e., not a bondmaid's designation by her master.

(11) The phrasing is Biblical; cf. Ex. XXI, 10. I.e., once he accepted. kiddushin on her behalf.

(12) Who cannot designate her on account of consanguinity.

(13) V. Glos.

(14) Though these too may not designate her: v. Lev. XXI, 7 (this was extended to a haluzah too) and 14. The betrothal of consanguineous relations is forbidden, and if performed, invalid; that of a High Priest to a widow, or a common priest to a divorced woman or a haluzah, is likewise forbidden, but if performed, valid. Hence the difference.

(15) Surely not, since her actions have no validity. — The reference in the whole passage is necessarily to a minor, for only then can he sell her.

(16) I.e., her father sold her, then her master designated her and died, leaving her a widow.

(17) When one buys a bondmaid, the money he pays is not for the purpose of betrothal; and when he designates her, it is by the labour she owes him, not by the money he has given. Therefore her father can resell her after her master's death, and it is not regarded as servitude after betrothal, since he himself did not accept the original money as kiddushin.

(18) When her father receives kiddushin on her behalf, he loses his authority to sell her subsequently. But when she herself receives it (as explained p. 84, n. 10, that she is betrothed in virtue of the labour she owes her master), and thus receive the kiddushin — viz., the renunciation of her labour — herself, her father retains the right to sell her.

(19) For she does not altogether pass out of her father's control after erusin, e.g., in respect of inheritance and annulment of vows (p. 83, n. 1). Therefore it may be said that he loses the right to sell her only after he himself accepts kiddushin, but not after she does so by means of designation.

(20) Since nissu'in completely frees her from her father's authority, it does not matter at whose instance it is effected.

Talmud - Mas. Kiddushin 19a

Now, according to R. Nahman b. Isaac, who maintained: Even on the view of R. Jose son of R. Judah, the original money was given for kiddushin,[1] how can he explain it? — He explains it as agreeing with R. Eliezer, who held: It is only for servitude after servitude that he may not sell her, but he can sell her to servitude after marriage.

Resh Lakish propounded: Can a man designate [his bondmaid] for his son, a minor? The All-Merciful said, his son,[2] — his son, whatever his state; or perhaps, 'his son' must be similar to himself: just as he is an adult, so must his son be an adult?[3] — Said R. Zera, Come and hear: [And a man that committeth adultery with another man's wife]:[4] 'a man' excludes a minor; 'that committeth adultery with another man's wife' excludes the wife of a minor. But if you say that he can designate, if so, we find matrimonial relationship in the case of a minor.[5] What then: he cannot designate? Why does Scripture exclude it?[6] [Then on the contrary] solve [the problem] from this that he can designate![7] — Said R. Ashi: The reference here is to a yabam, aged nine years and a day, who had intercourse with his yebamah, who is tied[8] to him by Scriptural law.[9] I might have thought, since she is tied to him by Biblical law and his intercourse is intercourse,[10] he who has intercourse with her incurs the penalty for [adultery with] a married woman: hence we are informed [that it is not so].

What is our decision on the matter? — Come and hear: For R. Aibu said in R. Jannaiðs name: Designation can be performed only by an adult; designation is only by consent.[11] [Are these] two [statements]?[12] — He states the reason: What is the reason that designation can be performed only by an adult? Because designation is only by consent. Alternatively, what is the meaning of, 'by consent'? 'By her consent.' For Abaye son of R. Abbahu[13] recited: [If she please not her master,] who hath not espoused her [ye'adah]: this teaches that he must inform her [that he intends to designate her.][14] He recited it and he explained it: This refers to betrothal by designation, and is in accordance with R. Jose son of R. Judah, who maintained, The original money was not given as kiddushin.[15] R. Nahman b. Isaac said: Even if you say that it was given as kiddushin,[16] here it is different, because Scripture expressed [betrothal by the word] ye'adah.[17]

What is the reference to R. Jose son of R. Judah? — For it was taught: '[If she please not her master,] who hath espoused her to himself,[18] then he shall let her be redeemed': [this teaches,] there must be sufficient time [left] of the day to necessitate redemption.[19] Hence R. Jose son of R. Judah ruled: If there is sufficient time in that day for her to do work to the value of a perutah, she is betrothed. This proves that in his opinion the original money was not given as kiddushin.[20] R. Nahman b. Isaac said: You may even say that it was given as kiddushin, yet here it is different, since Scripture said: 'then he shall let her be redeemed.'[21]

Raba said in R. Nahman's name: A man can say to his daughter, a minor, 'Go forth and receive thy kiddushin.' [This follows] from R. Jose son of R. Judah['s dictum]. Did he not say: The original money was not given as kiddushin? Yet when he [the master] leaves her a perutah's worth [of her labour] it is kiddushin;[22] [hence] here too It is not different.

Raba also said in R. Nahman's name, If a man betroths [a woman] with a debt upon which there is a pledge,[23] she is betrothed. [This follows] from R. Jose son of R. Judah['s dictum]: did he not say: The original money was not given as kiddushin? [Hence] this [her labour] is a loan,[24] and she herself is a pledge,

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(1) So that when her master designates her, her father is deemed to have received the kiddushin.
(2) And if he espouse her unto his son — Ex. XXI, 9.
(3) I.e., thirteen years and a day.
(4) Lev. XX, 10.
(5) Why then should the penalty for adultery — execution — not apply?
(6) Since a minor cannot have a wife.
(7) For that is the only way in which it is conceivable that a minor shall be married.
(8) Lit., ‘fit’.
(9) And therefore he acquires her by intercourse, though normally a minor's action has no force. Nine years and a day is the minimum age at which a male's intercourse counts, i.e., can engender.
(10) V. preceding note.
(11) Of the man; the first half solves Resh Lakish's problem.
(12) Actually, it is only one law: since the man's consent is necessary, it follows that he must be an adult, for a minor's consent is not recognised in law.
(13) [The name occurs nowhere else. MS.M. has ‘Abimi’ in the place of ‘Abaye’].
(14) Connecting ye'adah with de'ah, knowledge, information. [MS.M. reads: לידעה instead of ליעדה cf. cur. edd.]
(15) V. p. 84, n. 10; consequently, her father's consent is absent, and therefore he must inform her to obtain her consent (Rashi).
(16) So that the father's consent is automatically given when he sells her; nevertheless she too must be informed, and her consent obtained.
(17) Which has an affinity. with de'ah; v. n. 5.
(18) The written text is lo tk, ‘not’; but it is also read lo uk, ‘to himself.’
(19) If her master wishes to designate her on the very last day of her servitude, her labour still owing must be worth at least a perutah, so that she could be redeemed therefrom. Otherwise he cannot designate her.
(20) For if it were, he could betroth her at any time within the six years.
(21) Which shews that espousal and redemption are interdependent.
(22) Thus, it is she, a minor, who actually receives the kiddushin, and it is valid because in the first place her father, by selling her, authorized her ipso facto to receive it.
(23) And he betroths her by her pleasure at his remission of the debt, even if he does not actually return the pledge. The pledge referred to is one voluntarily given when the debt was contracted (Tosaf.). [Asheri: He betroths her with the debt itself (cf. supra p. 21, n. 9) and nevertheless where it is secured by a pledge it is not regarded as spent, and the betrothal is valid.]
(24) I.e., she owes it to her master, as any other debt.

Talmud - Mas. Kiddushin 19b

yet when he [the master] leaves her a perutah's worth [of her labour] and designates [her therewith], it is kiddushin; so here too, It is not different.

Our Rabbis taught: How is the law of designation [carried out]? He [her master] declares to her in the presence of two people, ‘Behold, thou art designated unto me,’[1] [or] ‘Behold, thou art betrothed unto me,’[or] ‘Behold, thou art become an arusah unto me: even at the end of the six [years] ,[2] even just before sunset. He must then treat her as a wife, not as a bondmaid. R. Jose son of R. Judah said: If there is sufficient time In that day for her to do work to the value of a perutah, she is betrothed; if not, she is not betrothed. This may be compared to a man who says to a woman, ‘Be thou betrothed unto me from now and after thirty days,’[3] and then another man comes and betroths her within the thirty days: [the law of designation teaches] that she is betrothed to the first. On whose view is this analogous? Shall we say, on R. Jose son of R. Judah's? But [he maintained:] If there is sufficient time in that day for her to do work to the value of a perutah, she is betrothed; if not, she is not betrothed![4] — Said R. Aha the son of Raba: It is analogous on the view of the Rabbis.[5] But that is obvious?[6] — I might have thought, But he [her master] did not say ‘from now’;[7] hence we are informed [that it is not so].[8]

Another [Baraitha] taught: If a man sells his daughter and then goes and betroths her to another man, her master is powerless,[9] and she is betrothed to the second: this is R. Jose son of R. Judah's view. But the Sages maintain: If he wishes to designate her, he can do so. This may be compared to a man who declares to a woman, ‘Behold, thou art betrothed unto me after thirty days,’ and another man comes and betroths her within the thirty days, then she is betrothed to the second.[10] On whose view is this analogous? Shall we say, on the Rabbis’? But they maintain: If he wishes to designate her, he can do so! — But, said R. Aha the son of Raba, it is analogous on the view of R. Jose son of R. Judah.[11] But that is obvious? — I might have argued, But he did not say to her, ‘After thirty days’;[12] hence we are informed otherwise.[13]

Another [Baraitha] taught: If a man sells his daughter and stipulates,’ on condition that he [her master] shall not designate [her],’ the condition is binding:[14] this is R. Meir's opinion. But the Sages maintain: If he wishes to designate her, he can do so, because he [her father] has stipulated contrary to what is written in the Torah, and he who makes a stipulation contrary to what is decreed in the Torah, his stipulation is null. Does then R. Meir hold that this stipulation is valid? But it was taught: If a man says to a woman, ‘Behold, thou art betrothed unto me on condition that thou hast no claims upon me of sustenance, raiment, and conjugal rights’ — she is betrothed, but the condition is null: this is R. Meir ðs view. R. Judah said: In respect of financial matters,[15] his condition is binding. — Said Hezekiah: Here it is different, because the Writ saith, [and if a man sell his daughter] to be a bondwoman:[16] sometimes he can sell her to be only a bondwoman.[17] And the Rabbis? How do they utilize this, ‘to be a bondwoman’! — They employ it, even as was taught: ‘To be a bondwoman’: this teaches that he can sell her to unfit persons.[18] But does this not follow a fortiori: if he can betroth her to unfit persons,[19] shall he not sell her to unfit persons?[20] — As for betrothing her to unfit persons, that may be because a man can betroth his daughter as a na'arah: shall he then sell her to unfit persons, seeing that a man cannot sell his daughter as a na'arah?[21] Therefore Scripture states: ‘to be a bondmaid’, teaching that he can sell her to unfit persons. R. Eliezer said: If it is to teach that he can sell her to unfit persons — behold, it was already said: ‘if she displease her master [so that he hath not espoused her],’ which means, she was displeasing in respect of marriage.[22] What then is taught by, ‘to be a bondwoman’? It teaches that he may sell her

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(1) So Bah.

(2) On the very last day, but before she actually completes it.

(3) I.e., kiddushin begin at this moment, but are not completed until thirty days, as though it were a long ceremony requiring all this time.

(4) Which proves that kiddushin do not commence at the beginning of her servitude, but only at the last moment. Hence here too, kiddushin commence at the end of the thirty days, and therefore if another man betroths her in the meantime, she is betrothed to the second.

(5) Since they maintain that the designation takes effect even when she can no longer do a perutah's worth of work, it must have commenced as soon as she was sold: otherwise, what effects her betrothal now? Hence the same applies to this.

(6) That this analogy may be drawn, the cases being so alike.

(7) Therefore in the analogous case, even if he says: ‘Thou art betrothed unto me after thirty days,’ and another man betroths her within the thirty days, she is betrothed to the first.

(8) The above explanation follows Rashi. Tosaf. explains it quite differently: This may be compared etc. Hence here too, if another man betroths her before her master designates her, she is not betrothed to the second, and the subsequent designation of her master takes effect, because the original money was given for kiddushin. ‘On whose . . . she is not betrothed’: which proves that he must actually give her something (sc. her labour, which is worth a perutah) at the end, when he designates her; therefore another man's intervention is valid, and she is betrothed to the second. ‘Said R. Aha . . . the Rabbis:’ just as there, so here too, and the intervention of another man before the master's designation is not valid. The rest is similar to Rashi's explanation.

(9) Lit., ‘he has laughed at the master.’

(10) Rashi and Tosaf. differ here as in the preceding passage.

(11) Rashi: just as her betrothal to the second is valid because her master did not designate her from the time he bought her, so here too. Tosaf. reverses the premise and the conclusion.

(12) Rashi: Her master did not state that he would designate her after a certain period, therefore the second man's betrothal is valid. But if one says: ‘Be betrothed to me after thirty days,’ I might have thought that she is betrothed to him, and the second man's betrothal is invalid. Tosaf.: her master did not state that he would designate her only after a certain period, and therefore I would have thought that the designation commences immediately, and the second man's betrothal is invalid.

(13) Rashi: Since Scripture empowered him to designate her as a result of the purchase, it is as though he had said that he would subsequently designate her; therefore the cases are entirely analogous. Tosaf.: Since he did not explicitly state, ‘from now,’ the designation commences only later; hence she is betrothed to the second.

(14) Lit., ‘fulfilled’.

(15) Viz., sustenance and raiment.

(16) Ex. XXI, 7.

(17) Hence the stipulation is not contrary to Scripture.

(18) I.e., who are forbidden to intermarry with Jews of unblemished birth, e.g.. a bastard, to whom he can sell her only for servitude and not designation.

(19) I.e., if he betroths her to a bastard, though it is forbidden, the betrothal is valid.

(20) Surely he can; then why deduce it from Scripture? It might be argued that whereas such betrothal is valid only if performed, we desire to prove now that one may at the very outset sell his daughter to an unfit person, and this vitiates the argument. But this rebuttal is fallacious: it is logical to distinguish in marriage between what is permitted at the very outset and what is valid only if done in defiance of the law; but there are no grounds for drawing this distinction in respect to a sale, and if the sale is valid when done, there is no reason for saying that it is not permitted in the first place (Maharsha). S. Strashun explains it differently.

(21) But only as a ketannah (q.v. Glos.). Hence his power of betrothal is greater than that of sale.

(22) I.e., forbidden to her master.

Talmud - Mas. Kiddushin 20a

to [consanguineous] relations.[1] But does this not follow a fortiori: If he can sell her to unfit persons,[2] shall he not sell her to relations?[3] As for selling her to unfit persons, that may be because if he[4] wishes to designate her [in spite of the interdict] he can do so;[5] shall he then sell her to [consanguineous] relations, seeing that if he wishes to designate her, he cannot? Therefore the Writ saith, ‘to be a bondwoman,’ teaching that he can sell her to relations. And R. Meir?[6] — [That he can sell her] to unfit persons he deduces from the same verse from which R. Eliezer deduces it; and in the matter of relations he agrees with the Rabbis, who maintain: He may not sell her to relations.

One [Baraitha] taught: He may sell her to his father, but may not sell her to his son. Another [Baraitha] taught: He may sell her neither to his father nor to his son. As for saying: ‘He may sell her neither to his father nor to his son,’ that is well, agreeing with the Rabbis. But ‘he may sell her to his father but may not sell her to his son’ — with whom does this agree; neither with the Rabbis nor with R. Eliezer? — After all, it agrees with the Rabbis: they admit [that he can sell her] where there is a possibility[7] of designation.[8]

Our Rabbis taught: If he come in by himself [be-gapo], he shall go out by himself [be-gappo][9] — he comes in with his [whole] body [be-gufo] and goes out with his [whole] body.[10] R. Eliezer b. Jacob said: Having come in single, he goes out single. What is meant by ‘he comes in with his [whole] body and goes out with his [whole] body’? — Said Raba: It means that he is not freed through [the loss of his] outstanding limbs, as a [heathen] slave. Abaye protested: But that is deduced from, ‘she shall not go out as the bondmen do’?[11] — If from there, I would have thought, He must pay for his eye, and then he goes free;[12] hence we are informed [otherwise]. ‘R. Eliezer b. Jacob said: Having come in single, he goes out single.’ What is meant by ‘he goes out single’? —

Said R. Nahman b. Isaac: This is meant: If he has a wife and children [when entering service], his master may give him a heathen[13] bondmaid;[14] if he has no wife and children, his master may not give him a heathen bondmaid.

Our Rabbis taught: If he was sold for a maneh, and appreciated [in value] and stood at two hundred [zuz], how do we know that he is assessed only at a maneh?[15] — Because it is written, [He shall give back the price of his redemption] out of the money that he was bought for.[16] If he was sold for two hundred and depreciated and stood at a maneh, how do we know that he is assessed only at a maneh? — Because it is written, according unto his years [shall he give back the price of his redemption].[17] Now, I know this only of a slave sold to a heathen: since he may be redeemed by his kinsmen, his [the master's] hand is nethermost.[18] How do we know it of one who is sold to a Israelite! — Because sakir [an hired servant] is stated twice, for the purpose of a gezerah shawah.[19]

Abaye said: Behold I am like Ben ‘Azzai in the streets of Tiberias.[20] One of the scholars said to Abaye: Consider: these verses may be interpreted leniently and stringently: why do you choose to interpret them leniently [to the slave's advantage]; let us interpret them stringently?[21] — You cannot think so, since the All-Merciful favoured[22] him. For it was taught: Because he is well with thee:[23] he must be with [i.e., equal to] thee in food and drink, that thou shouldst not eat white bread and he black bread, thou drink old wine and he new wine, thou sleep on a feather bed and he on straw. Hence it was said: Whoever buys a Hebrew slave is like buying a master for himself. Yet perhaps that is only in respect to food and drink, that he should not be grieved, but in the matter of redemption, let us be stringent with him, [as follows] from R. Jose son of R. Hanina. For R. Jose son of R. Hanina said: Come and see how hard are the results[24] of [violating the provisions of] the seventh year. A man who trades in seventh year produce must eventually sell his movables, for it is said: In this year of jubilee ye shall return every man unto his possession,[25] and in juxtaposition thereto, and if thou sell aught ‘into thy neighbour, or buy of thy neighbour's hand,[26] [which refers to] what is acquired from hand to hand.[27] If he disregards this,[28] he eventually sells his estates, for it is said: If thy brother be waxen poor, and sell some of his possession.[29] He has no opportunity [of amending his ways][30] until he sells his house, for it is said: And if a man sell a dwelling house in a walled city.[31] (Why state there ‘if he disregards this,’ but here, ‘He has no opportunity’? — In accordance with R. Huna. For R. Huna said: Once a man has committed a transgression and repeated it, it is permitted to him. ‘Permitted to him!’ — can you think so? But say, it becomes to him as permitted.)[32] It is not brought home to him[33] until he sells his daughter, for it is said, and if a man sell his daughter to be a bondwoman;[34] (and though [the sale of] his daughter is not mentioned in this section, yet he teaches us that one should [even] sell his daughter and not borrow on usury. What is the reason? — His daughter makes a deduction and goes free,[35] whereas this [his debt] waxes ever larger.)[36] it is not brought home to him until he borrows on interest, as it is written, and if thy brother be waxen poor, and his hand fail with thee,[37] in proximity to which [is stated,] Take thou no usury of him or increase.[38] It is not brought home to him until he sells himself, as it is said, and if thy brother be waxen poor with thee and sells himself unto thee.[39] And not even to thee, but to a proselyte, as it is said [and sell him — self] unto the proselyte.[40] And not even to a righteous proselyte,[41] but to a resident alien,[42] as it is said, or to the resident alien.[43] The family of a proselyte[44] means a heathen. When it is said: To the stock,[45]

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(1) Though designation is altogether impossible, for even if performed it is invalid.

(2) I.e., who are forbidden to all.

(3) Who are interdicted only to her.

(4) The master.

(5) I.e., his designation is valid.

(6) Since he utilizes ‘to be a bondmaid’ otherwise, how does he know these rulings?

(7) Lit., ‘side’.

(8) His father can designate her for his son, her uncle. But his son can neither betroth her himself nor designate her for

his son.
(9) Ex. XXI, 3.
(10) Explained below.
(11) Ibid. 7, the same applying to the Hebrew bondman.
(12) Whereas a heathen slave is freed but not compensated.
(13) Lit., ‘Canaanitish’.
(14) To beget slaves for him.
(15) For the purpose of redemption.
(16) Lev. XXV, 51.
(17) Ibid. 52; this implies, he must repay the value of the unexpired term, i.e., his depreciated worth.
(18) I.e., he is at a disadvantage, the lower value always being the basis for redemption.
(19) A slave sold to a Jew: as an hired servant (sakir) . . . he shall be with thee — ibid. 40; a slave sold to a heathen: according to the time of an hired servant (sakir) he shall be with him — Ibid. 50. The same word used in both sections denotes that the same law applies to both.
(20) Said humorously ‘I am ready to face all comers!’ Ben ‘Azzai was the keen scholar, able to answer all questions; cf. Bek. 28a.
(21) Applying v. 51 to a case of depreciation, and v. 52 to appreciation, so that the slave is always assessed on his higher value.
(22) Lit., ‘was lenient to’.
(23) Deut. XV, 16.
(24) Lit., ‘dust’.
(25) Lev. XXV, 13: this concludes the sections on the seventh year and jubilee.
(26) Ibid. 14.
(27) I.e., movables, implying that the one is a punishment for transgressing the other.
(28) Lit., ‘if he does not perceive’ — that the enforced sale is a punishment.
(29) Ibid. 25; ‘possession,’ Heb. אחוזה , applies to land.
(30) Lit., ‘it does not come to his hand.’
(31) Ibid. 29.
(32) Repetition of sin blunts the finer perception of right and wrong. — This is perhaps sin's greatest punishment; cf. Ab. (Sonc. ed.) p. 44: the punishment of transgression is transgression. Having violated the law of the seventh year so often, he ceases to regard it as an offence, and hence has no opportunity of amendment.
(33) Lit., ‘it does not come to his hand.’
(34) Ex. XXI, 7.
(35) The more time elapses the less the obligation.
(36) Hence, since the chapter speaks about borrowing money, it is assumed that he had already sold his daughter.
(37) Lev. XXV, 35.
(38) Ibid. 36.
(39) Ibid. 39.
(40) Lev. XXV, 47.
(41) I.e., one who accepts all the laws of Judaism.
(42) One who accepts some laws of Judaism for the sake of certain rights.
(43) E.V.: sojourner.
(44) Ibid.
(45) Ibid.

Talmud - Mas. Kiddushin 20b

it refers to one who sells himself to the service of the idol itself![1] — Said he to him: But there the Writ led him back.[2] For the School of R. Ishmael taught: Since this man went and became an acolyte in the service of idolatry, I might have said: Let us cast a stone after the fallen, therefore it is said, after that he is sold he shall be redeemed,’ one of his brethren shall redeem him.[3] Yet perhaps ‘he shall be redeemed’ so as not to be absorbed by the heathens, but in respect to redemption we should be stringent with him, in accordance with R. Jose son of R. Haninah? — Said R. Nahman b. Isaac: Two verses are written: [i] if there be yet increases in the years;[4] [ii] and if there remains but little in the years:[5] are there then increased [i.e., prolonged] years and decreased [i.e., shortened] years?[6] But [the meaning is:] if his value increases, [then his redemption shall be] out of the money that he was bought for; if his value decreases, [the basis of redemption is] according unto his years [yet remaining]. But perhaps the meaning is this: If he served two [years], four remaining, he must repay him for four years ‘out of the money that he was bought for’; while if he served four [years], two remaining, he must repay him for two, ‘according unto his years’?[7] — If so, Scripture should write, If there be yet many years [shanim] . . . If there remain but few years [shanim]: why ‘in years’ [ba-shanim]? [To teach:] if his value increased in [these] years, [his redemption is] ‘out of the money that he was bought for’; if his value decreased in [these] years, [he is redeemed] ‘according unto his years’. Said R. Joseph: R. Nahman[8] interpreted these verses as Sinai.[9] (Mnemonic: Slave, House, Half, Slave, Relations.)[10] R. Huna b. Hinena asked R. Shesheth: Can a Hebrew slave sold to a heathen be half redeemed, or can he not be half redeemed?[11] Do we learn the meaning of ‘his redemption’, from a field of possession:[12] just as a field of possession cannot be half redeemed,[13] so he too cannot be half redeemed; or perhaps, we may interpret it in his favour,[14] but not to his disadvantage?[15] — He answered him: Did you not say there,[16] he shall be sold entirely, but not half; hence here too, he shall be redeemed,[17] entirely.

Abaye said: Should you rule that he can be half redeemed, it will be found [both] to his advantage and disadvantage. ‘To his advantage’: If he [the heathen] bought him for a hundred [zuz], and he [the slave] then refunded him fifty, half of his Value,[18] then he appreciated and stood at two hundred: if you say that he can be half redeemed, he pays him [an additional] hundred[19] and goes out [free]; but if you say, he cannot be half redeemed, he must pay him a hundred and fifty, and [then] go out.[20] But you said: ‘if his value increased, [his redemption is] out of the money that he was bought for’! — Suppose he was dear [when bought], then slumped, then rose again.[21] ‘It will be found to his disadvantage’: If he bought him for two hundred [zuz], he [the slave] refunded a hundred, half of his value, and then slumped to a hundred. If you say, he can be half redeemed, he must pay him fifty and go out; but if you say that he cannot be half redeemed, then this hundred was a bailment in his [the master's] charge:[22] hence he [the slave] gives it to him and goes out [free].

R. Huna b. Hinena asked R. Shesheth: If a man sells a house in a walled city,[23] can he half redeem it or not? Do we learn the meaning of ‘his redemption’ from a ‘field of possession’:[24] just as ‘a field of possession’ cannot be half redeemed, so this too cannot be half redeemed; or perhaps, where [Scripture] revealed it,[25] it revealed it; where not, it did not? — He answered him: From the exegesis of R. Simeon we learn that he can borrow and redeem, and redeem half. For it was taught: [And if a man shall sanctify unto the Lord part of the field of his possession.] And if he [that sanctified the field] will indeed redeem it:[26] this teaches that he can borrow and redeem, and redeem half.[27] Said R. Simeon: What is the reason? Because we find in the case of him who sells ‘a field of possession’, that [since] he has a great privilege, in that if jubilee comes and it has not been redeemed, it reverts to its owners, his rights are weakened in [so far] that he cannot borrow and redeem, and redeem half; hence he who sanctifies [‘a field of possession’] whose rights are impaired in that if jubilee comes and it has not been redeemed, it goes out to the priests at jubilee, [therefore] his privilege is strengthened in [so far] that he may borrow and redeem, and redeem half. Hence this one too, who sells a house in a walled city, since his rights are impaired so that if a complete year elapsed and it is not redeemed, it is absolutely [sold], therefore his privilege is strengthened in that he can borrow and redeem, and redeem half.

He raised an objection: ‘And if he will indeed redeem it’: this teaches that he may borrow and redeem, and redeem half. For I might have thought, does it [the reverse] not follow a minori: if he who sells ‘a field of possession’, whose privilege is great in that if jubilee comes and it has not been redeemed it reverts to its original owner, yet his power is impaired in that he cannot borrow and redeem, and redeem half; then he who sanctifies, whose rights are impaired in that if jubilee comes and it has not been redeemed it goes out to the priests at jubilee, it surely follows that his rights are [also] impaired so that he cannot borrow and redeem, and redeem half. As for one who sells ‘a field of possession’, that is because his privilege is weak in that he [cannot] redeem it immediately;[28] will you say [the same] of one who sanctifies, whose privilege is strong, that he can redeem it immediately? Let one who sells a house in a walled city prove it, whose privilege is strong to redeem it immediately, and yet he cannot borrow and redeem, and redeem half![29] — There is no difficulty:

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(1) E.g., to cut wood for its altar, etc., though not accepting it as a god. — Now, reverting to the original question: since he had to sell himself as a punishment for trading in seventh year produce, why should we not interpret the verse stringently, to his disadvantage?

(2) To the compassion of his brethren.

(3) Ibid. 48 — a lesson in tolerance.

(4) Ibid. 51.

(5) Ibid. 52. The translations here would seem to indicate the meanings of the verses as understood by R. Nahman.

(6) The length of years does not vary!

(7) The verse may not refer to a rise or fall in values, but be meant literally, as the E.V.

(8) Cur. ed.: b. Isaac, but Rashal deletes it: in this case, it must be deleted in the previous passage. (Rashal points out that b. Isaac is omitted in some editions, but apart from that, his reason for deletion is not very cogent).

(9) Very profoundly, as though he were present when they were first promulgated as Sinai.

(10) A mnemonic is a group of letters or words, each being an abbreviation or the key word of a series of subjects, to facilitate their remembering.

(11) Can he repay half his redemption money and serve only half the remainder of his term?

(12) An ancestral field. Here: he shall give back the price of his redemption-Lev. XXV, 52, ‘field of possession’: and find sufficient for his redemption — ibid. 26.

(13) And he find sufficient to redeem it, written in reference to an ancestral field, implies that the whole must be redeemed.

(14) Lit., ‘leniently’.

(15) Lit., ‘stringently’.

(16) Supra 18a, q.v.

(17) Ibid. 48.

(18) Not yet having served at all.

(19) Since he owes him his servitude for only half the time.

(20) Since he owes him his service for the whole period, the fifty paid being in the nature of a deposit.

(21) He was bought for two hundred, and then slumped to a hundred, whereupon the slave refunded fifty for half redemption, not yet having served at all, and then his value rose again to two hundred.

(22) But actually belonging to the slave.

(23) V. Lev. XXV, 29-33.

(24) An inherited field: v. p. 95, n. 5; a house in a walled city, ibid. 29: for a full year shall be his redemption (E.V. shall he have the right of redemption).

(25) That the whole must be redeemed.

(26) Ibid. XXVII, 16, 19. ‘Indeed’ is expressed by the doubling of the verb.

(27) Intimated by the emphasis on ‘redeem’.

(28) But must leave it at least two years with the vendees.

(29) This last sentence contradicts R. Shesheth.

Talmud - Mas. Kiddushin 21a

the one agrees with the Rabbis, the other with R. Simeon.[1] One [Baraitha] taught: He [who sells a house in a walled city] may borrow and redeem, and redeem half. Another taught: He may not borrow and redeem, nor redeem half. There is no difficulty: the latter agrees with the Rabbis, the former with R. Simeon.

(Mnemonic; Harash, Habash, Zeman.)[2] R. Aha, son of Raba, said to R. Ashi: It[3] can be refuted: as for one who sells a house in a walled city, that[4] is because his privilege is impaired, that he can never redeem it [any longer];[5] will you say the same of him who sanctifies, whose privilege is great, that he can redeem it for ever?[6] — R. Aha Saba [the Elder] remarked to R. Ashi: Because one can say: Let the argument revolve, and infer it by what is common [to both. Thus!] Let him who sells ‘a field of possession’ prove it, whose privilege is great, that he can redeem it for ever, and yet he may not borrow and redeem, or redeem half. As for him who sells ‘a field of possession’, that is because his rights are impaired, in that he [cannot] redeem it immediately. Then let one who sells a house in a walled city prove it.[7] And thus the argument revolves: the feature of one is not that of the other. What is common to both [cases] is that they[8] may be redeemed, and he [the vendor] cannot borrow and redeem, nor redeem half. So may I also adduce the case of one who sanctifies [an inherited field]: it may be redeemed, and he cannot borrow and redeem, nor redeem half. Mar Zutra son of R. Mari said to Rabina: This may be refuted. What is their common feature? That their privileges are impaired. for they [cannot] redeem it in the second year;[9] will you say [the same] of him who sanctifies, seeing that his privilege is strong to redeem in the second year? — Rabina answered him: Because one may reply. Let a Hebrew slave sold to a heathen prove it: his rights are unimpaired. for he may be redeemed in the second year, and yet he cannot borrow and redeem, nor redeem by half.[10]

R. Huna b. Hinena propounded of R. Shesheth: If one sells a house in a walled city, can [the house] be redeemed by relations or not? Do we learn the meaning of ‘his redemption’ from ‘a field of possession’:[11] just as ‘a field of possession’ cannot be half redeemed, yet can be redeemed by relations,[12] so this too cannot be half redeemed, yet can be redeemed by relations; or perhaps, ‘redemption’ is written only in reference to half,[13] but not in reference to relations? — It cannot be redeemed [by relations], answered he. He objected before him: And in all [the land of your possession] ye shall effect a redemption for the land:[14] this is to include houses and Hebrew slaves.[15] Surely that means houses in a walled city? — No. It means houses in villages. But of houses in villages it is explicitly stated, they shall be reckoned with the fields of the country?[16] — That is to make an obligation,[17] and is in accordance with R. Eliezer. For it was taught: [If thy brother be waxen poor, and sell some of his possessions, then shall his kinsman that is next unto him come,] and shall redeem that which his brother hath sold:[18] that is an option.[19] You say, an option: yet perhaps it is not so, but an obligation? Hence it is taught: And if a man have no kinsman.[20] But is there a man in Israel who has no kinsman?[21] Hence it must refer to him who has [a kinsman,] who [however] refuses to repurchase it, [thus shewing] that he has [merely] an option. R. Eliezer said: ‘and he shall redeem that which his brother hath sold’ [implies] an obligation. You say, an obligation; yet perhaps it is not so, but an option? — Hence it is taught: and in all . . . ye shall effect a redemption.[22] The Rabbis said to R. Ashi, or as others state, Rabina said to R. Ashi: On the view that it includes houses in walled cities, it is well;[23] but on the view that it includes houses in villages, why ‘in all’?[24] This is indeed a difficulty.

Abaye raised an objection before him: Why is ‘he shall redeem him,’ ‘he shall redeem him,’ ‘he shall redeem him’, stated three times?[25] To include all cases of redemption, that they are to be redeemed in this order.[26] Surely that refers to houses in walled cities and Hebrew slaves? — No: to houses in villages and ‘fields of possession’. ‘Houses in villages and fields of possession!’ these are explicitly provided for, ‘they shall be reckoned with the fields of the country’? — It is as R. Nahman b. Isaac said [elsewhere], to teach that the nearer the relation, the greater his precedence; so here too, it is to shew that the nearer the relation, the greater is his precedence.[27] Whereon was R. Nahman's dictum stated? — On what was propounded: Can a Hebrew slave sold to an Israelite be redeemed by kinsmen or not? On Rabbi's view, that is no question, since he said: He who cannot be redeemed by these [sc. relations] can be redeemed by [the passage of] years,[28] thus proving that he cannot be redeemed. Our question is on the opinion of the Rabbis. What is the law? Do we infer ‘sakir’, ‘sakir’[29] and do not interpret [the emphasis of, one of his brethren] may redeem him;[30] or perhaps, ‘may redeem him’ implies him, but not another?[31] — Come and hear:’ ‘In all . . . ye shall effect a redemption’: this is to include houses and Hebrew slaves. Surely that means houses in a walled city, and Hebrew slaves sold to Israelites? No; it means Hebrew slaves sold to heathens. But of a Hebrew slave sold to a heathen it is explicitly stated, or his uncle, or his uncle's son, may redeem him?[32] —

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(1) R. Shesheth's answer having been deduced from R. Simeon's dictum. — R. Simeon holds that the reason of a Scriptural law must be sought, and when found it may modify it and provide a basis for other laws; but the Rabbis disagree. Hence R. Simeon argues that one's very disabilities require compensating privileges, and finds this embodied in the laws of the sanctification of ‘a field of possession’, from which the same principles are applied to analogous cases. Whereas the Rabbis argue that when Scripture impairs one's privileges in one direction they are weakened in all, a minori, the sanctification of an inherited field being explicitly excepted by Scripture.

(2) Harash — R.AHa son of Raba to R. Ashi; Habash = R.AHa Saba said to R. ASHi; Zeman = Mar Zutra son of R. Mari said to Rabina.

(3) The argument in the Baraitha cited above that would derive the case of one who sanctifies from the sale of a house in a walled city.

(4) Sc. his inability to borrow and redeem, and redeem half.

(5) After the first year; Lev. XXV, 30.

(6) I.e., until jubilee, if the Temple Treasurer has not sold it in the meanwhile.

(7) He can redeem it immediately, and yet cannot borrow etc.

(8) The properties.

(9) One who sells an inherited field cannot redeem it before the third year; and the vendor of a house in a walled city cannot redeem it after the first year.

(10) As supra 20b.

(11) For the quotations v. p. 96, n. 3.

(12) Lev. XXV, 25.

(13) And find sufficient for his redemption (Lev. XXV, 26); ‘sufficient’ shews that the whole must be redeemed.

(14) Ibid. 24.

(15) That they can be redeemed by relations.

(16) Ibid. 31; i.e., the same law applies to them as to ‘a field of possession.

(17) Not only have the relations the right, but also the duty of redemption.

(18) Ibid. 25.

(19) Lit., ‘a permitted thing’.

(20) Ibid. 26.

(21) Every Jew must have relatives, if he goes back far enough.

(22) This emphasis — since it is already stated elsewhere — proves that redemption is a duty.

(23) Since redemption by relations is not mentioned there.

(24) Which implies even in those cases where it is not explicitly provided for.

(25) In reference to the redemption of a Jewish slave from a heathen master: Ibid. 48, 49.

(26) This is assumed to mean that in all cases where redemption is stated it may be by relatives.

(27) I.e., in the same order of priority as the kinsmen enumerated in Lev. XXV, 48, 49.

(28) Supra, 15b, q.v.

(29) V. p. 92, n. 5; hence he can be redeemed by kinsmen.

(30) Ibid. 48, referring to a Hebrew slave sold to a heathen.

(31) Sc. a Hebrew slave sold to an Israelite.

(32) Ibid. 49.

Talmud - Mas. Kiddushin 21b

That is to make it an obligation, and even on R. Joshua's view.[1] Come and hear: Why is ‘he shall redeem him,’ ‘he shall redeem him,’ ‘he shall redeent him,’ stated three times? To include all cases of redemption, that they must be redeemed in this order. Surely that refers to houses in walled cities, and Hebrew slaves sold to Israelites? — No: to houses in villages and fields of possession. ‘Houses in villages'! but there it is explicitly stated: 'they shall be reckoned with the fields of the country'? — Said R. Nahman b. Isaac: It is to teach, the nearer the kinsman, the greater his precedence. HE WHOSE EAR IS BORED IS ACQUIRED BY BORING. For it is written, then his master shall bore his ear through with an awl, etc.[2]

AND ACQUIRES HIMSELF BY JUBILEE OR BY HIS MASTER'S DEATH. For it is written: 'and he shall serve'[2] him — but not his son or daughter; for ever' — until the eternity of jubilee.[3]

Our Rabbis taught: '[With] an awl': I only know [that he can be bored with] an awl. Whence do I know to extend [the law to] a prick,[4] thorn, needle, borer, or stylus? From the verse, then thou shalt take,[5] which includes everything that may be taken by hand: this is the opinion of R. Jose son of R. Judah. Rabbi said: Just as an awl is specified, as being of metal, so must everything [used for this purpose] be of metal. Alternatively, [thou shalt take] the awl[6] is to teach[7] [that] the great awl [is meant].[8] R. Eleazar said: Judan Berabbi[9] used to expound: When it [his ear] was bored, only the lobe was bored. But the Sages maintained: A Hebrew slave, [who is] a priest, cannot be bored, as he is thereby blemished;[10] and should you say that the lobe is bored, how is he thereby blemished?[11] Hence he was bored through the upper part of his ear. Wherein do they differ? — Rabbi interprets [by the method of] general propositions and particularizations.[12] [Thus:] 'Then thou shalt take' — this is a generalization;[13] 'an awl' — this is a specification: 'through his ear unto the door' is again a generalization. Now [in a sequence of] generalization, specification and generalization, you can include[14] only what is similar to the specification: just as the specification is explicit as of metal, so must everything [used for this purpose] be of metal. R. Jose interprets [by the method of] amplification and limitation.[15] [Thus:] Then thou shalt take — this is an amplification;[16] an awl — this is a limitation; . . . through his ear unto the door is again an amplification. [A sequence of] amplification, limitation and amplification extends [the law to] everything. What is included? All things. And what is excluded? Chemicals.[17]

The Master said: "'The awl" is to teach that the great awl [is meant].' How is this implied? — As Raba said: [Therefore the children of Israel eat not the sinew of the hip which is upon the hollow of] the thigh[18] implies the right thigh;[19] so here too, 'the awl' implies the most distinguished of awls.

'R. Eleazar said: Judan Berabbi used to expound: When it [his ear] was bored, only the lobe was bored. But the Sages maintained: A Hebrew slave [who is] a priest, cannot be bored, because he is thereby blemished.' Then let him be blemished! — Rabbah son of R. Shila said: Scripture saith, and he shall return unto his own family:[20] i.e., to the established rights of his family.[21]

The Scholars propounded: A Hebrew slave [who is] a priest — can his master give him a heathen bondwoman?[22] Is it an anomaly,[23] and so there is no difference between priests and Israelites; or perhaps, priests are different, since the Writ imposes additional precepts upon them?[24] — Rab said: It is permitted; Samuel ruled: It is forbidden. R. Nahman said to R. 'Anan: When you were at Mar Samuel's academy you wasted your time in chess.[25] Why did you not refute him with this: 'But the Sages maintained: A Hebrew slave, a priest. cannot be bored, as he is thereby blemished.' Now if you say that his master cannot give him a heathen bondmaid,it[26] follows because we require [that he should say]. I love my master, my wife. and my children,[27] which is absent. Nothing more is possible.[28]

The scholars propounded: May a priest take a 'a woman of goodly form'?[29] Is it an anomaly.[30] and so there is no difference between priests and Israelites: or perhaps. priests are different, since the Writ imposes additional precepts upon them? — Rab said: He is permitted; while Samuel maintained, He is forbidden. With respect to the first intercourse there is universal agreement that it is permitted, since the Torah only provided[31] for man's evil passions;[32] their dispute refers to the second intercourse. Rab ruled: It is permitted; and Samuel ruled,it is forbidden. Rab ruled: It is permitted: since it was [once] allowed, it remains so. But Samuel said, it is forbidden; because she is a proselyte, and so ineligible to [marry] a priest. Others state, with respect to the second intercourse it is generally agreed that it is forbidden, since she is a proselyte. Their dispute refers to the first intercourse: Rab maintained, It is permitted, since the Torah only provided for man's evil passions. Whilst Samuel ruled: that it is forbidden: where one can read, then thou shalt bring her home to thine house,[33] we also read, and seest among the captives. [etc.];[34] but where we cannot read: ‘Then thou shalt bring her home to thine house,’ we do not read: ‘and seest among the captives [etc.].’

Our Rabbis taught: ‘And thou seest among the captives’ — when taking her captive;[35] a woman — even married; ‘of beautiful countenance’ — the Torah only provided for human passions: it is better for Israel to eat flesh of

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(1) Who maintained that the redemption of an inherited field by relations is merely a privilege.
(2) Ex. XXI, 6.
(3) V. supra 17b.
(4) I.e., a sharpened piece of wood.
(5) Deut. XV, 17, likewise referring to the boring of a slave.
(6) Lit., translation; E.V. disregards the def. art. of the text.
(7) Lit., ‘bring’.
(8) This is explained below.
(9) Berobbi, Beribbi, a contraction of Be Rabbi, was a title of scholars, generally applied to disciples of R. Judah ha-Nasi (Rabbi par excellence) and his contemporaries, but also to some of his predecessors, and occasionally to the first Amoraim (Jast. s.v.); v. Nazir (Sonc. ed.) p. 64. n. 1.
(10) And unfit for service in the Temple.
(11) A hole in the lobe is not a blemish.
(12) In all cases such as the one under discussion Rabbi regards the verse as consisting of a generalization followed by a specification and then again by a generalization. In that case we say that the generalization includes only what is similar to the specification, as explained in the text.
(13) I.e., it implies anything that may be taken, as above.
(14) Lit., ‘judge’.
(15) I.e., the general term is an amplification, extending the law to all things; the limitation that follows limits the law to such things as are similar to itself; hence these two alone are sufficient to arrive at the result deduced by Rabbi. Consequently, if a further amplification is added, it includes even dissimilar things, while the limitation can only exclude one or two things which are entirely unlike, v. Shebu. (Sonc. ed.) p. 12, n. 3.
(16) Extending the law to anything that may be taken.
(17) A chemical, e.g., an acid, may not be placed on the ear to burn it through.
(18) Gen. XXXII, 33.
(19) The def. art. implies the well-known, the most important, hence the right, which is the stronger side.
(20) Lev. XXV, 41.
(21) But if he is bored, he loses his established rights of officiating in the Temple.
(22) To produce slaves.
(23) That a heathen bondwoman may be given to any Hebrew slave.
(24) Hence they have a higher degree of sanctity.
(25) Lit., ‘you played in chess’; Iskumdre (the ‘Aruk reads: iskundre) Pers. iskodar, **; v. Perles, Etymologische Studien, p. 113. R. Han. translates: dog-racing. Krauss, T.A. III, 113 regards it as the dice (Wurfel) in various games of chance.
(26) The law that a Hebrew slave who is a priest is not bored.
(27) Ex. XXI, 5.
(28) This refutation is absolute.
(29) V. Deut. XXI, 11. A priest may not marry a proselyte: how is it here?
(30) Lit., ‘a new,’ unexpected law.
(31) Lit., ‘spoke’.

(32) The permission to take a beautiful captive is a concession to human failings, which priests share equally with Israelites.

(33) Deut. XXI, 12, i.e., take her permanently.

(34) Ibid. 11; i.e., permission to satisfy one's lust.

(35) Permission is granted only if the woman was originally taken for lust, but not if she was taken for enslavement.

Talmud - Mas. Kiddushin 22a

[animals] about to die, yet [ritually] slaughtered, than flesh of dying animals which have perished;[1] ‘and thou hast a desire’ — even if she is not beautiful; ‘unto her’ — but not her and her companion;[2] ‘and thou shalt take’ — thou hast marriage rights[3] over her;[4] ‘to thee to wife,’ [teaching] that he must not take two women, one for himself and another for his father, or one for himself and another for his son: ‘then thou shalt bring her home [to thine house].’ teaching that he must not molest her on the [field of] battle.[5]

Our Rabbis taught: But if the servant shall plainly say,[6] he must say and reiterate [it]. If he declares [thus] at the beginning of the sixth year. but not at the end, he is not bored, for it says. ‘I will not go out free’: [hence] he must say it when about to depart. If he says it at the end of the six[th year], but not at the beginning, he is not bored, for it is said: ‘But If the slave shall plainly say’: he must say it while still a slave.

The Master said: ‘If he declared [thus] at the beginning of the six[th year] but not at the end, he is not bored, for it is said: I will not go out free; [hence] he must say it when about to depart.’ Why choose [to learn this] from ‘I will not go out free’: deduce it because we require [that he shall say]. ‘I love my master, my wife, and my children,’ which is absent.[7] Furthermore, ‘if he says it at the end of the six[th year], but not at the beginning, he is not bored, for it is said . . . "the slave"’: is he then not a slave at the end of the sixth year?[8] — Said Raba: [It means,] At the beginning of the last perutah[‘s worth of service], and at the end thereof.[9]

Our Rabbis taught: If he has a wife and children, but his master has no wife and children, he may not be bored, for it is said, because he loveth thee and thine house.[10] If his master has a wife and children, but he has no wife and children, he may not be bored, for it is said: ‘I love my master, my wife, and my children’. If he loves his master but his master does not love him, he may not be bored, for it is said: ‘because he is well with thee.’[11] If his master loves him but he does not love his master,[12] he may not be bored, for it is said: ‘because he loveth thee’. If he is an invalid but his master is no invalid, he may not be bored, for it is said, because he is well with thee.[13] If his master is an invalid but he is no invalid, he may not be bored, for it is said, with thee.[14]

R. Bibi b. Abaye propounded: What if both are invalids? Do we require, ‘with thee’ [to be applicable], and it is; or perhaps we require, ‘because he is well with thee,’ which is absent? The question stands.

Our Rabbis taught: ‘Because he is well with thee’: he must be with [i.e., equal to] thee in food and drink, that thou shouldst not eat white bread and he black bread, thou drink old wine and he new wine, thou sleep on a feather bed and he on straw. Hence it was said: Whoever buys a Hebrew slave is like buying a master for himself.

Our Rabbis taught: Then he shall go out from thee, he and his children with him:[15] R. Simeon said: if he is sold, are then his sons and daughters[16] sold?[17] Hence [we learn] that the master is liable for his children's keep.[18] Similarly you read: If he is married, then his wife shall go out with him:[19] R. Simeon said: If he is sold, is then his wife sold? Hence we learn that the master is responsible for his wife's keep. Now, both are necessary. For if we were informed [this] of his children, [I would say] that is because they cannot work for a living;[20] but as for his wife, who can work for a living, I would say: Let her earn her keep. While if we were informed [this] of his wife, that is because it is not meet for her to go begging; but as for his children, for whom it may be seemly to go begging,[21] I might say: It is not so. Hence both are necessary.

Our Rabbis taught:

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(1) Without ritual slaughter. The first too is repulsive, but sanctioned.

(2) The warrior must not take two.

(3) Lit., ‘taking’.

(4) Though she is a heathen, and does not voluntarily accept conversion. — Also, she can only be taken as a legal wife.

(5) Nevertheless one is able to bridle his desire in the knowledge that he will be able to satisfy it at home. Rashi. — War cannot be humanized, nor primitive passions subdued. Yet the Rabbis endeavoured to curb them as far as possible and minimize their evil effects: the captive was to be kindly treated, given the full legal status of a wife, and unmolested in actual battle, — possibly because in cool blood he would altogether recoil from his intentions.

(6) Ex. XXI, 5: ‘plainly’ is expressed in Hebrew by the doubling of the verb.

(7) The passage is now assumed to mean: if he declares thus at the beginning of the six years.

(8) I.e., on the last day of his term.

(9) When there is no longer left for him a perutah's worth of labour to perform, he is no longer regarded as slave.

(10) Deut. XV, 26; ‘thine house’= household, i.e., a wife and children.

(11) Ibid.

(12) Yet he desires to remain on account of his wife and children.

(13) ‘Well’ understood in the sense of healthy.

(14) I.e., just as thou art.

(15) Lev. XXV, 41.

(16) ‘And daughters’ is absent in the ‘Aruk and in Rashi's commentary on the Pentateuch, where this is quoted.

(17) Why state that they go out?

(18) And at Jubilee they ‘go out’, i.e., his liability ceases.

(19) Ex. XXI, 3.

(20) Lit., ‘work and eat’ — the reference is to minors.

(21) Being minors, they suffer no disgrace thereby. — The existence of house-to-house begging in Talmudic times follows from certain passages: Pe'ah, VIII, 7; Shab. 2a, 151b; Sifre, Deut. 116 and elsewhere. But women did not beg, and in consequence it was held more meritorious to support a needy woman than a man (Hor. III, 7; J.D. 251, 8).

Talmud - Mas. Kiddushin 22b

If it were stated, [‘Then thou shalt take an awl,] and place his ear unto the door,’[1] I would think, Let a hole be bored against his ear through the door; [hence,] only the door, but not his ear. ‘Not his ear!’ is it not written: ‘and his master shall bore his ear through with an awl’:[2] — But I would say, the ear is to be bored outside and then placed on the door and a hole bored through the door opposite the ear:[3] therefore it is stated, [‘and thou shalt thrust it] through his ear unto the door’. How so? He continues boring until the door is reached.

‘The door’: I understand [from this,] whether it is removed [from its hinges] or not: therefore it is stated, [‘unto the door, or unto] the doorpost’;[4] just as the doorpost must be standing,[5] so must the door be standing.

Rabban Johanan b. Zakkai used to expound this verse as precious stone.[6] Why was the ear singled out[7] from all the other limbs of the body? The Holy One, blessed be He, said: This ear, which heard my Voice on Mount Sinai when I proclaimed, For unto me the children of Israel are servants, they are my servants,[8] and not servants of servants, and yet this [man] went and acquired a master for himself[9] — let it be bored! R. Simeon b. Rabbi too expounded this verse as a precious stone. Why were the door and doorpost singled out from all other parts[10] of the house? The Holy One, blessed be He, said: The door and the doorpost, which were witnesses in Egypt when I passed over the lintel and the doorposts and proclaimed, For unto me the children of Israel are servants, they are my servants,[11] and not servants of servants, and so I brought them forth from bondage to freedom, yet this [man] went and acquired a master for himself — let him be bored in their presence!

MISHNAH. A HEATHEN SLAVE IS ACQUIRED BY MONEY, DEED, OR BY HAZAKAH,[12] AND REACQUIRES HIMSELF BY MONEY THROUGH THE AGENCY OF OTHERS,[13] AND BY DEED, THROUGH HIS OWN AGENCY:[14] THIS IS R. MEIR'S VIEW. THE SAGES MAINTAIN: BY MONEY, THROUGH HIS OWN AGENCY, AND BY DEED, THROUGH THE AGENCY OF OTHERS;[15] PROVIDING THAT THE MONEY IS FURNISHED BY OTHERS.[16] GEMARA. How do we know this? — Because it is written: And ye shall make them [the heathen slaves] an inheritance for your children after you, to possess as an inheritance;[17] just as a ‘field of possession’ is acquired by hazakah,[18] so is a heathen slave acquired by money, deed, or hazakah. If so, just as ‘a field of possession’ reverts to its [original] owner at jubilee, so should a heathen slave revert to his [former] owner at jubilee? Therefore it is stated, of them shall ye take your bondmen for ever.[19]

A Tanna taught: [He may be acquired] by halifin[20] too. And our Tanna?[21] — What is absent in the case of movables he teaches; what is present in the case of movables he does not teach.[22]

Samuel said: A heathen slave may be acquired by meshikah.[23] How so? If he [the purchaser] seizes him [the slave] and he goes to him, he acquires him; if he [merely] calls him and he goes to him, he does not acquire him. As for our Tanna, it [the omission of meshikah] is well: what is absent in the case of movables he teaches; what is present in the case of movables he does not teach.[24] But according to the outside Tanna,[25] let meshikah be taught?[26] — He teaches only what applies to both land and movables, but meshikah, which is possible in the case of movables but not of land, he does not teach. ‘How so? If he seizes him and he goes to him he acquires him; if he [merely] calls him and he goes to him, he does not acquire him.’ But it was taught: How [is an animal acquired] by mesirah?[27] If he seizes it by its hoof, hair, the saddle which is upon it, the saddle-bag upon it, the halter in its mouth, or the bell round its neck, he acquires it. How [does one acquire] by meshikah? He calls it and it comes, or he strikes it with a stick and it runs before him, immediately it lifts a foreleg and a hindleg, he acquires it. R. Assi-others state, R. Aha — said: It must walk its full length before him![28] — I will tell you: an animal walks by its master's volition; a slave, by his own.[29] R. Ashi said: A slave who is a minor is as an animal.[30]

Our Rabbis taught: How [is a heathen slave acquired] by hazakah? If he unlooses his shoes for him [the purchaser], or carries his baggage after him to the baths; if he undresses, washes him, anoints,[31] scrapes,[32] dresses him, puts on his shoes, or lifts him, he acquires him. R. Simeon said: Let hazakah not be greater than lifting, for lifting acquires everywhere. What does he mean? — Said R. Ashi: [The first Tanna implies,] if he [the slave] lifts his master, he acquires him; if his master lifts him, he does not acquire him. Thereupon R. Simeon observed: Hazakah should not be greater[33] than lifting, seeing that lifting acquires everywhere.[34]

Now that you say that if he lifts his master he acquires him — if so, a heathen bondmaid should be acquired by intercourse?[35] — When do we say this, when one derives pleasure and the other pain;[36] but here both derive pleasure. Then what can be said of unnatural intercourse?[37] Said R. Ahaiy b. Adda of Aha:[38] Who is to tell us that both do not derive pleasure? Moreover, it is written, [Thou shalt not lie with mankind] with the lyings of a woman:[39] thus the Writ compared unnatural to natural intercourse.

R. Judah the Indian was a proselyte who had no heirs. He fell sick and Mar Zutra went and paid him a sick visit.[40] Seeing him in extremis[41] he said to his [R. Judah's] slave, ‘Remove me my shoes and take them to my house’.[42] Some maintain, He [the slave] was an adult:[43]

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(1) Deut. XV, 17: that is the translation if the preposition ב and the conjunction קרשו removed from באזנו and ובדלת respectively.

(2) Ex. XXI, 6.

(3) I.e., from the other side of the door (Rashi).

(4) Ibid.

(5) Otherwise it is not a doorpost.

(6) [The phrase apart from the older interpretation ‘pearl’ has been also taken to denote (a) according to the method of the Dorshe Hamuroth (v. Sot. Sonc. ed. p. 80, n. 7.); (b) a ‘changed’ or ‘figurative’ meaning. V. Lauterbach J.Z. J.Q.A. (N.S.) I. pp. 503ff.] I.e., he deduced from it an important ethical principle — man's freedom.

(7) Lit., ‘different’.

(8) Lev. XXV, 55.

(9) When he might have been free.

(10) Lit., ‘vessels’.

(11) Though this was not said then, it does in fact summarize the purpose of Israel's liberation from Egyptian bondage.

(12) V. Glos. The latter two even if the money has not been paid; then the purchase price is an ordinary debt, which does not affect the validity of the transaction.

(13) They must give the money to his master to purchase his freedom. But if they give it to him even with the stipulation that his master shall have no rights therein, it is the master's, because R. Meir holds that a heathen slave cannot legally acquire anything without passing it on to his master.

(14) He himself must receive the deed of emancipation.

(15) Who receive the deed for him.

(16) The money is given to him specifically for that purpose, and he gives it to his master. But if the slave finds money, or has it given him, it belongs to his master.

(17) Lev. XXV, 46.

(18) Like all other landed property.

(19) Ibid.

(20) V. Glos.

(21) Why does he omit halifin?

(22) The three methods of acquisitions taught are all ineffective for ordinary movables, whereas halifin can acquire these too.

(23) V. Glos.

(24) Meshikah gives a title to movables.

(25) I.e., the Tanna of the Baraitha, which was not included in Rabbi's compilation of the Mishnah, but taught ‘without’.

(26) If Samuel is right, just as halifin is taught.

(27) V. Glos.

(28) Thus, when an animal comes in answer to a call it is acquired; why not a slave?

(29) Even when he obeys a call, he does so by his own desire, unless the master forcibly seizes him.

(30) He has no volition of his own and therefore may be acquired by a summons.

(31) Massaging with oil was an essential part of the bath. It was and is common in the Orient, and amongst the Romans and Greeks, and had its cause in the hot climate, which causes all living bodies to emit an unpleasant odour; v. Krauss, T.A., I, 229 and 233.

(32) With a kind of brush to tone up the circulation.

(33) More effective.

(34) Lifting is one of the methods of acquiring movables: there, of course, the purchaser lifts the article to be acquired. Hence here too, if the master lifts the slave, i.e., the article to be acquired, he gains a title to him.

(35) Which is also a form of lifting.

(36) I.e., the slave does an act of servitude from which he personally derives no pleasure.

(37) Where only the male derives pleasure.

(38) [A village near Mount Hermon, Horowitz. I. S. Palestine. s.v.]

(39) Lev. XVIII, 22: lit., translation; ‘lyings’ is understood to refer to two forms of coition, natural and unnatural.
(40) Lit., ‘to enquire concerning him’.
(41) Lit., ‘he saw that the world weighed very heavily upon him.’
(42) He wished the slave to be in his service when his master died, so as to acquire him by hazakah.
(43) And Mar Zutra wished that he should not be without a master for a single moment at his master's death, as he would thereby become free.

Talmud - Mas. Kiddushin 23a

one [R. Judah] departed to death, and the other [the slave] departed [from his former master] to life.[1] Others maintain, He was a minor, and this was not in accordance with Abba Saul. For it was taught: If a proselyte dies [without heirs] and Israelites take possession of his property, which includes slaves, whether adults or minors, they gain their liberty.[2] Abba Saul said: Adults acquire their freedom, but as for minors, whoever takes possession of them [even afterwards] gains a title to them.[3]

AND REACQUIRES HIMSELF BY MONEY etc. . . . BY MONEY ONLY THROUGH THE AGENCY OF OTHERS, but not through his own. What are the circumstances? Shall we say, without his [the slave's] knowledge? Then consider: we know that R. Meir maintains, It is to a slave's disadvantage to leave his master for freedom;[4] and we learned: One may obtain a privilege for a person in his absence, but cannot so act to his disadvantage.[5] Hence it obviously means with his knowledge [consent], and we are informed this: only through the agency of others [can he be emancipated thus,] but not through his own, thus proving that a slave has no rights of acquisition apart from his master.[6] If so, cite the second clause: BY DEED THROUGH HIS OWN AGENCY: only through his own agency, but not through that of others. But if with his consent, why not through the agency of others? And should you answer, what is meant by THROUGH HIS OWN AGENCY? Through his own agency too, and we are thus informed that his deed [of emancipation] and his hand [i.e., the right to acquire for himself] come simultaneously[7] — But it was not taught so? For it was taught: By deed through his own agency, but not that of others: this is R. Meir's view? — Said Abaye: After all, [it means] without his knowledge. Yet money is different: since he [the master] may acquire him [the slave] against his will, he can liberate him[8] against his will. If so, the same applies to deed? — This deed is separate and that deed is separate.[9] But here too, this money is separate and that money is separate?[10] — The impress is nevertheless the same.[11] Raba said: In the case of money, its receipt by the master effects it [his liberation]: but as for deed, its receipt by others effects it.[12]

THE SAGES MAINTAIN: BY MONEY THROUGH HIS OWN AGENCY. Only through his own agency, but not through the agency of others? Why? Granted that it is without his knowledge, yet consider: we know that the Rabbis hold that it is to his advantage to go out from his master's authority to liberty, and we learnt: You may obtain a privilege for a person in his absence, but can act to his disadvantage only in his presence. And should you answer, what is meant by THROUGH HIS OWN AGENCY? Through his own agency too, and we are thus informed that a slave has rights of acquisition independently of his master. — If so, cite the second clause: BY DEED, THROUGH THE AGENCY OF OTHERS, [implying] but not through his own: but it is an establish — ed law that his deed and hand come simultaneously?[13] And should you answer, what is the meaning of, THROUGH THE AGENCY OF OTHERS? Through the agency of others too, and we are thus informed that it is to the slave's advantage to leave his master for freedom: if so, they should be combined and taught together: By money and by deed through the agency of others or his own? — But [it means this:] By money, both through the agency of others and his own; by deed, through the agency of others but not his own, and it agrees with R. Simeon b. Eleazar. For it was taught: R. Simeon b. Eleazar said: By deed too only through the agency of others, but not his own.[14] Thus there are three differing opinions in the matter.[15]

Rabbah said: What is R. Simeon b. Eleazar's reason? — He learns the meaning of ‘lah’ [to her] here from a [married] woman:[16] just as a woman [is not freed] until she withdraws the divorce into a domain that is not his [her husband's],[17] so a slave too [is not freed] until he withdraws his deed [of emancipation] into a domain that is not his [the master's].

Rabbah propounded:

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(1) I.e., with the death of R. Judah he automatically passed into Mar Zutra's possession.

(2) Having been for a moment without a master, they remain permanently free.

(3) Hence Mar Zutra's care that they should be in his service at the actual moment of death does not agree with Abba Saul's view. So Rashi, on the basis of the reading in current edition. Alfasi, Asheri, and R. Tam read: and this was (even) in accordance with Abba Saul. Though they could not gain their liberty, he put them into his service lest another take possession of them.

(4) For as the slave of a priest he may eat terumah, which is now forbidden him. Again, as a slave he is permitted to live with a heathen bondmaid: this too will now be forbidden. — These are the reasons given in Git.11b.

(5) Such an action being invalid.

(6) As explained in the note on the Mishnah, q.v.

(7) In the very moment of taking the deed he is free, and hence can accept it on his own behalf. Otherwise, his acceptance would be just as though his master held it, and he would not be free.

(8) Lit., ‘give him possession’ — of himself.

(9) The wording of the two deeds, purchase and manumission, are different: consequently the same reasoning does not apply.

(10) Being given for different purposes.

(11) There is nothing in the coins themselves to shew their different purposes.

(12) In the case of money the master accepts it on his own behalf, not on that of the slave's; therefore the latter's consent is unnecessary. But deed is accepted by others on the slave's behalf; therefore his consent is required.

(13) V. p. 111, n. 1.

(14) He does not hold that the deed and his rights of acquisition come simultaneously.

(15) (i) R. Meir: By money, through the agency of others, even without his knowledge, but not through his own; and by deed through his own agency but not of others. (ii) R. Simeon b. Eleazar: Both by money and deed, through the agency of others but not his own. (iii) The Rabbis in our Mishnah: Both by money and deed, through the agency of others and his own. Hence both are not combined because the second clause is not the Rabbis’ statement but R. Simeon b. Eleazar's.

(16) Here: a bondmaid . . . whose freedom was not given (to) her (lah) — Lev. XIX, 20; a married woman; then he shall write (to) her (lah) a bill of divorcement; Deut. XXIV, 1.

(17) As it is written, and give it in her hand (ibid.), and she does not belong bodily to her husband.

Talmud - Mas. Kiddushin 23b

According to R. Simeon b. Eleazar,[1] can a heathen slave appoint an agent to receive his deed of emancipation from his master:[2] since he deduces ‘lah’, ‘lah’, from a [married] woman, he [the slave] is as a married woman:[3] or perhaps, a woman, who can accept the divorce herself, can also appoint an agent; whereas a slave, who cannot accept his deed of emancipation himself, cannot[4] appoint an agent either! After propounding, he solved it himself: We deduce ‘lah’, ‘lah’, from a [married] woman, [hence] he is as a married woman. If so, when R. Huna son of R. Joshua said: These priests are agents of the All-Merciful One, for should you think they are ours, is there aught which we ourselves may not do while they may do [it on our behalf]?[5] — is there not? What of a slave, who cannot accept his deed of manumission himself, can yet appoint an agent? — But that [analogy] is fallacious: an Israelite has no connection with the laws of sacrifices at all;[6] whereas a slave has a connection with deeds of manumission. For it was taught: It appears correct that a slave can accept his companion's deed from his companion's master, but not from his own.[7]

PROVIDING THAT THE MONEY IS FURNISHED BY OTHERS. Shall we say that they differ in this: R. Meir holds, A slave has no powers of acquisition distinct from his master, nor a wife distinct from her husband; whereas the Rabbis maintain, A slave can acquire independently of his master and a wife of her husband? — Said Rabbah in R. Shesheth's name: All hold that a slave cannot acquire independently of his master, nor a wife of her husband. But the circumstances are here that a stranger gave him[8] a maneh, saying, ‘On condition that your master has no right to it.’ R. Meir maintains, When he says to him, ‘Acquire [it,]’ the slave acquires it and [ipso facto] his master; and when he says to him, ‘on condition [etc.],’ he says nothing.[9] Whereas the Rabbis hold, Since he stipulates, ‘on condition,’ the stipulation is effective.[10] But R. Eleazar said: In such a case all agree that the slave acquires it and [ipso facto] his master. But the circumstances are here that a stranger gave him a maneh, saying: ‘On condition that you obtain your freedom therewith.’ R. Meir holds that when he says to him, ‘Acquire [it],’ the slave acquires it and [ipso facto] his master; when he says: ‘on condition,’ he says nothing. Whereas the Rabbis maintain, He did not give possession of it [even] to him [the slave], since he said to him, ‘Only on condition that you gain your freedom therewith.’

Now, R. Meir is self contradictory, and the Rabbis likewise. For it was taught:

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(1) Who maintains that a slave cannot receive his own deed.

(2) Tosaf. gives two interpretations: (i) Obviously, as stated above, another person must accept it on his behalf. This, however, may be only if the slave does not explicitly appoint him his agent, but if he does, he becomes legally as himself, and just as he himself cannot accept the deed, his agent cannot either. (ii) When another person accepts it on his behalf, must he be his agent, just as the person who accepts a woman's divorce on her behalf must be distinctly appointed by her for that purpose? If so, on the view that it is to the slave's advantage to be freed, the agency is tacitly assumed: while if we hold that it is to his disadvantage, he must be expressly appointed. Or possibly, he does not act in the character of an agent at all, since the slave himself could not have accepted it. In that case, not only is an express appointment unnecessary, but even if the slave actually protests against it, his protest is unavailing.

(3) And just as she can appoint an agent, so can he (or, so must he — v. preceding note).

(4) Or, need not.

(5) V. Ned. 35b. The question is: When a priest offers a sacrifice on behalf of an Israelite, does he act as his agent or as God's? The practical difference is where an Israelite vows to derive no benefit from a certain priest: on the first alternative, the priest may not offer his sacrifices for him; on the second, he may.

(6) He cannot offer a sacrifice for himself or for another Israelite.

(7) In the first case the deed leaves the master's possession, but not in the second.

(8) Lit., ‘caused him to acquire’.

(9) I.e., the stipulation is invalid.

(10) Hence he can be liberated by money through his own agency.

Talmud - Mas. Kiddushin 24a

A woman cannot redeem second tithe without [adding] a fifth. R. Simeon b. Eleazar said on R. Meir's authority: A woman can redeem second tithe without [adding] a fifth.[1] Now, how is this meant? Shall we say, [she redeems it] with her husband's money, the second tithe also being her husband's — then she merely acts as her husband's agent.[2] But if with her money[3] and his tithe, the Divine Law said, [And if] a man [will redeem aught of his tithe, then he shall add there to the fifth part thereof],[4] but not his wife?[5] Hence it surely refers to such a case, viz., that a stranger gave her a maneh, and said,’On condition that you redeem the tithe therewith,’ and thus we learn that they hold contrary opinions.[6] — Said Abaye: Then reverse it.[7] Raba said: After all, you need not reverse it, but here the reference is to tithe which came [to her] from her father's estate,[8] R. Meir following his opinion that tithe is sacred property,[9] so that her husband does not acquire it.[10] The Rabbis too are in accord with their view that tithe is secular property, [the usufruct of which] her husband acquires. Therefore she is [merely] deputising for her husband.

A Tanna taught: He [the heathen slave] goes out [free] through [the loss of] his eye, tooth, and projecting limbs which do not return.[11] Now, as for [the loss of] his tooth or eye, it is well: these are written.[12] But how do we know [the loss of] the projecting limbs? — By analogy with tooth and eye: just as these are patent blemishes, and do not return, so [is he freed for the loss of] all [limbs which are] patent blemishes and do not return. But let us say that ‘tooth’ and ‘eye’ are two laws[13] which come as one,[14] and whenever two verses come as one, they do not illumine [other cases].[15] — Both are necessary. For had the All-Merciful mentioned ‘tooth’ [only], I would have argued, [It refers] even

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(1) Second tithe produce was eaten in Jerusalem, or it was redeemed and the money expended in Jerusalem. When one redeemed his own, he added a fifth of its value, but not when he redeemed second tithe belonging to another, unless the owner deputed him. It is assumed that this Baraitha refers to the crops of her husband's field.

(2) And must certainly add a fifth.

(3) Money, the principal of which by the terms of the marriage settlement belonged to her, while her husband enjoyed its usufruct. This money, and all other property held by a wife on the same terms, are designated ‘property of plucking’ (v. Glos. s.v. mulug).

(4) Lev. XXVII, 31.

(5) I.e., his wife ranks as a stranger.

(6) To those they hold on the question of a slave's freedom. — The rights of a slave and a woman are similar: either they can both acquire independently or both can not.

(7) The first Tanna rules that she does not add a fifth; R. Meir holds that she must add a fifth.

(8) Lit., ‘the house of the wife’. I.e., she inherited it as her father's heir. Property acquired by a woman after marriage is likewise ‘property of plucking’.

(9) Lit., ‘money’.

(10) V. infra 52b and 54b. Since it really belongs to God, the Rabbis did not enact that the husband should enjoy its usufruct; hence it is entirely her own, and when she redeems it with her husband's money, no fifth is necessary. (For redeeming one's own tithe with money belonging to another is the same in law as redeeming another Person's tithe with one's own money.)

(11) Lit., ‘tips of limbs’. Once lost, just as the eyes and teeth.

(12) Ex. XXI, 26f.

(13) Lit., ‘verses’.

(14) I.e., to teach the same thing. For this analogy could be drawn only if one were mentioned.

(15) For otherwise, only ‘eye’ or ‘tooth’ should have been mentioned, and by analogy the other, as well as all limbs the loss of which has the same result, would be included.

Talmud - Mas. Kiddushin 24b

to a milk tooth;[1] therefore the All-Merciful wrote ‘eye’.[2] And had the All-Merciful written ‘eye’, I would have thought,just as the eye is created with him, so must all [for whose loss he is emancipated] be created with him [i.e., at birth], but not a tooth. Thus both are necessary.[3] But let us say, [And] if [a man] smite[4] — that is a general proposition;[5] ‘the tooth . . . the eye’ — that is a specification; and in a general proposition followed by a specification the former includes only that contained in the latter: hence, only ‘tooth’ and ‘eye’ but nothing else! — ‘He shall let him go free’ is another general proposition. And in a sequence of generalization, specification and generalization, you can only include[6] what is similar to the specification: just as the specification is explicit as a patent blemish and does not return, so for all [limbs whose loss are] patent blemishes and do not return [the slave is freed]. If so, [say] just as the specification is explicit as a patent blemish, ceases to do its work,[7] and does not return, so for all [limbs whose loss are] patent blemishes, cease to function, and do not return [the slave is freed]! Why [then] was it taught: If he [the master] plucked out his [the slave's] beard and thereby loosened his [jaw.] bone,[8] the slave is liberated on their account?[9] — ‘He shall let him go free’ is an amplification.[10] But if it is an amplification, even if he struck his hand and it withered, but it will ultimately heal,[11] he should also [be freed]? Why was it taught: If he struck his hand and it withered, but it will ultimately heal, the slave is not freed on its account? — If so,[12] of what use are ‘tooth’ and ‘eye’?[13]

Our Rabbis taught: On account of all these[14] a slave gains his freedom, yet he needs a deed of emancipation:[15] this is R. Simeon's opinion. R. Meir said: He does not need one. R. Eleazar said: He does need one; R. Tarfon said: He does not need one. R. Akiba said: He needs one. Those who sought to make a compromise before the Sages said: R. Tarfon's view is preferable in respect of tooth and eye, seeing that the Torah conferred the privilege [of freedom] upon him [as compensation];[16] and R. Akiba's view in respect of other limbs, since it is a punishment of the Sages [that the slave is freed]. ‘A punishment’? Surely [Scriptural] verses are [here] expounded![17] — But [say thus:] since it is an exposition of the Sages.[18]

What is R. Simeon's reason? — He learns the meaning of ‘sending’ here from a [married] woman:[19] just as a woman [is sent forth] by deed, so is a slave too [sent forth] by deed. And R. Meir?[20] — Were ‘to freedom’ written at the end [of the verse, it would be] as you say;[21] since, however, it is written: ‘to freedom shall he send him away’, it implies that he is free at the very outset.[22]

Our Rabbis taught: If he smites his eye and blinds it, [or] his ear, and deafens it, the slave goes out [to freedom] on their account; near[23] his eye, so that he cannot see, [or] near his ear, and he can not hear,[24] the slave does not go out [free] on their account. R. Shaman said to R. Ashi: Are we to assume that sound is nothing?[25] But Rami b. Ezekiel learnt: If a cock stretches its head into the cavity of a glass vessel, crows there and breaks it, he [its owner] must pay for it in full. Also, R. Joseph said: The scholars of Rab[26] said: If a horse neighs or an ass brays and breaks utensils in a house, he [their owner] must pay for half the damage![27] — Man is different, he replied; since he is an intelligent being, he frightens himself.[28] As it was taught: If one frightens his neighbour,[29] he is exempt by the law of man, yet liable by the law of Heaven.[30] E.g., if he blows into his ear and deafens him, he is exempt; but if he seizes him, blows into his ear, and deafens him, he is liable.

Our Rabbis taught: If he strikes his eye and dims it,[31] [or] his tooth, and loosens it: if he can [nevertheless] still use them, the slave does not go out free on their account; if not, the slave goes out free on their account. Another [Baraitha] taught: If his eye [sight] was dim, and he [altogether] blinds him,[32] or his tooth was loose, and he knocks it out: if he could use them before, the slave goes out free on their account; if not, the slave does not go free on their account. Now, both are necessary. For if we were taught the first [only], [I would say] that is because his eyesight was originally sound and now it is weak; but here [in the second Baraitha], seeing that his eyesight was impaired before too, I would say [that he does] not [go free]. And if we were taught the second: that is because he completely blinds him; but there [in the first Baraitha] that he does not completely blind him, l would say [that he does] not [go free]. Hence both are necessary. Our Rabbis taught: If his master is a doctor and he asks him to paint his eye [with an ointment], and he blinds him,[33] [or] to drill his tooth, and he knocks it out, he laughs at his master and goes out free. R. Simeon b. Gamaliel said: and he destroy it[34] [implies], only when he intends to destroy. And the Rabbis: how do they employ ‘and he destroy it’? — They need it for what was taught: R. Eleazar said: If he inserts his hand in his bondmaid's womb[35] and blinds the child within her, he is free [from punishment].[36] What is the reason? — Because Scripture said: ‘and he destroy it’, [implying], only when he intends to destroy it. And the other?[37] — He deduces this from ‘and he destroy it’, [instead of] ‘and he destroy’.[38] And the other? — He does not interpret ‘he destroy’, [and] ‘he destroy it’.[39]

R. Shesheth said: If he has a blind eye and he [the master] removes it, the slave is freed on its account. And a Tanna supports this: Perfection[40] and male sex are required in animals[41] but not In birds. I might think, [even] if its wing is palsied, its foot cut off, or its eye picked out [the bird is still fit]: therefore it is said: And if [the burnt sacrifice be . . .] of fowls,[42] but not all fowls.[43]

R. Hiyya b. Ashi said in Rab's name: If he had

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(1) Which does return; e.g., if the slave was a minor.
(2) Just as an eye does not return, so must the tooth also be one which does not return.
(3) And therefore they are not two verses with the same purpose.
(4) Ex. XXI, 26f.
(5) Implying that the slave is freed for the destruction of any limb.
(6) Lit., 'judge'.
(7) The eye is blinded and the tooth cannot masticate.
(8) This appears to be the meaning of the phrase, and is so understood in J.D. 267, 30, where, 'from the jaw' is added. Jast. s.v. דלדל translates: he loosened a tooth in the slave's jaw. But there seems no sufficient reason for translating עצם here as tooth.
(9) Though the bone still functions.
(10) Not merely a generalization, and therefore it teaches the inclusion of bodily hurts which are not completely similar to the loss of an eye or tooth.
(11) Lit., 'return' — to its normal state.
(12) That nothing at all is excluded.
(13) Hence it must be to exclude injuries which are not permanent.
(14) Viz., the twenty-four projecting limbs.
(15) To legalise his marriage with a free Jewess.
(16) Therefore no deed is required.
(17) To prove the inclusion of other limbs too. Hence they too have Scriptural force.
(18) I.e., the law is derived by Rabbinical exegesis. — The requirement of a deed is only a Rabbinical measure, lest his former master reclaim him as his slave. Hence it is unnecessary in the case of his tooth and eye, for all know that Scripture gave him his freedom. But not all are aware of the Rabbinical exegesis which extended the law to other limbs too; hence the slave needs a document to prove his freedom. — R. Tam. V. also below for another explanation.
(19) Here: To freedom shall he send him away (yeshallehenu); a married woman: then he shall write her a bill of divorce. and send her (we-shillehah, the same verb as yeshallehenu) out of his house — Deut. XXIV, 1.
(20) Does he not accept this exegesis?
(21) For then one might argue: he shall send him — in the manner that a woman is sent away, viz., by deed — and only then is he free.
(22) I.e., as soon as he is assaulted he automatically becomes free, and hence no deed is required. — Now, this can apply only to the loss of his eye or tooth, which are distinctly stated in that verse. But the other limbs are included only because 'he shall send him away' is an extension (v. supra); hence in respect of those, R. Simeon's exegesis, assimilating the freedom of a slave to that of a woman, may still hold good. Therefore those who compromised ruled that a deed is unnecessary when he loses his eye or tooth, but is necessary in all other cases (Riba in Tosaf.).
(23) Lit., 'against'.
(24) I.e., he forcibly strikes a wall or any other object near his ear, and the shock or noise paralyses his optical or aural nerves, rendering him blind or deaf.
(25) Because he was blinded by sound he is not freed.
(26) Be Rab may either mean the students of Rab's college, which he founded and which continued to flourish several centuries after his death, or, scholars in general.
(27) V. B.K. 18b. Thus second is a positive action, for which liability is incurred.
(28) He should be able to control his nerves.
(29) Thereby causing damage.
(30) I.e., legally, he is exempt; morally, he is liable. This proves that in law he is not regarded as having caused the damage.
(31) Seriously impairing his eyesight, but not blinding him.
(32) Lit., 'it'.
(33) Accidentally.

(34) Ex. XXI, 26.
(35) Lit., ‘bowels’ — in order to deliver her of child.
(36) The child, on birth, is not emancipated. There he does not intend doing anything to its eye at all, but here he does.
(37) R. Simeon b. Gamaliel: does he not admit that the word is needed for such a case?
(38) ‘And he destroy’ implies that he must intend to destroy: ‘and he destroy it’ implies that even if he is doing something to it, his intention must be destructive.
(39) I.e., ‘it’ has no particular significance.
(40) I.e., freedom from blemish.
(41) For burnt-offerings.
(42) Lev. I, 14 ‘of is partitive, excluding some fowls.
(43) Thus, though blindness does not disqualify, the loss of a blind eye does. A similar principle operates in the case of a slave.

Talmud - Mas. Kiddushin 25a

an additional [freak] finger and he [his master] cut if off, the slave goes out free. Said R. Huna: Provided that it is counted upon the hand.[1]

[Some] scholars of Nizunia[2] absented themselves from R. Hisda's session.[3] Thereupon he instructed R. Hamnuna, ‘Go put them under the ban.’[4] He went and said to them, ‘Why did you[5] not attend the session?’ ‘Why should we attend?’ replied they, ‘when we ask him questions which he cannot answer?’ ‘Have you ever asked me anything,’ he retorted: ‘which I could not solve?’ [Thereupon] they asked him: What if a slave's stones are castrated by his master, is it an open blemish or not? As he was unable to answer it,[6] they said to him, ‘What is your name?’ ‘Hamnuna,’ he replied. ‘You are not Hamnuna, but Karnuna,’ jeered they.[7] When he came before R. Hisda, he said to him: They asked you a Mishnah. For we learnt: As to the twenty-four tips of limbs of a man, none of these become unclean on account of raw flesh.[8] And these are they: the tips of the fingers of the hands and [the toes of] the feet, the tips of the ears, the tip of the nose, the tip of the membrum, and the nipples of a woman;[9] R. Judah said: Also those of a man. Now, it was taught thereon: For [the loss of] all these a slave obtains his freedom. Rabbi said: For castration too; Ben ‘Azzai said: [For] the [loss of the] tongue too.[10]

The master said: ‘Rabbi said: For castration too.’ Castration of what: shall we say: Castration of the membrum? But that is identical with the [loss of the] membrum. Hence it surely means castration of the stones.[11]

‘Rabbi said: Castration too’. And Rabbi, [does he] not [include] the tongue? But the following contradicts it. If he [a priest] is sprinkling,[12] and the sprinkling[-water] spurts on to his [the unclean man's] mouth, — Rabbi said: He has [validly] besprinkled him;[13] but the Sages maintain: He has not [validly] besprinkled him. Surely that means upon his tongue?[14] — No: upon his lips. ‘Upon his lips!’ but that is obvious? — I might have thought, sometimes his lips are tightly pressed together.[15] Hence we are informed [that they are still regarded as exposed]. But it was taught: on his tongue? Moreover, it was taught: and if the greater length of the tongue was removed;[16] Rabbi said: [even] the greater length of the speaking part of the tongue![17] — But [answer thus:] Rabbi said: Castration too,[18] and the tongue goes without saying. Ben ‘Azzai said: [The loss of the] tongue, but not castration. Then to what does ‘too’ refer?[19] — To the first clause.[20] If so, Ben ‘Azzai's statement should have been given priority? — The Tanna [first] heard Rabbi's view and inserted it[21] [in the teaching]; then he learnt Ben ‘Azzai's view and inserted it, while the teaching remained unchanged.[22]

‘Ulla said: All agree in the matter of uncleanliness that the tongue is [considered] exposed as far as reptiles are concerned. What is the reason? The Divine Law said: And whomsoever [he that hath the issue] toucheth,[23] and this too can be touched. With respect to tebilah[24] it is as hidden.[25] What is the reason? Scripture saith, then he shall bathe his flesh in water:[26] just as the flesh is exposed, so must all [which requires contact with the water] be exposed. They differ in respect to sprinkling: Rabbi compares it to uncleanliness, whereas the Rabbis compare it to tebillah. And both differ on this verse: And the clean person shall sprinkle upon the unclean [etc.].[27] Rabbi holds, [the verse reads thus:] And the clean person shall sprinkle upon the unclean on the third day, and on the seventh day and purify him.[28] Whereas the Rabbis maintain, [the verse is read thus:] and on the seventh day he shall purify him, and he shall wash his clothes and bathe himself in water.[29] And the Rabbis too: let it be compared with uncleanliness? — purification should be learned from purification.[30] And Rabbi: let it be compared to tebillah? — 'And he shall wash his clothes' disconnects the subject.[31]

Now, does Rabbi hold that it [the tongue] is as concealed in respect of tebillah? But Rabin said in the name of R. Adda in R. Isaac's name: It once happened that a bondmaid of Rabbi's household performed tebillah, ascended [from the water], and a bone was found between her teeth, whereupon Rabbi ordered her [to perform] a second tebillah.[32] — Granted that we do not require the water to enter, we insist that there shall be room for it to enter.[33] And it is in accordance with R. Zera, who said: Whatever is fit for [perfect] mixing, the mixing is not indispensable; whatever is not fit for [perfect] mixing, the mixing is indispensable.[34] [

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(1) I.e., it is on a level with the other fingers and in the same row.

(2) A town lying close to Sura. Obermeyer, op. cit., p. 298.

(3) [Who became head of the School of Sura after the death of Rab Judah.]

(4) Lit., 'cause them to withdraw' and live in retirement — a mild form of excommunication. Presumably he knew that their absence was due to dissatisfaction with his teaching methods.

(5) Lit., 'the Rabbis'.

(6) Lit., 'he did not have it in his hand'.

(7) Rashi connects Karnuna with karona, the market: 'you have frittered your time away in the market place, gossiping, otherwise you could have answered us.' Tosaf. Ham-nuna = a hot fish; Kar-nuna = a cold fish. 'you are a cold fish, not hot' — your knowledge is lifeless.

(8) V. Lev. XIII, 10: 'and there be quick raw flesh in the rising'.

(9) Each being counted separately, we have twenty-four, apart from the woman's addition,

(10) Because it is seen when one peaks; hence its loss is a patent blemish.

(11) That is the conclusion of R. Hisda's reply.

(12) V. Num. XIX, 17, 19.

(13) I.e., he is clean, though the sprinkling must be upon the revealed parts of his body.

(14) Shewing that Rabbi regards the tongue as an exposed limb, and thus contradicting his exclusion of the tongue in the case of a slave.

(15) And they ceased to be exposed. — At this stage, that may be assumed as the reason of the Sages.

(16) In the case of a firstling, that is a blemish, which permits the animal to be eaten as hullin (q.v. Glos).

(17) There too, exposed blemishes are required, and we see that Rabbi regards the loss of the tongue as such.

(18) Though the testicles are always hidden.

(19) Ben 'Azzai said: 'The loss of the tongue too'; this appears an addition to Rabbi's ruling, but it is now obvious that it cannot be.

(20) I.e., the enumeration preceding Rabbi's statement.

(21) Lit., 'fixed it'.

(22) Lit., 'it did not move from its place', i.e., it was not altered so as to give Ben 'Azzai's statement the precedence it logically requires.

(23) Lev. XV, 11; though this refers to a zab (v. Glos.), the same holds good of defilement by a reptile, and this verse shews that it must touch an exposed part of the person.

(24) V. Glos.

(25) In tebillah, the whole of the exposed part of a person must come into contact with the water; but not the tongue, for it is regarded as concealed.

(26) Ibid.13.
(27) Num. XIX, 29.
(28) By linking ‘the unclean’ with ‘purify him’, he deduces that whatever part can become unclean may be validly sprinkled; hence the tongue is included.
(29) They connect ‘shall purify’ i.e., sprinkle, with ‘bathe himself, i.e., tebillah. Hence sprinkling must be on the same part which needs tebillah, thus excluding the tongue.
(30) . I.e., the two phrases bearing on cleanliness must be coupled.
(31) Therefore ‘shall purify’ cannot be linked with ‘bathe himself.’
(32) Which shews that the water must enter the mouth.
(33) I.e., though the water need not pass through the crevices between the teeth, yet it must be possible, whereas the bone rendered it impossible.
(34) In Men. 103b it is stated: A meal offering of more than sixty ‘esronim (‘isaron pl. ‘esronim = one tenth of an ephah) cannot be offered in one utensil, because it cannot be perfectly mixed with the oil. Hence if sixty-one ‘esronim are vowed, sixty are brought in one vessel, and one in another. Now the Talmud objects, But we learnt that the offering is valid even if not mixed at all? R. Zera's dictum is the answer, and the same principle applies here.

Talmud - Mas. Kiddushin 25b

This[1] is disputed by Tannaim. And that which is bruised, or crushed, or broken, or cut [ye shall not offer unto the Lord][2] — all these refer to the stones: that is R. Judah's opinion. To the stones and not to the membrum![3] But all these refer to the stones too: that is R. Judah's opinion. R. Eliezer b. Jacob said: They all refer to the membrum.[4] R. Jose said: ‘Bruised and crushed’ refer to the stones too,[5] whereas ‘broken or cut’ refer only to the membrum but not to the stones.[6]

MISHNAH. LARGE CATTLE[7] ARE ACQUIRED BY MESIRAH[8] SMALL CATTLE[9] BY LIFTING: THIS IS THE OPINION OF R. MEIR AND R. ELIEZER.[10] BUT THE SAGES RULE: SMALL CATTLE ARE ACQUIRED BY MESHIKAH.

GEMARA. Rab lectured in Kimhunia:[11] Large cattle are acquired by meshikah. Samuel, meeting Rab's disciples, said to them, Did Rab rule that large cattle are acquired by meshikah? But we learnt: BY MESIRAH, and Rab too [previously] ruled, by mesirah! Did he then retract from that [view]? — He ruled in accordance with this Tanna. For it was taught: But the Sages maintain, Both [large cattle and small] are acquired by meshikah. R. Simeon said: Both by lifting. R. Joseph demurred: If so, how can an elephant be acquired, according to R. Simeon? — Said Abaye to him: By halifin, or by renting its place.[12] R. Zera said: He [the purchaser] brings four utensils and places them under its feet.[13] Then you may infer from this that when the purchaser's utensils are in the vendor's domain [and a bought commodity is placed in them] the purchaser obtains a title.[14] — The reference here is to an alley.[15]

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(1) The question whether castration of testicles is a patent blemish and so frees the slave.
(2) Lev. XXII, 24.
(3) Surely if the membrum is cut or broken it is a patent blemish!
(4) But not to the testicles, which in his view are concealed and do not disqualify the animal.
(5) As then they are more noticeable.
(6) For these are less noticeable. — A slave is freed when his master blemishes him in such a way that an animal would thereby be unfit for a sacrifice, and thus the question of his stones is disputed by these Tannaim.
(7) Of the bovine race — cows, oxen, etc.
(8) Delivery, the vendor gives it over to the purchaser.
(9) Sheep, goats etc.
(10) So the reading in cur. edd. S. Strashun and Alfasi read Eleazar, the reference being to R. Eleazar h. Shammua’, a contemporary of R. Meir.
(11) Neubauer, Geographie, p. 397 identifies Kimhunia with Gamach, a town in upper Armenia; Obermeyer, op. cir. p.

296, (v. also n. 4. a.l.) rejects this identification and places it in the vicinity of Sura.

(12) It then becomes his temporarily, and the elephant too; v. Mishnah on 26a.

(13) I.e., causes the elephant to step upon them; he is then regarded as having placed it in his utensils, so acquiring it.

(14) For presumably the elephant was standing in the vendor's grounds. But this question is disputed in B.B. 85a.

(15) Adjoining a public thoroughfare: this is a ‘no man's land’.

Talmud - Mas. Kiddushin 26a

Alternatively, [this refers] to bundles of faggots.[1]

MISHNAH. PROPERTY WHICH OFFERS SECURITY[2] IS ACQUIRED BY MONEY, BY DEED OR BY HAZAKAH. [PROPERTY] WHICH DOES NOT OFFER SECURITY[3] CAN BE ACQUIRED ONLY BY MESHIKAH. PROPERTY WHICH DOES NOT OFFER SECURITY MAY BE ACQUIRED IN CONJUNCTION WITH PROPERTY WHICH PROVIDES SECURITY BY MONEY, DEED, OR HAZAKAH;[4] AND IT OBLIGATES THE PROPERTY WHICH PROVIDES SECURITY, TO TAKE AN OATH CONCERNING THEM.[5]

GEMARA. BY MONEY: Whence do we know it? — Said Hezekiah: Scripture saith, men shall acquire fields with money.[6] Yet perhaps [the purchase is invalid] unless there is a deed [too], since it continues, and subscribe the deeds, and attest them? — Were ‘acquire’ written at the end, it would be as you say; now, however, that ‘acquire’ is written at the beginning,[7] money gives a title, while the deed is merely evidence.[8]

Rab said: This was taught only of a place where a deed is not indited; but where it is, money alone gives no title. Yet if he [the vendee] distinctly stipulates,[9] it is so.[10] E.g., when R. Idi b. Abin bought land he used to say: ‘If I wish, I acquire it by money; if I wish, I acquire it by deed.’ [Thus:] ‘If I wish, I acquire it by money,’ so that should you desire to retract [after I have paid], you cannot. ‘And if I wish, I acquire it by deed,’ so that should I desire to withdraw,[11] I can.

AND BY DEED. How do we know it? Shall we say, because it is written, and subscribe the deeds, and attest them, and call witnesses[12] — but you have said that the deed is merely evidence? — But from this verse, so I took the deed of purchase.[13]

Samuel said: This was taught only of a deed of gift. But in the case of sale, no title is obtained until the money is paid.[14] R. Hamnuna objected: By deed: E.g., if he [the vendor] writes for him [the vendee] on paper or a shard,[15] even if worth less than a perutah. ‘My field is sold unto you,’ ‘my field is given unto you,’ it is sold and gifted![16] — He raised the objection. and he answered it: This refers to one who sells his field because of its poor quality.[17] R. Ashi said: He really wished to present it to him as a gift; why then did he indite it with the phraseology of purchase? In order to strengthen his rights therein.[18]

AND BY HAZAKAH. How do we know it? — Said Hezekiah: Scripture saith, and dwell in the cities that ye have taken:[19] how did ye take it? By dwelling therein.[20] The School of R. Ishmael taught: And ye shall possess it, and dwell therein:[21] whereby shall ye possess it? By dwelling therein.

PROPERTY WHICH DOES NOT PROVIDE SECURITY CAN BE ACQUIRED ONLY BY MESHIKAH. Whence do we know it? — Because it is written, and if thou sell aught unto thy neighbour, or buy of thy neighbour's hand,[22] [intimating] that an article is acquired [by passing] from hand to hand.[23] But according to R. Johanan, who maintained, By Biblical law, money gives a title,[24] what can be said? — The Tanna teaches the Rabbinical enactment.[25]

PROPERTY WHICH DOES NOT PROVIDE SECURITY [etc.]. How do we know it? — Said Hezekiah, Because Scripture saith, And their father gave them gifts . . . with fenced cities in Judah.[26] The scholars propounded: Need they [the movables] be heaped up [upon the land] or not?[27] — Said R. Joseph, Come and hear: R. Akiba said: Land, whatever its size, is liable to pe'ah[28] and first fruits,[29]

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(1) Not less than three handbreadths high. When he causes the elephant to step upon them, he is regarded as having lifted it.

(2) Real estate which may be mortgaged for debts, and remain liable to seizure even if subsequently sold.

(3) I.e., movables, because the creditor cannot distrain upon them if sold.

(4) If one sells land and movables, as soon as the purchaser acquires the land by one of these three methods, the movables automatically become his. — Hazakah, lit., 'taking possession,' e.g., if the vendee performs some small labour therein, such as digging, threshing, closing or making a gap in its fences.

(5) In litigation over real estate, no oath is administered; whereas for movables it is. In a dispute concerning both, since an oath is taken for the latter, it is taken for the former too.

(6) Jer. XXXII, 44.

(7) I.e., before the mention of deeds,

(8) Of the sale.

(9) That either money or deed shall suffice. [Tosaf. Ri: either the vendor or buyer, whoever makes the terms, is at an advantage.]

(10) Lit., 'he has stipulated'.

(11) After paying, but before the deed is drawn up.

(12) Jer. XXXII, 44.

(13) Ibid. 11; this shews that the deed itself consummates the purchase.

(14) Unless otherwise stipulated (Rashi).

(15) Shards were used for this purpose in very ancient times: v. Krauss, T.A. 111, 147f, and n. 113a, 1.

(16) Thus the deed suffices even for a sale. — The meaning is assumed to be, it is sold or gifted.

(17) Being anxious to get rid of it, he is desirous that the deed itself shall consummate the transaction, so that the vendee may not withdraw.

(18) Should the donor's creditors seize it for debt, the recipient would be able to claim its value, as stated in the deed, from him. Hence it is literally meant: it is both sold and gifted.

(19) Jer. XL, 10.

(20) I.e., by hazakah, possession.

(21) Deut. XI, 31.

(22) Lev. XXV, 14.

(23) I.e., by meshikah.

(24) In the case of movables.

(25) That only meshikah gives a title. The reason of the enactment was this: should money itself transfer the purchase to the vendee, even before he takes possession, and a fire break out on the vendor's premises where the goods lie, he will not trouble to save them. V. B.M. 47b.

(26) II Chron. XXI, 3; thus, they acquired the gifts, which were movables, in conjunction with the fenced cities, sc. real estate.

(27) When they are to be acquired along with it.

(28) V. Glos.

(29) V. Deut. XXVI, 2.

Talmud - Mas. Kiddushin 26b

[is fit] for a prosbul[1] to be written thereon, and that property which does not provide security [movables] shall be acquired along with it. But if you say: They must be heaped thereon, for what is a very small piece of land fit? — R. Samuel b. Bisna explained it in R. Joseph's presence: E.g., if he sticks a needle therein.[2] Said R. Joseph to him. You annoy us:[3] has the Tanna troubled to teach us

about a needle! — Said R. Ashi: who tells us that he did not suspend a pearl on it, worth a thousand zuz?

Come and hear: R. Eleazar said: It once happened that a certain Meronite[4] in Jerusalem had a large quantity of movables, which he desired to give away. He was thereupon informed that he had no other means but to transfer them along with land. What did he do? He went and bought beth sela'[5] near Jerusalem and declared: 'The north of this belongs to So-and-so, and together with it go a hundred sheep and a hundred barrels';[6] on his death his directions were carried out. But if you say: They [the movables] must be heaped up thereon, for what is beth sela' fit? — Do you think that by beth sela' literally a sela' [coin] is meant? What is sela'? A large area; and why was it called sela'? Because it was as hard as a rock.[7]

Come and hear: For Rab Judah said in Rab's name: It once happened that a certain man who fell ill in Jerusalem (that is in accordance with R. Eleazar's view) — others state, he was in good health, which agrees with the Rabbis[8] — had a large quantity of movables, which he desired to dispose of as a gift. Thereupon he was told that he had no other option but to transfer it along with land. What did he do? He went and purchased [a field] a quarter [kab's sowing] in area[9] and declared: 'Let a square handbreadth[10] belong to So-and-so, and with it go a hundred sheep and a hundred barrels':[11] on his death, the Sages confirmed his testimony. Now, if you say that they [the movables] must be heaped up thereon, for what is a square handbreadth fit? — The reference here is to money.[12] Reason too supports this. For should you think that a hundred sheep and a hundred barrels are meant literally, he should have transferred them by barter![13] What then: money? Then he could have transferred it to him by meshikah? But [it must mean] that the recipient is absent; then here too,[14] it means that the recipient is absent. Then he should have transferred it to him by another?[15] — He could not rely thereon, fearing that the other would steal and consume it. Then what is meant by 'he had no other option'? — It means this: in view [of the fact] that he has no confidence [in a stranger], there is no other course but to transfer it in virtue of real estate.

Come and hear: Rabban Gamaliel and some elders were once travelling in a ship. Said Rabban Gamaliel to the elders, 'Let the tenth which I am to measure out

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(1) V. Glos. The prosbul was a deed whereby a creditor transferred his debts to the Beth din, which were then regarded as though already collected from the debtor, so that the seventh year did not cancel them. This was done only if the debtor possessed land. — This measure was instituted by Hillel, who saw that people refused to lend money when the seventh year was approaching, with consequent hardships for the poor; v. Git. 36a.

(2) Which is acquired along with the land.

(3) Or, insolent man!

(4) A townsman of Meron in Galilee, south of Giscala. The reading here and in the MS. F of B.B. 156b is מדוני .

(5) This may have several meanings: (i) a piece of land the size of a sela', the coin; (ii) a piece of land comprising just one rock, upon which it would be impossible to place anything; and (iii) a piece of rocky soil. The first or second is assumed to be meant.

(6) In B.B. 156b it continues: and the south part to So-and-so, etc.

(7) So that it could be bought very cheaply.

(8) R. Eleazar maintains that a gift, even if made by a very sick person on point of death, is not validly transferred by mere words, but the recipient must perform an act of acquisition. Hence the following story can refer even to a sick person. But the Rabbis hold this unnecessary in the case of a sick person, whose verbal testimony suffices; hence what is related must have happened to a man in good health.

(9) On the basis that two sela'im (twelve kabs) of seed are required for 5,000 sq. cubits; 'Er. 23b.

(10) A handbreadth one sixth of a cubit.

(11) And the recipient acquired the land by one of the recognised methods.

(12) He gave them money worth all that, and money could actually be placed thereon.

(13) Halifin v. Glos. Coin cannot be so acquired (B.M. 46a).

(14) I.e., even if sheep and barrels are meant literally.

(15) Who would accept it on his behalf.

Talmud - Mas. Kiddushin 27a

be given to Joshua,[1] and its place [where it is lying] be rented to him; and the other tenth which I am to measure out be given to Akiba b. Joseph, that he shall acquire it on behalf of the poor,[2] and its place be rented to him'.[3] This proves that they must be heaped up thereon.[4] — [No:] there it was different, for he did not wish to give them trouble.[5] Come and hear: For Raba b. Isaac said in Rab's name: There are two [different kinds of] deeds. [Thus: If a man declares,] 'Acquire a title to this field on behalf of So-and-so, and indite a deed for him,'[6] he can retract from the deed[7] but not from the field. [But if he stipulates,] 'on condition that you indite a deed for him,' he can retract from both the deed and the field.[8] R. Hiyya b. Abin said in R. Huna's name: There are three [kinds of] deeds. Two, as just stated. The third: If the vendor anticipates [payment] and indites a deed for him [the vendee], in accordance with what we learnt: A deed may be written for the vendor[9] even though the vendee is not with him,[10] then as soon as he takes possession of the land, the deed is vested [in the vendee] wherever it is.[11] This proves that they need not be heaped up thereon![12] — A deed is different, as it is the bit of the land.[13] But thereon it was taught: This is [an example of] what we learnt, PROPERTY WHICH DOES NOT PROVIDE SECURITY MAY BE ACQUIRED IN CONJUNCTION WITH PROPERTY WHICH PROVIDES SECURITY BY MONEY, BY DEED OR BY HAZAKAH. This proves that they need not be heaped up thereon! This proves it.

The scholars propounded: Is 'by dint' [thereof] necessary or not?[14] — Come and hear: For all these [cases] are taught,[15] and yet 'by dint of is not mentioned. And on your view; is 'Let him acquire it' taught?[16] But it must mean, only when he says: 'Acquire it'; then here too, [it may mean] only when he says: 'By dint of.'[17] Now, the law is: they need not be heaped thereon, whereas 'Acquire it,' and 'By dint of are essential.

The scholars propounded: What if the field is sold and the movables are gifted?[18] — Come and hear: 'The tenth which I am to measure out to be given to Joshua and its place be rented to him.' This proves it.[19]

The scholars propounded: What if the field [is transferred] to one person, and the movables to another?[20] — Come and hear: 'A tenth which I am to measure out be given to Akiba b. Joseph, that he shall acquire it on behalf of the poor, and its place be rented to him.'[21] [This does not solve it:] What is meant by 'rented'? Rented for the tithe.[22] Alternatively, R. Akiba was different, for he was the hand of the poor.[23]

Raba said: This was taught[24] only if he [the purchaser] had paid the money for them all. But if he had not paid the money for them all, he acquires only to the extent of his money. It was taught in agreement with Raba. The power of money is superior to that of a deed, and the power of a deed is superior to that of money. The power of money is superior [etc.], in that hekdesh[25] and the second tithe[26] are redeemed therewith, which is not so in the case of deed.[27] And the power of a deed is superior, for a deed can free an Israelite daughter,[28] which does not hold good of money. And the power of both is superior to that of hazakah, and the power of hazakah is superior to that of both. The power of both is superior [etc.], in that both give a title to a Hebrew slave, which is not so in the case of hazakah. And the power of hazakah is superior to that of both: For with hazakah, if A sells B ten fields [situate] in ten countries, as soon as B takes possession[29] of one, he acquires all.

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(1) I.e., R. Joshua b. Hanania, who was a Levite.

(2) It was either the third or the sixth year after the year or release (shemittah), when a tithe must be given to the poor. R. Akiba was the charity overseer.

(3) And they were to obtain a title in virtue of the place. — Rashi states: R. Gamaliel had forgotten to separate the tithes before leaving home, nor had he authorized his household to do so, and he was afraid that they might eat thereof before his return. Tosaf.: It was the time when all tithes had to be given up (likewise at the end of the third and the sixth years: though the tithes were separated before, they might be kept in the house of the Israelite until then), and R. Gamaliel chose this way of giving it. In that case it would appear that the tithes had already been separated, but the phrase, 'which I am to measure out' suggests otherwise; v. Rashal and Maharsha. v. B.M. (Sonc. ed.) p. 62 and notes.
(4) Otherwise, why specify the particular spot where they lie?
(5) The place being rented to them, they could remove the tithes at their convenience. But had he rented some other place to them, he might have wanted the spot where they were lying.
(6) As evidence of ownership.
(7) Should he say: 'I do not wish him to have proof that the field is his.'
(8) For they are interdependent.
(9) Viz., my field is sold to X.
(10) Either where the vendee has already formally obtained a title thereto, or, according to Abaye, even without it, the mere attesting of such a deed causing the transfer.
(11) Though not actually on the land.
(12) For fuller notes v. B.B. (Sonc. ed.) p. 309.
(13) Like the bit used for leading a horse. I.e., the deed is valueless in itself, but a part of the land transaction, of which it is evidence. But other movables, valuable in themselves, possibly need not be heaped up on the land.
(14) אגב i,e., must the vendor or donor state that the movables are to be acquired in virtue of the land?
(15) On 26b: a hundred sheep etc.
(16) Though it is certain that that must be said.
(17) And they are omitted because they are taken for granted.
(18) Can the latter be acquired through the former?
(19) For the tithe was gifted, whereas the place was rented, which is a temporary sale.
(20) Can one say: 'Acquire the field, and in virtue thereof let So-and-so acquire the movables'?
(21) Thus the tenth was for the poor, while the place was rented to R. Akiba.
(22) And no other purpose. Hence it was really rented to the poor.
(23) I.e., he was their representative.
(24) That movables are acquired along with land.
(25) The plural hekdashoth, sacred objects, viz., animals dedicated to the altar which had subsequently received a blemish, or any object consecrated for Temple use.
(26) V. p. 4, n. 4.
(27) The writing of a deed obligating the owner with their redemption value does not redeem them.
(28) From the marriage bond, viz., divorce.
(29) By means of hazakah, which is the meaning of hehezik.

Talmud - Mas. Kiddushin 27b

When is this? If he has paid him for all; but if he has not paid the money for all, he gains a title only to the extent of his money. This supports Samuel. For Samuel said: If A sells B ten fields [situate] in ten countries, as soon as B takes possession of one, he then acquires all. Said R. Aha, son of R. Ika: The proof is: if he delivered him ten cows [tied] by one cord,[1] and said to him, 'Acquire them': would he not acquire then, [all]?[2] — How compare? he objected. There the tie is in his hand,[3] whereas here the tie is not in his hand. Others state, R. Aha, son of R. Ika, said: The proof that he does not acquire [them all][4] is: if he delivered him ten cows [tied] by one cord and said to him, 'Acquire this one: would he acquire them all?[5] — How compare: there they are separate entities; but here, The earth is one block.[6]

AND THEY OBLIGATE THE PROPERTY etc. 'Ulla said: How do we derive [the law of] the superimposed oath[7] from the Torah? — Because it is said: And the woman shall say: Amen, Amen.[8] And we learnt: To what does she say: Amen? Amen to the curse,[9] Amen to the oath,[10] Amen that [she was] not [unfaithful] by this man,[11] Amen that [she was] not [unfaithful] by any other man.[12] Amen that I did not go aside as an arusah, a nesu'ah, when waiting for the yabam,[13] or as a kenusah.[14] Now, how is this arusah meant? Shall we say that he [the arus] warned her[15] when an arusah and makes her drink [the bitter waters][16] likewise as an arusah, — but we learnt: An arusah and one who waits for the yabam neither drink nor receive their kethubah:[17] why? Because the Divine Law said, [and if thou hast not gone aside to uncleanliness,] being under thy husband,[18] which [condition] is absent![19] But if it means that he warned her as an arusah, she privily closeted herself [with the man against whom she was warned] likewise when an arusah, and he makes her drink when a nesu'ah[20] — then can the water test her? Surely Scripture said: And the man shall be free from iniquity,[21] [which means,] when the husband himself is free from sin, water tests his wife; if the husband himself is not free from sin, water cannot test his wife![22] Hence [it is possible only] by means of superimposition.[23]

Now, we have found this [a superimposed oath] in the case of sotah,[24] which belongs to ecclesiastical law.[25] How do we know it of civil law? — The School of R. Ishmael taught: A minori: if we superimpose [an oath] in the case of a sotah,

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(1) Lit., ‘bit’.

(2) E.g., if he seized one of them by its hair (Tosaf.). [Or by taking hold of the cord, on the view (supra 25b), that large cattle are acquired by Mesirah (Tosaf. Ri)].

(3) The animals are all tied together.

(4) In contradiction to Samuel.

(5) Surely not.

(6) All land is regarded as ultimately connected.

(7) I.e., an oath which would not be taken by itself, except in conjunction with another which must be taken in any case?

(8) Num. V, 22; this refers to the priest's adjuration concerning the charge of adultery.

(9) Ibid. 21.

(10) Ibid. 19.

(11) With whom she was now accused of having committed adultery.

(12) I.e., that she was not unfaithful in general.

(13) In the period between her husband's death and either her marriage, (yibum) or her emancipation (halizah) from the yabam.

(14) Lit., ‘gathered in,’ the designation of a yebamah after her marriage to the yabam.

(15) Lit., ‘was jealous of her’; v. ibid.14; i.e., he formally expressed his jealousy in the presence of two witnesses and forbade her to closet herself privily with the object of his suspicions.

(16) V. Num. V, 24.

(17) I.e., they are divorced or given halizah, but forfeit their marriage settlements.

(18) Ibid. 19.

(19) For neither may live with her husband (viz., the arus or yabam) until the marriage ceremony is completed.

(20) I.e., after his warning was ignored, he completed and consummated the marriage, and then subjected her to the water ordeal. — If a woman disregards her husband's warning he must not live with her; hence he himself sinned in consummating the marriage.

(21) Ibid. 31.

(22) This interpretation is put upon the sentence because in its literary sense it is unnecessary; why would we have thought that the husband bears blame?

(23) I.e., it is impossible that an oath shall be taken by itself for misconduct whilst an arusah. She can swear in the first place only because she is charged with adultery when a nesu'ah, and upon this another oath is superimposed, viz., that she was not unfaithful as an arusah too.

(24) A wife charged with adultery, v. Glos.

(25) איסורא , lit., ‘prohibition,’ is used in contradistinction to tbunn money, i.e., civil law dealing with financial questions only.

Talmud - Mas. Kiddushin 28a

though it [the oath] cannot be demanded of her on the evidence of one witness [only];[1] then in the case of a monetary claim, where a demand [for an oath] can be made on the evidence of one witness,[2] it surely follows that we superimpose [an oath]. Now, we have thus learnt this of a positive claim; how do we know it of a case of doubt?[3] — It was taught: R. Simeon b. Yohai said: An oath was ordered without [the Temple Court],[4] and an oath was ordered within [the Temple Court]: just as in the oath decreed within, doubt was made equal to certainty;[5] so also in the oath decreed without, doubt was made equal to certainty.

How far does the superimposed oath [go]? — Said Rab Judah in Rab's name: Even if he demands of him, 'Swear to me that you are not my slave.'[6] But he indeed is placed under the ban! For it was taught: If one calls his neighbour 'slave',[7] let him be placed under the ban; 'mamzer',[8] . . . he receives forty [lashes]; 'wicked', [rasha'] he may strive[9] against his very livelihood![10] — But, said Raba: [He may demand of him:] 'Swear to me that you were not sold to me as a Hebrew slave'. But that is a proper claim? he owes him money![11] — Raba follows his general view. For Raba said: A Hebrew slave belongs bodily [to his master].[12] If so, it is the equivalent of land?[13] — I might have thought, Only land is it usual for people to sell secretly: had he sold it, it would not be generally known; but as for this,[14] had he sold himself, it would have been known.[15] Therefore we are informed [that it is not so].

MISHNAH. WHATEVER CAN BE USED AS PAYMENT FOR ANOTHER OBJECT, AS SOON AS ONE PARTY TAKES POSSESSION THEREOF, THE OTHER ASSUMES LIABILITY FOR WHAT IS GIVEN IN EXCHANGE.[16] HOW SO? IF ONE BARTERS AN OX FOR A COW, OR AN ASS FOR AN OX, AS SOON AS ONE PARTY TAKES POSSESSION, THE OTHER BECOMES LIABLE FOR WHAT IS GIVEN IN EXCHANGE.[17]

GEMARA. What is the barter? Money![18] Then this proves that coin can become [an object of] barter.[19] — Said Rab Judah: This is its meaning: Whatever is assessed as the value of another object,[20]

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(1) At least two witnesses must testify to her closeting herself (v. Sotah 2a).

(2) If A claims money from B and produces one witness to support his claim, B must swear that it is false; Sheb. 40a.

(3) E.g., A and B are partners in a business; when they come to dissolve partnership, A cannot demand that B shall swear that he did not purloin anything from the business, in order to satisfy his doubts. If, however, B is bound to swear on account of another matter, he must swear on this too. Now, it cannot be argued that this too follows a fortiori from sotah, where the charge of adultery is likewise only doubtful. For the principal oath in connection with sotah is entirely due to doubt; hence the superimposed oath is likewise. But in money matters the principal oath is imposed for a positive claim only.

(4) All oaths provided for in Scripture were taken without the Temple Court, except the oath of a sotah.

(5) In respect of swearing a superimposed oath.

(6) And if he must in any case swear on another matter, he must swear on this too.

(7) Probably as a result of his liaison with a heathen bondmaid.

(8) Bastard; v. Glos.

(9) Lit., 'descend'.

(10) So Rashi, V. also MGWJ. Festschrift, 1934, p. 127, n. 1; also the whole art. a.l. Buchler, Familienreinheit u. Sittlichkeit im zweiten Jahrundert, which discusses this Baraitha at considerable length.

(11) I.e., he is really claiming his service, which is an ordinary monetary claim, and there is nothing remarkable in the defendant's having to take a superimposed oath. Hence this is not a fitting answer to the question, 'How far does a superimposed oath go?'

(12) V. supra, p. 70, n. 2. Hence it is not an ordinary claim of money.

(13) For a heathen slave, belonging bodily to his master, ranks as real estate (v. supra 22b) and the same will apply to a

Hebrew slave according to Raba's dictum. But then it is already stated in the Mishnah.

(14) The claim under discussion.

(15) Lit., ‘It has a sound.’ Hence the claim is prima facie false, and no superimposed oath is taken, for this too requires some verisimilitude (Tosaf.).

(16) I.e., for the halipin, or barter thereof.

(17) Even before it actually reaches his hands.

(18) For it is assumed that WHATEVER CAN BE USED AS PAYMENT refers to, or at least includes, money. Hence the Mishnah teaches: If A exchanges a cow for B's money, the money not being given as payment but as barter, just as an ox might have been given, immediately A receives the money, B accepts the risks of anything that may happen to the cow, which is now in his possession. That is so, notwithstanding that had the money been given as payment, A's receipt thereof would not have transferred ownership of the cow to B.

(19) This is disputed by Amoraim in B.M. 46a, hence the Mishnah refutes the opposing view.

(20) I.e., anything but money, which needs no assessment.

Talmud - Mas. Kiddushin 28b

as soon as one party takes possession, the other assumes liability for what is given in exchange. This follows too from the statement, HOW SO? IF ONE BARTERS AN OX FOR A COW, OR AN ASS FOR AN OX. This proves it. Now, on the original hypothesis, that coin can effect a barter, what is meant by HOW SO?[1] — It means this: And produce too can effect a barter. HOW SO? IF ONE BARTERS AN OX FOR A COW, OR AN ASS FOR AN OX, as soon as one party takes possession, the other assumes liability for what is given in exchange. Now, this agrees with R. Shesheth, who maintained: Produce can effect a barter. But on R. Nahman's view, viz., that produce cannot effect a barter, what can be said? — It means this: Money sometimes ranks as [an object of] barter. HOW SO? IF ONE BARTERS THE MONEY OF AN OX FOR A COW, OR THE MONEY OF AN ASS FOR AN OX.[2] What is the reason? — He agrees with R. Johanan, who said: Biblically speaking, money effects a title. Why then was it decreed that only meshikah gives possession? As a precautionary measure, lest he say to him, ‘Your wheat was burnt in the loft.’[3] Now, the Rabbis enacted a preventive measure only for a usual occurrence, but not for an unusual occurrence.[4] Now, according to Resh Lakish, who maintains that meshikah is explicitly required by Biblical law: it is well if he agrees with R. Shesheth, who rules [that] produce can effect a barter; then he can explain it as R. Shesheth. But if he holds with R. Nahman, that produce cannot effect a barter, whilst money does not effect a title [at all], how can he explain it?[5] — You are forced to say that he agrees with R. Shesheth.[6]

MISHNAH. THE SANCTUARY'S[7] TITLE TO PROPERTY [IS ACQUIRED] BY MONEY; THE TITLE OF A COMMON MAN TO PROPERTY BY HAZAKAH.[8] DEDICATION TO THE SANCTUARY IS EQUAL TO DELIVERY TO A COMMON PERSON. GEMARA. Our Rabbis taught: How is the Sanctuary's title [acquired] by money? If the [Temple] treasurer pays money for an animal, even if the animal is at the world's end, he acquires it; whereas a common person gains no title until he performs meshikah. How is dedication to the Sanctuary equal to delivery to a common person? If one declares, ‘This ox be a burnt-offering,’ ‘This house be hekdesh,’ even if they are at the world's end, it [hekdesh] acquires them; whereas a common person gains no title[9]

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(1) I.e., why is an instance given which does not illustrate the use of money as barter?

(2) E.g., A sells an ox to B for a certain sum of money, and B takes possession, thereby becoming indebted to A for the purchase price. Then B says: ‘I will give you a cow for the purchase price of the ox,’ to which A agrees. Now, though this is theoretically a fresh transaction, viz., B sells a cow to A, the money owing by B for the ox being regarded as though delivered to him by A for the cow, and it is a principle that the delivery of money alone does not consummate a purchase, it does so here, and neither can retract, i.e.,it is barter, not payment.

(3) V. p. 126, n. 7.

(4) Such a transaction as described in note 2; consequently, the Biblical law operates.

(5) For, as we have seen, on the original hypothesis either of these is involved.
(6) The whole passage occurs again in B.M. 46a-b.
(7) Lit., 'the Highest'.
(8) This is explained in the Gemara.
(9) In similar circumstances.

Talmud - Mas. Kiddushin 29a

until he performs meshikah or hazakah. If one [a common person] performs meshikah with it when it is worth a maneh,[1] but has no time to redeem it [pay the money] until it rises to two hundred [zuz,] he must pay two hundred.[2] What is the reason? — [Scripture saith,] Then he shall pay the money, and it shall be assured to him.[3] If he performs meshikah when it is worth two hundred and has no time to redeem it until it falls to a maneh, he must pay two hundred. What is the reason? — That the rights of a layman should not be stronger[4] than those of hekdesh.[5] If he redeems it when it is worth two hundred, and has no time to perform meshikah before it falls to a maneh, he must pay two hundred.[6] What is the reason? — [Scripture saith,] 'Then he shall pay the money, and it shall be assured to him.' If he redeems it at a maneh, and has no time to perform meshikah before it rises to two hundred, what he has redeemed is redeemed, and he pays only a maneh. Why? here too, let us say: The rights of a layman should not be stronger than those of hekdesh?[7] — Must not a common person submit [to the curse,] 'He who punished [etc.]?'[8] MISHNAH. ALL OBLIGATIONS OF THE SON UPON THE FATHER,[9] MEN ARE BOUND, BUT WOMEN ARE EXEMPT. BUT ALL OBLIGATIONS OF THE FATHER UPON THE SON, BOTH MEN AND WOMEN ARE BOUND. ALL AFFIRMATIVE PRECEPTS LIMITED TO TIME,[10] MEN ARE LIABLE AND WOMEN ARE EXEMPT. BUT ALL AFFIRMATIVE PRECEPTS NOT LIMITED TO TIME ARE BINDING UPON BOTH MEN AND WOMEN. AND ALL NEGATIVE PRECEPTS, WHETHER LIMITED TO TIME OR NOT LIMITED TO TIME, ARE BINDING UPON BOTH MEN AND WOMEN; EXCEPTING, YE SHALL NOT ROUND [THE CORNERS OF YOUR HEADS],[11] NEITHER SHALT THOU MAR [THE CORNER OF THY BEARD],[12] AND, HE SHALL NOT DEFILE HIMSELF[13] TO THE DEAD.[14]

GEMARA. What is the meaning of ALL OBLIGATIONS OF THE SON UPON THE FATHER? Shall we say, all which the son is bound to perform for his father? Are then women [i.e., daughters] exempt? But it was taught: [Every man, his mother and his father ye shall fear:][15] 'every man:' I know this only of a man; whence do I know it of a woman? When it is said: 'Every man, his mother and his father ye shall fear' — behold, two are [mentioned] here.[16] — Said Rab Judah: This is the meaning: ALL OBLIGATIONS OF THE SON, [WHICH LIE] UPON THE FATHER to do to his son, MEN ARE BOUND, BUT WOMEN [MOTHERS] ARE EXEMPT. We thus learnt [here] what our Rabbis taught: The father is bound in respect of his son, to circumcise, redeem,[17] teach him Torah, take a wife for him, and teach him a craft. Some say, to teach him to swim too, R. Judah said: He who does not teach his son a craft, teaches him brigandage, 'Brigandage'! can you really think so! — But it is as though he taught him brigandage.[18]

'To circumcise him.' How do we know it? — Because it is written: And Abraham circumcised his son Isaac.[19] And if his father did not circumcise him, Beth din[20] is bound to circumcise him, for it is written: Every male among you shall be circumcised.[21] And if Beth din did not circumcise him, he is bound to circumcise himself, for it is written: And the uncircumcised male who will not circumcise the flesh of his foreskin, that soul shall be cut off.[22]

How do we know that she [the mother] has no such obligation? — Because it is written, ['And Abraham circumcised his son . . .] as God had commanded him': 'him,' but not 'her' [the mother]. Now, we find this so at that time;[23] how do we know it for all times?[24] — The School of R. Ishmael taught: whenever 'command' is stated,[25] its only purpose is to denote exhortation for then and all time.[26] Exhortation, as it is written. But charge Joshua, and encourage him, and strengthen him.[27] Then and for all time, as it is written, front the day that the Lord gave commandment, and onward throughout your generations.[28]

'To redeem him.' How do we know it? — Because it is written, and all the firstborn of man among thy sons shalt thou redeem.[29] And if his father did not redeem him, he is bound to redeem himself, for it is written, [nevertheless the firstborn of man] thou shalt surely redeem.[30] And how do we know that she [his mother] is not obliged [to redeem him]? — Because it is written, thou shalt redeem [tifdeh] [which may also be read] thou shalt redeem thyself [tippadeh]: one who is charged with redeeming oneself is charged to redeem others; whereas one who is not charged to redeem oneself is not charged to redeem others. And how do we know that she is not bound to redeem herself?[31] — Because it is written, thou shalt redeem [tifdeh], [which may be read] thou shalt redeem thyself the one whom others are commanded to redeem, is commanded to redeem oneself: the one whom others are not commanded to redeem is not commanded to redeem oneself. And how do we know that others are not commanded to redeem her? — Because the Writ saith, 'and all the firstborn of man among thy sons shalt thou redeem':'[32] 'thy sons', but not thy daughters.

Our Rabbis taught: If there is himself to redeem[33] and his son to redeem, he takes precedence over his son. R. Judah said: His son precedes him, for the precept in respect to the latter lies [primarily] upon his father, whereas that concerning his son lies [primarily] upon himself. Said R. Jeremiah: All agree,

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(1) A hundred zuz.

(2) This refers to an article sold by hekdesh. A common person has to perform meshikah, as for an ordinary secular article; nevertheless he gains no title if it advances in price before he pays.

(3) But not before. Actually there is no such verse; but v. B.M. (Sonc. ed.) p. 321, n. 1: the deduction will likewise be from 'shekel', i.e., the shek,el alone (viz., money) gives the title. But in Shab. 128a s.v. i,bu Tosaf. states that the deduction is from Lev. XXVII, 19: then he shall add the fifth part of the money of thy estimation unto it, and it shall be assured to him,

(4) Lit.,'stricter'.

(5) For meshikah of secular property immediately vests the title in the purchaser, rendering him liable for its full value as at the time of meshikah.

(6) I.e., he cannot claim a rebate.

(7) And in a private transaction the vendor can retract if the article appreciates after the money is paid but before meshikah.

(8) V. B.M. 44a; though the vendor may withdraw, a curse is pronounced: 'He who punished the generation of the flood . . . will punish him who does not stand by his word.'

(9) The meaning of this is discussed in the Gemara.

(10) Literally, caused by the time. Which are performed at particular times or seasons.

(11) Lev. XIX, 27.

(12) Ibid.

(13) Ibid. XXI, 1.

(14) In the Mishnaic language these are turned into substantives by the use of bal (not) joined to the second pers. impf. of the relevant verb. — These ordinances are binding upon men only.

(15) Lev. XIX, 3.

(16) I.e., the Plural 'ye'.

(17) If the son is a firstborn.

(18) Having no occupation, he must take to theft.

(19) Gen. XXI, 4.

(20) V. Glos.

(21) Gen. XVII. 10; this is command in general terms, not particularly to the father, and hence is applied to Beth din.

(22) Ibid. 14.

(23) That Abraham, not Sarah, was commanded.
(24) Lit., 'for generations'.
(25) As here: as God had commanded him.
(26) Lit., 'for immediately and for generations'. [Rashi renders: to denote exhortation, to be zealous in the fulfilment of the command, that it comes into force immediately, and that it is binding for all generations.]
(27) Deut. III ,28.
(28) Num. XV, 23.
(29) Ex. XIII, 13.
(30) Num. XVIII, 15. The deduction is from the emphatic 'surely', expressed in Hebrew by the doubling of the verb.
(31) Though 'among thy sons' is explicitly stated, the verse may imply that a father is bound to redeem his son only, but the daughter must redeem herself when she grows up.
(32) Ex. XXXIV, 20.
(33) His father not having done so.

Talmud - Mas. Kiddushin 29b

if only five sela's are available, he takes precedence over his son. What is the reason? A precept affecting his own person is more important. They differ when there are five sela's [worth of property] sold[1] and five sela's free. R. Judah holds: A debt decreed in Scripture is as one indited in a bond:[2] hence, with these five sela's [that are free] he redeems his son, while the priest goes and seizes the five sela's [worth] that is sold on account of himself [the father]. But the Rabbis maintain, A debt decreed in Scripture is not as one indited in a bond; therefore a precept touching his own person is more important.[3]

Our Rabbis taught: If one has his son to redeem and the duty of making the festival pilgrimage,[4] he must [first] redeem his son and then make the Festival pilgrimage. R. Judah said: He must first make the Festival pilgrimage and then redeem his son, for the one is a passing precept[5] whereas the other is not a passing precept. As for R. Judah, it is well, the reason being as he states. But what is the reason of the Rabbis? — Because Scripture states: All the firstborn of thy sons thou shalt redeem,[6] and only then is it stated, and none shall appear before me empty.[7]

Our Rabbis taught: How do we know that if one has five [firstborn] sons by five wives, he is bound to redeem them all? From the verse: 'All the firstborn of thy sons thou shalt redeem.' But that is obvious, [since] the Divine Law made it dependent upon the opening of the womb?[8] — I might have argued, Let us learn the meaning of 'firstborn' here from inheritance.[9] Just as there, the beginning of his strength [is meant], so here too;[10] therefore we are informed [that it is not so].

'To teach him Torah.' How do we know it? — Because it is written. And ye shall teach them your sons.[11] And if his father did not teach him, he must teach himself, for it is written, and ye shall study.[12] How do we know that she [the mother] has no duty [to teach her children]? — Because it is written, we-limaddetem [and ye shall teach], [which also reads] u-lemadetem [and ye shall study]:[13] [hence] whoever is commanded to study, is commanded to teach; whoever is not commanded to study, is not commanded to teach. And how do we know that she is not bound to teach herself? — Because it is written, we-limaddetem [and ye shall teach] — u-lema — detem [and ye shall learn]: the one whom others are commanded to teach is commanded to teach oneself; and the one whom others are not commanded to teach, is not commanded to teach oneself. How then do we know that others are not commanded to teach her? — Because it is written: 'And ye shall teach them your sons' — but not your daughters.[14]

Our Rabbis taught: If he has himself to teach and his son to teach, he takes precedence over his son. R. Judah said: If his son is industrious, bright,[15] and retentive,[16] his son takes precedence over him. Thus R. Jacob, son of R. Aha b. Jacob, was once sent by his father [to study] under Abaye. On his return he [his father] saw that his learning was dull. ‘I am better than you,’ said he to him; ‘do you [now] remain here, so that I can go’. Abaye heard that he was coming. Now, a certain demon haunted Abaye's schoolhouse, so that when [only] two entered, even by day, they were injured. He [Abaye] ordered, ‘Let no man afford him hospitality;[17] perhaps a miracle will happen [in his merit].’ So he [R. Aha b. Jacob] entered and spent the night in that schoolhouse, during which it [the demon] appeared to him in the guise of a seven-headed dragon. Every time he [the Rabbi] fell on his knees [in prayer] one head fell off. The next day he reproached them: ‘Had not a miracle occurred, you would have endangered my life.’

Our Rabbis taught: If one has to study Torah and to marry a wife, he should first study and then marry. But if he cannot [live] without a wife, he should first marry and then study. Rab Judah said in Samuel's name: The halachah is, [A man] first marries and then studies. R. Johanan said: [With] a millstone around the neck, shall one study Torah! Yet they do not differ: the one refers to ourselves [Babylonians]; the other to them [Palestinians].[18]

R. Hisda praised R. Hamnuna before R. Huna as a great man. Said he to him, ‘When he visits you, bring him to me. When he arrived, he saw that he wore no [head-]covering.[19] ‘Why have you no head-dress?’ asked he. ‘Because I am not married,’ was the reply. Thereupon he [R. Huna] turned his face away from him. ‘See to it that you do not appear before me [again] before you are married,’ said he. R. Huna was thus in accordance with his views. For he said: He who is twenty years of age and is not married spends all his days in sin. ‘In sin’ — can you really think so? — But say, spends all his days in sinful thoughts.

Raba said, and the School of R. Ishmael taught likewise: Until the age of twenty, the Holy One, blessed be He, sits and waits. When will he take a wife? As soon as one attains twenty and has not married, He exclaims, ‘Blasted be his bones!’[20]

R. Hisda said: The reason that I am superior to my colleagues is that I married at sixteen.[21] And had I married at fourteen,

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(1) [Before the birth of his son, v. Tosaf.]

(2) Hence the five sela's he owes for his own redemption is like a written liability, contracted before he sold the land, and therefore his creditor, i.e., the priest to whom the redemption money is due, can distrain upon this property.

(3) For a creditor can distrain upon mortgaged property that is sold only if he holds a note against the debt.

(4) On Passover, Pentecost, and Tabernacles every male was to visit the Temple at Jerusalem: Deut. XVI, 16.

(5) When the Festival is gone it cannot be carried out.

(6) Ex. XXXIV, 20.

(7) Ibid. With reference to the Festival pilgrimage.

(8) Ibid. 19.

(9) Here, as stated; inheritance: Deut. XXI, 17: Bur he shall acknowledge . . . the firstborn, by giving him a double portion of all that he hath; for he is the beginning of his strength.

(10) I.e., his own firstborn.

(11) Deut. XI, 19.

(12) Deut. V, 1. The education of children in olden times was in their parents’ hands, organized teaching being for adults only. The defects of this system were obvious, and schools were established in Jerusalem and later in the provinces for children from the ages of six or seven and upwards. These reforms are variously ascribed to R. Simeon b. Shetah and the High Priest Joshua b. Gamala; v. Halevy, Doroth I, 111, p. 466 and note a.l.

(13) [So Rashi. The derivation may however be based on the analogy of Deut. XI, 9 and V, 1.]

(14) Differing opinions were held on the desirability of educating women. R. Eliezer's strong opposition is well-known (Sot. III, 4), though the probability is that he referred to advanced Talmudic education only. The laws referring to women's obligation to certain prayers imply that they must have been instructed in the elements of Judaism at least; and it is noteworthy that in the ideal state ascribed to Hezekiah's reign, women were fully educated (Sanh. 94b).

(15) Var. lec. filled (with a desire to learn).
(16) Lit., 'his learning endures in his hand.'
(17) Lit., 'lodging place', so that he might be compelled to spend the night in the academy.
(18) Rashi: The Babylonian scholars used to travel to Palestine, the home of the Mishnah; hence they were free of household worries, and so might marry before study. But the Palestinians, studying at home and bearing family responsibilities, could make no progress if married, and so they were bound to study first. Tosaf. reverses the interpretation.
(19) A sudarium with which married men used to cover their heads. V. supra p. 29, n. 5.
(20) [MS.M. תיפח נפשו , 'May he be blasted'.]
(21) So that my mind was entirely free for study.

Talmud - Mas. Kiddushin 30a

I would have said to Satan, An arrow in your eye.[1] Raba said to R. Nathan b. Ammi: Whilst your hand is yet upon your son's neck,[2] [marry him], viz., between sixteen and twenty-two. Others state, Between eighteen and twenty-four. This is disputed by Tannaim. Train up a youth in the way he should go:[3] R. Judah and R. Nehemiah [differ thereon]. One maintains, ['Youth' means] between sixteen and twenty-two; the other affirms, Between eighteen and twenty-four.

To what extent is a man obliged to teach his son Torah? — Said Rab Judah in Samuel's name: E.g., Zebulun, the son of Dan, whom his grandfather taught Mikra [Scripture], Mishnah, Talmud,[4] halachoth and aggadoth.[5] An objection is raised: If he [his father] taught him Mikra, he need not teach him Mishnah; whereon Raba said: Mikra means Torah?[6] — Like Zebulun b. Dan, yet not altogether so. Like Zebulun b. Dan, whom his grandfather taught: yet not altogether so, for whereas there [he was taught] Mikra, Mishnah, Talmud, halachoth and aggadoth, here [i.e., as a general rule] Mikra alone [suffices].

Now, is the grandfather under this obligation? Surely it was taught: And ye shall teach them your sons,[7] but not your sonsð sons. How then do I interpret[8] [the verse], and thou shalt make them known unto thy sons, and thy sons' sons?[9] As shewing that to him who teaches his son Torah, the Writ ascribes merit as though he had taught him, his son and his son's son until the end of all time![10] — He agrees with the following Tanna. For it was taught: 'And ye shall teach them your sons': hence I only know, your sons. How do I know your sons sons? From the verse: 'and thou shalt make them known unto thy sons and thy sons' sons'. If so, why state, 'thy sons'? — To teach: 'thy sons, but not thy daughters.

R. Joshua b. Levi said: He who teaches his grandson Torah, the Writ regards him as though he had received it [direct] from Mount Sinai, for it is said; 'and thou shalt make them known unto your sons and your sons' sons', which is followed by, that is the day that thou stoodest before the Lord thy God in Horeb.[11] R. Hiyya b. Abba found R. Joshua b. Levi wearing a plain cloth upon his head[12] and taking a child to the synagogue [for study].[13] 'What is the meaning of all this?' he demanded.[14] 'Is it then a small thing,' he replied: 'that it is written: 'and thou shalt make them known to your sons and your sons' sons'; which is followed by, that is the day that thou stoodest before the Lord thy God in Horeb'? From then onwards R. Hiyya b. Abba did not taste meat[15] before revising [the previous day's lesson] with the child and adding [another verse]. Rabbah son of R. Huna did not taste meat until he took the child to school.

R. Safra said on the authority of R. Joshua b. Hanania: What is meant by, and thou shalt teach them diligently [we-shinnantem] unto thy children?[16] Read not we-shinnantem, but we-shillashtem: [you shall divide into three]: one should always divide his years into three: [devoting] a third to Mikra, a third to Mishnah, and a third to Talmud. Does one then know how long he will live? — This refers only to days.[17]

The early [scholars] were called soferim[18] because they used to count all the letters of the Torah.[19] Thus, they said, the waw in gahon[20] marks half the letters of the Torah; darosh darash,[21] half the words; we-hithggalah,[22] half the verses. The boar out of the wood [mi-ya'ar] doth ravage it:[23] the ‘ayin of ya'ar[24] marks half of the Psalms.[25] But he, being full of compassion, forgiveth their iniquity,[26] half of the verses.

R. Joseph propounded: Does the waw of gahon belong to the first half or the second? Said they [the scholars] to him, Let a Scroll of the Torah be brought and we will count them! Did not Rabbah b. Bar Hanah say,[27] They did not stir from there until a Scroll of the Torah was brought and they counted them? — They were thoroughly versed in the defective and full readings,[28] but we are not.

R. Joseph propounded: Does wehithgalah belong to the first half or the second? Said Abaye to him, For the verses, at least, we can bring [a Scroll] and count them! — In the verses too we are not certain. For when R. Aha b. Adda came,[29] he said: In the West [Palestine] the following verse is divided into three: And the Lord said unto Moses, Lo, I come unto thee in a thick cloud [etc.].[30]

Our Rabbis taught: There are five thousand, eight hundred and eighty-eight verses in the Torah;[31] the Psalms exceed this by eight;[32] while Chronicles[33] are less by eight.

Our Rabbis taught: And thou shalt teach them diligently[34] [means] that the words of the Torah shall be clear-cut in your mouth, so that if anyone asks you something, you should not shew doubt and then answer him, but [be able to] answer him immediately, for it is said,

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(1) I defy you! being absolutely free from impure thoughts. In the Bible, Satan has the general connotation of adversary (v. I Kings V, 18; I Sam. XXIX, 4; Ps. CIX, 4), and at first he is not regarded as a distinct being. In Job, however, he does appear so, viz., as the celestial prosecutor; but even then, he cannot act independently, but requires God's permission. It is only later that he appears as an independent agent (I Chron. XXI, 2). The early portions of the Talmud mention him very rarely. but gradually belief in him spread. the popular concepts possibly forcing their way upwards from the lower classes. V. J.E. art. Satan.

(2) While you have yet power and influence over him.

(3) Prov. XXII, 6; i.e., marry him.

(4) The discussion of the Mishnah.

(5) V. Glos.

(6) The Pentateuch. In the earliest terminology we find Torah and Mikra opposed, the former referring to the Pentateuch and the latter to the other Books of the Bible (v. J.E., ‘Bible, Canon’, III, 142); here they are identified.

(7) Deut. XI, 19.

(8) Lit., ‘fulfil’.

(9) Ibid. IV, 9.

(10) Lit., ‘generations’.

(11) Ibid. 10.

(12) But not a sudarium, V. supra p. 142, n. 2,

(13) In Talmudic times the teaching took place in the synagogue.

(14) Why was he so hasty to go out as not to don Proper headgear?

(15) [אומצא, a piece of grilled meat usually taken at breakfast].

(16) Deut. VI, 7.

(17) Rashi: two days in the week to Mikra, two to Mishnah, and two to Talmud. Tosaf., more plausibly: each day itself should be divided into three. — Actually, scholars have always confined themselves to Talmud: but as the Babylonian Talmud is an amalgam of the three, this dictum is held to be fulfilled; v. Sanh. 24a. Furthermore, the early part of the morning liturgy contains passages from all three.

(18) Rashi quotes, and the families of scribes — Soferim — which dwelt at Jabez; I Chron. II, 55. The term is generally applied to the band of Scholars from the Babylonian exile, who propagated the knowledge of the Torah and interpreted

it.

(19) To safeguard the correctness of the text. Soferim is taken in the original sense of its root safar, ‘to count’.

(20) Whatsoever goeth upon the belly (iujd) — Lev. XI, 42.

(21) Lev. X, 16: And Moses diligently enquired after — darosh darash — the goat of the sin-offering.

(22) Lev. XIII, 33: we-hithggalah, then he shall be shaven. [In M.T. the words ‘he placed on him’ (Lev. VIII, 8) is given as the middle verse.]

(23) Ps. LXXX, 14.

(24) יער .

(25) It is not stated whether letters or words are meant: S. Strashun observes that he counted the words, and found that the first half exceeds the second by nearly 2,000; hence the reference is to letters, and there is such a reading too.

(26) Ps. LXXVIII, 38.

(27) On another occasion.

(28) E.g., the long i and long o are sometimes indicated by a yod and waw respectively; then the reading is called ‘full’; sometimes they are omitted; then it is called defective.

(29) From Palestine to Babylon.

(30) Ex. XIX, 9.

(31) I.e., the Pentateuch. In M.T. we have 5,845. [The difference is explained by the fact that the Palestinian had more verses than the Babylonian. v. Ned. (Sonc. ed.) p. 118. n. 7. and Graetz MGWJ XXXIV. pp. 97ff.]

(32) Tosaf. observes that even if the Psalms are divided into verses of three words, there are still more in the Pentateuch. [The M.T. has 2,527, and the difference could be accounted as in the case of the Pentateuch. The difficulty however remains in regard to Chronicles where M.T. has only 1,765.]

(33) Wilna Gaon emends: Daniel and Chronicles.

(34) Weshinnantam < shannen, to be keen.

Talmud - Mas. Kiddushin 30b

say unto wisdom, Thou art my sister;[1] and it is also said, Bind them upon thy fingers; write them upon the table of thine heart;[2] and it is also said: As arrows are in the hand of a mighty man, so are the children of thy youth;[3] and it is also said, sharp arrows of the mighty;[4] and it is also said: Thine arrows are sharp; the peoples fall under thee;[5] and it is also said: Happy is the man that hath his quiver full of them; They shall not be ashamed, when they speak with their enemies in the gate.[6] What is meant by ‘with their enemies in the gate’? — Said R. Hiyya b. Abba, Even father and son, master and disciple, who study Torah at the same gate[7] become enemies of each other; yet they do not stir from there until they come to love each other, for it is written, [Wherefore it is said it, the book of the wars of the Lord,] love[8] is be-sufah;[9] read not ‘be-sufah’ but ‘be-sofah’.[10]

Our Rabbis taught: We-samtem[11] [reads] sam tam [a perfect remedy]. This may be compared to a man who struck his son a strong blow, and then put a plaster on his wound, saying to him, ‘My son! As long as this plaster is on your wound you can eat and drink at will, and bathe in hot or cold water, without fear. But if you remove it, it will break out into sores.’ Even so did the Holy One, blessed be He, speak unto Israel: ‘My children! I created the Evil Desire,[12] but I [also] created the Torah, as its antidote; if you occupy yourselves with the Torah, you will not be delivered into his hand, for it is said: If thou doest well,[13] shalt thou not be exalted?[14] But if ye do not occupy yourselves with the Torah, ye shall be delivered into his hand, for it is written, sin coucheth at the door.[15] Moreover, he is altogether preoccupied with thee [to make thee sin], for it is said, and unto thee shall be his desire.[16] Yet if thou wilt, thou canst rule over him, for it is said, and thou shalt rule over him.[16]

Our Rabbis taught: The Evil Desire is hard [to bear], since even his Creator called him evil, as it is written, for that the desire of man's heart is evil from his youth.[17] R. Isaac said: Man's Evil Desire renews itself daily against him, as it is said, [every imagination of the thoughts of his heart] was only evil every day.[18] And R. Simeon b. Levi[19] said: Man's Evil Desire gathers strength against him daily and seeks to slay him, for it is said: The wicked watcheth the righteous, and seeketh to slay him;[20]

and were not the Holy One, blessed be He, to help him [man], he would not be able to prevail against him, for it is said: The Lord will not leave him in his hand.[21]

The School of R. Ishmael taught: My son, if this repulsive [wretch][22] assail thee, lead him to the schoolhouse: if he is of stone, he will dissolve; if iron, he will shiver [into fragments], for it is said: Is not my word like as fire? saith the Lord,' and like a hammer that breaketh the rock in pieces?[23] If he is of stone, he will dissolve, for it is written: Ho, everyone that thirsteth, come ye to the waters;[24] and it is said: The waters wear the stones.[25]

'To take a wife for him.' How do we know it? — Because it is written: Take ye wives, and beget sons and daughters; and take wives for your sons, and give your daughters to husbands.[26] As for [marrying] his son, it is well, for it rests with him;[27] but with respect to his daughter, does it then rest with him?[28] — This is his meaning: Let her be dowered, clothed and adorned, that men should eagerly desire her.[29] 'To teach him a craft.' Whence do we know it? — Said Hezekiah: Scripture saith, See to a livelihood with the wife whom thou lovest.[30] If 'wife' is literal, [this teaches,] just as he [the father] is bound to take a wife for him, so is he bound to teach him a craft [for a livelihood]; if it is [a metaphor for] Torah, then just as he is bound to teach him Torah, so is he bound to teach him a craft.

'And some say, [He must teach him] to swim in water too. What is the reason? — His life may depend on it.

'R. Judah said: He who does not teach him a craft teaches him brigandage. "Brigandage"! can you think so? — But it is like teaching him brigandage'. Wherein do they differ? — They differ where he teaches him business.[31]

BUT ALL OBLIGATIONS OF THE FATHER UPON THE SON etc., What is meant by 'ALL OBLIGATIONS OF THE FATHER UPON THE SON? Shall we say, all precepts which the father is bound to perform for his son — are then women bound thereby? But it was taught: 'The father is obliged in respect of his son, to circumcise and redeem him': only the father, but not the mother? — Said Rab Judah, This is its meaning: All precepts concerning a father, which are incumbent upon a son to perform for his father, both men and women are bound thereby. We have [thus] learnt here what our Rabbis taught: [Ye shall fear every man his father, and his mother]:[32] 'man,'I know it only of man; how do I know it of woman?[33] When it is said: 'Ye shall fear,' two are mentioned. If so, why state man? A man possesses the means to fulfil this, but a woman has no means of fulfilling this, because she is under the authority of others.[34] R. Idi b. Abin said in Rab's name: If she is divorced, both are equal.[35] Our Rabbis taught: It is said: Honour thy father and thy mother;[36] and it is also said: Honour the Lord with thy substance:[37] thus the Writ assimilates the honour due to parents to that of the Omnipresent. It is said: 'Ye shall fear every man his father, and his mother'; and it is also said: The Lord thy God thou shalt fear, and him thou shalt serve;[38] thus the Writ assimilates the fear of parents to the fear of God. It is said: And he that curseth his father, or his mother, shall surely be put to death;[39] and it is also said: Whosoever curseth his God shall bear his sin:[40] thus the Writ assimilates the blessing[41] of parents to that of the Omnipresent. But in respect of striking, it is certainly impossible.[42] And that is but logical,[43] since the three[44] are partners in him [the son].

Our Rabbis taught: There are three partners in man, the Holy One, blessed be He, the father, and the mother. When a man honours his father and his mother, the Holy One, blessed be He, says: 'I ascribe [merit] to them as though I had dwelt among them and they had honoured Me.'

It was taught: Rabbi said: It is revealed and known to Him Who decreed, and the world came into existence,[45] that a son honours his mother more than his father,

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(1) Prov. VII, 4; be as clear in your wisdom — i.e., learning — as in the knowledge that your sister is interdicted to you. Or possibly the deduction is from the second half of the verse: and call understanding thy familiar friend — i.e., be fully versed and familiar therein.

(2) Prov. VII, 3.

(3) The disciples, Ps. CXXVII, 4.

(4) The scholars, Ibid. CXX, 4.

(5) Ps. XLV, 6.

(6) PS. CXXVII, 5.

(7) I.e., at the same academy. Alternatively, in the same subject.

(8) והב , connected by a play on words with אהב , to love.

(9) Num. XXI, 24.

(10) ‘At the end thereof.’ ‘The book of the wars of the Lord’ — i.e., disputations on Biblical interpretation — eventually leads to love.

(11) Deut. XI, 18: Therefore shall ye lay up (we-samtem) these my words etc.

(12) Thus Cain defended himself for murdering Abel by arguing that God himself had implanted the evil desire in him (Tan., Bereshit, 25, ed. Buber, p. 10). It is generally understood as man's evil impulses. Occasionally it is personified, as here, and identified with Satan (B.B. 16a); on the other hand, in Ber. 16b it is clearly distinguished as a separate entity.

(13) I.e., engagest in the study of the Torah.

(14) Gen. IV, 7; sc. above the Evil Desire.

(15) Gen. IV, 7; so the E.V. Possibly the Talmud translates: at the door of sin-i.e., when one yields to the Evil Desire — one lies lost — i.e., becomes its slave.

(16) Ibid.

(17) Gen. VIII, 21.

(18) Ibid. VI, 5.

(19) In Suk. 52a the reading is: R. Simeon b. Lakish.

(20) Ps. XXXVII, 32.

(21) Ibid. 33.

(22) The Evil Desire.

(23) Jer. XXIII, 29.

(24) Isa. LV, 1; i.e., the Torah.

(25) Job XIV, 19.

(26) Jer. XXIX, 6.

(27) Lit., ‘it is in his hand’- one can always find a bride for his son.

(28) One cannot easily obtain a husband for his daughter. How then does Jeremiah say, and give your daughters to husbands?

(29) Lit., ‘spring upon her’.

(30) Ecc. IX, 9.

(31) The first Tanna, though mentioning a craft, merely desires a means of livelihood, and includes business too. But R. Judah's emphasis on a craft shews that he does not consider business sufficient. — In a country living by agriculture and industry R. Judah thought commerce too precarious. V. Krauss, T.A. 250-252 on trade. He makes the interesting point (p. 252) that whilst reference is frequently made to a po'el batel פועל בטל , an unemployed landworker, one never hears of an unemployed artisan.

(32) Lev. XIX, 3.

(33) That a daughter too must fear her parents.

(34) Viz., her husband, who may render it impossible for her to shew due reverence to her parents.

(35) The duty rests upon her just as much as upon her brother.

(36) Ex. XX, 12.

(37) Prov. III, 9.

(38) Deut. VI, 13.

(39) Ex. XXI, 17.

(40) Lev. XXIV, 15.

(41) A euphemism for cursing.
(42) To assimilate them, for the Almighty cannot be struck.
(43) That parents should be likened to the Almighty.
(44) God, father and mother.
(45) Viz., God: this phrase is liturgical.

Talmud - Mas. Kiddushin 31a

because she sways him by words; therefore the Holy One, blessed be He, placed the honour of the father before that of the mother. It is revealed and known to Him Who decreed, and the world came into existence, that a son reverences his father more than his mother, because he teaches him Torah, therefore the Holy One, blessed be He, put the fear [reverence] of the mother before that of the father.

A tanna[1] recited before R. Nahman: When a man vexes his father and his mother, the Holy One, blessed be He, says: ‘I did right in not dwelling among them, for had I dwelt among them, they would have vexed Me.’

R. Isaac said: He who transgresses in secret is as though he pressed the feet of the Shechinah for it is written: Thus saith the Lord, The heaven is my throne, and the earth is my footstool.[2] R. Joshua b. Levi said: One may not walk four cubits with haughty mien,[3] for it is said, the whole earth is full of His glory.[4] R. Huna son of R. Joshua would not walk four cubits bareheaded, saying: The Shechinah is above my head.

A widow's son asked R. Eliezer: If my father orders, ‘Give me a drink of water,’ and my mother does likewise, which takes precedence? ‘Leave your mother's honour and fulfil the honour due to your father,’ he replied: ‘for both you and your mother are bound to honour your father.’[5] Then he went before R. Joshua, who answered him the same. ‘Rabbi,’ said he to him, ‘what if she is divorced?’ — ‘From your eyelids it is obvious that you are a widow's son,’[6] he retorted: ‘pour some water for them into a basin, and screech for them like fowls!’[7]

‘Ulla Rabbah[8] lectured at the entrance to the Nasi's house:[9] What is meant by, All the kings of the earth shall make admission unto Thee, O Lord, For they have heard the words of Thy mouth?[10] Not the word of Thy mouth, but ‘the words of Thy mouth’ is said. When the Holy One, blessed be He, proclaimed, lam [the Lord thy God] and Thou shalt have none [other Gods before me],[11] the nations of the world said: He teaches merely for His own honour. As soon as He declared: Honour thy father and thy mother,[12] they recanted and admitted [the justice of] the first command [too]. Raba said, [This may be deduced] from the following: The beginning of Thy word is true:[13] ‘the beginning of Thy word,’ but not the end![14] But from the latter portion of Thy declaration it may be seen that the first portion is true.[15] It was propounded of R. ‘Ulla: How far does the honour of parents [extend]? — He replied: Go forth and see what a certain heathen, Dama son of Nethinah by name, did in Askelon. The Sages once desired merchandise from him, in which there was six-hundred-thousand [gold denarii] profit, but the key was lying under his father, and so he did not trouble him.[16] Rab Judah said in Samuel's name: R. Eliezer was asked: How far does the honour of parents [extend]? — Said he, Go forth and see what a certain heathen, Dama son of Nethinah by name, did in Askelon. The Sages sought jewels for the ephod, at a profit of six-hundred-thousand [gold denarii] — R. Kahana taught: at a profit of eight-hundred-thousand — but as the key was lying under his father's pillow, he did not trouble him. The following year the Holy One, blessed be He, gave him his reward. A red heifer was born to him in his herd.[17] When the Sages of Israel went to him [to buy it], he said to them, ‘I know you, that [even] if I asked you for all the money in the world you would pay me. But I ask of you only the money which I lost through my father's honour.’ Now, R. Hanina observed thereon, If one who is not commanded [to honour his parents], yet does so, is thus [rewarded], how much more so one who is commanded and does so! For R. Hanina said: He who is commanded and fulfils [the command], is greater than he who fulfils it though not commanded.[18]

R. Joseph[19] said: Originally, I thought, that if anyone would tell me that the halachah agrees with R. Judah, that a blind person is exempt from the precepts,I would make a banquet[20] for the Rabbis, seeing that I am not obliged, yet fulfil them. Now, however, that I have heard R. Hanina's dictum that he who is commanded and fulfils [the command] is greater than he who fulfils it though not commanded; on the contrary, if anyone should tell me that the halachah does not agree with R. Judah, I would make a banquet for the Rabbis.

When R. Dimi came,[21] he said: He [Dama son of Nethinah] was once wearing a gold embroidered silken cloak and sitting among Roman nobles, when his mother came, tore it off from him, struck him on the head, and spat in his face, yet he did not shame her.

Abimi, son of R. Abbahu recited: One may give his father pheasants as food, yet [this] drives him from the world; whereas another may make him grind in a mill

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(1) V. Glos. s.v. (b).

(2) Isa. LXVI, 1. By transgressing secretly he avers that God's presence is not there, and thus would confine the feet of the Shechinah into a narrower place than what they occupy, viz., the whole earth.

(3) Lit., ‘upright stature.

(4) Ibid. VI, 3.

(5) This does not imply that the husband need not honour his wife (v. B.M., Sonc. ed., p. 352, n. 4) but that the wife must obey her husband, just as a son his father.

(6) The eyelids having fallen out with weeping — probably not to be taken literally, but he sensed that the question was merely theoretical.

(7) A sarcastic answer.

(8) Or, the Great ‘Ulla.

(9) It would seem to have been a public place where popular lectures were given.

(10) Ps. CXXXVIII, 4.

(11) Ex. XX, 2f.

(12) Ibid. 12.

(13) Ps. CXIX, 160.

(14) Surely not!

(15) I.e., just.

(16) To wake him to take the key. The Jerusalem adds that his father's feet were lying on the chest containing the merchandise and so he could not break it.

(17) V. Num. XIX.

(18) V. A.Z. (Sonc. ed.) p. 6, n. 1.

(19) He was blind.

(20) Lit., ‘a festival’.

(21) V. p. 46, n. 6.

Talmud - Mas. Kiddushin 31b

and [this] brings him to the world to come![1]

R. Abbahu said: E.g., my son Abimi has fulfilled the precept of honour. Abimi had five ordained sons[2] in his father's lifetime, yet when R. Abbahu came and called out at the door, he himself speedily went and opened it for him, crying, ‘Yes, yes,’[3] until he reached it. One day he asked him, ‘Give me a drink of water.’ By the time he brought it he had fallen asleep. Thereupon he bent and stood over him until he awoke. It so happened that Abimi succeeded in interpreting, A song of

Asaph.[4]

R. Jacob b. Abbahu asked Abaye: ‘I, for instance, for whom my father pours out a cup [of wine] and my mother mixes it[5] on my returning from the school, what am I to do’?[6] — ‘Accept it from your mother,’ he replied: ‘but not from your father; for since he is a scholar, he may feel affronted.’[7]

R. Tarfon had a mother for whom, whenever she wished to mount into bed, he would bend down to let her ascend;[8] (and when she wished to descend, she stepped down upon him).[9] He went and boasted thereof in the school. Said they to him, ‘You have not yet reached half the honour [due]: has she then thrown a purse before you into the sea without your shaming her?’

When R. Joseph heard his mother's footsteps he would say: ‘I will arise before the approaching Shechinah.’

R. Johanan said: Happy is he who has not seen them.[10] R. Johanan's father died when his mother conceived him, and his mother died when she bore him. And Abaye was likewise. But that is not so, for Abaye said, my Mother told me. . ! — That was his foster-mother. R. Assi had an aged mother. Said she to him, ‘I want ornaments.’ So he made them for her. ‘I want a husband.’ — ‘I will look out for you. ‘I want a husband as handsome as you.’ Thereupon he left her and went to Palestine. On hearing that she was following him he went to R. Johanan and asked him, ‘May I leave Palestine[11] for abroad?’[12] ‘It is forbidden,’ he replied. ‘But what if it is to meet my mother?’ ‘I do not know’, said he. He waited a short time and went before him again. ‘Assi’, said he, ‘you have determined to go; [may] the Omnipresent bring you back in peace.’ Then he went before R. Eleazar and said to him, ‘Perhaps, God forbid, he was angry?’ ‘What [then] did he say to you?’ enquired he. ‘The Omnipresent bring you back in peace’, was the answer. ‘Had he been angry’, he rejoined, ‘he would not have blessed you’. In the meanwhile he learnt that her coffin was coming.[13] ‘Had I known’, he exclaimed: ‘I would not have gone out.’

Our Rabbis taught: He must honour him in life and must honour him in death. ‘In life’, e.g., one who is heeded in a place on account of his father should not say: ‘Let me go, for my own sake’, ‘Speed me, for my own sake’, or ‘Free me, for my own sake’, but all ‘for my father's sake.’ ‘In death’, e.g., if one is reporting something heard from his mouth, he should not say: ‘Thus did my father say’, but, ‘Thus said my father, my teacher, for whose resting place may I be an atonement.’[14] But that is only within twelve months [of his death].[15] Thereafter he must say: ‘His memory be for a blessing, for the life of the World to come.’

Our Rabbis taught: A Sage must change his father's name and his teacher's name, but the interpreter does not change his father's name and his teacher's name.[16] Whose father? Shall we say, the father of the interpreter?[17] — Is then the interpreter not obliged [to honour his parents]? — But, said Raba, [it means] the name of the Sage's father or the name of the Sage's teacher. As when Mar, son of R. Ashi, lectured at the college sessions; he said [to the interpreter]: My father, my teacher [said thus], whereas his interpreter said: Thus did R. Ashi say.[18]

Our Rabbis taught: What is ‘fear’ and what is ‘honour’?[19] ‘Fear’ means that he [the son] must neither stand in his [the father's] place nor sit in his place, nor contradict his words, nor tip the scales against him.[20] ‘Honour" means that he must give him food and drink, clothe and cover him, lead him in and out. The Scholars propounded:

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(1) The Jerusalem Talmud amplifies this. A man once fed his father on pheasants (which were very expensive). On his father's asking him how he could afford them, he answered: ‘What business is it of yours, old man; grind (i.e., chew) and eat!’ On another occasion it happened that a man was engaged in grinding in a mill, when his father was summoned for royal service. Said his son to him, ‘Do you grind for me, and I will go in your stead, the royal service being very hard.’

(2) Ordination (Heb. semichah, lit., ‘laying of the hands’) was the conferment of authority to exercise Rabbinical functions.

(3) I.e., I am coming to open it.

(4) Ps. LXXIX, 1. The whole psalm is a lament for the defilement of the Temple and a series of national disasters. Hence the question arises, surely the superscripture should have been, ‘A dirge of Asaph’? By divine inspiration Abimi explained it that Asaph uttered song because the Almighty had allowed His wrath to be appeased by the defilement and other indignities which the Temple had suffered. Otherwise, only the total destruction of His people would have sufficed. So Rashi, quoting some anonymous commentators. Tosaf., quoting the Midrash, explains it otherwise.

(5) Their wines were diluted, being too strong to be drunk neat.

(6) Am I to permit it, or do I fail in the honour due to them?

(7) Though he loves you and does it willingly, he may feel that his son should not permit a scholar to perform these services for him.

(8) By stepping upon him.

(9) The passage between brackets is omitted in Asheri and Alfasi.

(10) His parents, because it is so difficult to honour them adequately. — Of course, he is not to be understood literally. Also, it was a form of self comfort for not having known his parents.

(11) Lit., ‘the land,’ par excellence, the familiar designation of Palestine.

(12) Lit., ‘outside the land’.

(13) She died on the way.

(14) [May I make atonement for all the punishment in the Hereafter that may have to come upon him. (Rashi).]

(15) [It is held that punishment in the Hereafter does not extend beyond the first twelve months after death.]

(16) When scholars lectured, they did not speak directly to their audiences, but through the medium of interpreters, to whom they whispered their statements and who in turn spoke them aloud to the assembled congregations frequently with embellishments of their own. Now, the Sage, when whispering to the interpreter a teaching he heard from his father, must not refer to his father by name but by the formula ‘my father and teacher’; but the interpreter need not do so.

(17) If the Sage cites a dictum of the interpreter's father.

(18) But not: Thus said the Sage's father.

(19) Referring to Lev. XIX, 2: Ye shall fear every man his mother, and his father; and Ex. XX, 12: Honour thy father, etc.

(20) Should his father be in dispute with another scholar, his son must not side with his opponent (Rashi). In J.D. 240, 2, it is translated: he must not make a decision in deference to his view, i.e,, if his father differs from another scholar, he must not even say: I agree with my father. — These last two, however, hold good only in the father's presence, but otherwise he may state his view freely; yet even then, it is preferable that he should avoid mentioning his father's name when refuting his view, if possible.

Talmud - Mas. Kiddushin 32a

At whose expense?[1] Rab Judah said: The son's. R. Nahman b. Oshaia said: The father's. The Rabbis gave a ruling to R. Jeremiah — others state, to R. Jeremiah's son — in accordance with the view that it must be at the father's expense. An objection is raised: It is said: Honour thy father and thy mother;[2] and it is also said: Honour the Lord with thy substance:[3] just as the latter means at personal cost,[4] so the former too. But if you say: At the father's [expense], how does it affect him?[5] — Through loss of time.[6]

Come and hear: Two brothers, two partners, a father and son, a master and disciple, may redeem second tithe for each other,[7] and may feed each other with the poor tithe.[8] But if you say, at the son's expense, he is thus found to fulfil his obligations with what belongs to the poor? — This refers only to an extra quantity.[9] If so, could it be taught thereon, R. Judah said: A curse may alight upon him who feeds his father with poor tithe! But if the reference is to an extra quantity, what does it matter?[10] — Even so, the matter is humiliating [to the father].

Come and hear: R. Eliezer was asked: How far does the honour of parents [extend]? — Said he: That he should take a purse, throw it in his presence into the sea, and not shame him.[11] But if you say, at the father's expense,[12] what does it matter to him? — It refers to a potential heir. As in the case of Rabbah son of R. Huna: R. Huna tore up silk in the presence of his son Rabbah, saying: ‘I will go and see whether he flies into a temper or not. But perhaps he would get angry,[13] and then he [R. Huna] would violate, Thou shalt not put a stumbling-block before the blind?[14] — He renounced his honour for him.[15] But he [R. Huna] violated, Thou shalt not destroy [the trees thereof. . .]?[16] — He did it in the seam.[17] Then perhaps that was why he displayed no temper? — He did it when he was [already] in a temper.[18]

R. Ezekiel taught his son Rami: If criminals condemned to be burnt [become mixed up] with others sentenced to be stoned, R. Simeon said: They are executed[19] by stoning, because burning is severer. Thereupon Rab Judah his son said to him: Father, teach it not thus. For, why state the reason because burning is severer? This follows from the fact that the majority are for stoning.[20] But teach it thus: If [criminals condemned] to be stoned are mixed up with [others sentenced] to burning. Said he to him, If so, consider the second clause: But the Sages say: They are executed by burning, because stoning is severer. But why particularly because stoning is severer: deduce it from the fact that the majority are to be burnt? — There, he answered him, the Rabbis oppose[21] R. Simeon: As to what you say that burning is severer, that is not so, stoning being severer. Said Samuel to Rab Judah: Keen scholar![22] speak not thus to your father. For it was taught: If one's father is [unwittingly] transgressing a precept of the Torah, he must not say to him, ‘Father, thou transgressest a Biblical precept’, but, ‘Father, it is thus written in the Torah.’ ‘It is thus written in the Torah’ — but he surely grieves him?[23] But he must say to him, ‘Father, such and such a verse Is written in the Torah.’[24]

Eleazar b. Mathia said: If my father orders me, ‘Give me a drink of water’, while I have a precept to perform, I disregard[25] my father's honour and perform the precept, since both my father and I are bound to fulfil the precepts. Issi b. Judah maintained: If the precept can be performed by others, it should be performed by others, while he should bestir himself for his father's honour. Said R. Mattena: The halachah agrees with Issi b. Judah.

R. Isaac b. Shila said in R. Mattena's name in the name of R. Hisda: If a father renounces the honour due to him, it is renounced; but if a Rabbi renounces his honour, it is not renounced. R. Joseph ruled: Even if a Rabbi renounces his honour, it is renounced, for it is said: And the Lord went before them by day.[26] Said Raba: How compare! There, with respect to the Holy One, blessed be He, the world is His and the Torah is His; [hence] He can forego His honour.

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(1) Lit., ‘from whose’ — must he feed him, etc.
(2) Ex. XX, 12.
(3) Prov. III, 9.
(4) Lit., ‘defect in the purse’.
(5) His pocket — i.e., what personal loss is there?
(6) Lit., ‘work’.
(7) With their own money, and need not add a fifth, as is the case when one redeems his own second tithe (v. Lev. XXVII, 31). Now, though these are closely attached, they are nevertheless separate persons, and so e.g., when the master redeems for his disciple, he is not regarded as redeeming his own.
(8) E.g., if the father is poor, the son may give him poor tithe.
(9) The son must furnish him with an average quantity of food, if his father needs more, he may give him poor tithe.
(10) Surely there is no objection to it!
(11) Supra 31a. There a different answer is quoted; v. 31b, in the story of R. Tarfon.
(12) So that the purse referred to is his father's.
(13) And in his anger affront his father (Rashi).
(14) Lev. XIX, 14. By causing him to fail in the honour due to him, R. Huna would violate this injunction, which is interpreted as meaning that one must not lead another into sin.
(15) So that even if his son affronted him, he would not transgress.
(16) Deut. XX, 19; this is a general prohibition against causing unnecessary damage.
(17) As it could be easily resewn, there was no real damage.
(18) When he could not have noticed this, and yet he did not affront his father.
(19) Lit., ‘judged’.
(20) For, ‘if criminals condemned to be burnt become mixed up with others sentenced to be stoned,’ implies that the latter are in the majority, as the smaller number is lost (i.e., mixed up) in the larger.
(21) Lit., ‘say to’.
(22) Others translate: man of long teeth, v. B.K. (Sonc. ed.) p. 60, n. 1.
(23) For it is the same as telling him that he is transgressing.
(24) Not directly stating the law, but leaving it for his father to understand. This does not shame him.
(25) Lit., ‘lay aside’.
(26) Ex. XIII, 21. Thus the Almighty renounced His honour and constituted Himself their Guide.

Talmud - Mas. Kiddushin 32b

But here, is then the Torah his [the Rabbi's]?[1] Subsequently Raba said: Indeed, the Torah is his [the scholar's], for it is written, and in his law doth he meditate day and night.[2]

But that is not so. For Raba was serving drink at his son's wedding, and when he offered a cup to R. Papa and R. Huna son of R. Joshua, they stood up before him; but [when he offered] R. Mari and R. Phineas son[3] of R. Hisda, they did not stand up before him. Thereupon he was offended and exclaimed: ‘Are these Rabbis and the others not!’[4] It also happened that R. Papa was serving drink at the wedding of Abba Mar, his son; when he offered a cup to R. Isaac son of Rab Judah, he did not rise before him, whereupon he was offended![5] — Even so, they should have shewn him respect.

R. Ashi said: Even on the view that if a Rabbi renounces his honour it is renounced, yet if a Nasi[6] renounces his honour, his renunciation is invalid. An objection is raised: It once happened that R. Eliezar, R. Joshua and R. Zadok were reclining[7] at a banquet of Rabban Gamaliel's son,[8] while Rabban Gamaliel was standing over them and serving drink. On his offering a cup to R. Eliezer, he did not accept it; but when he offered it to R. Joshua, he did. Said R. Eliezer to him, ‘What is this, Joshua: we are sitting, while Rabban Gamaliel is standing over us and serving drink!’ ‘We find that even a greater than he acted as servitor’, he replied: ‘Abraham was the greatest man of his age,[9] yet it is written of him, and he stood over them.[10] And should you say that they appeared to him as Ministering Angels — they appeared to him only as Arabs.[11] Then shall not R. Gamaliel Berabbi[12] stand over us and offer drink! Said R. Zadok unto them: ‘How long will you disregard the honour of the Omnipresent and occupy yourselves with the honour of men! The Holy One, blessed be He, causeth the winds to blow,[13] the vapours to ascend, the rain to fall, the earth to yield, and sets a table before every one; and we — shall not R. Gamaliel Berabbi stand over us and offer drink’! — But if stated, it was thus stated: R. Ashi said: Even on the view that if a Nasi renounces his honour it is valid, yet if a king renounces his honour it is not, for it is said, thou shalt surely set a king over thee,[14] teaching that his authority[15] shall be over thee.[16]

Our Rabbis taught: Thou shalt rise up before the hoary head;[17] I might think, even before an aged sinner; therefore it is said, and honour the face of a zaken,[18] and ‘zaken’ can only refer to a Sage,[19] for it is said: Gather unto me seventy men of the elders of Israel.[20] R. Jose the Galilean said: ‘Zaken’ [means] only he who has acquired wisdom,[21] for it is said: The Lord possessed me [sc. wisdom personified] as the beginning of his way.[22] I might think that one might stand up before him [even] at a great distance: therefore it is written, . . . thou shalt rise up, and thou shalt honour,[23] [implying], I ordered one to rise up only where it confers honour.[24] I might think that one must honour him with money,[25] therefore it is written: ‘thou shalt rise up and thou shalt honour’: just as rising up involves no monetary loss, so does honouring also mean without monetary loss. I might think that one must rise up before him out of a privy or a bathhouse, therefore it is written ‘thou shalt rise up and thou shalt honour’, [implying] I ordered to rise up only in a place where it confers honour. I might think that one may shut his eyes as though he has not seen him: therefore it is taught, . . . thou shalt rise up, and thou shalt fear thy God:[26] of what is known to the heart only it is said, and thou shalt fear thy God.[27] R. Simeon b. Eleazar said: How do we know that the Sage must not trouble [the people]?[28] From the verse, . . . old man and thou shalt fear.[29] Issi b. Judah said: Thou shalt rise up before the hoary head implies even any hoary head,[30] But is not R. Jose the Galilean identical with the first Tanna? — They differ in respect to a young sage: the first Tanna holds that a young sage is not [included in the precept], whereas R. Jose the Galilean holds that he is. What is R. Jose the Galilean's reason? — He can tell you: should you think as the first Tanna asserts, if so, the All-Merciful should have written: ‘Thou shalt rise up before the hoary headed zaken and honour [him]’; why did the All-Merciful divide them? To teach that the one [hoary head] is not identical with the other [zaken], and vice versa. This proves that even a young sage [is included]. And the first Tanna?[31] — That is because it is desired to place ‘old man’ in proximity to ‘and thou shalt fear’.[32] Now, what is the first Tanna's reason? — Should you think as R. Jose the Galilean maintains, if so, the All-Merciful should have written,

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(1) Surely not. A Rabbi is honoured on account of his learning, which comes from the Almighty; hence he cannot renounce his honour.

(2) Ps. I, 2; Raba makes his refer to the student of the Law, Thus: at first, ‘But his delight is in the law of the Lord’; having studied it, he acquires it for himself and it becomes his law.

(3) Var. lec., ‘sons’, making it refer to R. Mari too.

(4) ‘You consider yourselves too great to rise: are then the others not Rabbis too?’

(5) But if a scholar can renounce his honour, these had in fact done so by serving the drink at all; why then did they resent it that honour was not shewn them?

(6) V. Glos.

(7) People were reclining in ancient days at meals.

(8) Rabban Gamaliel was the Nasi.

(9) Lit., ‘generation’.

(10) Gen. XVIII, 8; referring to the three angels who appeared to him by the oaks of Mamre.

(11) According to Talmudic tradition, when he bade them wash their feet (ibid. v. 4) it was because he suspected them of being Arabs, who worship the dust of their feet.

(12) Supra p. 101, n. 8.

(13) This phrase is now liturgical, but that ‘wind’ is used instead of ‘winds’.

(14) Deut. XVII, 15.

(15) Lit., ‘fear’,
(16) Hence he cannot renounce the honour and reverence due to him.
(17) Lev. XIX, 32.
(18) Ibid. E.V. old man.
(19) To the Rabbis one was not a Sage unless he was also upright (cf. Prov. IX, 10: The fear of the Lord is the beginning of wisdom).
(20) Num. XI, 16.
(21) Reading zaken as an abbreviation, Zeh kanah hokemah, this one has acquired wisdom.
(22) Prov. VIII, 22.
(23) Lev. XIX, 32. The words ‘thou shalt rise’ are made to apply to zaken.
(24) But no sense of being honoured is experienced when a person rises at a distance.
(25) I.e., by giving him money.
(26) Ibid.
(27) Ibid. 14. Man cannot know whether he sees or not, but God does. V. B.M. (Sonc. ed.) p. 348, nn. 4, 5.
(28) He must not intentionally pass by the masses, in order that they should rise, if he has an alternative route.
(29) By disregarding the accents, this is read as a prohibition to the Sage.
(30) Not particularly that of a scholar.
(31) How does he explain the dividing up of the verse?
(32) In accordance with the teaching of R. Simeon b. Eleazar.

Talmud - Mas. Kiddushin 33a

‘Thou shalt rise up before and honour the hoary head; thou shalt rise up before and honour the old man.ð And since It is not written thus, it follows that they are identical.[1]

The Master said: ‘I might think that one must honour him with money, therefore it is written: "thou shalt rise up and thou shalt honourð: just as rising up involves no monetary loss, so does honouring also mean without monetary loss.’ But is there no monetary loss involved in rising? Does it not refer [even] to him who is piercing pearls,[2] and whilst he rises up before him he is disturbed from his work?[3] — But rising is compared to honouring: just as honouring involves no cessation of work,[4] so rising too means such as involves no cessation of work. And honouring is compared to rising too: just as rising involves no monetary loss,[5] so honouring means such as involves no monetary loss. Hence it was said: Artisans may not rise[6] before scholars whilst engaged in their work. Must they not? But we learnt: All artisans rise before them, give them greeting,[7] and exclaim to them, ‘Our brethren, men of such and such a place, enter in peace.’[8] — Said R. Johanan: Before them they must stand up, yet before scholars they may not.

R. Jose b. Abin said: Come and see how beloved a precept is in its time;[9] for behold, they rose up before them, yet not before scholars. But perhaps it is different there, for otherwise you may cause them to offend in the future![10]

The Master said: ‘I might think that one must rise up before him out of a privy or a bath-house.’ Is it then not so? But R. Hiyya was sitting in a bath-house, when R. Simeon son of Rabbi passed by, but he did not rise before him, whereat he was offended and went and complained to his father, ‘I taught him two-fifths of the Book of Psalms,[11] yet he did not rise up before me!’ It also happened that Bar Kappara — others state, R. Ishmael son of R. Jose — was sitting in a bath-house, when R. Simeon b. Rabbi entered and passed by, yet he did not rise before him. Thereat he was offended and went and complained to his father. ‘I taught him two-thirds of a third of "The Law of Priests".’[12] Said he to him, ‘perhaps he was sitting and meditating thereon’.[13] Thus, it is only because he might have been sitting and meditating thereon; but otherwise, it would not be [excusable]? — There is no difficulty: the one refers to the inner chambers, the other to the outer chambers.[14] That is logical too. For Rabbah b. Bar Hanah said: One may meditate [on learning] everywhere except at the baths and in a privy.[15] [That however does not follow:] maybe it is different when [done] involuntarily.[16]

‘I might think one may shut his eyes as though he has not seen him.’ Are we then dealing with the wicked! — But [say thus:] I might think that one may shut his eyes before the obligation arises,[17] so that when it does, he will not see him that he should stand up before him; therefore it is stated: ‘thou shalt rise up and thou shalt fear’.

A Tanna taught: Which rising up shews honour? Say, that is four cubits.[18] Said Abaye: That was said only of one who is not his distinguished teacher;[19] but as for his teacher par excellence,[20] as far as his eyes reach.[21] Abaye used to rise as soon as he saw the ear of R. Joseph's ass approaching. Abaye was riding an ass, making his way on the bank of the River Sagya.[22] Now, R. Mesharsheya and other scholars were sitting on the opposite bank, and they did not rise before him. Thereupon he expostulated with them: ‘Am I not your teacher par excellence!’ ‘It was thoughtlessness on our part, replied they to him.

‘R. Simeon b. Eleazar said: How do we know that the Sage must not trouble [the people]? From the verse: "old man and thou shalt fear".’ Abaye said: We have it [on tradition] that if he [the Sage] takes a circuitous route,[23] he will live [long]. Abaye took a circuitous route. R. Zera did likewise. Rabina was sitting before R. Jeremiah of Difti[24] when a certain man passed by without covering his head.[25] How impudent is that man! he exclaimed. Said he to him: Perhaps he is from the town of Mehasia,[26] where scholars are very common.[27]

‘Issi b. Judah said: "Thou shalt rise up before the hoary head" implies even any hoary head.’ R. Johanan said: The halachah is as Issi b. Judah. R. Johanan used to rise before the heathen[28] aged, saying: ‘How many troubles have passed over these!’ Raba would not rise up, yet he shewed them respect.[29] Abaye used to give his hand to the aged. Raba sent his messengers.[30] R. Nahman sent his guardsmen, [for] he said: ‘But for the Torah, how many Nahman b. Abba[31] are there in the market place!’[32]

R. Aibu said in R. Jannai's name:

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(1) Hence one must actually be old in addition to learned.

(2) For stringing together.

(3) And piercing pearls (or perhaps diamond cutting) being highly paid work, this involves a monetary loss.

(4) Honouring implies to shew respect, speak with reverence, but not to cease from work.

(5) Since it does not, as just stated, involve cessation of work.

(6) This refers either to employees, in which case they may not rise up, since their time is not their own; or to men engaged on their own work, so that the passage must be translated, . . . need not (Tosaf.).

(7) Lit., ‘enquire after their welfare’.

(8) This refers to those who brought their first fruits to the Temple, who were thus greeted by the workers in Jerusalem, v. Bik. III, 3.

(9) I.e., when it is being performed.

(10) If they are not shewn honour they may resent it, saying: ‘They hold us of no account’, and so not come again.

(11) So Rashi. Tosaf.: Two books of the five into which it may be divided, viz., Chs. I-XLI, XLII-LXXII, LXXIII-LXXXIX, XC-CVI, CVII-CL. Each of these divisions end with ‘amen,’ except the last, which marks the end of the book as a whole,

(12) תורת כהנים . The Midrashic exposition of Leviticus, so called because many of its laws refer to priests. It was presumably divided into three sections, and he had taught him two-thirds of one of these. — The work is also known as the Sifra. [Albeck, Untersuchungen uber die halakischen Midraschim, p. 89, n. 1, however, questions this identification, but regards the תורת כהנים as denoting the book of Leviticus itself.]

(13) And failed to notice you.

(14) In the inner chambers men are nude, and so exempt: in the outer they are clothed, and must pay their usual respects.

(15) Since the Rabbi suggested that they might have been meditating on their studies, they must have been in the outer chamber,

(16) They may have been in the inner chamber, yet involuntarily their thoughts wandered to their studies — not an unlikely supposition of men to whom the study of the Torah was one of the most vital objects in life.

(17) I.e., if he knows that the Sage is coming his way, but he has not arrived yet.

(18) When the Sage comes within four cubits of him he must rise, for then it is evident that he is rising in his honour.

(19) I.e., either a greater scholar than himself, even if he has never studied under him, or one of his own rank from whom he has learnt something, but not the greater part of his knowledge. Tosaf. Ri.

(20) His principal teacher.

(21) As soon as he comes into sight he must rise.

(22) Obermeyer. p. 225 suggests that סגיא is a corruption for סניא , or more correctly שניא or שוניא , an important canal passing Pumbeditha and joining the Euphrates with the Tigris.

(23) So as to avoid the assembly and save them the trouble of rising.

(24) Obermeyer, p. 197 conjectures that this is identical with Dibtha, in the neighbourhood of Wasit, north of Harpania.

(25) As a sign of respect; on headcovering v. supra 29b.

(26) A town near Sura on the Euphrates.

(27) There are so many, and they are met with so frequently, that the inhabitants fail to shew them proper respect. [Rashi's text reads: who are familiar with the Rabbis.]

(28) Lit., ‘Aramean’.

(29) In speech.

(30) To help up the aged.

(31) [Read with MS.M., כי אנא ,’ ‘like me’, instead of בר אבא , ‘b. Abba’.]

(32) I.e., his pre-eminence was due solely to his learning, and therefore it was not meet that he himself should help up the aged.

Talmud - Mas. Kiddushin 33b

A scholar may rise before his master only morning and evening, that his glory may not exceed the glory of Heaven.[1] An objection is raised: R. Simeon b. Eleazar said: How do we know that a Sage must not trouble [the people]? From the verse: ‘old man and thou shalt fear’. But if you say, morning and evening only, why should he not trouble [them]; It is an obligation! Hence it surely follows [that one must rise] all day? — No. After all, morning and evening only, yet even so, as far as possible, one should not trouble [the people].

R. Eleazar said: Every scholar who does not rise before his master is stigmatized as wicked, will not live long, and forget his learning, as it is said, but it shall not be well with the wicked, neither shall he prolong his days which are as a shadow, because he feareth not before God.[2] Now, I do not know what this fear is, but when it is said, [Thou shalt rise up before the hoary head . . .] and fear thy God,[3] then lo! fear means rising. But perhaps it means the fear of usury and [false] weights![4] — R. Eleazar infers [his dictum] from the use of pene [‘before’] in both cases.[5]

The scholars propounded: What if his son is his teacher? Must he rise before his father? — Come and hear: For Samuel said to Rab Judah: Keen scholar![6] rise before your father![7] — R. Ezekiel was different, because he had [many] good deeds to his credit, for even Mar Samuel[8] too stood up before him. Then what did he tell him?[9] — He said thus to him: Sometimes he may come behind me;[10] then do you stand up before him,[11] and do not fear for my honour.

The scholars propounded: What if his son is his teacher; must his father stand up before him? — Come and hear: For R. Joshua h. Levi said: As for me, it is not meet that I should stand up before my son, but that the honour of the Nasi's house [demands it].[12] Thus the reason is that I am his teacher:[13] but if he were my teacher, I would rise before him.[14] — [No]. He meant thus: As for me, it is not meet that I should stand up before my son, even if he were my teacher, seeing that I am his father, but that the honour of the Nasi's house [demands it].

The scholars propounded: Is riding the same as walking,[15] or not? — Said Abaye: Come and hear: If the unclean person sits under a tree and the clean person stands, he is defiled; if the unclean person stands under the tree and the clean person sits, he remains clean; but if the unclean person sat down, the clean one is defiled. And the same applies to a leprous stone.[16] Now, R. Nahman b. Cohen said: This proves that riding is the same as walking.[17] This proves it.[18]

The scholars propounded: Must one rise before a Scroll of the Law? — R. Hilkiah, R. Simon and R. Eleazar say: It follows a fortiori: if we rise before those who study it, how much more before that itself! R. Elai and R. Jacob b. Zabdi were sitting when R. Simeon b. Abba passed by, whereupon they rose before him. Said he to them: [You should not have risen;] firstly, because you are Sages, whereas I am but a haber:[19] moreover, shall then the Torah rise before its students![20] Now, he held with R. Eleazar, who said: A scholar must not stand up before his teacher when he [the disciple] is engaged in studying. Abaye condemned[21] this [teaching].

[And . . . when Moses went out unto the Tent . . . all the people rose up and stood . . .] and looked after Moses, until he was gone into the tent.[22] R. Ammi and R. Isaac, the Smith — one maintained: [It was] in a derogatory fashion; the other said: In a complimentary way. He who explained it in a derogatory fashion, as is known.[23] But he who interpreted it in a complimentary manner — said Hezekiah: R. Hanina son of R. Abbahu told me in R. Abbahu's name in the name of R. Abdimi of Haifa: When the Hakam [Sage][24] passes, one must rise before him [at a distance of] four cubits, and when he has gone four cubits beyond [him], he sits down; when an Ab Beth-din[25] passes, one must stand up before him as soon as he comes in sight,[26] and immediately he passes four cubits beyond he may sit down; but when the Nasi passes, one must rise as he comes in sight and may not sit down until he takes his seat, for It is written, [and all the people stood . . .] and looked after Moses, until he was gone into the tent.

ALL AFFIRMATIVE PRECEPTS LIMITED TO TIME etc. Our Rabbis taught: Which are affirmative precepts limited to time? Sukkah,[27] lulab,[28] shofar,[29] fringes,[30]

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(1) One rises only twice a day, morning and evening, in God's honour.

(2) Ecc. VIII, 13.

(3) Lev. XIX, 32.

(4) For there too fear of God is mentioned: Take thou no usury of him nor increase, but fear thy God (Lev. XXV, 36). In respect to false weights Rashi quotes, Thou shalt have a perfect and just weight (Deut. XXV, 15), but Tosaf. observes that fear of God is not mentioned there, and mentions the reading miksholoth , מכשולו , stumbling-blocks: the reference then is to Lev. XIX, 14: thou shalt not put a stumbling-block before the blind, but fear thy God. But S. Strashun explains that there is a misprint in Rashi, and the text to be quoted is, Just balances, just weights . . . shall ye have: I am the Lord your God. (Lev. XIX, 36). ‘I am the Lord your God’ implies fear; cf. B.M. 61b.

(5) But is not written In connection with usury. Though it is used in connection with the stumbling-block, yet shewing fear before God has more in common with rising before a Sage than refraining from putting a stumbling-block before the blind (Tosaf.).

(6) V. supra p. 156, n. 12.

(7) Though Rab Judah was his father's teacher, v. supra 32a.

(8) Samuel himself who was Rab Judah's teacher.

(9) Surely Rab Judah should have understood it himself, seeing that even his teacher rose before him.

(10) [MS.M.: Sometimes I may come behind him.]

(11) Though you have already risen once for me.

(12) His son had married into the Nasi's family.

(13) So it is assumed.

(14) Even apart from his high marriage connections. [The reference is probably to his son R. Joseph; cf. B.B. 10b.]

(15) So that disciples must rise before their teacher when he rides past.

(16) The reference is to a leper, who defiles a clean person when both are under the same covering overhead, but only if the leper is sitting. The boughs of a tree form such a covering. The same applies to a leprous stone. (Stones too could be leprous; v. Lev. XIV, 33-48.) If a man, bearing a leprous stone, sits under a tree, he defiles a clean man standing there; but if he stands with the stone, the other remains clean.

(17) For the stone itself is always, as it were, seated on its bearer, yet it defiles only if its bearer sits down, but not if standing. This proves that the bearer only is regarded. Hence if a leper is sitting on an animal which is standing or walking, he does not cause defilement, since the bearer (sc. the animal) is not sitting.

(18) The same applying to the problem under discussion.

(19) [A title of a non-ordained scholar in contradistinction to a Sage (חכים), an ordained scholar. R. Simeon (Shaman) b. Abba, through one cause or another, did not succeed in obtaining his Ordination, v. Sanh. 24a.]

(20) They were actually studying just then, so he referred to them as the Torah itself.

(21) Lit., ‘cursed’.

(22) Ex. XXXIII, 8.

(23) Lit., ‘as it exists’. It being a disparagement of Moses, the Talmud does not wish to elaborate thereon, but merely remarks that its meaning is known. It is explained in Shek. V, 13 and elsewhere: They said: ‘See how thick his legs are, how fat his neck — all acquired out of our wealth!’

(24) V. Hor. (Sonc. ed.) p. 101, n. 8.

(25) Lit., ‘father of Beth din,’ v. loc. cit., n. 6.

(26) Lit., ‘as far as his eyes see.’

(27) Lev. XXIII, 42: Ye shall dwell in booths (sukkoth) seven days.

(28) The taking of the palm-branch (lulab) together with three other species on the Festival of booths; v. ibid. 40.

(29) The ram's horn, to be blown on New Year; v. ibid. 24; Num. XXIX, 1.

(30) V. Num. XV, 38; this is limited to time, because fringes are unnecessary on night garments.

Talmud - Mas. Kiddushin 34a

and phylacteries.[1] And what are affirmative precepts not limited to time? Mezuzah,[2] ‘battlement’,[3] [returning] lost property,[4] and the ‘dismissal of the nest.’[5]

Now, is this a general principle? But unleavened bread,[6] rejoicing [on Festivals],[7] and ‘assembling’,[8] are affirmative precepts limited to time, and yet incumbent upon women.[9] Furthermore, study of the Torah, procreation, and the redemption of the son, are not affirmative precepts limited to time, and yet women are exempt [therefrom]?[10] — R. Johanan answered: We cannot learn from general principles, even where exceptions are stated. For we learnt: An ‘erub[11] and a partnership,[12] may be made with all comestibles, excepting water and salt. Are there no more [exceptions]: lo, there are mushrooms and truffles! But [we must answer that] we cannot learn from general principles, even where exceptions are stated.

AND AFFIRMATIVE PRECEPTS LIMITED TO TIME, WOMEN ARE EXEMPT. Whence do we know it? — It is learned from phylacteries: just as women are exempt from phylacteries, so are they exempt from all affirmative precepts limited to time. Phylacteries [themselves] are derived from the study of the Torah: just as women are exempt from the study of the Torah, so are they exempt from phylacteries. But let us [rather] compare phylacteries to mezuzah?[13] — phylacteries are assimilated to the study of the Torah in both the first section and the second;[14] whereas they are not assimilated to mezuzah in the second section.[15] Then let mezuzah be assimilated to the study of the Torah?[16] — You cannot think so, because it is written, [And thou shalt write them upon the mezuzah of thine house . . .] That your days may be multiplied:[17] do then men only need life, and not women! But what of sukkah, which is an affirmative precept limited to time, as it is written, ye shall dwell in booths seven days,[18] yet the reason [of woman's exemption] is that Scripture wrote ha-ezrah,[19] to exclude women,[20] but otherwise women would be liable? — Said Abaye, It is necessary: I would have thought, since it is written: ‘ye shall dwell in booths seven days’, ‘ye shall dwell’ [meaning] even as ye [normally] dwell [in a house]: just as [normal] dwelling [implies] a husband and wife [together], so must the sukkah be [inhabited by] husband and wife![21] — But Raba said,

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(1) V. Deut. VI, 8; the reason is the same as that of fringes.

(2) V. ibid. 9. Mezuzah, doorpost, and then by transference, the receptacle containing ‘these words’ affixed to the doorpost.

(3) Deut. XXII, 8.

(4) Ex. XXIII, 4; Deut. XXII, 1-3.

(5) V. Deut. XXII, 6f.

(6) To eat which on the first evening of Passover is a positive command: Ex. XII, 18.

(7) Deut. XVI, 14.

(8) On the Festival of Tabernacles in the seventh year; v. Deut. XXXI, 12.

(9) The latter two explicitly include women; unleavened bread is deduced in Pes. 43b.

(10) Procreation is deduced in Yeb,65b; the others are deduced supra 29b.

(11) V. Glos.

(12) All the inhabitants of the same side street provided some foodstuff, e.g., flour, of which one large dish was prepared and placed in a court-yard of one of the houses. This turned all the court-yards into a single domain, and carrying from one into the other on the Sabbath was then permitted. That dish was called the ‘erub (of court-yards). ‘Erub means something which joins, combines, Fr. ‘arab, to commingle. Similarly, several side streets could be combined.

(13) Which is obligatory upon women.

(14) The first section is Deut. VI, 4-9; the second: XI, 13-21; so-called because these are the first two of the four Pentateuchal passages contained in the phylacteries, and the only two written in the mezuzah. In the first section, Deut. VI, 7f: And thou shalt teach them diligently unto thy children . . . and thou shalt bind them for a sign upon thine hand. In the second section, XI. 18f: and ye shall bind them . . . and ye shall teach them etc.

(15) Phylacteries are mentioned in v. 18, and mezuzah in v. 20, so that v. 19, which treats of study, breaks the connection.

(16) Just as women are exempt from the latter, so from the former too. — Study and mezuzah are stated consecutively, viz., in vv. 19 and 20.

(17) Ibid, 21.

(18) Lev. XXIII, 42.

(19) R.V. ‘homeborn’.

(20) Suk. 28a.

(21) Hence ha-ezrah teaches otherwise.

Talmud - Mas. Kiddushin 34b

It[1] is necessary [for another reason]: I might have thought, we derive [identity of law from the employment of] ‘fifteen’ here and in connection with the Feast of unleavened bread:[2] just as there, women are liable, so here too. Hence it is necessary.

But what of pilgrimage,[3] which is an affirmative command limited to time, yet the reason [of woman's exemption] is that Scripture wrote, [Three times in the year all] thy males [shall appear before the Lord thy God],[4] thus excluding women; but otherwise women would be liable? — It is necessary: I would have thought, we learn the meaning of ‘appearance’ from ‘assembling’.[5]

Now, instead of deriving an exemption from phylacteries, let us deduce an obligation from [the precept of] rejoicing?[6] Said Abaye: As for a woman, her husband must make her rejoice.[7] Then what can be said of a widow?[8] It refers to her host.[9] Now, let us learn [liability] from [the precept of] ‘assembling’?[10] Because unleavened bread and ‘assembling’ are two verses [i.e., precepts] with the same purpose,[11] and wherever two verses have the same purpose, they cannot throw light [upon other precepts].[12] If so, phylacteries and pilgrimage are also two verses with one purpose,[13] and cannot illumine [other precepts]? — They are both necessary: for had the Divine Law stated phylacteries but not pilgrimage, I would have thought, let us deduce the meaning of ‘appearance’ from ‘assembling’.[14] While had the Divine Law written pilgrimage but not phylacteries, I would have reasoned, Let phylacteries be assimilated to mezuzah.[15] Thus both are necessary.[16] If so, unleavened bread and ‘assembling’ are also necessary? — For what are they necessary? Now, if the Divine Law stated ‘assembling’ but not unleavened bread, it were well:[17] for I would argue, let us deduce ‘fifteen’, ‘fifteen’, from the feast of Tabernacles.[18] But let the Divine Law write unleavened bread, and ‘assembling’ is unnecessary, for I can reason, If it is incumbent upon children,[19] how much more so upon women! Hence it is a case of two verses with the same purpose, and they cannot throw light [upon other precepts].

Now, that is well on the view that they do not illumine [other cases]. But on the view that they do, what may be said?[20] Furthermore, [that] affirmative precepts not limited to time are binding upon women; how do we know it? Because we learn from fear:[21] just as fear is binding upon women, so are all affirmative precepts not limited to time incumbent upon women. But let us [rather] learn from the study of the Torah?[22] — Because the study of the Torah and procreation[23] are two verses which teach the same thing,[24] and wherever two verses teach the same thing, they do not illumine [others].

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(1) The deduction from ha-ezrah.

(2) Here, Lev. XXIII, 39: on the fifteenth day of the seventh month; Passover, ibid. 6: and on the fifteenth day of the same month is the feast of unleavened bread unto the Lord.

(3) Lit., ‘appearance’ — before the Lord on Passover, Pentecost and Tabernacles.

(4) Ex. XXIII, 17.

(5) ‘Appearance’ is mentioned in both cases. Pilgrimage, as quoted in last note; assembling, Deut. XXXI, 11f: when all Israel is come to appear before the Lord thy God. . . assemble the people, men and women, etc.

(6) That too is occasioned by the Season, yet is obligatory upon women; v. Deut. XVI, 14.

(7) I.e., the duty lies not on the woman herself, but on her husband, to make her rejoice.

(8) Who is explicitly mentioned in the same verse, q.v.

(9) Lit., ‘the one with whom she dwells’. I.e., the master of the house where she lives must make her rejoice.

(10) Just as that is an affirmative precept limited to time and yet incumbent upon women, so are all etc.

(11) Lit., ‘that come as one,’ i.e., both are affirmative precepts occasioned by the season, and in both it is stated that they include woman.

(12) V. note 7.

(13) Both teaching that women are exempt.

(14) Just as the ‘assembling’ includes women, so does pilgrimage.

(15) Since they are written together, and so women are liable to the former as to the latter.

(16) The reason why two verses which teach the same thing cannot illumine other precepts is that if they were meant to do so one only would be sufficient, for the second could be deduced; and similarly all other precepts. But this obviously does not hold good when each is necessary in itself; in that case, therefore, both together throw light upon other cases.

(17) I.e., the latter would be unnecessary.

(18) Thus shewing that women are exempt from eating unleavened bread; v. supra.

(19) V. Deut. XXXI, 12, ‘and the children’.

(20) Let us deduce liability of women in regard to all affirmative precepts limited to time.

(21) I.e., the precept to fear one's parents, Lev. XIX, 3, which, as deduced supra 29a, applies to both sexes.

(22) Which is occasioned by time and yet not obligatory upon women.

(23) Likewise not limited in time and not incumbent upon women.

(24) Viz., that women are exempt.

Talmud - Mas. Kiddushin 35a

But according to R. Johanan b. Beroka, who maintained, Concerning both [Adam and Eve] it is said: And God blessed them: and God said unto them, Be fruitful and multiply,[1] what can be said? — Because the study of the Torah and redemption of the firstborn are two verses with one purpose, and such do not illumine [others]. But according to R. Johanan b. Beroka too, let procreation and fear be regarded as two verses with one purpose,[2] which do not illumine [other cases]?[3] — Both are necessary. For if the Divine Law wrote fear and not procreation, I would argue, The Divine Law stated, [Be fruitful, and multiply, and replenish the earth,] and conquer it: only a man, whose nature It is to conquer, but not a woman, as it is not her nature to conquer.[4] And if Scripture wrote procreation and not fear, I would reason: A man, who has the means to do this [sc. to shew fear to his parents] is referred to, but not a woman, seeing that she lacks the means to fulfil this;[5] and that being so, she has no obligation at all.[6] Thus both are necessary. Now, that is well on the view that two verses with the same teaching do not illumine [others]: but on the view that they do, what can be said?[7] — Said Raba, The Papunians[8] know the reason of this thing, and who is it? R. Aha b. Jacob. Scripture saith, And it shall be for a sign unto thee upon thine hand, and for a memorial between thine eyes, that the Torah of the Lord may be in thy mouth:[9] hence the whole Torah is compared to phylacteries: just as phylacteries are an affirmative command limited to time, and women are exempt, so are they exempt from all positive commands limited to time.[10] And since women are exempt from affirmative precepts limited to time, it follows that they are subject to those not limited to time.[11] Now, that is well on the view that phylacteries are a positive command limited to time; but what can be said on the view that they are not?[12] — Whom do you know to maintain that phylacteries are an affirmative precept not limited to time? R. Meir. But he holds that there are two verses with the same teaching, and such do not illumine [others].[13] But according to R. Judah, who maintains that two verses with the same teaching illumine [others], and [also] that phylacteries are a positive command limited to time, what can be said? — Because unleavened bread, rejoicing [on Festivals], and 'assembling' are three verses with the same teaching,[14] and such do not illumine [others].[15]

AND ALL NEGATIVE PRECEPTS etc. Whence do we know it? — Said Rab Judah in Rab's name, and the School of R. Ishmael taught likewise, Scripture saith, When a man or a woman shall commit any sin that men commit [. . . then that soul shall be guilty]:[16] thus the Writ equalised woman and man in respect of all penalties [decreed] in the Torah.[17] The School of R. Eliezer taught: Scripture saith, [Now these are the judgments] which thou shalt set before them:[18] The Writ equalised woman and man in respect of all civil laws in Scripture.[19] The School of Hezekiah taught: Scripture saith, [but if the ox were wont to gore . . .] and he kill a man or woman [the ox shall be stoned, and his owner also shall be put to death];[20] the Writ placed woman on a par with man in respect of all death sentences [decreed] in Scripture. Now, it is necessary [that all three should be intimated]. For if the first [only] were stated, [l would say] that the All-Merciful had compassion upon her [woman], for the sake of atonement;[21] but as for civil law, I might argue that it applies only to man, who engages in commerce, but not to woman, who does not. While if the second [alone] were intimated, that is because oneðs livelihood depends thereon;[22] but as for ransom ,[23] I might argue,

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(1) Gen. I, 28; this is the command of procreation.

(2) Viz., both are affirmative precepts not occasioned by time and both are incumbent upon women.

(3) So that on the contrary only these are obligatory, but not others.

(4) And as this is stated together with procreation, the same ruling governs both.

(5) V. p. 148. n. 5.

(6) Even when she can fulfil it. e.g., if she is unmarried.

(7) This is the conclusion of the objection introduced by 'furthermore', supra 34b.

(8) I.e., scholars of Papunia, between Bagdad and Pumbeditha, possibly on the River Papa, whence the name; Obermeyer, p. 242.

(9) Ex. XIII, 9. The 'sign' and 'memorial' refer to the phylacteries.

(10) Now, a direct comparison of this nature, in which the 'Torah of the Lord' is practically identified with the 'sign' and the 'memorial,' is stronger than a mere analogy of the type hitherto discussed, and so outweighs any opposite conclusions arrived at by analogy.

(11) For otherwise, this comparison should be written in connection with the latter, e.g., study of the Torah, whence I would deduce that woman are exempt from all such precepts (and from precepts limited to time too, a fortiori).
(12) This question is disputed in Shab. 61a.
(13) I.e, he does not employ the comparison, but deduces by analogy from pilgrimage, as above. Unleavened bread and ‘assembling’ do not furnish any opposite conclusion, for they are two verses with the same teaching.
(14) These are three positive commands limited to time and binding upon women.
(15) This is admitted by all. According to this, Abaye's contention that the precept of rejoicing relates to a woman's husband or her host (supra 34b) is rejected.
(16) Num. V, 6.
(17) Negative precepts involve flagellation.
(18) Ex. XXI, 1.
(19) This is not adduced as a source of the Mishnah, since it deals with a different subject, but as a parallel to the last statement.
(20) Ibid. 29.
(21) The first refers to sacrifice for sin, and the woman is given the same opportunity of atoning as man.
(22) Viz., on the protection afforded by civil law.
(23) The last law quoted treats of the ransom paid by the owner of the ox; vv.29H

Talmud - Mas. Kiddushin 35b

it applies only to man, who is subject to precepts, but not to woman, who is not subject to them.[1] And if the last [alone] were intimated, — since there is loss of life, the All-Merciful had compassion upon her;[2] but in the first two I might say that it is not so.[3] Thus they are [all] necessary.

EXCEPTING, YE SHALL NOT ROUND [THE CORNER OF YOUR HEADS] NEITHER SHALT THOU MAR, etc. As for defiling oneself to the dead, that is well, because it is written: Speak unto the priests the sons of Aaron: [There shall none defile himself for the dead among his people]:[4] [hence], the sons of Aaron, but not the daughters of Aaron. But how do we know [that she is exempt from] the injunction against rounding [etc.] and marring [etc.]? — Because It is written, ye shall not round the corner of your heads, neither shalt thou mar the corners of thy beard:[5] whoever is included in [the prohibition of] marring is included in [that of] rounding; but women, since they are not subject to [the prohibition of] marring, are not subject to [that of] rounding. And how do we know that they are not subject to [the injunction against] marring? — Either by common sense, for they have no beard. Or, alternatively, [from] Scripture. For Scripture saith, ye shall not round the corner of your heads, neither shalt thou mar the corner of thy beard; since Scripture varies its speech,[6] for otherwise the Divine Law should write, ‘the corner of your beards’; why, ‘thy beard’? [To intimate], ‘thy beard,’ but not thy wife's beard. Is it then not?[7] But it was taught: The beard of a woman and that of a saris[8] who grew hair, are like a [man's] beard in all matters. Surely that means in respect to marring? — Said Abaye: You cannot say that it is in respect to marring, for we learn ‘corner’ ‘corner’ from the sons of Aaron:[9] just as there, women are exempt; so here too, women are exempt. But if we hold that ‘the sons of Aaron’ is written with reference to the whole section,[10] let the Writ refrain[11] from it,[12] and it[13] follows a fortiori. For I can argue, If [of] priests, upon whom Scripture imposes additional precepts, [we say] ‘the sons of Aaron’ but not the daughters of Aaron, how much more so of Israelites! — But for the gezerah shawah I would reason that the connection is broken.[14] Then now too let us say that the connection is broken; and as for the gezerah shawah,[15] — that is required for what was taught: ‘They shall not shave’: I might think that if he shaves it with scissors,[16] he is liable [for violating the injunction]: therefore it is stated, thou shalt not mar.[17] I might think that if he plucks it [his hair] out with pincers or a remover, he is liable:[18] therefore it is stated: ‘they shall not shave’.[19] How then is it meant? Shaving which involves marring, viz., with a razor.[20] If so,[21] let Scripture write, [‘ye shall not round the corner of your heads, neither shalt thou mar] that of thy beard’? why [repeat] ‘the corner of thy beard’? Hence both are inferred.[22]

Then when it was taught: ‘The beard of a woman and that of a saris who grew hair, are like a [man's] beard in all respects’: to what law [does it refer]? — Said Mar Zutra: To the uncleanliness of leprosy.[23] ‘The uncleanliness of leprosy!’ But that is explicitly stated: If a man or a woman have a plague upon the head or the beard?[24] — But, said Mar Zutra, [it is] in respect of purification from leprosy.[25] But purification from leprosy too is obvious; since she is liable to uncleanliness [through her beard], she needs [the same] purification! — It is necessary:[26] I might have assumed, it is written with separate subjects:[27] [thus:] ‘If a man or a woman have a plague upon the head’; while ‘or the beard’ reverts to the man [alone]; therefore we are informed [otherwise].

Issi taught: Women are exempt from the injunction against baldness too.[28] What is Issi's reason? — Because he interprets thus: Ye are sons of the Lord your God: ye shall not cut yourselves, nor make any baldness between your eyes for the dead. For thou art an holy people unto the Lord thy God:[29] [the implied limitation] ‘sons’ but not daughters [is] in respect of baldness. You say, in respect of baldness; yet perhaps it is not so, but rather in respect of cutting? When it is said: ‘For thou art an holy people unto the Lord thy God,’ cutting is referred to;[30] hence, how can I interpret [the implication] ‘sons’ but not daughters? In respect to baldness. And why do you prefer[31] to include cutting and exclude baldness? I include cutting which is possible both where there is hair and where there is no hair, and I exclude baldness which is possible only in the place of hair.[32] Yet perhaps ‘sons’ but not daughters applies to both baldness and cutting, while ‘For thou art an holy people unto the Lord thy God’ relates to incision![33] — Issi holds that incision [seritah] and cutting [gedidah]

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(1) Actually, of course, she is subject to certain precepts, as stated on 29a, but not liable to as many as man (Tosaf.).

(2) And imposed upon the owner the payment of ransom for the death of a woman as for that of a man.

(3) Sc. that woman is the same as man.

(4) Lev. XXI, 1.

(5) Lev. XIX, 27.

(6) Using the plural in the one case and the singular in the other.

(7) Is not a woman's beard subject to this prohibition?

(8) V. Glos.

(9) With reference to Israelites in general: nor shalt thou mar the corner of thy beard; in the section relating to priests: neither shall they shave off the corner of their beard (Lev. XXI, 5), it being assumed that the phrase ‘sons of Aaron’ of v. I applies to the whole section. The employment of ‘corner’ in both cases teaches similarity of law.

(10) V. n. 5.

(11) Lit., ‘keep silent’.

(12) Sc. the gezerah shawah of ‘corner’.

(13) Sc. that ‘thou shalt not mar’ does not apply to women.

(14) Viz., that ‘the sons of Aaron’ in v. I does not refer to ‘they shall not shave the corner of their beards’ in v. 5.

(15) Which appears to intimate that it is not.

(16) I.e., clipped the hair very close.

(17) Lev. XIX, 27: thus the first verse quoted, Lev. XXI, 5, in reference to Priests, is illumined by the second in reference to Israelites. ‘Mar’ can only refer to the action of a razor, which removes the hair completely.

(18) In respect of ‘thou shalt not mar’.

(19) In reference to priests, and this illumines the injunction ‘thou shalt not mar’. Plucking hairs one by one is not shaving.

(20) Now since the gezerah shawah is wanted for this, I may still say ‘the sons of Aaron’ in Lev. XXI, 1, does not refer to ‘and they shall not shave the corner of their beards’ in v. 5, the connection being broken.

(21) That the gezerah shawah merely defines ‘shaving’ and ‘marring’, but does not shew to whom they apply.

(22) Viz., definition and scope.

(23) The symptoms of leprosy of the skin differ from those of the hair; cf. Lev. XIII, 1-17 with vv. 29-37. The Baraitha teaches that if a woman or a saris grows a beard, though normally their chins are free from hair, the test of leprosy are the symptoms of the latter, not of the former,

(24) Lev. XIII, 29. Why should the Baraitha state it?

(25) When a woman becomes clean from leprosy of the beard, she must undergo the same ritual as a man, viz., the beard must be shaved off (v. 33) — S. Strashun.

(26) The Baraitha refers to the uncleanliness of leprosy, as first stated, yet it is necessary.

(27) Lit., 'on (different) sides'.

(28) V. Lev. XXI, 5.

(29) Deut. XIV, 1f.

(30) For 'people' includes men and women; since this is the reason of the previous injunctions, one at least must apply to women too.

(31) Lit., 'what (reason) do you see?'

(32) Since the prohibition of baldness is necessarily more limited, it is logical that the exclusion of daughters shall relate thereto.

(33) Lev, XXI, 5: and they (sc. the priests) shall not make any incision (Heb. sarateth, E.V. cuttings) in their flesh. It is now assumed that making incisions (seritah) is not identical with cutting (gedidah), one being by hand and the other with a knife.

Talmud - Mas. Kiddushin 36a

are identical.[1]

Abaye said: This is Issi's reason, viz., he learns 'baldness', 'baldness', from the sons of Aaron:[2] just as there, women are exempt, so here too, women are exempt. But if we hold that the phrase ['the sons of Aaron'] relates to the whole section, let Scripture refrain from it,[3] and it [woman's exemption] follows a fortiori. For I may argue, If [of] priests, upon whom the Writ imposes additional precepts, [we say] 'the sons of Aaron' but not the daughters of Aaron, how much more so of Israelites! — But for the gezerah shawah I would think the connection is broken.[4] Then now too, let us say that the connection is broken; and as for the gezerah shawah, that is required for what was taught: They shall not make a baldness:[5] I might think that even if one makes four or five bald patches he is liable for only one [transgression]; therefore it is stated, karhah [a baldness],[6] intimating liability for each separate act. What is taught by, 'upon their head'? Because it is said: 'Ye shall not cut yourselves, nor make any baldness between your eyes for the dead': I might think that one is liable only for between the eyes. Whence do I know to include the whole head? Therefore it is stated: 'upon their head,' to teach liability for the [whole] head as for between the eyes. Now, I know this only of priests,[7] upon whom Scripture imposes additional precepts; whence do we know it of Israelites? — Karhah [baldness] is stated here, and karhah is also stated below; just as there, one is liable for every act of making baldness, and for the [whole] head as for between the eyes, so here too, one is liable for every act of baldness and in respect of the whole head as for between the eyes. And just as below, [baldness] for the dead [is meant], so here too it is for the dead![8] If so,[9] let Scripture write kerah [baldness]:[10] why karhah? That both may be inferred.

Raba said: This is Issi's reason, viz., he learns [the applicability of] 'between your eyes' from phylacteries:[11] just as there, women are exempt, so here too, women are exempt.

Now, why does Raba not say as Abaye? — [The distinction between] kerah and karhah is not acceptable to him. And why does Abaye reject Raba's reason? — He can tell you. Phylacteries themselves are learnt from this: just as there, ['between the eyes' means] the place where a baldness can be made [viz.,] on the upper part of the head,[12] so here too' the place for wearing [phylacteries] is the upper part of the head.[13] Now, according to both Abaye and Raba, how do they interpret this [verse], 'Ye are sons [etc.']?[14] — That is wanted for what was taught: 'Ye are sons of the Lord your God'; when you behave as sons[15] you are designated sons; if you do not behave as sons, you are not designated sons: this is R. Judah's view. R. Meir said: In both cases you are called sons, for it is said, they are sottish children;[16] and it is also said: They are children in whom is no faith;[17] and it is also said, a seed of evil-doers, sons that deal corruptly;[18] and it is said, and it shall come to pass that, in the place where it was said unto them, Ye are not my people, it shall be said unto them, Ye are the sons of the living God.[19] Why give these additional quotations?[20] For should you reply, only when foolish are they designated sons, but not when they lack faith — then come and hear: And it is said: ‘They are sons in whom is no faith’. And should you say, when they have no faith they are called sons, but when they serve idols they are not called sons — then come and hear: And it is said: ‘a seed of evil-doers, sons that deal corruptly.’ And should you say, they are indeed called sons that act corruptly, but not good sons — then come and hear: And it is said, and it shall come to pass that, in the place where it was said unto them, Ye are not my people, it shall be said unto them, Ye are the sons of the living God.[21]

MISHNAH. THE [RITES OF] LAYING HANDS, WAVING, BRINGING NEAR [THE MEAL-OFFERING], TAKING THE HANDFUL, BURNING [THE FAT], WRINGING [THE NECK OF BIRD SACRIFICES], RECEIVING AND SPRINKLING [THE BLOOD], ARE PERFORMED[22] BY MEN BUT NOT BY WOMEN, EXCEPTING THE MEAL-OFFERING OF A SOTAH[23] AND A NEZIRAH,[24] WHERE THEY [THEMSELVES] DO PERFORM WAVING.

GEMARA. THE [RITES OF] LAYING [HANDS], because it is written: Speak unto the sons of Israel. . . and he shall lay [his hand upon the head of the burnt-offering]:[25] thus the sons of Israel lay [hands], but not the daughters of Israel.

WAVING: Speak unto the sons of Israel . . ‘ [the fat with the breast, it shall he bring, that the breast] may be waved [etc.]:[26] hence, the sons of Israel wave, but not the daughters of Israel.

BRINGING NEAR [THE MEAL-OFFERING]: For it is written: And this is the law of the meal-offering: the sons of Aaron shall offer it:[27] the sons of Aaron, but not the daughters of Aaron.

TAKING THE HANDFUL. For it is written: And he shall bring it to Aaron's sons the priests: and he shall take thereout his handful [of the fine flour thereof].[28] the sons of Aaron, but not the daughters of Aaron.

BURNING [THE FAT]. Because it is written: And Aaron's sons shall burn it:[29] the sons of Aaron, but not the daughters of Aaron.

WRINGING [THE NECK OF BIRD SACRIFICES]. Because it is written, and he shall wring [off his head,] and burn it [on the altar]: thus wringing is assimilated to burning.[30]

RECEIVING [THE BLOOD]. Because it is written, and the priests, Aaron's sons, shall bring [the blood]:[31] and a Master said,

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(1) Both are either by hand or with an instrument.

(2) I.e., baldness is mentioned in Deut. XIV. If., in connection with Israelites, and in Lev. XXI, 5, in reference to the priests. Here too it is assumed that ‘the sons of Aaron’ in v. 1. applies to the whole section,

(3) This gezerah shawah.

(4) V. p. 174, n. 4.

(5) Lev. XXI, 5. Heb. lo yikrehu.

(6) The verb is followed by its cognate object, though this is unnecessary.

(7) ‘Upon their head’ referring to them.

(8) I.e., Lev, XXI, 5 refers to such a case.

(9) That the gezerah shawah does not also exclude women.

(10) A shorter form.

(11) Deut. XI, 18: and they shall be for frontlets between your eyes.

(12) I.e., where the hair grows.
(13) But not on the forehead above the nose, as ‘between your eyes’ would seem to imply.
(14) Since they derive Issi's dictum from another source.
(15) Obediently and lovingly.
(16) Jer. IV, 22.
(17) Deut. XXXII, 20.
(18) Isa. I, 4.
(19) Hos. II, 1.
(20) Lit., ‘why ‘and it is said’?’
(21) This whole passage expresses the firm belief that Israel can never be entirely rejected by God for all time. That in turn is based on the conviction that the Jew will never sin so completely as to render a return to God impossible, and the final verse quoted refers to such a religious regeneration.
(22) The meaning of these is made clear in the texts quoted in the Gemara.
(23) V. Glos.
(24) V. Glos,
(25) Lev. I, 2, 4.
(26) Ibid. VII, 29f.
(27) Ibid. VI, 7. [‘Offer it’, i.e., ‘bring it near’ the altar, v. Sotah 14b.]
(28) Ibid. II, 2.
(29) Sc. the fat, etc., mentioned in the preceding verses. — Ibid. III, 5.
(30) Hence it may not be done by women.
(31) Ibid. I, 5.

Talmud - Mas. Kiddushin 36b

‘and they shall bring’ refers to the receiving of the blood.

AND SPRINKLING. The sprinkling of what?[1] If that of the [red] cow — Eleazar is written in connection therewith?[2] If [that sprinkled] on the inner precincts [of the Temple],[3] is but the anointed priest is stated in connection therewith![4] — But it refers to the sprinkling of a bird's [blood], which is inferred a minori from an animal:[5] if an animal, for the slaughtering of which a priest was not specified,[6] yet a priest was specified for its sprinkling; then a fowl, for the wringing of whose neck a priest was appointed,[7] it surely follows that one [a priest] is specified for its sprinkling![8]

EXCEPTING THE MEAL-OFFERING OF A SOTAH AND A NEZIRAH. R. Eleazar said to R. Josiah his contemporary:[9] Do not sit down on your haunches[10] until you have told me this law: How do we know that the meal.offering of a sotah requires waving? [You ask,] ‘How do we know!’ it is written in the very section, and he shall wave the offering [before the Lord].[11] But [the question is,] how do we know that the waving must be by the owner?[12] — The meaning of ‘hand’ is deduced from a peace-offering. Here is written: Then the priest shall take [the jealousy- offering] out of the woman's hand:[11] while there [in reference to peace-offerings] it is written, his hands [sc. the owner's] shall bring [the offerings of the Lord made by fire]:[13] just as here the priest [is stated], so there too the priest [is meant]; and just as there the owner [is specified], so here too the owner [is required]. How so? The priest inserts his hand under the owner's and waves. We have found [this in the case of] sotah; how do we know [it of] a nezirah? — The meaning of ‘palm’ [kaf] is derived from sotah.[14]

MISHNAH. EVERY PRECEPT WHICH IS DEPENDENT ON THE LAND IS PRACTISED ONLY IN THE LAND [PALESTINE]; AND THAT WHICH IS NOT DEPENDENT ON THE LAND IS PRACTISED BOTH WITHIN AND WITHOUT THE LAND [IN THE DIASPORA],[15]

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(1) Lit., ‘of where’.
(2) Num. XIX, 4: and Eleazar shall . . . sprinkle of her blood. Eleazar was the vice High Priest, and this shews that even

all other male priests are excluded; surely it is superfluous to state that women are debarred!

(3) The sprinkling on the veil and on the golden altar, mentioned in particular cases.

(4) Lev. IV, 5f: And the priest that is anointed shall take of the bullock's blood. . . and sprinkled of the blood . . . before the veil of the sanctuary. The difficulty is as explained in the previous note.

(5) Lit., ‘a young of the herd’.

(6) An Israelite too may slaughter it, for it is written: And he shall kill the bullock before the Lord: and the priests . . . shall bring (i.e., receive) the blood — Lev. I, 5. Hence priests are required only from the reception of the blood and onward, but not for the actual slaughtering.

(7) Ibid. I, 15. Wringing the neck of a fowl is the equivalent of slaughtering an animal.

(8) And then the analogy between wringing and burning (supra 36a bottom) is extended to sprinkling. — Actually, the Gemara could state that it refers to the sprinkling of animals’ blood, but it goes further and teaches it even of bird sacrifices, though there it is not explicitly mentioned. Moreover, if the Mishnah referred to animals’ blood, zerikoth should have been employed, not hazza'oth (the verb zarak being generally used in the Bible for the sprinkling of the blood of animals). Maharsha.

(9) R. Eleazar was an Amora of the third century. There was a Tanna of the second century named R. Josiah, and Rashi assumes that he was still living when R. Eleazar made the following remark; hence the Talmud observes that R. Josiah referred to here was the Amora, his contemporary, not the Tanna.

(10) I.e., do not sit down at all (Tosaf. Naz.24b, s.v. אמר) v. Nazir (Sonc. ed.) p. 87, n. 9.

(11) Num. V, 25; the reference is to sotah.

(12) I.e., by the woman herself.

(13) Lev. VII, 30.

(14) Sotah, Num. V, 18: and he (the priest) shall put the offering of memorial in her palms (E.V. hands); nazir, (and the same applies to a nezirah), ib. VI, 19: and he (the priest) shall put them upon the palms (E.V. hands) of the Nazirite. The employment of ‘palm’ in both cases teaches that their provisions are identical.

(15) The Gemara explains the meaning of ‘DEPENDENT’ and ‘NOT DEPENDENT’.

Talmud - Mas. Kiddushin 37a

EXCEPT ‘ORLAH[1] AND KILAYIM.[2] R. ELEAZAR SAID: HADASH[3] TOO.[4]

GEMARA. What is the meaning of ‘DEPENDENT’ and ‘NOT DEPENDENT’? Shall we say: ‘DEPENDENT’ refers to those [precepts] where ‘coming’ is written, and ‘NOT DEPENDENT’ to those where ‘coming’ is not stated?[5] But phylacteries and the [redemption of] the firstling of an ass are practised both within and without the land, though ‘coming’ is written in connection with them?[6] — Said Rab Judah: This is its meaning: every precept which is a personal obligation[7] is practised both within and without the Land; but what is an obligation of the soil[8] has force only within the Land.

How do we know these things? — For our Rabbis taught: These are the statutes[9] — this refers to the [Rabbinic] interpretations;[10] and the judgments — to civil law; which ye shall observe — to [the study of the] Mishnah; to do — to actual practice; in the land: I might think that all precepts are binding in the Land only — therefore it is stated, all the days that ye live upon the earth. If ‘all the days’, I might think that [all precepts] must be practised both within and without the Land — therefore it is taught: ‘in the land’. Now, since the Writ extends and limits [the duration of the precepts], go forth and learn from what is stated in that passage: Ye shall utterly destroy all the places, wherein the nations served their God:[11] just as [the destruction of] idolatry is singled out as being a personal duty, and is obligatory both within and without the land,[12] so everything which is a personal duty is incumbent both within and without the land.

EXCEPTING ORLAH AND KIL'AYIM [etc.]. The scholars propounded: Does R. Eleazar disagree in the direction of leniency or [greater] stringency? ‘In the direction of stringency,’ the first Tanna stating thus: EXCEPTING ‘ORLAH AND KIL’ AYIM, concerning which there is a traditional law, though one might argue that it is a duty connected with the soil, but hadash is practised only in the Land, but not without. What is the reason? ‘Dwelling’ implies after taking possession and settling down.[13] Whereon R. Eleazar comes to say that hadash too applies both within and without the Land: What is the reason? ‘Dwelling’ implies wherever you may be living.[14] Or perhaps, he differs in the direction of leniency, the first Tanna stating thus: EXCEPTING ‘ORLAH AND KIL'AYIM, concerning which there is a traditional law,[15] and all the more so hadash, for ‘dwelling’ implies wherever you are living.[16] Whereon R. Eleazar comes to say that hadash is practised only in the land, for ‘dwelling’ implies after taking possession and settling down. While to what does TOO refer? To the first [clause].[17]

Come and hear: For Abaye said: which Tanna disagrees with R. Eleazar [in our Mishnah]? R. Ishmael. For it was taught: This is to teach you that wherever ‘dwelling’ is stated, it means only after taking possession and settling down:[18] this is R. Ishmael's opinion. Said R. Akiba to him: But the Sabbath, in connection with which ‘dwellings’ is stated,[19] is yet binding both within and without the land?[20] The Sabbath, replied he to him, is inferred a minori: if light precepts must be practised both within and without the land, surely the Sabbath, which is more stringent! Since Abaye said: ‘Which Tanna disagrees with R. Eleazar? R. Ishmael,’ it follows that R. Eleazar differs in the direction of [greater] stringency.[21] This proves it.

Now consider: to what does R. Ishmael refer? To libations. But in the case of libations

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(1) V. Glos.

(2) V. Glos. Though dependent on the land, these are binding in the diaspora too.

(3) V. Glos.

(4) It may not he eaten before the bringing of the ‘omer (q.v. Glos); v. Lev. XXIII, 10-14.

(5) I.e., ‘dependent’ means that Scripture made the performance of the particular precept conditional upon entering Palestine; e.g., Lev. XIX, 23: And when ye shall come into the land, and shall have planted etc.

(6) Ex. XIII, 11ff.: And . . . when the Lord shall bring thee (in Heb. ‘bring’ is the causative form of ‘come’ — ‘make thee come’) into the land . . . then every firstling of an ass thou shalt redeem with a lamb . . . and it shall be for a sign upon thine hand, and for frontlets between thine eyes (i.e., phylacteries).

(7) I.e., which throws no obligation upon the soil or its produce, but on the person himself.

(8) Arising out of land produce, e.g., tithes.

(9) Deut. XII, 1.

(10) I.e., laws not explicitly stated in the Bible but derived by Rabbinic exegesis.

(11) Ibid. 2.

(12) Since ‘all the days etc.,’ immediately precedes this,

(13) The section on hadash is concluded with the passage: it shall be a statute for ever throughout your generations in all your dwellings (Lev. XXIII, 14). Now, it might be held that ‘in all your dwellings’ implies that hadash is binding even without Palestine. This Tanna, however, on the present hypothesis, maintains that on the contrary it teaches that even in Palestine it came into force only after the Israelites had conquered the land and settled down in dwellings, but not while they were fighting and dividing up the country.

(14) V. preceding note.

(15) But no Biblical intimation.

(16) So that its exception is intimated in the Bible,

(17) I.e., R. Eleazar said that hadash too is included in the general principle that all precepts dependent etc.

(18) The reference is to Num. XV, 2ff.: When ye come into the land of your dwellings, which I give unto you (lakem, plural), and will make an offering burnt by fire unto the Lord . . . then shall he that offereth ... offer a meal-offering . . . and wine for the drink-offering (libations). Before the erection of the Temple, sacrifices might be offered at either private or public bamoth (high places), one of which was at Gilgal. Now, R. Ishmael deduces from the phrase ‘unto you’, which is in the plural, that the reference is to a public bamah (sing. of bamoth), and only there were libations required. Consequently, ‘dwellings’ cannot mean wherever you dwell, since the public bamah was in one place only, but as stated in the text, and it teaches that though there was a public bamah at Gilgal during the fourteen years of conquest and division, libations were to be brought only after that, when all had settled down in dwellings.

(19) Rashi: Ye shall kindle no fire throughout your habitations on the Sabbath day — Ex. XXXV, 3. Tosaf.: it is the Sabbath of the Lord in all your dwellings. — Lev. XXIII, 3. (Heb. moshaboth is variously translated dwellings or habitations in the E.V.)

(20) Hence dwellings implies extension, in all places. The same holds good of libations, which are accordingly to be offered at private bamoth too. Hence the passage is thus interpreted: Now that you are in the wilderness and have a tabernacle, private bamoth are altogether forbidden. But when ye come unto the land of your habitations, before a tabernacle is erected (as it was subsequently at Shiloah), private bamoth for sacrifice will be permitted, and there too libations will be required.

(21) For the first suggested meaning of the Mishnah must be the correct one.

Talmud - Mas. Kiddushin 37b

both ‘coming’ and ‘dwelling’ are written![1] — It means thus: This is to teach that wherever ‘coming’ and ‘dwelling’ are stated, it means only after taking possession and settling down: that is R. Ishmael's opinion. If so, [when the Baraitha proceeds:] Said R. Akiba to him, ‘But the Sabbath, in connection with which dwellings is stated’ [etc.], and he answered him, ‘The Sabbath is inferred a minori’, he should have answered him, ‘I spoke of "coming" and "dwelling"’? — He gives him a twofold answer.[2] Firstly, I refer to ‘coming’ and ‘dwelling’. Moreover, as to what you say: ‘Behold the Sabbath, in connection with which "dwellings" is stated’ — the Sabbath is inferred a minori.

Wherein do they differ? — In whether they offered libations in the wilderness: R. Ishmael maintains that they did not offer libations in the wilderness, whereas R. Akiba holds that they did offer libations in the wilderness.[3]

Abaye said: This Tanna of the School of Ishmael contradicts[4] another Tanna of the School of Ishmael. For the School of Ishmael taught: Since unspecified ‘comings’ are stated in the Torah, whilst the Writ explained in the case of one [that it means] after posses — sion and settling down,[5] so all mean after possession and settling down.[6] And the other?[7] — Because [the appointment of a] king and [the offering of] first-fruits are two verses with the same teaching,[8] and any two verses with the same teaching do not illumine [others]. And the other?[9] — Both are necessary. For if the Divine Law wrote the case of a king but not first-fruits, I would argue, Since there is enjoyment [of crops] in the case of first-fruits, [the obligation comes] immediately.[10] And if the case of first-fruits were stated but not that of a king, I would reason, Since it is a king's way to conquer, [he must be appointed] immediately [on entering the land]. And the other? — Let the Divine Law state the case of a king, and then first-fruits become unnecessary, for I would reason: If a king, who is for conquest, [is appointed only] after possession and settling down, how much more so are first-fruits [obligatory only then]! And the other? — If it were thus written: I would say: It [first-fruits] is analogous to hallah;[11] hence we are informed [that it is not so].

Now that you say that a personal duty must be practised both within the Land and without the Land, what is the purpose of ‘dwelling,’ which the Divine Law wrote in connection with the Sabbath?[12] — It is necessary. I would say: Since it is written in the chapter on Festivals, it requires sanctification, like the Festivals;[13] hence we are informed[14] [that it is not so]. What is the purpose of ‘dwelling’ written by the Divine Law in connection with forbidden fat and blood?[15] — It is necessary. I might say: Since it is written in the section on sacrifices, as long as sacrifices are practised, heleb[16] and blood are forbidden, but not when they are no longer practised. Hence we are informed [otherwise].

What is the purpose of ‘dwelling’ written by the Divine Law in connection with unleavened bread and bitter herbs?[17] — It is necessary. I might have thought, since it is written: They shall eat it [the Paschal lamb] with unleavened bread and bitter herbs:[18] it holds good only when the Passover sacrifice is [offered], but not otherwise. Hence we are informed [that it is not so].

What is the purpose of ‘coming’ which the Divine Law wrote in connection with phylacteries and the firstling of an ass?[19] — That is needed for what the School of Ishmael taught: Perform this precept, for thou shalt enter the land on its account.

Now, on the view that ‘dwelling’ implies wherever you live,[20] it is well: hence it is written, and they did eat of the [new] produce of the land on the morrow after the passover:[21] they ate on the morrow after the Passover, but not before, which shews

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(1) How then can he infer as above? Possibly ‘dwelling’ alone denotes extension, in all places, yet here it implies limitation, because ‘coming’ too is mentioned.

(2) Lit., ‘He says to him, ‘One thing, and furthermore",’

(3) Thus: (explaining R. Akiba first:) since libations were offered in the wilderness (naturally at the public bamah, for private bamoth were at that time forbidden), the verse under discussion cannot teach that libations would be required at the public bamoth when they entered Palestine, for they were already obligatory before them. Hence it can refer only to the private bamoth during the fourteen years of conquest and allotment (for thereafter private bamoth were illegal); and so dwelling must be an extension, implying wherever you dwell. According to R. Ishmael, however, the verse can teach that libations would be incumbent at the public bamoth, for hitherto, in the wilderness, they had been forbidden (and the fact that public bamoth are now referred to follows from the plural ‘you’, as stated on p. 182, n. 4); consequently ‘dwelling’ can only mean after settling down.

(4) Lit., ‘excludes that of.

(5) In reference to the appointment of a king, Deut. XVII, 14: When thou art come unto the land which the Lord thy God giveth thee, and shalt possess it, and shalt dwell therein.

(6) Thus in his view ‘coming’ itself implies this, without the addition of dwelling.

(7) The first Tanna: why does he insist on both?

(8) The fuller definition is also stated with respect to first-fruits, ibid, XXVI, 1: And it shall be, when thou art come in unto the land which the Lord thy God giveth thee for an inheritance, and possessest it, and dwellest therein.

(9) Does he not admit this?

(10) For what does it matter whether one is settled or not? If one enjoys a harvest, the first to ripen should be an offering!

(11) V. Glos. All admit that this became incumbent immediately they entered the land, cf. Num. XV, 18 and Sifre a.l.

(12) V. Ex. XXXV, 3.

(13) V. Lev. XXIII. The Festivals were dependent on the sanctification of the month in which they fell, which could be done only by the Sanhedrin in Judah.

(14) By the word ‘dwellings’, which applies to all places.

(15) Lev. III, 17: It shall be a perpetual statute throughout your generations in all your dwellings, that ye shall eat neither fat nor blood.

(16) I.e., the forbidden fat.

(17) Ex. XII, 20: In all your habitations shall ye eat unleavened bread. — Bitter herbs are mentioned because they generally go together with unleavened bread, but actually ‘dwelling’ is not found in connection therewith, and in fact the obligation nowadays (i.e., after the destruction of the Temple) to eat them is only Rabbinical; in Rashi's text ‘bitter herbs’ seem to have been absent (S. Strashun).

(18) Num. IX, 11.

(19) Since these are independent of Palestine.

(20) So that dwelling written in connection with hadash (Lev. XXIII, 14) does not teach that this holds good only after settling down.

(21) Josh. V, 11. E.V. translates ‘old corn’; ‘old’ is not in the text, and the Gemara assumes that the reference is to the new corn, for otherwise, on the morrow after the passover is pointless.

Talmud - Mas. Kiddushin 38a

that the ‘omer[1] was first offered and then they ate. But on the view that [‘dwelling’ implies] after possession and settling,[2] they could have eaten immediately? — They did not need to, for it is written, and the children of Israel did eat the manna forty years, until they came to a land inhabited; they did eat the manna, until they came unto the borders of the land of Canaan.[3] Now, it is impossible to say [literally], ‘until they came unto the land inhabited,’ since it is also said: ‘[until they came] unto the borders of the land of Canaan’;[4] conversely, ‘unto the borders of the land of Canaan’ cannot be understood [literally], since it is also said: ‘until they came unto a land inhabited!’ How then [are these to be reconciled]? Moses died on the seventh of Adar and the manna ceased to descend, but they used the manna which was in their vessels until the sixteenth of Nisan.[5]

Another [Baraitha] taught: ‘And the children of Israel did eat the manna forty years’. Did they then eat [it] forty years: surely they ate it but forty years less thirty days?[6] But it is to teach you that they experienced the taste of manna in the cakes which they brought forth from Egypt.

Another [Baraitha] taught: On the seventh of Adar Moses died, and on the seventh of Adar he was born. How do we know that he died on the seventh of Adar? For it is written: [i] So Moses the servant of the Lord died there;[7] [ii] And the children of Israel wept for Moses in the plains of Moab thirty days;[8] [iii] Moses thy servant is dead; now therefore arise, go over [this Jordan];[9] [iv] Pass through the midst of the camp, and command the people, saying: Prepare you victuals; for within three days ye are to pass over this Jordan;[10] and [v] and the people came up out of Jordan on the tenth day of the first month;[11] deduct[12] the preceding thirty three days,[13] thus you learn that Moses died on the seventh of Adar.[14]

And how do we know that he was born on the seventh of Adar? — For it is said: And he [Moses] said unto them, I am an hundred and twenty years old this day; I can no more go out and come in.[15] Now, ‘this day’ need not be stated;[16] why then is it stated? It teaches that the Holy One, blessed be He, sits and completes the years of the righteous [exactly] from day to day and month to month, as it is said,the number of thy days I will fulfil.[17]

It was taught: R. Simeon b. Yohai said: The Israelites were given three precepts[18] on their entry into the Land,[19] yet they are practised both within and without the Land, and it is logical that they shall be thus binding. If hadash, which is not permanently forbidden,[20] nor is [all] benefit thereof prohibited,[21] and its interdict can be raised,[22] is [nevertheless] operative both within and without the Land;[23] then kil'ayim, which are permanently forbidden,[24] of which [all] benefit is prohibited,[25] and the interdict of which cannot be raised, it surely follows that it has force both within and without the land; and the same logic applies to ‘orlah on two [grounds].[26] R. Eleazar son of R. Simeon said:

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(1) V. GIos,

(2) So that the law of hadash was inoperative when they first entered Palestine.

(3) Ex. XVI, 35. ‘Land inhabited’ refers to cis-Jordania, not Gilead on the east of the Jordan, though two and a half tribes did settle there.

(4) But not Canaan itself.

(5) Hence ‘until they came to a land inhabited’ refers to the actual period of eating it, while it descended only ‘until they came to the borders etc.’, where Moses died.

(6) For they came to the wilderness of Sin on the fifteenth of the second month (Ex. XVI, 1), complained of the lack of food (ibid. 2f.), and received the manna on the following day (ibid. 6f, 13). As they ate it until the sixteenth of the first month forty years later, these forty years were short by one month.

(7) Deut. XXXIV, 5.

(8) Ibid. 8.

(9) Josh. I, 2.

(10) Ibid, 11. The month of Nisan.

(11) Ibid. IV, 19.

(12) From the 10th Nisan.
(13) N. ii and iv.
(14) From Adar 7th to Nisan 10th are 33 days.
(15) Deut. XXXI, 2.
(16) Obviously he gave his age as on that day.
(17) Ex. XXIII, 26. Hence he was then exactly a hundred and twenty years old, which was the day of his death; consequently he was born on that day too.
(18) Hadash, ‘orlah and kil'ayim.
(19) Since there was no sowing, planting, or harvesting in the wilderness.
(20) But only up to and including the sixteenth of Nisan, the day on which the ‘omer is offered.
(21) Though it may not be used for human consumption, it may be given to animals.
(22) Lit., ‘permitted’. Even on the sixteenth itself, by the offering of the ‘omer.
(23) Interpreting dwelling in Lev. XXIII, 14, ‘wherever you live’.
(24) If diverse seeds are sown, their produce is forbidden for all time.
(25) Not only consumption.
(26) The third does not apply, ‘orlah not being permanently forbidden.

Talmud - Mas. Kiddushin 38b

All precepts which the Israelites were commanded [to practise] before their entry into the Land[1] are operative both within and without the Land; after their entry into the Land, are operative only within the Land, except release of money [debts] and liberation of slaves:[2] though they were commanded concerning these after their entry into the Land,is they are practised both within and without the Land. But the release of debts is a personal duty?[3] — It is necessary [to state it] Only because of what was taught. Rabbi said: And this is the manner of release: release [thou] [every creditor, etc.][4] the Writ speaks of two releases, the release of soil and the release of debt.[5] At the time when you release soil, you release debts; and at the time when you do not release soil, you do not release debts.[6] But perhaps it means thus: in the place that you must release soil [sc. Palestine], you must release debts; but in the place where you do not release soil [sc. in the Diaspora], you do not release debts?[7] Therefore it is stated, because the Lord's release hath been proclaimed,[8] teaching, under all circumstances.[9]

[Again], liberation of slaves is a personal obligation? — I might have thought, since it is written, and ye shall proclaim liberty throughout the land,[10] it holds good only in the Land, but not without; therefore it is stated, it is a jubilee,[11] implying, under all circumstances. If so, what is taught by ‘the land’? — When liberation [of slaves] is in force in the Land, it is in force without; when it is not in force in the Land,[12] it is not in force without.

We learnt elsewhere: Hadash is forbidden by Scriptural law everywhere; [the prohibition of] ‘orlah [without palestine] is a halachah, and [that of] kil'ayim is from the words of the Scribes.[13] What is meant by halachah? — Rab Judah said in Samuel's name: It is a law of the country.[14] ‘Ulla said in R. Johanan s name: It is a halachah of Moses from Sinai.[15] Said ‘Ulla to Rab Judah: On my view that it is a halachah of Moses from Sinai,[16] it is well; therefore we distinguish between doubtful ‘orlah and doubtful kil'ayim. For we learnt: Doubtful ‘orlah[17] is forbidden in the Land, permitted in Syria,[18] whilst outside the Land one may enter [a Genthe's field] and make a purchase,[19] providing, however, that he does not see him [the Gentile] gather [‘orlah].[20] Whereas in respect to kil'ayim we learnt: If a vineyard is planted with vegetables,[21] and vegetables are sold outside it:[22] in the Land they are forbidden; in Syria, permitted; in the Diaspora he [the Gentile owner of the vineyard] may enter and gather them,[23] providing, however, that he [the Jew] does not personally[24] gather [them][25] But on your view,

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(1) I.e., which rank as personal duties.

(2) The first in the seventh (Deut. XV, 1f) and the second in the jubilee year (Lev. XXV, 10). (15) This is questioned by the Gemara below.
(3) And therefore in force before they entered Palestine (Rashi).
(4) Deut. XV, 2.
(5) Deduced from the repetition of the word ‘release’.
(6) By ‘release of soil’ is meant the return of land at jubilee (Lev. XXV, 10, 23, 28). Obviously this did not operate in the wilderness, when they had no land, and therefore debt release was inoperative too, though it is a personal obligation.
(7) Even in Temple times.
(8) Ibid.
(9) This follows from the emphasis suggested by the quotation.
(10) Lev. XXV, 10,
(11) Ibid,
(12) I.e., when there is no Temple.
(13) V. p. 79, n. 7. Biblically the law applies only to Palestine.
(14) It is practised voluntarily in the Diaspora.
(15) It is a compulsory prohibition going back to Moses, handed down by tradition, though not stated in the Bible.
(16) And so has the force of Biblical Law, v. infra p. 190, n. 11.
(17) Fruit of which it is not known whether it is of the first three years of planting or not.
(18) Syria was not originally part of Palestine but conquered by David (I Chron. XIX, 18f); and it is disputed whether David's conquest (technically called the conquest of an individual) conferred the full sanctity of Palestine upon it. This Tanna holds that it did not; consequently the law of ‘orlah is not so stringent there, and so doubtful ‘orlah is permitted. Yet one may not procure it in the first place, since Syria is not absolutely distinct from Palestine in sanctity.
(19) Of fruit, even if he knows that the Gentile sells ‘orlah.
(20) [Of fruit which may be doubtful ‘orlah.]
(21) Between the vines, which renders both forbidden as kil ‘ayim of the vineyard.
(22) And there is a reasonable fear that they may be from the vineyard.
(23) And sell to a Jew.
(24) Lit., ‘with his hand’.
(25) Comparing these two, we see that ‘orlah is treated more stringently than kil ‘ayim.

Talmud - Mas. Kiddushin 39a

let it be taught in both cases either that he [the Jew] may enter and make a purchase, or that he [the Gentile] may enter and gather [them]?[1] — Samuel did indeed say to R. ‘Anan, Read in both cases either that he [the Jew] may enter and make a purchase, or that he [the Gentile] may enter and gather [them]. Mar son of Rabbana recited it in the direction of leniency: In both cases he [the Gentile] may enter and gather them, provided that he [the Jew] does not personally gather.

Levi said to Samuel: Arioch,[2] Supply me with doubtful [‘orlah] and I will eat [thereof].[3] R. Awia and Rabbah son of R. Hanan supplied each other with doubtful [‘orlah].[4] The keen scholars of Pumbeditha[5] said. There is no ‘orlah in the Diaspora. When Rab Judah sent [this ruling] to R. Johanan, he sent back: Conceal[6] [the law of] doubtful [‘orlah],[7] destroy certain [‘orlah], and proclaim that these fruits must be hidden,[8] and whoever maintains that there is no ‘orlah in the Diaspora, he will have no offspring nor posterity ‘that shall cast the line by lot in the congregation of the Lord’.[9] But with whom do they [the ‘keen scholars’] hold? — With what was taught: R. Eleazar son of R. Jose said on the authority of R. Jose b. Durmaskah, who stated it on the authority of R. Jose the Galilean, who said it on the authority of R. Johanan b. Nuri, who said it on the authority of R. Eleazar the Great: There is no ‘orlah in the Diaspora. Is there not? But we learnt: R. ELEAZAR SAID, HADASH TOO?[10] — Read, HADASH.[11]

R. Assi said in R. Johanan's name: [The prohibition of] ‘orlah in the Diaspora is a halachah of Moses from Sinai.[12] Said R. Zera to R. Assi: But we learnt: Doubtful ‘orlah is forbidden in the Land but permitted in Syria.[13] He was momentarily non — plussed;[14] [then] he answered him,[15] Perhaps it [the Mosaic halachah] was thus given: Doubtful [‘orlah] is permitted [in the Diaspora], certain [‘orlah] is forbidden.

R. Assi said in R. Johanan's name: One is flagellated for [violating the prohibition of] kil'ayim [in the Diaspora] by Biblical law. But we learnt,[16] kil ‘ayim [is forbidden] by the words of the Soferim?[17] — There is no difficulty: the one refers to kil'ayim of the vineyard, and the other to the grafting of [heterogeneous] tree[s].[18] That agrees with Samuel. For Samuel said: My statutes ye shall keep:[19] [that implies] the statutes which I decreed for you in former times.[20] Thou shalt not let thy cattle gender with a diverse kind: thou shalt not sow thy field with two kinds of seeds.’[21] just as [the prohibition of] ‘thy cattle’ [means] by copulation, so is [that of] ‘thy field’ by grafting;[22] and just as [the law in regard to] ‘thy cattle’ is in force both within and without the Land, so is [that concerning] ‘thy field’ in force alike within and without the Land. But still, ‘thy field’ is written![23] — That is to exclude [diverse] seeds in the Diaspora.[24]

R. Hanan and R. ‘Anan were walking along a path, when they saw a man sowing [diverse] seeds together. Said one to the other, ‘Come, Master, let us ban him.’[25] ‘You are not clear [on this law],’ he replied. Again they saw another man sowing wheat and barley among vines. Said one to the other, ‘Come, Master, let us ban him.’ ‘You are not thoroughly versed [in this law],’ he rejoined. ‘Do we not fully accept R. Josiah's dictum, that [he is not guilty] unless he sows wheat, barley, and grape-stone in the [same] hand-throw?’[26] R. Joseph mixed seeds and sowed [them].[27] Thereupon Abaye protested: But we learnt: Kil'ayim is forbidden [in the] Diaspora by the words of the Scribes! — There is no difficulty, answered he. That [the Mishnah quoted] refers to kil'ayim of the vineyard; this [my action] is with kil'ayim of seeds. Kil'ayim of the vineyard, of which in the Land [all] benefit is forbidden, are also Rabbinically prohibited outside the Land; kil'ayim of seeds, however, of which [even] in palestine benefit is not forbidden,[28] are not prohibited by the Rabbis in the Diaspora. Subsequently R. Joseph said: My former statement was incorrect,[29] for Rab sowed the scholars' garden[30] in separate beds.[31] What is the reason? Surely in order [to avoid] the mixture of kil'ayim?[32] Said Abaye to him: Now that were indeed well if we were informed

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(1) Since ‘orlah and kil'ayim are alike, neither having Biblical force.

(2) A playful nickname, v. Gen. XIV, 9, Arioch king of Ellasar; by a pun, Ellasar was read al assur, and the phrase applied to Samuel: he was king, but not in ritual law. When Rab and Samuel differ in respect to civil law, the halachah agrees with Samuel; in ritual law, with Rab. V. Shab. 53a Marginal glosses. [S. Funk, Die Juden in Babylonian, I. p. 42, n. 2. takes the term to denote ‘the Tall’, and as a variant of Arika, a cognomen by which Rab was known, on account of his extraordinary stature.]

(3) I.e., gather fruit in my absence, so that I do not know whether it is ‘orlah; Others (mentioned in Tosaf. Ri) translate: supply me (with certain ‘orlah), Levi holding that the prohibition of ‘orlah is inoperative in the Diaspora.

(4) [By exchanging fruit cut by one in the absence of the other.]

(5) A great academy town in Babylon. The term ‘keen scholars’ denotes Eyfa and Abimi, the son of Rahaba (Sanh. 17b).

(6) Lit., ‘shut’.

(7) It is permitted, but since there is already a tendency to treat ‘orlah lightly, do not teach this publicly.

(8) I.e., not eaten.

(9) Micah II, 5.

(10) Since he adds hadash, he.evidently agrees with the first Tanna that ‘orlah is forbidden.

(11) I.e., only hadash, but not ‘orlah.

(12) Various views are held as to the exact meaning of this phrase. Some take it in its literal sense as indicating that the law in question was actually handed down from Moses. Others understand it more figuratively in the sense of a traditional law, whilst its alleged Mosaic origin is not to be taken literally’. V. Weiss, Dor., I. [For a full discussion of this phrase as well as of all the passages where it occurs, v. Bacher, W., Kohler-Festschrift pp. 56ff.]

(13) But if certain ‘orlah is forbidden in the Diaspora by Mosaic law, how can we be lenient in doubtful ‘orlah? (It is a general principle that when in doubt, we are stringent if the law is Biblical or Mosaic, lenient if it is only Rabbinical).

(14) [Lit., 'was appalled for a who', quoted from Dan. IV, 26.]
(15) Or possibly, the questioner himself suggested it.
(16) Cur. ed. read: R. Eleazar b. R. Jose said to him, But we learnt. This is obviously incorrect, since R. Eleazar b. R. Jose was a Tanna of an earlier generation, and so the Wilna Gaon deletes it. But Asheri reads: R. Eleazar said to R. Assi, which will refer to R. Eleazar b. Pedath, his contemporary.
(17) V. p. 79, n. 7.
(18) In the latter case diverse growths are actually grafted on each other: that is Biblically forbidden. But in kil'ayim of the vineyard diverse seeds are grown near each other, and though their roots may even intertwine, there is no actual grafting; that is forbidden by Rabbinic law only.
(19) Lev. XIX, 19.
(20) I.e., to the children of Noah. This follows because Scripture does not state, ye shall keep my statutes (E.V., which does translate thus, disregards the order of the Hebrew) but gives precedence to 'my statutes,' implying that they were already long in existence.
(21) Ibid.
(22) I.e., in both cases the actual fusion of diverse species is forbidden.
(23) Implying specifically thine, viz., Palestine.
(24) I.e., the planting of diverse seeds in a vineyard is not Biblically forbidden outside Palestine. That follows because the verb 'to sow' is more applicable to the sowing of seeds, and with that 'thy field' is linked. Nevertheless the analogy, which intimates that grafting is referred to, which is possible only in the case of trees, also shews that grafting is forbidden in the Diaspora too.
(25) For violating Rabbinic law.
(26) I.e., he must have two species of grain and the seed of the vine in his hand and cast them simultaneously into the soil.
(27) Not in a vineyard.
(28) Though diverse seeds may not be sown in Palestine, yet if sown one may benefit from (though not consume) the produce.
(29) Lit., 'was nothing'.
(30) A vegetable garden for the benefit of his disciples.
(31) For different species.
(32) And this was outside Palestine.

Talmud - Mas. Kiddushin 39b

[that he sowed] four [species] on the four sides of the bed and one [species] in the middle.[1] Here, however,[2] he did so on account of beauty, or [to save] the attendant trouble.[3]

MISHNAH. HE WHO PERFORMS ONE PRECEPT IS WELL REWARDED,[4] HIS DAYS ARE PROLONGED, AND HE INHERITS THE LAND,[5] BUT HE WHO DOES NOT PERFORM ONE PRECEPT, GOOD IS NOT DONE TO HIM, HIS DAYS ARE NOT PROLONGED, AND HE DOES NOT INHERIT THE LAND.[6]

GEMARA. But a contradiction is shewn: These are the things the fruit of which man eats in this world,[7] while the principal remains for him for the future world. Viz., honouring one's parents, the practice of loving deeds, hospitality to wayfarers,[8] and making peace between man and his neighbour; and the study of the Torah surpasses them all.[9] — Said Rab Judah: This is its meaning: HE WHO PERFORMS ONE PRECEPT in addition to his [equally balanced] merits[10] IS WELL REWARDED, and he is as though he had fulfilled the whole Torah. Hence it follows that for these others [one is rewarded] even for a single one![11] — Said R. Shemaiah: That teaches that if there is an equal balance, it tips the scale.[12]

Yet is it a fact that he who performs one precept in addition to his [equally balanced] merits is rewarded? But the following contradicts it: He whose good deeds outnumber his iniquities is punished,[13] and is as though he had burnt the whole Torah, not leaving even a single letter;[14] while he whose iniquities outnumber his good deeds is rewarded,[15] and is as though he had fulfilled the whole Torah, not omitting even a single letter! — Said Abaye: Our Mishnah means that a festive day and an evil day are prepared for him,[16] Raba said: This latter agrees with R. Jacob, who said: There is no reward for precepts in this world.[17] For it was taught: R. Jacob said: There is not a single precept in the Torah whose reward is [stated] at its side which is not dependent on the resurrection of the dead.[18] [Thus:] in connection with honouring parents it is written, that thy days may be prolonged, and that it may go well with thee.[19] In reference to the dismissal of the nest[20] it is written, that it may be well with thee, and that thou mayest prolong thy days.[21] Now, if one's father said to him, 'Ascend to the loft and bring me young birds,' and he ascends to the loft, dismisses the dam and takes the young, and on his return falls and is killed — where is this man's happiness[22] and where is this man's prolonging of days? But 'in order that it may be well with thee', means on the day that is wholly good; and 'in order that thy days may be long', on the day that is wholly long.[23]

Yet perhaps there was no such happening?[24] — R. Jacob saw an actual occurrence. Then perhaps he[25] was meditating upon a transgression? — The Holy One, blessed be He, does not combine an evil thought with an [evil] act.[26] Yet perhaps he was meditating idolatry, and it is written, that I may take the house of Israel in their own heart?[27] — That too was precisely his point: should you think that precepts are rewarded in this world, why did the [fulfilment of these] precepts not shield him from being led to [such] meditation?[28]

Yet R. Eleazar said: Those who are engaged[29] on a precept are never harmed?[30] — There, when they are going [to fulfil the precept], it is different.[31] But R. Eleazar said: Those who are engaged on a precept are never harmed, either when going or returning? — It was a rickety ladder, so that injury was likely,[32] and where injury is likely one must not rely on a miracle, for it is written, and Samuel said: How can I go? if Saul hear it, he will kill me.[33]

R. Joseph said: Had Aher[34] interpreted this verse[35] as R. Jacob, his daughter's son, he would not have sinned.[36] Now, what happened with Aher? Some say, he saw something of this nature.[37] Others say, he saw the tongue of Huzpith the Interpreter dragged along by a swine.[38] 'The mouth that uttered pearls licks the dust!' he exclaimed. [Thereupon] he went forth and sinned.[39]

R. Tobi son of R. Kisna pointed out a contradiction to Raba: We learnt: HE WHO PERFORMS ONE PRECEPT IS WELL REWARDED; hence, only if he [actively] performs it, but not otherwise. But the following contradicts this: If he sits and commits no transgression he is rewarded as though he has fulfilled a precept! — Said he to him: There it means, e.g., that he was tempted[40] and successfully resisted.[41] As in the case of R. Hanina b. Pappi, whom a certain matron urged [to immorality]. He pronounced a certain [magical] formula, whereupon his body was covered with boils and scabs;[42] but she did something and he was healed. So he fled and hid himself in a bath-house in which when [even] two entered, even in daytime, they would suffer harm.[43] The next morning the Rabbis asked him, 'Who guarded you?' Said he to them, 'Two

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(1) I.e., sowing different species in the same bed, yet taking care according to the regulation to leave sufficient space between each for their roots not to intertwine; v. Shab. 84b. The only possible reason would then be that kil'ayim are forbidden outside Palestine.

(2) Since he did not observe this regulation.

(3) In fetching vegetables, he would know the place of each species.

(4) Lit., 'good is done to him'.

(5) I.e., the future world.

(6) The Mishnah is explained in the Gemara.

(7) I,e., he is rewarded for them in this world.

(8) [This does not occur in the Mishnah, Pe'ah I, whence the passage is quoted, and is omitted in MS.M.]

(9) Thus, only for these is one rewarded in this world, whereas the Mishnah states this of any precept. To the Rabbis study was not only a means to religious observance (cf. infra 40b: study is great, as it leads to action), but a religious act in itself, — indeed, one of the most important, as is shewn by this and numerous other passages in the Talmud. Nevertheless, they were far from believing that religious sincerity might be replaced by mere intellectualism; v. M. Joseph, Judaism as Creed and Life, p. 360.

(10) I.e., his good deeds and bad are exactly balanced, and then he performs a precept, thus tipping the scale.

(11) Even if he has no other good deeds to his credit — surely not!

(12) If one's good deeds and bad are exactly equal, yet among the good deeds is one of those enumerated above, it causes the former to preponderate.

(13) Lit., ‘evil is done to him’.

(14) Thus he is purged of his sins in this world, that he may wholly enjoy the next.

(15) For his good deeds in this world, that he may wholly suffer punishment in the next.

(16) By ‘good is done to him’ the Mishnah means that he is punished in this world; this punishment is regarded as a festive day for him, since he thereby wholly enjoys the next. Conversely the second half of the Mishnah.

(17) But our Mishnah disagrees, and is literally meant, referring to this world.

(18) Which shews that the reward spoken of is in the next world. R. Jacob appears to identify the next world with resurrection; v. Sanh. (Sonc. ed.) p. 601, n. 3.

(19) Deut. V, 16.

(20) V. Ibid. XXII, 6f; that precept is always technically so named.

(21) Ibid.

(22) Lit., ‘the goodness of his days’.

(23) I.e., both refer to the next world, not to this, and thereby emphasize that regard comes only then, but not in this world.

(24) R. Jacob bases his deduction on a hypothetical event which may never have happened.

(25) The one who was involved in this occurrence.

(26) For punishment. — I.e., one is not punished for mere intention.

(27) Ezek. XIV, 5: ‘heart’ implies intention; the reference is to idolatry; v. preceding verse, and thus we see that even the intention of idolatry is punished.

(28) Cf. Aboth IV, 2: ‘the reward of a precept is a precept, and the punishment of transgression is transgression, for precept draws precept and transgression draws transgression’.

(29) Lit., ‘sent’.

(30) How then could this have happened?

(31) But he was returning, having taken the bird etc.

(32) Lit., ‘established’.

(33) 1 Sam. XVI, 2; he did not rely upon the fact that his mission was by God's command.

(34) Elisha b. Abuyah, a great scholar and R. Meir's teacher, who turned against the Torah, whereupon he was dubbed Aher, a different man, a stranger.

(35) The promise of reward and long life.

(36) He interpreted it literally, as referring to this world, and seeing that the promise was not fulfilled turned unbeliever.

(37) Stated above.

(38) Lit., ‘a different thing’ — a euphemism for swine, the unmentionable. — Huzpith was one of the martyrs slain in the Hadrianic persecution, after the fall of Bethar; v. Dor. II, 119. The Interpreter was a functionary who interpreted the public readings of the Torah to the people.

(39) According to this, it was the eternal question, why do the righteous suffer, which is even put into the mouth of Moses (Ber. 7a), which led him to religious apostasy. For other conjectures v. J.E. s.v. Elishah ben Abuyah.

(40) Lit., ‘a matter of transgression came to his hand.’

(41) Lit., ‘he was saved from it,’

(42) Belief in magic was very widespread in ancient times, and was even entertained by scholars. On the whole the Talmud was strongly opposed to it, as ‘impairing the Divine Agencies’ (Sanh. 67b; cf. Tosef. Sotah, XIV, 3; Sotah, IX, 3), and being bound up with idolatry. Nevertheless, in case of need it was resorted to and permitted, so long as pagan means were not employed. Thus healing by means of an amulet was permitted and its use regulated by law (Shab. 61a-b). Here, on the other hand, a Rabbi uses magic to cover himself with boils in order to resist immoral demands, and it is obviously permitted. The most potent means was an incantation, as here, particularly one which employed the name of God. V. Blau, Das altjudische Zauberwesen, pp. 117-146.

(43) From demons; yet he stayed there the night alone, and was unhurt.

Talmud - Mas. Kiddushin 40a

Imperial [armour] bearers[1] guarded me all night.'[2] Said they to him, 'Perhaps you were tempted with immorality and successfully resisted?' For it was taught: He who is tempted with immorality and successfully resists, a miracle is performed for him.

[Bless ye the Lord, ye messenger's of his:] Ye mighty in strength, that fulfil his word, hearkening unto the voice of his word.[3] E.g., R. Zadok and his companions. R. Zadok was summoned by a certain matron [to immorality]. Said he to her, 'My heart is faint and I am unable; is there aught to eat?' She answered him, 'There is unclean food.' 'What am I to deduce from this?'[4] he retorted: 'that he who commits this [immorality] may eat this.'[5] She then fired the oven and was placing it [the forbidden meat] therein, when he ascended and sat in it. Said she to him, 'What is the meaning of this?' 'He who commits the one [immorality] falls into the other [the fire — of Gehenna]', was his reply. 'Had I known that it is so heinous,' said she, 'I would not have tormented you'.

R. Kahana was selling [work-] baskets, when a certain matron made [immoral] demands upon him. Said he to her, 'I will first adorn myself.' He [thereupon] ascended and hurled himself[6] from the roof towards earth, but Elijah came and caught him.[7] 'You have troubled me [to come] four hundred parasangs', he reproved him. 'What caused me [to do it],'[8] he retorted; 'is it not poverty?'[9] so he gave him a shifa[10] [full] of denarii.[11]

Raba pointed out a contradiction to R. Nahman. We learnt: These are the things the fruit of which man enjoys in this world, while the principal remains for him for the future world: Viz., honouring one's parents, the practice of loving deeds, and making peace between man and his neighbour, while the study of the Torah surpasses them all. Now, in reference to honouring one's parents it is written, that thy days may be long, and that it may go well with thee.[12] Of the practice of loving deeds it is written: He that pursueth after righteousness and loving kindness findeth life, righteousness and honour.[13] Of peacemaking it is said: Seek peace and pursue it;[14] and R. Abbahu said: We learn 'pursuing' from 'pursuing'. Here it is written: 'Seek peace and pursue it'; and elsewhere it is written: He that pursueth after righteousness and loving kindness.[15] Of the study of the Law it is written, for that is thy life, and the length of thy days.[16] But with respect to the dismissal of the nest[17] it is also written, that it may be well with thee, and that thou mayest prolong thy days:[18] then let this too be taught? — He teaches [some] and omits [others]. [What!] the Tanna states: 'These are the things,'[19] yet you say that he teaches [some] and omits [others]! — Said Raba, R. Idi explained it to me: Say ye of the righteous, when he is good, that they shall eat the fruit of their doings:[20] is there then a righteous man who is good and a righteous man who is not good? But he who is good to Heaven and good to man, he is a righteous man who is good; good to Heaven but not good to man, that is a righteous man who is not good.[21] Similarly you read: Woe unto the wicked [man] [that is] evil; for the reward of his hands shall be given unto him:[22] is there then a wicked man that is evil and one that is not evil? But he that is evil to Heaven and evil to man, he is a wicked man that is evil; he who is evil to Heaven but not evil to man, he is a wicked man that is not evil.

Merit has both stock and fruit,for it is said: Say ye of the righteous, when he is good etc.[23] Transgression has stock but not fruit,[24] for it is said: Woe unto the wicked when he is evil etc.[25] Then how do I interpret,[26] Therefore shall they [sc. the wicked] eat of the fruit of their own way, and be filled with their own devices?[27] Transgression which bears fruit[28] has fruit; that which does not bear fruit has no fruit.[29] Good intention is combined with deed,[30] for it is said: Then they that feared the Lord spoke one with another: and the Lord hearkened, and heard, and a book of remembrance was written before him, for them that feared the Lord, and that thought upon his name.[31] Now, what is the meaning of ‘that thought upon his name’? — Said R. Assi: Even if one [merely] thinks of performing a precept but is forcibly prevented the Writ ascribes it to him as though he has performed it. Evil intention is not combined with deed,[32] for it is said: If I regarded iniquity in my heart, The Lord would not hear.[33] Then how do I interpret, behold, I will bring evil upon this people, even the fruit of their thoughts?[34] Intention which bears fruit[35] the Holy One, blessed be He, combines with deed;[36] Intention which does not bear fruit the Holy One, blessed be He, does not combine with deed. Then what of the verse, that I may take the house of Israel in their own heart?[37] — Said R. Aha b. Jacob: That refers to idolatry, for a Master said: Idolatry is so heinous that he who rejects it is as though he admits [the truth of] the whole Torah.[38] ‘Ulla said: [This is to be explained] as R. Huna. For R. Huna said: Once a man does wrong and repeats it, it is permitted him. ‘It is permitted him’! can you really think so? — But it becomes to him as something permitted.[39]

R. Abbahu said on R. Hanina's authority: Better had a man secretly transgress than publicly profane God's[40] name, for it is said: As for you, O house of Israel, thus saith the Lord God: Go ye, serve every one his idols, and hereafter also, if ye will not hearken unto me: but my holy name shall ye not profane.[41]

R. Il'ai the Elder said: If a man sees that his [evil] desire is conquering him, let him go to a place where he is unknown, don black and cover himself with black,[42] and do as his heart desires,[43] but let him not publicly profane God's name.[44] But that is not so, for we learnt: He who is careless[45] of his Master's honour, it were well for him that he had not come Into the world. Now, to what does this refer? — Rabbah said: To one who gazes at the [rain]bow.[46] R. Joseph said: To one who secretly transgresses![47] — There is no difficulty: the one means where he can subdue his evil desires; the other, where he cannot.

We learnt elsewhere: Credit is not allowed[48] for the profanation of the [Divine] Name, whether It is unwitting or intentional.[49] What is meant by ‘credit is not allowed?’ — Said Mar Zutra: They [sc. Heaven] do not act like a shopkeeper.[50] Mar the son of Rabina said: This is to teach that if it [sc. one's account of sin and merit] is equally balanced, [the profanation of God's name] tips the scale.[51]

Our Rabbis taught: A man should always

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(1) Var. lec.: Imperial Ethiopian (guards).

(2) Probably meaning, ‘a special Providence watched over me’.

(3) Ps. CIII, 20.

(4) [From the fact that there is only unclean food available (Rashi). Others: ‘What does it matter’?]

(5) The former is as heinous as the latter.

(6) Lit., ‘fell’.

(7) V. note 5.

(8) Lit., ‘caused it for me’.

(9) Which forces me to go hawking baskets among women.

(10) Jast. name of a measure, xestes. Rashi: name of a utensil.

(11) Elijah was supposed to appear among men very frequently, particularly to pious men, who were privileged to know his identity. Cf. Git. 70a, Sanh. 113a, Yoma 19b, et passim.

(12) Deut. V, 16.

(13) Prov. XXI, 21: ‘life’ is understood to refer to the next world, ‘righteousness and honour’ to the rewards in this.

(14) Ps. XXXIV, 25.

(15) Hence, just as the latter is rewarded in both worlds (v. n. 8), so is the former.

(16) Deut. XXX, 20: ‘thy life’ refers to this world, ‘length of thy days’, to the next.

(17) V. Deut. XXII, 6-7.

(18) Ibid.

(19) Which implies only these.
(20) Isa. III, 10.
(21) Hence the verse refers to the first, in connection with whom ‘they shall eat the fruit of their doings’, i.e., be rewarded in this world. But dismissing the dam is ‘good to Heaven’ only, i.e., it is obedience to God's will, but of no benefit to man.
(22) Ibid. 11.
(23) ‘The fruit of his doings’ implies reward over and above his merits.
(24) I.e., one is punished only according to his desserts.
(25) Only ‘the reward of his hands’ is mentioned, but not more.
(26) Lit., ‘fulfil’.
(27) Prov. I, 31.
(28) E.g., when a great man sins he sets an evil example which is copied by others.
(29) In both, the principle of ‘measure for measure’ operates.
(30) And both are rewarded.
(31) Mal. III, 16.
(32) There is no punishment for mere intention.
(33) Ps. LXVI, 18; i.e., when it remained a mere intention ‘in my heart’, it was overlooked.
(34) Jer. VI, 19.
(35) I.e., which is followed by action.
(36) Punishing both.
(37) Ezek. XIV, 5. This shows that there is punishment for mere thought.
(38) Hence mere intention is punished.
(39) The blunting of man's finer perceptions which make him unable to distinguish between right and wrong is in itself sin's punishment. Cf. Yoma 39a: Sin dulls the heart of man; also Aboth: the punishment of sin is sin. — Hence, when the Writ intimates that evil intention is punished, it refers to a wrong twice committed: the intention to commit it a third time is then punished, even if not carried out. For by then it is not regarded as evil, and its non-performance is not due to repentance but because there was no need for it.
(40) Lit., ‘Heaven's’.
(41) Ezek. XX, 39.
(42) His sombre garments may subdue his lust.
(43) If he is still unable to resist.
(44) By sinning where he is known.
(45) Lit., ‘has no compassion’.
(46) Which was regarded as the manifestation of God's glory, and to gaze upon it was disrespectful (cf. Ex. XXIV, 9-11).
(47) Because he thereby shews that he fears man more than God.
(48) אין מקיפין , v. also n. 6.
(49) Cf. Mishnah, Aboth, IV, 5.
(50) Who gives long credit and then demands payment for many items; but every profanation is punished immediately.
(51) If his wrongdoings included this. God does not wait — i.e., ‘give credit’ — until another sin is committed, for that itself tips the scale. — Maharsha. [Rashi's explanation מקיפין is here understood in the sense of comparing, balancing the sins against the good deeds.]

Talmud - Mas. Kiddushin 40b

regard himself as though he were half guilty and half meritorious: if he performs one precept, happy is he for weighting himself down in the scale of merit; if he commits one transgression, woe to him for weighting himself down in the scale of guilt, for it is said, but one sinner destroyeth much good:[1] [i.e.,] on account of a single sin which he commits much good is lost to him.[2] R. Eleazar son of R. Simeon said: Because the world is judged by its majority, and an individual [too] is judged by his majority [of deeds, good or bad], if he performs one good deed, happy is he for turning the scale both for[3] himself and for the whole world on the side of merit; if he commits one transgression, woe to him for weighting himself and the whole world in the scale of guilt, for it is said: ‘but one sinner, etc.’ — on account of the single sin which this man commits he and the whole world lose much good.

R. Simeon b. Yohai said: Even if he is perfectly righteous all his life but rebels at the end, he destroys his former [good deeds], for it is said: The righteousness of the righteous shall not deliver him in the day of his transgression.[4] And even if one is completely wicked all his life but repents[5] at the end, he is not reproached with his wickedness,[6] for it is said, and as for the wickedness of the wicked, he shall not fall thereby in the day that he turneth from his wickedness.[7] Yet let it be regarded[8] as half transgressions and half meritorious deeds! — Said Resh Lakish: It means that he regretted his former deeds.[9]

MISHNAH. HE WHO IS VERSED IN BIBLE, MISHNAH, AND SECULAR PURSUITS[10] WILL NOT EASILY[11] SIN, FOR IT IS SAID, AND A THREEFOLD CORD IS NOT QUICKLY BROKEN.[12] BUT HE WHO LACKS BIBLE, MISHNAH AND SECULAR PURSUITS DOES NOT BELONG TO CIVILISATION.

GEMARA. R. Eleazar son of R. Zadok said: To what are the righteous compared in this world? To a tree standing wholly in a place of cleanness, but its bough overhangs to a place of uncleanness; when the bough is lopped off, it stands entirely in a place of cleanness. Thus the Holy One, blessed be He, brings suffering upon the righteous in this world,[13] in order that they may inherit the future world, as it is said, and though thy beginning is small, yet thy latter end shall greatly increase.[14] And to what are the wicked compared in this world? To a tree standing wholly in a place of uncleanness, but a branch thereof overhangs a place of cleanness: when the bough is lopped off, it stands entirely in a place of uncleanness. Thus the Holy One, blessed be He, makes them prosper[15] in this world,[16] in order to destroy and consign them to the nethermost rung, for it is said: There is a way which seemeth right unto man, But at the end thereof are the ways of death.[17]

R. Tarfon and the Elders were once reclining in the upper storey of Nithza's house, in Lydda,[18] when this question was raised before them: Is study greater, or practice? R. Tarfon answered, saying: Practice is greater. R. Akiba answered, saying: Study is greater, for it leads to practice. Then they all answered and said:[19] Study is greater, for it leads to action.[20]

It was taught: R. Jose said: Great is learning, since it preceded hallah[21] by forty years, terumoth[21] and tithes by fifty-four years, shemittin[22] by sixty-one, and jubilees by one hundred and three.[23] A hundred and three? but it was a hundred and four![24] — He maintains that jubilee effects a release[25] at the beginning thereof. And just as learning preceded practice, so does the judgment thereof [in the next world] take precedence over that of practice,[26] in accordance with R. Hamnuna. For R. Hamnuna said: The beginning of man's judgment is in respect of study[27] alone, for it is said: The rejection[28] of water[29] is the beginning of judgment.[30] And just as the judgment thereof takes precedence over that of practice, so does the reward thereof, for it is said: And he gave them the lands and nations; and they took the labour of the people in possession: that they might keep [yishmeru] his statutes, and observe his laws.[31]

BUT HE WHO LACKS BIBLE, MISHNAH [etc.]. R. Johanan said: And he is unfit to testify.[32]

Our Rabbis taught: He who eats in the market-place is like a dog; and some say that he is unfit to testify.[33] R. Idi b. Abin said: The halachah agrees with the latter.[34]

Bar Kappara lectured: A bad tempered man

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(1) Ecc, IX, 18.

(2) Viz., his meritorious deeds, being now outbalanced.
(3) Lit., ‘of.
(4) Ezek. XXXIII, 12.
(5) The Heb. lit., means, ‘but performs repentance, which demands more than mere regret but actual righting of wrongs committed.
(6) Lit., ‘he is not reminded of his wickedness’.
(7) Ibid.
(8) Where the righteous rebels at the end.
(9) In that case his righteous past is completely disregarded.
(10) Heb. derek erez, lit., ‘the way of the earth,’ i.e., industry or commerce.
(11) Lit., ‘quickly’.
(12) Ecc. IV, 12.
(13) Thus purging them of the little sin they do commit lopping off the branch inclining to an unclean place.
(14) Job VIII, 7.
(15) Lit., ‘furnishes them with goodness’.
(16) Thus rewarding them for the little good they perform-lopping off the branch inclining to the place, that it may be disregarded in the next world.
(17) Prov. XIV, 12. — An attempt to answer the eternal question, why the wicked prosper and the righteous suffer.
(18) V. Sanh. (Sonc. ed.) p. 502, n. 3.
(19) Probably, that was their final decision.
(20) This was a practical problem during the Hadrianic persecution, when both study and practical observance were forbidden, and the question was for which risks should sooner be taken. — Weiss. Dor., II, 125, Graetz, Geschichte, IV, p. 429.
(21) V. Glos.
(22) Plural of shemittah, q.v. Glos.
(23) The Torah was given to Israel two months after the Exodus from Egypt, whereas liability to hallah came into force forty years later, when they entered Palestine; terumoth and tithes fourteen years later after Palestine was conquered and allotted to the tribes; shemittah and jubilee seven and forty-nine years respectively after that.
(24) The jubilee is the fiftieth year, and it is assumed that its provisions (q.v. Lev. XXV, 8-13, 28, 33, 39-42, 47, 55) became operative only at the end of that year.
(25) I.e., its laws, which generally speaking effected the release of slaves and land, came into force.
(26) I.e., one is first judged for learning, and then in respect to the fulfilment of precepts.
(27) Lit., ‘words of the Torah’.
(28) Lit., ‘he who frees himself.
(29) I.e., the Torah; cf. Isa. LV, 1.
(30) Prov. XVII, 14; it is here so translated.
(31) Ps. CV, 44f.; v. supra 37a, where it is stated that ‘ye shall keep’ (tishmeru) refers to the study of the Mishnah. Thus study is mentioned before observance.
(32) Being so uncultivated he has no self-respect and is ready to testify falsely.
(33) He too lacks self-respect.
(34) Lit., with the ‘some say’.

Talmud - Mas. Kiddushin 41a

gains nothing but [the ill effect of] his temper;[1] but a good man is fed with the fruit of his deeds. And he who lacks Bible, Mishnah and worldly pursuits, vows not to benefit from him, as it is said: Nor sitteth in the seat of the scoffers:[2] his seat is the seat of scoffers.[3]

CHAPTER II

MISHNAH. A MAN CAN BETROTH [A WOMAN] THROUGH HIMSELF OR THROUGH HIS AGENT. A WOMAN MAY BE BETROTHED THROUGH HERSELF OR THROUGH HER

AGENT. A MAN MAY GIVE HIS DAUGHTER IN BETROTHAL WHEN A NA'ARAH [EITHER] HIMSELF OR THROUGH HIS AGENT.

GEMARA. If he can betroth THROUGH HIS AGENT, is it necessary [to state] THROUGH HIMSELF? — Said R. Joseph: [This inclusion intimates that] it is more meritorious through himself than through his agent. Even as R. Safra [himself] singed an [animal's] head,[4] Raba salted shibbuta.[5] Some say that in this matter there is even a prohibition,[6] in accordance with Rab Judah's dictum in Rab's name; for Rab Judah said in the name of Rab: A man may not betroth a woman before he sees her, lest he [subsequently] see something repulsive in her, and she become loathsome to him, whereas the All-Merciful said, but thou shalt love thy neighbour as thyself.[7] And as to R. Joseph's statement,[8] it relates to the second clause: A WOMAN MAY BE BETROTHED THROUGH HERSELF OR THROUGH HER AGENT. Now, if she can be betrothed through her agent, is it necessary [to state] through herself? — Said R. Joseph: [This inclusion intimates that] it is more meritorious through herself than through her agent. Even as R. Safra [himself] singed an [animal's] head; Raba salted shibbuta. But there is no prohibition in this case,in accordance with Resh Lakish, who said: It is better to dwell with a load of grief than to dwell in widowhood.[9] A MAN MAY GIVE HIS DAUGHTER IN BETROTHAL WHEN A NA'ARAH. Only when a na'arah, but not when a minor: this supports Rab. For Rab Judah said in Rab's name: One may not give his daughter in betrothal when a minor, [but must wait] until she grows up and says: ‘I want So-and-so’.

Whence do we know [the principle of] agency?[10] — For it was taught: [When a man taketh a wife and . . . she find no favour in his eyes . . . then he shall write her a bill of divorcement . . .] and he shall send [her out of his house]:[11] this teaches that he may appoint an agent; then she shall send:[12] this teaches that she may appoint an agent; then he shall send, then he shall send her:[13] this teaches that the agent can appoint an agent.[14] Now, we have thus found [the principle of agency] in divorce: how do we know it in respect to kiddushin? And should you answer that it is derived from divorce [by analogy]; [I would answer] as for divorce, [agency may operate] because it can take place against her [the wife's] consent?[15] — Scripture saith, then she shall depart . . . and she shall be [another man's wife], thus assimilating marriage to divorce; just as an agent may be appointed for divorce, so may one be appointed for marriage.

Now, as to what we learnt: If one instructs his agent. ‘Go forth and separate [terumah]’: he must separate according to the owner's intentions;[16] and if he does not know the owner's intentions, he must make an average separation, [viz.,] one-fiftieth.

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(1) Leanness (Rashi): had temper affects the health and the body becomes lean, but achieves nothing else!

(2) Ps. I, 1.

(3) Lacking these three, he can do nothing else but scoff and be ribald.

(4) In preparation for the Sabbath, though another could have done it for him.

(5) Name of a fish, conjectured by Jast. to be mullet.

(6) Against appointing an agent when he can do it himself.

(7) Lev. XIX, 18.

(8) That it is merely preferable, but there is no prohibition.

(9) V. supra p. 24, n. 7. I.e., for a woman even an unhappy marriage is better than singleness — hence there is no prohibition against being betrothed through a deputy.

(10) Lit., ‘sending’, i.e., that one can send another person to act on his behalf.

(11) V. Deut. XXIV, 1.

(12) Disregarding the mappik, which makes we-shillehah (שלחה) the third pers. masc. with the pronominal suffix, and reading it as third pers. fem.

(13) ‘Send’ is stated twice, in vv. 1 and 3.

(14) Rashi: these deductions are made because Scripture should have written, then he shall divorce. ‘Send’ intimates that the husband or wife can send, i.e., appoint a person to act on their behalf.

(15) But v. p. 35, n. 2.

(16) By Biblical law there is no fixed standard for terumah. The Rabbis, however, ruled that on the average it is one fiftieth of the crops: a generous man gives one fortieth, and a mean person not less than one sixtieth.

Talmud - Mas. Kiddushin 41b

If he decreases by ten or increases it by ten,[1] his separation is valid.[2] How do we know this?[3] And should you answer that it is derived from divorce, [I would rejoin:] as for divorce, that [may be] because it is a secular matter![4] — Scripture saith, [Thus] ye also [shall offer an heave-offering] [where] 'ye' [alone would have sufficed],[5] to include an agent.[6]

But let Scripture write [it] in respect to terumah, and these [marriage and divorce] would come and be derived from it? — Because one can refute [the analogy], since it is possible by [mere] intention.[7]

Again, as to what we learnt: If a company lose their Paschal sacrifice[8] and instruct one [of their number], 'Go out, seek it, and slaughter it on our behalf; and he goes, finds, and slaughters it, while they [also] take [an animal] and slaughter [it]: if his is slaughtered first, he eats of his, and they eat[9] with him.[10] How do we know it?[11] And should you answer that it is derived from these, [I would rejoin:] as for these, [that may be] because they rank as secular in relation to sacred animals![12] — It is learnt from R. Joshua b. Karhah['s dictum]. For R. Joshua b. Karhah said: How do we know that a man's agent is as himself? Because it is said, and the whole assembly of the congregation shall kill it [the Passover sacrifice] at even:[13] does then the whole assembly really slaughter? surely, only one person slaughters [an animal]:[14] hence it follows that a man's agent is as himself.

Now, let the Divine Law write [the principle of agency] in respect to sacrifices, and these others can come and be derived from them? — Because it may be refuted: as for sacrifice, that is because most of their operations are through an agent.[15]

One cannot be derived from another: but let one be derived from two [others]?[16] — Which can be thus derived? Should the Divine Law not state it of sacrifices, that it may be derived from these others? As for these, [it might be argued] that [sc. agency] is because they rank as secular in comparison with sacrifices. Should the Divine Law omit it in the case of divorce, that it may be derived from the others: as for these, that is because intention has force in their case.[17] But let the Divine Law not write it of terumah, and it could be derived from the others![18] — That indeed is so. Then what is the purpose of 'ye', 'ye also'?[19] — It is needed for R. Jannai's dictum, viz., 'Ye also': just as ye are members of the covenant,[20] so must your agents be members of the covenant. For this, what need have I of a verse? It may be derived from R. Hiyya b. Abba's dictum in R. Johanan's name! For R. Hiyya b. Abba said in R. Johanan's name: A [heathen] slave cannot become an agent to receive a divorce from a woman's husband, because he himself is not subject to the law of marriage and divorce![21] — It is necessary. I might think that a slave [is ineligible], since he is not empowered to free [a married woman] at all.[22] But a heathen, since he is qualified to [separate] terumah of his own [crops], as we learnt: If a heathen or Cuthean[23] separates terumah, it is valid: I might think that he can also be appointed an agent [for a Jew]; hence we are informed [otherwise]. Now, according to R. Simeon who exempts [them],[24] for we learnt: A heathen's terumah creates a [forbidden] mixture,[25] and one is liable to an [additional] fifth on its account.[26] But R. Simeon exempts [it][27] — what is the need of ye', ye also'? — It is necessary: I might reason, Since a Master said: 'Ye', but not tenant-farmers;[28] 'ye,' but not partners;[29] 'ye,' but not guardians;[30] ye,' but not one who separates terumah upon what is not his,[31] then I might also say, ye,' but not your agents.[32] Hence we are informed [that it is not so].

Now, that is well according to R. Joshua b. Karhah.[33] But according to R. Nathan, who utilises this verse for a different exegesis, what can be said? For it was taught: R. Nathan said: How do we know that all Israel [may] fulfil their obligations[34]

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(1) Giving one fortieth or one sixtieth.
(2) Lit., ‘his terumah is terumah,’ because he can maintain that he so judged the owner.
(3) That one can appoint an agent for this purpose.
(4) Whereas terumah being sacred, its separation may be stricter and require the actual owner.
(5) Lit., ‘Scripture saith, ye, also ye.’
(6) It is a principle of exegesis that od (also) is an extension.
(7) A person may decide to separate a part of his grain (e.g., that in the right or left corner) as terumah and then eat the rest. This is obviously a leniency, and it may be argued that that is why one can also appoint an agent.
(8) The passover sacrifice was eaten by a group of people who had joined and arranged beforehand to eat a particular animal: unless one had thus ‘counted himself in’ before it was killed he could not eat thereof.
(9) Cur. ed.: eat and drink, but Wilna Gaon deletes ‘and drink’.
(10) Since he was their agent. — Their own sacrifice is unfit.
(11) The principle of agency in sacrifices.
(12) Even terumah, for sacrifices have a higher degree of sanctity.
(13) Ex. XII, 6.
(14) Though it is eaten by several.
(15) From the receiving of the blood onward, everything in connection with sacrifices was performed by priests acting on behalf of the Israelites who offered them.
(16) By shewing that the factor common to both is also present in the third.
(17) Terumah, v. p. 206, n. 5; sacrifices: If one resolves to declare an animal a sacrifice, it is so, even without an explicit declaration. — Shebu. 26b.
(18) Sc. marriage and sacrifices, since either of the above refutations then apply.
(19) V. supra.
(20) With Abraham, Gen. XVII, 2; i.e., Jews. V. B.M. (Sonc. ed.) p. 415, n. 5.
(21) In the Jewish sense. This shews that it is mere logic that one cannot act as an agent where he cannot be a principal, and the same applies to the others.
(22) Lit.,’ he is not a person of freeing at all.’ It is impossible for a slave to free a married woman, sc. his wife, by divorce, since he cannot marry.
(23) After the overthrow of the Northern Kingdom of Israel and the deportation of its inhabitants the land was repopulated by various peoples, some of whom came from Cuth and gave their name to the new settlers as a whole. These accepted a form of semi-Judaism. Their status in respect to Jewry fluctuated; at times they were accepted as Jews, at others they were rejected. Finally they were definitely excluded from the Jewish people.
(24) Even if a Gentile does separate terumah, it is not valid and remains hullin.
(25) I.e., if it falls into a quantity of hullin less than a hundred times as much as itself, and cannot be separated, the whole ranks as terumah, and is forbidden to an Israelite.
(26) If an Israelite eats terumah unwittingly, he must make restoration of the principal plus a fifth; Lev. XXII, 14.
(27) Sc. the terumah separated by a Gentile on his crops from the law of terumah, i.e., he does not regard it as terumah at all.
(28) A tenant-farmer who leases land and pays a percentage of the crops as rent cannot separate terumah upon the landlord's share without his authority.
(29) Likewise, one partner in a field cannot separate terumah for the other without the latter's consent.
(30) Of orphans estates.
(31) This gives the reason for the preceding: tenant-farmers, etc., cannot separate terumah for the other's crops, because one may not separate for what is not his.
(32) I.e., under no circumstances can one separate terumah upon crops not belonging to him, even when authorised by their owner.
(33) Supra.
(34) Lit., ‘go forth’ (from their obligation).

Talmud - Mas. Kiddushin 42a

by a single paschal sacrifice?[1] Because it is said: ‘and the whole assembly of the congregation of Israel shall kill it at even’: does then the whole assembly slaughter: surely, only one slaughters! But from this [it follows] that all Israel [may] fulfil their obligations by a single Paschal sacrifice. Then how does he know that an agent [may be appointed] for sacrifices? — From that itself.[2] Yet perhaps it is different there, because he [the slaughterer] is a partner therein? — But [it is derived] from this: they shall take to them every man a lamb, according to their fathers’ houses, a lamb for an household.[3] But perhaps there too [the reason is] that he has a share therein? — If so, what is the need of two verses? [Hence,] if it has no purpose where it is relevant, apply the matter to where it does not belong.[4] But this [the latter verse quoted] is needed for R. Isaac's dictum. For R. Isaac said: A man [sc. an adult] can acquire[5] [on behalf of others], but a minor cannot acquire![6] — That is deduced from, according to every man's eating [ye shall make your count for the lamb].[7] But that is still required for intimating that a paschal sacrifice may be slaughtered [even] for a single person![8] — He agrees with the view that the passover lamb may not be slaughtered for an individual.[9]

Then when R. Giddal said in Rab's name, How do we know that a man's agent is as himself? Because it is written, [and ye shall take] one prince of every tribe [to divide the land for inheritance]:[10] let him derive agency from this [former verse]? — Now, is it reasonable that this [division of the land] was on the principle of agency! Surely minors are not subject thereto?[11] But [it must be interpreted] in accordance with Raba son of R. Huna. For Raba son of R. Huna said in the name of R. Giddal in Rab's name: How do we know that a right can be conferred upon a man in his absence? Because it is written, and one prince of every tribe [etc.].[12] Now, is that logical? Was it [the division, altogether] advantageous [to each]? Surely it also involved disadvantages, for some like mountain land but not the plain, and others prefer the plain but not the mountain land?[13] But it[14] is in accordance with Raba son of R. Huna, who said in the name of R. Giddal in Rab's name: How do we know that when orphans [i.e., minors][15] come to divide their father's estate, Beth din appoints a guardian on their behalf, whether to their advantage or disadvantage? ([You say,] ‘To their disadvantage’! Why? — But [say thus:] to their [subsequent] disadvantage, but with the [original] intention that it shall be to their advantage.)[16] — From the verse, [and ye shall take] one prince of every tribe.[17]

R. Nahman said in Samuel's name: When orphans come to divide their father's estate, Beth din appoints a guardian for them,[18] and they select[19] a fair portion for each [orphan]; yet when they grow up, they can protest against [the division of the guardian]. R. Nahman, stating his own opinions ruled: When they grow up they cannot protest, for if so, wherein lies the strength of Beth din's authority?[20] Now, does then R. Nahman accept [this reasoning,] if so, wherein lies the strength of Beth din's authority? But we learnt: If the judges’ valuation was at one sixth too little or at one sixth too much,[21] their sale is null. R. Simeon b. Gamaliel said: Their sale is valid, [for] otherwise, wherein lies the strength of Beth din's authority? Whereon R. Huna b. Hinena said in R. Nahman's name: The halachah agrees with the Sages! — There is no difficulty:

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(1) Though each receives an infinitesimal portion thereof, less than the size of an olive, which is the minimum that is called eating. In his view, the actual eating of the sacrifice was unessential, the main thing being the sprinkling of the blood.

(2) The fact remains that one slaughtered for all.

(3) Ex. XII, 3 thus one was to ‘take’, i.e., slaughter, on behalf of a whole household.

(4) This is a principle of Talmudic exegesis: if a teaching is unnecessary in its place, apply it elsewhere. Thus here too, both verses teach the principle of agency when the agent himself shares therein. Two verses being unnecessary, apply one to where the agent has no share at all in the matter of his agency.

(5) A Paschal lamb.

(6) [Although the minor himself has to to be counted in for the partaking of the Paschal lamb, he cannot acquire a share on behalf of others (Tosaf.)]

(7) Ibid. 4.

(8) Deducted from 'manðs', singular.

(9) V. Pes. 91b.

(10) Num. XXXIV, 18: each prince acted as agent for the whole tribe.

(11) And among those who received a portion in Palestine were minors; this proves that the princes were not acting as agents.

(12) By their division they conferred rights of ownership, though the recipients (i.e., the individuals) were not present.

(13) And one cannot act disadvantageously on another's behalf without his authorisation. Hence the princes were not proceeding on this principle either.

(14) The interpretation of the verse . . . one prince', etc.

(15) [According to Maim. Yad, Nahaloth, X, 4. there were also some adults among them, for had they all been orphans, there would be no division of the estate, seeing that it would still have to be administered by a guardian. V. Maggid Mishneh a.l. and Tosaf. Ri.]

(16) I.e., this guardian acts in their behalf at law, and his acts are valid even if they subsequently tend to their loss, providing that his intentions in the first place were good.

(17) Who were to divide the land as fairly as possible, their actions being valid even if certain individuals were displeased.

(18) [Wilna Gaon: for the minors; cf. n. 3.]

(19) [Apparently the Beth din, cf. Maim. loc. cit. In the parallel passage Yeb. 67b, however, the reading is 'he selects' i.e., the guardian.]

(20) A guardian might just as well be appointed by a private individual, if the former's action can be overthrown.

(21) The judges made a valuation of a debtor's property, sold it and assigned the proceeds to the creditor in the former's absence, and erred in a sixth.

Talmud - Mas. Kiddushin 42b

In the one case, they [the judges] erred; in the other, they[1] did not err. If they did not err, against what can they [the orphans] protest? — They can protest against the sites.[2]

R. Nahman said: When brothers divide, they rank as purchasers from each other:[3] [for an error of] less than a sixth, the transaction is valid; exceeding a sixth, it is null; [exactly] one sixth, it is valid, but the amount of error[4] is returnable.[5] Said Raba: When you say that [for an error of] less than a sixth the transaction is valid, that is only if one did not appoint an agent;[6] but if he appointed an agent, he can plead, 'I sent you to benefit, not to injure me'.[7] And when you say, exceeding a sixth, the transaction is null, that is only if one did not say: 'We will divide according to Beth din's valuation'; but if this was stipulated,[8] the transaction is valid. For we learnt: If the judges' valuation was at one sixth too little or at one sixth too much, their sale is null. R. Simeon b. Gamaliel said: Their sale is valid.[9] And when you say: 'one-sixth, it is valid, but the amount of error is returnable', that holds good only of movables, but as for real estate, the law of overreaching does not apply to land. Again, this was said of real estate only if the division was by valuation,[10] but not if the division was made by cord.[11] That is in accordance with Rabbah, who said,[12] Everything which [shews an error] in measure, weight or number, even if less than the standard of overreaching, is returnable.

Now, when we learnt: He who sends forth a conflagration by a deaf-mute, idiot, or minor, is not liable [for the damage caused] by law of man, yet liable by the law of Heaven.[13] But if he sends it by a normal[14] person, the latter is [legally] liable. Yet why so? Let us say that a man's agent is as himself.[15] — There it is different, for there is no agent for wrongdoing, for we reason: [When] the words of the master and the words of the pupil [are in conflict], whose are obeyed?[16]

Then when we learnt:[17] If the agent does not carry out his instructions,[18] the agent is liable for trespass: if he carries out his instructions, the sender[19] is liable for trespass.[20] Thus, at least, if he carries out the sender's instructions, the latter is liable for trespass. Yet why? Let us say: There is no agent for wrongdoing. — A trespass-offering is different, because the meaning of ‘sin’ is derived from terumah: just as an agent can be appointed for [separating] terumah, so can one be appointed in respect of trespass.[21] Then let us learn [a general law] from it?[22] — [We cannot,] Because trespass and mis — appropriation[23] are two verses with the same teaching,[24] and such cannot illumine [other cases].[25] ‘Trespass,’ as stated. What is the reference to misappropriation? — For it was taught:[26] ‘For every word[27] of trespass’: Beth Shammai maintain: This is to intimate liability for [expressed] intention as for actual deed.[28] But Beth Hillel rule: He is not responsible unless he actually misappropriates it, for it is said, [‘to see] whether he have not put his hand,’ etc. Said Beth Shammai to Beth Hillel, But it is said: ‘For every word of trespass’! Beth Hillel retorted to Beth Shammai: But is it not said: ‘to see whether he have not put his hand unto his neighbour's goods?’ Said Beth Shammai to Beth Hillel: If so, what is the purpose of, ‘for every word of trespass?’ For I might think, I know it only of himself [the bailee]; how do I know it if he instructs his slave or agent?[29] Therefore it is said: ‘For every word of trespass.’[30]

Now, that is well according to Beth Hillel. But according to Beth Shammai who interpret this verse as [shewing] that intention is as deed,

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(1) [The guardians or the Beth din. v. p. 210, n. 7.]

(2) E.g., he who received a field in the south may demand it in the north, because he possesses another one there from a different source.

(3) [Had they ranked as heirs, the division would have to be exact to a farthing (Tosaf. Ri.)]

(4) Lit., ‘overreaching’.

(5) v. B.M. 49b.

(6) To act at the division on his behalf, but acted himself. The reading in cur. edd. is ‘if he did not appoint him an agent, but if he appointed him an agent’ etc. This might mean that one brother appointed the other to act on his behalf. Asheri, however, omits the pronominal suffix.

(7) Thus he can repudiate him.

(8) Lit., ‘but if he said, we will" etc.’

(9) Raba agrees with the latter, not as R. Nahman supra.

(10) All the land was valued, and then each took land to the value of his share. Thus one might have received a field twice as large as his brother's, the latter's being of choicer quality.

(11) I.e., by area, all the fields being of equal quality, and an error was made in measurement.

(12) In B.M. 56b and B.B. 90a the reading is Raba.

(13) I.e., morally, though not legally.

(14) Lit., ‘sane’.

(15) So that the sender is liable.

(16) Obviously the master's. Hence if A instructs B to do wrong, B acts of his own accord, for were he merely carrying out instructions, he would obey God's behests in preference.

(17) Cur. edd: When it was taught. But BAH points out that the quotation that follows is a Mishnah in Me'il. 20a.

(18) Lit., ‘did not do his sending’.

(19) Lit., ‘the house owner’.

(20) A has money of hekdesh (q.v. Glos.) in his possession, and thinking it is secular, instructs B to make a purchase therewith. If B buys what he was told, A is liable; if he buys something else, he himself is liable, since he was not acting on A's behalf. — For converting sacred property to secular use-technically called withdrawing it from the ownership of hekdesh-one is liable to a trespass-offering.

(21) Terumah, Lev. XXII, 9: They shall therefore keep my charge, lest they bear sin for it: trespass, v, 15: If any one commit a trespass, and sin unwittingly in the holy things of the Lord. The employment of ‘sin’ in both cases intimates that the principle of agency operates for the latter as for the former.

(22) Viz., that one can appoint an agent for wrongdoing, and be legally responsible, just as in the case of trespass.

(23) Lit., ‘the putting forth of the hand.’ The language is based on Ex. XXII, 7, q.v.

(24) In both the principle of agency operates, though they are transgressions.

(25) V. supra p. 169, n. 7.
(26) If the thief be not found, then the master of the house shall come near unto God, to see whether he have not put his hand unto his neighbour's goods. For every word of trespass etc. Ibid. 7f.
(27) Lit., translation; E.V.: ‘matter’.
(28) The passage refers to a gratuitous bailee, who is not liable for theft unless he has previously misappropriated the deposit to his own use (‘put his hand,’ etc.,), in which case he becomes responsible for every mishap. Beth Shammai maintains that ‘for every word’ teaches that even if he merely says that he will put it to his own use he is liable.
(29) That he becomes liable on account of their misappropriation.
(30) Thus here too the principle of agency operates, though misappropriation is obviously wrong.

Talmud - Mas. Kiddushin 43a

let us learn from it?[1] — Because trespass and killing and selling are two verses with the same teaching, and such do not illumine others. ‘Trespass,’ as said. What is the reference to ‘killing and selling’? — Scripture saith, [If a man shall steal an ox, or a sheep,] and kill it, or sell it; [he shall pay five oxen for an ox etc.,]:[2] just as selling is done through another,[3] so may the killing be [done] by another.[4] The School of R. Ishmael taught: ‘or’ extends the law to an agent.[5]

[Again,] that is well on the view that two verses with the same purpose cannot teach [concerning others]; but on the view that they can, what may be said? — The Divine Law revealed [the matter] in reference to [sacrifices] slaughtered without [the tabernacle]: blood shall be imputed unto that man: he hath shed blood:[6] ‘that [man’, who slaughtered without], but not his agent.

Now, we have found this of [sacrifices] slaughtered without: how do we know it of the whole Torah?[7] — It is derived from [sacrifices] slaughtered without. Instead of learning from [sacrifices] slaughtered without, let us learn from these others?[8] — The Divine Law reiterated, and that man shall be cut off: since it is irrelevant for its own subject,[9] apply its teaching to the rest of the Torah.[10]

But he who maintains that two verses with the same purpose do not teach,[11] how does he interpret the [limiting demonstrative] ‘that’ written twice?[12] — One is to exclude the case of two men who hold the knife and slaughter [the sacrifice without].[13] The other: ‘that [man],’ but not one who is compelled; ‘that [man],’ but not one in ignorance; ‘that [man],’ but not one led into error.[14] And the other?[15] — That follows from ha-hu, where hu would suffice.[16] And the other?[17] — He does not admit the exegesis of ha-hu [as opposed to] hu.[18]

Now, when it was taught: If he says to his agent, ‘Go forth and slay a soul,’ the latter is liable, and his sender is exempt. Shammai the Elder said on the authority of Haggai the prophet:[19] His sender is liable, for it is said, thou hast slain him with the sword of the children of Ammon.[20] What is Shammai the Elder's reason? — He holds that two verses with the same purpose throw light [on others], and he rejects the exegesis of ha-hu [as opposed to] hu.[21] Alternatively, he accepts that exegesis;[22] and what is meant by liable? He is liable by the laws of Heaven. Hence it follows that the first Tanna holds him exempt even by the law of Heaven![23] — But they differ in respect to a greater or a lesser penalty.[24] Another alternative: there it is different, because the Divine Law revealed it [thus:] ‘and thou hast slain him with the sword of the children of Ammon’.[25] And the other?[26] — It counts to you as ‘the sword of the children of Ammon: you cannot be punished for the sword of the children of Ammon, so will you not be punished for [the death of] Uriah the Hittite. What is the reason? He was a rebel against sovereignty, for he said to him [David], and my lord Joab, and the servants of my lord, are encamped in the open field,’ [shall I then go into mine house, to eat and to drink, and to lie with my wife?][27] Raba said: Should you say that Shammai holds that two verses with the same purpose illumine [others], and that he does not admit the exegesis of hu, ha-hu: [yet] he agrees that if one says to his agent, ‘Go forth and have incestuous Intercourse, [or] ‘eat heleb’,[28] the latter is liable and his sender exempt, because we never find in the whole Torah that while one derives pleasure [from wrongdoing] another is liable.

It has been stated: Rab said: An agent can be a witness;[29] the school of R. Shila maintained: An agent cannot become a witness. What is the reason of the school of R. Shila? Shall we say, because he does not [explicitly] instruct him, ‘Be a witness for me’? If so, if he betroths a woman in the presence of two, and does not instruct them, ‘You are my witnesses’, is the betrothal really invalid? — But [the reasons are these:] Rab said: An agent can be a witness,for he [the principal] [thereby] strengthens the matter.[30] Whereas the school of R. Shila maintained: An agent cannot become a witness; since a Master said: ‘A man's agent is as himself,’ he ranks as his own person.[31]

An objection is raised: If one says to three, ‘Go forth and betroth the woman on my behalf,’ one is an agent and the other two are witnesses: that is the view of Beth Shammai. But Beth Hillel rule: They are all his agents, and an agent cannot be a witness. Thus, their disagreement is only in respect of three,[32] but as for two, all agree that they cannot [be witnesses]![33] — He [Rab] holds with the following Tanna. For it was taught: R. Nathan said: Beth Shammai maintains: An agent and one witness [can attest an action]; but Beth Hillel rule: An agent and two witnesses [are required]. Does then Rab rule according to Beth Shammai?[34] — Reverse it.[35] R. Aha son of Raba taught it reversed: Rab said: An agent cannot be a witness; the school of R. Shila ruled: An agent can be a witness. And the law is that an agent can be a witness.

Raba said in R. Nahman's name: If one says to two, ‘Go forth and betroth a woman for me,’ they are both his agents and his witnesses.[36] It is likewise so in respect to divorce;[37]

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(1) Sc. trespass, as above.
(2) Ex. XXI, 37 (E.V. XXII, 1).
(3) There must be another person, viz. the buyer.
(4) I.e., even if the thief does not personally kill it, but instructs another, he is liable.
(5) As in preceding note. — Hence on both exegeses, we have two verses with the same purpose.
(6) Lev. XVII, 4.
(7) That one cannot be an agent to violate a law of the Torah.
(8) Sc. trespass and killing and selling, that agency does operate.
(9) I.e., the emphasis on that man as excluding an agent is unnecessary, as it is intimated in the first half of the verse.
(10) V. p. 209, n. 3.
(11) So that non-agency for wrongdoing follows from the fact that the principle does operate in the case of trespass and misappropriation, as above.
(12) For these are now unnecessary.
(13) Implied by the sing., ‘that man’.
(14) ‘That man’ denotes that he is fully aware of the forbidden nature of his action and does it of his own free will.
(15) Who holds that the limitation excludes an agent; how does he know these?
(16) Hu is either a pronoun = he, or demonstrative, = that. Ha-hu is hu written with the addition of the def. art., which form is used in this verse. In his opinion, hu alone would suffice, and the addition of ha indicates further limitation.
(17) How does he utilise the additional def. art?
(18) No particular emphasis is implied therein.
(19) An indication that the view expressed is very ancient.
(20) II Sam. XII, 9: the reference is to David, who encompassed the death of Uriah the Hittite through the Ammonites, for which the prophet Nathan held him personally responsible. Weiss, Dor. I, p. 150 deduces from the story in Josephus. Ant. XIV, 9, concerning Herod's trial, when the Sanhedrin would have had him executed because he ordered the execution of certain freebooters, though he certainly did not carry them out in person, that Shammai's view was thus based on ancient practice. It is doubtful, however, whether this proves anything. Such an execution, had it taken place, would have been for State reasons, which override the letter of the law. In the same way those who counselled Alexander Jannai to massacre eight hundred of his former opponents were subsequently executed too. [V. Zeitlin. JQR (N.S.) VIII, p. 150, for an ingenious suggestion that this statement is to be attributed to Shemaiah who figured in Herod's

trial instead of Shammai.]

(21) Hence the principle of agency operates even for wrongdoing.

(22) So that there is no agency for wrongdoing.

(23) Surely not.

(24) The first Tanna holds the sender liable to a lesser penalty only, as an indirect cause, whereas Shammai regards him as the actual murderer and liable to the severest penalty.

(25) But elsewhere there is no agency for transgression.

(26) The first Tanna: how does he explain the implication of the verse?

(27) Ibid. XI, 11; thus he disobeyed David's orders, v. 8.

(28) V. Glos.

(29) If A instructs B to betroth a woman on his behalf, for which two witnesses are required, or to repay a debt to C on his behalf, B can carry out his instructions and simultaneously be a witness to the act.

(30) By appointing the agent a witness too.

(31) And the principal obviously cannot attest his own act.

(32) Who can be divided in the manner suggested by Beth Shammai.

(33) Which contradicts Rab.

(34) Surely not, it being a principle that the halachah always agrees with Beth Hillel.

(35) Applying Beth Shammai's view to Beth Hillel.

(36) In accordance with the law just stated.

(37) If a man instructs two persons to divorce his wife on his behalf, they act both as agents and as witnesses to the divorce.

Talmud - Mas. Kiddushin 43b

and also in monetary cases.[1] Now, these are all necessary. For if we were informed [thus] of kiddushin, [I would say] that is because they come to render her forbidden;[2] but as for divorce, we might fear that he [one of these] desired her for himself.[3] Again, if we were informed [thus] of divorce, that may be because a woman is not eligible to two men; but as for a monetary matter, I might argue that these [witnesses] are sharing therein. Thus they are [all] necessary.

What is his[4] opinion? If he holds that he who lends [money] to his neighbour in the presence of witnesses must repay him [likewise] before witnesses, then these[5] are interested witnesses, for should they say: ‘We did not repay him,’ he [the debtor] can say to them, ‘Then pay me!’[6] — But after all, he holds that he who lends money to his neighbour before witnesses need not repay him before witnesses, and since they can plead. ‘We returned it to the debtor,’ they can also testify, ‘We repaid the creditor.’ Now, however, that the Rabbis have instituted an oath of equity,[7] these witnesses [sc. the agents] must swear that they repaid him [the creditor], the creditor swears that he did not receive it [the repayment], and the debtor must repay the creditor.[8]

A MAN MAY GIVE HIS DAUGHTER [etc.]. We learnt elsewhere: A na'arah, who is betrothed[9] she or her father can accept her divorce. Said R. Judah: Two hands cannot have a privilege simultaneously, but [only] her father can accept her divorce. And she who cannot take care of her Get[10] cannot be divorced.[11] Resh Lakish said: Just as they differ in respect to divorce, so they differ in respect to kiddushin. R. Johanan maintained: They differ in respect to divorce [only], but as for kiddushin, all agree that her father [alone can accept kiddushin on her behalf] but not she herself. R. Jose son of R. Hanina said: What is R. Johanan's reason according to the Rabbis? As for divorce, since she reverts thereby to[12] parental control,[13] both she herself and her father [can accept it]. But kiddushin, which frees her from paternal authority, only her father [can accept it], but not she herself. But what of a declaration,[14] whereby she is freed from paternal control,[15] yet we learnt:

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(1) Two men appointed agents to repay a debt can testify thereto.

(2) Through their testimony she is forbidden to all men, including themselves; what purpose can they have in lying?

(3) Lit., ‘Cast his eye upon her’ — and hence may be giving false testimony.
(4) R. Nahman's.
(5) Sc. the agents sent to repay.
(6) For he may have entrusted them the money before witnesses, which is the same as lending it to them. Hence they are personally concerned, and as such, inadmissible as witnesses. Cur. ed. proceed: But after all, he holds, etc. BAH gives the following version: Whilst if he holds that he who lends money to his neighbour before witnesses need not repay him before witnesses, what is the purpose of these witnesses? — But after all, he holds that when one lends money to his neighbour before witnesses he need not repay him before witnesses. Now, if he pleads, ‘I myself repaid you,’ that indeed is so (and further witnesses are not required). The circumstances here are that he pleads, ‘I repaid you by an agent,’ and for that very reason he requires witnesses. Whilst the witnesses themselves (who in this case are alleged to have been entrusted with the money for repayment), since they can plead, etc., (continuing as in our text).
(7) Lit., ‘oath of inducement’, v. B.M. (Sonc. ed.) p. 20 n. 4. By Biblical law, one must take an oath in respect of a rejected claim only if he partially admits it, but not if he entirely denies it. Hence, when the debtor pleads that he entrusted the money to two in the absence of witnesses, and they maintain that they returned it, thus altogether rejecting his claim, they are not liable to an oath. But the Rabbis imposed an oath even then: this is called an oath of equity.
(8) Notwithstanding the witnesses’ oath. For the creditor can plead: ‘I lent the money to the debtor, and thereby expressed my willingness to abide by his oath that he repaid me. But I cannot be forced to accept the oath of other persons.’ The witnesses, on the other hand, cannot simply testify that they repaid the creditor, without swearing, because if they maintained that they had returned the money to the debtor, they would have to swear an oath of equity, and so become interested witnesses.
(9) V. Glos.
(10) V. Glos.
(11) I.e., an idiot cannot be divorced, even by her father's acceptance of the deed. V. Git. (Sonc. ed.) p. 304. n. 7.
(12) Lit., ‘brings herself into.’
(13) Being only a na'arah and betrothed, not married.
(14) מאמר ma'amar. This is the technical term for the yabam's formal betrothal of his yebamah. which is accompanied by the gift of money, which is valid by Rabbinical law only, for by Biblical law cohabitation alone is recognised (supra 2a).
(15) If a betrothed maiden is widowed and the yabam makes a declaration, she is henceforth free from paternal control.

Talmud - Mas. Kiddushin 44a

No declaration may be made to a minor [widowed] from erusin[1] except with her father's consent;[2] whereas in the case of a na'arah, either her own or her father's consent [is required]![3] But if stated, it was thus stated: R. Jose son of R. Hanina said: What is R. Johanan's reason according to the Rabbis? Kiddushin, which requires her consent, [only] her father [can accept it] but not she;[4] divorce, which is even against her will, either she or her father [can accept it].[5] But a declaration [too] requires her consent, yet it is taught, either she or her father [can accept it]? — There the reference is to a declaration which is [made] against her will, and it is in agreement with Rabbi. For it was taught: If one makes a declaration to his yebamah without her consent,[6] Rabbi ruled: He acquires her;[7] but the Sages say: He does not.

What is Rabbi's reason? — He deduces it from intercourse with a yebamah: just as intercourse with a yebamah [acquires her even] against her will, so here too [sc. declaration, it is valid even] against her will. But the Rabbis hold: We learn from [ordinary] kiddushin: just as kiddushin must be with her[8] consent, so here too her consent is required. Wherein do they differ? — Rabbi maintains: The provisions of a yebamah are to be learnt from a yebamah. But the Rabbis hold: Kiddushin should be learned from kiddushin.[9]

Reason too supports R. Johanan's answer,[10] since the second clause states: Which is not so in the case of kiddushin.[11] Shall we then say that this refutes Resh Lakish?[12] — Resh Lakish can answer you: That agrees with R. Judah, who ruled: Two hands cannot have a privilege simultaneously.[13] If

R. Judah, [why state,] ‘which is not so in the case of kiddushin’; let him teach, which is not so in the case of divorce?[14] — That indeed is so: [but] as he teaches [the law of] declaration, which is similar to kiddushin, he also states: ‘which is not so in the case of kiddushin’. Now, on R. Judah's view, why does declaration differ?[15] — Because she already stands tied [to the yabam].[16] Now that you have arrived at this [distinction], R. Johanan[‘s view] also need not cause you any difficulty at the very outset:[17] a declaration is different, because she already stands tied.

We learnt: A MAN MAY GIVE HIS DAUGHTER IN BETROTHAL WHEN A NA'ARAH, HIMSELF OR THROUGH HIS AGENT: only HIMSELF OR THROUGH HIS AGENT, but not through herself or her agent:[18] this refutes Resh Lakish? — Resh Lakish can answer you: This too is in accordance with R. Judah. Can you then interpret this as R. Judah[‘s ruling]? But the second clause[19] teaches: If one says to a woman, ‘Be thou betrothed unto me with this date, be thou betrothed unto me with this one etc.’[20] Now we said thereon: Which Tanna [rules thus concerning] ‘Be thou betrothed, be thou betrothed?’[21] And Rabbah replied: It is R. Simeon, who maintained, ‘Unless he declared to each separately,’ [I take] an oath.’[22] And should you answer: It is all the opinion of R. Judah, who, however, agrees with R. Simeon in the matter of detailed enumeration,[23] yet does he hold thus? Surely it was taught: This is the rule: For a comprehensive statement only one [sacrifice] is incurred; for a detailed enumeration each one separately involves liability:[24] this is R. Meir's opinion. R. Judah said: [If he declares, ‘I take] an oath [that I am] not indebted to you, not to you, not to you,’ he is liable in respect of each separately. R. Eleazar said: [If he declares, ‘I am] not [indebted] to you, not to you, not to you, and not to you: [for this I take] an oath’: he is liable in respect of each.[25] R. Simeon said: He is never liable [for each separately] unless he declares [I take] an oath to each separately![26] — But the whole is in accordance with R. Simeon, who in the matter of agency agrees with R. Judah.[27]

R. Assi did not go to the Beth Hamidrash.[28] Meeting R. Zera, he asked him, ‘What has been taught to-day in the schoolhouse?’ ‘I too did not go,’ he replied: ‘but R. Abin was present, and he told me that the entire band [of disciples] agreed with R. Johanan;[29] and though Resh Lakish cried like a crane,[30] and when she is departed . . she may be [another man's wife],[31] none heeded him.’ ‘Is R. Abin reliable?’ he asked him, ‘Yes,’ he replied: ‘as from the sea into the frying pan!’[32] R. Nahman b. Isaac said: I [read in this story] neither R. Abin b. R. Hiyya nor R. Abin b. Kahana, but simply R. Abin. What does it matter? — In proving a self-contradiction.[33]

Raba asked R. Nahman:

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(1) V. Glos.

(2) Otherwise it has no validity.

(3) This means that even where her action serves to free her from her father's control, her action has validity.

(4) In general, the consent of the person who cedes the woman is required. In the case of an adult that person is the woman herself; in the case of a na'arah or a minor it is her father.

(5) Seeing that their consent is not necessary, it does not matter who actually accepts the deed.

(6) Forcing the money of betrothal upon her and declaring, ‘Behold, thou art betrothed unto me.’

(7) Though she belongs to him in any case and cannot be free without halizah, she now requires a divorce too.

(8) The woman's.

(9) And a declaration takes the form of ordinary kiddushin.

(10) That the reference is to a declaration which was made against her will.

(11) Viz., only her father can receive her kiddushin.

(12) Since a distinction is drawn between a declaration and kiddushin, because the former does not require her consent whereas the latter does, the same applies to kiddushin and divorce.

(13) Hence in the case of kiddushin only her father may receive it.

(14) Which would be more remarkable: even in divorce, which does not require the wife's consent, R. Judah rules that only her father can accept it.

(15) That he agrees that she herself can receive it.
(16) Hence the further step of a declaration is an easier one, and can be made either to her father or to herself.
(17) Sc. the difficulty raised above from the teaching relating to the yabam's declaration.
(18) Which proves that a na'arah who has a father cannot betroth herself, in refutation of Resh Lakish.
(19) Infra 46a.
(20) The Mishnah continues: if a single one of them is worth a perutah, she is betrothed, but not otherwise. — For since he stated: ‘Be thou betrothed’ before each date separately, it is not the equivalent of saying: ‘Be thou betrothed unto me with all these dates.’
(21) That because he repeats it, each declaration is separately regarded.
(22) Shebu. 36b. If five men demand the return of their deposits from a certain person, who falsely denies liability, and takes an oath, ‘I swear that I did not receive a deposit from you, not from you, not from you, etc., he incurs a separate sacrifice on account of each (v. Lev. V, 21.26). R. Simeon maintained: He incurs only one sacrifice for all, unless he declares to each one separately, ‘An oath that I did not receive a deposit from you,’ ‘An oath that I did not receive a deposit from you,’ etc., — Hence the Mishnah on 46a, which is a sequel to 41a, agrees with R. Simeon, not R. Judah.
(23) Viz., that each statement is regarded as separate only if it is separately enumerated, as above.
(24) The meaning of these terms is discussed in Shebu. 38a.
(25) By adding ‘and’ before the last (which is absent in R. Judah's premise) and employing the word ‘oath’ after the enumeration, he makes his declaration equivalent to a number of separate statements.
(26) Thus R. Judah definitely disagrees with R. Simeon.
(27) Viz., only her father can accept kiddushin, but not she herself. — ‘Agency’ here does not refer to the question whether she can appoint an agent, as it is generally admitted that a na'arah certainly cannot (infra b), but whether she herself can rank as her father's agent (since Scripture vested the power in him — supra 3b.) — Maharsha.
(28) V. Glos.
(29) Supra 43b.
(30) I.e., vehemently protested.
(31) Deut. XXIV, 2: from this it is deduced that marriage and divorce are on a par (supra 5a), and thus it supports Resh Lakish.
(32) כמין ימא לטיגני He had as little time to forget as a fish that is caught in the sea and put straight into the pan. [Others explain the phrase as names of two places next to each other. Horowitz Palestine, p. 323 n. 9. takes it as a corruption of comminatio litigo, R. Zera cautioning R. Assi to occasion no strife by impugning the authority of R. Abin.]
(33) Should a statement by either of these contradict this assertion of R. Abin, it does not matter, as a different person may be meant.

Talmud - Mas. Kiddushin 44b

Can a na'arah appoint an agent to receive a divorce from her husband?[1] Does she rank as her father's hand, or as his court-yard?[2] Does she rank as her father's hand: just as her father can appoint an agent, so can she too appoint an agent. Or perhaps, she is as her father's court-yard, and [hence] she is not divorced until the Get actually reaches her hand. Now, is Raba doubtful about this? But Raba said: If he [the husband] writes a Get and places it in her slave's hand,[3] and he is asleep while she watches over him, it is a [valid] divorce; but if he is awake, it is not a [valid] divorce.[4] Now, why is it not a [valid] divorce if he is awake? [Surely] because he is as a court-yard guarded without her instructions. But if you think that she [a na'arah] is as her father's court-yard, then she should not be divorced even when the Get reaches her hand, since she is as her father's courtyard that is guarded without his instructions! Hence it must be obvious to him [Raba] that here she is as her father's hand, but this is his problem: is she as strong as her father's hand, so that she can appoint an agent, or not? — She cannot appoint an agent, he answered him.

He raised an objection: If a minor [ketannah] says: ‘Accept my divorce on my behalf,’ it is not a valid divorce until it reaches her hand.[5] Hence in the case of a na'arah it is a [valid] divorce![6] — The reference here is to one who has no father.[7] But since the second clause teaches: If her father says to him [the agent], ‘Go and accept the Get for my daughter’, should her husband wish to retract,[8] he cannot:[9] this proves that the first clause refers to one who has a father? — The text is defective, and should read thus: If a minor says: ‘Accept my Get for me,’ it is not a [valid] divorce until it reaches her hand; but in the case of a na'arah it is a [valid] divorce. When is that said? If she has no father. But if she has a father and he says: ‘Go and accept the Get for my daughter’, and [then] the husband wishes to retract, he cannot.

It has been stated: If a minor [ketannah] is betrothed without her father's knowledge,[10] Samuel said: She requires both Get and mi'un.[11] Said Karna: This is inherently open to objection:[12] if Get, why mi'un, and if mi'un, why Get?[13] Said they [the scholars] to him: But there is Mar ‘Ukba and his Beth din at Kafri.[14] Then they reversed it[15] and sent it to Rab. Said he to them, ‘By God! she requires both Get and mi'un, yet Heaven forfend that[16] the seed of Abba b. Abba[17] should say thus.’[18] And what is the reason? — Said R. Aba son of R. Ika: She needs a divorce, in case her father consented to the kiddushin,[19] while she needs mi'un, in case her father did not consent to the kiddushin, and it is said that the kiddushin with her sister [by the same man] is invalid.[20]

R. Nahman said: Providing that they negotiated [with the father].[21] ‘Ulla said: She does not even require mi'un.[22] [What!] even though there were negotiations?[23] — He who learnt this did not learn the other.[24] Others say: ‘Ulla said: If a minor [ketannah] is betrothed without her father's knowledge, she does not even require mi'un.[25]

R. Kahana objected: And if [any among] all these[26] died, protested,[27] were divorced,[28] or found to be constitutionally barren,[29] their fellow-wives are permitted [to the yabam]. Now, who betrothed her?[30] Shall we say, her father betrothed her? is then mi'un sufficient? She requires a proper Get![31] Hence it must surely mean that she betrothed herself, yet it is taught that she requires mi'un![32] — He raised the objection and he [himself] answered it: [We] suppose she had been treated as an orphan during her father's lifetime.[33]

R. Hamnuna objected: He [her father] may not sell her to relations. On the authority of R. Eleazar it was said: He may sell her to relations.

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(1) That she shall be divorced immediately the Get reaches his hand.

(2) The question is posited on the view of the Rabbis (supra 43b) that in the case of a betrothed na'arah either her father or she herself can receive the divorce. It further postulates that the power is actually vested in him, her own being in virtue of his, and the problem is whether she is regarded as his hand or as his domain. For if the Get is placed in his domain she is divorced, and so it may be that the Rabbis reason that she herself is no worse (being under her father's authority), and on that score only can she accept her divorce.

(3) The reference is to an adult wife.

(4) V. Git. 77a-b: the divorce may be placed in the wife's domain, e.g., her court-yard. But it must be guarded through her own will, not at the instance of another person. Now, a Gentile slave is as her domain: if he is asleep and she watches over him, he is guarded through her. But if he is awake he guards himself, and so falls within the latter category.

(5) Because a minor cannot appoint an agent.

(6) As soon as her deputy receives it.

(7) Then a na'arah can certainly appoint an agent, since she is not under paternal authority. But Raba's question refers to a na'arah who has a father.

(8) After the deputy receives it.

(9) Because she is already divorced by the agent's acceptance.

(10) All agree that such betrothal is invalid.

(11) V. Glos.

(12) Lit., ‘there is something within itself.

(13) Get is necessary where the marriage is valid by Biblical law, or where there is a Biblical tie; whereas mi'un dissolves a marriage that has Rabbinical force only.

(14) Let us ask him. [If Nehardea, the home of Samuel, is too distant to send for information, let us ask Mar ‘Ukba in

Kafri which is nearer to us. The reference is to ‘Ukba I. v. Funk. op. cit. I Note iv.] Kafri is a town in S. Babylon, Obermeyer, op. cit., p. 316.
(15) Ascribing Samuel's view to Karna and vice versa — possibly to see whether Karna's opinion expressed in Samuel's name would carry more weight.
(16) Lit., ‘have compassion upon.’
(17) Samuel's father.
(18) As reported to him.
(19) Then her betrothal is valid by Biblical law.
(20) If she is given a divorce, it will be assumed that her father consented to the betrothal, which had Biblical force. Consequently, should the same man then betroth her sister, it is quite invalid, since she is his divorced wife's sister (v. Lev. XVIII, 18, which is interpreted as applying to such a case). But her father may not have consented, and so neither the betrothal nor the divorce are Biblical, wherefore her sister's betrothal is valid and requires a divorce for its dissolution. (He could not keep the sister, for fear that the first marriage was legal.) Hence she needs mi'un, to draw attention to this possibility.
(21) And he consented (Tosaf. of Ri the Elder). Hence, when he subsequently betroths her without her father's knowledge, her father may thereafter consent, whereby the kiddushin becomes retrospectively valid, and so she needs a divorce. But otherwise she needs no divorce.
(22) Because a minor's action in her father's lifetime has not even Biblical force.
(23) Surely R. Nahman's reasoning is plausible.
(24) He who learnt that ‘Ulla differed from Samuel did not learn R. Nahman's proviso, and so assumed that Samuel gave his ruling even if there were no previous negotiations.
(25) It is one and the same, whether or not there were previous negotiations.
(26) The consanguineous relations enumerated in Yeb. 25, q.v. If A has a number of wives, one of whom, C, is interdicted to B, his brother, on the score of consanguinity, e.g., she is B's daughter, and A dies childless, all his other wives are exempt from yibum or halizah (q.v. Glos.), providing that C is alive and married to him at the time of his death.
(27) I.e., declared mi'un.
(28) Before his death.
(29) Even after his death; the marriage of such is invalid.
(30) This wife who protested.
(31) Since her father's betrothal is Biblically valid.
(32) Though her father was and is still alive (v. p. 224, n. 11.). This contradicts the last ruling reported in the name of ‘Ulla. — Mi'un only applies to the marriage of a minor.
(33) If a father marries (not merely betroths) his daughter as a minor and she is widowed or divorced as a minor, he has no more authority over her, and she is technically regarded as an orphan in her father's lifetime. If she then betroths herself while still a minor, her marriage is Rabbinically valid, and she can dissolve it on attaining her majority by mi'un.

Talmud - Mas. Kiddushin 45a

And both agree that he may sell her, as a widow, to a High priest, and as divorced or a haluzah, to an ordinary priest. Now, this widow, — what are the circumstances? Shall we say that her father betrothed her? Can he [subsequently] sell her? But a man cannot sell his daughter to servitude after marriage![1] Hence it must surely mean that she betrothed herself, and yet he calls her a widow?[2] — R. Amram replied in R. Isaac's name: The reference here is to kiddushin of designation, and it is in accordance with R. Jose son of R. Judah, who maintained: The original money was not given for the purpose of kiddushin.[3]

It was stated: If he [who betrothed her without her father's knowledge] dies, and she falls before his brother for yibum — R. Huna said in Rab's name: She must perform mi'un on account of his declaration, but requires no mi'un on account of his levirate tie.[4] How so? If he [the yabam] makes her a declaration, she requires Get, halizah, and mi'un. She needs a Get, lest her father consented to the kiddushin of the second [the yabam];[5] she needs halizah in case her father consented to the first [brother's] kiddushin;[6] she needs mi'un, lest her father did not consent to the kiddushin of either the first or the second, and so it be said: Kiddushin with her sister has no validity.[7] But if he does not make a declaration to her, she merely requires halizah. For what will you say: let her also require mi'un, lest it be said that kiddushin with her sister is not valid[8] — but all know that [marriage with] the sister of a haluzah is [forbidden] by Rabbinical law [only],[9] for Resh Lakish said: Here Rabbi taught: The sister of a divorced woman is [forbidden] by Biblical law, whereas the sister of a haluzah, by Rabbinical law.[10]

Two men were drinking wine under willows[11] in Babylonia. [when] one of them took a goblet of wine, gave it to his fellow and said: ‘Let thy daughter be betrothed to my son.’ Said Rabina: Even on the view that we fear that the father may [subsequently] have consented,[12]

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(1) Supra 18a.

(2) Shewing that the marriage is valid.

(3) V. supra 15b for notes on the whole passage.

(4) If the yabam makes a betrothal declaration to her, which, as already stated (supra p. 218, n. 8), is the Rabbinical equivalent of kiddushin in the case of a yabam, she needs mi'un in addition to the Get she requires. R. Huna proceeds to explain himself.

(5) The yabam's declaration was in the form of an ordinary betrothal. Hence, if the father did not consent to the first brother's kiddushin but did consent to the second's, she is betrothed to him, and needs a Get to dissolve the union.

(6) So that she is the second brother's yebamah. and requires halizah to gain her freedom.

(7) As on p. 224, n. 5. — Rashi observes that even if her father consented to the kiddushin of the first but not of the second, she needs mi'un, for she is only a haluzah in respect to the second, and his kiddushin with her sister is valid, whereas on account of the divorce it will be said that her sister's kiddushin is not valid. Hence the Talmud states: ‘lest her father did not consent to the kiddushin of the first’ unnecessarily — probably in order to achieve symmetry of style (but v. Tosaf.).

(8) On account of the halizah, which may be assumed to be certainly required by Biblical law.

(9) Hence if he does betroth her sister all know that it is Biblically binding, and a divorce is required.

(10) V. Yeb. 41a.

(11) Others: under an awning of mats.

(12) Supra.

Talmud - Mas. Kiddushin 45b

we [certainly] do not say: ‘Perhaps the son consented.’[1] But perhaps, urged the Rabbis to Rabina, he [the son] had appointed him [the father] his agent? — A man is not so insolent as to appoint his father an agent. But perhaps he [the son] had shewn a desire for her in his presence?[2] Said Rabbah b. Simi to them: The Master [Rabina] has [once] distinctly stated that he does not accept this view of Rab and Samuel.[3]

A certain man betrothed [a minor] with a bunch of vegetables in a market place.[4] Said Rabina. Even on the view that we fear lest her father consented, that is only [when it is done] in an honourable manner, but not contemptuously. R. Aba of Difti asked Rabina: What displayed contempt? the vegetables, or [the fact that it was done in] a market-place?[5] The practical difference arises if he betroths her with money in the market place, or with a bunch of vegetables at home. What then? — Both, he replied, are contemptuous.[6]

A certain man insisted, ‘[Our daughter must be married] to my relation;’ whereas she [his wife] maintained, ‘To my relation.’ She nagged him until he told her that she could be [married] to her relation. Whilst they were eating and drinking,[7] his relation went up to a loft and betrothed her. Said Abaye: It is written: The remnant of Israel shall not do iniquity, nor speak lies.[8] Raba said: It is a presumption that one does not trouble to prepare a banquet and then destroy it.[9] Wherein do they differ? — They differ in the case where he did not trouble.[10] If she [a minor] became betrothed with her father's consent, and her father departed overseas, and she arose and married[11] Raba said: She may eat terumah[12] until her father comes and protests [against the nissu'in].[13] R. Assi said: She may not eat, lest her father return and protest, and so a zarah[14] will retrospectively be found to have eaten terumah. Such a case occurred, and Rab paid regard to[15] R. Assi's opinion. R. Samuel b. Isaac said: Yet Rab admits that if she dies he [her husband] is her heir,[16] [because] the ownership of money is vested in its possessor.[17]

If she became betrothed with [her father's] knowledge and married without his knowledge, and her father is present,[18] — R. Huna said: She may not eat [terumah]; R. Jeremiah b. Abba said: She may eat. 'R. Huna said: she may not eat': even on Rab's view that she may eat [in the first case], that is only there, since the father is absent;[19] but here, that the father is present, the reason he is silent is that he is angry.[20] 'R. Jeremiah b. Abba said: She may eat': even according to R. Assi, who ruled that she may not eat: it is only there, for her father might return and protest; but here, since he is silent, [it shows that] he does consent.

If she became betrothed and married without her father's knowledge, and her father is present, — R. Huna said: She may eat [terumah]: R. Jeremiah b. Abba said: She may not eat. Said 'Ulla: This [ruling] of R. Huna is 'as vinegar to the teeth, and as smoke to the eyes':[21] if there, that her kiddushin was Biblically valid,[22] you say that she may not eat, how much more so here!

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(1) After his father betrothed him without his knowledge. — A father is very anxious to see his daughter married, but a man takes more care. One has no rights over his son's marriage, unless he is authorised.

(2) And then his father need not be formally appointed an agent, on the principle: one can confer a benefit on another without the latter's knowledge.

(3) That we fear her father's subsequent consent; hence we certainly do not fear the son's subsequent consent or his previous intimation. This is the true reason of Rabina's ruling. His statement, 'even on the view, etc.,' was merely to give it wider acceptance.

(4) Without her father's knowledge.

(5) To betroth with vegetables is contemptuous treatment: likewise it is undignified to betroth in a market place (bizayon, used in the text, connotes both contemptuous and undignified). Now, to what would the father really take exception?

(6) And the father's subsequent consent need not be feared.

(7) At the betrothal festivities, before the actual betrothal.

(8) Zeph. III, 13; hence the father, having given his word, certainly did not consent now. — She was a minor.

(9) It had been prepared for the wife's relation and would now be lost! Hence the father certainly did not consent. (Or, he had certainly not instructed his daughter secretly beforehand to accept the kiddushin.)

(10) According to Abaye there is no fear of the father's consent; according to Raba, there is.

(11) Her betrothed, i.e., nissu'in were performed (q.v. Glos.).

(12) If her husband is a priest, though she is not; v. Lev. XXII, 11, which includes such.

(13) Though she may not eat terumah until after the huppah (v. Glos.), which took place without her father's consent, we take his consent to the huppah for granted, since he consented to the kiddushin, unless he returns and objects.

(14) V. Glos.

(15) Lit., 'feared'.

(16) A husband is his wife's heir after nissu'in, but not after kiddushin.

(17) Before nissu'in, the money certainly belongs to her father, and is therefore deemed in his possession. Since we do not know whether he will give the huppah his retrospective consent, it remains so.

(18) Lit., 'here'.

(19) Hence his consent may be taken for granted.

(20) That she became married without asking him.

(21) Prov. X, 26.

(22) Since she had her father's consent at kiddushin.

Talmud - Mas. Kiddushin 46a

Talmud - Mas. Kiddushin 46a

[Hence] the disciple's view[1] is preferable. Raba said: What is R. Huna's reason? Because she was treated as an orphan during her father's lifetime.[2]

It was stated: If a minor became betrothed without her father's knowledge: Rab said: Both she and her father can repudiate [it]. R. Assi said: Her father, but not she herself. R. Huna — others state, Hiyya b. Rab-raised an objection to R. Assi: [If a man entice a virgin . . . she shall surely . . . be his wife]. If her father utterly refuse [to give her unto him]:[3] I only know that her father [can refuse]: how do I know [it of] herself? Because it is stated: ‘If he utterly refuse’, [implying] in all cases![4] — Said Rab to them ‘[the scholars before whom the objection was raised]: Be not misguided![5] He can answer you that [we] suppose he did not entice her for the purpose of marriage. If he did not entice her with marital intent, is then a verse necessary![6] — Said R. Nahman b. Isaac: It is to teach that he [her seducer] must pay the fine as for an enticed maiden.[7] R. Joseph said to him: That being so,[8] it was consequently taught: He shall surely pay a dowry for her to be his wife:[9] [this means] that she needs kiddushin from him. But had he seduced her with marital intent, why is kiddushin required?[10] — Said Abaye: [This does not follow:] She may need kiddushin with her father's knowledge.[11]

MISHNAH. HE WHO SAYS TO A WOMAN, ‘BE THOU BETROTHED UNTO ME WITH THIS DATE, BE THOU BETROTHED UNTO ME WITH THIS ONE’ — IF ANY ONE OF THEM IS WORTH A PERUTAH, SHE IS BETROTHED; IF NOT, SHE IS NOT BETROTHED, [IF HE SAYS,] ‘WITH THIS AND WITH THIS AND WITH THIS ONE’ — AND THEY ARE ALL TOGETHER WORTH A PERUTAH, SHE IS BETROTHED; IF NOT, SHE IS NOT BETROTHED. IF SHE EATS THEM ONE BY ONE, SHE IS NOT BETROTHED UNLESS ONE OF THEM IS WORTH A PERUTAH.[12]

GEMARA. Which Tanna taught: ‘BE THOU BETROTHED, BE THOU BETROTHED’? — Said Rabbah: R. Simeon, who maintained, Unless he declares [‘I take] an oath’ to each one separately.[13]

WITH THIS AND WITH THIS AND WITH THIS ONE [- AND THEY ARE ALL TOGETHER WORTH A PERUTAH, SHE IS BETROTHED; IF NOT, SHE IS NOT BETROTHED. IF SHE EATS THEM ONE BY ONE, SHE IS NOT BETROTHED UNLESS ONE OF THEM IS WORTH A PERUTAH]. To what does this refer? Shall we say, to the first clause — why particularly if she eats them; even if she lays them down it is also thus, since he says: ‘BE THOU BETROTHED UNTO ME WITH THIS ONE’?[14] But if to the second clause — [and that] even [if there is a perutah's worth] in the first [only]? But it is a debt![15] — Said R. Johanan: Behold a table, meat and knife, yet we have no mouth to eat![16] Rab and Samuel said: After all, it refers to the first clause, but it teaches what is most noteworthy.[17] [Thus:] It is unnecessary to teach that if she lays them down she is [betrothed] only if [one] is worth a perutah, and not otherwise. But if she eats them, I might argue that since her benefit is immediate, she resolves to cede herself [even for less than a perutah]. Hence we are informed [otherwise]. R. Ammi said: After all, it applies to the second clause; and what is meant by, UNLESS ONE OF THEM IS WORTH A PERUTAH? Unless the last is worth a perutah. Said Raba: From R. Ammi's [explanation] three [corol — laries] may be inferred; [i] If one betroths with a debt, she is not betrothed;[18] [ii] If one betroths [a woman] with a debt and a perutah [i.e., cash], her mind is set upon the perutah,’[19]

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(1) The opinion of R. Jeremiah b. Abba, R. Huna's disciple.

(2) Since her father saw her becoming betrothed and married, and did not protest, he must either have renounced his authority over her or tacitly consented, for otherwise he would not have maintained silence so long.

(3) Ex. XXII, 15f.

(4) ‘Utterly’ is expressed in Heb. by the doubling of the verb, and indicates extension. The objection assumes that he enticed her for the purpose of kiddushin, since intercourse itself may be such (supra 2a).

(5) Lit., ‘go not after the reverse’ (of what is right).
(6) That her father or she herself can refuse to marry him — surely that is obvious.
(7) Even if she herself refuses him.
(8) That the verse refers to enticement without marital intent.
(9) Ibid.
(10) That itself was betrothal.
(11) Even if her enticement had been for the same purpose.
(12) The meaning of this is discussed in the Gemara.
(13) V. supra 44a for notes.
(14) So that each statement is separate; v, p. 221, n. 1.
(15) If he says: ‘Be thou betrothed unto me with this one and this one, etc.,’ and she eats them one by one, his statement must be considered as a whole. Now, as soon as she eats one she cannot be betrothed by it, since his statement was as yet incomplete, and it becomes a debt, which cannot effect kiddushin.
(16) The Mishnah stands before us, but it is inexplicable.
(17) Lit., ‘it states it is unnecessary (to teach this, but even this).
(18) Otherwise there is no need to particularise the last.
(19) For here he betroths her with all the dates. But those she has eaten are a debt, as explained above, whilst the last, worth a perutah, is the coin actually given. Since the betrothal is valid, we must assume that she regards the last only, for if she regarded the debt and wished to be betrothed thereby, she could not.

Talmud - Mas. Kiddushin 46b

[iii] Money in general is returnable.[1]

It was stated: If one betroths his sister:[2] Rab said: The money is returnable; Samuel ruled: The money is a gift. Rab said: The money is returnable: one knows that kiddushin with a sister is invalid, hence he resolved and gave it as a deposit. Then let him tell her that it is a deposit? — He thought that she would not accept it. But Samuel holds, the money is a gift; one knows that kiddushin with a sister is invalid, and therefore he resolved and gave it as a gift. Then let him tell her that it is a gift? — He thought that she would feel humiliated.

Rabina raised an objection: If one separates his hallah[3] from the flour, it is not hallah,[4] and is robbery in the priest's hand.[5] Now why is it robbery in the priest's hand? Let us say that a man knows that hallah is not separated from flour, and therefore he resolved and gave it as a gift? — There it is different, as it may result in wrong.[6] For the priest may happen to possess less than five quarters of flour and this besides; he will then knead them together and think that his dough is fit [to be eaten], and thus come to eat it in the state of tebel.[7] But you say that a man knows that hallah is not separated from flour! — He knows, yet not fully.[8] He knows that hallah is not separated from flour, yet not fully: for he thinks, What is the reason? Because of the priest's trouble;[9] well, the priest has forgiven his trouble.[10]

Yet let it be terumah [i.e., hallah], but that it shall not be eaten until hallah has been separated[11] for it from elsewhere?[12] Did we not learn: [If one separates terumah] from a perforated [pot] for [the produce grown in] an unperforated pot,[13] it is terumah,[14] but it may not be eaten until terumah and tithes are separated for it from elsewhere![15] In respect of two utensils he will obey, but not in respect of one.[16] Alternatively: the priest will indeed obey; but the owner[17] will think that his dough has been made fit,[18] and so come to eat it in a state of tebel.[19] But you have said that ‘a man knows that hallah is not separated from flour’? — He knows, but not fully. He knows that hallah is not separated from flour. Yet he does not know: for he thinks, what is the reason? On account of the priest's trouble: but he [the priest] has undertaken that trouble.[20]

Yet let it be terumah [i.e., hallah], but that he [the Israelite] shall make another separation.[21] Did we not learn: [If one separates terumah] from an unperforated pot upon [the contents of] a perforated one, it is terumah,[22] yet he must make another separation.[23] — But we have explained it that he obeys in respect to two utensils, but not in respect of one.[24]

Does he then not obey? Surely we learnt: If one separates a cucumber [as terumah] and it is found to be bitter, or a melon, and it is found to be putrid, it is terumah, but he must make another separation.[25] — There it is different, for by Biblical law it is proper terumah,[26] by R. Elai's [dictum]. For R. Ilai said: How do we know that if one separates from inferior [produce] for choice, the terumah is valid?[27] Because it is said, and ye shall bear no sin by reason of it, whet ye have heaved from it the best thereof[28] now, if it is not hallowed, why bear sin?[29] Hence it follows that if one separates from inferior for choice [produce], his separation is terumah.

Raba said [reverting to the Mishnah]:

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(1) If one gives money for kiddushin, which for some reason is invalid, the money is not a gift but a deposit, and returnable; otherwise, even if the first only is worth a perutah, the kiddushin is valid. For when he completes his statement, the first dates, already eaten, are neither a debt, since they need not be returned, nor a gift, not having been given as such. It would therefore be as though he had stated: Be thou betrothed unto me with this (the first date), but let not the betrothal take effect until I have given you some more,' in which case she becomes betrothed when she receives the others even if the first has been consumed.
(2) Which of course is invalid.
(3) V. Glos.
(4) Since Scripture wrote, Of the first of your dough (Num. XV, 20).
(5) If he does return it.
(6) Lit., 'desolation'.
(7) v. Glos. Five quarters of a kab of flour is the smallest quantity liable to hallah; further, even a priest must separate hallah on dough from which no separation has been made, though he keeps it for himself. Now, if he possesses less, and this completes the quantity, he thinks that it is hallah, and so not liable, and therefore kneads it together with the rest without separating hallah.
(8) Lit., 'he knows and does not know'.
(9) I.e., he should have it ready, without the trouble of kneading it.
(10) And he thinks therefore that it is hallah after all.
(11) Lit., 'brought forth',
(12) I.e., from a different dough.
(13) Produce grown in a pot whose bottom is perforated and is thus connected with the earth is liable to terumah; if unperforated, it is not liable. — Thus he separates what is liable for what is not.
(14) In the sense that the priest need not return it.
(15) Since it is actually tebel, as there was no liability for the unperforated pot. — Produce becomes real terumah only when the separation is made on account of corn that is liable thereto. — Hence the same would apply to hallah.
(16) When a priest is told that the produce separated as terumah from a perforated pot upon an unperforated one is not really terumah, and is itself liable, he obeys, as he recognises a distinction between the two. But when told that the hallah separated from flour is not hallah, though the separation is from the same utensil, he will refuse to separate hallah upon that itself.
(17) I.e., the Israelite who separated it in the first place.
(18) Whereas it has not.
(19) And for this reason the dough must be returned.
(20) Since he accepted it.
(21) Without making it necessary for the priest to return it.
(22) In the sense that the priest need not return it.
(23) The rule is that both that which is separated as terumah and that for which it is separated must be liable to terumah. Here the former is not, and hence another separation must be made. — The same should apply here.
(24) V. p. 232, n. 9; the same holds good of an Israelite,

(25) Though the separation was made from the same utensil which contained the rest. It is obvious that we do not fear that he will disobey, for if we did, the first would have to be returned to ensure a second separation.

(26) Hence it cannot be returned, as the Israelite will mix it with the other produce, which is forbidden. On the other hand, even if he refuses to make a second separation, no harm is done, since the first was Biblically valid and the produce is no longer tebel.

(27) Lit., ‘his terumah is terumah’.

(28) Num. XVIII, 32. This implies that one bears sin if he does not heave the best.

(29) For his action would simply be void.

Talmud - Mas. Kiddushin 47a

This was taught only if he said to her, ‘With this and with this and with this.’ But if he said to her, ‘[Be thou betrothed unto me] with these,’ even if she eats [them one by one], she is betrothed:[1] when she eats, she eats her own.[2] It was taught in accordance with Raba: [If he says] ‘Be thou betrothed unto me with an acorn, a pomegranate and a nut’; or if he says to her, ‘Be thou betrothed unto me with these’ — if they are all together worth a perutah, she is betrothed; if not, she is not betrothed. ‘[Be thou betrothed unto me] with this and this and this’ — if they are all together worth a perutah, she is betrothed; if not, she is not betrothed. ‘With this one’ whereupon she took and ate it; ‘with this one’ — and she took and ate it; ‘and also with this one, and also with this one’ — she is not betrothed unless one of them is worth a perutah. Now, what is meant by this [clause], ‘with an acorn, a pomegranate, and or a nut’? Shall we assume that he said to her, ‘either’ with an acorn, a pomegranate, or a nut’? ‘If they are altogether worth a perutah she is betrothed’! But he said: ‘or’! Again if it means, ‘with an acorn and a pomegranate and a nut’ — then it is identical with ‘with this and with this!’[3] Hence it must surely mean that he said to her, ‘With these’. But since the second clause teaches: ‘or if he said to her, "Be thou betrothed unto me with these,"’ it follows that the first clause does not refer to ‘with these’! Hence it [must be taken] as [an] explanatory [clause]. ‘Be thou betrothed unto me with an acorn, a pomegranate and a nut’, that is, where he said: ‘Be betrothed unto me with these’.[4] Now, the final clause teaches: ‘With this one and she took and ate it: if one of them is worth a perutah she is betrothed, but not otherwise. Whereas the first clause draws no distinction whether she eats or lays it down. This proves that whenever he says to her, ‘with these,’ if she eats, she eats her own. This proves it.

[Reverting to the final clause of the Mishnah,] That is well on the view that it refers to the second clause, and what is meant by, UNLESS ONE OF THEM IS WORTH A PERUTAH? Unless the last is worth a perutah. Then here too [in the Baraitha just quoted] it means, unless the last is worth a perutah. But according to Rab and Samuel, who maintain that it refers to the first clause, it being necessary to state the case of eating: here comprehensive statements are given, but not detailed enumerations?[5] — This agrees with Rabbi, who said: There is no difference between ‘the size of an olive, the size of an olive,’ and ‘the size of an olive and the size of an olive’: they are [both] detailed enumerations.[6]

Rab said: If one betroths [a woman] with a debt, she is not betrothed:[7] a loan is given to be expended.[8] Shall we say that this is disputed by Tannaim: If one betroths [a woman] with a debt, she is not betrothed; but some say she is betrothed. Surely they differ in this: one Master holds that a loan is given to be expended, whereas the other holds that it is not?[9] — Now, is that plausible? Consider the second clause: And both agree in respect to purchase that he acquires it;[10] but if you say that a loan is given to be expended, wherewith does he acquire it? — Said R. Nahman: Huna our companion relates this [Baraitha] to another matter. We suppose the reference here is to the case where he said to her, ‘Be thou betrothed unto me with a maneh,’ and the maneh was found to be short of a denar:[11] one Master holds that she is bashful to claim it;[12] the other, that she is not.[13] If so, when R. Eleazar said: [If he declares,] ‘Be thou betrothed unto me with a maneh,’ and he gives her a denar, she is betrothed, and he must make it up — shall we say that he stated this ruling in dependence upon Tannaim?[14] — I will tell you: when the maneh lacks [but] a denar, she may be bashful to claim it; when the maneh is short of ninety-nine, she is [certainly] not bashful to claim it.[15]

An objection is raised: If he says to a woman, ‘Be thou betrothed unto me with the deposit which I have in thy possession,’ and she goes and finds that it is stolen or destroyed; if the value of a perutah is left thereof, she is betrothed; if not, she is not betrothed. But in the case of a debt, even if a perutah's worth thereof[16] is not left, she is betrothed. R. Simeon b. Eleazar said on R. Meir's authority: A debt

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(1) If they are collectively worth a perutah.

(2) The kiddushin begins to take effect as soon as she accepts the first one.

(3) Why state it twice.

(4) [MS.M. has a much shorter and simpler text: Now what is meant by this (clause) ‘with an acorn . . . or a nut’? E.g., where he said ‘be betrothed unto me with these’, and the final clause teaches ‘with this one’ etc.]

(5) How do they explain, ‘unless one of them is worth a perutah’? For the clause, ‘With this and this and this’ is a comprehensive statement, in so far as it is taught that if they are all together worth, etc. Hence there is no clause in the Baraitha equivalent to the first clause in the Mishnah. Now, according to R. Ammi, it is well, since in the Mishnah too ‘If she eats’ refers to the second clause, viz., likewise to his comprehensive statement. But according to Rab and Samuel it must refer to a detailed enumeration, viz., by this, by this (not and by this); but such a clause is absent in the Baraitha.

(6) If one sacrifices an animal with the expressed intention of eating the size of an olive thereof after the time limit, the sacrifice is ‘abomination’, and he is liable to kareth (q.v. Glos.); if to eat it without the boundaries fixed for its eating, the sacrifice is unfit, but he is not liable to kareth. In the case of a combined intention, the latter ruling applies. R. Judah rules: The intention first expressed determines its particular law. Thereon Rabbi said: There is no difference whether he declares, ‘I will eat the size of an olive after time, the size of an olive without the boundaries,’ or ‘I will eat the size of an olive after time and the size of an olive, etc.’: both are detailed enumerations, the first of which determines its law according to R. Judah, and not comprehensive statements (i.e., combined intentions). Consequently, this clause of our Baraitha, ‘With this one, etc.,’ was not taught by the same Tanna as the former, but in agreement with Rabbi that even when he adds the copulative and with this one, each is a separate declaration: ‘Be thou betrothed unto me with this one,’ ‘Be thou betrothed unto me with this one.’ Hence when it is stated: ‘If she ate, etc. ,’the same holds good even with greater force if she lays down each (v. Rab and Samuel's reasoning on 46a, which likewise applies here).

(7) Even if the money loaned is actually now in her possession.

(8) The debtor may expend it as he desires, and is not bound to put it in a business so that it should always be at hand when the creditor demands its return. Hence this money which she actually possesses is her own, and he gives her nothing at all. v. supra p. 21, n. 9.

(9) As explained in the previous note.

(10) If A sells land to B, B can acquire it in virtue of money he lent him previously (land being acquired by money, supra 26a), if A possesses the actual money loaned.

(11) The denar is the loan referred to.

(12) Hence she is not betrothed.

(13) She relies upon receiving it, and so the betrothal is valid.

(14) I.e., knowing that it is disputed by Tannaim.

(15) Hence all agree that she is betrothed.

(16) Of the actual money he lent her.

Talmud - Mas. Kiddushin 47b

is the same as a deposit. Now, they differ only in so far as one Master holds that a debt, even if a perutah's worth thereof is not left [is valid kiddushin], whereas the other holds it is [valid] only if a perutah's worth thereof is left, but not otherwise: but all agree that if one betroths [a woman] with a debt [the money being still in her possession], she is betrothed! — Said Raba: Is it logical that this [Baraitha] is correct;[1] surely it is corrupt! [For] what are the circumstances of this deposit? If she guaranteed against loss,[2] it is identical with a loan.[3] If she did not guarantee against loss — if so, instead of the second clause teaching, ‘but in the case of debt, even if a perutah's worth thereof is not left, she is betrothed’ — let a distinction be made and taught in the case [of deposit] itself: when is that? Only if she did not guarantee against loss; but if she did, even if a perutah's worth thereof is not left, she is betrothed. But amend it thus: in the case of debt, even if a perutah's worth thereof is left, she is not betrothed. R. Simeon b. Eleazar said on R. Meir's authority: Debt is as a deposit.

Wherein do they differ? — Said Rabbah: I found the Rabbis at the schoolhouse sitting and explaining. They differ as to whether a loan vests in its owner [sc. the creditor] in respect of return, and likewise in respect of unpreventable accidents: one Master holds that a loan vests in the debtor, and likewise in respect of unpreventable accidents; and the other holds that it vests in the creditor, and even so in respect of unpreventable accidents.[4] But I told them , As for unpreventable accidents, all agree that it vests in the debtor. What is the reason? It is no worse than a loaned article:[5] if for a loaned article, which is returnable as it is, one is liable in respect of unpreventable accidents, how much more so for a debt![6] But here they [merely] differ as to whether a loan vests in its owner in respect of return.

If so, when R. Huna said: If one borrows an axe from his neighbour, if he clave [wood] therewith, he acquires it;[7] if not, he does not acquire it — shall we say that he gave his ruling as dependent upon [a dispute of] Tannaim?[8] — No. They differ only in respect of a [monetary] loan, which is not returnable as it is; but with the loan of an article which is returnable as it is, all agree [on the prin — ciple] ‘if he clave therewith he indeed [acquires it,] but if he did not cleave therewith he does not acquire it’.[9]

Shall we say that this [Rab's dictum] is disputed by Tannaim? [For it was taught: If a man says to a woman:] ‘Be thou betrothed unto me with a note of debt,’ or if he has a loan in the hands of others[10] and transfers it to her,[11] R. Meir said: She is betrothed; the Sages ruled: She is not betrothed. Now, how is this ‘note of debt’ meant? Shall we say, a note of debt against others; then it is identical with ‘a loan in the hands of others?’ Hence it must surely mean a note against her debt,[12] and thus they differ in respect to betrothing [a woman] by a debt! — After all, it means a note of debt against others, and here they differ both on a debt contracted with a bond and a debt contracted verbally.[13] Concerning a debt contracted with a bond, wherein do they differ? In the dispute of Rabbi and the Rabbis. For it was taught: A note[14] is acquired by delivery; this is Rabbi's view.[15] But the Sages say: Whether he writes [a bill of sale] without delivering [the note itself] or whether he delivers it without writing [a bill of sale], he does not acquire it unless he both indites [a bill of sale] and delivers [the original note]. One Master agrees with Rabbi; the other does not agree with Rabbi.[16] Alternatively, none accept Rabbi's view, while here they differ in R. Papa's [dictum]. For R. Papa said: When one sells a note to his neighbour he must write for him [in the conveyance]: ‘Acquire it together with all its obligations’: one Master agrees with R. Papa; the other does not agree with R. Papa.[17] Alternatively, all agree with R. Papa. But here they differ over Samuel's dictum. For Samuel said:

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(1) Lit., ‘to be accepted.’

(2) To pay for any mishap.

(3) If lost or stolen, since it must be made good, just like a debt.

(4) All agree that a loan is given for expenditure: consequently, had she expended anything at all thereof, the betrothal is not valid. But here she had expended nothing of it: R. Simeon b. Eleazar holds that in such a case it vests in the creditor, and he can immediately demand its return, if he desires. Hence it is now that he gives it to the woman, and so she is betrothed. Likewise, should an unpreventable accident befall the money, the debtor is not responsible, since it is accounted as being in the creditor's possession. The first Tanna's view is the reverse.

(5) ‘Milweh’ applies to a monetary loan; ‘She'elah’, to the loan of an article.

(6) Which is certainly more in the debtor's possession, seeing that he is not bound to return the same coins.

(7) In the sense that it belongs to him for the period of the loan, and the lender cannot retract.

(8) Viz., that it agrees only with R. Meir. But according to the first Tanna, since an untouched loan does not stand in the creditor's possession and he cannot demand its return, the same applies here even if he did not cleave wood with it.

(9) Other coins may be substituted, but as for a loaned article, which must be returned itself, all agree that only if he clave therewith does he acquire, and not otherwise.

(10) I.e., he is a creditor.

(11) Lit., ‘gave her (written) authority over them’ to collect the debt for herself.

(12) I.e., against a debt she owes to him.

(13) The latter being ‘a loan in the hands of others’.

(14) Lit., ‘letters’.

(15) If A delivers his note against B to C, C acquires it forthwith.

(16) The circumstances being that he gave her the note, but did not write a bill of sale hereon.

(17) The circumstances being that he gave her the original note and wrote a bill of sale, but did not include this 'obligation' clause in it.

Talmud - Mas. Kiddushin 48a

If one sells a note of debt to his neighbour and then renounces it [the debt], it is renounced; and even an heir can renounce it.[1] One Master agrees with Samuel; the other does not agree with Samuel.[2] Alternatively, all agree with Samuel,[3] and here they differ in respect to the woman. One Master holds, The woman has full confidence [in him], reasoning, he will not leave me in the lurch and renounce [the debt] in favour of another; whereas the other Master holds, The woman too has no confidence.

Wherein do they differ concerning a debt contracted verbally? — In [the law of] R. Huna in Rab's name. For R. Huna said in Rab's name: [If A says to B,] 'The maneh which I have in your possession, give it to C': [if said] 'in the presence of the three of them' [viz., A, B and C], he acquires it. One Master holds, Rab ruled thus only of a deposit, but not of a loan;[4] and the other maintains that there is no difference between a deposit and a loan.[5]

[Again,] Shall we say that this[6] is disputed by Tannaim? [For it was taught: If he says:] 'Be thou betrothed unto me with a note:' R. Meir said: She is not betrothed; R. Eleazar said: She is betrothed; the Sages ruled: The paper is valued: if it is worth a perutah, she is betrothed; if not, she is not betrothed. How is this note meant: shall we say, a note of debt against others — then R. Meir is self-contradictory?[7] Hence it must mean her own note of debt,[8] and thus they differ in respect to betrothal by debt! — Said R. Nahman b. Isaac: The meaning here is that he betroths her with a deed unattested by witnesses,[9] R. Meir being in harmony with his view that the witnesses who sign dissolve [the marriage]; while R. Eleazar is in agreement with his opinion that the witnesses to the delivery dissolve it;[10] while the Rabbis are in doubt whether it is as R. Meir or R. Eleazar; therefore the paper is valued, [and] if it is worth a perutah she is betrothed, and if not, she is not betrothed.[11]

Alternatively, [we] suppose, that it was not written specifically for her sake, and they differ in respect to Resh Lakish's [view]. For Resh Lakish propounded: What if a deed of betrothal is not written expressly for her [the betrothed's] sake? Do we assimilate betrothal to divorce: just as divorce must be expressly for her sake, so must betrothal be likewise; or perhaps, [different] forms of betrothal are assimilated to each other: just as betrothal by money need not be for her sake, so betrothal by deed need not be for her sake? After propounding, he resolved it: Betrothal is assimilated to divorce, [for Scripture writes] and when she is departed . . . she may be [another man's wife].[12] One Master agrees with Resh Lakish; the other does not.[13]

Alternatively, all agree with Resh Lakish, and here the circumstances are that it [the deed] was written expressly for her sake but without her knowledge, and they differ in the same dispute as Raba and Rabina, R. Papa and R. Sherabia. For it was stated: If it is written for her sake but without her knowledge, — Raba and Rabina maintain: She is betrothed; R. Papa and R. Sherabia rule: She is not betrothed.[14]

Shall we say that it [Rab's dictum] is dependent on the following Tannaim? For it was taught: [If a woman says to a man,] 'Make me a necklace, earrings and [finger] rings, and I will be betrothed unto thee,'[15] as soon as he makes them, she is betrothed: this is R. Meir's view. But the Sages rule: She is not betrothed until the money reaches her hand. What is meant by this 'money'? Shall we say, those self-same valuables? hence it follows that in the first Tanna's view even those self-same valuables [need] not [reach her hand]; then wherewith is she betrothed?[16] Hence it must surely refer to different money,[17] which proves that they differ over betrothal by debt. For it is assumed that all hold that wages are a liability from beginning to end, hence it is a debt;[18] surely then they differ in this: one Master holds, If he betroths [a woman] with a debt, she is betrothed, while the other holds that she is not? — No: all agree that if he betroths with a debt, she is not betrothed, but here they differ as to whether wages are a liability from beginning to end. One Master holds,

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(1) Tosaf. suggests that the reason is that the sale of an IOU is only Rabbinically valid, and is therefore not strong enough to annul the first creditor's right of renunciation. [According to R. Tam (v. R. Nissim on Keth. 85b) it is based on the dual conception of the lien of the creditor or the debtor: (a) שעבוד הגוף a lien on his person; (b) שעבוד נכסים a lien on his property — a conception that has its parallel in the Greek and Old Babylonian Systems of Law. Whilst the latter is assignable, the former is not, and whenever the creditor chooses to renounce the inalienable part of his lien, the other automatically lapses; v. Neubauer. J. op. cit. pp. 112-114, n. 1.]

(2) The first Tanna agrees: hence the woman relies upon it, and the betrothal is valid.

(3) [And therefore in the case of an ordinary transaction of real estate, a note does not rank as money to confer possession upon the purchaser.]

(4) Hence in the case under discussion the woman is not betrothed.

(5) V. Git. (Sonc. ed.) p. 47. n. 3.

(6) Rab's dictum, supra 47a.

(7) V. supra 47b.

(8) Recording her debt.

(9) V. supra 2a; that is the note referred to here, but that it was not signed; it was, however, given to her in the presence of witnesses.

(10) This refers to a Get (q.v. Glos.) bearing no signature of witnesses. R. Meir holds that it is invalid, For only these witnesses give it its power of dissolution. R. Eleazar rules that it is valid, for the dissolution is really effected by the witnesses who attest its delivery. v. Git. 3b. The same applies to a deed of betrothal.

(11) Rashi and Tosaf. observe that the last clause must be omitted, For since we are in doubt, even if it is not worth a perutah she stands as doubtfully betrothed, and needs a divorce to free her.

(12) V. supra 95 for notes.

(13) Whilst the Rabbis are in doubt on the point.

(14) V. supra 9b for notes.

(15) In return for his labour, the gold being her own.

(16) Surely she must actually receive something!

(17) I.e., in addition to the jewels she must receive money.

(18) When a man does work, as he completes each perutah's worth his employer is liable for the payment of it. Consequently, when this goldsmith makes the jewellery, as soon as he finishes each perutah's worth of labour, she becomes indebted to him to the amount of a perutah, so that when he completes the work entirely, the fee, which is to effect betrothal, is a retrospective debt.

Talmud - Mas. Kiddushin 48b

Wages are a liability only at the end;[1] whilst the other holds that wages are a liability from beginning to end. Alternatively, all hold that wages are a liability from beginning to end, and that betrothal by debt is invalid, but here they dispute whether an artisan gains a title to the improvement of the utensil; one Master holds that an artisan does acquire title to the improvement of the utensil, and the other holds that an artisan does not acquire title to the improvement of the utensil.[2] Alternatively, all hold that an artisan does not obtain a title to the improvement of the utensil, and that wages are a liability from beginning to end, and that betrothal with debt is not valid, but the circumstances here are that he added a particle [of metal] of his own: one Master holds, [When one betroths a woman with a] debt and a perutah, her mind is set upon the perutah;[3] the other holds, her mind is set upon the debt.[4] And [they differ] in the [same] dispute as the following Tannaim. For it was taught: ‘[Be thou betrothed unto me] with the wage [owing to me] for the work I have done for thee, ‘ she is not betrothed; with ‘the wage for what I will do for thee,’ she is betrothed. R. Nathan said: ‘With the wage for what I will do for thee,’ she is not betrothed; how much more so, ‘with the wage [owing to me] for the work I have done for thee.’ R. Judah the Prince said: In truth it was stated, whether [he declared], ‘with the wage for what I have done,’ or ‘with the wage for what I will do for thee,’ she is not betrothed; yet if he adds a consideration of his own, she is betrothed.[5] The first Tanna and R. Nathan differ in respect to wages.[6] R. Nathan and R. Judah the Prince differ in respect to [betrothal by] debt and a perutah: one holds that then her mind is set upon the debt, whereas the other holds that it is set upon the perutah.

MISHNAH. [IF A MAN SAYS TO A WOMAN], BE THOU BETROTHED UNTO ME WITH THIS CUP OF WINE,’ AND IT IS FOUND TO BE OF HONEY, OR ‘OF HONEY’ AND IT IS FOUND TO BE OF WINE; ‘WITH THIS SILVER DENAR,’ AND IT IS FOUND TO BE OF GOLD, OR ‘OF GOLD’ AND IT IS FOUND TO BE OF SILVER; ‘ON CONDITION THAT I AM WEALTHY,’ AND HE IS FOUND TO BE POOR, OR ‘POOR’ AND HE IS FOUND TO BE RICH; SHE IS NOT BETROTHED. R. SIMEON SAID: IF HE DECEIVES HER TO [HER] ADVANTAGE,[7] SHE IS BETROTHED.

GEMARA. Our Rabbis taught: [Where he says] ‘Be thou betrothed unto me with this cup’ — one [Baraitha] taught: with that and its contents;[8] another taught; with that, but not with its contents; another taught: with its contents, but not with that itself. Yet there is no difficulty: one refers to water, another to wine, and the third to brine.[9]

IF HE DECEIVES HER TO [HER] ADVANTAGE, SHE IS BETROTHED, But does not R. Simeon agree [that if one sells] wine, and it is found to be vinegar, or, vinegar and it is found to be wine, both [the vendor and the purchaser] can retract?[10] This proves that some prefer wine and others prefer vinegar. So here too, some are pleased with silver and not with gold?[11] Said R. Shimi b. Ashi: I came across Abaye sitting and explaining this to his son: We deal here with a case where, for example, he said to his agent, ‘Lend me a silver denar and go and betroth So-and-so on my behalf,’ and he went and lent him a gold denar. One Master holds, [He was] particular [about this;][12] the other, that he merely indicated the place to him.[13] If so,[14] ‘BE THOU BETROTHED UNTO ME’ — BE THOU BETROTHED UNTO him is required; IF HE DECEIVES HER TO [HER] ADVANTAGE’ — IF HE DECEIVES him TO [HIS] ADVANTAGE is required, ‘IT IS FOUND [TO BE OF GOLD]’ — but at the very outset it was of gold![15] — But, said Raba, I and a lion of our company, viz., R. Hiyya b. Abin, explained it, What are the circumstances here? If she said to her agent, ‘Go forth and accept kiddushin on my behalf from So-and-so, who has proposed to me, "Be thou betrothed unto me with a silver denar"’; and went and was given a gold denar. One Master holds [she was] particular [about this]; the other, that she indicated the place to him. And what is [the meaning of] ‘IT IS FOUND’?[16] It was wrapped up in a cloth.[17]

Abaye said: R. Simeon,[18] R. Simeon b. Gamaliel, and R. Eleazar, all hold that one merely indicates the place.[19] R. Simeon, as stated. ‘R. Simeon b. Gamaliel:’ for we learnt:

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(1) When the work is returned the whole wages become a simultaneous liability; hence there is no debt, and the betrothal is valid.

(2) When a man is employed by the hour, day, etc., all agree that his wages are a liability from beginning to end. Here, however, we deal with a case where he contracted for the work irrespective of time. In respect to this we have two views: one view is that the artisan acquires title to the increase in the value of the material upon which he works as a result of the improvements he effects, and when he gives it back, he is really selling it for the agreed cost of his labour. Hence, the woman is betrothed, since she receives something for which she would have to pay now. The other view is that he does not so acquire; consequently, his wages are a liability and debt, just as those of a time worker; and so she is not betrothed.

(3) His labour is a debt, whilst his own additional material is certainly like a coin given now. Since we assume that her mind is set upon the perutah, she is betrothed.

(4) Because its value exceeds his small addition.

(5) This proves that in R. Nathan's opinion she is not betrothed even then.

(6) Whether they are a liability from beginning to end or only at the end, but if the work is already done and in her possession, it is certainly a debt, on all views.

(7) The object being better than described.

(8) That is understood to be his meaning, and if they are together worth a perutah, she is betrothed.

(9) Or, oil. If the cup is filled with water, her mind is set upon the cup, hence that must be worth a perutah. With wine, she thinks of the wine, not the cup; with brine, (or oil) which must remain for some time in the cup, her mind is set upon both (Rashi).

(10) This is a Mishnah in B.B. 83b.

(11) Tosaf.: she may need the silver for its metal.

(12) He wanted to borrow only a silver denar, not gold; hence the betrothal is invalid.

(13) I.e., he intimated to him that he was to betroth that woman with money, but was not particular about the exact coin.

(14) That the reference in the Mishnah is to the agent.

(15) The agent knew full well that he was giving a gold denar.

(16) For here too it was thus given at the very outset.

(17) And it was discovered to be gold only upon reaching the woman's hand.

(18) I.e., b. Yohai.

(19) In circumstances similar to the above.

Talmud - Mas. Kiddushin 49a

A plain divorce [bears] its witnesses on the inside; a folded one [bears] its witnesses on the outside.[1] If the signatures of a plain one are written on the outside, or of a folded one on the inside, both are invalid. R. Hanina b. Gamaliel said: If the signatures of a folded one are written on the inside it is valid, because it can be converted into a plain one.[2] R. Simeon b. Gamaliel said: It all depends on local custom.[3] Now, we pondered thereon: does not the first Tanna agree that local custom [is the determining factor]? To which R. Ashi[4] replied: In the place where a plain one is customary and a folded one is made, or in the place where a folded one is customary and a plain one is made, all agree that the objection [is valid]. Where do they differ? Where both are customary, and he [the husband] instructs him [the scribe], ‘Make me a plain one,’ and he goes and makes him a folded one. One Master holds that he particularised; the other, that he indicated a place to him.[5]

‘R. Eleazar’ — for we learnt: If a woman says: ‘Accept a divorce on my behalf at such and such a place,’ and he accepts it elsewhere: R. Eleazar ruled it valid. This shews that he holds that she merely indicated a place to him.

‘Ulla said: The controversy [in the Mishnah] refers to a monetary advantage. But in an advantage of birth,[6] all agree that she is not betrothed. What is the reason? ‘I do not want a shoe too large for my foot.’ It was taught likewise. R. Simeon admits that if he deceives her by a superiority of birth she is not betrothed. R. Ashi said: This follows from our Mishnah too. For it states:[7] ‘On condition that I am a priest,’ and he is found to be a Levite, or ‘a Levite’, and he is found to be a priest, ‘a Nathin,’[8] and he is found to be a mamzer,[9] or a mamzer’, and he is found to be a Nathin [she is not betrothed]; and R. Simeon does not disagree. Mar, son of R. Ashi, demurred: If so, when it is stated: ‘on condition that I have a daughter or maidservant [meguddeleth][10] that is grown up’, whereas he has none; or on condition that he has not, and he has, which is a monetary advantage, does he not disagree there either! But [what you must say is that] he differs in the first clause,[11] and the same is understood of the second;[12] so here too [in respect to superiority] of birth, he differs in the first clause, and the same applies to the last clause. How compare! There, since both refer to a financial advantage, he differs in the first clause and the same is understood of the last. Here, however, that it is superiority of birth, if it is so that he disagrees, it should be taught. Alternatively, here too superior birth [is meant]. Do you think that meguddeleth means literally an adult; meguddeleth means of superior breeding,[13] for she [the woman betrothed] can say: ‘It does not please me that she should take up my words and carry them about to the neighbours.’[14]

Our Rabbis taught: ‘On condition that I am a karyana,’[15] once he has read three verses [of the Pentateuch] in the synagogue,[16] she is betrothed. R. Judah said: He must be able to read and translate it. Even if he translates it according to his own understanding! But it was taught: R. Judah said: If one translates[17] a verse literally, he is a liar; if he adds thereto, he is a blasphemer and a libeller.[18] Then what is meant by translation? Our [authorised] translation.[19] Now, that is only if he said to her ‘karyana’. But if he says: ‘I am a kara,’[20] he must be able to read the Pentateuch, Prophets and Hagiographa with exactitude.[21] [If he says,] ‘On condition that I am learned’ — Hezekiah said: [In] Halachoth.[22] R. Johanan ruled: In Torah.[23] An objection is raised: What is Mishnah?[24] R. Meir said: Halachoth. R. Judah said: Midrash.[25]

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(1) V. B.B. 160a.

(2) By leaving it unsewn.

(3) If it is customary to write a folded divorce, a plain one is invalid, and vice versa. For when a husband authorizes the scribe to write a divorce, it is tacitly understood that he wants it written in accordance with local custom; for notes v. B.B. 160a.

(4) Rashal in B.B. 165a reads Abaye. R. Ashi, being later than Abaye, is obviously an incorrect reading in an argument by the latter, unless it is assumed that Abaye merely made the statement cited above, the Talmud itself elaborating it; v. Kaplan, Redaction of the Talmud, p. 222.

(5) I.e., gave him a general intimation that he wanted a divorce to be indited.

(6) E.g., if he says, on condition that I am a mamzer (q.v. Glos.). and is found to be a Nathin, i.e., of higher caste.

(7) Infra b.

(8) V. Glos.

(9) V. Glos.

(10) V. infra p. 249, n. 8.

(11) Viz., in the Mishnah on 48b.

(12) Infra b.

(13) So Rashi.

(14) And because she is of superior breeding she has access to them and is listened to, where she would not be otherwise.

(15) I.e., able to read the Bible.

(16) In Talmudic times the reading of the Pentateuch, which was an important part of Sabbath and Festival services, was performed by a number of congregants, each of whom read not less than three verses, and not by a Reader, as to-day.

(17) This refers to the public translations in the synagogue alongside the Reading of the Law, which was also a feature of ancient times.

(18) Meharef and megaddef are synonyms. [Tosaf. In the name of R. Hananel cites Ex. XXIV. 10: ויראו את אלקי ישראל of which the literal rendering ‘they saw the God of Israel’ conveys a lie, as God cannot be seen, whilst the added words in the rendering ‘they saw the angel of the God of Israel’ involves a blasphemy; for further examples v. Harkavy, A., Teshuboth ha-Geonim, pp. 124ff.]

(19) The Aramaic translation known as Targum Onkelos; v. Bacher, Die Terminologie der Tannaiten, pp. 205 et seq., also art. ‘Targum’ in J.E.

(20) Likewise ‘reader’, but the word implies wider erudition.

(21) Of course, with full understanding.

(22) Rashi: traditional laws dating back to Moses. The probable meaning is traditional statements of laws in general, such as form the Mishnah, but without the exegetical knowledge of their derivation from the Bible, particularly the Pentateuch, v, Glos. s.v. Halachah.

(23) This is now assumed to mean the written law, i.e., the Pentateuch.

(24) ‘Learning’ a word of the same root as in the phrase ‘that I am learned’.

(25) Exegesis. The exegetical literature, e.g., Sifra and Sifre, containing the laws derived from the Pentateuch and the manner of derival. — Thus on both views the knowledge of the Torah alone is insufficient.

Talmud - Mas. Kiddushin 49b

— What is meant by Torah? The exegesis [Midrash] of the Torah. Now, that is only if he says to her [‘on condition that I am] tinyana [learned]:’ but if he says to her, I am a tanna, he must have learned law, Sifra, Sifre and Tosefta.[1] ‘On condition that I am a disciple [talmid],’ we do not say, such as Simeon b. ‘Azzai and Simeon b. Zoma,[2] but one who when asked a single question on his studies in any place can answer it,[3] even in the Tractate Kallah.[4] ‘On condition that I am a Sage,’ we do not say, like the Sages of Jabneh[5] or like R. Akiba and his companions, but one who can be asked a matter of wisdom[6] in any place and he can answer it. ‘On condition that I am mighty,’ we do not say, [he must be] like Abner the son of Ner[7] and Joab son of Zeruiah,[8] but as long as he is feared by his companions on account of his strength. ‘On condition that I am wealthy,’ we do not say, like R. Eleazar b. Harsom and R. Eleazar b. Azariah,[9] but as long as he is honoured by his fellow citizens on account of his wealth. ‘On condition that I am righteous,’ even if he is absolutely wicked, she is betrothed, for he may have meditated repentance in his thoughts. ‘On condition that I am wicked,’ even if he is completely righteous, she is betrothed, for he may have meditated idolatry in his mind.

Ten kabs of wisdom descended to the world: nine were taken by Palestine and one by the rest of the world. Ten kabs of beauty descended to the world: nine were taken by Jerusalem and one by the rest of the world. Ten kabs of wealth descended to the world: nine were taken by the early Romans and one by the rest of the world. Ten kabs of poverty descended to the world: nine were taken by Babylon and one by the rest of the world. Ten kabs of conceit descended to the world: nine were taken by Elam[10] and one by the rest of the world. But did not conceit descend to Babylon! But it is written: Then lifted I up mine eyes, and saw, and behold, there came forth two women, and the wind was in their wings; now they had wings like the wings of a stork: and they lifted up the ephah between the earth and the heaven. Then said I to the angel that talked with me, Whither do these bear the ephah? And he said unto me, To build her a house in the land of Shinar.[11] Whereon R. Johanan said: This refers to hypocrisy and conceit, which descended to Babylon! — Yes, it did come down hither, but made its way thither [to Elam]. This follows too because it is written, to build her a house:[12] this proves it. But that is not so, for a Master said: A sign of conceit is poverty, and poverty is found in Babylon! — By poverty,[13] poverty of learning is meant,[14] as it is written, we have a little sister, and she hath no breasts,[15] whereon R. Johanan said: This refers to Elam, which was privileged to study but not to teach.[16]

Ten kabs of strength descended to the world: nine were taken by the Persians, etc. Ten kabs of vermin descended to the world: nine were taken by Media, etc. Ten kabs of witchcraft descended to the world: nine were taken by Egypt,[17] etc. Ten kabs of sores descended to the world: nine were taken by swine, etc. Ten kabs of immorality descended to the world: nine were taken by Arabia, etc. Ten kabs of impudence descended to the world: nine were taken by Mesene.[18] Ten kabs of gossip descended to the world: nine were taken by women, etc. Ten kabs of drunkenness[19] descended to the world: nine were taken by Ethiopians, etc. Ten kabs of sleep descended to the world: nine were taken by slaves,[20] and one by the rest of the world.

MISHNAH. ‘[BE THOU BETROTHED UNTO ME] ON CONDITION THAT I AM A PRIEST,’ AND HE IS FOUND TO BE A LEVITE, OR ‘A LEVITE’ AND HE IS FOUND TO BE A PRIEST; A NATHIN,’[21] AND HE IS FOUND TO BE A MAMZER,[22] OR ‘A MAMZER’ AND HE IS FOUND TO BE A NATHIN; ‘A TOWNSMAN, AND HE IS FOUND TO BE A VILLAGER, OR ‘A VILLAGER’ AND HE IS FOUND TO BE A TOWNSMAN; ‘ON CONDITION THAT MY HOUSE IS NEAR TO THE BATHS,’ AND IT IS FOUND TO BE FAR, OR ‘FAR’ AND IT IS FOUND TO BE NEAR; ON CONDITION THAT HE HAS A DAUGHTER OR MAIDSERVANT[23] THAT IS GROWN UP,[24] AND HE HAS NOT, ‘OR ON CONDITION THAT I HAVE [THEM] NOT’, AND HE HAS; ‘ON CONDITION THAT HE HAS NO SONS’, AND HE

HAS, OR ‘ON CONDITION THAT HE HAS SONS, AND HE HAS NONE-IN ALL THESE CASES, EVEN IF SHE DECLARES, IT WAS MY INTENTION TO BECOME BETROTHED TO HIM NOTWITHSTANDING,’ SHE IS NOT BETROTHED. IT IS LIKEWISE SO IF IT WAS SHE WHO DECEIVES HIM.

GEMARA. A certain man sold his property with the intention of emigrating to Palestine, but when selling he said nothing.[25] Said Raba: That is a mental stipulation,[26] and such is not recognised.[27] How does Raba know this? Shall we say, from what we learnt:

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(1) Sifra is a halachic commentary on Leviticus, also known as Torath Kohanim, the Law of the Priests. Sifre is a similar work on Numbers and Deuteronomy. In Sanh. 86a R. Johanan ascribes all anonymous passages in them to R. Judah and R. Simeon respectively. Tosefta (‘addition’) is a collection of laws not included by Rabbi in his compilation of the Mishnah, and of lesser authority. A number of Rabbis had such collections, but only those of R. Hiyya and R. Oshaia were considered authentic. The relation of the Tosefta to the Mishnah is one of the unsolved problems of Talmudic literature, but it is highly probable that part of it at least was intended as an elaboration of the Mishnah.

(2) These, though disciples, i.e., not ordained as Rabbis, were renowned for their wide erudition. Cf. Sotah, 49b, Yeb. 63b.

(3) [ואומרו Lit., ‘he says it’, Kaplan, op. cit. p. 203 explains this term as denoting the ability to discuss the point in question, and not merely to quote correctly from some text.]

(4) One of the extra-canonical tractates. Rashi: though it is short and not difficult, it is enough if he can answer a question in it. Others (v. Tosaf. Ri) the laws of Festivals (Kallah was the name given to the general assemblies in Elul and Adar, when the laws of the Festivals were popularly expounded.), in which most people were well-versed. V. J.E. s.v. Kallah; v. [Higger, M. מסכתות כלה pp. 13ff.].

(5) A town to the north west of Jerusalem, whither R. Johanan b. Zakkai transferred the great Sanhedrin after the fall of Jerusalem; v. Sanh. (Sonc. ed.) p. 204 n. 8.

(6) Rashi: a matter dependent on logic.

(7) Formerly Ishbosheth's chief general against David, but subsequently he went over to David; II Sam. II, 8 seqq; III, 12 seqq.

(8) David's chief general.

(9) Who were credited with enormous wealth: V. Yoma 35b and Shab. 54b.

(10) V. Sanh. (Sonc. ed.) p. 138, n. 1.

(11) Zech. V, 9f. Shinar is Babylon.

(12) Rashi offers two explanations: (i) the inf. ‘to build’ implies that it was only an intention, not subsequently carried out; (ii) the sing. ‘her’, instead of ‘them’, intimates that only one took up her permanent residence in Babylon, viz., hypocrisy.

(13) Which betokens conceit.

(14) The conceited man is too proud to seek learning from others.

(15) Cant. VIII, 8.

(16) V. Sanh. (Sonc. ed.) p. 238. n. 5. Which proves that their conceit prevented them from attaining sufficient knowledge to teach.

(17) Cf. Sanh. (Sonc. ed.) p. 460. n. 6.

(18) The island formed by the Euphrates, the Tigris and the Royal Canal.

(19) Var. lec, ‘blackness’.

(20) Cf. B.M. 64b-65a.

(21) V. Glos.

(22) V. Glos.

(23) V. supra p. 245.

(24) [Meguddeleth, others: ‘a hairdresser’ Tosaf. Ri].

(25) And subsequently he was prevented from going.

(26) Lit., ‘it is words that are in the heart’.

(27) Lit., ‘words that are in the heart are no words’. Even though we know that that was his reason, e.g., he had mentioned it previously.

Talmud - Mas. Kiddushin 50a

[If his oblation be a burnt-offering of the herd, he shall offer it with a tale without blemish:] he shall offer it [at the door etc.]:[1] this teaches that he is compelled.[2] I might think, against his will-hence it is taught: 'with his free will'.[3] How is this possible? He is compelled, until he declares, 'I am willing'. Yet why, seeing that in his heart he is unwilling! Hence it must surely be because we rule; A mental affirmation is not recognised! — But perhaps it is different there, for we ourselves are witnesses that he is pleased to gain atonement. But [it follows] from the second clause: and you find it likewise in the case of women's divorce and slaves' manumission: he [the husband or master] is compelled, until he declares,'I am willing.'[4] Yet why: seeing that in his heart he is unwilling! Hence it must surely be because we say: A mental declaration is not recognised! — But perhaps it is different there, because it is a religious duty to obey the words of the Sages! — But, said R. Joseph, [it is deduced] from the following: If one betroths a woman and [then] declares, 'I thought her to be a priest's daughter, whereas she is the daughter of a Levite,' or 'a Levite's daughter and she is the daughter of a priest'; 'is poor, whereas she is wealthy', or 'is wealthy whereas she is poor' 'she is betrothed, because she has not deceived him. Yet why, seeing that he declares, 'I thought [etc.]'? But it must be because we say: A mental stipulation! — Said Abaye to him: Perhaps it is different there, for it [the ruling] is in the direction of stringency![5] — But, said Abaye, [it is deduced] from this: IN ALL THESE CASES, EVEN IF SHE DECLARES, 'IT WAS MY INTENTION TO BECOME BETROTHED TO HIM NOTWITHSTANDING', SHE IS NOT BETROTHED. Yet why, seeing that she declares, ' IT WAS MY INTENTION'? — But perhaps it is different there, for since he stipulated, it does not rest with her to set aside his stipulation! — But, said R. Hiyya b. Abin, this occurred at R. Hisda's,[6] and R. Hisda [went] to R. Huna's [academy, to discuss the matter], and it was solved from the following: If one says to his agent, 'Bring me [money] from the window [sill] or the chest,' and he brings it to him, even if the master says: 'I was thinking only of this [purse],'[7] yet since he brought him the money from this [place], the master is guilty of trespass.[8] Yet why, seeing that he says: 'I was thinking [etc.]ð? Hence it must surely be because we say that a mental declaration is null. Yet perhaps it is different there, because he comes to free himself from a sacrifice? — Then let him declare that he did it intentionally.[9] But it is unusual for a person to declare himself wicked? — Then let him say: 'I reminded myself.'[10] For it was taught: If the principal recollects [that it is of hekdesh] but not his agent, the latter is guilty of trespass.[11]

A certain man sold his property with the [express] intention of migrating to Palestine.[12] He migrated, but could not settle down. Said Raba: When one goes there, it is with the intention of settling, and this man has not settled.[13] Others state [that he ruled]: [He sold it] with the intention of migrating, and he has done so.[14] A certain man sold his property with the [express] intention of migrating to Palestine. Eventually he did not go. Said R. Ashi: He could have gone had he desired.[15] Others state [that R. Ashi declared]: Had he desired, could he have not gone?[16] Wherein do they differ? — They differ where an impediment cropped up on the road.[17]

MISHNAH. IF HE SAYS TO HIS AGENT, 'GO FORTH AND BETROTH TO ME SO-AND-SO IN SUCH AND SUCH A PLACE, AND HE GOES AND BETROTHS HER ELSEWHERE, SHE IS NOT BETROTHED. 'SHE IS IN SUCH AND SUCH A PLACE, AND HE BETROTHS HER ELSEWHERE, SHE IS BETROTHED.

GEMARA. Now, we learned the same of divorce: If he says: 'Give my wife a divorce in such and such a place,' and it is given to her elsewhere, it is invalid. 'She is in such and such a place,' and it is given to her elsewhere, it is valid. And both are necessary. For if we were informed this of kiddushin, where he comes to unite her to himself,[18] [he may have thought:] 'in this place I am popular and nothing will be said against me, but in that place I am hated and slander[19] will be piled up against me.'[20] But in respect to divorce, seeing that he comes to drive her away, I might argue that he does not care.[21] And if we were informed this of divorce, [I might argue] in this place he is willing to be disgraced, but not in the other; [whereas] in respect to betrothal, I might argue that he does not care. Thus [both are] necessary. MISHNAH. IF HE BETROTHS A WOMAN ON CONDITION THAT SHE HAS NO VOWS UPON HER, AND IT IS FOUND THAT SHE HAS, SHE IS NOT BETROTHED, IF HE MARRIES HER[22] UNCONDITIONALLY, AND IT WAS FOUND SHE HAD VOWS UPON HER, SHE IS DIVORCED[23] WITHOUT HER KETHUBAH.[24] [IF HE BETROTHS HER] ON CONDITION THAT SHE HAS NO BLEMISHES, AND BLEMISHES ARE FOUND IN HER, SHE IS NOT BETROTHED. IF HE MARRIES HER UNCONDITIONALLY AND BLEMISHES ARE FOUND IN HER, SHE IS DIVORCED WITHOUT HER KETHUBAH. ALL BLEMISHES WHICH INCAPACITATE PRIESTS [TO SERVE AT THE ALTAR] RENDER WOMEN UNFIT.[25]

GEMARA. And we learned this likewise [in the tractate] on Kethuboth.[26] Here he [the Tanna] desires [to give the ruling on] betrothal, and settlements are taught incidentally to betrothal. There settlements are necessary [to be dealt with], and betrothal is taught incidentally to settlements.

MISHNAH. IF HE BETROTHS TWO WOMEN WITH THE VALUE OF A PERUTAH, OR ONE WOMAN WITH LESS THAN A PERUTAH'S WORTH, EVEN IF HE SUBSEQUENTLY SENDS GIFTS,[27]

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(1) Lev. I, 3: the second ‘he shall offer it’ is superfluous.

(2) To fulfil his vow.

(3) E.V. that he may be accepted.

(4) This refers to those who are compelled to free their wives or slaves.

(5) I.e., we may be uncertain whether a mental stipulation is valid or not. Consequently she is betrothed, in the sense that she is not free to remarry. Nevertheless, if she accepts kiddushin from another, she may be betrothed to the second, the betrothal of the first being null on account of the mental condition, and so she will require a divorce from both.

(6) I.e., he was requested to give a judicial ruling on such a matter.

(7) Whereas he brought the money from a different purse lying in the same place.

(8) The money brought to him was sacred money, for the unwitting secular use of which one is liable to a trespass-offering. Now, if this is done through an agent: if the agent carries out instructions, the principal is liable; if he does not carry out instructions, he himself is liable. (The liability is incurred not for actual use, but for taking it to use it, whereby it is removed from the ownership of hekdesh.)

(9) Which involves no sacrifice.

(10) After my servant went to expend it on my instructions.

(11) Hence if he wished to free himself by a lie he could have had recourse to this statement which is considered effective, and so we believe him that he meant a different purse; and yet he, not his agent, is liable, which proves that a mental declaration is not valid.

(12) Stating thus at the time of the sale.

(13) Hence the sale is null.

(14) Hence notwithstanding his return the sale stands.

(15) Hence the sale is valid.

(16) Surely he could (Rashi) — hence the sale stands. [Others: (even) if he desires he cannot go. Hence the sale is null. V, Joseph Karo on Tur. H.M. 206, and commentaries a.l.]

(17) E.g., it became infested with highwaymen. According to the first version, R. Ashi declared that he nevertheless could have gone, e.g., by joining a large company of travellers; hence the sale stands. But according to the second version, ‘could he have not gone,’ it is implied that there was nothing to prevent him. Here, however, there was, and so the sale is null.

(18) Lit., ‘bring her near’.

(19) Lit., ‘words’.

(20) Hence he was particular that she should be betrothed only where he stated.

(21) And when he says. ‘Divorce her in such and such a place,’ he merely indicates where she is to be found.

(22) This refers to nissu'in. q.v. Glos.
(23) Lit., ‘goes forth’.
(24) V. Glos.
(25) And they can be divorced without their kethubah.
(26) The Tractate dealing with women's settlements.
(27) Heb. siblonoth, cf. Gr. ** ‘dona sponsalitia’, the gifts which one usually sent his betrothed.

Talmud - Mas. Kiddushin 50b

SHE IS NOT BETROTHED, BECAUSE THEY WERE SENT ON ACCOUNT OF THE FIRST KIDDUSHIN.[1] IT IS LIKEWISE SO IF A MINOR BETROTHS.[2]

GEMARA. And it is necessary [to state both]. For if we were informed the case of a perutah's worth [for two women], [I might argue,] since money has gone forth from him, he may err [and think the kiddushin valid]. But [with respect to] less than a perutah's worth, I might say that he knows that kiddushin with less than a perutah's worth is invalid, and so when he sends gifts, he sends them as kiddushin.[3] And if these two cases were taught, that is because one may not be clear on a perutah's worth and less;[4] but when a minor betroths, all know that such betrothal is nothing; hence when he sends gifts, I might reason that he sends them as kiddushin. We are therefore informed otherwise.

It was stated: R. Huna said: We pay regard to[5] gifts: and Rabbah said likewise: We pay regard to gifts.[6] Rabbah said: An objection is raised against our teaching: EVEN IF HE SUBSEQUENTLY SENDS GIFTS, SHE IS NOT BETROTHED! — Abaye answered him: There the reason is as stated: BECAUSE THEY WERE SENT ON ACCOUNT OF THE FIRST KIDDUSHIN. Others state, Rabbah said: Whence do I know it?[7] From the reason stated: BECAUSE THEY WERE SENT ON ACCOUNT OF THE FIRST KIDDUSHIN: hence, it is [only] here, because he may err;[8] but elsewhere,[9] they [the gifts] may be kiddushin. And Abaye?[10] — The most remarkable case is taught.[11] It is unnecessary to state in general [that gifts are not betrothal], Seeing that he has not entered into the state of kiddushin at all.[12] But even here, when he has entered the state of kiddushin,[13] I might think that they [the gifts] are kiddushin:[14] hence we are informed [that it is not so].

What is our decision on the matter — R. Papa said: In that place where one [first] betroths and then sends gifts, we pay regard thereto;[15] but in that place where gifts are [first] sent and then one betroths, we have no fear. ‘[Where] one [first] betroths and then sends gifts’. — But that is obvious! — It is necessary [to state it] only where the majority [first] betroth and then send gifts; but the minority first send gifts and then betroth: I might argue, Let us pay regard to the minority; hence we are informed [otherwise].[16]

R. Aha son of R. Huna propounded to Raba: What if a deed of settlement became known in the market place?[17] — He replied: Simply because a marriage settlement becomes known in the market place we are to assume her a married woman! What is our decision thereon? — Said R. Ashi: ‘Where betrothal is [first] performed and then a kethubah[18] is written, we pay regard thereto; but in the place where they first write a kethubah and then betroth. we have no fear. In the place where there is [first] betrothal and then writing’ — but that is obvious! — It is necessary to state it only where scribes are rare: I might have thought that he just chanced to find a scribe:[19] hence we are informed [otherwise].

MISHNAH. IF ONE BETROTHS A WOMAN AND HER DAUGHTER OR A WOMAN AND HER SISTER SIMULTANEOUSLY,[20] THEY ARE NOT BETROTHED. AND IT ONCE HAPPENED TO FIVE WOMEN, AMONGST WHOM WERE TWO SISTERS, THAT A MAN GATHERED A BASKET OF FIGS, WHICH WAS THEIRS, AND WHICH WAS OF THE

SEVENTH YEAR,[21] AND DECLARED, BE — HOLD, BE YE ALL BETROTHED UNTO ME WITH THIS BASKET, AND ONE ACCEPTED IT ON BEHALF OF ALL: THE SAGES RULED, THE SISTERS ARE NOT BETROTHED.

GEMARA. Whence do we know it? — Said Rami b. Hama: Because Scripture saith, and thou shalt not take a woman to her sister, to be a rival to her [li-zeror]:[22] The Torah decreed that when they become rivals[23] to each other, he can have no marital connection with [even] one of them.[24] Said Raba to him: If so, how is it written, even the souls that do them shall be cut off from among their people:[25] but if kiddushin with her is not valid, is he then liable to kareth?[26] But, said Raba, the verse refers to consecutive [marriage],[27] and our Mishnah is in accordance with Rabbah, who said: That which cannot be [done] consecutively cannot be [done] simultaneously.

The text [stated]: ‘Rabbah said: That which cannot be [done] consecutively cannot be done simultaneously.’ Abaye raised an objection against him:

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(1) But not as new kiddushin.

(2) And sends gifts on attaining his majority.

(3) And the fact that no declaration accompanies them makes no difference, such being unnecessary when preceded by marriage negotiations: v. supra 6a.

(4) He may have over-estimated the value of the article.

(5) Lit., ‘fear’.

(6) If a marriage is arranged, and the would-be husband sends gifts in the presence of witnesses, we fear that these may be meant as kiddushin, and so she is a doubtful married woman. Should another man then betroth her, both must divorce her.

(7) That we pay regard to gifts.

(8) Thinking the first kiddushin valid.

(9) Where no kiddushin preceded the gifts.

(10) Does he accept this proof?

(11) Lit., ‘he (the Tanna) says: "It is unnecessary".’

(12) The man not having given her previously any token of kiddushin.

(13) By actually offering something as such.

(14) For he discovered his error.

(15) If the gifts are first sent, we fear that they were meant for kiddushin.

(16) So the text in cur. edd. This however involves a difficulty: ‘I might argue, let us fear the minority’ implies that we are to impose a stringent ruling on that account, whereas here, by regarding the minority, we are lenient. Ri, quoted in Tosaf. s.v. dŏv gives another reading: where gifts are first sent and then betrothal is performed — then it is obvious that she is not betrothed. It is necessary to state it only where the majority first send gifts and then betroth, yet a minority do the reverse. I might argue, let us fear the minority, so she is betrothed. Hence we are informed otherwise.

(17) A marriage settlement (kethubah) between a certain man and woman was seen, though it was not known whether they had actually become betrothed, and then she accepted kiddushin from another.

(18) V. Glos.

(19) And had the settlement drawn up before the betrothal, to take advantage of the scribe's presence.

(20) Saying, ‘Be ye both betrothed unto me’.

(21) The Talmud discusses this below.

(22) Lev. XVIII, 18.

(23) Heb. zaroth, the technical designation of wives of the same husband in their relationship toward each other.

(24) It is now assumed that the verse refers to a simultaneous betrothal.

(25) Ibid. 29.

(26) V, Glos. in fact, he is not married to either, and so may take the sister.

(27) Lit., ‘this after this’.

Talmud - Mas. Kiddushin 51a

Talmud - Mas. Kiddushin 51a

If one gives excessive tithes, his produce is made fit, but his tithes are unfit.[1] But why; let us say: That which cannot be [done] consecutively cannot be [done] simultaneously?[2] — Tithes are different, he replied, because it is possible in the case of half [grains]; for if one declares, 'Let half of each grain be sanctified [as tithe], it is sanctified.[3] But cattle tithes are impossible in halves,[4] and also impossible consecutively;[5] yet Rabbah said: If two [animals] came forth at the tenth, and he [their owner] proclaimed them both as 'tenth', the tenth and the eleventh are intermingled![6] — Cattle tithe is different, because it is valid in error. For we learnt: If the ninth was proclaimed 'tenth', the tenth, 'ninth', and the eleventh, 'tenth', all three are sanctified.[7] But what of the thanksgiving-offering which can neither be in error nor consecutively,[8] yet it was stated: If the thanksgiving-offering is slaughtered over eighty loaves, — Hezekiah said: Forty out of the eighty are sanctified; R. Johanan said: Not even forty out of the eighty are sanctified![9] — Was it not stated thereon: R. Joshua b. Levi[10] said: All agree that if he declared: 'Let forty out of the eighty be sanctified,' they are sanctified; 'forty are not to be sanctified unless eighty are sanctified,' they are not sanctified? They differ only where no specific statement is made:[11] one Master holds that his intention is [to arrange] for the risks;[12] the other, that his intention is for a large offering.[13] Now, why need Raba explain the Mishnah as Rabbah; let him deduce it from the fact that it cannot be followed by[14] intercourse?[15] — He [merely] explains it according to the view of Rami b. Hama.[16]

It was stated: Kiddushin which cannot be followed by intercourse, — Abaye says: It is valid kiddushin;[17] Raba said: It is not valid kiddushin. Raba said: Bar Ahina explained it to me: When a man taketh a woman and has intercourse with her;[18] [this teaches:] kiddushin[19] that can be followed by intercourse is [valid] kiddushin; that which cannot be followed by intercourse is not [valid] kiddushin.

We learnt: IF HE BETROTHS A WOMAN AND HER DAUGHTER OR A WOMAN AND HER SISTER SIMULTANEOUSLY, THEY ARE NOT BETROTHED. This implies, [if he betroths] one of a woman and her daughter or of a woman and her sister [without specifying which], she is betrothed: yet why, seeing that it is kiddushin which may not be followed by intercourse? Hence this refutes Raba! — Raba can answer you: Yet even on your view, consider the second clause: AND IT ONCE HAPPENED TO FIVE WOMEN, AMONGST WHOM WERE TWO SISTERS, THAT A MAN GATHERED A BASKET OF FIGS, WHICH WAS THEIRS, AND WHICH WAS OF THE SEVENTH YEAR, AND HE DECLARED, 'BEHOLD, YE ARE ALL BETROTHED UNTO ME WITH THIS BASKET, AND ONE ACCEPTED IT ON BEHALF OF ALL: THE SAGES THEN RULED, THE SISTERS ARE NOT BETROTHED. Thus, it is only the sisters who are not betrothed, but the strangers are. Now how is it meant? Shall we say that he declared: 'All of you'[20] — it is a case of 'you and the ass acquire', and such does not acquire.[21]

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(1) Lit., 'spoiled'. After measuring off four measures, he separated one whole measure as tithe, instead of the half (= one tenth) due. Actually. however, only half becomes tithe, while the other half remains ordinary, untithed produce (tebel), and the two are inextricably mixed up. No man may eat tebel, not even a priest or a Levite, and hence the whole tithe is forbidden until it is made fit by a further proportionate separation.

(2) For if he first separates half a measure as tithe and then another half, the second is certainly not tithe. Accordingly, when he separates the whole simultaneously, none of it is tithe, on Rabbah's principle: why then is the produce fit?

(3) Hence, when he separates excessive tithes, it is as though he declared that only half of each grain in the whole measure shall be tithe. But one cannot betroth half a woman.

(4) One cannot count off nine animals and then declare the two halves of the next two as tithe.

(5) After declaring the tenth tithe, the eleventh cannot be declared likewise.

(6) One is actual tithe, and the other is treated as a peace-offering, though it is not known which is which. Yet why so? If he declares the tenth tithe and then the eleventh too, the second declaration is invalid. Why then is his simultaneous declaration valid?

(7) This is not the same as the case mentioned in the previous note, where the eleventh is deliberately and knowingly called ‘tenth’. — Hence, just as the eleventh is sanctified when it is designated ‘tenth’ in error, so are the tenth and the eleventh sanctified when designated simultaneously. But if one marries a second sister after the first in error, the second marriage is invalid; consequently they are invalid simultaneously.

(8) The thanksgiving-offering was accompanied by forty loaves, which were likewise sanctified (v. Lev, VII, 12ff: and Men. 76a). Now, if the animal is sacrificed to sanctify certain loaves, which, however, are not really those intended, they are not sanctified. Again, if after forty loaves are sanctified another forty are declared holy, the declaration is invalid.

(9) The controversy is assumed to centre on Rabbah's dictum. Hezekiah, R. Johanan's teacher, thus contradicts Rabbah.

(10) In ‘Er. 50a and Men. 78b the reading is R. Zera, and the same is required here.

(11) I.e., he merely declares that the slaughtering of the sacrifice shall hallow the loaves.

(12) He brings eighty so that if the forty sanctified loaves become unfit for any reason the other forty may replace them. Hence forty are sanctified.

(13) That the eighty should be sanctified: hence none are. This therefore has no bearing on Rabbah's dictum.

(14) Lit., ‘is not given over to’.

(15) For even if he betroths only one, but without specifying which, he cannot take either, for fear she is the sister of the betrothed, and Raba says below that such kiddushin is invalid.

(16) Who bases the ruling of the Mishnah on Lev. XVIII, 18.

(17) Hence he must divorce both, because of doubt.

(18) Deut. XXIV, 1.

(19) Implied by, when a man taketh, i.e., betroths.

(20) I.e., ‘All of you be betrothed to me’.

(21) If one bestows gifts upon a living person and an unborn child simultaneously, not even the first acquires his gift, because the second cannot, — metaphorically, ‘you and the ass acquire them’. Hence here too, since the sisters cannot acquire aught thereof as kiddushin, the others cannot either.

Talmud - Mas. Kiddushin 51b

Hence it must surely mean that he said: ‘One of you,’[1] and it is taught that the sisters are not betrothed.[2] On Raba's view, the first clause is difficult; on Abaye's, the second. Abaye reconciles it according to his opinion. IF HE BETROTHS A WOMAN AND HER DAUGHTER OR A WOMAN AND HER SISTER SIMULTANEOUSLY, THEY ARE NOT BETROTHED; but if [he betrothed] one of a woman and her daughter or of a woman and her sister, she is betrothed. But if he says: ‘She of you who is eligible for intercourse, let her be betrothed unto me,’ she is not betrothed.[3] And thus IT ONCE HAPPENED TO FIVE WOMEN, AMONG WHOM WERE TWO SISTERS, THAT A MAN GATHERED A BASKET OF FIGS AND SAID, ‘She of you who is eligible [for intercourse], let her be betrothed unto me’: THE SAGES THEN RULED: THE SISTERS ARE NOT BETROTHED, Raba reconciled it with his opinion: If a man betroths one of a woman and her daughter or a woman and her sister, it is as though he betrothed A WOMAN AND HER DAUGHTER OR A WOMAN AND HER SISTER SIMULTANEOUSLY, AND THEY ARE NOT BETROTHED. AND IT THUS HAPPENED TO FIVE WOMEN, AMONG WHOM WERE TWO SISTERS, THAT A MAN GATHERED A BASKET OF FIGS AND DECLARED, ‘Behold, all of you, and one of the two sisters, are betrothed unto me with this basket’: THEN THE SAGES RULED: THE SISTERS ARE NOT BETROTHED.

Come and hear: If he gives his daughters in betrothal without specifying which, bogeroth[4] are not included.[5] But minors are included: yet why, Seeing that it is kiddushin which cannot be followed by intercourse?[6] which refutes Raba! — Raba can answer you: Here the circumstances are that there are only one bogereth and one minor. But ‘bogeroth’[7] is taught! — By bogeroth, bogeroth in general are meant.[8] If so,[9] why state it? — We refer to the case where she [the bogereth] appointed him [her father] an agent.[10] I might have thought that when he accepted kiddushin he did it on her behalf: hence we are informed that a man does not put aside that by which he benefits.[11] But do we not refer [even] to where she said to him, ‘Let my kiddushin be yours!’ — Even so, a man does not leave undone an obligation [sc. marrying his daughter] which falls [primarily] upon himself,[12] to perform one which does not.[13]

Come and hear: If one has two groups of daughters by two wives, and he declares, ‘I have given in betrothal my senior daughter, but do not know whether the senior of the seniors[14] or the senior of the juniors, or the junior of the seniors who is senior to the senior of the juniors,’ all are forbidden, excepting the junior of the juniors: this is R. Meir's opinion![15] — Here the circumstances are that they were [originally] known, and [only] subsequently mixed up.[16] This maybe proved, for it is taught: ‘I do not know,’ not, it is not known. This proves it. If so, why state it? — To counter R. Jose, who said: A man does not permit himself to be brought into doubt;[17] hence we are informed that one does bring himself into doubt.

Come and hear: If a man betrothed one of two sisters and does not know which, he must give a divorce to both![18] — Here [too] the circumstances are that they were [originally] known but only subsequently intermingled. This too may be proved, for it is taught: ‘he does not know,’ not, it is not known. If so, why state it? — The second clause is necessary: If he dies, and has one brother, he must perform halizah[19] with both; if he has two [brothers], one performs halizah and the other yibum;[20] yet if they forestall [the Rabbis’ ruling] and marry them, they are not compelled to divorce them,[21] [Thus:] only halizah and then yibum [is permissible], but not yibum and then halizah, because he may infringe [the interdict against] the sister of one bound to him by the Levirate tie.[22]

Come and hear: If two [strangers] betroth two sisters, and neither knows which, each must give two divorces![23] — Here too it means that they were [originally] known but [only] subsequently mixed up. This may be deduced too, for it is taught: ‘neither knows,’ not, it is not known: this proves it. If so, why state it?The second clause is necessary: If each dies, and each had one brother, this one must perform halizah with both, and the other must perform halizah with both. If one had one brother and the other two brothers,

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(1) I.e., let the three strangers and one of you be betrothed to me.

(2) Proving that kiddushin which cannot be followed by intercourse is invalid.

(3) For neither is eligible.

(4) V. Glos.

(5) Because a father has no marriage rights over his adult daughters.

(6) As explained on p. 258, n. 2.

(7) Plural.

(8) I.e., in general when a man betroths his daughter without naming her, an adult is not meant.

(9) That he has only one adult and one minor daughter.

(10) To accept kiddushin on her behalf.

(11) Sc. the kiddushin of his minor daughter which belongs to him, whereas that of a bogereth is her own.

(12) Sc. the betrothal of his minor daughter.

(13) A bogereth can see to herself.

(14) From the earlier wife.

(15) This refutes Raba, since intercourse cannot follow such betrothal.

(16) He betrothed a particular daughter, but forgot which.

(17) V. Ned. 61b. So that all of whom there can be the least doubt are definitely excluded, and only the senior of the seniors is forbidden to strangers.

(18) Which again refutes Raba.

(19) V. Glos.

(20) V. Glos.

(21) Lit., ‘they are not taken out of their hands’.

(22) Lit., ‘he comes into contact with the sister etc’. — Thus: A betrothed X or Y, who are sisters, but does not remember which. On A's death, his brothers B and C perform halizah and yibum with X and Y respectively. Now, when B performs halizah with X, C may marry (perform yibum) Y. For if A had betrothed Y, she is C's yebamah, whom he must marry; while if A had betrothed X, Y is a stranger to C, and he may certainly marry her. For though Y is then the sister of X, who was bound to him by the Levirate tie, and such is forbidden, that tie has already been dissolved by the halizah which B performed. But before the tie is dissolved by halizah marriage is forbidden; hence only that order is permissible, viz., halizah by one brother first and then yibum by the second, (Of course, that is only permissive: the second too may perform halizah, if he does not wish to marry her.) The prohibition mentioned in this note is only Rabbinical, and therefore not insisted upon if the brothers marry both sisters without consulting a Rabbi previously, Yeb. 23b,

(23) This too refutes Raba: v. p. 258, n. 2.

Talmud - Mas. Kiddushin 52a

the one [brother] must perform halizah with both, and of the two, one must perform halizah [first] and the other yibum; yet if they forestall [the Rabbis' ruling] and marry, they are not compelled to divorce them. Thus, only halizah and then yibum, but not yibum and then halizah, because he may infringe [the interdict against] a yebamah's marriage to a stranger.[1]

Come and hear: For Tabyumi learned: If A has five sons and B five daughters, and A declares; 'One of your daughters be betrothed to one of my sons,'[2] each requires five divorces. If one dies, each requires four divorces and halizah from one of them![3] And should you answer, here too it means that they were [originally] known and only subsequently mixed up — but it is taught: 'One of your daughters to one of my sons!'[4] This refutation of Raba is indeed a refutation. Now, the law agrees with Abaye in Y'AL KGM.[5]

IT HAPPENED TO FIVE WOMEN. Rab said: Four deductions follow from the Mishnah; yet Rab was sure only of three:[6] — [i] If one betroths [a woman] with seventh year produce, she is betrothed;[7] [ii] If he betroths her with a stolen article, even her own, she is not betrothed.[8] How does this follow? — Because it is stated: IT WAS THEIRS, AND IT WAS OF THE SEVENTH YEAR: thus, it is only because It was of the seventh year, and thus hefker;[9] but if of any other year,[10] it is not so.[11] [iii] A woman can be an agent for her companion,[12] even when she thereby becomes her rival.[13] And what is the fourth? — Kiddushin which cannot be followed by intercourse. — Then let him count it?[14] — Because he is doubtful whether it is [to be explained] according to Abaye or Raba.[15]

When R. Zera went up [to Palestine, from Babylon], he recited this pronouncement [of Rab] before R. Johanan. Said he to him: Did then Rab say thus! But did he himself not say [likewise]? Surely R. Johanan said: If one stole[16] [an article] and the owner did not abandon hope,[17] both cannot consecrate it: the one [the thief], because it is not his;[18] the other, because it is not [actually] in his possession! — He meant thus: Did Rab [truly] rule as I [did]?

An objection is raised: If one betroths a woman with an article of robbery, violence, or theft,[19] or if he snatches a sela' out of her hand and betroths her therewith, she is betrothed? — There it refers to her own robbery.[20] But since the second clause teaches 'or if he snatches a sela' out of her hand,' it follows that the first clause refers to robbery in general? — It is an explanation. If one betroths a woman with robbery. How so? If he snatches an article out of her hand and betroths her therewith.

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(1) Lit., 'a yebamah to the market place'. — The general reasoning is the same as in the previous case. When the one brother frees both sisters by halizah, the others may perform halizah and yibum. But before the one brother has performed his task, one of the sisters may be his yebamah, and so neither of the other two brothers can perform yibum.

(2) His sons had authorised him.

(3) This contradicts Raba.

(4) Shewing that there was doubt at the very outset.

(5) An abbreviation of six laws; v. Sanh. (Sonc. ed.) p. 159, n. 3. The K stands for kiddushin which cannot be followed by coition. In every other controversy between Abaye and Raba the halachah is as the latter.

(6) As explained below — Lit., ‘he held three in his hand.’

(7) Though it is free to all.

(8) ‘Even her own’ — and we do not say that her acceptance proves that she has forgiven him and renounced her rights therein, so that it ceases to be stolen property.

(9) V. Glos. Hence it is not stolen.

(10) Lit., ‘the other years of the septennate.’

(11) But the betrothal is invalid.

(12) To accept kiddushin on her behalf.

(13) Zarah, q.v. Glos.

(14) Why is he in doubt?

(15) Supra 51a and b. According to their respective interpretations the Mishnah proves either that it is valid or that it is not; but Rab was not sure which interpretation was correct.

(16) Gazal denotes theft by violence.

(17) Of its return. Yi'ush is a technical term, despair or abandonment, whereby a stolen (or lost) article formally passes out of its first ownership into that of the person actually in possession. — The thief is then liable for having removed it from the ownership of the victim.

(18) But it is technically his if the owner abandons it.

(19) An article of robbery is one stolen by violence; ‘theft’ denotes stolen in secret; ‘violence’, an article forcibly taken from its owner and paid for.

(20) I.e., he robbed her, cf. p. 262, n. 7: the argument rejected there is admitted here.

Talmud - Mas. Kiddushin 52b

But our Mishnah [deals with] her own robbery,[1] yet Rab said: She is not betrothed?

There is no difficulty: in the one case, he had [previously] negotiated [with her for marriage];[2] in the other, he had not negotiated.

A certain woman was washing her feet in a bowl of water, when a man came, snatched a zuz from his neighbour, threw it to her and exclaimed: ‘Thou are betrothed unto me!’ Then that man went before Raba, who said to him; None pay regard to R. Simeon's dictum, viz.: Robbery in general involves the owner's abandonment.[3]

A certain aris[4] betrothed [a woman] with a handful of onions.[5] When he came before Raba he said to him, ‘Who renounced it in your favour?’[6] Now, that applies only to a handful;[7] but as for a bunch, he [the aris] can say to him [the landowner], ‘As I have taken a bunch, do you take one: one bunch is the same as another.’[8]

A certain agent-brewer[9] betrothed [a woman] with a measure of beer.[10] Then the owner of the beer came and found him. Said he to him, ‘Why did you not give [her] of this [beer, which is] stronger?’ When he came before Raba, he said to him. ‘Go to the better’ was said only in reference to terumah.[11] For it was taught: In which case was it ruled that if one separates [terumah] without [the owner's] knowledge, his separation is valid? If one enters[12] his neighbour's field, gathers [the crops] and separates [terumah] without permission: and he [the owner] resents it as [akin to] theft, his separation is not valid; otherwise, it is. And how does one know whether he resents it as theft or not? If the owner comes and finds him, and says to him, ‘Go to the better [produce]’: and better [crops] are found, the separation is valid;[13] if not, it is invalid.[14] If the owner gathers [crops] and adds [to that already separated], in both cases his separation is valid. But here he acted thus[15] through shame;[16] hence she is not betrothed.

MISHNAH. IF ONE [A PRIEST] BETROTHS [A WOMAN] WITH HIS PORTION,[17] WHETHER [IT IS OF] THE HIGHER OR OF THE LOWER SANCTITY,[18] SHE IS NOT BETROTHED.[19] [IF] WITH SECOND TITHE,[20] WHETHER UNWITTINGLY OR DELIBERATELY, HE DOES NOT BETROTH [HER]: THIS IS R. MEIR'S VIEW.[21] R. JUDAH SAID: IF UNWITTINGLY, HE HAS NOT BETROTHED [HER]; IF DELIBERATELY, HE HAS. [IF] WITH HEKDESH,[22] IF DELIBERATELY, HE HAS BETROTHED HER; IF UNWITTINGLY, HE HAS NOT: THIS IS R. MEIR'S VIEW. R. JUDAH SAID: IF UNWITTINGLY, HE HAS BETROTHED HER; IF DELIBERATELY, HE HAS NOT.[23]

GEMARA. Shall we say that our Mishnah does not agree with R. Jose the Galilean? For it was taught: [If any one sin] and commit a trespass against the Lord [. . . then he shall bring his guilt-offering]:[24] this is to include lower grade sacrifices as his [the individual's] property:[25] this is R. Jose the Galilean's opinion! — You may even say that it agrees with R. Jose the Galilean: he stated [that view] only whilst it [the animal to be sacrificed] is alive, but not after it is killed. What is the reason? When they[26] acquire [thereof], it is from the table of the Most High that they acquire [it].[27] This may be deduced too; because it is stated: IF ONE BETROTHS [A WOMAN] WITH HIS PORTION, WHETHER [IT IS OF] THE HIGHER OR OF THE LOWER SANCTITY, HE HAS NOT BETROTHED HER.[28]

Our Rabbis taught: After R. Meir's demise, R. Judah announced to his disciples, ‘Let not R. Meir's disciples enter hither, because they are disputatious and do not come to learn Torah but to overwhelm one with halachoth.’[29] Yet Symmachus forced his way through and entered. Said he to them: Thus did R. Meir teach me: If one betroths [a woman] with his portion, whether of the higher or of the lower sanctity, he has not betrothed [her]. Thereupon R. Judah became incensed with them and exclaimed: ‘Did I not say to you, Let not R. Meir's disciples enter hither, because they are disputatious and do not come to learn Torah but to overwhelm me with halachoth: how then does a woman come to be in the Temple Court?’[30] Said R. Jose, Shall it be said: Meir is dead, Judah angry, and Jose silent: what is to become of the words of the Torah? Cannot a man accept kiddushin on his daughter's behalf in the Temple Court? And cannot a woman authorize a messenger to receive her kiddushin in the Temple Court? Again, what if she forces herself in?[31]

It was taught: R. Judah said: She is betrothed;[32] R. Jose ruled: She is not betrothed. Said R. Johanan: Both derive [their views] from the same verse: This shall be thine of the most holy things, reserved from the fire.[33] R. Judah holds, ‘thine’ [implies] for all thy needs;[34] whereas R. Jose maintains it is as [what is offered on] ‘the fire’:[35] just as the fire is for consumption only,[36] so that too is for consumption [by the priest] only.[37]

R. Johanan said:

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(1) Since it states ‘IT WAS THEIRS’.

(2) Then she accepts it as kiddushin, and thereby it ceases to be robbery, as explained.

(3) V. n. 1. I.e., if we do not know whether the owner abandons the article or not, we assume that he does. Raba told him that this ruling is disregarded: hence the betrothal was invalid.

(4) A tenant-farmer, who pays a certain percentage of his crops as rent.

(5) Rashi. Jast.: leaves of onions, leek.

(6) The onions belong partly to the landlord; did he renounce his portion? I.e., it is theft, and the betrothal is invalid.

(7) Being an indeterminate quantity.

(8) Hence the kiddushin would be valid.

(9) Rashi: who brewed beer from dates supplied to him, receiving a fixed percentage of the profits.

(10) Others, reading ‘pirzuma’, the second run of barley beer.

(11) V. n. 6. infra.

(12) Lit., ‘descends into’.

(13) For this proves that he meant what he said.

(14) For he thus sarcastically shewed his resentment. Now, this criterion applies only to terumah, since it must be separated in any case.
(15) Bidding him take stronger beer.
(16) Being ashamed to express an objection.
(17) Of the sacrifices.
(18) Sacrifices were of two degrees of sanctity: the higher (holy of holies), e.g., the sin-offering, and the lower (less holy), e.g., the peace-offering. The former were eaten by priests only; the latter, partly by priests and partly by their Israelite owners.
(19) Because it is regarded as God's, not the priests'.
(20) Which the Israelite separated and ate in Jerusalem.
(21) He regards second tithe too as God's.
(22) V. Glos.
(23) The reasons are explained in the Gemara.
(24) Lev. V, 21. The trespass referred to is repudiation of liability with a false oath.
(25) If one swears falsely that he did not vow a peace-offering, which is of the lower sanctity, he incurs this sacrifice. Though this law does not hold good in respect to God's property (deduced from, 'and deal falsely with his neighbour' ibid.), the phrase 'against the Lord' shews that even where there is an element of sanctity this sacrifice is involved. Hence it includes lower grade sacrifices, and thus teaches that these rank as the individual's property; this contradicts the ruling of the Mishnah.
(26) The owner and the Priest.
(27) I.e., having been sacrificed, it is certainly God's.
(28) 'HIS PORTION' implies that it is already divided — viz., after its death.
(29) To prove one ignorant.
(30) Sacrifices of the higher sanctity might not be taken out of the Temple Court, not even into the women's compartment. Rashi observes that women were forbidden to enter the Temple Court. Tosaf. holds this to be an error, and explains: how then does a woman come to be in the Temple Court for such a purpose? For that is too unusual to be dealt with.
(31) And accepts kiddushin, though she has no right to be there at all, according to Rashi; or, 'forces' is used metaphorically: what if she insists on entering there for that purpose, though it is unusual? (so presumably understood by Tosaf.)
(32) When given the priests' portion as kiddushin.
(33) Num. XVIII, 9.
(34) Which includes betrothal.
(35) Sc. on the altar.
(36) The portion belonging to God is consumed by fire on the altar, and cannot be disposed of in any other way.
(37) And he cannot put it to any other use.

Talmud - Mas. Kiddushin 53a

A vote was taken [among scholars] and it was resolved: He who betroths with his portion, whether of the higher or of the lower sanctity, has not betrothed. But Rab maintained: The dispute continues.[1] Said Abaye: Reason supports R. Johanan. For it was taught: How do we know that meal-offerings may not be apportioned as against sacrifices?[2] From the verse, and every meal-offering that is baked in the oven . . . shall all the sons of Aaron have.[3] I might think that meal-offerings may not be apportioned as against sacrifices, seeing that they cannot replace them in poverty, yet meal-offerings may be apportioned as against fowl-offerings, since they do replace them in poverty:[4] therefore it is stated, and all that is dressed in the frying pan . . . shall all the sons of Aaron have.[5] I might think that meal-offerings cannot be apportioned as against fowl-offerings, since the latter are blood species and the former a species of flour, but that fowl-offerings may be apportioned as against [animal] sacrifices, since both are blood species; therefore it is stated, and in the baking pan.[6] I might think, fowl-offerings may not be apportioned as against animal sacrifices, since the preparation of the former is by hand, whereas that of the latter is with a utensil;[7] but that meal-offerings can be apportioned as against meal-offerings,[8] since the preparation of both is by hand:[9] therefore it is stated, and every meal-offering mingled with oil . . . shall all the sons of Aaron have.[10] I might think that a baking pan [offering] shall not be apportioned as against a frying pan [offering], or a frying pan [offering] as against a baking pan [offering], because one is made soft and the other hard;[11] but that one baking pan [offering] may be apportioned as against another,[12] and one frying pan [offering] against another, since both are hard or soft respectively; therefore it is said, or dry, shall all the sons of Aaron have.[13] Now, I might think that sacrifices of the higher sanctity[14] may not be [so] apportioned, yet those of the lower sanctity may be;[15] therefore it is stated: '[shall all the sons of Aaron have], a man as his brother,' and in proximity thereto,if [he offers it] for a thanksgiving:[16] just as higher sanctity sacrifices may not be [so] apportioned, so also offerings of the lower sanctity. 'A man' [teaches]: a man takes a share, even if he has a blemish, but not a minor, even if he is without blemish. Now, who is the author of an anonymous teaching in the Sifra? R. Judah:[17] And he states that it is not capable of apportionment at all.[18] This proves it.

Said Raba: And was it not taught as Rab too? But it was taught: The modest withdrew their hands, but the greedy shared.[19] [No.] By 'shared' is meant snatched [other priests' shares]. As the second clause states: It happened that one snatched his own and his neighbour's portion, and he was called Ben Hamzan[20] [robber] until the day of his death. Said Rabbah son of R. Shila: What verse [have we]?[21] — Rescue me, O my Lord, out of the hand of the wicked, Out of the hand of the unrighteous and violent [homez].[22] Rabbah said, [We learn it] from the following: learn to do well, seek judgment, set right the man of violence.[23]

WITH SECOND TITHE, WHETHER UNWITTINGLY OR DELIBERATELY, HE HAS NOT BETROTHED [HER]: THIS IS R. MEIR'S VIEW. R. JUDAH SAID: IF UNWITTINGLY, HE HAS NOT BETROTHED [HER]; IF DELIBERATELY, HE HAS etc. How do we know this? Said R. Aha son of Raba on the authority of tradition:[24] and all the tithe of the land, whether of the seed of the land, or the fruit of the tree, is the Lord's: it is holy unto the Lord:[25] 'unto the Lord', and not for betrothing a woman therewith. But what of the terumah of the tithe,[26] whereof it is written, thus ye shall also offer an heave-offering unto the Lord [of all your tithes],[27] — yet we learnt: If one betroths with terumoth,[28] she is betrothed? — That is because 'unto the Lord' is not written there.[29] But what of hallah,[30] whereof it is written, [of the first of your dough] ye shall give unto the Lord,[31] — yet we learnt: If one betroths [a woman] with terumoth,[32] she is betrothed? — That is because 'holy' is not written there. But what of the seventh year, whereof it is written: For it is a jubilee; it shall be holy unto you,[33] yet we learnt: If one betroths with seventh year produce, [the woman is] betrothed?[34] — That is because 'unto the Lord' is not written there. But what of terumah, whereof it is written: Israel is holy unto the Lord, the first-fruits [i.e., terumah] of his produce,[35] — yet we learnt: If one betroths [a woman] with terumoth, she is betrothed? — That refers to Israel.

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(1) There was no vote on the matter, in which case R. Judah would have revoked his ruling.

(2) One priest to receive meal-offerings and another portions of animal sacrifices to the equivalent value.

(3) Lev. VII, 9f; this implies that all the priests must share in the meal-offerings themselves.

(4) V. Lev. V, II.

(5) Ibid. This insistence that every kind of meal-offering shall be divided among all the priests shews that under no circumstance may they be divided against anything else.

(6) Lev. VII, 9. This being unnecessary for meal-offerings, which have already been dealt with in two verses, apply its teaching to the case under discussion.

(7) Fowl-offerings had their necks wrung by hand; animal sacrifices were slaughtered with a knife.

(8) One kind against another.

(9) The priest taking a handful of the meal and burning it on the altar-ibid. V, 12.

(10) I.e., each kind must be divided by all,

(11) The mahabath (baking pan) was very shallow, and the flour mingled with oil formed a thin dough which was fried by the fire; but the marhesheth (frying pan) was deep: this caused a thick dough which the fire could only cook.

(12) Do you take my portion in A's offering and give me your portion in B's.
(13) This further insistence teaches that each must keep his own.
(14) As the meal-offering.
(15) Do you take my portion of A's peace-offering and I will take yours in B's.
(16) Which is of lower sanctity.
(17) V. p. 247, n. 1.
(18) As explained: one portion cannot be exchanged for another. This proves that in his final opinion the priest's portion is not his own, to do as he likes with, but a gift from God to be consumed.
(19) This describes the state in the Temple after the death of Simeon the Just. Raba assumes that ‘shared’ means that they traded in their portions, bartering one for another. This must agree with R. Judah, who regards the priest's portion as his private property, to be used as he wishes, and shews that there was no majority decision.
(20) [A violent person. Ben (lit., ‘son’) expressing an attributive idea. V. Gesenius-Kautzsch Hebrew Grammar, 128t.]
(21) That hamzan connotes a man of violence, a robber.
(22) Ps. LXXI, 4.
(23) Isa. I, 17.
(24) I.e., it came to him anonymously; Kaplan, Redaction of the Talmud, p. 227.
(25) Lev, XXVII, 30.
(26) The tithe was given to the Levite, who further gave a tenth thereof, called the terumah of the tithe, to the priest.
(27) Num. XVIII, 28.
(28) Plur. of terumah, and this including the terumah of the tithe, v. infra 58a.
(29) It is the emphatic ‘it is the Lord's’ which teaches that it may not be used for betrothal.
(30) V. Glos.
(31) Num. XV, 21; unto the Lord is the same word in Heb. as it is the Lord's.
(32) Pl. of terumah; hallah is included in that term.
(33) Lev. XXV, 12.
(34) V. Mishnah on 50b re the man who betrothed five women with seventh year produce: the strangers among them were legally betrothed.
(35) Jer. II, 3.

Talmud - Mas. Kiddushin 53b

But does that not follow automatically?[1] Rabin the Elder explained it before Rab:[2] Scripture saith, it is [hu] — it must remain in its natural form.[3]

[IF] WITH HEKDESH, IF DELIBERATELY, HE HAS BETROTHED HER; IF UNWITTINGLY, HE HAS NOT: THIS IS R. MEIR’ S VIEW. R. JUDAH SAID: IF UNWITTINGLY, HE HAS BETROTHED HER; IF DELIBERATELY, HE HAS NOT. R. Jacob said: I heard from R. Johanan two [reasons on the laws concerning] the unwitting [use of] tithes [for betrothal], according to R. Judah, and the unwitting [use of] hekdesh, on R. Meir's view, [that] in both cases a woman is not betrothed therewith. One [reason] is that the woman does not wish it;[4] the other, that both do not desire it. But I do not know which is which.[5] Said R. Jeremiah: Let us consider. As for tithes, she is unwilling because of the trouble of the journey;[6] he, however, is pleased that the woman should become his without effort.[7] But as for hekdesh, both are unwilling that hekdesh should be secularised through them.[8] But R. Jacob maintained: The logic is the reverse. Can we not argued as for tithes, she is unwilling on account Of the trouble of the journey, whilst he is unwilling on account of the risks of the journey.[9] But as for hekdesh: it is indeed well that she is unwilling that hekdesh is secularised through her;[10] but is he then unwilling that the woman should become his without effort?[11]

Raba asked R. Hisda: The woman [it is said.] is not betrothed; does the money[12] pass out into hullin? — Seeing that the woman is not betrothed,[13] how is the money to pass out into hullin? R. Hiyya b. Abin asked R. Hisda: How is it in the case of purchase?[14] — In the case of purchase too, he replied, he gains no title. Thereupon he raised an objection: A shopkeeper ranks as a private individual: this is R. Meir's view. R. Judah maintained: A shopkeeper is as a money-changer.[15] Thus, they differ only in so far as one Master holds that a shopkeeper ranks as a money-changer. and the other regards him as a private individual. Yet all [including R. Meir] agree that if he expends it, trespass is committed?[16] — He argues on R. Judah's opinion. In my view, even if he expends it there is no trespass;[17] but even on your view,[18] you should at least agree with me that a shopkeeper is as a private individual. To which he answered him: No; he is as a money-changer.

Rab said:

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(1) Since Israel is likened to terumah and as such designated ‘holy to the Lord’, it follows that the same applies to terumah.

(2) The reason of the Mishnah with reference to the second tithe.

(3) I.e., the tithe must be used just as it is given to the Levite, viz., consumed by him, and not diverted to another purpose.

(4) Had she known what it was, she would not have accepted it as kiddushin, and therefore it is betrothal in error.

(5) For which opinion he gave the first reason, and for which the second — The practical difference is this: where the first reason applies — if the woman explicitly declares that she had no objection, the betrothal is valid, and it may be assumed that the man too was willing.

(6) It has to be taken to Jerusalem.

(7) Giving her the tithe actually saves him trouble.

(8) When he gives her hekdesh he withdraws it from its sacred ownership and it becomes secular (hullin). But since this involves a sacrifice, it may be assumed that both are unwilling.

(9) Rashi offers two explanations: (i) Since the tithe must be consumed in Jerusalem, he must bear the risks of the road-risks to which a woman is more exposed than a man, for until it reaches Jerusalem it has no value. For if she redeems it, the money must be carried to Jerusalem, and so he is in the same position. (ii) Even if he bears no responsibility for the risks of the road, yet if she loses it she may be resentful with him for having betrothed her with something of which she derived no benefit, and therefore he too is displeased. Tosaf. accepts the second.

(10) Since she has no particular benefit therefrom — he would have given her something else.

(11) I.e., without any outlay of his own for the present.

(12) Which is hekdesh.

(13) So that his statement is null.

(14) On R. Meir's view, what if one unwittingly buys an article with money belonging to hekdesh; does he acquire it or not?

(15) Me'il. 21b. If the Temple treasurer deposits money of hekdesh with a money-changer and it is bound up, he may not use it; if he does, he is liable for trespass, not the treasurer. If loose, he may use it, for the treasurer knows that he is continually in need of change, and by giving it to him loose he tacitly authorizes him to use it: therefore, if he does, the treasurer is liable. But if he deposits it with a private individual, whether loose or bound up, the bailee may not expend it; therefore if he does use it he is liable. A shopkeeper stands midway between the two.

(16) Now, one is liable for trespass only if the money actually becomes hullin: but that in turn demands that the action shall be effective and the purchase valid.

(17) Because his action is invalid. (Consequently R. Meir must hold that trespass is possible only when one eats food of hekdesh.)

(18) That expenditure is trespass.

Talmud - Mas. Kiddushin 54a

We have scrutinised R. Meir[‘s views] from every angle, and have not found that hekdesh, unwittingly used, is not secularised; if deliberately, it is.[1] But our Mishnah refers to priestly tunics which were not worn out, since they stand[2] to be used, for the Torah was not given to angels.[3] Come and hear: Worn out priestly tunics involve trespass: this is R. Meir's view. Surely the same holds good even if they are not worn out?[4] — No: only when they are worn out.[5]

Come and hear: Trespass can be committed with the new ones, but not with the old. R. Meir said: Trespass can be committed with the old too; for R. Meir used to say: Trespass can be committed with the surplus of the Chamber.[6] Yet why; let us say, since they stand to be used, for the Torah was not given to angels [no trespass is committed with them]. For the walls of the city and its towers came out of the Chamber surplus, as we learnt: The city wall and its towers and all city requirements were provided for out of the chamber surplus![7] — Say not ‘R. Meir’, but ‘R. Judah’.[8]

Come and hear: For it was taught: R. Ishmael b. R. Isaac said: If the stones of Jerusalem fall out [of their place in the walls], no trespass is incurred with them: this is R. Meir's view! — Say not, ‘R. Meir’, but, ‘R. Judah’. If R. Judah, is then Jerusalem [the city itself] sanctified? But we learnt: ‘As the lamb’, ‘As the Temple sheds of cattle’ or ‘As the wood’, ‘As the [altar] fire’, ‘As the altar’, ‘As the Temple’, [or] ‘As Jerusalem . . .’ R. Judah said: He who says: ‘Jerusalem’, has said nothing.[9] And should you answer, that is because he did not say: ‘As Jerusalem’,[10] — surely it was taught: R. Judah said: He who says: ‘as Jerusalem’ has said nothing, unless he relates his vow to that which is sacrificed in Jerusalem![11] —

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(1) I.e., not a single statement by R. Meir elsewhere warrants this assumption, which is implicit in R. Johanan's explanation of the Mishnah.

(2) Lit., ‘were given’.

(3) Lit., ‘ministering angels’. Since the tunics are still fit For service, their unwitting use is no trespass, because they were sanctified in the first place on this tacit understanding. For the priests cannot be expected to disrobe immediately they finish the service and not wear them a moment after. Consequently, they do not pass out of the ownership of hekdesh through unwitting use, and therefore R. Meir holds that she is not betrothed.

(4) Thus proving that their unwitting use involves trespass. (There is no liability to a trespass-offering for the deliberate use of hekdesh.)

(5) Being unfit for service, they are not to be used.

(6) There was an annual tax of one shekel for the public sacrifices payable between the first of Adar and the first of Nisan. The money was placed in a chamber and with it were bought sacrifices between Passover and Pentecost. If the tax was paid between the second of Nisan and the first of Sivan in the year it fell due, it was placed in special chests, which bore the inscription, ‘New shekels’, with which were bought sacrifices between Pentecost and Tabernacles. The same applied to the shekels paid between the second of Sivan and first of Tishri. The chests were then placed in the shekel chamber where they were divided into three baskets, (v. Shek. III, I, 2.) If the tax was not paid in the year it was due but in the following, it was placed in other chests marked ‘old shekels.’ These, together with the surplus from the chamber fund each year, were not used for sacrifices but for general town purposes, such as repairing the walls, etc.

(7) This proves that though the money might be used for that, yet if it was unwittingly employed for another purpose, liability is incurred. Hence the same should apply to the priestly tunics.

(8) For R. Judah does indeed hold the view expressed in the last note, as shewn in our Mishnah too,

(9) I.e., the vow is invalid; v. Ned. (Sonc. ed.) p. 27.

(10) I.e., Jerusalem itself is sanctified, and so a vow that something (e.g., food) shall be as Jerusalem is valid and renders the object forbidden. But R. Judah's reason is that the vower omitted ‘as’.

(11) For notes v. Ned. (Sonc. ed.) p. 28, n. 3,

Talmud - Mas. Kiddushin 54b

Two Tannaim differ as to R. Judah's view.[1]

‘Ulla said on Bar Pada's authority: R. Meir used to say that hekdesh, deliberately used, is secularised; unwittingly, it is not secularised.[2] And only in respect to sacrifice was it said that it is secularised by unwitting [misuse].[3] But since it is not secularised, whereby does he become liable to a sacrifice?[4] But when Rabin came [from Palestine], he explained it in Bar Pada's name: R. Meir used to say that hekdesh, deliberately used, is secularised; unwittingly, is not secularised. And only in respect of consumption was it said that it is secularised by unwitting misuse.[5]

R. Nahman said in R. Adda b. Ahaba's name: The halachah agrees with R. Meir in respect to [second-] tithe, since the Tanna taught his view anonymously;[6] and the halachah is as R, Judah in respect to hekdesh, since the Tanna taught his view anonymously.

[We learnt anonymously] as R. Meir in respect to [second-] tithe. To what is the reference? For we learnt. Fourth year vintage:[7] Beth Shammai maintain: It is not subject to a fifth[8] or removal;[9] Beth Hillel rule: It is. Beth Shammai rule: The law of fallings and gleanings apply to it;[10] Beth Hillel say: It is all for the vault.[11] What is Beth Hillel's reason? — They deduce the meaning of 'holy' from [second-] tithe:[12] just as tithe is subject to a fifth and removal, so is fourth year vintage too. While Beth Shammai do not deduce the meaning of 'holy' from tithe. Now, when Beth Hillel rule that it is as [the second-] tithe, with whom do they hold? If with R. Judah, why is it all for the vault, but he maintains that the [second-] tithe is secular property?[13] Hence surely [they agree] with R. Meir.[14]

'[We learnt anonymously] as R. Judah in respect to hekdesh.' To what is the reference? — For we learnt: If he [the Temple treasurer] sends it[15] by a responsible person[16] and recollects[17] before it reaches the shopkeeper's hands, the latter is guilty of trespass when he expends it.[18] Yet did we not learn [anonymously] as R. Judah in respect to [second-] tithe? But we learnt: If one redeems his own second-tithe, he must add a fifth,[19] whether it was his [in the first place] or given to him as a gift.[20] Whose [view] is this? Shall we say: R. Meir's? Can one give it as a gift: surely he maintains that [second-] tithe is sacred property? Hence it must surely be R. Judah's![21] — No. After all, it is R. Meir's, but the circumstances are that [the donor] gave it to him [mixed up] in its tebel,[22] and he holds that unseparated gifts[23] rank as unseparated.[24]

Come and hear: If one redeems his own fourth year plantings,[25] he must add a fifth, whether it was [originally] his or given to him as a gift. Who is the author of this? Shall we say: R. Meir? Can one give it away; surely he deduces the meaning of 'holy' from second-tithe?[26] Hence it must surely be R. Judah![27] — [No.] After all, it is R. Meir; but here the circumstances are that he gave it in its budding stage;[28] and this does not agree with R. Jose, who maintained: Budding fruit is forbidden [as 'orlah],because it counts as fruit.[29] Come and hear: If he drew into his possession the [second-] tithe [of another] to the value of a sela', and had no time to redeem it[30] before it appreciated to two, he must pay a sela'[31] and thus profits a sela', and the second-tithe is his.[32] Now, whose view is this? Shall we say: R. Meir's; why does he profit a sela', Scripture saith, And he shall give the money, and it shall be assured to him?[33] Hence it must surely be R. Judah's! — It is indeed R. Judah's, but here we have one anonymous teaching, whereas there we have two.[34] But if an anonymous [ruling] was intentionally taught,[35] what does it matter whether there is one or two? — Said R. Nahman b. Isaac, The halachah is as R. Meir, since we learnt his view in Behirta.[36]

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(1) According to the first who deals with trespass, R. Judah holds Jerusalem to be sanctified; according to the second, on vows, it is not.

(2) I.e., 'Ulla agrees with R. Johanan supra 53b.

(3) The Torah decreeing a sacrifice (Lev. V, 15). as though it were converted to hullin. Nevertheless it actually remains hekdesh.

(4) Seeing that his act is null.

(5) I.e., when the object is actually consumed; then it has obviously passed out of the ownership of hekdesh.

(6) As explained below. It is a general principle that if the view of an individual is found cited in a Mishnah anonymously, that is the halachah.

(7) The first three year's vintage of a vineyard, as the first three years' crop of any tree, was forbidden; the fourth year's was permitted, but on the same terms as second-tithe, viz., it had to be eaten in Jerusalem.

(8) If one redeems it and expends the money in Jerusalem, he need not add a fifth, which is necessary in the case of second-tithe.

(9) If an Israelite separated tithes but did not render them to their rightful owners, he might not keep them in his own house beyond the end of the third and the sixth years of the Septennate, but had to remove and give them to their owners. Likewise, second-tithe might not be kept in the house after that, but had to be taken to Jerusalem. This does not apply to fourth year vintage.

(10) Heb. peret and ‘olleloth respectively. Peret, single grapes that fall off during vintaging; ‘olleloth, small single bunches, which must not be vintaged but left for the poor, v. Lev, XIX, 10.

(11) I.e., it must all be gathered, to be made into wine.

(12) Fourth year produce, Lev. XIX, 24: But in the fourth year all the fruit thereof shall be holy; second-tithe, ibid. XXVII, 30: and all the tithe of the land, . . is the Lords; it is holy unto the Lord.

(13) With respect to fallings and gleanings it is written: Lev. XIX, 10: and thou shalt not glean thy vineyard, neither shalt thou gather the fallen fruit of thy vineyard. ‘Thy’ excludes sacred property, which is God's. But if Beth Hillel agree with R. Judah, second-tithe is secular, and since fourth year vintage is assimilated thereto, that also is likewise.

(14) And since the halachah is always as Beth Hillel, that is the equivalent of an anonymous teaching as R. Meir.

(15) Money of hekdesh.

(16) Pikeah, lit., ‘bright’, ‘understanding’, connotes the opposite of a deaf-mute, idiot, or minor, who are irresponsibles.

(17) That it is hekdesh.

(18) But not the treasurer; for since he recollected that it was hekdesh, its expenditure is not unwitting as far as he is concerned, and a trespass-offering is incurred only for unwitting misuse: v. Lev. V, 15, and sin through ignorance. This proves that it becomes hullin by unwitting, not deliberate use. For if deliberate use likewise secularises it, the treasurer should he liable, since its secularisation was pursuant to his action, which at the outset was unwitting.

(19) Lev, XXVII, 31: and if a man will redeem aught of his tithe, he shall add unto it the fifth part thereof.

(20) ‘His’, that it was separated of his own produce; ‘given to him as a gift,’ that somebody had tithed his produce and then given him the tithe.

(21) And it was taught anonymously.

(22) l.e., he gave him untithed corn, which therefore contained some second-tithe.

(23) ‘Gifts’ is the technical term for the priestly and Levitical dues, and here includes the second-tithe, though that belonged to the Israelite.

(24) There is an opposing view that they rank as already separated. According to that, if A gives B untithed corn (tebel), what should be separated is already separated, and therefore since on the present hypothesis this agrees with R. Meir that second-tithe is sacred property and cannot be given away, the tithe in it remains A's. Hence it is explained that he holds that it ranks as unseparated and so it can be given to B together with the rest.

(25) V. p. 273, n, 10.

(26) V. supra. Hence it is sacred property.

(27) Thus we have an anonymous Mishnah in agreement with R. Judah in respect to second-tithe.

(28) When the fruit is recognisable, after the flower has dropped off.

(29) On that view fourth year fruit, being sacred property, could not be given away. But here we hold that the term ‘fourth year fruit’ is as yet inapplicable, because it is not fruit at all.

(30) By paying the owner the money.

(31) , Because he acquired it by meshikah (v. Glos.) and it appreciated in his possession.

(32) Because the second-tithe is secular property, hence it is acquired by meshikah.

(33) Hence tithe is acquired only by money, not meshikah. Actually there is no such verse, and this would appear to be a free paraphrase of Lev. XXVII, 19: then he shall add the fifth part of the money of thy estimation unto it, and it shall be assured to him; Tosaf. Shab. 128a s.v. i,bu. V. supra p. 12, n. 6. — The verse refers to the redemption of a sanctified field, and since R. Meir regards the second-tithe as sacred property, its teaching applies to that too.

(34) The anonymous Mishnah agreeing with R. Meir is found twice, in M.Sh. V, 3 and ‘Ed. IV, 5; that agreeing with R. Judah is found only in M.Sh. IV, 6.

(35) Thus, to shew that it is the halachah; v. p. 273. n. 9.

(36) Lit., ‘selected (Mishnah).’ another name for ‘Eduyyoth. This consists of testimonies by scholars on traditional laws, which were examined and declared authentic.

Talmud - Mas. Kiddushin 55a

We learnt elsewhere: If an animal is found between Jerusalem and Migdal Eder[1] or an equal distance [from the city] in any direction: the males are burnt-offerings; the females are peace-offerings.[2] Now, can males be only burnt-offerings and not peace-offerings![3] — Said R. Oshaia: The reference here is to one who comes to accept responsibility for its value; and this is its meaning: we fear that they may be burnt-offerings; it being in accordance with R. Meir, who ruled: Hekdesh can be deliberately converted into hullin.[4] But can [an object of] intrinsic sanctity[5] be redeemed? Did we not learn: There cannot be consecutive trespasses in respect of sacred objects,[6] excepting in the case of [consecrated] animal[s] and vessels of ministry.[7] How so? If a man rode on a [dedicated] cow, then his neighbour came and rode, and then another came and rode, all are guilty of trespass. If he drank out of a golden goblet, then his neighbour came and drank, and then another, all are guilty of trespass? — The latter[8] is according to R. Judah; the former,[9] R. Meir. But from R. Judah we may understand R. Meir's view. Does not R. Judah maintain that hekdesh may be unwittingly converted into hullin, and yet intrinsic sanctity cannot be secularised;[10] hence according to R. Meir too, although hekdesh, by deliberate misuse, is secularised, yet intrinsic sanctity cannot be secularised![11] — There he does not intend to withdraw it into hullin; here he does.[12] But when do you know R. Meir to hold this? [Only] in the case of higher sanctity;[13] do you know him [to hold this view] in respect to lower sanctity?[14] — Said one of the Rabbis to him [the questioner], R. Jacob by name, It follows a fortiori: If objects of the higher sanctity can be secularised, surely those of the lower sanctity can be! It was stated likewise. R. Hama b. ‘Ukba[15] said in R. Jose son of R. Hanina's name: R. Meir used to assert, Hekdesh is secularised by deliberate conversion, but is not secularised by unwitting conversion; this applies to objects of both higher and lower sanctity, a fortiori: if objects of higher sanctity can be secularised, surely those of lower sanctity can be.

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(1) Gen, XXXV, 21. Lit., ‘Fold Tower,’ a place not far from Jerusalem, on the road to Bethlehem.

(2) Most cattle that wandered out of Jerusalem had been consecrated for sacrifices, and cattle found within this distance were feared to have strayed out. The females are peace-offerings, since only males could be burnt-offerings (Lev. I, 3).

(3) Surely not. They may be the latter: how can they be sacrificed as burnt-offerings?

(4) The animal itself can certainly not be sacrificed. But if a person wishes to accept responsibility, redeem it, and so clear up all doubt, he must reckon with the possibility of its being a burnt-offering. Hence he must bring two animals or two sums of money and declare: ‘If this found animal is a burnt-offering, let it be redeemed by one animal, or by one sum, which shall be likewise a burnt-offering, and the other shall be a peace-offering. Whereas if it is a peace-offering, let it be redeemed by the second, and the first be a burnt- offering, while the animal found becomes hullin.

(5) Lit., ‘sanctity of the body,’ i.e., an animal which is sacred and without blemish, so that it can be offered on the altar; as opposed to monetary sanctity, e.g., a consecrated animal which subsequently receives a blemish; it cannot be sacrificed itself, but must be redeemed and another animal bought with the money, which is sacrificed.

(6) For when the first commits trespass they become hullin and cease to be subject to further trespass.

(7) Used in the Temple. These do not become hullin when secularly used, because they cannot be redeemed as long as they are fit for their purpose.

(8) The Mishnah just quoted.

(9) On the finding of an animal.

(10) For the latter Mishnah, which agrees with R. Judah, must refer to unwitting use, since no offering is incurred for deliberate misuse, and yet it teaches that animals of intrinsic sanctity involve consecutive trespasses, which proves that they are not secularised by the first misuse.

(11) For unwitting misuse, in R. Judah's opinion, is the same as deliberate misuse in R. Meir's.

(12) I.e,, deliberate conversion, according to R. Meir, is stronger than unwitting misuse, on R. Judah's opinion, and therefore it secularises even intrinsic sanctity.

(13) I.e., anything which is entirely used in the service of the Temple. E.g., an article consecrated for Temple repair, and a sacrifice of the higher sanctity, which belonged entirely to God, none of it being eaten by its owner.

(14) And the Mishnah on a strayed animal refers to such, since it may be a peace-offering, which is of the lower sanctity.

(15) Cur. ed.: Akiba; but a R. Hama b. R. Akiba is unknown in the Talmud.

Talmud - Mas. Kiddushin 55b

Talmud - Mas. Kiddushin 55b

Now, R. Johanan was astonished thereat:[1] is then a man bidden, 'Arise and sin, that you may achieve merit!'[2] But, said R. Johanan, we wait until it is blemished;[3] then two animals are brought, and a stipulation made.[4]

The Master said: 'Males are burnt-offerings.' But perhaps it is a thanksgiving-offering?[5] — A thanksgiving-offering too is brought .[6] But then loaves are required?[7] — Loaves too are brought. Yet perhaps it is a guilt-offering?[8] — A guilt-offering requires a two year old [animal], whereas a yearling was found. Then perhaps it is a guilt-offering of a leper or a nazir?[9] — These are rare. Yet perhaps it is a Passover sacrifice? — One takes great care of the Passover sacrifice in its season,[10] and when not in its season[11] it is a peace — offering.[12] Yet perhaps it is a firstling or tithe? — In what respect? That it may be eaten when blemished?[13] Here too, it is eaten when blemished.[14]

The Master said: 'Females are peace-offerings.' But perhaps it is a thanksgiving-offering? — He brings a thanksgiving-offering. But then loaves are required? — Loaves too are brought. But perhaps it is a sin-offering? — A sin-offering is a yearling, whereas a two year old was found. Yet perhaps it is a sin-offering which has passed its year?[15] — That is rare. Then what if a yearling is found? — It was taught: Hanina b. Hakinai said: A yearling she-goat is [sacrificed] as a sin-offering. 'As a sin-offering' — can you think so![16] — But, said Abaye, it is [treated] as a sin-offering:[17] it is led into a stable and left to perish.

Our Rabbis taught: An animal may not be bought with second-tithe money;[18]

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(1) At R. Oshaia's explanation, supra a, top.

(2) For even if deliberate conversion is effective in respect of intrinsic sanctity, it is nevertheless forbidden; Men. 101a.

(3) When it loses its intrinsic sanctity — i.e., it may no longer be sacrificed, and as such must be redeemed, whereby it becomes hullin.

(4) V. p. 277, n. 1.

(5) Which may likewise be a male.

(6) I.e., two animals are sanctified; cf. p. 277, n. 1.

(7) V. Lev, VII, 2.

(8) And that cannot be settled by bringing a third, because a guilt-offering cannot be vowed but must be incurred by sin.

(9) V. Glos. These were yearlings.

(10) Animals were separated for that purpose on the tenth of Nisan and sacrificed on the fourteenth. During this time they were carefully guarded, and could not have strayed.

(11) I.e., if these are not sacrificed then.

(12) Which he does bring.

(13) I.e., the fear that it may be a firstling or tithe can affect only the question of their redemption when blemished; for these cannot be redeemed, even when blemished, but must be eaten in semi-sanctity, i.e., they must not be killed in the general abattoirs nor weighed with the ordinary weights, in order to emphasize their character.

(14) In the same manner as firstlings and tithes.

(15) Having been lost a long time.

(16) It may not be one, nor is a stipulation possible (v. p. 277, n. 1), since a sin-offering cannot be vowed.

(17) Which for any reason may not be sacrificed, e.g., if its owner dies.

(18) Without Jerusalem. Either because it may become emaciated through the journey (one explanation by Rashi), or for fear that its owner may be tempted to keep it at home for breeding (Tosaf.).

Talmud - Mas. Kiddushin 56a

and if one does buy: if unwittingly, the money must be returned to its place;[1] if deliberately, it must be brought up and consumed in the Place.[2] R. Judah said: That holds good if he intentionally bought it in the first place for a peace-offering;[3] but if it was his intention to turn the second-tithe money into hullin,[4] whether unwittingly or deliberately,[5] the money must be returned to its place.[6] But did we not learn: R. JUDAH SAID: IF DELIBERATELY, HE HAS BETROTHED [HER]?[7] — Said R. Eleazar: The woman knows that the second-tithe money does not become hullin through her [acceptance thereof as kiddushin], and so she will go up and expend[8] it in Jerusalem.[9]

R. Jeremiah demurred: But what of unclean cattle, slaves, and real estate, in regard to which a man knows that second-tithe money is not secularised by [the purchase of] them; yet we learnt: Unclean cattle, slaves, and land may not be bought with second-tithe money, even in Jerusalem; and if he does purchase [them], he must eat to the value thereof?[10] But [say] here [in the Mishnah] the reference is to a woman, a haberah,[11] who knows.[12]

The Master said: ‘If he does purchase [them], he must eat to the value thereof.’ Yet why: let the money return to its place, as there? — Said Samuel:

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(1) The owner. The vendor is compelled to return the money, which must have been given in error. For the purchaser would surely rather carry money than drive an animal to Jerusalem,

(2) Sc. Jerusalem.

(3) Like all animals purchased with second-tithe money.

(4) I.e., he bought the animal intending to eat it outside Jerusalem (Rashi). Tosaf.: He stipulated that the animal should remain hullin, while the vendor should expend the money in Jerusalem.

(5) Whether he knew the money was of second-tithe or not.

(6) If unwittingly, because it was a transaction in error, as above; if deliberately, as a punishment to the vendor for acting as an accessory (Rashi). Tosaf.: In both cases, for fear that the vendor may eat the animal outside Jerusalem, thinking that the stipulation is invalid.

(7) V. Mishnah 52b. This shews that since there is no error, the Rabbis did not nullify the transaction as a penalty (Rashi). Tosaf.: This shews that we do not fear that the woman may expend the money outside Jerusalem, as otherwise his act would be nullified: why then do we fear it in the case of the vendor?

(8) Lit., ‘eat’.

(9) Hence there is no question of penalizing anyone (Rashi). Tosaf.: But the vendor thinks that since when one usually buys an animal with second-tithe money, the animal becomes sanctified and the money hullin, so is it now, the stipulation being unable to abrogate normal practice.

(10) I.e., he must take fresh money and declare, ‘Wherever the first money is, let it be redeemed by this,’ and expend it in Jerusalem. But we do not assume that the vendor himself will take the money thither.

(11) Fem. of haber, associate, one who is learned and very strict in all matters of tithes and laws of purity. Some suggest that the unsettled state of Palestine during the Maccabean wars led to the neglect of tithes and Levitical purity by the masses, the so-called ‘am ha-’arez (lit., ‘people of the land’), and this, in turn, by reaction, was responsible for the promotion of associations (haburoth), the members of which (haberim) were pledged strictly to observe these laws, V. J.E. art, ‘Haber’.

(12) That second-tithe money does not become hullin by her acceptance, and therefore she will expend it in Jerusalem. But the average seller does not know these laws.

Talmud - Mas. Kiddushin 56b

This [holds good] if he [the vendor] has fled. Thus, the reason is that he has fled, but otherwise, we penalize the vendor:[1] but let us penalize the purchaser?[2] — Not the mouse steals, but the hole steals![3] Yet but for the mouse, what harm is done by the hole! — It is reasonable that where the transgression lies, there we impose a penalty.[4]

MISHNAH. IF HE BETROTHS [A WOMAN] WITH ‘ORLAH, OR KIL'AYIM,[5] OF THE VINEYARD, OR AN OX CONDEMNED TO BE STONED,[6] OR THE HEIFER WHICH IS TO BE BEHEADED,[7] OR A LEPER'S BIRD-OFFERINGS,[8] OR A NAZIRITE'S HAIR, OR THE FIRSTLING OF AN ASS, OR MEAT [SEETHED] IN MILK,[9] OR HULLIN[10] SLAUGHTERED

IN THE TEMPLE COURT, SHE IS NOT BETROTHED.[11] IF HE SELLS THEM AND BETROTHS [HER] WITH THE PROCEEDS,[12] SHE IS BETROTHED.[13]

GEMARA. WITH ‘ORLAH: How do we know it? — Because it was taught: They shall be as uncircumcised unto you: it shall not be eaten:[14] thus I know only the prohibition of eating; whence do we know [that all] benefit [is forbidden], [i.e.,] that one must derive no benefit therefrom, [e.g.,] not dye nor kindle a lamp therewith? From the verse: ‘Then ye shall count the fruit thereof as uncircumcised,’ which includes all.

[WITH] KIL'AYIM OF THE VINEYARD. How do we know it? — Said Hezekiah, Scripture saith, [Thou shalt not sow thy vineyard with divers seeds:] lest [the fruit of thy seed which thou hast sown, and the fruit of thy vineyard,] be defiled [tikdash]:[15] i.e., tukad esh [it shall be burnt in fire]. R. Ashi said: [Interpret,] Lest it be as sanctified.[16] If so, just as a sanctified object transfers its character to its purchase price,[17] and itself becomes hullin, so should kil'ayim of the vineyard transfer its character to its purchase price, and itself become hullin?[18] Hence it must clearly be [explained] as Hezekiah.

[WITH] AN OX CONDEMNED TO BE STONED. How do we know it? — Because it was taught: From the implication of the verse, the ox shall be surely stoned,[19] do I not know that it is nebelah,[20] which is forbidden as food? Why then is it stated, and his flesh shall not be eaten?[19] It informs you that if it was killed after the trial was ended,[21] it may not be eaten, How do we know that benefit [is forbidden]? From the verse, and the owner of the ox shall be clear. How is this implied? — Said Simeon b. Zoma: As a man may say to his friend, ‘So-and-so has gone out clear from his property, and has no benefit whatsoever from it.’ Now, how do you know that this [verse], ‘and his flesh shall tot be eaten,’ comes [to teach the law] if it is [ritually] killed after the trial is ended: perhaps where it is killed after sentence, it is permitted, and this [verse], ‘and it shall not be eaten,’ refers[22] to when it is indeed stoned, and [its teaching is that of] R. Abbahu in R. Eleazar's name. For R. Abbahu said in R. Eleazar's name: Wherever it is said: It shall not, be eaten, thou shalt not eat, ye shall not eat, the prohibitions of both eating and benefit [in general] are understood, unless the writ expressly states [otherwise], as it does in the case of nebelah![23] — That is only where the prohibition of food is derived from, it shall not be eaten;[24] but here the prohibition of eating follows from, ‘it shalt surely be stoned’: for should you think that it is written to intimate prohibition of benefit, Scripture should state, ‘and he shall not benefit’,[25] or, ‘it shall not be eaten’: why add, ‘its flesh’? [To shew that] even if it is slaughtered like [other] flesh, it is [still] forbidden.

Mar Zutra objected: Yet perhaps that is only if one examines a stone, [finds its edge perfectly free from a notch] and kills therewith, for it looks like stoning; but not if it is slaughtered with a knife? — Is then a knife stipulated in the Torah?[26] Moreover, it was taught: One may slaughter with everything,[27] with a stone, glass, or a reed haulm.

But now that the prohibitions of both eating and benefit are derived from, ‘it shall not be eaten,’ what is the purpose of this [clause], ‘and the owner of the ox shall be clear’?[28] — In respect of the benefit of its skin.[29] I might think, ‘its flesh shall not be eaten’ is written: [hence] its flesh is forbidden while its hide is permitted. Now, according to those Tannaim who employ this verse: ‘and the owner of the ox shall be clear’, as referring to half ransom and indemnification for children,[30] how do they know [that] the benefit of the hide [is forbidden]? — From ‘eth besaro’ [‘its flesh’], meaning, that which is joined to its flesh.[31] And the other?[32]

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(1) By making him return the money.

(2) That he should spend an equal sum in Jerusalem, or go to the vendor and declare, ‘The money you hold is redeemed by this money I have,’ and then expend the new money in Jerusalem (Tosaf.).

(3) The vendor makes possible this misuse of the money.

(4) The transgression, i.e., the money wrongly expended, lies with the vendor: hence he is penalized by the cancellation of the sale.
(5) V. Glos.
(6) V. Ex. XXI, 28f.
(7) V. Deut. XXI, 1-9.
(8) V. Lev. XIV, 1ff.
(9) Ex. XXIII, 19.
(10) V. Glos.
(11) Because all benefit of these is forbidden; hence she receives nothing of value.
(12) Lit., ‘their money’.
(13) Because their forbidden character is not transferred to the money.
(14) Lev. XIX, 23.
(15) Deut. XXII, 9.
(16) Hence forbidden. Thus on both versions all benefit of kil'ayim is forbidden.
(17) Lit., ‘holds its money’, i.e., if sold, its prohibition passes on to the money paid.
(18) Whereas the Mishnah states that its prohibition is not transferable.
(19) Ex. XXI, 28,
(20) V. Glos.
(21) I.e., after sentence.
(22) Lit., comes.
(23) Deut. XIV, 21: Ye shall not eat any nebelah: thou mayest give it unto the stranger . . . or sell it unto a foreigner. Now, a stoned ox is nebelah, and so I might think that benefit is permitted; therefore Scripture states that its flesh shall not be eaten, thus intimating the contrary. And as to the verse ‘and the owner of the ox shall be clear’, it is needed for some other deduction v. infra.
(24) Then R. Abbahu's exegesis shews that ‘eating’ includes all benefit.
(25) When both eating and general benefit are to be forbidden, it is reasonable that the former only is mentioned as including the latter. But when only the latter is needed, the former already being known, surely benefit should be expressly stated?
(26) The Torah does not state that only a knife must be used in ritual killing: hence no distinction can be drawn.
(27) Which has a cutting edge free from notches. — Nevertheless, it had to be sharp enough to cut through the wind pipe and the gullet without undue delay; v, J.D. 23, – 4.
(28) Which was interpreted in the same way; supra.
(29) Teaching that even that is forbidden.
(30) Ransom, v. Ex. XXI, 28-30, 35f; it might be thought, by comparing these verses, that half ransom is payable. Payment for child: v. ibid. 22; I might think that the same holds good when the damage is done by a man's ox. Therefore ‘and the owner of the ox shall be clear’ (E.V. quit) teaches that he is free from both.
(31) Regarding eth, the sign of the acc., as an extending particle.
(32) What does eth teach on his view?

Talmud - Mas. Kiddushin 57a

He does not interpret eth.[1] As it was taught: Simeon the Imsonite[2] — others state, Nehemiah the Imsonite, — interpreted every eth in the Torah,[3] but as soon as he came to, thou shalt fear [eth] the Lord thy God,[4] he refrained.[5] Said his disciples to him, ‘Master, what is to happen with all the ethin[6] which you have interpreted?’ ‘Just as I received reward for interpreting [them],’ he replied: ‘so do I receive reward for retracting.’[7] Subsequently[8] R. Akiba came and taught: Thou shalt fear [eth] the Lord thy God, that is to include scholars.[9]

THE HEIFER WHICH IS BEHEADED: How do we know it? — Said the School of R. Jannai: ‘Forgiveness’ is stated in connection therewith,[10] as with sacrifices.[11]

A LEPER'S BIRD-OFFERINGS: How do we know it? — For the School of R. Ishmael taught:

Qualifying and atoning [sacrifices] are mentioned within [the Temple], and qualifying and atoning [sacrifices] are mentioned without: just as with the qualifying and atoning [sacrifices] mentioned within [the Temple], qualifying is made equal to atoning [sacrifices], so with the qualifying and atoning [sacrifices] mentioned without, the qualifying [sacrifice] is made equal to that which atones.[12] It was stated: From what time are a leper's birds forbidden?[13] R. Johanan maintained: From the time of slaughter;[14] Resh Lakish said: From the time they are taken.[15] 'R. Johanan maintained, From the time of slaughter,' it is the slaughter that renders it forbidden. 'Resh Lakish said: From the time they are taken' — it is learned from the heifer that is to be beheaded. Just as the heifer that is to be beheaded is [forbidden] while it yet lives,[16] so are the leper's birds [forbidden] while yet alive. And from what time is the heifer that is to be beheaded itself forbidden? — Said R. Jannai: I have heard a time limit for it, but have forgotten it: while our colleagues maintain,[17] Its descent to the rugged valley,[18] that renders it forbidden.[19] If so, just as the heifer that is to be beheaded is not forbidden from the time it is taken, so are the leper's birds not forbidden from when they are taken? — How now! There it has another determining point;[20] but here, is there any other determining point?[21]

R. Johanan raised an objection to Resh Lakish: Of all clean birds ye may eat:[22] this includes the bird that is set free.[23] But these are they of which ye shall not eat:[24] that includes the slaughtered bird.[25] But should you think that it is forbidden while yet alive, is it necessary [to state it] after slaughter? — You might argue: It is analogous to sacrifices, which are forbidden whilst alive,[26] yet the slaughtering comes and qualifies them [as food]; therefore we are told [otherwise].

He raised an objection: If it is slaughtered and found to be trefa,[27] he must take a companion for the second,[28] and benefit from the first is permitted. But should you think that it is forbidden while yet alive, why may one benefit from the first![29] — The circumstances here are, e.g., it was found to be trefa in its inwards,[30] so that no sanctity fell upon it at all.

He raised an objection: If it is slaughtered without the hyssop, the cedar wood and the scarlet thread,[31] — R. Jacob said: Since it was set aside for its religious purposes it is forbidden; R. Simeon said: Since it was not slaughtered according to its regulations, it is permitted. Now, they differ only in so far as one Master holds that an unfit slaughtering[32] is designated slaughtering;[33] while the other Master holds that such is not designated slaughtering; but all agree at least that it is not forbidden while yet alive? — It is [a controversy of] Tannaim. For the School of Ishmael taught: 'Qualifying' and 'atoning' are mentioned within [the Temple], and 'qualifying' and 'atoning' are mentioned without: just as with the 'qualifying' and 'atoning' mentioned within, 'qualifying' is made equal to 'atoning', so with the 'qualifying' and 'atoning' mentioned without, 'qualifying' is made equal to 'atoning'.[34]

The text [above stated]: 'Of all clean birds ye may eat: this includes the bird that is set free. But these are they which ye shall not eat: that includes the slaughtered bird.' But may I not reverse it? — Said R. Johanan on the authority of R. Simeon b. Yohai: We do not find live creatures [permanently] forbidden.[35] R. Samuel son of R. Isaac demurred: Do we not? But

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(1) As indicating extension or having any particular significance apart from its grammatical one.

(2) Jast. conjectures that it may mean from Amasia, in Pontus.

(3) As an extending particle.

(4) Deut. VI, 13.

(5) Considering it impossible that this fear should be extended to another.

(6) Pl. of eth.

(7) Lit., 'separating' (myself from them). Since the eth in one verse has no particular significance, it can have none elsewhere. — It is a tribute to his character that although he must have interpreted an enormous number, he was prepared to admit his error and set them all aside.

(8) Lit., ‘until’.
(9) Who are the depositaries of God's word; hence the verse exhorts obedience to religious authority.
(10) V. Deut. XXI, 8.
(11) Betrothal with which is invalid.
(12) ‘Qualifying’ means a sacrifice whose purpose it is to qualify one to enter the Temple and partake of sacred food, i.e., to purify him from uncleanness; ‘atoning’, a sacrifice to atone for sin. Now, in his purification rites, a leper brought birds, which were sacrificed without the Temple (Lev. XIV, 2ff.) and an animal guilt-offering, which was sacrificed within the Temple (vv. 10-13). Though technically called a guilt-offering, its purpose was nevertheless purificatory, since he had not sinned. Again, the purpose of the beheaded heifer, whose rites were performed without the Temple, was atonement. Whilst within the Temple, all other guilt-offerings, excepting the leper's, had the same object. Now, just as Scripture draws no distinction between a leper's guilt-offering (qualifying) and other guilt-offerings (atonement) which are sacrificed within the Temple, so is no distinction drawn between ‘qualifying’ and ‘atoning’ without the Temple, i.e., between a leper's birds and the beheaded heifer. Since therefore betrothal with the latter is invalid, it is likewise so with the former.
(13) That no benefit may be derived from them.
(14) Then the slaughtered one becomes forbidden, while the other (v. Lev, XIV, 7), is likewise forbidden from then until it is actually freed. — Tosaf.
(15) I.e., set aside for that purpose. On the bird that is freed v. preceding note
(16) Like all sacrifices, which are forbidden as soon as they are dedicated.
(17) Lit., ‘take it up to say’.
(18) V. Deut. XXI, 4 and Sot. (Sonc. ed.) p. 235, n. 6,
(19) But not as soon as it is taken.
(20) Whilst alive, viz., its descent etc.
(21) If not from when it is taken, what other point of demarcation during its lifetime is possible?
(22) Deut. XIV, 11.
(23) ‘All’ is an extension.
(24) Ibid. 12.
(25) Both referring to the leper's birds.
(26) From when they are dedicated.
(27) V. Glos.
(28) But not a fresh pair.
(29) For perhaps it was not trefa when taken, in which case, being fit for its ultimate purpose. it became forbidden. How then was that prohibition lifted?
(30) The type of trefa which must have been with it from the very beginning when taken.
(31) V. Lev. XIV, 4.
(32) I.e., unfit to achieve its object, owing to the absence of the hyssop etc.
(33) Hence it is forbidden.
(34) V. p. 284, n. 9. Hence, just as sacrifices (‘atoning’) are forbidden while alive, so are the leper's birds (‘qualifying’) too. Thus the School of Ishmael disagrees with R. Jacob and R. Simeon.
(35) Hence ‘they which ye shall not eat’ cannot include the bird that is freed.

Talmud - Mas. Kiddushin 57b

what of a designated animal[1] and a worshipped animal,[2] which though living creatures, are yet forbidden?[3] — They are forbidden only in respect of the Most High, but are indeed permitted for ordinary use.[4] R. Jeremiah demurred: But animals, active or passive participants in bestiality attested by witnesses, are living creatures and yet forbidden?[5] But, said R. Johanan, we do not find as a rule live creatures that are [permanently] forbidden.[6]

The School of R. Ishmael taught: Because Scripture saith, and he shall let go the living bird it to the open field:[7] just as the field is permitted, so is this [bird] too permitted. Does ‘field’ come to teach this? But it is required for what was taught. ‘Field’ [teaches] that one must not stand in Joppa[8] and cast it into the sea, or in Gabbath[9] and cast it to the wilderness, or stand without the city and throw it into the city; but he must stand within the city and throw it beyond the wall. And the other?[10] — If so, Scripture should write, ‘field’: why ‘the field’? Hence both are inferred. Raba said: The Torah did not order, ‘Send it away’, for a stumbling-block.[11]

WITH A NAZIRITE'S HAIR, How do we know it? Because Scripture saith, He shall be holy, he shall let the locks of the hair of his head grow long,[12] [teaching], his growth shall be holy.[13] If so, just as a holy object stamps its purchase price[14] and itself passes out into hullin, so should the nazirite's hair stamp its purchase price and itself pass out into hullin?[15] — Do we then read kodesh? We read kadosh.[16]

WITH THE FIRSTLING OF AN ASS. Shall we say that our Mishnah does not agree with R. Simeon? For it was taught: Benefit is forbidden from the firstling of an ass: this is R. Judah's opinion; but R. Simeon permits it! — Said R. Nahman in Rabbah b. Abbuha's name: This means after its neck was broken,[17] and so agrees with all.[18]

MEAT [SEETHED] IN MILK. How do we know it? — For the School of R. Ishmael taught: Thou shalt not seethe a kid in its mother's milk [is stated] three times:[19] one is a prohibition against eating, one a prohibition of benefit [in general], and one a prohibition of seething.[20] Our Mishnah does not agree with the following Tanna. For it was taught: R. Simeon b. Judah[21] said: Meat [seethed] in Milk may not be eaten, but benefit is permitted, for it is said: For thou art an holy people unto the Lord thy God. Thou shalt not seethe a kid in its mother's milk;[22] whilst elsewhere it is said: And ye shall be holy men unto me: [therefore ye shall not eat any flesh that is torn of beasts in the field; ye shall cast it to the dogs.]:[23] just as there it may not be eaten, yet benefit is permitted, so here too.

AND HULLIN SLAUGHTERED IN THE TEMPLE COURT. How do we know it? — Said R. Johanan on R. Meir's authority: The Torah decreed, slaughter mine [i.e., sacrifices] in mine [i.e., the Temple] and thine [i.e., hullin] in thine [i.e., without the Temple]: just as mine [slaughtered] in thine is forbidden,[24] so is thine [slaughtered] in mine forbidden. If so, just as thine in mine is punished by kareth,[25] so is mine in thine punished by kareth? — Scripture saith, and he hath not brought it unto the door of the tent of meeting, to offer it as a sacrifice unto the Lord . . . then he shall be cut off:[26] for a sacrifice [slaughtered without] there is punishment of kareth, but not for hullin slaughtered in the Temple Court. [That being so,] it [the analogy] may be refuted: as for mine in thine [being forbidden], that is because it is punished by kareth! — But, said Abaye, [it is deduced] from this: and he shall kill it [at the door of the tabernacle of the congregation],[27] and he shall kill it [before the tabernacle of the congregation],[28] and, and he shall kill it [before the tabernacle of the congregation],[29] are three superfluous verses.[30] Now, why are they stated? Because it is said: If the place [which the Lord thy God shall choose to put his name there] shall be far from thee . . . then thou shalt kill [of thy herd etc.],[31] [teaching] you may kill far from the place [sc. the Temple], but not in the place, thus excluding hullin, [viz.,] that it may not be killed in the Temple Court. Again, I know this only of unblemished animals, which are eligible to be sacrificed: whence do I know to include blemished ones? I include blemished animals, since they are of a fit species.[32] Whence do I know to include beasts?[33] I include beasts, since they require shechitah,[34] as a [domestic] animal,[35] How do I know to include birds?[36] Therefore it is stated, and he shall kill it, and he shall kill it, and he shall kill it.[37] I might think, One may not kill [hullin in the Temple Court]; yet if he does, it is permitted [to eat it]: therefore it is stated: If the place be far from thee, then thou shalt kill . . . and thou shalt eat: you may eat what you kill far from the place, but not what you kill in the place, thus excluding hullin killed in the Temple Court.[38] Now, I know this only of unblemished animals,

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(1) An animal designated as an idolatrous sacrifice.

(2) One itself worshipped as an idol.

(3) As sacrifices.

(4) Lit., ‘for a layman’.
(5) These are stoned, and benefit is forbidden as soon as they are sentenced.
(6) Hence it is illogical to reverse it.
(7) Lev. XIV, 7.
(8) Jaffa. On the sea coast.
(9) Later name For Gibbethon, in the territory of Dan. It bordered on the desert.
(10) The School of R. Ishmael: how do they know this?
(11) To order it to be freed and at the same time forbidden is a stumbling-block before any person who may capture and eat it, ignorant of its nature.
(12) Num. VI, 5.
(13) Hence forbidden.
(14) If sold; i.e., the money becomes sacred.
(15) Whereas the Mishnah (q.v. 56b) states the reverse.
(16) Not a nominal form but a verbal form. I.e., he himself is not holiness, but in a holy state, and hence not as strong as holiness itself, which teaches that his sanctity is nontransferable. — Actually, the word as written (ase) might read kodesh, but according to tradition (masorah) it is read kadosh.
(17) If unredeemed; v. Ex. XIII. 13.
(18) The Baraitha adds that R. Simeon agrees in that case.
(19) Ex. XXIII, 19; XXXIV, 26; Deut. XIV, 21.
(20) Even without the intention of eating it.
(21) Rashi (infra 58a) appears to read: R. Simeon b. Yohai. But in Bek. 10a the reading is, R. Simeon b. Judah on the authority of R. Simeon (i.e., b. Yohai).
(22) Deut. ibid.
(23) Ex. XXII, 30: ‘casting to the dogs’ is benefit.
(24) The consecrated animal is forbidden while yet alive, and becomes permitted through the sprinkling of its blood on the altar, which is absent if it is not killed in the Temple. The prohibition, dating from while it is alive, is naturally of benefit in general.
(25) V. Glos.
(26) Lev. XVII, 4.
(27) Lev. III, 2.
(28) Ibid. 8.
(29) Ibid. 13.
(30) They all refer to the killing of peace-offerings, and all imply a limitation: it, i.e., the peace-offering, is to be killed by the Tabernacle, but not others.
(31) Deut. XII, 21.
(32) I.e., fit for sacrifice.
(33) Hayyah, wild beast (e.g., the deer), as opposed to behemah, domestic animal.
(34) V. Glos.
(35) Hence, both may not be done in the Temple Court.
(36) Shechitah is not explicitly stated in the Bible in their case.
(37) One intimates that beasts shall not be killed in the Temple Court; one, fowls; as for the third, two explanations are offered: (i) that it excludes blemished animals; or (ii) that it teaches that these may not be eaten if killed within the Temple. — Hence, when the Baraitha states: I include blemished animals because . . . beasts because . . . the meaning is that these might be deduced by analogy, but for the three verses quoted.
(38) That it may not be eaten.

Talmud - Mas. Kiddushin 58a

which are eligible to be sacrificed; how do I know to include blemished ones? I include blemished animals, seeing that they are of a fit species. And how do I know to include beasts? I include beasts, because they require shechitah, as domestic animals. How do I know to include birds? Therefore it is stated, and he shall kill it, and he shall kill it, and he shall kill it.[1] I might think, One may not kill [hullin in the Temple]; yet if he does, he may cast it to dogs: therefore it is taught, [ye shall not eat any flesh that is torn of beasts in the field], ye shall cast it to the dogs:[2] ‘it’ ye may cast to the dogs, but not hullin killed in the Temple Court.

Mar Judah met R. Joseph and R. Samuel, son of Rabbah b. Bar Hanah, standing by the door of Rabbah's academy. Said he to them: It was taught: If one betroths [a woman] with the firstling of an ass, meat [seethed] in milk, or hullin killed in the Temple Court, R. Simeon maintained: She is betrothed; while the Sages rule: She is not betrothed. This proves that in R. Simeon's opinion hullin killed in the Temple Court is not Biblically forbidden.[3] But the following contradicts it: R. Simeon said: Hullin that was killed in the Temple Court must be burned, and likewise a beast of chase killed in the Temple Court![4] They were silent. When they came before Rabbah [and put the difficulty to him], he exclaimed: That controversialist [Mar Judah] has prompted you! The circumstances here[5] are that it was killed and found to be trefa. R. Simeon following his general view. For it was taught: If one kills[6] a trefa,[7] or if one kills [an animal] and it is discovered to be a trefa, both being hullin in the Temple Court,--R. Simeon holds that benefit is permitted; but the Sages forbid it.[8]

IF HE SELLS THEM AND BETROTHS HER WITH THE PROCEEDS, SHE IS BETROTHED. How do we know it? — Since the Divine Law revealed in reference to idolatry, [and thou shalt not bring an abomination into thine house,] lest thou be a cursed thing like it,[9] [which means,] whatever you produce out of it is as itself,[10] it follows that all other objects forbidden in the Torah are permitted.[11] Let us [rather] learn from it?[12] — Because idolatry and seventh year [produce] are two verses that come with the same teaching, and such do not illumine [others].[13] Idolatry, as stated. What about seventh year [produce]? — It is jubilee; it shall be holy unto you:[14] just as a holy object stamps its purchase price [with its own sacred character]. so does seventh year [produce] likewise. If so, just as a holy object stamps its purchase price but itself becomes hullin, so does the seventh year [produce] stamp its purchase price and itself becomes hullin?[15] Therefore it is stated: ‘it shall be,’ [meaning], it shall remain [be] in its present form. How so? If one buys meat with seventh year produce, both must be removed [from the house] in the seventh year;[16] [if he purchases] fish with the meat, the meat passes out [from seventh year provisions] and the fish enters [i.e., takes its place]; [if he barters] the fish for wine, the fish passes out and the wine enters; oil for the wine, the wine passes out and the oil enters. Thus, how is it? The last on each occasion is stamped with [the nature of] the seventh year, while the [original] produce itself remains forbidden. Now, that is well on the view that [two verses with the same teaching] do not illumine [others]; but on the view that they do, what can be said? — Limitations are written. Here it is written: ‘lest thou be a cursed thing like it’;[17] and there it is written, it is jubilee: [thus,] only it, but nothing else.[18]

MISHNAH. IF ONE BETROTHS [A WOMAN] WITH TERUMOTH,[19] TITHES, [PRIESTLY] GIFTS, THE WATER OF PURIFICATION AND THE ASHES OF PURIFICATION,[20] SHE IS BETROTHED, EVEN IF AN ISRAELITE.[21]

GEMARA. ‘Ulla said: The benefit of disposal[22] does not rank as money. R. Abba [thereupon] raised an objection against ‘Ulla: IF ONE BETROTHS [A WOMAN] WITH TERUMOTH, TITHES, [PRIESTLY] GIFTS, THE WATER OF PURIFICATION AND THE ASHES OF PURIFICATION, SHE IS BETROTHED, EVEN IF AN ISRAELITE![23] — He answered: This refers to an Israelite who inherited tebalim[24] from his maternal grandfather[25] [who was] a priest. Now he [Tanna of the Mishnah] holds that unseparated gifts are as though already separated.[26]

R. Hiyya b. Abin asked R. Huna: Does the benefit of disposal rank as money or not? — Said he to him: We have learned it: IF ONE BETROTHS [A WOMAN] WITH TERUMOTH, TITHES, [PRIESTLY] GIFTS, THE WATER OF PURIFICATION AND THE ASHES OF PURIFICATION, SHE IS BETROTHED, EVEN IF AN ISRAELITE. But did we not interpret it as referring to an Israelite who inherited tebalim from his maternal grandfather [who was] a priest, he questioned?

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(1) I.e., since the three verses shew that these may not be killed in the Temple Court, just as an unblemished animal, they also shew that they are like it too in that they may not be eaten.
(2) Ex. XXII, 30.
(3) For if it were, it is worthless, since one may derive no benefit from it. But if it is Biblically permitted, she receives something of value, and is betrothed; when the Rabbis then forbid all benefit from it, they cannot thereby nullify a betrothal that is Biblically valid. — The reason of this Rabbinical interdict is that one seeing it may mistake it for a sacrifice that became unfit after it was killed, so that its blood could not be sprinkled, and think that one may benefit from such, whereas that is forbidden.
(4) But burial is insufficient. Now, if the interdict is only Rabbinical, why this stringency? Granted that it may be necessary in the case of an animal, which can be mistaken for a sacrifice which became unfit after it was killed (which must be burned, not buried), yet why demand it for a beast of chase, which cannot be mistaken? Hence the interdict must be Biblical: then it is logical that the Rabbis were stringent in the method of disposal.
(5) With the case of betrothal.
(6) I.e., by ritual shechitah.
(7) Perceptible as such even before it is killed.
(8) In R. Simeon's view, if the slaughter does not qualify it for food, because it is otherwise forbidden, it is not slaughter at all, and no interdict which would normally result from the killing takes effect. Therefore one may benefit therefrom and it is valid for betrothal.
(9) Deut. VII, 26.
(10) I.e., if an idol is sold, the money too is accursed, viz., forbidden.
(11) Sc. the money received for them if sold.
(12) That others are similar.
(13) V. p. 169, n. 7.
(14) Lev. XXV, 12.
(15) In the sense that it is no longer subject to seventh year prohibitions.
(16) I.e., private ownership must be renounced.
(17) The text as emended by Maharsha.
(18) I.e., the peculiar laws of idolatry and seventh year produce as stated here do not apply to anything else.
(19) Plur. of terumah, v. Glos.
(20) V. Num. XIX.
(21) I.e., even if he who betroths is an Israelite; that is the assumed meaning. Now, an Israelite has no direct benefit in these, save the indirect one of being able to dispose of them to whatever priest or Levite he desires; and she too has only the same benefit. Since the Mishnah rules that the betrothal is valid, it follows that this benefit of disposal is considered to possess a monetary value.
(22) V. preceding note; lit., ‘the benefit of pleasure’ — the pleasure of disposing to whomever one desires.
(23) This proves the reverse; v. n. 5.
(24) Pl. of tebel, q.v. Glos.; lit., ‘tebalim fell to him’.
(25) Lit., ‘from the house of the father of his mother’.
(26) Even a priest had to separate the priestly gifts. but retained them for himself. Hence the priestly dues contained in these tebalim belong to the heir, who may sell, since he cannot eat them himself, and so they rank as money. But ordinary gifts which must be given away do not rank as money.

Talmud - Mas. Kiddushin 58b

— He replied: You are huza'ah.[1] So he was ashamed, for he thought that he meant it with reference to the subject.[2] I meant this, he reassured him, R. Assi of Huzal[3] agrees with you.

Shall we say that it[4] is a controversy of Tannaim? [For it was taught.] He who steals his neighbour's tebel must pay him the value of his tebel:[5] this is Rabbi's view. R. Jose son of R. Judah said: He must pay only for the hullin it contains. Surely they differ in this: one Master holds that disposal rights are money, while the other maintains that they are not? — No: all agree that disposal rights are not money, but here, however, the reference is to tebalim which he inherited from the house of his maternal grandfather, a priest, and they differ as to whether unseparated [priestly] dues are regarded as separated: one Master holds that they are regarded as separated,[6] and the other that they are not. Alternatively, all agree that they are regarded as separated, and disposal rights have no monetary value. Here, however, they differ in respect to Samuel's dictum, for Samuel said: One grain of wheat frees the whole stack:[7] One Master accepts Samuel's ruling; the other does not accept it.[8] Another alternative: All reject Samuel's dictum, but here this is Rabbi's reason, viz., the Rabbis penalized the thief. Another alternative: all agree with Samuel; but here this is R. Jose son of R. Judah's reason: The Rabbis penalized the owner, for he should not have tarried with his tebel.[9]

We learnt: IF ONE BETROTHS [A WOMAN] WITH TERUMOTH, TITHES, [PRIESTLY] GIFTS, THE WATER OF PURIFICATION AND THE ASHES OF PURIFICATION, SHE IS BETROTHED, EVEN AN ISRAELITE. But the following is opposed thereto: If one accepts payment for judging, his judgments are null; for testifying, his testimony is worthless; for sprinkling and mixing [with water] the ashes [of the Red Heifer],[10] his water is cavern water[11] and his ashes are ashes of a hearth![12] — Said Abaye. There is no difficulty: here it [the Mishnah] refers to payment for bringing [the ashes] and drawing [the water];[13] there, payment for sprinkling and mixing [are meant].[14] This may be proved too, for here it is stated: WITH THE WATER OF PURIFICATION AND THE ASHES OF PURIFICATION,[15] while there it is taught, for sprinkling and mixing. This proves it.

CHAPTER III

MISHNAH. IF HE SAYS TO HIS NEIGHBOUR, ‘GO FORTH AND BETROTH ME SUCH A WOMAN,’ AND HE GOES AND BETROTHS HER TO HIMSELF, SHE IS BETROTHED TO THE SECOND. LIKEWISE, IF HE SAYS TO A WOMAN, ‘BE THOU BETROTHED UNTO ME AFTER THIRTY DAYS,’ AND ANOTHER COMES AND BETROTHS HER WITHIN THE THIRTY DAYS, SHE IS BETROTHED TO THE SECOND: THUS AN ISRAELITE'S DAUGHTER [BETROTHED] TO A PRIEST MAY EAT TERUMAH.[16] [BUT IF HE DECLARES, BE THOU BETROTHED UNTO ME [FROM NOW AND AFTER THIRTY DAYS,’[17] AND ANOTHER COMES AND BETROTHS HER WITHIN THE THIRTY DAYS, SHE IS BETROTHED AND NOT BETROTHED [TO BOTH]:[18] AN ISRAELITE'S DAUGHTER [THUS BETROTHED] TO A PRIEST, OR A PRIEST'S DAUGHTER TO AN ISRAELITE, MAY NOT EAT TERUMAH.[19]

GEMARA. IF HE SAYS TO HIS NEIGHBOUR . . . A Tanna taught: What he did is done, but that he has behaved toward him as a cheat. And our Tanna?[20] — When he states: AND HE GOES,[21] he indeed means, He goes in cheating fashion. Why is it taught here, IF HE SAYS TO HIS NEIGHBOUR,

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(1) This is explained in the text.

(2) Deriving the word from huza, ‘shrub’, he understood him to say ‘You are a shrubcutter’; i.e., your suggestion shows that your knowledge is only fit for this work.

(3) An ancient town below Nehardea, but nearer to Sura, within whose province it lay in matters of jurisdiction. Obermeyer, p. 299f.

(4) The question whether disposal rights rank as money.

(5) Including the terumoth and tithes which were yet to be separated. Ran in Ned. 84b explains: including the value of the disposal rights of the terumoth and tithes.

(6) Hence they have a monetary value to the Israelite, and so the thief must pay for them.

(7) [The removal of one single grain is sufficient to raise the prohibition that rests on the stack, as far as a non-priest is concerned, though the precept of ‘giving’ terumah is not fulfilled except on setting aside for the priest an amount varying between one fortieth to one sixtieth.]

(8) It is now understood that the reference is to one's ordinary produce, not to a legacy. Now, Rabbi agrees with Samuel: hence the robbed person can say: ‘It was all mine, for I would have separated only one grain.’ According to this, the controversy refers only to the value of terumah, which, notwithstanding Samuel's dictum, varied from one fortieth to one sixtieth. But the thief is certainly not liable for the tithe it contains, on all views, since that must be one tenth.
(9) But should have separated the dues when the obligation arose.
(10) An unclean person. v. Num. XIX, 17ff.
(11) I.e., useless, for running (‘living’) water is specified; ibid. 17.
(12) I.e., like ashes of any substance, not those of the red heifer, hence unfit. — This shews that they have no monetary value, since payment is forbidden.
(13) That is permitted.
(14) Which is forbidden.
(15) [They were, that is to say, still unmixed, and he betrothed her with them. Tosaf. Ri.]
(16) Because she is certainly betrothed to him.
(17) As though it were a long ceremony, commencing immediately but requiring thirty days for its completion.
(18) I.e., she is not free from either, nor may she live with either; v. p. 47. n. 10.
(19) Her status being undetermined.
(20) Does he too not condemn him?
(21) Lit., ‘AND HE WENT’.

Talmud - Mas. Kiddushin 59a

whilst elsewhere[1] it is taught. ‘If he says to his agent’?[2] — We are informed of something noteworthy here, and likewise there. We are informed of something noteworthy here: for if ‘his agentð were stated: I might think, Only his agent is stigmatised a cheat, because he relies upon him, thinking, ‘He will perform my bidding’;[3] but as for his neighbour, seeing that he does not rely upon him,[4] I might say that he is not a cheat. There too we are taught what is noteworthy. For if it were stated: ‘If he says to his neighbour.’ I might think, Only if his neighbour betroths her elsewhere is she not betrothed, because he thinks that he will not trouble;[5] but as for his agent, who will trouble. I might think, He merely indicates the place to him.[6] Hence we are taught [otherwise].

Rabin[7] the pious went to betroth a certain woman for his son, but betrothed her for himself. But was it not taught. What he did is done, but that he has behaved toward him as a cheat? — They would not give her to him [his son]. Then he should have informed him![8] — He feared that in the meantime another man might come and betroth her.

Rabbah b. Bar Hanah gave money to Rab [and] instructed him, ‘Buy this land for me,’ but he went and bought it for himself. But did we not learn, What he did is done, yet he has behaved toward him as a cheat? — It was a stretch of land belonging to lawless[9] men;[10] for Rab they shewed respect. but would not for Rabbah b. Bar Hanah. Then he should have informed him? He feared that in the meantime another person might come and buy it.

R. Giddal was negotiating for a certain field, when R. Abba went and bought it. Thereupon R. Giddal went and complained about him to R. Zera, who went [in turn] and complained to R. Isaac Nappaha.[11] ‘Wait until he comes up to us for the Festival,’ said he to him. When he came up he met and asked him, ‘If a poor man is examining[12] a cake[13] and another comes and takes it away from him, what then?’ ‘He is called a wicked man,’ was his answer: ‘Then why did you, Sir, act so?’ he questioned him. ‘I did not know [that he was negotiating for it],’ he rejoined. ‘Then let him have it now,’ he suggested. ‘I will not sell it to him,’ he returned, ‘because it is the first field [which I have ever bought]. and it is not a [good] omen;[14] but if he wants it as a gift, let him take it.’ Now, R. Giddal would not take possession,[15] because it is written: But he that hateth gifts shall live,[16] nor would R. Abba, because R. Giddal had negotiated for it; and so neither took possession, and it was called ‘The Rabbis’ field’.[17]

LIKEWISE, IF ONE SAYS TO A WOMAN, BE THOU BETROTHED UNTO ME etc. What if another does not come and betroth her within these thirty days? — Rab and Samuel both rule: She is betrothed, even if the money [of betrothal] is consumed. What is the reason? This money is neither like a loan nor like a deposit. It is not like a deposit. [because] a deposit is consumed in its owner's possession,[18] whereas this is consumed in her possession. Again, it is not like a loan, [because] a loan is given to be expended,[19] whereas this was given to her for betrothal.

What if another does not come and betroth her, but she herself retracts? — R. Johanan said: She can retract, [because] words can come and nullify words.[20] Resh Lakish maintained: She cannot retract, [because] words cannot come and nullify words — R. Johanan refuted Resh Lakish: If he annuls,[21] if before he [his agent] has made a separation, his separation is invalid. Now here it is speech against speech,[22] yet one comes and nullifies the other? — Giving money into a woman's hand is different, because it is like action, and words cannot come and annul action.

He refuted him: If one sends a divorce to his wife, and then overtakes the messenger or sends [another] messenger after him and says to him, ‘The divorce which I gave you is null,’ it is indeed null. Now, giving the divorce into the messenger's hand is like giving money into a woman's hand, and yet it is taught: ‘it is indeed null’? — There too, as long as the divorce has not reached her hand, it is speech against speech, and so one comes and annuls the other.

Resh Lakish objected to R. Johanan: All utensils become liable to[23] their uncleanness by intention, but ascend thence only by a change in substance.[24]

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(1) Mishnah supra 50a.

(2) ‘Agent’ or ‘messenger’ implies that he sends him to a particular place to betroth her; ‘neighbour’, that he gives him a general commission, but does not send him: ‘should you meet her, betroth her to me.’

(3) Lit., ‘sending’.

(4) Because he did not actually send him.

(5) To go elsewhere, therefore he specifies that particular place.

(6) But does not insist upon it.

(7) Var. lec., R. ‘Amram.

(8) To clear himself of unjust suspicions.

(9) Lit., ‘strong’.

(10) Who would not allow any person to own a field near theirs.

(11) Or, the smith.

(12) Lit., ‘turning over’.

(13) To buy it.

(14) To sell.

(15) Lit., ‘descend to it’.

(16) Prov. XV. 27.

(17) [For the use of the students of the law, v. supra p. 192, n. 6.]

(18) In that he bears the loss.

(19) I.e., if one lends money to a woman and subsequently proposes it for kiddushin, the money was to have been spent before it was to effect betrothal, and therefore is theoretically non-existent.

(20) Her refusal can nullify his betrothal.

(21) If one appoints an agent to separate his terumah, and then cancels his authority.

(22) Both the appointment and the annulment are by words.

(23) Lit., ‘go down to’.

(24) Lit., ‘change (brought about) by action’. Utensils may become unclean only when they are finished for use; if they require smoothing, scraping, etc., they are not liable to uncleanness, unless their owner declares his intention to use them as they are. On the other hand, having done so, it is not enough that he subsequently declares he will not use them thus, in order to free them from their liability to uncleanness, unless he actually begins smoothing them. Or, if utensils are unclean, it is insufficient for him to declare that he will not use them any more, so that they should cease to be regarded as utensils, but must render them unfit for use by an act, e.g., break or make a hole in them.

Talmud - Mas. Kiddushin 59b

An act can nullify both act and intention,[1] but intention can nullify neither act nor intention.[2] Now, it is well that it [intention] cannot nullify an act, because speech cannot nullify action; yet let it nullify intention?[3] — Intention, in respect to uncleanliness, is different, because it ranks as action, and in accordance with R. Papa. For R. Papa pointed out a contradiction. It is written, and if one put [yitten], whereas we read, and if it be put [yuttan]:[4] how is this [to be reconciled]? 'If it be put' [must be] similar to 'if one put': just as when one puts, he desires it, so when it is put, he must desire it.[5] R. Zebid recited this discussion in reference to the following: Likewise, if she authorized her agent to betroth her, and went and betrothed herself: if hers came first, her kiddushin is valid; if her agent's came first, her own kiddushin is not valid.[6] Now, what if she did not betroth herself, but retracted?[7] R. Johanan said: She can retract; Resh Lakish maintained: She cannot retract. R. Johanan said: She can retract: Speech comes and nullifies speech — Resh Lakish said: She cannot retract: speech cannot come and nullify speech R. Johanan refuted Resh Lakish: If he annuls, if he does so before he [his agent] has made a separation, his separation is invalid? — Said Raba: Here the circumstances are, e.g., that the owner anticipated [his agent] by separating terumah for his stacks, so that it is action. Resh Lakish refuted R. Johanan: All utensils become liable to their uncleanness by intention, but ascend thence only by a changeful act. An act can nullify both act and intention, but intention can nullify neither act nor intention. Now, it is well that it cannot nullify an act, because speech cannot nullify action; yet let it nullify intention? — He replied: Intention, in respect to uncleanness, is different, because it ranks as action, and in accordance with R. Papa. For R. Papa pointed out a contradiction. It is written: 'and if one put [yitten],' whereas we read: 'and if it be put [yuttan]': how is this [to be reconciled]? 'If it be put' [must be] similar to 'if one put': just as when one puts, he desires it, so when it is put, he must desire it.

R. Johanan objected to Resh Lakish: If one sends a divorce to his wife, and then overtakes the messenger or sends a messenger after him and says. 'The divorce which I gave you is null,' it is null. This is a refutation of Resh Lakish. It is indeed a refutation. Now, the law is as R. Johanan., even in the first [dispute]; for though we might argue [there]. 'Giving money into a woman's hand is different, for it is like an action,' yet even so, speech comes and nullifies speech. But one law contradicts another! For you say; The law is as R. Johanan, while we have an established principle that the law is as R. Nahman, For the scholars propounded: Can he change his mind and divorce therewith?[8] R. Nahman said: He can change his mind and divorce therewith; R. Shesheth ruled: He cannot change his mind and divorce therewith — And it is an established [principle] that the law is as R. Nahman![9] — Granted that he nullified it as far as the messenger is concerned, he did not nullify its efficacy as a divorce.[10]

SHE IS BETROTHED TO THE SECOND. Rab said: She is permanently betrothed to the second; Samuel ruled: She is betrothed to the second until [the end of the] thirty days, after which the betrothal of the second is lifted and that of the first is completed. R. Hisda sat, and found it difficult: Wherewith is the betrothal of the second lifted? — Said R. Joseph to him, You, Sir, learn this in connection with the first clause, and so find it difficult; but Rab Judah learns it in connection with the second clause, and finds no difficulty: FROM NOW AND AFTER THIRTY DAYS. etc. Rab said: She is permanently betrothed yet not betrothed; whereas Samuel ruled: She is betrothed and not betrothed only until [the end of the] thirty days, after which the betrothal of the second loses force and that of the first is completed. Now, Rab is in doubt whether it is a stipulation or a withdrawal;[11] whereas Samuel is certain that it is a stipulation. Now, this enters into the controversy of the following Tannaim: [If one declares, 'Be thou divorced] from to-day and after my death,' it is a divorce and not a divorce: this is the view of the Sages.[12] Rabbi ruled: It is indeed a divorce.[13] Then let Rab say: The halachah agrees with the Rabbis, and let Samuel say: The halachah is as Rabbi? — It is necessary. For if Rab said: The halachah is as the Rabbis, I might argue. [That is only] there, seeing that he comes to alienate her;[14] but here, that he comes to attach her [to himself]. I would say that he agrees with Samuel that it is a stipulation.[15] And if Samuel said: The halachah is as Rabbi, I would argue, That is only there, because there is no divorce after death;[16] but here, seeing that the kiddushin can take effect thirty days later, I might say that he agrees with Rab. Thus it is necessary.

Abaye said: On Rab's view, If one came and said to her, ‘Behold, thou art betrothed to me from now and after thirty days’; then another came and said to her, ‘Behold, thou are betrothed unto me from now and after thirty days’:[17]

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(1) E.g.. if he first slightly smoothed a utensil, shewing that he considered this enough, or declared his intention to use it without smoothing, and then began to smooth it properly, the latter act nullifies the former, and until he finished it is not liable to uncleanness.

(2) If he first declares his intention not to smooth it, or begins using it without smoothing, and then declares that he will smooth it, and so it is unfinished, his second intention cannot nullify his first, or his action.

(3) On R. Johanan's view that speech nullifies speech.

(4) Lev. XI, 38. Foodstuffs, e.g., grain, cannot become unclean unless they receive moisture after being harvested. Now, the text as it stands may be read יתן ‘one puts’, which implies that a person must actually wet it; but the traditional reading יותן ‘it be put’, implying even if water accidentally falls thereon.

(5) I.e., if it falls there in circumstances that the owner may be assumed to be pleased therewith, it becomes liable to uncleanliness. Thus Scripture intimates that mere thought has the force of action.

(6) V. infra 79a.

(7) cancelling her agent's authority. Rashi states: Whether she retracts in the agent's presence or not, Tosaf., more plausibly, explains: she retracted without informing the agent; for if she informed him it is obvious that she can withdraw.

(8) With a Get which he had annulled after giving it to the agent.

(9) Which proves that his second declaration does not nullify the validity of the document.

(10) I.e., he never intended to nullify the document itself, but merely the messenger's authority.

(11) When one declares, ‘Be thou betrothed unto me from now and after thirty days’, we do not know whether he means, ‘Be thou betrothed unto me from now, providing that I am still willing in thirty days’ time’; or, ‘Be thou betrothed unto me from now — not after thirty days.’ If the first is correct, when after thirty days he signifies his willingness, his betrothal was valid from the very beginning, and so the subsequent betrothal of another is null. But if the second is correct, this is the same as the first clause, and the second betrothal is valid. Hence her status remains permanently doubtful.

(12) Because we are doubtful: he might have meant, ‘B thou divorced from to-day, providing that I die,’ in which case it is valid, or, ‘Be thou divorced from to-day — no! only after my death’: then it is invalid. If he dies childless, she may not marry her brother-in-law, lest it was a divorce; nor is she free to marry a stranger, lest it was not, and so must be freed by halizah, q.v. Glos.

(13) For it was certainly a stipulation.

(14) And as it is hard for him, he postpones it as much as possible, and therefore he may have retracted.

(15) Because he certainly desires the betrothal to take effect as early as possible.

(16) That is generally known, and therefore it must have been a stipulation.

(17) Which ended within the thirty.

Talmud - Mas. Kiddushin 60a

then another came and said to her, ‘Behold, thou art betrothed to me from now and after thirty days’:[1] she requires a divorce from the first and the second, but not from the last. For on either alternative:[2] if it is a stipulation, that of the first is [valid] kiddushin, but not those of the second and third; if it is withdrawal, that of the last is kiddushin, but not of the first and the second.[3] But is this not obvious? — I might say. This expression implies both stipulation and withdrawal, and she requires a divorce from each:[4] hence we are informed [otherwise]. ‘Ulla said in R. Johanan's name: Even a hundred have a hold on her.[5] R. Assi said likewise in R. Johanan's name: Even a hundred have a hold on her. R. Mesharasheya son of R. Ammi said to R. Assi: I will explain R. Johananðs reason to you: they made themselves like a row of bricks, each leaving room for the next. R. Hanina raised an objection: [If one declares, ‘Be thou divorced] from to-day and after my death,’ it is a divorce and not a divorce, and if he dies, she must perform halizah, but not yibum.[6] Now, on Rab's view it is well, for this supports him; according to Samuel too, [there is no difficulty,] for [he may say], This agrees with the Rabbis, whereas I hold with Rabbi.[7] But according to R. Johanan who maintains that something is left over: every divorce which leaves something in her [tied to her husband] is entirely invalid:[8] then let him perform yibum? — Said Raba: The divorce is to free [her], and death is likewise; [hence] what the divorce leaves [undone] is completed by death — Abaye demurred: How compare! Divorce frees her from the yabam's authority, whereas death places her in the yabam's authority? But, said Abaye, there, what is the reason? As a preventive measure, on account of ‘From to-day, if I die,’ which is certainly a valid divorce.[9] Then let us enact that [if he says,] ‘from to-day, if I die,’ she shall perform halizah[10] on account of ‘from to-day and after death!’[11] — Should you say that she must perform halizah, she may submit to yibum.[12] Then here too, if you say that she must perform halizah, she may submit to yibum? — Then let her, and it does not matter, seeing that it[13] is only a Rabbinical precaution.[14]

MISHNAH. IF ONE SAYS TO A WOMAN. ‘BEHOLD, THOU ART BETROTHED UNTO ME[15] ON CONDITION THAT I GIVE THEE TWO HUNDRED ZUZ,’ SHE IS BETROTHED, AND HE MUST GIVE IT. ON CONDITION THAT I GIVE THEE WITHIN THIRTY DAYS FROM NOW: IF HE GIVES HER WITHIN THIRTY DAYS, SHE IS BETROTHED; IF NOT, SHE IS NOT BETROTHED. ON CONDITION THAT I POSSESS TWO HUNDRED ZUZ, SHE IS BETROTHED, PROVIDING HE POSSESSES [THEM]. ‘ON CONDITION THAT I SHEW THEE TWO HUNDRED ZUZ,’ SHE IS BETROTHED, AND HE MUST SHEW HER. BUT IF HE SHEWS HER [MONEY LYING] ON THE COUNTER,[16] SHE IS NOT BETROTHED.[17]

GEMARA. It was stated: R. Huna said: [The Mishnah means] and he must give it;[18] Rab Judah said: When he gives it:[19] ‘R. Huna said, and he must give it’: it is a condition, [and so] he fulfils the condition and goes on.[20] ‘Rab Judah said: When he gives it’: when he gives it, the kiddushin is valid; nevertheless now it is not kiddushin. Wherein do they differ? — They differ where she stretches out her hand and accepts kiddushin from another: on R. Huna's view it is not kiddushin; on Rab Judah's it is kiddushin. Now, we learnt similarly with reference to divorce. If one says to his wife, ‘Behold here is thy divorce on condition that thou givest me two hundred zuz,’ she is divorced, and must give [it]. It was stated: R. Huna said: And she must give it; Rab Judah said: When she gives it. ‘R. Huna said: And she must give it’: it is a condition, [and so] she proceeds to fulfil the condition. ‘Rab Judah said: When she gives it’: when she gives it to him, then it is a divorce; now, however it is not a divorce.

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(1) Or simply, ‘Behold, thou art betrothed unto me. ð ‘From now,’ etc., is only mentioned as a parallel to the first two (Rashi).

(2) Lit., ‘what will you?’

(3) Hence only the first and last are in doubt.

(4) The first may have meant to retract, so that the second's kiddushin is valid, whilst the second himself may have stipulated, in which case his is valid. Again, both the first and second may have retracted, so the third's is valid; thus all three are in doubt.

(5) The kiddushin of each has partial force, because the declaration means, Let the kiddushin commence now, but be completed only in thirty days' time. On this view there is no question of stipulation or withdrawal.

(6) V. p. 301. n. 1.

(7) V. supra 59b.

(8) Cf. supra p. 13, n. 10.

(9) And yibum is then forbidden. But when he says: ‘From to-day and after my death,’ people may confuse it with the other. Hence the Rabbis forbade yibum in both cases.

(10) Though actually it is unnecessary.

(11) Which, being invalid, leaves her tied to the yabam, and necessitates halizah; and, as stated, these two may be confused.

(12) Thinking that there is a real tie.

(13) Sc. the law that she must not submit to yibum.

(14) Lit., ‘fear’.

(15) E.g., with this perutah.

(16) Of a money-changer.

(17) Because it is understood that his own is meant.

(18) I.e., she is betrothed immediately, and then this obligation lies on him.

(19) Only then is she betrothed.

(20) I.e., when he can.

Talmud - Mas. Kiddushin 60b

Wherein do they differ? — They differ where the divorce document is torn or lost [before the money is given]: according to R. Huna, it is a divorce; according to Rab Judah, it is not a divorce. Now, it is necessary [to state both cases]. For if we were told this of kiddushin [only, I would say] in that case R. Huna says thus, because he comes to attach her [to himself];[1] but as for divorce, where he comes to alienate her, I might say that he agrees with Rab Judah. And if the latter were taught: only there does R. Huna rule thus, for he [the husband] is not ashamed to demand it of her; but here [in the case of marriage], seeing that she is ashamed to demand it of him, I would argue that he agrees with Rab Judah. Thus both are necessary.

An objection was raised: ‘Here is thy divorce, on condition that thou givest me two hundred zuz,’ she is divorced even though the document is torn or lost;[2] yet she may not marry another until she has given it. Again, it was taught: ‘Here is thy divorce on condition that thou givest me two hundred zuz,’ and then he dies, if she gave it [before his death], she is not bound to the yabam; if not, she is bound to the yabam.[3] R. Simeon b. Gamaliel said: She can give it to his brother, father, or one of his relations.[4] Now, they differ only in so far as one Master holds, ‘To me’ [implies] ‘but not to my heirs’, whilst the other rules: ‘Even to my heirs’; but all agree that it is a condition, which refutes Rab Judah! — Rab Judah answers you: Who is the authority for this? Rabbi. For R. Huna said in Rabbi's name:[5] He who says. ‘On condition,’ is as though he says: ‘From now’;[6] but the Rabbis disagree with him, and I hold with the Rabbis.

The text [says]: R. Huna said in Rabbi's name: He who says. ‘on condition,’ is as though he says: ‘From now.’ R. Zera observed: When we were in Babylon[7] we used to say: With reference to R. Huna's dictum in Rabbi's name, ‘One who says: "on condition," is as though he says: "from now"’: the Rabbis dispute it. When I went up thither [Palestine], I found R. Assi sitting and expounding in R. Johanan's name: All agree that if he says: ‘on condition,’ it is as though he says: ‘From now’. They differ only in respect of ‘from to-day and after death’. And it was taught even so: ‘From to-day and after [my death]’: it is a divorce, yet not a divorce: this is the view of the Sages. Rabbi said: This indeed is a divorce.[8] Now, according to Rab Judah who maintains that they differ in respect of ‘on condition’ too’ instead of disputing in [the case of] ‘from to-day and after [my] death,’ let them dispute in respect of ‘on condition?’ — That is to teach you the extent of Rabbi's view,[9] that even in the case of ‘from to-day and after death,’ it is a valid divorce. Then let them dispute with reference to ‘on condition,’ to shew you the extent of the Rabbis’ view? — The extent of what is permitted is more important.[10]

ON CONDITION THAT I GIVE THEE WITHIN THIRTY DAYS FROM NOW’ etc. But it is obvious? — I might have thought that it is not a condition,[11] and he said it to urge her on; hence we are told [that it is not so.]

ON CONDITION THAT I POSSESS TWO HUNDRED ZUZ’ etc. But let us fear that he may possess it [secretly]? Moreover, it was taught: We fear that he may possess it? — There is no difficulty: The one refers to certain kiddushin; the other, to doubtful kiddushin.[12] ‘ON CONDITION THAT I SHEW THEE TWO HUNDRED ZUZ’ etc. A Tanna taught: Her purpose was to see none but his.

BUT IF HE SHEWS HER [MONEY LYING] ON THE COUNTER, SHE IS NOT BETROTHED. But it is obvious? — It is necessary [to teach it] only even when he holds the money in an investment.[13] MISHNAH. [IF HE SAYS TO HER ‘BE THOU BETROTHED UNTO ME][14] ON CONDITION THAT I OWN A BETH KOR[15] OF LAND’,[16] SHE IS BETROTHED, PROVIDING THAT HE DOES OWN IT. ON CONDITION THAT I OWN IT IN SUCH AND SUCH A PLACE’, IF HE OWNS IT THERE SHE IS BETROTHED, BUT IF NOT SHE IS NOT BETROTHED. ‘ON CONDITION THAT I SHEW THEE A BETH KOR OF LAND,’ SHE IS BETROTHED, PROVIDING THAT HE DOES SHEW IT TO HER. BUT IF HE SHEWS IT TO HER IN A PLAIN,[17] SHE IS NOT BETROTHED.

GEMARA. But let us fear that he may possess it? Moreover, it was taught. We fear that he may possess it? — There is no difficulty: the one refers to certain kiddushin; the other, to doubtful kiddushin.[18]

Why must it be taught with respect to both land and money? — It is necessary: for if we were told this of money, [I would say] that is because people are accustomed to hide money;[19] but as for land I would say: If he possesses land, it is known:[20] hence we are informed [otherwise].

ON CONDITION THAT I POSSESS IT IN SUCH AND SUCH A PLACE,’ IF HE POSSESSES IT. etc. But it is obvious? — I might argue that he can say to her, ‘What does it matter to you? I will take the trouble of bringing [its produce where you want it].’ Hence we are informed [that it is not so].

ON CONDITION THAT I SHEW THEE A BETH KOR OF LAND. A Tanna taught: Her meaning was to see none but his.

BUT IF HE SHEWS IT TO HER IN A PLAIN, SHE IS NOT BETROTHED. But that is obvious? — It is necessary [to teach it] only if he holds it on a farming tenancy.[21]

With respect to hekdesh we learnt:

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(1) Therefore we assume that both are anxious for the kiddushin to be valid as early as possible, and determine that the first perutah shall effect it.

(2) By the time the condition is fulfilled. This contradicts Rab Judah.

(3) If her husband dies childless.

(4) Whereupon the divorce is retrospectively valid.

(5) The reading supra 8a is Rab, which is more correct per se, since Rab was his teacher. But as a Tanna is necessary here, it is referred to Rabbi.

(6) V. p. 29, n. 8.

(7) R. Zera hailed from Babylon. and went to study in Palestine.

(8) V. supra 59b.

(9) Lit., ‘Rabbi's strength.’

(10) I.e., it is more important to shew how far one maintains that a particular act is valid, rather than the opposing view how far it is invalid, for one must be more positive to permit than to forbid.
(11) That it be given within the thirty days.
(12) If he is not openly in possession of the stipulated sum she is not betrothed with certainty; v. p. 47. n. 10.
(13) He was trading with another man's capital at a fixed percentage of profit and loss, so that he had a proprietary interest therein. Nevertheless she is not betrothed.
(14) E.g., with this perutah.
(15) An area which requires thirty se'ahs of seed, which is estimated at 1500 cubits X 50 cubits.
(16) Lit., 'earth'.
(17) Which does not belong to him.
(18) v. p. 305. n. 5.
(19) Hence even if he is not openly in possession of it, she is doubtfully betrothed.
(20) Lit., 'it has a voiceð.
(21) Paying an agreed percentage of the crops in rent; v. p. 305, n. 6.

Talmud - Mas. Kiddushin 61a

He who sanctifies his field when Jubilee is in force, must pay [for its redemption] fifty silver shekels for [an area requiring] a homer of barley seed.[1] If it contains ravines ten handbreadths deep, or rocks ten handbreadths high, they are not measured with it;[2] if less than this, they are measured therewith. Now, we pondered thereon: Granted that they are not sanctified together with the [rest of the] field, yet let them be sanctified separately? And should you answer, whatever is less than a beth kor is not counted.[3] But the following contradicts it: [And if a man shall sanctify unto the Lord part of a] field [of his possession, etc.]:[4] why is this stated? Because it is said, the sowing of a homer of barley shall be valued at fifty [shekels of silver]; [hence] l know it only if he sanctifies in such a manner;[5] how do I know to include a lethek.[6] half a lethek, a se'ah, tarkab[7] half a tarkab, and even a quarter [se'ah]? Because it is stated: 'a field,' whatever its size! — Said Mar 'Ukba b. Hama: The reference here is to ravines filled with water, because they are unfit for sowing. This may be proved too, because it is taught analogous to high rocks.[8] This proves it. If so, [it is the same] even if less than this?[9] — Those are called basins of the field[10] and ridges[11] of the field.[12]

With respect to purchase we learnt: If one says to his neighbour, 'I sell you a beth kor of land,' and it contains ravines ten handbreadths deep or rocks ten handbreadths high, they are not measured with it. And Mar 'Ukba b. Hama said: Even if they are not filled with water. What is the reason? — Said R. Papa: Because a man does not wish to pay his money for one field and it should appear as two or three plots.[13] How is it here:[14] do we compare it with hekdesh or purchase? — It is rational that we compare it to hekdesh. because he can say to her, 'I will exert myself[15] sow it, and bring [you the crop].' MISHNAH. R. MEIR SAID: EVERY STIPULATION WHICH IS NOT LIKE THAT OF THE CHILDREN OF GAD AND THE CHILDREN OF REUBEN IS NOT A [VALID] STIPULATION, BECAUSE IT IS WRITTEN. AND MOSES SAID UNTO THEM, IF THE CHILDREN OF GAD AND THE CHILDREN OF REUBEN WILL PASS WITH YOU OVER THE JORDAN, [. . . THEN YE SHALL GIVE THEM THE LAND OF GILEAD FOR A POSSESSION]. AND IT IS ALSO WRITTEN. BUT IF THEY WILL NOT PASS OVER WITH YOU ARMED, THEN THEY SHALL HAVE POSSESSIONS AMONG YOU IN THE LAND OF CANAAN.[16] R. HANINA B. GAMALIEL MAINTAINED: THE MATTER HAD TO BE STATED. FOR OTHERWISE IT IMPLIES THAT THEY SHOULD HAVE NO INHERITANCE EVEN IN CANAAN.[17]

GEMARA. R. Hanina b. Gamaliel says well to R. Meir? — R. Meir answers you: Should you think that it does not come for [teaching] a double stipulation, it [Scripture] should write, 'but if they will not pass over . . . they shall have possession among you': why state, 'in the land of Canaan'?

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(1) Whatever its actual value, in accordance with Lev. XXVII, 16.
(2) As part of the total area.
(3) Because that is the smallest area mentioned in Scripture.
(4) Ibid.
(5) I.e., this area.
(6) Half a kor.
(7) =Three kabs =half a se'ah.
(8) Where sowing is impossible.
(9) Ten handbreadths high or deep.
(10) Into which the water runs off.
(11) Lit., 'spine'.
(12) But are not considered as distinct. For fuller notes v. B.B. (Sonc. ed.) pp. 429ff.
(13) Such deep ravines etc. break up the field.
(14) In our Mishnah, if the field contains such deep ravines which are not waterlogged.
(15) Lit., 'trouble'.
(16) Num. XXXII, 29f; but not Gilead. Though the second follows from the first, Moses stated both contingencies explicitly. Again, the positive ('will pass') precedes the negative ('will not pass'). and the condition ('if they pass over') precedes the apodosis ('then ye shall give' etc.). Hence every stipulation, to be valid, requires these three factors: (i) it must be double, stating both contingencies; (ii) the positive must precede the negative; and (iii) the condition must be stated before the act (Rashi. Raabad, Adreth and Tur). Maim. interprets: the condition must be stated before the act is agreed upon, but not after.
(17) But if the negative clearly follows from the positive, the condition need not be doubled. Rashi holds that he differs on this point only, agreeing on the other two, while Tosaf. maintains that he differs on all three.

Talmud - Mas. Kiddushin 61b

This proves that it comes to necessitate a double stipulation. And R. Hanina b. Gamaliel? — If the Divine Law did not write, 'in the land of Canaan,' I would think that 'they shall have possession among you' in the land of Gilead, but nothing at all of the land of Canaan. And R. Meir? — 'Among you' implies, 'wherever you have possessions'.[1] It was taught: R. Hanina b. Gamaliel said: For example, to what may this matter be compared? To a man who divided his estate among his sons, and directed, 'That son shall inherit that field, that son shall inherit that field, while that son shall pay two hundred zuz and inherit that field.[2] But if he does not give it, he shall inherit the rest of my estate together with his brothers.' Now, what causes him to receive an inheritance together with his other brethren in the rest of the estate? His doubling [of the stipulation] effects it for him.[3] But the illustration is not similar to our Mishnah. There he states. [FOR OTHERWISE] IT IMPLIES THAT THEY SHOULD HAVE NO INHERITANCE EVEN IN CANAAN, which proves that the doubling served a purpose in respect of Gilead too;[4] whereas here he states: 'What causes him to receive an inheritance together with his other brethren in the rest of the estate? His doubling [of the stipulation] effects it for him,' which proves that the doubling is efficacious [only] in respect to the rest of the estate? — There is no difficulty: the former was before R. Meir told him [the implication of], 'then they shall have possession therein;'[5] the latter [the illustration], after R. Meir told him [the implication of], 'then they shall have possession therein'.[6]

As for R. Meir, it is well: hence it is written: If thou doest well, shalt thou not be rewarded? and if thou doest not well, sin coucheth at the door.[7] But according to R. Hanina, what is its purpose?[8] — I might have thought, If thou doest well, there is reward, but if thou doest not well, there is neither reward nor punishment. Hence we are informed [otherwise].

Now, as for R. Meir, it is well: hence it is written, then thou shalt be clear from this my oath;[9] but according to R. Hanina b. Gamaliel, what is its purpose?[10] — It is necessary: I might think, If she were willing but not they [sc. her family], he was to bring her against their will. Hence we are informed [otherwise]. What is the purpose of, ‘and if the woman be not willing?’[9] — It is necessary: I might think, If they [her family] were willing but not she, he should bring her against her will. Hence we are informed [otherwise].

Now, as for R. Meir, it is well: hence it is written. If ye walk in my statutes . . . and if ye shall reject my statutes.[11] But according to R. Hanina b. Gamaliel, what is its purpose? — It is necessary. I might think, ‘if ye walk in my statutes’, [ye shall have] a blessing; ‘but if ye shall reject my statutes,’ neither a blessing nor a curse. Hence we are informed [otherwise].

Now, as for R. Meir, it is well: hence it is written: If ye be willing and obedient etc. . . . but if ye refuse and rebel.[12] But according to R. Hanina b. Gamaliel, what is its purpose? — It is necessary. I might think, ‘If ye be willing,’ [it will be] well; ‘but if ye refuse,’ [it will be] neither well nor good. So we are informed [that it is not so].

What is the meaning of,

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(1) I.e., Canaan; hence R. Hanina's hypothetical assumption is impossible. — From the whole discussion it appears that even if they did not pass over they would still have a portion of Palestine. This is most unreasonable, and so Tosaf. explains the verses as follows: If they pass over armed at the head of the forces, bearing the brunt of the battle, they will be favoured with the special grant of Gilead. But if they merely take an equal share with their brethren in the conquest, they will receive the same as the rest, viz., a portion of Palestine proper.

(2) Which is worth more than his due share.

(3) [For but for the second claim, it might be maintained that if he does not give the two hundred zuz he can claim a share only in the third field, but receives nothing from the other two fields assigned to his two brothers. Similarly, in the verses under discussion, but for the second claim, it would be assumed that the Gaddites and Reubenites in the case of their non-fulfilment of the condition would share with the rest of the tribes the district of Gilead, while forfeiting all claim to the land of Canaan.]

(4) [‘EVEN’ implies that, but for this doubling, they would, on nonfulfillment of the condition, have no share in Gilead.]

(5) [R. Hanina in the Mishnah was but countering R. Meir's argument which he understood to be that the whole of the verses in question are required for the purpose of the doubling of the condition, and he thus said that the doubling was necessary, for without it, it would be assumed that they would have no share at all, even in the land of Canaan.]

(6) [When he learnt that R. Meir based his deduction from ‘in the land of Canaan’, he rejoined that these words are necessary to indicate that they would, on fulfilment of the condition, receive a share in the land of Canaan, as supra.]

(7) Gen. IV, 7.

(8) For one follows from the other.

(9) Ibid. XXIV. 8.

(10) Since it follows from the general context of the oath, q.v. (Tosaf.).

(11) Lev. XXVI, 3, 15.

(12) Isa. I, 19f.

‘ye shall be fed with the sword’?[1] — Said Raba: Coarse salt, hard baked barley bread, and onions; for a Master said: Stale bread baked in a large oven with salt and onions is as harmful to the body as swords.

Now, as for R. Hanina b. Gamaliel, it is well: hence it is written: If no man have lain with thee, and if thou hast not gone aside to uncleanness, be thou free.[2] But according to R. Meir, it should [also] state, ‘be thou strangled’?[3] — Said R. Tanhum: hinnaki is written.[4] [Then] as for R. Meir, it is well: hence it is written hinnaki. But according to R. Hanina b. Gamaliel. what is its purpose?[5] — It is necessary: I might think, If no man have lain [with thee] . . . be thou free; but if a man have lain [with thee], be thou neither free nor strangled, but merely [guilty of violating] a prohibition. Hence we are informed [otherwise].

As for R. Meir, it is well: hence it is written: He shall purify himself therewith on the third day, and on the seventh day, [then] he shall be clean: but if he purify not himself etc.[6] But according to R. Hanina b. Gamaliel, what is its purpose? — It is necessary: I might think, The precept of sprinkling is [that it be performed] on the third and the seventh [days]; yet if it is done only on one of these days, it is done [and effective]. Therefore we are told [that both days are essential]. What is the purpose of, and the clean person shall sprinkle upon the unclean on the third day, and on the seventh day?[7] — It is necessary: I might think, the third excludes the second, and the seventh excludes the sixth, because thereby one diminishes the days of purification; but if it is performed on the third and the eighth days. thereby increasing the period of purification. I might say that it is well. Hence we are informed [otherwise].[8] What is the purpose of, ‘and on the seventh day he shall purify him’? — It is necessary: I might think, that [sc. sprinkling on these days] is only for sacred food,[9] but for terumah even one is sufficient: hence we are told [that it is not so]. MISHNAH. IF HE BETROTHS A WOMAN AND THEN DECLARES, ‘I THOUGHT THAT SHE WAS A PRIEST'S DAUGHTER, WHEREAS SHE IS OF A LEVITE.’ OR OF A LEVITE WHEREAS SHE IS OF A PRIEST; ‘POOR’, WHEREAS SHE IS WEALTHY, OR ‘WEALTHY’, WHEREAS SHE IS POOR, SHE IS BETROTHED, SINCE SHE DID NOT DECEIVE HIM. IF HE SAYS TO A WOMAN, BEHOLD, BE THOU BETROTHED UNTO ME AFTER I BECOME A PROSELYTE,’ OR ‘AFTER THOU BECOMEST A PROSELYTE, AFTER I AM LIBERATED,’ OR ‘AFTER THOU ART LIBERATED, AFTER THY HUSBAND DIES’. OR, ‘AFTER THY SISTER DIES.’[10] OR ‘AFTER THY YABAM PERFORMS HALIZAH FOR THEE’; SHE IS NOT BETROTHED. LIKEWISE, IF HE SAYS TO HIS NEIGHBOUR, IF THY WIFE BEARS A FEMALE, LET HER BE BETROTHED UNTO ME,’ SHE IS NOT BETROTHED. (IF HIS WIFE, HOWEVER, IS PREGNANT, THE CHILD BEING DISCERNIBLE, HIS WORDS ARE VALID, AND IF SHE BEARS A FEMALE, SHE IS BETROTHED.)[11]

GEMARA. We learnt elsewhere: Terumah must not be separated from detached [corn] for that which is attached,[12] and if he does separate, his separation is not terumah. R. Assi asked R. Johanan: What if one declares, ‘The detached produce of this furrow be terumah for the detached produce of this one, when it is plucked’,[13] and then it is plucked? — He answered him: Whatever [act] lies in his power, is not as though that act were lacking.[14] He raised an objection: IF ONE SAYS TO A WOMAN, BEHOLD, THOU ART BETROTHED UNTO ME AFTER I BECOME A PROSELYTE, OR, ‘AFTER THOU BECOMEST A PROSELYTE,’ ‘AFTER I AM LIBERATED, OR, ‘AFTER THOU ART LIBERATED,’ ‘AFTER THY HUSBAND DIES,’ OR, ‘AFTER THY SISTER DIES,’ OR, AFTER THY YABAM PERFORMS HALIZAH FOR THEE.’ SHE IS NOT BETROTHED. As for all, it is well, for they are not in his power; but [to be] a proselyte surely lies in his power! — [To become] a proselyte is not in his power either. For R. Hiyya b. Abba said in R. Johanan's name:

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(1) Ibid., so translated here.

(2) Num. V. 19; but the reverse contingency is left to be understood.
(3) If thou hast gone aside, etc.; i.e., the reverse.
(4) Which also suggests, hinnaki, be thou strangled. v. Shebu (Sonc. ed.) p. 213, n. 6 and Sot. (Sonc. ed.) P- 89, n. 2.
(5) Why write a word capable of two readings?
(6) Num. XIX, 12.
(7) Ibid. 19. This difficulty arises on all views: why repeat third and seventh?
(8) By this repetition.
(9) I.e., sacrifices, which require a very high degree of purity.
(10) I.e., his own wife, whether living with him or divorced.
(11) From R. Hanina's statement infra but is evident that the bracketed passage must be deleted.
(12) Produce is not liable to terumah until it is harvested, but not while it is yet attached to the soil, and one may not separate from what is liable for what is not liable.
(13) That refers to both clauses.
(14) Since it rests with him to harvest the produce, it is accounted as already harvested, and his declaration is valid.

Talmud - Mas. Kiddushin 62b

A proselyte requires three [Israelites].[1] What is the reason? Judgment [mishpat] is written in connection therewith, as for a lawsuit:[2] who can say that these three will assemble for him?[3]

R. Abba b. Memel demurred thereto:[4] If so, if a man gives a perutah to his [heathen] bondmaid and says to her, ‘Behold, thou art betrothed unto me after I liberate thee,’ is it indeed [valid] kiddushin?[5] — How compare! There, she is originally like an animal,[6] whereas now [after liberation] she is an independent mind. Then when R. Oshaia said: If he gives his wife a perutah and says to her, ‘Behold, thou art betrothed unto me after I divorce thee,’ she is not betrothed: according to R. Johanan. is she indeed betrothed? — Granted that it rests with him to divorce, is it in his power to betroth her?[7] [From this answer, then,] solve R. Oshaia's problem. [Viz.] [What] if one gives two perutoth to a woman: With one he says to her, ‘Be thou betrothed unto me to-day.’ and with the other, ‘Be thou betrothed unto me after I divorce thee’: from this [then] deduce that it is not [valid] kiddushin! — [No.] Perhaps. just as kiddushin can be effective now, it can be effective afterwards.[8]

It was taught as R. Johanan: One must not separate from detached [produce] for attached; and if one does separate, his separation is not terumah. How so? If he declares, ‘The detached produce of this furrow be terumah for the attached produce of that one,’ or ‘the attached produce of this furrow be terumah for the detached produce of that one’, his statement is null. But if he declares, ‘when it is cut off,’ and then it is cut off, his declaration is valid. R. Eliezer b. Jacob went further.[9] Even if he declares, ‘The detached produce of this furrow be terumah for the attached produce of this one,’ or, ‘the attached produce of this furrow be terumah for the detached produce of this one when it [the attached] is a third grown and cut off,’ and it then grows to a third [of its full maturity] and is cut off, his declaration is valid.[10] Rabbah said: R. Eliezer b. Jacob ruled thus only of fodder,[11] but not of leek-like plants.[12] R. Joseph said: [He ruled thus] even of soft plants.[13] Where is it implied that this word ‘agam’ connotes leek-like plants? — R. Eleazar answered, because Scripture saith, is it to bow down his head as a rush [ke-agmon]?[14]

With whom does the following agree? For we learnt: IF ONE SAYS TO HIS NEIGHBOUR. ‘IF THY WIFE BEARS A FEMALE, LET HER BE BETROTHED UNTO ME.’ SHE IS NOT BETROTHED — whereon R. Hanina said: This was taught only if his wife is not pregnant; but if she is, his declaration is valid, — with whom [does it agree]? — If it is according to Rabbah, it means that her child was discernible; if as R. Joseph, even if her child is not discernible.[15] Others state, Rabbah said: R. Eliezer b. Jacob ruled thus only of the fodder of a naturally watered field, but not of the fodder of an artificially irrigated field.[16] R. Joseph said: Even of the fodder of an artificially irrigated field. With whom does the following agree? For we learnt: IF ONE SAYS TO

HIS NEIGHBOUR. ‘IF THY WIFE BEARS A FEMALE, LET HER BE BETROTHED UNTO ME,’ SHE IS NOT BETROTHED, whereon R. Hanina said: This was taught only if his wife was not pregnant; but if she was, his declaration is valid with whom [does it agree]? — It means that her child was discernible, and agrees with all.[17]

Abaye said: R. Eliezer b. Jacob, Rabbi, and R. Meir, all hold that one may transmit the title to an object which has not come into the world.[18] R. Eliezer b. Jacob, as stated. Rabbi, for it was taught:

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(1) For the ceremony of conversion, v. Yeb. 47a.

(2) Lev. XXIV, 22: Ye shall have one manner of judgment (mishpat), as well as for the proselyte (so understood here; E.V. ‘stranger’) as for the homeborn. ‘Mishpat’ really means a judgment in a civil suit, for which three are required.

(3) Hence it is not in his power. Views on proselytes varied in ancient Israel, v. J.E. X. pp. 221ff. But as it may, the answer given here shews that one encountered real difficulties before he could be converted, and often was denied it altogether.

(4) Sc. R. Johanan's ruling.

(5) Surely not, though it does rest with him.

(6) In that she has no independent will.

(7) Surely not.

(8) That is R. Oshaia's problem: seeing that he can betroth her now he can do so for the kiddushin to become effective after divorce. But if he gives his wife kiddushin, to take effect after he divorces her, no part of his declaration is valid there and then.

(9) Lit., ‘said more than this’.

(10) Though before it is a third grown it is not regarded as produce at all, and even if he harvested it then he could not tithe it (R.H. 13a), and so it is something as yet non-existent; moreover, it does not rest with him to make it grow. Yet R. Eliezer b. Jacob maintains that his declaration is valid, for one can transmit title of what is yet non-existent. (Here by his declaration he transmits a title to priests.)

(11) I.e., corn which can be cut before it is a third grown and used for fodder.

(12) Jast.: soft, bending plants, which cannot be used as fodder.

(13) Rabbah holds that soft plants have no real worth at all before they are a third grown; R. Joseph holds that even so it is sufficient for R. Eliezer b. Jacob's view to operate.

(14) Isa. LVIII, 5.

(15) ‘Discernible’ and ‘not discernible’ are compared respectively to fodder, which can be put to use, and to soft plants. which cannot (before they are a third grown). On both views, however, R. Hanina's interpretation implies that one can transmit the title of an object which is as yet non-existent, and hence agrees with R. Eliezer b. Jacob.

(16) The former is more certain than the latter, which permits human error and neglect.

(17) Since the development of the embryo does not depend on artificial means, it is similar to the fodder of a naturally watered field.

(18) I.e., as yet non-existent.

Talmud - Mas. Kiddushin 63a

Thou shalt not deliver unto his master a servant [which is escaped from his master]:[1] Rabbi said: The Writ refers to one who buys a slave on condition that he emancipates him.[2] How so? Said R. Nahman b. Isaac: E.g., if he wrote for him, ‘When I buy you, you belong to yourself from now.’[3]

R. Meir, for it was taught: If one says to a woman, ‘Behold, thou art betrothed unto me after I become a proselyte’, or, ‘after thou becomest a proselyte’, ‘after I am freed,’ or ‘after thou art freed,’ ‘after thy husband dies,’ or, ‘after thy sister dies,’ ‘after thy yabam performs halizah for thee,’ she is not betrothed. R. Meir said: She is betrothed.[4] R. Johanan the sandal maker said: She is not betrothed. R. Judah the Nasi[5] said: [By rights] she is betrothed, yet why did they [the Sages] say, she is not betrothed? Because of bad feeling.[6] Then let R. Judah the Nasi be counted too? — Rabbi and R. Judah the Nasi are identical. And let R. Akiba be counted too? For we learnt: [If a woman says to her husband,] ‘Konam be my work for thy mouth,’[7] he need not annul it.[8] R. Akiba said: He should annul it, lest she do for him more than she is obliged to do for him![9] — But was it not stated thereon, R. Huna son of R. Joshua said: It means that she vowed, ‘Let my hands be sanctified to their Maker,’[10] and her hands are in existence?[11]

MISHNAH. IF ONE SAYS TO A WOMAN, BEHOLD. THOU ART BETROTHED UNTO ME ON CONDITION THAT I SPEAK TO THE GOVERNOR ON THY BEHALF’, OR ‘THAT I WORK FOR THEE AS A LABOURER’, IF HE SPEAKS TO THE GOVERNOR ON HER BEHALF OR WORKS FOR HER AS A LABOURER, SHE IS BETROTHED; IF NOT, SHE IS NOT BETROTHED.

GEMARA. Resh Lakish said: Providing that he gives [her] the value of a perutah.[12] But not in payment [of speaking etc.]? Surely it was taught: ‘[Be thou betrothed unto me] in payment for that I drove thee on an ass,’ or ‘seated thee in the carriage or ship,’ she is not betrothed.[13] ‘In payment for that I will drive thee on an ass, or ‘seat thee in a carriage or ship,’ she is betrothed? And should you answer: Here too it means that he gives her the value of a perutah: but it states: ‘in payment?’ Again, it was taught: [If a woman says,] ‘Sit with me as a companion, and I will become betrothed unto thee,’ ‘jest before me,’ ‘dance before me’, ‘do as was done in this public game’,[14] we assess it: if it is worth a perutah, she is betrothed; if not, she is not betrothed. And should you answer, here too it means that he gives her the value of a perutah [in addition]; surely it states, we assess it, thus refuting Resh Lakish? — Resh Lakish can answer you: The Tanna of this Baraitha[15] holds, Wages are a liability only at the end; whereas our Tanna holds, Wages are a liability from beginning to end.[16] Now, what compels Resh Lakish to explain our Mishnah on the basis that wages are a liability from beginning to end and that he gives her [a perutah in addition]? — Said Raba: [For otherwise,] our Mishnah presents a difficulty to him: why state particularly, ON CONDITION: state, ‘in payment for’? Hence this proves that wherever ‘on condition’ [is taught], it means that he gives her [something in addition].

MISHNAH. [IF HE SAYS,] ‘ON CONDITION THAT [MY] FATHER CONSENTS,’ IF HIS FATHER CONSENTS, SHE IS BETROTHED; IF NOT, SHE IS NOT BETROTHED. IF HIS FATHER DIES, SHE IS BETROTHED; IF THE SON DIES, THE FATHER IS INSTRUCTED TO SAY THAT HE DOES NOT CONSENT.[17]

GEMARA. What is meant by ‘ON CONDITION THAT [MY] FATHER CONSENTS?’ Shall we say, providing that my father [explicitly] says ‘yes’? Then consider the middle clause: IF HIS FATHER DIES, SHE IS BETROTHED. Surely he did not say ‘yes!’ Hence [it must mean]

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(1) Deut. XXIII, 16.

(2) Or, for the purpose of emancipating him. If his master goes back on his word and the slave escapes, the Court must not deliver him up again.

(3) Thus he transmits to the slave something which, as far as he is concerned, is as yet non-existent, viz., his rights over him. (Such fall within the category of things which have not yet come into the world.) Since Rabbi applies the verse to such a case, he evidently holds such transmission valid.

(4) Though all these are non-existent at the time.

(5) The Prince.

(6) [Which such betrothal engenders in the mind of the sister and the husband whose death seems to be keenly awaited. R. Judah the Nasi refers to these two cases. In the other cases he agrees with R. Meir.]

(7) Forbidden be it by a vow, v. Ned. 85a.

(8) Since she must work for him, her vow is null in any case.

(9) For the extent of her obligation v. Ket. 64b. The vow in respect of the excess is binding, hence R. Akiba rules that her husband should annul it. This shews that he holds that one may make a binding declaration in respect of what is not yet in existence.

(10) In the sense that they may do nothing for her husband.
(11) Lit., ‘in the world’.
(12) And stipulates, ‘on condition that I speak’ etc.
(13) Because this payment is a debt, which cannot effect kiddushin; v. supra 6b.
(14) Jast. Which games are alluded to is not stated. Rashi: Make for me such a masonry.
(15) Lit., ‘this outside Tanna’.
(16) V. supra 48a.
(17) So that the kiddushin is null ab initio and she is not bound to the yabam.

Talmud - Mas. Kiddushin 63b

‘on condition that my father is silent.’[1] Then consider the last clause: IF THE SON DIES. THE FATHER IS INSTRUCTED TO SAY THAT HE DOES NOT CONSENT: yet why, seeing that he was silent?[2] Hence [it must mean that] he said to her, on condition that my father does not [explicitly] object’: thus the first clause has one meaning, while the middle and the last clauses have a different meaning? — Said R. Jannai. Even so, Resh Lakish observed: This proves that in R. Jannai's opinion we strain the Mishnah by giving two different connotations [to the same phrase], so that it agrees with one Tanna, rather than give it one connotation by making it reflect [the views of] two Tannaim.[3] R. Joseph b. Ammi said: After all, it has one connotation, and what is meant by ‘ON CONDITION THAT [MY] FATHER CONSENTS’? On condition that he does not protest within thirty days from now.[4]

MISHNAH. [IF A MAN DECLARES,] ‘I HAVE GIVEN MY DAUGHTER IN BETROTHAL, BUT DO NOT KNOW TO WHOM I HAVE BETROTHED HER,’ AND THEN ONE COMES AND STATES, I BETROTHED HER, HE IS BELIEVED. IF ONE SAYS, I HAVE BETROTHED HER,’ AND ANOTHER [ALSO] SAYS, ‘I BETROTHED HER,’ BOTH MUST GIVE A DIVORCE;[5] BUT IF THEY WISH, ONE GIVES A DIVORCE AND THE OTHER MARRIES HER.

GEMARA. Rab said: HE IS BELIEVED to give her a divorce, but he is not believed to take her. He is believed to give her a divorce: no man sins without profit.[6] But he is not believed to take her: passion may have mastered him. R. Assi said: He is even believed to take her. Yet R. Assi admits that if she declares, ‘I have been betrothed, but do not know to whom,’ and one comes and says: ‘I betrothed her,’ he is not believed to take her.[7] We learnt: BUT IF THEY WISH, ONE GIVES A DIVORCE AND THE OTHER TAKES HER: this refutes Rab! — Rab can answer you. There it is different: since another is with him, he is indeed afraid.[8] It was taught as R. Assi: ‘I have given my daughter in betrothal, but do not know to whom I betrothed her,’ and one comes and says: ‘I betrothed her,’ he is believed, even to take her. If he takes her and [then] another comes and says: ‘I betrothed her,’ it does not rest with the latter to forbid her to him [the first]. [But] if a woman says: ‘I have been betrothed, but do not know to whom,’ and one comes and declares, ‘I betrothed her,’ he is not trusted to take her, because she will shield him.[9]

The Scholars propounded: Can we stone [her] on his statement?[10] — Rab said: We do not stone [her]; R. Assi said: We stone [her]. Rab said: We do not stone [her]: the Divine Law gave credence to the father in respect of an interdict[11] but not of execution. R. Assi maintained, We stone [her]: The Divine Law gave credence to the father in the whole matter. R. Assi said: Yet I admit that if she herself says: ‘I was betrothed,’ we do not stone [her].[12] R. Assi said further: These rulings of mine break roofs![13] [For one may argue:] If you say that we stone her where one who comes to take her may take her,[14] how much the more should she be stoned where one who comes to take her may not take her![15] Yet it is not so. The Divine Law gave credence to the father, but it gave no credence to her.[16] But R. Hisda ruled: In both cases we do not stone. Now, R. Hisda follows his opinion [elsewhere]. For R. Hisda said: [If a man declares,] ‘This my son is nine years and a day.’ [or] ‘this my daughter is three years and a day,' he is believed in respect of sacrifice, but not in respect of flagellation or [other] punishment.[17] It was taught as R. Hisda: [If a man declares,] 'This my son is thirteen years and a day,' [or] this my daughter is twelve years and a day,'[18]

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(1) I.e., does not explicitly object.

(2) And the Kiddushin became effective.

(3) For it could be explained that he simply said: 'on condition that my father consents' and that the first and the middle and last clauses represent two differing views as to its meaning: the Tanna of the first explains it to mean that his father is silent; whereas the one of the middle and last, that his father does not explicitly object.

(4) I.e., within any agreed period, and CONSENTS and DOES NOT CONSENT mean within that period.

(5) To free her for others.

(6) Why should he want to divorce her if she is not his wife?

(7) The reason is stated below.

(8) [He is afraid to lie for fear that the father who gave her in betrothal will remember that he was not the man, but the other, and thus expose him].

(9) If her father betrothed her one is afraid to lie, because he will certainly expose him if he remembers that this was not the man; hence he is believed. But a woman, in her eagerness for marriage, may conceal his falsehood, and he may count upon this: hence he is disbelieved.

(10) Lit., 'at his hand'. If her father declares that he gave her in betrothal, but does not produce witnesses, and then she is unchaste, is he believed to the extent of stoning the daughter for adultery? V. Deut. XXII, 21.

(11) By his declaration he interdicts her to all men.

(12) For subsequent unchastity.

(13) They are paradoxical.

(14) Viz., when her father states that he does not know to whom he betrothed her. The fact that another is permitted to take her shews that the father is not so absolutely believed as to render her forbidden to all, including the claimant; yet she is stoned for unchastity.

(15) Viz., when she herself declares that she does not know to whom she was betrothed. Since the claimant may not take her, we evidently regard her as a married woman absolutely. Surely then we should stone her for unchastity?

(16) Hence she is not stoned; nevertheless, the claimant may not take her, because she rendered herself, by her declaration, forbidden to all.

(17) The intercourse of a male or female of these ages (and upwards) is regarded as such in respect of adultery, incest, etc. Now, if these were committed unintentionally, so that a sacrifice is incurred, the father's statement is accepted. But if intentionally and attested by witnesses, thus involving flagellation or death, according to the nature of the offence, the father's uncorroborated statement is not believed. They themselves, being minors, are in any case exempt, but the reference is to their adult partners.

(18) At these ages they are adults.

Talmud - Mas. Kiddushin 64a

he is believed in respect of vows, haramim,[1] sanctifications, and 'arakin;[2] but not in respect of flagellation and [other] punishments.

MISHNAH. [IF A MAN DECLARES.] 'I HAVE GIVEN MY DAUGHTER IN BETROTHAL,'[3] 'I GAVE HER IN BETROTHAL AND DIVORCED HER WHILST A MINOR,' AND SHE IS [NOW] A MINOR,[4] HE IS BELIEVED.[5] 'I GAVE HER IN BETROTHAL AND DIVORCED HER WHILST A MINOR,' AND SHE IS NOW AN ADULT, HE IS DISBELIEVED.[6] 'SHE WAS TAKEN CAPTIVE AND I REDEEMED HER,[7] WHETHER SHE IS A MINOR OR AN ADULT[8] HE IS DISBELIEVED.

GEMARA. Wherein do the first and the second clauses differ? — In the first clause, it is in his hand;[9] in the second, it is not in his hand. Is it not? Surely it is in his power to marry her to a halal,[10] whereby he unfits her for the priesthood![11] — That is no difficulty: it [our Mishnah] agrees with R.

Dosethai b. Judah, who maintained: The daughters of Israel are a purifying mikweh for halallim.[12]

But it is in his power[13] to marry her to a mamzer?[14] — This agrees with R. Akiba, who maintained, Kiddushin has no validity[15] with those [marriages forbidden by] negative injunctions.[16] But it is in his power to marry her, if a widow, to a High Priest, and in accordance with R. Simai; for it was taught: R. Simai said: [The issue] of all [marriages forbidden by a negative injunction] R. Akiba declared [to be] mamzer, excepting that of a widow [married] to a High Priest, since the Torah said, [a widow . . .] he shall not take, and he shall not profane [his seed]:[17] he renders [his seed] profane,[18] but not mamzer![19] — This is according to R. Yeshebab, who said: Come, let us cry out against Akiba son of Joseph[20] who declared: He who has no entry in Israel,[21] the issue is mamzer.[22] Now, on R. Yeshebab's view, it is well if he states an independent opinion [of R. Akiba's ruling].[23] But if he [merely] comes to combat R. Simai,[24] then it is [still] in his [the father's] power to marry her to a person forbidden by a positive injunction?[25] R. Ashi answered: Is it logical that the first clause [states that he is believed] because it is in his power? Granted that it is in his power to betroth her, is it in his power to divorce her? Moreover, if this person [to whom he desires to betroth her] says that he has no pleasure in her, can he then betroth her against his will? But, said R. Ashi, in the first clause the Divine Law declared him trustworthy, as R. Huna [said]. For R. Huna said in Rab's name: How do we know that a father is believed to interdict his daughter[26] by Biblical law? Because it is said: I gave my daughter unto this man [to wife]:[27] [with the words] ‘unto a man,’ he renders her forbidden [to all];[28] with ‘this [one]’, he frees her. [Now,] the Divine Law believed the father in regard to marriage[29] but in regard to captivity it did not believe him.

MISHNAH. IF A MAN SAYS AT THE TIME OF HIS DEATH I HAVE SONS, HE IS BELIEVED;[30] ‘I HAVE BROTHERS,’ HE IS DISBELIEVED.[31]

GEMARA. This shews that he is believed to free, but not to bind. Shall we say [then] that our Mishnah does not agree with R. Nathan? For it was taught: if at the time of betrothal one declares that he has sons, but at the time of his death he asserts that he has no sons; If at the time of betrothal he declares that he has brothers, while at the time of his death he declares that he has no brothers: he is believed to free, but not to bind: this is Rabbi's view. R. Nathan said: He is believed to bind too! — Said Raba, there it is different: since he retracts at the time of his death, I assume that he may be speaking truth. Abaye asked him: Does it [the reverse] not follow a minori: If there, though he contradicts his [former] words, you say that he may be speaking truth; surely it is all the more so in our Mishnah, where he does not contradict his [former] words! But, said Abaye, our Mishnah treats of one who is not presumed[32] to possess brothers or sons: hence we rule, since he is not presumed to possess either brothers or sons, if he says. ‘I have sons,’ he is believed;[33] but if he declares, ‘I have brothers,’ he is disbelieved, [because] it does not rest solely with him to forbid her to the whole world. [Whereas] the Baraitha refers

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(1) V. Glos.

(2) V. Glos. As they are of age, their vows, etc., are valid, and the father is believed on the question of age.

(3) Rashal adds: a minor (ketannah). and it is likewise so in Asheri and Alfasi.

(4) When he makes this declaration.

(5) She may therefore not marry a priest; v. Lev. XXI, 7.

(6) The reason is explained in the Gemara.

(7) A woman taken captive above the age of three years and a day may not marry a priest, lest she was ravished in captivity.

(8) When he makes this declaration.

(9) Since she is now a minor, he can betroth her even now and accept a divorce on her behalf, thus disqualifying her from the priesthood. Hence he is believed.

(10) ‘Profaned’; the issue of a widow married to a High Priest in violation of Lev. XXI. 14.

(11) She may not marry a priest after that; infra 74b.

(12) Pl. of halal. If a halal marries a Jewess born in legitimate wedlock, his daughter may marry a priest. Now, since his daughter is fit, his widow too (i.e., the Jewess herself) is fit, according to the principle: you may marry the widow of any man whose daughter you may marry. — Of course, a father can in any case render his daughter, a minor, unfit by marrying and divorcing her; but that is only for a priestly marriage, yet if he is a priest she may still eat terumah, whereas when he declares that she was taken into captivity he desires to disqualify her from terumah too. (Rashi)

(13) Lit., ‘his hand’.

(14) V. Glos. This likewise renders her unfit, even to eat terumah.

(15) Lit., ‘cannot take hold on’.

(16) Which includes a mamzer, Deut. XXIII, 3. Since the kiddushin is invalid, it does not disqualify her from the priesthood.

(17) Lev. XXI, 14f.

(18) I.e., hallel.

(19) Since the child is not mamzer, the kiddushin, though forbidden, is valid, because it is a principle that the issue of marriage that cannot be valid is mamzer. Further, being valid, it disqualifies her from the priesthood.

(20) I.e., R. Akiba.

(21) I.e., with whom marriage is forbidden.

(22) Thus in his view, R. Akiba holds that even the issue of a High Priest and a widow is mamzer, whence it follows that the marriage is entirely invalid, which in turn implies that she is not disqualified from terumah, as above. Thus the Mishnah agrees with R. Akiba as R. Yeshebab explains his view,

(23) I.e., the issue of all interdicted marriages, no matter how forbidden, is mamzer.

(24) Who excepted the issue of a widow and a High Priest; yet he too refers only to unions forbidden by a negative injunction.

(25) V. Deut. XXIII, 8f: Thou shalt not abhor an Edomite . . . thou shalt not abhor an Egyptian. The children of the third generation that are born unto them shall enter into the assembly of the Lord. The ‘third generation’ after conversion is meant; hence the first and second are forbidden, and since that is implied by a positive statement, the interdict too ranks as a positive injunction. — Such a marriage, on the present hypothesis, is valid, and disqualifies her from terumah, v. infra 74b.

(26) To all men, by maintaining that he betrothed her to a particular one.

(27) Lit., ‘unto a man, this one’. Deut. XXII, 16.

(28) Even to this particular man.

(29) Provided she is not a bogereth. The whole section speaks of a na'arah.

(30) And his wife is exempt from yibum.

(31) And even if he is childless his wife is free to marry a stranger.

(32) Lit., ‘it is not established to us’.

(33) Since he does not change her present status; and he is believed even if a man subsequently claims to be his brother.

Talmud - Mas. Kiddushin 64b

to one who is presumed to have brothers but not sons. So we argue. Why should he lie? Why does he say it?[1] to free her from the yabam! Then he could Say, ‘I will free her by a divorce [just before my death].’ Now, Rabbi holds that [the argument,] ‘why should I lie’ is as [strong as] witnesses, so that the witnesses come and cancel[2] the presumption. But R. Nathan holds, [The argument,] ‘why should I lie’ is [only] as [strong as] a presumption, and one presumption cannot come and completely cancel another.[3] MISHNAH. IF ONE GIVES HIS DAUGHTER IN BETROTHAL WITH OUT SPECIFYING WHICH, THE BOGEROTH[4] ARE NOT INCLUDED. IF ONE HAS TWO GROUPS OF DAUGHTERS BY TWO WIVES, AND HE DECLARES, I HAVE GIVEN IN BETROTHAL MY ELDEST DAUGHTER, BUT DO NOT KNOW WHETHER THE ELDEST OF THE SENIORS OR THE ELDEST OF THE JUNIORS, OR THE YOUNGEST OF THE SENIORS WHO IS OLDER THAN THE SENIOR OF THE JUNIORS, ALL ARE FORBIDDEN, EXCEPT THE YOUNGEST OF THE JUNIORS: THIS IS R. MEIR'S OPINION. R. JOSE SAID: THEY ARE ALL PERMITTED, EXCEPT THE ELDEST OF THE SENIORS. I HAVE BETROTHED MY YOUNGEST DAUGHTER, BUT DO NOT KNOW WHETHER THE YOUNGEST OF THE

JUNIORS OR THE YOUNGEST OF THE SENIORS, OR THE ELDEST OF THE JUNIORS WHO IS YOUNGER THAN THE YOUNGEST OF THE SENIORS,’ THEY ARE ALL FORBIDDEN, EXCEPT THE ELDEST OF THE SENIORS; THIS IS R. MEIR'S VIEW. R. JOSE SAID: THEY ARE ALL PERMITTED, EXCEPT THE YOUNGEST OF THE JUNIORS.

GEMARA. But minors are [apparently] included; this proves that kiddushin that cannot be followed by intercourse is kiddushin?[5] — The circumstances are that there is only a bogereth and a minor. But ‘BOGEROTH’ is taught! — By ‘bogeroth’, bogeroth in general are meant. Then it is obvious: what business have bogeroth [here]?[6] — We refer here to where she [the bogereth] appointed him [her father] an agent. I might have thought that when he accepted kiddushin he did so on her behalf; hence we are informed that a man does not put aside something by which he benefits to do something by which he does not benefit. But do we not refer [even] to where she said to him, ‘Let my kiddushin be yours!’ — Even so, a man does not put aside a good deed which [primarily] rests on him and perform one which is not incumbent upon him.[7]

IF ONE HAS TWO GROUPS OF DAUGHTERS. Now, it is necessary.[8] For if we were told the first one, [I would say only] here does R. Meir rule [so], for since there is yet a younger one than this, he calls this one ‘elder’, but in the latter [clause], I might say that he agrees with R. Jose that only the youngest of all he calls ‘young’. Again, if the latter [clause only] were stated: I would say that only there does R. Jose rule thus, but in the former he agrees with R. Judah.[9] Thus both are necessary.

Shall we say that R. Meir holds that a man places himself in a position of doubt, while R. Jose maintains that he does not?[10] But we know them [to hold] the reverse. For we learnt: If one vows, ‘[This be forbidden me] until Passover,’ it is forbidden until it arrives; ‘until Passover shall be’, it is forbidden until it is gone.[11] ‘Until pene [before][12] Passover’: R. Meir ruled: It is forbidden until it comes; R. Jose said: Until it is gone![13] — Said R. Hanina b. Abdimi in Rab's name: The passage [on vows] must be reversed. And it was taught even so: This is a general principle: That which has a fixed time. and one vows, until’ — R. Meir said: It means, Until it goes; R. Jose said: Until it comes.

Abaye said: The controversy refers [only] to two groups of daughters; but in the case of one group, all agree that ‘elder’ and ‘younger’ are literal,[14] [for] the middle one is called by name. R. Adda b. Mattena said to Abaye: If so,

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(1) That he has sons.

(2) Lit., ‘eradicate’.

(3) Thus: before marriage it was generally held that he had brothers but not sons, though there were no witnesses. Now, when he declared at betrothal that it was the reverse, we believe him; because he had no need to lie, since he could always free his wife from the yabam by a divorce. But the controversy arises where he retracts his words at death. Rabbi holds that the argument whereby we believed him at betrothal is as strong as witnesses, and completely eradicates the general pre-marriage presumption and establishes her as a woman not bound to a yabam. Hence it does not rest with him at death to interdict her. But R. Nathan holds that this argument does not completely eradicate the former presumption. Nevertheless, if he persists in his former statement we believe him; since, however, he reverses it at death, the original presumption holds good, and she is forbidden.

(4) Plur. of bogereth, v. Glos.

(5) V. supra 51a.

(6) For in any case the father has no authority over them, Now, it is well if the actual plural is meant, so that the Mishnah is necessary for its corollary that minors are included, thus shewing that kiddushin that cannot be followed etc. But if there is only one, neither the teaching itself nor its corollary is necessary.

(7) For notes on the whole passage and the Mishnah V. supra. 51b.

(8) For both clauses to be stated.

(9) By inverting the former reasoning.

(10) The meanings of ‘my elder daughter’ and ‘my younger daughter’ are doubtful. Thus R. Meir, by extending their scope, holds that he intends his words to bear a meaning which can be attributed to them only with doubt; whereas R. Jose maintains that he intends them to bear only that meaning which they certainly possess.

(11) I.e., the tense is regarded as future perfect — until it shall have been.

(12) [Of doubtful meaning, as each day of Passover is the one before the next day succeeding it (Rashi). For other interpretations. v. Ned. (Sonc. ed.) p. 191. n. 3,]

(13) Thus R. Meir includes even a doubtful meaning, while R. Jose excludes it.

(14) I.e., the oldest and the youngest respectively.

Talmud - Mas. Kiddushin 65a

let the middle one of the second [junior] group be permitted?[1] — The meaning here is that there are only an elder and a younger [daughter].[2] And reason supports this too: for if it is so,that there is [a middle one], let her be mentioned![3] But even on your view; the middle one of the first [senior] group, who is certainly doubtful and forbidden[4] — is she mentioned? — How compare! There [even] the one younger than her is taught as being forbidden, and the same applies to this [middle] one, who is older than her; but here,[5] if it is so that there is [a middle one], let her be mentioned! R. Huna, son of R. Joshua, said to Raba:[6] But Passover is as one group, and yet they differ? — There, he replied, they differ merely on language: one Master holds, ‘until pene Passover’ means until [just] before Passover, and the other maintains, until it has passed.[7]

MISHNAH. IF HE SAYS TO A WOMAN, ‘I HAVE BETROTHED THEE,’ AND SHE SAYS, THOU HAST NOT BETROTHED ME: HER RELATIONS[8] ARE FORBIDDEN TO HIM,[9] BUT HIS RELATIONS ARE PERMITTED TO HER. IF SHE SAYS, ‘THOU HAST BETROTHED ME,’ AND HE MAINTAINS, ‘I HAVE NOT BETROTHED THEE,’ HER RELATIONS ARE PERMITTED TO HIM. BUT HIS RELATIONS ARE FORBIDDEN TO HER. ‘I HAVE BETROTHED THEE,’ AND SHE REPLIES, THOU HAST BETROTHED NONE BUT MY DAUGHTER,’ THE RELATIONS OF THE SENIOR [THE MOTHER] ARE FORBIDDEN TO HIM, WHILST HIS ARE PERMITTED TO THE SENIOR; THE JUNIOR'S RELATIONS ARE PERMITTED TO HIM, AND HIS RELATIONS ARE PERMITTED TO THE JUNIOR.[10] I HAVE BETROTHED THY DAUGHTER,’ AND SHE REPLIES, ‘THOU HAST BETROTHED NONE BUT MYSELF’; THE JUNIOR'S RELATIONS ARE FORBIDDEN TO HIM, WHILST HIS RELATIONS ARE PERMITTED TO THE JUNIOR; THE SENIOR'S RELATIONS ARE PERMITTED TO HIM, WHILST HIS RELATIONS ARE FORBIDDEN TO THE SENIOR.

GEMARA. IF HE SAYS TO A WOMAN, I HAVE BETROTHED THEE etc. Now, it is necessary.[11] For if we were informed this of him,[12] [that is] because a man does not care,[13] and so it happens that he speaks [thus].[14] But as for her, I might argue, were she not certain of her statement, she would not have made it,[15] and so her relations are forbidden to him. Hence we are informed [that it is not so].

I HAVE BETROTHED THEE,’ AND SHE REPLIES [‘MY DAUGHTER’] etc. Why do I need this too? — It is necessary. I might think, By Scriptural law the Merciful One gave credence to the father;[16] hence by Rabbinical law credence was given to her [sc. the mother], and so her daughter is interdicted on her statement. Hence we are informed [otherwise].

I HAVE BETROTHED THY DAUGHTER etc. What is the purpose of this too? Since the one is taught, the other is taught too.[17]

It was stated: Rab said: We force [him to divorce her]; Samuel said: We request. To what [does this refer]? Shall we say: To the first clause: there is neither compulsion nor request?[18] But if to the second clause:[19] as for requesting him, that is well; but we compel why? He can protest. ‘I do not wish to be forbidden to her rela — tions![20] — But these rulings were stated in reference to each other.[21] Samuel said: He is asked to give her a divorce; Rab said: If he gives a divorce of his own accord,[22] he is compelled to pay the kethubah.[23] It was stated likewise: R. Aha b. Adda said in Rab's name — others state. R. Aha b. Adda said in R. Hamnuna's name in Rab's name: We compel and request. Both?[24] — This is the meaning: He is requested to grant a divorce; but if he gives a divorce of his own accord, he is compelled to pay the kethubah.

Rab Judah said: If a man betroths in the presence of one witness, we disregard[25] his kiddushin.[26] Rab Judah was asked: What if both admit it?[27] He answered ‘Yes’ and ‘no’, being uncertain.[28] It was stated: R. Nahman said in Samuel's name: If a man betroths in the presence of one witness, we disregard his kiddushin even if both admit it. Raba objected before R. Nahman: IF ONE SAYS TO A WOMAN, ‘I HAVE BETROTHED THEE,’ AND SHE SAYS, THOU HAST NOT BETROTHED ME: HER RELATIONS ARE FORBIDDEN TO HIM, WHILST HIS RELATIONS ARE PERMITTED TO HER. Now, if there are witnesses, why are his relations permitted to her? And if there are no witnesses, why are her relations forbidden to him?[29] Hence it surely means that there is one witness![30] — [No.] The meaning is that he says to her, ‘I betrothed thee in the presence of So-and-so,[31] who have [since] gone overseas.’

He raised an objection: If one divorces his wife and then stays overnight with her in an inn: Beth Shammai rule: She does not require a second divorce from him; while Beth Hillel maintain: She does require a second divorce from him.[32] What are the circumstances? If there are witnesses,[33] what is Beth Shammai's reason? And if there are no witnesses, what is Beth Hillel's reason?[34] Hence it must surely mean that there is one witness![35] — Yet according to your view, consider the second clause: But they agree that if she was divorced after erusin,[36] she does not require a second divorce from him, because he is not intimate with her.[37] Now if you think that one witness is believed, what does it matter whether [the divorce was] from erusin or nissu'in? Hence the meaning here is that we have witnesses of privacy, but not of intercourse. Beth Shammai maintain: we do not

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(1) This refers to the first clause of the Mishnah. There the middle one can be called ‘elder’ only by comparison with the youngest of all, which is the same as in the case of one group only.

(2) In the junior group.

(3) Sc. ‘I do not know whether the middle one of the juniors’.

(4) Since she is a senior in comparison to those of the second group.

(5) With reference to the second group.

(6) Var. lec.: R. Adda b. Mattena said to Abaye.

(7) Taking pene to mean ‘the turn’, v. p. 325. n. 6.

(8) E.g., sister, mother, daughter.

(9) Because he himself has thrown an interdict upon them in respect of himself; v. p. 319. n. 8.

(10) Notwithstanding her mother's statement, because she has no power to cast an interdict upon her daughter.

(11) That all be taught.

(12) Viz., that when he says: ‘I have betrothed thee,’ his relations are not forbidden to her.

(13) If the relations of a particular woman are interdicted to him, he can marry someone else.

(14) Untruthfully.

(15) Since, unless he divorces her, she cannot marry at all.

(16) V. Mishnah 64a top.

(17) For the sake of parallelism.

(18) She is permitted to marry in any case-even his relations.

(19) Where she says: ‘Thou hast betrothed me’.

(20) For if he divorces her, he establishes the presumption that she was his wife, and those relations who are interdicted even after divorce, e.g., a sister, are now forbidden to him.

(21) The reference is to the second clause, but Rab and Samuel do not dispute but supplement one another.

(22) And thus tacitly admits having betrothed her,

(23) v. Glos,
(24) Surely that is self-contradictory!
(25) Lit., 'have no fear of,
(26) She is not betrothed.
(27) Do we normally disregard because we disbelieve a single witness, but here, since both parties admit it, they are betrothed? Or perhaps kiddushin in the presence of one witness only is invalid?
(28) Lit., 'it was weak in his hand'. His answer vacillated.
(29) For unattested kiddushin is invalid,
(30) That proves that kiddushin in the presence of one witness is valid, since he is forbidden to her relations.
(31) In the presence of two witnesses.
(32) V. Git. 81a.
(33) That he betrothed her anew by intercourse.
(34) V. p. 328, n. 10.
(35) And they both admit, Beth Hillel holding that betrothal in the presence of one witness is valid.
(36) V. Glos.
(37) Lit., 'his heart is not bold towards her' — the marriage never having been consummated.

Talmud - Mas. Kiddushin 65b

say. The witnesses of privacy are likewise witnesses of intercourse;[1] Beth Hillel hold: The witnesses of privacy are likewise witnesses of intercourse.[2] But they certainly agree that if she was divorced from erusin, we do not say that the witnesses of privacy are likewise witnesses of intercourse, because he is not intimate with her.

R. Isaac b. Samuel b. Martha said on Rab's authority: If a man betroths in the presence of one witness, we disregard his kiddushin even if both admit it. Rabbah son of R. Huna said: If a man betroths in the presence of one witness, the Great Court rules: We disregard his kiddushin. Who is the Great Court? — Rab.[3] Others state, Rabbah b. R. Huna said in Rab's name: If a man betroths in the presence of one witness, the Great Court rules: We disregard his kiddushin. Who is the Great Court? — Rabbi.[4]

R. Ahadaboi b. Ammi raised an objection: If two come from overseas with a woman and chattels;[5] and one maintains. 'This is my wife, this is my slave, and these are my chattels', whilst the other says: 'this is my wife, this my slave, and these are my chattels'. while the woman claims, 'These two are my slaves and the chattels are mine', she requires two divorces, and collects her kethubah out of the chattels. How is this meant? If this one has witnesses and the other has witnesses,[6] can she claim, 'These two are my slaves and the chattels are mine!' Hence it surely means that there is one witness?[7] — Now, is that logical? Is one witness believed when he is rebutted?[8] But as for permitting her to the world,[9] all agree that she is permitted; here, however, the meaning is this: she needs two divorces in order to collect her kethubah from the chattels,[10] and it is according to R. Meir, who ruled: Movables are mortgaged for the kethubah.[11]

What is the result of the matter? — R. Kahana maintained, We disregard his kiddushin; R. Papa said: We pay heed to his kiddushin.[12] R. Ashi said to R. Kahana: What is your opinion? that we learn the meaning of 'dabar' [matter] here from civil matters?[13] If so, just as there the admission of the litigant is as a hundred witnesses,[14] then here too the admission of the litigant is as a hundred witnesses![15] — There, he replied, he does no injury to others; here, however, injury is done to others.[16]

Mar Zutra and R. Adda the elder, sons of R. Mari b. Issur, divided their property between them. Then they went before R. Ashi and asked him: When the Divine Law said: 'at the mouth of two witnesses . . . shall a matter be established,' is it so that they [the litigants] cannot retract if they wish, whereas we do not desire to retract; or perhaps, a transaction can be established [i.e., given legal force] only by witnesses? — Witnesses were created only against liars, he answered them.[17]

Abaye said: If one witness says to a person[18] 'You ate heleb'.[19] while he is silent, he [the witness] is believed.[20] Now, a Tanna supports this: If one witness says to a person. 'You ate heleb,' and he replies, 'I did not eat,' he is not liable. Thus, it is only because he answered: 'I did not,' but if he is silent, he is believed.

Abaye also said: If one witness says to a person. Your clean [food] has been defiled,' and he is silent, he [the witness] is believed.[21] Now, a Tanna supports this: If one witness declares, 'They have been defiled',[22] and he [their owner] replies, 'They have not been defiled,'[23] he is not liable.[24] Thus, it is only because he says: 'No'; but if he is silent, he is believed.

Abaye also said: If one witness says to a person,

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(1) I.e., we do not assume that since he is intimate with her he certainly cohabited in their privacy.

(2) And, moreover, we assume that this intercourse was not unchaste but for the purpose of betrothal; v. Git. 81b.

(3) Rab, on his return to Babylon after studying in Palestine, was recognised as the greatest scholar of his time.

(4) Par excellence, i.e., R. Judah the Nasi, compiler of the Mishnah.

(5) Lit., 'a bundle'.

(6) Of betrothal.

(7) And she requires a divorce.

(8) Surely not! Even if she only denies it he is disbelieved, and no divorce is necessary.

(9) I.e., to marry another.

(10) She can collect her kethubah only if both voluntarily divorce her, in which case she is in any circumstance entitled to the chattels, v. supra a.

(11) Hence she can collect it from the parcel of goods. and this is what the Baraitha informs us, v. Keth. 80b.

(12) She is in the position of a doubtfully married woman; v. p. 47, n. 10.

(13) Lit., 'money'. Here — Deut. XXIV, 1: When a man taketh a wife and . . . she find no favour in his eyes, because he hath found some unseemly matter (dabar) in her; civil suits — ibid. XIX, 15: at the mouth of two witnesses . . . shall a matter (dabar) be established. Hence, just as there two are needed, so for marriage.

(14) No stronger proof is required.

(15) Since both parties admit, the marriage should be valid.

(16) In that their marriage interdicts their consanguineous relations

(17) They are not essential for the validity of a transaction.

(18) Lit., 'him'.

(19) V. Glos.

(20) This offence involves a sin-offering; since the accused is silent, he is liable.

(21) And the owner must treat it as defiled, eating it only when he himself is unclean.

(22) Var. lec.: 'you have been defiled'.

(23) Var. lec.: 'I etc.

(24) To a sacrifice; the reference is to flesh of sacrifices, which may not be eaten when defiled, or when the eater is unclean.

Talmud - Mas. Kiddushin 66a

'Bestiality was committed with your ox,' and he is silent, he is believed.[1] And a Tanna supports it: Or [an ox] with which a transgression was committed, or which had killed [a person] on the testimony of one witness, or by admission of its owner, he [the one witness] is believed.[2] How is this 'on the testimony of one witness' meant? If the owner admits, then it is 'by admission of the owner'? Hence it surely means that he is silent.

Now, it is necessary.[3] For if he told us this first one, [I would argue:] if he were not certain thereof himself, since he [otherwise] sacrifices[4] hullin in the Temple Court, he would not bring [an offering].[5] But as for ‘Your clean food has been defiled,’ we might say, the reason of his silence was that it is fit for him when he himself is unclean.[6] And if we were told of this: that is because he causes him a loss whilst he is clean;[7] but as for bestiality having been committed with his ox, he may say [to himself]. ‘Not all oxen are for the altar.’[8] Thus all are necessary.

The scholars propounded: What if his wife [is charged with having] committed adultery on the testimony of one witness, and he [the husband] is silent?[9] — Abaye said: He is believed;[10] Raba said: He is disbelieved, because it is a sexual matter, and no sexual matter can be established by less than two.[11] Abaye said: Whence do I know[12] it? For there was a certain blind man who used to recite Baraithas in systematic order before Mar Samuel. One day it was late, but he did not come; so he sent a messenger for him. While the messenger was going by one road, he came by another. When the messenger returned, he stated that his [the blind man's] wife had committed adultery. When he came before Mar Samuel he said to him, ‘If you believe him, go and divorce[13] her; if not, do not divorce her.’ Now surely, ‘if you believe him’ means that he is not a robber?[14] And Raba?[15] — If you believe him as two [witnesses],[16] go and divorce her; if not, do not divorce her.

Abaye also said: Whence do I know it? Because it was taught. It once happened that King Jannai[17] went to Kohalith in the wilderness[18] and conquered sixty towns there. On his return he rejoiced exceedingly and invited all the Sages of Israel. Said he to them, ‘Our forefathers ate mallows[19] when they were engaged on the building of the [second] Temple; let us too eat mallows in memory of our forefathers.’ So mallows were served on golden tables, and they ate. Now, there was a man there, frivolous, evilhearted and worthless, named Eleazar son of Po'irah, who said to King Jannai. ‘O King Jannai, the hearts of the Pharisees[20] are against thee.’ ‘Then what shall I do?’ ‘Test them[21] by the plate between thine eyes.’[22] So he tested them by the plate between his eyes. Now, an elder, named Judah son of Gedidiah, was present there. Said he to King Jannai. ‘O King Jannai! let the royal crown suffice thee, and leave the priestly crown to the seed of Aaron.’ (For it was rumoured that his mother had been taken captive in Modi'im.)[23] Accordingly, the charge was investigated, but not sustained,[24] and the Sages of Israel[25] departed in anger.[26] Then said Eleazar b. Po'irah to King Jannai: ‘O King Jannai! That is the law even for the most humble man in Israel, and thou, a King and a High Priest, shall that be thy law [too]!’[27] ‘Then what shall I do?’ ‘If thou wilt take my advice, trample then, down.’[28] ‘But what shall happen with the Torah?’ ‘Behold, it is rolled up and lying in the corner: whoever wishes to study. Let him go and study!’ Said R. Nahman b. Isaac: Immediately a spirit of heresy was instilled into him,[29] for he should have replied. ‘That is well for the Written Law;[30] but what of the Oral Law?’[31] Straightway, the evil burst forth[32] through Eleazar son of Po'irah,[33] all the Sages of Israel were massacred, and the world was desolate until Simeon b. Shetah came and restored the Torah to its pristine [glory].[34] Now, how was it?[35] Shall we say that two testified that she was captured and two that she was not? what [reason] do you see to rely upon the latter rely upon the former?[36] Hence it must surely mean [that her captivity was attested] by one witness, and the reason [that his evidence was rejected] was that two rebutted him; but otherwise, he would have been believed.[37] And Raba? [He will reply:] After all, there were two against two, but it is as R. Aba b. R. Manyomi said [elsewhere]: that it refers to witnesses of refutation [hazamah]; so here too, there were witnesses of refutation.[38] Alternatively, this agrees with R. Isaac, who said: They substituted a bondmaid for her.[39] Raba said:

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(1) The ox is rendered unfit as a sacrifice.

(2) ‘Is believed’ is absent in Zeb. 70b and Bek. 41a, whence this is quoted, but it is presupposed there, ‘With which a transgression was committed’ refers to bestiality in Bek. 41a; in Zeb. 70b it is a general term including bestiality.

(3) To state all three cases.

(4) Lit., prepares’. Var. lec.: eats.

(5) A sin-offering can be brought only when it is incurred, but if a person dedicates a sin-offering without being liable, it remains hullin. Hence this man would not be silent, thus admitting it, if the witnesses were false.

(6) Therefore he does not trouble to deny it. Yet actually the witness may not be believed, and the food remains fit even for a ritually clean person.

(7) Therefore he would deny it, if it were untrue.

(8) So that it is not worth while denying it; yet his silence may not imply agreement.

(9) When the witness testifies.

(10) In that the husband may not retain her as his wife, but must divorce her.

(11) E.g., marriage or divorce are invalid unless attested by two. This case too is a sexual matter.

(12) Lit., ‘say’.

(13) Lit., ‘send her forth’.

(14) I.e., that he is not ineligible to testify in general. Thus, since he did not rebut the witness, but was silent, he was to divorce his wife.

(15) How does he explain this?

(16) Then you are certain that he is right.

(17) I.e., John Hyrcanus, not Alexander Jannai, though Abaye held these to be identical, Ber. 29a; Halevi, Doroth, I, 3, p. 397, n. 13. [Friedlaender, I, JQR (N.S.) IV. pp. 443ff assigns the whole incident to Alexander Jannai].

(18) [In the course of his trans-Jordanic campaign.]

(19) The food of the very poor.

(20) The traditional, orthodox party, as opposed to the Sadducees.

(21) Lit., ‘raise them up’. [הקם להם the phrase is difficult, and is so rendered by Graetz III, 678. Rashi takes it literally and explains: make them stand on their feet by wearing the plate on which the Divine Name is inscribed.]

(22) Worn by the High Priest; i.e., by their reactions toward your office as High Priest.

(23) In the days of Antiochus Epiphanes; Modi'm (Modim) was the birthplace of the Hasmoneans. As a son of a captive woman he would not be eligible for the priesthood.

(24) Lit., ‘found’.

(25) [Identical with the Pharisees; v. Lauterbach, JQR (N.S.) VI, pp. 88ff.]

(26) Rashi: under the King's anger. Weiss, Dor, I, p. 133: in anger at the false accusation.

(27) There is probably a lacuna in the narrative, which may be supplied from Josephus. Ant. XIII, 10, – 6: The Rabbis sentenced him to flagellation, in accordance with the law of slander; but Eleazar urged that this was altogether inadequate in view of Jannai's exalted position, and proved that they secretly held with the slanderer (Goldschmidt). — In fact, the status of a person is taken into account when bodily injury is sustained (B.K. 83b), but not for slander.

(28) Destroy them.

(29) Jannai.

(30) I.e., the Pentateuch.

(31) The whole of the Rabbinical elaboration and development of the Written Law, so called because it was originally not committed to writing but preserved by oral tradition.

(32) Lit., ‘blossomed’.

(33) [MS.M. adds ‘and through Judah v. Gedidiah’.]

(34) In the reign of Queen Alexandra. The reference is probably to the educational reforms of setting up schools for children from the age of five or six. In B.B. 21a this is ascribed to Joshua son of Gamala, whereas in J. Keth. chapter VIII. end, it is attributed to Simeon b. Shetah. The latter was probably afraid to move himself in the matter, knowing that his actions were suspected by the Sadducees, and so he put himself in the background and worked through Joshua, who was persona grata with the ruling party. The whole Baraitha is carefully analysed and discussed in Halevi, Doroth, I, 3, pp. 397ff

(35) How was the charge found to be untrue?

(36) The Rabbis were extremely strict on the question of family purity, and therefore in such a case the former two witnesses could not be ignored (Tosaf.).

(37) This proves Abaye's point.

(38) Hazamah means refutation which takes the form of ‘You who testify to having witnessed this at a certain place on a particular date were with us then elsewhere.’ In that case the second witnesses were always believed; v. B.K. 72b.

(39) Sc. his mother, the captors being ignorant of it. Thus there was no real contradiction: two witnesses attested the capture of one whom they thought to be Hyrcanus's mother, and another two attested that it was a bondmaid.

Talmud - Mas. Kiddushin 66b

Whence do I know it?[1] Because we learnt: R. Simeon said: It once happened that the water reservoir of Discus in Jabneh, which stood in the presumption of being full, was measured and found wanting.[2] Everything which had been rendered clean thereby. R. Tarfon declared clean and R. Akiba unclean.[3] Said R. Tarfon: This mikweh[4] stands in the presumption of being full,[5] and you come to declare it wanting because of a doubt: you must not declare it wanting on the strength of doubt. Said R. Akiba, This man[6] stands in the presumption of unclean, and you wish to declare him clean on the strength of doubt:[7] do not purify him on the strength of doubt.[8] R. Tarfon said: This may be compared to one [a priest] who stood and sacrificed on the altar, when he was discovered to be the son of a divorced woman or a haluzah, in which case his service [hitherto] is fit.[9] Said R. Akiba: This may be compared to one who stood and sacrificed on the altar, when it was learned that he was [physically] blemished, in which case his service is [retrospectively] unfit. Said R. Tarfon: You have compared it to a man with a blemish, while I have compared it to the son of a divorced woman or a haluzah. Let us then consider, to whom is it similar: if it is similar to the son of a divorced woman or a haluzah, we shall judge it like [the law] of a son of a divorced woman or a haluzah; if it is similar to a man with a blemish, we shall judge it like [the law] of one who has a blemish. [Thereupon] R. Akiba began to argue:[10] the unfitness of a mikweh is by one, and the unfitness of a man with a blemish is by one;[11] hence let not the son of a divorced woman or a haluzah prove it, since his unfitness [must be attested] by two. Again, the unfitness of a mikweh is in itself, and that of a man with a blemish is in himself: let not the son of a divorced woman or a haluzah prove it, seeing that his unfitness is through others.[12] Said R. Tarfon to him, ‘Akiba! whoever separates himself from you is as though he separated himself from life!’ Now, this case of a man with a blemish — whose unfitness is by one, how is it meant? If he contradicts him, is he [the witness] believed![13] Hence it must mean that he is silent, and by analogy, in the case of a son of a divorced woman or of a haluzah, he is also silent; and it is taught: ‘The unfitness of a mikweh is by one, and the unfitness of a man with a blemish is by one; but let not the son of a divorced woman or of a haluzah prove it, since his unfitness [must be attested] by two!’[14] But Abaye maintains, After all, it means that he contradicts him; yet as to your argument. Why is he believed? [the answer is] because he can say to him, ‘Strip, and I will shew you [the blemish].’ And that is meant when it is taught: ‘The unfitness of a mikweh is in itself and the unfitness of a man with a blemish is in himself,[15] but let not the son of a divorced woman or a haluzah prove it — whose unfitness is through others.’

And how do we know that the service of the son of a divorced woman or a haluzah is [retrospectively] fit? — Said Rab Judah in Samuel's name, Because Scripture saith, and it shall be unto him, and to his seed after him, [the covenant of an everlasting priesthood]:[16] this applies to both fit and unfit seed.[17] Samuel's father said, [It is deduced] from the following: Bless, Lord, his substance [helo], and accept the work of his hands:[18] accept even the profaned [hullin] in his midst.[19] R. Jannai said, [It is deduced] from this: And thou shalt come unto the priest that shall be in those days:[20] now, could you then imagine that a man should go to a priest who was not of his days? But this [must refer to one who] was [originally assumed to be] fit, and then became profane.[21]

How do we know that the service of a man with a blemish is [retrospectively] invalid? — Said Rab Judah in Samuel's name: Because Scripture saith, Wherefore say. Behold, I give unto him my covenant of perfection:[22] when he is perfect,[23] but not when he is wanting.[24] But shalom [peace] is written! — Said R. Nahman: The waw of shalom is broken off [in the middle].[25]

MISHNAH. WHEREVER THERE IS KIDDUSHIN AND THERE IS NO TRANSGRESSION,[26] THE ISSUE FOLLOWS THE STATUS OF THE MALE: SUCH IS THE CASE WHEN THE DAUGHTER OF A PRIEST, A LEVITE OR AN ISRAELITE IS MARRIED TO A PRIEST, A LEVITE OR AN ISRAELITE.[27] BUT WHEREVER THERE IS KIDDUSHIN AND THERE IS

TRANSGRESSION, THE ISSUE FOLLOWS THE STATUS OF THE INFERIOR;[28] THIS IS THE CASE WHEN A WIDOW IS MARRIED TO A HIGH PRIEST, OR A DIVORCED WOMAN OR A HALUZAH TO AN ORDINARY PRIEST, OR A MAMZERETH OR A NETHINAH[29] TO AN ISRAELITE, AND THE DAUGHTER OF AN ISRAELITE TO A MAMZER OR A NATHIN.[30] AND WHATEVER [WOMAN] WHO CANNOT CONTRACT KIDDUSHIN WITH THAT PARTICULAR PERSON[31] BUT CAN CONTRACT KIDDUSHIN WITH ANOTHER PERSON, THE ISSUE IS MAMZER. THIS IS THE CASE WHEN ONE HAS INTERCOURSE WITH ANY RELATION PROHIBITED IN THE TORAH.[32] AND WHATEVER [WOMAN] WHO CAN NOT CONTRACT KIDDUSHIN WITH THAT PARTICULAR PERSON OR WITH OTHERS, THE ISSUE FOLLOWS HER STATUS.; THIS IS THE CASE WITH THE ISSUE OF A BONDMAID OR A GENTILE WOMAN.

GEMARA. WHEREVER THERE IS KIDDUSHIN. R. Simeon[33] said to R. Johanan: Is it then a general principle that wherever there is kiddushin and there is no transgression the issue follows the status of the male? But what of

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(1) That one witness is invalid in sexual matters, even if he is not rebutted.

(2) It was used as a ritual bath, which requires a minimum of forty se'ahs.

(3) R. Tarfon maintains that the reservoir is regarded as containing the standard quantity until it is actually found to be short, while R. Akiba holds that its shortage is retrospectively assumed.

(4) Ritual bath.

(5) Until it is found otherwise.

(6) Who performed his ablutions therein.

(7) For we do not know whether the bath contained the requisite quantity when he bathed therein or not.

(8) It is a general principle that in a case of doubt we retain the status quo. Here, however, by applying this principle to the bath and the man respectively, we obtain contradictory results, and hence the controversy of R. Tarfon and R. Akiba.

(9) Though it will be unfit in the future, nevertheless that unfitness does not operate retrospectively.

(10) Lit., ‘judge’.

(11) A single person testifying that the mikweh is deficient, or that a priest has a blemish, disqualifies them, v. infra.

(12) His mother.

(13) Surely not!

(14) This supports Raba.

(15) I.e., it can he directly ascertained.

(16) Num. XXV, 13.

(17) But nevertheless, only if the service has already been performed.

(18) Deut. XXXIII, 11.

(19) Deriving חילו from חול ‘profane’; cf. however, Mak, (Sonc. ed.) p. 79 n. 10. This refers to the tribe of Levi, hence the priesthood. The son of a divorced woman or a haluzah by a priest is a halal, which is connected here with helo and hullin.

(20) Deut. XXVI, 3.

(21) I.e., was proved to be such, The verse intimates that until he is proved profane, the ‘going to him’ for service, etc. is valid.

(22) Num. XXV, 12 (sic).

(23) I.e., unblemished,

(24) I.e., blemished,

(25) Being written with a broken waw (ו) instead of שלום (with a complete waw); this intimates that it must be read without it too, שלם shalem, = whole, perfect, sound.

(26) I.e., the betrothal is valid and permitted.

(27) The child has the father's status.

(28) Lit., ‘the defective’.

(29) Fem. of mamzer and Nathin respectively.

(30) In all these cases the betrothal is valid, though forbidden,

(31) I.e., the kiddushin, even if contracted, is invalid.

(32) E.g., a sister, mother, etc. A married woman too is included.

(33) Probably, R. Simeon b. Lakish.

Talmud - Mas. Kiddushin 67a

a proselyte who marries a mamzereth, where the kiddushin is valid and there is no sin, and yet the issue follows the status of the inferior?[1] For it was taught: If a proselyte marries a mamzereth, the issue is mamzer: this is the view of R. Jose! He replied: Do you think that our Mishnah agrees with R. Jose?[2] Our Mishnah is according to R. Judah, who maintained: A proselyte may not marry a mamzereth; hence there is kiddushin, but there is transgression, [and so] the issue follows the status of the inferior. Then let it be taught [in the Mishnah]?[3] — ‘WHEREVER’ of the second clause is taught as an extension.[4] Alternatively, it is after all, according to R. Jose, but ‘THIS IS THE CASE’[5] is taught as a limitation.[6] Does then the ‘THIS IS THE CASE’ imply that there are no others? But what of a halal[7] who marries the daughter of an Israelite, where there is kiddushin and there is transgression, yet the issue follows the male?[8] — That is no difficulty: he [the Tanna of our Mishnah] holds with R. Dosethai son of R. Judah.[9] But what of an Israelite who marries a halalah,[10] where there is kiddushin and there is no transgression, and yet the issue follows the male? — ‘WHEREVER’ is stated in the first clause as an extension.[11] Then let it be explicitly taught? — Because it cannot be [conveniently] taught. [For] how shall it be stated: ‘The daughter of a priest, a Levite, or an Israelite or a halalah who marries a priest, a Levite, or an Israelite?’ Is then a halalah eligible to [marry] a priest?[12]

But there is the case of Rabbah b. Bar Hanah. For Rabbah b. Bar Hanah said in R. Johanan's name: If an Egyptian of the second degree[13] marries an Egyptian woman of the first degree, her son ranks as third degree![14] — ‘WHEREVER’ of the first clause is stated as an extension; whereas according to R. Dimi, who maintained that he belongs to the second degree,[15] ‘THIS IS THE CASE’ is taught as a limitation.

But there is [the following]: For when Rabin came,[16] he said in the name of R. Johanan: In the case of [other] nations, follow the male;[17] if they become proselytes, follow the more inferior status[18] of the two! — ‘THIS IS THE CASE’ is taught as a limitation.

[Reverting to the authorship of the Mishnah:] How now! If you say that our Mishnah agrees with R. Judah, it is well: then ‘WHEREVER’ of the first clause includes an Israelite who marries a halalah[19] and the case of Rabbah b. Bar Hanah; while ‘THIS IS THE CASE’ excludes the cases of R. Dimi and Rabin.[20]

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(1) Viz., it is mamzer.

(2) Who permits this union in the first place.

(3) Among the cases enumerated in this category

(4) I.e., to include cases not explicitly enumerated.

(5) Lit., ‘and which is it? It is . . .

(6) Notwithstanding that a general principle is stated, the ‘THIS IS THE CASE’, teaches that it applies only to the cases enumerated.

(7) V. Glos.

(8) Hence this should be included in the first clause.

(9) That the daughter of this union may marry a priest, v. infra 74b, thus she does not follow the male.

(10) Fem. of halal.

(11) V. p. 338. n. 6.

(12) Surely not. Hence halalah could not be added simply, and so the Tanna implicitly includes it by stating ‘WHEREVER’.

(13) I.e., the second generation after conversion, his father having been a proselyte.

(14) Hence, eligible to an ordinary Jewess, v. Deut. XXIII, 8. Thus, here we have kiddushin and no transgression, and the issue follows the male.

(15) Thus following the mother.

(16) V. p. 46, n. 6.

(17) If a man and a woman among them of two different peoples marry, the issue takes the father's status, v. infra.

(18) Thus, though their kiddushin is valid and involves no transgression, the status of the male is not invariably followed.

(19) His daughter may marry a priest, thus following her father's status. This union is permitted.

(20) As above.

Talmud - Mas. Kiddushin 67b

[Again] ‘WHEREVER’ of the second clause includes a proselyte who marries a mamzereth. But if you say that it agrees with R. Jose: ‘WHEREVER’ of the first clause is [to be explained] as we have said: ‘THIS IS THE CASE’ [likewise] as we have said: but what is ‘WHEREVER of the second clause to include?[1] — Now on your view, according to R. Judah, what is the purpose of the ‘THIS IS THE CASE’ of the second clause? Hence [you must say] because the first clause states ‘THIS IS THE CASE’, the second likewise states: THIS IS THE CASE. So here too, because the first clause states ‘WHEREVER,’ the second does likewise state WHEREVER.

The [above] text [states]: ‘When Rabin came, he said in the name of R. Johanan: In the case of [other] nations, follow the male; if they become proselytes, follow the more inferior status of the two’. What is meant by ‘In the case of [other] nations, follow the male’? — As it was taught: How do we know that if a member of one of the nations[2] has intercourse with a Canaanitish woman[3] and begets a son, you may buy him as a slave?[4] Because it is said: Moreover of the children of the residents that do sojourn among you, of them shall ye buy.[5] I might think that even if a Canaanite has intercourse with a woman of other nations and begets a son, you may buy him for a slave; therefore it is said, which they have begotten in your land:[6] only of those who are begotten in your land, but not of those who dwell in your land.[7]

‘If they become proselytes, follow the more inferior status of the two.’ In which case? Shall we say, in the case of an Egyptian who marries an Ammonitess? What inferior status is there? [The Torah decreed,] An Ammonite [shall not enter unto the assembly of the Lord . . . even to the tenth generation],[8] but not an Ammonitess![9] — But [it means] an Ammonite who marries an Egyptian woman: now, if [the issue] is male, he follows[10] him [the father];[11] and if [the issue] is female, she follows her [the mother].[12]

WHATEVER [WOMAN] WHO CANNOT CONTRACT KIDDUSHIN WITH THAT PARTICULAR PERSON. How do we know it? — For R. Hiyya b. Abin said in R. Johanan's name, the matter eventually being ascribed to the authority of R. Jannai, while R. Aha son of Raba said that it was eventually ascribed to the authority of R. Jose the Galilean: Scripture saith, And when she is departed out of his house, she may go and be married to a strange man:[13] ‘to a stranger’, but not to relations.[14] R. Abba demurred to this: Yet say: ‘a strange [man]’, but not [her husband's] son?[15] — Of a son it is explicitly written: A man shall not take his father's wife;[16] what then is the purpose of ‘a strange [man]’ This proves, [it is to teach], to strangers, but not to relations. Yet perhaps both refer to the [husband's] son, one [treating of it] at the outset, the other, if performed![17] — [That it is interdicted] at the outset is deduced from a wife's sister: if one may not betroth a wife's sister, who is [forbidden on pain of] kareth;[18] how much the more so is this of those on account of whom death by Beth din is incurred![19] — Then perhaps both refer to a wife's sister, one [forbidding it] at the outset, the other, if performed![20] — That indeed is so. [Then] we have found [this] of a wife's sister; how we do know it of other consanguineous relations? — We learn then from a wife's sister: just as a wife's sister is distinguished in that she is a consanguineous relation with whom a deliberate offence[21] involves kareth, and an unwitting offence involves a sin-offering, and kiddushin with her is invalid;[22] so with every consanguineous relation, with whom a deliberate offence involves kareth and an unwitting offence a sin-offering, kiddushin is invalid. Now, as for all [others], it is well: they may be [so] derived; but as for a married woman and a brother's wife, it [the analogy] can be refuted [thus:] As for a wife's sister, that [the invalidity of kiddushin] is because she is not permitted [even] where there is a precept;[23] will you say [the same] of a brother's wife, who is permitted where there is a precept? [The analogy with] a married woman too may be refuted: as for these, that [the invalidity of kiddushin] is because she cannot be permitted whilst they who cast the interdict upon her are alive;[24] will you say [the same] of a married woman, who can be permitted during the lifetime of him who renders her forbidden?[25] — But, said R. Jonah others state, R. Huna son of R. Joshua — Scripture saith, For whosoever shall do any of these abominations, even the souls that do them shall be cut off:[26] thus all consanguineous relations are assimilated to a wife's sister: just as kiddushin with a wife's sister is invalid, so is kiddushin with all other consanguineous relations invalid. If so,

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(1) No other case of kiddushin being legally recognised but forbidden, where the issue follows the status of the inferior, is known, barring those enumerated in the Mishnah.

(2) Other than the seven which inhabited Palestine at the time of the Conquest. Deut. XX, 16f.

(3) I.e., a member of the seven nations.

(4) The law of Deut. XX, 16f does not apply to him.

(5) Lev. XXV, 45. This is preceded by (v. 44) of the nations that are round about you (i.e., not the seven nations), of them shall ye buy bondmen and bondmaids. Hence, ‘Moreover,’ etc., implies not only of them, but even of the residents etc. Since the members of the seven races are excluded (Deut. XX. 16f), it must mean, not only the pure members of the other nations, but even those borne by Canaanitish women.

(6) Lev. XXV, 45.

(7) The Canaanites. Thus in both cases the issue takes the status of the father.

(8) Deut. XXIII, 4.

(9) The ‘of more inferior status of the two’ implies that they are both inferior, but one more so than another. But an Ammonitess has no inferior status at all, for she may marry a Jew immediately after her conversion.

(10) Lit., ‘cast him after.’

(11) And ranks as an Ammonite; neither he nor any of his male descendants will be permitted to marry a Jewess.

(12) And counts as an Egyptian woman of the second generation; the following generation will be permitted to marry a Jew or a Jewess. But she does not take her father's status to count as an Ammonitess, in which case she herself could marry a Jew.

(13) Deut. XXIV, 2.

(14) Who are interdicted by the laws of incest; i.e., marriage with these is invalid.

(15) Only then is kiddushin invalid. But kiddushin with any other consanguineous relation, though forbidden, may be valid.

(16) Ibid. XXIII, 1 (E.V. XXII, 30); ‘shall not take’ intimates that such ‘taking.’ viz., betrothal, is invalid.

(17) One shews that this marriage may not be contracted in the first place. Yet I might think that if contracted it is valid and necessitates a divorce for its dissolution; therefore the other shews that even if performed it is not recognised.

(18) V. Glos.

(19) The latter includes a husband's son.

(20) Lev. XVIII, 28, thou shalt not take a woman to a sister, teaches that kiddushin is forbidden; and Deut. XXIV, 2 ‘to a strange man’ implying but not to relations, may intimate that such kiddushin is invalid if contracted. But with respect to other relations enumerated in Lev. XVIII, 7-17 in connection with which Scripture does not say: ‘thou shalt not take’ — a term implying ‘betrothal’ — kiddushin with them, though forbidden, may be valid.

(21) I.e., coition,

(22) Even when performed.

(23) If A and B, two brothers, are married to C and D, two sisters, respectively, and A dies childless, B may not take C, though if she were not his wife's sister it would be incumbent upon him (Deut. XXV, 5ff.).

(24) Even if one divorces his wife, her sister is still prohibited as long as the former lives.

(25) I.e., — by her husband's divorce. And thus the question remains, whence do we know that kiddushin is invalid with consanguineous relations?

(26) Lev. XVIII, 29; the chapter enumerates the forbidden consanguineous relations.

Talmud - Mas. Kiddushin 68a

even a niddah too?[1] Why then did Abaye say: All agree that if one has inter — course with a niddah or a sotah,[2] the issue is not mamzer? — Said Hezekiah, Scripture saith, [and if any man lie with her,] and her menstruation[3] be upon him:[4] even during her 'menstruation' betrothal with her is valid.[5]

Consider: one can assimilate [all other consanguineous relations] to niddah, and one can assimilate her to a wife's sister:[6] what [reason] do you see to assimilate them to a wife's sister:[7] assimilate them to niddah? — [In a choice between] leniency and stringency, we assimilate to the case of stringency.[8]

R. Aha b. Jacob said: It is inferred a minori from yebamah: if kiddushin with a yebamah is invalid,[9] though she is [interdicted only] by a negative precept, how much the more so with those who are forbidden on pain of death or kareth! If so, should not others, interdicted [only] by negative precepts. be the same?[10] — Said R. Papa, of those interdicted by negative precepts it is explicitly stated: If there be to a man two wives, the one beloved, and the other hated.[11] Now is there before the Omnipresent a hated [woman] or a beloved one![12] But 'beloved' means beloved in her marriage, and 'hated' means hated in her marriage;[13] yet the Divine Law states: 'and if there be.'[14]

Now R, Akiba, who maintained, kiddushin with those who are interdicted by a negative precept is invalid, — to what does he apply, 'if there be'? — To [the betrothal of] a widow to a High Priest, and in accordance with R. Simai. For it was taught: R. Simai said: [The issue] of all [marriages forbidden by a negative injunction] R. Akiba declared mamzer, excepting that of a widow [married] to a High Priest, since the Torah said, [a widow . . . he shall not take,] and he shall not profane [his seed]:[15] he renders [his seed] profane, but not mamzer. But on the view of R. Yeshebab, who said: Come, and let us cry out against Akiba son of Joseph, who declared: He who has no entry in Israel, the issue is mamzer — it is well if R. Yeshebab comes to combat R. Simai; then it is right. But if he states an independent opinion, this including even those who are interdicted by a positive precept, to what can he apply it?[16] — To a non-virgin[17] [married] to a High Priest.[18] And wherein does it differ?[19] — Because it is a positive precept unapplicable[20] to all.[21] And the Rabbis: instead of explaining [the verse][22] as referring to those forbidden by negative precepts, let them refer it to those forbidden by positive precepts?[23] — Those who are forbidden by positive precepts, — how are they conceivable? If both are Egyptian women, both are 'hated'? If one is an Egyptian woman and the other a Jewess — we require that the 'two wives' shall be of one people: if [one is] a non-virgin [married] to a High Priest, — is it then written, [If] there be [two wives] to a priest?[24] And R. Akiba?[25] — You are forced to leave it to the verse to explain itself.[26]

AND WHATEVER [WOMAN] WHO CANNOT CONTRACT KIDDUSHIN etc. How do we know [it of] a Canaanitish bondmaid?[27] — Said R. Huna, Scripture saith, Abide ye here with ['im] the ass[28] — it is a people ['am] like unto an ass.[29] We have thus found that kiddushin with her is invalid:

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(1) If one betroths a woman during her menstruation the kiddushin should be invalid, and as a corollary, the issue conceived during menstruation should be mamzer, these two being interdependent. The prohibition of intercourse with a niddah is also stated in that passage.

(2) V. Glos. The sotah is forbidden to her own husband too, and to this Abaye refers.

(3) E.V. 'impurity'

(4) Lev. XV, 24.
(5) Lit., ‘there is (being) — sc. betrothal — with her.’ The verb ‘to be’ is understood to mean betrothal.
(6) Both being mentioned in Lev. XVIII.
(7) So that the kiddushin is not legally recognised.
(8) Owing to the doubt.
(9) V. Yeb. 23b.
(10) Granted that they cannot be deduced a minori, yet they follow by analogy.
(11) Deut. XXI. 15.
(12) Surely it is unthinkable that God will change the law of inheritance because a man loves one woman or hates another! Hence one general law that the firstborn receives a double portion of the patrimony would have sufficed.
(13) I.e., the marriages being permitted and forbidden respectively.
(14) Intimating that the kiddushin is recognised.
(15) Lev. XXI, 14f,
(16) Sc. ‘hated’ and ‘beloved’. For notes on this passage v. supra 64a.
(17) A woman who is not a virgin.
(18) Forbidden in Lev. XXI, 23f.
(19) Why is she different from an Egyptian or an Edomite woman, since all three are interdicted by a positive command?
(20) Lit., ‘not alike’.
(21) And not as stringent.
(22) ‘And if there be’.
(23) Since by analogy with yebamah kiddushin with the former should be invalid.
(24) Hence the verse cannot refer to a woman who is forbidden by a positive precept.
(25) How does he overcome these difficulties?
(26) It cannot refer to those who are interdicted by negative precepts, since the analogy with yebamah teaches otherwise. Hence it must refer exclusively to one of those just mentioned, in spite of their improbability
(27) That kiddushin with her is invalid.
(28) Gen. XXII, 5; said by Abraham to his slaves.
(29) By reading עם (‘am) for עם (‘im); a mere chattel of the master.

Talmud - Mas. Kiddushin 68b

how do we know that the issue takes her status? — Because Scripture saith, the wife and her children shall be her master's.[1] How do we know [it of a freeborn] Gentile woman? — Scripture saith, neither shalt thou make marriages with them.[2] How do we know that her issue bears her status? — R. Johanan said on the authority of R. Simeon b. Yohai, Because Scripture saith, For he will turn away thy son from following me:[3] thy son by[4] an Israelite woman is called thy son, but thy son by a heathen is not called thy son.[5] Rabina said: This proves that thy daughter's son by a heathen is called thy son.[6] Shall we say that Rabina holds that if a heathen or a [non-Jewish] slave cohabits with a Jewess the issue is mamzer?[7] — [No.] Granted that he is not [regarded as] fit,[8] he is not mamzer either, but merely stigmatised as unfit.[9]

Now, that [verse] refers to the seven nations![10] whence do we know it of other nations? — Scripture saith, ‘For he will turn away [thy son],’ which includes all who may turn [him] away. That is well according to R. Simeon, who interprets the reason of Scripture.[11] But on the view of the Rabbis,[12] what is the reason?[13] — Scripture saith, and after that thou shalt go in unto her, and be her husband, [etc.],[14] whence it follows that before that kiddushin with her is invalid.

We have thus found that kiddushin with her is not recognised. How do we know that her child is as herself? — Scripture saith, If there be to a man [two wives] . . . and they bare to him [children]:[15] where we read ‘if there be’,[16] we also read: ‘and they bare to him’;[17] but where we do not read: ‘If there be’, we do not read: ‘and they bare to him’. If so, is not a [heathen] bondmaid likewise? — Yes, it is even thus. Then what is the purpose of ‘the wife and her children shall be her master's’? —

For what was taught:

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(1) Ex. XXI, 4. This refers to a Gentile bondmaid given as wife to a Hebrew slave. The children remain slaves when their father is freed, shewing that they bear their mother's status.
(2) Deut. VII, 3. The verse implies that such marriage is not recognised.
(3) Ibid. 4.
(4) Lit., ‘who comes’.
(5) [Although the text speaks both of the case of a Jewess becoming the wife of a heathen, and of a heathen becoming the wife of a Jew, yet it gives only one reason for the prohibition of intermarriage: viz., lest ‘he turn aside thy son from following after me’, a reason which, as it stands appears applicable only to one prohibition. Hence the verse must be taken not as expressing the fear lest the Jewish partner in a heathen marriage may turn aside from God, since this is evident and is equally applicable to both cases, but states an additional reason for the prohibition with reference to the offspring — the fear that the heathen father ‘will turn aside thy son’ i.e., the son of thy daughter who is legally a Jew ‘from following after me’; whereas in the case where a Jew marries a heathen woman the fear does not arise, since the child follows her status, and is not considered ‘thy son’ Rashi.] Tosaf.: Since Scripture states ‘son’ and not ‘seed’ which would include the son's son, it is evident that the fear is only for thy ‘son’ born of a Jewess, but not his son, born of a Gentile. That must be because his son is a heathen too, like the mother.
(6) [According to Rashi's interpretation (n. 5), whereas R. Johanan's main emphasis is on the heathen status of the offspring of a heathen woman by a Jew, Rabina stresses the other inference — the status of the offspring of a Jewish woman by a heathen. v. Strashun.] Tosaf. I.e., a Jew. This follows because Scripture does not say: for he will turn away thy son and thy daughter. Now, ‘and thy daughter’ would likewise imply, but not thy daughter's son, as in n. 5, whence we would learn that her son by a heathen is also a heathen. Since he is not excluded, it follows that Scripture objects to his being ‘turned away’ too, because he is a Jew (Tosaf.)
(7) For, since he is called ‘thy son’, he is a Jew, not a heathen. Yet he is the issue of a Jewess by one with whom kiddushin is not recognised, and therefore mamzer, in accordance with the Mishnah. — In that case his status is worse, for as a mamzer he can never marry a legitimately born Jewess (Deut. XXIII, 3), whereas as a Gentile he can become a proselyte and marry a Jewess.
(8) V. next note.
(9) Pasul. As such only a priestly marriage is barred to him.
(10) V. Deut. VII, 1, 2.
(11) In the sense that when we know the reason of a precept, we may extend it to all other cases where the same applies, and conversely, exclude those where it does not.
(12) Who oppose this.
(13) Seeing that for he will turn away too refers to the seven nations.
(14) Deut. XXI, 13. The verse refers to a woman captured in war; since the members of the seven nations were to be utterly exterminated, this must allude to a member of other nations, ‘After that’ means after her period of mourning. etc.
(15) Deut. XXI, 25.
(16) I.e., kiddushin is valid; v. p. 343, n. 4.
(17) The child takes his status.

Talmud - Mas. Kiddushin 69a

If he says to his bondmaid, ‘Behold, thou art free, but thy child [yet to be born] shall be a slave,’ the ‘child is as herself: this is the view of R. Jose the Galilean; the Sages maintain: His words are valid,[1] for it is said: ‘the wife and her children shall be her master's’. How does this teach it?[2] — Said Raba: This refers to R. Jose the Galilean's [ruling].[3]

MISHNAH. R. TARFON SAID: MAMZERIM[4] CAN BE PURIFIED.[5] HOW? IF A MAMZER MARRIES[6] A BONDMAID, HER SON IS A SLAVE;[7] IF HE IS FREED, IT IS FOUND THAT THE SON IS A FREE MAN.[8] R. ELIEZER SAID: BEHOLD, HE IS A SLAVE, A MAMZER.[9]

GEMARA. The Scholars propounded: Does R. Tarfon say [thus] at the very outset,[10] or only if it is already done?[11] — Come and hear: They [the Sages] said to R. Tarfon: You have purified the males,[12] but you have not purified the females.[13] Now, if you say that he means at the very outset, let a mamzereth[14] too be married to a slave?[15] — A slave has no paternity.[16]

Come and hear: For R. Simlai's host was a mamzer, and he [R. Simlai] said to him, ‘Had I known you earlier,[17] I would have removed the stigma from[18] your sons.’ Now, if you say that it [sc. R. Tarfon's device] is at the very outset, it is well: but if you say, only when already done, what is it [that he could advise him]?[19] — He would have advised him by saying to him, ‘Go and steal, and then be sold as a Hebrew slave.’[20] Were there then Hebrew slaves in R. Simlai's time?[21] Surely a Master said: [The institution of] a Hebrew slave is practised only when Jubilee is practised?[22] Hence it surely follows that R. Tarfon means at the very outset. This proves it. Rab Judah said in Samuel's name: The halachah is as R. Tarfon.

R. ELIEZER SAID: BEHOLD, HE IS A SLAVE, A MAMZER, R. Eleazar said: What is R. Eliezer's reason? Because Scripture saith, [A mamzer . . . even to the tenth generation shall none enter] to him [into the assembly of the Lord]:[23] [this teaches,] follow his ineligibility.[24] And the Rabbis?[25] — That refers to an Israelite who marries a mamzereth. For I might think, it is written, by their families, by their father's house:[26] [therefore] ‘to him’ comes and excludes it.[27] And R. Eliezer?[28] — Surely, though it is written: ‘by their families, by their father's house,’ yet ‘to him’ comes and excludes it; so here too, though it is written , ‘the wife and her children shall be her master's,’ yet ‘to him’ comes and excludes it.[29] And the Rabbis? — Every child in the womb of a heathen bondmaid is like the young in an animal's womb.[30]

CHAPTER IV

MISHNAH. TEN GENEALOGICAL CLASSES WENT UP FROM BABYLON:[31] PRIESTS, LEVITES, ISRAELITES, HALALIM,[32] PROSELYTES, FREEDMEN, MAMZERIM, NETHINIM,[33] SHETHUKI[34] AND FOUNDLINGS. PRIESTS, LEVITES AND ISRAELITES MAY INTERMARRY[35] WITH EACH OTHER. LEVITES, ISRAELITES, HALALIM, PROSELYTES, AND FREEDMEN MAY INTERMARRY. PROSELYTES AND FREEDMEN, MAMZERIM AND NETHINIM, SHETHUKI AND FOUNDLINGS, ARE ALL PERMITTED TO INTERMARRY. NOW, THESE ARE THEY: SHETHUKI: HE WHO KNOWS HIS MOTHER BUT NOT HIS FATHER; FOUNDLING: HE WHO WAS GATHERED IN FROM THE STREETS AND KNOWS NEITHER HIS FATHER NOR HIS MOTHER, ABBA SAUL USED TO CALL THE SHETKUKI ‘BEDUKI’.[36]

GEMARA. TEN GENEALOGICAL CLASSES WENT UP FROM BABYLON. Why is it particularly taught: WENT UP FROM BABYLON; let him state, migrated to Eretz Yisrael? He thereby tells us something en passant. As it was taught: then shalt thou arise and get thee up unto the place which the lord thy God shall choose:[37] this teaches that the Temple is higher than the rest of Eretz Yisrael, and Eretz Yisrael is higher than all [other] countries. As for the Temple being higher than the rest of Eretz Yisrael, it is well: even as it is written,

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(1) Lit., ‘fulfilled’.

(2) The verse is assumed to be quoted by the Sages.

(3) Thus: only when the wife, i.e., the bondmaid, belongs to the master does the issue belong to him; but if she is free, the children are likewise.

(4) Pl. of mamzer.

(5) From their inferior status, which forbids them and their descendants ever to marry Jews.

(6) ‘Marries’ denotes a legal union; v. A. Buchler, MGWJ 1934 p. 133. n. 2.

(7) But not mamzer.

(8) Hence, permitted to marry a Jewess.

(9) And on obtaining his freedom he remains a mamzer.
(10) That this may be done in order to purify a mamzer.
(11) Because a mamzer is after all a Jew, and possibly may not marry a bondmaid.
(12) They can go where they are unknown, claim to be slaves, and marry bondmaids.
(13) Because a woman does not leave her home and disguise her identity in order to enter upon a forbidden marriage.
(14) Fem. of mamzer.
(15) Since none forbid her.
(16) The issue is not recognised as his, but as hers, and therefore if a mamzereth is married to a slave it will still remain mamzer.
(17) Before your marriage.
(18) Lit., 'purified'.
(19) He would surely not counsel him to do something that is forbidden in the first place!
(20) To whom a bondmaid is permitted. Of course, the same objection may still be raised: surely he would not advise him to steal! But then one could answer that he would advise him to sell himself, in accordance with the view that then too his master can give him a heathen bondmaid, supra 14b (Rashi).
(21) Lit., 'years'.
(22) Which it was not then.
(23) Deut. XXIII, 3.
(24) All his issue, no matter how born, share his own unfitness.
(25) R. Tarfon: how does he explain this?
(26) Num. IV, 2, and therefore the issue has the status of the father.
(27) I.e., this issue follows the mother, not the father.
(28) Does he not admit this?
(29) That in this case the child is not exclusively the master's, i.e., a slave, but also belongs to his father's rank and is a mamzer.
(30) Which has no connection with the male at all.
(31) After the first exile.
(32) V. Glos. s.v. halal.
(33) v. Glos. s.v. Nathin.
(34) Lit., 'the silenced one.' The Mishnah proceeds to define them.
(35) The language is Biblical: may come in unto each other; cf. Deut. XXIII, 2-4.
(36) Lit., 'one requiring examination.' The Gemara discusses this.
(37) Deut. XVII, 8, sc. the Temple.

Talmud - Mas. Kiddushin 69b

[If there arise...] matters of controversy in thy gates: then thou shalt arise and go up.[1] But how do we know that Eretz Yisrael is higher than all [other] countries? — Because it is written: Therefore behold, the days come, saith the Lord, that they shall no more say: As the Lord liveth, which brought up the children of Israel out of the land of Egypt; but, as the Lord liveth, which brought up and which led the seed of the house of Israel out of the north country, and from all the countries whither I had driven them.[2]

Then why particularly state, WENT UP FROM BABYLON: let him teach, went up to Eretz Yisrael? — This supports R. Eleazar. For R. Eleazar said: Ezra did not go up from Babylon until he made it like pure sifted flour: then he went up.[3] Abaye said: We learnt: THEY WENT UP voluntarily; Raba said: We learnt: He [Ezra] brought them up [against their will]. And they differ over R. Eleazar ['s dictum,] viz.: Ezra did not go up from Babylon until he made it like pure sifted flour: then he went up. Abaye rejects it, Raba accepts it.[4] Alternatively, all accept R. Eleazar's dictum, but they differ in this: One Master [Abaye] holds that he [merely] separated them, whereupon they voluntarily ascended [to Palestine]:[5] the other Master holds that [even so] he led them up against their will.

Now, on the view that they went up [voluntarily], it is well: thus Rab Judah said in Samuel's name: All countries are as dough in comparison with Palestine,[6] and Palestine is as dough relative to Babylon.[7] But on the view that he [forcibly] led them up, they were indeed known?[8] — Granted that they were known to that gener — ation, they were not known to another generation. On the view that they went up, it is well: hence it is written: And I gathered them together to the river that runneth to Ahava; and there we encamped three days; and I viewed [i. e., scrutinized] the people, and the priests, and found there none of the sons of Levi.[9] But on the view that he brought them up — surely he was most careful with them![10] — Granted that he had been careful with the unfit,[11] yet he had not been careful with the fit.

PRIESTS, LEVITES, AND ISRAELITES. How do we know that they had come up? — Because it is written, so the priests, and the Levites, and some of the people, and the singers, and the porters, and the Nethinim, dwelt in their cities, and all Israel in their cities.[12]

HALALIM, PROSELYTES AND FREEDMEN. How do we know halalim? For it was taught: R. Jose said: A presumptive right [hazakah] is powerful, as it is said: And of the children of the priests: the children of Habaiah, the children of Hakkoz, the children of Barzillai, which took a wife of the daughters of Barzillai the Gileadite, and was called after their name. These sought their register among those that were reckoned by genealogy, but they were not found: therefore were they deemed polluted and put from the priesthood. And the Tirshatha[13] said unto them, that they should not eat of the most holy things, till there stood up a priest with Urim and with Thummim.[14] Now he[15] said to them, Behold, ye remain in your presumptive rights: whereof did ye eat in Exile? of the sacred food [eaten] in the country.[16] So now too [ye may partake] of the sacred food [consumed] in the country.[17]

But on the view that we promote from terumah to family purity,[18] those who ate terumah, they would come to promote them? — There it was different, because their presumptive status was weakened.[19] Then what is meant by ‘Great is a presumptive right?’[20] — Because originally they ate Rabbinical terumah, and now they were to eat Biblical terumah.[21] Alternatively, after all they would now too eat only Rabbinical terumah,[22] not Biblical; for when do we promote front terumah to family purity? [Only when it is terumah] by Biblical law, but we do not promote [when it is terumah] by Rabbinical law. If so, why [state], ‘Great is a presumptive right?’ — Because formerly[23] there was no cause to forbid it on account of Biblical terumah,’ but now,[24] though it might have been forbidden on account of Biblical terumah,[25] they [nevertheless] ate of Rabbinical, but not of Biblical [terumah]. But it is written: ‘and the Tirshatha said unto them, that they should not eat of the most holy things’: thus, only of the most holy things[26] might they not eat, but everything else they might eat? — This is what he said: [They were to eat] neither what is called kodesh [holy], nor what is called kodashim [holies]. ‘Neither what is called kodesh’, as it is written: There shall no stranger eat kodesh;[27] ‘nor what is called kodashim,’ as it is written: And if a priest's daughter be married unto a stranger, she shall not eat of the heave-offerings of the kodashim,[28] and a Master said [explaining this:] the priestly dues[29] of sacrifices

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(1) Ibid. 8; ‘In thy gates’ implies anywhere in Palestine, whence one had to ‘go up’ to the Temple.

(2) Jer. XXIII, 7f.

(3) He intentionally took those of inferior rank so that they should not remain in Babylon, where, owing to the absence of leaders, they might mingle with the rest of the nation. Therefore the Tanna states: WENT UP FROM BABYLON, intimating that in that itself he had a purpose, apart from the rebuilding of Palestine, viz., to purge the Jews in Babylon.

(4) For such purging could only be effected by compulsion.

(5) In order to become mixed up with the others.

(6) Dough is a mixture of flour and water. I.e., the Jews there have not such a pure descent as those in Palestine.

(7) Cf. n. 2. Halevi, Doroth, 1, 3, p. 104 conjectures that this was due to the incessant wars with the Greeks, when many

Jews and Jewesses were taken captive by the enemy, and the general weakening of Jewish observance during the Hellenizing period and later when the Sadducees ruled the country. The Jews in Babylon, however, were free from all this.

(8) In Palestine too, and restrained from intermarrying, so that Palestine remained just as pure as Babylon.

(9) Ezra VIII, 15. He had to scrutinize them, since those of inferior descent voluntarily joined them.

(10) He knew who they were; why scrutinize them?

(11) I.e., those of low descent.

(12) Ibid. II, 70.

(13) According to tradition it was Nehemiah.

(14) Ezra II, 61-63 [So to speak, 'never' since there was no Urim and Thummim in the second Temple. v. Sot. 48a'.]

(15) The Tirshatha.

(16) Gebul. country, is a technical term denoting any part of Palestine outside the Temple and Jerusalem. The reference is to terumah.

(17) But not sacrifices. This shews that 'they were deemed polluted' means that they were accounted halalim, who may not partake of sacrifices.

(18) If a priest is seen eating terumah in his town, where he is known, we assume that he is of pure descent, and permit another priest to marry his daughter.

(19) When it was seen that other priests ate sacrifices and they did not, it would be known that their genealogy was suspect (Rashi). Tosaf.: their status was weakened because they had failed to prove their pure descent.

(20) The phrase implies that it leads to some extraordinary concession. But since there was no reason to fear that continuance in their right would lead to error, R. Jose should simply have stated that a presumptive right in the past gives a claim for the future.

(21) Outside Palestine terumah is required by Rabbinical law only.

(22) Terumah on fruit and vegetables, which even in Palestine is only Rabbinical.

(23) Since outside Palestine there was none available.

(24) Lit., 'at the end'.

(25) On their return to Palestine. If they were permitted to eat Rabbinical, they might come to eat Biblical terumah.

(26) Which implies sacrifices of the higher sanctity; v. p. 264, n. 11.

(27) Lev. XXII, 10; E.V. 'of the holy things,' i.e., terumah, to which the whole passage refers.

(28) Ibid. 12; E.V. holy things.

(29) Lit., 'that which was separated', viz., the breast and shoulder.

Talmud - Mas. Kiddushin 70a

she shall not eat.

PROSELYTES AND FREEDMEN. How do we know it? — Said R. Hisda, Because Scripture saith, and all such as had separated themselves unto them from the filthiness of the heathen of the land.[1]

MAMZERIM. How do we know it? — Because it is written: And Sanballat the Horonite, and Tobiah the slave, the Ammonite, heard it:[2] and it is [also] written, [Moreover in those days the nobles of Judah sent many letters unto Tobiah . . .] For there were many in Judah sworn unto him, because he [Tobiah] was the son-in-law of Shechaniah the son of Arah; and his son Jehohanan had taken the daughter of Meshullam the son of Berchiah to wife.[3] Now he [the Tanna of our Mishnah] holds that if a heathen or a slave has intercourse with the daughter of an Israelite, the issue is mamzer.[4] That is well on the view that the issue is mamzer; but on the view that it is legitimate [kasher], what can be said? Moreover, how do you know that they had sons:[5] perhaps they did not have sons? Again, how do you know that they were [originally] here [in Babylon] and then migrated; perhaps they were there [in Palestine, from the beginning]? — But [it is learnt] from this: And these were they which went up from Tel-melah, Tel-harsha, Cherub, Addon, and Immer: but they could not shew their fathers' houses, nor their seed, whether they were of Israel.[6] Now 'Tel-melah'[7] refers to those people whose deeds were like those of Sodom, which was turned into a salt heap: ‘Tel-harsha,’[8] to those who cry out ‘Father,’and their mothers silence them;[9] but they could not shew their fathers’ houses, nor their seed [i.e., their mothers], whether they were of Israel — this refers to foundlings, gathered in from the streets. ‘Cherub, Addon and Immer’:[10] R. Abbahu said: The Lord said: ‘I said that Israel should be as precious to me as the cherub, whereas they made themselves like the leopard.’[11] Others state, R. Abbahu said: The Lord said: ‘Though they have made themselves like the leopard, yet they are as precious to me as a cherub.’

Rabbah b. Bar Hanah said: He who takes a wife who is not fitting for him,[12] the Writ stigmatizes him as though he had ploughed the whole world and sown it with salt, as it is said: And these were they which went up front Tel-melah, Tel-harsha.[13]

Rabbah son of R. Adda said in Rab's name: He who takes a wife for the sake of money will have unworthy children, as it is said: They have dealt treacherously against the Lord; for they have borne strange children. And should you think, their money is saved [to them], — therefore it is stated: Now shall the new moon devour them with their portions.[14] And should you say, his portion, but not hers:[15] therefore it is stated: ‘their portions’. And should you say [only] after a long time — therefore it is said: ‘the new moon’. What does this imply? — Said R. Nahman b. Isaac: A month comes and a month goes and their money is lost.

Rabbah son of R. Adda also said — others state, R. Salla said in R. Hamnunaðs name: He who marries a wife who is not fit for him, Elijah binds him and the Holy One, blessed be He, flagellates him. And a Tanna taught: Concerning all these[16] Elijah writes and the Holy One, blessed he He, attests: ‘Woe to him who disqualifies his seed, blemishes his family and him who takes to wife one who is not fit for him, Elijah binds and the Holy One, blessed be He, flagellates.’[17] And he who [continually] declares [others] unfit is [himself] unfit and never speaks in praise [of people]. And Samuel said: With his own blemish he stigmatizes [others] as unfit.

A certain man from Nehardea entered a butcher's shop in Pumbeditha and demanded, ‘Give me meat!’ ‘Wait until Rab Judah b. Ezekiel's attendant takes his,’ was the reply: ‘and then we will serve you.’ ‘Who is Judah b. Shewiskel,[18] he exclaimed: ‘to take precedence over me and be served before me!’ When they went and told Rab Judah, he pronounced the ban against him. Said they to him, ‘He is wont to call people slaves,’ whereupon he had him proclaimed a slave. Thereupon that man went and summoned him to a lawsuit before R. Nahman. When the writ of summons was brought, he [Rab Judah] went before R. Huna [and] asked him, ‘Shall I go or not?’[19] ‘Actually,’ he replied: ‘you need not go, being a great man; yet in honour of the Nasi's house,[20] arise and go.’ On his arrival there he found him making a railing.[21] Said he to him, Do you not accept R. Huna b. Idi's dictum in Samuel's name, Once a man is appointed head of a community, he may not do [manual] labour in the presence of three?[22] — ‘I am [merely] making a small portion of a gundritha,’[23] he replied. ‘Is not ma'akeh,[24] as written in the Torah, or mehizah,[25] as used by the Rabbis, good enough?’[26] he retorted. Said he to him, ‘Sit you down on a karpita [seat].’ ‘Is not safsal, as used by the Rabbis, or iztaba, as commonly used,[27] good enough?’ he asked. ‘Will you partake of ethronga [citron],’ he proceeded, ‘Thus did Samuel say,’ was his reply: ‘he who says ‘ethronga’, is a third [puffed up] with arrogance: either ethrog, as it is called by the Rabbis, or ethroga, as it is popularly called.’ ‘Will you drink anbaga [cup of wine]?’ he asked him. ‘Are you then dissatisfied with isharagus, as it is called by the Rabbis, or anpak, as it is popularly pronounced?’ he reproved him. ‘Let [my daughter] Donag come and serve drink,’ he proposed. ‘Thus said Samuel,’ he replied: ‘One must not make use of a woman.’ ‘[But] she is only a child!’ — ‘Samuel distinctly said: One must make no use at all of a woman, whether adult or child.’ ‘Will you send a greeting to [my wife] Yaltha,’ he suggested. ‘Thus said Samuel,’ he replied, [To listen to] a woman's voice is indecent.’ ‘It is possible through a messenger?’ ‘Thus said Samuel,’ he retorted

(1) Ezra VI, 21.
(2) Neh. II, 10.
(3) Ibid. VI, 17f. Shechaniah was a Jew.
(4) And we have a case of such intercourse in the verses quoted.
(5) Viz., Tobiah and his own son, by these Jewesses.
(6) Ibid. VII, 61.
(7) Lit., ‘saltheap’.
(8) Lit., ‘heap of silence’.
(9) Because they do not know their fathers — there are called shethuki in the Mishnah.
(10) ‘Addon immer’, changing ‘Immer’ to ‘Amar’, means, ‘The Lord (Adon) saith’.
(11) Which is not particular to copulate with its own mate. So Israel, thereby producing mamzerim. The allusion to the deeds of Sodom is similar.
(12) I.e., of an unfit stock.
(13) Deriving harsha fr. harash, to plough. Because ‘they could not shew’ etc., i.e., they were ashamed of their unseemly marriages and strove to conceal them, they turned the world into a ploughed heap sown with salt.
(14) Hos. V. 7. ‘Strange’ — i.e., from the ways of decency.
(15) Because she did nothing wrong.
(16) Priests, Levites, and Israelites who marry a wife that is of unfit stock.
(17) Wilna Gaon deletes this; according to which render, ‘and takes to wife’.
(18) A wilful and contemptuous mispronunciation of Ezekiel, meaning, the glutton (fr. shewiski, roast meat, i.e., the eater of roast meat).
(19) His eminent position entitled him to refuse to recognise R. Nahman's jurisdiction over himself.
(20) R. Nahman was the son-in-law of the Resh Galutha, the official head of Babylonian Jewry. R. Huna refers to the latter as nasi, which strictly speaking was the corresponding title of the head of Palestinian Jewry; cf. Hul. 124a.
(21) To the roof of his house, in accordance with Deut. XXII, 8.
(22) To preserve the dignity of his position.
(23) Balustrade.
(24) The Heb. for the same.
(25) Lit., ‘barrier’, the Rabbinical term.
(26) Lit., ‘is it hateful?’ — why such high-flown language?
(27) Others reverse it.

Talmud - Mas. Kiddushin 70b

‘One must not enquire after a woman's welfare.’ ‘Then by her husband!’ ‘Thus said Samuel,’ said he, ‘One must not enquire after a woman's welfare at all.’ His wife sent [word] to him, ‘Settle his case for him, lest he make you like any ignoramus!’ ‘What means your traveling hither?’ he asked him. ‘You sent me a writ of summons,’ he replied. ‘Seeing that I do not even know your way of speech,’ he exclaimed: ‘would I send you a writ of summons!’ Thereupon he drew out the summons from his bosom and shewed [it] to him: ‘Behold the man and behold the summons!’ he said. ‘Yet since you have come here.’ he said: ‘let us discuss the matter, that it may not be said that the Rabbis shew favour to each other.’ Then he asked him, ‘Why did you place that man under the ban?’ ‘Because he abused the Rabbis’ messenger.’ ‘Then you should have punished him [by stripes], for Rab punished [with stripes] him who abused a messenger of the Rabbis.’ — ‘I dealt with him more severely.’[1] ‘Why did you have it proclaimed that he is a slave?’ He answered: ‘Because he was wont to call [other] people slaves, and he who declares [others] unfit is [himself] unfit, and never speaks good [of anyone]; and Samuel said: With his own blemish he stigmatizes [others] as unfit.’ ‘But how did Samuel say this: only that one must suspect; yet did he say that he is to be [thus] proclaimed?’ At this stage his opponent said to Rab Judah, ‘You call me a slave, — I who am descended from the royal house of the Hasmoneans!’ — ‘Thus said Samuel,’ he retorted: ‘Whoever says: "I am descended from the house of the Hasmoneans is a slave.’[2] Said he[3] to him, ‘Do you not agree with what was said by R. Abba in the name of R. Huna in Rab's name: Every scholar who proceeds to give a ruling:[4] if he has stated it before the event, he is heeded; if not, he is not heeded?'[5] — 'But there is R. Mattenah who supports me,' he replied. Now, R. Mattenah had not seen Nehardea for thirteen years, but on that day he visited it. Said he[6] to him, 'Do you remember what Samuel said when he stood with one foot on the bank and one foot on the bridge?'[7] — 'Thus said Samuel', he replied: 'He who claims, "I am descended from the royal house of the Hasmoneans", is a slave, because there remained of them only one maiden who ascended a roof, lifted up her voice and cried out', "Whoever says I am descended from the house of the Hasmoneans is a slave"; then she fell from the roof and died.' So he[8] was proclaimed a slave. On that day many kethuboth were torn up in Nehardea.[9] When he [Rab Judah] issued, they came out after him to stone him.[10] [But] he threatened them, 'If you will be silent, be silent; if not, I will disclose against you what Samuel said: There are two families in Nehardea, one called The House of Jonah [dove] and the other, The House of 'Urbathi [raven-like]; and the sign thereof is, The unclean is unclean and the clean clean.'[11] Thereupon they threw away the stones out of their hands, which created a stoppage in the royal canal.[12]

[At that time] Rab Judah announced in Pumbeditha: Adda and Jonathan are slaves; Judah b. Papa is mamzer: Bati b. Tobiah in his arrogance refused to accept a deed of manumission. Raba proclaimed in Mahuza:[13] The members of Bela, Dena, Tela, Mela and Zega[14] — all these are unfit. Rab Judah said: The members of Guba are Gibeonites; Durnunitha[15] is a village of Nethinim.[16] R. Joseph said: This Be Kubi [in the Vicinity] of Pumbeditha consists entirely of slaves.[17]

Rab Judah said in Samuel's name: Pashur son of Immer[18] had four hundred slaves — others say, four thousand slaves — and all became mixed up in the priesthood, and every priest who displays impudence is [descended] from none but them. Said Abaye: And they all dwell in the Wall[19] of Nehardea.[20] Now he [Rab Judah] differs from R. Eleazar. For R. Eleazar said: If you see a priest with brazen forehead, have no suspicions of him,[21] for it is said: Thy people are as the quarrelsome among priests.[22]

R. Abin b. R. Adda said in Rab's name: Whoever takes a wife who is not fit for him,[23] when the Holy One, blessed be He, causes His divine Presence to rest [on Israel], He testifies concerning all the tribes [that they are His people],[24] but does not testify unto him, for it is said: The tribes of the Lord are a testimony unto Israel:[25] when is it 'a testimony unto Israel'? When the tribes are 'tribes of the Lord'.[26] R. Hama b. R. Hanina said: When the Holy One, blessed be He, causes His divine Presence to rest, it is only upon families of pure birth in Israel, for it is said: At that time, saith the Lord, will I be the God of all the families of Israel[27] — not unto all Israel, but unto 'all the families of Israel', is said[28] — and they shall be my people. Rabbah son of R. Huna said: This is the extra advantage which Israel possesses over proselytes.[29] For in respect to Israel it is written, and I will be their God, and they shall be my people;[30] whereas of proselytes it is written, for who is he that hath boldness to approach unto me? Saith the Lord. And ye shall be my people', and I will be your God.[31]

R. Helbo said: Proselytes are as injurious to Israel as a scab, for it is said: And the stranger shall join himself with them, and they shall cleave [we-nispehu] to the house of Jacob.[32] Here it is written: 'wenispehu'; whilst elsewhere it is written. [This is the law for all manner of plague of leprosy . . .] and for a rising, or for a scab [sappahath].[33]

R. Hama b. Hanina said: When the Holy One, blessed be He,

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(1) Tosaf. in Yeb. 52a suggests that the reason was because he had insulted the Rabbi himself.

(2) Because the dynasty was wiped out by Herod, who, in spite of ascending the throne, was always regarded by the Jew's as an Idumean slave. He, to exalt his children, called them Hasmoneans, v. B.B. 3b.

(3) Probably R. Nahman.

(4) In his teacher's name.

(5) I.e., when he gives a traditional ruling bearing on his own case, he is believed only if he had stated it before the same arose.
(6) Rab Judah.
(7) Or ‘on the ferry-boat’.
(8) Rab Judah's litigant.
(9) Of women who belonged to that family, and accordingly bore the status of slaves, so that their marriage was invalid.
(10) For revealing their inferiority.
(11) The dove is a clean bird (i.e., fit for food); the raven is unclean. The House of Jonah is of pure descent; the other is not. Descendants of the two families were probably widespread in Nehardea, but their origin was forgotten: hence the threat.
(12) So many were there.
(13) On the Tigris, not far from Ktesifon; it is discussed at great length in Obermeyer, pp. 161-186.
(14) These are either places or family names. Probably they are contemptuous nicknames, which may mean, old rags, barrels, patches, stuffings and grape skins.
(15) The name of a place.
(16) From which it derives its name, ‘dura’ _ village, so Rashi, according to cur. ed. ‘Nethinim villagers’.
(17) Who had intermingled with the populace, though they had never been formally manumitted.
(18) A priestly contemporary of Jeremiah who had him put in the stocks because of his dire prophecies of national disaster; (Jer. XX 1-6).
(19) Heb. Shura, the large circumvallation. v. next note.
(20) Var. lec.: in Sura and Nehardea.
(21) I.e., of an impure family descent.
(22) Hos. IV, 4.
(23) I.e., of an unfit stock.
(24) [Read preferably with MS.M. ‘When the Holy One, blessed be He, testifies, He testifies concerning etc.,’ omitting ‘causes His divine Presence to rest.’]
(25) Ps. CXXII. 4.
(26) Worthily married and born.
(27) Jer. XXXI, 1.
(28) The limitation must exclude those of questionable birth.
(29) Lit., ‘which is between Israel and proselytes.’
(30) Ezek. XXXVII, 27; i.e., God calls them first, and they accept the call.
(31) Jer. XXX, 21f; i.e., they must first call upon God, Who willingly accepts them. There is no spirit of exclusiveness in this: God first appeared unto Israel; thereafter, He is ready to accept all who call upon Him.
(32) Isa. XIV, 1.
(33) Lev. XIV, 55. We-nispehu is thus connected with sappahath, and the former verse is translated: and they shall be as a scab to the house of Jacob. — Rashi states: because their lax observance of precepts sets a bad example to true born Jews. Tosaf. suggests the reverse: proselytes are more observant, and expose the laxity of other Jews! Cf. infra p. 387.

Talmud - Mas. Kiddushin 71a

purifies the tribes, He will first purify the tribe of Levi, for it is said: And he shall sit as a refiner and purifier of silver, and he shall purify the sons of Levi, and purge them as gold and silver; and they shall offer unto the Lord offerings in righteousness.[1] R. Joshua b. Levi said: Money purifies mamzerim,[2] for it is said. And he shall sit as a refiner and purifier of silver.[3] What is meant by, and they shall offer unto the Lord offerings in righteousness? — Said R. Isaac: The Holy One, blessed be He, shewed charity[4] to Israel, in that a family once mixed up[5] remains so.[6]

The [above] text [states]: Rab Judah said in Samuel's name: All countries are as dough in comparison with Palestine, and Palestine is as dough relative to Babylon. In the days of Rabbi[7] it was desired to render Babylon as dough vis a vis Palestine.[8] Said he to them, You are putting thorns between my eyes![9] If you wish, R. Hanina b. Hama will join [issue] with you. So R. Hanina b. Hama joined [issue] with them and said to them, ‘I have this tradition from R. Ishmael son of R. Jose who stated on his father's authority: All countries are as dough in comparison with Palestine, and Palestine is as dough relative to Babylon.’[10]

In the days of R. Phineas it was desired to declare Babylon as dough vis a vis Palestine.[11] Said he to his slaves, ‘When I have made two statements in the Beth Hamidrash, take me up in my litter and flee.’ When he entered he said to them, A fowl does not require slaughter by Biblical law. Whilst they were sitting and meditating thereon, he said to them, All countries are as dough in comparison with Palestine, and Palestine is as dough relative to Babylon. [Thereupon] they [his slaves] took him up in his litter and fled. They ran after, but could not overtake him. Then they sat and examined [their genealogies], until they came to danger;[12] so they refrained.[13]

R. Johanan said: By the Temple! It is in our power;[14] but what shall I do, seeing that the greatest men of our time are mixed up therein. [Thus] he holds with R. Isaac, who said: Once a family becomes mixed up, it remains so.[15] Abaye said: We have learnt likewise: There was a family, Beth ha-Zerifa, in Transjordania, which Ben Zion[16] forcibly expelled.[17] There was another, which Ben Zion forcibly admitted.[18] Such as these, Elijah will come to declare unclean or clean, to expel and admit.[19] [Hence, only] such as these, who are known; but once a family becomes mixed up, it remains so. It was taught: There was yet another, which the Sages declined to reveal, but the Sages confided it to their children and disciples once a septennate — others say, twice a septennate. Said R. Nahman b. Isaac: Reason supports the view that it was once a septennate. Even as it was taught: [If one vows,] ‘Behold, I will be a nazir[20] if I do not reveal the families [which are impure],’ he must be a nazir, and not reveal the families.[21]

Rabbah b. Bar Hanah said in R. Johanan's name: The [pronunciation of the Divine] Name of four letters the Sages confide to their disciples once a septennate — others state, twice a septennate. Said R. Nahman b. Isaac: Reason supports the view that it was once a septennate, for it is written, this is my name for ever [le'olam][22] which is written le'allem.[23] Raba thought to lecture upon it at the public sessions. Said a certain old man to him, It is written, le'allem [to be kept secret].

R. Abina opposed [two verses]: It is written: ‘this is my mame’; but it is also written: ‘and this is my memorial’?[24] — The Holy One, blessed be He, said: I am not called as I am written: I am written with yod he, but I am read, alef daleth.[25]

Our Rabbis taught: At first [God's] twelve-lettered Name[26] used to be entrusted to all people. When unruly men increased,[27] it was confided to the pious of the priesthood,[28] and these ‘swallowed it’[29] during the chanting of their brother priests.[30] It was taught: R. Tarfon said: ‘I once ascended the dais[31] after my mother's brother, and inclined my ear to the High Priest, and heard him swallowing the Name during the chanting of his brother priests.

Rab Judah said in Rab's name: The forty-two lettered Name[32] is entrusted only to him who is pious,[33] meek, middle-aged,[34] free from bad temper, sober,[35] and not insistent on his rights. And he who knows it, is heedful thereof,[36] and observes it in purity, is beloved above and popular below, feared by man,[37] and inherits two worlds, this world and the future world.[38]

Samuel said on the authority of an old man: Babylon stands in the presumption of being fit, until you know wherewith it became unfit;[39] other countries are presumed to be unfit, until you know wherewith they are fit.[40] As for Palestine, he who has the presumption of unfitness is unfit; he who has the presumption of fitness is fit. But this is self contradictory: you say, he who has the presumption of unfitness is unfit — hence, when undetermined,[41] he is fit; then you teach, he who has the presumption of fitness is fit hence, when undetermined, he is unfit? — Said R. Huna b. Tahlifa in Rab's name: There is no difficulty:

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(1) Mal. III, 3.

(2) By means of their wealth they intermarry with Israel, and having thus mingled, they will not be separated in the future.

(3) I.e., those who married by means of their silver, He will purify by retaining them in Israel.

(4) Heb. zedakah: the same word denotes righteousness and charity, because charity is righteousness.

(5) With illegitimate elements.

(6) And no attempt is to be made to excise it.

(7) C. 135-220 C.E.

(8) To declare the families of Palestine of purer birth, so that if a Babylonian desired to marry into a Palestine family he would have to prove the purity of his own descent. — It was thought that by now the Palestinian families were pure, and so it was due to the honour of Palestine to make this change; Halevi, Doroth, 1, 3, p. 105.

(9) Rabbi was a descendant of Hillel, a Babylonian, and so this would cast a stigma upon his birth.

(10) I.e., a mere declaration cannot change an historical fact.

(11) Since he was a contemporary of Rabbi (R. Judah I), this is probably the same as referred to above.

(12) They discovered that some powerful families were of impure birth, and it would endanger their own lives to reveal it.

(13) Lit., ‘separated themselves.’

(14) To reveal the families of impure birth in Palestine.

(15) V. p. 359, n. 10.

(16) A person of great importance and power. In ‘Ed. VIII, 7 the reading is ‘bene Zion,’ the citizens of Jerusalem.

(17) I.e., he declared them unfit, so that other families would not intermarry with them.

(18) Lit, ‘brought near.’ He compelled their pure birth to be recognised.

(19) ‘Ed. (Sonc. ed.) p. 50 notes 4-6.

(20) V. Glos.

(21) This shews how inadvisable and dangerous such action might be; hence once a septennate would have been enough.

(22) Ex. III, 15.

(23) Defectively without a waw, hence to be read le'allem, To be kept secret.

(24) Ibid. This implies that he gave him two names. One, His real Name, and the other, by which He was to be generally designated.

(25) The Tetragrammaton is yod he waw he; but it is read adonai _ alef dateth nun yod.

(26) V. n. 6 [This would suggest that they also hesitated to write or pronounce this latter name in full, but wrote or pronounced it merely Ad or Alef dateth. Lauterbach. J.Z. Proceedings of the Americas Academy for Jewish Research 1930-1931. p. 43.]

(27) And it was not fit that they should pronounce this.

(28) [To utter it at the priestly benediction, v. Sot. 38a.]

(29) I.e., pronounced it indistinctly.

(30) [I.e., while they were chanting the Tetragrammaton at the benediction.]

(31) Where the priests stood when they blessed the people.

(32) Maim. in ‘Moreh’ I, 62, conjectures that these multiliteral Names, of which no trace is found, were perhaps composed of several other divine names; also that not only the names were communicated, but their real meanings too. [On these names v. further Blau L. Das altjudische Zauberwesen pp. 137ff and Bacher. JE XI 264.]

(33) [צנוע denotes simply a modest man careful to carry out his religious obligations, a pious man, and not a member of a particular sect — an Essene. v. Buchler Types, pp. 59ff.]

(34) Lit., ‘stands in the middle of his days’.

(35) Lit., ‘he does not get angry, does not get drunk’.

(36) Not to use it lightly.

(37) Lit., ‘his fear lies upon mankind.’

(38) In general the name of God was regarded more than a mere designation, but represented His nature or character and His relation to His people. It thus came to partake of His essence, His glory and power. This probably explains the mystic awe with which its pronunciation was surrounded, on the one hand, and the powers attributed to the right manipulation thereof on the other. Cf. Sanh. 91a: ‘He who pronounces the Divine Name according to its letters loses his portion in the world to come; also 65b and 67b on the human powers of creation by means of the Sefer Yezirah, which Rashi a.l. explains was effected by combinations of the Divine Name. [On this subject v. Marmorstein The Old Rabbinic Doctrine of God, I, p. 17.]

(39) I.e., a Babylonian Jew is presumed to be of pure descent and fit to marry into any Jewish family, unless we definitely know the contrary.

(40) As stated on 76a; the four preceding generations must be examined.

(41) I.e., there is no presumption at all about him.

Talmud - Mas. Kiddushin 71b

here it is to permit him to take a wife; there it is to take the wife from him.[1]

R. Joseph said: He whose speech is Babylonian is permitted to take a wife [of superior birth]. But nowadays that there are dissemblers, we fear [them].[2]

Ze'iri was evading R. Johanan, who was urging him, ‘Marry my daughter.’[3] One day they were travelling on a road, when they came to a pool of water. Thereupon he placed R. Johanan on his shoulder and carried him across. Said he to him: ‘Our learning is fit but our daughters are not? [On] what is your view [based]? Shall we say, because we learned, TEN GENEALOGICAL CLASSES WENT UP FROM BABYLON: PRIESTS, LEVITES [etc.]? Did then all the priests, Levites and Israelites go up? just as some of these were left, so were some of those [the unfit enumerated in the Mishnah] left [in Babylon].’[4] He [however] overlooked what R. Eleazar said: Ezra did not go up from Babylon until he made it like pure fine flour: then he went up.[5]

‘Ulla visited Rab Judah in Pumbeditha. Seeing that R. Isaac, the son of Rab Judah, was grown up, yet unmarried,[6] he asked him, ‘Why have you not taken a wife for your son?’ ‘Do I then know whence to take one?’ he replied.[7] ‘Do we know whence we are descended?’ he retorted. ‘Perhaps from those of whom it is written: They ravished the women in Zion, the maidens in the cities of Judah.[8] And should you answer: If a heathen or slave has intercourse with the daughter of an Israelite, the issue is fit, — then perhaps [we are descended] from those of whom it is written, that lie upon beds of ivory, and stretch themselves [seruhim] upon their couches.[9] Now, R. Jose son of R. Hanina said: This refers to people who pass water before their beds naked.[10] But R. Abbahu derided this: If so, see what is written: Therefore shall they now go captive the first that go captive[11] — because they pass water before their beds naked they shall go captive with the first that go captive! But, said R. Abbahu, this refers to people who eat and drink together, join their couches, exchange their wives and make their couches foul [masrihim] with semen that is not theirs.’[12] ‘Then what shall I do?’ he ‘asked. ‘Go after the peaceful,’[13] he replied.[14] As the Palestinians[15] make a test: When two quarrel, they see which becomes silent first and say: This one is of superior birth.

Rab said: Silence [peaceableness] in Babylon, is [the mark of][16] pure birth. But that is not so, for Rab visited the family of Shihla[17] and examined them; surely that means as to their genealogy? — No, by silence. He said thus to them:[18] Examine [them], whether they are silent [peaceable] or not. Rab Judah said in Rab's name: If you see two people continually quarreling, there is a blemish of unfitness in one of them, and they are [providentially] not allowed to cleave to each other.[19]

R. Papa the elder said on Rab's authority: Babylon is healthy; Mesene[20] is dead; Media is sick, and Elam is dying.[21] And what is the difference between sick and dying? — Most sick are [destined] for life; most dying are for death.[22]

How far does Babylon extend?[23] — Rab said: As far as the river ‘Azak;[24] Samuel said: as far as the river Wani.[25] How far on the upper [reaches of] Tigris? Rab said: as far as Bagda[26] and Awana; Samuel said: as far as Moxoene.[27] Is then Moxoene itself not included? Surely R. Hiyya b. Abba said in Samuel's name: Moxoene is as the land of Exile[28] in respect to genealogy? — But as far as and including Moxoene. How far on the lower reaches of the Tigris? — Said R. Samuel: As far as lower Apamea.[29] There were two Apameas, an upper and a lower; one was fit [in respect to marriage] and the other unfit, and one parasang lies between them; and they [their inhabitants] were particular with each other, and did not even lend fire to each other.[30] And the sign whereby [you may recognise] the unfit is the one that speaks [the] Mesene [dialect].

How far [does it extend] on the upper reaches of the Euphrates? — Rab said: To Fort Tulbakene.[31] Samuel said: To the bridge of Be-pherat;[31] R. Johanan said: As far as the ford of Gizama.[32] Abaye — others state, R. Joseph — cursed Rab's [definition].[33] Only Rab's, but not Samuel's![34] — But he cursed Rab's, and all the more so Samuel's. Alternatively, he cursed [only] Rab's, after all, and not Samuel's, and the bridge of Be-Pherat [originally] lay below;

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(1) I.e., to order him to divorce her. When one wishes to marry a woman of proved pure descent, he must prove his own fitness, if he lacks the established presumption. On the other hand, if he is married to such, he is not compelled to divorce her unless his own unfitness is established.

(2) This is not accepted as sufficient proof.

(3) Ze'iri being a Babylonian, whilst R. Johanan was only a Palestinian, he did not wish to marry his daughter, since the former are of purer birth.

(4) So that both are equal.

(5) V. p. 350, n. 2.

(6) On the importance of not leaving marriage too late cf. supra, 29b, 30a.

(7) I do not know who is of pure descent.

(8) Lam. V, 11.

(9) Amos VI, 4.

(10) Are bereft of the sense of modesty.

(11) Ibid. 7.

(12) The children of such are mamzerim.

(13) Lit., ‘silence’.

(14) Take someone from a peaceful family — those who are quarrelsome are probably unfit!

(15) Lit., ‘children of the West.’

(16) Lit., ‘that is’.

(17) The reading is doubtful; cur. odd.: vinegar dealers.

(18) To those who were with him.

(19) I.e., join in marriage.

(20) The island formed by the Euphrates, the Tigris and the Royal Canal.

(21) The Jews of Babylon are of pure descent; in Mesene they are all unfit (mamzerim); in the other two they are mixed.

(22) The majority of Media are pure; the majority of Elam are mamzerim.

(23) In respect of family purity.

(24) On the east of the Tigris.

(25) [Nahrewan, the grand canal east of the Tigris that flows parallel to it. Obermeyer. op. cit. p. 79. Both are given as eastern boundaries of Babylon.]

(26) [‘Aruch reads: Okbara and Awana. Both towns now on the western bank of the Tigris, but originally on its eastern bank, constituted the northern boundary of Babylon; loc. cit. p. 82.]

(27) A town west of the upper Tigris sources.

(28) Sc. Babylon. Rashi observes that Pumbeditha is so called in R.H. 23b.

(29) On the right bank of the Tigris; v. Obermeyer p. 86.

(30) To avoid intimacy which might lead to marriage.

(31) V. Obermeyer pp. 94-96; S. Funk, Die Juden in Bob. I, p. 13, n. 2, and infra, n. 8.

(32) Obermeyer p. 97 on the basis of other readings identifies this with Gidama, mentioned in Suk. 18a. Since R. Johanan's definition is not controverted, this must have been higher up than the other two, v. next note.

(33) Obermeyer p. 94 assumes that the Fort Tulbakene was lower than Pumbeditha, where both Abaye and R. Joseph were heads of the academy. Hence, this excluded Pumbeditha, which aroused their vehement opposition.

(34) Samuel's definition shut out even more, the bridge of Be-Pherat (for which v. Obermeyer p. 97) lying lower than Fort Tulbakene.

Talmud - Mas. Kiddushin 72a

but now the Persians have set it higher.[1]

Abaye said to R. Joseph: How far does it extend on this [sc. the west] side of the Euphrates? Said he to him: What is your motive [in asking]: on account of Biram?[2] The most distinguished [families] of Pumbeditha took [wives] from Biram!

R. Papa said: Just as they differ over family purity, so they differ over divorce.[3] But R. Joseph said: They differ only in respect to genealogy, but as for divorce, all agree that it is as far as the second willow clump beyond the bridge.[4]

Rami b. Abba said: Habil Yamma[5] is the glory[6] of Babylon.[7] Shunya[8] and Gubya[9] are the glory of Habil Yamma. Rabina said: Zizura[10] too. It was taught likewise: Hanan b. Pinhas said: Habil Yamma is the glory of Babylon: Shunya and Gubya and Zizura are the glory of Habil Yamma. Said R. Papa: But nowadays Cutheans[11] have become mixed up with them. That [however] is not so: one [a Cuthean] sought a wife from them, but they did not give him.[12] What is Habil Yamma? — Said R. Papa: The Euphrates land near Borsif.[13]

A certain man said: ‘I come from Shot-Mishot.’[14] R. Isaac Nappaha[15] stood up on his feet and declared: Shot-Mishot lies between the rivers.[16] And what if it is situated between the rivers? — Said Abaye in the name of R. Hama b. ‘Ukba in the name of R. Jose son of R. Hanina: Between the rivers is as the Exile [sc. Babylon] in respect of genealogy. And where is that situated? — Said R. Johanan: From Ihi de Kira and upwards. But R. Johanan said: [The upper limit of Babylon is] as far as the ford of Gidama?[17] — Said Abaye: A strip issues [beyond that limit].[18]

R. Ika b. Abin said in the name of R. Hananel in Rab's name: Halwan and Nahawand are as the Exile in respect to genealogy.[19] Said Abaye to them [his disciples]: Disregard him: a yebamah has fallen to him there.[20] Is it then my [dictum]? he replied; it is R. Hananel's! So they went and enquired of R. Hananel, who said to them: Thus did Rab say: Halwan and Nahawand are as the Exile in respect to genealogy. Now, he differs from R. Abba b. Kahana, who said: What is meant by, [and the king of Assyria carried Israel away into Assyria,] and put them in Halah, and in Habor, on the river of Gozan, and in the cities of the Medes?[21] Halah is Hulwan; Habor is Adiabene;[22] the river of Gozan is Ginzak;[23] the cities of the Medes are Hamadan[24] and its environs; others state, Nahawand and its environs. What are its environs? — Said Samuel: Karag, Moschi,[25] Hidki and Rumki. Said R. Johanan: And all these are unfit.[26] Now, it was assumed that Moschi is identical with Moxoene [so the difficulty arises]: Surely R. Hiyya b. Abin said in Samuel's name, Moxoene is as the Exile in respect to genealogy? — Hence Moschi is distinct from Moxoene.

And three ribs were in his mouth between his teeth:[27] Said R. Johanan: This refers to Hulwan, Adiabene and Nesibin,[28] which it [Persia] sometimes swallowed and sometimes spat out.[29]

And behold another beast, a second, like to a bear:[30] R. Joseph recited: This refers to the Persians, who eat and drink like a bear, are fleshy like a bear, overgrown with hair like a bear, and have no rest like a bear. When R. Ammi saw a Persian riding he would say: ‘There is a wandering bear!’

Rabbi said to Levi:[31] ‘Shew me the persians.’ — ‘They are like the armies of the House of David,’ he replied. ‘Shew me the Guebers.’[32] — ‘They are like the destroying angels.’ ‘Shew me the

Ishmaelites.' — 'They are like the demons of the privy.' 'Shew me the scholars of Babylon.' — 'They are like the Ministering Angels.'

When Rabbi was dying he said: 'There is [a town] Humania[33] in Babylon, which consists entirely of Ammonites; there is Misgaria[34] in Babylon, consisting entirely of mamzerim; there is Birka[35] in Babylon, which contains two brothers who interchange their wives; there is a Birtha di Satya[36] in Babylon: to-day they have turned away from the Almighty: a fishpond overflowed on the Sabbath, and they went and caught the fish on the Sabbath, whereat R. Ahi son of R. Josiah declared the ban against them, and they renounced Judaism.[37] There is a Fort Agama[38] in Babylon wherein dwells Adda b. Ahabah:

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(1) Above Fort Tulbakene; hence Abaye and R. Joseph were not opposed to this.

(2) Which lay on the west of the Euphrates, some miles N.W. of Pumbeditha.

(3) If one brings a divorce from any country except Palestine and Babylon, he must declare that it was written and attested in his presence. R. Papa maintains that the controversies on the boundaries of Babylon apply to this too.

(4) Or, to the second boat of the (floating) bridge (Jast.).

(5) Lit., 'district of the sea: the entire region of Babylon which is traversed by river and canals. Obermeyer, pp. 118f.

(6) Lit., 'the adornment in purple.'

(7) Rashi: its inhabitants are of the purest birth in Babylon. It may also mean in general that it is the finest and most fertile district, as it actually was.

(8) A canal district in the vicinity of Pumbeditha; Obermeyer, pp. 122ff.

(9) A region behind Babylonia as one travels eastwards from the Tigris; Obermeyer p. 127.

(10) A district not far from the Tigris, the waters of whose canal debouched into the Tigris between Bagdad and Madain, ibid p. 125.

(11) V. p. 207, n. 9. [According to Obermeyer (p. 120) the reference is to the Christians that emigrated during the third and fourth centuries from Syria and Mesopotamia into Babylon.]

(12) Hence the rumour arose. Others explain: he (R. Papa) sought a wife etc., and in his spleen declared them impure! This is not very plausible (Rashi).

(13) The region traversed by the right arm of the Euphrates, which flows before Borsif (Babel). Ibid. p. 315. V. Sanh. (Sonc. ed.) p. 748, n. 7.

(14) He wished to marry a Babylonian woman; Shot-Mishot, or Samosata, is one of the fords of the Euphrates.

(15) Or, the smith.

(16) Jast. observes: between the Euphrates and the Tigris. Obermeyer. pp. 100-1, thinks this altogether unlikely. 'Between the rivers' is the Talmudic idiom for a region of island formation, and here applies to the Euphrates region from Hit (Ihi de Kira) to Anah.

(17) Which is below Ihi de Kira.

(18) Which includes Shot-Mishot.

(19) Though these are in Media, Halwan lay on the great historic route from Babylon to Media, some forty-one parasangs from Bagdad. Nahawand was situated in the middle of Media, about fourteen parasangs from Hamadan in a southerly direction. Its Jewish community may have consisted then of Babylonian colonists, and hence the genealogical purity here ascribed to it. Obermeyer, pp. 106-8.

(20) And he asserts their pure birth because he wishes to marry her.

(21) II Kings XVIII, 11.

(22) A district of Assyria between the rivers Lycus and Caprus (fast.); v. also Obermeyer, p. 10.

(23) Rawlinson identifies this with Shiz, near the present-day town of Maragha, south-east of Urmiasee; ibid.

(24) Ektabana, capital of Media.

(25) So Obermeyer, p. 11. who treats this as two names. Jast. translates: the Fort of Moschi.

(26) I.e., of impure descent. Thus this identification disagrees with Rab.

(27) Dan. VII, 5.

(28) Or Nesibis, as it was generally called. A town in Mesopotamia, not included in the 'Exile' proper, which possessed an important Jewish community; ibid. p. 129.

(29) I.e., sometimes it ruled over them, sometimes not; v. ibid.

(30) Ibid.

(31) [Levi b. Sisi visited Babylonia, his original home, on his return to Palestine. Rabbi his teacher asked him for some information about the people of that country.]

(32) [The fanatical sect of Persian fireworshippers, v. Git. (Sonc. ed.) p. 63. n. 2.]

(33) On the right bank of the Tigris, below Shekanzib; Obermeyer, p. 192.

(34) Unidentified.

(35) Identified with Baratha by the river al-Melik: v. ibid. p. 73, n. 2.

(36) V. ibid. where it is identified with Baratha, which belongs to Greater Bagdad.

(37) [So Jast. Aliter: 'they were destroyed'.]

(38) Probably in the vicinity of Pumbeditha; ibid. p. 237, n. 3.

Talmud - Mas. Kiddushin 72b

to-day he sits in Abraham's lap;[1] to-day Rab Judah was born in Babylon.' (For a Master said: When R. Akiba died, Rabbi was born; when Rabbi died, Rab Judah was born; when Rab Judah died, Raba was born; when[2] Raba died, R. Ashi was born.[3] This teaches that a righteous man does not depart from the world until [another] righteous man like himself is created, as it is said, the sun riseth and the sun goeth down:[4] before Eli's sun was extinguished, the sun of Samuel of Ramoth rose, as it is said, and the lamp of God was not yet gone out, and Samuel was laid down [etc.].)[5]

The Lord hath commanded concerning Jacob, that they that are round about hint should be his adversaries.[6] Said Rab Judah: E.g., Humania [in its relation] to Pum-Nehara.[7]

And it came to pass, when I prophesied, that Pelatiah the son of Benaiah died. Then fell I down upon my face, and cried with a loud voice, and said: Ah Lord God![8] Rab and Samuel — one said: It was in his favour;[9] the other, that it was in his disfavour. He who said that it was in his favour [explains it] as follows: For the governor[10] of Mesene was Nebuchadnezzar's son-in-law. He sent [word] to him: 'Of all the captivity which you have brought for yourself, you have sent none to stand before us.' He wanted to send him of the Israelites, [but] Pelatiah son of Benaiah said to him, 'We, who are more worthy [of higher rank], let us stand before thee here; and let our slaves go thither.' Thus the prophet cried, 'That he who did good for Israel should die in middle age!' And he who maintained that it was in his disfavour — for it is written, [Moreover the spirit lifted me up,] and brought me unto the east gate of the Lord's house, which looketh eastward: and behold, at the door of the gate five and twenty men; and I saw in the midst of them Joazaniah the son of Azzur, and Pelatiah the son of Benaiah, princes of the people.[11] And it is said: And he brought me into the inner court of the Lord's house, and behold, at the door of the Temple of the Lord, between the porch and the altar, were about five and twenty men, with their backs toward the temple of the Lord, and their faces toward the east.[12] Now, from the implication of what is said: 'and their faces toward the east,' do I not know that their backs were toward the west?[13] Why then is it stated: 'with their backs toward the temple of the Lord'? This teaches that they uncovered themselves and committed a nuisance against the Most High. Therefore the prophet said: 'Shall he who did this evil in Israel die [peacefully] on his bed!'[14]

It may be proved that it was Samuel who interpreted it to his discredit. For R. Hiyya b. Abin said in Samuel's name: Moxoene is as the Exile in respect to genealogy. As for Mesene, no fear was entertained for it, either on account of slavery or bastardy,[15] but that the priests who dwelt there were not scrupulous about divorced women![16] — After all, I may tell you that it was Samuel who explained it in his favour; yet Samuel is consistent with his view: for he said: If one renounces ownership of his slave, he goes out free and does not require a deed of manumission, for it is said, but every man's slave that is bought for money:[17] a man's slave, but not a woman's slave?[18] Hence [it means this]: a slave whose master has authority over him is called a slave; a slave whose master has no authority over him is not called a slave.[19]

Rab Judah said in Samuel's name: This[20] is R. Meir's view. But the Sages maintain: All countries have the legal status of fitness. Amemar permitted R. Huna b. Nathan to take a wife from Hozae.[21] Said R. Ashi to him: [On] what [do you base] your ruling? Because Rab Judah said in Samuel's name: This is R. Meir's view. But the Sages maintain: All countries have the legal status of fitness? But the School of R. Kahana did not learn thus,[22] and the School of R. Papa did not learn thus, and the School of R. Zebid did not learn thus? Nevertheless he did not accept this [ruling] from him, because he had heard it [sc. his own view] from R. Zebid of Nehardea.

Our Rabbis taught: Mamzerim and Nethinim will become pure in the future: this is R. Jose's view. R. Meir said: They will not become pure. Said R. Jose to him: But was it not already stated: And I will sprinkle clean water upon you, and ye shall be clean?[23] R. Meir replied. When it is added, from all your filthiness and from all your idols,[23] [it implies] but not from bastardy. Said R. Jose to him: When it is [further] said, will I cleanse you,[23] you must say: From bastardy too.

As for R. Meir, it is well: hence it is written, and the bastard shall dwell in Ashdod.[24] But according to R. Jose, why ‘and the bastard shall dwell in Ashdod’? — As R. Joseph translated it: The house of Israel shall dwell in security in their land, where [formerly] they were as strangers.[25]

Rab Judah said in Samuel's name: The halachah agrees with R. Jose. R. Joseph said: Had not Rab Judah ruled in Samuel's name that the halachah is as R. Jose, Elijah would have come and sent entire gangs away from us.[26] Our Rabbis taught: A proselyte may marry a mamzereth: this is R. Jose's view. R. Judah ruled: A proselyte may not marry a mamzereth. A proselyte, a freed slave, and a halal are permitted to [marry] a priest's daughter. What is R. Jose's reason? — ‘Assembly’ [kahal] is written five times:[27]

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(1) Some say that this is a euphemism for death, in which case R. Adda b. Ahabah, who is frequently mentioned in the Talmud, is not meant, for he lived long after Rabbi's death. Others explain it as referring to circumcision; then it does refer to him.

(2) Maim. reads: before.

(3) In all cases, on the same day.

(4) Ecc. I, 5.

(5) I Sam. III, 3. Metaphorically. Eli's sun was not yet extinguished. etc.,

(6) Lam. I, 17.

(7) As stated above, Humania was entirely a non-Jewish town, while Pum-Nehara had an all-Jewish population. The former was inimical to the latter.

(8) Ezek. XI, 13.

(9) That the prophet cried out.

(10) [Istandar, A high Persian military and administrative rank, v. Funk, Schwarz Festschrift p. 433.]

(11) Ezek. XI, 1.

(12) Ibid. VIII, 16.

(13) The hekal, the Temple proper, was to the west of the Temple court, where they stood.

(14) The mention of twenty-five in both places shews that the same group is referred to.

(15) It was not feared that slaves or mamzerim had intermarried with the Jews there. — This shews that Samuel did not agree that the slaves of the Israelites were sent thither.

(16) Disregarding the injunction of Lev. XXI, 7.

(17) Ex. XII, 44.

(18) Surely not!

(19) Hence, when their masters renounced ownership and sent them to Mesene, they ipso facto ceased to be slaves.

(20) Sc. the Mishnah on 69a, which implies that only Babylon enjoys the legal status of unquestioned family purity, as explained by R. Eleazar in the Gemara.

(21) [Khuzistan, province S. of Babylon which lay outside the boundaries of Babylon as defined by the Amoraim supra.]

(22) On the contrary, they taught in Samuel's name that all countries are presumed to be unfit; supra 71b.
(23) Ezek. XXXVI. 25.
(24) Zech. IX, 6. I.e., apart from other Jews, because they will remain impure and forbidden to marry.
(25) So he translates mamzer. Joshua counted Ashdod as part of the land of Israel (Josh. XIII, 1-3); but it was not conquered, and so they were as strangers there. Now they should possess it. [V. Targum Pseudo-Jonathan on the Prophets, a.l.; cf. also Geiger, Urschrift p. 52ff who proves from here that, ממזר is a compound word from מעם זר ‘a strange people’, and had originally an ethnical connotation, which was subsequently transferred to denote offspring from forbidden marriages.]
(26) Of mamzerim or their descendants. The lit., translation is: necks and necks (tied together) by chains. According to another reading: necks (tied) by chains and chains.
(27) V. Deut. XXIII, 3f and 9. ‘Assembly’ in v. 2 is not counted, because it does not deal with unfitness on account of birth.

Talmud - Mas. Kiddushin 73a

one refers to priests, one to Levites, one to Israelites; one to permit a mamzer [to intermarry] with a shethuki;[1] and one to permit a shethuki to [intermarry] with an Israelite.[2] As for the assembly of proselytes it is not designated ‘assembly’.[3] But R. Judah argues: Priests and Levites are deduced from one ‘assembly’;[4] hence [one] is left in respect of an assembly of proselytes.[5] Alternatively, it indeed is so that they [sc. Priests and Levites] are two ‘assemblies’; [but that] a mamzer [may intermarry] with a shethuki, and a shethuki with an Israelite, is deduced from one ‘assembly’: A mamzer shall not enter into the assembly of the Lord:[6] only a certain mamzer may not enter, but a doubtful mamzer may enter; [and again,] only into a certain assembly he may not enter, but he may enter into a doubtful assembly.[7] Another alternative: These too are two ‘assemblies’;[8] but R. Judah's opinion is [derived] from this: For the assembly, there shall be one statute for you, and for the ger [proselyte] that sojourneth with you.[9] But in R. Jose's view, ‘one statute’ breaks across the subject.[10]

‘A proselyte, a freed slave and a halal are permitted to [marry] a priest's daughter.’ This supports Rab. For Rab Judah said in Rab's name: Fit women [sc. daughters of priests] were not admonished against being married to the unfit.[11]

R. Zera lectured in Mahuza: A proselyte may marry a mamzereth. Thereupon everyone pelted him with stones.[12] Said Raba: Is there anyone who lectures thus in a place where proselytes abound! [Now] Raba lectured in Mahuza: A proselyte may marry a priest's daughter, [whereupon] they loaded him with silks. Then he lectured to them again: A proselyte is permitted [to intermarry] with a mamzereth. Said they to him: You have destroyed your first [teaching]. He replied: I have done what is best for you: if one [a proselyte] wishes, he can marry here [sc. a mamzereth]; if he wishes, he can marry there [sc. a priest's daughter]. Now, the law is: A proselyte is permitted to a priest's daughter and he is permitted to a mamzereth. He is permitted to a priest's daughter: fit women were not admonished against being married to the unfit.[13] And he is permitted to a mamzereth, in accordance with R. Jose.

NOW, THESE ARE THEY: SHETHUKI: HE WHO KNOWS [etc.] Raba said: By Biblical law a shethukiis considered fit. What is the reason? The majority are fit for her [sc. the mother],[14] while only a minority are unfit for her.[15] Now, if they went to her, then he who separates himself [from a mass] separates himself from out of the majority. What will you say: that she went to them? Then it is kabua’,[16] and every case of kabua’ is as half and half, whilst the Torah said: ‘A mamzer shall not enter’: only a certain mamzer may not enter, but a doubtful mamzer may enter; only into a certain assembly may he not enter, but he may enter into a doubtful assembly.[17] Then what is the reason that they [the Rabbis] ruled that a shethuki is unfit? — For fear lest he marry his paternal sister. If so, a shethuki should not marry a shethukith,[18] for fear lest he marry his paternal sister? — Do all such go [eternally] a-whoring?[19] Then let him not marry the daughter of a shethukith, lest he marry his paternal sister? But [you must answer that] it is rare: then here too,[20] it is rare![21] — But [the reason is:] a higher standard was set up in respect to genealogy.

Raba also said: By Biblical law, a foundling is fit. What is the reason? A married woman ascribes [an illegitimate child] to her husband.[22] What [fear] is there?[23] [Because of] a minority of arusoth[24] and a minority whose husbands have gone overseas?[25] But since there are unmarried [women], and also [children thrown away] on account of poverty,[26] it is half and half, and the Torah said: 'A mamzer shall not enter into the assembly of the Lord': only a certain mamzer may not enter, but a doubtful mamzer may; only into a certain assembly may he not enter, but he may enter into a doubtful one. Why then did they [the Rabbis] rule that a foundling is unfit? Lest he marry his paternal sister.[27] If so, one foundling should not marry another, lest he marry his sister by his father or and his mother? — Do all these go throwing [their children away]![28] Let him not marry the daughter of a foundling, lest he marry his sister? But [you must answer that] it is rare: then here too[29] it is rare![30] — But [the reason is:] a higher standard was set up in respect to genealogy.

Rabbah son of R. Huna said: If he [the foundling] is found circumcised,

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(1) Though the former is certainly unfit, while the latter is doubtful.

(2) Though the former is of doubtful fitness while the latter is certainly fit. The last two are deduced by translating as in the text infra.

(3) Since there is no verse left to teach their inclusion, and hence the relevant prohibitions do not apply to them.

(4) Since both are of the tribe of Levi.

(5) That these too are included.

(6) Ibid. 3.

(7) V. n. 3.

(8) As R. Jose says: 'assembly' has to be stated twice for the marriage of a mamzer with a shethuki, and of a shethuki with an Israelite.

(9) Num. XV, 15. Now, 'for the assembly' is superfluous: hence it teaches that ger (proselyte) is included in the term wherever it is found.

(10) Shewing that 'ger' is not included in 'assembly'.

(11) I.e., to those who may not marry into the priesthood. Thus, whereas a priest may not marry the daughter of a halal, freedman or proselyte, the daughter of a priest may marry one of these. — This does not refer to the ordinary unfit, such as mamzerim or Nethinim.

(12) Mahuza contained many proselytes, whom this offended.

(13) V. n. 1.

(14) I.e., who might be the child's father.

(15) Since we know that the mother was unmarried, the only men whose issue is mamzer are mamzerim and consanguineous relations; for a heathen or slave does not produce mamzer. Thus only a minority are unfit in this respect.

(16) V. Glos.

(17) The following example illustrates the principles of 'separation' and kabua' (fixed). If there are ten butcher shops in a street, nine of which supply kasher meat (ritually fit), and one supplies trefa meat (not fit), and a piece of meat is found in that street, it is assumed to be kosher, following the majority. If, however, meat is bought in one of the shops, but it is not known of which, it is accounted as though there were an equal number of each, and on the usual principle in such cases, unfit. For in the first instance the meat was 'separated' from its appointed place, sc. the shop, whereas in the second it remained fixed (kabua') until purchased, when the doubt arose. Here too, all men are jointly looked upon as a mass stationed in one place. If one goes to the mother of this child, he 'separated himself from the majority, hence was probably eligible. But even if she goes to him, so that the minority count as much as the majority, it is still a matter of equal doubt, which in the case of mamzer is not forbidden.

(18) Fem. of shethuki.

(19) Are we to assume that every child of unknown parentage has the same father-surely not!

(20) With respect to a shethuki marrying an ordinary person.

(21) That he should chance upon his paternal sister, and therefore the possibility is disregarded. Hence the question

remains, why is a shethuki forbidden?
(22) And would not cast him away.
(23) That the foundling may be mamzer?
(24) Pl. of arusah.
(25) And the foundling may be theirs.
(26) Lit., 'hunger,' — the child may be legitimately born. — The child of an unmarried woman is not mamzer.
(27) But there is no fear of his maternal sister, for since we know his intended mother-in-law as a virtuous woman, we do not suspect her of adultery and that this may be her son (Rashi). Of course, the same might be urged of his intended father-in-law, but that it is easier for a man to conceal an illegitimate liaison than for a woman (Maharsha).
(28) Are we to assume all foundlings the children of the same mother or father!
(29) With respect to a foundling marrying an ordinary person.
(30) V. p. 374, n. 4.

Talmud - Mas. Kiddushin 73b

he is not [forbidden] on account of [the law of] a foundling.[1] If his limbs are set, he is not [forbidden] as a foundling. If he has been massaged with oil, fully powdered, has beads hung on him, wears a tablet [with an inscription] or an amulet,[2] he is not considered a foundling. If he is suspended on a palm tree, if a wild beast can reach him, he is [forbidden] as a foundling;[3] if not, he is not considered a foundling. [If exposed on] a sorb bush: near a town, he is considered a foundling;[4] if not, he is not a foundling. [If found in] a synagogue near a town where many congregate, it is not a foundling; otherwise, it is.[5]

Amemar said: [If found in] a pit of date stones,[6] he is considered a foundling; in the swift current of the river, he is not a foundling;[7] in shallow water,[8] he is a foundling: in the side passages off public thoroughfares, he is not a foundling; in a public thoroughfare, he is a foundling.[9] Said Raba: But in famine years he is not considered a foundling. This [dictum] of Raba, to what [does it refer]? Shall we say, to a public thoroughfare? because it is in famine years one [the mother] is to kill him! Again, if it refers to the side passages off a public thoroughfare, why particularly famine years? [It is so] even without famine years! — But Raba's [dictum] was stated in reference to what Rab Judah said in the name of R. Abba in the name of R. Judah b. Zabdi in Rab's name: As long as he [the exposed child] is in the street, his father and mother are believed concerning him;[10] but if he has been gathered in from the street, they are not believed concerning him. What is the reason? — Said Raba: Because he has already acquired the name of a foundling. Then Raba also said: But in famine years, even if he has been gathered in from the street: his father and mother are believed concerning him.

R. Hisda said: Three are believed there and then,[11] and these are they: a foundling, a midwife, and she who frees her companions [from the suspicion of uncleanness]. A foundling, as stated.[12] A midwife, as was taught: A midwife is believed when she states: 'This one issued first and this one issued second.'[13] When is that? [Only] if she did not go out [from the chamber of confinement] and return; but if she went out and then returned, she is not believed. R. Eliezer said: If she was known to have been at her post, she is believed; if not, she is not believed. Wherein do they differ? — They differ where she turned her face away.[14]

What is the reference to her who frees her companions? — For we learnt: If three women were sleeping in one bed, and blood was found under one of them, they are all unclean.[15] If one examined herself and was found to be unclean, she is unclean, while the others are clean. Said R. Hisda: [That means] that she examined herself forthwith.[16]

Our Rabbis taught: A midwife is believed when she affirms, 'This one is a priest, this one is a Levite, this one a Nathin, this one a mamzer.'[17] When is that? Only if no protest is raised: but if a protest is raised, she is not believed. What kind of a protest? Shall we say, a protest by one person? Surely R. Johanan said: A protest is invalid if made by less than two? Hence it means a protest by two. Alternatively, I may say [that] after all that it was a protest by one. Yet when did R. Johanan say: A protest is invalid if made by less than two? Only where we have a presumption of fitness;[18] but if there is no presumption of fitness,[19] even one is believed.

A vendor[20] is believed when he says: 'To this one I sold [it] and to this one I did not sell.' When is that? Only if his ware is in his hand; but if his ware is no longer in his hand, he is not believed.

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(1) If he were not fit, his parents would not trouble to circumcise him.

(2) The last three are for identification.

(3) Were he legitimate, his parents would have taken greater care of him.

(4) Sorb bushes near a town were held to be haunted by demons.

(5) Synagogues far from town and when infrequented were likewise thought to be haunted.

(6) Where these are deposited as fodder.

(7) Parents would not trouble to place him in the middle of the river, where ships abound, if he were not fit.

(8) Formed by melting snow which affords no passage to ships.

(9) For it is dangerous to leave a child there.

(10) In their claim that he is their child.

(11) When the doubt first arises, but not afterwards.

(12) The parents' claim is admitted only while he is in the street, but not after.

(13) When twins are born.

(14) According to the first Tanna she is believed, but not in R. Eliezer's opinion, for by turning her back on the mother she left her post.

(15) In sleep they do not keep to the same spot all the time, and any one might have discharged the blood.

(16) שיעור וסת , v. Nid. 14b.

(17) If several women of different genealogical status are confined together.

(18) Which the protest seems to overthrow.

(19) As here, when the identity of the babes is in question.

(20) Lit., 'the owner of the ware'.

Talmud - Mas. Kiddushin 74a

Then let us see whose money he holds? — This arises only when he holds [money] from both, and states: 'one [paid me] with my consent, and the other against my will,' and it is not known[1] which was with his consent and which against his will.

A judge is believed when he says: 'I have ruled in favour of this one; I have ruled against that one.' When is that? Only if the litigants are [yet] standing before him; but if they are no longer standing before him, he is not believed. Then let us see who holds the judgment writ in favour?[2] — This arises only if their judgment writ was torn. Then let us rejudge them? — [It is a case of] the judges' discretion.[3]

R. Nahman said: Three are believed with respect to a first-born. These are they: The midwife, the father and the mother. The midwife, [only] immediately. The mother, the first seven days;[4] the father, for all time. As it was taught: He shall acknowledge [the firstborn]:[5] [i.e.,] he shall acknowledge him before others. Hence R. Judah said: A man is believed when he says: 'This son is my first — born. And just as he is believed when he says: 'This son is my firstborn,' so is he believed when he says: 'This is the son of a divorced woman', 'this is the son of a haluzah'.[6] But the Sages say: He is not believed.[7]

ABBA SAUL USED TO CALL THE SHETHUKI 'BEDUKI'. What is [implied by] BEDUKI?[8]

Shall we say that we examine his mother, and if she maintains, ‘I cohabited with a fit person,’ she is believed? Then with whom [does this agree]? with R. Gamaliel! But we learnt it once. For we learnt: If she [an unmarried woman] is pregnant and is asked: ‘What is the nature of this child?’ and she replies, ‘He is from So-and-so, who is a priest’: R. Gamaliel and R. Eliezer said: She is believed; R. Joshua said: We do not live by her words.[9] Now, Rab Judah said in Samuel's name: The halachah agrees with R. Gamaliel![10] — One is to declare her [the mother] fit; the other is to declare her daughter fit.[11] Now, that is well on the view that he who declares her [the mother] fit, declares the daughter unfit.[12] But on the view that he who declares her fit declares her daughter fit [too], what does Abba Saul come to teach us? — Abba Saul's [ruling] is more remarkable than R. Gamaliel's. For if from there,[13] I might argue, [It is only] there, where most [men] are fit for her;[14] but here, that most [men] are unfit for her,[15] I might say, [she is] not [believed].[16] Hence it is necessary. Said Raba: The halachah agrees with Abba Saul.

MISHNAH. ALL WHO ARE FORBIDDEN TO ENTER INTO THE ASSEMBLY[17] MAY INTERMARRY WITH EACH OTHER; R. JUDAH FORBIDS IT. R. ELEAZAR SAID: CERTAIN [UNFITS] ARE PERMITTED [TO INTERMARRY] WITH CERTAIN [UNFITS].[18] CERTAIN [UNFITS] WITH DOUBTFUL [UNFITS], DOUBTFUL WITH CERTAIN, OR DOUBTFUL WITH DOUBTFUL, ARE FORBIDDEN. NOW, THESE ARE THE DOUBTFUL: SHETHUKI, FOUNDLINGS AND CUTHEANS.[19]

GEMARA. What is meant by ‘ALL WHO ARE FORBIDDEN TO ENTER INTO THE ASSEMBLY’? Shall we say: Mamzerim and Nethinim, Shethuki and Foundlings? Surely that is taught in the first clause:[20] Mamzerim and Nethinim, Shethuki and Foundlings, are permitted to intermarry! Again, [when it states] ‘R. JUDAH FORBIDS IT’, to what does this refer? Shall we say, to certain with doubtful — but since the last clause states: R. ELEAZAR SAID: CERTAIN [UNFITS] ARE PERMITTED [TO INTERMARRY] WITH CERTAIN [UNFITS]; DOUBTFUL WITH CERTAIN, OR DOUBTFUL WITH DOUBTFUL, ARE FORBIDDEN, this proves that R. Judah does not hold thus. And should you answer: R. JUDAH FORBIDS IT refers to [the marriage of] a proselyte and a mamzereth, is it then taught, a proselyte with a mamzereth: ALL ARE FORBIDDEN TO ENTER INTO THE ASSEMBLY is taught![21] — Said Rab Judah,

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(1) [Var. lec. ‘he does not know’, i.e., the seller does not recollect the matter; v. Tosaf.]

(2) The court issued a written verdict to each litigant.

(3) Where the verdict cannot be determined by reference to any law, the judge must use his own discretion, v. Keth. 85b. In such a case we cannot be certain that a re-trial will give the same verdict.

(4) On the eighth day the child is circumcised, and from then the right of recognition rests with the father.

(5) Deut. XXI, 57.

(6) Where the father is a priest, and thus declares the son a halal.

(7) This refers only to the son of a divorced woman etc. (Rashi) [V. however B.B. (Sonc. ed.) p. 530. n. 8.]

(8) Lit., ‘examined.’

(9) I.e., she is disbelieved.

(10) Then why repeat it?

(11) R. Gamaliel refers to the woman herself, who has a presumptive status of fitness. Yet if she bare a daughter, a doubt is entertained, and the daughter may not marry a priest since there is no such presumption in her favour. But Abba Saul rules that the daughter too is fit.

(12) V. Keth. 13b. Hence Abba Saul goes beyond R. Gamaliel.

(13) Sc. the Mishnah of R. Gamaliel.

(14) E.g., if she is unbetrothed.

(15) E.g., if she is an arusah, so that all except the arus are unfit, in that a child by them is mamzer.

(16) When she asserts that the child is by the arus.

(17) I.e., to marry a legitimately born Jew: the language is Biblical, Deut. XXIII, 2-4.

(18) E.g., a mamzer with a Nathin.

(19) V. Glos. In Talmudic times their status fluctuated and the Rabbis seem to have been undecided how to regard them. As this Mishnah shews, they were still regarded as Jews, though falling within the category of 'doubtful' in respect of genealogy. In later times they were declared non-Jews absolutely.
(20) The Mishnah on 69a.
(21) V. supra 72a. And this does not include a proselyte.

Talmud - Mas. Kiddushin 74b

This is its meaning: ALL WHO ARE FORBIDDEN TO ENTER INTO THE ASSEMBLY of priesthood — namely,[1] A female proselyte less than three years and one day, this disagreeing with R. Simeon b. Yohai[2] — MAY INTERMARRY WITH EACH OTHER.[3] Then let us relate it to one aged three years and a day, so agreeing even with R. Simeon b. Yohai? — If so, its refutation is at its side. [For we would then argue thus:] It is only because she is three years and a day; but if less than three years and one day, since she may enter into the assembly of priests, she is forbidden [to intermarry] with the others?[4] But what of [the case of her] who is less then three years and a day, according to R. Simeon b. Yohai, who, though she may enter into the assembly of priests, may yet intermarry with the others![5]

[But] is it a general principle that all who are forbidden to enter into the assembly of priesthood may intermarry with each other? But what of a widow, a divorced woman, a halalah and a zonah,[6] who are forbidden to enter into the assembly of priesthood,[7] and yet may not intermarry with these others? Furthermore, [the principle implies,] but one who is permitted [to marry into the priesthood] is forbidden [to intermarry with these]; but a proselyte is permitted to a priest's daughter, yet also permitted to a mamzereth![8] — But, said R. Nathan b. Hoshaia: This is what [the Mishnah] means: One whose daughter a priest may not marry — and who is that? a proselyte married to a proselyte, this agreeing with R. Eliezer b. Jacob[9] — may intermarry with these others.[10] Now, is it a general principle that one whose daughter a priest may not marry may intermarry with these? But what of [the case of] a halal who marries an Israelite's daughter, though a priest may not marry his daughter, yet he may not intermarry with these others?[10] — That is no difficulty: [our Tanna teaches] according to R. Dosethai b. Judah.[11] But what of a halal who marries a halalah, though a priest may not marry his daughter, yet he may intermarry with these others.[10] Furthermore, [the principle implies,] but one whose [daughter] is permitted [to marry a priest] is forbidden [to intermarry with these]; but what of a proselyte who marries an Israelite's daughter, though a priest may marry his daughter, yet he may intermarry with these others![12] — But, said R. Nahman in Rabbah b. Abbuha's name: Here they differ with respect to a mamzer from a sister and a mamzer from a married woman. The first Tanna holds that even a mamzer from a sister is mamzer; while R. Judah holds: from a married woman it is mamzer, but not from a sister.[13] Then what does he [the Tanna of our Mishnah] inform us? We have [already] learnt it: Who is mamzer? All who are subject to 'he shall not enter':[14] this is R. Akiba's view. Simeon the Temanite said: Whoever involves the penalty of kareth at the hands of Heaven;[15] and the halachah is as his ruling. R. Joshua said: Whoever involves the penalty of death by the Court![16] — But, said Raba, they differ in reference to an Ammonite and a Moabite convert, and this is its meaning: ALL WHO ARE FORBIDDEN TO ENTER INTO THE ASSEMBLY, — and who are they? an Ammonite and a Moabite proselyte — MAY INTERMARRY WITH EACH OTHER. If so, what is meant by R. JUDAH FORBIDS IT?[17] — This is its meaning: Though R. JUDAH FORBIDS a proselyte [to intermarry] with a mamzereth, that is only a proselyte who is eligible to enter into the assembly, but not Ammonite and Moabite proselytes, who are not eligible to enter into the assembly.

Our Rabbis taught: A male aged nine years and a day,[18] [whether he be] an Ammonite, Moabite, Egyptian or Edomite convert, or a Cuthean, Nathin, halal or mamzer, who has intercourse with the daughter of a priest, a Levite or an Israelite, he disqualifies her.[19] R. Jose said: He whose seed [i.e., issue] is unfit [for the priesthood] disqualifies,[20] but he whose issue is not unfit does not disqualify.

R. Simeon b. Gamaliel said:

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(1) Lit., ‘who is it?’

(2) ‘ASSEMBLY,’ according to this, refers to the priesthood, and this Tanna holds that even if a child less than three years and a day becomes a proselyte she is forbidden to a priest, thus disagreeing with R. Simeon b. Yohai, infra 78a.

(3) And R. Judah's statement can thus refer to the marriage of a proselyte and mamzereth.

(4) Sc. mamzer, etc.

(5) For since she may marry a mamzer, it follows that the assembly of proselytes is not designated ‘assembly’ (v. supra a); hence the same holds good if she becomes a proselyte before that age.

(6) Lev. XXI, 7: ‘harlot’. For the definition, v. Yeb. 61b.

(7) A widow may not marry a High Priest; the others are interdicted to all priests.

(8) As in n. 3.

(9) Infra 77a.

(10) Sc. mamzer, etc.

(11) Ibid. and supra 64a.

(12) Sc. mamzer, etc.

(13) The Mishnah does not refer to a proselyte at all, but to the question whether these two illegitimate children may intermarry. A sister is interdicted on pain of kareth, q.v. Glos; adultery with a married woman is punishable by death. The first Tanna treats the issue of both as mamzer, and he states, those who are forbidden to enter the assembly as mamzerim may intermarry. But R. Judah maintains that only the latter, forbidden on pain of death, is mamzer, but not the former; hence they may not intermarry.

(14) I.e., even the issue of a union interdicted by a mere negative precept.

(15) The child of such a union so forbidden.

(16) Thus this dispute is taught elsewhere (Yeb. 49a); why repeat it here?

(17) Surely these may marry a mamzer, since these do not come under the category of ‘assembly’.

(18) Before that he cannot engender.

(19) The first, to eat terumah; the other two, to marry a priest.

(20) The woman with whom be cohabits.

Talmud - Mas. Kiddushin 75a

One whose daughter you [i.e., a priest] may marry, you may marry his widow; but one whose daughter you may not marry, you may not marry his widow.

Wherein do the first Tanna and R. Jose differ? — Said R. Johanan: They differ in respect to a [converted] Egyptian of the second [generation],[1] and both learn it from none but a High Priest with a widow. The first Tanna holds, it is like a High Priest with a widow: just as a High Priest with a widow, since his intercourse is sinful, he disqualifies her;[2] so all whose intercourse is sinful disqualify. While R. Jose holds, It is like a High Priest with a widow: just as a High Priest with a widow, his issue is unfit,[3] [and] he disqualifies [the widow]; so all whose issue is unfit disqualify, thus excluding an Egyptian of the second generation, whose issue is not unfit, for the Writ saith, The children of the third generation that are born unto them shall enter into the assembly of the Lord.[4]

‘R. Simeon b. Gamaliel said: He whose daughter you, [i.e., a priest] may marry, you may marry his widow; but he whose daughter you may not marry, you may not marry his widow.’ Wherein do R. Jose and R. Simeon b. Gamaliel differ? — Said ‘Ulla: They differ in respect to an Ammonite and a Moabite proselyte;[5] and both learn it from none but a High Priest with a widow. For R. Jose maintains, It is like a High Priest with a widow: just as a High Priest with a widow, his issue is disqualified, and he disqualifies [the widow]; so all whose issue is disqualified, disqualify. While R. Simeon b. Gamaliel maintains, It is like a High Priest with a widow; just as a High Priest with a widow, all his issue is disqualified,[6] so everyone, all whose, issue, even the females, are disqualified [disqualifies his wife], thus excluding Ammonite and Moabite proselytes, whose females are eligible to enter into the assembly; for a Master said: An Ammonite [. . . shall not enter, etc.], but not an Ammonitess; a Moabite [shall not enter, etc.],[7] but not a Moabitess.

R. Hisda said: All agree that the widow of a member of a suspected family[8] is unfit for the priesthood. [For] who is the most lenient of these Tannaim? R. Simeon b. Gamaliel. Yet he says: He whose daughter you may marry, you may marry his widow; but he whose daughter you may not marry, you may not marry his widow. What does this exclude? It excludes the widow of a suspected family, [teaching] that she is unfit for the priesthood.[9] This conflicts with the following Tannaim: For we learnt: R. Joshua and R. Judah b. Bathyra testified[10] concerning the widow of a member of a suspected family, that she is fit for the priesthood. What is the reason? Because it is a double doubt,[11] and a double doubt [inclines] to a lenient ruling.[12]

CERTAIN [UNFITS] ARE PERMITTED [TO INTERMARRY] WITH CERTAIN [UNFITS]. Rab Judah said in Rab's name: The halachah is as R. Eleazar. When I stated it before Samuel, he observed to me, Hillel taught: Ten genealogical classes went up from Babylon and all are permitted to intermarry;[13] yet you say that the halachah is as R. Eleazar! Now, both Rab and Samuel are self-contradictory. For it was stated: If an arusah becomes pregnant:[14] Rab maintained: The child is mamzer;[15] while Samuel ruled: The child is shethuki and forbidden to a mamzereth! — Reverse it: Rab maintained: The child is shethuki; and Samuel ruled: The child is mamzer. What is the need of two?[16] — It is necessary. For if it were stated in this case [of our Mishnah, I would say, only] here does Rab rule thus, because the majority are eligible to her;[17] but there, that the majority are unfit for her,[18] I might argue that he agrees with Samuel. Again, If it were stated in the latter case, [only] there does Rab rule thus, because he [the issue] may be imputed to the arus; but in this [the former], I would say that he agrees with Samuel. Hence both are necessary.

Alternatively, you need not reverse it after all, and what does Rab mean by mamzer? Not that he may marry a mamzereth, but that he is forbidden to a daughter of Israel.[19] Now, when Samuel rules: The child is shethuki [it means] that he is forbidden to a daughter of Israel? If so, that is Rab's view! — But what is meant by shethuki? That he is ‘silenced’ from the rights of priesthood.[20] Surely that is obvious? If he is ‘silenced’ from the rights of an Israelite,[21] need it [be said] from the rights of priesthood! — But what is meant by shethuki? He is ‘silenced’ from his father's estate.[22] Surely that is obvious; do we then know who his father is? — This arises only where he has taken possession.[23] Alternatively, what is meant by shethuki? Beduki [examined]. That is [to say] we examine his mother, and if she maintains, ‘I cohabited with a fit person,’ she is believed.[24] With whom does this agree? — With R. Gamaliel? But Samuel has already stated it once! For we learnt: If she [an unmarried woman] was pregnant, and was asked: ‘What is the nature of this child?’ And she replied: ‘He is by So-and-so, who is a priest’: R. Gamaliel and R. Eliezer said: She is believed; R. Joshua said: We do not live by her words.[25] And Rab Judah said in Samuel's name: The halachah agrees with R. Gamaliel? — It is necessary. For if [I were to deduce] from there, I would argue, ‘There, most men are fit for her;[26] but here, most men are unfit for her,[27] I would say [she is] not [believed]. Hence both are necessary.

It was taught: And thus did R. Eleazar say: A Cuthean may not marry a Cuthean. What is the reason? — Said R. Joseph: He was treated as a proselyte after ten generations. For it was taught: A proselyte, until ten generations, may marry a mamzereth; thereafter he is forbidden [to marry] a mamzereth. Others state: [He is permitted] until the name of heathenism has completely fallen away from him. Said Abaye to him: How compare! There it is a proselyte of ancient [stock] and a recent mamzereth, so it will be said: He is an Israelite marrying a mamzereth,’ whereas here they are both alike? — But when R. Dimi came,[28] he said: R. Eleazar agrees with R. Ishmael,

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(1) V. Deut. XXIII, 8f. The first Tanna holds that he disqualifies her; but R. Jose holds that he does not, since his issue, being of the third generation, is not unfit.

(2) As in n. 1.
(3) I.e, halal.
(4) Ibid.
(5) A male proselyte of these peoples may never intermarry with a Jew; a female, however, is permitted. R. Jose holds that his intercourse renders the woman unfit; R. Simeon b. Gamaliel, that it does not.
(6) Including females.
(7) Deut. XXIII, 4.
(8) עיסה , 'mixed dough'. I.e., a family in which a forbidden element is suspected to have entered; v. 'Ed. (Sonc. ed.) p. 48, n. 2 and Keth. 14a and b.
(9) For her husband might be a halal, in which case his daughter must not marry a priest; hence his widow too is forbidden.
(10) V. 'Ed. VIII, 3.
(11) Lit., 'the doubt of a doubt.' Thus, the unfitness even of her husband is only doubtful; and since her unfitness is through him, we regard it as a still weaker doubt, i.e., a double doubt.
(12) We always give a lenient ruling in such a case.
(13) Rashi: 'all' means the forbidden classes; Tosaf. explains: each category is permitted to marry within itself; on both views 'doubtful' may intermarry with 'doubtful,' thus disagreeing with R. Eleazar. — On 'Hillel taught' both Rashi and Tosaf. Ri observe: in the Baraitha based on this Mishnah of 'TEN GENEALOGICAL CLASSES'. Weiss. Dor. I, p. 175 (1924 ed.) conjectures that this might have been taught when Herod destroyed the ancient Book of genealogical records, of which this may be an extract. (The verb shanah employed here generally refers to a Mishnah, not a Baraitha.)
(14) And it is unknown whether by her arus or a stranger.
(15) Since the majority of men are forbidden to her, we regard it as certain that the child was born in adultery, and so it is a certain mamzer. Thus Rab treats a doubt as a certainty, which agrees with the first Tanna on 74a, that doubt and certainty may intermarry, and not with R. Eleazar.
(16) Why teach this conflict of Rab and Samuel twice?
(17) The Mishnah treats of a shethuki born of an unmarried woman; since most men are fit for her, it is unlikely that the issue is mamzer, and therefore must not intermarry with mamzer.
(18) Since she is an arusah.
(19) I.e., any Jewess. Thus this corresponds to Rab's ruling that the halachah is as R. Eleazar.
(20) If the arus is a priest, this child does not enjoy the privileges of priesthood, e.g., of eating terumah.
(21) He cannot marry a daughter of an Israelite.
(22) He does not inherit the estate of the arus.
(23) Claiming that the arus was his father. We might think that he retains it unless the contrary is proved. Hence Samuel teaches otherwise.
(24) Cf. supra 74a.
(25) I.e., she is disbelieved.
(26) Since she is unmarried.
(27) Since she is betrothed.
(28) V. p. 46, n. 6.

Talmud - Mas. Kiddushin 75b

and R. Ishmael agrees with R. Akiba. [Thus:] R. Eleazar agrees with R. Ishmael, who maintained: Cutheans are proselytes [through fear] of lions.[1] And R. Ishmael agrees with R. Akiba, who said: If a heathen or a slave has intercourse with the daughter of an Israelite, the issue is mamzer.[2] But does R. Ishmael hold with R. Akiba? Surely R. Johanan said on R. Ishmael's authority: How do we know that a heathen or a slave who has intercourse with the daughter of a priest, a Levite, or an Israelite, disqualifies her?[3] Because it is said: But if a priest's daughter be a widow, or divorced, [and have no child. . . she shall eat of her father's bread,]:[4] [this holds good only of] one who comes within the ambit of widowhood. and divorce; thus excluding a heathen or a slave, who does not come within the ambit of widowhood and divorce.[5] Now should you think that he holds with R. Akiba — if he [the issue] is mamzer, is it necessary [to deduce] that he [the heathen] disqualifies by his intercourse![6] But R. Eleazar agrees with R. Ishmael who maintained that Cutheans are proselytes [through fear] of lions, and he also agrees with R. Akiba, who said: If a heathen or a slave has intercourse with a Jewess, the issue is mamzer.

Yet does R. Eleazar hold with R. Akiba? But R. Eleazar said: Though Beth Shammai and Beth Hillel differ with respect to co-wives,[7] they agree that mamzer is only from one who is forbidden on the score of consanguinity on pain of kareth![8] — But when Rabin came,[9] he said in the name of R. Hiyya in R. Johanan's name — others state, in the name of R. Abba b. Zabda in R. Hanina's name — others state, in the name of R. Jacob b. Idi in R. Joshua b. Levi's name: There are three opposing views in this matter: — [i] R. Ishmael holds: Cutheans are proselytes [through fear] of lions, and the priests who became mixed up in them were unfit priests, as it is said, and they made unto them from among themselves [mikezotham] priests of the high places,[10] whereon Rabbah b. Bar Hanah commented: from the most unworthy[11] of the people [sc. priests], and on that account they were disqualified. [ii] R. Akiba holds: Cutheans are true proselytes, and the priests who became mixed up in them were fit priests, as it is said: ‘and they made unto them from among themselves priests of the high places,’ which Rabbah b. Bar Hanah interpreted:[12] from the choicest[13] of the people. Yet why did they interdict them? — Because they subjected arusoth to yibum,[14]

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(1) Cf. II Kings, XVII, 25. Therefore they are to be regarded as heathens.

(2) Thus the Cuthean (male) may be the issue of a Cuthean and a Jewess, hence mamzer; while the female may be born of two Cutheans, hence a heathen. Now a mamzer is a Jew, though debarred from a legitimately-born Jewess, and may not marry a heathen.

(3) If she is a priest's daughter, from eating terumah: the other two, from marrying a priest. Or, if she had been formerly married to a priest, who had died and left her with a son, who would otherwise entitle her to eat terumah, she is now forbidden.

(4) I.e., terumah, Lev. XXII, 13.

(5) I.e., only when she cohabits with one whose death leaves her a widow, or who can divorce her, does she remain fit to eat terumah. But not when she cohabits with a heathen or slave, for since these cannot legally marry her, they cannot give her the status of widowhood or divorce. — Where a woman is disqualified from eating terumah, she is certainly ineligible to marry a priest.

(6) Surely not, since the former involves even a greater degree of unfitness.

(7) V. Yeb. 13a.

(8) And a heathen or slave is not thus forbidden.

(9) V. p. 46, n. 6.

(10) II Kings XVII, 32.

(11) Lit., ‘thorns’, Heb. kozim: i.e.,the unfit priests.

(12) On R. Akiba's view.

(13) Var. lec.: ‘nobles’, Heb. kezinim, which shews the connection with kezotham.

(14) V. Glos.

Talmud - Mas. Kiddushin 76a

but exempted married women.[1] What was their interpretation?[2] — The wife of the dead shall not marry without [ha-huzah] unto a stranger:[3] she who sat ‘without’ shall not marry a stranger; but she who did not sit ‘without’ may marry a stranger.[4] And R. Akiba follows his view, for he maintained, There is mamzer from those who are subject [only] to negative injunctions.[5] [iii] Some state, because they are not thoroughly versed in the [minute] details of precepts. Who is meant by ‘some state?’ — Said R. Idi b. Abin: It is R. Eliezer. For it was taught: The unleavened bread of a Cuthean is permitted,[6] and one fulfils his obligation therewith on Passover;[7] but R. Eliezer forbids it,[8] because they are not thoroughly versed in the [minute] details of precepts. R. Simeon b. Gamaliel said: Every precept which Cutheans have adopted, they observe it with minute care, [even] more than the Israelites. But here [in respect to marriage], wherein are they not well-versed? — Because they are not well-versed in the law of betrothal and divorce.[9]

R. Nahman said in Rabbah b. Abbuha's name: A mamzer by a sister and a mamzer by a brother's wife became mixed up among them [the Cutheans].[10] What does he inform us? — That there is mamzer from those who are liable to kareth.[11] Then let one [only] be taught?[12] — The actual event happened thus. Raba said: A [heathen] slave and a bondmaid were mixed up in them. Now, on whose account is the interdict? On account of the bondmaid![13] Then let one [only] be taught! — The actual event happened thus.

MISHNAH. HE WHO MARRIES A PRIEST'S DAUGHTER[14] MUST INVESTIGATE HER DESCENT[15] UP TO FOUR MOTHERS, WHICH ARE EIGHT. [VIZ.,] HER MOTHER AND HER MOTHER'S MOTHER, HER MOTHER'S PATERNAL GRANDMOTHER[16] AND HER MOTHER, HER FATHER'S MOTHER AND THIS ONE'S MOTHER, HER FATHER'S PATERNAL GRANDMOTHER AND HER MOTHER.[17] [IN THE CASE OF] THE DAUGHTER OF A LEVITE OR AN ISRAELITE, ONE MORE IS ADDED.[18] WE MAKE NO INVESTIGATION FROM THE ALTAR AND UPWARDS, FROM THE DUKAN [DAIS] AND UPWARDS, NOR FROM THE SANHEDRIN AND UPWARDS.[19] AND ALL WHOSE PARENTS WERE ESTABLISHED TO HAVE BEEN AMONG THE PUBLIC OFFICERS[20] OR CHARITY OVERSEERS ARE PERMITTED TO MARRY INTO THE PRIESTHOOD, AND THEIR DESCENT IS NOT INVESTIGATED. R. JOSE SAID: ALSO WHOEVER WAS SIGNED AS A WITNESS IN THE OLD COURT[21] OF SEPPHORIS.[22] R. HANINA B. ANTIGONUS SAID: ALSO ONE WHO WAS RECORDED IN THE KING'S LIST OF OFFICERS.[23]

GEMARA. Why are the women investigated but not the men? — When women quarrel among themselves, they quarrel [only] about immorality,[24] so that if there is anything,[25] it is not generally known.[26] But when men quarrel among themselves, they quarrel over birth;[27] if there is anything, it is generally known.

Now, let her too investigate his [forbears]? — This supports Rab. For Rab Judah said in Rab's name: Fit women were not admonished not to marry the unfit.[28]

R. Adda b. Ahabah recited: Four mothers, which are twelve.[29] In a Baraitha it was taught:' Four mothers, which are sixteen.[30] Now, as for R. Adda b. Ahabah, it is well;

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(1) Altogether, even from halizah.

(2) That led them to this ruling.

(3) Deut. XXV, 5. On this translation, hahuzah is a locative adverb governed by ‘marry’.

(4) Taking ha-huzah as an adjective qualifying wife: the dead man's wife who is without, shall not marry a stranger. A ‘wife who is without’ is an arusah, who may not live with her husband until nissu'in. [V. Samaritan version of the Bible, a.l. and Montgomery, The Samaritans, p. 185.]

(5) For actually we reject that interpretation, translating as the E.V., and so even a nesu'ah is interdicted by a negative injunction, and the issue is mamzer. Hence though R. Akiba holds that the Cutheans are true proselytes, yet they contain mamzerim, which precludes intermarriage with them. Hence the interdiction of marriage with them, as explained anon.

(6) To be eaten on Passover.

(7) One had to eat at least the size of an olive of unleavened bread of flour specially guarded and prepared for the fulfilment of the precept, ‘on the fourteenth day of the month at even, ye shall eat unleavened bread’ (Ex. XII, 18). This Tanna holds that Cutheans know and are particular about this.

(8) I.e., one does not fulfil his obligation therewith.

(9) Thus, a woman may have been validly betrothed, yet they thought it invalid and permitted her to marry another, the issue by whom is mamzer. Another Cuthean, however, may be quite legitimate; therefore R. Eleazar forbids Cutheans to marry each other.

(10) Therefore one Cuthean may not marry another.

(11) By specifying a mamzer from an incestuous union with a sister, his intention is to teach that the issue of such, though forbidden only on pain of kareth, is mamzer, in opposition to the view (Yeb. 49a) that only when the union involves death by the court is the issue mamzer (v. Rashi).
(12) E.g., that a mamzer by a sister was mixed up among them.
(13) For, as shewn on 75b, R. Eleazar holds that the issue of a slave and a Jewess is legitimate; hence he must have declared the prohibition because of the bondmaid, whose issue has the status of a slave (supra 66b), and is forbidden to a Jew or Jewess.
(14) Lit., ‘a priestly woman’.
(15) Lit., ‘after her.’
(16) Lit., ‘and her father's mother’.
(17) Thus the four are: her mother, her mother's paternal grandmother, her father's mother, and her father's paternal grandmother. Further, the mother of each of these is added, which gives eight. All these are examined, to see that none are unfit for a pure marriage.
(18) I.e., one generation further removed on the maternal side in both lines: to her mother and her mother's mother we add her mother's maternal grandmother, and to her father's grandmother, we add one mother more.
(19) If a priest, one of her forbears, was known to have served at the altar, or a Levite to have sung on the dais in the Temple, which was part of the Temple service, or if one was a member of the Sanhedrin, it is unnecessary to trace her descent any further.
(20) I.e., judges in ordinary courts, apart from the Sanhedrin (v. Gemara).
(21) ערכי הישנה , v. next note.
(22) Rashi's text appears to omit ‘witness’ in which case it means whoever stood on the list of judges. On both versions, the reason is that they were particular that these should be only men of proved purity of descent. [The meaning of the phrase ערכי הישנה is doubtful. Schurer II. 1. p. 138 (Eng. ed.) renders it ‘the ancient government’, **, the reference being to the old government in Sepphoris, the members of which were all Israelites, in contradistinction to the later government set up by the Romans, in his view, in the days of Hadrian, which was of a mixed or heathen composition (Buchler JQR, XVI, p. 160 dates the change in the composition of the government to the days of Agrippa II). Render accordingly ‘whoever was recognised as a member of the old government’. Another possible meaning is ‘old archives’ or ‘old family registers’. v. Buchler Priester & Cultus, pp. 198ff.]
(23) Heb. isteratya; the Gemara discusses this.
(24) One accuses the other of immorality, but not of a blemished descent.
(25) Objectionable in their pedigree.
(26) Lit., ‘it has no voice.’
(27) Each throwing up the other's blemished descent.
(28) V. supra p. 373, n. 1. — Hence it is unnecessary for her to investigate his ancestors.
(29) Adding one mother to each. V. p. 388, nn. 9 and 10.
(30) Adding one more mother and the grandmother to each.

Talmud - Mas. Kiddushin 76b

he may relate it [his teaching] to the daughter of a Levite or an Israelite.[1] But must we say that the Baraitha disagrees [with the Mishnah]? — No: What is meant by ONE MORE? one more pair.[2]

Rab Judah said in Rab's name: This [sc. the Mishnah] is R. Meir's view. But the Sages maintain: All families stand in the presumption of fitness.[3] But that is not so, for R. Hama b. Guria said in Rab's name: Our Mishnah refers to where it[4] is contested![5] — The one who recited the former [in Rab's name] did not recite the latter.[6] Others state, Rab Judah said in Rab's name: This is R. Meir's view. But the Sages maintain: All families stand in the presumption of fitness. R. Hama b. Guria said in Rab's name: If it is contested, he must investigate her descent.[7]

WE MAKE NO INVESTIGATION FROM THE ALTAR AND UPWARDs. What is the reason? — Had she[8] not been examined, he would not have been promoted [to that dignity].

NOR FROM THE DAIS AND UPWARDS. What is the reason? — Because a Master said: For there sat those who certified the genealogy of the priestly and the Levitical families.[9] NOR FROM THE SANHEDRIN AND UPWARDS. What is the reason? — For R. Joseph learnt: Just as the court must be pure in righteousness, so must it be pure from any [genealogical] blemish.[10] Said Meremar: What verse teaches this?[11] Thou art all fair, my love; and there is no blemish in thee.[12] Perhaps a literal blemish [is meant]? — Said R. Aha b. Jacob: Scripture saith, that they may stand there with thee:[13] 'with thee' [implies,] like unto thee.[14] Yet perhaps that was on account of the Shechinah?[15] But[16] said R. Nahman: Scripture saith, so shall it be easier for thyself, and they shall bear the burden with thee:[17] 'with thee' [implies,] like unto thee.

ALL WHOSE PARENTS WERE NOT ESTABLISHED TO HAVE BEEN AMONG THE PUBLIC OFFICERS. Are we to say that [judges] were not appointed of [genealogically] unfit persons? But the following contradicts it: All are fit to adjudicate in civil matters, but not all are eligible to judge capital cases. Now, we pondered thereon: What does 'all' include? And Rab Judah said: It includes mamzer. — Said Abaye: In Jerusalem.[18] And so did R. Simeon b. Zera recite in Kiddushin of the School of Levi:[19] In Jerusalem.

OR CHARITY OVERSEERS, ARE PERMITTED TO MARRY [INTO THE PRIESTHOOD]. What is the reason? — Since they quarrel with people, for a Master said: Pledges are taken for charity, even on Sabbath eve,[20] if there were [a blemish in his family], it would be known.

R. Adda b. Ahabah's host was a proselyte, and he and R. Bibi were at variance, each claiming, I must carry on the administration of the town. So they went before R. Joseph. Said he to them, We learn it: One from among thy brethren shalt thou set king over thee:[21] all appointments[22] which thou makest must be only from the midst of thy brethren. Said R. Adda b. Ahabah to him: Even if his mother is a Jewess? — If his mother is a Jewess, he replied, we apply to[23] him, 'from the midst of thy brethren'. Therefore let R. Bibi, who is a great man, give his attention to Heavenly matters,[24] and do you, Sir, pay attention to affairs of the town.[25] Said Abaye: Therefore, when one provides a scholar with residence in his boarding house, let him provide it for one like R. Adda b. Ahabah, who is able[26] to argue[27] in his favour.

R. Zera took trouble over them [sc. proselytes]; Rabbah b. Abbuhah took trouble over them. In the west [Palestine] not even an Inspector of Measures[28] was appointed of them. In Nehardea, not even an irrigation superintendent was appointed of them.

R. JOSE SAID: EVEN ONE WHO WAS etc. What is the reason? They [first] investigated, and then allowed them to attest.

R. HANINA B. ANTIGONUS etc. Rab Judah said in Samuel's name: [This refers to the officers] in the armies of the House of David. Said R. Joseph: What verse teaches this?[29] And they who were reckoned by genealogy for service in war.[30] And what is the reason?[31] — Said Rab Judah in Rab's name: In order that their own merit and the merit of their fathers might aid them. But there was Zelek the Ammonite;[32] surely that means that he was descended from Ammon? — No: that he dwelt in Ammon. But there was Uriah the Hittite;[33] surely that means that he was descended from Heth? — No: that he dwelt among the Hittites. But there was Ittai the Gittite.[34] And should you answer, here too it means that he dwelt in Gath, — but R. Nahman said: Ittai the Gittite came and destroyed it.[35] Moreover, Rab Judah said in Rab's name, David had four hundred children, all the offsprings of 'beautiful women,'[36] all with hair trimmed in front[37] and locks growing long;[38] and all sat in golden chariots and went at the head of armies, and they were the strong men[39] of the House of David! — They merely went to terrorise [the opposing armies].[40]

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(1) As stated in the Mishnah.

(2) A mother and grandmother, which gives sixteen.
(3) Without investigation.
(4) The bride's pedigree.
(5) Two witnesses testify that it is rumoured that her descent is blemished, in which even the Rabbis would agree that investigation is required; why then does Rab ascribe the Mishnah only to R. Meir?
(6) If the Mishnah is assumed to reflect R. Meir's view, it means even if her purity is uncontested; if it is assumed to mean only where it is contested, it agrees even with the Rabbis.
(7) Even in the view of the Rabbis.
(8) The mother of the priest who served at the altar.
(9) And priests or Levites of impure descent were not permitted to sing in the Temple service or pronounce the priestly blessing. — Rashi states that this took place in the Hall of Hewn Stones, and the examiners were the Sanhedrin. Weiss, Dor p. 175, n. 2. inclines to the view that a special priestly court was set up for this purpose (Cf. ‘the priestly court’ mentioned in Keth. 12a), which sat in a place behind the veil. Wilna Gaon takes an intermediate position: this special court made the investigations, but the actual verdict was pronounced by the Sanhedrin.
(10) This refers to the larger or smaller Sanhedrin (v. Sanh. 2a), but not to an ordinary court.
(11) Lit., ‘what is its verse?’
(12) Cant. IV, 7.
(13) Num. XI, 16: this refers to the seventy elders, who, together with Moses, were traditionally regarded as the first great Sanhedrin of seventy one.
(14) Of pure descent.
(15) The Divine Presence. For these were endowed with the power of prophecy (v. 25); yet subsequent Sanhedrins may not require unstained birth?
(16) So the reading in Sanh. 36b, and as required here.
(17) Ex. XVIII, 22. This likewise refers to the setting up of courts, and no mention is made of prophecy.
(18) Our Mishnah refers to Jerusalem, where only men of unsullied birth were permitted to be judges.
(19) I.e., in Levi's Baraitha on the Tractate Kiddushin. Z. Frankel, Darke ha'Mishnah, p. 313, and Weiss, Dor, II. 191-2 maintain that this was in opposition to Rabbi's Mishnah; Halevi, Doroth, II. 119-121 proves that it was not opposed but explanatory of and complementary to Rabbi's compilation.
(20) Charity was compulsory, and if one failed to pay his quota a pledge was forcibly taken from him; this naturally led to quarrels with the overseer.
(21) Deut. XVII, 55.
(22) Lit., ‘settings.’
(23) Lit., ‘read of.’
(24) Rashi: the charity collections and distribution, synagogue administration.
(25) E.g., taxation etc.
(26) Lit., ‘knows’.
(27) Lit., ‘turn (things) about.’
(28) Kori fr. kor, a measure.
(29) Lit., ‘what is its verse?’
(30) I Chron. VII, 40.
(31) Why insist on pure birth?
(32) II Sam. XXIII, 37.
(33) II Sam. XXIII, 39.
(34) Ibid. XV, 19.
(35) Sc. Milcom, the idol of the Ammonites, and the whole point of R. Nahman's dictum is that he did this as a heathen. V. ‘A. Z. 44a.
(36) Captured in war; v. Deut. XXI, 10-14.
(37) In Roman fashion, with a fringe on the forehead and curls hanging down on the temples.
(38) [Belurith (etym. obscure) a heathen fashion of growing locks from the crown of the head, hanging down in plaits at the back, v. Krauss, T.A. I 645.]
(39) Lit., men of fists.’
(40) But did not actually fight.

MISHNAH. THE DAUGHTER OF A MALE HALAL IS UNFIT FOR THE PRIESTHOOD FOR ALL TIME.[1] IF AN ISRAELITE MARRIES A HALALAH, HIS DAUGHTER IS FIT FOR THE PRIESTHOOD. IF A HALAL MARRIES THE DAUGHTER OF AN ISRAELITE, HIS DAUGHTER IS UNFIT FOR THE PRIESTHOOD.[2] R. JUDAH SAID: THE DAUGHTER OF A MALE PROSELYTE IS AS THE DAUGHTER OF A MALE HALAL. R. ELIEZER B. JACOB SAID: IF AN ISRAELITE MARRIES A FEMALE PROSELYTE, HIS DAUGHTER IS FIT FOR THE PRIESTHOOD, AND IF A [MALE] PROSELYTE MARRIES THE DAUGHTER OF AN ISRAELITE, HIS DAUGHTER IS FIT FOR THE PRIESTHOOD. BUT IF A MALE PROSELYTE MARRIES A FEMALE PROSELYTE, HIS DAUGHTER IS UNFIT FOR THE PRIESTHOOD. [THE SAME LAW APPLIES TO] A PROSELYTE AS TO FREED SLAVES, EVEN UNTO TEN GENERATIONS, [HIS DAUGHTER IS UNFIT] UNLESS HIS MOTHER IS OF ISRAELITE STOCK.[3] R. JOSE SAID: ALSO IF A MALE PROSELYTE MARRIES A FEMALE PROSELYTE, HIS DAUGHTER IS FIT FOR THE PRIESTHOOD.

GEMARA. Why [state], FOR ALL TIME? — I might think, It is analogous to an Egyptian and an Edomite: just as there, after three generations [the interdict is lifted], so here too after three generations [the daughter is fit for the priesthood]. Therefore we are informed [otherwise].

IF AN ISRAELITE MARRIES A HALAL. How do we know it? — Said R. Johanan on the authority of R. Ishmael:[4] Here it is stated, and he shall not profane his seed among his people;[5] and there it is stated, he shall not defile himself, being a chief man among his people:[6] just as there, males but not females,[7] so here too, males but not females.[8] If so, let a High Priest's daughter [from a widow] be permitted [to marry a priest]? — Is it then written: '[and he shall not profane] his son'? 'His seed' is written, viz., he shall not profane his seed among his people.[9] Then let the daughter of his son be permitted? — It is written, he shall not profane his seed: [hence] his seed is assimilated to himself: just as his own daughter is unfit, so is his son's daughter unfit — Then let his daughter's daughter [too] be interdicted?[10] — If so, what is effected by the gezerah shawah?

IF A HALAL MARRIES THE DAUGHTER OF AN ISRAELITE, HIS DAUGHTER IS UNFIT. But that is stated in the first clause: THE DAUGHTER OF A MALE HALAL IS UNFIT FOR THE PRIESTHOOD FOR ALL TIME? — Because the former clause teaches: IF AN ISRAELITE MARRIES A HALALAH, the latter clause also states: IF A HALAL MARRIES THE DAUGHTER OF AN ISRAELITE.[11] Our Mishnah does not agree with R. Dosethai b. Judah. For it was taught: R. Dosethai b. Judah said: Just as the sons of Israel are a mikweh of purification for [female] halaloth, so are the daughters of Israel a mikweh of purification for [male] halalim.[12] What is R. Dosethai b. R. Judah's reason? — Scripture saith, 'he shall not profane his seed among his people': he profanes [his seed] among one people, but not among two peoples.[13]

Our Rabbis taught 'He shall not profane his seed:' I know [it] only [of] his seed; how do I know it of herself?[14] — Say, a minori: if his seed, that committed no sin, is profaned, she, who commits sin, how much the more so that she is profaned! Let him himself refute it: he commits sin, yet he is not profaned![15] As for himself, that is because he is not profaned in all other cases;[16] will you say [the same] of her, seeing that she is profaned in all other cases?[17] And should you desire to object, [then one can answer,] Scripture saith, 'he shall not profane his seed,' [which means,] This one shall not become profaned, who was [originally] fit and is [now] profaned.[18] What is meant by, 'and should you desire to object?' — [This:] and should you say, one can refute [it thus]: as for his seed, that is because he is conceived[19] in sin; [therefore] Scripture saith, 'he shall not profane his seed:' this one shall not become profaned, who was [originally] fit and is [now] profaned.

Our Rabbis taught: What is a halalah? One who was born of unfit persons. What is meant by unfit persons? Shall we say, unfit for him?[20] But what of him who takes back his divorced wife,[21] though she is unfit for him, yet her children are fit, as it is written, she is an abomination:[22] 'she is an abomination but her children are no abomination! — Said Rab Judah This is its meaning: What is a halalah? — One who was born of a priestly disqualification.[23] Only one who was born [of such a forbidden union], but not one who was not born [thus]? But what of a widow, a divorced woman or a zonah,[24] who were not born [thus], and yet [each] is a halalah.[25] — Said Rabbah, This is its meaning: Who is the halalah mentioned, that never enjoyed a period of eligibility? She who was born of a priestly disqualification. What is the meaning of 'mentioned?' — Said R. Isaac b. Abin: This is its meaning: Who is the halalah primarily [disqualified] by the words of the Torah, and who needs no Rabbinical definition?[26] One who was born of a priestly disqualification.

Our Rabbis taught [If a High Priest has intercourse with] a widow, a widow, a widow,[27] he incurs only one penalty.[28] [If a priest has intercourse with] a divorced woman, a divorced woman, a divorced woman, he incurs only one penalty. [If he has intercourse with] a widow, a divorced and profane woman, and a harlot [zonah],[29] if they [these disqualifications] are in this order,[30] he [the High Priest] is liable [for each intercourse]. But if she [first] committed harlotry,[31] was then profaned,[32] subsequently divorced, and finally widowed, he incurs only one penalty. The Master said: '[If a High Priest has intercourse with] a widow, a widow, a widow, he incurs only one penalty.' How is this widow meant? Shall we say that he has intercourse with Reuben's widow, with Simeon's widow, and with Levi's widow, why does he incur only one penalty?

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(1) I.e., the daughter of a halal, or of the son or grandson of a halal, and of his male descendants for all generations, cannot marry a priest.

(2) This is implicit in the first statement.

(3) Lit., 'from Israel.'

(4) So the text as amended; cur. ed. Simeon.

(5) Lev. XXI, 15.

(6) Ibid. 4.

(7) Only males are forbidden to defile themselves through the dead.

(8) I.e., only the males are disqualified by a forbidden priestly marriage, but not the females; hence the daughters of the former are unfit for the priesthood, but not of the latter.

(9) Hence the gezerah shawah merely shews that the female offsprings of his female descendants are permitted, but not his own daughters.

(10) By the same reasoning.

(11) For the sake of parallelism.

(12) That their issue is eligible for the priesthood, v. supra p. 321. n. 3.

(13) I.e., only when he and his wife are of 'one people,' i.e., both halalim (profaned) is his seed halel too: but if his wife is of a different people, i.e., not a halalah, his seed is not halal either.

(14) That she is forbidden to a priest, after his death.

(15) [A priest who marries a woman forbidden to him is not disqualified from the priesthood, v. Bek. 45b and Git. 36b.]

(16) Even if he cohabits with a bondmaid or a harlot, he is not degraded from the priesthood.

(17) If a woman cohabits with a Cuthean, halal, etc., she is disqualified from the priesthood; supra 74b.

(18) Rashi: 'he shall not profane' is primarily applicable to the profaning of a person who was hitherto fit, viz., his wife. But, his seed is born profaned; hence, though the seed is mentioned in the verse too, the verb nevertheless relates to his wife.

(19) Lit., 'formed'.

(20) I.e., even if an Israelite marries a woman interdicted to him particularly (excluding a mamzereth, who is forbidden to all), the issue is halal.

(21) After she married another.

(22) Deut. XXIV, 4.

(23) I.e., of a person disqualified to marry a priest.

(24) V. Glos.

(25) When she marries a priest, or in the case of a widow, when she marries a High Priest.

(26) Lit., 'by the words of the soferim': v. p. 79, n. 7. — I.e., when Scripture says: They shall not take a woman that is profaned (halalah). (Lev. XXI, 7), it presupposes a recognised definition of halalah, even before the Rabbis extended its scope by their exegesis.

(27) To be explained anon.

(28) Viz., flagellation, the penalty for transgressing a negative injunction.

(29) The verse is quoted direct from Lev. XXI, 14, and the translation is accordingly that of the E.V.

(30) Thus: a widow remarried and was divorced; then she married a priest, whereby she was profaned; after this, e.g., she committed incest, thus becoming a zonah.

(31) Becoming a zonah.

(32) By marrying a priest.

Talmud - Mas. Kiddushin 77b

Behold, they are separate persons and separate names! Again, if he has intercourse three times with the same widow, what are the circumstances? If he was not warned, it is obvious that he incurs only one penalty.[1] But if he was warned for each, why does he incur only one penalty? Did we not learn: If a nazir[2] drinks wine all day, he incurs only one penalty; if he is admonished, 'Do not drink,' 'do not drink,'[3] and he drinks, he is liable for each! — This arises only if he has intercourse with Reuben's widow, who was Simeon's widow who had been Levi's widow: I might think, Behold, they are separate names! We are therefore told that we require separate persons,[4] which is absent.

[If he has intercourse with] a widow, a divorced and profane woman, and a harlot. What is this Tanna's opinion? If he holds, one prohibition can fall on another,[5] then it is the reverse too.[6] Whilst if he holds, one prohibition cannot fall on another, it is not so even in this order![7] — Said Raba: This Tanna does not hold that one prohibition can fall upon another, but he does accept [the validity of] a prohibition of wider scope.[8] [Thus:] a widow is interdicted to a High Priest, but permitted to an ordinary priest; when she becomes divorced, since a prohibition is added in respect of an ordinary priest, it is added in respect of a High Priest; yet she is still permitted to partake of terumah. When she becomes profane, since a prohibition of eating terumah is added, a prohibition is added in respect of a High Priest. But what wider prohibition is there on account of zonah?[9] — Said R. Hama son of R. Kattina: Because the designation of harlotry [zenuth] disqualifies in the case of an Israelite.[10]

A Tanna recited before R. Shesheth: Whoever is included in [a virgin of his own people] shall he take [to wife],[11] is included in '[a widow, etc.,] he shall not take'; but whoever is not included in, 'shall he take,' is not included in, 'he shall not take':[12] this excludes a High Priest who marries his sister, a widow.[13] Said he to him: He who told you this, on whose authority is it? R. Simeon's, who maintains that one prohibition cannot fall upon another. For it was taught if one eats nebelah[14] on the Day of Atonement, he is exempt.[15] For if according to the Rabbis, — surely they maintain that one prohibition falls upon another. [He replied:] You may even say [that it agrees with] the Rabbis: When do the Rabbis maintain that one prohibition can fall upon another? Only a stringent prohibition upon a lighter one,[16] but a light prohibition cannot fall upon a more stringent one.[17]

Others state: This agrees with the Rabbis, who maintain, One prohibition can fall upon another; but when do they rule thus? Only that a more stringent prohibition [can fall] upon a lighter one; but a light one cannot fall upon a more stringent one. For if it is R. Simeon: seeing that a stringent prohibition cannot fall upon a light one, need a light prohibition upon a more stringent be stated? — I might think that a prohibition in connection with priesthood is different;[18] hence we are informed [that it is not so].[19]

R. Papa said to Abaye: When an Israelite has intercourse with his sister, he [certainly] renders her a zonah,' [but] does he render her a halalah [too] or not?[20] Do We says [it follows] a minori: if one becomes a halalah by those who are forbidden to her by [only] negative injunctions, how much more so by those who are forbidden on pain of kareth. Or perhaps, a halalah results from a priestly interdict only? — He answered: A halalah results from a priestly interdict only.

Rab said: How do we know this ruling[21] stated by the Rabbis [that] a halalah is only from a priestly interdict? Because it was taught: Let a divorced woman not be stated in reference to a High Priest, and it could be inferred a minori from an ordinary priest; for I would argue, If she is forbidden to an ordinary priest, can there be a question of[22] a High Priest? Why then is it stated? [To teach,] Just as a divorced woman is distinct from zonah and halalah in respect of an ordinary priest,[23] so is she distinct in reference to a High Priest. [But] that is obvious: is it [the sanctity of a High Priest] in any way diminished?[24] But [it is rather to teach] just as a divorced woman is distinct from zonah and a halalah in respect of an ordinary priest,[23] so is a widow distinct from a divorced woman, a halalah and a zonah in respect of a High Priest.[25] Why is halalah stated?[26] [To shew that] halalah results from a priestly interdict only.[27] Why is zonah stated?[26] — Zonah is stated here;[28] and it is also stated there:[29] just as here, his seed is profaned,[30] so there too, his seed is profaned.

Said R. Ashi: Therefore if a priest has intercourse with his sister,

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(1) A penalty was not imposed unless the transgression was preceded by a warning as to implications of the offence. ‘Not warned’ means not warned for each intercourse separately.

(2) V. Glos.

(3) Before each time he drinks.

(4) For separate punishments.

(5) A thing, being forbidden on one score, can also be forbidden on another, so that two prohibitions are violated. Thus here, though she is forbidden as a divorced woman, the interdict of a harlot is also operative, if she becomes one after her divorce.

(6) Even if this order is not followed; v. 396 n. 9.

(7) No separate penalty is incurred for each.

(8) איסור מוסיף . I.e., which applies to more people. Then it can fall upon another prohibition even in respect of the person to whom the first also applies. For a fuller discussion of the various types of prohibitions, v. Shebu. (Sonc. ed.) p. 127. n. 1.

(9) What is now prohibited which was not before?

(10) If the wife of an Israelite commits adultery, he may not live with her. Thus, though in the case under discussion the prohibition of a zonah adds nothing, an extra penalty is incurred because harlotry in general is a wider prohibition.

(11) Lev. XXI, 14.

(12) I.e., the High Priest transgresses the latter only on account of a woman who would be permitted to him if she were a virgin.

(13) He is not liable because she is a widow, but because she is a sister.

(14) V. Glos.

(15) From kareth, the penalty for eating on the Day of Atonement. For nebelah is already forbidden by a negative injunction, and so the interdict of the Day of Atonement remains inoperative.

(16) E.g., the prohibition of eating on the Day of Atonement is more stringent than that of eating nebelah.

(17) The interdict against one's sister is graver than that of widow to a High Priest.

(18) Because Scripture imposed many additional injunctions upon priests from which others are free.

(19) Consequently the author may be R. Simeon, after all.

(20) So that the priest who has intercourse with her is flagellated separately on each score.

(21) Lit., ‘thing’.

(22) Lit., ‘is it necessary for?’

(23) If a divorced woman is also a zonah, the priest is doubly punished.

(24) Surely it is not less than that of an ordinary priest!

(25) If a widow is also one or all of these, he is punished on each score.

(26) In reference to a High Priest, seeing that she is prohibited to the ordinary priest.

(27) Because 'halalah' is superfluous. Rashi observes: this may be deduced from the Scriptural order, which places 'halalah' after 'divorced woman' and 'widow' who are forbidden to priests only, but not after zonah, a type of prohibition forbidden also to an Israelite, v. supra p. 398, n. 2, which shews that halalah results from an interdict confined to priests.

(28) Viz., in respect of a High Priest.

(29) In respect of an ordinary priest.

(30) As it is written, he shall not profane his seed.

Talmud - Mas. Kiddushin 78a

he renders her zonah, not halalah. But if he again has intercourse with her, he renders her halalah.[1]

Rab Judah said: If a High Priest [has intercourse] with a widow, he is flagellated twice, once on account of, he shall not take,[2] and again on account of, he shall not profane.[3] Then let him be flagellated on account of, 'he shall not profane his seed'? — This means, if he does not consummate the intercourse.[4] Raba raised an objection: [If a High Priest has intercourse with] a widow and divorced woman,[5] he is flagellated on account of two injunctions.[6] Surely that means, two injunctions and no more? — No: two injunctions for the one, and two for the other.[7] If so, consider the second clause: [For] a divorced woman and haluzah[8] he is liable only on account of one? — This is its meaning: he is liable only on account of one [designation], yet after all, for two injunctions. Now, is a haluzah [forbidden only] by Rabbinical law?[9] Surely it was taught: [They shall not take a woman that is a harlot. . . and a woman] that is divorced.[10] I know it only of a divorced woman: how do I know it of a haluzah? Because it is said: 'and a woman'.[11] — It is Rabbinical, and the verse is a mere support.[12]

Abaye said: When he[13] betroths,[14] he is flagellated; [and] when he cohabits, he is flagellated. When he betroths he is flagellated on account of, 'he shall not take';[15] when he cohabits he is flagellated on account of, 'he shall not profane'.[16] Raba said: if he cohabits, he is flagellated;[17] if he does not cohabit, he is not flagellated [at all], because it is written, he shall not take . . . and he shall not profane: why must he not take? In order that he shall not profane.[18] And Abaye admits in the case of one who remarries his divorced wife,[19] that if he betroths but does not cohabit, he is not flagellated: the Divine Law saith, [he may not] take her again to be his wife,[20] which is absent here. And Raba admits in respect to a High Priest with a widow, that if he cohabits without betrothing, he is flagellated: the Divine Law saith, 'and he shall not profane his seed among his people', whereas he has profaned [it]. And both admit in the case of one who takes back his divorced wife, that if he cohabits without betrothal, he is not flagellated: The Torah forbade it by way of marriage.[21]

R. JUDAH SAID: THE DAUGHTER OF A MALE PROSELYTE IS LIKE THE DAUGHTER OF A HALAL. It was taught: R. Judah said: The daughter of a male proselyte is like the daughter of a male halal. And logic proves[22] it. If a halal, who [though he] comes from a fit origin,[23] [yet] his daughter is unfit;[24] then a proselyte, who comes from an unfit origin, his daughter is surely unfit! As for a halal, [it may be argued,] that is because his own formation is in sin![25] Then let [the union of] a High Priest with a widow prove it, for his formation was not in sin, yet his daughter is unfit.[26] As for a High Priest and a widow, that is because his cohabitation was in sin! Then let a halal prove it.[27] And so the argument revolves: the distinguishing feature of one is not that of the other; the feature common to both is that they are not as the majority of the community; so also do I adduce the proselyte, who is not as the majority of the community, and his daughter is unfit! [No:] what is the feature common to both? That they have an element[28] of sin![29] — Do not say, let [the union of] a High Priest with a widow prove it, but say: let a [converted] Egyptian of the first generation prove it.[30] As for a [converted] Egyptian of the first generation, that is because he is ineligible to enter into the assembly [at all]! Then let a halal prove it. And so the argument revolves, the distinguishing feature of one not being that of the other. The feature common to both is that they are not as the majority of the congregation and their daughter is unfit. So do I also adduce a proselyte, who is not as the majority of the community, and his daughter is unfit! [No:] As for the feature common to both, it is that they disqualify[31] by their intercourse. And R. Judah?[32] — A proselyte too disqualifies by his intercourse, and he deduces it by analogy from this very argument.[33]

R. ELIEZER B. JACOB SAID: A PROSELYTE [etc.]. It was taught: R. Simeon b. Yohai said: A female proselyte less than three years and a day is eligible to the priesthood, as it is said: But all the women children . . . keep alive for yourselves;[34] now, was not Phinehas among them?[35] But the Rabbis [interpret]: 'keep them alive for yourselves' as bondmen and bondwomen.

Now, all deduce from the same verse: Neither shall they take for their wives a widow, nor her that is put away [i.e., divorced] but they shall take virgins of the seed of the house of Israel.[36] R. Judah holds: all the seed must be from Israel.[37] R. Eliezer b. Jacob holds: 'of the seed' [implies] even part of the seed.[38] R. Jose holds: whoever was conceived[39] in Israel.[40] R. Simeon b. Yohai holds: [It means] one whose virginity matured[41] in Israel.[42]

R. Nahman said to Raba:

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(1) [Since as a result of the first intercourse she becomes forbidden to him also as zonah of the type which is interdicted only to priests.]

(2) Lev. XXI, 14.

(3) As explained on p. 395, n. 7, this refers primarily to the interdicted woman; hence he is punished for profaning her in violation of the negative injunction.

(4) So that there is no issue.

(5) The same woman being both.

(6) Lit., 'designations' (of negative precepts). Although one woman, she is forbidden by two separate injunctions, and he is punished for each.

(7) He is punished twice, as stated above, on account of her widowhood, and twice because she is divorced.

(8) Who is the same person.

(9) Since you say that he is flagellated only on account of one, viz., a divorced woman.

(10) Ibid. 7.

(11) 'And a woman' is superfluous, and its purpose is to include a haluzah. This shews that the interdict of her is Scriptural.

(12) But not the actual source of the law.

(13) A High Priest or an ordinary priest.

(14) An interdicted woman.

(15) 'To take' implies formal betrothal.

(16) V. p. 400, n. 5.

(17) Twice, as Abaye.

(18) Hence the first is dependent upon the second.

(19) After she married another. This does not refer particularly to a priest.

(20) Deut. XXIV, 4; i.e., 'not take' (sc. betrothal) is transgressed only when the marriage is consummated and she becomes his wife.

(21) Lit., 'taking'. [MS.M. adds: And both agree in the case of him who takes his haluzah (v. Glos.) that if he betroths and has no intercourse, he is not flagellated, for the Torah has prohibited it by way of, 'building up of a house', referring to Deut. XXV, 9.]

(22) Lit., 'gives'.

(23) I.e., his father is a Jew.

(24) For the priesthood.

(25) Being the issue of a forbidden union.

(26) As supra, 77a.

(27) When he marries and cohabits with the daughter of a Levite or an Israelite, there is no sin, and yet the halal's daughter is unfit.

(28) Lit., 'side'.

(29) The union of a High Priest and a widow, and the birth of a halal, are all attended by sin. But that is not true of a proselyte.

(30) There is no element of sin, yet his daughter is unfit, for only the third generation may marry with Jews.

(31) A Jewess from the priesthood; supra 74b.

(32) How does he answer this?

(33) If the daughter of a halal who comes from a fit origin is unfit, how much more should the daughter of a proselyte who is of an unfit origin be unfit?

(34) Num. XXXI, 18; it refers to the war captives.

(35) And though he was a priest, these children were permitted in marriage.

(36) Ezek. XLIV, 22. The reference is to priests.

(37) Which excludes the daughter of a proselyte.

(38) Even if one side only is of Jewish birth, the daughter is fit.

(39) Lit., 'sown'.

(40) Therefore even if both father and mother are converts, the daughter is fit, since she was conceived in Israel.

(41) Lit., was sown'.

(42) I.e., who becomes converted before three years and a day. At that day her virginity is mature, in that if destroyed it does not return.

Talmud - Mas. Kiddushin 78b

This verse, the first part refers to a High Priest and the second to an ordinary priest?[1] — Yes, he replied. And is a verse thus written? — Even so, he replied, for it is written, and the lamp of God was not yet gone out, and Samuel was laid down [to sleep] in the Temple of the Lord.[2] But sitting was [permitted] in the Temple only to the Kings of the Davidic dynasty?[3] Hence [it must mean:] and the lamp of God was not yet gone out in the Temple of the Lord, and Samuel was laid down in his place.[4]

And a widow that is the widow of a priest they shall take.[5] Only of a priest, but not of an Israelite? — This is the meaning of 'of a priest they shall take:' those of the other priests[6] may take. It was taught likewise: . . . of a priest they shall take': [i.e.,] those of the other priests may take. R. Judah interpreted: of those who can give [their daughters] in marriage to the priesthood they may take.[7] R. Judah is in harmony with his view, for he said: THE DAUGHTER OF A MALE PROSELYTE IS AS THE DAUGHTER OF A MALE HALAL: when you may marry his daughter, you may marry his widow; and when you may not marry his daughter, you may not marry his widow.[8] R. JOSE SAID: ALSO IF A MALE PROSELYTE MARRIES A FEMALE PROSELYTE. R. Hamnuna said on 'Ulla's authority: The halachah is as R. Jose. And Rabbah b. Bar Hanah said likewise: The halachah is as R. Jose; but since the day that the Temple was destroyed, the priests have insisted on[9] a superior status, in accordance with R. Eliezer b. Jacob.[10] R. Nahman said: Huna told me: If he [a priest] comes to take counsel, we give him a ruling in accordance with R. Eliezer b. Jacob; but if he marries,[11] we do not compel him to divorce her,[12] in accordance with R. Jose.

MISHNAH. IF A MAN DECLAREs, 'THIS SON OF MINE IS A MAMZER,' HE IS DISBELIEVED. AND EVEN IF BOTH [THE HUSBAND AND WIFE] ADMIT THAT THE CHILD WITHIN HER IS MAMZER,[13] THEY ARE DISBELIEVED. R. JUDAH SAID: THEY ARE BELIEVED.

GEMARA. Why [state], EVEN IF BOTH [etc.]?[14] — He leads to a climax.[15] It goes without saying that he [the father], who cannot be certain thereof[16] [is disbelieved]; but even she [the mother], who is certain, is [also] disbelieved. And it goes without saying that they are disbelieved where he [the child] enjoys the presumption of fitness; but even [in the case of] an embryo, who does not enjoy the presumption of fitness, they are [still] disbelieved.

R. JUDAH SAID: THEY ARE BELIEVED. As it was taught: He shall acknowledge [the firstborn]:[17] [i.e.,] he shall acknowledge him before others. Hence R. Judah said: A man is believed when he says: ‘This son is my first born.’ And just as he is believed when he says: ‘This son is my firstborn,’ so is he also believed when he says, ‘This is the son of a divorced woman’; ‘this is the son of a haluzah.’ But the Sages say: He is not believed.[18]

R. Nahman b. Isaac asked Raba: As for R. Judah, it is well: for that reason it is written: ‘he shall acknowledge’. But on the view of the Rabbis, what is the purpose of, ‘he shall acknowledge’? — Where acknowledgment is necessary.[19] In respect of what [is he believed]? to give him a double portion?[20] That is obvious, and what is the need of a verse; for if he desired to make him a gift, could he not do so? — This refers to property which he [the father] inherits [only] subsequently.[21] But according to R. Meir, who maintained: One can transmit property that is non-existent, what is the purpose of ‘he shall acknowledge’? — Where he inherits it while he was dying.[22]

MISHNAH. IF A MAN AUTHORIZES HIS AGENT TO GIVE HIS DAUGHTER IN BETROTHAL,[23] AND THEN HE HIMSELF GOES AND GIVES HER IN BETROTHAL TO ANOTHER, IF THE [BETROTHAL] BY HIM WAS FIRST, HIS BETROTHAL IS VALID; IF THE AGENT'S WAS FIRST, THE LATTER'S BETROTHAL IS VALID. BUT IF IT IS UNKNOWN,

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(1) For the first half prohibits marriage to a widow, while the second half ‘and a widow that is a widow of a priest they shall take’ permits it.

(2) I Sam. III, 3.

(3) And the same applies. of course, to lying.

(4) The sense of the verse is to be divided though the text itself does not indicate this.

(5) Ezek. XLIV, 22.

(6) I.e., but not a High Priest, of whom the first half of the verse speaks. Thus of (n) is understood as a partitive preposition.

(7) I.e., they may take the widow of a man whose daughter was fit for the priesthood, thus excluding the widow of a proselyte.

(8) V. supra 75a.

(9) Lit., ‘practised’.

(10) Perhaps because the fall of the Temple robbed them of their higher dignity in respect to the sacrificial service, they found it necessary to safeguard it in other ways.

(11) The daughter of proselytes.

(12) Lit., ‘we do not withdraw her from his hand.’

(13) That it was conceived in adultery.

(14) This appears to add nothing to the first clause.

(15) Lit., ‘he states: "it is unnecessary (to teach this)’.

(16) The child's paternity.

(17) Deut. XXI, 17.

(18) V. supra 74a.

(19) E.g., if the son was overseas and his status unknown.

(20) Deut. XXI, 17,

(21) Lit., ‘which falls to him afterwards’, i.e., after declaring that this is his firstborn. — Now, when he declares thus, he cannot gift this legacy, which, as far as he is concerned, is non-existent; and yet he is believed in respect of a double portion for the son recognised by him as his firstborn.

(22) Though he could not make a gift just then, his previous recognition is valid. Tosaf. observes that a dying man's gift is valid, but that he is physically unable to make one. For fuller notes v. B.B. (Sonc. ed.) pp. 530ff

(23) I.e., accept kiddushin on her behalf.

Talmud - Mas. Kiddushin 79a

BOTH MUST GIVE HER A DIVORCE;[1] BUT IF THEY WISH, ONE GIVES A DIVORCE, AND THE OTHER MARRIES HER. LIKEWISE, IF A WOMAN AUTHORIZES HER AGENT TO GIVE HER IN BETROTHAL, AND SHE GOES AND BETROTHS HERSELF [TO ANOTHER]: IF HER OWN PRECEDED, HER BETROTHAL IS VALID; IF HER AGENT'S PRECEDED, HIS BETROTHAL IS VALID. AND IF THEY DO NOT KNOW, BOTH MUST GIVE HER A DIVORCE; BUT IF THEY WISH, ONE GIVES A DIVORCE AND THE OTHER MARRIES HER. GEMARA. And [both] are necessary. For if we were told [this] of him [the father], that is because a man is well-informed in matters of genealogy;[2] but as for a woman, who is not well-informed in matters of genealogy, I would say that her kiddushin is invalid.[3] And if we were told this of her, that is because a woman carefully investigates and [then] marries; but as for him [her father], I might argue that he does not care.[4] Thus they are necessary.

It was stated: If her father gives her in betrothal on the road, and she betroths herself in the town [to another], and she is now a bogereth,[5] Rab said: Behold, she stands[6] a bogereth before us![7] Samuel said: We regard[8] the kiddushin by both.[9] When [did the betrothals take place]? Shall we say, within the six [months],[10] — can Rab say in this case, ‘Behold, she stands a bogereth before us’ — surely she has only now become a bogereth![11] But if after six months, — can Samuel say in this case, ‘We regard the kiddushin by both’ — surely Samuel said: Between the states of na'arah and bogereth there is only six months! This arises only if the betrothal took place on the day that completed the six [months]: Rab said: ‘Behold she stands a boger'eth before us’ — since she is now a bogereth, [we assume] she was a bogereth in the morning too. But Samuel maintains, she may have brought the ‘evidences’ [of bogereth][12] only just now.

Now, according to Samuel, wherein does it differ from mikweh?[13] For we learnt: If a mikweh is measured and found to be deficient:[14] all acts of purification which have heretofore been effected through it, whether in private or in public ground, are unclean![15] — There it is different, because we can argue, Let the unclean person [or thing] stand in his presumptive status,[16] and say that he did not perform tebillah.[17] On the contrary, let the mikweh stand in its presumptive status,[18] and say that it was not deficient?[19] — But it is deficient before you! Then here too, she stands a bogereth before you! — She has [only] just now matured. Then there too, [let us say, only] just now has it become deficient? — There, there are two unfavourable conditions;[20] here, there is [only] one.[21]

Again, according to Samuel, wherein does it differ from ‘barrel’? For it was taught: If one was wont to examine a barrel [of wine][22] in order continually to separate [terumah for other barrels] in reliance thereon,[23] and then it was found to be acid:[24] for full three days it is certain; there after it is doubtful.[25] Now, we opposed ‘barrel’ to ‘mikweh’: why is the latter certain and the former doubt — ful?[26] And R. Hanina of Sura answered: Who is the authority of [the Baraitha about the] ‘barrel’? R. Simeon, who also in the case of the mikweh makes it doubtful. For it was taught: All acts of purification which have been heretofore effected through it, whether in private or in public ground, are unclean. R. Simeon ruled: In public ground, they are clean; in private ground, they are in suspense.[27] But in the view of the Rabbis it is retrospectively tebel![28] — There it is different, because one can say: ‘Let the tebel stand in its presumptive status and say that it was not made fit.’ On the contrary, let the wine stand in its presumptive status and say that it had not turned acid? — But lo! it is acid before you. Then here too, she stands a bogereth before you? — She has [only] just now become a bogereth. Then here too [let us say,] ‘It has [only] just now turned acid’? — There, there are two unfavourable conditions;[29] but here there is only one.[30]

Shall we say: It is a dispute of Tannaim?

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(1) If she desires to marry a third.
(2) Therefore when he gives her in betrothal, he is sure of his son-in-law's lineage and cancels his agent's authority.
(3) For when she accepts betrothal for herself she may feel uncertain of the man's birth, and therefore tacitly implies that if her agent betroths her to one of purer descent her own act shall be null.
(4) He is not so anxious for a pure match. Hence he did not cancel his agent's authority, but gave her in betrothal himself provisionally, in case his agent would not succeed in securing her betrothal.
(5) She is found on the same day to be a bogereth, over whom her father has no authority.
(6) Lit., ‘is’.
(7) Hence the kiddushin by her is certainly invalid.
(8) Lit., ‘fear’.
(9) V. p. 47, n. 10.
(10) That generally elapse between the state of a na'arah and that of a bogereth.
(11) But she must have been a na'arah when the betrothals took place.
(12) V. Nid. 47a.
(13) V. Glos.
(14) In water; a mikweh, to be ritually fit, must contain not less than forty se'ahs.
(15) If a doubt of uncleanness arises in private ground, the object in doubt is declared unclean; in public ground, it is clean, v. Sot. 28b. Here, wherever it is, the objects are unclean. This proves that we do not regard it as a matter of doubt, but assume that since the mikweh is deficient now, it was so before too. Then, by analogy, why not assume that since the woman is a bogereth now, she was one from the beginning of the day?
(16) Of uncleanness.
(17) Being in doubt, we have recourse to the status quo.
(18) Which is that it contains the full quantity.
(19) When immersion was performed.
(20) The person's presumptive uncleanness and the present deficiency of the mikweh.
(21) Viz., her present maturity. But on this day, which completes the six months between the na'arah and the bogereth states, she has no presumptive status for either, since it is the day of change.
(22) Every now and then, to see whether it had turned acid.
(23) By declaring, ‘Let a certain quantity of wine in this barrel be terumah for another.’
(24) This Tanna regards wine and acid as two different commodities, and one cannot be terumah for the other.
(25) The meaning is disputed in B.B. 96a, two views being stated, (i) For the first three days after the last examination before the present one it was certainly wine, and any separation made then is valid. Afterwards it is doubtful; hence on the one hand, another separation must be made; on the other, what was already separated is forbidden to a lay Israelite, as it may still have been wine, (ii) For three days before this present examination it was certainly acid, and any separation made then is invalid. But before that it is doubtful, as explained in (i); for fuller notes v. B.B. (Sonc. ed.) p. 399.
(26) The mikweh is held to have been certainly deficient (v. p. 407, n. 1) hitherto, but we recognise a period of doubt for the barrel, as explained in the preceding note.
(27) I.e., doubtful.
(28) V. Glos. sc. the wine for which terumah was separated from this barrel hitherto. This contradicts Samuel, as before.
(29) (i) The presumptive status of the tebel; and (ii) its present acidity.
(30) V. p. 407, n. 7.

Talmud - Mas. Kiddushin 79b

[For it was taught:] Who can collect from whom? He can collect from them without proof, but they cannot collect from him without proof: this is R. Jacob's view. R. Nathan said: If he is well, he must produce proof that he was sick; and if he is sick, they must produce proof that he was well.[1] Shall we say that Rab rules in accordance with R. Nathan;[2] while Samuel agrees with R. Jacob?[3] — Rab can tell you: I agree[4] even with R. Jacob. R. Jacob rules thus only there, since one can say: ‘Let the money stand in its presumptive owner — ship’; but here, can we say: ‘Let the body stand in its presumptive state’?[5] And Samuel can say: I agree even with R. Nathan: R. Nathan rules thus only there, since people in general are presumed to be well; [hence] he who withdraws himself from the generality must bring proof. But here, does she then withdraw herself from a previous presumptive status?[6]

Shall we say that it is a dispute of these Tannaim: [For it was taught:] If her father gives her in betrothal on the road, while she betroths herself in the town, and she is a bogereth:[7] one [Baraitha] taught: Behold, she stands a bogereth before us; and another taught: We fear [the validity of] the kiddushin of both. Surely one agrees with Rab, and the other with Samuel? — No. Both agree with Samuel: here she repudiates him [her father];[8] there she does not.[9] Then let us say, since the Baraithas do not differ, the amoraim too do not differ?[10] — Now, is that reasonable; surely R. Joseph son of R. Menasia of Dabil[11] gave a practical ruling in accordance with Rab, whereupon Samuel was offended and exclaimed: 'For everyone [wisdom] is meted out in a small measure, but for this scholar it was meted out in a large measure!'[12] Now, should you think that they do not differ, why was he offended? — Perhaps he gave his ruling where she repudiated him [her father].

Mar Zutra said to R. Ashi: Thus did Amemar say: The law is as Samuel; but R. Ashi said: The law agrees with Rab. And [the final ruling is:] The law is as Rab.

MISHNAH. IF A MAN EMIGRATED OVERSEAS TOGETHER WITH HIS WIFE, AND THEN HE, HIS WIFE, AND HIS CHILDREN RETURNED,[13] AND HE DECLARED, 'BEHOLD, THIS IS THE WOMAN WHO EMIGRATED WITH ME OVERSEAS, AND THESE ARE HER CHILDREN', HE NEED NOT BRING PROOF IN RESPECT OF THE WOMAN OR OF THE CHILDREN.[14] [IF HE DECLARES.] SHE DIED [ABROAD] AND THESE ARE HER CHILDREN,' HE MUST BRING PROOF OF THE CHILDREN, BUT NOT OF THE WOMAN.[15] [IF HE SAID,] 'I MARRIED A WOMAN OVERSEAS, AND BEHOLD, THIS IS SHE, AND THESE ARE HER CHILDREN: HE MUST BRING PROOF OF THE WOMAN,[16] BUT NOT OF THE CHILDREN.[17] [IF HE SAID,] 'SHE DIED, AND THESE ARE HER CHILDREN: HE MUST BRING PROOF OF THE WOMAN AND OF THE CHILDREN.

GEMARA. Rabbah son of R. Huna said: And in all cases it means that they cling to her.[18]

Our Rabbis taught: [If a man declares,] 'I married a woman overseas, he must bring proof about the woman, but not about the children; he must bring proof about the adults, but not about the minors.[19] Now, when is this said? In the case of one wife. But in the case of two wives,[20] he must bring proof about the woman and about the children whether adults or minors.[21]

Resh Lakish said:

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(1) If a man dangerously ill writes off all his property, without leaving anything for himself, it is an implied condition that the gift shall be valid only if he dies; should he recover, the deed is null, though no stipulation was made. If a man in good health indites such a conveyance, it is valid. The dispute here refers to a case where a man, now well, pleads that the deed was written when he was sick, while the beneficiaries deny it; v. B.B. 153b.

(2) That the present state is also assumed to be the former state, unless the contrary is proved.

(3) That the present does not prove the past.

(4) Lit., 'say'.

(5) The body has none, since it is liable to natural change.

(6) Surely not, since it is natural for her to change on that day.

(7) As on p. 407, n. 7.

(8) Maintaining that she was a bogereth when he accepted kiddushin on her behalf; then only her own betrothal is valid.

(9) Then the kiddushin of both is regarded.

(10) Rab referring to the former case, Samuel to the latter.

(11) There is a Dabil in Armenia, with which this may be identical. On Jews in Armenia v. Obermeyer, p. 296. n. 4.

(12) He is so sure of his superior knowledge that he disregards betrothal by her father, though it may have been valid.

(13) He was childless when he emigrated.

(14) That the former is of pure birth, since her pedigree was already investigated when he married her, as supra 76a, or that the latter are her children (Rashi). Tosaf.: He need not prove that the children are both his and hers.

(15) Rashi: he must prove that the children are of that woman, but not that she was of good birth.

(16) That she is of good birth.

(17) That they are from this woman.

(18) The children are minors, who cling to this woman. Then her motherhood does not require proof.

(19) Who cling to her.

(20) He affirms that he married two wives, of whom one died, while these are the children of the survivor.

(21) The clinging of the young children does not prove her parentage, since she may be their foster-mother.

Talmud - Mas. Kiddushin 80a

This was taught only in respect of Sanctities of the border,[1] but not in respect of genealogy.[2] But R. Johanan maintained: Even in respect of genealogy. Now, R. Johanan is in accord with his view [elsewhere]. For R. Hiyya b. Abba said in R. Johanan's name: We flagellate on the strength of presumption, we stone and burn on the strength of presumption, but we do not burn terumah on the strength of presumption. We flagellate on the strength of presumption, as Rab Judah. For Rab Judah said: If a woman was presumed a niddah by her neighbours, her husband is flagellated on her account as a niddah.[3] We stone and burn on the strength of presumption, as Rabbah son of R. Huna. For Rabbah son of R. Huna said: If a man, woman, boy and girl lived[4] in a house [together],[5] they are stoned and burnt on each other's account.[6] R. Simeon b. Pazzi said in R. Joshua b. Levi's name on Bar Kappara's authority: It once happened that a woman came to Jerusalem carrying an infant on her back; she brought him up and he had intercourse with her, whereupon they were brought before Beth din and stoned. Not because he was definitely her son, but because he clung to her.

But we do not burn terumah on the strength of presumption. For R. Simeon b. Lakish said: We burn [terumah] on the strength of presumption; whereas R. Johanan maintained, we do not. Now, they are in accord with their opinions. For we learnt: If a child is found at the side of a dough, and there is dough in his hand, R. Meir declares it clean; the Sages declare it unclean, because it is a child's nature to dabble.[7] Now, we pondered thereon: What is R. Meir's reason? [And the answer was:] He holds, most children dabble, yet there is a minority who do not, while the dough stands in the presumption of cleanness:[8] hence combine the minority with the presumption, and the majority is weakened. But the Rabbis [argue]: the minority is as non-existent:[9] [now, where there are] a majority and a presumption [opposed to each other], the majority is stronger.[10] Said Resh Lakish on R. Oshaia's authority: That is the presumption[11] on the strength of which terumah is burnt:[12] R. Johanan maintained: This is not the presumption on the strength of which terumah is burnt.[13]

Then on account of which presumption is terumah burnt, in R. Johanan's opinion?[14] — As it was taught: If there is a dough in a house wherein reptiles and frogs breed,[15] and pieces are found in the dough:[16] if they are mostly reptiles, it is unclean; if mostly frogs, it is clean.[17]

It was taught in accordance with R. Johanan: Two things lack the intelligence to be questioned, yet the Sages accounted them as though they possess it:[18] a child, and another. A child, as stated.[19] And another: what is it? — If there is dough in a house which contains fowls and unclean fluid, and holes are found

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(1) ‘Border’ (gebul) is the technical term for Palestine outside Jerusalem. ‘Sanctities of the border’ are terumah, i.e., sacred food which may be consumed outside the Temple and Jerusalem. — If the man is a priest, we rely upon the fact that the children cling to this woman, who is known to be of good birth, and they may eat terumah.

(2) His daughters may not marry into the priesthood unless he proves that they are of this woman.

(3) V. Glos. If he cohabits with her, though there are no actual witnesses of her menstruation.

(4) Lit., ‘were brought up’.

(5) As husband and wife, son and daughter.

(6) If the son cohabits with his mother, they are stoned; if the daughter with her father, they are burnt. Now, there is no actual proof of their relationship, save the general presumption.

(7) Rashi: the child certainly took the piece from the dough, and since it is his nature to dabble among refuse and unclean things. he is probably unclean (which is regarded as a certainty) and so defiles the dough. Tosaf.: the child is certainly unclean (because women, even when menstruants, fondle children; Tosaf. Toh. III) and the only question is whether he took the dough himself or it was given him. The Rabbis declare the large dough unclean, because it is a child's nature to dabble with food, and so he probably took it himself.

(8) As long as we do not know that it was defiled.

(9) I.e., it is completely disregarded.

(10) The majority argument favours the uncleanness of the dough. whereas its presumptive status is that it is clean.

(11) Sc. that it is a child's nature to dabble.

(12) If the dough is terumah it is burnt.

(13) And when the Sages declare it unclean they mean it must be kept in suspense without burning it. Thus we have here stated the opinions of R. Johanan and Resh Lakish mentioned supra.

(14) The words ‘This is not the presumption etc.’ implies that there is a presumption on account of which terumah is burnt.

(15) Dead reptiles are unclean and defile food; frogs are clean, cf. Lev. XI, 29ff.

(16) Evidently caused by these.

(17) And because of the presumption which is based on a majority of a definite number before us, i.e., the greater number of reptiles, this dough, if terumah is burnt, whereas in the case of the child we have no majority immediately available to go by. v. Hul. 11a.

(18) As stated, on p. 407. n. I, when a doubt of uncleanness arises in private ground, the object in doubt is unclean. That is only if that which causes the defilement has the intelligence to be questioned about it; if not, the object is clean, v. Sot. 28b.

(19) Legally a child lacks understanding; yet since the dough is declared unclean, the child is evidently considered to possess intelligence.

Talmud - Mas. Kiddushin 80b

all over the dough,[1] the matter is in suspense: it may neither be eaten [as clean] nor burnt [as unclean].[2]

R. Joshua b. Levi said: We learnt this only of white [i.e., colourless] liquid; but as for red liquid, had it [the fowl] picked at the dough,[3] it would certainly be known. Yet perhaps the dough absorbed it? — Said R. Johanan: Beribbi[4] heard this thing, but not its explanation [which is this]: We learned this only of clear fluid in which a child's reflection may be seen but not of turbid fluid.[5]

MISHNAH. A MAN MAY NOT BE ALONE WITH TWO WOMEN, BUT ONE WOMAN MAY BE ALONE WITH TWO MEN. R. SIMEON SAID: EVEN ONE MAN MAY BE ALONE WITH TWO WOMEN, IF HIS WIFE IS WITH HIM,[6] AND HE MAY SLEEP WITH THEM IN AN INN, BECAUSE HIS WIFE WATCHES HIM. A MAN MAY BE ALONE WITH HIS MOTHER AND HIS DAUGHTER, AND HE MAY SLEEP WITH THEM IN IMMEDIATE BODILY CONTACT;[7] BUT WHEN THEY GROW UP, SHE MUST SLEEP IN HER GARMENT AND HE IN HIS.

GEMARA. What is the reason? — Tanna debe Eliyahu[8] [states]: Because women are temperamentally light-headed.[9]

How do we know it?[10] Said R. Johanan on the authority of R. Ishmael, Where do we find an allusion to yihud[11] in the Torah? — For it is written: If thy brother, the son of thy mother, entice thee [etc.]:[12] does then only a mother's son entice, and not a father's son? But it is to tell you: a son may be alone with his mother, but not with any other woman interdicted in the Torah. To what does the plain meaning of the verse refer?[13] — Said Abaye, It [Scripture] proceeds to a climax.[14] Thus: It goes without saying [that one should disregard] his father's son, for he may hate him[15] and give him evil counsel. But as for his mother's son, who does not hate him,[16] I might say, let him obey him. Therefore we are told [that it is not so].

Our Mishnah does not agree with Abba Saul. For it was taught: Within the first thirty days [of a child's birth] it may be carried out [for burial] in one's bosom,[17] and buried by one woman and two men,[18] but not by one man and two women. Abba Saul said: Even by one man and two women! — You may even say [that it agrees with] Abba Saul: in the time of grief one's passions are subdued.[19] But the Rabbis hold with R. Isaac, who said: Wherefore doth a living man mourn, a man that is in his sins?[20] even in a man's grief, his lusts prevail against him.[21] And Abba Saul?[22] — That is written with reference to one who complains of His [God's] measures, and this is its meaning: Why should he complain of His dispensation; has he then prevailed over his sin?[23] The life which I gave him is sufficient for him.[24] And the Rabbis?[25] — Even as the story of a certain woman: It once happened that she took him out.[26] BUT ONE WOMAN. Rab Judah said in Rab's name: We learnt this only of respectable persons; but as for profligates, [she may not be alone] even with ten. It once happened that ten men carried her [a married woman] out on a bier.[27] R. Joseph said: The proof is that ten people assemble and steal a joist, yet are not ashamed of each other.

Shall we say that the following supports him: Two scholars were sent with him,[28] lest he has intercourse with her on the way.[29] Thus, Only scholars, but not men in general?[30] — Scholars are different, because they know

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(1) Made by the fowls’ beaks.

(2) If it is terumah. This suspense is because the fowls may have drunk the fluid, and then picked at the dough with the liquid still dripping on their beaks. Since this and the case of the child are bracketed together, it follows that there too the matter is in suspense, which agrees with R. Johanan.

(3) With a dripping beak.

(4) V. p. 101, n. 8. Here referring to R. Joshua b. Levi.

(5) Both refer to coloured liquid. If clear, it soaks in easily, and the dough is therefore unclean. Turbid liquid, however, must leave some traces; hence it is clean.

(6) [Var. lec.: ‘Even one man may be alone with two women; and if his wife is with him he may sleep with them in an inn etc.’]

(7) I.e., a young boy with his mother and a young girl with her father.

(8) This is the name of a Midrash, consisting of two parts, called Seder Eliyahu Rabbah (large) and Seder Eliyahu Zuta (small) respectively.

(9) And even two may yield to temptation.

(10) The interdict against being alone with women.

(11) I.e., the prohibition of being alone with a woman.

(12) Deut. XIII, 6.

(13) R. Johanan's exegesis is obviously not intended to be the plain rendering of the text and does not really dispose of the difficulty.

(14) Lit., ‘it says, it is unnecessary (to state the one).’

(15) Because be reduces his patrimony.

(16) Neither affects the other's heritage.

(17) I.e., without a special form of coffin.

(18) Not more than three are necessary in all.

(19) Lit., ‘broken’.

(20) Lam. III, 39.

(21) Translating the verse: Of what avail is grief (to subdue lust)? As long as man lives, he must strive to conquer his desire for sin.
(22) How does he translate the verse?
(23) Lit., ‘above’.
(24) Even if he suffers. — This is similar to the E.V.
(25) Assuming this interpretation to be correct — and it is certainly nearer to the text — what is their reason?
(26) Rashi: a woman carried out a live child, pretending that he was dead, so that she might satisfy her lust unsuspected. R. Han. explains it otherwise.
(27) As dead: but she was alive, and committed adultery with all.
(28) Lit., were given over to him.’
(29) This refers to a woman charged with adultery, who was tried by the water of bitterness (Num. V, 11-31). Until pronounced innocent she was interdicted to her husband too, and when he took her to Jerusalem for the ordeal two scholars accompanied him.
(30) Which proves that we fear adultery with them.

Talmud - Mas. Kiddushin 81a

to warn him.[1]

Rab Judah said in Rab's name: We learnt this[2] only in town; but on a road, three are necessary, lest one has a call of nature, and so the other is left alone with a forbidden woman. Shall we say that the following supports him: Two scholars were sent with him, lest he has intercourse with her on the way. Two, and he [the husband] himself — that is three? — There it is in order that they may be witnesses against him.[3]

Rab and Rab Judah were walking on a road, and a woman was walking in front of them. Said Rab to Rab Judah, ‘Lift your feet before Gehenna.’[4] ‘But you yourself said that in the case of respectable people it is well,’ he protested. ‘Who says that respectable people mean such as you and I?’ he retorted. ‘Then such as who?’ — E.g., R. Hanina b. Pappi and his companions.’[5]

Rab said: We flagellate on account of privacy, but do not interdict on account of same.[6] R. Ashi said: This was said only of privacy with an unmarried woman, but not with a married woman, lest a stigma be cast upon her children.[7] Mar Zutra punished and proclaimed.[8] R. Nahman of Parahetia[9] said to R. Ashi: You too should punish and proclaim! — Some may hear of the one but not of the other.

Rab said: We flagellate on account of an evil rumour,[10] because it is said. Nay [al], my sons; for it is no good report that I hear.[11] Mar Zutra laid a cord about his shoulders[12] and recited to him, ‘Nay, my sons’.

Rabbah said: If her husband is in town we have no fear on account of privacy. R. Joseph said: If the door opens to the street, we have no fear on account of privacy. R. Bibi visited R. Joseph. Having dined,[13] he said to them [the servants], ‘Remove the ladder from under Bibi.’[14] But Rabbah said: If her husband is in town, we have no fear on account of privacy? — R. Bibi was different, because she was his best friend,[15] and intimate with him.

R. Kahana said: If there are men without [i.e., in the outer chamber] and women within, we have no fear of privacy.[16] If there are men in the inner chamber and women in the outer, we have fear of privacy.[17] In a Baraitha the reverse was taught.[18] Said Abaye: Now that R. Kahana ruled thus, while the Baraitha taught the reverse, let us[19] act stringently. Abaye made a partition of jugs;[20] Raba made a partition of canes.

Abin[21] said: The sorest spot of the year[22] is the festival.[23] Certain [redeemed] captive women came to Nehardea. They were taken to the house of R. Amram the pious, and the ladder was removed from under them.[24] As one passed by,[25] a light fell on the sky lights;[26] [thereupon] R. Amram seized the ladder, which ten men could not raise, and he alone set it up and proceeded to ascend. When he had gone half way up the ladder, he stayed his feet and cried out, ‘A fire at R. Amram's!’ The Rabbis came and reproved him, ‘We have shamed you!’[27] Said he to them: ‘Better that you shame Amram in this world than that you be ashamed of him in the next.’ He then adjured it [the Tempter] to go forth from him, and it issued from him in the shape of a fiery column. Said he to it: ‘See, you are fire and I am flesh, yet I am stronger[28] than you.’[29]

R. Meir used to scoff at transgressors.[30] One day Satan appeared to him in the guise of a woman on the opposite bank of the river. As there was no ferry, he seized the rope[31] and proceeded across. When he had reached half way along the rope, he [Satan] let him go[32] saying: ‘Had they not proclaimed in Heaven, "Take heed of R. Meir and his learning," I would have valued your life[33] at two ma'ahs.’[34]

R. Akiba used to scoff at transgressors. One day Satan appeared to him as a woman on the top of a palm tree. Grasping the tree, he went climbing up: but when he reached half-way up the tree he [Satan] let him go, saying: ‘Had they not proclaimed in Heaven, "Take heed of R. Akiba and his learning," I would have valued your life at two ma'ahs.’

Pelimo used to say every day, ‘An arrow in Satan's eyes!’[35] One day — it was the eve of the Day of Atonement — he disguised himself as a poor man and went and called out at his door; so bread was taken out to him. ‘On such a day,’ he pleaded, ‘when everyone is within, shall I be without?’ Thereupon he was taken in and bread was offered him. ‘On a day like this,’ he urged, ‘when everyone sits at table,[36] shall I sit alone!’ He was led and sat down at the table. As he sat, his body was covered with suppurating sores, and he was behaving repulsively.[37] ‘Sit properly,’ he rebuked him.

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(1) But not because we fear adultery with others; v. Sot. 7a.

(2) That a woman may be alone with two men.

(3) If he cohabits, in which case she does not submit to the ordeal, v. loc. cit.

(4) Speed on ahead of her, lest we be tempted.

(5) V. supra 39b bottom.

(6) Rashi: one is flagellated for being alone with an unmarried woman, but she is not forbidden to her husband on that account. Tosaf.: an unmarried woman is not interdicted to a priest as a zonah (q.v. Glos.) for being alone with a man.

(7) Who may be suspected of bastardy.

(8) He punished privacy with a married woman, yet had it proclaimed that she had not committed adultery.

(9) [Not identified. MS.M.: Parazika, (Farausag) near Bagdad.]

(10) If one is rumoured to be doing wrong, he is flagellated.

(11) I Sam. II, 24. Al (אל) introduces a negative injunction, and Rab translates: there is a negative injunction, my sons, in respect of a report that is not good.

(12) [I.e., inflicted punishment on the one who was subject to an evil report. The punishment for the offence mentioned here has no basis in the Bible, but belongs to the category of makkath marduth ‘a beating for rebellion’ instituted by the Rabbis for the enforcement of discipline, and which was not hedged about by the regulations which governed the infliction of the ‘forty stripes’ prescribed in the Bible]

(13) [Lit., ,’wrapt the bread’, with allusion to the custom of placing salt or vegetables between slices of bread.]

(14) They were in an upper chamber, and then R. Joseph and his wife descended, leaving R. Bibi above. Before R. Joseph left the house he gave this order, so that R. Bibi should not go down and be alone with his wife.

(15) The ancient equivalent of ‘best man’ — here ‘best woman — at marriage, v. B.B. 144b.

(16) The men can have no plausible excuse for going to the women, since their natural way leads to the street.

(17) The men's path lies through the women's chamber, and as stated before, one man may not be alone with a number of women.

(18) When men are in the outer chamber, we fear that one may pass into the inner chamber without the others noticing it. But if men are in the inner chamber, we are not afraid that a woman from the outer chamber will enter, because in any case one woman may be alone with two men; nor do we fear that a man may enter the women's chamber, since others will follow him, as that is their natural exit.

(19) This is the reading in the Asheri; cur. edd. ‘I shall’.

(20) Where men and women assembled together, e.g.. for a sermon or at a wedding (Rashi).

(21) The Aruch reads: Abaye.

(22) When immorality is most to be feared.

(23) Because various people congregate then.

(24) They were lodged in an upper chamber; cf. story of R. Bibi and R. Joseph supra.

(25) The skylight which divided the upper from the lower storey.

(26) Which revealed her beauty to R. ‘Amram below.

(27) You have made us put you to shame by revealing your burning passion.

(28) Lit., ‘better’.

(29) On Satan as an independent being v. p. 142, n. 5.

(30) He maintained that they could easily subdue their evil desires if they wished.

(31) Rashi: a rope stretched from bank to bank over a plank bridge.

(32) By resuming his normal shape he freed him from temptation.

(33) Lit., ‘blood’.

(34) A small coin, v. supra 12a. — i.e., I would have destroyed you as a worthless thing.

(35) Cf. supra 30a top.

(36) Lit., ‘at the tray’.

(37) Wriggling, or perhaps scratching himself.

Talmud - Mas. Kiddushin 81b

Said he, ‘Give me a glass [of liquor],’ and one was given him. He coughed and spat his phlegm into it. They scolded him, [whereupon] he swooned and died.[1] Then they [the household] heard people crying out, ‘Pelimo has killed a man, Pelimo has killed a man!’[2] Fleeing, he hid in a privy; he [Satan] followed him, and he [Pelimo] fell before him. Seeing how he was suffering, he disclosed his identity and said to him, why have you [always] spoken thus?[3] Then how am I to speak?[4] You should say: ‘The Merciful rebuke Satan.’[5]

Every time R. Hiyya b. Abba fell upon his face[6] he used to say, ‘The Merciful save us from the Tempter.’ One day his wife heard him. ‘Let us see,’ she reflected, ‘it is so many years that he has held aloof from me: why then should he pray thus?’[7] One day, while he was studying in his garden, she adorned herself and repeatedly walked up and down before him. ‘Who are you?’ he demanded. ‘I am Harutha,[8] and have returned to-day,’ she replied. He desired her. Said she to him, ‘Bring me that pomegranate from the uppermost bough.’ He jumped up, went, and brought it to her. When he re-entered his house, his wife was firing the oven, whereupon he ascended and sat in it. ‘What means this?’ she demanded. He told her what had befallen. ‘It was I,’ she assured him; but he paid no heed to her until she gave him proof.[9] ‘Nevertheless,’ said he, ‘my intention was evil.’[10]

That righteous man [R. Hiyya b. Ashi] fasted all his life, until he died thereof. Even as it was taught: Her husband hath made then, void, and the Lord shall forgive her:[11] of whom does the Writ speak?[12] Of a woman who made a nazirite vow and her husband heard of it and annulled it; but though she was unaware that her husband had annulled it , she drank wine and defiled herself through the dead.[13] When R. Akiba came to this verse, he wept. If of him who intended to eat swine's flesh but chanced upon sheep's flesh, yet the Torah decreed that he requires atonement; how much more so of him who intended to eat swine's flesh and actually ate swine's flesh![14] Similarly, you read: Though he knew it not, yet he is guilty, and shall bear his iniquity.[15] When R. Akiba came to this verse, he wept. If of him who intended to eat shuman[16] but chanced upon heleb,[17] yet the Torah said: ‘though he knew it not, yet he is guilty, and shall bear his iniquity’: how much more so of him who intended to eat heleb and actually ate heleb! Issi b. Judah said: ‘Though he knew it not, yet he is guilty, and shall bear his iniquity’ — for this thing[18] all grief-stricken must grieve.

A MAN MAY BE ALONE WITH HIS MOTHER. Rab Judah said in R. Assi's name: A man may be alone with his sister, and dwell with his mother and daughter [alone]. When he stated it in Samuel's presence, he said: One may not be alone with any person interdicted in the Torah, [and] even with an animal. We learnt: A MAN MAY BE ALONE WITH HIS MOTHER AND His DAUGHTER, AND HE MAY SLEEP WITH THEM IN IMMEDIATE BODILY CONTACT, — this refutes Samuel? — Samuel can answer you: And on your view, [how explain] what was taught: ‘[As regards] a sister, a mother-in-law, and all other forbidden relations of the Torah, one may be alone with them only when there are witnesses’, thus, only in the presence of witnesses, but not otherwise? But [you must say] it is [a controversy of] Tannaim. For it was taught: R. Meir said: Guard me from my daughter; R. Tarfon said: Guard me from my daughter-in-law. But a certain disciple scoffed at him. Said R. Abbahu on the authority of R. Hanina b. Gamaliel, ‘It did not take long[19] before that disciple offended through his mother-in-law.’

‘Even with an animal.’ Abaye cleared them from the whole field.[20] R. Shesheth had them put on the other side of the bridge. R. Hanan of Nehardea visited R. Kahana at Pum Nehara.[21] Seeing him sitting and studying while an animal stood before him, he said to him, ‘Do you not agree, "even with an animal"?’ ‘I was thoughtless,’ he replied.[22]

Raba said: A man may be alone with two yebamoth,[23] two co-wives, a woman and her mother-in-law, a woman and her mother-in-law's daughter, a woman and her husband's daughter,[24] and with a woman and a child who knows the meaning of intercourse but will not yield herself thereto.[25]

WHEN THEY GROW UP, SHE MUST SLEEP IN HER GARMENT, etc. What is the age?[26] Said R. Ada son of R. ‘Azza in R. Assi's name: For a girl, nine years and a day; for a boy, twelve years and a day. Others state: for a girl, twelve years and a day; for a boy, thirteen years and a day.[27] And in both cases they must be, ‘breasts fashioned and thine hair was grown.’[28] Rafram b. Papa said in R. Hisda's name: This was taught only of one [a girl] who is not shy of standing nude before him [her father]; but if she is shy of standing nude before him, it is forbidden [for them to sleep in bodily contact]. What is the reason? Temptation stirs[29] her.[30]

R. Aha b. Abba[31] visited R. Hisda, his son-in-law, and took his granddaughter and sat her on his lap. Said he to him, ‘Do you not know that she is betrothed?’ ‘Then you have violated Rab's [dictum].’ For Raba Judah said in Rab's name-others state, R. Eleazar [said] — One may not betroth his daughter while she is a minor, [but must wait] until she grows up and says: ‘I want So-and-so.’ ‘But you too have transgressed Samuel's [ruling], for Samuel said: One must not handle[32] a woman. ‘I agree with Samuel's other [dictum],’ he retorted. For Samuel said,

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(1) Feigned death.

(2) It was a ventriloquial trick of Satan.

(3) Cursing me.

(4) To drive you from me?

(5) Cf. Zech. III, 2: The Lord rebuke thee, o Satan.

(6) In Talmudic times after the ‘Eighteen Benedictions’ each person prayed privately for whatever he desired; these prayers are called ‘supplications’ (tahanunim), and one fell on his face when saying them. V. Elbogen, Der Judische Gottesdienst, pp. 73 ff.

(7) Surely he can restrain his passions.

(8) A well known prostitute of that town.
(9) The pomegranate.
(10) Lit., ‘for a forbidden thing’.
(11) Num. XXX, 13. This refers to the annulment of vows.
(12) How can forgiveness be necessary for breaking a vow when it has ceased to be binding?
(13) Both of which a nazir may not do.
(14) Lit., ‘it came up in his hand to eat, etc.’
(15) Lev. V, 17.
(16) Permitted fat.
(17) Forbidden fat.
(18) That one bears iniquity for sinning unintentionally.
(19) Lit., ‘there were not a few days’.
(20) When he had to pass through it, or when he was studying there.
(21) V. p. 51, n. 1.
(22) Tosaf. observes that these are cases of superstringency, but actually Jews are not suspected of pederasty or bestiality, v. infra.
(23) PI. of yebamah, q. v. Glos.
(24) All these are held to dislike each other, and so each will be afraid.
(25) The child is old enough to talk about it, but not old enough to experience desire.
(26) When they must not sleep in bodily contact?
(27) At these ages they attain their religious majority too.
(28) Ezek. XVI, 7 — desire is not awakened before then.
(29) Lit., ‘clothes’.
(30) Her shyness proves that she is sex conscious.
(31) Var. lec.: Hanan b. Raba.
(32) Lit., ‘make use of.

Talmud - Mas. Kiddushin 82a

All [is to be done] for the sake of Heaven.[1]

MISHNAH. AN UNMARRIED MAN MUST NOT BE AN ELEMENTARY TEACHER,[2] NOR MAY A WOMAN BE AN ELEMENTARY TEACHER. R. ELEAZAR SAID: ONE ALSO WHO HAS NO WIFE MUST NOT BE AN ELEMENTARY TEACHER.[3] R. JUDAH SAID: AN UNMARRIED MAN MUST NOT TEND CATTLE, NOR MAY TWO UNMARRIED MEN SLEEP TOGETHER UNDER THE SAME COVER,[4] BUT THE SAGES PERMIT IT.

GEMARA. What is the reason? Shall we say, on account of the children?[5] surely it was taught: Said they to R. Judah, Israel are not suspected of either pederasty or bestiality? — But an unmarried man [is forbidden] on account of the children's mothers, and a woman on account of their fathers.[6]

R. ELEAZAR SAID: ONE ALSO WHO HAS NO WIFE. The scholars propounded: [Does it mean,] one who has no wife at all,[7] or whose wife does not live with him? — Come and hear: Also one who has a wife but she does not live with him may not be an elementary teacher.

R. JUDAH SAID: AN UNMARRIED MAN MUST NOT TEND etc. It was taught: They said to R. Judah: Israel is suspected of neither pederasty nor bestiality.

MISHNAH. ONE WHOSE BUSINESS IS WITH WOMEN MUST NOT BE ALONE WITH WOMEN;[8] AND ONE SHOULD NOT TEACH HIS SON A WOMAN'S TRADE.[9] R. MEIR SAID: ONE SHOULD ALWAYS TEACH HIS SON A CLEAN AND EASY CRAFT, AND PRAY TO HIM TO WHOM [ALL] WEALTH AND PROPERTY BELONG. FOR NO CRAFT DOES NOT

CONTAIN [THE POTENTIALITIES OF] POVERTY AND WEALTH, FOR NEITHER POVERTY NOR WEALTH IS DUE TO THE CRAFT, BUT ALL DEPENDS ON ONES MERIT. R. SIMEON B. ELEAZAR SAID: HAVE YOU EVER SEEN A WILD BEAST OR A BIRD WITH A CRAFT? YET THEY ARE SUSTAINED WITHOUT ANXIETY. NOW, THEY WERE CREATED ONLY TO SERVE ME, WHILE I WAS CREATED TO SERVE MY MASTER: SURELY THEN I SHOULD MAKE A LIVING WITHOUT ANXIETY! BUT BECAUSE I HAVE ACTED EVILLY AND DESTROYED MY LIVELIHOOD.[10] ABBA GURION OF ZADIAN[11] SAID ON THE AUTHORITY OF ABBA GURIA: ONE SHOULD NOT TEACH HIS SON [TO BE] AN ASS-DRIVER, CAMEL-DRIVER, WAGGONER,[12] SAILOR, SHEPHERD, OR SHOPKEEPER, BECAUSE THEIR PROFESSION IS THE PROFESSION OF ROBBERS.[13] R. JUDAH SAID IN HIS NAME:[14] MOST ASS-DRIVERS ARE WICKED,[15] WHILE MOST CAMEL-DRIVERS ARE WORTHY MEN;[16] AND MOST SAILORS ARE PIOUS.[17] THE BEST OF DOCTORS ARE DESTINED FOR GEHENNA,[18] AND THE WORTHIEST OF BUTCHERS IS AMALEK'S PARTNER.[19]

R. NEHORAI SAID: I ABANDON EVERY TRADE IN THE WORLD AND TEACH MY SON TORAH ONLY, FOR MAN ENJOYS THE REWARD THEREOF IN THIS WORLD WHILE THE PRINCIPAL REMAINS TO HIM FOR THE WORLD TO COME. BUT ALL OTHER PROFESSIONS ARE NOT SO; FOR WHEN A MAN COMES TO SICKNESS OR OLD AGE OR SUFFERING AND CANNOT ENGAGE IN HIS CRAFT, HE MUST DIE OF STARVATION, WHEREAS THE TORAH IS NOT SO, FOR IT GUARDS HIM FROM ALL EVIL IN HIS YOUTH AND GIVES HIM A FUTURE AND HOPE IN HIS OLD AGE. OF HIS YOUTH WHAT IS SAID? BUT THEY THAT WAIT UPON THE LORD SHALL RENEW THEIR STRENGTH;[20] OF HIS OLD AGE WHAT IS SAID? THEY SHALL STILL BRING FORTH FRUIT IN OLD AGE.[21] AND THUS IT IS SAID OF OUR FATHER ABRAHAM, AND ABRAHAM WAS OLD . . . AND THE LORD BLESSED ABRAHAM WITH EVERYTHING.[22] WE FIND THAT OUR FATHER ABRAHAM OBSERVED THE WHOLE TORAH BEFORE IT WAS GIVEN, FOR IT IS SAID, BECAUSE THAT ABRAHAM OBEYED MY VOICE, AND KEPT MY CHARGE, MY COMMANDMENTS, MY STATUTES, AND MY LAWS.[23]

GEMARA. Our Rabbis taught: He whose business is with women has a bad character. E.g., goldsmiths,[24] carders,[25] [handmill] cleaners,[26] pedlars, wool-dressers, barbers,[27] launderers, bloodletters,[28] bath attendants and tanners. Of these neither a king nor a High Priest may be appointed. What is the reason? Not because they are unfit, but because their profession is mean.

Our Rabbis taught: Ten things were said of a blood-letter. He walks on his side,[29] has a conceited spirit, and leans back[30] when sitting, has a grudging eye and an evil eye;[31] he eats much and excretes little;[32] and he is suspected of adultery, robbery[33] and bloodshed.[34]

Bar Kappara taught: One should always teach his son a clean and easy craft. What is it? — Said Rab Judah:

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(1) To show my affection for my daughter's little girl.

(2) [The text is difficult. Rashi takes it as an elliptical phrase ‘An unmarried man shall not train himself to be a teacher of children; Krauss, T.A. p. 217, suggests: An unmarried man shall not teach as assistant to the Bible teacher; v. also Low, L. Gesammelte Schriften III. p. 17, n. 1.]

(3) This is discussed in the Gemara.

(4) Lit., ‘cloak’.

(5) Whom they teach — is it feared that they will commit pederasty with them?

(6) The children were brought to school by their parents.

(7) I.e., a widower.

(8) Even many, because he is intimate with them.

(9) I.e., a trade in women's requirements.

(10) Much of man's troubles are of his own making. — ‘I have acted evilly’ states this general truth, and is not to be confused with the doctrine of Original Sin, which is foreign to Judaism.

(11) [Identified with Bethsaida in Galilee, v. Klein, MGWJ. 1915, p. 167.]

(12) [In the separate editions of the Mishnah: a barber.]

(13) They lend themselves to fraud. — Drivers, because when sent on long journeys they hire themselves to others in time that is not their own; shepherds, because they lead their flocks into others’ fields; shopkeepers, because it is easy to supply adulterated goods. — This probably reflects the actual state of the times.

(14) Abba Guria's.

(15) As explained in the previous note.

(16) Their way lies through the desert, the awe of which leads to humility and a Godfearing spirit.

(17) The dangers of the sea turn their thoughts to God.

(18) Rashi: being unafraid of sickness they are haughty before the Almighty. Again, their treatment is sometimes fatal; while on the other hand, by refusing treatment to the poor they may indirectly cause their death; or it is probable that it is not directed against healing as such, but against the ‘advanced’ views held by physicians in those days, (v. Jewish Chronicle, 1-3-35.)

(19) When they have animals of doubtful fitness for food they grudge their loss and sell them as fit.

(20) Isa. XL, 31.

(21) Ps. XCII, 15.

(22) Gen. XXIV, 1.

(23) Ibid. XXVI, 5.

(24) Who make trinkets for women.

(25) Who comb wool for women's garments.

(26) Used by housewives.

(27) Women take their children to them.

(28) Lit., ‘a scraper’, one who makes incisions in the skin to draw off blood.

(29) I.e., haughtily, putting on ‘side’.

(30) Lit., ‘suspends himself.

(31) He is miserly, and casts an evil eye upon people, so that they should need his services.

(32) [Because he joins his patients at the meals which follow the operation, and which must be the best food.]

(33) [His women patients rob their husbands in order to pay him for his services.]

(34) [By drawing off too much blood.]

Talmud - Mas. Kiddushin 82b

Quilting.[1]

It was taught: Rabbi said: No craft can disappear from the world — happy is he who sees his parents in a superior craft, and woe to him who sees his parents in a mean craft. The world cannot exist without a perfume-maker and without a tanner-happy is he whose craft is that of a perfume-maker, and woe to him who is a tanner by trade. The world cannot exist without males and without females-happy is he whose children are males, and woe to him whose children are females.[2]

R. Meir said: One should always teach his son a clean and easy craft, and earnestly pray to Him to Whom [all] wealth and property belong, for neither poverty nor wealth comes from one's calling, but from[3] Him to whom wealth and property belong, as it is said: The silver is mine, and the gold is mine, saith the Lord of hosts.[4]

R. SIMEON B. ELEAZAR SAID, HAVE YOU EVER SEEN [etc.]. It was taught: R. Simeon b. Eleazar said: In my whole lifetime I have not seen a deer engaged in gathering fruits, a lion carrying burdens, or a fox as a shopkeeper, yet they are sustained without trouble, though they were created only to serve me, whereas I was created to serve my Maker. Now, if these, who were created only to serve me are sustained without trouble, how much more so should I be sustained without trouble, I who was created to serve my Maker! But it is because I have acted evilly and destroyed my livelihood, as it is said, your iniquities have turned away these things.[5]

R. NEHORAI SAID: I ABANDON EVERY TRADE etc. It was taught: R. Nehorai said: I abandon all trades in the world and teach my son only Torah, for every trade in the world stands a man in stead only in his youth, but in his old age he is exposed to hunger. But the Torah is not so: it stands by him in his youth and gives him a future and hope in his old age. Of the time of his youth what Is said? But they that wait upon the Lord shall renew their strength; they shall mount up with wings as eagles.[6] Of his old age what is said? They shall still bring forth fruit in old age; they shall be full of sap and green.[7]

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(1) Stitching in furrows; cf. supra 17a on needlework being easy.

(2) Probably not prejudice against the female sex, but because daughters were a greater anxiety — a dowry had to be found for them, and they easily got into mischief; cf. Sanh. 100b, the quotation from the Book of Ben Sira.

(3) Lit., ‘to’.

(4) Hag. II, 8.

(5) Jer. V, 25.

(6) Isa. XL, 31.

(7) Ps. XCII, 15.

Talmud - Mas. Baba Kama 2a

C H A P T E R I

MISHNAH. THE PRINCIPAL CATEGORIES OF DAMAGE[1] ARE FOUR: THE OX,[2] THE PIT,[3] THE ‘SPOLIATOR’ [MAB'EH][4] AND THE FIRE.[5] THE ASPECTS OF THE OX ARE [IN SOME RESPECTS] NOT [OF SUCH LOW ORDER OF GRAVITY] AS THOSE OF THE ‘SPOLIATOR’;[6] NOR ARE [IN OTHER RESPECTS] THOSE OF THE ‘SPOLIATOR’ [OF SUCH LOW ORDER OF GRAVITY] AS THOSE OF THE OX;[6] NOR ARE THE ASPECTS OF EITHER OF THEM, IN WHICH THERE IS LIFE, [OF SUCH LOW ORDER OF GRAVITY] AS THOSE OF THE FIRE WHICH IS NOT ENDOWED WITH LIFE;[6] NOR ARE THE ASPECTS OF ANY OF THESE, THE HABIT OF WHICH IS TO BE MOBILE AND DO DAMAGE, [OF SUCH LOW ORDERS OF GRAVITY] AS THOSE OF THE PIT OF WHICH IT IS NOT THE HABIT TO MOVE ABOUT AND DO DAMAGE.[6] THE FEATURE COMMON TO THEM ALL IS THAT THEY ARE IN THE HABIT OF DOING DAMAGE; AND THAT THEY HAVE TO BE UNDER YOUR CONTROL SO THAT WHENEVER ANY ONE [OF THEM] DOES DAMAGE THE OFFENDER IS LIABLE TO INDEMNIFY WITH THE BEST OF HIS ESTATE.[7]

GEMARA. Seeing that PRINCIPAL CATEGORIES are specified, it must be assumed that there are derivatives. Are the latter equal in law to the former or not?

Regarding Sabbath we learnt: The principal classes of prohibited acts are forty less one.[8] ‘Principal classes’ implies that there must be subordinate classes. Here the latter do in law equal the former; for there is no difference between a principal and a subordinate [prohibited act] with respect either to the law of sin-offering[9] or to that of capital punishment by stoning.[10] In what respect then do the two classes differ? — The difference is that if one simultaneously committed either two principal [prohibited] acts or two subordinate acts one is liable [to bring a sin-offering] for each act, whereas if one committed a principal act together with its respective Subordinate, one is liable for one [offering] only. But according to R. Eliezer who imposes the liability [of an offering] for a subordinate act committed along with its Principal,[11] to begin with why is the one termed ‘Principal’ and the other ‘Subordinate’? — Such acts as were essential in the construction of the Tabernacle are termed ‘Principal’,[12] whereas such as were not essential in the construction of the Tabernacle are termed ‘Subordinate.’

Regarding Defilements we have learnt:[13] The Primary Defilements: The [Dead] Reptile,[14] the Semen Virile[15]

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(1) Explicitly dealt with in Scripture.

(2) Ex. XXI, 35.

(3) Ibid. 33.

(4) Cf. p. 9.

(5) Ex. XXII. 5.

(6) Hence the latter, if not specifically dealt with, would not have been derived from the former.

(7) When money is not tendered; cf. infra p. 33.

(8) Shab. VII, 2.

(9) Cf. Lev. IV, 27-35.

(10) Num. XV, 32-36.

(11) Shab. 75a.

(12) On account of their being stated in juxtaposition in Scripture; v. Ex. XXXV, 2-XXXVI, 7.

(13) Kel. I, 1.

(14) Lev. XI, 29-32.

(15) Ibid. XV, 17.

and the Person who has been in contact with a human corpse.[1] [In this connection] their Resultants[2] are not equal to them in law; for a primary defilement[3] contaminates both human beings and utensils,[4] while Resultants defile only foods and drinks,[5] leaving human beings and utensils undefiled.

Here [in connection with damages] what is the [relationship in] law [between the principal and the secondary kinds]? — Said R. Papa: Some of the derivatives are on a par with their Principals whereas others are not.

Our Rabbis taught: Three principal categories [of damage] have been identified in Scripture with Ox: The Horn, The Tooth, and The Foot. Where is the authority for 'Horn'? For our Rabbis taught: If it will gore.[6] There is no 'goring' but with a horn, as it is said: And Zedekiah the son of Chenaanah made him horns of iron, and said, Thus saith the Lord, With these shalt thou gore the Arameans;[7] and it is further said, His glory is like the firstling of his bullock, and his horns are like the horns of a unicorn: with them he shall gore the people together etc.[8]

Why that 'further' citation? — Because you might perhaps say that Pentateuchal teachings cannot be deduced from post-Pentateuchal texts;[9] come therefore and hear: His glory is like the firstling of his bullock, and his horns are like the horns of a unicorn etc.[8] But is that a [matter of] deduction? Is it not rather merely an elucidation of the term 'goring'[10] as being effected by a horn?[11] — [Were it not for the 'further' citation] you might say that the distinction made by Scripture between [the goring of a] Tam[12] and [that of a] Mu'ad[13] is confined to goring effected by a severed horn,[14] whereas in the case of a horn still naturally attached, all goring is [habitual and consequently treated as of a] Mu'ad; come therefore and hear: His glory is like the firstling of his bullock, and his horns are like the horns of a unicorn, etc.[8]

What are the derivatives of Horn? — Collision, Biting, [malicious] Falling and Kicking.

Why this differentiation? If Goring is termed Principal because it is expressly written, If it will gore,[15] why should this not apply to Collision, as it is also written, If it will collide?[16] — That collision denotes goring, as it was taught: The text opens with collision[16] and concludes with goring[17] for the purpose of indicating that 'collision' here denotes 'goring'.

Why the differentiation between injury to man, regarding which it is written If it will gore,[18] and injury to animal regarding which it is written if it will collide?[19] — Man who possesses foresight is, as a rule, injured [only] by means of [wilful] 'goring',[20] but an animal, lacking foresight, is injured by mere 'collision'. A [new] point is incidentally made known to us, that [an animal] Mu'ad to injure man is considered Mu'ad in regard to animal,[21] whereas Mu'ad to injure animal is not considered Mu'ad in regard to man.[20]

'Biting': is not this a derivative of Tooth? — No; Tooth affords the animal gratification from the damage while Biting affords it no gratification from the damage.

'Falling and Kicking'; are not these derivatives of Foot? — No; the damage of foot occurs frequently while the damage of these does not occur frequently.

But what then are the derivatives which, R. Papa says, are not on a par with their Principals? He can hardly be said to refer to these, since what differentiation is possible? For just as Horn does its damage with intent and, being your property, is under your control, so also these [derivatives] do damage with intent and, being your property, are under your control! The derivatives of Horn are therefore equal to Horn, and R. Papa's statement refers to Tooth and Foot.

‘Tooth’ and ‘Foot’- where in Scripture are they set down? — It is taught: And he shall send forth[22] denotes Foot, as it is [elsewhere] expressed, That send forth the feet of the ox and the ass.[23] And it shall consume[22] denotes Tooth as [elsewhere] expressed, As the tooth consumeth

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(1) Num. XIX, 11-22.

(2) I.e., the objects rendered defiled by coming in contact with any Primary Defilement.

(3) Such as any one of these three and the others enumerated in Kelim I.

(4) Cf. Lev. XI, 32-33.

(5) V. ibid. 34.

(6) Ex. XXI, 28.

(7) I Kings XXII, 11.

(8) Deut. XXXIII, 17.

(9) [דברי קבלה ‘words of tradition’; i.e. the teachings received on tradition from the prophets, a designation for non-Pentateuchal, primarily prophetic, texts. V. Bacher, op. cit., I, 166, II, 185.] The meaning of Ex. XXI, 28, should therefore not he deduced from I Kings XXII, 11.

(10) Which might surely he obtained even from post- Pentateuchal texts.

(11) Hence again why that ‘further’ citation?

(12) ‘Innocuous,’ i.e., an animal not having gored on more than three occasions; the payment for damage done on any of the first three incidents (of goring] is half of the total assessment and is realised out of the body of the animal that gored, cf. Ex. XXI, 35 and infra 16b.

(13) ‘Cautioned,’ i.e., after it had already gored three times, and its owner had been duly cautioned, the payment is for the whole damage and is realised out of the owner's general estate; v. Ex. XXI, 36, and infra 16b.

(14) As was the case in the first quotation from Kings.

(15) V. p. 2, n. 13.

(16) Ex. XXI, 35.

(17) Ibid. 36.

(18) V. p. 2, n. 13.

(19) V. p. 3; n. 10.

(20) As it is more difficult to injure a man than an animal.

(21) Cf. infra 205.

(22) Ex. XXII, 4.

(23) Isa. XXXII, 20.

Talmud - Mas. Baba Kama 3a

to entirety.[1]

The Master has [just] enunciated: ‘And he shall send forth denotes Foot , as it is [elsewhere] expressed, That send forth the feet of the ox and the ass.’ His reason then is that the Divine Law[2] [also] says, That send forth the feet of the ox and the ass, but even were it not so, how else could you interpret the phrase?[3] It could surely not refer to Horn which is already [elsewhere] set down,[4] nor could it refer to Tooth since this is likewise [already] set down?[3] — It was essential[5] as otherwise it might have entered your mind to regard both [phrases][6] as denoting Tooth: the one when there is destruction of the corpus and the other when the corpus remains unaffected; it is therefore made known to us that this is not the case. Now that we have identified it with Foot, whence could be inferred the liability of Tooth in cases of non-destruction of the corpus? From the analogy of Foot;[7] just as [in the case of] Foot no difference in law is made between destruction and non-destruction of corpus, so [in the case of] Tooth no distinction is made between destruction and non-destruction of corpus.

The Master has [just] enunciated: ‘And it shall consume denotes Tooth, as elsewhere expressed, As the tooth consumeth to entirety.’ His reason then is that the Divine Law [also] says, As the tooth consumeth to entirety, but even were it not so, how else could you interpret the phrase? It could surely not refer to Horn which is already elsewhere set down,[4] nor could it refer to Foot, since this is likewise elsewhere set down?[3] — It is essential,[8] as otherwise it might have entered your mind to regard both phrases[6] as denoting Foot: the one when the cattle went of its own accord and the other[9] when it was sent by its owner [to do damage]; it is, therefore, made known to us that this is not so. Now that we have identified it with Tooth, whence could be inferred the liability of Foot in cases when the cattle went of its own accord? — From the analogy of Tooth;[10] just as in the case of Tooth there is no difference in law whether the cattle went of its own accord or was sent by its owner, so [in the case of] Foot there is no difference in law whether the cattle went of its own accord or was sent by its owner.

But supposing Divine Law had only written, And he shall send forth,[11] omitting And it shall consume, would it not imply both Foot and Tooth? Would it not imply Foot, as it is written, That send forth the feet of the ox and the ass? Again, would it not also imply Tooth, as it is written, And the teeth of beasts will I send upon them?[12] — If there were no further expression I would have said either one or the other [might be meant], either Foot, as the damage done by it is of frequent occurrence, or Tooth, as the damage done by it affords gratification.[13] Let us see now, they are equally balanced, let them then both be included, for which may you exclude?[14] — It is essential [to have the further expression], for [otherwise] it might have entered your mind to assume that these laws [of liability] apply only to intentional trespass,[15] exempting thus cases where the cattle went of its own accord; it is, therefore, made known to us that this is not the case.

The derivative of Tooth, what is it? — When [the cattle] rubbed itself against a wall for its own pleasure [and broke it down], or when it spoiled fruits [by rolling on them] for its own pleasure. Why are these cases different? Just as Tooth affords gratification from the damage [it does] and, being your possession, is under your control, why should not this also be the case with its derivatives which similarly afford gratification from the damage [they do] and, being your possession are under your control? — The derivative of Tooth is therefore equal to Tooth, and R. Papa's statement [to the contrary][16] refers to the derivative of Foot.

What is the derivative of Foot? — When it did damage while in motion either with its body or with its hair, or with the load [which was] upon it, or with the bit in its mouth, or with the bell on its neck. Now, why should these cases be different? Just as Foot does frequent damage and, being your possession, is under your control, why should not this also be the case with its derivatives which similarly do frequent damage and, being your possession, are under your control? The derivative of Foot is thus equal to Foot, and R. Papa's statement [to the contrary][17] refers to the derivative of the Pit.

What is the derivative of Pit? It could hardly be said that the Principal is a pit of ten handbreadths deep and its derivative one nine handbreadths deep, since neither nine nor ten is stated in Scripture! — That is no difficulty: [as] And the dead beast shall be his[18] the Divine Law declares, and it was quite definite with the Rabbis[19] that ten handbreadths could occasion death, whereas nine might inflict injury but could not cause death . But however this may be, is not the one [of ten] a principal [cause] in the event of death, and the other [of nine] a principal [cause] in the event of [mere] injury? — Hence [Rab Papa's statement] must refer to a stone, a knife and luggage which were placed on public ground and did damage. In what circumstances? If they were abandoned [there], according to both Rab and Samuel,[20] they would be included in [the category of] Pit;[21]

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(1) I Kings XIV, 10. [‘Galal’, E.V.: ‘dung’, is interpreted as ‘marble’, ‘ivory’, which teeth resemble; cf. Ezra V, 8. V.

Tosaf. a.l.]

(2) [Lit., ‘The Merciful One,’ i.e., God, whose word Scripture reveals. V. Bacher, Exeg. Term., II, 207f.]

(3) V. p. 4, n. 6.

(4) Ex. XXI, 35-36.

(5) To cite the verse from Isaiah.

(6) Send forth and consume, cf. n. 2.

(7) Where no term expressing ‘Consumption’ is employed.

(8) To cite the verse from Kings.

(9) I.e., ‘He shall send forth’.

(10) Where no term expressing ‘sending forth’ is employed.

(11) V. p. 4, n. 6.

(12) Deut. XXXII, 24.

(13) And thus there would be no definite sanction for action in either.

(14) V., however, infra p. 17, that Tooth and Foot were recorded in Scripture not for the sake of liability but to be immune for damage done by them on public ground.

(15) As signified by, ‘He shall send forth’.

(16) Cf. supra p. 2.

(17) V. p. 6, n. 6.

(18) Ex. XXI, 34.

(19) Infra 50b.

(20) Infra p. 150.

(21) Being, like Pit, a public nuisance.

Talmud - Mas. Baba Kama 3b

if [on the other hand] they were not abandoned, then, according to Samuel, who maintains that all public nuisances come within the scope of the law applicable to Pit, they would be included in Pit, whereas according to Rab, who maintains that in such circumstances they rather partake of the nature of Ox, they are equivalent in law to Ox.[1]

[And even according to Samuel] why should [the derivatives of Pit] be different? Just as Pit is from its very inception a source of injury, and, being your possession, is under your control, so is the case with these [derivatives] which from their very inception [as nuisances] also are sources of injury and being your possession, are under your control! — The derivative of Pit is therefore equal to Pit, and R. Papa's statement [to the contrary] refers to the derivative of ‘Spoliator’. But what is it? If we are to follow Samuel, who takes ‘Spoliator’ to denote Tooth,[2] behold we have [already] established that the derivative of Tooth equals Tooth;[3] if on the other hand Rab's view is accepted, identifying ‘Spoliator’ With Man,[2] what Principals and what derivatives could there be in him? You could hardly suggest that Man [doing damage] while awake is Principal, but becomes derivative [when causing damage] while asleep, for have we not learnt:[4] ‘Man is in all circumstances Mu'ad,[5] whether awake or asleep’? — Hence [R. Papa's statement[6] will] refer to phlegm[7] [expectorated from mouth or nostrils]. But in what circumstances? If it did damage while in motion, it is [man's] direct agency! If [on the other hand] damage resulted after it was at rest, it would be included, according to both Rab and Samuel,[8] in the category of Pit! — The derivative of ‘Spoliator’ is therefore equal to ‘Spoliator’; and R. Papa's statement [to the contrary][6] refers to the derivative of Fire.

What is the derivative of Fire? Shall I say it is a stone, a knife and luggage which having been placed upon the top of one's roof were thrown down by a normal wind and did damage? Then in what circumstances? If they did damage while in motion, they are equivalent to Fire; and why should they be different? Just as Fire is aided by an external force, and, being your possession, is under your control, so also is the case with these [derivatives] which are aided by an external force, and, being your possession, are under your control! — The derivative of Fire is therefore equal to Fire; and R.

Papa's statement [to the contrary][6] refers to the derivative of Foot.

'Foot'! Have we not established that the derivative of Foot is equal to Foot?[9] — There is the payment of half damages done by pebbles [kicked from under an animal's feet] — a payment established by tradition.[10] On account of what [legal] consequence is it designated 'derivative of Foot'?[11] So that the payment should likewise be enforced [even] from the best of the defendant's possessions.[12] But did not Raba question whether the half-damage of Pebbles is collected only from the body of the animal or from any of the defendant's possessions?[13] — This was doubtful [only] to Raba, whereas R. Papa was [almost] certain about it [that the latter is the case]. But according to Raba, who remained doubtful [on this point], on account of what [legal] consequence is it termed 'derivative of Foot'?[14] — So that it may also enjoy exemption [where the damage was done] on public ground.[15]

THE SPOLIATOR [MABEH] AND THE FIRE etc. What is [meant by] MAB'EH? — Rab said: MAB'EH denotes Man [doing damage], but Samuel said: MAB'EH signifies Tooth [of trespassing cattle]. Rab maintains that MAB'EH denotes Man,[16] for it is written: The watchman said: The morning cometh, and also the night — if ye will enquire, enquire ye.[17] Samuel [on the other hand] holds that MAB'EH signifies Tooth, for it is written: How is Esau searched out! How are his hidden places sought out![18] But how is this deduced?[19] As rendered by R. Joseph:[20] How was Esau ransacked? How were his hidden treasures exposed?[21]

Why did not Rab agree with [the interpretation of] Samuel? — He may object: Does the Mishnah employ the term NIB'EH[22] [which could denote anything 'exposed']?

Why [on the other hand] did not Samuel follow [the inter pretation of] Rab? — He may object: Does the Mishnah employ the term BO'EH[23] [which could denote 'an enquirer']?

But in fact the Scriptural quotations could hardly bear out the interpretation of either of them. Why then did not Rab agree with Samuel? — THE OX [in the Mishnah] covers all kinds of damage done by ox.[24] How then will Samuel explain the fact that ox has already been dealt with? — Rab Judah explained: THE OX [in the Mishnah] denotes Horn, while MAB'EH stands for Tooth; and this is the sequence in the Mishnah: The aspects of Horn, which does not afford gratification from the injury [are not of such order of gravity] as those of Tooth which does afford gratification from the damage;[25]

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(1) The derivatives of which are equal to the Principal.

(2) Infra p. 9.

(3) Supra p. 7.

(4) Infra p. 136.

(5) I.e., civilly liable in full for all misdeeds.

(6) V. p. 6, n. 6.

(7) I.e., the derivative of Man.

(8) V. p. 7, n. 4.

(9) Supra p. 7.

(10) Cf. infra p. 80.

(11) Since it pays only half the damage.

(12) Unlike half damages in the case of Horn where the payment is collected only out of the body of the animal that did the damage.

(13) Infra p. 83.

(14) V. p. 8, n. 10.

(15) Just as is the case with Foot, cf. infra p. 17.

(16) As possessing freedom of will and the faculty of discretion and enquiry, i.e., constituting a cultural and rational being; idiots and minors are thus excluded, cf. infra p. 502.

(17) תבעון בעיו Isa. XXI, 12; the root in each case being the same.

(18) נבעו Ob. I, 6; the root in each case being the same.

(19) I.e., how could a term denoting ‘seeking out’ stand for Tooth?

(20) Who was exceptionally well conversant with Targumic texts. Some explain it on account of his having been blind (v. infra p. 501), and thus unable to cite the original Biblical text because of the prohibition to recite orally passages from the Written Law, cf. Git. 60a. [Others ascribe the edition of the Targum on the prophets to him, v. Graetz (Geschichte IV, 326.]

(21) נבעו (E.V.: sought out), translated exposed, indicates exposure and may therefore designate Tooth which is naturally hidden but becomes exposed in grazing.

(22) In the passive voice.

(23) In the kal denoting mere action; the causative (hiph'il) is used with reference to Tooth which the animal exposes in grazing.

(24) Cattle, including Tooth.

(25) And therefore the liability of Tooth could not he derived from that of Horn.

Talmud - Mas. Baba Kama 4a

nor are the aspects of Tooth, which is not prompted by malicious intention to injure, [of such order of gravity] as those of Horn which is prompted by malicious intention to do damage.[1] But can this not be deduced a fortiori? If Tooth, which is prompted by no malicious intention to injure, involves liability to pay, how much more so should this apply to Horn, which is prompted by malicious intention to do damage? — Explicit [Scriptural] warrant for the liability of Horn is, nevertheless, essential, as otherwise you might have possibly thought that I assume [immunity for Horn on] an analogy to the case of man- and maid-servants. Just as a man- and maid-servant, although prompted by malicious intention to do damage, do not devolve any liability [upon their masters],[2] so is the law here [in the case of Horn]. R. Ashi, however, said: Is not the immunity in the case of damage done by man-and maid-servants due to the special reason that, but for this, a servant provoked by his master might go on burning down[3] another's crops, and thus make his master liable to pay sums of money day by day?[4] — The sequence [of the analysis in the Mishnah] must accordingly be [in the reverse direction]: The aspects of Horn, which is actuated by malicious intention to do damage, are not [of such low order of gravity] as those of Tooth, which is not actuated by malicious intention to do damage; again, the aspects of Tooth which affords gratification while doing damage are not [of such low order of gravity] as those of Horn, which affords no gratification from the damage.[5] But what about Foot? Was it entirely excluded [in the Mishnah]? — [The generalisation,][6] Whenever damage has occurred, the offender is liable, includes Foot. But why has it not been stated explicitly? — Raba therefore said: THE OX [stated in the Mishnah] implies Foot,[7] while MAB'EH stands for Tooth; and this is the sequence [in the Mishnah]: The aspects of Foot, which does frequent damage, are not [of such low order of gravity] as those of Tooth, the damage by which is not frequent: again, the aspects of Tooth, which affords gratification from the damage, are not [of such low order of gravity] as those of Foot, which does not afford gratification from the damage.[8] But what about Horn? Was it entirely excluded [in the Mishnah]? — [The generalisation,] Whenever damage has occurred, the offender is liable, includes Horn. But why has it not been stated explicitly? — Those which are Mu'ad ab initio are mentioned explicitly [in the Mishnah] but those which initially are Tam,[9] and [only] finally become Mu'ad, are not mentioned explicitly.

Now as to Samuel, why did he not adopt Rab's interpretation [of the Mishnaic term MAB'EH]? — He may object: If you were to assume that it denotes Man, the question would arise, is not Man explicitly dealt with [in the subsequent Mishnah]: ‘Mu'ad cattle and cattle doing damage on the plaintiff's premises and Man’?[10] But why then was Man omitted in the opening Mishnah? — [In that Mishnah] damage done by one's possessions is dealt with, but not that done by one's person.

Then, how could even Rab uphold his interpretation, since Man is explicitly dealt with in the subsequent Mishnah?[10] — Rab may reply: The purpose of that Mishnah is [only] to enumerate Man among those which are considered Mu'ad. What then is the import of [the analysis introduced by] THE ASPECTS ARE NOT etc.? — This is the sequence: The aspects of Ox, which entails the payment of kofer [for loss of human life],[11] are not [of such low order of gravity] as those of Man who does not pay [monetary] compensation for manslaughter;[12] again, the aspects of Man who [in case of human bodily injury] is liable for [additional] four items,[13] are not [of such low order of gravity] as those of Ox, which is not liable for those four items.[14]

THE FEATURE COMMON TO THEM ALL IS THAT THEY ARE IN THE HABIT OF DOING DAMAGE. Is it usual for Ox [Horn][15] to do damage? — As Mu'ad. But even as Mu'ad, is it usual for it to do damage? — Since it became Mu'ad this became its habit. Is it usual for Man to do damage? — When he is asleep. But even when asleep is it usual for Man to do damage? — While stretching his legs or curling them this is his habit.

THEIR HAVING TO BE UNDER YOUR CONTROL. Is not the control of man's body [exclusively] his own?[16] — Whatever view you take,[17] behold Karna taught: The principal categories of damage are four and Man is one of them. [Now] is not the control of a man's body [exclusively] his own? You must therefore say with R. Abbahu who requested the tanna[18] to learn, ‘The control of man's body is [exclusively] his own,’

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(1) And therefore the liability of Horn could not be derived from that of Tooth.

(2) Cf. infra p. 502.

(3) But v. infra pp. 47 and 112.

(4) Yad. IV, 6; and the suggested analogy is thus untenable.

(5) So that neither Horn nor Tooth could he derived from each other.

(6) Infra p. 36, v. Tosaf.

(7) And not Horn as first suggested.

(8) So that neither Foot nor Tooth could he derived from each other.

(9) As is the case with Horn.

(10) V. infra 15b.

(11) Lit., ‘Ransom’, i.e., monetary compensation for manslaughter, cf Ex. XXI, 30; v. Glos.

(12) V. Num. XXXV, 31-32. Hence Man could not be derived from Ox.

(13) I.e., Pain, Healing, Loss of Time and Degradation; cf. infra p. 473.

(14) Ox is liable only for Depreciation.

(15) According to Rab who takes Ox as including Horn.

(16) The phrase in the Mishnah is thus inappropriate to man.

(17) Even if you take Mab'eh as Tooth.

(18) [The term here designates one whose special task was to communicate statements of older authorities to expounding teachers, v. Glos.]

Talmud - Mas. Baba Kama 4b

that here also it is to be understood that the control of man's body is his own.[1]

R. Mari, however, demurred: Say perhaps MAB'EH denotes water [doing damage], as it is written, As when the melting fire burneth, fire tib'eh [causeth to bubble] water?[2] — Is it written, ‘Water bubbles’? It is written, Fire causes bubbling.[3] R. Zebid demurred: Say then that MAB'EH denotes Fire, as it is fire to which the act of ‘tib'eh’ in the text is referred? — If this be so what is then the explanation of THE MAB'EH AND THE FIRE? If you suggest the latter to be the interpretation of the former,[4] then instead of ‘FOUR’ there will be ‘three’? If however, you suggest that OX constitutes two [kinds of damage],[5] then what will be the meaning of [the Mishnaic text]: NOR ARE

THE ASPECTS OF EITHER OF THEM [OX and MAB'EH] IN WHICH THERE IS LIFE? Is there any life in fire? Again, what will be conveyed by [the concluding clause] AS THOSE OF THE FIRE?

R. Oshaia: taught There are thirteen principal categories of damage: The Unpaid Bailee and the Borrower, the Paid Bailee and the Hirer, Depreciation, Pain [suffered]. Healing, Loss of Time, Degradation and the Four enumerated in the Mishnah, thus making [a total of] thirteen. Why did our Tanna mention [only the Four and] not the others? According to Samuel,[6] this presents no difficulty, as the Mishnah mentions only damage committed by one's possessions and not that committed by one's person, but according to Rab[7] let the Mishnah also mention the others? — In the mention of Man all kinds of damage committed by him are included. But does not R. Oshaia also mention Man?[8] — Two kinds of damage could result from Man: Man injuring man is treated as one subject, and Man damaging chattel[9] as another.

If this be so let R. Oshaia similarly reckon Ox twice, as two kinds of damage could result also from Ox: [i] Ox damaging chattel[9] and [ii] Ox injuring man? — But is that a logical argument? It is quite proper to reckon Man in this manner as Man damaging chattel pays only for Depreciation, while Man injuring man may also have to pay for four other kinds of damage,[10] but how can Ox be thus reckoned when the liability for damage done by it to either man or chattel is alike and is confined to [only one kind of damage, i.e.] Depreciation?

But behold, are not the Unpaid Bailee and the Borrower, the Paid Bailee and the Hirer, within the sphere of Man damaging chattel and they are nevertheless reckoned by R. Oshaia? — Direct damage and indirect damage are treated by him independently.

R. Hiyya taught: There are twenty-four principal kinds of damage: Double Payment,[11] Fourfold or Fivefold Payment,[12] Theft,[13] Robbery,[14] False Evidence,[15] Rape,[16] Seduction,[17] Slander,[18] Defilement,[19] Adulteration,[20] Vitiation of wine,[21] and the thirteen enumerated above by R. Oshaia,[22] thus making [the total] twenty-four.

Why did not R. Oshaia reckon the twenty-four? — He dealt only with damage involving civil liability but not with that of a punitive nature. But why omit Theft and Robbery which also involve civil liability? — These kinds of damage may be included in the Unpaid Bailee and the Borrower.[23] Why then did not R. Hiyya comprehend the former in the latter? — He reckoned them separately, as in the one case the possession of the chattel was acquired lawfully,[24] while in the other[25] the acquisition was unlawful.

[Why did not R. Oshaia]

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(1) The Mishnaic wording refers to the other categories.

(2) Isa. LXIV, 1.

(3) Hence the term ‘tib'eh’ describes not the act of water but that of fire.

(4) The Mab'eh and the Fire will thus constitute one and the same kind of damage.

(5) And the other two will be: Pit and Fire.

(6) Who takes Mab'eh to denote Tooth and not Man; supra p. 9.

(7) Who takes Mab'eh to denote Man; supra p. 9.

(8) Why does he not include in Man all kinds of damage committed by him?

(9) Lit., ‘cattle’.

(10) I.e., Pain, Healing, Loss of Time and Degradation.

(11) As fine for theft; cf. Ex. XXII, 3.

(12) Fines for the slaughter or sale of a stolen sheep and ox respectively; cf. Ex. XXI, 37.

(13) I.e., the restoration of stolen goods or the payment of their value.

(14) I.e., the unlawful acquisition of chattels by violence; cf. Lev, V, 23.
(15) Cf. Deut. XIX, 19; v. Mak. I.
(16) I.e., fifty shekels of silver; cf. Deut. XXII, 28-29.
(17) Cf. Ex. XXII, 15-16.
(18) I.e., a defaming husband; v. Deut. XXII, 13-19.
(19) Of terumah (v. Glos.) which makes it unfit for human consumption.
(20) Of ordinary grain with that of terumah restricting thereby the use of the mixture to priestly families.
(21) Through idolatrous application by means of libation which renders all the wine in the barrel unfit for any use whatsoever; the last three heads of damage are dealt with in Git. V, 3.
(22) V. p. 13.
(23) I.e., when these are guilty of larceny; cf. Ex. XXII, 7.
(24) I.e in the case of the Unpaid Bailee and Borrower.
(25) I.e., in the case of Theft and Robbery.

Talmud - Mas. Baba Kama 5a

deal with False Evidence, the liability for which is also civil? — He holds the view of R. Akiba who maintains that the liability for False Evidence [is penal in nature and] cannot [consequently][1] be created by confession.[2] But if R. Oshaia follows R. Akiba why does he not reckon Ox as two distinct kinds of damage: Ox damaging chattel and Ox injuring men, for have we not learnt that R. Akiba said: A mutual injury arising between man and [ox even while a] Tam is assessed in full and the balance paid accordingly?[3] This distinction could, however, not be made, since it is elsewhere[4] taught that R. Akiba himself has qualified this full payment.[5] For R. Akiba said: You might think that, in the case of Tam injuring man, payment should be made out of the general estate; it is therefore stated, [This judgment] shall be done unto it,[6] to emphasise that the payment should only be made out of the body of the Tam and not out of any other source whatsoever.

Why did R. Oshaia omit Rape, Seduction and Slander, the liabilities for which are also civil?[7] — What particular liability do you wish to refer to? If for actual loss, this has already been dealt with under Depreciation; if for suffering, this has already been dealt with under Pain; if for humiliation, this has already been dealt with under Degradation; if again for deterioration, this is already covered by Depreciation. What else then can you suggest? The Fine.[8] With this [type of liability] R. Oshaia is not concerned.

Why then omit Defilement , Adulteration and Vitiation of wine, the liabilities for which are civil? — What is your view in regard to intangible damage?[9] If [you consider] intangible damage a civil wrong, defilement has then already been dealt with under Depreciation; if on the other hand intangible damage is not a civil wrong, then any liability for it is penal in nature, with which R. Oshaia is not concerned.

Are we to infer that R. Hiyya considers intangible damage not to be a civil wrong? For otherwise would not this kind of damage already have been reckoned by him under Depreciation? — He may in any case have found it expedient to deal with tangible damage and intangible damage under distinct heads.

It is quite conceivable that our Tanna[10] found it necessary to give the total number [of the principal kinds of damage] in order to exclude those of R. Oshaia;[11] the same applies to R. Oshaia who also gave the total number in order to exclude those of R. Hiyya;[12] but what could be excluded by the total number specified by R. Hiyya? — It is intended to exclude Denunciation[13] and Profanation of sacrifices.[14]

The exclusion of profanation is conceivable as sacrifices are not here reckoned; but why is

Denunciation omitted? — Denunciation is in a different category on account of its verbal nature with which R. Hiyya is not concerned. But is not Slander of a verbal nature and yet reckoned? — Slander is something verbal but dependent upon some act.[15] But is not False Evidence a verbal effect not connected with any act and yet it is reckoned? — The latter though not connected with any act is reckoned because it is described in the Divine Law as an act, as the text has it: Then shall ye do unto him as he had purposed to do unto his brother.[16]

It is quite conceivable that the Tanna of the Mishnah characterises his kinds of damage as Principals in order to indicate the existence of others which are only derivatives: but can R. Hiyya and R. Oshaia characterise theirs as Principals in order to indicate the existence of others which are derivatives? If so what are they? — Said R. Abbahu: All of them are characterised as Principals for the purpose of requiring compensation out of the best of possessions.[17] How is this uniformity [in procedure] arrived at? — By means of a uniform interpretation of each of the following terms: ‘Instead’,[18] ‘Compensation’,[19] ‘Payment’,[20] ‘Money’.[21]

THE ASPECTS OF THE OX ARE [IN SOME RESPECTS] NOT [OF SUCH LOW ORDER OF GRAVITY] AS THOSE OF THE ‘SPOLIATOR’ [MAB'EH]. What does this signify? — R. Zebid in the name of Raba said: The point of this is: Let Scripture record only one kind of damage[22] and from it you will deduce the liability for the other![23] In response it was declared: One kind of damage could not be deduced from the other.[24]

NOR ARE THE ASPECTS OF EITHER OF THEM IN WHICH THERE IS LIFE. What does this signify? R. Mesharsheya in the name of Raba said: The point of it is this:

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(1) Penal liabilities are created only by means of impartial evidence and never by that of confession; cf. infra 64b.
(2) Mak. 2b.
(3) V. infra p. 179.
(4) Infra pp. 180 and 240.
(5) Lit., ‘broke the [full] force of his club’ (Jast.); Rashi: ‘of his fist’.
(6) Ex. XXI. 31.
(7) Cf. Keth. 40a.
(8) V. Deut, XXII, 29; Ex. XXII, 6; and Deut. XXII, 19.
(9) Cf. Git. 53a.
(10) Opening the Tractate.
(11) I.e., the additional nine kinds enumerated by him supra p. 13.
(12) I.e the eleven added by him supra. p. 14.
(13) Cf. infra 62a and 117a.
(14) Cf. Lev. VII, 18 and Zeb. I, 1 and II, 2-3.
(15) The consummation of the marriage rite according to R. Eliezer, or the bribery of false witnesses according to R. Judah; cf. Keth. 46a.
(16) Deut. XIX, 19.
(17) Cf. Ex. XXII, 4.
(18) I.e., for occurring in Ex. XXI, 36, and elsewhere.
(19) I.e., an expression such as, He shall give, cf. EX XXI, 32 and elsewhere.
(20) As in Ex. XXII, 8 and elsewhere.
(21) Such as, e.g., in Ex. XXI, 34 and elsewhere. [One of these four terms occurs with each of the four categories of damage specified in the Mishnah and likewise with each of the kinds of damage enumerated by R. Oshaia and R. Hiyya, thus teaching uniformity in regard to the mode of payment in them all.]
(22) I.e., Ox.
(23) I.e., Mab'eh.
(24) V. supra pp. 11-12.

Talmud - Mas. Baba Kama 5b

Talmud - Mas. Baba Kama 5b

Let Scripture record only two kinds of damage[1] and from them you will deduce a further kind of damage?[2] In response it was declared: Even from two kinds of damage it would not be possible to deduce one more.[3]

Raba, however, said: If you retain any one kind of damage along with Pit [in Scripture], all the others but Horn will be deduced by analogy;[4] Horn is excepted as the analogy breaks down, since all the other kinds of damage are Mu'ad ab initio.[5] According, however, to the view that Horn on the other hand possesses a greater degree of liability because of its intention to do damage,[6] even Horn could be deduced. For what purpose then did Scripture record them all? For their [specific] laws: Horn, in order to distinguish between Tam and Mu'ad;[7] Tooth and the Foot, to be immune [for damage done by them] on public ground;[8] Pit, to be immune for [damage done by it to] inanimate objects;[9] and, according to R. Judah who maintains liability for inanimate objects damaged by a pit,[10] in order still to be immune for [death caused by it to] man;[11] Man, to render him liable for four [additional] payments [when injuring man];[12] Fire, to be immune for [damage to] hidden goods;[13] but according to R. Judah, who maintains liability for damage to hidden goods by fire,[13] what [specific purpose] could be served?

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(1) I.e., Ox and Mab'eh.

(2) I.e., Fire.

(3) For the reason stated in the Mishnah.

(4) To the feature common in Pit and the other kind of damage.

(5) I.e., it is usual for them to do damage, whereas Horn does damage only through excitement and evil intention which the owner should not necessarily have anticipated; cf. infra p. 64.

(6) Cf. supra p. 11 and infra p. 64.

(7) Infra p. 73.

(8) Infra p. 94.

(9) Infra 52a.

(10) Infra 53b.

(11) Infra 54a.

(12) Infra p. 473; cf. also supra pp. 12 and 13.

(13) Infra 61b.

Talmud - Mas. Baba Kama 6a

— To include [damage done by fire] lapping his neighbour's ploughed field and grazing his stones.[1]

THE FEATURE COMMON TO THEM ALL . . . What else is this clause intended to include? — Abaye said: A stone, a knife and luggage which, having been placed by a person on the top of his roof, fell down through a normal wind and did damage.[2] In what circumstances [did they do the damage]? If while they were in motion, they are equivalent to Fire! How is this case different? Just as Fire is aided by an external force[3] and, being your possession, is under your control, so also is the case with those which are likewise aided by an external force and, being your possessions are under your control. If [on the other hand, damage was done] after they were at rest, then, if abandoned, according to both Rab and Samuel, they are equivalent to Pit.[4] How is their case different? Just as Pit is from its very inception a source of injury, and, being your possession is under your control, so also is the case with those[5] which from their very inception [as nuisances] are likewise sources of injury, and, being your possession are under your control.[6] Furthermore, even if they were not abandoned, according to Samuel who maintains that we deduce [the law governing] all nuisances from Pit,[4] they are [again] equivalent to Pit? — Indeed they were abandoned, still they are not equivalent to Pit. Why [is liability attached] to Pit if not because no external force assists it? How then can you assert [the same] in the case of those[5] which are assisted by an external force? — Fire,[7] however, will refute [this reasoning]. But [you may ask] why [is liability attached] to Fire if not because of its nature to travel and do damage?[8] — Pit, however, will refute [this reasoning]. The argument is [thus endlessly] reversible [and liability[9] can be deduced only from the Common Aspects].[10]

Raba said: [This clause is intended] to include a nuisance which is rolled about [from one place to another] by the feet of man and by the feet of animal [and causes damage]. In what circumstances [did it do the damage]? If it was abandoned, according to both Rab and Samuel,[11] it is equivalent to Pit! How does its case differ? Just as Pit is from its very inception a source of injury, and is under your control, so also is the case with that which from its very inception [as a nuisance] is likewise a source of injury, and is under your control. Furthermore, even if it were not abandoned, according to Samuel,[11] who maintains that we deduce [the law governing] all nuisances from Pit, it is [again] equivalent to Pit? — Indeed it was abandoned, still it is not equivalent to Pit: Why [is liability attached] to Pit if not because the making of it solely caused the damage? How then can you assert [the same] in the case of such nuisances,[12] the making of which did not directly cause the damage?[13] — Ox, however, will refute [this reasoning]. But [you may ask] why [is liability attached] to Ox if not because of its habit to walk about and do damage? — Pit will refute [this reasoning]. The argument is [thus endlessly] reversible as the aspect of the one is not comparable to the aspect of the other, [and liability[14] therefore can be deduced only from the Common Aspects].

R. Adda b. Ahabah said: To include that which is taught:[15] ‘All those who open their gutters or sweep out the dust of their cellars

[into public thoroughfares] are in the summer period acting unlawfully, but lawfully in winter; [in all cases] however, even though they act lawfully, if special damage resulted they are liable to compensate.’ But in what circumstances? If the damage occurred while [the nuisances were] in motion, is it not man's direct act?[16] If, on the other hand, it occurred after they were at rest, [again] in what circumstances? If they were abandoned, then, according to both Rab and Samuel,[17] they are equivalent to Pit! How does their case differ? Just as Pit is from its very inception a source of injury, and, being your possession, is under your control, so also is the case with those which are likewise from their very inception [as nuisances] sources of injury and, being your possession, are under your control. Furthermore, even if they were not abandoned, according to Samuel,[17] who maintains that we deduce [the law governing] all nuisances from Pit, they are [again] equivalent to Pit? — Indeed they were abandoned, still they are not equivalent to Pit: Why [is liability attached] to Pit if not because of its being unlawful?[18] How then could you assert [the same] in the case of those which [in winter] are lawful? —

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(1) As this damage is rather an unusual effect from fire and special reference is therefore essential.

(2) Cf. supra p. 8.

(3) I.e., the blowing wind.

(4) Infra 28b; v. supra p. 7.

(5) I.e., stone, knife and luggage referred to above.

(6) Cf. supra p. 7.

(7) Which is also assisted by an external force, i.e. the wind, but nevertheless creates liability to pay.

(8) Which cannot he said of stone, knife and luggage.

(9) Even when the nuisance has, like Fire, been assisted by an external force and is, like Pit, unable to travel and do damage.

(10) Referred to in the Mishnaic quotation.

(11) Infra 28b and supra p. 7.

(12) Which have been rolling about from one place to another.

(13) But the rolling by man and beast.

(14) Even in the case of nuisances that roll about.

(15) Cf. infra 30a.
(16) The liability for which is self-evident under the category of Man.
(17) Infra 28b and supra p. 7.
(18) It being unlawful to dig a pit in public ground.

Talmud - Mas. Baba Kama 6b

Ox,[1] however, will refute [this reasoning]. But, you may ask, why [is liability attached] to Ox if not because of its nature to walk about and do damage? — PIt will refute [this reasoning]. The argument is [thus endlessly] reversible [and liability[2] can be deduced only from the Common Aspects].

Rabina said: To include that which we have learnt: 'A wall or a tree which accidentally fell into a Public thoroughfare and did damage, involves no liability for compensation. If an order had been served [by the proper authorities] to fell the tree and pull down the wall within a specified time, and they fell within the specified time and did damage, the immunity holds goods, but if after the specified time, liability is incurred.'[3] But what were the circumstances [of the wall and the tree]? If they were abandoned, then according to both Rab and Samuel,[4] they are equivalent to Pit! How is their case different? Just as Pit does frequent damage and is under your control, so also is the case with those which likewise do frequent damage and are under your control. Furthermore, even if they were not abandoned, according to Samuel.[4] who maintains that we deduce [the law governing] all nuisances from Pit, they are [again] equivalent to Pit? — Indeed they were abandoned, still they are not equivalent to Pit: Why [is liability attached] to Pit if not because of its being from its very inception a source of injury? How then can you assert [the same] in the case of those which are not sources of injury from their inception? — Ox, however, will refute [this reasoning]. But [you may ask] why [is liability attached] to Ox if not because of its nature to walk about and do damage? — Pit will refute [this reasoning]. The argument is [thus endlessly] reversible [and liability[5] can be deduced only from Common Aspects].

WHENEVER ANYONE OF THEM DOES DAMAGE THE OFFENDER IS [HAB] LIABLE. 'The offender is HAB!' — 'The offender is HAYYAB'[6] should be the phrase? — Rab Judah, on behalf of Rab, said: This Tanna [of the Mishnaic text] was a Jerusalemite who employed an easier form.[7]

TO INDEMNIFY WITH THE BEST OF HIS ESTATE. Our Rabbis taught: Of the best of his field and of the best of his vineyard shall he make restitution[8] refers to the field of the plaintiff and to the vineyard of the plaintiff, this is the view of R. Ishmael. R. Akiba says: Scripture only intended that damages should be collected out of the best,[9] and this applies even more so to sacred property.[10]

Would R. Ishmael maintain that the defendant, whether damaging the best or worst, is to pay for the best? — R. Idi b. Abin said: This is so where he damaged one of several furrows and it could not be ascertained whether the furrow he damaged was the worst or the best,in which case he must pay for the best. Raba, however, [demurred] saying: Since where we do know that he damaged the worst, he would only have to pay for the worst, now that we do not know whether the furrow damaged was the best or the worst, why pay for the best? It is the plaintiff who has the onus of proving his case by evidence. R. Aha b. Jacob therefore explained: We are dealing here with a case where the best of the plaintiff's estate equals in quality the worst of that of the defendant;[11] and the point at issue is [as follows]: R. Ishmael maintains that the qualities are estimated in relation to those of the plaintiff's estate;[12] but R. Akiba is of the opinion that it is the qualities of the defendant's possessions that have to be considered.[13]

What is the reason underlying R. Ishmael's view? — The term 'Field' occurs both in the latter clause[14] and the earlier clause of the verse;[15] now just as in the earlier clause it refers to the plaintiff's possessions, so also does it in the latter clause. R. Akiba, however, maintains that [the last clause,] Of the best of his field and of the best of his vineyard shall he make restitution[16] clearly refers to the possessions of the one who has to pay. R. Ishmael [on the other hand,] contends that both the textual analogy[17] of the terms and the plain textual interpretation are complementary to each other. The analogy of the terms is helpful towards establishing the above statement[18] while the plain textual interpretation helps to qualify [the application of the above[18] in] a case where the defendant's estate consists of good and bad qualities, and the plaintiff's estate likewise comprises good quality, but the bad of the defendant's estate is not so good as the good quality of the estate of the plaintiff;[19] for in this case the defendant must pay out of the better quality of his estate, as he cannot say to him, ‘Come and be paid out of the bad quality’ [which is below the quality of the estate of the plaintiff], but he is entitled to the better quality [of the defendant].

‘R. Akiba said: Scripture only intended that damages be collected out of the best, and this applies even more so to sacred property.’ What is the import of the last clause? It could hardly be suggested that it refers to a case where a private ox gored an ox consecrated [to the Sanctuary], for does not the Divine Law distinctly say, The ox of one's neighbour,[20] excluding thus [any liability for damage done to] consecrated chattel? Again, it could hardly deal with a personal undertaking by one to pay a maneh to the Treasury of the Temple, thus authorising the treasurer to collect from the best; for surely he should not be in a better position than a private creditor

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(1) Which it is similarly lawful to keep, but which when doing damage creates nevertheless a liability to pay.

(2) Even in the cases referred to by R. Adda b. Ahabah.

(3) B.M. 117b.

(4) Infra 28b.

(5) Even in the case of the wall and the tree.

(6) A slight variation in the Hebrew text: a disyllable instead of a monosyllable.

(7) Preferred a contracted form.

(8) Ex. XXII, 4.

(9) Of the defendant's estate.

(10) I.e., property dedicated to the purposes of the sanctuary.

(11) The amount of damages, however, would never be more than could be proved to have been actually sustained.

(12) I.e., the quality of the field paid by the defendant as damages need not exceed the best quality of the plaintiff's estate. Hence, in the case in hand, the worst of the defendant's will suffice.

(13) The quality of the payment must therefore always he the best of the defendant's estate,

(14) I.e., of the best of his field . . . Ex, XXII,4.

(15) If a man shall cause a field or a vineyard to be eaten, ibid.

(16) Ex. XXII,4.

(17) The (Gezerah Shawah, v. Glos.

(18) ‘That the qualities are estimated in relation to those of the plaintiff's estate.’

(19) The bad quality could not thus be tendered.

(20) Ex. XXI, 35.

Talmud - Mas. Baba Kama 7a

who can collect nothing better than the medium quality.[1] If, however, you hold that R. Akiba authorises the payment of all loans out of the best, [the treasurer of the Temple could still hardly avail himself of this privilege as] the analogy between these two kinds of liability could be upset as follows: A private creditor is at an advantage in that for damages he will surely be paid out of the best, but is not the Temple Treasury at a very great disadvantage in this respect?[2] — It may still be maintained that it applies to the case where a private ox gored a consecrated ox, and in answer to the difficulty raised by you — that the Divine Law definitely says The ox of one's neighbour, thus exempting for damage done to consecrated property — it may be suggested that R. Akiba shares the view of R. Simeon b. Menasya as taught:[3] R. Simeon b. Menasya says: In the case of a consecrated ox goring a private one, there is total exemption; but for a private ox, whether Tam or Mu'ad, goring a consecrated ox, full damages must be paid.[4] If this is R. Akiba's contention, whence could it be proved that the point at issue between R. Ishmael and R. Akiba is as to the best of the plaintiff's equalling the worst of the defendant's? Why not say that on this point they are both of opinion that the qualities are estimated in relation to the plaintiff's possessions,[5] whereas the disagreement between them is on the point at issue between R. Simeon b. Menasya and the Rabbis [i.e., the majority against him], R. Akiba holding the view of R. Simeon b. Menasya, and R. Ishmael that of the Rabbis? — If so, what would be the purport of the first clause of R. Akiba, ‘Scripture only intended that damages be collected out of the best’?[6] Again, would not then even the last clause ‘And this even more so applies to sacred property’ be rather illogically phrased?[7] Furthermore, R. Ashi said: It was explicitly taught: Of the best of his field and of the best of his vineyard shall he make restitution[8] refers to the field of the plaintiff and to the vineyard of the plaintiff: this is the view of R. Ishmael. R. Akiba [on the other hand] says: The best of the defendant's field and the best of the defendant's vineyard.

Abaye pointed out to Raba the following contradiction: Scripture records, Out of the best of his field and out of the best of his vineyard shall he make restitution[8] [thus indicating that payment must be made] only out of the best and not out of anything else; whereas it is taught: He should return,[9] includes payment in kind,[10] even with bran?[11] — There is no contradiction: the latter applies when the payment is made willingly, while the former refers to payments enforced [by law]. ‘Ulla the son of R. Elai, thereupon said: This distinction is evident even from the Scriptural term, He shall make restitution,[8] meaning, even against his will. Abaye, on the other hand, said to him: Is it written yeshullam[12] [‘Restitution shall be made’]? What is written is yeshallem[13] [‘He shall make restitution’], which could mean of his own free will! — But said Abaye: [The contradiction can be solved] as the Master[14] [did] in the case taught: An owner of houses, fields and vineyards[15] who cannot find a purchaser [is considered needy and] may be given the tithe for the poor[16] up to half the value of his estate.[17] Now the Master discussed the circumstances under which this permission could apply: If property in general, and his included, dropped in value, why not grant him even the value of more [than the half of his estate's value], since the depreciation is general? If, on the other hand, property in general appreciated, but his, on account of his going about looking here and there for ready money, fell in price,

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(1) Git. V, 1.

(2) On account of the absolute immunity, as stated, for damage done to Temple property.

(3) Infra p. 212.

(4) R. Akiba thus maintains that the Temple Treasury will, for any damage sustained, be reimbursed out of the best of the defendant's estate.

(5) And where the plaintiff's best equals the defendant's worst, the latter will perhaps suffice according to all opinions.

(6) Which indicates that the interpretation of the Scriptural verse (Ex. XXII, 4) is the point at issue.

(7) As according to the view requiring full payment in all cases, the quality of the payment for damage done to sacred property may he higher than that paid for damage done to ordinary property, and in fact nothing less than the very best of the defendant's estate would suffice.

(8) Ex. XXII, 4.

(9) Ex. XXI, 34.

(10) Otherwise the Scriptural text would be superfluous, as payment in specie is evident in an earlier clause.

(11) Infra 9a.

(12) ישלם

(13) ישלם~

(14) Rabbah (Rashi).

(15) The value of which amounted to 200 zuz.

(16) Cf. Deut. XIV, 28-29; this tithe is distributed among those who possess less than two hundred zuz; Pe'ah VIII, 8.

(17) I.e., 100 zuz to enable him to sell his property for half its value which, it is assumed, he can at any time realise.

Talmud - Mas. Baba Kama 7b

why give him anything at all?[1] And the Master thereupon said: No; the above law is applicable to cases where in the month of Nisan[2] property has a higher value, whereas in the month of Tishri[3] it has a lower value. People in general wait until Nisan and then sell, whereas this particular proprietor, being in great need of ready money, finds himself compelled to sell in Tishri at the existing lower price; he is therefore granted half because it is in the nature of property to drop in value up to a half, but it is not in its nature to drop more than that. Now a similar case may also be made out with reference to payment for damage which must be out of the best. If the plaintiff, however, says: ‘Give me medium quality but a larger quantity’, the defendant is entitled to reply: ‘It is only when you take the best quality which is due to you by law that you may calculate on the present price; failing that, whatever you take you will have to calculate according to the higher price anticipated.’[4] But R. Aha b. Jacob demurred: If so, you have weakened the right of plaintiffs for damages in respect of inferior quality. When the Divine Law states out of the best,[5] how can you maintain that inferior qualities are excluded?[6] R — Aha b. Jacob therefore said: If any analogy could he drawn,[7] it may be made in the case of a creditor. A creditor is paid by law out of medium quality; if, however, he says: ‘Give me worse quality but greater quantity,’ the debtor is entitled to say, ‘It is only when you take that quality which is due to you by law that you may calculate on the present price, failing that, whatever you take you will have to calculate according to the higher price anticipated.’ R. Aha, son of R. Ika, demurred: If so, you will close the door in the face of prospective borrowers. The creditor will rightly contend, ‘Were my money with me I would get property according to the present low price; now that my money is with you, must I calculate according to the anticipated higher price?’ — R. Aha, son of R. Ika, therefore said: If any analogy could be drawn,[7] it is only with the case of a Kethubah[8] [marriage settlement][9] which, according to the law, is collected out of the worst quality. But if the woman says to the husband: ‘Give me better quality though smaller quantity,’ he may rejoin: ‘It is only when you take the quality assigned to you by law that you may calculate in accordance with the present low price; failing that, you must calculate in accordance with the anticipated higher price.,

But be it as it is, does the original difficulty[10] still not hold good? — Said Raba: Whatever article is being tendered has to be given out of the best [of that object].[11] But is it not written: ‘The best of his field’?[12] — But when R. Papa and R. Huna the son of R. Joshua had arrived from the house of study[13] they explained it thus: All kinds of articles are considered ‘best’, for if they were not to be sold here they would be sold in another town;[14] it is only in the case of land which is excepted therefrom that the payment has to be made out of the best, so that intending purchasers jump at it.

R. Samuel b. Abba of Akronia[15] asked of R. Abba: When the calculation[16] is made, is it based on his own [the defendant's] property or upon that of the general public? This problem has no application to R. Ishmael's view that the calculation is based upon the quality of the plaintiff's property;[17] it can apply only to R. Akiba's view[17] which takes the defendant's property into account.[18] What would, according to him, be the ruling? Does the Divine Law in saying, ‘the best of his field’ intend only to exclude the quality of the plaintiff's property from being taken into account, or does it intend to exclude even the quality of the property of the general public? — He [R. Abba] said to him:[19] The Divine Law states, ‘the best of his field’ how then can you maintain that the calculation is based on the property of the general public?

He[20] raised an objection: [It is taught,] If the defendant's estate consists only of the best, creditors of all descriptions are paid out of the best; if it is of medium quality, they are all paid out of medium quality; if it is of the worst quality, they are all paid out of the worst quality. [It is only] when the defendant's possessions consist of both the best, the medium, and the worst [that] creditors for damages are paid out of the best, creditors for loans out of the medium and creditors for marriage contracts out of the worst. When [however] the estate consists only of the best and of the medium qualities, creditors for damages are paid out of the best while creditors for loans and for marriage contracts will be paid out of the medium quality. [Again] if the estate consists only of the medium and the worst qualities, creditors for either damages or loans are paid out of the medium quality whereas those for marriage contracts will be paid out of the worst quality.

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(1) Since, in reality, his property is worth 200 zuz.

(2) It being the beginning of Spring and the best season for transactions in property, both for agricultural and building purposes.

(3) I.e., about October, being the end of the season.

(4) The scriptural verse, ‘He shall return’, introducing payment in kind, would thus authorise the calculation on the higher price anticipated whenever the plaintiff prefers a quality different from that assigned to him by law.

(5) Ex. XXII, 4.

(6) From the option of the plaintiff.

(7) To the case made out by the Master regarding the Tithe of the Poor referred to above.

(8) V. Glos.

(9) Git. V, 1.

(10) Raised by Abaye supra p. 24.

(11) I.e., when bran is tendered it is the best of it which has to he given.

(12) Confining it thus to land, for if otherwise why altogether insert ‘of his field’?

(13) בי רב. V. Sanh. (Sonc. ed p. 387, n. 7.

(14) And could therefore be tendered.

(15) [Or Hagronia, a town near Nehardea, v. Obermeyer, J. Die Landschaft Babylonian, p. 265.]

(16) Of the best, medium and worst qualities, out of which to pay creditors for damages, loans and marriage-contracts respectively.

(17) Cf. supra p. 22.

(18) I.e., his estate is divided into three categories; best, medium and worst, out of which the payments will respectively be made.

(19) I.e., to R. Samuel, the questioner.

(20) I.e., R. Samuel.

Talmud - Mas. Baba Kama 8a

If, however, the estate consists only of the best and of the worst qualities, creditors for damages are paid out of the best whereas those for loans and marriage contracts are paid out of the worst quality. Now[1] the intermediate clause states that if the estate consists only of the medium and the worst qualities, creditors for either damages or loans are paid out of the medium quality whereas marriage contracts will be paid out of the worst quality. If, therefore, you still maintain that the calculation is based only upon the qualities of the defendant's estate, is not the medium [when there is no better with him] his best? Why then should not the creditors for loans be thrown back on the worst quality? — This [intermediate clause] deals with a case where the defendant originally possessed[2] property of a better quality but has meanwhile disposed of it. And R. Hisda likewise explained this [intermediate clause] to deal with a case where the defendant originally possessed[2] property of a better quality but has meanwhile disposed of it. This explanation stands to reason, for it is taught elsewhere: If the estate consisted of the medium and the worst qualities, creditors for damages are paid out of the medium quality whereas those for loans and marriage contracts will be paid out of the worst quality. Now these [two Baraithas] do not contradict each other, unless we accept [the explanation that] the one deals with a case where the defendant originally owned property of a better quality but which he has meanwhile disposed of, while the other states the law for a case where he did not have[3] property of a quality better than the medium in his possession. It may, however, on the other hand be suggested that both [Baraithas] state the law when a better quality was not disposed of[4] and there is yet no contradiction, as the second [Baraitha] presents a case where the defendant's medium quality is as good as the best quality of the general public,[5] whereas in the first [Baraitha] the medium quality was not so good as the best of the public.[6] It may again be suggested that both [Baraithas] present a case where the defendant's medium quality was not better than the medium quality of the general public and the point at issue is this: the second [Baraitha] bases the calculation upon the qualities of the defendant's estate,[7] but the first bases it upon those of the general public.[8]

Rabina said: The point at issue is the view expressed by ‘Ulla.[9] For ‘Ulla said: Creditors for loans may, according to Pentateuchal Law, be paid out of the worst, as it is said, Thou shalt stand without, and the man to whom thou dost lend shall bring forth the pledge without unto thee.[10] Now it is certainly in the nature of man [debtor] to bring out the worst of his chattels. Why then is it laid down that creditors for loans are paid out of the medium quality?[11] This is a Rabbinic enactment made in order that prospective borrowers should not find the door of their benefactors locked before them. Now this enactment referred to by ‘Ulla is accepted by the first [Baraitha] whereas the second disapproves of this enactment.[12]

Our Rabbis taught: If a defendant[13] disposed of all his land[14] to one or to three persons at one and the same time, they all have stepped into the place of the original owner.[15] [If, however, the three sales took place] one after another, creditors of all descriptions will be paid out of the [property purchased] last;[16] if this property does not cover [the liability], the last but one purchased estate is resorted to [for the balance]; if this estate again does not meet [the whole obligation], the very first purchased estate is resorted to [for the outstanding balance].

‘If the defendant disposed of all his land to one’ — under what circumstances [was it disposed of]? It could hardly be suggested [that it was effected] by one and the same deed, for if in the case of three persons whose purchases may have been after one another,[17] you state that, ‘They all have stepped into the place of the original owner,’ what need is there to mention one person purchasing all the estate by one and the same deed? It therefore seems pretty certain [that the estate disposed of to one person was effected by] deeds of different dates. But [then] why such a distinction?[18] Just as in the case of three purchasers [in succession] each can [in the first instance] refer any creditor [to the very last purchased property], saying, ‘[When I bought my estate] I was careful to leave [with the defendant] plenty for you to be paid out of,’[19] why should not also one purchaser [by deeds of different dates] be entitled to throw the burden of payment on to the very last purchased property, saying, ‘[When I acquired title to the former purchases] I was very careful to leave for you plenty to be paid out of’? — We are dealing here with a case where the property purchased last was of the best quality;[20] also R. Shesheth stated that [this law applies] when the property purchased last was of the best quality. If this be the case, why [on the other hand] should not creditors of all kinds come and be paid out of the best quality [as this was the property purchased last]? — Because the defendant may say to the creditors: ‘If you acquiesce and agree to be paid out of the qualities respectively allotted to you by law, you may be paid accordingly, otherwise I will transfer the deed of the worst property back to the original owner — in which case you will all be paid out of the worst.’[21] If so,

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(1) Here begins R. Samuel's argument.

(2) I.e., at the time when the loan took place, in which case the creditors then obtained a claim on the medium quality by the process of law.

(3) At the time when the loan took place, in which case the medium (in the absence of a better quality) was relatively the best, and therefore not available to creditors for loans.

(4) But was either retained, as is the case in the second Baraitha, or on the other hand not owned at all at the time of the loan as is the case in the first Baraitha.

(5) In such a case it is considered the best quality to all intents and purposes, as the calculation is based upon the general standard of quality.

(6) It is thus termed only medium and creditors for loans have access to it.

(7) Hence in the absence of a better quality in his own estate, that property which is termed medium in comparison to the general standard is the best in the eye of the law.
(8) According to which it is but medium.
(9) Git. 50a.
(10) Deut XXIV, 11.
(11) Git. V, 1.
(12) Maintaining that creditors for loans will always he paid out the worst quality.
(13) I.e., a debtor for damages, loans and marriage-settlements.
(14) Consisting of best, medium and worst qualities.
(15) So that creditors for damages, for loans and for marriage-settlements will he paid according to their respective rights.
(16) Whether it be best, medium or worst.
(17) Though on one and the same day; cf, Keth. 94a.
(18) I.e., why should the legal position of one purchaser be worse than that of three?
(19) As, according to a Mishnaic enactment (Git. V, 1), ‘Property disposed of by a debtor could not he resorted to by his creditors so long as there are with him available possessions undisposed of.’
(20) In which case it is not in the interest of the purchaser that the last purchase should he available to any one of the creditors.
(21) At the hands of the debtor, according to the Mishnaic enactment, Git. V, 1.

Talmud - Mas. Baba Kama 8b

why should the same not be said regarding creditors for damages?[1] It must therefore he surmised that we deal with [a case where the vendor has meanwhile died, and, as his] heirs are not personally liable to pay,[2] the original liability [which accompanied the purchased properties] must always remain upon the purchaser;[3] who could consequently no longer [threaten the creditors and] say this: [‘If you acquiesce . . .’?][4] — But the reason the creditors cannot be paid out of the best is that the vendee may [repudiate their demand and] say to them: ‘On what account have the Rabbis enacted that "property disposed of by a debtor can not be attached by his creditors so long as there are available possessions still not disposed of"[5] if not for the sake of protecting my interests? In the present instance I have no interest in availing myself of this enactment.’ Exactly as Raba, for Raba elsewhere said: Whoever asserts, ‘I have no desire to avail myself of a Rabbinical enactment’ such as this is listened to.[6] To what does ‘such as this’ refer? — To R. Huna, for R. Huna said: A woman is entitled to say to her husband, ‘I don't expect any maintenance from you[7] and I do not want to work for you.’[8]

It is quite certain that if the vendee[9] has sold the medium and worst qualities and retained the best, creditors of all descriptions may come along and collect out of the best quality. For this property was acquired by him last; and, since the medium and worst qualities are no more in his possession, he is not in a position to say to the creditors: ‘Take payment out of the medium and worst properties, as I have no interest in availing myself of the Rabbinic enactment.’[10] But what is the law when the vendee disposed of the best quality and retained the medium and the worst? — Abaye at first was inclined to say: Creditors of all descriptions are entitled to come and collect out of the best.[11] But Raba said to him.[12] Does not a vendee selling [property] to a sub-vendee assign to him all the rights [connected] therewith] that may accrue to him?[13] Hence just as when the creditors come to claim from the vendee, he is entitled to pay them out of the medium and the worst [respectively], irrespective of the fact that when the medium and the worst qualities were purchased by him, the best property still remained free with the original vendor, and in spite of the enactment that properties disposed of cannot be distrained on [at the hands of the vendee] so long as there is available [with the debtor] property undisposed of,[14] the reason of the exception being that the vendee is entitled to say that he has no interest in availing himself of this enactment, so is the subvendee similarly entitled to say to the creditors: ‘Take payment out of the medium and the worst.’[15] For the sub-vendee entered into the sale only upon the understanding that any right that his vendor may possess in connection with the purchase should also be assigned to him.

Raba said:[16] If Reuben disposed of all his lands to Simeon who in his turn sold one of the fields to Levi, Reuben's creditor may come and collect out of the land which is in the possession either of Simeon or Levi. This law applies only when Levi bought medium quality; but if he purchased either the best or the worst the law is otherwise, as Levi may lawfully contend: ‘I have purposely been careful to buy the best or the worst, that is, property which is not available for you.’[17] Again, even when he bought medium quality the creditor will not have this option unless Levi did not leave [with Simeon] medium quality of a similar nature,in which case he is unable to plead, ‘l have left for you ample land with Simeon;’ but if Levi did leave with Simeon medium quality of a similar nature the creditor is not entitled to distrain on Levi who may lawfully contend, ‘I have left for you ample land [with Simeon] to satisfy your claim from it.

Abaye said:[18] If Reuben had disposed of a field to Simeon with a warranty [of indemnity],[19] and an alleged creditor of Reuben came to distrain on it from Simeon, Reuben is entitled by law to come forward and litigate with the creditor, nor can the latter say to him: ‘You [Reuben] are no party to me;’[20] for Reuben will surely say to him: ‘If you will deprive Simeon of the field purchased by him from me, he will turn on me.’[21] There are some who say: Even if there were no warranty there the same law applies, as Reuben may say to the alleged creditor: ‘I don't want Simeon to have any grievance against me.’

And Abaye further said:[22] If Reuben sold a field to Simeon without a warranty [for indemnity]

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(1) I.e., they also should thus not he paid out of the best; like creditors for loans they would still he paid out of the medium quality, as the worst quality they could never lose.

(2) I.e., when no land was left in the inherited estate.

(3) For even by transferring the worst quality to the heirs he would not escape any liability affecting him.

(4) Since the liability upon him will thereby not be affected, why then should they, in such circumstances, not resort to the very best property purchased?

(5) Git. V, 1.

(6) Keth. 83a.

(7) Maintenance is a Rabbinical enactment for married women in exchange for their domestic work; cf. Keth. 47b.

(8) Keth. 58b.

(9) Who at successive sales purchased the whole estate of a debtor, and the last purchase was property of the best quality.

(10) As supra p. 31.

(11) At the hands of the sub-vendee, since nothing else of the same estate is with him to be offered to the creditors

(12) Cf. ‘Ar. 31b.

(13) I.e., the vendee.

(14) Git. V, 1.

(15) At the hands of the vendee.

(16) Cf. Keth. 92b.

(17) Cf. supra p. 29.

(18) Cf. Keth. 92b and B.M. 14a.

(19) In case it is distrained on by the vendor's creditors.

(20) For he who has no personal interest in a litigation can be no pleader in it; cf. infra 70a.

(21) To be indemnified for the warranty.

(22) Keth. 92b-93a.

Talmud - Mas. Baba Kama 9a

and there appeared claimants [questioning the vendor's title], so long as Simeon had not yet taken possession of it he might withdraw; but after he had taken possession of it he could no longer withdraw. What is the reason for that? — Because the vendor may say to him: ‘You have agreed to accept a bag tied up with knots.’[1] From what moment [in this case] is possession considered to be taken? — From the moment he sets his foot upon the landmarks [of the purchased field]. This applies only to a purchase without a warranty. But if there is a warranty the law is otherwise. Some, however, say: Even if there is a warranty the same law applies, as the vendor may still say to him: ‘Produce the distress warrant[2] against you and I will indemnify you.’

R. Huna said: [The payment for damages is] either with money or with the best of the estate.[3] R. Nahman objected to R. Huna [from the Baraitha]: He should return[4] shows that payment in kind is included, even with bran?[5] — This deals with a case where nothing else is available. If nothing else is available, is it not obvious? — You might have thought that we tell him to go and take the trouble to sell [the bran] and tender the plaintiff ready money. It is therefore made known to us [that this is not the case.].

R. Assi said: Money is on a par with land. What is the legal bearing of this remark? If to tell us what is best, is this not practically what R. Huna said?[6] It may, however, refer to two heirs[7] who divided an inheritance, one taking the land and the other the money. If then a creditor[8] came and distrained on the land, the aggrieved heir could come forward and share the money with his brother. But is this not self-evident? Is the one a son [to the deceased] and the other one not a son? There are some who argue [quite the reverse]: The one brother may say to the other, ‘I have taken the money on the understanding that if it be stolen I should not be reimbursed by you, and you also took the land on the understanding that if it be distrained on there should be no restitution to you out of anything belonging to me.’ It[9] will therefore refer to two heirs[7] who divided lands among themselves after which a creditor[8] came along and distrained on the portion of one of them.[10] But has not R. Assi already once enunciated this law? For it was stated;[11] [In the case of] heirs who divided [the land of the inheritance among themselves], if a creditor[8] came along and distrained on the portion of one of them, Rab said: The original apportionment becomes null and void. Samuel said: The portion is waived; but R. Assi said: The portion is refunded by a quarter in land or by a quarter in money.[12] Rab, who said that the partition becomes null and void, maintains that heirs, even after having shared, remain[13] co-heirs;[14] Samuel, who said that the portion is waived, maintains that heirs, after having shared, stand to each other in the relationship of vendees, each being in the position of a purchaser without a warranty [of indemnity];[15] R. Assi, who said that the portion is refunded by a quarter in land or by a quarter in money, is in doubt as to whether heirs, after having shared, still remain co-heirs[16] or stand in the relationship of vendees;[15] and on account of that [doubt] there must be refunded a quarter in land or a quarter in money.[17] What then is the meaning of ‘Money is on a par with land’?[18] — In respect of being counted as ‘best’. But if so, is not this practically what R. Huna said? — Read ‘And so also said R. Assi . . .’

R. Zera said on behalf of R. Huna: For [the performance of] a commandment one should go up to a third. A third of what?

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(1) I.e., you bought it at your own risk; the sale is thus the passing not of ownership but of possession.

(2) טירפא, document conferring the right of seizure of a debtor's property sold after the loan (Jast.).

(3) R. Huna refers either to the last clause of the Mishnah on p. 1 or to the problem raised by Abaye on p. 24.

(4) Ex. XXI, 34.

(5) Cf. supra p. 24.

(6) The text should thus run, ‘And so also said R. Assi . . .’

(7) Lit. ‘brothers’.

(8) Of the deceased.

(9) I.e., R. Assi's statement.

(10) [In which case R. Assi stated that the other can offer in refundment either money or land.]
(11) B.B. 107a.
(12) Cf. Bek. 48a.
(13) In this respect.
(14) So that all of them have to share the burden of the debt and if the portion of the one was distrained on, the portion of the other constitutes the whole inheritance which has equally to he distributed accordingly.
(15) Who cannot thus be reimbursed for the distress effected upon the portion assigned to any one of them.
(16) V. p. 34. n. 11.
(17) On the principle that in such and similar matters the two parties should equally have the benefit of the doubt (Rashi, according to one interpretation).
(18) Stated above by R. Assi.

Talmud - Mas. Baba Kama 9b

You could hardly suggest ‘a third of one's possessions,’ for if so when one chanced to have three commandments [to perform at one and the same time] would one have to give up the whole of one's possessions? — R. Zera therefore said: For [performing a commandment in] an exemplary manner one should go up to a third of [the ordinary expense involved in] the observance thereof.

R. Ashi queried: Is it a third from within [the ordinary expense][1] or is it a third from the aggregate amount?[2] This stands undecided.

In the West[3] they said in the name of R. Zera: Up to a third, a man must perform it out of his own,[4] but from a third onwards he should perform it in accordance with the special portion the Holy One, blessed be He, has bestowed upon him.[5] MISHNAH. WHENEVER I AM UNDER AN OBLIGATION OF CONTROLLING [ANYTHING IN MY POSSESSION], I AM CONSIDERED TO HAVE PERPETRATED ANY DAMAGE THAT MAY RESULT.[6] WHEN I AM TO BLAME FOR A PART OF THE DAMAGE I AM LIABLE TO COMPENSATE FOR THE DAMAGE AS IF I HAD PERPETRATED THE WHOLE OF THE DAMAGE.

THE [DAMAGED] PROPERTY MUST BE OF A KIND TO WHICH THE LAW OF SACRILEGE[7] HAS NO APPLICATION. THE [DAMAGED] PROPERTY SHOULD BELONG TO PERSONS WHO ARE UNDER [THE JURISDICTION OF] THE LAW.[8] THE PROPERTY SHOULD BE OWNED. THE PLACE [OF THE DAMAGE] IS IMMATERIAL, WITH THE EXCEPTION OF PREMISES OWNED BY THE DEFENDANT OR PREMISES OWNED [JOINTLY] BY THE PLAINTIFF AND THE DEFENDANT. WHENEVER DAMAGE HAS OCCURRED, THE OFFENDER IS LIABLE TO INDEMNIFY WITH THE BEST OF HIS ESTATE.

GEMARA. Our Rabbis taught: ‘WHENEVER I AM UNDER AN OBLIGATION OF CONTROLLING [ANYTHING IN MY POSSESSION], I AM CONSIDERED TO HAVE PERPETRATED ANY DAMAGE [THAT MAY RESULT]. How is that? When an ox or pit which was left with a deaf-mute, an insane person or a minor, does damage, the owner is liable to indemnify. This, however, is not so with a fire.’ With what kind of case are we here dealing? If you say that the ox was chained and the pit covered, which corresponds in the case of fire to a hot coal, what difference is there between the one and the other? If on the other hand the ox was loose and the pit uncovered which corresponds in the case of fire to a flame, the statement ‘This, however, is not so with a fire,’ would here indicate exemption, but surely Resh Lakish said in the name of Hezekiah: They[9] have not laid down the law of exemption unless there was handed over to him[10] a coal which he has blown up, but in the case of a flame there will be full liability, the reason being that the danger is clear![11] — Still, the ox may have been chained and the pit covered and the fire likewise in a coal, yet your contention, ‘Why should we make a difference between the one and the other?’

could be answered thus: An ox is in the habit of loosening itself; so also a pit is in the nature of getting uncovered; but a hot coal, the longer you leave it alone, the more it will get cooler and cooler. According to R. Johanan, however, who said[11] that even when there has been handed over to him[10] a flame the law of exemption applies, the ox here would likewise be loose and the pit uncovered; but why should we make a difference between the one and the other? — There, in the case of the fire, it is the handling of the deaf-mute that causes the damage, whereas here, in the case of the ox and the pit, it is not the handling of the deaf-mute that causes the damage.

Our Rabbis taught: There is an excess in [the liability for] Ox over [that for] Pit, and there is [on the other hand] an excess in [the liability for] Pit over [that for] Ox. The excess in [the liability for] Ox over [that for] Pit is that Ox involves payment of kofer[12] and the liability of thirty [shekels] for the killing of a slave;[13] when judgment [for manslaughter] is entered [against Ox] it becomes vitiated for any use,[14] and it is in its habit to move about and do damage, whereas all this is not so in the case of Pit. The excess in [the liability for] Pit over [that for] Ox is that Pit is from its very inception a source of injury and is Mu'ad ab initio which is not so in the case of Ox.[15]

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(1) I.e., 33-1/3 per cent. of the cost of ordinary performance, the cost of the ordinary performance and that of the exemplary performance would thus stand to each other as 3 to 4.

(2) I.e., 50 per cent. of the cost of the ordinary performance; the cost of the ordinary performance and that of the exemplary performance would thus stand to each other as 2 to 3.

(3) Palestine.

(4) I.e., whether he possesses much or little.

(5) Cf. Shittah Mekubezeth and Nimmuke Joseph a.l. According to Rashi and Tosaf. a.l.: ‘The cost up to a third remains man's loss in this world (as the reward for that will he paid only in the world to come); but the cost from a third onwards (if any) will he refunded by the Holy One, blessed be He, in man's lifetime.’

(6) From neglecting the obligation to control.

(7) Of consecrated things. cf. Lev. V, 15-16.

(8) Lit., ‘sons of the Covenant’, excluding heathens who do not respect the covenant of the law; v. infra p. 211, n. 6.

(9) I.e., the Rabbis of the Mishnah, v. infra 59b.

(10) I.e., to a deaf-mute, an insane person or a minor.

(11) Infra 59b.

(12) Cf. Ex. XXI, 29-30; v. Glos.

(13) Ibid. XXI, 32.

(14) V. infra p. 255.

(15) Cf. supra p. 3, nn. 6-7.

Talmud - Mas. Baba Kama 10a

There is an excess in [the liability for] Ox over [that for] Fire and there is [on the other hand] an excess in [the liability for] Fire over [that for] Ox. The excess in [the liability for] Ox over [that for] Fire is that Ox involves payment of kofer and the liability of thirty [shekels] for the killing of a slave; when judgment [for manslaughter] is entered against Ox it becomes vitiated for any use;[1] if the owner handed it over to the care of a deaf-mute, an insane person or a minor he is still responsible [for any damage that may result];[2] whereas all this is not so in the case of Fire. The excess in [the liability for] Fire over [that for] Ox is that Fire is Mu'ad ab initio which is not so in the case of Ox.

There is an excess in [the liability for] Fire over [that for] Pit, and there is [on the other hand] an excess in [the liability for] Pit over [that for] Fire. The excess in [the liability for] Pit over [that for] Fire is that Pit is from its very inception a source of injury; if its owner handed it over to the care of a deaf-mute, an insane person or a minor, he is still responsible [for any damage that may result],[2] whereas all this is not so in the case of Fire. The excess in [the liability for] Fire over [that for] Pit is that the nature of Fire is to spread and do damage and it is apt to consume both things fit for it and things unfit for it, whereas all this is not so in the case of Pit.

Why not include in the excess of [liability for] Ox over [that for] Pit [the fact] that Ox is [also] liable for damage done to inanimate objects[3] which is not so in the case of Pit?[4] — The above [Baraitha] is in accordance with R. Judah who enjoins payment for damage to inanimate objects [also] in the case of Pit.[5] If it is in accordance with R. Judah, look at the concluding clause, 'The excess in [the liability for] Fire over [that for] Pit is that the nature of Fire is to spread and do damage, and it is apt to consume both things fit for it and things unfit for it; whereas all this is not so in the case of Pit.' 'Things fit for it:' are they not 'of wood'? 'Things unfit for it: are they not 'utensils'?[6] Now 'all this is not so in the case of Pit'. But if the statement is in accordance with R. Judah, did you not say that R. Judah enjoins payment for damage to inanimate objects [also] in the case of Pit? The Baraitha is, therefore, indeed in accordance with the Rabbis, but it mentions [some points] and omits [others].[7] What else does it omit that it omits that [particular] point?[8] — It also omits the law of hidden goods.[9] On the other hand you may also say that the Baraitha can still be reconciled with R. Judah, for 'things unfit for it' do not include utensils,[10] but do include [damage done by fire] lapping his neighbour's ploughed field and grazing his stones.[11]

R. Ashi demurred: Why not include, in the excess of liability for Ox Over [that for] Pit, [the fact] that Ox is [also] liable for damage done to consecrated animals that have become unfit [for the altar],[12] whereas this is not so in the case of Pit?[13] No difficulty arises if you assume that the Baraitha is in accordance with the Rabbis; just as it had omitted that point,[14] it omitted this point too. But if you maintain that the Baraitha is in accordance with R. Judah, what else did it omit that it omits this [one] point?-It omitted [Ox] trampling upon newly broken land.[15] [No! this is no argument,] for as to [Ox] trampling upon newly broken land there is no omission there, for this [is included in that which] has already been stated, 'It is in its habit to move about and do damage.'[16]

WHEN I HAVE PERPETRATED A PART OF THE DAMAGE. Our Rabbis taught: 'When I have perpetrated a part of the damage I become liable for the compensation for the damage as if I had perpetrated the whole of the damage. How is that? If one had dug a Pit nine handbreadths deep and another came along and completed it to a depth of ten handbreadths, the latter person is liable.' Now this ruling is not in accordance with Rabbi; for it was taught:[17] If one had dug a pit nine handbreadths deep and another came along and completed it to a depth of ten handbreadths, the latter person is liable. Rabbi says: The latter person is liable in cases of death,[18] but both of them in cases of injury![19] — R. Papa said: The Mishnaic ruling[20] deals with cases of death and is unanimous.[21] Some read: May we say that the Mishnah is not in accordance with Rabba? — R. Papa thereupon said: It deals with cases of death and is unanimous.

R. Zera demurred: Are there no other instances?[22] Behold there is [the case] where an ox was handed over to the care of five persons and one of them was careless, so that the ox did damage; that one is liable! — But in what circumstances? If without the care of that one, the ox could not be controlled, is it not obvious that it is that one who perpetrated the whole of the damage?[23] If, [on the other hand] even without the care of that one, the ox could be controlled, what, if anything at all, has that one perpetrated?

R. Shesheth, however, demurred: Behold there is [the case] where a man adds a bundle [of dry twigs to an existing fire]! — But in what circumstances?

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(1) V. p. 37, n. 6.

(2) Cf. supra p. 36.

(3) Lit., 'utensils'.

(4) Cf. supra pp. 17 and 18.

(5) V. supra p. 18 and infra 53b.

(6) Metal or earthenware.
(7) Such as the distinction between Ox and Pit with reference to inanimate objects
(8) As a Tanna would not, in enumeration, just stop short at one point.
(9) For damage to which, according to the Rabbis, there is no liability in the case of Fire; cf. supra p. 18 and infra 61b.
(10) V. p. 38, n. 6.
(11) V. supra p. 18.
(12) On account of a blemish, cf, Lev. XXII, 20 and Deut. XV, 21-22; such animals have to be redeemed, in accordance with Lev. XXVII, 11-13 and 27.
(13) Cf. infra 53b.
(14) I.e., with reference to inanimate objects.
(15) Which is impossible in the case of Pit.
(16) And therefore, if the Baraitha were in accordance with R. Judah, the question, ‘What else did it omit etc.’, would remain unanswered.
(17) Cf. Tosaf, B.K. VI, 3 and infra 51a.
(18) As without the additional handbreadth done by him the pit would have been nine handbreadths deep which could not occasion any fatal accident; cf, supra p. 7.
(19) For even a pit nine handbreadths deep could occasion injuries.
(20) Which declares the latter person ‘who perpetrated part of the damage’ liable.
(21) I.e., is even in accordance with Rabbi.
(22) To illustrate the perpetration of a part of the damage involving liability for the whole of the damage.
(23) And not a part of it.

Talmud - Mas. Baba Kama 10b

If without his co-operation the fire would not have spread, is it not obvious [that he is totally to blame]? If [on the other hand] even without his co-operation the fire would have spread, what, if anything at all, has he perpetrated?

R. Papa demurred: Behold there is that case which is taught: ‘Five persons were sitting upon one bench and did not break it; when, however, there came along one person more and sat upon it, it broke down; the latter is liable’ — supposing him, added R. Papa, to have been as stout as Papa b. Abba.[1] But under what circumstances? If without him the bench would not have broken, is it not obvious [that he is totally to blame]? If, on the other hand, without him it would also have broken, what, if anything at all, has he perpetrated? Be this as it may, how can the Baraitha be justified? — It could hold good when, without the newcomer, the bench would have broken after two hours, whereas now it broke in one hour. They[2] therefore can say to him: ‘If not for you we would have remained sitting a little while longer and would then have got up.’[3] But why should he not say to them: ‘Had you not been [sitting] there, through me the bench would not have broken’?[4] — No; it holds good when he [did not sit at all on the bench but] merely leaned upon them and the bench broke down. Is it not obvious [that he is liable]? — You might have argued ‘[Damage done by] a man's force is not comparable with [that done directly by] his body.’It is therefore made known to us that [a man is responsible for] his force [just as he] is [for] his body, for whenever his body breaks [anything] his force also participates in the damage.[5]

Are there no other instances? Behold there is that which is taught:[5] When ten persons beat a man with ten sticks, whether simultaneously or successively, so that he died, none of them is guilty of murder. R. Judah b. Bathyra says: If [they hit] successively, the last is liable, for he was the immediate cause of the death![6] — Cases of murder are not dealt with here.[7] You may also say that controversial cases are not dealt with.[7] Are they not? Did not we suggest that the Mishnah is not in accordance with Rabbi?[8] — That the Mishnah is not in accordance with Rabbi but in accordance with the Rabbis, we may suggest;[9] whereas that it is in accordance with R. Judah b. Bathyra, and not in accordance with the Rabbis, we are not inclined to suggest.[9]

I AM LIABLE TO COMPENSATE FOR THE DAMAGE. ‘I become liable for the replacement of the damage’ is not stated but ‘. . . TO COMPENSATE FOR THE DAMAGE’. We have thus learnt here that which the Rabbis taught elsewhere:[10] ‘“To compensate for damage" imports that the owners [plaintiffs] have to retain the carcass as part payment’. What is the authority for this ruling? — R. Ammi said: Scripture states, He that killeth a beast yeshallemennah [shall make it good];[11] do not read yeshallemennah [‘he shall pay for it’], but yashlimennah[12] [‘He shall complete its deficiency’]. R.Kahana infers it from the following: If it be torn in pieces, let him bring compensation up to [‘ad][13] the value of the carcass,’ he shall not make good that which was torn.[14] ‘Up to’ the value of the carcass[15] he must pay, but for the carcass itself he has not to pay. Hezekiah infers it from the following: And the dead shall be his own,[16] which refers to the plaintiff. It has similarly been taught in the school of Hezekiah: And the dead shall be his own,[16] refers to the plaintiff. You say ‘the plaintiff’. Why not the defendant? You may safely assert: ‘This is not the case.’ Why is this not the case? — Abaye said: If you assume that the carcass must remain with the defendant, why did not the Divine law, stating He shall surely pay ox for ox,[17] stop at that? Why write at all And the dead shall be his own?[18] This shows that it refers to the plaintiff.

And all the quotations serve each its specific purpose. For if the Divine Law had laid down [this ruling only in] the verse ‘He that killeth a beast shall make it good,’ the reason of the ruling would have been assigned to the infrequency of the occurrence,[19] whereas in the case of an animal torn in pieces [by wild beasts]’[20] which is [comparatively] of frequent occurrence, the opposite view might have been held;[21] hence special reference is essential.[20] If [on the other hand] this ruling had been made known to us only in the case of an animal torn in pieces.[22] it would have been explained by the fact that the damage there was done by an indirect agency,[23] whereas in the case of a man killing a beast, where the damage was done by a direct agency, the opposite view might have been held. Again, were this ruling intimated in both cases, it would have been explained in the one case on account of its infrequency,[24] and in the other account of the indirect agency,[25] whereas in the damage to which ‘And the dead shall be his own’[26] refers, which is both frequent and direct,[27] an opposite view might have been taken. If [on the other hand] this ruling had been intimated only in the case referred to by ‘And the dead shall be his own, it would have been explained by the fact of the damage having been done only by man's possession,[28] whereas in cases where the damage resulted from man's person[29] an opposite view might have been taken. Hence all quotations are essential.

R.Kahana said to Rab: The reason [for the ruling] is that the Divine Law says ‘And the dead shall be his own’, and but for this I might have thought that the carcass shall remain with the defendant [yet how can this be]? If, when there are with him[30] several carcasses he is entitled to pay him[31] with them, for the Master stated: He shall return,[32] includes payment in kind, even with bran,[33] what question then about the carcass of his own animal? — No, the verse is required only for the law regarding the decrease of the value of the carcass[34]

May we say that the decrease of the value of the carcass is a point at issue between Tannaitic authorities? For it has been taught: If it be torn in pieces, let him bring it for witness:[35]

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(1) Who was very corpulent, cf. B.M. 84a. [According to Zacuto's Sefer ha-Yuhasin, the reference there is not to R. Papa but to Papa b. Abba]

(2) I.e., the five persons that had previously been sitting upon the bench.

(3) Therefore he is to he regarded as having perpetrated the whole, and not merely a part, of the damage.

(4) And why should he alone be liable?

(5) V. infra pp. 79-80.

(6) Sanh. 78a and infra p. 139. [Why then was this ruling of R. Judah not taken as a further illustration of the Mishnaic principle?]

(7) In the Mishnah before us (which presents the law of civil action and not that of murder).
(8) Cf. supra p. 39.
(9) As it is the view of the majority that prevails; Ex. XXIII, 2.
(10) Tosef. B.K. I. 1.
(11) ישלמנה Lev. XXIV, 18.
(12) Changing the vowels of the Hebrew verb; ישלמנה into ישלימנה
(13) Similarly by changing the vowel; the monosyllable עד (witness) is read עד ‘up to’.
(14) Ex. XXII, 12.
(15) I.e., the amount required to make up the deficiency.
(16) Ex. XXI, 36.
(17) Ex. XXI, 36.
(18) Ibid; since it is self-evident that the defendant, having paid for the ox, claims the carcass.
(19) For a man to kill a beast with intent to cause damage to his neighbour.
(20) Ex. XXII, 12.
(21) In the interest of the plaintiff.
(22) V. p. 42, n. 11.
(23) I.e., not by the bailee himself but by a wild beast.
(24) I.e., man killing an animal.
(25) I.e., when the animal in charge was torn by beasts.
(26) I.e.,in the case of a goring ox, Ex. XXI, 36.
(27) The ox being his property, makes the owner responsible for the damage as if it were perpetrated by himself,
(28) I.e., by his cattle.
(29) Such as in Lev. XXIV, 18 and Ex. XXII, 12.
(30) I.e.,with the defendant.
(31) I.e., the plaintiff.
(32) EX.XXI, 34.
(33) Cf. supra p. 24.
(34) That is to he sustained by the plaintiff, since it becomes his from the moment of the goring.
(35) Ex.XXII, 12.

Talmud - Mas. Baba Kama 11a

Let him[1] bring witnesses that it had been torn by sheer accident and free himself. Abba Saul says: Let him[2] [in all cases] bring the torn animal[3] to the Court. Now is not the following the point at issue: The latter maintains that a decrease in value of the carcass will be sustained by the plaintiff,[4] whereas the former view takes it to be sustained by the defendant? — No, it is unanimously held that the decrease will be sustained by the plaintiff. Here, however, the trouble of [providing[5] for bringing up] the carcass [from the pit] is the point at issue,[6] as [indeed] taught: Others say, Whence [could it be derived] that it is upon the owner of the pit to bring up the [damaged] ox from his pit? We derive it from the text, ‘Money shall he return unto to the owner. And the dead beast’. . .[7] Abaye said to Raba: What does this trouble about the carcass mean? If the value of the carcass in the pit is one zuz,[8] whereas on the banks[9] its value will be four [zuz], is he not taking the trouble [of bringing up the carcass] solely in his own interests? — He [Raba], however, said: No, it applies when in the pit its value is one zuz, and on the banks its value is similarly one zuz. But is such a thing possible? Yes, as the popular adage has it, ‘A beam in town costs a zuz and a beam in a field costs a zuz’.

Samuel said: No assessment is made in theft and robbery[10] but in cases of damage;[11] I, however, maintain that the same applies to borrowing,[12] and Abba[13] agrees with me. It was therefore asked: Did he mean to say that ‘to borrowing the law of assessment does apply and Abba agrees with me,’ Or did he perhaps mean to say that ‘to borrowing the law of assessment does not apply and Abba agrees with me’? — Come and hear: A certain person borrowed an axe from his neighbour and broke it. He came before Rab, who said to him, ‘Go and pay [the lender] for his sound axe.’[14] Now, can you not prove hence[15] that [the law of] assessment does not apply [to borrowing]?[16] — On the contrary, for since R. Kahana and R. Assi [interposed and] said to Rab, ‘Is this really the law?’ and no reply followed, we can conclude that assessment is made. It has been stated: ‘Ulla said on behalf of R. Eleazar: Assessment is [also] made in case of theft and robbery; but R. Papi said that no assessment is made [in these cases]. The law is: No assessment is made in theft and robbery, but assessment is made in cases of borrowing, in accordance with R. Kahana and R. Assi.

‘Ulla further said on behalf of R. Eleazar: When a placenta comes out [from a woman] partly on one day and partly on the next day, the counting of the days of impurity[17] commences with the first day [of the emergence]. Raba, however, said to him: What is in your mind? To take the stricter course? Is not this a strictness that will lead to lenience, since you will have to declare her pure[18] by reckoning from the first day? Raba therefore said: ‘Out of mere apprehension, notice is taken of the first day [to be considered impure], but actual counting commences only with the second day.’ What is the new point made known to us? That even a part of an [emerging] placenta contains a fetus. But have we not learnt this elsewhere:[19] ‘A placenta coming partly out of an animal[20] renders [the whole of] it unfit for consumption,[21] as that, which is a sign of a fetus in humankind is similarly a sign of a fetus in an animal’? — As to this Mishnaic statement I might still have argued

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(1) I.e.,the paid bailee who is defending himself against the depositor.

(2) V. p 43 n. 15.

(3) [עדודה: עד being an unaugmented passive participle from the root עדד, v. Halpern, B. ZAW, XXX, p. 57.]

(4) I.e., when the deposited animal has been torn not by accident, in which case the paid bailee has to indemnify. The torn animal is thus brought at once to the Court to ascertain its value at the time of the mishap.

(5) I.e , the expenses involved.

(6) Abba Saul maintains that the defendant has to do it, whereas the other view releases him from this.

(7) Ex. XXI, 34; the subject of the last clause is thus joined to the former sentence as a second object.

(8) A coin; V. Glos.

(9) Of the pit.

(10) In which case payment must b e made in full for the original value of the damaged article.

(11) Where the carcass may he returned to the plaintiff.

(12) Treated in Ex. XXII, 13.

(13) [I.e., Rab whose full name was Abba].

(14) B.M. 96b.

(15) When the value of the broken axe vas not taken into account, but full payment for the axe in its original condition was ordered.

(16) Since Rab ordered the borrower to pay in full for the original value of the axe.

(17) Which are seven for a male child and fourteen for a girl; cf. Lev. XII. 2 and 5.

(18) I.e., after the expiration of the 7 or 14 days for a male or female child respectively, when there commence 33 or 66 days of purity for a boy or girl respectively; cf. Lev. ibid. 4-5.

(19) Hul. 68a.

(20) Before the animal was slaughtered.

(21) As it is considered to contain a fetus which when born is subject to the law of slaughtering on its own accord.

Talmud - Mas. Baba Kama 11b

that it is quite possible for a part of a placenta to emerge without a fetus, but that owing to a [Rabbinic] decree a part of a placenta is in practice treated like the whole of it;[1] it is therefore made known to us[2] that this is not the case.

‘Ulla further said on behalf of R. Eleazar: A first-born son who has been killed within thirty days [of his birth] need not be redeemed.[3] The same has been taught by Rami b. Hama: From the verse, Shalt thou surely redeem[4] one might infer that this would apply even when the firstborn was killed within thirty days [of his birth]; there is therefore inserted the term ‘but’[5] to exclude it.

‘Ulla further said on behalf of R. Eleazar: [Title to] large cattle is acquired by ‘pulling’.[6] But did we not learn, . . . by ‘delivery’?[7] — He[8] follows another Tanna; for it has been taught:[9] The Rabbis say: Both one and the other[10] [are acquired] by ‘pulling’. R. Simeon says: Both one and the other by ‘lifting up’.

‘Ulla further said on behalf of R. Eleazar: In the case of heirs[11] who are about to divide the estate among themselves, whatever is worn by them will [also] be assessed [and taken into account], but that which is worn by their sons and daughters is not assessed [and not taken into account].[12] R. Papa said: There are circumstances when even that which is worn by the heirs themselves is not assessed. This exception applies to the eldest of the heirs,[13] as it is in the interest of them all that his words should be respected.

‘Ulla further said on behalf of R. Eleazar: One bailee handing over his charge to another bailee does not incur thereby any liability.[14] This ruling unquestionably applies to an unpaid bailee handing over his charge to a paid bailee in which case there is a definite improvement in the care; but even when a paid bailee hands over his charge to an unpaid bailee where there is definitely a decrease in the care, still he thereby incurs no liability, since he transfers his charge to a responsible person.

Raba, however, said: One bailee handing over his charge to another bailee becomes liable for all consequences. This ruling unquestionably holds good in the case of a paid bailee handing over his charge to an unpaid bailee where there is a definite decrease in the care; but even when an unpaid bailee hands over his charge to a paid bailee, where there is definitely an improvement in the care, still he becomes liable for all consequences, as the depositor may say [to the original bailee]: You would be trusted by me [should occasion demand] an oath [from you], but your substitute would not be trusted by me in the oath [which he may be required to take].[15]

‘Ulla further said on behalf of R. Eleazar: The law is that distraint may be made on slaves.[16] Said R. Nahman to ‘Ulla: Did R. Eleazar apply this statement even in the case of heirs[17] [of the debtor]? — No, Only to the debtor himself. To the debtor himself? Could not a debt be collected even from the cloak upon his shoulder?[18] — We are dealing here with a case where a slave was mortgaged,[19] as in the case stated by Raba, for Raba said:[20] Where a debtor mortgaged his slave and then sold him [to another person], the creditor may distrain on him [in the hands of the purchaser]. But where an ox was mortgaged and afterwards sold, the creditor cannot distrain on it [in the hands of the purchaser], the reason [for the distinction] being that in the former case the transaction of the mortgage aroused public interest[21] whereas in the latter case no public interest was aroused.[22]

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(1) On account of mere apprehension, lest no distinction will he made between the emergence of the whole of the placenta and a part of it.

(2) In the statement of ‘Ulla on behalf of R. Eleazar,

(3) Notwithstanding Num. XVIII, 15-16.

(4) Ibid. 15.

(5) Hebrew ‘Ak אך being a particle of limitation.

(6) I.e., by the buyer; v, Glos. s.v. Meshikah.

(7) l.e., by the seller handing over the bit to the buyer; Kid. 25b.

(8) I.e., ‘Ulla on behalf of R. Eleazar.

(9) Cf. Kid. 25b and B.B. 86b.

(10) I.e. Large and small cattle.

(11) Lit., ‘brothers’.

(12) As it would be a degradation to them to be forced to appear before the court.

(13) In charge of the administration of the affairs of the heirs.

(14) Cf.B.M. 36a.
(15) The original bailee has thus committed a breach of the trust.
(16) Cf. B.B. 128a.
(17) Who inherited the slaves; v. supra p. 31.
(18) Why then speak about slaves?
(19) By the debtor who had meanwhile died.
(20) Infra 33b and B.B. 44b.
(21) So that the purchaser was no doubt aware of it and should consequently not have bought it.
(22) So that the purchaser is not to blame.

Talmud - Mas. Baba Kama 12a

After R. Nahman went out ‘Ulla said to the audience: ‘The statement made by R. Eleazar refers even to the case of heirs.’ R. Nahman said: ‘Ulla escaped my criticism’. A case of this kind arose in Nehardea and the judges of Nehardea[1] distrained [on slaves in the hands of heirs]. A further case took place in Pumbeditha and R. Hana b. Bizna distrained [on slaves in the hands of heirs]. But R. Nahman said to them: ‘Go and withdraw [your judgments], otherwise I will distrain on your own homes [to reimburse the aggrieved heirs].’[2] Raba, however, said to R. Nahman: ‘There is ‘Ulla, there is R. Eleazar, there are the judges of Nehardea and there is R. Hana b. Bizna [who are all joining issue with you]; what authorities is the Master following?’ — He said to him:[3] ‘I know of a Baraitha, for Abimi learned: "A prosbul[4] is effective only when there is realty[5] [belonging to the debtor] but not when he possesses slaves[6] only. Personalty is transferred along with realty[7] but not along with slaves."’[6]

May we not say that this problem is a point at issue between the following Tannaim? [For it was taught:] ‘Where slaves and lands are sold, if possession is taken of the slaves no title is thereby acquired to the land, and similarly by taking possession of the lands no title is acquired to the slaves. In the case of lands and chattels, if possession is taken of the lands title is also acquired to the chattels,[7] but by taking possession of the chattels no title is acquired to the lands. In the case of slaves and chattels, if possession is taken of the slaves no title is thereby acquired to the chattels,[8] and similarly by taking possession of the chattels no title is acquired to the slaves. But [elsewhere] it has been taught: ‘If possession is taken of the slaves the title is thereby acquired to the chattels.’[9] Now, is not this problem the point at issue: the latter Baraitha[9] maintains that slaves are considered realty [in the eye of the law], whereas the former Baraitha[10] is of the opinion that slaves are considered personalty? — R. Ika the son of R. Ammi, however, said: [Generally speaking] all [authorities] agree that slaves are considered realty. The [latter] Baraitha stating that the transfer [of the chattels] is effective, is certainly in agreement; the [former] Baraitha stating that the transfer [of the chattels] is ineffective, may maintain that the realty we require is such as shall resemble the fortified cities of Judah in being immovable. For we have learnt: ‘Property which is not realty may be acquired incidentally with property which is realty[11] through the medium of either [purchase] money, bill of sale or taking possession.’ [And it has been asked:][12] What is the authority for this ruling? And Hezekiah thereupon said: Scripture states, And their father gave them great gifts of silver and of gold and of precious things with fortified cities in Judah.[13] [Alternatively] there are some who report: R. Ika the son of R. Ammi said: [Generally speaking] all [authorities] agree that slaves are considered personalty. The [former] Baraitha stating that the transfer [of the chattels] is ineffective is certainly in agreement; the [latter] Baraitha stating that the transfer of the chattels is effective deals with the case when the chattels [sold] were worn by the slave.[14] But even if they were worn by him, what does it matter? He is but property[15] in motion, and property in motion cannot be the means of conveying anything it carries. Moreover, even if you argue that the slave was then stationary, did not Raba say that whatsoever cannot be the means of conveying while in motion cannot be the means of conveying even while in the state of standing or sitting?[16] — This law applies to the case where the slave was put in stocks. But behold has it not been taught: ‘If possession is taken of the land, title is thereby acquired also to the slaves'?[17] — There the slaves were gathered on the land.[18] This implies that the Baraitha which stated that the transfer of the slaves is ineffective,[19] deals with a case where the slaves were not gathered on the land. That is all very well according to the version that R. Ika the son of R. Ammi said that slaves are considered personalty; there is thus the stipulation that if they were gathered on the land, the transfer is effective, otherwise ineffective. But according to the version which reads that slaves are considered realty, why the stipulation that the slaves be gathered on the land?

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(1) Generally referring to R. Adda b. Minyomi; Sanh. 17b.

(2) As he considered them to have acted against established law, and so ultra vires; cf infra pp. 584ff. and Sanh. 33a.

(3) I.e., R. Nahman to Raba.

(4) ** i.e., an official declaration made in court by a lender to the effect that the law of limitation by the Sabbatical year shall not apply to the loans contracted by him; cf. Sheb. X. 4 and Git. 36a. V. Glos.

(5) As realty even when sold by the debtor could be distrained on in the hands of the purchasers; cf. Git. 37a.

(6) As these are considered personalty. They cannot therefore be distrained on in the hands of heirs.

(7) I.e., the acquisition of land confers title to chattels bought at the same time. Kid. 26a; v. infra, p. 49.

(8) Slaves seem thus to be not realty.

(9) In this Baraitha slaves are treated like realty.

(10) Stating that by taking possession of slaves no title is acquired to chattels.

(11) Lit, 'property which affords no surety may be acquired along with property which does afford surety' (to creditors in case of non-payment of debts); Kid 26a.

(12) Kid. 26a.

(13) II Chron. XXI,3: with עם is taken in the sense by means of.

(14) They are therefore part and parcel of the slave.

(15) Lit., a courtyard.

(16) Git. 21a, 68a; B.M. 9b.

(17) Apparently on account of the fact that these are treated like personalty.

(18) In which case even if they are not personalty their transfer has to he valid.

(19) When only incidental to the transfer of land.

Talmud - Mas. Baba Kama 12b

Did not Samuel say that if ten fields in ten different countries are sold, as soon as possession is taken of one of them, the transfer of all of them becomes effective?[1] — But even if your reasoning be followed [that it is in accordance with the version reading that slaves are considered personalty], why again the stipulation that the slaves be gathered on the land? Has it not been established that the personalty' need not be gathered on the land? You can therefore only say that there is a distinction in law between movable personalty[2] and immovable personalty. Likewise here also [we say] there is a distinction in law between movable realty[3] and immovable realty: slaves [if realty] are movable realty whereas there [in the case of the ten fields] land is but one block.

THE [DAMAGED] PROPERTY MUST BE OF A KIND TO WHICH THE LAW OF SACRILEGE HAS NO APPLICATION etc. So long as [the penalty of] Sacrilege does not apply. Who is the Tanna [of this view]? — R. Johanan said: This is so in the case of minor sacrifices according to R. Jose the Galilean, who considers them to be private property; for it has been taught: If a soul sin and commit a trespass against the Lord and lie unto his neighbour.[4] . . this indicates also minor sacrifices,[5] as these are considered private property;[6] so R. Jose the Galilean. But, behold, we have learnt: If one betroths [a woman] by means of the priestly portion, whether of major sacrifices or of minor sacrifices, the betrothal is not valid.[7] Are we to say that this Mishnah is not in accordance with R. Jose the Galilean?[8] — You may even reconcile it with R. Jose the Galilean; for R. Jose the Galilean confines his remark to sacrifices that are still alive, whereas, in the case of sacrifices that have already been slaughtered, even R. Jose the Galilean agrees that those who are entitled to partake of the flesh acquire this right as guests at the divine table.[9] But so long as the sacrifice is still alive, does he really maintain that it is private property? Behold, we have learnt: A firstling, if unblemished, may be sold only while alive; but if blemished [it may be sold] both while alive and when slaughtered. It may similarly be used for the betrothal of a woman.[10] And R. Nahman said on behalf of Rabbah b. Abbuha:[11] This is so only in the case of a firstling at the present time,[12] in which, on account of the fact that it is not destined to be sacrificed, the priests possess a proprietary right; but at the time when the Temple still existed, when it would have been destined to be sacrificed, the law would not have been so.[13] And Raba asked R. Nahman: [Was it not taught:] If a soul sin and commit a trespass against the Lord and lie unto his neighbour. . .;[14] this indicates also minor sacrifices, as these are considered private property;[15] this is the view of R. Jose the Galilean? And Rabina replied that the latter case[16] deals with firstlings from outside [Palestine] and is in accordance with R. Simeon, who maintains that if they were brought [to Palestine] in an unblemished condition, they will be sacrificed.[17] Now this is so only if they were brought [to Palestine, which implies that] there is no necessity to bring them there in the first instance for that specific purpose.[18] Now, if it is the fact that R. Jose the Galilean considers them private property while alive,

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(1) Kid. 27a.

(2) That is to he acquired along with realty; v. Kid. 27a.

(3) Which needs to be gathered on the land.

(4) Lev. V, 21.

(5) E.g., peace offerings, as these belong partly to the Lord and partly to the neighbour; some parts thereof are burnt on the altar but the flesh is consumed by the original owners.

(6) Pes. 90a.

(7) Kid. 52b.

(8) For according to him the flesh is private property and alienable,

(9) I.e., as merely invited without having in them any proprietary rights.

(10) M.Sh. I, 2.

(11) Tem. 7b.

(12) When no sacrifices are offered.

(13) The priests would not have had in it a proprietary right nor have been able to use it for the betrothal of a woman.

(14) Lev, V, 21.

(15) Even in Temple times, since the text requires the offender to bring a trespass offering.

(16) Where they are considered private property.

(17) Tem. III. 5.

(18) And since they need not be brought and sacrificed they are considered the private property of the priests as stated by R. Jose the Galilean.

Talmud - Mas. Baba Kama 13a

why [did Rabina] not reply that the one[1] is in accordance with R. Jose the Galilean,and the other[2] in accordance with the Rabbis?[3] — It was said in answer: How can you refer to priestly gifts? Priestly gifts are altogether different[4] as those who are entitled to them enjoy that privilege as guests at the divine table.[5]

[To refer to] the main text : If a soul sin and commit a trespass against the Lord and lie unto his neighbour:[6] this indicates also minor sacrifices; this is the view of R. Jose the Galilean. Ben ‘Azzai says that it indicates [also] peace-offerings. Abba Jose b. Dostai said that Ben ‘Azzai meant to include only the firstling.

The Master said:[6] ‘Ben Azzai says that it indicates [also] peace-offerings.’ What does he mean to exclude? It can hardly be the firstling, for if in the case of peace-offerings which are subject to the laws of leaning,[7] libations[8] and the waving of the breast and shoulder,[9] you maintain that they are private property, what question could there be about the firstling?[10] — R. Johanan therefore said: He meant to exclude the tithe,[11] as taught: In the case of the firstling, it is stated, Thou shalt not redeem;[12] it may, however, if unblemished be sold while alive, and if blemished [it may be sold] alive or slaughtered; in the case of the tithe it is stated, It shall not be redeemed,[13] and it can be sold neither alive nor slaughtered neither when unblemished nor when blemished.[14] Rabina connected all the above discussion with the concluding clause: ‘Abba Jose b. Dostai said that Ben ‘Azzai meant to include only the firstling.’ What does he mean to exclude? It can hardly be peace-offerings, for if the firstling which is holy from the very moment it opens the matrix,[15] is private property, what question could there be about peace-offerings?[16] — R. Johanan therefore said: He meant to exclude the tithe, as taught:[17] In regard to the firstling it is stated, Thou shalt not redeem;[18] it may, however, if unblemished be sold while alive and if blemished [it may be sold] alive or slaughtered; in regard to the tithe it is stated, It shall not be redeemed,[19] and it can be sold neither while alive nor when slaughtered, neither when unblemished nor blemished. But does he not say, ‘The firstling alone’?[20] This is a difficulty indeed!

Raba [on the other hand] said: What is meant by ‘THE [DAMAGED] PROPERTY MUST BE OF A KIND TO WHICH THE LAW OF SACRILEGE HAS NO APPlication’ is that the property is not of a class to which the law of sacrilege may have any reference[21] but is such as is owned privately . But why does not the text say. ‘Private property’? — This is a difficulty indeed!

R.Abba said: In the case of peace-offerings that did damage,[22] payment will be made[23] out of their flesh but no payment could be made out of their emurim.[24] Is it not obvious that the emurim will go up [and be burnt] on the altar? — No; we require to be told that no payment will be made out of the flesh for the proportion due from the emurim. But according to whose authority is this ruling made? If according to the Rabbis,[25] is this not obvious? Do they not maintain that when payment cannot be recovered from one party, it is not requisite to make it up from the other party? If according to R. Nathan,[26] [it is certainly otherwise] for did he not say that when no payment can be made from one party, it has to be made up from the other party? — If you wish, you may say: The ruling was made in accordance with R. Nathan; or, if you wish, you may say that it was made in accordance with the Rabbis. You may say that it was made in accordance with the Rabbis,for their ruling is confined to a case where the damage was done by two separate agencies,[27] whereas, in the case of one agency,[28] the plaintiff may be justified in demanding payment from whatever source he finds it convenient. Alternatively you may say that the ruling was made in accordance with R. Nathan, for it is only there [in the case of an ox pushing another's ox in a pit] that the owner of the damaged ox is entitled to say to the owner of the pit, ‘I have found my ox in your pit; whatever is not paid to me by your co-defendant must be made up by you;’

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(1) Maintaining that a firstling is the private property of the priest.

(2) I.e., the statement of R. Nahman that a firstling is not the private property of the priest.

(3) The opponents of R. Jose the Galilean.

(4) Even R. Jose regards them in no case as the property of the priest; all the Rabbis including R. Jose are thus unanimous on this matter. Hence Rabina was unable to explain the one Baraitha in accordance with R. Jose and the other in accordance with the Rabbis.

(5) Even while the firstling is still alive.

(6) Lev. V, 21.

(7) Ibid. III, 2.

(8) Num. XV, 8-II.

(9) Lev. VII, 30-34.

(10) The sacredness of which is of a lower degree and is not subject to all these rites. Consequently it should thus certainly be considered private property. It, of course, deals with a firstling outside Palestine which is not destined to he sacrificed.

(11) Of cattle dealt with in Lev. XXVII, 32-33.
(12) Num. XVIII, 17, the text is taken not to include alienation, in which case the sanctity of the firstling is not affected.
(13) Lev XXVII, 33; in this case, on account of Gezerah Shawah. i.e. a similarity of phrases between ibid. and verse 28, the right of alienation is included; cf, Bek. 32a.
(14) Tem. 8a. Because it is not private property.
(15) Ex. XIII, 12.
(16) That they should certainly be private property.
(17) Tem. 8a.
(18) Num. XVIII, 17.
(19) Lev. XXVII, 33.
(20) Excluding thus everything else, even peace-offerings.
(21) I.e. is not holy at all.
(22) While still Tam, when the payment must be made out of the body of the doer of the damage, v. infra p. 73.
(23) According to R. Jose the Galilean who maintains, supra p. 50, that minor sacrifices are considered private property.
(24) The part which has to he burnt on the altar; cf. Lev. III, 3-4.
(25) Infra 53a. where in the case of an ox pushing somebody else's animal into a pit, the owner of the pit pays nothing, though the owner of the ox does not pay full damages.
(26) Who makes the owner of the pit also pay.
(27) I.e., the ox and the pit, v. p. 53. n. 12.
(28) Such as in the case of peace-offerings dealt with by R. Abba.

Talmud - Mas. Baba Kama 13b

but in the case in hand, could the plaintiff say, ‘The flesh did the damage and the emurim did no damage’?[1]

Raba said: In the case of a thanksgiving-offering that did damage,[2] payment will be made[3] out of the flesh but no payment could be made out of its bread.[4] ‘Bread’! Is this not obvious?[5] — He wanted to lead up to the concluding clause: The plaintiff partakes of the flesh,[6] while he, for whose atonement the offering is dedicated,[7] has to bring the bread. Is not this also obvious? — You might have thought that since the bread is but an accessory to the sacrifice,[4] the defendant may be entitled to say to the plaintiff. ‘If you will partake of the flesh, why should I bring the bread?’ It is therefore made known to us [that this is not the case, but] that the bread is an obligation upon the original owner of the sacrifice.

THE [DAMAGED] PROPERTY SHOULD BELONG TO PERSONS WHO ARE UNDER [THE JURISDICTION OF] THE LAW. What [person] is thereby meant to be excepted? If a heathen,[8] is not this explicitly stated further on: ‘An ox of an Israelite that gored an ox of a heathen is not subject to the general law of liability for damage’?[9] — That which has first been taught by implication is subsequently explained explicitly.

THE PROPERTY SHOULD BE OWNED. What is thereby excepted? — Rab Judah said: It excepts the case [of alternative defendants] when the one pleads. ‘It was your ox that did the damage,’ and the other pleads. ‘It was your ox that did the damage.’ But is not this explicitly stated further on: If two oxen pursue another ox, and one of the defendants pleads. ‘It was your ox that did the damage,’ and the other defendant pleads, ‘It was your ox that did the damage,’ no liability could be attached to either of them?[10] — What is first taught by implication is subsequently explained explicitly. In a Baraitha it has been taught: The exception refers to ownerless property.[11] But in what circumstances? It can hardly be where an owned ox gored an ownerless ox, for who is there to institute an action? If on the other hand an ownerless ox gored an owned ox, why not go and take possession of the ownerless doer of the damage? — Somebody else has meanwhile stepped in and already acquired title to it.[12] Rabina said: It excepts an ox which gored and subsequently became consecrated or an ox which gored and afterwards became ownerless.[12] It has also been taught thus: Moreover said R. Judah:[13] Even if after having gored, the ox was consecrated by the owner, or after having gored it was declared by him ownerless, he is exempt, as it is said, And it hath been testified to his owner and he hath not kept it in, but it hath killed a man or a woman; the ox shall be stoned.[14] That is so only where conditions are the same at the time of both the manslaughter and the appearance before the Court.[15] Does not the final verdict also need to comply with this same condition? Surely the very verse, The ox shall be stoned, circumscribes also the final verdict! — Read therefore: That is so only when conditions are the same at the time of the manslaughter and the appearance before the Court and the final verdict.[15]

WITH THE EXCEPTION OF PREMISES OWNED BY THE DEFENDANT: Because he may argue against the plaintiff, ‘What was your ox doing on my premises?’ OR PREMISES OWNED [JOINTLY] BY PLAINTIFF AND DEFENDANT. R. Hisda said on behalf of Abimi: [Where damage is done] in jointly owned courts, there is liability for Tooth and Foot,[16] and the [Mishnah] text is to be read thus: WITH THE EXCEPTION OF PREMISES OWNED BY THE DEFENDANT, where there is exemption. but in the case of PREMISES OWNED [JOINTLY] BY PLAINTIFF AND DEFENDANT, WHENEVER DAMAGE HAS OCCURRED,[17] THE OFFENDER IS LIABLE. R. Eleazar [on the other hand] said: There is no liability there for Tooth and Foot,[16] and the text is to be understood thus: WITH THE EXCEPTION OF PREMISES OWNED BY THE DEFENDANT OR [OF] PREMISES OWNED [JOINTLY] BY PLAINTIFF AND DEFENDANT, where there is also exemption. But WHENEVER DAMAGE HAS OCCURRED [otherwise] THE OFFENDER IS LIABLE etc. introduces Horn.[18] This would be in conformity with Samuel,[19] but according to Rab, who affirmed that ox in the Mishnaic text was intended to include all kinds of damage done by ox,[20] what was meant to be introduced by the clause, THE OFFENDER IS LIABLE? — To introduce that which our Rabbis have taught: WHENEVER DAMAGE HAS OCCURRED THE OFFENDER IS LIABLE introduces liability in the case of a paid bailee and a borrower, an unpaid bailee and a hirer, where the animal in their charge did damage, Tam paying half-damages and Mu'ad paying full damages. If, however, a wall[21] broke open at night, or robbers took it by force and it went out and did damage, there is exemption.

The Master said: ‘WHENEVER DAMAGE HAS OCCURRED, THE OFFENDER IS LIABLE introduces liability in the case of an unpaid bailee and a borrower, a paid bailee and a hirer’. Under what circumstances? If the ox of the lender damaged the ox of the borrower, why should not the former say to the latter: ‘If my ox had damaged somebody else's, you would surely have had to compensate;[22] now that my ox has damaged your own ox, how can you claim compensation from me?’ Again, if the ox of the borrower damaged the ox of the lender, why should not the latter say to the former: ‘If my ox had been damaged by somebody else's, you would surely have had to compensate me for the full value of the ox,[23] now that the damage resulted from your ox, how can you offer me half damages?[24] — It must therefore still be that the ox of the lender damaged the ox of the borrower, but we deal with a case where he [the borrower] has taken upon himself responsibility for the safety of the ox

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(1) Hence the flesh need not pay for the emurim.

(2) While still Tam, in which case the payment must he made out of the body of the damage-doer, as infra p. 73.

(3) In accordance with R. Jose the Galilean that minor sacrifices are private property.

(4) I.e., accompanying the offering, cf. Lev. VII, 12-13.

(5) That the bread need not pay, since the bread did not do any damage.

(6) After the offering of the sacrifice.

(7) I.e.,(as a rule) the defendant.

(8) Who does not recognise the covenant of Law, and who does not consider himself bound to control his own cattle from doing damage to others.

(9) V. infra p. 211 and note 6.

(10) V. infra 35a. ‘Owned’ thus means ‘known to belong to a particular defendant.’
(11) Tosef. B.K. I, 1.
(12) In which case the plaintiff will recover nothing.
(13) Infra p. 254.
(14) Ex. XXI, 29.
(15) I.e., where the ox is privately owned all through.
(16) For which there is no liability in a public thoroughfare; cf. supra p. 17.
(17) Even by Tooth and Foot.
(18) For which there is liability even in a public thoroughfare
(19) Who maintains, supra pp. 9-11, that Mab'eh in the Mishnaic text denotes Tooth, and Ox signifies Foot, whereas Horn has not been dealt with explicitly.
(20) Supra p. 10; so that Horn has already been dealt with in the first Mishnah.
(21) Of a sound structure, cf. infra 55b-56a
(22) The borrower being responsible for the damage done by the ox whilst under his charge. V. infra 44b
(23) As laid down in Ex. XXII. 13.
(24) I.e., in the case of the borrower's ox having been Tam.

Talmud - Mas. Baba Kama 14a

but not responsibility for any damage [that it may do].[1] If so, explain the concluding clause: ‘If a wall broke open at night, or if robbers took it by force and it went out and did damage, there is exemption.’ From this it may surely be inferred that [if this had happened] in the daytime, the borrower would have been liable. Why so, if he did not take upon himself responsibility for any damage [that it may do]? — The meaning must be as follows: [But] if he has taken upon himself responsibility for damage [that it may do], he would be liable to compensate, yet, if a wall broke open at night, or if robbers took it by force and it went out and did damage there is exemption [in such a case]. Is it really so?[2] Did not R. Joseph learn: In the case of jointly owned premises or an inn, there is liability for Tooth and for Foot? Is not this a refutation of R. Eleazar? — R. Eleazar may answer you as follows: Do you really think so? Are Baraithas not divided [in their opinions] on the matter?[3] For it was taught:[4] ‘Four general rules were stated by R. Simeon b. Eleazar to apply to the laws of torts: [In the case of damage done in] premises owned by the plaintiff and not at all by the defendant, there is liability in all; if owned by the defendant and not at all by the plaintiff, there is total exemption; but if owned by the one and the other, e.g., jointly owned premises or a valley, there is exemption for Tooth and for Foot, whereas for goring, pushing, biting, falling down, and kicking, Tam pays half-damages and Mu'ad pays full damages; if not owned by the one and the other, e.g., premises not belonging to them both, there is liability for Tooth and for Foot, whereas for goring, pushing, biting, falling down, and kicking, Tam pays half-damages and Mu'ad pays full damages.’ It has thus been taught here that in the case of jointly owned premises or a valley there is exemption for Tooth and Foot.[5]

Do then the two Baraithas contradict each other? — The latter Baraitha speaks of a case where the premises were set aside by the one and the other[6] for the purposes of both keeping fruits and keeping cattle in, whereas that of R. Joseph deals with premises set aside for keeping fruits in but not cattle, in which case so far as Tooth is concerned the premises are in practice the plaintiff's ground.[7] In fact the context points to the same effect. In the Baraitha here[8] the jointly owned premises are put on the same footing as an inn whereas in the Baraitha there[9] they are put on the same footing as a valley. This is indeed proved. R. Zera, however, demurred: In the case of premises which are set aside for the purpose of keeping fruits [of the one and the other].[10] how shall we comply with the requirement, and it feed in another man's field,[11] which is lacking in this case? — Abaye said to him: Since the premises are not set aside for keeping cattle in, they may well be termed ‘another man's field.’[12]

R. Aha of Difti[13] said to Rabina: May we say that just as the Baraithas[14] are not divided on the matter so also are the Amoraim[15] not divided on the subject?[16] He answered him: Indeed, it is so; if, however, you think that they are divided [in their views].[17] the objection of R. Zera and the answer of Abaye form the point at issue.[18]

[To revert] to the above text: ‘Four general rules were stated by R. Simeon b. Eleazar to apply to the laws of torts: [Where damage is done in] premises owned by the plaintiff, and not at all by the defendant, there is liability in all.’ It is not stated ‘for all’[19] but ‘in all’, i.e., in the whole of the damage; is it not in accordance with R. Tarfon who maintains that the unusual damage occasioned by Horn in the plaintiff's premises will be compensated in full.[20] Read, however, the concluding clause: ‘If not owned by the one and the other, e.g., premises not belonging to them both, there is liability for Tooth and for Foot.’ Now, what is the meaning of ‘not owned by the one and the other’? It could hardly mean ‘owned neither by the one nor by the other, but by somebody else,’ for have we not to comply with the requirement, and it feed in another man's field,[21] which is lacking in this case? It means therefore, of course, not owned by them both, but exclusively by the plaintiff,’ and yet it is stated in the concluding clause, ‘Tam pays half-damages and Mu'ad pays full damages,’ which follows the view of the Rabbis who maintain that the unusual damage occasioned by Horn in the plaintiff's premises will still be compensated only by half-damages.[22] Will the commencing clause be according to R. Tarfon and the concluding clause according to the Rabbis? — Yes, even as Samuel said to Rab Judah: Shinena,[23] leave this Baraitha alone,[24] and follow my view that the commencement of the Baraitha is according to R. Tarfon and its conclusion according to the Rabbis. Rabina, however, said in the name of Raba: The whole Baraitha is according to R. Tarfon; what is meant by ‘not owned by the one and the other’ is that the right of keeping fruits there is owned not by both, the one and the other, but exclusively by the plaintiff, whereas the right of keeping cattle there is owned by both, the one and the other. In the case of Tooth the premises are in practice the plaintiff's ground,[25] whereas in the case of Horn they are jointly owned ground.[26] If so, how are the rules four in number?[27] Are they not only three? — R. Nahman b. Isaac replied:

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(1) In which case the lender still remains liable for any damage his ox may do.

(2) That R. Eleazar exempts Tooth and Foot doing damage in jointly owned premises.

(3) And my view is supported by one of them.

(4) Tosef. B.K. I, 6.

(5) Thus fully supporting the view of R. Eleazar and contradicting the teaching of R. Joseph's Baraitha.

(6) I.e., by both plaintiff and defendant.

(7) For the defendant had no right to allow his cattle to be there, and is therefore liable for Tooth, etc.

(8) I.e., of R. Joseph.

(9) Recording the view of R. Simeon b. Eleazar.

(10) I.e., by both plaintiff and defendant.

(11) Ex. XXII, 4; implying that the field should belong exclusively to the plaintiff.

(12) For the defendant had no right to allow his cattle to be there, and is therefore liable for Tooth, etc.

(13) [Identified with Dibtha near the famous city of Washit on the Tigris, Obermeyer, op. cit. p. 197].

(14) I.e., that of R. Joseph and that of R. Simeon b. Eleazar.

(15) R. Hisda and R. Eleazar.

(16) R. Hisda deals with a case where the keeping of cattle has not been permitted, while R. Eleazar deals with the case when the premises have been set aside for that also.

(17) When the premises have been set aside not for cattle, but for the keeping of fruit.

(18) R. Hisda is of Abaye's opinion. whereas R. Eleazar prefers R. Zera's reasoning.

(19) Which would mean for all kinds of damage.

(20) Cf. infra 24b.

(21) Ex. XXII, 4, indicating that the field has to belong to the plaintiff.

(22) Cf. infra 24b.

(23) [Lit., (i) ‘sharp one’, i.e, scholar with keen and sharp mind; (ii) ‘long-toothed’, denoting a facial characteristic; (iii) ‘translator’, Rab Judah being so called on account of his frequent translation of Mishnaic terms into the vernacular

Aramaic, Golomb, D. Targumno I, Introduction, XLVff.]

(24) [Give up your attempt to harmonize the two contradictory clauses.]

(25) As the right to keep fruits there is exclusively the plaintiff's.

(26) For they both may keep cattle there.

(27) Since in principle they are only three in number: (a) exclusively the plaintiff's premises. (b) exclusively the defendant's, and (c) partnership premises.

Talmud - Mas. Baba Kama 14b

The rules are three in number, but the places to which they apply may be divided into four.[1]

MISHNAH. THE VALUATION [IS MADE] IN MONEY [BUT MAY BE PAID] BY MONEY'S WORTH, IN THE PRESENCE OF THE COURT AND ON THE EVIDENCE OF WITNESSES WHO ARE FREE MEN AND PERSONS UNDER THE JURISDICTION OF THE LAW. WOMEN ARE ALSO SUBJECT TO THE LAW OF TORTS. [BOTH] THE PLAINTIFF AND DEFENDANT ARE INVOLVED IN THE PAYMENT.

GEMARA. What is the meaning of THE VALUATION IN MONEY? Rab Judah said: This valuation must be made only in specie. We thus learn here that which has been taught by our Rabbis elsewhere:[2] In the case of a cow damaging a garment while the garment also damaged the cow, it should not be said that the damage done by the cow is to be set off against the damage done to the garment and the damage done to the garment against the damage done to the cow, the respective damages have to be estimated at a money value.

BY MONEY'S WORTH. [This is explained by what] our Rabbis taught [elsewhere]:[2] ‘MONEY'S WORTH’ implies that the Court will not have recourse for distraint save to immovable property. Nevertheless if the plaintiff himself seized some chattels beforehand, the Court will collect payment for him out of them.

The Master stated: "’MONEY'S WORTH" implies that the Court will not have recourse for distraint save to immovable property. How is this implied? Rabbah b. ‘Ulla said: The article of distress has to be worth all that is paid for it [in money].[3] What does this mean? An article which is not subject to the law of deception?[4] Are not slaves and deeds also not subject to the law of deception?[4] — Rabbah b. ‘Ulla therefore said: An article, title to which is acquired by means of money.[5] Are not slaves[6] and deeds[7] similarly acquired by means of money.[6] R. Ashi therefore said: ‘Money's worth’ implies that which has money's worth,[8] whereas chattels are considered actual money.[9] Rab Judah b. Hinena pointed out the following contradiction to R. Huna the son of R. Joshua: It has been taught: ‘MONEY'S FORTH implies that the Court will not have recourse for distraint save to immovable property; behold, was it not taught: He shall return[10] includes ‘money's worth’, even bran?[11] — [In the former Baraitha] we are dealing with a case of heirs.[12] If we are dealing with heirs read the concluding clause: ‘If the plaintiff himself seized some chattels beforehand, the Court will collect payment for him out of them.’ Now, if we are dealing with heirs, how may the Court collect payment for him out of them? — As already elsewhere[13] stated by Raba on behalf of R. Nahman, that the plaintiff seized [the chattels] while the original defendant was still alive, so here too, the seizure took place while the defendant was still alive.

IN THE PRESENCE OF THE COURT,[14] [apparently] exempts a case where the defendant sold his possessions before having been summoned to Court. May it hence be derived that in the case of one who borrowed money and sold his possessions before having been summoned to Court , the Court does not collect the debt out of the estate which has been disposed of?[15] — The text therefore excepts a Court of laymen.[16]

ON THE EVIDENCE OF WITNESSES, thus excepting a confession of [an act punishable by] a fine for which subsequently there appeared witnesses, in which case there is exemption. That would accord with the view that in the case of a confession of [an act punishable by] a fine, for which subsequently there appeared witnesses, there is exemption;[17] but according to the opposite view that in the case of a confession of [an act punishable by] a fine for which subsequently appeared witnesses, there is liability,[17] what may be said [to be the import of the text]? — The important point comes in the concluding clause:

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(1) [I.e.. partnership premises may he subdivided into two: (a) where both have the right to keep fruit, as well as cattle; (b) where the right to keep fruit is exclusively the plaintiff's.]

(2) Tosef. B.K., I.

(3) ‘Money's worth’ would thus mean ‘property which could not be said to be worth less than the price paid for it,’ and is thus never subject to the law of deception. This holds good with immovable property; cf. B.M. 56a.

(4) Cf. B.M. ibid.

(5) Kid. 26a.

(6) Cf. Kid. 23b.

(7) [Tosaf. deletes ‘deeds’ as these are not acquired by money but by Mesirah (v. Glos.). cf. B.B. 76a.]

(8) I.e., immovable property.

(9) As these could easily be converted into money, v. supra p. 26.

(10) Ex. XXI, 34.

(11) Supra p. 24.

(12) Who have to pay only out of the realty of the estate but not out of the personalty; cf. supra p. 31.

(13) Keth. 84b.

(14) Is taken to mean ‘the payment in kind is made out of the possessions which are in the presence of the Court’, i.e., not disposed of.

(15) Whereas the law is definitely otherwise as in B.B. X, 8.

(16) IN THE PRESENCE OF THE COURT does not refer to payment in kind but to the valuation which has to be made by qualified judges, v. infra 84b.

(17) Infra p. 429.

Talmud - Mas. Baba Kama 15a

FREE MEN AND PERSONS UNDER THE JURISDICTION OF THE LAW. ‘FREE MAN’ excludes slaves;[1] ‘PERSONS UNDER THE JURISDICTION OF THE LAW’[2] excludes heathens. Moreover, it was essential to exclude each of them. For if the exemption had been stated only in reference to a slave, we would have thought it was on account of his lack of [legal] pedigree[3] whereas a heathen who possesses a [legal] pedigree[4] might perhaps have been thought not to have been excluded. Had, on the other hand, the exemption been referred only to a heathen, we should have thought it was on account of his not being subject to the commandments [of the Law], whereas a slave who is subject to the commandments[5] might have been thought not to have been excluded. It was thus essential to exclude each of them independently.

WOMEN ARE ALSO SUBJECT TO THE LAW OF TORTS. Whence is derived this ruling? — Rab Judah said on behalf of Rab, and so was it also taught at the school of R. Ishmael:[6] Scripture states, When a man or woman shall commit any sin.[7] Scripture has thus made woman and man equal regarding all the penalties of the Law. In the School of Eleazar it was taught: Now these are the ordinances which thou shalt set before them.[8] Scripture has thus made woman and man equal regarding all the judgments of the Law. The School of Hezekiah and Jose the Galilean taught: Scripture says. It hath killed a man or a woman.[9] Scripture has thus made woman and man equal regarding all the laws of manslaughter in the Torah. Moreover, [all the quotations] are necessary: Had only the first inference[10] been drawn, [I might have said that] the Divine Law exercised mercy towards her so that she should also have the advantage of atonement, whereas judgments which concern as a rule man who is engaged in business, should not include woman. Again, were only the inference regarding judgments to have been made, we might perhaps have said that woman should also not be deprived of a livelihood, whereas the law of atonement should be confined to man, as it is he who is subject to all commandments, but should not include woman, since she is not subject to all the commandments.[11] Moreover, were even these two inferences to have been available, [we might have said that] the one is on account of atonement and the other on account of livelihood, whereas regarding manslaughter [it might have been thought that] it is only in the case of man, who is subject to all commandments, that compensation for the loss of life must be made, but this should not be the case with woman. Again, were the inference only made in the case of compensation for manslaughter, [it might have been thought to apply] only where there is loss of human life, whereas in the other two cases, where no loss of human life is involved, I might have said that man and woman are not on the same footing. The independent inferences were thus essential.

THE PLAINTIFF AND DEFENDANT ARE INVOLVED IN THE PAYMENT.

It has been stated:[12] The liability of half-damages[13] is said by R. Papa to be civil, whereas R. Huna the son of R. Joshua considers it to be penal.[14] R. Papa said that it is civil, for he maintains that average cattle cannot control themselves not to gore.[15] Strict justice should therefore demand full payment [in case of damage].[16] It was only Divine Law that exercised mercy [and released half payment] on account of the fact that the cattle have not yet become Mu'ad. R. Huna the son of R. Joshua who said that it is penal, on the other hand maintains that average cattle can control themselves not to gore.[17] Justice should really require no payment at all.[18] It was Divine Law that imposed [upon the owner] a fine [in case of damage] so that additional care should be taken of cattle. We have learnt: THE PLAINTIFF AND THE DEFENDANT ARE INVOLVED IN PAYMENT. That is all very well according to the opinion which maintains that the liability of half-damages is civil. The plaintiff [who receives only half his due] is thus indeed involved in the payment. But according to the opinion that the liability of half-damages is penal, in which case the plaintiff is given that which is really not his due, how is he involved in the payment? — This may apply to the loss caused by a decrease in the value of the carcass [which is sustained by the plaintiff].[19] ‘A decrease in the value of the carcass’! Has not this ruling been laid down in a previous Mishnah : ‘To compensate for the damage’[20] implying that the owners [plaintiffs] have to retain the carcass as part payment?[21] — One Mishnah gives the law in the case of Tam whereas the other deals with Mu'ad. Moreover these independent indications[22] are of importance: For were the ruling laid down only in the case of Tam, it might have been accounted for by the fact that the animal has not yet become Mu'ad, whereas in the case of Mu'ad I might have thought that the law is different; if on the other hand the ruling had been laid down only in the case of Mu'ad, it might have been explained as due to the fact that the damage is compensated in full, whereas in the case of Tam I might have thought that the law is otherwise. The independent indications were thus essential.

Come and hear: What is the difference [in law] between Tam and Mu'ad? In the case of Tam, half-damages are paid, and only out of the body [of the tort-feasant cattle], whereas in the case of Mu'ad full payment is made out of the best of the estate.[23] Now, if it is so [that the liability of half-damages is penal] why not mention also the following distinction, ‘That in the case of Tam no liability is created by mere admission,[24] while in the case of Mu'ad liability is established also by mere admission’? — This Mishnah stated [some points] and omitted [others]. But what else did it omit that the omission of that particular point should be justified?[25] — It also omitted the payment of half-kofer [for manslaughter].[26] The absence of half-kofer [for manslaughter], however, is no omission, as the Mishnah may be in accordance with R. Jose the Galilean who maintains that Tam is not immune from half-liability for kofer [for manslaughter].[27]

Come and hear:

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(1) From giving evidence,
(2) V. supra p. 36. n. 3.
(3) As his issue were considered the property of the owner, there being no parental relationship between him and them; cf. infra p. 508.
(4) Of free descent; cf. Yeb. 62a.
(5) Applicable to females; v. Hag. 4a.
(6) Cf. Kid. 35a.
(7) Num. V, 6. This quotation deals with certain laws of atonement.
(8) Ex. XXI. I.
(9) Ibid. XXI, 29.
(10) Dealing with atonement.
(11) Positive precepts prescribed for a definite time or certain periods do not as a rule apply to females; cf. Kid. 29a.
(12) Keth. 41a.
(13) Paid for damage done by (Horn of) Tam
(14) קנס Kenas, v. Glos.
(15) Lit. ‘are not presumed to he safe’.
(16) As it was the effect of carelessness on the part of the owner.
(17) Lit., are presumed to be safe’.
(18) Since the owner could not have expected that his cattle would start goring.
(19) Who is in this way involved in the payment.
(20) Supra p. 36.
(21) Supra, p. 42.
(22) That it is the plaintiff who has to sustain any loss occasioned by a decrease in the value of the carcass.
(23) Mishnah, infra 16b.
(24) As penal liabilities are not created by admission; v. supra 5a.
(25) V. supra p. 39, n. I.
(26) [While a Mu'ad has to pay full compensation (Kofer, v. Glos.) for manslaughter. Ex XXI, 25-30, a Tam does not compensate even by half; v. infra 41b.]
(27) infra 26a.

Talmud - Mas. Baba Kama 15b

‘My ox committed manslaughter on A’; or ‘killed A's ox’ ‘[in either case] a liability to compensate is established by this admission.[1] Now does this Mishnah not deal with the case of Tam?[2] — No, only with Mu'ad. But what is the law in the case of Tam? Would it really be the fact that no liability is established by admission?[3] If this be the case, why state in the concluding clause, ‘My ox killed A's slave,’[4] no liability is created by this admission?[5] Why indeed not indicate the distinction in the very same case by stating: ‘the rule that liability is established by mere admission is confined to Mu'ad, whereas in the case of Tam no liability is created by mere admission’?[6] — The Mishnah all through deals with Mu'ad.

Come and hear: This is the general rule: In all cases where the payment is more than the actual damage done, no liability is created by mere admission.[5] Now does this not indicate that in cases where the payment is less than the damage,[7] the liability will be established even by mere admission?[8] — No , this is so only when the payment corresponds exactly to the amount of the damages. But what is the law in a case where the payment is less than the damage? Would it really be the fact that no liability is established by admission? If this be the case, why state: ‘This is the general rule: In all cases where the payment is more than the actual damage done, no liability is created by mere admission’?[9] Why not state simply: ‘This is the general rule: In all cases where the payment does not correspond exactly to the amount of the damages . . ., which would [both] imply ‘less’ and imply ‘more’?[10] This is indeed a refutation.[11] Still the law is definite that the liability of half-damages is penal. But if this opinion was refuted, how could it stand as a fixed law? — Yes!

The sole basis of the refutation is in the fact that the Mishnaic text[9] does not run '. . . where the payment does not correspond exactly to the amount of the damages'. This wording would, however, be not altogether accurate, as there is the liability of half-damages in the case of pebbles[12] which is, in accordance with a halachic tradition, held to be civil. On account of this fact the suggested text has not been adopted.

Now that you maintain the liability of half-damages to be penal. the case of a dog devouring lambs, or a cat devouring hens is an unusual occurrence,[13] and no distress will be executed in Babylon[14] — provided, however, the lambs and hens were big; for if they were small, the occurrence would be usual?[15] Should, however, the plaintiff[16] seize chattels belonging to the defendant, it would not be possible for us to dispossess him of them. So also were the plaintiff to plead 'fix me a definite time for bringing my case to be heard in the Land of Israel,' we would have to fix it for him; were the other party to refuse to obey that order, we should have to excommunicate him. But in any case, we have to excommunicate him until he abates the nuisance, in accordance with the dictum of R. Nathan. For it was taught:[17] R. Nathan says: Whence is it derived that nobody should breed a bad dog in his house, or keep an impaired ladder in his house? [We learn it] from the text, Thou bring not blood upon thine house.[18] MISHNAH. THERE ARE FIVE CASES OF TAM AND FIVE CASES OF MU'AD. ANIMAL IS MU'AD NEITHER TO GORE, NOR TO COLLIDE, NOR TO BITE, NOR TO FALL DOWN NOR TO KICK.[19] TOOTH, HOWEVER, IS MU'AD TO CONSUME WHATEVER IS FIT FOR IT; FOOT IS MU'AD TO BREAK [THINGS] IN THE COURSE OF WALKING; OX AFTER BECOMING MU'AD; OX DOING DAMAGE ON THE PLAINTIFF'S PREMISES; AND MAN,[20] SO ALSO THE WOLF, THE LION, THE BEAR, THE LEOPARD, THE BARDALIS [PANTHER] AND THE SNAKE ARE MU'AD. R. ELEAZAR SAYS: IF THEY HAVE BEEN TAMED, THEY ARE NOT MU'AD; THE SNAKE, HOWEVER, IS ALWAYS MU'AD.

GEMARA. Considering that it is stated TOOTH IS MU'AD TO CONSUME . . ., it must be assumed that we are dealing with a case where the damage has been done on the plaintiff's premises.[21] It is also stated[22] ANIMAL IS MU'AD NEITHER TO GORE . . . meaning that the compensation will not be in full, but only half-damages will be paid, which is in accordance with the Rabbis who say that for the unusual damage done by Horn [even] on the plaintiff's premises only half-damages will be paid.[23] Read now the concluding clause: OX AFTER HAVING BECOME MU'AD, OX DOING DAMAGE ON THE PLAINTIFF'S PREMISES, AND MAN, which is in accordance with R. Tarfon who said that for the unusual damage done by Horn on the plaintiff's premises full compensation must be paid.[23] Is the commencing clause according to the Rabbis and the concluding clause according to R. Tarfon? — Yes, since Samuel said to Rab Judah, 'Shinena,[24] leave the Mishnah alone[25] and follow my view: the commencing clause is in accordance with the Rabbis, and the concluding clause is in accordance with R. Tarfon.' R. Eleazar in the name of Rab, however, said:

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(1) Keth. 41a.

(2) And if the liability is created by admission it proves that it is not penal but civil.

(3) On account of its being penal.

(4) And the fine of thirty shekels has to he imposed; v, Ex. XXI, 32.

(5) Keth. 41a.

(6) Because it is considered penal.

(7) Such, e.g., as in the case of Tam.

(8) This proves that the penalty is not penal but civil, and this refutes R. Huna b. R. Joshua.

(9) Keth. 41a.

(10) Not to be civil.

(11) Of the view maintaining the liability of Tam to be penal.

(12) Kicked from under an animal's feet and doing damage; cf. supra p. 8.

(13) Falling thus under the category of Horn; as supra p. 4.
(14) As penal liabilities could be dealt with only in the Land of Israel where the judges were specially ordained for the purpose; Mumhin, v. Glos. s. v. Mumhe; cf. infra. 27b, 84a-b.
(15) And would come within the category of Tooth, the payment for which is civil.
(16) Even in Babylon.
(17) Infra 46a and Keth. 41b.
(18) Deut. XXII, 8.
(19) These are the five cases of Tam, v. supra p. 3.
(20) These are the five cases of Mu'ad, v. Glos.
(21) For if otherwise there is no liability in the case of Tooth; cf. Ex. XXII, 4, and supra, 5b.
(22) In the commencing clause of the Mishnah.
(23) Cf. supra 14a; infra 24b.
(24) V. supra p. 60, n. 2.
(25) Cf. supra p. 60, n. 3.

Talmud - Mas. Baba Kama 16a

The whole Mishnah is in accordance with R. Tarfon. The commencing clause deals with premises set aside for the keeping of the plaintiff's fruits whereas both plaintiff and defendant may keep there their cattle. In respect of Tooth the premises are considered [in the eye of the law] the plaintiff's.[1] whereas in respect of Horn they are considered their common premises.[2] R. Kahana said: I repeated this statement in the presence of R. Zebid of Nehardea, and he answered me, ‘How can you say that the whole Mishnah is in accordance with R. Tarfon? Has it not been stated TOOTH IS MU'AD TO CONSUME WHAT EVER IS FIT FOR IT? That which is fit for it is included,[3] but that which is unfit for it is not included.[4] But did not R. Tarfon say that for the unusual damage done by Horn on the plaintiff's premises full compensation must be paid?’ — It must, therefore, still be maintained that the Mishnah is in accordance with the Rabbis, but there are some phrases missing there; the reading should be thus: ‘There are five cases of Tam,’[5] all the five of them may eventually become Mu'ad.[6] Tooth and Foot are however Mu'ad ab initio, and their liability is confined to damage done on the plaintiff's premises.’[7] Rabina demurred: We learn later on: What is meant by [the statement] OX DOING DAMAGE ON THE PLAINTIFF'S PREMISES [etc.]?[8] It is all very well if you say that this damage has previously been dealt with;[9] we may then well ask ‘What is meant by it?’ But if you say that this damage has never been dealt with previously, how could it be asked ‘What is meant by it?’[10] — Rabina therefore said: The Mishnah is indeed incomplete, but its meaning is this: ‘There are five cases of Tam,’[5] all the five of them may eventually become Mu'ad[11] — Tooth and Foot are Mu'ad ab initio.[12] In this way Ox is definitely Mu'ad. As to Ox doing damage on the plaintiff's premises there is a difference of opinion between R. Tarfon and the Rabbis.[13] There are other damage-doers which like these cases are similarly Mu'ad, as follows: The wolf, the lion, the bear, the leopard. the panther, and the snake.’ This very text has indeed been taught: ‘There are five cases of Tam; all the five of them may eventually become Mu'ad. Tooth and Foot are Mu'ad ab initio. In this way Ox is definitely Mu'ad. As to Ox doing damage on the plaintiff's premises there is a difference of opinion between R. Tarfon and the Rabbis. There are other damage-doers which like these are similarly Mu'ad, as follows: The wolf, the lion, the bear, the leopard, the panther and the snake.’

Some arrived at the same interpretation by having first raised the following objection: We learn THERE ARE FIVE CASES OF TAM AND FIVE CASES OF MU'AD; are there no further instances?[14] Behold there are the wolf, the lion, the bear, the leopard, the panther and the snake![15] — The reply was: Rabina said: The Mishnah is incomplete and its reading should be as follows: There are five cases of Tam; all the five of them may eventually become Mu'ad — Tooth and Foot are Mu'ad ab initio. In this way Ox is definitely Mu'ad. As to Ox doing damage on the plaintiff's premises there is a difference of opinion between R. Tarfon and the Rabbis. There are other damage-doers which like these are similarly Mu'ad, as follows: The wolf, the lion, the bear, the leopard, the panther and the snake.

NOR TO FALL DOWN. R. Eleazar said: This is so only when it falls down on large pitchers, but in the case of small pitchers it is a usual occurrence.[16] May we support him [from the following teaching]: ‘Animal is Mu'ad to walk in the usual manner and to break or crush a human being, or an animal, or utensils’? — This however may mean, through contact sideways.[17] Some read: R. Eleazar said: Do not think that it is only in the case of large pitchers that it is unusual, whereas in the case of small pitchers it is usual. It is not so, for even in the case of small pitchers it is unusual. An objection was brought: ‘. . . or crush a human being, or an animal or utensils?’[18] — This[19] may perhaps mean through contact sideways.[20] Some arrived at the same conclusion by having first raised the following objection: We have learnt: NOR TO FALL DOWN.[18] But was it not taught: ‘. . . or crush a human being, or an animal or utensils’?[18] R. Eleazar replied: There is no contradiction: the former statement deals with a case of large pitchers,[21] whereas the latter deals with small pitchers.[22]

THE WOLF, THE LION, THE BEAR, THE LEOPARD AND THE BARDALIS [PANTHER].[23] What is bardalis? — Rab Judah said: nafraza.[24] What is nafraza? — R. Joseph said: apa.[25] An objection was raised: R. Meir adds also the zabu'a.[26] R. Eleazar adds, also the snake.[27] Now R. Joseph said that zabu'a means apa![28] — This, however, is no contradiction, for the latter appellation [zabu'a] refers to the male whereas the former [bardalis] refers to the female,[29] as taught elsewhere: The male zabu'a [hyena] after seven years turns into a bat,[30] the bat after seven years turns into an arpad,[31] the arpad after seven years turns into kimmosh,[32] the kimmosh after seven years turns into a thorn, the thorn after seven years turns into a demon. The spine of a man after seven years turns into a snake,[33] should he not bow[34] while reciting the benediction, ‘We give thanks unto Thee’.[35] The Master said: ‘R. Meir adds also the zabu'a;

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(1) As nobody else had the right to keep there fruits.

(2) Since both plaintiff and defendant had the right to keep there their cattle.

(3) In the category of Tooth.

(4) In the category of Tooth, but being unusual falls under the category of Horn; cf. supra 15b; infra 16b and 19b.

(5) I.e., ‘goring’, ‘colliding’, ‘biting’, ‘falling down’ and ‘kicking’.

(6) These constitute the five cases of Mu'ad.

(7) Cf. Ex. XXII, 4, and supra, 5b. [‘OX DOING DAMAGE ON THE PLAINTIFF'S PREMISES’ refers thus to Tooth and not to Horn.]

(8) [With reference to damage done by Horn, infra, 24b.]

(9) [In Our Mishnah, i.e.,the damage of Horn on the plaintiff's premises.]

(10) Cf. infra 24b.

(11) [The first clause of the Mishnah thus enumerates the five cases of Mu'ad as well as of Tam.]

(12) [But are not included in the ‘five cases of Mu'ad’, the clause being added only in parenthesis.]

(13) As infra p. 125.

(14) Of Mu'ad.

(15) Which are Mu'ad ab initio.

(16) And would thus not fall under the category of Horn but under that of Foot; cf, supra p. 4.

(17) Whereas to fall down upon pitchers may perhaps in all cases be unusual.

(18) Is usual.

(19) [So MS.M. Cur.edd, insert ‘R. Eleazar said this etc.’]

(20) V. p. 70. n. 5.

(21) Which is unusual.

(22) Which is usual.

(23) **

(24) נפרזא D.S. נפריא from נפר ‘to run’ or ‘jump’.

(25) [אפא contraction of אפעא (hyena)].

(26) [Lit., ‘the many-coloured’. Another term for hyena on account of its coloured stripes.]

(27) To those which are enumerated in the Mishnah as Mu'ad ab initio.
(28) If zabu'a means apa, how could bardalis, which is mentioned independently, also mean apa.
(29) So Rashi's second interpretation; others reverse.
(30) The male zabu'a is subject to undergo constant and rapid changes in the evolution of its physique, so that on account of these various transformations it has various appellations, such as bardalis, nafraza and apa [For parallels in ancient Greek and Roman literature for this belief, v. Lewysohn. Zoologie, p. 77.]
(31) I.e., a species of bat; cf. Targum Jonathan Lev, XI, 19, where Heb. עטלף is rendered ערפדא.
(32) I.e., a species of thorn (Jast.).
(33) Which is the symbol of ingratitude.
(34) And thus not appreciate the favours of eternal God bestowed upon mortal man. [This is but a quaint way of indicating the depths into which human depravity, which has its source in ingratitude to the Creator, may gradually sink.]
(35) Cf. P.B. p. 51.

Talmud - Mas. Baba Kama 16b

R. Eleazar adds also the snake.’ But have we not learned: R. ELEAZAR SAYS, IF THEY HAD BEEN TAMED, THEY ARE NOT MU'AD; THE SNAKE, HOWEVER, IS ALWAYS MU'AD?[1] — Read ‘the snake’.[2] Samuel said: In the case of a lion on public ground seizing and devouring [an animal]. there is exemption;[3] but for tearing it to pieces and then devouring it there is liability to pay. In ‘seizing and devouring there is exemption’ on account of the fact that it is as usual for a lion to seize its prey as it is for an animal to consume fruits and vegetables; it therefore amounts to Tooth on public ground where there is exemption.[3] The ‘tearing’ [of the prey into pieces] is however not unusual with the lion.[4]

Should it thus be concluded that the tearing of prey is unusual [with the lion]? But behold, it is written: The lion did tear in pieces enough for his whelps?[5] — This is usual only when it is for the sake of his whelps. [But the text continues:] And strangled for his lionesses?[5] — This again is only when it is for the sake of his lionesses. [But the text further states:] And filled his holes with prey?[5] — [This too is usual only when it is done] with the intention of preserving it in his holes. But the text concludes: And his dens with ravin?[5] — [This again is only] when the intention is to preserve it in his dens. But was it not taught: ‘Similarly in the case of a beast entering the plaintiff's premises, tearing an animal to pieces and consuming its flesh, the payment must be made in full’?[6] — This Baraitha deals with a case where the tearing was for the purpose of preservation. But behold, it is stated: ‘consuming [its flesh]’? — It was by an afterthought that the beast consumed [it]. But how could we know that? Again, also in the case of Samuel why not make the same supposition?[7] — R. Nahman b. Isaac therefore said: Alternative cases are dealt with [in the Baraitha]: . . . If it either tears to pieces for the purpose of preservation, or seizes and devours [it], the payment must he in full.’ Rabina, however, said that Samuel dealt with a case of a tame lion, and was following the view of R. Eleazar,[8] that that was unusual [with such a lion] If so, even in the case of seizing there should be liability! — Rabina's statement has, therefore, no reference to Samuel's case but to the Baraitha, which we must thus suppose to deal with a tame lion and to follow the view of R. Eleazar, that that was unusual [with such a lion].[9] If so, [no more than] half-damages should be paid![10] — [The lion dealt with] has already become Mu'ad. If so, why has this Baraitha been taught in conjunction with the secondary kinds of Tooth,[11] whereas it should have been taught in conjunction with the secondary kinds of Horn? This is indeed a difficulty.

MISHNAH. WHAT IS THE DIFFERENCE [IN LAW] BETWEEN TAM AND MU'AD? IN THE CASE OF TAM ONLY HALF-DAMAGES ARE PAID AND ONLY OUT OF THE BODY [OF THE TORT-FEASENT CATTLE], WHEREAS IN THE CASE OF MU'AD FULL PAYMENT IS MADE OUT OF [‘ALIYYAH][12] THE BEST [OF THE ESTATE].

GEMARA. What is ‘Aliyyah? — R. Eleazar said: The best of the defendant's estate as stated in

Scripture: And Hezekiah slept with his fathers and they buried him [be-ma'aleh] in the best of the sepulchres of the sons of David;[13] and R. Eleazar said: be-ma'aleh means, near the best of the family, i.e., David and Solomon. [Regarding King Asa it is stated:] And they buried him in his own sepulchres which he had made for himself in the city of David and laid him in the bed which was filled with [besamim u-zenim][14] sweet odours and divers kinds of spices.[15] What is besamim u-zenim? — R. Eleazar said: Divers kinds of spices. But R. Samuel b. Nahmani said: Scents which incite all those who smell them to immorality.[16]

[Regarding Jeremiah it is stated:] For they have digged a ditch to take me and hid snares for my feet.[17] R. Eleazar said: They maliciously accused him of [having illicit intercourse with] a harlot. But R. Samuel b. Nahmani said: They maliciously accused him of having [immoral connections with] another man's wife. No difficulty arises if we accept the view that the accusation was concerning a harlot, since it is written: For a harlot is a deep ditch.[18] But according to the view that the accusation was concerning another man's wife, how is this expressed in the term ‘ditch’ [employed in Jeremiah's complaint]?[17] — Is then another man's wife [when committing adultery] excluded from the general term of ‘harlot’? [On the other hand] there is no difficulty on the view that the accusation was concerning another man's wife, for Scripture immediately afterwards says: Yet Lord, Thou knowest all their counsel against me to slay me;[19] but according to the view that the accusation was concerning a harlot, how did they thereby intend ‘to slay him’?[20] — [This they did] by throwing him into a pit of mire.[21]

Raba gave the following exposition: What is the meaning of the concluding verse: But let them be overthrown before Thee; deal thus with them in the time of Thine anger?[22] — Jeremiah thus addressed the Holy One, blessed be He: Lord of the Universe, even when they are prepared to do charity, cause them to be frustrated by people unworthy of any consideration so that no reward be forthcoming to them for that charity.[23]

[To come back to Hezekiah regarding whom it is stated:] And they did him honour at his death:[24] this signifies that they set up a college[25] near his sepulchre. There was a difference of opinion between R. Nathan and the Rabbis. One said: For three days,

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(1) [Which seems to exclude the other animals enumerated in the Mishnah?]

(2) Do not read ‘also the snake’, but ‘the snake’, i.e. ‘only the snake’, excluding ‘the hyena’ introduced by R. Meir, as well as the other animals enumerated.

(3) Cf. Ex XXII, 4 and supra 5b.

(4) And falls thus under the category of Horn which is not immune even on public ground, cf. supra p. 67 and infra 19b.

(5) Nah. II, 13.

(6) Cf. infra 19b.

(7) [Why then doses he state that, where the lion tore and consumed, there is payment?]

(8) Supra p. 68.

(9) And comes therefore within the category of Horn, for which there is liability even on public grounds.

(10) For in the case of Horn only half-damages are paid on the first three occasions.

(11) I.e., infra 19b.

(12) עלייה

(13) II Chron. XXXII, 33. [The word במעלה (E.V.: ‘ascent’) is tendered as ‘the best’ from עלה ‘to go up’, ‘to excel’.]

(14) בשמים וזנים

(15) II Chron. XVI, 14.

(16) [Deriving זנים from זנה to commit whoredom’.]

(17) Jer. XVIII, 22.

(18) Prov. XXIII, 27.

(19) Jer. XVIII, 23; referring to the death penalty prescribed for such an offence. See Lev. XX, 10.

(20) Since no death penalty is attached to that sin,
(21) Jer. XXXVIII, 6.
(22) Ibid. XVIII, 23.
(23) Cf. however Keth. 68a.
(24) II Chron. XXXII, 33.
(25) [Of students to study the law.]

and the other said: For seven days. Others, however, said: For thirty days.[1]

Our Rabbis taught: And they did him honour at his death, in the case of Hezekiah the king of Judah, means that there marched before him thirty-six[2] thousand [warriors] with bare shoulders;[3] this is the view of R. Judah. R. Nehemiah, however, said to him: Did they not do the same before Ahab?[4] [In the case of Hezekiah] they placed the scroll of the Law upon his coffin and declared: 'This one fulfilled all that which is written there.' But do we not even now do the same [on appropriate occasions]?[5] — We only bring out [the scroll of the Law] but do not place [it on the coffin].[5] It may alternatively be said that sometimes we also place [it on the coffin] but do not say. 'He fulfilled [the law] . . .'

Rabbah b. Bar Hanah said: I was once following R. Johanan for the purpose of asking him about the [above] matter. He, however, at that moment went into a toilet room. [When he reappeared and] I put the matter before him, he did not answer until he had washed his hands, put on phylacteries and pronounced the benediction.[6] Then he said to us: Even if sometimes we also say. 'He fulfilled [the law] . . .' we never say. 'He expounded [the law] . . .' But did not the Master say: The importance of the study of the law is enhanced by the fact that the study of the law is conducive to [the] practice [of the law]?[7] — This, however, offers no difficulty; the latter statement deals with studying [the law], the former with teaching [the law].

R. Johanan said in the name of R. Simeon b. Yohai:[8] What is the meaning of the verse: Blessed are ye that sow beside all waters, that send forth thither the feet of the ox and the ass?[9] Whoever is occupied with [the study of] the law and with [deeds of] charity, is worthy of the inheritance of two tribes,[10] as it is said: Blessed are ye that sow. . . Now, sowing [in this connection] signifies 'charity'. as stated, Sow to yourselves in charity, reap in kindness;[11] again, water [in this connection] signifies 'the law' as stated, Lo, everyone that thirsteth, come ye to the waters.[12]

'He is worthy of the inheritance of two tribes:' He is worthy of an inheritance[13] like Joseph, as it is written: Joseph is a fruitful bough . . . whose branches run over the wall;[14] he is also worthy of the inheritance of Issachar, as it is written: Issachar is a strong ass.[15] There are some who say, His enemies will fall before him, as it is written: With them he shall push the people together, to the ends of the earth.[16] He is worthy of understanding like Issachar, as it is written: And of the children of Issachar which were men that had understanding of the times to know what Israel ought to do.[17]

CHAPTER II

MISHNAH. WITH REFERENCE TO WHAT IS FOOT MU'AD?[18] [IT IS MU'AD:] TO BREAK [THINGS] IN THE COURSE OF WALKING. ANY ANIMAL IS MU'AD TO WALK IN ITS USUAL WAY AND TO BREAK [THINGS]. BUT IF IT WAS KICKING OR PEBBLES WERE FLYING FROM UNDER ITS FEET AND UTENSILS WERE [IN CONSEQUENCE] BROKEN, [ONLY] HALF-DAMAGES WILL BE PAID. IF IT TROD UPON A UTENSIL AND BROKE IT, AND A FRAGMENT [OF IT] FELL UPON ANOTHER UTENSIL WHICH WAS ALSO BROKEN, FOR THE FIRST UTENSIL FULL DAMAGES MUST BE PAID,[19] BUT FOR THE SECOND, [ONLY] HALF-DAMAGES WILL BE PAID.[20]

POULTRY[21] ARE MU'AD TO WALK IN THEIR USUAL WAY AND TO BREAK [THINGS]. IF A STRING BECAME ATTACHED TO THEIR FEET, OR WHERE THEY HOP ABOUT AND BREAK UTENSILS, [ONLY] HALF-DAMAGES WILL BE PAID.[20]

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(1) Cf. M.K. 27b.

(2) This figure was arrived at by the numerical value of ול occurring here in the text.
(3) [As sign of mourning for a righteous man and scholar.]
(4) [Although he was an evil doer.] See Targum on Zech. XII, 11, and Meg. 3a.
(5) Cf., e.g., M. K. 25a and Men. 32b.
(6) V. P.B. p. 4.
(7) Meg. 27a; Kid. 40b; thus indicating that the practice of the law is superior to its study.
(8) V. A.Z. 5b.
(9) Isa. XXXII, 20.
(10) [Joseph and Issachar: the former is compared to an ox (Deut. XXXIII, 17) and the latter to an ass (Gen. XLIX, 14).]
(11) Hos X, 12.
(12) Isa. LV, 1.
(13) So MS.M. The printed editions have ‘canopy’. [Rashi connects it with the descriptions of ‘branches running over the wall.’]
(14) Gen XLIX, 22.
(15) Ibid. 14.
(16) Deut. XXXIII, 17.
(17) I Chron. XII, 32.
(18) Referring to supra p. 68.
(19) As it is subject to the law of ‘Foot’.
(20) Since it was broken not by the actual body of the animal (or poultry) but by its agency and force in some other object, it comes within the purview of the law of ‘Pebbles’; v. Glos, Zeroroth
(21) Lit. ‘The cocks’.

Talmud - Mas. Baba Kama 17b

GEMARA. Rabina said to Raba: Is not FOOT [Mentioned in the commencing clause] identical with ANIMAL [mentioned in the second clause]?[1] — He answered him: [In the commencing clause the Mishnah] deals with Principals[2] whereas [in the second clause] derivatives are introduced.[3] But according to this, the subsequent Mishnah stating, ‘Tooth is Mu'ad . . . Any animal is Mu'ad . . .’[4] what Principals and what derivatives could be distinguished there?[5] — Raba, however, answered him humorously, ‘I expounded one [Mishnah], it is now for you to expound the other.’ But what indeed is the explanation [regarding the other Mishnah]? — R. Ashi said: [In the first clause, the Mishnah] speaks of ‘Tooth’ of beast, whereas [in the second place] ‘Tooth’ of cattle is dealt with. For it might have been thought that since he shall put in be'iroh [his cattle][6] is stated in Scripture, the law concerning Tooth should apply only to cattle, but not to beast; it is therefore made known to us that beast is included in the term ‘animal’. If so, cattle[7] should be dealt with first! — Beast, which is deduced by means of interpretation, is more important [to the Mishnah which thus gives it priority]. If so, also in the opening Mishnah [dealing with FOOT, the same method should have been adopted] to state first that which is not recorded [in Scripture]?[8] — What a comparison! There [in the case of Tooth] where both [beast and cattle] are Principals, that which is introduced by means of interpretation is preferable; but here [in the case of Foot], how could the Principal be deferred and the derivative placed first?[9] You may alternatively say: Since [in the previous chapter the Mishnah] concludes with ‘Foot’,[10] it commences here with ‘Foot’.

Our Rabbis taught: An animal is Mu'ad to walk in its usual way and to break [things]. That is to say, in the case of an animal entering into the plaintiff's premises and doing damage [either] with its body while in motion, or with its hair while in motion, or with the saddle [which was] upon it, or with the load [which was] upon it, or with the bit in its mouth, or with the bell on its neck,[11] similarly in the case of an ass [doing damage] with its load, the payment must be in full. Symmachus says: In the case of Pebbles[12] or in the case of a pig burrowing in a dunghill and doing damage. the payment is [also] in full.

[In the case of a pig] actually doing damage, is it not obvious [that the payment must be in full]?[13] — Read therefore: ‘When it had caused [something of the dunghill] to fly out so that damage resulted therefrom, the payment will be in full.’ But have Pebbles ever been mentioned [in this Baraitha, that Symmachus makes reference to them]? — There is something missing [in the text of the Baraitha where] the reading should be as follows: Pebbles, though being quite usual [with cattle, involve nevertheless] only half-damages; in the case of a pig digging in a dunghill and causing [something of it] to fly out so that damage resulted therefrom, only half-damages will therefore be paid. Symmachus, however, says: In the case of Pebbles, and similarly in the case of a pig digging in a dunghill and causing [something of it] to fly out so that damage resulted therefrom, the payment must he in full.

Our Rabbis taught: In the case of poultry flying from one place to another and breaking utensils with their wings. the payment must be in full: but if the damage was done by the vibration that resulted from their wings, only half-damages will be paid.[14] Symmachus. however, says: [In all cases] the payment must be in full.[15]

Another [Baraitha] taught: In the case of poultry hopping upon dough or upon fruits which they either made dirty or picked at, the payment will be in full; but if the damage resulted from their raising there dust or pebbles, only half damages[14] will be paid. Symmachus. however, says: [In all cases] the payment must be in full.

Another [Baraitha] taught: In the case of poultry flying from one place to another, and breaking vessels with the vibration from their wings, only half-damages will be paid. This anonymous Baraitha records the view of the Rabbis.[16]

Raba said: This fits in very well with [the view of] Symmachus who maintains that [damage done by an animal's] force[17] falls under the law applicable to [damage done by its] body;[18] but what about the Rabbis? If they too maintain that [damage done by an animal's] force is subject to the same law that is applicable to [damage done by its] body. why then not pay in full? If on the other hand it is not subject to the law of damage done by a body,. why pay even half damages? — Raba [in answer] said: It may indeed be subject to the law applicable to damage done by a body, yet the payment of half damages in the case of Pebbles is a halachic principle based on a special tradition.[19]

Raba said: Whatever would involve defilement in [the activities of] a zab[20] will in the case of damage involve full payment, whereas that which in [the activities of] a zab would not involve defilement,[21] will in the case-of damage involve only half damages. Was Raba's sole intention to intimate to us [the law of] Pebbles?[22] — No, Raba meant to tell us the law regarding cattle[23] drawing a waggon [over utensils which were thus broken].[24] It has indeed been taught in accordance with [the view expressed by] Raba: An animal is Mu'ad to break [things] in the course of walking. How is that? In the case of an animal entering into the plaintiff's premises and doing damage either with its body while in motion, or with its hair while in motion, or with the saddle [which was] upon it, or with the load [which was] upon it, or with the bit in its mouth, or with the bell on its neck, similarly in the case of an ass [doing damage] with its load, or again, in the case of a calf drawing a waggon [over utensils which were thus broken], the payment must be in full.

Our Rabbis taught: In the case of poultry picking at a cord attached to a pail so that the cord was snapped asunder and the bucket broken, the payment must be in full.

Raba asked: In the case of [cattle] treading upon a utensil which has not been broken at once, but which was rolled away to some other place where it was then broken, what is the law? Shall we go by the original cause [of the damage in our determination of the law], which would thus amount to damage done by the body,[25] or shall only [the result, i.e.] the breaking of the utensil be the determining factor, amounting thus to Pebbles? — But why not solve the problem from a statement made by Rabbah?[26] For Rabbah said:[27] If a man threw [his fellow's] utensil from the top of a roof and another one came and and broke it with a stick [before it fell upon the ground. where it would in any case have been broken], the latter is under no liability to pay, as we say. ‘It was only a broken utensil that was broken by him.’ [Is not this the best proof that it is the cause of the damage which is the determining factor?][28] — To Rabbah that was pretty certain, whereas to Raba it was doubtful.

Come and hear: ‘Hopping [with poultry] is not Mu'ad.[29] Some however say: It is Mu'ad.’[30] ‘Could ‘hopping’ [in itself] be thought [in any way not to be habitual with poultry]? Does it not therefore mean: ‘Hopping that results in making [a utensil] fly [from one place to another so that it is broken] . . . ‘so that the point at issue is this: The latter view maintains that the original cause [of the damage] is the determining factor[30] but the former maintains that only [the result, i.e.,] the breaking of the utensil is the determining factor?[31] — No,

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(1) Wherefore then this redundancy?

(2) I.e. damage done by the actual foot.

(3) I.e. damage done by other parts of the body of the animal, cf. supra p. 6.

(4) [Infra 19b.

(5) For both clauses deal with actual ‘eating’.

(6) Ex. XXII, 4. [בעיר תבעירה in Aramaic denotes, ‘a grazing animal’, ‘cattle’ (Rashi).]

(7) Which is more obvious.

(8) I.e. damage done by other parts of the body of the animal.

(9) ‘Foot’ is therefore put in the first place.

(10) Supra p. 68.

(11) CF. supra, p. 6.

(12) See supra p. 8.

(13) Why then was it deemed necessary to give it explicit treatment?

(14) As this kind of damage is subject to the law of Pebbles.

(15) For he maintains that even in the case of Pebbles full payment has to be made.

(16) Who hold that in the case of Pebbles only half payment is made.

(17) Such as in the case of Pebbles.

(18) Which is subject to the law of ‘Foot’.

(19) See also supra 8.

(20) I.e., one afflicted with gonorrhoea who is subject to the laws of Lev. XV, 1-15; 19-24. Defilement is caused by him both by actual bodily touch and indirectly.

(21) E.g when the zab throws some article on a person levitically clean.

(22) Is not this obvious?

(23) Lit. ‘calf’.

(24) That there is in such a case full payment, because if a zab were to sit in a waggon that passed over clean objects, defilement would have been extended to them — the damage and the defilement respectively being regarded as having been caused by the body and not by its force.

(25) Being therefore subject to the law of ‘Foot’.

(26) Who was a predecessor of Raba.

(27) Cf. infra 26b.

(28) Seeing that the latter is under no obligation to compensate, but the whole liability to pay is upon the one who threw the utensil from the top of the roof.

(29) The payment for damage will therefore not be in full.

(30) Payment will thus be in full.

(31) Thus constituting Pebbles, for which payment will not be in full.

Talmud - Mas. Baba Kama 18a

the ‘hopping’ only caused pebbles to fly, so that the point at issue is the same as that between Symmachus and the Rabbis.[1]

Come and hear: ‘In the case of poultry picking at a cord attached to a pail so that the cord was snapped asunder and the bucket[2] broken, the payment must be in full.’ Could it not be proved from this [Baraitha] that it is the original cause of the damage that has to be followed? — You may, however, interpret [the liability of full payment] to refer to the damage done to the cord.[3] But behold, is not [the damage of] the cord unusual [with poultry[4] and only half damages ought to be paid]? — It was smeared with dough.[5] But, does it not say ‘and the bucket [was] broken’?[6] This Baraitha must therefore be in accordance with Symmachus, who maintains that also in the case of Pebbles full payment must be made. But if it is in accordance with Symmachus, read the concluding clause: Were a fragment of the broken bucket to fly and fall upon another utensil, breaking it, the payment for the former [i.e., the bucket] must be in full, but for the latter only half damages will be paid. Now does Symmachus ever recognise half damages [in the case of Pebbles]? If you, however, submit that there is a difference according to Symmachus between damage occasioned by direct force[7] and that caused by indirect force,[8] what about the question raised by R. Ashi:[9] Is damage occasioned by indirect force according to Symmachus subject to the same law[10] applicable to direct force, or not subject to the law of direct force?[11] Why is it not evident to him that it is not subject to the law of direct force? Hence the above Baraitha is accordingly more likely to be in accordance with the Rabbis, and proves thus that it is the original cause that has to be followed [as the determining factor]![12] R. Bibi b. Abaye, however, said: The bucket [that was broken] was [not rolled but] continuously pushed by the poultry [from one place to another, so that it was broken by actual bodily touch].[13]

Raba [again] queried: Will the half damages in the case of ‘Pebbles’ be paid out of the body [of the tort-feasant animal][14] or will it be paid out of the best of the defendant's estate?[15] Will it be paid out of the body [of the tort-feasant animal] on account of the fact that nowhere is the payment of half damages made out of the best of the defendant's estate, or shall it nevertheless perhaps be paid out of the best of the defendant's estate since there is no case of habitual damage being compensated out of the body [of the tort-feasant animal]? — Come and hear: ‘Hopping [with poultry] is not Mu'ad. Some, however, say: It is Mu'ad.’ Could ‘hopping’ be said [in any way not to be habitual with poultry]? Does it not therefore mean: ‘Hopping and making [pebbles] fly,’ so that the point at issue is as follows: The former view maintaining that it is not [treated as] Mu'ad, requires payment to be made out of the body [of the tort-feasant poultry][14] whereas the latter view maintaining that it is [treated as] Mu'ad, will require the payment [of the half damages for Pebbles] to be made out of the best of the defendant's estate?[15] — No, the point at issue is that between Symmachus and the Rabbis.[16]

Come and hear: In the case of a dog taking hold of a cake [with live coals sticking to it] and going [with it] to a stack of grain where he consumed the cake and set the stack on fire, full payment must be made for the cake,[17] whereas for the stack only half damages will be paid.[18] Now, what is the reason [that only half damages will be paid for the stack] if not on account of the fact that the damage of the stack is subject to the law of Pebbles?[19] It has, moreover, been taught in connection with this [Mishnah] that the half damages will be collected out of the body [of the tort-feasant dog]. [Does not this ruling offer a solution to the problem raised by Raba?] — But do you really think [the law of ‘Pebbles’ to be at the basis of this ruling]?[20] According to R. Eleazar [who maintains[21] that the payment even for the stack will be in full and out of the body of the tort-feasant dog], do we find anywhere full payment being collected out of the body [of tort-feasant animals]? Must not this ruling[20] therefore be explained to refer to a case where the dog acted in an unusual manner in handling the coal,[22] R. Eleazar being of the same opinion as R. Tarfon, who maintains[23] that [even] for the unusual damage by Horn, if done in the plaintiff's premises, the payment will be in full?[24] — This explanation, however, is not essential. For that which compels you to make R. Eleazar maintain the same opinion as R. Tarfon, is only his requiring full payment [out of the body of the dog]. It may therefore be suggested on the other hand that R. Eleazar holds the view expressed by Symmachus, that in the case of Pebbles full damages will be paid; and that he further adopts the view of R. Judah who said[25] that [in the case of Mu'ad, half of the payment, i.e.] the part of Tam, remains unaffected, [i .e., is always subject to the law of Tam]; the statement that payment is made out of the body [of the dog] will therefore refer only to [one half] the part for which even Tam would be liable. But R. Samia the son of R. Ashi said lo Rabina: I submit that the view you have quoted in the name of R. Judah is confined to cases of Tam turned into Mu'ad [i.e. Horn],[25] whereas in cases which are Mu'ad ab initio[26]

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(1) I.e., whether full or half payment has to be made for damage caused by Pebbles.

(2) Probably by rolling to some other place, where it finally broke.

(3) Whereas for the bucket only half damages will perhaps be paid.

(4) Being thus subject to the law of ‘Horn’.

(5) In which case it is not unusual with poultry to pick at such a cord.

(6) Thus clearly indicating that the payment is in respect of the damage done to the bucket.

(7) Such as in the case of a bucket upon which pebbles were thrown directly by an animal.

(8) I.e., a second bucket damaged by a fragment that fell from a first bucket, which was broken by pebbles thrown by an animal.

(9) Infra 19a.

(10) I.e., to full payment.

(11) But merely to half damages.

(12) I.e., though the bucket rolled to some other place where it broke, the case is still subject to the law of Foot.

(13) And coming within the usual category of Foot.

(14) As in the case of Tam; cf. supra, p. 73.

(15) As in the case of Foot; cf. supra, p. 9.

(16) I.e., whether full or half damages are to be paid in the case of Pebbles.

(17) Being subject to the law applicable to Tooth, cf. supra p. 68.

(18) Infra 21b.

(19) Because the damage to the stack was not done by the actual body of the dog but was occasioned by the dog through the instrumentality of the coal, which, after having been put on a certain spot, spread the damage near and far.

(20) Of half damages for the stack.

(21) In a Baraitha.

(22) By taking it in its mouth and applying it to the stack, in which case it is subject to the law of ‘Horn’.

(23) Supra p. 59 and infra 24b.

(24) [Though the payment will still be made out of the body of the tort-feasant animal.)

(25) Infra 39a. 45b.

(26) Such as Foot (and Pebbles at least according to Symmachus).

Talmud - Mas. Baba Kama 18b

you have surely not found him maintaining so! You can therefore only say that R. Eleazar's statement regarding full payment deals with a case where the dog has already become Mu'ad [to set fire to stacks in an unusual manner][1] and the point at issue will be that R. Eleazar maintains that there is such a thing as becoming Mu'ad [also] regarding [the law of] Pebbles[2] whereas the Rabbis maintain that there is no such thing as becoming Mu'ad in the case of Pebbles.[3] But If so what about another problem raised [elsewhere][4] by Raba: ‘Is there such a thing as becoming Mu'ad regarding [the law of] Pebbles,[5] or is there no such thing as becoming Mu'ad in the case of Pebbles?’[6] Why then not say that according to the Rabbis there could be no such thing as becoming Mu'ad in the case of Pebbles, whereas according to R. Eleazar there may be a case of becoming Mu'ad even in the case of Pebbles? — Raba, however, may say to you: The problem raised by me [as to the possibility of becoming Mu'ad] is of course based on the view of the Rabbis who differ [in this respect] from Symmachus, whereas here [in the case of the dog] both the Rabbis and R. Eleazar may hold the view of Symmachus who maintains that Pebbles always involve payment in full. The reason, however, that the Rabbis order only half damages [to be paid][7] is on account of the fact that the dog handled the coal in an unusual manner[8] while it had not yet become Mu'ad [for that]. The point at issue between them[9] would be exactly the same as between R. Tarfon and the Rabbis.[10] But R. Tarfon who took the view that the payment will be in full may perhaps never have intended to make it dependent upon the body [of the tort-feasant cattle]?[11] — Cer tainly so, for he derives his view from [the law of] Horn on public ground[12] and it only stands to reason that Dayyo,[13] [i.e. it is sufficient] to a derivative by means of a Kal wa-homer[14] to involve nothing more than the original case from which it has been deduced.[15] But behold, R. Tarfon is expressly not in favour of the Principle of Dayyo?[13] — He is not in favour of Dayyo only when the Kal wa-homer would thereby be rendered completely ineffective[16] , but where the Kal wa-homer would not be rendered ineffective he too upholds Dayyo.[17]

To revert to the previous theme:[18] Raba asked: Is there such a thing as becoming Mu'ad regarding [the law of] Pebbles, or is there no such thing as becoming Mu'ad in the case of Pebbles? Do we compare Pebbles to Horn [which is subject to the law of Mu'ad] or do we not do so since the law of Pebbles is a derivative of Foot[19] [to which the law of Mu'ad has no application]?

Come and hear: "Hopping is not Mu'ad [with poultry]. Some, however, say: It is Mu'ad.’ Could ‘hopping’ be thought [in any way not to be habitual with poultry]? It, therefore, of course means ‘Hopping and making thereby [pebbles] fly.’ Now, does it not deal with a case where the same act has been repeated three times, so that the point at issue between the authorities will be that the one Master [the latter] maintains that the law of Mu'ad applies [also to Pebbles] whereas the other Master [the former] holds that the law of Mu'ad does not apply [to Pebbles]? — No, it presents a case where no repetition took place; the point at issue between them being the same as between Symmachus and the Rabbis.[20]

Come and hear: In the case of an animal dropping excrements into dough. R. Judah maintains that the payment must be in full, but R. Eleazar says that only half damages will be paid. Now, does it not deal here with a case where the act has been repeated three times, so that the point at issue between the authorities will be that R. Judah maintains that the animal has thus become Mu'ad whereas R. Eleazar holds that it has not become Mu'ad?[21] — No, it deals with a case where no repetition took place, the point at issue between them being the same which is between Symmachus and the Rabbis. But is it not unusual [with an animal to do so]?[22] — The animal was pressed for space [in which case it is no more unusual]. But why should not R. Judah have explicitly stated that the Halachah is in accordance with Symmachus and similarly R. Eleazar should have stated that the Halachah is in accordance with the Rabbis?[23] — [A specific ruling in regard to] excrements is of importance, for otherwise you might have thought that since these [excrements formed a part of the animal and] were poured out from its body, they should still be considered as a part of its body,[24] it has therefore been made known to us that this is not so.[25]

Come and hear: Rami b. Ezekiel learned:[26] In the case of a cock putting its head into an empty utensil of glass where it crowed so that the utensil thereby broke, the payment must be in full, while R. Joseph on the other hand said[26] that it has been stated in the School of Rab that in the case of a horse neighing or an ass braying so that utensils were thereby broken, only half damages will be paid. Now, does it not mean that the same act has already been repeated three times,

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(1) Being thus subject to the law applicable to Horn whereas in the case of Pebbles not accompanied by an unusual act, R. Eleazar would maintain the view of the Rabbis that the payment will not be in full.

(2) When thrown by an unusual act and repeated on more than three occasions; the payment would thus then have to be in full.

(3) But that in spite of all repetitions of the damage the payment will never exceed half damages on account of the consideration that the case of Pebbles in the usual way is always Mu'ad ab initio and yet no more than half damages is involved.

(4) Cf. infra p. 86.

(5) So that in the case of an animal making pebbles fly (by means of an unusual act) on more than three occasions, the payment will be in full, on the analogy with Horn

(6) The payment will thus never exceed half damages on account of the fact that the repetition on three occasions renders the act usual and makes it subject to the general laws of Pebbles, requiring half damages in the case of any usual act of an animal making pebbles fly.

(7) In the case of the dog.

(8) Coming thus within the category of Horn.

(9) I.e., between the Rabbis and R. Eleazar.

(10) With reference in damage done by Horn (Tam) on the Plaintiff's premises; cf. supra pp. 59. 84; infra p. 125.

(11) For since the payment is in full why should it not be out of the best of the defendant's estate? Cf. however supra p. 15, infra p. 180; but also pp. 23,212.

(12) Infra 24b.

(13) Lit., ‘It is sufficient for it’.

(14) Lit. ‘From Minor to Major’; v. Glos.

(15) Which was Horn on public ground where the payment in the case of Tam is made out of the body of the tort-feasant animal.

(16) Such as, e.g., to make on account of Dayyo, the payment in the case of Tam doing damage on the plaintiff's premises only for half damages — a payment which would be ordered even without a Kal wa-homer.

(17) The full payment in the case of Tam on the plaintiff's premises which is deduced from the Hal wa-homer, will therefore be collected only out of the body of the tort-feasant animal, on the strength of the Dayyo.

(18) Supra p. 85.

(19) Cf. supra 3b; v. also p. 85, n. 5.

(20) I.e., whether the payment for Pebbles generally be in full or half; cf. supra 17b.

(21) And thus the problem propounded by Raba is a point at issue between Tannaim.

(22) The case must accordingly come under the category of Horn where only half damages should he paid in the first three occasions.

(23) Why deal at all with the specific case of an animal dropping excrements?

(24) Any damage done by them should thus be compensated in full on the analogy of any other derivative of Foot proper.

(25) I.e., it does not come under the category of Foot proper but under that of Pebbles.

(26) Cf. Kid. 24b.

Talmud - Mas. Baba Kama 19a

so that the point at issue [between the contradictory statements] will be that the one Master [the former] maintains that the law of Mu'ad applies [also to Pebbles][1] whereas the other Master [the latter] holds that the law of Mu'ad does not apply [to Pebbles]?[2] — No, we suppose the act not to have been repeated, the point at issue being the same as that between Symmachus and the Rabbis. But is it not unusual [for a cock to crow into a utensil]?[3] — There had been some seeds there [in which case it was not unusual].

R. Ashi asked: Would an unusual act[4] reduce Pebbles [by half, i.e.,] to the payment of quarter damages or would an unusual act not reduce Pebbles to the payment of quarter damages?[5] — But why not solve this question from that of Raba, for Raba asked [the following]:[6] Is there such a thing as becoming Mu'ad in the case of Pebbles[7] or is there no such thing as becoming Mu'ad in the case of Pebbles?[8] Now, does not this query imply that no unusual act [affects the law of Pebbles]?[9] — Raba may perhaps have formulated his query upon a mere supposition as follows: If you suppose that no unusual act [affects the law of Pebbles], is there such a thing as becoming Mu'ad [in the case of Pebbles] or is there no such thing as becoming Mu'ad? — Let it stand undecided.

R. Ashi further asked: Is [damage occasioned by] indirect force, according to Symmachus,[10] subject to the law applicable to direct force or not so? Is he[11] acquainted with the special halachic tradition [on the matter][12] but he confines its effect to damage done by indirect force or is he perhaps not acquainted at all with this tradition? — Let it stand undecided.

IF IT WAS KICKING OR PEBBLES WERE FLYING FROM UNDER IT'S FEET AND UTENSILS WERE BROKEN, [ONLY] HALF DAMAGES WILL BE PAID. The following query was put forward: Does the text mean to say: ‘If it was kicking so that damage resulted from the kicking, or in the case of pebbles flying in the usual way ... [only] half damages will be paid,’ being thus in accordance with the Rabbis;[13] or does it perhaps mean to say: ‘If it was kicking so that damage resulted from the kicking, or when pebbles were flying as a result of the kicking . . . [only] half damages will be paid.’ thus implying that in the case of pebbles flying in the usual way, the payment would be in full, being therefore in accordance with Symmachus?[14]

Come and hear the concluding clause: IF IT TROD UPON A UTENSIL AND BROKE IT, AND A FRAGMENT [OF IT] FELL UPON ANOTHER UTENSIL WHICH WAS ALSO BROKEN, FOR THE FIRST UTENSIL FULL COMPENSATION MUST BE PAID, BUT FOR THE SECOND, [ONLY] HALF DAMAGES. Now, how could the Mishnah be in accordance with Symmachus,[14] who is against half damages [in the case of Pebbles]? If you, however, suggest that THE FIRST UTENSIL refers to the utensil broken by a fragment that flew off from the first [broken] utensil, and THE SECOND refers thus to the utensil broken by a fragment that flew off from, the second [broken] utensil, and further assume that according to Symmachus there is a distinction between damage done by direct force and damage done by indirect force [so that in the latter case only half damages will be paid], then [if so] what about the question of R. Ashi: ‘Is [damage occasioned by] indirect force, according to Symmachus, subject to the law of direct force or not subject to the law of direct force?’ Why is it not evident to him [R. Ashi] that it is not subject to the law applicable to direct force? — R. Ashi undoubtedly explains the Mishnah in accordance with the Rabbis, and the query[15] is put by him as follows: [Does it mean to say:] ‘If it was kicking so that damage resulted from the kicking, or in the case of pebbles flying in the usual way . . . [only] half damages will be paid’, thus implying that [in the case of Pebbles flying] as a result of kicking, [only] quarter damages would be paid on account of the fact that an unusual act reduces payment [in the case of Pebbles][16] or [does it perhaps mean to say:] ‘If it was kicking so that damage resulted from the kicking or when pebbles were flying as a result of the kicking . . .half damages will be paid,’ thus making it plain that an unusual act does not reduce payment [in the case of Pebbles]? — Let it stand undecided.

R. Abba b. Memel asked of R. Ammi, some say of R. Hiyya b. Abba, [the following Problem]: In the case of an animal walking in a place where it was unavoidable for it not to make pebbles fly [from under its feet], while in fact it was kicking and in this way making pebbles fly and doing damage, what would be the law? [Should it be maintained that] since it was unavoidable for it not to make pebbles fly there, the damage would be considered usual;[17] or should it perhaps be argued otherwise, since in fact the damage resulted from kicking[18] that caused the pebbles to fly? — Let it stand undecided.

R. Jeremiah asked R. Zera: In the case of an animal walking on public ground and making pebbles fly from which there resulted damage, what would be the law? Should we compare this case[19] to Horn[20] and thus impose liability; or since, on the other hand, it is a derivative of Foot, should there be exemption [for damage done on public ground]? — He answered him: It stands to reason that [since] it is a secondary kind of Foot [there is exemption on Public ground].[21]

Again [he asked him]: In a case where the pebbles were kicked up on public ground but the damage that resulted therefrom was done in the plaintiff's premises, what would be the law? — He answered him: if the cause of raising [the pebbles] is not there [to institute liability],[22] how could any liability be attached to the falling down [of the pebbles]? Thereupon he [R. Jeremiah] raised an objection [from the following]: In the case of an animal walking on the road and making pebbles fly either in the plaintiff's premises or on public ground, there is liability to pay. Now, does not this Baraitha deal with a case where the pebbles were made both to fly up on public ground and to do damage on public ground?[23] — No, though the pebbles were made to fly on public ground, the damage resulted on the plaintiff's premises. But did you not say [he asked him further, that in such a case there would still be exemption on account of the argument].'If the cause of raising [the pebbles] is not there [to institute liability], how could any liability be attached to the falling down [of the pebbles]?' He answered him: 'I have since changed my mind [on this matter].'[24]

He raised another objection: IF IT TROD UPON A UTENSIL AND BROKE IT, AND A FRAGMENT [OF IT] FELL UPON ANOTHER UTENSIL WHICH WAS ALSO BROKEN, FOR THE FIRST UTENSIL FULL COMPENSATION MUST BE PAID, BUT FOR THE SECOND [ONLY] HALF DAMAGES. And it was taught on the matter: This ruling is confined to [damage done on] the plaintiff's premises, whereas if it took place on public ground there would be exemption regarding the first utensil though with respect to the second there would be liability to pay. Now, does not the Baraitha present a case where the fragment was made both to fly up on public ground and to do damage on public ground?[25] — No, though the fragment was made to fly on public ground, the damage resulted on the plaintiff's premises.

But did you not say [that in such a case there would still be exemption on account of the argument]: 'If the cause of raising [the pebbles] is not there [to institute liability], how could any liability be attached to the falling down [of the pebbles?]'

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(1) The compensation is therefore in full.

(2) Consequently only half damages will be paid.

(3) Coming thus under the category of Horn only half damages should be paid in the case of Tam.

(4) Done by an animal making pebbles fly through kicking.

(5) But the compensation of half damages will be made in all cases of Pebbles.

(6) Supra p. 85.

(7) For compensation in full.

(8) And no more than half damages will ever be paid

(9) For if otherwise, and quarter damages will be paid in the first instance of an unusual act in the case of Pebbles, how could the compensation rise above half damages?

(10) Who orders full compensation in the case of Pebbles; supra p. 79.

(11) I.e., Symmachus.

(12) Ordering only half damages; v supra p. 79.

(13) Who, against the view of Symmachus, order only half damages to be paid, supra p. 79.

(14) Who orders full compensation in the case of Pebbles; ibid.

(15) As to the reading of the Mishnaic text.

(16) As queried by R. Ashi himself, supra p. 88.

(17) Coming thus under the law applicable to Pebbles in the usual way.

(18) Which is an unusual act and should thus be subject to the query put forward by Raba regarding pebbles that were caused to fly by means of an unusual act.

(19) On account of the liability only for half damages.

(20) Where there is liability even on public ground.

(21) Cf. supra p. 9.

(22) Since it took place on public ground.

(23) Which is a refutation of R. Zera's first ruling.

(24) I.e., on the last point.

(25) Which shows that there is liability for Pebbles, i.e., for ‘the second utensil,’ on public ground, against the ruling of R. Zera.

Talmud - Mas. Baba Kama 19b

— He answered him: ‘I have since changed my mind [on this matter].’’

But behold R. Johanan said that in regard to the liability of half damages there is no distinction between the plaintiff's premises and public ground. Now, does not this statement also deal with a case where the pebbles were made both to fly up on public ground and to do damage on public ground? — No, though the pebbles were made to fly up on public ground, the damage resulted on the plaintiff's premises. But did you not say [that in such a case there would still be exemption on account of the argument], ‘If the cause of raising [the pebbles] is not there [to institute liability], how could any liability be attached to the falling down [of the pebbles]?’ — He answered him: ‘I have since changed my mind [on this matter].’ Alternatively, you might say that R. Johanan referred only to [the liability attached to] Horn.[1]

R. Judah [II] the Prince and R. Oshaia had both been sitting near the entrance of the house of R. Judah, when the following matter was raised between them: In the case of an animal knocking about with its tail, [and doing thereby damage on public ground] what would be the law? — One of them said in answer: Could the owner be asked to hold the tail of his animal continuously wherever it goes?[2] But if so, why in the case of Horn shall we not say the same: ‘Could the owner be asked to hold the horn of his animal continuously wherever it goes?’ — There is no comparison. In the case of Horn the damage is unusual, whereas it is quite usual [for an animal] to knock about with its tail.[3] But if it is usual for an animal to knock about with its tail, what then was the problem?[4] — The problem was raised regarding an excessive knocking about.[5]

R. ‘Ena queried: In the case of an animal knocking about with its membrum virile and doing thereby damage,[6] what is the law? Shall we say it is analogous to Horn?[7] For in the case of Horn do not its passions get the better of it, as may be said here also? Or shall we perhaps say that in the case of Horn, the animal is prompted by a malicious desire to do damage, whereas, in the case before us, there is no malicious desire to do damage?[8] — Let it stand undecided.

POULTRY ARE MU'AD TO WALK IN THEIR USUAL WAY AND TO BREAK [THINGS]. IF A STRING BECAME ATTACHED TO THEIR FEET OR WHERE THEY HOP ABOUT AND BREAK UTENSILS, [ONLY] HALF DAMAGES WILL BE PAID. R. Huna said: The ruling regarding half damages applies only to a case where the string became attached of itself, but in a case where it was attached by a human being the liability would be in full. But in the case where the string was attached of itself, who would be liable to pay the half damages? It could hardly be suggested that the owner of the string[9] would have to pay it, for in what circumstances could that be possible? If when the string was kept by him in a safe place [so that the fact of the poultry taking hold of it could in no way be attributed to him], surely it was but a sheer accident?[10] If [on the other hand] it was not kept in a safe place, should he not be liable for negligence [to pay in full]? It was therefore the owner of the poultry who would have to pay the half damages. But again why differentiate [his case so as to excuse him from full payment]? If there was exemption from full payment on account of [the inference drawn from] the verse, If a man shall open a pit,[11] which implies that there would be no liability for Cattle opening a Pit, half damages should [for the very reason] similarly not be imposed here as [there could be liability only when] Man created a pit but not [when] Cattle [created] a pit? — The Mishnaic ruling [regarding half damages] must therefore be applicable only to a case where the poultry made the string fly [from one place to another, where it broke the utensils, being thus subject to the law of Pebbles]; and the statement made by R.Huna will accordingly refer to a case which has been dealt with elsewhere [viz.]: In the case of an ownerless string, R. Huna said that if it had become attached of itself to poultry [and though damage resulted to an animate object tripping over it while it was still attached to the poultry] there would be exemption.[12] But if it had been attached to the poultry by a human being, he would be liable to pay [in full]. Under what category of damage could this liability come?[13] — R. Huna b. Manoah said: Under the category of Pit, which is rolled about by feet of man and feet of animal.[14]

MISHNAH. WITH REFERENCE TO WHAT IS TOOTH MU'AD?[15] [IT IS MU'AD] TO CONSUME WHATEVER IS FIT FOR IT. ANIMAL IS MUA'D TO CONSUME BOTH FRUITS AND VEGETABLES. BUT IF IT HAS DESTROYED CLOTHES OR UTENSILS, [ONLY] HALF DAMAGES WILL BE PAID.[16] THIS RULING APPLIES ONLY TO DAMAGE DONE ON THE PLAINTIFF'S PREMISES, BUT IF IT IS DONE ON PUBLIC GROUND THERE WOULD BE EXEMPTION.[17] WHERE, HOWEVER, THE ANIMAL HAS DERIVED SOME BENEFIT [FROM THE DAMAGE DONE BY IT], PAYMENT WILL [IN ANY CASE] BE MADE TO THE EXTENT OF THE BENEFIT. WHEN WILL PAYMENT BE MADE TO THE EXTENT OF THE BENEFIT? IF IT CONSUMED [FOOD] IN THE MARKET, PAYMENT TO THE EXTENT OF THE BENEFIT WILL BE MADE; [BUT IF IT CONSUMED] IN THE SIDEWAYS OF THE MARKET, THE PAYMENT WILL BE FOR THE ACTUAL. DAMAGE DONE BY THE ANIMAl. [SO ALSO IF IT CONSUMED] AT THE ENTRANCE OF A SHOP, PAYMENT TO THE EXTENT OF THE BENEFIT WILL BE MADE, [BUT IF IT CONSUMED] INSIDE THE SHOP, THE PAYMENT WILL BE FOR THE ACTUAL DAMAGE DONE BY THE ANIMAL.

GEMARA. Our Rabbis taught: Tooth is Mu'ad to consume whatever is fit for it. How is that? In the case of an animal entering the plaintiff's premises and consuming food that is fit for it or drinking liquids that are fit for it, the payment will be in full. Similarly in the case of a wild beast entering the plaintiff's premises, tearing an animal to pieces and consuming its flesh, the payment will be in full. So also in the case of a cow consuming barley, an ass consuming horse-beans, a dog licking oil, or a pig consuming a piece of meat, the payment will be in full. R. Papa [thereupon] said: Since it has been stated that things which in the usual way would be unfit as food [for particular animals] but which under pressing circumstances are consumed by them,[18] come under the designation of food, in the case of a cat consuming dates, and an ass consuming fish, the payment will similarly be in full.

There was a case where an ass consumed bread and chewed also the basket[19] [in which the bread had been kept]. Rab Judah thereupon ordered full payment for the bread, but only half damages for the basket. Why can it not be argued that since it was usual for the ass to consume the bread, it was similarly usual for it to chew at the same time the basket too? — It was only after it had already completed consuming the bread, that the ass chewed the basket. But could bread be considered the usual food of an animal? Here is [a Baraitha] which contradicts this: If it [the animal] consumed bread, meat or broth, only half damages will be paid.[20] Now, does not this ruling refer to [a domestic] animal?[21] — No, it refers to a wild beast. To a wild beast? Is not meat its usual food? — The meat was roasted.[22] Alternatively, you may say: It refers to a deer.[23] You may still further say alternatively that it refers to a [domestic] animal, but the bread was consumed upon a table.[24]

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(1) Where indeed there is no distinction between public ground and the plaintiff's premises; (cf. however, the views of R. Tarfon, supra 14a;18a and infra 24b). but in regard to Pebbles, there is a distinction, and liability is restricted to the plaintiff's premises, according to the ruling of R. Zera.

(2) There will therefore be no liability.

(3) Coming thus under the category of Foot, for which there is no liability on public ground.

(4) Why should it not be regarded as a derivative of Foot?

(5) Whether it is still usual for it or not.

(6) On public ground.

(7) And there will be liability.

(8) It should therefore come under the category of Tooth and Foot, for which there is no liability on public ground.

(9) Not being the owner of the poultry.

(10) He should consequently be freed altogether.

(11) Ex. XXI, 33. (5) I.e., no responsibility is involved in cattle creating a nuisance. Cf. infra 48a; 51a.

(12) As there was no owner to the string, while the owner of the poultry could not be made liable for damage that resulted from a nuisance created by his poultry on the principle that Cattle, creating a nuisance, would in no way involve the owner in any obligation.

(13) Since that human being was neither the owner of the poultry nor the owner of the string, and the damage did not occur at the spot where he attached the string.

(14) For which there is liability, as explained supra p. 19.

(15) V. supra p. 68.

(16) For being an unusual act, it comes under the category of Horn.

(17) Cf. supra p. 17.

(18) E.g., horse-beans by an ass, or meat by a pig.

(19) Or ‘split it’, ‘picked it to pieces’ (Rashi).

(20) On the ground that the act was unusual and as such would come under the category of Horn.

(21) This shows that bread is not the usual food of animal.

(22) Which is in such a state not usually consumed even by a wild beast.

(23) Which, as a rule, does not feed on meat.

(24) Which was indeed unusual.

Talmud - Mas. Baba Kama 20a

There was a case where a goat, noticing turnips upon the top of a cask, climbed up there and consumed the turnips and broke the jar. — Raba thereupon ordered full payment both for the turnips and for the jar; the reason being that since it was usual with it to consume turnips it was also usual to climb up [for them].

Ilfa stated: In the case of an animal on public ground stretching out its neck and consuming food that had been placed upon the back of another animal, there would be liability to pay; the reason being that the back of the other animal would be counted as the plaintiff's premises. May we say that the following teaching supports his view: ‘In the case of a plaintiff who had a bundle [of grain] hanging over his back and [somebody else's animal] stretched out its neck and consumed [the grain] out of it, there would be liability to pay’? — No, just as Raba elsewhere referred to a case where the animal was jumping [an act which being quite unusual would be subject to the law of Horn[1]], so also this teaching might perhaps similarly deal with a case of jumping.

With reference to what was Raba's statement made? — [It was made] with reference to the following statement of R. Oshaia: In the case of an animal on public ground going along and consuming, there would be exemption, but if it was standing and consuming there would be liability to pay. Why this difference? If in the case of walking [there is exemption, since] it is usual with animal to do so, is it not also in the case of standing usual with it to do so? — [It was on this question that] Raba said: ‘Standing’ here implies jumping [which being unusual was therefore subject in the law of Horn].[1]

R. Zera asked: [In the case of a sheaf that was] rolling about, what would he the law? (In what circumstances? — When, e.g., grain had originally been placed in the plaintiff's premises, but was rolled thence into public ground [by the animal, which consumed the grain while standing on public ground], what would then be the law?)[2] — Come and hear that which R. Hiyya taught: ‘In the case of a bag of food lying partly inside and partly outside [of the plaintiff's premises], if the animal consumed inside, there would be liability [to pay], but if it consumed outside there would be exemption.’ Now, did not this teaching refer to a case where the bag was being continually rolled?[3] — No; read . ‘...which the animal consumed, for the part which had originally been lying inside[4] there would be liability but for the part that had always been outside there would be exemption.’ You might alternatively say that R. Hiyya referred to a bag containing long stalks of grass.[5]

ANIMAL IS MUA'D TO CONSUME BOTH FRUITS AND VEGETABLES. BUT IF IT HAS DESTROYED CLOTHES OR UTENSILS, [ONLY] HALF DAMAGES WILL BE PAID. THIS RULING APPLIES ONLY TO DAMAGE DONE ON THE PLAINTIFF'S PREMISES, BUT IF IT IS DONE ON PUBLIC GROUND THERE WOULD BE EXEMPTION. To what ruling does the last clause refer? — Rab said: [It refers] to all the cases [dealt with in the Mishnah, even to the destruction of clothes and utensils];[6] the reason being that whenever the plaintiff himself acted unlawfully,[7] the defendant, though guilty of misconduct, could be under no liability to pay. Samuel on the other hand said: It refers only to the ruling regarding [the consumption of] fruits and vegetables,[8] whereas in the case of clothes and utensils[9] there would be liability [even when the damage was done on public ground]. [The same difference of opinion is found between Resh Lakish and R. Johanan, for] Resh Lakish said: [It refers] to all the cases [even to the destruction of clothes and utensils].[10] In this Resh Lakish was following a view expressed by him in another connection, where he stated:[11] In the case of two cows on public ground, one lying down and the other walking about, if the one that was walking kicked the one that was lying there would be exemption [since the latter too misconducted itself by laying itself down on public ground], whereas if the one that was lying kicked the one that was walking there would be liability to pay. R. Johanan on the other hand said: The ruling in the Mishnah refers only to the case of fruits and vegetables, whereas in the case of clothes and utensils there would be liability [even when the damage was done on public ground]. Might it thus be inferred that R. Johanan was also against the view expressed by Resh Lakish even in the case of the two cows? — No; [in that case] he could indeed have been in full agreement with him; for while in the case of clothes [and utensils] it might be customary with people to place [their] garments [on public ground] whilst having a rest near by, [in the case of the cows] it is not usual [for an animal to lie down on public ground].[12]

WHERE, HOWEVER, THE ANIMAL HAS DERIVED SOME BENEFIT [FROM THE DAMAGE DONE BY IT]. PAYMENT WILL [IN ANY CASE] BE MADE TO THE EXTENT OF THE BENEFIT. How [could the extent of the benefit be] calculated? — Rabbah said: [It must not exceed] the value of straw [i.e. the coarsest possible food for animals]. But Raba said: The value of barley[13] on the cheapest scale [i.e. two-thirds of the usual price]. There is a Baraitha in agreement with Rabbah, and there is another Baraitha in agreement with Raba. There is a Baraitha in agreement with Rabbah [viz.]: R. Simeon b. Yohai said: The payment [to the extent of the benefit] would not be more than the value of straw.[14] There is a Baraitha in agreement with Raba [viz.]: When the animal derived some benefit [from the damage done by it], payment would [in any case] be made to the extent of the benefit. That is to say, in the case of [an animal] having consumed [on public ground] one kab[15] or two kabs [of barley], no order would be given to pay the full value of the barley [that was consumed], but it would be estimated how much might an owner be willing to spend to let his animal have that particular food [which was consumed] supposing it was good for it, though in practice he was never accustomed to feed it thus. It would therefore follow that in the case of [an animal] having consumed wheat or any other food unwholesome for it, there could be no liability at all.

R.Hisda said to Rami b. Hama: You were not yesterday with us in the House of Study[16] where there were discussed some specially interesting matters. The other thereupon asked him: What were the specially interesting matters? He answered: [The discussion was whether] one who occupied his neighbour's premises unbeknown to him would have to pay rent[17] or not. But under what circumstances? It could hardly be supposed that the premises were not for hire,[18] and he [the one who occupied them] was similarly a man who was not in the habit of hiring any,[19] for [what liability could there be attached to a case where] the defendant derived no benefit and the plaintiff sustained no loss? If on the other hand the premises were for hire and he was a man whose wont it was to hire premises, [why should no liability be attached since] the defendant derived a benefit and the plaintiff sustained a loss? — No; the problem arises in a case where the premises were not for hire, but his wont was to hire premises. What therefore should be the law? Is the occupier entitled to plead [against the other party]: 'What loss have I caused to you [since your premises were in any case not for hire]?'

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(1) Which could not be exempted from liability even on public ground.

(2) If we were to go by the place of the actual consumption there would be exemption in this case, whereas if the original place whence the food was removed is also taken into account, there would be liability to pay.

(3) According to this Baraitha, the place of actual consumption was the basic point to be considered.

(4) Though removed by the animal and consumed outside.

(5) Which was lying partly inside and partly outside, and as, unlike grain, it constituted one whole, the place of the consumption was material.

(6) For which there would be no liability on public ground, although, being unusual, it would come under the category of Horn.

(7) By allowing his clothes or utensils to be on public ground.

(8) Cf. supra p. 17.

(9) As the damage would come under the category of Horn.

(10) V. p. 97, n. 5.

(11) V. infra 32a.

(12) It was therefore a misconduct on the the part of the animal to lie down, which makes it liable for any damage it caused, whilst it is not entitled to payment for any damage sustained.

(13) I.e., the value of the food actually consumed by the animal.

(14) Even when the animal consumed barley, as it might be alleged that straw would have sufficed it.

(15) A certain measure: v. Glos.

(16) Lit. 'in our district,' 'domain' בחחומא This word is omitted in some texts, v. D. S. a.l.

(17) For the past.

(18) And would in any case have remained vacant.

(19) As he had friends who were willing to accommodate him without any pay.

Talmud - Mas. Baba Kama 20b

Or might the other party retort: 'Since you have derived a benefit [as otherwise you would have had to hire premises], you must pay rent accordingly'? Rami b. Hama thereupon said to R. Hisda: 'The solution to the problem is contained in a Mishnah.' — 'In what Mishnah?' He answered him: 'When you will first have performed for me some service.'[1] Thereupon he, R. Hisda, carefully lifted up his[2] scarf and folded it. Then Rami b. Hama said to him: [The Mishnah is:] WHERE, HOWEVER, THE ANIMAL HAS DERIVED SOME BENEFIT [FROM THE DAMAGE DONE BY IT,] PAYMENT WILL [IN ANY CASE] BE MADE TO THE EXTENT OF THE BENEFIT. Said Raba: How much worry and anxiety is a person [such as Rami b. Hama] spared whom the Master [of all] helps! For though the problem [before us] is not at all analogous to the case dealt with in the Mishnah, R. Hisda accepted the solution suggested by Rami b. Hama. [The difference is as follows:] In the case of the Mishnah the defendant derived a benefit and the plaintiff sustained a loss, whereas in the problem before us the defendant derived a benefit but the plaintiff sustained no loss. Rami b. Hama was, however, of the opinion that generally speaking fruits left on public ground have been [more or less] abandoned by their owner [who could thus not regard the animal that consumed them there as having exclusively caused him the loss he sustained, and the analogy therefore was good].

Come and hear: 'In the case of a plaintiff who [by his fields] has encircled the defendant's field on three sides, and who has made a fence on the one side as well as on the second and third sides [so that the defendant is enjoying the benefit of the fences], no payment can be enforced from the defendant [since on the fourth side his field is still open wide to the world and the benefit he derives is thus incomplete].'[3] Should, however, the plaintiff make a fence also on the fourth side, the defendant would [no doubt] have to share the whole outlay of the fences. Now, could it not he deduced from this that wherever a defendant has derived benefit, though the plaintiff has thereby sustained no loss,[4] there is liability to pay [for the benefit derived]? — That case is altogether different, as the plaintiff may there argue against the defendant saying: It is you that [by having your field in the middle of my fields] have caused me to erect additional fences[5] [and incur additional expense].

Come and hear: [In the same case] R. Jose said: [It is only] if the defendant [subsequently] of his own accord makes a fence on the fourth side that there would devolve upon him, a liability to pay his share [also] in the existing fences [made by the plaintiff].[6] The liability thus applies only when the defendant fences [the fourth side], but were the plaintiff to fence [the fourth side too] there would be no liability [whatsoever upon the defendant]. Now, could it not be deduced from this that in a case where, though the defendant has derived benefit, the plaintiff has [thereby] sustained no loss, there is no liability to pay? — That ruling again is based on a different principle, since the defendant may argue against the plaintiff saying: 'For my purposes a partition of thorns of the value of zuz[7] would have been quite sufficient.'

Come and hear: '[A structure consisting of] a lower storey and an upper storey, belonging respectively to two persons, has collapsed. The owner of the upper storey thereupon asks the owner of the lower storey to rebuild the ground floor, but the latter does not agree to do so. The owner of the upper storey is then entitled to build the lower storey and to occupy it until the owner of the ground floor refunds the outlay.'[8] Now, seeing that the whole outlay will have to be refunded by the owner of the lower storey, it is evident that no rent may be deducted [for the occupation of the lower storey]. Could it thus not be inferred from this ruling that in a case where, though the defendant has derived a benefit, the plaintiff has [thereby] sustained no loss,[9] there is no liability to pay? — That ruling is based on a different principle as the lower storey is by law accessory to the upper storey.[10]

Come and hear: [In the same case] R. Judah said: Even this one who occupies another man's premises without an agreement with him must nevertheless pay him rent.[11] Is not this ruling a proof that in a case where the defendant has derived benefit, though the plaintiff has [thereby] sustained no loss, there is full liability to pay? — That ruling is based on a different principle, since we have to reckon there with the blackening of the walls [in the case of newly built premises, the plaintiff thus sustaining an actual loss].

The problem was communicated to R. Ammi and his answer was: 'What harm has the defendant done to the other party? What loss has he caused him to suffer? And finally what indeed is the damage that he has done to him?' R. Hiyya b. Abba, however, said: 'We have to consider the matter very carefully.' When the problem was afterwards again laid before R. Hiyya b. Abba he replied: 'Why do you keep on sending the problem to me? If I had found the solution, would I not have forwarded it to you?'

It was stated: R. Kahana quoting R. Johanan said: [In the case of the above problem] there would be no legal obligation to pay rent; but R. Abbahu similarly quoting R. Johanan said: There would be a legal obligation to pay rent. R. Papa thereupon said: The view expressed by R. Abbahu [on behalf of R. Johanan] was not stated explicitly [by R. Johanan] but was only arrived at by inference. For we learnt: He who misappropriates a stone or a beam belonging to the Temple Treasury[12] does not render himself subject to the law of Sacrilege.[13] But if he delivers it to his neighbour, he is subject to the law of Sacrilege,[14] whereas his neighbour is not subject to the law of Sacrilege.[15] So also when he builds it into his house he is not subject to the law of Sacrilege until he actually occupies that house for such a period that the benefit derived from that stone or that beam would amount to the value of a perutah.[16] And Samuel thereupon said that the last ruling referred to a case where the stone or the beam was [not fixed into the actual structure but] left loose on the roof.[17] Now, R. Abbahu sitting in the presence of R. Johanan said in the name of Samuel that this ruling proved that he who occupied his neighbour's premises without an agreement with him would have to pay him rent.[18] And he [R. Johanan] kept silent. [R. Abbahu] imagined that since he [R. Johanan] remained silent, he thus acknowledged his agreement with this inference. But in fact this was not so. He [R. Johanan] paid no regard to this view on account of his acceptance of an argument which was advanced [later] by Rabbah; for Rabbah[19] said: The conversion of sacred property even without [the] knowledge [of the Temple Treasury] is [subject[20] to the law of Sacrilege][21]

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(1) 'Then will I let you know the source.' The service thus rendered would on the one hand prove the eagerness of the enquirer and on the other make him appreciate the answer;.

(2) I.e.. the other's.

(3) B.B. 4b.

(4) Such as in the case before us where the fences were of course erected primarily for the plaintiff's own use.

(5) I.e., the fencing which was erected between the field of the defendant and the surrounding fields that belong to the plaintiff. This interpretation is given by Rashi but is opposed by the Tosaf. a.l. who explain the case to refer to fencing set up between the fields of the plaintiff and those of the surrounding neighbours.

(6) B.B. 4b.

(7) A small coin; v. Glos.

(8) B.M. 117a.

(9) [Since in this case the owner of the ground floor refused to build.]

(10) The occupation of the newly-built lower storey by the owner of the upper storey is thus under the given circumstances a matter of right.

(11) B.M. 117a.

(12) But which has been all the time in his possession as he had been the authorized Treasurer of the Sanctuary; v. Hag. 11a and Mei. 20a

(13) Since the offender was the Treasurer of the Temple and the possession of the consecrated stone or beam has thus not changed hands, no conversion has been committed in this case. As to the law of Sacrilege, v. Lev. V, 15-16, and supra, p. 50.

(14) For the conversion that has been committed.

(15) Since the article has already been desecrated by the act of delivery.

(16) Mei. V, 4. Perutah is the minimum legal value; cf. also Glossary.

(17) [As otherwise the mere conversion involved would render him liable to the law of Sacrilege.]

(18) For if in the case of private premises there would be no liability to pay rent, why should the law if Sacrilege apply on account of the benefit of the perutah derived from the stone or the beam?

(19) Cf. B.M. 99b, where the reading is Raba.

(20) As nothing escapes the knowledge of Heaven which ordered the law of Sacrilege to apply to all cases of conversion.

(21) Dealt with in Lev. V, 15-16.

Talmud - Mas. Baba Kama 21a

just as the use of private property under an agreement [is subject to the law of Contracts].

R. Abba b. Zabda sent [the following message] to Mari the son of the Master:[1] 'Ask R. Huna as to his opinion regarding the case of one who occupies his neighbour's premises without any agreement with him, must he pay him rent or not?' But in the meanwhile R. Huna's soul went to rest. Rabbah b. R. Huna thereupon replied as follows: 'Thus said my father, my Master, in the name of Rab: He is not legally bound to pay him rent; but he who hires premises from Reuben may have to pay rent to Simeon.' But what connection has Simeon with premises [hired from Reuben, that the rent should be paid to him]? — Read therefore thus: '. . . [Reuben] and the premises were discovered to be the property of Simeon, the rent must be paid to him.' But [if so], do not the two statements [made above in the name of Rab] contradict each other? — The latter statement [ordering payment to Simeon] deals with premises which were for hire,[2] whereas the former ruling [remitting rent in the absence of an agreement] refers to premises which were not for hire. It has similarly been stated: R. Hiyya b. Abin quoting Rab said, (some say that R. Hiyya b. Abin quoting R. Huna said): 'He who occupies his neighbour's premises without any agreement with him is not under a legal obligation to pay him rent. He, however, who hires premises from the representatives of the town must pay rent to the owners.' What is the meaning of the reference to 'owners'? — Read therefore thus: '. . . [representatives of the town,] and the premises are discovered to be the property of [particular] owners, the rent must be paid to them.' But [if so,] how can the two statements be reconciled with each other? The latter statement [ordering payment to the newly discovered owners] deals with premises which are for hire,[2] whereas the former ruling [remitting rent in the absence of an agreement] refers to premises which are not for hire.

R.Sehorah slated that R. Huna quoting Rab had said: He who occupies his neighbour's premises without having any agreement with him is under no legal obligation to pay him rent, for Scripture says, Through emptiness[3] even the gate gets smitten.[4] Mar, son of R. Ashi, remarked: I myself have seen such a thing[5] and the damage was as great as though done by a goring ox. R. Joseph said: Pre mises that are inhabited by tenants[6] keep in a better condition. What however is the [practical] difference between them?[7] — There is a difference between them in the case where the owner was using the premises for keeping there wood and straw.[8]

There was a case where a certain person built a villa upon ruins that had belonged to orphans. R. Nahman thereupon confiscated the villa from him [for the benefit of the orphans]. May it therefore not be inferred that R. Nahman is of the opinion that he who occupies his neighbour's premises without having any agreement with him must still pay him rent? — [The case of the orphans is based on an entirely different principle, as] that site had originally been occupied by certain Carmanians[9] who used to pay the orphans a small rent.[10] When the defendant had thus been advised by R. Nahman to go and make a peaceful settlement with the orphans, he paid no heed. R. Nahman therefore confiscated the villa from him.

WHEN WILL PAYMENT BE MADE TO THE EXTENT OF THE BENEFIT? [IF IT CONSUMED [FOOD] . . . IN THE SIDEWAYS OF THE MARKET, THE PAYMENT WILL BE FOR THE ACTUAL DAMAGE DONE BY THE ANIMAL.] Rab thereupon said: [The last ruling ordering payment for the actual damage done extends] even to a case where the animal itself [stood in the market place but] turned its head to the sideways [where it in this wise consumed the food]. Samuel on the other hand said: Even in the case of the animal turning its head to the sideways no payment will be made for the actual damage done.[11] But according to Samuel, how then can it happen that there will be liability to pay for actual damage? — Only when, e.g., the animal had quitted the market place altogether and walked right into the sideways of the market place. There are some [authorities] who read this argument [between Rab and Samuel] independent of any [Mishnaic] text: In the case of an animal [standing in a market place but] turning its head into the sideways [and unlawfully consuming food which was lying there], Rab maintains that there will be liability [for the actual damage] whereas Samuel says that there will be no liability [for the actual damage]. But according to Samuel, how then can it happen that there will be liability to pay for actual damage? — Only when, e.g., the animal had quitted the market place altogether and had walked right into the sideways of the market place. R. Nahman b. Isaac raised an objection: [SO ALSO IF IT CONSUMED] AT THE ENTRANCE OF A SHOP, PAYMENT TO THE EXTENT OF THE BENEFIT WILL BE MADE.[12] How could the damage in this case have occurred unless, of course, by the animal having turned [its head to the entrance of the shop]? Yet the text states, PAYMENT TO THE EXTENT OF THE BENEFIT. [That is to say,] only to the extent of the benefit [derived by the animal] but not for the actual damage done by it?[13] — He raised the objection and he himself[14] answered it: The entrance to the shop might have been at a corner [in which case the animal had access to the food placed there without having to turn its head].

There are some [authorities], however, who say that in the case of an animal turning [its head to the sideways of the market place] there was never any argument whatsoever that there would be liability [for the actual damage done]. The point at issue between Rab and Samuel was in the case of a plaintiff who left unfenced a part of his site abutting on public ground, and the statement ran as follows: Rab said that the liability for the actual damage done could arise only in a case where [the food was placed in the sideways of the market to which] the animal turned [its head]. But in the case of a plaintiff leaving unfenced a part of his site abutting on public ground [and spreading out there fruits which were consumed by the defendant's animal] there would be no liability to pay [for the loss sustained].[15] Samuel, however, said that even in the case of a plaintiff leaving unfenced a part of his site abutting on to the public ground, there would be liability to pay [for the loss sustained]. Might it not be suggested that the basic issue [between Rab and Samuel] would be that of a defendant having dug a pit on his own site [and while abandoning the site still retains his ownership of the pit]?[16] Rab who here upholds exemption [for the loss sustained by the owner of the fruits] maintains that a pit dug on one's own site is subject to the law of Pit [so that fruits left on an unfenced site adjoining the public ground constitute a nuisance which may in fact be abated by all and everybody],[17] whereas Samuel who declares liability [for the loss sustained by the owner of the fruits] would maintain that a pit dug on one's own site could never be subject to the law of Pit![18] — Rab could, however, [refute this suggestion and] reason thus: [In spite of your argument] I may nevertheless maintain

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(1) Cf. infra 97a; B.M. 64b.

(2) In which case the owner sustains a loss and rent must be paid.

(3) The Hebrew word She'iyyah שאיה rendered ‘emptiness’, is taken to be the name of a demon that haunts uninhabitated premises; cf. Rashi a.l.

(4) Isa. XXIV, 12.

(5) Lit ‘. . . him referring, to the demon.

(6) Who look after premises.

(7) I.e., between the reason adduced by Rab and that given by R. Joseph.

(8) In which case the premises had in any case not been empty and thus not haunted by the so-called demon ‘She'iyyah’. There would therefore be liability to pay rent. But according to the reason given by R. Joseph that premises inhabited by tenants keep in better condition as the tenants look after their repairs, there would even in this case be no liability of rent upon the tenant who trespassed into his neighbour's premises that had previously been used only for the keeping of wood and straw and thus liable to fall into dilapidation.

(9) I.e., persons who came from Carmania. According to a different reading quoted by Rashi a.l. and occurring also in MS.M., it only means ‘Former settlers’.

(10) In which case the plaintiffs suffered an actual loss, however small it was.

(11) Since the body of the animal is still on public ground.

(12) Supra p. 94.

(13) Supporting thus the view of Samuel but contradicting that of Rab.

(14) I.e., R. Nahman b. Isaac.

(15) But only for the benefit the animal derived from the fruits.

(16) The fruits kept near the public ground are a public nuisance and equal a pit, the ownership of which was retained and which was dug on a site to which the public has full access.

(17) Cf. infra 30a.

(18) Since the pit still remains private property.

Talmud - Mas. Baba Kama 21b

that in other respects a pit dug on one's own site is not subject to the law of Pit, but the case before us here is based on a different principle, since the defendant is entitled to plead [in reply to the plaintiff]: ‘You had no right at all to spread out your fruits so near to the public ground as to involve me in liability through my cattle consuming them.' Samuel on the other hand could similarly contend: In other respects a pit dug on one's own site may be subject to the law of Pit, for it may be reasonable in the case of a pit for a plaintiff to plead that the pit may have been totally overlooked [by the animals that unwittingly fell in]. But in the case of fruits [spread out on private ground], is it possible to plead with reason that they may have been overlooked? Surely they must have been seen.[1]

May it not be suggested that the case of an animal 'turning its head [to the sideways]' is a point at issue between the following Tannaitic authorities? For it has been taught: In the case of an animal [unlawfully] consuming [the plaintiff's fruits] on the market, the payment will be [only] to the extent of the benefit; [but when the fruits had been placed] on the sideways of the market, the payment would be assessed for the damage done by the animal. This is the view of R. Meir and R. Judah. But R. Jose and R. Eleazar say: It is by no means usual for an animal to consume [fruits], Only to walk [there]. Now, is not R. Jose merely expressing the view already expressed by the first-mentioned Tannaitic authorities[2] , unless the case of an animal 'turning its head [to the sideways]' was the point at issue between them, so that the first-mentioned Tannaitic authorities[2] maintained that in the case of an animal 'turning its head [to the sideways]' the payment will still be fixed to the extent of the benefit it had derived, whereas R. Jose would maintain that the payment will be in accordance with the actual damage done by it?[3] — No; all may agree that in the case of an animal 'turning its head [to the sideways]' the law may prevail either in accordance with Rab or in accordance with Samuel; the Point at issue, however, between the Tannaitic authorities here [in the Baraitha] may have been as to the qualifying force of in another man's field.[4] The first Tannaitic authorities[2] maintain that the clause, And it [shall] feed in another man's field, is meant to exclude liability for damage done on public ground, whereas the succeeding authorities[5] are of the opinion that the clause And it [shall] feed in another man's field exempts [liability only for damage done to fruits which had been spread on] the defendant's domain.[6] On the defendant's domain! Is it not obvious that the defendant may plead: What right had your fruit to be on my ground?[7] — But the point at issue [between the authorities mentioned in the Baraitha] will therefore be in reference to the cases dealt With [above][8] by Ilfa[9] and by R. Oshaia.[10]

MISHNAH. IF A DOG OR A GOAT JUMPS DOWN FROM THE TOP OF A ROOF AND BREAKS UTENSILS [ON THE PLAINTIFF'S GROUND] THE COMPENSATION MUST BE IN FULL, FOR ANY OF THEM IS CONSIDERED MU'AD IN RESPECT OF THAT DAMAGE].[11] IF [HOWEVER] A DOG TAKES HOLD OF A CAKE [WITH LIVE COALS STICKING TO IT] AND GOES [WITH IT] TO A BARN, CONSUMES THE CAKE AND SETS THE BARN ON FIRE, [THE OWNER OF THE DOG] PAYS FULL COMPENSATION FOR THE CAKE,[12] WHEREAS FOR THE BARN [HE] PAYS [ONLY] HALF DAMAGES.

GEMARA. The reason of [the liability in the commencing clause] is that the dog or goat has jumped [from the roof][13] , but were it to have fallen down[14] [from the roof and thus broken utensils] there would be exemption. It can thus be inferred that the authority here accepted the view that the inception of [potential] negligence resulting in [mere] accident carries exemption.

It has been explicitly taught to the same effect: 'If a dog or goat jumps down from the top of a roof and breaks utensils [on the plaintiff's ground] the compensation must be in full; were it, however, to have fallen down[15] [and thus broken the utensils] there would be exemption.' This ruling seems to be in accord with the view that where there is negligence at the beginning[16] but the actual damage results from [mere] accident[17] there is exemption,[18] but how could the ruling be explained according to the view that upholds liability? — The ruling may refer to a case where the utensils had, for example, been placed very near to the wall so that were the animal to have jumped it would by jumping have missed them altogether; in which case there was not even negligence at the beginning.[19]

R. Zebid in the name of Raba, however, said: There are certain circumstances where there will be liability even in the case of [the animal] falling down. This might come to pass when the wall had not been in good condition.[20] Still what was the negligence there? It could hardly be that the owner should have borne in mind the possibility of bricks falling down[21] [and doing damage], for since after all it was not bricks that came down but the animal that fell down, why should it not be subject to the law applicable to a case where the damage which might have been done by negligence at the inception actually resulted from accident?[22] — No, it has application where the wall of the railing was exceedingly narrow.[23]

Our Rabbis taught: In the case of a dog or goat jumping [and doing damage], if it was in an upward direction[24] there is exemption;[25] but if in a downward direction there is liability.[26] In case, however, of man or poultry jumping [and doing damage], whether in a downward or upward direction, there is liability.[27]

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(1) And since they were kept on private ground they could not be considered a nuisance. The animal consuming them there has indeed committed trespass.

(2) I.e., R. Meir and R. Judah; for the point at issue could hardly be the case of consumption on public ground where none would think of imposing full liability for the actual damage done, but it must be in regard to the sideways of the market.

(3) For in the case of turning the head it was none the more lawful to consume the fruits.

(4) Ex. XXII, 4.

(5) R. Jose and R. Eleazar.

(6) [But there would be no exemption according to R. Jose for consuming fruits even on the market.]

(7) There should thus be no need of explicit exemption.

(8) Supra p. 96.

(9) Dealing with an animal stretching out its head and consuming fruits kept on the back of the plaintiff's animal, in which case R. Meir and R. Judah impose the liability only to the extent of the benefit, whereas R. Jose and R. Eleazar order compensation for the actual damage sustained by the plaintiff.

(10) Imposing liability in the case of an animal jumping and consuming fruits kept in baskets: R. Meir and R. Judah thus limit the liability to the extent of the benefit derived, whereas R. Jose and R. Eleazar do not limit it thus.

(11) Coming thus within the purview of the law of Foot.

(12) Being subject to the law of Tooth.

(13) An act which is usual with either of them and thus subject to the law of Foot.

(14) By mere accident.

(15) By mere accident.

(16) For the owner should have taken precautions against its jumping.

(17) Since it fell down.

(18) Cf. infra 56a; 58a; B.M. 42a and 93b.

(19) But mere accident all through.

(20) The defendant is thus guilty of negligence.

(21) From the wall, which the defendant kept in a dilapidated state.

(22) Where opinions differ.

(23) Or very sloping. It was thus natural that the animal would be unable to remain there very long, but should slide down and do damage.

(24) An act unusual with any of them.

(25) From full compensation, whereas half damages will be paid in accordance with the law applicable to Horn.

(26) I.e., complete liability, as the act is usual with them and is thus subject to the law of Foot.

(27) As the act is quite usual with poultry, and as to man, he is always Mu'ad, v. supra p. 8.

Talmud - Mas. Baba Kama 22a

But was it not [elsewhere] taught: ‘In the case of a dog or goat jumping [and doing damage], whether in a downward or upward direction, there is exemption’?[1] — R. Papa thereupon interpreted the latter ruling[2] to refer to cases where the acts done by the animals were the reverse of their respective natural tendencies: e.g, the dog [jumped] by leaping and the goat by climbing. If so, why [complete] exemption?[3] — The exemption indeed is only from full compensation while there still remains liability for half damages.[3]

IF A DOG TAKES HOLD etc. It was stated: R. Johanan said: Fire [involves liability] on account of the human agency that brings it about.[4] Resh Lakish, however, maintained that Fire is chattel.[5] Why did Resh Lakish differ from R. Johanan? — His contention is: Human agency must emerge directly from human force whereas Fire does not emerge from human force.[6] Why, on the other hand, did not R. Johanan agree with Resh Lakish?[7] — He may say: Chattel contains tangible properties, whereas Fire[8] has no tangible properties.

We have learnt:[9] IF A DOG TAKES HOLD OF A CAKE [TO WHICH LIVE COALS WERE STUCK] AND GOES [WITH IT] TO A BARN, CONSUMES THE CAKE AND SETS THE BARN ALIGHT, [THE OWNER] PAYS FULL COMPENSATION FOR THE CAKE, WHEREAS FOR THE BARN [HE] PAYS [ONLY] HALF DAMAGES. This decision accords well with the view that the liability for Fire is on account of the human agency that caused it; in the case of the dog, there is thus some liability upon the owner of the dog as the fire there was caused by the action of the dog.[10] But according to the principle that Fire is chattel, [why indeed should the owner of the dog be liable?] Could the fire be said to be the chattel of the owner of the dog? — Resh Lakish may reply: The Mishnaic ruling deals with a case where the burning coal was thrown by the dog [upon the barn]: full compensation must of course be made for the cake,[11] but only half will be paid for the damage done to the actual spot upon which the coal had originally been thrown,[12] whereas for the barn as a whole there is exemption altogether.[13] R. Johanan, however, maintains that the ruling refers to a dog actually placing the coal upon the barn: For the cake[11] as well as for the damage done to the spot upon which the coal had originally been placed the compensation must be in full,[14] whereas for the barn as a whole only half damages will be paid.[15]

Come and hear: A camel laden with flax passes through a public thoroughfare. The flax enters a shop, catches fire by coming in contact with the shopkeeper's candle and sets alight the whole building. The owner of the camel is then liable. If, however, the shopkeeper left his candle outside [his shop], he is liable. R. Judah says: In the case of a Chanucah candle[16] the shopkeeper would always be quit.[17] Now this accords well with the view that Fire implies human agency: the agency of the camel could thus be traced in the setting alight of the whole building. But according to the view that Fire is chattel, [why should the owner of the camel be liable?] Was the fire in this case the chattel of the owner of the camel? — Resh Lakish may reply that the camel in this case [passed along the entire building and] set every bit of it on fire.[18] If so, read the concluding clause: If, however, the shopkeeper left his candle outside [his shop] he is liable. Now, if the camel set the whole of the building on fire, why indeed should the shopkeeper be liable? — The camel in this case stood still [all of a sudden].[19] But [it is immediately objected] if the camel stood still and yet managed to set fire to every bit of the building, is it not still more fitting that the shopkeeper should be free but the owner of the camel fully liable?[20] — R. Huna b. Manoah in the name of R. Ika [thereupon] said: The rulings apply to [a case where the camel] stood still to pass water;[21]

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(1) Because the act is considered unusual with them.

(2) That exempts in acts towards all directions.

(3) For though the acts are unusual, they should be subject to the law of Horn imposing payment of half damages for unusual occurrences.

(4) Lit., ‘his fire is due to his arrows’. Damage done by Fire equals thus damage done by Man himself.

(5) Lit., ‘his property’.

(6) Since it travels and spreads of itself.
(7) That Fire is chattel.
(8) I e., the flame; cf. Bez. 39a.
(9) Supra p. 109.
(10) All the damage to the barn that resulted from the fire is thus considered as if done altogether by the dog that caused the live coals to start burning the barn.
(11) On account of the law applicable to Tooth.
(12) For the damage to this spot is solely imputed to the action of the dog throwing there the burning coal. The liability, however, is only for half damages on account of the law of Pebbles to which there is subject any damage resulting from objects thrown by cattle: cf. supra P. 79.
(13) Since the fire in this case could not be said to have been the obnoxious chattel of the owner of the dog [Nor could it be treated as Pebbles, since it spread of itself.]
(14) As the damage to this spot is directly attributed to the action of the dog.
(15) For any damage that results not from the direct act, but from a mere agency of chattels, is subject to the law of Pebbles ordering only half damages to be paid.
(16) Which has to be kept in the open thoroughfare; see infra p. 361.
(17) Ibid.
(18) The damage done to every bit of the building is thus directly attributed to the action of the camel.
(19) V. n. 4.
(20) For not having instantly driven away the camel from such a dangerous spot.
(21) And while it was impossible to drive it away quickly from that spot, the camel meanwhile managed to set every bit of the building on fire.

Talmud - Mas. Baba Kama 22b

[so that] in the commencing clause the owner of the camel is liable, for he should not have overloaded [his camel],[1] but in the concluding clause the shopkeeper is liable for leaving his candle outside [his shop].

Come and hear: In the case of a barn being set on fire, where a goat was bound to it and a slave [being loose] was near by it, and all were burnt, there is liability [for barn and goat].[2] In the case, however, of the slave being chained to it and the goat[3] near by it and all being burnt, there is exemption [for barn and goat].[4] Now this is in accordance with the view maintaining the liability for Fire to be based upon human agency: there is therefore exemption here [since capital punishment is attached to that agency].[4] But, according to the view that Fire is chattel, why should there be exemption? Would there be exemption also in the case of cattle killing a slave?[5] — R. Simeon b. Lakish may reply to you that the exemption refers to a case where the fire was actually put upon the body of the slave[6] so that no other but the major punishment is inflicted.[7] If so, [is it not obvious?] Why state it at all? — No; it has application [in the case] where the goat belonged to one person and the slave to another.[8]

Come and hear: In the case of fire being entrusted to a deaf-mute, an idiot or a minor[9] [and damage resulting], no action can be instituted in civil courts, but there is liability[10] according to divine justice.[11] This again is perfectly consistent with the view maintaining that Fire implies human agency, and as the agency in this case is the action of the deaf mute [there is no liability]; but according to the [other] view that Fire is chattel, [why exemption?] Would there similarly be exemption in the case of any other chattel being entrusted to a deaf-mute, an idiot, or a minor?[12] — Behold, the following has already been stated in connection therewith:[13] Resh Lakish said in the name of Hezekiah that the ruling[11] applies only to a case where it was a [flickering] coal that had been handed over to [the deaf-mute] who fanned it into flame, whereas In the case of a [ready] flame having been handed over there is liability on the ground that the instrument of damage has been fully prepared. R. Johanan, on the other hand, stated that even in the case of a ready flame there is exemption, maintaining that it was only the handling by[14] the deaf-mute that caused [the damage]; there could therefore be no liability unless chopped wood, chips and actual fire were [carelessly] given him.

Raba said: [Both] Scripture and a Baraitha support [the View of] R. Johanan. ‘Scripture’: For it is written, If fire break out;[15] ‘break out’ implies ‘of itself’ and yet [Scripture continues], He that kindled the fire[16] shall surely make restitution.[17] It could thus be inferred that Fire implies human agency. ‘A Baraitha’: For it was taught. The verse,[17] though commencing with damage

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(1) To the extent that the flax should penetrate the shop.

(2) But not for the slave, who should have quitted the spot before it was too late; cf. infra 27a.

(3) Whether chained or loose.

(4) Infra 43b and 61b. For all civil actions merge in capital charges and the defendant in this case is charged with murder (since the slave was chained and thus unable to escape death), and thus exempt from all money payment arising out of the charge; cf. infra 70b.

(5) V. Ex. XXI, 32, where the liability of thirty shekels is imposed upon the owner.

(6) The defendant has thus committed murder by his own hands.

(7) V. p.113. n. 8.

(8) Though the capital charge is not instituted by the owner of the goat, no damages could be enforced for the goat, since the defendant has in the same act also committed murder, and is liable to the graver penalty.

(9) Who does not bear responsibility before the law.

(10) Upon the person who entrusted the fire to the deaf-mute, etc. Mishnah, infra 59b.

(11) Cf. supra p. 38.

(12) Supra p. 36; infra 59b.

(13) Supra 9b.

(14) Lit., ‘the tongs of’.

(15) Ex. XXII, 5.

(16) The damage that resulted is thus emphatically imputed to human agency.

(17) Ex. XXII 5.

Talmud - Mas. Baba Kama 23a

done by property,[1] concludes with damage done by the person[2] [in order] to declare that Fire implies human agency.

Raba said: The following difficulty confronted Abaye:According to the view maintaining that Fire implies human agency, how [and when] was it possible for the Divine law to make exemption[3] for damage done by Fire to hidden things?[4] He solved it thus: Its application is in the case of a fire which would ordinarily not have spread beyond a certain point, but owing to the accident of a fence collapsing not on account of the fire, the conflagration continued setting alight and doing damage in other premises where the original human agency is at an end.[5] If so, even regarding unconcealed goods is not the human agency at an end?[6] — Hence the one maintaining that Fire implies human agency also holds that Fire is chattel,[7] so that liability for unconcealed goods would arise in the case where the falling fence could have been, but was not, repaired in time [to prevent the further spread of the fire], since it would equal chattel[8] left unguarded by the owner.[9] But if the one who holds that fire implies human agency also maintains that Fire is chattel,[7] what then is the practical point at issue?[10] — The point at issue is whether Fire[11] will involve the [additional] Four Items.[12]

[THE OWNER OF THE DOG] PAYS FULL COMPENSATION FOR THE CAKE WHEREAS FOR THE BARN [HE] PAYS [ONLY] HALF DAMAGES. Who is liable [for the barn]? — The owner of the dog. But why should not the owner of the coal also be made liable?[13] — His [burning] coal was [well] guarded by him.[14] If the [burning] coal was well guarded by him, how then did the dog come to it? — By breaking in. R. Mari the son of R. Kahana thereupon said: This ruling implies that the average door is not beyond being broken in by a dog.[15]

Now in whose premises was the cake devoured? It could hardly be suggested that it was devoured in the barn of another party,[16] for do we not require And shall feed in the field of another[17] [the plaintiff], which is not the case here? — No, it applies where it was devoured in the barn of the owner of the cake. You can thus conclude that [the plaintiff's food carried in] the mouth of [the defendant's] cattle

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(1) I.e., by fire breaking out of itself.

(2) As implied in the clause, He that kindled the fire.

(3) Since in the case of Man doing damage such an exemption does not exist.

(4) V. supra pp. 18 and 39 and infra 61b.

(5) It is in this case (where the human agency is at an end) that there is exemption for hidden goods but liability for unconcealed articles.

(6) And there should therefore be exemption for damage done to all kinds of property.

(7) So that whenever the human agency is at an end, there would still be a possibility of liability being incurred.

(8) Lit., 'his ox'.

(9) Cf. infra 55b.

(10) I.e., what is the difference in law whether the liability for Fire is for the principles of human agency and chattel combined, or only on account of the principle of chattel? The difference could of course be only in the case where the human agency involved in Fire was not yet brought to an end. For otherwise the liability according to both views would only be possible on account of the principle of chattel, a principle which is according to the latest conclusion maintained by all.

(11) In cases where the human agency was not yet at an end.

(12) I.e., Pain, Healing, Loss of Time and Degradation, which in the case of Man, but not Ox, injuring men are paid in addition to Depreciation which is a liability common in all cases; v. supra p. 12. According to R. Johanan who considers Fire a human agency, the liability will be not only for Depreciation but also for the additional Four Items: whereas Resh Lakish maintains that only Depreciation will be paid, as in the case of damage done by Cattle.

(13) Since it was his coal that did the damage.

(14) He is therefore not to blame.

(15) For if otherwise the breaking in should be an act of unusual occurrence that should be subject to the law applicable to Horn, involving only the compensation of half damages for the consumption of the cake.

(16) I.e., a barn not belonging to the owner of the cake.

(17) Ex. XXII, 4.

Talmud - Mas. Baba Kama 23b

is still considered [kept in] the plaintiff's premises.[1] For if it is considered to be in the defendant's premises why should not he say to the plaintiff: What is your bread doing in the mouth of my dog?[2] For there had been propounded a problem: Is [the plaintiff's food carried in] the mouth of [the defendant's] cattle considered as kept in the premises of the plaintiff, or as kept in the premises of the defendant? (Now if you maintain that it is considered to be in the defendant's premises, how can Tooth, for which the Divine Law imposes liability,[3] ever have practical application? — R. Mari the son of R. Kahana, however, replied: [It can have application] in the case where [the cattle] scratched against a wall for the sake of gratification [and pushed it down], or where it soiled fruits [by rolling upon them] for the purpose of gratification.[4] But Mar Zutra demurred: Do we not require, As a man taketh away dung till it all be gone,[5] which is not the case here?[6] — Rabina therefore said; [It has application] in the case where [the cattle] rubbed paintings[7] off [the wall]. R. Ashi similarly said: [It may have application] in the case where the cattle trampled on fruits [and spoilt them completely].[7])

Come and hear: If he incited a dog against him [i.e. his fellowman], or incited a serpent against him [to do damage], there is exemption.[8] For whom is there exemption? — There is exemption for the inciter, but liability upon the owner of the dog. Now if you contend that [whatever is kept in] the mouth of the defendant's cattle is considered [as kept in] the defendant's premises, why should he not say to the plaintiff: What is your hand doing in the mouth of my dog?[9] — Say, therefore, there is exemption also for the inciter;[10] or if you like, you may say: The damage was done by the dog baring its teeth and wounding the plaintiff.[11]

Come and hear: If a man caused another to be bitten by a serpent, R. Judah makes him liable whereas the Sages exempt him.[8] And R. Aha b. Jacob commented:[12] Should you assume that according to R. Judah the poison of a serpent is ready at its fangs, so that the defendant [having committed murder is executed by] the sword,[13] whereas the serpent [being a mere instrument] is left unpunished, then according to the view of the Sages, the poison is spitten out by the serpent of its own free will, so that the serpent [being guilty of slaughter] is stoned,[14] whereas the defendant, who caused it, is exempt.[15] Now if you maintain that [whatever is kept in] the mouth of the defendant's cattle is considered [to be in] the defendant's premises, why should not the owner of the serpent say to the plaintiff: ‘What is your hand doing in the mouth of my serpent?’ — Regarding [the] killing [of the serpent] we certainly do not argue thus. Whence can you derive [this]? — For it was taught: Where a man enters another's premises without permission and is gored there to death by the owner's ox, the ox is stoned,[14] but the owner is exempted [from paying] kofer[16] [for lost life].[17] Now ‘the owner is exempted [from paying] kofer.’ Why? Is it not because he can say, ‘What were you doing on my premises?’ Why then regarding the ox should not the same argument be put forward [against the victim]: ‘What had you to do on my premises?’ — Hence, when it is a question of killing [obnoxious beasts] we do not argue thus.

The goats of Be Tarbu[18] used to do damage to [the fields of] R.Joseph. He therefore said to Abaye: ‘Go and tell their owners that they should keep them indoors.’ But Abaye said: ‘What will be the use in my going? Even if I do go, they will certainly say to me "Let the master construct a fence round his land."’ But if fences must be constructed, what are the cases in which the Divine Law imposed liability for Tooth?[19] — [Perhaps only] when the cattle pulled down the fence and broke in, or when the fence collapsed at night. It was, however, announced by R. Joseph, or, as others say, by Rabbah: ‘Let it be known to those that go up from Babylon to Eretz Yisrael as well as to those that come down from Eretz Yisrael to Babylon, that in the case of goats that are kept for the market day but meanwhile do damage, a warning is to be extended twice and thrice to their owners. If they comply with the terms of the warning well and good, but if not, we bid them: "Slaughter your cattle immediately[20] and sit at the butcher's stall to get whatever money you can."’

MISHNAH. WHAT IS TAM, AND WHAT IS MU'AD? — [CATTLE BECOME] MU'AD AFTER [THE OWNER HAS] BEEN WARNED FOR THREE DAYS [REGARDING THE ACTS OF GORING],[21] BUT [RETURN TO THE STATE OF] TAM AFTER REFRAINING FROM GORING FOR THREE DAYS; THESE ARE THE WORDS OF R. JUDAH. R. MEIR, HOWEVER, SAYS: [CATTLE BECOME] MU'AD AFTER [THE OWNER HAS] BEEN WARNED THREE TIMES [EVEN ON THE SAME DAY], AND [BECOME AGAIN] TAM WHEN CHILDREN KEEP ON TOUCHING THEM AND NO GORING RESULTS.

GEMARA. What is the reason of R. Judah?[22] — Abaye said: [Scripture states, Or, if it be known from yesterday, and the day before yesterday, that he is a goring ox, and yet his owner does not keep him in . . .[23]]: ‘Yesterday’, denotes one day; ‘from yesterday’ — two;[24] and ‘the day before yesterday’ — three [days]; ‘and yet his owner does not keep him in’ — refers to the fourth goring. Raba said: ‘Yesterday’ and ‘from yesterday’[25] denote one day; ‘the day before yesterday’ — two, ‘and he [the owner] does not keep him in,’ then, [to prevent a third goring,] he is liable [in full].[26] What then is the reason of R. Meir?[27] — As it was taught: R. Meir said:

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(1) And liability for the consumption of the food is not denied.
(2) [I.e., why should I be liable for the bread consumed in my (the defendant's) premises?]
(3) Ex. XXII, 4.
(4) Cf. supra p. 6.
(5) I Kings XIV, 10.
(6) On account of the fact that the corpus is in any of these cases not being destroyed; v. supra pp. 4-5.
(7) In which case there is total destruction of the corpus.
(8) Sanh. IX, 1; v. also infra 24b.
(9) For which the dog is not much to blame since it was incited to do it.
(10) I.e., both inciter and dog-owner will not be made liable.
(11) In which case his hand has never been kept in the mouth of the dog.
(12) Sanh. 78a.
(13) V. Sanh. IX. 1.
(14) In accordance with Ex. XXI, 28-29.
(15) Being a mere accessory.
(16) Lit., 'atonement', v. Glos.
(17) Contrary to the ruling of Ex. XXI, 30.
(18) A p.n. of a certain family.
(19) Ex. XXII. 4.
(20) Without waiting for the market day.
(21) Committed by his cattle.
(22) Making the law of Mu'ad depend upon the days of goring.
(23) Ex. XXI, 36.
(24) The Hebrew term מתמול denoting 'From yesterday' is thus taken to indicate two days.
(25) Expressed in the one Hebrew word מתמול.
(26) According to Rashi a.l. even for the third goring. But Tosaf. a.l. and Rashi B.B. 28a explain it to refer only to the goring of the fourth time and onwards.
(27) That the number of days is immaterial.

Talmud - Mas. Baba Kama 24a

If for goring at long intervals [during three days], there is [full] liability, how much more so for goring at short intervals.[1] They,[2] however, said to him: 'A zabah[3] disproves your argument, as by noticing her discharges at long intervals [three cases of discharge in three days], she becomes [fully] unclean,[4] whereas by noticing her discharges at short intervals [i.e. on the same day] she does not become [fully unclean].'[5] But he answered them: Behold, Scripture says: And this shall be his uncleanness in his issue.[6] Zab[7] has thus been made dependent upon [the number of] cases of 'noticing', and zabah upon that of 'days'. But whence is it certain that 'And this'[6] is to exempt zabah from being affected by cases of 'noticing'?[8] Say perhaps that it meant only to exempt zab from being affected by the number of 'days'?[9] — The verse says, And of him that hath on issue, of the man, and of the woman.[10] Male is thus made analogous to female: just as female is affected by [the number of] 'days' so is man affected by 'days'.[11] But why not make female analogous to male [and say]: just as male is affected by cases of 'noticing',[8] so also let female be affected by cases of 'noticing'?[8] — But Divine Law has [emphatically] excluded that by stating, 'And this'.[12] On what ground, however, do you say [that the Scriptural phrase excludes the one and not the other]? — It only stands to reason that when cases of 'noticing' are dealt with,[13] cases of 'noticing' are excluded;[14] [for is it reasonable to maintain that] when cases of 'noticing' are dealt with,[13] 'days' should be excluded?[15]

Our Rabbis taught: What is Mu'ad? After the owner has been warned for three days;[16] but [it may return to the state of] Tam, if children keep on touching it and no goring results; this is the dictum of R. Jose. R. Simeon says: Cattle become Mu'ad, after the owner has been warned three times,[17] and the statement regarding three days refers only to the return to the state of Tam.

R. Nahman quoting Adda b. Ahabah said: ‘The Halachah is in accordance with R. Judah regarding Mu'ad, for R. Jose agrees with him.[18] But the Halachah is in accordance with R. Meir regarding Tam,[19] since R. Jose agrees with him [on this point].’ Raba, however, said to R. Nahman: ‘Why, Sir, not say that the Halachah is in accordance with R. Meir regarding Mu'ad for R. Simeon agrees with him, and the Halachah is in accordance with R. Judah regarding Tam, since R. Simeon agrees with him [on this point]?’ He answered him: ‘I side with R. Jose, because the reasons of R. Jose are generally sound.’[20]

There arose the following question: Do the three days [under discussion] apply to [the goring of] the cattle [so that cases of goring on the same day do not count as more than one], or to the owner [who has to be warned on three different days]?[21] The practical difference becomes evident when three sets of witnesses appear on the same day [and testify to three cases of goring that occurred previously on three different days]. If the three days apply to [the goring of] the cattle there would in this case be a declaration of Mu'ad;[22] but, if the three days refer to the warning given the owner, there would in this case be no declaration of Mu'ad, as the owner may say: ‘They have only just now testified against me [while the law requires this to be done on three different days].’

Come and hear: Cattle cannot be declared Mu'ad until warning is given the owner when he is in the presence of the Court of Justice. If warning is given in the presence of the Court while the owner is absent, or, on the other hand, in the presence of the owner, but outside the Court, no declaration of Mu'ad will be issued unless the warning be given before the Court and before the owner. In the case of two witnesses giving evidence of the first time [of goring], and another two of the second time, and again two of the third time [of goring], three independent testimonies have been established. They are, however, taken as one testimony regarding haza mah.[23] Were the first set found zomemim,[24] the remaining two sets would be unaffected; the defendant would, however, escape [full] liability[25] and the zomemim would still not have to pay him [for conspiring to make his cattle Mu'ad].[26] Were also the second set found zomemim, the remaining testimony would be unaffected; the defendant would escape [full] liability[25] and the zomemim would still not have to compensate him [for conspiring to make his cattle Mu'ad].[26] Were the third set also found zomemim, they would all have to share the liability [for conspiring to make the cattle Mu'ad];[27] for it is with reference to such a case that it is stated, Then shall ye do unto him as he had thought to have done unto his brother.[28] Now if it is suggested that the three days refer to [the goring of] the cattle [whereas the owner may be warned in one day], the ruling is perfectly right [as the three pairs may have given evidence in one day].[29]

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(1) I.e., by goring three times in one and the same day.

(2) The other Rabbis headed by R. Judah his opponent.

(3) I.e., a woman who within the eleven days between one menstruation period and another had discharges on three consecutive days; cf. Lev.XV, 25-33.

(4) For seven days.

(5) I.e., for more than one day.

(6) Lev. XV, 3. This text checks the application of the a fortiori in this case as the explanation goes on.

(7) I.e., a male person afflicted with discharges of issue on three different occasions; cf. Lev. XV, 1-15.

(8) On one and the same day.

(9) So that he is affected only by that of the cases of ‘noticing’.

(10) Lev. XV, 33.

(11) So that if one discharge lasted with him two or three days, it will render him zab proper.

(12) Lev. XV, 3.

(13) In Lev. ibid.

(14) Regarding zabah.

(15) In the case of zab.

(16) Regarding three acts of goring by their cattle.
(17) For three acts of goring.
(18) Thus constituting a majority against R. Meir on this point.
(19) I.e., the return to the state of Tam.
(20) Lit., ‘his depth is with him.’ v. Git. 67a.
(21) Regarding three acts of goring committed by his cattle even on one day.
(22) Though the evidence was given in one day.
(23) I.e., proved alibi of a set of witnesses, v. Mak. (Sonc. ed.) p. 1, n. 1.
(24) I.e., proved to have been absent at the material time of the alleged goring; v. Glos.
(25) As his cattle ‘would have to be dealt with as Tam.
(26) In accordance with law of retaliation. Deut. XIX, 19. Since regarding the declaration of Mu'ad all the three pairs of witnesses constitute one set, and the law of hazamah applies only when the whole set has been convicted of an alibi.
(27) I.e., the half damages added on account of the declaration of Mu'ad, whereas the original half damages on account of Tam will be imposed only upon the last pair of witnesses.
(28) Deut. XIX. 19.
(29) And since they waited until the last day when they were summoned by the plaintiff of that day, it is plain that their object in giving evidence was to render the ox Mu'ad.

Talmud - Mas. Baba Kama 24b

But if it be suggested that the three days refer to the warning given the owner,[1] why should not the first set say: ‘Could we have known that after three days there would appear other sets to render the cattle Mu'ad?’[2] — R. Ashi thereupon said: I repeated this argument to R. Kahana, and he said to me: ‘And even if the three days refer to [the goring of] the cattle,[3] is the explanation satisfactory? Why should not the last set say: "How could we have known that all those present at the Court[4] had come to give evidence against the [same] ox? Our aim in coming was only to make the defendant liable for half damages."?’[5] — [But we may be dealing with a case where] all the sets were hinting to one another[6] [thus definitely conspiring to act concurrently]. R. Ashi further said that we may deal with a case where all the sets appeared [in Court] simultaneously.[7] Rabina even said: ‘Where the witnesses know only the owner but could not identify the ox.’[8] How then can they render it Mu'ad?[9] — By saying: ‘As you have in your herd an ox prone to goring, it should be your duty to control the whole of the herd.’

There arose the following question: In the case of a neighbour's dog having been set on a third person, what is the law? The inciter could undoubtedly not be made liable,[10] but what about the owner of the dog? Are we to say that the owner is entitled to plead: ‘What offence have I committed here?’ Or may we retort: ‘Since you were aware that your dog could easily be incited and do damage you ought not to have left it [unguarded]’?

R. Zera [thereto] said: Come and hear: [CATTLE BECOME AGAIN] TAM, WHEN CHILDREN KEEP ON TOUCHING THEM AND NO GORING RESULTS, implying that were goring to result therefrom there would be liability [though it were caused by incitement]! — Abaye however said: Is it stated: If goring results therefrom there is liability? What perhaps is meant is: If goring does result therefrom there will be no return to the state of Tam, though regarding that [particular] goring no liability will be incurred.

Come and hear: If he incited a dog or incited a serpent against him, there is exemption.[11] Does this not mean that the inciter is free, but the owner of the dog is liable? — No, read: ‘. . . the inciter too is free.’[12]

Raba said: Assuming that in the case of inciting a neighbour's dog against a third person, the owner of the dog is liable, if the incited dog turns upon the inciter, the owner is free on the ground that where the plaintiff himself has acted wrongly, the defendant who follows suit and equally acts wrongly [against the former] could not be made liable [to him]. R. Papa thereupon said to Raba: A statement was made in the name of Resh Lakish agreeing with yours; for Resh Lakish said:[13] ‘In the case of two cows on public ground, one lying and the other walking, if the walking cow kicks the other, there is no liability [as the plaintiff's cow had no right to be lying on the public ground], but if the lying cow kicks the other cow there will be liability.’ Raba, however, said to him: In the case of the two cows I would always order payment[14] as [on behalf of the plaintiff] we may argue against the defendant: ‘Your cow may be entitled to tread upon my cow, she has however no right to kick her.’

MISHNAH WHAT IS MEANT BY ‘OX DOING DAMAGE ON THE PLAINTIFF'S PREMISES’?[15] IN CASE OF GORING, PUSHING, BITING, LYING DOWN OR KICKING, IF ON PUBLIC GROUND THE PAYMENT[16] IS HALF, BUT IF ON THE PLAINTIFF'S PREMISES R. TARFON ORDERS PAYMENT IN FULL[17] WHEREAS THE SAGES ORDER ONLY HALF DAMAGES.

R.TARFON THERE UPON SAID TO THEM: SEEING THAT, WHILE THE LAW WAS LENIENT TO TOOTH AND FOOT IN THE CASE OF PUBLIC GROUND ALLOWING TOTAL EXEMPTION[18] , IT WAS NEVERTHELESS STRICT WITH THEM REGARDING [DAMAGE DONE ON] THE PLAINTIFF'S PREMISES WHERE IT IMPOSED PAYMENT IN FULL, IN THE CASE OF HORN, WHERE THE LAW WAS STRICT REGARDING [DAMAGE DONE ON] PUBLIC GROUND IMPOSING AT LEAST THE PAYMENT OF HALF DAMAGES, DOES IT NOT STAND TO REASON THAT WE SHOULD MAKE IT EQUALLY STRICT WITH REFERENCE TO THE PLAINTIFFS PREMISES SO AS TO REQUIRE COMPENSATION IN FULL? THEIR ANSWER WAS: IT IS QUITE SUFFICIENT THAT THE LAW IN RESPECT OF THE THING INFERRED[19] SHOULD BE EQUIVALENT TO THAT FROM WHICH IT IS DERIVED:[20] JUST AS FOR DAMAGE DONE ON PUBLIC GROUND THE COMPENSATION [IN THE CASE OF HORN] IS HALF, SO ALSO FOR DAMAGE DONE ON THE PLAINTIFF'S PREMISES THE COMPENSATION SHOULD NOT BE MORE THAN HALF. R. TARFON, HOWEVER, REJOINED: BUT NEITHER DO I

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(1) In which case the three sets dealt with could not have given their evidence in one and the same day, but each set on the day the respective goring took place.

(2) Why then should the first set ever be made responsible for the subsequent rendering of the cattle Mu'ad.

(3) In which case the three pairs may have given their evidence in one day.

(4) I.e., the witnesses that constituted the former sets.

(5) The former sets, however, cannot plead thus since they waited with their evidence until the last day, when they appeared to the summons of the plaintiff of that day, in which case it is more than evident that all that concerned that plaintiff regarding the evidence of the earlier times of goring was solely to render the ox Mu'ad.

(6) And all gave evidence in one and the same day. Rashi a.l. maintains that this would still prove that the three days refer to the goring of the cattle and not to warning the owner. According to an interpretation suggested by Tosaf., however, the first and second sets who also appeared on the third day together with the third set, had already given their evidence on the first and second day respectively. The requirement of the three days could thus accordingly refer to warning the owner.

(7) Cf. n. 2.

(8) In which case the sole intention of all the sets of witnesses was the declaration of Mu'ad. They could not have intended to make the defendant liable for half damages since half damages in the case of Tam is paid only out of the body of the goring ox which the witnesses in this case were unable to identify. This explanation holds good only regarding the intention of the last set of witnesses, whereas the former sets, if for the declaration of Mu'ad they would necessarily have to record their evidence before the third time of goring, could then not have foreseen that the same ox (whose identity was not established by them) would continue goring for three and four times. Rashi thus proves that the three days refer not to warning the owner but to the times of goring committed by the cattle.

(9) Since the identity of the goring ox could not be established.
(10) For he, not having actually done the damage, is but an accessory.
(11) Cf. supra p. 117.
(12) Meaning thus that both inciter and owner are free.
(13) Supra p. 98.
(14) Even in the case of the walking cow kicking the lying cow.
(15) Referred to supra p. 68.
(16) While in the state of Tam; cf. supra p. 73.
(17) V. supra p. 68.
(18) Supra p. 17.
(19) I.e., Horn doing damage on the plaintiff's premises.
(20) I.e., Horn doing damage on public ground.

Talmud - Mas. Baba Kama 25a

INFER HORN [DOING DAMAGE ON THE PLAINTIFF'S PREMISES] FROM HORN [DOING DAMAGE ON PUBLIC GROUND]; I INFER HORN FROM FOOT: SEEING THAT IN THE CASE OF PUBLIC GROUND THE LAW, THOUGH LENIENT WITH REFERENCE TO TOOTH AND FOOT, IS NEVERTHELESS STRICT REGARDING HORN, IN THE CASE OF THE PLAINTIFF'S PREMISES, WHERE THE LAW IS STRICT WITH REFERENCE TO TOOTH AND FOOT, DOES IT NOT STAND TO REASON THAT WE SHOULD APPLY THE SAME STRICTNESS TO HORN? THEY, HOWEVER, STILL ARGUED: IT IS QUITE SUFFICIENT IF THE LAW IN RESPECT OF THE THING INFERRED IS[1] EQUIVALENT TO THAT FROM WHICH IT IS DERIVED.[2] JUST AS FOR DAMAGE DONE ON PUBLIC GROUND THE COMPENSATION [IN THE CASE OF HORN] IS HALF, SO ALSO FOR DAMAGE DONE ON THE PLAINTIFF'S PREMISES, THE COMPENSATION SHOULD NOT BE MORE THAN HALF.

GEMARA. Does R. Tarfon really ignore the principle of Dayyo?[3] Is not Dayyo of Biblical origin as taught:[4] How does the rule of Kal wa-homer[5] work? And the Lord said unto Moses, If her father had but spit in her face, should she not be ashamed seven days?[6] How much the more so then in the case of divine [reproof] should she be ashamed fourteen days? Yet the number of days remains seven, for it is sufficient if the law in respect of the thing inferred[7] be equivalent to that from which it is derived![8] — The principle of Dayyo is ignored by him [R. Tarfon] only when it would defeat the purpose of the a fortiori,[9] but where it does not defeat the purpose of the a fortiori, even he maintains the principle of Dayyo. In the instance quoted there is no mention made at all of seven days in the case of divine reproof; nevertheless, by the working of the a fortiori, fourteen days may be suggested: there follows, however, the principle of Dayyo so that the additional seven days are excluded, whilst the original seven are retained. Whereas in the case before us[10] the payment of not less than half damages has been explicitly ordained [in all kinds of premises]. When therefore an a fortiori is employed, another half-payment is added [for damage on the plaintiff's premises], making thus the compensation complete. If [however] you apply the principle of Dayyo, the sole purpose of the a fortiori would thereby be defeated.[11] And the Rabbis?[12] — They argue that also in the case of divine [reproof] the minimum of seven days has been decreed in the words: Let her be shut out from the camp seven days.[13] And R. Tarfon?[14] — He maintains that the ruling in the words, ‘Let her be shut out etc.’, is but the result of the application of the principle of Dayyo[15] [decreasing the number of days to seven]. And the Rabbis? — They argue that this is expressed in the further verse: And Miriam was shut out from the camp.[16] And R. Tarfon? — He maintains that the additional statement was intended to introduce the principle of Dayyo for general application so that you should not suggest limiting its working only to that case where the dignity of Moses was involved, excluding thus its acceptance for general application: it has therefore been made known to us [by the additional statement] that this is not the case.

R. Papa said to Abaye: Behold, there is a Tanna who does not employ the principle of Dayyo even when the a fortiori would thereby not be defeated, for it was taught: Whence do we know that the discharge of semen virile in the case of zab[17] causes defilement [either by 'touching' or by 'carrying']?[18] It is a logical conclusion: For if a discharge[19] that is clean in the case of a clean person is defiling in the case of zab,[20] is it not cogent reasoning that a discharge[21] which is defiling in the case of a clean person,[22] should defile in the case of zab? Now this reasoning applies to both 'touching' and 'carrying',[23] But why not argue that the a fortiori serves a useful purpose in the case of 'touching', whilst the principle of Dayyo can be employed to exclude defilement by mere 'carrying'?[24] If, however, you maintain that regarding 'touching' there is no need to apply the a fortiori on the ground that [apart from all inferences] zab could surely not be less defiling than an ordinary clean person,[25] my contention is [that the case may not be so, and] that the a fortiori may [still] be essential. For I could argue: By reason of uncleanness that chanceth him by night[26] is stated in Scripture to imply that the law of defilement applies only to those whose uncleanness has been occasioned solely by reason of their discharging semen virile, excluding thus zab, whose uncleanness has been occasioned not [solely] by his discharging semen virile but by another cause altogether.[27] May not the a fortiori thus have to serve the purpose of letting us know that zab is not excluded?[28] — But where in the verse is it stated that the uncleanness must not have [concurrently] resulted also from any other cause?[29]

Who is the Tanna whom you may have heard maintain that semen virile of zab causes [of itself] defilement by mere 'carrying'? He could surely be neither R. Eliezer, nor R. Joshua, for it was taught:[30] The semen virile of zab causes defilement by 'touching', but causes no defilement by mere 'carrying'. This is the view of R. Eliezer. R. Joshua, however, maintains that it also causes defilement by mere 'carrying', for it must necessarily contain particles of gonorrhoea.[31] Now, the sole reason there of R. Joshua's view is that semen virile cannot possibly be altogether free from particles of gonorrhoea, but taken on its own it would not cause defilement. The Tanna who maintains this[32] must therefore be he who is responsible for what we have learnt: More severe than the former [causes of defilement][33]

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(1) V. p. 125, n. 5.

(2) V. ibid. n. 6. [As in whatever way the argument is put the result is the same — namely, inferring Horn on the plaintiff's premises from Horn on public ground.]

(3) The Hebrew term meaning 'it is sufficient for it', and denoting the qualification applied by the Rabbis to check the full force of the a fortiori; v. Glos.

(4) B.B. II 1a; Zeb. 69b.

(5) The technical term for the logical inference, 'From minor to major,' v. Glos.

(6) Num. XII, 14.

(7) I.e., in the case of Divinity.

(8) I.e., the case of her father. [Hence, even in the case of Divinity, no more than seven days are inferred proving that Dayyo has a Biblical basis.]

(9) I.e., render it completely ineffective.

(10) Regarding compensation whether it be half or full in the case of Horn doing damage.

(11) V. p. 126, n. 9.

(12) I.e., the Sages in the Mishnah: how do they meet R. Tarfon's objection?

(13) Num. XII, 14.

(14) How can he state that no mention is made of seven days in connection with divine reproof?

(15) But not a decree per se.

(16) Num. XII, 15.

(17) A person afflicted with gonorrhoea: cf. Lev. XV, 1-15.

(18) As is the case with gonorrhoeal discharge.

(19) Such as saliva.

(20) Cf. Lev. XV, 8, and Niddah, 55b.
(21) Such as semen virile.
(22) Cf. Lev. XV, 16-17, and supra p. 2.
(23) As it is based on the law applicable to the saliva of zab.
(24) As is the case with the law applicable to semen virile of a clean person.
(25) Whose semen virile causes defilement by touching.
(26) Deut. XXIII, 11.
(27) I.e., by the affliction of gonorrhoea. [I may therefore have assumed that the semen virile of a zab causes no defilement, not even by 'touching'.]
(28) And since the a fortiori would still serve a useful purpose regarding defilement by 'touching', why should not the principle of Dayyo be employed to exclude defilement by mere 'carrying'? Hence this Tanna does not resort to Dayya even where the employment thereof would not render the a fortiori ineffective.
(29) The law applicable to semen virile to cause defilement by 'touching' is thus per se common with all kinds of persons. The inference by means of the a fortiori would therefore indeed be rendered useless if Dayyo, excluding as a result defilement by 'carrying', were admitted.
(30) Naz. 66a.
(31) Which defile both by 'touching' and by 'carrying'.
(32) That semen virile of zab defiles by mere 'carrying' even on its own.
(33) I.e., the three primary Defilements: Dead Reptile, Semen Virile and the Person contaminated by contact with a corpse, all of which do not defile by mere carrying'. v. supra p. 2.

Talmud - Mas. Baba Kama 25b

are the gonorrhoeal discharge of zab, his saliva, his semen virile, his urine and the blood of menstruation, all of which defile whether by 'touching' or by mere 'carrying'.[1] But why not maintain that the reason here is also because the semen virile of zab cannot possibly be altogether free from particles of gonorrhoea? — If this had been the reason, semen virile should have been placed in juxtaposition to gonorrhoeal discharge. Why then was it placed in juxtaposition to saliva if not on account of the fact that its causing defilement is to be inferred from the law applicable to his saliva?[2]

R. Aha of Difti said to Rabina: Behold there is this Tanna who does not employ the principle of Dayyo even when the purpose of the a fortiori would thereby not be defeated. For it was taught: Whence do we learn that mats[3] become defiled if kept within the tent where there is a corpse? — It is a logical conclusion: For if tiny [earthenware] jugs that remain undefiled by the handling of zab[4] become defiled when kept within the tent where there is a corpse,[5] does it not follow that mats, which even in the case of zab become defiled,[6] should become defiled when kept within the tent where there is a corpse.[7] Now this reasoning applies not only to the law of defilement for a single day,[8] but also to defilement for full seven[9] [days]. But why not argue that the a fortiori well serves its purpose regarding the defilement for a single day,[10] whilst the principle of Dayyo is to be employed to exclude defilement for seven days? — He [Rabina] answered him: The same problem had already been raised by R. Nahman b. Zachariah to Abaye, and Abaye answered him that it was regarding mats in the case of a dead reptile[11] that the Tanna had employed the a fortiori, and the text should run as follows: 'Whence do we learn that mats[12] coming in contact with dead reptiles[13] become defiled? It is a logical conclusion: for if tiny [earthenware] jugs that remain undefiled by the handling of zab,[14] become defiled when in contact with dead reptiles,[15] does it not follow that mats which even in the case of zab become defiled,[16] should become defiled by coming in contact with dead reptiles?' But whence the ruling regarding mats[17] kept within the tent of a corpse? — In the case of dead reptiles it is stated raiment or skin,[15] while in the case of a corpse it is also stated, raiment . . . skin:[18] just as in the case of raiment or skin stated in connection with dead reptiles,[15] mats [are included to] become defiled, so is it regarding raiment . . . skin stated in connection with a corpse[18] that mats similarly become defiled. This Gezerah shawah[19] must necessarily be 'free',[20] for if it were not ‘free’ the comparison made could be thus upset: seeing that in the case of dead reptiles [causing defilement to mats], their minimum for causing uncleanness is the size of a lentil,[21] how can you draw an analogy to corpses where the minimum to cause uncleanness is not the size of a lentil but that of an olive?[22] — The Gezerah shawah must thus be ‘free’. Is it not so? For indeed the law regarding dead reptiles is placed in juxtaposition to semen virile as written, Or a man whose seed goeth from him,[23] and there immediately follows, Or whosoever toucheth any creeping thing. Now in the case of semen virile it is explicitly stated, And every garment, and every skin, whereon is the seed of copulation.[24] Why then had the Divine Law to mention again raiment or skin in the case of dead reptiles?[25] It may thus be concluded that it was [inserted] to be ‘free’ [for exegetical purposes].[26] Still it has so far only been proved that one part [of the Gezerah shawah][27] is ‘free’. This would therefore be well in accordance with the view maintaining[28] that when a Gezerah shawah is ‘free’, even in one of its texts only, an inference may be drawn and no refutation will be entertained. But according to the view holding[29] that though an inference may be drawn in such a case, refutations will nevertheless be entertained, how could the analogy [between dead reptiles and corpses] be maintained?[30] — The verbal congruity in the text dealing with corpses is also ‘free’. For indeed the law regarding corpses is similarly placed in juxtaposition to semen virile, as written, And whoso toucheth any thing that is unclean by the dead or a man whose seed goeth from him etc.[23] Now in the case of semen virile it is explicitly stated, And every garment, and every skin, whereon is the seed of copulation. Why then had the Divine Law to mention again raiment . . . skin in the case of corpses?[31] It may thus be concluded that it was [inserted] to be ‘free’ for exegetical purposes.[26] The Gezerah shawah is thus ‘free’ in both texts. Still this would again be only in accordance with the view maintaining[32] that when an inference is made by means of reasoning [from an analogy] the subject of the inference is placed back on its own basis.[33] But according to the view that when an inference is made [by means of an analogy] the subject of the inference must be placed on a par with the other in all respects, how can you establish the law [that mats kept in the tent of a corpse become defiled for seven days,[34] since you infer it from dead reptiles where the defilement is only for the day]?[35] — Said Raba: Scripture states, And ye shall wash your clothes on the seventh day,[36] to indicate that all defilements in the case of corpses cannot be for less than for seven [days].

But should we not let Tooth and Foot involve liability for damage done [even] on public ground because of the following a fortiori: If in the case of Horn[37] where [even] for damage done on the plaintiff's premises only half payment is involved, there is yet liability to pay for damage done on public ground, does it not necessarily follow that in the case of Tooth and Foot where for damage done on the plaintiff's premises the payment is in full, there should be liability for damage done on public ground? — Scripture, however, says, And it shall feed in another man's field,[38] excluding thus [damage done on] public ground.

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(1) Kelim I, 3.

(2) It is thus proved that semen virile of zab causes of itself defilement by ‘carrying’ and not on account of the particles of gonorrhoea it contains.

(3) Which are not included among the articles referred to in Num. XXXI, 20.

(4) [As he is unable to insert even his small finger within. Earthenware is susceptible to levitical uncleanness only through the medium of its interior. Lev. XI, 33.]

(5) As stated in Num. XIX, 15; and every open vessel . . . is unclean.

(6) In accordance with Lev. XV, 4.

(7) Shab. 84a.

(8) Lit., ‘defilement (until) sunset,’ which applies to defilements caused by zab; v. Lev. XV, 5-11.

(9) Usual in defilements through a corpse; cf. Num. XIX, 11-16.

(10) [As is the case with the bed of a zab (cf. Lev. XV, 4), since it is derived from zab.]

(11) But not at all regarding corpses; the whole problem thus concerns only defilement for a day; v. infra.

(12) As mats are not included among the articles referred to in Lev. XI, 32.

(13) The minimum quantity for defilement by which is the size of a lentil, a quantity which can easily pass through the opening of the smallest bottle.

(14) As he is unable to insert even his small finger within. Earthenware is susceptible to levitical uncleanness only through the medium of its interior. Lev. XI, 33.

(15) Lev. XI, 32: . . . whether it be any vessel of wood or raiment or skin . . . it shall be unclean until the even.

(16) In accordance with Lev. XV, 4.

(17) Which are not included among the articles referred to in Num. XXXI, 20.

(18) Num. XXXI, 20: And as to every raiment and all that is made of skin . . . ye shall purify.

(19) The technical term for (an inference from) a verbal congruity in two different portions of the Law; v. Glos.

(20) Heb. מופנה (Mufnah), 'free', that is, for exegetical use, having no other purpose to serve, but solely intended to indicate this particular similarity in law.

(21) Hag. 11a; Naz. 52a.

(22) Naz. 49b.

(23) Lev. XXII, 4.

(24) Ibid. XV, 17.

(25) Lev. XI, 32.

(26) Thus to make the Gezerah shawah irrefutable.

(27) I.e., in the case of dead reptiles.

(28) Nid. 22b.

(29) Shab. 131a; Yeb. 70b.

(30) Since the refutation referred to above may be entertained.

(31) Num. XXXI, 20.

(32) Yeb. 78b.

(33) Becoming subject to the specific laws applicable to its own category. [So here mats in the tent of a corpse, though derived by analogy from reptiles, are subject to the laws of defilement by corpses. i.e., a defilement of 7 days.]

(34) Usual in defilements through a corpse; cf. Num. XIX, 11-16.

(35) Lev. XI, 32.

(36) Num. XXXI, 24.

(37) While in the state of Tam; cf. supra p. 73.

(38) Ex. XXII, 4.

Talmud - Mas. Baba Kama 26a

But have we ever suggested payment in full? It was only half payment that we were arguing for![1] — Scripture further says, And they shall divide the money of it[2] [to indicate that this[3] is confined to] 'the money of it' [i.e.. the goring ox] but does not extend to compensation [for damage caused] by another ox.[4]

But should we not let Tooth and Foot doing damage on the plaintiff's premises involve the liability for half damages only because of the following a fortiori: If in the case of Horn, where there is liability for damage done even on public ground, there is yet no more than half payment for damage done on the plaintiff's premises,[5] does it not follow that, in the case of Tooth and Foot where there is exemption for damage done on public ground,[6] the liability regarding damage done on the plaintiff's premises should be for half compensation only? — Scripture says, He shall make restitution,[7] meaning full[8] compensation.

But should we not [on the other hand] let Horn doing damage on public ground involve no liability at all, because of the following a fortiori: If in the case of Tooth and Foot where the payment for damage done on the plaintiff's premises is in full there is exemption for damage done on public ground.[6] does it not follow that, in the case of Horn where the payment for damage done on the plaintiff's premises, is only half, there should be exemption for damage done on public ground? — Said R. Johanan: Scripture says. [And the dead also] they shall divide,[9] to emphasise that in respect of half payment there is no distinction between public ground and private premises.[10]

But should we not let [also] in the case of Man ransom be paid [for manslaughter][11] because of the following a fortiori: If in the case of Ox where there is no liability to pay the [additional] Four Items,[12] there is yet the liability to pay ransom [for manslaughter,[13] does it not follow that in the case of Man who is liable for the [additional] Four Items,[12] there should be ransom [for manslaughter]? — But Scripture states, Whatsoever is laid upon him: upon him[13] excludes [the payment of ransom] in the case of Man [committing manslaughter].

But should we not [on the other hand] let Ox involve the liability of the [additional] Four Items because of the following a fortiori: If Man who by killing man incurs no liability to pay ransom[14] has, when injuring man, to pay [additional] Four Items,[15] does it not follow that, in the case of Ox where there is a liability to pay ransom [for killing man],[16] there should similarly be a liability to pay the [additional] Four Items when injuring [man]? — Scripture states, If a man cause a blemish in his neighbour,[17] thus excluding Ox injuring the [owner's] neighbour.

It has been asked: In the case of Foot treading upon a child [and killing it] in the plaintiff's premises, what should be the law regarding ransom? Shall we say that this comes under the law applicable to Horn, on the ground that just as with Horn in the case of manslaughter being repeated twice and thrice it becomes habitual with the animal,[18] involving thus the payment of ransom,[19] so also seems to be the case here[20] with hardly any distinction; or shall it perhaps be argued that in the case of Horn there was on the part of the animal a determination to injure, whereas in this case the act was not prompted by a determination to injure? — Come and hear: In the case of an ox having been allowed [by its owner] to trespass upon somebody else's ground and there goring to death the owner of the premises, the ox will be stoned, while its owner must pay full ransom whether [the ox was] Tam or Mu'ad. This is the view of R. Tarfon. Now, whence could R. Tarfon infer the payment of full ransom in the case of Tam, unless he shared the view of R. Jose the Galilean maintaining[21] that Tam involves the payment of half ransom for manslaughter committed on public ground, in which case he[22] could rightly have inferred ransom in full [for manslaughter on the plaintiff's premises] by means of the a fortiori from the law applicable to Foot?[23] This thus proves that ransom has to be paid for [manslaughter committed by] Foot. R. Shimi of Nehardea, however, said that the Tanna[24] might have inferred it from the law applicable to [mere] damage done by Foot.[25] But [if so] cannot the inference be refuted? For indeed what analogy could be drawn to damage done by Foot, the liability for which is common also with Fire [whereas ransom does not apply to Fire]?[26] — [The inference might have been] from damage done to hidden goods [in which case the liability is not common with Fire].[27] Still what analogy is there to hidden goods, the liability for which is common with Pit [whereas ransom for manslaughter does not apply to Pit]?[28] — The inference might have been from damage done to inanimate objects[29] [for which there is no liability in the case of Pit].[30] Still what analogy is there to inanimate objects, the liability for which is again common with Fire? — The inference might therefore have been from damage done to inanimate objects that were hidden [for which neither Fire nor Pit involve liability]. But still what comparison is there to hidden inanimate objects, the liability for which is common at least with Man [whereas ransom is not common with Man]?[31] — Does this therefore not prove that he[32] must have made the inference from ransom [for manslaughter] in the case of Foot,[33] proving thus that ransom has to be paid for manslaughter committed by Foot? — This certainly is proved.

R. Aha of Difti said to Rabina: It even stands to reason that ransom has to be paid in the case of Foot. For if you say that in the case of Foot there is no ransom, and that the Tanna[34] might have made the inference from the law applicable to mere damage done by Foot,[35] his reasoning could easily be refuted. For what analogy could be drawn to damage done by Foot for which there is liability in the case of Foot [whereas this is not the case with ransom]? Does this [by itself] not show that the inference could only have been made from ransom in the case of Foot,[36] proving thus that ransom has to be paid for [manslaughter conmitted by] Foot? — It certainly does show this.

MISHNAH. MAN IS ALWAYS MU'AD WHETHER [HE ACTS] INADVERTENTLY OR WILFULLY, WHETHER AWAKE OR ASLEFP.[37] IF HE BLINDED HIS NEIGHBOUR'S EYE OR BROKE HIS ARTICLES, FULL COMPENSATION MUST [THEREFORE] BE MADE.

GEMARA. Blinding a neighbour's eye is placed here in juxtaposition to breaking his articles [to indicate that] just as in the latter case only Depreciation will be indemnified, whereas the [additional] Four Items [of liability][38] do not apply, so also in the case of inadvertently blinding his neighbour's eye only Depreciation will be indemnified, whereas the [additional] Four Items do not apply.

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(1) On the analogy to Horn where the liability is only for half damages in the case of Tam. The Scriptural text may have been intended to exclude only full compensation.

(2) Ex. XXI, 35.

(3) I.e., the division of compensation.

(4) With the exception of course of damage done by Pebbles according to the Rabbis, who by the authority of a special Mosaic tradition order the payment of half damages; cf. supra p. 80.

(5) In accordance with the Rabbis who differ from R. Tarfon; v. supra p. 125.

(6) Supra p. 132.

(7) Ex. XXII, 4.

(8) Lit., ‘good’, ‘perfect’.

(9) [Ex. XXI, 35; the phrase being superfluous, as the text could have read, They shall divide the money of it and the dead.]

(10) Cf. supra p. 92.

(11) V. Supra p. 12.

(12) I.e., Pain, Medical Expenses, Loss of Time and Degradation, in addition to Depreciation, when injuring a human being; v. supra ibid.

(13) Ex. XXI, 30.

(14) V. supra p. 12.

(15) V. p. 133, n. 8.

(16) V. Ex. XXI, 30.

(17) Lev. XXIV, 19.

(18) Which becomes Mu'ad; v. supra p. 119.

(19) Ex. XXI, 30.

(20) With Foot, which is always considered Mu'ad; v. supra p. 11.

(21) Supra p. 66 and infra 48b.

(22) I.e., R. Tarfon.

(23) In the same way as he derived compensation in full for damage done by Horn on the plaintiff's premises, as argued by him, supra p. 125. [Thus: If in the case of Tooth and Foot, where there is no liability at all involved on public ground, there is liability to pay full ransom on the plaintiff's premises, does it not follow that Horn, which does involve at least payment of half ransom on public ground, should on the plaintiff's premises be liable to pay full ransom.]

(24) V. p. 134, n. 9.

(25) And not from the law applicable to manslaughter committed by Foot, in which case there may be no ransom at all. [Thus: If in the case of Foot, which involves no liability for damage on public ground, there is liability to pay in full in the plaintiff's premises, does it not follow that, in the case of Horn, involving as it does payment of half ransom on public ground, there should be payment of full ransom in plaintiff's premises.]

(26) For the person liable for arson may, in such a case, be indicted for manslaughter; cf. supra pp. 37-38 and p. 113.

(27) [Thus: If in the case of Foot, which involves no liability at all on public ground, there is full liability for hidden goods on the plaintiff's premises, does it not follow that, in the case of Horn, which involves liability to pay half damages on public ground, there should be payment of full ransom in plaintiff's premises?] Cf. supra p. 18.

(28) As stated supra p. 37.

(29) Cf. notes 2 and 4.

(30) V. supra p. 18.

(31) For all civil complaints are merged in the capital accusation of manslaughter; cf. supra, p. 113 and Num. XXXV, 32.
(32) I.e., R. Tarfon.
(33) V. supra. 134, n. 10.
(34) I.e., R. Tarfon
(35) V. supra p. 135, n. 2.
(36) V, supra p. 134, n. 10.
(37) Cf. supra p. 8.
(38) I.e., Pain, Medical Expenses, Loss of Time and Degradation; cf. supra p. 133 n. 8.

Talmud - Mas. Baba Kama 26b

. Whence is this ruling[1] deduced? Hezekiah said, and thus taught a Tanna of the School of Hezekiah: Scripture states, Wound instead of a wound[2] — to impose the liability [for Depreciation] in the case of inadvertence as in that of willfulness, in the case of compulsion as in that of willingness. [But] was not that [verse] required to prescribe [indemnity for] Pain even in the case where Depreciation is independently paid? — If that is all,[3] Scripture should have stated, 'Wound for a wound',[4] why state, [wound] instead of a wound,[5] unless to indicate that both inferences be made from it?

Rabbah said: In the case of a stone lying in a person's bosom without his having knowledge of it, so that when he rose it fell down — regarding damage, there will be liability for Depreciation[6] but exemption regarding the [additional] Four Items;[7] concerning Sabbath[8] [there will similarly be exemption] as it is [only] work that has been [deliberately] purposed that is forbidden by the Law;[9] in a case of manslaughter[10] there is exemption from fleeing [to a city of refuge];[11] regarding [the release of] a slave,[12] there exists a difference of opinion between R. Simeon b. Gamaliel and the Rabbis, as it was taught:[13] If the master was a physician and the slave requested him to attend to his eye and it was accidentally blinded, or [the slave requested the master] to scrape his tooth and it was accidentally knocked out, he may now laugh at the master, for he has already obtained his liberty. R. Simeon b. Gamaliel, however, says: [Scripture states] and [he] destroy it,[14] to make the freedom conditional upon the master intending to ruin the eye of the slave.

If the person, however, had at some time been aware of the stone in his bosom but subsequently forgot all about it, so that when he rose it fell down, — in the case of damage there is liability for Depreciation;[15] but though the exemption regarding the [additional] Four Items still holds good,[16] in the case of manslaughter[17] he will have to flee [to a city of refuge], for Scripture says, at unawares,[18] implying the existence of some [previous] knowledge [as to the dangerous weapon] and in the case before us such knowledge did at a time exist: concerning Sabbath,[19] however, there is still exemption; regarding [the release of] a slave the difference of opinion between R. Simeon b. Gamaliel and the Rabbis[20] still applies.

Where he intended to throw the stone to a distance of two cubits, but it fell at a distance of four,[21] if it caused damage, there is liability for Depreciation; regarding the [additional] Four Items there is still exemption;[16] so also concerning Sabbath,[19] for work [deliberately] planned is required [to make it an offence];[22] in the case of manslaughter,[23] And if a man lie not in wait,[24] is stated by Divine law, excluding a case where there was mention to throw a stone to a distance of two cubits but which fell at a distance of four.[25] Regarding [the release of] a slave, the difference of opinion between R. Simeon b. Gamaliel and the Rabbis[20] still applies. Where the intention was to throw the stone to a distance of four[21] cubits but it fell eight cubits away, — if it caused damage there will be liability for Depreciation; regarding the [additional] Four Items there is still exemption;[16] concerning Sabbath, if there was express intention that the stone should fall anywhere, there is liability for an offence,[21] but in the absence of such express intention no offence was committed;[26] in the case of manslaughter,[27] And if a man lie not in wait,[28] excludes a case where there was intention to throw a stone to a distance of four cubits, but which fell at a distance of eight. Regarding [the release of] a slave the difference of opinion between R. Simeon b. Gamaliel and the Rabbis[29] still applies.

Rabbah again said: In the case of one throwing a utensil[30] from the top of a roof and another one coming and breaking it with a stick [before it fell upon the ground where it would in any case have been broken], the latter is under no liability to pay; the reason being that it was only a utensil which was already certain to be broken that was broken by him.

Rabbah further said: In the case of a man throwing a utensil[31] from the top of the roof while there were underneath mattresses and cushions which were meanwhile removed by another person, or even if he [who had thrown it] removed them himself, there is exemption; the reason being that at the time of the throwing [of the utensil] his agency had been void of any harmful effect.[32]

Rabbah again said: In the case of one throwing a child from the top of the roof and somebody else meanwhile appearing and catching it on the edge of his sword, there is a difference of opinion between R. Judah b. Bathyra and the Rabbis.[33] For it was taught: In the case of ten persons beating one [to death] with ten sticks, whether simultaneously or consecutively, none of them

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(1) That Man is Mu'ad to pay Depreciation for damage done by him under all circumstances.

(2) [Literal rendering of Ex. XXI, 25, which is superfluous having regard to Lev. XXIV, 19, If a man maim his neighbour, as he hath done so shall it be done to him.]

(3) That one is not merged in the other; cf. infra 85a.

(4) Expressed in Hebrew only by two words פצע בפצע

(5) For which three words are employed in the Hebrew text.

(6) For Man is Mu'ad to pay Depreciation even for damage done while asleep.

(7) On account of the absence of a purpose to do damage.

(8) I.e., if while unaware of the stone in his bosom he carried it with him into the open public thoroughfare, thus violating the Sabbath; cf. Shab. 96b.

(9) V. infra 60a; Hag. 10b.

(10) I.e., if, when the stone fell down, it killed a human being; v. Num. XXXV. 9-34.

(11) Since he never had any knowledge of the stone being in his bosom, he could in no way be made responsible criminally for the accidental manslaughter.

(12) I.e., when the stone in falling down destroyed the eye or the tooth of a slave; v. Ex. XXI. 26-27.

(13) Kid. 24b.

(14) Ex. XXI, 26.

(15) For Man is Mu'ad to pay Depreciation even for damage done while asleep.

(16) On account of the absence of a will to do damage.

(17) I.e., if when the stone fell down, it killed a human being; v. Num. XXXV, 9-34.

(18) Num. XXXV, 11, 15.

(19) I.e., if while unaware of the stone in his bosom he carried it with him into the open public thoroughfare, thus violating the Sabbath; cf. Shab. 96b.

(20) Supra p. 137.

(21) For the minimum of distance to constitute the violation of Sabbath by throwing an object in a public thoroughfare is four cubits; v. Shab. 96b.

(22) v. supra p. 137, n. 7.

(23) I.e., if when the stone fell down, it killed a human being; v. Num. XXXV, 9-34.

(24) Ex. XXI, 13.

(25) [According to one interpretation of Rashi, this is a case for exile; according to another, a case which is excluded from enjoying the protection of the city of refuge: v. Mak. 7b.]

(26) V. p. 137, n. 7.

(27) V. p. 138 n.3.

(28) Ex. XXI, 13.

(29) V. supra p. 137.

(30) Belonging to another. According to the interpretation of Rashi a.l. the utensil was thrown by its owner; cf. however, Rashi, supra 17b.

(31) Belonging to another.

(32) Lit., 'he had let his arrow off', it had spent its force; i.e., when the act of throwing took place it was by no means calculated to do any damage.

(33) According to R. Judah, the latter who caught it on the edge of his sword will be guilty of murder, but according to the Rabbis, no one is guilty of it.

Talmud - Mas. Baba Kama 27a

is guilty of murder: R. Judah b. Bathyra, however says: If consecutively the last is liable, for he was the immediate cause of the death.[1] In the case where an ox meanwhile appeared and caught the [falling] child on its horns there is a difference of opinion between R. Ishmael the son of R. Johanan b. Beroka and the Rabbis.[2] For it was taught: Then he shall give for the redemption of his life[3] [denotes] the value of the [life of] the killed person. R. Ishmael the son of R. Johanan b. Beroka interprets it to refer to the value of the [life of] the defendant.[2]

Rabbah further said: In the case of one falling from the top of the roof and [doing damage by] coming into close contact with a woman, there is liability for four items,[4] though were she his deceased brother's wife[5] he would thereby not yet have acquired her for wife.[6] The Four Items [in this case] include: Depreciation, Pain, Medical Expenses and Loss of Time, but not Degradation. for we have learnt:[7] There is no liability for Degradation unless there is intention [to degrade].

Rabbah further said: In the case of one who through a wind of unusual occurrence fell from the top of the roof [upon a human being] and did damage as well as caused degradation, there will be liability for Depreciation[8] but exemption from the [additional] Four Items:[9] if, however, [the fall had been] through a wind of usual occurrence and damage as well as degradation was occasioned, there is liability for Four Items[4] but exemption from Degradation.[7] If he turned over [while falling][10] there would be liability also for Degradation for it was taught: From the implication of the mere statement, And she putteth forth her hand,[11] would I not have understood that she taketh him? Why then continue in the text and she taketh him?[12] — In order to inform you that since there existed an intention to injure though none to cause degradation [there is liability even for Degradation]. Rabbah again said: In the case of one placing a live coal on a neighbour's heart and death resulting, there is exemption;[13] if, however, it was put upon his belongings[14] which were [thereby] burnt, there is liability.[15] Raba said: Both of the two [latter cases] have been dealt with in Mishnah. Regarding the case 'on a neighbour's heart' we learnt:[16] If one man held another fast down in fire or in water, so that it was impossible for him to emerge and death resulted, he is guilty [of murder]. If, however, he pushed him into fire or into water, and it was yet possible for him to emerge but death resulted, there is exemption. Regarding the case 'Upon his belongings' we have similarly learnt:[17] [If a man says to another,] 'Tear my garment;' 'Break my jug;'[18] there is nevertheless liability [for any damage done to the garment or to the jug]. But if he said, '. . . upon the understanding that you will incur no liability,' there is exemption. Rabbah, however, asked: If a man placed a live coal upon the heart of a slave[19] [and injury[20] results therefrom], what should be the law?[21] Does it come under the law applicable in the case of a coal having been placed upon the body of the master himself,[22] or to that applicable in the case of a coal having been placed upon a chattel of his?[23] Assuming that it is subject to the law applicable in the case of a coal having been placed upon the heart of the master himself,[22] what should be the law regarding a live coal placed upon an ox [from which damage resulted]? — He himself answered the query thus: His slave is on a par with his own body,[22] whereas his ox is on a par with his chattels.[23]

CHAPTER III

MISHNAH. IF A MAN PLACES A [KAD] PITCHER ON PUBLIC GROUND AND ANOTHER ONE COMES AND STUMBLES OVER IT AND BREAKS IT, HE IS EXEMPT. IF THE OTHER ONE WAS INJURED BY IT, THE OWNER OF THE [HABITH] BARREL IS LIABLE TO COMPENSATE FOR THE DAMAGE.

GEMARA. To commence with PITCHER[24] and conclude with BARREL![25] And we have likewise learnt also elsewhere:[26] If one man comes with his [habith] barrel and another comes with his beam and [it so happened that] the [kad] pitcher of this one breaks by [collision with] the beam of that one, he is exempt.[26] Here [on the other hand] the commencement is with barrel[25] and the conclusion with pitcher![24] We have again likewise learnt elsewhere: In the case of this man coming with a [habith] barrel of wine and that one proceeding with a [kad] pitcher of honey, and as the [habith] barrel of honey cracked, the owner of the wine poured out his wine and saved the honey into his barrel, he is entitled to no more than his service.[27] Here again the commencement is with pitcher[25] and the conclusion with barrel![25] R. Papa thereupon said: Both kad and habith may denote one and the same receptacle. But what is the purpose in this observation?[28] — Regarding buying and selling.[29] But under what circumstances? It could hardly be thought to refer to a locality where neither kad is termed habith nor habith designated kad, for are not these two terms then kept there distinct? — No, it may have application in a locality where, though the majority of people refer to kad by the term kad and to habith by the term habith, yet there are some who refer to habith by the term kad and to kad by the term habith. You might perhaps have thought that the law[30] follows the majority.[31]

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(1) Cf. supra p. 41.

(2) Infra pp. 224-5. According to R. Ishmael compensation for manslaughter will have to be made by the owner of the ox, but according to the Rabbis there will be no payment, as the child at the time of the fatal fall was devoid of any value.

(3) Ex. XXI, 30.

(4) For since the falling down was caused by a wind of usual occurrence, it is considered wilful.

(5) V. Deut. XXV, 5, and Yeb. VI, 1.

(6) Cf. Kid. I, 1, and Yeb. 56a.

(7) Infra, 86b.

(8) For Man is Mu'ad to pay Depreciation even for damage done while asleep.

(9) On account of the absence of a will to do damage.

(10) Intending thus to fall upon a human being standing below so as to escape the worst effects of his falling, but without intention to degrade.

(11) Deut. XXV, 11.

(12) Ibid.

(13) Since the person upon whose heart the live coal had been placed was able to remove it.

(14) Lit., ‘garment’.

(15) [In this case, the failure of the owner to remove the coal could be explained as due to his belief that he could claim compensation.]

(16) Sanh. 76b.

(17) Infra p. 531.

(18) This does not imply release from liability, as he might have meant, ‘You may tear, if you wish it,’ with all the consequences it involves.

(19) In the presence of his master; cf. Tosaf. a.l.

(20) Not death.

(21) Regarding compensation, as he could have removed it.

(22) In which case there is exemption.

(23) Where there is liability.

(24) Heb. Kad.

(25) Heb. Habith.
(26) Infra p. 169.
(27) V. infra p. 685.
(28) How can it affect law.
(29) The two terms may be interchanged in contracts as they are synonyms.
(30) Regulating technical terms in contracts of sale.
(31) Who keep the two terms distinct.

Talmud - Mas. Baba Kama 27b

It is therefore made known to us that we do not follow the majority[1] in [disputes on] matters of money.[2]

AND ANOTHER ONE COMES AND STUMBLES OVER IT AND BREAKS IT, HE IS EXEMPT. Why exempt? Has not one to keep one's eyes open when walking? — They said at the school of Rab, even in the name of Rab: The whole of the public ground was filled with barrels.[3] Samuel said: It is with reference to a dark place that we have learnt [the law in the Mishnah]. R. Johanan said: The pitcher was placed at the corner of a turning.[4] R. Papa said: Our Mishnah is not consistent unless in accordance with Samuel or R. Johanan, for according to Rab why exemption only in the case of stumbling [over the pitcher]? Why not the same ruling even when one directly broke it? — R. Zebid thereupon said in the name of Raba: The same law applies even when the defendant directly broke it; for AND STUMBLES was inserted merely because of the subsequent clause which reads, IF THE OTHER ONE WAS INJURED BY IT, THE OWNER OF THE BARREL IS LIABLE TO COMPENSATE FOR THE DAMAGE; and which of course applies only to ‘stumbling’ but not to direct breaking, in which case it only stands to reason that it is the plaintiff who is to blame for the damage he caused to himself. It was therefore on this account that ‘stumbling’ was inserted in the commencing clause.

R.Abba said to R. Ashi: In the West[5] the following [explanation] is stated in the name of R. ‘Ulla: [The exemption[6] is] because it is not the habit of men to look round while walking on the road.[7] Such a case occurred in Nehardea[8] where Samuel ordered compensation [for the broken utensil] and so also in Pumbeditha[8] where Raba similarly ordered compensation to he paid. We understand this in the case of Samuel who abided by the dictum he himself propounded,[9] but regarding Raba are we to say that he [also] embraced the view of Samuel? — R. Papa thereupon said: [In the case of Raba] the damage was done at the corner of an oil factory; and since it was usual to keep there barrels, he[10] ought to have kept his eyes open while walking there.[11]

R.Hisda dispatched [the following query] to R. Nahman: As there has already been fixed a fine[12] of three sela's[13] for kicking with the knee; five for kicking with the foot; thirteen for a blow with the saddle of an ass — what is the fine for wounding with the blade of the hoe or with the handle of the hoe? — The reply was forwarded [as follows]: ‘Hisda, Hisda! Is it your practice in Babylon to impose fines?[14] Tell me the actual circumstances of the case as it occurred.’ He[15] thereupon dispatched him thus: There was a well belonging to two persons. It was used by them on alternate days.[16] One of them, however, came and used it on a day not his. The other party said to him: ‘This day is mine!’ But as the latter paid no heed to that, he took a blade of a hoe and struck him with it. R. Nahman thereupon replied: No harm if he would have struck him a hundred times with the blade of the hoe. For even according to the view that a man may not take the law in his own hands[17] for the protection of his interests, in a case where an irreparable loss is pending[18] he is certainly entitled to do so.

It has indeed been stated: Rab Judah said: No man may take the law into his own hands for the protection of his interests, whereas R. Nahman said: A man may take the law into his own hands for the protection of his interests. In a case where an irreparable loss is pending, no two opinions exist that he may take the law into his own hands for the protection of his interests: the difference of opinion is only where no irreparable loss is pending. Rab Judah maintains that no man may take the law into his own hands for the [alleged] protection of his interests, for since no irreparable loss is pending let him resort to the Judge; whereas R. Nahman says that a man may take the law into his own hands for the protection of his interests, for since he acts in accordance with [the prescriptions of the] law, why [need he] take the trouble [to go to Court]?

R. Kahana [however] raised an objection; Ben Bag Bag said;[19] Do not enter [stealthily] into thy neighbour's premises for the purpose of appropriating without his knowledge anything that even belongs to thee, lest thou wilt appear to him as a thief. Thou mayest, however, break his teeth and tell him, ‘I am taking possession of what is mine.’[20] [Does not this prove that a man may take the law into his own hands[21] for the protection of his rights?[22]] — He[23] thereupon said

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(1) Cf. infra p. 263 and B.B. 92b.
(2) As the defendant is entitled to plead that he belongs to the minority.
(3) Such a public nuisance may thus be abated.
(4) The defendant is thus not to blame.
(5) I.e., in Eretz Yisrael, which is West of Babylon.
(6) For breaking the pitcher.
(7) Probably because the roads in Eretz Yisrael were in better condition than in Babylon; v. Shab. 33b; A. Z. 3a.
(8) A town in Babylon.
(9) That were the pitcher to have been in a visible place there would be liability.
(10) The defendant.
(11) And was thus to blame for the damage he had done.
(12) Cf. infra 90a, dealing with some other fixed fines.
(13) Sela’ is a coin equal to one sacred or two common shekels; v. Glos.
(14) For the judicial right to impose fines is confined to Palestinian judges; cf. supra p. 67 and infra 84b.
(15) R. Hisda.
(16) Cf. B.B. 13a.
(17) I.e., resort to force.
(18) As where there is apprehension that the Court will be unable to redress the wrong done, e.g., in case all the water in the well will be used up.
(19) V. Ab. (Sonc. ed.) p. 76. n.7.
(20) Cf. Tosef. B.K. X.
(21) Since it is definitely stated that he may break his teeth . . . [The case dealt with here is where the loss is not irreparable, otherwise, as stated above, he would be allowed to enter even without permission.]
(22) Thus contradicting the view of Rab Judah.
(23) Rab Judah.

Talmud - Mas. Baba Kama 28a

: It is true that Ben Bag Bag supports thy view; but he is only one against the Rabbis[1] who differ from him. R. Jannai [even] suggested that ‘Break his teeth’ may also mean to bring him before a court of justice. But if so, why ‘and thou mayest tell him?’ Should it not read ‘and they[2] will tell him’? Again, ‘I am taking possession of what is mine’; should it not be ‘he is taking possession of what is his’? — This is indeed a difficulty.

Come and hear: In the case of an ox throwing itself upon the back of another's ox so as to kill it, if the owner of the ox that was beneath arrived and extricated his ox so that the ox that was above dropped down and was killed, there is exemption. Now, does not this ruling apply to Mu'ad[3] where no irreparable loss is pending? — No, it only applies to Tam[4] where an irreparable loss is indeed pending. But if so, read the subsequent clause: If [the owner of the ox that was beneath] pushed the ox from above, which was thus killed, there would be liability to compensate. Now if the case dealt with is of Tam,[5] why liability? — Since he was able to extricate his ox from beneath, which in fact he did not do,[he had no right to push and directly kill the assailing ox].[6]

Come and hear: In the case of a trespasser having filled his neighbour's premises with pitchers of wine and pitchers of oil, the owner of the premises is entitled to break them when going out and break them when coming in. [Does not this prove that a man may take the law into his own hands for the protection of his rights?][7] — R. Nahman b. Isaac explained: He is entitled to break them [and make a way][8] when going out [to complain] to the Court of Justice, as well as break them when coming back to fetch some necessary documents.

Come and hear: Whence is derived the ruling that in the case of a [Hebrew] bondman whose term of service, that had been extended by the boring of his ear,[9] has been terminated by the arrival of the Jubilee year[10] if it so happened that his master, while insisting upon him to leave, injured him by inflicting a wound upon him, there is yet exemption? We learn it from the words, And ye shall take no satisfaction for him that is . . . come again . . .[11] implying that we should not adjudicate compensation for him that is determined to ‘come again’ [as a servant].[12] [Does not this prove that a man may take the law into his own hands for the protection of his interests?][7] — We are dealing here with a case where the servant became suspected of intending to commit theft.[13] But how is it that up to that time he did not commit any theft and just at that time[14] he became suspected of intending to commit theft? — Up to that time he had the fear of his master upon him, whereas from that time[14] he is no more subject to his master's control.[10] R. Nahman b. Isaac said: We are dealing with a bondman to whom his master assigned a Canaanite maidservant as wife:[15] up to the expiration of the term this arrangement was lawful[15] whereas from that time this becomes unlawful.[16]

Come and hear:IF A MAN PLACES A PITCHER ON PUBLIC GROUND AND ANOTHER ONE COMES AND STUMBLES OVER IT AND BREAKS IT, HE IS EXEMPT. Now, is not this so only when the other one stumbled over it, whereas in the case of directly breaking it there is liability?[17] — R. Zebid thereupon said in the name of Raba: The same law applies even in the case of directly breaking it; for ‘AND STUMBLES’ was inserted merely because of the subsequent clause which reads, IF THE OTHER ONE WAS INJURED BY IT, THE OWNER OF THE BARREL IS LIABLE TO COMPENSATE FOR THE DAMAGE, and which, of course, applies only to stumbling but not to direct breaking, as then it is of course the plaintiff who is to blame for the damage he caused to himself. It was therefore on this account that ‘stumbling’ was inserted in the commencing clause.

Come and hear: Then thou shalt cut off her hand,[18] means only a monetary fine. Does not this ruling apply even in a case where there was no other possibility for her to save [her husband]?[19] — No, it applies only where she was able to save [him] by some other means.[20] Would indeed no fine be imposed upon her in a case where there was no other possibility for her to save [her husband]? But if so, why state in the subsequent clause: ‘And putteth forth her hand,[21] excludes an officer of the Court of Justice [from any liability for degradation caused by him while carrying out the orders of the Court]’? Could not the distinction be made by continuing the very case[22] [in the following manner]: ‘Provided that there were some other means at her disposal to save [him],[20] whereas if she was unable to save [him] by any other means there would be exemption’? — This very same thing was indeed meant to be conveyed [in the subsequent clause:] ‘Provided that there were some other means at her disposal to save [him],[23] for were she unable to save [him] by any other means, the resort to force in her case should be considered as if exercised by an officer of the Court[24] [in the discharge of his duties] and there would be exemption.’

Come and hear:[25] In the case of a public road passing through the middle of a field of an individual, who appropriates the road but gives the public another at the side of his field, the gift of the new road holds good, whereas the old one will not thereby revert to the owner of the field. Now, if you maintain that a man may take the law into his own hands for the protection of his interests, why should he not arm himself with a whip and sit there?[26] — R. Zebid thereupon said in the name of Raba: This is a precaution lest an owner [on further occasions] might substitute a round- about way[27] [for an old established road]. R. Mesharsheya even suggested that the ruling applies to an owner who actually replaced [the old existing road by] a roundabout way.[27] R. Ashi said: To turn a road [from the middle] to the side [of a field] must inevitably render the road roundabout, for if for those who reside at that side it becomes more direct, for those who reside at the other side it is made far [and roundabout]. But if so, why does the gift of the new road hold good? Why can the owner not say to the public authorities: ‘Take ye yours [the old path] and return me mine [the new one]’? — [That could not be done] because of Rab Judah, for Rab Judah said:[28] A path [once] taken possession of by the public may not be obstructed.

Come and hear: If an owner leaves Pe'ah[29] on one side of the field, whereas the poor arrive at another side and glean there, both sides are subject to the law of Pe'ah. Now, if you really maintain that a man may take the law into his own hands for the protection of his interests why should both sides be subject to the law of Pe'ah?[30] Why should the owner not arm himself with a whip and sit?[31] — Raba thereupon said: The meaning of ‘both sides are subject to the law of Pe'ah’ is that they are both exempt from tithing,[32] as taught:[33] If a man, after having renounced the ownership of his vineyard, rises early on the following morning and cuts off the grapes,[34] there applies to them the laws of Peret,[35] ‘Oleloth,[36] ‘Forgetting’[37] and Pe'ah[38] whereas there is exemption from tithing.[39]

MISHNAH. IF HIS PITCHER BROKE ON PUBLIC GROUND AND SOMEONE SLIPPED IN THE WATER OR WAS INJURED BY THE POTSHERD HE IS LIABLE [TO COMPENSATE]. R. JUDAH SAYS: IF IT WAS DONE INTENTIONALLY HE IS LIABLE, BUT IF UNINTENTIONALLY HE IS EXEMPT.

GEMARA. Rab Judah said on behalf of Rab: The Mishnaic ruling refers only to garments soiled in the water.[40]

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(1) I.e., the majority of Rabbis.

(2) I.e., the Judges.

(3) In which case the Court would order compensation in full.

(4) Where compensation is only for a half, the plaintiff losing the other half.

(5) V. p. 145, n. 9.

(6) [Although there was the danger of his losing the full value of his ox.]

(7) Thus contradicting the view of Rab Judah.

(8) But no more.

(9) Ex. XXI, 6.

(10) Lev. XXV, 10, and Kid. 14b, 15a.

(11) Num. XXXV, 32.

(12) According to another rendering quoted by Rashi, it means ‘that has to return’ to his family, as prescribed in Lev. XXV, 10.

(13) In which case an irreparable loss is pending.

(14) I.e., the arrival of the Jubilee year.

(15) Ex. XXI, 4; Kid. 15a.

(16) Cf. Onkelos on Deut. XXIII, 18; hence the Master may use force to eject him.

(17) Thus opposing the view of R. Nahman.

(18) Deut. XXV, 12.

(19) Thus proving that even where irreparable loss is pending, as in this case, it is not permitted to take the law into one's own hands.

(20) In which case she acted ultra vires, i.e beyond the permission granted by law.
(21) Deut. XXV, 11.
(22) Dealing with a woman coming to rescue her husband.
(23) V. p. 147. n. 6.
(24) Lit. ‘her hand is like the hand of the officer’.
(25) B. B. 99b.
(26) To keep away intruders; v. p. 147 n. 5.
(27) Which is of course not an equitable exchange in accordance with the law.
(28) B.B. 12a; 26b; 60b and 100a.
(29) I.e., the portion of the harvest left at a corner of the field for the poor in accordance with Lev. XIX. 9; XXIII, 22; v. Glos.
(30) Thus proving that even where irreparable loss is pending, as in this case, it is not permitted to take the law into his own hands.
(31) I.e., keeping the poor away from the Pe'ah on the former side.
(32) But they will by no means belong to the poor, for the portion left on the former side remains the owner's property.
(33) Infra 94a; Ned. 44b.
(34) So that ownership has been re-established.
(35) I.e.. grapes fallen off during cutting which are the share of the poor as prescribed in Lev. XIX, 10.
(36) Small single bunches reserved for the poor in accordance with Lev. XIX, 10, and Deut. XXIV, 21.
(37) I.e., produce forgotten in the field, belonging to the poor in accordance with Deut. XXIV, 19.
(38) I.e the portion of the harvest left at a corner of the field for the poor in accordance with Lev. XIX, 9; XXIII, 22; v. Glos.
(39) V. infra 94a. For the law of tithing applies only to produce that has never been abandoned even for the smallest space of time; v. Rashi and Tosaf. a.l.
(40) Rab maintains that the Mishnah deals with a case where the water of the broken pitcher has not been abandoned, so that it still remains the chattel of the original owner who is liable for any damage caused by it

Talmud - Mas. Baba Kama 28b

For regarding injury to the person there is exemption, since it was public ground[1] that hurt him.[2] When repeating this statement in the presence of Samuel he said to me: ‘Well, is not [the liability for damage occasioned by] a stone, a knife or luggage[3] derived from Pit?[4] So that I adopt regarding them all [the interpretation]: An ox[4] excluding man, An ass[4] excluding inanimate objects! This qualification[5] however applies only to cases of killing, whereas as regards [mere] injury, in the case of man there is liability, though with respect to inanimate objects there is [always] exemption?’[6] — Rab [however, maintains[7] that] these statements apply only to nuisances abandoned [by their owners],[8] whereas in cases where they are not abandoned they still remain [their owner's] chattel.[9]

R. Oshaia however raised an objection: ‘And an ox or an ass fall therein’.[4] ‘An ox’ excluding man; ‘an ass’ excluding inanimate objects. Hence the Rabbis stated: If there fell into it an ox together with its tools and they thereby broke, [or] an ass together with its equipment which rent, there is liability for the beast but exemption as regards the inanimate objects.[10] To what may the ruling in this case be compared? To that applicable in the case of a stone, a knife and luggage[11] that had been left on public ground and did damage. (Should it not on the contrary read, ‘What case may be compared to this ruling?’[12] — It must therefore indeed mean thus: ‘What may [be said to] be similar to this ruling? The case of a stone, a knife and luggage that had been left on public ground and did damage’.) ‘It thus follows that where a bottle broke against the stone there is liability.’ Now, does not the commencing clause[13] contradict the view of Rab,[14] whereas the concluding clause[15] opposes that of Samuel?[16] — But [even] on your view, does not the text contradict itself, stating exemption in the commencing clause[13] and liability in the concluding clause![15] Rab therefore interprets it so as to accord with his reasoning, whereas Samuel [on the other hand] expounds it so as to reconcile it with his view. Rab in accordance with his reasoning interprets it thus: The [above] statement[13] was made only regarding nuisances that have been abandoned, whereas where they have not been abandoned there is liability.[17] It therefore follows that where a bottle broke against the stone there is liability. Samuel [on the other hand] in reconciling it with his view expounds it thus: Since you have now decided that a stone, a knife and luggage [constitute nuisances that] are equivalent [in law] to Pit, it follows that, according to R. Judah who orders compensation for inanimate objects damaged by Pit,[18] where a bottle smashed against the stone there is liability.

R. Eleazar said: This ruling[15] refers only to a case where the person stumbled over the stone and the bottle broke against the stone. For if the person stumbled because of the public ground, though the bottle broke against the stone, there is exemption.[19] Whose view is here followed? — Of course not that of R. Nathan[20] . There are, however, some who [on the other hand] read: R. Eleazar said: Do not suggest that it is only where the person stumbled upon the stone and the bottle broke against the stone that there is liability, so that where the person stumbled because of the public ground, though the bottle broke against the stone, there would be exemption. For even in the case where the person stumbled because of the public ground, provided the bottle broke against the stone there is liability. Whose view is here followed? — Of course that of Nathan.[20]

R. JUDAH SAYS: IF IT WAS DONE INTENTIONALLY HE IS LIABLE, BUT IF UNINTENTIONALLY HE IS EXEMPT. What does INTENTIONALLY denote? — Rabbah said: [It is sufficient[21] if there was] an intention to bring the pitcher below the shoulder.[22] Said Abaye to him: Does this imply that R. Meir[23] imposes liability even when the pitcher slipped down [by sheer accident]? — He answered him:[24] 'Yes, R. Meir imposes liability even where the handle remained in the carrier's hand.' But why? Is it not sheer accident, and has not the Divine Law prescribed exemption in cases of accident as recorded,[25] But unto the damsel thou shalt do nothing?[26] You can hardly suggest this ruling to apply only to capital punishment, whereas regarding damages there should [always] be liability, for it was taught:[27] If his pitcher broke and he did not remove the potsherds, [or] his camel fell down and he did not raise it, R. Meir orders payment for any damage resulting therefrom, whereas the Sages maintain

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(1) Lit 'ground of the world'.

(2) Whereas the water was only the remote cause of it.

(3) Even when not abandoned; cf. supra p. 7.

(4) Ex. XXI, 33.

(5) Excluding man.

(6) For killing and injury could not be distinguished in the case of inanimate objects. How then could Rab make him liable for soiled garments (and exempt for injury to the person)?

(7) The difference in principle between Samuel and Rab is that the former maintains that nuisances of all kinds, whether abandoned by their owners or not, are subject to the law applicable to Pit, in which case there is no liability either for damage done to inanimate objects or death caused to human beings, whereas the view of Rab is that only abandoned nuisances are subject to these laws of Pit, but nuisances that have not been abandoned by their owners are still his chattels, and as such have to be subject to the law applicable to ox doing damage, in which case no discrimination is made as to the nature of the damaged objects, be they men, beasts or inanimate articles; cf. also supra p. 38.

(8) In which case they are equal (in law) to Pits dug on public ground.

(9) They are thus subject to the law applicable to ox; v. supra p. 18.

(10) V. infra 52a.

(11) Even when not abandoned; cf. supra p. 7.

(12) Since the case of stone, knife and luggage is far less obvious than this case which is explicitly dealt with in Scripture.

(13) Making a stone, a knife and luggage subject to the law applicable to Pit.

(14) Who maintains that unless they have been abandoned they are subject to the law of Ox.

(15) Imposing liability in the case of a bottle having been smashed against the stone.

(16) According to whom it should be subject to the law applicable to Pit imposing no liability for damage done to inanimate objects.

(17) Even for damage done to inanimate objects, as they are subject not to the law of Pit but to that applicable to Ox.

(18) Supra p. 18.

(19) Since it was ownerless ground that was the primary cause of the accident.

(20) Who holds that where no payment can be exacted from one defendant, the co-defendant, if any, will himself bear the whole liability; cf supra p. 54 and infra 53a

(21) To constitute liability.

(22) Though there was no intention whatever to break it.

(23) Who is usually taken to have been the author of anonymous Mishnaic statements, especially when contradicting those of R. Judah b. Il'ai, his colleague.

(24) I.e., Rabbah to Abaye.

(25) Deut. XXII, 26.

(26) For so far as she is concerned it was a mishap.

(27) Infra 55a.

Talmud - Mas. Baba Kama 29a

that no action can be instituted against him in civil courts though there is liability[1] according to divine justice. The Sages agree however, with R. Meir that, in the case of a stone, a knife and luggage which were left on the top of the roof and fell down because of a wind of usual occurrence[2] and did damage, there will be liability.[3] R. Meir [on the other hand] agrees with the Sages that, regarding bottles that were placed upon the top of the roof for the purpose of getting dry and fell down because of a wind of unusual occurrence[4] and did damage, there is exemption.[5] [Does not this prove that even regarding damages all agree that there is exemption in cases of sheer accident?] — Abaye therefore said: It is on two points that they[6] differ [in the Mishnah]; they differ regarding damage done at the time of the fall [of the pitcher] and they again differ regarding damage occasioned [by the potsherds] subsequently to the fall. The difference of opinion regarding damage done at the time of the fall of the pitcher arises on the question whether stumbling implies negligence [or not];[7] one Master[8] maintaining that stumbling does imply negligence, whereas the other Master[9] is of the opinion that stumbling does not [necessarily] imply negligence.[10] The point at issue in the case of damage occasioned [by the potsherds] subsequently to the fall, is the law as applicable to abandoned nuisances;[11] one Master[8] maintaining that for damage occasioned by abandoned nuisances there is liability,[12] whereas the other Master[9] maintains exemption.[13] But how can you prove this?[14] — From the text which presents two [independent] cases [as follows]; SOMEONE SLIPPED IN THE WATER OR WAS INJURED BY THE POTSHERD; for indeed is not one case the same as the other,[15] unless it was intended to convey, ‘Someone slipped in the water while the pitcher had been falling[16] or was injured by the potsherd subsequently to the fall.’

Now that the Mishnah presents two independent cases, it is only reasonable to assume that the Baraitha[17] similarly deals with the same two problems. That is all very well as regards the ‘pitcher’ where the two [problems] have application [in the case of damage done] at the time of the fall or subsequently to the fall [respectively]. But how in the case of the ‘camel’? For though concerning damage occasioned subsequently to the fall, it may well have application where the carcass has been abandoned,[18] yet in the case of damage done at the time of the fall, what point of difference can be found?[19] — R. Aha thereupon said: [It deals with a case] where the camel was led in water along the slippery shore of a river.[20] But under what circumstances? If where there was another [better] way, is it not a case of culpa lata?[21] If on the other hand there was no other way [to pass through], is it not a case of no alternative? — The point at issue can therefore only be where the driver stumbled and together with him the camel also stumbled.

But in the case of abandoning nuisances,[22] where could [the condition of] intention [laid down by R. Judah] come in? — Said R. Joseph: The intention [in this case] refers to the retaining of the ownership of the potsherd.[23] So also said R. Ashi, that the intention [in this case] refers to the retaining of the ownership of the potsherd.

R. Eleazar said: ‘It is regarding damage done at the time of the fall that there is a difference of opinion.’ But how in the case of damage done subsequently to the fall? Would there be unanimity that there is exemption? Surely there is R. Meir who expressed [his opinion][24] that there is liability! What else [would you suggest? That in this case] there is unanimity [imposing] liability? Surely there are the Rabbis who stated [their view] that there is exemption! — Hence, what he means [to convey by his statement] ‘damage done at the time of the fall’, is that there is difference of opinion ‘even regarding damage done at the time of the fall’, making thus known to us [the conclusions arrived at] by Abaye.[25]

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(1) For not having removed the potsherds or the camel that fell down.

(2) Which the defendant should have anticipated.

(3) For carelessness.

(4) Which could hardly have been anticipated.

(5) For in this case the defendant is not to blame for carelessness.

(6) I.e., R. Judah and the anonymous view which is that of R. Meir.

(7) As it was owing to the defendant having stumbled that his pitcher gave way.

(8) I.e., R. Meir.

(9) I.e., R. Judah.

(10) ‘INTENTIONALLY’ stated in the Mishnah would thus mean where there was intention actually to break the pitcher, for if the intention was merely to bring the pitcher below the shoulder it would come under the term ‘UNINTENTIONALLY’, the ground advanced by R. Judah is that in the case of stumbling and breaking a pitcher and doing thereby damage, no negligence was necessarily involved.

(11) Of which the defendant is no longer the owner.

(12) For the liability in the case of Pit is also where it has been dug in public ground and is thus ownerless.

(13) For he holds that the liability in the case of Pit is only where the defendant had dug it in his own ground and though he subsequently abandoned it he retained the ownership of the pit itself; cf. supra p. 107; and infra 50a.

(14) That the points at issue are twofold.

(15) Why then would one case not have sufficed?

(16) And the water was still in the process of being poured out.

(17) Supra p. 152.

(18) The point at issue thus consisting in the law applicable to abandoned nuisances.

(19) For the problem whether ‘stumbling’ implies negligence or not has surely no application where it was not the driver but the camel that stumbled.

(20) The stumbling of the camel is thus imputed to the driver.

(21) I.e., grave fault, which has nothing to do with the problem of stumbling.

(22) Which is the second point at issue between R. Judah and R. Meir.

(23) [R. Judah therefore means this: If he had the intention of retaining the shards he is liable; if he had no intention to do so but abandoned them, he is exempt.]

(24) Supra p. 152.

(25) Supra p. 153.

Talmud - Mas. Baba Kama 29b

R. Johanan, however, said: ‘It is regarding damage occasioned after the fall [of the pitcher] that there is a difference of opinion.’ But how in the case of damage done at the time of the fall? Would there be unanimity [granting] exemption? Surely R. Johanan's statement further on[1] that we should not think that the Mishnah[2] [there] follows the view of R. Meir who maintains that stumbling constitutes carelessness, implies that R. Meir imposes liability.[3] What else [would you suggest? That there] be unanimity [imposing] liability? Surely the very statement made further on[1] by R. Johanan [himself] that we should not think that the Mishnah[2] [there] follows the view of R. Meir, implies that the Rabbis would exempt![3] — Hence what he [R. Johanan] intends to convey to us is that abandoned nuisances have only in this connection been exempted from liability by the Rabbis since the very inception [of the nuisances][4] was by accident, whereas abandoned nuisances in other circumstances involve liability [even according to the Rabbis].[5]

It was stated: In the case of abandoned nuisances [causing damage], R. Johanan and R. Eleazar [differ]. One imposes liability and the other maintains exemption. May we not say that the one imposing liability follows the view of R. Meir,[6] whereas the other, who maintains exemption follows that of the Rabbis?[6] — As to R. Meir's view no one could dispute [that there should be liability].[7] Where they differ is as to the view of the Rabbis. The one who exempts does so because of the Rabbis,[8] while the other who imposes liability can say to you, 'It is I who follow the view even of the Rabbis, for the Rabbis who declare abandoned nuisances exempt do so only in one particular connection, where the very inception [of the nuisances][9] had been by accident, whereas abandoned nuisances in other connections involve liability.' May it not be concluded that it was R. Eleazar who imposed liability? For R. Eleazar said in the name of R. Ishmael:[10] There are two [laws dealing with] matters that are really not within the ownership of man but which are regarded by Scripture as if they were under his ownership. They are [the following]: Pit in public ground,[11] and Leaven after midday [on Passover eve].[12] It may indeed be concluded thus.[13]

But did R. Eleazar really say so? Did not R. Eleazar express himself to the contrary? For we have learnt;[14] 'If a man turns up dung that had been lying on public ground and another person is [subsequently] injured thereby, there is liability for the damage.' And R. Eleazar thereupon said: This Mishnaic ruling applies only to one who [by turning over the dung] intended to acquire title to it. For if he had not intended to acquire title to it there would be exemption. Now, does not this prove that abandoned nuisances are exempt? — R. Adda b. Ahabah suggested [that the amendment made by R. Eleazar] referred to one who has restored the dung to its previous position.[15] Rabina [thus] said: The instance given by R. Adda b. Ahabah may have its equivalent in the case of one who, on coming across an open pit, covered it, but opened it up again. But Mar Zutra the son of R. Mari said to Rabina: What a comparison! In the latter case, [by merely covering the pit] the [evil] deed of the original [offender] has not yet been undone, whereas in the case before us [by removing the dung from its place] the [evil] deed of the original [offender] has been undone! May it not therefore [on the other hand] have its equivalent only in the case of one who, on coming across an open pit, filled it up [with earth] but dug it out again, where, since the nuisance created by the original [offender] had already been completely removed [by filling in the pit], it stands altogether under the responsibility of the new offender? — R. Ashi therefore suggested [that the amendment made by R. Eleazar] referred to one who turned over the dung within the first three [handbreadths][16] of the ground [in which case the nuisance created by the original offender is not yet considered in law as abated]. But what influenced R. Eleazar to make the [Mishnaic] ruling[17] refer to one who turned over the dung within the first three [handbreadths of the ground], and thus to confine its application only to one who intended to acquire title to the dung,[18] excluding thereby one who did not intend to acquire title to it? Why not indeed make the ruling refer to one who turned over the dung above the first three handbreadths, so that even where one did not intend to acquire title to it the liability should hold good? — Raba [thereupon] said: Because of a difficulty in the Mishnaic text[17] [which occurred to him]: Why indeed have 'turning up' in the Mishnaic text and not simply 'raising,'[19] if not to indicate that 'turning up' implies within the first three handbreadths [of the ground].

Now [then] that R. Eleazar was the one who maintained liability,[20] R. Johanan would [of course] be the one who maintained exemption. But could R. Johanan really maintain this? Surely we have learnt: If a man hides thorns and broken glass [in public ground], or makes a fence of thorns, or if a man's fence falls upon public ground and damage results therefrom to another person, there is liability for the damage.[21] And R. Johanan thereupon said: This Mishnaic ruling refers to a case where the thorns were projecting into the public thoroughfare. For if they were confined within private premises[22] there would be exemption. Now, why should there be exemption in the case where they were confined within private premises if not because they would only constitute a nuisance on private premises? Does this then not imply that it is only a nuisance created upon public ground that involves liability, proving thus that abandoned nuisances do involve liability? — No, it may still be suggested that abandoned nuisances are exempt. The reason for the exemption in the case of thorns confined to private premises is, as it has already been stated in this connection,[21] that R. Aha the son of R. Ika said: Because it is not the habit of men to rub themselves against walls.[23]

But again, could R. Johanan [really] maintain this?[24] Surely R. Johanan stated:[25] The halachah is in accordance with anonymous Mishnaic rulings. And we have learnt: If a man digs a pit in public ground, and an ox or ass falls in and dies, there is liability.[26] [Does this not prove that there is liability for a pit dug in public ground?] — [It must] therefore [be concluded that] R. Johanan was indeed the one who maintained liability. Now then that R. Johanan was the one who maintained liability, R. Eleazar would [of course] be the one who maintained exemption. But did not R. Eleazar say

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(1) Infra p. 166.

(2) Dealing with the case of the two potters, infra p. 166.

(3) For damage done at the time of the fall.

(4) I.e., when the pitcher gave way or the camel fell down.

(5) The statement made by R. Johanan that it was regarding damage occasioned after the fall (of the pitcher) that there was a difference of opinion would thus mean that the difference of opinion between R. Meir and the other Rabbis was only where the inception of the nuisance was with a fall, i.e. with an accident, as where the nuisance had originally been wilfully exposed to the public there would be liability according to all opinions.

(6) V. p. 155, n. 1.

(7) For R. Meir imposes liability for abandoned nuisances even where their very inception was by accident; v. Rashi, but also Tosaf. 29a.

(8) Supra p. 153.

(9) As when the pitcher gave way or the camel fell down.

(10) Pes. 6b.

(11) Which is not the property of the defendant, but for which he is nevertheless responsible on account of his having dug it.

(12) Lit., 'from the sixth hour upwards', when in accordance with Pes. I. 4, it becomes prohibited for any use and is thus rendered ownerless, but for its destruction the original owner is still held responsible.

(13) That according to R. Eleazar abandoning nuisances does not release from responsibility.

(14) Infra p. 161.

(15) In which case the defendant did not aggravate the position.

(16) According to the principle of Labud, which is the legal consideration of separated parts as united, one substance is not regarded as removed from another unless a space of not less than three handbreadths separates them.

(17) Infra p. 161.

(18) Lit., 'and the reason is because he intended', etc.

(19) Which would necessarily mean above the first three handbreadths of the ground level.

(20) In the case of abandoned nuisances that have caused damage.

(21) Infra p. 159.

(22) Although he subsequently abandoned it to the public.

(23) It is therefore the plaintiff himself who is to blame.

(24) That abandoning nuisances releases from responsibility.

(25) Shab. 46a.

(26) Infra 50b.

Talmud - Mas. Baba Kama 30a

in the name of R. Ishmael etc.[1] [which proves that abandoned nuisances do involve liability]? — This presents no difficulty. One view[2] is his own whereas the other[3] is that of his master.

MISHNAH. IF A MAN POURS OUT WATER INTO PUBLIC GROUND AND SOME OTHER PERSON IS INJURED BY IT, THERE IS LIABILITY FOR THE DAMAGE. IF HE HIDES THORNS AND BROKEN GLASS, OR MAKES A FENCE OF THORNS, OR, IF A FENCE FALLS INTO THE PUBLIC GROUND AND DAMAGE RESULTS THEREFROM TO SOME OTHER PERSONS, THERE IS [SIMILARLY] LIABILITY FOR THE DAMAGE.[4]

GEMARA. Rab said: This Mishnaic ruling[5] refers only to a case where his garments[6] were soiled in the water. For regarding injury to himself there should be exemption, since it was ownerless ground that hurt him.[7] [But] R. Huna said to Rab: Why should not [the topmost layer of the ground mixed up with private water] be considered as private clay?[8] — Do you suggest [the ruling to refer to] water that has not dried up? [No.] It deals with a case where the water has already dried up. But why [at all] two [texts[9] for one and the same ruling]?[10] — One [text] refers to the summer season whereas the other deals with winter, as indeed [explicitly] taught [elsewhere]: All those who open their gutters or sweep out the dust of their cellars [into public thoroughfares] are, in the summer period, acting unlawfully, but lawfully in winter; [in all cases] even though when acting lawfully, if special damage resulted, they are liable to compensate.[11]

IF HE HIDES THORNS etc., R. Johanan said:[4] This Mishnaic ruling refers only to a case where the thorns were projecting into the public ground. For if they were confined within private premises there would be no liability. On what account is there exemption [in the latter case]? — R. Aha the son of R. Ika [thereupon] answered:[12] Because it is not the habit of men to rub themselves against walls.

Our Rabbis taught: If one hid thorns and broken glasses in a neighbour's wall and the owner of the wall came and pulled his wall down, so that they fell into the public ground and did damage, the one who hid them is liable. R. Johanan [thereupon] said: This ruling refers only to an impaired wall.[13] For in the case of a strong wall the one who hid [the thorns] should be exempt while the owner of the wall would be liable.[14] Rabina commented: This ruling[15] proves that where a man covers his pit with a neighbour's lid and the owner of the lid comes and removes his lid, the owner of the pit would be liable [for any damage that may subsequently be caused by his pit]. Is not this inference quite obvious?[16] — You might perhaps have suggested this ruling[15] [to be confined to the case] there, where the owner of the wall had no knowledge of the identity of the person who hid the thorns in the wall, and was accordingly unable to inform him of the intended pulling down of the wall, whereas in the case of the pit, where the owner of the lid very well knew the identity of the owner of the pit, [you might have argued] that it was his duty to inform him [of the intended removal of the lid].[17] It is therefore made known to us [that this is not the case].[18]

Our Rabbis taught: The pious men of former generations used to hide their thorns and broken glasses in the midst of their fields at a depth of three handbreadths below the surface so that [even] the plough might not be hindered by them. R Shesheth[19] used to throw them into the fire.[20] Raba threw them into the Tigris. Rab Judah said: He who wishes to be pious must [in the first instance particularly] fulfil the laws of [Seder] Nezikin.[21] But Raba said: The matters [dealt with in the Tractate] Aboth;[22] still others said: Matters [dealt with in] Berakoth.[23]

MISHNAH. IF A MAN REMOVES HIS STRAW AND STUBBLE INTO THE PUBLIC GROUND TO BE FORMED INTO MANURE, AND DAMAGE RESULTS TO SOME OTHER PERSON, THERE IS LIABILITY FOR THE DAMAGE, AND WHOEVER SEIZES THEM FIRST ACQUIRES TITLE TO THEM. R. SIMEON B. GAMALIEL SAYS: WHOEVER CREATES ANY

NUISANCES ON PUBLIC GROUND CAUSING [SPECIAL] DAMAGE IS LIABLE TO COMPENSATE, THOUGH WHOEVER SEIZES OF THEM FIRST ACQUIRES TITLE TO THEM. IF HE TURNS UP DUNG THAT HAD BEEN LYING ON PUBLIC GROUND, AND DAMAGE [SUBSEQUENTLY] RESULTS TO ANOTHER PERSON, HE IS LIABLE FOR THE DAMAGE.

GEMARA. May we say that the Mishnaic ruling[24] is not in accordance with R. Judah? For it was taught: R. Judah says: When it is the season of taking out foliage everybody is entitled to take out his foliage into the public ground and heap it up there for the whole period of thirty days so that it may be trodden upon by the feet of men and by the feet of animals; for upon this understanding did Joshua make [Israel][25] inherit the Land. — You may suggest it to be even in accordance with R. Judah, for R. Judah [nevertheless] agrees that where [special] damage resulted, compensation should be made for the damage done. But did we not learn that R. Judah maintains that in the case of a Chanukah candle[26] there is exemption on account of it having been placed there with authorization?[27] Now, does not this authorization mean the permission of the Beth din?[28] — No, it means the sanction of [the performance of] a religious duty[29] as [indeed explicitly] taught: R. Judah says: In the case of a Chanukah candle there is exemption on account of the sanction of [the performance of] a religious duty.

Come and hear: In all those cases where the authorities permitted nuisances to be created on public ground, if [special] damage results there will be liability to compensate. But R. Judah maintains exemption![30] — R. Nahman said: The Mishnah[31] refers to the time when it is not the season to take out foliage and thus it may be in accordance with R. Judah. — R. Ashi further [said]:

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(1) That there is liability for a pit dug in public ground, though it is ownerless.

(2) That abandoning nuisances releases from responsibility.

(3) That abandoning nuisances does not release from responsibility.

(4) Supra p. 158.

(5) Which, according to Rab, deals with a case where the water has not been abandoned, but remained still the chattel of the original owner.

(6) Those of the person who was injured.

(7) Whereas the water was but the remote cause of it.

(8) Lit., ‘his clay’. i.e., of the owner of the water.

(9) The one here and the other supra p. 149.

(10) Expounded by Rab here as well as supra pp. 149-150.

(11) Supra pp. 19-20.

(12) V. p. 159, n. 3.

(13) Which was likely to be pulled down.

(14) For not having taken proper care to safeguard the public.

(15) As stated in the Baraitha quoted.

(16) Why then had Rabina to make it explicit?

(17) Failing that, the sole responsibility should then fall upon him.

(18) But that the responsibility lies upon the owner of the pit.

(19) Who was stricken with blindness; cf. Ber. 58a.

(20) V. Nid. 17a.

(21) [By being careful in matters that may cause damage.]

(22) [Matters affecting ethics and right conduct. Var. lec., ‘Rabina’.]

(23) [The Tractate wherein the benedictions are set forth and discussed.]

(24) Imposing liability in the commencing clause.

(25) B.M. 118b. Why then liability for the damage caused thereby during the specified period permitted by law?

(26) Placed outside a shop and setting aflame flax that has been passing along the public road.

(27) Infra p. 361.

(28) A permission which has similarly been extended in the case of the dung during the specified period and should accordingly effect exemption.
(29) Which is of course absent in the case of removing dung to the public ground, where liability must accordingly be imposed for special damage.
(30) Does not this prove that mere authorization suffices to confer exemption? Cf. n. 2.
(31) V. p. 161, n. 5.

Talmud - Mas. Baba Kama 30b

The Mishnah states, HIS STRAW AND STUBBLE which are slippery [and may never be removed into public ground even according to R. Judah].

WHOEVER SEIZES THEM FIRST ACQUIRES TITLE TO THEM. Rab said: Both to their corpus and to their increase [in value],[1] whereas Ze'ire said: Only to their increase but not to their corpus.[2] Wherein is the point at issue?[3] — Rab maintains that they [the Rabbis] extended the penalty to the corpus on account of the increase thereof, but Ze'ire is of the opinion that they did not extend the penalty to the corpus on account of the increase thereof.

We have learnt: IF HE TURNS UP DUNG THAT HAD BEEN LYING ON PUBLIC GROUND AND DAMAGE [SUBSEQUENTLY] RESULTS TO ANOTHER PERSON, HE IS LIABLE FOR THE DAMAGE. Now, [in this case] it is not stated that ‘Whoever seizes it first acquires title to it.’[4] — [This ruling has been] inserted in the commencing clause, and applies as well to the concluding clause. But has it not in this connection[5] been taught [in a Baraitha]: They are prohibited [to be taken possession of] on account of [the law of] robbery?[6] — When [the Baraitha] states ‘They are prohibited on account of robbery’ the reference is to all the cases [presented] in the Mishnaic text[7] and [is intended] to [protect] the one who had seized [of them] first, having thereby acquired title [to them]. But surely it was not meant thus, seeing that it was taught:[8] ‘If a man removes straw and stubble into the public ground to be formed into manure and damage results to another person, he is liable for the damage, and whoever seizes them first acquires title to them, as this may be done irrespective of [the law of] robbery. [However] where he turns up dung on public ground and damage [subsequently] results to another person, he is liable [to compensate] but no possession may be taken of the dung on account of [the law of] robbery’?[6] — R. Nahman b. Isaac [thereupon] exclaimed: What an objection to adduce from the case of dung! [It is only in the case of] an object that is susceptible to increase [in value] that the penalty is extended to the corpus[9] for the purpose of [discouraging any idea of] gain, whereas with regard to an object that yields no increase there is no penalty [at all].[10]

The question was asked: According to the view that the penalty extends also to the corpus for the purpose of [discouraging the idea of] gain,[9] is this penalty imposed at once[11] or is it only after some gain has been produced that the penalty will be imposed? — Come and hear: An objection was raised [against Rab] from the case of dung![12] But do you really think this [solves the problem]? The objection from the case of dung was raised only before R. Nahman expounded the underlying principle;[13] for after the explanation given by R. Nahman what objection indeed could there be raised from the case of dung?[14]

Might not one suggest [the argument between Rab and Ze'ire to have been] the point at issue between [the following] Tannaim? For it was taught: If a bill contains a stipulation of interest,[15] a penalty is imposed so that neither the principal nor the interest is enforced; these are the words of R. Meir, whereas the Sages maintain that the principal is enforced though not the interest.[16] Now, can we not say that Rab adopts the view of R. Meir[17] whereas Ze'ire follows that of the Rabbis?[18] — Rab may explain [himself] to you [as follows]: ‘I made my statement even according to the Rabbis: for the Rabbis maintain their view only there, where the principal as such is quite lawful, whereas here in the case of nuisances the corpus itself is liable to do damage.’ Ze'ire [on the other hand] may explain [himself] to you [thus]: ‘I made my statement even in accordance with R. Meir; for R. Meir expressed his view only there, where immediately, at the time of the bill having been drawn up, [the evil had been committed] by stipulating the usury, whereas here in the case of nuisances, who can assert that [special] damage will result?’

Might not one suggest [the argument between Rab and Ze'ire to have been] the point at issue between these Tannaim? For it was taught: If a man removes straw and stubble into the public ground to be formed into manure and damage results to another person, he is liable for the damage, and whoever seizes them first acquires title to them. They are prohibited [to be taken possession of] on account of [the law of] robbery. R. Simeon b. Gamaliel says: Whoever creates any nuisances on public ground and causes [special] damage is liable to compensate, though whoever takes possession of them first acquires title to them, and this may be done irrespective of [the law of] robbery. Now, is not the text a contradiction in itself? You read, ‘Whoever seizes them first acquires title to them,’ then you state [in the same breath], ‘They are prohibited [to be taken possession of] on account of [the law of] robbery’! It must therefore mean thus: ‘Whoever seizes them first acquires title to them,’ viz., to their increase, whereas, ‘they are prohibited to be taken possession of on account of [the law of] robbery,’ refers to their corpus. R. Simeon b. Gamaliel thereupon proceeded to state that even concerning their corpus, ‘whoever seizes them first, acquires title to them.’ Now, according to Ze'ire, his view must unquestionably have been the point at issue between these Tannaim,[19] but according to Rab, are we similarly to say that [his view] was the point at issue between these Tannaim? — Rab may say to you: ‘It is [indeed] unanimously held that the penalty must extend to the corpus for the purpose [of discouraging the idea] of gain; the point at issue [between the Tannaim] here is whether this halachah[20] should be made the practical rule of the law’.[21] For it was stated: R. Huna on behalf of Rab said: This halachah[20] should not be made the practical rule of the law,[22] whereas R. Adda b. Ahabah said: This halachah[20] should be made the practical rule of the law. But is this really so? Did not R. Huna declare barley [that had been spread out on public ground] ownerless, [just as] R. Adda b. Ahabah declared

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(1) While on public ground.

(2) Which thus still remains the property of the original owner.

(3) I.e., what is the principle underlying it?

(4) This clause, if omitted purposely, would thus tend to prove that the penalty attaches only to straw and stubble and their like, which improve while lying on public ground, but not to dung placed on public ground, apparently on account of the fact that in this case there is neither increase in quantity nor improvement in quality while lying on public ground. This distinction appears therefore to be not in accordance with the view of Rab, maintaining that the penalty extend not only to the increase but also to the corpus of the object of the nuisance.

(5) I.e. in connection with the latter clause.

(6) Which shows that the penalty does not extend to the corpus.

(7) Even to straw and stubble.

(8) [V. D.S. a.l.]

(9) According to the view of Rab.

(10) For, since there is no gain, nobody is likely to be tempted to place dung on public ground.

(11) Even before any gain accrued.

(12) Although no increase will ever accrue there, thus proving that according to Rab the penalty is imposed on the corpus even before it had yielded any gain.

(13) That there is no penalty at all with regard to an object that yields no increase; whereas the query is based on the principle laid down by R. Nahman.

(14) Where no increase will ever accrue.

(15) Which is against the biblical prohibition of Ex. XXII, 24.

(16) Cf. B.M. 72a.

(17) Extending the penalty also to the corpus.

[18] I.e., the Sages who maintain that the penalty attaches only to the increase.

[19] For R. Simeon b. Gamaliel is certainly against his view.

[20] To extend the penalty to the corpus.

[21] As to whether people should be encouraged to avail themselves of it, or not.

[22] For the sake of not disturbing public peace.

Talmud - Mas. Baba Kama 31a

the refuse of boiled dates [that had been placed on public ground] ownerless? We can well understand this in the case of R. Adda b. Ahabah who acted in accordance with his own dictum, but in the case of R. Huna, are we to say that he changed his view? — These owners [in that case] had been warned [several times not to repeat the nuisance].[1]

MISHNAH. IF TWO POTTERS WERE FOLLOWING ONE ANOTHER AND THE FIRST STUMBLED AND FELL DOWN AND THE SECOND STUMBLED BECAUSE OF THE FIRST, THE FIRST IS LIABLE FOR THE DAMAGE DONE TO THE SECOND.

GEMARA. R. Johanan said: Do not think [that the Tanna of] this Mishnah is R. Meir who considers stumbling as implying carelessness that involves liability.[2] For even according to the Rabbis who maintain [that stumbling is] mere accident for which there is exemption,[2] there should be liability here where he[3] had [meanwhile had every possibility] to rise and nevertheless did not rise. [But] R. Nahman b. Isaac said: You may even say that [the Mishnah speaks also of a case] where he[3] did not yet have [any opportunity] to rise, for he[3] was [surely able] to caution[4] and nevertheless did not caution. R. Johanan, however, considers that where he[3] did not yet have [any opportunity] to rise, he[3] could hardly be expected to caution as he was [surely] somewhat distracted.

We have learnt: If the carrier of the beam was in front, the carrier of the barrel behind, and the barrel broke by [colliding with] the beam, he[5] is exempt. But if the carrier of the beam stopped suddenly, he is liable.[6] Now, does this not mean that he stopped for the purpose of shouldering the beam as is usual with carriers, and it yet says that he is liable, [presumably] because [he failed] to caution?[7] — No, he suddenly stopped to rest [which is rather unusual in the course of carrying]. But what should be the law[8] in the case where he stopped to shoulder the beam? Would there then be exemption? Why then state in the subsequent clause,[9] ‘Where he, however, warned the carrier of the barrel to stop, he is exempt’? Could the distinction not be made in the statement of the same case [in the following manner]: ‘Provided that he stopped to rest; but if he halted to shift the burden on his shoulder, he is exempt’? — It was, however, intended to let us know that even where he stopped to rest, if he warned the carrier of the barrel to stop, he is exempt.

Come and hear: If a number of potters or glass-carriers were walking in line and the first stumbled and fell and the second stumbled because of the first and the third because of the second, the first is liable for the damage [occasioned] to the second, and the second is liable for the damage [occasioned] to the third. Where, however, they all fell because of the first, the first is liable for the damage [sustained] by them all. If [on the other hand] they cautioned one another, there is exemption. Now, does this teaching not deal with a case where there has not yet been [any opportunity] to rise?[10] — No, [on the contrary] they [have already] had [every opportunity] to rise. But what should be the law[8] in the case where they [have not yet] had [any opportunity] to rise? Would there then be exemption? If so, why state in the concluding clause, ‘If [on the other hand] they cautioned one another, there is exemption’? Could the distinction not be made in the statement of the same case [in the following manner]: ‘Provided that they have already had every opportunity to rise; but if they have not yet had any opportunity to rise, there is exemption’? — This is what it intended to let us know: That even where they [have already] had [every opportunity] to rise, if they cautioned one another, there is exemption.

Raba said: The first is liable for damage [done] to the second whether directly by his person[11] or by means of his chattels,[12] whereas the second is liable for damage to the third only if done by his person[13] but not if caused by his chattels. [Now,] in any case [how could these rulings be made consistent]? [For] if stumbling implies carelessness, why should not also the second be liable [for all kinds of damage]?[14] If [on the other hand] stumbling does not amount to carelessness, why should even the first not enjoy immunity?

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(1) It was therefore a specially aggravated offence.

(2) Supra pp. 153 and 155.

(3) The first potter.

(4) The second potter to stop.

(5) The carrier of the beam.

(6) Infra p. 169.

(7) Which would thus support the interpretation given by R. Nahman and contradict the view expounded by R. Johanan.

(8) According to the view of R. Johanan.

(9) Infra p. 170.

(10) V. p. 166, n. 7.

(11) Being subject to the law applicable to damage done by Man.

(12) Which are subject to the law applicable to Pit.

(13) V. p. 167, n. 4

(14) Even if caused by his chattels.

Talmud - Mas. Baba Kama 31b

— The first was certainly [considered] careless,[1] whilst, as to the second, he is liable for damage done by his person, [that is,] only where he [has already] had [the opportunity] to rise and did [nevertheless] not rise; for damage caused by his chattels he is [however] exempt, as he may say to him:[2] It is not I who dug this pit.[3]

An objection was raised [from the following Baraitha]: All of them are liable for damage [done] by their person,[4] but exempt for damage [caused] by their chattels.[4] Does [this Baraitha] not refer even to the first?[5] — No, with the exception of the first. But is it not stated, ‘All of them ...’? — R. Adda b. Ahabah said: ‘All of them’ refers to [all] the plaintiffs.[6] [But] how is this? If you maintain that the first [is] also [included], we understand why the Baraitha says ‘All of them’. But if you contend that the first is excepted, what [meaning could there be in] ‘All of them’? Why [indeed] not say ‘The plaintiffs’? — Raba [therefore] said: The first[7] is liable for both injuries inflicted upon the person of the second and damage caused to the chattels of the second, whereas the second[8] is liable to compensate the third only for injuries inflicted upon his person but not for damage[9] to his chattels; the reason being that the [person of the] second is subject to the law applicable to Pit, and no case can be found where Pit would involve liability for inanimate objects.[10] This accords well with the view of Samuel, who holds that all nuisances are [subject to the law applicable to] Pit.[11] But according to Rab who maintains that it is only where the nuisance has been abandoned that this is so, whereas if not [abandoned] it is not so,[12] what reason could be advanced?[13] — We must therefore accept the first version,[14] and as to the objection raised by you [from the Baraitha], ‘All of them are liable’,[15] it has already been interpreted by R. Adda b. Minyomi in the presence of Rabina to refer to a case where inanimate objects have been damaged by the chattels [of the defendant].[16]

The Master stated: ‘Where, however, they all fell because of the first, the first is liable for the damage [sustained] by them all.’ How [indeed can they all] fall [because of the first]? — R. Papa said: Where he blocked the road like a carcass, [closing the whole width of the road]. R. Zebid said: Like a blind man's staff.[17]

MISHNAH. IF ONE COMES WITH HIS BARREL AND AN OTHER COMES WITH HIS BEAM AND THE PITCHER[18] OF THIS ONE BREAKS BY [COLLISION WITH] THE BEAM OF THIS ONE, HE[19] IS EXEMPT, FOR THE ONE IS ENTITLED TO WALK [THERE AND CARRY BEAMS] AND THE OTHER IS ENTITLED TO WALK [THERE AND CARRY BARRELS]. WHERE THE CARRIER OF THE BEAM WAS IN FRONT, AND THE CARRIER OF THE BARREL BEHIND, AND THE BARREL BROKE BY [COLLISION WITH] THE BEAM, THE CARRIER OF THE BEAM IS EXEMPT.[20]

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(1) [Since stumbling implies carelessness.]

(2) To the third.

(3) I.e., the nuisance was created not by the second, but caused by the first who fell.

(4) Whether to the person or to the chattels of the plaintiff.

(5) Who, according to Raba, is liable for damage caused even by his chattels to the person of the second as being subject to the law applicable to Pit. This Baraitha thus refutes Raba.

(6) The first is thus, as a matter of course, not included.

(7) Being subject to the law applicable to damage done by Man.

(8) Should be subject to the law applicable in Pit.

(9) Though done by the person of the second.

(10) Supra p. 18.

(11) Supra p. 150. [The person of the second may therefore be treated as Pit.]

(12) But is subject to the law applicable to Ox where damage to inanimate objects is also compensated.

(13) For the person of the second, though lying on the ground, has surely never been abandoned by him. Why then exemption for damage done by him to inanimate objects?

(14) Of the statement of Raba, according to which the first is liable for damage done whether by his person or by his chattels, whereas the second is liable for damage done only by his person but not if done by his chattels.

(15) For damage done by their person, but exempt for damage done by their chattels, including thus also the first.

(16) Which are subject to the laws of Pit involving no liability for inanimate objects. Were, however, the person of the plaintiff to have been injured, there would be no exemption even if the injury were caused by the chattels of the first, as expounded by Raba.

(17) [With which the blind gropes his way on either side of the road.]

(18) Cf. supra p. 142.

(19) The owner of the beam.

(20) For the carrier of the barrel who was behind should not have proceeded so fast.

BUT IF THE CARRIER OF THE BEAM [SUDDENLY] STOPPED, HE IS LIABLE.[1] IF, HOWEVER, HE CRIED TO THE CARRIER OF THE BARREL, HALT!' HE IS EXEMPT. WHERE, HOWEVER, THE CARRIER OF THE BARREL WAS IN FRONT, AND THE CARRIER OF THE BEAM BEHIND AND THE BARREL BROKE BY [COLLISION WITH] THE BEAM, HE IS LIABLE.[2] IF, HOWEVER, THE CARRIER OF THE BARREL [SUDDENLY] STOPPED, HE IS EXEMPT. BUT WHERE HE CRIED TO THE CARRIER OF THE BEAM, 'HALT!' HE IS LIABLE. THE SAME APPLIES TO ONE CARRYING A [BURNING] CANDLE WHILE ANOTHER WAS PROCEEDING WITH FLAX.

GEMARA. Rabbah b. Nathan questioned R. Huna: If a man injures his wife through conjugal intercourse, what is [the legal position]? Since he performed this act with full permission is he to be exempt [for damage resulting therefrom], or should perhaps greater care have been taken by him? — He said to him. We have learnt it: ... FOR THE ONE IS ENTITLED TO WALK [THERE AND CARRY BEAMS] AND THE OTHER IS ENTITLED TO WALK [THERE AND CARRY BARRELS].[3] Raba [however] said: There is an a fortiori [to the contrary]: If in the case of the Wood,[4] where this one [the defendant] was entering [as if] into his own domain, and the other [the plaintiff] was [similarly] entering [as if] into his own domain, it is nevertheless considered [in the eye of the law][4] that he entered his fellow's [the plaintiff's] domain, and he is made liable, should this case[5] where this one [the defendant][6] was actually entering the domain of his fellow [the plaintiff][7] not be all the more [subject to the same law]?[8] But surely [the Mishnah] states, . . . FOR THE ONE IS ENTITLED TO WALK THERE [AND CARRY BEAMS] AND THE OTHER IS ENTITLED TO WALK [THERE AND CARRY BARRELS, indicating exemption where the entry was sanctioned]! — There, both of the parties were simultaneously [active against each other], whereas here[9] it was only he[10] that committed the deed. Is she[11] [considered] not [to have participated in the act at all]? Is it not written, The souls that commit them shall be cut off from among their people?[12] — [It is true that] enjoyment is derived by both of them, but it is only he to whom the active part can be ascribed.

WHERE THE CARRIER OF THE BEAM WAS IN FRONT etc. Resh Lakish stated:[13] In the case of two cows on public ground, one lying down [maliciously] and the other walking about, if the one that was walking kicked the one that was lying, there is exemption [since the latter too misconducted itself by laying itself down on public ground], whereas if the one that was lying kicked the one that was walking, there is liability to pay. May not [the following be cited in] support of this:[14] WHERE THE CARRIER OF THE BEAM WAS IN FRONT AND THE CARRIER OF THE BARREL BEHIND, AND THE BARREL BROKE BY [COLLISION WITH] THE BEAM, HE IS EXEMPT. BUT IF THE CARRIER OF THE BEAM [SUDDENLY] STOPPED HE IS LIABLE. For surely [this latter case] here is similar to that of the lying cow kicking the walking cow,[15] and liability is stated! — But do you really think that this [liability] need be proved?[14] [The Mishnaic text however] not only fails to be of any support [in this respect], but affords a contradiction to Resh Lakish, [in whose view] the reason [even for the liability] is that the lying cow kicked the walking cow, thus [implying] that [the latter] sustained damage [because of the former cow] through sheer accident, and there would be exemption. Now, [the case of] the Mishnah surely deals with accidental damage, and still states liability? — The Mishnah [deals with a case] where the beam blocked the [whole] passage as if by a carcass,[16] whereas here [in the case dealt with by Resh Lakish] the cow was lying on one side of the road so that the other cow should have passed on the other side.[17]

But the concluding clause may [be taken to] support Resh Lakish. For it is stated, BUT IF THE CARRIER OF THE BARREL WAS IN FRONT AND THE CARRIER OF THE BEAM BEHIND, AND THE BARREL BROKE BY [COLLISION WITH] THE BEAM, HE IS LIABLE. IF, HOWEVER, THE CARRIER OF THE BARREL [SUDDENLY] STOPPED, HE IS EXEMPT.

Now, surely this case resembles that of the walking cow kicking the lying cow,[18] and the text states exemption? — No! The Mishnah [deals with the case where the damage was done in a usual manner as] he[19] was passing in the ordinary way, whereas here [in the case dealt with by Resh Lakish] it may be argued for the lying cow,[20] 'Even if you are entitled to tread upon me, you have still no right to kick me.'[21]

MISHNAH. IF TWO [PERSONS] WERE PASSING ONE ANOTHER ON PUBLIC GROUND, ONE [OF THEM] RUNNING AND THE OTHER WALKING OR BOTH OF THEM RUNNING, AND THEY WERE INJURED BY EACH OTHER, BOTH OF THEM ARE EXEMPT.[22]

GEMARA. Our Mishnah is not in accordance with Issi b. Judah. For it has been taught: Issi b. Judah maintains that the man who had been running is liable, since his conduct was unusual. Issi, however, agrees [that if it were] on a Sabbath eve before sunset there would be exemption, for running at that time is permissible. R. Johanan stated that the halachah is in accordance with Issi b. Judah. But did R. Johanan [really] maintain this? Has R. Johanan not laid down the rule that the halachah is in accordance with [the ruling of] an anonymous Mishnah?[23] Now, did we not learn . . . ONE [OF THEM] RUNNING AND THE OTHER WALKING OR BOTH OF THEM RUNNING . . . BOTH OF THEM ARE EXEMPT? — Our Mishnah [deals with a case] of a Sabbath eve before sunset. What proof have you of that? — From the text, OR BOTH OF THEM RUNNING . . . BOTH OF THEM ARE EXEMPT; [for indeed] what need was there for this to be inserted? If in the case where one was running and the other walking there is exemption, could there be any doubt[24] where both of them were running?[25] It must accordingly mean thus: ' Where one was running and the other walking there is exemption; provided, however, it was on a Sabbath eve before sunset. For if on a weekday, [in the case of] one running and the other walking there would be liability, [whereas where] both of them were running even though on a weekday they would be exempt.'

The Master stated: 'Issi, however, agrees [that if it were] on a Sabbath eve before sunset there would be exemption, for running at that time is permissible.' On Sabbath eve, why is it permissible? — As [shown by] R. Hanina: for R. Hanina used to say:[26]

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(1) For he is to blame.

(2) For the carrier of the beam, who was in this case second, should have taken care to keep at a reasonable distance.

(3) This proves that where the act is sanctioned no liability is involved.

(4) Referring to Deut. XIX,5: As when a man goeth into the wood with his neighbour to hew wood, and his hand fetcheth a stroke with the axe to cut down the tree and the head slippeth from the helve and lighteth upon his neighbour ... cf. also infra p. 175

(5) I.e., the problem in hand.

(6) The husband.

(7) The wife.

(8) Of liability.

(9) V. p. 170 n. 6.

(10) I.e the husband.

(11) I.e the wife.

(12) Lev. XVIII, 29. [The plural indicates that both are regarded as having participated in the act.]

(13) Supra pp. 98 and 124.

(14) I.e., that misconduct involves liability for damage that may result.

(15) As here, too, the offender is to blame for misconduct.

(16) Consequently the liability extends even to accidental damage.

(17) [There could therefore be no liability attached except where the lying cow maliciously kicked her, but not for accidental damage.]

(18) In that there was contributory misconduct on the part of the plaintiff and his cow respectively.

(19) The carrier of the beam.

(20) Lit ‘she can say to her’.

(21) It was therefore requisite that Resh Lakish should express his rejection of this plausible argument.

(22) So long as they had no intention of injuring each other.

(23) Cf. supra p. 158.

(24) That there should be exemption.

(25) Where there was contributory negligence.

(26) Cf. Shab. 119a.

Talmud - Mas. Baba Kama 32b

‘Come, let us go forth to meet the bride, the queen!’ Some [explicitly] read:’. . . to meet Sabbath, the bride, the queen.’ R. Jannai, [however,] while dressed in his Sabbath attire used to remain standing and say: ‘Come thou, O queen, come thou, O queen!’

MISHNAH. IF A MAN SPLITS WOOD ON PRIVATE PREMISES[1] AND DOES DAMAGE ON PUBLIC GROUND, OR ON PUBLIC GROUND AND DOES DAMAGE ON PRIVATE PREMISES,[2] OR ON PRIVATE PREMISES[3] AND DOES DAMAGE ON ANOTHER'S PRIVATE PREMISES, HE IS LIABLE.

GEMARA. And [all the cases enumerated] are necessary [as serving respective purposes]. For if the Mishnah had stated only the case of splitting wood on private premises and doing damage on public ground, [the ruling could have been ascribed to the fact] that the damage occurred at a place where many people were to be found, whereas in the case of splitting wood on public ground and doing damage on private premises, since the damage occurred in a place where many people were not to be found, the opposite ruling might have been suggested.[4] Again, if the Mishnah had dealt only with the case of splitting wood on public ground and doing damage on private premises,[5] [the ruling could have been explained] on the ground that the act[6] was even at the very outset unlawful, whereas in the case of splitting wood on private premises[3] and doing damage on public ground, [in view of the fact] that the act[6] [as such] was quite lawful, the opposite view might have been suggested.[4] Again, if the Mishnah had dealt only with these two cases [the ruling could have been explained in] the one case on account of the damage having occurred at a place where many people were to be found, and [in] the other on account of the unlawfulness of the act,[6] whereas in the case of splitting wood on private premises[3] and doing damage on another's private premises, since the damage occurred in a place where many people were not to be found and the act[6] was quite lawful even at the very outset, the opposite view might have been suggested.[4] It was [hence] essential [to state explicitly all these cases].

Our Rabbis taught: ‘If a man entered the workshop of a joiner without permission and a chip of wood flew off and struck him in the face and killed him, he [the joiner] is exempt.[7] But if he entered with [the] permission [of the joiner], he is liable.’ Liable for what? — R. Jose b. Hanina said: He is liable for the four [additional] items,[8] whereas regarding the law of refuge[9] he is [still] exempt on account of the fact that the [circumstances of this] case do not [exactly] resemble those of the Wood.[10] For in the case of the Wood the one [the plaintiff] was entering [as if] into his own domain and the other [the defendant] was [similarly] entering [as if] into his own domain, whereas in this case the one [the plaintiff] had [definitely] been entering into his fellow's [the defendant's] workshop. Raba [however,] said: There is an a fortiori [to the contrary]: If in the case of the Wood where the one [the plaintiff] was entering to his own [exclusive] knowledge and that one [the defendant] was similarly entering of his own accord, it is nevertheless considered [in the eye of the law][10] as if he had entered with the consent of his fellow [the defendant] who thus becomes liable to take refuge, should the case before us, where the one [the plaintiff] entered the workshop with the knowledge of his fellow [the joiner], be not all the more subject to the same liability? Raba therefore said: What is meant by being exempt from [being subject to the law of] refuge is that the sin could not be expiated by mere refuge; the real reason of the statement of R. Jose b. Hanina being this: that his offence,[11] though committed inadvertently, approaches wilful carelessness.[12] Raba [on his own part] raised [however] an objection: If an officer of the Court inflicted on him[13] an additional [unauthorized] stroke, from which he died, he [the officer] is liable to take refuge on his account.[14] Now, does not [the offence] here committed inadvertently approach wilful carelessness?[12] For surely he had to bear in mind that a person might sometimes die just through one [additional] stroke. Why then state, ‘he is liable to take refuge on his account’? — R. Shimi of Nehardea there upon said: [The officer committed the offence as he] made a mistake in [counting] the number [of strokes]. [But] Naba tapped R. Shimi's shoe[15] and said to him: Is it he who is responsible for the counting [of the strokes]? Was it not taught: The senior judge recites [the prescribed verses],[16] the second [to him] conducts the counting [of the strokes], and the third directs each stroke to be administered?[17] — No, said R. Shimi of Nehardea; it was the judge himself who made the mistake in counting.

A [further] objection was raised: If a man throws a stone into a public thoroughfare and kills [thereby a human being], he is liable to take refuge.[18] Now, does not [the offence] here committed inadvertently approach wilful carelessness?[19] For surely he had to bear in mind that on a public thoroughfare many people were to be found, yet it states, ‘he is liable to take refuge’? — R. Samuel b. Isaac said: The offender [threw the stone while he] was pulling down his wall.[20] But should he not have kept his eyes open? — He was pulling it down at night . But even at night time, should he not have kept his eyes open? — He was [in fact] pulling his wall down in the day time, [but was throwing it] towards a dunghill. [But] how are we to picture this dunghill? If many people were to be found there, is it not a case of wilful carelessness?[19] If [on the other hand] many were not to be found there, is it not sheer accident?[21] — R. Papa [thereupon] said: It could [indeed] have no application unless in the case of a dunghill where it was customary for people to resort at night time, but not customary to resort during the day, though it occasionally occurred that some might come to sit there [even in the day time]. [It is therefore] not a case of wilful carelessness since it was not customary for people to resort there during the day. Nor is it sheer accident since it occasionally occurred that some people did come to sit there [even in the day time].

R. Papa in the name of Raba referred [the remark of R. Jose b. Hanina] to the commencing clause: ‘If a man entered the workshop of a joiner without permission and a chip of wood flew off and struck him in the face and killed him, he is exempt.’ And R. Jose b. Hanina [thereupon] remarked; He would be liable for the four [additional] items,[22] though he is exempt from [having to take] refuge.[23] He who refers this remark to the concluding clause[24] will, with more reason, refer it to the commencing clause,[25] whereas he who refers it to the commencing clause[25] maintains that, in the [case dealt with] in the concluding clause where the entrance had been made with [the] permission [of the joiner], he would be liable to take refuge.[23] But would he be liable to take refuge [in that case]?[24] Was it not taught: If a man enters the workshop of a smith and sparks fly off and strike him in the face causing his death, he [the smith] is exempt[26] even where the entrance had been made by permission of the smith? — [In this Baraitha] here, we are dealing with an apprentice of the smith. Is an apprentice of a smith to be killed [with impunity]? — Where his master had been urging him to leave but he did not leave. But even where his master had been urging him to leave, [which he did not do,] may he be killed [with impunity]? — Where the master believed that he had already left. If so, why should not the same apply also to a stranger?

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(1) I.e., his own premises.

(2) Of a neighbour.

(3) V. p. 173, n. 5.

(4) Lit., ‘I might have said no’.

(5) V. p. 173. n. 6.

(6) Of splitting wood.

(7) From fleeing to the city of refuge. Cf. Num. XXXV, 11-28,Deut. XIX, 4-6; and supra p. 137.

(8) In the case of mere injury; cf. supra p. 133.
(9) Laid down in the case of manslaughter.
(10) Referred to in the verse, As when a man goes into the wood with his neighbour to hew wood, and his hand fetcheth a stroke with the axe to cut down the tree, and the head slippeth from the helve and lighteth upon his neighbour, that he die, he shall flee unto one of those cities, and live; Deut. XIX, 5. Cf. also supra p. 170.
(11) I.e., that of the joiner.
(12) In which case the taking of refuge is insufficient; cf. e.g. Num. XXXV, 16-21, and Deut. XIX, 11-13.
(13) On an offender sentenced to lashes.
(14) The victim's. Mak. III, 14.
(15) To draw his attention.
(16) Deut. XXVIII, 58 etc.; Ps LXXVIII, 38.
(17) Lit., says, "Smite him". Mak. 23a.
(18) Ibid. II. 2.
(19) In which case the taking of refuge is insufficient; cf. e.g. Num XXXV, 16-21 and Deut. XIX, 11-13.
(20) Cf. Mak. 8a.
(21) Why then be subject to the law of refuge?
(22) In the case of mere injury; cf. supra p. 133.
(23) In the case of manslaughter.
(24) Where the entrance had been made with the knowledge of the joiner.
(25) Where the entrance had been made without any imitation.
(26) From having to take refuge.

Talmud - Mas. Baba Kama 33a

— A stranger need not fear the master-smith[1] whereas the apprentice is in fear of his master.[2] R. Zebid in the name of Raba referred [the remark of R Jose b. Hanina] to the following: [The verse,] And [it] lighteth [upon his neighbour],[3] excludes [a case] where the neighbour brings himself [within the range of the missile]. Hence the statement made by R. Eliezer b. Jacob: If a man lets [fly] a stone out of his hand and another [at that moment] puts out his head [through a window] and receives the blow [and is killed], he is exempt.[4] [Now, it was with reference to this case that] R. Jose b. Hanina said: He is exempt from having to take refuge,[5] but he would be liable for the four [additional] items.[6] He who refers this remark to this [last] case will with more reason refer it to the cases dealt with previously,[7] whereas he who refers it to those dealt with previously[7] would maintain that in this [last] case[8] the exemption is from all [kinds of liability].

Our Rabbis taught: If employees come to [the private residence of] their employer to demand their wages from him and [it so happens that] their employer's ox gores them or their employer's dog bites them, with fatal results, he [the employer] is exempt [from ransom].[9] Others,[10] however, maintain that employees have the right to [come and] demand their wages from their employer. Now, what were the circumstances [of the case]? If the employer could be found in [his] city [offices], what reason [could be adduced] for [the view maintained by] the ‘Others’.[10] If [on the other hand] he could be found only at home, what reason [could be given] for [the anonymous view expressed by] the first Tanna? — No, the application [of the case] is where the employer could [sometimes] be found [in his city offices] but could not [always] be found [there]. The employees therefore called at his [private] door, when the reply was ‘Yes’. One view[11] maintains that ‘Yes’ implies: ‘Enter and come in.’ But the other view[12] maintains that ‘Yes’ may signify: ‘Remain standing in the place where you are.’ It has indeed been taught in accordance with the view[12] maintaining that ‘Yes’ may [in this case] signify: ‘Remain standing in the place where you are.’ For it has been taught: ‘If an employee enters the [private] residence of his employer to demand his wages from him and the employer's ox gores him or the employer's dog bites him, he [the employer] is exempt even where the entrance had been made by permission.’ Why should there indeed be exemption[13] unless in the case where he called at the door and the employer said: ‘Yes’? This thus proves that ‘Yes’ [in such a case] signifies: ‘Remain standing in the place where you are.

MISHNAH. IN THE CASE OF TWO TAM OXEN INJURING EACH OTHER, THE PAYMENT OF THE DIFFERENCE WILL BE IN ACCORDANCE WITH THE LAW OF HALF-DAMAGES.[14] WHERE BOTH WERE MU'AD THE PAYMENT OF THE DIFFERENCE WILL BE IN FULL.[14] WHERE ONE WAS TAM AND THE OTHER MU'AD THE PAYMENT OF THE DIFFERENCE FOR DAMAGE DONE BY MU'AD TO TAM WILL BE ON THE BASIS OF FULL COMPENSATION, WHEREAS THE PAYMENT OF THE DIFFERENCE FOR DAMAGE DONE BY TAM TO MU'AD WILL BE IN ACCORDANCE WITH THE LAW OF HALF-DAMAGES. SIMILARLY IN THE CASE OF TWO PERSONS INJURING EACH OTHER, THE PAYMENT OF THE DIFFERENCE WILL BE IN FULL. WHERE MAN HAS DAMAGED MU'AD AND MU'AD HAS INJURED MAN, THE PAYMENT OF THE DIFFERENCE WILL BE IN FULL. BUT WHERE MAN DAMAGED TAM AND TAM INJURED MAN, THE PAYMENT OF THE DIFFERENCE FOR DAMAGE DONE BY MAN TO TAM WILL BE ON THE BASIS OF FULL COMPENSATION, WHEREAS THE PAYMENT OF THE DIFFERENCE FOR DAMAGE DONE BY TAM TO MU'AD WILL BE IN ACCORDANCE WITH THE LAW OF HALF-DAMAGES. R. AKIBA, HOWEVER, SAYS: EVEN IN THE CASE OF TAM INJURING MAN THE PAYMENT OF THE DIFFERENCE WILL BE IN FULL.[15]

GEMARA. Our Rabbis taught: [The words of the Torah] According to this judgement shall be done unto it[16] [imply that] the judgement in the case of Ox damaging ox applies also in the case of Ox injuring man. Just as where Ox has damaged ox half-damages are paid in the case of Tam and full compensation in the case of Mu'ad, so also where Ox has injured man only half damages will be paid in the case of Tam and full compensation in the case of Mu'ad. R. Akiba, however, says: [The words,] ‘According to this judgement’ refer to [the ruling that would apply to the circumstances described in] the latter verse[17] and not in the former verse.[18] Could this then mean that the [full] payment is to be made out of the best [of the estate]?[19] [Not so; for] it is stated ‘Shall it be done unto it [self],’ to emphasise that payment will be made out of the body of Tam, but no payment is to be made out of any other source whatsoever.[20] According to the Rabbis then, what purpose is served by the word ‘this’? — To exempt from liability for the four [additional] items.[21] Whence then does R. Akiba derive the exemption [in this case] from liability for the four [additional] items? — He derives it from the text, And if a man cause a blemish in his neighbour[22] [which indicates that there is liability only where] Man injures his neighbour but not where Ox injures the neighbour [of the owner]. And the Rabbis?[23] — Had the deduction been from that text we might have referred it exclusively to Pain,[24] but as to Medical Expenses and Loss of Time[25] we might have held there is still a liability to pay. We are therefore told[26] [that this is not the case].

MISHNAH. IF AN OX [TAM] OF THE VALUE OF ONE HUNDRED ZUZ HAS GORED AN OX OF THE VALUE OF TWO HUNDRED ZUZ AND THE CARCASS HAD NO VALUE AT ALL, THE PLAINTIFF WILL TAKE POSSESSION OF THE [DEFENDANT'S] OX [THAT DID THE DAMAGE].[27]

GEMARA. Who is the author of our Mishnah? — It is R. Akiba, as it has been taught: The ox [that did the damage] has to be assessed by the Court of law;[28] this is the view of R. Ishmael. R. Akiba, however, says: The [body of the] ox becomes transferred [to the plaintiff]. What is the point at issue? — R. Ishmael maintains that he [the plaintiff] is but a creditor and that he has only a claim of money against him [the defendant], whereas R. Akiba is of the opinion that they both [the plaintiff and defendant] become the owners in common of the ox[29] [that did the damage]. They [thus also] differ as to the interpretation of the verse, Then they shall sell the live ox and divide the money of it.[30] R. Ishmael maintains that it is the Court on which this injunction is laid by Divine Law,[31] whereas R. Akiba is of the opinion that it is the plaintiff and defendant on which it is laid.[32] What is the practical difference between R. Ishmael and R. Akiba? — There is a practical difference between them where the plaintiff consecrated the ox [that did the damage].[33]

Raba put the following question to R. Nahman: Should the defendant meanwhile dispose of the ox, what would be the law according to R. Ishmael? [Shall we say that] since R. Ishmael considers the plaintiff to be a creditor whose claim [against the defendant] is only regarding money, the sale is valid, or that

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(1) Who should thus have borne in mind that the stranger might not yet have left the place. The smith should therefore not yet have allowed the the sparks to fly off.
(2) Who should not resonably have expected him to have still been there.
(3) Deut. XIX, 5; v. supra, p. 175, n. 3.
(4) Cf. Mak. 8a.
(5) In the case of manslaughter.
(6) Since it was an act of negligence to throw a stone where people are to be found.
(7) In the case of the joiner, who at least knew that a newcomer had entered his workshop.
(8) Dealt with by R. Eliezer b. Jacob, where the defendant is to blame as he put out his head after the stone had already been in motion.
(9) For which cf. Ex. XXI, 30. The vicious beast is, however, stoned; v. supra p. 118.
(10) According to Hor. 13b, the views of R. Meir were sometimes quoted thus; cf. however Ber. 9b; Sot. 12a; A.Z. 64b.
(11) I.e., that of ‘Others’.
(12) Put forward by the first Tanna.
(13) Where the entrance had been made by permission.
(14) Cf. supra p. 73.
(15) Cf supra p. 15.
(16) Ex. XXI, 31.
(17) Ibid. XXI, 29 dealing with Mu'ad.
(18) Ibid. XXI, 28 dealing with Tam.
(19) As in the case of an injury done by Mu'ad. Cf. supra, p. 73.
(20) Cf. supra p. 15.
(21) V. supra p. 133.
(22) Lev. XXIV, 19.
(23) [Wherefore apply ‘this’ to deduce exemption from the four items, since that is already derived from this latter verse?]
(24) The liability for which is not in respect of an actual loss of value.
(25) The liability for which is in respect of an actual loss of money sustained.
(26) By the expression ‘this’.
(27) As the full value of it corresponds in this case to the amount of half-damages.
(28) And if its value is not less than the amount of the half-damages, the defendant will have to pay that amount in full, whereas where the value of the ox that did the damage is less than the amount of the half-damages, the defendant will have to pay no more than the actual value of the ox that did the damage.
(29) Where its value is more than the amount of the half-damages.
(30) Ex. XXI, 35.
(31) I.e., to sell the live ox which is still the property of the defendant.
(32) As the live ox became their property in common where its value had been more than the amount of the half-damages.
(33) [According to R. Ishmael the consecration is of no legal effect, whereas R. Akiba would declare it valid.]

Talmud - Mas. Baba Kama 33b

since the ox is mortgaged to the plaintiff,[1] the defendant has no right [to dispose of it]? — He replied: The sale is not valid. But has it not been taught: In the case of [the defendant] having disposed of the ox, the sale is valid? — The plaintiff will still be entitled to come forward and distrain on it [from the purchaser].[2] But if he is entitled to come forward and distrain on it, to what purpose is the sale valid? — For the ploughing [the ox did with the purchaser].[3] Can we infer from this that in the case of a debtor having sold his chattels, a Court of law will distrain on them for a creditor?[4] — The case there [of the ox][5] is altogether different, since the ox is regarded as if [the owner] had mortgaged it [for half-damages]. But did Raba not say[6] that where a debtor has mortgaged his slave and then sold him [to a third person] the creditor is entitled to distrain on him, whereas where an ox has been mortgaged and then sold [to a third party] the creditor cannot distrain on it?[7] — Is not the reason in the case of the slave that the transaction has been widely talked about?[8] So also in the case of this ox; since it gored it has been talked about, and the name 'The ox that gored' given it.

R. Tahlifa the Western[9] recited in the presence of R. Abbahu: 'Where he sold the ox, the sale is not valid, but where he consecrated it [to the altar], the consecration holds good.' Who sold it? Shall I say the defendant? [In that case the opening clause,] 'Where he sold the ox, the sale is not valid', would be in accordance with the view of R. Akiba that the ox becomes transferred [to the plaintiff], while [the concluding clause.] 'Where he consecrated it, the consecration holds good' could follow only the view of R. Ishmael who said that the ox has to be assessed by the Court. If [on the other hand, it has been disposed of by] the plaintiff, would not [the opening clause.] 'Where he sold the ox, the sale is not valid', be in accordance with the view of R. Ishmael, while [the concluding clause.,] 'Where he consecrated it, the consecration holds good' could follow only the view of R. Akiba? — We may still say that it was the defendant [who disposed of it], and yet [both rulings] will be in agreement with all. 'Where he sold the ox, the sale is valid' [may be explained] even in accordance with R. Ishmael, for the ox is mortgaged to the plaintiff. 'Where he consecrated it, the consecration holds good,' [may again be interpreted] even in accordance with R. Akiba, on account of [the reason given] by R. Abbahu; for R. Abbahu [elsewhere] stated:[10] An extra precaution was taken[11] lest people should say that consecrated objects could lose their status even without any act of redemption.[12]

Our Rabbis taught: If an ox does damage while still Tam, then, as long as its case has not been brought up in Court, if it is sold the sale is valid; if it is consecrated, the consecration holds good; if slaughtered and given away as a gift, what has been done is legally effective. But after the case has come into Court,[13] if it is sold the sale is not valid; if consecrated, the consecration does not hold good; if slaughtered and given away as a gift, the acts have no legal effect; so also where [other] creditors stepped in first and distrained on the ox [while in the hands of the defendant], no matter whether the debt had been incurred before the goring took place or whether the goring had occurred before the debt was incurred, the distraint is not legally effective, since the compensation [for the damage][14] must be made out of the body of the ox [that did it].[15] But in the case of Mu'ad doing damage there is no difference whether the case had already been brought into Court or whether it had not yet come into Court; if it has been sold, the sale is valid; if consecrated, the consecration holds good; if slaughtered and given away as a gift, what has been done is legally effective, where [other] creditors have stepped in and distrained on the ox, no matter whether the debt had been contracted before the goring took place or whether the goring had taken place before the debt was incurred, the distraint is legally effective, since the compensation is paid out of the best of the general estate [of the defendant].[16]

The Master stated: 'If it is sold, the sale is valid'. [This can refer] to ploughing [done by the ox while with the vendee]. 'If consecrated, the consecration holds good'; on account of the reason given by R. Abbahu. 'If slaughtered and given away as a gift, what has been done is legally effective'. We can quite understand that where it has been given away as a gift the act should be legally effective, in respect of the ploughing [meanwhile done by the ox]. But in the case of it having been slaughtered, why should [the claimant] not come and obtain payment out of the flesh? Was it not taught: '[The] live [ox]:[17] this states the rule for when it was alive; whence do we know that the same holds good even after it has been slaughtered? Because it says further: And they shall sell the ox,[17] i.e., in all circumstances'? — R. Shizbe therefore said: What is referred to must be the diminution in value occasioned by its having been slaughtered.[18] R. Huna the son of Joshua thereupon said: This proves that if a man impairs securities mortgaged to his creditor, he incurs no liability. Is this not obvious?[19] — It might perhaps have been suggested that it was only there[20] where the defendant could argue, ' I have not deprived you of anything at all [of the quantity]', and could even say, 'it is only the mere breath [of life] that I have taken away from your security' [that there should be exemption], whereas in the case of impairing securities in general there should be liability; we are therefore told [that this is not the case]. But has not this been pointed out by Rabbah? For has not Rabbah stated: 'If a man destroys by fire the documents of a neighbour, he incurs no liability'?[21] — It might perhaps have been suggested that it was only there where the defendant could contend 'It was only a mere piece of paper of yours that has actually been burnt' [that there should be exemption], whereas in the case [of spoiling a field held as security] by digging there pits, ditches and caves there should be liability; we are therefore told that [this is not so, for] in the case here the damage resembles that occasioned by digging pits, ditches and caves,[22] and yet it is laid down that 'what has been done is legally effective'.

'Where [other] creditors stepped in first and distrained on the ox [in the hands of the defendant] no matter whether the debt had been incurred before the goring took place or whether the goring had taken place before the debt was incurred, the distraint is not legally effective, since the compensation must be made out of the body of the ox [that did the damage].' We understand this where the goring has taken place before the debt was incurred, in which case the plaintiff for damages has priority. But [why should it be so] where the debt has been contracted before the goring took place, [seeing that in that case] the creditor for the debt has priority?

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(1) For if payment were not forthcoming the plaintiff would be entitled to distrain on the ox to the extent of the amount of the half-damages.

(2) V. p. 181, n. 8.

(3) Who will thus not have to pay for the use of the animal, [or, who will be permitted to put the ox to such service, v. Wilna Gaon, Glosses.]

(4) Whereas according to established law this is usually the case only with immovable property, cf. supra p. 62 but also B.B. 44b.

(5) That did damage by goring while still in the state of Tam.

(6) Supra p. 47. Cf. also B.B. 44b.

(7) Why then distrain on the ox in the case of goring when it had already been sold?

(8) V. B.B. loc. cit.

(9) The Palestinian.

(10) 'Ar. 33a.

(11) In the case of one who consecrates property on which there is a lien of a kethubah or a debt.

(12) It is therefore a better policy to declare the consecration valid and prescribe a nominal sum for redemption.

(13) Since when the ox is legally transferred to the plaintiff.

(14) Which will be only half of the actual amount of the loss sustained.

(15) Cf. supra p. 73.

(16) Cf. Tosef. B.K. V.

(17) Ex. XXI. 35.

(18) For which the defendant is thus not made responsible.

(19) That such an inference could be made; why then the special statement made by R. Huna?

(20) In the case of the ox that had been slaughtered.

(21) Infra p. 570.

(22) Since the damage is visible.

Talmud - Mas. Baba Kama 34a

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Moreover, even where the goring had taken place before the debt was contracted, was not the creditor actually first [in taking possession of the ox]?[1] Can it be concluded from this that where a creditor of a subsequent date has preceded a creditor of an earlier date in distraining on [the property of the debtor], the distraint is of no legal avail?[2] — No; I may still maintain that [in this case][3] the distraint holds good, whereas in the case there,[4] it is altogether different; as the plaintiff [for damages] may argue,[5] 'Had the ox already been with you [before it gored], would I not have been entitled to distrain on it while in your hands? For surely out of the ox that did the damage I am to be compensated.'

Our Rabbis taught: Where an ox[6] of the value of two hundred [zuz] gored an ox of the same value of two hundred [zuz] and injured it to the amount of fifty zuz, but it so happened that the injured ox [subsequently] improved and reached the value of four hundred zuz, since it can be contended that but for the injury it would have reached the value of eight hundred zuz, compensation will be [still] paid as at the time of the damage.[7] Where it has depreciated, the compensation will be paid in accordance with the value at the time of the case being brought into Court.[8] Where it was the ox which did the damage that [subsequently] improved, the compensation will still be made in accordance with the value at the time of the damage.[9] Where it has [on the other hand] depreciated, the compensation will be made in accordance with the value at the time of the case being brought into Court.[10]

The Master has said: 'Where it was the ox which did the damage that [subsequently] improved, the compensation will still be made as at the time of the damage.' This ruling is in accordance with R. Ishmael, who maintains that the plaintiff is a creditor and he has a pecuniary claim against him [the defendant]. Read now the concluding clause: 'Where it [on the other hand] depreciated, the compensation will be made in accordance with the value at the time of the case being brought into Court'. This ruling, on the other hand, follows the view of R. Akiba, that they both [plaintiff and defendant] become the owners in common [of the ox that did the damage]. [Is it possible that] the first clause should follow the view of R. Ishmael and the second clause follow that of R. Akiba? — No; the whole teaching follows the view of R. Akiba, for we deal here with a case where the improvement was due to the defendant having fattened the ox.[11] If the improvement was due to fattening, how could you explain the opening clause, 'where . . . the injured ox [subsequently] improved and reached the value of four hundred zuz . . . compensation will be paid as at the time of the damage'? For where the improvement was due to the act of fattening [by the owner], what need could there have been to state [that compensation for the original damage has still to be paid]? — R. Papa thereupon said: The ruling in the opening clause[12] applies to all cases, whether where the ox improved by special fattening or where it improved by itself: the statement of the rule was required for the case where the ox improved by itself — even then compensation will be paid as at time of the damage. The ruling in the concluding clause,[13] however, could apply only to a case where the improvement was due to special fattening.

'Where it[14] has depreciated, the compensation will be made in accordance with the value at the time of the case being brought into Court.' Through what can it have depreciated? Shall I say that it has depreciated through hard work? In that case [surely] the defendant can say, 'You cause it to depreciate![15] Could you expect me to pay for it?' — R. Ashi thereupon said: The depreciation [referred to] is due to the injury, in which case the plaintiff is entitled to contend, '[The evil effect of] the horn of your ox is still buried within the suffering animal.'[16]

MISHNAH. WHERE AN OX[17] OF THE VALUE OF TWO HUNDRED [ZUZ] GORED AN OX OF THE SAME VALUE OF TWO HUNDRED [ZUZ] AND THE CARCASS HAD NO VALUE AT ALL, R. MEIR SAID THAT IT WAS WITH REFERENCE TO THIS CASE THAT IT IS WRITTEN, AND THEY SHALL SELL THE LIVE OX AND DIVIDE THE MONEY OF IT.[18] R.

JUDAH, HOWEVER, SAID: THIS IS CERTAINLY THE HALACHAH,[19] BUT WHILE YOU FULFIL [BY THIS RULING THE INJUNCTION], ‘AND THEY SHALL SELL THE LIVE OX AND DIVIDE THE MONEY OF IT,’ YOU DO NOT FULFIL [THE NEXT INJUNCTION], ‘AND THE DEAD OX ALSO THEY SHALL DIVIDE.’[20] THE CASE DEALT WITH BY SCRIPTURE IS THEREFORE WHERE AN OX OF THE VALUE OF TWO HUNDRED [ZUZ] GORED AN OX OF THE SAME VALUE OF TWO HUNDRED [ZUZ] AND THE CARCASS WAS WORTH FIFTY ZUZ: ONE PARTY WOULD HERE GET HALF OF THE LIVING OX TOGETHER WITH HALF OF THE DEAD OX[21] AND THE OTHER PARTY WOULD SIMILARLY GET HALF OF THE LIVING OX TOGETHER WITH HALF OF THE DEAD OX.

GEMARA. Our Rabbis taught: Where an ox of the value of two hundred [zuz] gored an ox of the same value of two hundred [zuz] and the carcass was worth fifty zuz, one party would get half of the living ox together with half of the dead ox and the other party would similarly get half of the living ox together with half of the dead ox. This is the [case of the goring] ox dealt with in the Torah, according to the view of R. Judah. R. Meir, however, says; This is not the [case of the goring] ox dealt with in the Torah, but where an ox of the value of two hundred [zuz] gored an ox of the same value of two hundred [zuz] and the carcass was of no value at all — this is the case regarding which it is laid down, ‘And they shall sell the live ox and divide the money of it.’ But how could I [in this case] carry out [the other direction],’And the dead ox also they shall divide’? [This only means that] the diminution [in value] brought about by the death[22] has to be [compensated] to the extent of one-half out of the body of the living ox. Now, since [in the former case][23] according to both R. Meir and R. Judah one party will get a hundred and twenty-five [zuz][24] and the other party will similarly get a hundred and twenty-five [zuz], what is the [practical] difference between them? — Raba thereupon said: The difference arises where[25] there has been a decrease in the value of the carcass,[26] R. Meir maintains that the loss in the value of the carcass has to be [wholly] sustained by the plaintiff,[27] whereas R. Judah is of the opinion that the loss in the value of the carcass will be borne by the defendant to the extent of a half.[28] Said Abaye to him:[29] If this be the case, will it not turn out that according to R. Judah

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(1) Why should then the plaintiff for damages override the right of another creditor who had already taken possession of the ox?

(2) Whereas this is a point on which opinions differ; cf. Keth. 94a.

(3) Dealing with two creditors for loans.

(4) Where one of the creditors was a plaintiff for damages.

(5) Against the other creditor.

(6) In the state of Tam.

(7) And the defendant cannot put up the increase in the value of the injured ox as a defence, for but for the injury the ox might have reached the value of even eight hundred zuz.

(8) To the detriment of the defendant.

(9) This view apparently maintains that the plaintiff does not become an owner of a definite portion in the ox that did the damage, but becomes entitled merely to a certain sum of money to be collected out of the body of that ox.

(10) Seemingly because the plaintiff is according to this ruling regarded as having become at the time the goring took place an owner of a definite portion in the ox which has subsequently depreciated. For if he became entitled to a certain sum of money in the body of that ox, why should he suffer on account of depreciation?

(11) In which case it is only reasonable that the plaintiff should not be entitled to any share in the improvement that resulted from the fattening carried out by the defendant.

(12) Dealing with the case where it was the injured ox that improved and increased in value.

(13) Giving the law where the ox that had done the damage improved.

(14) I.e., the ox that had been injured, dealt with in the opening clause.

(15) By hard work.

(16) The depreciation is thus a direct result of the injury for which the defendant is responsible.

(17) In the state of Tam.

(18) Ex. XXI, 35.
(19) That half-damages should be paid in the case of Tam.
(20) As in the case specified by R. Meir the carcass had no value at all.
(21) Amounting altogether to one hundred and twenty-five zuz. The plaintiff would thus get seventy-five zuz in respect of the damage that amounted to one hundred and fifty zuz. Together with the fifty of the carcass of his ox the sum total will be one hundred and twenty-five zuz.
(22) Of the animal attacked resulting from the injuries inflicted upon it.
(23) Specified by R. Judah, where the carcass was worth fifty zuz.
(24) I.e., half of the value of the living ox and half of the value of the carcass.
(25) Since the death of the attacked ox.
(26) Before it has been sold.
(27) As according to R. Meir, the defendant has no interest whatsoever in the carcass.
(28) Since according to R. Judah, both the defendant and the plaintiff have to divide the value of the carcass.
(29) Raba.

Talmud - Mas. Baba Kama 34b

[injury by] Tam would involve a more severe penalty than [injury by] Mu'ad?[1] And should you maintain that this indeed is so,[2] as we have learned: R. Judah says: In the case of Tam there is liability [where the precaution taken to control the ox has not been adequate] whereas in the case of Mu'ad there is no liability,[3] it may be contended that you only heard R. Judah maintaining this with reference to precaution, which is specified in Scripture,[4] but did you ever hear him say this regarding compensation? Moreover, it has been taught: R. Judah says: One might say that where an ox of the value of a maneh [a hundred zuz] gored an ox of the value of five sela' [i.e., twenty zuz] and the carcass was worth a sela' [i.e., four zuz], one party should get half of the living ox[5] together with half of the dead ox[6] and the other party should similarly get half of the living ox and half of the dead ox?[7] [This cannot be so]; for we reason thus: Has Mu'ad been singled out[8] to entail a more severe penalty or a more lenient one? You must surely say: [to entail] a more severe penalty. Now, if in the case of Mu'ad no payment is made but for the amount of the damage, should this not the more so be true in the case of Tam the [penalty in respect of which is] less severe?[9] — R. Johanan therefore said: The practical difference between them[10] arises where there has been an increase in the value of the carcass, one Master[11] maintaining that it will accrue to the plaintiff whereas the other Master holds that it will be shared equally [by the two parties].[12]

And it is just on account of this view that a difficulty was felt by R. Judah: Now that you say that the Divine Law is lenient to the defendant, allowing him to share in the increase [of the value of the carcass] , you might then presume that where an ox of the value of five sela' [i.e. twenty zuz] gored an ox of the value of a maneh [a hundred zuz] and the carcass was valued at fifty zuz, one party would take half of the living ox[13] together with half of the dead ox[14] and the other party would similarly take half of the living ox and half of the dead ox?[15] Say [this cannot be so, for] where could it elsewhere be found that an offender should [by order of the Court] be made to benefit as you would have the offender here in this case to benefit? It is moreover stated, He shall surely make restitution,[16] [emphasising that] the offender could only have to pay but never to receive payment. Why that additional quotation?[17] — [Otherwise] you might have thought this principle to be confined only to a case where the plaintiff was the loser,[18] and that where no loss would be incurred to the plaintiff — as e.g. where an ox of the value of five sela' gored an ox similarly of the value of five sela' [i.e. twenty zuz] and it so happened that the carcass [increased in value and] reached the amount of thirty zuz — the defendant should indeed be entitled to share in the profit;[18] hence the verse, He shall surely make full restitution, is adduced [to emphasise that in all cases] an offender could only have to pay but never to receive payment.

But R. Aha b. Tahlifa said to Raba: If so [that the principle to compensate by half for the decrease in value brought about by the death is maintained only by R. Meir], will it not be found that according to R. Judah Tam will involve the payment of more than half damages,[19] whereas the Torah [emphatically] stated, And they shall sell the live ox and divide the money of it? — [No;] R. Judah also holds that the decrease in value brought about by the death will be [compensated] by half in the body of the living ox.[20] Whence could he derive this?[21] — From [the verse], And the dead ox also they shall divide.[22] But did not R. Judah derive from this verse that one party will take half of the living ox together with half of the dead ox and the other party will similarly take half of the living ox and half of the dead ox?[23] — If that were all, the text could have run, 'And the dead ox [they shall divide].' Why insert 'also'? It shows that two lessons are to be derived from the verse.[24] MISHNAH. THERE ARE CASES WHERE THERE IS LIABILITY FOR OFFENCES COMMITTED BY ONE'S CATTLE[25] THOUGH THERE WOULD BE NO LIABILITY SHOULD THESE OFFENCES BE COMMITTED BY ONESELF. THERE ARE, AGAIN, CASES WHERE THERE IS NO LIABILITY FOR OFFENCES COMMITTED BY ONE'S CATTLE[25] THOUGH THERE WOULD BE LIABILITY WERE THESE OFFENCES COMMITTED BY ONESELF. FOR INSTANCE, IF CATTLE HAS BROUGHT INDIGNITY [UPON A HUMAN BEING] THERE IS NO LIABILITY,[26] WHEREAS IF THE OWNER CAUSES THE INDIGNITY THERE WOULD BE LIABILITY.[27] SO ALSO IF AN OX PUTS OUT THE EYE OF THE OWNER'S SLAVE OR KNOCKS OUT HIS TOOTH THERE IS NO LIABILITY,[28] WHEREAS IF THE OWNER HIMSELF HAS PUT OUT THE EYE OF HIS SLAVE OR KNOCKED OUT HIS TOOTH HE WOULD BE LIABLE [TO LET HIM GO FREE].[29] AGAIN, IF AN OX HAS INJURED THE FATHER OR MOTHER OF THE OWNER THERE IS LIABILITY,[30] THOUGH WERE THE OWNER HIMSELF TO INJURE HIS FATHER OR HIS MOTHER[31] THERE WOULD BE NO [CIVIL] LIABILITY.[32] SO ALSO WHERE CATTLE HAS CAUSED FIRE TO BE SET TO A BARN ON THE DAY OF SABBATH THERE IS LIABILITY,[30] WHEREAS WERE THE OWNER TO SET FIRE TO A BARN ON SABBATH[33] THERE WOULD BE NO [CIVIL] LIABILITY, AS HE WOULD BE SUBJECT TO A CAPITAL CHARGE.[32]

GEMARA. R. Abbahu recited in the presence of R. Johanan:[34] Any work [on the Sabbath] that has a destructive purpose entails no penalty [for the violation of the Sabbath], with the exception, however, of the act of inflicting a bodily injury, as also of the act of setting on fire. Said R. Johanan to him: Go and recite this outside[35] [for the exception made of] the act of inflicting a bodily injury and of setting on fire is not part of the teaching; and should you find grounds for maintaining that it is,[36] [you may say that] the infliction of a bodily injury refers to where the blood was required to feed a dog;[37] and in the case of setting on fire, where there was some need of the ashes.[37]

We have learnt: WHERE CATTLE HAS CAUSED FIRE TO BE SET TO A BARN ON THE DAY OF SABBATH THERE IS LIABILITY, WHEREAS WERE THE OWNER TO HAVE SET FIRE TO A BARN ON SABBATH THERE WOULD BE NO [CIVIL] LIABILITY. Now, the act of the owner is here placed on a level with that of Cattle; which would show, would it not, that just as in the act of Cattle there was certainly no intention to satisfy any need,

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(1) For in the case of Mu'ad it is certainly the plaintiff who has to bear the whole loss occasioned by a decrease in the value of the carcass; cf. supra p. 65.

(2) And Tam will indeed involve a penalty more severe than that involved by Mu'ad.

(3) B.K. IV, 9.

(4) For which cf. infra, p. 259.

(5) Amounting to fifty zuz.

(6) That would amount to another ten zuz.

(7) The result would be that the plaintiff whose injured ox had altogether been worth twenty zuz would get damages amounting to sixty zuz.

(8) In Scripture; cf. Ex. XXI, 36.

(9) Why should then the defendant in the case of Tam share the loss occasioned by a decrease in the value of the carcass which he would not have to do in the case of Mu'ad?

(10) R. Meir and R. Judah.

(11) R. Meir, according to whom the defendant has no interest in the carcass.

(12) V. supra p. 189, n. 7.

(13) Amounting to ten zuz.

(14) That would amount to another twenty-five zuz.

(15) The result would be that the defendant instead of paying compensation would make a profit out of the offence, as in lieu of his ox which did the damage and which was worth twenty zuz he would get a total of thirty-five zuz.

(16) Ex. XXI, 36.

(17) I.e., why is not the first objection sufficient?

(18) Of the ten zuz that make the carcass worth more than the ox while alive.

(19) As e.g.. where an ox of the value of fifty zuz gored another's ox of the value of forty zuz and the carcass was worth twenty zuz, in which case the actual damage amounted to twenty zuz, half of which would be ten zuz, whereas if the plaintiff will get half of the living ox and half of the dead ox he shall be in receipt for damages, in addition to the value of the carcass, not of ten but of fifteen zuz.

(20) The sum total received by the plaintiff will therefore never be more than half of the actual loss sustained by him after allowing him, of course, the full value of the carcass of his ox.

(21) Since he is in disagreement with R. Meir as to the implication of the last clause of Ex. XXI, 35.

(22) Ex. XXI, 35.

(23) I.e., that the decrease in value brought about by the death will be compensated for by half in the body of the living ox. V. Supra p. 189.

(24) Viz., the principle laid down in the preceding note and the principle maintained by R. Judah, that the defendant as well as the plaintiff has an interest in the carcass and will share the profits of any increase in its value.

(25) Lit., ‘ox’.

(26) As explained supra p. 134.

(27) Cf. B. K. VIII 1-2.

(28) To the law laid down in Ex. XXI, 26-27.

(29) In accordance with ibid, cf. also supra p. 137.

(30) For damages.

(31) Involving thus a capital charge, for which cf Ex. XXI, 15.

(32) As wherever a capital charge is involved by an offence, all civil liabilities that may otherwise have resulted from that offence merge in the capital charge; cf. supra p. 113.

(33) For which cf. Ex. XXXI, 14-15; but v. also ibid. XXXV, 2-3, Mekilta a.l. and Yeb. 7b, 33b and Shab. 70a.

(34) Cf. Shab. 106a.

(35) [I.e., your teaching is fit only for outside and not to be admitted within the Beth Hamidrash; v. Sanh. (Sonc. ed.) p. 425.]

(36) Cf. Shab. 75a; v. also B.K. VIII, 5.

(37) Which case involves the violation of the Sabbath because the purpose has not been altogether destructive.

Talmud - Mas. Baba Kama 35a

so also the owner similarly had no intention to satisfy thereby any need, and yet it is stated THERE WOULD BE NO [CIVIL] LIABILITY AS HE WOULD BE SUBJECT TO A CAPITAL CHARGE?[1] No; it is the act of Cattle, which is placed on the same level as that of the owner himself, to show that just as in the act of the owner there had surely been the intention to satisfy some need, so also in the act of Cattle there must have been the intention to satisfy some need.[2] But how is this possible in the case of Cattle? — R. Iwiya replied: The case here supposed is one of an intelligent animal which, owing to an itching in the back, was anxious to burn the barn so that it might roll in the [hot] ashes. But how could we know [of such an intention]? [By seeing that] after the barn had been burnt, the animal actually rolled in the ashes. But could such a thing ever happen? — Yes, as in the case of the ox which had been in the house of R. Papa, and which, having a severe toothache, went into the brewery, where it removed the lid [that covered the beer] and drank beer until it became relieved [of the pain]. The Rabbis, however, argued in the presence of R. Papa: How can you say that [the Mishnah places the act of] Cattle on a level with [the act of] the owner himself? For is it not stated: IF CATTLE HAS BROUGHT INDIGNITY [UPON A HUMAN BEING] THERE IS NO LIABILITY,[3] WHEREAS IF THE OWNER CAUSES THE INDIGNITY THERE IS LIABILITY? Now, if we are to put the act of Cattle on a level with that of the owner himself, how are we to find intention [in the case of Cattle]?[4] — Where, for instance, there was intention to do damage, as stated by the Master[5] that where there was intention to do damage though no intention to insult, [liability for insult will attach]. Raba, however, suggested that the Mishnah here[6] deals with a case of inadvertence, [resembling thus Cattle which acts as a rule without any specific purpose] and [the law[7] was laid down] in accordance with the teaching at the School of Hezekiah. For it was taught at the School of Hezekiah:[8] [Scripture places in juxtaposition] He that killeth a man . . . and he that killeth a beast[9] .....[to imply that] just as in the case of killing a beast you can make no distinction whether it was inadvertent or malicious, whether intentional or unintentional, whether by way of coming down or by way of coming up,[10] so as to exempt from pecuniary obligation, but [in all cases] there is pecuniary liability,[11] so also in the case of killing man you should make no distinction whether it was inadvertent or malicious, whether intentional or unintentional, whether by way of coming down or by way of coming up so as to impose a pecuniary liability, but [in all cases] there should be exemption from pecuniary obligation.[12] Said the Rabbis to Raba: How can you assume that the ruling in the Mishnah refers to an inadvertent act?[13] Is it not stated there [that were the owner to have set fire to a barn on Sabbath there would be no civil liability] AS HE WOULD BE SUBJECT TO A CAPITAL CHARGE?[14] — It only means to say this: Since if he would have committed it maliciously he would have been liable to a capital charge, as, e.g., where he had need of the ashes, there should be exemption [from civil liability] even in such a case as this where he did it inadvertently.[15]

MISHNAH. IF AN OX WAS PURSUING AN OTHER'S OX WHICH WAS [AFTERWARDS FOUND TO BE] INJURED, AND THE ONE [PLAINTIFF] SAYS, ‘IT WAS YOUR OX THAT DID THE DAMAGE, WHILE THE OTHER PLEADS, ‘NOT SO, BUT IT WAS INJURED BY A ROCK [AGAINST WHICH IT HAD BEEN RUBBING ITSELF]’,[16] THE BURDEN OF PROOF LIES ON THE CLAIMANT. [SO ALSO] WHERE TWO [OXEN] PURSUED ONE AND THE ONE DEFENDANT ASSERTS, ‘IT WAS YOUR OX THAT DID THE DAMAGE’, WHILE THE OTHER DEFENDANT ASSERTS, ‘IT WAS YOUR OX THAT DID THE DAMAGE’,

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(1) Which would show that setting fire on Sabbath even for purely destructive purposes is a violation of the Sabbath, supporting thus the view of R. Abbahu and contradicting that of R. Johanan.

(2) Though with cattle there would really be no legal difference whatsoever whether this was the case or not.

(3) V. p. 192, n. 2.

(4) Being as it is altogether devoid of the whole conception of insult.

(5) Supra p. 141.

(6) Which exempts man setting fire on Sabbath from any civil liability involved.

(7) Exempting from civil liability in the case of Man.

(8) Keth. 35a, 38a; Sanh. 79b and 84b.

(9) Lev. XXIV, 21.

(10) Which, however, forms a distinction in the case of unintentional manslaughter with reference to the liability to take refuge, for which cf. Mak. 7b.

(11) As indeed stated supra p. 136.

(12) Even when there is no actual death penalty involved, and likewise in the Mishnah the man setting fire though inadvertently is exempt from all civil liability, so that you cannot infer therefrom that death penalty is attached to setting fire on Sabbath even for destructive purposes. V. supra p. 192. n. 8.

(13) In which case the capital punishment could never be applied.

(14) V. p. 192, n. 8.

(15) On the basis of the teaching of Hezekiah.

(16) Denying thus any liability.

Talmud - Mas. Baba Kama 35b

NEITHER OF THE DEFENDANTS WILL BE LIABLE. BUT WHERE BOTH OF THE [PURSUING] OXEN BELONGED TO THE SAME OWNER,[1] LIABILITY WILL ATTACH TO BOTH OF THEM. WHERE, HOWEVER, ONE [OF THE OXEN] WAS BIG AND THE OTHER LITTLE[1] AND THE CLAIMANT MAINTAINS THAT THE BIG ONE DID THE DAMAGE,[2] WHILE THE DEFENDANT PLEADS, ‘NOT SO, FOR IT WAS THE LITTLE ONE THAT DID THE DAMAGE’, OR AGAIN WHERE ONE [OX] WAS TAM AND THE OTHER MU'AD AND THE CLAIMANT MAINTAINS THAT THE MU'AD DID THE DAMAGE[3] WHILE THE DEFENDANT ASSERTS, ‘NOT SO, FOR IT WAS THE TAM THAT DID THE DAMAGE,’ THE BURDEN OF PROOF LIES ON THE CLAIMANT. [SO ALSO] WHERE THERE WERE TWO INJURED OXEN, ONE BIG AND ONE LITTLE, SIMILARLY TWO PURSUERS, ONE BIG AND ONE LITTLE, AND THE PLAINTIFF ASSERTS THAT THE BIG ONE INJURED THE BIG ONE AND THE LITTLE ONE THE LITTLE ONE, WHILE THE DEFENDANT CONTENDS, ‘NOT SO, FOR [IT WAS] THE LITTLE ONE [THAT INJURED] THE BIG ONE AND THE BIG ONE [THAT INJURED] THE LITTLE ONE’; OR AGAIN WHERE ONE WAS TAM AND THE OTHER MU'AD, AND THE PLAINTIFF MAINTAINS THAT THE MU'AD INJURED THE BIG ONE AND THE TAM THE LITTLE ONE, WHILE THE DEFENDANT PLEADS, ‘NOT SO, FOR [IT WAS THE] TAM [THAT INJURED] THE BIG ONE AND THE MU'AD [THAT INJURED] THE LITTLE ONE,’ THE BURDEN OF PROOF FALLS ON THE CLAIMANT.

GEMARA. R. Hiyya b. Abba stated: This [Mishnaic ruling][4] shows that [in this respect] the colleagues differed from Symmachus who maintained[5] that money of which the ownership cannot be decided has to be equally divided [between the two parties]. Said R. Abba b. Memel to R. Hiyya b. Abba: Did Symmachus maintain his view even where the defendant was as positive as the claimant?[6] — He replied: Yes, Symmachus maintained his view even where the defendant was as positive as the claimant. But [even if you assume otherwise],[7] how do you know that the Mishnah is here dealing with a case where the defendant was as positive as the claimant?[8] — Because it says, THE PLAINTIFF STATES ‘IT WAS YOUR OX THAT DID THE DAMAGE’, WHILE THE DEFENDANT PLEADS ‘NOT SO. . . ‘[9] R. Papa, however, demurred to this, saying: If in the case presented in the opening clause the defendant was as positive as the claimant, we must suppose that in the case presented in the concluding clause the defendant was similarly as positive as the claimant. [Now,] read the concluding clause; WHERE, HOWEVER, ONE OX WAS BIG AND THE OTHER LITTLE, AND THE PLAINTIFF ASSERTS THAT THE BIG ONE DID THE DAMAGE WHILE THE DEFENDANT PLEADS ‘NOT SO, FOR IT WAS THE LITTLE ONE THAT DID THE DAMAGE’; OR AGAIN WHERE ONE OX WAS TAM AND THE OTHER MU'AD, AND THE CLAIMANT MAINTAINS THAT THE MU'AD DID THE DAMAGE, WHILE THE DEFENDANT PLEADS, ‘NOT SO, FOR IT WAS THE TAM THAT DID THE DAMAGE’, THE BURDEN OF PROOF IS ON THE CLAIMANT. [Now this implies, does it not, that] where he does not produce evidence he will get paid in accordance with the pleading of the defendant. May it now not be argued that this [ruling] is contrary to the view of Rabbah b. Nathan, who said that where the plaintiff claims wheat and the defendant admits barley, he is not liable [for either of them]?[10] — You conclude then that the Mishnah deals with a case where one party was certain and the other doubtful.[11] Which then was certain and which doubtful? It could hardly be suggested that it was the plaintiff who was certain, and the defendant who was doubtful, for would this still not be contrary to the view of Rabbah b. Nathan?[12] It would therefore seem that it was the plaintiff who was doubtful[11] and the defendant certain. And if the concluding clause deals with a case where the plaintiff was doubtful and the defendant certain, we should suppose that the opening clause[13] likewise deals with a case where the plaintiff was doubtful and the defendant certain. But could Symmachus indeed have applied his principle even to such a case,[14] that the Mishnah thought fit to let us know that this view ought not to be accepted? — [Hence it must be said:] No; but that the concluding clause [deals with a case where] the plaintiff was doubtful and the defendant certain, and the opening clause[13] [presents a case where it was] the plaintiff who was certain and the defendant doubtful.[15] But [even in that case] the opening clause is not co-ordinate with the concluding clause?[16] — I can reply that [a case where the plaintiff is] certain and [the defendant] doubtful[17] and [a case where the claimant is] doubtful and [the defendant] certain[18] are co-ordinate[19] whereas [a case where the claimant is] certain and [the defendant also] certain is not co-ordinate with [a case where the claimant is] doubtful and [the defendant] certain.[20]

The above text states: ‘Rabbah b. Nathan said: Where the plaintiff claimed wheat and the defendant admitted barley, he is not liable [for either of them].’[21] What does this tell us? Have we not already learnt [in a Mishnah]: where the plaintiff claimed wheat and the defendant admitted barley he is not liable?[22] If we had only [the Mishnah] there[22] to go by, I might have argued that the exemption was only from the value of the wheat,[23] while there would still be liability for the value of barley;[24] we are therefore told by Rabbah b. Nathan that the exemption is complete.

We have learnt: WHERE THERE WERE TWO INJURED OXEN, ONE BIG AND THE OTHER LITTLE etc. [Now this implies that] where he does not produce evidence he will get paid in accordance with the pleading of the defendant. But why not apply here [the principle of complete exemption laid down in the case of] wheat and barley? — The plaintiff[25] is entitled to get paid [only where he produces evidence to substantiate the claim], but will have nothing at all [where he fails to do so]. But has it not been taught; He will be paid for [the injury done to] the little one out of the body of the big and for [the injury done to] the big one out of the body of the little one? — Only where he had already seized them.[26] We have learnt: IF ONE WAS TAM AND THE OTHER MU'AD, AND THE PLAINTIFF CLAIMS THAT THE MU'AD INJURED THE BIG ONE[27] AND THE TAM THE LITTLE ONE WHILE THE DEFENDANT PLEADS, ‘NOT SO, FOR [IT WAS THE] TAM [THAT INJURED] THE BIG ONE AND THE MU'AD [THAT INJURED] THE LITTLE ONE’, THE BURDEN OF PROOF FALLS ON THE CLAIMANT. [Now this implies that] where he does not produce evidence he will get paid in accordance with the pleading of the plaintiff. But why should [the principle of complete exemption laid down in the case of] wheat and barley not be applied here? —

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(1) And were in the state of Tam, in which case the half-damages are paid only out of the body of the ox that did the damage, as supra p. 73.

(2) And the body of the big one should secure the payment of the half damages.

(3) And the compensation should thus be made in full.

(4) That it is the claimant on whom falls the onus probandi.

(5) Infra p. 262 and B.M. 2b, 6a, 98b, 100a; B.B. 141a.

(6) In which case not the defendant but only the Court is in doubt.

(7) And suggest that where the defendant has been positive even Symmachus admits that the claimant will get nothing unless by proving his case.

(8) For in the cases dealt with in the Mishnah the defendant is usually unable to speak positively, as in most cases he was not present at the place when the alleged damage was done; cf. also Tosaf. a.l.

(9) Which is apparently a definite defence.

(10) For the claim of wheat has been repudiated by the defendant while the claim for barley admitted by him has tacitly been dispensed with by the plaintiff. The very same thing could be argued in the case of the Mishnah quoted above, where the claim was made in respect of the big one or the Mu'ad, and the defence admitted the little one or the Tam respectively.

(11) In which case the argument contained in the preceding note could no more be maintained.

(12) For surely the plaintiff, by his definite claim in respect of the big one or the Mu'ad, has tacitly waived his claim in respect of the little one or the Tam respectively.

(13) Where the defendant pleads that 'the pursued ox was injured by a rock...' .

(14) Which is really an absurdity, to maintain that a plaintiff pleading mere supposition against a defendant submitting a definite denial should in the absence of any evidence be entitled to any payment whatsoever.

(15) [How then could R. Hiyya maintain that our Mishnah deals with a case where both were certain in their pleas.]

(16) [If so, what is the objection of R. Papa to R. Hiyya's statement, since even on his view there is a lack of co-ordination between these two clauses in the Mishnah.]

(17) As in the case dealt with in the commencing clause.

(18) Which is the case in the concluding clause.

(19) Lit 'are one thing'.

(20) R. Papa was therefore loth to explain the commencing clause as dealing with a case where the defence as well as the claim was put forward on a certainty, but preferred to explain it as presenting a law-suit where, though the claim had been put forward positively, the defence was urged tentatively.

(21) V. p. 197. n. 2.

(22) Shebu. 38b.

(23) Which was denied by the defendant.

(24) Admitted by the defendant.

(25) In the case of the oxen.

(26) In which case the principle of complete exemption maintained by Rabbah b. Nathan apparently does not apply.

(27) V. p. 196. n. 1.

Talmud - Mas. Baba Kama 36a

The plaintiff is entitled to get paid [only where he produces evidence to substantiate the claim] but [failing that he] will have nothing at all. But has it not been taught: He will be paid for [the injury done to] the little one in accordance with the regulations applying to Mu'ad and for [the injury done to] the big one out of the body of the Tam? — Only where he had already seized them.

BUT WHERE BOTH OF THE [PURSUING] OXEN BELONGED TO THE SAME OWNER, LIABILITY WILL ATTACH TO BOTH OF THEM. Raba of Parazika[1] said to R. Ashi: It can be concluded from this that where oxen in the state of Tam [belonging to the same owner] did damage, the plaintiff has the option to distrain either on the one or the other! — [No, replied R. Ashi, for] we are dealing here [in the Mishnah] with a case where they were Mu'ad.[2] If where they were Mu'ad how do you explain the concluding clause: WHERE, HOWEVER, ONE [OF THE OXEN] WAS BIG AND THE OTHER LITTLE AND THE CLAIMANT MAINTAINS THAT THE BIG ONE DID THE DAMAGE WHILE THE DEFENDANT PLEADS 'NOT SO, FOR IT WAS THE LITTLE ONE THAT DID THE DAMAGE' THE BURDEN OF PROOF FALLS ON THE CLAIMANT. For indeed where they were Mu'ad what difference could there be [whether the big one or the little one did the damage] since at all events he has to pay the full value of the ox? — He thereupon said to him: The concluding clause presents a case where they were Tam, though the opening clause deals with a case where the oxen were Mu'ad. Said R. Aha the Elder to R. Ashi: If the commencing clause deals with a case where the oxen were Mu'ad,[2] what is the meaning of 'LIABILITY WILL ATTACH TO BOTH OF THEM'? Should not the text run, 'The owner will be liable'? Again, what is the meaning of 'BOTH OF THEM'? — [The commencing clause also] must therefore deal with a case where the oxen were Tam, and the ruling stated follows the view of R. Akiba, that plaintiff and defendant become the owners in common [of the attacking ox].[3] Now this is so where 'BOTH OF THEM' [the oxen] are with the owner, in which case he cannot possibly shift the claim [from one to the other].[4] But if 'BOTH OF THEM' are not with him he may plead,[5] 'Go and produce evidence that it was this ox [which is still with me][6] that did the damage, and then I will pay you.'

CHAPTER I V

MISHNAH. IF A [TAM] OX HAS GORED FOUR OR FIVE OXEN ONE AFTER THE OTHER, COMPENSATION SHOULD IN THE FIRST INSTANCE BE MADE [OUT OF THE BODY OF THE OX] FOR THE LAST OFFENCE. SHOULD THERE BE A SURPLUS,[7] COMPENSATION IS TO BE PAID ALSO FOR THE PENULTIMATE OFFENCE; SHOULD THERE STILL BE A SURPLUS, COMPENSATION IS TO BE MADE TO THE ONE BEFORE; THE LATER THE LIABILITY THE PRIOR THE CLAIM.[8] THIS IS THE OPINION OF R. MEIR. R. SIMEON SAYS: IF AN OX OF THE VALUE OF TWO HUNDRED [ZUZ] HAS GORED AN OX OF THE SAME VALUE OF TWO HUNDRED [ZUZ] AND THE CARCASS HAS NO VALUE AT ALL, THE PLAINTIFF WILL GET A HUNDRED ZUZ AND THE DEFENDANT WILL GET A HUNDRED ZUZ [OUT OF THE BODY OF THE OX THAT DID THE DAMAGE].[9] SHOULD THE SAME OX HAVE GORED ANOTHER OX OF THE VALUE OF TWO HUNDRED [ZUZ], THE SECOND CLAIMANT WILL GET A HUNDRED ZUZ, WHILE THE FORMER CLAIMANT WILL GET ONLY FIFTY ZUZ[10] AND THE DEFENDANT WILL HAVE FIFTY ZUZ [IN THE BODY OF HIS OX].[11] SHOULD THE OX HAVE GORED YET ANOTHER OX OF THE VALUE OF TWO HUNDRED [ZUZ], THE THIRD CLAIMANT WILL GET A HUNDRED [ZUZ] WHILE THE SECOND WILL GET ONLY FIFTY [ZUZ][10] AND THE FIRST TWO PARTIES[12] WILL HAVE A GOLD DENAR[13] [EACH IN THE BODY OF THE OX THAT DID THE DAMAGE].[11] GEMARA. Who is the author of our Mishnah? It is in accordance neither with the view of R. Ishmael nor with that of R. Akiba![14] For if it is in accordance with R. Ishmael, who maintains that they [the claimants of damages] are like any other creditors, how can it be said that THE LATER THE LIABILITY THE PRIOR THE CLAIM? Should it not be, the earlier the liability the prior the claim?[15] If, on the other hand, it is in accordance with R. Akiba who maintains that the ox becomes the common property [of the plaintiff and the defendant], how can it be said that, IN THE CASE OF THERE BEING A SURPLUS[16]

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(1) [Identified with Faransag, near Bagdad, v. Obermeyer, op. cit., p. 269.]

(2) In which case the whole estate of the defendant can be distrained upon for the payment of damages; supra p. 73.

(3) Cf. supra p 181.

(4) So that there is no warrant for Raba of Parazika's inference.

(5) Against the plaintiff.

(6) And not the other ox that has been lost.

(7) In the body of the ox.

(8) Lit., ‘the later always profits’ as it is he who has the right of priority.

(9) As explained supra pp. 187-8.

(10) For the reason v. Gemara, infra p. 203.

(11) As the defendant and the first claimant became the owners of the ox in common.

(12) I.e the defendant and the first claimant.

(13) I.e., twenty-five zuz.

(14) For which cf. supra p. 181.

(15) As is usually the case with other creditors: v. p. 185.

(16) V.p. 201, n. 1.

Talmud - Mas. Baba Kama 36b

COMPENSATION WILL BE MADE FOR THE PENULTIMATE OFFENCE? Should it not be ‘Compensation will be made [proportionately] for each offence’? — Raba replied: The Mishnah is indeed in accordance with R. Ishmael, who holds that claimants [of damages] are like any other creditors; and as to your objection to the statement ‘THE LATER THE LIABILITY THE PRIOR THE CLAIM’, which you contend should be ‘The earlier the liability the prior the claim’, [it can be argued] that we deal here with a case where each plaintiff has [in turn] seized the goring ox for the purpose of getting paid [the amount due to him] out of its body, in which case each has in turn acquired [in respect of the ox] the status of a paid bailee, liable for subsequent damages done by it.[1] But if so, why does it say. SHOULD THERE BE A SURPLUS COMPENSATION IS TO BE PAID

ALSO FOR THE PENULTIMATE OFFENCE? Should it not be: ‘The surplus will revert to the owner’?[2] — Rabina therefore said: The meaning is this: Should there be an excess in the damage done to him[3] over that done to the subsequent plaintiff, the amount of the difference will revert to the plaintiff in respect of the preceding damage.[4] So too, when Rabin returned [from Eretz Yisrael] he stated on behalf of R. Johanan that it was for the failure [to carry out their duty] as bailees that liability was incurred [by the earlier plaintiffs to the later].

How then have you explained the Mishnah? As being in accordance with R. Ishmael! If so, what of the next clause: R. SIMEON SAYS: WHERE AN OX OF THE VALUE OF TWO HUNDRED [ZUZ] HAS GORED AN OX OF THE SAME VALUE OF TWO HUNDRED [ZUZ] AND THE CARCASS HAD NO VALUE AT ALL, THE PLAINTIFF WILL GET A HUNDRED ZUZ AND THE DEFENDANT WILL SIMILARLY GET A HUNDRED ZUZ [OUT OF THE BODY OF THE OX THAT DID THE DAMAGE]. SHOULD THE SAME OX HAVE GORED ANOTHER OX OF THE VALUE OF TWO HUNDRED [ZUZ], THE SECOND CLAIMANT WILL GET A HUNDRED ZUZ, WHILE THE FORMER CLAIMANT WILL GET ONLY FIFTY ZUZ, AND THE DEFENDANT WILL HAVE FIFTY ZUZ [IN THE BODY OF THE OX]. SHOULD THE OX HAVE GORED YET ANOTHER OX OF THE VALUE OF TWO HUNDRED [ZUZ], THE THIRD PLAINTIFF WILL GET A HUNDRED [ZUZ], WHILE THE SECOND PLAINTIFF WILL GET FIFTY [ZUZ] AND THE FIRST TWO PARTIES WILL HAVE A GOLD DENAR [EACH IN THE BODY OF THE OX THAT DID THE DAMAGE]. This brings us back [does it not] to the view of R. Akiba, who maintains that the ox becomes the common property [of the plaintiff and the defendant].[5] Will then the first clause be in accordance with R. Ishmael and the second clause in accordance with R. Akiba? — That is so, since even Samuel said to Rab Judah, ‘Shinena,[6] leave this Mishnah alone[7] and accept my explanation. that its first clause is [in accordance with] R. Ishmael and its second clause [in accordance with] R. Akiba.’ (It was also stated that R. Johanan said: An actual case in which they would differ is where the plaintiff consecrates the goring ox [to the Temple].)[8]

We have learnt elsewhere:[9] If a man boxes another man's ear, he has to give him a sela’[10] [in compensation]. R. Judah in the name of R. Jose the Galilean says: A hundred zuz. A certain man having [been summoned for] boxing another man's ear, R. Tobiah b. Mattena sent an inquiry to R. Joseph, as to whether a Tyrian sela’[11] is meant in the Mishnah[12] or merely a sela’ of [this] country.[13] He sent back a reply: You have learnt it: AND THE FIRST TWO PARTIES WILL HAVE A GOLD DENAR [EACH]. Now, should you assume that the Tanna is calculating by the sela’[13] of [this] country, [we may ask,] why does he not continue the division by introducing a further case where the amount [left for the first two] will come down to twelve [zuz] and one sela’?[14] To which R. Tobiah replied: Has then the Tanna to string out cases like a peddler?[15] What, however, is the solution?[16] — The solution was gathered from the statement made by Rab Judah on behalf of Rab:[17] ‘Wherever money[18] is mentioned in the Torah, the reference is to Tyrian money, but wherever it occurs in the words of the Rabbis it means local[19] money.’ The plaintiff upon hearing that said to the judge: ‘Since it will [only] amount to half a zuz,[12] I do not want it; let him give it to the poor.’ Later, however, he said; ‘Let him give it to me, as I will go and obtain a cure for myself with it.’ But R. Joseph said to him: The poor have already acquired a title to it, for though the poor were not present here, we [in the Court, always] act as the agents[20] of the poor, as Rab Judah said on behalf of Samuel:[21] Orphans

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(1) As supra p. 57, and infra p. 255.

(2) Since it is not the owner but the claimant in regard to the penultimate offence who has to he liable in respect of the last offence.

(3) I.e., to the penultimate plaintiff.

(4) As e.g. where an ox of the value of a hundred zuz gored successively the ox of A the ox of B and the ox of C, and the damages amount to fifty, thirty and twenty zuz respectively, C will be paid the sum of twenty, B only ten, which is the difference between the compensation due to him and that due from him to C, and A will get twenty, which again is the difference between the compensation due to him from the owner (of the ox that did the damage) and that owing from him to B. All the payments together, which are twenty to A, ten to B and twenty to C, make only fifty, so that the balance of the value of the ox will go to its owner.

(5) For if otherwise, why should the first two parties (the owner and the first claimant) always be treated alike?

(6) Cf. supra p. 60, n. 2.

(7) And do not try to make it self-consistent.

(8) V. supra p. 181. [This bracketed passage is to be deleted with Rashi, v. D.S. a.l.]

(9) Infra p. 520

(10) A Palestinian coin, v. Glos.

(11) Four zuz, v. infra p. 521, n. 6.

(12) As stated by the anonymous view.

(13) Half a zuz.

(14) I.e. where the last claimant will have a maneh, the next fifty zuz, the rest one gold denar, and the first claimant and the owner 12 zuz and one sela' each.

(15) Who cries the whole list of his wares. Cf. Git. 33a.

(16) As to the exact meaning of sela'.

(17) Cf. Kid. 11b and Bek. 50b.

(18) [Lit 'silver'. The market value of silver coinage was determined by Tyre, v. Krauss, op. cit., II, 405]

(19) Lit., 'the country'.

(20) Lit., 'hand'.

(21) Git. 37a.

Talmud - Mas. Baba Kama 37a

do not require a prosbul:[1] and so also Rami b. Hama learned that orphans do not require a prosbul,[2] since Rabban Gamaliel and his Court of law are the representatives[3] of orphans.

The scoundrel Hanan, having boxed another man's ear, was brought before R. Huna, who ordered him to go and pay the plaintiff half a zuz.[4] As [Hanan] had a battered zuz he desired to pay the plaintiff the half zuz [which was due] out of it. But as it could not be exchanged, he slapped him again and gave him [the whole zuz].

MISHNAH. IF AN OX WAS MU'AD TO DO DAMAGE TO ITS OWN SPECIES BUT WAS NOT MU'AD TO DO DAMAGE TO ANY OTHER SPECIES [OF ANIMALS] OR IF IT WAS MU'AD TO DO DAMAGE TO THE HUMAN SPECIES BUT NOT MU'AD TO ANY SPECIES OF BEASTS, OR IF IT WAS MU'AD TO SMALL [CATTLE] BUT NOT MU'AD TO LARGE [CATTLE], IN RESPECT OF DAMAGE DONE TO THE SPECIES TO WHICH IT WAS MU 'AD THE PAYMENT WILL HAVE TO BE IN FULL, BUT IN RESPECT OF DAMAGE DONE TO THAT TO WHICH IT WAS NOT MU' AD, THE COMPENSATION WILL BE FOR HALF THE DAMAGE ONLY. THEY[5] SAID BEFORE R. JUDAH: HERE IS ONE WHICH WAS MU 'AD TO DO DAMAGE ON SABBATH DAYS BUT WAS NOT MU 'AD TO DO DAMAGE ON WEEK DAYS.[6] HE SAID TO THEM: FOR DAMAGE DONE ON SABBATH DAYS THE PAYMENT WILL HAVE TO BE IN FULL, WHEREAS FOR DAMAGE DONE ON WEEK DAYS THE COMPENSATION WILL BE FOR HALF THE DAMAGE ONLY. WHEN [CAN THIS OX] RETURN TO THE STATE OF TAM? WHEN IT REFRAINS [FROM GORING] ON THREE [CONSECUTIVE] SABBATH DAYS.

GEMARA. It was stated: R. Zebid said: The proper reading of the Mishnah [in the first clause is], 'BUT WAS NOT MU 'AD . . .';[7] whereas R. Papa said: The proper reading is 'IT IS NOT [THEREFORE] MU 'AD. . .'[8] R. Zebid, who said that'... BUT WAS NOT MU' AD . . .'is the proper reading of the Mishnah, maintained that until we know the contrary[9] such an ox is considered

Mu'ad [to all species]. But R. Papa, who said that '. . . IT IS NOT [THEREFORE] MU 'AD. . .' is the correct reading of the Mishnah, maintained that even though we do not know the contrary the ox is not considered Mu 'ad [save to the species to which it had actually been Mu'ad]. R. Zebid inferred his view from the later clause [of the Mishnah], whereas R. Papa inferred his view from the opening clause. R. Zebid inferred his view from the later clause which states, IF IT WAS MU 'AD TO SMALL [CATTLE] BUT NOT MU 'AD TO LARGE [CATTLE]. Now this is quite in order if you maintain that BUT WAS NOT MU'AD' is the reading in the Mishnah, implying thus that in the absence of definite knowledge to the contrary the ox should be considered Mu'ad [to all species]. This clause would then teach us [the further point] that even where the ox was Mu 'ad to small [cattle] it would be Mu 'ad also to large [cattle] in the absence of knowledge to the contrary. But if you maintain that '. . . IT IS NOT [THEREFORE] MU'AD . . .' is the correct reading of the Mishnah, implying that even though we know nothing to the contrary the ox would not be considered Mu 'ad, could it not then be argued thus: Since in the case where the ox was Mu 'ad to do damage to small creatures of one species it would not be considered Mu 'ad with reference to small creatures of another species even if we have no definite knowledge to the contrary, was there any need to state that where the ox was Mu 'ad to small [cattle] it would not be considered Mu 'ad to big [cattle]?[10] — R. Papa, however, may say to you: It was necessary to state this, since otherwise you might have been inclined to think that since the ox started to attack a particular species, it was going to attack the whole of that species without making a distinction between the large creatures of that species and the small creatures of that species, it was therefore necessary to let us know that [with reference to the large creatures] it would not be considered Mu'ad. R. Papa on the other hand based his view on the opening clause, which states: WHERE IT WAS MU 'AD TO THE HUMAN SPECIES IT WOULD NOT BE MU 'AD TO ANY SPECIES OF BEASTS. Now this would be quite in order if you maintain that 'IT IS NOT [THEREFORE] MU'AD . . .' is the text in the Mishnah denoting that even where we have no knowledge to the contrary the ox would not be considered Mu 'ad [to other species]; it was therefore necessary to make it known to us that even where the ox was Mu 'ad to the human species and though we knew nothing to the contrary, it would still not be Mu'ad to animals. But if you maintain that '. . . BUT WAS NOT MU 'AD . . .' is the correct reading of the Mishnah, implying that in the absence of knowledge to the contrary the ox would be considered Mu 'ad [to all species], could we not then argue thus: Since in the case where the ox was Mu'ad to one species of beast it would in the absence of knowledge to the contrary be considered Mu 'ad also to any other species of beast, was there any need to state that where the ox was Mu 'ad to the human species it would also be considered Mu 'ad to animals?[11] — R. Zebid may, however, say to you: The opening clause refers to the reversion of the ox to the state of Tam, as, e.g., where the ox had been Mu 'ad to man and Mu 'ad to beast but has subsequently refrained from [doing damage to] beast, having stood near cattle on three different occasions without goring. It might then have been argued that since it has not refrained from injuring men, its refraining from goring cattle should [in the eye of the law] not be considered a proper reversion [to the state of Tam].[12] We are therefore told that the refraining from goring cattle is in fact a proper reversion.

An objection was raised [from the following]: Symmachus says: If an ox is Mu'ad to man it is also Mu'ad to beast, a fortiori: if it is Mu'ad to injure man, how much more so is it Mu'ad to injure beast? Does this not prove that the view of the previous Tanna was that it would not be Mu'ad?'[13] — R. Zebid may, however, say to you: Symmachus was referring to the reversion to the state of Tam, and what he said to the previous Tanna was this: 'Referring to your statement that the refraining [from goring] beasts is a proper reversion, [I maintain that] the refraining [from goring] beasts is not a proper reversion, [and can prove it] by means of an argument a fortiori from the case of man. For since it has not refrained from [attacking] man, will it not assuredly continue attacking beasts?

R. Ashi said: Come and hear: THEY SAID BEFORE R. JUDAH: HERE IS ONE WHICH IS MU 'AD TO DO DAMAGE ON SABBATH DAYS BUT NOT MU 'AD TO DO DAMAGE ON WEEK DAYS. HE SAID TO THEM: FOR DAMAGE DONE ON SABBATH DAYS, THE PAYMENT

WILL HAVE TO BE IN FULL, WHEREAS FOR DAMAGE DONE ON WEEK DAYS THE COMPENSATION WILL BE FOR HALF THE DAMAGE ONLY. Now this is quite in order if you maintain that '. . . BUT WAS NOT MU'AD . . .' is the correct reading. The disciples were thus putting a question before him and he was replying to them accordingly. But If you contend that '. . .IS NOT [THEREFORE] MU 'AD . . .' is the correct text, [would it not appear as if his disciples] were giving instruction to him?[14] Again, what would then be the meaning of his reply to them?[15] R. Jannai thereupon said: The same can also be inferred from the opening clause, where it is stated: IN RESPECT OF DAMAGE DONE TO THE SPECIES TO WHICH IT WAS MU 'AD, THE PAYMENT WILL HAVE TO BE IN FULL, BUT IN RESPECT OF DAMAGE DONE TO THAT TO WHICH IT WAS NOT MU 'AD, THE COMPENSATION WILL BE FOR HALF THE DAMAGE ONLY. Now, this would be in order if you maintain that 'BUT IT WAS NOT MU 'AD . . .'[16] is the correct text, in which case the clause just quoted would be explanatory. But if you maintain that '. . . IT IS NOT [THEREFORE] MU'AD . . .'[17] is the correct text, this statement is complete in itself, and why then the further statement 'IN RESPECT OF DAMAGE DONE TO THE SPECIES TO WHICH IT WAS MU 'AD, THE PAYMENT WILL HAVE TO BE IN FULL, BUT IN RESPECT OF DAMAGE DONE TO THAT TO WHICH IT WAS NOT MU 'AD, THE COMPENSATION WILL BE FOR HALF THE DAMAGE ONLY? Have we not been told before how that in the case of Mu 'ad the payment is for half the damage whereas in the case of Mu'ad the payment has to be in full?[18] Yet even if you adopt the view of R. Papa,[19] where the animal gored an ox, an ass and a camel [successively] it would still become Mu 'ad to all [species of beasts].[20]

Our Rabbis taught: If the animal sees an ox and gores it, another ox and does not gore it, a third ox and gores it, a fourth ox and does not gore it, a fifth ox and gores it, a sixth ox and does not gore it, the animal becomes Mu'ad to alternate oxen.

Our Rabbis taught: If an animal sees an ox and gores it, an ass and does not gore it, a horse and gores it a camel and does not gore it, a mule and gores it, a wild ass and does not gore it, the animal becomes Mu'ad to alternate beasts of all species.

The following question was raised: If the animal [successively] gored

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(1) Cf. supra p. 48, n. 4 and Glos.

(2) V. p. 204, n. 16.

(3) Lit., 'father'.

(4) As stated by the anonymous view.

(5) The disciples.

(6) Apparently we are to supply the words, 'what is the rule regarding it' the remark being intended as a question. But v. infra p. 208.

(7) As indeed rendered in the Mishnaic text.

(8) The Mishnah should accordingly open thus: 'If an ox is Mu'ad to do damage to its own species, it is not (therefore) Mu'ad to any other species (of animals)' etc., etc.

(9) E.g., by letting other animals pass in front of it and seeing that it does not gore them.

(10) Since it is much less likely to attack big animals than small ones. Why then, on R. Papa's reading, have this clause at all in the Mishnah?

(11) Which it would be more ready to attack than human beings.

(12) Cf. supra p. 119.

(13) In contradiction to the view of R. Zebid.

(14) I.e., we have to read their remark as a statement and not as a question.

(15) After they had already decided the question in the wording of the problem.

(16) V. p. 205, n. 6.

(17) V. p. 206, n. 1

(18) Cf. supra p. 73.

(19) That in absence of knowledge to the contrary it is not Mu ‘ad.

(20) And we should not require three gorings for each.

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one ox, a [second] ox, and a [third] ox, an ass, and a camel, what is the legal position? Shall the last ox be counted together with the [first two] oxen, in which case the animal that gored will still be Mu'ad only to oxen whereas to any other species it will not be considered Mu'ad, or shall perhaps the last ox be counted together with the ass and camel, so that the animal that gored will become Mu'ad to all species [of beasts]? [Again,[1] where an animal has successively gored] an ass, a camel, an ox, another ox, and a [third] ox, what is the legal position? Shall the first ox be counted together with the ass and camel, so that the animal that gored will become Mu'ad to all species [of beasts], or shall it perhaps [rather] be counted together with the [other] oxen, in which case it will still be Mu'ad only to oxen, but not Mu'ad to any other species [of beasts]? [Again, where the consecutive gorings took place on] one Sabbath, [the next] Sabbath and [the third] Sabbath, and then on the [subsequent] Sunday and Monday, what is the legal position? Shall the last Sabbath be counted together with the [first two] Sabbaths, in which case the ox that gored would still be Mu'ad only for Sabbaths, whereas in respect of damage done on week days it would not yet be considered Mu ‘ad, or shall it perhaps be counted together with Sunday and Monday and thus become Mu'ad in respect of all the days [of the week]? [Again, where the consecutive gorings took place on] a Thursday, the eve of Sabbath and the Sabbath, then on [the next] Sabbath and [the third] Sabbath, what is the legal position? Shall the first Sabbath be counted together with Thursday and the eve of Sabbath and the goring ox thus become Mu ‘ad for all days, or shall perhaps the first Sabbath be counted together with the subsequent Sabbaths, in which case the goring ox would become Mu ‘ad only for Sabbaths? — These questions must stand over.

If [an ox has] gored an ox on the fifteenth day of a particular month, and [another ox] on the sixteenth day of the next month, and [a third ox] on the seventeenth day of the third month, there would he a difference of opinion between Rab and Samuel.[2] For it was stated:[3] If the symptom of menstruation has once been noticed on the fifteenth day of a particular month, [then] on the sixteenth day of the next month, and [then] on the seventeenth day of the third month, Rab maintained that a periodical recurrence[4] has thereby been established,[5] whereas Samuel said [that this periodicity is not established] until the skipping is repeated [yet] a third time.[6]

Raba said: Where an ox upon hearing the sound of a trumpet gores and upon hearing [again] the sound of a trumpet gores [a second time], and upon hearing [again] the sound of a trumpet gores [a third time], the ox will become Mu'ad with reference to the hearing of the sound of trumpets. Is not this self-evident? — You might have supposed that [the goring at] the first [hearing of the sound of the] trumpet [should not be taken into account as it] might have been due merely to the sudden fright that came over the ox.[7] We are therefore told [that it would be taken into account].[8]

MISHNAH. IN THE CASE OF PRIVATE OWNER'S[9] CATTLE[10] GORING AN OX CONSECRATED TO THE TEMPLE, OR CONSECRATED CATTLE GORING A PRIVATE OX, THERE IS NO LIABILITY, FOR IT IS STATED: THE OX OF HIS NEIGHBOUR,[11] NOT [THAT IS TO SAY] AN OX CONSECRATED TO THE TEMPLE. WHERE AN OX BELONGING TO AN ISRAELITE HAS GORED AN OX BELONGING TO A CANAANITE, THERE IS NO LIABILITY,[12] WHEREAS WHERE AN OX BELONGING TO A CANAANITE GORES AN OX BELONGING TO AN ISRAELITE, WHETHER WHILE TAM OR MU ‘AD,[13] THE COMPENSATION IS TO BE MADE IN FULL.[14]

GEMARA. The [ruling in the] Mishnah is not in accordance with [the view of] R. Simeon b. Menasya; for it was taught: Where a private ox has gored consecrated cattle or where consecrated cattle has gored a private ox, there is not liability, as it is stated: The ox of his neighbour,[15] not [that is to say] an ox consecrated to the Temple. R. Simeon b. Menasya, however, says: Where consecrated cattle has gored a private ox there is no liability, but if a private ox has gored consecrated cattle, whether while Tam or Mu ‘ad, payment is to be made for full damage.[16] I might ask, what was the principle adopted by R. Simeon? If the implication of ‘his neighbour’[15] has to be insisted upon,[17] why then even in the case of a private ox goring consecrated cattle should there not be exemption? If on the other hand the implication of ‘his neighbour’ has not to be insisted upon, why then in the case of consecrated cattle goring a private ox should there also not be liability? If, however, you argue that he[18] does in fact maintain that the implication of ‘his neighbour’ has to be insisted upon, yet where a private ox has gored consecrated cattle there is a special reason for liability inferred by means of an a fortiori argument from the case of private cattle [as follows]: If where a private ox has gored private cattle there is liability, should not there be all the more liability where it has gored consecrated cattle? Why then [did he] not employ the principle of Dayyo[19] [i.e. that it was sufficient] that the object[20] to which the inference is made should be on the same footing as the object from which it was made?[21] And since Tam involves there the payment of half damages, [why then should it not] here also involve the payment of half damages [only]? — Resh Lakish therefore said: Originally all cases came under the law of full compensation;[22] when Scripture therefore particularised ‘his neighbour’ in the case of Tam, it meant that it was only where damage had been done to a neighbour that Tam would involve half damages [only], thus implying that where the damage had been done to consecrated property, whether by Tam or Mu'ad. the compensation must be in full;

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(1) Assuming that in the previous case we decide that the last ox will be counted with the first two oxen.

(2) According to Rab it would become Mu'ad to gore every month by missing a day, so that if in the fourth month it gores on the eighteenth day, the compensation would have to be in full, whereas according to Samuel the compensation would still be a half, as the animal could not become Mu'ad until the act of missing a day is repeated three times, so that full compensation would begin with the goring on the nineteenth day of the fifth month.

(3) Nid. 67a.

(4) [MS.M. adds ‘in skipping’, cf. Rashi.]

(5) And the menstruation could accordingly be expected on the eighteenth day of the fourth month.

(6) I.e., until in the fourth month the menstruation recurs on the eighteenth day, in which case it would be expected on the nineteenth day of the fifth month,

(7) So that full compensation should begin with the fifth occasion.

(8) And full liability will commence with the fourth goring at the sound of a trumpet.

(9) [Mishnah text: ‘of an Israelite’.]

(10) Lit., ‘ox’.

(11) Ex. XXI, 35.

(12) As Canaanites did not recognise the laws of social justice, they did not impose any liability for damage done by cattle. They could consequently not claim to be protected by a law they neither recognised nor respected, cf. J. T. a.l. and Maim. Yad, Niz. Mam. VIII, 5. [In ancient Israel as in the modern state the legislation regulating the protection of life and property of the stranger was, as Guttmann. M. (HUCA. III 1 ff.) has shown, on the basis of reciprocity. Where such reciprocity was not recognised, the stranger could not claim to enjoy the same protection of the law as the citizen.]

(13) I.e., the ox that did the damage.

(14) So that they should guard their cattle from doing damage. (Maim. loc. cit.)

(15) V. p. 211, n. 5.

(16) Cf. supra p. 23.

(17) To mean the ox of his peer, of his equal. [This would not exclude Gentiles in general as the term רעֵהו, his neighbour applies also to them (cf. Ex. XI, 2); cf. next page.]

(18) R. Simeon

(19) V. supra p. 126.

(20) Viz. consecrated cattle.

(21) Viz. private cattle.

(22) As in the case of Mu ‘ad where in contradistinction to Tam no mention was made of ‘his neighbour’: cf. Ex. XXI, 36.

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for if this was not its intention, Scripture should have inserted [the expression] ‘his neighbour’ in the text dealing with Mu'ad.[1]

WHERE AN OX BELONGING TO AN ISRAELITE HAS GORED AN OX BELONGING TO A CANAANITE THERE IS NO LIABILITY etc. But I might here assert that you are on the horns of a dilemma. If the implication of ‘his neighbour’ has to be insisted upon, then in the case of an ox of a Canaanite goring an ox of an Israelite, should there also not be exemption? If [on the other hand] the implication of ‘his neighbour’ has not to be insisted upon, why then even in the case of an ox of an Israelite goring an ox of a Canaanite, should there not be liability? — R Abbahu thereupon said: The Writ says, He stood and measured the earth; he beheld and drove asunder the nations,[2] [which may be taken to imply that] God beheld the seven commandments[3] which were accepted by all the descendants of Noah, but since they did not observe them, He rose up and declared them to be outside the protection of the civil law of Israel [with reference to damage done to cattle by cattle].[4] R. Johanan even said that the same could be inferred from this [verse], He shined forth from Mount Paran,[5] [implying that] from Paran[6] He exposed their money to Israel. The same has been taught as follows: If the ox of an Israelite gores an ox of a Canaanite there is no liability,[7] but if an ox of a Canaanite gores an ox of an Israelite whether the ox [that did the damage] was Tam or whether it had already been Mu ‘ad, the payment is to be in full, as it is said: He stood and measured the earth, he beheld and drove asunder the nations,[2] and again, He shined forth from Mount Paran.[5] Why this further citation? — [Otherwise] you might perhaps think that the verse ‘He stood and measured the earth’ refers exclusively to statements [on other subjects] made by R. Mattena and by R. Joseph; come therefore and hear: ‘He shined forth from Mount Paran,’ implying that from Paran[8] he exposed their money to Israel.

What was the statement made by R. Mattena [referred to above]? — It was this. R. Mattena said: He stood and measured the earth; He beheld etc.[9] What did He behold? He beheld the seven commandments[10] which were accepted by all the descendants of Noah, and since [there were some clans that] rejected them, He rose up and exiled them from their lands.[11] But how can the word in the text[12] be [etymologically] explained to mean ‘exile’? — Here it is written ‘"wa-yatter" the nations’ and in another place it is [similarly] written, ‘"le-natter" withal upon the earth,’[13] which is rendered in the Targum[14] ‘to leap withal upon the earth’.

What was the statement made by R. Joseph [referred to above]? — It was this. R. Joseph said: ‘He stood and measured the earth; he beheld’ etc. What did He behold? He beheld the seven commandments which had been accepted by all the descendants of Noah, and since [there were clans that] rejected them He rose up and granted them exemption. Does this mean that they benefited [by breaking the law]? And if so, will it not be a case of a sinner profiting [by the transgression he committed]? — Mar the son of Rabana[15] thereupon said: ‘It only means that even were they to keep the seven commandments [which had first been accepted but subsequently rejected by them] they would receive no reward.’ Would they not? But it has been taught:[16] ‘R. Meir used to say, Whence can we learn that even where a gentile occupies himself with the study of the Torah he equals [in status] the High Priest? We find it stated: . . . which if a man do he shall live in them;[17] it does not say "priests, Levites and Israelites", but "a man", which shows that even if a gentile occupies himself with the study of the Torah he equals [in status] the High Priest.’ — I mean [in saying that they would receive no reward] that they will receive reward not like those who having been enjoined perform commandments, but like those who not having been enjoined perform good deeds: for R. Hanina has stated:[18] Greater is the reward of those who having been enjoined do good deeds than of those who not having been enjoined [but merely out of free will] do good deeds.[19]

Our Rabbis taught: The Government of Rome had long ago sent two commissioners to the Sages of Israel with a request to teach them the Torah. It was accordingly read to them once, twice and thrice. Before taking leave they made the following remark: We have gone carefully through your Torah, and found it correct with the exception of this point, viz. your saying that if an ox of an Israelite gores an ox of a Canaanite there is no liability,[20] whereas if the ox of a Canaanite gores the ox of an Israelite, whether Tam or Mu ‘ad, compensation has to be paid in full. In no case can this he right. For if the implication of ‘his neighbour’ has to be insisted upon, why then in the case of an ox of a Canaanite goring an ox of an Israelite should there also not be exemption? If [on the other hand] the implication of ‘his neighbour’ has not to be insisted upon, why then even in the case of an ox of an Israelite goring an ox of a Canaanite, should there not be liability? We will, however, not report this matter to our Government.[21]

When R. Samuel b. Judah lost a dauther the Rabbis[22] said to ‘Ulla: ‘Let us go in and console him.’ But he answered them: ‘What have I to do with the consolation of the Babylonians,[22] which is [almost tantamount to] blasphemy? For they say "What could have been done," which implies that were it possible to do anything they would have done it.’ He therefore went alone to the mourner and said to him: [Scripture says,] And the Lord spake unto me, Distress not the Moabites, neither contend with them in battle.[23] Now [we may well ask], could it have entered the mind of Moses to wage war without [divine] sanction? [We must suppose] therefore that Moses of himself reasoned a fortiori as follows: If in the case of the Midianites who came only to assist the Moabites[24] the Torah commanded ‘Vex the Midianites and smite them,’[25]

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(1) V. p. 212, n. 8.

(2) Hab. III, 6.

(3) V. A.Z. (Sonc. ed.) p. 5, n. 7.

(4) The exemption from the protection of the civil law of Israel thus referred only to the Canaanites and their like who had wilfully rejected the elementary and basic principles of civilised humanity

(5) Deut. XXXIII, 2. [The Mount at which God appeared to offer the Law to the nations, who, however, refused to accept it. V. A.Z. 2b.]

(6) On account of what occurred thereat.

(7) V. p. 211, n. 6.

(8) Cf. A. Z. 2a.

(9) Hab. III, 2.

(10) V. p. 213, n. 3.

(11) As described in Deut. II, 10-23.

(12) I.e., wa-yatter.

(13) Lev. XI, 21.

(14) Targum Onkelos, the Aramaic version of the Hebrew Bible; cf. J.E. s.v.

(15) [Ms.M.: Rabina.]

(16) Sanh. 59a; A. Z. 3a.

(17) Lev. XVIII, 5.

(18) Infra p. 501. and Kid. 31a.

(19) [For the idea underlying this dictum v. A.Z. (Sonc. ed.) p. 6, n. 1.]

(20) V. p. 211, n. 6.

(21) [The same incident is related with some variations in J.B.K. IV, 4, and Sifre on Deut. XXXIII, 3, where R. Gamaliel (II) is mentioned as the Sage before whom the Commissioners appeared, Graetz, Geschichte, IV, 108, places this in the days of Domitian (81-96) whose distrust of the Jews led him to institute an inquisition into their beliefs and teachings; Halevy, Doroth I.e. 350, in the days of Nerva who wished to find out whether there was any truth in the slander against the Jews encouraged by Domitian.]

(22) I.e., Babylonian Rabbis.

(23) Deut. II, 9.
(24) Cf. Num. XXII, 4.
(25) Ibid XXV, 17.

Talmud - Mas. Baba Kama 38b

in the case of the Moabites [themselves] should not the same injunction apply even more strongly? But the Holy One, blessed be He, said to him: The idea you have in your mind is not the idea I have in My mind. Two doves have I to bring forth from them;[1] Ruth the Moabitess and Naamah the Ammonitess. Now cannot we base on this an a fortiori argument as follows: If for the sake of two virtuous descendants the Holy One, blessed be He, showed pity to two great nations so that they were not destroyed, may we not be assured that if your honour's daughter had indeed been righteous and worthy to have goodly issue, she would have continued to live?

R. Hiyya B. Abba said that R. Johanan had stated:[2] The Holy One, blessed be He, does not deprive any creature of any reward due to it, even if only for a becoming expression: for in the case of the [descendants of the] elder [daughter][3] who named her son ‘Moab’,[4] the Holy One, Blessed be He, said to Moses, Distress not the Moabites, neither contend with them in battle, [implying that] while actual hostilities against them were forbidden, requisitioning from them was allowed, whereas in the case of the younger [daughter][3] who called her son ‘Ben Ammi’,[5] the Holy One, Blessed be He, said to Moses: And when thou comest nigh over against the children of Ammon, distress them not, nor meddle with them at all,[6] thus implying that they were not to be subjected even to requisitioning.

R. Hiyya B. Abba further said that R. Joshua b. Korha had stated:[7] At all times should a man try to be first in the performance of a good deed, as on account of the one night by which the elder [daughter][8] preceded the younger she preceded her by four generations [in having a descendant] in Israel: Obed, Jesse, David and Solomon.[9] For the younger [had no descendant in Israel] until [the advent of] Rehoboam, as it is written: And the name of his mother was Naamah the Ammonitess.[10]

Our Rabbis taught: If cattle of an Israelite has gored cattle belonging to a Cuthean[11] there is no liability. But where cattle belonging to a Cuthean gored cattle belonging to an Israelite, in the case of Tam the payment will be for half the damage, whereas in the case of Mu'ad the payment will be in full. R. Meir, however, says: Where cattle belonging to an Israelite gored cattle belonging to a Cuthean there is no liability, whereas in the case of cattle belonging to an Israelite, whether in the case of Tam or in that of Mu'ad, the compensation is to be in full. Does this mean to say that R. Meir maintains that the Cutheans were lion-proselytes?[12] But if [so], an objection would be raised [from the following]:[13] All kinds of stains [found on women's underwear] brought from Rekem[14] are [levitically] clean.[15] But R. Judah considers them unclean, as the inhabitants [of that place] are mainly proselytes[16] who are in error;[17] from among Gentiles[18] they are considered clean. But [where they were brought] from among Israelites[19] or from Cutheans [after having been obtained from private places all agree in declaring them unclean.[20] But where they were brought from Cutheans who had already abandoned them to the public at large][21] R. Meir considers them unclean,[22] whereas the Sages consider them clean, for [even] they[23] were not suspected of being lax in [the exposing of women's stained underwear]. Now does this not prove that R. Meir was of the opinion that Cutheans were true proselytes? — R. Abbahu thereupon said: This was only a pecuniary disability that R. Meir[24] imposed upon them, so that [Israelites] should not intermingle with them.

R. Zera raised an objection [from the following]: These are the damsels through whom the fine[25] is imposed: If a man has connexion with a girl that is a bastard,[26] a Nethinah[27] or a Cuthean.[28] Now if you maintain that R. Meir imposed a pecuniary disability on them, why then not impose it in this case too,[29] so that [Israelites] should not mix with them? Abaye thereupon said:

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(1) The Moabites and the Ammonites, who must therefore be saved.
(2) Naz. 23b and Hor. 10b.
(3) Of Lot; cf. Gen. XIX, 30-38.
(4) Lit., ‘From father’.
(5) Lit., ‘The son of my people’
(6) Deut. II, 19.
(7) Naz. ibid; and Hor. 11a.
(8) V. p. 216, n. 6.
(9) Cf. Ruth IV, 13-22.
(10) I Kings XIV, 31.
(11) I.e., members of the mixed tribes who had been settled on the territory of the former Kingdom of Israel by the Assyrian king and who were subsequently a great hindrance to the Jews who returned from the Babylonian captivity to revive their country and their culture; cf. II Kings, XVII. 24-41; Ezra IV, 1-24 and Neh. III, 33; IV, V, VI, 13.
(12) I.e., they accepted some of the Jewish practices not out of appreciation or with sincerity but simply out of the fear of the lions, which as stated in Scripture had been slaying them; cf. II Kings, XVII, 25.
(13) Nid. VII. 3.
(14) A place mainly inhabited by heathens who are not subject to the laws of purity and menstruation. [Rekem is identified by Targum Onkelos Gen. XVI, 14, with Kadesh; by Josephus (Ant. IV, 7, 1), with Petra.]
(15) As the underwear might naturally be supposed to have been worn by a heathen woman.
(16) Who are subject to all the laws of Scripture and whose menstrual discharge defiles any garment which comes in contact with it.
(17) And have lapsed from the observance of the Law.
(18) Those who have never embraced the religion of Israel and have thus never been subject to the laws of purity and menstruation.
(19) Who as a rule do not expose to the public garments stained with menstrual discharge.
(20) For both Israelites and Cutheans are subject to the laws of purity and menstruation.
(21) The bracketed passage follows the interpretation of this Mishnah given in Nid. 56b.
(22) For Cutheans in contradistinction to Israelites were, according to R. Meir, suspected of being lax in the matter of exposing to the public garments stained with menstrual discharge.
(23) I.e. Cutheans.
(24) Who in other respects considered them true proselytes.
(25) For seduction in accordance with Ex. XXII, 15-16, or for rape in accordance with Deut. XXII, 28-29.
(26) Cf. Deut. XXII, 29 and ibid. XXIII, 3.
(27) A Gibeonite, v. Glos.
(28) Keth. III, 1.
(29) By not allowing them to recover compensation for seduction.

Talmud - Mas. Baba Kama 39a

[No exception was made in this case] so that the sinner[1] should not profit thereby. But let him pay the amount of the fine to the poor?[2] — R. Mari said: It would [in that case have remained] a pecuniary obligation without definite claimants[3] [and would thus never have been discharged].[4] MISHNAH. IF AN OX OF AN OWNER WITH UNIMPAIRED FACULTIES GORES AN OX OF A DEAF-MUTE, AN IDIOT OR A MINOR,[5] THE OWNER IS LIABLE. WHERE, HOWEVER, AN OX OF A DEAF-MUTE, AN IDIOT OR A MINOR HAS GORED AN OX OF AN OWNER WHOSE FACULTIES ARE UNIMPAIRED, THERE IS NO LIABILITY.[6] IF AN OX OF A DEAF-MUTE AN IDIOT OR A MINOR[7] HAS GORED, THE COURT OF LAW APPOINT A GUARDIAN, IN WHOSE PRESENCE WITNESSES WILL BE ABLE TO TESTIFY [THAT THE OX HAS GORED SO THAT IT WILL EVENTUALLY BE DECLARED MU'AD]. IF THE DEAF-MUTE RECOVERS HIS HEARING [OR SPEECH], OR IF THE IDIOT BECOMES SANE, OR IF THE MINOR COMES OF AGE, THE OX PREVIOUSLY DECLARED MU'AD WILL

RETURN TO THE STATE OF TAM: THESE ARE THE WORDS OF R. MEIR. R. JOSE, HOWEVER, SAYS THAT THE OX WILL REMAIN IN STATUS QUO. IN THE CASE OF A STADIUM OX[8] [KILLING A PERSON], THE DEATH PENALTY IS NOT IMPOSED [UPON THE OX], AS IT IS WRITTEN: IF AN OX GORE,[9] EXCLUDING CASES WHERE IT IS GOADED TO GORE.

GEMARA. Is not the text in contradiction with itself? [In the first clause] you state, IF AN OX OF A DEAF-MUTE, AN IDIOT OR A MINOR GORES AN OX BELONGING TO ONE WHOSE FACULTIES ARE UNIMPAIRED THERE IS NO LIABILITY, implying that a guardian is not appointed in the case of Tam to collect [the payment of half-damages] out of its body.[10] But read the following clause: IF AN OX OF A DEAF-MUTE, AN IDIOT OR A MINOR HAS GORED, THE COURT OF LAW APPOINT A GUARDIAN IN WHOSE PRESENCE WITNESSES WILL BE ABLE TO TESTIFY [SO THAT IT WILL EVENTUALLY BE DECLARED MU'AD]. Now, does this not prove that a guardian is appointed in the case of Tam to collect [the payment of half-damages] out of its body? — Raba replied [that the text of the concluding clause] should be understood thus: If the oxen are presumed to be gorers, then a guardian is appointed and witnesses will give evidence for the purpose of having the cattle declared Mu'ad, so that should another goring take place,[11] the payment would have to come from the best [of the general estate].[12]

From the best of whose estate [would the payment have to come]? — R. Johanan said: From the best [of the estate] of the orphans;[13] R. Jose b. Hanina said: From the best [of the estate] of the guardian. But did R. Johanan really say so? [Has it not been stated that] R. Judah said in the name of R. Assi:[14] The estate of the orphans[13] must not be distrained upon unless where usury is consuming it, and R.. Johanan said: [Unless there is a liability] either for a bond bearing interest or to a woman for her kethubah,[15] [so as to save from further payment] on account of [her] maintenance?[16] — You must therefore reverse names [to read as follows]: R. Johanan said: From the best [of the estate] of the guardian, whereas R. Jose b. Hanina said: From the best [of the estate] of the orphans. Raba, however, objected, saying: Because there is a contradiction between R. Johanan in one place and R. Johanan in another place, are you to ascribe to R. Jose b. Hanina an erroneous view?[17] Was not R. Jose b. Hanina a judge, able to penetrate to the innermost intention of the Law? — We must therefore not reverse the names, [and the contradiction between the two views of R. Johanan[18] can be reconciled by the consideration that] a case of damage is altogether different.[19] R. Johanan stated that the payment must be made out of the best [of the estate] of the orphans, because if you were to say that it is to be out of the best [of the estate] of the guardians

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(1) The seducer.

(2) So that the sinner should not benefit, but why pay the money to the Cuthean if R. Meir was inclined to impose a disability upon Cutheans?

(3) Any poor man claiming the money could be put off by the plea that he (the seducer) wished to give it to another poor man.

(4) If the Cuthean would not have been entitled to claim it.

(5) Usually up to the age of thirteen. These three form a category for themselves as they are not subject to the obligations of either civil or criminal law.

(6) In the case of Tam: v. the discussion in Gemara.

(7) By evidence having been delivered in the presence of the appointed guardian.

(8) [**, the arena used for wild beast hunts and gladiatorial contests, v. Krauss, op. cit. III, 119.]

(9) Ex. XXI, 28.

(10) Cf.supra p. 73.

(11) But no payment will be made for damage done while the ox was Tam.

(12) V. p. 219, n. 6.

(13) Who were minors.

(14) ‘Ar. 22a.

(15) I.e., marriage settlement; v. Glos.

(16) For as long as the widow does not collect her kethubah, she receives her maintenance from the property of the orphans, v. Keth. XI, 1.

(17) [Raba regarded it as an adopted ruling not to distrain upon the estate of orphans. V. Asheri, a.l.]

(18) I.e., here and in ‘Ar. 22a.

(19) Presumably on account of public safety and public interest it is more expedient not to postpone payment until the orphans come of age.

Talmud - Mas. Baba Kama 39b

people would certainly refrain from accepting this office and would do nothing at all [in the matter]. R. Jose b. Hanina, however, said that the payment should be made out of the best [of the estate] of the guardians. and that these should be reimbursed out of the estate of the orphans when the latter will have come of age.

Whether [or not] guardians could be appointed in the case of Tam to collect payment out of its body, is a point at issue between the following Tannaim: In the case of an ox whose owner has become a deaf-mute, or whose owner became insane or whose owner has gone abroad,[1] Judah b. Nakosa said on behalf of Symmachus that it would have to remain Tam[2] until witnesses could give evidence in the presence of the owner. The Sages, however, say that a guardian should be appointed in whose presence the evidence may be given. Should the deaf-mute recover his faculty [of hearing or speech], or the idiot become sane, or the minor come of age, or the owner return from abroad, Judah b. Nakosa said on behalf of Symmachus that the ox would revert to the state of Tam[3] until evidence is given in the presence of the owner, whereas R. Jose said that it would retain its status quo. Now, we have here to ask, what is the meaning of ‘it would have to remain Tam’[4] in the dictum of Symmachus? It could hardly mean that the ox cannot become Mu'ad at all, for since it is stated in the concluding clause, ‘The ox would revert to the state of Tam’, it is implied that it had formerly been Mu'ad. What then is the meaning of, ‘it would have to remain Tam’?[4] We must say, ‘It would remain Tam [complete],’[5] that is, we do nothing to diminish its value, which would, of course, show that [Symmachus holds] no guardian is appointed in the case of Tam to collect payment out of its body. ‘The Sages, however, say that a guardian should be appointed in whose presence evidence may be given’, from which it follows that [they hold] a guardian may be appointed in the case of Tam to collect payment out of its body.

And what is the point at issue in the concluding clause? The point at issue there is [whether or not a change of] control[6] should cause a change [in the state of the ox].[7] Symmachus maintains that [a change in] control causes a change [in the state of the ox],[7] whereas R. Jose holds that [a change of] control causes no change [in the state of the ox].

Our Rabbis taught: Where an ox of a deaf-mute, an idiot or a minor has gored, R. Jacob pays half-damages. What has R. Jacob to do with it?[8] — But read, ‘R. Jacob orders the payment of half-damages.’ With what case are we here dealing? If with a Tam, is this not obvious?[9] For does not any other owner similarly pay half-damages? If [on the other] hand we are dealing with a Mu'ad, then where proper precautions were taken to control it, why should any payment be made at all?[10] And if no precautions were taken to control it, why should not damages be paid in full? — Raba thereupon said: We are in fact dealing with a Mu'ad, and with a case where precautions of some inferior sort[11] were taken to control the ox, but not really adequate precautions. R. Jacob concurred with R. Judah who said[12] that [even in the case of Mu'ad, half of the payment, i.e.] the part due from Tam remains unaffected [being still subject to the law of Tam]; he also concurred with R. Judah in holding[13] that to procure exemption from the law of Mu'ad even inadequate precautions are sufficient;[14] and he furthermore followed the view of the Rabbis[15] who said that a guardian could be appointed in the case of Tam to collect payment out of its body.[16] Said Abaye to him:[17] Do they[18] really not differ? Has it not been taught: ‘Where the ox of a deaf-mute, an idiot or a minor has gored, R. Judah maintains that there is liability to pay and R. Jacob says that the payment will be only for half the damage’? — Rabbah b. ‘Ulla thereupon said: The ‘liability to pay’ mentioned by R. Judah is here defined [as to its amount] by R. Jacob.[19] But according to Abaye who maintained that they did differ, what was the point at issue between them? — He may tell you that they were dealing with a case of Mu'ad that had not been guarded at all, in regard to which R. Jacob would concur with R. Judah on one point but differ from him on another point. He would concur with him on one point, in that R. Judah lays down that [even with Mu'ad half of the payment, i.e.] the part due from Tam remains unaffected; but he would differ from him on another point, in that R. Judah lays down that a guardian should be appointed in the case of Tam to collect payment out of its body, whereas R. Jacob is of the opinion that a guardian could not be appointed and there could therefore be no payment except the half [which should be subject to the law] of Mu'ad.[20] Said R. Aha b. Abaye to Rabina: All would be very well according to Abaye who maintained that they differ;[21] he is quite right [in explaining the earlier statement of R. Jacob[22] to apply only to Mu'ad].[23] But according to Raba who maintained that they do not differ, why should the former statement [of R. Jacob] be referred only to Mu'ad? Why not also to Tam,

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(1) Lit., ‘the Province of the Sea’.

(2) בתמותו

(3) V. the discussion which follows.

(4) In the commencing clause.

(5) Reading בתמימותו instead of בתמותו.

(6) Such as from guardian to owner.

(7) I.e., from the state of Mu'ad to that of Tam.

(8) That he personally should have to pay compensation.

(9) Why then state this at all?

(10) Since so far as the owner was concerned the damage occurred by accident.

(11) For the various degrees of precaution cf. infra 55b.

(12) Supra p. 84 and infra p. 260.

(13) Infra p. 259.

(14) But this would not be sufficient in the case of Tam. Where therefore such a precaution has been taken to control a Mu'ad, the half-damages for which the Tam is liable would be enforced, but not the additional damages for which the Mu'ad is liable.

(15) The Sages, whose view was explained supra.

(16) Hence R. Jacob's ruling for the payment of half-damages.

(17) I.e., to Raba.

(18) R. Jacob and R. Judah.

(19) Who thus makes precise what R. Judah left unspecified.

(20) Which is paid out of the general estate.

(21) I.e., that R. Jacob maintained that no guardian could be appointed in the case of Tam, and R. Judah that he could.

(22) Where the view of R. Judah was not mentioned at all.

(23) Where no precaution to control the ox has been taken.

Talmud - Mas. Baba Kama 40a

if he[1] follows the view of R. Judah,[2] in a case where the precautions taken to control the ox were of an inferior kind and not really adequate,[3] or if he[1] follows the view of R. Eliezer b. Jacob,[4] where no precautions to control the ox had been taken at all,[5] as it has been taught: R. Eliezer b. Jacob says: Whether in the case of Tam or in the case of Mu'ad, if precautions of [at least] some inferior sort have been taken to control the ox, there would be no liability. The new point made known to us by R. Jacob would thus have been that guardians should be appointed even in the case of Tam to collect payment out of its body. [Why then did Raba explain the former statement of R. Jacob to refer only to Mu'ad? Why did he not explain it to refer to Tam also?] — [In answer] he[6] said: Raba made[7] one statement express two principles [in which R. Jacob is in agreement with R. Judah].[8]

Rabina stated that [the question whether or not a change of] control should cause a change [in the state of the ox] might have been the point at issue between them,[9] e.g., where after the ox had been declared Mu'ad, the deaf-mute recovered his faculty, or the idiot became sane, or the minor came of age, [in which case] R. Judah would maintain that the ox should remain in its status quo whereas R. Jacob would hold that [a change of] control should cause a change [in the state of the ox].

Our Rabbis taught: In the case of guardians, the payment [for damages] will be out of the best of the general estate, though no kofer[10] will be paid by them. Who is the Tanna who holds that [the payment of] kofer is but an act of atonement[11] [which would justify the exemption in this case], as [minor] orphans are not subject to the law of atonement? — R. Hisda said: It is R. Ishmael the son of R. Johanan b. Beroka. For it was taught: [The words,] Then he shall give for the ransom of his life[12] [indicate] the value [of the life] of the person killed. But R. Ishmael the son of R. Johanan b. Beroka interprets it to refer to the value [of the life] of the defendant. Now, is this not the point at issue between them,[13] that the Rabbis consider kofer to constitute a civil liability[14] whereas R. Ishmael the son of R. Johanan b. Beroka holds kofer to be of the nature of propitiation?[15] — R. Papa said that this was not the case. For we may suppose all to agree that kofer is a kind of propitiation, and the point at issue between them here is merely that the Rabbis hold that this propitiatory payment should be fixed by estimating the value [of the life] of the person killed, whereas R. Ishmael the son of R. Johanan b. Beroka maintains that it should be fixed by estimating the value of [the life of] the defendant. What reason have the Rabbis for their view? — The expression ‘laying upon’ is used in the later context[16] and the same expression ‘laying upon’ is used in an earlier context;[17] just as there it refers to the plaintiff, so does it here also refer to the plaintiff. But R. Ishmael the son of R. Johanan b. Beroka argued that it is written, ‘Then he shall give for the ransom of his life’ [referring of course to the defendant]. And the Rabbis? — [They reply,] Yes, it does say ‘The ransom of his life’, but the amount must be fixed by valuing [the life of] the person killed.

Raba in his conversations with R. Nahman used to praise R. Aha b. Jacob as a great man. He[18] therefore said to him: ‘When you come across him, bring him to me.’ When he[19] later came to see him he[18] said to him: ‘You may put problems to me’, whereupon he[19] asked him: ‘If an ox of two partners [kill a person] how is the payment of kofer to be made? Shall this one pay kofer and the other one kofer? But one kofer is mentioned by Divine Law and not two kofers! Shall this one [pay] half of the kofer and the other one half of the kofer? A full kofer is commanded by Divine Law and not half of a kofer!’ While he[20] was still sitting and pondering over this, he[21] further asked him: We have learnt:[22] ‘In the case of debtors for valuations[23] the Sanctuary treasury may demand a pledge, whereas in the case of those who are liable to sin-offerings or for trespass-offerings[24] no pledge can be enforced.’ Now, what would be the law in the case of those liable to kofer? [Shall it be said that] since kofer is a kind of propitiation it should be subject to the same ruling as sin-offerings and trespass-offerings,[24] the matter being of serious moment to the defendant so that there is no necessity of enforcing a pledge from him; or [shall it] perhaps [be argued that] since it has to be given to a fellow man it is [considered] a civil liability, and as it does not go to the Temple treasury,[25] it is consequently not taken too seriously by the defendant, for which [reason there may appear to be some] necessity for requiring a pledge? Or, again, since the defendant did not [in this case] himself commit the wrong, for it was his chattel that did the wrong [and committed manslaughter], the whole matter might be considered by him as of no serious moment, and a pledge should therefore be enforced? — He[26] said to him: ‘Leave me alone; I am still held prisoner by your first problem [that has not yet been answered by me].’

Our Rabbis taught: If a man borrowed an ox on the assumption that it is in the state of Tam but is subsequently discovered to have already been declared Mu'ad, [if goring is repeated while still with the borrower] the owner will pay one half of the damages and the borrower will pay [the other] half of the damages. But if it was declared Mu'ad while in the possession of the borrower, and [after it] was returned to the owner [it gored again] , the owner will pay half the damages while the borrower is exempt from any liability whatsoever.

The Master stated: ‘If a man borrowed an ox on the assumption that it is in the state of Tam but was subsequently discovered to have already been declared Mu'ad, [if goring is repeated] the owner will pay one half of the damages and the borrower will pay [the other] half of the damages.’ But why should the borrower not plead against the owner, ‘I wanted to borrow an ox, I did not want to borrow a lion?’ — Rab said: we are dealing here with a case where the borrower knew the ox to be a gorer.[27] Still why can he not plead against him: ‘I wanted to borrow an ox in the state of Tam but I did not want to borrow an ox that had already been declared Mu'ad’? — [This could not be pleaded] because the owner might argue against him: ‘In any case, even had the ox been still Tam, would you not have to pay half-damages? Now, also, you have to pay one half of the damages.’ But still why can he not plead against him: ‘Had the ox been Tam, damages would have been paid out of its body’?[28] — [This could similarly not be pleaded] because the owner might contend: ‘In any case would you not have had to reimburse me [to the full extent of] the value of the ox?’[29] Why can he still not plead against him:

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(1) I.e., R. Jacob.

(2) That an inferior degree of precaution is not sufficient in the case of Tam; v. infra p.259.

(3) Hence the liability to pay half-damages, a guardian being appointed to collect payment out of the body of the Tam.

(4) That a precaution of even an inferior degree suffices with Tam as well as with Mu'ad.

(5) V. p. 223, n. 10.

(6) I.e., Rabina.

(7) [So MS.M. deleting ‘he means thus’ in cur. edd. of Rashi.]

(8) [By explaining R. Jacob's earlier statement as referring to Mu'ad, he informs us that he shares the views of R. Judah both in regard to the question of precaution and that of the part due from Tam in case of a Mu'ad ox, whilst incidentally we also learn that guardians are appointed in case of Tam etc.]

(9) Between R. Jacob and R. Judah in the second cited Baraitha.

(10) Lit., ‘atonement’, or ‘a sum of money’, i.e., compensation paid for manslaughter committed by a beast in lieu of the life of the owner of the beast, as appears from Ex. XXI, 29-30; v. Glos.

(11) And not an ordinary civil obligation like damages.

(12) Ex. XXI, 30

(13) I.e., between R. Ishmael and the other Rabbis his opponents.

(14) The payment must therefore correspond to the value of the loss sustained through the death of the person killed.

(15) For since it was the life of the owner of the beast that should be redeemed the payment must surely correspond to the value of his life.

(16) Ex. XXI, 30.

(17) Ibid. XXI, 22.

(18) R. Nahman.

(19) R. Aha b. Jacob.

(20) V. p. 225, n. 6.

(21) V. ibid., n. 7.

(22) ‘Ar. 21a.

(23) I.e. vows of value dealt with in Lev. XXVII, 2-8.

(24) Which are intended to procure atonement and which will consequently not be put off.

(25) [Lit., ‘To the (Most) High.’ Read with MS.M. ‘Since it has to be given to a fellow man and not to the Treasury, it is a civil liability.’]

(26) R. Nahman.

(27) Though he did not know that the ox had been declared Mu'ad.

(28) And not from my own estate.

(29) In payment of the ox you borrowed from me.

Talmud - Mas. Baba Kama 40b

‘Were the ox to have been Tam I would have admitted [the act of goring] and become exempt from having to pay’?[1] Moreover even according to the view[2] that the payment of half-damages [for goring in the case of Tam] is a civil liability,[3] why should the borrower still not argue: ‘Had the ox been Tam I would have caused it to escape to the pasture’?[4] — We must therefore suppose the case to have been one where the Court of law stepped in first and took possession of the ox. But if so why should the owner pay one half of the damages? Why not plead against the borrower: ‘You have allowed my ox to fall into the hands of a party against whom I am powerless to bring any legal action’? — [This could not be pleaded] because the borrower might retort to him: ‘Were I even to have returned the ox to you, would the Court of Law not have taken it from you?’ But why should the owner still not plead against the borrower: ‘Were you to have returned it to me, I would have caused it to escape to the pasture’?[5] — [This could not be pleaded] because the borrower might argue against him: ‘In any case would the damages not have been paid out of the best [of your general estate]?’[6] This indeed could be effectively argued [by the borrower] where the owner possessed property, but what could be argued in the case where the owner possessed no property? — What therefore the borrower could always argue against the owner is [as follows]: ‘Just as I am under a personal obligation to you,[7] so am I under a personal obligation[7] to that party [who is your creditor], in virtue of the rule of R. Nathan, as it was taught,[8] ‘R. Nathan says: Whence do we conclude that if A claims a maneh[9] from B, and B [claims a similar sum] from C, the money is collected from C and [directly] handed over to A? From the statement of Scripture:[10] And give it unto him against whom he hath trespassed.[11]

‘If it was declared Mu'ad while in the possession of the borrower, and [after it] was returned to the owner [it gored again], the owner will pay half damages while the borrower is exempt from any liability whatsoever.’ Does this concluding clause [not appear to prove that a change in the] control [of the ox][12] causes a change [in its status], while the preceding clause [tends to prove that a change in the] control [of the ox][13] causes no change [in its status]? — R. Johanan thereupon said: The contradiction [is obvious]; he who taught one clause certainly did not teach the other clause [in the text of the Baraitha]. Rabbah, however, said: Since the opening clause [tends to prove that a change in the] control[13] does not cause a change [in the status], the concluding clause [may also maintain that a change in the] control does not cause a change [in the status]. For the ruling in the concluding clause could be based on the fact that the owner may argue against the borrower, ‘You had no legal right to cause my ox to be declared Mu'ad.’[14] R. Papa, however, said: Since the concluding clause [proves that a change in the] control[15] [of the ox] causes a change [in its status], the opening clause [may also maintain that a change in the] control [of the ox] causes a change [in its status]. For the ruling in the opening clause could be based upon the reason that wherever the ox is put, it bears the name of its owner upon it.[16]

IN THE CASE OF A STADIUM OX [KILLING A PERSON], THE DEATH PENALTY IS NOT IMPOSED [UPON THE OX] etc. The question was raised: What [would have been the position of such an ox] with reference to [its being sacrificed upon] the altar? — Rab said that it would have been eligible, whereas Samuel maintained that it would have been ineligible. Rab considered it eligible since it committed manslaughter only by compulsion, whereas Samuel considered it ineligible since it had been used as an instrument for the commission of a crime.

An objection was raised:[17] [Ye shall bring your offering] of the cattle[18] excludes an animal that has copulated with a woman and an animal that has copulated with a man;[19] even of the herd[18] excludes an animal that has been used as an instrument of idolatry; of the flock[18] excludes an animal that has been set apart for idolatrous purposes; and of the flock excludes an animal that has gored [and committed manslaughter]. R. Simeon remarked upon this: If it is laid down that an animal that has copulated with a woman[19] [is to be excluded] why was it necessary to lay down that an animal goring [and committing manslaughter is also excluded]?[20] Again, if it is laid down that an animal that gored [and committed manslaughter is to be excluded], why was it necessary to lay down that an animal copulating with a woman [is also excluded]?[20] [The reason is] because there are features in an animal copulating with a woman which are not present in an animal goring [and committing manslaughter], and again there are features in an animal goring [and committing manslaughter] which are not present in the case of an animal copulating with a woman. In the case of an animal copulating with a human being the law makes no distinction between a compulsory[21] and a voluntary act [on the part of the animal],[22] whereas in the case of an animal goring [and committing manslaughter] the law does not place a compulsory act on the same footing as a voluntary one. Again, in the case of an animal goring [and committing manslaughter] there is liability to pay kofer,[23] whereas in the case of an animal copulating with a woman there is no liability to pay kofer.[24] It is on account of these differences that it was necessary to specify both an animal copulating with a woman and an animal goring [and committing manslaughter]. Now, it is here taught that in the case of an animal copulating with a human being the law makes no distinction between a compulsory and a voluntary act, whereas in the case of an animal goring [and committing manslaughter the law] does not place a compulsory act on the same footing as a voluntary one. What rule are we to derive from this? Is it not the rule in respect of eligibility for becoming a sacrifice [upon the altar]?[25] — No; the rule in respect of stoning.[26] This indeed stands also to reason, for if you maintain that it is with reference to the sacrifice that the law does not place a compulsory act on the same footing as a voluntary one in the case of an animal goring, [I would point out that with reference to its eligibility for the altar] the Scripture says nothing explicitly with regard either to a compulsory act or a voluntary act on its part. Does it therefore not [stand to reason that what we are to derive from this is] the rule in respect of stoning?

The Master stated: ‘In the case of an animal goring [and committing manslaughter] there is liability to pay kofer, whereas in the case of an animal copulating with a woman there is no liability to pay kofer.’ What are the circumstances? It could hardly be that while copulating with a woman it killed her, for what difference could be made between killing by means of a horn and killing by means of copulating? If on the other hand the act of copulating did not result in manslaughter, is the exemption from paying kofer not due to the fact that no killing took place? — Abaye said: We suppose, in fact, that it deals with a case where, by the act of copulating, the animal did not kill the woman, who, however, was brought to the Court of Law and by its orders executed. [In such a case] you might perhaps have thought

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(1) For since the liability of half-damages in the case of Tam is only of a penal nature, confession by the defendant would have annulled the obligation; cf. supra. p. 62.

(2) V. supra p. 64.

(3) And confession would bring no exemption.

(4) And since the payment in the case of Tam is only out of its body he would have evaded it.

(5) V. p.227, n. 7.

(6) For in fact the ox had already been declared Mu'ad in the hands of the owner.

(7) To return the ox.

(8) Pes. 31a; Git. 37a; Keth. 19a, 82a; Kid. 15a.

(9) 100 zuz; cf. Glos.

(10) Num. V,7.

(11) Pointing thus to the last creditor.

(12) I.e. from the hands of the borrower to those of the owner.

(13) I.e, from the hands of the owner to those of the borrower.

(14) And it is because of this fact but not because of the change in the control that the ox reverts to the state of Tam.

(15) V. p. 228, n. 8.

(16) The ox therefore did not, by leaving the owner and coming into the hands of a borrower, undergo any change at all.
(17) From Bek. 41a;Tem. 28a.
(18) Lev. I, 2.
(19) Cf. Lev., XVIII, 23 and ib. XX,15-16.
(20) Since in both cases the animal is to be killed where the crime has been testified to by witnesses.
(21) As in the case of animal copulating with man.
(22) V. p. 229, n. 7.
(23) V. p. 224. n. 6.
(24) See the discussion which follows.
(25) Since this was the point under consideration, which solves the question as to the eligibility of a stadium ox for the altar.
(26) [In respect of which the difference between compulsory goring and voluntary goring is admitted.]

Talmud - Mas. Baba Kama 41a

that the execution amounted to manslaughter on the part of the animal; we are therefore told [that this is not the case]. Raba on the other hand held that [we deal here with a case where] while copulating with a woman the animal did kill her, and as for the objection what difference could be made between killing committed by means of horns and killing committed by means of copulating, [the answer would be that] in the case of Horn the animal purposes to do damage, whereas in this case [of copulating] the intention of the animal is merely for self-gratification. What is the point at issue [between these two explanations]?[1] — [Whether kofer should be paid] in the case of Foot treading upon a child in the premises of the plaintiff [and killing it].[2] According to Abaye there would be liability to pay kofer, whereas according to Raba no payment of kofer would have to be made.[3]

It was taught in accordance with the view of Rab: An ox trained for the arena [that killed a person] is not liable [to be stoned] to death , and is eligible for the altar, for it had been compelled [to commit the manslaughter].

MISHNAH. IF AN OX GORES A MAN AND DEATH RESULTS, IN THE CASE OF MU'AD THERE IS LIABILITY TO PAY KOFER,[4] BUT IN THE CASE OF TAM, THERE IS NO LIABILITY TO PAY KOFER. IN BOTH CASES, HOWEVER, THE OXEN ARE LIABLE [TO BE STONED] TO DEATH.[5] THE SAME [JUDGMENT APPLIES] IN THE CASE OF A [MINOR] SON AND THE SAME [JUDGMENT APPLIES] IN THE CASE OF A [MINOR] DAUGHTER.[6] BUT WHERE THE OX HAS GORED A MANSERVANT OR A MAIDSERVANT [AND DEATH HAS RESULTED], COMPENSATION HAS TO BE GIVEN TO THE AMOUNT OF THIRTY SELA',[7] WHETHER THE KILLED SERVANT WAS WORTH A HUNDRED MANEH[8] OR NOT WORTH ANY MORE THAN ONE DENAR.[9]

GEMARA. But since when it was still the state of Tam it had to be killed [for manslaughter], how could it ever have been possible to declare it Mu'ad? — Rabbah said: We are dealing here with a case where, e.g. it had been estimated that it[10] might have killed three[11] human beings.[12] R. Ashi, however, said that such estimation amount to nothing,[13] and that we are therefore dealing here with a case where the ox gored and endangered the lives of three human beings.[14] R. Zebid [on the other hand] said: [The case is one] where, for instance, it killed three animals.[15] But is an ox [which has been declared] Mu'ad to kill animals also Mu'ad to kill men?[16] — R. Shimi therefore said: [The case is one] where for instance it killed three heathens.[15] But is an ox [which has been declared] Mu'ad to gore persons who are heathens also Mu'ad with reference to those who are Israelites? — R. Simeon b. Lakish therefore said: [The case is one] where, for instance, it killed three persons who had already been afflicted with fatal organic diseases.[15] But is an ox [which has been declared] Mu'ad with reference to persons afflicted with fatal organic diseases also Mu'ad regarding persons in sound condition? — R. Papa therefore said: [The case is one where] the ox [on the first occasion] killed [a sound person] but escaped to the pasture,[17] killed again [a sound person] but similarly escaped to the pasture. R. Aha the son of R. Ika said: [The case is one] where, for instance, [two witnesses alleged in every case an alibi against the three pairs of witnesses who had testified to the first three occasions of goring,[17] and] it so happened that [after evidence had been given regarding the fourth time of goring the accusation of the alibi with reference to the first three times of goring fell to the ground as] a new pair of witnesses gave evidence of an alibi against the same two witnesses who alleged the alibi [against the three sets of witnesses who had testified to the first three occasions of goring]. Now this explanation would be satisfactory [if the three days required for] the declaration of Mu'ad refer to [the goring of] the ox[18] [so as to make sure that it has an ingrained tendency].[19] But if the three days are needed to warn the owner,[18] why should he not plead [against the plaintiff], ‘I was not aware [that the evidence as to the first three gorings was genuine]’? — [This could not be pleaded where] e.g., it was stated [by the very last pair of witnesses] that whenever the ox had [gored and] killed he[20] had been present [and witnessed every occasion]. — Rabina said: [The case of an ox not being stoned after any of the first three fatal gorings might be] where, though recognising the owner of the ox[20] [the witnesses who testified to the first three time of goring] did not at that time recognise the identity of the ox [also].[17] But what could the owner[20] have done [where the ox that gored and killed had not been identified]?[21] — [He is culpable because] they could say to him: ‘Knowing that an ox inclined to gore has been among your herd, you ought to have guarded the whole of your herd.’

IN BOTH CASES, HOWEVER, THE OXEN ARE LIABLE [TO BE STONED] TO DEATH. Our Rabbis taught: From the implication of the statement The ox shall be surely stoned[22] would I not have known that it becomes nebelah[23] and that by becoming nebelah it should be forbidden to be consumed for food?[24] Why then was it necessary to state further And his flesh shall not be eaten?[25] Scripture must therefore have intended to tell us that were the ox to be slaughtered after the sentence has been passed upon it, it would be forbidden to be consumed as food. This rule is thus established as regards food; whence could it be derived that it would also be forbidden for any [other] use whatsoever? The text therefore says, But the owner of the ox shall be quit.[25] How does this bear [on the matter in hand]? — Simeon B. Zoma said: [The word ‘quit’ is used here] as in [the colloquial expression,] So-and-so went out quit from his possessions without having any benefit of them whatsoever.

But how do we know that ‘his flesh shall not be eaten’ refers to a case where the ox has been slaughtered after the sentence had been passed on it, to indicate that it should be forbidden to be used as food? Why not rather suppose that where it has been slaughtered after the sentence had been passed on it, the ox would be eligible to be used for food, and take the words ‘his flesh shall not be eaten’ as referring to a case where the ox had already been stoned, and indicating that it should [then] be forbidden for any use whatsoever?[26] Such an implication is even in conformity with the view of R. Abbahu, for R. Abbahu said on behalf of R. Eleazar:[27] Wherever Scripture says either it shall not be eaten[28] or thou shalt not eat[29] or you shall not eat,[30] a prohibition both in respect of food and in respect of any [other] use is implied, unless where Scripture makes an explicit exception, as it did make an exception in the case of a thing that dies of itself, which may be given unto a stranger or sold unto a heathen![24] — It may, however, be argued against this that these words [of R. Abbahu] hold good only where the prohibition both in respect of food and in respect of any [other] use is derived from the one Scriptural text, [viz.,] ‘it shall not be eaten’, but here where the prohibition in respect of food is derived from ‘[the ox] shall be surely stoned’, should you suggest that [the words] ‘his flesh shall not be eaten’ were meant as a prohibition for any use, [we may ask] why then did the Divine Law not plainly state ‘No benefit shall be derived from it’? Or again, why not merely say, ‘It shall not be eaten’? Why [the additional words] ‘his flesh’, if not to indicate that even where it had been made and prepared to resemble other meat, as where the ox was slaughtered, it should still be forbidden. Mar Zutra strongly demurred to this: Why not [he said] take this prohibition

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(1) Given by Abaye and Raba respectively.
(2) Discussed supra p. 134.
(3) Since the intention of the animal was not to do damage.
(4) Ex. XXI, 30.
(5) Ibid. 28-29.
(6) Ibid. 31
(7) Ibid. 32.
(8) V. Glos.
(9) V. Glos.
(10) The ox.
(11) As Mu'ad could be only on the fourth occasion; cf. however Rashi a.l.; also Tosaf. a.l. and supra p. 119.
(12) Whom the ox pursued but who had a very narrow escape from death by running away to a safe place.
(13) Since no actual goring took place.
(14) Who, however, did not die until after the ox gored again on the fourth occasion, and it was on account of this delay that the ox was not stoned previously.
(15) In which case the ox should not be put to death.
(16) Cf. supra p. 4, and p. 205.
(17) The ox thus escaped death.
(18) Cf. supra p.121
(19) As in this case also the first three times of goring took place on three successive days.
(20) I.e. the defendant.
(21) How then could this be called warning?
(22) Ex. XXI. 28.
(23) I.e.. the carcass of an animal not ritually slaughtered.
(24) In accordance with Deut XIV, 21.
(25) V. p. 233, n. 6.
(26) For without this implication it would have followed the general rule that an animal which was not slaughtered in accordance with the requirements of the law could be used for any purpose but food; cf. Deut. XIV, 21 and Lev. VII, 24.
(27) Pes. 21b; Kid. 56b.
(28) Such e.g. as in Ex. XIII,3.
(29) See Lev. XVII, 12 but also Pes. 22a.
(30) Cf. e.g., Gen. XXXII, 33 and Pes. 22a and Hul. 100b.

Talmud - Mas. Baba Kama 41b

to refer to a case where the slaughterer prepared[1] a piece of sharp flint and with it slaughtered the ox, which was thus dealt with as if it has been stoned, whereas where it had been slaughtered by means of a knife the prohibition should not apply? — To this it may be replied: Is a knife specifically mentioned in Scripture? Moreover we have learnt:[2] If one slaughters with a hand-sickle, with a flint or with a reed, the act of slaughtering has been properly executed.[2]

And now that the prohibition in respect both of food and of any [other] use has been derived from [the text] ‘his flesh shall not be eaten’, what additional teaching is afforded to me by [the words] ‘The owner of the ox shall be quit’? — [The prohibition of] the use of the skin. For otherwise you might have been inclined to think that it was only the flesh that had been proscribed from being used, whereas the skin should be permitted to be used; we are therefore told [that this is not the case but] that ‘the owner of the ox shall be quit.’ But what of those Tannaim who employ this [text], ‘The owner of the ox shall be quit’ for deriving other implications (as we will indeed have to explain infra);[3] whence do they derive the prohibition against the making use of the skin? — They derive it from [the auxiliary term in the Hebrew text] ‘eth his flesh’, meaning, ‘together with that which is joined to its flesh’, that is, its skin. This Tanna,[4] however, does not stress [the term] ‘eth’ for legal expositions, as it has been taught:[5] Simeon the Imsonite, or as others read, Nehemiah the Imsonite, used to expound [the term] ‘eth’[6] wherever it occurred in the Torah. When, however, he reached, Thou shalt fear eth the Lord thy God,[7] he abstained.[8] His disciples said to him: Rabbi, what is to be done with all the expositions of [the term] ‘eth’ which you have already given?[6] He said to them: Just as I have received reward for the [previous] expositions so have I received reward for the [present] abstention. When R. Akiba, however, came, he taught: ‘Thou shalt fear eth the Lord thy God’ implies that the scholarly disciples are also to be feared.

Our Rabbis taught: ‘But the owner of the ox shall be quit’ means, according to the view of R. Eliezer, quit from [paying] half kofer.[9] Said R. Akiba to him: Since any actual liability in the case of the ox itself [being a Tam] is not paid except out of its body,[10] [why cannot the owner say to the plaintiff,] ‘Bring it to the Court of Law and be reimbursed out of it’ ?[11] R. Eliezer then said to him: ‘Do I really appear so [simple] in your eyes that [you should take] my exposition to refer to a case of an ox liable [to be stoned] to death? My exposition referred only to one who killed the human being in the presence of one witness or in the presence of its owner.’[12] In the presence of its owner! Would he not be admitting a penal liability?[13] — R. Eliezer maintains that kofer partakes of a propitiatory character.[14]

Another [Baraitha] teaches: R. Eliezer said to him: Akiba, do I really appear so [simple] in your eyes that [you take] my exposition to refer to an ox liable [to be stoned] to death? My exposition referred only to one who had been intending to kill a beast but [by accident] killed a man, [or where it had been intending to kill] an Egyptian and killed an Israelite, [or] a non-viable child and killed a viable child.[15] Which of the answers, was given first? — R. Kahana in the name of Raba said that [the answer about] intention was given first, whereas R. Tabyomi in the name of Raba said that [the answer about] having killed [the man in the presence of one witness etc.] was given first. R. Kahana, who in the name of Raba said [that the answer about] intention was given first, compared him to a fisherman who had been catching fishes in the sea;

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(1) Lit., ‘tested’, that is, to see whether it was fit for ritual slaughetering.

(2) Hul. 15b.

(3) V. pp.236-239.

(4) Who needs the whole of the text to imply the prohibition of the skin.

(5) Kid. 57a; Bek. 6b and Pes 22b.

(6) To imply some amplification of the statement actually made.

(7) Deut VI. 13

(8) Being loth to put any being whatsoever on a par with God.

(9) In the case of Tam.

(10) As supra p. 73.

(11) But since the ox is put to death and the carcass including also the skin is proscribed for any use whatsoever, is it not evident that no payment could be made in the case of Tam killing a human being? Why then give a special indication to this effect?

(12) [In which case the ox is not stoned (v. Zeb. 71a: Rashi and Tosaf. s.v. עַל פי).]

(13) For the payment of half-damages in the case of Tam is, as decided supra p. 67 of a penal character and as such liability for it could in any case not be established by the admission of the defendant, for which cf. supra p. 62 and infra p. 429.

(14) And liability to it would thus have been established even by the admission of the defendant.

(15) V. supra p. 232. n.11.

Talmud - Mas. Baba Kama 42a

when he caught big ones he took them and when he [subsequently] caught little ones he took them also.[1] But R. Tabyomi, who in the name of Raba said that [the answer about] having killed [the man in the presence of one witness etc.] was given first, compares him to a fisherman who was catching fishes in the sea and when he caught little ones he took them, but when he [subsequently] caught big ones he threw away the little ones and took the big ones.[2]

Another [Baraitha] teaches: ‘And the owner of the ox shall be quit’ [implies] according to the statement of R. Jose the Galilean, quit from compensating [in the case of Tam killing] embryos . Said R. Akiba to him: Behold Scripture states: If men strive together and hurt a woman with child etc.,[3] [implying that only] men but not oxen [are liable for killing embryos]![4] Was not this a good question on the part of R. Akiba? — R. ‘Ulla the son of R. Idi said: [The implication drawn by R. Jose] is essential. For otherwise it might have occurred to you to apply [R. Akiba's] inference ‘Men but not oxen’ [exclusively to such] oxen as are comparable to men: Just as men are Mu'ad,[5] so also here the oxen referred to are Mu'ad, whereas in the case of Tam there should be liability. The Divine Law has therefore stated, ‘The owner of the ox shall be quit’, implying exemption [also in the case of Tam]. Said Raba thereupon: Is the native born to be on the earth and the stranger in the highest heavens?[6] No, said Raba. [The implication drawn by R. Jose] is essential [for this reason, that] you might have been inclined to apply the inference ‘Men but not oxen’ only to oxen which could be compared to men — just as men are Mu'ad so the oxen here referred to are Mu'ad — and to have extended the exemption to cases of Tam by an argument a fortiori. Therefore the Divine Law purposely states [further], The owner of the ox shall be quit [to indicate that only] in the case of Tam will there be exemption whereas in the case of Mu'ad there will be liability. Said Abaye to him: If that is so, why not argue in the same way in the case of payment for degradation; thus: [Scripture says] ‘Men’,[7] excluding oxen which could be compared with men: just as the men are Mu'ad so the oxen [thus exempted] must be Mu'ad, and a fortiori exemption is extended to cases of Tam. Thereupon the Divine Law on another occasion purposely states, ‘The owner of the ox shall be quit’ [to indicate that only] in the case of Tam will there be exemption, whereas in the case of Mu'ad there will be liability [for degradation]? Now you could hardly say that this is indeed the case, for if so why not teach that, ‘the owner of the ox shall be quit’ [means], according to R. Jose the Galilean, quit from compensating [both in the case of Tam killing] embryos and [in the case of it having caused] degradation?[8] — Abaye and Raba both therefore said: [You might have been inclined to suppose that] in the case of ‘men’ it is only where no mischief[9] [resulted to the woman] that a liability to pay [for the embryo is imposed] upon them whereas where a mischief [resulted to the woman] no civil liability[10] [is imposed] upon them,[11] but that it is not so with oxen, as in their case even if mischief [results to the woman] a liability to pay is imposed.[12] The Divine Law has therefore on another occasion purposely stated, The owner of the ox shall be quit, to indicate exemption [in all cases]. R. Adda b. Ahabah demurred to this, saying: Does then the matter of civil liability[13] depend upon the non-occurrence of mischief to the woman? Does this matter not depend upon intention [of the defendant]?[14] — R. Adda b. Ahabah therefore said: [You might have been inclined to think thus:] In the case of men where their purpose was to kill one another, even if mischief results to a woman, a civil liability[13] will be imposed, whereas where they purposed to kill the woman herself [who was in fact killed], no civil liability[13] would be imposed. In the case of oxen, however, even where their purpose was to kill the woman [who is indeed killed by them] a civil liability should be imposed for the embryo. [To prevent your reasoning thus] the Divine Law on another occasion purposely states, ‘The owner of the ox shall be quit’ to indicate exemption [altogether in the case of oxen]. And so also R. Haggai upon returning from the South, came [to the College] and brought the teaching [of a Baraitha] with him stating the case in accordance with the interpretation given by R. Adda b. Ahabab.

Another [Baraitha] teaches: ‘The owner of the ox shall be quit’ [implies], according to the statement of R. Akiba, quit from compensating for [the killing of] a slave.[15]

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(1) So also here where the better answer was given first and the inferior one later. The answer about intention is considered the better one.

(2) Here also when R. Eliezer subsequently found a better answer he withdrew the answer which he had given first.
(3) Ex. XXI, 22.
(4) Why then a special implication to exempt Tam?
(5) V. supra p. 68.
(6) I.e., how would it be possible to have exemption in the case of Mu'ad and liability in the case of Tam?
(7) Deut. XXV, 11.
(8) But Mu'ad is liable.
(9) I.e., death.
(10) For the embryo.
(11) As all civil claims would merge in the capital charge; cf. supra p. 113 and infra p. 427, n. 2.
(12) For the civil liability of the owner should not be affected by the ox having to be put to death.
(13) V. p. 238, n. 4.
(14) For where he intended to kill another person and it was only by accident that the woman and her embryo were killed, there would, according to R. Adda b. Ahabah, be no capital charge but a civil liability; cf. for such a view infra p.252 and Sanh. 79a.
(15) V. supra p. 232.

Talmud - Mas. Baba Kama 42b

But why should R. Akiba not argue against himself,[1] Since any actual liability in the case of the ox itself [being a Tam] is not paid except out of its body [why should not the owner say to the plaintiff] ‘Bring it to the Court of Law and be reimbursed out of it’? — R. Samuel son of R. Isaac thereupon said: [This creates no difficulty; the case is one] where the owner of the ox slaughtered it before [the passing of the sentence].[2] You might suggest in that case that payment should be made out of the flesh; we are therefore told that since the ox [as such] had been liable [to be stoned] to death, no payment could be made out of it even where it was slaughtered [before the passing of the sentence]. But if so, why [did not R. Akiba think of this reply to the objection he made] to R. Eliezer[3] also, viz. that the owner of the ox slaughters it beforehand? — He could indeed have done this, but he thought that R. Eliezer[3] also probably had another explanation better than this which he would tell him. But why did R. Eliezer [himself] not answer him that he referred to a case where the owner slaughtered the ox beforehand? — He could answer: It was only there where the ox aimed at killing a beast but [by accident] killed a man, in which case it is not liable [to be stoned] to death, and you might therefore have thought there was a liability [for kofer], that there was a need for Scripture to indicate that there is [in fact] no liability. But here where the ox had originally been liable [to be stoned] to death, no Scriptural indication should be needed [to exempt from liability] even where the ox has meanwhile been slaughtered.[4] But should not the same argument be employed also regarding the exposition of R. Akiba?[5] — R. Assi therefore said: The explanation of this matter was delivered to me from the mouth of a great man, to wit, R. Jose b. Hanina [who said]: You might be inclined to think that since R. Akiba said, ‘Even in the case of Tam injuring Man the payment of the difference must be in full’,[6] the compensation for killing a slave should also be paid out of the best [of the general estate]. Divine Law therefore states, The owner of the ox shall be quit, [implying that this is not the case]. Said R. Zera to R. Assi: Did R. Akiba himself not qualify this liability? For it was taught:[7] R. Akiba says, As it might be thought that this full payment[8] has to be made out of the best [of the general estate], it is therefore further stated, According to this judgment shall it be done unto him,[9] [to emphasize that] payment is to be made out of its body, but no payment is to be made out of any other source whatsoever? — Raba therefore [gave a different explanation] saying: The implication is still essential, for otherwise you might have thought that since[10] I have to be more strict in the case of [killing] a slave than in the case of a freeman — for in the case of a freeman worth one sela’ the payment[11] will be one sela’, and of one worth thirty the payment will be thirty, whereas in the case of a slave even where he was worth one sela’ the payment will have to be thirty[10] — there should be compensation for [the killing of] a slave[12] even out of the best of the estate,[13] the Divine Law therefore states, ‘ The owner of the ox should be quit’ [implying that this is not the case]. It was taught in accordance with [the explanation given by] Raba: ‘The owner of the ox should be quit’ [implies], according to the statement of R. Akiba, quit from compensation for [the killing of] a slave. But is this not strictly logical?[14] For since there is liability [to pay compensation] for [the killing of] a slave and there is liability [to pay compensation] for [the killing of] a freeman;[11] just as where there is liability [to pay compensation] for [the killing of] a freeman a distinction has been made by you between Tam and Mu'ad,[15] why then in the case where compensation has to be paid for [the killing of] a slave should you similarly not make a distinction between Tam and Mu'ad? This conclusion could moreover be arrived at by the a fortiori argument: If in the case of [killing] a freeman where the compensation[11] is for the whole of his value a distinction has been made by you between Tam and Mu'ad,[15] then in the case of [killing] a slave where the compensation amounts only to thirty [sela’] should it not stand to reason that a distinction must be made by us between Tam and Mu'ad? — Not so, because (on the other hand] I am[16] more strict in the case of [killing] a slave than in that of [killing] a freeman. For in the case of a freeman, where he was worth one sela’ the compensation will be one sela’,[17] [where he was worth] thirty the compensation will be thirty, whereas in the case of a slave even where he was worth one sela’ the compensation has to be thirty.[16] This might have inclined us to think that [even in the case of Tam] there should be liability. It was therefore [further stated], The owner of the ox shall be quit, implying quit from compensation for [the killing of] a slave.

Our Rabbis taught: [It is written,] But it hath killed a man or a woman.[18] R. Akiba says: What does this clause come to teach us? If that there is liability for the goring to death of a woman as of a man, has it not already been stated, if an ox gore a man or a woman?[19] It must therefore have intended to put the woman on the same footing as the man: just as in the case of a man the compensation[17] will go to his heirs, so also in the case of a woman the compensation will go to her heirs.[20] Did R. Akiba thereby mean [to put forward the view] that the husband was not entitled to inherit her? But has it not been taught: ‘And he shall inherit her;[21] this shows that the husband is entitled to inherit his wife. This is the view of R. Akiba’?[22] — Resh Lakish therefore said: R. Akiba[23] stated this[24] only with reference to kofer which, since it has not to be paid save after [the] death [of the victim], is regarded as property in anticipation,[25] and a husband is not entitled to inherit property in anticipation as he does property in actual possession.[26] But why [should kofer not be paid except after death]?[27] — Scripture says: But it hath killed a man or a woman; the ox shall be stoned, and its owner also shall be put to death. If there be laid on him a ransom.[28] But did R. Akiba not hold that damages [for injury also are not inherited by the husband]? Has it not been taught:[29] If one hurt a woman so that her embryo departed from her, compensation for Depreciation and for Pain should be given to the woman, compensation for the value of the embryo to the husband.[30] If the husband is not [alive], his due should be given to his heirs, and if the woman is not [alive at the time of payment] her due should be given to her heirs. [Hence] if the woman was a slave that had been emancipated[31]

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(1) Exactly as he argued against R. Eliezer, supra p.236.

(2) In which case the flesh could legitimately be used as food; cf. infra p. 255.

(3) Supra p. 236.

(4) This was the reason why R. Eliezer answered as he did, and not as suggested here that the ox was slaughtered before the sentence had been passed on it.

(5) And if so, the original problem will recur: Why should R. Akiba not argue against himself as he did against R. Eliezer, supra p. 236.

(6) Supra p. 179.

(7) Cf. supra p. 180.

(8) In the case of Tam injuring a human being.

(9) Ex. XXI, 31.

(10) In the case of Mu'ad.

(11) I.e. kofer.

(12) In the case of Tam.
(13) There can thus no more arise the question, 'Since any actual liability in the case of the ox itself (being Tam) is not paid except out of its body, (why should not the owner say to the plaintiff) "Bring it to the Court and be reimbursed out of it"?' Cf. supra p. 236.
(14) Wherefore then the special inference from the verse?
(15) That in the case of Mu'ad, kofer is paid, but not in the case of Tam.
(16) In the case of Mu'ad.
(17) V. p. 241, n. 3.
(18) Ex. XXI, 29.
(19) Ibid. 28.
(20) Not to her husband.
(21) Num. XXVII, 11.
(22) B.B. 111b.
(23) [So MS. M., v. Rashi.]
(24) That the husband does not inherit the compensation due to the woman.
(25) As at the last moment of her life the liability for kofer was neither a chose in possession nor even a chose in action
(26) Cf. B. B. 113a and 125b.
(27) Why not say that as soon as the blow was ascertained to have been fatal the payment of kofer should be enforced?
(28) Implying that the payment of money as kofer is, like the killing of the ox, not enforced before the victim has actually died.
(29) Infra p. 280.
(30) V. Ex. XXI, 22.
(31) And the husband was of the same category.

Talmud - Mas. Baba Kama 43a

or a proselytess the defendant would be the first to acquire title [to all the claims and thus be released from any liability]? — Rabbah thereupon said: We deal [in this latter case] with a divorced woman.[1] So also said R. Nahman [that we deal here] with a divorced woman. [But] I might [here] object: If she was divorced, why should she not also share in the compensation for the value of the embryo?[2] — R. Papa thereupon said: The Torah awarded the value of embryos to the husband even where the cohabitation had taken place not in a married state, the reason being that Scripture says: According as the cohabitator[3] of the woman will lay upon him.[4]

But why should not Rabbah refer the ruling[5] to the case where the payment of the compensation had been collected in money, and R. Nahman to the case where it had been collected out of land? For did Rabbah not say[6] that where an outstanding debt had been collected[7] out of land, the first-born son would take in it [a double portion],[8] but where it had been collected in money the first-born son would not [take in it a double portion]?[9] Or again did R. Nahman not say[10] that [on the contrary] where the debt had been collected in money the first-born would take [in it a double portion],[11] but where it has been collected out of land, the first-born son would not [take in it a double portion]?[12] — It could, however, be answered that these statements were made on the basis of the despatch of the Western Sages according to the view of the Rabbis,[13] whereas in the case here [where Rabbah and R. Nahman interpreted it to have referred to a divorced woman] they were stating the law as maintained by Rabbi.[14]

R. Simeon b. Lakish said: Where an ox killed a slave without purposing to do so, there would be exemption from the payment of thirty shekels, since it is written, He shall give unto their master thirty shekels of silver, and the ox shall be stoned,[15] [implying that] where the ox would be liable to be stoned the owner is to pay thirty shekels, but where the ox would not be liable to be stoned[16] the owner need not pay thirty shekels. Rabbah [similarly] said: Where an ox killed a freeman without purposing to do so there would be exemption from kofer, for it is written[17] The ox should be stoned and its owner also shall be put to death. If there be laid on him a ransom, [implying that] where the ox has to be stoned[16] the owner has not to pay kofer. Abaye raised an objection to this [from the following Mishnah]:[18] If a man says: ‘My ox has killed so-and-so’ or ‘has killed so-and-so's’ ox, [in either case] the defendant has to pay in virtue of his own admission. Now, does the payment [in the former case][19] not mean kofer [though the ox would not become liable to be stoned through the owner's admission]?[20] — No; [it means for] the actual value.[21] If [it means payment for] the pecuniary loss, read the concluding clause: [If he says], ‘My ox has killed so-and-so's slave,’ the defendant is not liable to pay in virtue of his own admission.[22] Now, if [the payment referred to in the first clause was meant for] the pecuniary loss, why is there no liability [to pay for the pecuniary loss in the case of a slave]?[23] — He, however, said to him: I could have answered you that the opening clause refers to the actual value[24] [of the killed person],[25] whereas the concluding clause refers to the fixed fine [of thirty shekels]. As, however, I have no intention to answer you by means of forced interpretations, [I will say that] both clauses do in fact refer to the actual value [of the killed person].

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(1) For otherwise the husband would inherit her claim for damages.

(2) Since she was his wife no more.

(3) The Hebrew term בעל (‘husband’ E.V.) is thus understood.

(4) Ex. XXI, 22.

(5) That the damages will be paid to her heirs and not to the husband.

(6) B.B. l24b.

(7) After the death of a creditor.

(8) In accordance with Deut. XXI. 17.

(9) Because the debt collected after the death of the father was not a chose in possession in the lifetime of the creditor, and the first-born takes a double portion only ‘of all that’ his father ‘hath’ at the time of death. A husband is in a similar position, as he too has the right to inherit only chooses in possession at the lifetime of his wife.

(10) V. p. 243, n. 10.

(11) For the money collected is considered in the eye of the law as the money which was lent to the father of the debtor.

(12) V. p. 243, n. 13.

(13) V. p. 243, n. 10.

(14) That debts collected after the death of a creditor whether in species or out of land will be subject to the law of double portion in the case of a first-born and similarly to the law of a husband inheriting his wife. v. B.B. (Sonc. ed.) p. 518.

(15) V. Ex. XXI, 32.

(16) As e.g., where it killed a human being by accident.

(17) Ex. XXI, 29.

(18) Keth. III, 9.

(19) Where the defendant admitted that his ox killed a man.

(20) Without the corroboration of witnesses; v. supra p. 236, n. 8.

(21) I.e., the pecuniary loss sustained through the man's death. [It is distinguished from kofer in that the payment of the latter is an act of atonement to be compounded in no circumstance; v. Tosaf. s. v. מאי.]

(22) As the payment of thirty shekels in the case of a slave is of the nature of a penalty which could not be inflicted on the strength of the word of mouth of the defendant.

(23) Does this not prove that in the case of manslaughter committed by cattle no payment for the pecuniary loss would have to be made if you except kofer in the case of a freeman, and the thirty shekels in the case of a slave?

(24) I.e. the pecuniary loss sustained through his death.

(25) Which has to be paid even where kofer could for some reason or other not be imposed upon the defendant.

Talmud - Mas. Baba Kama 43b

But [it is only in the case of] a freeman where kofer may sometimes be paid on the strength of the defendant's own admission — as where witnesses appeared and testified to the ox having killed [a freeman] without, however, knowing whether it was still Tam or already Mu'ad and the owner admits it to have been Mu'ad, in which case kofer would be paid on the strength of his own admission[1] — that [we say] where witnesses are not at all available payment will be made for the actual value [of the loss]. [Whereas] in the case of a slave where the fixed fine could never be paid through the defendant's own admission — since even where witnesses appear and testify to the ox having killed [a slave], without knowing whether it had still been Tam or already Mu'ad, and the owner admits that it had already been Mu'ad, no fine would be paid — [we say] where no witnesses at all are available there will be no payment even for the amount of the value [of the loss].

R. Samuel son of R. Isaac raised an objection [from the following teaching]: Wherever there is liability in the case of a freeman,[2] there is liability in the case of a slave both for kofer and for stoning. Now, how could kofer ever be [paid] in the case of a slave?[3] Does it therefore not surely mean the payment for the amount of the value [of the loss]?[4] — Some say that he raised the objection and he himself answered it, others say that Rabbah said to him: What is meant is as follows: Wherever there is liability for kofer [i.e.] in the case of a freeman killed intentionally [by the ox] as testified by witnesses, there is [a similar] liability for the fine in the case of a slave, and wherever there is liability for the amount of the value [of the loss, i.e.,] in the case of a freeman killed unintentionally, as testified by witnesses, there is also liability for the amount of the value [of the loss] in the case of a slave killed unintentionally, as testified by witnesses.[5] Raba, however, said to him: If so,[6] why in the case of Fire unintentionally[7] burning a human being [to death], as testified by witnesses, should there also not be liability to pay the amount of the value [of the loss]? And how did Raba know that no payment would be made [in this case]? Shall we say from the following Mishnah: ‘[Where fire was set to a barn and] a goat had been bound to it and a slave was loose near by it and all were burnt [with the barn] there would be liability.[8] But where the slave had been chained to it, and the goat loose near by it and all were burnt with it there would be no liability.’[9] [But how could Raba prove his point from this case here?][10] Did Resh Lakish not state that this case here should be explained as one where e.g., the defendant put the actual fire upon the body of the slave so that [no other[11] but] the major punishment had to be inflicted? But [it may perhaps be suggested that Raba derived his point] from the following [Baraitha]: For it has been taught: ‘The excess in [the liability] for Fire over [that for] Pit is that Fire is apt to consume both things fit for it and things unfit for it, whereas this is not so in the case of Pit.’[12] It is not, however, said that ‘in the case of Fire [where a human being has been burnt to death] unintentionally there is liability to pay for the pecuniary loss, whereas it is not so in Pit’.[13] But might [the Baraitha] not perhaps have stated [some points] and omitted [others]? — It must therefore have been that Raba himself was questioning whether in the case of Fire [burning a human being] unintentionally there would be payment for the amount of the value [of the loss] or whether there would be none. Should we say that it was only in the case of cattle — where if the manslaughter was unintentional kofer would be paid — that for unintentional manslaughter the amount of the value [of the loss] is to he paid — whereas in the case of Fire — where for intentional manslaughter no kofer would be paid[14] — there should be no payment of the amount of the value [of the loss] for unintentional manslaughter? Or [shall we] perhaps [rather say that] since in the case of Cattle [killing a person] unintentionally where no kofer is paid, the value [of the loss] is nevertheless paid, so should it also be with Fire where no kofer would be paid for intentional manslaughter, that nevertheless the value [of the loss] caused by unintentional manslaughter should be paid? But as no information was available to us [on this matter], it remained undecided.

When R. Dimi arrived [from Palestine] he said on behalf of R. Johanan: [The word] kofer [I understand]. What is taught by [the expression] If kofer?[15] It implies the inclusion of [the payment of] kofer in cases where there was no intention[16] [to kill] just as kofer [is paid] where there was intention. Abaye however said to him: If so , the same could now surely also be argued in the case of a slave: viz.: What is taught by [the expression] If a slave?[15] [It implies] that a slave killed unintentionally is subject to the same law as a slave, killed intentionally? If that is so, why did Resh

Lakish say that where an ox killed a slave unintentionally there would be exemption from the thirty shekels? He replied: Would you confute one person's view by citing another?[17]

When Rabin arrived [from Palestine] he said on behalf of R. Johanan: [The word] a slaves [I understand], What is taught by [the expression] If a slave? [It implied] that a slave [killed] unintentionally is subject to the same law as a slave [killed] intentionally. Now as regards Resh Lakish [who was of a different view in this respect] shall we also assume that just as he drew no lesson from the distinction between ‘a slave’ and ‘if a slave’, so he drew no lesson from the distinction between ‘kofer’ and ‘if kofer’? — I may say that this was not so. From the distinction between ‘a slave’ and ‘if a slave’[18] he did not draw a lesson, whereas from the distinction between ‘kofer’ and ‘if kofer’ he did draw a lesson. Why this difference? The expressions ‘a slave’ and ‘if a slave’ do not occur in the context dealing with payment,[19] whereas the expressions ‘kofer’ and ‘if kofer’ do occur in a context dealing with payment.

THE SAME JUDGMENT APPLIES IN THE CASE OF A SON OR IN THAT OF A DAUGHTER. Our Rabbis taught: [The text] Whether it have gored a son or have gored a daughter[20] [implies] that there is liability in the case of little ones just as in that of grown-ups. But surely this is only logical! For since there is a liability in the case of Man killing man there is similarly a liability in the case of Cattle killing man, just as where Man has killed man no distinction is made between [the victims being] little ones or grown-ups,[21] so also where Cattle killed man no distinction should be made between [the victims being] little ones or grown-ups? Moreover there is an a fortiori argument [to the same effect]; for if in the case of Man killing man where the law did no make [murderers who are] minors liable as [it did make] grown-ups,[22] it nevertheless imposed there liability for little ones as for grown-ups,

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(1) As the ox in this case would be subject to be stoned, [and where the ox is stoned, the owner pays kofer].

(2) I.e. kofer.

(3) V. p. 244, n. 6.

(4) [This shows that pecuniary loss is paid in the case of a slave on his own admission even as in the case of a freeman.]

(5) [Though in the case of self-admission there will still be a distinction between the death of a freeman and that of a slave (by an ox) in regard to the payment of pecuniary loss.]

(6) [That there is payment of pecuniary loss, even where kofer is not payable.]

(7) [If intentionally, the civil liability would merge with the graver capital charge.]

(8) For the barn and the goat but not for the slave, as he should have run away.

(9) Infra 61b.

(10) By not extending the ruling in the second clause to refer also to the barn but confining it to the goat which should have run away, and to the slave, on the alleged ground that no compensation should be paid for the value of the loss occasioned by fire burning a human being to death.

(11) The ruling of exemption in the second clause is thus extended even to the barn.

(12) Supra p. 38.

(13) For which see supra p. 18 and infra 50b.

(14) For it merges with the graver capital charge.

(15) Ex. XXI, 30; for it is surely neither an optional nor a conditional liability.

(16) [‘If’ אם implying a case where kofer is imposed, though the ox is not stoned, i.e. where there was no intention (contrary to the view of Rabbah, supra); v. Malbim on Ex. XXI, 30.]

(17) As R. Johanan and Resh Lakish might perhaps have differed on this point.

(18) In Ex. XXI, 32.

(19) It could thus hardly have any bearing on the law of payment.

(20) Ibid. 31.

(21) Cf. Nid. 44a.

(22) See Lev. XXIV, 17 and Mek. on Ex. XXI, 12.

Talmud - Mas. Baba Kama 44a

now in the case of Cattle killing man where the law made small cattle [liable] as [it did make] big cattle,[1] should it not stand to reason that there is liability for little ones as there is for grown-ups?[2] — No, [for it could have been argued that] if you stated this ruling in the case of Man killing man it was [perhaps] because [where Man injured man] there was liability for the four [additional] items,[3] but how would you be able to prove the same ruling in the case of Cattle where there could be no liability for the four [additional] items? Hence it is further laid down: Whether it have gored a son or have gored a daughter to impose liability for little ones as for grown-ups. So far I know this only in the case of Mu'ad.[4] Whence do I know it in the case of Tam? — We infer it by analogy: Since there is liability for killing Man or Woman and there is similarly liability for killing Son or Daughter, just as regarding the liability for Man or Woman you made no discrimination between Tam and Mu'ad,[5] so also regarding the liability for Son or Daughter you should make no discrimination between Tam and Mu'ad. Moreover there is an a fortiori argument [to the same effect]; for if in the case of Man and Woman who are in a disadvantageous position when damages had been done by them,[6] you have nevertheless made there no discrimination between Tam and Mu'ad, in the case of Son and Daughter who are in an advantageous position when damage has Been done by them,[7] should it not stand to reason that you should make no discrimination between Tam and Mu'ad? — [No,] you cannot argue thus. Can we draw an analogy from a more serious to a lighter case so as to be more severe [with regard to the latter]? If[8] the law is strict with Mu'ad which is a more serious case, how can you argue that it ought to be [equally] strict with Tam which is a lighter case? Moreover, [you could also argue that] the case of Man and Woman [is graver] since they are under obligation to observe the commandments [of the Law],[9] but how draw therefrom an analogy to the case of Son and Daughter seeing that they are exempt from the commandments?[10] It was therefore necessary to state [further]: Whether it have gored a son, or have gored a daughter; [the repetition of the word ‘gored’ indicating that no discrimination should be made between] goring in the case of Tam and goring in the case of Mu'ad, between goring in the case of killing and goring in the case of mere injury.

MISHNAH. IF AN OX BY RUBBING ITSELF AGAINST A WALL CAUSED IT TO FALL UPON A PERSON [AND KILL HIM], OR IF AN OX WHILE TRYING TO KILL A BEAST [BY ACCIDENT] KILLED A HUMAN BEING, OR WHILE AIMING AT A HEATHEN[11] KILLED AN ISRAELITE, OR WHILE AIMING AT NON-VIABLE INFANTS KILLED A VIABLE CHILD, THERE IS NO LIABILITY.

GEMARA. Samuel said: There is exemption [for the ox in these cases] only from [the penalty of being stoned to] death, but there is lability [for the owner] to pay kofer.[12] Rab, however, said: There is exemption here from both liabilities.[13] But why [kofer]?[14] Was not the ox Tam?[15] — Just as [in an analogous case] Rab said that the ox was Mu'ad to fall upon human beings in pits,[16] so also [in this case we say that] the ox was Mu'ad to rub itself against walls [which thus fell] upon human beings. But if so, why should the ox not be liable to [be stoned to] death? It is correct in this other case where we can explain that the ox was looking at some vegetables and so came to fall [into a pit],[17] but here what ground could we give [for assuming otherwise than an intention to kill on the part of the ox]? — Here also [we may suppose that] the ox had been rubbing itself against the wall for its own gratification.[17] But how can we know this?[18] — [By noticing that] even after the wall had fallen the ox was still rubbing itself against it.

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(1) Cf. infra p. 380, and ‘Ed. VI, 1.

(2) Why then was it necessary for Scripture to make this explicit in Ex. XXI, 31?

(3) For which cf. supra p. 12.

(4) As verse 31 follows 29 and 30 which deal with Mu'ad.

(5) As clearly seen in verses 29 and 30.

(6) I.e. they are liable to pay for it. Cf. supra p. 63 but also infra p. 502.

(7) For which they are not liable to pay; see infra p. 502.

(8) [Some texts omit, ‘If . . . . Moreover,’ v. D.S. a.l.]

(9) Cf. however, supra p. 64, but also Kid. I, 7.

(10) So long as they are minors and have not reached puberty for which cf. Nid. 52a.

(11) Cf. supra p. 211, n. 6.

(12) As also maintained by R. Johanan, supra p. 248, and still earlier by R. Eliezer, supra p. 237.

(13) For the reason v. supra 244

(14) In the case dealt with first in the Mishnah.

(15) In killing a human being by rubbing itself against a wall and thus causing it to fall. In the case of Tam no kofer is paid; see Ex. XXI, 28.

(16) Infra p. 274.

(17) And as intention to kill was lacking, no death penalty could be attached.

(18) Seeing that the ox was Mu'ad to rub itself against walls.

Talmud - Mas. Baba Kama 44b

But granted all this, is this manner of damage[1] not on a par with that done by Pebbles[2] [where there would be no liability for kofer]?[3] — R. Mari the son of R. Kahana thereupon said: [We speak of] a wall gradually brought down by the constant pushing of the ox.[4]

It has been taught in accordance with Samuel and in refutation of Rab: There are cases where the liability is both for [stoning to] death and kofer: there are other cases, where there is liability for kofer but exemption from [stoning to] death; there are again [other] cases where there is liability [for stoning to] death but exemption from kofer; and there are still other cases where there is exemption both from [stoning to] death and from kofer. How so? In the case of Mu'ad [killing a person] intentionally, there is liability both for [stoning to] death and for kofer.[5] In the case of Mu'ad [killing a person] unintentionally there is liability for kofer but exemption from [stoning to] death. In the case of Tam [killing a person] intentionally there is liability [for stoning to] death but exemption from kofer. In the case of Tam [killing a person] unintentionally, there is exemption from both penalties. Whereas in case of injury [caused by the ox] unintentionally, R. Judah says there is liability to pay [damages], but R. Simeon says there is no liability to pay.[6] What is the reason of R. Judah? — He derives [the law of damages from] that of kofer: just as for kofer there is liability even where there was no intention [to kill], so also for damages for injuries there is liability even where there was no intention [to injure]. R. Simeon, on the other hand, derived [the law of damages] from that of the killing of the ox: just as the stoning of the ox is not required where there was no intention [to kill], so also damages are not required where there was no intention [to injure]. But why should R. Judah also not derive [the ruling in this case] from [the law applying to the] killing [of the ox]? It is proper to derive [a ruling regarding] payment from [another ruling regarding] payment, but it is not proper to derive [a ruling regarding] payment from [a ruling regarding] killing. Why then should R. Simeon also not derive [the ruling in this case] from [the law applying to] kofer? — It is proper to derive a liability regarding the ox[7] from another liability that similarly concerns the ox,[8] thus excluding kofer which is a liability that concerns only the owner.[9]

OR IF THE OX WHILE TRYING TO KILL A BEAST [BY ACCIDENT] KILLED A HUMAN BEING . . . THERE IS NO LIABILITY. Where, however, the ox had aimed at killing one human being and [by accident] killed another human being, there would be liability. [This implication of] the Mishnah is not in accordance with R. Simeon. For it has been taught: R. Simeon says: Even where [the ox] aimed at killing one person and [by accident] killed another person there would be no liability. What was the reason of R. Simeon? — Scripture states: The ox shall be stoned and its owner also shall be put to death,[10] [implying that only] in those cases in which the owner would be subject to be put to death [were he to have committed murder], the ox also would be subject to be put to death. Just as therefore in the case of the owner the liability arises only where he was aiming at the particular person [who was actually killed], so also in the case of the ox the liability will arise only where it was aiming at the particular person [who was actually killed]. But whence do we know that this is so even in the case of the owner himself?[11] — Scripture States: And lie in wait for him and rise up against him[12] [which indicates that he is not liable] unless he bad been aiming at the particular person [whom he killed]. What then do the Rabbis[13] make of [the words,] 'And lie in wait'? — It was said at the School of R. Jannai: They except [on the strength of them a manslaughter committed by] a stone being thrown into a crowd.[14] How is this to be understood? If you say that there were [in the crowd] nine heathens and one Israelite, why not except the case on the ground that the majority [in the crowd] were persons who were heathens?[15] And even where they were half and half, does not an accused in a criminal charge have the benefit of the doubt? — The case is one where there were nine Israelites and one heathen. For though in this case the majority [in the crowd] consisted of Israelites, still since there was among them one heathen he was an essential part [of the group], and essential part[16] is reckoned as equivalent to half, and where there is a doubt in a criminal charge the accused has the benefit.

MISHNAH. WHERE AN OX OF A WOMAN, OR AN OX OF [MINOR] ORPHANS, OR AN OX OF A GUARDIAN, OR AN OX OF THE WILDERNESS, OR AN OX OF THE SANCTUARY, OR AN OX OF A PROSELYTE WHO DIED WITHOUT [LEGAL] HEIRS,[17] [HAS KILLED A PERSON], IT IS LIABLE TO [BE STONED TO] DEATH. R. JUDAH SAYS: IN THE CASE OF AN OX OF THE WILDERNESS, AN OX OF THE SANCTUARY AND AN OX OF A PROSELYTE WHO DIED [WITHOUT HEIRS] THERE WOULD BE EXEMPTION FROM [STONING TO] DEATH SINCE THESE HAVE NO [PRIVATE] OWNERS.

GEMARA. Our Rabbis taught: [The word] ox occurs seven times [in the section dealing with Cattle killing man][18] to include the ox of a woman, the ox of [minor] orphans, the ox of a guardian, the ox of the wilderness, the ox of the Sanctuary and the ox of a proselyte who died without [legal] heirs. R. Judah, however, says: An ox of the wilderness, an ox of the Sanctuary and an ox of a proselyte who died without heirs are exempt from [stoning to] death since these have no [private] owners.

R. Huna said: The exemption laid down By R. Judah extends even to the case where the ox gored and was only subsequently consecrated to the Temple, or where the ox gored and was only subsequently abandoned. Whence do we know this? — From the fact that R. Judah specified both an ox of the wilderness and an ox of a proselyte who died without heirs. Now what actually is 'an ox of a proselyte who died'? Surely since he left no heirs the ox remained ownerless, and this [category] would include equally an ox of the wilderness and an ox of the proselyte who died without heirs? We must suppose then that what he intended to tell us [in mentioning both] was that even where the ox gored but was subsequently consecrated, or where the ox gored but was subsequently abandoned, [the exemption would still apply] and this may be taken as proved. It has also been taught to the same effect:[19] R. Judah went even further, saying: Even if after having gored, the ox was consecrated or after having gored it became ownerless, there is exemption, as it has been said, And it hath been testified to his owner and he hath not kept him in, but that he hath killed a man or a woman, the ox shall be stoned.[20] This applies only when no change of status has taken place between the manslaughter and the appearance before the Court.[21] Does not the final verdict also need to comply with this same condition? Does not the same text, The ox shall be stoned,[22] [apply also to] the final verdict? — Read therefore: That is so only when no change in status has taken place between the manslaughter, the appearance before the Court, and the final verdict.

MISHNAH. IF WHILE AN OX [SENTENCED TO DEATH] IS BEING TAKEN OUT TO BE STONED ITS OWNER DECLARES IT SACRED, IT DOES NOT BECOME SACRED;[23] IF HE SLAUGHTERS IT, ITS FLESH IS FORBIDDEN [FOR ANY USE].[23] IF, HOWEVER. BEFORE THE SENTENCE HAS BEEN PRONOUNCED THE OWNER CONSECRATES IT, IT IS

CONSECRATED, AND IF HE SLAUGHTERS IT, ITS FLESH IS PERMITTED [FOR FOOD].

IF THE OWNER HANDS OVER HIS CATTLE TO AN UNPAID BAILEE OR TO A BORROWER, TO A PAID BAILEE OR TO A HIRER, THEY ENTER INTO ALL LIABILITIES IN LIEU OF THE OWNER: IN THE CASE OF MU'AD THE PAYMENT WOULD HAVE TO BE IN FULL, WHEREAS IN THE CASE OF TAM HALF DAMAGES WOULD BE PAID.

GEMARA. Our Rabbis taught: If an ox has killed [a person], and before its judgment is pronounced its owner sells it,

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(1) Being done not by the body of the ox but by something set in motion by it.
(2) Dealt with supra p. 79.
(3) [Kofer is imposed only where death was caused by the body of the ox even as is the case with ‘goring’.]
(4) And was thus the whole time as it were a part of the body of the ox.
(5) Ex. XXI, 29-30.
(6) Cf. Tosef. B.K. IV.
(7) I.e. a liability to make good the damage done by the ox.
(8) Such as the death of the ox for the manslaughter it committed.
(9) As kofer is the ransom of his life.
(10) Ex. XXI, 29.
(11) Committing murder.
(12) Deut. XIX, II.
(13) Who differ from R. Simeon on this point. v. Sanh. 79a.
(14) And a person was killed.
(15) For in matters of judgment the principle of ‘majority’ is as a rule the deciding factor. [That does not mean to imply that the killing of a heathen was no murder. The Mekilta in Ex. XXI, 12 states explicitly that the crime is equally condemnable irrespective of the religion and nationality of the victim. But what it does mean is that the Biblical legislation in regard to crime did not apply to heathens. As foreigners they fully enjoyed their own autonomous right of self-help, i.e., blood feuds or ransom, prohibited by the Law to the Jews, and accordingly were not governed by the provisions made in the Bible relating to murder, v. Guttmann, loc. cit. p. 16 ff and supra p. 211, n. 6.]
(16) Lit., ‘fixed’. For a full discussion of this passage, v. Sanh. (Sonc. ed.) p. 531 and notes a.l.
(17) The ox thus becoming ownerless.
(18) Ex. XXI, 28-32.
(19) Supra p. 55.
(20) Ex. XXI, 29.
(21) Supra p. 56.
(22) Ex. XXI, 29.
(23) Cf. supra p. 234.

Talmud - Mas. Baba Kama 45a

the sale holds good; if he declares it sacred, it is sacred; if it is slaughtered, its flesh is permitted [for food]; if a bailee returns it to the house of its owner, it is an effective restoration. But if after its sentence had already been pronounced the owner sold it, the sale would not be valid; if he consecrates it, it is not consecrated; if it is slaughtered its flesh is forbidden [for any use]; if a bailee returns it to the house of its owner, it is not an effective restoration. R. Jacob, however, says: Even if after the sentence had already been pronounced the bailee returned it to its owner, it would be an effective restoration. Shall we say that the point at issue[1] is that in the view of the Rabbis it is of no avail to plead[2] regarding things which became forbidden for any use, ‘Here is your property before you’,[3] whereas in the view of R. Jacob it can be pleaded even regarding things forbidden for any use, ‘Here is your property before you’? — Rabba said: Both parties in fact agree that even regarding things forbidden for any use, the plea, ‘Here is your property before you’ can be advanced, for if it is as you said,[4] why did they not differ in the case of leaven[5] on Passover?[6] But the point at issue here [in the case before us] must therefore be whether [or not] sentence may be pronounced over an ox in its absence. The Rabbis maintain that no sentence can be pronounced over an ox in its absence, and the owner may accordingly plead against the bailee: ‘If you would have returned it to me [before the passing of the sentence], I would have caused it to escape to the pastures, whereas you have allowed my ox to fall into the hands of those[7] against whom I am unable to bring any action’. R. Jacob, however, maintains that the sentence can be pronounced over the ox even in its absence, and the bailee may accordingly retort to the owner: ‘In any case the sentence would have been passed on the ox.’ What is the reason of the Rabbis? — [Scripture says]: The ox shall be stoned and its owner also shall be put to death[8] [implying that] the conditions under which the owner would be subject to be put to death [were he to have committed murder], are also the conditions under which the ox would be subject to be put to death; just as in the case of the owner [committing murder, the sentence could be passed only] in his presence,[9] so also [the sentence] in the case of an ox [could be passed only] in its presence. But R. Jacob [argues]: That applies well enough to the case of the owner [committing murder], as he is able to submit pleas, but is the ox also able to submit pleas?[10]

WHERE AN OWNER HAS HANDED OVER HIS CATTLE TO AN UNPAID BAILEE OR TO A BORROWER etc. Our Rabbis taught: The following four [categories of persons] enter into all liabilities in lieu of the owner, viz., Unpaid Bailee and Borrower, Paid Bailee and Hirer. [If cattle so transferred] kill [a person] if they are Tam, they would be stoned to death, but there would be exemption from kofer,[11] whereas in the case of Mu'ad, they would be stoned and the bailees in charge would be liable to pay kofer. In all cases, however, the value of the ox would have to be reimbursed to the owner by all of the bailees with the exception of the Unpaid Bailee. I would here ask with what circumstances are we dealing? If where the ox [was well] guarded, why should all of them[12] not be exempt [from having to reimburse the owner]? If on the other hand it was not guarded well, why should even the Unpaid Bailee not be liable?[13] — It might be said that we are dealing here with a case where inferior precautions[14] were taken to control the ox but not really adequate precautions.[15] In the case of an Unpaid Bailee his obligation to control was thereby fulfilled, whereas the others did thereby not yet fulfil their obligation to control. Still I would ask, whose view is here followed? If that of R. Meir

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(1) I.e. between R. Jacob and the Rabbis.

(2) Against a depositor or against a person who was robbed of an article, before it became prohibited for any use.

(3) The reason is that, by becoming forbidden for any use, the things, though not undergoing any change in their external size and appearance, do not remain (in the eyes of the law) the same things as were previously deposited with the bailee or misappropriated by the robber, their status then having been different.

(4) That R. Jacob and the Rabbis differ on this point.

(5) Stolen before the eve of Passover.

(6) I.e. whether the leaven might be returned by the robber after the approach of Passover when it became forbidden for any use; cf. infra pp. 561, 572.

(7) I.e. the Court of Law.

(8) Ex. XXI, 29.

(9) For which cf. Num. XXXV, 12.

(10) That its presence should be required.

(11) Ex. XXI, 28.

(12) With the exception, however, of the borrower who is liable even for accidents.

(13) For he also is liable for carelessness.

(14) Such as e.g. a door which would withstand only an ordinary wind. V. infra 55b

(15) So as to withstand a wind of even unusual force.

Talmud - Mas. Baba Kama 45b

who maintained[1] that Hirer is subject to the same law as Unpaid Bailee, why is it not taught above ‘with the exception of Unpaid Bailee and Hirer’? If [on the other hand the view followed] was that of R. Judah who maintained[1] that Hirer should be subject to the same law as Paid Bailee, why was it not taught ‘with the exception of Unpaid Bailee, whereas in the case of Mu'ad they all would be exempt from kofer’?[2] — R. Huna b. Hinena thereupon said: This teaching is in accordance with R. Eliezer, who said,[3] that the only precaution for it [Mu'ad] is the slaughter knife, and who regarding Hirer might agree with the view of R. Judah that Hirer should be subject to the same law as Paid Bailee. Abaye, however, said: It could still follow the view of R. Meir, but as transposed by Rabbah b. Abbahu who learnt thus: How is the payment [for the loss of the article] regulated in the case of Hirer? R. Meir says: As in the case of Paid Bailee. R. Judah, however, says: As in the case of Unpaid Bailee.[4]

R. Eleazar said: Where an ox had been handed over to an Unpaid Bailee and damage was done by it, the bailee would be liable, but where damage was done to it, the bailee would be exempt. I would here ask what were the circumstances? If where the bailee had undertaken to guard the ox against damage, why even in the case where it was injured should there be no liability? If, on the other hand, where the bailee had not undertaken to guard against damage why even in the case where damage was done by the ox should there not be exemption? — Raba thereupon said: We suppose in fact that the bailee had undertaken to guard the ox against damage, but the case here is one where he had known the ox to be a gorer, and it is natural that what he did undertake was to prevent the ox from going and doing damage to others, but he did not think of the possibility of others coming and injuring it.

MISHNAH. IF THE OWNER FASTENED HIS OX [TO THE WALL INSIDE THE STABLE] WITH A CORD, OR SHUT THE DOOR IN FRONT OF IT IN THE ORDINARY WAY[5] BUT THE OX GOT OUT AND DID DAMAGE, WHETHER IT HAD BEEN TAM OR ALREADY MU'AD, HE WOULD BE LIABLE; THIS IS THE RULING OF R. MEIR. R. JUDAH, HOWEVER, SAYS: IN THE CASE OF TAM HE WOULD BE LIABLE, BUT IN THE CASE OF MU'AD HE WOULD BE EXEMPT, SINCE IT IS WRITTEN, AND HIS OWNER HATH NOT KEPT HIM IN,[6] [THUS EXCLUDING THIS CASE WHERE] IT WAS KEPT IN. R. ELIEZER SAYS: NO PRECAUTION IS SUFFICIENT [FOR MU'AD] SAVE THE [SLAUGHTER] KNIFE.

GEMARA. What was the reason of R. Meir? — He Maintained that normally oxen are not kept under control,[7] and the Divine Law enacted that Tam should involve liability to show that at least moderate precautions were required. Then the Divine Law stated further in the case of Mu'ad, And his owner hath not kept him in,[6] to show that [for this] really adequate precautions are required;[8] and the goring mentioned in the case of Tam is now placed on a par with the goring mentioned in the case of Mu'ad.[9] R. Judah, however, maintained that oxen normally are kept under control, and the Divine Law stated that in the case of Tam there should be payment to show that really adequate precaution is required. The Divine Law, however, goes on to say, And his owner hath not kept him in,[6] in the case of Mu'ad. [This would imply] that there should be there precaution of a superior degree. [These words, however, constitute] an amplification following an amplification, and as the rule is that an amplification following an amplification intimates nothing but a limitation,[10] Scripture has thus reduced the superior degree of the required precaution. And should you object to this that goring is mentioned in the case of Tam and goring is mentioned in the case of Mu'ad[9] [for mutual inference,[11] the answer is that in this case] the Divine Law has explicitly restricted [this ruling by stating] And his owner hath not kept him in,[6] [the word ‘him’ confining the application] to this one[12] but not to another.[13] But surely these words are needed for the stated purpose?[14] — [If that were so, the Divine Law should write surely, ‘Hath not kept in’. Why does it say, hath not kept him in? To show that the rule applies to this one[15] but not to another.[16]

It has been taught: R. Eliezer b. Jacob says: Whether in the case of Tam or in that of Mu'ad, as soon as even inferior precautions have been taken [to control the ox], there is exemption. What is his reason? — He concurs with R. Judah, in holding that in the case of Mu'ad precaution even of an inferior degree is sufficient, and he [extended this ruling to Tam as he] on the strength of [the mutual inference[17] conveyed by] the mention of goring in the case both of Tam and of Mu'ad.[17]

R. Adda b. Ahabah said: The exemption laid down by R. Judah applies only to the part of the payment due on account of the ox having been declared Mu'ad,[18] but the portion due on account of Tam remains unaffected.[19] Rab said: Where the ox was declared Mu'ad to gore with the right horn, it would thereby not become Mu'ad for goring with the left horn.[20] I would here ask: In accordance with whose view [was this statement made]? If in accordance with R. Meir, did he not say that whether in the case of Tam or in that of Mu'ad, precaution of a superior degree was needed?[21] If [on the other hand] in accordance with R. Judah,[22] why specify only the left horn? Even in the case of the right horn itself, does not one part of the payment come under the rule of Tam[23] and another under that of Mu'ad? I may say that in fact it is in accordance with R. Judah , and that Rab does not concur in the view. expressed by R. Addah b. Ahabah, and what Rab thus intended to say was that it was only in such an instance[24] that there would be in one ox part Tam and part Mu'ad

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(1) Cf. infra 57b.

(2) For R. Judah maintains that even an inferior precaution in the case of Mu'ad suffices to confer exemption for any damage that has nevertheless resulted.

(3) Infra p. 259.

(4) V. p. 257, n. 7. [And since R. Meir also holds that Mu'ad requires adequate precaution, he rightly makes the Hirer liable to pay kofer as well as reimburse the owner.]

(5) So that it would be perfectly safe in the case of an ordinary wind; cf. infra 55b.

(6) Ex. XXI,36.

(7) Cf. supra p. 64.

(8) So that it would be safe even in the case of a wind of unusual force.

(9) To show that both require really adequate precaution.

(10) V. Shebu. (Sonc. ed.) p. 12, n. 3.

(11) Cf. supra p. 250. [So that for Tam too an inferior precaution should suffice.]

(12) To Mua'd.

(13) To Tam.

(14) Lit., ‘for the negative’, that is, that he is liable because be failed to take the necessary precautions.]

(15) V. p. 259, n.7.

(16) Ibid. n. 8.

(17) Ibid. n. 6.

(18) I.e. the half added on account of the ox having been declared Mu'ad.

(19) And thus constantly subject to the law of Tam.

(20) Damage done by the right horn would thus be subject to the degree of precaution required in the case of Mu'ad while damage done by the left horn would still remain subject to the degree of precaution needed in Tam.

(21) Thus so far as precaution is concerned there would in this case be no difference between the right horn and the left horn.

(22) Who demands a greater degree of precaution in case of a Tam than in that of a Mu'ad, and accordingly there would be no liability if the ox gored with the right horn after inferior precautions had been taken, whereas there would be liability with the left horn.

(23) Requiring on that account adequate precautions, in the absence of which there should be liability.

(24) Where the ox gored three times with the right horn and was declared Mu'ad accordingly, remaining thus Tam in respect of the left horn.

Talmud - Mas. Baba Kama 46a

. But in the case of an ox which was altogether Mu'ad no element of Tam could be found in it at all.

R. ELIEZER SAYS: NO PRECAUTION IS SUFFICIENT [FOR MU 'AD] SAVE [THE SLAUGHTER] KNIFE. Rabbah said: What was the reason of R. Eliezer? Because Scripture says: And his owner hath not kept him in,[1] [meaning] that precaution would no more be of any avail for such a one. Said Abaye to him: If that is so, why not similarly say on the strength of the words, And not cover it[2] that a cover would no more be of any avail for such a [pit]? And if you say that this is indeed the case, have we not learnt, 'Where it had been covered properly and an ox or an ass has [nevertheless] fallen into it there is exemption'?[3] — Abaye therefore said: The reason of R. Eliezer was as taught [elsewhere]:[4] R. Nathan says: Whence do we learn that a man should not bring up a vicious dog in his house, or keep a shaky ladder in his house? Because it is said: Thou bring not blood upon thy house.[5]

CHAPTER V

MISHNAH. IF AN OX HAS GORED A COW AND ITS [NEWLY-BORN] CALF IS FOUND [DEAD] NEAR BY, AND IT IS UNKNOWN WHETHER THE BIRTH OF THE CALF PRECEDED THE GORING[6] OR FOLLOWED THE GORING,[7] HALF DAMAGES[8] WILL BE PAID FOR [THE INJURIES INFLICTED UPON] THE COW[9] BUT [ONLY] QUARTER DAMAGES WILL BE PAID FOR [THE LOSS OF] THE CALF.[10] SO ALSO WHERE A COW GORED AN OX AND A [LIVE] CALF WAS FOUND NEAR BY, SO THAT IT WAS UNKNOWN WHETHER THE BIRTH OF THE CALF PRECEDED THE GORING[11] OR FOLLOWED THE GORING,[12] HALF DAMAGES CAN BE RECOVERED OUT OF THE COW, AND QUARTER DAMAGES OUT OF THE CALF.[13]

GEMARA. Rab Judah on behalf of Samuel said: This ruling is the view of Symmachus who held that money, the ownership of which cannot be decided has to be shared [by the parties].[14] The Sages, however, say that it is a fundamental principle in law that the onus probandi falls on the claimant. Why was it necessary to state 'this is a fundamental principle in law'? — It was necessary to imply that even where the plaintiff is positive and the defendant dubious[14] it is still the plaintiff on whom falls onus probandi. Or [we may say] it is also necessary in view of a case of this kind: For it has been stated:[15] If a man sells an ox to another and it is found to be a gorer, Rab maintained that the sale would be voidable,[16] whereas Samuel said that the vendor could plead 'I sold it to be slaughtered'.[17] How so? Why not see whether the vendee was a person buying for field work or whether he was a person buying to slaughter?[18] — Samuel's view can hold good where he was a person buying both for the one and the other. But why not see if the money paid corresponded to the value of an ox for field work, then it must have been purchased for field work; if, on the other hand it corresponded to that of an ox to be slaughtered, then it must have been purchased for slaughter?[19] — Samuel's view could still hold good where there was a rise in the price of meat so that the ox was worth the price paid for one for field work.

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(1) Ex. XXI, 29.

(2) Ibid. 33

(3) Infra 52a.

(4) Supra p. 67.

(5) Deut. XXII, 8. The same prohibition applies to a goring ox.

(6) In which case the death of the calf could not he imputed to the goring of the ox.

(7) So that the miscarriage of the calf was a result of the goring.

(8) In the case of Tam.

(9) As these have certainly resulted from the goring of the ox.

(10) On account of the doubt.

(11) In which case the calf did not participate in the goring.

(12) So that the calf while it was still an embryo took part in the act of the cow.

(13) V. Gemara, infra p. 264.
(14) Cf. also supra p. 196.
(15) B.B. 92a.
(16) At the instance of the vendee.
(17) As Samuel follows his own view that this grand principle in law accepted by the Sages has to he applied in all cases and in all circumstances, as the Gemara proceeds to explain.
(18) Would this consideration not be a piece of good circumstantial evidence?
(19) As indeed maintained by R. Judah in a similar case dealt with in B. B. 77b; as to the other view, cf. Tosaf. a.l.

Talmud - Mas. Baba Kama 46b

I may here ask: If the vendor had not the wherewithal for making payment, why not take the ox in lieu of money?[1] Do not people say, 'From the owner of your loan[2] take payment even in bran'? — No, this is to be applied where he had the wherewithal for making payment.[3] Rab who said that it was a voidable purchase maintained that we decide according to the majority of cases, and the majority of people buy for field work. Samuel, however, said that the vendor might plead against him, 'It was for slaughter that I sold it to thee,' and that we do not follow the majority,[4] for we follow the majority only in ritual matters, but in pecuniary cases we do not follow the majority, but whoever has a [pecuniary] claim against his neighbour the onus probandi falls upon him.

It has been taught to the same effect: 'Where an ox gored a cow and its [newly-born] calf was found [dead] nearby, so that it was unknown whether the birth of the calf preceded the goring, or followed the goring, half damages will be paid for [injuries inflicted upon] the cow but only quarter damages will be paid for [the loss of] the calf; this is the view of Symmachus. The Sages, however, say: If one claims anything from his neighbour, the onus probandi falls upon him.

R. Samuel b. Nahmani stated: Whence can we learn that the onus probandy falls on the claimant? It is said: If any man have any matters to do, let him come unto them,[5] [implying] 'let him bring evidence before them'. But R. Ashi demurred, saying: Do we need Scripture to tell us this?[6] Is it not common sense that if a man has a pain he visits the healer? No: the purpose of the verse is to corroborate the statement made by R. Nahman on behalf of Rabbah b. Abbuha: Whence can we learn that judges should give prior consideration to the first plaintiff?[7] It is said: If any man have any matters to do, let him come unto them[5] [implying]: let him cause his matters to be brought [first] before them. The Nehardeans however, said; It may sometimes be necessary to give prior consideration to the defendant, as for instance in a case where his property would otherwise depreciate in value.[8]

SO ALSO WHERE A COW GORED AN OX etc. [We have here] half damages plus quarter damages! Is it not [only] half of the damage that need be paid for? What then have full damages less a quarter to do here? — Abaye said: Half of the damage means one quarter of the damage,[9] and a quarter of the damage means one eighth of the damage.[10] It is true that where the cow and the calf belong to one owner, the plaintiff would be entitled to plead against the owner of the cow, 'In any case, have you not to pay me half damages?'[11] The ruling, however, applies to the case where the cow belonged to one and the calf to another.[12] Again, where the plaintiff claimed from the owner of the cow first it would still also make no difference, as he would be entitled to argue against the owner of the cow, 'It was your cow that did me the damage, [and it is for you to] produce evidence that there is a joint defendant with you.'[13] But where the rule applies is to a case where he claimed from the owner of the calf first, in which case the owner of the cow may say to him, 'You have made clear your opinion that there is a joint defendant with me.'[14] Some, however, say that even where the plaintiff claimed from the owner of the cow first, the latter might put him off by saying, 'It is definitely known to me[15] that there is a joint defendant with me.'[14] Raba said: Is then 'a fourth of the damage' and 'an eighth of the damage' mentioned in the text? Is not 'half damages' and 'quarter damages' stated in the text?[16] — Raba therefore said: We suppose that in fact the cow and the calf belonged to one owner,[17] and the meaning is this: Where the cow is available,[18] the payment of half damages will be made out of the cow.[19]

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(1) Since the meat of the ox is worth the purchase money.

(2) I.e. from your debtor who is now the owner of the money lent to him; cf. the Roman 'Mutuum'.

(3) In which case the creditor is entitled to ready cash; cf. Tosaf. a.l. and supra 9a; 27a; B.B. 92b.

(4) Which is otherwise an accepted principle in Rabbinic Law; cf. Hul. 11b.

(5) Ex. XXIV, 14.

(6) Keth. 22a and Nid. 25a.

(7) I.e., where A instituted an action against B, and B on appearance introduced a counter-claim against A; cf. Rashi and Tosaf. a.l., and Sanh. 35a.

(8) Where, e.g., he has an opportunity of disposing of the estate concerned at a high price — an opportunity he might miss through any delay in a settlement of his counter-claim.

(9) I.e., a half of the half, as half constitutes the whole payment in the case of Tam.

(10) I.e., a quarter of the half.

(11) Since both the cow and the calf belong to you.

(12) As e.g., where the cow was sold with the exception of its offspring; Rashi.

(13) That is, that the calf took part in the goring, otherwise you must be held solely responsible.

(14) So that I cannot accordingly be held liable for all the damages.

(15) Unless you prove to the contrary.

(16) How then could Abaye interpret half-damages to mean quarter damages, and quarter damages to mean an eighth of the damage?

(17) In the case stated in the Mishnah.

(18) To be distrained upon for the damages in accordance with the law applicable to Tam.

(19) As she definitely did the damage.

Talmud - Mas. Baba Kama 47a

But where the cow is not available, quarter damages will be paid out of the body of the calf.[1] Now this is so only where it is not known whether the calf was still part of the cow at the time she gored or whether it was not so, but were we certain that the calf was still part of the cow at the time of the goring[2] the whole payment of the half damages would be made from the body of the calf. Raba here adopts the same line of reasoning [as in another place], as Raba has indeed stated: Where a cow has done damage, payment can be collected out of the body of its calf, the reason being that the latter is a part of the body of the former, whereas in the case of a chicken doing damage, no payment will be made out of its eggs, the reason being that they are a separate [body].[3]

Raba further said: [Where an ox has gored a cow and caused miscarriage] the valuation will not be made for the cow separately and for the calf separately, but the valuation will be made for the calf as at the time when it formed a part of the cow; for if you do not adopt this rule,[4] you will be found to be making the defendant suffer unduly. The same method is followed in the case of the cutting off the hand of a neighbour's slave;[5] and the same method is followed in the case of damage done to a neighbour's field.[6] Said R. Aha the son of Raba to R. Ashi: If justice demands, why should not the defendant suffer? — Because he is entitled to say to him: ‘Since it was a pregnant cow that I deprived you of, it is a pregnant cow which should be taken into valuation.’

There is no question that where the cow belonged to one owner and the calf to another owner, the value of the fat condition of the cow will go to the owner of the cow.[7] But what of the value of its bulky appearance? — R. Papa said: It will go to the owner of the cow. R. Aha the son of R. Ika said: It will be shared [by the two owners].[8] The law is that it will be shared [by the two owners].

MISHNAH.IF A POTTER BRINGS HIS WARES INTO THE COURTYARD OF ANOTHER PERSON WITHOUT PERMISSION, AND THE CATTLE OF THE OWNER OF THE COURTYARD BREAKS THEM, THERE IS NO LIABILITY.[9] MOREOVER, SHOULD THE ANIMAL BE INJURED BY THEM, THE OWNER OF THE POTTERY IS LIABLE [TO PAY DAMAGES]. IF, HOWEVER, HE BROUGHT [THEM] IN WITH PERMISSION,[10] THE OWNER OF THE COURTYARD IS LIABLE. SIMILARLY IF [A MAN] BRINGS HIS PRODUCE INTO THE COURTYARD OF ANOTHER PERSON WITHOUT PERMISSION AND THE ANIMAL OF THE OWNER OF THE PREMISES CONSUMES IT, THERE IS NO LIABILITY.[11] IF IT WAS HARMED BY IT THE OWNER WOULD BE LIABLE. IF, HOWEVER, HE BROUGHT THEM IN WITH PERMISSION,[10] THE OWNER OF THE PREMISES WOULD BE LIABLE. SO ALSO IF [A MAN] BRINGS HIS OX INTO THE COURTYARD OF ANOTHER WITHOUT

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(1) On account of the doubt involved in the case dealt with in the Mishnah.

(2) In which case it participated in the goring.

(3) [So Rashi. Curr. edd. read ‘mere excrement’.]

(4) But that the cow should be valued separately and the calf separately.

(5) [You do not value the hand separately, viz., what price a master would in the first instance be willing to take for depriving his slave of the use of his hand; but the difference in the value of a slave who had his hand cut off — a much smaller price.]

(6) [The valuation is not made on the basis of the single plot which has been damaged, but on the basis of its value in relation to the whole field.]

(7) As the embryo did not increase the fatness of the cow.

(8) As both the cow and embryo participate in the bulky appearance of the animal.

(9) As the plaintiff was a trespasser.

(10) In which case he was no trespasser

(11) V.p. 266, n. 7.

Talmud - Mas. Baba Kama 47b

PERMISSION AND THE OX OF THE OWNER OF THE PREMISES GORES IT OR THE DOG OF THE OWNER OF THE PREMISES BITES IT, THERE IS NO LIABILITY. MOREOVER SHOULD IT GORE THE OX OF THE OWNER OF THE PREMISES ITS OWNER WOULD BE LIABLE. AGAIN, IF IT FALLS [THERE] INTO A PIT OF THE OWNER OF THE PREMISES AND MAKES THE WATER IN IT FOUL, THERE WOULD BE LIABILITY. SO ALSO IF [IT KILLS] THE OWNER'S FATHER OR SON [WHO] WAS INSIDE THE PIT, THERE WOULD BE LIABILITY TO PAY KOFER.[1] IF, HOWEVER, HE BROUGHT IT IN WITH PERMISSION, THE OWNER OF THE YARD WOULD BE LIABLE. RABBI, HOWEVER, SAYS: IN ALL THESE CASES THE OWNER OF THE PREMISES WOULD NOT BE LIABLE UNLESS HE HAS TAKEN IT UPON HIMSELF TO WATCH [THE ARTICLES BROUGHT INTO HIS PREMISES].

GEMARA. The reason why [the potter would be liable for damage occasioned by his pottery to the cattle of the owner of the premises] is because the entry was without permission, which shows that were it with permission the owner of the pots would not be liable for the damage done to the cattle of the owner of the premises and we do not say that the owner of the pots has by implication undertaken to watch the cattle of the owner of the premises. Who is the authority for this view? — Rabbi, who has laid down that without express stipulation no duty to watch is undertaken.[2] Now look at the second clause: IF HE BROUGHT THEM IN WITH PERMISSION, THE OWNER OF THE PREMISES WOULD BE LIABLE. This brings us round to the view of the Rabbis,[3] who said that even without express stipulation he makes himself responsible for watching. Moreover, [it was further stated]: RABBI SAYS: IN ALL THESE CASES THE OWNER OF THE PREMISES WOULD NOT BE LIABLE UNLESS HE HAS TAKEN UPON HIMSELF TO WATCH. [Are we to say that] the opening clause and the concluding clause are in accordance with Rabbi while the middle clause is in accordance with the Rabbis? — R. Zera thereupon said: The contradiction [is obvious]; he who taught one clause cannot have taught the other clause. Raba, however, said; The whole [of the anonymous part of the Mishnah] is in accordance with the Rabbis, for [where the entry was] with permission the owner of the premises undertook the safeguarding of the pots even against breakage by the wind.[4]

IF [A MAN] BRINGS HIS PRODUCE INTO THE COURTYARD OF ANOTHER OWNER etc. Rab said: This rule[5] applies only where the animal [was injured] by slipping on them, but if the animal ate them [and was thereby harmed], there would be exemption on the ground that it should not have eaten them.[6] Said R. Shesheth: I feel inclined to say that it was only when he was drowsy or asleep that Rab could have made such a statement.[7] For it was taught: If one places deadly poison before the animal of another he is exempt from the judgment of Man, but liable to the judgment of Heaven.[8] Now, that is so only in the case of deadly poison which is not usually consumed by an animal, but in the case of products that are usually consumed by an animal, there appears to be liability even to the judgment of Man. But why should this be so? [Why not argue:] It should not have eaten them? — I may reply that strictly speaking even in the case of produce there should be exemption from the judgment of Man, and there was a special purpose in enunciating this ruling with reference to deadly poison, namely that even where the article was one not usually consumed by an animal, there will still be liability to the judgment of Heaven. Or if you wish you may say that by the deadly poison mentioned was meant hypericum,[9] which like a fruit [is eaten by animals].

An objection could be raised [from the following]: If a woman enters the premises of another person to grind wheat without permission, and the animal of the owner consumes it, there is no liability; if the animal is harmed, the woman would be liable. Now, why not argue: It should not have over-eaten? — I can answer: [In what respect] does this case go beyond that of the Mishnah, which was interpreted [to refer to damage occasioned by] the animal having slipped over them? What then was in the mind of the one who made the objection? — He might have said to you; Your explanation is satisfactory regarding the Mishnah where it says, IF IT WAS HARMED BY IT [which admits of being interpreted] that the animal slipped over them. But here [in the Baraitha] it says, ‘if the animal is harmed’, without the words ‘by them’, so that surely the consumption [of the wheat] is what is referred to. And the other?[10] — He can contend [that the omission of these words] makes no difference.

Come and hear: If a man brought his ox into the courtyard of another person without permission, and it ate there wheat and got diarrhoea from which it died, there would be no liability. But if he brought it in with permission, the owner of the courtyard would be liable. Now why not argue: It should not have eaten?[11] — Raba thereupon said: How can you raise an objection from a case where permission was given[12] against a case where permission was not given?[13] Where permission was given, the owner of the premises assumed liability for safeguarding the ox even against its strangling itself.

The question was raised: Where the owner of the premises has assumed responsibility to safeguard [the articles brought in to his premises], what is the legal position? Has the obligation to safeguard been assumed by him [only] against damage from his own [beasts], or has he perhaps also undertaken to safeguard from damage in general? Come and hear: Rab Judah b. Simon learnt in the [Tractate] Nezikin of the School of Karna;[14] If a man brings his produce into the courtyard of another without permission, and an ox from elsewhere comes and consumes it, there is no liability. But if he brought it in with permission there would be liability. Now, who would be exempt[15] and who would be liable?[16] Does it not mean that the owner of the premises would be exempt[15] and[16] the owner of the premises would be liable?[17] — I may say that this is not so, it is the owner of the ox who would be exempt[15] and the owner of the ox who would be liable.[16] But if it refers to the owner of the ox,

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(1) Ex. XXI, 29-30.

(2) [For the present it is assumed that the duty applies alike to the owner of the pottery in regard to the belongings of the owner of the premises as to the latter in regard to the pottery.]

(3) The representatives of the anonymous view cited on the Mishnah.

(4) Whereas the owner of the pottery could never be considered to have by implication accepted upon himself the responsibility for safeguarding the belongings of the owner of the premises.

(5) Imposing liability where the animal was injured by the produce.

(6) Cf. infra 57b.

(7) V. infra p. 376.

(8) V. infra 56a.

(9) [St. John's Wort.]

(10) Rab.

(11) So that the owner of the courtyard should not be liable for the harm occasioned by the wheat to the ox brought in with his permission.

(12) And the harm was done to the ox thus brought in with permission.

(13) I.e. where produce brought in without permission was eaten by the owner's animal which thereby suffered harm, in which case the owner though being a trespasser has still no liability to safeguard to that extent the belongings of the owner of the premises.

(14) [Karna, one of the Judges of the Exile, had a collection of Babylonian traditions, הלכתא דבבלאי (Gen. Rab. XXXIII), of pre-Amoraic days, v. Funk, S., Die Juden in Babylonian, I, n. 1.]

(15) In the absence of permission.

(16) Where permission was granted.

(17) [This shows that the responsibility assumed by the owner of the premises extends in regard to damages in general.]

Talmud - Mas. Baba Kama 48a

what has permission or absence of permission to do with the case?[1] — I will answer; [Where the produce was brought in] with permission, the case would be one of Tooth [doing damage] in the plaintiff's premises,[2] and Tooth doing damage in the plaintiff's premises entails liability,[3] whereas in the absence of permission it would be a case of Tooth doing damage on public ground,[4] and Tooth doing damage on public ground entails no liability.[5]

Come and hear: If a man brings his ox into the premises of another person without permission, and an ox from elsewhere comes and gores it, there is no liability. But if he brought it in with permission there would be liability. Now, who would be exempt[6] and who would be liable?[7] Does it not mean that it is the owner of the premises who would be exempt[6] and the owner of the premises who would be liable?[7] — No, it is the owner of the ox [from elsewhere] who would be exempt[6] and similarly it is the owner of the ox [from elsewhere] who would be liable.[7] But if so, what has permission or the absence of permission to do with the case?[8] — I would answer that this teaching is in accordance with R. Tarfon, who held[9] that the unusual damage occasioned by Horn in the plaintiff's premises has to be compensated in full: [Where the ox was brought in] with permission the case would therefore be one of Horn doing damage in the plaintiff's premises[10] and the payment would have to be for full damages, whereas in the absence of permission it would amount to Horn doing damage on public ground,[4] and the payment would accordingly be only for half damages.

A certain woman once entered the house of another person for the purpose of baking bread there, and a goat of the owner of the house came and ate up the dough, from which it became sick and died. [In giving judgment] Raba ordered the woman to pay damages for the value of the goat. Are we to say now that Raba differed from Rab, since Rab said:[11] It should not have eaten?[12] — I may reply, are both cases parallel? There,[11] there was no permission and the owner of the produce did not assume any obligation of safeguarding [the property of the owner of the premises], whereas in this case, permission had been given and the woman had accepted responsibility for safeguarding[13] [the property of the owner of the premises]. But why should the rule in this case be different from [what has been laid down, that] if a woman enters the premises of another person to grind wheat without permission, and the animal of the owner of the premises eats it up, the owner is not liable, and if the animal suffers harm the woman is liable, the reason being that there was no permission, which shows that where permission was granted she would be exempt?[14] — I can answer: In the case of grinding wheat, since there is no need of privacy at all, and the owner of the premises is not required to absent himself, the obligation to take care [of his property] still devolves upon him, whereas in the case of baking where, since privacy is required,[15] the owner of the premises absents himself [from the premises], the obligation to safeguard his property must fall upon the woman.

IF A MAN BRINGS HIS OX INTO THE PREMISES OF ANOTHER PERSON [etc.]. Raba said: If he brings his ox on another person's ground and it digs there pits, ditches, and caves, the owner of the ox would be liable for the damage done to the ground, and the owner of the ground would be liable for any damage resulting from the pit. For though the Master stated:[16] [It says,] If a man shall dig a pit,[17] and not ‘if an ox [shall dig] a pit’, still here [in this case] since it was the duty of the owner of the ground to fill in the pit and he did not fill it in, he is reckoned [in the eyes of the law] as having himself dug it.[18]

Raba further said: If he brings his ox into the premises of another person without permission, and the ox injures the owner of the premises, or the owner of the premises suffers injury through the ox,[19] he is liable, but if it lies down,[20] he has no liability. But why should the fact of its lying down confer exemption?[21] — R. Papa thereupon said: What is meant by ‘it lies down’ is that the ox lays down its excrements [upon the ground], and thereby soils the utensils of the owner of the premises. [The exemption is because] the excrements[22] are a case of Pit, and we have never found Pit involving liability for damage done to inanimate objects.[23] This explanation is satisfactory if we adopt the view of Samuel who held[24] that all kinds of nuisances come under the head of Pit. But on the view of Rab who said[24] [that they do not come under the head of Pit] unless they have been abandoned,[25] what are we to say? — It may safely be said that excrements as a rule are abandoned.[26]

Raba said further: If one enters the premises of another person without permission, and injures the owner of the premises,[27] or the owner of the premises suffers injury through him[28] there would be liability;[29] and if the owner of the premises injured him, there would be no liability. R. Papa thereupon said: This ruling applies only where the owner had not noticed him. For if he had noticed him, the owner of the premises by injuring him would render himself liable, as the trespasser would be entitled to say to him: 'Though you have the right to eject me, you have no right to injure me.'[30] These authorities[31] followed the line of reasoning [adopted by them elsewhere], for Raba or, as others read, R. Papa stated:

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(1) Since the defendant was not the owner of the premises.
(2) As the plaintiff obtained a legal right to keep there the object which was subsequently damaged by a stray ox.
(3) Ex. XXII, 4.
(4) I.e. on premises where the plaintiff has no more right than the owner of the ox, the defendant.
(5) Cf. supra p. 17.
(6) V. p. 270, n. 4.
(7) V. p. 270, n. 5.
(8) V. p. 270, n. 7.
(9) Supra p. 125.
(10) V. p. 270, n. 8.
(11) Supra p. 268.
(12) And the woman would therefore not have to pay for the damage sustained by the animal of the owner of the premises.
(13) V. the discussion that follows.
(14) Why then should the woman, the owner of the dough, have to pay?
(15) Lit., 'she requires privacy.' As the woman would usually have to uncover her arms.
(16) Infra p. 93 and cf. also supra 51a.
(17) Ex. XXI, 33.
(18) The owner of the ground is therefore liable for any damage resulting from the pit.
(19) By stumbling over it
(20) And, as it is assumed at present, it did damage thereby.
(21) If damage was done by it.
(22) As any other nuisance.
(23) For Scripture said: Ox and ass'; cf. supra p. 18.
(24) Supra p. 150.
(25) But where they were not abandoned they would be subject to the law applicable to Cattle, where there is no exemption for damage done to inanimate objects.
(26) Cf. B.M. 27a.
(27) [Whether with or without intention.]
(28) I.e. the trespasser, by stumbling over him.
(29) Upon the trespasser.
(30) Cf. supra p. 124.
(31) I.e. Raba and R. Papa.

Talmud - Mas. Baba Kama 48b

Where both of them [plaintiff and defendant] had a right [to be where they were][1] or where both of them [on the other hand] had no right [to be where they were],[2] if either of them injured the other, he would be liable, but if either suffered injury through the other, there would be no liability. This is so only where both of them had a right to be where they were[1] or where both of them [on the other hand] had no right to be where they were,[2] but where one of them had a right and the other had no right, the one who had a right would be exempt,[3] whereas the one who had no right would be liable.[3]

IF IT FALLS [THERE] INTO A PIT OF THE OWNER AND MAKES THE WATER IN IT FOUL, THERE WOULD BE LIABILITY. Raba said: This ruling applies only where the ox makes the water foul at the moment of its falling into the pit.[4] For where the water became foul [only] after it fell in, there would be exemption on the ground that [the damage done by] the ox[5] should then be [subject to the law applicable in the case of] Pit, and water is an inanimate object, and we never find Pit entailing liability for damage done to inanimate objects.[6] Now this is correct if we accept the view of Samuel who said[7] that all kinds of nuisances are subject to the law of Pit. But on the view of Rab who held[7] [that this is not so] unless they have been abandoned,[8] what are we to say? — We must therefore suppose that if the statement was made at all, it was made in this form: Raba said: The ruling [of the Mishnah] applies only where the ox made the water foul by [the dirt of] its body.[4] But where it made the water foul by the smell of its carcass there would be no liability, the reason being that the ox [in this case] was only a [secondary] cause [of the damage], and for a mere [secondary] cause there is no liability.

WHERE [IT KILLS] THE OWNER'S FATHER OR HIS SON [WHO] WAS INSIDE THE PIT, THERE WOULD BE LIABILITY TO PAY KOFER. But why? Was the ox not Tam?[9] — Rab thereupon said: We are dealing with a case where the ox was Mu'ad to fall upon people in pits. But if so, should it not have already been killed [on the first occasion]?[10] — R. Joseph thereupon said: The ox was looking at some grass [growing near the opening of the pit] and thus fell [into it].[11] Samuel, however, said: This ruling is in accordance with R. Jose the Galilean, who held[12] that [killing by] Tam entails the payment of half kofer. ‘Ulla, however, said: It accords with the ruling laid down by R. Jose the Galilean in accordance with R. Tarfon, who said[13] that Horn doing damage in the plaintiff's premises entails the payment of full damages.[14] So here the liability is for the payment of full kofer.[15] ‘Ulla's answer satisfactorily explains why the text [of the Mishnah] says, IF HIS FATHER OR HIS SON WAS INSIDE THE PIT.[16] But if we take the answer of Samuel, why [is the ruling stated] only with reference to his father and his son?[16] Why not with reference to any other person? — The Mishnah took the most usual case.[17]

IF HE BROUGHT THEM IN WITH PERMISSION, THE OWNER OF THE PREMISES WOULD BE LIABLE etc. It was stated: Rab said: ‘The law[18] is in accordance with the first Tanna,’ whereas Samuel said, ‘The law[18] is in accordance with the view of Rabbi.’[19]

Our Rabbis taught: [If the owner of the premises says:] ‘Bring in your ox and watch it,’ should the ox then damage, there would be liability,[20] but should the ox suffer injury there would be no liability.[21] If, however, [the owner says], ‘Bring in your ox and I will watch it,’ should the ox suffer injury there would be liability,[21] but should it do damage[22] there would be no liability.[20] Does not this statement contain a contradiction? You say that [where the owner of the premises said:] ‘Bring in your ox and watch it,’ should the ox do damage there would be liability,[20] but should the ox suffer injury there would be no liability.[21] Now the reason for this is that he expressly said to the owner of the ox ‘watch it’ — [the reason, I mean,] that the owner of the ox will be liable and the owner of the premises exempt; from which I infer that if no explicit mention was made [as to the watching] the owner of the premises would be liable, and the owner of the ox exempt, indicating that without express stipulation to the contrary the former takes it upon himself to safeguard [the ox].[23] Now read the concluding clause: But [if he said]: ‘Bring in your ox and I will watch it’, should the ox suffer injury there would be liability,[24] but should it do damage there would be no liability, [the reason being that] he expressly said to him ‘and I will watch it’ — [the reason,] I mean, that the owner of the premises would be liable and the owner of the ox exempt; from which I infer that if there is no express stipulation, the owner of the ox would be liable and the owner of the premises exempt, as in such a case the owner of the premises does not take it upon himself to safeguard [the ox]. This brings us round to the view of Rabbi, who laid down [there would be no liability upon him][24] unless where the owner of the premises had taken upon himself to safeguard. Is then the opening clause in accordance with the Rabbis, and the concluding clause in accordance with Rabbi? — R. Eleazar thereupon said: The contradiction [is obvious]; he who taught one clause cannot have taught the other clause.[25] Raba, however, said: The whole [of the Baraitha] can be explained as being in accordance with the Rabbis; since the opening clause required the insertion of the words, ‘watch it’,[26] there were correspondingly inserted in the concluding clause the words ‘And I will take care of it’. R. Papa, however, said: The whole [of the Baraitha] is in accordance with Rabbi;[27] for he concurred in the view of R. Tarfon who stated[28] that Horn doing damage in the plaintiff's premises would entail the payment of full damages. It therefore follows that where he expressly said to him, ‘Watch it’, he certainly did not transfer a legal right to him to any place in the premises, so that the case[29] becomes one of Horn doing damage in the plaintiff's premises, and [as already explained][30] where Horn does damage in the plaintiff's premises the payment must be for full damages. Where, however, he did not expressly say, ‘Watch it’, he surely granted him a legal right to place in the premises, so that the case is one of [damage done on] premises of joint owners and [as we know] where Horn does damage on premises of owners in common, there is no liability to pay anything but half damages.[31]

MISHNAH. IF AN OX WHILE CHARGING ANOTHER OX [INCIDENTALLY] INJURES A WOMAN WHO [AS A RESULT] MISCARRIES, NO COMPENSATION NEED BE MADE FOR THE LOSS OF THE EMBRYOS. BUT IF A MAN WHILE MEANING TO STRIKE ANOTHER MAN [INCIDENTALLY] STRUCK A WOMAN WHO THUS MISCARRIED HE WOULD HAVE TO PAY COMPENSATION FOR THE LOSS OF THE EMBRYOS.[32] HOW IS THE COMPENSATION FOR [THE LOSS OF] EMBRYOS FIXED? THE ESTIMATED VALUE OF THE WOMAN BEFORE HER MISCARRIAGE IS COMPARED WITH HER VALUE AFTER MISCARRIAGE.

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(1) Such as e.g. on public ground or on their joint premises.

(2) E.g. where they were running on public ground, for which cf. supra p. 172.

(3) For incidental damage suffered through him.

(4) In which case the damage was direct.

(5) By becoming a stationary nuisance.

(6) Supra p. 18.

(7) V. p. 273, n. 3.

(8) V. p. 273, n. 4.

(9) In which case no kofer has to be paid.

(10) For in a case where the ox threw itself upon a human being in a pit to kill him it could hardly escape being sentenced to death and stoned accordingly. The explanations given supra pp. 232-3 on a similar problem could therefore hardly apply here.

(11) Without any intention to kill the human being in the pit. The ox is therefore exempt from being stoned, but the owner is nevertheless liable to pay kofer as this kind of damage comes under the category of Tooth, since the ox did it for its own gratification; cf. supra p. 6.

(12) Supra p. 66.

(13) V. p. 271, n. 6.

(14) Cf. also supra p. 134.

(15) Since the ox killed the human being on his own premises.

(16) So that he was killed on his own premises.

(17) For it is not quite usual that a person not of the household of the owner of the yard should be in the pit which was the private property of the owner.

(18) [V.l., ‘The halachah is.’]

(19) Cf. Bez. 40a.

(20) Upon the owner of the ox.

(21) Upon the owner of the premises.
(22) To the belongings of the owner of the premises.
(23) [MS. M. adds: This will be in accordance with the Rabbis who hold that in the absence of any express stipulation there is still the duty to watch.]
(24) Upon the owner of the premises.
(25) Cf. supra p. 268.
(26) As otherwise the owner of the premises would by implication, according to the Rabbis, have accepted liability to safeguard.
(27) For while the inference from the concluding clause holds good, this is not the case with that of the commencing clause, as even where no mention was made about watching the ox brought in, the owner of the premises would still not be liable for any damage done to it. There may, however, be a difference where it gored an ox of the owner of the premises if Rabbi followed the view of R. Tarfon as will be explained in the text.
(28) V. supra p. 125.
(29) Where the ox brought in gored an ox of the owner of the premises.
(30) V. p. 276, n. 6.
(31) Supra. p. 58.
(32) Ex. XXI, 22

Talmud - Mas. Baba Kama 49a

R. SIMEON B. GAMALIEL SAID: IF THIS IS SO, A WOMAN AFTER HAVING GIVEN BIRTH INCREASES IN VALUE.[1] IT IS THEREFORE THE VALUE OF THE EMBRYOS WHICH HAS TO BE ESTIMATED, AND THIS AMOUNT WILL BE GIVEN TO THE HUSBAND. IF, HOWEVER, THE HUSBAND IS NO LONGER ALIVE, IT WOULD BE GIVEN TO HIS HEIRS. IF THE WOMAN WAS A MANUMITTED SLAVE OR A PROSELYTESS [AND THE HUSBAND, ALSO A PROSELYTE, IS NO LONGER ALIVE], THERE WOULD BE COMPLETE EXEMPTION.[2] GEMARA. The reason why there is exemption is because the ox was charging another ox, from which we infer that if it was charging the woman, there would be liability to pay. Will this not be in contradiction to the view of R. Adda b. Ahabah? For did not R. Adda b. Ahabah state[3] that [even] where Cattle were charging the woman, there would [still] be exemption from paying compensation for [the loss] of the embryos? — R. Adda b. Ahabah might reply: The same ruling [of the Mishnah] would apply even in the case of Cattle making for the woman, where there would similarly be exemption from paying compensation for [the loss of] the embryos. And as for the Mishnah saying IF AN OX WHILE CHARGING OTHER CATTLE, the reason is that, since it was necessary to state in the concluding clause BUT IF A MAN WHILE MEANING TO STRIKE ANOTHER MAN, this being the case stated in Scripture,[4] it was also found expedient to have a similar text in the commencing clause IF AN OX WHILE CHARGING ANOTHER OX.

R. Papa said: If an ox gores a woman-slave, causing her to miscarry, there would be liability to pay for the loss of the embryos, the reason being that [in the eyes of the law] it was merely a case of a pregnant she-ass being injured, for Scripture says, Abide ye here with the ass,[5] thus comparing this folk to an ass.[6]

HOW IS THE COMPENSATION FOR THE LOSS OF EMBRYOS FIXED etc.? ‘COMPENSATION FOR THE EMBRYOS’? Should it not [also] have been ‘Compensation for the increase in [the woman's] value caused by the embryos’?[7] — This indeed was what was meant: How is the compensation for the embryos and for the increase [in the woman's value] due to embryos fixed? Her estimated value before miscarriage is compared with her value after miscarriage.[8]

BUT R. SIMEON B. GAMALIEL SAID; IF THIS IS SO, A WOMAN AFTER HAVING GIVEN BIRTH INCREASES IN VALUE. What did he mean by this statement?[9] — Rabbah said; He meant to say this; Does a woman increase in value before giving birth more than after? Does not a woman increase in value after giving birth[10] more than before giving birth? It is therefore the value of the embryos which has to be estimated, and this amount will be given to the husband. It was taught to the same effect; Does the value of a woman increase more before giving birth than after giving birth? Does not the value of a woman increase after having given birth[10] more than before giving birth? It is therefore the value of the embryos which has to be estimated, and this amount will be given to the husband. Raba, however, said: What is meant is this.[11] 'Is a woman's increase in value wholly for [the benefit of the husband for] whom she bears, and has she no share at all in the increase [in the value][12] due to the embryo? It is therefore the value of the embryos which has to be estimated and this amount will be given to the husband, whereas the amount of the increase [in the value][12] caused by the embryos will be shared equally [between husband and wife].' It was similarly taught: R. Simeon b. Gamaliel said: Is the increase in a woman's value wholly for [the benefit of the husband for] whom she bears, and has she herself no share at all in the increase [in her value] due to the embryos? No; there is a separate estimation for Depreciation[13] and also for Pain,[13] and the value of the embryos is estimated and given to the husband, whereas the amount of the increase in her value caused by the embryos will be shared equally [between husband and wife]. But is not R. Simeon b. Gamaliel contradicting himself [in this]?[14] — There is no contradiction, for one case[15] is that of a woman pregnant for the first time,[16] and the other of a woman who had already given birth to children.[17]

What was the reason of the Rabbis who stated that the amount of the increase [in the woman's value] due to the embryos also belongs to the husband? — As it was taught: From the words, so that her fruit depart from her,[18] cannot I understand that the woman was pregnant? Why then [the words] with child?[18] To teach you that the increase in her value due to pregnancy belongs to the husband. How then does R. Simeon b. Gamaliel expound the phrase 'with child'? — He required it for the lesson taught in the following: R. Eliezer b. Jacob says: Liability is never incurred save when the blow is given over against the place of the womb. R. Papa said: You are not to understand from this just over against the place of the womb, for wherever the bruise could be communicated to the embryo [will suffice];[19] what is excluded is a blow on the hand or foot, where there would be liability.

IF THE WOMAN WAS A MANUMITTED SLAVE,OR PROSELYTESS [AND THE HUSBAND, ALSO A PROSELYTE, IS NO LONGER ALIVE], THERE WOULD BE EXEMPTION ALTOGETHER.[20] Rabbah said: This rule applies only where the blow was given during the lifetime of the proselyte [husband] and it was only after this that he died, for since the blow was given during the lifetime of the proselyte, he acquired title to the impending payment, so that when he subsequently died[21] the defendant became quit of it as it was an asset of the proselyte.[21] But where the blow was given after the death of the proselyte it was the mother who acquired title to the embryos, so that the defendant would have to make payment to her. Said R. Hisda: O, master of this [teaching]! Are embryos packets of money to which a title can be acquired? It is only when the husband is there[22] that the Divine Law grants payment to him, but not when he is no more.

An objection was raised:[23] 'Where a woman is struck and a miscarriage results, compensation for Depreciation and Pain is to be paid to the woman, but for the loss of the embryos to the husband; where the husband is no more alive it[24] is given to his heirs; so also where the woman is no more alive, it[25] is given to her heirs. Should she be a slave who has been manumitted, or a proselytess [whose husband, also a proselyte, is no longer alive], the defendant becomes entitled to it'?[26] — I would reply: Is there anything more in this case than in that of the Mishnah, which has been interpreted to refer to where the blow was given during the lifetime of the proselyte and [where it was only after this that] the proselyte died?[27] [Why therefore not interpret the text] here also as referring to a case were the blow was given during the lifetime of the proselyte and [where it was only after this that] the proselyte died![27] More-over, if you wish you may [alternatively] say that it might have referred even to a case where the blow was given after the death of the proselyte,

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(1) V. the explanation in the Gemara.
(2) The reason being that in this case there is no legitimate plaintiff.
(3) Supra p. 239.
(4) Ex. XXI, 22.
(5) Gen. XXII, 5.
(6) I.e. a mere chattel of the Master.
(7) Before the miscarriage took place. For besides the loss of the value of the embryos there was a loss of the value of the woman herself that was increased by the embryos making her look bigger and stouter. [Rashi reads: ‘Is this (referring to the valuation laid down in the Mishnah) compensation for the embryos? Is it not also compensation for the increase etc.?’]
(8) [This valuation, that is to say, serves as compensation both for the embryos and for the increase etc.]
(9) For surely the anonymous Tanna expressed himself to the contrary.
(10) Through having emerged safely from the dangers of childbirth.
(11) By R. Simeon b. Gamaliel.
(12) Of her own body.
(13) Cf. supra p. 243 and Keth. VI, 1.
(14) For according to his other statement a woman increases in value after giving birth more than before.
(15) Where he stated that the value of a woman after having given birth is greater than that prior to having given birth.
(16) Where the circumstances are more complicated.
(17) In which case her value later is less than that prior to giving birth
(18) Ex. XXI, 22.
(19) To create liability.
(20) V. p. 277, n. 6.
(21) Without issue, leaving thus no heirs.
(22) I.e. alive.
(23) Cf. supra p. 234.
(24) I.e. the payment for the loss of the embryos.
(25) I.e. the payment for Depreciation and Pain.
(26) Even, it would seem, when the blow was given after the death of the proselyte, which contradicts the view of Rabbah.
(27) V. p. 280, n. 5.

Talmud - Mas. Baba Kama 49b

but read in the text ‘she would become entitled to it’.[1]

May we say that there is on this point[2] a difference between Tannaitic authorities? [For it was taught:] If a daughter of an Israelite was married to a proselyte and became pregnant by him, and a blow was given her during the lifetime of the proselyte,[3] the compensation for the loss of the embryos will be given to the proselyte. But if after the death of the proselyte![4] — One Baraitha teaches that there would be liability, whereas another Baraitha teaches that there would be no liability. Now, does this not show that Tannaim differ on this [point]?[5] According to Rabbah there is certainly a difference between Tannaim on this matter.[6] But what of R. Hisda?[7] Must he also hold that Tannaim were divided on it? — [No; he may argue that] there is no difficulty,[8] as one [Baraitha] accepts the view of the Rabbis[9] whereas the other follows that of R. Simeon b. Gamaliel.[10] But if [the Baraitha which says that there is liability follows the view of] R. Simeon b. Gamaliel, why speak only of compensation after the death [of the proselyte]? Would she even during [his] lifetime not have [a half of the payment]? — During [his] lifetime she would have only a half, whereas after death she would have the whole.[11] Or if you wish you may say that both this [Baraitha][12] and the other follow the view of R. Simeon b. Gamaliel,[10] but while one[12] deals with the increase in the value [of the woman caused] by the embryos, the other[13] refers to the compensation for the loss of the value of the embryos [themselves].[14] I would here ask, why not derive from the rule[12] regarding the increased value due to the embryos the other rule regarding the value of the embryos themselves?[15] And again, why not derive from the ruling[12] of R. Simeon b. Gamaliel also the ruling of the Rabbis?[16] — It may, however, be said that this could not be done. For as regards the increased value [of the woman due] to the embryos, seeing that she has some hold upon it,[17] she can acquire a title to the whole of it,[18] whereas in regard to the compensation for the embryos themselves, on which she has no hold,[19] she can acquire no title to them at all.

R. Yeba the Elder enquired of R. Nahman: If a man has taken possession of the deeds of a proselyte,[20] what is the legal position? [Shall we say that] a man who takes possession of a deed does so with intent to acquire the land [specified in the document], but has thereby not taken possession of the land, nor does he even acquire title to the deed, since his intent was not to obtain the deed?[21] Or [shall we] perhaps [say] that his intent was to obtain the deed also?[21] — He[22] said to him: Tell me, Sir, could he need it to cover the mouth of his flask? — He[23] replied: Yes indeed, [he could need it] to cover[the flask].

Rabbah stated: If the pledge of an Israelite is in the hands of a proselyte [creditor], and the proselyte dies [without any legal issue] and another Israelite comes along and takes possession of it,[20] it would be taken away from him, the reason being that as the proselyte has died, the lien he had upon the pledge has disappeared. But if a pledge of a proselyte [debtor] is in the hands of an Israelite, and the proselyte dies and another Israelite comes along and takes possession of it, the creditor would become owner of the pledge to the extent of the amount due to him, while the one who took possession of it would own the balance. Why should the premises [of the creditor where the pledge was kept] not render him the owner [of the whole pledge]? Did not R. Jose b. Hanina say that a man's premises effect a legal transfer [of ownerless property placed there] even without his knowledge? — It may be said that we are dealing here with a case where the creditor was not there.[24] For it is only where he himself[25] is there,[24] in which case should he so desire he would be able to take possession of it,[26] that his premises could [act on his behalf and] effect the transfer, whereas where he himself[25] was absent, in which case were he to desire to acquire title to it[26] he would have been unable to take possession of it, his premises could similarly not effect a transfer. But the law is that it is only where it [the pledge] was not [kept] in the [creditor's] premises that he would acquire no title to it.[27]

MISHNAH. IF A MAN DIGS A PIT IN PRIVATE GROUND AND OPENS IT ON TO A PUBLIC PLACE, OR IF HE DIGS IT IN PUBLIC GROUND AND OPENS IT ON TO PRIVATE PROPERTY, OR AGAIN, IF HE DIGS IT IN PRIVATE GROUND AND OPENS IT ON TO THE PRIVATE PROPERTY OF ANOTHER, HE BECOMES LIABLE[28] [FOR ANY DAMAGE THAT MAY RESULT].

GEMARA. Our Rabbis taught: If a man digs a pit on private ground and opens it on to a public place, he becomes liable, and this is the Pit of which the Torah[29] speaks. So R. Ishmael. R. Akiba, however, says: When a man abandons his premises without, however, abandoning his pit, this is the Pit of which the Torah[29] speaks. Rabbah thereupon said: In the case of a pit on public ground there is no difference of opinion that there should be liability. What is the reason? — Scripture says, If a man open or if a man dig.[29] Now, if for mere opening there is liability, should there not be so all the more in the case of digging? [Why then mention digging at all?] Scripture must therefore mean to imply that it is on account of the act of opening and on account of the act of digging that the liability is at all brought upon him.[30] A difference arises

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(1) In accordance with the view of Rabbah.

(2) In which Rabbah and R. Hisda differ.

(3) And a miscarriage resulted.

(4) I.e. if the blow was given after the death of the proselyte.

(5) I.e., whether the mother acquires a title to the embryos on the death of her husband, the proselyte, or not.

(6) He therefore followed the view of the former Baraitha laying down liability.

(7) Stating exemption.

(8) I.e., no contradiction between the two Baraithas, which do not deal with the payment for the loss of the embryos but with the payment for the loss of the increment in the value of the woman herself due to the embryos.

(9) Maintaining that the payment for the loss of the increment in the value of the woman herself also belongs to the husband, so that where he was a proselyte dying without issue there would be no liability at all upon the defendant.

(10) According to whom the payment for the loss of the increment in the value of the woman herself has to be shared by the mother and father, so that where he was a proselyte dying without issue she will surely not forfeit her due, but as to the embryos, all agree that the woman acquires in no circumstance title to them.

(11) For since the mother is a joint plaintiff with her husband regarding this payment, where he was a proselyte dying without issue she will remain the sole plaintiff and thus be entitled to the full payment.

(12) Stating liability.

(13) Stating exemption.

(14) To which the mother was never a plaintiff.

(15) That payment should be made to the mother, in contradiction to the view of R. Hisda.

(16) [That she should have the whole where the proselyte husband is no longer alive.]

(17) Even during the lifetime of her husband.

(18) At the demise of the proselyte without any legal issue.

(19) V. p. 282, n. 10.

(20) V. p. 282, n. 11.

(21) I.e., the mere value of the paper of the deed.

(22) R. Nahman.

(23) R. Yeba.

(24) [I.e., ‘in town’ (Rashi), or (according to Tosaf.) ‘beside the premises,’ v. B.M. 11a: ‘non-guarded premises confer title only when the owner is standing beside them.’]

(25) I.e., the owner of the premises.

(26) I.e., the pledge or any other ownerless article.

(27) For where the pledge was kept in the creditor's premises at the time of the demise of the proselyte without issue, the creditor would acquire title to the whole of it, though the creditor were out of town (Rashi). [Tosaf. renders, ‘where the creditor was not beside the premises.’]

(28) V. Gemara.

(29) Ex. XXI, 33-34

(30) I.e. where the ground of the pit that did the actual damage was not his at all.

Talmud - Mas. Baba Kama 50a

only in regard to a pit on his own premises. R. Akiba maintains that a pit in his own premises should also involve liability, since it says, The owner of the pit,[1] which shows that the Divine Law is speaking of a pit which has an owner; R. Ishmael on the other hand maintaining that this simply refers to the perpetrator of the nuisance.[2] But what then did R. Akiba mean by saying, ‘[When a man abandons his premises without, however, abandoning his pit] — this is the Pit stated in the Torah’?[3] — [He meant that] this is the Pit with reference to which Scripture first began to lay down[4] the rules for compensation [in the case of Pit]. R. Joseph said: in the case of a pit on private ground there is no difference of opinion that there should be liability. What is the reason? Divine Law says, the owner of the pit, to show that it is a pit having an owner with which we are dealing.[5] They differ only in the case of a pit in public ground. R. Ishmael maintains that a pit on public ground should also involve liability, since it says, ‘If a open . . . and if a man dig . . .’ Now, if for mere opening there is liability, should there not all the more be so in the case of digging? Scripture therefore must mean to imply that it is on account of the act of opening and on account of the act of digging that the liability is at all brought upon him.[6] And R. Akiba? [He might reply that] both terms[7] required to be explicitly mentioned. For if the Divine Law had said only ‘If a man open’ it might perhaps have been said that it was only in the case of opening that covering up would suffice [as a precaution], whereas in the case of digging covering up would not suffice, unless the pit was also filled up. If [on the other hand] the Divine Law had said only If a man dig it might have been said that it was only where he dug it that he ought to cover it, as he actually made the pit, whereas where he merely opened it, in which case he did not actually make the pit, it might have been thought that he was not bound even to cover it. Hence it was necessary to tell us [that this was not the case but that the two actions are on a par in all respects]. But what then did R. Ishmael mean by saying, [If a man digs a pit in private ground and opens it on to a public place, he comes liable] and this is the Pit of which the Torah[8] speaks?[9] — This is the Pit with reference to which Scripture opens[10] the rules concerning damage [caused by Pit].

An objection was raised [from the following]: If a man digs a pit in public ground and opens it to private property there is no liability, in spite of the fact that he has no right to do so as hollows must not be made underneath a public thoroughfare. But if he digs pits, ditches or caves in private premises and opens them on to a public place, there would be liability. If, again, a man digs pits in private ground abutting on a public thoroughfare, such as e.g., workmen digging foundations, there would be no liability. R. Jose b. Judah, however, says there is liability unless he makes a partition of ten handbreaths in height or unless he keeps the pit away from the place where men pass as well as from the place where animals pass at a distance of at least four handbreadths.[11] Now this is so only in the case of foundations,[12] but were the digging made not for foundations there would apparently be liability. In accordance with whose view[13] is this? All would be well if we follow Rabbah, since the opening clause[14] would be in accordance with R. Ishmael and the later clause[15] in accordance with R. Akiba. But if we follow R. Joseph, it is true there would be no difficulty about the concluding clause[15] which would represent a unanimous view, but what about the prior clause[14] which would be in accordance neither with R. Ishmael nor with R. Akiba?[16] — R. Joseph, however, might reply: The whole text represents a unanimous view, for the prior clause deals with a case where the man abandoned neither his premises nor his pit.[17] R. Ashi thereupon said: Since according to R. Joseph you have explained the text to represent a unanimous view, so also according to Rabbah you need not interpret it as representing two opposing views of Tannaim. For as the prior clause[14] was in accordance with R. Ishmael, the later clause would also be in accordance with R. Ishmael; and the statement that this ruling holds good only in the case of foundations whereas if the digging is not for foundations there would be liability, refers to an instance where e.g., the digging was widened out into actual public ground.[18]

An objection was [again] raised: ‘If a man digs a pit in private ground and opens it on to a public place he becomes liable, but if he digs it in private ground abutting on a public thoroughfare he would not be liable.’ No difficulty arises if we follow Rabbah, since the whole text[19] is in accordance with R. Ishmael. But if we follow R. Joseph, no difficulty, it is true, arises in the prior clause[20] which would be in accordance with R. Ishmael, but what about the concluding clause[19] which would be in accordance neither with R. Ishmael nor with R. Akiba?[21] — He might reply that it deals with digging for foundations,[22] in regard to which the ruling is unanimous.

Our Rabbis taught:[23] If a man dug [a well] and left it open, but transferred it to the public,[24] he would be exempt,[25] whereas if he dug it and left it open without dedicating it to the public he would be liable. Such also was the custom of Nehonia the digger of wells, ditches and caves; he used to dig wells[26] and leave them open and dedicate them to the public.[24] When this matter became known to the Sages they observed, ‘This man[27] has fulfilled this Halachah’. Only this Halachah and no more? — Read therefore ‘this Halachah also’.

Our Rabbis taught: It happened that the daughter of Nehonia the digger of wells once fell into a deep pit. When people came and informed R. Hanina b. Dosa[28] [about it], during the first hour he said to them ‘She is well’, during the second he said to them, ‘She is still well’, but in the third hour he said to them, ‘She has by now come out [of the pit].’ They then asked her, ‘ Who brought you up?’ — Her answer was: ‘A ram[29] [providentially] came to my help[30] with an old man[31] leading it.’ They then asked R. Hanina b. Dosa, ‘Are you a prophet?’ He said to them, ‘I am neither a prophet nor the son of a prophet. I only exclaimed: Shall the thing to which that pious man has devoted his labour become a stumbling-block to his seed?’[32] R. Aha, however, said; Nevertheless, his[33] son died of thirst, [thus bearing out what the Scripture] says, And it shall be very tempestuous round about him,[34] which teaches that the Holy One, blessed be He, is particular with those round about Him[35] even for matters as light as a single hair.[36] R. Nehonia[37] derived the same lesson from the verse,[38] God is greatly to be feared in the assembly of the saints and to be had in reverence of all them that are about Him. R. Hanina said: If a man says that the Holy One, blessed be He, is lax in the execution of justice, his life shall be outlawed, for it is stated, He is the Rock, His work is perfect; for all His ways are judment.[39] But R. Hana, or as others read R. Samuel b. Nahmani, said: Why is it written[40]

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(1) Ex. XXI, 34

(2) But did not mean the legal owner of it.

(3) Since even according to R. Akiba the Torah deals with Pit on public ground.

(4) In verse 34.

(5) [As against R. Ishmael who requires the pit itself to be abandoned.]

(6) V. p. 284, n. 4.

(7) Of opening and of digging.

(8) V. p. 284, n. 3.

(9) Since even according to R. Ishmael the Torah deals with Pit on private ground.

(10) I.e., in verse 33.

(11) Rashal reads ‘cubits’.

(12) Which is a general practice.

(13) Either with that of R. Ishmael or with that of R. Akiba.

(14) Stating exemption in the case of Pit open to private ground.

(15) Implying liability in the case of Pit on private ground.

(16) For they both according to R. Joseph maintain liability for Pit on private ground.

(17) In which case the defendant is entitled to put in a defence of trespass on his ground against the plaintiff.

(18) But if the digging was not widened out into actual public ground there would be no difference as to the purpose of the digging for there would be exemption in all cases.

(19) V. p. 286, n. 5.

(20) Stating liability in the case of Pit on public ground.

(21) V. p. 286, n. 7.

(22) V. p. 286, n. 3.

(23) Tosef. B.K. VI.

(24) For the general use of the water.

(25) As it became communal property.

(26) Thus to provide water for the pilgrims who travelled to Jerusalem on the three festivals in accordance with Ex. XXXIV, 23.

(27) I.e. Nehonia.

(28) [On R. Hanina b. Dosa as a ‘man of deeds’ whose acts were viewed as acts of human love and sympathy rather than miracles, v. BŸchler, Types, p. 100ff.]

(29) The ram of Isaac, cf. Gen. XXII,13 and R.H. 16a.

(30) Lit., ‘was appointed for me.’

(31) Abraham.

(32) V. J. Shek. V. 1.

(33) Nehonia's.

(34) Ps. L, 3.

(35) I.e. the pious devoted to Him.
(36) The Hebrew term for 'tempestuous' is homonymous with that for 'hair'.
(37) 'Hanina' occurs in Yeb. 121b.
(38) Ps. LXXXIX, 8.
(39) Deut. XXXII, 4.
(40) Ex. XXXIV, 6.

Talmud - Mas. Baba Kama 50b

'Long of sufferings'[1] and not 'Long of suffering'?[2] [It must mean,] 'Long of sufferings' to both the righteous[3] and the wicked.[4]

Our Rabbis taught: A man should not remove stones from his ground on to public ground. A certain man[5] was removing stones from his ground on to public ground when a pious man found him doing so and said to him, 'Fool,[6] why do you remove stones from ground which is not yours to ground which is yours?' The man laughed at him. Some days later he had to sell his field, and when he was walking on that public ground he stumbled over those stones. He then said, 'How well did that pious man say to me, "Why do you remove stones from ground which is not yours to ground which is yours?"'

MISHNAH. IF A MAN DIGS A PIT ON PUBLIC GROUND AND AN OX OR AN ASS FALLS INTO IT, HE BECOMES LIABLE. WHETHER HE DUG A PIT, OR A DITCH, OR A CAVE, TRENCHES, OR WEDGE-LIKE DITCHES, HE WOULD BE LIABLE. IF SO WHY IS PIT MENTIONED [IN SCRIPTURE]?[7] [TO TEACH THAT] JUST AS PIT CAN CAUSE DEATH BECAUSE IT IS USUALLY TEN HANDBREADTHS [DEEP], SO ALSO ALL [OTHER SIMILAR NUISANCES] MUST BE SUCH AS CAN CAUSE DEATH, [I.E.] TEN HANDBREADTHS [DEEP]. WHERE, HOWEVER, THEY WERE LESS THAN TEN HANDBREADTHS [DEEP], AND AN OX AR AN ASS FELL INTO THEM AND DIED, THERE WOULD BE EXEMPTION.[8] IF THEY WERE ONLY INJURED BY THEM, THERE WOULD BE LIABILITY.

GEMARA. Rab stated: The liability imposed by the Torah in the case of Pit[9] is for the unhealthy air created by excavation, but not for the blow given by it. It could hence he inferred that he held that so far as the blow was concerned it was the ground of the public that caused the damage.[10] Samuel, however, said: For the unhealthy air, and, ˆ plus forte raison, for the blow. And should you say that it was for the blow only that the Torah imposed liability but not for the unhealthy air, (you have to bear in mind that] for the Torah[11] a pit is a pit, even where it is full of pads of wool. What is the practical difference between them? — There is a practical difference between them. Where a man made a mound on public ground: according to Rab there would in the case of a mound be no liability,[12] whereas according to Samuel there would in the case of a mound also be liability. What was the reason of Rab?[13] Because Scripture says, And it fall,[14] [implying that there would be no liability] unless where it fell in the usual way of falling.[15] Samuel [on the other hand maintained that the words] And it fall imply anything [which is like falling].[16]

We have learnt: IF SO WHY WAS PIT MENTIONED [IN SCRIPTURE]?[17] [TO TEACH THAT] JUST AS PIT CAN CAUSE DEATH BECAUSE IT IS USUALLY TEN HANDBREADTHS [DEEP], SO ALSO ALL [OTHER SIMILAR NUISANCES] MUST BE SUCH AS CAN CAUSE DEATH, [I.E.] TEN HANDBREADTHS [DEEP]. Now this creates no difficulty if we follow Samuel, since the phrase SO ALSO ALL would imply mounds also. But according to Rab, what does the phrase SO ALSO ALL imply?[17] — It was meant to imply trenches and wedge-like ditches. But are trenches and wedge-like ditches not explicitly stated in the text? — They were [first] mentioned and then the reason for them explained.

What need was there to mention all the things specified in the text? — They all required [to be explicitly stated]. For if only a pit had been explicitly mentioned, I might have said that it was only a pit where in ten handbreadths [of depth] there could be [sufficient] unhealthy air [to cause death] on account of its being small and circular, whereas in the case of a ditch which is long I might have thought that [even] in ten handbreadths of depth there would still not be [sufficient] unhealthy air [to cause death]. If [again] only a ditch had been mentioned explicitly, I might have said that it was only a ditch where in ten handbreadths [of depth] there could be [sufficient] unhealthy air [to cause death] on account of its being small, whereas in a cave which is square I might have thought that [even] in ten handbreadths of depth there would still not be [sufficient] unhealthy air [to cause death]. Again, if only a cave had been mentioned explicitly, I might have said that it was only a cave where in ten handbreadths [of depth] there could be [sufficient] unhealthy air [to kill] on account of its being covered, whereas in the case of trenches which are uncovered I might have thought that [even] in ten handbreadths [of depth] there would still not be [sufficient] unhealthy air [to cause death]. Further, if only trenches had been stated explicitly, I might have said that it was only trenches where in ten handbreadths [of depth] there could be [sufficient] unhealthy air [to cause death] on account of their not being wider at the top than at the bottom, whereas in wedgelike ditches which are wider at the top than at the bottom I might have said that [even] in ten handbreadths [of depth] there would still not be [sufficient] unhealthy air [to cause death]. It was therefore necessary to let us know [that all of them are on a par in this respect].[18]

We have learnt: WHERE, HOWEVER, THEY WERE LESS THAN TEN HANDBREADTHS [DEEP] AND AN OX OR AN ASS FELL INTO THEM AND DIED, THERE WOULD BE EXEMPTION.[19] IF THEY WERE ONLY INJURED BY THEM THERE WOULD BE LIABILITY. Now what could be the reason that where an ox or an ass fell into them and died there would be exemption? Is it not because the blow was insufficient [to cause death]?[20] — No, it is because there was no unhealthy air there. But if so, why where the animal was merely injured in such a pit should there be liability, seeing that there was no unhealthy air there? — I might reply that there was not unhealthy air there sufficient to kill, but there was unhealthy air there sufficient to injure.

A certain ox fell into a pond which supplied water to the neighbouring fields. The owner hastened to slaughter it, but R. Nahman declared it trefa.[21] Said R. Nahman: ‘Had the owner of this ox taken a kab[22] of flour and come to the house of study, where he would have learnt that "If the ox lasted at least twenty-four hours [before being slaughtered] it would be kasher",[23] I would not have caused him to lose the ox which was worth several kabs.’ This seems to show that R. Nahman held that a deadly blow can be inflicted even by an excavation less than ten handbreadths deep.[24]

Raba raised an objection to R. Nahman: WHERE, HOWEVER, THEY WERE LESS THAN TEN HANDBREADTHS [DEEP] AND AN OX OR AND ASS FELL INTO THEM AND DIED, THERE SHOULD BE EXEMPTION. Now, is not the reason of this [exemption] because there was no deadly blow there?[25]

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(1) אפים, the plural.

(2) אף, the singular.

(3) By not rewarding them in this world for their good deeds.

(4) By not punishing them in this world for their wicked deeds.

(5) B.K. Tosef. II.

(6) Raca.

(7) Ex. XXI, 33.

(8) As the death of the animal should in this case not be wholly imputed to the pit.

(9) On public ground.

(10) For which the defendant has not to be liable.

(11) Lit., 'the Torah testified that etc.', since 'pit' is left undefined.
(12) As no unhealthy air was created and the blow was given by the public ground.
(13) Is not a mound a nuisance?
(14) Ex. XXI, 33.
(15) Excepting thus a mound.
(16) I.e. including mounds.
(17) Since according to him there would be no liability for mounds.
(18) That the depth of ten handbreadths is sufficient to create enough unhealthy air to cause death in any one of these excavations.
(19) V. p. 289, n. 2.
(20) Though the air was not less unhealthy there will be no liability, thus contradicting the views of both Rab and Samuel.
(21) I.e. forbidden to be eaten in accordance with dietary laws; for the term cf. Ex. XII, 30 and Glossary.
(22) [(V. Glos.), i.e., provision for his journey.]
(23) Cf. Hul. 51b.
(24) For the pond in which the ox fell was only six handbreadths deep.
(25) Thus disproving the view of R. Nahman.

Talmud - Mas. Baba Kama 51a

No; it is because there was no unhealthy air there. But if so, why where it was injured in such a pit would there be liability since there was no unhealthy air there? — He replied: There was not unhealthy air there sufficient to kill, but there was unhealthy air there enough to injure.

A further objection was raised: The scaffold [for stoning] was of the height of two men's statures.[1] And it has been taught regarding this: When you add the stature of the convict there will be there the height of three statures. Now, if you assume that a fall can be fatal even from a height of less than ten handbreadths, why was such a great height as that necessary? — But even according to your argument, why not make the height ten handbreadths only? This must therefore be explained in accordance with R. Nahman, for R. Nahman stated that Rabbah b. Abbuha had said: Scripture says, And thou shalt love thy neighbour as thyself,[2] [which implies], 'thou shalt choose for a convict the easiest possible execution.'[3] But if so, why not raise it still higher? — He would then become disfigured altogether.

A further objection was raised: If any man fall from thence;[4] 'from thence' but not into it. How is that so? Where the public road was ten handbreadths higher than the roof, and a man might fall from the former on to the latter, there is no liability [in respect of a parapet], but if the public road was ten handbreadths lower than the roof, and a man might fall from the latter on to the former, that there will be liability [in respect of a parapet]. Now, if you assume that a fall could be fatal even from a height of less than ten handbreadths, why should it be necessary to have the public road lower by [full] ten handbreadths?[5] — It was said in answer:[6] There is a difference in the case of a house, since if it is less than ten handbreadths [in height] it could not be designated 'house'.[7] But if so, even now when from the outside it is ten handbreadths high, were you to deduct from that the ceiling and the plaster, from the inside it would surely not have the height of ten handbreadths?[8] — To this it was said in reply: [We are dealing here with a case] where, e.g., the owner of the house sank the floor from within.[9] But if so, even where the height from the outside was not ten handbreadths, it could still be possible that from the inside it was ten handbreadths, as for instance where he sank the floor still more? — The reason of R. Nahman must therefore have been this: he considered that from the abdomen of the ox to the level of the ground must be [at least] four handbreadths, and the pond feeding the fields must be six handbreadths;[10] this makes ten handbreadths, with the result that when the ox received the blow it was from the height of ten handbreadths that the blow was given.[11] But why then does the Mishnah say: JUST AS PIT CAN CAUSE DEATH BECAUSE IT IS USUALLY

TEN HANDBREADTHS [DEEP], SO ALSO ALL [OTHER SIMILAR NUISANCES] MUST BE SUCH AS CAN CAUSE DEATH, [I.E.] TEN HANDBREADTHS [DEEP]? Should not six handbreadths be enough?[12] — We could reply that the Mishnah deals with a case where the ox rolled itself over into the pit.[13] MISHNAH. WHERE THERE IS A PIT [IN CHARGE OF] TWO PARTNERS, IF THE FIRST ONE PASSES BY AND DOES NOT COVER IT, AND THE SECOND ONE ALSO [PASSES BY AND DOES] NOT COVER IT,[14] THE SECOND WOULD BE LIABLE.

GEMARA. I would here ask, how can we picture a pit in charge of two partners? True, we can understand this if we take the view of R. Akiba, who said that a pit in private ground would involve liability,[15] in which case such a pit could be found where they jointly own the ground and also a pit in it, and while they abandoned the ground [round about],[16] they did not abandon the pit itself. But if we take the view that a pit on private ground would involve exemption,[15] in which case liability could be found only where it was on public ground, how then is it possible for a pit in public ground to be in charge of two partners?[17] [For if you say that] both of them appointed an agent and said to him: ‘Go forth and dig for us’, and he went and dug for them, [we reply that] there can be no agency for a sinful act.[18] If again you say that the one[19] dug five handbreadths and the other one[19] dug another five handbreadths, [then we would point out that] the act of the former has become eliminated?[20] It is true that according to Rabbi,[21] we can imagine a pit [in charge of two partners] in respect of mere injury.[22] But in respect of death even according to Rabbi, or in respect whether of death or of mere injury[22] according to the Rabbis,[21] where could we find such a pit? — R. Johanan thereupon said: [We find such a pit] where e.g., both of them removed a layer of ground at the same time and thereby made the pit ten handbreadths deep.[23]

What opinion of Rabbi and what opinion of the Rabbis [was referred to above]? — It was taught:[24] Where one had dug a pit of nine handbreadths [deep] and another one came along and completed it to a depth of ten handbreadths, the latter would be liable.[25] Rabbi says: The last one is responsible in[26] cases of death,[27] but both of them in cases of injury.[28] What was the reason of the Rabbis? — Scripture says; If a man shall open . . . or if a man shall dig . . .[29] Now if for mere opening there is liability, should there not be all the more so in the case of digging? [Why then mention digging at all?] It must be in order to lay down the rule [also] for [the case of] one person digging [in a pit] after another,[30] [namely,] that [in such a case] the act of the one who dug first[31] is regarded as eliminated.[32] And Rabbi?[33] — He might rejoin that it was necessary to mention both terms,[34] as explained elsewhere.[35] And do not the Rabbis also hold that it was necessary?[35] — The reason of the Rabbis must therefore have been that Scripture says, If a man shall dig [indicating that] one person but not two persons [should be liable for one pit]. Rabbi, on the other hand, maintained that [the expression ‘a man’] was needed to teach that if a man shall dig a pit [there would be liability] but not where an ox [dug] a ‘pit’.[36] And the Rabbis?[37] [They might point out] ‘a man . . . a pit’ is inserted twice [in the same context].[29] And Rabbi? — He [could rejoin that] having inserted these words in the first text, Scripture retained them in the second also.

Now [according to the Rabbis who hold that Scripture intended to make only one person liable], whence could it be proved that it is the last person [that dug] who should be liable? Why not make the first person [who dug] liable? — Let not this enter your mind, since Scripture has stated, And the dead shall be his[38] [implying that the liability rests upon him] who made the pit capable of killing. But was not this [verse] ‘And the dead shall be his’ required for the lesson drawn by Raba? For did Raba not say:[39] If a sacred ox which has become disqualified [for the altar][40] falls into a pit, there would be exemption, as Scripture says ‘And the dead beast shall be his’ [implying that it is only] in the case of an ox whose carcass could be his[41] [that there would be liability]?[42] — To this I might rejoin: Can you not [at the same time] automatically derive from it that it is the man who made the pit capable of killing with whom we are dealing?

Our Rabbis taught: If one person has dug a pit to a depth of ten handbreadths and another person comes along and completes it to a depth of twenty, after which a third person comes along and completes it to a depth of thirty, they all would be liable. A contradiction was here pointed out:[43] If one person dug a pit ten handbreadths deep, and another came along and lined it with plaster and cemented it,[44] the second would be liable.

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(1) Sanh. 45a.
(2) Lev. XIX, 18.
(3) V. Sanh. ibid.
(4) Deut. XXII, 8.
(5) Why should there be no liability to construct a parapet even where the public road was lower by less than ten handbreadths.
(6) Lit., 'He said to him'.
(7) Cf. B.B. 7a.
(8) In which case it would still not be termed house. Why then a parapet?
(9) So that the vertical height inside was not less than ten handbreadths.
(10) V. p. 292, n. 2.
(11) And as a fall from the height of ten handbreadths can be fatal R. Nahman had to declare the ox trefa.
(12) For from the abdomen of the ox to the level of the ground there are surely four handbreadths.
(13) But where the ox fell while walking, even where the pit was only six handbreadths deep the blow would be fatal.
(14) And damage occurred later.
(15) Supra 50a.
(16) In which case they cannot plead trespass on the part of the plaintiff as defence.
(17) For it is the one who dug it that should be responsible.
(18) It will accordingly be the agent and not the principal who will have to be subject to the penalty; cf. B.M. 10b.
(19) Partner.
(20) For it was the latter's act that made the pit complete and capable of causing all kinds of damage.
(21) V. p. 295.
(22) V. the discussion later.
(23) In which case they both made it complete and capable of causing all kinds of damage.
(24) V. supra 10a.
(25) V. p. 294, n. 7.
(26) Lit., 'after the last for'.
(27) For without the latter the pit would have been unable to cause death.
(28) For even without the latter the pit would have been able to cause injury.
(29) Ex. XXI, 33.
(30) The verse would thus imply a case where after one man opened the pit of nine handbreadths deep another man dug an additional handbreadth and thus made it a pit of ten handbreadths deep.
(31) The nine handbreadths.
(32) So that he should become released from any responsibility.
(33) How does he interpret the verse?
(34) Of opening and of digging.
(35) Supra p. 285.
(36) V. supra p. 272.
(37) Whence do they derive this latter deduction?
(38) Ex. XXI, 34.
(39) Infra p. 310.
(40) As it became blemished.
(41) I.e., could be used by him as food for dogs and like purposes.
(42) Excepting thus a scared ox falling into a pit and dying there, as no use could lawfully be made of its carcass.
(43) From the following Baraitha.
(44) Who thus made its width smaller and the air closer and more harmful.

Talmud - Mas. Baba Kama 51b

Are we to say that the former statement[1] follows the view of Rabbi[2] whereas the latter[3] follows that of the Rabbis?[3] — R. Zebid thereupon said that the one statement as well as the other could be regarded as following the view of the Rabbis.[3] For even there [in their own case] the Rabbis would not say that the last digger should be liable, save in a case where the first digger did not make the pit of the minimum depth capable of killing, whereas [in this case] where the first digger made the pit of the minimum depth capable of killing even the Rabbis would agree that all the diggers should be liable.[4] But, [what of] the case of [the second] lining it with plaster and cementing it,[5] where the first digger made the pit of the minimum depth capable of killing, and yet it was said that the second would be liable? — It may be answered that the case there was where the unhealthy air was not sufficient to kill,[6] and it was the other person who, by diminishing the size of the pit increased the dangerous effect of the air so as to make it capable of killing. Some report that R. Zebid said that the one statement as well as the other could he regarded as following the view of Rabbi.[7] About the statement that they would all be liable there is [on this supposition] no difficulty. And as for the other statement that the second digger would be liable, this refers to a case where e.g., the unhealthy air was sufficient neither to kill nor to injure, and it was the other person who by diminishing the size of the pit increased the dangerous effect of the air so as to make it capable of both killing and injuring.[8]

Raba said: The case of a man putting a stone round the mouth of a pit and thereby completing it to a depth of ten handbreadths is one which brings us face to face with the difference of opinion between Rabbi and the Rabbis.[9] Is this not obvious? — You might perhaps think that [the difference of opinion] was only where the increase in depth was made at the bottom, in which case it was the unhealthy air added by the second digger that caused death, whereas where the increase was made from the top,[10] in which case it was not the unhealthy air added by him that caused the death, it might have been said that there was no difference of opinion.[11] We are therefore told[12] [that this is not the case].

Raba raised the question: Where [the second comer] filled in the one handbreadth [which he had previously dug] with earth, or where he removed the stones [which he had previously put round the mouth of the pit], what would be the legal position? Are we to say that he has undone what he had previously done,[13] or rather perhaps that the act of the first digger had already been merged [in the act of the second] and the whole pit had since then been in the charge of the second? — Let this remain undecided.

Rabbab b. Bar Hanah said that Samuel b. Martha stated: Where a pit is eight handbreadths deep, but two handbreadths out of these are [full] of water, there would be liability,[14] the reason being that each handbreadth [full] of water is equivalent [in its capacity to cause death] to two handbreadths without water. The question was thereupon raised: Where a pit is of nine handbreadths but one of these is full of water, what should be the law? Should we say that since there is not so much water there, there is not [so much] unhealthy air,[15] or rather that since the pit is deeper there is there [a quantity of] unhealthy air?[16] [Again], where the pit is of seven handbreadths and out of these three handbreadths are full of water, what would be the legal position? Should we say that since there is much water there, the unhealthy air is there [in proportion],[16] or rather that since it is not deep, there is no [great quantity of] unhealthy air there?[15] — Let these queries remain undecided.

R. Shezbi inquired of Rabbah: If the second digger makes it wider, what would be the law? — He replied: Does he not thereby diminish the unhealthy air?[17] Said the other to him: On the contrary, does he not increase the risk of injury?[18] — R. Ashi thereupon said: We have to consider whether [the animal] died through bad air, in which case [the second digger could not be responsible as] he diminished the unhealthy air, or whether it died through the fall, in which case [the second digger should be responsible as] he increased the risk of injury. Some report that R. Ashi said: We have to see whether [the animal] fell from this side [which was extended], in which [case the second digger would be responsible as] he increased the risk of injury, or whether it fell from the other side, in which case [the second digger would not be to blame, as] he diminished the unhealthy air in the pit.

It was stated: In regard to a pit as deep as it is wide [there is a difference of opinion between] Rabbah and R. Joseph, both of whom made their respective statements in the name of Rabbah b. Bar Hanah who said it in the name of R. Mani. One said that there is always unhealthy air in a pit unless where its width is greater than its depth,[19] the other said that there could never be unhealthy air in a pit unless where its depth was greater than its width.[20]

IF THE FIRST ONE[21] PASSED BY AND DID NOT COVER IT . . . From what point of time will the first one[21] be exempt from responsibility? — [There was a difference of opinion here between] Rabbah and R. Joseph, both of whom made their respective statements in the name of Rabbah b. Bar Hanah who said it in the name of R. Mani. One said, from the moment when the first partner leaves the second in the act of using the well; the other, from the moment when he hands over the cover of the well to him. [The same difference[22] is found] between the following Tannaim: If one [partner] was drawing water from a well and the other came along and said to him, ‘Leave it to me as I will also draw water’, as soon as the first left the second in the act of using it he would become exempt [from any responsibility]. R. Eliezer b. Jacob said: [The exemption commences] from the time that the first hands over the cover to the second. In regard to what principle do they differ? — R. Eliezer b. Jacob held that there is bererah[23] [so that] the one [partner] was drawing water from his own[24] and so also the other [partner] was drawing the water from his own,[25] whereas the Rabbis maintained that there is no bererah.[26] Rabina thereupon said: They[27] have followed here the same line of reasoning as elsewhere, as we have learnt, Where partners have vowed not to derive benefit from one another they would not be allowed to enter premises jointly owned by them. R. Eliezer b. Jacob, however, says: The one partner enters his own and the other partner enters his own.[28] [Now, it was asked there,] in regard to what principle did they differ? — R. Eliezer b. Jacob held that there is bererah so that the one partner would thus be entering his own and the other partner would similarly be entering his own, whereas the Rabbis maintained that there is no bererah.

R. Eleazar said: If a man sells a pit to another, as soon as he hands over the cover of the pit to him, the conveyance is complete. What are the circumstances? If money was paid, why was the conveyance not completed by the money?[29] If possession was taken [of the pit], why was the conveyance not completed by possession?[29] — In fact, we suppose possession to have been taken [of the pit], and it was still requisite for the seller to say to the buyer, ‘Go forth, take possession and become the owner’,[30] but as soon as he handed over the cover to him, this was equivalent [in the eyes of the law] to his saying to him, ‘Go forth, take possession and complete the conveyance.’

R. Joshua b. Levi said: If a person sells a house to another

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(1) Making them all liable.

(2) Who in the case of mere injury makes them all liable.

(3) Making the second liable in all cases.

(4) Hence the liability upon all of them in the former Baraitha.

(5) V. p. 296, n. 7.

(6) As where its width was more than its depth.

(7) V. p. 296, n. 9.

(8) In which case it stands to reason that the second person only should be liable.

(9) As to whether the second person or both of them would be liable in cases of injury.

(10) As in the case stated by Raba.

(11) And that according to both Rabbi and the Rabbis the second person should not be liable.
(12) By Raba.
(13) And thus released himself from further responsibility.
(14) If an animal fell in and was killed.
(15) And should therefore be subject to the law applicable to a pit of less than ten handbreadths deep.
(16) And should thus be equal to that of a pit ten handbreadths deep.
(17) What liability had he thus incurred?
(18) On account of which he should surely bear responsibility.
(19) Implying that where the width is just equal to the depth there would still be unhealthy air there.
(20) But where the depth just equalled the width there would be no unhealthy air there.
(21) Of the partners.
(22) Between Rabbah and R. Joseph.
(23) I.e., retrospective designation, so that a subsequent selection or definition determines retrospectively a previous state of affairs that was undefined in its nature.
(24) Though this water which he subsequently drew was by no means defined at the time when the partnership was formed.
(25) So that one partner does not use the water of the other to become thereby a borrower of it and thus enter into responsibility regarding it.
(26) So that the water drawn by each of them consists of two parts: one from his own and the other from that of his fellow-partner, with reference to which he in the position of borrower, assuming thus full responsibility also for the part of the partner who is the lender.
(27) The Rabbis and R. Eliezer b. Jacob.
(28) And are consequently not deriving any benefit from one another. (Ned. 45b).
(29) In accordance with Kid. I, 5.
(30) B.B. 53a.

Talmud - Mas. Baba Kama 52a

as soon as he hands over the key to him, the conveyance is complete. What are the circumstances? If money was previously paid, why was the conveyance not completed by the money? If possession was taken, why was the conveyance not completed by possession? — We suppose that in fact possession was taken [of the house], and it was still requisite for the seller to say to the buyer, ‘Go forth, take possession and become the owner’, but as soon as he handed over the key to him, this was equivalent [in the eye of the law] to his saying to him, ‘Go forth, take possession and complete the conveyance.’

Resh Lakish said in the name of R. Jannai: If a man sells a herd to his neighbour, as soon as he has handed over the mashkokith[1] to him, the conveyance is complete. What are the circumstances? If possession by pulling [has already taken place], why was the conveyance not completed by the act of pulling? If delivery [of the flock has already taken place], why was the conveyance not completed by the act of delivery?[2] — We suppose in fact that possession by pulling [has already taken place], and it was still necessary for the seller to say to the buyer, ‘Go forth, take possession by pulling and become the owner,’[3] but as soon as he handed over the mashkokith to him, this was equivalent [in the eye of the law] to his saying, ‘Go forth, take possession by pulling and complete the conveyance.’ What is mashkokith? — Here[4] they explained it: ‘The bell’. R. Jacob, however, said: ‘The goat that leads the herd.’ So too a certain Galilean[5] in one of his discourses before R. Hisda [said] that when the shepherd becomes angry with his flock he appoints for a leader one which is blind.

MISHNAH. IF THE FIRST ONE[6] COVERED IT AND THE SECOND ONE CAME ALONG AND FOUND IT OPEN AND [NEVERTHELESS] DID NOT COVER IT, THE SECOND WOULD BE LIABLE. IF [AN OWNER OF A PIT] HAD COVERED IT PROPERLY, AND AN

OX OR AN ASS [NEVERTHELESS] FELL INTO IT AND WAS KILLED, HE WOULD BE EXEMPT.[7] BUT IF HE DID NOT COVER IT PROPERLY, AND AN OX OR ASS FELL INTO IT AND WAS KILLED, HE WOULD BE LIABLE. IF IT FELL FORWARD, [BEING FRIGHTENED] ON ACCOUNT OF THE NOISE OF DIGGING, THERE WOULD BE LIABILITY, BUT IF IT FELL BACKWARD ON ACCOUNT OF THE NOISE OF DIGGING, THERE WOULD BE EXEMPTION.[8] IF AN OX FELL INTO IT TOGETHER WITH ITS IMPLEMENTS WHICH THEREBY BROKE, [OR] AN ASS TOGETHER WITH ITS BAGGAGE WHICH WAS THEREBY TORN, THERE WOULD BE LIABILITY FOR THE BEAST BUT EXEMPTION AS REGARDS THE INANIMATE OBJECTS.[9] IF THERE FELL INTO IT AN OX, DEAF, ABNORMAL OR SMALL,[8] THERE WOULD BE LIABILITY. BUT IN THE CASE OF A SON OR A DAUGHTER,[10] A MANSERVANT OR A MAIDSERVANT, THERE WOULD BE EXEMPTION.[9]

GEMARA. Up to when would the first partner be exempt [altogether]? — Rab said: Until he had time to learn [that the cover had been removed]. Samuel said: Until there was time for people to tell him. R. Johanan said: Until there was time for people to tell him and for him to hire labourers and cut cedars to cover it [again].

IF [AN OWNER OF A PIT] HAD COVERED IT PROPERLY AND AN OX OR AN ASS [NEVERTHELESS] FELL INTO IT AND WAS KILLED, HE WOULD BE EXEMPT. But seeing that he covered it properly, how indeed could the animal have fallen [into it]? — R. Isaac b. Bar Hanah said: We suppose [the boards of the cover] to have decayed from within.[11] It was asked: Suppose he had covered it with a cover which was strong enough for oxen but not strong enough for camels, and some camels happened to come first and weaken the cover and then oxen came and fell into the pit,[12] what would be the legal position? — But I would ask what were the circumstances? If camels frequently passed there, should he not be considered careless?[13] If camels did not frequently pass there, should he not be considered innocent?[14] — The question applies to the case where camels used to pass occasionally, [and we ask]: Are we to say that since from time to time camels passed there he was careless,[13] since he ought to have kept this in mind; or do we rather say that since at the time the camels had not actually been there, he was innocent? — Come and hear: IF HE HAD COVERED IT PROPERLY, AND AN OX OR AN ASS [NEVERTHELESS] FELL INTO IT AND WAS KILLED, HE WOULD BE EXEMPT.[15] Now, what were the circumstances? If it was covered properly, both as regards oxen and as regards camels, how then did any one fall in there? Does it therefore not mean ‘properly as regards oxen,

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(1) V. the discussion later.

(2) In accordance with Kid. I, 4; v. also supra 11b.

(3) V. p. 300, n. 5.

(4) In Babylon.

(5) Who delivered popular discourses at R. Hisda's; cf. Shab 88a.

(6) Of the partners.

(7) As he is surely not to blame.

(8) V. the discussion in Gemara.

(9) As supra 25b.

(10) Though a minor.

(11) But not noticeable from the outside.

(12) For if the camels had fallen in he would have certainly been liable.

(13) Even regarding oxen, for he should have thought of the possibility that camels might come first and weaken the cover and oxen would then fall in.

(14) As he is surely not to blame.

(15) V. p. 301, n. 7.

Talmud - Mas. Baba Kama 52b

but not properly as regards camels'?[1] Again, if camels frequently passed, why should he be exempt where he had been so careless? If [on the other hand] camels did not frequently pass, is it not obvious [that he is exempt since] he was innocent? Did it therefore not refer to a case where camels used to pass occasionally, and it so happened that when camels passed they weakened the cover so that the oxen coming [later on] fell? And [in such cases] the text says, 'he would be exempt.' Does not this prove that since at that time camels had not actually been there he would be considered innocent? — I would say, no. For it might still [be argued that the pit had been covered] properly both as regards oxen and as regards camels; and as for the difficulty raised by you 'how did any one fall in there?', [this has already been removed by] the statement of R. Isaac b. Bar Hanah that [the boards of the cover] decayed from within.[2]

Come and hear: BUT IF HE DID NOT COVER IT PROPERLY AND AN OX OR AN ASS FELL INTO IT AND WAS KILLED, HE WOULD BE LIABLE. Now what were the circumstances? If you say that it means not properly covered as regards oxen', [which would of course imply] also 'not properly covered as regards camels', is it not obvious? Why then was it necessary to state liability? Does it not therefore mean 'that it was properly covered as regards oxen but not properly covered as regards camels'?[1] [Again, I ask,] what were the circumstances? If camels frequently passed [is it not obvious that] he was careless? If [on the other hand] no camels were to be found there, was he not innocent? Does it not [therefore speak of a case] where camels used to arrive occasionally and it so happened that camels in passing had weakened the cover so that the oxen coming [later] fell in? And [in reference to such a case] the text states liability. Does this not prove that since from time to time camels did pass he should be considered careless as he ought to have borne this fact in mind? — In point of fact [I might reply, the text may still speak of a pit covered] 'properly' as regards oxen though 'not properly' as regards camels, and [of one where] camels frequently passed, and as for your question. '[Is it not obvious that] he was careless?' [the answer would be that] since the prior clause contains the words, 'If he covered it properly', the later clause has the wording, 'If he did not cover it properly'.[3]

Some report that certainly no question was ever raised about this, for since the camels used to pass from time to time he was certainly careless, as he ought to have borne this fact in mind. If a question was raised, it was on the following point: Suppose he covered it with a cover that was strong enough for oxen but not strong enough for camels and in a place where camels frequently passed, and it decayed from the inside, what should be the legal position? Should we say miggo,[4] [i.e.,] since he had been careless with respect to camels he ought to be considered careless also with respect to the [accidental] decay; or should we not say miggo? — Come and hear; IF HE COVERED IT PROPERLY AND AN OX OR AN ASS FELL INTO IT AND WAS KILLED, HE WOULD BE EXEMPT. And it was stated in connection with this ruling that R. Isaac b. Bar Hanah explained that the boards of the cover had decayed from the inside. Now, what were the circumstances? If we say that it means 'properly covered as regards oxen' and also properly covered as regards camels', and that it had decayed from the inside, is it not obvious that there should be exemption? For indeed what more could he have done? Does it not mean, therefore, properly covered as regards oxen though not properly covered as regards camels', and in a place where camels frequently passed, and it so happened that the cover decayed from the inside? And [in such a case] the text states exemption. Does this not prove that we should not say miggo, [i.e.] since he was careless with respect to camels he ought to be considered careless with reference to the decay? — No, it might still [be argued that the pit was covered] properly as regards camels as well as oxen, and it so happened that it became decayed from the inside. And as for your question 'if it becomes decayed [from inside] what indeed should he have done?' [the answer would be that] you might have thought that he ought to have come frequently to the cover and knocked it [to test its soundness], and we are therefore told [that he was not bound to do this].

Come and hear; BUT IF HE DID NOT COVER IT PROPERLY, AND AN OX OR AN ASS FELL INTO IT AND WAS KILLED, HE WOULD BE LIABLE. Now, what were the circumstances? Should you say that it means 'not properly covered as regards oxen, [which would of course imply also] 'not properly covered as regards camels', why then was it necessary to state liability? Does it not therefore mean [that it was covered] properly as regards oxen but not properly as regards camels? But again if camels frequently passed there, [is it not obvious that] he was careless? If [on the other hand] no camels were to be found there, was he not innocent? Does it therefore not deal with a case where camels did frequently pass, but [it so happened] that the cover decayed from the inside? And [in such a case] the text states liability. Does this not prove that we have to say miggo, [i.e.,] since he had been careless with respect to camels, he should be considered careless also with reference to decay?[5] — I would say, No. For it might still [be argued that the pit had been covered] properly as regards oxen but not properly as regards camels, and in a place where camels were to be found frequently, and [it happened that] camels had come along and weakened the cover so that when oxen subsequently came they fell into the pit. And as for your question, 'Is it not obvious that he was careless?' [the answer would be that] since the prior clause contained the words 'If he covered it properly', the later clause similarly uses the wording. 'If he did not cover it [properly]'.

Come and hear; 'If there fell into it an ox that was deaf, abnormal, small, blind or while it walked at night time, there would be liability.[6] But in the case of a normal ox walking during the day there would be exemption.'[7] Why so? Why not say that since the owner of the pit was careless with respect to a deaf animal he should be considered careless also with reference to a normal animal? Does not this show that we should not say miggo.' — This does indeed prove [that we do not say miggo].

IF IT FELL FORWARD etc. Rab said: 'FORWARD' means quite literally 'on its face',[8] and 'BACKWARD' means also literally, 'on its back',[9]

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(1) And it so happened that camels weakened the cover, and when an ox or ass came later on it fell in.

(2) V. p. 302, n. 4.

(3) Though this ruling is obvious.

(4) Cf. Glos.

(5) no note.

(6) Infra 54b.

(7) As the owner of the pit could hardly have thought it likely that a normal ox walking during the day would fall into a pit.

(8) In which case it died from suffocation and there would be liability.

(9) Where the death could not have been caused by suffocation and there is therefore exemption.

Talmud - Mas. Baba Kama 53a

the fall in each case being into the pit. Rab thus adhered to his own view as [elsewhere][1] stated by Rab, that the liability in the case of Pit imposed by the Torah[2] is for injury caused by the unhealthy air [of the pit] but not for the blow [given by it]. Samuel, however, said that where the ox fell into the pit, whether on its face or on its back, there would always be liability, since Samuel adhered to the view stated by him [elsewhere][1] that [the liability is] for the unhealthy air, and a plus forte raison for the blow. How then are we to understand [the words 'Where it fell] BACKWARD ON ACCOUNT OF THE NOISE OF DIGGING', in which case [we are told] there should be exemption? — As, for instance, where it stumbled over the pit and fell to the back of the pit, [i.e.,] outside the pit.[3]

An objection was raised [from the following: If it fell] inside the pit whether on its face or on its back there would be liability. Is not this a contradiction of the statement of Rab? — R. Hisda replied: Rab would admit that in the case of a pit in private ground[4] there would be liability, as the plaintiff could argue against the defendant: ‘Whichever way you take it, if the animal died through the unhealthy air, was not the unhealthy air yours? If [on the other hand] it died through the blow, was not the blow given by your ground?[5] Rabbah, however, said: We are dealing here[6] with a case where the animal turned itself over; it started to fall upon its face but [before reaching the bottom of the pit it] turned itself over and finally fell upon its back, so that the unhealthy air which affected it [at the outset] really did the mischief. R. Joseph. however, said that we are dealing here[6] with a case where damage was done to the pit by the ox, i.e., where the ox made foul the water in the pit,[7] in which case no difference could be made whether it fell on its face or on its back, as there would always be liability.

R. Hananiah learnt [in a Baraitha] in support of the statement of Rab: [Scripture says] And it fall,[8] [implying that there would be no liability] unless where it fell in the usual way of falling.[9] Hence the Sages said: If it fell forward on account of the noise of digging there would be liability, but if it fell backward on account of the noise of digging there would be exemption, though in both cases [it fell] into the pit.

The Master stated: Where it fell forward on account of the noise of digging there would be liability. But why not say that it was the digger who caused it?[10] — R. Shimi b. Ashi thereupon said: This ruling is in accordance with R. Nathan, who stated that it was the owner of the pit who did the actual damage, and whenever no payment can be enforced from one [co-defendant] it is made up from the other[11] as indeed it has been taught: ‘If an ox pushes another ox into a pit, the owner of the ox is liable, while the owner of the pit is exempt. R. Nathan, however, said that the owner of the ox would have to pay a half [of the damages] and the owner of the pit would have to pay the other half.’ But was it not taught: R. Nathan says: The owner of the pit has to pay three-quarters, and the owner of the ox one quarter? — There is no contradiction, as the latter statement refers to Tam[12] and the former to Mu'ad.[13] On what principle did he base his ruling in the case of Tam? If he held that this [co-defendant] should be considered [in the eye of the law] as having done the whole of the damage, and so also the other co-defendant as having done the whole of the damage, why should not the one pay half and the other also pay half? If [on the other hand] he held that the one did half the damage and the other one also did half the damage, then let the owner of the pit pay half [of the damages] and the owner of the ox a quarter,[14] while the remaining quarter will be lost to the plaintiff? Raba thereupon said: R. Nathan was a judge, and went down to the depth of the law:[15] He did in fact hold that the one was considered as having done the whole of the damage and so also the other was considered as having done the whole of the damage; and as for your question ‘Why should the one not pay half and the other half?’ [he could answer] because the owner of the ox[16] could say to the owner of the pit, ‘What will this your joining me [in the defence] benefit me?’[17] Or if you wish you may [alternatively] say that R. Nathan did in fact hold that the one did half of the damage and the other did half of the damage, and as for your question, ‘Why not let the owner of the pit pay half and the owner of the ox a quarter while the remaining quarter will be lost to the plaintiff?’ he might answer, because the owner of the killed ox would be entitled to say to the owner of the pit, ‘As I have found my ox in your pit, you have killed it. Whatever is paid to me by the other defendant I do not mind being paid [by him], but whatever is not paid to me by him, I will require to be paid by you.’[18]

Raba said: If a man puts a stone near the mouth of a pit [which had been dug by another person] and an ox coming along stumbles over the stone and falls into the pit, we are here brought face to face[19] with the difference of opinion between R. Nathan and the Rabbis.[20] But is this not obvious? — You might perhaps have said that [the difference of opinion was confined to that case] where the owner of the pit could say to the owner of the ox, ‘Had not my pit been there at all, your ox would in any case have killed the other ox,’ whereas in this case the person who put the stone [near the pit] could certainly say to the owner of the pit, ‘If not for your pit what harm would my stone have done? Were the ox even to have stumbled over it, it might have fallen but would have got up again.’ We are therefore told [by this] that the other party can retort, ‘If not for your stone, the ox would not have fallen into the pit at all.’

It was stated:

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(1) Supra p. 289.

(2) Ex. XXI, 33-34.

(3) In which case the pit acted only as a secondary cause.

(4) Where the ground round about the pit has been abandoned, while the pit itself and the ground of it still remain with the owner.

(5) Since the pit and its ground remained yours.

(6) Where liability was stated.

(7) Cf. Mishnah 47b.

(8) Ex. XXI, 33.

(9) Cf. supra p. 290.

(10) Why then should the owner of the pit be liable? The digger too should also be exempt as he was but a remote cause to the damage that resulted.

(11) Cf. supra 13a.

(12) In which case the owner of the ox will pay quarter and the owner of the pit three quarters.

(13) Where both of them will pay equally.

(14) Which is half of the payment in the case of Tam.

(15) B.M. 117b; cf. also Hor. 13b.

(16) In the case of Tam.

(17) If I will have to pay half damages which is the maximum payment in my case.

(18) V. p. 307, n. 7. [And similarly in the case of our Mishnah since he cannot claim any damages from the digger, who was but a secondary cause, he is compensated by the owner of the pit.]

(19) As to whether the digger of the pit or the one who put the stone should be liable.

(20) According to whom the one who put the stone would alone have to pay.

Talmud - Mas. Baba Kama 53b

Where an ox [of a private owner] together with an ox that was sacred[1] but became disqualified[2] [for the altar], gored [an animal]. Abaye said that the private owner would have to pay half damages,[3] whereas Rabina said that he would have to pay quarter damages.[3] Both the one and the other are speaking of Tam, but while Rabina followed the view of the Rabbis,[4] Abaye followed that of R. Nathan.[5] Or if you wish you may say that both the one and the other followed the view of the Rabbis,[4] but while Rabina was speaking of Tam[6] Abaye was speaking of Mu'ad. Some report that Abaye stated half damages and Rabina full damages. The one ruling like the other would refer to the case of Mu'ad, but while one[7] followed the Rabbis[8] the other[9] followed the view of R. Nathan.[10] If you wish you may say that the one ruling like the other followed the view of R. Nathan, but while ones was speaking of Mu'ad, the other[7] was speaking of Tam.[11]

Raba said: If an ox along with a man pushes [certain things] into a pit, on account of Depreciation[12] they would all [three][13] be liable, but on account of the four [additional] items[12] or with respect to compensation for the value of [lost] embryos.[14] Man would be liable[15] but Cattle and Pit exempt;[14] in respect of kofer[16] or the thirty shekels[17] for [the killing of] a slave, Cattle would be liable[18] but Man and Pit exempt;[19] in respect of damage done to inanimate objects or to a sacred ox which had become disqualified [for the altar], Man and Cattle would be liable but Pit exempt, the reason being that Scripture says, And the dead beast shall be his,[20] [implying that it was only] in the case of an ox whose carcass could be his[21] [that there would be liability], excluding thus the case of this [ox] whose carcass could not be his.[22] Does this mean that this last point was quite certain to Raba? Did not Raba put it as a query? For Raba asked; If a sacred ox which had become disqualified[23] [for the altar] fell into a pit, what would be the legal position? Shall we say that this [verse], And the beast shall be his, [confines liability to the case of] an ox whose carcass could be his, thus excluding the case of this ox whose carcass could never be his,[22] or shall we say that the words And the dead beast shall be his are intended only to lay down that the owners [plaintiffs] have to retain the carcass as part payment?[24] [The fact is that] after raising the question he himself solved it. But whence [then] would he derive the law that the owners [plaintiffs] have to retain the carcass as part payment ? — He would derive it from the clause and the dead shall be his own[25] [inserted in the case] of Cattle. What reason have you for rising [the clause] And the dead shall be his own [in the context dealing] with Cattle to derive from it the law that the owners [plaintiffs] have to retain the carcass as part payment, while you rise [the clause] And the dead beast shall be his[26] [in the context dealing] with Pit [to confine liability] to an animal whose carcass could be his?[27] Why should I not reverse [the implications of the clauses]? — It stands to reason that the exemption should be connected with Pit, since there is in Pit exemption also in the case of inanimate objects.[28] On the contrary, should not the exemption be connected with Cattle, since in Cattle there is exemption from half damages [in the case of Tam]? — In any case, exemption from the whole payment is not found [in the case of cattle].

WHERE THERE FELL INTO IT AN OX TOGETHER WITH ITS IMPLEMENTS WHICH THEREBY BROKE etc. This Mishnaic ruling is not in accordance with R. Judah. For it was taught: R. Judah imposes liability for damage to inanimate objects done by Pit. But what was the reason of the Rabbis?[29] — Because Scripture says, And an ox or an ass fall therein,[30] [implying] ‘ox’ but not ‘man’,[31] ‘ass’ but not ‘inanimate objects’. R. Judah, [however, maintained that the word] ‘or’ [was intended] to describe inanimate objects while the [other] Rabbis

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(1) Which is not subject to the law of damage; cf. supra pp. 50ff.

(2) Through a blemish. [As long as such an ox had not been redeemed, it is regarded as an ox of the sanctuary, v. supra 36b. Cur. edd. add in brackets, ‘e.g., a first-born ox which cannot be redeemed.’ It is however questionable whether such an ox is not to be considered a common animal, having regard to the fact that being blemished it is entirely the priests, no share thereof being offered up on the altar. MS. M. omits these words.]

(3) And the remaining part will be lost to the plaintiff.

(4) Maintaining that each defendant is only liable for himself.

(5) Who stated that if no payment can be enforced from a defendant, his co-defendant has to make it up.

(6) Where quarter damages is half of the maximum payment.

(7) Abaye.

(8) V. p. 309, n. 6.

(9) Rabina.

(10) V. p. 309, n. 7.

(11) Where half damages is the maximum payment.

(12) Cf. supra 26a.

(13) I.e. the man, the owner of the pit and the owner of the ox.

(14) V. supra 49a.

(15) Ex. XXI, 22.

(16) Ibid. 29-30.

(17) Ibid. 32.

(18) Ibid. 28-32.

(19) Supra 28b and 35a

(20) Ex. XXI, 34.

(21) I.e., could be used by him as food for dogs and like purposes.

(22) As no use could lawfully be made of a carcass of a sacred animal that died.

(23) Through a blemish.

(24) Supra 10b.
(25) Ex. XXI, 36.
(26) V. p. 310. n. 14.
(27) V. p. 310. n. 15.
(28) V. supra p. 302, n. 2.
(29) For maintaining exemption.
(30) Ex. XXI, 33.
(31) Dying through falling into a pit.

Talmud - Mas. Baba Kama 54a

[argued that the word] ‘or’ was necessary as a disjunctive.[1] And R. Judah? — [He maintained that] the disjunction could be derived from [the use of the singular] And it fall.[2] And the Rabbis? — [They could reply that even the singular] And it fall could also imply many [things].[3]

May I say [that the expression] And it fall is intended as a generalisation,[4] while an ox or an ass [follows as] a specification, and where a generalisation is followed by a specification, the generalisation does not apply to anything save what is enumerated in the specification,[5] so that only in the case of an ox or an ass should there be liability, but not for any other object whatsoever? — No; for it could be said that [the clause] The owner of the pit shall make it good[6] generalises again. Now where there is a generalisation preceding a specification which is in its turn followed by another generalisation, you include only such cases as are similar to the specification.[5] [Thus here] as the specification refers to objects possessing life, so too all objects to be included [must be such] as possess life.[7] But [why not argue] since the specification refers to [animate] objects whose carcass would cause defilement whether by touching or by carrying,[8] should we not include [only animate] objects whose carcass would similarly cause defilement whether by touching or by carrying,[9] so that poultry would thus not be included?[10] — If so, the Divine Law would have mentioned only one object in the specification. But which [of the two][11] should the Divine Law have mentioned? Had it inserted [only] ‘ox’, I might have said that an animal which was eligible to be sacrificed upon the altar[12] should be included, but that which was not eligible to be sacrificed upon the altar[13] should not be included.[14] If [on the other hand] the Divine Law had [only] ‘ass’, I might have thought that an animal which was subject to the sanctity of firstborn[15] should be included, but that one which was not subject to the sanctity of firstborn[16] should not be included.[17] [But still why indeed not exclude poultry?] Scripture says: ‘And the dead shall be his’ [implying] all things that are subject to death. [If so,] whether according to the Rabbis who exclude inanimate objects, or according to R. Judah who includes inanimate objects, [the question maybe raised] are inanimate objects subject to death? It may be said that their breaking is their death. But again according to Rab who stated[18] that the liability imposed by the Torah in the case of Pit was for the unhealthy air [of the pit] but not for the blow [it gave], would either the Rabbis or R. Judah maintain that inanimate objects could be damaged by unhealthy air? — It may be said that [this could happen] with new utensils that burst in bad air. But was not this [clause] And the dead shall be his[19] required for the ruling of Raba?[20] For did Raba not say,[21] ‘Where a sacred ox which had become disqualified [for the altar] fell into a pit, there would be exemption’, as it is said: And the dead shall be his [implying that it was only] in the case of an ox whose carcass could be his [that there would be liability] and thus excluding the case of this ox whose carcass could never be his? — But Scripture says: He should give money unto the owner of it[19] [implying] that everything is included which has an owner. If so, why not also include even inanimate objects and human beings?[22] — Because Scripture says specifically ‘an ox’, [implying] and not ‘a man’, ‘an ass’ [implying] and not inanimate objects. Now according to R. Judah who included inanimate objects we understand the term ‘ox’ because it was intended to exclude ‘man’, but what was intended to be excluded by the term an ass? — Raba therefore said:[23] The term ‘ass’ in the case of Pit, on the view of R. Judah, as well as the term ‘sheep’ [occurring in the section dealing] with lost property[24] on the view unanimously accepted, remains difficult to explain.

IF THERE FELL INTO IT AN OX, DEAF, ABNORMAL OR SMALL THERE WOULD BE LIABILITY. What is the meaning of ‘AN OX, DEAF, ABNORMAL OR SMALL’? It could hardly be suggested that the meaning is ‘an ox of a deaf owner, an ox of an abnormal owner, an ox of a minor’, for would not this imply exemption in the case of an ox belonging to a normal owner?[25] — R. Johanan said: [It means] ‘an ox which was deaf, an ox which was abnormal, an ox which was small.’

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(1) So that it should not be thought that there should be no liability unless both ox and ass fell in together.

(2) [So that ‘or’ carries the disjunction further to include utensils attached to the animal, v. Malbim, a.l.]

(3) As in Ex. XXXVI, 1; Deut. XIII, 3; I Sam. XVII, 34 etc.

(4) To include everything.

(5) [This is one of the principles of hermeneutics (Kelal u-ferat) according to R. Ishmael, v. Sanh. (Sonc. ed.) p. 12, n. 9.]

(6) Ex. XXI, 34.

(7) Thus excluding inanimate objects.

(8) Lev. XI, 39-40.

(9) Lev. ibid. 26-28.

(10) As these do not cause defilement either by touching or by carrying.

(11) Ox and ass.

(12) As was the case with ox.

(13) Such as an ass, horse, camel and the like.

(14) Hence ass was inserted to include also animals not eligible to be sacrificed upon the altar.

(15) As was the case with ass; cf. Ex. XIII, 13.

(16) Such as e.g., a horse, camel and the like.

(17) Hence ‘ox’ was inserted, for though the species of ox is subject to the sanctity of firstborn and would in no case have been excluded, its insertion being thus superfluous was surely intended to include even those animals which are not subject to the sanctity of firstborn.

(18) Supra p. 289.

(19) Ex. XXI, 34.

(20) [How then deduce from it liability in case of poultry?]

(21) Supra p. 296.

(22) E.g., slaves.

(23) Cf. B.M. 27a.

(24) Deut. XXII, 1-3.

(25) Which is of course not the case at all

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Still, would not this imply exemption in the case of an ox which was normal?[1] — R. Jeremiah thereupon said: A particularly strong case is taken:[2] There could be no question that in the case of a normal ox there should be liability, but in the case of an ox which is deaf or abnormal or small it might have been thought that it was its deafness that caused [the damage to it] or that it was its smallness that caused it [to fall] so that the owner of the pit should be exempt.[3] We are therefore told [that even here he is liable]. Said R. Aha to Rabina: But it has been taught: If a creature possessing sense fell into it there would be exemption. Does this not mean an ox possession sense? — He replied: No, it means a man. [If that is so,] would not this imply that only in the case of a man who possesses sense that there would be exemption, whereas if he did not possess sense there would be liability, [and how can this be, seeing that] it is written ‘ox’ [which implies] ‘and not man’? — The meaning of ‘one possessing sense’ must therefore be ‘one of the species of rational being’. But he again said to him: Was it not taught: If there fell into it an ox possessing sense there would be exemption? — Raba therefore said: [The Mishnaic text indeed means] precisely an ox which was deaf, an ox which was abnormal, an ox which was small, for in the case of an ox which was normal there would be exemption, the reason being that such an ox should have looked more carefully while walking. So indeed was it taught likewise:[4] Where there fell into it an ox which was deaf, or abnormal or small, or blind or while walking at night time, there would be liability whereas if it was normal and walking during the day there would be exemption.

MISHNAH. BOTH AN OX AND ANY OTHER ANIMAL ARE ALIKE [BEFORE THE LAW WITH REFERENCE] TO FALLING INTO A PIT,[5] TO EXCLUSION FROM MOUNT SINAI,[6] TO PAYING DOUBLE [IN CASES OF THEFT],[7] TO RESTORING LOST PROPERTY,[8] TO UNLOADING [BURDENS TOO HEAVY FOR AN ANIMAL TO BEAR],[9] TO ABSTAINING FROM MUZZLING,[10] TO HETEROGENEOUS ANIMALS [BEING COUPLED[11] OR WORKING TOGETHER],[12] TO SABBATH REST.[13] SO ALSO BEASTS AND BIRDS ARE LIKE THEM. IF SO WHY DO WE READ, AN OX OR AN ASS? ONLY BECAUSE SCRIPTURE SPOKE OF THE MORE USUAL [ANIMALS IN DOMESTIC LIFE].

GEMARA. [WITH REFERENCE] TO FALLING INTO A PIT, since it is written, He should give money unto the owner of it,[14] [to include] everything that an owner has, as indeed already stated.[15] TO EXCLUSION FROM MOUNT SINAI [as it is written] Whether it be animal or man, it shall not live.[6] Beast[16] is included in ‘animal’ and [the word] ‘whether’ includes ‘birds’. TO PAYING DOUBLE, as we said elsewhere:[17] [The expression] for all manner of trespass[18] is comprehensive. TO RESTORING LOST PROPERTY; [this is derived from the words] with all lost things of thy brother.[19] TO UNLOADING [BURDENS TOO HEAVY FOR AN ANIMAL TO BEAR]; we derive this [by] comparing [the term] ‘ass’[9] with [the term] ‘ass’[13] [occurring in connection] with the Sabbath.[20] TO [ABSTAINING FROM] MUZZLING; this we learn [similarly by] comparing [the term] ‘ox’[10] with [the term] ‘ox’[13] [used in connection] with Sabbath.[20] TO HETEROGENEOUS ANIMALS; the rule as regards ploughing we learn [by comparing the term] ‘ox’[12] with the term ‘ox’[13] used [in connection] with Sabbath;[20] and the rule as regards coupling we learn [by comparing the term] ‘thy cattle’[11] with the term ‘thy cattle’[13] [used in connection] with Sabbath. But whence are [all these rules known] to us in the case of Sabbath [itself]? — As it was taught: R. Jose says in the name of R. Ishmael: In the first Decalogue[21] it is said thy manservant and thy maidservant and thy cattle[22] whereas in the second Decalogue[23] it is said thy ox and thy ass and any of thy cattle.[24] Now, are not ‘ox’ and ‘ass’ included in ‘any of thy cattle’? Why then were they singled out? To tell us that just as in the case of the ‘ox and ass’ mentioned here,[24] beasts and birds are on the same footing with them.[25] So also [in any other case where ‘ox and ass’ are mentioned] all beasts and birds are on the same footing with them. But may we not say that ‘thy cattle’ in the first Decalogue[21] is a generalisation, and ‘thy ox and thy ass’ in the second Decalogue is a specification, and [we know that] where a generalisation is followed by a specification, the generalisation does not include anything save what is mentioned in the specification,[26] [whence it would follow that only] ‘ox and ass’ are [prohibited][27] but not any other thing? — I may reply that the words ‘and any of thy cattle’ in the second Decalogue constitute a further generalisation, so that we have a generalisation preceding a specification which in its turn is followed by another generalisation; and in such a case you include also[28] that which is similar to the specification,[26] so that as the specification [here] mentions objects possessing life, there should thus also be included all objects possessing life. But, I may say, the specification mentions [living] things whose carcass would cause defilement whether by touching or by carrying.[29] [Why not say that] there should also be included all [living] things whose carcass would similarly cause defilement whether by touching or by carrying,[30] so that birds would thus not be included?[31] — I may reply: If that were the case, the Divine Law would have inserted only one [object in the] specification. But which [of the two][32] should the Divine Law have inserted? For were the Divine Law to have inserted [only] ‘ox’, I might have thought than an animal which was eligible to be sacrificed upon the altar[33] should be included, but one which was not eligible to be sacrificed upon the altar[34] should not be included, so that the Divine Law was thus compelled to insert also ‘ass’.[35] If [on the other hand] the Divine Law had inserted [only] ‘ass’, I might have thought that [an animal which was subject to the] sanctity of first birth[36] should be included, but that which was not subject to the sanctity of first birth[37] should not be included; the Divine Law therefore inserted also ‘ox’.[38] It must therefore [be said that] and all thy cattle is [not merely a generalisation but] an amplification.[39] [Does this mean to say that] wherever the Divine Law inserts [the word] ‘all’, it is an amplification? What about tithes where [the word] ‘all’ occurs and we nevertheless expound it as an instance of generalisation and specification? For it was taught:[40] And thou shalt bestow that money for all that thy soul lusteth after[41] is a generalisation; for oxen, or for sheep, or for wine, or for strong drink[41] is a specification; or for all that thy soul desireth is again a generalisation. Now, where a generalisation precedes a specification which is in its turn followed by another generalisation you cannot include anything save what is similar to the specification. As therefore the specification [here][41] mentions products obtained from products[42] and which spring from the soil[43] there may also be included all kinds of products obtained from products[44] and which spring from the soil.[45] [Does this not prove that the expression ‘all’ was taken as a generalisation, and not as an amplification?][46] — I might say that [the expression] ‘for all’[47] is but a generalisation, whereas ‘all’ would be an amplification. Or if you wish I may say that [the term] ‘all’ is also a generalisation, but in this case[48] ‘all’ is an amplification. For why was it not written And thy cattle just as in the first Decalogue? Why did Scripture insert here ‘and all thy cattle’ unless it was meant to be an amplification? — Now that you decide that ‘all’ is an amplification[49] why was it necessary to have ‘thy cattle’ in the first Decalogue and ‘ox and ass’ in the second Decalogue? — I may reply that ‘ox’ was inserted [to provide a basis] for comparison of ‘ox’ with [the term] ‘ox’ [used in connection] with muzzling; so also ‘ass’ [to provide a basis] for comparison of ‘ass’ with the term ‘ass’ [used in connection] with unloading; so again ‘thy cattle’ [to provide a basis] for comparison of ‘thy cattle’ with [the expression] ‘thy cattle’ [occurring in connection] with heterogeneity. If that is the case [that heterogeneity is compared with Sabbath breaking] why should even human beings not be forbidden[50] [to plough together with an animal]? Why have we learnt; A human being is allowed to plough [the field] and to pull [a waggon] with any of the beasts?[51] — R. Papa thereupon said: The reason of this matter was known to the Papunean,[52] that is R. Aha b. Jacob [who said that as] Scripture says that thy manservant and thy maidservant may rest as well as thou[48] [it is only] in respect of the law of rest that I should compare them [to cattle] but not of any other matter.

R. Hanina b. ‘Agil asked R. Hiyya b. Abba: Why in the first Decalogue is there no mention of wellbeing,[53] whereas in the second Decalogue

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(1) And why should this be so?

(2) Lit., ‘He states (a case) where there can be no question’.

(3) Putting in contributory negligence on the part of the plaintiff as a defence.

(4) Supra p. 305.

(5) V. Ex. XXI, 33.

(6) V. ibid., XIX, 13.

(7) V. ibid. XXII, 3.

(8) V. Deut. XXII, 1-3.

(9) V. Ex. XXIII, 5 and Deut. XXII, 4.

(10) V. Deut. XXV, 4.

(11) V. Lev. XIX, 19.

(12) V. Deut. XXII, 10.

(13) V. Ex. XX, 10 and Deut. V, 14.

(14) Ex. XXI, 34.

(15) Supra p. 313.

(16) [I.e., non-domesticated animals.]

(17) Infra p. 364.

(18) Ex. XXII, 8.
(19) Deut. XXII, 3.
(20) As explained anon.
(21) Ex. XX, 2-17
(22) Ibid. 10.
(23) Deut. V, 6-18.
(24) Ibid. 14.
(25) As will be shown anon.
(26) V. supra p. 312, n. 1.
(27) To work on the Sabbath.
(28) Lit., ‘only’.
(29) Lev. XI, 39-40.
(30) Ibid. 26-28.
(31) As these do not cause defilement either by touching or by carrying.
(32) Ox and ass.
(33) As was the case with ox.
(34) Such as an ass, horse, camel and the like.
(35) Which would include also animals not eligible to be sacrificed upon the altar.
(36) As was the case with ass; cf. Ex. XIII, 13.
(37) Such as horses and camels and the like.
(38) To include those animals which otherwise would have been excluded; for since the species of ox is subject to the sanctity of first-born and would in no case have been excluded, its insertion being thus superfluous was surely intended to include even those animals which are not subject to the sanctity of first-born. On the other hand, birds should still be excluded since, unlike ox and ass, their carcasses do not defile, either by touching or by carrying.
(39) I.e., the term ‘all’ does more than generalize, for it includes everything. [On the difference between amplification ribbuy and generalisation kelal, v. Shebu. (Sonc. ed.) p. 12, n. 9.]
(40) V. infra 63a.
(41) Deut. XIV, 26.
(42) Such as wine from grapes.
(43) Which characterises also cattle.
(44) Excluding water, salt and mushrooms.
(45) Thus excluding fishes.
(46) Which would have included all kinds of food and drink.
(47) [בכל , the particle ב (‘for’) is taken as partitive.]
(48) In Deut. V, 14.
(49) At least in the case of the Sabbath, including thus all kinds of living creatures.
(50) For in the case of Sabbath, servants are included.
(51) Kil. VIII, 6.
(52) [Papunia was a place between Bagdad and Pumbeditha, v. B.B. (Sonc. ed.) p. 79, n. 8.]
(53) For honouring father and mother; v. Ex. XX, 12.

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there is a mention of wellbeing?[1] — He replied: While you are asking me why wellbeing is mentioned there, ask me whether wellbeing is in fact mentioned or not, as I do not know whether wellbeing is mentioned there or not.[2] Go therefore to R. Tanhum b. Hanilai who was intimate with R. Joshua b. Levi, who was an expert in Aggadah. When he came to him he was told by him thus: ‘From R. Joshua b. Levi I have not heard anything on the matter. But R. Samuel b. Nahum the brother of the mother of R. Aha son of R. Hanina, or as others say the father of the mother of R. Aha son of R. Hanina, said to me this: Because the [first tablets containing the] Commandments were destined to be broken.’[3] But even if they were destined to be broken, how should this affect [the mention of wellbeing]? — R. Ashi thereupon said: God forbid! Wellbeing would then have ceased in

Israel.[4]

R. Joshua[5] said: He who sees [the letter] teth[6] in a dream [may regard it as] a good omen for himself. Why so? If because it is the initial letter of [the word] ‘Tob’ [‘good’] written in Scripture,[7] why not say [on the contrary that it is also the initial letter of the verb ‘ta'atea’[8] commencing the Scriptural verse] And I will sweep it with the besom of destruction?[9] — We are speaking [here of where he saw in a dream only] one teth [whereas ta'atea contains two such letters]. But still why not say [that it might have referred to the word ‘tum'ah’[10] as in the verse] Her filthiness is in her skirts?[11] — We are speaking of [where he saw in a dream the letters] ‘teth’ and ‘beth’.[12] But again why not say [that it might have referred to the verb tabe'u[13] as in the verse], Her gates were sunk in to the ground?[14] — The real reason is that Scripture used this letter on the very first occasion to express something good, for from the beginning of Genesis up to [the verse] And God saw the light[15] no teth occurs.[16] R. Joshua b. Levi similarly said: He who sees [the word] hesped[17] in a dream [may take it as a sign that] mercy has been exercised towards him in Heaven, and that he will be released [from trouble].[18] provided, however, [he saw it] in script.

SO ALSO BEASTS AND BIRDS ARE LIKE THEM etc. Resh Lakish said: Rabbi taught here[19] that a cock, a peacock and a pheasant are heterogeneous with one another.[20] Is this not obvious?[21] — R. Habiba said: Since they can breed from one another it might have been thought that they constitute a homogeneous species; we are therefore told [by this that this is not the case]. Samuel said:[22] The [domestic] goose and the wild goose are heterogeneous with each other. Raba son of R. Hanan demurred [saying:] What is the reason? Shall we say because one has a long neck and the other has a short neck? If so, why should a Persian camel and an Arabian camel similarly not be considered heterogeneous with each other, since one has a thick neck and the other a slender neck? — Abaye therefore said: [It is because] one[23] has its genitals discernible from without while the other one[24] has its genitals within. R. Papa said: [It is because] one[23] becomes pregnant with only one egg at fecundation, whereas the other one[21] becomes pregnant with several eggs at one fecundation. R. Jeremiah reported that Resh Lakish said: He who couples two species of sea creatures becomes liable to be lashed.[25] On what ground?[26] R. Adda b. Ahabah said in the name of ‘Ulla: This rule comes from the expression ‘after its kind’[27] [in the section dealing with fishes] by comparison with ‘after its kind’[28] [in reference to creatures] of the dry land. Rehabah inquired: If a man drove [a waggon] by means of a goat and a mullet together, what would be the legal position? Should we say that since a goat could not go down into the sea and a mullet could not go up on to the dry land, no transgression has been committed, or do we say that after all they are now pulling together?[29] Rabina demurred to this: If this is so, supposing one took wheat and barley together in his hand and sowed the wheat on the soil of Eretz Yisrael[30] and the barley on the soil outside Eretz Yisrael,[31] would he be liable [as having transgressed the law]?[32] — I might answer: Where is the comparison? There [in your case][33] Eretz Yisrael is the place subject to this obligation whereas any country outside Eretz Yisrael is not subject to this obligation; but here,[34] both one place[35] and the other[36] are subject to the obligation.[37] [

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(1) Cf. Deut. V, 16, where the following occurs, That thy days may be prolonged, and that it may go well with the . . . .

(2) As no Halachic point was involved, R. Hiyya b. Abba did not observe the difference; see also Tosaf. B.B. 113a.

(3) Ex. XXXII, 19.

(4) I.e. if it would have been inserted in the first Decalogue it would have ceased altogether when the two tablets were broken.

(5) Some add ‘b. Levi’.

(6) The ninth letter of the Hebrew alphabet.

(7) On so many occasions.

(8) I.e. to sweep with a besom.

(9) Isa. XIV, 23.

(10) Meaning defilement and filthiness.

(11) Lam. I, 9.
(12) The second letter of the Alphabet.
(13) I.e., they sunk.
(14) Lam. II, 9.
(15) Gen. I, 4.
(16) And since the first teth in Scriptures commences the word denoting ‘good’ it is a good omen to see it in a dream.
(17) Which denotes an elegy and a lamentation.
(18) As the word hesped could be divided thus: has pad [ah]. i.e. mercy has been exercised and release granted.
(19) By stating that the law of heterogeneity applies also to birds.
(20) I.e., we are justified in maintaining so.
(21) Since they are birds of different kinds.
(22) Bek. 8a.
(23) The wild goose.
(24) The domestic goose.
(25) As be transgressed the negative commandment of Lev. XIX, 19.
(26) Is not ‘cattle’ specified in Lev. XIX, 19?
(27) Gen. I. 21.
(28) Ibid. 25.
(29) And a sin has been committed.
(30) Which is subject to the law of not being sown with mingled seed.
(31) Which is not subject to this law.
(32) And since he would not be liable, what doubt could be entertained in the case of a goat and mullet?
(33) Of sowing a field with mingled seed.
(34) In the case of a goat and a mullet.
(35) The dry land.
(36) The sea.
(37) As derived above from the similarity of expressions ‘after its kind’.]

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CHAPTER VI

MISHNAH. IF A MAN BRINGS SHEEP INTO A SHED AND LOCKS THE DOOR IN FRONT OF THEM PROPERLY, BUT THE SHEEP [NEVERTHELESS] GET OUT AND DO DAMAGE, HE IS NOT LIABLE.[1] IF, HOWEVER, HE DOES NOT LOCK THE DOOR IN FRONT OF THEM PROPERLY, HE IS LIABLE.[2] IF [THE WALL] BROKE DOWN AT NIGHT, OR IF ROBBERS BROKE IN, AND THEY[3] GOT OUT AND DID DAMAGE, HE WOULD NOT BE LIABLE. IF [HOWEVER] ROBBERS TOOK THEM OUT [FROM THE SHED AND LEFT THEM AT LARGE AND THEY DID DAMAGE] THE ROBBERS WOULD BE LIABLE [FOR THE DAMAGE].[4] BUT IF THE OWNER HAD LEFT THEM IN A SUNNY PLACE, OR HE HAD HANDED A MINOR, AND THEY GOT AWAY AND DID DAMAGE, HE HANDED THEM OVER TO THE CARE OF A DEAF-MUTE, AN IDIOT, HE WOULD BE LIABLE.[4] IF HE HAD HANDED THEM OVER TO THE CARE OF A SHEPHERD, THE SHEPHERD WOULD HAVE ENTERED [INTO ALL RESPONSIBILITIES] INSTEAD OF HIM. IF A SHEEP [ACCIDENTALLY] FELL INTO A GARDEN AND DERIVED BENEFIT [FROM THE FRUIT THERE], PAYMENT WOULD HAVE TO BE MADE TO THE EXTENT OF THE BENEFIT,[5] WHEREAS IF IT HAD GONE DOWN THERE IN THE USUAL WAY AND DONE DAMAGE, THE PAYMENT WOULD HAVE TO BE FOR THE AMOUNT OF THE DAMAGE DONE BY IT.[6] HOW IS PAYMENT MADE FOR THE AMOUNT OF DAMAGE DONE BY IT?[6] BY COMPARING THE VALUE OF AN AREA IN THAT FIELD REQUIRING ONE SE'AH[7] [OF SEED] AS IT WAS [PREVIOUSLY] WITH WHAT ITS WORTH IS [NOW]. R. SIMEON, HOWEVER, SAYS: IF IT CONSUMED RIPE FRUITS THE PAYMENT SHOULD BE FOR RIPE FRUITS; IF ONE SE'AH[8] [IT WOULD BE FOR] ONE

SE'AH, IF TWO SE'AHS [FOR] TWO SE'AHS.

GEMARA. Our Rabbis taught: What is denominated ‘properly’ and what is not ‘properly’? — If the door was able to stand against a normal wind,[9] it would be ‘properly’, but if the door could not stand against a normal wind, that would be ‘not properly’. R. Manni b. Pattish thereupon said: Who can be the Tanna [who holds] that in the case of Mu'ad,[10] even inadequate precaution[11] suffices [to confer exemption]? It is R. Judah. For we have learnt: If the owner fastened his ox [to the wall inside the stable] with a cord or shut the door in front of it properly[12] and the ox got out and did damage, whether it was Tam or already Mu'ad, he would be liable; so R. Meir. R. Judah, however, says: In the case of Tam he would be liable, but in the case of Mu'ad exempt, for it is written, And his owner hath not kept him in[13] [thus excluding this case where] it was kept in. R. Eliezer, however, says: No precaution is adequate [for Mu'ad] save the [slaughter] knife.[14] [But does not an anonymous Mishnah usually follow the view of R. Meir?][15] — We may even say that it is in accordance with R. Meir, for Tooth and Foot are different[16] [in this respect], since the Torah required a lesser degree of precaution in their case as stated by R. Eleazar, or, according to others, as stated in a Baraitha: There are four cases [of damage] where the Torah requires a lesser degree of precaution. They are these: Pit and Fire, Tooth and Foot. Pit as it is written, And if a man shall open a pit, or if a man shall dig a pit and not cover it,[17] implying that if he covered it[18] he would he exempt. Fire, as it is written, He that kindled the fire shall surely make restitution,[19] [that is to say] only where he acted [culpably], as by actually kindling the fire.[20] Tooth, as it is written, And he shall send forth,[21] [that is to say] only where he acted [wrongly] as by actually sending it forth.[20] It was [further] taught:[22] ‘And he shall send forth’[23] denotes Foot, as in the similar expression, That send forth the foot of the ox and the ass;[24] And it shall consume denotes ‘Tooth’,[23] as in the similar expression, As the tooth consumeth to entirety.[25] This is so only for the reason that he acted [culpably] as by actually sending it forth or feeding it there,[26] whereas where he did not act [in such a manner] this would not be so. Rabbah said: The text of the Mishnah also corroborates [this view][27] by taking here the case of sheep. For have we not been dealing all along [so far] with an ‘ox’?[28] Why then not say [here also] ‘ox’?[29] What special reason was there for taking here SHEEP?[30] Is it not because the Torah required a lesser degree of precaution in their case[31] on account of the fact that it is not Horn that is dealt with here,[32] but Tooth and Foot that are dealt with here? It is thus indicated to us that [this kind of precaution[33] is] only in the case of Tooth and Foot which are Mu'ad [ab initio]; and this may be regarded as proved.

It was taught: R. Joshua said: There are four acts for which the offender is exempt from the judgments of Man but liable to the judgments of Heaven. They are these: To break down a fence in front of a neighbour's animal [so that it gets out and does damage];[34] to bend over a neighbour's standing corn in front of a fire;[34] to hire false witnesses to give evidence; and to know of evidence in favour of another and not to testify on his behalf.[35]

The Master stated: ‘To break down a fence in front of a neighbour's animal.’ Under what circumstances? If we assume that the wall was sound, why should the offender not be liable even according to the judgments of Man [at least for the damage done to the wall]? — It must therefore be

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(1) As he is not to blame.

(2) As he did not discharge his duty of guarding his cattle.

(3) I.e., the sheep.

(4) Done by the sheep, since they have come into the possession of the robbers, who have thus become liable to control them.

(5) But not to the extent of the actual damage: cf. supra 19b.

(6) In accordance with the law of Tooth.

(7) V. Glos.

(8) V. Glos.

(9) Though unable to withstand an extraordinary wind.
(10) As in the case with Tooth and Foot.
(11) I.e., a door able to withstand a normal wind.
(12) Withstanding a normal wind.
(13) Ex. XXI, 36.
(14) Supra 45b.
(15) According to whom precaution of a lesser degree would not suffice.
(16) From Horn.
(17) Ex. XXI, 33.
(18) Though he did not fill it with sand.
(19) Ex. XXII, 5.
(20) But not where any precaution has been taken.
(21) Ex. XXII, 4.
(22) Cf. supra 2b.
(23) Ex. XXII, 4.
(24) Isa. XXXII, 20.
(25) I Kings XIV,10.
(26) V. supra n. 1.
(27) I.e. the distinction between Tooth and Horn.
(28) And not with sheep.
(29) Which as a rule stands for Horn.
(30) Which damages by Tooth and Foot.
(31) I.e. in Tooth and Foot.
(32) [MS. M. reads ‘sheep’. Render accordingly: Because as to sheep there is no mention (in the Torah) in connection with Horn; only Tooth and Foot are mentioned in connection therewith.]
(33) Which would withstand only a normal wind.
(34) V. the discussion later.
(35) Tosef., Shebu. III.

Talmud - Mas. Baba Kama 56a

where the wall was shaky.[1]

The Master stated: ‘To bend over a neighbour's corn standing in front of a fire.’ Under what circumstances? If we assume that the fire can now reach it in a normal wind, why is he not liable also according to the judgments of Man? — It must therefore be where it would reach them only in an unusual wind. R. Ashi said: What is referred[2] to is ‘covering’ the offender having caused the stalks to become hidden in the ease of Fire.[3]

The Master stated: ‘To hire false witnesses.’ Under what circumstances? If we assume for his own benefit,[4] should he not pay the money[5] and should he thus not also be liable even in accordance with the judgments of Man? — It therefore must mean for the benefit of his neighbour.[6]

‘To know of evidence in favour of another and not to testify on his behalf.’ With what case are we dealing here? If with a case where there are two [witnesses], is it not obvious that it is a Scriptural offence,[7] [as it is written], If he do not utter it then he shall bear his iniquity?[8] — It must therefore be where there is one [witness].[9]

(Mnemonic: He who does, Deadly poison, Entrusts, His fellow, Broken.)

But are there no more cases [of the same category]? Is there not the case of a man who does work with the Water of Purification[10] or with the [Red] Heifer of Purification,[10] where he is similarly exempt according to the judgments of Man but liable according to the judgments of Heaven?[11] Again, is there not the case of one who placed deadly poison before the animal of a neighbour, where he is exempt from the judgments of Man but liable according to the judgments of Heaven?[12] So also is there not the case of one who entrusts fire to a deaf-mute, an idiot or a minor [and damage results], where he is exempt from the judgments of Man but liable according to the judgments of Heaven?[13] Again, is there not the case of the man who gives his fellow a fright, where he is similarly exempt from the judgments of Man but liable according to the judgments of Heaven?[14] And finally is there not the case of the man who, when his pitcher has broken on public ground, does not remove the potsherds, who, when his camel falls does not raise it, where R. Meir indeed makes him liable for any damage resulting therefrom, but the Sages hold that he is exempt from the judgments of Man though liable according to the judgments of Heaven?[15] — Yes, there are surely many more cases [to come under the same category], but these four cases were particularly necessary to be stated by him,[16] as otherwise you might have thought that even according to the judgments of Heaven there should not be any liability. It was therefore indicated to us [that this is not so]. In the case of breaking down a fence in front of a neighbour's animal you might have said that since the wall was in any case bound to come down, what offence was committed, and that even according to the judgments of Heaven there should be no liability. It was therefore indicated to us [that this is not so]. In the case of bending over a neighbour's standing corn in front of a fire you might also have said that the defendant could argue, ‘How could I know that an unusual wind would come?’ and that consequently even according to the judgments of Heaven he should not be liable; it was therefore indicated to us [that this is not the case]. So also according to R. Ashi who said that the reference is to ‘covering’, you might have said that [the defendant could contend], ‘I surely intended to cover and thus protect your property,[17] and that even according to the judgments of Heaven he should not be liable. It was therefore indicated to us [that this is not so]. In the case of hiring false witnesses you might also have said that the offender should be entitled to plead, ‘Where the words of the Master[18] are contradicted by words of a disciple,[19] whose words should be followed?’[20] and that even according to the judgments of Heaven he should not be liable. It was therefore indicated to us [that this is not so]. In the case where one knows evidence in favour of another and does not testify on his behalf, you might also have said that [the offender could argue], ‘Who can say for certain that even had I gone and testified on his behalf, the other party would have admitted [the claim], and would not perhaps have sworn falsely [against my evidence]?’[21] and that even according to the judgments of Heaven he should not be liable. It was therefore indicated to us [that this is not the case].

IF THE WALL BROKE DOWN AT NIGHT OR IF ROBBERS BROKE IN etc., Rabbah said: This[22] is so only where the animal undermined the wall. What then of the case where it did not undermine the wall?[23] Would there then be liability? Under what circumstances? If it be assumed that the wall was sound, why then even where it did not undermine it[23] should there be liability? What else could the defendant have done? But if, on the other hand, the wall was shaky, why even in the case where the animal undermined it should there be exemption? Is not this a case where there is negligence[24] at the beginning but [damage results from] accident[25] at the end? Your view is correct enough on the assumption[26] that where there is negligence at the beginning [and damage results through] accident at the end there is exemption, but if we take the view[26] that where there is negligence at the beginning though [damage results from] accident at the end there is liability, what can be said? — This ruling of the Mishnah therefore refers to a sound wall and even to a case where it did not undermine the wall.[27] For the statement of Rabbah was made with reference to [the ruling in] the concluding clause, IF THE OWNER HAD LEFT THEM IN A SUNNY PLACE OR HANDED THEM OVER TO THE CARE OF A DEAF-MUTE, AN IDIOT OR A MINOR AND THEY GOT AWAY AND DID DAMAGE, HE WOULD BE LIABLE. Rabbah thereupon said: This would be so even where it undermined the wall. For there would be no doubt that [this would be so] where it did not undermine the wall[28] as there was negligence throughout, but even where it did undermine the wall,[29] the ruling[30] would also hold good. You might have said [in that case, that where it undermined the wall][29] it should be regarded as a case of negligence at the beginning but accident at the end.[31] It was therefore indicated to us[32] that [it is regarded as a case of] negligence throughout, the reason being that the plaintiff might say, ‘You should surely have realised that since you left it in a sunny place, it will use every possible device for the purpose of getting out.

IF THE ROBBERS TOOK THEM OUT, THE ROBBERS WOULD BE LIABLE [FOR THE DAMAGE].[33]

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(1) And should in any case have been pulled down.

(2) By the expression ‘bending over’.

(3) For which there is no liability according to the view of the Rabbis (v. infra p. 357), and by his act he caused the owner of the corn the loss of all claim to compensation.

(4) I.e., to obtain money really not due to him.

(5) Which he obtained by false pretenses and by the evidence of the false witnesses whom he hired.

(6) I.e. to pay him money not due to him, and it so happened that the neighbour to whom the money was paid could not be made to give back the money he obtained by the false evidence.

(7) Why then state it here?

(8) Lev. V, 1.

(9) Whose evidence would merely entail the imposition of an oath upon the defendant, v. Shebu 40a.

(10) Thus disqualifying it from being used for the purpose of purification, Par. IV, 4.

(11) Git. 53a, and infra 98a.

(12) Supra 47b.

(13) Infra 59b.

(14) Infra 91a.

(15) Supra 28b.

(16) R. Joshua.

(17) But not to cause you the loss of compensation.

(18) Expressed in the Divine Law.

(19) I.e. mortal man.

(20) Surely the word of the former. The witnesses should therefore be exclusively responsible, as they should not have followed the advice of a man in contradiction to the words of the Law. The law of agency could on this account not apply in matters of transgression; cf. Kid. 42b and supra p. 294.

(21) Since one witness could not make the defendant liable for money payment but only for an oath.

(22) Exemption.

(23) Which fell down of itself.

(24) To leave an animal behind a shaky wall which could not withstand a normal wind.

(25) Viz., that the animal broke through it.

(26) Supra 21b.

(27) V. p. 327, n. 6.

(28) But managed to escape through the door.

(29) Which was very sound.

(30) Of liability.

(31) V. p. 327, n. 8.

(32) By Rabbah.

(33) V. p. 324, n. 4.

Talmud - Mas. Baba Kama 56b

Is this not obvious, seeing that as soon as they took it out it was placed under their charge in all respects?[1] The ruling was necessary to meet the case where they merely stood in front of it[2] [thus blocking any other way for it while leaving open that leading to the corn]. This is on the lines of the statement made by Rabbah on behalf of R. Mattena who said it on behalf of Rab: If a man placed the animal of one person near the standing corn of another, he is liable.[3] ‘Placed’, [you say]? Is this not obvious? — The ruling was necessary to meet the case where he merely stood in front of it [blocking thus any other way for it while leaving open that leading to the corn]. Said Abaye to R. Joseph: Did you not explain to us that [the ruling of Rab referred to a case where] the animal was [not actually placed but only] beaten [with a stick and thus driven to the corn]? In the case of robbers also, [the ruling in the Mishnah similarly refers to a case where] they had only beaten it. IF HE HANDED THEM OVER TO THE CARE OF A SHEPHERD, THE SHEPHERD WOULD ENTER INTO ALL THE RESPONSIBILITIES INSTEAD OF HIM. I would here ask: 'Instead of whom?' If you say, instead of the owner of the animal, have we not already learnt elsewhere: 'If an owner hands over his cattle to an unpaid bailee or to a borrower, to a paid bailee or to a hirer, each of them would enter into the responsibilities of the owner'?[4] It must therefore mean, instead of a bailee,[5] and the first bailee would be exempt altogether. Would this not be a refutation of Raba? For did Raba not say: One bailee handing over his charge to another bailee becomes liable for all consequences?[6] — Raba might reply that 'he handed it over to a shepherd' means [the shepherd handed it over] to his apprentice, as it is indeed the custom of the shepherd to hand over his sheep to [the care of] his apprentice. Some say that since the text says, HE HANDED THEM OVER TO THE CARE OF A SHEPHERD and does not say 'he handed them over to another person,'it could from this be proved that the meaning of 'HE HANDED THEM OVER TO THE CARE OF A SHEPHERD' is that the shepherd handed [them] over to his apprentice, as it is indeed the custom of the shepherd to hand over [various things] to [the care of] his apprentice, whereas if [he handed it over] to another person this would not be so. May we say that this supports the view of Raba? For did Raba not say: One bailee handing over his charge to another bailee becomes liable for all consequences?[6] — It may however be said that this is no support. For the text perhaps merely mentioned the usual case, though the same ruling would apply [to a case where it was handed over] to another person altogether.

It was stated: A person taking charge of a lost article [which he has found],[7] is according to Rabbah in the position of an unpaid bailee,[8] but according to R. Joseph in the position of a paid bailee.[9] Rabbah said: He is in the position of an unpaid bailee, since what benefit is forthcoming to him? R. Joseph said: He is in the position of a paid bailee on account of the benefit he derives from not being required to give bread to the poor [while occupied in minding the lost article found by him];[10] hence he should be considered a paid bailee. Some, however, explain it thus: R. Joseph said that he would be like a paid bailee as the Divine Law put this obligation[11] upon him even against his will; he must therefore be considered as a paid bailee.[12] R. Joseph brought an objection to the view of Rabbah [from the following]:

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(1) V. p. 325, n. 7.

(2) In which case the sheep did not come into the possession of the robbers.

(3) Though the animal which did the damage is not his.

(4) Supra 44b.

(5) I.e. where the sheep has already been in the hands of a bailee who later transferred it to a shepherd. By declaring the shepherd to be liable it is implied that the bailee will become released from his previous obligations.

(6) Even for accidents, as he had no right to hand over his charge to another person without the consent of the owner, v. supra 11b.

(7) And which he will have to return to the owner.

(8) To whom the law of Ex. XXII, 6-8 applies, and who is thus exempt where the article was stolen or lost.

(9) Who is subject to Ex. XXII, 9-12 and who is therefore liable to pay where the article was stolen or lost.

(10) As while a person is occupied with the performance of one commandment he is not under an obligation to perform at the same time another commandment; cf. Suk. 25a.

(11) Of looking after the lost article which he found.

(12) Who after receiving the consideration is similarly under an obligation to guard.

Talmud - Mas. Baba Kama 57a

If a person returns [the lost article which he had found] to a place where the owner is likely to see it, he is not required any longer to concern himself with it. If it is stolen or lost[1] he is responsible for it.[2] Now, what is meant by 'If it is stolen or lost'? Does it not mean, 'If it is stolen while in his house or if it is lost while in his house'?[3] — No; it means from the place to which it had been returned.[4] But was it not stated, 'He is not required any longer to concern himself with it'?[5] — He answered him: We are dealing here with a case where he returned it in the afternoon,[6] Two separate cases are, in fact, stated in the text, which should read thus: If he returned it in the morning to a place where the owner might see it [at a time] when it was usual with him to go in and out so that he would most likely see it, he would no more be required to concern himself with it, but if he returned it in the afternoon to a place where the owner might see it[7] [since it was at the time] when it was not usual with him to go in and out [of the house] and he could thus not be expected to see it, if it was stolen or lost there, he would still be responsible for it. He then brought another objection [from the following]: He is always responsible [for its safety] until he has returned it to the keeping of its owner.[8] Now, what is the meaning of [the term] 'always'? Does it not mean 'even while in the keeper's house'[9] thus proving that he was like a paid bailee?[10] — Rabbah said to him: I agree with you in the case of living things, for since they are in the habit of running out into the fields they need special watching.[11]

Rabbah [on the other hand] brought an objection to the view of R. Joseph [from the following: The text says] 'Return';[12] this tells me only [that it can be returned] to the house of the owner. Whence [could it be derived that it may also be returned] to his garden and to his deserted premises? It says therefore further: Thou shalt return them[12] [that is to say] 'everywhere'.[13] Now, to what kind of garden and deserted premises [may it be returned]? If you say to a garden which is closed in and to deserted premises which are closed in, are these not equivalent to his house? It must surely therefore refer to a garden that is not closed in and to deserted premises that are not closed in. Does not this show that a person taking care of a lost article [which he has found] is like an unpaid bailee?[14] — He replied: In point of fact it refers to a garden which is closed in and to deserted premises which are closed in, and as for your questions, 'Are these not equivalent to his house?' [the answer would be that] it is thereby indicated to us that it is not necessary to notify the owner, as indeed [stated by] R. Eleazar,[13] for R. Eleazar said: In all cases notification must be given to the owner, with the exception, however, of returning a lost article, as the Torah uses in this connection many expressions of returning.[15]

Said Abaye to R. Joseph: Do you really not accept the view that a person minding a lost article [which he has found] is like an unpaid bailee? Did R. Hiyya b. Abba not say that R. Johanan stated that if a man puts forward a plea of theft [to account for the absence of] an article [which had been found by him] he might have to make double payment?[16] Now, if you assume that [the person minding the lost article] is like a paid bailee, why should he have to refund double [seeing that] he has to return the principal?[17] — He replied:[18] We are dealing here with a case where, for instance, he pleads [that it was taken] by all armed malefactor.[19] But, he rejoined:[20] All armed malefactor is surely considered a robber?[21] — He replied:[18] I hold that an armed malefactor, having regard to the fact that he hides himself from the public, is considered a thief.[22]

He[23] brought a [further] objection [from the following]:

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(1) V. the discussion later.

(2) Tosef. B.M. II.

(3) But if he would have to pay where the article was stolen or lost this would prove that he is subject to the law of Paid Bailee.

(4) The liability would therefore be for carelessness.

(5) Why then should he be liable to pay when it was stolen or lost there?

(6) When the owner is usually in the fields and not at home.

(7) Had he been at home.
(8) V. p. 330, n. 8.
(9) Where it was stolen or lost.
(10) V. p. 330, n. 9.
(11) In which case any loss amounts to carelessness.
(12) Literal rendering of Deut. XXII, 1.
(13) B.M. 31a.
(14) And need not take as much care as a paid bailee would have to do.
(15) By doubling the verb ‘in return’, השב תשיבם
(16) If his false defence of theft has already been corroborated by all oath, v. infra 63a; 106b.
(17) For in his case the plea of an alleged theft would not be a defence but an admission of liability, and no oath would usually be taken to corroborate it. Moreover, the paid bailee could in such circumstances not be required to pay double even after it was found out that he himself had misappropriated the article in his charge.
(18) I.e. R. Joseph to Abaye.
(19) **, ‘a rover’. This case is a mere accident as the bailee is not to blame and would not have to pay the principal; this plea would therefore be not an admission of liability but a defence, and if substantiated by a false oath he would have to pay double.
(20) I.e. Abaye to R. Joseph.
(21) And if traced would have to pay the principal and not make double payment (v. infra). The bailee making use of such a defence should therefore never have to pay double, as his plea was not an alleged theft but an alleged robbery.
(22) And would therefore have to pay double when traced. The bailee by submitting such a defence and substantiating it by a false oath should similarly be liable to double payment as his defence was a plea of theft, although had it been true, he would not have to pay even the principal, because the case of an armed malefactor is one of accident, v. note 5.
(23) I.E., Abaye.

Talmud - Mas. Baba Kama 57b

No.[1] Because you say that [a certain liability falls on] the unpaid bailee who is subject to pay double payment,[2] it does not follow that you can say the same in the case of the paid bailee who does not pay double payment.[3] Now if you assume that an armed malefactor is considered a thief,[4] it would be possible that even a paid bailee would [in some cases] have to make double payment, as where he pleaded that [the articles in his charge were taken] by an armed malefactor![5] — He replied:[6] What was meant is this: No. Because you say that a certain liability falls on the unpaid bailee, who has to make double payment,[2] whatever pleas he puts forward,[7] it does not follow that you can say the same in the case of the paid bailee who could not have to make a double payment except where he puts forward the plea that an armed malefactor[5] [took away the article in his charge]. He[8] again brought an objection [from the following]: [From the text] And it be hurt or die[9] I learn only the case of breakage or death. Whence [could there also be derived cases of] theft and loss?[10] An a fortiori argument may be applied here: If in the case of Paid Bailee who is exempt for breakage and death[11] he is nevertheless liable for theft[12] and loss,in the case of Borrower who is liable for breakage and death[9] would it not be all the more certain that he should be liable [also] for theft and loss? This a fortiori has indeed no refutation.[13] Now, if you assume that an armed malefactor is considered a thief why could there be no refutation [of this a fortiori]? It could surely be refuted [thus]: Why [is liability attached] to Paid Bailee if not because he might have to pay double payment where he puts forward the plea [that] an armed malefactor[5] [took the articles in his charge]?[14] — He said to him:[15] This Tanna held that the liability to pay the principal in the absence of any oath[16] is of more consequence than the liability for double payment which is conditioned by taking the oath.[17]

May we say that he[18] derives support [from the following]: If a man hired a cow from his neighbour and it was stolen, and the hirer said, ‘I would prefer to pay and not to swear’[19] and [it so happened that] the thief was [subsequently] traced, he should make the double payment to the hirer.[20] Now it was presumed that this statement followed the view of R. Judah[21] who said that

Hirer[22] is equal [in law] to Paid Bailee.[23] Since then it says 'the hirer said "I would prefer to pay and not to swear"',[19] this shows that had he wished he could have freed himself by resorting to the oath. Under what circumstances [could this be so]? Where, for instance, he advances the plea that an armed malefactor [took it].[24] Now seeing that it says, '. . . and it so happened that the thief was [subsequently] traced, he should pay the double payment to the hirer',[25] can it not be concluded from this that an armed malefactor is considered as a thief?[26] — I might answer: Do you presume that this statement follows the view of R. Judah who said that Hirer[22] is equal [in law] to Paid Bailee?[23] Perhaps it follows the view of R. Meir who said that Hirer is equal [in law] to Unpaid Bailee.[27] If you wish[28] I may say: [We should read the relevant views] as they were transposed by Rabbah b. Abbuha, who [taught thus]: How is the payment [for the loss of articles] regulated in the case of Hirer? R. Meir says: As in the case of Paid Bailee. R. Judah, however, says: As in the case of Unpaid Bailee.[29] R. Zera said:[30] We are dealing here with a case where the hirer advances the plea [that it was taken by] an armed malefactor, and it was afterwards discovered that [it was taken by] a malefactor without arms.[31]

IF A SHEEP [ACCIDENTALLY] FELL INTO A GARDEN AND DERIVED BENEFIT [FROM THE FRUITS THERE], PAYMENT WOULD HAVE TO BE MADE TO THE EXTENT OF THE BENEFIT. Rab said: [This applies to benefit derived by the animal] from [the lessening of] the impact.[32] But what when it consumed them? Would there be no need to pay even to the extent of the benefit? Shall we say that Rab is here following the principle laid down by him [elsewhere]? For did Rab not say, 'It should not have eaten'?[33] — But what a comparison! Rab said 'It should not have eaten' only there where it was injured [by over-eating itself], so that the owner of the fruits could say [to the plaintiff], 'I will not pay as it should not have eaten [my fruits]'. But did Rab ever say this in the case where the animal did damage to others that there should be exemption?

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(1) This is a continuation of a Baraitha (now partly lost), which sought at the outset to derive a certain liability (undefined) in the case of a paid bailee by an a fortiori from the case of an unpaid bailee.

(2) V. p. 332, n. 2.

(3) V. p. 332, n. 3.

(4) V. p. 332, n. 9.

(5) V. p. 332, n. 5.

(6) I.e., R. Joseph to Abaye.

(7) I.e., by a thief whether armed or unarmed.

(8) I.e. Abaye.

(9) Ex. XXII, 13 dealing with a borrower.

(10) To involve liability.

(11) In accordance with Ex. ibid. 9-10.

(12) Ibid. 11.

(13) B.M. 95a.

(14) Whereas in the case of Borrower there could never be an occasion for double payment, as any plea of theft whether by an armed malefactor or by an ordinary thief would involve the payment of the principal and would thus be an admission of liability and not a defence at all.

(15) I.e., R. Joseph to Abaye.

(16) Such as is the case with the Borrower.

(17) Such as in the case of a Paid Bailee. Cf. also B.M. 41b and 94b.

(18) I.e. R. Joseph who maintains that a malefactor in arms is subject to the law applicable to an ordinary thief.

(19) In corroboration of my defence.

(20) For by offering to pay the value of the cow he acquired title to all possible payments with reference to it, B.M. 34a.

(21) As this view was followed in B.M. VII, 8; 36a; 97a; Jeb. 66b; Sheb. VIII, 1 and elsewhere; cf. also 'Er. 46b.

(22) Dealt with in Ex. XXII, 14.

(23) V. p. 330, n. 3.

(24) V. p. 332, n. 5.

(25) For by offering to pay the value of the cow he acquired title to all possible payments with reference to it.
(26) V. p. 332, n. 9.
(27) Who is exempt also where the article was stolen by an ordinary thief, in which case the thief referred to in the Baraitha did not necessarily mean a malefactor in arms but an ordinary thief.
(28) To bring the ruling into accord with R. Judah though the reason stated in n.10 may not apply.
(29) V. p. 334, n. 8.
(30) That a hirer might be subject to the law of Paid Bailee, and still the Baraitha affords no support to R. Joseph.
(31) I.e. an ordinary thief who has to pay double, whereas if he would have been with arms he might perhaps have been subject to the law applicable to a robber, and there would have been no place for double payment.
(32) As the fruits protected the animal from being hurt too much.
(33) V. supra 47b. And so here the owner of the animal might plead, ‘it should not have eaten’.

Talmud - Mas. Baba Kama 58a

Rab took a particularly strong instance.[1] There can be no doubt that where the benefit was derived from the animal having consumed the fruits payment would have to be made to the extent of the benefit. Regarding, however, [the benefit derived by the animal from the lessening of] the impact, it might have been thought that the fruits served only the purpose of ‘preventing a lion from [damaging] a neighbour's property’,[2] so that no payment should be made even to the extent of the benefit. It is therefore indicated to us [here that even this benefit has to be paid for]. But why not say that this is so?[3] — [No payment it is true could be claimed] in the case of preventing a lion from [damaging] a neighbour's property as [the act of driving the lion away] is voluntary, but in this case the act was not voluntary.[4] Or again, in the case of preventing the lion from [damaging] a neighbour's property, no expenses were incurred [by the act of driving away the lion], but in this case here there was [pecuniary] loss attached to it.

[How did the animal fall]?[5] — R. Kahana said: It slipped in its own water. Raba, however, said: [The rule would hold good even] where another animal pushed it down. The one who explains the ruling to apply where another animal pushed it down, would certainly apply it where it slipped in its own water.[6] But the one who explains the ruling to apply where it slipped in its own water [might maintain that] where another animal pushed it down there was negligence, and the payment should be for the amount of damage done by it, as the plaintiff would be entitled to say, ‘You should have made them go past one by one.’

R. Kahana said: The Mishnaic ruling applies only to the bed [into which it fell].[7] If, however, it went from one bed to another bed, the payment[8] would be for the amount of damage done by it. R. Johanan, however, said that even where it went from one bed to another bed and did so even all day long, [the payment would be made only to the extent of the benefit], unless it left the garden and returned there again with the knowledge [of the owner]. R. Papa thereupon said: Do not imagine this to mean ‘unless it left the garden to the knowledge of the owner and returned there again with the knowledge of the owner’, for as soon as it left the garden to the knowledge of the owner, even though it returned again without his knowledge [there would already be liability],[9] the reason being that the plaintiff might [rightly] say: Since it had once become known [to it where it can find fruit, you should have realised that] whenever it broke loose it would run to that place.

IF IT WENT DOWN THERE IN THE USUAL WAY AND DID DAMAGE, THE PAYMENT WOULD HAVE TO BE FOR THE AMOUNT OF DAMAGE DONE BY IT. R. Jeremiah raised the question: Where it had gone down there in the usual way but did damage by water resulting from giving birth,[10] what would be the legal position? If we accept the view that where there is negligence at the beginning but [damage actually results] in the end from sheer accident there is liability,[11] no question arises.[12] Where we have to ask is if we accept the view[11] that where there is negligence at the beginning, but [damage actually results] in the end from sheer accident there is exemption. What [in that case is the law]? Should we say that this is a case where there was negligence at first but the final result was due to accident, and therefore there should be exemption, or should we say [on the contrary that] this case is one of negligence throughout, for since the owner could see that the animal was approaching the time to give birth, he should have watched

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(1) Lit., 'he says there can be no question'.

(2) For which no payment could be demanded, this being merely an act of goodwill and kindness, v. B.B. 52a.

(3) That he is 'preventing a lion' etc.

(4) The owner of the fruit should thus be entitled to compensation.

(5) That it should be considered a mere accident and the payment should only be to the extent of the benefit.

(6) As this is certainly a matter of accident.

(7) Regarding which the whole act is considered an accident.

(8) For the beds except the first one.

(9) To the full extent of the damage.

(10) Which was apparently an accident.

(11) V. Supra 21b.

(12) That there will be liability in this case too.

Talmud - Mas. Baba Kama 58b

it and indeed taken more care of it? — Let this remain undecided.

HOW IS PAYMENT MADE FOR THE AMOUNT OF DAMAGE DONE BY IT? BY COMPARING THE VALUE OF AN AREA IN THE FIELD REQUIRING ONE SE'AH OF SEED AS IT WAS [PREVIOUSLY] WITH WHAT ITS WORTH IS [NOW] etc. Whence is this derived? — R. Mattena said: Scripture says, And shall feed in another man's field[1] to teach that the valuation should be made in conjunction with another field. But was this [verse] and shall feed in another man's field not required to exclude public ground [from being subject to this law]? — If so,[2] Scripture would have said 'and shall feed in a neighbour's field' or ['and shall consume] another man's field.' Why then is it said in another [man's] field [unless to teach that] the valuation should be made in conjunction with another field? Let us say then that the whole import [of this verse] was to convey only this ruling, there being thus no authority to exclude public ground? — If so,[3] Scripture would have inserted this clause in the section dealing with payment, e.g., 'of the best of his own field and of the best of his own vineyard shall he make restitution [as valued] in conjunction with another field.' Why then did Scripture put it in juxtaposition with and shall feed unless to indicate that the two [rulings] are to be derived from it.[4]

How is the valuation[5] arrived at? — R. Jose b. Hanina said: [The value of] an area requiring one se'ah of seed [is determined] in proportion to the value of an area requiring sixty se'ahs of seed. R. Jannai said: [The value of] an area requiring one tarkab[6] of seed [is determined] in proportion to the value of an area requiring sixty tarkabs of seed. Hezekiah said: [The value of] each stalk [consumed is determined] in proportion to the value of sixty such stalks.[7] An objection was raised [from the following:] If it consumed one kab in two kabs [of grain], it would not be right to ask payment for their full value,[8] but the amount consumed would have to be considered as if forming a little bed which would thus be estimated. Now, does this not mean that the bed will be valued by itself?[9] — No; in [the proportion of one to] sixty.[10]

Our Rabbis taught: The valuation is made neither of a kab by itself, as this would be an advantage to him,[11] nor of an area required for a kor[12] of seed, as this would be a disadvantage to him.[11] What does this mean? — R. Papa said: What is meant is this: Neither is a kab [of grain consumed] valued in conjunction with sixty kabs, as the defendant would thereby have too great an advantage,[13] nor is a kor valued in conjunction with sixty kors, as this would mean too great a disadvantage for the defendant.[14] R. Huna b. Manoah demurred to this, saying: Why then does it say, ‘nor of an area required for a kor of seed’? [According to your interpretation] should it not have been ‘nor a kor’?[15] — R. Huna b. Manoah therefore said in the name of R. Aha the son of R. Ika: What is meant is this: The valuation is made neither of a kab by itself, as this would be too great an advantage to the plaintiff, nor of a kab in conjunction with an area required for a kor of seed, as this would be too great a disadvantage for the plaintiff. It must therefore be made only in conjunction with sixty [times as much].

A certain person cut down a date-tree belonging to a neighbour. When he appeared before the Exilarch, the latter said to him: ‘I myself saw the place; three date-trees stood close together[16] and they were worth one hundred zuz. Go therefore and pay the other party thirty-three and a third [zuz].’ Said the defendant: ‘What have I to do with an Exilarch who judges in accordance with Persian Law?’ He therefore appeared before R. Nahman, who said to him [that the valuation should be made] in conjunction with sixty [times as much]. Said Raba to him:[17] If the Sages ordained this valuation in the case of chattels doing damage, would they do the same in the case of damage done by Man with his body? — Abaye, however, said to Raba: In regard to damage done by Man with his body, what is your opinion [if not] that which was taught: ‘If a man prunes [the berries from] a neighbour's vineyard while still in the budding stage, it has to be ascertained how much it was worth previously and how much it is worth afterwards’, but nothing is said of valuation in conjunction with sixty [times as much]? But has it not been taught similarly with respect to [damage done by] Cattle? For it was taught: If [a beast] breaks off a plant, R. Jose says that the Legislators of [public enactments[18] in Jerusalem stated that if the plant was of the first year, two silver pieces[19] [should be paid] but if it was in its second year, four silver pieces [should be paid]. If it consumed young blades of grain, R. Jose the Galilean says that it has to be considered in the light of the future value of that which was left in the field. The Sages, however, say that it has to be ascertained how much it [the field] was worth [previously] and how much it is worth [now].

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(1) Ex. XXII, 4.

(2) I.e., were it intended only for that.

(3) V. p. 337, n. 7.

(4) I.e. that public ground be excluded and that the valuation be made in conjunction with another field.

(5) Of an area requiring one se'ah of seed.

(6) I.e. half a se'ah, amounting thus to three kabs, though originally it meant two kabs.

(7) The principle underlying this difference of opinion is made clear in the Baraitha that follows.

(8) Cf. supra p. 123.

(9) And not in proportion to the value of a bigger area. This refutes the views of all the cited authorities.

(10) [I.e., either ‘se'ahs’, ‘tarkabs’ or ‘stalks’ as the case may be.]

(11) V. the discussion infra.

(12) I.e., thirty se'ahs; cf. Glos.

(13) As the payment would be very small owing to the fact that the deficiency of one kab in an area required for sixty kabs of seed would hardly be noticed, and so would reduce the general price very little.

(14) For the deficiency of one kor, in an area required for sixty times as much, is conspicuous, and reduces the general price too much. The valutation of a se'ah will therefore be made in proportion to sixty se'ahs.

(15) Should be valued in this way.

(16) Lit., ‘in one nest’, or ‘place’.

(17) R. Nahman.

(18) גוזרי גזירות Admon and Hanan b. Abishalom, identical with the ‘Judges of Civil Law’ דייני גזירות mentioned in Keth. XIII, 1 (Rashi). Little is known of their functions and power to enable us to explain their designation (Buchler, Das Synedrion, p. 113); cf. also Geiger, Urschrift, p. 119.]

(19) I.e two ma'ahs which were a third of a denar; cf. Glos.

Talmud - Mas. Baba Kama 59a

If it consumed grapes while still in the budding stage, R. Joshua says that they should be estimated as if they were grapes ready to be plucked off. But the Sages [here too] say that it will have to be ascertained how much it was worth [previously] and how much it is worth [now]. R. Simeon b. Judah says in the name of R. Simeon:[1] These rulings apply where it consumed sprouts of vines or shoots of fig-trees, but where it consumed [actual] figs or half-ripe grapes they would be estimated as if they were grapes ready to be plucked off.[2] Now, it is definitely taught here, ‘The Sages say that it will have to be ascertained how much it was worth [previously] and how much it is worth [now]’ and it is not said [explicitly that the valuation will be made] in conjunction with sixty [times as much]. Nevertheless you must say that it is implied that [the valuation is to be made] in conjunction with sixty [times as much]. So also then here, [in the case of Man it is implied that the valuation is to be] in conjunction with Sixty [times as much].

Abaye said: R. Jose the Galilean and R. Ishmael expressed the same view [in this matter]. R. Jose the Galilean as stated by us [above],[3] and R. Ishmael as taught [elsewhere]:[4] ‘Of the best of his own field and of the best of his own vineyard shall he make restitution;[5] this means the best of the field of the plaintiff and the best of the vineyard of the plaintiff. This is the view of R. Ishmael. R. Akiba, however, says: Scripture only intended to lay down that damages should be collected out of the best and this applies even more to sacred property. Nor can you say that he [R. Ishmael] meant this in the sense of R. Idi b. Abin, who said [that it deals with a case where] e.g., the cattle consumed one bed out of several beds and we could not ascertain whether its produce was meagre or fertile, so that R. Ishmael would [thus be made to] order the defendant to go and pay for a fertile bed in accordance with the value of the best bed at the time of the damage. This could not be maintained by us, for the reason that the onus probandi falls upon the claimant. R. Ishmael[6] must therefore have meant the best of anticipation, i.e., as it would have matured [at the harvest time].

The Master stated: ‘R. Simeon b. Judah says in the name of R. Simeon: These rulings apply only where it consumed sprouts of vines or shoots of fig-trees,’ [thus implying that] where it consumed grapes in the budding stage they would be estimated as if they were grapes ready to be plucked off. Read [now] the concluding clause: ‘Where it consumed [actual] figs or half-ripe grapes they would be estimated as if they were grapes ready to be plucked off’, [implying to the contrary that] where it consumed grapes in the budding stage it would have to be ascertained how much it was worth [previously] and how much it is worth [now]. [Is this not a contradiction?] — Rabina said: Embody [the new case in the text] and teach thus: ‘These rulings apply only where it consumed sprouts of vines or shoots of fig-trees, for where it consumed grapes in the budding stage, or [actual] figs or half-ripe grapes they would be estimated as if they were grapes ready to be plucked off.’ But if so would R. Simeon b. Judah's view not be exactly the same as that already stated by R. Joshua? — There is a practical difference between them as to [the deduction to be made for] the depreciation of the vines [themselves, through exhaustion, if the grapes had remained there until fully ripe],[7] though the views cannot be identified.[8] Abaye, however, said: They most assuredly could be identified. For who could be the Tanna who takes into consideration the depreciation of the vine, if not R. Simeon b. Judah? For it was taught: R. Simeon b. Judah says in the name of R. Simeon b. Menasya:[9] [Even] in the case of Rape no compensation is made for Pain, as the female would [in any case] have subsequently to undergo the same pain through her husband.[10] The Rabbis however said to him: A woman having intercourse by her free will is not to be compared to one having intercourse by constraint.

Abaye further said: The following Tannaim and R. Simeon b. Judah expressed on this point the same view?[11] R. Simeon b. Judah's view as stated by us [above]. Who are the other Tannaim [referred to]? — As taught: R. Jose says: Deduct the fees of the midwife,[12] but Ben ‘Azzai says: Deduct food.[13] The one who says, ‘deduct the fees for the midwife’ would certainly deduct food,[14] but the one who says, ‘deduct food’, would not deduct the fees for the midwife, as the plaintiff might say, ‘My wife is a lively person and does not need a midwife.’[15] R. Papa and R. Huna the son of R. Joshua in an actual case[16] followed the view of R. Nahman and valued in conjunction with sixty times [as much]. According to another report, however, R. Papa and R. Huna the son of R. Joshua valued a palmtree in conjunction with the small piece of ground.[16] The law is in accordance with R. Papa and R. Huna the son of R. Joshua[17] in the case of an Aramean palm,[18] but it is in accordance with the Exilarch[19] in the case of a Persian palm.[20]

Eliezer[21] Ze'era

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(1) B. Yohai.

(2) Keth. 105a.

(3) That it will have to be considered in the light of the future value of that which was left in the field.

(4) V. supra 6b.

(5) Ex. XXII, 4.

(6) [In the case where the quality of the bed consumed by the cattle was not in doubt.]

(7) [I.e., one view would maintain that this deduction has to be made, while the other would not maintain this.]

(8) [It cannot be stated precisely which authority is of the one and which of the other view.]

(9) Keth, 39a.

(10) Proving that a deduction from the amount of the damages is made on a similar accord.

(11) That a deduction should be made on this accord.

(12) From the payment for injuring a pregnant woman resulting in a miscarriage; cf. Ex. XXI, 22 and supra 49a.

(13) I.e. the special diet which would have been necessary during the confinement period.

(14) As the special diet would have been an inevitable expense.

(15) He would therefore have spared this expense.

(16) Where a human being did damage with his body.

(17) To value in conjunction with sixty times as much where a human being did damage with his body.

(18) Which is by itself of no great value.

(19) To value the tree by itself.

(20) Which is even by itself of considerable value.

(21) [V.l. Eleazar].

Talmud - Mas. Baba Kama 59b

once put on a pair of black shoes and stood in the market place of Nehardea. When the attendants of the house of the Exilarch met him there, they said to him: ‘What ground have you for wearing black shoes?’[1] — He said to them: ‘I am mourning for Jerusalem.’ They said to him: ‘Are you such a distinguished person as to mourn over Jerusalem?’[2] Considering this to be a piece of arrogance on his part they brought him and put him in prison. He said to them, ‘I am a great man!’ They asked him: ‘How can we tell?’ He replied, ‘Either you ask me a legal point or let me ask you one.’ They said to him: ‘[We would prefer] you to ask.’ He then said to them: ‘If a man cuts a date-flower, what payment should he have to make?’ — They answered him: ‘The payment will be for the value of the date-flower.’ ‘But would it not have grown into dates?’[3] — They then replied: ‘The payment should be for the value of the dates.’ ‘But’, he rejoined, ‘surely it was not dates which he took from him!’[4] They then said to him: ‘You tell us.’ He replied: ‘The valuation would have to be made in conjunction with sixty times as much.’[5] They said to him: ‘What authority can you find to support you?’ — He thereupon said to them: ‘Samuel is alive and his court of law flourishes [in the town].’ They sent this problem to be considered before Samuel who answered them: ‘The statement he[6] made to you, that the valuation should be in conjunction with sixty times [as much as the damaged date-flower][5] is correct.’ They then released him.

R. SIMEON SAYS: IF IT CONSUMED RIPE FRUITS etc. On what ground?[7] — The statement of the Divine Law, And shall feed in another man's field,[8] teaching that valuation is to be made in conjunction with the field applies to produce which was still in need of a field, whereas these fruits [in the case before us],[9] since they were no more in need of a field, must be compensated at their actual value.

R. Huna b. Hiyya said that R. Jeremiah stated that Rab gave judgment [in contradistinction to the usual rule][10] in accordance with R. Meir and [on another legal point] decided the law to be in accordance with R. Simeon. He gave judgment in accordance with R. Meir on the matter taught: If the husband drew up a deed for a would-be purchaser [of a field which had been set aside for the payment of the marriage settlement of his wife] and she did not endorse it, and [when a deed on the same field was drawn up] for another purchaser she did endorse it, she has thereby lost her claim to the marriage settlement; this is the view of R. Meir.[11] R. Judah, however, says: She might still argue, 'I made the endorsement merely to gratify my husband; why therefore should you go against me?'[12] [The legal point where] he decided the law to be in accordance with R. Simeon was that which we learnt: R. SIMEON SAYS: IF IT CONSUMED RIPE FRUITS, THE PAYMENT SHOULD BE FOR RIPE FRUITS, IF ONE SE'AH [IT WOULD BE FOR] ONE SE'AH, IF TWO SE'AHS, [FOR] TWO SE'AHS.

MISHNAH. IF A MAN PUTS HIS STACKS OF CORN IN THE FIELD OF ANOTHER WITHOUT PERMISSION, AND THE ANIMAL OF THE OWNER OF THE FIELD EATS THEM, THERE IS NO LIABILITY. MOREOVER, IF IT SUFFERED HARM FROM THEM, THE OWNER (OF THE STACKS WOULD BE LIABLE. IF, HOWEVER, HE PUT THE STACKS THERE WITH PERMISSION, THE OWNER OF THE FIELD WOULD BE LIABLE. GEMARA. May we say that this Mishnah is not in accordance with Rabbi? For if in accordance with Rabbi, did he not say[13] that unless the owner of the premises explicitly took upon himself to safeguard he would not be liable?[14] — R. Papa said: [Here we were dealing with] the watchman of the barns.[15] For since he said, 'Enter and place your stacks', it surely amounted to, 'Enter and I will guard for you'.[16]

MISHNAH. IF A MAN SENT OUT SOMETHING BURNING THROUGH A DEAF MUTE, AN IDIOT, OR A MINOR [AND DAMAGE RESULTED] HE WOULD BE EXEMPT FROM THE JUDGMENTS OF MAN, BUT LIABLE IN ACCORDANCE WITH THE JUDGMENTS OF HEAVEN. BUT IF HE SENT [IT] THROUGH A NORMAL PERSON, THE NORMAL PERSON WOULD BE LIABLE. IF ONE PERSON [FIRST] SUPPLIES THE FIRE AND ANOTHER THE WOOD, HE WHO SUPPLIES THE WOOD WOULD BE LIABLE.[17] WHERE, [ON THE OTHER HAND], THE FIRST SUPPLIES THE WOOD AND THE SECOND THE FIRE, HE WHO SUPPLIES THE FIRE WOULD BE LIABLE.[17] BUT WHERE ANOTHER PERSON CAME ALONG AND FANNED THE FLAME, THE ONE WHO FANNED IT WOULD BE LIABLE.[17] IF IT WAS THE WIND THAT FANNED IT, ALL WOULD BE EXEMPT.

GEMARA. Resh Lakish said in the name of Hezekiah: The Mishnaic ruling[18] holds good only where he handed over a [flickering] coal to [the deaf mute] who fanned it into flame, but if he handed over to him something already in flame he would be liable, the reason being that it was his acts that were the [immediate] cause. R. Johanan, however, said: Even where he handed something already in flame to him, he would still be exempt, the reason being that it was the handling of the deaf mute that caused the damage; he could therefore not be liable unless where he handed over to him tinder,

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(1) Cf. Ta'an. 22a. [Tosaf. regards the black lacing as the distinguishing mark of mourning, v. also Krauss, Talm. Arch. I, 628.]

(2) In such a manner.

(3) Why then not pay for actual dates of which the owner was deprived?

(4) Why then pay for ripe dates?

(5) Including the ground occupied by them.

(6) I.e. Eliezer Ze'era.
(7) Should the valuation not be made in conjunction with the field where ripe fruits were consumed.
(8) Ex. XXII, 4.
(9) In the statement of R. Simeon.
(10) That the law does not prevail in accordance with R. Meir against R. Judah: cf. ‘Er. 46b
(11) For by endorsing the deed drawn up for the second purchaser and not that drawn up for the first one, she made it evident that on the one hand she was not out to please her husband by confirming his sale, and on the other that she was finally prepared to forego her claim.
(12) Keth. 95a.
(13) Supra 47b.
(14) Why then should the owner of the field be liable where the corn was stacked with his permission?
(15) As it was the custom to pile all the stacks of the villagers in one place and appoint a guardian to look after them.
(16) In accordance with the custom of the place.
(17) For he being last is mostly to blame.
(18) Of exemption from the judgments of Man.

Talmud - Mas. Baba Kama 60a

shavings and a light, in which case it was certainly his act that was the immediate cause.[1]

BUT IF HE SENT [IT] THROUGH A NORMAL PERSON, THE NORMAL PERSON WOULD BE LIABLE etc. IF ANOTHER PERSON CAME ALONG AND [LIBBAH] FANNED IT etc. R. Nahman b. Isaac said: He who reads in the [original] text libbah[2] is not mistaken; so also he who reads in the text nibbah[3] is similarly not mistaken.[4] He who has in the text libbah[2] is not mistaken, since we find [in Scripture] be-labbath esh[5] [in a flame of fire], and so also he who has in the text nibbah[3] is not mistaken, as we find, I create nib [the movement of] the lips.[6]

IF IT WAS THE WIND THAT FANNED IT, ALL WOULD BE EXEMPT. Our Rabbis taught: Where he fanned it [along with] the wind which also fanned it, if there was enough force in his blowing to set the fire ablaze he would be liable, but if not he would be exempt. But why should he not be liable, as in the case of one winnowing [on Sabbath, who is liable] though the wind was helping him?[7] — Abaye thereupon said: We are dealing here with a case where e.g., he blew it up in one direction and the wind blew it up in a different direction.[8] Raba said: [The case is one] where e.g., he started to blow it up when the wind was only normal, [and would have been unable to set it ablaze], but there [suddenly] came on an unusual wind which made it blaze up. R. Zera said: [The case is one] where e.g., he merely increased the heat by breathing heavily on it.[9] R. Ashi said: When we say that there is liability for winnowing where the wind is helping, this applies to Sabbath where the Torah prohibited any work with a definite object,[10] whereas here [regarding damage] such an act could be considered merely as a secondary cause, and a mere secondary cause in the case of damage carries no liability.

MISHNAH. IF HE ALLOWED FIRE TO ESCAPE AND IT BURNT WOOD, STONES OR [EVEN] EARTH, HE WOULD BE LIABLE, AS IT SAYS: IF FIRE BREAK OUT AND CATCH IN THORNS SO THAT THE STACKS OF CORN, OR THE STANDING CORN, OR THE FIELD BE CONSUMED THEREWITH: HE THAT KINDLED THE FIRE SHALL SURELY MAKE RESTITUTION.[11]

GEMARA. Raba said: Why was it necessary for the Divine Law to mention [both] ‘thorns’, ‘stacks’, ‘standing corn’ and ‘field’? They are all necessary. For if the Divine Law had mentioned [only] ‘thorns’, I might have said that it was only in the case of thorns that the Divine Law imposed liability because fire is found often among them and carelessness in regard to them is frequent,[12] whereas in the case of ‘stacks’,[13] which are not often on fire and in respect of which negligence is not usual, I might have held that there is no liability. If [again] the Divine Law had mentioned [only] ‘stacks’, I might have said that it was only in the case of ‘stacks’ that the Divine Law imposed liability as the loss involved there was considerable, whereas in the case of ‘thorns’ where the loss involved was slight I might have thought there was no liability. But why was standing corn’ necessary [to be mentioned]? [To teach that] just as ‘standing corn’ is in an open place, so is everything [which is] in an open space [subject to the same law].[14] But according to R. Judah who imposes[15] liability also for concealed articles damaged by fire, why had ‘standing corn’ [to be mentioned]? — To include anything possessing stature.[15] Whence then did the [other] Rabbis include anything possessing stature?[16] — They derived this from [the word] ‘or’ [placed before] ‘the standing corn’.[17] And R. Judah? — He needed [the word] ‘or’ as a disjunctive.[17] Whence then did the [other] Rabbis derive the disjunction? — They derived it from [the word] ‘or’ [placed before] ‘the field’. And R. Judah? — He held that because the Divine Law inserted ‘or’ [before] ‘the standing corn’ ‘it also inserted ‘or’ [before] ‘the field’. But why was ‘field’ needed [to be inserted]? — To include [the case of] Fire lapping his neighbour's ploughed field, and grazing his stones.[18] But why did the Divine Law not say only ‘field’,[19] in which case the others would not have been necessary? They were still necessary. For if the Divine Law had said ‘field’ only, I might have said that anything in the field would come under the same law, but not any other thing.[20] It was therefore indicated to us [that this is not so].

R. Samuel b. Nahmani stated[21] that R. Johanan said: Calamity comes upon the world only when there are wicked persons in the world, and it always begins with the righteous, as it says: If fire break out and catch in thorns.[22] When does fire break out? Only when thorns are found nearby. It always begins, however, with the righteous, as it says: so that the stack of corn was consumed:[23] It does not say ‘and it would consume the stack of corn’, but ‘that the stack of corn was consumed’ which means that the ‘stack of corn’ had already been consumed.

R. Joseph learnt: What is the meaning of the verse, And none of you shall go out at the door of his house until the morning?[24] Once permission has been granted to the Destroyer, he does not distinguish between righteous and wicked. Moreover, he even begins with the righteous at the very outset, as it says:[25] And I will cut off from thee the righteous and the wicked.[26] R. Joseph wept at this, saying: So much are they[27] compared to nothing![28] But Abaye [consoling him,] said: This is for their advantage, as it is written, That the righteous is taken away from the evil to come.[29]

Rab Judah stated that Rab said:

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(1) Supra 9b.

(2) ליבה (connected with להב, ‘flame’), to denote blazing up.

(3) [ניבה from נבא, ‘to blow up’ to blow a blaze’.]

(4) For similar textual remarks by the same sage, cf. A.Z. 2a.

(5) Ex. III, 2.

(6) Isa. LVII, 19. [The blaze is provided by ‘the movement of the lips’, i.e., by blowing with the mouth.]

(7) Cf. Shab. VII, 2; v. also B.B. 26a.

(8) So that the wind did not help him at all.

(9) But did not actually blaze it up.

(10) Whether man did it wholly by his own body or not.

(11) Ex. XXII, 5.

(12) As thorns are usually worthless and nobody minds them.

(13) Which are of great value and are usually looked after.

(14) Excluding thus hidden articles.

(15) Supra 5b.

(16) E.g., living objects and plants [Though the latter, unlike ‘stacks’ are still attached to the ground. Tosaf.]

(17) Cf. supra p. 311, and also Tosaf. Hul. 86b.

(18) V. p. 347. n. 5.
(19) Which includes everything.
(20) Such as the field itself.
(21) [Having stated ‘standing corn’, the Torah must have added ‘field’ to indicate the field itself.]
(22) Ex. XXII, 5.
(23) Used metaphorically to express the righteous.
(24) Ex. XII, 22.
(25) Ezek. XXI, 8.
(26) Thus mentioning first the ‘righteous’ and then the ‘wicked’.
(27) I.e., the righteous.
(28) That they are punished even for the wicked.
(29) Isa. LVII, 1.

Talmud - Mas. Baba Kama 60b

A man should always enter [a town] by daytime and leave by daytime, as it say's, And none of you shall go out at the door of his house until the morning.[1]

Our Rabbis taught: When there is an epidemic in the town keep your feet inside [the house], as it says, And none of you shall go out at the door of his house until the morning,[1] and it further says, Come, my people, enter thou into thy chambers and shut thy doors about thee;[2] and it is again said: The sword without, the terror within shall destroy.[3] Why these further citations? — Lest you might think that the advice given above[4] refers only to the night, but not to the day. Therefore, come and hear: Come, my people, enter thou into thy chamber, and shut thy doors about thee.[5] And should you say that these apprehensions apply only where there is no terror inside,[6] whereas where there is terror inside[6] it is much better to go out and sit among people in one company, again come and hear: The sword without, the terror within shall destroy,[3] implying that [even where] the terror is ‘within’[6] the ‘sword’[7] will destroy [more] without. In the time of an epidemic Raba used to keep the windows shut, as it is written, For death is come up into our windows.[8]

Our Rabbis taught: When there is a famine in town, withdraw your feet,[9] as stated, And there was a famine in the land; and Abram went down into Egypt to sojourn there;[10] and it is further said: If we say: We will enter into the city, then the famine is in the city and we shall die there.[11] Why the additional citation? — Since you might think that this advice[12] applies only where there is no danger to life [in the new settlement], whereas where there is a danger to life [in the new place] this should not be undertaken, come and hear: Now therefore come, and let us fall unto the host of the Arameans; if they save us alive, we shall live.[13]

Our Rabbis taught: When there is an epidemic in a town, one should not walk in the middle of the road, as the Angel of Death walks then in the middle of the road, for since permission has been granted him, he stalks along openly. But when there is peace in the town, one should not walk at the sides of the road, for since [the Angel of Death] has no permission he slinks along in hiding.

Our Rabbis taught: When there is an epidemic in a town nobody should enter the House of Worship[14] alone, as the Angel of Death keeps there his implements. This, however, is the case only where no pupils are being taught there[15] or where ten [males] do not pray there [together].

Our Rabbis taught: When dogs howl, [this is a sign that] the Angel of Death has come to a town. But when dogs frolic, [this is a sign that] Elijah the prophet has come to a town. This is so, however, only if there is no female among them.

When R. Ammi and R. Assi were sitting before R. Isaac the Smith, one of them said to him: ‘Will the Master please tell us some legal points?' while the other said: 'Will the Master please give us some homiletical instruction?' When he commenced a homiletical discourse he was prevented by the one, and when he commenced a legal discourse he was prevented by the other. He therefore said to them: I will tell you a parable: To what is this like? To a man who has had two wives, one young and one old. The young one used to pluck out his white hair, whereas the old one used to pluck out his black hair. He thus finally remained bald on both sides. He further said to them: I will accordingly tell you something which will be equally interesting to both of you:[16] If fire break out and catch in thorns; 'break out' implies 'of itself'. He that kindled the fire shall surely make restitution. The Holy One, blessed be He, said: It is incumbent upon me to make restitution for the fire which I kindled. It was I who kindled a fire in Zion as it says, And He hath kindled a fire in Zion which hath devoured the foundations thereof,[17] and it is I who will one day build it anew by fire, as it says, For I, [saith the Lord] will be unto her a wall of fire round about, and I will be the glory in the midst of her.[18] On the legal side, the verse commences with damage done by chattel,[19] and concludes with damage done by the person,[20] [in order] to show that Fire implies also human agency.[21]

Scripture says:[22] And David longed, and said, Oh that one would give me water to drink of the well of Bethlehem, which is by the gate. And the three mighty men broke through the host of the Philistines and drew water out of the well of Bethlehem that was by the gate etc. What was his difficulty?[23] — Raba stated that R. Nahman had said: His difficulty was regarding concealed articles damaged by fire[24] — whether the right ruling was that of R. Judah[25] or of the Rabbis;[26] and they gave him the solution, whatever it was. R. Huna, however, said: [The problem was this:] There were there[27] stacks of barley which belonged to Israelites but in which Philistines had hidden themselves, and what he asked was whether it was permissible to rescue oneself through the destruction of another's property.[28] The answer they despatched to him was: [Generally speaking] it is forbidden to rescue oneself through the destruction of another's property[29] you however are King and a king may break [through fields belonging to private persons] to make a way [for his army], and nobody is entitled to prevent him [from doing so].[30] But [some] Rabbis, or, as [also] read, Rabbah b. Mari, said: There were there[31] [both] stacks of barley belonging to Israelites and stacks of lentils belonging to the Philistines.[32] The problem on which instruction was needed was whether it would be permissible to take the stacks of barley that belonged to the Israelites and put them before the beasts [in the battle field], on condition of [subsequently] paying for them with the stacks of lentils that belonged to the Philistines. [The reply] they despatched to him [was]: If the wicked restore the pledge, give again the robbery,[33] [implying that] even where the robber [subsequently] pays for the 'robbery', he still remains 'wicked'. You, however, are King and a king may break through [fields of private owners] making thus a way [for his army], and nobody is entitled to prevent him [from doing so]. If we accept the view that he wanted to exchange,[34] we can quite understand how in one verse it is written, Where was a plot of ground full of lentils,[35] and in another verse it is written, Where was a plot of ground full of barley.[36] If we, however, take the view that he wanted to burn them[37] down, what need was there to have these two verses?[38] — He, however, might say to you that there were also there stacks of lentils which belonged to Israelites and in which Philistines were hidden.[39] Now on the view that he wanted to burn them[37] down, we can quite understand why it is written, But he stood in the midst of the ground, and defended it.[40] But according to the view that he wanted to exchange, what would be the meaning of and he defended it?[41] — That he did not allow them to exchange. According to [these] two views, we can quite understand why there are two verses.

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(1) V. p. 348, n. 9.

(2) Isa. XXVI, 20.

(3) Deut. XXXII, 25.

(4) To keep indoors.

(5) Isa. XXVI, 20.

(6) The house.

(7) Of the Angel of Death.

(8) Jer. IX, 20.
(9) I.e., migrate to another place; see also B.M. 75b.
(10) Gen. XII, 10.
(11) II Kings VII, 4.
(12) Implied in Gen. XII, 10.
(13) II Kings VII, 4.
(14) [בית הכנסת Lit., ‘House of meeting’, the Synagogue. The origin of the term as applied to a synagogue is uncertain. It probably has its source in the assemblies called together for the purpose of considering problems of an economic and social character. These were probably attended with some sort of prayer and out of these evolved the regular meetings for prayers, v. Zeitlin, The Origin of the Synagogue in the Proceedings of the American Academy for Jewish Research, 1930-31, p. 75 ff.]
(15) In the House of Worship.
(16) Ex. XXII, 5.
(17) Lam. IV, 11.
(18) Zech. II, 9.
(19) As the expression ‘if a fire break out’ means ‘break out itself without any direct act on the part of man’; cf. supra p. 115.
(20) By saying, ‘He that kindled a fire’, implying that there was some direct act on the part of man to kindle the fire.
(21) V. supra p. 115.
(22) II Sam. XXIII, 15-16.
(23) For as ‘water’ is homiletically used as a metaphor expressing learning, it was aggadically assumed here that instead of actual water David was in need of some legal instruction, especially since mention was made in the verse of ‘the gate’ which was then the seat of judgment.
(24) As some of his men burned down a stack in which articles were hidden, v. p. 353. n. 6.
(25) Who imposes liability.
(26) Who maintain exemption.
(27) Near the battle-field.
(28) As the warriors of David burned the stacks down for strategical purposes and the problem was whether compensation was to be made or not.
(29) I.e. compensation should be made.
(30) V. Sanh. 20a.
(31) V. p. 351, n. 11.
(32) The enemy.
(33) Ezek. XXXIII, 15.
(34) Stacks of barley belonging to Israelites for stacks of lentils that belong to the enemy.
(35) II Sam. XXIII, 11.
(36) I Chron. XI, 13.
(37) I.e., the stacks of barley belonging to the Israelites without repaying them with the lentils of the enemy.
(38) In fact the two verses contradict each other.
(39) And which had thus also to be burned down.
(40) Ibid. 12. This would show that he did not let his warriors burn the stacks as this was not permissible by strict law.
(41) Since there was no question there of burning down.

Talmud - Mas. Baba Kama 61a

But according to the view that his inquiry concerned concealed goods in the case of Fire, what need was there for the verses?[1] — He might say to you that besides [the problem of] hidden goods [in the case of Fire], one of the other problems [referred to above][2] was asked by him. Now according to the [other] two views we quite understand why it is written, But he would not drink thereof,[3] for he said, ‘Since there is a [general] prohibition[4] I do not want it.’[5] But according to the view that his inquiry concerned hidden goods[6] in the case of Fire, was it not a traditional teaching which was despatched to him, [and that being so,][7] what would be the meaning of ‘But he would not drink thereof’?[8] —

[The meaning would be] that he did not want to quote this teaching in their names,[9] for he said: ‘This has been transmitted to me from the Court of Law presided over by Samuel of Ramah, that no halachic matter may be quoted in the name of one who surrenders himself to meet death for words of the Torah.’

But he poured it out unto the Lord.[3] We quite understand this according to the [other] two views, as he acted thus for the sake of Heaven.[10] But according to the view that [his inquiry concerned] hidden goods in the case of Fire, what would be the meaning [of this verse], ‘but he poured it out unto the Lord’? — That he repeated this [halachic statement] in the name of general traditional learning.[11]

MISHNAH. IF IT CROSSED A FENCE FOUR CUBITS HIGH OR A PUBLIC ROAD[12] OR A CANAL, THERE WOULD BE NO LIABILITY.[13]

GEMARA. But was it not taught: ‘If it crossed a fence four cubits high there would [still] be liability’? — R. Papa thereupon said: The Tanna of our ruling [here] was reckoning downwards; [at the height of] six cubits there would be exemption; at five cubits, there would be exemption; down to [the height of] four cubits[14] there would [still] be exemption. The Tanna of the Baraitha [was on the other hand] reckoning upwards; at [the height of] two cubits, there would be liability; of three cubits,[15] there would be liability; up to [the height of] four cubits, there would [still] be liability.

Raba said: [The height of] four cubits stated [in the Mishnah] as not involving liability would also suffice even where the fire passed over to a field of thorns. R. Papa, however, said: [The height of] four cubits should be calculated from the top of the thorns.

Rab said: The Mishnaic ruling applies only where the fire was rising in a column, but where it was creeping along there would be liability, even if it crossed a public road of about [the width of] a hundred cubits. Samuel [on the other hand] said that the Mishnah deals with a creeping fire; for in the case of a fire rising in a column there would be exemption if it crossed a public road of any width whatsoever. It was, however, taught in accordance with Rab: This ruling[16] applies only where it was rising in a column; if it was creeping along, and wood happened to be in its path, there would be liability were it even to pass over a public ground of about the width of a hundred mil.[17] If, however, it crossed a river or pool eight cubits wide, there would be exemption. A PUBLIC ROAD. Who was the Tanna [who laid this down]? — Raba said: He was R. Eliezer, as we have indeed learnt: ‘R. Eliezer says: [If it was] sixteen cubits [wide] like the road in a public thoroughfare, [there would be exemption].[18]

OR A CANAL. Rab said: It means an actual river. Samuel, however, said: It means a pond for watering fields. The one who says it is an actual river [would maintain the same ruling[19]] even where there was no water there.[19] But the one who says it means a pond for watering fields [would hold that] so long as there was water there the ruling would apply, but not where no water was there.

Elsewhere we have learnt: ‘Divisions [of fields] with respect to Pe'ah[20] are effected by the following: a brook, a shelulith, a private road and a public road.[21] What is shelulith? — Rab Judah stated that Samuel had said: A [low lying] place where rainwater collects.[22] R. Bibi, however, said on behalf of R. Johanan: A pond of water which [as it were] distributes spoil[23] to the banks. The one who says that it means a [low-lying] place where rain water collects would certainly apply the ruling to a pond of water,[24] but the one who says that it means a pond of water would on the other hand maintain that [low-lying] places where rain-water collects would not cause a division, as these

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(1) I.e. the whole description of the barley and lentils.

(2) I.e., either to burn the stacks down or to exchange those of Israelites for those of the enemy.

(3) II Sam. XXIII, 16.

(4) In the case of an ordinary man.

(5) I.e., ‘to avail myself of the royal prerogative in this respect.’

(6) [And the question was whether those of his men who had burnt the stack were to be made to pay for the hidden goods, cf. Tosaf. and Maharsha, מהדורא בתרא].

(7) [That the matter did not directly affect him.]

(8) Why then did he not accept it?

(9) [The names of those who volunteered to break through the enemy's lines (v. II Sam. XXIII, 16) in order to bring him a decision.]

(10) And did not take advantage of his privileged position as king.

(11) [And not in ‘their names’.]

(12) Sixteen cubits wide.

(13) As this could not have been expected; it is thus considered a mere accident.

(14) Including a fence of the height of four cubits.

(15) But not including a fence of the height of four cubits. It thus follows that there is no contradiction between the two statements as where the fence was of the height of four cubits there will be exemption according to all views.

(16) Of exemption in the case of a fire crossing a public road.

(17) I.e., two thousand cubits; v. Glos.

(18) V. next Mishnah.

(19) On account of its great width.

(20) I.e., to leaving the corners of each separate field for the poor; see supra p. 148 and Glos.

(21) Pe'ah II, 1; cf. also B.B. 55a.

(22) As the term ‘shalal’ also denotes ‘to gather’; cf. Bez. 7a.

(23) As shalal means ‘spoil’; cf. Num. XXXI, 11.

(24) As this is of a more permanent nature.

Talmud - Mas. Baba Kama 61b

should more properly be called the receptacles of the land.[1]

MISHNAH. IF A MAN KINDLES A FIRE ON HIS OWN [PREMISES], UP TO WHAT DISTANCE CAN THE FIRE PASS ON [BEFORE HE BECOMES FREE OF LIABILITY]? R. ELEAZAR B. AZARIAH SAYS: IT HAS TO BE REGARDED AS BEING IN THE CENTRE OF AN AREA REQUIRING A KOR[2] OF SEED.[3] R. ELIEZER[4] SAYS: [A DISTANCE OF] SIXTEEN CUBITS [SUFFICES], EQUAL TO [THE WIDTH OF] A ROAD IN A PUBLIC THOROUGHFARE.[5] R. AKIBA SAYS FIFTY CUBITS. R. SIMEON SAYS: [SCRIPTURE SAYS] HE WHO KINDLED THE FIRE SHOULD MAKE RESTITUTION,[6] [WHICH SHOWS THAT] ALL DEPENDS UPON THE FIRE.

GEMARA. Did R. Simeon not hold that there is some fixed limit in the case of Fire?[7] Have we not learnt: ‘No man shall fix[8] an oven on a ground floor unless there is a space of four cubits from the top of it [to the ceiling]. If he fixes it on an upper floor [he may not do so][8] unless there will be under it three handbreadths of cement; in the case, however, of a portable stove, one handbreadth will suffice. If [after all these precautions] damage has nevertheless resulted, payment must be made for the damage. R. Simeon says that these limits were only to intimate that if damage resulted [after they were observed] there should be exemption.[9] [Does this not prove that R. Simeon maintained a minimum limit of precaution?] — R. Nahman therefore stated that Rabbah b. Abbahu said: [The meaning of R. Simeon's phrase ‘all thus depends upon the fire’ is that] all should depend upon the height of the fire, [and that no general limits could be fixed].[10] R. Joseph, [however,] stated that Rab Judah said on behalf of Samuel: The halachah is in accordance with R. Simeon.[11] So also said R. Nahman, that Samuel said that the halachah was in accordance with R. Simeon.[11]

MISHNAH. IF A MAN SETS FIRE TO A STACK OF CORN IN WHICH THERE HAPPEN TO BE ARTICLES AND THESE ARE BURNT, R. JUDAH SAYS THAT PAYMENT SHOULD BE MADE FOR ALL THAT WAS THEREIN, WHEREAS THE SAGES SAY THAT NO PAYMENT SHOULD BE MADE EXCEPT FOR A STACK OF WHEAT OR FOR A STACK OF BARLEY. [WHERE FIRE WAS SET TO A BARN TO WHICH] A GOAT HAD BEEN FASTENED AND NEAR WHICH WAS A SLAVE [LOOSE] AND ALL WERE BURNT WITH THE BARN, THERE WOULD BE LIABILITY.[12] IF, HOWEVER, THE SLAVE HAD BEEN CHAINED TO IT, AND THE GOAT WAS LOOSE NEAR BY IT, AND ALL WERE BURNT WITH IT, THERE WOULD BE EXEMPTION.[13] THE SAGES, HOWEVER, AGREE WITH R. JUDAH[14] IN THE CASE OF ONE WHO SET FIRE TO A CASTLE THAT THE PAYMENT SHOULD BE FOR ALL THAT WAS KEPT THEREIN, AS IT IS SURELY THE CUSTOM OF MEN TO KEEP [VALUABLES] IN [THEIR] HOMES.[15]

GEMARA. R. Kahana said: The difference [of opinion][16] was only where the man kindled the fire on his own [premises], from which it passed on and consumed [the stack standing] in his neighbour's premises, R. Judah imposing liability for damage done to Tamun[17] in the case of Fire whereas, the Rabbis[18] grant exemption. But if he kindled the fire on the premises of his neighbour, both agreed that he would have to pay for all that was there.[19] Said Raba to him: ‘If so, why does it say in the concluding clause, THE SAGES, HOWEVER, AGREE WITH R. JUDAH IN THE CASE OF ONE WHO SET FIRE TO A CASTLE THAT THE PAYMENT SHOULD BE FOR ALL THAT WAS KEPT THEREIN’? Now why not draw the distinction in the same case by making the text run thus: These statements apply only in the case where be kindled the fire on his own [premises], whence it travelled and consumed [the stacks standing] in his neighbour's premises; but where he kindled the fire in the premises of his neighbour, all would agree that he should pay for all that was kept there? — Raba therefore said: They differed in both cases. They differed where he kindled the fire in his own [premises] whence it travelled and consumed [stacks standing] in his neighbour's premises, R. Judah imposing liability to pay for Tamun in the case of Fire, whereas the [other] Rabbis hold that he is not liable [to pay for Tamun in the case of Fire].[20] They also differed in the case where he kindled a fire in the premises of his neighbour, R. Judah holding that he should pay for everything that was there, including even purses [of money], whereas the Rabbis held that it was only for utensils which were usually put away in the stacks, stich as e.g. threshing sledges and cattle harnesses that payment would have to be made, but for articles not usually kept in stacks no payment would have to be made.

Our Rabbis taught: If a man sets fire to a stack of corn in which there were utensils and they were burnt, R. Judah says that payment should be made for all that was stored there, whereas the Sages say that no payment should be made except for a stack of wheat or for a stack of barley, and that the space occupied by the utensils has to be considered as if it was full of corn.[21]

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(1) And should therefore not cause the fields to be considered separated from one another.

(2) V. Glos.

(3) As fire when rising in columns could not be expected to pass on to further distances.

(4) B. Hyrcanus.

(5) V. p. 355, n. 10.

(6) Ex. XXII, 5.

(7) [Assuming that what R. Simeon means is that it all depends on the damage caused by the fire irrespective of the distance.]

(8) I.e., the neighbours have the right to prevent him from doing so.

(9) B.B. II, 2.

(10) But each case should be considered in accordance with its own circumstances.

(11) [Only of this our Mishnah, but not of B.B. (Rashal).]

(12) For the goat and for the barn, but no liability whatever for the slave, for, since he was loose, he should have escaped.

(13) For the goat and even for the barn, for since the slave was chained a capital charge is involved, and all civil liabilities merge in capital charges; v. supra p. 113 and p. 192.

(14) Who ordains payment even for concealed articles.

(15) The law about hidden goods could therefore not be applicable in this case.

(16) Between the Sages and R. Judah

(17) I.e., something hidden; v. Glos.

(18) The Sages.

(19) For the act of trespass.

(20) Even for utensils which are customarily kept in stacks.

(21) For which payment will be made.

Talmud - Mas. Baba Kama 62a

These statements apply only to the case where he kindled the fire on his own [premises] whence it travelled and consumed [the stack standing] in the premises of his neighbour; but where he kindled the fire in the premises of his neighbour, all agree[1] that he would have to pay for all that was kept there.[2] R. Judah, however, agreed with the Sages that in the case where a man granted his neighbour the loan of a particular place [in his field] for the purpose of piling up a stack, if [the borrower of the place] piled up stacks and hid [some valuable articles there][3] no payment would have to be made except for the value of the stack alone.[4] [So also where permission was granted] for the purpose of piling up stacks of wheat, and he piled up stacks of barley, or [permission was given for] barley and he piled up wheat, or even where he piled up wheat [for which the permission was granted], but covered it with barley, or again where he piled up barley but covered it with wheat; [in these cases] no payment would be made except for the value of the barley alone.[5]

Raba said: If a man gives a gold denar to a woman and says to her, ‘Be careful with it, as it is a silver coin’, if she damaged it she would have to pay for a gold denar because he could [rightly] plead against her: ‘What business had you to damage it?’ But if she was [merely] careless with it,[6] she would have to pay only for a silver denar, as she could [rightly] plead against him: ‘It was only silver that I undertook to take care of, but I never undertook to take care of gold.’ Said R. Mordecai to R. Ashi: ‘Do you state this in the name of Raba? We derive it quite definitely from the Baraitha [which states]: [If a man piled up] wheat [for which the permission was granted], but covered it with barley, or again [if he piled up] barley but covered it up with wheat, no payment would be made except for the value of the barley alone. Now, does this not prove that he is entitled to plead against the plaintiff: ‘It was only barley that I undertook to take care of?’ Here too she is surely entitled to plead against the depositor, ‘I never undertook to take care of gold.’

Rab said: I have heard a new point with reference to the view of R. Judah [in the Mishnah here], but do not know what it is. Said Samuel to him: Does Abba[7] really not know what he heard with reference to R. Judah who imposes liability for damage done to Tamun in the case of Fire? It is that the judges must make the ordinance enacted for the benefit of a robbed person[8] extend also to the case of Fire.

Amemar raised the question: Would they similarly make the ordinance enacted for the benefit of a robbed person extend also to the case of an informer or not? According to the view[9] that we should not give judgment [against the defendant] in cases where the damage was [not actually done but] merely caused [by him],[10] there could be no question that also against informers we should not give judgment. But the question could still be raised according to the view that we should give judgment [against the defendant even] in cases where the damage was [not actually done but effectively and directly] caused by him.[10] Would the judges make the ordinance enacted for the benefit of a robbed person extend also to the case of an informer so that the plaintiff would by taking an oath [as to the exact amount of his loss] be paid accordingly, or should this perhaps not be so? — Let this remain undecided.

A certain man kicked another's money-box into the river. The owner came [into Court] and said: ‘So much and so much did I have in it.’ R. Ashi was sitting and pondering on it: What should be the law in such a case? — Rabina said to R. Aha the son of Raba, or, as others report, R. Aha the son of Raba said to R. Ashi: Is this not exactly what was stated in the Mishnah? For we learnt: ‘THE SAGES AGREE WITH R. JUDAH IN THE CASE OF ONE WHO SET FIRE TO A CASTLE, THAT PAYMENT SHOULD BE FOR ALL THAT WAS KEPT THEREIN, AS IT IS SURELY THE CUSTOM OF MEN TO KEEP [VALUABLES] IN [THEIR] HOMES. [Is this not equivalent to the case in hand?][11] — He, however, said to him: If he would have pleaded that he had money there, it would indeed have been the same.[11] But we are dealing with a case where he pleads that he had jewels there. What should then be the legal position? Do people keep jewels in a money-box or not? — Let this remain undecided.

R. Yemar said to R. Ashi: If he pleads that he had silver cups in the castle [which was burnt], what would be the law? — He answered him: We consider whether he was a wealthy man who was [likely] to have silver cups, or whether he was a trustworthy man with whom people would deposit such things. [If he is,] he would be allowed to swear and be reimbursed accordingly, but if not, he would not be believed [in his allegations without corroborative evidence].

R. Adda the son of R. Iwya said to R. Ashi: What is the [practical] difference between gazlan[12] and hamsan?[13] — He replied: A hamsan [one who expropriates forcibly] offers payment [for what he takes], whereas a gazlan does not make payment. The other rejoined: If he is prepared to make payment, how can you call him hamsan? Did R. Huna not say[14] that [even] where the vendor was [threatened to be] hanged [unless he would agree] to sell, the sale would be a valid sale?[15] — This, however, is no contradiction, as in that case, the vendor did [finally][16] say 'I agree', whereas here [in the case of hamsan] he never said 'I agree'.[17]

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(1) [Tosaf. omits 'all agree that', and take this passage as a continuation of the words of the Sages.]

(2) According to Raba this refers only to utensils which are usually kept in stacks.

(3) And it so happened that they were all burned down by a fire kindled by the owner of the field.

(4) As the owner of the field knew only of the stacks.

(5) As where permission was granted for barley the owner of the field could not have expected that wheat would be piled up. Even where permission was given for wheat, if the stacks were covered with barley, the owner of the field can plead that he only noticed barley.

(6) And the liability upon her is only because of her undertaking to keep it as an unpaid bailee.

(7) Which was the personal name of Rab.

(8) That where the amount of the loss cannot be established by proper evidence the plaintiff is entitled to take an oath as to the loss he sustained; v. Shebu. VII, 1.

(9) Infra 117b.

(10) Such as, e.g., in the case of informers.

(11) For just as it is the custom of men to keep valuables in their homes, it is surely the custom of men to keep money in money boxes.

(12) I.e. robber.

(13) I.e., violent person.

(14) B.B. 47b.

(15) For since he took the money the sale could not be called forced.

(16) After the pressure brought to bear upon him.

(17) The sale could therefore not become valid.

Talmud - Mas. Baba Kama 62b

MISHNAH. IF A SPARK ESCAPES FROM UNDERNEATH A HAMMER AND DOES DAMAGE, THERE WOULD BE LIABILITY. IF WHILE A CAMEL LADEN WITH FLAX WAS PASSING THROUGH A PUBLIC THOROUGHFARE THE FLAX GOT INTO A SHOP AND CAUGHT FIRE BY COMING IN CONTACT WITH THE SHOPKEEPER'S CANDLE, AND SET ALIGHT THE WHOLE BUILDING, THE OWNER OF THE CAMEL WOULD BE LIABLE.[1] IF, HOWEVER, THE SHOPKEEPER LEFT HIS CANDLE OUTSIDE [HIS SHOP], HE WOULD BE LIABLE.[2] R. JUDAH SAYS: IF IT WAS A CHANUKAH[3] CANDLE THE SHOPKEEPER WOULD NOT BE LIABLE.[4]

GEMARA. Rabina said in the name of Raba: From the statement of R. Judah we can learn that it is ordained to place the Chanukah candle within ten handbreadths [from the ground]. For if you assume [that it can be placed even] above ten handbreadths, why did R. Judah say that in the case of a Chanukah candle there would be exemption? Why should the plaintiff not plead against him: 'You should have placed it above the reach of the camel and its rider?' Does this therefore not prove that it is ordained to place it within the [first] ten handbreadths? — It can, however, be argued that this is not so. For it could still be said that it might be placed even above the height of ten handbreadths, and as for your argument 'You ought to have placed it above the reach of the camel and its rider', [it might be answered that] since he was occupied with the performance of a religious act, the Rabbis could not [rightly] make it so troublesome to him.[5] R. Kahana said that R. Nathan b. Minyomi expounded in the name of R. Tanhum:[6] 'If the Chanukah candle is placed above [the height of] twenty cubits it is disqualified [for the purpose of the religious performance],[7] like a sukkah[8] and an alley-entry.[9]

CHAPTER VII

MISHNAH. THERE IS MORE FREQUENTLY OCCASION FOR THE MEASURE OF DOUBLE PAYMENT[10] [TO BE APPLIED] THAN THE MEASURE OF FOUR-FOLD OR FIVE-FOLD PAYMENTS,[11] SINCE THE MEASURE OF DOUBLE PAYMENT APPLIES BOTH TO A THING POSSESSING THE BREATH OF LIFE AND A THING WHICH DOES NOT POSSESS THE BREATH OF LIFE, WHEREAS THE MEASURE OF FOUR-FOLD AND FIVE-FOLD PAYMENTS[11] HAS NO APPLICATION EXCEPT FOR AN OX AND A SHEEP [RESPECTIVELY] ALONE, AS IT SAYS 'IF A MAN STEAL AN OX OR A SHEEP AND KILL IT OR SELL IT, HE SHALL PAY FIVE OXEN FOR AN OX AND FOUR SHEEP FOR A SHEEP.'[12] ONE WHO STEALS [ARTICLES ALREADY STOLEN] IN THE HANDS OF A THIEF NEED NOT MAKE DOUBLE PAYMENT,[13] AS ALSO HE WHO SLAUGHTERS OR SELLS [THE ANIMAL] WHILE IN THE POSSESSION OF [ANOTHER] THIEF HAS NOT TO MAKE FOURFOLD OR FIVE-FOLD PAYMENT.

GEMARA. That the measure of double payment applies both in the case of a thief and in the case of [an unpaid bailee falsely] alleging a theft,[14] whereas the measure of four-fold or five-fold payments has no application except in the case of a thief alone — [this, be it noted], is not taught here. This [omission] supports the view of R. Hiyya b. Abba, for R. Hiyya b. Abba stated that R. Johanan said: He who falsely alleges a theft [to account for the absence] of a deposit [entrusted to him], may have to make double payment;[14] so also if he slaughtered or sold it he may have to make four-fold or five-fold payment.[15] Some read as follows: Shall we say that this [omission] supports the view of R. Hiyya b. Abba who said in the name of R. Johanan: He who falsely alleges a theft [to account for the absence] of a deposit [entrusted to him] may have to make double payment; so also if he slaughtered or sold it, he may have to make four-fold or five-fold payment'? — But does your text say, 'There is no difference between [this[16] and that[17] except . . .]'? What it says is, THERE IS MORE FREQUENT OCCASION. — While some points were stated in the text others were omitted.[18]

AS THE MEASURE OF DOUBLE PAYMENT APPLIES BOTH TO A THING POSSESSING THE BREATH OF LIFE AND TO A THING WHICH DOES NOT POSSESS THE BREATH OF LIFE etc. Whence is this derived? As our Rabbis taught: For every matter of trespass[19] is a generalisation; whether it be for ox, for ass, for sheep, for raiment, is a specification; or for any manner of lost thing generalises again. We have thus here a generalisation preceding a specification which is in its turn followed by another generalisation,[20] and in such cases we include only that which is similar to the specification. Just as the specification here mentions an object which is movable and which has an intrinsic value, there should therefore be included any object which is movable and which has an intrinsic value. Real estate is thus excluded,[21] not being movable; slaves are similarly excluded as they are on the same footing [in the eye of the law] with real estate;[22] bills are similarly excluded, as though they are movable, they have no intrinsic value; sacred property is also excluded as the text speaks of ‘his neighbour’. But since the specification mentions a living thing whose carcass would cause defilement whether by touching or by carrying,[23] [why not say] there should be included any living thing whose carcass similarly causes defilement whether by touching or by carrying[24] so that birds would not be included?[25] — How can you seriously say this? Is not raiment[26] mentioned here? It may, however, be said that it is only regarding objects possessing life that we have argued.[27] Why then not say in the case of objects possessing life that it is only a thing whose carcass causes defilement by touching and carrying that is included, whereas a thing whose carcass does not cause defilement by touching and carrying should not be included,

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(1) V. supra 22a.

(2) As he is to blame for placing his candle outside his shop.

(3) Feast of Dedication.

(4) As he was entitled to place the Chanukah candle outside.

(5) As to make him place his Chanukah candle on a higher level.

(6) V. Shab. 21a.

(7) As when placed at such a high level it will not be noticed by passersby and publicity will not be given to the miracle.

(8) V. Glos. Cf. Suk. I, 1.

(9) V. ‘Er, I, 1. An alley where a post or a stake would be required to be placed at the entrance for the purpose of enabling the inmates of that area to carry their domestic objects on the Sabbath day.

(10) For theft, in accordance with Ex. XXII, 3.

(11) For the slaughtering (or selling) of a sheep or ox respectively; cf. ibid. XXI, 37.

(12) Ibid.

(13) Since the article had in any case already passed out of the possession of the true owner.

(14) In accordance with Ex. XXII, 8.

(15) Infra p. 369.

(16) The measure of double payment.

(17) The measure of four-fold or five-fold payment.

(18) The omission of a particular point should therefore not be taken as a proof.

(19) Ex. XXII, 8.

(20) V. supra 54a.

(21) From the law of double payment.

(22) For which cf. Lev. XXV, 46.

(23) Lev. XI 39-40.

(24) Ibid. 26-28.

(25) As these do not cause defilement either by touching or by carrying.

(26) Which is not a living object at all.

(27) That they should be such that their carcasses would cause defilement whether by touching or by carrying.

Talmud - Mas. Baba Kama 63a

as each item in a generalisation and specification[1] is expounded by itself,[2] so that birds would not be included? — If so, the Divine Law should have inserted only one item in the specification.[3] But which item should the Divine Law have inserted? For were the Divine Law to have inserted only ‘ox’ I might have suggested that an animal which was eligible to be sacrificed upon the altar[4] should be included, but one which was not eligible to be sacrificed upon the altar[5] should not be included. If on the other hand the Divine Law had inserted only ‘ass’[6] I might have thought that an animal which is subject to the sanctity of first birth[7] should be included but that one which is not subject to the sanctity of first birth[8] should not be included. [Why then still not exclude birds whose carcasses would, unlike those of the ox and the ass, defile neither by touching nor by carrying?] — It may still be said that if so, the Divine Law would have inserted ‘ox’ and ‘ass’. Why then was ‘sheep’ inserted, unless to indicate the inclusion of birds [which would otherwise have been excluded]? But still why not say that you can [only] include birds which are [ritually] clean[9] for food, as these in some way resemble sheep in that they defile the garments worn by him who swallows them[10] [after they have become nebelah],[11] whereas birds [ritually] unclean for food[12] which carry no defilement and do not cause the defilement of garments worn by him who swallows them[13] should not be included? — [The term] ‘all’ is an amplification.[14] [Does this mean to say that] whenever the Divine Law uses [the word] ‘all’ it is an amplification? What about tithes, where ‘all’ occurs and we nevertheless expounded it as a case of generalisation and specification? For it was taught: And thou shalt bestow that money for all that thy soul lusteth after[15] is a generalisation; for oxen, or for sheep, or for wine, or for strong drink is a specification; or for all that thy soul desireth is again a generalisation. Now, where a generalisation precedes a specification which is in its turn followed by another generalisation, you include only that which is similar to the specification. As then the specification [here] mentions produce obtained from produce[16] which springs from the soil[17] there may also be included all kinds of produce obtained from produce[18] which springs from the soil.[19] [Does this not prove that the expression ‘all’ was taken as a generalisation, and not as an amplification?][20] — It may, however, be said that [the expression] ‘for all’[15] is only a generalisation, whereas ‘all’ would be an amplification.[21] Or if you wish I may say that [the term] ‘all’ is also a generalisation, but in this case ‘all’ is an amplification. For at the very outset we find here a generalisation preceding a specification followed in its turn by another generalisation, as it is written: If a man deliver unto his neighbour,[22] which is a generalisation, money or stuff which is a specification, to keep which generalises again. Should you assume that this verse for any matter of trespass etc. was similarly inserted in order to give us a generalisation preceding a specification followed in its turn by another generalisation, why did the Divine Law not insert these items of the specification [of the latter verse] along with the items of the former generalisation, specification and generalisation?[23] Why was the verse for any matter of trespass inserted at all, unless to prove that [this ‘all’] was meant as an amplification?[24] But now that you have decided that the term ‘all’ is an amplification,[25] why do I need all these terms of the specification?[26] — One to exclude real estate, a second to exclude slaves and the third to exclude bills; ‘raiment’ to exclude articles which have no specification;[27] ‘or for any manner of lost thing’ was meant as a basis for the view of R. Hiyya b. Abbah, as R. Hiyya b. Abba reported[28] that R. Johanan said:

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(1) [MS.M. omits ‘in a . . . . specification’.]

(2) V. infra 64b.

(3) Regarding objects possessing life.

(4) As was the case with ox.

(5) Such as an ass, horse, camel and the like.

(6) Which would include also animals not eligible to be sacrificed upon the altar.

(7) As is the case with ass; cf. Ex. XIII, 13.

(8) Such as horses and camels and the like.

(9) Deut. XIV, 11.

(10) Cf. Hul. 100b.

(11) I.e., a living creature which lost its life not through the prescribed method of ritual slaughter; cf. Glos.

(12) Enumerated in Lev. XI, 13-20 and Deut. XIV, 12-19.

(13) Cf. Hul. loc. cit.

(14) I.e., the term ‘all’ does more than generalise, for it includes everything, v. supra p. 317. n. 7.

(15) Deut. XIV, 26.

(16) Such as wine from grapes.

(17) Which characterises also cattle.

(18) Excluding water, salt and mushrooms.

(19) Thus excluding fishes. V. supra p. 317.

(20) Which would have included all kinds of food and drink.

(21) V. p. 318, n. 2.

(22) Ex. XXII, 6.

(23) In Ex. XXII, 6.

(24) [That is, with reference to the double payment, whereas the generalisation in the preceding verse refers to the oath (v. Shebu. 43a)].
(25) V. p. 366, n. 3.
(26) Ox, ass, sheep or raiment.
(27) According to Rashi it means that which has no distinguishing mark, but according to Tosaf, that which is not defined by measure, weight or number; see also Shebu. 42b and B.M. 47a.
(28) Supra 57a.

Talmud - Mas. Baba Kama 63b

He who falsely alleges the theft [to account for the non-production] of a find,[1] may have to make double payment,[2] as it says, 'for any manner of lost thing whereof one saith . . .'[3]

We have learnt elsewhere:[4] [If a man says to another] 'Where is my deposit?', and the bailee says 'It was lost', whereupon [the depositor says], 'I call upon you to swear' and the bailee says, 'So be it',[5] if witnesses testify against him that he himself had consumed it, he has to pay [only] the principal,[6] but if he admits [this] of himself, he has to pay the principal together with a fifth and a trespass offering.[7] [If the depositor says] 'Where is my deposit?', and the bailee answers 'It was stolen!', [whereupon the depositor says] 'I call on you to swear', and the bailee says, 'So be it',[5] if witnesses testify against him that he himself had stolen it, he has to make double payment,[8] but if he admits [this] on his own accord, he has to pay the principal together with a fifth and a trespass offering.[7] It is thus stated here that it is only where the bailee falsely alleges theft that he has to make double payment, whereas if he falsely alleges loss, he has not to make double payment. Again, even where he falsely alleges theft it is only where [he confirms the allegation] by an oath that he has to make double payment, whereas where no oath [follows] he has not to make double payment. What is the Scriptural authority for all this? — As the Rabbis taught: If the thief be found;[9] this verse deals with a bailee[10] who falsely alleges theft.[11] Or perhaps not so, but with the thief himself?[12] — As, however, it is further stated, If the thief be not found,[13] we must conclude that the [whole] verse[14] deals with a bailee falsely advancing a plea of theft.[15]

Another [Baraitha] teaches: If the thief be found: this verse deals with the thief himself.[16] You say that it deals with the thief himself. Why, however, not say that it is not so, but that it deals with a bailee falsely alleging theft? — When it further states, If the thief be not found this gives us the case of a bailee falsely alleging theft, How then can I explain [the verse] If the thief be found unless on the supposition that this deals with the thief himself![16] We see at any rate that all agree that [the verse] If the thief be not found deals with a bailee falsely alleging theft. But how is this implied [in the wording of the text]? — Raba said: [We understand the verse to say that] if it will not be found as he[17] stated[18] but that he himself had stolen it, he has to pay double. But whence can we conclude that this is so only in the case of an oath [having been falsely taken by the bailee]? — As it was taught: The master of the house shall come near unto the judges[13] to take an oath. You say to take an oath. Why not say, however, that this is not so, but to stand his trial?[19] — The words 'put his hand unto his neighbour's goods' occur in a subsequent section[20] and the words 'put his hand unto his neighbour's goods' occur in this section[13] which precedes the other one; just as there[20] it is associated with an oath,[21] so here also it should be associated with an oath. Now on the supposition[22] that one verse deals[23] with a thief and the other[24] with [a bailee falsely] alleging theft we quite understand why there are two verses; but on the supposition[25] that both of them deal with a bailee falsely alleging theft, why do I want two verses?[26] — It may be replied that one is to exclude the case of a false allegation of loss [from entailing double payment]. Now on the supposition[22] that one verse deals with a thief and the other with [a bailee falsely] alleging theft, in which case there will be no superfluous verse [in the text] whence can we derive the exclusion of a false allegation of loss [from entailing double payment]? — From [the definite article; as instead of] 'thief' [it is written] 'the thief'.[27] On the supposition[25] that both of the verses deal with [a bailee falsely] alleging theft, in which case Scripture excludes a bailee falsely alleging loss, how could [the fact that instead of] ‘thief’ [it is written] ‘the thief’ be expounded? — He might say to you that it furnishes a basis for the view of R. Hiyya b. Abba reported in the name of R. Johanan, as R. Hiyya b. Abba stated[28] that R. Johanan said that he who falsely alleges theft in the case of a deposit would have to make double payment, and so also if he slaughtered or sold it he would have to make fourfold or five-fold payment. But on the supposition[22] that one verse deals with a thief and the other with [a bailee falsely] alleging theft, and that [the fact that instead of] ‘thief’, ‘the thief’ [is written] has been used to exclude a false allegation of loss [from entailing double payment], whence could be derived the view of R. Hiyya b. Abba?[28] — He might say to you: A thief and a bailee falsely alleging theft are made analogous to one another in Scripture,[29] and no objections can be entertained against an analogy.[30] This is all very well on the supposition that one verse deals with a thief and the other with [a bailee falsely] alleging theft. But on the supposition that both of them deal with [a bailee falsely] alleging theft, whence can the law of double payment[31] be derived in the case of a thief himself? And should you say that it can be derived by means of an a fortiori argument from the law of [a bailee falsely] alleging theft, [we may ask], is it not sufficient for the object to which the inference is made to be placed on the same footing as the object from which it is made,[32] so that just as there[33] [the penalty is entailed only where there] is false swearing, so here also[34] [it should be entailed only] where there is false swearing? — It could be derived by the reasoning taught at the School of Hezekiah. For it was taught at the School of Hezekiah: Should not Scripture have mentioned only ‘ox’ and ‘theft’[35] as everything would thus have been included? — If so, I might say that just as the specification[36] mentions an object which is eligible to be sacrificed upon the altar any [living] object which is eligible to be sacrificed upon the altar should be included. What can you include through this? A sheep[37] [as subject to double payment].

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(1) I.e., an article found by him and which he has to return to its owner.

(2) If he took an oath to substantiate his false plea.

(3) Ex. XXII, 8.

(4) Shebu. VIII, 3.

(5) Which amounts to an oath; cf. Shebu. 29b.

(6) But not double payment, as he did not allege theft.

(7) In accordance with Lev. V, 21-25.

(8) As by advancing the false plea of theft and substantiating it by an oath he became subject to the law applicable to theft.

(9) Ex. XXII, 6.

(10) I.e., unpaid.

(11) The clause therefore means this: if he (the bailee) be found to have been the thief, he should pay double.

(12) Whereas the bailee would never have to pay double.

(13) Ex. XXII, 7.

(14) Which should be construed thus: If it be not found as the bailee pleaded that it was stolen by a thief but that he himself was the thief etc.

(15) V. the discussion later.

(16) Who was found to have stolen the deposit, in which case the unpaid bailee is quit and the thief pays double.

(17) The bailee.

(18) That he became dispossessed of it by the thief.

(19) And be ordered to pay.

(20) Ibid. 10.

(21) For the text runs: The oath of the Lord be between them both to see whether he hath not put his hands unto his neighbour's goods.

(22) I.e., the second Baraitha.

(23) Ex. XXII, 6.

(24) Ex. XXII, 7.

(25) I.e., the first Baraitha.

(26) Presenting the same law.
(27) Thus pointing out that the liability for double payment is only where it was the plea of theft that was proved to have been false.
(28) Supra p. 364.
(29) To be subject to the law of double payment which may lead on to a liability of four-fold or five-fold payment.
(30) היקש infra 106b.
(31) For misappropriating either an animate or inanimate object.
(32) I.e., the principle of Dayyo, v. supra p. 126.
(33) In the case of the bailee falsely pleading theft.
(34) In the case of the thief himself.
(35) In Ex. XXII, 3.
(36) I.e., ox.
(37) Which is similarly eligible to be sacrificed upon the altar.

Talmud - Mas. Baba Kama 64a

But when the text continues ‘sheep’, we have sheep explicitly stated. How then am I to explain ‘theft’? To include any object. [If that is so] should Scripture not have mentioned only ‘ox’, ‘sheep’ and ‘theft’ since everything would have thus been included? — If so, I might still say that just as the specification[1] mentions an object which is subject to the sanctity of first birth,[2] so also any object which is subject to the sanctity of first birth [should be included].[3] Now what can you include through this? An ass [as subject to double payment]. But when the text goes on to mention ‘ass’, we have ‘ass’ explicitly stated. What then do I make of ‘theft’? To include any object. [If that is so], should Scripture not have mentioned only ‘ox’ ‘ass’, ‘sheep’ and ‘theft’ since everything would have accordingly been included? — If so, I might still say that just as the specification[4] mentions objects possessing life, so also any other objects possessing life [should be included]. What can you include through this? All other objects possessing life. But when the text continues ‘alive’, we have objects possessing life explicitly stated. How then am I to explain ‘theft’? [It must be] to include any other object whatsoever.[5]

The Master stated: ‘Should not Scripture have mentioned [only] "ox" and "theft"?’ — But does it say ‘ox’ and [then] ‘theft’? Is it not [first] ‘theft’ and [then] ‘ox’ which is written in the text?[6] And if you rejoin that the author of this argument took a hypothetical case, viz.: ‘If it were written [first] "ox" and [then] "theft", how in that case would you be able to say, ‘Just as the specification mentions etc.,’ since ‘ox’ would be the specification and ‘theft’ the generalisation, and in the case of a specification followed by a generalisation the generalisation is considered to add to the specification, so that all objects would be included? If, on the other hand, he based his argument on the actual order of the text, viz.: ‘theft’ and [then] ‘ox’, how again would you be able to say that ‘everything would have been included’, or ‘just as the specification mentions etc.’, since ‘theft’ would be the generalisation and ‘ox’ the specification, and in the case of a generalisation followed by a specification there is nothing included in the generalisation except what is explicit in the specification, [so that here] only ox [would be included] but no other object whatsoever? Raba thereupon said: This Tanna[7] based his argument upon the term ‘alive’ [that follows the specification], so that he argued on the strength of a generalisation[8] [followed by] a specification[9] [which was in its turn followed by] another generalisation.[10] But is the last generalisation[10] analagous in implication to the first generalisation?[11] There is, however, the Tanna of the School of R. Ishmael who did expound texts of this kind on the lines of generalisations and specifications.[12] The problem was therefore this: Why do I require the words in the text, ‘If to be found it be found?’[13] Should not Scripture have mentioned only ‘theft’ and ‘ox’ and ‘alive’, and everything would have then been included?[14] — If so, I might say that just as the specification mentions an object which is eligible to be sacrificed upon the altar, so also any object eligible to be sacrificed upon the altar is [included]. What does this enable you to include? Sheep.[15] But when the text continues ‘sheep’, we have sheep explicitly stated. What then am I to make of ‘theft’? It must be to include any object. [If that is so] should Scripture not have mentioned only ‘theft’, ‘ox’, ‘sheep’ and ‘alive’ since everything would have then been included?[14] — If so, I might still say that just as the specification mentions an object which is subject to the sanctity of first birth, so also any object which is subject to the sanctity of first birth [should be included]. What does this enable you to include? Ass. But when the text continues ‘ass’, we have ass explicitly stated. What then am I to make of ‘theft’? It must be to include any object. [But in that case] should Scripture not have mentioned only ‘theft’, ‘ox’, ‘sheep’, ‘ass’ and ‘alive’, since everything would have then been included?[14] — If so I might still say that just as the specification mentions objects possessing life, so also any other object possessing life [should be included]. What does this enable you to include? All other objects possessing life. But when the text continues ‘alive’, objects possessing life are explicitly stated. What then am I to make of ‘theft’? [It must be] to include any other object whatsoever. And if so, why do I require the words ‘if to be found it be found[16] ?

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(1) I.e., ox and sheep.

(2) In accordance with Ex. XIII, 12.

(3) Ass would thus also be included; cf. Ex. XXII, 13.

(4) Ox, sheep and ass.

(5) [Hence the derivation of double payment in the case of the thief himself.]

(6) [Being thus a generalisation followed by a specification, in which case the former includes only what is contained in the latter, v. P.B. p. 13.]

(7) Of the School of Hezekiah.

(8) I.e., ‘theft’.

(9) I.e., ‘ox, ass, sheep’.

(10) I.e., ‘alive’. — The argument will be explained anon.

(11) I.e., ‘theft’, being more comprehensive than ‘alive’.

(12) Cf. Zeb. 4b; 8b; and Hul. 66a.

(13) Literal rendering of Ex. XXII, 3. (E.V.: If the theft be certainly found in his hand.)

(14) Why indeed this emphasis on the verb ‘found’?

(15) V. supra p. 370, n. 7.

(16) V. note 2. This concludes the argument of the School of Hezekiah.

Talmud - Mas. Baba Kama 64b

But if this is so, is not this a real difficulty?[1] — There is, however, a refutation of it.[2] For whence would you include any ‘other object’?[3] From [the implication of] the last generalisation.[4] Now, since this very generalisation consists in the term ‘alive’, of what service then is the argument based upon the generalisation followed by a specification which is in its turn followed by another generalisation? It can hardly be to add any [inanimate] object, since the word ‘alive’ is used there, implying only objects possessing life, but not any other object whatsoever. It was therefore because of this that it was necessary to state ‘if to be found it be found.’[5] It may however still be argued, does not this text contain two generalisations which are placed near each other?[6] — Rabina thereupon said: [We dispose of this difficulty] as stated in the West,[7] that wherever you find two generalisations near each other, place a specification between them and explain them as a case of a generalisation followed by a specification.[8] [Here then] place ‘ox’ between [the infinitive and the finite verb],[6] ‘if to be found it be found.’ Now, what additional objects would this introduce? If objects possessing life, are these not to be derived from the term ‘alive’? It must therefore be an object which does not possess life, and we expound thus: Just as the specification mentions an object which is movable and which has an intrinsic value, so also any object which is movable and which has an intrinsic value [should be included to be subject to the double payment]. Now, when you again place ‘ass’ between [the infinitive and the finite verb], ‘if to be found it be found’, what additional objects could this introduce? If an object not possessing life, was not this derived from [placing] ‘ox’ [between the two generalisations]?[6] It must therefore serve to introduce an object having specification.[9] But if so why do I require the word ‘sheep’? — It must therefore be taken as a case of an amplification preceding a diminution followed in its turn by another amplification,[10] as indeed taught at the School of R. Ishmael. For it was taught at the School of R. Ishmael:[11] [The words ‘in the waters’,[12] ‘In the waters’, occurring twice in the text should not be treated as a generalisation followed by a specification, but as an amplification followed by a diminution followed in its turn by another amplification, to add everything. What, then, does it add in this case?[13] It adds all objects, But if so, why do I require all these specifications?[14] — One to exclude real estate; the second to exclude slaves, and the third to exclude bills; while ‘theft’ and ‘alive’ furnish a basis for the view of Rab who said[15] that the value of the principal is to be resuscitated as it was at the time of theft.[16]

But according to the view that one verse[17] deals with a thief himself and the other[18] with a bailee [falsely] alleging theft, so that the liability of a thief himself to pay double payment is thus derived from the text ‘if the thief be found’, how is the text ‘If to be found it be found’ etc. to be expounded? — He may employ it for teaching the view expressed by Raba b. Ahilai; for Raba b. Ahilai said:[19] What was the reason of Rab who maintained that a defendant admitting an offence for which the penalty is a fine would [even] where witnesses subsequently appeared still be exempt? As it is written: ‘If to be found it be found’ implying that if at the very outset it is found by witnesses then it will ‘be’ [considered] ‘found’ in the consideration of the Judges, excepting thus a case where it was the defendant who incriminated himself. Now again, according to the view that both verses deal with a bailee [falsely] advancing a plea of theft, in which case the text ‘If to be found it be found’ is employed to teach that there is double payment in the case of a thief himself, whence [in Scripture] do we derive the rule regarding a defendant incriminating himself? — From the text, ‘Whom the judges shall condemn’[20] [which implies], ‘but not him who condemns himself.’ But according to the view that one verse deals with a thief and the other with a bailee [falsely] advancing a plea of theft and that the text of ‘if to be found it be found’ is to introduce the law where the defendant incriminates himself, how could the text, ‘whom the judges shall condemn’, be expounded? — He might say to you: That text was in the first instance employed to imply that a defendant admitting [an offence entailing] a fine [without witnesses subsequently appearing] would be exempt;[21] whereas the other view, that both of the verses deal with a bailee [falsely] advancing a plea of theft holds that a defendant admitting [an offence entailing] a fine for which witnesses subsequently appear is liable.[22] According to the view that one verse[23] deals with a thief and the other with a bailee [falsely] advancing a plea of theft, so that the case of a thief is derived from the verse there,[24] we have no difficulty with the text ‘if to be found it be found’, which is employed as a basis for the statement of Raba b. Ahilai, but why do I require all these specifications?[25] — For the reason taught at the school of R. Ishmael,[26] that any section written in Scripture and then repeated is repeated only for the sake of a new point that is added to it.[27] But why not say that even the thief himself should be subject to double payment only after having taken an oath falsely?[28] — Let not this enter your mind, for it was taught: ‘R. Jacob says, He shall pay double[29] [even] where he took no oath. Why not rather say only where he took a false oath?[28] You can safely say that this could not be so.’ Why could this not be so? — Said Abaye: For the Divine Law should then not have written ‘he shall pay double’ in the case of a thief, as this would have been derived by an a fortiori from the law applicable to a bailee falsely advancing a plea of theft: If a bailee falsely advancing a plea of theft, into whose hands the article had come lawfully, is ordered by Scripture to pay twice, should this not apply all the more strongly in the case of the thief himself, into whose hands the article came unlawfully? Why then did Scripture say ‘He shall pay double’ in the case of a thief himself, unless to imply liability even in the absence of an oath!

But how could this [text] ‘If to be found it be found’ be employed to teach this?[30] Is it not required for what was taught: ‘his hand’:[31]

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(1) And how are we to meet the question of that Tanna?

(2) So that the emphasis on the verb becomes essential.
(3) To be subject to the law of theft.
(4) [It is a general principle that, in a proposition consisting of a generalisation followed by a specification which in its turn is followed by another generalisation, the inclusion of all things that are similar to the specification is in virtue of the last generalisation, since without it the proposition would include only what is included in the specification, v. p. 371, n. 3.]
(5) [To apply here the principle of generalisation, specification and generalisation.]
(6) I.e., the doubling of the verb expressing ‘found’.
(7) In the Land of Israel.
(8) Cf. Shebu. 5a.
(9) To the exclusion of such as have no marks of identification. Cf. p. 367, n. 4.
(10) Cf. supra p. 366.
(11) V. p. 373, n. 6.
(12) Lev. XI, 9.
(13) Which would otherwise not have been subject to the law.
(14) [Strictly speaking, ‘diminutions’.]
(15) Infra p. 376.
(16) I.e., that the payment of principal for a stolen article will be in accordance with its value at the time of the theft.
(17) Ex. XXII, 6.
(18) Ibid. 7.
(19) Infra 75a.
(20) Ex. XXI, 8.
(21) [While the other verse is to extend the exemption to the case where witnesses do subsequently appear. Had there been one verse only available, the exemption would have been limited to the former only.]
(22) As indeed maintained by Samuel, infra 75a.
(23) V. p. 374, n. 8.
(24) ‘If the thief be found’.
(25) [Since the exclusion of ‘real estate, slaves and bills’ is already provided for in the verse, For all manner of trespass, etc,; v. supra p. 364.]
(26) Sot. 3a; Shebu. 19a.
(27) I.e., the exclusion of self-admission in case of a fine, as supra.]
(28) Since the law in this case is derived from the section dealing with the unpaid bailee who is not subject to pay double unless where he first took a false oath on the plea of alleged theft.
(29) Ex. XXII, 3.
(30) I.e., any of the above implications.
(31) Ex. XXII, 3.

Talmud - Mas. Baba Kama 65a

this gives me the rule only as applying to his hand. Whence do I learn that it applies to his roof, his courtyard and his enclosure? It distinctly lays down: If to be found it be found [i.e.] in all places’?[1] — But if so[2] the text should have said either ‘if to be found, to be found’, or ‘if it be found, it be found’?[3] The variation in the text[4] enables us to prove two points from it.

The above text states: ‘Rab said: "The principal is reckoned as at the time of the theft,"[5] whereas double payment or four-fold and five-fold payments are reckoned on the basis of the value when the case was brought into Court.’ What was the reason of Rab? — Scripture says ‘theft’ and ‘alive’. Why does Scripture say ‘alive’ in the case of theft? [To imply] that I should resuscitate the principal in accordance with its value at the time of theft.[6] Said R. Shesheth: I am inclined to say that it was only when he was half asleep on his bed[7] that Rab could have enunciated such a ruling.[8] For it was taught: [If a thief misappropriated] a lean animal and fattened it, he has to pay the double payment or four-fold and five-fold payments according to the value at the time of theft. [Is this not a contradiction to the view of Rab?][9] — It might, however, be said [that the thief has to pay thus] because he can say, ‘Am I to fatten it and you take it?’[10]

Come and hear: [If a thief misappropriated] a fat animal and caused it to become lean, he has to pay double payment or fourfold and five-fold payments according to the value at the time of theft. [Does this not contradict the ruling enunciated by Rab?][11] — There also [the thief has to pay thus] because we argue against him ‘What is the difference whether you killed it altogether or only half-killed it.’[12] But the ruling enunciated by Rab[11] had reference to fluctuations in price. How are we to understand this? If we assume that it was originally worth one zuz and subsequently worth four zuz, would the statement ‘the principal will be reckoned as at the time of theft not lead us to suppose that Rab differs from Rabbah? For Rabbah said:[13] If a man misappropriated from his fellow a barrel of wine which was then [worth] one zuz but which became subsequently worth four zuz, if he broke it or drank it he has to pay four,[14] but if it broke of itself he has to pay one zuz.[15] [Would Rab really differ from this view?][16] — It may however, be said that Rab's rule applied to a case where, e.g., it was at the beginning worth four [zuz] but subsequently worth one [zuz], in which case the principal will be reckoned as at the time of theft, whereas double payment or four-fold and five-fold payments will be reckoned on the basis of the value when the case came into Court. R. Hanina learnt in support of the view of Rab: If a bailee advanced a plea of theft regarding a deposit and confirmed it by oath but subsequently admitted his perjury and witnesses appeared and testified [to the same effect], if he confessed before the appearance of the witnesses, he has to pay the principal together with a fifth and a trespass offering;[17] but if he confessed after the appearance of the witnesses, he has to pay double payment[18] together with a trespass offering;[19] the fifth, however, is replaced by the doubling of the payment.[20] So R. Jacob.

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(1) B.M. 10b and 56b.

(2) That it was meant to imply only one point.

(3) I.e., the verb would have been doubled in the same tense.

(4) In the tense of the verb, the infinite followed by the finite.

(5) V. supra p. 374.

(6) V. p. 374, n. 7.

(7) Lit., ‘when lying down’.

(8) For a similar expression cf. supra p. 268.

(9) According to whom four-fold and five-fold payments are reckoned on the basis of the value when the case comes into court.

(10) Whereas where there was an increase in price or where the animal became fatter by itself, the ruling of Rab may hold good.

(11) V. p. 376, n. 11.

(12) The liability thus began at the time when the thief caused the animal to become lean.

(13) B.M. 43a.

(14) As was its value at the time when he damaged it.

(15) As was its value at the time of the theft.

(16) And maintain to the contrary that even where the thief broke it or drank it he would still pay only one zuz, which was its value at the time of the theft.

(17) In accordance with Lev. V, 24-25. [But not the doubling, since it is a fine which is not payable on self-admission.]

(18) V. p. 634, n. 7.

(19) V. p. 634, n. 6.

(20) Provided, however, that the doubling and the fifth are equal in amount.

Talmud - Mas. Baba Kama 65b

The Sages, however, say: [Scripture says] In its principal and the fifth part thereof,[1] [implying that it is only] where money is paid as principal that a fifth has to be added, but where the money is not paid as principal[2] no fifth will be added.[3] R. Simeon b. Yohai says: No fifth or trespass offering is paid in a case where there is double payment.[4] Now it is said here that ‘the fifth is replaced by the doubling of the payment;’ this being the view of R. Jacob. How are we to understand this? If we say it was at the beginning worth four and subsequently similarly worth four, how could the fifth be replaced by the doubling of the payment when the doubling of the payment amounts to four and the fifth to one?[5] Does it therefore not refer to a case where at the beginning the value was four but subsequently fell to one zuz, so that the doubling of the payment is one zuz[6] and the fifth of the payment is also one zuz,[5] proving thereby that the principal will be reckoned as at the time of theft, whereas double payment or four-fold and five-fold payments will be reckoned on the basis of the value when the case comes into court? — Raba thereupon said: It could still be maintained that at the beginning it was worth four and now it is similarly worth four, for as to the difficulty with respect to the doubling of the payment being four and the fifth of the payment one zuz,[5] it might be said that [we are dealing here with a case] where e.g., he took an oath and repeated it four times, after which he confessed, and as the Torah says ‘and its fifths’,[7] the Torah has thus assigned many fifths to one principal.[8]

The Master stated: ‘The Sages however say: [Scripture says] In its principal and the fifth part thereof [implying that it is only] where money is paid as principal that a fifth has to be added, but where the money is not paid as principal, no fifth will be added.’ The trespass offering will nevertheless have to be brought. Why this difference? If he has not to pay the fifth because it is written, In its principal and the fifth part thereof, why should he similarly not have to pay the trespass offering seeing it is written, In its principal and the fifth part thereof . . . and his trespass offering?[9] — The Rabbis might say to you that by the particle ‘eth’ [occurring before the term denoting his trespass offering][10] Scripture separates them.[11] And R. Simeon b. Yohai?[12] — He maintains that by the ‘waw’ [conjunctive placed before the particle] ‘eth’ Scripture combines them.[13] And the Rabbis? — They may say that if this is so, the Divine Law should have inserted neither the ‘waw’ nor the ‘eth’. And R. Simeon b. Yohai? — He might rejoin that as it was impossible for Scripture not to insert ‘eth’ so as to make a distinction between a chattel due to Heaven[14] and money due to ordinary men,[15] it was therefore necessary to add the ‘waw’ so as to combine the verses.

R. Elai said: If a thief misappropriates a lamb and it grows into a ram,[16] or a calf and it grows into an ox,[16] as the article has undergone a change[17] while in his hands he would acquire title to it,[18] so that if he slaughters or sells it, it is his which he slaughters it is his which he sells.[19] R. Hanina objected to R. Elai's statement [from the following teaching]: If he misappropriates a lamb and it grows into a ram,[16] or a calf and it grows into an ox,[16] he will have to make double payment or four-fold and five-fold payments reckoned on the basis of the value at the time of theft. Now, if you assume that he acquires title to it by the change, why should he pay?[20] Is it not his which he slaughtered, is it not his which he sold? — He replied:[21] What then [is your opinion]? That a change does not transfer ownership? Why then pay on the basis of the value at the time of theft[22] and not of the present value?[23] — The other replied:[24] He does not pay in accordance with the present value for the reason that he can say to him,[25] ‘Did I steal an ox from you, did I steal a ram from you?’ Said the other:[21] ‘May the All-Merciful save me from accepting this view!’ The other one retorted,[24] ‘May the All-Merciful save me from accepting your view.’[26] R. Zera demurred saying: Why should he not indeed acquire title to it through the change in name?[27] Raba, however, said to him: An ox one day old is already called ‘ox’, and a ram one day old is already called ‘ram’. ‘An ox one day old is called "ox",’ as written: When an ox or a sheep or a goat is born.[28] ‘A ram one day old is called "ram",’ as written: And the rams of thy flocks have I not eaten.[29] Does he mean that it was only the rams that he did not eat, and that he did eat the sheep? [Surely not!] — This shows that a ram one day old is already called ‘ram’. But all the same does the objection raised against R. Elai[30] still not hold good? — R. Shesheth thereupon said: The teaching [of the Baraitha] is in accordance with the view of Beth Shammai, that a change leaves the article in the previous position and will accordingly not transfer ownership, as taught:[31] If he gave her [the harlot] as her hire wheat of which she made flour, or olives of which she made oil, or grapes of which she made wine, it was taught on one occasion that 'the produce is forbidden [to be sacrificed upon the altar],'[32] whereas on another occasion it was taught 'it is permitted',[33] and R. Joseph said: Gorion of Aspurak[34] learnt: 'Beth Shammai prohibit [the produce to be used as sacrifices],[35] whereas Beth Hillel permit it.' Now, what was the reason of Beth Shammai? — Because it is written 'Gam',[36] to include their transformations.[37] But Beth Hillel maintain that [the suffix them][38] implies 'them',[39] and not their transformations. And Beth Shammai? — They maintain that the suffix

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(1) Lev. V, 24.

(2) As here, where double payment has to be made.

(3) Under any circumstances, even where the doubling of the payment and the fifth are not equal in amount, though the trespass offering will have to be brought.

(4) Infra 106a; Shebu. 37b.

(5) The fifth is 25% of the general sum which will have to be paid as principal plus a fifth thereof amounting thus to a fourth of the principal.

(6) As was the value at the time of the coming into court.

(7) E.V.: 'and the fifth part thereof'.

(8) I.e., a fifth will be paid for each false swearing.

(9) Lev. ib., 24-25.

(10) E.V.: 'And . . . his trespass offering, v. 25.

(11) So that the law regarding the trespass offering is not governed by the condition made in verse 24.

(12) [Who holds that he neither brings a trespass offering. How will he meet the argument from the particle 'eth'?]

(13) Making them subject to the same law.

(14) I.e., the trespass offering.

(15) I.e., the fifth.

(16) While still in his possession.

(17) The technical term is Shinnuy.

(18) Having, however, to repay the principal together with the double payment for the act of theft.

(19) The fine for the slaughter or sale will thus not be imposed upon him.

(20) The fine for the slaughter or sale.

(21) R. Elai to R. Hanina.

(22) When it was merely a lamb or a calf.

(23) When it already became a ram, or an ox, if the ownership has not changed.

(24) R. Hanina to R. Elai.

(25) I.e., the thief against the plaintiff.

(26) Cf. Shab. 84b and Keth. 45b.

(27) [Though 'growth' confers no title.]

(28) Lev. XXII, 27.

(29) Gen. XXXI, 38.

(30) By R. Hanina from the teaching imposing the fine of four-fold and five-fold payments.

(31) Infra p. 544 and Tem. 30b.

(32) In accordance with Deut. XXIII, 19.

(33) As it was not the same article which was given as hire.

(34) [Not identified, but probably in Asia; v. Neubauer, p. 386.]

(35) V. p. 380, n. 15.

(36) E.V.: 'even', and which is generally taken as an amplification.

(37) I.e., to prohibit even the articles into which the hire was transformed.

(38) שניהם , 'both of them' (E.V.: 'both these').

(39) I.e., the original articles themselves.

Talmud - Mas. Baba Kama 66a

indicates ‘them’ and not their offsprings.[1] And Beth Hillel? — They reply that you can understand the two points from it: ‘Them’ — and not their transformations; ‘them’ — and not their offsprings. But as to Beth Hillel surely it is written Gam? — Gam presents a difficulty according to the view of Beth Hillel.[2]

Their[3] difference extends only so far that one Master[4] maintains that a change transfers and the other Master[5] maintains that a change does not transfer ownership, but regarding payment they both agree that the payment is made on the basis of the original value, even as it is stated:[6] ‘He has to make double payment or fourfold and five-fold payments on the basis of the value at the time of the theft.’ Are we to say that this [Baraitha] confutes the view of Rab in the statement made by Rab that the principal will be reckoned as at the time of theft, whereas double payment or four-fold and five-fold payments will be reckoned on the basis of the value when the case comes into Court? — Said Raba: [Where he pays with] sheep, [he pays] in accordance with the original value,[7] but [where he pays with] money [he pays] in accordance with the present value.

Rabbah said: That a change[8] transfers ownership is indicated in Scripture and learnt in Mishnah. It is indicated in Scripture in the words, He shall restore the misappropriated object which he violently took away.[9] What is the point of the words ‘which he violently took away’? — It is to imply that if it is still as [it was when] he violently took it[10] he shall restore it, but if not, it is only the value of it that he will have to pay.[11] It is learnt [in the Mishnah]: If one misappropriates timber and makes utensils out of it, or wool and makes it into garments, he has to pay in accordance with the value at the time of robbery.[12] Or as also [learnt elsewhere]: If the owner did not manage to give the first of the fleece to the priest[13] until it had already been dyed, he is exempt,[14] thus proving that a change transfers ownership. So has Renunciation[15] been declared by the Rabbis to transfer ownership. We, however, do not know whether this rule is derived from the Scripture, or is purely Rabbinical. Is it Scriptural, it being on a par with the case of one who finds a lost article?[16] For is not the law in the case of a finder of lost property that, if the owner renounced his interest in the article before it came into the hands of the finder the ownership of it is transferred to the finder? So in this case, the thief similarly acquires title to the article as soon as the owner renounces his claim. It thus seems that the transfer is of Scriptural origin! Or are we to say that this case is not comparable to that of a lost article?[16] For it is only in the case of a lost article that the law applies, since when it comes into the hands of the finder,[17] it does so lawfully, whereas in the case of the thief into whose hands it entered unlawfully, the rule therefore might be merely of Rabbinic authority, as the Rabbis might have said that ownership should be transferred by Renunciation in order to make matters easier for repentant robbers. But R. Joseph said: Renunciation does not transfer ownership even by Rabbinic ordinance.

R. Joseph objected to Rabbah's view [from the following:] If a man misappropriated leavened food [before Passover],[18] when Passover has passed[19]

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(1) Such as where, e.g., a cow was given as hire and it gave birth to a calf.

(2) V. supra 54a, and B.M. 27a.

(3) I.e., R. Elai's and R. Hanina's.

(4) R. Elai.

(5) R. Hanina.

(6) In the Baraitha cited supra p. 379.

(7) Rashi explains this to mean that as it was a sheep which he misappropriated it is a sheep which he has to return, but according to Tosaf. it does not refer to the object by which the payment is made but to the object of the theft, and means that if the change in price resulted from a change in the substance of the stolen object all kinds of payment will be in accordance with the value at the time of the theft, whereas where the change in the value was due to fluctuation in price the view of Rab would still hold good.

(8) In the substance of a misappropriated article.

(9) Lev. V. 23.

(10) I.e., without any change in the substance of the object.
(11) But not the misappropriated object itself.
(12) Infra p. 541.
(13) In accordance with Deut. XVIII, 4.
(14) On account of the change which took place in the colour of the wool. (Hul. 135a).
(15) Ye'ush, of the misappropriated article by its owner.
(16) Where Renunciation by the owner would release a subsequent finder from having to restore the article found by him, as derived in B.M. 22b from a Scriptural inference.
(17) After Renunciation.
(18) When it was permitted.
(19) So that the leavened food became forbidden for any use in accordance with Pes. 28a-30a.

Talmud - Mas. Baba Kama 66b

he can say to the plaintiff, ‘Here is your stuff before you.’[1] Now, as this plaintiff surely renounced his ownership when the time for prohibiting leavened food arrived,[2] if you assume that Renunciation transfers ownership, why should the thief be entitled to say, ‘Here is your stuff before you’, when he has a duty upon him to pay the proper value?[3] — He replied:[4] I stated the ruling[5] only where the owner renounces ownership at the time when the thief is desirous of acquiring it, whereas in this case, though the owner renounced ownership, the thief had no desire to acquire it.[6]

Abaye objected to Rabbah's statement [from the following]: [The verse says,] ‘His offering,[7] [implying] but not one which was misappropriated.’[8] Now, what were the circumstances? If we assume before Renunciation, why do I require a text, since this is quite obvious?[9] Should we therefore not assume after Renunciation, which would show that Renunciation does not transfer ownership?[10] Said Raba[11] to him: According to your reasoning [how are we to explain] that which was taught: [The verse says,] ‘His bed[12] [implying] but not one which was misappropriated’? Under what circumstances? That, for instance, wool was misappropriated and made into a bed? But is there any [accepted] view[13] that a change [in substance] resulting from an act does not transfer ownership?[14] What you have to say is that it refers to a case where the robber misappropriated a neighbour's bed. So also here[15] it refers to a case where he misappropriated a neighbour's offering.[16] Abaye objected to R. Joseph's view [from the following]: In the case of skins belonging to a private owner, mere mental determination renders them capable of becoming [ritually] unclean[17] whereas in the case of those belonging to a tanner no mental determination[18] would render them capable of becoming unclean.[19] Regarding those in the possession of a ‘thief’, mental determination[20] will make them capable of becoming unclean,[21] whereas those in the possession of a ‘robber’ no mental determination[22] will render capable of becoming unclean.[23] R. Simeon says that the rulings are to be reversed: Regarding those in the possession of a ‘robber’, mental determination[22] will render them capable of becoming unclean,[24] whereas regarding those in the possession of a ‘thief’, no mental determination[20] will render them capable of becoming unclean, as in the last case the owners do not usually abandon hope of discovering who was the thief.[25] Does not this prove that Renunciation transfers ownership?[26] — He replied:[27] We are dealing here with a case where for example he had already trimmed the stolen skins [so that some change in substance was effected].[28] Rabbah son of R. Hanan demurred to this, saying: This was learnt here in connection with a [dining] cover,[29] and [skins intended to be used as] a cover do not require trimming as we have learnt:[30] Wherever there is no need for [finishing] work to be done, mental resolve[31] will render the article capable of becoming unclean, whereas where there is still need for [finishing] work to be done no mental resolve[31] will render it capable of becoming unclean, with the exception however, of a [dining] cover![32] — Raba therefore said: This difficulty was pointed out by Rabbah to R. Joseph for twenty-two years[33] without his obtaining any answer. It was only when R. Joseph occupied the seat as Head[34] that he explained it [by suggesting that] a change in name is equivalent [in the eye of the law] to a change in substance; for just as a change in substance has an effect because, for instance, what was previously timber is now utensils, so also a change in name should have an effect as what was previously called skin is now called [dining] cover.[35] But what about a beam where there is similarly a change in name as previously it was called a post and now ceiling, and we have nevertheless learnt that ‘where a misappropriated beam has been built into a house, the owner will recover only its value, so as to make matters easier for repentant robbers’.[36] The reason is, to make matters easier for repentant robbers,

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(1) As no change took place in the substance of the misappropriated article. (Infra p. 561.)

(2) I.e., on the eve of Passover.

(3) Since the misappropriated article became his.

(4) Rabbah to R. Joseph.

(5) That Renunciation transfers the ownership.

(6) As it was not in his interest to do so.

(7) Lev. I, 3.

(8) Infra p. 388.

(9) That a stolen object could not be brought to the altar.

(10) In contradiction to the view expressed by Rabbah.

(11) Var. lec., ‘Rabbah’.

(12) Lev. XV, 5.

(13) With the exception of that of Beth Shammai (cf. supra p. 380). whose view is disregarded when in conflict with Beth Hillel (Tosaf.).

(14) Would the bed in this case not become the legal property of the robber?

(15) In the case of the sacrifice.

(16) [In which case the sacrifice is not acceptable even if offered after renunciation on the part of the original owner.]

(17) As his mental determination is final, and the skins could thus be considered as fully finished articles and thus subject to the law of defilement. (V. Kel. XXVI, 7.)

(18) To use them as they are.

(19) As a tanner usually prepares his skins for the public, and it is for the buyer to decide what article he is going to make out of them.

(20) On the part of the thief to use them as they are.

(21) For the skins became the property of the thief, as Renunciation usually follows theft on account of the fact that the owner does not know against whom to bring an action.

(22) On the part of the robber to use them as they are.

(23) For the skins did not become the property of the robber as robbery does not usually cause Renunciation, since the owner knows against whom to bring an action.

(24) For the skins became the property of the robber as the owner has surely renounced every hope of recovering them for fear of the robber who acted openly.

(25) Kel. XXVI, 8; infra p. 672.

(26) In contradiction to the view maintained by R. Joseph.

(27) R. Joseph to Abaye.

(28) On account of which the ownership was transferred.

(29) Since the case of the skins follows in the Mishnah that of the (dining) cover. [The dining cover (Heb. ‘izba), was spread over the ground in the absence of a proper table from which to eat; cf. Rashi and Krauss, Talm. Arch., I, 376.]

(30) Kel. XXVI, 7.

(31) V. p. 384, n. 5.

(32) Since even without trimming the skins could be used as a cover.

(33) I.e., all the days when Rabbah was the head of the college at Pumbeditha; cf. Ber. 64a; Hor. 14a and Rashi Keth. 42b.

(34) In succession to Rabbah.

(35) Whereas mere Renunciation in the case of theft or robbery would not transfer ownership.

(36) ‘Ed. VII, 9.

Talmud - Mas. Baba Kama 67a

but if not for this, it would have to be restored intact?[1] — R. Joseph replied: A beam retains its name [even subsequently], as taught: ‘The sides of the house’;[2] these are the casings: ‘and the thick planks’; these are the beams.[3] R. Zera said: A change which can revert to its original state is, in the case of a change in name, not considered a change.[4] But is a change in name that cannot revert to its original state[5] considered a change? What then about a trough, the material of which was originally called a plank but now trough, and we have nevertheless been taught[6] that a trough[7] which was first hollowed out and subsequently fixed [into a mikweh][8] will disqualify the mikweh,[9] but where it was first fixed [in to the mikweh] and subsequently hollowed out, it will not disqualify the mikweh![10] But if you maintain that a change in name has a legal effect, why then, even where he fixed it first and subsequently hollowed it out, should it not disqualify the mikweh![11] — The law regarding disqualification through drawn water[12] is different altogether, as it is only of Rabbinic sanction.[13] But if so, why even in the prior clause[14] should it not also be the same? — There, however, the law of a receptacle applied to it while it was still detached, whereas here it was never subject to the law of a receptacle while it was detached.

An objection was raised [from the following]: If a thief, a robber or an annas[15] consecrates a misappropriated article, it will be consecrated; if he sets aside a portion for the priest's gift,[16] it will be terumah;[17] or again if he sets aside a portion for the Levite's gift[18] the tithe will be valid.[19] [Now, does this not prove that Renunciation transfers ownership?][20] — It may be said that in that case there was also a change in name, as previously it was called tebel[21] while now it is called terumah.[17] So also in the case of consecration: previously it was called hullin,[22] but now it is called consecrated.

R. Hisda stated that R. Jonathan said: How do we learn [from Scripture] that a change transfers ownership? — Because it is said: He shall restore the misappropriated object.[23] What [then] is the point of the words, ‘which he took violently away’?[23] [It must be to imply that] if it still is as when he took it violently[24] he shall restore it, but if not, it is only the value of it that he will have to pay.[25] But is this [text] ‘which he took violently away’[23] not needed to exclude the case of robbery committed by a father, in which the son need not add a fifth [to the payment] for robbery committed by his father?[26] — But if so, the Divine Law should have written only ‘he shall restore the misappropriated object.’ Why should it further be written. ‘which he took violently away’? Thus we can draw from it the two inferences. Some report: R. Hisda stated that R. Jonathan said: How do we learn [from Scripture] that a change does not transfer ownership? — Because it is said: He shall restore the misappropriated object, i.e., in all cases. But is it not written ‘which he took violently away’? — That text is needed to indicate that it is only for robbery committed by himself that he has to add a fifth, but has not to add a fifth for robbery committed by his father.

‘Ulla said: How do we learn [from Scripture] that Renunciation does not transfer ownership? Because it is said: And ye brought that which was misappropriated, and the lame and the sick.[27] ‘That which was misappropriated’ is thus compared to ‘the lame’: just as ‘the lame’ has no remedy at all

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[1] In spite of the fact that a change in name took place.

[2] Ezek. XLI, 26.

[3] Hence after it became part of the ceiling it is still called beam.

[4] A beam by becoming part of a ceiling did not therefore really undergo a change in name, as the beam could be taken out and thus revert to its original state.

[5] Such as in the case of the skins made into covers.

[6] B.B. 65b.

[7] Through which rain or well water was conducted to a mikweh which should be a gathering of well or rain water that has not passed through a receptacle.

(8) Lit., 'a gathering of water' for ritual immersion; cf. Glos.

(9) As the trough in this case was considered a receptacle before it was fixed to the ground.

(10) As when the trough was fixed it was not a receptacle in the eye of the law and could not become such after it became part of the ground to which it was fixed.

(11) As by hollowing out the material which was originally called plank the name was changed into trough, and it should thus become a receptacle in the eye of the law. [Although this change was effected after it had been fixed to the soil, the fact that it goes by the name of a trough should in itself be sufficient to disqualify it for the use of the Mikweh; v. Asheri and Shittah Mekubezeth, a.l.]

(12) In receptacles poured into a mikweh.

(13) Cf. B.B. (Sonc. ed.) pp. 263 ff.

(14) Where he first hollowed it out and subsequently fixed it.

(15) The same as the hamsan, who, as explained supra p. 361 is prepared to pay for the objects which he misappropriates.

(16) In accordance with Num. XVIII, 11-12.

(17) V. Glos.

(18) Cf. Num. XVIII, 21.

(19) V. infra p. 674.

(20) For otherwise what right have they to consecrate or set aside the portions for the priest and Levite?

(21) I.e., produce from which the priest's and Levite's portion has not been set aside.

(22) I.e., unconsecrated property.

(23) Lev. V. 23.

(24) V. p. 382, n. 3.

(25) V. p. 382, n. 4.

(26) I.e., that the son should in this case not be subject to Lev. V, 24-25.

(27) Mal. I, 13.

Talmud - Mas. Baba Kama 67b

[to render it qualified for the altar],[1] so also 'that which was misappropriated' has no remedy at all, no matter before Renunciation or after Renunciation. Raba said: [We derive it] from the following: 'His offering,[2] but not one which was misappropriated.'[3] When is this? If we say before Renunciation, is this not obvious?[4] What then is the point of the verse? It must therefore apply to the time after Renunciation, and it may thus be proved from this that Renunciation does not transfer ownership. But did not Raba himself say[5] that the text referred to a robber misappropriating an offering of his fellow — If you wish I may say that he changed his mind on this matter.[6] Or if you wish I may say that one of these statements was made by R. Papa.[7]

THE MEASURE OF FOUR-FOLD AND FIVE-FOLD PAYMENTS DOES NOT APPLY EXCEPT IN THE CASE OF AN OX OR A SHEEP ALONE. But why not compare [the term] 'ox' to 'ox' in the case of Sabbath,[8] so that just as there beasts and birds are on the same footing with them [i.e. ox and ass],[9] so also here beasts and birds should be on the same footing with them [i.e. ox and sheep]? — Raba said: Scripture says 'an ox and a sheep', 'an ox and a sheep'[10] twice, [to indicate that] only ox and sheep are subject to this law but not any other object whatsoever. I may ask: Which of these[11] would otherwise be superfluous? Shall we say that 'ox and sheep' of the concluding clause would be superfluous, and the Divine Law should have written 'if a man shall steal an ox or a sheep and slaughter it or sell it, he should restore five oxen instead of it and four sheep instead of it'? Were the Divine Law to have thus written, would I not have thought that he should pay nine for each of them? And should you rejoin that it is written 'instead of it', 'instead of it' [twice in the text, so that] one 'instead of it' would then have been superfluous,[12] [I might retort that] this is required for a further exposition, as taught: It might be maintained that one who stole an ox worth a mina[13] would be able to restore for it five frail oxen. The text says, however, 'instead of it', 'instead of it' twice.[14] ['Ox and sheep' of the concluding clause is thus indispensable]. It thus appears that it is ‘ox and sheep’ of the prior clause which would have been superfluous, as the Divine Law should have written: ‘If a man shall steal and slaughter it or sell it, he shall restore five oxen for the ox and four sheep for the sheep.’ But had the Divine Law to have thus written, I might have thought that it was only where he stole the two animals and slaughtered them [that liability would be attached]! — But surely it is written ‘and slaughtered it’, implying one animal! It might still be thought that it was only where he stole the two animals and sold them [that liability would be attached]! — But surely it is written, ‘and he sold it’ implying one animal! It could still be argued that I might have thought that it was only where he stole the two animals and slaughtered one and sold the other [that liability would be attached]! — But surely it is written, ‘or he sold it’ [indicating that slaughtering and selling were alternative]! I might nevertheless still argue that it was only where he stole the two of them and slaughtered one and left the other, or sold one and left the other![15] — We must say therefore that it is ‘ox’ of the concluding clause and ‘sheep’ of the first clause which would have been superfluous, as the Divine Law should have written: ‘If a man shall steal an ox and slaughter it or sell it, he shall restore five oxen instead of it and four sheep instead of the sheep.’ Why then do I require ‘ox’ of the concluding clause and ‘sheep’ of the first clause? To prove from it that only ox and sheep are subject to this law,[16] but not any other object whatsoever.

ONE WHO STEALS FROM A THIEF [WHAT HE HAS ALREADY STOLEN] NEED NOT MAKE DOUBLE PAYMENT etc. Rab said: This Mishnaic ruling applies only where the theft took place before Renunciation; for if after Renunciation, the first thief would have acquired title to the article and the second thief would have had to make double payment to the first thief.[17] Said R. Shesheth: I am inclined to say that it was only when he was half asleep and in bed that Rab could have enunciated this ruling. For it was taught: R. Akiba said: Why has the Torah laid down that where the thief slaughtered or sold [the sheep or ox] he would have to make fourfold and five-fold payments [respectively]? Because he became thereby rooted in sin.[18] Now, when could this be said of him? If before Renunciation,

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(1) Cf. Lev. XXII, 19-25.

(2) V. p. 353, n. 9.

(3) Supra p.383.

(4) V. p. 383, n. 11.

(5) Supra p. 384.

(6) As was the case with the same sage in Shab. 27a; Bez. 18a; Keth. 11b; B.B. 24a; Bek. 54b and Ker. 7a.

(7) Who was a disciple of Raba, and the views of the disciples were regarded as those of the Master. [This supports the reading (on p. 383), ‘Raba’, instead of ‘Rabbah’, given in our edition; v. Tosaf.]

(8) Deut. V, 14.

(9) As supra 54b.

(10) Ex. XXI, 37.

(11) ‘An ox and sheep’, whether on the first or second occasion.

(12) [I.e., if we were to assume that there is a payment of nine in each case.]

(13) V. Glos.

(14) That the payment should be in accordance with the animal slaughtered or sold, but this would still afford no proof against the assumption that there is a payment of nine in each case.

(15) [‘Ox and sheep’ of the earlier clause are therefore similarly indispensable.]

(16) Of five-fold and four-fold payments respectively.

(17) Who through Renunciation on the part of the owner became the legal possessor of the article.

(18) [His sin struck root in that he has deprived beyond retrieve the owner of his belongings.]

Talmud - Mas. Baba Kama 68a

could he then be called ‘rooted in sin’ [since the sale is of no validity]? It must therefore be after Renunciation.[1] But if you assume that Renunciation transfers ownership, why should he make four-fold and five-fold payments,[2] when it is his that he slaughters and his that he sells? — It may, however, be said as Raba stated elsewhere,[3] that it means 'because he doubled[4] his sin,' so likewise here it means, 'because he doubled his sin.'[5]

Come and hear: 'He slaughtered it and sold it;[6] just as the slaughter cannot be undone so the sale cannot be undone.' Now, when could this be so? If before Renunciation, why can it not be undone?[7] It must surely therefore be after Renunciation.[1] But if you assume that Renunciation transfers ownership, why should he pay fourfold and five-fold[8] when it is his that he slaughters and his that he sells? — As R. Nahman stated elsewhere, that it means to except a case where he transferred the animal for thirty days,[9] so also here it means to except a case where he transferred the beast for thirty days.[10]

An objection was raised [against this]: If a man steals an article and another comes and steals it from him, the first thief has to make double payment, whereas the second will not pay [anything] but the principal alone.[11] If, however, one stole [a sheep or an ox] and sold it, after which another one came and stole it, the first thief has to make four-fold and five-fold payments [respectively], while the second has to make double payment.[12] If one stole [a sheep or an ox] and slaughtered it, and another one came and stole it, the first thief will make four-fold and five-fold payments [respectively], whereas the second has not to make double payment but to repay the principal only.[11] Now, it has been taught in the middle clause: 'If however, one stole [a sheep or an ox] and sold it, after which another came and stole it, the first thief has to make four-fold and five-fold payments [respectively], while the second has to make double payment.'[12] But when could this be? If before Renunciation, why should the second make[12] double payment?[13] Is there any authority who maintains that a change in possession without Renunciation transfers ownership? It must therefore be after Renunciation. But if you assume that Renunciation transfers ownership, why then has he to make four-fold and five-fold payments,[14] seeing that it is his which he sold? And further, it was taught in the opening clause: 'If a man steals an article and another comes and steals it from him, the first thief has to make double payment, but the second will not pay [anything] but the principal.'[11] Now, since it is the time after Renunciation with which we are dealing, if you assume that Renunciation transfers ownership, why should the second 'not pay anything but the principal'?[15] Does not this show that Renunciation does not transfer ownership, in contradiction to the view of Rab? — Raba said: Do you really think that the text of this teaching is correct? For was it not taught in the concluding clause: 'If one stole [a sheep or an ox] and slaughtered it and another came and stole it, the first thief will make fourfold and five-fold payments [respectively], whereas the second has to pay nothing but the principal'? Now, is there any authority who maintains that a change in substance does not transfer ownership?[16] It must therefore surely still be said that the whole teaching refers to the time before Renunciation, but we have to transpose the ruling of the concluding clause to the case in the middle clause, and the ruling of the middle clause to the case in the concluding clause and read thus: If one stole [a sheep or an ox] and sold it, and another came and stole it, the first thief has to make four-fold and five-fold payments [respectively], but the second has not to pay anything but the principal, as a change in possession without Renunciation transfers no ownership. If, however, one stole [a sheep or an ox] and slaughtered it and another came and stole it, the first thief makes four-fold and five-fold payments [respectively], and the second makes double payment,[17] as ownership was transferred [to the first thief] by the change in substance.' R. Papa, however, said: All the same[18] you need not transpose [the rulings], since [we may say that] the concluding clause is in accordance with Beth Shammai, who maintain[19] that a change leaves the article in its previous status. But if so [that it was after Renunciation], will not the opening clause and middle clause be in contradiction to the view of Rab? — R. Zebid therefore said: The whole text could still refer to the time before Renunciation, as we are dealing here with a case where the owner abandoned hope [of regaining the stolen object] when it was already in the possession of the buyer, but had not abandoned it while it was still in the possession of the thief, so that [so far as the buyer was concerned] there was Renunciation [as well as a change in possession].[20] You should, however, not think [that this is so] because we need both Renunciation and a change in possession for the purpose of transferring ownership, as even Renunciation alone would also transfer ownership[21] to the thief.[22] It is, however, impossible to find a case in which both the first thief and the second thief should simultaneously pay except in this way.[23]

It was stated: If the thief sells before Renunciation, R. Nahman said that he is liable, while R. Shesheth said that he is exempt. R. Nahman who said that he would be liable held that since the Divine Law says 'and he sold it' and as the thief [in this case] did sell it, it makes no difference whether it was before Renunciation or after Renunciation, while R. Shesheth, who said that he would be exempt, held that the liability was only where he sold it after Renunciation,[24] where the act has a legal validity, whereas before Renunciation, when the act has no legal validity,[25] there could be no liability, as selling is compared to slaughter where it is necessary that the act should be of practical avail. R. Shesheth said: Whence have I inferred the view expressed by me? It was taught: 'R. Akiba said: Why does the Torah say that where the thief slaughtered and sold the stolen [sheep or ox] he should make four-fold and five-fold payments respectively? Because he became thereby rooted in sin.' Now, when could this be said of him? If before Renunciation, could he then be called 'rooted in sin' [since the sale is of no legal validity]?[25] Must it therefore not be after Renunciation?[24] — Raba said: It only means, because he doubled his sin.[26]

Come and hear: 'And he slaughtered it or sold it,'[27] just as slaughter cannot be undone, so the sale [must be one] which cannot be undone.' Now, when could this be so? If before Renunciation, why can it not be undone?[28] Must it therefore not be after Renunciation,[29] thus proving that the liability is only if it is sold after Renunciation?[29] — But R. Nahman interpreted it merely to except a case where he transferred the animal for thirty days.[30] Also R. Eleazar maintained that the liability would be only after Renunciation, as R. Eleazar stated:

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(1) In which case the article will have to remain with the purchaser, as a transfer of possession taking place after Renunciation certainly transfers ownership.

(2) For slaughtering or selling after Renunciation when the thief has already become the legal owner of the animal.

(3) Infra p. 393.

(4) Lit., 'repeated'.

(5) By selling the animal even though the sale is of no validity.

(6) V. p. 388, n. 11.

(7) For a transfer of possession before Renunciation will certainly transfer no ownership to the buyer.

(8) P. 390, n. 5.

(9) V. p. 394, n. 4.

(10) Not to be subject to the law of selling or slaughtering.

(11) To the first thief.

(12) To the purchaser.

(13) For a transfer of possession before Renunciation will certainly transfer no ownership to the buyer.

(14) For selling after Renunciation when the thief has already become the legal owner of the animal.

(15) Why not pay double to the first thief who had already become the legal owner of the object through Renunciation?

(16) [Why not pay double to the first thief who had already become the legal owner through effecting a change in the substance of the article stolen?]

(17) V. p. 391, n. 4.

(18) Even though the teaching refers to the time after Renunciation.

(19) Supra p. 380.

(20) And for this reason the second in the middle clause has to make double payment to the buyer.

(21) In accordance with the view of Rab.

(22) [Mss. omit rightly 'to the thief'; v. D.S. a.l.]

(23) For if Renunciation took place while the article was still in the hands of the first thief, he would not have to make four-fold and five-fold payments for a subsequent sale or slaughter.

(24) In which case the article will have to remain with the purchaser, as a transfer of possession taking place after Renunciation certainly transfers ownership.
(25) V. p. 391, n. 6.
(26) By selling the animal even though the sale is of no validity.
(27) Ex. XXI, 37.
(28) V. p. 391, n. 6.
(29) I.e., where the sale is of legal avail.
(30) But not any other case.

Talmud - Mas. Baba Kama 68b

‘You can take it for granted that in the ordinary run of thefts there is Renunciation on the part of the owner; since the Torah has laid down that where the thief slaughtered or sold [the stolen sheep or ox] he should pay fourfold or five-fold payments [respectively]. For is there not a possibility that the owner had not abandoned hope? We must therefore say that in the ordinary run of thefts there is Renunciation on the part of the owner.’[1] But why should the liability not hold good even where hope was not abandoned?[2] — I would say, let not this enter your mind. For selling is placed on a par with slaughter: just as in the case of slaughter his act is of practical avail, so also in the case of selling his act should be of practical validity; and if it takes place before Renunciation, what would be the legal validity?[1] But again can it not be [that the liability is confined to cases] where we actually heard the owner abandoning hope? — I would reply, let not this enter your mind. For selling is put on a par with slaughter, and just as slaughter involves liability [if carried out] immediately [after the theft], so would selling similarly involve liability soon after the theft.[3]

R. Johanan said to him:[4] The law in the case of stealing a man[5] could prove that even where there is no Renunciation on the part of the owner[6] there will be liability. This statement seems to show that R. Johanan held that selling before Renunciation involves liability.[7] What then about selling after Renunciation?[8] — R. Johanan said that the thief is liable, but Resh Lakish said he is exempt. R. Johanan who said that he would be liable held that the liability was both before Renunciation and after Renunciation. But Resh Lakish, who said that he would be exempt,[9] maintained that the liability was only before Renunciation, whereas after Renunciation he would have already acquired title to the animal, and it was his that he slaughtered and his that he sold.

R. Johanan objected to Resh Lakish's view [from the following:] If he stole [a sheep or an ox] and after consecrating it slaughtered it, he should make double payment[10] but would not make four-fold and five-fold payments.[11] Now, when could this be? If before Renunciation, how does the animal become consecrated? Does not the Divine Law say ‘And when a man shall sanctify his house to be holy’,[12] [implying that] just as his house is his,[13] so also anything he consecrates must be his?[14] It must therefore apply to the time after Renunciation.[15] Now the reason is that he consecrated it: he has not to make four-fold and five-fold payments because when he slaughtered the animal it was a consecrated animal that he slaughtered; had he not, however, consecrated it he would have had to make four-fold and five-fold payments if he would have slaughtered it. Now, if you assume that Renunciation transfers ownership why should he[16] pay since it was his that he slaughtered and his that he sold? — He replied:[17] We are dealing here with a case where, for instance, the owner[18] consecrated the animal while it was in the possession of the thief.[19] But will it in that case become consecrated? Did not R. Johanan say[20] that where a robber misappropriated an article and the owner has not abandoned hope of recovering it, neither of them is able to consecrate it: the one[21] because it is not his, the other[22] because it is not in his possession? — We might reply that he[23] had in mind the practice of the virtuous, as we have learnt: The virtuous[24] used to set aside money and to declare that whatever has been gleaned [by passers-by] from this [vineyard][25] shall be redeemed by this money.[26] But [if the owner consecrated the animal], has not the principal thus been restored to the owner? [Why then should a thief pay double on it? — We assume a case where the consecration took place] after the case came into court [and evidence had already been given against the thief]. What were the circumstances? If the judges had already ordered him to go and pay the owner, why should exemption be only where he consecrated the animal? Why even where the owner did not consecrate it should the thief be liable? For did Raba not say that if [after the judges said], 'Go forth and pay him,' the thief slaughtered or sold the animal, he would be exempt, the reason being that since the judges had given their final sentence on the matter, when he sold or slaughtered the animal, he became [in the eye of the law] a 'robber', and a 'robber' has not to pay four-fold and five-fold payments,[27]

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(1) [Since he conditions the liability of the fourfold and five-fold by the fact that the owner had despaired of the stolen article, it is evident that he agrees with R. Shesheth.]

(2) [Even where the sale is of no legal avail.]

(3) R. Eleazar thus inferred from this that in ordinary thefts there is immediate Renunciation on the part of the owner.

(4) I.e., R. Eleazar.

(5) Ex. XXI, 16.

(6) For surely no human being will abandon himself.

(7) As also maintained by R. Nahman.

(8) Does he agree in this with Rab, supra p. 390?

(9) V. p. 390, n. 5.

(10) For the theft.

(11) For the slaughter as it was a consecrated animal that he slaughtered, and there is no liability for stealing and selling and slaughtering consecrated animals (infra p. 427; Git. 55b).

(12) Lev. XXVII, 14.

(13) For immovables even when misappropriated always remain in the possession of the owner

(14) Excluding thus a thief consecrating misappropriated property.

(15) In which case the article could become consecrated, as a transfer of possession following Renunciation transfers ownership.

(16) V. p. 390, n. 2.

(17) I.e., Resh Lakish to R. Johanan.

(18) Not the thief.

(19) [Before Renunciation.]

(20) Infra p. 397; B.M. 7a.

(21) The robber.

(22) The owner.

(23) I.e., Resh Lakish.

(24) [צניע (plur. צנועים) 'denotes a positive quality, probably nothing else but discretion or modesty', Buchler, Types (contra Kohler, who identifies the Zenu'im with Essenes) pp. 59 ff.]

(25) In its fourth year, the fruit of which is prohibited unless redeemed, cf. Lev. XIX, 24.

(26) Which seems to show that fruits already misappropriated could also be redeemed by the owner and thus also consecrated. (M.Sh. V, 1).

(27) For the distinction between robber and thief in this respect cf. infra p. 452.

Talmud - Mas. Baba Kama 69a

but if they merely said to him, 'You are liable to pay him,' and after that he slaughtered or sold the animal, he would be liable to pay four-fold or five-fold payment, the reason being that since they have not pronounced final sentence upon the matter he is still a thief?[1] — No, its application is necessary where they have as yet merely said to him, 'You are liable to pay him'.

The above text states:[2] 'R. Johanan said: If a robber misappropriated an article and the owner has not abandoned hope of recovering it neither of them is able to consecrate it: the one[3] because it is not his, the other[4] because it is not in his possession.' Could R. Johanan really have said this? Did not R.

Johanan say[5] that the halachah is in accordance with an anonymous Mishnah; and we have learnt:[6] ‘In the case of a vineyard in its fourth year, the owners used to mark it with clods of earth’, the sign implying an analogy to earth: just as in the case of earth a benefit may ensue from it,[7] so also the fruit of this vineyard[8] will after being redeemed be permitted to be enjoyed. ‘That of ‘orlah[9] used to be marked with potsherds’, the sign indicating a similarity with potsherds: just as in the case of potsherds no benefit ensues from them,[10] so also the fruit of ‘orlah[9] could not be enjoyed for any use whatever. ‘A field of graves used to be marked with lime’, the sign having the colour of white, like corpses. ‘The lime was dissolved in water and then poured out’ so as to make its colour more white. ‘R. Simeon b. Gamaliel said: These practices were recommended only for the Sabbatical year,’ when the fruits on the trees were ownerless;[11] ‘for in the case of the other years of the Septennate,[12] you may let the wicked stuff themselves with it till they die.[13] The virtuous however used to set aside money and to declare that whatever has been gleaned from this [vineyard] shall be redeemed by this money.’[14] Does not this contradict R. Johanan? Nor can you urge in reply that the Tanna who recorded the practice of the virtuous was R. Simeon b. Gamaliel,[15] [and R. Johanan might therefore not have concurred with this anonymous view stated by a single Tanna] for did not Rabbah b. Bar Hanah say[16] that R. Johanan stated that whenever R. Simeon expressed a view in a Mishnah the halachah is in accordance with him, with the exception of his view regarding ‘Suretyship’.[17] ‘Sidon’[18] and the ‘last [case dealing with] evidence’?[19] — I may reply that you should not read,[20] ‘whatever has been gleaned’[21] but read ‘whatever will be gleaned’[22] from this [vineyard]. But could R. Johanan have said this: Did not R. Johanan say that the virtuous and R. Dosa said the same thing, and, as we know, R. Dosa definitely stated ‘whatever has been gleaned’?[21] For was it not taught:[23] R. Judah says: In the morning the owner of the field should get up and say ‘whatever the poor shall glean during the day should be considered ownerless[24] [from the present moment]’.[25] whereas R. Dosa says: It is at eveningtide that he should say, ‘Whatever the poor have gleaned shall be ownerless’![26] — I must transpose the view of R. Judah to R. Dosa[27] and the view of R. Dosa to R. Judah. But why transpose this teaching, and not transpose instead[28] the statement of R. Johanan, assigning to ‘the virtuous and to R. Judah the same thing’? — It may, however, be said that it was impossible not to transpose this teaching,[29] since in this teaching[29] it is stated that R. Judah upholds bererah[30] and we find R. Judah holding in other places that there is not bererah as we have learnt[31]

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(1) Subject to the law of paying four-fold and five-fold payments.

(2) Supra p. 396.

(3) The robber.

(4) The owner.

(5) Shab. 46a.

(6) M.Sh. V, I.

(7) In time, as after tilling, sowing and reaping.

(8) Cf. Lev, XIX, 24.

(9) I.e., during the first three years when the fruits are totally forbidden in accordance with Lev. XIX, 23.

(10) As nothing could grow in them properly.

(11) Cf. Lev. XXV, 6-7.

(12) When the fruits were not ownerless.

(13) As it was wrong for passers-by to misappropriate the fruits, they need not be warned by all these signs to abstain from using them in the forbidden manner. [This last passage occurs only in the Jerusalem version of the Mishnah, not in the Babylonian.]

(14) V. p. 396, n. 8.

(15) Who made the immediately preceding statement.

(16) B.M. 38b.

(17) In B.B. 174a.

(18) In Git. 77a.

(19) In Sanh. 31a.

(20) In the words of the ‘virtuous’.

(21) In the past.
(22) In the future, so that the redemption will take effect retrospectively from the moment this statement was made, when the gleanings were still in the possession of the owner.
(23) Tosef. Pe'ah II, 4.
(24) As each two ears falling together may be gleaned by the poor who need not tithe them, but not so is the case regarding three ears falling together. Not all the poor, however, know this distinction. It is therefore meritorious on the part of the owner to abandon those which are gleaned by the poor unlawfully.
(25) I.e., retrospectively.
(26) [From this it follows that the declaration of the virtuous was likewise related to the past.]
(27) So that it was R. Dosa who said ‘whatever the poor shall glean.’
(28) Of ‘the virtuous and R. Dosa.’
(29) Where R. Judah and R. Dosa differ.
(30) I.e., Retrospective designation of that which was abandoned at a time when it was not defined; cf. also supra 51b.
(31) Tosef. Dem. VIII, 5.

Talmud - Mas. Baba Kama 69b

: ‘If a man buys wine from among the Cutheans[1] [and it was late on Friday towards sunset and he has no other wine for the Sabbath][2] may say ‘two logs [out of a hundred[3]] which I intend to set aside are terumah,[4] ten are the first tithe[5] and nine the second tithe,’ and these he may redeem [upon money anywhere in his possession],[6] and he may commence drinking at once. So R. Meir.[7] But R. Judah, R. Jose and R. Simon prohibit this.[8] To this I may rejoin: When all is said and done, why have you transposed [the views mentioned in the Baraitha]? Because R. Judah would otherwise contradict R. Judah! But would not now R. Johanan contradict R. Johanan? For you stated according to R. Johanan that we should not read ‘whatever has been gleaned’[9] but read ‘whatever will be gleaned’,[10] thus proving that he upholds bererah[11] whereas in fact R. Johanan does not uphold bererah. For did not R. Assi say[12] that R. Johanan stated that brothers dividing an inheritance are like purchasers[13] [in the eye of the law], so that they will have to restore the portions to one another on the advent of the jubilee year?[14] — We must therefore still read[15] ‘whatever has been gleaned’,[9] and [say that] R. Johanan[16] found another anonymous Mishnah, as we have indeed learnt: ONE WHO STEALS [ARTICLES ALREADY STOLEN] IN THE HANDS OF A THIEF NEED NOT MAKE DOUBLE PAYMENT.[17] Why should this be? We grant you that he need not pay the first thief, [since Scripture says:] And it be stolen out of the man's house,[18] [implying] ‘but not out of the house of the thief’. But why not pay the owner? We must say that this shows that the one[19] is not entitled to payment because the stolen article is not his, and the other one[20] is not entitled to payment as the article is not in his possession.[21] — But what induced him[22] to follow that anonymous Mishnah?[17] Why should he not act in accordance with the anonymous Mishnah dealing with the virtuous?[23] — Because he was supported by the verse: And when the man shall sanctify his house to be holy unto the Lord,[24] just as his house is in his possession,[25] so anything also which is in his possession can be sanctified.[26]

Abaye said: If R. Johanan had not stated that the virtuous[27] and R. Dosa[28] said the same thing,[29] I might have said that while the virtuous accepted the view of R. Dosa, R. Dosa did not uphold the practice of the virtuous. The virtuous accepted the view of R. Dosa; for if the Rabbis made things easier for a thief,[30] need we say they did so for the poor?[31] But R. Dosa did not uphold the practice of the virtuous: for it was only for the poor[31] that the Rabbis made things easier, whereas for the thief they did not make things easier.[30] Raba said: Had R. Johanan not stated that the virtuous and R. Dosa said the same thing, I should have said that the Tanna followed by the virtuous was R. Meir. For did not R. Meir say[32] that the [second] tithe[33] is Divine property,[34] and even so the Divine Law placed it in the owner's possession in respect of redemption, as written: And if a man will redeem aught of his tithe, he shall add unto it the fifth part thereof,[35] the Divine Law thus designating it ‘his tithe’ and ordering him to add a fifth.[36] The same applies to the vineyard in the fourth year, as can be derived from the occurrence of the term ‘holy’ there[37] and in the case of the tithe.[38] For it is written here ‘shall be holy to praise’,[37] and it is written in the case of tithe, ‘And all tithe of the land whether of seed of the land or of the fruit of the tree it is holy’:[38] just as the ‘holy’ mentioned in connection with tithe although it is divine property, has nevertheless been placed by the Divine Law in the possession of the owner for the purpose of redemption, so also the ‘holy’ mentioned in connection with a vineyard of the fourth year, although the property is not his own, has been placed by the Divine Law in his possession for the purpose of redemption; now seeing that even when it is in his possession it is not his and yet he may redeem it; hence he may be able to redeem it [also when out of his possession]. But in the case of the gleaning [of ears of corn] which is his own property,[39] it is only when it is [still] in his [own] possession that he is able to declare it ownerless, whereas when not in his possession he should not be entitled to declare it ownerless.[40]

Rabina said: Had R. Johanan not stated that the virtuous and R. Dosa said the same thing, I should have said that the Tanna stating the case of the virtuous was R. Dosa, so that this anonymous Mishnah would not refute the view of R. Johanan, for R. Johanan

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(1) And has thus to set aside both the priestly portion, called terumah, and the first tithe for the Levite and the second tithe to be redeemed or partaken of in Jerusalem.

(2) And without having the time to separate the portions to be set aside.

(3) Logs (v. Glos.) which he bought.

(4) For the priests, (v. Glos.).

(5) For the Levites, v. Num. XVIII, 21.

(6) Cf. Deut. XIV, 22-25.

(7) Maintaining retrospective designation, so that the wine set aside after Sabbath for the respective portions will be considered the very wine which was destined at the outset to be set aside.

(8) As they maintain no retrospective designation which would make the wine drunk the unconsecrated and that which remained the part originally consecrated. [This shows that R. Judah does not uphold Bererah, thus necessitating the transposition of the Baraitha in Pe'ah.]

(9) V. p. 398, n. 7.

(10) V. p. 398, n. 8.

(11) V. p. 398, n. 16.

(12) Bez. 37b; Git. 25a and 48a.

(13) For the portion chosen by each brother for himself could not be considered as having thus retrospectively become the very inheritance designated for him.

(14) In accordance with Lev. XXV, 13.

(15) In the words of the ‘virtuous’.

(16) [In maintaining that a consecration made by the owner even before renunciation is not valid, in opposition to the principle underlying the declaration of the ‘virtuous’.]

(17) Supra p. 363.

(18) Ex. XXII, 6.

(19) The first thief.

(20) The owner.

(21) This proves that the lack of possession is a defect in the very ownership, and if an article out of possession is not subject to double payment it could neither be subject to the law of consecration and alienation which are incidents of ownership.

(22) V. I.e., R. Johanan.

(23) V. p. 396, n. 8.

(24) V. Lev. XXII, 14.

(25) V. p. 395, n. 8.

(26) Excluding thus an owner consecrating movables out of his possession; and because of this Scriptural authority R. Johanan deviated from the view of the ‘virtuous’.

(27) Dealing with the vineyard in the fourth year misappropriated by passers by.

(28) Dealing with the gleaning of the poor.

(29) V. supra p. 398.
(30) To safeguard him from partaking of forbidden fruits.
(31) Who are not out to commit theft and should consequently the more so be safeguarded from partaking of produce that has not been tithed.
(32) Kid. 24a.
(33) To be partaken of in Jerusalem, cf. Deut. XIV, 22-26.
(34) So that the original owner is but an invitee without possessing any legal ownership.
(35) Lev. XXVII, 31.
(36) Whereas one redeeming the second tithe of another person does not add a fifth.
(37) Lev. XIX, 24.
(38) Ibid. XXVII, 30.
(39) In the case of each three ears falling together.
(40) [Thus, had not R. Johanan said that the virtuous and R. Dosa said the same thing, it could rightly be argued that the virtuous would not apply their principle to the gleaning.]

Talmud - Mas. Baba Kama 70a

would have been right in not concurring with an anonymous statement of a single Tanna. The Nehardeans said: We do not execute an assignment on movables[1] [which are outside the possession of the parties].[2] Said R. Ashi to Amemar: On what ground? He replied: Because of the view of R. Johanan. For R. Johanan said: If a robber has misappropriated an article and the owner has not abandoned hope of recovering it, neither of them is able to consecrate it; the one because it is not his, the other because it is not in his possession. Some read that the Nehardeans said: We do not execute an assignment on movables [the claim upon which] was denied [by a bailee]. The reason is that the claim was denied, as the deed of assignment would then appear a lie,[3] whereas where it is not denied, we would be able to execute. The Nehardeans further said: An assignment which does not contain the words, ‘Go forth and take legal action so that you may acquire title to it and secure the claim for yourself’ is of no validity, the reason being that the defendant might say to him:[4] ‘You have no claim against me’. But Abaye said: If it is written, ‘You will be entitled to a half or a third or a fourth of the claim’, it would be valid, for since he is entitled to litigate regarding the half, he is also entitled to litigate regarding the whole.[5] Amemar said: [In any case] where the assignee became possessed of articles belonging to the defendant, we would not take them away from him.[6] But R. Ashi said: Since it was written for him,[7] ‘Whatever will be imposed by the Court of Law I accept upon myself’, he was surely appointed but an agent.[8] Some, however, say that he is made a partner. What is the practical difference?[9] Whether he may remain possessed of a half. The law is that he is appointed only an agent.[10] MISHNAH. IF A THIEF IS CONVICTED OF THE THEFT [OF A SHEEP OR AN OX] ON THE EVIDENCE OF TWO WITNESSES,[11] AND OF THE SLAUGHTER OR SALE [OF IT] BY THE SAME TWO, OR ON THE EVIDENCE OF ANOTHER TWO WITNESSES, HE HAS TO MAKE FOUR-FOLD OR FIVE-FOLD PAYMENT.[12] IF HE STEALS AND SELLS ON THE SABBATH DAY,[13] OR IF HE STEALS AND SELLS FOR IDOLATROUS PURPOSES, OR IF HE STEALS AND SLAUGHTERS ON THE DAY OF ATONEMENT,[14] OR IF HE STEALS FROM HIS OWN FATHER, AND AFTER HE HAD SLAUGHTERED OR SOLD, HIS FATHER DIED,[15] OR AGAIN, WHERE HE STEALS AND SLAUGHTERS AND THEN CONSECRATES IT, HE HAS TO MAKE FOUR-FOLD OR FIVE-FOLD PAYMENT.[16] IF HE STEALS AND SLAUGHTERS TO USE THE MEAT FOR CURATIVE PURPOSES OR TO GIVE TO DOGS, OR IF HE SLAUGHTERS AND FINDS THE ANIMAL TREFA,[17] OR IF HE SLAUGHTERS IT AS UNCONSECRATED IN THE ‘AZARAH,[18] HE HAS TO MAKE FOUR-FOLD OR FIVE-FOLD PAYMENT.[19] R. SIMEON, HOWEVER, RULES THAT THERE IS EXEMPTION IN THESE [LAST] TWO CASES.[20]

GEMARA. Are we to say that the Mishnah is not in accordance with R. Akiba? For how could it be in accordance with R. Akiba who said that [the Scriptural term] ‘Matter’[21] implies ‘not half a matter'? As indeed taught:[22] R. Jose said: 'When [my] father Halafta went to R. Johanan b. Nuri to learn Torah, or as others, when R. Johanan b. Nuri went to [my] father

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(1) Shebu. 33b and Bek. 49a.

(2) But if they are in the possession of a bailee they could be assigned as they are considered in the possession of the depositor (Tosaf.).

(3) Since the bailee denies them.

(4) The assignee.

(5) V. B.M. 8a.

(6) For the benefit of the defendant even where the prescribed clause 'to go forth and secure for himself' etc. was not inserted in the instrument of assignment. According, however, to Gaonic interpretation it means that the assignee may retain the articles against the assignor (v. Rashi).

(7) By the assignor.

(8) And could therefore not retain the articles either against the defendant in the circumstances dealt with in the first interpretation, or against the assignor in accordance with the Gaonic interpretation.

(9) Whether he was made a partner or an agent.

(10) [Asheri and Alfasi omit, 'The law is, etc.']

(11) Cf. Deut. XIX, 15.

(12) Respectively.

(13) For though it is prohibited to do any business transactions on the Sabbath day, no capital charge is thereby involved, and civil liability could thus be established; cf. Gemara.

(14) As for desecrating the Day of Atonement in contradistinction to the Sabbath no capital charge is involved, the sole punishment at the hand of man being thirty-nine lashes.

(15) And the thief became an heir to the estate.

(16) For the slaughter which preceded the consecration.

(17) I.e., ritually unfit to be eaten owing to an organic defect in the animal; v. Glos.

(18) I.e., the precincts of the Temple where only sacrificial animals might be slaughtered.

(19) As the ritual unfitness of the animal in the last two cases is not due to a defect in the act of slaughter but arises through other circumstances.

(20) For he is of the opinion that if the slaughter does for any reason whatsoever not effect the ritual fitness of the animal to be eaten, it is not considered in the eye of the law as a slaughter.

(21) A matter shall be established by two witnesses, Deut. XIX, 15.

(22) V. B.B. 56a.

Talmud - Mas. Baba Kama 70b

Halafta, he said to him: Suppose a man had the use of a piece of land for one year as testified by two witnesses, for a second year as testified by two other witnesses, and for a third year as testified by still two other witnesses, what is the position? — He replied: 'This is a proper usucaption'.[1] Whereupon the other rejoined: 'I also say the same, but R. Akiba joins issue on the matter for R. Akiba used to say: [Scripture states] A matter [implying] "but not half a matter"'![2] — Abaye, however, said: You may even say that this is in accordance with R. Akiba. For would R. Akiba not agree in a case where two witnesses state that a certain person had betrothed a woman[3] and two other witnesses testify that another person had subsequently had intercourse with her,[4] that though the evidence regarding the intercourse presupposes the evidence regarding the betrothal [in order to become relevant], nevertheless, since the evidence of betrothal does not presuppose the evidence of intercourse, each testimony should be considered a matter [complete in itself]? So also here, though the evidence regarding the slaughter presupposes the evidence regarding the theft [if it is to be relevant] nevertheless since the evidence regarding the theft does not presuppose the evidence regarding the slaughter, each testimony should be considered a matter [complete in itself].[5] But according to the Rabbis[6] what will this term 'matter' [implying] 'but not half a matter' exclude? — It will exclude a case where one witness testified that there was one hair on her back[7] and the other states that there was one hair in front. But [since each hair is testified to by one witness],[8] would this not be both half a matter and half a testimony?[9] — [We must say] therefore that it excludes a case where two witnesses testify that there was one hair on her back and two other witnesses state that there was one hair in front, as in this case the one set testify that she was still a minor[10] and the others similarly testify that she was still a minor.

IF HE STEALS AND SELLS ON THE SABBATH DAY . . . [HE HAS TO MAKE FOUR-FOLD OR FIVE-FOLD PAYMENT]. But has it not been taught [elsewhere] that he would be exempt? — Said Rami b. Hama: If it was taught there that he would be exempt, it was only where the purchaser said to him:[11] 'pluck figs off my fig-tree[12] and transfer to me [in consideration of them] the objects you have stolen.'[13] It may however, be argued that seeing that if the purchaser claimed from him before us in the court[14] we would be unable to order him to go and to pay since [at the time of the alleged liability,] he became subject to a capital charge, why should not even the sale itself be declared no sale at all?[15] — R. Papa therefore said: There would be exemption [where the purchaser said to him], 'Throw your stolen objects [from a public thoroughfare] into my private courtyard,[16] and transfer to me [thereby][17] the objects you have stolen.'[18] Whom does this follow? R. Akiba,[19] who said that an object intercepted in the air is on the same footing [regarding the law of Sabbath] as if it had already come to rest.[20] For if we were to follow the other Rabbis,[21] while the possession of the stolen objects would be transferred as soon as they reached the air of the court-yard of the purchaser's house,[22] in regard to Sabbath the capital liability would not be incurred until they have reached the actual ground![19] — Raba thereupon said: It may still be in accordance with Rami b. Hama.[23] For the hire [of a harlot] was prohibited by the Torah[24] [from being used for the Temple] even [when given by a son] for having incestuous intercourse with his mother, irrespective of the fact that were she to have claimed it from him before us in the court, we should not have been able to order him to go and give her the hire.[25] We see then that although were she to have claimed it from him by law, we should have been unable to order him to go and pay her,[25] nevertheless when he of his own accord pays her [the hire] it will be subject to the law of the hire [of a harlot].[24] So also here regarding payment [for the figs plucked by the thief on the Sabbath], if the purchaser had claimed it by law in our presence, we should have been unable to order the thief to go and pay;[25]

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(1) [In accordance with B.B. III, 1, that three years of undisturbed possession are required to establish a presumptive title on the part of a possessor.]

(2) [And here no two witnesses testify to more than one year of occupation, which is only a third of the matter in hand. And in our Mishnah the second set of witnesses testify to no more than half a matter, i.e. the slaughter, and according to R. Akiba, should not be able to convict the thief.]

(3) By a valid act of Kiddushin (v. Glos.), thus making her his wife.

(4) Lev. XX, 10.

(5) In which case even R. Akiba will allow such evidence to be given independently by separate sets.

(6) Who even in the case of undisturbed possession admit evidence given independently by three sets of witnesses testifying to each of the three years respectively.

(7) The reference is to the two hairs which are the sign of puberty in a girl. V. Nid. 52a.

(8) Whose evidence in such a case is of no effect whatsoever; cf. Deut. XIX, 15.

(9) And it is quite obvious that evidence of this kind is of no avail.

(10) As the appearance of one hair is no sign of puberty; but where different witnesses testify to different years, each year is considered a 'whole matter'.

(11) To the thief who sold him the animal.

(12) Which is a capital offence if done on the Sabbath; v. Shab. VII, 2.

(13) It thus follows that at the very moment when the sale was completed the thief was desecrating the Sabbath by an act which renders him liable to a capital charge in which all possible civil liabilities to take effect at that time have to merge.

(14) To give some consideration for the fig.

(15) For since the thief would have by law to pay nothing for the consideration given him on the part of the purchaser, there should in the eye of the law be lacking any consideration at all rendering the purchase null and void.

(16) And it is a capital offence to throw anything on Sabbath from a public thoroughfare to private premises; cf. Shab. XI, 1.

(17) I.e., by the animal entering into the premises of the prospective purchaser in accordance with B.M. 11a and supra p. 283.

(18) V. p. 405, n. 7.

(19) Shab. 4b; 97a and Git. 79a.

(20) So that the capital offence was committed at the very moment the transaction of sale became complete by the animal entering the air of the purchaser's court-yard; cf. B.M. 12a and Git. 79a.

(21) Who maintain that the capital offence of desecrating the Sabbath by throwing anything from a public thoroughfare into private premises will be committed only at the moment when the object thrown falls upon the ground.

(22) B.M. 12a and Git. 79a.

(23) That the purchaser said to the thief, ‘Pluck off a fig of my fig-tree’ etc., despite your objection as to the lack of consideration.

(24) Deut. XXIII, 19.

(25) As the very act that should cause pecuniary liability is a capital offence in which all possible civil liabilities have to merge.

Talmud - Mas. Baba Kama 71a

nevertheless, since the thief was prepared to transfer the possession [of the stolen objects] to him by this procedure it should be considered a sale.

IF HE STEALS AND SLAUGHTERS ON THE DAY OF ATONEMENT etc. I would ask, why [should this be so]? It is true that no capital punishment is attached here,[1] but there will at least be the punishment of lashes, and is it not an established ruling[2] that no man who is lashed can be ordered to pay?[3] — It may, however, be said that the Mishnah is in accordance with R. Meir who said[4] that a person who is lashed may also be ordered to pay.[3] But if in accordance with R. Meir, why should there be no liability even for slaughtering on the Sabbath?[5] And should you affirm that while he holds that one may be lashed and be ordered to pay, he[6] does not hold that one may be condemned to death and also ordered to pay. [I would ask,] does he really not [maintain this second ruling]? Was it not taught:[7] ‘If he steals and slaughters on the Sabbath or if he steals and slaughters to serve idols,[8] or if he steals an ox condemned to be stoned[9] and slaughters it, he has to make four-fold or five-fold payment according to R. Meir,[10] but the Rabbis rule that there is exemption’? — I might reply that this ruling applies to all cases save this, for it was stated with reference to it that R. Jacob stated that R. Johanan said, or as others say, that R. Jeremiah stated on behalf of R. Simeon b. Lakish that R. Ile'a and the whole company[11] said in the name of R. Johanan that the slaughter [in that case] was carried out by another person [acting on behalf of the thief].[12] But how could the one[13] commit an offence[14] and the other[15] be liable to a fine?[16] — Raba replied: This offence here is different, as Scripture says: And slaughter it or sell it:[17] just as selling [becomes complete] through the medium of another person,[18] so also slaughter may be effected by another person. The School of R. Ishmael taught: [The term] ‘or’[19] [inserted between ‘slaughter’ and ‘selling’ was meant] to include the case of an agent.[20] The School of Hezekiah taught: The term ‘instead’[19] [was intended] to include the case of an agent.

Mar Zutra demurred to this. Is there [he said] any action for which a man is not liable if done by himself but for which he is liable if done by his agent? — R. Ashi said to him: In that case[21] it was not because he should not be subject to liability, but because he ought to be subject to a penalty[21] severer than that. But if the slaughter was carried out by another one, what is the reason of the Rabbis who ruled that there was exemption? — We might say that the Sages [referred to] were R. Simeon who stated that a slaughter through which the animal would not ritually become fit for food could not be called slaughter [in the eyes of the law].[22] But I would say, I grant you this in regard to serving idols and an ox condemned to be stoned, as [through the slaughter] the animal will in these cases not become fit for food,[23] but in the case of the Sabbath, does not the slaughter render the animal fit for food? For did we not learn that if a man slaughters on the Sabbath or on the Day of Atonement, though he is liable for a capital offence,[24] his slaughter is ritually valid?[25] — It may, however, be said that he[26] concurred with R. Johanan ha-Sandalar, as we have learned, If a man cooks [a dish] on the Sabbath, if inadvertently, [even] he himself[27] may partake of it,[28] but if deliberately, he should not partake of it[29] [on that day]. So R. Meir. R. Judah says: If inadvertently, he may eat it only after the expiration of the Sabbath,[30] whereas if deliberately he should never partake of it.[31] R. Johanan ha-Sandalar says: If inadvertently, the dish may be partaken of after the expiration of the Sabbath, only by other people, but not by himself, whereas if deliberately, it should never be partaken of either by him or by others.[32] What was the reason of R. Johanan ha-Sandalar? — R. Hiyya expounded at the entrance of the house of the prince:[33] Scripture says: Ye shall keep the Sabbath therefore, for it is holy unto you.[34] Just as holy food is forbidden to be eaten,[35] so also what is unlawfully prepared on the Sabbath is forbidden to be partaken of. But, [you might argue,] just as holy food is forbidden for any use,[35] so should whatever is [unlawfully] prepared on the Sabbath also be forbidden for any use.[36] It is therefore stated further: ‘Unto you’,[34] implying that it still remains yours for general use.[37] It might [moreover] be thought that the prohibition extends even where prepared inadvertently, it is therefore stated: Everyone that profaneth it shall surely be put to death,[34] [as much as to say], I speak only of the case when it is done deliberately, but not when done inadvertently.

R. Aha and R. Rabina differ in this matter. One said that whatever is [unlawfully] prepared on the Sabbath is forbidden on Scriptural authority whereas the other [Rabbi] said that whatever is [unlawfully] prepared on the Sabbath is forbidden on Rabbinic authority. He who said that it was on Scriptural authority bases his view on the exposition just stated, whereas he who said that it was on Rabbinic authority holds that when Scripture says, ‘It is holy’, it means that it itself[38] is holy, but that which is [unlawfully] prepared on it is not holy. Now I grant you that according to the view that the prohibition is based on Scriptural authority, the Rabbis because

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(1) V. p. 403, n. 4.

(2) Keth. 32a and B.M. 91a.

(3) For a civil liability arising out of an act done at the time when the transgression for which he is to be lashed was committed.

(4) Keth. 33b.

(5) Why then is it stated infra p. 427, that in this case there would be exemption?

(6) R. Meir.

(7) Keth. loc. cit.

(8) Which is a capital offence; cf. Ex. XXII, 19.

(9) Which is thus forbidden for any use; v. supra p. 234.

(10) Which shows that in R. Meir's opinion liability to pay may he added to capital punishment.

(11) [חבורתא , a term employed in designation of the corporate body of members of the Palestinian schools, primarily of the School of Tiberias. V. Bacher, MGWJ, 1899, p. 345.]

(12) In which case it is not the thief but the other person who is liable to the capital punishment.

(13) I.e., the agent.

(14) Of slaughtering a stolen animal.

(15) I.e., the thief.

(16) Of four-fold or five-fold payment.

(17) Ex. XXI, 37.

(18) For two parties are needed to a sale: one to sell and the other to buy.

(19) Ibid.

(20) To make the principal liable to the fine.

(21) I.e., capital punishment for desecrating the Sabbath or serving idols.

(22) V. p. 403, n. 10.

(23) For serving idols see A.Z. 54a; and Hul. 40a.
(24) In the case of Sabbath the offender would be subject to be stoned as in Ex. XXXV, 2 and Num. XV, 32-36, but in the case of the Day of Atonement he would only be subject to a heavenly punishment of being cut off from among his people, in accordance with Lev. XXIII, 30 and Ker. I, 1.
(25) Hul. 14a.
(26) I.e., R. Simeon.
(27) I.e., he who cooked it.
(28) Even on the same day.
(29) Nor anybody else.
(30) But on the same day neither he nor anybody else may partake of it.
(31) Though others may partake of it after the expiration of the Sabbath.
(32) V. Ter. II, 3. It thus follows that according to R. Johanan an animal deliberately slaughtered on the Sabbath will be forbidden as food; and since such a slaughter renders the animal unfit for food, it involves no liability of the fourfold or fivefold payment.
(33) [The reference is to R. Hiyya b. Abba II and R. Judah the Prince III whose home was at Sepphoris. V. zuri, Mishpat hazibburi, I, 281 ff.]
(34) Ex. XXXI, 14.
(35) Cf. Lev. V, 15-16.
(36) Not only for food to Israelites but also for any use whatever.
(37) For surely if it becomes forbidden for any use there would be no practical purpose in retaining ownership.
(38) I.e., the Sabbath itself.

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of this have rightly ruled that there is exemption,[1] but according to the view that it is based on Rabbinic authority, why did the Rabbis rule that there is exemption?[2] — [Their exemption applies] to the other cases; to serving idols, and an ox condemned to be stoned.

But why does R. Meir impose liability in the case of slaughtering for the service of idols? For as soon as he starts the act of slaughtering in the slightest degree he renders the animal forbidden,[3] so that the continuation of the slaughter is done on an animal already forbidden for any use whatever, and as such, was he therefore not slaughtering that which no longer belonged to the owner?[4] — Raba replied: The rule applies to one who declares that it is only at the very completion of the act of slaughter that he intends to serve idols therewith. But what about an ox condemned to be stoned? Is it not forbidden for any use whatever, so that he slaughters that which does not belong to the owner?[4] — Raba thereupon said: We are dealing here with a case where the owner had handed over the ox to a bailee, and as it did damage [by killing a person] in the house of the bailee it was declared Mu'ad in the house of the bailee and its final verdict was issued while it was in the house of the bailee; R. Meir thus on one point concurred with R. Jacob and on another point he concurred with R. Simeon: On one point he concurred with R. Jacob who said that if even after its final verdict was issued the bailee restored it to the owner, it would be a legal restoration;[5] and on another point he concurred with R. Simeon who stated[6] that an object the absence of which entails money loss is regarded as possessing an intrinsic value,[7] as we have learned: R. Simeon says: In the case of consecrated animals[8] for the loss of which the owner is liable to replace them by others, the thief has to pay,[9] thus proving that an object whose absence entails money loss is regarded as possessing an intrinsic value.[10] R. Kahana said: When I reported this discussion in the presence of R. Zebid of Nehardea, I asked: How could you explain our Mishnah[11] to be [only] in accordance with R. Meir[12] but not in accordance with R. Simeon, since it is stated in the concluding clause, R. SIMEON HOWEVER RULES THAT THERE IS EXEMPTION IN THE LAST TWO CASES,[13] thus implying that in the other cases of the whole Mishnah he agrees? — He[14] however said to me; No, it merely implies that he agrees in the case of slaughtering or selling to use the meat for curative purposes or to give to dogs.[15]

IF HE STEALS FROM HIS OWN FATHER AND AFTER HE HAD SLAUGHTERED OR SOLD, HIS FATHER DIED, etc. Raba inquired of R. Nahman: If he steals an ox of two partners and after slaughtering it he confesses to one of them,[16] what would be the law?[17] — Shall we say that the Divine law says: 'Five oxen',[18] [implying] 'but not five halves of oxen', or do the 'five oxen' mentioned by the Divine Law include also five halves of oxen? — He replied:[19] The Divine Law says 'five oxen' [implying] 'but not five halves of oxen'.[20]

He, however, raised an objection against him [from the following]: IF HE STEALS FROM HIS FATHER AND AFTER HE HAD SLAUGHTERED OR SOLD, HIS FATHER DIED, HE HAS TO MAKE FOUR-FOLD OR FIVE-FOLD PAYMENT. Seeing that the father died,[21] is not this case here on a par with a case where he went[22] and confessed to one of the partners, and it is yet stated that he has to make four-fold or five-fold payment? — He replied: Here we are dealing with a case where, for instance, his father has already appeared in the court before he died.[23] Had he not appeared in court, the son would not have had to make four-fold or five-fold payment. If so, instead of having the subsequent clause 'Where he steals of his father [who subsequently died] and afterwards he slaughters or sells, he has not to pay four-fold and five-fold payments,'[24] why should not [the Mishnah] make the distinction in the same case itself by stating, 'This ruling[25] applies only where the father appeared in court, whereas if he did not manage to appear in court, the thief would not have to make four-fold and five-fold payments'?[26] — He replied:[27] This is indeed so, but since the opening clause runs 'IF HE STEALS FROM HIS FATHER AND AFTER HE HAD SLAUGHTERED OR SOLD, HIS FATHER DIED', the later clause also has the wording, 'where he steals from his father and after his father died he slaughters or sells'. In the morning, however, he said to him:[27] When the Divine Law said 'five oxen' it also meant even five halves of oxen, and the reason why I did not say this to you on the previous evening

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(1) As the slaughter of the animal on the Sabbath day would on Scriptural authority render the animal unfit for food and could according to R. Simeon not be considered a slaughter at all.

(2) Since according to substantive law the animal would be fit for use.

(3) Cf. Hul. 40a.

(4) V. p. 409, n. 8.

(5) Supra p. 255.

(6) Infra 437.

(7) So that since if the ox would not have been slaughtered the bailee would have been able to restore it intact without paying anything for its value, whereas now that the ox was stolen and slaughtered he would have to pay for the full value of the ox, the ox is considered of an intrinsic value though it was condemned to be stoned, and the thief has to pay the fine accordingly.

(8) Which as such are not subject to the law of the fine of double and four-fold and five-fold payment, as infra p. 427.

(9) The owner the full fine, v. Mishnah p. 427.

(10) To the one who would be liable to make the outlay of money, and for this reason R. Meir makes the thief liable for the payment of the four-fold or five-fold.

(11) Regarding the case of slaughtering on the Day of Atonement.

(12) Who holds one could be both lashed and ordered to pay.

(13) Supra p. 403.

(14) I.e., R. Zebid.

(15) Which forms a part of the last paragraph which is complete in itself.

(16) So that he will not have to pay any fine to this partner, as a confession in a matter of a fine carried exemption; v. supra p. 62 and infra p. 427.

(17) Regarding the other partner when witnesses will appear.

(18) Ex. XXI, 37.

(19) I.e., R. Nahman to Raba.

(20) There will therefore be here total exemption.

(21) And the thief becomes a partner together with the other brothers in the whole estate.
(22) Lit., 'forestalled' (witnesses).
(23) And the liability was already then fully established.
(24) Infra p. 427. For at the time of the slaughter or sale the thief was a joint owner of the animal.
(25) Of liability.
(26) Even where he slaughtered the animal or sold it before the death of his father.
(27) R. Nahman to Raba.

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was because I had not yet partaken of [a dish of] beef [and felt too feeble to arrive at a carefully thought out conclusion]. But why then this difference between the earlier clause[1] and the later clause?[2] — He replied: In the earlier clause[1] we can rightly apply to the offence [the words] 'and he slaughters it', [in the sense that] the whole act is unlawful,[3] whereas in the concluding clause we cannot apply to the offence [the words] 'and he slaughters it' [in the sense that] the whole act is unlawful.[4]

IF HE SLAUGHTERS AND FINDS THE ANIMAL TREFA [OR WHERE HE SLAUGHTERS IT AS UNCONSECRATED IN THE 'AZARAH HE HAS TO MAKE FOUR-FOLD OR FIVE-FOLD PAYMENT]. R. Habibi of Huzna'ah said to R. Ashi: This shows that [from the legal point of view] the term 'slaughter' applies to the act only at its completion for if it applied to the whole process from the beginning to the end, would he not as soon as he started the act of slaughtering in the slightest degree[5] render the animal ritually forbidden for any use,[6] so that what follows the beginning would amount to slaughtering an animal no more belonging to the owner?[7] — R. Huna, the son of Raba,[8] said to him: The liability might have been just for that commencement in the slightest degree.[9] R. Ashi, however, said to him: This is no refutation,[10] [since it says] 'and he slaughters it, we require the whole act of the slaughter, which is absent here. But what about the original difficulty?[11] — He thereupon said to him: R. Gamda stated thus in the name of Raba: We are dealing here with a case where, for instance, he cut a part of the organs of the animal outside of the 'Azarah, but completed the slaughter inside of the 'Azarah.[12]

Some attach this argument to the following statement: R. Simeon[13] said in the name of R. Levi the Elder: The term 'slaughter' applies to the act only at its very completion. R. Johanan, however, said it applies to the whole process from the beginning to the end. R. Habibi of Huzna'ah thereupon said to R. Ashi: Are we to say that R. Johanan held that [the prohibition of slaughtering] unconsecrated animals in the 'Azarah is not based on Scripture?[14]

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(1) Where liability is stated.
(2) Stating exemption, since 'five oxen' imply also 'five halves' of oxen why then should he not pay the part due to his coheirs?
(3) As the slaughter took place while the father was still alive.
(4) For at the time of the slaughter the thief was already a joint owner of the animal.
(5) In the precincts of the Temple.
(6) Cf. Pes. 22a.
(7) For surely after it becomes forbidden for any use, there would be no practical use in retaining ownership.
(8) [Read with MS.M., 'R. Aba b. Raba' as on p. 414, v. D.S. a.l.]
(9) Before the animal became forbidden for any use.
(10) Of the proof suggested by R. Habibi.
(11) That, since the animal became forbidden for any use at the commencement of the slaughter, there should be no liability to pay the fine.
(12) So that the animal became forbidden for any use only at the completion of the slaughter, for which the thief has to pay the fine.

(13) [Read ‘Simeon b. Lakish’, v. D.S. a.l.]
(14) V. p. 413, n. 4.

Talmud - Mas. Baba Kama 72b

For if you assume that it has Scriptural authority, then as soon as he starts the act of slaughtering in the slightest degree would he not render the animal ritually forbidden for any use, so that what follows the beginning would amount to slaughtering an animal no more belonging to the owner? — R. Aha, the son of Raba, said to him: The liability might be just for that commencement in the slightest degree. R. Ashi, however, said to him: This is no refutation;[1] [since it says] ‘and he slaughters it’ we require the whole act of the slaughter, which is absent here. But what about the original difficulty?[2] — He, thereupon, said to him that R. Gamda stated thus in the name of Raba: When does he become liable? When for instance he cuts a part of the organs of the animal outside of the ‘Azarah but completes the slaughter inside of the ‘Azarah.[3]

MISHNAH. IF A THIEF [IS CONVICTED OF THE THEFT OF AN OX] ON THE EVIDENCE OF TWO WITNESSES, AND OF THE SLAUGHTER OR SALE OF IT ON THE EVIDENCE OF THE SAME TWO, AND THESE WITNESSES ARE SUBSEQUENTLY PROVED ZOMEMIM,[4] THEY MUST PAY [THE ACCUSED] IN FULL.[5] IF, HOWEVER, THE THEFT [HAS BEEN ESTABLISHED] BY THE EVIDENCE OF ONE PAIR OF WITNESSES, AND THE SLAUGHTER OR SALE BY THAT OF ANOTHER PAIR,[6] AND BOTH PAIRS ARE PROVED ZOMEMIM, THE FIRST PAIR MAKES [THE ACCUSED] DOUBLE PAYMENT[7] AND THE SECOND PAIR THREEFOLD PAYMENT.[8] WHERE [ONLY] THE SECOND PAIR WERE PROVED ZOMEMIM, THE THIEF MAKES DOUBLE PAYMENT,[9] WHEREAS THEY PAY [HIM] THREEFOLD.[8] SHOULD ONE OF THE SECOND PAIR OF WITNESSES BE PROVED ZOMEM, THE TESTIMONY OF THE SECOND PAIR BECOMES NULL AND VOID.[10] SHOULD ONE OF THE FIRST PAIR OF WITNESSES BE PROVED ZOMEM, THE WHOLE TESTIMONY [OF BOTH PAIRS] BECOMES NULL AND VOID, FOR IF THERE WAS NO THEFT THERE COULD BE NO [ILLEGAL] SLAUGHTER OR SALE.[11]

GEMARA. It has been stated:[12] If a witness has been proved a zomem, Abaye says that he becomes disqualified retrospectively [from the time when he gave his evidence in court],[13] whereas Raba says that he is disqualified only for the future [from the time when he is proved zomem]. Abaye makes the disqualification retrospective on the ground that the witness has been shown to have been wicked at the time when he gave evidence, and the Torah says: Do not accept the wicked as a witness.[14] Raba, on the other hand, holds that the disqualification begins only from the moment when his deceit is proved, because the whole procedure of proving witnesses zomemim is anomalous. For this is a case of two witnesses against two; why then accept the evidence of the one pair rather than that of the other? At least let it take effect only from the time when the anomalous procedure is employed.

Some say that Raba really agrees with Abaye that the disqualification is retrospective, but rejects here this principle on practical grounds, because its adoption

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(1) V. p. 413, n. 8.
(2) V. p. 413, n. 9.
(3) V. p. 413, n. 10.
(4) Lit., ‘plotters’, ‘schemers’ (plural of Zomem), i.e., witnesses proved by the subsequent evidence of two witnesses to have been absent at the time of the alleged offence; their punishment is by the law of retaliation. V. Deut. XIX, 18-19 and Mak. I, 2-4.
(5) I.e., five times the value of the alleged theft. V. Ex. XXI, 37.
(6) For which cf. supra pp. 403-5.

(7) Which he would have to pay through them for the alleged theft.

(8) I.e., the difference between the ‘double’ and the ‘fivefold’ payment intended by them to have been inflicted on the accused.

(9) As the evidence regarding the theft still holds good.

(10) Cf. Mak. I, 7.

(11) For the fine of fivefold includes the double payment for the theft so that when the latter could not be established as in the case here no fine could be imposed for the slaughter or sale.

(12) Cf. Sanh. 27a.

(13) Any evidence he gave in the intervening period becomes invalidated.

(14) An interpretation of Ex. XXIII, 1.

Talmud - Mas. Baba Kama 73a

might adversely affect purchasers.[1] What practical difference is there between the two versions?[2] — Where two witnesses have proved one of a pair zomem, and other two witnesses have proved the other one of the pair zomem;[3] or again, where the disqualification of the witnesses is based upon an accusation of larceny brought by a subsequent pair.[4] According to the version which makes Raba base his view[5] on the fact of the procedure being anomalous, he would not apply it here, whereas according to the version which makes his reason the fear of adversely affecting purchasers, it would hold good even here.[6]

R. Jeremiah of Difti said: R. Papa decided in an actual case in accordance with the view of Raba. R. Ashi, however, stated that the law agrees with Abaye. And the law agrees with Abaye [against Raba] on [the matters known as] Y'AL KGM.[7]

We have learnt: IF A THIEF [IS CONVICTED OF THE THEFT OF AN OX] ON THE EVIDENCE OF TWO WITNESSES, AND OF THE SLAUGHTER OR SALE OF IT ON THE EVIDENCE OF THE SAME TWO, AND THESE WITNESSES ARE SUBSEQUENTLY PROVED ZOMEMIM, THEY MUST PAY [THE ACCUSED] IN FULL. Does this not mean that they first gave evidence regarding the theft and then[8] gave evidence again regarding the slaughter, and that they were proved zomemim regarding their evidence about the theft and then were proved zomemim regarding their evidence about the slaughter? Now, if you assume that a witness proved zomem becomes disqualified retrospectively, [it would surely follow that] as soon as these witnesses were declared zomemim regarding the theft, it became clear retrospectively that when they gave evidence regarding the slaughter[9] they were already disqualified.[10] Why then should they pay [the retaliation penalty regarding their evidence] about the slaughter?[11] — It may be said that we are dealing here with a case where they were first declared zomemim regarding their evidence about the slaughter. But it may still be argued that after all since when they were subsequently declared zomemim regarding the theft, it became clear retrospectively that when they gave evidence regarding the slaughter, they had already been disqualified. Why then should they pay the retaliation penalty for the slaughter?[12] — This law would apply only when they testified at one and the same time to both theft and slaughter,[13] and were afterwards declared zomemim.[14]

May we say that this matter[15] formed the point at issue between the following Tannaim: If two witnesses gave evidence against a person that he had stolen an ox and the same witnesses also testified against him that he had slaughtered it, and were declared zomemim regarding the theft, as their evidence became annulled in part[16] it became annulled altogether. But if they were declared zomemim regarding the slaughter, the thief would still have to make double payment and they would have to pay [him] three-fold. R. Jose, however, said: These rulings[17] apply only in the case of two testimonies,[18] for in the case of one testimony the law is that a testimony becoming annulled in part becomes annulled altogether. Now, what is meant by ‘two testimonies’ and what is meant by ‘one testimony’? Are we to say that ‘two testimonies’ means two absolutely independent testimonies, as in the case of two separate sets, and ‘one testimony’ means one set giving the two testimonies after each other, in which case R. Jose would hold that in the case of one testimony, i.e. where one set gave testimonies after each other, as, for instance where they had first given evidence about the theft and then gave evidence again about the slaughter, if they were subsequently declared zomemim with reference to their evidence about the slaughter, the law would be that a testimony becoming annulled regarding a part of it becomes annulled regarding the whole of it, and the witnesses would thus be considered zomemim also regarding the theft? On what could such a view be based? [Why indeed should the testimony given first about the theft be annulled through the annulment of a testimony given later?][19] Must we not therefore say that ‘two testimonies’ means one evidence resembling two testimonies, that is to say, where one set gives two testimonies one after the other[20] but not where there is one testimony in which all the statements are made at the same time? Now it was assumed that there was agreement on all hands that statements following one another within the minimum of time [sufficient for the utterance of a greeting] are equivalent in law to a single undivided statement. The point at issue therefore between them[21] would be as follows: The Rabbis[22] would maintain that a witness proved zomem is disqualified only for the future, and since it is from that time onwards that the effect of zomem will apply it is only with reference to the slaughter regarding which they were declared zomemim that the effect of zomem will apply, whereas with reference to the theft regarding which they were not declared zomemim the effect of zomem will not apply.[23] R. Jose would on the other hand maintain that a witness proved zomem would become disqualified retrospectively, so that from the very moment they had given the evidence, regarding which they were proved zomemim, they would be considered disqualified; from which it would follow that when they were declared zomemim regarding the evidence about the slaughter the effect of zomem should also be extended to the evidence regarding the theft, for statements following one another within the minimum of time [sufficient for the utterance of a greeting] are equivalent in law to a single undivided statement. [Would the view of Abaye thus be against that of the Rabbis?] — To this I might reply: Were statements following one another within the minimum of time [sufficient for the utterance of a greeting] equivalent in law to a single undivided statement, it would have been unanimously held [by these Tannaim] that the pair proved zomemim should become disqualified retrospectively. But here it is this very principle whether statements following one another within the minimum of time [sufficient for the utterance of a greeting] should or should not be equivalent in law to a single undivided statement that was the point at issue between them: The Rabbis maintained that statements following one another within the minimum of time [sufficient for the utterance of a greeting]

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(1) Who innocently invited the same witnesses to attest the deeds of purchase.

(2) Regarding the view of Raba.

(3) Thus not being a case of two against two but two against one, and the procedure could not be termed anomalous.

(4) In which case the accused two or more cease to act in the strict capacity of witnesses, but become a party interested and partial in the accusation brought against them personally, and the procedure could no more be considered anomalous.

(5) Regarding witnesses proved zomemim.

(6) For so long as the witnesses were not officially disqualified it would be a great hardship to disqualify deeds signed by them at the invitation of innocent purchasers.

(7) A mnemonic composed of Y for ‘Yeush, Abandonment, B.M. 21b-22b; E for ‘Ed, Witness proved zomem, here under consideration; L for Lehi, pole forming a mark of an enclosure, ‘Er. 15a; K for Kiddushin, a case of betrothal, Kid. 51a-52a; G for Gilluy, intimation affecting agency in the case of a bill of divorce, Git. 34a; and M for Mumar, a Defiant Transgressor whether or not he be eligible as witness, Sanh. 27a.

(8) On a subsequent occasion.

(9) I.e., on a subsequent occasion.

(10) From the moment they had given evidence regarding the theft.

(11) Since their evidence regarding slaughter fell to the ground even before they were proved zomemim with reference to it.

(12) Since their evidence regarding slaughter should have fallen to the ground even without their having to be proved zomemim with reference to it.

(13) In which case the retrospective disqualification through their becoming zomemim with reference to both slaughter and theft begins at the same time.

(14) [But first with reference to their evidence about the slaughter. MSS. rightly omit, ‘and were . . . zomemim’.]

(15) In which Abaye and Raba differ.

(16) I.e., the theft.

(17) That the accused will still have to pay double payment.

(18) V. the discussion that follows.

(19) For surely a wrong committed at a later date could not affect the presumed integrity of a man on an earlier occasion.

(20) I.e., on different occasions.

(21) I.e., R. Jose and the other Rabbis.

(22) Representing the anonymous opinion cited first.

(23) And the accused will still have to pay double payment.

Talmud - Mas. Baba Kama 73b

are not equivalent in law to a single undivided statement,[1] whereas R. Jose maintained that statements following one another within the minimum of time [sufficient for the utterance of a greeting] are equivalent in law to a single undivided statement.[2] But did R. Jose really maintain that statements following one another within the minimum of time [sufficient for the utterance of a greeting] are equivalent in law to a single undivided statement? For we have learnt: If a man declares: Let this animal be a substitute[3] for a burnt-offering, a substitute for a peace-offering, it will be a substitute for the burnt-offering,[4] according to the view of R. Meir, whereas R. Jose says: If from the outset he intended this,[5] his words would have to be acted upon,[6] as it was impossible for him to utter two terms at the same time, but if he first declared; ‘Substitute for a burnt-offering’, and then changed his mind and said, ‘Substitute for a peace-offering’, it will be a substitute for a burnt-offering only.[7] Now this statement we found strange; for is not the case of a change of mind obvious?[8] And R. Papa therefore said: We assume that the change of mind took place within the minimum of time [required for the utterance of a greeting]![9] [Does this not prove that R. Jose maintained that statements following one another within the minimum of time sufficient for the utterance of a greeting would not be equivalent in law to a single undivided statement?][10] — It may be said that there are two different minimums of time [within which two different kinds of greetings could be uttered], one sufficient for the greeting given by a disciple to his master, and the other sufficient for the greeting of the master to the disciple. Where[11] R. Jose does not hold [the two statements to be one] is where the interval is sufficient for the greeting of a disciple to the master, viz. ‘peace [upon] thee, master [and] teacher,’ as this is too long,[12] but where it is only sufficient for the greeting of the master to the disciple, ‘peace [upon] thee,[13] he holds that they do [form one].

Raba stated: Witnesses [testifying to a capital charge] who have been proved wrong[14] [by a pair of other witnesses][15] and subsequently also proved zomemim, would be put to death, as the confutation was a first step in the subsequent proof of an alibi,[16] though the proof of this was not yet complete at that time. Raba said: [The authority] on which I base this is that which has been taught: [If a set of witnesses declare], We testify that so-and-so has put out the eye of his slave[17] and[18] knocked out his tooth[19] (and so indeed the master himself says), and these witnesses are [by subsequent witnesses] proved zomemim, they would have to pay[20] the value of the eye to the slave.[21] How are we to understand this? If we assume, according to the apparent meaning of the text, that there was here no other pair of witnesses,[22] why should they pay the value of the eye to the slave? After they have done their best to get him [undeservedly] freed, are they also to pay him the value of his eye? Moreover, should they in such a case not have to pay the owner for the full value of the slave [as they falsely demanded his freedom]? Furthermore, ‘and so indeed the master himself says,’ — how could the master be satisfied [with such a false allegation to his detriment]? Does it therefore not mean a case, e.g., in which a pair of witnesses had already appeared [previously] and stated that the master knocked out the slave's tooth and then put out his eye so that the master would have to pay him the value of his eye,[23] and a middle pair of witnesses appeared later and stated that the first put out the slave's eye and then his tooth, so that he would not have to give him anything but the value of his tooth,[24] so that the first set of witnesses confuted the middle set, and it is to this that the words refer ‘and so indeed the master himself says’, for he was well satisfied with the statement alleged by the middle set? The text then goes on: ‘And these are [by subsequent witnesses] proved zomemim’ — that is, the middle set — ‘they would have to pay the value of the eye to the slave’.[25] Does not this show that the confutation is the first step in a subsequent proof of an alibi?[26] — Abaye said: No; [what we can assume is] that the statement of these witnesses was transposed by a [second] set of witnesses, who also proved them zomemim.[27] That this was so is evident,

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(1) So that the evidence as to the theft and the evidence as to the slaughter could in no manner be considered as one, but are completely independent testimonies, and if the accusation of zomem was proved regarding the latter the former could not be affected.

(2) So that the evidence as to the theft and the evidence as to the slaughter form one testimony to all intents and purposes.

(3) See Lev. XXVII, 10.

(4) The earlier expression being the decisive one.

(5) I.e., that it should be a substitute for both offerings.

(6) And the animal will have to be kept until it becomes blemished when it will be sold and half of the money realised will be utilised for a burnt-offering, and the other half for a peace-offering.

(7) Tem. V, 4.

(8) V. p. 419, n. 4.

(9) Where it might have been suggested that the two utterances constituted a single indivisible statement.

(10) For if otherwise why should the first utterance be more decisive than the second?

(11) In the case of Tem. V, 4.

(12) Consisting as it does of four words. [MS.M. and Asheri omit ‘(and) teacher,’ making it thus consist of three words.]

(13) Consisting only of two words.

(14) On the subject matter of their evidence, after sentence had been passed.

(15) For which, however, no retaliatory punishment could be imposed upon them, as Deut. XIX, 19, does not refer to witnesses who were contradicted on the subject matter of their evidence but against whom the accusation (in a sense) of an alibi was proved, i.e. where they were declared zomemim.

(16) [The term ‘alibi’ is used here for convenience sake, as it deals here with the presence or absence of the witnesses of the alleged crime at the time when it was committed, rather than with the presence or absence of the accused, as the term is generally understood.]

(17) For which he has to let him go free, cf. Ex. XXI, 26-27.

(18) Subsequently.

(19) For which he has to pay the five items in accordance with infra p. 473.

(20) In retaliation.

(21) Tosef. Mak. 1.

(22) Giving evidence for the slave.

(23) Which is of course more than that of his tooth.

(24) Which is less than that of his eye and thus giving evidence for the benefit of the master and against the slave.

(25) I.e., the difference between the value of the eye and the value of the tooth of which they conspired to deprive the slave.

(26) And that after the accusation of an alibi was proved, the law of retaliation will apply despite the fact that their evidence had already been previously impaired.

(27) [There were, that is to say, only two sets of witnesses, the former set testifying that the injury was done to the eye first and then to the tooth, while the second set giving evidence to the contrary and at the same time proving the first set zomemim, in which case the first would have to pay the slave the value of his eye.]

Talmud - Mas. Baba Kama 74a

since, the later clause deals with witnesses whose statements were transposed by the same set of witnesses that proved them zomemim, so also the earlier clause deals with a case where the statements of the witnesses were transposed by the same subsequent set of witnesses who proved their alibi. For it says in the later clause: If a set of witnesses declare: We testify against so-and-so that he had first knocked out his slave's tooth and then put out his eye — as indeed the servant says — and they were by subsequent witnesses proved zomemim, they would have to pay the value of the eye to the master. Now how are we to understand this? If we assume that the witnesses of the second set did not agree [with those of the first set] regarding any injury at all, why then should the first witnesses not have to pay the master the whole value of the slave?[1] Does it therefore not mean that all the witnesses agreed that an injury was inflicted, but that the witnesses of the second set reversed the order stated by the first set of witnesses[2] while they also proved them zomemim? But still, what were the circumstances? If the witnesses of the second set post-dated the injury, why should the witnesses of the first set still not have to pay the master the whole value of the slave, since they falsely alleged liability to have rested upon a man at the time when that man was in fact not yet subject to any liability? — We must therefore say that the witnesses of the second set antedated the injury. But again, if [at the time when the witnesses of the first set gave evidence] the master had not yet appeared before the Court [on the matter], why should they still not have to pay him the whole value of the slave as at that time he was still a man subject to no liability?[3] — It must therefore deal with a case where he had already made his appearance before the Court.[4]

R. Aha the son of R. Ika said to R. Ashi: Whence could Raba prove this point?[5] It could hardly be from the earlier clause, for were the witnesses of the middle set[6] those who were confuted?[7] For indeed were they not proved zomemim; their statements would have remained the decisive evidence[8] as the case would have been decided according to their allegations, on the principle that in the total of two hundred[9] the sum of a hundred[10] is included. Does it not then clearly follow that it was the first set of witnesses[11] who were thus confuted[7] whereas the middle set of witnesses were not confuted at all?[12] — He replied: Raba maintained that as the earlier clause dealt with three sets [of witnesses giving evidence] the later clause similarly presented the law in a case where three sets [gave evidence], and tried thus to prove his point from the later clause. [For this clause would thus have dealt with a case] where e.g., a set of two witnesses had appeared and alleged that the master first knocked out his [slave's] tooth and then put out his eye, and after the verdict was given in accordance with their testimony a set of other witnesses arrived and stated that the first put out his [slave's] eye and then his tooth, thus contradicting the witnesses of the first set, and as these [latter] were also proved zomemim they would have to pay the value of the slave's eye[13] to the master. Now if you assume that a confutation is not considered a first step in a subsequent proof of an alibi, why should they have to pay anything[14] after they had already been confuted? Does this therefore not prove that a confutation does constitute a first step in a subsequent proof of an alibi? And Abaye? — He might have rejoined: I grant you that the earlier clause cannot be explained save on the assumption that there were three sets, for it was stated there ‘as indeed the master also says’,[15] but so far as the later clause is concerned, what need have I for three sets, since the statement ‘as indeed the slave also says’[16] is perfectly natural as the slave would surely say anything, being satisfied at the prospect of going free?[17]

R. Zera demurred [to the general implication]:[18] Why not say that when the master puts out his [slave's] eye

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[1] Whom they wanted without proper ground to set free.

[2] I.e., while the former stated that the master first knocked out his slave's tooth and then put out his eye the second set testified that he first put out the slave's eye and then knocked out his tooth.

[3] And it was they who conspired to allege liability against him; cf. Rashi and Tosaf. a.l. and Mak. 5a.

(4) And he was ordered to let the slave go free on the strength of some testimony by earlier witnesses, without any direction as to any payment to be made to the slave who now seeks to recover from the master compensation for the eye or tooth.
(5) Even according to his interpretation that three sets of witnesses took part in the controversy.
(6) Stating that the master first put out the eye of his slave and then knocked out his tooth.
(7) I.e., the effect of their evidence invalidated.
(8) Against the earlier set testifying that the master first knocked out his slave's tooth and then put out his eye.
(9) I.e., e.g. the value of the eye, testified by the first.
(10) I.e., the value of the tooth, testified by the middle set.
(11) Stating that the master first knocked out his slave's tooth and then put out his eye.
(12) [And this clause can thus afford no proof to Raba's ruling.]
(13) I.e., the difference between the value of the eye and that of the tooth.
(14) Even when proved zomemim.
(15) Corroborating the witnesses stating that he put out the slave's eye and knocked out his tooth, for if these witnesses were the first to give evidence on the matter it would surely not be in the interest of the master to corroborate them. [R. Ashi does not accept as authentic the explanation given above in the name of Abaye, which was based on the assumption that Raba proved his ruling from the earlier clause, v. Tosaf. supra 73b. s.v. אמר .]
(16) In corroboration of the witnesses stating that the master knocked out his tooth and put out his eye.
(17) How much the more so in this case where the evidence of the witnesses is completely for the benefit of the slave.
(18) That a master knocking out the tooth of his slave and putting out his eye should do both — let him go free for the tooth and pay compensation for the eye.

Talmud - Mas. Baba Kama 74b

the slave goes out free in lieu of his eye;[1] when he knocks out his slave's tooth the slave goes out in lieu of his tooth;[2] and so also when he puts out his eye and knocks out his tooth the slave should go out in lieu of both his eye and his tooth [and no payment for either of these should have to be made]? — Abaye said to him: It is to rule out this idea of yours that Scripture says: ‘For his eye's sake’,[3] implying ‘not for the sake of both his eye and tooth’; ‘for his tooth's sake’[4] but not for the sake of both his tooth and his eye.

R. Idi b. Abin said: We have also learnt to the same effect:[5] IF A THIEF [IS CONVICTED OF THE THEFT OF AN OX] ON THE EVIDENCE OF TWO WITNESSES, AND OF THE SLAUGHTER OR SALE OF IT ON THE EVIDENCE OF THE SAME TWO, AND THESE WITNESSES ARE SUBSEQUENTLY PROVED ZOMEMIM, THEY MUST PAY [THE ACCUSED] IN FULL. Does this not mean that the witnesses have first given evidence regarding the theft and then [some time later] testified to the slaughter, and that they were first proved zomemim regarding the theft and then [some time later] proved zomemim [also] regarding the slaughter? Now, the fact that they were proved zomemim regarding the theft is in itself a confutation of their evidence regarding the slaughter,[6] and it is nevertheless stated that ‘THEY MUST PAY THE ACCUSED IN FULL’. But if you assume that a confutation is not the first step in a subsequent proof of an alibi, why should they pay the retaliation penalty for the slaughter? Does not this then show confutation is a first step in a subsequent proof of an alibi? — It may, however, be said that we are dealing here with a case where for example they were first proved zomemim regarding the slaughter.[7]

In this argument [between Raba and Abaye, earlier Sages already differed]: In the case where witnesses [testifying to a capital charge] were first contradicted by another set of witnesses and subsequently also proved zomemim [by a third set of witnesses] R. Johanan and R. Eleazar differed: one said they would be subject to the death penalty,[8] whereas the other said they would not be subject to the death penalty. There is proof that R. Eleazar was the one who said they would not be subject to the death penalty; for R. Eleazar said: ‘If witnesses were confuted [but not proved zomemim] as to their evidence regarding a charge of murder, they would be lashed.[9] Now, if you assume that R. Eleazar was the one who said that [were they subsequently to be proved zomemim] they would be subject to the death penalty, why should they be lashed [when confuted]? Should we not regard the prohibition here laid down[10] as a preliminary warning that the death penalty will be exacted by a court of law,[11] and every prohibition which can serve as a preliminary warning of a death penalty to be exacted by a court of law does not entail liability for lashes?[12] Does not this show that R. Eleazar was the one who said that[13] they would be subject to the death penalty?[14] — This may indeed be regarded as proved.

[It has been stated that where witnesses were confuted but not proved zomemim as to their evidence regarding a capital charge] 'they would be lashed'.[9] But as this is a case where two witnesses contradict other two witnesses, how then could it appear right to you to rely upon those of the second set? Why not rely upon the others? — Abaye replied: This could be so only where the alleged victim came to us on his own feet [thus disproving the evidence of the first set].[15]

MISHNAH. IF THE THEFT [OF AN OX OR A SHEEP] WAS TESTIFIED TO BY TWO WITNESSES,[16] WHEREAS THE SLAUGHTER OR SALE OF IT WAS TESTIFIED TO BY ONLY ONE WITNESS OR BY THE THIEF HIMSELF, HE WOULD HAVE TO MAKE DOUBLE PAYMENT[17] BUT WOULD NOT HAVE TO MAKE FOUR-FOLD AND FIVE-FOLD PAYMENTS.[18] IF HE STOLE IT AND Slaughtered IT ON THE SABBATH DAY,[19] OR IF HE STOLE IT AND SLAUGHTERED IT FOR THE SERVICE OF IDOLS,[19] OR IF HE STOLE IT FROM HIS OWN FATHER WHO SUBSEQUENTLY DIED AND THE THIEF THEN SLAUGHTERED IT OR SOLD IT,[20] OR IF HE STOLE IT AND CONSECRATED IT [TO THE TEMPLE],[21] AND AFTERWARDS HE SLAUGHTERED IT OR SOLD IT, HE WOULD HAVE TO MAKE DOUBLE PAYMENT BUT WOULD NOT HAVE TO MAKE FOUR-FOLD AND FIVE-FOLD PAYMENTS. R. SIMEON, HOWEVER, SAYS: IN THE CASE OF CONSECRATED CATTLE, THE LOSS OF WHICH THE OWNER HAS TO MAKE GOOD, THE THIEF HAS TO MAKE FOUR-FOLD OR FIVE-FOLD PAYMENT,[22] BUT IN THE CASE OF THOSE THE LOSS OF WHICH THE OWNER HAS NOT TO MAKE GOOD, THE THIEF IS EXEMPT.

GEMARA. Is it not obvious that a testimony from the mouth of one witness [should impose no liability to pay]? — It may, however, be said that what we are told here is that confession by the thief himself is analogous to evidence borne by one witness: just as in the case of evidence given by one witness, if another witness should come along and join him, the thief would be made liable;[23] so also in the case of confession by the thief himself, if witnesses should come along [and corroborate it], he would become liable. This deviates from the view of R. Huna stated on behalf of Rab. For R. Huna stated that Rab said: If a man confessed to a liability for a fine, even though witnesses subsequently appeared [and gave evidence to the same effect], he would be exempt.[24]

The above text states: R. Huna stated that Rab said: If a man confessed to a liability for a fine, even though witnesses subsequently appeared [and gave evidence to the same effect], he would be exempt. R. Hisda objected to [this view of] R. Huna [from the following]: It happened that R. Gamaliel [by accident] put out the eye of Tabi[25] his slave.[26] He rejoiced over it very much, [as he was eager to have this meritorious slave set free],[27] and when he met R. Joshua he said to him: 'Do you know that Tabi my slave has obtained his freedom?' 'How was that'? said the other. 'Because', he replied, 'I have [accidentally] put out his eye.' Said R. Joshua to him.' 'Your words have no force in law, since there were no witnesses for the slave.'[28] This of course implies that had witnesses at that time been available for the slave, R. Gamaliel would have been under obligation [to set him free]. Does not this show us that if a man confesses to a liability for a fine, if subsequently witnesses appear and testify to the same effect, he would be liable?[29] — R. Huna, however, said to him[30] that this case of R. Gamaliel was different altogether, as he made his confession not in the presence of the court of Law.[31] But was R. Joshua not the president of the Court of law?[32]

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(1) Ex. XXI, 26.
(2) Ibid. 27.
(3) V. p. 427. n. 7.
(4) V. p. 427, n. 8.
(5) In the case made out by Raba where a contradiction of the subject matter of evidence was followed by proof of an alibi.
(6) For if the evidence regarding the theft fell to the ground it carried with it the evidence regarding the slaughter of the stolen animal.
(7) Which of course did not affect their evidence regarding the theft which was given on an earlier occasion.
(8) Agreeing thus with view of Raba.
(9) Because they transgressed the negative commandment, ‘Thou shalt not bear false witness against thy neighbour’. Ex. XX, 13. and the punishment of thirty-nine lashes is administered for breaking such and similar negative commandments.
(10) Ex. XX. 13.
(11) Should the same witnesses afterwards become zomemim.
(12) Cf. Sanh. 86b; Mak. 13b and Shebu. 4a.
(13) Were they even subsequently proved zomemim.
(14) In which case the prohibition of this offence could thus never be able to serve as a warning of a pending execution at a court of law and lashes could therefore be administered.
(15) In which case their falsity has been proved beyond any doubt.
(16) Cf. Deut. XIX, 15.
(17) For the act of stealing testified to by two witnesses.
(18) As the act of slaughter or sale was testified to by one witness who, in matters of fine, could be of no effect at all even for the purpose of imposing an oath. [V. J. Shebu. VI, and S. Strashun's Glosses, a.1.] so also is the admission of the thief himself of no avail in these matters.
(19) Being a capital offence in which all possible civil liabilities have to merge.
(20) So that at the time of the slaughter or sale the thief was a joint owner of the animal.
(21) Temple property is not subject to the law of the fine.
(22) V. the discussion in Gemara.
(23) Cf. B.B. 32a and Sanh. 30a.
(24) From the fine; cf. supra p. 62.
(25) V. Suk. II,1 and Ber. II, 7.
(26) Who would thereby receive his freedom in accordance with Ex. XXI. 26.
(27) He was, however, unable to manumit him as it was considered a sin to manumit heathen slaves. V. Ber. 47b and Git. 38a.
(28) And the obligation imposed on a man to let his slave go free for his eye's sake and for his tooth's sake is only a matter of fine.
(29) In contradiction to the view of Rab stated by R. Huna.
(30) I.e., R. Hisda.
(31) And is therefore not considered in the eye of the law a legal confession to bar subsequent evidence.
(32) [Shortly after the death of R. Johanan b. Zakkai, v. Halevy, Doroth, I.e., p. 154, contra Weiss, Dor, 130.]

Talmud - Mas. Baba Kama 75a

— He was, however, at that time not sitting in the court of law. But has it not been taught that he said to him: ‘Your words have no force in law, as you have already confessed’?[1] Must we not then say that Tannaim were divided on this matter, so that the Tanna who reported ‘as there are no witnesses for the slave’,[2] would maintain that if one confessed to liability for a fine and subsequently witnesses appeared and testified [to the same effect], he should be liable, whereas the Tanna who reported ‘as you have already confessed’, would maintain that if one confessed to liability for a fine, though witnesses subsequently appeared [and corroborated the confession], he would be exempt? — No, they might both have agreed that if one confessed to the liability of a fine, though witnesses subsequently appeared [and testified to the same effect], he would be exempt, and the point on which they differed might have been this: the Tanna, who reported ‘as there are no witnesses for the slave’, was of opinion that the confession took place outside the court of law,[3] whereas the Tanna, who reported ‘as you already confessed’, was of opinion that the confession was made at the court of law.

It was stated: If a man confesses to liability for a fine, and subsequently witnesses appear [and corroborate the confession], Rab held that he would be quit, whereas Samuel held that he would be liable. Raba b. Ahilai said: The reason of Rab was this. [We expound]: If it [was to] be found[4] by witnesses, it be [considered] found[4] in the consideration of the judges, excepting thus a case where a defendant incriminates himself.[5] Now why do I require this reasoning, seeing that this ruling can be derived from the text ‘whom the judges shall condemn’,[6] which implies ‘not him who condemns himself’? It must be to show that if a man confesses to liability for a fine, even though witnesses subsequently appear [and testify to the same effect], there would be exemption. Samuel, however, might say to you that the doubling of the verb in the verse ‘If to be found it be found’ was required to make the thief himself subject to double payment, as taught at the School of Hezekiah.[7] Rab objected to [this view of] Samuel [from the following Baraitha:][8] If a thief notices that witnesses are preparing themselves to appear[9] and he confesses ‘I have committed the theft [of an ox] but I neither slaughtered it nor sold it’, he would not have to pay anything but the principal?[10] — He [Samuel] replied: We are dealing here with a case where, for instance, the witnesses drew back from giving any evidence in the matter. But since it is stated In the concluding clause: ‘R. Eleazar son of R. Simeon says that the witnesses should still come forward and testify,’ must we not conclude that the first Tanna maintained otherwise?[11] — Samuel thereupon said to him: Is there at least not R. Eleazar son of R. Simeon who concurs with me? I follow R. Eleazar son of R. Simeon. Now according to Samuel, Tannaim certainly differed in this matter. Are we to say that also according to Rab Tannaim differed in this?[12] — Rab might rejoin: My statement can hold good even according to R. Eleazar son of R. Simeon. For R. Eleazar son of R. Simeon would not have expressed the view he did there save for the fact that the thief made his confession because of his fear of the witnesses, whereas here he confessed out of his own free will, even R. Eleazar son of R. Simeon might have agreed [that the confession would bar any pending liability].[13]

R. Hamnuna stated: It stands to reason that the ruling of Rab was confined to the case of a thief saying, ‘I have committed a theft’ and witnesses then coming [and testifying] that he had indeed committed the theft, in which case he is quit, as he had [by the confession] made himself liable at least for the principal.[14] But if he first said, ‘I did not commit the theft,’ but when witnesses appeared and declared that he did commit the theft, he turned round and said, ‘I even slaughtered [the stolen sheep or ox] or sold it,’ and witnesses subsequently came [and testified] that he had indeed slaughtered it or sold it, he would be liable to pay [four-fold or five-fold payment], as [by this confession][15] he was trying to exempt himself from any liability whatever. [But] Raba said: I got the better[16] of the elders of the School of Rab,[17] for R. Gamaliel [by confessing the putting out of his slave's eye] was but exempting himself from any liability, and yet when R. Hisda stated this case [as a proof] against R. Huna[18] he was not answered thus.

It was similarly stated.[19] R. Hiyya b. Abba said in the name of R. Johanan, [that if a thief confessed] ‘I have committed a theft’, and witnesses then came along [and testified] that he had indeed committed the theft, he would be exempt, as in this case he had [by the confession] made himself liable at least for the principal; for where he had first said ‘I did not commit the theft’, but when witnesses appeared and declared that he did commit the theft he again came and said, ‘I even slaughtered [the stolen sheep or ox] or sold it, and witnesses again came and testified that he had indeed slaughtered it or sold it, he would be liable to pay [four-fold or five-fold payment], as by his confession he was but exempting himself from any liability whatever. R. Ashi said: [Texts from] our Mishnah and the [above] Baraitha tend likewise to prove this distinction. From our Mishnah [the proof is] as we have learnt: IF THE THEFT [OF AN OX OR SHEEP] WAS TESTIFIED TO BY TWO WITNESSES, WHEREAS THE SLAUGHTER OR SALE OF IT WAS TESTIFIED TO BY

ONLY ONE WITNESS OR BY THE THIEF HIMSELF, HE WOULD HAVE TO MAKE DOUBLE PAYMENT BUT WOULD NOT HAVE TO MAKE FOUR-FOLD AND FIVE-FOLD PAYMENTS. Now, what is the need for the words. IF THE THEFT WAS TESTIFIED TO BY TWO WITNESSES? Why not simply state: ‘If the theft and slaughter or [theft and] sale were testified to by one witness or by the thief himself, he would not have to pay anything but the principal alone’?

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(1) Which implies that even if witnesses would subsequently appear and testify to the same effect, it would still be of no avail, thus agreeing with the view of Rab.

(2) As the text runs in the former teaching and which implies that if witnesses should come and testify for the slave he would obtain his freedom, in apparent contradiction to the view of Rab.

(3) [Where a confession is not regarded in the eye of the law as legal so as to bar subsequent evidence.]

(4) Ex. XXII. 3.

(5) V. supra 64b.

(6) Ex. XXII, 8.

(7) Supra p. 370.

(8) Cf. Shebu. VIII, 4, and Tosaf. infra 75b, s.v. ברייתא .

(9) Before the court to give evidence against him.

(10) As confession to the liability for a fine carries exemption from the fine.

(11) I.e., that the evidence of the witnesses would be of no avail.

(12) And that R. Eleazar was against him.

(13) And no witnesses should be permitted to give evidence in the matter.

(14) Which proves that the confession was genuine.

(15) Which was thus not a genuine confession.

(16) In this matter.

(17) As R. Hamnuna was of the elders of the School of Rab; v. Sanh. 17b. [Var. lec.:. Raba said to him (to R. Hamnuna). You have got the better of the elders of the school of Rab (viz. R. Huna), v. Tosaf.]

(18) [I.e., against the ruling R. Huna reported in the name of Rab.]

(19) In support of the distinction made by R. Hamnuna.

Talmud - Mas. Baba Kama 75b

Is not the purpose to indicate to us that it was only where the theft was testified to by two witnesses and the slaughter by one or by the thief himself, in which case it was not the confession[1] which made him liable for the principal, that we argue that confession by the thief himself is meant to be analogous to the testimony borne by one witness? So that just as in the case of testimony by one witness, as soon as another witness appears and joins him liability would be established, so also in the case of confession by the thief himself, if witnesses subsequently appear and testify to the same effect he would become liable. If, however, the very theft and slaughter [or theft and] sale were testified to by one witness or by the thief himself, in which case the confession made him liable at least for the principal, we would not argue that confession by the thief himself should be analogous to the testimony borne by one witness.[2] [The proof] from the Baraitha [is] as it was taught: If a thief notices that witnesses are preparing themselves to appear and he confesses, ‘I have committed a theft [of an ox] but I neither slaughtered it nor sold it’ he would not have to pay anything but the principal.[3] Now, what need is there for the words, ‘and he confessed, I have committed the theft [of an ox] but I neither slaughtered it, nor sold it’? Why not simply state ‘I have committed the theft [of an ox], or I slaughtered it or I sold it’? Is not the purpose to indicate that it was only where the thief confessed, ‘I have committed the theft [of an ox]’. where it was he who by confession made himself liable for the principal, that he would be exempt from the fine, whereas if he had stated ‘I have not committed any theft’,and when witnesses arrived and testified that he did commit a theft, he turned round and confessed ‘I have even slaughtered it or sold it’, and witnesses subsequently appeared [and testified] that he had indeed slaughtered it or sold it, in which case it was not he who made himself liable for the principal, he would have to be liable for the fine, thus proving that a confession merely regarding the act of slaughter should not be considered a confession [to bar the pending liability of a fine]![4] — It may, however, be said that this is not so,as the purpose [of the apparently superfluous words] might have been to indicate to us the very ruling that since he confessed ‘I have committed the theft [of an ox or a sheep]’ even though he still said ‘I have neither slaughtered it nor sold it’ and witnesses appeared [and testified] that he did slaughter it or sell it, he would nevertheless be exempt from any fine, the reason being that the Divine Law says: ‘Five-fold or four-fold payment[5] respectively, but not ‘four-fold or three-fold payment’[6] respectively.

Shall we say that the following Tannaim differed on this point? [For it has been taught:] Where two witnesses testified to a theft [of an ox] and other two witnesses subsequently gave evidence that the thief had slaughtered it or sold it, and the witnesses regarding the theft were proved zomemim,[7] since the testimony became annulled regarding a part of it,[8] it would become annulled regarding the whole of it.[9] But if [only] the witnesses to the slaughter were proved zomemim, he would have to make double payment,[10] whereas they[11] would [have to pay him three-fold payment as restitution].[12] In the name of Symmachus it was, however, stated that they would have to make double payment,[13] whereas he would have to make three-fold payment for an ox and double payment for a ram.[13] Now, to what did Symmachus refer? It could hardly be to that of the opening clause,[14] for would Symmachus not agree that a testimony becoming annulled regarding a part of it should become annulled regarding the whole of it? If again he referred to the concluding clause,[15] did the Rabbis not state correctly that the thief should make double payment while the false witnesses would have to make three-fold payment? It must therefore be that there was another point at issue between them,[16] viz., where a pair of witnesses came and said to him: ‘You have committed the theft [of an ox]’. and he said to them: ‘It is true that I have committed the theft [of an ox] and even slaughtered it or sold it, but it was not in your presence that I committed the theft’, and he in fact brought witnesses who proved an alibi[17] against the first witnesses that it was not in their presence that he committed the theft, while the plaintiff brought further witnesses who gave evidence against the thief that he had committed the theft [of an ox] and slaughtered it or sold it. They would thus differ as to the confession regarding the slaughter, the Rabbis holding that though in regard to the theft it was certainly because of the witnesses[18] that he confessed, the confession regarding the slaughter[19] should have the usual effect of confession and exempt him from the fine, whereas Symmachus held that since regarding the theft it was because of witnesses that he confessed, the confession of the slaughter should not have the [full] effect of a confession [as it did not tend to establish any civil liability], so that the first witnesses who were found zomemim[20] would have to pay him[21] double, whereas he[21] would have to pay three-fold for an ox and double for a ram![22] — R. Aha the son of R. Ika said: No, all might agree that the confession regarding the slaughter would not have the [exempting] effect of a confession, and where they differ here is regarding evidence given by witnesses whom you would be unable to make subject to the law applicable to zomemim, as e.g., where two witnesses came and said to him: ‘You have committed the theft [of the ox]’, and he said to them: ‘I did commit the theft [of the ox] and even slaughtered it or sold it; it was, however, not in your presence that I committed the theft, but in the presence of so-and-so and so-and-so,’ and he in fact brought witnesses who proved an alibi against the first witnesses, that it was not in their presence that he committed the theft, but so-and-so and so-and-so [mentioned by the thief] came and testified against him that he did commit the theft [of the ox] and slaughtered it or sold it. The point at issue in this case would be as follows: The Rabbis maintain that this last evidence was given by witnesses whom you would [of course] be unable to make subject to the law applicable to zomemim [as they were pointed out by the thief himself],[23] and any evidence given by witnesses whom you would be unable to make subject to the law applicable to zomemim could not be considered valid evidence,[24] whereas Symmachus maintained that evidence given by witnesses whom you would be unable to make subject to the law applicable to zomemim would be valid evidence.[25] But is it not an established tradition with us[26] that any evidence given by witnesses whom you would be unable to make subject to the law applicable to zomemim could not be considered valid evidence? — This is the case only where the witnesses do not know the exact day or the exact hour of the occurrence alleged by them,[27] in which case there is in fact no evidence at all, whereas here [your inability to make them subject to the law applicable to zomemim was only because] the thief himself was in every way corroborating their statements.

The Master stated: 'They[28] would have to make double payment. But since in this case the thief admitted that he did commit the theft, so that he would surely be required to pay the principal, [why should the witnesses proved zomemim have to make double payment?][29] — Said R. Eleazar in the name of Rab: Read:

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(1) But the testimony of two witnesses.
(2) But a confession of this nature bars subsequent evidence in accordance with the view of Rab.
(3) Shebu. 49a.
(4) Supporting thus the distinction made by R. Hamnuna.
(5) Ex. XXI, 37.
(6) I.e., since he confessed regarding the theft, in which case he will only have to pay the principal, since the doubling of it is a fine, he will not be subject to the fine of slaughter or sale even when denied by him and testified to by two witnesses, on account of the fact that the payment in this case would have to be not five-fold but four-fold for an ox and not four-fold but three-fold for a sheep.
(7) V. Glos.
(8) I.e., regarding the theft.
(9) I.e., regarding also the slaughter or sale, for surely if there was no theft there, no slaughter and sale of a stolen animal could have been there.
(10) For the theft which was testified to by the other set of witnesses.
(11) The second set proved zomemim.
(12) In accordance with Deut. XIX, 19.
(13) V.. the discussion later on.
(14) Where the witnesses to the theft were proved zomemim.
(15) Where the witnesses to the slaughter or sale were proved zomemim.
(16) I.e., Symmachus and the Rabbis.
(17) V. p. 421, n. 1.
(18) I.e., the first set of witnesses.
(19) Which was not made through any fear.
(20) Regarding the theft.
(21) The thief.
(22) I.e., the prescribed fine for the slaughter or sale. This therefore proves that the Rabbis maintained that a confession which does not involve the liability of the principal should still have the effect of a confession, in contradiction to R. Hamnuna, whereas Symmachus would maintain that it should be devoid of the absolute exempting effect of a confession to liability for a fine.
(23) Against whom they gave evidence.
(24) [The thief would accordingly be exempt from the fine for the slaughter and sale of which he stands convicted, as it were on his own evidence.]
(25) [Hence the thief, on his part. would have to pay the exclusive fine for the slaughter or sale.]
(26) Cf. Sanh. 41a and 78a.
(27) Cf. Sanh. 40a.
(28) I.e., the witnesses who gave evidence regarding the theft and were proved zomemim.
(29) They should have to pay no more than the amount of a single payment.

Talmud - Mas. Baba Kama 76a

the payment of doubling.[1]

IF HE STOLE IT AND CONSECRATED IT [TO THE TEMPLE] AND AFTERWARDS SLAUGHTERED IT OR SOLD IT, HE WOULD HAVE TO MAKE DOUBLE PAYMENT BUT WOULD NOT HAVE TO MAKE FOUR-FOLD AND FIVE-FOLD PAYMENTS. I would here Say: I grant you that he should not be liable for the slaughter, as when he slaughtered it, it was a consecrated animal which he slaughtered and he did not slaughter that which belonged to the owner. But why should he not be made liable for the very act of consecration?[2] For indeed what difference does it make to me whether he disposed of it to a private owner or whether he disposed of it to the ownership of Heaven? — This represents the view of R. Simeon who said[3] that consecrated objects, the loss of which the consecrator would have to make good, should be considered as if still remaining in the possession of the consecrator.[4] But since the concluding clause gives the view of R. Simeon,[3] the view stated in the previous clause is surely not that of R. Simeon. [Why then no liability for the act of consecration?] — We must therefore be dealing here with a case of minor sacrifices[5] and in accordance with R. Jose the Galilean, who declared[6] that minor sacrifices are private property and thus still remain in the possession of the consecrator. But what would be the law [where the thief consecrated the stolen sheep or ox] for most holy sacrifices?[7] Would he then have to make four-fold or five-fold payment for the act of consecration? If so, why read in the opening clause: ‘If he steals and slaughters and consecrates it, he has to make four-fold or five-fold payment’?[8] Why not make the distinction in stating the very case itself: ‘This ruling applies only in the case of minor sacrifices, but where he sanctified it for the most holy sacrifices he would have to make four-fold or five-fold payment [for the very act of consecration]’? — We must therefore still say that there is no difference whether [the animal was consecrated for the] most holy sacrifices or merely for minor sacrifices, and to the difficulty raised by you. ‘What difference does it make to me whether he disposed of it to a private owner or whether he disposed of it to the ownership of Heaven’, [it might be said in answer that] where he disposed of it to a private owner it was previously the ox of Reuben and has now become the ox of Simeon,[9] whereas where he disposed of it to the ownership of Heaven it was previously the ox of Reuben and still remains the ox of Reuben.[10]

R. SIMEON HOWEVER SAYS: IN THE CASE OF CONSECRATED CATTLE THE LOSS OF WHICH THE OWNER HAS TO MAKE GOOD, THE THIEF HAS TO MAKE FOUR-FOLD OR FIVE-FOLD PAYMENT, BUT IN THE CASE OF THOSE THE LOSS OF WHICH THE OWNER HAS NOT TO MAKE GOOD, THE THIEF IS EXEMPT. I would here say: Granted that in the opinion of R. Simeon it makes no difference whether he disposed of it to a private owner or whether he disposed of it to Heaven,[11] has not the text to be transposed [so as to read as follows]: ‘[For consecrating the stolen animals as] sacrifices the loss of which he would have to make good the thief should be exempt, as they have not yet been removed altogether from his possession, whereas [for consecrating them as] sacrifices the loss of which he would not have to make good he should be liable, as in this case they have already been removed from his possession’?

It may be said that R. Simeon referred to a different case altogether, and the text [of the Mishnah] is to be read thus: If a man misappropriates an article [already stolen] in the hands of a thief he has not to make four-fold and five-fold payments. So also he who misappropriates a consecrated object from the house of the owner is exempt, the reason being that [the words] ‘and it be stolen out of the man's house’[12] imply ‘but not from the possession of the sanctuary’. R. Simeon, however, says: In the case of consecrated objects, the loss of which the owner has to make good, the thief is liable to pay, the reason being that to this case [the words of the text] ‘and it be stolen out of the man's house’[12] [apply].[13] But in the case of those the loss of which the owner has not to make good, the thief is exempt, as we cannot apply the words ‘and it be stolen out of the man's house’. Let us see. We have heard R. Simeon say[14] that a slaughter through which the animal would not ritually become fit for food could not be called slaughter [in the eye of the law]. Is the slaughter [outside the Temple precincts] of sacrifices not similarly a slaughter which would not render the animal fit for food?[15] [Why then should there be liability for slaughtering them thus?] — When R. Dimi arrived[16] he stated on behalf of R. Johanan [that the liability would arise] if the thief slaughtered the sacrifices while unblemished within the precincts of the Temple in the name of the owner. But has not the principal thus been restored to the owner [since the sacrifice produced atonement for him]?[17] — Said R. Isaac b. Abin: We presume that the blood was poured out [and thus not sprinkled upon the altar, so that no atonement was effected for the owner].[18] When Rabin arrived[16] he said on behalf of R. Johanan that the liability would only be where he slaughtered the sacrifices while unblemished within the precincts of the Temple but not in the name of the owner,[19]

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(1) I.e., a single payment.

(2) As if he would have sold it.

(3) Mishnah supra p. 427.

(4) As they are still under his charge and the transfer was thus incomplete.

(5) Such as peace. offerings and thank-offerings and the like.

(6) Supra p. 50.

(7) Such as burnt-offerings, sin-offerings and the like.

(8) Supra p. 403.

(9) I.e., the transfer from the thief to the purchaser was complete in every respect.

(10) I.e., the transfer from the thief to the Temple was not so complete. as the sacrifice is still credited to him.

(11) So that for the very act of sanctification the thief will become liable for the fine as if he had sold the animal.

(12) Ex. XXII, 6.

(13) For since the loss of these consecrated objects would involve an outlay of money on the part of the original owner, they are in this respect in his ownership as they are under his charge; cf. supra p. 410.

(14) Supra p. 408.

(15) Cf. Lev. XVII. 3-9; Hul. 78a-80b.

(16) From Palestine to Babylon.

(17) Why then should liability for the fine be attached?

(18) Cf. Zeb. 25a.

(19) In which case the owner derives no benefit, as the sacrifice is not credited to him though otherwise it is perfectly valid; cf. Zeb. I,1.

Talmud - Mas. Baba Kama 76b

whereas Resh Lakish said that there will be liability also if the thief slaughtered blemished sacrifices[1] outside the precincts of the Temple.[2] R. Eleazar was astonished at the statement of R. Johanan: Is it the slaughter that renders the sacrificed animal permissible for food?[3] Is it not the sprinkling of the blood that renders it permissible to be partaken of?[4] So also he was astonished at the statement of Resh Lakish: Is it the slaughter that renders the sacrificed animal permissible for food?[5] Is it not its redemption[6] that renders it permissible for food?[5] — It, however, escaped his memory that R. Simeon has laid down that whatever is ready to be sprinkled is considered as if it has already been sprinkled, and whatever is designated for being redeemed is considered as if it had already been redeemed[7] . 'Whatever is ready to be sprinkled is considered as if it had already been sprinkled' — as taught: R. Simeon says: There is nothar[8] which may be subject to defilement in accordance with the law applicable to the defilement of food,[9] but there is also nothar which is not subject to defilement in accordance with the law applicable to the defilement of food. How is this so? If it remains over night before the sprinkling of the blood,[10] it would not be subject to become defiled in accordance with the law applicable to the defilement of food,[11] but if after the sprinkling of blood,[12] it would be subject to become defiled in accordance with the law applicable to the defilement of food.[13] Now, it is an accepted tradition that the meaning of 'before sprinkling' is 'without it first having become fit to be sprinkled' and of 'after sprinkling', 'after it became fit for sprinkling'. Hence, 'where it remained overnight without having first become fit for sprinkling' could only be where there was no time during the day to sprinkle it, such as where the sacrifice was slaughtered close upon sunset, in which case it would not be subject to become defiled in accordance with the law applicable to the defilement of food; and ‘where it remained over night after it had already become fit for sprinkling,’ [could only be] where there was time during the [previous] day to sprinkle it, in which case it would be subject to become defiled in accordance with the law applicable to the defilement of food.[14] This proves that whatever is ready to be sprinkled is considered as if it had already been sprinkled.[15] ‘Whatever is designated for being redeemed is considered as if it had already been redeemed,’ — as taught: ‘R. Simeon says:

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(1) [I.e., an animal which became afflicted with a lasting blemish before it was dedicated (Rashi).]

(2) As these may be slaughtered outside the precincts of the Temple, even without being first redeemed.

(3) In the case of unblemished sacrifices slaughtered in the precincts of the Temple.

(4) It accordingly follows that the slaughter as such did not at that time render the animal ritually fit for food.

(5) In the case of blemished sacrifices slaughtered outside the precincts of the Temple.

(6) Subsequent to the slaughter thereof. Cf. Hul. 84a.

(7) So that the slaughter is considered fit; cf. Pes. 13b; Men. 79b and 102b.

(8) Lit., ‘That which remaineth’; cf. Ex. XII, 10 and Lev. XIX, 6. denoting portions of sacrifices that had not been eaten or sacrificed upon the altar within the prescribed time and could then no more be sacrificed upon the altar or partaken of or put to any use but had to be burnt in a special place.

(9) Cf. Lev. XI, 34.

(10) In which case the portions have never been allowed to be partaken of.

(11) As according to Bek. 9b, food cannot become defiled unless it was permitted to be made use of as food.

(12) It was left over, in which case there was a time when the portions were ritually fit as food.

(13) Tosef. ‘Uk. III, 7’ in accordance with Lev. XI, 34.

(14) V. p. 439. n. 9.

(15) And made the sacrifice as if ritually fit to be partaken of.

Talmud - Mas. Baba Kama 77a

The red heifer is subject to become defiled in accordance with the law applicable to the defilement of food,[1] since at one time it had ritual fitness to be used for food',[2]

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(1) Cf. Lev. XI, 34.

(2) Tosef. Par. VI, 9; Shebu. 11b.

Talmud - Mas. Baba Kama 77b

and Resh Lakish observed that R. Simeon used to say that the red heifer could be redeemed even after [it was slaughtered and] placed upon the wood for burning[1] thus proving that whatever has the possibility of being redeemed[2] is considered as if it had already been redeemed.

We can understand why R. Johanan did not give the same answer [to the difficulty[3] propounded] as Resh Lakish,[4] as he was anxious to explain the ruling [of our Mishnah] even in the case of unblemished sacrifices. But why did Resh Lakish not give the same answer as R. Johanan?[5] — He could say: [Scripture says.] 'And he slaughtered it or sold it'[6] implying that it was only an animal [subject to this law] in the case of a sale that could be [subject to it] in the case of slaughter, whereas an animal which would not be [subject to this law] in the case of sale could similarly not be [subject to it] in the case of slaughter either. Now, in the case of these unblemished sacrifices, since if the thief had sold the sacrifices it would not have been a sale [to all intents and purposes],[7] they could not be [subject to this law even] when they were slaughtered. R. Johanan and Resh Lakish indeed followed their own lines of reasoning [elsewhere]. For it was stated: If a thief sells a stolen ox which is trefa,[8] according to R. Simeon,[9] R. Johanan said that he would be liable, whereas Resh Lakish said that he would be exempt. R. Johanan. who said that he would be liable, held that though this ox could not be subject to the law of slaughter it could yet be subject to the law of sale, whereas Resh Lakish who said that he would be exempt maintained that since this ox could not be subject to the law of slaughter, it could similarly not be subject to the law of sale either.

R. Johanan objected to [the view of] Resh Lakish [from the following]: If he stole a hybrid animal and slaughtered it, or a trefa animal and sold it, he would have to make double payment. Now, does not this ruling follow the view of R. Simeon,[10] thus proving that though this ox would not be subject to the law of slaughter it could nevertheless be subject to the law of sale? — He replied: No; this is the view of the Rabbis .[11] But if this is the view of the Rabbis, why should a trefa ox be subject only to the law of sale and not to the law of slaughter? — You say then that it is the view of R. Simeon.[9] Why then should a hybrid animal be subject only to the law of slaughter and not to that of sale? We must say therefore that though slaughter is mentioned[12] the same law was meant to apply also to sale; so also according to the Rabbis, though sale is stated in the text,[13] the same law was meant to apply to slaughter.[14] R. Johanan, however, might say that this does not follow. It is true that if you say that the ruling follows R. Simeon, there is no difficulty: since it was necessary to state liability regarding trefa in the one case [of sale] only, it states liability regarding a hybrid animal also in the one case [of slaughter] only. But if you say that this ruling follows the Rabbis, why not join them together, and state thus: 'If the thief misappropriated a hybrid animal and a trefa [sheep or ox] and slaughtered them or sold them, he would have to make four-fold or five-fold payment'! This indeed is a difficulty.

[But why should there be liability for four-fold or five-fold payment in the case of] a hybrid animal since Scripture says 'sheep'.[15] and Raba [elsewhere] said that this[16] is a locus classicus for the rule that wherever it says 'sheep', the purpose is to exclude a hybrid animal? — This case here is different, as Scripture says 'or',[17] implying the inclusion of a hybrid animal. [Does this mean to say that] the term 'or' everywhere implies an amplification? Was it not taught:[18] 'When a bullock or a sheep:[19] this excepts a hybrid; or a goat:[19] this excepts an animal looking like a hybrid'? — Said Raba: The term 'or' in the one case is expounded in accordance with the subject matter of the verse, and the term 'or' in the other case is similarly expounded in accordance with the subject matter of that verse. Here in connection with theft where it is written 'an ox or a sheep', since it is impossible to produce a hybrid from the union of these two,[20] the term 'or' should be expounded to include[21] a hybrid [of a different kind], whereas in connection with sacrifices where it is written 'a sheep or a goat',[19] where it is possible for you to produce a hybrid from their union,[22] the term 'or' should rightly be taken to exclude[23] [the hybrid].

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(1) And this is the ritual fitness as food.

(2) Though it was in fact never redeemed.

(3) As to how could the slaughter in the case of a sacrifice render the stolen animal ritually fit for food and thus make the thief liable for the fine.

(4) Who stated that the animal was blemished and slaughtered outside the precincts of the Temple.

(5) That an unblemished animal was slaughtered in the precincts of the Temple but not in the name of the owner.

(6) Ex. XXI, 37.

(7) Cf. Pes. 89b.

(8) V. Glos.

(9) Who in the case of slaughtering such an animal maintains exemption; v. supra p. 403.

(10) For if otherwise, why not state slaughter also in the case of trefa.

(11) According to whom even for slaughter in the case of trefa there is liability for the fine (supra p. 403).

(12) In the case of a hybrid animal.

(13) Dealing with trefa.

(14) [But according to R. Simeon a trefa is not subject even to the law of sale.

(15) In Ex. XXI, 37.

(16) The word 'sheep' in Lev. XXII, 28; v. Hul. 78b.

(17) Ex. XXI, 37.

(18) Hul. 38b.

(19) Lev. XXII, 27.

(20) As an ox could not possibly be the father of the offspring of a sheep.

(21) For if to exclude there was no need for this 'or'.

(22) As a sheep could be the father of the young of a goat.

(23) For if to include there was no need for this 'or' to be inserted.

Talmud - Mas. Baba Kama 78a

But in connection with sacrifices it is also written 'a bullock or a sheep', in which case it is impossible for you to exclude a hybrid born from these two, why then should we not employ the term 'or' to include [a hybrid of a different kind]? — Since the term 'or' in the later phrase[1] is to 'be employed to exclude, the term 'or' in the earlier phrase[2] should similarly be employed to exclude. But why not say on the contrary that, as the term 'or' in the earlier phrase has to be employed to amplify, so also should the term 'or' in the later phrase? — Would this be logical? I grant you that if you say that the term 'or' meant to exclude, then it would be necessary to have two [terms 'or'] to exclude, for even when a hybrid has been excluded, it would still be necessary to exclude an animal looking like a hybrid. But if you say it is meant to amplify, why two amplifications [in the two terms 'or']? For once a hybrid is included, what question could there be of an animal looking like a hybrid. To what halachah then would the statement made by Raba refer, that this is a locus classicus for the rule that wherever it says 'sheep'. the purpose is to exclude a hybrid? If to sacrifices, is it not explicitly said: 'A bullock or a sheep which excepts a hybrid' ? If to the tithes [of animals] , is not the term 'under'[3] compared to 'under' used in connection with sacrifices [making it subject to the same law]? If to a firstling, is the verb expressing 'passing'[4] not compared to 'passing'[3] used in connection with tithe? Or again we may say, since where the animal only looks like a hybrid you say that it is not [subject to the law of firstling], since it is written: ‘But the firstling of an ox’[5] [which implies that the rule holds good] only where the parents were of the species of ‘ox’ and the firstling was of the species of ‘ox’, what question can there be regarding a hybrid itself? — The statement made by Raba must therefore have referred to the firstling of an ass,[6] as we have learnt:[7] It can not be redeemed either by a calf or by a wild animal or by a slaughtered sheep or by a trefa sheep or by a hybrid or by a koy.[8] But if we accept the view of R. Eleazar, who allows redemption with a hybrid sheep, as we have learnt: R. Eleazar allows the redemption to be made with a hybrid, for it is a sheep,[7] to what halachah [can we refer the statement of Raba] ? — R. Eleazar might reply that the statement made by Raba is to teach [the prohibition of] an unclean animal[9] born from a clean animal[10] which became pregnant from an unclean animal [being forbidden as food].[11] this opinion not being in accordance with R. Joshua. for R. Joshua derived[12] this prohibition from the verse ‘the sheep of sheep and the sheep of goats’.[13] which implies that unless the father was a ‘sheep’ and the mother a ‘sheep’ [the offspring is forbidden for food]. But could a clean animal become pregnant from an unclean animal? — Yes, since it is known to us

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(1) Dealing with ‘sheep’ and ‘goat’.

(2) Where ‘bullock’ and ‘sheep’ are mentioned.

(3) Lev. XXVII, 32.

(4) Ex. XIII, 12.

(5) E.V. ‘a cow’. Num. XVIII. 17.

(6) Which has to be redeemed by a sheep (Ex. XIII. 13). so that a hybrid would therefore not be eligible.

(7) Bek. 1,5.

(8) I.e., a kind of an antelope about which there was a doubt whether it belongs to the species of cattle or to that of beasts of the forest. [V. Lewysohn. Zoologie, p. 115 ff. who identifies it with the Gr. **, ‘goat-stag’ mentioned by Plinius.]

(9) E.g.. a swine; v. Lev. XI, 7.

(10) Such as a sheep.

(11) Such as where a cow became pregnant from a horse and gave birth to a foal or where a sheep became pregnant from a swine and gave birth to a swine.

(12) Cf. Bek. 7a.

(13) Deut. XIV, 4.

Talmud - Mas. Baba Kama 78b

that it could become pregnant from an animal with uncloven hoofs, [which though born from parents belonging to the species of ox, is considered unclean] in accordance with the view of R. Simeon.[1]

Raba asked: [If one vowed.] ‘I take upon myself to sacrifice a burnt — offering.’[2] and he set aside an ox and somebody came and stole it , should the thief be entitled to free himself[3] by paying for a sheep, if we follow the Rabbis, or even for a burnt-offering of a bird, if we follow R. Eleazar b. Azariah, as we have learnt:[4] [If one vowed.] ‘I take it upon myself to bring a burnt-offering.’ he may bring a sheep;[5] R. Eleazar b. Azariah says that he may even bring a turtle — dove or a young pigeon?[6] What should be the legal position? Shall we say that since he undertook to bring something called a burnt-offering [the thief may be entitled to restore the minimum burnt-offering], or perhaps the donor might be entitled to say to him: ‘I am anxious to do my duty in the best manner possible’? After he put the question, on second thoughts he decided that the thief might free himself by paying a sheep, according to the view of the Rabbis, or even a burnt-offering of a bird, according to the view of R. Eleazar b. Azariah. R. Aha the son of R. Ika taught this as a definite ruling, [as follows]: Raba said: [If one vowed.] ‘I take it upon myself to sacrifice a burnt-offering.’ and he set aside an ox and somebody came and stole it, the thief may free himself by paying for a sheep, if we follow the Rabbis, or even for a burnt-offering of a bird, if we follow R. Eleazar b. Azariah.

MISHNAH. IF HE SOLD [THE STOLEN SHEEP OR OX] WITH THE EXCEPTION OF ONE

HUNDREDTH PART OF IT,[7] OR IF HE HAD SOME PARTNERSHIP IN IT[8] [BEFORE HE STOLE IT] OR IF HE SLAUGHTERED IT AND IT BECAME NEBELAH[9] UNDER HIS HAND, OR IF HE STABBED IT OR TORE LOOSE [THE WIND PIPE AND GULLET BEFORE CUTTING],[10] HE WOULD HAVE TO MAKE DOUBLE PAYMENT[11] BUT WOULD NOT HAVE TO MAKE FOUR-FOLD AND FIVE-FOLD PAYMENTS.

GEMARA. What is meant by ‘with the exception of one hundredth part of it’? — Rab said: With the exception of any part that would be rendered permissible [for food] together with the bulk of the animal through the process of slaughter.[12] Levi, however, said: With the exception even of its wool. It was indeed so taught in a Baraitha: ‘With the exception of its wool.’

An objection was raised [from the following]: ‘If he sold it with the exception of its fore-paw, or with the exception of its foot, or with the exception of its horn, or with the exception of its wool, he would not have to make four-fold and five-fold payments. Rabbi, however, says: [If he reserved for himself] anything the absence of which would prevent a [ritual] slaughter, he would not have to pay four-fold and five-fold payments, but [if he reserves] anything which is not indispensable for the purposes of [ritual] slaughter[13] he would have to make four-fold or five-fold payment. But R. Simeon b. Eleazar says: If he reserved its horn he would not have to make four-fold or five-fold payment; but if he reserved its wool he would have to make four-fold or five-fold payment’. This presents no difficulty to Levi, as he would concur with the first Tanna, but with whom does Rab concur?[14] — It may he said that Rab concurs with the following Tanna, as taught: R. Simeon b. Eleazar said:[15] ‘If he sold it with the exception of its fore-paw or with the exception of its foot he would not have to make four-fold or five-fold payment. But if with the exception of its horn or with the exception of its wool he would have to make four-fold and five-fold payments’. What is the point at issue between all these Tannaim? — The first Tanna held that [to fulfil the words] ‘and he slaughter it’[16] we require the whole of it, as also [to fulfil the words] ‘and he sell it’ we require the whole of it.[17] Rabbi, however, held that ‘and he slaughter it’ refers only to those parts the absence of which would render the slaughter ineffective, excluding thus anything which has no bearing upon the slaughter, while ‘and he sell it’ is of course analogous to ‘and he slaughter it’. R. Simeon b. Eleazar, on the other hand, maintained that the horn not being a part which is usually cut off could be reckoned as a reservation, so that he would not have to make four-fold and five-fold payments, whereas the wool of the animal being a part which is usually shorn off could not be reckoned as an reservation, and he would thus have to make four-fold or five-fold payment. But the other Tanna of the School of R. Simeon b. Eleazar maintained that its fore-paws or feet which require slaughter [to render them permissible] form a reservation, and he would not have to pay four-fold and five-fold payments, whereas its horns or its wool, as they do not require slaughter [to render them permissible] would not constitute a reservation. But does R. Simeon b. Eleazar not contradict himself? — Two Tannaim report differently the view of R. Simeon b. Eleazar.

Our Rabbis taught: He who steals a crippled, or a lame, or a blind [sheep or ox], and so also he who steals an animal belonging to partners [and slaughters it or sells it] is liable [for four-fold and five-fold payments]. But if partners committed a theft they would be exempt.[18] But was it not taught: ‘If partners committed a theft, they would be liable’?[19] — Said R. Nahman: This offers no difficulty, as the former statement deals with a partner stealing from [the animals belonging to him and] his fellow — partner, whereas the latter states the law where a partner stole from outsiders.[20] Raba objected to [this explanation of] R. Nahman [from the following]: ‘Lest you might think that if a partner steals from [the animals belonging to himself and to] his fellow — partner, or if partners commit the theft, they should be liable, it is definitely stated, ‘And slaughter it’,[21] showing that we require the whole of it, which is absent here’ — [Does this not prove that partners stealing from outsiders are similarly exempt?] — R. Nahman therefore said: The contradiction [referred to above] offers no difficulty, as the statement [of liability] referred to a partner slaughtering[22] with the authorisation of his fellow — partner,[23] whereas the other ruling referred to a partner slaughtering without the authorization of his fellow-partner.[24]

R. Jeremiah inquired: If the thief sold a stolen animal with the exception of the first thirty days,[25] or with the exception of its work[26] or with the exception of its embryo,what would be the law?[27] If we accept the view that an embryo is [an integral part like] the thigh of its mother,[28] there could be no question that this would be a sure reservation. The question would arise only if we accept the view that an embryo is not like the thigh of its mother. What indeed should be the law? Shall we say that since it is joined to it, it should count as a reservation, or perhaps since it is destined to be separated from it, it should not be considered a reservation? Some state the question thus: [Shall we say that] since it is not like the thigh of its mother, it should not count as a reservation, or perhaps since at that time it requires [the union with] its mother to become permissible for food through the process of slaughter[29] it should be equal to a reservation made in the actual body of the mother? — Let this stand undecided.

R. papa inquired: If the thief after stealing mutilated it and then sold it, what would be the law?[30] Shall we say that [since] all that he stole he did not sell [he should be exempt], or perhaps [since] in what he sold he reserved nothing [for himself he should be liable]? — Let this [also] stand undecided.

Our Rabbis taught: If he stole [a sheep or an ox] and gave it to another person who slaughtered it, or if he stole it and gave it to another person who sold it,

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(1) Cf. Bek. 6b.

(2) In which case he would be responsible for the loss of the sacrifice which he set aside, having to replace it with another sacrifice, and the thief would therefore according to R. Simeon be liable to the donor.

(3) So far as the owner is concerned.

(4) Men. 107a.

(5) Which could also be brought as a burnt offering; cf. Lev. 1,10.

(6) Cf. ibid. 14.

(7) The exemption here is because the sale did not extend to the whole animal.

(8) In which case not the whole act of the sale was unlawful.

(9) V. Glos.

(10) Thus rendering the animal nebelah.

(11) For the act of theft.

(12) This law would thus not extend to a case where the wool or the horns were excepted from the sale.

(13) E.g., the fore-paw.

(14) For he could not follow the views of Rabbi according to whom even where the fore-paw (which is rendered permissible through the process if slaughter) was excepted, the thief would still have to make four-fold or five-fold payment.

(15) According to the tradition if another School, v. discussion which follows.

(16) Ex. XXI, 37.

(17) Without any exception whatever. (5) Where he excepted it from the sale.

(18) Tosef. B.K. VII, 4.

(19) B.M. 8a.

(20) Where there is liability.

(21) Ex. XXI, 37.

(22) An animal stolen by both of them and for which they both have to share the fine for the theft.

(23) And since in this case the law of agency applies even for the commission of a sin (v. supra 71a), they would both have to share the fine for the slaughter too.

(24) In which case the fellow-partner could certainly not be made liable to pay anything for the slaughter nor again the one who slaughtered the animal, since we could not make him liable for the whole of the slaughter, as though he slaughtered the whole of the animal he was a thief but of half of it.

(25) During which period the thief should still retain it.
(26) The vendee may slaughter it forthwith, but any work done by it should be credited to the vendor.
(27) Regarding the payment of the fine.
(28) Cf. Tem. 30b and also supra p. 265.
(29) In accordance with Hul. 74a.
(30) Regarding the payment of the fine.

Talmud - Mas. Baba Kama 79a

or if he stole it and consecrated it, or if he stole it and sold it on credit, or if he stole it and bartered it, or if he stole it and gave it as a gift, or if he stole it and paid a debt with it, or if he stole it and paid it for goods he had obtained on credit, or if he stole it and sent it as a betrothal gift to the house of his father-in-law, he would have to make four-fold and five-fold payments.[1] What is this meant to tell us? [Is not all this obvious?] — The new point lies in the opening clause: ‘If he stole [a sheep or an ox] and gave it to another person who slaughtered it’, [which implies] that in this case the law of agency has application even for a matter involving transgression.[2] Though in the whole of the Torah [there is] no [case of an] agent entrusted with a matter involving transgression [rendering the principal liable], sin this case an agent entrusted with a matter involving transgression would render his principal liable, the reason being [that Scripture says]: ‘And he slaughter it or sell it’, implying that just as a sale cannot be effected without the intervention of some other person,[3] so also where the slaughter was effected [by some other person authorised by the thief to do so the thief would be liable]. There is also a new point in the concluding clause: ‘Where he stole it and consecrated it’, which tells us that it makes no difference whether he disposed of it to a private person or whether he disposed of it to the ownership of Heaven.[4]

MISHNAH. IF HE STOLE [A SHEEP OR AN OX] IN THE PREMISES OF THE OWNERS AND SLAUGHTERED IT OR SOLD IT OUTSIDE THEIR PREMISES, OR IF HE STOLE IT OUTSIDE THEIR PREMISES AND SLAUGHTERED IT OR SOLD IT ON THEIR PREMISES, OR IF HE STOLE IT AND SLAUGHTERED IT OR SOLD IT OUTSIDE THEIR PREMISES, HE WOULD HAVE TO MAKE FOUR-FOLD OR FIVE-FOLD PAYMENT.[5] BUT IF HE STOLE IT AND SLAUGHTERED IT OR SOLD IT IN THEIR PREMISES, HE WOULD BE EXEMPT.[6] IF AS HE WAS PULLING IT OUT IT DIED WHILE STILL IN THE PREMISES OF THE OWNERS, HE WOULD BE EXEMPT,[6] BUT IF IT DIED AFTER HE HAS LIFTED IT UP[7] OR AFTER HE HAD ALREADY TAKEN IT OUT OF THE PREMISES OF THE OWNERS,[8] HE WOULD BE LIABLE.[9] SO ALSO IF HE GAVE IT TO A PRIEST FOR THE REDEMPTION OF HIS FIRST-BORN SON[10] OR TO A CREDITOR, TO AN UNPAID BAILEE, TO A BORROWER, TO A PAID BAILEE OR TO A HIRER, AND AS HE WAS PULLING IT OUT[11] IT DIED WHILE STILL IN THE PREMISES OF THE OWNERS, HE WOUld BE EXEMPT; BUT IF IT DIED AFTER HE HAD LIFTED IT UP OR ALREADY TAKEN IT OUT OF THE PREMISES OF THE OWNERS, HE[12] WOULD BE LIABLE.

GEMARA. Amemar asked: Was the formality of pulling instituted[13] also in the case of bailees[14] or not? — R. Yemar replied: Come and hear: IF HE GAVE IT TO A PRIEST FOR THE REDEMPTION OF HIS FIRST-BORN SON, TO A CREDITOR, TO AN UNPAID BAILEE, TO A BORROWER, TO A PAID BAILEE OR TO A HIRER AND AS HE WAS PULLING IT OUT IT DIED WHILE IN THE PREMISES OF THE OWNERS HE WOULD BE EXEMPT. Now, this means, does it not, that the bailee was pulling it out, thus proving that the requirement of pulling was instituted also in the case of bailees?[15] — No, he rejoined; the thief was pulling it out.[16] But was not this already stated in the previous clause?[17] — There it was stated in regard to a thief stealing from the house of the owners, whereas here it is stated in regard to a thief stealing from the house of a bailee. Said R. Ashi to him [Amemar]: Do not bring such arguments; what difference does it make whether the thief stole from the house of the bailee or from the house of the owners?[18] No; it must mean that the bailee was pulling it out, thus proving that pulling was instituted also in the case of bailees.[15] This can indeed he regarded as proved.

It was also stated that R. Eleazar said: Just as the Sages instituted pulling in the case of purchasers, so also have they instituted pulling in the case of bailees.[19] It has in fact been taught likewise: Just as the Sages instituted pulling in the case of purchasers, so have they instituted pulling in the case of bailees, and just as immovable property is transferred by the medium of money payment, a deed or possession,[20] so also is the case with hiring which is similarly acquired by the medium of money, a deed or possession. The hire of what? If you say

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(1) Tosef. B.K. VII.

(2) For which cf. supra 71a, so that the principal will be liable to the fine for the act of slaughter committed by his agent.

(5) Cf. Kid. 42b and supra 51a.

(3) I.e. the purchaser.

(4) Provided, however, that he did not consecrate it to be sacrificed as an offering upon the altar, in which case the transfer would not he complete as supra 76a, but where the animal was blemished and he consecrated it to become a permanent asset of the Temple treasury (Tosaf.).

(5) For as soon as he removed it from the premises of the owners the act of theft became complete.

(6) As in this case the theft has never become complete.

(7) As by lifting up possession is transferred even while in the premises of the owner; cf. Kid. 25b.

(8) By the act of pulling possession is not transferred unless the animal has already left the premises of the owners.

(9) For as soon as the animal came into the possession of the thief the theft became complete.

(10) I.e., for the five shekels; v. Num. XVIII. 16.

(11) V. the discussion in Gemara.

(12) The thief.

(13) As it was instituted in the case of purchasers for which cf. B.M. IV. 1 and 47b.

(14) So that the act of pulling would be essential for making the contract of bailment complete.

(15) So that by the act of pulling carried out by the bailee the contract of bailment became complete and the animal could thus be considered as having been transferred from the possession of the owner to that of the thief represented by the bailee who acted on his behalf.

(16) After the owner handed over the animal to any one of those enumerated in the Mishnah.

(17) That the act of pulling is one of the requirements essential to make the theft complete.

(18) Why then deal with them separately.

(19) B.M. 99a.

(20) Cf. Kid. 27a.

Talmud - Mas. Baba Kama 79b

the hire of movables, are movables transferred by a deed?[1] — Said R. Hisda: The hire of immovable property.

R. Eleazar stated: If a thief was seen hiding himself in forests [where flocks pasture] and slaughtering or selling [there sheep or oxen], he would have to make four-fold or five-fold payment. But why so, since he did not pull the animal?[2] — Said R. Hisda: We suppose that he struck it with a stick [and thus drew it towards himself]. But I would still ask, since he was seen doing this [publicly], should he on this account not be [subject to the law applicable to] a robber [who has not to pay any fines]?[3] — Since [at the same time] he was hiding himself from the public he is [subject to the law applicable to] a thief.[4]

How then would you define a robber? — Said R. Abbahu: One, for instance, like Benaiah the son of Jehoiadah, of whom we read:[5] And he plucked the spear out of the Egyptian's hand and slew him with his own spear. R. Johanan said: Like the men of Shechem of whom we read:[6] And the men of

Shechem set liers in wait for him on the tops of the mountains, and they robbed all that came along that way by them: and it was told Abimelech. Why did R. Abbahu not give his instance from this last source? He could say that since these were hiding themselves they could not be called robbers. And R. Johanan? — He could argue that the reason they were hiding themselves was so that people should not notice them and run away from them.[7] The disciples of R. Johanan b. Zakkai asked him why the Torah was more severe on a thief[8] than on a robber.[9] He replied: The latter[10] puts the honour of the slave[11] on the same level as the honour of his owner,[12] whereas the former[13] does not put the honour of the slave on the same level as the honour of the master [but higher], for, as it were, he acts as if the eye of Below[14] would not be seeing and the ear of Below would not be hearing, as it says: Woe unto them that seek deep to hide their counsel from the Lord, and their works are in the dark, and they say, Who seeth us? and who knoweth us?[15] Or as it is written: And they say, The Lord will not see, neither will the God of Jacob give heed;[16] or, as again it is written, For they say, the Lord hath forsaken the earth and the Lord seeth not.[17] It was taught:[18] R. Meir said: The following parable is reported in the name of R. Gamaliel. What do the thief and the robber resemble? Two people who dwelt in one town and made banquets. One invited the townspeople and did not invite the royal family, the other invited neither the townspeople nor the royal family.[19] Which deserves the heavier punishment? Surely the one who invited the townspeople but did not invite the royal family.

R. Meir further said: Observe how great is the importance attached to labour, for in the case of an ox [stolen and slaughtered] where the thief interfered with its labour[20] he has to pay five-fold, while in the case of a sheep where he did not disturb it from its labour[21] he has to pay only four-fold. R. Johanan b. Zakkai said: Observe how great is the importance attached to the dignity of Man, for in the case of an ox which walks away on its own feet[22] the payment is five-fold, while in the case of a sheep which was usually carried on the thief's shoulder only four-fold has to be paid.[23]

MISHNAH. IT IS NOT RIGHT TO BREED SMALL CATTLE[24] IN ERETZ YISRAEL.[25] THEY MAY HOWEVER BE BRED IN SYRIA OR IN THE DESERTS OF ERETZ YISRAEL. IT IS NOT RIGHT TO BREED HENS[26] IN JERUSALEM ON ACCOUNT OF THE SACRIFICES,[27] NOR MAY PRIESTS DO SO THROUGHOUT THE WHOLE OF ERETZ YISRAEL, ON ACCOUNT OF THEIR FOOD[28] WHICH HAS TO BE RITUALLY CLEAN.[29] IT IS NOT RIGHT TO BREED PIGS IN ANY PLACE WHATEVER.[30] NO MAN SHOULD BREED A DOG[31] UNLESS IT IS ON A CHAIN. IT IS NOT RIGHT TO PLACE NETS FOR DOVES UNLESS AT A DISTANCE OF THIRTY RIS[32] FROM INHABITED SETTLEMENTS.[33]

GEMARA. Our Rabbis taught: It is not right to breed small cattle in Eretz Yisrael but they may be bred in the woods[34] of Eretz Yisrael or in Syria even in inhabited settlements, and needless to say also outside Eretz Yisrael. Another [Baraitha] taught: ‘It is not right to breed small cattle in Eretz Yisrael. They may, however, be bred in the deserts of Judah and in the desert at the border of Acco.[35] Still though the Sages said: ‘It is not right to breed small cattle’ it is nevertheless quite proper to breed large cattle, for we should not impose a restriction upon the community unless the majority of the community will be able to stand it. Small cattle could be imported from outside Eretz Yisrael, whereas large cattle could not be imported from outside Eretz Yisrael.[36] Again, though they said: ‘It is not right to breed small cattle’, one may nevertheless keep them before a festival for thirty days and similarly before the wedding festivity of his son for thirty days. He should, however, not retain the animal last bought for thirty days [if these expire after the festival]. So[37] that if the festival had already gone, though since from the time he bought the animal until that time thirty days had not yet elapsed we do not say that a period of thirty days is permitted for keeping the animal, but [we are to say that] as soon as the festival has gone he should not retain it any longer.

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(1) Are they not acquired solely by the medium of pulling as stated in Kid. ibid.?

(2) The theft never became complete.

(3) For a robber has to restore only the article taken by him or its value.

(4) Who is liable to fine.
(5) II Sam. XXIII, 21.
(6) Jud. IX, 25.
(7) But not out of any fear.
(8) That he has to pay double payment for the theft and four-fold and five-fold payments for the subsequent slaughter or sale of the stolen sheep and ox respectively in accordance with Ex. XXI, 37.
(9) Who has to pay only the thing misappropriated by him or its value, in accordance with Lev. V, 23.
(10) I.e., the robber by committing the crime publicly.
(11) I.e., human society.
(12) I.e., the Creator.
(13) I.e., the thief by committing his crime by stealth.
(14) Euphemism for ‘Heaven’; cf. Ab. II. 1.
(15) Isa. XXIX. 15.
(16) Ps. XCIV. 7.
(17) Ezek. IX, 9.
(18) [Rashal deletes ‘It was taught’, as this is the continuation of the preceding passage in Tosef. B.K. VII.]
(19) So also in the case of the thief and the robber the former equals the former and the latter the latter; cf. however B.B. 88b.
(20) For an ox usually labours in the field; cf. Deut. V, 14; Isa. XXX, 24 and Prov. XIV, 4.
(21) As it is in any case not fit for work.
(22) While the thief misappropriates it.
(23) Mek. on Ex. XXII, 6.
(24) As these usually spoil the crops of the field. Cf. supra p. 118.
(25) Where the produce of the fields was of public concern.
(26) As these usually peck in dunghills and expose impurities.
(27) Which are eaten there and might easily be defiled by some impurity brought by the chickens.
(28) Consisting mainly of terumah (v. Glos.).
(29) In accordance with Lev. XXII. 6-7.
(30) Cf. Gemara.
(31) As by barking it might frighten pregnant women and cause miscarriages.
(32) I.e., four miles, cf. Glos.
(33) So that doves belonging to private owners in the settlement should not be enticed into the nets.
(34) Which were considered common property.
(35) [MS.M.: Kefar Amiko, N. of Acco, v. Klein, NB.p.9.]
(36) And cattle could not be dispensed with in an agricultural country where they are vital for field work.
(37) [Following MS.M., which omits ‘For you might think’ occurring in cur. edd., the whole passage appears to be a copyist's gloss on the cited Baraitha; v. D.S. a.l.]

Talmud - Mas. Baba Kama 80a

‘A cattle dealer may, however, buy and slaughter, or buy and [even] keep for the market. He may, however, not retain the animal he bought last for thirty days.’

R. Gamaliel was asked by his disciples whether it is permissible to breed [small cattle]. He said to them: ‘It is permissible.’ But did we not learn: ‘IT IS NOT RIGHT TO BREED’? — What they asked him was really this: ‘What about retaining [it]?’[1] He said to them: ‘It is permissible, provided it does not go out and pasture with the herd, but is fastened to the legs of the bed.’

Our Rabbis taught:[2] There was once a certain pious person[3] who suffered with his heart, and the doctors on being consulted said that there was no remedy for him unless he sucked warm milk every morning. A goat was therefore brought to him and fastened to the legs of the bed, and he sucked from it every morning. After some days his colleagues came to visit him, but as soon as they noticed the goat fastened to the legs of the bed they turned back and said: ‘An armed robber[4] is in the house of this man, how can we come in to [see] him?’ They thereupon sat down and inquired into his conduct, but they did not find any fault in him except this sin about the goat. He also at the time of his death proclaimed: ‘I know that no sin can be imputed to me save that of the goat, when I transgressed against the words of my colleagues.’

R. Ishmael[5] said: My father's family belonged to the property owners in Upper Galilee. Why then were they ruined? Because they used to pasture their flocks in forests, and to try money cases without a colleague.[6] The forests were very near to their estates, but there was also a little field near by [belonging to others], and the cattle were led by way of this.

Our Rabbis taught: If a shepherd[7] desires to repent,[8] it would not be right to order him to sell immediately [the small cattle with him], but he may sell by degrees. So also in the case of a proselyte to whom dogs and pigs fall as an inheritance,[9] it would not be right to order him to sell immediately, but he may sell by degrees. So also if one vows to buy a house, or to marry a woman in Eretz Yisrael,[10] it would not be right to order him to enter into a contract immediately, until he finds a house or a woman to suit him. Once a woman being annoyed by her son jumped up [in anger] and swore: ‘Whoever will come forward and offer to marry me, I will not refuse him’, and as unsuitable persons offered themselves to her, the matter was brought to the Sages, who thereupon said: Surely this woman did not intend her vow to apply save to a suitable person. Just as the Sages said that it is not right to breed small cattle, so also have they said that it is not right to breed small beasts. R. Ishmael said: It is however allowed to breed village dogs,[11] cats, apes, huldoth sena'im [porcupines], as these help to keep the house clean.[12] What are ‘huldoth sena'im’? — Rab Judah replied: A certain creeping animal of the harza [species]. Some say, of the harza [species][13] with thin legs which pastures among rose-bushes, and the reason why it is called ‘creeping’ is because its legs are [short and] underneath it.

Rab Judah said in the name of Rab: We put ourselves in Babylon with reference to the law of breeding small cattle on the same footing as if we were in Eretz Yisrael. R. Adda b. Ahabah said to R. Huna:[14] What about your small cattle? He answered him: Ours are guarded by Hoba.[15] He, however, said to him: Is Hoba prepared to neglect her son so much as to bury him?[16] In point of fact, during the lifetime of R. Adda b. Ahabah, no children born of Hoba survived to R . Huna. Some report : R. Huna said: From the time Rab arrived in Babylon,[17] We put ourselves in Babylon with reference to breeding small cattle on the same footing as if we were in Eretz Yisrael.

Rab and Samuel and R. Assi once met at a circumcision of a boy,[18] or as some say, at the party for the redemption of a son.[19] Rab would not enter before Samuel,[20]

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(1) For a festival; cf. Tosaf. a.l.

(2) Tem. 15b.

(3) [R. Jehudah b. Baba, Tosef. B.K. VIII, 4; cf. however, Tem. 15b and Buchler, Gal. ‘Am-ha'ar. p. 191.]

(4) As a goat is prone to pasture anywhere and thus spoil the crops of the public.

(5) [Var. lec., ‘R. Simeon Shezuri’.]

(6) Cf. Aboth. IV. 10 and Sanh. I, 1.

(7) Possessing cattle of his own; cf. B.M. 5b.

(8) By taking upon himself not to breed small cattle.

(9) From his heathen relatives; cf. Kid. 17b.

(10) [Tosef. B.K. VIII omits ‘ Eretz Yisrael’.]

(11) Which are small and harmless.

(12) Tosef. B.K. VIII.

(13) [Harza probably denotes ‘digger’, and harza ‘stinging’, v. Lewysohn, Zoologie. p. 94.]

(14) Cf. Naz. 57b.

(15) Who was the wife of R. Huna.

(16) Surely since she has to mind her children she cannot conscientiously guard the cattle. (Tosaf.)

(17) [In 219 C.E. V. Funk, Die Juden in Babylonian, I, note III.]

(18) Lit 'the week of the son', as the circumcision is performed on the eighth day; cf. Lev. XII, 3. [On the term, 'week of the son' v. B.B. (Sonc. ed.) p. 246. n. 8.]

(19) I.e., in the case of a first-born who has to be redeemed on the 31st day; cf. Num. XVIII, 16.

(20) For the reason to be stated.

Talmud - Mas. Baba Kama 80b

nor Samuel before R. Assi,[1] nor R. Assi before Rab.[2] They therefore argued who should go in last, [and it was decided that] Samuel should go in last, and that Rab and R. Assi should go in [together]. But why should not either Rab or R. Assi have been last? — Rab [at first] was merely paying a compliment to Samuel,[3] to make up for the [regrettable] occasion when a curse against him[4] , escaped his lips;[5] for that reason Rab offered him precedence.[6] Meanwhile a cat had come along and bitten off the hand of the child. Rab thereupon went out and declared in his discourse: 'It is permissible to kill a cat, and it is in fact a sin to keep it,[7] and the law of robbery[8] does not apply to it, nor that of returning a lost object to its owner.'[9] Since you have stated that it is permissible to kill it, why again state that it is a sin to keep it? — You might perhaps think that though it is permissible to kill it, there is still no sin committed in keeping it; we are therefore told [that this is not so]. I could still ask: Since you have said that the law of robbery[8] does not apply to it, why again state that the law of returning a lost object to its owner does not apply to it?[10] — Said Rabina: This refers to the skin[10] of the cat [where it was found dead]. An objection was raised [from the following]: R. Simeon b. Eleazar says: It is permissible to breed village dogs, cats, apes and porcupines, as these help to keep the house clean. [Does this not prove that it is permissible to breed cats?] — There is, however, no contradiction, as the latter teaching refers to black cats, whereas the former deals with white ones.[11] But was not the mischief in the case of Rab done by a black cat? — In that case it was indeed a black cat, but it was the offspring of a white one. But is not this the very case about which Rabina raised a question? For Rabina asked: What should be the law in the case of a black cat which is the offspring of a white one? — The problem raised by Rabina was where the black was the offspring of a white one which was in its turn a descendant of a black cat, whereas the accident in the case of Rab occurred through a black cat which was the offspring of a white one that was similarly the offspring of a white cat.

(Mnemonic: Habad Bih Bahan).[12]

R. Aha b. Papa said in the name of R. Abba b. Papa who said it in the name of R. Adda b. Papa, or, as others read, R. Abba b. Papa said in the name of R. Hiyya b. Papa who said it in the name of R. Aha b. Papa, or as others read it still differently, R. Abba b. Papa said in the name of R. Aha b. papa who said it in the name of R. Hanina b. Papa: 'It is permissible to raise an alarm [at public services][13] even on the Sabbath day for the purpose of relieving the epidemic of itching; if the door to prosperity has been shut to an individual it will not speedily be opened; and when one buys a house in Eretz Yisrael, the deed may be written even on the Sabbath day. An objection was raised [from the following:] 'Regarding any other misfortune[14] that might burst forth upon the community, as e.g. itching. locusts, flies, hornets, mosquitoes, a plague of serpents and scorpions, no alarm was raised by [public service, on the Sabbath] but a cry was raised [by privately reciting prayers]?[15] [Does this not prove that no public prayers are to be held on this score on Sabbath?] — There is no contradiction, as the latter case refers to [the period when the plague is in] the moist stage whereas the former deals with dry itching,[16] as R. Joshua b. Levi said:[17] 'The boils brought upon the Egyptians by the Holy One, blessed be He,[18] were moist within but dry without, as it says 'And it became a boil breaking forth with blains upon man and upon beast.'[18]

What is the meaning of the words, ‘if the door to prosperity has been shut to an individual it will not speedily be opened’? — Mar Zutra said: It refers to ordination.[19] R. Ashi said: One who is in disfavour is not readily taken into favour.[20] R. Aha of Difti said: He will never be taken into favour. This, however, is not so; for R. Aha of Difti stated this as a matter of personal experience.[21] ‘In the case of him who buys a house in Eretz Yisrael the deed may be written even on the Sabbath day.’[22] You mean to say, on the Sabbath?[23] — It must therefore mean as stated by Raba in the case mentioned there,[24] that a Gentile is asked to do it; so also here a Gentile is asked to do it. For though to ask a Gentile to do some work on the Sabbath is Shebuth,[25] the Rabbis did not maintain this prohibition in this case on account of the welfare of Eretz Yisrael.[26] R. Samuel b. Nahmani said in the name of R. Jonathan: He who purchases a town in Eretz Yisrael can be compelled to purchase with it also the roads leading to it from all four sides[27] on account of the welfare of Eretz Yisrael.

Our Rabbis taught:[28] Joshua [on his entry into Eretz Yisrael] laid down ten stipulations:

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(1) On account of seniority.

(2) Whose disciple he was.

(3) Who was the youngest of them.

(4) I.e., Samuel.

(5) For which cf. Shab. 108b.

(6) [But not because he considered Samuel his superior, with the result that, were they to go in together, they would be faced with the dilemma as to which of the two was to enter first; v. Shittah Mekubezeth a.l.]

(7) Cf. Sanh. 15b and supra p. 67.

(8) Lev. XIX. 13.

(9) As required in Deut. XXII,1-3.

(10) That it need not be returned.

(11) Which constitute a danger.

(12) An aid to recollect order of names of the sons of R. Papa that follow in pairs.

(13) On the lines described in Ta'an. 1, 6 and III, 1 etc.

(14) I.e., other than those enumerated in Ta'an. III, 1-8.

(15) Ta'an. 14a.

(16) Which is more dangerous.

(17) Bk. 41a.

(18) Ex. IX, 10.

(19) [Once a man fails in his attempt to secure ordination he cannot obtain it so easily any more.]

(20) Cf. B.B. 12b.

(21) And it should therefore not necessarily be made a general rule.

(22) Cf. Git. 8b.

(23) When it would be a capital offence; cf. Shab. VII. 2.

(24) Shab. 129a and Bez. 22a.

(25) Lit., ‘abstention’, but which came to denote a matter of mere Rabbinic prohibition on Sabbath and festivals; v. Bez. V, 2.

(26) As they similarly dispensed with Shebuth in the case of Temple service; cf. Pes. 65a.

(27) As transport affects vitally the progress and prosperity of a country.

(28) Cf. ‘Er. 17a.

Talmud - Mas. Baba Kama 81a

That cattle be permitted to pasture in woods;[1] that wood may be gathered [by all] in private fields;[1] that grasses may similarly be gathered [by all] in all places, with the exception, however, of a field where fenugrec is growing;[1] that shoots be permitted to be cut off [by all] in all places. with the exception, however, of stumps of olive trees;[1] that a spring emerging [even] for the first time may be used by the townspeople; that it be permitted to fish with an angle in the Sea of Tiberias, provided no sail is spread as this would detain boats [and thus interfere with navigation]; that it be permitted to ease one's self at the back of a fence even in a field full of saffron; that it be permitted [to the public] to use the paths in private fields until the time when the second rain is expected;[2] that it be permitted to turn aside to [private] sidewalks in order to avoid the road-pegs; that one who has lost himself in the vineyards be permitted to cut his way through when going up and cut his way through when coming down;[3] and that a dead body, which anyone finds has to bury should acquire [the right to be buried on] the spot [where found].

‘That cattle be permitted to pasture in woods.’ R. Papa said: This applies only to small cattle pasturing in big woods[4] for in the case of small cattle pasturing in small woods or big cattle in big forests it would not be permitted,[5] still less big cattle pasturing in small woods.[5]

‘That wood may be gathered [by all] in private fields: ‘This applies only to [prickly shrubs such as] Spina regia and hollow.[6] For in the case of other kinds of wood it would not be so. Moreover, even regarding Spina Regia and hollow, permission was not given except where they were still attached to the ground, but after they had been already broken off [by the owner] it would not be so.[7] Again, even in the case of shrubs still attached to the soil, permission was not given except while they were still in a wet state, but once they had become dry it would not be so.[7] But in any case it is not permitted to uproot [them].

‘That grasses may similarly be gathered [by all] in all places, with the exception, however, of a field where fenugrec is growing.’ Does this mean to say that fenugrec derives some benefit from grasses?[8] If so, a contradiction could be pointed out [from the following:] ‘If fenugrec is mixed up with other kinds of grasses, the owner need not be compelled to tear it out[9] [for he will do it in any case on account of the fact that the grasses spoil the fenugrec’.[10] Now, does this not prove that grasses are disadvantageous to fenugrec?] — Said R. Jeremiah: There is no contradiction, for while the latter statement refers to the seeds,[11] the former deals with the pods.[12] It is only to the seeds that grasses are disadvantageous as they make them lean, whereas to the pods[13] they are advantageous, for when placed between grasses they get softer. Or if you like I can say that while one statement refers to fenugrec sown for the use of man, the other refers to fenugrec sown for animals, for since it was sown for animals grasses are also required for it. How can we tell [for what it was sown]?[13] — R. Papa said: If made in beds it is sown for man, but if not in beds it is for animals.

‘That shoots be permitted to be cut off [by all] in all places, with the exception, however, of stumps of olive trees.’ R. Tanhum and R. Barias explained in the name of a certain old man that in the case of an olive tree the size of the length of an egg has to be left over at the bottom; in the case of reeds and vines [it is only] from the knot and upwards[14] [that it is permitted to cut off shoots]; in the case of all other trees [it is permitted only] from the thick parts of the tree but not from the central part of the tree, and only from a new bough that has not yet yielded fruit but not from an old bough which is yielding fruit; again, only from such spots [on the tree] as do not face the sun

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(1) The reason is given below.

(2) I.e., the seventeenth of Marcheshvan; cf. Ta'an. 6b and Ned VIII,5.

(3) Though damage be done thereby to the vineyard.

(4) Where the trees would thereby not be damaged.

(5) On account of the damage which could be done to the trees.

(6) Or other kinds of thorns and thistles.

(7) As they would then be the exclusive property of the owner.

(8) Which have thus to be preserved.

(9) So as not to transgress Lev. XI. 19: ‘thou shalt not sow thy field with mingled seed’; cf. also Shek. I, 1-2.

(10) Kil. II,5.

(11) Which will be used for sowing purposes.

(12) Which are used as food.

(13) So that the stipulation of Joshua should have practical application where it was sown for the use of man.

(14) Cf. B.B. 80b.

Talmud - Mas. Baba Kama 81b

but not from a spot which does face the sun,[1] for so it says ‘And for the precious things of the fruits of the sun’.[2]

‘That a spring emerging [even] for the first time may be used by the townspeople.’ Rabbah son of R. Huna said that the owner[3] is [still] entitled to be paid for its value. The law, however, is not in accordance with this view.

‘That it be permitted to fish with an angle in the Sea of Tiberias provided that no sail is spread, as this would detain boats.’ It is, however, permitted to fish by means of nets and traps. Our Rabbis taught: ‘The tribes stipulated with one another at the very outset that nobody should spread a sail and thus detain boats. It is, however, permitted to fish by means of nets and traps.’[4]

Our Rabbis taught: The Sea of Tiberias was included in the portion of Naphtali. In addition, he received a rope's length of dry land on the southern side to keep nets on, in fulfilment of the verse, Possess thou the sea and the South.[5]

It was taught: R. Simeon b. Eleazar said: Anything found on the mountains detached from the soil was considered as belonging to all the tribes,[6] but if still attached [to the ground] as belonging to the particular tribe [in whose territory it was found]. There was, however, no tribe in Israel which had not land[7] both on the hills and in the vale, in the South and in the valley. as stated: Turn you and take your journey and go to the hill — country of the Amorites, and unto all the places nigh thereunto, in the plain, in the hills and in the vale, and in the South, and by the sea side[8] etc., for you can similarly find the same regarding the Canaanites, perizites and Ammonites who were before them, as stated: ‘and unto all nigh thereunto’,[8] proving that the same applied to those who were nigh thereunto.

‘That it be permitted to ease one's self at the back of a fence even though in a field full of saffron.’ R. Aha b. Jacob said: This permission was required only for the taking of a pebble from the fence.[9] R. Hisda said: This may be done even on the Sabbath.[10] Mar Zutra the Pious used to take a pebble from a fence and put it back there and tell his servant[11] to go and make it good again.

‘That it be permitted to use the paths in private fields until the time when the second rain is expected.’ R. papa said that regarding our land [here in Babylon], even after the fall of [mere] dew this would be harmful.

‘That it be permitted to turn aside to [private] sidewalks in order to avoid road pegs.’ As Samuel and Rab Judah were once walking on the road, Samuel turned aside to the private sidewalk. Rab Judah thereupon said to him: Do the stipulations laid down by Joshua hold good even in Babylon? — He answered him: I say that it applies even outside Eretz Yisrael. As Rabbi and R. Hiyya were once walking on the road they turned aside to the private sidewalks, while R. Judah b. Kenosa went striding[12] along the main road in front of them. Rabbi thereupon said to R. Hiyya. ‘Who is that man who wants to show off[13] in front of us?’ R. Hiyya answered him: ‘He might perhaps be R. Judah b. Kenosa who is my disciple and who does all his deeds out of pure piety.’[14] When they drew near to him they saw him and R. Hiyya said to him: ‘Had you not been Judah b. Kenosa, I would have sawed your joints with an iron saw.’[15]

‘That one who lost himself in the vineyards should be permitted to cut his way through when going up and cut his way through when coming down.’ Our Rabbis taught: He who sees his fellow wandering in the vineyards is permitted to cut his way through when going up and to cut his way through when coming down until he brings him into the town or on to the road; so also one who is lost in the vineyards may cut his way through when going up and cut his way through when coming down until he reaches the town or the road.[16] What is the meaning of ‘so also’? [Is the latter case not obvious?][17] — You might think that it is only in the case of a fellow-man wandering, in which case he[18] knows where he is going to, that he may cut his way through, whereas in the case of being lost himself, when he does not know where he is going to, he should not be permitted to cut his way through but should have to walk round about the boundaries. We are therefore told that this is not so — Cannot this permission be derived from the Pentateuch? For it was taught: ‘Whence can it be derived that it is obligatory to restore the body of a fellow-man?[19] Because it is said: And thou shalt restore it to him[20] [implying him himself, i.e., his person.’[21] Why then was it necessary for Joshua to stipulate this?][22] — As far as the Pentateuch goes, he[23] would have to remain standing between the boundaries [and walk round about]; it was therefore necessary for Joshua to come and ordain that he be permitted to cut his way through when going up and cut his way through when coming down.

‘That a dead body, which anyone finding has to bury, should acquire the [right to be buried on the] spot [where found].’ A contradiction could be pointed out [from the following:] If one finds a dead person lying on the road, he may remove him to the right side of the road or to the left side of the road. If on the one side of the road there is an uncultivated field and on the other a fallow field, he should remove him to the uncultivated field;[24] so also where on the one side there is a fallow field but on the other a field with seeds he should remove him to the fallow field.[25] But if both of them are uncultivated, or both of them fallow, or both of them sown he may remove him to any place he likes.[26] [Does this not contradict your statement that a dead person acquires the right to be buried on the spot where he was found?] — Said R. Bibi: The dead person [in the latter case] was lying broadways across the boundary so that since permission had to be given to remove him from that spot[27] he may be removed to any place he prefers.

I would here ask: Are these stipulations[28] only ten [in number?] Are they not eleven? — [The permission] to use the paths in private fields is [implied in] a statement made by Solomon, as taught: If a man's produce has already been removed entirely from the field, and nevertheless he does not allow persons to enter his field, what would people say of him if not, ‘What [real] benefit has that owner from his field, for in what way would people do him any harm?’ It was regarding such a person that the verse says: While you can be good do not call yourself bad.[29] But is it [anywhere] written:[30] ‘While you can be good do not call yourself bad’? — Yes, it is written to a similar effect: Withhold not good from him to whom it is due, when it is in the power of thy hand to do it.[31]

But were there no more stipulations?[32] Was there not the one mentioned by R. Judah? For it was taught: ‘When it is the season of removing dung, everybody is entitled to remove his dung into the public ground and heap it up there for the whole period of thirty days so that it may be trodden upon by the feet of men and by the feet of animals; for upon this condition did Joshua transfer the land to Israel as an inheritance.[33] Again, was there not also the one referred to by R. Ishmael the son of R. Johanan b. Beroka? For it was taught: R. Ishmael the son of R. Johanan b. Beroka said: It is a stipulation of the Court of Law that the owner of the bees[34] be entitled to go down into his fellow's field and cut off his fellow's bough [upon which his bees have settled] in order to rescue the swarm of his bees while paying only the value of his fellow's bough; it is [similarly] a stipulation of the Court of Law that the owner of wine should pour out his wine [from the flask] so as to save in it the honey of his fellow[35] and recover the value of his wine out of the honey of his fellow; it is [again] a stipulation of the Court of Law that [the owner of a bundle of wood] should remove the wood [from his ass] and load [on his ass] the flax of his fellow [from the back of the ass that fell dead][36] and recover the value of his wood out of the flax of his fellow; for it was upon this stipulation that Joshua transferred the land to Israel for an inheritance.’[37] [Why then were these stipulations not included?]

— Views of individual authorities were not stated [among the stipulations that have unanimous recognition].

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(1) Such as from the sides of the tree.
(2) Deut. XXXIII, 14.
(3) Of the ground where the spring emerged.
(4) Tosef. B.K. VIII.
(5) Deut. XXXIII. 23.
(6) who had an equal right to the spoil.
(7) Cf. B.B. 122a.
(8) In Deut. 1, 7.
(9) Though it would thereby become impaired.
(10) Cf. Shab. 81.
(11) On a weekday.
(12) Upon the road pegs.
(13) By not taking advantage of the stipulation of Joshua and thus showing himself more scrupulous than required by strict law.
(14) Lit., 'in the name of Heaven', and not to show off.
(15) A metaphor for excommunication.
(16) Tosef. B.M. II.
(17) As it is surely covered by the ruling in the former case.
(18) I.e., the guide.
(19) When in danger, just as it is obligatory to restore him his lost chattels.
(20) Deut. XXII. 2.
(21) Cf. Sanh. 73a.
(22) Seeing that it can be derived from the Pentateuch.
(23) The one who lost his way.
(24) So as to interfere as little as possible with agriculture.
(25) V. p. 463,n.9.
(26) 'Er. 17b.
(27) So as not to cause defilement to all those who pass that way.
(28) Enumerated in the cited Baraitha supra p. 459.
(29) Cf. Ber. 30a.
(30) In Scripture.
(31) Prov. III, 27.
(32) Made by Joshua.
(33) Tosef. B.M. XI; supra 30a.
(34) Which settled upon a neighbour's tree.
(35) Carried by him in a jug which suddenly gave way, and the contents which were much more valuable than wine thus became in danger if being wasted.
(36) And which is thus in danger of being wasted if not rescued in time.
(37) Infra 114b.

Talmud - Mas. Baba Kama 82a

But did not R. Abin upon arriving [from Palestine] state on behalf of R. Johanan that the owner of a tree which overhangs a neighbour's field as well as the owner of a tree close to the boundary has to bring the first-fruits [to Jerusalem][1] and read the prescribed text[2] as it was upon this stipulation [that trees might he planted near the boundary of fields and even overhang a neighbour's field] that Joshua transferred the land to Israel[3] for an inheritance.[4] [How then could R. Johanan describe this as a stipulation of Joshua when it was not included in the authoritative text of the Baraitha cited enumerating all the stipulations of Joshua?] — It must therefore be that the Tanna[5] of [the text enumerating] the ten stipulations laid down by Joshua was R. Joshua b. Levi.[6] R. Gebiha of Be Kathil[7] explicitly taught this in the text: ‘R. Tanhum and R. Barias stated in the name of a certain sage, who was R. Joshua b. Levi, that ten stipulations were laid down by Joshua.’

The [following] ten enactments were ordained by Ezra: That the law be read [publicly] in the Minhah[8] service on Sabbath; that the law be read [publicly] on Mondays and Thursdays; that Courts be held on Mondays and Thursdays; that clothes be washed on Thursdays; that garlic be eaten on Fridays; that the housewife rise early to bake bread; that a woman must wear a sinnar;[9] that a woman must comb her hair before performing immersion;[10] that pedlars [selling spicery] be allowed to travel about in the towns,[11] He[12] also decreed[13] immersion to be required[10] by those to whom pollution has happened.[14]

‘That the law be read [publicly] in the Minhah service on Sabbath:’ on account of shopkeepers [who during the weekdays have no time to hear the reading of the Law].

‘That the law be read [publicly] on Mondays and Thursdays.’ But was this ordained by Ezra? Was this not ordained even before him? For it was taught: ‘And they went three days in the wilderness and found no water,[15] upon which those who expound verses metaphorically[16] said: water means nothing but Torah,[17] as it says: Ho, everyone that thirsteth come ye for water.[18] It thus means that as they went three days without Torah they immediately became exhausted. The prophets among them thereupon rose and enacted that they should publicly read the law on Sabbath, make a break on Sunday, read again on Monday, make a break again on Tuesday and Wednesday, read again on Thursday and then make a break on Friday so that they should not be kept for three days without Torah.’[19] — Originally it was ordained that one man should read three verses or that three men should together read three verses, corresponding to priests, Levites and Israelites.[20] Then Ezra came and ordained that three men should be called up to read, and that ten verses should be read, corresponding to ten batlanim.[21]

‘That Courts be held on Mondays and Thursdays’ — when people are about, as they come to read the Scroll of the Law. ‘That clothes be washed on Thursdays’ — that the Sabbath[22] may be duly honoured.

‘That garlic be eaten on Fridays’ — because of the ‘Onah.’[23] as it is written: ‘That bringeth forth its fruit in its season’[24] and Rab Judah, or as others say R. Nahman, or as still others say R. Kahana, or again as others say R. Johanan, stated that this refers to him who performs his marital duty every Friday night.[25]

Our Rabbis taught: Five things were said of garlic: It satiates, it keeps the body warm, it brightens up the face, it increases semen, and it kills parasites in the bowels. Some say that it fosters love and removes jealousy.

‘That a housewife rise early to bake bread’[26] — so that there should be bread for the poor.[27]

‘That a woman must wear a sinnar — out of modesty.

‘That a woman comb her hair before performing the immersion.’ But this is derived from the pentateuch! For it was taught:[28] ‘And he shall bathe [eth besaro] his flesh in water[29] [implying] that there should be nothing intervening between the body and the water; "[eth besaro] his flesh", "eth" [including] whatever is attached to his flesh,[30] i.e. the hair.’ [Why then had this to be ordained by Ezra?] — It may, however, be said that as far as the Pentateuch goes it would only have to be necessary to see that the hair should not he knotted or that nothing dirty should be there which might intervene,

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(1) Cf. Ex. XXIII. 19.
(2) I.e. Deut. XXVI, 5-10, which could he recited only by one who was the sole legitimate owner of both the fruits and the tree and the ground.
(3) And no misappropriation could thus he traced in the produce of such trees.
(4) How then could R. Johanan, who was an Amora, differ from Tannaitie views?
(5) [MSS omit rightly, 'the Tanna.']
(6) [Who was himself an Amoraic sage from whom R. Johanan might have differed in this case as he did on many other occasions, cf. e.g., Ber. 3b and Meg. 27a.]
(7) [Kathil on the Tigris, N. of Bagdad, Obermeycr, op. cit. p 143.]
(8) I.e., afternoon; cf. Ber. IV, 1.
(9) A sort of garment, breeches (Rashi), or belt. The word is of doubtful origin.
(10) In a ritual plunge bath called Mikweh.
(11) Even against the wishes of the townspeople; cf. B.B. 22a.
(12) I.e., Ezra.
(13) Cf. Ber. 22b.
(14) Cf. Lev. XV, 16; Deut. XXIII, 11-12. [For a discussion of the ten enactments of Ezra, v. Hoffmann, Magazin, 1883 , 48ff.]
(15) Ex. XV. 22.
(16) Doreshe Reshumoth; v. Sanh. (Sonc. ed.) p. 712. n. 12.
(17) Cf. supra p. 76.
(18) Isa. LV, 1.
(19) [Why then was it necessary for Ezra to enact this?]
(20) In which groups the people were classed.
(21) The ten persons released from all obligations and thus having leisure to attend to public duties, and to form the necessary quorum for synagogue services; cf. Meg. 1, 3; v. also Meg. 21b.
(22) Cf. Isa. LVIII. 13 and Shab. 119a.
(23) I.e., the duty of marriage; cf. Ex. XXI, 10 and Keth. V, 6.
(24) Ps. I, 3.
(25) Cf. Keth. 62b.
(26) [J. Meg. IV adds 'on Fridays'.]
(27) Cf. Keth. 67b.
(28) 'Er. 4b.
(29) Lev. XIV, 9.
(30) For a similarity v. supra p. 235.

Talmud - Mas. Baba Kama 82b

whereas Ezra came and ordained actual combing.[1]

'That pedlars selling spicery be allowed to travel about in the towns' — for the purpose of providing toilet articles for the women so that they should not be repulsive in the eyes of their husbands.

'He also decreed that immersion was required for those to whom pollution had happened.' Is not this in the pentateuch, as it is written: And if the flow of seed go out front him, then he shall bathe all his flesh in water?[2] — The pentateuchal requirement referred to terumah and sacrifices and he came and decreed that even for [the study of] the words of the Torah [immersion is needed].

Ten special regulations were applied to Jerusalem:[3] That a house sold there should not be liable to become irredeemable;[4] that it should never bring a heifer whose neck is broken;[5] that it could never be made a condemned city;[6] that its houses would not become defiled through leprosy;[7] that neither beams nor balconies should be allowed to project there; that no dunghills should be made there; that no kilns should be kept there; that neither gardens nor orchards should be cultivated there, with the exception, however, of the garden of roses[8] which existed from the days of the former prophets;[9] that no fowls should be reared there, and that no dead person should be kept there over night.[10]

'That a house sold there should not be liable to become irredeemable' — for it is written: Then the house that is in the walled city shall be made sure in perpetuity to him that bought it throughout his generations[11] and as it is maintained[12] that Jerusalem was not divided among the tribes.[13]

'That it should never bring a heifer whose neck is broken' — as it is written: If one be found slain in the land which the Lord thy God giveth thee to possess it,[14] and Jerusalem [could not be included as it] was not divided among the tribes.[13]

'That it could never be made a condemned city' — for it is written, [One of] thy cities,[15] and Jerusalem was not divided among the tribes. 'That its houses could not become defiled through leprosy' — for it is written, And I put the plague of leprosy in the house of the land of your possession,[16] and Jerusalem was not divided among the tribes.[13]

'That neither beams nor balconies should be allowed to project' — in order not to form a tent spreading defilement,[17] and not to cause harm to the pilgrims for the festivals.[18]

'That no dunghills be made there' — on account of reptiles.[19]

'That no kilns be kept there' — on account of the smoke.[20]

'That neither gardens nor orchards be cultivated there' — on account of the bad odour [of withered grasses].

'That no fowls be bred there' on account of the sacrifices.

'That no dead person be kept there overnight' — this is known by tradition.

IT IS NOT RIGHT TO BREED PIGS IN ANY PLACE WHATEVER. Our Rabbis taught: When the members of the Hasmonean house were contending with one another, Hyrcanus was within and Aristobulus without [the city wall].[21] [Those who were within] used to let down to the other party every day a basket of denarii, and [in return] cattle were sent up for the regular sacrifices.[22] There was, however, an old man[23] [among the besiegers] who had some knowledge in Grecian Wisdom[24] and who said to them: 'So long as the other party [are allowed to] continue to perform the service of the sacrifices they will not be delivered into your hands.' On the next day when the basket of denarii was let down, a swine was sent up. When the swine reached the centre of the wall it stuck its claws into the wall, and Eretz Yisrael quaked over a distance of four hundred parasangs[25] by four hundred parasangs. It was proclaimed on that occasion: Cursed be the man who would breed swine and cursed be the man who would teach his son Grecian Wisdom. It was concerning this time that we have learnt[26] that the 'Omer[27] was once brought from the gardens of Zarifin and the two loaves[28] from the Valley of En Soker.[29]

But was Grecian Wisdom proscribed? Was it not taught that Rabbi stated: 'Why use the Syriac language in Eretz Yisrael

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(1) For the sake of absolute certainty.

(2) V. Lev. XV. 16.

(3) V. Yoma 23a; 'Ar. 32b and Tosef. Neg. VI, 2. [According to Krauss, REJ. LIII, 29 ff., some of these regulations relate only to the Temple Mount.]

(4) As should be the case with dwelling houses of a walled city (cf. Lev. XXV, 29-30); but is on the other hand considered as a house of a village which has no wall round about it; (ibid. 31.).

(5) As required in Deut. XXI, 3-4 in the case of a person found slain and it be not known who hath slain him.

(6) Which would he subject to Deut. XIII, 13-18.

(7) Cf. Lev. XIV, 34-53.

(8) Where the Jordan resin grew; cf. Ker. 6a.

(9) [Cf. II Kings XXV, 4; Jer. XXXI, 4; Neh. III, 15. V. Krauss, loc. cit. p. 33.]

(10) Cf. Hag. 26a; v. infra, p. 469.

(11) Lev. XXV. 29-30.

(12) Cf. Yoma 12a.

(13) But was kept in trust for all Israel and could therefore not be subject to a law where absolute private ownership is referred to.

(14) Deut. XXI, 1.

(15) Ibid. XIII, 13.

(16) Lev. XIV, 34.

(17) Cf. Num. XIX, 14.

(18) By the spread of defilement.

(19) Which thrive in dunghills, and as soon as they die they become a source of defilement.

(20) Which would blacken the buildings of the town; cf. B.B. 23a.

(21) [In the parallel passage the roles are reversed, Aristobulus being besieged and Hyrcanus laying the siege; v. Graetz, Geschichte III, p. 710 ff. Cf. Josephus, Ant. XIV, 2,2.]

(22) Cf. Num. XXVIII, 2-4.

(23) [Identified with Antipater, an ally of Hyrcanus, v. Graetz, op. cit. 711.]

(24) ['Sophistry'. v. Graetz, loc. cit.]

(25) V. Glos.

(26) Men. 64b. [The places are identified respectively with Sarafand near Lydda and Assakar near Nablus.]

(27) Lit., 'a sheaf', denoting the public sacrifice of the first-fruits of the harvest described in Lev. XXIII, 10-14.

(28) Cf. ibid. 17.

(29) Sot. 49b and Men. 64b.

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[where] either the Holy Tongue or the Greek language [could be employed]?' And R. Jose said: 'Why use the Aramaic language in Babylon [where] the Holy Tongue or the Persian language [could be used]?' — It may, however, be said that the Greek language is one thing and Grecian Wisdom is another. But was Grecian Wisdom proscribed? Did not Rab Judah say that Samuel stated in the name of R. Simeon b. Gamaliel: '[The words] Mine eye affected my soul because of all the daughters of my city[1] [could very well be applied to the] thousand youths who were in my father's house; five hundred of them learned Torah and the other five hundred learned Grecian Wisdom, and out of all of them there remain only I here and the son of my father's brother in Asia'?[2] — It may, however, be said that the family of R. Gamaliel was an exception, as they had associations with the Government, as indeed taught: 'He who trims the front of his hair[3] in Roman fashion is acting in the ways of the Amorites.'[4] Abtolmus b. Reuben however was permitted to cut his hair in the Gentile fashion as he was in close contact with the Government. So also the members of the family of Rabban Gamaliel were permitted to discuss Grecian Wisdom on account of their having had associations with the Government.

NO MAN SHOULD BREED A DOG UNLESS IT IS ON A CHAIN etc. Our Rabbis taught: No man should breed a dog unless it is kept on a chain. He may, however, breed it in a town adjoining the frontier where he should keep it chained during the daytime and loose it only at night. It was taught: R. Eliezer the Great says that he who breeds dogs is like him who breeds swine. What is the practical bearing of this comparison? — That he[5] be declared cursed.[6] R. Joseph b. Manyumi said in the name of R. Nahman that Babylon was on a par with a town adjoining the frontier.[7] This, however, was interpreted to refer to Nehardea. R. Dostai of Bira[8] expounded: And when it rested, he said, Return O Lord unto the tens of thousands [and] the thousands of Israel.[9] This, [he said,] teaches that the Shechinah[10] does not rest upon Israel if they are less than two thousand plus two tens of thousands.[11] Were therefore the Israelites [to be twenty-two thousand] less one, and there was there among them a pregnant woman thus capable of completing the number, but a dog barked at her and she miscarried, the [dog] would in this case cause the Shechinah to depart from Israel. A certain woman[12] entered a neighbour's house to bake [there bread], and a dog suddenly barked at her, but the owner of the house said to her: Do not be afraid of the dog as its teeth are gone. She, however, said to him: Take thy kindness and throw it on the thorns, for the embryo has already been moved [from its place].

IT IS NOT RIGHT TO PLACE NETS FOR DOVES UNLESS AT A DISTANCE OF THIRTY RIS FROM INHABITED SETTLEMENTS. But do they proceed so far? Did we not learn that a dove-cote must be kept at a distance from the town of fifty cubits?[13] — Abaye said: They certainly fly much further than that, but they eat their fill within fifty cubits.[14] But do they fly only thirty ris and no more? Was it not taught: ‘Where there is an inhabited settlement no net must be spread even for a distance of a hundred mil’? — R. Joseph said: The latter statement refers to a settlement of vineyards;[15] Rabbah said that it refers to a settlement of dove-cotes.[15] But why not lay down the prohibition to spread nets on account of the dovecotes themselves?[16] — If you like I can say that they belong to Cutheans,[17] or if you like I can say that they are ownerless, or if you again like I can say that they are his own. [

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(1) Lam. III, 51.

(2) Sot. 49b and Git. 58a. [This proves that even Grecian Wisdom was not proscribed.]

(3) [Like a fringe on the forehead and lets the curls hang down on the temples (Jast.).]

(4) Which should not be imitated.

(5) Who breeds a dog.

(6) As if he would breed swine.

(7) Cf. ‘Er. 45a.

(8) [In Galilee, v. Klein, op. cit., p. 39.]

(9) Num. x, 36; E.V.: unto the many thousands of Israel.

(10) The Divine Presence.

(11) I.e. , twenty-two thousand, comprising the minimum of the plural tens of thousands which is twenty thousand and the minimum of the thousands which is two thousand, cf. also Yeb. 64a.

(12) Cf. Shab. 63a; and supra p. 271.

(13) So that the doves should not consume the produce of the town. (B.B. 11,5.]

(14) On account of which a dove-cote need not be kept away from the town for more than fifty cubits.

(15) Where the doves could thus take rest and fly on to great distances.

(16) Why then base the prohibition upon the proximity of a settlement?

(17) Who did not recognise the necessity of being scrupulous to such an extent and should therefore not be treated better than they treated others: cf. supra p. 211, n. 6. [For a full discussion of the regulations laid down in our Mishnah and developed in the Gemara, as well as their application in the practical life of the Jewish communities in Talmudic times, v. Krauss, REJ, LIII, 14-55.]

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CHAPTER VIII

MISHNAH. ONE WHO INJURES A FELLOW MAN BECOMES LIABLE TO HIM FOR FIVE ITEMS: FOR DEPRECIATION, FOR PAIN, FOR HEALING, FOR LOSS OF TIME AND FOR

DEGRADATION. HOW IS IT WITH ‘DEPRECIATION’? IF HE PUT OUT HIS EYE, CUT OFF HIS ARM OR BROKE HIS LEG, THE INJURED PERSON IS CONSIDERED AS IF HE WERE A SLAVE BEING SOLD IN THE MARKET PLACE, AND A VALUATION IS MADE AS TO HOW MUCH HE WAS WORTH [PREVIOUSLY]. AND HOW MUCH HE IS WORTH [NOW]. ‘PAIN’ — IF HE BURNT HIM EITHER WITH A SPIT OR WITH A NAIL, EVEN THOUGH ON HIS [FINGER] NAIL WHICH IS A PLACE WHERE NO BRUISE COULD BE MADE, IT HAS TO BE CALCULATED HOW MUCH A MAN OF EQUAL STANDING WOULD REQUIRE TO BE PAID TO UNDERGO SUCH PAIN. ‘HEALING’ — IF HE HAS STRUCK HIM, HE IS UNDER OBLIGATION TO PAY MEDICAL EXPENSES. SHOULD ULCERS [MEANWHILE] ARISE ON HIS BODY, IF AS A RESULT OF THE WOUND, THE OFFENDER WOULD BE LIABLE, BUT IF NOT AS A RESULT OF THE WOUND, HE WOULD BE EXEMPT. WHERE THE WOUND WAS HEALED BUT REOPENED, HEALED AGAIN BUT REOPENED, HE WOULD STILL BE UNDER OBLIGATION TO HEAL HIM. IF, HOWEVER, IT HAD COMPLETELY HEALED [BUT HAD SUBSEQUENTLY REOPENED] HE WOULD NO MORE BE UNDER OBLIGATION TO HEAL HIM. ‘LOSS OF TIME’ — THE INJURED PERSON IS CONSIDERED AS IF HE WERE A WATCHMAN OF CUCUMBER BEDS[1] [SO THAT THE LOSS OF SUCH WAGES[2] SUSTAINED BY HIM DURING THE PERIOD OF ILLNESS MAY BE REIMBURSED TO HIM]. FOR THERE HAS ALREADY BEEN PAID TO HIM THE VALUE OF HIS HAND OR THE VALUE OF HIS LEG [THROUGH WHICH DEPRIVATION HE WOULD NO MORE BE ABLE TO CARRY ON HIS PREVIOUS EMPLOYMENT]. ‘DEGRADATION’ — ALL TO BE ESTIMATED IN ACCORDANCE WITH THE STATUS OF THE OFFENDER AND THE OFFENDED.

GEMARA. Why [pay compensation]? Does the Divine Law not say ‘Eye for eye’?[3] Why not take this literally to mean [putting out] the eye [of the offender]? — Let not this enter your mind, since it has been taught: You might think that where he put out his eye, the offender's eye should be put out, or where he cut off his arm, the offender's arm should be cut off, or again where he broke his leg, the offender's leg should be broken. [Not so; for] it is laid down, ‘He that smiteth any man. . .’ ‘And he that smiteth a beast . . .’[4] just as in the case of smiting a beast compensation is to be paid, so also in the case of smiting a man compensation is to be paid.[5] And should this [reason] not satisfy you,[6] note that it is stated, ‘Moreover ye shall take no ransom for the life of a murderer, that is guilty of death’,[7] implying that it is only for the life of a murderer that you may not take ‘satisfaction’,[8] whereas you may take ‘satisfaction’ [even] for the principal limbs, though these cannot be restored.’ To what case of ‘smiting’ does it refer? If to [the Verse] ‘And he that killeth a beast, shall make it good: and he that killeth a man, shall be put to death’,[9] does not this verse refer to murder?[10] — The quotation was therefore made from this text: And he that smiteth a beast mortally shall make it good: life for life,[11] which comes next to and if a man maim his neighbour: as he hath done so shall it be done to him.[12] But is [the term] ‘smiting’ mentioned in the latter text?[12] — We speak of the effect of smiting implied in this text and of the effect of smiting implied in the other text: just as smiting mentioned in the case of beast refers to the payment of compensation, so also does smiting in the case of man refer to the payment of compensation. But is it not written: And he that smiteth[13] any man mortally shall surely be put to death[14] [which, on account of the fact that the law of murder is not being dealt with here,[15] surely refers to cases of mere injury and means Retaliation]?[16] — [Even this refers to the payment of] pecuniary compensation. How [do you know that it refers] to pecuniary compensation? Why not say that it really means capital punishment?[17] — Let not this enter your mind; first, because it is compared to the case dealt with in the text, ‘He that smiteth[13] a beast mortally shall make it good’, and furthermore, because it is written soon after, ‘as he hath done so shall it be done to him’,[18] thus proving that it means pecuniary compensation. But what is meant by the statement, ‘if this reason does not satisfy you’? [Why should it not satisfy you?] — The difficulty which further occurred to the Tanna was as follows: What is your reason for deriving the law of man injuring man from the law of smiting a beast and not from the law governing the case of killing a man [where Retaliation is the rule]? I would answer: It is proper to derive [the law of] injury[18] from [the law governing another case of] injury,[19] and not to derive [the law of] injury[18] from [the law governing the case of] murder. It could, however, be argued to the contrary; [that it is proper] to derive [the law of injury inflicted upon] man from [another case of] man but not to derive [the law of injury inflicted upon] man from [the case of] beast. This was the point of the statement ‘If, however, this reason does not satisfy you.’ [The answer is as follows:] ‘It is stated: Moreover ye shall take no ransom for the life of a murderer that is guilty of death; but he shall surely be put to death, implying that it was only ‘for the life of a murderer’ that you may not take ransom whereas you may take ransom [even] for principal limbs though these cannot be restored.’ But was the purpose of this [verse], Moreover ye shall take no ransom for the life of a murderer, to exclude the case of principal limbs? Was it not requisite that the Divine Law should state that you should not make him[20] subject to two punishments, i.e. that you should not take from him pecuniary compensation as well as kill him? — This, however, could be derived from the verse, According to his crime,[21] [which implies that] you can make him liable for one crime but cannot make him liable for two crimes.[22] But still was it not requisite that the Divine Law should state that you should not take pecuniary compensation from him and release him from the capital punishment? — If so the Divine Law would have written, ‘Moreover ye shall take no satisfaction for him who is guilty [and deserving] of death’; why then write ‘for the life of a murderer’ unless to prove from it that it is only ‘for the life of a murderer’ that you may not take ransom, whereas you may take ransom [even] for principal limbs though these could not be restored? But since it was written, Moreover ye shall take no ransom [implying the law of pecuniary compensation in the case of mere injury], why do I require [the analogy made between] ‘smiting’ [in the case of injuring man and] ‘smiting’ [in the case of injuring beast]? — It may be answered that if [the law would have had to be derived only] from the former text, I might have said that the offender has the option, so that if he wishes he may pay with the loss of his eye or if he desires otherwise he may pay the value of the eye; we are therefore told [that the inference is] from smiting a beast: just as in the case of smiting a beast the offender is liable for pecuniary compensation so also in the case of injuring a man he is liable for pecuniary compensation.

It was taught: R. Dosthai b. Judah says: Eye for eye means pecuniary compensation. You say pecuniary compensation, but perhaps it is not so, but actual retaliation [by putting out an eye] is meant? What then will you say where the eye of one was big and the eye of the other little, for how can I in this case apply the principle of eye for eye? If, however, you say that in such a case pecuniary compensation will have to be taken, did not the Torah state, Ye shall have one manner of law,[23] implying that the manner of law should be the same in all cases? I might rejoin: What is the difficulty even in that case? Why not perhaps say that for eyesight taken away the Divine Law ordered eyesight to be taken away from the offender?[24] For if you will not say this,

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(1) As even a lame or one-armed person could be employed in this capacity.

(2) But not of the previous employment on account of the reason which follows.

(3) Ex. XXI, 24.

(4) Lev. XXIV; for the exact verse see the discussion that follows.

(5) But no resort to Retaliation.

(6) Lit., ‘If it is your desire to say (otherwise).’

(7) Num. XXXV, 31.

(8) I.e., ransom, and thus release him from capital punishment.

(9) Lev. XXIV, 21.

(10) Where retaliation actually applies.

(11) Ibid. 18.

(12) Ibid. 19.

(13) E.V.: ‘killeth’.

(14) Ibid. 17.

(15) As follows in the text, ‘ Breach for breach, eye for eye’ etc.

(16) The phrase, ‘be put to death’, would thus refer exclusively to the limb which has to be sacrificed in retaliation.
(17) As indeed appears from the literal meaning of the text.
(18) Lev. XXIV, 19.
(19) I.e., where Man injured beast.
(20) The murderer.
(21) Deut. XXV, 2.
(22) Cf. Mak. 4b and 13b.
(23) Lev. XXIV, 22.
(24) Without taking into consideration the sizes of the respective eyes.

Talmud - Mas. Baba Kama 84a

how could capital punishment be applied in the case of a dwarf killing a giant or a giant killing a dwarf,[1] seeing that the Torah says, Ye shall have one manner of law, implying that the manner of law should be the same in all cases, unless you say that for a life taken away the Divine Law ordered the life of the murderer to be taken away?[2] Why then not similarly say here too that for eyesight taken away the Divine Law ordered eyesight to be taken away from the offender?

Another [Baraitha] taught: R. Simon b. Yohai says: ‘Eye for eye’ means pecuniary compensation. You say pecuniary compensation, but perhaps it is not so, but actual retaliation [by putting out an eye] is meant? What then will you say where a blind man put out the eye of another man, or where a cripple cut off the hand of another, or where a lame person broke the leg of another? How can I carry out in this case [the principle of retaliation of] ‘eye for eye’, seeing that the Torah says, Ye shall have one manner of law, implying that the manner of law should be the same in all cases? I might rejoin: What is the difficulty even in this case? Why not perhaps say that it is only where it is possible [to carry out the principle of retaliation that] it is to be carried out, whereas where it is impossible, it is impossible, and the offender will have to be released altogether? For if you will not say this, what could be done in the case of a person afflicted with a fatal organic disease killing a healthy person?[3] You must therefore admit that it is only where it is possible [to resort to the law of retaliation] that it is resorted to, whereas where it is impossible, it is impossible, and the offender will have to be released.

The School of R. Ishmael taught: Scripture says: So shall it be given to him again.[4] The word ‘giving’ can apply only to pecuniary compensation. But if so, would the words, As he hath [given a blow that] caused a blemish,[4] similarly refer to money?[5] — It may be replied that at the School of R. Ishmael this text was expounded as a superfluous verse; since it has already been written, And if a man maim his neighbour,’ as he hath done so shall it be done to him.[6] Why after this do we require the words, so shall it be given to him again? It must, therefore refer to pecuniary compensation. [But still,] why the words, as he hath [given a blow that] caused a blemish in a man? Since it was necessary to write, so shall it be given to him again,[7] the text also writes, as he hath [given a blow that] caused a blemish in a man.

The School of R. Hiyya taught: Scripture says, Hand in hand,[8] meaning an article which is given from hand to hand, which is of course money. But could you also say the same regarding the [next] words, foot in foot? — It may be replied that at the School of R. Hiyya this text was expounded as a superfluous verse, for it has already been written: Then shall ye do unto him as he had purposed to do unto his brother.[9] If then you assume actual retaliation [for injury], why do I require the words, hand in hand? This shows that it means pecuniary compensation. But still, why the words, foot in foot? — Having written ‘hand in hand’, the text also wrote ‘foot in foot’.[8]

Abbaye said: [The principle of pecuniary compensation] could be derived from the teaching of the School of Hezekiah. For the School of Hesekiah taught: Eye for eye, life for life,[10] but not ‘life and eye for eye'. Now if you assume that actual retaliation is meant, it could sometimes happen that eye and life would be taken for eye, as while the offender is being blinded, his soul might depart from him. But what difficulty is this? perhaps what it means is that we have to form an estimate,[11] and only if the offender will be able to stand it will retaliation be adopted, but if he will not be able to stand it, retaliation will not be adopted? And if after we estimate that he would be able to stand it and execute retaliation it so happens that his spirit departs from him, [there is nobody to blame,] as if he dies, let him die. For have we not learnt regarding lashes: 'Where according to estimation he[12] should be able to stand them, but it happened that he died under the hand of the officer of the court, there is exemption [from any blame of manslaughter]'.[13]

R. Zebid said in the name of Raba: Scripture says, Wound for would.[14] This means that compensation is to be made for pain even where Depreciation [is separately compensated].[15] Now, if you assume that actual Retaliation is meant, would it not be that just as the plaintiff suffered pain [through the wound], the offender too would suffer pain through the mere act of retaliation?[16] But what difficulty is this? Why, perhaps, not say that a person who is delicate suffers more pain whereas a person who is not delicate does not suffer [so much] pain, so that the practical result [of the Scriptural inference] would be to pay for the difference [in the pain sustained]!

R. Papa in the name of Raba said: Scripture says, To heal, shall he heal,[17] this means that compensation is to be made for Healing even where Depreciation [is compensated separately]. Now, if you assume that Retaliation is meant, would it not be that just as the plaintiff needed medical attention, the defendant also would surely need medical attention [through the act of retaliation]? But what difficulty is this? Why perhaps not say that there are people whose flesh heals speedily while there are others whose flesh does not heal speedily, so that the practical result [of the Scriptural inference] would be to require payment for the difference in the medical expenses!

R. Ashi said: [The principle of pecuniary compensation] could be derived from [the analogy of the term] 'for' [occurring in connection with Man] with the term 'for' occurring in connection with Cattle. It is written here, 'Eye for eye,' and it is also written there, he shall surely pay ox for ox.[18] [This indicates that] just as in the latter case it is pecuniary compensation that is meant, so also in the former case it means pecuniary compensation. But what ground have you for comparing the term 'for' with 'for' [mentioned in connection] with cattle, rather than with the 'for' [mentioned in connection] with [the killing of] man, as it is written, thou shalt give life for life,[19] so that, just as in the case of murder it is actual Retaliation, so also here it means actual Retaliation? — It may be answered that it is more logical to infer [the law governing] injury from [the law governing another case of] injury[18] than to derive [the law of] injury from [the law applicable in the case of] murder.[19] But why not say on the contrary, that it is more logical to derive [the law applying to] Man from [a law which similarly applies to] Man[19] than to derive [the law applying to] Man from [that applying to] Cattle? — R. Ashi therefore said: It is from the words for he hath humbled her,[20] that [the legal implication of 'eye for eye'] could be derived by analogy, as [the law in the case of] Man is thus derived from [a law which is similarly applicable to] Man, and the case of injury from [a similar case of] injury.

It was taught: R. Eliezer said: Eye for eye literally refers to the eye [of the offender]. Literally, you say? Could R. Eliezer be against all those Tannaim [enumerated above]?[21] — Raba thereupon said: it only means to say that the injured person would not be valued as if he were a slave.[22] Said Abaye to him: How else could he be valued? As a freeman? Could the bodily value of a freeman be ascertained by itself? — R. Ashi therefore said: It means to say that the valuation will be made not of [the eye of] the injured person but of [that of] the offender.[23]

An ass once bit off the hand of a child. When the case was brought before R. Papa b. Samuel he said [to the sheriffs of the court], 'Go forth and ascertain the value of the Four items.'[24] Said Raba to him: Have we not learnt Five [items]? — He replied: I did not include Depreciation. Said Abaye to him: Was not the damage in this case done by an ass, and in the case of an ass [injuring even man] there is no payment except for Depreciation?[25] — He therefore ordered [the sheriffs], ‘Go forth and make valuation of the Depreciation.’ But has not the injured person to be valued as if he were a slave? — He therefore said to them, ‘Go forth and value the child as if it were a slave.’ But the father of the child thereupon said, ‘I do not want [this method of valuation], as this procedure is degrading.’ They, however, said to him, ‘What right have you to deprive the child of the payment which would belong to it?’[26] He replied, ‘When it comes of age I will reimburse it out of my own.

An ox once chewed the hand of a child. When the case was brought before Raba, he said [to the sheriffs of the court], ‘Go forth and value the child as if it were a slave.’ They, however, said to him, ‘Did not the Master [himself] say that payment for which the injured party would have to be valued as if he were a slave,[27] cannot be collected in Babylon?’[28] — He replied, ‘My order would surely have no application except in case of the plaintiff becoming possessed of property belonging to the defendant.’[29] Raba thus follows his own principle, for Raba said: Payment for damage done to chattel by Cattle[30] or for damage done to chattel by Man can be collected even in Babylon,[31] whereas payment for injuries done to man by Man or for injuries done to man by Cattle cannot be collected in Babylon. Now, what special reason is there why payment for injuries done to man by Cattle cannot [be collected in Babylon] if not because it is requisite [in these cases that the judges be termed] Elohim,[32] [a designation] which is lacking [in Babylon]? Why then should the same not be also regarding payment for [damage done] to chattel by Cattle or to chattel by Man, where there is similarly

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(1) Where the bodies of the murderer and the murdered are not alike.

(2) Without considering the weights and sizes of the respective bodies.

(3) In which case the murderer could not be convicted by the testimony of witnesses; v. Sanh. 78a.

(4) Lev. XXIV. 20.

(5) Which could of course not be maintained.

(6) Ibid. 19.

(7) To indicate that pecuniary compensation is to be paid.

(8) Deut. XIX, 21. (E.V.: Hand for hand, foot for foot.)

(9) Ibid. 19.

(10) Ex. XXI, 24.

(11) Whether the offender would stand the operation or not.

(12) Who is subject to the thirty-nine lashes for having transgressed a negative commandment.

(13) Mak. III. 14.

(14) Ex. XXI, 25.

(15) V. supra 26b.

(16) How then could there he extra compensation for pain?

(17) Ex. XXI, 19. (E.V.: shall cause him to be thoroughly healed.)

(18) Ibid. 36.

(19) Ibid. 23.

(20) Deut.XXII, 29.

(21) Proving against Retaliation.

(22) In the manner described supra p. 473.

(23) As the pecuniary compensation in this case is a substitution for Retaliation.

(24) Enumerated supra p. 473.

(25) V. supra 26a.

(26) Cf, infra 87b.

(27) I.e., where the damages could otherwise not be ascertained.

(28) Because the judges there have not been ordained as Mumhe (v. Glos.) who alone were referred to by the Scriptural term Elohim standing for ‘judges’ as in Ex. XXI, 6 and XXII, 7-8, and who alone were qualified to administer penal

justice; cf. Sanh. 2b, 5a, and 14a and supra p. 144.
(29) Cf. supra p. 67.
(30) Lit., 'ox'.
(31) As these matters are of a purely civil nature and of frequent occurrence, as brought out by the discussion which follows.
(32) As in Ex. XXI, 6 and XXII, 7-8.

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required the designation of Elohim which is lacking [in Babylon]? But if on the other hand the difference in the case of chattel [damaged] by Cattle or chattel [damaged] by Man is because we [in Babylon] are acting merely as the agents [of the mumhin[1] judges in Eretz Yisrael] as is the practice with matters of admittances and loans,[2] why then in the case of man [injured] by Man or man [injured] by Cattle should we similarly not act as their agents as is indeed the practice with matters of admittances and loans?[2] — It may, however, be said that we act as their agents only in regard to a matter of payment which we can fix definitely, whereas in a matter of payment which we are not able to fix definitely [but which requires valuation] we do not act as their agents. But I might object that [payment for damage done] to chattel by Cattle or to chattel by Man we are similarly not able to fix definitely, but we have to say, 'Go out and see at what price an ox is sold on the market place.' Why then in the case of man [injured] by Man, or man [injured] by Cattle should you not similarly say, 'Go out and see at what price slaves are sold on the market place'? Moreover, why in the case of double payment[3] and four-fold or five-fold payment[4] which can be fixed precisely should we not act as their agents?[5] — It may, however, be said that we may act as their agents only in matters of civil liability, whereas in matters of a penal nature[6] we cannot act as their agents. But why then regarding payment [for an injury done] to man by Man which is of a civil nature should we not act as their agents? — We can act as their agents only in a matter of frequent occurrence, whereas in the case of man injured by Man which is not of frequent occurrence we cannot act as their agents. But why regarding Degradation,[7] which is of frequent occurrence, should we not act as their agents? — It may indeed be said that this is really the case, for R. Papa ordered four hundred zuz to be paid for Degradation. But this order of R. Papa is no precedents for when R. Hisda sent to consult R. Nahman [in a certain case] did not the latter send back word, 'Hisda, Hisda, are you really prepared to order payment of fines in Babylon?'[8] — It must therefore be said that we can act as their agents only in a matter which is of frequent occurrence and where actual monetary loss is involved,[9] whereas in a matter of frequent occurrence but where no actual monetary loss is involved, or again in a matter not of frequent occurrence though where monetary loss is involved we cannot act as their agents. It thus follows that in the case of man [injured] by Man, though there is there actual monetary loss, yet since it is not of frequent occurrence we cannot act as their agents, and similarly in respect of Degradation, though it is of frequent occurrence, since it involves no actual monetary loss, we cannot act as their agents.

Is payment for damage done to chattel by Cattle really recoverable in Babylon? Has not Raba said: 'If Cattle does damage, no payment will be collected in Babylon'?[10] Now, to whom was damage done [in this case stated by Raba]? If we say to man, why then only in the case of Cattle injuring man?[11] Is it not the fact that even in the case of Man injuring man[12] payment will not be collected in Babylon? It must therefore surely refer to a case where damage was done to chattel and it was nevertheless laid down that no payment would be collected in Babylon![13] — It may, however, be said that that statement referred to Tam,[14] whereas this statement deals with Mu'ad.[15] But did Raba not say that there could be no case of Mu'ad[16] in Babylon? — It may, however, be said that where an ox was declared Mu'ad there [in Eretz Yisrael][17] and brought over here [in Babylon, there could be a case of Mu'ad even in Babylon] — But surely this[18] is a matter of no frequent occurrence, and have you not stated that in a matter not of frequent occurrence we cannot act as their agents? — [A case of Mu'ad could arise even in Babylon] where the Rabbis of Eretz Yisrael came to Babylon and declared the ox Mu'ad here. But still, this also is surely a matter of no frequent occurrence,[19] and have you not stated that in a matter not of frequent occurrence we cannot act as their agents? — Raba must therefore have made his statement [that payment will be collected even in Babylon where chattel was damaged by Cattle] with reference to Tooth and Foot which are Mu'ad ab initio.

PAIN: — IF HE BURNT HIM EITHER WITH A SPIT OR WITH A NAIL, EVEN THOUGH ON HIS [FINGER] NAIL WHICH IS A PLACE WHERE NO BRUISE COULD BE MADE etc. Would Pain be compensated even in a case where no depreciation was thereby caused? Who was the Tanna [that maintains such a view]?Raba replied: He was Ben ‘Azzai, as taught: Rabbi said that ‘burning’[20] without bruising is mentioned at the outset, whereas Ben ‘Azzai said that [it is with] bruising [that it] is mentioned at the outset. What is the point at issue between them? Rabbi holds that as ‘burning’ implies even without a bruise, the Divine Law had to insert ‘bruise’,[21] to indicate that it is only where the burning caused a bruise that there would be liability,[22] but if otherwise this would not be so,[23] whereas Ben ‘Azzai maintained that as ‘burning’ [by itself] implied a bruise, the Divine Law had to insert ‘bruise’ to indicate that ‘burning’ meant even without a bruise.[24] R. Papa demurred: On the contrary, it is surely the reverse that stands to reason:[25] Rabbi who said that ‘burning’, [without bruising] is mentioned at the outset holds that as ‘burning,’ implies also a bruise, the Divine Law inserted ‘bruise’ to indicate that ‘burning,’ meant even without a bruise,[26] whereas Ben ‘Azzai who said that [it was] with bruising [that it] was mentioned at the outset maintains that as ‘burning’ implies even without a bruise, the Divine Law purposely inserted ‘bruise’ to indicate that it was only where the ‘burning’ has caused a bruise that there will be liability, but if otherwise this would not be so; for in this way they[27] would have referred in their statements to the law as it stands now in its final form. Or, alternatively, it may be said that both held that ‘burning’ implies both with a bruise and without a bruise, and here

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(1) V. Glos. s.v. Mumhe.

(2) For which cf. Sanh. (Sonc. ed.) p. 4, n. 3.

(3) For theft.

(4) For having slaughtered or sold the stolen sheep and ox respectively.

(5) Why then should these not be adjudicated and collected in Babylon?

(6) As is the case with double payment and four-fold or five-fold payment.

(7) [Omitting with MS.M. ‘blemish’ paid in case of rape, and occurring in cur. edd.]

(8) Cf. supra 27b.

(9) Excluding thus a loss of mere prospective profits.

(10) V. supra p. 481, n. 5.

(11) Which is of no frequent occurrence at all.

(12) Which is of slightly more frequent occurrence.

(13) This contradicts the statement made by the same Raba (supra p. 481) that payment for damage done to chattel by Cattle will be collected even in Babylon.

(14) In which case the payment is of a penal nature (as decided supra p. 67), which cannot be collected in Babylon.

(15) Where the payment is of a strictly civil nature, and accordingly collected even in Babylon.

(16) Regarding damage done by Horn, for since for the first three times of goring no penalty could be imposed in Babylon, the ox could never be declared Mu'ad.

(17) Where the judges are Mumhin and thus qualified to administer also penal justice.

(18) I.e., to bring over an ox already declared Mu'ad in Eretz Yisrael to Babylon.

(19) Cf. Keth. 110b.

(20) Ex. XXI, 25.

(21) Ibid.

(22) For the payment of Pain.

(23) I.e., Pain would not be compensated since no depreciation was thereby caused.

(24) Pain would therefore even in this case be compensated in accordance with Ben ‘Azzai who could thus be considered to have been the Tanna of the Mishnaic ruling.

(25) That the Tanna of the Mishnaic ruling was most probably Rabbi and not his opponent, and moreover the statements made by Rabbi and Ben ‘Azzai should be taken to give the final implication of the law and not as it would have been on first thoughts.
(26) So that Pain will be paid even in this case according to Rabbi who was the Tanna of the Mishnaic ruling.
(27) I.e., Rabbi and Ben ‘Azzai.

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they were differing on the question of a generalisation and a specification placed at a distance from each other,[1] Rabbi maintaining that in such a case the principle of a generalisation followed by a specification does not apply,[2] whereas Ben ‘Azzai maintained that the principle of a generalisation followed by a specification does apply.[3] And should you ask why, according to Rabbi, was it necessary to insert ‘bruise’,[4] [the answer would be that it was necessary to impose the payment of] additional money.[5] IT HAS TO BE CALCULATED HOW MUCH A MAN OF EQUAL STANDING WOULD REQUIRE TO BE PAID TO UNDERGO SUCH PAIN. But how is pain calculated in a case where Depreciation [also has to be paid]?[6] — The father of Samuel[7] replied: We have to estimate how much a man would require to be paid to have his arm cut off. To have his arm cut off? Would this involve only Pain and not also all the Five Items?[8] Moreover, are we dealing with fools [who would consent for any amount to have their arm cut off]? — It must therefore refer to the cutting off of a mutilated arm.[9] But even [if the calculation be made on the basis of] a mutilated arm, would it amount only to Pain and not also to Pain plus Degradation, as it is surely a humiliation that a part of the body should be taken away and thrown to dogs? — It must therefore mean that we estimate how much a man whose arm had by a written decree of the Government to be taken off by means of a drug would require that it should be cut off by means of a sword. But I might say that even in such a case no man would take anything [at all] to hurt himself [so much]? — It must therefore mean that we have to estimate how much a man whose arm had by a written decree of the Government to be cut off by means of a sword would be prepared to pay that it might be taken off by means of a drug. But if so, instead of TO BE PAID should it not be written ‘to pay’? — Said R. Huna the son of R. Joshua: It means that payment to the plaintiff will have to be made by the offender to the extent of the amount which the person sentenced would have been prepared to pay.

‘HEALING’: — IF HE HAS STRUCK HIM HE IS UNDER OBLIGATION TO PAY MEDICAL EXPENSES etc. Our Rabbis taught: Should ulcers grow on his body as a result of the wound and[10] the wound break open again, he has still to heal him and is liable to pay him for Loss of Time, but if it was not caused through the wound he has not to heal him and need not pay him for Loss of Time. R. Judah, however, said that even if it was caused through the wound, though he has to heal him, he has not to pay him for Loss of Time. The Sages said: The Loss of Time and Healing [are mentioned together in Scripture:][11] Wherever there is liability for Loss of Time there is liability for Healing but wherever there is no liability for Loss of Time there is no liability for Healing. In regard to what principle do they[12] differ? — Rabbah said: ‘I found the Rabbis at the School of Rab sitting and saying[13] that the question whether [or not] a wound may be bandaged[14] [by the injured person] was the point at issue. The Rabbis[15] maintained that a wound may be bandaged, whereas R. Judah maintained that a wound may not be bandaged, so that [it was only] for Healing of which there is a double mention in Scripture[16] that there is liability,[17] but for Loss of Time of which there is no double mention in Scripture there is no liability. I, however, said to them that if a wound may not be bandaged there would be no liability even for Healing.[18] We must therefore say that all are agreed that a wound may be bandaged, but not too much; R. Judah held that since it may not be bandaged too much [it is only] for Healing of which there is a double mention in Scripture that there will be liability, but for Loss of Time of which there is no double mention in Scripture there will be no liability, whereas the Rabbis maintained that since Scripture made a double mention of healing there will be liability also for Loss of Time which is compared to Healing. R. Judah, however, maintained that there will be no liability for Loss of Time as Scripture excepted this by [the term] ‘only’;[11] to which the Rabbis[19] might rejoin that 'only' [was intended to exclude the case] where the ulcers that grew were not caused by the wound. But according to the Rabbis mentioned last[20] who stated that whenever there is liability for Loss of Time there is liability for Healing, whereas where there is no liability for loss of Time there could be no liability for Healing — why do I require the double mention of Healing? — This was necessary for the lesson enunciated by the School of R. Ishmael, as taught: 'The School of R. Ishmael taught: [The words] "And to heal he shall heal''[21] [are the source] whence it can be derived that authorisation was granted [by God] to the medical man to heal.'[22]

Our Rabbis taught: Whence can we learn that where ulcers have grown on account of the wound and[23] the wound breaks open again, the offender would still be liable to heal it and also pay him for [the additional] Loss of Time? Because it says: Only he shall pay for the loss of his time and to heal he shall heal.[24] [That being so, I might say] that this is so even where the ulcers were not caused by the wound. It therefore says further 'only'. R. Jose b. Judah, however, said that even where they were caused by the wound he would be exempt, since it says 'only'. Some say that [the view of R. Jose that] 'even where they were caused by the wound he would be exempt' means altogether from any [liability whatsoever],[25] which is also the view of the Rabbis mentioned last. But others say that even where they were caused by the wound he would be exempt means only from paying for additional Loss of Time, though he would be liable for Healing. With whom [would R. Jose b. Judah then be concurring in his statement]? With his own father.[26]

The Master stated: '[In that case I might say] that this is so even where the ulcers were not caused by the wound. It therefore says further "only".' But is a text necessary to teach [that there is exemption] in the case where they were caused not by the wound?[27] — It may be replied that what is meant by 'caused not by the wound' is as taught: 'If the injured person disobeyed his medical advice and ate honey or any other sort of sweet things, though honey and any other sort of sweetness are harmful to a wound, and the wound in consequence became gargutani [scabby], it might have been said that the offender should still be liable to [continue to] heal him. To rule out this idea it says "only".'[28] What is the meaning of gargutani? — Abaye said: A rough seam.[29] How can it be cured? — By aloes, wax and resin.

If the offender says to the injured person: 'I can personally act as your healer',[30] the other party can retort 'You are in my eyes like a lurking lion.'[31] So also if the offender says to him 'I will bring you a physician who will heal you for nothing', he might object, saying 'A physician who heals for nothing is worth nothing.' Again, if he says to him 'I will bring you a physician from a distance', he might say to him, 'If the physician is a long way off, the eye will be blind [before he arrives].'[32] If, on the other hand, the injured person says to the offender, 'Give the money to me personally as I will cure myself', he might retort 'You might neglect yourself and thus get from me too much.' Even if the injured person says to him, 'Make it a fixed and definite sum', he might object and say, 'There is all the more danger that you might neglect yourself [and thus remain a cripple], and I will consequently be called "A harmful ox."'

A Tanna taught: 'All [the Four Items][33] will be paid [even] in the case where Depreciation [is paid independently].' Whence can this ruling be deduced? — Said R. Zebid in the name of Raba: Scripture says: Wound for wound,[34] to indicate the payment of pain even in the case where Depreciation [is paid independently].[35] But is not this verse required

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(1) Such as here the term 'hurts' which is a generalisation as it implies all kinds of burning whether with a bruise or without a bruise, and the term 'bruise' which specifies an injury with a bruise, are separated from each other by the intervening clause 'wound for wound'.

(2) To render the generalisation altogether ineffective; cf supra p. 371.

(3) Even in such a case.

(4) Since the term 'burning' is a generalisation and by itself implies both with a bruise and without a bruise.

(5) I.e., for Depreciation as explained by Rashi, or for the Pain where the burning left a mark and thus aggravated the ill feeling (Tosaf).
(6) Such as where an arm was cut off and Depreciation had already been paid.
(7) Abba b. Abba.
(8) Whereas the problem raised deals with a case where the other items have already been paid for.
(9) Which is still attached to the body but unable to perform any work.
(10) [Maim. Yad, Hobel, II, 19 reads 'or'.]
(11) Ex. XXI, 19.
(12) I.e., R. Judah and the other Rabbis.
(13) In the name of Rab; cf. Suk. 17a.
(14) To prevent the cold from penetrating the wound though the bandage may cause swelling through excessive heat.
(15) In opposing R. Judah.
(16) Ex. XXI, 19 lit., 'to heal he shall heal'.
(17) Though the plaintiff had no right to bandage the wound which caused the ulcers to grow.
(18) Since the plaintiff would be to blame for the ulcer that grew through the bandage if he had no right to put it on.
(19) I.e., the first Tanna.
(20) Under the name of Sages.
(21) Cf. p. 487, n. 6.
(22) And it is not regarded as 'flying in the face of Heaven'; v. Ber. 60a.
(23) V. p. 486, n. 5.
(24) Ex. XXI, 19.
(25) Even from Healing.
(26) I.e., R. Judah who orders payment for Healing but not for Loss of Time.
(27) Why indeed would liability have been suggested?
(28) Implying that the liability is qualified and thus excepted in such and similar cases.
(29) Rashi: 'wild flesh'.
(30) And need thus not employ a medical man.
(31) I.e., 'I am not prepared to trust you'; cf. B.M. 101; B.B. 168a.
(32) [So S. Strashun; Rashi: 'If the physician is from far he might blind the eye'; others: 'A physician from afar has a blind eye'. i.e., he is little concerned about the fate of his patient.]
(33) I.e., Pain, Healing, Loss of Time, and Degradation.
(34) Ex. XXI, 25.
(35) Supra 26b.

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to extend liability [for Depreciation] to the case of inadvertence equally with that of willfulness, and to the case of compulsion equally with that of willingness? — If so [that it was required only for such a rule] Scripture would have said 'Wound in the case of wound'; why [say] '. . . for wound', unless to indicate that both inferences are to be made from it?[1] R. Papa said in the name of Raba: Scripture says And to heal shall he heal,[2] [thus enjoining] payment for Healing even in the case where Depreciation is paid independently. But is not that verse required for the lesson taught at the School of R. Ishmael for it was indeed taught at the School of R. Ishmael that [the text] 'And to heal he shall heal' [is the source] whence it is derived that authorisation was granted [by God] to the medical man to heal?[3] — If so [that it was to be utilised solely for that implication] Scripture would have said, 'Let the physician cause him to be healed' — This shows that payment for Healing should be made even in the case where Depreciation [is paid independently]. But still, is not the text required as said above to provide a double mention in respect of Healing? — If so, Scripture should have said either 'to cause to heal [and] to cause to heal'[4] or 'he shall cause to heal [and] he shall cause to heal.[5] Why say 'and to heal he shall heal'[6] unless to prove that payment should be made for Healing even in the case where Deprecation [is paid independently].

From this discussion it would appear that a case could arise where the Four Items would be paid even where no Depreciation was caused. But how could such a case be found where no Depreciation was caused? — Regarding Pain it was stated: 'PAIN': — IF HE BURNT HIM EITHER WITH A SPIT OR WITH A NAIL, EVEN ON HIS [FINGER] NAIL WHICH IS A PLACE WHERE NO BRUISE COULD BE MADE, Healing could apply in a case where one had been suffering from some wound which was being healed up, but the offender put on the wound a very strong ointment which made the skin look white [like that of a leper] so that other ointments have to be put on to enable him to regain the natural colour of the skin — Loss of Time [without Depreciation could occur] where the offender [wrongfully] locked him up in a room and thus kept him idle. Degradation [could apply] where he spat on his face.

'LOSS OF TIME': — THE INJURED PERSON IS CONSIDERED AS IF HE WERE A WATCHMAN OF CUCUMBER BEDS. Our Rabbis taught: '[In the case of assessing] Loss of Time, the injured person is considered as if he would have been a watchman of cucumbers. You might say that the requirements of justice suffer thereby, since when he was well[7] he would surely not necessarily have worked for the wages of a watchman of cucumber beds but might have carried buckets of water and been paid accordingly, or have acted as a messenger and been paid accordingly.[8] But in truth the requirements of justice do not suffer, for he has already been paid for the value of his hand or for the value of his leg.[9]

Raba said: If he cut off [another's] arm he must pay him for the value of the arm, and as to Loss of Time,[10] the injured person is to be considered as if he were a watchman of cucumber beds; so also if he broke [the other's] leg, he must pay him for the value of the leg, and as to Loss of Time the injured person is to be considered as if he were a door-keeper; if he put out [another's] eye he must pay him for the value of his eye, and as to Loss of Time the injured person is to be considered as if he were grinding in the mill; but if he made [the other] deaf, he must pay for the value of the whole of him.[11]

Raba asked: If he had cut off [another man's] arm and before any appraisement had been made he also broke his leg, and again before any appraisement had been made he put out his eye, and again before any appraisement had been made he made him at last deaf, what would be the law? Shall we say that since no valuation has yet been made one valuation would be enough, so that he would have to pay him altogether for the value of the whole of him, or shall perhaps each occurrence be appraised by itself and paid for accordingly? The practical difference would be whether he would have to pay for Pain and Degradation of each occurrence separately. It is true that he would not have to pay for Depreciation, Healing and Loss of Time regarding each occurrence separately, the reason being that since he has to pay him for the whole of him the injured person is considered as if killed altogether, and there could surely be made no more payment than for the value of the whole of him; but in respect of Pain and Degradation the payment should be made for each occurrence separately, as he surely suffered pain and degradation on each occasion separately. If, however, you find it [more correct] to say that since no appraisement had been yet made he can pay him for the value of the whole of him altogether, what would be the law where separate appraisements were made? Shall we say that since separate valuations were made the payment should be for each occurrence by itself, or since the payment had not yet been made he has perhaps to pay him for the value of the whole of him? This must remain undecided.

Rabbah asked: What would be the law regarding Loss of Time that renders the injured person of less value [for the time being]. How could we give an example? For instance, where he struck him on his arm and the arm was broken but will ultimately recover fully.[12] What would be the legal position?[13] [Shall we say that] since it will ultimately recover fully he need not pay him [for the value of the arm], or perhaps [not so], since for the time being he diminished his value? — Come and hear:[14] If one strikes his father and his mother without making on them a bruise,[15] or injures another man on the Day of Atonement,[16]

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(1) Ibid.

(2) Ex. XXI, 19. [The emphasis indicates that this payment had to be made in all circumstances.]

(3) V. supra p. 488.

(4) I.e., a repetition of the infinitive.

(5) I.e., a repetition of the verb in the finite mood.

(6) I.e., on one occasion the verb is in the infinitive and on the other in the finite mood.

(7) Cf. Rashi; but also Tosaf. a.l.

(8) Why then not pay him for Loss of Time in accordance with the proper wage?

(9) In the way of Depreciation, and could in fact no more work in his previous employment but in a different capacity such as a watchman of cucumbers or a doorkeeper.

(10) During the days of illness when he is totally unable to do any work.

(11) As by having been made deaf he is unfit to do anything.

(12) In which case the depreciation is but temporary.

(13) Regarding the payment for Depreciation.

(14) Infra p. 87a.

(15) In which case the capital offence of Ex. XXI, 25 has not been committed; v. Sanh. 84b.

(16) The violation of which entails no capital punishment at the hands of a court of law; cf. Lev. XXIII, 30 and Ker. I,1. Again, though lashes could be involved in this case in accordance with Mak. III, 2, the civil liability holds good as supra p. 407.

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he is liable for all of the Five Items. Now, how are we to picture no bruise being made [in such a case]? Does this not mean, e.g., where he struck him on his arm which will ultimately recover[1] and it is nevertheless stated that he ‘is liable for all of the Five Items’?[2] — It may, however, be said that we are dealing here with a case where e.g.,he made him deaf[3] without making a bruise on him. But did Rabbah not say[4] that he who makes his father deaf is subject to be executed,[5] for it is impossible to cause deafness without first making a bruise through which a drop of blood falls into the ear?[6] — It must therefore be said that we are dealing here with a case where e.g. he shaved him [against his will] — But will not the hair grow again in the case of shaving? And that is the very question propounded.[7] — It may, however, be said that we are dealing here with a case where e.g. he smeared nasha[8] over it so that no hair will ever grow there again. Pain [in such a case should similarly be paid] where he had scratches on his head and thus suffered on account of the sores. Healing [should similarly be paid] as it requires curing. Loss of Time would be where he was a dancer in wine houses and has to make gestures by moving his head and cannot do so [now] on account of these scratches.[9] Degradation [should certainly be paid], for there could hardly be a case of greater degradation.

But this matter which was doubtful to Rabbah was quite certain to Abaye taking one view, and to Raba taking the opposite view. For it was stated: If he struck him on his arm and the arm was broken but so that it would ultimately recover completely, Abaye said that he must pay for General Loss of Time[10] plus Particular Loss of time, whereas Raba said that he will not have to pay him anything but for the amount of the Loss of Time[11] for each day [until he recovers].

It was stated: If a man cuts off the arm of a Hebrew servant of another, Abaye said that he will have to pay the servant for General Loss of Time, and the master for Particular Loss of Time, whereas Raba said that the whole payment should be given to the servant[12] who would have to [invest it and] purchase real property whose produce would be enjoyed by the master. There is no question that where the servant became [through the injury] depreciated in his personal value while no loss was caused so far as the master was concerned, as for instance, where the offender split the top of the servant's ear or the top of his nostrils,[13] the whole payment would go to the servant himself. It was only where the depreciation affected the master [also][14] that Abaye and Raba differ. ‘DEGRADATION’: — ALL TO BE ESTIMATED IN ACCORDANCE WITH THE STATUS OF THE OFFENDER AND THE OFFENDED. May we say that our Mishnah is in agreement neither with R. Meir nor with R. Judah but with R. Simeon? For it was taught: ‘All [sorts of injured persons] should be considered as if they were freemen who have become impoverished since they are all the children of Abraham, Isaac and Jacob;[15] this is the view of R. Meir. R. Judah says that [Degradation in the case of] the eminent man [will be estimated] in accordance with his eminence, [whereas in the case of] the insignificant man [it will be estimated] in accordance with his insignificance. R. Simeon says that wealthy persons will be considered merely as if they were freemen who have become impoverished, whereas the poor will all be put on the level of the least among them.[16] Now, in accordance with whom is our Mishnah? It could not be in accordance with R. Meir, for the Mishnah states that all are to be estimated in accordance with the status of the offender and the offended, whereas according to R. Meir all [sorts of persons] are treated alike. It could similarly not be in accordance with R. Judah, for the Mishnah [subsequently] states[17] that he who insults even a blind person is liable, whereas R. Judah[18] says that a blind person is not subject to the law of Degradation. Must the Mishnah therefore not be in accordance with R. Simeon?[19] — You may say that they are [even] in accordance with R. Judah. For the statement made by R. Judah that a blind person is not subject to the law of Degradation means that no payment will be exacted from him [where he insulted others], whereas when it comes to paying him [for Degradation where he was insulted by others], We would surely order that he be paid. But since it was stated in the concluding clause ‘If he insulted a person who was sleeping he would be liable [to pay for Degradation], whereas if a person who was asleep insulted others he would be exempt’, and no statement was made to the effect that a blind person insulting others should be exempt, it surely implied that in the case of a blind person[20] there was no difference whether he was insulted by others or whether he insulted others, [as in all cases the law of Degradation would apply]![21] — It must therefore be considered as proved that the Mishnaic statements were in accordance with R. Simeon.

Who was the Tanna for what our Rabbis taught: If he intended to insult a katon[22] but insulted [by accident] a gadol[23] he would have to pay the gadol the amount due for the degradation of the katon, and so also where he intended to insult a slave but [by accident] insulted a freeman he would have to pay the freeman the amount due for the degradation of the slave? According to whom [is this teaching]? It is in agreement neither with R. Meir nor with R. Judah nor even with R. Simeon, it being assumed that katon meant ‘small in possessions’ and gadol [similarly meant] ‘great in possessions’. It could thus hardly be in accordance with R. Meir, for he said that all classes of people are treated alike. It could similarly not be in accordance with R. Judah, for he stated that in the case of slaves no Degradation need be paid. Again, it could not be in accordance with R. Simeon, since he holds that where the offender intended to insult one person and by an accident insulted another person he would be exempt, the reason being that this might be likened to murder, and just as in the case of murder there is no liability unless where the intention was for the particular person killed,[24] as it is written: ‘And lie in wait for him and rise up against him’[25] [implying, according to R. Simeon, that there would be no liability] unless where he aimed at him particularly, so should it also be in the case of Degradation, that no liability should be imposed on the offender unless where he aimed at the person insulted, as it is written: ‘And she putteth forth her hand and taketh him by the secrets’[26] [which might similarly imply that there should be no liability] unless where the offence was directed at the person insulted. [Who then was the Tanna of the teaching referred to above]? — It might still be said that he was R. Judah, for the statement made by R. Judah that in the case of slaves there would be no liability for Degradation means only that no payment will be made to them, though in the matter of appraisement we can still base the assessment on them. Or if you like I may say that you may even regard the teaching as being in accordance with R. Meir, for why should you think that gadol means ‘great in possessions’ and katon means ‘small in possessions’, and not rather that gadol means an actual gadol [i.e. one who is of age] and katon means an actual katon [i.e. a minor]? But is a minor subject to suffer Degradation? — Yes, as elsewhere stated by R. Papa, that if where he is reminded of some insult he feels abashed[27] [he is subject to Degradation] so also here

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(1) For since no bruise was made it will surely recover.
(2) In which Depreciation is included.
(3) In which case he will never recover,
(4) Infra 98a.
(5) For having committed a capital offence in accordance with Ex. XXI, 25.
(6) And since a capital offence would thus have been committed no civil liabilities could be entailed; cf. infra p. 502.
(7) Which problem could thus be solved.
(8) I.e., the sap of a plant used as a depilatory; cf. also Mak. 20b.
(9) [MSS. omit ‘on account of these scratches’, apparently as it is the nasha which was smeared over his head which prevents his appearing in his dancing role.]
(10) Another term for Depreciation.
(11) But not for the temporary depreciation in value.
(12) [Tosaf. reads: ‘to the master’ as it is the master who is the primary loser in consequence of the servant's enforced idleness.]
(13) Through which injury the servant is not hindered from performing his usual work.
(14) Cf. Rashi and Tosaf. a. l.
(15) V. infra 90b.
(16) I.e., among the poor.
(17) Infra p. 496.
(18) Infra pp. 495-499.
(19) [Who also does not treat all persons alike.]
(20) Whom the Mishnaic statement makes subject to the law of Degradation.
(21) This would contradict R. Judah, who maintained that a blind person would not have to pay Degradation.
(22) Denotes either ‘small’, or a minor,
(23) Denotes either ‘great’ or ‘one who is of age’.
(24) As indeed maintained by R. Simeon; cf. Sanh. 79a and supra p. 252.
(25) Deut. XIX, 11.
(26) Ibid. XXV, 11.
(27) Infra 86b.

Talmud - Mas. Baba Kama 86b

he was a minor who, if the insult were mentioned to him, would feel abashed.

MISHNAH. ONE WHO INSULTS A NAKED PERSON, OR ONE WHO INSULTS A BLIND PERSON, OR ONE WHO INSULTS A PERSON ASLEEP IS LIABLE [FOR DEGRADATION], THOUGH IF A PERSON ASLEEP INSULTED [OTHERS] HE WOULD BE EXEMPT. IF ONE IN FALLING FROM A ROOF DID DAMAGE AND ALSO CAUSED [SOMEBODY] TO BE DEGRADED, HE WOULD BE LIABLE FOR DEPRECIATION BUT EXEMPT FROM [PAYING FOR] DEGRADATION UNLESS HE INTENDED [TO INFLICT IT].[1]

GEMARA. Our Rabbis taught: If he insulted a person who was naked he would be liable[2] though there could be no comparison between one who insulted a person who was naked[3] and one who insulted a person who was dressed. If he insulted him in the public bath he would be liable though one who insulted a person in a public bath[3] could not be compared to one who insulted a person in the market place.

The Master stated: ‘If he insulted a person who was naked he would be liable.’ But is a person who walks about naked capable of being insulted?[4] — Said R. Papa: The meaning of ‘naked’ is that a wind [suddenly] came and lifted up his clothes, and then some one came along and raised them still higher, thus putting him to shame.

‘If he insulted him in the public bath he would be liable.’ But is a public bath a place where people are apt to feel offended?[5] — Said R. Papa: It meant that he insulted him[6] near the river.[7]

R. Abba b. Memel asked: What would be the law where he humiliated a person who was asleep but who died [before waking]?[8] — What is the principle involved in this query?[9] — Said R. Zebid: The principle involved is this: [Is Degradation paid] because of the insult, and as in this case he died before waking and was never insulted [no payment should thus be made], or is it perhaps on account of the [public] disgrace, and as there was here disgrace [payment should be made to the heirs]? — Come and hear: R. Meir says: A deaf-mute and a minor are subject to [be paid for] Degradation, but an idiot is not subject to be paid for Degradation. Now no difficulty arises if you say that degradation is paid on account of the disgrace; it is then quite intelligible that a minor [should be paid for Degradation]. But if you say that Degradation is paid on account of the insult, [we have to ask,] is a minor subject to feel insulted? — What then? [You say that] Degradation is paid because of the disgrace? Why then should the same not apply even in the case of an idiot? — It may, however, be said that the idiot by himself constitutes a disgrace which is second to none. But in any case, why not conclude from this statement that Degradation is paid on account of the disgrace, for if on account of the insult, is a minor subject to feel insulted? — As elsewhere stated by R. Papa, that if where the insult is recalled to him he feels abashed [he is subject to Degradation]; so also here he was a minor who when the insult was recalled to him would feel abashed.

R. Papa, however, said that the principle involved in the query [of R. Abba] was this: [Is Degradation paid] because of personal insult, and as in this case [where] he died [before waking he did not suffer any personal insult, no payment should be made], or is [Degradation paid] perhaps on account of the insult suffered by the family? — Come and hear: A deaf-mute and a minor are subject to [be paid for] Degradation but an idiot is not subject to [be paid for] Degradation. Now no difficulty arises if you say that Degradation is paid on account of the insult suffered by the family; it is then quite intelligible that a minor [should be paid for Degradation]. But if you say that Degradation is paid on account of personal insult [we have to ask], is a minor subject to personal insult? — What then? [Do you say] that Degradation is paid because of the insult sustained by the members of the family? Why then should the same not apply in the case of an idiot? — It may, however, be said that the idiot by himself constitutes a Degradation [to them] which is second to none. But in any case, why not conclude from this statement that Degradation is paid on account of the insult suffered by the family, for if on account of personal insult[10] , is a minor subject to personal insult? — Said R. Papa: Yes, if when the insult is mentioned to him he feels insulted, as indeed taught: ‘Rabbi says: A deaf-mute is subject to [be paid for] Degradation, but an idiot is not subject to [be paid for] Degradation, whereas a minor is sometimes subject to be paid and sometimes not subject to be paid [for Degradation].’ The former [must be] in a case where, if the insult is mentioned to him, he would feel abashed, and the latter in a case where if the insult is recalled to him he would not feel abashed.

ONE WHO INSULTS A BLIND PERSON . . . IS LIABLE [FOR DEGRADATION]. This Mishnah is not in accordance with R. Judah. For it was taught: R. Judah says: ‘A blind person is not subject to [the law of] Degradation. So also did R. Judah exempt him from the liability of being exiled[11] and from the liability of lashes[12] and from the liability of being put to death by a court of law.’[13] What is the reason of R. Judah? — He derives [the law in the case of Degradation by comparing the term] ‘thine eyes’ [inserted in the case of Degradation[14] from the term] ‘thine eyes’[15] occurring in the case of witnesses who were proved zomemim:[16] just as there[17] blind persons are not included[18] so also here[19] blind persons should not be included. The exemption from the liability to be exiled is derived as taught: Seeing him not[20] excepts a blind person;[21] so R. Judah. R. Meir on the other hand says that it includes a blind person.[22] What is the reason of R. Judah? — He might say to you [as Scripture says]: ‘As when a man goeth into the wood with his neighbour to hew wood’,[23] which might include even a blind person. The Divine Law therefore says ‘Seeing him not’ to exclude [him]. But R. Meir might contend that as the Divine Law inserted ‘Seeing him not’ [which implies] an exception, and the Divine Law further inserted unawares’[24] [which similarly implies] an exception, we have thus a limitation followed by another limitation, and the established rule is that a limitation followed by another limitation is intended to amplify.[25] And R. Judah? — He could argue that the word ‘unawares’ came to be inserted to except a case of intention. [Exemption from] liability to be put to death by a court of law is derived [from comparing the term] ‘murderer’ [used in the section dealing with capital punishment[26] with the term] ‘murderer’ [used in the section setting out] the liability to be exiled.[27] [Exemption from] liability of lashes is learnt [by comparing the term] ‘wicked’ [occurring in the Section dealing with lashes[28] with the term] ‘wicked’[26] occurring in the case of those who are liable to be put to death by a court of law.

Another [Baraitha] taught: R. Judah says: A blind person is not subject to [the law of] Degradation.

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(1) Supra p. 140.

(2) Even where the insult was caused by further uncovering him; cf. Tosaf. a.l,

(3) In which case the payment will be much less.

(4) By means of being further uncovered; again, how could a naked person be further uncovered?

(5) By means of being uncovered, since everybody is uncovered there.

(6) By uncovering him.

(7) Where people merely bathe their legs and are therefore fully dressed.

(8) So that he personally never felt the humiliation.

(9) Why indeed should there by any payment in such a case.

(10) no note.

(11) For inadvertently killing a person.

(12) When transgressing a negative commandment.

(13) For committing a capital offence.

(14) Deut. XXV, 12.

(15) Ib., XIX, 21.

(16) I.e., against whom the accusation of an alibi was proved; v. Glos.

(17) In the case of witnesses.

(18) For since a blind person could not see he is disqualified from giving evidence, on the strength of Lev. v, 1; cf. Tosaf, B.B. 129a, s.v. אי , and Asheri B.B. VIII, 24; but v. also Shebu. 33b.

(19) In the case of Degradation.

(20) Num. XXXV, 23.

(21) From being subject to the law of exile.

(22) Mak. 9b.

(23) Deut. XIX, 5.

(24) Ibid. 4.

(25) Cf. supra p. 259.

(26) Num. XXXV, 31.

(27) Deut. XIX, 3.

(28) Deut. XXV, 2.

Talmud - Mas. Baba Kama 87a

So also did R. Judah exempt him from all the judgments of the Torah. What is the reason of R. Judah? — Scripture says: Then the congregation shall judge between the smiter and the avenger of blood according to these ordinances,[1] whoever is subject to the law of the ‘smiter’ and ‘the avenger of blood’ is subject to judgments, but he[2] who is not subject to the law of the ‘smiter’ and the ‘avenger of blood’ is not subject to judgments.

Another [Baraitha] taught: R. Judah.says: ‘A blind person is not subject to [the law of] Degradation. So also did R. Judah exempt him from all commandments stated in the Torah.’ R. Shisha the son of R. Idi said: The reason of R. Judah was because Scripture says: Now this is the commandment, the statutes and the ordinances;[3] he who is subject to the ‘ordinances’ is subject to ‘commandments’ and ‘statutes’,but he who is not subject to ‘ordinances’ is not subject to ‘commandments’ and ‘statutes’. R. Joseph stated:[4] Formerly I used to Say: If someone would tell me that the halachah is in accordance with R. Judah who declared that a blind person is exempt from the commandments, I would make a festive occasion for our Rabbis, because though I am not enjoined[5] I still perform commandments, but now that I have heard the statement of R. Hanina, as R. Hanina indeed said[6] that greater is the reward of those who being enjoined do [good deeds] than of those who without being enjoined [but merely of their own free will] do [good deeds], if someone would tell me that the halachah is not in accordance with R. Judah I would make a festive occasion for our Rabbis, because if I am enjoined to perform commandments the reward will be greater for me.

MISHNAH. ON THIS [POINT] THE LAW FOR MAN IS MORE SEVERE THAN THE LAW FOR CATTLE, VIZ., THAT MAN HAS TO PAY FOR DEPRECIATION, PAIN, HEALING, LOSS OF TIME AND DEGRADATION;[7] AND HE PAYS ALSO FOR THE VALUE OF EMBRYOS,[8] WHEREAS IN THE CASE OF CATTLE THERE IS NO PAYMENT FOR ANYTHING BUT DEPRECIATION,[9] AND THERE IS EXEMPTION FROM [PAYING] THE VALUE OF EMBRYOS.[8] ONE WHO STRIKES HIS FATHER AND HIS MOTHER WITHOUT, HOWEVER, MAKING A BRUISE ON THEM,[10] OR ONE WHO INJURED HIS FELLOW ON THE DAY OF ATONEMENT[11] IS LIABLE FOR ALL [THE FIVE ITEMS]. ONE WHO INJURES A HEBREW SLAVE[12] IS SIMILARLY LIABLE FOR ALL OF THEM, WITH THE EXCEPTION, HOWEVER, OF LOSS OF TIME IF HE IS HIS OWN SLAVE. ONE WHO INJURES A CANAANITE SLAVE[13] BELONGING TO ANOTHER PERSON IS [SIMILARLY] LIABLE FOR ALL [THE FIVE ITEMS]. R. JUDAH, HOWEVER, SAYS THAT NO DEGRADATION IS PAID IN THE CASE OF [CANAANITE] SLAVES. A DEAF-MUTE, AN IDIOT AND A MINOR ARE AWKWARD TO DEAL WITH, AS HE WHO INJURES THEM IS LIABLE [TO PAY], WHEREAS IF THEY INJURE OTHERS THEY ARE EXEMPT. [SO ALSO] A SLAVE AND A [MARRIED] WOMAN ARE AWKWARD TO DEAL WITH, AS HE WHO INJURES THEM IS LIABLE [TO PAY], WHEREAS IF THEY INJURE OTHERS THEY ARE EXEMPT,[14] THOUGH THEY MAY HAVE TO PAY AT A LATER DATE; FOR IF THE WOMAN WAS DIVORCED[15] OR THE SLAVE MANUMITTED,[16] THEY WOULD BE LIABLE TO PAY. HE WHO SMITES HIS FATHER OR HIS MOTHER MAKING ALSO A BRUISE ON THEM[17] OR HE WHO INJURES ANOTHER ON THE SABBATH[18] IS EXEMPT FROM ALL [THE FIVE ITEMS], FOR HE IS CHARGED WITH A CAPITAL OFFENCE.[19] [SO ALSO] HE WHO INJURES A CANAANITE SLAVE OF HIS OWN IS EXEMPT FROM ALL [THE ITEMS].[20]

GEMARA. R. Eleazar inquired of Rab: If one injures a minor daughter of another person, to whom should [the payment for] the injury go?[21] Shall we say that since the Divine Law bestowed upon the father [the right to] the income of [his daughter during the days of her] youth,[22] the payment for an injury should also be his, the reason being that her value was surely decreased [by the injury], or [shall we say that it was] perhaps only the income of youth[23] that the Divine Law granted him, since if he wishes to hand her over [in marriage e.g.,] to one afflicted with leprosy he could hand her over,[24] whereas the payment for injury might not have been granted to him by the Divine Law, since if he wishes to injure her he would not have had the right to injure her?[25]

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(1) Num. XXXV, 24.

(2) Such as a blind person.

(3) Deut. VI, 2.

(4) Kid. 31a.
(5) As R. Joseph became blind through an illness; cf. Shab. 109a.
(6) V. supra p. 215.
(7) As supra p. 473.
(8) Cf. Ex, XXI, 22 and supra p. 277.
(9) V, supra 26a.
(10) In which case the capital offence of Ex. XXI,15 has not been committed; v. Sanh. 84b.
(11) The violation of which entails no capital punishment at the hands of a court of law; cf. Lev. XXIII, 30 and Ker. I, 1. Again, though lashes could be involved in this case in accordance with Mak. III, 2, the civil liability holds good as supra p. 407.
(12) Cf. Ex. XXI, 2-6.
(13) V. Lev. XXV, 44-46.
(14) Irrespective of the equality of all before the law, as supra p. 63, no payment could be made here as the possessions of slaves form a part of the estates of their masters as in Kid. 23b, and the property of a married woman is usually in the usufruct of the husband, cf, Keth, IV, 4,
(15) When her estate will return to her.
(16) And property was subsequently acquired by him.
(17) Which is a capital offence, v. Ex. XXI. 15; supra p. 492.
(18) Thus involving capital punishment, v. Shab. 106a; supra p. 192.
(19) In the punishment for which all civil liabilities merge; v. supra p. 192.
(20) For so far as the master is concerned the slave is but his chattel. He will, however, be liable to heal him; Tosaf, a.l.; Git. 12b.
(21) I.e., whether to her or to her father.
(22) Cf. Keth. 46b.
(23) Such as the consideration given by a prospective husband for marrying him, or the hire of her labour and the like.
(24) As could be inferred from Deut. XXII, 16,
(25) Moreover he would thereby commit the sin implied in Deut. XXV, 3.

Talmud - Mas. Baba Kama 87b

— He replied: ‘The Torah did not bestow upon the father [any right] save to the income of youth alone.’

An objection was raised[1] [from the following]: ONE WHO INJURES A HEBREW SLAVE IS SIMILARLY LIABLE FOR ALL OF THEM, WITH THE EXCEPTION HOWEVER OF LOSS OF TIME IF HE IS HIS OWN SLAVE![2] — Abaye replied: Rab surely agrees regarding the item of Loss of Time, as the work of her hands during the period preceding the age of womanhood[3] belongs to her father. A [further] objection was raised [from the following]: ‘If one injures his son who has already come of age[4] he has to compensate him straight away, but if his son was still a minor[5] he must make for him a safe investment [out of the compensation money], while he who injures his minor daughter is exempt, and what is more, if others injure her they are liable to pay the compensation to her father’?[6] — The rulings here similarly refer to Loss of Time.[7]

Is it really a fact that in the case of a son who has already come of age the father has to compensate him straight away? [If so,] a contradiction could be pointed out [from the following:] ‘If one injures the sons and daughters of others, if they have already come of age, he has to pay them straight away, but if they are still minors he should make for them a safe investment [out of the compensation money], whereas where the sons and daughters were his own, he would be exempt [altogether]’![8] — It may, however, be said that there is no difficulty, as the ruling here [stating exemption] refers to a case where the children still reclined at the father's table,[9] whereas the ruling there[10] deals with a case where they did not recline at his table. But how could you explain the former teaching to refer to a case where they did not recline at his table? For if so, read the concluding clause: ‘Whereas he who injures his minor daughter is exempt, and what is more, even others who injure her are liable to pay the compensation to her father.’ Why not pay her, since she has to maintain herself? For even according to the view[11] that a master may say to his slave, ‘Work with me though I am not prepared to maintain you,’ surely this applies only to a Canaanite slave to whom the master can say, ‘Do your work during the day and in the evenings you can go out and look about for food,’[12] whereas in the case of a Hebrew slave in connection with whom it is written, Because he fareth well with thee,[13] implying ‘with thee in food and with thee in drink’,[14] this could certainly not be maintained; how much the more so then in the case of his own daughter?[15] — As stated[16] [in another connection] by Raba the son of R. ‘Ulla, that the ruling applies only to the surplus [of the amount of her earnings over the cost of maintenance], so also here in this case this ruling applies only to the surplus [of the amount of compensation over the cost of maintenance]. You have then explained the latter statement [that there is exemption in the case of his own children] as dealing with a case where the children reclined at his table. Why then [in the case of children of other persons] is it stated that ‘if they had already come of age he has to pay them straight away, but if they were still minors he should make for them a safe investment [out of the compensation money]? Why should the compensation not be made to their father?[17] — It may, however, be said that the father would be particular only in a matter which would cause him a loss,[18] whereas in regard to a profit coming from outside[19] he would not mind [it going to the children]. But what about a find which is similarly a profit coming from outside, and the father still is particular about it?[20] — It may be said that he is particular even about a profit which comes from outside provided no actual pain was caused to the children through it,[21] whereas in the matter of compensation for injury where the children suffered actual pain and where the profit comes from outside he does not mind. But what of the other case[22] where the daughter suffered actual pain and where there was a profit coming from outside and the father nevertheless was particular about it as stated ‘What is more, even others who injure her are liable to pay the compensation to her father’? — It may still be said that it was only in that case[22] where the father was an eccentric person who would not have his children at his table that he could be expected to care for the matter of profit coming even from outside, whereas in the case here[23] where he was not an eccentric person, as his children joined him at his table it is only regarding a matter which would cause him a loss that he would be particular, but he would not mind about a matter of profit coming from outside.

What is meant by ‘a safe investment’?[24] — R. Hisda said: [To buy] a scroll of the Law.[25] Rabbah[26] son of R. Huna said: [To buy] a palm tree, from which he gets a profit in the shape of dates.

Resh Lakish similarly said that the Torah did not bestow upon the father any right save to the income of youth alone. R. Johanan however said: ‘Even regarding wounding.’ How can you think about wounding?[27] Even R. Eleazar did not raise a question[28] except regarding an injury

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(1) [Lit., ‘he objected to him.’ The objector was evidently not R. Eleazar, as Abaye is the one who replies to the objection.]

(2) Why then should the payment for Loss of Time in the case of a minor girl not go to her father to whom the hire for her labour would belong?

(3) Which begins six months after puberty was reached at approximately the age of twelve; cf. Nid. 45b; 65a and Keth. 39a.

(4) I.e., usually over the age of thirteen; cf. Glos. s.v. Gadol.

(5) I.e., before the age of thirteen; v. Glos. s.v. Katon.

(6) [Is this not against the view of Rab who stated that damages paid for injuring a minor girl would not go to her father?]

(7) For which all agree that payment must be made to the father.

(8) [Does the latter ruling not apply even where the sons and daughters had already come of age, in contradiction to the ruling stated in the former teaching?]

(9) I.e., were maintained and provided by him with all their needs; cf. B.M. 12b.
(10) Stating liability.
(11) Git. 12a.
(12) [Eg. where the work he performs is not worth the cost of his maintenance, v. Git. 12a.]
(13) Deut. XV, 16.
(14) He must share the same pleasures and comforts as the Master. Cf. Kid. 20a.
(15) [Why therefore should the compensation be paid to the father and not to her in a case where she has to maintain herself?]
(16) Keth. 43a.
(17) Since they are maintained by him.
(18) Such as if he would have to pay compensation where he himself injured them.
(19) As where others injured them and would have to pay compensation.
(20) Cf. B.M. 12b.
(21) Such as e.g., in the case of a find.
(22) I.e., in the former teaching.
(23) I.e., in the latter teaching.
(24) B.B. 52a.
(25) Cf. Er. 64a.
(26) B.B. 52: 'Raba'.
(27) Which would usually not decrease her pecuniary value.
(28) Supra p.502.

Talmud - Mas. Baba Kama 88a

through which her pecuniary value is decreased,[1] whereas regarding mere wounding, through which her pecuniary value would not [usually] decrease there was never any question [that the compensation would not go to the father. How then could R. Johanan speak of mere wounding?] — R. Jose b. Hanina replied: We suppose the wound to have been made in her face, thus causing her pecuniary value to be decreased. ONE WHO INJURES A CANAANITE SLAVE BELONGING TO ANOTHER PERSON IS [SIMILARLY] LIABLE FOR ALL [FIVE ITEMS]. R. JUDAH, HOWEVER, SAYS THAT NO DEGRADATION IS PAID IN THE CASE OF [CANAANITE] SLAVES. What is the reason of R. Judah? — As Scripture says:[2] 'When men strive together one with another' the law applies to one who can claim brotherhood and thus excludes a slave who cannot claim brotherhood.[3] And the Rabbis?[4] — They would say that even a slave is a brother in so far as he is subject to commandments. If this is so, would you say that according to R. Judah witnesses proved zomemim[5] in a capital accusation against a slave would not be subject to be put to death in virtue of the words:[6] 'Then shall ye do unto him as he had purposed to do unto his brother'?[7] — Raba said that R. Shesheth stated: The verse concludes:[6] 'So shalt thou put away the evil from among you', implying 'on all accounts' — Would you say that according to the Rabbis[8] a slave would be eligible to be chosen as king?[9] — I would reply: According to your reasoning would the same difficulty not arise regarding a proselyte, whichever view we accept[10] unless we suppose that when Scripture says 'One from among thy brethren',[11] it implies 'one of the choicest of thy brethren'?[12] — But again would you now also say that according to the Rabbis, a slave would be eligible to give evidence,[13] since it says, And behold, if the witness be a false witness and hath testified falsely against his brother?[14] — 'Ulla replied: Regarding evidence you can surely not argue thus. For that he[15] is disqualified from giving evidence can be learnt by means of an a fortiori from the law in the case of Woman: for if Woman who is eligible to enter [by marriage] into the congregation [of Israel] is yet ineligible to give evidence,[16] how much more must a slave who is not eligible to enter [by marriage] into the congregation [of Israel] be ineligible to give evidence? But why is Woman disqualified if not perhaps because she is not subject to the law of circumcision? How then can you assert the same In the case of a slave who is subject to circumcision?[17] — The case of a [male] minor will meet this objection, for in spite of his being subject to circumcision he is disqualified from giving evidence.[18] But why is a minor disqualified if not perhaps because he is not subject to commandments?[19] How then can you assert the same in the case of a slave who is subject to commandments?[20] — The case of Woman will meet this objection, for though she is subject to commandments she is disqualified from giving evidence. The argument is thus endlessly reversible. There are features in the one instance which are not found in the other, and vice versa. The features common to both[21] are that they are not subject to all the commandments[22] and that they are disqualified from giving evidence. I will therefore include with them a slave who also is not subject to all the commandments and should therefore also be disqualified from giving evidence. But why [I may ask] is the feature common to them[21] that they are disqualified from giving evidence if not perhaps because neither of them is a man?[23] How then can you assert the same in the case of a slave who is a man? — You must therefore deduce the disqualification of a slave from the law applicable in the case of a robber.[24] But why is there this disqualification in the case of a robber if not because his own deeds caused it? How then can you assert the same in the case of a slave whose own deeds could surely not cause it?[25] — You must therefore deduce the disqualification of a slave from both the law applicable to a robber and the law applicable to either of these [referred to above].[26] Mar, the son of Rabina, however, said: Scripture says: ‘The fathers shall not be put to death through[27] the children’;[28] from this it could be inferred that no sentence of capital punishment should be passed on [the evidence of] the mouth of [persons who if they were to be] fathers would have no legal paternity over their children.[29] For if you assume that the verse is to be taken literally, ‘fathers shall not be put to death through children’, meaning, ‘through the evidence of children’, the Divine Law should have written ‘Fathers shall not be put to death through their children’. Why then is it written ‘children’, unless to indicate that no sentence of capital punishment should be passed on [the evidence of] the mouth of [persons who if they were to be] fathers would have no legal paternity over their children? If that is so, would you also say that the concluding clause ‘neither shall the children be put to death through the fathers’ similarly implies that no sentence of capital punishment should be passed on [the evidence of] the mouth of [witnesses who as] children would have no legal filiation with respect to their fathers, and therefore argue that a proselyte[30] should similarly be disqualified from giving evidence?[31] — It may be said that there is no comparison: It is true that a proselyte has no legal relationship to his ancestors, still he has legal relationship with his descendants, [but we may therefore] exclude a slave who has relationships neither with ancestors nor with descendants. For if you should assume that a proselyte is disqualified from giving evidence, the Divine Law should surely have written: ‘Fathers shall not be put to death through their children’, which would mean what we stated, that they would not be put to death through the evidence of children, and after this the Divine Law should have written: ‘Neither shall children be put to death through fathers,’ as from such a text you would have derived the two rules: one that children should not be put to death through the evidence of fathers and the other that no sentence of capital punishment should be passed on [the evidence of] the mouth of [witnesses who as] children have no legal filiation with respect to their fathers.[32] The disqualification in the case of a slave would surely have been derived by means of an a fortiori from the law applicable to a proselyte: for if a proselyte, who has no legal relationship to his ancestors but has legal relationship to his descendants, is disqualified from giving evidence, how much more must a slave who has legal relationship neither to ancestors nor to descendants be disqualified from giving evidence? But since the Divine Law has written: ‘Fathers shall not be put to death through children’, which implies that no sentence of capital punishment should be passed on [the evidence of] the mouth of [witnesses who as] fathers would have no legal paternity over their children, we can derive from this that it is only a [Canaanite] slave who has relationship neither to ancestors nor to descendants that will be disqualified from giving evidence, whereas a proselyte will be eligible to give evidence on account of the fact that he has legal paternity over his children. If you object, why did the Divine Law not write: ‘Neither shall children be put to death through their fathers’, and why did the Divine Law write ‘And neither shall children be put to death through fathers’, which appears to imply that no sentence of capital punishment should be passed [on the evidence of] the mouth of [witnesses who as] children would have no legal filiation with respect to fathers,[33] [my answer is that] since it was written, ‘Fathers shall not be put to death through children', it was further written, 'neither shall children be put to death through fathers.'[34]

A DEAF, MUTE AN IDIOT AND A MINOR ARE AWKWARD TO DEAL WITH. The mother of R. Samuel b. Abba of Hagronia[35] was married to R. Abba,[36] and bequeathed her possessions to R. Samuel b. Abba, her son. After her death

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(1) And a loss thus caused to the father.
(2) Deut. XXV, 11.
(3) Cf. supra p. 63.
(4) The representatives of the anonymous opinion cited first in the Mishnah.
(5) I.e., where an alibi was proved against them; cf. Glos.
(6) Deut. XIX, 19.
(7) Since a slave according to R. Judah could not he considered a brother.
(8) Who consider a slave a brother.
(9) Where the text in Deut. XVII, is states, One from among thy brethren shalt thou set king over thee.
(10) For a proselyte is unanimously considered a brother.
(11) Deut. XVII, 15.
(12) Cf. Yeb. 45b; [and for this reason a slave is not eligible for kingship, not because he is not considered a brother.]
(13) Which would not be in conformity with R. H. I., 8.
(14) Deut. XIX, 18.
(15) I.e., a slave.
(16) V. Shebu. 30a.
(17) Cf. Gen. XVII, 12 and Yeb. 48b.
(18) Cf. B.B. 155b.
(19) Cf. supra p. 250.
(20) In the same way as a woman; cf. Hag. 4a.
(21) I.e., in Woman and male Minor.
(22) Cf. Kid. 29a.
(23) As a minor has not yet reached manhood.
(24) Who is disqualified from giving evidence though being a 'man' and eligible to enter by marriage into the Congregation; cf. Ex. XXIII, 1.
(25) Having done nothing criminal.
(26) I.e., a woman or male minor, the common feature being that they do not observe all commandments — the robber on account of his criminality, the woman or male minor because neither is subject to all the commandments.
(27) E.V. 'for'.
(28) Deut. XXV, 16.
(29) Such as slaves; cf. supra p. 63.
(30) Who has no legal filiation with respect to his ancestors; cf. Yeb. 62a.
(31) Which would not be in conformity with Nid. 49b.
(32) Which would have excluded also a proselyte.
(33) [Excluding thus a proselyte.]
(34) And while the phraseology of the concluding clause follows that of the commencing clause it is not usual in Scripture that the commencing clause should alter its phraseology because of the style of the concluding clause.
(35) V. supra p. 27, n. 1.
(36) He was not the father of R. Samuel as her former husband's name was also Abba.

Talmud - Mas. Baba Kama 88b

R. Samuel b. Abba went to consult R. Jeremiah b. Abba who confirmed him in possession of her property. R. Abba thereupon went and related the case to R. Hoshaia. R. Hoshaia then went and spoke on the matter with Rab Judah who said to him that Samuel had ruled as follows: If a woman disposes of her melog[1] possessions during the lifetime of her husband and then dies, the husband is entitled to recover them from the hands of the purchasers.[2] When this statement was repeated to R. Jeremiah b. Abba, he said: I [only] know the Mishnaic ruling which we have learnt: 'If a man assigns his possessions to his son, to take effect after his death,[3] neither can the son alienate them [during the lifetime of the father] as they are then still in the possession of the father, nor can the father dispose of them since they are assigned to the son. Still, if the father sells them, the sale is valid until his death; if the son disposes of them the purchaser has no hold on them until the father dies.'[4] This implies, does it not, that when the father dies the purchaser will have the possessions [bought by him from the son during the lifetime of the father], and this even though the son died during the lifetime of the father, in which case they had never yet entered into the possession of the son? For so it was laid down by R. Simeon b. Lakish, who said[5] that there should be no difference whether the son died in the lifetime of the father, in which case the estate never came into the possession of the son, or whether the father died in the lifetime of the son, in which case the estate had entered into the possession of the son; the purchaser would [in either case] acquire title to the estate. (For it was stated:[6] Where the son sold the estate[7] in the lifetime of the father and it so happened that the son died during the lifetime of the father, R. Johanan said that the purchaser would not acquire title [to the estate], whereas Resh Lakish said that the purchaser would acquire title [to the estate]. R. Johanan, who held that the purchaser would not acquire title to the estate, would say to you that the Mishnaic statement, 'If the son disposed of them the purchaser would have no hold on them until the father dies, 'implying that at any rate after the death of the father the purchaser would own them, refers to the case where the son did not die during the lifetime of the father, so that the estate had actually entered into the possession of the son, whereas where the son died during the lifetime of the father, in which case the estate had never entered into the possession of the son, the purchaser would have no title to the estate even after the death of the father. This shows that in the opinion of R. Johanan a right to usufruct amounts in law to a right to the very substance [of the estate],[8] from which it follows that when the son sold the estate [during the lifetime of his father] he was disposing of a thing not belonging to him.[9] Resh Lakish on the other hand said that the purchaser would [in all cases] acquire title [to the estate after the death of the vendor's father], for the Mishnaic statement, 'If the son disposed of them the purchaser would have no hold on them until the father died,'implying that at least after the death of the father the purchaser would own them, applies equally whether the son did not die in the lifetime of the father, in which case the estate had entered into the possession of the son, or whether the son did die during the lifetime of the father, in which case the estate never did come into the possession of the son, [as in all cases] the purchaser would acquire title [to the estate as soon as the vendor's father died]. This shows that in the opinion of Resh Lakish a right to [mere] usufruct does not yet amount to a right in the very substance [of the estate], from which it follows that when the son sold the estate [during his father's lifetime] he was disposing of a thing that legally belonged to him.[10]) Now both[11] R. Jeremiah b. Abba and Rab Judah, concur with Resh Lakish,[12] and R. Jeremiah b. Abba accordingly argues thus: If you assume that a right to usufruct amounts [in law] to a right in the very substance, why then on the death of the father, if the son has previously died during the lifetime of his father, should the purchaser have any title to the estate, since when the son sold it he was disposing of a thing not belonging to him? Does not this show that a right to [mere] usufruct does not amount to a right to the very substance?[13] When, however, the argument was later repeated in the presence of Rab Judah, he said that Samuel had definitely stated: 'This case[14] cannot be compared to that stated in the Mishnah.' On what ground? — R. Joseph replied: We should have no difficulty if the case in the Mishnah were stated in a reversed order, i.e., 'If a son assigns his possessions to his father [to take effect after the son's death, and the father sold them during the lifetime of the son and died before the son,' and if the law would also in this case have been that the purchaser acquired title to the possessions] it would indeed have been possible to prove from it that a right to usufruct does not amount to a right to the very substance. But seeing that what it actually says is, 'If a father assigns his possessions to his son,' [the reason why the sale by the son is valid is] that [since] he was eligible to inherit him, [the father by drawing up the deed must necessarily have intended that the transfer to the son should have legal effect forthwith].[15] Said Abaye to him: Does only a son inherit a father, and does a father never inherit a son?[16] It is therefore to be assumed that such a deed was drawn up only for the purpose of keeping the possessions out of the hands of the children,[17] and similarly also here[18] the deed might have been drawn up for the sole purpose of keeping the possessions out of the hands of his brothers![19] — The reason of [Samuel's remark that] ‘This case cannot be compared to that stated in the Mishnah’ is because of the [Rabbinic] enactment at Usha. For R. Jose b. Hanina said: It was enacted at Usha that if a woman disposes of her melog possessions during the lifetime of her husband and subsequently dies, the husband will be entitled to recover them from the hands of the purchasers.[20] R. Idi b. Abin said that we have been taught to the same effect: [Where witnesses state,] ‘We can testify against a particular person that he has divorced his wife and paid her for her kethubah’,[21]

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(1) Lit., ‘plucking’, but which denotes a wife's estate in which her husband has the right of usufruct and for which he hears no responsibility regarding any loss or deterioration, v. B.B. (Sonc. ed.) p. 206, n. 7.

(2) According to which statement R. Abba and not R. Samuel would be entitled to the possessions in direct contradiction to the judgment given by R. Jeremiah.

(3) [The father retaining for himself the right for life to the usufruct.]

(4) B.B. 136b.

(5) Ibid.

(6) B.B. 136a.

(7) [Assigned to him to be his after his father's death.]

(8) As indeed followed by him in Git. 47b and elsewhere.

(9) For since the father still had for life the right to usufruct he was for the time being the legal owner of the very substance of the estate, though the son had the reversionary right.

(10) Since he had the reversionary right while the father possessed merely for time being the right to usufruct. [The bracketed passage is an interpolation and not part of R. Jeremiah's argument.]

(11) [So MS.M. cur. edd. read, ‘We now assume.’]

(12) [That the sale is valid even where the son died in the lifetime of the father.] Cf. Yeb. 36b.

(13) Hence the gift of the mother to R. Samuel her son should become valid at her death in spite of the right to usufruct vested in R. Abba her second husband during her lifetime.

(14) I.e., the gift of the mother to R. Samuel her son.

(15) For if otherwise why was the deed necessary at all? [Whereas in the case of Samuel b. Abba, the deed was necessary for in the absence of one the estate would be inherited by the husband. V. B.B. 111b]

(16) Cf. B.B. VIII, 1. The same argument if at all sound could thus accordingly be raised even in the case made out by you where a son bequeathed his possessions to his father.

(17) Of the son who made the bequest in favour of his father, as otherwise the sons children would have been first to inherit him in accordance with Num. XXVII, 8.

(18) Where the father bequeathed his possessions to a son.

(19) I.e., from the brothers of the particular son in whose favour the bequest was made, as otherwise they would also have had a part in the inheritance on account of their being sons of the same father, and it was not intended that the transfer to the son should have legal effect forthwith. This being so, the case of Samuel b. Abba is on all fours with the Mishnah!

(20) For the right of the husband to the possessions of his wife took effect at the time of the wedding and thus preceded the act of the sale. V. B.B. (Sonc. ed.) p. 208.

(21) V. Glos.

Talmud - Mas. Baba Kama 89a

while the woman in question was still with him[1] and in fact looking after him, and the witnesses were subsequently proved zomemim, it would not be right to say that they should pay [the woman][2] the whole amount of her kethubah, [as she did not lose anything] but the satisfaction of the benefit of [being provided with] her kethubah.[3] How could [the value of] the satisfaction of the benefit of her kethubah be arrived at?[3] An estimate will have to be made of how much a man would be prepared to pay as purchase money for the kethubah of this [particular woman] which can mature only after she is left a widow or divorced, since, were she [previously] to die her husband would inherit her.[4] Now, if you assume that this enactment of Usha is of no avail, why is it certain that her husband would inherit her? Why should she be unable to sell her kethubah outright?[5] Abaye said: If all this could be said[6] regarding melog possessions,[7] can it also be said[8] regarding the possessions [placed in the husband's hands[9] and secured[10] as if they were] ‘iron flocks’?[11]

Abaye further said: Since the subject of the [mere] satisfaction of a benefit has been raised, let us say something on it. The [purchase money of this] satisfaction of the benefit would belong solely to the woman. For if you assume that it should be subject to [the rights of] the husband, why could the witnesses not argue against her: ‘What loss did we cause you, for should you even have sold the satisfaction of the benefit, the husband would have taken away [the purchase money] from you’? — R. Shalman, however, said: Because [even then] there would have been ample domestic provision.[12]

Raba stated: ‘The law is that the purchase money for the satisfaction of the benefit belongs solely to the woman, and the husband will have no right to enjoy any profit [that may result from it], the reason being that it was only profits that the Rabbis assigned to him,[13] whereas profits out of profits[14] were not assigned to him by the Rabbis.

When R. Papa and R. Huna the son of R. Joshua came from the College they said: We have learnt to the same effect as the enactment of Usha [in the following Mishnah]: A SLAVE AND A WOMAN ARE AWKWARD TO DEAL WITH, AS HE WHO INJURES THEM IS LIABLE [TO PAY], WHEREAS IF THEY HAVE INJURED OTHERS THEY ARE EXEMPT.[15] Now, if you assume that the enactment of Usha is not effective why should she not sell her melog[16] property and with the purchase money pay the compensation? — But even according to your reasoning, granted that the enactment of Usha is effective, in which case she would be powerless to alienate altogether her melog possessions, yet let her sell the melog estate for what the satisfaction of the benefit would fetch[17] and with his purchase money pay the compensation? It must therefore Surely be said that the ruling applies where she had no melog property; so also [according to the other view] the ruling would apply only where she possessed no melog property. But why should she not sell her kethubah for as much as the satisfaction of the benefit will fetch[17] and thus pay compensation? — The ruling is based on the view of R. Meir, who said that it is prohibited for any man to keep his wife without a kethubah even for one hour.[18] But what is the reason of this? So that it should not be an easy matter in his eyes to divorce her. In this case too he will surely not divorce her, for if he were to divorce her those who purchased the kethubah would certainly come and collect the amount of the kethubah from him. [Why then should she not be compelled by law to sell her kethubah and pay her creditors?] — We must therefore say that the satisfaction of such a benefit is a value of an abstract nature[19] and abstract values are not considered mortgaged [for the payment of liabilities]. But why not? Could these abstract values not be sold for actual denarii? — We must therefore [say that it would not be practical to compel her to sell her kethubah] on account of the statement of Samuel. For Samuel said:[20] Where a creditor assigns a liability on a bill to another and subsequently releases the debtor from payment, the debt is considered cancelled. Moreover, the creditor's heir may cancel the liability.[21] I would, however, ask: Why should she not be compelled to sell it and pay with the proceeds the compensation, though if she should subsequently release her husband from the obligation the release would be legally valid? — It may be replied that since it is quite certain that where there is an obligation on the husband the wife will release him,it would not be right to make a sale which will straight away be nullified. Should you say, why should she not assign her kethubah to the person whom she injured, thus letting him have the satisfaction of the benefit,

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(1) I.e., that particular person who was her husband, as he had never divorced her.

(2) In retaliation, as required in Deut. XIX, 19.

(3) Since it was but a conditional liability, i.e., becoming mature either through her being divorced or through her remaining a widow.

(4) And there would then be no occasion for the payment of the kethubah (cf. Mak. 3a).
(5) If the husband would have no right to recover the possessions thus alienated. Why then should the witnesses not pay the woman the full amount of the kethubah?
(6) By R. Jeremiah against Rab Judah, thus ignoring the enactment of Usha.
(7) In which the husband had only the right of usufruct while the substance belonged to the wife; v. Glos.
(8) [That the woman should be able to sell outright.]
(9) As absolutely his own property.
(10) By him on his general estate to pay her for them her Kethubah in case she would become a widow or divorced.
(11) Zon barzel. I.e., 'flocks' sold on credit and the payment made secure as 'iron', v. B.B. (Sonc. ed.) p. 206, n. 3.
(12) As it is also for her benefit that the income of her husband increases.
(13) Out of the substance belonging to her. Cf. Keth. 47b and 79b.
(14) Such as here in the case of the purchase money.
(15) V. supra p. 502, n. 1.
(16) V. Glos.
(17) I.e., that the purchaser should stand in her place and become entitled to it in case she should become a widow or divorced.
(18) Keth. 57a.
(19) Lit., 'words', 'an order for payment'.
(20) B.M. 20a; B.B. 147b.
(21) It would therefore not be practical to compel her to sell her kethubah, for she might subsequently release the husband from the liability of the kethubah.

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for even if she should subsequently release her husband from the obligation, the purchaser[1] would lose nothing as now too she pays him nothing on account of the compensation, [my answer is that] as it is in any case quite certain that where there is an obligation on the husband the wife will release him, it would not be proper to trouble the Court of Law so much for nothing. But seeing that it was taught: 'So also if she injures her husband she does not forfeit her kethubah'.[2] why should she in this case not assign her kethubah to the husband and thus let him have the satisfaction of the benefit as compensation for the injury, for even if she releases her husband from the obligation no loss will result therefrom? — This teaching is surely based on the view of R. Meir who said[3] that it is prohibited for any man to keep his wife without a kethubah even for one hour, the reason being that it should not be an easy matter in the eyes of the husband to divorce a wife. So also here if the kethubah be assigned to him he might easily divorce her and have her kethubah for himself as compensation for the injury. But if so [even now that the kethubah remains with her] would he just the same not find it easy to divorce her, as he would retain the amount of her kethubah as compensation for the injury? [This however would not be so where] e.g., the amount of her kethubah was much more than that of the compensation as on account of the small amount of the compensation he would surely not risk losing more.[4] But again if the amount of her kethubah exceeded that of an ordinary kethubah as fixed by the Law,[5] why should we not reduce the amount to that of the ordinary kethubah fixed by the Law,[6] and she should assign the difference to the husband as compensation for the injury? [This could not be done where,] e.g. the amount of her kethubah did not exceed that of the ordinary kethubah fixed by the Law and the compensation for the injury was assessed to be four zuz, as it is pretty certain that for four zuz he will not risk losing twenty-five [sela'].[7] But what of that which was taught: 'Just as she cannot [be compelled to] assign her kethubah[8] so long as she is with her husband, so also she cannot [be compelled to] remit [anything of] her kethubah so long as she is with her husband'?[9] Are there not times when she would be forced to remit, as, for example where the amount of her kethubah exceeded the amount of an ordinary kethubah fixed by the Law? — Said Raba: This concluding paragraph refers to the clause inserted in the kethubah regarding the male children,[10] and what was meant was this: Just as in the case of a wife assigning her kethubah to others she does thereby not impair the clause in the kethubah regarding the male children, the reason being that she might have been compelled to do it on account of a pressing need for money, so should also be the case where a wife assigns her kethubah to her own husband, that she would thereby not impair the clause in the Kethubah dealing with male children on the ground that she might have been compelled to do this for lack of funds.

May we say that the enactment of Usha was a point at issue between the following Tannaim? For one [Baraitha] teaches that melog slaves are to go out free for the sake of a tooth or an eye[11] if assaulted by the wife,[12] but not if assaulted by the husband,[13] whereas another [Baraitha] teaches that [they are not to go out free] when assaulted either by the husband or by the wife. Now it was thought that all authorities agree that a right to usufruct does not constitute in law a right to the very substance. Are we not to suppose then that the point at issue between them was that the one who held that they are to go out free if assaulted by the wife did not accept the enactment of Usha, while the one who held that they are not to go out free when assaulted either by the husband or by the wife accepted the enactment of Usha?[14] — No; it is quite certain that the enactment of Usha was unanimously accepted, but the former Baraitha was formulated before the passing of the enactment while the other one was formulated after. Or if you like I may say that both the one Baraitha and the other dealt with conditions prevailing after the enactment, and also that both accepted the enactment of Usha, but the authority who held that the slaves are to go out free if assaulted by the wife and not by the husband did so on account of a reason underlying a statement of Raba, for Raba said:

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(1) I.e., the injured person.

(2) Tosaf. B.K. IX, 8.

(3) V. supra, p. 515, n. 6.

(4) [I.e., the difference between the large amount of the kethubah and the amount due to him as compensation.]

(5) The Bible, i.e., two hundred zuz where she was a virgin at the time of the marriage. Cf. Ex. XXII, 16; Keth. I, 2.

(6) [To provide against the prohibition in the view of R. Meir.]

(7) == 100 zuz, which is the minimum amount of a kethubah even in the case of a non-virgin; v. Keth. I, 2.

(8) [For any damage done to others (Tosaf.).]

(9) [For any damage done by her to her husband (Tosaf.) V. Tosaf. B.K. IX.]

(10) Which runs as follows: ‘The male children which you will have with me shall inherit the amount of your kethubah over and above their appropriate portions due to them together with their brothers (if any of another mother).’ V.B.B. (Sonc. ed.) p. 546, n.16.

(11) Cf. Ex. XXI, 26-27.

(12) Who possesses the ownership of their substance.

(13) Who has in them but the right of usufruct.

(14) According to which the wife would not be able to impair the right of the husband, [nor would the husband on the other hand be able to impair the right of the wife to the slaves whose substance is actually hers.]

Talmud - Mas. Baba Kama 90a

‘The Consecration [of cattle[1] to the altar, the prohibition of] leaven[2] [from any use] and the manumission of a slave[3] release any of these articles [if mortgaged] from the burden of the mortgage.[4] Are we then to say that this statement of Raba constituted a point at issue between these Tannaim? — No; it is possible that all concurred in the ruling of Raba [in general cases], but in this particular case here the Rabbis[5] [might perhaps] have specially protected the mortgage of the husband.[6] Or again if you like I may say that these Tannaim were unanimous in not accepting the enactment of Usha, but in the case here they might have differed as to whether the right to usufruct amounts in law to a right to the very substance, exactly as this was the dividing point between the following Tannaim. For it was taught:[7] ‘If an owner sells his slave to a man with whom he stipulates that the slave shall still remain to serve him for the next thirty days, R. Meir says that the vendor[8] would be subject to the law of "a day or two"[9] because the slave was still "under" him,’ his view being that the right to a usufruct in the slave amounts in law to a right to the very substance of him.

‘R. Judah on the other hand says that it is the purchaser who would be subject to the law of "a day or two"[10] because the slave was "his money",’ his view being that a right to a usufruct in the slave does not amount in law to a right to the very substance of him. ‘But R. Jose says that both of them[11] would be subject to the right of "a day or two": the vendor because the slave was still "under" him and the purchaser because the slave was already "his money",’for he was in doubt whether a right to a usufruct should amount to a right to the very substance or should not amount to a right to the very substance, and, as is well known, a doubt in capital charges should always be for the benefit of the accused.[12] ‘R. Eliezer on the other hand says that neither of them would be subject to the law of "a day or two": the purchaser because the slave is not "under" him, and the vendor because he is not "his money".’ Raba said: The reason of R. Eliezer was because Scripture says, For he is his money,[13] implying that he has to be ‘his money’ owned by him exclusively.[14] Whose view is followed in the statement made by Amemar that if a husband and wife sold the melog property [even simultaneously], their act is of no effect? Of course the view of R. Eliezer.[15] So too, who was the Tanna who stated that which our Rabbis taught: ‘One who is half a slave and half a freeman,[16] as well as a slave belonging to two partners does not go out free for the mutilation of the principal limbs,[17] even those which cannot be restored to him’? Said R. Mordecai to R. Ashi: Thus was it stated in the name of Raba, that this ruling gives the view of R. Eliezer. For did R. Eliezer not say that ‘his money’ implied that which was owned by him exclusively? So also here ‘his slave’[18] implies one who is owned by him exclusively.

MISHNAH. IF A MAN BOXES ANOTHER MAN'S EAR, HE HAS TO PAY HIM[19] A SELA’.[20] R. JUDAH IN THE NAME OF R. JOSE THE GALILEAN SAYS THAT [HE HAS TO PAY HIM] A MANEH.[20] IF HE SMACKED HIM [ON THE FACE] HE HAS TO PAY HIM TWO HUNDRED ZUZ;[20] [IF HE DID IT] WITH THE BACK OF HIS HAND HE HAS TO PAY HIM FOUR HUNDRED ZUZ. IF HE PULLED HIS EAR, PLUCKED HIS HAIR, SPAT SO THAT THE SPITTLE REACHED HIM, REMOVED HIS GARMENT FROM UPON HIM, UNCOVERED THE HEAD OF A WOMAN IN THE MARKET PLACE, HE MUST PAY FOUR HUNDRED ZUZ.

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(1) That had previously been mortgaged for a liability.

(2) [In Jewish possession during the Passover which had previously been mortgaged for a liability to a non-Jew]

(3) V. p. 498, n. 5.

(4) So also here though the right of the husband in the melog (v. Glos.) slave is impregnable in the case of a sale or gift, it must give way in the case of manumission.

(5) According to the second Baraitha.

(6) To be inviolable even in the case of a manumission.

(7) B.B. 50a.

(8) During the thirty days.

(9) Stated in Ex. XXI, 21 and according to which if an owner smites his servant, who after having continued to live for a day or two, dies, he would not be punished, though in the case of a stranger the slayer would be liable to death in all circumstances.

(10) Even during the thirty days that the slave had to be with the vendor.

(11) I.e., the vendor and the purchaser.

(12) B.B. 50b; Sanh. 79a also supra p. 253.

(13) Ex. XXI, 21.

(14) [Raba stresses the word ‘his’.]

(15) Who considers neither the vendor nor the purchaser as the true owner, and so should be the case regarding husband and wife in the melog estate.

(16) As where the slave belonged to two partners and one of them manumitted him; cf. Git. 41a.

(17) Which are twenty-four in number; cf. Kid. 25a.

(18) Ex. XXI, 26.

(19) On account of Degradation.

(20) V. Glos.

Talmud - Mas. Baba Kama 90b

THIS IS THE GENERAL PRACTICE, THOUGH ALL DEPENDS UPON THE DIGNITY [OF THE INSULTED PERSON]. R. AKIBA SAID THAT EVEN THE POOR IN ISRAEL HAVE TO BE CONSIDERED AS IF THEY ARE FREEMEN REDUCED IN CIRCUMSTANCES, FOR IN FACT THEY ALL ARE THE DESCENDANTS OF ABRAHAM, ISAAC AND JACOB.[1] IT ONCE HAPPENED THAT A CERTAIN PERSON UNCOVERED THE HEAD OF A WOMAN IN THE MARKET PLACE AND WHEN SHE CAME BEFORE R. AKIBA, HE ORDERED THE OFFENDER TO PAY HER FOUR HUNDRED ZUZ. THE LATTER SAID TO HIM, ‘RABBI, ALLOW ME TIME [IN WHICH TO CARRY OUT THE JUDGMENT];’ R. AKIBA ASSENTED AND FIXED A TIME FOR HIM. HE WATCHED HER UNTIL HE SAW HER STANDING OUTSIDE THE DOOR OF HER COURTYARD, HE THEN BROKE IN HER PRESENCE A PITCHER WHERE THERE WAS OIL OF THE VALUE OF AN ISAR,[2] AND SHE UNCOVERED HER HEAD AND COLLECTED THE OIL WITH HER PALMS AND PUT HER HANDS UPON HER HEAD [TO ANOINT IT]. HE THEN SET UP ‘WITNESSES AGAINST HER AND CAME TO R. AKIBA AND SAID TO HIM: HAVE I TO GIVE SUCH A WOMAN[3] FOUR HUNDRED ZUZ?’ BUT R. AKIBA SAID TO HIM: ‘YOUR ARGUMENT IS OF NO LEGAL EFFECT, FOR WHERE ONE INJURES ONESELF THOUGH FORBIDDEN, HE IS EXEMPT,[4] YET, WERE OTHERS TO INJURE HIM, THEY WOULD BE LIABLE: SO ALSO HE WHO CUTS DOWN HIS OWN PLANTS, THOUGH NOT ACTING LAWFULLY,[5] IS EXEMPT,[4] YET WERE OTHERS TO [DO IT], THEY WOULD BE LIABLE.

GEMARA. It was asked: Is it a Tyrian maneh[6] of which the Mishnaic text speaks or is it only a local maneh[7] which is referred to? — Come and hear: A certain person boxed another's ear and the case was brought before R. Judah Nesi'ah.[8] He said to him: ‘Here I am and here is also R. Jose the Galilean, so that you have to pay the plaintiff a Tyrian maneh.’ Does this not show that it is a Tyrian maneh which is spoken of in the text? — It does.

What is the meaning of, ‘Here I am, and here is also R. Jose the Galilean’? If you say he meant, ‘Here I am who witnessed you [doing this] and here is also R. Jose the Galilean who holds that the payment should be a Tyrian maneh; go therefore and thus pay him a Tyrian maneh’, would this not imply that a witness is eligible to act [also] as judge? But [how can this be, since] it was taught: If the members of the Sanhedrin saw a man killing another, some of them should act as witnesses and the others should act as judges: this is the opinion of R. Tarfon. R. Akiba [on the other hand] said that all of them are considered witnesses and [they thus cannot act as judges, for] a witness may not act as a judge.[9] Now, even R. Tarfon surely did not mean more than that a part of them should act as witnesses and the others act as judges, but did he ever say that a witness [giving evidence] should be able to act as judge? — The ruling there[10] [that witnesses actually giving evidence would not be eligible to act at the same time as judges] referred only to a case such as where e.g., they saw the murder taking place at night time when they were unable to act in a judicial capacity.[11] Or if you like I may say that what R. Judah Nesi'ah said to the offender was, ‘Since I am here who concur with R. Jose the Galilean who stated that a Tyrian maneh should be paid, and since there are here witnesses testifying against you, go and pay the plaintiff a Tyrian maneh.’

Does R. Akiba really maintain that a witness cannot [at the same time] act as judge? But it has been taught: [As Scripture says] And one smite another with a stone or with his fist,[12] Simeon the Temanite remarked that just as a fist is a concrete object that can be submitted for examination to the assembly of the judges and the witnesses, so also it is necessary that all other instruments should be able to be submitted [for consideration] to the assembly of the judges and the witnesses, which excludes the case where the instrument of killing disappeared from under the hands of the witnesses.[13] Said R. Akiba to him: [Even if the instrument was placed before the judges], yet did the actual killing take place before the judges of the Court of Law that they should be expected to know how many times the murderer struck the victim, or again the part of the body upon which he struck him, whether it was upon his thigh or upon the tip of the heart? Again, supposing the murderer threw a man down from the top of a roof or from the top of a mansion house so that the victim died, would the court of law have to go to the mansion or would the mansion have to go to the court of law? Again, if the mansion meanwhile collapsed, would it be necessary to erect it anew [as it was before for the inspection of the court of law]?[14] We must therefore say that just as a fist is a definite object that was placed before the sight of witnesses [when the murder was committed] so also it is necessary that all other instruments should have been placed before the sight of the witnesses, which excludes the case where the instrument of killing disappeared from under the hand of the murderer who is thus free.' We see then that R. Akiba said to him, 'did the actual killing take place before the judges of the Court of Law that they should be expected to know how many times the murderer struck the victim . . . ?' which would imply that if he had killed him in their presence, [they who were the] witnesses would have been able to act as judges! — He was arguing from the point of view of R. Simeon the Temanite but this was not his own opinion.

Our Rabbis taught: 'If an ox while still Tam[15] killed [a person] and subsequently also did damage, the judges will adjudicate on the loss of life[16] but will not adjudicate on the pecuniary damage.[17] In the case however of Mu'ad[18] killing a person and subsequently doing damage the judges will first deal with the pecuniary matter[19] and then adjudicate on the loss of life.[20] But if [for some reason or other], they have already adjudicated on the capital matter it would no more be possible to start dealing with the pecuniary matter.' But even if they first adjudicated on the capital matter, what has happened that it should no more be possible for them to start dealing with the pecuniary matter? Raba said: 'I found the Rabbis at the School of Rab[21] sitting and stating that this teaching follows the view of R. Simeon the Temanite who said that just as a fist is a definite object which can be submitted to the consideration of the assembly of the judges and the witnesses,

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(1) Cf. B.M. VIII, 1.

(2) A small coin; v. Glos.

(3) Who had herself for the mere value of an isar, publicly uncovered her own head.

(4) From any pecuniary punishment.

(5) Cf. Deut. XX, 19.

(6) Consisting of twenty-five sela's, v. supra p. 204. n. 4.

(7) Which was only an eighth part of a Tyrian maneh; cf. supra p. 204.

(8) I.e., R. Judah II, the Prince.

(9) Sanh. 34b; B.B. 114a.

(10) In the case of Sanhedrin witnessing a murder.

(11) As judgments could be passed only at day time; cf. Sanh. IV, 1. [But where witnessed during the daytime, they can immediately act in the dual capacity of judges and witnesses.]

(12) Ex. XXI, 18.

(13) [Though the witnesses had an opportunity of examining the killing instrument, where the Judges had no such opportunity, no death penalty can be passed.]

(14) [In which case the court relies on the examination made by the witnesses; v. Tosef. Sanh. XII.]

(15) V. Glos.

(16) Cf. Ex. XXI, 28.

(17) Cf. ibid. 35.

(18) V. Glos.

(19) Cf. ibid. 36.

(20) Cf. ibid. 29-30.

(21) Cf. supra p. 487.

Talmud - Mas. Baba Kama 91a

[so also all other instruments should be able to be submitted to the consideration of the assembly of the judges and the witnesses], which shows that the inspection[1] [of the instrument] by the Court of Law is essential [before any liability can be imposed]; and in this case where the sentence has already been passed on the ox to be stoned[2] it would not be possible to keep the ox for inspection[1] by the Court of Law, as we could not delay[3] the execution of the judgment. I said to them: ‘You may even say that the teaching follows the view of R. Akiba, for we may have been dealing here with a case where the defendant ran away.’[4] But if the defendant ran away even in the case where the capital matter has not yet been adjudicated, how would it be possible to deal with the pecuniary matter in the absence of the defendant? — It was only after the evidence of the witnesses had already been accepted that he ran away.[5] Be that as it may, whence could the payment come[6] [since the defendant ran away]?[7] — Out of the hire obtained from ploughing [done by the ox]. But if so, why also in the case of Tam, should the pecuniary matter not be adjudicated first and the payment made out of the hire obtained from ploughing, and then adjudicate the capital matter? — Said R. Mari the son of R. Kahana: This indeed proves that the hire obtained from ploughing forms a part of the general estate of the owner.[8]

The question was raised: Is an inspection [of the instrument] essential also in the case of mere damage, or is no inspection necessary in the case of mere damage? Shall we say that it is only regarding murder[9] that we have to inspect the instrument, as by means of one instrument life could be taken, while by means of another life could not be taken, whereas regarding mere damage any instrument would be sufficient, or is there perhaps no difference? — Come and hear: ‘Just as Pit can cause death because it is usually ten handbreadths [deep], so also [other similar nuisances] should be such as can cause death, [i.e.,] ten handbreadths [deep]. If, however, they were less than ten handbreadths [deep] and an ox or an ass fell into them and died there would be exemption, but if only injured by them there would be liability.’[10] Is not the Tanna here reckoning upwards — so that what he says is that a pit of a depth of from one handbreadth to ten handbreadths could not cause death though it could cause damage, implying that a pit of any depth would involve liability in the case of mere damage and thus indicating that no inspection is necessary regarding mere damage? — No, he reckoned downwards, and thus meant to say that only a pit of ten handbreadths could cause death whereas a Pit a little less than ten handbreadths could cause[11] only damage and not death, so that it may therefore still be argued that inspection might be essential even regarding mere damage and that in each case it may be necessary that the instrument be such as would be fit to cause the particular damage done.

Come and hear: If [the master] struck his slave on the eye and blinded him, or on his ear and deafened him, the slave would on account of that go out free,[12] but if he struck on an object which was opposite the slave's eye through which he lost his sight or on an object which was opposite his ear through which he lost his hearing, the slave would [on account of this] not go out free.[13] Is not the reason of this that consideration of the instrument is required [before any liability can be imposed],[14] which proves that the inspection of the instrument is essential also in the case of mere damage? — No; the reason is because we say that it was the slave who frightened himself, as taught: If a man frightens another he is exempt according to the judgments of Man but liable according to the judgments of Heaven; thus if he blew into his ear and deafened him he would be exempt, but if he actually took hold of his ear and blew into it and thus deafened him he would be liable.[15]

Come and hear: Regarding the Five Items,[16] an estimation will be made and the payment made straight away, though Healing and Loss of Time will have to be estimated for the whole period until he completely recovers. If after the estimation was made his health continued to deteriorate, the payment will not be more than in accordance with the previous estimation. So also if after the estimation was made he recovered rapidly, payment will be made of the whole sum estimated. Does this not show that estimation is essential also in the case of mere damage? — That an estimate has to be made of the length of the illness likely to result from the wound[17] has never been questioned by us, for it is certain that we would have to make such an estimation; the point which was doubtful to us was whether we estimate if the instrument was one likely to do that damage or not. What is indeed the law? — Come and hear: Simeon the Temanite said[18] that just as a fist is a definite object that can be submitted to the consideration of the assembly of the judges and the witnesses, so also all other instruments should be able to be submitted to the consideration of the assembly of the judges and the witnesses. Does this not show that the inspection of the instrument is essential even in the case of mere damage? — It does indeed.

The Master stated: 'So also if after the estimation was made he recovered rapidly payment will be made of the whole sum estimated.' This appears to support the view of Raba. For Raba said: An injured person whose illness was estimated to last the whole day but who, as it happened recovered in the middle of the day and performed his usual work, would still be paid for the whole day, as the unexpected recovery was an act of mercy especially bestowed upon him from Heaven.

IF HE SPAT SO THAT THE SPITTLE REACHED HIM . . . HE HAS TO PAY FOUR HUNDRED ZUZ. R. Papa said: This Mishnaic ruling applies only where it reached him [his person], but if it reached only his garment this would not be so. But why should this not be equivalent to an insult in words? — It was stated in the West[19] in the name of R. Jose b. Abin that this could indeed prove that where the insult was merely in words, there would be exemption from any liability whatsoever.

ALL DEPENDS UPON THE DIGNITY. . . The question was raised: Did the first Tanna mean by this to mitigate or to aggravate the penalty? Did he mean to mitigate the penalty, so that a poor man would not have to be paid so much, or did he perhaps mean to aggravate the penalty, so that a rich man would have to be paid more? — Come and hear: Since R. Akiba[20] stated THAT EVEN THE POOR IN ISRAEL HAVE TO BE CONSIDERED AS IF THEY ARE FREEMEN WHO HAVE BEEN REDUCED IN CIRCUMSTANCES, FOR IN FACT THEY ALL ARE THE DESCENDANTS OF ABRAHAM, ISAAC AND JACOB, does this not show that the first Tanna meant to mitigate the penalty?[21] — It does indeed.

IT ONCE HAPPENED THAT A CERTAIN PERSON UNCOVERED THE HEAD OF A WOMAN [IN THE MARKET PLACE . . . FIXED A TIME FOR HIM]. But is time allowed[22] [in such a case]? Did R. Hanina not say that no time is granted in cases of injury? — No time is granted in the case of injury where there is an actual loss of money,[23] but in the case of Degradation, where there is no actual loss of money, time[22] to pay may be granted.

HE WATCHED UNTIL HE SAW HER STANDING OUTSIDE THE DOOR OF HER COURTYARD [. . . FOR IF ONE INJURES ONESELF, THOUGH IT IS FORBIDDEN TO DO SO . . .] But was it not taught: R. Akiba said to him, 'You have dived into the depths and have brought up a potsherd in your hand,[24] for a man may injure himself'? — Raba said: There is no difficulty, as the Mishnaic statement deals with actual injury, whereas the other text referred to Degradation. But surely the Mishnah deals with Degradation,

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(1) Lit., 'estimation'.

(2) Lit., 'to be killed'.

(3) V. Sanh. (Sonc. ed.) p. 222, and notes.

(4) So that in his absence we cannot adjudicate the matter.

(5) In which case though judgment could be passed regarding the pecuniary liability it is of no use to do so as the defendant when running away took all available funds with him.

(6) Even in the case where the capital matter has not yet been adjudicated.

(7) With all his available funds.

(8) And could thus not become subject to be paid for damages in the case of Tam, where payment could only be made out of its own body; cf. supra p. 73. [The plaintiff, however, could not take the ox itself in payment as it is to be stoned. V. Tosaf.]

(9) Cf. Num. XXXV, 17, 18 and 23.

(10) V. supra 50b.

(11) I.e., is fit to cause.

(12) Cf. Ex. XXI, 26-27.

(13) Kid. 24b; infra 88a.

(14) And the act of the master in the second case is not considered a cause adequate to effect such a result.

(15) Kid. ibid, and cf. supra 56a.

(16) Enumerated Mishnah supra p. 473,

(17) Lit. 'how long he is likely to suffer . . . and how long he will not.'

(18) Supra pp. 522-3

(19) [This usually represents R. Jeremiah.] Cf. Sanh. 17b.

(20) [And yet R. Akiba does not impose more than four hundred zuz, the same amount as mentioned by the first Tanna.]

(21) [The figure 400 mentioned by him being a maximum whereas R. Akiba would award this amount to all alike.]

(22) For the execution of a judgment.

(23) Sustained by the plaintiff.

(24) I.e., you have gone to a great amount of trouble which could however be of no practical avail.

Talmud - Mas. Baba Kama 91b

and it nevertheless says: If one injures oneself, though it is forbidden to do so, he is exempt? — It was this which he[1] said to him: 'There could be no question regarding Degradation, as a man may put himself to shame, but even in the case of injury where a man may not injure himself, if others injured him they would be liable.' But may a man not injure himself? Was it not taught: You might perhaps think that if a man takes an oath to do harm to himself and did not do so he should be exempt. It is therefore stated: 'To do evil or to do good,'[2] [implying that] just as to do good is permitted, so also to do evil [to oneself] is permitted; I have accordingly to apply [the same law in] the case where a man had sworn to do harm to himself and did not do harm?[3] — Samuel said: The oath referred to was to keep a fast.[4] It would accordingly follow that regarding doing harm to others[5] it would similarly mean to make them keep a fast. But how can one make others keep a fast? — By keeping them locked up in a room. But was it not taught: What is meant by doing harm to others? [If one says], I will smite a certain person and will split his skull?[3] — It must therefore be said that Tannaim differed on this point, for there is one view maintaining that a man may not injure himself and there is another maintaining that a man may injure himself. But who is the Tanna maintaining that a man may not injure himself? It could hardly be said that he was the Tanna of the teaching, And surely your blood of your lives will I require,[6] [upon which] R. Eleazar remarked [that] it meant I will require your blood if shed by the hands of yourselves,[7] for murder is perhaps different. He might therefore be the Tanna of the following teaching: 'Garments may be rent for a dead person[8] as this is not necessarily done to imitate the ways of the Amorites. But R. Eleazar said: I heard that he who rends [his garments] too much for a dead person transgresses the command,[9] 'Thou shalt not destroy',[10] and it seems that this should be the more so in the case of injuring his own body. But garments might perhaps be different, as the loss is irretrievable, for R. Johanan used to call garments 'my honourers',[11] and R. Hisda whenever he had to walk between thorns and thistles used to lift up his garments Saying that whereas for the body [if injured] nature will produce a healing, for garments [if torn] nature could bring up no cure.[12] He must therefore be the Tanna of the following teaching: R. Eleazar Hakkapar Berabbi[13] said: What is the point of the words: 'And make an atonement for him, for that he sinned regarding the soul.'[14] Regarding what soul did this [Nazarite] sin unless by having deprived himself of wine? Now can we not base on this an argument a fortiori: If a Nazarite who deprived himself only of wine is already called a sinner, how much the more so one who deprives oneself of all matters?’[15]

HE WHO CUTS DOWN HIS OWN PLANTS . . . Rabbah b. Bar Hanah recited in the presence of Rab: [Where a plaintiff pleads] ‘You killed my ox, you cut my plants, [pay compensation’, and the defendant responds:] ‘You told me to kill it, you told me to cut it down’, he would be exempt. He [Rab] said to him. If so you almost make it impossible for anyone to live, for how can you trust him? — He therefore said to him: Has this teaching to be deleted? — He replied: No; your teaching could hold good in the case where the ox was marked for slaughter[16] and so also the tree had to be cut down.[17] If so what plea has he against him? — He says to him: I wanted to perform the precept myself in the way taught: ‘He shall pour out . . . and cover it’,[18] implying that he who poured out[19] has to cover it; but it once happened that a certain person performed the slaughter and another anticipated him and covered [the blood], and R. Gamaliel condemned the latter to pay ten gold coins.[20]

Rab said: A palm tree producing even one kab of fruit may not be cut down. An objection was raised [from the following]: What quantity should be on an olive tree so that it should not be permitted to cut it down? A quarter of a kab.[21] — Olives are different as they are more important. R. Hanina said: Shibhath[22] my son did not pass away except for having cut down a fig tree before its time. Rabina, however, said: If its value [for other purposes] exceeds that for fruit, it is permitted [to cut it down]. It was also taught to the same effect: ‘Only the trees of which thou knowest’[23] implies even fruit-bearing trees;[24] That they be not trees for meat, means a wild tree. But since we ultimately include all things, why then was it stated, That they are not trees for food? To give priority[25] to a wild tree over one bearing edible fruits.

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(1) I.e., R. Akiba.

(2) Lev. V, 4.

(3) Shebu. 27a.

(4) But in other ways a man may not injure himself.

(5) Dealt with in Shebu 27a.

(6) Gen. IX, 5.

(7) I.e., for committing suicide.

(8) Cf. II Sam. I, 11, and II Kings II, 12. Cf. also Sanh. 52b.

(9) According to the text, ‘Will be lashed on account of transgressing’ which could however hardly be substantiated; Cf. Tosaf. a.l.

(10) Deut. XX, 19.

(11) Sanh. 94a.

(12) Cf. Taan. 23a.

(13) A title of some scholars who belonged to the school of R. Judah the prince.

(14) Num. VI, 11; E.V.: for that he sinned by the dead.

(15) R. Eleazar Hakkapar is thus the Tanna forbidding self-injury.

(16) Such as where it killed a human being; cf. Ex. XXI, 28.

(17) Such as where it constituted a danger to the public or where it was planted for idolatrous purposes; cf. Deut. XII, 3.

(18) Lev. XVII, 13.

(19) I.e., he who acted as slaughterer.

(20) Hul. 87a.

(21) Sheb. IV, 10. [Why then should the palm tree require a bigger quantity?]

(22) B.B. 26a. There he is called ‘Shikhath’.

(23) Deut. XX, 20.

(24) [That is where it is known that they no longer produce any fruits, v. Malbim, a.l.]

(25) To be cut down.

Talmud - Mas. Baba Kama 92a

As you might say that this is so even where the value [for other purposes] exceeds that for fruits, it says ‘only’.[1] Samuel's field labourer brought him some dates. As he partook of them he tasted wine in them. When he asked the labourer how that came about, he told him that the date trees were placed between vines. He said to him: Since they are weakening the vines so much, bring me their roots tomorrow.[2] When R. Hisda saw certain palms among the vines he said to his field labourers: ‘Remove them with their roots. Vines can easily buy palms but palms cannot buy vines.’[2]

MISHNAH. EVEN THOUGH THE OFFENDER PAYS HIM [COMPENSATION], THE OFFENCE IS NOT FORGIVEN UNTIL HE ASKS HIM FOR PARDON, AS IT SAYS: NOW THEREFORE RESTORE THE MAN'S WIFE ETC.[3] WHENCE CAN WE LEARN THAT SHOULD THE INJURED PERSON NOT FORGIVE HIM HE WOULD BE [STIGMATISED AS] CRUEL? FROM THE WORDS: SO ABRAHAM PRAYED UNTO GOD AND GOD HEALED ABIMELECH ETC.[4] IF THE PLAINTIFF SAID: ‘PUT OUT MY EYE, CUT OFF MY ARM AND BREAK MY LEG,’ THE OFFENDER WOULD NEVERTHELESS BE LIABLE; [AND SO ALSO EVEN IF HE TOLD HIM TO DO IT] ON THE UNDERSTANDING THAT HE WOULD BE EXEMPT HE WOULD STILL BE LIABLE. IF THE PLAINTIFF SAID: ‘TEAR MY GARMENT AND BREAK MY PITCHER,’ THE DEFENDANT WOULD STILL BE LIABLE, BUT IF HE SAID TO HIM: ‘[DO THIS] ON THE UNDERSTANDING THAT YOU WILL BE EXEMPT,’ HE WOULD BE EXEMPT.[5] BUT IF ONE SAID TO THE DEFENDANT: ‘DO THIS TO A THIRD PERSON[6] ON THE UNDERSTANDING THAT YOU WILL BE EXEMPT,’ THE DEFENDANT WOULD BE LIABLE, WHETHER WHERE THE INJURY WAS DONE TO THE PERSON OR TO HIS CHATTELS.

GEMARA. Our Rabbis taught: All these fixed sums stated above[7] specify only the payment [civilly due] for Degradation. For regarding the hurt done to the feelings of the plaintiff, even if the offender should bring all the ‘rams of Nebaioth’[8] in the world,[9] the offence would not be forgiven until he asks him for pardon, as it is written: Now therefore restore the man's wife for he is a prophet and he will pray for thee.[10] But is it only the wife of a prophet who has to be restored, whereas the wife of another man need not be restored? R. Samuel b. Nahmani said in the name of R. Johanan: ‘Restore the man's wife’ [surely implies] in all cases; for as to your allegation, Wilt thou slay even a righteous nation? Said he not unto me, She is my sister and she even she herself said: He is my brother,[11] [you should know that] he is a prophet who has already [by act and deed][12] taught the world that where a stranger comes to a city whether he is to be questioned regarding food and drink — or regarding his wife, whether she is his wife or sister. From this we can learn that a descendant of Noah[13] may become liable to death if he had the opportunity to acquire instruction[14] and did not do so [and so committed a crime through the ignorance of the law].

For to close the Lord had closed up [all the wombs of the house of Abimelech].[15] R. Eleazar said: Why is ‘closing up’ mentioned twice?[16] There was one ‘closing up’ in the case of males, viz. semen [virile], and two in the case of females, viz. semen and the giving of birth. In a Baraitha it was taught that there were two in the case of males, viz. semen [virile] and urinating, and three in the case of females, i.e. semen, urinating and the giving of birth. Rabina said: Three in the case of males, viz. semen [virile], urinating and anus, and four in the case of females, viz. semen and the giving of birth, urinating and anus. ‘All the wombs of the house of Abimelech.’ It was stated at the College of R. Jannai that even a hen of the house of Abimelech did not lay an egg [at that time].

Raba said to Rabbah b. Mari: Whence can be derived the lesson taught by our Rabbis that one who solicits mercy for his fellow while he himself is in need of the same thing, [will be answered first]? — He replied: As it is written: And the Lord changed the fortune of Job when he prayed for his friends.[17] He said to him: You say it is from that text, but I say it is from this text: ‘And Abraham prayed unto God and God healed Abimelech and his wife and his maidservants,'[18] and immediately after it Says: And the Lord remembered Sarah as he had said, etc.,[19] [i.e.] as Abraham had [prayed and] said regarding Abimelech.

Raba [again] said to Rabbah b. Mari: Whence can be derived the proverbial saying that together with the thorn the cabbage is smitten?[20] — He replied: As it is written, Wherefore will ye contend with Me, ye all have transgressed against Me, says the Lord.[21] He said to him: You derive it from that text, but I derive it from this, How long refuse ye[22] to keep My commandments and My laws.[23] Raba [again] said to Rabbah b. Mari: It is written: 'And from among his brethren, he took five men.[24] Who were these five? — He replied: Thus said R. Johanan that 'they were those whose names were repeated [in the Farewell of Moses].'[25] But was not the name Judah repeated too?[26] He replied: The repetition in the case of Judah was for a different purpose, as stated by R. Samuel b. Nahmani that R. Johanan said: What is the meaning of the words, Let Reuben live and not die, in that his men become few, and this is for Judah?[27] All the forty years that the Israelites were in the wilderness the bones of Judah were scattered[28] in the coffin[29] until Moses came and solicited for mercy by saying thus to God: Master of the universe, who brought Reuben to confess[30] if not Judah?[31] Hear [therefore] Lord the voice of Judah! Thereupon each limb fitted itself into its original place.[32] He was, however, not permitted to ascend to the heavenly gathering[33] until Moses said: And bring him in unto his people.[34] As, however, he did not know what the Rabbis were saying and was thus unable to argue with the Rabbis on matters of the law, Moses said: His hands shall contend for him![34] As again he was unable to bring his statement into accord with the Halachah, Moses said, Thou shalt be a help against his adversaries![34]

Raba [again] said to Rabbah b. Mari: Whence[35] can be derived the popular saying that poverty follows the poor?[36] — He replied: We have learnt:[37] 'The rich used to bring the first fruits[38] in baskets of gold and silver, but the poor brought it in wicker baskets made out of the bark of willow, and thus gave the baskets as well as the first-fruits to the priest.'[39] He said to him: You derive it from there, but I derive it from this:

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(1) Which qualifies and thus exempts such a case from giving priority to wild trees over those bearing edible fruits.

(2) As the value of the produce of vines surpasses that of palms.

(3) Gen. XX, 7.

(4) Ibid. 17.

(5) For the distinction between injury to the person and damage to chattels see the Gemara.

(6) Lit., 'to such and such person'; cf. Ruth IV, 1.

(7) Supra pp. 520-1.

(8) Isa. LX, 7.

(9) For the purpose of propitiation.

(10) Gen. XX, 7.

(11) Ibid. 4-5. [Ms.M. 'He learned it from thee'; i.e. thy conduct in questioning a stranger, of which he as 'a prophet' became cognisant, put him on his guard. Cf. Mak. 9a.]

(12) Ibid. XVIII, 2-8.

(13) Who is subject to the seven commandments of civilized humanity enumerated in Sanh. 56a; cf. also supra.

(14) Regarding the elementary laws of humanity.

(15) Gen. XX, 18; E.V.: For the Lord had fast closed up. . .

(16) I.e., in the infinitive and finite mood.

(17) Job XLII, 10.

(18) Gen. XX, 17.

(19) Gen. XXI, I.

(20) I.e., that the good are punished with the bad.

(21) Jer. II, 29.

(22) [Including, as it were, Moses and Aaron.]

(23) Ex. XVI, 28.
(24) Gen. XLVII, 2.
(25) Deut. XXXIII, 2-29; (besides Judah) the five were as follows: Dan, Zebulun, Gad, Asher and Naphtali. These names had to be repeated in the blessing as they were the weakest among the tribes.
(26) As in Deut. XXXIII, 7 (though his tribe was by no means among the weak ones).
(27) Deut. XXXIII, 6.7.
(28) I.e., they were not kept together.
(29) As the bones of all the heads of the tribes just as those of Joseph were, according to homiletic interpretation, carried away from Egypt to the Promised Land. Cf. Mid. Rab. on Gen. L, 25.
(30) Cf. Gen. XXXV, 22 and XLIX, 4.
(31) Who made public confession in Gen. XXXVIII, 26.
(32) I.e., they were again made into one whole.
(33) Where matters of law are considered; cf. B.M. 86a.
(34) Deut. XXXIII, 7.
(35) V. Mak. 11b.
(36) B.B. 174b.
(37) Bik. III, 8.
(38) Cf. Ex. XXXIV, 26.
(39) So that the rich took back their gold or silver baskets, whereas the poor did not receive back their baskets made of the bark of the willow.

Talmud - Mas. Baba Kama 92b

And shall cry unclean, unclean.[1]

Rabbah [again] said to Rabbah b. Mari: Whence can be derived the advice given by our Rabbis:[2] Have early breakfast in the summer because of the heat, and in the winter because of the cold, and people even say that sixty[3] men may pursue him who has early meals in the mornings and will not overtake him? — He replied: As it is written, They shall not hunger nor thirst, neither shall the heat nor sun smite them.[4] He said to him: You derive it from that text but I derive it from this one, And ye shall serve the Lord your God:[5] this [as has been explained] refers to the reading of Shema'[6] and the Tefillah,'[7] 'And he will bless thy bread and thy water:'[5] this refers to the bread dipped in salt and to the pitcher of water;[8] and after this, I will take [Mahalah, i.e.] sickness away from the midst of thee.[5] It was [also] taught: Mahalah[9] means gall;[10] and why is it called mahalah! Because eighty-three different kinds of illnesses may result from it [as the numerical value of mahalah amounts exactly to this];[11] but they all are counteracted by partaking in the morning of bread dipped in salt followed by a pitcher of water.

Raba [again] said to Rabbah b. Mari: Whence can be derived the saying of the Rabbis: 'If thy neighbour calls thee an ass put a saddle on thy back?'[12] — He replied: As it is written: And he said: Hagar, Sarai's handmaid; Whence camest thou and whither goest thou? And she said: I flee from the face of my mistress Sarai.[13]

Raba [again] said to Rabbah b. Mari: Whence can be derived the popular saying: 'If there is any matter of reproach in thee be the first to tell it?' — He replied: As it was written: And he said, I am Abraham's servant.[14]

Raba again said to Rabbah b. Mari: Whence can be derived the popular saying: 'Though a duck keeps its head down while walking its eyes look afar'? — He replied: As it is written: And when the Lord shall have dealt well with my lord then remember thy handmaid.[15] Raba [again] said to Rabbah b. Mari: Whence can be derived the popular saying, 'Sixty[16] pains reach the teeth of him who hears the noise made by another man eating[17] while he himself does not eat'? — He replied: As it is written, But me, even me thy servant and Zadok the priest, and Benaiah the son of Jehoiada, and thy servant Solomon, hath he not called.[18] He said to him: You derive it from that verse, but I derive it from this verse, And Isaac brought her unto his mother Sarah's tent, and took Rebekah and she became his wife; and he loved her. And Isaac was comforted for his mother;[19] and soon after it is written, And again Abraham took another wife and her name was Keturah.[20]

Raba [further] said to Rabbah b. Mari: Whence can be derived the popular saying, ‘Though the wine belongs to the owner, the thanks are given to the butler’? — He replied: As it is written, And thou shalt put of thy honour upon him, that all the congregation of the children of Israel may hearken,[21] and it is also written, ‘And Joshua the son of Nun was full of the spirit of wisdom, for Moses had laid his hands upon him; and the children of Israel hearkened unto him. etc.[22]

Raba [again] said to Rabbah b. Mari: Whence can be derived the popular saying, ‘A dog when hungry is ready to swallow even his [own] excrements’?[23] — He replied: As it is written, The full soul loatheth an honeycomb, but to the hungry soul every bitter thing is sweet.[24]

Raba [again] said to Rabbah b. Mari: Whence can be derived the popular saying, ‘A bad palm will usually make its way to a grove of barren trees’? — He replied: This matter was written in the Pentateuch, repeated in the Prophets, mentioned a third time in the Hagiographa, and also learnt in a Mishnah and taught in a Baraitha: It is stated in the Pentateuch as written, So Esau went unto Ishmael;[25] repeated in the prophets, as written, And there gathered themselves to Jephthah idle men and they went out with him;[26] mentioned a third time in the Hagiographa, as written: Every fowl dwells near its kind and man near his equal;[27] it was learnt in the Mishnah: ‘All that which is attached to an article that is subject to the law of defilement,[28] will similarly become defiled, but all that which is attached to anything which would always remain [levitically] clean would similarly remain clean;[29] and it was also taught in a Baraitha: R. Eliezer said: ‘Not for nothing did the starling follow the raven, but because it is of its kind.’[30] Raba [again] said to Rabbah b. Mari: Whence can be derived the popular saying: ‘If you draw the attention of your fellow to warn him [and he does not respond], you may push a big wall and throw it at him’?[31] — He replied: As it is written: Because I have purged thee and thou wast not purged, thou shalt not be purged from thy filthiness any more.[32]

Raba again said to Rabbah b. Mari: Whence can be derived the popular saying: ‘Into the well from which you have once drank water do not throw clods?’ He replied: As it is written: Thou shalt not abhor an Edomite, for he is thy brother; thou shalt not abhor an Egyptian because thou wast a stranger in his land.[33]

Raba again said to Rabbah b. Mari: Whence can be derived the popular Saying, ‘If thou wilt join me in lifting the burden I will carry it, and if not I will not carry it?’ — He replied: As it is written: And Barak said unto her, If thou wilt go with me, then I will go; but if thou wilt not go with me, I will not go.[34]

Raba again said to Rabbah b. Mari: Whence can be derived the popular Saying: ‘When we were young we were treated as men, whereas now that we have grown old we are looked upon as babies’? — He replied: It is first written: And the Lord went before them by day in a pillar of a cloud, to lead them the way; and by night in a pillar of fire to give them light,[35]

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(1) Lev. XIII, 45. I.e., in addition to the affliction of the leprosy, he is compelled by Jaw to make it public.

(2) Cf. B.M. 107b.

(3) A common hyperbolical term.

(4) Isa. XLIX, 10. Which might imply as follows: If they will neither hunger nor thirst, but eat in time and drink in time, then neither the heat nor the sun shall smite them.

(5) Ex. XXIII, 25.

(6) [Lit., ‘Hear (O Israel!)’ introducing the three passages from Scriptures (Deut. VI, 4-9; XI, 13-21; Num. XV, 37-41) recited twice daily — in the morning and the evening.]
(7) [Lit., ‘Prayer’, the ‘Eighteen Benedictions’, the main constituents of the regular prayers recited three times daily.]
(8) Constituting the meal of breakfast after the morning prayer; cf. however Shab. 10a and Pes. 12b.
(9) E.V., disease.
(10) [Evidently connecting mahalah with Gr. ** (Preuss, Medezin, p. 215.]
(11) מחלה == forty, eight, thirty and five.
(12) I.e., do not quarrel with him for the purpose of convincing him otherwise.
(13) Gen. XVI, 8.
(14) Ibid. XXIV, 34.
(15) 1 Sam. XXV, 31. Spoken by Abigail to David and hinting thus that she would wish to become his wife in future days.
(16) V. supra p. 534, n.13.
(17) Cf. Keth. 61.
(18) I Kings, 1, 26.
(19) Gen. XXIV, 67.
(20) Ibid. XXV, 1.
(21) Num. XXVII, 18-20.
(22) Deut. XXXIV, 9. Though the spirit of wisdom belongs to God it is nevertheless ascribed to Moses.
(23) [Others: ‘stones’.]
(24) Prov. XXVII, 7.
(25) Gen. XXVIII, 9.
(26) Judges XI, 3.
(27) Ecclesiasticus. XIII, 15.
(28) Such as where a metal hook was fixed into a wooden receptacle, which is subject to the law of defilement.
(29) Such as where the hook was stuck into a piece of wood which did not form a receptacle; v. Kel. XII. 2.
(30) Hul. 65a. [The reference is to the small Egyptian raven incident, v. Gen. Rab. LXV, and R. Eliezer had probably a similar incident in mind.]
(31) I.e., you can no more be responsible for any misfortune that his inattention may bring upon him.
(32) Ezek. XXIV, 13.
(33) Deut. XXIII, 8.
(34) Judges IV, 8.
(35) Ex. XIII, 21.

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but subsequently it is written: Behold I send an angel before thee to keep thee by the way.[1]

Raba [again] said to Rabbah b. Mari: Whence can be derived the popular saying: ‘Behind an owner of wealth chips are dragged along’? — He replied: As it is written: And Lot also who went with Abram had flocks and herds and tents.[2]

R. Hanan said: He who invokes the judgment of Heaven against his fellow is himself punished first, as it says, And Sarai said unto Abram, My wrong be upon thee[3] etc., and it is subsequently written, And Abraham came to mourn for Sarah, and to weep for her.[4] This, however, is the case only where justice could be obtained in a temporal Court of Law. R. Isaac said: Woe to him who cries [for divine intervention] even more than to him against whom it is invoked! It was taught likewise: Both the one who cries for divine intervention and the one against whom it is invoked come under the Scriptural threat,[5] but punishment is meted out first to the one who cries, [and is] more severe than for the one against whom justice is invoked.[6] R. Isaac again said: The curse of an ordinary man should never be considered a trifling matter in your eyes,[7] for when Abimelech called a curse upon Sarah it was fulfilled in her seed, as it says, Behold it is for thee a covering of the eyes,[8] [which implies that] he said to her, ‘Since thou hast covered the truth from me and not disclosed that he was thy husband, and hast thus caused me all this trouble, let it be the will [of Heaven] that there shall be to thee a covering of the eyes,’[9] and this was actually fulfilled in her seed, as it is written: And it came to pass that when Isaac was old and his eyes were dim so that he could not see.[10] R. Abbahu said: A man should always strive to be rather of the persecuted than of the persecutors as there is none among the birds more persecuted than doves and pigeons, and yet Scripture made them [alone][11] eligible for the altar.[12]

IF THE PLAINTIFF SAID: PUT OUT MY EYE . . . ON THE UNDERSTANDING THAT HE WOULD BE EXEMPT, HE WOULD STILL BE LIABLE. IF THE PLAINTIFF SAID: TEAR MY GARMENT ON THE UNDERSTANDING THAT YOU WILL BE EXEMPT HE WOULD BE EXEMPT. R. Assi b. Hama[13] said to Rabbah:[14] Why is the rule differing in the former case and in the latter case? — He replied: [There is liability in] the former case because no man truly pardons the wounding of his principal limbs. The others rejoined: Does a man then pardon the inflicting of pain, seeing that it was taught: ‘If the plaintiff had said, "Smite me and wound me on the understanding that you will be exempt," the defendant would be exempt.’ He had no answer and said: Have you heard anything on this matter? — He[15] thereupon said to him: This is what R. Shesheth has said: The liability is because [the plaintiff had no right to pardon] the discredit to the family. It was similarly stated: R. Oshaia said: Because of the discredit to the family, whereas Raba said: Because no man could truly pardon the injury done to his principal limbs. R. Johanan, however, said: Sometimes the term ‘Yes’ means ‘No’[16] and the term ‘No’ means ‘Yes’ [as when spoken ironically].[17] It was also taught likewise: If the plaintiff said, ‘Smite me and wound me,’ and when the defendant interposed, ‘On the understanding of being exempt, the plaintiff replied, ‘Yes,’ there may be a ‘Yes’ which implies ‘No’ [i.e., when spoken ironically]. If the plaintiff said, ‘Tear my garment,’ and when the defendant interposed, ‘On the Understanding of being exempt, he said to him, ‘No’, there may be a ‘No’ which means ‘Yes’ [such as when spoken ironically].[17]

IF THE DEFENDANT SAID: BREAK MY PITCHER AND TEAR MY GARMENT, THE DEFENDANT WOULD STILL BE LIABLE. A contradiction was pouched out: "’To keep"[18] but not to destroy; "to keep", but not to tear; "to keep" but not to distribute to the poor,’ [in which case the liability of bailees would not apply. Why then liability in the Mishnah]?[19] — Said R. Huna: There is no difficulty, as here[20] the article came into his hands,[21] whereas there[22] the article did not come into his hands.[23] Said Rabbah to him: Does the expression ‘To keep’[24] not imply that the article has come into his hands? — Rabbah therefore said: This case as well as the other is one in which the article has come into his hands, and still there is no difficulty, as in the case here[25] the article originally came into his hands[21] for the purpose of being guarded, whereas there[22] it came to his hands for the purpose of being torn.

A purse of money for charity having been brought to Pumbeditha, R. Joseph deposited it with a certain person who, however, was so negligent that thieves came and stole it. R. Joseph declared liability [to pay], but Abaye said to him: Was it not taught: ‘To keep’[24] but not to distribute to the poor? — R. Joseph rejoined: The poor of Pumbeditha have a fixed allowance,[26] and the charity money could thus be considered as having been deposited ‘to keep’ [and not to distribute it to the poor].[27] [

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(1) Ibid. XXIII, 20.

(2) Gen. XIII, 5.

(3) Ibid. XVI, 5.

(4) Ibid. XXIII, 2.

(5) Cf. Ex. XXII, 23.

(6) As in the case of Sarah; Gen. XVI, 5 and ibid. XXIII, 2.

(7) Cf. Ex. XXII, 23.

(8) Gen. XX, 16.
(9) I.e., blindness.
(10) Gen. XXVII, 1.
(11) Among birds.
(12) Cf. Lev.I, 14.
(13) [MS.M.: 'R. Joseph b. Hama' the father of Raba.]
(14) Raba in the text and 'Rab' in the text of Asheri, v. Marginal Glosses in cur. edd.
(15) I.e., R. Assi.
(16) Cf. supra pp. 178-9.
(17) According to Rashi there is strictly speaking no difference between the case dealt with in the commencing and that of the concluding clause; as all depends upon the implied intention, the illustration being in each case taken from what is usual, for while a man will pardon damage done to his chattel, he will not do so in regard to personal pain. But that this was not so was maintained by Tosaf.
(18) Ex. XXII, 6.
(19) Where he gave him the pitcher to break it and the garment to tear it.
(20) In the case of the Mishnah.
(21) I.e., to the hand of the one who did the damage.
(22) In Ex.
(23) But was destroyed before it actually reached the hand of the bailee.
(24) Ibid.
(25) In the case of the Mishnah.
(26) So much per week.
(27) As there were in that case definite plaintiffs.

Talmud - Mas. Baba Kama 93b

CHAPTER IX

MISHNAH. IF ONE MISAPPROPRIATES PIECES OF WOOD AND MAKES UTENSILS OUT OF THEM, OR PIECES OF WOOL AND MAKES GARMENTS OUT OF THEM, HE HAS TO PAY FOR THEM IN ACCORDANCE WITH [THEIR VALUE AT] THE TIME OF THE ROBBERY.[1] IF ONE MISAPPROPRIATED A PREGNANT COW WHICH MEANWHILE GAVE BIRTH [TO A CALF], OR A SHEEP BEARING WOOL WHICH HE SHEARED, HE WOULD PAY THE VALUE OF A COW WHICH WAS ABOUT TO GIVE BIRTH [TO A CALF], AND THE VALUE OF A SHEEP WHICH WAS READY TO BE SHORN [RESPECTIVELY]. BUT IF HE MISAPPROPRIATED A COW WHICH BECAME PREGNANT WHILE WITH HIM AND THEN GAVE BIRTH, OR A SHEEP WHICH WHILE WITH HIM GREW WOOL WHICH HE SHEARED, HE WOULD PAY IN ACCORDANCE WITH [THE VALUE AT] THE TIME OF THE ROBBERY. THIS IS THE GENERAL PRINCIPLE: ALL ROBBERS HAVE TO PAY IN ACCORDANCE WITH [THE VALUE OF THE MISAPPROPRIATED ARTICLES AT] THE TIME OF THE ROBBERY.

GEMARA. Shall we say that it is only where he actually made utensils out of the pieces of wood [that the Mishnaic ruling will apply], whereas if he merely planed them this would not be so?[2] Again, it is only where he made garments out of the wool that this will be so, whereas where he merely bleached it this would not be so! But could not a contradiction be raised from the following: 'One who misappropriated pieces of wood and planed them, stones and chiselled them, wool and bleached it or flax and cleansed it, would have to pay in accordance with [the value] at the time of the robbery'?[3] — Said Abaye: The Tanna of our Mishnah stated the ruling where the change [in the article misappropriated] is only such as is recognised by the Rabbis, that is, where it can still revert [to its former condition] and of course it applies all the more where the change is such[4] as is recognised by the pentateuch:[5] [for the expression ONE WHO MISAPPROPRIATES] PIECES OF

WOOD AND MAKES OUT OF THEM UTENSILS refers to pieces of wood already planed, such as ready-made boards, in which a reversion to the previous condition is still possible, since if he likes he can easily pull the boards out [and thus have them as they were previously]; PIECES OF WOOL AND MADE GARMENTS OUT OF THEE also refers to wool which was already spun, in which [similarly] a reversion to the previous condition is possible, since if he likes he can pull out the threads and restore them to the previous condition; the same law would apply all the more in the case of a change [where the article could no more revert to the previous condition and] which would thus be recognised by the pentateuch.[5] But the Tanna of the Baraitha deals only with a change [where the article could no more revert to its previous condition and] which would thus be recognised by the pentateuch, but does not deal with a change [in which the article could revert to its previous condition and which would be] recognised only by the Rabbis. R. Ashi, however, said: The Tanna of our [Mishnah also] deals with a change which would be recognised by the pentateuch, for by PIECES OF WOOD AND MAKES UTENSILS OUT OF THEM he means clubs, which were changed by planing them; by PIECES OF WOOL AND MAKES GARMENTS OUT OF THEM he similarly means felt cloths, which involves a change that can no more revert to its previous condition.

But should bleaching be considered a change?[6] Could no contradiction be raised [from the following]: ‘If the owner did not manage to give the first of the fleece to the priest until it had already been dyed, he would be exempt,[7] but if he only bleached it without having dyed it, he would still be liable’?[8] — Said Abaye: This is no difficulty, as the former statement is in accordance with R. Simeon and the latter in accordance with the Rabbis; for it was taught: ‘If after the owner had shorn his sheep he span the wool or wove it, this portion would not be taken into account[9] [with the other wool which was still left in a raw state];[10] but if he only purified it, R. Simeon says: It would [still] not be taken into account, whereas the Sages say that it would be taken into account. But Raba said that both statements might be in accordance with R. Simeon, and there would still be no difficulty, as in one case[11] [the process of bleaching was] by beating the wool [where no actual change took place], whereas in the other case[12] the wool was corded with a comb. R. Hiyya b. Abin said that in one case[11] the wool was merely washed [so that no actual change took place]. whereas in the other[12] it was whitened with sulphur. But since even dyeing is according to R. Simeon not considered a change, how could bleaching be considered a change, for was it not taught: ‘Where the owner had shorn one sheep after another and in the interval dyed the [respective] fleeces, [or shorn] one after another and in the interval spun the wool, [or shorn] one after another and in the interval wove the wool, this portion would not be taken into account,[9] but R. Simeon b. Judah said in the name of R. Simeon[13] that if he [only] dyed the wool it would be taken into account’?[14] — Said Abaye: There is no difficulty, as the former statement was made by the Rabbis according to R. Simeon whereas the latter[15] was made by R. Simeon b. Judah according to R. Simeon. But Raba said: You may still say that the Rabbis did not differ from R. Simeon b. Judah on this point,[16] for dyeing might be different, the reason being that since the colour could be removed by soap, [it is not considered a change], and as to the statement made there, ‘If the owner did not manage to give the first of his fleece to the priest until it had already been dyed he would be exempt’ which has been stated to be accepted unanimously, this deals with a case where it was dyed with indigo [which could not be removed by soap].

Abaye said: R. Simeon b. Judah, Beth Shammai, R. Eliezer b. Jacob. R. Simeon b. Eleazar and R. Ishmael all maintain that a change leaves the article in its previous status: R. Simeon b. Judah here in the text quoted by us; but what about Beth Shammai? — As it was taught:[17] ‘Where he gave her as her hire wheat of which she made flour, or olives of which she made oil, or grapes of which she made wine,’ one [Baraitha] taught that ‘the produce is forbidden to be sacrificed upon the altar,’ whereas another [Baraitha] taught ‘it is permitted’. and R. Joseph said: Gorion

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(1) I.e., of the pieces of wood and wool but not of the utensils and garments respectively, as by the change which took place he acquired title to them; cf. supra p. 384.

(2) I.e., the ownership would thereby not be transferred to the robber.

(3) The reason being that through the change which took place the ownership was transferred.

(4) I.e., where the article can no longer revert to its former condition; v. supra p. 386.

(5) To transfer ownership.

(6) In regard to which it was stated in the Baraitha that the robber will thereby acquire title to the wool.

(7) As by this change the original obligation was annulled and the owner acquired unqualified and absolute right to the wool.

(8) Hul. XI, 2; v. supra p. 382. Does not this prove that mere bleaching unlike dyeing does not constitute a change?

(9) In regard to the first fleece offering the minimum of which is according to R. Dosa b. Harkinas the weight of seven maneh and a half collected equally from not less than five sheep, but according to the Rabbis one maneh and a half collected equally from the same number of sheep would suffice; cf. Hul. XI, 2. A maneh amounts to twenty-five sela's; for Samuel's view according to the Rabbis cf ibid. 137b.

(10) On account of the change which had been made.

(11) Not considering it a change.

(12) Considering it a change.

(13) I.e., R. Simeon b. Yohai; cf. Sheb. 2b.

(14) This shows that R. Simeon b. Yohai does not consider dyeing a change, much less bleaching.

(15) v. p. 443. n. 5.

(16) As to the view of R. Simeon b. Yohai on this matter.

(17) For notes on passage following v. supra p. 380.

Talmud - Mas. Baba Kama 94a

of Aspurak taught: ‘Beth Shammai prohibit the produce to be used as sacrifices, whereas Beth Hillel permit it.’ Now, what was the reason of Beth Shammai? — Because it is written gam, to include their transformation. But Beth Hillel maintains that hem implies only them and not their transformations. Beth Shammai, however, maintains that though hem is written, what it implies is ‘them and not their offsprings’. Beth Hillel still argue that you can understand both points from it: ‘them and not their transformations, them and not their offsprings.’ But how could Beth Hillel explain the insertion of gam? Gam offers a difficulty according to the view of Beth Hillel.

What about R. Eliezer b. Jacob? — As it was taught:[1] R. Eliezer b. Jacob says: If one misappropriated a se'ah[2] of wheat and kneaded it and baked it and set aside a portion of it as hallah,[3] how would he be able to pronounce the benediction?[4] He would surely not be pronouncing a blessing but pronouncing a blasphemy, as to such a one could be applied the words: The robber pronounceth a benediction [but in fact] contemneth the Lord.[5]

What about R. Simeon b. Eleazar? — As it was taught: This principle was stated by R. Simeon b. Eleazar: In respect of any improvement carried out by the robber, he would have the upper hand; if he wishes he can take the improvement, or if he wishes he may say to the plaintiff: ‘Here take your own.’ What is meant by this [last] statement?[6] — Said R. Shesheth: This is meant: Where the article has been improved, the robber may take the increased value, but where it has deteriorated he may say to him: ‘Here, take your own,’ as a change leaves the article in its previous status. But if so why should it not be the same even in the case where the article was improved? We may reply, in order to make matters easier for repentant robbers.[7]

What about R. Ishmael? — It was taught:[8] [Strictly speaking,] the precept of Pe'ah[9] requires that it should be set aside from standing crops. If, however, the owner did not set it aside from standing crops he should set it aside from the sheaves; so also if he did not set it aside from the sheaves he should set it aside from the heap [in his store] so long as he has not evened the pile. But if he had already evened the pile[10] he would have first to tithe it and then set aside the Pe'ah for the poor.

Moreover, In the name of R. Ishmael it was stated that the owner would even have to set it aside from the dough and give it to the poor.[11] Said R. papa to Abaye: Why was it necessary to repeat and bring together all these Tannaitic statements for the sole purpose of making us know that they concurred with Beth Shammai?[12] — He replied: It was for the purpose of telling us that Beth Hillel and the Beth Shammai did probably not differ at all on this matter. But Raba said: What ground have we for saying that all these Tannaim follow one view? Why not perhaps say that R. Simeon b. Judah meant his statement there[13] to apply only to the case of dyeing on account of the fact that the colour could be removed by soap, and so also did Beth Shammai mean their view there to apply only to a religious offering because it looks repulsive, or again that R. Eliezer b. Jacob meant his statement there to apply only to a benediction on the ground that it was a precept performed by the means of a transgression,[14] and so also did R. Simeon b. Eleazar mean his view there to apply only to a deterioration which can be replaced, or again R. Ishmael meant his view there to apply only to the law of Pe'ah, on account of the repeated expression. ‘Thou shalt leave’?[15] If however you argue that we should derive the law[16] from the latter case,[17] [it might surely be said that] gifts to the poor are altogether different,[18] as is shown by the question of R. Jonathan. For R. Jonathan asked concerning the reason of R. Ishmael: ‘Was it because he held that a change does not transfer ownership, or does he as a rule hold that a change would transfer ownership, but here it is different on account of the repeated expression, Thou shalt leave’![19]

But if you find ground for assuming that the reason of R. Ishmael was because a change does not transfer ownership, why then did the Divine Law repeat the expression ‘Thou shalt leave’?[15] Again, according to the Rabbis, why did the Divine Law repeat the expression ‘Thou shalt leave’? — This [additional] insertion was necessary for that which was taught:[20] If a man after renouncing the ownership of his vineyard gets up early on the following morning and cuts off the grapes, he will be subject to the laws of Peret, ‘Oleloth, Forgetting and Pe'ah,[21] but will be exempt from tithes.

Rab Judah said that Samuel stated that the halachah is in accordance with R. Simeon b. Eleazar.[22] But did Samuel really say so? Did not Samuel state that assessment of the carcass is made neither in cases of theft nor of robbery, but only of damage?[23] I grant you that according to Raba who said that the statement made there by R. Simeon b. Eleazar related only to a deterioration where a recovery would still be possible, there would be no difficulty since Samuel in his statement that the halachah is in accordance with R. Simeon b. Eleazar [who holds] that a change leaves the article in its previous status, referred to the case of deterioration where a recovery would still be possible, whereas the statement made there[23] by Samuel that assessment of the carcass is made neither in the case of theft nor of robbery but only of damage would apply to deterioration where no recovery seems possible. But according to Abaye who said that the statement made by R. Simeon b. Eleazar [also] referred to deterioration where a recovery is no more possible, how can we get over the contradiction? — But Abaye might read thus: Rab Judah said that Samuel stated:

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(1) Cf. Sanh. 6b.

(2) V. Glos.

(3) I.e., the priestly portion set aside from dough. cf. Num. XV, 19-21.

(4) According to Asheri on Ber. 45a it refers to the grace over the meal.

(5) Ps. X. 3; [E.V.: And the covetous renounceth, yea, contemneth the Lord. In spite of the many changes the wheat had undergone it is still not his and not fit to have a blessing uttered over it.]

(6) For in the case of improvement it is surely not in the interests of the robber to plead, ‘Here is thine before thee.’

(7) Cf. supra p. 383 and infra 547.

(8) Sanh. 68a; Mak. 16b.

(9) ‘The corners of the field’, cf. Lev. XIX. 9.

(10) When the grain becomes subject to the law of tithing; cf. Ber. 40b and Ma'as. I, 6.

(11) In spite of the many changes which had been made.

(12) Whose views have generally not been accepted; cf. ‘Er. 13b.

(13) Regarding the dyeing of the wool which was subject to the law of the first of the fleece to be set aside for the priest.
(14) v. Ber. 47b.
(15) Lev. XIX. 10 and XXIII, 22 — implying in all circumstances.
(16) That change does not transfer ownership.
(17) I.e., from the law of Pe'ah.
(18) [Adreth. S., Hiddushim, improves the text by omitting: ‘If however . . . different.’]
(19) [This concludes Raba's argument. V. Adreth, loc. cit.]
(20) For notes v. supra pp. 148-9.
(21) On account of the repeated ‘Thou shalt leave’.
(22) That in cases of deterioration the robber will be entitled to say. ‘Here there is thine before thee.’
(23) Explained supra p. 44.

Talmud - Mas. Baba Kama 94b

They said that the halachah is in accordance with R. Simeon b. Eleazar though Samuel himself did not agree with this.

R. Hiyya b. Abba said that R. Johanan stated that according to the law of the Torah a misappropriated article should even after being changed be returned to the owner in its present condition, as it is said: He shall restore that which he took by robbery[1] — in all cases. And should you cite against me the Mishnaic ruling,[2] my answer is that this was merely an enactment for the purpose of making matters easier for repentant robbers.[3] But did R. Johanan really say this? Did R. Johanan not say[4] that the halachah should be in accordance with an anonymous Mishnah, and we have learnt: ‘If the owner did not manage to give the first of the fleece to the priest until it had already been dyed, he is exempt’?[5] — But a certain scholar of our Rabbis whose name was R. Jacob said to them: ‘This matter was explained to me by R. Johanan personally, [that his statement referred only to a case] where, e.g., there were misappropriated planed pieces of wood out of which utensils were made, as after such a change the material could still revert to its previous condition.[6]

Our Rabbis taught: ‘If robbers or usurers [repent and of their own free will] are prepared to restore [the misappropriated articles], it is not right to accept [them] from them, and he who does accept [them] from them does not obtain the approval of the Sages.’[7] R. Johanan said: It was in the days of Rabbi that this teaching was enunciated, as taught: ‘It once happened with a certain man who was desirous of making restitution that his wife said to him, Raca, if you are going to make restitution, even the girdle [you are wearing] would not remain yours, and he thus refrained altogether from making repentance. It was at that time that it was declared that if robbers or usurers are prepared to make restitution it is not right to accept [the misappropriated articles] from them, and he who accepts from them does not obtain the approval of the Sages.’

An objection was raised [from the following:] ‘If a father left [to his children] money accumulated by usury, even if the heirs know that the money was [paid as] interest, they are not liable to restore the money [to the respective borrowers].[8] Now, does this not imply that it is only the children who have not to restore, whereas the father would be liable to restore?[9] The law might be that even the father himself would not have had to restore, and the reason why the ruling was stated with reference to the children[10] was that since it was necessary to state in the following clause ‘Where the father left them a cow or a garment or anything which could [easily] be identified, they are liable to restore [it], in order to uphold the honour of the father,’ the earlier clause similarly spoke of them. But why should they be liable to restore[11] in order to uphold the honour of the father? Why not apply to them [the verse] ‘nor curse the role, of thy people’,[12] [which is explained to mean.] ‘so long as he is acting in the spirit of ‘thy people’?[13] — As however, R. Phinehas [elsewhere][14] stated, that the thief might have made repentance, so also here we suppose that the father had made repentance. But if the father made repentance, why was the misappropriated article still left with him? Should he not have restored it?[15] — But it might be that he had no time to restore it before he [suddenly] died.

Come and hear: Robbers and usurers even after they have collected the money must return it.[16] But what collection could there have been in the case of robbers. for surely if they misappropriated anything they committed robbery, and if they had not misappropriated anything they were not robbers at all? It must therefore read as follows: 'Robbers, that is to say usurers, even after they have already collected the money, must return it.'[17] — It may, however, be said that though they have to make restitution of the money it would not be accepted from them. If so why have they to make restitution? — [To make it quite evident that out of their own free will] they are prepared to fulfil their duty before Heaven.[18]

Come and hear: 'For shepherds, tax collectors and revenue farmers it is difficult to make repentance, yet they must make restitution [of the articles in question] to all those whom they know [they have robbed].[19] — It may, however, [also here] be said that though they have to make restitution, it would not be accepted from them. If so why have they to make restitution? — [To make it quite evident that out of their free will] they are prepared to fulfil their duty before Heaven. But if so why should it be difficult for them to make repentance?[20] Again, why was it said in the concluding clause that out of articles of which they do not know the owners they should make public utilities,[21] and R. Hisda said that these should be wells, ditches and caves?[22] — There is, however, no difficulty, as this teaching[23] was enunciated before the days of the enactment,[24] whereas the other statements were made after the enactment. Moreover, as R. Nahman has now stated that the enactment referred only to a case where the misappropriated article was no more intact, it may even be said that both teachings were enunciated after the days of the enactment, and yet there is no difficulty,

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(1) Lev. V. 23.

(2) That payment is made in accordance with the value at the time of robbery.

(3) v. p. 545. n. 6.

(4) Shab. 46a and supra p. 158.

(5) For notes v. supra p. 382. [This shows that change transfers ownership even where the consideration of penitents does not apply.]

(6) [In which case but for the consideration of penitent robbers, change transfers no ownership. Where the change. however, cannot be reverted, it confers unqualified ownership.]

(7) Rashi renders 'no spirit of wisdom and piety resides in him', but see also Tosaf. Yom Tob. Aboth III, 10.

(8) Tosef. B.M. V, 8.

(9) [Whereas above it is stated that the monies thus returned are not accepted.]

(10) And not to the father himself

(11) In the case dealt with in the concluding clause.

(12) Ex. XXII, 27.

(13) Excluding him who wilfully violates the laws of Israel.

(14) Hag. 26a.

(15) [I.e. not to retain it with him, despite the refusal of the owners to accept it (v. Tosaf.).]

(16) B.M. 62a.

(17) Does this not prove that the misappropriated money if restored would be accepted from them?

(18) As it is only in such a case that the restored money will not be accepted.

(19) Tosef B.M. VIII. Does this not prove that misappropriated articles if restored would be accepted?

(20) Since no actual restitution will have to be made.

(21) Cf. Az. 29a.

(22) And thus provide water to the general public among whom the aggrieved persons are to be found.

(23) Where actual restitution is implied.

(24) Which was ordained in the days of Rabbi.

Talmud - Mas. Baba Kama 95a

as the latter deals with a case where the misappropriated article is still intact whereas the other teaching refers to a case where the misappropriated article is no more intact. But what about the girdle [referred to above],[1] in which case the misappropriated article was still intact? — What was meant by ‘girdle’ was the value of the girdle. But is it really the fact that so long as the misappropriated article was intact our Rabbis did not make this enactment?[2] What then about the beam in which case the misappropriated article was still intact and we have nevertheless learnt: [R. Johanan b. Gudgada testified] that if a misappropriated beam has been built into a house, the owner will recover only its value?[3] — That matter is different altogether, for since the house would otherwise be damaged. the Rabbis regarded the beam as being no longer intact.[4]

IF ONE MISAPPROPRIATED A PREGNANT COW WHICH MEANWHILE GAVE BIRTH [TO A CALF] etc. Our Rabbis taught: ‘He who misappropriates a sheep and shears it, or a cow which has meanwhile given birth [to a calf], has to pay for the animal and the wool and the calf;[5] this is the view of R. Meir. R. Judah says that the misappropriated animal will be restored intact.[6] R. Simeon says that the animal will be considered as if it had been insured with the robber for its value [at the time of the robbery].’ The question was raised: What was the reason of R. Meir? Was it because he held that a change leaves the article in its existing status?[7] Or [did he hold] in general that a change would transfer ownership, but here he imposes a fine [upon the robber], the practical difference being where the animal became leaner?[8] — Come and hear: If one misappropriated an animal and it became old, or slaves and they became old, he would still have to pay according to [their value at][9] the time of the robbery, but R. Meir said that in the case of slaves[10] [the robber] would be entitled to say to the plaintiff: ‘Here, take your own.’[11] It thus appears that in the case of an animal [even R. Meir held that] the payment would have to be in accordance with [the value at] the time of the robbery.[9] Now, if you assume that R. Meir was of the opinion that a change leaves the article in its previous status,[12] why even in the case of an animal [can the robber not say. ‘Here, take your own’]? Does this therefore not prove that even R. Meir held that a change would transfer ownership, and that [in the case of the wool and the calf] it was only a fine which R. Meir imposed on the robber? — It may, however, be said that R. Meir was arguing from the premises of the Rabbis, thus: According to my view a change does not transfer ownership, so that also in the case of an animal [the robber would be entitled to say. ‘Here, take your own’], but even according to your view, that a change does transfer ownership, you must at least agree with me in the case of slaves, who are compared to real property, and, as we know, real property is not subject to the law of robbery.[13] The Rabbis, however, answered him: ‘No, for slaves are on a par with movables [in this respect].’[14]

Come and hear: [If wool was handed over to a dyer] to dye it red but he dyed it black, or to dye it black but he dyed it red, R. Meir says that he would have to pay [the owner of the wool] for the value of the wool.[15] [It thus appears that] he had to pay only for the original value of the wool but not for the combined value of the wool and the improvement [on account of the colour]. Now, if you suppose that R. Meir held that a change would not transfer ownership, why should he not have to pay for the combined value of the wool and the improvement? Does this therefore not prove that R. Meir held that a change would transfer ownership and that here [in the case of the calf] it was only a fine that R. Meir imposed [upon the robber]? — This could indeed be proved from it. Some even say that this question was never so much as raised; for since Rab transposed [the names in the Mishnah] and read thus: If one misappropriated a cow which became old, or slaves who became old, he would have to pay in accordance with [the value at] the time of the robbery;[16] this is the view of R. Meir, whereas the Sages say that in the case of slaves the robber would be entitled to say, Here, take your own’,[16] it is quite certain that according to R. Meir a change would transfer ownership, and that here [in the case of a calf] it was only a fine that R. Meir imposed [upon the robber]. But if a question was raised, it was this: Was the fine imposed only in the case of wilful misappropriation whereas in the case of inadvertent misappropriation[17] the fine was not imposed, or perhaps even for inadvertent misappropriation the fine was also imposed? — Come and hear: Five [kinds of creditors] are allowed to distrain only on the free assets [of the debtor];[18] they are as follows: [creditors for] produce,[19] for Amelioration showing profits,[20] for an undertaking to maintain the wife's son or the wife's daughter,[21] for a bond of liability without a warranty of indemnity[22] and for the kethubah of a wife where no property is made security.[22] Now, what authority have you heard lay down that the omission to make the property security[22] is not a mere scribal error[23] if not R. Meir?[24] And it is yet stated: 'Creditors for produce and Amelioration showing profits [may distrain on free assets in the hands of the debtor].' Now, who [are creditors for Amelioration showing] profits?[25] They come in, do they not, where the vendor has misappropriated a field from his fellow and sold it to another who ameliorated it and from whose hands it was subsequently taken away. [The law then is that] when the purchaser comes to distrain

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(1) Supra p. 548.

(2) And the actual article would have to be restored.

(3) Cit. V, 5; 'Ed. VII, 9' and supra p. 385.

(4) And the actual beam would not have to be restored. Its value will, however, be paid on account of the fact that the beam was actually in the house.

(5) [The payment, that is to say, will have to be made for the combined value of the calf and wool and the improvement.] Cf. B.M. 43b.

(6) [I.e., in the state it is at the time of payment. The robber will, however, have to make up in money for the difference in the value of the cow as it stood at the time of the robbery. The difference between R. Simeon and R. Judah will be explained anon.]

(7) And no ownership could thereby be transferred.

(8) Where according to the former consideration the robber would escape further liability by restoring the animal, but according to the latter he would have to pay for the difference.

(9) As the change transferred the ownership to the robber.

(10) Who are subject to the law applicable to immovables.

(11) Mishnah, infra p. 561.

(12) And no ownership could thereby be transferred.

(13) Cf. Suk. 30b and 32a.

(14) Cf. supra 12a.

(15) For by acting against the instructions of the owner he rendered himself liable to the law of robbery; Mishnah infra 100b.

(16) V. infra p. 561.

(17) As in the case of the dyer, supra p. 552.

(18) But not if the landed property is already in the hands of a third party such as a purchaser and the like.

(19) Such as where a field full of produce was taken away in the hands of a purchaser through the fault of the vendor: the amount due to the purchaser for his loss of the actual field could be recovered even from property already in the hands of (subsequent) purchasers, whereas the amount due to him for the value of the produce he lost could be recovered only from property still in the hands of the vendor; cf. Git. V, I and B.M. 14b.

(20) Such as where the purchaser spent money on improving the ground which was taken away from him through the fault of the vendor.

(21) Cf. also Keth. XII, 1.

(22) I.e., where the particular clause making the property security was omitted in the document. V. Keth. 51b.

(23) But has legal consequences.

(24) V. B.M. I, 6 and ibid. 14a.

(25) Lit., 'how is this possible?'

Talmud - Mas. Baba Kama 95b

he will do so for the principal even on [real] property that has been sold, but for the Amelioration only on assets which are free [in the hands of the vendor]. [But this is certain,] that the owner of the field is entitled to come and take away the field together with the increment. Now, do we not deal here with a purchaser who was ignorant of the law and did not know whether real property is subject to the law of robbery or is not subject to the law of robbery?[1] And even in such a case the owner of the field will be entitled to come and take away the land together with the increment. Does not this show that even in the case of inadvertent misappropriation,[2] [R. Meir] would impose the fine? — It may however be said that this is not so, [as we are dealing here] with a purchaser who is a scholar and knows very well[3] [that real property is not subject to the law of robbery].[1]

Come and hear: [If wool was handed over to a dyer] to dye it red but he dyed it black, or to dye it black and he dyed it red, R. Meir says that he would have to pay [the owner of the wool] for the value of the wool.[4] [It thus appears that he has to pay] only for the original value of the wool but not for the combined value of the wool and the improvement [on account of the colour]. Now, if you assume that R. Meir would impose the fine even in the case of inadvertent misappropriation why should he not have to pay for the combined value of the wool and the improvement? Does this not prove that it is only in the case of wilful misappropriation that the fine is imposed but in the case of inadvertent misappropriation the fine would not be imposed? — This could indeed be proved from it.

‘R. Judah says that the misappropriated [animal] will be restored intact. R. Simeon says that the animal be considered as if it had been insured with the robber for its value [at the time of the robbery].’ What is the practical difference between them?[5] — Said R. Zebid: They differ regarding the increased value [still] attaching to the misappropriated article. R. Judah maintained that this would belong to the plaintiff[6] whereas R. Simeon was of the opinion that this would belong to the robber.[7] R. papa, however, said that both might agree that an increased value [still] attaching to the misappropriated article should not solely belong to the plaintiff,[8] but where they differed was as to whether the robber should be entitled to retain a half or a third or a fourth[9] for [his attending to the welfare of the article]. R. Judah maintaining that an increased value [still] attaching to the misappropriated article would belong solely to the robber,[10] whereas R. Simeon maintained that the robber would be paid only to the extent of a half, a third or a fourth.

We have learnt: ‘BUT IF HE MISAPPROPRIATED A COW WHICH BECAME PREGNANT WHILE WITH HIM AND THEN GAVE BIRTH, OR A SHEEP WHICH WHILE WITH HIM GREW WOOL WHICH HE SHEARED, HE WOULD PAY IN ACCORDANCE WITH [THE VALUE AT] THE TIME OF THE ROBBERY.’ That is so only if the cow has already given birth, but if the cow has not given birth yet it would be returned as it is. This accords well with the view of R. Zebid who said that an increased value still attaching to the misappropriated article would according to R. Judah belong to the plaintiff; I [the Mishnah] would then be in accordance with R. Judah. But on the view of R. papa who said that it would belong to the robber,[10] it would be in accordance neither with R. Judah nor with R. Simeon? — R. Papa might say to you that the ruling [stated in the text] would apply even where the cow has not yet given birth, as even then he would have to pay in accordance with [the value at] the time of the robbery. For as for the mention of ‘giving birth’, the reason is that since the earlier clause contains the words ‘giving birth’, the later clause similarly mentions ‘giving birth’. It was taught in accordance with R. papa: ‘R. Simeon says that [the animal] is to be considered as if its pecuniary value had been insured with the robber, [who will however be paid] to the extent of a half, a third or a fourth [of the increase In value].’[11]

R. Ashi said: When we were at the School of R. Kahana, a question was raised with regard to the statement of R. Simeon that the robber will be paid to the extent of a half, a third or a fourth [of the increase in value] whether at the time of his parting with the misappropriated article he can be paid in specie, or is he perhaps entitled to receive his portion out of the body of the misappropriated animal. The answer was found in the statement made by R. Nahman in the name of Samuel: ‘There are three cases where increased value will be appraised and paid in money. They are as follow's: [In the settlement of accounts] between a firstborn and a plain son,[12] between a creditor and a purchaser.[13] and between a creditor[13] and heirs.'[14] Said Rabina to R. Ashi: Did Samuel really say that a creditor will have to pay the purchaser for increased value? Did Samuel not state[15] that a creditor distrains even on the increment?[16] — He replied: There is no difficulty, as the former ruling applies to an increment which could reach the shoulders to be carried away.[17] whereas the latter ruling deals with an increment which could not reach the shoulders to be carried away.[18] He rejoined:[19] Do not cases happen every day where Samuel distrains even on an increment which could reach the shoulders to be carried away? — He replied: There is still no difficulty,

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(1) V. p. 552. n. 1.

(2) Such as was the case here with the purchaser.

(3) Also that the field has been misappropriated by the vendor (cf. Shittah Mekubezeth a.l.) and as such is guilty of wilful misappropriation.

(4) V. Mishnah infra 100b.

(5) I.e., R. Judah and R. Simeon.

(6) Since the article has to be restored intact.

(7) [Since the payment is made according to the value at the time of the robbery.]

(8) Lit., 'should belong to the robber', but which means that it will not solely belong to the plaintiff, as will soon become evident in the text.

(9) I.e., in accordance with the definite percentage in the profits fixed in a given province to be shared by a contractor for his care and attendance to the welfare of the article in question; cf. B.M. V, 4-5.

(10) As the expression 'intact' means intact as it was at the time of the robbery.

(11) V. p. 555. n. 4.

(12) As the firstborn son has two portions in the estate as it was left at the time of the death of the father, but only one portion in the increased value due to amelioration after the father's death, so that by taking two portions in the estate the firstborn would have to pay back the other sons their appropriate portions in the increased value of the additional portion taken by him; cf. B.B. 124a.

(13) I.e., a creditor distraining on a field that originally belonged to his debtor but which was subsequently disposed of or inherited by heirs and the purchaser or heirs increased its value by amelioration.

(14) V. B.M. 110b.

(15) B.M. ibid. and 14b; Bk. 42a.

(16) Without paying for it, v. B.M. ibid.

(17) As where the produce is quite ripe and could be separated from the ground in which case it is the property of the purchaser. V. B.B. (Sonc. ed.) p. 183. n. 3.

(18) I.e., which is inseparable from the ground and which is distrained on together with the field by the creditor.

(19) I.e., Rabina to R. Ashi.

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as this is so only where the amount of the debt owing to the creditor covers both the land and the increment,whereas the former ruling[1] applies where [the debt due to him] is only to the extent of the land. He rejoined: I grant you that on the view[2] that [even] if the purchaser possesses money he has no right to bar the creditor from land by paying in specie, your argument would be sound, but according to the view that a purchaser possessing money can bar the creditor from the field by paying him in specie, why should he not say to the creditor, 'If I had had money, I would surely have been able to bar you from the whole field [by paying you in specie]; now also therefore I am entitled to be left with a griva[3] of land corresponding to the value of my amelioration'?[4] — He replied: We are dealing here with a case where the debtor expressly made that field a security, as where he said to him: 'You shall not be paid from anything but from the field.'[5]

Raba stated: [There is no question] that where the robber improved [the misappropriated article] and then sold it, or where the robber improved [the misappropriated article] and then left it to his heirs, he has genuinely sold or left to his heirs the increment he has created.[6] Raba [however] asked: What would be the law where [after having bought the misappropriated article from the robber] the purchaser improved it? After asking the question he himself gave the answer: That what the former sold the latter, was surely all rights[7] which might subsequently accrue to him.[6]

Raba [again] asked: What would be the law where a heathen[8] [misappropriated an article and] improved it? — Said R. Aha of Difti to Rabina: Shall we trouble ourselves to make an enactment[9] for [the benefit of] a heathen? — He said to him: No; the query might refer to the case where. e.g., he sold it to an Israelite. [But he retorted:] Be that as it may, he who comes to claim through a heathen [predecessor], could surely not expect better treatment than the heathen himself. — No: the query could still refer to the case where, e.g., an Israelite had misappropriated an article and sold it to a heathen who improved it and who subsequently sold it to another Israelite. What then should be the law? Shall we say that since an Israelite was in possession at the beginning and an Israelite was in possession at the end, our Rabbis would also here make [use of] the enactment, or perhaps since a heathen intervened our Rabbis would not make [use of] the enactment? — Let it remain undecided.

R. papa stated: If one misappropriated a palm tree from his fellow and cut it down, he would not acquire title to it even though he threw it from [the other's] field into his own land, the reason being that it was previously called palm tree and is now also called palm tree.[10] [So also] where out of the palm tree he made logs he would not acquire title to them, as even now they would still be called logs of a palm tree.[10] It is only where out of the logs he made beams that he would acquire title to them.[11] But if out of big beams he made small beams he would not acquire title to them,[12] though were he to have made them into boards he would acquire title to them.[11]

Raba said: If one misappropriated a Lulab[13] and converted it into leaves he would acquire title to them, as originally it was called Lulab whereas now they are mere leaves.[11] So also where out of the leaves he made a broom he would acquire title to it, as originally they were leaves whereas now they form a broom,[14] but where out of the broom he made a rope he would not acquire title to it since if he were to undo it, it would again become a broom.

R. papa asked: What would be the law where the central leaf[15] of the Lulab became split? — Come and hear: R. Mathon said that R. Joshua b. Levi stated that if the central leaf of the Lulab was removed the Lulab would be disqualified [for ritual purposes].

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(1) Ordering payment for the amelioration.

(2) B.M. 15b and 110b.

(3) The size of a field needed for a se'ah of seed.

(4) Why then should the creditor distrain on the whole field together with the amelioration?

(5) In which case the purchaser can in no circumstance bar the creditor from the field.

(6) So that the purchaser (or heir) will be entitled to the half or third or quarter in profits to which the robber would have been entitled, according to the view of R. Simeon.

(7) Cf. supra p.32.

(8) Who neither respects nor feels bound by Rabbinic enactments.

(9) That according to R. Simeon payment is to be made for amelioration to the extent of a half or third or quarter.

(10) [The change involved does not confer ownership enabling him to make restitution by payment in money.]

(11) V. p. 552. n. 6.

(12) V. p. 552. n. 5.

(13) I.e., a palm branch used for the festive wreath on the Feast of Tabernacles in accordance with Lev. XXIII, 40.

(14) V. p. 543, n. 6.

(15) Cf. Suk. 32a and Rashi.

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Now, would not the same law apply where it was merely split?[1] — No; the case where it was removed is different, as the leaf is then missing altogether. Some [on the other hand] read thus. Come and hear what R. Mathon said, that R. Joshua b. Levi stated that if the central leaf was split it would be considered as if it was altogether removed and the Lulab would be disqualified;[1] which would solve [R. papa's question].

R. papa [further] said: If one misappropriated sand from another and made a brick out of it, he would not acquire title to it, the reason being that it could again be made into sand, but if he converted a brick into sand he would acquire title to it. For should you object that he could perhaps make the sand again into a brick, [it may be said that] that brick would be [not the original but] another brick, as it would be a new entity which would be produced.

R. Papa [further] said: If one misappropriated bullion of silver from another and converted it into coins, he would not acquire title to them, the reason being that he could again convert them into bullion, but if out of coins he made bullion he would acquire title to it. For should you object that he can again convert it into coins, [my answer is that] it would be a new entity which would be produced. If [the coins were] blackened and he made them look new he would thereby not acquire title to them,[2] but if they were new and he made them black he would acquire title to them, for should you object that he could make them look again new, [it may be said that] their blackness will surely always be noticeable.

THIS IS THE GENERAL PRINCIPLE: ALL ROBBERS HAVE TO PAY IN ACCORDANCE WITH [THE VALUE OF THE MISAPPROPRIATED ARTICLES AT] THE TIME OF THE ROBBERY. What additional fact is the expression. THIS IS THE GENERAL PRINCIPLE intended to introduce? — It is meant to introduce that which R. Elai said: If a thief misappropriated a lamb which became a ram, or a calf which became an ox, as the animal underwent a change while in his hands he would acquire title to it, so that if he subsequently slaughtered or sold it, it was his which he slaughtered and it was his which he sold.[3]

A certain man who misappropriated a yoke of oxen from his fellow went and did some ploughing with them and also sowed with them some seeds and at last returned them to their owner. When the case came before R. Nahman he said [to the sheriffs of the court]: ‘Go forth and appraise the increment [added to the field].’ But Raba said to him: Were only the oxen instrumental in the increment, and did the land contribute nothing to the increment?[4] — He replied: Did I ever order payment of the full appraisement of the increment? I surely meant only half of it. He, however, rejoined:[5] Be that as it may, since the oxen were misappropriated they merely have to be returned intact, as we have indeed learnt: ALL ROBBERS HAVE TO PAY IN ACCORDANCE WITH [THE VALUE] AT THE TIME OF THE ROBBERY. [Why then pay for any work done with them?] — He replied: Did I not say to you that when I am sitting in judgment you should not make any suggestions to me, for Huna our colleague said with reference to me that I and ‘King’ Shapur[6] are [like] brothers in respect of civil law? That person [who misappropriated the pair of oxen] is a notorious robber, and I want to penalise him.

MISHNAH. IF ONE MISAPPROPRIATED AN ANIMAL AND IT BECAME OLD, OR SLAVES AND THEY BECAME OLD, HE WOULD HAVE TO PAY ACCORDING TO [THE VALUE AT] THE TIME OF THE ROBBERY.[7] R. MEIR, HOWEVER, SAYS THAT IN THE CASE OF SLAVES[8] HE MIGHT SAY TO THE OWNER: HERE, TAKE YOUR OWN. IF HE MISAPPROPRIATED A COIN AND IT BECAME CRACKED, FRUITS AND THEY BECAME STALE OR WINE AND IT BECAME SOUR, HE WOULD HAVE TO PAY ACCORDING TO [THE VALUE AT] THE TIME OF THE ROBBERY.[7] BUT IF THE COIN WENT OUT OF USE, THE TERUMAH[9] BECAME DEFILED,[10] THE LEAVEN FORBIDDEN [FOR ANY USE

BECAUSE] PASSOVER HAD INTERVENED,[11] OR IF THE ANIMAL [HE MISAPPROPRIATED] BECAME THE INSTRUMENT FOR THE COMMISSION OF A SIN[12] OR IT BECAME OTHERWISE DISQUALIFIED FROM BEING SACRIFICED UPON THE ALTAR,[13] OR IF IT WAS TAKEN OUT TO BE STONED,[14] HE CAN SAY TO HIM: ‘HERE, TAKE YOUR OWN.’

GEMARA. R. Papa said: The expression IT BECAME OLD does not necessarily mean that it actually became old, for [the same law would apply] even where it had otherwise deteriorated. But do we not expressly learn. IT BECAME OLD?[15] — This indicates that the deterioration has to be equivalent to its becoming old, i.e., where it will no more recover health. Mar Kashisha, the son of R. Hisda, said to R. Ashi: It has been expressly stated in the name of R. Johanan that even where a thief misappropriated a lamb which became a ram, or a calf which became an ox,[16] since the animal underwent a change while in his hands he would acquire title to it, so that if he subsequently slaughtered or sold it, it was his which he slaughtered and it was his which he sold.[17] He said to him: Did I not say to you that you should not transpose the names of scholars?[18] That statement was made in the name of R. Elai.[19]

R. MEIR, HOWEVER. SAYS THAT IN THE CASE OF SLAVES HE MIGHT SAY TO THE OWNER, ‘HERE TAKE YOUR OWN.’ R. Hanina b. Abdimi said that Rab stated that the halachah is in accordance with R. Meir. But how could Rab abandon the view of the Rabbis[20] and act in accordance with R. Meir? — It may, however, be said that he did so because in the text of the [relevant] Baraitha the names were transposed. But again how could Rab abandon the text of the Mishnah and act in accordance with the Baraitha?[21] — Rab, even in the text of our Mishnah, had transposed the names. But still what was the reason of Rab for transposing the names in the text of the Mishnah because of that of the Baraitha? Why not, on the contrary, transpose the names in the text of the Baraitha because of that of our Mishnah? — It may be answered that Rab, in the text of our Mishnah too, was taught by his masters to have the names transposed. Or if you like I may say that [the text of a Mishnah] is not changed [in order to be harmonised with that of a Baraitha] only in the case where there is one against one, but where there is one against two,[22] it must be changed [as is indeed the case here]; for it was taught:[23] If one bartered a cow for an ass and [the cow] gave birth to a calf [approximately at the very time of the barter], so also if one sold his handmaid and she gave birth to a child [approximately at the time of the sale], and one says that the birth took place while [the cow or handmaid was] in his possession and the other one is silent [on the matter], the former will obtain [the calf or child as the case may be], but if one said ‘I don't know’, and the other said ‘I don't know’, they would have to share it. If, however, one says [that the birth took place] when he was owner and the other says [that it took place] when he was owner, the vendor would have to swear that the birth took place when he was owner [and thus retain it], for all those who have to take an oath according to the law of the Torah, by taking the oath release themselves from payment;[24] this is the view of R. Meir. But the Sages say that an oath can be imposed neither in the case of slaves nor of real property.[25] Now [since the text of our Mishnah should have been reversed,[26] why did Rab[27] state that] the halachah is in accordance with R. Meir? Should he not have said that the halachah is in accordance with the Rabbis?[27] — What he said was this: According to the text you taught with the names transposed, the halachah is in accordance with R. Meir.[27]

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(1) [Should it be disqualified, it would, if occurring whilst in the possession of the robber, be considered a change and confer ownership.]

(2) V. p. 543. n. 5.

(3) Supra 379.

(4) Why then should the whole amount of the increase due to the amelioration be paid to the plaintiff?

(5) Raba to R. Nahman.

(6) Meaning Samuel, who was a friend of the Persian King Shapur I, and who is sometimes referred to in this way; cf. B.B. 115b. [To have conferred the right of bearing the name of the ruling monarch, together with the title ‘tham’, ‘mighty’. was deemed the highest honour among the Persians, and ‘Malka’, ‘King’. is apparently the Aramaic counterpart of the Persian title ‘Malka’ (v. Funk, Die Juden in Babylonien. I, 73). On Samuel's supreme authority in Babylon in matters of civil law, v. Bek. 49b.]

(7) As the change transferred the ownership to him.

(8) Who are subject to the law applicable to immovables, where the law of robbery does not apply.

(9) V. Glos.

(10) And thus unfit as food; cf. Shab. 25a.

(11) Cf. Pes. II. 2.

(12) Such as in Lev. XVIII, 23; cf. also supra p. 229.

(13) Such as through a blemish, hardly noticeable, as where no limb was missing; cf. Zeb. 35b and 85b; v. also Git. 56a.

(14) As in the case of Ex. XXI. 28.

(15) In which a temporary deterioration could hardly be included.

(16) [Although there is an inevitable and natural change.]

(17) [And he would be exempt from the threefold and fourfold restitution.]

(18) Lit., ‘people’.

(19) And not in that of R. Johanan: supra p. 379.

(20) The representatives of the anonymous view of the majority cited first in the Mishnah.

(21) In accordance with the anonymous view of the majority cited in the Baraitha.

(22) I.e., where two Baraithas are against the text of one Mishnah.

(23) B.M. 100a, q.v. for notes.

(24) Shebu. VII, 1.

(25) Cf. Shebu. VI, 5. It is thus evident that it was the majority of the Rabbis and not R. Meir who considered slaves to be subject to the law of real property.

(26) In which case it was the Rabbis who maintained that slaves are subject to the law of real property.

(27) Meaning that slaves are on the same footing as real property.

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But did Rab really say that slaves are on the same footing as real property? Did R. Daniel b. Kattina not say that Rab stated that if a man forcibly seizes another's slave and makes him perform some work, he would be exempt from any payment?[1] Now, if you really suppose that slaves are on the same footing as real property. why should he be exempt? Should the slave not be considered as still being in the possession of the owner?[2] — We are dealing there[3] with a case [where he took hold of the slave at a time] when [the owner] usually required no work from him, exactly as R. Abba sent to Mari b. Mar, saying. ‘Ask R. Huna whether a person who stays in the premises[4] of another without his knowledge must pay him rent or not, and he sent him back reply that ‘he is not liable to pay him rent’.[5] But what comparison is there? There is no difficulty [in that case][6] as if we follow the view that premises which are inhabited by tenants keep in a better condition,[5] [we must say that] the owner is well pleased that his house be inhabited. or again if we follow the view[5] that the gate is smitten unto roll,[7] [we can again say that] the owner benefited by it. But here [in this case][8] what owner could be said to be pleased that his slave became reduced [by overwork]? — It may, however, be said that here[9] also it may be beneficial to the owner that his slave should not become prone to idleness.

Some at the house of R. Joseph b. Hama used to seize slaves of people who owed them money, and make them perform some work. Raba his son said to him: Why do you, Sir, allow this to be done? — He thereupon said to him: Because R. Nahman stated that the [work of the] slave is not worth the bread he eats. He rejoined:[10] Do we not say that R. Nahman meant his statement only to apply to one like Daru his own servant who was a notorious dancer in the wine houses, whereas with all other servants who do some work [the case is not so]? — He however said to him: I hold with R. Daniel b. Kattina, for R. Daniel b. Kattina said that Rab stated that one who forcibly seizes another's slave and makes him perform some work would be exempt from any payment, thus proving that this is beneficial to the owner, by preventing his slave from becoming idle. He replied:[10] These rulings [could apply] only where he has no money claim against the owner, but [in your case], Sir, since you have a money claim against the owner, it looks like usury, exactly as R. Joseph b. Manyumi said [namely] that R. Nahman stated that though the Rabbis decided that one who occupies another's premises without his consent is not liable to pay him rent, if he lent money to another and then occupied his premises he would have to pay him rent.[11] He thereupon said to him: [If so,] I withdraw.

It was stated: If one forcibly seizes another's ship and performs some work with it, Rab said that if the owner wishes he may demand payment for its hire, or if he wishes he may demand payment for its wear and tear. But Samuel said: He may demand only for its wear and tear. Said R. Papa: They do not differ as Rab referred to the case where the ship was made for hire and Samuel to the case where it was not made for hire. Or if you like, I can say that both statements deal with a case where it was made for hire, but whereas [Rab deals with a case] where possession was taken of it with the intention of paying the hire,[12] ‘[Samuel refers to one] where possession was taken of it with the intention of robbery.[13]

IF HE MISAPPROPRIATED A COIN AND IT BECAME CRACKED etc. R. Huna said: IT BECAME CRACKED means that it actually cracked, [and] IT WENT OUT OF USE means that the Government declared it obsolete. But Rab Judah said that where the Government declared the coin obsolete it would be tantamount to its being disfigured,[14] and what was meant by IT WENT OUT OF USE is that the inhabitants of a particular province rejected it while it was still in circulation in another province. R. Hisda said to R. Huna: According to your statement that IT WENT OUT OF USE meant that the Government declared it obsolete, why [in our Mishnah] in the case of fruits that became stale, or wine that became sour, which appears to be equivalent to a coin that was declared obsolete by the Government, is it stated that HE WOULD HAVE TO PAY IN ACCORDANCE WITH [THE VALUE AT] THE TIME OF THE ROBBERY?[15] — He replied: There [in the case of the fruits and the wine] the taste and the smell changed, whereas here [in the case of the coin] there was no change [in the substance]. Rabbah on the other hand said to Rab Judah: According to your statement that where the Government declared the coin obsolete it would be tantamount to its having been cracked, why in [our Mishnah in] the case of terumah that became defiled, which appears to resemble a coin that was declared obsolete by the Government[16] is it stated that he can say to him, ‘HERE, TAKE YOUR OWN’? — He replied: There [in the case of the terumah] the defect[17] is not noticeable, whereas here [in the case of the coin] the defect is noticeable.[18]

It was stated: If a man lends his fellow [something] on [condition that it should be repaid in] a certain coin, and that coin became obsolete, Rab said

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(1) B.M. 64b.

(2) So that payment for work done by him would have to be enforced.

(3) Lit., ‘here’.

(4) [Which the owner is not accustomed to let — a case similar to the one where the owner requires no work from the slave.]

(5) V. supra 21a for notes.

(6) Of the house.

(7) Isa. XXIV, 12.

(8) Of the slave.

(9) [Amounting as it does to the taking of interest.]

(10) I.e., Raba to his father, R. Joseph.

(11) So that it should not look like usury.

(12) In which case the hire may be claimed.

(13) In which case no more than compensation for the wear and tear could be enforced.

(14) Since it would nowhere have currency.
(15) As the change transferred the ownership.
(16) For just as the latter case was proscribed by the political realm, the former was proscribed by the spiritual realm.
(17) By becoming defiled.
(18) As the coins which are in circulation have a different appearance.

Talmud - Mas. Baba Kama 97b

that the debtor would have to pay the creditor with the coin that had currency at that time,[1] whereas Samuel said that the debtor could say to the creditor, ‘Go forth and spend it in Meshan.’[2] R. Nahman said that the ruling of Samuel might reasonably be applied where the creditor had occasion to go to Meshan, but if he had no occasion [to go there] it would surely not be so. But Raba raised an objection to this view of R. Nahman [from the following]: ‘Redemption [of the second tithe] cannot be made by means of money which has no currency, as for instance if one possessed koziba-coins,[3] of Jerusalem,[4] or of the earlier kings;[5] no redemption could be made [by these].’[6] Now, does this not imply that if the coins were of the later kings, even though analogous [in one respect] to coins of the earlier kings,[7] it would be possible to effect the redemption by means of them?[8] — He, however, said to him that we were dealing here with a case where the Governments of the different provinces were not antagonistic to one another. But since this implies that the statement of Samuel [as explained by R. Nahman] referred to the case where the Governments of the different provinces were antagonistic to one another, how would it be possible to bring the coins [to the province where they still have currency]?[9] — They could be brought there with some difficulty, as where no thorough search was made at the frontier though if the coins were to be discovered there would be trouble.

Come and hear: Redemption [of the second tithe] cannot be effected by means of coins which have currency here[10] but which are actually [with the owner] in Babylon;[11] so also if they have currency in Babylon but are kept here.[10] [But] where the coins have their currency in Babylon and are in Babylon redemption can be effected by means of them. Now, it is at all events stated here [is it not] that no redemption could be effected by means of coins which though having currency here[10] are actually [with the owner] in Babylon irrespective of the fact that the owner will have to go up here?[12] — We are dealing here with a case where the Governments [of the respective countries] were antagonistic to each other.[13] But if so how would coins which have currency in Babylon and are kept in Babylon be utilised as redemption money?[14] — They may be utilised for the purchase of an animal [in Babylon]. which can then be brought up to Jerusalem. But was it not taught[15] that there was an enactment that all kinds of money should be current in Jerusalem?[16] — Said R. Zera: This is no difficulty, as the latter statement refers to the time when Israel had sway [in Eretz Yisrael] over the heathen whereas the former referred to a time when the heathen governed themselves.[17]

Our Rabbis taught: What was the coin of Jerusalem?[18] [The names] David and Solomon [were inscribed] on one side and [the name of] Jerusalem on the other. What was the coin of Abraham our Patriarch? — An old man and an old woman[19] on the one side, and a young man and a young woman[20] on the other.

Raba asked R. Hisda: What would be the law where a man lent his fellow something on [condition of being repaid with] a certain coin,[21] and that coin meanwhile was made heavier?[22] — He replied: The payment will have to be with the coins that have currency at that time. Said the other: Even if the new coin be of the size of a sieve? — He replied: Yes, Said the other: Even if it be of the size of a ‘tirtia’![23] — He again replied. Yes. But in such circumstances would not the products have become cheaper?[24] — R. Ashi therefore said: We have to look into the matter. If it was through the [increased weight of the] coin that prices [of products] dropped we would have to deduct [from the payment accordingly],

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(1) I.e., at the time of the payment.
(2) [Mesene, a district S.E. of Babylon. It lay on the path of the trade route to the Persian Gulf. V. Obermeyer. op. cit., 89 ff.]
(3) Coins struck by Bar Cochba, the leader of the uprising in Eretz Yisrael against Hadrian. [The name Koziba has been explained either as derivation from the city Kozeba, his home, or as ‘Son of Lies’, a contumelious designation when his failure belied all the hopes reposed in him, v. Graetz, Geschichte, p. 136.]
(4) [Probably the old shekels. According to Rashi render: namely, Jerusalem coins.]
(5) [Either the Seleucidean Kings or former Roman Emperors.]
(6) Tosef. M. Sh. 1, 6.
(7) Such as where they were declared obsolete in a particular province.
(8) Even where one had not occasion to go there, which refutes R. Nahman's view.
(9) Even though one had occasion to go there.
(10) In Jerusalem.
(11) Where they have no currency.
(12) [Lit. ‘there’. The text does not read smoothly, and is suspect. MS.M. in fact omits ‘Now . . . here.’]
(13) To a greater degree, so that thorough searches are made and the transport of coins would constitute a real danger.
(14) Which would have to be spent for certain commodities to be partaken of in Jerusalem.
(15) Cf. I.M. Sh. I. 2.
(16) How then were Babylonian coins not current there?
(17) A euphemism for Israel.
(18) Cf. p. 556. n. 7.
(19) I.e., Abraham and Sarah.
(20) I.e., Isaac and Rebeccah.
(21) V. p. 566, n. 4.
(22) [The question is according to the view of Rab, ibid., that payment has to be made with the coin that had currency at the time.]
(23) A quoit of certain size.
(24) A larger supply being obtained by the heavier coin, and the increase would appear as usury.

Talmud - Mas. Baba Kama 98a

but if it was through the market supplies[1] that prices dropped, we would not have to deduct anything. Still,[2] would the creditor not derive a benefit from the additional metal? — [We must] therefore [act] like R. Papa and R. Huna the son of R. Joshua who gave judgment in an action about coins, according to [the information[3] of] an Arabian agoran,[4] that the debtor should pay for ten old coins [only] eight new ones.[5]

Rabbah stated: He who throws a coin of another [even] into the ocean[6] is exempt, the reason being that he can say to him, ‘Here it lies before you, if you are anxious to have it take it.’ This applies, however, only where [the water was] clear so that it could be seen, but if it was so muddy that the coin could not be seen this would not be so. Again, this holds good only where the throwing was merely indirectly caused by him,[7] but if he took it in his hand he would surely have already become subject to the law of robbery[8] and as such would have been liable to make [proper] restitution.[8]

Raba raised an objection [from the following:] ‘Redemption [of the second tithe] cannot be made by means of money not in one's actual possession, such as if he had money in Castra or in the King's Mountain[9] or if his purse fell into the ocean; no redemption could then be effected’.[10] — Said Rabbah: The case [of redemption] of tithe is different, as it is required there that the money should be [to all intents and purposes] actually in your hand, for the Divine Law says, And bind up the money in thy hand,[11] which is lacking in this case.[12]

Rabbah further said: One who disfigures a coin belonging to another is exempt, the reason being that he did not do anything [to reduce the substance of the coin]. This of course applies only where he knocked on it with a hammer and so made it flat, but where he rubbed the stamp off with a file he certainly diminished its substance [and would thus be liable]. Raba raised an objection [from the following:] 'Where [the master] struck [the slave] upon the eye and blinded him or upon the ear and deafened him the slave would on account of that go out free,[13] but [where he struck on an object which was] opposite the slave's eye and he lost his sight or [on an object which was] opposite his ear through which he lost his hearing the slave would [on account of this] not go out free'![14] — Rabbah, however, follows his own reasoning, for Rabbah stated: He who makes his father deaf is subject to be executed,[15] for it is impossible to cause deafness without first making a bruise through which a drop of blood falls into the ear.[16]

And Rabbah [further] stated: He who splits the ear of another's cow[17] is exempt, the reason being that [so far as the value of] the cow [is concerned it] remains as it was before, for he did not do anything [to reduce it], since not all oxen are meant to be sacrificed upon the altar.[18] Raba raised an objection [from the following]: If he did work with the water of Purification or with the Heifer of Purification he would be exempt according to the judgments of Man but liable according to the judgments of Heaven.[19] Now surely this is so only where mere work was done with it,[20] in which case the damage [done to it] is not noticeable, whereas in the case of splitting where the damage is noticeable there would also be liability according to the judgments of Man?[21] — It may, however, be said that the same law would apply in the case of splitting, where he would similarly be exempt [according to the judgments of Man], and that what we are told here is that even in the case of mere work where the damage is not noticeable there would still be liability according to the judgments of Heaven.

Rabbah further stated: If one destroyed by fire the bond of a creditor he would be exempt, because he can say to him, 'It was only a mere piece of paper of yours that I have burnt.'[22] Rami b. Hania demurred: What are the circumstances?

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(1) I.e., through the supply surpassing the demand.

(2) [Even if the drop in the prices was due to the latter cause.]

(3) [That ten old coins had the weight of eight new ones.]

(4) Market commissioner.

(5) If, however, the increase in weight was less than 25%, the new coins paid would have to be equal in number to the old ones; so Rashi; Tosaf. explains differently.

(6) Lit., 'the great sea', the Mediterranean.

(7) [On the principle that damage caused by indirect action is not actionable.]

(8) Cf. Lev. V, 23.

(9) [Har-ha-Melek, also known as Tur Malka. There is still a good deal of uncertainty in regard to the identification of these two localities. Buchler JQR. 1904. 181 ff. maintains that the reference in both cases is to Roman fortifications, access to which was barred to the Jews, the former being simply the Roman Castra, the latter, a fortification situated somewhere in Upper Idumea. For other views, v. Schlatter, Tage Trojans, p. 28, and Neubauer, Geographie, p. 196.]

(10) M.Sh. I, 2. Now, if coins thrown into the ocean are not considered as lost to the owner, as indeed suggested by Rabbah. why should no redemption be effected?

(11) Deut. XIV, 25.

(12) On account of which no redemption could be effected.

(13) In accordance with Ex. XXI, 26-27.

(14) Supra 91a. Does this not prove that even where the substance was not reduced, such as in the case of deafening, still so long as the damage was done there is liability?

(15) As having committed the capital offence of Ex. XXI. 25, v. supra 86a.

(16) [And for the same reason the slave would be set free.]

(17) Rendering her thus disqualified as blemished for the altar; cf. Lev. XXII, 20-25.

(18) Cf. Kid. 66a.

(19) I.e., the 'red heifer' rendering it thus disqualified in accordance with Num. XIX. 2 and 9.

(20) V. supra 56a.

(21) Thus contradicting the view of Rabbah.

(22) V. supra 33b.

Talmud - Mas. Baba Kama 98b

If there are witnesses who know what were the contents of the bond why not draw up another bond which would be valid? If on the other hand such witnesses are not available, how could we know [what were the contents]?[1] — Raba said: [The case could arise] where the defendant takes the plaintiff's word [as to the contents of the bond]. R. Dimi b. Hanina said that [regarding this ruling] of Rabbah there was a difference of opinion between R. Simeon and our [other] Rabbis. According to R. Simeon who held[2] that an object whose absence would cause an outlay of money is reckoned in law as money there would be liability,[3] but according to the Rabbis who said that an object whose absence would cause an outlay of money is not reckoned in law as money there would be no liability. R. Huna the son of R. Joshua demurred: I would suggest that you have to understand R. Simeon's statement, that an object whose absence would cause an outlay of money is reckoned in law as money, to apply only to an object whose substance is its intrinsic value, exactly as [in another case made Out by] Rabbah, for Rabbah said that where leaven was misappropriated before [the arrival of] Passover and a third person came along and burnt it, if this took place during the festival he would be exempt as at that time all are enjoined to destroy it,[4] but if after Passover[5] there would be a difference of opinion between R. Simeon and our Rabbis, as according to R. Simeon who held that an object whose absence would cause an outlay of money is reckoned in law as money, he would be liable,[6] while according to our Rabbis who said that an object whose absence would cause an outlay of money is not reckoned in law as money, he would be exempt. [But whence could it be proved that even] regarding an object whose substance is not its intrinsic value R. Simeon similarly maintained the same view?

Amemar said that the authority who is prepared to adjudicate liability in an action for damage done indirectly[7] would similarly here adjudge damages to the amount recoverable on a valid bill. but the one who does not adjudicate liability in an action for damage done indirectly would here adjudge damages only to the extent of the value of the mere paper. It once happened that in such an action Rafram compelled R. Ashi[8] and damages were collected [from him] like a beam fit for decorative mouldings.[9]

BUT IF . . . THE LEAVEN [HE MISAPPROPRIATED BECAME FORBIDDEN FOR ANY USE BECAUSE] PASSOVER HAD INTERVENED . . . HE CAN SAY TO HIM: HERE, TAKE YOUR OWN. Who is the Tanna who, in regard to things forbidden for any use, allows [the offender] to say, 'Here, take your own'? — R. Hisda said: He is R. Jacob, as indeed taught: If an ox killed [a person], and before its judgment was concluded its owner disposed of it, the sale would hold good; if he pronounced it sacred, it would be sacred; if it was slaughtered its flesh would be permitted [for food]; if a bailee returned it to [the house of] its owner, it would be a legal restoration. But if after its sentence had already been pronounced, the owner disposed of it, the sale would not be valid; if he consecrated it, it would not be sacred; if it was slaughtered its flesh would be forbidden [for any use]; if a bailee returned it to [the house of] its owner, it would not be a legal restoration. R. Jacob, however, says: Even if after the sentence had already been pronounced the bailee returned it to its owner, it would be a legal restoration.[10] Now, is not the point at issue between them[11] that R. Jacob, in the case of things forbidden for any use, allows the offender to say. 'Here, take your own', whereas the Rabbis disallow this in the case of things forbidden for any use?[12] Rabbah said to him:[13] No; all may agree that even regarding things forbidden for any use the offender is allowed [in certain circumstances] to say, 'Here, take your own', for if otherwise. why did they[11] not differ in the case of leaven during Passover?[14] Rabbah therefore said: Here [in the case before us] the point at issue must be whether [or not] sentence may be pronounced over an ox in its absence. The Rabbis hold that sentence cannot be pronounced over an ox in its absence so that the owner may plead against the bailee thus: ‘if you had returned it to me [before the passing of the sentence], I would have driven it away to the pastures,[15] whereas now you have surrendered my ox into the hands of those against whom I am unable to bring any action.’[16] R. Jacob, however, holds that sentence can be pronounced over the ox even in its absence, so that the bailee may retort to the owner thus: In any case the sentence would have been passed on the ox, even in its absence.

R. Hisda came across Rabbah b. Samuel and said to him: Have you been taught anything regarding things forbidden for any use?[17] — He replied: Yes, I was taught [the following]: ‘He shall restore the misappropriated object.[18] What is the point of the additional words, which he violently took away? [It is that] so long as it was intact he may restore it.[19] Hence did the Rabbis declare that if one misappropriated a coin and it went out of use, fruits and they became stale, wine and it became sour,[20] terumah[21] and it became defiled,[22] leaven and [it became forbidden for any use because] Passover intervened,[23] an animal and it became the instrument for the commission of a sin,[24] or an ox and [it subsequently became subject to be stoned,[25] but] its judgment was not yet concluded, he can say to the owner, ‘Here, take your own.’ Now, which authority can you suppose to apply this ruling only where the judgment was not yet concluded, but not where the judgment was already concluded, if not the Rabbis, and it is at [the same time] stated that [if he misappropriated] leaven and [it became forbidden for any use because] Passover intervened[26] he can say to him, ‘Here, take your own’?[27] — He replied:[28] If you happen to meet them[29] [please] do not tell them anything [of this teaching].[30]

[‘If one misappropriated] fruits and they became stale . . . he can say to him: "Here, take your own."’ But did we not learn:[31] [IF HE MISAPPROPRIATED] FRUITS AND THEY BECAME STALE . . . HE WOULD [CERTAINLY] HAVE TO PAY ACCORDING TO [THE VALUE AT] THE TIME OF THE ROBBERY? — Said R. Papa: The latter ruling[32] refers to where the whole of them became stale,[33] the former to where only parts of them became stale.

MISHNAH. IF AN OWNER GAVE CRAFTSMEN [SOME ARTICLES] TO SET IN ORDER AND THEY SPOILT THEM, THEY WOULD BE LIABLE TO PAY. WHERE HE GAVE A JOINER A CHEST, A BOX OR A CUPBOARD[34] SET IN ORDER AND HE SPOILT IT, HE WOULD BE LIABLE TO PAY. IF A BUILDER UNDERTOOK TO PULL DOWN A WALL AND BROKE THE STONES OR DAMAGED THEM, HE WOULD BE LIABLE TO PAY, BUT IF WHILE HE WAS PULLING DOWN THE WALL ON ONE SIDE ANOTHER PART FELL ON ANOTHER SIDE, HE WOULD BE EXEMPT, THOUGH, IF IT WAS CAUSED THROUGH THE KNOCKING, HE WOULD BE LIABLE.

GEMARA. R. Assi said: The Mishnaic ruling could not be regarded as applying except where he gave a joiner a box, a chest, or a cupboard to knock a nail in and while he was knocking in the nail he broke them. But if he gave the joiner timber to make a chest, a box or a cupboard and after he had made the box, the chest or the cupboard they were broken by him, he would be exempt,[35] the reason being that a craftsman acquires title to the increase in [value caused by the construction of] the article.[36] But we have learnt: IF AN OWNER GAVE CRAFTSMEN SOME ARTICLES TO SET IN ORDER AND THEY SPOILT THEM THEY WOULD BE LIABLE TO PAY. Does this not mean that he gave them timber to make utensils?[37] — No, [he gave them] a chest, a box or a cupboard.[38] But since the concluding clause in the text mentions ‘chest, box or cupboard’ is it not implied that the opening clause refers to timber? — It may, however, be said that [the later clause] only means to expand the earlier [as follows]: ‘In the case where an owner gave craftsmen some articles to set in order and they spoiled them, how would they be liable to pay? As, e.g., where he gave a joiner a chest, a box, or a cupboard.’ There is also good reason for supposing that the text [of the latter clause] was merely giving an example. For should you assume that the opening clause refers to timber, after we have been [first] told that [even] in the case of timber they would be liable to pay and that we should not say that the craftsman acquires title to the increase in [value caused by the construction of] the article, what necessity would there be to mention afterwards chest, box and portable turret?[39] — If only on account of this, your point could hardly be regarded as proved, for the later clause might have been inserted to reveal the true meaning of the earlier clause, so that you should not think that the earlier clause refers to [the case where he gave the joiner a] chest, box and cupboard, whereas [where he gave him] timber the law would not be so; hence the concluding clause specifically mentions chest, box and cupboard[38] to indicate that the opening clause refers to timber, and that even in that case the craftsman would be liable to pay.[37] May we say that he[40] can be supported [from the following]: If wool was given to a dyer

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(1) [To know what liability to impose on him.]

(2) Supra 71b.

(3) Since the creditor has through the destruction of his bond suffered an actual loss of money.

(4) Cf. Pes. II. 2.

(5) When though forbidden to be used for any purpose it is still not under an injunction to be destroyed; cf. Pes. II. 2.

(6) To the robber, since the robber would have been able to restore the leaven to the owner and say. ‘Here there is thine before thee’, whereas after the leaven was destroyed he would have to pay the full original value if the leaven.

(7) I.e., R. Meir; cf. infra 100a.

(8) [Who in his childhood had destroyed a bond of a creditor.]

(9) A metaphorical expression for ‘straight and exact and out of the best of the estate’, as supra p. 16; v. Rashi and Sh.M. a.l.

(10) v. supra 45a for notes.

(11) R. Jacob and the Rabbis.

(12) Our Mishnah thus represents the view of R. Jacob.

(13) I.e., to R. Hisda.

(14) Whether a robber would be entitled to restore it and plead ‘Here there is thine before thee’.

(15) And no sentence would have been passed on it.

(16) [I.e., the court. This plea would, however, not apply to leaven where the incidence of the prohibition is not due to an act of the robber but to the intervention of the Passover (Rashi).]

(17) [Whether the plea ‘Here, take your own’ is admissible in their case.]

(18) Lev. V, 23.

(19) Though it meanwhile became valueless.

(20) [MS.M. rightly omits ‘wine and it became sour’ as in this case payment is according to value at time of robbery; Var. lec. and he poured from it a libation (to an idol).]

(21) V. Glos.

(22) V. p. 561, n. 4.

(23) V. ibid., n. 5.

(24) V. ibid., n. 6.

(25) V. ibid., n. 8.

(26) V. p. 561, n. 5.

(27) Thus confirming the view of Rabbah as against that of R. Hisda.

(28) I.e., R. Hisda to Rabbah b. Samuel.

(29) My colleagues.

(30) For a similar attitude cf. ‘Er. 11b where R. Shesheth said so to the same Rabbah b. Samuel, and ibid. 39b where the same R. Shesheth said so to Raba(== Rabbah) b. Samuel.

(31) In our Mishnah.

(32) Where payment must be made.

(33) And the change was definite.

(34) Lit., ‘a turret’, a cupboard in the form of a turret.

(35) So far as the increase in value caused by the construction of the article is concerned, [for when he parts with it he effects a sale of the improvement of the article and the stipulated sum paid to him is but the purchase money for the same.]

(36) Cf. B.M. 112a.

(37) And their liability would thus extend to the whole value of the utensils made by them.

(38) For some repair, in the performance of which they were broken.

(39) In which case the law is quite evident.

(40) I.e., R. Assi.

Talmud - Mas. Baba Kama 99a

and it was burnt by the dye, he would have to pay the owner the value of his wool.[1] Now, it is only the value of the wool that he has to pay, but not the combined value of the wool and the increase in price.[2] Does this not apply even where it was burnt after the dye was put in,[3] in which case there has already been an increase in value, which would thus show[4] that the craftsman acquires title to the improvement carried out by him on any article? — Said Samuel: We are dealing here with a case where, e.g., it was burnt at the time when the dye was put in,[5] so that there has not yet been any increase in value. But what would it be if it were burnt after it was put in?[6] Would he really have to pay the combined value of the wool and the increase? Must we not therefore say that Samuel did not hold the view of R. Assi?[7] — Samuel might say to you that we are dealing here with a case where e.g., both the wool and the dye belonged to the owner, so that the dyer had to be paid only for the labour of his hands.[8] But if so, should it not have been stated that the dyer would have to pay the owner for the value of both his wool and his dye? — Samuel was only trying to point out that a refutation[9] would be possible.[10] Come and hear:[11] If he gave his garment to a craftsman and the latter finished it and informed him of the fact, even if from that time ten days elapsed [without his paying him] he would through that not be transgressing the injunction thou shalt not keep all night.[12] But if [the craftsman] delivered the garment to him in the middle of the day, as soon as the sun set [without payment having been made] the owner would through that transgress the injunction. Thou shalt not keep all night.[13] Now, if you assume that a craftsman acquires title to the improvement [carried out by him] on any article,[14] why should the owner be transgressing[15] the injunction. Thou shalt not keep all night? — Said R. Mari the son of R. Kahana: [The work required in this case was] to remove the woolly surface of a thick cloth where there was no accretion.[16] But be it as it may, since he gave it to him for the purpose of making it softer, as soon as he made it softer was there not already an improvement? — No; the ruling is necessary [for meeting the case] where he hired him to stamp upon it [and undertook to pay him] for every act of stamping one ma'ah,[17] which is but the hire [for labour].

But according to what we assumed previously that he was not hired for stamping,[18] [this ruling] would have been a support to [the view of] R. Shesheth, for when it was asked of R. Shesheth[19] whether in a case of contracting the owner would transgress[20] the injunction, Thou shalt not keep all night, or would not transgress, he answered that he would transgress! But are we [at the same time] to say that R. Shesheth differed from R. Assi?[21] — Samuel b. Aha said: [R. Shesheth was speaking] of a messenger sent to deliver a letter.[22]

Shall we say [that the same difference is found between] the following Tannaim? [For it was taught: If a woman says,] ‘Make for me bracelets, earrings and rings,[23] and I will become betrothed unto thee,’[24] as soon as he makes them she becomes betrothed [unto him];[25] this is the view of R. Meir. But the Sages say that she would not become betrothed until something of actual value has come into her possession.[26] Now, what is meant by actual value? We can hardly say that it refers to this particular value,[27] for this would imply that according to R. Meir [it was] not [necessary for her to come into possession] even of that value. If so, what would be the instrument to effect the betrothal?[25] It therefore appears evident that what was meant by ‘actual value’ was some other value.[28] Now again, it was presumed [by the students] that according to all authorities there is continuous [growth of liability for] hire from the very commencement of the work until the end of it,[29] and also that according to all authorities if one betroths [a woman] through [foregoing] a debt [owing to him from her], she would not be betrothed.[30] Would it therefore not appear that they[31] differed on the question whether a craftsman acquires title to the improvement carried out by him upon an article, R. Meir maintaining that a craftsman acquires title to the improvement carried out by him upon an article,[32] while the Rabbis maintained that the craftsman does not acquire title to the improvement carried out by him upon an article?[33] — No; all may agree that the craftsman does not acquire title to the improvement carried out by him upon an article, and here they differ as to whether there is progressive [liability for] hire from the very commencement of the work until the very end, R. Meir maintaining that there is no liability for hire except at the very end,[34] whereas the Rabbis maintained that there is progressive [liability for] hire[35] from the commencement until the very end.[36] Or if you wish I may say that in the opinion of all there is progressive [liability for] hire[35] from the very commencement to the end,[36] but here they[37] differ [in regard to the law] regarding one who betroths [a woman] by [forgoing] a debt [due from her], R. Meir maintaining that one who betroths [a woman] by [forgoing] a debt [due from her] would thereby effect a legal betrothal, whereas the [other] Rabbis maintained that he who betroths [a woman] by [forgoing] a debt [due from her] would thereby not effect a valid betrothal.[38]

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(1) Infra 100b.

(2) Caused by the process of dyeing.

(3) Lit., ‘after falling in’. i.e. after the dye had already exercised its effect on the wool which thereby increased in value.

(4) Since he has to pay only for the wool and nor for its increase in value.

(5) Lit., ‘at the time of falling in’, i.e., before the dye has yet exercised any effect on the wool.

(6) V. supra n. 3.

(7) According to whom even then only the original value of the wool would have to be paid for. [Which means that R. Assi's view cannot stand since in civil law we follow the ruling of Samuel?]

(8) In which case the craftsman acquires no title to the increase in value, since the dye which imparts to the wool the increased value is not his.

(9) Of the proof advanced in support of R. Assi.

(10) Without, however, intending to oppose R. Assi.

(11) Cf. B.M. 112a.

(12) Lev. XIX, 13.

(13) V. p. 576, n. 11.

(14) So that when he parts with it he effects a sale of the improvement of the article and the stipulated sum paid to him is but the purchase money for the same.

(15) For surely by not paying purchase money in time a purchaser would not render himself liable to this transgression.

(16) To which the worker should acquire title.

(17) v. Glos.

(18) But for the completion of a certain undertaking, [in which case he would be a contractor and in a sense a vendor and yet the injunction of not delaying the payment of the hire applies.]

(19) V. B.M. 112a.

(20) By not paying the stipulated sum in time.

(21) Who maintained that a craftsman (i.e., a contractor) becomes the owner of the improvement carried out by him upon the article and when parting with it is but a vendor to whom purchase money has to be paid, and to whom the injunction does not apply.

(22) Where there is no tangible accretion to which a title of ownership could be acquired, and to which consequently there applies the injunction.

(23) The woman giving the man the material.

(24) This was spoken by an unmarried woman to her prospective husband.

(25) In accordance with Kid. I,1.

(26) Kid. 48a.

(27) I.e., the bracelets.

(28) I.e., irrespective of the bracelets, earrings and rings made by him. Whereas according to R. Meir these alone suffice.

(29) I.e., that strictly speaking each perutah of the hire becomes due as soon as work for a perutah is completed; a perutah is the minimum value of liability; v. Glos.
(30) As this is not reckoned in law sufficient consideration; cf. Kid. 6b and 47a.
(31) I.e., R. Meir and the Rabbis.
(32) So that when he makes her bracelets, earrings and rings out of her material, the improvement becomes his and could therefore constitute a valid consideration.
(33) But since the improvement was never his he only had an outstanding debt for the hire upon the other party who was in this case his prospective wife, and as the forfeiture of a debt is not sufficient consideration some 'actual value' must be added to make the consideration valid.
(34) I.e., when he restores her the manufactured bracelets etc., in which case the hire had previously never become a debt.
(35) Which thus becomes a debt rising from perutah to perutah (and as such could not constitute valid consideration).
(36) V. p. 578, n. 7.
(37) R. Meir and the Rabbis.
(38) V. p. 578, n. 8.

Talmud - Mas. Baba Kama 99b

Raba, however, said that all might have been agreed that there is progressive [liability for] hire from the very commencement until the end, and also that one who betroths [a woman] by [forgoing] a debt [due from her] would not thereby effect a valid betrothal, and it was again unanimously held that a craftsman does not acquire title to the improvement carried out by him upon an article,[1] and here we are dealing with a case where, e.g., he added a particle out of his own [funds[2] to the raw material supplied by her], R. Meir holding that where the [instrument of betrothal] is both [the foregoing of] a debt and [the giving of] a perutah,[3] the woman thinks more[4] of the perutah,[2] whereas the Rabbis held that where the [instrument of betrothal] is both [the foregoing of] a debt and [the giving of] a perutah, she thinks more of the debt [which she is excused].

This was also the difference between the following Tannaim, as taught: [If a man says,] 'In consideration of the hire for the work I have already done for you[5] [be betrothed to me],'[6] she would not become betrothed,[7] but [if he says], 'In consideration of the hire for work which I will do for you [be betrothed to me]', she would become betrothed. R. Nathan said that if he said, 'In consideration of the hire for work I will do for you,' she would thereby not become betrothed; and all the more so in this case where he said, 'In consideration of the hire for work I have already done for you.' R. Judah the Prince, however, says: It was truly stated that whether he said, 'In consideration of the hire for the work I have already done for you,'[6] or, 'In consideration of the hire for work I will do for you,' she would not thereby become betrothed, but if he added a particle out of his own funds[8] [to the raw material supplied by her], she would thereby become betrothed.[9] Now, the difference between the first Tanna and R. Nathan is on the question of the liability for hire [whether or not it is progressive from the very commencement],[10] while the difference between R. Nathan and R. Judah the Prince is on the question [what is her attitude when the betrothal is made both by the foregoing of] a debt [and the giving of] a perutah.[11]

Samuel said: An expert slaughterer who did not carry out the slaughter properly[12] would be liable to pay, as he was a damage-doer, [and] he was careless, and this would be considered as if the owner asked him to slaughter for him from one side[13] and he slaughtered for him from the other. But why was it necessary for him to say both 'he was a damage-doer [and] he was careless'? — If he had said only he was a damage-doer,I might have said that this ruling should apply only where he was working for a hire,[14] whereas where he was working gratuitously this would not be so; we are therefore told, [that there is no distinction as] he was careless. R. Hama b. Guria raised an objection to this view of Samuel [from the following]: If an animal was given to a slaughterer and he caused it to become nebelah,[15] if he was an expert he would be exempt, but if an amateur[16] he would be liable.

If, however, he was engaged for hire, whether he was an amateur or expert he would be liable. [Is this not in contradiction to the view of Samuel?] — He replied:[17] Is your brain disordered? Then another one of our Rabbis came along and raised the same objection to his view. He said to him:[18] 'You surely deserve to be given the same as your fellow.[19] I was stating to you the view of R. Meir and you tell me the view of the Rabbis! Why did you not examine my words carefully wherein I said: "For he was a damage-doer [and] he was careless, and this should be considered as if the owner asked him to slaughter for him from one side[20] and he slaughtered for him from the other." For surely who reasons in this way if not R. Meir, who said that a human being has to take greater heed to himself?' But what [statement of] R. Meir [is referred to]? We can hardly say the one of R. Meir which we learned: (Mnemonic: KLN)[21] 'If the owner fastened his ox [to the wall inside the stable] with a cord or shut the door in front of it properly but the ox [nevertheless] got out and did damage, whether it had been Tam or already Mu'ad he would be liable; this is the opinion of R. Meir,'[22] for surely, in that case, there they differed as to the interpretation of Scriptural Verses![23] — It therefore seems to be the one of R. Meir which we learned: [If wool was handed over to a dyer] to dye it red but he dyed it black, or to dye it black and he dyed it red, R. Meir says that he would have to pay [the owner] for the value of the wool.[24] But did he not there spoil it[25] with his own hands?[26] — The reference therefore must be to the one of R. Meir which was taught: 'If a pitcher is broken and [the potsherds] are not removed, or a camel falls down and is not raised, R. Meir orders payment for any damage resulting therefrom, whereas the [other] Sages say that no action can be instituted in civil courts though there is liability according to divine justice,'[27] and we came to the conclusion[28] that they differed as to whether or not stumbling implies negligence.

Rabbah b. Bar Hanah said that R. Johanan stated that an expert slaughterer who did not carry out the slaughter properly[29] would be liable to pay, even if he was as skilled as the slaughterer of Sepphoris. But did R. Johanan really say so? Did Rabbah b. Bar Hanah not say that such a case came before R. Johanan in the synagogue of Maon[30] and he said to the slaughterer. 'Go and bring evidence that you are skilled to slaughter hens, and I will declare you exempt'? — There is, however, no difficulty, as the latter ruling was [in a case where the slaughterer was working] gratuitously whereas the former ruling applies [where the slaughterer works] for hire,[31] exactly as R. Zera said: If one wants the slaughterer to become liable to him,[32] he shall give him a dinarius beforehand.[31]

An objection was raised: If wheat was brought to be ground and the miller omitted to moisten it and he made it into branflour or coarse bran, or if flour [was given] to a baker and he made out of it bread which crumbled, or an animal to a slaughterer and he rendered it nebelah,[33] he would be liable, as he is on the same footing as a worker who receives hire.[34] [Does this not imply that he was working gratuitously? — No.] read: 'Because he is a worker receiving hire.'[31]

A case of magrumeta[35] was brought before Rab, who declared it trefa and nevertheless released the slaughterer from any payment. When R. Kahana and R. Assi met that man[36] they said to him: 'Rab did two things with you.' What was meant by these two things? If you say it meant two things to his[36] disadvantage, one that Rab should have declared it kasher in accordance with R. Jose b. Judah,[37] whereas he declared it trefa in accordance with the Rabbis,[37] and again that since he acted in accordance with the Rabbis,[37] he should at any rate have declared the slaughterer liable, is it permitted to say a thing like that? Was it not taught:[38] When [a judge] leaves [the court] he should not say, 'I wanted to declare you innocent, but as my colleagues insisted on declaring you liable I was unable to do anything since my colleagues formed a majority against me,' for to such behaviour is applied the verse, A tale-bearer revealeth secrets?[39] — It must therefore be said that the two things were to his[36] advantage, first that he did not let you eat a thing which was possibly forbidden, secondly that he restrained you from receiving payment which might possibly have been a misappropriation.

It was stated: If a denar was shown to a money changer [and he recommended it as good] but it was subsequently found to be bad, in one Baraitha it was taught that if he was an expert he would be exempt but if an amateur he would be liable, whereas in another Baraitha it was taught that whether he was an expert or an amateur he would be liable. R. Papa stated: The ruling that in the case of an expert he would be exempt refers to such, e.g., as Dankcho and Issur[40] who needed no [further] instruction whatever, but who made[41] a mistake regarding a new stamp at the time when the coin had just [for the first time] come from the mint.

There was a certain woman who showed a denar to R. Hiyya and he told her that it was good. Later she again came to him and said to him, 'I afterwards showed it [to others] and they said to me that it was bad, and in fact I could not pass it.' He therefore said to Rab: Go forth and change it for a good one and write down in my register that this was a bad business. But why [should he be different from] Dankcho and Issur[42] who would be exempt because they needed no instruction? Surely R. Hiyya also needed no instruction? — R. Hiyya acted within the 'margin of the judgment,'[43] on the principle learnt by R. Joseph: 'And shalt show them[44] means

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(1) V. p. 578, n. 11.
(2) Which could constitute valid consideration.
(3) I.e., a coin which constitutes the minimum of value in legal matters.
(4) V. Sanh. 19b.
(5) The article having been already returned to her.
(6) This was spoken to a prospective wife.
(7) V. p. 578. n. 8.
(8) V. p. 579, n. 7.
(9) Kid. 48b.
(10) [R. Nathan holding that it is, whereas the first Tanna holds that there is no liability except at the very end.]
(11) [R. Nathan maintains that the woman thinks primarily of the debt, while, according to R. Judah the Prince she thinks more of the perutah.]
(12) As required by the ritual, and has thus rendered the animal unfit for consumption according to the dietary laws.
(13) Of the throat.
(14) Where he could be made liable even in the absence of carelessness.
(15) I.e., unfit for consumption through a flaw in the slaughter; v. Glos.
(16) As he had no right to slaughter.
(17) I.e., Samuel to R. Hama.
(18) I.e., Samuel to the other Rabbi.
(19) R. Hama.
(20) V. p. 580, n. 9.
(21) Keyword consisting of the Hebrew initial words of the three teachings that follow.
(22) Supra 45b.
(23) [V. loc. cit. This case cannot accordingly be appealed to as precedent.]
(24) Infra 100b.
(25) Lit., 'burn it'.
(26) Since he intended to dye it in that colour in which he actually dyed it, whereas in the case of the slaughterer, the damage looks more like an accident.
(27) Supra 28b-29a.
(28) [R. Meir holding that a human being must take greater heed to himself.]
(29) V. p. 580, n. 8.
(30) [In Judah, I Sam. XXIII, 24.]
(31) V. p. 580, n. 10.
(32) Were the slaughter not carried out effectively.
(33) V. p. 581, n. 1.
(34) Tosef. B.K. X, 4 and B.B. 93b.
(35) I.e., where the slaughter was started in the appropriate part of the throat but was finished higher up, in which matter

there is a difference of opinion between R. Jose b. Judah and the Rabbis in Hul. 1, 3.
(36) I.e., the owner of the animal.
(37) Hul. ibid.
(38) Sanh. 29a.
(39) Prov. XI, 13.
(40) Two renowned money changers in those days.
(41) Lit., 'But where was their mistake; they made, etc.
(42) V. p. 583. n. 8.
(43) For the sake of equity and mere ethical considerations. [On this principle termed lifenim mi-shurath ha-din according to which man is exhorted not to insist on his legal rights. v. Herford, Talmud and Apocrypha, pp. 140, 280. That there was nothing Essenic in that attitude, but that it is a recognised principle in Rabbinic ethics has already been shown by Buchler, Types, p. 37.]
(44) Ex. XVIII, 20; the verse continues, the way wherein they must walk and the work.

Talmud - Mas. Baba Kama 100a

the source of their livelihood;[1] the way means deeds of lovingkindness; they must walk means the visitation of the sick; wherein means burial, and the work means the law; which they must do means within the margin of the judgment.'[2] Resh Lakish showed a denar to R. Eleazar who told him that it was good. He said to him: You see that I rely upon you. He replied: Suppose you do rely on me, what of it? Do you think that if it is found bad I would have to exchange it [for a good one]? Did not you yourself state that it was [only] R. Meir who adjudicates liability in an action for damage done indirectly,[3] which apparently means that it was only R. Meir who maintained so whereas we did not hold in accordance with his view? — But he said to him: No; R. Meir maintained so and we hold with him. But to what [statement of] R. Meir [was the reference]? It could hardly be the one of R. Meir which we learned: If a judge in giving judgment [in a certain case] has declared innocent the person who was really liable or made liable a person who was really innocent, declared defiled a thing which was levitically clean, or declared clean a thing which was really defiled,[4] his decision would stand, but he would have to make reparation out of his own estate,[5] for was it not taught in connection with this that R. Elai said that Rab stated[6] that [this would be so] only where he personally executed the judgment by his own hand?[7] The reference therefore appears to be the one of R. Meir which we learned: [If wool was handed over to a dyer] to dye it red but he dyed it black, or to dye it black and he dyed it red, R. Meir says that he would have to pay [the owner] for the value of his wool.[8] But did he not in that case also spoil it with his own hands?[9] The reference must therefore be to the one of R. Meir which we learned: He who with [the branches of] his vine covers the crops of his fellow renders them proscribed[10] and will be liable for damages.[11] But there also did he not do the mischief with his own hands? The reference must therefore be to the one of R. Meir which was taught: 'If the fence of a vineyard [near a field of crops] is broken through,

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(1) Either the means of an honest livelihood, as explained by Rashi on B.M. 30b or the study of the living law, as interpreted by Rashi a.l.
(2) B.M. 30b.
(3) Supra 98b.
(4) And it so happened that that thing was consequently mixed with clean things and this spoiled them all; v. Sanh. (Sonc. ed.) p. 210, nn. 6-8.
(5) Bk. IV, 4.
(6) Bek. 28b.
(7) I.e., where he acted both as judge and executive officer, in which case the damage was directly committed by him personally.
(8) V. next Mishnah.
(9) By dyeing it the wrong colour.
(10) In accordance with Deut. XXII, 9.

(11) Kil. VII, 4.

Talmud - Mas. Baba Kama 100b

[the owner of the crops] may request [the owner of the vineyard] to repair it;[1] so also if it is broken through again he may similarly request him to repair it. But if the owner of the vineyard abandons it altogether and does not repair it he would render the produce proscribed and would incur full responsibility.[2]

MISHNAH. IF WOOL WAS GIVEN TO A DYER AND THE DYE[3] BURNT IT, HE WOULD HAVE TO PAY THE OWNER THE VALUE OF HIS WOOL. BUT IF HE DYED IT KA'UR,[4] THEN IF THE INCREASE IN VALUE[5] IS GREATER THAN HIS OUTLAY THE OWNER WOULD GIVE HIM ONLY THE OUTLAY, WHEREAS IF THE OUTLAY[6] WAS GREATER THAN THE INCREASE IN VALUE HE WOULD HAVE TO PAY HIM THE AMOUNT OF THE INCREASE, [WHERE WOOL WAS HANDED TO A DYER] TO DYE RED AND HE DYED IT BLACK, OR TO DYE BLACK AND HE DYED IT RED, R. MEIR SAYS THAT HE WOULD HAVE TO PAY [THE OWNER] FOR THE VALUE OF HIS WOOL. R. JUDAH, HOWEVER, SAYS: IF THE INCREASE IN VALUE[7] IS GREATER THAN THE OUTLAY, THE OWNER WOULD PAY THE DYER HIS OUTLAY, WHEREAS IF THE OUTLAY EXCEEDED THE INCREASE IN VALUE HE WOULD HAVE TO PAY HIM NO MORE THAN THE INCREASE.[8]

GEMARA. What does KA'UR mean? — R. Nahman said that Rabbah b. Bar Hanah stated: It means that the ‘copper’[9] dyed it. What is meant by saying that the ‘copper’ dyed it? — Said Rabbah b. Samuel:

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(1) For otherwise he would have to remove his vines four cubits from the border; cf. B.B. 26a.

(2) V. B.B. (Sonc. ed.) p. 2 and notes.

(3) Lit., ‘The cauldron’, ‘the dyer's kettle’.

(4) Explained in the Gemara.

(5) Resulting from the work done by him.

(6) Incurred by the dyer.

(7) V. p. 585, n. 11.

(8) V. supra 95a-b.

(9) **

Talmud - Mas. Baba Kama 101a

He dyed it with the sediments of the kettles.

Our Rabbis taught: If pieces of wood were given to a joiner to make a chair and he made a bench out of them, or to make a bench and he made a chair out of them R. Meir says that he will have to refund to the owner the value of his wood, whereas R. Judah says that if the increase in value exceeds his outlay the owner would pay the joiner his outlay, whereas if the outlay exceeds the increase in value he would have to pay him no more than the increase. R. Meir, however, agrees that where pieces of wood were given to a joiner to make a handsome chair out of and he made an ugly chair out of them, or to make a handsome bench and he made an ugly one if the increased value would exceed the outlay the owner would pay the joiner the amount of his outlay, whereas if the outlay exceeded the increase in value he would have to pay him no more than the amount of the increase.

It was asked: Is the improvement effected by colours a [separate] item independent of the wool, or is the improvement effected by colours not a [separate] item independent of the wool? How can such a question arise in practice? The case can hardly be one where a man misappropriated pigments and after having crushed and dissolved them he dyed wool with them,for would he not have acquired title to them through the change which they underwent?[1] — No; the query could have application only where he misappropriated pigments already dissolved and used them for dyeing, so that if the improvement effected by colours is a [separate] item independent of the wool the plaintiff might plead: ‘Give me back the dyes which you have taken from me’,[2] but if on the other hand the improvement effected by colours is not a [separate] item independent of the wool the defendant might say to him: ‘I have nothing of yours with me.’ But I would here say: [Even] if the improvement effected by colours is not a [separate] item independent of the wool, why should the defendant be able to say to him: ‘I have nothing of yours with me’, seeing that the plaintiff can say to him: ‘Give me back the pigments of which you have deprived me’?[3] — We must therefore take the other alternative: Are we to say that the improvement effected by colours is not a [separate] item independent of the wool and the defendant would have to pay him,[4] or is the improvement effected by colours a [separate] item independent of the wool and the defendant can say to him: ‘Here are your dyes before you and you can take them away.’[5] But how can he take them away? By means of soap? But soap would surely remove them without making any restitution![6] — We must therefore be dealing here [in the query] with a case were e.g., a robber misappropriated dyes and wool of one and the same owner, and dyed that wool with those dyes and was returning to him that wool. Now, if the improvement effected by colours is a [separate] item independent of the wool, the robber would thus be returning both the dyes and the wool, but if the improvement effected by colours is not a [separate] item independent of the wool, it was only the wool which he was returning, whereas the dyes he was not returning.[7] But I would still say: Why should it not be sufficient [for the robber to do this] seeing that he caused the wool to increase in value?[8] — No: the query might have application where coloured wool had meanwhile depreciated in price.[9] Or if you wish I may say that it refers to where e.g., he painted with them an ape[10] [in which case there was thereby no increase in value]. Rabina said: We were dealing here [in the query] with a case where e.g., the wool belonged to one person and the dyes to another,[11] and as an ape[12] came along and dyed that wool of the one with those dyes of the other; now, is the improvement effected by the colours a [separate] item independent of the wool so that the owner of the dyes is entitled to say to the owner of the wool: ‘Give me my dyes which are with you’,[13] or is the improvement effected by colours not a [separate] item apart from the wool, so that he might retort to him: ‘I have nothing belonging to you’? — Come and hear: A garment which was dyed with the shells of the fruits of ‘Orlah[14] has to be destroyed by fire.[15] This proves that appearance is a distinct item [in valuation]![16] — Said Raba: [It is different in this case where] any benefit visible to the eye[17] was forbidden by the Torah as taught Uncircumcised: it shall not be eaten of;[18] this gives me only its prohibition as food. Whence do I learn that no other benefit should be derived from it, that it should not be used for dyeing with, that a candle should not be lit with it? It was therefore stated further, Ye shall count the fruit thereof as uncircumcised: . . . . uncircumcised, it shall not be eaten of, for the purpose of including all of these.[19]

Come and hear: A garment which was dyed with the shells [of the fruits] of the sabbatical year has to be destroyed by fire![20] — It is different there, as Scripture stated: ‘It shall be’[21] implying that it must always be as it was.[22]

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(1) And the whole liability upon him would be to pay the original value of the dyes as supra p. 541.

(2) Since his dyes form now an integral part of the defendant's wool.

(3) And with reference to which you have accordingly become subject to the law of robbery.

(4) For the dyes.

(5) I.e., remove them from the wool.

(6) To which a robber is subject; cf. Lev. V, 23.

(7) And would therefore still have to pay for the dyes.

(8) By having dyed it with the dyes misappropriated from the same plaintiff.

(9) And the increase through the process of dyeing is below the price of the dyes, [in which case the plaintiff can say that he would have sold the pigments before the depreciation].

(10) Or as interpreted by others 'a basket of willows' which he misappropriated from the same plaintiff.

(11) And it was not a case of misappropriation at all.

(12) Belonging to no particular owner who could be made liable.

(13) V. p. 587. n. 2.

(14) I.e., the fruit in the first three years of the plantation of the tree; cf. Glos.

(15) 'Orl. III, 1. 'Orlah is proscribed from any use; cf. Lev. XIX, 23.

(16) To render the garment itself proscribed.

(17) Cf. Me'il. 20a.

(18) Lev. XIX, 23.

(19) Pes. 22b. Kid. 56b. 'Orlah thus affords no precedent.

(20) Now, could it not be proved from this that mere colour is a distinct item!

(21) Lev. XXV, 7.

(22) Even after it has been changed and altered by various processes.

Talmud - Mas. Baba Kama 101b

Raba pointed out a contradiction. We have learnt: 'A garment which was dyed with the shells [of the fruits] of 'Orlah has to be destroyed by fire,' thus proving that colour is a distinct item; but a contradiction could be pointed out: 'If a quarter [of a log][1] of [the] blood [of a dead person] has been absorbed in the floor of a house, [all in] the house[2] would become defiled,[3] or as others say, '[all in] the house would not be defiled'; these two statements, however, do not differ, as the former refers to utensils which were there at the beginning,[4] whereas the latter refers to the utensils which were brought there subsequently [after the blood was already absorbed 'in the ground].[5] 'If the blood was absorbed in a garment, we have to see: if on the garment being washed a quarter [of a log] of blood would come out of it,[6] it would cause defilement,[7] but if not, it would not cause defilement'![8] — Said R. Kahana: The ruling stated in this Mishnah is one of concessions made in respect of quarters [of a log], applicable in the case of blood of one weltering in his blood who defiles by [mere] Rabbinic enactment.[9]

Raba again pointed out a contradiction: We have learnt: '[Among] the species of dyes, the aftergrowths of woad and madder are subject to the law of the sabbatical year,[10] and so also is any value received for them subject to the law of the sabbatical year; they are subject to the law of removal[11] and any value received for them is similarly subject to the law of removal,'[12] thus proving that wood is subject to the sanctity of the sabbatical year; but a contradiction could be pointed out: 'leaves of reeds and leaves of vines which have been heaped up for the purpose of making them into a hiding place upon a field, if they were gathered to be eaten would be subject to the sanctity of the sabbatical year but if they were gathered for firewood they would not be subject to the sanctity of the sabbatical year'![13] — But he himself answered: Scripture stated: 'for food',[14] implying that the law applies only to produce from which a benefit is derived at the time of its consumption,[15] so that the wood for fuel is excluded as the benefit derived from it[16] is after its consumption. But is there not the wood of the pine tree [used for torches] from which a benefit is derived at the time of its consumption? — Raba said:

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(1) A liquid measure; cf. Glos.

(2) Subject to defilement.

(3) As a quarter of a log of blood of a dead person is equal in law to the corpse itself and is subject to Num. XIX, 14.

(4) I.e., before the blood was absorbed in the ground when it caused defilement.

(5) And could no more cause defilement.

(6) As to the way of calculation, v. Rashi and Tosaf. a.l.

(7) As the blood is in stich a case still considered present and existing in the garment.

(8) Because the blood could no more be considered present in the garment. Oh. III, 2. This proves that a mere colour is not a distinct item.
(9) Since it was doubtful whether the quarter of the log of blood oozed out while the person was still alive and clean or afterwards and unclean; cf. Nid. 71a.
(10) Lev. XXV. 2-7.
(11) From the house into the field as soon as similar crops are no more to be found in the field; cf. Sheb. IX. 2-3.
(12) Sheb. VII, 1.
(13) Suk. 40a. Now, does this not prove that wood is not subject to the law of the sabbatical year?
(14) Lev. XXV, 6.
(15) Such as is the case with fruits as food.
(16) For heating purposes.

Talmud - Mas. Baba Kama 102a

Wood as a rule is meant for heating.[1]

R. Kahana said: Whether [or not] we say in regard to the Sabbatical Year that wood is meant as a rule for heating was a matter of difference between the following Tannaim, as taught: The produce of the Sabbatical Year should be handed over neither for the purpose of steeping nor for the purpose of washing with them. R. Jose, however, says that the products of the Sabbatical Year may be put into steep and into the wash.[2] Now, what was the reason of the Rabbis?[3] Because Scripture said, ‘for food’ implying not for the purpose of steeping, ‘for food’ and not for the purpose of washing. But R. Jose said that Scripture stated ‘for you’,[4] implying, for all your needs. But also according to the Rabbis was it not stated: ‘for you’? — ‘for you’[5] should be analogous to ‘for food’, referring thus to any uses by which a benefit is derived from the products at the very time of their consumption, excluding thus the purposes of steeping and washing where the benefit is derived from the products after their consumption.[6] But what does R. Jose make of ‘for food’?[7] — He might say to you that that was solely necessary for the ruling [of the Baraitha], as taught: ‘for food’, but not for a plaster. You say ‘for food’, but not for a plaster; why perhaps not otherwise, ‘for food’ but not for the purpose of washing? When it says ‘for you’[8] the purpose of washing is indicated; what then do I make of ‘for food’ [if not] ‘for food’, but not for a plaster. But what reason had you for including the purpose of washing and excluding the purpose of a plaster? — I include the purpose of washing as this is a requirement shared alike by all people,[9] but exclude the purpose of plaster which is a requirement not shared alike by all people.[10] Now, whose view would be followed in that statement which was taught: "’for food" but not for a plaster. "for food" but not for perfume, "for food" but not to make it into an emetic’? — It must be in accordance with R. Jose, for if in accordance with the Rabbis, the purpose of washing and steeping [should also be excluded].

R. JUDAH, HOWEVER, SAYS: IF THE INCREASE IN VALUE etc. (Mnemonic: Saban)[11] R. Joseph was once sitting behind R. Abba in the presence of R. Huna, who was sitting and stating that the halachah was in accordance with R. Joshua b. Karhah and again that the halachah was in accordance with R. Judah. R. Joseph thereupon turned his face towards him[12] and said: I understand his mentioning R. Joshua b. Karhah, as it was necessary to state that the halachah is in accordance with him, since you might have been inclined to think that the principle that where an individual differs from the majority the halachah is in accordance with the majority[13] [applies also] here; it was therefore made known to us that [in this] case the halachah is in accordance with the individual. (What statement of R. Joshua b. Karhah is referred to? — That which was taught: ‘R. Joshua b. Karhah says that a debt [recorded] in an instrument should not be collected from them,[14] whereas debts [contracted by mere word] of mouth may be collected from them because this is no more than rescuing one's money from the hands of the debtors.’)[15] But why was it necessary to state that the halachah was in accordance with R. Judah? For his view was in the first instance stated as a point at issue [between the authorities] and subsequently as an anonymous ruling; and it is an established rule that if a view is first dealt with as a point at issue and then stated anonymously, the halachah is in accordance with the anonymous statement![16] The point at issue in this case was in Baba Kamma [IF WOOL WAS HANDED OVER TO A DYER] TO DYE IT RED BUT HE DYED IT BLACK, OR TO DYE IT BLACK BUT HE DYED IT RED, R. MEIR SAYS THAT HE WOULD HAVE TO PAY [THE OWNER] FOR THE VALUE OF HIS WOOL. BUT R. JUDAH SAYS: IF THE INCREASE IN VALUE EXCEEDS THE OUTLAY, THE OWNER WOULD REPAY TO THE DYER HIS OUTLAY, WHILE IF THE OUTLAY EXCEEDED THE INCREASE IN VALUE HE WOULD HAVE TO PAY HIM NO MORE THAN THE AMOUNT OF THE INCREASE, whereas the anonymous statement was made in Baba Mezi'a where we have learnt: ‘Whichever party departs from the terms of the agreement is at a disadvantage, so also whichever party retracts from the agreement has the inferior claim’![17] — R. Huna considered that it was necessary for him to state so, since otherwise you might have thought that there was no precise order for [the teaching of] the Mishnah[18] so that this [ruling of R. Judah] might perhaps have been in the first instance anonymous but subsequently a point at issue.[19] [What does] R. Joseph [say to this]? — [He says] that if so, wherever a ruling is first a point at issue and then stated anonymously,[20] it might be questioned that as no precise order may have been kept in [the teaching of] the Mishnah it might have been anonymous in the first instance and a point at issue later on![19] To this R. Huna would answer that we never say that there was no precise order in [the teaching of] the Mishnah in one and the same tractate, whereas in the case of two tractates we might indeed say so. R. Joseph however considered the whole of Nezikin[21] to form only one tractate. If you like, again, I may say that it is because this ruling was stated among fixed laws: ‘Whichever party departs from the terms of the agreement is at a disadvantage, and so also whichever party retracts from the argument has an inferior claim.’[22]

Our Rabbis taught: ‘Where money was given to an agent

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(1) In which case the benefit is derived after the wood has already been burnt.

(2) Suk. 40a.

(3) The first Tanna.

(4) Lev. XXV. 6: And the sabbath-produce of the land shall be for food for you.

(5) Implying, for all your needs.

(6) As when flax or a garment is put into wine the latter is spoilt before the former becomes thereby improved. According to the interpretation of Rashi a.l., R. Jose would maintain that we do not say that wood as a rule is destined for the purpose of heating, even as we do not say that fruits are meant only for eating and not for steeping or washing, whereas the Rabbis maintained otherwise; cf. however Tosaf. a.l., Rashi and Tosaf. on Suk. 40a.

(7) Thus most probably excluding washing and steeping.

(8) V. p. 590. n. 10.

(9) Cf. Keth. 7a.

(10) As it is used only by people afflicted with wounds.

(11) Standing for the names of the three Rabbis that follow: Joseph, ABba, Huna.

(12) Suk. 11a.

(13) Ber. 9a.

(14) I.e., from idolaters during the three days immediately before their religious festivals, as this might be a cause of special rejoicing to them and for offering additional thanksgiving to their idols, v. A.Z. 6b.

(15) Since no documentary proof against them is available.

(16) Yeb. 42b.

(17) B.M. VI, 2. Why then was it necessary for R. Huna to state explicitly that the halachah is in accordance with the view of R. Judah?

(18) Though its compilation was according to a definite plan and system; cf. Tosaf. a.l.

(19) In which case the anonymous statement does not constitute the accepted halachah.

(20) Where the anonymous statement is considered to be the accepted halachah.

(21) According to R. Sherira Gaon, Maim. and others this refers only to B.K., B.M. and B.B. which constitute three gates of one tractate but not to Sanhedrin and the other tractates of this Order. A different view is taken by Ritba and others; cf. Yad Malachi 338, and Tosaf. Yom Tob in his introduction to Nezikin.

(22) B.M. VI. 2. So that there was no need for R. Huna to state that the halachah rested with R. Judah.

Talmud - Mas. Baba Kama 102b

to buy wheats and he bought with it barley, or barley and he bought with it wheat,[1] it was taught in one Baraitha that 'if there was a loss, the loss would be sustained by him,[2] and so also if there was a profit, the profit would be enjoyed by him,'[2] but in another Baraitha it was taught that 'if there was a loss, he would sustain the loss, but if there was a profit, the profit would be divided between them.'[3] [Why this difference of opinion?] — Said R. Johanan: There is no difficulty, as one[4] was in accordance with R. Meir and the other with R. Judah; the former was in accordance with R. Meir who said[5] that a change transfers ownership,[6] whereas the latter was in accordance with R. Judah who said[5] that a change does not transfer ownership.[7] R. Eleazar demurred: Whence [can you know this]? May it not be perhaps that R. Meir meant his view to apply only to a matter which was intended to be used by the owner personally,[8] but in regard to matters of merchandise[9] he would not say so?[10] — R. Eleazar therefore said that one as well as the other [Baraitha] might be in accordance with R. Meir, and there would still be no difficulty as the former dealt with a case where the grain was bought for domestic food,[11] whereas in the latter[12] it was bought for merchandise.[13] Moreover, in the West they were even amused[14] at the statement of R. Johanan regarding the view of R. Judah.[7] for [they said] who was it that informed the vendor of the wheat so that he might transfer the ownership of the wheat to the owner of the money?[15] R. Samuel b. Sasarti demurred: If so, why not also say the same even in the case where wheat [was wanted by the principal] and wheat [was bought by the agent]?[16] — R. Abbahu however said: The case where wheat [was wanted] and wheat [was bought] is different, as in this case the agent was acting for the principal upon the terms of his mandate and it is the same [in law] as if the principal himself had done it.[17] This could even be proved from what we have learnt: Neither in the case of one who has declared his possessions consecrated nor in the case of one who has dedicated the valuation of himself[18] can the Temple treasurer claim either the garments of the wife or the garments of the children[19] or the articles which were dyed for them or the new foot-wear bought for them.[20] Now, why not ask here also: Who informed the dyer that he was transferring the ownership of his dye to the wife?[21] But must we not then answer that since the husband was acting on behalf of his wife it is considered as if this was done by the actual hand of the wife? [If so,] also there as the agent was acting upon a mandate[22] it is considered as if the purchase of the wheat had been done by the actual hand of the principal. R. Abba, however, said: No; it was because when a man declares his possessions sacred, he has no intention to include the garments of his wife and children.[19] R. Zera demurred: Could it be said that in such circumstances a man would include in his mind even his Tefillin,[23] and we have nevertheless learnt that 'in the case of one who declares his possessions sacred, even his Tefillin would have to be included in the estimate'?[24] — Abaye, however, said to him: Yes, it is quite possible that a man may in his mind include even his Tefillin, as he who declares his possessions consecrated surely thinks that he is performing a commandment,[25] but no man would in his mind include the garments of his wife and children as this would create ill feeling.[26] R. Oshaia demurred: Was this not stated here as applying also to liabilities for vows of value, regarding which case we have learnt that those who have incurred liabilities for vows of value can be forced to give a pledge,[27] though it could hardly be said that it was in the mind of a man that the giving of a pledge should be enforced upon himself? — R. Abba therefore said: One who declares his possessions consecrated is regarded as having from the very beginning transferred the ownership of the garments of his wife and children to them.

Our Rabbis taught: If one man buys a field in the name of another, he cannot compel the latter to sell it to him; but if he explicitly made this stipulation with the vendor he could force him to sell. What does this mean? Said R. Shesheth: What is meant is this: If one man buys a field from another in the name of the Exilarch,[28] he cannot subsequently force the Exilarch to sell it to him[29] , but if [when buying it] he explicitly made this stipulation[30] he could compel the Exilarch to sell it.[29]

The Master stated: ‘If one buys a field in the name of the Exilarch, he cannot subsequently force the Exilarch to sell it’, thus implying that he[31] would surely acquire title to it.[32] Shall we say that this differs from the view of the scholars of the West[33] who stated: Who indeed informed the vendor of the wheat so that he may transfer the ownership of the wheat to the owner of the money? — As far as that goes there would be no difficulty, as this could hold good where e.g.,the vendee made this known to the owner of the field and also informed the witnesses [who signed the deed] about it. Read, however, the concluding clause: ‘[But if when buying it he explicitly made] this stipulation[30] he cold compel the Exilarch to sell it.’[29] But why should it be so? Why should the Exilarch not be entitled to say: ‘I want neither your compliments[34] nor your insults.’[35] Abaye therefore said: what was meant was this: If one buys a field in the name of another

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(1) With the understanding that the Profit if any will be shared equally by principal and agent.

(2) I.e., the agent.

(3) I.e., between principal and agent in accordance with the original arrangement.

(4) I.e., the former Baraitha.

(5) In the case of wool given to a dyer to dye red and he dyed it black, as supra p. 586.

(6) From which it would follow that on account of the change in the object purchased the ownership of it passed over to the agent who would thus enjoy the whole of any profit derived.

(7) So that the principal is thus entitled to share any profit that may result from the transaction, though in the case of a loss he can back out and put it completely on the agent as he acted not in accordance with his mandate.

(8) Such as wool to be used for his own garment, and a chair for his own use, as supra p. 586.

(9) As was the case here with the wheat or barley.

(10) For in such a case where the principal was merely out for profit he surely did not intend to distinguish between the objects of the purchase.

(11) Which is on a par with the case of wool and where a change transfers ownership; v. n. 2.

(12) Stating that the profit would be divided between principal and agent.

(13) V. supra n. 6.

(14) V. Sanh. 17b.

(15) Why then should the wheat not altogether be the property of the agent since he acted ultra vires and thus set aside the mandate.

(16) . Since the vendor had no knowledge of the existence of the contract of agency between the purchaser and the principal.

(17) Whereas in the case before us where the agent acted against the instructions, the mandate has thereby been set aside and the purchase could no more be ascribed to the principal.

(18) Lev. XXVII, 1 ff.

(19) Cf. supra p. 46.

(20) ‘Ar. VI, 5.

(21) But if the ownership of the dye was transferred to the husband and not to his wife, why then should the Temple treasurer have no claim on it.

(22) And not ultra vires.

(23) I.e., Phylacteries; cf. Deut. VI. 8.

(24) ‘Ar. 23b. V. B.B. (Sonc. ed.) p. 652, n. 11.

(25) Which in his view outweighs that of Deut. VI, 8.

(26) And thus counteract the very purpose and function of sanctity and Sanctuary; Isa. LXI, 8 and Mal. I, 13; Mak. 11a.

(27) ‘Ar. 21a, supra 40a.

(28) He asked him to draw up the deed in the name of the Exilarch for the purpose of frightening away possible disputants.

(29) I.e., to draw up a new deed in the name of the actual purchaser.

(30) To the vendor.

(31) I.e., the actual purchaser.

(32) Though the deed was drawn up in the name of the Exilarch.

(33) V. supra p. 594.
(34) In drawing up the deed in my name.
(35) In making me appear as a dealer in land.

Talmud - Mas. Baba Kama 103a

[such as] the Exilarch[1] he cannot compel the vendor to sell it to him again. But if when buying it he explicitly made this stipulation he could compel the vendor to sell it to him again.[2] The Master stated: 'If one man buys a field in the name of another [such as] the Exilarch, he cannot compel the vendor to sell it to him again'. But is this not quite obvious? — You might, however, have said that the vendee could argue: 'You very well knew that I was taking the field for myself, and that [in buying it in the name of the other person] I merely wanted protection, and as I was surely not prepared to throw away money for nothing I undoubtedly made the purchase on the understanding that a new deed should be drawn up for me [by you].' It is therefore made known to us that the vendor can retort to him: 'It is for you to make arrangements with the person in whose name you bought the field that he should draw up for you a new title deed.'

'But if when buying it he explicitly made this stipulation he could compel the vendor to sell it to him again.' But is this not obvious? — No, it is required to meet the case where the vendee said to the witnesses in the presence of the vendor: 'You see that I want another deed.' You might in this case think that the vendor could say to him: 'I thought that you referred to a deed to be drawn up by the one in whose name you bought the field'; it is therefore made known to us that the vendee can reply to him: 'It was for that purpose that I took the trouble and stated to the witnesses in your own presence, [to show] that it was from you that I wanted the other deed.'

R. Kahana transmitted some money for the purchase of flax. But as flax subsequently went up in price, the owners of the flax sold it [on his behalf]. He thereupon came before Rab and said to him: What shall I do? May I go and accept the purchase money?[3] — He replied to him: If when they sold it they stated that it was Kahana's flax, you may go and receive the money,[4] but if not you may not accept it.[5] But was this ruling made in accordance with the view of the Western scholars who asked: 'Who was it that informed the vendor of the wheat so that he might transfer the ownership of his wheat to the owner of the money?[6] [But what comparison is there?] Had R. Kahana given four to receive eight [so that it were usury]? Was it not his flax[7] which had by itself gone up in price and which was definitely misappropriated [by the vendors],[8] and regarding this we have learnt that 'All kinds of robbers have to pay in accordance with the value at the time of the robbery'?[9] — It may, however, be said that there it was a case of advance payment.[10] and R. Kahana had never pulled the flax [to acquire title to it],[11] and Rab was following his own reasoning, for Rab [elsewhere] stated: Advance payment[10] [at present prices] may be made for [the future delivery of] products,[12] but no advance payment [at present prices] may be made [if the value of the products will subsequently be paid] in actual money[13] [in lieu of them].

MISHNAH. IF ONE MAN ROBBED ANOTHER TO THE EXTENT OF A PERUTAH[14] AND TOOK [NEVERTHELESS] AN OATH[15] [THAT HE DID NOT DO SO], HE WOULD HAVE TO CONVEY IT PERSONALLY TO HIM[16] [EVEN AS FAR AS] TO MEDIA.[17] HE MAY GIVE IT NEITHER TO HIS SON NOR TO HIS AGENT, THOUGH HE MAY GIVE IT TO THE SHERIFF OF THE COURT OF LAW. IF THE PLAINTIFF DIED, THE ROBBER WOULD HAVE TO RESTORE IT TO THE HEIRS. IF HE REFUNDED TO HIM THE PRINCIPAL BUT DID NOT PAY HIM THE [ADDITIONAL] FIFTH,[18] OR IF THE OTHER EXCUSED HIM THE PRINCIPAL THOUGH NOT THE FIFTH, OR EXCUSED HIM BOTH ONE AND THE OTHER, WITH THE EXCEPTION, HOWEVER, OF LESS THAN THE VALUE OF A PERUTAH ON ACCOUNT OF THE PRINCIPAL, HE WOULD NOT HAVE TO GO AFTER HIM.[19] IF, HOWEVER, HE PAID HIM THE FIFTH BUT DID NOT REFUND THE PRINCIPAL, OR

WHERE THE OTHER EXCUSED HIM THE FIFTH BUT NOT THE PRINCIPAL, OR EVEN WHERE HE REMITTED HIM BOTH ONE AND THE OTHER, WITH THE EXCEPTION, HOWEVER, OF THE VALUE OF A PERUTAH ON ACCOUNT OF THE PRINCIPAL, HE WOULD HAVE TO CONVEY IT PERSONALLY TO HIM.[20] IF HE REFUNDED TO HIM THE PRINCIPAL AND TOOK AN OATH[21] REGARDING THE FIFTH,[18]

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(1) [MS.M. omits 'the Exilarch'; in curr. edd. it is bracketed.]

(2) V. p. 596, n. 2.

(3) For which the flax was sold to the subsequent purchasers; would the acceptance of this increase not be a violation of the laws of usury; v. Lev. XXV, 36-37. Cf. also B.M. V, 1.

(4) For in this case they acted on your behalf and the purchase money received was given to become yours.

(5) For it would appear that for a smaller amount of money received from you, you were subsequently given a bigger sum, and this is against the spirit of the law of usury.

(6) V. supra p 594. So that in this case too the purchase money received from the subsequent vendees was not automatically transferred to R. Kahana when his name was not mentioned at the time of the sale.

(7) After it had legally been transferred to him.

(8) Who sold it in his absence.

(9) Supra 93b. And the value of the flax at the time of robbery in this case was exactly the amount of the purchase money received for it at the second sale.

(10) I.e., when the vendors received the money from R. Kahana they were not yet in possession of flax at all, but acted in accordance with B.M. 72b.

(11) In accordance with Kid. I, 5 and B.M. IV, 2.

(12) I.e., where the very products stipulated for are to be delivered.

(13) As this case would amount to the handing over of a smaller sum of money to be paid by a bigger amount and would thus appear to act against the spirit of the prohibition of usury.

(14) A small coin (v. Glos.); this being the minimum amount of pecuniary value in the eyes of the law.

(15) Falsely.

(16) In accordance with Lev. V. 24.

(17) Even where silver and gold are not of great importance; cf. Isa. XIII, 17. also Kid. 12a.

(18) Lev. V, 24.

(19) As the payment of the Fifth is not an essential condition in the process of atonement.

(20) V. p. 598, n. 12.

(21) v. p. 598. n. 11.

Talmud - Mas. Baba Kama 103b

HE WOULD HAVE TO PAY HIM A FIFTH ON TOP OF THE FIFTH AND SO ON UNTIL THE PRINCIPAL BECOMES REDUCED TO LESS THAN THE VALUE OF A PERUTAH. SO ALSO IS THE CASE REGARDING A DEPOSIT, AS IT IS STATED: IN THAT WHICH WAS DELIVERED HIM TO KEEP, OR IN FELLOWSHIP, OR IN A THING TAKEN AWAY BY VIOLENCE, OR HATH DECEIVED HIS NEIGHBOUR, OR HATH FOUND THAT WHICH WAS LOST AND LIETH CONCERNING IT AND SWEARETH FALSELY,[1] HE HAS TO PAY THE PRINCIPAL AND THE FIFTH AND BRING A TRESPASS OFFERING.[2]

GEMARA. This is so [apparently] only where the robber had taken an oath against him, but if he had not yet taken an oath this would not be so. But would this be not in agreement either with R. Tarfon or with R. Akiba? For we have learnt: If a man robbed one out of five persons without knowing which one he robbed, and each one claims that he was robbed, he may set down the misappropriated article between them and depart. This is the view of R. Tarfon. R. Akiba, however, said that this is not the way to liberate him from sin; for this purpose he must restore the misappropriated article to each of them.[3] Now, in accordance with whose view is the ruling of our Mishnah? If in accordance with R. Tarfon, did he not say that even after he had sworn he may set down the misappropriated article among them and depart?[4] If again in accordance with R. Akiba, did he not say that even where no oath was taken he would have to restore the [value of the] misappropriated article to each of them? — It might still be in accordance with R. Akiba; for the statement of R. Akiba that he would have to pay for the misappropriated article to each of them was made only where an oath was taken, the reason being that Scripture stated: And give it unto him to whom it appertaineth in the day of his being guilty.[5] R. Tarfon, however, held that though an oath was taken, our Rabbis have still made an enactment to facilitate repentance, as indeed taught: R. Eleazar b. Zadok says: A general[6] enactment was laid down to the effect that where the expense of personally conveying the misappropriated article would be more than actual principal, he should be able to pay the principal and the Fifth to the Court of Law and thereupon bring his guilt offering and so obtain atonement. And R. Akiba?[7] — He argues that the Rabbis made the enactment only where he knew whom he robbed, in which case the amount misappropriated would ultimately be restored to the owner,[8] whereas where he robbed one of five persons and does not know whom he robbed, in which case the amount misappropriated could not be restored to its true owner, our Rabbis did surely not make the enactment.

R. Huna b. Judah raised an objection [from the following]: R. Simeon b. Eleazar said that R. Tarfon and R. Akiba did not differ in regard to one who bought [an article] from one out of five without knowing from whom he bought it, both holding that he may put down the purchase money among them and depart.[9] Where they differed was regarding one who robbed one out of five persons without knowing whom he robbed, R. Tarfon maintaining that he may leave the value of the misappropriated article among them and depart, whereas R. Akiba says that there could be no remedy for him unless he pays for the misappropriated article to each of them.[10] Now, if you assume that an oath was taken here, what difference is there between purchasing and misappropriating?[11]

Raba further objected [from the following]: It once happened that a certain pious man bought an article from two persons without knowing from whom he had bought it, and when he consulted R. Tarfon, the latter said to him: ‘Leave the purchase money among them and depart’, but when he came to R. Akiba he said to him: ‘There is no remedy for you unless you pay each of them.’ Now, if you assume that a [false] oath was taken here, would a pious man swear falsely?[12] Nor can you say that he first took an oath and subsequently became a pious man, since wherever we say that ‘it once happened with a certain pious man,’ he was either R. Judah b. Baba or R. Judah b. Il'ai,[13] and, as is well known, R. Judah b. Baba and R. Judah b. Il'ai were pious men from the very beginning![14] — [The ruling of the Mishnah] must therefore be in accordance with R. Tarfon, for R. Tarfon would agree where a false oath was taken,[15] the reason being that Scripture stated, And give it unto him to whom it appertaineth in the day of his trespass offering.[16] but R. Akiba maintained that even where no oath was taken, a fine has to be imposed.

Now, according to R. Tarfon, let us see. Where he took an oath he would surely not be subject [to the law][17] unless he admitted his guilt.[18] Why then only in the case where HE TOOK AN OATH? Would not the same hold good even where no oath was taken, as indeed taught: ‘R. Tarfon agrees that if a man says to two persons, I have robbed one of you and do not know whom, he would have to pay each of them a maneh[19]

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(1) Lev. V, 21-22.

(2) Ibid. 25.

(3) B.M. 37a. Yeb. 118b.

(4) Why then is the robber enjoined by the ruling in our Mishnah here to convey it to the plaintiff personally even so far as to Media?

(5) V. Lev. V, 24.

(6) Lit., ‘great’.

(7) What of the enactment?

(8) Through the Court of Law.
(9) As in this case no crime was committed by him.
(10) Yeb. 118b.
(11) Since in both cases the crime of perjury was committed.
(12) I.e. could a person who committed perjury be called pious?
(13) Tem. 15b; v. supra p. 454, n. 5.
(14) It is therefore pretty certain that in the case of the pious man no false oath was taken and that R. Akiba maintained his view even in such circumstances, and if so how could our Mishnah here have confined its ruling to cases of perjury?
(15) That proper restoration has to be made.
(16) Lev. V. 24.
(17) Laid down in our Mishnah.
(18) On the analogy of Num. V, 7.
(19) I.e., a hundred zuz; v. Glos.

Talmud - Mas. Baba Kama 104a

since he made a voluntary admission'?[1] — Raba therefore said: The case of our Mishnah is different altogether, for since he knows whom he robbed and in fact has admitted it, so that it is possible to restore the misappropriated value to the owner, it is considered as if the plaintiff had said to him: Let it [for time being] be in your possession. It is therefore only in the case where an oath was taken that though [it is considered as if] he said to him: Let it [for time being] be in your possession, yet since the robber is in need of atonement,[2] this is not sufficient until it actually comes into the plaintiff's hands, whereas where no oath was taken, the misappropriated article is considered as a deposit with him until the owner comes and takes it.[3]

HE MAY GIVE IT NEITHER TO HIS SON NOR TO HIS AGENT. It was taught: Where an agent was appointed in the presence of witnesses [to receive some payment of money] R. Hisda said that he would be a [properly accredited] agent,[4] but Rabbah said that he is still not an agent [to release the payer of responsibility]. R. Hisda said that he would be a [properly accredited] agent, for it was for this purpose that he took the trouble to appoint him in the presence of witnesses, so that he should stand in his place.[4] But Rabbah said that he is still not an agent [to release the payer of responsibility], for he meant merely to state that this man is honest and if you are prepared to rely upon him you may rely, and if you are prepared to send the payment through him you may send it through him.[5]

We have learnt: If one [agreed to] borrow a cow and the lender sent it by the hand of his son or by the hand of his slave or by the hand of his agent, or even by the hand of the son or by the hand of the slave or by the hand of the agent of the borrower, and it so happened that it died on the way, he would be exempt.[6] Now, how are we to picture this agent?[7] If he was not appointed[8] in the presence of witnesses, whence could we know that he was an agent at all? Must it therefore not be that he appointed him in the presence of witnesses and it is nevertheless stated that the [would-be] borrower is exempt, in contradiction to the view of R. Hisda? — It is as R. Hisda [elsewhere][9] said, that he was a hireling or a lodger of his;[10] so also here he was a hireling or a lodger of his.[10]

We have learnt: HE MAY GIVE IT NEITHER TO HIS SON NOR TO HIS AGENT.[11] How are we to picture this agent? If he did not appoint him in the presence of witnesses, whence could we know that he was appointed an agent at all? Does it therefore not mean that he appointed him in the presence of witnesses?[12] — R. Hisda however interpreted it as referring to a hireling or a lodger.[10] But what would be the law where the agent was appointed in the presence of witnesses? Would he indeed have to be considered a [properly accredited] agent?[13] Why then state in the concluding clause, HE MAY GIVE IT TO THE SHERIFF OF THE COURT OF LAW, and not make the distinction in the same case by saying that these statements refer only to an agent who was not appointed in the presence of witnesses, whereas if the agent was appointed in the presence of witnesses he would indeed be considered a [properly accredited] agent?[14] — It may, however, be said that on this point [the Tanna] could not state it absolutely. Regarding the sheriff of the Court, no matter whether the plaintiff authorised him or whether the robber authorised him, he could state it absolutely that he is considered a [properly accredited] agent, whereas regarding an agent appointed in the presence of witnesses who if he were appointed by the plaintiff would be considered an agent, but if appointed by the robber would certainly not be a valid agent, he could not State it so absolutely.[15] This would indeed be contrary to the view of the following Tanna, as taught: R. Simeon b. Eleazar says: If the sheriff of the Court of Law was authorised by the plaintiff [to receive payment] though not appointed by the robber [to act on his behalf], or if he was appointed by the robber [to act on his behalf] and the plaintiff sent and received the payment out of his hands, there would be no liability in the case of accident.[16]

R. Johanan and R. Eleazar both said that an agent appointed in the presence of witnesses would be a [properly accredited] agent;[14] for if you raise an objection from the ruling in our Mishnah,[17] [it might be answered] that the agent there was [not appointed but] placed at his[18] disposal, as where he said to him,[19] 'There is some money owing to me from a certain person who does not forward it to me. It may therefore be advisable for you to be seen by him, since perhaps he has found no one with whom to forward it,'[20] or as explained by R. Hisda, that he was a hireling or a lodger of his.[21]

Rab Judah said that Samuel stated that

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(1) Tosaf. Yeb. XIV, 3; B.M. 37b.

(2) Cf. Lev. V, 24-25.

(3) The Mishnah may thus be in agreement with either R. Akiba or R. Tarfon.

(4) And if some accident should happen with the money whilst still in his hands the payer would not be responsible

(5) But the money will still be in the charge of the payer.

(6) B.M. VIII, 3.

(7) Of the would-be borrower.

(8) By the would-be borrower.

(9) V. the discussion which follows.

(10) But not a duly accredited agent by law; cf. Shebu. 46b.

(11) Supra 103a.

(12) [And yet the robber is not released, by handing it over to him, from responsibility, which contradicts R. Hisda.]

(13) Even to the extent of having handed over to him by the robber the misappropriated article.

(14) V. previous note.

(15) Lit., 'it was not decided with him.'

(16) Cf. Tosef. X, 5. Proving that where it was the robber who appointed the sheriff, so long as the payment did not reach the plaintiff, the robber is not yet released from responsibility, as against the interpretation of the Mishnah releasing the robber in such a case.

(17) V. p. 603. n. 7.

(18) I.e., the robber's.

(19) I.e., to the agent.

(20) Such a request is by no means sufficient to render him an agent.

(21) Supra ibid.

Talmud - Mas. Baba Kama 104b

it is not right to forward [trust] money through a person whose power of attorney is authenticated by a mere figure,[1] even if witnesses are signed on it [to identify the authentication]. R. Johanan, however, said: If witnesses are signed on it [to identify the authentication] it may be forwarded. But I would fain say: In accordance with the view of Samuel what remedy is available?[2] — The same as in the case of R. Abba,[3] to whom money was owing from R. Joseph b. Hama,[4] and who therefore said to R. Safra:[5] 'When you go there, bring it to me,' and it so happened that when the latter came there, Raba the son [of the debtor] said to him, 'Did the creditor give you a written statement that by your accepting the money he will be deemed to have received it,?'[6] and as he said to him, 'No,' he rejoined, 'If so, go back first and let him give you a written statement that by your acceptance he will be deemed to have received the money.'[6] But ultimately he said to him, 'Even if he were to write that by your acceptance he will be deemed to have received the money,[6] it would be of no avail, for before you come back R. Abba might perhaps [in the meantime] have died,[7] and as the money would then already have been transferred to the heirs the receipt executed by R. Abba would be of no avail.'[8] 'What then,' he asked, 'can be the remedy?' — 'Go back and let him transfer to you the ownership of the money by dint of land,[9] and when you come back you will give us a written acknowledgment that you have received the money.'[10] as in the case of R. Papa[11] to whom twelve thousand zuz were owing from men of Be-Huzae[12] and who transferred the ownership of them to Samuel b. Abba[13] by dint of the threshold of his house,[9] and when the latter came back the former [was so pleased that he] went out to meet him as far as Tauak.[14]

IF HE REFUNDED HIM THE PRINCIPAL BUT DID NOT PAY HIM THE FIFTH . . . HE WOULD NOT HAVE TO GO AFTER HIM [FOR THAT]. This surely proves that the Fifth is a civil liability,[15] so that were the robber to die[16] the heirs would have to pay it. We have also learnt: IF HE REFUNDED TO HIM FOR THE PRINCIPAL AND TOOK AN OATH REGARDING THE FIFTH, HE WOULD HAVE TO PAY HIM A FIFTH ON TOP OF THE FIFTH, similarly proving that the Fifth is a civil liability. It was moreover taught to the same effect: If one man robbed another but took an oath [that he did not do so] and [after admitting his guilt he] died, the heirs would have to pay the principal and the Fifth, though they would be exempt from the trespass offering. Now, since heirs are subject to pay the Fifth which their father would have had to pay, [it surely proves that the Fifth is a civil liability which has to be met by heirs]. But a contradiction could be raised [from the following]: 'I would still say that the case where an heir has not to pay the Fifth for a robbery committed by his father is only where neither he nor his father took an oath.[17] Whence could it be proved that [the same holds good] where he though not his father, took an oath or his father but not he took an oath or even where both he and his father took oaths? From the significant words, That which he took by robbery or the thing which he hath gotten by oppression[18] whereas in this case he[19] has neither taken violently away nor deceived anybody.'[20] — Said R. Nahman: There is no contradiction, as in one case the father admitted his guilt [before he died],[21] whereas in the other he[22] never admitted it. But if no admission was made, why should the heirs have to pay even the principal? If, however, you argue that this will indeed be so [that they will not have to pay it].[23] since the whole discussion revolves here[23] around the Fifth, does it not show that the principal will have to be paid? It was moreover taught explicitly: 'I would still say that the case where an heir has to pay the principal for a robbery committed by his father was only where both he and his father took oaths or where his father though not he, or he though not his father took an oath, but whence could it be proved that [the same holds good] where neither he nor his father took an oath? From the significant words: The misappropriated article and the deceitfully gotten article, the lost article and the deposit[24] as [Yesh Talmud==] this is certainly a definite teaching.'[25] And when R. Huna was sitting and repeating this teaching, his son Rabbah[26] said to him: Did the Master mean to say Yesh Talmud [i.e. there is a definite teaching on this subject] or did the Master mean to say Yishtallemu [i.e., it stands to reason that the heirs should have to pay]? He replied to him: I said Yesh Talmud [i.e. there is a definite teaching on the subject] as I maintain that this could be amplified from the [added] Scriptural expressions.[27] — It must therefore be said that what was meant by the statement 'he made no admission' was that the father made no admission though the son did. But why should the son not become liable to pay even a Fifth for his own oath?[28] — It may, however, be said that the misappropriated article was no longer extant in this case.[29] But if the misappropriated article was no longer extant, why should he pay even the principal?[30] — No; it might have application where real possessions were left.[31] (But were even real possessions to be left, of what avail would it be since the liability is but an oral liability, and, as known,[32] a liability by mere word of mouth can be enforced neither on heirs nor on purchasers?[33] — It may however be said

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(1) Except at the sender's risk. If the figure was of people of great renown it would suffice; (Tosaf. a.l.)
(2) In the case of power of attorney that the payer be released from further responsibility.
(3) Who settled in the Land of Israel, for which cf. Ber. 24b.
(4) Who lived in Mehoza in Babylon. cf. Git. 14a.
(5) Who travelled extensively, cf. infra 116a.
(6) And thus released my father from further responsibility.
(7) On account of old age.
(8) For the contract of agency as any other executory contract would by the death of the principal become null and void, just as he then instantly becomes deprived of the ownership of all his possessions.
(9) In accordance with Kid. 26a, and supra p 49.
(10) As in that case your receipt will suffice, you being the legal owner of the sum claimed.
(11) Who was engaged in commerce in a large way; v. Ber. 44b.
(12) [Modern Khuzistan, S.W. Persia; Obermeyer. p. 204 ff.]
(13) Cf. B.B. 77b and 150b, where ‘b. Aha’ is in the text as is also in MS.M. and who is mentioned together with R. Papa in Naz. 51b and Men. 34a.
(14) [S. of Naresh, the home of R. Papa.]
(15) As it differs from the Principal only regarding the ruling stated in the Mishnah.
(16) Before having paid the Fifth.
(17) Falsely.
(18) Lev. V, 23.
(19) I.e., the heir.
(20) This ruling contradicts the conclusion arrived at above that the Fifth is a civil liability and that heirs would have to pay it! V. Supra on Lev. V, 23.
(21) In which case he has already become liable for the Fifth and the heirs would have to pay it.
(22) I.e., neither the father nor the son, but cf. the discussion that follows.
(23) In the latter case.
(24) Cf. Lev. V, 23.
(25) Sifra on Lev. V, 23.
(26) Who did not catch the correct pronunciation of the last phrase in the original and was therefore doubtful as to whether it constituted two words or one word.
(27) From the objects of payment enumerated in detail in Lev. V, 23. But if no admission whatever was made why should even the principal be paid?
(28) When he took it falsely.
(29) And as according to the Mishnaic ruling infra 111b the son could in such a case not be made responsible for the misappropriated article, by committing perjury he rendered himself subject to Lev. V, 4, but not to the Fifth etc. ibid. 24-25.
(30) Since the Mishnaic ruling, infra loc. cit. is to apply.
(31) In which case the heirs are liable, v. loc. cit.
(32) V. B.B. 42a, 157a and 175a.
(33) As a liability which is not supported by a legally valid document or judicial decision is only personal with the debtor.

Talmud - Mas. Baba Kama 105a

that [before the father died] he had already appeared in court[1] [and liability was established against him].[2] But if he had already appeared in court[1] [and liability had been established on the denial of which the son took a false oath])[3] why then should the son not pay even the Fifth?[4] — Said R. Huna the son of R. Joshua: Because a Fifth is not paid for the denial of a liability which is secured upon real estate.[5] But Raba said [that the misappropriated article was still extant in this case as the reason that the son need not pay a Fifth for his own false oath is because] we were dealing here with a case where [the misappropriated article was kept in] his father's bag[6] that was deposited with others.[7] The principal therefore must be paid since it was subsequently discovered to be in existence, whereas the Fifth has not to be paid since when the son took the oath he meant to swear truly, as at that time he did not know [that there was a misappropriated article in the estate].

WITH THE EXCEPTION, HOWEVER, OF LESS THAN THE VALUE OF A PERUTAH [DUE] ON ACCOUNT OF THE PRINCIPAL HE WOULD NOT HAVE TO GO AFTER HIM. R. Papa said: This Mishnaic ruling can apply only where the misappropriated article was no more in existence, for where the misappropriated article was still in existence the robber would still have to go after him, as there is a possibility that it may have risen in value.[8] Others, however, said that R. Papa stated that there was no difference whether the misappropriated article was in existence or not in existence, as in all cases he would not have to go after him, since we disregard the possibility that it may rise in price.[8]

Raba said: If one misappropriated three bundles [of goods altogether] worth three perutahs, but which subsequently fell in price and become worth only two, and it so happened that he restored two bundles, he would still have to restore the third: this could also be proved from the [following] teaching of the Tanna:[9] If one misappropriated leaven and Passover meanwhile came and went,[10] he may say to the plaintiff, Here there is thine before thee.[11] The reason evidently is that the misappropriated article is intact, whereas if it were not intact, even though it has at present no pecuniary value, he would have to pay on account of the fact that it originally[12] had some pecuniary value. So also in this case,[13] though the bundle is now not of the value of a perutah, since originally it was of the value of a perutah he must pay for it.

Raba raised the question: What would be the law where he misappropriated two bundles amounting in value to a perutah and returned the plaintiff one? Do we lay stress on the fact that there is not now with him a misappropriated object of the value of a perutah,[14] or do we say that since he did not restore the robbery[15] which was with him he did not discharge his duty?[16] Raba himself on second thoughts solved it thus: There is neither a robbery here[17] nor is there the performance of restoration here.[18] But if there is no robbery here,[17] is it not surely because there was restoration here? — What he meant was this: Though there remained no robbery here,[19] the performance of the injunction of restoration[20] was similarly not performed here.[21]

Raba said: It has been definitely stated[22] that a Nazirite who performed the duty of shaving[23] but left two hairs unshaved performed nothing at all [of the injunction]. Raba asked: What would be the law where he [subsequently] shaved one of the two and the other fell out of its own accord? — Said R. Aha of Difti[24] to Rabina: How could it have been doubtful to Raba whether a Nazirite would have performed his duty by shaving one hair after another?[25] — He replied:[26] No; the query has application where, e.g., one of the two hairs fell out of itself[27] and the other was shaved by him: Shall we say that [since] now there is no minimum of hair left unshaved [the duty of shaving has been performed], or was there perhaps no performance of shaving since originally he had left two hairs [unshaved] and when he [made up his mind to] shave them now, there were not two hairs to be shaved? On second thoughts Raba himself solved it thus: There is neither any hair here, nor is there the performance of shaving here. But if there is no hair [left] here, was not the duty of shaving surely performed here? — What he meant was this: Though there remained no hair, yet the performance of the injunction of shaving was not performed here.[28]

Raba also said: It has been stated that if an earthenware barrel[29] had a hole which was filled up with lees, they would render it safe [and secure[30] while in a tent where a corpse of a human being was kept, as the barrel would be considered to have a covering tightly fastened upon it].[31] Raba thereupon asked: What would be the law where only half of the hole was blocked up?[32] Said R.

Yemar to R. Ashi: Is this not covered by our Mishnah? For we have learnt: ‘If an earthenware barrel[33] had a hole which was filled up with lees, they would render it safe [and secure[34] while in a tent where a corpse of a human being was kept]. If it was corked up with vine shoots[35] it would not do unless it was smeared with mortar.[36] If there were two vine shoots corking it up they would have to be smeared on all sides as well as between one shoot and another.’[37] Now the reason why this is so is because it was smeared, so that if it would not have been smeared this would not have been so. But why should this not be like a case where half of the hole was blocked up?[38] — It might, however, be said that there is no comparison at all: for in that case if he did not smear it the blocking would not hold at all,[39] whereas here[40] half of the hole was blocked up with such a material as would hold.

Raba further said: It was stated: If one misappropriated leaven and Passover came and went, he may say to him. Here there is thine before thee.[41] Raba thereupon asked:

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(1) Where he was summoned on the instigation of witnesses after he had already denied the claim with a false oath; in which case there is no liability of a Fifth, v. Mishnah l08b. Tosaf. a.l.
(2) On the strength of impartial evidence.
(3) The text contained in parenthesis, i.e. ‘But . . . oath’ is stated by Rashi a.l. to have been an unwarranted insertion on the part of unauthorised scribes, since according to the Mishnah infra 121a, the children are liable to make restitution where real possessions were left to them by their father; v. however Tosaf. a.I.
(4) For the oath he himself took falsely.
(5) As for the denial of such a liability no oath could be imposed; v. Shebu. VI, 5 and 37b.
(6) Cf. **, bisaccium.
(7) So that while the son took the oath that the article was not with him, he meant to swear truly and could therefore not be made liable for perjury; cf. Shebu. 36b.
(8) Cf. Kid. 12a.
(9) Since at the time of the robbery its value was not less than a perutah.
(10) And thus rendered the leaven unfit for any use.
(11) Since no tangible change took place in the misappropriated article, v. supra 96b.
(12) I.e., at the time of the robbery.
(13) Regarding the bundles.
(14) And should accordingly not have to pay for it.
(15) I.e., the whole of it.
(16) In accordance with Lev. V, 23.
(17) In the hands of the defendant.
(18) Since the whole restoration was of an article worth less than a perutah.
(19) V. p. 609, n. 10.
(20) V. p. 609,n. 9.
(21) V. p. 609. n. 11.
(22) V. Naz. 42a.
(23) In accordance with Num. VI, 9 and 18.
(24) V. supra 73a.
(25) Is this not generally so in all cases of shaving? The injunction has surely been performed, since at the beginning of shaving the minimum number of hairs was not lacking.
(26) I.e., Rabina to R. Aha.
(27) Before he started to shave the two hairs.
(28) [I.e., he has not fulfilled the relevant precept (Tosaf.).]
(29) That was covered on all sides.
(30) From becoming defiled.
(31) And thus not be subject to Num. XIX, 15.
(32) [Reducing it to less than the prescribed minimum to act as outlet (v. Kel. IX, 8).]
(33) V. p.610, n. 11.

(34) V.p. 610, n. 12.
(35) But not with lees.
(36) For the purpose of blocking up the hole well.
(37) Kel. X, 6.
(38) Hence the query of Raba should be answered in the negative.
(39) Hence the smearing is essential.
(40) I.e., in the query of Raba.
(41) Supra 96b.

Talmud - Mas. Baba Kama 105b

What would be the law where [instead of availing himself of this plea] the robber took a [false] oath[1] [that he never misappropriated the leaven]? Shall we say that since if the leaven were to be stolen from him he would have to pay for it, there was therefore here a denial of money,[2] or perhaps since the leaven was still intact and was [in the eyes of the law] but mere ashes, there was no denial here of an intrinsic pecuniary value?[3] [It appears that] this matter on which Raba was doubtful was pretty certain to Rabbah, for Rabbah stated: [If one man says to another] ‘You have stolen my ox’. and the other says. ‘I did not steal it at all,’ and when the first asks, ‘What then is the reason of its being with you?’ the other replies, ‘I am a gratuitous bailee regarding it,’ [and after affirming this defence by an oath he admitted his guilt], he would be liable,[4] for by this [false] defence he would have been able to release himself from liability in the case of theft or loss;[5] so also where the [false] defence was ‘I am a paid bailee regarding it,’ he would similarly be liable,[4] as he would thereby have released himself from liability in the case where the animal became maimed or died;[5] again, even where the false defence was that ‘I am a borrower regarding it,’ he would be liable,[4] for he would thereby have released himself from any liability were the animal to have died merely because of the usual work performed with it.[6] Now, this surely proves that though the animal now stands intact, since if it were to be stolen[7] the statement would amount to a denial of money, it is even now considered to be a denial of money.[4] So also here in this case though the leaven at present is considered [in the eyes of the law] to be equivalent to mere ashes, yet since if it were to be stolen he would have to pay him with proper value, even now there is a denial there of actual money.[4]

Rabbah[8] was once sitting and repeating this teaching when R. Amram pointed out to Rabbah a difficulty [from the following]: And lieth concerning it[9] [has the effect of] excepting a case where there is admission of the substance of the claim, as [where in answer to the plea] ‘You have stolen my ox,’ the accused says. ‘I did not steal it,’ but when the plaintiff retorts, ‘What then is the reason of its being with you?’ the defendant states, ‘You sold it to me, you gave it to me as a gift, your father sold it to me, your father gave it to me as a gift, or the ox was running after my cow, or it came of its own accord to me, or I found it straying on the road, or I am a gratuitous bailee regarding it, or I am a paid bailee regarding it, or I am a borrower regarding it,’ and after confirming [such a false defence] by an oath he admitted his guilt. But as you might say that he would be liable here, it is therefore stated further: And lieth concerning it,[9] to except a case like this where there is an admission of the substance of the claim’![10] — He replied:[11] This argument is confused, for the teaching there dealt with a case where the defendant tendered him immediate delivery[12] whereas the statement I made refers to a case where the animal was at that time kept on the meadow.[13] But what admission in the substance of the claim could there be in the defence ‘You have sold it to me?’ — It might have application where the defendant said to him, ‘As I have not yet paid you its value, take your ox back and go.’ But still what admission in the substance of the claim is there in the defence, ‘You gave it to me as a gift or your father gave it to me as a gift’? — It might be [admission] where the defendant said to him, ‘[As the gift was made] on the condition that I should do you some favour and since I did not do anything for you, you are entitled to take your ox back and go.’ But again, where the defence was, ‘I found it straying on the road,’ why should the plaintiff not plead, ‘You surely have had to return it to me’? — But the father of Samuel[14] said: The defendant was alleging, and confirming it by an oath: ‘I found it as a lost article and was not aware that it was yours to return it to you.’

It was taught: Ben ‘Azzai said: [The following] three [false] oaths [taken by a single witness[15] are subject to one law]:[16] Where he had cognizance of the lost animal but not of the person who found it, of the person who found it but not of the lost animal, neither of the lost animal nor its finder.[17] But if he had cognizance neither of the lost animal nor of its finder, was he not swearing truly?[18] — Say therefore: ‘[He had cognizance] both of the lost animal and of its finder.[19] To what decision does this statement[20] point? — R. Ammi said on behalf of R. Hanina: To exemption; but Samuel said: To liability. They are divided on the point at issue between the [following] Tannaim, as taught: ‘Where a single witness was adjured[21] [and the oath was subsequently admitted by him to have been false], he would be exempt, but R. Eleazar son of R. Simeon makes him liable.’[22] In what fundamental principle do they differ? — The [latter] Master[23] maintained that a matter which might merely cause some pecuniary liability[24] is regarded in law as directly touching upon money.[25] whereas the [other] Master maintained that it is not regarded as directly touching upon money.[26]

R. Shesheth said: He who [falsely] denies a deposit is [instantly] considered as if he had misappropriated it, and will therefore become liable for all accidents;[27] this is also supported by the [following] Tannaitic teaching:[28] [From the verse] And he lieth concerning it[29] we could derive the penalty,[30] but whence could the warning be derived? From the significant words: Neither shall ye deal falsely.[31] Now, does this not refer to the ‘penalty’ for merely having denied the money?[32] — No, it refers to the ‘penalty’ for the [false] oath.[33] But since the concluding clause refers to a case where an oath was taken, it surely follows that the commencing clause deals with a case where no oath was taken, for it was stated in the concluding clause:[28] [From the text] ‘And sweareth falsely’[29] we can derive the penalty;[34] but whence can the warning be derived? From the injunction, ‘Nor lie.’[35] Now, since the concluding clause deals with a case where an oath was taken, must not the commencing clause deal with a case where no oath was taken?[36] — It may, however, be said that the one clause as well as the other deals with a case where an oath was taken. But while in the case of the concluding clause the defendant admitted [his perjury], in that of the commencing clause witnesses appeared and proved it. Where witnesses appeared and proved the perjury,[37] the defendant would become liable for all accidents [from the very moment he took the false oath], whereas where he himself admitted his perjury he would be liable for the Principal and the Fifth and the trespass offering.[38] Rami b. Hama raised an objection [from the following]:[39] ‘Where the other party was suspected regarding the oath.[40] How so? [Where he took falsely] either an oath regarding evidence[41] or an oath regarding a deposit[42] or an oath in vain.’[43] But if there is legal force in your statement,[44] would not that party have become disqualified from the very moment of the denial?[45] — It might, however, be said that we are dealing here with a case where the deposited animal was at that time placed on the meadow, so that the denial could not be considered a genuine one, since he might have thought to himself, ‘I will get rid of the plaintiff for the time being [so that he should no more press me for it] and later I will go and deliver up to him the deposited animal.’[46] This view could even be proved [from the following statement]:[47] R. Idi b. Abin said that he who [falsely] denies a loan[48] is not yet disqualified from giving evidence,[49]

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(1) After Passover.

(2) For which he should be subject to Lev. V, 21-25.

(3) And if this is the case the perjurer should be subject only to Lev. V, 4-10.

(4) In accordance with Lev. V, 21-25.

(5) For which a thief is liable but not a bailee.

(6) Which is a valid defence in the case of a borrower but not in that of a thief.

(7) In the case he swore he was an unpaid bailee.

(8) So in MS.M. [This is to be given preference to the reading ‘Raba’ of cur. edd. as Raba was doubtful on the matter under discussion.]

(9) Lev. V, 22.
(10) Why then has Rabbah made a statement to the contrary effect?
(11) I.e., Rabbah to R. Amram.
(12) Lit., ‘said to him, here is thine.’ In which case there is no denial of money.
(13) And there is therefore a potential denial of money.
(14) I.e., Abba b. Abba.
(15) So interpreted by Rashi, but v. Malbim on Lev. V, 22, n. 374.
(16) Referring to Lev. V, 1. On the question whether it refers to the law of liability or exemption v. the discussion that follows.
(17) Cf. Sifra on Lev. V, 22.
(18) And no perjury at all was committed.
(19) And took nevertheless an oath to the contrary.
(20) I.e., whether to that of liability or to that of exemption.
(21) To deliver evidence on a pecuniary matter and he falsely denied any knowledge of it.
(22) Shebu. 32a.
(23) I.e. R. Eleazar b. Simeon who follows the view of his father, cf. supra 71b.
(24) I.e., such as where the evidence in question would not directly have any bearing upon a pecuniary matter but might indirectly at a subsequent stage bring about a pecuniary liability; this is so in the case of one witness whose evidence is not sufficient to establish pecuniary liabilities as stated in Deut. XIX, 15, but whose testimony is accepted for the purpose of imposing an oath upon a defendant who, if unprepared to swear, would have to make full payment; v. Shebu. 40a and 41a.
(25) And the law of Lev. V, 1 has to apply.
(26) The law of Lev. V, 1 could therefore not apply in the case of one witness.
(27) In accordance with the law applicable to robbers.
(28) Sifra on Lev. XIX, 11.
(29) Lev. V, 22.
(30) The restitution he is obliged to make, ibid. 23.
(31) Ibid. XIX, 11.
(32) I.e., even before having committed perjury; the fine thus being his becoming liable for all accidents.
(33) In accordance with Lev. V, 21-24.
(34) The Fifth and Guilt offering.
(35) Lev. XIX, 11.
(36) The penalty thus being his becoming liable for all accidents.
(37) In which case Lev. V, 21-24 does not apply as gathered from Num. V, 7; v. infra 108b.
(38) V. p. 614, n. 13.
(39) Shebu. VII, 4.
(40) The plaintiff will take the oath.
(41) Dealt with in Lev. V, 2 and Shebu. IV.
(42) Cf. Lev. V, 21-23.
(43) Cf. ibid. V, 4.
(44) That by mere denial of a deposit the depositor becomes subject to the law of robbery.
(45) Even before having taken the false oath.
(46) For the ruling of R. Shesheth applies only to a case where it was definitely proved that at the time of the denial the deposit was actually in the hands of the depositor.
(47) B.M. 4a, 5b and Shebu. 40b.
(48) Without, however, having taken an oath.
(49) For since the denial was not confirmed by an oath it might have been made merely for the time being. i.e., to get rid of the plaintiff who pressed for immediate payment.

Talmud - Mas. Baba Kama 106a

whereas [if this was done] in the case of a deposit he would thereby become disqualified from giving evidence.[1] But did Ilfa not say that an oath transfers possession,[2] which appears to prove that it is only the oath which would transfer responsibility, whereas mere denial would not transfer responsibility?[3] But here also we are dealing with a case where the deposited article was at that time situated on the meadow.[4] Or if you wish I may say that what was meant to be conveyed by the statement that an oath transfers possession was as in the case of R. Huna, for R. Huna said that Rab stated: [Where one said to another,] ‘You have a maneh[5] of mine’ and the other retorted, ‘I have nothing of yours’[6] and confirmed it by an oath[7] and then witnesses came forward [and proved the defendant to have perjured himself] he would be exempt[8] as it is stated: And the owner thereof shall accept it and he shall not make restitution,[9] implying that wherever the plaintiff accepted an oath, the defendant could no more be made liable to pay money.

To return to a previous theme: ‘R. Huna said that Rab stated [that where one said to another]. "You have a maneh of mine" and the other rejoined. "I have nothing of yours" and confirmed it by an oath and subsequently witnesses came forward [and proved the defendant to have perjured himself] he would be exempt as it is stated: And the owner thereof shall accept it and he shall not make restitution, implying that wherever the plaintiff accepted an oath, the defendant could no more be made liable to pay money.’ Raba thereupon said: We should naturally suppose that the statement of Rab is meant to apply to the case of a loan where the money was given to be spent,[10] but not to a deposit which always remains in the possession of the owner.[11] But [I affirm] by God that Rab made his statement even with reference to a deposit, as it was regarding a deposit that the text [of the verse quoted][12] was written. R. Nahman was sitting and repeating this teaching.[13] when R. Aha b. Manyumi pointed out to R. Nahman a contradiction [from the following: If a man says to another] ‘Where is my deposit?’ and the other replies. ‘It is lost,’ and the depositor then says. ‘Will you take an oath,’ and the bailee replies. ‘Amen!’[14] then if witnesses testify against him that he himself had consumed it, he has to pay only the Principal,[15] whereas if he admits [this] on his own accord, he has to pay the Principal together with a Fifth and bring a trespass offering?[16] — R. Nahman said to him: We are dealing here with a case where the oath was taken outside the Court of Law.[17] He rejoined:[18] If so read the concluding clause: [But if on being asked] ‘Where is my deposit?’, the bailee replied: ‘It was stolen!’, [and when the depositor retorted] ‘Will you take an oath?’, the bailee said, ‘Amen!’ if witnesses testify against him that he himself had stolen it, he has to repay double, whereas if he admits this on his own accord, he has to pay the Principal together with a Fifth and a trespass offering. Now, if you assume that the oath was taken outside the Court of Law, how could there be liability for double payment?[19] — He replied: I might indeed answer you that [though in the case of] the commencing clause [the oath was taken] outside the Court of Law, [in that of] the concluding clause [it was taken] in the Court of Law. But as I am not going to give you a forced answer I will therefore say that though in the one case as well as in the other the oath was taken in the Court of Law,[20] there is still no difficulty, as in the first case we suppose that the claimant anticipated the Court[21] [in administering the oath] and in the other case[22] he did not do so.[23] But Rami b. Hama said to R. Nahman: Since you do not personally accept this view of Rab, why are you pledging yourself to defend this statement of Rab? — He replied: I did it [merely] to interpret the view of Rab, presuming that Rab might have thus explained this Mishnaic text. But did not Rab quote a verse[24] to support his view?[25] — It might be said that the verse intends only to indicate that those who have to be adjured by [the law of] the Torah are only they who by taking the oath release themselves from payment,[26] [as it is stated: ‘And the owner thereof shall accept it and he shall not make restitution,’[24] [implying that it is] the one who [otherwise] would be under obligation to make it good that has to take the oath.

R. Hamnuna raised an objection [from the following]: ‘Where an oath was imposed upon a defendant five times [regarding the same defence], whether in the presence of the Court of Law or not in the presence of the Court of Law, and he denied the claim [on every occasion], he would have to be liable[27] for each occasion. And R. Simeon said: The reason is that [on each occasion] it was open to him to retract and admit the claim.’[28] Now in this case you can hardly say that the action of the Court was anticipated, for it is stated: ‘Where an oath was imposed upon a defendant’ [which naturally would mean, by the sanction of the Court]; you can similarly not say that it was done outside the Court of Law, for it is stated ‘in the presence of the Court of Law.’[29] As he[30] raised this difficulty so he also solved it, by pointing out that the text should be interpreted disjunctively: ‘Where an oath was imposed upon him [by the Court, but taken] outside the Court of law ,[31] or where it was administered in the presence of the Court of Law’ but in anticipation of its action.[31] Raba raised an objection [from the following:] If a bailee[32] advanced a plea of theft regarding a deposit and confirmed it by an oath but subsequently admitted [his perjury], and witnesses came forward [and testified to the same effect], if he confessed before the appearance of the witnesses, he has to pay the Principal together with a Fifth and a trespass offering; but if he confessed after the appearance of the witnesses he has to repay double and bring a trespass offering.[33] Now, here it could not be said that it was outside the Court of Law, or that it was done in anticipation [of the action of the Court], since the liability of double payment[34] is mentioned here![35] — Raba therefore said: To all cases of confession,[36] no matter whether he pleaded in defence loss or theft, Rab did not mean his statement to apply, for it is definitely written: Then they shall confess,[37] implying [that in all cases] the perjurer would have to pay the Principal and the Fifth, [and so also in the case] where he pleaded theft[38] and witnesses came forward [and proved otherwise], Rab similarly did not mean his statement to apply, for [it is in this case that] the liability for double payment [is laid down in Scripture];[39] the statement made by Rab applies only to the case where, e.g., he pleaded in defence loss[40] and after confirming it by an oath he did not admit his perjury but witnesses appeared [and proved it].[41] R. Gamda went and repeated this explanation[42] in the presence of R. Ashi who said to him: Seeing that R. Hamnuna was a disciple of Rab[43] and surely knew very well that Rab meant his statement to apply also to the case of confession,[44] since otherwise he would not have raised an objection from a case of confession, how then can you say that Rab did not mean his statement to apply to a case of confession?[44] — Said R. Aha the Elder to R. Ashi: R. Hamnuna's difficulty may have been this:

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(1) V. p. 614, n. 7.

(2) As a deposit (falsely) denied by a bailee committing perjury will no less than in the case of conversion no longer remain in the possession of the depositor but is transferred to the responsibility of the bailee who has become subject to the law of robbery.

(3) And not render the bailee a robber, contrary to the view expressed by R. Shesheth.

(4) V. p. 615, n. 16.

(5) V. Glos.

(6) In which case there is strictly speaking neither a biblical nor a Mishnaic oath, but the ‘Heseth’ oath which is of later Rabbinic origin, for which v. Shebu. 40b.

(7) Even though in the days of Rab an oath in such circumstances was by no means obligatory; v. also Tur. H.M. 87,8.

(8) From having to pay the maneh, for the oath he took with the consent of the plaintiff had the effect of preventing any possible revival of the claim; the meaning that an oath transfers possession would therefore be that it conclusively bars any further action in the matter.

(9) Ex. XXII. 10.

(10) And no special act to transfer ownership and possession is necessary.

(11) Even while in the hands of the bailee, in which case an act of conveyance is necessary, which could hardly he done by an oath.

(12) Ex. XXII, 10.

(13) Which R. Huna stated in the name of Rab.

(14) ‘So be it.’ Which in these circumstances amounts to an oath to all intents and purposes; v. Shebu. 29b.

(15) But not double payment as his defence was not theft, and no Fifth as he ‘did not confess perjury.

(16) In accordance with Lev. V, 22-25. Sheb. 49a. Supra 63b and infra 108b. Now, the commencing clause is in glaring contradiction to the view of Rab. The case of confession, however, dealt with in the concluding clause would present no difficulty as Rab's ruling could never apply in that case, as it would have been against Lev. V, 22-23 interpreted on the analogy to Num. V, 7; so Rashi but v. also Tosaf. a.l.

(17) Being thus a mere private matter it could not bar the judicial reopening of the case, whereas the ruling of Rab applies to an oath taken at the sitting of the Court of Law.
(18) I.e., R. Aha to R. Nahman.
(19) Which could be imposed upon the bailee only if his defence of theft was confirmed by him by an oath administered to him by the Court of Law.
(20) I.e., in one and the same place.
(21) Lit., ‘jumped in’.
(22) The latter clause as well as Rab's statement.
(23) There would therefore still be a difference between the oath in the commencing clause and the oath in the concluding clause, but only in the manner of adjuration and not in the place where it was administered.
(24) Ex. XXII, 10.
(25) How then could anyone depart from it?
(26) I.e., the defendants; v. Shebu. 45a.
(27) In accordance with Lev. V, 21-24.
(28) Shebu. 36b.
(29) This Mishnaic text, from which it could be gathered that, though an oath has already been imposed and taken, the case could still be reopened, will thus be in contradiction to the view of Rab!
(30) I.e., R. Hamnuna.
(31) [In which case it still remains a private matter and does not bar the judicial re-opening of the case.]
(32) Lit., ‘the owner of a house’; v. Ex. XXII, 7.
(33) Shebu. 37b; supra 65a.
(34) V. p. 618, n. 1.
(35) Is this not in contradiction to the view of Rab?
(36) Of perjury regarding a claim of pecuniary value.
(37) Num. V, 7.
(38) Confirming it by a false oath.
(39) Ex. XXII, 6-8 as interpreted supra p. 368.
(40) In which case the bailee could never become liable for double payment.
(41) It was in such a case that Rab laid down the ruling that once the oath had been administered the claim could no more be put forward again.
(42) Of Raba.
(43) Cf. Sanh. 17b; v. also supra 74a, n. 10.
(44) Of perjury.

Talmud - Mas. Baba Kama 106b

I could quite understand that if you were to say that if witnesses appeared after he took the oath [thus proving him to be a perjurer] he would have to pay, as it would be on account of this that we should make him liable to bring sacrificial atonement[1] for the oath on the last occasion, since it was always open to him to retract and admit the claim. But if you maintain that should witnesses appear after he took the oath he would be exempt, is it possible that whereas if witnesses were to have come and testified against him he would have been exempt,[2] we should rise and declare him liable to sacrificial atonement[1] for an oath on the mere ground that he could have been able to retract and confess [his perjury]? For the time being at any rate he has not made such a confession!

R. Hiyya b. Abba said that R. Johanan stated: ‘He who [falsely] advances a plea of theft with reference to a deposit in his possession may have to repay double;[3] so also if he slaughtered or sold it, he may have to repay fourfold or fivefold.[4] For since a thief repays double[5] and a bailee pleading the defence of theft has to repay double, just as a thief who has to repay double, is liable to repay fourfold or fivefold in the case of slaughter or sale, so also a bailee who, when pleading the defence of theft regarding a deposit has similarly to repay double, should likewise have to repay fourfold or fivefold in the case of slaughter or sale.’[6] But how can you argue from a thief who has to repay double even in the absence of perjury to a bailee pleading the defence of theft where no double payment has to be made unless where a false oath was taken? — It might, however, be said that a thief and a bailee alleging theft are made analagous [in Scripture],[7] and no refutation could be made against an analogy [in Scripture].[8] This may be granted if we accept the view[9] that one verse deals with a thief and the other with a bailee [falsely] advancing the plea of theft, but if we adopt the view that both [the verses] ‘If the thief be found . . . ‘and ‘If the thief be not found’ deal with a bailee falsely advancing a plea of theft, what could be said?[10] — It may still be argued [that they were made analagous by means of the definite article[11] as instead of] ‘thief’ [it was written] ‘the thief’. R. Hiyya b. Abba pointed out to R. Johanan an objection [from the following]: [If a depositor says.] ‘Where is my ox?’ [and the bailee pleads:] ‘It was stolen,’ [and upon the plaintiff's saying,] ‘I want you to take an oath,’ the defendant says ‘Amen,’[12] and then witnesses testify against him that he consumed it, he would have to repay double.[13] Now, in this case, where it was impossible [for him] to consume meat even of the size of an olive[14] unless the animal was first slaughtered [effectively].[15] It was stated that he would repay double [thus implying that it is] only double payment which will be made but not fourfold and fivefold pay ments![16] We might have been dealing here with a case where it was consumed nebelah.[17] Why did he[18] not answer that it was consumed terefah?[19] — [He adopted] the View of R. Meir who stated[20] that a slaughter which does not [render the animal ritually] fit for consumption is still designated [in law] slaughter.[21] But again, why not answer that the ox was an animal taken alive out of a slaughtered mother's womb [and as such it may be eaten[22] without any ritual slaughter]?[23] — [But on this point too he[18] followed] the view of R. Meir who said that an animal taken alive out of a slaughtered mother's womb is subject to the law of slaughter.[22] But still, why not answer that the ruling applied where, e.g., the bailee had already appeared in the Court, and was told[24] to ‘go forth and pay the plaintiff’? For Raba stated:[25] [Where a thief was ordered to] go and pay the owner [and after that] he slaughtered or sold the animal, he would be exempt,[26] the reason being that since the judges had already adjudicated on the matter, when he sold or slaughtered the animal he became [in the eye of the law] a robber, and a robber has not to make fourfold and fivefold payments;[27] [but where they merely said to him] ‘You are liable to pay him’ and after that, he slaughtered or sold the animal he would be liable [to repay fourfold or fivefold], the reason being that since they have not delivered the final sentence upon the matter, he is still a thief![28] — To this I might say: Granting all this,[29] why not answer that the bailee was a partner in the theft and slaughtered the ox without the knowledge of his fellow partner [in which case he could not be made liable for fourfold or fivefold payment]?[30] It must therefore be that one out of two or three [possible] answers has been adopted.

R. Hiyya b. Abba said that R. Johanan stated: He who advanced in his own defence a plea of theft regarding a lost article[31] [which had been found by him] would have to repay double, the reason being that it is written: For any manner of lost thing whereof one saith.[32] R. Abba b. Memel pointed out to R. Hiyya b. Abba an objection [from the following:] If a man shall deliver[33] implies that the delivery by a minor[34] is of no effect [in law].[35] So far I only know this to be the case where he was a minor at the time of the delivery and was still a minor at the time of the demand, but whence could it be proved that this is so also in the case where at the time of the delivery he had been a minor though at the time of the demand he had already come of age? Because it says further: The cause of both parties shall come before the judges.[36] [thus showing that the law of bailment does not apply] unless the delivery and the demand were made under the same circumstances.[37] Now, if your view is sound,[38] why should this case [with the minor] not be like that of the lost article?[39] — He replied:[40] We are dealing here with a case where the deposit was consumed by the bailee while the depositor was still a minor.[41] But what would be the law where he consumed it after the depositor had already come of age? Would he have to pay?[42] If so, why state ‘unless the delivery and the demand were made under the same circumstances,’ and not ‘unless the consumption[43] and the demand took place under the same circumstances’? — He said to him:[44] You should indeed read ‘unless the consumption[45] and the demand took place under the same circumstances’. R. Ashi moreover said: The two cases[46] could not be compared, as the lost article came into the hands of the finder from the possession of a person of responsibility,[47] whereas [in the case of a minor] the deposit did not come to the bialee from the possession of a person of responsibility.

R. Hiyya b. Abba further said that R. Johanan stated: He[48] who puts forward a defence of theft in the case of a deposit could not be made liable[49] unless he denies a part and admits a part [of the claim], the reason being that Scripture states: This is it[50] [implying 'this' only].[50] This view is contrary to that of R. Hiyya b. Joseph. for R. Hiyya b. Joseph said:

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(1) In accordance with Lev. V, 21-26.
(2) V. p. 616, n. 8.
(3) If he confirmed the plea by an oath.
(4) Cf. Ex. XXI, 37.
(5) Ibid. XXII, 6.
(6) V. supra 62b, 63b.
(7) Lit. 'It is an analogy, hekkesh. In Ex. XXII, 6-8 as interpreted supra pp. 368 ff.
(8) This being an axiomatic hermeneutic rule; v. supra 63b and Men. 82b.
(9) For notes, v. supra 63b.
(10) I.e., where then were the two made analogous in Scripture?
(11) Which has the effect of denoting the thing par excellence as in Pes. 58b; v. also Kid. 15a.
(12) V. p. 617. n. 5.
(13) Infra 108b, v. also Shebu. 49a.
(14) Which is the minimum quantity constituting the act of eating; cf. 'Er. 4b.
(15) In accordance with the law referred to in Deut. XII, 21 and laid down in detail in Hul. III.
(16) Does this not contradict the view expressed by R. Johanan that even fourfold or fivefold payment would have to be made?
(17) I.e. where the animal was not slaughtered in accordance with the ritual, v. Glos., in which case the law of fourfold and fivefold payments does not apply, as laid down supra p. 445,
(18) I.e., R. Johanan.
(19) I.e., where an organic disease was discovered in the animal, v. Glos.; according to the view of R. Simeon stated supra p. 403 the law of fourfold and fivefold payments does similarly not apply.
(20) Hul. VI, 2.
(21) So that the law of fourfold and fivefold payments will apply which is also the anonymous view stated supra p. 403.
(22) V. Hul. IV, 5.
(23) On account of the ritual slaughter carried out effectively on the mother.
(24) Before he slaughtered the animal, in which case he would not have to make fourfold and fivefold payments for a subsequent slaughter.
(25) Supra 68b.
(26) From fourfold and fivefold payments.
(27) In fact no pecuniary fine at all; cf. supra p. 452.
(28) Who is subject to the law of Ex. XXI, 37. Why then not give this answer?
(29) That there was also some other answer to be given.
(30) V. supra 78b.
(31) Supra 57a and 63a.
(32) V. Ex. XXII, 8.
(33) Ex. XXII, 6.
(34) Since he has not yet attained manhood; cf. Sanh. 69a.
(35) Regarding the possible liability upon the bailee for double payment.
(36) V. Ex. XXII, 8.
(37) Cf. J. Shebu. VI, 5.
(38) That there would be double payment in the case of perjury committed regarding a lost article.
(39) Where there would be liability in the absence of any depositor at all.
(40) I.e., R. Hiyya to R. Abba.

(41) In which case the bailee had regarding that deposit never had any responsibility to a person of age.
(42) Double payment for perjury.
(43) Though not the delivery.
(44) V. p. 623. n. 11.
(45) V. p. 623, n. 14.
(46) I.e. a lost article and a deposit of a minor.
(47) Lit., ‘understanding’, i.e. the person who lost it.
(48) I.e., an unpaid bailee.
(49) To take the oath of the bailees and in case of perjury to have consequently to restore double payment.
(50) And no more, which thus constitutes an admittance of a certain part and the denial of the balance.

Talmud - Mas. Baba Kama 107a

There is here an ‘interweaving of sections’,[1] as the words, this is it written here[2] have reference to loans.[3] But why a loan [in particular]? In accordance with Rabbah, for Rabbah stated:[4] ‘On what ground did the Torah lay down[5] that he who admits a part of a claim has to take an oath?[6] Because of the assumption that no man is so brazen-faced as to deny [outright] in the presence of his creditor[7] [the claim put forward against him].[8] It could therefore be assumed that he[9] was desirous of repudiating the claim altogether, and the reason that he did not deny it outright is[10] because no man is brazen-faced [enough to do so].[11] It may consequently be argued that he was on this account inclined[12] to admit the whole claim; the reason that he denied a part was because he considered: Were I to admit [now] the whole liability, he will soon demand the whole claim from me; I should therefore [better] at least for time being get rid of him,[13] and as soon as I have the money will pay him.[14] It was on account of this that the Divine Law[15] imposed an oath upon him so that he should have to admit the whole of the claim.[16] Now, it is only in the case of a loan that such reasoning could apply.[17] whereas regarding a deposit the bailee would surely brazen it out [against the depositor].[18]

Rami b. Mama learnt: The four bailees

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(1) I.e., an interpolation of another passage; Ex. XXII, 8, v. n. 7.

(2) Confining the imposition of the oath to cases of part-admission.

(3) According to Rashi a.l. the phrase in Ex. XXII, 8 confining the oath to part. admission referred not to v. 6 but to 24; v. also Sanh. (Sonc. ed.) P. 5, n. 3; regarding deposits there would thus he an oath even in cases of total denial. For the interpretation of R. Tam, cf. Tosaf. a.l. and Shebu. 45b. The accepted view is expounded by Riba and Rashb., a.l. that the condition of part admission is attached to all cases of pecuniary litigation including deposits, providing the defences were such as would avail also in cases of loans, such as e.g.. the denial of the contract or a plea of payment and restoration; v. also Maim. Yad., Sekiroth, 11, 11-12; Tur. H.M. 296, 2. The meaning in the Talmudic text here would therefore be ‘ascribed as dealing with the defences of loans.’ For regarding the specific defences in the case of a deposit, i.e. theft or loss or accident, a biblical oath is imposed even without an admission of part liability. But as Ex. XXII,6 deals with two kinds of deposits, i.e. ‘money or stuff’ there is indeed an interweaving of sections in this paragraph, for a deposit of money might in accordance with B.M. III, 11, amount to an implied mutuum involving all the liabilities of a loan. In other systems of law it is indeed called depositum irregulare for which see Dig. 19.2.31; Moyle, Imp. Just. Inst. 396 and Goodeve on ‘Personal Property’, 6th Ed., 25. The phrase in Ex. XXII, 8 confining the oath to part admission is thus said to be ascribed as dealing exclusively with this depositum irregulare, i.e. with the bailment of money when it became a loan to all intents and purposes; v. also J. Shebu. VI, I.

(4) B.M. 3a; Shebu. 42b.

(5) In Ex. XXII. 7-8.

(6) Whereas for total denial there is no biblical oath.

(7) Who was his benefactor.

(8) A total denial in the case of a loan is thus somehow supported by this general assumption; cf. also Shebu. 40b.

(9) Who admitted a part of the claim.

(10) Not perhaps on account of honesty.

(11) The fact that he admitted a part of the claim is to a certain extent a proof that he found it almost impossible to deny the claim outright.

(12) Lit., ‘willing’.

(13) At least so far as a part of the claim is concerned.

(14) For the whole of the claim.

(15) Ex. XXII,7-8.

(16) As he would surely be loth to commit perjury.

(17) As the creditor was a previous benefactor of his.

(18) As in this case the bailee was generally the benefactor and not necessarily the depositor, so that the whole psychological argumentation of Rabbah fails; [and an oath is thus to be imposed even where there is a total denial, which is contrary to the view reported by R. Hiyya b. Abba in the name of R. Johanan.]

Talmud - Mas. Baba Kama 107b

have to deny a part and admit a part [of the claim before the oath can be imposed upon them]. They are as follows: The unpaid bailee and the borrower, the paid bailee and the hirer.[1] Raba said: The reason of Rami b. Hama is [as follows]: In the case of an unpaid bailee it is explicitly written: This is it;[2] the law for the paid bailee could be derived [by comparing the phrase expressing] ‘giving’[3] [to the similar term expressing] ‘giving’ in the section of unpaid bailee;[4] the law for borrower begins with ‘and if a man borrow’[5] so that the waw copula [‘and’] thus conjoins it with the former subject;[6] the hirer is similarly subject to the same condition, for according to the view that he is equivalent [in law] to a paid bailee[7] he should be treated as a paid bailee, or again, according to the view that he is equivalent [in law] to an unpaid bailee,[7] he should be subject to the same conditions as the unpaid bailee.

R. Hiyya b. Joseph further said: He who [falsely] advances the defence of theft in the case of a deposit would not be liable[8] unless he had [first] committed conversion,[9] the reason being that Scripture says: The master of the house shall come near unto the judges to see whether he have not put his hand unto his neighbour's goods,[10] implying that if he put his hand he would be liable,[8] and thus indicating that we are dealing here with a case where he had already committed conversion.[9] But R. Hiyya b. Abba said to them:[11] R. Johanan [on the contrary] said thus: The ruling[12] was meant to apply where the animal was still standing at the crib.[13] R. Ze'ira then said to R. Hiyya b. Abba: Did he mean to say that this is so[12] only where it was still standing at the crib,[13] whereas if the bailee had already committed conversion,[9] the deposit would thereby [already] have been transferred to his possession,[14] so that the subsequent oath would have been of no legal avail,[15] or did he perhaps mean to say that this is so even where it was still standing at the crib?[16] — He replied: This I have not heard, but something similar to this I have heard. For R. Assi said that R. Johanan stated: One[17] who had in his defence pleaded loss and had sworn thus, but came afterwards and pleaded theft,[18] also confirming it by an oath, though witnesses appeared [proving otherwise], would be exempt.[19] Now, is the reason of this ruling not because the deposit had already been transferred to his possession through the first[20] oath? — He replied to him:[21] No; the reason is because he had already discharged his duty to the owner by having taken the first oath.[22]

It was indeed similarly stated: R. Abin said that R. Elai stated in the name of R. Johanan: If one advanced in his defence a plea of loss regarding a deposit and had sworn thus, but came afterwards and advanced a plea of theft also confirming it by an oath, and witnesses appeared [proving otherwise], he would be exempt.[19] because he had already discharged his duty to the owner by having taken the first oath.[22]

R. Shesheth said: One[20] who [falsely] pleads theft in the case of a deposit, if he had already committed conversion,[23] would be exempt,[19] the reason being that Scripture says, ‘The master of the house shall come near unto the judges to see whether he have not put his hand’ etc.[24] implying that were he to have already committed conversion he would be exempt. But R. Nahman said to him: Since three oaths are imposed upon him,[25] an oath that he was not careless, an oath that he did not commit conversion and an oath that the deposit was no more in his possession, does this not mean that the oath ‘that he did not commit conversion’ should be compared to the oath ‘that the deposit was no more in his possession so that just as where he swears ‘that the deposit was no more In his possession,’ as soon as it becomes known that the deposit was really at that time in his possession he would be liable for double payment, so also where he swore ‘that he did not commit conversion, when the matter becomes known that he did commit conversion he would be liable?[26] — He replied: No; the oath ‘that he did not commit conversion’ was meant to be compared to the oath ‘that he was not careless’; just as where he swears ‘that he was not careless’ even if it should become known that he was careless,[27] he would be exempt from double payment.[28] so also where he swears ‘that he did not commit conversion,’ even if it becomes known that he did commit conversion,[29] he would still be exempt from double payment.

Rami b. Hama asked: [Since where there is liability for double payment there is no liability for a Fifth,[30] is it to be understood that] a pecuniary value for which there is liability to make double payment exempts from the Fifth, or is it perhaps the oath which involves the liability of double payment that exempts from the Fifth? In what circumstances [could this problem have practical application]? — E.g., where the bailee had pleaded in his defence theft confirming it by an oath and then came again and pleaded loss and similarly confirmed it by an oath,

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(1) B.M. 5a and 98a.

(2) Ex. XXII, 8.

(3) Opening the section of the paid bailee in Ex. XXII, 9.

(4) V. Ex. XXII, 6, the opening section of the unpaid bailee.

(5) Ibid. XXII, 13.

(6) And makes him analogous in this respect to the bailees dealt with previously; v. B.M. 95a.

(7) Cf. supra 57b.

(8) To double payment in the case of perjury.

(9) Lit., ‘put his hand unto it’; v. Ex. XXII, 7.

(10) Ibid.

(11) I.e., to the sages, but correctly omitted in MS.M.

(12) Regarding the liability for double payment.

(13) And no conversion was committed; v. also J. Shebu. VIII, 3.

(14) V. p. 616, n. 2.

(15) Since the bailee had become already subject to the law of robbery.

(16) And no conversion was committed.

(17) An unpaid bailee.

(18) Regarding the same deposit.

(19) From double payment.

(20) V. p. 616, n. 2.

(21) I.e., R. Ze'ira to R. Hiyya b. Abba.

(22) So that the second oath is no more judicial and could therefore not involve double payment.

(23) V. p. 626, n. 9.

(24) Ex. XXII, 7.

(25) An unpaid bailee. Cf. B.M. 6a.

(26) To double payment in case of perjury.

(27) I.e., that the deposit was stolen from him through his carelessness.

(28) Since he did not misappropriate the deposit for himself.

(29) And then misappropriated it for himself.

(30) For which v. supra 65b and 106a.

Talmud - Mas. Baba Kama 108a

and it so happened that witnesses appeared and proved the first oath [to have been perjury][1] while he himself confessed that the last oath was perjury.[2] Now, what is the law? Is it the pecuniary value for which there is liability to make double payment that exempts from the Fifth, so that [as] in this case too there is liability to make double payment [for the deposit, there would be no Fifth for it], or perhaps it is the oath which involves a liability for double payment that exempts from a Fifth, so that since the last oath does not entail liability for double payment[3] it should entail the liability for the Fifth? — Said Raba: Come and hear: If a man said to another in the market: ‘Where is my ox which you have stolen,’ and the other rejoined, ‘I did not steal it at all,’ whereupon the first said, ‘Swear to me, and the defendant replied, ‘Amen,’ and witnesses then gave evidence against him that he did steal it, he would have to repay double, but if he confessed on his own accord, he would have to pay the Principal and a Fifth and bring a trespass offering.[4] Now here it is the witnesses[5] who make him liable for double paymentl, and yet it was only where he confessed of his own accord that he would be subject to the law of a Fifth,[6] whereas where he made a confession after [the evidence was given by] the witnesses, it would not be so. But if you assume that it is the oath involving liability of double payment that exempts from the Fifth, why then [in this case] even where he made confession after the evidence had already been given by the witnesses should the liability for the Fifth not be involved? Since the oath here was not instrumental in imposing the liability for double payment why should it not involve the liability for the Fifth? This would seem conclusively to prove that a pecuniary value for which there is liability to make double payment exempts from the Fifth, would it not? — This could indeed be proved from it.

Rabina asked: What would be the law as to a Fifth and double payment to be borne by two persons respectively? — What were the circumstances? — E.g., where an ox was handed over to two persons and both pleaded in defence theft, but while one of them confirmed it by an oath and subsequently confessed [it to have been perjury] the other one confirmed it by an oath and witnesses appeared [and proved it perjury]. Now, what is the law? Shall we say that it was only in the case of one man that the Divine Law was particular that he should not pay both the Fifth and double payment,[7] so that in this case [where two persons are involved]. one should make double payment and the other should pay a Fifth, or shall it perhaps be said that it was regarding one and the same pecuniary value that the Divine Law was particular that there should not be made any payment of both a Fifth and double payment;[8] and in this case also it was one and the same pecuniary value? — This must stand undecided.

R. Papa asked: What would be the law regarding two Fifths and two double payments in the case of one man? What are the circumstances? E.g., where the bailee first pleaded in his defence loss and after confirming it by an oath confessed [it to have been perjury],[9] but afterwards came back and pleaded [again a subsequent] loss, confirming it by an oath, and then again confessed [it to have been perjury];[9] or, e.g., where he pleaded in defence theft confirming it by an oath and witnesses appeared [and proved it to have been perjury],[10] but he afterwards came back and advanced [again] the defence of [a subsequent] theft, confirming it by an oath, and witnesses appeared against him. Now, what would be the law? Shall we say that it was only two different kinds of pecuniary liability[11] that the Divine Law forbade to be paid regarding one and the same pecuniary value,[8] whereas here the liabilities are of one kind[12] [and should therefore be paid], or perhaps it was two pecuniary liabilities[13] that the Divine Law forbade to be paid regarding one and the same pecuniary value and here also the pecuniary liabilities are two?[12] — Come and hear what Raba stated: And shall add the fifth:[14] the Torah has thus attached many fifths to one principal.[15] It could surely be derived from this.

If the owner had claimed [his deposit] from the bailee who, [though] he [denied the claim] on oath [nevertheless] paid it, and [it so happened that] the actual thief was identified,[16] to whom should the double payment go?[17] — Abaye said: To the owner of the deposit, but Raba said: To [the bailee with] whom the deposit was in charge. Abaye said that it should go to the depositor, for since he was troubled[18] to the extent of having to impose an oath, he could not be expected to have transferred the double payment.[19] But Raba said that it would go to [the bailee with] whom the deposit was in charge, for since [after all] he paid him, the double payment was surely transferred to him. They are divided on the implication of a Mishnah, for we learned: Where one person deposited with another an animal or utensils which were subsequently stolen or lost, if the bailee paid, rather than deny on oath, although it has been stated[20] that an unpaid bailee can by means of an oath discharge his liability and [it so happened that] the actual thief was found and had thus to make double payment, or, if he had already slaughtered the animal or sold it, fourfold or fivefold payment, to whom should he pay? To him with whom the deposit was in charge. But if the bailee took an oath [to defend himself] rather than pay and [it so happened that] the actual thief was found and has to make double payment, or, where he already slaughtered the animal or sold it, fourfold or fivefold payment, to whom shall he pay? To the owner of the deposit.[21] Now, Abaye infers his view from the commencing clause, whereas Raba deduces his ruling from the concluding clause. Abaye infers his view from the commencing clause where it was stated: ‘If the bailee paid, rather than deny on oath . . .’ this is so only where he was not willing to swear,

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(1) And thus subject to Ex. XXII, 8.

(2) Rendering himself thus liable under Lev. V, 21-25.

(3) Since he did not confirm a defence of theft.

(4) The Mishnah of Shebu. 49a, where, however, the adjuration is missing, but v. also Jer. ibid. 3.

(5) And not at all the oath.

(6) I.e., Lev. V, 24.

(7) V. p. 628, n. 5.

(8) V. p. 628, n. 5.

(9) V. p. 628, n. 7.

(10) V. p. 628, n. 6.

(11) Such as double payment and a Fifth.

(12) I.e., either two Fifths or two amounts of double payment.

(13) No difference whether of one kind or of two different kinds.

(14) Lev. V, 24.

(15) Supra 65b, v. also Sifra on Lev. V, 24, and Malbim, a.l.

(16) And has to pay double.

(17) Either to the bailee in accordance with B.M. 33b, to be quoted presently, or to the depositor.

(18) By the bailee.

(19) To the bailee; v. B.M. 34a and also 35a.

(20) Ibid VII, 8.

(21) V. B.M. 33b.

Talmud - Mas. Baba Kama 108b

but where he did take an oath, even though he subsequently paid, the thief would surely have to pay the owner of the deposit; but Raba deduces his ruling from the concluding clause where it was stated: ‘But if the bailee took an oath [to defend himself] rather than pay . . .’, this is so only where he was not willing to pay, but where he did pay even though he first denied the claim on oath, the thief would of course have to pay him with whom the deposit was in charge. Does not the implication of the concluding clause contradict the view of Abaye? — Abaye would say to you: What it means to say is this: ‘If the bailee swore rather than pay before having taken the oath, though he did so after he took the oath, to whom will the thief pay? To the owner of the deposit.’ But does not the implication of the commencing clause contradict the view of Raba? — Raba could say to you that the meaning is this: ‘If the bailee paid, as he was not willing to take his stand upon his oath and consequently paid, to whom should the thief pay? To him with whom the deposit was in charge.

Suppose the owner had claimed [his deposit] from the bailee, and the latter denied upon oath, and the actual thief was then identified and the bailee demanded payment from him and he confessed the theft, but when the owner [of the deposit] demanded payment from him he denied it and witnesses were brought, did the thief become exempt[1] through his confession to the bailee,[2] or did the thief not become exempt[1] through his confession to the bailee?[3] — Said Raba: If the oath [taken by the bailee] was true, the thief would become exempt through his confession to the bailee,[4] but if he perjured himself in the oath[5] the thief would not become exempt through his confession to the bailee.[6] But Raba asked: What would be the law where the bailee was prepared to swear falsely but [it so happened that for some reason or other] he was not allowed to do so?[7] — This must remain undecided. But while R. Kahana was stating the text thus, R. Tabyomi was reading it as follows: ‘Rab asked: What would be the law where the bailee has sworn falsely [to defend himself]?’[8] — This must stand undecided.

Suppose the owner claimed [his deposit] from the bailee who thereupon paid him, and the thief was then identified and when the owner demanded payment from him he confessed, whereas when the bailee demanded payment from him he denied it, and witnesses appeared [against him], should the thief become exempt[9] through his confession to the owner or not? Shall we maintain that the bailee is entitled to say to the owner: ‘Since you have received the value [of your deposit] your interest has completely lapsed[10] in this matter’, or can the owner say to him: ‘Just as you did us a favour,[11] we also are willing to do you the same and are therefore hunting after the thief. Let us take back what belonged to us and you receive back what belonged to you’? — This must stand undecided.

It was taught:[12] Where the deposit was stolen through violence[13] and the thief was identified, Abaye said that if the bailee was unpaid he has the option of going to law with him,[14] or of [clearing himself by] an oath [so that the owner will himself have to deal with the thief], whereas if it was a paid bailee he would have to go to law with the thief and he cannot take an oath to discharge his liability.[15] But Raba said: Whichever he is[16] he would have to go to law with the thief and not take an oath. May we say that Raba differs from the view of R. Huna b. Abin, for R. Huna b. Abin sent word that where the deposit was stolen by violence and the thief was identified, if the bailee was unpaid he had the option of going to law with him or of [clearing himself by] an oath, whereas if he was a paid bailee he would have to go to law with the thief and could not clear himself by an oath?[17] — Raba could say to you that [in this last ruling] we are dealing with a case where the paid bailee took the oath before [the thief was identified].[18] But did R. Huna not say: ‘He had the option of going to law or of clearing himself by an oath’?[19] — What he meant was this: ‘The unpaid bailee had the choice of taking his stand on his oath[20] or of going to law with him.’ Rabbah Zuti asked thus: Where the deposited animal was stolen by violence and the thief restored it to the house of the bailee where it then died through carelessness [on the part of the bailee], what should be the law? Shall we say that since it was stolen by violence, the duty of bailment came to an end,[21] or perhaps since it was restored to him it once more came into his charge [which thus revived]?[22] — This must stand undecided.

MISHNAH. [IF A MAN SAYS TO ANOTHER] ‘WHERE IS MY DEPOSIT?’ AND HE[23] REPLIES: ‘IT IS LOST’ [AND THE DEPOSITOR THEN SAYS]. ‘I PUT IT TO YOU ON OATH.’ AND THE OTHER REPLIES. ‘AMEN’, IF WITNESSES TESTIFY AGAINST HIM THAT HE HIMSELF HAD CONSUMED IT, HE HAS TO PAY ONLY THE PRINCIPAL, WHEREAS IF HE CONFESSES ON HIS OWN ACCORD HE HAS TO REPAY THE PRINCIPAL TOGETHER WITH A FIFTH AND BRING A TRESPASS OFFERING.[24] [BUT IF THE DEPOSITOR SAYS] ‘WHERE IS MY DEPOSIT?’ AND THE BAILEE REPLIES: ‘IT WAS STOLEN’ [AND THE DEPOSITOR THEN SAYS] I PUT IT TO YOU ON OATH, AND THE BAILEE REPLIES, AMEN, IF WITNESSES TESTIFY AGAINST HIM THAT HE HIMSELF HAD STOLEN IT HE HAS TO REPAY DOUBLE,[25] WHEREAS IF HE CONFESSES ON HIS OWN ACCORD HE HAS TO REPAY THE PRINCIPAL TOGETHER WITH A FIFTH AND BRING A TRESPASS OFFERING.[24] IF A MAN ROBBED HIS FATHER AND, [WHEN CHARGED BY HIM,] DENIED IT ON OATH, AND [THE FATHER AFTERWARDS] DIED,[26] HE WOULD HAVE TO REPAY THE PRINCIPAL AND A FIFTH [AND A TRESPASS OFFERING][27] TO HIS [FATHER'S] CHILDREN[28] OR TO HIS [FATHER'S] BROTHERS;[29] BUT IF HE IS UNWILLING TO DO SO,[30] OR HE HAS NOTHING WITH HIM,[31] HE SHOULD BORROW [THE AMOUNT FROM OTHERS AND PERFORM THE DUTY OF RESTORATION TO ANY OF THE SPECIFIED RELATIVES] AND THE CREDITORS CAN SUBSEQUENTLY COME AND [DEMAND TO] BE PAID[32] [THE PORTION WHICH WOULD BY LAW HAVE BELONGED TO THE ROBBER AS

HEIR]. IF A MAN SAID TO HIS SON: ‘KONAM BE[33] WHATEVER BENEFIT YOU HAVE OF MINE,’[34] AND SUBSEQUENTLY DIED, THE SON WILL INHERIT HIM.[35]

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(1) From paying the fine.

(2) In accordance with supra p. 427.

(3) The problem is whether the bailee had an implied mandate to approach the thief or not, as a confession made not to the plaintiff or his authorised agent but to a third party uninterested in the matter is of no avail to exempt from the fine; cf. however the case of R. Gamaliel and his slave Tabi, supra p. 428.

(4) As in this case the trust in the bailee has not been impaired and the implied mandate not cancelled.

(5) I.e., he advanced another defence, e.g., accidental death.

(6) Who could no longer be trusted and thus had no right to represent the depositor any more.

(7) Has the trust in him thereby been impaired or not?

(8) Shall it be said that though he had already sworn inaccurately he would sooner or later have been compelled by his conscience to make restoration, as he in fact exerted himself to look for the thief and should therefore still retain the trust reposed in him, especially since the article had really been stolen though he advanced for some reason another plea; R. Tabyomi had thus not read the concluding clause in the definite statement made above by Raba.

(9) V. p. 632. n. 1.

(10) Lit., ‘removed’.

(11) By paying us for the deposit and not resisting our claim.

(12) Cf. B.M. 93b.

(13) By an armed robber; v. supra, 57a.

(14) I.e. the thief.

(15) For since he was paid, though he is exempt in the case of theft by violence, it is nevertheless his duty to take the trouble to litigate with the thief, since the thief is identified.

(16) I.e., unpaid as well as paid.

(17) B.M. 93b.

(18) In which case the depositor will himself have to deal with the case.

(19) Which makes it clear that the oath has not yet been taken.

(20) ‘Already taken by him.

(21) So that the bailee should no more be subject to the law of bailment.

(22) To make the law of bailment still applicable.

(23) Being an unpaid bailee.

(24) In accordance with Lev. V, 21-25.

(25) In accordance with Ex. XXII, 8.

(26) When the son confessed the theft.

(27) The phrase in parenthesis occurs in the Mishnaic text but not in Rashi. [And rightly so, for what have the children etc. to do with the trespass offering.]

(28) I.e., to his own brothers, for if he would retain anything for himself he would not obtain atonement, since he did not make full restoration (Rashi). [Tosaf.: to his own children, or to his own brothers in the absence of any children to him, v. B.B. 159a.]

(29) I.e., his uncles, in the absence of any other children to his father.

(30) I.e., to forfeit his own share in the payment which he has to make.

(31) To be in a position to do so.

(32) From the amount restored.

(33) I.e., Let it be forbidden as sacrifice; v. Ned. I, 2.

(34) [J.: ‘that you do not benefit out of anything belonging to me.’]

(35) For through the death of the father his possessions passed out of his ownership and the son is no more benefiting out of anything belonging to him; cf. Ned. V, 3.

Talmud - Mas. Baba Kama 109a

[BUT IF HE SAID ‘KONAM. . . ‘] BOTH DURING HIS LIFE AND AFTER HIS DEATH,[1] AND

[THE FATHER] DIED, THE SON WILL NOT INHERIT HIM,[2] [BUT THE PORTION] WILL BE TRANSFERRED TO HIS FATHER'S [OTHER] CHILDREN OR TO HIS [FATHER'S] BROTHERS; IF THE SON HAS NOTHING [FOR A LIVELIHOOD], HE MAY BORROW [FROM OTHERS AN AMOUNT EQUAL TO HIS PORTION IN THE INHERITANCE] AND THE CREDITORS CAN COME AND DEMAND PAYMENT [OUT OF THE ESTATE].

GEMARA. R. Joseph said: [He must pay[3] the amount due for the robbery] even to the charity[4] box.[5] R. Papa added: He must however say, This is due for having robbed my father. But why should he not remit the liability to himself?[6] Have we not learnt: Where the plaintiff released him from payment of the principal though he did not release him from payment of the Fifth [etc.],[7] thus proving that this liability is subject to be remitted? — Said R. Johanan: This is no difficulty as that was the view of R. Jose the Galilean, whereas the ruling [here][6] presents the view of R. Akiba, as indeed taught: But if the man have no kinsman to restore the trespass unto,[8] how could there be a man in Israel who had no kinsmen?[9] Scripture must therefore be speaking of restitution to a proselyte.[10] Suppose a man robbed a proselyte and when charged denied it on oath and as he then heard that the proselyte had died he accordingly took the amount of money [due] and the trespass offering to Jerusalem, but there [as it happened] came across that proselyte who then converted the sum [due to him] into a loan, if the proselyte were subsequently to die the robber would acquire title to the amount in his possession; these are the words of R. Jose the Galilean. R. Akiba, however, said: There is no remedy for him [to obtain atonement] unless he should divest himself of the amount stolen.[11] Thus according to R. Jose the Galilean, whether to himself or to others, the plaintiff may[12] remit the liability,[13] whereas according to R. Akiba no matter whether to others or to himself, he cannot remit it. Again, according to R. Jose the Galilean, the same law[14] would apply even where the proselyte did not convert the amount due into a loan, and the reason why it says, ‘who then converted the sum [due to him] into a loan’ is to let you know how far R. Akiba is prepared to go, since he maintains that even if the proselyte converted the sum due into a loan there is no remedy for the robber [to obtain atonement] unless he divests himself of the proceeds of the robbery. R. Shesheth demurred to this: If so [he said] why did not R. Jose the Galilean tell us his view in a case where the claimant [remits it] to himself, the rule then applying a fortiori to where he remits it to others? And again why did not R. Akiba tell his view that it is impossible to remit, to others, then arguing a fortiori that he cannot remit it to himself? R. Shesheth therefore said that the one ruling as well as the other is in accordance with R. Jose the Galilean, for the statement made by R. Jose the Galilean that it is possible to remit such a liability applies only where others get the benefit,[15] whereas where he himself would benefit it would not be possible to remit it. Raba, however, said: The one ruling as well as the other [here,] is in accordance with R. Akiba, for when R. Akiba says that it is impossible to remit the liability, he means to himself, whereas to others[15] it is possible for him to remit it.

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(1) [J.: ‘both during my life and after my death.’]

(2) As in this case it was the estate as such, and not as belonging to his father, which was declared forbidden; Ned. V, 3.

(3) Where no other heir could be traced to his father except himself.

(4) Lit., ‘Arnaki’, **; v. K. Krauss, Lehnworter, II, 133.

(5) Cf. supra p. 204 and p. 540.

(6) V. p. 635, n. 1.

(7) Supra Mishnah 103a.

(8) Num. V, 8.

(9) Cf.Kid. 21a and Sanh. 68b; for if he has no issue the inheritance will revert to ancestors and their descendants; v. B.B. VIII, 2.

(10) Who has no kinsman in law except the children born to him after he became a proselyte; cf. Sheb. X, 9 and Kid. 17b.

(11) Tosef. B.K. X.

(12) In all cases.

(13) The Mishnah on 103a will accordingly agree with R. Jose.
(14) Stated by him in the case of the proselyte.
(15) V. p. 636. n. 2.

Talmud - Mas. Baba Kama 109b

This would imply that R. Jose the Galilean maintained that even to himself[1] he could remit it. Now, if that is so, how could a case ever arise that restitution for robbery committed upon a proselyte[2] should be made to the priests[3] as ordained in the Divine Law? — Said Raba: We are dealing here with a case where one robbed a proselyte and [falsely] denied to him on oath [that he had done so], and the proselyte having died the robber confessed subsequently, on the proselyte's death,[4] so that at the time he made confession God[5] acquired title to it[6] and granted it to the priests.[7]

Rabina asked: What would be the law where a proselytess was robbed? Shall we say that when the Divine Law says ‘man’[7] it does not include ‘woman’ or perhaps this is only the Scriptural manner of speaking? — Said R. Aaron to Rabina: Come and hear: It was taught: ‘[The] man’;[7] this tells me only that the law applies to a man; whence do I know that it applies also to a woman? When it is further stated ‘That the trespass be restored’[7] we have two cases mentioned.[8] But if so, why was ‘man’ specifically mentioned? To show that only in the case of [a person who has reached] manhood[9] is it necessary to investigate whether he had kinsmen[10] or not, but in the case of a minor it is not necessary, since it is pretty certain that he could have no ‘redeemers’.[11]

Our Rabbis taught: Unto the Lord even to the priest[12] means that the Lord acquired title to it[13] and granted it to the priest[14] of that [particular] division. You say ‘to the priest of that [particular] division’, but perhaps it is not so, but to any priest whom the robber prefers? — Since it is further stated, Beside the ram of atonement whereby he shall make an atonement for him,[12] it proves that Scripture referred to the priest of that [particular] division.

Our Rabbis taught: In the case where the robber was a priest, how do we know that he is not entitled to say: Since the payment would [in any case] have to go to the priests, now that it is in my possession it should surely remain mine? Cannot he argue that if he has a title to payment which is in the possession of others,[15] all the more should he have a title to payment which he has in his own possession? R. Nathan put the argument in a different form: Seeing that a thing in which he had no share until it actually entered his possession cannot be taken from him once it has entered his possession,[16] does it not stand to reason that a thing[17] in which he had a share[18] even before it came into his possession cannot be taken from him once it has come into his possession?[19] This, however, is not so: for while this may be true[20] of a thing in which he had no share, since in that case just as he had no share in it, so has nobody else any share in it, it is not necessarily true[20] of the proceeds of robbery where just as he has a share in it, so also have others a share in it.[21] The [payment for] robbery must therefore be taken away from his possession and shared out to all his bretheren the priests. But is it not written: And every man's hallowed things shall be his?[22] — We are dealing here with a priest who was [levitically] defiled.[23] But if the priest was defiled, could there be anything in which he should have a share?[24] — [The fact is that] the ruling[25] is derived by the analogy of the term, ‘To the priest’[26] to a similar term ‘To the priest’ occurring in the case of a field of [Permanent] possession,[27] as taught:[28] What is the point of the words the [permanent] possession thereof?[27] [The point is this:] How can we know that if a field which would [in due course] have to fall to the priests in the jubilee[27] but was redeemed by one of the priests, he should not have the right to say, ‘Since the field is destined to fall to the priests in the jubilee and as it is already in my possession it should remain mine, as is indeed only reasonable to argue, for since I have a title to a field in the possession of others, should this not be the more so when the field is in my own possession?’ The text therefore significantly says. As a field devoted, the [permanent] possession thereof shall be the priest's, to indicate that a field of [permanent] possession[29] remains with him, whereas this [field][30] will not remain with him.[31] What then is to be done with it? It is taken from him and shared out to all his brethren the priests.

Our Rabbis taught: Whence can we learn that a priest is entitled to come and sacrifice his offerings at any time and on any occasion he prefers? It is significantly stated, And come with all the desire of his mind . . . and shall minister.[32] But whence can we learn that the fee for the sacrificial operation[33] and the skin of the animal will belong to him? It is stated: And every man's hallowed thing shall be his,[34] so that if he was blemished,[35] he has to give the offering to a priest of that particular division, while the fee for the operation and the skin will belong to him,

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(1) V. p. 635. n. I.

(2) Who subsequently died without legal issue.

(3) For since the proselyte died without leaving legal issue, why should the robber not acquire title to the payment due for the robbery which is in his possession.

(4) For if the confession was made prior to his death the amount to be paid would have become a liability as a debt upon the robber and would thus become remitted through the subsequent death of the proselyte; cf. supra p. 283.

(5) Lit., ‘the Name’.

(6) V. Men. 45b.

(7) V. p. 636, n. 3.

(8) Either because the term expressing ‘recompense’ or because the term expressing ‘trespass’ occurs there twice in the text (Rashi). — This solves the question propounded by R. Aaron.

(9) I.e., a proselyte who died after having already come of age.

(10) I.e., descendants, for his ancestors and collateral relatives are not entitled to inherit him; v. Kid. 17b.

(11) V. also Sanh. 68a-69b.

(12) V. p. 636, n. 3.

(13) V. p. 637, n. 7.

(14) On duty at the time of restoration. The priests were divided into twenty-four panels; v. I. Chron. XXIV, 1-18.

(15) [For as soon as the robbery of a proselyte is placed in the charge of a particular division, all priests of that division share a title to it.]

(16) [A priest may come and offer his own sacrifice at any time and retain the flesh and skin for himself without sharing it with the priests of the division on duty. Once he however gave it to another priest who hitherto had no title to it, he cannot reclaim it of him.]

(17) Such as payment for a robbery committed upon a proselyte.

(18) As soon as it was restored to anyone of the division.

(19) As in the case where the priest himself was the robber.

(20) That a priest may retain for himself the priestly portions in his possession.

(21) V. p. 638, n. 8.

(22) Num. V, 10. So that the right to sacrifice the trespass offering would be his. The flesh therefore consequently belongs to him, in which case the payment for the robbery should similarly remain with him.

(23) And as he is thus unable himself to sacrifice the trespass offering he cannot retain the payment.

(24) V. Zeb. XII, 1; how then comes it to be stated in the text that he would be entitled to a share as soon as it was restored to any one of the division?

(25) That a priest may not retain for himself the payment for a robbery he committed upon a proselyte, though he himself had a right to the sacrifice and the whole of the flesh.

(26) V. p. 636, n. 3.

(27) Cf. Lev. XXVII, 21.

(28) ‘Ar. 25b.

(29) Which belonged as such to his father and was inherited by him; cf. Rashi’ Ar. 25b.

(30) Which he redeemed from the Temple treasury.

(31) After the arrival of the jubilee.

(32) Deut. XVIII, 6-7.

(33) Lit., ‘the reward of the service thereof’. I.e., the priestly portions thereof.

(34) Num. V. 10.
(35) And thus himself unable to sacrifice but able to partake of the portions in accordance with Lev. XXI, 17-22.

Talmud - Mas. Baba Kama 110a

but if he was old or infirm[1] he may give it to any priest[2] he prefers, and the fee for the operation and the skin will belong to the members of the division.[3] How are we to understand this ‘old or infirm priest’? If he was still able to perform the service,[4] why should the fee for the sacrifice and the skin similarly not be his? If on the other hand he was no longer able to perform the service, how can he appoint an agent?[5] — Said R. Papa: He was able to perform it only with effort, so that in regard to the service which even though carried out only with effort is still a valid service he may appoint an agent, whereas in regard to the eating which if carried through only with effort would constitute an abnormal eating,[6] which is not counted as anything[7] [in the eyes of the law], the fee for the sacrifice and the skin must belong to the members of the division.

R. Shesheth said: If a priest [in the division] is unclean, he has the right to hand over a public sacrifice to whomever[2] he prefers.[8] but the fee and the skin will belong to the members of the division. What are the circumstances? If there were in the division priests who were not defiled, how then could defiled priests perform the service?[9] If on the other hand there were no priests there who were not defiled, how then could the fee for the sacrifice and the skin belong to the members of the division who were defiled and unable to partake of holy food?[10] — Said Raba: Read thus: ‘[The fee for it and the skin of it will belong] to blemished undefiled priests[11] in that particular division.’ R. Ashi said: Where the high priest was an Onan[12] he may hand over his sacrifice to any priest[13] he prefers,[14] whereas the fee for it and the skin of it will belong to the members of the division. What does this tell us [which we do not already know?] Was it not taught: ‘The high priest may sacrifice even while an Onan, but he may neither partake of the sacrifice, nor [even] acquire any share in it for the purpose of partaking of it in the evening’?[15] — You might have supposed that the concession made by the Divine Law to the high priest[12] was only that he himself should perform the sacrifice, but not that he should be entitled to appoint an agent; we are therefore told that this is not the case.

MISHNAH. IF ONE ROBBED A PROSELYTE AND [AFTER HE] HAD SWORN TO HIM [THAT HE DID NOT DO SO], THE PROSELYTE DIED, HE WOULD HAVE TO PAY THE PRINCIPAL AND A FIFTH TO THE PRIESTS, AND BRING A TRESPASS OFFERING TO THE ALTAR, AS IT IS SAID: BUT IF THE MAN HAVE NO KINSMAN TO RESTORE THE TRESPASS UNTO, LET THE TRESPASS BE RESTORED UNTO THE LORD, EVEN TO THE PRIEST; BESIDE THE RAM OF ATONEMENT WHEREBY AN ATONEMENT SHALL BE MADE FOR HIM.[16] IF WHILE HE WAS BRINGING THE MONEY AND THE TRESPASS OFFERING UP TO JERUSALEM HE DIED [ON THE WAY], THE MONEY WILL BE GIVEN TO HIS HEIRS,[17] AND THE TRESPASS OFFERING WILL BE KEPT ON THE PASTURE UNTIL IT BECOMES BLEMISHED,[18] WHEN IT WILL BE SOLD AND THE VALUE RECEIVED WILL GO TO THE FUND OR FREEWILL OFFERINGS.[19] BUT IF HE HAD ALREADY GIVEN THE MONEY TO THE MEMBERS OF THE DIVISION AND THEN DIED, THE HEIRS HAVE NO POWER TO MAKE THEM GIVE IT UP, AS IT IS WRITTEN, WHATSOEVER ANY MAN GIVE TO THE PRIEST IT SHALL BE HIS.[20] IF HE GAVE THE MONEY TO JEHOIARIB[21] AND THE TRESPASS OFFERING TO JEDAIAH,[22] HE HAS FULFILLED HIS DUTY.[23] IF, HOWEVER, THE TRESPASS OFFERING WAS FIRST GIVEN TO JEHOIARIB AND THEN THE MONEY TO JEDAIAH, IF THE TRESPASS OFFERING IS STILL IN EXISTENCE THE MEMBERS OF THE JEDAIAH DIVISION WILL HAVE TO SACRIFICE IT,[24] BUT IF IT IS NO MORE IN EXISTENCE HE WOULD HAVE TO BRING ANOTHER TRESPASS OFFERING; FOR HE WHO BRINGS [THE RESTITUTION FOR] ROBBERY BEFORE HAVING BROUGHT THE TRESPASS OFFERING FULFILS HIS OBLIGATION, WHEREAS HE WHO BRINGS THE TRESPASS OFFERING BEFORE HAVING

BROUGHT [THE RESTITUTION FOR] THE ROBBERY HAS NOT FULFILLED HIS OBLIGATION. IF HE HAS REPAID THE PRINCIPAL BUT NOT THE FIFTH, THE [NON-PAYMENT OF THE] FIFTH IS NO BAR [TO HIS BRINGING THE OFFERING].

GEMARA. Our Rabbis taught: The trespass:[25] this indicates the Principal; be restored: this indicates the Fifth. Or perhaps this is not so, but 'the trespass' indicates the ram, and the practical difference as to which view we take would involve the rejection of the view of Raba, for Raba said: '[Restitution for] robbery committed upon a proselyte, if made at night time does not fulfil the obligation, nor does restitution by halves, the reason being that the Divine Law termed it trespass?[26] — Since it says later 'beside the ram of atonement', you must surely say that 'the trespass' is the Principal.

Another [Baraitha]: 'The trespass' is the Principal, 'be restored' is the Fifth. Or perhaps this is not so, but 'the trespass' means the Fifth and the practical difference as to which view we take, would involve the rejection of the ruling of our Mishnah, viz. IF HE HAS REPAID THE PRINCIPAL BUT NOT THE FIFTH, THE [NONPAYMENT OF THE] FIFTH IS NO BAR', for in this case on the contrary the [non-payment of the] Fifth would be a bar?[27] — Since it has already been stated: And he shall recompense his trespass with the Principal thereof and add unto it a Fifth thereof,[28] you must needs say that the trespass is the Principal.

Another [Baraitha] taught: 'The trespass'[29] is the Principal, 'be restored' is the Fifth, as the verse here deals with robbery committed upon a proselyte. Or perhaps this is not so, but 'be restored' indicates the doubling of the payment, the reference being to theft[30] committed upon a proselyte? — Since it has already been stated: And he shall restore his trespass with the Principal thereof and add unto it a Fifth part thereof,[28] it is obvious that Scripture deals here with money which is paid as Principal.[31]

[To revert to] the above text. 'Raba said: [Restitution for] robbery committed upon a proselyte, if made at night time would not be a fulfilment of the obligation, nor would it if made in halves, the reason being that the Divine Law termed it trespass;' Raba further said: If [in the restitution for] robbery committed upon a proselyte there was not the value of a perutah[32] for each priest [of the division] the obligation would not be fulfilled, because it is written: 'The trespass be recompensed' which indicates that unless there be recompense to each priest [there is no atonement]. Raba thereupon asked: What would be the law if it were insufficient with respect to the division of Jehoiarib,[33] but sufficient

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(1) Competent to sacrifice but unable to partake of the portions.

(2) Even of another division.

(3) Men. 74a. For a transposed text cf. J. Yeb. XI, 10.

(4) For priests unlike levites do not become disqualified by age; v. Hul. 1, 6.

(5) Cf. Kid. 23b.

(6) Cf. however Shab. 76a and supra 19b.

(7) Cf. Yoma 80b; and Pes. 107b.

(8) For since he himself can perform the service he can hand it over to whomever he likes.

(9) And since he could not perform the service he should surely be unable to transfer it to whomever he wishes.

(10) V. Zeb. XII, 1.

(11) V. p. 640, n. 6.

(12) I.e., a mourner on the day of the death of a kinsman; V. Lev, XXI, 10-12.

(13) V. p. 640, n. 8.

(14) V. p. 640, n. 14.

(15) Tosef. Zeb. XI, 2; cf. Yoma 13b.

(16) Num. V, 8.

(17) I.e., of the robber.
(18) And thus unfit to be sacrificed, cf. Lev. XXII, 20.
(19) Cf. Shek. VI, 5.
(20) Num. V, 10.
(21) I.e., to a member of the Jehoiarib division, which was the first of the twenty-four divisions of the priests; cf. I Chron. XXIV, 7.
(22) I.e., to a member of the Jedaiah division, which was the second of the priestly divisions, v. ibid.
(23) For the payment of the money has to precede the trespass offering.
(24) For Jehoiarib had no right to accept the trespass offering before the money was paid.
(25) Num. V. 8.
(26) And an offering could not be sacrificed at night time. [Consequently should it be assumed that ‘the trespass’ denotes the ram and not the Principal Raba's ruling would be rejected.]
(27) Being the trespass.
(28) Num. V, 7.
(29) Num. V, 8.
(30) Which is subject to Ex. XXII, 3.
(31) And not with double payment.
(32) V. Glos.
(33) Consisting of many priests.

Talmud - Mas. Baba Kama 110b

for the division of Jedaiah?[1] What are the circumstances? If we suppose that he paid it to Jedaiah during the time [of service] of the division of Jedaiah,[1] surely in such a case the amount is sufficient?[2] — No, we must suppose that he paid it to Jedaiah[1] during the time of the division of Jehoiarib. Now, what would be the law? Shall we say that since it was not in the time of his division, the restoration is of no avail, or perhaps since it would not do for Jehoiarib it was destined from the very outset to go to Jedaiah? — Let this stand undecided.

Raba again asked: May the priests set [one payment for] a robbery committed upon a proselyte against another [payment for a] robbery committed upon a proselyte? Shall we say that since the Divine Law designated it trespass,[3] therefore, just as in the case of a trespass offering, one trespass offering can not be set against another trespass offering,[4] so also in the case of [payment for] a robbery committed upon a proselyte, one [payment for] robbery committed upon a proselyte cannot be set against another [payment for] robbery committed upon a proselyte[5] or perhaps [since payment for] robbery committed upon a proselyte is a matter of money, [it should not be subject to this restriction]? He however subsequently decided that [as] the Divine Law termed it trespass, [it should follow the same rule]. R. Aha the son of Raba stated this explicitly. Raba said: The priests have no right to set one [payment for a] robbery committed upon a proselyte against another [payment for] robbery committed upon a proselyte, the reason being that the Divine Law termed it trespass.

Raba asked: Are the priests in relation to [the payment for] robbery committed upon a proselyte in the capacity of heirs[6] or in the capacity of recipients of endowments? A practical difference arises where e.g., the robber misappropriated leaven and Passover meanwhile passed by.[7] If now you maintain that they are in the capacity of heirs, it will follow that what they inherited they will have,[8] whereas if you maintain that they are recipients of endowments, the Divine Law surely ordered the giving of an endowment, and in this case nothing would be given them since the leaven is considered [in the eye of the law] as being mere ashes.[9] R. Ze'ira put the question thus: Even if you maintain that they are recipients of endowments, then still no question arises, since it is this endowment [originally due to the proselyte] which the Divine Law has enjoined to be bestowed upon them.[10] What, however, is doubtful to us is where e.g., ten animals fell to the portion of a priest as [payment for] robbery committed upon a proselyte. Is he then under an obligation to set aside a tithe[11] or not?

Are they [the priests] heirs, in which case the dictum of the master applies that [where] heirs have bought animals out of the funds of the general estate they would be liable [to tithe], or are they perhaps endowment recipients in which case we have learnt ‘He who buys animals or receives them as a gift is exempt from the law of tithing animals’?[12] Now, what should be the law?[13] — Come and hear: Twenty-four priestly endowments were bestowed upon Aaron and his sons. All these were granted to him by means of a generalisation followed by a specification which was in its turn followed again by a generalisation[14] and a covenant of salt[15] so that to fulfil them is like fulfilling [the whole law which is expounded by] generalisation, specification and generalisation and [like offering all the sacrifices forming] the covenant of salt,[16] whereas to transgress them is like transgressing [the whole Torah which is expounded by] generalisation, specification and generalisation, and [all the sacrifices forming] the covenant of salt. They are these: Ten to be partaken in the precincts of the Temple, four in Jerusalem and ten within the borders [of the Land of Israel]. The ten in the precincts of the Temple are: A sin offering of an animal,[17] a sin offering of a fowl,[18] a trespass offering for a known sin,[19] a trespass offering for a doubtful sin,[20] the peace offering of the congregation,[21] the log of oil in the case of a leper,[22] the remnant of the Omer,[23] the two loaves,[24] the shew bread[25] and the remnant of meal offerings.[26] The four in Jerusalem are: the firstling.[27] the first of the first fruits,[28] the portions separated in the case of the thank offering[29] and in the case of the ram of the Nazirite[30] and the skins of [the most] holy sacrifices.[31] The ten to be partaken in the borders [of the Land of Israel] are: terumah,[32] the terumah of the tithe,[33] hallah,[34] the first of the fleece,[35] the portions[36] [of unconsecrated animals], the redemption of the son,[37] the redemption of the firstling of an ass,[38] a field of possession,[39] a field devoted,[40] and [payment for a] robbery committed upon a proselyte.[41] Now, since it is here designated an ‘endowment’, this surely proves that the priests are endowment recipients in this respect.[42] This proves it.

BUT IF HE HAD ALREADY GIVEN THE MONEY TO THE MEMBERS OF THE DIVISION etc. Abaye said: We may infer from this that the giving of the money effects half of the atonement: for if it has no [independent] share in the atonement, I should surely say that it ought to be returned to the heirs, on the ground that he would never have parted with the money upon such an understanding.[43] But if this could be argued, why should a sin offering whose owner died not revert to the state of unconsecration,[44] for the owner would surely not have set it aside upon such an understanding?[45] — It may however be said that regarding a sin offering whose owner died there is a halachah handed down by tradition that it should be left to die.[46] But again, according to your argument, why should a trespass offering whose owner died not revert to the state of unconsecration,[47] as the owner would surely not have set it aside upon such an understanding? — With regard to a trespass offering there is similarly a halachah handed down by tradition that whenever [an animal, if set aside as] a sin offering would be left to die, [if set aside as] a trespass offering it would be subject to the law of pasturing.[46] But still, according to your argument why should a deceased brother's wife on becoming bound to one affected with leprosy not be released [even] without the act of halizah,[48] for surely she would not have consented to betroth herself[49] upon this understanding?[50] — In that case we all can bear witness[51]

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(1) Which consisted of not so many priests.

(2) For the priests of the division; why at all consider the number of the priests of a different division?

(3) V. p. 643, n. 8.

(4) But each offering is distributed among all the priests of the division; v. Kid, 531 and Men. 73a.

(5) But each payment would have to be shared by all the priests of the division.

(6) Of the proselyte so far as this liability is concerned,

(7) Rendering the leaven forbidden for any use; v. supra p. 561 and Pes. II. 2.

(8) I.e., whether they would be able to make use of it or not.

(9) Cf. Tem. VII, 5.

(10) The priests could thus never be in a better position then the proselyte himself.

(11) In accordance with Lev. XXVII, 32.

(12) Cf, Bek. IX, 3.
(13) Here where a priest received animals in payment for a robbery committed upon a proselyte.
(14) V. supra, p. 364. [Generalisation: Num. XVIII, 8, where the priestly portions are referred to in general terms; specification: verses 9-18, where they are enumerated; second generalisation: verse 19, where they are again mentioned generally.]
(15) Cf. Num. XVIII, 8-19.
(16) Lev. II, 13.
(17) Ibid. VI, 17-23.
(18) Ibid. V, 8.
(19) For which cf. ibid. V, 14-16; 20-26; ibid. XIX, 20-22 a.e.
(20) Ibid. V, 17-19.
(21) Ibid. XXIII, 19-20.
(22) Ibid. XIV, 12.
(23) Lit., 'Sheaf' referred to in Lev. XXIII, 10-12; the remainder of this meal offering after the handful of flour has been taken and sacrificed, is subject to Lev. VI, 9-11.
(24) Referred to in Lev. XXIII, 17.
(25) Dealt with in Ex. XXV, 30 and Lev. XXIV, 5-9.
(26) Lev. II, 3
(27) Num. XVIII, 17-18.
(28) Cf. Ex. XXIII, 19 and Num. XVIII, 13; v, also Deut. XII, 17 and XXVI, 2-10.
(29) Lev. VII, 11-14.
(30) Num. VI, 14-20.
(31) Such as of the burnt and of the sin and of the trespass offerings; for the skins of the minor sacrifices belong to the donors; v, Zeb. 103b.
(32) Cf. Num. XVIII, 12; v. Glos.
(33) Cf. ibid. 25-29.
(34) I.e., the first of the dough; v. Num. XV, 18-21.
(35) Deut. XVIII, 4.
(36) Lit., 'the gifts'; v. Deut. ibid. 3.
(37) Num. XVIII, 15-16.
(38) Ex. XIII, 13.
(39) Cf. Lev. XXVII, 16-21.
(40) Num. XVIII, 14.
(41) Hul. 133b. Tosef. Hal. II.
(42) I.e., the payment for robbery committed upon a proselyte.
(43) I.e., to obtain no atonement and yet lose the money.
(44) Why then should it be destined by law to die as stated in Tem. II, 2.
(45) That it should be unable to serve any purpose and yet remain consecrated.
(46) No stipulation to the contrary could therefore be of any avail; cf. e.g. Pe'ah VI, 11 and B.M. VII, 11.
(47) Why then should it be kept on the pastures until it will become blemished, as also stated supra p. 642.
(48) I.e., the loosening of his shoe, as required in Deut. XXV, 9; cf. Glos,
(49) And as the retrospective annulment of the betrothal would be not on account of the death of the husband but on account of his brother being a leper, this case, unlike that of the sin offering or trespass offering referred to above, could not be subject to Pe'ah VI, 11 and B.M. VII, 11.
(50) I.e., to become bound to (the husband's brother who was) a leper; cf. Keth. VII, 10.
(51) The brother who died but who had no deformity.

Talmud - Mas. Baba Kama 111a

that she was quite prepared to accept any conditions,[1] as we learn from Resh Lakish; for Resh Lakish said:[2] it is better [for a woman] to dwell as two[3] than to dwell in widowhood.[4]

WHERE HE GAVE THE MONEY TO JEHOIARIB AND THE TRESPASS OFFERING TO JEDAIAH etc. Our Rabbis taught: Where he gave the trespass offering to Jehoiarib and the money to Jedaiah the money will have to be brought to [whom] the trespass offering [is due].[5] This is the view of R. Judah, but the Sages say that the trespass offering will have to be brought[6] to [whom] the money [is due].[7] What are the circumstances? Do we suppose that the trespass offering was given to Jehoiarib during the [time of the] division of Jehoiarib and so also the money was given to Jedaiah during the [time of the] division of Jedaiah? If so, why should the one not acquire title to his and the other to his?[8] — Said Raba: We are dealing here with a case where the trespass offering was given to Jehoiarib during the [time of the] division of Jehoiarib and [so also] the money was given to Jedaiah during [the time of] the division of Jehoiarib. In such a case R. Judah maintained that since it was not [the time of] the division of Jedaiah,[9] it is Jedaiah whom we ought to penalise, and the money has therefore to be brought to the [place of the] trespass offering,[5] whereas the Rabbis maintained that as it was the members of the Jehoiarib division that acted unlawfully[7] in having accepted the trespass offering before the money,[10] it is they who have to be penalised and the trespass offering accordingly should be brought[6] to the [place where] the money [is due].[7]

It was taught: Rabbi said: According to the view of R. Judah, if the members of the Jehoiarib division had already sacrificed the trespass offering,[11] the robber would have to come again and bring another trespass offering which will now be sacrificed by the members of the Jedaiah division,[12] though the others[13] would acquire title to that which remained in their possession.[14] But I would fain ask: For what could the disqualified trespass offering have any value? — Said Raba: For its skin.[15]

It was taught: Rabbi said: According to R. Judah, if the trespass offering was still in existence, the trespass offering will have to be brought[16] to [whom] the money [is due]. But is R. Judah not of the opinion that the money should be brought to [whom] the trespass offering [is due]?[17] We are dealing here with a case where e.g. the division of Jehoiarib has already left without, however, having made any demand,[18] and what we are told therefore is that this should be considered as a waiving of their right in favour of the members of the division of Jedaiah.

Another [Baraitha] taught again: Rabbi said: According to R. Judah, if the trespass offering was still in existence, the money would have to be brought to [whom] the trespass offering [is due].[19] But is this not obvious, since this was actually his view? — We are dealing here with a case where e.g., the divisions of both Jehoiarib and Jedaiah have already left without having made any demand [on each other].[20] In this case you might have thought that they mutually waived their claim on each other.[21] We are therefore told that since there was no demand from either of them[22] we say that the original position must be restored.[23]

FOR HE WHO BRINGS [THE PAYMENT FOR] ROBBERY BEFORE HAVING BROUGHT THE TRESPASS OFFERING [FULFILLS HIS DUTY, WHEREAS HE WHO BRINGS THE TRESPASS OFFERING BEFORE HAVING BROUGHT THE PAYMENT FOR ROBBERY DID NOT FULFILL HIS DUTY]. Whence can these rulings be derived? — Said Raba: Scripture states: Let the trespass be restored unto the Lord, even to the priest, beside the ram of the atonement whereby an atonement shall be made for him,[24] thus implying[25] that the money must be paid first. One of the Rabbis, however, said to Raba: But according to this reasoning will it not follow that in the verse: Ye shall offer these beside the burnt offering in the morning[26] it is similarly implied[27] that the additional offering will have to be sacrificed first? But was it not taught:[28] Whence do we know that no offering should be sacrificed prior to the continual offering of the morning?[29] Because it is stated, And lay the burnt offering in order upon it[30] and Raba stated: ‘The burnt offering’[30] means the first burnt offering?[31] — He, however, said to him: I derive it[32] from the clause:[29] ‘Whereby an atonement shall be made for him’ which indicates[33] that the atonement has not yet been made.

WHERE HE PAID THE PRINCIPAL BUT DID NOT PAY THE FIFTH, THE [NON-PAYMENT OF THE] FIFTH IS NO BAR.

Our Rabbis taught: Whence could it be derived that if he brought the Principal due for sacrilege,[34] but had not yet brought the trespass offering,[35] or if he brought the trespass offering but had not yet brought the Principal due for sacrilege, he did not thereby fulfil his duty? Because it says: With the ram of the trespass offering and it shall be forgiven him[36] . Again, whence could it be derived that if be brought his trespass offering before he brought the Principal due for the sacrilege he did not thereby fulfil his duty? Because it says, ‘With the ram of the trespass,’ implying that the trespass [itself][37] has already been made good. It might be thought that just as the ram and the trespass are indispensable, so should the Fifth be indispensable? It is therefore stated: ‘With the ram of the trespass offering and it shall he forgiven him,’ implying that it was only the ram and the trespass which are indispensable in [the atonement for the sacrilege of] consecrated things, whereas the Fifth is not indispensable. Now, the law regarding consecrated things[38] could be derived from that regarding private belongings[39] and that of private belongings could be derived from the law regarding consecrated things. The law regarding consecrated things could be derived from that regarding private belongings: just as ‘trespass’ there[39] denotes the Principal[40] so does ‘trespass’ here[38] denote the Principal. The law regarding private belongings could be derived from that regarding consecrated things; just as in the case of consecrated things the Fifth is not indispensable, so in the case of private things the Fifth is similarly not indispensable.

CHAPTER X

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(1) Regarding the state of the husband's brother,

(2) Keth. 75a.

(3) טן דו two bodies, (Rashi); last. ‘with a load of grief’.

(4) So that irrespective of any undesirable consequences whatsoever it was an advantage to her to become betrothed to ‘the person she hath chosen to dwell together’; cf. Rashi a.l.

(5) I.e. to Jehoiarib.

(6) To Jedaiah.

(7) V. p. 642, n. 7.

(8) At least so far as the division of Jedaiah accepting the money is concerned; why then did R. Judah order the payment to be taken away from Jedaiah and handed over to Jehoiarib?

(9) That Jedaiah accepted the money.

(10) V. p. 642, n. 8.

(11) Before the money was paid, in which case the trespass offering becomes disqualified.

(12) To whom the money was paid and not by Jehoiarib who accepted the previous trespass offering.

(13) I.e., of the Jehoiarib division.

(14) I.e., to the disqualified trespass offering.

(15) V. p. 646, n. 16.

(16) V. p. 648, n. 6.

(17) V. p. 648, n. 5.

(18) For the money accepted by Jedaiah.

(19) To Jehoiarib.

(20) Regarding the money and the trespass offering.

(21) And the money should thus remain with Jedaiah.

(22) Even from Jedaiah (during his time of service) for the trespass offering accepted by Jehoiarib.

(23) I.e., the money will be handed over to Jehoiarib who will sacrifice the trespass offering when their time of service will come round again.

(24) Num. V, 8.

(25) Probably in the term ‘beside’.

(26) Num. XXVIII, 23.

(27) In the term ‘beside’.
(28) Pes. 58b.
(29) Cf. Num. XXVIII, 2-4.
(30) Lev. VI, 5.
(31) Cf. Hor, 12a.
(32) Not from the term ‘beside’.
(33) By having the verb in the future tense.
(34) Cf. Lev. V, 16.
(35) In accordance with ibid. 15.
(36) Ibid. 16,
(37) I.e., the payment of the Principal as supra p.642.
(38) Lev. V, 15-16.
(39) Num. V, 6-8.
(40) V. p. 650, n. 14.

Talmud - Mas. Baba Kama 111b

MISHNAH. IF ONE MISAPPROPRIATED [FOODSTUFF] AND FED HIS CHILDREN OR LEFT [IT] TO THEM [AS AN INHERITANCE], THEY WOULD NOT BE LIABLE TO MAKE RESTITUTION, BUT IF THERE WAS ANYTHING [LEFT] WHICH COULD SERVE AS SECURITY THEY WOULD BE LIABLE TO PAY.

GEMARA. R. Hisda said: If one misappropriated [an article] and before the owner gave up hope of recovering it, another person came and consumed it, the owner has the option of collecting payment from either the one[1] or the other,[2] the reason being that so long as the owner did not give up hope of recovery, the misappropriated article is still in the ownership of the original possessor.[3] But we have learnt: IF ONE MISAPPROPRIATED [FOODSTUFF] AND FED HIS CHILDREN[1] [WITH IT], OR LEFT [IT] TO THEM [AS AN INHERITANCE], THEY WOULD NOT BE LIABLE TO MAKE RESTITUTION. Now, is this not a contradiction to the view of R. Hisda? — R. Hisda might say to you that this holds good only after the owner has given up hope.[4]

[IF HE] LEFT [IT] TO THEM [AS AN INHERITANCE], THEY WOULD NOT BE LIABLE TO MAKE RESTITUTION. Rami b. Hama said: This [ruling] proves that the possession of an heir is on the same footing in law as the possession of a purchaser;[5] Raba, however, said the possession of an heir is not on a par with the possession of a purchaser,[6] for here we are dealing with a case where the food was consumed [after the father's death].[7] But since it is stated in the concluding clause, BUT IF THERE WAS ANYTHING [LEFT] WHICH COULD SERVE AS SECURITY[8] THEY WOULD BE LIABLE TO PAY[9] does it not imply that even in the earlier clause[10] we are dealing with a case where the misappropriated article was still in existence?[11] Raba could however say to you that what is meant is this: If their father left them property constituting [legal] security[12] they would be liable to pay.[13] But did Rabbi not teach[14] his son R. Simeon that ‘ANYTHING WHICH COULD SERVE AS SECURITY should not [be taken literally to] mean actual security, for even if he left a cow to plough with or an ass to be driven,[15] they would be liable to restore it, to save their father's good name? — Raba therefore said: When I pass away R. Oshaia will come out to meet me,[16] since I am explaining the Mishnaic text in accordance with his teaching, for R. Oshaia taught: Where he misappropriated [foodstuff] and fed his children, they would not have to make restitution. If he left it to them [as an inheritance] so long as the misappropriated article is in existence they will be liable, but as soon as the misappropriated article is no more intact they will be exempt. But if their father left them property constituting [legal] security they would be liable to pay.

The Master stated: ‘As soon as the misappropriated article is no more intact they would be exempt.’ Should we not say that this is a contradiction to the view of R. Hisda?[17] — R. Hisda could say to you that the ruling [here] applies subsequent to Renunciation.[18]

The Master said: ‘So long as the misappropriated article is in existence they will be liable to pay.’ Should we not say that this is a contradiction to the view of Rami b. Hama?[19] — But Rami b. Hama could say to you that this teaching

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(1) I.e., the one who robbed him.

(2) I.e., the one who later on consumed the article.

(3) V. J. Ter. VII, 3.

(4) I.e., the foodstuff was consumed after the proprietor had resigned himself to the loss of it completely.

(5) Maintaining that if after renunciation the robber died, the misappropriated article could rightly remain with the heirs, just as with purchasers under similar circumstances; cf. supra p. 393, n. 5; v. also B.B. 44a.

(6) The article could therefore not rightly remain with the heirs though it would have remained with a purchaser.

(7) But if still intact it would go back to the proprietor.

(8) Now assumed to denote garments and similar conspicuous articles, as would be the case with real property.

(9) For the sake of honouring their father.

(10) Which states the law in the case of inconspicuous articles such as food and the like.

(11) And the heirs seem nevertheless to have the right to retain it.

(12) I.e., realty.

(13) For the father's realty became legally mortgaged for the liability arising out of the robbery he committed.

(14) Infra 113a.

(15) But in the case of inconspicuous things such as food and the like, the heirs would be entitled to retain them.

(16) V. B.M. 62b.

(17) According to whom the person who consumed the misappropriated article could also be called upon to pay.

(18) I.e., the foodstuff was consumed after the proprietor had resigned himself to the loss of it completely.

(19) Maintaining that if after Renunciation the robber died, the misappropriated article could rightly remain with the heirs, just as with purchasers under similar circumstances; cf. supra p. 652; v. also B.B. 44a.

Talmud - Mas. Baba Kama 112a

applies prior to Renunciation.[1]

R. Adda b. Ahabah read the statement of Rami b. Hama with reference to the following [teaching]:[2] ‘If their father left them money acquired from usury they would not have to restore it even though they [definitely] know that it came from usury. [And it was in connection with this that] Rami b. Hama said that this proves that the possession of an heir is on the same footing as the possession of a purchaser,[3] whereas Raba said: I can still maintain that the possession of an heir is not on the same footing as the possession of a purchaser, for here there is a special reason, as Scripture states: Take thou no usury of him or increase but fear thy God that thy brother may live with thee[4] [as much as to say.] ‘Restore it to him so that he may live with thee.’ Now, it is the man himself who is thus commanded[5] by the Divine Law, whereas his son is not commanded[5] by the Divine Law. Those who attach the argument[6] to the Baraitha[7] would certainly connect it also with the ruling of our Mishnah,[8] but those who attach to our Mishnah might maintain that as regards the Baraitha[9] Rami b. Hama expounds it in the same way as Raba.[10]

Our Rabbis taught: If one misappropriated [foodstuff] and fed his children, they would not be liable to repay. If, however, he left it [intact] to them, then if they are adults they would be liable to pay, but if minors they would be exempt. But if the adults pleaded: ‘We have no knowledge of the accounts which our father kept with you.’ they also would be exempt. But how could they become exempt merely because they plead.’We have no knowledge of the accounts which our father kept with you’?[11] Said Raba: What is meant is this, ‘If the adults pleaded: "We know quite well the accounts which our father kept with you and are certain that there was no balance in your favour" they also would be exempt.’Another [Baraitha] taught: If one misappropriated [foodstuff] and fed his children, they would not be liable to repay. If, however, he left it [intact] to them and they consumed it, whether they were adults or minors, they would be liable. But why should minors be liable? They are surely in no worse a case than if they had wilfully done damage?[12] — Said R. Papa: What is meant is this: If, however he left it [intact] before them and they had not yet consumed it, whether they were adults or minors, they would be liable.[13]

Raba said:[14] If their father left them a cow which was borrowed by him, they may use it until the expiration of the period for which it was borrowed, though if it [meanwhile] died they would not be liable for the accident.[15] If they were under the impression that it was the property of their father, and so slaughtered it and consumed it, they would have to pay for the value of meat at the cheapest price.[16] If their father left them property that forms a [legal] security, they would be liable to pay. Some connect this [last ruling] with the commencing clause,[17] but others connect it with the concluding clause.[18] Those who connect it with the commencing clause[17] would certainly apply it to the concluding clause[19] and thus differ from R. Papa.[20] whereas those who connect it with the concluding clause[21] would not apply it in the case of the commencing clause,[22] and so would fall in with the view of R. Papa.[20] for R. Papa stated:[23] If one had a cow that he had stolen and slaughtered it on the Sabbath,[24] he would be liable,[25] for he had already become liable for the theft[26] prior to his having committed the sin of violating the Sabbath[27] but if he had a cow that was borrowed and slaughtered it on the Sabbath, he would be exempt,[28] for in this case the crime of [violating the] Sabbath and the crime of theft were committed simultaneously.[29]

Our Rabbis taught: He shall restore the misappropriated article which he took violently away.[30] What is the point of the words ‘which he took violently away’?[31] Restoration should be made so long as it is intact as it was at the time when he took it violently away. Hence it was laid down: If one misappropriated [foodstuff] and fed his children they would not be liable to repay.[32] If, however, he left it to them [intact], whether they were adults or minors, they would be liable; Symmachus, however, was quoted as having ruled that [only] adults would be liable but minors would be exempt. The son[33] of R. Jeremiah's father-in-law [once] bolted the door in the face of R. Jeremiah.[34] The latter thereupon came to complain about this to R. Abin,[35] who however said to him: ‘Was he[36] not merely asserting his right to his own?[37] , But R. Jeremiah said to him: ‘I can bring witnesses to testify that I took possession of the premises during the lifetime of the father.’[38] To which the other[39] replied: ‘Can the evidence of witnesses be accepted

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(1) For the mere transfer of possession, if the owner has not yet given up hope, is surely of no avail.

(2) Tosef. B.M. V, 8; ibid. 62a and supra 94b.

(3) And since there was here a change of possession the heirs are under no liability.

(4) Lev. XXV, 36.

(5) To make restoration.

(6) Between Rami b. Hamah and Raba.

(7) Dealing with usury.

(8) Dealing with robbery where there is no apparent reason for the exemption except the view of Rami b. Hama.

(9) Dealing with usury.

(10) I.e., on the strength of the inference from Lev. XXV, 36.

(11) For since they know of the robbery and the liability is definite, how could they be released by a plea of uncertainty as to the payment; cf. Rashi a.l. but also B.K. X, 7.

(12) In which case they are exempt; cf. supra 87a.

(13) [Since it is in intact it is considered to be then in the possession of the owner.]

(14) Cf. Keth. 34b.

(15) As the liabilities of the contract do not pass to them at least so long as they have not started using it; v. however H.M. 341 where no distinction is made.

(16) Which is generally estimated to be two-thirds of the ordinary price; cf. B.B. 146b; v. also supra p. 98.

(17) Dealing with the case where the cow died of itself.
(18) Stating the law where it was slaughtered and consumed by them.
(19) As there is certainly more liability where they slaughtered the cow than where it died of itself.
(20) Whose ruling is going to be stated soon.
(21) V. p. 655, n. 8.
(22) V. p. 655. n. 7.
(23) Cf. Keth. 34b.
(24) In violation of the Sabbath and thus became subject to capital punishment; in accordance with Ex. XXXI, 14-15; v. also supra p. 408
(25) For fivefold payment, as prescribed in Ex. XXI, 37.
(26) So far as double payment is concerned, in accordance with ibid, XXII, 3.
(27) And since he had already become liable for double payment at the time of the theft, the additional threefold payment which is purely of the nature of a fine is according to this view not affected by the fact that at the time of the slaughter he was committing a capital offence, as also explained in Keth. 34b.
(28) From civil liability.
(29) I.e., at the time of the slaughter when he had to become liable also for the Principal which is a purely civil obligation and which must therefore be merged in the criminal charge; v. also supra p. 407.
(30) Lev. V, 23.
(31) Is this not redundant?
(32) For the foodstuff was no longer intact.
(33) Who was a minor.
(34) Who was desirous of taking possession of premises that belonged to his father-in-law.
(35) MS. M. ‘R. Abba’.
(36) I.e., the son of the father-in-law.
(37) In accordance with Num. XXVII, 8.
(38) Who disposed of them to me; cf. B.B. III, 3.
(39) I.e., R. Abin or R. Abba.

Talmud - Mas. Baba Kama 112b

where the other party is not present?’[1] And why not? Was it not stated: ‘Whether adults or minors they would be liable’?[2] — The other rejoined: ‘Is not the divergent view of Symmachus[3] under your nose?’[4] He[5] retorted: ‘Has the whole world made up its mind[6] to adopt the view of Symmachus just in order to deprive me of my property? Meanwhile the matter was referred from one to another till it came to the notice of R. Abbahu[7] who said to them: Have you not heard of what R. Joseph b. Hama reported in the name of Oshaia? For R. Joseph b. Mama said that R. Oshaia stated: If a minor collected his slaves and took possession of another person's field claiming that it was his, we do not say, Let us wait till he come of age, but we wrest it from him forthwith and when he comes of age he can bring forward witnesses [to support his allegation] and then we will consider the matter? — But what comparison is there? In that case we are entitled to take it away from him because he had no presumptive title to it from his father, but in a case where he has such a presumptive title from his father, this should surely not be so.

R. Ashi[8] said that R. Shabbathai stated: [Evidence of] witnesses may be accepted even though the other party to the case is not present. Thereupon R. Johanan remarked in surprise:[9] Is it possible to accept evidence of witnesses if the other party is not present? R. Jose b. Hanina accepted from him the ruling [to apply] in the case where e.g., [either] he[10] was [dangerously] ill, or the witnesses were [dangerously] ill, or where the witnesses were intending to go abroad, and[11] the party in question was sent for but did not appear.

Rab Judah said that Samuel stated that [evidence of] witnesses may be accepted even if the other party is not present. Mar Ukba, however, said: It was explained to me in so many words from

Samuel that this is so only where e.g., the case has already been opened [in the Court] and the party in question was sent for but did not appear, whereas if the case has not yet been opened [in the Court] he might plead: ‘I prefer to go to the High Court of Law’.[12] But if so even after the case had already been opened why should he similarly not plead: ‘l prefer to go to the High Court of Law’? — Said Rabina: [This plea could not be put forward where] e.g., the local Court is holding a writ [of mandamus] issued by the High Court of Law.

Rab said: A document can be authenticated[13] even not in the presence of the other party [to the suit], whereas R. Johanan said that a document cannot be authenticated in the absence of the other party to the suit. R. Shesheth said to R. Joseph b. Abbahu: I will explain to you the reason of R. Johanan. Scripture says: And it hath been testified to its owner and he hath not kept him in;[14] the Torah thus lays down that the owner of the ox has to appear and stand by his ox [when testimony has to be borne against it]. But Raba said: The law is that a document may be authenticated even not in the presence of the other party; and even if he protests aloud before us [that the document is a forgery]. If, however, he says, ‘Give me time till I can bring witnesses, and I will invalidate the document’, we have to give him time.[15] If he appears [with witnesses] well and good, but if he does not appear we wait again over the following Monday and Thursday and Monday.[16] If he still does not appear we write a Pethiha[17] out against him to take effect after ninety days. For the first thirty days we do not take possession of his property as we say that he is busy trying to borrow money; during the next thirty we similarly do not take possession of his property as we say perhaps he was unable to raise a loan and is trying to sell his property; during the last thirty days we similarly cannot take possession of his property as we still say that the purchaser[18] himself is busy trying to raise the money. It is only if after all this he still does not appear that we write an adrakta[19] on his property. All this, however, is only if he has pleaded: ‘I will come [and defend]’, whereas if he said: ‘I will not appear at all’ we have to write the adrakta forthwith; again these rulings apply only in the case of a loan, whereas in the case of a deposit we have to write the adrakta forthwith.[20] An adrakta can be attached only to immovables but not to movables, lest the creditor should meanwhile carry off the movables and consume them so that should the debtor subsequently appear and bring evidence which invalidates the document, he would find nothing from which to recover payment. But if the creditor is in possession of immovables we may write an adrakta even upon movables.[21] This, however, is not correct; we do not write an adrakta upon movables even though the creditor possesses immovables, since there is a possibility that his property may meanwhile become depreciated in value.[22] Whenever we write an adrakta we notify this to the debtor, provided he resides nearby,[23] but if he resides at a distance this is not done. Again, even where he resides far away if he has relatives nearby or if there are caravans which take that route, we should have to wait another twelve months until the caravan is able to go there and come back, as Rabina waited in the case of Mar Aha twelve months until a caravan was able to go to Be-Huzae[24] and come back. This, however, is no proof for in that case[25] the creditor was a violent man, so that should the adrakta have come into his hand it would never have been possible to get anything back from him, whereas in ordinary cases[26] we need only wait for the usher [of the Court] to go on the third day[27] of the week and come back on the fourth day of the week so that on the fifth day of the week he himself can appear in the Court of Law. Rabina said: The usher of the Court of Law[28] is as credible[29] as two witnesses; this however applies only to the imposition of Shamta,[30] but in the case of Pethiha,[31] seeing that he[32] may be involved in expense through having to pay for the scribe,[33] this would not be so.[34]

Rabina again said: We may convey a legal summons[35] through the mouth of a woman or through the mouth of neighbours; this rule, however, holds good only where the party was at that time not in town,

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(1) And a minor is considered in law as absent to all intents and purposes. For a different description of the case cf. J. Sanh. III, 9.

(2) To restore misappropriated articles inherited by them to the legitimate proprietor.
(3) Who releases the minor heirs.
(4) Lit., 'at your side'.
(5) I.e., R. Jeremiah.
(6) Lit., 'doubled itself'.
(7) Who was the special master of R. Jeremiah, cf. B.B. 140a and Shebu. 37b; v. also B.M. 16b where R. Abbahu called him 'Jeremiah, my son.'
(8) According to R. Isaiah Berlin, this must have been an earlier R. Ashi since R. Johanan refers to this statement, but, as becomes evident from J. Sanh., III. 9, the authority here mentioned was either R. Jose or more correctly R. Assi. A similar confusion is found in Ta'an. 14a. Bek. 25a a.e.
(9) Cf. supra 76b.
(10) I.e., the plaintiff; cf. H.M. 28. 16.
(11) Whether 'and' or 'or' should be read here, cf. Tosaf. a.l. and on B.K. 39a; the text in J. Sanh. III. 9, however, confirms the former reading.
(12) In the Land of Israel; cf. supra p. 67 and Sanh. 31b.
(13) Either by taking oral evidence or by collating the signatures; cf. Keth. II. 3-4.
(14) Ex. XXI, 29.
(15) As a rule for thirty days; cf. B.M. 118a.
(16) I.e., three sittings of the Court; cf. supra p. 466.
(17) I.e., a warrant, containing also a writ of anathema. It was, besides, the opening of preliminary legal proceedings.
(18) Who might perhaps have bought some of his property.
(19) Lit. 'tracing and authorisation', i.e., a legal order to trace the debtor's property for the purpose of having it seized and assessed to the creditor for his debt; v. B.M. (Sonc. ed.) p. 95. n. 8.
(20) For the bailee has no right to detain the deposit for any period of time whatsoever.
(21) For the immovable possessions of the creditor safeguard the repayment to the debtor, should occasion arise.
(22) And would not suffice to meet the repayment.
(23) Within ten parasangs i.e. forty mil, the walking distance of one day, as in M.K. 21b; see Tur, H.M. 98, 9; cf. however Maim. Yad, Malweh we-Loweh, XXII, 4.
(24) [The modern Khuzistan, S.W. persia. Obermeyer, op. cit. p. 200 points out that the distance between Matha Mehasia (Sura) the seat of Rabina's court, and Khuzistan could be easily covered by a caravan within a three weeks' journey, and that the twelve months allowed by Rabina was probably due to some serious obstruction that impeded progress along the caravan route.]
(25) Dealt with by Rabina.
(26) Lit., 'here'.
(27) So Tur. loc. cit , but Maim. loc. cit. reads 'the second day'.
(28) Lit., 'of our Rabbis'.
(29) When stating that the party refuses to appear before the Court.
(30) I.e., oral ban.
(31) V. supra p. 659, n. 2.
(32) [The recalcitrant litigant, when he wishes to have the ban lifted.]
(33) [For drafting the writ of anathema.]
(34) For the usher would then have to corroborate his statements by some further evidence.
(35) Lit., 'give a fixed date'.

Talmud - Mas. Baba Kama 113a

but if he was then in town this would not be so, as there is a possibility that they[1] might not transmit the summons to him, thinking that the usher of the Court of Law will himself surely find him and deliver it to him. Again, we do not apply this rule except where the party would not have to pass by the door of the Court of Law, but if he would have to pass by the door of the Court of Law this would not be so, as they[2] might say that at the Court of Law they will surely find him first and deliver him the summons. Again, we do not rule thus except where the party was to come home on the same day, but if he had not to come home on the same day this would not be so, for we might say they would surely forget it altogether.

Raba stated: Where a Pethiha was written upon a defaulter for not having appeared before the court,it will not be destroyed so long as he does not [actually] appear before the court.[3] [So also] if it was for not having obeyed the law, it will not be destroyed until he [actually] obeys the law;[3] this however is not correct: as soon as he declares his intention to obey, we have to destroy the Pethiha.

R. Hisda said: [In a legal summons] we cite the man to appear on Monday, [then] on Thursday and [then] on the next Monday, [i.e.] we fix one date and then another date after one more date, and on the morrow [of the last day] we write the Pethiha.

R. Assi[4] happened to be at R. Kahana's where he noticed that a certain woman had been summoned to appear before the court on the previous evening, [and as she failed to appear] a Pethiha was already written against her on the following morning. He thereupon said to R. Kahana: Does the Master not accept the view expressed by R. Hisda that [in a legal summons] we cite the defendant to appear on Monday, [then] on Thursday and [then] on the next Monday? He replied: This applies only to a man who might be unavoidably prevented, through being out of town, but a woman, being [always] in town and still failing to appear is considered contumacious [after the first act of disobedience].

Rab Judah said: We never cite a defendant to appear either during Nisan,[5] or during Tishri,[5] or on the eve of a holy day or on the eve of a Sabbath. We can, however, during Nisan cite him to appear after Nisan, and so also during Tishri we may cite him to appear after Tishri, but on the eve of the Sabbath we do not cite him to appear after Sabbath, the reason being that he might be busy[6] with preparations for Sabbath.[7] R. Nahman said: We never cite the participants of the Kallah[8] during the period of the Kallah or the participants of the Festival sessions[9] during the Festive Season.[10] When plaintiffs came before R. Nahman [and demanded summonses to be made out during this season] he used to say to them: Have I assembled them for your sake? But now that there are impostors,[11] there is a risk [that they purposely came to the assemblies to escape justice].[12]

BUT IF THERE WAS ANYTHING [LEFT] WHICH COULD SERVE AS SECURITY, THEY WOULD BE LIABLE TO PAY. Rabbi taught R. Simeon his son: The words ‘ANYTHING WHICH COULD SERVE AS SECURITY’ should not [be taken literally to] mean actual security, for even if he left a cow to plough with or an ass to drive after, they would be liable to restore it to save the good name of their father. R. Kahana thereupon asked Rab: What would be the law in the case of a bed upon which they sit, or a table at which they eat?[13] — He replied[14] [with the verse], Give instructions to a wise man and he will yet be wiser.[15]

MISHNAH. NO MONEY MAY BE TAKEN IN CHANGE EITHER FROM THE BOX OF THE CUSTOMS-COLLECTORS[16] OR FROM THE PURSE OF THE TAX-COLLECTORS,[16] NOR MAY CHARITY BE TAKEN FROM THEM, THOUGH IT MAY BE TAKEN FROM THEIR [OWN COINS WHICH THEY HAVE AT] HOME OR IN THE MARKET PLACE. GEMARA. A Tanna taught: When he gives him[17] a denar he may receive back the balance [due to him].[18]

In the case of customs-collectors, why should the dictum of Samuel not apply that the law of the State is law?[19] — R. Hanina b. Kahana said that Samuel stated that a customs-collector who is bound by no limit [is surely not acting lawfully]. At the School of R. Jannai it was stated that we are dealing here with a customs-collector who acts on his own authority.[20] Some read these statements with reference to [the following]: No man may wear a garment in which wool and linen are mixed[21] even over ten other garments and even for the purpose of escaping the customs.[22] [And it was thereupon asked], Does not this Mishnaic ruling conflict with the view of R. Akiba, as taught: It is an [unqualified] transgression to elude the customs;[23] R. Simeon however, said in the name of R. Akiba that customs may [sometimes] be eluded[24] [by putting on garments of linen and wool]. Now, regarding garments of linen and wool I can very well explain their difference[25] to consists in this, that while one master[26] maintained that an act done unintentionally could not be prohibited,[27] the other master maintained that an act done unintentionally should also be prohibited;[28] but is it not a definite transgression to elude the customs? Did Samuel not state that the law of the State is law? — R. Hanina b. Kahana said that Samuel stated that a customs-collector who is bound by no limit [is surely not acting lawfully]. At the School of R. Jannai it was stated that we were dealing here with a customs-collector who acted on his own authority.[29]

Still others read these statements with reference to the following: To [escape] murderers or robbers or customs-collectors one may confirm by a vow a statement that [e.g.] the grain is terumah[30] or belongs to the Royal Court, though it was not terumah and though it did not belong to the Royal Court.[31] But [why should] to customs-collectors [not] apply the statement made by Samuel that the law of the State has the force of law? R. Hanina b. Kahana said that a customs-collector who is bound by no limit [is surely not acting lawfully]. At the school of R. Jannai it was stated that we were dealing here with a customs-collector who acted on his own authority.[32] But R. Ashi said: We suppose the customs-collector[33] here to be a heathen publican[34] as it was taught: ‘Where a suit arises between an Israelite and a heathen, if you can justify the former according to the laws of Israel, justify him and say: ‘This is our law’; so also if you can justify him by the laws of the heathens justify him and say [to the other party:] ‘This is your law’; but if this can not be done, we use subterfuges to circumvent him.[34] This is the view of R. Ishmael, but R. Akiba said that we should not attempt to circumvent him on account of the sanctification of the Name. Now according to R. Akiba the whole reason [appears to be,] because of the sanctification of the Name, but were there no infringement of the sanctification of the Name, we could circumvent him! Is then the robbery of a heathen permissible?[35] Has it not been taught[36] that R. Simeon stated that the following matter was expounded by R. Akiba when he arrived from Zifirin:[37] ‘Whence can we learn that the robbery of a heathen is forbidden? From the significant words: After that he is sold[38] he may be redeemed again,[39]

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(1) I.e., the women or the neighbours.

(2) V. p. 660, n. 13.

(3) A mere promise to appear does not suffice.

(4) More correctly ‘R. Ashi’.

(5) On account of urgent agricultural work; cf. Ber. 35b.

(6) And take no notice of the summons.

(7) Cf. Shab. 119a.

(8) I.e., the Assembly of Babylonian scholars in the months of Elul and Adar; v. B.M. (Sonc. ed.) p. 560, n. 6 and B.B. (Sonc. ed.) p. 60, n. 7.

(9) For otherwise they may abstain from coming to the Assemblies.

(10) Which commences thirty days before the festival; v. Pes. 6a.

(11) Abusing this privilege.

(12) And we therefore issue a summons.

(13) Which is not kept so much in the eye of the public as is the case with the cow or the ass.

(14) The law is exactly the same.

(15) Prov. IX, 9.

(16) As these are considered to act ultra vires and thus unlawfully.

(17) I.e., a customs-collector or a tax-collector.

(18) For otherwise he would lose it altogether.

(19) V. B.B. (Sonc. ed.) p. 222, n. 6. Why then are customs collectors considered as acting unlawfully.

(20) Without the authority of the ruling power.

(21) Cf. Lev. XIX, 19.

(22) Kil. IX, 2.
(23) Cf. Sem. 11, 9 and Tosef, B.K. X, 8.
(24) Where the collectors are acting unlawfully, as will soon be explained.
(25) I.e., the anonymous Tanna and R. Simeon in the name of R. Akiba.
(26) R. Simeon in the name of R. Akiba; cf. Tos. Zeb. 91b.
(27) As also maintained by R. Simeon in the case of other transgressions; v. Shab. 41b, Keth. 5b a.e.
(28) As indeed maintained by R. Judah in Shab. 41b a.e.
(29) Without the authority of the ruling power.
(30) V. Glos.
(31) Ned. III, 4.
(32) V. p. 663, n. 13.
(33) In all these cases referred to above.
(34) V. supra, p. 212, n. 6.
(35) [I.e., in withholding anything to which he is entitled; v. Sanh. (Sonc. ed.) p. 388, n. 6. Graetz MGWJ, 1881, p. 495. shows clearly that the whole controversy whether robbery of a heathen was permissible was directed against the iniquitous Fiscus Judaicus imposed by Vespasian and exacted with much rigor by Domitian.]
(36) Cf. Sifra on Lev. XXV, 48.
(37) Prob. the headland of Cyprus; Zephyrium (Jast.). [Greatz, Geschichte, IV, p. 135. connects R. Akiba's visit to Zifirin with his extensive travels for the purpose of rousing the Jews against the Roman tyranny.]
(38) I.e., an Israelite to a Canaanite.
(39) Lev. XXV, 48.

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which implies that he could not withdraw and leave him [without paying the redemption money]. You might then say that he[1] may demand an exorbitant sum for him? No, since it says: And he shall reckon with him that bought him[2] to emphasise that he must be very precise in making the valuation with him who had bought him.’[3] — Said R. Joseph: There is no difficulty, here [where the exception is made it refers] only to a heathen, whereas there [is indeed no exception] in the case of a Ger Toshab.[4] But Abaye said to him: Are the two of them[5] not mentioned next to one another [so that neither forms an exception in the law],[6] as it says: ‘Thy brother . . . sell himself’[7] [implying,] not to you but to a stranger, as it says: ‘Unto the stranger’; again, not to a Ger zedek[8] but to a mere Ger Toshab,[4] as it says ‘unto a stranger-settler’,[9] ‘the family of a stranger’: this denotes one who worships idols, and when it says or to an ‘Eker’[10] it means that the person in question sold himself for idolatrous practices![11] — Raba therefore said: There is no difficulty, as regarding robbery there is indeed no exception, whereas regarding the cancellation of debts [a heathen might not have been included]. Abaye rejoined to him: Is not the purchase of a Hebrew slave[12] merely the cancellation of a debt, [and yet no distinction whatsoever is made as to the person of the master]? — Raba adheres to his own view as [elsewhere] stated by Raba, that a Hebrew slave is actually owned in his body by the master.[13]

R. Bibi b. Giddal said that R. Simeon the pious stated: The robbery of a heathen is prohibited,[14] though an article lost by him is permissible. His robbery is prohibited, for R. Huna said: Whence do we learn that the robbery of a heathen is prohibited? Because it says: ‘And thou shalt consume all the peoples that the Lord thy God shall deliver unto thee’;[15] only in the time [of war] when they were delivered in thy hand [as enemies] this is permitted, whereas this is not so in the time [of peace] when they are not delivered in thy hand [as enemies]. His lost article is permissible,[16] for R. Hama b. Guria said that Rab stated: Whence can we learn that the lost article of a heathen is permissible?[17] Because it says: And with all lost thing of thy brother's:[18] it is to your brother that you make restoration, but you need not make restoration to a heathen. But why not say that this applies only where the lost article has not yet come into the possession of the finder, in which case he is under no obligation to look round for it, whereas if it had already entered his possession, why not say that he should return it. — Said Rabina:[19] And thou hast found it[18] surely implies that the lost article has already come into his[20] possession.

It was taught: R. phinehas b. Yair said that where there was a danger of causing a profanation of the Name,[21] even the retaining of a lost article of a heathen is a crime. Samuel said: It is permissible, however, to benefit by his mistake as in the case when Samuel once bought of a heathen a golden bowl under the assumption of it being of copper[22] for four zuz, and also left him minus one zuz. R. Kahana once bought of a heathen a hundred and twenty barrels which were supposed to be a hundred while he similarly left him minus one zuz[23] and said to him: 'See that I am relying upon you.'[24] Rabina together with a heathen bought a palm-tree to chop up [and divide]. He thereupon said to his attendant: Quick, bring to me the parts near to the roots, for the heathen is interested only in the number [but not in the quality].[25] R. Ashi was once walking on the road when he noticed branches of vines outside[26] a vineyard upon which ripe clusters of grapes were hanging. He said to his attendant: 'Go and see, if they belong to a heathen bring them to me,[27] but if to an Israelite do not bring them to me.' The heathen happened to be then sitting in the vineyard and thus overheard this conversation, so he said to him: 'If of a heathen would they be permitted?' — He replied: 'A heathen is usually prepared to [dispose of his grapes and] accept payment, whereas an Israelite is generally not prepared to [do so and] accept payment.

The above text [stated], 'Samuel said: The law of the State is law.' Said Raba: You can prove this from the fact that the authorities fell palm-trees [without the consent of the owners] and construct bridges [with them] and we nevertheless make use of them by passing over them.[28] But Abaye said to him: This is so perhaps because the proprietors have meanwhile abandoned their right in them.[29] He, however, said to him: If the rulings of the State had not the force of law, why should[30] the proprietors abandon their right? Still, as the officers do not fully carry out the instructions of the ruler,[31] since the ruler orders them to go and fell the trees from each valley [in equal proportion], and they come and fell them from one particular valley, [why then do we make use of the bridges which are thus constructed from misappropriated timber?] — The agent of the ruler is like the ruler himself[32] and can not be troubled [to arrange the felling in equal proportion], and it is the proprietors who bring this loss on themselves, since it was for them to have obtained contributions from the owners of all the valleys and handed over [the] money [to defray the public expenditure].

Raba said: He who is found in the barn must pay the king's share [for all the grain in the field].[33] This statement applies only to a partner, whereas an aris[34] has to pay no more than for the portion of his tenancy.[35]

Raba further said: One citizen may be pledged for another citizen [of the same town], provided however the arrears are due for follerar[36] and karga[37] of the current year, whereas if they are due for the year that has already passed [it would not be so], for since the king has already been pacified, the matter will be allowed to slide. Raba further said: In the case of those [heathens] who manure fields [for pay] and reside within the Sabbath limits[38] [round the town], it is prohibited to purchase any animal from them, the reason being that an animal from the town might have been mixed up with theirs:[39] but if they reside outside the Sabbath limits it is permitted to buy animals from them.[40] Rabina however said: If proprietors were pursuing them [for the restoration of misappropriated animals] it would be prohibited [to purchase an animal from them] even [were they to reside] outside the Sabbath limits.

Raba proclaimed or as others say, R. Huna: [Let it be known to those] who go up to the Land of Israel and who come down from Babylonia that if a son of Israel knows some evidence for the benefit of a heathen, and without being called upon [by him] goes into a heathen court of law and bears testimony against a fellow Israelite he deserves to have a Shamta[41] pronounced against him, the reason being that heathens adjudicate the payment of money

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(1) The heathen master.
(2) Ibid, 50.
(3) Now does this not conclusively prove that the robbery of whomsoever, without any exception, is a crime?
(4) גר תושב , Lit., ‘a stranger-settler,’ a resident alien of a different race and of a different religion, since he respects the covenant of the law made by God with all the children of Noah, i.e., the Seven Commandments forming the elementary principles of civilised humanity, he is a citizen enjoying all the rights and privileges of civil law.
(5) I.e., a Ger Toshab and a Canaanite.
(6) Requiring a very accurate reckoning to repay the purchaser whether he was a Ger Toshab or a Canaanite.
(7) Lev. XXV, 47.
(8) Lit., ‘a stranger (who embraced the faith) of righteousness, 1.e., a proselyte for the sake of true religion.
(9) E.V. ‘Unto the stranger or sojourner.’
(10) E.V. ‘or to the stock of’, but taken here literally to denote work of destruction and uprooting; cf. Gen. XLIX, 6; Josh. XI, 6 and 9 and Eccl. III, 2.
(11) V. B.M. (Sonc. ed.) p. 71a and notes. Now, does this not prove that nobody whatsoever, whether a resident alien or a heathen, is excepted from being protected by the law of robbery?
(12) Having to pay redemption money, as in Lev. XXV, 50.
(13) Kid. 16a. [To withdraw therefore the slave without payment of redemption money amounts to actual robbery.]
(14) Cf. B.M. 87b and Bk. 13b; v. also Tosef. B.K. X, 8 where it is stated that it is more criminal to rob a Canaanite than to rob an Israelite; cf. P.M. II, 5.
(15) Deut. VII, 16.
(16) I.e., it is not subject to the law of lost property; Deut. XXII, 1-3. V.B.M. (Sonc. ed.) p. 149, n. 6.
(17) Deut. XXII, 1-3.
(18) Ibid. XXII, 3.
(19) B.M. 2a.
(20) I.e., the finder's.
(21) Of Israel and his God; V. The Chief Rabbi's commentary on Lev. XXII, 32.
(22) Cf. however n. 9.
(23) This clause is altogether missing in Alfasi and Asheri.
(24) As to the number of the barrels.
(25) Of the pieces.
(26) According to the reading of MS. M.
(27) Especially since the branches were outside the vineyard and thus probably overhanging a public road; cf. B.B. II, 14.
(28) For if the rulings of the State were not binding by religious law, it would have been a sin to make use of the bridges constructed in such a way.
(29) Cf. supra p. 382.
(30) In accordance with the interpretation of Tosaf. a.l.; v. also supra 148; but according to Rashi read ‘What effect could there be even if . . . ‘so long as no change in possession followed.
(31) Lit., ‘King’.
(32) Cf. Shebu. 47b.
(33) So that the payment exacted is not robbery but in accordance with law; the payer will again be entitled to compel the owners of the other grain to share proportionately the payment he had to make for all of them.
(34) I.e., a farmer-tenant; a field labourer who tills the owner's ground for a certain share in the produce.
(35) But not for the portion of the owner.
(36) ברלא == burla, i.e., a certain Roman land tax adopted by the Persians (fast.).
(37) I.e., capitation tax; the reading of Alfasi is Silo, i.e., fleece.
(38) I.e., two thousand cubits.
(39) And it is unlawful to possess or purchase a misappropriated article even if mixed with many others; cf. Bz. 38b.
(40) For since they are so far away from the town it is not likely that an animal from the town has been mixed up with theirs.
(41) Oral anathema; cf. Glos.

[even] on the evidence of one witness.[1] This holds good if only one witness was concerned but not where there were two. And even to one witness it applies only if he appeared before judges of Magista,[2] but not before the Dawar[3] where the judges similarly impose an oath upon the evidence of a single witness. R. Ashi said: When we were at R. Huna's[4] we raised the question of a prominent man who would be trusted by them as two. [Shall we say that since] money would be adjudicated on his [sole] evidence, he therefore should not bear testimony in their courts, or perhaps since he is a prominent man he can hardly escape their notice and should consequently deliver his evidence? — This question remained undecided.

R. Ashi further said: A son of Israel who sells to a heathen a field bordering on one of a fellow Israelite deserves to have a Shamta pronounced against him. For what reason? If because of the right of [pre-emption enjoyed by] the nearest neighbour to the boundary,[5] did the Master not state[6] that where he buys from a heathen or sells to a heathen the right of [pre-emption enjoyed by] the nearest neighbour to the boundary does not apply?[7] — It must therefore be because the neighbour might say to the vendor: ‘You have placed a lion at my border.’[8] He therefore deserves to have a Shamta pronounced against him unless he accepts upon himself the responsibility for any consequent mishap that might result [from the sale]. MISHNAH. IF CUSTOMS-COLLECTORS TOOK AWAY A MAN'S ASS AND GAVE HIM INSTEAD ANOTHER ASS, OR IF BRIGANDS TOOK AWAY HIS GARMENT AND GAVE HIM INSTEAD ANOTHER GARMENT, IT WOULD BELONG TO HIM, FOR THE OWNERS HAVE SURELY GIVEN UP HOPE OF RECOVERING IT.[9] IF ONE RESCUED [ARTICLES] FROM A RIVER OR FROM A MARAUDING BAND OR FROM HIGHWAYMEN, IF THE OWNERS HAVE GIVEN UP HOPE OF THEM, THEY WILL BELONG TO HIM.[10] SO ALSO REGARDING SWARMS OF BEES, IF THE OWNERS HAVE GIVEN UP HOPE OF RECOVERING THEM, THEY WOULD BELONG TO HIM. R. JOHANAN B. BEROKA SAID: EVEN A WOMAN OR A MINOR[11] IS TRUSTED WHEN STATING THAT THIS SWARM STARTED FROM HERE;[12] THE OWNER [OF BEES] IS ALLOWED TO WALK INTO THE FIELD OF HIS NEIGHBOUR FOR THE PURPOSE OF RESCUING HIS SWARM, THOUGH IF HE CAUSES DAMAGE HE WOULD HAVE TO PAY FOR THE AMOUNT OF DAMAGE HE DOES. HE MAY, HOWEVER, NOT CUT OFF HIS NEIGHBOUR'S BOUGH [UPON WHICH HIS BEES HAVE SETTLED] EDEN THOUGH WITH THE INTENTION OF PAYING HIM ITS VALUE: R. ISHMAEL THE SON OF R. JOHANAN B. BEROKA, HOWEVER, SAID THAT HE MAY EVEN CUT OFF HIS NEIGHBOUR'S BOUGH IF HE MEANS TO REPAY HIM THE VALUE.

GEMARA. A Tanna taught: If he was given [anything by customs-collectors] he would have to restore it to the original proprietors. This view thus maintains that Renunciation by itself does not transfer ownership[13] and consequently the misappropriated article has at the very outset come into his possession unlawfully;[14] Some, however, read: ‘If he cares to give up [the article given him by the customs-collector], he should restore it to the original proprietors’,[15] the reason being that Renunciation by itself transfers ownership,[16] so that it is only when [he[17] made up his mind] saying: ‘I do not like to benefit from money which is not [really] mine’;[18] he must restore it to the original proprietors.

IT WOULD BELONG TO HIM FOR THE OWNERS HAVE SURELY ABANDONED IT.[19] Said R. Ashi:[20] This Mishnaic ruling applies only where the robber was a heathen,[21] but in the case of a robber who was an Israelite this would not be so, as the proprietor surely thinks: [If not to-day to-morrow] I will take him to law.[22] R. Joseph demurred to this, saying: On the contrary, the reverse is more likely. In the case of heathens who usually administer law forcibly[23] the owner need not give up hope,[24] whereas in the case of an Israelite where the judges merely issue an order to make restoration [without however employing corporal punishment][25] the owner has surely abandoned any hope of recovery. If therefore a [contrary] statement was ever made it was made only regarding the concluding clause [as follows:] IF ONE RESCUED [ARTICLES] FROM [A RIVER OR FROM] HEATHENS[26] OR FROM ROBBERS, IF THE OWNERS HAVE ABANDONED THEM THEY WILL BELONG TO HIM, Implying that as a rule this would not be so. This implication could, however, not be maintained in the case of heathens who usually administer the law forcibly,[27] whereas in the case of a robber who was an Israelite, since the judges will merely issue an order to make restoration [without however employing corporal punishment] the owner has surely abandoned any hope of recovery.

We learnt elsewhere: In the case of skins belonging to a lay owner, mere mental determination[28] [on the part of the owner] will render them capable of becoming defiled,[29] whereas in the case of those belonging to a tanner no mental determination[28] would render them capable of becoming defiled.[30] Regarding those in possession of a thief mental determination[31] will render them capable of becoming defiled,[32] whereas those in the possession of a robber no mental determination[33] will render them capable of becoming defiled.[34] R. Simeon however, says that the rulings are to be reversed: Regarding those in the possession of a robber mental determination[33] will render them capable of becoming defiled,[35] whereas those in the possession of a thief no mental determinations will render them capable of becoming defiled, as in the last case the owners do not usually abandon hope of finding the thief.[36] Said ‘Ulla: This difference of opinion[37] exists only in average cases, but where Renunciation is definitely known to have taken place opinion is unanimous that Renunciation transfers ownership. Rabbah,[38] however, said: Even where the Renunciation is definitely known to have taken place there is also a difference of opinion. Abaye said to Rabbah:[38] You should not contest the statement of ‘Ulla, for in our Mishnah[39] we learnt in accordance with him: . . . . as the owners do not usually abandon hope of finding the thief. The reason is that usually the owners do not abandon hope of tracing the thief, but where they definitely abandoned hope of doing so, the skins would have become his. He rejoined:[40] We interpret the text in our Mishnah,[to mean][41] ‘For there is no Renunciation of them on the part of the owners.’[42]

We have learnt: IF CUSTOMS-COLLECTORS TOOK AWAY A MAN'S ASS AND GAVE HIM INSTEAD ANOTHER ASS OR IF BRIGANDS TOOK AWAY HIS GARMENT AND GAVE HIM INSTEAD ANOTHER GARMENT, IT WOULD BELONG TO HIM, FOR THE OWNERS HAVE SURELY ABANDONED HOPE OF RECOVERING IT. Now whose view is represented here? If we say, that of the Rabbis[43] , the ruling in the case of robbers[44] raises a difficulty.[45] Again, if that of R. Simeon, the ruling in the case of thieves[46] raises a difficulty![47] The problem, it is true, is easily solved if we accept the view of ‘Ulla who stated that where Renunciation was definitely known to have taken place ownership is transferred; the Mishnaic ruling here would then similarly apply to the case where Renunciation was definitely known to have taken place and would thus be unanimous. But on the view of Rabbah who stated that even where the Renunciation is definitely known to have taken place there is still a difference of opinion,[48] with whose view would the Mishnaic ruling accord? It could neither be with that of the Rabbis nor with that of R. Simeon! — We speak here of an armed highwayman,[49] and the ruling will be in accordance with R. Simeon. But if so, is this case not identical with [that of a customs-collector acting openly like a] ‘robber’?[50] — Yes, but two kinds of robbers[51] are spoken of.

Come and hear: If a thief,[52] a robber, or an annas[53] consecrates a misappropriated article, it is duly consecrated; if he sets aside the portion for the priest's gift,[54] it is genuine terumah; or again if he sets aside the portion for the Levite's gift,[55] the tithe is valid.[56] Now, whose view does this teaching follow? If [we say] that of the Rabbis, the case of robbers creates a difficulty,[57] if that of R. Simeon, the case of the thief creates a difficulty?[58] The problem, it is true, is easily solved if we accept the view of ‘Ulla who stated that where Renunciation was definitely known to have taken place ownership is transferred; the Mishnaic ruling here would then similarly apply to the case where

Renunciation was definitely known to have taken place, and would thus be unanimous. But if we adopt the view of Rabbah who stated that even where the Renunciation is definitely known to have taken place there is still a difference of opinion,[59] with whose view would the Mishnaic ruling accord? It could be neither in accordance with the Rabbis nor in accordance with R. Simeon? — Here too an armed highwayman is meant, and the ruling will be in accordance with R. Simeon. But if so, is this case not identical with that of 'robber'? — Yes, two kinds of robbers are spoken of. Or if you wish I may alternatively say that this teaching is in accordance with Rabbi, as taught: 'Rabbi says: A thief is in this respect [subject to the same law] as a robber', [

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(1) Whereas according to Scripture no less than two witnesses are required; cf. Deut. XIX, 15.

(2) 'Magistratus': v. Targ. II, Esth. IX, 3; also S. Krauss, Lehnworter, II, 322; 'untrained magistrates', Jast. 'a village court', Rashi a.l.

(3) 'The Persian Circuit Court' (Jast.).

(4) R. Kahana's according to MS.M., followed here also by Asheri a.l.

(5) V. B.M. 108a.

(6) Ibid. 108b.

(7) For he who is outside the covenant of the law could not be compelled to abide by its principles.

(8) [It was no uncommon practice for the unscrupulous heathen to interfere with the irrigation on which the life of the neighbouring fields depended and then force the owners to move out and seek their existence elsewhere, v. Funk, Die Juden in Babylonien I, p. 16.]

(9) And as after the Renunciation on the part of the owner there followed a change of possession, ownership was transferred to the possessor.

(10) Cf. B.M. 27a.

(11) Whose evidence is generally not accepted; v. Shebu. IV, 1 and supra p. 507.

(12) And thus establish the ownership of the swarm; for the reason see the discussion infra in the Gemara.

(13) As indeed maintained by R. Joseph supra p. 383, or even by Rabbah according to Tosaf. on B.K. 67b.

(14) According to Tosaf. ibid, the true owner abandoned the article only after it changed hands from the customs-collector to the new possessor; the Mishnaic ruling, however, deals with another case as explained supra p. 670, n. 1.

(15) [MSM.: 'to the customs-collector' (since he acquired it by Renunciation)].

(16) V. supra p. 382 and Tosaf. on 67b.

(17) Being scrupulous.

(18) Though strict law could not enforce it in this case.

(19) And as after the Renunciation on the part of the owner there followed a change of possession, ownership was transferred to the possessor.

(20) 'R. Assi' according to Asheri; cf. D.S. and supra p. 657, n. 11.

(21) In which case the person robbed might be afraid to force him to pay.

(22) And thus never gives up hope of recovering the misappropriated article.

(23) Lit., 'haughtily' (Rashi). Krauss, Lehnworter: lit., 'Gothism', referring to the Goths in the Roman army.

(24) For the robber will be forced by the heathen judges to make restoration even upon the strength of circumstantial evidence, however slender.

(25) But on the other hand take all circumstantial evidence as baseless suggestions and thus require sound testimony to be borne by truthful witnesses.

(26) Who are designated in the Mishnah a troop of invaders. [MS.M. however reads here too MARAUDING BAND.]

(27) V. p. 671, n. 10.

(28) To use them as they are.

(29) As his mental determination is final, and the skins could thus be considered as fully finished articles and thus subject to the law of defilement.

(30) As a tanner usually prepares his skins for the public, and it is for the buyer to decide what article he is going to make out of them.

(31) On the part of the thief to use them as they are.

(32) For the skins became the property of the thief, as Renunciation usually follows theft on account of the fact that the owner does not know against whom to bring an action.

(33) On the part of the robber to use them as they are.

(34) For the skins did not become the property of the robber as robbery does not usually cause Renunciation, since the owner knows against whom to bring an action.

(35) For the skins became the property of the robber as the owner has surely renounced every hope of recovering them for fear of the robber who acted openly.

(36) V. Kel. XXVI, 8 and supra p. 384.

(37) Between R. Simeon and the other Rabbis.

(38) Var. lec. ‘Raba’.

(39) Kel. XXVI, 8 and supra p. 384.

(40) I.e., Rabbah to Abaye.

(41) Cf. Tosaf. s.v. לפי

(42) Since the skins were taken away stealthily the owner will never in reality give up hope of tracing the thief and recovering them, even though they may express their despair of their return.

(43) Who oppose R. Simeon.

(44) I.e., the customs-collector who acts openly.

(45) For according to them there is no Renunciation in the case of a robber.

(46) I.e., the brigand.

(47) For according to him there is no Renunciation in the case of a thief.

(48) Between R. Simeon and the other Rabbis.

(49) Acting openly and not stealthily; cf. supra 57a.

(50) Why then repeat the ruling in two identical cases?

(51) I.e., customs-collectors and brigands.

(52) V. supra p. 386.

(53) Lit., ‘a violent man’; the same as the hamsan, who as explained supra p. 361, is prepared to pay for the objects which he misappropriates.

(54) Cf. Num. XVIII, 11-12.

(55) Cf. Num. ibid. 21.

(56) For it is assumed that the proprietors are already resigned to the loss of the misappropriated articles, so that ownership has changed hands, v. supra 67a.

(57) For according to them there is no Renunciation in the case of a robber.

(58) For according to him there is no Renunciation in the case of a thief.

(59) Between R. Simeon and the other Rabbis.

Talmud - Mas. Baba Kama 114b

and it is a known fact that it was to the law applicable to a robber according to R. Simeon[1] [to which a thief was made subject in this statement of Rabbi].[2]

The above text [states]: ‘Rabbi says: I maintain that a thief is [in this respect subject to the same law] as a robber.’ The question was asked: Did he mean to [make him subject to the law applicable to a] robber as laid down by the Rabbis,[3] in which case ownership is not transferred, or did he perhaps mean to [make him subject to the law applicable to a] robber as defined by R. Simeon,[1] in which case the ownership is transferred? Come and hear: IF CUSTOMS-COLLECTORS TOOK AWAY A MAN'S ASS AND GAVE HIM INSTEAD ANOTHER ASS, OR IF BRIGANDS TOOK AWAY HIS GARMENT, IT WOULD BELONG TO HIM, FOR THE OWNERS HAVE SURELY ABANDONED IT. Now, with whose view does this ruling accord? If with that of the Rabbis, the case of the robber[4] raises a difficulty;[5] if with that of R. Simeon, the case of the thief[6] raises a difficulty.[7] The difficulty is easily solved if you say that Rabbi meant [to make the thief subject to the law] applicable to a robber as defined by R. Simeon,[1] in which case ownership is transferred; the ruling in the Mishnah would then be in accordance with Rabbi, as on this account ownership would be transferred. But if you say that he meant [to make him subject] to the law of robber as defined by the Rabbis,[3] in which case ownership will not be transferred, whom will the Mishnaic ruling[8] follow? It will be In accordance neither with Rabbi nor with R. Simeon nor with the Rabbis? — The robber spoken of here is an armed brigand[9] and the ruling will be in accordance with R. Simeon.[1] But if so, is this case not identical with [that of a customs-collector acting openly like a] 'robber'?[10] — Yes, two kinds of robbers[11] are spoken of.

Come and hear: If a thief, a robber or an annus consecrates a misappropriated article, it is duly consecrated; if he sets aside the portion for the priests' gift, it is genuine terumah; or again, if he sets aside a portion for the Levite's gift, the tithe is valid.[12] Now, with whose view does this teaching accord? If [we say] it is in accordance with the Rabbis, the case of the robber creates a difficulty?[13] If again [we say] it is in accordance with R. Simeon, the case of the thief[14] creates a difficulty.[15] The difficulty, it is true, is easily solved if you say that Rabbi meant [to make the thief subject to the same law] as robber as defined by R. Simeon in which case ownership is transferred; the ruling in this teaching would then be in accordance with Rabbi, as on this account ownership would be transferred. But if you say that he meant [to make him] subject to the law of robber as defined by the [other] Rabbis, in which case ownership will not be transferred, in accordance with whom will be this ruling?[16] — The thief here spoken of is an armed robber[17] and the ruling will thus be in accordance with R. Simeon.[18] But if so, is this case not identical with that of 'robber'?[10] Yes, but two kinds of robbers are spoken of. R. Ashi said to Rabbah: Come and hear that which Rabbi taught to R. Simeon his son: The words 'anything which could serve as security' should not [be taken literally to] mean actual security, for even if he left a cow to plough with or an ass to drive, they would be liable to restore it because of the honour of their father.[19] Now, the reason is to save the name of their father, but if not for the honour of their father it would not be so,[20] thus proving[21] that Rabbi referred in his statement to the law of a robber[22] as defined by R. Simeon. This proves it.

SO ALSO REGARDING SWARMS OF BEES. What is the point [here] of SO ALSO?[23] — It means this: Even regarding swarms of bees where the proprietorship is only of Rabbinic sanction, and therefore[24] you might have thought that since the title to them has only Rabbinic authority behind it,[25] we presume the owner generally to have resigned his right [unless we know definitely to the contrary], we are told that it was only where the proprietors have [explicitly] renounced them that this will be so,[26] but if not, this will not be so.

R. JOHANAN B. BEROKA SAID [THAT] EVEN A WOMAN OR A MINOR IS TRUSTED WHEN STATING THAT THIS SWARM STARTED FROM HERE. Are a woman and a minor competent to give evidence?[27] — Rab Judah said in the name of Samuel: We are dealing here with a case where, e.g., the proprietors were chasing the bees[28] and a woman or a minor speaking in all innocence[29] said that this swarm started from here.

R. Ashi said: Remarks made by a person in the course of speaking in all innocence cannot be taken as evidence, with the exception only of evidence [of the death of a husband] for the release of his wife.[30] Said Rabina to R. Ashi: Is there no other case in which it would be taken as evidence? Surely in the case of a swarm of bees we deal with a remark made in all innocence?[31] The case of a swarm of bees is different, as the ownership of it has only Rabbinic sanction. But does not the same apply to ordinances based on the Written Law?[32] Did not Rab Judah say that Samuel stated[33] that a certain man speaking in all innocence declared, 'I remember that when I was a child I was once hoisted on the shoulders of my father, and taken out of school and stripped of my shirt and immersed in water[34] in order that I might partake of terumah in the evening,'[35] and R. Hanina completed the statement thus: 'And my comrades were kept separate from me[36] and called me, Johanan who partakes of hallah,'[37] and Rabbi raised him to the status of priesthood upon the strength of [this statement of] his own mouth?[38] — This was only for the purpose of eating terumah of mere Rabbinic authority.[39] Still, would this not apply[40] also to [prohibitions based on] the Written Law? Surely when R. Dimi arrived[41] he stated that R. Hana of Kartigna,[42] or, as others said, R. Aha of Kartigna related a certain case brought before R. Joshua b. Levi, or, as others say, before Rabbi, regarding a certain child speaking in all innocence who said, ‘I and my mother were taken captive among heathens; whenever I went out to draw water I was thinking only of my mother, and when I went out to gather wood I was thinking only of my mother.’ And Rabbi permitted her to be married to a priest on the strength of [the statement[43] made by] the child![44] — In the case of a woman taken captive the Rabbis were always lenient.[45]

HE MAY HOWEVER NOT CUT OFF HIS NEIGHBOUR'S BOUGH [etc.]. It was taught:[46] R. Ishmael the son of R. Johanan b. Beroka said: It is a stipulation of the Court of Law that the owner of the bees be entitled to come down into his neighbour's field and cut off his bough [upon which his bees have settled], in order to rescue his swarm of bees, while the owner of the bough will be paid the value of his bough out of the other's swarm; It is [similarly] a stipulation of the Court of Law that the owner of the wine pour out the wine [from the flask] in order to save in it the other man's honey,[47] and that he can recover the value of his wine out of the other's honey.[47] It is [again] a stipulation of the Court of Law that [the owner of the wood] should remove his wood [from his ass] and load on it the other man's flax [from the ass that fell dead], and that he can recover the value of his wood out of the other's flax; for it was upon this condition that Joshua divided the Land among the Israelites.[46]

MISHNAH. IF A MAN IDENTIFIES HIS ARTICLES OR BOOKS IN THE POSSESSION OF ANOTHER PERSON, AND A RUMOUR OF BURGLARY IN HIS PLACE HAD ALREADY BEEN CURRENT IN TOWN, THE PURCHASER [WHILE PLEADING PURCHASE IN MARKET OVERT] WOULD HAVE TO SWEAR HOW MUCH HE PAID [FOR THEM][48] AND WOULD BE PAID ACCORDINGLY [AS HE RESTORES THE ARTICLES OR BOOKS TO THE PLAINTIFF]. BUT IF THIS WAS NOT SO, HE COULD NOT BE BELIEVED, FOR I MAY SAY THAT HE SOLD THEM TO ANOTHER PERSON FROM WHOM THE DEFENDANT PURCHASED THEM [IN A LAWFUL MANNER].

GEMARA. But even if a rumour of burglary in his place had already been current in town, why should the law be so?[49] Why not still suspect that it was he[50] who sold them [in the market] and it was he[50] himself who circulated the rumour? — Rab Judah said in the name of Rab: [We suppose that] e.g., people had entered his house and he rose in the middle of the night and called for help, crying out that he was being robbed. But is this not all the more reason for suspecting that he[50] was merely looking for a pretext? — R. Kahana therefore completed the statement made in the name of Rab as follows: [We suppose] e.g., that a breach was found to have been made in his house and persons who lodged in his house were going out with bundles of articles upon their shoulders so that everyone was saying that so-and-so had had a burglary.[51] But still, there might have been there only articles, but not any books! — R. Hiyya b. Abba said in the name of R. Johanan: [We suppose] that they were all saying that books also were there. But why not apprehend that they might have been little books while he is claiming big ones? — Said R. Jose b. Hanina: [We suppose] they say, Such and such a book. But still they might perhaps have been old books while he is claiming new ones? — Rab[52] said: [We suppose] they were all saying that these were the articles of so-and-so and these were the books of so-and-so. But did Rab really say so?[53] Did Rab not say[54] that if a thief entered a house by breaking in and misappropriated articles and departed with them he would be free,[55] the reason being that he acquired title to them through the risk of life [to which he exposed himself]?[56] — This last ruling that ownership is transferred applies only where the thief entered by breaking in, in which case he from the very outset exposed himself to the risk of being killed, but to those who lodged in his house, since they did not expose themselves to the risk of being killed, this ruling cannot apply. Raba said: All these qualifications apply only to a proprietor[57] who keeps his goods for sale, but in the case of a proprietor who does not keep his goods for sale,

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(1) Who holds that there is Renunciation in the case of a robber.

(2) Maintaining that there is Renunciation both in the case of robbery and in the case of theft.
(3) Who hold that there is no Renunciation in the case of a robber.
(4) I.e., the customs-collector who acts openly.
(5) For according to them there is no Renunciation in the case of a robber.
(6) I.e., the brigand.
(7) For according to him there is no Renunciation in the case of a thief.
(8) Maintaining that there is Renunciation both in the case of robbery and in the case of theft.
(9) Acting openly and not stealthily; cf. supra 57a.
(10) Why then repeat the ruling in two identical cases?
(11) I.e., customs-collectors and brigands.
(12) For notes v. supra p. 674.
(13) For according to them there is no Renunciation in the case of a robber.
(14) I.e., the brigand.
(15) For according to him there is no Renunciation in the case of a thief.
(16) Maintaining that there is Renunciation both in the case of robbery and in the case of theft.
(17) Acting openly and not stealthily.
(18) Who maintains Renunciation in the case of a robber.
(19) V. supra p. 653, n. 9.
(20) They would thus surely be entitled to retain the misappropriated article on account of Renunciation on the part of the owner.
(21) According to established halachah that the possession of heirs is not on the same footing in law as the possession of a purchaser, and does not therefore constitute a legal change of possession.
(22) Maintaining that there is Renunciation both in the case of robbery and in the case of theft.
(23) For why should a swarm of bees be taken to be different from any other kind of property?
(24) For since they cannot be properly controlled, property in them is not so absolute as in other articles. V. Hul. 141b.
(25) Generally conveying no right in rem and thus no legal ownership in substance.
(26) I.e., that their right will come to an end.
(27) As they are exempt from having to appear as witnesses, the testimony borne by them in a Court of Law is not possessed of that absolute impartiality which is the most essential feature in all evidence; cf. supra p. 507.
(28) Even before the minor or woman made a statement to their benefit, so that the testimony is corroborated by circumstantial evidence.
(29) Without any intention of giving evidence.
(30) Cf. Yeb. XVI, 5-7.
(31) As stated in our Mishnah here.
(32) I.e., would ordinary conversation not be trusted?
(33) Keth. 26a.
(34) In a mikweh to become levitically clean; cf. Kid. 80a.
(35) As in Ber. I,1.
(36) Not to cause defilement.
(37) Which is the first of the dough and is on a par with terumah; v. Num. XV, 19-21.
(38) Though a prohibition of the Written Law was involved and the man was talking in all innocence.
(39) For Rabbi lived after the destruction of the Temple when (according to some authorities) all terumah was of mere Rabbinic sanction; cf. Pes. 44a.
(40) I.e., would ordinary conversation not be trusted?
(41) From Palestine to Babylon; v. Rashi M.K. 3b.
(42) I.e., Carthage rebuilt under the Roman Empire on the northern coast of Africa.
(43) From which it appeared that no immoral act was committed upon the mother.
(44) Keth. 27b. Though the prohibition involved was Biblical, for according to Lev. XXI, 7, a priest may not marry a woman who had immoral intercourse.
(45) On account of the immoral act being a matter of mere apprehension; cf. Keth. 23a.
(46) Supra 81b.
(47) Cf. Mishnah infra 115a.

(48) Cf. the oath in Litem administered by the Romans though in different circumstances; v. Dig. 12, 3. Cod. 5,33; 8, 4, 9; cf. also supra p. 359 and Shebu. VII, 1-3.

(49) I.e., to force the possessor to make restoration.

(50) The plaintiff.

(51) There is thus some circumstantial evidence to corroborate the plaintiff's allegations.

(52) More correctly Abbahu as in MS.M.

(53) V. p. 679. n. 4.

(54) Sanh. 72a.

(55) From pecuniary liability.

(56) According to Ex. XXII, 1, and since at the time of breaking in the offence was capital, all civil liabilities merge in it; v. supra p. 192, n. 8. [Consequently the purchaser could not be forced to make restoration seeing that the thief himself is exempt.]

(57) Lit., ‘house-owner’.

Talmud - Mas. Baba Kama 115a

it would not be necessary to be so particular.[1] But he might perhaps have been in need of money and thus compelled to sell [some of his articles]? — Said R. Ashi: There is the fact that a rumour of burglary in his place had been current in town.[2]

It was stated: Where articles were stolen and sold by the thief who was subsequently identified, Rab in the name of R. Hiyya said that the owner would have to sue the first,[3] whereas R. Johanan in the name of R. Jannai said that he would have to sue the second.[4] R. Joseph thereupon said: There is no conflict of opinion:[5] in the one case where the purchase took place before Renunciation[6] he could sue the second,[7] whereas in the other, where it took place after Renunciation[8] he would have to sue the first;[3] and both of them[9] adopt the view expressed by R. Hisda.[10] Abaye said to him: Do they[9] indeed not differ? Is the case of endowments to priests[11] not on a par with [a purchase taking place] before Renunciation[12] and there is nevertheless here a difference of opinion? For we learnt: If one asked another to sell him the inside of a cow in which there were included priestly portions he would have to give it to the priest without deducting anything from the [purchase] money; but if he bought it from him by weight he would have to give the portions to the priests and deduct their value from the [purchase] money.[13] And Rab thereupon said that the [last] ruling could not be explained except where it was the purchaser who weighed it for himself, for if the butcher[14] weighed it for him, the priest would have to sue the butcher![15] — Read: ‘He can sue also the butcher,’[16] for you might have thought that priestly portions are not subject to the law of robbery;[17] we are therefore told [here that this is not so]. But according to Abaye who stated that there was a difference of opinion between them,[18] what is that difference? — Whether or not to accept the statement of R. Hisda.[19] R. Zebid said: [They differed in regard to a case] where, e.g., the proprietor abandoned hope of recovering the articles when they were in the hands of the purchaser, but did not give up hope so long as they were in the hands of the thief, and the point at issue between them was that while one master[20] maintained that it was only Renunciation followed by a change of possession that transfers ownership,[21] whereas if the change of ownership has preceded Renunciation[22] no ownership is thereby transferred,[23] the other master[24] maintained that there is no distinction.[25] R. Papa said: Regarding the garment itself[26] there could be no difference of opinion at all, as all agree that it will have to be restored to the proprietor.[27] Where they[28] differ here is as to whether the benefit of market overt[29] is to be applied to him. Rab in the name of R. Hiyya said that he[30] has to sue the first; i.e., the claim of the purchaser for recovery of his money is against the thief, as the benefit of market overt does not apply here,[31] whereas R. Johanan stated in the name of R. Jannai that he[30] may sue the second, i.e., the claim of the purchaser for repayment should be against the proprietors since the benefit of market overt does apply also here.[31] But does Rab really maintain that the benefit of market overt should not apply here?[31] Was R. Huna not a disciple of Rab[32] and yet when Hanan the Wicked[33] misappropriated a garment and sold it and was brought before R. Huna, he said to the plaintiff, ‘Go forth and redeem your pledge [in the purchaser's hand]'?[34] — The case of Hanan the Wicked was different, for since it was impossible to get any payment from him, it was the same as where the thief was not identified at all. Raba said: 'Where the thief is notorious, the benefit of [a purchase in] market overt would not apply.[35] But was Hanan the Wicked not notorious, and yet the benefit of [a purchase in] market overt still applied? — He was only notorious for wickedness, but for theft he was not notorious at all.

It was stated: If a man misappropriated [articles] and paid a debt [with them], or if he misappropriated [them] and paid for goods he received on credit, the benefit of [a purchase in] market overt will not apply, for we are entitled to say,[36] 'Whatever credit you gave him was not in return for these stolen articles.' If he pledged them for a hundred, their value being two hundred, the benefit of [a purchase in] market overt would apply. But if their value equalled the amount of money lent on them, Amemar said that the benefit of market overt would not apply[37] whereas Mar Zutra said that the benefit of [a purchase in] market overt should apply. (The established law is that the benefit of a purchase in market overt should apply.)[38] In the case of a sale, where the money paid was the exact amount of the value of the goods, the benefit of [a purchase in] market overt would certainly apply. But where goods of the value of a hundred were bought for two hundred R. Shesheth said that the benefit of [a purchase in] market overt should not apply,[39] whereas Raba said that the benefit of [a purchase in] market overt should apply. The established law in all these cases, however, is that the benefit of [a purchase in] market overt should apply, with the exception of the cases where one misappropriated [articles] and paid a debt with them, and where one misappropriated them and paid for goods received on credit.[40]

Abimi[41] b. Nazi, the father-in-law of Rabina had owing to him four zuz[42] from a certain person. The latter stole a garment and brought it to him [as a pledge] and borrowed on it four further zuz. As the thief was subsequently identified, the case came before Rabina[43] who said: Regarding the former [four zuz] it is a case of a thief misappropriating articles and paying a debt [with them] in which case the plaintiff has to pay nothing whatsoever,[44] whereas regarding the latter four zuz you can demand your money and [then] return the garment. R. Cohen demurred: Why not say that the garment was delivered in consideration of the first four zuz [exclusively], so that it would thus be a case of misappropriating articles and paying [with them] a debt, or misappropriating articles and paying [with them] for goods [received] on credit, whereas the further advance of the last four zuz was a matter of mere trust,[45] just as he trusted him at the very outset? After being referred from one authority to another, the matter reached the notice of R. Abbahu who said that the law was in accordance with R. Cohen.

A Narashean[46] misappropriated a book and sold it to a Papunian[47] for eighty zuz, and this papunian went and sold it to a Mahozean[48] for a hundred and twenty zuz. As the thief was subsequently identified Abaye said that the proprietor of the book could come and pay the Mahozean eighty zuz[49] and get his book back, and the Mahozean would be entitled to go and recover the other forty zuz[50] from the papunian.[51] Raba demurred saying: If in the case of a purchase from the thief himself the benefit of market overt applies should this not be the more so in the case of a purchase from a purchaser?[52] — Raba therefore said: The proprietor of the book can go and pay the Mahozean a hundred and twenty zuz[53] and get back his book, and the proprietor of the book is [then] entitled to go and recover forty zuz from the papunian[51] and eighty zuz from the Narashean.[54]

MISHNAH. IF ONE MAN WAS COMING ALONG WITH A BARREL OF WINE AND ANOTHER WITH A JUG OF HONEY, AND THE BARREL[55] OF HONEY HAPPENED TO CRACK, AND THE OTHER ONE POURED OUT HIS WINE AND RESCUED THE HONEY INTO HIS [EMPTY] BARREL,

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(1) According to Rashi, as to require evidence regarding the identity of the books; but according to Maim. all the other circumscriptions are similarly dispensed with (Wilna Gaon).

(2) So that there is some circumstantial evidence to corroborate the plaintiff's allegations.
(3) I.e., the thief.
(4) I.e., the purchaser.
(5) I.e., between Rab and R. Johanan.
(6) In which case the sale is of no validity at all.
(7) I.e., the purchaser who would have to restore the articles without any payment at all.
(8) Where the purchase is valid since Renunciation was followed by change of possession.
(9) I.e., Rab and R. Johanan.
(10) Supra p. 652, that where a robber misappropriated an article and before Renunciation on the part of the owner it was consumed by another one, the plaintiff has the option of making either of them responsible.
(11) Dealt with in Deut. XVIII, 3.
(12) For the priests have surely never abandoned their right.
(13) Hul. X, 3.
(14) I.e., the vendor.
(15) Now, we are dealing here with a case where there was no Renunciation (v. p. 681, n. 12); why then does Rab maintain that the priest would have to sue the butcher and not the Purchaser?
(16) Having the option to sue either the butcher (who is the vendor) or the purchaser, for the reason stated supra p. 681, n. 10.
(17) For since they are endowments by Divine Law they always remain priestly property wherever they are, so that even where the vendor has personally delivered them to the purchaser it should be the latter alone who would be responsible to the priest.
(18) Rab and R. Johanan.
(19) V. supra p. 681, n. 10.
(20) I.e., R. Johanan.
(21) To the last possessor, I.e. the purchaser.
(22) As was the case here where the Renunciation took place when the articles were already in the hands of the purchaser.
(23) To the purchaser who would thus have to restore the articles without any payment at all.
(24) I.e., Rab.
(25) As in both these cases the ownership is transferred to the purchaser who may thus retain the articles, while the original owner could have a claim only against the thief.
(26) Which has been misappropriated.
(27) As the purchaser acquired no title to it if he bought it before Renunciation.
(28) I.e., Rab and R. Johanan.
(29) תקנת השוק , Lit., ‘the ordinance of the market’ which provides, in the case of sales made bona fide in open market, for the return of the purchased article to the owner who would have to pay the purchaser the price he had paid as stated in our Mishnah. The ordinance was enacted in the interest of trade, for unless so protected people would be afraid to buy goods for fear lest they are stolen. V. Jung, M. The Jewish Law of Theft, pp. 91 ff. Cf. also pp. 15ff.]
(30) The purchaser.
(31) Where the theft has definitely been established.
(32) Cf. Sanh. 6b.
(33) Also mentioned supra p. 205.
(34) Proving thus that the plaintiff would have to pay the purchase money even where the theft was definitely established.
(35) For the purchaser should not have bought the articles from him.
(36) To the purchaser.
(37) For as it is unusual that the value of the pledge should not exceed the amount of the loan, it is probable that the loan was not based on the security of the pledge.
(38) [The bracketed passage is deleted by Rashal and rightly so, since the very contrary fixed ruling is given infra.]
(39) For since he paid twice the value the transaction resembles rather a gift than a purchase.
(40) Cf. n. 2.
(41) According to Alfasi ‘Abaye’.

(42) V. Glos.

(43) ‘Rabbanai’ according to Hyman, Toledoth, 88; for similar deviations, cf. supra 113b with B.M. 2a.

(44) As decided supra, this page.

(45) And if so, the plaintiff should be entitled to recover the garment without any payment whatsoever.

(46) I.e., a person of Naresh near Sura in Babylonia.

(47) I.e., a person of Papunia, [between Bagdad and Pumbeditha, Obermeyer, op. cit., p 242].

(48) I.e., a person of Mahoza, a trading town on the Tigris.

(49) I.e., the original sum for which the thief sold it.

(50) He paid to the first purchaser who was his vendor.

(51) I.e., the first purchaser who sold it to the second and made a profit of forty zuz.

(52) Who bought it from a thief as was the case here.

(53) I.e., the purchase money he paid.

(54) I.e., the thief who sold the book for this amount.

(55) As to the substitution of ‘barrel’ for ‘jug’ v. supra p. 142.

Talmud - Mas. Baba Kama 115b

HE WOULD BE ABLE TO CLAIM NO MORE THAN THE VALUE OF HIS SERVICES;[1] BUT IF HE SAID [AT THE OUTSET], ‘I AM GOING TO RESCUE YOUR HONEY AND I EXPECT TO BE PAID THE VALUE OF MY WINE,’ THE OTHER HAS TO PAY HIM [ACCORDINGLY]. SO ALSO IF A RIVER SWEPT AWAY HIS ASS AND ANOTHER MAN'S ASS, HIS ASS BEING ONLY WORTH A MANEH[2] AND HIS FELLOW'S ASS TWO HUNDRED ZUZ,[2] AND HE LEFT HIS OWN ASS [TO ITS FATE], AND RESCUED THE OTHER MAN'S ASS, HE WOULD BE ABLE TO CLAIM NO MORE THAN THE VALUE OF HIS SERVICES; BUT IF HE SAID TO HIM [AT THE OUTSET], ‘I AM GOING TO RESCUE YOUR ASS AND I EXPECT TO BE PAID AT LEAST THE VALUE OF MY ASS,’ THE OTHER WOULD HAVE TO PAY HIM [ACCORDINGLY].

GEMARA. But why [should the rescuer] not be entitled to say, ‘I have acquired title to the rescued object[3] as it became ownerless’?[4] Was it not taught [in a Baraitha]: ‘If a man carrying pitchers of wine and pitchers of oil noticed that they were about to be broken, he may not say, "I declare this terumah[5] or tithe with respect to other produce which I have at home," and if he says so, his statement is of no legal validity’?[6] — As R. Jeremiah said in another connection, ‘Where the bale[7] of the press-house was twined around it [it would not become ownerless]’;[8] so also here in the case of the barrel [we suppose] the bale of the press-house was twined around it.[9] [Still, how does the Baraitha state:][10] ‘And if he says so, his statement is of no legal validity’? Surely it was taught: If a man was walking on the road with money in his possession, and a robber confronted him, he may not say, ‘The produce which I have in my house[11] shall become redeemed[12] by virtue of these coins,’[13] yet if he says so, his statement has legal validity?[14] — Here [in the latter case] we suppose that he was still able to rescue the money.[15] But if he was still able to rescue the money why then should he not be allowed to say so[16] even directly? — We suppose he would be able to rescue it with [some] exertion. But still even where there is likely to be a loss,[17] why should he not be allowed to say so[16] even directly?[18] Surely it was taught: If a man has ten barrels[19] of unclean tebel[20] and notices one of them on the point of becoming broken or uncovered,[21] he may say, ‘Let this be the terumah [portion] of the tithe[22] with respect to the other nine barrels,’ though in the case of oil he should not do so as he would thereby cause a great loss to the priest?[23] — Said R. Jeremiah: [In this case we suppose that] the bale of the presshouse was still twined around it.[24] This is a sufficient reason in the case where the barrel broke, as [the wine remaining] is still fit to be used, but in the case where the barrel became uncovered, for what use is the wine fit any more? For should you argue that[25] it is still fit for sprinkling purposes, was it not taught: Water which became uncovered should not even be poured out on public ground, and should neither be used for stamping clay, nor for sprinkling the house,[26] nor for feeding either one's own animal or the animal of a neighbour?[27] —

He may make it good by using a strainer, in accordance with the view of R. Nehemiah as taught: A strainer[28] is subject to the law of uncovering;[29] R. Nehemiah, however, says that this is so only where the receptacle underneath was uncovered, but if the receptacle underneath was covered, though the strainer on top was uncovered the liquid [strained into the receptacle beneath] would not be subject to the law of uncovering as the venom of a serpent resembles a fungus and thus remains floating in its previous position.[30] But was it not taught[31] in reference to this that R. Simeon said in the name of R. Joshua b. Levi that this ruling applies only if it has not been stirred, but if it had been stirred it would be forbidden?[32] — Even there it is possible [to rectify matters by] putting some [cloth] on the mouth of the barrel and straining the liquid gently through. But if we follow R. Nehemiah, is it permitted to make unclean produce terumah even with respect to other unclean produce? Surely it has been taught: It is permitted to make unclean produce terumah with respect to other unclean produce, or clean produce with respect to other clean produce, but not unclean produce with respect to clean produce,[33] whereas R. Nehemiah said that unclean produce is not allowed to be made terumah[34] even with respect to unclean produce except in the case of demai![35] — Here also[36] we are dealing with a case of demai.

The Master stated: ‘Though in the case of oil he should not do so as he would thereby cause a great loss to the priest’. But why is oil different? Surely because[37] it can be used for lighting; cannot wine[37] similarly be used for sprinkling purposes?[38] And should you argue that sprinkling is not a thing of any consequence, did Samuel not say[38] in the name of R. Hiyya that for drinking purposes one should pay a sela’ per log [of wine], whereas, for sprinkling purposes, two sela's[39] per log? We are dealing here with fresh wine.[40] But could it not be kept until it becomes old? — He may happen to use it for a wrong purpose.[41] But why not also in the case of oil apprehend that he may happen to use it[42] for a wrong purpose? — We suppose he keeps it in a filthy receptacle.[43] But why not keep the wine also in a filthy receptacle?[43] — Since it is needed for sprinkling purposes,[44] how could it be placed in a filthy receptacle?

The apprehension of illicit use[41] is in itself a point at issue between Tannaim, as taught: If a barrel of terumah wine became unclean, Beth Shammai maintain

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(1) But not for the value of the wine. For a different view cf. supra p. 679 and Tosef, B .K. X, 13.

(2) V. Glos.

(3) I.e., the honey by receiving it in my receptacle.

(4) For when the jug cracked and the loss of the honey became imminent there is implied Renunciation on the part of the owner; v. also supra p. 670 and B.M. 22a.

(5) V. Glos.

(6) For when the loss of the wine and oil becomes imminent the ownership comes to an end; Tosef. M.Sh. I, 6.

(7) V. Sanh. (Sonc. ed.) p. 151, n. 6.

(8) For the liquid would then merely leak out drop by drop, but not be lost instantly.

(9) And since the honey would not flow out straight away there is no immediate lapse of ownership.

(10) Where the bale of the press-house was not twined around it.

(11) And which was set aside as a second tithe, cf. Lev. XXVII, 30.

(12) In accordance with ibid. 31 and Deut. XIV, 25.

(13) Which were about to be misappropriated by the robber.

(14) And the produce in his house would become redeemed. This contradicts the former Braitha.

(15) From being taken away by the robber.

(16) That the produce should be redeemed by the coins.

(17) [I.e., where he is able to rescue with some exertion.]

(18) Some authorities, however, read thus: ‘But still even where there is a definite loss why should his statement be of no legal validity?’ V. Tosaf. a.l. but also Rashi and Bah.

(19) Of wine.

(20) I.e., produce prior to the separation of the priestly and levitical portions as required by law.

(21) And will thus become forbidden for use, for fear that a venomous snake partook of the liquid and injected there poison, v. Ter. VIII, 4-7.
(22) I.e., the tithe of the tithe mentioned in Num. XVIII, 26.
(23) The difference between oil and wine is that, since the produce was already defiled, in the case of wine the priest would in any case be unable to make any use of it, whereas in the case of oil he can use it for the purposes of heating and lighting; v. Ter. XI, 10. [Now assuming that the loss involved in the case of the wine, being small (v. infra), is to be compared with a loss that is not definite, does this not prove that where there is only likely to be a loss, the relevant declaration may be made directly?]
(24) In which case the loss is insignificant.
(25) Though it is no more good as a drink.
(26) For the venom which it might contain might injure persons walking there barefooted.
(27) Tosef Ter. XVII, and A.Z. 30b.
(28) I.e., liquid poured therein to be strained.
(29) For the venom, if any, will pass through the strainer.
(30) In the strainer without passing on to the receptacle underneath (Tosef. Ter. ibid. 14.)
(31) Cf. J. Ter. VIII, 5.
(32) [Here likewise, since he cannot avoid stirring the wine while pouring it from the barrel into the strainer, the venom will pass into the receptacle.]
(33) Cf. Ter. II, 2, and Yeb. 89a.
(34) For the setting aside of terumah must be in such a way as to enable it to be given to a priest whilst clean.
(35) I.e., produce bought from a person who could not be trusted to have set aside the necessary tithes. V. Glos. (cf. Ter. II, 2, and Yeb. 89a).
(36) Regarding the ten barrels of unclean tebel.
(37) When unclean and thus unfit for consumption by the priest.
(38) Cf. Pes. 20b.
(39) As wine for sprinkling is more useful than for drinking.
(40) Which is not fit for sprinkling.
(41) For through keeping it for some time he might inadvertently partake of it; it should therefore be forbidden to keep it at all.
(42) As he keeps it for heating and lighting.
(43) As a safeguard against partaking of it.
(44) And thus dependent upon its odour.

Talmud - Mas. Baba Kama 116a

that the whole of it must immediately be poured out, whereas Beth Hillel maintain that it could be used for sprinkling purposes. R. Ishmael b. Jose[1] said: I will suggest a compromise: [If it was already] in the house it might be used for sprinkling purposes, but [if it was still] in the field it would have to be poured out entirely,[2] or as some say: If it was old it might be used for sprinkling purposes, but if it was fresh it should be poured out entirely. They rejoined to him:[3] A compromise based on an independent[4] reasoning cannot be accepted.[5]

BUT IF HE SAID [AT THE OUTSET], I AM GOING TO RESCUE YOUR HONEY AND I EXPECT TO BE PAID THE VALUE OF MY WINE, THE OTHER HAS TO PAY HIM [ACCORDINGLY]. But why should the other party not say to him [subsequently], ‘I am merely jesting with you’?[6] Surely it was taught: If a man running away from prison came to a ferry and said to the boatman, ‘Take a denar to ferry me across,’ he would still have to pay him not more than the value of his services.[7] This shows that he is entitled to say, ‘I was merely jesting with you’? Why then also here should he not be entitled to say to him, ‘I was merely jesting with you’? — The comparison is rather with the case dealt with in the concluding clause: But if he said to him, ‘Take this denar as your fee for ferrying me across,’ he would have to pay him the sum stipulated in full. But why this difference between the case in the first clause and that in the second clause? — Said

Rami b. Hama: [In the second clause] the other party was a fisher catching fishes from the sea in which case he can surely say to him, ‘You caused me to lose fish amounting in value to a zuz.’[8]

SO ALSO IF A RIVER SWEPT AWAY HIS ASS AND ANOTHER MAN'S ASS, HIS ASS BEING WORTH A MANE HAND THE OTHER'S ASS TWO HUNDRED ZUZ, etc. [Both cases] had to be [stated]. For had we only the former case,[9] we might think that it was only there where a stipulation was made that the payment should be for the whole value [of the wine], since its owner sustained the loss by direct act of his own hands,[10] whereas here[11] where the loss came of itself[12] it might have been said that [in all circumstances] he would have no more than the value of his services. So also if we had had only the second case, we might have thought that it was only here,[11] where no stipulation was made, that he would have no more than the value of his services, since the loss came of itself,[12] whereas in the other case,[13] where the loss was sustained through his own act,[10] I might have said that even where no stipulation was made the payment would have to be for the whole value [of the honey]. It was therefore necessary [to state both cases].

R. Kahana asked Rab: What would be the law if the owner [of the inferior ass] went down to rescue the other's ass [with the stipulation of being paid the value of his own ass], and it so happened that his own ass got out by itself? — He replied: This was surely an act of mercy towards him on the part of Heaven.[14] A similar case happened with R. Safra when he was going along with a caravan. A lion followed them[15] and they had every evening to abandon to it [in turn] an ass of each of them which it ate. When the turn[16] of R. Safra came and he gave it his ass, the lion did not eat it. R. Safra immediately hastened to take possession of it. Said R. Aha of Difti to Rabina: Why was it necessary for him to take possession of it again? For though he had [implicitly] abandoned it, he surely had abandoned it only with respect to the lion, whereas with respect to anybody else in the world he certainly had not abandoned it at all.[17] He replied: R. Safra did it as an extra precaution.[18]

Rab asked Rabbi: What would be the law where he went down to rescue [the more valuable ass] but did not succeed in rescuing it? — He replied: Is this a question? He would surely have no more than the value of his services. An objection was raised: ‘If a labourer was hired

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(1) Who lived in a much later period than Shammai and Hillel; Rashi, Pes. 20b.

(2) For while bringing it home it might inadvertently be partaken of.

(3) I.e., his contemporaries; Rashi, Pes. ibid.

(4) Lit., ‘third’.

(5) Having no basis in either of the conflicting views, but constituting an opinion by itself, and thus being in principle opposed to both of them. V. Pes. 21a.

(6) To urge you to help.

(7) Yeb. 106a.

(8) I.e., the denar you offered me; in the case in the Mishnah the same argument holds good, hence the same ruling.

(9) Regarding the wine and honey.

(10) As he directly spilt his wine.

(11) In the case of the two asses.

(12) I.e., his ass was drowned by accident.

(13) Regarding the wine and honey.

(14) Which should therefore not affect in any way the stipulation made that the full amount be paid.

(15) To guard them against robbers and beasts.

(16) Lit., time.

(17) Why then was it necessary for him to take possession of it again? The ass would in any case have remained his.

(18) So that there should be no argument in the matter.

Talmud - Mas. Baba Kama 116b

to bring cabbage or damascene[1] plums for a sick person, and by the time he arrived he found him already dead or fully recovered, his hire[2] would have to be paid in full'?[3] — He replied: What comparison is there? In that case the messenger performed his errand,[4] whereas here the messenger did not perform his errand.[5]

Our Rabbis taught: If a caravan was travelling through the wilderness and a band of robbers threatened to plunder it, the contribution to be paid by each [for buying them off] will be apportioned in accordance with his possessions [in the caravan,] but not in accordance with the number of persons there.[6] But if they hire a guide to go in front of them, the calculation will have to be made also[7] according to the number of souls in the caravan,[8] though they have no right to deviate from the general custom of the ass-drivers.[9] The ass-drivers are entitled to stipulate that one who loses his ass should be provided with another ass.[10] [If, however, this was caused] by negligence, they would not have to provide him with another ass; where this was done without any negligence [on his part], he is provided with another ass. If he said: Give me the money for the ass and I will [buy it myself and][11] in any case guard the asses,[12] we do not listen to him.[13] Is this not obvious? — No; this is a case where he possesses another ass, and where therefore I might have said that since he has in any case to guard it[14] [his request should be complied with]: we are therefore told that there is a difference between guarding one and guarding two.[15]

Our Rabbis taught: If a boat was sailing on the sea and a gale arose threatening to sink it so that it became necessary to lighten the cargo, the apportionment [of the loss of each passenger] will have to be made according to the weight of the cargo[16] and not according to the value of the cargo, though they should not deviate from the general custom of mariners.[9] The mariners are entitled to stipulate that one who loses his boat should be provided with another boat. If this was caused by his fault, they would not have to provide him with another boat, but if without negligence he is provided with another boat. So also if he sailed to a place where boats should not go [and thus lost his boat] they would not have to provide him with another one.[17] But is this not obvious? — No; [there may be a place where] during Nisan[18] they generally sail one rope's length away from the shore, whereas during Tishri[18] they sail two ropes' length away from the shore,[19] and it so happened here that during Nisan[20] he sailed in the place fit for sailing during Tishri.[21] In this case it might be argued that [as] he took his wanted course in sailing,[22] [he should still be provided with another boat]; we are therefore told [that this is not the case].

Our Rabbis taught: If a caravan was travelling in the desert and a band of robbers threatened to plunder it, and one member of the caravan rose and rescued [some of their belongings], whatever he rescued will go to the respective owners,[23] whereas if he said at the beginning, 'I am going to rescue for myself', whatever he rescued would belong to himself.[24] What are the circumstances? If [the other owners were] able to rescue their belongings,[25] why even in the second case should the rescued belongings not go to the respective owners?[26] If on the other hand no [other owner was] able to rescue [anything],[27] why even in the first case should they not belong to the man himself?[28] — Said Rami b. Hama: We are dealing here with partners, and [in an emergency] like this,[29] a partner may dissolve partnership even without the knowledge of his fellow: so that where he made a stipulation [as in the concluding clause], the partnership has been dissolved,[30] whereas if no stipulation was made [as in the first clause] the partnership has not yet been dissolved.[31] Raba, however, said that we are dealing here with labourers,[32] and the ruling follows the view of Rab, for Rab said that a labourer[33] is entitled to withdraw even in the middle of the day.[34] Hence so long as he did not withdraw, [whatever he rescues is regarded] as being in the possession of the employer, whereas after he had already withdrawn it is a different matter altogether,[35] as it is written: For unto me the Children of Israel are servants; they are my servants,[36] but not servants to servants.[37] R. Ashi said: [We are dealing here with a case] where [any other owner would be] able to rescue [the property] only with great difficulty, so that where he [the one who did the work of rescue] declared his intention,[38] the belongings rescued will go to him, whereas where he did not declare his intention they will go to their respective owners.[39]

MISHNAH. IF A MAN ROBBED ANOTHER OF A FIELD AND BANDITTI [MASSIKIN][40] CONFISCATED IT, IF THIS BLOW BEFELL THE WHOLE PROVINCE[41] HE MAY SAY TO HIM, 'HERE IS THINE BEFORE THEE'; BUT IF IT WAS CAUSED THROUGH THE ROBBER HIMSELF HE WOULD HAVE TO PROVIDE HIM WITH ANOTHER FIELD. GEMARA. R. Nahman b. Isaac said: One who reads here MASSIKIN[42] is not in error, while one who reads 'Mezikin' is similarly not in error: One who reads 'Mezikin' is not in error as it was written:[43] In the siege and mazok [straitness];[44] so also he who reads MASSIKIN is not in error as it is written: The locust [shall] consume,[45] which is translated,[46] 'The sakkah [sack-carrier][47] shall inherit[48] it.'

BUT IF IT WAS CAUSED THROUGH THE ROBBER HIMSELF, HE WOULD HAVE TO PROVIDE HIM WITH ANOTHER FIELD. How are we to understand this? If only this field was confiscated, while all the other fields were not confiscated, could this not be derived from the earlier clause which says: IF THIS BLOW BEFELL THE WHOLE PROVINCE [HE MAY SAY TO HIM 'HERE IS THINE BEFORE THEE'], which implies that if this was not so, the ruling would be otherwise? — No; it is necessary to state the law where he [did not actually misappropriate the field but merely] pointed it out[49] [to the banditti to confiscate it]. According to another explanation we are dealing here with a case where e.g. heathens demanded of him[50] with threats to show them his fields and he showed them also this field among his own. A certain person showed [to robbers] a heap of wheat that belonged to the house of the Exilarch. He was brought before R. Nahman and ordered by R. Nahman to pay. R. Joseph happened to be sitting at the back of R. Huna b. Hiyya, who was sitting in front of R. Nahman. R. Huna b. Hiyya said to R. Nahman: Is this a judgment or a fine? — He replied: This is the ruling in our Mishnah, as we have learnt: IF IT WAS CAUSED THROUGH THE ROBBER HIMSELF HE WOULD HAVE TO PROVIDE HIM WITH ANOTHER FIELD, which we interpreted to refer to a case where he showed [the field to bandits]. After R. Nahman had gone, R. Joseph said to R. Huna b. Hiyya: 'What difference does it make

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(1) **; Lat. 'Damascina'.

(2) Which owing to the need of the occasion was above the ordinary; cf. Tosaf. a.l.

(3) Tosef. B.M. VII 2. Does this not prove that even where the efforts proved unsuccessful the payment must still be in full?

(4) As he indeed fetched the required objects.

(5) For he did not rescue the ass.

(6) For the robbers came originally for the possessions and not necessarily for souls.

(7) 'Also' is missing in J. B.M. VI, 4.

(8) For a guide is vital also to safeguard life; as to possessions cf. the difference in reading between the text here and J. B.M. VI, 4.

(9) Tosef. B.M. VII; cf. B.B. 7b, 8b.

(10) I.e., a kind of insurance.

(11) [So MS.M.]

(12) In accordance with the custom that each ass-driver had in turn to look after all the asses together with his own.

(13) For he might not buy another ass and thus have no longer any interest in looking after the other asses. Tosef. B.M. XI.

(14) Together with the asses of the other drivers.

(15) As when he has two asses of his own among those of the other drivers he will put more heart into his work.

(16) Though one might be asked to throw away gold and another a similar weight of copper.

(17) Tosef. B.M. XI, 12.

(18) V. p. 25, nn, 6-7.

(19) On account of the shallowness of the water soon after the hot summer period.

(20) When there is an abundance of water in the river.

(21) I.e., far away from the shore; for a transposed text v. Shittah Mekubezeth.

[22] He should not be considered careless.

[23] Lit., 'to the common fund' which will indeed be so according to the interpretation of Rami b. Hama which follows on.

[24] Tosef. B.M., VIII.

[25] In which case they certainly did not give them up.

[26] For how did he acquire title to them.

[27] In which case they surely gave up any hope of retaining their belongings and thus abandoned them, as supra p. 686.

[28] As he became possessed of ownerless property.

[29] Where a loss of property is imminent.

[30] He may thus retain the property he rescued to the extent of his part.

[31] And whatever he rescued will go to the common fund.

[32] Who were hired by the caravan and who rescued the threatened property.

[33] I.e., a day labourer.

[34] B.M. 10a.

[35] For then he works for himself and since the owners were unable to rescue their property it became abandoned so that when rescued by the labourer he acquired title to it.

[36] Lev. XXV, 55.

[37] Unlike in the case of the Hebrew servant of Ex. XXI, 2 the employer has no right in rem with reference to his labourers; cf. Kid. 16a and also 22b.

[38] I.e., that he does it for himself; and as the owner who was present there neither contradicted him nor made any exertion to rescue it, the property became ownerless.

[39] For under such circumstances there could not be traced there any implied Renunciation on their part.

[40] מסיקין V. B.M. (Sonc. ed.) p. 576, n. 5.

[41] I.e., they confiscated other's fields too.

[42] Cf. supra p. 694, n. 12.

[43] Deut. XXVIII, 57.

[44] I.e., oppression.

[45] Ibid. 42.

[46] In Targum Onkelos a.l.; cf. however Rashi there.

[47] So Jast. The name of a locust or a beetle; v. Ta'an. 6a; according however to R. Tam it refers to the enemy.

[48] V. Isa. XXXIV, 11.

[49] Lit., 'showed it'.

[50] I.e., of an actual robber.

Talmud - Mas. Baba Kama 117a

whether it is a judgment or a fine?' — He replied: If it is a judgment we may derive other cases from it,[1] whereas if it is a fine[2] we would be unable to derive other cases from it. But what is your ground for saying that from a matter of [mere] fine we cannot derive any other case? — As it was taught: 'Originally it was said that [liability will attach] for defiling [terumah][3] or for vitiating [wine],[4] but it was subsequently laid down that [it will also attach] for mixing[4] [common grain with terumah grain].'[5] Now, this is so only because it was so laid down subsequently, whereas had it not been so laid down subsequently this would not have been so. Is the reason for this not because liability here is a [matter of mere] fine, [thus proving that] we cannot derive anything from a fine?[6] — No, originally it was thought[7] that it is only where a great loss[8] is involved that we have to be on our guard,[9] whereas where only a small loss[10] is involved, we need not be particular, whereas subsequently it was decided that even in the case of a small loss[10] we should be particular. But this is not so![11] For the father of R. Abin[12] learnt: Originally it was said that [liability will attach] for defiling [terumah] or for mixing[13] [it with unconsecrated grain], but it was subsequently laid down that it will also attach for vitiating [wine]. Now, this is so [only] because it was so laid down subsequently, whereas had it not been so stated subsequently this would not have been so. Is the reason for this not because we are unable to derive anything from a matter of mere fine? — No:

originally the view of R. Abin was taken,[7] but subsequently the view of R. Jeremiah was adopted. ‘Originally the view of R. Abin was taken,’ — for R. Abin said: If one shot an arrow[14] from the beginning to the end of a space of four cubits[15] and it cut through some silk in its passage, he would be exempt,[16] for the outset [of the motion] was subservient to its termination, for which he is liable to capital punishment;[17] but subsequently it was decided in accordance with R. Jeremiah, for R. Jeremiah said: From the moment the defendant lifted up the wine[18] it entered into his possession,[19] and he thus became liable to make pecuniary compensation[19] whereas he does not become liable to capital punishment until the very moment of the [idolatrous] libation.[20]

Happening to be at Be-Ebyone[21] R. Huna b. Judah visited Raba who said to him: Has any case [about which you are in doubt] recently been decided by you? — He replied: I had to decide the case of an Israelite whom heathens forced to show them another man's possessions and I ordered him to pay. He, however, said to him: Reverse the judgment in favour of the defendant, as taught: An Israelite who was forced by heathens to show them another man's possessions is exempt, though if he personally took it and gave it [to the heathens] with [his own] hand, he would be liable. Rabbah[22] said: If he showed it on his own accord it is the same [in law] as if he personally took it and gave it to the robber with [his own] hand.

A certain man was forced by heathens to show them the wine of Mari the son of R. Phine has[23] the son of R. Hisda. The heathens then said to him, ‘Carry the wine and bring it along with us,’ so he carried it and brought it along with them. When he was brought before R. Ashi he exempted him. The Rabbis said to R. Ashi: Was it not taught: ‘If he personally took it and gave it to the heathens with [his own] hand, he would be liable’? — He said to them: This ruling applies only where the heathens were not standing near it,[24] whereas where they stood near it is the same [in the eye of the law] as if it had already been burnt.[25] R. Abbahu[26] raised an objection to [the explanation of] R. Ashi [from the following]: ‘If a ruffian said[27] to him, "Hand me this bunch of sheaves or this cluster of grapes," and he handed it to him, he would be liable’?[28] [No,] we are dealing here with a case where they were standing on two banks of a river.[29] That this was the case could also be proved from the use of the word ‘hand’ instead of ‘give’.[30] This indeed proves it.

Two persons were quarrelling about a certain net. One said, ‘It is mine’, and the other said, ‘It is mine.’ One of them eventually went and surrendered it to the Parangaria[31] of the King [for confiscation]. Abaye thereupon said that he should be entitled to plead: ‘When I surrendered the article it was my own property that I surrendered.’ Said Raba to him: ‘Why [should he be] believed [if he says so]?’ Raba therefore said: We would have to impose a Shamta[32] upon him until be brings back [the net][33] and appears before the Court.

A certain man who was desirous of showing another man's straw [to be confiscated] appeared before Rab, who said to him: ‘Don't show it! Don't show it!’ He retorted: ‘I will show it! I will show it!’ R. Kahana was then sitting before Rab, and he tore [that man's] windpipe out of him. Rab thereupon quoted: Thy sons have fainted, they lie at the heads of all the streets as a wild bull in a net;[34] just as when a ‘wild bull’ falls into a ‘net’ no one has mercy upon it, so with the property of an Israelite, as soon as it falls into the hands of heathen oppressors no mercy is exercised towards it.[35] Rab therefore said to him: ‘Kahana, until now the Greeks[36] who did not take much notice of bloodshed were [here and had sway, but] now the persians[37] who are particular regarding bloodshed are here, and they will certainly say, "Murder, murder!";[38] arise therefore and go up to the Land of Israel but take it upon yourself that you will not point out any difficulty to R. Johanan[39] for the next seven years. When he arrived there he found Resh Lakish sitting and going over[40] the lecture of the day for [the younger of] the Rabbis.[41] He thereupon said to them: ‘Where is Resh Lakish?’[42] They said to him: ‘Why do you ask?’ He replied: ‘This point [in the lecture] is difficult and that point is difficult, but this could be given as an answer and that could be given as an answer.’ When they mentioned this to Resh Lakish, Resh Lakish went and said to R. Johanan: ‘A lion[43] has come up from Babylon; let the Master therefore look very carefully into tomorrow's lecture.’ On the morrow R. Kahana was seated on the first row of disciples before R. Johanan, but as the latter made one statement and the former did not raise any difficulty, another statement, and the former raised no difficulty, R. Kahana was put back through the seven rows until he remained seated upon the very last row. R. Johanan thereupon said to R. Simeon b. Lakish: ‘The lion you mentioned turns out to be a [mere] fox.’[44] R. Kahana thereupon[45] whispered [in prayer]: ‘May it be the will [of Heaven] that these seven rows be in the place of the seven years mentioned by Rab.’ He thereupon immediately stood on his feet[46] and said to R. Johanan: ‘Will the Master please start the lecture again from the beginning.’ As soon as the latter made a statement [on a matter of law], R. Kahana pointed out a difficulty, and so also when R. Johanan subsequently made further statements, for which he was placed again on the first row. R. Johanan was sitting upon seven cushions. Whenever he made a statement against which a difficulty was pointed out, one cushion was pulled out from under him, [and so it went on until] all the cushions were pulled out from under him and he remained seated upon the ground. As R. Johanan was then a very old man and his eyelashes were overhanging he said to them, ‘Lift up my eyes for me as I want to see him.’ So they lifted up his eyelids with silver pincers. He saw that R. Kahana's lips were parted[47] and thought that he was laughing at him. He felt aggrieved and in consequence the soul of R. Kahana went to rest.[48] On the next day R. Johanan said to our Rabbis, ‘Have you noticed how the Babylonian was making [a laughing-stock of us]?’ But they said to him, ‘This was his natural appearance.’ He thereupon went to the cave [of R. Kahana's grave] and saw

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(1) By means of analogy.

(2) Imposed for that particular occasion on account of some aggravation of the offence; cf., e.g., supra p. 561.

(3) V. Glos.

(4) Cf. supra p. 14.

(5) Git. 53a.

(6) For if not so, why was it necessary to state explicit liability to the new case.

(7) Lit., ‘maintained’.

(8) Such as defiling terumah, vitiating wine and the like.

(9) And impose a penalty for preventive purposes.

(10) Such as in the case of mixing, [where the loss is small, as the mixture can still be sold to priests though at a somewhat reduced price].

(11) That the law in another case could be derived from a ruling merely imposing a fine.

(12) V. Sanh. 51b.

(13) Cf. Git. 53a.

(14) In a public thoroughfare on the Sabbath day, thus committing a capital offence; v. Shab. XI, 1-3.

(15) I.e., passing through a distance of not less than four cubits which is the minimum required to make him liable for the violation of Sabbath; v. supra p. 138.

(16) From civil liability for the silk.

(17) Into which all civil offences committed at that time merge (Keth. 31a); v. supra 192; no civil liability was therefore maintained in the case of vitiating wine by idolatrous libation which is a capital offence; cf. Sanh. VII, 4-6.

(18) I.e., before he ever started to commit the idolatrous libation.

(19) In the capacity of robbery.

(20) Git. 52b. And since the civil liability is neither for the same act nor for the same moment which occasions the liability for capital punishment, each liability holds good.

(21) Lit., ‘poor-house’, but according to Rashi ‘a proper name of a place.’ [Funk, Monumenta Talmudica, I, 290, identifies it with a locality Abjum, N. of Mosul on the Tigris; Goldschmidt renders: in an Ebionite town.]

(22) ‘Raba’ according to MS.M.

(23) But according to MS. M. ‘R. Mari and R. Phineas, the sons of . . .’ The fact, however, that R. Ashi was a contemporary is rather in favour of the reading in the text; but cf. also Alfasi and Asheri.

(24) I.e., where they have not yet become possessed of it; cf. Rashi and the Codes.

(25) The defendant could thus be made liable neither for the act of showing, for at that time be did not handle the wine, nor for the act of carrying which was after the wine had virtually entered the possession of the heathens.

(26) More probably ‘R. Abba’ [since R. Abbahu lived much earlier than R. Ashi; v. D.S.]. Asheri: ‘Rabina’, Alfasi: ‘R. Kahana’.

(27) [אנס another term for ‘massik’ of the Mishnah. Klein, NB. p. 14, n. 11.]

(28) Is this not a case where the ruffian had already been standing nearby the misappropriated article?

(29) Which separates the robber from the articles he intended to misappropriate.

(30) Cf. ‘A.Z. 6b.

(31) I.e., the office of public service; cf. B.M. 83b.

(32) A ban.

(33) Cf. MS.M. and also Alfasi and Asheri a.l.

(34) Isa. LI, 20.

(35) More correctly perhaps, ‘towards him’, referring thus to the Israelite; v. Ab. II, 2, also Asheri B.K. X, 27; the act of R. Kahana was in this way vindicated.

(36) So MS.M.; cur. edd.: Persians. [The reference is to the Parthians whose sway over Babylon came to an end in 266, when they were defeated by the Sassanians.]

(37) So MS.M.; curr. edd.: Greeks. [Ardeshir, the first of the Sassanian kings, deprived the Jews of the right they had hitherto exercised under the Parthians of inflicting capital punishment, v. Funk, Die fuden in Babylonien, I, 68.]

(38) [Or ‘Rebellion ‘; v. B.M. (Sonc. ed.) p. 235, n. 7.]

(39) V. Hul. 95b.

(40) [So Rashi. Kaplan, J. The Redaction of the Babylonion Talmud, p. 206, explains the phrase וקא מסיים as referring to a particular kind of lecture, devoted to the defining of the terse conclusions reached during the day in the academy.]

(41) Cf. B.M. 84a; also Sanh. 24a.

(42) MS.M. adds, ‘and R. Kahana did not know that it was Resh Lakish (who was repeating the other lecture).’

(43) Cf. Ab. IV, 15, and B.M. 84b.

(44) V. p. 699, n. 9.

(45) MS.M.: ‘he went out of the college.’

(46) This is missing in MS.M. according to which it was on another day when R. Johanan made new statements that R. Kahana said so.

(47) A physical defect owing to an accidental wound.

(48) V. B.M. 84a regarding R. Johanan and Resh Lakish.

Talmud - Mas. Baba Kama 117b

a snake coiled round it. He said: ‘Snake, snake, open thy mouth[1] and let the Master go in to the disciple.’ But the snake did not open its mouth. He then said: ‘Let the colleague go in to [his] associate!’ But it still did not open [its mouth, until he said,] ‘Let the disciple enter to his Master,’ when the snake did open its mouth.[2] He then prayed for mercy and raised him.[3] He said to him, ‘Had I known that the natural appearance of the Master was like that,I should never have taken offence; now, therefore let the Master go with us.’ He replied, ‘If you are able to pray for mercy that I should never die again [through causing you any annoyance],[4] I will go with you, but if not I am not prepared to go with you. For later on you might change again.’ R. Johanan thereupon completely awakened and restored him and he used to consult him on doubtful points, R. Kahana solving them for him. This is implied in the statement made by R. Johanan: ‘What[5] I had believed to be yours[6] was In fact theirs.’[7]

There was a certain man who showed a silk[8] ornament of R. Abba [to heathen ruffians]. R. Abbahu and R. Hanina b. Papi and R. Isaac the Smith were sitting in judgment with R. Elai sitting near them. They were inclined to declare the defendant liable, as we have learnt: Where a judge in deciding [on a certain case], declared innocent the person who was really liable, or made liable the person who was really innocent, declared defiled a thing which was [levitically] clean, or declared clean a thing which was really defiled, his decision would stand, but he would have to make restitution out of his own estate.[9] Thereupon Elai said to them: Thus stated Rab: provided the defendant[10] actually took and gave it away with his own hand.[11] They therefore said to the plaintiff: Go and take your case to R. Simeon b. Eliakim and R. Eleazar b. Pedath who adjudicate liability for damage done by Garmi.[12] When he went to them they declared the defendant liable on the strength of our Mishnah: IF THIS WAS CAUSED THROUGH THE ROBBER HE WOULD HAVE TO PROVIDE HIM WITH ANOTHER FIELD, which we intrepreted[13] to refer to a case where he showed [the field to oppressors].

A certain man had a silver cup which had been deposited with him, and being attacked by thieves he took it and handed it over to them. He was summoned before Rabbah[14] who declared him exempt. Said Abaye to Rabbah: Was this man not rescuing himself by means of another man's money?[15] R. Ashi said: We have to consider the circumstances. If he was a wealthy man,[16] the thieves came [upon him] probably with the intention of stealing his own possessions, but if not, they came for the silver cup.

A certain man had a purse[17] of money for the redemption of captives deposited with him. Being attacked by thieves he took it and handed it over to them. He was thereupon summoned before Raba[18] who nevertheless declared him exempt. Said Abaye to him: Was not that man rescuing himself by means of another man's money? — He replied: There could hardly be a case of redeeming captives more pressing than this.[19]

A certain man managed to get his ass on to a ferry boat before the people in the boat had got out on to shore.[20] The boat was in danger of sinking, so a certain person came along and pushed that man's ass over in to the river, where it drowned. When the case was brought before Rabbah[21] he declared him exempt. Said Abaye to him: Was that person not rescuing himself by means of another man's money? — He, however, said to him: The owner of the ass was from the very beginning in the position of a pursuer.[22] Rabbah follows his own line of reasoning, for Rabbah [elsewhere] said: If a man was pursuing another with the intention of killing him, and in his course broke utensils, whether they belonged to the pursued or to any other person, he would be exempt, for he was at that time[22] incurring capital liability.[23] If, however, he who was pursued broke utensils, he would be exempt only if they belonged to the pursuer, whose possessions could surely not be entitled to greater protection than his body,[24] whereas if they belonged to any other person he would be liable, as it is forbidden to rescue oneself by means of another man's possessions. But if a man ran after a pursuer with the intention of rescuing [some one from him] and [in his course accidentally] broke utensils, whether they belonged to the pursued or to any other person he would be exempt; this,[25] however, is not a matter of [strict] law, but is based upon the consideration that if you were not to rule thus,[26] no man would ever put himself out to rescue a fellow-man from the hands of a pursuer.[27]

MISHNAH. IF A RIVER FLOODED [A MISAPPROPRIATED FIELD, THE ROBBER] IS ENTITLED TO SAY TO THE OTHER PARTY, ‘HERE IS YOURS BEFORE YOU’.[28]

GEMARA. Our Rabbis taught: If a man robbed another of a field and a river flooded it, he would have to present him with another field. This is the opinion of R. Eleazar[29] but the Sages maintain that he would be entitled to say to him: ‘Here is yours before you.’[30] What is the ground of their difference? — R. Eleazar expounds [Scripture] on the principle of amplifications and limitations.[31] [The expression,] And lie unto his neighbour,[32] is an amplification;[33] In that which was delivered him to keep . . .[32] constitutes a limitation;[34] Or all that about which he hath sworn falsely[35] forms again an amplification;[33] and where an amplification is followed by a limitation which precedes another amplification,[35] everything is included. What is thus included? All articles. And what is excluded?[34] Bills.[36] But the Rabbis expound [Scripture] on the principle of generalisation and specification,[31] [thus: The expression,] and lie[37] is a generalisation;[38] In that which was delivered him to keep . . .[37] is a specification;[39] Or all that [about which he has sworn falsely][40] is again a generalisation;[40] and where a generalisation is followed by a specification that precedes another generalisation[40] you surely cannot include anything save what is similar to the specification.[41] So here, just as the specification is an article which is movable and of which the intrinsic value lies in its substance, you include any other matter which is movable and of which the intrinsic value lies in its very substance. Land is thus excluded[42] as it is not movable; so also are slaves excluded[42] as they are compared [in law] to lands,[43] and bills are similarly excluded,[42] for though they are movables, their substance does not constitute their intrinsic value. But was it not taught: If one misappropriated a cow and a river swept it away, he would have to present him with another cow,[44] according to the opinion of R. Eleazar, whereas the Sages maintain that he would be entitled to say to him: 'Here is yours before you'?[44] Now in what principle did they differ there [in the case of the cow]?[45] — Said R. papa: We are dealing there with a case where, e.g., he robbed a man of a field on which

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(1) [The snake holds its tail in its mouth. MS.M. reads 'open the door'.]

(2) Cf. B.M. 84b; Hill. 7b.

(3) Cf. Ber. 5b.

(4) So Rashi a.l.

(5) I.e., the knowledge of the law.

(6) I.e., the Palestinian scholars'.

(7) I.e., the Babylonians'; v. Suk. 44a.

(8) **.

(9) Bek. IV, 4; v. supra p. 584. Thus proving that for a mere utterance that caused a loss there is liability to pay.

(10) I.e., the judge.

(11) Cf. supra p. 585, Bek. 28b and Sanh. 33a.

(12) I.e., a direct cause; for the difference between Gerama and Garmi, viz. between an indirect and direct cause, v. Asheri, B.B. II, 17.

(13) Supra p. 695.

(14) MS.M.: Raba.

(15) V. supra p. 351 and Sanh. 74a.

(16) Cf. supra p. 360.

(17) ** (Krauss, Lehnworter, II, 133.)

(18) 'Rabbah' according to Asheri.

(19) For even if the depositee was not poor, since at that time he had nothing else with which to rescue himself from the thieves, he was allowed to do so; v. Tosaf. a.l.

(20) So MS.M.; curr. edd.: 'had embarked on the ferry boat'.

(21) MS.M.: 'Raba'.

(22) I.e., of threatening to endanger human life, which involves even a capital liability during the continuance of the threat; v. Ex. XXII, I, and Sanh. VIII, 7

(23) V. supra p. 680, n. 7.

(24) Cf. infra p. 713.

(25) I.e., the latter ruling.

(26) But make him liable.

(27) Sanh. 74a.

(28) Cf. supra p. 694.

(29) I.e., b. Shamua'; MS.M.: Eliezer [b. Horkenos]; as also in Shebu. 37b; v. D.S. n. 2.

(30) Shebu. 37b.

(31) Cf. Shebu. (Sonc. ed.) p. 12, n. 3; and supra 54b.

(32) Lev. V, 21.

(33) Including all matters.

(34) By the fact that it specifies certain transactions.

(35) Ibid. 24.

(36) As their intrinsic value does not lie in their substance; v. also supra p. 364.

(37) V. p. 703, n. 9.

(38) V. p. 703, n. 10.
(39) V. p. 703, n. 11.
(40) V. p. 703, n. 12.
(41) V. supra p. 364.
(42) From the general law of robbery.
(43) Cf. Lev. XXV, 46 and supra p. 364.
(44) V. p. 569, n. 2.
(45) Which is certainly subject to the law of robbery.

Talmud - Mas. Baba Kama 118a

a cow was lying,[1] and a river [subsequently] flooded it, R. Eleazar following his line of reasoning,[2] while the Rabbis followed their own view.[3]

MISHNAH. IF A MAN HAS ROBBED ANOTHER, OR BORROWED MONEY FROM HIM, OR RECEIVED A DEPOSIT FROM HIM[4] IN AN INHABITED PLACE, HE MAY NOT RESTORE IT TO HIM[5] IN THE WILDERNESS;[6] [BUT IF THE TRANSACTION WAS ORIGINALLY MADE] UPON THE STIPULATION THAT HE WAS GOING INTO THE WILDERNESS, HE MAY MAKE RESTORATION EVEN WHILE IN THE WILDERNESS.

GEMARA. A contradiction could be raised [from the following:] ‘A loan can be paid in all places, whereas a lost article [which was found], or a deposit cannot be restored save in a place suitable for this’?[7] — Said Abaye: What is meant[8] is this: ‘A loan can be demanded in any place, whereas a lost article [which was found] or a deposit cannot be demanded save in the proper place.’

[BUT IF THE TRANSACTION WAS ORIGINALLY MADE] UPON THE STIPULATION OF HIS GOING INTO THE WILDERNESS, etc. Is this ruling not obvious? — No, for we have to consider the case where he said to him, ‘Take this article in deposit with you as I intend departing to the wilderness,’ and the other said to him, ‘I similarly intend departing to the wilderness, so that if you want me to return it to you there,[9] I will be able to do so.

MISHNAH. IF ONE MAN SAYS TO ANOTHER, ‘I HAVE ROBBED YOU, I HAVE BORROWED MONEY FROM YOU, I RECEIVED A DEPOSIT FROM YOU BUT I DO NOT KNOW WHETHER I HAVE [ALREADY] RESTORED IT TO YOU OR NOT,’ HE HAS TO MAKE RESTITUTION. BUT IF HE SAYS, ‘I DO NOT KNOW WHETHER I HAVE ROBBED YOU, WHETHER I HAVE BORROWED MONEY FROM YOU, WHETHER I RECEIVED A DEPOSIT FROM YOU,’ HE IS NOT LIABLE TO MAKE RESTITUTION.

GEMARA. It was stated:[10] [If one man alleges:] ‘You have a maneh[11] of mine,’[12] and the other says, ‘I am not certain about it,’[13] R. Huna and Rab Judah hold that he is liable,[14] but R. Nahman and R. Johanan say that he is exempt.[15] R. Huna and Rab Judah maintain that he is liable, because where a positive plea is met by an uncertain one, the positive plea prevails, but R. Nahman and R. Johanan say that he is exempt, since money [claimed] must remain in the possession of the holder.[16] We have learnt: BUT IF HE SAYS, ‘I DO NOT KNOW WHETHER I HAVE BORROWED MONEY FROM YOU,’ HE IS NOT LIABLE TO MAKE RESTITUTION. Now, how are we to understand this? If we say that there was no demand on the part of the plaintiff, then the first clause must surely refer to a case where he did not demand it, [and if so] why is there liability? It must therefore refer to a case where a demand was presented and it nevertheless says in the concluding clause,[17] ‘HE IS NOT LIABLE to PAY’![18] — No, we may still say that no demand was presented [on the part of the plaintiff], and the first clause is concerned with one who comes to fulfil his duty towards Heaven.[19] It was indeed so stated: R. Hiyya b. Abbah said that R. Johanan stated: If a man says to another, ‘You have a maneh of mine,’ and the other says, ‘I am not certain about it,’ he would be liable to pay[20] if he desires to fulfil his duty towards Heaven.[21]

MISHNAH. IF A MAN STOLE A SHEEP FROM THE HERD AND PUT IT BACK [THERE], AND IT SUBSEQUENTLY DIED OR WAS STOLEN, HE WOULD STILL BE RESPONSIBLE FOR IT. IF THE PROPRIETOR KNEW NEITHER OF THE THEFT NOR OF THE RESTORATION, BUT COUNTED THE SHEEP AND FOUND [THE HERD] COMPLETE, [THE THIEF WOULD BE] EXEMPT [IN REGARD TO ANY SUBSEQUENT MISHAP].

GEMARA Rab said: If the proprietor knew [of the theft], he has similarly to know [of the restoration]; where he had no knowledge [of the theft] his counting exempts [the thief]; and the words [HE] COUNTED THE SHEEP AND FOUND [THE HERD] COMPLETE, refer [only] to the concluding clause.[22] Samuel, however, said: Whether the proprietor knew, or had no knowledge [of it], his counting would exempt [the thief], and the words: [IF HE] COUNTED THE SHEEP AND FOUND [THE HERD] COMPLETE [THE THIEF WOULD BE] EXEMPT, refer to all cases.[23]

R. Johanan moreover said: If the proprietor had knowledge [of the theft], his counting will exempt [the thief], whereas if he had no knowledge [of it], it would not even be necessary to count,[24] and the words, [HE] COUNTED THE SHEEP AND FOUND [THE HERD] COMPLETE, refer [exclusively] to the first clause.[25] R. Hisda, however, said: Where the proprietor had knowledge [of the theft], counting will exempt [the thief], whereas where he had no knowledge [of the theft], he would have to be notified [of the restoration], and the words, [HE] COUNTED THE SHEEP AND FOUND [THE HERD] COMPLETE, refer [only] to the first clause.[25]

Raba said:

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(1) But the robber did not actually take possession of the cow in any other way, e.g., by ‘pulling it’.

(2) That the field entered into the possession of the robber, as would be the case with any other misappropriated object, so that by virtue of his becoming possessed of the field, the cow is supposed to have similarly entered into his possession in accordance with Kid. I, 5 and supra p. 49

(3) That land is not subject to the law of robbery and does not enter into the possession of a robber, and as no independent act was done to take possession of the cow he could not be held responsible in any way regarding it.

(4) Lit., ‘He (i.e. the latter) deposited with him.’

(5) Against his will.

(6) On account of the insecurity there.

(7) Is this not against the teaching of the Mishnah?

(8) By the passage quoted.

(9) Which prima facie means ‘if you will be in need of money there;’ it was therefore made known in the Mishnah that he may compel the creditor to accept payment there.

(10) Keth. 12b; B.M. 97b and 116b.

(11) A hundred zuz; v. Glos.

(12) I.e., ‘You have to restore me a maneh which you borrowed from me’ or ‘which was deposited with you’.

(13) I.e., ‘whether you lent me’ or ‘deposited with me anything at all’.

(14) To pay the maneh.

(15) He would only have to swear to confirm his plea that he is not certain about it (Rashi).

(16) I.e., the defendant.

(17) Where the doubt was not as to payment but as to the initial liability.

(18) Is this not in conflict with the view of R. Huna and Rab Judah?

(19) And since he is certain about the initial liability and only in doubt as to whether it was cancelled by payment, he is liable to make restoration for Heaven's sake even though there was no demand on the part of the plaintiff, whereas in the second clause where the doubt was regarding the initial liability it would not be so; cf. B.M. 37a and supra p. 600.

(20) Provided there was a demand, for otherwise it would not be so since the initial liability is in doubt.

(21) Though he cannot be forced by civil law to do so according to the view of R. Johanan himself.

(22) Where the proprietor had no knowledge of the theft.
(23) Whether the proprietor had knowledge of the theft or not.
(24) Cf. however supra 57a.
(25) Dealing with a case where the proprietor most probably knew of the theft.

Talmud - Mas. Baba Kama 118b

The reason of R. Hisda is because [living things] have the habit of running out[1] into the fields.[2] But did Raba really maintain this? Has not Raba said: If a man saw another lifting up a lamb of his herd and picked up a clod to throw at him and did not notice whether he put back the lamb or did not put it back, and [it so happened that] it died or was stolen [by somebody else], the thief[3] would be responsible for it. Now, does this ruling not hold good even where the herd had subsequently been counted?[4] No, only where the proprietor had not yet counted it.

But did Rab really make this statement?[5] Did not Rab Say: If the thief restored [the stolen sheep] to a herd which the proprietor had in the wilderness, he would thereby have fulfilled his duty![6] — Said R. Hanan b. Abba: Rab would accept the latter ruling in the case of an easily recognisable lamb.[7]

May we say that they[8] differed in the same way as the following Tannaim: If a man steals a lamb from the herd, or a sela'[9] from a purse, he must restore it to the same place from which he stole it. So R. Ishmael, but R. Akiba said that he would have to notify the proprietor.[10] Now, it was presumed that both parties concurred with the statement of R. Isaac who said[11] that a man usually examines his purse at short intervals. Could it therefore not be concluded that they[12] referred to the case of a sela' the theft of which is known to the proprietor[13] so that they[12] differed in the same way as Rab[14] and Samuel?[15] — No, they referred to the case of the lamb the theft of which is probably unknown to the owner[16] and they[12] thus differed in the same way as R. Hisda[17] and R. Johanan.[18]

R. Zebid said in the name of Raba: Where the article[19] was stolen from the actual possession of the proprietor, there is no difference of opinion between them[20] as in such a case they would adopt the view of R. Hisda;[21] but here they[20] differ on a case where a bailee misappropriated [a deposit] in his own possession and subsequently restored it to the place from which he misappropriated it, R. Akiba holding that [when he misappropriated the deposit] the bailment came to an end,[22] whereas R. Ishmael held that the bailment did not [thereby] come to an end.[23]

May we still say that [whether or not] counting exempts is a question at issue between Tannaim; for it was taught: If a man robbed another but made [up for the amount by] inserting it in his settlement of accounts, it was taught on one occasion that he thereby fulfilled his duty, whereas it was taught elsewhere that he did not fulfil his duty.[24] Now, as it is generally presumed that all parties concur with the dictum of R. Isaac who said that a man usually examines his purse from time to time, does it not follow [then] that the two views differ on this point, viz., that the view that he fulfilled his duty implies that counting secures exemption, whereas the view that he did not fulfil his duty implies that counting does not secure exemption? — It may however be said that if they were to accept the saying of R. Isaac they would none of them have questioned that counting should secure exemption; but they did in fact differ regarding the statement of R. Isaac, the one master[25] agreeing with the statement of R. Isaac and the other master[26] disagreeing. Or if you wish I may alternatively say that all are in agreement with the statement of R. Isaac, and still there is no difficulty, as in the former statement[25] we suppose the thief to have counted the money and thrown it into the purse of the other party,[27] whereas in the latter statement[28] we suppose him to have counted it and thrown it into the hand of the other party.[29] Or if you wish,I may alternatively still say that in the one case[28] as well as in the other[30] the robber counted the money and threw it into the purse of the other party,[27] but while on the latter case[28] we suppose some money[31] to have been in the purse,[32] the former[30] deals with a case where no other money was in the purse.

MISHNAH. IT IS NOT RIGHT TO BUY EITHER WOOL OR MILK OR KIDS FROM THE SHEPHERDS,[33] NOR WOOD NOR FRUITS FROM THOSE WHO ARE IN CHARGE OF FRUITS.[33] IT IS HOWEVER PERMITTED TO BUY FROM HOUSE-WIVES WOOLLEN GOODS IN JUDEA,[34] FLAXEN GOODS IN GALILEE OR CALVES IN SHARON,[35] BUT IN ALL THESE CASES, IF IT WAS STIPULATED BY THEM THAT THE GOODS ARE TO BE HIDDEN, IT IS FORBIDDEN [TO BUY THEM]. EGGS AND HENS MAY, HOWEVER, BE BOUGHT IN ALL PLACES.

GEMARA. Our Rabbis taught: It is not right to buy from shepherds either goats or kids or fleeces or torn pieces of wool, though it is allowed to buy from them made-up garments, as these are certainly theirs.[36] It is Similarly allowed to buy from them milk and cheese in the wilderness[34] though not in inhabited places.[37] It is [also] allowed to buy from them four or five sheep,[38] four or five fleeces, but neither two sheep nor two fleeces. R. Judah Says: Domesticated animals may be bought[39] from them but pasture animals may not be bought from them. The general principle is that anything the absence of which, if it is sold by the shepherd, would be noticed by the proprietor, may be bought from the former, but if the proprietor would not notice it, it may not be bought from him.[40]

The Master stated: ‘It is [also] allowed to buy from them four or five sheep, four or five fleeces.’ Seeing that it has been said that four may be bought, is it necessary to mention five? — Said R. Hisda: Four may be bought out of five.[41] Some however say that R. Hisda stated that four may be bought out of a small herd and five out of a big herd. But the text itself seems to contain a contradiction. You say: ‘Four or five sheep, four or five fleeces’, implying that only four or five could be bought but not three, whereas when you read in the concluding clause: ‘But not two sheep’, is it not implied that three sheep may be bought? — There is no contradiction, as the latter statement refers to fat animals[42] and the former to lean ones.[43]

‘R. Judah Says: Domesticated animals may be bought from them but pasture animals may not be bought from them.’ It was asked: Did R. Judah refer to the opening clause[44] in which case his ruling would be the stricter,[45] or perhaps to the concluding clause,[46] in which case it would be the more lenient?[45] Did he refer to the opening clause[44] and mean to be more stringent, so that when it says, ‘it is allowed to buy from them four or five sheep,’ the ruling is to be confined to domesticated animals, whereas in the case of pasture animals even four or five should not be bought? Or did he perhaps refer to the concluding clause[46] and mean to be more lenient, so that when it says ‘but neither two sheep nor two fleeces’, this ruling would apply only to pasture animals, whereas in the case of domesticated animals even two may be bought? — Come and hear: R. Judah Says: Domesticated animals may be bought from them whereas pasture animals may not be bought from them, but in all places four or five sheep may be bought from them.[47]

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(1) So that where the proprietor did not know of the theft he should be notified about the restoration so as to take more care of his sheep.

(2) Cf. supra 57a.

(3) Who first lifted up the lamb.

(4) Thus proving that counting is not sufficient to exempt the thief where the owner had knowledge of the theft.

(5) That where the proprietor knew of the theft he has similarly to know of the restoration, and where he had no knowledge of the theft counting at least would be required.

(6) Is this ruling not in conflict with the statement made above by Rab?

(7) Lit., spotted’. I.e., the presence of which is conspicuous, so that the shepherd who was looking after the flock in the wilderness would surely notice its restoration.

(8) I.e., Rab and Samuel.

(9) A coin; v. Glos.

(10) B.M. 40b.
(11) Ibid. 21b.
(12) I.e., R. Ishmael and R. Akiba.
(13) For he had most probably meanwhile examined his purse and found a sela' short; the same was the case regarding the lamb of the theft of which the proprietor had knowledge.
(14) Who was thus preceded by R. Akiba.
(15) Who was on the other hand preceded by R. Ishmael.
(16) And so was the case regarding the sela'.
(17) V. supra p. 707.
(18) R. Johanan following R. Ishmael, and R. Hisda following R. Akiba.
(19) According to cur. edd. the reading is 'the bailee was stealing'; v. however Rashi whose amendment is followed.
(20) V. p. 708, n. 10.
(21) That he must (in all cases) notify the proprietor for the reason that living things have the habit of running out into the fields.
(22) So that the restoration must be made to the proprietor himself; cf. also supra 108b.
(23) And the restoration is therefore legally valid.
(24) B.M. 64a.
(25) Taking the restoration to be good.
(26) Maintaining that the duty of restoration has not been fulfilled.
(27) Who surely counted it before long.
(28) V. p. 709, n. 8.
(29) Who might not have counted it at all.
(30) V. p. 709, n. 7.
(31) Of uncertain amount.
(32) In which case the proprietor even after counting the money could hardly have realised the restoration.
(33) As we apprehend that these articles were not their own but were misappropriated by them.
(34) As they were authorised there to do so.
(35) The name of the plain extending along the Mediterranean coast from Jaffa to Carmel; cf. Men. 87a. [The sheep there were plentiful and cheap owing to the rich pasturage.]
(36) For even if the wool was not theirs ownership was transferred by the change in substance.
(37) Where they are supposed to bring the dairy produce to the proprietors.
(38) As the absence of so many is too conspicuous and the shepherd would hardly rely upon the allegation of accidental loss occasioned by beasts.
(39) As the proprietor knows the exact number of such animals.
(40) Tosef. B.K., XI.
(41) I.e., the proportion should be as four to five; MS.M. adds: five may be bought even out of a large herd.
(42) In which case the absence of even three will be noticed by the proprietor.
(43) Where the absence of three might not be noticed.
(44) I.e., that four or five sheep may be bought.
(45) The explanation follows presently.
(46) That two may not be bought.
(47) V. p. 710, n. 13.

Talmud - Mas. Baba Kama 119a

Now since he says 'in all places' we may conclude that he referred to the concluding clause[1] and took the lenient view. This proves it.

NOR WOOD NOR FRUITS FROM THOSE IN CHARGE OF FRUITS. Rab[2] bought bundles of twigs from an aris.[3] Abaye thereupon said to him: Did we not learn, NOR WOOD NOR FRUITS FROM THOSE IN CHARGE OF FRUITS? — He replied: This ruling applies only to a keeper in charge who has no ownership whatsoever in the substance of the land, whereas in the case of an aris who has a part in it,[4] I can say that he is selling his own goods.

Our Rabbis taught: It is allowed to buy from those in charge of fruits while they are seated and offering their wares, having the baskets before them and the scales[5] in front of them, though in all cases if they tell the purchaser to hide [the goods purchased], it is forbidden. So also it is allowed to buy from them at the entrance of the garden though not at the back of the garden.

It was stated: In the case of a robber, when would it be allowed to buy[6] [goods] from him? — Rab said: Only when the majority [of his possessions] is his, but Samuel said: Even when only the minority [of them] is his. Rab Judah instructed Adda the attendant[7] [of the Rabbis] to act in accordance with the view that even where [only] a smaller part [of his possessions] is his [it is already permitted to deal with him].

Regarding the property of an informer, R. Huna and Rab Judah are divided: One said that it is permitted to destroy it directly[8] whereas the other one said that it is forbidden to destroy it directly. The one who stated that it is permitted to destroy it directly [maintains that an offence against] the property of an informer could surely not be worse than [one against] his body,[9] whereas the one who held that it is forbidden to destroy it maintains that the informer might perhaps have good children, as written, He, the wicked, may prepare it but the just shall put it on.[10]

R. Hisda had [among his employees] a certain aris[11] who weighed and gave,[12] weighed and took[13] [the produce of the field]. He thereupon dismissed him and quoted regarding himself: And the wealth of the sinner is laid tip for the just.[14]

For what is the hope of the hypocrite though he hath gained when God taketh away his soul.[15] R. Huna and R. Hisda differed as to the interpretation of this verse; One said that it referred to the soul of the robbed person, the other one said that it referred to the soul of the robber: The one said that it referred to the soul of the robbed person, for it is written: So are the ways of every one that is greedy of gain; which taketh away the life of the owners thereof,[16] whereas the other said that it referred to the soul of the robber because it is written: Rob not the poor, because he is poor; neither oppress the afflicted in the gate. For the Lord will plead their cause and spoil the soul of those that spoiled then.[17] But what then does the other make of the words: Which taketh away the life of the owners thereof? — By ‘the owners thereof’ is meant the present possessors thereof.[18] But what then does the other make of the words: And [he will] spoil the soul of those that spoiled them? — The reason [of the punishment] is here given: The reason that He will spoil those that spoiled them is because they had spoiled life.[19]

R. Johanan said: To rob a fellow-man even of the value of a perutah[20] is like taking away his life[21] from him, as it says: So cite the ways of every one that is greedy of gain; which taketh away the life of the owners thereof, and it is also written: And he shall eat up thine harvest and thy bread [which] thy sons and thy daughters [should eat],[22] and it is again said: For hamas [the violence] against the children of Judah because they have shed innocent blood in their land,[23] and it is said further: It is for Saul and for his bloody house because he slew the Gibeonites.[24] But why cite the further statements? Because you might say that this applies only to his own soul but not to the soul of his sons and daughters. Therefore come and hear: The flesh of his sons and his daughters. So also if you say that these statements apply only where no money was given[25] whereas where money was given, this would not be so,[26] come and hear: ‘For hamas[27] [the violence] against the children of Judah because they have shed innocent blood in their land.’ Again, should you say that these statements refer only to a case where a robbery was directly committed by hand whereas where it was merely caused indirectly this would not be so, come and hear: ‘It is for Saul and for his bloody house because he slew the Gibeonites’; for indeed where do we find that Saul slew the Gibeonites? It must therefore be because he slew Nob,[28] the city of the priests, who used to supply them with water and food,’[29] Scripture considers it as though he had slain them.

IT IS HOWEVER PERMITTED TO BUY FROM HOUSEWIVES. Our Rabbis taught:[30] It is permitted to buy from housewives woollen goods in Judea and flaxen goods in Galilee, but neither wine nor oil nor flour; nor from slaves nor from children. Abba Saul says that a housewife may sell the worth of four or five[31] denarii for the purpose of making a hat for her head. But in all these cases if it was stipulated that the goods should be hidden it is forbidden [to buy them]. Charity collectors may accept from them small donations but not big amounts. In the case of oil pressers it is permitted to buy from them [their housewives][32] olives by measure and oil by measure,[33] but neither olives in a small quantity nor oil in a small quantity. R. Simeon b. Gamaliel however says: In Upper Galilee[34] it is permitted to buy from housewives olives [even] in small quantities,[35] for sometimes a man is ashamed to sell them at the door of his house and so gives them to his wife to sell.

Rabina came once to the city of Mahuza,[36] and the housewives of Mahuza came and threw before him chains and bracelets, which he accepted from them.[37] Said Rabbah[38] Tosfa'ah to Rabina: Was it not taught: Charity collectors may accept from them small donations but not big amounts? He, however, said to him: These things are considered with the people of Mahuza[39] as small amounts.

MISHNAH. SHREDS [OF WOOL] WHICH ARE TAKEN OUT BY THE WASHER BELONG TO HIM[40] BUT THOSE WHICH THE CARDER REMOVES BELONG TO THE PROPRIETOR.[41] THE WASHER MAY REMOVE THE THREE THREADS AT THE EDGE] AND THEY WILL BELONG TO HIM, BUT ALL OVER AND ABOVE THAT WILL BELONG TO THE PROPRIETOR, THOUGH IF THEY WERE BLACK UPON A WHITE SURFACE, HE MAY REMOVE THEM ALL[42] AND THEY WILL BELONG TO HIM. IF A TAILOR LEFT A THREAD SUFFICIENT TO SEW WITH, OR A PATCH OF THE WIDTH OF THREE [FINGERS] BY THREE [FINGERS], IT WILL BELONG TO THE PROPRIETOR.[41] WHATEVER A CARPENTER REMOVES WITH THE ADZE BELONGS TO HIM,[43] BUT THAT WHICH HE REMOVES BY THE AXE BELONGS TO THE PROPRIETOR.[44] IF, HOWEVER, HE WAS WORKING ON THE PROPRIETOR'S PREMISES,[45] EVEN THE SAWDUST BELONGS TO THE PROPRIETOR.

GEMARA. Our Rabbis taught:[46] It is allowed to buy shreds [of wool] from the washer, as they are his.[43] The washer may remove the two upper threads and they will belong to him.

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(1) V. p. 711, n. 8.

(2) ‘Raba’ according to MS.M.; Alfasi: ‘Rabbah’.

(3) I.e., a tenant who tills the owner's ground for a certain share in the produce.

(4) I.e., in the produce.

(5) ** ‘trutina’.

(6) Var. lec. ‘to collect a debt’ or ‘to derive a benefit’.

(7) Lit., ‘one who pours water over another person's hands’ (Jast.).

(8) Lit., ‘with the hand’.

(9) Which may be incapacitated to any extent for the sake of public safety; v. A.Z. 26b, also Sanh. 74a and supra p. 703.

(10) Job XXVII, 17. [The words ‘the wicked’ do not occur in the Massoretic texts. It is more than probable that it is an explanatory gloss inserted by the Talmud; v. marginal glosses and cf. Sanh. (Sonc. ed.) p. 698, n. 8.]

(11) V. Glos.

(12) To R. Hisda half of the produce instead of two-thirds.

(13) For himself half of the produce instead of a third; or he was over-careful in weighing.

(14) Prov. XIII, 22. [He felt glad that he got rid of him.]

(15) Job XXVII, 8.

(16) Prov. 1, 19.

(17) Ibid. XXII, 22-23.

(18) I.e., the robber.
(19) I.e., the life of those who were robbed by them.
(20) Which is the minimum of legal value; v. Glos.
(21) Lit., ‘Soul’.
(22) Jer. V, 17.
(23) Joel IV, 19.
(24) II Sam. XXI, 1.
(25) By the robber for the misappropriated article.
(26) Though the whole transaction was by threats and violence.
(27) Implying a purchase by threats and violence as supra p. 361.
(28) I.e., its inhabitants; v. I Sam. XXII, 11-19.
(29) For the Gibeonites were employed there by the priests as hewers of wood and drawers of water; v. Josh. IX, 27.
(30) Cf. Tosef. B.K. XI.
(31) ‘Foot or’ missing in Tosef.
(32) [So Rashi, supported by reading in MSS.: others; one may buy from oilpressers.]
(33) For since it is done publicly and in a big way they were surely authorised to do so.
(34) Where oil was expensive (Rashi).
(35) ‘In small quantities’ is missing in Tosef. ibid.
(36) A large trading town on the Tigris.
(37) For charity purposes.
(38) MS.M.; ‘Raba’.
(39) Who were of substantial means; cf. Ta'an. 26a.
(40) As the proprietor does surely not care about them.
(41) As they are of some importance to him.
(42) As they spoil the appearance of the garment.
(43) V. p. 715, n. 9.
(44) V. p. 715, n. 10.
(45) As a daily employee.
(46) Cf. Tosef. XI.

Talmud - Mas. Baba Kama 119b

[The carder] must not use [of the cloth for stretching and hackling] more than three widths of a seam. He should similarly not comb the garment towards the warp but towards its woof.[1] He may straighten it out lengthways but not breadthways. If he wants, however, to straighten it out up to a handbreadth he may do so.

The Master stated: ‘Two threads.’ But did we not learn, THREE’? — There is no difficulty, as the former statement applies to thick threads and the latter to thin ones.

‘He should similarly not comb the garment towards the warp but towards its woof.’[1] But was it not taught to the contrary? — There is no difficulty, as the latter statement refers to an everyday garment whereas the former deals with a best cloak [used very seldom].

‘[He must] not use [of the cloth for stretching or hackling] more than three widths of a seam.’ R. Jeremiah asked: Does [the preliminary drawing of the] needle to and fro count as one stitch, or does it perhaps count as two stitches? — Let it stand undecided. ‘He may straighten it out lengthways but not breadthways.’ But was it not taught to the contrary? — There is no difficulty, as the former statement refers to a garment and the latter refers to a girdle.[2]

Our Rabbis taught: It is not allowed to buy hackled wool from the carder as it is not his, but in places where it is customary for it to belong to him, it is allowed to buy it. In all places, however, it is allowed to buy from them a mattress full of stuffing and a cushion full of stuffing,[3] the reason being that these articles had [in any case] been transferred to them through the change [which the stuffing underwent].

Our Rabbis taught:[3] It is not right to buy from a weaver either remnants of woof or of warp or threads of the bobbin or remnants of coils. It is however allowed to buy from him [even] a chequered web,[4] [and] woof and warp if they are spun and woven. I would here ask: [Since it is] now stated that 'if spun' it may be accepted from them, what necessity was there to say 'woven'?[5] — What is meant by 'woven' is merely 'twisted' [without first having been spun].

Our Rabbis taught:[3] 'It is not right to buy from a dyer either test pieces,[6] or samples[7] or torn pieces of wool. But it is allowed to buy from him a coloured garment,[8] yarn, and ready-made garments'.[9] But [since it has] now been stated that yarn may be accepted from him, what doubt could there be regarding ready-made garments?[10] — What is meant by 'ready-made garments' is felt spreadings .[11]

Our Rabbis taught: 'If skins have been given to a tanner the [part] trimmed off and the [pieces of hair] torn off will belong to the proprietor, whereas what comes up by the rinsing in water would belong to him.[12]

IF THEY WERE BLACK UPON A WHITE SURFACE HE MAY REMOVE THEM ALL AND THEY WILL BELONG TO HIM. Rab Judah said: A washer is named Kazra,[13] and he takes the Kazre.[14] Rab Judah again said: All the [three] threads can be reckoned for the purpose of tekeleth[15] though Isaac my son is particular about them.[16]

IF A TAILOR LEFT A THREAD SUFFICIENT TO SEW WITH. How much is SUFFICIENT TO SEW WITH? — Said R. Assi: The length of a needle and beyond the needle. The question was raised: [Does this mean] 'the length of a needle and as much again as the length of the needle,' or perhaps 'the length of the needle and anything beyond the needle'? Come and hear: If a tailor left a thread which is less than sufficient to sew with or a patch less than the width of three [fingers] by three [fingers], if the proprietor is particular about them they would belong to the proprietor, but if the proprietor is not particular about them they would belong to the tailor.[17] Now, there is no difficulty if you say that 'the length of a needle and beyond the needle' means as much again as a needle, for a thread less than that can still make a clip;[18] but if you say that 'the length of a needle and anything beyond the needle' for what purpose could a thread which is less than this be fit? — We may therefore conclude from this that it means 'the length of a needle and beyond the needle as much again as the length of the needle.' This proves it.

WHATEVER A CARPENTER REMOVES WITH THE ADZE BELONGS TO HIM, BUT THAT WHICH HE REMOVES BY THE AXE BELONGS TO THE PROPRIETOR. A contradiction could be raised from the following: Whatever a carpenter removes with the adze or cuts with his saw belongs to the proprietor, for it is only that which comes out from under the borer or from under the chisel or is sawed with the saw that belongs to [the carpenter] himself![15] — Said Raba: In the place where our Tanna [of the Mishnah lived] two kinds of implements were used, the larger called 'axe' and the smaller called 'adze', whereas in the place of the Tanna of the Baraitha there was only one implement [i.e., the larger] and they still called it 'adze'.[19]

IF HOWEVER HE WAS WORKING ON THE PROPRIETOR'S PREMISES EVEN THE SAWDUST BELONGS TO THE PROPRIETOR. Our Rabbis taught: Workmen chiselling stones do not become liable for robbery [by retaining the chips in their possession]. Workmen who thin trees or thin vines or trim shrubs or weed plants or thin vegetables, if the proprietor is particular [about the waste materials] become liable for robbery, but if the proprietor is not particular about them they will belong to the employees.[20] Rab Judah said: Also cuscuta[21] and lichen[22] are [under such circumstances] not subject to the law of robbery, though in places where proprietors are particular they would be subject to the law of robbery. Rabina thereupon said: Matha Mehasia[23] is a place[24] where the proprietors are particular about them.[25]

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(1) [Where greater importance is attached to appearances, which may be improved by combing towards the woof, than to durability.]

(2) [Of which only the ends hanging down are visible and these alone require straightening out.]

(3) V. p. 716, n. 4.

(4) Lit., 'garment'. [Although it apparently consists of remnants of different materials which he might have acquired unlawfully, for even so the ownership of them was transferred to him by the change in substance.]

(5) For if it is woven it had surely been previously spun; cf. Bek. 29b.

(6) I.e., pieces cut off to test the colour.

(7) Specimens of colour.

(8) Tosef. B.K. XI: 'wool' instead of 'garment'.

(9) Tosef. ibid. 'warp and woof' instead of 'ready-made garments'; so also MS.M.

(10) For these were surely first spun; v. Bek. 29b.

(11) Which were never spun.

(12) [Being negligible, v. Tosaf. ibid.]

(13) Lit., 'shortener'.

(14) Lit., 'the shortening'; i.e., that which resulted from the garment having become shorter.

(15) Lit., 'blue' riband to be put among the zizith (the 'fringes') on the borders of garments in accordance with Num. XV, 38; if the three threads were not taken away by the washer, they need not be removed for the sake of Zizith as they will be included in the measure of the first joint of the thumb required to be between the hold and the edge of the garment, for which v. Men. 42a.

(16) To cut them off.

(17) Tosef. B.K. XI.

(18) Lit., 'is fit as a pin' (fast.) as in the case of a seam. (5) Tosef. B.K. XI. This ruling, that whatever he removes with the adze belongs to the proprietor, thus contradicts the Mishnah which roles that it belongs to the carpenter.

(19) But was in fact the 'axe' of which it is mentioned in the Mishnah that whatever be removed by it belongs to the proprietor.

(20) Tosef. ibid.

(21) I.e., cucumbers or melons in an early stage when they are pubiscent' (Jast.).

(22) Young green cereal.

(23) I.e., the city of Mehasia or Mahesia; a suburb of Sora. V. B.B. (Sonc. ed.) p. 10, n. 1.

(24) Abundant in cattle; Rashi a.I. and Rashbam, B.B. 36a; and thus in great need of fodder.

(25) V. Hor. 12a.

CHAPTER I

MISHNAH. TWO [PERSONS APPEARING BEFORE A COURT] HOLD A GARMENT.[1] ONE OF THEM SAYS, ‘I FOUND IT’, AND THE OTHER SAYS, ‘I FOUND IT’; ONE OF THEM SAYS, ‘IT IS ALL MINE’, AND THE OTHER SAYS, ‘IT IS ALL MINE’, THEN THE ONE SHALL SWEAR THAT HIS SHARE IN IT IS NOT LESS THAN HALF, AND THE OTHER SHALL SWEAR THAT HIS SHARE IN IT IS NOT LESS THAN HALF, AND [THE VALUE OF THE GARMENT] SHALL THEN BE DIVIDED BETWEEN THEM. IF ONE SAYS, ‘IT IS ALL MINE’, AND THE OTHER SAYS, ‘HALF OF IT IS MINE’, HE WHO SAYS, ‘IT IS ALL MINE’ SHALL SWEAR THAT HIS SHARE IN IT IS NOT LESS THAN THREE QUARTERS, AND HE WHO SAYS, ‘HALF OF IT IS MINE’ SHALL SWEAR THAT HIS SHARE IN IT IS NOT LESS THAN A QUARTER. THE FORMER THEN RECEIVES THREE QUARTERS [OF THE VALUE OF THE GARMENT] AND THE LATTER RECEIVES ONE QUARTER. IF TWO RIDE ON AN ANIMAL, OR ONE RIDES AND THE OTHER LEADS IT, AND ONE OF THEM SAYS, ‘IT IS ALL MINE’, AND THE OTHER SAYS, ‘IT IS ALL MINE’, THEN THE ONE SHALL SWEAR THAT HIS SHARE IN IT IS NOT LESS THAN HALF, AND THE OTHER SHALL SWEAR THAT HIS SHARE IN IT IS NOT LESS THAN HALF, AND [THE VALUE OF THE ANIMAL] SHALL THEN BE DIVIDED BETWEEN THEM. IF BOTH ADMIT [EACH OTHER'S CLAIMS] OR IF THEY HAVE WITNESSES [TO ESTABLISH THEIR CLAIMS] THEY RECEIVE THEIR SHARES WITHOUT AN OATH.

GEMARA. What need is there [for the Mishnah] to [give two pleas of the litigants and] state: ONE OF THEM SAYS, ‘I FOUND IT’, AND THE OTHER SAYS, ‘I FOUND IT’, ONE OF THEM SAYS, ‘IT IS ALL MINE’, AND THE OTHER SAYS, ‘IT IS ALL MINE’? Surely one plea would have been sufficient! — It is only one plea: One says ‘I found it and [therefore] it is all mine’, and the other says ‘I found it, and [therefore] it is all mine’! But why not just state ‘I found it’, and it will be understood that the intention is to claim the whole garment? — The term ‘I FOUND IT’ might have been explained as denoting ‘I saw it’, the mere seeing [of the garment] entitling him to claim it as his possession.[2] Therefore the plea ‘IT IS ALL MINE’ is added, so as to make clear that seeing alone does not constitute a claim. But how could it be thought that one who has only seen [the garment] could plead ‘I found it’? Does not Rabbannai[3] say that the phrase and thou hast found it[4] means ‘thou hast taken hold of it’? — It is admitted that the Scriptural use of the term ‘found’ implies having taken hold, but the Tanna uses popular language, in which, on seeing something, one might use the term ‘found it’, [the belief being prevalent] that one acquires [a lost article] by sight alone. For this reason it was necessary to add the plea ‘IT IS ALL MINE’ and thus to indicate that the mere seeing [of an ownerless object] constitutes no claim to possession. But even so, would it not have been sufficient to state ‘IT IS ALL MINE’ without the plea of ‘I FOUND IT’? — Had [the Mishnah] stated only the plea ‘IT IS ALL MINE’ I might have said that elsewhere [in the Talmud] the term ‘found’ is used to mean [‘seen’, and the conclusion would have been drawn] that mere sight constitutes a claim to possession. For this reason the Mishnah states first ‘I FOUND IT’ and then ‘IT IS ALL MINE’ so that we may gather from the additional clause that mere sight does not constitute a claim to possession.

But how could you say that the two pleas are really one? Is not each plea introduced by the words: ONE OF THEM SAYS and THE OTHER SAYS[5] , [viz.] ONE OF THEM SAYS ‘I FOUND IT’, AND THE OTHER SAYS ‘I FOUND IT’, ONE OF THEM SAYS ‘IT IS ALL MINE’, etc.? [To this] R. Papa. or R. Shimi b. Ashi, or, as some say, Kadi,[6] replied: The first plea applies to a case of finding, but the second plea applies to a case of buying and selling.[7] And it is necessary [to have the two cases].

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(1) So that they are both in actual possession — otherwise the one in actual possession would have the stronger claim.
(2) Though the other man has taken hold of it first.
(3) B.K. 113b; [MS. M.: Rabina. V. D.S. a. l.].
(4) Deut. XXII, 3.
(5) Which would show that they form alternative pleas.
(6) This word may also mean 'an unknown authority'.
(7) But not to a case where each one maintains that he has made the garment, for then one of them is bound to be lying.

Talmud - Mas. Baba Metzia 2b

For if the Tanna had dealt solely with the case of finding I might have said that only in such a case would the Rabbis impose an oath, because each disputant might permit himself [to claim the garment] by saying to himself, 'My neighbour loses nothing through my action [as it cost him nothing to acquire the garment]; I shall go and take hold of it and share it with him.'[1] But in the case of a bought article, where this argument does not apply,[2] it might be assumed that no oath was to be imposed. On the other hand, had the Tanna dealt solely with a case of buying and selling, it might be assumed that only in such a case would the Rabbis impose an oath, because each disputant might permit himself [to claim the garment] by saying to himself, 'My neighbour has paid the price and I am prepared to pay the price; seeing that I need it I shall take it, and let my neighbour take the trouble to go and buy another garment.' But in the case of a found article, where this argument does not apply, it might be assumed that no oath was to be imposed; therefore both cases are necessary.

But how could such a situation arise in the case of a bought article? One could surely ascertain from the seller as to which of the two paid him the money? — The case is one in which the seller took money from the two purchasers, willingly from one, and unwillingly, from the other, and we do not know from whom he took it willingly and from whom unwillingly.[3]

Shall it be said that our Mishnah is not in agreement with the view of Ben Nannus? For does not Ben Nannus[4] express surprise at the decision of the Sages to impose oaths on disputants one of whom is bound to swear falsely? — The Mishnah may well be in agreement with Ben Nannus. For in the case [where Ben Nannus objects to the oath] it is certain that if both parties take the oath one of them will commit perjury. But in our Mishnah it may well be assumed that no perjury will be committed [even if both parties swear], for it is possible that both of them picked up the garment simultaneously.[5]

Again, shall it be said that our Mishnah is not in agreement with the view of Symmachus? For does not Symmachus, [in another case,][6] maintain that disputed money of doubtful ownership should be divided among the disputants without an oath? But would not the same difficulty arise [if we compared the decision of our Mishnah] with that of the Rabbis[7] [who are opposed to Symmachus]? For have these Rabbis not declared that 'the claimant must bring evidence to substantiate his claim' [while in our Mishnah the disputed article is divided on oath]? — What a comparison! In the case in which the Rabbis apply the principle that 'the claimant must bring evidence' the contending parties had not taken hold of the disputed object, but here [in our Mishnah] since both disputants hold the garment[8] it is rightly divided, after both have taken the oath. But in regard to Symmachus the argument is the other way. For if he decided in the case referred to [where no party is in possession of the disputed property] that the amount should be divided among the litigants without an oath, how much more readily would he give this decision in a case like ours, where both disputants are equally in possession of the article in question; [and thus the query remains, 'Shall it be said that our Mishnah is not in agreement with Symmachus?'] It can still be maintained that the Mishnah is in agreement with Symmachus. For Symmachus expressed his view [that the property in dispute should be divided without an oath] only in a case where both litigants are uncertain as to the true facts [and it would therefore be wrong to make either of them swear] but where both parties assert their claims with certainty [as in our Mishnah] he would take a different view.

But does not Rabbah the son of R. Huna maintain that Symmachus's decision applies also to a case where both parties are certain and definite in their claims?[9] — It can still be maintained that our Mishnah is in agreement with Symmachus. For Symmachus expressed the view [as quoted] only in a case where a verdict in favour of one would involve a loss to the other, but where no actual monetary loss is involved [as in our Mishnah] he would take a different view. But then again, can we not infer by means of a Kal wa-homer[10] [that Symmachus would disagree with our Mishnah]? For if even in the case where the party entitled to the verdict loses money by being awarded only half of the disputed amount,

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(1) The oath would then act as a deterrent, as even if he did not hesitate to put forward a wrong claim he would not be ready to commit perjury.

(2) Apart from the loss of the money paid, there is the loss of the garment which the man who went to the trouble of buying it evidently needed for his own use.

(3) The evidence of the seller, even if available, would not be trusted in such a case, as he is not likely to remember, after the two have left, from whom he took the money willingly (Rashi). [Tosaf. reads, he did not know, i.e., the seller does not recollect the matter; v. Kid. 73a.]

(4) V. Shebu. 43a. It is the case of a householder having instructed a shopkeeper to supply his employees with goods for the amount that he (the householder) owed them in wages. The shopkeeper asserts that he has supplied the goods, while the employees deny having received any. The decision of the Sages is that both the shopkeeper and the employees take an oath in confirmation of their statements, and the householder pays both parties, whereas Ben Nannus holds that both receive payment without taking an oath.

(5) In this case each finder would be entitled to swear that half of the garment belongs to him, in the belief that he was first in picking up the whole of it. The same applies to a bought article if the seller consented to sell it to both at the same time.

(6) v. B.K. 46a.

(7) V. ibid.

(8) And although each one claims the whole garment, and thus seeks to acquire the part that the other is holding, yet they are both in the same position, so that the above principle does not apply.

(9) Which makes the above distinction (between ‘certain’ and ‘uncertain’) invalid?

(10) An inference from a minor to a major premise; v. Glos.

Talmud - Mas. Baba Metzia 3a

and where it could be maintained that the whole amount is due solely to that party Symmachus abides by the principle that ‘Disputed money of doubtful ownership should be divided without an oath’, how much more readily would he abide by that principle in a case where [as in our Mishnah] it can be said that the disputed object belongs to both [and that therefore it should be divided between them without an oath]? It can still be maintained that our Mishnah is in agreement with Symmachus. For the oath imposed upon disputants in our Mishnah is only rabbinical [not Biblical].[1] This is expressly maintained by R. Johanan. For R. Johanan says: This oath is an institution of the Sages, intended to prevent anyone from going out and seizing a neighbour's garment, declaring it to be his own.

Shall it be assumed that our Mishnah is not in agreement with R. Jose? For does not R. Jose say:[2] If so, what loss does the fraudulent claimant incur? Therefore let the whole amount be retained [by the Court] until ‘the coming of Elijah’?[3] But [as a counter-question] would not the same difficulty arise in regard to the Rabbis [who are opposed to R. Jose]? For seeing that these Rabbis maintain that the balance[4] should be retained [by the Court] until ‘the coming of Elijah’. would they not accordingly give the same decision concerning the disputed garment [in our case], which is like the disputed balance [in the other case]? — What a comparison! In the other case, where it is certain that the disputed balance belongs to one of the claimants only, those Rabbis rightly decided that the amount in question should be retained till ‘the coming of Elijah’; whereas here [in our Mishnah], where it can be assumed that the garment belongs to both ,[5] the [same] Rabbis would agree that it should be divided among the two claimants when they have taken the oath. But in regard to R. Jose the argument is the other way. If R. Jose decided in his case, where each claimant is undoubtedly entitled to one hundred [zuz][6] , that the money should be retained till ‘the coming of Elijah’, how much more readily would he decide so in our case [where it can be assumed that only one of the disputants is entitled to have the garment]? — The Mishnah can still be in agreement with R. Jose. For in his case one of the disputants is bound to be a fraud,[7] whilst in our case no one can say for sure that one of the disputants is a fraud,[8] as it is possible that both picked up the garment simultaneously. If you wish it, I could argue thus: In his case, R. Jose penalised the fraudulent claimant [in making him forfeit his hundred] so that he may confess the truth, but in our case [where the dispute is about a found article] what real loss would the fraudulent incur [on the garment being forfeited] that could induce him to confess the truth?[9] [But the question arises:] Assuming this argument is right with regard to a found article, how can it apply to a bought article?[10] The first answer is hence the best.[11]

[Now the question arises:] According to the views of either the Sages or R. Jose [who agree that the fraudulent person should not be allowed to benefit by his fraud] how is it that in the case of the shopkeeper and his credit-book[12] the decision is that both take the oath and receive payment [from the householder] and we do not say that the money should be taken from the householder and retained [by the Court] until ‘the coming of Elijah’, since it is certain that one of the parties[13] is guilty of fraud? — In this case there is a special reason for the decision given. The shopkeeper can say to the householder: ‘I carried out your instructions — what have I to do with your employee? Even if the employee swears — I do not believe his oath. You trusted him, in that you did not tell me to give him the goods in the presence of witnesses.’ The employee, on the other hand, can say [to the householder]: ‘I have done the work for you — what have I to do with the shopkeeper? Even if he swears — I do not believe him.’[14] Therefore they both swear and receive payment from the householder.

R. Hiyya taught: [If one says to another,] ‘You have in your possession[15] a hundred zuz belonging to me’, and the other replies, ‘I have nothing belonging to you’, while witnesses testify that the defendant has fifty zuz belonging to the plaintiff; the defendant pays the plaintiff fifty zuz, and takes an oath regarding the remainder,[16] for the admission of a defendant ought not to be more effective than the evidence of witnesses[17] , a rule which could be proved by a Kal wa-homer.[18] And our Tanna teaches this: WHEN TWO HOLD A GARMENT AND ONE OF THEM SAYS ‘I FOUND IT’ ETC. . . . [BOTH HAVE TO SWEAR]. Now this is just the same [as the case where there are witnesses], for when we see a person holding a garment we presume that it is his, and we are in the position of witnesses who can testify that each claimant is entitled to the half he is holding. And yet each claimant has to swear.

Now why is it necessary to prove by means of a Kal wa-homer that the admission of a defendant ought not to be more effective [in imposing an oath on the defendant] than the testimony of witnesses? — [It is necessary for this reason:] In the case of a [partial] admission [of a claim] you might say that the Divine Law[19] has imposed an oath upon him for the reason indicated by Rabbah.[20] For Rabbah said: The reason the Torah has declared that he who admits part of his opponent's claim must take an oath[21] is the presumption that nobody would take up such an impertinent attitude towards his creditor [as to give a complete denial to his claim]. The defendant [in this case] would have liked to give a complete denial, but he has not done so because he has not been able to take up such an impertinent attitude

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(1) Cf. Shebu. 41a.

(2) In the case where two persons have deposited money with a third person, one a hundred and the other two hundred zuz, and each depositor claims to have deposited the larger amount, v. 37a.

(3) Elijah the prophet, the herald of the Messianic era who is to make the truth known. The phrase is a technical term meaning ‘indefinitely’.

(4) The disputed hundred.

(5) As they may have picked it up simultaneously.

(6) V. n. 1 supra.

(7) As they both claim to have deposited the 200 zuz, and it is only right to make the fraudulent person suffer.

(8) Therefore R. Jose would agree that the garment should be divided in accordance with the decision of the Mishnah.

(9) And since the forfeiture of the garment would serve no purpose, R. Jose would agree with our Mishnah.

(10) Where even the person that has no right to the garment would incur a real loss by its forfeiture (because, as explained above, he too had paid for it) and the fear of the loss would induce him to admit the truth (that the seller had taken the money from him unwillingly).

(11) Viz., that in the other case one claimant is certainly fraudulent, while in our case both may be honest.

(12) V. p. 4, n. 1.

(13) Either the shopkeeper or the employees.

(14) It would thus be wrong to make either party forfeit the amount claimed. As the shopkeeper and the employees have had no direct dealings with each other, and have entered into no mutual obligations, they may regard each other as entirely untrustworthy and refuse to believe each other even on oath.

(15) I.e., on loan.

(16) He swears that he does not owe the other fifty zuz. The evidence of the witness places the defendant in the same position as his own admission of part of the claim would have done. Shebu. 39b.

(17) If therefore the defendant's partial admission necessitates his taking an oath on the rest, the evidence of the witnesses regarding the partial debt should at least have a similar effect.

(18) v. Glos.

(19) Lit., ‘The All- Merciful One’, i.e. God, whose word Scripture reveals.

(20) B.K. 107a.

(21) While in the case of one who restores a lost article to its owner he is believed without an oath, even if the owner maintains that only part of the loss has been returned to him by the finder.

Talmud - Mas. Baba Metzia 3b

. On the other hand, it may be assumed that the defendant would have been ready to admit the whole claim,[1] and that he has not done so because of a desire to put the claimant off for a time, thinking: ‘When I shall have money, I shall pay him.’ Therefore the Divine Law imposes an oath upon him, so that he may admit the whole claim. But as regards the testimony of witnesses, where this argument does not apply,[2] I should have thought that no oath ought to be imposed. Therefore it is necessary to prove by a Kal wa-homer that in this case also an oath is to be imposed. And what is the Kal wa-homer? — [It is as follows:] If [the words of] his own mouth,[3] which do not oblige him to pay money, make it necessary for him to take an oath, how much more ought the evidence of witnesses, which obliges him to pay money, make it necessary for him to take an oath? But is it right to say that [the words of] his own mouth do not oblige him to pay money — in view of [the established principle] that the admission of a defendant is equal to the testimony of a hundred witnesses? — What is meant by the payment of money is the payment of a fine.[4] [And the Kal wa-homer is as follows:] If [the words of] his own mouth, which do not oblige him to pay a fine, make it necessary for him to take an oath, how much more ought the evidence of witnesses, which obliges him to pay a fine, make it necessary for him to take an oath? [But then it could be argued:] Does not a person's own mouth carry more weight [than the evidence of witnesses] in that it can oblige him to bring an offering,[5] while the evidence of witnesses does not oblige him to bring an offering?[6] — This objection is not valid: R. Hiyya is of the same opinion as R. Meir, who says that witnesses do make it necessary for the offender to bring an offering, [and he infers it] by means of a Kal wa-homer. For we learnt:[7] When two persons say to a third person: ‘You have eaten forbidden fat [unawares]’, but he says: ‘I have not eaten any’. R. Meir maintains that he is obliged to bring an offering, but the Sages[8] declare him free. R. Meir argues: If two [witnesses] can bring upon an offender such a severe penalty as death, should they not be able to bring upon him the light penalty of an offering? To this the Sages oppose the argument: Had he desired [to prevaricate] he could have said, ‘I did it deliberately’, and he would have been free [from bringing an offering].[9]

But [the argument continues]: Does not a person's own mouth carry more weight [than witnesses] in that it can oblige him [in a case of confession after denial on oath] to bring a guilt-offering?[10] But [it is immediately objected]: A guilt-offering is also an offering [and this argument has already been dealt with]! — Then [put it this way]: Does not a person's own mouth [in a case of confession after a denial on oath] carry more weight than witnesses, in that it can oblige him to pay a ‘fifth’?[11] — This objection is not valid: R. Hiyya is of the same opinion as R. Meir, who says that just as witnesses oblige the offender to bring an offering — because of the Kal wa-homer inference — they also oblige him on the same ground to bring a ‘fifth’. But [it can still be objected]: Does not a person's own mouth [in the case of the admission of a debt] carry more weight [than the evidence of witnesses] in that it cannot be refuted by a denial or an alibi proof[12] on the part of witnesses, while the evidence of witnesses can be refuted by a denial or an alibi proof on the part of other witnesses? — [The Kal wa-homer must] therefore be derived from ‘one witness’: If one witness, whose evidence does not oblige a defendant to pay money, obliges him to take an oath,[13] how much more should several witnesses, whose evidence does oblige a defendant to pay money, oblige him to take an oath. But [it can be objected]: The oath that is imposed by the evidence of one witness refers only to the part of the debt to which the witness testifies [and which the defendant denies],

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(1) His honesty, therefore, need not be doubted, and one need not suspect that he would swear falsely if given an oath.

(2) As the defendant denies the whole claim, and if he is dishonest he may also be ready to commit perjury.

(3) I.e., his own confession.

(4) The admission of an offence for which a fine is imposed renders the offender free from such a penalty by virtue of his confession. V. B. K. 75a.

(5) V. Lev. V, 9.

(6) If he contradicts the evidence. For it appears from Lev. IV, 28, that it is only his own admission of the wrong he has committed unawares that necessitates the bringing of an offering by him, but not the information given by witnesses. If this is so, then how does it follow that witnesses make it necessary for him to take an oath?

(7) Ker. 11b. Cf. Jeb. 87b.

(8) Anonymous opinion representing the majority of Rabbis.

(9) As an offering is brought only if the offence has been committed unawares, and had the offender no regard for the truth, he could have escaped the penalty of an offering by declaring that he had offended deliberately. It must therefore be assumed that in denying the witnesses’ statement completely he told the truth. [In the case of a deliberate offence, the penalty is Kareth, extermination by the hand of God. Cf. Lev. VII, 25, and v. Glos.]

(10) Lev. V, 20-26.

(11) The guilt-offering accompanies the return of the misappropriated goods and the payment of a ‘fifth’, i.e., a fifth part of the value of the goods.

(12) V. Mak. ch. I, and v. Glos. Zomem.

(13) In confirmation of his denial of the witness's statement. V. Shebu. 40a.

Talmud - Mas. Baba Metzia 4a

while the oath that you would impose by the evidence of several witnesses refers to the remainder of the debt [not included in the evidence], which is denied by the defendant.[1] [In consequence of this refutation] R. Papa says: The inference is really drawn from an ‘attached oath’[2] [caused by the evidence of] one witness. But [to this also it could be objected]: Is not the ‘attached oath’ of one witness more weighty, in that [in this case] one oath carries with it another oath,[3] while several witnesses only oblige the defendant to pay money?[4] — The case of ‘his own mouth’ will prove it.[5]

But [it is again objected]: is not ‘his own mouth’ more weighty in that it cannot be refuted by a denial [on the part of witnesses]? — The case of ‘one witness’ will prove it, in that he can be refuted [by other witnesses] and yet he obliges the defendant to take an oath. But [it is objected once more]: [The oath imposed by] one witness refers only to the part of the debt to which the witness testifies [and which the defendant denies], while [the oath that is imposed by] several witnesses refers to the remainder of the debt — [not included in the evidence and] denied by the defendant? — Again the case of ‘his own mouth’ will prove it.[6] But [it is again objected]: Is not ‘his own mouth’ [in a case of admission] more effective in that it cannot be refuted by a denial [on the part of witnesses]? — The case of one witness will prove it, in that he can be refuted by the denial [of other witnesses] and yet he obliges the defendant to take an oath. But [it is objected once more]: [The oath that is imposed by] several witnesses refers to the remainder of the debt denied by the defendant [and not included in the evidence]? — Again, the case of ‘his own mouth’ will prove it.[7] And the [former] argument resumes its force. [It is true that] the aspect of one case is not like the aspect of the other case; but both cases have the common characteristic that they arise through claim and denial, and therefore the defendant has to swear. So I adduce that also in the case of ‘witnesses,’ arising as it does through claim and denial, the defendant has to swear. But [it is again argued]: Have not the other analogous cases the common characteristic that the defendant is not presumed to be a liar, while in the case of ‘witnesses’ he is presumed to be a liar?[8] [The objection, however, is at once raised:] Is the defendant really presumed to be a liar when contradicted by witnesses? Has not R. Idi b. Abin said that R. Hisda said: He who denies a loan[9] can still be accepted as a witness, but he who denies a deposit cannot be accepted as a witness?[10] Therefore argue this way: Have not the other cases the common characteristic that they are not subject to the law of retaliation in case of an alibi,[11] while [several] witnesses are subject to the law of retaliation in case of an alibi? — This presents no difficulty: R. Hiyya attaches no importance to the argument from the law of retaliation in case of an alibi.[12]

There is, however, another difficulty: How could it be said that our Tanna teaches the same [as R. Hiyya] — are the two cases at all alike? There [viz., in the case of R. Hiyya] the creditor has witnesses [for half the amount claimed], but the debtor has no witnesses [regarding the other half] that he does not owe him it. For if the debtor had witnesses that he did not owe him anything [of the other half claimed], R. Hiyya would not require the debtor to swear [regarding the other half]. But here [in our Mishnah] we are witnesses for the one party as much as for the other [in regard to the right of either to one half of the garment], and yet both have to swear.[13]

It must therefore be assumed that the statement ‘And our Tanna teaches the same’ refers to another decision of R. Hiyya. For R. Hiyya says: [If one says to another,] ‘You have in your possession a hundred zuz belonging to me,’ and the other says, ‘I have only got fifty’ and [here they are],[14] he has to swear [concerning the disputed amount].[15] For what reason? Because [the offer implied in the words] ‘Here they are’ is like a ‘partial admission’ [which necessitates an oath]. And our Tanna teaches the same: TWO HOLD A GARMENT, etc., and although here each one holds [the garment], and we are witnesses that the part that each one holds is like the part of the debt which the defendant [in the other case] is ready to deliver, yet it says that he must swear! R. Shesheth, however, says that [the offer implied in the words] ‘Here they are’ relieves the debtor of the oath — For what reason? Because the declaration ‘Here they are’ made by the debtor enables us to regard those [fifty] zuz, which he has admitted to be owing, as if they were already in the hands of the creditor, while the remaining fifty [zuz] the debtor does not admit to be owing, and therefore there is no ‘partial admission’ [that necessitates an oath].

But according to R. Shesheth there is a difficulty about our Mishnah?[16] — R. Shesheth may reply: [The oath in] our Mishnah is an institution of the Rabbis.[17] And his opponent? [He will say:] Yes, it is an institution of the Rabbis: but if you maintain that according to Biblical Law the offer of ‘Here they are’ carries with it an oath, then it is right that the Rabbis imposed an oath upon the litigants [in our Mishnah], for they follow herein the principle underlying the Biblical Law. But if you say that the offer of ‘Here they are’ exempts, according to Biblical Law, [the debtor who made it] from taking an oath, then how can the Rabbis [of our Mishnah] impose an oath which is unlike any Biblical oath?

An objection is now raised:

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(1) Therefore the inference from one witness to several witnesses does not hold good. As long as it can be shown that there is one aspect from which the case that it treated as the ‘minor’ for the purpose of the Kal wa-homer can be regarded as a ‘major’ the inference may be objected to as illogical.

(2) V. Kid. 27b. As the evidence of one witness causes an oath to be imposed upon the defendant, a second oath is also imposed upon this defendant if another claim not included in the evidence is raised against him in regard to which, if it stood alone, no oath would have been imposed.

(3) The oath imposed by one witness refers to the amount to which the witness testifies and which the defendant denies. It is thus the direct result of the evidence of that witness, and it is weighty enough to cause the ‘attached oath’ regarding another claim.

(4) The sum regarding which the witnesses give evidence has to be paid by the defendant, and thus there is no oath to carry with it another oath.

(5) The case of partial admission where the oath is taken though there is no oath to carry it.

(6) As above, the Kal wa-homer will be inferred from the case of admission, viz., if the words of his own mouth, which do not oblige him to pay money (a fine), make it necessary for him to take an oath, how much more ought the evidence of witnesses, which obliges him to pay money, make it necessary for him to take an oath.

(7) I.e. the case of a partial admission, where the oath is likewise taken regarding the remainder of the amount claimed.

(8) One witness cannot stamp the defendant as a liar, as it is just the word of one against that of another. But two or more witnesses are necessarily believed, and the defendant is presumed to have lied. Even if the witnesses refute only part of his statement he is not trusted any more, and should not be allowed to swear regarding the rest.

(9) And is refuted by witnesses before swearing. whether he denies the whole loan or only part of it.

(10) The reason for the distinction between a loan and a deposit is explained infra 5b.

(11) One witness may cause a fine to be imposed upon a defendant, but if the witness is refuted by other witnesses proving an alibi he is not liable to pay the fine.

(12) For even though one witness, on being refuted by an alibi, is not liable to suffer the penalty that he intended to impose upon the defendant, he is disbelieved as a result of the refutation, and his evidence is nullified, just as in the case of two witnesses who are refuted by an alibi.

(13) Which would show that the oath is not imposed because of a ‘partial admission’, but is merely an institution of the Rabbis, as indicated above, and is therefore quite different from the oath imposed by R. Hiyya.

(14) Hela4, הילך i.e., ‘I have not spent them, and they are yours, wherever they may be’ (Rashi).

(15) And we do not say that the virtual delivery of the amount admitted is tantamount to actual payment, so that the denial of the remainder would mean a denial of a whole separate claim, in which case no oath could be imposed.

(16) Which imposes an oath, although, as stated above, the position of the litigants is similar.

(17) Not a Biblical oath resulting from ‘partial admission’.

Talmud - Mas. Baba Metzia 4b

[When a plaintiff produces a promissory note for] sela's[1] or denarii[2] [without any figures], the creditor says, it is for five [sela's or denarii], and the debtor says, it is for three, R. Simeon b. Eleazar says: Seeing that [the debtor] has admitted part of the claim, he must take an oath [for the rest]. R. Akiba says: He is only like a restorer of lost [property],[3] and he is free [from taking an oath]. In any case we are told that R. Simeon b. Eleazar says, ‘Seeing that he has admitted part of the claim, he must take an oath’. Now the reason is presumably that [the debtor] said ‘three’, but [if he had said] ‘two’ he would have been free [from the oath], and seeing that the admission of ‘two’, for which the note is sufficient evidence, is like [the offer] ‘Here they are’,[4] it follows that ‘Here they are’ does not involve an oath? — No; I could quite well maintain that when he says ‘two’ he also has to take an oath, and the reason why ‘three’ is stated is to express disagreement with R. Akiba, who maintains that the debtor [who says ‘three’] is like a restorer of lost [property] and free [from taking an oath]. We are thus informed that he is like one who admits part of the claim, and that he has to take an oath.[5] But if this is so, [and ‘two’ also involves an oath,] should not R. Simeon b. Eleazar, who says, ‘Seeing that he has admitted part of the claim he must take an oath,’ have said instead: He also must swear?[6] — Therefore it must be assumed that ‘two’ is free, and ‘Here they are’ involves an oath, but our present case is different, because the written document supports him,[7] or because the written document has the effect of pledging the debtor's landed property [to the creditor,] and no oath is taken in a dispute connected with mortgaged land.[8]

Some construe the objection from the latter clause: ‘R. Akiba says, he is only like the restorer of lost [property], and he is free [from taking an oath].’ Now the reason is presumably that he said ‘three’, but [if he had said] ‘two’[9] he would have had to swear; and seeing that the admission [of ‘two’], for which the note is sufficient evidence, is like [the offer] ‘Here they are’, it follows that ‘Here they are necessitates an oath? — No; I could quite well maintain that when he says ‘two’ he is also free [from taking an oath], and the reason why ‘three’ is stated is to express disagreement with R. Simeon b. Eleazar, who says that [the debtor] is like one who admits part of the claim, and he has to take an oath: We are thus informed that he is like the restorer of lost [property], and he is free [from taking an oath].

And, indeed, this stands to reason, for if we were to assume that ‘two’ necessitates an oath, how could R. Akiba dispense with the oath in the case of ‘three’: this [debtor] could surely employ a ruse, In that he might think: If I say ‘two’ I shall have to swear; I will say ‘three’, so that I shall be like a restorer of a loss, and I shall be free. Therefore we must conclude that [if he says] ‘two’ he is also free. But does not a difficulty arise as regards R. Hiyya?[10] — There[11] it is different, for the written document supports him,[12] or because the written document has the effect of pledging the debtor's landed property, and no oath is taken in a dispute connected with mortgaged land.

Mar Zutra, the son of R. Nahman, then asked: [We learnt:] If one claims vessels and land, and the claim in regard to the vessels is admitted, but the claim in regard to the land is disputed, or the claim in regard to the land is admitted, but the claim in regard to the vessels is disputed, the debtor is free [from taking an oath in regard to the disputed claim]. If he admits part of the claim in regard to the land, he is free [from taking an oath]; if he admits part of the claim in regard to the vessels he is obliged [to take an oath].[13] Now the reason why [he is free when the claim concerns both land and vessels] is [presumably] that an oath does not apply to land, but where the claim concerns two sets of vessels, in the same way as the claim regarding the land and the vessels,[14] he is obliged to [take an oath]: how is this to be understood? Is it not that the debtor said to the creditor, ‘Here they are’? So it follows that ‘Here they are’ necessitates an oath![15] — No; I can quite well maintain that [when] two sets of vessels [are claimed] he is also free [from taking an oath], but the reason why ‘vessels and land’ are mentioned is to let us know that when [the debtor] admits part of the claim in regard to the vessels he is obliged [to take an oath] even as regards the land. What new information does he proffer us? The law of extension of obligation? We have learnt this already:[16] Chattels which do not offer security[17] are attached to chattels which offer security,[18] in regard to the imposition of an oath [upon the debtor]![19] — [The Mishnah quoted] here[20] is the principal place [for this law]; there[21] it is only mentioned incidentally.[22]

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(1) A sela’ equalled in value our crown.

(2) A denar =one fourth of a sela’.

(3) For sela's would really mean two (the minimum number to which the plural could be applied) and if the debtor says ‘three’ he admits more than there is evidence for. The third sela’ is therefore like a restored loss, in connection with which no oath can be imposed (cf. Git., 48b).

(4) [Since the note has the effect of a mortgage on the debtor's landed property, the admission places virtually that land at the disposal of the creditor.]

(5) For in the case of the debtor saying ‘two’, R. Akiba would not have differed, and there would have been no occasion for this comparison with the restoration of a lost object.
(6) If ‘two’ involves an oath, then it was wrong to give ‘partial admission’ as a reason for the oath, since in such a case there would be no admission apart from what is proved by the written document. On the other hand, it should have been emphasised that ‘three’ also involved an oath, in spite of the fact that the admission of the third sela’ is like the restoration of a lost object to its owner.
(7) The witnesses who signed the document support the statement of the debtor, as the document says only ‘sela's, which must be taken to mean two.
(8) Seeing that ‘two’ is corroborated by the written document, no oath can be imposed, either in a case of denial or in one of admission, because the document puts the debtor's landed property under a bond, and, as explained in Shebu. 42b, no oath is administered in connection with mortgaged property. But when the debtor says ‘three’, the dispute about the remainder as well as the admission of the third sela’ concern something that is not mentioned in the document, and which does not therefore affect the debtor's landed property.
(9) When the debtor could not be said to have restored a loss, as his admission did not go beyond the sum proved by the document.
(10) Who teaches that the offer ‘Here they are’ is like a ‘partial admission’ and therefore requires an oath. Then why should ‘two’ not require an oath?
(11) In the case of sela's etc.
(12) This is why he is free, not because of the similarity to ‘Here they are’.
(13) In regard to both vessels and land. V. Shebu. 38a.
(14) Viz., that the vessels which the debtor admitted to be rightly claimed are placed before the creditor with the offer ‘Here they are’.
(15) This would contradict the view of R. Shesheth, who says that ‘Here they are’ does not necessitate an oath.
(16) Kid. 26a.
(17) Movable belongings, which cannot be mortgaged.
(18) Immovable property, which can be mortgaged.
(19) When claims arise simultaneously in regard to both kinds of chattels, and an oath is due regarding the movable ones, it is extended also to the immovable ones. V. Kid. 26a.
(20) From Shebu. 38b.
(21) In Kid. 26a.
(22) As the law is stated there regarding the acquisition of movable chattels in conjunction with immovable ones by means of money, document, or actual possession, reference is also made to the extension of the oath from movable chattels to immovable ones.

Talmud - Mas. Baba Metzia 5a

Now according to him who says that ‘Here they are’ does not require an oath, why is it necessary to derive from a Scriptural verse the exemption of land from the law of oath,[1] , since all land [available to the creditor is as if the debtor said,] ‘Here they are’?[2] — He can answer you: The derivation from the Scriptural verse is necessary where [the debtor] has dug pits, ditches and caves [thereby destroying the value of the land], or where one claims vessels and land, and the claim in regard to the vessels is admitted, while the claim in regard to the land is disputed.[3]

Come and hear: Rami b. Hama teaches: Four kinds of bailees require to put forward a partial denial and a partial admission [in order to be liable to an oath]: the gratuitous bailee, the borrower, the paid bailee, and the hirer.[4] How is it to be understood? Is it not that the bailee says to the claimant, ‘Here it is’?[5] — No. [It refers to a case where] the owner says to the bailee, ‘I handed you over three cows, and they have all died through your negligence’, while the bailee says to the owner, ‘One I never received; one died through an accident, and one has died through my negligence, for which I am willing to pay you’, so that it is not like [an offer to return the animal by saying.] ‘Here it is.’

Come and hear what the father of R. Apotoriki taught, as a refutation of the first [law of] R. Hiyya: [If one says to another,] ‘You have a hundred [zuz] in your possession belonging to me’, and the other says, ‘I have nothing belonging to you,’ and witnesses testify that the defendant owes the plaintiff fifty [zuz] — I might think that the defendant ought to swear regarding the rest; therefore the Scriptural text tells us, for any manner of lost thing, whereof he saith that it is this,[6] [indicating thereby that] you impose [an oath] on him[7] in consequence of his own admission, but you do not impose [an oath] on him in consequence of the evidence of witnesses![8] — Do you wish to refute R. Hiyya by citing a Baraitha [that contradicts his view]? R. Hiyya is a Tanna, and he may disagree with it. But [the Baraitha] quotes a Scriptural text? — That [text] refers to one who admits part of the claim. And the father of R. Apotoriki?[9] — He will answer you: [The text] says, it, and it also says, this[10] — one term is [meant to apply] to him who admits part of the claim, and the other [is meant to indicate] that in the case of witnesses giving evidence [regarding part of the disputed claim] the defendant is free from taking an oath]. And the other?[11] — He applies one term to him who admits part of the claim, and the other [he utilises for the purpose of proving] that the admission [of part of the claim involves an oath only if the admission] refers to the same kind of object as is claimed [by the plaintiff]. And the other?[12] — He does not share the view that the admission has to refer to the same kind of object, for he is of the opinion of Rabban Gamaliel, as we have learned:[13] If the plaintiff claims wheat, and the defendant admits barley, the defendant is free [from taking an oath], but Rabban Gamaliel obliges [the defendant to take an oath].[14]

There was a shepherd to whom people entrusted cattle every day in the presence of witnesses. One day they handed it over to him without witnesses. Subsequently he gave a complete denial [of the receipt of the cattle]. But witnesses came and testified that he had eaten two of the cattle. Said R. Zera: If the first [law of] R. Hiyya is valid, [the shepherd] ought to swear regarding the remainder.[15] Abaye, however, answered him: If [the law were] valid, would [the shepherd be allowed to] swear? Is he not a robber?[16] — [R. Zera] replied: I mean, his opponent should swear.[17] But even if R. Hiyya's law is rejected, should we not impose an oath [upon the claimant] because of the view of R. Nahman, as we have learned:[18] [If one says to another,] ‘You have in your possession a hundred [zuz] belonging to me,’ and the other says, ‘I have nothing belonging to you,’ he is free [from taking an oath]; but R. Nahman adds: We make him take ‘an oath of inducement’?[19] — R. Nahman's rule is [only a Rabbinical] provision, [made irrespective of the law],

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(1) V. Shebu. 42b; infra 57b.

(2) As land cannot be removed it is always at the disposal of the creditor.

(3) The admission as regards the vessels is not the equivalent of ‘Here they are’, and the conclusion drawn from the Scriptural verse is necessary to let us know that such a ‘partial admission’ cannot impose an oath on the disputed landed property, though forming part of the one claim.

(4) V. B.K 107a; infra 98a.

(5) The ‘partial admission’ can only refer to the animal which the bailee admits to have in his possession, and which he is ready to return to the owner. This is like saying, ‘Here it is,’ and yet the bailee has to swear.!

(6) Ex. XXII, 8. The term ‘It is this’ is construed as implying a partial admission. V. Shebu. 39b; B. K. 107a.

(7) V. infra 41b.

(8) This is a direct contradiction to the ruling of R. Hiyya, according to which the evidence of witnesses regarding part of a disputed claim causes an oath to be imposed on the defendant, as inferred by means of a Kal wa-homer from ‘partial admission’. V. supra 3a-4a.

(9) How can he apply the text to exclude the case where witnesses give evidence?

(10) הוא זה one particle of which is superfluous.

(11) R. Hiyya.

(12) The father of R. Apotoriki.

(13) V. infra 100b; B. K. 35b; Shebu. 38b and 40a; cf. Keth. 108b.

(14) If the claim is for wheat, and the admission is for barley, it is not considered a ‘partial admission’ and does not involve an oath.

(15) For when the denial is partly contradicted by witnesses R. Hiyya imposes an oath.

(16) Who is likely to commit perjury, hence cannot be given an oath. R. Hiyya's law refers to a debt, or pledge, which the defendant denies, not because he has misappropriated it, or used it for himself, but because he does not find it convenient to repay or replace it just then, and intends to do so later. He therefore cannot be regarded as a robber.

(17) And receive payment. v. Shebu. 44b.

(18) Shebu. 38b.

(19) Although no oath is to be imposed on the defendant who denies the whole claim, a Rabbinical oath is put on him in order to induce him to admit the truth, as it is assumed that no one will sue a person without cause.

Talmud - Mas. Baba Metzia 5b

and we do not add one provision to another provision.[1] But why not consider the fact simply that he is a shepherd, and Rab Judah says that a shepherd [generally speaking] is unfit [to take an oath]?[2] — This presents no difficulty: That case [referred to by Rab Judah,] is one of [a shepherd who feeds] his own flock [and is therefore tempted to let them trespass], but this case [regarding which Abaye asks his question,] is one of [a hired shepherd who keeps] other people's flocks [and has no occasion to trespass]. For if this were not so, how could we entrust cattle to any shepherd? Is it not written, Thou shalt not put a stumbling block before the blind?[3] But the presumption is that a man will not commit a sin unless he stands to profit by it himself.[4]

HE SHALL THEN SWEAR THAT HIS SHARE IN IT IS NOT LESS THAN HALF, etc. Does he swear regarding the part which is his, or regarding the part which is not his?[5] — R. Huna answers: He has to say, ‘I swear that I have a share in it, and that it is not less than half.’[6] But let him say, ‘I swear that it is all mine!’[7] — Do we give him all of it?[8] Then let him say, ‘I swear that half of it is mine!’-He would impair his own words.[9] But does he not now also impair his own words?[10] — [No!] He says, ‘It is all mine,’ [and he adheres to his claim]. But [he adds]. ‘According to you, [who do not accept my contention,] I swear that I have a share in it, and that it is not less than half.’ But [it is again asked]: Since each one stands [before the Court] holding [the garment], what need is there for this oath? R. Johanan answered: This oath is an institution of the Sages, intended to prevent people from going out and seizing their fellow's garment, declaring it to be their own.[11] But should we not say that, since he is suspected of fraud in money matters, he ought also to be suspected of swearing falsely?[12] — We do not say that one who is suspected of fraud in money matters must also be suspected of swearing falsely.[13] For if you do not concede this, how could the Divine Law lay it down that one who admits part of a claim shall swear [regarding the rest]? We ought to say that, since he is suspected of fraud in money matters, he must also be suspected of swearing falsely? — There he just tries to put the claimant off for a time, according to the view of Rabbah.[14] You may infer this[15] from what R. Idi b. Abin says in the name of R. Hisda:[16] He who denies a loan[17] can still be accepted as a witness,[18] but he who denies a deposit cannot be accepted as a witness.[19] But there is [the law] which Rami b. Hama taught: Four kinds of bailees require to put forward a partial denial and a partial admission [in order to be liable to an oath]: the gratuitous bailee, the borrower, the paid bailee, and the hirer.[20] Why do we not say that, since he[21] is suspected of fraud in money matters,[22] he must also be suspected of swearing falsely?[23] — There also he merely tries to put off the claimant,[24] for he thinks: ‘I shall find the thief and have him arrested,’ or, ‘I shall find [the animal] in the field and bring it to him.’ But if this is so, why is one who denies a deposit unfit to be a witness? Let us say that he is only putting off the claimant, thinking to himself, ‘I shall put him off until I may look for it and find it’? — We say that he who denies a deposit is unfit to be a witness only [if it is a case] where witnesses come and testify against him, saying that at that time the deposit was in the house, and that he knew it, or [if it is a case] where he is holding it in his hand.

But in the case in which R. Huna says, ‘We make him swear that [the article] is not in his possession,’[25] why do we not say that since he is suspected of fraud in money matters he must also be suspected of swearing falsely? — There also he may permit himself [to keep the article] by saying [to himself], 'I am willing to pay him for it.' Then R. Aha of Difti said to Rabina: Would he not even so transgress the commandment, Thou shalt not covet?[26] — 'Thou shalt not covet' is understood by people to apply only to that for which one is not prepared to pay.

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(1) The Rabbinical provision that when the defendant is likely to commit perjury the plaintiff swears and receives payment, cannot be added to the provision which imposes a Rabbinical 'oath of inducement' (where no Biblical oath is due). The 'oath of inducement' can only be given in cases where in ordinary circumstances a Biblical oath would be imposed.

(2) Because usually a shepherd allows his flock to graze on other people's fields, and thus commits robbery, and why need Abaye seek to disqualify him on the ground that he is actually proved to be a robber?

(3) Lev. XIX. 14. This, taken figuratively, implies that it is wrong to put temptation in the way of one who is likely to succumb to it.

(4) Therefore a hired shepherd, who does not profit by trespassing, will not commit the sin, and he need not generally be regarded as a robber.

(5) The implication is that the terms of the oath are ambiguous. By swearing that his share in it is lot 'less than half', the claimant might mean that it is not even a third or a fourth (which is 'less than half'), and the negative way of putting it would justify such an interpretation. He could therefore take this oath even if he knew that he had no share in the garment at all, while he would be swearing falsely if he really had a share in the garment that is less than half, however small that share might be.

(6) The statement is not negative, but positive, and the claimant swears that his share is at least half.

(7) And thus corroborate his claim; and, although one of the claimants would then be bound to swear falsely, the oath could still be given, according to the majority of the Rabbis, who differ from Ben Nannus (Tosaf.; cf. supra 2b).

(8) It would appear inconsistent on the part of the Court, and to its discredit, to let a claimant swear that he owns the whole garment when he can be awarded only half of it.

(9) His plea that the whole garment is his would be contradicted by his oath that only half of it belonged to him.

(10) For the oath in the Mishnah also refers to half the garment.

(11) V. supra 3a.

(12) What purpose, then, is the oath instituted by the Rabbis to serve? If he is ready to rob his neighbour, he will also be ready to commit perjury.

(13) Perjury is regarded as a greater crime than robbery.

(14) V. supra 3a.

(15) Viz. that he is not suspected of attempted robbery, but of a desire to postpone payment.

(16) Cf. B.K. 105b; Shebu. 40b; supra 4a.

(17) And is refuted by witnesses (before swearing), so that he is proved a liar (but has not committed perjury).

(18) It is obviously assumed that he lied because he wished to postpone payment, and not because he wanted to rob the claimant of what was due to him.

(19) For it could not be said that he only intended to put the claimant off, as a deposit must not be spent, and must be produced intact when claimed, while borrowed money can be spent, and returned when due. If the deposit has been lost, he has only to put this forward as a plea and he is free. His denial therefore renders him unfit as a witness (in accordance with the implication of Ex. XXIII. 1).

(20) Cf. supra 5a.

(21) I.e. the bailee.

(22) In regard to the animal which he denies having received, and which must be regarded in the same light as a deposit — so that it cannot be said that he merely wishes to delay the return.

(23) How could he be given an oath in regard to that animal, if it should have been his intention to rob the owner by the denial?

(24) Whose animal he has lost.

(25) This refers to a bailee who offers to pay compensation for a lost bailment, rather than swear that it has been lost. As it is possible that he wishes to appropriate the article by paying for it, R. Huna says that he must swear that he has not got it. (V. infra 34b).

(26) Ex. XX, 14.

Talmud - Mas. Baba Metzia 6a

Talmud - Mas. Baba Metzia 6a

But then, in the case in which R. Nahman said, We make him take ‘an oath of inducement’,[1] — why do we not say that since he is suspected of fraud in money matters he must also be suspected of swearing falsely? Moreover, there is the case where R. Hiyya taught: Both of them swear, and receive payment from the employer,[2] — why do we not say that since he is suspected of fraud in money matters he must also be suspected of swearing falsely? And furthermore, there is the case where R. Shesheth said: We make him[3] take three oaths: ‘I swear that I did not cause the loss wilfully; I swear that I did not use [the animal] for myself; I swear that it is not in my possession’, — why do we not say that since he is suspected of fraud in money matters[4] he must also be suspected of swearing falsely? Therefore [we must conclude] that we do not say, ‘Since he is suspected of fraud in money matters he must also be suspected of swearing falsely.’

Abaye says: We apprehend that he may be claiming the repayment of an old loan.[5] But if so, let him take it without an oath?[6] — Therefore say that we apprehend that he may be claiming the payment of a doubtful claim of an old loan. But do we not say that if he appropriates money on the strength of a doubtful claim he will also swear falsely in regard to a doubtful claim? — R. Shesheth, the son of R. Idi, said [in reply]: People will desist from taking an oath in regard to a doubtful claim, while they will not desist from appropriating money their right to which is doubtful. For what reason? — Money can be given back [later]; an oath cannot be taken back.

R. Zera asked: If one of the litigants seized [the garment] in our presence,[7] what is the law? But [it is immediately objected]: How could such a situation arise? If [the other litigant] remained silent, he really admitted [his opponent's claim]; and if he protested, what more could he do? — [R. Zera has in mind] a case where [the aggrieved litigant] was silent at first but protested later, and the question is: Do we say that since he was silent at first he really admitted [his opponent's claim], or [do we] perhaps [say] that, as he protests now, it has become apparent that the reason why he was silent at first is that he thought [it unnecessary to protest, because] the Rabbis [of the Court] saw [what happened]? — R. Nahman answered: Come and hear [a Baraitha]: The ruling [of our Mishnah] refers only to a case where both [litigants] hold [the garment], but if the garment is produced [in Court] by one of them only, then [we apply the principle that], ‘the claimant must bring evidence to substantiate his claim.’[8] Now, [let us consider:] how could the case [of one litigant producing the garment] arise? If we say that it was just as stated,[9] then it is self-evident.[10] It must therefore be that one of them seized [the garment] in our presence?[11] — No. Here we deal with a case where both of them came before us holding [the garment], and we said to them, ‘Go and divide it.’ They went out, and when they came back one of them was holding it. One said, ‘He really admitted [my claim],’[12] and the other said, ‘I let him have it on condition that he pays me for it.’[13] Now we say to him: ‘Hitherto you implied that he was a robber,[14] and now you dispose of the garment to him without witnesses!’ If you prefer, I could also say that [the Baraitha deals with a case where], as stated, one of them was holding it, and the other was just hanging on to it. In such a case [it is necessary to inform us that] even Symmachus, who maintains[15] that disputed money of doubtful ownership should be divided among the disputants without an oath,[16] would agree,[17] for mere hanging on [to a disputed article] counts for nothing.[18]

If you deem it right to say that in the case of one [litigant] seizing it[19] in our presence, we take it away from him,[20] [it is clear that] if he dedicates it [to the Temple][21] the dedication does not take effect.[22] But if you will say that in the case of one [litigant] seizing it in our presence we do not take it away from him, what would be the law if he dedicated it without seizing it? Seeing that a Master says [elsewhere],[23] ‘Dedication to the Most High by word of mouth is like delivery in a secular transaction’, [do we say that the dedication of the garment] is like seizing it, or [do we say], ‘After all, he has not seized it,’ and it is written: And if a man shall sanctify his house to be holy, etc.,[24] [from which we might conclude that] just as his house is in his possession so must everything [that he may wish to dedicate] be in his possession — which would exclude this case [of the garment which he has not seized and] is not in his possession? — Come and hear [the following]: There was

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(1) When he denies the whole claim; v. supra 5a.
(2) In the case of the shopkeeper and his creditbook. V. supra 2a, Shebu. 47b.
(3) The gratuitous bailee, who pleads that the animal has been lost.
(4) Since it is assumed that he may appropriate the plaintiff's article by putting forward a wrong plea, which amounts to fraud.
(5) According to Abaye the reason for the oath imposed by the Rabbis is not that given by R. Johanan (v. supra 3a), but that a litigant may deem himself entitled to an article found by his opponent, on the ground that the latter had borrowed money from him a long time ago and had forgotten about it. Such a litigant would not hesitate to plead that he had found the garment, or that it was all his, in the hope that at least half the value of the garment would be awarded to him. Hence the need for an oath.
(6) If it is assumed that he is claiming the garment in payment of an old debt due to him, why should he have to swear?
(7) I.e., in the presence of the Court.
(8) Tosef. B.M. 1; v. supra 2b.
(9) That one of the litigants was in possession of the garment when both appeared in Court.
(10) That the other litigant must bring evidence to substantiate his claim.
(11) In Court, in the circumstances as described, which furnishes a solution to the problem propounded.
(12) ‘And this is why he let me have the garment.’
(13) ‘And now he refuses to pay.’
(14) ‘As you pleaded that the garment was yours, and that he was trying to rob you of it.’
(15) V. supra 2b; B.K. 46a.
(16) And would thus let each litigant who holds the garment have a half without an oath.
(17) That the claimant is entitled to nothing, even if he is ready to swear.
(18) It constitutes no claim, and therefore the garment is not ‘disputed money’.
(19) I.e., the garment.
(20) If R. Zera's question is to be answered in the sense that the litigant who has seized the garment must give up half the garment to the other claimant.
(21) Without seizing it.
(22) For the act of dedication cannot be more effective than the act of seizing it.
(23) V. A.Z. 63a; cf. B.B. 133b.
(24) Lev. XXVII, 14.

Talmud - Mas. Baba Metzia 6b

a bath-house, about which two people had a dispute. One said, ‘It is mine’, and the other said ‘It is mine’; then one of them rose up and dedicated it [to the Temple],[1] [in consequence of which] R. Hananiah and R. Oshaia and the rest of the Rabbis kept away from it. R. Oshaia then said to Rabbah: When you go to Kafri[2] to see R. Hisda ask him [for his opinion on this matter]. When [Rabbah] came to Sura [on his way to Kafri][3] R. Hamnuna said to him: This is [made clear in] a Mishnah:[4] [As regards] doubtful first-born,[5] whether a human first-born or an animal first-born, [and, as regards the latter,] whether of clean or unclean[6] animals, [the principle holds good that] the claimant must bring evidence [to substantiate his claim].[7] And in regard to this a Baraitha teaches: [Such animals] must not be shorn nor worked.[8] Now, it is obviously assumed here that if a priest seizes the firstling we do not take it away from him, for it is laid down that [we must apply the principle that] the claimant must bring evidence [to substantiate his claim];[9] and [thus] if the priest has not seized it, [the Baraitha teaches] that it must not be shorn or worked.[10] But Rabbah answered him: You speak of the sanctity of a firstling — [this proves nothing]. I could well maintain that even if the priest has seized it we take it away from him, and still it would be forbidden to shear or to work [this animal], because the sanctity that comes of itself is different.[11]

R. Hananiah said to Rabbah: There is [a Baraitha][12] taught supporting your view:[13] The [sheep with which the] doubtful [firstlings of asses have been redeemed] enter the stall to be tithed.[14] Now, if the view were held that when the priest has seized [a doubtful firstling] we do not take it away from him, why [does the Baraitha teach that sheep with which doubtful firstlings of asses have been redeemed] enter the stall [to be tithed]? Would not the result be that this [Israelite, who owns the stall] would relieve himself of his liability [involved in the tithe] with the property of the priest, [who has a claim on it]?[15] — Abaye answered him: There is really nothing in that [Baraitha] to support the Master [Rabbah], For it deals with a case where [the Israelite] has only nine sheep, and this [makes the tenth], so that in any case [the Israelite is justified]: if he is obliged [to tithe the sheep] he has tithed them rightly,[16] but if he is not obliged [to tithe them because the tenth sheep is not really his], then [he has had no advantage, as he only owned nine sheep, and] nine are not subject to tithe.[17]

Later Abaye said: My objection is really groundless.[18] For in [a case where the liability of an animal to be tithed is in] doubt, tithing does not take place,[19] as we have learnt: If one of the sheep which were being counted [for the purpose of tithing] jumped back into the stall, the whole flock is free [from tithing].[20] Now, if the view were held that doubtful cases are subject to tithe,[21] [the owner] ought to tithe [the remaining sheep] in any case: if he is obliged [to tithe them][22] he will have tithed them rightly,[23] but if he is not obliged to tithe them, those already counted will be free because they were properly numbered,[24] for Raba said: Proper numbering frees [the sheep from being tithed].

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(1) On dedication to Temple after the Destruction, v. A.Z. 13a.

(2) [S. of Sura, v. n. 3.]

(3) [Rabbah, whose seat was at Pumbeditha in the North, had to pass Sura on his journey to the South.]

(4) Toh. IV, 12.

(5) I.e., first-born whose primogeniture is in doubt because, in the case of an animal, it is not known whether its mother has borne before, or, in the case of a human mother who had previously miscarried, it is doubtful whether it was a real miscarriage or not. According to Biblical law the first-born belong to the priest. (Num. XVIII, 15-16.)

(6) E.g., an ass, the first-born of which has to be redeemed with a lamb. (Ex. XIII, 13.)

(7) If the Israelite is still in possession of the first-born, the priest is regarded as the claimant, who has to bring evidence to clear up the doubt. But if the priest has acquired possession, and the Israelite, though silent at first, protests later, denying the primogeniture, then it is for the Israelite, as the claimant, to prove his claim.

(8) Because of the prevailing doubt as to whether the young animal is ‘holy’ or not (cf. Deut. XV, 19).

(9) Which is obviously meant to apply to either claimant, either the Israelite or the priest.

(10) The animal is thus regarded as ‘holy’ even when the Israelite is in possession, which would show that the sanctification by the litigant without seizing it takes effect, if we say that the seizing of the disputed articles entitles him to keep it.

(11) The sanctity of the firstling is independent of any action on the part of the priest, as it is sacred from birth, in accordance with the Biblical Law. It cannot therefore be compared with the sanctity of an object that has been consecrated by a human being.

(12) The principal place where this law is taught is a Mishnah, Bek. 9a; cf. also ibid. 11a.

(13) Viz., that if a priest has seized a doubtful firstling he has to return it.

(14) The sheep that is used to redeem the doubtful firstling of an ass may be kept by the Israelite. He is under no obligation to give it to the priest, for the latter is in the position of a claimant who has to prove his claim, i.e. if the priest claims the sheep from the Israelite, he has to prove that the doubtful firstling is a real firstling. Such sheep, however, are liable to be tithed, if there are ten of them. (V. infra p. 28.) It follows that, in the same way, if in the Israelite's possession, they go into the stall with other sheep to be tithed, and if one of them comes out tenth it is offered as the tithe.

(15) If the priest has any kind of claim on the sheep, the Israelite should not be entitled to utilise this animal as the tithe.

(16) If the redeemed ass is not a real firstling, then the lamb belongs entirely to the Israelite, and if there are nine other sheep belonging to him he is obliged to tithe them, and there is nothing wrong in his action.

(17) Therefore he has not relieved himself in any way, and in either case, not with anything belonging to the priest.

(18) I.e., the Baraitha quoted by R. Hananiah does support the view of Rabbah that the priest has no right to a doubtful firstling or its substitute.

(19) I.e., the argument used by Abaye, that in any case the tithing could be proceeded with, is invalid, for doubtful cases are exempt from tithing, even when it could be said that in any case the owner could do no wrong, as the following Mishnah proves.

(20) Bek. 58b. If during the process of tithing, while the sheep were being led one by one out of the stall, so that the tenth one might be marked and offered to the priest, one of the counted sheep jumped back into the stall and disappeared among the uncounted sheep, and it cannot be recognised, the whole flock is exempt from tithing. The sheep that left the stall on being counted are exempt because they have already been numbered, and there are sufficient sheep left in the stall to make up the required number of ten. The sheep that remained behind in the stall are also exempt because each one of them may be the one that jumped back after being counted. V. Bek. 59b.

(21) I.e. that the sheep are liable to be tithed on the assumption that the owner will either have acted according to the law or have done nothing wrong.

(22) I.e. if the tenth sheep that is taken when those left behind in the stall are numbered is not the one that jumped back after being counted.

(23) As that sheep will be subject to tithe.

(24) As long as there are sufficient sheep left in the stall to make up the ten, when added to those already counted, the counted sheep are free from tithing. V. Bek., loc. cit.

Talmud - Mas. Baba Metzia 7a

You must therefore conclude that [the decision of the Mishnah is prompted by another consideration, viz..] that the Divine Law states ‘the tenth’, [which means] the certain [tenth] but not the doubtful tenth,[1] the same consideration applies here;[2] the Divine Law states the certain tenth, but not the doubtful tenth.[3]

R. Aha of Difti said to Rabina: What kind of doubtful cases [does the above Baraitha refer to]? If it refers to doubtful firstlings, the Divine Law says, [The tenth] shall be holy,[4] excluding the animal which is already holy.[5] — It must therefore refer to [the lamb which has been used for] the redemption of the doubtful firstling of an ass, and in accordance with [the view of] R. Nahman, for R. Nahman said in the name of Rabbah b. Abbuha: If an Israelite has ten doubtful firstlings of asses in his house, he sets apart ten lambs as substitutes for them,[6] and he tithes these [lambs], and they belong to him.[7]

What was [the ultimate decision concerning] the bath-house? — Come and hear what R. Hiyya b. Abin said: A similar case came before R. Hisda, and R. Hisda brought it before R. Huna, and he gave his decision on the ground of what R. Nahman said: Property that cannot be reclaimed by legal proceedings [cannot be dedicated to the Temple.[8] and] if it has been dedicated, the dedication is invalid.[9] But [it is asked], would the dedication be valid if the property could be reclaimed by legal proceedings, even though [the rightful owner] has not obtained possession of it? Does not R. Johanan say [that] property which has been acquired by robbery, and which the rightful owners have not given up as lost, cannot be dedicated either by the robbers or by the owners: the former [cannot do it] because it is not theirs, and the latter because it is not in their possession?[10] — You evidently think that the case under discussion is of a bath that is movable. [No.] The discussion concerns a bath-house which is immovable property, and therefore, where it can be reclaimed by legal proceedings, it is [regarded as being] in the possession of [the claimant].[11]

R. Tahlifa, the Palestinian, recited in the presence of R. Abbahu: Two [people] cling to a garment; [the decision is that] one takes as much of it as his grasp reaches, and the other takes as much of it as his grasp reaches, and the rest is divided equally between them. R. Abbahu pointed [heavenward and said:] But with an oath! But, [if so] our Mishnah, which teaches that [the value of the garment] shall be divided between [the two litigants], and which does not teach that each takes as much of it as his grasp reaches — to what particular case does it refer? — R. Papa said: [It refers to a case] where [both litigants] hold the fringes [of either end of the garment]. Said R. Mesharsheya: Hence we deduce: [If a seller] grasps the kerchief[12] by a piece measuring three by three fingers, [he has rendered the sale valid, as] we apply to it [the Scriptural term]: 'And he gave it to his neighbour'. [The part that he holds] is considered as if cut off, and by this means [the buyer] acquires [the article sold to him].[13] And why is [this case] different from that of R. Hisda? For R. Hisda says: When the bill of divorcement is in her hand,[14] and the cord [to which it is tied] is in his hand,[15] then if he is able to snatch [the bill of divorcement out of her hand by means of the cord] and to pull it to himself, she is not divorced,[16] but if not she is divorced! — There separation is necessary, and there is none,[17] but here it is the act of giving that is necessary, and this has taken place.[18]

Rabbah said: If the garment was embroidered with gold, it is divided [between the two litigants].[19] But is not this self-understood? — It is necessary [to state this] when the gold is in the centre [of the cloth]. But is not this also self-understood? — It is necessary [to state this] when [the gold] is nearer to one side. You might assume that one could say to the other. 'Divide it this way;'[20] therefore we are informed that the other may say to him, 'What makes you think of dividing it this way? Divide it the other way.'[21]

Our Rabbis taught:[22] Two [people] cling to a bill, the lender saying, 'It is mine; I dropped it and found it again,' and the borrower saying, '[True.] it was yours, but I paid you;'[23] [the validity of] the bill has to be established by its signatories [verifying their signatures][24] — this is the view of Rabbi. Rabban Simeon b. Gamaliel says: They shall divide [the amount], If it [the bill] fell into the hand of a judge, it must never be produced again. R. Jose says: It retains its validity.[25]

The Master said above: '[The validity of] the bill has to be established by its signatories'. Does he mean that the creditor may demand payment of the whole amount, and does he disapprove of the Mishnah, TWO HOLD A GARMENT etc.? — Raba replied in the name of R. Nahman: If the document has been endorsed [in Court].[26] all are agreed that [the litigants] divide [the amount between them].[27] The difference of opinion only arises in the case of an unendorsed [document]. Rabbi is of the opinion that even when one [i.e., a debtor] acknowledges the writing of a bill, it still requires endorsement [at Court], and if it is endorsed, [the amount] is divided, but if it is not endorsed [the amount] is not divided. For what reason? It is merely a potsherd.[28] Who renders the document valid? [Only] the borrower.[29] But he says, 'It is paid!'[30] Rabban Simeon b. Gamaliel, however, is of the opinion that when one acknowledges the writing of a bill, it does not require endorsement [at Court] , and therefore even if it is not endorsed , [the litigants] divide the amount.[31]

'If it [the bill] fell into the hands of a judge, it must never be produced again.'

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(1) Seeing that the animal that jumped back after being counted cannot be numbered again, and it cannot be identified, there is a doubt regarding each tenth whether it is really the tenth, as, if the disqualified animal is among the previous nine, the tenth is really the ninth.

(2) In the Baraitha which R. Hananiah quoted in support of Rabbah.

(3) Accordingly, had the priest a right to a doubtful firstling it could not be admitted to the stall for tithing.

(4) Lev. XXVII, 32.

(5) A firstling is in itself 'holy', even if it is a doubtful firstling. It cannot therefore be used as tithe.

(6) For the purpose of redeeming the asses, so that he may use them for work.

(7) They are not 'holy', and as the priest has no absolute right to them (on account of the doubt as to the primogeniture of the asses) the Israelite may retain possession of them.

(8) If the claimant cannot prove his title to the property by legal evidence, he has no right to dedicate it.

(9) For the same reason the dedication of the bath-house would be invalid. This conclusion is based on the assumption that neither of the claimants of the bath-house could produce evidence in support of his claim.

(10) Which would prove that in order to be able to dedicate property one has not only to own it legally but also to be in actual possession of it.

(11) The question of being in possession does not arise in the case of a bath-house, which is immovable property, and as regards legal ownership — it is vested in the claimant who dedicated it, if he can produce evidence to substantiate his claim.

(12) [This was a recognised or legal manner of confirming a transaction, known as Kinyan Sudar, קנין סודר , (cp. lat. sudarium) and derived from Ruth IV, 7: . . . to confirm all things a man plucked off his shoe and gave it to his neighbour. Any article can be used in the same way as the shoe if it measures three by three fingers.]

(13) [The seller establishes his claim to the part of the kerchief which he holds, and thus proclaims himself the owner of the entire kerchief. By this symbolic action the seller confirms the sale of any article which is to become the property of the buyer. See, however, infra 47a.]

(14) In the hand of the wife who is to be divorced.

(15) In the hand of the husband who is divorcing her.

(16) According to this view the bill of divorcement is not regarded as having been given to the wife as long as the husband holds one end of the cord attached to the bill. In the same way we ought to say that when the seller holds one end of the kerchief he does not transfer the purchase to the buyer.

(17) In the case of a husband divorcing his wife the ceremony is to indicate the separation of the couple, the severance of the marriage tie. The cord in the hand of the husband, if it is strong enough to pull the bill of divorcement out of the hand of the wife, contradicts this idea.

(18) In the case of a seller grasping the kerchief with his hand, the significance of the act lies in the giving of the kerchief by the one to the other.

(19) I.e., even if the garment is embroidered with gold it has to be divided equally.

(20) Lengthwise.

(21) Widthwise, so that each may get half of the gold.

(22) V. B.B. 170a.

(23) ‘And on being paid you returned the bill to me and I lost it.’ This is the version given by Rashi in accordance with the wording of our text. Other texts have, ‘It is mine’ as the plea of the borrower (i.e. שלי instead of שלך) which is much simpler.

(24) And when the validity of the document has been thus endorsed, the creditor is entitled to demand payment.

(25) And the creditor could demand the return of the document and enforce payment.

(26) I.e., if the document has been produced in Court and the witnesses have verified their signatures, the judges certifying the endorsement.

(27) If the document is properly endorsed, and therefore quite valid, the litigants are in the same position as those who found the garment and were holding on to it. They therefore divide the amount of the debt recorded in the bill.

(28) I.e., the document is without any value.

(29) By admitting its genuineness.

(30) Since the unendorsed document becomes valid only as a result of the admission of its genuineness by the borrower, he is to be believed when he says that he has paid the debt.

(31) Even if the bill is not endorsed, the borrower cannot, when the document is produced by the lender, plead that he has paid the debt. The validity of the document does not, to that extent, depend on the plea of the borrower. Hence it is right that they should divide the amount.

Talmud - Mas. Baba Metzia 7b

Why is it different [if the bill fell] into the hands of a judge?[1] — Raba says: The meaning [of the clause] is this: If a third person finds a bill which has already been in the hands of a judge, that is, when it bears a legal endorsement,[2] it must never be produced again.[3] And [thus we learn that a found bill] must not be returned [to the claimant] not only when it bears no legal endorsement, so that it can be assumed that it was written for the purpose of securing a loan but the loan did not take place, but even when it bears a legal endorsement, as when it has been verified [in Court], because we apprehend that payment may have been made.[4] But R. Jose says: It retains its validity — and we do not apprehend that payment may have been made.

But does not R. Jose really apprehend that payment may have been made? Has it not been taught [in a Baraitha]: In the case of a marriage-contract[5] found in the street, if the husband admits [that he has not paid her the amount specified in the contract] it shall be returned to the wife, but if the husband does not admit it, it must not be returned either to him or to her; R. Jose says that if the wife is still with the husband it shall be returned to her,[6] but if she has become a widow or has been divorced, it must not be returned either to him or to her?[7] — Reverse [the Baraitha and read it this way]: If [a bill] fell into the hands of a judge, it must never be produced again; this is the view of R. Jose. And the Sages say that it retains its validity.[8] But if so, the two opinions of the Rabbis contradict each other![9] — [The Baraitha which deals with] the [lost] marriage-contract [conveys] in its entirety [the view of] R. Jose, but a clause is omitted, and [the Baraitha] should read thus: If the husband does not admit [that he has not paid the wife the amount specified in the contract] it must not be returned either to him or to her. This, however, only applies to [the case of] a widow or a divorced woman, but [in the case of a wife] who is still with her husband it shall be returned to the wife; this is the view of R. Jose; for R. Jose says: If the wife is still with the husband, it shall be returned to her; but if she has become a widow or has been divorced, it must not be returned either to him or to her. R. Papa says: There is really no need to reverse [the Baraitha];[10] R. Jose only states the case in accordance with the views of the Rabbis [and he says to them:] According to me we do not apprehend that payment may have been made even in the case of a widow or a divorced woman, but according to you — admit at least that when the wife is still with the husband [the marriage-contract] should be returned to her, as she is not entitled to receive payment [as long as she is his wife]. But the Rabbis answered him: Say, he handed her over bundles [of valuables] as security [and she has retained them]![11] Rabina says: By all means reverse the first [Baraitha],[12] and the reason why the Rabbis decide here [that if the husband does not admit liability, the marriage-contract must not be returned either to him or to her] is that we apprehend [lest the wife had] two marriage-contracts.[13] And as to R. Jose — he does not apprehend [lest the wife had] two marriage-contracts.

R. Eleazar says: The division[14] [takes place] when both [claimants] cling either to the form[15] [of the bill] or to the operative part[16] [thereof], but if one [claimant] clings to the form, and the other clings to the operative part, one takes the form and the other takes the operative part. And R. Johanan says: They always divide equally. [What!] Even if one clings to the form and the other to the operative part? Was it not taught: Each one takes as much as his hand grasps?[17] — [Yes.] But it is necessary [to have R. Johanan's decision] in a case where the operative part is contained in the middle [of the document].[18] But if so, what need is there to state it?[19] — It is necessary [to state it that it may be applied to a case] where [the operative part] is nearer to one [of the claimants].[20] You might assume that one could say to the other, ‘Divide it this way’, therefore we are informed that the other may say to him: ‘What makes you think of dividing it this way? Divide it the other way.’ R. Aha of Difti said to Rabina: According to R. Eleazar, who says. ‘One takes the form [of the bill] and the other takes the operative part.’ — of what use are [the parts] to either of them? Does one need them to use as a stopper for one's bottle?[21] — He [Rabina] answered him: [It is] the estimated value thereof [that has to be considered]. We estimate how much a dated document is worth as compared with one undated: with a dated document a debt may be collected from mortgaged property, but with the other [document] no debt can be collected from mortgaged property[22] — and one gives the other the difference [in the value of the two documents].

Also [the decision previously given in the words], ‘They shall divide,’ as quoted,[23] refers to the value [of the bill]. For if you do not assume this, [how explain:] ‘TWO HOLD A GARMENT’ [etc.]? Would you say that here also they divide [the garment] in halves? They would surely render it useless! — This presents no difficulty,

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(1) Why should the law be different when the bill falls into the hands of a judge than when it falls into the hands of any other person?

(2) The endorsement of the Court before which the witnesses verified their signatures, and which established the validity of the document.

(3) It must not be given either to the creditor or to the debtor, unless the ownership of the document is cleared up by evidence.

(4) I.e. if the debtor pleads that the debt has been paid, we take this plea into consideration.

(5) ‘Kethubah’, v. Keth. 10b and Glos.

(6) For a man does not ordinarily pay his wife her Kethubah while she is still with him.

(7) This shows that according to R. Jose we do apprehend that payment may have been made.

(8) And it must be returned to the claimant who can prove his claim.

(9) The view of the majority of the Rabbis in the case of the lost Kethubah, which the husband claims to have paid, and which the Rabbis say must not be returned either to the husband or to the wife, contradicts their view with reference to the lost bill which has been legally endorsed, as according to the new (‘reversed’) rendering of the Baraitha the Rabbis (i.e., the Sages) say that ‘it retains its validity’ and must be returned to the claimant.

(10) The original version being correct.

(11) In order to save his wife the trouble of litigation after his death the husband gave her money or valuables while he was still with her to be appropriated by her when the Kethubah becomes due.

(12) The revised version is really the correct one, and there is no contradiction between the views of the majority of the sages. For their decision in the case of the lost Kethubah, the validity of which the husband contests, and which the Rabbis say must not be returned, is due to the apprehension that the husband may have given the wife a duplicate after the loss of the original document. The meaning of the words ‘when the husband does not admit’ would thus be that the husband pleads that the lost document should not be returned to her because he had given her another document, and she could, when she becomes a widow, produce both documents in succession to claim payment from his heirs. But so far as actual payment by the husband is concerned, the Rabbis would ignore such a plea, because when a bill is paid it is usually taken back and torn up.

(13) The original one and a duplicate, as explained in the previous note.

(14) I.e. the decision of R. Simeon b. Gamaliel that the two litigants who cling to a bill shall divide it between them.

(15) The טופס , **, ‘form’, the general part, which may be written out in advance and does not contain the names of the contracting parties or the particulars of date, place, sum involved, etc.

(16) The תורף (probably = **), the characteristic or essential part of a document, giving the names of the contracting parties, date, place, sum involved, etc.

(17) So here also each claimant should receive the part which he holds, irrespective of its value or importance.

(18) There is really no difference between the views of R. Johanan and R. Eleazar, as the words of R. Johanan are only intended to make clear that if the operative part happens to be in the middle of the document the litigants receive half each.

(19) As it is in full accord with the view of R. Eleazar, and it would be self-understood.

(20) R. Johanan deems it necessary to emphasise that ‘they always divide equally’ so as to include a case where the operative part is nearer to the grasp of one of the claimants, though not actually held by him.

(21) A familiar expression used in connection with a document which has no value and can only be used as paper.

(22) The absence of a date makes it impossible for a Court to say whether the debt recorded in the document was contracted before or after the mortgage was taken on the property. As the date is given in the operative part only, it enhances the value of that part.

(23) The decision of R. Simeon b. Gamaliel; v. supra p. 32.

Talmud - Mas. Baba Metzia 8a

as it would [still] be suitable for children. But what of the case of Raba, who said that [even] if the garment was embroidered with gold it should be divided?[1] Could they here also divide [the garment] in halves? They would surely render it useless! — This presents no difficulty [either], as it would still be suitable for royal children.[2] But [there is] the clause in our Mishnah: IF TWO RIDE ON AN ANIMAL [etc.]. Would you say that here also they divide [the animal] in halves? They would surely render it useless! Although it may be granted that in the case of a clean animal [its carcase] may be [cut up and] used for food — what if it is an unclean animal? They would surely render it useless [by slaying it and cutting it up]? It must therefore be said that it is the value [of the animal] that is divided. So here also: it is the value [of the bill that is divided].

Rami b. Hama said: This [decision of our Mishnah] enables [us] to conclude that when one picks up a found object for his neighbour, the neighbour acquires it.[3] For if you were to say that the neighbour does not acquire it, this [garment] ought to be regarded as if one half of it were [still] lying on the ground, and [also] as if the other [half] were [still] lying on the ground, so that neither the one [claimant] nor the other should acquire it.[4] It must therefore follow that when one picks up a found object for his neighbour, the neighbour acquires it.[5] Said Raba: I could still maintain that when one picks up a found object for his neighbour, the neighbour does not acquire it.[6] But here [in our Mishnah] the reason [why he does acquire it] is that we say, 'Since he takes possession for himself he may also take possession for his neighbour.'[7] You may learn it from [the law] that if one said to a messenger, Go and steal something for me', and he [went and] stole it, he is free,[8] but if partners stole [for each other][9] they are guilty. For what reason? Is it not because we say, 'Since he takes possession for himself, he may also take possession for his neighbour'? This proves it!

Said Raba: Now that it has been proved that we base our decisions on the Since argument.[10] [it must be assumed that] when a deaf-mute[11] and a normal person have picked up a found object, the normal person acquires it by reason of the fact that the deaf-mute has acquired it. [But it is at once objected:] We may grant that the deaf-mute acquires it because a rational person has lifted it up for him,[12] but how does the normal person acquire it? — I must therefore say: The deaf-mute acquires it; the normal person does not acquire it.[13] And how does the Since [argument] come in here?[14] — Since two other deaf-mute persons would acquire [a found object by lifting it up], this [deaf-mute] also acquires it.[15] But how is this? Even if you say that when one lifts up a found object for his neighbour the neighbour acquires it, this is [true] only when one lifts it up on behalf of his neighbour. But [in this case] that [normal person] lifted it up on his own behalf; now, if he himself does not acquire it,[16] how can he enable others to acquire it? — But say: Seeing that the normal person does not acquire it, the deaf-mute does not acquire it [either]. And if you will argue: In what way does this case differ from that of the two other deaf-mute persons [previously referred to, I will answer you:] There our Rabbis made this provision[17] in order that [the deaf-mutes] may not have to quarrel [with persons who may be ready to snatch the object from them], but here [the deaf-mute] will say [to himself]: 'The normal person does not acquire it, how should I acquire it?'[18]

R. Aha, the son of R. Adda, said to R. Ashi: Whence does Rami b. Hama derive his conclusion?[19] If we say [that he derives it] from the first clause [of our Mishnah]. TWO HOLD A GARMENT etc., [the objection would arise that] there one pleads [to the effect]. 'It is all mine, and I lifted up the whole of it,' and the other pleads [to the same effect], 'It is all mine and I lifted up the whole of it!'[20] — Therefore [we must say that he derives it] from the clause which reads: ONE OF THEM SAYS IT IS ALL MINE,' AND THE OTHER SAYS, 'IT IS ALL MINE': what need is there again for this? It must therefore be that we are to learn from the additional clause that if one lifts up a found object for his neighbour, the neighbour acquires It —[21] But did we not come to the conclusion that the first clause deals with a case of finding, and that the subsequent clause deals with a case of buying and selling? — We must therefore say that [he derives it] from the second part [of the Mishnah]: IF ONE SAYS, 'IT IS ALL MINE', AND THE OTHER SAYS 'HALF OF IT IS MINE': what need is there again for this? It must therefore be that we are to learn from the additional clause that if one lifts up a found object for his neighbour, the neighbour acquires it. And how do you know that this clause deals with a case of finding? Maybe it deals with a case of buying and selling? And if you will say: If it deals with a case of buying and selling what need is there [for the case] to be stated? [I will answer:] There is a need. For I might have formed the opinion that the one who says, HALF OF IT IS MINE should be considered as the restorer of a lost object,[22] and should be free [from taking an oath]. We are thus informed that [he has to swear, as] he may be employing a ruse, in that he might think: If I say 'It is all mine,' I shall have to swear; I will say thus,[23] so that I shall be like a restorer of a lost object, and I shall be free [from taking an oath]. Therefore [we must say that he derives it] from this clause: IF TWO RIDE ON AN ANIMAL etc.: what need is there again for this? It must therefore be that we are to learn from the additional clause that if one lifts up a found object for his neighbour, the neighbour acquires it. But perhaps [this clause] is to let us know that a rider also acquires [found property]?[24] Therefore [we must say that he derives it] from the last clause: IF BOTH ADMIT [EACH OTHER'S CLAIMS], OR IF THEY HAVE WITNESSES [TO ESTABLISH THEIR CLAIMS], THEY RECEIVE THEIR SHARES WITHOUT AN OATH. To which case does it refer? If it refers to [a case of] buying and selling — is it necessary to state it?[25] It must therefore refer to [a case of] finding.[26] and this proves that if one lifts up a found object for his neighbour, the neighbour acquires it. And Raba?[27] — He will explain [the decision in the last clause of our Mishnah] by the principle [adopted by him]: Since he takes possession of it for himself, he may take possession of it also for his neighbour.[28]

IF TWO RIDE [etc.]. R. Joseph said: Rab Judah told me,

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(1) Supra 7a.

(2) Although a gold-embroidered garment when reduced in size by division could not be worn by ordinary children, it would still retain its value, as it could be worn by children of the aristocracy, to whom the wearing of a gold-embroidered garment would be nothing unusual.

(3) The decision that if two people have picked up an ownerless object they are entitled to keep it, each one taking half of its value and enabling his partner to claim the other half, must rest on the assumption that one may acquire an object for someone else by lifting up, i.e., by the same means as one acquires it for himself.

(4) From the point of view of each claimant the other person's half would have to be regarded as if it were still lying on the ground. But such an acquisition does not constitute legal possession because the law demands that we must acquire possession of the whole article in order to obtain title thereto. Consequently if a third person came and snatched the garment, neither of the two could dispute his right to claim at least half. V. infra p. 39 for further elucidation of the argument.

(5) And it is assumed that in our Mishnah each person, when picking up the garment, intended that the other person should have half of it, and in this way the two acquired the garment.

(6) V. infra 10a.

(7) Although one cannot acquire a found object entirely for his neighbour, one can acquire part of it for a neighbour if one acquires part of it for himself.

(8) From the penalty of making double restitution, as the responsibility for the wrong done rests upon the one that does it, not upon the instigator.

(9) V. B. K. 78b.

(10) Heb. Miggo, מגו ; v. Glos. ‘Since he acquires it for himself he may also acquire if for his neighbour’ is the argument used in the previous paragraph.

(11) A deaf-mute is not a responsible person, and, like a minor and an imbecile, he cannot acquire property, but ‘for practical reasons’ the Rabbis laid it down that to deprive them of anything they possess is robbery (cf. Git. 59b). Applying the Miggo argument to the deaf-mute, Raba holds that ‘Since he acquires it (according to rabbinic ruling) for himself, he also acquires it for his neighbour’.

(12) The end which the normal person has picked up for himself and for the deaf-mute has been rightly acquired, so far as the deaf-mute is concerned, for the latter benefits by the right of the rational person to acquire the garment and by his own right, conceded to him by the Rabbis, to claim his own possessions ‘for practical reasons’. But the normal person suffers from the disability of the deaf-mute, in so far as the right conceded to the deaf-mute to own property extends only to his own person, and does not include the right to acquire property for someone else. Therefore the end which the deaf-mute has picked up, when considered in relation to the normal person, must be regarded as if it had not been picked up at all. Thus the question arises: How does the normal person acquire the garment?

(13) The Miggo argument employed by Raba would therefore apply to the deaf-mute himself.

(14) It would be impossible to argue that since the normal person acquires it for himself he also acquires it for the deaf-mute, as the normal person does not acquire it at all.

(15) The Miggo argument would thus be derived from another case, not hitherto considered.

(16) For the reason explained in note 2.

(17) The claim of the two deaf-mutes is granted only because of a provision of the Rabbis ‘for practical reasons’ but is not based on law.

(18) It would not be proper to make a concession to the deaf-mute which could exceed the right of a normal person.

(19) From which clause of our Mishnah does Rami b. Hama derive the conclusion that if one lifts up a found object for his neighbour, the neighbour acquires it.

(20) [A paraphrase of ‘I FOUND IT’.] Each of the two claimants maintains that he lifted up the whole garment for himself and thus acquired it all, so that none of them can be said to have lifted up part of the garment for his neighbour and acquired it for him. The two claimants share the garment between them, not because one acquired it for the other, but because they both hold the garment and no third person can claim any part of it.

(21) The additional plea, which seems to be a mere repetition of what is conveyed by the first plea of ‘I FOUND IT’, is really intended to indicate that in a case where both claimants lifted up the garment with the intention of acquiring it for each other, they do acquire it, and this is why the garment is divided between them. The two clauses therefore differ from each other in that, in the second clause, it is assumed that both claimants really picked up the garment, and thus one acquired it for the other, while in the final clause the garment is divided between the two claimants because we do not know who tells the truth, and the oath is given for the reason stated in a previous discussion (2b-3a).

(22) As he could have pleaded ‘It is all mine’ and he would have been entitled to half the garment.

(23) I.e. ‘Half of it is mine’.

(24) That one may take possession of an animal by riding on it.

(25) If the two claimants admit having bought the garment simultaneously, it stands to reason that they should be awarded equal shares without having to swear.

(26) And it is necessary to state the law, in order to let us know that both have acquired the garment, and no one has a right to snatch it away from them, on the principle that ‘if one lifts up a found object for his neighbour, the neighbour acquires it.’

(27) Since he does not admit the above-mentioned principle, how does he explain the last clause of our Mishnah?

(28) Although Raba denies that one may acquire an ownerless object for a neighbour by lifting it up for him, he admits that when one lifts up an object for himself and his neighbour, the neighbour also acquires it, as explained above, and the last clause of our Mishnah is needed in order to establish this law.

Talmud - Mas. Baba Metzia 8b

‘I heard two [laws] from Mar Samuel: If one rides [on an animal] and another leads [it], one of them acquires [the animal], and the other does not acquire it,[1] but I do not know [to] which of the two [either decision was meant to apply].’ But how is this to be understood?[2] If it refers to [two cases, in one of which there was] a man riding [on an animal] by himself and [in the other] there was a man leading [an animal] by himself[3] — is there anyone who would say that he who leads an animal by himself does not acquire it?[4] If, therefore, it is to be said that one does not acquire [the animal], it can only be said of the one that rides on it![5] — Thus [it must be assumed that] the doubt [expressed] by Rab Judah concerns a case where one rides on an animal, and simultaneously someone else leads it.[6] The question then is: Is the rider to be given prefer — ence because he holds it,[7] or is perhaps the leader to be given preference because it moves through his action?[8] R. Joseph [then] said: Rab Judah said to me, Let us look [into the matter] ourselves.[9] For we learnt: He who leads [a team composed of an ox an and ass][10] receives forty lashes,[11] and [likewise] he who sits in the waggon [drawn by such a team] receives forty lashes. R. Meir declares him who sits in the waggon free.[12] And since Samuel reverses [the Mishnah] and reads: ‘And the Sages declare him who sits in the waggon free’[13] it follows that [according to Samuel] he who rides [on an animal] by himself does not acquire it, and this would apply with even greater force to one who rides on an animal while someone else leads it!

Said Abaye to R. Joseph: Have you not told us many times [the argument headed by the words]: ‘Let us look [into the matter],’ and yet you never told us it in the name of Rab Judah?[14] [R. Joseph] answered him: Truly, [it is Rab Judah's argument]: I even remember saying to him, ‘How can you, Sir, derive the decision regarding [the case of] One who rides [on an animal] from [the case of] one who sits [in the waggon], seeing that he who sits [in the waggon] does not hold the reins, while he who rides [on the animal] does hold the reins?' And he answered me: 'Both Rab and Samuel agree that one does not acquire [an animal] by holding the reins.'[15]

Some give another version:[16] Abaye said to R. Joseph: How do you, Sir, derive the law regarding one who rides [on an animal] from that concerning one who sits [in a waggon pulled by an animal], [seeing that] he who sits [in the waggon] does not hold the reins, [while] he who rides does hold the reins? — [R.Joseph] answered him: Thus Idi learned: One does not acquire [an animal] by holding its reins. It has also been reported: R. Helbo said in the name of R. Huna: One [who buys an animal] may acquire it by taking over the reins from the neighbour [who sells it], but one who finds [an animal] and [one who seizes an animal which was] the property of a proselyte [who died without heirs][17] does not acquire it [in this way]. What is the derivation of the term 'Mosirah' [used for reins]? — Raba said: Idi explained it to me: [It is derived from 'masar', to hand over, and it indicates] the handing over of the reins by one person to another. [Such action] rightly [enables a person who buys an animal] from his neighbour to acquire it, as the neighbour transfers to him in this way [the possession of the animal]. But in the case of a found [animal] and [in that of an animal that was] the property of a proselyte [who died without heirs] — who transferred it to him that he should have a right to acquire it?

An objection was raised: IF TWO RIDE ON AN ANIMAL etc. — whose opinion is that? If I should say that it is R. Meir's,[18] [the question presents itself:] If the 'sitter' acquires it, need I be told that the 'rider' acquires it? It must therefore be [said that it is the opinion of the majority of] the Rabbis[19] — which would prove that the 'rider' acquires it?[20] — Here we deal with one who drives [the animal] with his feet.[21] But if so, then it is the same as 'leading'.[22] There are two ways of 'leading':[23] you might say that the 'rider' has a preference, because he drives it and holds it [at the same time], therefore we are informed [that leading is the same as riding].

Come and hear: If two persons were pulling a camel or leading an ass, or if one was pulling and one was leading,

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(1) Rab Judah remembered that Mar Samuel had stated the two cases, and had given his decision regarding each case, but he did not remember what Samuel's decision was in each case.

(2) The question is at once asked how such a doubt could have arisen in R. Joseph's mind.

(3) If Samuel gave his decisions regarding two separate cases, in one of which a man claimed to have acquired an animal by riding on it, and in the other a man claimed to have acquired an animal by leading (or pulling) it, and in each case another person came along and pulled the animal away in order to acquire it for himself, the expression of doubt by Rab Judah as to which of the two cases either decision was meant to apply to, would accordingly have implied that he was not certain whether leading (or pulling) an animal is a legitimate way of acquiring it.

(4) Rab Judah could not have been in doubt on this point, as all are agreed that leading (or pulling) an animal is the legitimate way of acquiring it. Cf. Kid. 22b.

(5) Riding on an animal may just mean sitting on it without making it move, in which case it may not be a legitimate way of taking possession of it. Cf. Kid. ibid.

(6) And both claim the animal.

(7) And although pulling is the recognised way of taking possession of an animal, this may only be so when there is no one riding on it.

(8) And causing the animal to move is the correct method of acquiring it.

(9) Rab Judah thought that it would be possible to reconstruct Samuel's decision from the view expressed by Samuel in the following passage.

(10) And thus transgresses the Biblical prohibition of Deut. XXII, 9-11.

(11) Really 39 lashes — the penalty inflicted upon one who deliberately transgresses a Biblical prohibition. Cf. Deut. XXV, 3, and Mak. 13 and 22.

(12) As he is not guilty of any action in regard to the driving of the animals, v. Kil. VIII, 3.

(13) As the decision of the majority of the Sages must be accepted, Samuel ascribes the decision which he favours, viz., that sitting in the waggon is of no consequence, to the anonymous Sages, not to R. Meir. Riding an animal (without moving it) would be the same as sitting in the waggon attached to the animal (without driving it).

(14) R. Joseph spoke as if he himself had advanced the argument that removed the doubt regarding Samuel's decision.

(15) I.e., in the case of a found animal. It is only by pulling the animal and causing it to move (even if it only moves one fore-leg and one hind-leg) that the finder can take possession of the animal. It is different with a bought animal. Cf. Kid., 22b and 25b.

(16) Of the argument advanced by R. Joseph, of Abaye's reply, and of R. Joseph's rejoinder. According to this version R. Joseph did not speak in the name of Rab Judah when he said, ‘Let us look into the matter,’ etc., but gave his own view, which Abaye challenged.

(17) The property of a proselyte who dies without jewish issue is regarded in Jewish law as ownerless, which anyone may acquire.

(18) Who is of the opinion that even a person that sits in a waggon drawn by an ox and an ass has committed an offence, and who would thus regard ‘sitting’ as a legitimate way of acquiring an animal. The Mishnah would thus express the view of our Tanna only, and, as a minority decision, it would not be accepted.

(19) Who attach no importance to ‘sitting’ but who nevertheless attach importance to ‘riding’, and they let us know in the Mishnah that ‘riding’ is a legitimate way of acquiring an animal.

(20) Then how could Rab Judah derive a decision regarding the validity of ‘riding’ from the decision regarding ‘sitting’?

(21) He spurs it on with his feet and makes it move, so that apart from ‘riding’ there is the recognised method of acquiring an animal by making it move.

(22) Then why does the Mishnah say: ‘or one rides, and the other leads it’? As this distinction would have no significance, why not say ‘or if both lead it’?

(23) Although ‘riding’ is a form of ‘leading’ it was necessary to say ‘or one rides, and the other leads it’ and thus to indicate that the two actions are equally good, as otherwise one might regard ‘riding’ as more important and award the animal to him who claims to have acquired it by riding on it.

Talmud - Mas. Baba Metzia 9a

they acquired it by this method. R. Judah says: One never acquires a camel except by pulling it, and [one never acquires] an ass [except by] leading it.[1] In any case it is taught [here]: ‘or if one was pulling, and the other was leading,’ [from which we may infer that] pulling and leading are [legitimate methods of acquiring an animal], but not riding? — The same law applies also to riding, but the reason why ‘pulling’ and ‘leading’ is given here is [that it was desired] to exclude the view of R. Judah, who says, ‘one never acquires a camel except by pulling it, and [one never acquires] an ass [except by] leading it.’ We are thus informed that even if [the methods are] reversed they [the animals] are also legitimately acquired.[2] But if so,[3] let [the Tanna] combine them and teach: ‘If two persons were pulling and leading either a camel or an ass’? — There is one side which [prevents the combination, as one of the two actions mentioned] is invalid [in the case of one of the animals]:[4] some say, it is [the act of] pulling [in the case of] an ass, and others say, it is [the act of] leading [in the case of] a camel.[5] There are some who construe the objection [to the validity of riding as a means of acquiring an animal] from the conclusion [of the quoted passage]: ‘They acquire it by this method.’[6] What are [the words] ‘by this method’ intended to exclude? [Are they] not [intended] to exclude riding? — No. [They are intended] to exclude the reversed [methods].[7] But if so, this view is identical with that of R. Judah? — There is a difference between them [in so far as according to the first Tanna] there is only one side which is invalid:[8] some say, it is [the act of] pulling [in the case of] an ass, and others say, it is [the act of] leading [in the case of] a camel.

Come and hear: If one rides on an ass, and another holds the reins,[9] one acquires the ass, and the other acquires the reins. This proves that one acquires [an animal] by means of riding? — Here also [it is understood that the rider] drives it with his feet. But if so let the rider also acquire the reins?[10] — Say: one acquires the ass and half of the reins, and the other acquires half of the reins. But [it is argued] the rider rightly acquires [his part] seeing that a rational person lifted up for him [the other end of the reins from the ground], but he who holds the reins — how does he acquire [his part]?[11] —

Say: One acquires the ass and [nearly] all of the reins, and the other acquires what he holds in his hand.[12] But how is this? Even if you say that if a man lifts up a found object for his neighbour the neighbour acquires it,it could only apply to [a case] where he lifted it up on behalf of his neighbour, but this one lifted up [one end of the reins] on his own behalf: if he himself does not acquire it [by this action], how is he to enable others to acquire it? — Said R. Ashi: The one acquires the ass with the halter, and the other acquires what he holds in his hand, but the rest [of the reins] neither of them acquires.[13] R. Abbahu said: In reality we may leave it as taught [at first].[14] [and] the reason is that he [who holds the reins] can pull them violently and bring [the other end also] to himself.[15] But R. Abbahu's view is a mistake: for if you do not say so, [how would you decide in a case where] one half of the garment lies on the ground and the other half [rests] upon a pillar, and one person comes and lifts up the half from the ground, while another person comes and lifts up the half from the pillar — will you maintain here also that the first one acquires it but the last one does not acquire it, for the reason that [the first one] can pull it violently and bring [the other half also] to himself?[16] [We must] therefore [say that] the view of R. Abbahu is a mistake.[17]

Come and hear: R. Eliezer says: One who rides [on a found animal] in the country, or one who leads [a found animal] in the city, acquires it![18] — Here also the rider drives [the animal] with his feet.[19] But if so, it is the same as ‘leading’? — There are two ways of ‘leading’.[20] But if so, why does not he who rides [on an animal] in the city acquire it? — R. Kahana said: It is because people are not in the habit of riding in a city.[21] R. Ashi then said to R. Kahana: According to this, he who picks Up a purse on a Sabbath should not acquire it either, seeing that people are not in the habit of picking up a purse on a Sabbath?[22] But in fact he does acquire [the purse] because [we say:] What he has done is done;[23] so here also [we ought to say]: What he has done is done, and he acquires [the animal by riding on it in the city]! — It must therefore be that we deal here with [a case of] buying and selling, where he says to him:[24] ‘Acquire it in the way people usually acquire [a bought article]’,[25]

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(1) [Camels are usually tugged at the halter; asses are driven from behind.]

(2) I.e., that leading is valid even in the case of a camel, and that pulling is valid also in the case of an ass.

(3) If there is no distinction between the mode of acquiring a camel and that of acquiring an ass, there is no need to state the two cases separately.

(4) Therefore the Tanna could not adopt the phrasing first suggested, and he had to say: ‘If two persons were pulling a camel or leading an ass, or if one was pulling and one was leading,’ viz., the animal which can be acquired by either method, — but this would not apply to the other animal, which could only be acquired by one of the methods.

(5) Some of the Rabbis thought that an ass could not be acquired by pulling (while a camel could be acquired either by pulling or by leading), and others thought that a camel could not be acquired by leading (while an ass could be acquired either by leading or by pulling).

(6) This was at first understood to mean that both the camel and the ass could be acquired by either method.

(7) I.e., pulling in the case of an ass, and leading, in the case of a camel.

(8) According to R. Judah pulling is applicable to a camel only, and leading is applicable to an ass only, while according to the first Tanna one of the animals can be acquired by either method.

(9) But does not lead or drive the animal.

(10) If the rider has acquired the ass legitimately, the reins should also go to him, as they are attached to the ass and are intended to serve as an ornament for the animal.

(11) Seeing that the other end is attached to the ass and has not been lifted up by the person to whom the reins are awarded, and seeing also that an ownerless object can be acquired only by one who removes the whole of it, how can the person that holds the reins attached to the ass be said to have acquired them?

(12) For the part that he holds in his hand has been entirely lifted by him.

(13) And if a third person were to come and appropriate it, it would be his.

(14) Viz., one acquires the ass, and the other the reins, including the halter.

(15) The person that holds the other end of the reins could, by violent pulling, remove also the end that is attached to the head of the ass, as owing to the elevated position of the ass's head it would be easy to pull off the halter with the reins by one sharp tug.

(16) If a distinction were to be made between cases on the ground that the position of the other end, or the other half, of the found object might facilitate its removal by the person that holds the first end or first half, then if a garment is found one half of which rests on a pillar, or on some other elevation that would facilitate the removal of the whole garment by one strong pull on the part of the person that has seized the low-lying end, the law of our Mishnah which divides the garment between the two claimants should not apply, and the first claimant (who seized the low-lying end of the garment) should receive the whole garment. But the law recognises no such distinction. Hence R. Abbahu is mistaken in the view he advances

(17) The word used in describing R. Abbahu's error occurs in several places in the Talmud. It is regarded as a courteous substitute for other terms which might be used in refuting wrong decisions, but which would appear derogatory to the dignity of the Rabbis who committed the error. The term is associated with the word ברותא , meaning something external, which does not fit in, and which is therefore rejected. In other places, however, (such as Pes. 11a; B.B. 145a) the rendering is בדותא , an invention, an unfounded assertion.

(18) This would at least prove that riding is a legitimate method of acquiring an animal, even though riding in a city is excluded (for the reason given below).

(19) V. supra p. 44, n. 3.

(20) V. ibid. n. 5.

(21) It is regarded as unbecoming to ride in the streets of a town.

(22) As it is improper to pick it up and carry it away on a Sabbath.

(23) Even if the action is improper, it has legal validity.

(24) I.e., the seller to the buyer.

(25) And as long as the buyer takes possession of the animal in a manner which is not unusual, he acquires it legally.

Talmud - Mas. Baba Metzia 9b

so that if [the buyer rides on the animal in] the open street[1] he acquires it, or if he is an important personage he acquires it,[2] or if [the buyer] is a woman she acquires it,[3] or if [the buyer] is a mean person[4] he acquires it.

R. Eleazar inquired: If one says to another, ‘Pull this animal along so that you may acquire the vessels that are [placed] upon it,’[5] what is the law? [But, it is at once objected, by saying], ‘so that you may acquire;’ does he really tell him, ‘Acquire’?[6] [The question must] therefore [be put this way]: [If one says to another,] ‘Pull this animal along and acquire the vessels that are [placed] upon it,’ what is [the law]? Does the pulling of the animal enable him to acquire the vessels or not? — Said Raba: [Even] if he says to him, ‘Acquire the animal and the vessels [at the same time],’ does he then acquire the vessels?[7] Is not the animal like a moving courtyard? And a moving courtyard does not enable [its owner] to acquire [the objects placed in it]![8] And if you should say [that he acquires them] when it stands still,[9] [then it would be objected:] Is it not [the law] that whatever does not acquire while in motion, does not acquire even while standing still or at rest? [It must be admitted, however, that] the [above] law obtains when [the animal] is tied.[10]

R. Papa and R. Huna said to Raba: According to this,[11] if one sails on a boat, and fish jump and fall into the boat, [do we] then also [say] that [the boat] is [like] a ‘moving courtyard’ and it does not enable [its owner] to acquire [the objects placed in it]? — He [Raba] answered them: The boat is really at rest, only the water moves it along.

Rabina said to R. Ashi: According to this, if a married woman walks in a public street, and the husband throws a bill of divorcement into her lap or into her basket,[12] [do we] then also [say] that she is not divorced?[13] — He answered him: The basket is really at rest, and she walks underneath.[14]

MISHNAH. IF A MAN, RIDING ON AN ANIMAL, SEES A LOST ARTICLE AND SAYS TO HIS NEIGHBOUR: ‘GIVE IT TO ME’; THE LATTER] TAKES IT UP AND SAYS: ‘I

ACQUIRED IT [FOR MYSELF].' — [THEN] IT IS HIS. [BUT] IF AFTER GIVING IT TO HIM, THAT PERSON SAYS: 'I ACQUIRED IT FIRST', THERE IS NOTHING IN WHAT HE SAYS.[15]

GEMARA. We have learned elsewhere:[16] If one gleaned the corner of a field[17] and said, 'This is for that poor person.' R. Eliezer says: he conferred possession [of the gleaning] on that person.[18] But the Sages say: He must give it to the first poor person that comes along. 'Ulla said in the name of R. Joshua b. Levi: The difference of opinion [between R. Eliezer and the Sages] concerns [a case where] a rich person [gleaned] for a poor person. R. Eliezer is of the opinion [that] [i] since, if he had wished, he could have declared his possessions public property, so that he would have become a poor man [himself] and would have been entitled [to the gleanings of the corner], he is entitled [to them] even now, and [ii] since he might thus take possession [of them] for himself,[19] he could also confer possession [of them] upon his neighbour. But [the Sages] are of the opinion [that] we can use the Since argument once but not twice.[20] But [in a case where] a poor person [gleaned] for [another] poor person all are of the opinion that he could confer possession [of the gleanings] upon that person, for since he could take possession [of them] for himself he could also confer possession [of them] upon his neighbour.[21]

R. Nahman said to 'Ulla: And why not say, Master, that the difference of opinion [between R. Eliezer and the Rabbis] concerns [even a case where] a poor person [gleaned] for a poor person. — seeing that in regard to a found object all are [in the same legal position as the] poor are in regard [to the corner of the field]?[22] And we learned: IF ONE, RIDING ON AN ANIMAL, SEES A LOST ARTICLE AND SAYS TO HIS NEIGHBOUR: 'GIVE IT TO ME'; THE LATTER TAKES IT UP AND SAYS: 'I ACQUIRED IT [FOR MYSELF].' — [THEN] IT IS HIS. Now, it is all correct if you say that the difference of opinion [between R. Eliezer and the Rabbis] concerns [even a case where] a poor person [gleaned] for a poor person.[23] [for]

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(1) Where it is usual to ride on a bought animal, instead of leading it, in view of the possibility of passers-by intervening between the animal and the person that leads it.

(2) For it is usual for an important person to ride on an animal even in a side-street where there are no people about, as leading an animal by the reins is undignified.

(3) A woman is, as a rule, not strong enough to prevent the animal from breaking loose. She does not, therefore, usually lead it.

(4) A person that has no dignity will ride on an animal in any circumstances, whether it is regarded as proper for him to do so or not, but the ordinary person, whose standing is neither too high nor too low, will not, as a rule, ride on an animal in town in a quiet street. In such circumstances, riding would not be a legitimate way of acquiring the animal if the buyer has been told to acquire it 'in the usual manner'.

(5) The speaker has sold the vessels to the other, but he has not sold him the animal.

(6) I.e., the words 'so that you may acquire', spoken by the seller, do not convey the direct authorisation which the buyer must receive before he can really acquire the vessels.

(7) Raba assumes that R. Eleazar asks his question regarding the vessels placed on the animal because he has in mind a case where the animal itself has not been sold, and he concludes from this that, where the animal has been sold with the vessels, R. Eleazar would be sure that the buyer would acquire the vessels simultaneously with the animal, as he pulls it along, because the animal would then be regarded in the same light as his courtyard, which enables the owner to acquire whatever is placed in it. Raba then objects that the moving animal, like anything else on the move, does not convey to the owner possession of the articles placed upon it.

(8) The original law regarding the utilisation of a person's premises for the purpose of acquiring the objects placed within them only applies to fixed premises; cf. Git. 77a.

(9) I.e., after it has been pulled along by the buyer, and has thus been acquired by him, the animal comes to a standstill, and it may then be regarded as a 'fixed courtyard'.

(10) As the animal is then unable to move, it is rightly regarded as a 'fixed courtyard'.

(11) I.e., according to your view that a 'moving courtyard' does not enable its owner to acquire the objects placed therin,

(12) The basket which women used to carry on their heads, and which served the purpose of a work-basket.

(13) The Mishnah in Git, 77a makes it clear that in such circumstances the wife is divorced.
(14) The basket is therefore like a ‘fixed courtyard’.
(15) For as soon as he handed over the found object to that person it became the latter's property, no matter whether the former first acquired it for himself or not, and his subsequent declaration is of no avail.
(16) Pe'ah. IV, 9; Cf. Git. 113.
(17) V. Lev. XIX, 9.
(18) The gleaner of the corner of the field, who according to R. Eliezer may confer possession of the gleanings upon a poor individual, would have to be a stranger, not the owner of the field. For the owner, even if he is poor himself, has no right to the gleanings of the corners of his field (cf. Hul., 131a), and he could not therefore acquire it for others. As the argument ‘Since (Miggo) he can take possession of it for himself he may also confer possession of it upon someone else’ could not in this case be used, R. Eliezer would also say that the other poor person is not entitled to the gleanings to the exclusion of anyone else.
(19) I.e., if he had, in the stated circumstances, desired to acquire the gleanings, he could have legally made them his own.
(20) Only one miggo can be applied to a case, but not two miggos. In this case we would first have to say: miggo (since) a poor man can acquire the gleanings for himself he can also acquire them for a poor neighbour; and then we would have to say: miggo (since) if he wished to renounce his property he could acquire the status of a poor man, he may be given such status even if he is rich.
(21) The one miggo would be accepted by all.
(22) Just as every poor person has a right to glean the corners of a field, so every person who finds an object has a right to pick it up and acquire it.
(23) And the Rabbis who differ from R. Eliezer would hold the view that although we may say, in the case of two persons picking up together a found object that each one acquires it for the other at the same time as he acquires it for himself (v. supra p. 37), yet in this case they would say that one poor man cannot acquire the gleanings for the other poor man. For in the case of the found object the argument is: ‘Since (Miggo) he takes possession of it for himself, he may also take possession of it for his neighbour.’ But in the case of the gleanings the argument would have to be: ‘Since (Miggo), if he had wished, he could have taken possession of it for himself, he may also take possession of it for his neighbour’ — and such an argument the Rabbis would not adopt. It would only be a potential miggo, which the Rabbis would not regard as valid.

Talmud - Mas. Baba Metzia 10a

our Mishnah would then be in accord with the Rabbis.[1] But if you say that the difference of opinion concerns [a case where] a rich person [gleaned] for a poor person, but that all agree [in the case] of a poor person [gleaning] for a poor person that one transfers possession upon the other, with whose view is our Mishnah in accord? It agrees neither [with the view of the Rabbis nor with [that of] R. Eliezer![2] — He [‘Ulla] answered him: Our Mishnah speaks of [a case] where [the person who picked up the article] said: [I took possession of it] first.[3] This also stands to reason! Since the second clause teaches: IF AFTER GIVING IT TO HIM, THAT PERSON SAYS: ‘I ACQUIRED IT FIRST,’ THERE IS NOTHING IN WHAT HE SAYS, what need is there to state FIRST in this second clause? Surely even if he did not say FIRST [it would be assumed that] he meant ‘FIRST’?[4] It must therefore be concluded that it was intended to let us know that in the first clause also he stated ‘first’.[5] And the other?[6] The wording of the second clause is intended to throw light on the first: In the second case he said ‘FIRST’ but in the first case he did not say ‘first’.[7]

Both R. Nahman and R. Hisda Say: If a man lifts up a found object for his neighbour, the neighbour does not acquire it.[8] For what reason? Because it is like one who seizes [a debtor's property] on behalf of a creditor, thereby causing loss to [the debtor's] other [creditors],[9] and one who seizes [a debtor's property] in behalf of a creditor, causing loss thereby to [the debtor's] other [creditors], does not acquire [the property].[10] Raba asked R. Nahman: [A Baraitha teaches:][11] A labourer's find belongs to himself. This decision only applies to a case where the employer said to the labourer: ‘Weed for me to-day’, [or] ‘Hoe for me to-day.’[12] But if he said to him: ‘Do work for me to-day.’ the labourer's find belongs to the employer![13] — He [R. Nahman] answered him: A labourer is different, as his hand is like the hand of his employer.[14] But does not Rab say: ‘The labourer may retract even in the middle of the day? — He [R. Nahman] answered him [again]: Yes, but as long as he does not retract [and he continues in the employment] he is like the hand of the employer. When he does retract [he can withdraw from the employment] for another reason,[15] for it is written: For unto me the children of Israel are servants; they are My servants[16] — but not servants to servants.[17]

R. Hiyya b. Abba said in the name of R. Johanan: If one lifts up a found object for his neighbour, the neighbour acquires it. And if you will say: Our Mishnah [differs]![18] — [it is because our Mishnah deals with a case] in which he said, ‘Give me it,’ and did not say, ‘Acquire it for me.’[19]

MISHNAH. IF ONE SEES AN OWNERLESS OBJECT AND FALLS UPON IT, AND ANOTHER PERSON COMES AND SEIZES IT, HE WHO HAS SEIZED IT IS ENTITLED TO ITS POSSESSION.

GEMARA. Resh Lakish said in the name of Abba Kohen Bardala: A man's four cubits acquire [property] for him everywhere. For what reason? — The Rabbis instituted [this law] in order that people might not be led to quarrelling.

Abaye said: R. Hiyya b. Joseph raised an objection from [the tractate of] Pe'ah. Raba said: R. Jacob b. Idi raised an objection from the [tractate of] Nezikin.[20] Abaye said: R. Hiyya b. Joseph raised an objection from [the tractate of] Pe'ah:[21] If he [a poor man] takes part [of the gleanings] of the corner [of a field] and throws it over the rest [of the gleanings],[22] he cannot claim anything. If he falls Upon it, [or if] he spreads his garment upon it, he may be removed from it. And the same [law applies] to a forgotten sheaf.[23] Now if you say that a man's four cubits acquire [property] for him everywhere, let the four cubits [of the poor man] acquire for him [the gleanings on which he fell]! — Here we deal with a case where the man did not say. ‘I wish to acquire it.’ But if the Rabbis instituted [this law], what does it matter if he did not say, [‘I wish to acquire it’]? — Since he fell [upon it], he made it clear that he wished to acquire it by falling [upon it][24] but did not wish to acquire it by means of [his four cubits].

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(1) [Who disregard the potential miggo and do not admit the argument. ‘Since the person who picked up the article for the rider could, if he had wished, have picked it up for himself, he may also confer possession of it upon his neighbour.’ The latter therefore can rightly retain the article if he wishes to do so. At this stage the Gemara presumes that he had originally picked up the article for the rider, but that he subsequently refused to hand it over to him.]

(2) For it would appear from our Mishnah that one cannot ordinarily acquire an object for someone else, and the only way in which one can confer upon the other the right of possession is by handing the object over to him.

(3) The reason why the rider cannot claim the found object unless it has been handed over to him is that the other person claims to have picked it up straight away for himself. But if the other person had picked it up for the rider it would have belonged to the latter straight away, for we say that since, if he had wished, he could have taken possession of it for himself, he may also take possession of it for his neighbour.

(4) When he claims the article after handing it over, he must surely mean that he acquired it first for himself. There would be no sense in his claim that he acquired it for himself after he disposed of it to the rider,

(5) I.e., that the person who picked it up maintained that he took possession of it for himself right at the beginning. And the last clause teaches us that even if he claims to have picked it up for himself straightaway, his plea is not accepted, for by handing over the article to the rider he made it clear that he originally meant to acquire it for that person.

(6) R. Nahman — what is his view regarding the use of the word FIRST in the second clause?

(7) The use of the word FIRST in the second clause makes it clear that it was intentionally excluded from the first clause. [For there, even if he did not say ‘first’, but picked it up for the rider, the rider would still have no claim to it until it had been delivered to him.]

(8) Cf. Bezah, 39b.

(9) The person who lifts up a found object for someone else does not benefit himself, and he deprives other people of the chance of finding and acquiring the object. He is therefore like a person who comes and seizes a debtor's property for the benefit of a creditor, thus depriving other creditors of the chance of recovering their debt.

(10) As the creditor in whose behalf he seized the property had not authorised this man to act on his (the creditor's) behalf his intervention is illegal and constitutes an infringement of the rights of the other creditors (Rashi). [According to Tosaf, the same law would apply even where he had been authorized by the creditor. V. Keth. 84b; Git., 113.]

(11) V. infra 12b; 118a,

(12) As the work which the labourer is to do for the employer is specified it cannot include anything else, not even finding and acquiring an ownerless object. If the labourer has spent any time in finding and acquiring the object, the employer may deduct payment for the time lost, but he cannot claim the object.

(13) Since the work is not specified it includes anything that the labourer may do during the time of his employment, so that the object that he finds and acquires during that time belongs to the employer. This would show that when one lifts up a found object for his neighbour the neighbour acquires it — in contradiction to R. Nahman and R. Hisda.

(14) The employer's right to the object found by his employee has nothing to do with the question whether one may acquire an object for a neighbour, as in the case of the employer the reason why he is entitled to the object found by his employee is that during the time of the employment the employee belongs to the employer, and anything that the former acquires during that time belongs to the latter.

(15) The fact that the labourer may terminate the employment any time he likes does not imply that he does not belong to the employer while the engagement lasts and that he can acquire a found object for himself during that time. There is another reason for the right conceded to the employee to terminate his engagement whenever he likes.

(16) Lev, XXV, 55.

(17) The freedom of the individual ought not to be jeopardised by an engagement which is to bind the employee to work for the employer against his own inclination, as if he were the employer's chattel, Cf. B.K. 116b.

(18) In that it says that the person who picked up the object and said, ‘I took possession of it,’ acquired it for himself, even though he acted for the rider who told him to give it to him.

(19) Had the rider said: ‘Acquire it for me by picking it up on my behalf’ the object would have belonged to the rider. By saying: ‘Give it to me,’ the rider made it clear that the found object was to become his only when it was handed over to him. The other person is therefore entitled to keep the object.

(20) The three ‘Babas’ (‘Gates’: Baba Kamma, Baba Mezia, and Baba Bathra), formed originally one tractate, which was called ‘Nezikin’.

(21) Ch. IV, Mishnah 3.

(22) In order to acquire it by this act.

(23) V. Deut. XXIV, 19.

(24) He preferred to acquire the gleanings by the act of falling upon them, believing that this would be legally more effective than the claims of the four cubits sanctioned by the Rabbis, And as he did not intend to exercise the right afforded him as regards the four cubits, the right lapsed, and there was nothing in his action of throwing himself upon the gleanings to entitle him to claim their possession.

Talmud - Mas. Baba Metzia 10b

R. Papa said: The Rabbis instituted [the law of the] four cubits only in a public place.[1] but the Rabbis did not institute [such a law] in a private person's field.[2] And although the Divine Law gave [the poor person] a right therein, it gave him the right to walk in it and glean its corners, but the Divine Law did not give him the right to regard it as his ground.[3] Raba said: R. Jacob b. Idi raised an objection from [the tractate of] Nezikin: IF ONE SEES AN OWNERLESS OBJECT AND FALLS UPON IT, AND ANOTHER PERSON COMES AND SEIZES IT, HE WHO SEIZED IT IS ENTITLED TO ITS POSSESSION — now if you will say [that] the four cubits of a person acquire for him [an ownerless object] everywhere, let his four cubits acquire it for him [in this case also]? — Here we deal [with a case] where he did not say, ‘I wish to acquire it.’ But if the Rabbis instituted [the right of the four cubits], what does it matter if he did not say it? — As he fell [upon the object] he made it clear that he wished to acquire it by falling [on it] but did not wish to acquire it by means of the four cubits. R. Shesheth said: The Rabbis instituted [the law of the four cubits] in regard to a side-street, which is not crowded, [but] in regard to a high road, which may be crowded, the Rabbis did not institute [this law]. But does it not say ‘everywhere’? — [The term] ‘everywhere’ is to include the [ground on both] sides of the high road.[4]

Resh Lakish said further in the name of Abba Kohen Bardala: A girl who is [still] a minor[5] has neither the right [to acquire, an object by means] of her ‘ground’[6] nor the right [to acquire an object by means] of her ‘four cubits’.[7] But R. Johanan said in the name of R. Jannai: She has the right, both in regard to her ground and in regard to her four cubits. Wherein do they differ? — One[8] is of the opinion that [the scriptural term] ‘ground’[9] is included in her ‘hand’; just as her ‘hand’ acts for her, so her ‘ground’ also acts for her. But the other[10] is of the opinion that ‘ground’ [acts] In the capacity of ‘agent’;[11] and as she has not the power [while she is a minor] to appoint an agent to act for her[12] neither can her ‘ground’ act for her. But is there anyone who says that ‘ground’ is regarded as ‘agent’? Was it not taught: [If the theft be found at all] in his hand [alive];[13] — [from this] I would gather [that the law applies] only [when it is found in] ‘his hand’: how do we know that the same law applies [when the theft is found on] his roof, in his court-yard and in his enclosure?[14] Because we are told: [If the theft] ‘be found at all’,[15] [which means]: ‘wherever [it may be found].’[16] Now if your view is that ‘ground’ [acts] because it is regarded as agent, then we must conclude [that there] is an agent for a sinful act,[17] whereas it is held by us[18] that there is no agent for a sinful act?[19] — Rabina answered: We say ‘there is no agent for a sinful act’ only when the agent is subject to the law prohibiting the act, but in regard to [a thief's] ‘ground’, which cannot be said to be subject to the law prohibiting the act [of stealing] the responsibility [does not lie with the agent, but it] lies with the originator [of the deed]. But if so — what if one says to a woman or a slave: ‘Go and steal for me,’ seeing that they are not subject to the law prohibiting the act [of stealing].[20] does the responsibility in this case also lie with the originator [of the deed]? — I will tell you: A woman and a slave are subject to the law prohibiting [theft], only they are temporarily unable to pay,[21] as we learnt: When the woman has been divorced and the slave set free, they are obliged to pay.[22] R. Sama said: When do we say, ‘there is no agent for a sinful act’? — [Only in a case] where [the agent is at liberty to choose: to] do it if he wishes, and not do it if he does not wish. But in regard to a ‘ground’ [where. e.g., a stolen animal is found], seeing that it has no will but must receive [what is deposited therein, the responsibility lies with the originator [e.g., of the theft]. Wherein do they differ?[23] — They differ [in the case where] a priest says to an Israelite: ‘Go and betroth for me a divorced woman’[24] or [where] a man says to a woman:[25] ‘Cut around the corners of the hair of a minor:’[26] according to the version which says that whenever [the agent has the choice to] do it if he wishes, and not to do it if he does not wish, the responsibility does not lie with the originator; here also he has the choice to do if he wishes and not to do it if he does not wish, [and therefore] the responsibility does not lie with the originator. But according to the version which says that whenever the agent is not subject to the law prohibiting the act, the responsibility lies with the originator, in these [cases] also, seeing that [the agents] are not subject to the laws prohibiting the acts, the responsibility lies with the originators. But is there anyone who says that ‘ground’ is not included in [the term] ‘hand’? Has it not been taught: [And he shall give it] in her hand[27] — from this I would learn only that ‘her hand’ acts for her. How do we know [that] her roof, her courtyard and her enclosed space [also act for her]? Because the Scriptural verse emphasises, ‘And he shall give’, [which implies that he may give it to her] anywhere.?[28] With regard to a divorce there is no difference of opinion [and all agree] that ‘ground’ is included in her ‘hand’. The difference of opinion exists only as regards a found object: One[29] is of the opinion that

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(1) Such as a high road, a public thoroughfare, or a lane, a side-street and an alley adjoining an open space — places that are open to everybody.

(2) Where, having regard to the limited space, it is impossible to assign to each person four cubits.

(3) For the purpose of acquiring an object situate on that ground.

(4) But not side-streets and alleys.

(5) Cf. Keth. 39a.

(6) Lit. ‘Court’.
(7) Therefore, if she is married, the husband cannot divorce her by throwing the bill of divorcement into her court or into the space constituting her four cubits in a public place, although in the case of a wife who has attained her majority (cf. Keth. 39a) this would be a valid way of effecting her divorce (cf. Git. 78a).
(8) R. Johanan.
(9) Used in Deut, XXIV, 1: that he writeth her a bill of divorcement, and giveth it in her hand. cf. Git. 77b. That the term ‘hand’ means also ‘possession’ may be gathered from Num, XXI, 26.
(10) Resh Lakish.
(11) Not because it is like her ‘hand’ and thus ‘acts’ automatically, but because the ground stands to her in the relation of a messenger to the sender, or of an agent to the originator of a deed, for which a free will or a sense of legal responsibility is required. A minor cannot therefore be represented by such an agent. The right of an adult person, whether man or woman, to act through a messenger, or agent, as regards marriage and divorce, is derived from Deut, XXIV, 1. v. Kid. 41a.
(12) Only a ‘man’ and a ‘woman’ can appoint agents to act for them, but not a minor. Cf. Kid. 42a.
(13) Ex, XXII, 3.
(14) I.e., that one is guilty of theft if an animal walks into an enclosed space belonging to him, and he locks it in.
(15) The emphatic term המצא תמצא is taken to indicate: ‘wherever it may be found’.
(16) Cf. infra 56b; B.K. 65a; Git, 77a.
(17) That the responsibility for the act rest upon the principal originator, who instructed the agent, and not upon the agent who carried out the instruction. The sinful act in this case is the act of stealing the animal.
(18) V. Kid. 42b.
(19) I.e., if one commits an illegal act on the instruction of someone else the guilt rests upon the performer of the act, and not upon the one who gave the instruction, as each person is bound to obey the law given by the Supreme Master, and one has no right to carry out the instruction of another person if it is contrary to the divine Law.
(20) At least so far as the penalties involved are concerned, as they are unable to pay. Cf. B.K. 87a.
(21) The married woman cannot pay because she cannot dispose of her property without her husband's consent, and the slave because everything he has belongs to his master,
(22) For an injury they caused in their previous state, while they were unable to pay (B.K. 87a).
(23) What practical difference is there in the views expressed by Rabina and R. Sama?
(24) A priest may not take to wife a divorced woman. (Lev. XXI, 7.) Betrothal marks the two parties concerned husband and wife.
(25) A woman is not subject to the prohibition of rounding the corners of the head (Lev. XIX, 27) as she is not subject to the prohibition contained in the second half of the same Biblical verse, neither shalt thou mar the corners of thy beard. Cf. Kid. 35b; Naz. 57b.
(26) A minor is mentioned for the reason that an adult will not allow anyone to round the corners of his head, as the Biblical prohibition applies to ‘rounding’ as well as to ‘being rounded’.
(27) Deut. XXIV, 3.
(28) The term ונתן , ‘and he shall give’ is taken as having no exclusive reference to the following word בידה (‘in her hand’). Had the emphasis been restricted to ‘in her hand’ the term used would have been ובידה יתנהו (Rashi). The inference therefore is that any place belonging to her, i.e. her ‘ground’, is as good as her ‘hand’, and not because the place is her ‘agent’, for the fact that the woman can appoint an agent in connection with either marriage or divorce is already indicated in this verse by the word ושלחה ‘he shall send her’ (cf. Kid., 41a), and need not be indicated again by ונתן . Git. 77a.
(29) R. Johanan.

Talmud - Mas. Baba Metzia 11a

we derive [the law regarding] a found object from [the law regarding] divorce,[1] and the other[2] is of the opinion that we do not derive [the law regarding] a found object from [the law regarding] divorce.[3] And if you wish I will say: As regards a female minor there is no difference of opinion [and all agree] that we derive [the law regarding] a found object from [the law regarding] divorce, but here they differ regarding a male minor: One[4] says: We derive [the law regarding] a male minor[5] from [the law regarding] a female minor, and the other[6] says: We do not derive [the law regarding] a male minor from [the law regarding a female minor]. And if you wish I will say: One deals with one case[7] and the other deals with another case, and they do not really differ [as regards the law].

MISHNAH. IF A MAN SEES PEOPLE RUNNING AFTER A LOST ARTICLE [E.G.,] AFTER AN INJURED STAG [OR] AFTER UNFLEDGED PIGEONS,[8] AND SAYS: ‘MY FIELD ACQUIRES POSSESSION FOR ME’,[9] IT DOES ACQUIRE POSSESSION FOR HIM.[10] BUT IF THE STAG RUNS NORMALLY, OR THE PIGEONS FLY [NATURALLY], AND HE SAYS: ‘MY FIELD ACQUIRES POSSESSION FOR ME,’ THERE IS NOTHING IN WHAT HE SAYS.[11]

GEMARA. Rab Judah said in the name of Samuel: This[12] is, provided he is present by the side of his field. But ought not his field to acquire it for him [in any case], seeing that R. Jose, son of R. Hanina, said:[13] A man's ‘ground’ acquires [property] for him [even] without his knowledge? — These words apply only to a [piece of] ‘ground’ that is guarded,[14] but when [the piece] of ‘ground’ is not guarded, [then the law is that] if [the owner] is present by the side of his field he does [acquire the property], [but] if [he is] not [present] he does not [acquire it]. And whence do you derive that when [the piece of] ‘ground’ is not guarded [the owner] does [acquire the property] if he is present by the side of the field, [but that he] does not [acquire it] if [he is] not [present]? — From what was taught: If one stands in town and says, ‘I know that the sheaf which I have in the field has been forgotten by the labourers,[15] [and it is my wish that the sheaf] shall not be regarded as forgotten’,[16] I might think that it shall not [in any circumstances][17] be regarded as forgotten: the scriptural verse therefore tells us: And thou hast forgot a sheaf in the field [etc.][18] implying ‘only if thou hast forgotten it [while thou wast] in the field [does the law of the forgotten sheaf apply] and not [if thou hast forgotten it when thou hast returned] to town.’ Now, this seems self-contradictory. First you say: ‘I might think that it shall not be regarded as forgotten’ — from which it would appear that [in fact] it is regarded as forgotten; and then the Gemara[19] concludes: ‘Only if thou hast forgotten it [while thou wast] in the field [does the law of the forgotten sheaf apply] but not [if thou hast forgotten it when thou hast returned] to town’ — from which it would appear that [in the case discussed] it is not regarded as a forgotten [sheaf]. It must therefore be assumed that what is meant is this: In the field, [i.e.,] if it was forgotten at the outset, [while the owner was still in the field,] it must be regarded as [a] forgotten [sheaf], [but] if it was remembered [by the owner in the field] and was subsequently forgotten [by the labourers] it is not regarded as [a] forgotten [sheaf]. For what reason? Since he was standing near it [in the field, the field] acquires it for him. But [when the owner is again] in town, even if [the sheaf] was at first remembered [by him] and was forgotten later [by the labourers in the field], it must be regarded as [a] forgotten [sheaf].[20] For what reason? Because he is not there beside it, so that [the field] does not require possession [of the sheaf] for him. But how does it follow?[21] Perhaps it is a Biblical decree that [only that which is forgotten by the owner while he is] in the field shall be subject to the law of the forgotten sheaf, but that [when the owner is] in town [again] the sheaf is no more subject to that law?[22] The Scriptural verse says [further]: Thou shalt not go back to fetch it — this is to include the sheaf which has been forgotten [by the owner on his return] to town. But is not this needed to indicate that disregard of the law involves the transgression of a negative command?[23] — If that were so, the Scriptural verse would only have to say ‘Thou shalt not fetch it’. Why does it say: ‘Thou shalt not go back’? [Obviously] in order to include the sheaf which has been forgotten [by the owner on his return] to town. But is not this [additional phrase] still required for [the rule] which we have learned: That which is in front of him [who is engaged in reaping] is not [subject to the law of the] forgotten [sheaf]; that which is behind him is [subject to the law of the] forgotten [sheaf], as it is included in the prohibition: ‘Thou shalt not go back [to fetch it]’.[24] This is the general rule: All that can be included in the prohibition ‘Thou shalt not go back [to fetch it]’ is [subject to the law of the] forgotten [sheaf]; all that cannot be included in the prohibition ‘Thou shalt not go back [to fetch it]’ is not [subject to the law of the] forgotten [sheaf]?[25] — R. Ashi said: The Scriptural verse says: It shall be [for the stranger][26] etc., so as to include that which has been forgotten [by the owner when he is back] in town.

‘Ulla also said:[27] ‘This is, provided that he is present by the side of his field’. And Rabbah b. Bar Hanah said likewise: ‘This is, provided that he is present by the side of his field’. R. Abba placed before ‘Ulla the following objection: It happened once that Rabban Gamaliel and some elders were going in a ship.[28] Rabban Gamaliel then said: The tithe which I shall measure off [when I come home] is given [by me] to Joshua.[29]

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(1) That just as her ‘ground’ acts for her as regards a bill of divorcement it also acts for her as regards a found object.

(2) Resh Lakish.

(3) Divorce is a matter that has to do with the ritual part of the Law, while the claim to a found object is only a matter of money. In regard to the latter the deduction from Ex. XXII, 3, dealing with theft, to include ‘ground’ may be explained as an extension of the law of agency, i.e., the thief's ‘ground’ is treated as his, agent and it may be applied to other ‘money matters’. The Scriptural indication is however necessary in the case of theft, as otherwise we might have thought that a thief's premises do not act for him, because of the principle that ‘there is no agent for a sinful act’.

(4) R. Johanan.

(5) Which is not indicated anywhere in the Bible.

(6) Resh Lakish.

(7) Resh Lakish states the law regarding a found object — that it is not acquired by means of one's ‘ground’ — and R. Johanan states the law regarding a bill of divorcement — that it is acquired by means of one's ground. Or alternatively it could be said that one deals with the case of a male minor, and the other deals with the case of a female minor, and this accounts for the difference in their decision. It may thus be assumed that R. Johanan and Resh Lakish do not differ at all as regards the law as it applies to each case, and that they would both uphold each other's decision.

(8) The injured stag and the unfledged pigeon cannot move out of the field in which they are found, and will therefore remain there, unless someone takes them away. The field, in these circumstances, acts for the owner and acquires the animal or the birds for him, if the owner expresses his wish in this respect before the others have taken hold of these finds. (V. however, Tosaf a.l.)

(9) V. supra. 10b.

(10) They become his property, and the others have no right to take them away.

(11) As the animals or birds are not staying in the field his ‘ground’ cannot acquire them for him.

(12) The Mishnaic law that the field acquires for its owner the injured stag and the unfledged birds that are found there.

(13) B.K.. 493; infra 102a, 118a; Hul. 141b.

(14) As when it is surrounded by a fence.

(15) I placed the sheaf there so that the labourers might see it and bring it home.

(16) It shall not he subject to the law regarding a sheaf which has been forgotten in the field — the law given in Deut. XXIV, 19: When thou reapest thy harvest in thy field, and hast forgot a sheaf in the field, thou shalt not go back to fetch it etc.

(17) I.e., even if the owner himself forgot it subsequently.

(18) Deut. XXIV, 19.

(19) [MS.M. ‘Talmud’, v. infra p. 206, n. 6.]

(20) The argument of the Gemara would then be as follows: ‘I might think that it shall not be regarded as a forgotten sheaf, The Scriptural verse therefore tells us: And thou hast forgot a sheaf in the field etc., meaning thereby: Only when thou art in the field it is necessary that thou thyself shalt forget the sheaf in order to make it available for the stranger etc., but when thou hast returned to town it is not necessary that thou thyself shalt forget the sheaf: the forgetfulness of the labourers in the field has the same effect as thine own.

(21) That the meaning of the verse is as stated, and that the conclusion of the Baraitha is correct (Tosaf.).

(22) The emphasis in the verse would then be that the law of the forgotten sheaf only applies to בשדה (‘in the field’) but never to בעיר (‘in the town’).

(23) Carrying with it the penalty of thirty-nine lashes.

(24) This phrase is superfluous and thus serves as a basis for this deduction.

(25) Pe'ah VI, 4.

(26) Deut. ibid.

(27) ‘Ulla expressed the same view as Rab Judah expressed in the name of Samuel (v. p. 59. n. 9).

(28) Cf. Hor. (Sonc. ed) pp. 70f.

(29) Joshua b. Hananiah, who was a Levite and was entitled to receive the first tithe. (Cf. ‘Ar. 11b.) Rabban Gamaliel was afraid that if he waited till he returned home he would be too late to perform the duty of tithing for that year. [Or that the members of his household might make use of the produce on the assumption that he had set the tithe aside before his departure, incurring thereby the guilt of eating untithed produce]. According to the view of Rabbenu Tam (Tosaf. a.l. and Kid. 26b) this happened on the eve of the Passover festival of the fourth year, when all the tithe offerings had to be ‘put away’ (cf. Deut. XXVI, 12ff.)

Talmud - Mas. Baba Metzia 11b

and the place [where it lies] is leased to him [by me].[1] And the other tithe[2] which I shall measure off is given [by me] to Akiba b. Joseph[3] that he may acquire possession of it for the poor, and the place [where it lies] is leased to him [by me].[4] Now, were R. Joshua and R. Akiba standing by the side of the field of Rabban Gamaliel [when the latter made that declaration]?[5] — He [‘Ulla] then said to him [R. Abba]: This student seems to imagine that people do not study the law.[6] When he [R. Abba] came to Sura[7] he related to those [at the College]: This is what ‘Ulla said, and this is the objection that I placed before him. One of the Rabbis then answered him: Rabban Gamaliel made them acquire the movable property through the immovable property.[8] R. Zera accepted it. R. Abba did not accept it . Said Raba: He [R. Abba] did right in not accepting it: for had they not a ‘cloth’ by which to acquire from him [the tithes] as ‘exchange’?[9] [It must] therefore [be said that] the enjoyment of the right [to give the tithes to whom one likes][10] is not [regarded as something that has a] money [value] by which one could acquire [goods] as ‘exchange’. In the same way [it must be said that] the enjoyment of this right is not [regarded as something that has a] money [value] for the purpose of being acquired through immovable property.[11] But this is not so: In regard to the priestly perquisites[12] [the term] ‘giving’ is used in Scripture:[13] ‘Exchange’ is a commercial transaction; [whereas the acquisition of] movable property through immovable property is [a transaction to which] ‘giving’ [may be] legitimately [applied].[14] R. Papa says:[15] [In a case where there is] a person bestowing [upon the recipient] the right [to the property] it is different.[16] And whence do you derive this? From what we have learned [in our Mishnah]: ‘IF A MAN SEES PEOPLE RUNNING AFTER A LOST OBJECT’ etc. And [in regard to this] R. Jeremiah said in the name of R. Johanan: ‘This is, provided that [if] he runs after them and can overtake them.’[17] R. Jeremiah then asked: What is the law regarding a gift?[18] R. Abba b. Kahana approved [of the distinction implied in] this question, [and he answered: If the objects are given to the owner of the field, they become his] even if he runs after them, and cannot overtake them. For what reason? Is it not because [where there is] a person bestowing [upon the recipient] the right [to the property] it is different!

Said R. Shimi to R. Papa: Behold there is [the case of] a bill of divorcement [thrown by the husband into the wife's house or court-yard],[19] where there is a person bestowing upon the recipient the right to its possession[20] — and yet ‘Ulla said: ‘That is, provided that she is present in the vicinity of her house or her court-yard’! — [The case of] a bill of divorcement is different, as it may be given even against her will. But can it not be concluded [the other way] by means of a Kal wa-homer: If [in the case of] a bill of divorcement, which may be given against [the wife's] will, it is valid if she is standing by the side of her house or her court-yard, but not otherwise, how much more should this be so in the case of a gift, for which [the recipient's] consent [is necessary]? — Therefore R. Ashi said:[21]

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(1) This enabled Joshua to acquire the tithe without actually taking possession of it, as movable property may be acquired either by pulling it or having it placed within one's premises (v. supra 9b). According to Ma'as. Sh. V, 9 the leasing of the premises was confirmed by the immediate payment of a nominal rental by Joshua to R. Gamaliel.

(2) The tithe which had to be given to the poor in the third and sixth year after the Sabbatical year.

(3) Who held the office of almoner.

(4) Ma'as. Sh. V, 9.

(5) It is obvious that in this case the condition laid down by ‘Ulla and the other Rabbis could not have been fulfilled. The conclusion must therefore be drawn that a person's premises may acquire for him the objects placed therein even if he is not standing by the side of the premises.
(6) B.B. 84b.
(7) Cf. supra 6b.
(8) The leasing of the ground on which the tithes were lying enabled Joshua and Akiba to acquire the tithes, not because the ground acted for them as their ‘hand’ or ‘agent’, but because of the principle that ‘movable property, which cannot be pledged as security to a lender, may be acquired together with immovable property, which can be pledged as security to a lender,’ by means of the payment of the purchase price of the immovable property (v. Kid 26a). Rabban Gamaliel could therefore have leased to Joshua and Akiba any other piece of ground, with the same effect so far as the acquisition of the tithes is concerned. Even movable property which is received as a gift can be acquired in the same way. (Cf. loc. cit.)
(9) Heb. חליפין halipin; cf. Ruth. IV, 7. What need was there then for Joshua and Akiba to pay R. Gamaliel for the lease of the ground? Cf. supra p. 30. n. 3.
(10) The tithe offered by R. Gamaliel to Joshua and Akiba was not really the former's property as it belonged by law to the Levite poor. R. Gamaliel's right was limited to the choice of the person to whom the tithe was to be handed over. This right has no money value in the sense indicated to enable the recipient of the tithe to acquire it in association with a transaction of ‘exchange’.
(11) In the same way, and for the same reason, the tithe could not be acquired by means of the payment of the purchase price for immovable property. But it could be acquired in the way in which an ownerless object is acquired by one in whose premises it is placed, and for this reason the method employed by R. Gamaliel, as originally interpreted (by leasing his ground on which the tithe was lying), was correct.
(12) Including the portions due to the Levites and to the poor.
(13) Deut. XXVI, 12.
(14) ‘Giving’ precludes selling, and ‘exchange’ is a method of sale. But the acquisition of movable property, even when it is received as a gift in association with immovable property is legally valid, and it is not regarded as a sale. This method may therefore be employed in reference to tithes.
(15) R. Papa upholds the original version regarding R. Gamaliel's method of distributing the tithes by means of his ‘ground’.
(16) Literally: ‘Where another mind causes one to acquire them,’ i.e., where the recipient does not acquire (ownerless) goods by his own action, but has them conferred upon him by the owner, as in the case of R. Gamaliel. In such a case there is no need for the recipient to ‘be standing by the side of the field,’ as laid down by ‘Ulla and others in regard to the case in our Mishnah.
(17) The injured animal and immature birds are assumed to be able to move along slowly through the field, where they can be overtaken by the owner.
(18) If someone's animals or birds have landed in a strange field and their owner gives them to the owner of the field as a present, Must the owner be able to overtake them in order to be able to acquire them, or not?
(19) V. Git. 77b; and supra 10b.
(20) It is the husband's intention that the wife should take possession of the document, so that she may be divorced by it.
(21) R. Ashi acknowledges the validity of the arguments advanced by R. Shimi and R. Shesheth, and he gives a new reason for the distinction between a bill of divorcement and a gift. In both cases the ground on which the object is placed acts as the recipient's agent, whether the recipient is present or not. Where the recipient has no knowledge of the action, the agency is valid only if the action yields an advantage or benefit to the recipient. Where the action results in a disadvantage (loss or injury) to the recipient, it has no validity. Therefore, in the case of a gift, the recipient's ground acquires it for him, whether he is aware of it or not. But in the case of the bill of divorcement thrown into the wife's house or court-yard (against her will) the agency of the premises is not effective because the result would be a disadvantage to her, and in such a case the premises could only act for her if she is present and aware of what is happening, for then the premises would be regarded as ‘her hand’ (cf. supra 10b) and not merely as her agent. Therefore the divorce is not valid unless the woman was beside her premises when the bill was thrown.

Talmud - Mas. Baba Metzia 12a

[A person's] ‘ground’ [acts for him because] it is included in [the term] ‘hand’, and is no less effective than a [human] agency: In the case of a bill of divorcement, where the agency would work to her disadvantage, [we say that] one may not do anything to a person's disadvantage except when the person is present. But in the case of a gift, where the agency would work to the advantage [of the recipient, we say that] one may do something to a person's advantage when the person is absent.[1]

[To revert to] the above text: ‘IF A MAN SEES PEOPLE RUNNING AFTER A LOST ARTICLE etc. R. Jeremiah said in the name of R. Johanan: This is provided that if he runs after them he can reach them. R. Jeremiah asked: What [is the law] in [the case of] a gift? R. Abba b. Kahana approved of the [distinction implied in the] question [and answered]: ‘Even though if he runs after them and cannot reach them.’ Now, Raba asked:[2] If one throws [away] a purse through one door and it falls through another door,[3] what is the law? [Do we say that even] when a thing does not come to rest in the air it is regarded as being come to rest there,[4] or not? — R. Papa said to Raba, (and according to some R. Adda b. Mattena said to Raba, while according to others Rabina said to Raba): Is not this the same as [the case in] our Mishnah: IF A MAN SEES PEOPLE RUNNING AFTER A LOST ARTICLE [etc.]. and R. Jeremiah said in the name of R. Johanan: ‘This is, provided that if he runs after them he can reach them’, and R. Jeremiah asked: ‘What is the law in the case of a gift?’ and R. Abba b. Kahana approved of the [distinction implied in the] question [and answered]: ‘Even though if he runs after them and cannot reach them’?[5] [Raba] answered him: You speak of [a case where the objects were] moving [on the ground]: moving [on the ground] is different, as it is like resting.[6] MISHNAH. AN OBJECT FOUND BY A MAN'S SON OR DAUGHTER WHO ARE MINORS,[7] OR BY HIS CANAANITE BONDMAN OR BONDWOMAN,[8] OR BY HIS WIFE,[9] BELONGS TO HIMSELF. AN OBJECT FOUND BY HIS SON OR DAUGHTER WHO ARE MAJORS, OR BY HIS HEBREW MANSERVANT OR MAIDSERVANT, OR BY HIS WIFE WHOM HE HAS DIVORCED, ALTHOUGH HE HAS NOT PAID [HER THE AMOUNT DUE TO HER ACCORDING TO] HER MARRIAGE-CONTRACT, BELONGS TO THE FINDER.

GEMARA. Samuel said: For what reason has it been laid down that an object found by a minor belongs to his father? Because when he finds it he brings it hurriedly to his father[10] and does not retain it in his possession. Shall we then say that Samuel is of the opinion that a minor has no right to acquire anything for himself [and that this is] in accordance with Biblical law? Surely it was taught: If one hires a labourer [to work in his field] the son [of the labourer] may gather the gleaning behind [his father]?[11] [But if the labourer receives] a half or a third or a fourth [of the crops as wages] his son may not gather the gleaning behind him.[12] R. Jose says: In either case his son and his wife may gather the gleaning behind him.[13] And Samuel said: The halachah is like R. Jose. Now it is all well if you say that a minor has a right to acquire things for himself in accordance with Biblical Law. For then his son gathers the gleanings for himself, and the father acquires it from him. But if you say that a minor has no right to acquire anything for himself, then the son must gather the gleaning for his father; but his father is rich,[14] — why then may his wife and son gather the gleaning behind him? — Samuel merely gave the reason of the Tanna of our Mishnah, but he himself does not hold that view.[15] And does R. Jose hold the view that a minor has a right to acquire things for himself in accordance with Biblical law? Have we not learnt: An object found by a deaf-mute, an imbecile, and a minor [may not be taken away from them as the law of] robbery is applied to them out of consideration for the public good.[16] R. Jose says: It is actual robbery.[17] And R. Hisda says: It is actual robbery because of an enactment by the Rabbis; the difference is as regards reclaiming the object by law?[18] — Therefore Abaye said: [The field] is treated as if the last gleaners had passed through it,[19] so that the poor themselves dismiss it from their minds, thinking that the son of that [labourer] would gather the gleaning.[20] R. Adda b. Mattena then said to Abaye: Is it permissible for a man to cause a lion to lie down in his field in order that the poor may see it and run away?[21] — Therefore Raba said:

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(1) Cf. Kid. 23a and 32b; A person's ‘ground’ acquires for him the object given to him, if even he is not present and is not aware of the gift, because it is assumed that he agrees that the ‘ground’ should act for him and receive on his behalf the gift from the donor, who wishes to bestow upon the recipient the right to the possession of the object. It is different, however, in the case of a found object, as there is no one to bestow upon the claimant the right to the property, and unless he is present, or the ground where the object is found is guarded (fenced in), the ‘agency’ cannot take effect nor can the principle of his ‘hand’ be applied when he is not present (Rashi).

(2) Cf. infra 102a.

(3) Through the door of a house belonging to another person.

(4) So that the owner of the first house could claim the purse on the ground that his premises had acquired it for him before it reached the other house. Cf. Git. 77a.

(5) In which case the animal or the birds are bound to get beyond his field and land on someone else's ground. And yet the law is that he acquires the animal or birds. The owner of the first house, through which the purse passed after being thrown (away), should therefore also acquire the purse.

(6) There is no comparison between the case of the purse thrown through the door of a house, and the animal or birds moving through a field, as moving on the ground is like resting on the ground, and the owner acquires the objects before they leave his field.

(7) Cf. Keth. 46b.

(8) Cf. Lev. XXV, 46.

(9) Cf. Keth. loc. cit.

(10) It is therefore assumed that when he picked up the object he did it in behalf of his father.

(11) Cf. Lev. XIX, 9.

(12) As he receives part of the crops he is no more poor, and he is in the same position as the owner of the field. His son is therefore not allowed to gather the gleaning for him.

(13) For although the labourer is no more poor, his son and wife may still be regarded as poor, and they may gather part of the crops.

(14) As he receives part of the crops.

(15) He himself does not hold that an object found by a minor belongs to his father.

(16) Lit. ‘ways of peace’.

(17) Git. 59b.

(18) According to the view of R. Jose the robbed object can be reclaimed by legal proceedings. But even according to him it is not a Biblical law that a minor has a right to acquire things for himself. Consequently by gleaning after his father, and on behalf of his father (who is now rich) he robs the poor.

(19) Cf. Pe'ah VIII,1. Abaye admits that a minor has no right of possession, but he advances another reason why a minor may glean after his father: When the poor learn that the labourer in the field has a wife and children they give up hope of finding any gleanings there. The field is thus regarded as one through which the old people (נמושות) have passed (old people who come last and walk slowly and haltingly, so that they cannot miss anything still left on the ground) and in which everybody is allowed to take away the gleanings — even the rich — because of the assumption that the poor are satisfied that after these last gleaners have searched the field nothing worth taking is left.

(20) This is why the son may gather the gleanings for his father.

(21) If the only reason why the son is permitted to gather the gleaning is that his presence serves to keep the poor away, although he is not legally entitled to glean in the field, it is like placing a wild beast in the field in order to frighten the poor people away, which is, of course, wrong.

Talmud - Mas. Baba Metzia 12b

[In this case] the right to take possession has been conceded to one who really has no such right.[1] For what reason? — [Because] the poor themselves are pleased [with this concession], so that when they are hired [as labourers] their children may also be allowed to glean after them. Now this [Samuel's view][2] differs from that of R. Hiyya b. Abba. For R. Hiyya b. Abba said in the name of R. Johanan: [By] MAJOR [we do] not [mean one who is] legally a major, nor [do we mean by] MINOR [one who is] legally a minor, but a major who is maintained by his father is regarded as a minor, and a minor who is not maintained by his father is regarded as a major.[3]

AN OBJECT FOUND BY HIS HEBREW MANSERVANT OR MAIDSERVANT BELONGS TO THE FINDER. Why? Ought not [the servant] to be regarded as a [hired] labourer? And it has been taught: ‘An object found by a [hired] labourer belongs to himself. This is the law only when [the employer] said to him: "Weed for me today; hoe for me today," but if [the employer] said to him: "Do work for me today." the object found by him belongs to the employer’?[4] — R. Hiyya b. Abba said in the name of R. Johanan: The servant referred to here [in our Mishnah] is one [who does highly skilled work, such as] perforating pearls, so that his master does not wish to change him over to any other kind of work.[5] Raba says: We deal here with [a servant] who picked up a found object while doing his work.[6] R. papa says: [The object found by the hired labourer belongs to the employer] when [the employer] hired him to collect ownerless objects, as, for instance, when a meadow was flooded with fish.[7]

What kind of a MAIDSERVANT is it [that our Mishnah speaks of]? If it is one who has grown two hairs,[8] what business has she with him [who claims to be her master]?[9] And if she has not grown two hairs, then if she has a father the found object belongs to her father,[10] and if she has no father she should have been released on the death of the father.[11] For Resh Lakish said: The Hebrew maidservant gains her liberty from the master through the death of her father, which law may be derived by means of a Kal wa-homer![12] — But was not Resh Lakish refuted?[13] [Yes.] But does not this [law of our Mishnah] provide an additional refutation? — No. You may assume that [our Mishnah refers to a case where] the father is alive, but the words, IT BELONGS TO THE FINDER, mean [in her case] that the master is excluded.[14]

AN OBJECT FOUND BY HIS WIFE [WHOM HE HAS DIVORCED], etc. If he has divorced her it is self-evident [that the object found by her belongs to her]! — Here we deal with the case of a woman who has been divorced and yet is not divorced.[15] For R. Zera said in the name of Samuel: Wherever the Sages have said [that a woman is] ‘divorced and yet not divorced’ her husband is obliged to maintain her.[16] Now the reason why the Rabbis said that an object found by a wife belongs to her husband is that he may entertain no ill-feeling towards her. Here [it is obvious that the husband] entertains intense ill-feeling towards her.[17] MISHNAH. IF ONE FINDS NOTES OF INDEBTEDNESS CONTAINING A MORTGAGE CLAUSE PLEDGING [THE DEBTOR'S] PROPERTY, ONE SHALL NOT RETURN THEM,[18] BECAUSE THE COURT WILL ENFORCE PAYMENT ON THE STRENGTH OF THEM.[19] IF THEY CONTAIN NO SUCH MORTGAGE CLAUSE, ONE SHALL RETURN THEM, BECAUSE THE COURT WILL NOT ENFORCE PAYMENT[20] ON THE STRENGTH OF THEM. THIS IS THE VIEW OF R. MEIR. BUT THE SAGES SAY: ONE SHALL NOT RETURN THEM IN EITHER CASE, AS THE COURT WILL ENFORCE PAYMENT [IN BOTH CASES].

GEMARA. With what kind of circumstances do we deal here? If the debtor admits [that the debt is due], then, even if there is a mortgage clause [in the documents], why shall [the finder] not return them, seeing that the debtor admits [that he has not paid the debt]?[21] And if the debtor does not admit, why should [the finder] return [the documents where they do not contain a mortgage clause]? Granted that [the creditor] may not exact payment from encumbered property,[22] but he may certainly exact payment from unencumbered property![23] — Yes. [It is] indeed [a case] where the debtor admits his debt, but the reason [why the documents are not to be returned is this]: We apprehend that they might have been written to secure a loan [say] in Nisan[24] whereas the loan was not granted until Tishri,[25] so that [the lender] would come to seize unlawfully the property bought [by others from the borrower during that space of time]. But if so, we ought to entertain the same fear as regards all documents that come before us? — Ordinary documents are not suspect, but these are suspect.[26] Then [the question arises] regarding the law that we learnt [in a Mishnah]: A note of indebtedness may be written for the borrower even when the lender is not present.[27] How do we write it deliberately [seeing that] we ought to apprehend that the note might have been written with the intention of borrowing in Nisan, whereas the loan was not granted until Tishri, so that the lender would seize unlawfully the property [which others will have] bought [from the borrower during that space of time]![28] — Said R. Assi:

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(1) The Rabbis have conceded the son the right to glean after his father, although legally he has no such right.

(2) That the reason why our Mishnah decides that the object found by a minor belongs to his father is that a minor has no right of possession.

(3) Therefore an object found by a son who is maintained by his father, even if he be an adult, belongs to his father (to avoid ill-feeling), and an object found by one who is not maintained by his father, even if he be a minor, belongs to himself. (Rashi.)

(4) Supra 10a; infra 118a. Thus we see that an object found by a hired labourer engaged to do general work belongs to the employer. The Hebrew servant ought to be treated in the same way, as his time is his master's, and anything he does is done for the master.

(5) The master would therefore not wish him to interrupt his work in order to lift up a found object, the value of which would seldom exceed the value of his work, so that if it does happen that the servant lifts up a valuable object the master can only claim compensation for the time in which he interrupted his work in order to acquire the object.

(6) The finding of the object involved no interruption in the servant's work. The object therefore belongs to the servant, and there is no compensation due to the master.

(7) When a meadow has been flooded, and the fish remained after the waters have receded.

(8) The sign of puberty.

(9) [A Hebrew maid-servant secures her freedom on attaining puberty. Cf. Kid. 14b.]

(10) As she is still a minor, v. supra 12a.

(11) The death of her father necessitates her release.

(12) Cf. Kid. 16a, and Keth. 43a.

(13) V. Kid. loc. cit.

(14) The words הרי אלו שלהן used in the Mishnah are meant to indicate that the found objects do not belong to the master but become the property of the children's father (who acquires them from the children).

(15) It is doubtful whether the divorce is valid, as when the husband has thrown to her a bill of divorcement in an open street, and it is not certain whether the document was nearer to him or to her when it fell to the ground.

(16) Keth. 97b; Git. 74a; B.B. 47b.

(17) Seeing that he tried to divorce her; consequently the husband forfeits all claim to whatever she finds.

(18) I.e., to either of the parties named therein.

(19) The Court will exact payment from the mortgaged property even if the debtor has sold it to others after incurring the debt. This may lead to injustice, as explained below in the Gemara.

(20) The court will not exact payment from the purchasers of the debtor's real property, and the possibility of injustice will not arise.

(21) And the creditor is legally entitled to exact payment from the mortgaged property even if the debtor has sold it, so there is no injustice.

(22) Which the debtor disposed of after incurring the debt.

(23) So that an injustice may still be done to the debtor, who may have paid the debt already, as he claims to have done.

(24) The first month of the year, corresponding mostly to April.

(25) The seventh month of the year, corresponding mostly to October.

(26) The fact that they were not properly taken care of, and were thus lost, would show that no importance was attached to them. There is thus a prima facie case against their validity.

(27) Cf. B.B. 167b.

(28) V. p. 71, n. 2.

Talmud - Mas. Baba Metzia 13a

[The Mishnah deals] with deeds of transfer,[1] in which case he pledged himself [that his property would be at the disposal of the lender from the date given in the note].

But if this is so, [how do we understand] our Mishnah, which teaches that, IF THERE IS A

CLAUSE IN THEM MORTGAGING THE DEBTOR'S PROPERTY, THEY SHALL NOT BE RETURNED, and which has been explained as dealing with a case where the debtor admits the debt, and for the reason that [the documents] might have been written to secure a loan in Nisan, while the loan was not granted until Tishri, and [the lender] would seize unlawfully the property bought [by others from the borrower during that space of time]? Why should not [the documents] be returned? We ought to see: If it is a case of a deed of transfer, then he has pledged himself [to let the lender have the property from the date of the deed]; if it is not a deed of transfer, there is nothing to apprehend,[2] for you have said that if the lender is not present with him[3] we do not write [the note of indebtedness]? — R. Assi answered: Although ordinarily we do not write notes which are not deeds of transfer, when the lender is not present, in our Mishnah, which [deals with a document that] has been dropped and has consequently become suspect, we do apprehend that by some chance it might have been written [in the absence of the lender]. Abaye says: The witnesses acquire for him[4] [the right to the property] by [affixing] their signatures [to the document], even if it is not a deed of transfer, [Abaye's reason for this explanation being] that he objected [to R. Assi's version]: If you say that notes which are not deeds of transfer are not written when the lender is not present, then there is no ground for the apprehension that by some chance they may have been written [in the absence of the lender]. But [it may be asked]: What of [the other Mishnah] which we learnt: If one has found bills of divorcement given to wives, deeds of liberation given to slaves, wills of dying persons, deeds of gifts and receipts, one need not return them, as they may have been written and then cancelled, without being handed over [to the persons mentioned in the deeds].[5] Now, even if they have been cancelled, what does it matter, in view of your statement that ‘the witnesses acquire for him [the right to the property] by [affixing] their signatures [to the document]’? — This statement only applies to a case where [the documents] came to his [the creditor's] hand,[6] but in a case where they did not come to his hand it does not apply.[7]

[The question arises,] however: [As regards] our Mishnah, which teaches: IF ONE HAS FOUND NOTES OF INDEBTEDNESS, IF THEY CONTAIN A CLAUSE MORTGAGING [THE DEBTOR'S] PROPERTY, ONE SHALL NOT RETURN THEM, and we explained that [it refers to a case] where the debtor admits [the debt], and the reason why [the notes are not returned] is that they may have been written with a view to granting a loan in Nisan, while the loan may not actually have been granted until Tishri — it is right according to R. Assi, who says that [the first cited Mishnah] refers to deeds of transfer, as [this latter Mishnah can then be explained as] referring to [documents which are] not deeds of transfer,[8] as previously stated. But according to Abaye,. who says: The witnesses, by their signatures, acquire for him [the lender the right to the property]. how can it be explained?[9] — Abaye will answer you: The reason for the teaching of our Mishnah is the fear that the debt may have been already paid and that a fraudulent agreement[10] [may have been reached between the lender and the borrower].[11] But how could it be explained according to Samuel, who says[12] that we are not afraid that the debt may have been already paid and that a fraudulent agreement [may have been reached between the lender and the borrower]?[13] It would be right if he [Samuel] shared the view of R. Assi, who says that [the first cited Mishnah] is to be understood as referring to deeds of transfer, [as he could then explain our Mishnah as referring] to [documents which are] not deeds of transfer.[14] But if he [Samuel] shared the view of Abaye, who says: The witnesses, by their signatures, acquire for him [the right to the property],[15] — how can it be explained?[16] — Samuel explains the Mishnah as referring to a case where the debtor does not admit [the genuineness of the document].[17] But if so, why should [the document] be returned when it does not contain a clause mortgaging [the borrower's] property? Granted that he [the lender] may not exact payment from encumbered property, he may surely exact payment from unencumbered property! — Samuel has his own reason. For Samuel stated: R. Meir used to say: A note of indebtedness which has no clause mortgaging property does not [entitle the creditor to] exact payment from either encumbered or unencumbered property. But since it does not [entitle one] to exact payment, why should it be returned? — R. Nathan b. Oshaiah said: That the lender may use it as a stopper for his bottle. Then let us give it back to the borrower that he may use it as a stopper for his bottle?[18] — It is the borrower

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(1) By which the borrower transfers to the lender his property from the date of the document, so that the lender is entitled to seize property sold by the borrower after that date, whether the loan has actually been granted or not; v. B. B. (Sone. ed.) p. 753, n. 1.
(2) We need not fear that he would have the document written before the actual date of the loan, as the Court would not allow such a document to be written.
(3) I.e., with the borrower, to hand him over the money.
(4) The lender. As soon as the witnesses have signed the document the borrower's property becomes legally liable to be seized by the lender, even if the money has not really been lent yet. There is therefore no fear of the lender seizing the borrower's sold property unlawfully, even if the document is an ordinary note of indebtedness.
(5) V. infra 18a; Git. 27a.
(6) Even if the creditor received the document at a later date, his right to the property is conceded from the date of the document. But if the document was cancelled and was never handed over to the creditor, the latter has no right to the debtor's property.
(7) Lit., ‘We do not say (thus)’.
(8) Which are not to be returned because they may have been written illegally in the absence of the lender (before the date of the actual loan), and the fact that they were dropped by the owner would show that they were not deemed to be valid documents.
(9) Why should not the documents be returned, seeing that their validity from the date of the witnesses’ signatures could not be questioned?
(10) Gr. **.
(11) The borrower may have dropped the document because he had already paid the debt, but he may subsequently have conspired with the lender to exact payment from the purchasers of the borrower's land (as if the debt had not been paid) with a view to sharing in the spoil.
(12) V. infra 16b.
(13) Samuel assumes that the borrower would tear up the note of indebtedness as soon as the debt is paid, and the conspiracy could not therefore arise. Cf. infra ibid.
(14) In which case the return of the lost documents might involve an injustice to the purchasers of the borrower's property, to which the lender would have no legal claim.
(15) V. p. 73, n. 1.
(16) Why should the document not be returned to the lender, seeing that it is valid from the date of writing?
(17) I.e., the borrower maintains that the document was forged, and his plea is accepted because the loss of the document tends to show that it was not properly taken care of, the reason for the negligence being, one had a right to assume, that the document was deemed to be invalid.
(18) Cf. supra 7b.

Talmud - Mas. Baba Metzia 13b

who denies the whole transaction.[1]

R. Eleazar says: The difference of opinion [in our Mishnah] concerns a case where the debtor does not admit [his indebtedness]. R. Meir being of the opinion that a document which contains no clause mortgaging [the debtor's] property does not entitle [the creditor] to exact payment either from encumbered property or from unencumbered property,[2] while the Rabbis[3] are of the opinion that it does not entitle [the creditor] to exact payment from encumbered property, but that it does entitle him to exact payment from unencumbered property.[4] But in a case where the debtor admits [the debt] all agree that [the document] should be returned, and that we are not afraid that the debt may have been already paid and a fraudulent agreement reached [between the lender and the borrower to exact payment from the purchasers of the borrower's property]. But R. Johanan says: The difference of opinion [in our Mishnah] concerns a case where the debtor admits [his indebtedness], R. Meir being of the opinion that a document which contains no clause mortgaging [the debtor's] property does not entitle [the creditor] to exact payment from encumbered property, but it does entitle him to exact payment from unencumbered property. But in a case where the debtor does not admit [his indebtedness][5] all agree that [the document] should not be returned, because we are afraid that it may have been already paid.

It has been taught in support of R. Johanan, and in refutation of R. Eleazar in one point, and of Samuel in two points: If one has found notes of indebtedness in which there is a clause mortgaging [the debtor's] property, even if both [the debtor and creditor] admit [the genuineness of the documents], one should not return them either to the one or to the other. But if they contain no clause mortgaging [the debtor's] property, then as long as the borrower admits [the debt] they should be returned to the lender, but if the borrower does not admit the debt, they should not be returned either to the one or to the other. This is the view of R. Meir, for R. Meir maintained that notes of indebtedness which contain a clause mortgaging [the debtor's] property [entitle the lender to] exact payment from encumbered property,[6] and that those that contain no clause mortgaging [the debtor's] property [entitle the lender] to exact payment from unencumbered property [only]. But the Sages say: In either case does [the document entitle the lender to] exact payment from encumbered property. This is a refutation of R. Eleazar in one point, as he maintained that according to R. Meir a document that contains no clause mortgaging [the debtor's] property does not [entitle the lender to] exact payment either from encumbered or unencumbered property, and he [further] said that both R. Meir and the Rabbis agree that we are not afraid of a fraudulent agreement [between the lender and the borrower to exact payment from the purchasers of the borrower's property], while the Baraitha teaches that a document which contains no clause mortgaging [the debtor's] property [does not entitle the creditor to] exact payment from encumbered property but does [entitle him to exact] payment from unencumbered property, and it [further] proceeds to indicate that both R. Meir and the Rabbis agree that we are afraid of a ‘fraudulent agreement’, for it teaches that even if both parties admit [the debt] one must not return [the documents] either to the one or to the other, which shows that we are afraid of a fraudulent agreement [between the parties to rob the purchasers of the borrower's property]. But are not these two points?[7]

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(1) Lit., ‘There was no such thing’. The borrower cannot claim the document as he maintains that it is forged.

(2) According to R. Meir every note of indebtedness must, in order to be valid, contain a clause mortgaging the borrower's property, otherwise the loan is treated as a verbal loan without witnesses, and the lender can only claim his money if the borrower admits the debt.

(3) The Sages in the Mishnah.

(4) The Rabbis recognise the validity of the document to the extent that they treat it as a verbal loan to which witnesses testify. The lender can therefore exact payment in ordinary cases from unencumbered property, even when the borrower denies the debt. But in the case of a lost document the borrower's denial is accepted (for the reason indicated above) and the document is therefore deemed to be forged and is not returned.

(5) Even if he admits that the document is genuine, but contends that the debt has been paid.

(6) Therefore they must not be returned, even if their genuineness is admitted, as we are afraid of a ‘fraudulent agreement’.

(7) It was maintained before that the Baraitha refutes the view of R. Eleazar in one point only.

Talmud - Mas. Baba Metzia 14a

— They are really one, for there is one reason [for both views]. As it is because R. Eleazar says that the difference of opinion [in our Mishnah] concerns a case where the debtor does not admit [his indebtedness] that he interprets it thus.[1] The view of Samuel is refuted in two points. The one point [is the same] as [that which applies to] R. Eleazar, for he [also] interprets our Mishnah as referring to a case where the debtor does not admit [his indebtedness]. And the other point is that Samuel says:[2] If one finds a deed of transfer[3] in the street one should return it to the owners, and we are not afraid that [the debt] may have been already paid.[4] The refutation is that here [in the Baraitha] we are taught that even if both parties admit [the genuineness of the documents] one should not return them either to the one or to the other, which shows that we are afraid that [the debt] may have been paid, and it follows with even greater certainty that in a case where[5] the borrower does not admit [the genuineness of the document] we are afraid that [the debt] may have been paid.[6]

Samuel said: What is the reason of the Rabbis [who maintain that a document which contains no clause mortgaging the debtor's property entitles the creditor to exact payment even from encumbered property]? They are of opinion that [the omission of the clause] mortgaging [the debtor's property] is due to an error of the scribe.[7]

Said Raba b. Ithi to R. Idi b. Abin: And has Samuel really said thus? Has not Samuel said: ‘[As regards] improvement [of the field], [the claim to] the best property, and mortgaging [the debtor's property] it is necessary for the scribe to consult [the seller of the field]’?[8] Shall we say that he who stated the one view [of Samuel] did not state the other?[9] — There is no contradiction [between the two views]. The first view [was stated] in connection with a note of indebtedness, [in which case it is assumed] that no man will advance money without adequate security.[10] The second view [was stated] in connection with buying and selling, [in which case it is assumed] that a man may buy land for a day,[11] as, for instance, Abbuha b. Ihi did, who bought a garret from his sister [and] a creditor came and took it away from him. He appeared before Mar Samuel [who] said to him: ‘Did she write you a guarantee?’ He answered, ‘No.’ [Whereupon Samuel] said to him: ‘If so, go in peace.’[12] So he said to him: ‘Is it not you, Sir, who said that [the omission of a clause] mortgaging [the debtor's property] is due to an error of the scribe?’[13] He [Samuel] answered him: ‘This applies only to notes of indebtedness, but it does not apply to documents [drawn up in connection with] buying and selling, for a man may buy land for a day.’

Abaye said:[14] If Reuben sold a field to Simeon with a guarantee,[15] and Reuben's creditor came and took it away from him, the law is that Reuben may go and sue him [the creditor],[16] and he [the creditor] cannot say to him [Reuben]: ‘I have nothing to do with you,’[17] for he [Reuben] may say to him [the creditor]: ‘What you take away from him [Simeon] comes back on me.’[18] Some say that even [if the field has been sold] without a guarantee the law is the same, for he [Reuben] may say to him [the creditor]: ‘I do not wish Simeon to have a grudge against me.’[19]

Abaye also said: If Reuben sold a field to Simeon without a guarantee, and claimants appeared [contesting Reuben's title to sell the land], he [Simeon]

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(1) The reason why R. Eleazar finds himself in disagreement with the Baraitha in the two points mentioned is that he interprets the Mishnah as referring to a case where the debtor does not admit the debt, and it therefore follows that the document, on the view of R. Meir, does not entitle the lender to exact payment even from unencumbered property, and when in consequence thereof R. Eleazar has to add, ‘But when the debtor admits (the debt) all agree that (the document) should be returned,’ he explains that ‘we are not afraid that the debt may have been already paid and a fraudulent agreement reached,’ etc. The two conclusions therefore result from the same premise.

(2) Cf. infra 16b.

(3) Which renders the debtor's property liable to legal seizure by the creditor irrespective of the date of the actual loan.

(4) Even when the debtor does not admit the debt, for it is assumed that if the debt had been paid the document would have been torn up.

(5) [V. D.S. a.l., printed editions read ‘here’.]

(6) But according to R. Eleazar even a deed of transfer would not have to be returned if the debtor does not admit the debt, and the reason why R. Meir says that a document containing no mortgage clause should be returned is that it is of no use to the creditor, as he cannot enforce payment with such a document, and he may just have the paper for what it is worth.

(7) All notes of indebtedness must be assumed to contain the mortgage clause, as no one will lend money without adequate security, and if a note is produced which contains no mortgage clause it can only be due to an error on the part of the scribe who, in writing the note, failed to carry out the instructions given to him by the creditor. Cf. infra 15b; Keth. 104b; B.B. 169b.

(8) The scribe must ask whether, in drawing up a deed of sale of land, he is to insert clauses dealing with the guarantees given to the buyer in case the land is seized by the seller's creditors, and making clear the buyer's claims to compensation for improvements made by him in the land; to the best portions of the seller's land (as indemnity to the buyer); and to the seller's property generally as security against loss through seizure by the seller's creditors. For all this the seller's consent is required, which would show that the omission of the mortgage clause in a document is not merely ‘a scribe's error’.

(9) I.e., that there is a conflict of opinions between Amoraim as to what Samuel's view really was.

(10) In the case of a loan, where the lender derives no benefit from the transaction, one must assume that the lender will take no risks and will insist on adequate security. In such a case the omission of the mortgage clause could only be due to a mistake on the part of the scribe.

(11) The buyer will take risks, for even if the land is ultimately seized by the seller's creditors, he (the buyer) will in the meantime have profited by the produce of the land.

(12) I.e., you have no case, as you have not secured yourself by asking for a guarantee to be inserted in the deed of sale.

(13) I.e., that even if the guarantee is not inserted in the deed, the Court assumes that the omission is only a scribe's error, and that the guarantee must have been given.

(14) Cf. B.K. 8b; Keth. 92b; and Tosaf. a.l.

(15) Against seizure by the seller's creditors.

(16) Reuben may put up a counter-claim against the creditor, and thus prevent him from taking away the land bought by Simeon.

(17) The creditor cannot plead that Reuben's counter-claim does not affect his right to seize the land bought by Simeon, and that Simeon's claim should be dealt with by the Court as a separate action.

(18) I.e., I shall have to refund him the purchase money. I am thus directly concerned in your action against Simeon, and I have a right to stop you from seizing his land in virtue of my counter-claim.

(19) Although legally Simeon has no redress, as I did not offer him any guarantee against loss through the actions of my creditors, I do not wish him to feel that I have let him down by selling him property which was liable to be seized by my creditors.

Talmud - Mas. Baba Metzia 14b

may retract as long as he has not taken possession of it,[1] but if he has taken possession of it he cannot retract,[2] for he [Reuben] may say to him [Simeon]: ‘You bought a bag sealed with knots, and you got it.’[3] When is he deemed to have ‘taken possession’? When he has set his foot upon the landmarks.[4] But some say that even [when the field is sold] with a guarantee [the buyer may not retract][5] for he [the seller] may say to him [the buyer]: ‘Show me your document [legalising the seizure of the field and entitling you to demand your money back] and I shall pay you.’[6]

It was stated: If one sells a field to his neighbour and it turns out not to be his own,[7] — Rab says: He [the buyer] is entitled to [the return of the money [which he paid for the field] and to [compensation from the seller for the] improvement [which he made in the field].[8] But Samuel says: He is entitled to the money [he paid] but not to [compensation for the] improvement.

R. Huna was asked: If he [the seller] expressly stated [that he would compensate the buyer for the] improvement [if the field were taken away], what is the law then? Is Samuel's reason [for withholding compensation] that [the seller] did not expressly state [that he would compensate the buyer for the] improvement? [Then it would not apply to this case, for] here [the seller] did state expressly [that he would compensate the buyer]. Or is Samuel's reason that, in view of the fact that he [the seller] really had no land [to sell, the money received by the buyer as compensation for the improvement] would appear like usury?[9] R. Huna answered: Yes and No, for he was hesitant.[10]

It was taught: R. Nahman said in the name of Samuel: He [the buyer] is entitled to [have returned to him] the money [paid for the field], but not to [compensation for] improvement, even if he [the seller] stated expressly that [he would compensate the buyer for the] improvement, the reason being that, in view of the fact that he [the seller] really had no land to sell, he [the buyer] would be taking profit for his money.[9] Raba then asked R. Nahman [from the following Mishnah]: We may not collect from encumbered property for the purposes of usufruct, the improvement of land, the alimentation of wife and daughters, out of consideration for the public good.[11] [This would show that] it is only from encumbered property that we do not collect, but we do collect from unencumbered property, and it is stated [that this law applies] to the improvement of land. Now may it not be assumed that it refers to [land] bought from one who acquired it wrongfully?[12] — No, [it refers to land seized by] a creditor.[13] But note the first part: 'We may not collect [etc.] for the purpose of usufruct.' Now if it refers [to land seized by] a creditor, is the creditor entitled to the produce [of the land]? Has not Samuel said: 'A creditor collects [his debt from] an improved field,'[14] and does it not mean that [he] only [collects it from] an improved field but not from the produce [of the field]? It is therefore obvious that it refers to one who acquired [a field] wrongfully and to the one who has been deprived of it,[15] and seeing that the first part deals with one who acquired a field wrongfully and one who has been deprived of it, the second part [surely] also deals with such a case![16] — How does it follow? This [first part] deals with one case,[17] and this [second part] deals with another case.[18] But are we not taught differently [in a Baraitha relating to the above Mishnah]: How [does it happen that payment is exacted for] improvement of the land? If one has taken away a field by violence from a neighbour, and he has had to give it up again [in consequence of legal action], then the one that is entitled to compensation may collect the original value [of the field] from encumbered property, and the value of the improvement [may be collected] from unencumbered property.[19] Now, how is this to be understood? If we say that [it is to be understood] as stated,[20] what right has the person who acquired the field wrongfully to claim compensation from anybody? It must therefore be [understood as referring to a case] where a person wrongfully took away a field from a neighbour and sold it to another person, and [this other person] has improved it![21] — [R. Nahman] answered him: Had you not to remove the difficulty [in the Baraitha] by explaining [that it refers to an unlawfully acquired field]? You may as well remove the difficulty [by saying that it refers to a field seized] by a creditor [after it has been improved by the buyer].

Come and hear: How [does it happen that payment is exacted as compensation for] the use of the produce [of the field]? If one has wrongfully taken away a field from a neighbour, and he has had to give it up again [in consequence of legal action], then the one that is entitled to compensation may collect the capital [value of the field itself] from encumbered property, and the value of the produce [may be collected] from unencumbered property. Now, how is this to be understood? If we say that it is to be understood as stated,[22] what right has the person who has acquired [the field] wrongfully to claim compensation from anybody? It must therefore be [understood as referring to a case] where one wrongfully took away a field from a neighbour and sold it to another person, and [this other person] has enhanced its value [by producing fruit]![23] — Raba answered: We deal here with a case where one wrongfully took away from a neighbour a field full of fruit and ate the fruit, and then dug in it pits, ditches and hollows. When the robbed [neighbour] comes to demand the capital [value of the field itself] he may exact payment from encumbered property, but when he comes to demand [the value of] the fruit he may exact payment from unencumbered property [only]. Rabbah son of R. Huna said: [It refers to a case] where

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(1) And has not paid the purchase price. (Rashi.)

(2) Even if he has not paid yet, for the buyer acquires the land legally when he takes possession of it, and the purchase price, if not paid, becomes a debt due to the seller (Rashi).

(3) You agreed to buy the field without examining my title, and you have to stand the consequences.

(4) [To level them round (Rashi).]

(5) Although in the end the seller must make good the buyer's loss, the buyer has no right to withdraw from the transaction on the plea that in the end his money will have to be refunded.

(6) I need not refund your money until the Court has given its decision regarding the legality of the seizure and your title to have the money refunded.

(7) The seller had acquired the field wrongfully and had no title to the property. The rightful owner then comes and seizes the field from the buyer.

(8) If during his tenure of the field the buyer improved it by manure or by erecting a fence round it, he may claim compensation from the seller. The obvious question why the original (rightful) owner, who regains possession of his field, is not made to pay for the improvement, may be answered by referring to a case where the seller allowed the field to deteriorate after taking it away from the rightful owner, and the buyer only restored it to its original condition so that the original owner derives no actual benefit from the change (Rashi).

(9) As the seller had no right to the field the transaction was entirely invalid, and there was no sale. The money handed over to the seller could therefore only be regarded as a loan, and when the seller returns to the buyer a larger sum than the purchase-price paid him, it appears like interest on the money.

(10) Lit., ‘it was lax in his hand.’ Similar expressions occur in Shab. 113; 115a; Kid. 65a.

(11) Cf. Git. 48b. The reason why one may not hold encumbered property liable for such purposes is that it would prevent people from buying land, as such obligations are so common that they would arise in nearly every case. [This is apart from the fact that the amount involved is not fixed; v. n. 1.]

(12) And has improved it before the original owner seized it again. The buyer may then collect the purchase price from the seller's encumbered property even if this property has been sold after the purchase of that field, for as long as the deed of sale contains a guarantee clause the claim involved has priority. The compensation for the improvement, however, can only be collected from unencumbered property — ‘out of consideration for the public good’ — as at the time when the deed of sale was written, and the guarantee clause inserted, no one knew what the compensation for improvements would amount to, and it is not in the interests of the public to allow such claims. In any case, this shows that the buyer is entitled to compensation from the seller, who had no title to the land, for the amount he spent on improvements.

(13) The seller was entitled to sell, but the seller's creditors were entitled to seize the property, in which case the buyer is certainly entitled to the return of the money he spent on improvements, and if he receives a larger amount than the price he paid for the field it does not appear like interest on a loan, as the original sale was valid, and the return of the field is a new transaction.

(14) Cf. B.K. 95b.

(15) The produce of the field or the improvement therein may be claimed by the original owner who was robbed of his property, no matter whether the produce was there when the field was first taken away, or not. The owner can always claim the land with all its improvements, except that the buyer may demand back his outlay which brought about the improved condition of the field, provided that the sum demanded by the buyer does not exceed the amount by which the value of the field was increased as a result of the improvements.

(16) Cf. p. 82, n. 4.

(17) Lit., ‘as it is’.

(18) I.e.,.the first part deals with a person who has been robbed of his field, and the second part deals with a creditor who has seized the field from the buyer.

(19) V infra 72b; B.B. 157b.

(20) Viz., that the person who acquired the field unlawfully has not sold it, and it is he who is made to give it up, not a buyer.

(21) The Court compels the buyer to return the field to the rightful owner, who is also entitled to demand from the seller the value of the improvement. From this we would infer that the buyer collects the value of the improvement from the seller who had no title to the field — a contradiction to the view of R. Nahman.

(22) Viz., that the person who robbed the field did not sell it, and it is this person who is compelled by the Court to return it to the owner.

(23) The original (rightful) owner is not expected to pay for the produce of the field, with the exception of the buyer's outlay in looking after the field, as he is entitled to the produce of his own land. The buyer is therefore entitled to compensation from the person who sold him the field unlawfully, and from him the buyer can claim the value of the field as well as the value of the produce, which he may collect from unencumbered property — again a contradiction to the view of R. Nahman.

Talmud - Mas. Baba Metzia 15a

bandits took away [the field from the person who acquired it unlawfully].[1] When the [original owner who was] robbed [of his field] comes to demand the capital [value of the field] he may exact payment from encumbered property. But if he comes to demand the value of the fruit he may exact payment from unencumbered property [only]. Raba does not give the same explanation as Rabbah son of R. Huna because it says, ‘He has had to give it up again,’ which obviously means through the [intervention of the] Court.[2] And Rabbah son of R. Huna does not give the same explanation as Raba, because it says, ‘He has had to give it up again,’ which obviously means in its original condition [and not full of holes].[3] R. Ashi said: It refers partly to one and partly to the other,[4] viz., if one violently took away from a neighbour a field full of fruit, and ate the fruit and sold the field,[5] when the buyer comes to demand the capital [value of the field itself] he may exact payment from encumbered property; when the robbed [neighbour] comes to demand [the value of] the fruit he may exact payment from unencumbered property [only]. [The question now arises:] Both according to Raba and according to Rabbah son of R. Huna this is [like] a debt contracted verbally,[6] and a verbally contracted debt does not entitle [the creditor] to exact payment from encumbered property? — Here we deal with a case where [the robber first] stood his trial and then sold [the field].[7] But if so, the produce [of the field should] also [be recoverable from encumbered property]? — [The case is one where the robber] has stood his trial as regards the capital [value of the field itself] but has not stood his trial as regards the produce. But how can this be determined?[8] — It is the usual practice: When a person sues, he sues first for the principal.[9]

But does Samuel [really] hold the view that he who bought [a field] from a robber is not entitled to [compensation for the] improvement [he made in the field]? Did not Samuel say to R. Hinena b. Shilath [the scribe]:[10] Consult [the seller, when drawing up a deed of sale], and write, ‘best property, improvement, and produce’?[11] Now, to what [kind of transaction does this apply]? If [it applies] to a creditor [claiming the field for his debt], is he entitled to the produce of the field? Has not Samuel said: The creditor exacts payment from the improvement, [which means] from the improvement only, but not from the produce? It must therefore [be said that it applies] to one who bought [a field] from a robber![12] — R. Joseph said: Here we deal with a case where [the robber] owns land.[13] Said Abaye to him: Is it permitted to borrow a measure [of corn and to repay the loan] with [the same] measure,[14] when [the borrower] has land? — He [R. Joseph] answered him: There [it is] a loan; here [it is] a sale.[15]

Some say: R. Joseph said: Here we deal with a case where there was a formal act of acquisition [whereby the seller pledged himself to be immediately responsible to the buyer for the improvement].[16] [But] Abaye said to him: Is it permitted to borrow a measure [of corn and to repay the loan] with [the same] measure, when there was a formal act of acquisition [whereby the borrower pledged himself to be immediately responsible to the lender for an increase in price]? — He [R. Joseph] answered him: There [it is] a loan; here [it is] a sale.

[To revert to] the above text: Samuel said: ‘A creditor exacts payment from the improvement.’ Said Raba: You may know [that this view is correct], for the seller writes [in the deed of sale] the following [guarantee] to the buyer: ‘I shall confirm, satisfy, clear, and perfect these purchases[17] — them, the gains resulting from them, and the improvements to be made in them — and I shall stand [as surety] for you, and this purchaser agrees [to it] and accepts it.’[18] R. Hiyya b. Abin then said to Raba: If this is so, [would you say that] in the case of a gift, regarding which [the donor] writes no such [guarantee], [a creditor who has a previous claim to the property] may indeed not appropriate the improvement?[19] — He [Raba] answered him: Yes. But [R. Hiyya then asked]: Does a gift confer a greater right [on the recipient] than a sale [does on the buyer]?[20] — [The former] answered: Yes, it undoubtedly does.[21]

R. Nahman said: The following Baraitha corroborates the view of Mar Samuel, but our colleague

Huna explains it as referring to a different matter. For it was taught: If one has sold a field to a neighbour and then [the buyer] has to surrender it [to another claimant], he [the buyer] may, when seeking redress, exact repayment of the capital [value of the field itself] from encumbered property, and the [refund of the cost of the] improvement he collects from unencumbered property. But our colleague Huna explains it as referring to a different matter, [viz.], to that of one who has bought [a field] from a person who acquired it wrongfully.[22] Another [Baraitha] taught: If one has sold a field to his neighbour, and he [the buyer] has improved it, and then a creditor [of the seller] comes and seizes it, he [the buyer], when seeking redress,is entitled, in a case where [the value of] the improvement is greater than the cost [thereof], to collect [the value of] the improvement from the owner of the land and the cost thereof from the creditor.[23] But in a case where the cost [of the improvement] is greater than the [value of that] improvement, he [the buyer] is only entitled to collect from the [seller's] creditor the amount of the cost which corresponds to the [value of the] improvement.[24] Now, how does Samuel explain this [Baraitha]? If [he explains it as referring] to one who bought [the field] from a person who acquired it wrongfully, then the first part [of the Baraitha][25] contradicts him, for Samuel said [above]: ‘He who buys [a field] from a person who acquired it wrongfully is not entitled to [compensation for] the improvement [he made in the field].’ [And] if [he explains it as referring] to [the seller's] creditor [seizing the field], then both the first part and the second part [of the Baraitha] contradict him,[26] for Samuel said [above]: ‘A creditor exacts payment from the improvement [made in the field by the buyer]’?If you like, I shall say [that Samuel will explain the Baraitha as referring] to one who bought [the field] from a person who acquired it wrongfully, and where the latter owns land,[27] or where there was a formal act of acquisition [whereby he pledged himself at the sale that he would pay for the improvement].[28] [And] if you like, I shall say [that Samuel will explain the Baraitha as referring] to [the seller's] creditor [seizing the field]. [Nevertheless] there is no contradiction [to Samuel's views]. [For] here [the reference is] to an improvement

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(1) The robber was robbed (by heathen men of violence, against whom there is no redress). In such a case the first (Jewish) robber is responsible to the rightful owner, and he is made to pay the owner for his loss. Cf. B.K. 116b.

(2) The term, ‘He has had to give it up’ (lit., ‘It is made to go out from under his hand’), applied to the person who first robbed the field, indicates that this first robber is in possession of the field, and is made to give it up as a result of the intervention of the Court. It cannot therefore be assumed that bandits took it away.

(3) Rabbah son of R. Huna cannot accept the version that the robber dug pits etc. in the field, as the term ‘It is made to go out etc.’ implies that the field was intact when the court intervened to compel its return to the rightful owner.

(4) I.e., one part refers to the buyer of the field, and the other to the original owner. The former demands the cost of the field itself, and is entitled to exact payment from encumbered property, while the latter demands compensation for the produce of his field, and is entitled to exact payment from unencumbered property only.

(5) The Court then intervened and compelled the person who had bought the field to return it to the rightful owner, and it was given back in its original condition.

(6) As the claim of the robbed person is not based on any document, the payment which the robber has to make in compensation for the property he had seized is like the repayment of a loan granted without a note of indebtedness.

(7) The reason why encumbered property is liable to be seized by the seller's creditor who has written evidence as to his claim is that the writing of the document ensures publicity, which should prevent people from advancing money on such property. A trial in Court has the same effect as regards publicity and the consequent warning to would-be mortgagees.

(8) How could it be said with certainty that cases would arise where a person who acquired a field wrongfully would be tried for seizing the field itself but not for appropriating its produce?

(9) He first wants to make sure that he will recover the main loss, and subsequently he tries to regain the smaller losses.

(10) A highly respected friend of Samuel. Cf. Sanh. 72b; Shab. 58a.

(11) V. supra 14a. The guarantee given to the buyer in the deed of sale is to include a clause entitling the buyer to recover his loss, in the event of the property being claimed by creditors, by exacting payment from the seller's best property, as compensation for the original value of the field as well as for the improvements he made and for the produce of the field.

(12) [In which case the formula provides for compensation in respect of the improvement made by the buyer in the field.] How then could Samuel have said that the person who has bought a field from a robber and has to return it to the rightful owner cannot claim compensation for the improvement he made in it?

(13) The robber repays with land, not with money, and therefore the additional amount paid for the improvement does not appear as usury given for borrowed money; cf. supra 24b.

(14) This is not permitted, as any advance in the price of corn would increase the value of the returned measure, and the increase would be usury.

(15) There is no usury in a sale.

(16) [The payment for the increase included in the guarantee becomes thus due from the moment of the sale and is no longer regarded as usury.]

(17) I.e., the seller undertakes to satisfy all claims against the property and to be responsible for any loss the buyer may sustain because of previous claims against the property or for any other reason. The guarantee refers to ‘produce and improvement’ as well as to the original value of the property sold.

(18) As the seller is thus responsible to the buyer, the creditor enforces his claim against the property acquired by the buyer and the produce it has yielded, and the latter then seeks redress from the seller.

(19) As there is no guarantee given by a donor as regards previous claims against the property given away, the recipient is not entitled to compensation from the donor, and if the former loses the improvements he has made in the property he has no redress. For this reason the creditor of the donor ought not to be entitled to the improvement made by the recipient, as the loss would be the latter's, not the debtor's.

(20) I.e., why should a person who receives a free gift be more protected against loss than a person who pays for what he gets?

(21) Lit., ‘It is better and better.’ The creditor has no right to inflict a loss upon the recipient of the gift by taking away the improvement made by the recipient. As the recipient cannot reclaim the loss from the donor, whose debt is the cause of the creditor's action against the recipient of the gift, there is no reason why the latter should lose more than the value of the gift itself, which was originally accepted by the creditor as security for his loan.

(22) According to R. Huna the rightful owner of the field has a right to claim the improvement, as the field, which was taken away from him wrongfully and sold illegally, never became the property of the buyer. But a creditor who seizes a field for a debt due to him from the seller has no right to claim the improvement made in it by the buyer, for the latter acquired the field legally, and, until the creditor seized it, it was his property.

(23) The buyer is entitled to compensation from the seller to the amount by which the value of the improvement exceeds the expense incurred in making the improvement, as the improvement helped to pay the seller's debt. But the cost of the improvement the creditor has to refund to the buyer, who spent his money on improving the field before the creditor seized it.

(24) The buyer cannot claim from the creditor the excess of his expenditure over the actual value of the improvement, and he loses this amount.

(25) According to which the rightful owner of the field, designated ‘creditor’, has to pay for the improvement.

(26) As it is laid down in both parts of the Baraitha that the creditor has to refund the cost of the improvement, while Samuel teaches that the creditor may collect his debt from the improvement, without repaying the cost incurred by the buyer.

(27) V. p. 86, n. 4.

(28) V. ibid. n. 7.

Talmud - Mas. Baba Metzia 15b

which [has matured and] is ready to be carried away,[1] [but] there [the reference is] to an improvement which [has not yet matured and] is not ready to be carried away. But do not cases occur daily[2] where Samuel allows [creditors] to collect [their debts] even from improvements which [have matured and] are ready to be carried away?[3] — There is no contradiction: These [are cases] where [the creditor] claims from him [the seller] an amount equal to [the combined value of] the land and the improvement;[4] the other is [a case] where [the creditor] claims from him [the seller] an amount equal to the value of the land alone, in which case the creditor compensates him [the buyer] for [the value of] his improvement and dismisses him. [But, it is asked:] This is right and proper according to the view of him who says[5] that when the buyer has money [to pay the seller's debt] he cannot dismiss the creditor [by paying him the money].[6] But according to the view of him who says that when the buyer has money [to pay the seller's debt] he can dismiss the creditor [by paying him the money], let him[7] say unto him [the creditor]: ‘If I had money I would have kept you away from the whole field [by paying the amount due to you] — now that I have no money give me a piece[8] of ground in the field corresponding to the value of my improvement’! — Here [in the Baraitha] we deal with a case where he [the seller] had made it [the field] an hypothec,[9] in that he said [to the creditor], ‘You shall receive payment only from this.’

If [the buyer] knew that [the field] did not belong to him [who sold it], and [yet] he bought it, Rab says: He is entitled to the purchase-price[10] but not to the [value of the] improvement.[11] But Samuel says: He is not entitled even to the purchase-price. Wherein do they differ? Rab is of the opinion that a person, knowing that [the seller] has no land, will make up his mind and give him [the money] as a deposit.[12] But then he should say to him that it is to be regarded as a deposit? He is afraid that he [the seller] will not accept it [as such].[13] But Samuel is of the opinion that a person, knowing that [the seller] has no land, will make up his mind and give him [the money] as a present. But then he should say to him that it is to be regarded as a present? He [the recipient] might be bashful.[14] But has not this difference of opinion [between Rab and Samuel] been expressed once already? Has it not been stated:[15] ‘If a man betrothed his sister to himself [by giving her money],[16] Rab says: The money has to be given back. But Samuel says: The money is to be regarded as a present. Rab says that the money has to be given back, [because he is of the opinion that] a person, knowing that one's betrothal to one's sister is not valid, will make up his mind and give [her the money] as a deposit. But then he should say to her that it is to be regarded as a deposit? He is afraid that she will not accept it [as such]. But Samuel says that the money is to be regarded as a present, [because he is of the opinion that] a person, knowing that one's betrothal to one's sister is not valid, will make up his mind and give [her the money] as a present. But then he should say to her that it is to be regarded as a present? She might feel bashful? — It is necessary [to have the difference of opinion recorded in both cases]. For if it were taught [only] in that case[17] [we might think that only] in such a case does Rab say [that the money is to be returned],[18] because people do not usually give presents to strangers, but as regards a sister [we might think that] he agrees with Samuel. And if it were taught [only] in this case,[19] [we might think that only] in such a case does Samuel say [that the money is not to be returned],[20] but as regards the other case[21] [we might think] that he agrees with Rab.[22] [Therefore] it is necessary [to state both cases].

[Now, behold,] both according to Rab, who says [that the money is to be regarded as] a deposit, and according to Samuel, who says [that the money is to be regarded as] a present — how does [the person who has given the money] go down [to the field] and how does he eat the fruit [thereof]?[23] He thinks, ‘I shall go down to the field and work [in it] and shall eat [the fruit] thereof,[24] just as he [who acquired it wrongfully] would have done, and when the [rightful] owner of the field will come [and claim it] my money will be [treated] as a deposit, according to Rab, who says [that it is to be regarded as] a deposit, and as a gift, according to Samuel, who says [that it is to be regarded as] a gift.’

Said Raba: The law [in regard to the above controversy] is that he [the buyer] is entitled to the purchase-price as well as to the [value of the] improvement, even if the improvement was not mentioned [in the indemnity clause in the deed of sale].[25] If [the buyer] knew that [the field] did not belong to him [who sold it], he [the buyer] is entitled to the purchase-price but not to [the value of] the improvement, [and the omission of] the guarantee clause is [to be regarded as] an error of the scribe,[26] both in [the cases of] notes of indebtedness and in [the cases of] deeds of sale. Samuel asked Rab [the following question]: If [the robber who sold the field unlawfully] bought it subsequently from the original owners, what is the law [then]?[27] — [Rab] said to him [in reply]: What was it that the first person[28] sold to the second person?[29] [Surely the former sold to the latter in advance] every right that he [the former] might subsequently acquire![30] [And] for what reason?[31] —

Mar Zutra said: [Because] he wished that he [the buyer] should not call him a robber. R. Ashi said: [Because] he wished to vindicate his honesty. What is the difference between them?[32] — The difference would be seen [in a case] where the buyer died. According to the view [of Mar Zutra, viz.], 'he wished that he should not call him a robber,'

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(1) V. B.B. (Sonc. ed.) p. 569, n. 8. Our Baraitha deals with a case where the improved produce of the field is nearly ready to be harvested, so that, although it is still attached to the field and still needs the soil, it may be regarded as 'ripe fruit' whose cost of production the creditor has to refund.

(2) Cf. infra 110b; B.K. 95b.

(3) Samuel was known to have repeatedly allowed creditors to seize property sold by the debtors and to appropriate the improvement made in it by the buyers, without compensation for the expense incurred, even though the improved produce was near harvesting.

(4) In such cases Samuel does not award the buyer the expense of his improvement, as the creditor is entitled to the full repayment of the debt due to him from the seller.

(5) Cf. infra 110b; B.K. 96a.

(6) The creditor cannot be prevented from seizing the land, if he prefers it to the money offered him by the buyer in settlement of his debt, as the creditor has a prior claim to the land.

(7) Let the buyer, in the case dealt with in our Baraitha, say to the creditor, who claims the field with the improvement: 'As I am entitled to keep the land if I am able to repay your debt, I am surely entitled to retain part of the field as compensation for the amount which I have spent on the improvement, and which I am entitled to recover from you.'

(8) גרבא , in other places spelt גריוא , a measure of grain, or a piece of ground in which such an amount of grain can be sown.

(9) In which case all would agree that the buyer cannot put off the creditor by paying the seller's debt, and that the creditor is entitled to seize the field.

(10) The buyer is entitled to demand the return of the money he paid the seller for the field which the rightful owner has reclaimed. The fact that the buyer knew that the sale was illegal does not deprive him of the right to reclaim his money from the seller.

(11) As the sale of the field was illegal, the buyer never really acquired the field, and as he knew this to be the case he has only himself to blame for the loss he incurred in improving a field which was not his own.

(12) For safe keeping — to be demanded back in due course.

(13) He will not undertake to look after somebody else's money.

(14) It will make the recipient feel bashful of accepting the gift.

(15) Git. 45a; 'Ar. 30a; cf. Kid. 46b.

(16) Cf. Kid. 2a.

(17) Where the buyer knew that the field did not belong to the seller.

(18) In view of the fact that the money is regarded as a deposit, according to Rab.

(19) I.e., the case of a brother giving money to his sister for the purpose of betrothing her to him.

(20) In view of the fact that the money is regarded as a present, according to Samuel, and one is apt to give a present to a sister.

(21) Where a person pays money to a stranger for a field which he knows to have been wrongfully acquired.

(22) That the money is not to be regarded as a gift, and must be returned.

(23) How can it be said that the reason why Rab says that the money is to be returned is that it has to be regarded as a deposit, and that the reason why Samuel says that the money is not to be returned is that it has to be regarded as a gift, seeing that in either case the person who handed over the money would not have deemed himself entitled to take possession of the field and to use its produce. If he did so, it would show that he meant to buy the field with the money, and that, not being familiar with the law, he deemed the sale valid. Rab and Samuel must therefore have given their decisions for reasons other than those stated above.

(24) I.e., he knows that it is not a sale, and the money was not handed over as purchase-money. He only intended to take possession of the field and use its produce until the rightful owner reclaimed it, and the money was to be treated as a deposit (in the view of Rab) or as a gift (in the view of Samuel).

(25) Samuel's view that the scribe must consult the seller regarding the inclusion of 'improvement' in the indemnity clause, and that non-inclusion is not regarded as an accidental omission by the scribe, is thus rejected.

(26) So that in every case the buyer whose field is seized by the seller's creditors can claim indemnity from the seller's property, contrary to the view of Samuel.
(27) Is the robber entitled to take the field away from the person to whom he sold it unlawfully, just as any other person would have been who bought the field from the rightful owner?
(28) The robber.
(29) The person who bought the field from the robber.
(30) When the robber sold the field he made over to the buyer any right that he (the robber) might subsequently acquire in regard to the field, and therefore the robber has no right to claim the field from the person who bought it from him. It is assumed, indeed, that the robber only bought the field in order to legalise its sale to the first buyer.
(31) What was the motive that could have prompted the robber to secure the property for the buyer?
(32) What would be the effect of their difference in actual cases that may arise?

Talmud - Mas. Baba Metzia 16a

[it could not be applied to this case], as he [the buyer] is dead.[1] But according to the view [of R. Ashi, viz.,] ‘he wished to vindicate his honesty,’ [it could be applied even to this case], as he [the robber] would wish to vindicate his honesty before [the buyer's] children also. [But, it is argued,] would not the buyer's children call him [who sold the field to their father] a robber?[2] — Therefore [we must say that] the difference between them would appear [in a case] where the robber died.[3] According to the view [of Mar Zutra, viz.], ‘he wished that he should not call him a robber,’ [it could not be applied to this case,] as he [the robber] is dead.[4] But according to the view [of R. Ashi, viz.,] ‘he wished to vindicate his honesty,’ [it could be applied even to this case,] as he [the robber] would wish that his honesty should be vindicated even when he is dead. [But, it is argued,] would not his children after all be called the children of a robber?[5] — Therefore [we must say that] the difference between them would appear [in a case] where he [the robber] gave [the field] as a present: According to the view [of R. Ashi, viz.], ‘he wished to vindicate his honesty,’ [it could be applied even to] a present, [in regard to which] he would also wish to vindicate his honesty. But according to the view [of Mar Zutra, viz.], ‘he wished that he should not call him ‘a robber,’ [it could not be applied to this case, for he could say [to the recipient of the gift], ‘What have I taken away from you [that I should be called a robber]?’

It is obvious that if he [who robbed a field and sold it], subsequently sold it [to another person], or bequeathed it to his heirs, or gave it away as a present, [and then bought it from the original owner, we must assume that] he did not, [in buying the field,] intend to secure it thereby for the [first] buyer.[6] If it came to him as an inheritance[7] [we must assume this, too, for] an inheritance comes of itself, and he did not trouble himself to get it.[8] If he took it in payment of a debt [due to him from the original owner of the field],[9] then our attitude is [as follows]: if [the original owner] had other land, and [the robber] said, ‘I want this,’ [we assume that the robber, in acquiring the field,] intended to secure it thereby for the [first] buyer,[10] but if not,[11] [we assume] that he merely wanted to be paid [his] money.[12]

[In a case where the original owner] gave him [the robbed field] as a present, R. Abba and Rabina differ: One says, Gifted property is like inherited property, in that it [also] comes of itself.[13] But the other says, Gifted property is like bought property, for if the recipient had not exerted himself to win the favour [of the donor, the latter] would not have given him the present, and the reason why he [the recipient] exerted himself to win the favour [of the original owner of the field] was that he [the recipient who first robbed the field] might vindicate his honesty. And till when does he wish to vindicate his honesty?[14] — R. Huna says: Until [the buyer of the robbed field is] summoned to appear in court.[15] Hiyya b. Rab says: Until he [the buyer] receives the decree of the Court [entitling him to seize the robber's property].[16] R. papa says: Until the days of the announcement [of the public sale of the robber's property] begin.[17] To this Rami b. Hama demurred:[18] Seeing that this buyer acquired this land [from the robber] only by the deed of sale, [is not the sale invalid because] the deed is a mere potsherd?[19] — Raba answered him: It is a case where [the buyer] believes him [the robber]: Because of the pleasure [it gives the robber] that he [the buyer] said nothing to him, but trusted him implicitly, he [the robber] exerts himself to acquire the field for him [the buyer], and determines to confer upon him the rightful ownership [of the field].[20] R. Shesheth then asked: [It has been taught:[21] If one says to another,] 'What I am to inherit from my father is sold to you,' [or,] 'What my net is to bring up[22] is sold to you,' [it is as if] he [had] said nothing.[23] [But if he says,] 'What I am to inherit from my father to-day is sold to you,' [or,] 'What my net is to bring up to-day is sold to you, his words are valid?[24] — Rami b. Hama said [to that]: 'There is a man and there is a question!'[25] Raba retorted: 'I see the man but I do not see [the force of] the question.'[26] Here[27] he [the buyer] relied on him [the seller]; there he did not rely on him: Here he relied on him that he would exert himself and acquire [the robbed field] for him [the buyer] so that he might not call him a robber; there he did not rely on him.[28] [The question of R. Shesheth] was then submitted to R. Abba b. Zabda, [and] he said: This [question] does not need [to be brought] inside [the College].[29] Raba said: It does need [to be brought] inside, and even to the innermost [part]:[30] Here he [the buyer] relied on him [the seller]; there he did not rely on him. A case occurred in Pumbeditha, and the question [of R. Shesheth] was asked. R. Joseph then said to them [who asked the question]: This does not need to be brought inside [the College]. But Abaye said to him [R. Joseph]: It does need to be brought inside, and even to the innermost part: Here[27] he [the buyer] relied on him [the seller]; there he did not rely on him. And wherein does the first part [of the teaching quoted by R. Shesheth] differ from the last part? R. Johanan said: The last part, [viz.] 'What I am to inherit from my father to-day' — because of his father's honour;[31] 'What my net is to bring up to-day'

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(1) And he cannot call the seller a robber any more.

(2) Even when the buyer is dead, the desire on the part of the seller to vindicate his honesty may still have been the motive for his action in buying the field from the rightful owner, as the children of the dead buyer would call him a robber when they discover that the field was sold to their father unlawfully, and that they could not retain possession of it.

(3) After he bought it from the original owner, and the question arises whether the robber's children inherit the field and are entitled to take it away from the person to whom their father sold it unlawfully.

(4) Even if the robber did buy the field from the original owner in order to vindicate his honesty he would only have been concerned about his reputation during his life-time.

(5) There is therefore a good reason why the robber should have wished that his honesty should be vindicated even after his death.

(6) If the robber sold the field a second time (to another person), or disposed of it in some other way after selling it to the first person, it is obvious that his subsequent action in buying the field from the original owner was not due to a desire to secure the field for the first buyer, and must have been prompted by a different motive. The first buyer would not then be entitled to keep the field, which would legally belong to the person to whom it was subsequently sold, given or bequeathed.

(7) If the person, from whom the field was taken away unlawfully, died, and the robber proved to be his heir, so that the latter became the rightful owner of the field.

(8) As the robber acquired the field merely as a result of the death of the owner, and not because of any steps or trouble he took to acquire it, it cannot be assumed that the robber, in acquiring the property, manifested a desire to secure its possession for the person to whom he sold it unlawfully.

(9) If, after appropriating the field illegally and selling it, the robber claimed it as payment of a debt due to him from the original owner.

(10) The fact that the robber insisted on getting this field as payment, while there were other fields owned by the debtor which he could have taken, would show that he was prompted by the motive of securing that field for the person to whom he sold it unlawfully.

(11) If the debtor had no other field to offer.

(12) He only took the field because he wanted payment, not because he wished to secure it for the buyer.

(13) I.e., without any effort on the part of the recipient.

(14) Up till what stage in the proceedings do we assume that the robber, in buying the field from the original owner, intended to secure its possession for the person to whom he sold it unlawfully?

(15) Until legal steps are taken by the original owner to retrieve his property from the person who bought it from the robber. As the latter's reputation is thus lost it cannot be said that he bought the field from the original owner in order to ‘vindicate his honesty’.

(16) אדרכתא (from דרך ‘to pursue’), a document authorising a creditor to search for property belonging to the debtor and to seize it wherever it may be.

(17) I.e., when property belonging to the robber has been discovered and the Court has begun to advertise its public sale for the purpose of compensating the person to whom the robber sold the field unlawfully. The period of such advertising usually extended over thirty days. Cf. ‘Ar. 21b.

(18) He raised an objection to Rab's decision that the robber, in buying the field from the original owner, intended to secure its possession for the person to whom he sold it unlawfully, and that therefore the latter's purchase became legal.

(19) The document is invalid because the robber did not own the field, and therefore had no right to sell it. ‘A potsherd’ is a common term for an invalid document, like the modern term ‘a scrap of paper’.

(20) We assume that the robber bought the field from the original owner because he appreciated the confidence placed in him by the person to whom he sold it unlawfully and who did not question the robber's right to sell it. It was for this reason — we assume — that he wanted to legalise the sale.

(21) Tosef. Nedarim, Ch. VI end.

(22) I.e., any animals or birds or fishes that may be caught in the net (or snare).

(23) His words are of no consequence.

(24) The sale is legal. In the first instance the sale is not legal because at the time of selling the goods were not yet the property of the seller, and the sale does not become legalised by what took place after the sale. This contradicts the view of Rab who, in he case of the robber who bought the field after selling it unlawfully, says that he intended to sell his future rights, and thus this legalises the sale.

(25) It is a great question worthy of the great man who asked it.

(26) He admits that R. Shesheth is a great man, but he does not admit that the question is great.

(27) In Rab's case.

(28) In the case referred to by R. Shesheth, the person to whom the goods to be acquired were sold had no occasion to rely on the seller; it did not depend upon the seller whether he would ultimately acquire the goods or not.

(29) As no-one inside the College will be able to answer it (Rashi). In the תשובת הגאונים (cited by Rashi) this phrase is explained as meaning that the question is not good enough to be discussed in the College.

(30) Literally: ‘into the inside of the inside,’ the meaning being obviously that the question was so important that it ought to be discussed by the best men in the College.

(31) By saying, ‘What I am to inherit from my father to-day is sold to you’ the seller indicates that his father is dying, and that he requires the money for the purpose of giving his father a decent burial.

Talmud - Mas. Baba Metzia 16b

— because of the need to support himself.[1] R. Huna said in the name of Rab: If one says to his neighbour: ‘The field which I am about to buy shall, when I have bought it, be sold to you from now,’ [the neighbour] acquires it.[2] Raba said: It stands to reason that Rab's decision is right [when applied to a case where the seller refers] to a field in general, but in [a case where the seller points out the land sold by saying] ‘this field’ [it would] not [be right, for] who can say whether [the owner of that field] will sell it to him?[3] But — by God! Rab himself did maintain that even when [the seller says] ‘this field’ [the sale is valid], seeing that Rab stated his law in accordance with [the view of] R. Meir, who said that a man may convey [to another person] a thing which has not yet come into existence, as it has been taught: If one says to a woman: Be betrothed to me after I shall become a proselyte, [or,] after thou shalt become a proselyte, [or,] after I shall be set free, [or,] after thou shalt be set free, [or,] after thy husband will have died, [or,] after thy brother-in-law will have given thee halizah,[4] [or] after thy sister will have died, [the woman] is not betrothed.[5] R. Meir says: She is betrothed.[6] Now, the woman [in this case] is like ‘this field,’[7] and [yet] R. Meir says that she is betrothed.[8]

Samuel said: If one finds a deed of transfer[9] in the street one shall return it to the owners.[10] For even if [this were objected to] on the ground that [the deed] may have been written for the purpose of a loan and the loan may [in fact] not have been granted [the objection would not be valid] because [the borrower] pledged himself.[11] And if [this were objected to] on the ground that [the loan] may [in the meantime] have been repaid [the objection would not be valid either] because we are not afraid of repayment [having taken place], as [we assume that] if [the borrower] had repaid [the loan] he would have torn up [the deed]. R. Nahman said: My father was among the scribes of Mar Samuel's court when I was about six or seven years old, and I remember that they used to proclaim: ‘Deeds of transfer which are found in the street should be returned to their owners.’ R. Amram said: We have also learned so [in a Mishnah]: All documents executed by a court of law shall be returned [when found],[12] which shows that we are not afraid of repayment. [But] R. Zera said to him: Our Mishnah treats of documents containing decrees of the Court which confirm the creditor's right to belongings appropriated from the debtor,[13] and of documents authorising a creditor to search for the debtor's belongings and to seize them wherever they may be found,[14] which [documents] are not concerned with repayment. Raba [then] said: And are not such [documents] concerned with repayment? Have not the Nehardeans[15] . said: [Property assigned in] valuation[16] returns [to the debtor] until [the end of] twelve months,[17] and Amemar said: I am from Nehardea and I am of the opinion that the [property assigned in] valuation always returns?[18] Therefore Raba said: There[19] the reason[20] is this: we say: He has himself to blame for the loss, for at the time when he paid [the debt] he should have torn up the document, or he should have [asked for] another document to be written [entitling him to claim the property], as according to law [the creditor] need not return the property], and it is only because [of the command], And thou shalt do that which is right and good in the sight of the Lord[21] that the Rabbis declared that it should be returned: therefore he [the debtor] is [in the position of one who is] buying [the property] anew, and he ought to ask for a deed of sale to be written [and given to him].[22] [But] in regard to a note of indebtedness,[23] what may be argued [in favour of the return thereof is] that if it had been paid he should have torn up the note?[24] [To this] I say: He [the creditor] may have given an excuse by telling him [the debtor], ‘I shall give it to you to-morrow, as I have not got it with me just now,’ or he [the creditor] may have kept it back until he is refunded the scribe's fee.[25]

R. Abbahu said in the name of R. Johanan: If one finds a note of indebtedness in the street, even if it contains the endorsement of the Court,[26] it shall not be returned to the owners: It is undoubtedly so when it does not contain the endorsement of the Court, as it may then be said that it was written for the purpose of a loan, and that [in fact] the loan was not granted. But even if it does contain the endorsement of the Court, which means that it is officially confirmed,[27] it shall not be returned, because we are afraid that [the loan] may [in the meantime] have been repaid. R. Jeremiah objected [to the ruling of] R. Abbahu [from the following Mishnah]: ‘All documents executed by a Court of Law shall be returned [when found]’? [R. Abbahu] answered him: Jeremiah my son, not all documents executed by a court of law are alike! Indeed, [the Mishnah refers to a case where the debtor] has been found to be a liar.[28] Raba [then] said: And because he has been found to be lying once [must it be assumed] that he would not pay [his debts] any more?[28] — Therefore Raba said: Our Mishnah treats of a document containing a decree of the Court which confirms the creditor's right to belongings appropriated from the debtor, and of a document authorising a creditor to search for the debtor's belongings and to seize them wherever they may be found — and in accordance with [the interpretation of] R. Zera [given above].[29] As we have just dealt with the case of [one who was found to be] a liar, we shall say something [more] about it. For R. Joseph b. Manyumi said in the name of R. Nahman: If they [the members of the Court] said to him [the debtor], ‘Go [and] give him [what you owe him];’

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(1) In the same way the word ‘to-day’ in the second case indicates that the seller depends for his livelihood on that day's catch. This is why the Rabbis decided in both these cases that the sale should be regarded as valid. But in the first part these reasons do not apply.

(2) The moment the seller has bought the field from the original owner it becomes the property of the buyer, and the seller ends the transaction.

(3) When a person sells or gives away a piece of land in general terms (without specifying it) the buyer, or the recipient, makes up his mind to acquire the land, as he knows that some land will be available for sale, and he believes that the person who offered the land to him will buy it and convey it to him. But when a person specifies the field he offers, the buyer or recipient will not take the offer seriously, as that field may not be in the market, and the person may not be able to realise his intention of buying that field and conveying it to his friend.

(4) V. Glos.

(5) The transaction is not valid, as the fulfilment of the conditions stipulated by the man is beyond the power or control of the woman.

(6) Yeb. 93b.

(7) Just as in the case of ‘this field’ the seller, or donor, is unable to compel the original owner to dispose of the field (to enable the former to convey it to his friend), in the case of the woman also the fulfilment of the condition necessary to render the transaction valid is beyond her power or control.

(8) Which shows that according to the view of R. Meir on which Rab based his ruling, no distinction is made between ‘the field’ and ‘a field’.

(9) V. p. 72, n. 4.

(10) As there is every reason to believe that the deed is still valid.

(11) To let the lender have the property in any case. Cf. pp. 77-78.

(12) Infra 200. This would include a note of indebtedness endorsed by the court and excluding the possibility of the loan not having been granted (cf. B.K. 112b) which would show that as long as we are sure that the loan was granted we do not suspect its validity on the ground that the loan may have been repaid.

(13) שטר חלטאה (from חלט , to establish’, make sure’) = a document issued by the court authorising a creditor to keep certain properties allotted to him in payment of his debt.

(14) V. p. 95, n. 8.

(15) A famous town in Babylonia, near the junction of the Euphrates and ‘Nahr Malka,’ and the seat of the Academy rendered famous by Samuel and other great Rabbis. Among the natives of Nehardea was R. Nahman (v. Hul. 95b).

(16) I.e., to the creditor.

(17) If the debtor pays during that time.

(18) There is no time limit, and whenever the debtor pays he is entitled to reclaim his property. [This being the case, the question of repayment arises also in these deeds of assignment, there being a possibility that the debtor had had his property restored on paying his debt, and in returning the documents to the creditor we empower the latter to seize anew the debtor's property.]

(19) In the case of deeds of assignment dealt with in the Mishnah.

(20) Why the document is to be returned.

(21) Deut. VI, 18.

(22) As a deed of transfer entitles the creditor to keep the seized property even when the debtor offers to repay the loan, and as the Rabbis decided that the property should be returned merely on the grounds of equity, the debtor, on failing to get the deed of transfer back, ought to have asked for a new deed — a deed of sale — as if the property had then been sold to him by the creditor.

(23) Dealt with by Samuel.

(24) And they apply to a note of indebtedness the same reason that is given for the law that a lost ‘deed of transfer’ has to be returned, viz., that since it has not been torn up the debt must still be due and the document still valid.

(25) By the debtor in case the creditor laid it out for him, the scrivener's fee being charged to the debtor. The debt may thus have been paid even though for some reason or other the creditor did not return the note to the debtor, and this should preclude the return of the note to the creditor.]

(26) הנפק . V. p. 33, n. 1.

(27) Cf. supra, ibid.

(28) On another occasion it was established that he told a lie. Therefore he would not be believed if he pleaded in this case that he had paid the debt. This is why the documents must be returned.

(29) That these documents are not concerned with the payment of money, and therefore are to be returned.

and he [the debtor] said [later], ‘I have paid [as ordered]’, he is believed.[1] [If then] the lender comes [to the Court and asks for a decree] to be written,[2] [the decree] may not be written and given to him. [But if the Court said to the debtor,] ‘You are obliged to give him [what you owe him],’ and he [the debtor] said [later], ‘I have paid,’ he is not believed. [If[3] then] the lender comes [to the Court and asks for a decree] to be written, [the decree] may be written and given to him. R. Zebid said in the name of R. Nahman: Whether [the Court said], ‘Go [and] give him’ or [it said] ‘You are obliged to give him,’ if [the debtor subsequently comes and] says, ‘I have paid,’ he is believed. [If then] the lender comes [to the Court and asks for a decree] to be written, [the decree] may not be written and given to him. If, therefore, [the wording of the Court's decision] is to make a difference [at all], the difference can only apply to the following cases: If they [the members of the Court] said to him [the debtor], ‘Go [and] give him [what you owe him],’ and he [the debtor] said [later], ‘I have paid [as ordered],’ and witnesses testify that he did not pay him,[4] while he repeats his assertion that he did pay,[5] [then we say:] ‘He has been found to be a liar in regard to this money.’[6] [But if the Court said to the debtor,] ‘You are obliged to give him [what you owe him], and he [the debtor] said later, ‘I have paid,’ and witnesses testify that he did not pay,[7] while he repeats his assertion that he did pay,[6] [then we say:] ‘He has not been found to be a liar in regard to this money.’[8] For what reason? — [We say that the debtor] was just trying to put him off, thinking to gain time until the Rabbis would consider their decision more carefully.[9]

Rabba b. Bar Hanah said in the name of R. Johanan: [If one says to another], ‘You have in your possession[10] a hundred zuz belonging to me,’ and the other replies, ‘I have nothing belonging to you,’ while witnesses testify that he [the defendant] has [the money], and he [the defendant] again pleads, ‘I paid it,’ [then we say], ‘He has been found to be a liar in regard to this money.’ Such was the case of Sabbathai, the son of R. Merinus: He assigned to his daughter-in-law in her Kethubah[11] a cloak of fine wool, and he pledged himself to it. Her Kethubah got lost, [whereupon] he [Sabbathai] said to her,[12] ‘I deny altogether [having assigned to you the cloak].’ [But] witnesses came and said, ‘Yes, he did assign it to her.’ In the end he said, ‘I gave it to her.’ He then appeared before R. Hiyya,[13] [and R. Hiyya] said to him: You have been found to be a liar in regard to this cloak.’[14]

R. Abin said in the name of R. Elai, who said in the name of R. Johanan: If one was due [to take] an oath [in regard] to [a claim of] his neighbour, and he said, ‘I took the oath,’ but witnesses testify that he did not take the oath, while he repeats the assertion, ‘I did take the oath,’ [we say:] ‘He has been found to be a liar in regard to this oath.’[15] This [decision] was conveyed to R. Abbahu, [whereupon] he said: R. Abin's decision seems right [in a case where] the oath was imposed upon [the defendant] by a Court of Law,[16] but [in a case where the defendant] imposed an oath upon himself,[17] [he is believed,][18] for it happens that a person talks like this.[19] [When this observation] was conveyed back to R. Abin, he said: I also spoke of a court case. And it was also stated so [in another place]: R. Abin said in the name of R. Elai, who said in the name of R. Johanan: If one was due [to take] an oath in a Court of Law [in regard] to [a claim of] his neighbour, and he said, ‘I took the oath,’ but witnesses testify that he did not take the oath, while he repeats the assertion, ‘I did take the oath’, [we say:] He has been found a liar in regard to this oath.

R. Assi said in the name of R. Johanan: If one finds in the street a note of indebtedness which contains the endorsement of the Court[20] and the date of that very day,[21] it shall be returned to the owners. [For] if [the objection is raised that] it may have been written for the purpose of a loan, and the loan may [in fact] not have been granted, [the objection is not valid,] as [the note] contains the endorsement of the Court,[22] [and] if [the objection is raised] that [the loan] may have been repaid, [the objection is not valid,] as we are not afraid of a loan having been repaid on the day [on which it was granted]. R. Zera then said to R. Assi: Did R. Johanan really teach this? Did you not yourself teach in the name of R. Johanan [as follows]: A note which was given for a loan that was [subsequently] repaid cannot be used for the purpose of another loan, because the obligation [incurred by the first loan] was cancelled [on it being repaid]?[23] Now, when [was the note to be used again]? If on the following day or on any date later [than that given in the note], why state as a reason the fact that the obligation [incurred by the first loan] was cancelled? [The invalidity of the note] follows from the fact that it is antedated,[24] for we have learned in a Mishnah: Antedated notes of indebtedness are invalid.[25] It must therefore be assumed that [the note was to be used a second time] on the same day [as that given in the note]: so we see that people do pay on the same day [as they borrow]? — R. Assi answered him: Did I say that one never pays [a debt on the day it is incurred]? I said: people do not usually pay on the same day.[26]

R. Kahana said: [The lost document is to be returned[27] to the owner] when the debtor admits [that he has not paid]. But if so, [it is asked,] why need we be told this? — [Because] you might say: This [debtor] has really paid, and the reason why he says he has not paid is that he wishes to have [the note] returned [to the creditor] so that he may borrow on it again and thus save the scribe's fees.[28] Therefore we are told [that we do not say this, the reason being] that in such circumstances the lender himself would not permit it, thinking the Rabbis may hear of it and make me lose [my money].[29] But why is this case different from the one we have learned.[30] IF ONE HAS FOUND NOTES OF INDEBTEDNESS WHICH CONTAIN A CLAUSE PLEDGING [THE DEBTOR'S] PROPERTY, ONE SHALL NOT RETURN THEM — and it is explained as referring to a case where the debtor admits [the debt], and [the note has not to be returned] for the reason that it may have been written for the purpose of a loan to be granted in Nisan, while in reality the loan may not have been granted till Tishri, with the result that the creditor may come unlawfully to seize property bought by people [from the debtor] between Nisan and Tishri. Now, why do we not say [there also] that in such circumstances the lender himself would not permit [the note to be used in Tishri] but would say to him [the borrower]: Write another note in Tishri, as otherwise the Rabbis may hear of it and make me lose [my money]? — It was said [in reply]: There [in the Mishnah], seeing that he [the lender] would profit by seizing property sold [by the debtor] between Nisan and Tishri, he [the lender] would be content and would say nothing. But here, seeing that he [the lender] would have no profit, as after all the note has only just been written,[31] what advantage is there in that note as regards seizing sold property?[32] [Therefore we may assume that the lender] will not permit [the renewed use of] a note, the obligation of which expired [when the first loan was paid].[33]

R. Hiyya b. Abba said in the name of R. Johanan: Whoever pleads after an act of the Court

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(1) After taking an ‘oath of inducement’. V. p. 20, n. 4.

(2) If the lender asks the Court to write a document authorising him to seize the debtor's property. Cf. supra P. 95, n. 8.

(3) Even if he is ready to take the ‘oath of inducement’ he is not allowed to do so, but the plaintiff may take the oath and receive payment (Rashi). The reason for this is that the defendant is not likely to have paid on the strength of the Court's verdict, which is merely a statement regarding his obligation to pay and is not an order to pay. Seeing that the defendant waited to be sued for payment it is not assumed that he would actually have paid without a definite order from the Court.

(4) Witnesses give evidence to the effect that following the order issued by the Court the plaintiff demanded payment from the defendant in their presence and was refused. As a consequence it is assumed that having defied the order of the Court in the presence of witnesses the defendant is not likely to have paid later in their absence, and he is not believed if he pleads subsequently ‘I have paid’.

(5) On a later date in the absence of witnesses.

(6) And his statement is not accepted.

(7) When called upon to pay in their presence.

(8) He is not believed except if there are witnesses to corroborate his statement.

(9) And may yet decide in his favour.

(10) I.e., on loan.

(11) Marriage contract, v. Glos.

(12) Var. lec. ‘to them’ (the judges).

(13) R. Isaac Alfasi and Asheri have a different version of this passage. According to that version the translation would be as follows: He appeared before R. Hiyya. Witnesses then came and said, ‘Yes, he did assign it to her.’ R. Hiyya then said: ‘Go (and) give it to her.’ In the end he (Sabbathai) said to her: ‘I gave you (the cloak).’ (Then R. Hiyya) said to him: ‘You have been found to be a liar in regard to this cloak.’

(14) Sabbathai's plea was rejected, and he had to pay.

(15) And he is obliged to take the oath in Court.

(16) If he refused to take the oath imposed on him by the Court, although he was called upon by the plaintiff to do so in the presence of witnesses, he cannot be believed if he asserts that he took the oath later in the absence of witnesses.

(17) I.e., he offered to swear of his own accord but refused to take the oath when called upon by the plaintiff to do so in the presence of witnesses. Subsequently, however, he asserted that he did take the oath (privately), in spite of his previous refusal before witnesses.

(18) His plea that he has taken the oath is accepted by the Court.

(19) It is a common thing for a person to refuse when pressed to do something he had volunteered to do, although he may do it later of his own accord. This attitude is not so insolent or obstinate as that involved in the refusal to take a compulsory oath.

(20) V. supra p. 33, n. 1.

(21) I.e., the day on which it was found, which shows that the document was written on the same day.

(22) Which shows that the transaction recorded in the document must have taken place.

(23) As the loan to which the note referred, and which formed a lien on the borrower's property, was repaid, the borrower's indebtedness in regard to this loan ceased. If then a new loan is granted, without a new note of indebtedness, it must be regarded as a mere verbal transaction, which does not form a lien on the borrower's property and does not entitle the lender to seize goods sold by the borrower. If, however, the note used for the repaid loan is retained by the lender for the purpose of the second loan, the lender may, on the strength of it, seize property sold by the borrower — which would be illegal, as in reality the second loan was a mere verbal transaction.

(24) If the second loan was granted on a day after the date given in the note, or on any subsequent date, the note, if applied to the second loan, must be regarded as antedated, and therefore it is invalid.

(25) Sheb. X. V. infra 72a; Sanh. 32a; B.B. 157b and 171b.

(26) And as it is not usual for a loan to be repaid on the same day, we do not apprehend that this may have happened in the case of the lost document, which must consequently be returned to the creditor, but if it did happen that a loan was repaid on the same day, R. Johanan teaches that the note must not be used for a second loan — not even on the same day — for the reason given by him.

(27) According to R. Johanan.

(28) For writing another note, which is charged to the debtor, v. supra p. 200, n. 7.

(29) The lender would be afraid that the Rabbis, on learning that the note was antedated and therefore invalid, so far as the second loan was concerned, would prevent him from seizing the debtor's sold property.

(30) V. supra 12b.

(31) As it bears that day's date.

(32) As both loans were granted on the same day, the note for the second loan, even if written afresh, would have borne the same date and would have served the same purpose so far as the lender's right to seize the borrower's sold property is concerned.

(33) As legally the lender would not be entitled to seize sold property at all on the strength of such a note.

Talmud - Mas. Baba Metzia 17b

says nothing.[1] What is the reason? Every act of the Court is regarded as [if it constituted] a document placed in the hand [of the claimant].[2] R. Hiyya b. Abba then said to R. Johanan [himself]: And is not this [implied in] our Mishnah [which says]: If she produces a bill of divorcement unaccompanied by the Kethubah, she may exact payment of [the money due to her in accordance with] her Kethubah.[3] [R. Johanan then] answered him: If I had not lifted the sherd for you, you would not have found the pearl underneath.[4] Abaye asked: What pearl [has R. Hiyya b. Abba found]?[5] Maybe we deal [in the Mishnah] with a place where a marriage-contract is not [usually] written,[6] so that her bill of divorcement serves the purpose of a Kethubah, but in a place where a Kethubah is [usually] written [the law would be that] if she produces her Kethubah she may exact payment, but that if [she does] not [produce it she may] not [exact payment]?[7] Later Abaye corrected himself: What I said[8] is really no argument; for if you were to assume that the reference [in the Mishnah] is to a place where a Kethubah is not [usually] written, but that in a place where a Kethubah is [usually] written [the law would be that] if she produces her Kethubah she may exact payment, but not if she does not — how would a woman who became a widow after erusin[9] exact payment?[10] If by [the evidence of] witnesses [testifying] to the death of the husband [the latter's heirs] could plead and say: ‘She has been paid [already].’ And if you will say, ‘It is really so,’[11] then what have the Sages achieved by their provision?[12]

Mar Kashisha, the son of R. Hisda, then said to R. Ashi: And how do we know that a [woman who became a] widow after erusin is entitled to [payment of] the Kethubah?[13] If I should say [that we derive it] from the passage which we learnt: ‘A woman who became a widow or was divorced, either after erusin or nesu'in, exacts payment of all [that is due her from her deceased husband]’[14] — perhaps [this refers to a case] where [the betrothed man or the husband] had written her [a Kethubah]. And if you will argue: ‘What need is there to tell us this?’ [I will answer]: In order [to let us know] that we must reject the view of R. Eleazar b. Azariah, who says that he did write her the Kethubah except on condition that he would wed her.[15] It is necessary [to let us know that this is not so].[16] It can also be proved [that the Mishnah really deals with a case where there is a written Kethubah], for it says, ‘[She] exacts payment of all [that is due to her]’ — if you agree that [the case is one where the husband] wrote a Kethubah, there is an explanation why [the Mishnah] uses the term, ‘[She] exacts payment of all [that is due to her].’[17] But if you say that he did not write her [a Kethubah],

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(1) I.e., any legal provision which is based on a general enactment (מעשה בית דין) ‘act of the Court’. Such as e.g., is made for a wife in her marriage-contract, or for the maintenance of wife and children (grown-up-daughters), is as binding as a properly attested obligation entered into in writing by contracting parties. The plea of a defendant in such an action that he has discharged his obligation cannot be accepted unless it is corroborated by witnesses or by other legal evidence.

(2) The onus of proving that he has discharged his obligations therefore rests on the defendant.

(3) V. Keth. 88b.

(4) I.e., ‘If I had not stated the law regarding the validity of an act of Court you would not have discovered the reason for the law of the Mishnah cited by you.’

(5) I.e., is the law of the Mishnah cited by R. Hiyya b. Abba really based on the principle laid down by R. Johanan?

(6) And it is usual to depend on the provision of the Court, so that a husband who has divorced his wife is under an obligation to pay her Kethubah, even if it has not been put in writing, and the husband cannot plead, ‘I have paid,’ unless he produces a receipt or other legal evidence.

(7) The husband may plead that he has paid, or he may demand the production of the Kethubah on the ground that if she does not give up the document she may demand payment a second time by producing the document later.

(8) I.e., the distinction that Abaye made between places where the marriage-contract is usually written and the places where it is not written.

(9) אירוסין ‘Betrothal’, v. Glos. I.e., a woman whose betrothed died before the marriage proper (נישואין nesu'in) took place.

(10) Viz., of the Kethubah due to her, seeing that no Kethubah is written at erusin, even in the places where it is written at (nesu'in), although the man becomes liable to pay the Kethubah from the time of the erusin.

(11) I.e., that the heirs can put forward such a plea.

(12) What benefit have the Rabbis bestowed upon the woman by the provision that she is entitled to the Kethubah as soon as she becomes betrothed, seeing that the man's heirs would always he able to claim that she has been paid, without having to produce a receipt?

(13) Where is the law stated that erusin entitles a woman to claim the Kethubah just as marriage does?

(14) V. Keth. 54b.

(15) Since he however died before marriage she is not entitled to the Kethubah.

(16) I.e., that if a man writes a Kethubah at the time of erusin he does not make it dependent on the actual marriage taking place.
(17) I.e., both the legal amount for which the Kethubah is written, viz., one hundred zuz for a widow, and two hundred for a virgin, and the additional amount which a husband may settle on his wife, and which she could claim only if it is expressly written in the Kethubah, but not as a provision of the Rabbis.

Talmud - Mas. Baba Metzia 18a

what is the meaning of the term, ‘[She] exacts payment of all [that is due to her],’ seeing that she is only entitled to a hundred or two hundred zuz[1] [and no more]? Again, if [you will say that we derive the law] from that which R. Hiyya b. Ammi learnt: ‘If the betrothed wife [of a priest dies] he [the priest] is not deemed a mourner[2] nor is he allowed to defile himself.[3] In similar circumstances the woman is not deemed a mourner and is not obliged to defile herself[4] [if he dies]. [Also] if she dies he does not inherit her [property];[5] if he dies she exacts the payment of her Kethubah’[6] — [it could be objected]: perhaps [this refers to a case where the betrothed man] had written her [a Kethubah]. And if you will argue: If he wrote her a Kethubah what need is there to tell us [that she may exact payment]? [I will answer]: It is necessary [to let us know that] if she dies he does not inherit her [property]![7] — [It must therefore be said that Abaye corrected himself because of what the Mishnah[8] itself Says, [and he argued thus]: If you held the view that we deal here with a place where no Kethubah is [usually] written, the [production of the] bill of divorcement having [there] the same effect as [the production of] her Kethubah,[9] [it could be refuted by the question]: Does a bill of divorcement contain [the figures] ‘one hundred zuz’ or ‘two hundred zuz’?[10] And if you will Say: seeing that the Rabbis have provided [that the production of the bill of divorcement entitles the woman] to exact payment it is just as if [the figures] were written in it, the objection could still be raised: Let him [the husband] plead and say, ‘I have [already] paid up.’ And if you will argue that we could say to him, ‘If you paid you should have torn up [the bill of divorcement],’ [the answer would be:] They could reply, ‘She did not let me [tear it up], as she said: I wish to keep it [as evidence that I am free] to marry again.’ And if you will argue [further]: ‘We could say to him, You should have torn it[11] and have written on it: This bill of divorcement has been torn by us, not because it is an invalid bill, but to prevent it being used for the purpose of exacting payment a second time,’ [the answer would be:] Do all who exact payment [of a debt] exact such payment in a Court of Law?[12]

MISHNAH. IF ONE FINDS BILLS OF DIVORCEMENT OF WIVES, [DEEDS OF] LIBERATION OF SLAVES, WILLS, DEEDS OF GIFT, AND RECEIPTS, ONE SHALL NOT RETURN THEM, FOR I SAY, THEY WERE WRITTEN, BUT HE [WHO ORDERED THEM TO BE WRITTEN] CHANGED HIS MIND [AND DECIDED] NOT TO HAND THEM OVER.
GEMARA. [If] the reason why [bills of divorcement are not returned] is that [we say], HE CHANGED HIS MIND [AND DECIDED] NOT TO HAND THEM OVER, then [we must assume] that if he [who lost the document] says [to those who found it], ‘Give it [to the wife]’, it is given [to her][13] even after a long time, but the following contradicts it: If one has brought a bill of divorcement [in order to deliver it on behalf of the husband] and has lost it, [the law is that] if it is found immediately[14] it is valid, if not,[15] it is invalid![16] — Rabbah said :It is no contradiction: There [the reference is] to a place where caravans pass frequently;[17] here [in our Mishnah the reference is] to a place where caravans do not pass frequently. And[18] even in a place where caravans pass frequently this [law[19] only applies to a case] where two [persons called] ‘Joseph ben Simeon’[20] are known to be in the same town.[21] For if you did not maintain this, there would be a contradiction in Rabbah's own words, [as the following incident shows:] A bill of divorcement was once found in R. Huna's court-house, and in it was written, ‘At Shawire,[22] a place [situate] by the canal Rakis.’ R. Huna said:

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(1) One hundred in the case of a widow, and two hundred in the case of a virgin, which become due when the husband divorces her or dies.

(2) אונן , the designation of a mourner between the time of the death of a relative and the burial (after which he becomes an אבל). During that period of mourning a priest is not allowed to partake of sacrificial meat or other holy food. But mere erusin does not constitute relationship to the extent that the death of the betrothed woman should render the laws of mourning applicable to the bereaved priest.

(3) Cf. Lev. XXI, 1-4. A wife is regarded as שארו ('his flesh', cf. Gen. II, 24) for whom a priest may defile himself, but not a betrothed woman.

(4) The laws of defilement do not apply to a woman, whether she be the wife or the daughter of a priest (as the text speaks of 'the sons of Aaron', not the daughters or wives). On the other hand it is the duty of both men and women, whether of priestly descent or not, to attend to the burial of their dead relations, but betrothal does not constitute relationship in this respect, and there is no obligation on the part of a woman (or a man) to attend to the burial of her (or his) betrothed.

(5) While a husband inherits his deceased wife's property (cf. B.B. 111b) he does not inherit the property of his betrothed.

(6) Yeb. 29b; Sanh. 28b.

(7) As this law had to be stated, the matter of the Kethubah is also mentioned.

(8) Of Keth. 88b cited above.

(9) So that it may be argued that the Kethubah is due to be paid, not because of the provision of the Rabbis, but because the bill of divorcement constitutes a written document, on the strength of which the money can be claimed.

(10) It cannot be maintained that the bill of divorcement constitutes a document by means of which the payment of the Kethubah can be exacted, as such a document, if used for the purpose of collecting a debt, would have to state the amount due to be collected, and a bill of divorcement contains no such statement.

(11) I.e., made a tear in it, without destroying it. This is usually done to a bill of divorcement after it has been handed to the woman.

(12) It is only when payment is made in a Court of Law that one can expect the document to be endorsed in the way suggested, but people do not always pay their debts in Court. So that even if it be admitted that the mere production of the bill of divorcement entitles the woman to demand payment of the amount of the Kethubah just as if the amount were stated in the bill, one could not maintain that the husband would not be believed if he pleaded 'I have paid already,' seeing that he has good reason for not having had destroyed the bill of divorcement on payment. It must therefore be assumed that the reason why payment of the Kethubah can be enforced against the plea of the husband is that it is based on an enactment of the Courts, and in accordance with the dictum of R. Johanan given above.

(13) And we do not apprehend that this is a different bill which another person has lost, and that the names in the document refer to other persons who happen to have had the same names as those given in the document which was lost and found.

(14) So that there is no interval during which someone else may have lost a similar document in the same place.

(15) If it is not found immediately, but after an interval, during which a caravan may have passed through the place and halted there for a meal.

(16) As a member of the caravan may have lost it, and by some coincidence the names in the two documents may have been identical (Mishnah Git. 27a).

(17) The reference in Git. is to a place where caravans often pass through, and there is a likelihood of the bill having been dropped by a member of one of these travelling companies, but our Mishnah here deals with a case where there is no such likelihood.

(18) [What follows is a Talmudic comment on Rabbah's statement.]

(19) Viz., that a bill of divorcement is invalid if found after a long time.

(20) A common name often given in the Talmud as one likely to be borne by two persons in the same town.

(21) I.e., in the town where the document was issued.

(22) [Near Sura, v. Obermeyer, Die Landschaft Babylonian, p. 299.]

Talmud - Mas. Baba Metzia 18b

We apprehend that there may be two places called Shawire.[1] R. Hisda then said to Rabbah: Go and consider it carefully, for in the evening R. Huna will ask you about it. So he went and examined it thoroughly, and he found that we had learnt [in a Mishnah]: Every document endorsed by the Court shall be returned.[2] Now, R. Huna's court-house is surely like a place where caravans pass frequently,[3] and yet Rabbah decided that [the document] should be returned. We must therefore say that '[only] if two persons called 'Joseph ben Simeon' are known to be there it is so,[4] [but] if not, [it is] not [so]'.[5] Rabbah decided an actual case where a bill of divorcement was found among the flax in pumbeditha in accordance with his teaching.[6] Some say where flax was sold,[7] and it was [a case where two bearing the same name] were not known to be [in the place], although caravans were frequent there; others say [it was the place] where flax was steeped, and even though [two persons bearing the same name] were known to be [in the place, the bill had to be returned] because caravans were not frequent there.[8]

R. Zera pointed out a contradiction between our Mishnah and a Baraitha, and then explained it: We learnt [in the Mishnah]: If one has brought a bill of divorcement [in order to deliver it on behalf of the husband] and has lost it, [the law is that] if it is found immediately, it is valid, if not, it is invalid. This contradicts [the following Baraitha]: If one finds in the street a bill of divorcement it shall be returned to the woman when the [former] husband admits [its genuineness], but if the husband does not admit [its genuineness] it shall not be returned to either of them.[9] At all events it says, 'When the husband admits [its genuineness] it shall be returned to the woman' — [obviously] even after a long time! — And [R. Zera] explained it [by saying]: There[10] [the reference is] to a place where caravans pass frequently, but here[11] [the reference is] to a place where caravans do not pass frequently. Some say that it is only when [two persons bearing the same name] are known to be [in the place][12] that we do not return [the bill],[13] and this is [in accordance with] the view of Rabbah. Others say that even if [two persons bearing the same name] are not known to be in the place we do not return [the bill] — contrary to the view of Rabbah. Now, we can well understand why Rabbah did not argue like R. Zera,[14] as he [Rabbah] deemed it more important to point out the [apparent] contradiction between our Mishnah [and the other Mishnah],[15] but why did not R. Zera argue like Rabbah?[16] — He will answer you: Does our Mishnah teach [expressly], 'But if he says, Give it [to the wife], it is given to her, even after a long time'? It may be that the meaning is: If he says, 'Give it [to the wife]' it is given to her, but only immediately,[17] as we have assumed all along.[18] According to the version of him who says that the view of R. Zera is that in a place where caravans are frequent [the document shall not be returned] even if there are no [two persons] known to be [in the place where the document was issued], and that [R. Zera thus] differs with Rabbah — wherein do they differ? — Rabbah holds that when the Mishnah states that 'Every document endorsed by the Court shall be returned',[19] it deals with [a document] which was found in Court, and since a Court of law is like a place where caravans are frequent,[20] [we must conclude that] only if [two persons of the same name] are known to be [in the place where the document was issued the law is that] the document shall not be returned, but that if [two persons of the same name] are not known to be there [the law is that] it shall be returned. And R. Zera?[21] — He will answer you: Does [the Mishnah] state: 'Every document endorsed by the Court, which has been found in Court, shall be returned'? It only states: Every document endorsed by the court shall be returned, — but, in reality, it has been found outside [the Court].[22]

R. Jeremiah says: [The Baraitha deals with a case] where the witnesses say, 'We never signed more than one bill of divorcement [with the name] of Joseph ben Simeon.'[23] But if so — what need is there to tell us [that in such a case the document has to be returned]? — You might say that we ought to apprehend that by a peculiar coincidence the names [of the husband and wife] as well [as the names of] the witnesses were identical [in two bills of divorcement]; therefore we are told [that we do not apprehend such a coincidence]. R. Ashi says: [The Baraitha deals with a case] where [the husband][24] says, 'There is a hole near a certain letter,'[25] and provided [he states] definitely near which letter [the hole is to be found],[26] but if [he just says, 'There is] a hole [in the document,' without indicating the exact place, the document is] not [returned to the wife]: R. Ashi was in doubt whether [the validity of a claim to lost property put forward by one who describes the lost article's] distinguishing marks is [derived from] Biblical law or rabbinical law.[27]

Rabbah b. Bar Hanah

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(1) Even when the messenger who lost the bill of divorcement appears before us and testifies that the husband who lives in Shawire sent him to deliver it, and there is no other man with the same name as the husband (and no other woman of the same name as the wife) known to be living in that place, we apprehend that there may be another place called Shawire where a man of the same name (and a woman of the same name) exists, and therefore we do not return the document. [This might better be rendered as a question: Do we apprehend that there may be two places called Shawire? v. Strashun, a.l.]

(2) Mishnah infra 20a. The endorsement of the Court shows that the transaction referred to in the document has been completed, so that the apprehension that the person who authorised the document to be written may have changed his mind and refused to complete the transaction, does not arise. As the bill of divorcement referred to by R. Huna was found in the Rabbi's court-house it must be assumed that it was lost after it was dealt with by the Court, and that therefore it must be treated like ‘a document endorsed by the Court’.

(3) As many people come to the Court with such documents.

(4) Only if two persons bearing the same name are known to live in the place where the document was issued is the document not returned.

(5) I.e., the document has to be returned.

(6) [In a case where a lost bill of divorcement was found in a place where only one of the two conditions was fulfilled, and Rabbah, following the principle he laid down, ruled that the bill should be returned for the benefit of the wife.]

(7) A market where many people come to buy flax. Although this is like the case where caravans are frequent, the document was returned because there were no two persons of the same name known to exist in the place of issue.

(8) [It was not the market where people came to buy flax and consequently could not be treated as a place where ‘caravans pass frequently,’ but it was a case where two persons bearing the same name were known to exist and yet Rabbah decided in accordance with his teaching above that the document should be returned. On the cultivation of flax in Pumbeditha, v. Obermeyer, op. cit., p. 239.]

(9) Either to the wife or to the husband (Git. 27a). The case cannot be decided until legal evidence is adduced in support of the plea of the one or the other.

(10) In the Mishnah, which says that if found after a long interval the bill of divorcement is invalid.

(11) In the Baraitha, which says that even if found after a long interval the bill should be returned when admitted by the husband to be genuine.

(12) Where the bill was issued.

(13) Where caravans pass frequently.

(14) I.e., why Rabbah did not point out the apparent contradiction between the Mishnah and the Baraitha, as R. Zera did.

(15) It is more important to reconcile two Mishnahs than a Mishnah and a Baraitha.

(16) And point out the apparent contradiction between the two Mishnahs (which have the same editor).

(17) But not if there has been an interval, in which case the bill is not returned. The Mishnah, however, may not have such a case in view at all, as it only says, IT SHALL NOT BE RETURNED, and in this respect an interval would make no difference. Had the Mishnah referred to a case where the bill had to be returned it would probably have made the distinction between ‘immediately’ and ‘after an interval’. It was only the Gemara that derived from the Mishnah, by implication, the law that if the husband wishes to maintain the validity of the bill by saying, ‘Give it to the wife,’ he may do so even ‘after a long time’.

(18) There is nothing in the Mishnah to contradict our view of the law as implied in the wording of the Baraitha, which says that the bill shall be returned, and makes no distinction between ‘immediately’ and ‘after a long time’.

(19) Infra 20b.

(20) [Read with MS.F. ‘and yet it states “it shall be returned,” hence we must conclude that even where caravans are frequent it is only if (two persons) are known to be, etc.’]

(21) How does he explain the reference in the Mishnah to a ‘Court of law’?

(22) Where ‘caravans are not frequent.’ [For where it was found in Court it would be returned having regard to the frequency of caravans there.]

(23) Only in such does the Baraitha say that the bill shall be returned.

(24) Who admits that the bill is genuine.

(25) The letter is named by the husband.
(26) This constitutes a ‘precise, distinguishing mark’, upon which one may rely even as regards a Biblical law. V. infra 27a.
(27) [If the validity of ordinary distinguishing marks is only of Rabbinic origin, such marks would not be relied upon in the case of a bill of divorcement in view of the grave implications involved.]

Talmud - Mas. Baba Metzia 19a

lost a bill of divorcement in the Beth Hamidrash.[1] [When it was found] he said [to the finders]: If you [attach importance to] a distinguishing mark, I have one on it; if, [however, you attach importance to] recognition by sight,[2] I am able to recognise it. [Whereupon the bill] was returned to him. He then said: l do not know whether it was returned to me because of the distinguishing mark[3] [I indicated], and the view was held that [the indication of] distinguishing marks [entitles the loser to recover his property] in accordance with Biblical law, or whether it was returned to me because of my ability to recognise it by sight, and [such recognition would be accepted from] a Rabbinic scholar only[4] but not from an ordinary person.

The above text [states]: ‘If one finds in the street a bill of divorcement, [the law is that] when the [former] husband admits [its validity] it shall be returned to the woman, but if the husband does not admit [its validity] it shall not be returned to either of them.’ At all events [we are taught that] when the husband admits, [the bill of divorcement] is to be returned to the woman — ought we not to apprehend that [the husband] may have written it with the intention of giving it [to the wife] in Nisan but [in reality] did not give it to her till Tishri[5] and the husband may have gone and sold the fruit [of his wife's property][6] between Nisan and Tishri, and she may then come, produce the bill of divorcement that was written in Nisan, and take away [the fruit] from the buyers unlawfully?[7] This would be right according to him who says that as soon as the husband has made up his mind to divorce her he is no more entitled to the fruit [of her property],[8] [and] it would be in order [for her to reclaim the sold fruit],[9] but according to him who says that the husband is entitled to the fruit [of her property] until the date on which he hands her [the bill of divorcement] — how is it to be explained? — When she comes to take away [the sold fruit] from the buyers we say to her: Bring proof when the bill of divorcement came to your hand. But why is [a bill of divorcement] different from notes of indebtedness, regarding which we have learnt: ‘If one finds notes of indebtedness [the law is that] if they contain a clause pledging [the debtor's] property one shall not return them’,[10] and this is interpreted [as applying to a case] where the debtor admits [the debt], and the reason [why the notes are not returned] is that they may have been written in Nisan and the loan may not have been granted till Tishri, so that [the creditor] may take away [the debtor's sold property][11] from the buyers unlawfully — [why do we not say] there also [that the documents] should be returned, and that when [the creditor] will come to take away [the debtor's sold property] from the buyers we shall tell him: Bring proof when the note of indebtedness came to your hand?[12] — The answer is: In the case of a bill of divorcement the person who bought [from the husband the fruit of the wife's property] will come and demand of her [the proof],[13] saying: The reason why the Rabbis gave her back the bill of divorcement is that she may not be condemned to permanent widowhood,[14] but now that she has come [with the bill] to take away [the fruit of her property which I bought from her husband] let her go and bring proof when the bill of divorcement came to her hand! But in the case of a note of indebtedness the buyer will not come to demand [proof]. He will say [to himself]: As the Rabbis gave him back the note of indebtedness it is obvious that the purpose for which they gave it to him was [to enable him] to take away [the debtor's sold property from the buyer, and] this shows that the Rabbis made sure of the matter,[15] and that the note of indebtedness came to the hand [of the creditor] before my [purchase].[16]

[DEEDS OF] LIBERATION OF SLAVES, etc. Our Rabbis taught: If one finds a deed of liberation in the street, [the law is that] when the master admits [its validity] one shall return it to the slave, [but when] the master does not admit [its validity] one shall not return it to either of them. Thus [we are taught that] when the master admits, [the deed of liberation] is to be returned to the slave — why [is this so]? Ought we not to apprehend that [the master] may have written it with the intention of giving it [to the slave] in Nisan but [in reality] did not give it to him till Tishri, and the slave may have gone and bought property between Nisan and Tishri,[17] and the master may have gone and sold it, and [the slave] may then produce the [deed of] liberation which was written in Nisan, and take away [the property] from the buyers unlawfully? This would be right according to him who says[18] that it is an advantage to a slave to be liberated from his master,[19] regard being had to Abaye who says, ‘the witnesses acquire it for him by affixing their signatures’;[20] [and] it would be in order [for him to buy property as soon as the deed of liberation is signed]; but according to him who says that it is a disadvantage to a slave to be liberated from his master[21] — how is it to be explained?[22] — When [the slave] comes to take away [the property sold by the master] we say to him: ‘Bring proof when the [deed of] liberation came to your hand.’

WILLS, DEEDS OF GIFT, etc. Our Rabbis taught: What is meant by WILLS?[23] — [Documents which contain the words:] ‘This shall be established and executed,’[24] so that when [the author of the document] dies, his property becomes the possession of the person named [in the document!.[25] [What are] DEEDS OF GIFT?[26] — All [documents conferring a gift] which contain [the words]: ‘From to-day — but after my death.’[27] But does this mean that only if it is written [in the document] ‘From to-day — but after my death,’ the person acquires [the gift], but if not, he does not acquire it!?[28] — Abaye answered: The meaning is this: ‘Which gift of a healthy person is like the gift of a dying person in that [the person named] does not acquire it until after the death [of the donor]’? Every [gift regarding which] it is written [in the document conferring it]: ‘From to-day — but after my death.’[29]

The reason why [the documents named in the Mishnah are not returned] is that [— as indicated in the Mishnah — the persons who lost them] did not say, ‘Give them [to the persons named in the documents],’ but if they said, ‘Give them,’ they would have to be given. Does not this contradict [the following Baraitha]: ‘If one finds wills, mortgage deeds,[30] and deeds of gift, even if both [parties concerned] admit [their validity], one shall not return [the documents] to either of them’?[31] — R. Abba b. Memel answered: It is no contradiction:

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(1) The College, where the Rabbis and their disciples assemble for study.

(2) I.e., not by particular marks but by its general appearance when produced.

(3) [Though it was not a Precise mark.]

(4) Whose word can be trusted and may be regarded as clear and definite.

(5) The divorce would then have taken effect in Tishri, and up till then the husband would have been entitled to use, or to sell, the fruit of his wife's estate (נכסי מלוג).

(6) The wife's inherited estate (referred to in the previous note) of which the husband may use the income, without incurring any responsibility for loss or damage or deterioration affecting the estate itself. Cf. B.K. 89a.

(7) As the husband is entitled to the income of his wife's estate up to the day on which he hands her the bill of divorcement she would have no right to the income disposed of by the husband between Nisan and Tishri.

(8) Cf. Git. 17b.

(9) I.e., the fruit sold by the husband between Nisan and Tishri.

(10) V. supra 12b.

(11) I.e., the property sold by the debtor between Nisan and Tishri.

(12) I.e., when the debtor actually borrowed the money and handed over to the creditor the note of indebtedness.

(13) As to the actual date on which her divorce took effect.

(14) I.e., that she may not be prevented from marrying again by the lack of evidence as to her divorce from her previous husband.

(15) I.e., the Rabbis made sure that the creditor was legally entitled to seize the debtor's sold property.

(16) I.e., before the debtor sold his property he had already incurred his debt to the creditor and given him the note of indebtedness.

(17) In which case the property would belong to the master, as everything acquired by a slave becomes the possession of his master.

(18) Git. 12b.

(19) As he becomes a member of the community of Israel. Anything that confers a benefit upon a person may be done for him in his absence, or without his knowledge, and for this reason a deed liberating a slave would take effect as soon as it is signed by the witnesses, even before it is handed to the slave.

(20) Cf. supra 13a; infra 35b.

(21) As it deprives him of certain privileges which a slave enjoys, and puts upon him new obligations.

(22) As the liberation, according to this view, is a disadvantage to the slave, and as nothing disadvantageous may be done to anyone in his absence, or without his knowledge, the deed of liberation cannot become effective until it is handed to the slave, and the signature of the witnesses cannot be said to acquire it for him before the date on which the document is received by him.

(23) דייתיקי = last will and testament (cf. Gr. **).

(24) דא תהא למיקם ולהיות This is no etymological derivation but a mere play on words.

(25) Without any further formality, as the words of a dying person have the legal validity of a document written and delivered.

(26) Of a healthy person.

(27) Indicating that the gift is to become from that date the property of the person named in the document but cannot be used by him until the death of the donor.

(28) The question is: Why should it be necessary for the donor to write in the deed of gift the words ‘But after my death’ in order to enable the person named in the deed to acquire the gift? In the case of a dying person it is natural that the gift should not become valid till after the donor's death, as this was obviously the donor's intention. But in the case of a healthy person there is no reason why such a condition should be included in the document. The donor ought to be able to make the gift absolute at once.

(29) I.e., in ordinary cases the gift of a healthy person does become absolute at once. But in the case quoted, the Rabbis wished to indicate that the gift of a healthy person may be conferred on the same condition as that of a dying person — by including in the deed the words, ‘But after my death.’

(30) Referring to a second mortgage taken out on the same property.

(31) For the reason given below.

Talmud - Mas. Baba Metzia 19b

One law refers to [a gift made by] a healthy person, and the other law refers to [that of] a dying person:[1] Our Mishnah, which teaches [by implication] that if [the person who lost the document says,] ‘Give it,’ it is given, refers to [a gift made by] a dying person, who is in a position to retract.[2] For we say: What is there to apprehend? That he may originally have written the deed for this person[3] and then changed his mind and not given it to him, and that he may then have written a deed again for another person and given it to him, but now he has made up his mind not to let him have it![4] If he gave it to the latter as the gift of a healthy person the latter suffers no loss [as a result of the donor's present change of mind], for when the two [documents] are produced the later [document] confers possession, as he retracted from the former. If, however, he gave it also to the latter as the gift of a dying person, the latter suffers no loss either, as [in such a case] the last person acquires [the gift],[5] because [the donor] withdrew it from the former. But the Baraitha, which teaches that even if both parties admit [the validity of the found document] it shall not be returned to either party, deals with a healthy person, who cannot withdraw,[6] [and the reason why the document is not returned is] that we say: Maybe [the donor] wrote it originally for this person,[3] and then he changed his mind and did not give it to him; he then wrote another [document] for another person and gave it to him, but now he has made up his mind not to let him have it, and he argues [thus]: I cannot [legally] withdraw [the gift from him]. I will [therefore] tell them [the judges] that I gave it to this [person], so that they will return the document to him, and when he produces this earlier document he will be entitled [to the gift]. We therefore say to him [the donor]: We cannot give this document to this [person],[3] as it may be that you did write it for him but did not give it to him, and that you gave it to a different person instead, and now you have changed your mind again. Now, if you have not really given it to a different person, and you now wish to give it to this person, write him now another document and give it to him — for if you [formerly] did give [a document] to another person he will suffer no loss [because of the document you will write now], as [the person who holds the document with] the earlier date will be entitled to the gift.[7] But, asked R. Zebid, do not both [the Mishnah and the Baraitha] deal with last wills?[8] — Therefore R. Zebid said: Both teachings deal with [a gift made by] a dying person, and there is no contradiction: One deals with [the donor] himself,[9] and the other deals with his son:[10] Our Mishnah, which implies that if [the person who lost the document] says, ‘Give it [to the person named in the document],’ it is given to him, refers to [the donor] himself, who is entitled to withdraw, [and the reason why the document is thus given is] that we say: Even if [the donor] had given it to another person,[11] that person would suffer no loss [as a result of the donor's change of mind], for if the first [document] and the last [are produced] the last is valid, as the first was withdrawn.[12] But the Baraitha, which teaches that even if both parties admit [the validity of the document] it shall not be returned to either party, refers to the son, [and the reason why the document is not returned is] that we say: Maybe the father wrote it for this person[13] and he changed his mind and did not give it to him, and that after the father's [death] he [the son] wrote another deed for another man and gave it to him, but now he has made up his mind not to let him have it, [and] he argues [thus]: ‘I cannot legally withdraw [the gift from him]. I will [therefore] tell them [the judges] that my father gave it to this person,[13] so that they will give the document to him, and we shall go and take [the gift] away from this other person,[14] as he [this person][15] will be legally entitled to it,[16] and we shall both share [in the gain].’[17] We therefore say to him [the son]: We cannot give this document to this person,[15] as it may be that your father did write it [for him] but did not give it to him, and that you gave it to a different person instead, and have now changed your mind. Now, if you speak the truth [in saying] that your father gave it to him, go now and write him another deed, for then, even if your father did not give it to him, and you wrote it for a different person, that other person will suffer no loss, for if the first document and the last are produced, the first is valid.[18]

Our Rabbis taught: If one finds a receipt[19] [the law is that] when the wife admits [its genuineness] one shall return it to the husband, [and that] when the wife does not admit [its genuineness] one shall not return it to either party. It is thus taught that when the wife admits, [the document] shall be returned to the husband: Ought we not to apprehend that she may have written it with the intention of giving it [to the husband] in Nisan, and that [in reality] she did not give it [to him] until Tishri,[20] and that in the interval between Nisan and Tishri she went and sold [the value of] her Kethubah for a consideration,[21] while the husband may produce the receipt, [showing] that it was written in Nisan,[22] and he will thus be able to deprive unlawfully those who bought [the value of the Kethubah of what is due to them]? — Raba answered:

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(1) The deeds of gift are written differently in the two cases, the dying person's deed containing the formula: ‘As he was ill and confined to his bed.’

(2) I.e., he may yet change his mind and write a second deed, conferring the gift upon another person, and then the latter acquires it.

(3) To whom he says the document should be returned.

(4) Lit., ‘he retracts from the one to whom he gave it.’

(5) As it is always the last word of a dying person that has legal validity. [So that in any case the person to whom the deed was actually given stands to lose nothing by the return of the earlier dated deed to the one in whose name the found deed is made out.]

(6) He cannot change his mind after he has made a gift to a person and handed him the document conferring the gift.

(7) As a healthy person cannot invalidate a document by a later document.

(8) How then could it be said that the Baraitha deals with the gift made by a healthy person?

(9) I.e., the dying person, who is still alive when the document is found, and who orders the document to be given to the person named therein.

(10) After the death of the father, and the son claims the document.

(11) And then decided not to let him have it.

(12) And a dying person is entitled to change his mind, and he who produces the document with the later date is legally entitled to the gift.

(13) I.e., the person named in the found document to whom the son says the deed should be returned.

(14) To whom the son gave it.

(15) V. p. 121, n. 7.

(16) Because of the son's statement that his father had given it to that person.

(17) This indicates the motive which would prompt the son to make the false statement — a conspiracy between him and that person to obtain possession of the gift and to divide it.

(18) As when the two documents have been written by the son, who is a healthy person, the owner of the first document will be entitled to the gift, and the writing of the second document will make no difference.

(19) In which a wife acknowledged having received payment of her Kethubah while she was still living with her husband.

(20) When she received payment.

(21) Lit., ‘for the benefit of a pleasure’; for a trifle, as in view of the possibility of the wife's death preceding that of her husband the buyer of the Kethubah stands to lose the price he pays, and this reduces the value of the Kethubah if sold before it becomes due.

(22) So that the date of the receipt produced by the husband will be taken as proof that it preceded the sale of the Kethubah by the wife, and the buyer will lose his claim.

Talmud - Mas. Baba Metzia 20a

From this[1] we may infer that Samuel's [law] holds good, for Samuel said: If one sells a note of indebtedness to one's neighbour and then renounces [the debt], it is renounced,[2] and even the heir [of the lender] may renounce it. Abaye maintained: You may even say that Samuel's [law] does not hold good, [for] here we deal with a case where the deed of the Kethubah marriage is produced by her.[3] Raba, however, says that the production of the deed of the Kethubah makes no difference, for we apprehend that she may have had two copies of the Kethubah.[4] Abaye again says [in reply]: Firstly, we do not apprehend that she may have had two copies of the Kethubah, and secondly, a receipt has validity from its date.[5] This is consistent with Abaye's view, for he says: ‘The witnesses acquire it for him by their signatures.’[6]

MISHNAH. IF ONE FINDS DEEDS OF VALUATION,[7] DEEDS OF MAINTENANCE,[8] DOCUMENTS OF HALIZAH[9] OR REFUSAL,[10] DOCUMENTS OF BERURIN,[11] OR ANY OTHER DOCUMENT ISSUED BY A COURT OF LAW, ONE SHALL RETURN THEM.[12] IF ONE FINDS [DOCUMENTS] IN A SMALL BAG OR IN A CASE,[13] [OR IF ONE FINDS] A ROLL OR A BUNDLE[14] OF DOCUMENTS, ONE SHALL RETURN THEM.[15] AND HOW MANY DOCUMENTS CONSTITUTE ‘A BUNDLE’? THREE FASTENED TOGETHER. RABBAN SIMEON B. GAMALIEL SAYS: [IF THEY BELONG TO] ONE PERSON WHO BORROWED FROM THREE [LENDERS] ONE SHALL RETURN THEM TO THE BORROWER;[16] [IF THEY BELONG TO] THREE PERSONS WHO BORROWED FROM ONE [LENDER] ONE SHALL RETURN THEM TO THE LENDER.[17] IF ONE FINDS A DOCUMENT AMONG ONE'S PAPERS AND DOES NOT KNOW HOW IT CAME THERE[18] IT SHALL REMAIN WITH HIM UNTIL ELIJAH COMES.[19] IF THERE ARE NOTES OF CANCELLATION AMONG THEM[20] ONE MUST ABIDE BY THE CONTENTS OF THE NOTES.[21] GEMARA. What are DOCUMENTS OF BERURIN? — Here [in Babylonia] it has been interpreted [as meaning] ‘documents containing records of pleadings.’[22] R. Jeremiah said: [Documents stating:] ‘This party chose one [judge], and that party chose another [judge].’[23]

OR ANY [OTHER] DEED ISSUED BY A COURT OF LAW, ONE SHALL RETURN. In the court of R. Huna there was once found a bill of divorcement[24] in which was written: ‘In Shawire, the town which is situate by the canal Rakis.’ Said R. Huna:

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(1) I.e., from the fact that we do not apprehend the contingency referred to, and that consequently it must be assumed that the buyer would have no claim against the husband, even if the wife's receipt had in fact been written in Nisan.

(2) The borrower's debt is cancelled, and the person who bought the note of indebtedness from the lender loses his money: (Cf. B.K. 89a; B.B. 147b.) In the same way the person who bought the Kethubah from the wife while it was still unpaid loses his claim when the wife cancels the Kethubah on being paid by the husband in Tishri.

(3) Which shows that the wife has not sold it, as otherwise the buyer would have taken possession of it.

(4) [One of which she disposed of by selling, and were it not for the fact that Samuel's ruling is accepted there would be good reason for not returning the receipt to the husband.]

(5) I.e., from the date of writing, irrespective of the date of delivery, so that even if the debt had been sold in the interval the buyer has no claim, so that the Baraitha affords no support to Samuel's ruling.

(6) V. supra 13a; 19a. Cf. infra 35b.

(7) I.e., deeds in which the valuation of a debtor's property by a Court of Law, for the purpose of assigning it to the creditor, is recorded.

(8) I.e., deeds in which the Court records a man's undertaking to provide maintenance for his step-daughter.

(9) Documents testifying that the ceremony of ‘pulling off the shoe’ has been performed in the case, of a childless widow whose brother-in-law refuses to perform the levirate marriage. V. Deut. XXV, 5-10, and thus enabling the widow to re-marry.

(10) מיאון , the refusal of a fatherless girl, whose mother or brother gave her in marriage while still a minor, to accept the husband when she attains her majority. Her declaration before the Court that she does not desire the man as her husband sets her free, and the Court writes a document recording the refusal, which entitles her to marry another man.

(11) Relating to the selection of arbiters by contending parties, as explained in the Gemara below.

(12) in such cases there is no reason to apprehend that the writers of the documents may have changed their minds before handing them over, as the Court of Law would not have executed them unless the transactions were completed. Nor is there any ground to question the validity of the documents in case they have been ‘paid’.

(13) Which form distinguishing marks. V. Gemara below.

(14) V. Gemara below.

(15) When they are identified by the loser. V. Gemara below.

(16) As it is obvious that the borrower had them in his possession and fastened them together before losing them. It may therefore be assumed that they were paid bills.

(17) As this makes it clear that it was the lender who had them in his possession and fastened them together before losing them. The assumption is therefore that they have not been paid.

(18) The reference is to a note of indebtedness found among other documents, the owner not being able to remember whether it was deposited with him by the borrower or the lender, or whether it was partly paid or not.

(19) For all time, or until the truth is ascertained. Cf. supra p. 6, n. 2.

(20) If there are any notes found attached to the documents showing that the debts referred to in the documents have been paid or cancelled.

(21) I.e., the debts referred to in the documents are assumed to have been paid, and although the notes of cancellation, or receipts, should have been held by the borrower, it is assumed that the lender had them merely as a result of neglect or forgetfulness.

(22) Of litigants in a court of law, from ברר ‘to make clear’.

(23) I.e., documents recording the choice of judges by contending parties to decide their case, from ברר ‘to select’, ‘to chose’. V. Sanh. 23a.

(24) Endorsed by the court. Cf. supra, 18a and b.

Talmud - Mas. Baba Metzia 20b

We apprehend that there may be two [towns called] Shawire. R. Hisda then said to Rabbah: Go and consider it carefully, for in the evening R. Huna will ask you about it. So he went and examined it, and he found that we learnt, ANY DEED ISSUED BY A COURT OF LAW ONE SHALL

RETURN.[1] R. Amram then said to Rabbah: How does the Master derive a law relating to a religious prohibition from a civil law?[2] — [Rabbah] answered him: Idle talker![3] The Mishnah taught [this law also] in regard to documents of ‘halizah’ and ‘refusal’![4] Whereupon the cedar column of the College split in two.[5] One[6] said: ‘It split because of my lot,’[7] and the other[8] said: ‘It split because of my lot.’[9]

IF ONE FINDS [DOCUMENTS] IN A SMALL BAG OR IN A CASE. What is ‘hafisah’?[10] Rabbah b. Bar Hanah said: A small bag. What is ‘deluskama’?[11] Rabbah bar Samuel said: A case used by old people.

A ROLL OF DOCUMENTS OR A BUNDLE OF DOCUMENTS, etc. Our Rabbis taught: How many documents constitute A ROLL? Three rolled together.[12] And how many constitute A BUNDLE? Three tied together. Will you deduce from this that a knot is a distinguishing mark?[13] — [No] for behold R. Hiyya taught: Three rolled together.[14] But if so, this is the same as A ROLL?[15] — A ROLL is [made up of documents] placed end to end [and then rolled together]. A BUNDLE is [made up of documents] placed on the top of each other and then rolled together. What does [the finder] announce?[16] — The number [of documents found].[17] Then why [does the Mishnah] mention ‘THREE’, would not [the same law apply] also to two?[18] — But as Rabina says:[19] He announces [that he found] coins:[20] Here also — he announces [that he found] documents.[21]

RABBAN SIMEON B. GAMALIEL SAYS: [IF THEY BELONG TO] ONE PERSON WHO BORROWED FROM THREE, ONE SHALL RETURN [THEM] TO THE BORROWER, etc. For if you were to assume that they belonged to the lenders — how did they [the documents] come to be together? But may not [the lenders] have gone [with them to the Clerk of the Court] to have them endorsed?[22] — They were [already] endorsed. But may they not have been dropped by the Clerk [who endorsed them]? — people do not leave their endorsed documents with a clerk.

[IF THEY BELONG TO] THREE PERSONS WHO BORROWED FROM ONE [LENDER] ONE SHALL RETURN THEM TO THE LENDER, etc. For if you were to assume that they belonged to the borrowers[23] — how did they [the documents] come to be together? — But may not [the persons mentioned in the documents as borrowers] have gone [to the same Clerk] to have them written?[24] They were written in three different handwritings. But may not [the borrowers] have gone [with them to the Clerk of the Court] to have them endorsed? — The lender gets his document endorsed, but not the borrower.

IF THERE ARE NOTES OF CANCELLATION AMONG THEM ONE MUST ABIDE BY THE CONTENTS OF THE NOTES. R. Jeremiah b. Abba said in the name of Rab: A note of cancellation[25] that is produced by the lender[26] even if it is written in his own hand, is to be regarded merely as a prank, and is invalid. [This is so] not only when it is written by a scribe, in which case it may be said that the scribe happened to meet him [the lender] and wrote [the note],[27] but even if it is in his own handwriting[28] it is invalid, [for we assume that he wrote it] thinking, ‘The borrower may come at dusk and pay me, and if I do not give him [the note of cancellation] he will not give me the money. I shall write [the note now], so that when he brings me the money I shall give it to him.’ [But] we have learned [in the Mishnah]: IF NOTES OF CANCELLATION ARE FOUND AMONG THEM ONE SHALL ABIDE BY THE CONTENTS OF THE NOTES?[29] — As R. Safra said[30] it was found among torn documents, so here also it was found among torn documents.[31]

Come and hear: If one found among his documents [a note stating] that the note of indebtedness of Joseph b. Simeon was paid, [and there were two debtors bearing that name] the notes of both [debtors] are [deemed to have been paid]?[32] — As R. Safra said it was found among torn documents, so here also it was found among torn documents.

Come and hear: We swear that our father has not instructed us or said anything to us, and that we have not found [any note] among his documents, to the effect that this note [of indebtedness] has been paid?[33] R. Safra answered: If it is found among his torn documents.[34]

Come and hear: A note of cancellation which bears the signatures of witnesses must be corroborated by the signatories?[35] Say: It must be corroborated through [the evidence of] the signatories:

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(1) V. supra loc cit. for notes.

(2) In the sentence quoted from the Mishnah the reference is obviously to documents regarding commercial transactions and similar matters falling within the scope of civil law, while the question of the validity of a divorce is one ultimately affecting a moral or religious issue, and one may not derive one from the other. Cf. Ber. 19b.

(3) תרדא , a person who talks foolishly. Cf. B.K. 105b.

(4) Which are matters of religious law, like marriage and divorce.

(5) This was regarded as a protest against the incident just described.

(6) R. Amram.

(7) I.e., because of the insulting remark addressed to him by Rabbah.

(8) Rabbah.

(9) Because of the way in which R. Amram tried to refute him in public.

(10) The word used in the Mishnah and translated here as ‘small bag’.

(11) דלוסקמא The word used in the Mishnah and translated here as ‘a case’. The word is also frequently spelt גלוסקמא probably from the Gr. ** = receptacle.

(12) This is regarded as a ‘distinguishing mark’ by which the loser may identify the documents when they are advertised by the finder. The finder would just announce that he had found certain documents, and the person who came forward to claim them would have to state their number and the manner in which they were rolled up.

(13) I.e., does the definition of a bundle as ‘three fastened together’ imply that the fastening, or knot, is regarded as a distinguishing mark.

(14) This definition implies the answer to the previous question. As R. Hiyya defined a bundle as ‘three rolled together,’ without being tied, it follows that the fastening or knot is not essential, and that being rolled together is in itself ‘a distinguishing mark’.

(15) Mentioned separately in the Mishnah.

(16) When he advertises the find.

(17) He mentions the number of documents contained in the roll, and then he can claim the documents by merely stating the way in which they were rolled up.

(18) If the loser has not to state the number for the purpose of identification, there is no point in the Mishnah's reference to ‘THREE’ documents.

(19) Infra 25a.

(20) Without stating the number, which the loser has to state for the purpose of identification when he comes to claim the coins.

(21) Without stating the number, and the loser has to state how many documents there were. The Mishnah therefore says ‘THREE’ — for if there were only two documents, and the finder used the plural (‘documents’) in announcing them, which means at least two, the number might be guessed, and could not therefore be regarded as ‘a distinguishing mark’.

(22) And the Clerk may have rolled them together and then lost them.

(23) Who received the documents back after paying their debts.

(24) And the clerk lost them after writing them, so that they were not used at all, and no money was lent.

(25) [סמפון , from Gr. **, an agreement, then the provision made for the cancellation of a contract under certain conditions.]

(26) Instead of being produced by the borrower.

(27) So that the lender might have it ready when the borrower would call to pay and would ask for a receipt.

(28) Showing that the lender was himself able to write, and there was no reason why he should have it written before the borrower paid the debt.

(29) And it is obvious that here it is the lender who produces the notes of cancellation, for it is he who found them among the notes of indebtedness in his possession.

(30) Below in our Gemara.

(31) [The bill to which the cancellation relates was found intact among torn documents, which shows that the cancellation is genuine, as otherwise the bill would not have been placed among the torn notes of indebtedness.] According to Rashi's second explanation the note of cancellation was found torn among the other torn documents held by the lender, and the fact that it was found among useless documents shows that the borrower just left it with the lender after paying him, and the latter discarded it and put it among his other useless papers. Had the lender written it for the purpose of having it ready when required he would not have put it among his useless papers.

(32) As each of them can claim to be the person named in the receipt. Cf. B.B. 172a. This proves that a note of cancellation in the possession of the lender is valid.

(33) V. Shebu. 45a. This oath has to be taken by orphans who wish to collect debts due to their father. From the text of this oath it appears that if a note of cancellation is found among the lender's documents it is valid, which contradicts the previous teaching that a note of cancellation produced by the lender is invalid.

(34) It is valid if it is found among the lender's torn documents. This is why the orphans have to swear that no such note has been found.

(35) V. Sanh. 31b. This refers to a note of cancellation in possession of the lender, who denies having been paid, as is proved by the fact that he did not surrender it to the lender. The lender is not believed if the witnesses who signed the note testify that they signed it though they are unable to testify whether the debt was paid. Otherwise the lender is believed. This proves in any case that a note of cancellation in the possession of the lender is considered valid.

Talmud - Mas. Baba Metzia 21a

We ask the witnesses whether [the debt] is paid or not.[1]

Come and hear: A note of cancellation which bears the signatures of witnesses is valid?[2] — The witnesses referred to are witnesses to the endorsement [of the note by the Court].[3] This is also conclusive, for the final clause teaches: ‘But if it does not bear the signatures of witnesses it is invalid.’ Now, what is the meaning of [the words], ‘It does not bear the signatures of witnesses’? If I should say that [it means that] there are no signatures of witnesses on it at all — is it necessary to say that is invalid? Therefore we must assume that they are witnesses to the endorsement [of the note by the Court].

The main text [states]: ‘A note of cancellation which bears the signatures of witnesses must be corroborated by the signatories.’[4] But if it does not bear the signatures of witnesses[5] and is produced by a third person,[6] or if it is found below the signatures of the notes [of indebtedness],[7] it is valid.’ If it is produced by a third person [it is valid] because the lender trusted the third person;[8] if it is found below the signatures of the notes [of indebtedness it is] also [valid], because if [the debt] had not been paid he [the lender] would not have invalidated the note.

CHAPTER II

MISHNAH. SOME FINDS BELONG TO THE FINDER; OTHERS MUST BE ANNOUNCED.[9] THE FOLLOWING ARTICLES BELONG TO THE FINDER: IF ONE FINDS SCATTERED FRUIT, SCATTERED MONEY,[10] SMALL SHEAVES IN A PUBLIC THOROUGHFARE,[11] ROUND CAKES OF PRESSED FIGS, A BAKER'S LOAVES,[12] STRINGS OF FISHES, PIECES OF MEAT, FLEECES OF WOOL WHICH HAVE BEEN BROUGHT FROM THE COUNTRY,[13] BUNDLES OF FLAX AND STRIPES OF PURPLE,[14] COLOURED WOOL; ALL THESE BELONG TO THE FINDER.[15] THIS IS THE VIEW OF R. MEIR.[16] R. JUDAH SAYS: WHATSOEVER HAS IN IT SOMETHING UNUSUAL MUST BE ANNOUNCED,[17] AS, FOR INSTANCE, IF ONE FINDS A ROUND [OF FIGS] CONTAINING A POTSHERD, OR A LOAF CONTAINING MONEY. R. SIMEON B. ELEAZAR SAYS: NEW MERCHANDISE[18] NEED NOT BE ANNOUNCED.

GEMARA. IF ONE FINDS SCATTERED FRUIT, etc. What quantity [of fruit in a given space] is meant? R. Isaac said: A kab[19] within four cubits. But what kind of a case is meant? If [the fruit appears to have been] dropped accidentally, then even if there is more than a kab [it should] also [belong to the finder].[20] And if it appears to have been [deliberately] put down, then even if there is a smaller quantity it should not [belong to the finder]?[21] — R. ‘Ukba b. Hama answered: We deal here with [the remains of] what has been gathered on the threshing floor:[22] [To collect] a kab [scattered over a space] of four cubits is troublesome, and, as people do not trouble to come back and collect it, [the owner also] abandons it, but if it is [spread over] a smaller space [the owner] does come back and collect it, and he does not abandon it. R. Jeremiah enquired: How is it [if one finds] half a kab [scattered over the space] of two cubits? Is the reason why a kab within four cubits [belongs to the finder] that it is troublesome [to collect], and therefore half a kab within two cubits, which is not troublesome to collect, is not abandoned [and should not belong to the finder], or is the reason [in the case of a kab within four cubits] that it is not worth the trouble of collecting [when spread over such a space], and therefore half a kab within two cubits, which is still less worth the trouble of collecting, is abandoned [and should belong to the finder]? [Again,] how is it [if one finds] two kabs [scattered over the space] of eight cubits? Is the reason why a kab within four cubits [belongs to the finder] that it is troublesome to collect, and therefore two kabs within eight cubits, which are still more troublesome to collect, are even more readily abandoned [and should certainly belong to the finder], or is the reason [in the case of a kab within four cubits] that it is not worth the trouble [of collecting], and therefore two kabs within eight cubits, which are worth the trouble [of collecting] are not abandoned [and should not belong to the finder]? [Again,] how is it [if one finds] a kab of poppy-seed [scattered over a space] of four cubits? Is the reason why a kab [of fruit] within four cubits [belongs to the finder] that it is not worth the trouble [of collecting], and therefore poppy-seed, which is worth the trouble [of collecting] is not abandoned [and should not belong to the finder], or is the reason [in the case of a kab within four cubits] that it is troublesome [to collect], and therefore poppy-seed, which is even more troublesome [to collect], is abandoned [and should belong to the finder]? [Again], how is it [if one finds] a kab of dates within four cubits, or a kab of pomegranates within four cubits? Is the reason why a kab [of ordinary fruit] within four cubits [belongs to the finder] that it is not worth the trouble of collecting, and therefore a kab of dates within four cubits, or a kab of pomegranates within four cubits, which also is not worth the trouble [of collecting] is abandoned [and should belong to the finder], or is the reason [in the case of a kab within four cubits] that it is troublesome to collect, and therefore a kab of dates within four cubits or a kab of pomegranates within four cubits, which are not troublesome [to collect], are not abandoned [and should not belong to the finder]? — The questions remain unanswered.

It has been stated:

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(1) Thus there is no contradiction to the previous teaching. It is only if the witnesses testify that they saw the debt being paid that the lender is not believed, and the note is valid. Otherwise we believe the lender, and the note is invalid.

(2) Even if it is in the possession of the lender.

(3) They are not witnesses who signed the receipt, but witnesses who testify that it was endorsed by the Court, and as the Court would not endorse the receipt unless the debt has been paid, the receipt is valid even if produced by the lender.

(4) And it is valid, even if produced by the lender, as the witnesses testify that it has been endorsed by the Court.

(5) I.e., witnesses to the endorsement.

(6) Neither the lender nor the borrower produces it, but a third person, with whom the notes were deposited, and his statement is accepted.

(7) The cancellation is written on the note of indebtedness below the signatures.

(8) As the lender writes the notes of cancellation he must have handed the note to the third person and placed his trust in him. The third person is therefore believed.

(9) So that the owner may claim them.

(10) Which cannot be identified by the loser and are thus given up by him as beyond recovery. The fact of the loser resigning himself to his loss (יאוש) renders the article public property and gives the finder the right to acquire it.

(11) Where the traffic soon destroys any distinguishing mark by which the sheaves might be identified.
(12) Which are uniform in appearance and cannot be identified.
(13) In a raw state, and bear no mark by which they could be identified.
(14) Long strips of wool dyed purple, a common article in the days of the Mishnah.
(15) The person who finds these articles need not announce them because they bear no marks by which the loser could identify them, and he has a right to keep them because the owner has given up the hope of recovering them.
(16) [Var. lec. omit, 'This is . . . R. Meir;' v. also infra p. 143. n. 1.]
(17) v. infra 23a.
(18) V. infra 23b.
(19) A measure. V. Glos.
(20) As the loser would have no means of identifying them.
(21) As the owner evidently intended to come back for them and has not really lost them.
(22) After the harvest.

Talmud - Mas. Baba Metzia 21b

Anticipated abandonment [of the hope of recovering a lost article][1] is, Abaye maintains,no abandonment,[2] but Raba maintains, it is an abandonment.[3] [If the lost article is] a thing which has an identification mark, all agree that [the anticipation of its abandonment by the owner] is no abandonment, and even if in the end[4] we hear him [express regret at his loss in a way that makes it clear] that he has abandoned it, it is not [deemed to be an] abandonment, for when [the finder] took possession[5] of it he had no right to it[6] because [it is assumed that] when [the loser] becomes aware that he lost it he will not give up the hope [of recovering it] but says [to himself], 'I can recognise it by an identification mark; I shall indicate the identification mark and shall take it back.' [If the lost article is found] in the intertidal space of the seashore or on ground that is flooded by a river, then, even if it has an identification mark, the Divine Law permits [the finder to acquire it], as we shall explain further on.[7] They differ only where the article has no identification mark. Abaye says: It is no abandonment because [the loser] did not know that he lost it;[8] Raba says: It is an abandonment, because when he becomes aware that he lost it he gives up the hope [of recovering it] as he says [to himself], 'I cannot recognise it by an identification mark,' it is therefore as if he had given up hope from the moment [he lost it].[9]

(Mnemonic: PMGSH MMKGTY KKS'Z.)[10] Come and hear: SCATTERED FRUIT[11] — [is not this a case where the loser] did not know that he lost it? — R. 'Ukba b. Hama has already explained that we deal here with [the remains of] what has been gathered on the threshing floor, so that [the owner] is aware of his loss.

Come and hear: SCATTERED MONEY, [etc.] BELONG TO THE FINDER. Why? [Is it not a case where the loser] did not know that he lost it? — There also it is even as R. Isaac said: A man usually feels for his purse at frequent intervals.[12] So here, too, [we say,] 'A man usually feels for his purse at frequent intervals' [and soon discovers his loss].

Come and hear: ROUND CAKES OF PRESSED FIGS, A BAKER'S LOAVES, [etc.] BELONG TO THE FINDER. Why? [Is it not a case where the loser] did not know that he lost it? — There also he becomes aware of his loss, because [the lost articles] are heavy.

Come and hear: STRIPES OF PURPLE [etc.] — THEY BELONG TO THE FINDER. Why? [Is it not a case where the loser] did not know that he lost them? — There also [he becomes aware of his loss] because the articles are valuable, and he frequently feels for them, even as R. Isaac said.

Come and hear: If one finds money in a Synagogue or in a house of study, or in any other place where many people congregate, it belongs to him, because the owner has given up the hope of recovering it. [Is not this a case where the loser] did not know that he lost it? — R. Isaac answered: people usually feel for their purse at frequent intervals.

Come and hear: From what time are people allowed to appropriate the gleanings [of a reaped field]?[13] After the 'gropers' have gone through it.[14] Whereupon we asked: What is meant by the 'gropers'? and R. Johanan answered: Old people who walk leaning on a stick,[15] while Resh Lakish answered: The last in the succession of gleaners.[16] Now why should this be so? Granted that the local poor give up hope [of finding any gleanings].[17] there are poor people in other places who do not give up hope?[18] — I will say: Seeing that there are local poor, those [in other places] give up hope straight away, as they say. 'The poor of that place have already gleaned it.'[19]

Come and hear: Cut figs [found] on the road, even if [found] beside a field [covered with] cut figs.[20] and also figs found under a fig-tree that overhangs the road, may be appropriated [by the finder] without him being guilty of robbery, and they are free from tithing,[21] but olives and carob-beans are forbidden.[22] Now, the first part [of the Mishnah] implies no contradiction to Abaye[23] because [cut figs], being valuable, are under constant observation;[24] [whole] figs also are known to drop.[25] But the last part [of the Mishnah]. which teaches that olives and carob-beans are forbidden, implies a contradiction to Raba![26] — R. Abbahu answered: Olives are different [from other fruit] because one can recognise them by their appearance, and although olives drop [to the ground] the place of each one is known.[27] But if so, the same should apply to [whole figs in] the first part [of the Mishnah]?[28] — R. papa answered: Figs become filthy when they [drop to the ground].[29]

Come and hear: If a thief takes from one and gives to another, or if a robber takes from one and gives to another,

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(1) Lit., 'unconscious abandonment.' I.e., if an article is found before the loser has become aware of his loss, and the circumstances are such that the loser would have abandoned the hope of recovering the article had he known that he lost it.

(2) And the finder has no right to keep the article.

(3) And the article belongs to the finder.

(4) After the article came into the hands of the finder.

(5) Before the owner has been heard to despair of it.

(6) As the article can be identified the finder cannot legally acquire it.

(7) Infra 22b.

(8) He could not therefore consciously have given up the hope of recovering it.

(9) The 'abandonment' is deemed to have a retrospective effect, and this entitles the finder to acquire the article.

(10) Mnemonic consisting of Hebrew initials of the teachings that follow.

(11) Quotation from our Mishnah.

(12) B.K. 118b. So that he is bound to miss the money very shortly after he has lost it.

(13) Which belong to the poor. V. Lev. XIX, 9.

(14) Pe'ah VIII, 1.

(15) Who walk slowly and examine the ground carefully while looking for the gleanings, and are not likely to miss a single ear of corn.

(16) So that no other poor can hope to find any more gleanings.

(17) As the local poor see the aged and feeble, or the successive groups, glean in the field, they come to the conclusion that there would be nothing more left to glean, and they 'give up hope'.

(18) The poor who live at a distance cannot be said to give up hope consciously as they do not see the local gleaners. It must therefore be assumed that the reason why people who are not poor are allowed to appropriate the gleanings which have escaped the attention of the local poor is that the distant poor will give up hope when they will have learned how thoroughly the field has been gleaned by the local poor. This would prove that 'anticipated abandonment' is valid — in contradiction to the view of Abaye.

(19) Thus the 'abandonment' is not 'anticipated' but real at the time when the people come and appropriate what is left of the gleanings, and there is contradiction to the view of Abaye.

(20) I.e., beside a field on which cut figs have been spread out to dry, and it is obvious that the figs on the adjoining road belong to the same owner.

(21) They are treated as ownerless goods which need not be tithed, for although the owner may not have known of the loss, he will abandon hope when he gets to know.

(22) Ma'as. III, 4.

(23) Who says that ‘anticipated abandonment’ is not valid.

(24) And the owner discovers his loss as soon as it occurs and abandons it.

(25) [And the owners in the absence of an identification mark give up the hope of recovering them (Tosaf.).]

(26) The owners are not deemed to have given up the hope of recovering them, as olives and carob-beans do not usually drop, and the owner is not aware of his loss. And although the owner is bound to discover his loss later, and will then ‘give up hope,’ it is only ‘anticipated abandonment’ at the time when the lost goods are found and appropriated. Thus ‘anticipated abandonment’ is not valid — in contradiction to the view of Raba.

(27) I.e., it is known to whom they belong. The owner therefore feels sure that he will recover them, and there is not even ‘anticipated abandonment’. There is thus no contradiction to Raba.

(28) As olives can also be identified by their colour and shape.

(29) This is why the owner abandons them at once and they become public property. According to another version the translation would be, ‘Figs change colour when they drop, (and cannot therefore be identified).’

Talmud - Mas. Baba Metzia 22a

or if the Jordan[1] takes from one and gives to another, then what has been taken is taken, and what has been given is given.[2] Now, this is obviously right as regards [things taken] by a robber or by the Jordan, because [the owner] sees them [when they are taken][3] and he gives up hope, but as regards a thief — does the owner see him [steal] so that [we could say that] he has given up hope?[4] — Rab papa explained it as referring to armed bandits.[5] But then it is the same as ‘robbers’?[6] — There are two kinds of robbers.

Come and hear: If a river has carried off someone's beams, timber, or stones, and has deposited them in a neighbour's field, they belong to the neighbour because the owner has given up hope.[7] So the reason [why they belong to the neighbour] is that the owner has given up hope, but ordinarily they would not [belong to the neighbour]?[8] Here we deal with a case where [the owner] is able to retrieve them.[9] But if so, I must refer you to the last part [of the quoted teaching]: ‘If the owner was running after them, [the neighbour] must return them’: Now if it is a case where [the owner] is able to retrieve them, why state that he is running after them? [They should belong to him] even if he does not run after them! — We deal here with a case where the owner is able to retrieve [the property] with difficulty: If he runs after it [we conclude] that he has not given up the hope [of recovery]; if he does not run after it [we conclude] that he has given up the hope [of recovery].

Come and hear: In what circumstances has it been said that if one sets apart the heave-offering[10] without the knowledge [of the owner] the offering is valid? If one goes down into a neighbour's field, collects [the produce] and sets apart the heave-offering, without permission, if [the owner objects to the action and] considers it robbery, the offering is not valid, but if not, it is valid. And how can one tell whether [the owner] considers it as robbery or not? If the owner, on arriving and finding the person [in the field], says to him: You should have gone and taken the better kind [of the produce for the heave-offering], the offering is valid if there is a better kind to be found [in the field], but if not, it is not valid. If the owner collected [more of the produce] and added it [to the offering] it is valid in any case.[11] Thus [we see that] if there is a better kind [in the field] the offering is valid. But [is this so?] surely at the time when the offering was set apart [the owner] did not know it?[12] — Raba explained it according to Abaye: [The owner] made him [who set apart the offering] his agent.[13] This is conclusive indeed. For if you were to assume that he did not make him his agent, how could the offering be valid? Did not the Divine Law[14] [instead of] ‘Ye’, say, ‘ye also’,[14] to include ‘your agent’, [as much as to say:] As you [set apart your offerings] with your own knowledge so must your agent [set apart your offerings] with your knowledge?[15] Therefore we must deal here with a case where [the owner] made him his agent and said to him, ‘Go and set apart the heave-offering,’ but did not say to him, ‘Set it apart from this kind,’ and usually an owner sets apart the heave-offering from the medium kind, but that other person went and set it apart from a better kind, whereupon the owner arrived and, finding him [in the field], said to him, ‘You should have gone and taken it from a [still] better kind.’[In such a case the law is that] if a better kind can be found [in the field] the offering is valid, but if not, it is not valid.

Amemar, Mar zutra. and R. Ashi once entered the orchard of Mari b. Isak [whereupon] his factor brought dates and pomegranates and offered them [to the visitors]: Amemar and R. Ashi ate them, but Mar Zutra did not eat them. Meanwhile Mari b. Isak arrived and he found them. He then said to his factor: Why did you not bring for the Rabbis some of those better kinds [of fruit]? Whereupon Amemar and R. Ashi said to Mar Zutra: Why does the Master not eat now? Has it not been taught: ‘If better ones can be found, the offering is valid’?[16] [Mar Zutra] answered them: Thus said Raba: ‘You should have gone and taken better ones’ has been declared to be a valid observation[17] only in regard to a heave-offering, because it is [the fulfilment of] a divine command, and he really wishes [to offer better ones], but here he may have said it out of courtesy.[18]

Come and hear: ‘If the dew is still upon them,[19] and the owner is pleased,[20] then [the Scriptural term, If water] be put [upon the seed][21] applies to it.[22] If it turned dry,[23] then, even if [the owner] is pleased [that the dew came upon it at first,

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(1) Or any other river which carries away goods and lands them somewhere else.

(2) The recipient has a right to keep the goods. Cf. B.K., 114a.

(3) He sees them being carried off and he at once abandons them.

(4) As the owner does not become aware of his loss when it occurs he cannot be said to have consciously abandoned hope.

(5) Who commit open larceny, so that the owner becomes aware of his loss at once and abandons it.

(6) Cf. B.K. 57a.

(7) An event like the flooding of one's property soon becomes known, and the owner becomes aware of his loss and gives up hope. In the Tosef. Keth. VIII, the version is: ‘They belong to the neighbour if the owner has given up hope,’ so also R. Han. and Tosaf. a.l. (q.v.).

(8) In regard to an ordinary loss, of which the owner is not likely to have become aware at once, it would not be said that it belongs to the finder. This would contradict the view of Raba.

(9) So that ordinarily the owner never gives up hope and there is not even ‘anticipated abandonment’. Thus there is no contradiction to Raba.

(10) Cf. Num. XVIII, 8.

(11) V. Kid. 52b.

(12) It must therefore be concluded that ‘anticipated knowledge’ is as good as real knowledge. In the same way ‘anticipated abandonment’ should be deemed as valid as real abandonment, in contradiction to Abaye.

(13) So that he can act for his owner at any time, and his action is always valid.

(14) Num. XVIII, 28.

(15) The agent must have the owner's mandate to act for him. Cf. infra 71b; Kid. 41b.

(16) As the owner's suggestion to offer up better ones is taken as an expression of his consent to the agent's action in the case of the heave-offering, so here also Mari b. Isak's suggestion to his factor should be taken as an expression of his approval of the factor's action in offering the fruit to the Rabbis.

(17) Implying an expression of consent on the part of the owner.

(18) Lit., ‘bashfulness’; and may not really be an expression of consent.

(19) I.e., upon produce exposed to be dried, which by receiving moisture from water or other specified liquids (v. Mak. VI, 4) is rendered capable of becoming ritually unclean.

(20) It is only when the owner of the produce is pleased with the process of wetting which the produce undergoes that the produce is by this process rendered capable of becoming ritually unclean.

(21) Lev. XI, 38.

(22) And it becomes capable of being rendered ritually unclean.

(23) I.e., if at the time when the owner heard that the dew had come upon the produce it was dry again.

Talmud - Mas. Baba Metzia 22b

the term If water] be put [upon the seed] does not apply to it.'[1] Is not the reason [for this ruling] that we do not say, 'because it appears that he is pleased now it is as if he had been pleased originally'?[2] — There it is different: It is written, 'If one puts',[3] [which means] only when he puts [the water on].[4] But if so, this should apply also to the first case?[5] That [can be explained] according to R. Papa. For R. papa pointed out a contradiction: It is written, 'If one puts'. and we read, 'If it be put'[6] — how is it to be explained? 'Being put must be like 'putting': As 'putting' can only be done with the knowledge [of him who puts] so 'being put' must happen with the' knowledge [of the person concerned].[7]

Come and hear: R. Johanan said in the name of R. Ishmael[8] b. Jehozadak: Whence [do we learn] that an article lost through the flooding of a river may be retained [by the finder]? It is written, And so shalt thou do with his ass; and so shalt thou do with his garment; and so shalt thou do with every lost thing of thy brother's, which he hath lost, and thou hast found.[9] [which means to say that only] if the object has been lost to him and may be found by any person [has it to be returned to him, and it follows that] a case like this[10] is exempt [from the Biblical law],[11] since it is lost to him and cannot be found by any person. Moreover, the object which is forbidden [to be kept by the finder] is like the object which is permitted [to be kept by the finder]: Just as the permitted object[12] may be kept irrespective of whether it has an identification mark or not, so the forbidden object[13] may not be kept irrespective of whether it has an identification mark or not.[14] [This is] a complete refutation of Raba. And the law is in accordance with Abaye in [the cases indicated by the initials] Y'AL KGM.[15]

R. Aha, the son of Raba, said to R. Ashi: Seeing that Raba has been refuted,[16] how is it that we eat dates that have been shaken down [from the tree] by the wind?[17] — [R. Ashi] answered him: [The owner] gives them up straight away because there are vermin and creeping creatures that eat them.[18] [But what if they belong to] orphans who [are minors and] cannot legally renounce [their possessions]? — [R. Ashi] answered him: We do not assume that every piece of ground is the property of orphans.[19] But what if it is known [to be the property of orphans]? Or if the tree is surrounded by a fence?[20] — [R. Ashi] answered him: Then they are forbidden.[21]

SMALL SHEAVES IN A PUBLIC THOROUGHFARE BELONG TO THE FINDER. Rabbah said: Even when they have an identification mark. Consequently [it must be assumed that] Rabbah is of the opinion that an identification mark which is liable to be trodden on[22] is not [deemed to be] an identification mark.[23] Raba said [on the other hand]: [The Mishnah] refers only to things which have no identification mark, but things which have an identification mark have to be announced.[24] Consequently [it must be assumed that] Raba is of the opinion that an identification mark that is liable to be trodden on is [deemed to be] an identification mark. Some teach this as an independent controversy.[25] In regard to an identification mark which is liable to be trodden on, Rabbah says that it is not [deemed to be] an identification mark, but Raba says that it is [deemed to be] an identification mark.

We have learnt: Small sheaves [which are found] in a public thoroughfare belong to the finder, [but if found] on private grounds[26] they have to be taken up and announced.[27] How is this to be understood? If [the sheaves] have no identification mark — what is there to be announced [if they are found] on private grounds? It must therefore be that they have an identification mark, and still it is stated that [if found] in a public thoroughfare they belong to the finder. Consequently [it must be assumed that] an identification mark which is liable to be trodden on is not [deemed to be] an identification mark, which is a refutation of Raba! — Raba may answer you: In reality they have no identification mark; and as to your question, 'What is there to be announced [if they were found] on private grounds?', [the answer is:] The place [where they were found] is announced.[28] But Rabbah says that the place is no identification mark. For it has been stated: [In regard to] the place — Rabbah says, it is not considered an identification mark, but Raba says, it is an identification mark.

Come and hear: Small sheaves [which are found] in a public thoroughfare belong to the finder, but [if found] on private grounds they have to be taken up and announced. Big sheaves, however, whether [they are found] in a public thoroughfare or [are found] on private grounds, have to be taken up and announced. How does Rabbah explain it,[29] and how does Raba explain it?[30] — Rabbah explains it according to his view: By the identification mark.[31] Raba explains it according to his view: By the place.[32] Rabbah explains it according to his view — by the identification mark — [and the reason why] small sheaves [found] in a public thoroughfare belong to the finder [is] that

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(1) And the produce is not deemed capable of being rendered ritually unclean (Tosef. Mak. III).

(2) The feeling of pleasure is not deemed to have a retrospective effect. In the same way we ought to say that 'anticipated abandonment' has no retrospective effect, which would contradict the view of Raba.

(3) Lev. ibid.

(4) The spelling is יתן without a ו after the י , which may be read יתן 'he puts'. It is only the vowels that turn it into the passive יתן 'it is put'.

(5) Where the owner becomes aware of the dew having come upon the produce while moisture is still there.

(6) V. p. 138. n. 12.

(7) And if the knowledge that dew descended upon the produce comes after the event, the produce is rendered capable of becoming ritually unclean if the owner is pleased with the event, provided the produce is still moist.

(8) Other versions have Simeon instead of Ishmael. Cf. infra 27a, where the version is 'Simeon b. Yohai'.

(9) Deut. XXII, 3.

(10) When the flooded river has carried off a person's goods.

(11) Regarding the restoration of lost property.

(12) Such as an article which has been carried off by a stream and cannot be retrieved by everybody.

(13) I.e., the object which has been lost in the ordinary way and may be found by anybody.

(14) If there is reason to believe that the owner was not aware of his loss at the time when it was lost, though on becoming aware he would abandon hope of its return.

(15) Cf. Sanh. (Sonc. ed.) p. 159, n. 3.

(16) And 'anticipated abandonment' is not deemed effective.

(17) Seeing that at the time when the dates are shaken down the owner is unaware of his loss and does not consciously give it up.

(18) The owner knows that some of the dates fall off the tree, and he gives them up in advance because vermin usually get at them and eat them.

(19) As the majority of the fields or gardens do not belong to orphans we do not reckon with the possibility of orphan ownership.

(20) Guarding it against ravage by vermin and creeping creatures.

(21) In such cases the finder is not allowed to keep the fruit.

(22) When the lost article is small and lies in a place where there is traffic, it is likely to be trodden on, so that the identification mark may disappear.

(23) The owner does not depend on the mark in such a case, and he gives up the article as soon as it is lost.

(24) And if the owner identifies them by the mark, he receives them back.

(25) I.e., not in connection with our Mishnah.

(26) As in a sown field which few people frequent.

(27) [Read with MS.M.: 'they have to be announced', this passage being, as the term תנן indicates, a composite of our Mishnah and the next Mishnah, 25a.]

(28) The owner then identifies the lost goods by indicating the place where he lost them.

(29) In what respect do big sheaves differ from small sheaves as regards being trodden on?
(30) In what respect do small sheaves differ from big sheaves as regards the absence of an identification mark?
(31) Which is retained in big sheaves but is lost in small sheaves.
(32) Big sheaves remain in the same place, but not small sheaves.

Talmud - Mas. Baba Metzia 23a

they are trodden on,[1] while on private grounds [the finder] has to take them up and announce them because there they are not trodden on. Big sheaves, however, whether [they are found] in a public thoroughfare or on private grounds, [the finder] has to take up and announce because, being raised, one does not tread on them. Raba, again, explains it according to his view — by the place — [and the reason why] small sheaves [found] in a public thoroughfare belong to the finder [is] that they are pushed along,[2] while on private grounds [the finder] has to announce them because they are not pushed along.[3] Big sheaves, however, whether [they are found] in a public thoroughfare or on private grounds, [the finder] has to take up and announce because being many they are not pushed along.

Come and hear: A BAKER'S LOAVES, [etc.] BELONG TO THE FINDER — but 'home-made loaves have to be announced,'[4] now what is the reason in the case of home-made loaves, obviously that they have an identification mark and one can tell that the bread belongs to this person or that person, and, no matter whether [they are found] in a public thoroughfare or on private grounds, [the finder] has to take them up and announce them. It therefore follows that an identification mark which is likely to be trodden on is a valid mark, — which is a refutation of Rabbah! — Rabbah will answer you: There[5] the reason is that one may not pass by eatables.[6] — But there are heathens?[7] Heathens [do not pass by eatables because they] are afraid of witchcraft.[8] But are there not cattle and dogs? — [The Mishnah speaks] of places where cattle and dogs are not frequent.

Are we to maintain that this [difference of opinion between Rabbah and Raba is the same] as [the following difference between] the Tannaim [of our Mishnah]: R. JUDAH SAYS: WHATSOEVER HAS IN IT SOMETHING UNUSUAL MUST BE ANNOUNCED, AS, FOR INSTANCE, IF ONE FINDS A ROUND [OF FIGS] CONTAINING A POTSHERD, OR A LOAF CONTAINING MONEY. This implies that the first Tanna [of the Mishnah] holds that these articles belong to the finder [in spite of their unusual feature].[9] Now the prevalent opinion was then that all would agree that an identification mark which might have come of itself[10] was a valid mark,[11] and that one might pass by eatables.[12] It must therefore be assumed that [the Tannaim] differ regarding an identification mark which is likely to be trodden on: One holds that it is not a valid mark, and the other holds that it is a valid mark![13] — R. Zebid replied in the name of Raba: If you assume that the first Tanna [of the Mishnah] is of the opinion that an identification mark which is likely to be trodden on is not a valid mark, and that one may pass by eatables, why should one have to announce [the finding of] home-made loaves? Therefore R. Zebid said in the name of Raba that all are of the opinion that an identification mark which is likely to be trodden on is a valid mark,[14] and that one may pass by eatables. but here [in our Mishnah the Tannaim] differ regarding an identification mark which may have, come of itself,[15] the first Tanna being of the opinion that a distinguishing mark which may have come of itself is not a valid mark, and R. Judah being of the opinion that it is a valid mark. Rabbah [on the other hand] will tell you that all agree that an identification mark which is likely to be trodden on is not a valid mark, and that one may not pass by eatables,[16] but that [the Tannaim] differ here regarding a mark which may have come of itself,[17] the first Tanna being of the opinion that it is not a valid mark, and R. Judah being of the opinion that it is a valid mark.

Some have another version:[18] The prevalent opinion was then that all would agree that an identification mark which might have come of itself was a valid mark, while an identification mark which was likely to be trodden on was not a valid mark. It must therefore be assumed that [the

Tannaim] differ as to whether one may walk on eatables or not, one holding that it is permitted, and the other holding it is not permitted?[19] — R. Zebid then replied in the name of Raba: If you assume that the first Tanna holds that an identification mark which is likely to be trodden on is not a valid mark, and that one may pass by eatables, why should one have to announce [the finding of] home-made loaves? Therefore R. Zebid said in the name of Raba that all are of the opinion that an identification mark which is likely to be trodden on is a valid mark, and that one may pass by eatables, but here [in our Mishnah the Tannaim] differ regarding an identification mark which may have come of itself, the first Tanna being of the opinion that an identification mark which may have come of itself is not a valid mark, and R. Judah being of the opinion that it is a valid mark. Rabbah [on the other hand] will tell you that all agree that an identification mark which is likely to be trodden on is not a valid mark, and that one may not pass by eatables, but that [the Tannaim] differ here regarding a mark which may have come of itself, the first Tanna being of the opinion that an identification mark which may have come of itself is not a valid mark, and R. Judah being of the opinion that it is a valid mark.

R. Zebid said in the name of Raba: The general principle in regard to a loss is: If [the loser] has said, ‘Woe! I have sustained a monetary loss,’ he has given it up.[20]

R. Zebid also said in the name of Raba: The law is: Small sheaves, [if found] in a public thoroughfare, belong to the finder; [if found] on private grounds they belong to the finder when [discovered in the position of things] dropped [accidentally], but [if found in the position of things] laid down [deliberately, the finder] has to take them up and announce them. Both [rulings] apply only to a [case where the lost] article has no identification mark, but in a [case where the lost] article has an identification mark it has to be announced irrespective of whether [it has been found in the position of things] dropped [accidentally] or whether [it has been found in the position of things] laid down [deliberately].

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(1) So that the identification mark disappears.

(2) They are moved about by the traffic and do not remain in the place where they were dropped.

(3) As there is very little traffic in private premises they remain in the same place.

(4) V. Mishnah, infra 25a.

(5) In the case of the loaves referred to in the Mishnah.

(6) Therefore loaves of bread will not be trodden on but will be picked up as soon as they are noticed. Cf. ‘Er. 64b.

(7) Who are not likely to observe the rule laid down by the Rabbis.

(8) They are afraid to tread on eatables in case the eatables are bewitched.

(9) The first Tanna (R. Meir in our version of the Mishnah) says distinctly that rounds of figs belong to the finder, and he makes no distinction between those that contain something unusual and those that do not.

(10) As a potsherd in a round of figs — which may have got into the round accidentally or may have been put in deliberately.

(11) As it is assumed that it was done deliberately, for the purpose of identification.

(12) Therefore the first Tanna maintains that the mark is of no consequence, as if trodden on it will disappear.

(13) The first Tanna will say that as it is liable to be trodden on and to disappear it is not a valid mark, and R. Judah will say that as long as the mark is there it is valid.

(14) This accounts for the need of announcing home-made loaves.

(15) Such as money found in home-made loaves.

(16) Which explains the ruling of R. Judah in our Mishnah.

(17) V. p. 143. n. 7.

(18) According to which the difference of opinion between the Rabbis refers to the question whether one may pass by eatables or not.

(19) R. Meir would hold that it is permitted and therefore the mark is not valid, while R. Judah would hold the contrary view.

(20) And the finder is entitled to keep it.

Talmud - Mas. Baba Metzia 23b

AND STRINGS OF FISHES. Why [do they belong to the finder]? Should not the knot serve as an identification mark?[1] — [The Mishnah speaks] of a fisherman's knot which is tied so universally.[2] But should not the number of [fishes on the string] serve as a distinguishing mark? — [The Mishnah speaks] of a fixed number [of fishes].[3] R. Shesheth was asked: Is the number[4] a distinguishing mark or not? — R. Shesheth answered: You have learned it: If one finds a vessel of silver or copper or tin[5] of lead or any other kind of metal,[6] one shall not return it unless [the loser] indicates a mark, or unless he states accurately its weight. And seeing that weight is an identification mark measurement and number are also [to be deemed] identification marks.

AND PIECES OF MEAT, etc. Why [do they belong to the finder]? Should not the weight serve as a distinguishing mark? — [The Mishnah speaks] of a fixed weight.[7] But should not the piece itself, whether it be of the neck[8] or of the loin, serve as an identification mark? Has it not been taught: 'If one finds pieces of fish, or a fish which has been bitten into,[9] one has to announce [the find]; barrels of wine, oil, corn, dried figs, or olives belong to the finder'? — Here we deal with a case where there is an identification mark in the cut.[10] Thus Rabbah son of R. Huna used to cut [pieces of meat] in the shape of a triangle.[11] There is also a proof for this:[12] For he mentions [cut pieces as if they were] like the fish which has been bitten into.[13] This is conclusive.

The Master said [as quoted above]: 'Barrels of wine, oil, corn, dried figs, or olives belong to the finder.' But have we not learnt: Jars of wine and jars of oil have to be announced?[14] — R. Zera answered in the name of Rab: Our Mishnah deals with sealed [barrels].[15] 'It must thus be assumed that the Baraitha deals with open [barrels] — but open barrels constitute a deliberate loss![16] — R. Hosaia answered: [It deals with] barrels which have been stopped up.[17] Abaye says: You may even say that both [the Mishnah and the Baraitha] deal with sealed [barrels], yet there is no contradiction: Here[18] [the law refers to the time] before the opening of the cellars;[19] there [it refers to the time] after the opening of the cellars.[20] Thus R. Jacob b. Abba found a barrel of wine after the opening of the cellars, and when he appeared before Abaye the latter said to him: Go and take it for yourself.[21]

R. Bibi asked of R. Nahman: Is the place [where an article is found] an identification mark or not? — [R. Nahman] answered him: You have learned it: If one finds barrels of wine, or of oil, or of corn, or of dried figs, or of olives, they belong to him. Now if you were to assume that the place [where an article is found] is an identification mark [the finder] ought to announce the place![22] — R. Zebid answered: Here we deal with [barrels found] on the river-bank.[23] R. Mari said: For what reason did the Rabbis maintain that the river-bank does not constitute an identification mark? Because we say to him:[24] As it happened to you, so it may have happened to your neighbour.[25] Some have another version: R. Mari said: For what reason did the Rabbis maintain[26] that the place constitutes no identification mark? Because we say to him: As it happened to you in this place, so it may have happened to your neighbour in this [same] place.

Once a man found some pitch in a winepress. So he appeared before Rab, and the latter said to him: Go and take if for yourself. When [Rab] saw that he hesitated [to do so] he said to him: Go and share it with my son Hiyya. Shall we then say that Rab is of the opinion that the place [where an article is found] does not constitute an identification mark? — R. Abba answered: It was appropriated because it[27] was deemed to have been abandoned by the owners, as it was seen that weeds had grown upon it.[28]

R. SIMEON B. ELEAZAR SAYS, etc. What is meant by 'anfuria'?[29] Rab Judah said in the name of Samuel: New vessels which one's eye has not yet sufficiently noted.[30] — In what circumstances? If there is on them an identification mark — what does it matter if the eye has not yet sufficiently noted them? If there is no identification mark on them-what does it matter if the eye has sufficiently noted them?[31] — Admittedly there is no identification mark on them. But the point [as explained by Rab Judah] is important in regard to the question whether the [lost vessels] should be returned to [a claimant who is] a learned man[32] [and who recognises the vessels] by sight:[33] If [it is a case where] the eye has sufficiently noted [the lost vessels] he is sure to know them, and we give them back to him. But [in a case] where the eye has not sufficiently noted them he cannot be sure to know them, and we do not give them back to him. For Rab Judah said in the name of Samuel: In the following three matters learned men do conceal the truth: In matters of a tractate,[34] bed,[35]

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(1) Cf. supra 20b; infra 25b.

(2) The kind of knot which fishermen use everywhere and which therefore cannot be regarded as an identification mark.

(3) The number of fishes which fishermen usually hang on the same string, so that there is nothing distinctive about it.

(4) Var. loc., weight instead of number. [This apparently is the correct reading, as is shown by what follows, unless we omit ‘measurement’ in the last sentence of this paragraph. There is however also a reading: ‘Is the measurement, number and weight etc.?’ v. D.S.]

(5) **

(6) [So MS.M., cur. edd.: ‘vessels’.]

(7) The usual weight of pieces of meat cut by butchers for sale. Cf. p. 145. nn. 3-4.

(8) [Or, ‘rib’.]

(9) This forms an identification mark.

(10) The pieces of fish referred to in the quoted Baraitha are distinguishable by reason of the peculiar shape into which they are cut.

(11) Which made them distinguishable so that they remained Kasher even when they were lost sight of.

(12) The context bears out the correctness of the assumption that the shape of the pieces was peculiar and served as an identification mark.

(13) Which is obviously recognisable because of the identification mark.

(14) Infra 25a.

(15) Barrels which had been opened for the purpose of taking a sample of the wine, and were sealed again by the vendor with his own (distinctive) seal before delivery.

(16) Barrels of wine which have been left open become unfit for use (cf. Ter. VIII, 4), and the person who leaves it open knows that he is incurring a loss.

(17) But not sealed — so that there is no identification mark, while the wine is fit to be used.

(18) In the Mishnah.

(19) Before the time when the sale and delivery of the barrels of wine begins, and when the barrels are still generally unsealed. If one vendor then sealed a barrel and sold it the seal constitutes an identification mark.

(20) When the sealing of the barrels has become general, and the seal no more constitutes an identification mark.

(21) He had a right to keep the found barrel as it was not deemed to have an identification mark.

(22) So that the loser could claim the articles by indicating the place where he lost them.

(23) The quay where barrels are unloaded from the boats. Such a place cannot be regarded as an identification mark, and the indication of the place would not entitle one to reclaim the lost barrel.

(24) To the loser.

(25) Other people may have left barrels of wine there by mistake.

(26) [Read preferably with some texts, ‘What is the reason of the one who maintains, etc.?’]

(27) Lit., ‘they considered the fact that it, etc.’

(28) Which showed that the pitch had been there for a long time and had been given up by the owner.

(29) אנפוריא merchandise. [It is connected in dictionaries with the Gr. **]

(30) As they have not been sufficiently long in use, and they cannot be properly recognised when seen again.

(31) If there is nothing particular about them to distinguish them from other vessels the fact that they have been long in use, and that their shape etc. has been fully noted, should make no difference.

(32) Who is not likely to claim goods to which he is not entitled.

(33) Cf. supra 19a.

(34) If he asked whether he is familiar with a certain tractate of the Talmud he will modestly say ‘no’ — even though in fact he is familiar with it.

(35) This is explained in various ways. According to Rashi it refers to a question which may be put to a scholar regarding the performance of his conjugal duties, and to which he may decline to give a correct answer because of a sense of delicacy.

Talmud - Mas. Baba Metzia 24a

hospitality.[1] What is the point [in this observation]? — Mar Zutra said: [It is important in regard to the question] of returning a lost article, [recognised] by sight: If we know that [the claimant] conceals the truth in those three matters only we give it back to him, but if he does not speak the truth also in other matters we do not give it back to him. Mar Zutra the pious once had a silver vessel stolen from him[2] in a hospice. When he saw a disciple wash his hands and dry them on someone else's garment he said, 'This is the person [who stole the vessel], as he has no consideration for the property of his neighbour.' [The disciple] was then bound, and he confessed.

It has been taught: 'R. Simeon b. Eleazar admits that new vessels which the eye has sufficiently noted have to be announced. And the following new vessels which the eye has not sufficiently noted have not to be announced: such as — poles of needles,[3] knitting needles, and bundles of axes. All these objects mentioned above are permitted[4] only if they are found singly, but if found in twos one must announce them.' What are badde ['poles']? Rods. And why are they called badde ['poles']? Because an object on which things hang is called 'bad'[5] — as is stated there:[6] One leaf on one branch ['bad']. 'R. Simeon b. Eleazar also said: If one rescues anything from a lion, a bear, a leopard, a panther, or from the tide of the sea, or from the flood of a river, or if one finds anything on the high road, or in a broad square, or in any place where crowds are frequent, it belongs to the finder — because the owner has given it up.[7]

The question was asked: Did R. Simeon b. Eleazar say this [with regard to things found in places] where the majority of the people are heathens,[8] but not where the majority are Israelites, or [did he say this] also [with regard to things found in places] where the majority are Israelites? And if you come to the conclusion that [he said this] also where the majority are Israelites do the Rabbis differ from him or not? And if you come to the conclusion that they differ from him — they would certainly differ where the majority are Israelites — do they differ where the majority are heathens, or not?[9] And if you come to the conclusion that they differ even where the majority are heathens, is the law in accordance with his view or not? And if you come to the conclusion that the law is in accordance with his view, does this apply only to the case where the majority are heathens, or also to the case where the majority are Israelites? — Come and hear: If one finds money in a Synagogue or a house of study, or in any other place where crowds are frequent, it belongs to the finder, because the owner has given it up.[10] Now, who is the authority that lays it down that we go according to the majority[11] if not R. Simeon b. Eleazar? You must therefore conclude that [he applies this principle] also to a case where the majority are Israelites![12] — Here we deal with [a case where the money found was] scattered.[13] But if [the money was] scattered, why refer to places where crowds are frequent? It would apply also to places where crowds are not frequent![14] — Admittedly, therefore, [the reference is to money found] in bundles,[15] but we deal here with Synagogues[16] of heathens. But how can this be applied to 'houses of study'?[17] — [The reference is to] our houses of study in which heathens stay.[18] Now that you have arrived at this conclusion [the reference to] 'Synagogues' [can] also [be explained as meaning] our Synagogues in which heathens stay.

Come and hear: If one finds therein[19] a lost object, then if the majority are Israelites it has to be announced, but if the majority are heathens it has not to be announced.[20] Now who is the authority that lays it down that we go according to the majority if not R. Simeon b. Eleazar? You must therefore conclude that R. Simeon b. Eleazar says this only where the majority are heathens, but not where the majority are Israelites! — [No.] This is the view of the Rabbis. But then you could conclude therefrom that the Rabbis accept R. Simeon b. Eleazar's view in the case where the majority are heathens! — Admittedly, therefore, this[21] represents the view of R. Simeon b. Eleazar, and his ruling applies also to a case where the majority are Israelites, but here[21] we deal [with a case where the money was] concealed.[22] But if it was concealed, what has [the finder] to do with it? Have we not learnt: ‘if one finds a vessel in a dungheap, if covered up he may not touch it; but if uncovered he must take it and announce it’?[23] — As R. papa explained:[24] [The reference is] to a dungheap which is not regularly cleared away, and which [the owner] unexpectedly decided to clear away — so here also [the reference is] to a dungheap which is not regularly cleared away, and which [the owner] unexpectedly decided to clear away.[25]

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(1) Regarding which a scholar may refuse to give correct information in order not to embarrass his host by inducing others to come and seek the latter's hospitality.

(2) [MS.M. omits ‘from him’. The cup belonged accordingly to the hospice. (V. Rashi.) This version is supported by the fact that Mar Zutra acted in the case in a judicial capacity, and it is unlikely that he would act thus in a case affecting his own interests. V. Chajes. Z.H. Notes a.l.]

(3) Poles into which needles are stuck (Rashi). Some authorities leave out the word ‘poles’ and read ‘needles’ alone. Others regard the word ‘poles’ as separate from the word ‘needles’ (not as a construct but as an absolute plural form) and translate ‘poles, needles,’ etc.

(4) To be kept by the finder.

(5) בד the singular of בדי (poles).

(6) [So according to many texts; cur. edd., ‘as we learnt’ is evidently a copyist's error, as the passage cited (Suk. 44b) is not Mishnaic but Amoraic.]

(7) A.Z. 43a.

(8) [Heathens do not return lost articles (v. infra p. 152, n. 3), and consequently do not come within the provision of the law relating to the announcement of finds. Moreover, according to Tosaf., even if it were certain that the article belonged to an Israelite, there would be no need to return it because the owner, presuming that a heathen found it, would despair of recovering it. v. B.K. (Sonc. ed.) p. 666.]

(9) [In view of the principle that we do not follow the majority in money matters.]

(10) Cf. supra 21b.

(11) I.e., that in the question whether a found article is to be returned depends on considerations relating to the majority of the people that frequent the place where the article is found.

(12) As the majority of those congregating in a Synagogue are Israelites.

(13) In such a case the Rabbis also hold that the money belongs to the finder, as stated in the Mishnah, supra 21a.

(14) Scattered money has no identification mark and is given up by the owner as soon as it is lost, even if crowds do not frequent the place where it has been dropped.

(15) Which present an identification mark and are only given up when lost in a place which is frequented by crowds.

(16) כנסיות , lit., ‘houses of assembly’, or ‘meeting places,’ not Jewish houses of prayer. It is in this sense that the term is used here.

(17) Even if the term ‘Synagogues’ could be interpreted as meaning secular meeting places used by Gentiles, how could the term בית המדרש applied only to Colleges where Jewish law is studied and expounded, mean anything but Jewish Colleges frequented by Jews?

(18) Jewish Colleges situated outside the Jewish quarters and guarded by Gentile watchmen placed there for the purpose.

(19) In a city inhabited by Jews and heathens.

(20) Mak. II, 8.

(21) This cited Mishnah.

(22) In which case it was not lost at all, and if the majority were Israelites the finder would have to announce it.

(23) As the article may have been thrown on the dungheap accidentally (Mishnah, infra 25b).

(24) Ibid.

(25) In which case the finder must take the article away and announce it. (Cf. infra 25b.) Had the owner of the dungheap been in the habit of clearing it away regularly the person who placed the article there could not have claimed it, as the ‘loss’ would have been a deliberate one.

Talmud - Mas. Baba Metzia 24b

Talmud - Mas. Baba Metzia 24b

And if you wish I will say: Admittedly this is the view of the Rabbis,[1] but is it stated. ‘They belong to the finder’? — It [merely] says ‘He has not to announce them’ [meaning that] he lets it lie,[2] and when an Israelite comes and indicates an identification mark in it he receives it.

Come and hear: R. Assi said: If one finds a barrel of wine in a town where the majority are heathens he is permitted [to keep it] as a find but he is forbidden to derive any benefit from it.[3] If an Israelite comes and indicates an identification mark in it the finder is permitted to drink it.[4] Now this is obviously in accordance with the view of R. Simeon b. Eleazar.[5] It therefore follows that R. Simeon b. Eleazar only Says this where the majority are heathens, but not where the majority are Israelites! — [No.] In reality, I will tell you. R. Simeon b. Eleazar says this also where the majority are Israelites, but R. Assi agrees with him in the one case[6] but differs from him in the other case.[7] But if [the finder] is forbidden to derive any benefit [from the barrel of wine], what purpose does the law serve [by permitting him to keep it]? — R. Ashi answered: In regard to the vessel.[8]

A certain man once found four zuz which had been tied up in a cloth and thrown into the river Biran. When he appeared before Rab Judah the latter said to him, ‘Go and announce it.’ But is not this [like retrieving an object from] the tide of the sea? — The river Biran is different. As it contains obstacles[9] the owner does not give up hope.[10] But does not the majority[11] consist of heathens? Hence it must be concluded that the halachah is not in accordance with R. Simeon b. Eleazar even where the majority are heathens! — [The position in regard to] the river Biran is different. For Israelites dam it up[12] and Israelites dredge it: As Israelites dam it up it may be assumed that an Israelite dropped [the coins], and as Israelites dredge it, [the loser] did not give them up.[13]

Rab Judah once followed Mar Samuel into a street of wholemeal vendors,[14] and he asked him: What if one found here a purse?[15] — [Mar Samuel] answered: It would belong to the finder. What if an Israelite came and indicated an identification mark? — [Mar Samuel] answered: He would have to return it. Both?[16] — [Mar Samuel] answered: [He should go] beyond the requirements of the law.[17] Thus the father of Samuel found some asses in a desert, and he returned them to their owner after a year of twelve months: [he went] beyond the requirements of the law.

Raba once followed R. Nahman into a street of skinners[18] — some say into a street of scholars — and he asked him: What if one found here a purse? — [R. Nahman] answered: It would belong to the finder. What if an Israelite came and indicated its identification mark? — [R. Nahman] answered: It would [still] belong to the finder. But that one keeps protesting! — It is as if one protested against his house collapsing or against his ship sinking in the sea.

Once a vulture seized a piece of meat in the market and dropped it among the palm-trees belonging to Bar Marion. When the latter appeared before Abaye he[19] said to him: Go and take it for yourself. Now, the majority [in that case] consisted of Israelites. Hence it must be concluded that the halachah is in accordance with R. Simeon b. Eleazar even where the majority are Israelites! — [The position in regard to] a vulture is different — for it is like the tide of the sea.[20] But did not Rab say that meat which has disappeared from sight is forbidden?[21] — He[22] stood by and watched it.[23]

R. Hanina once found a slaughtered kid between Tiberias and Sepphoris, and he was permitted [to appropriate] it. R. Ammi said: He was permitted [to appropriate] it as a find, according to R. Simeon b. Eleazar, and as regards the method of slaughter[24] — [it was deemed proper.] according to R. Hanania, the son of R. Jose the Galilean. For it has been taught[25] ‘If one lost his kids or chickens and subsequently found them slaughtered — R. Judah forbids them, and R. Hanania the son of R. Jose the Galilean, permits them [to be eaten]. Rabbi said: The words of R. Judah seem right in a case where [the lost kids or chickens] were found on a dungheap while the words of R. Hanania, the son of R. Jose the Galilean seem right when they were found in a house.[26] Now, seeing that they were permitted in regard to the method of slaughter, the majority must have consisted of Israelites.[27] Hence it must be concluded that the halachah is according to R. Simeon b. Eleazar even where the majority are Israelites! — Raba replied: [That was a case where] the majority [of the inhabitants were] heathens, and the majority of the slaughterers [were] Israelites.[28]

R. Ammi once found some slaughtered pigeons between Tiberias and Sepphoris. When he appeared before R. Assi — some say, before R. Johanan; others again say, in the house of study — he was told: ‘Go and take them for yourself.’

R. Isaac the blacksmith once found some balls of string which were used for making nets. When he appeared before R. Johanan — some say. in the house of study — he was told: ‘Go and take them for yourself.’

*MISHNAH. THE FOLLOWING OBJECTS HAVE TO BE PROCLAIMED: IF ONE FINDS FRUIT IN A VESSEL,[29] OR A VESSEL BY ITSELF, MONEY IN A PURSE,[30] OR A PURSE BY ITSELF; HEAPS OF FRUIT,[31] HEAPS OF COINS,

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(1) And it is not a case where the money was concealed. It is wrong, however, to conclude from this that the Rabbis agree with R. Simeon b. Eleazar where the majority are heathens, as their decision does not mean that the article belongs to the finder.

(2) [I.e., he retains it in his possession till an Israelite comes. V. Strashun a.l.] The fact that the majority are heathens does not, according to the Rabbis, entitle the finder to appropriate the article, v. supra. p. 151, n. 9.

(3) As the wine may have been used in connection with idol-worship and thus become יין נסך i.e., forbidden not only to be drunk by Jews but also to be utilised in any way that might yield profit or pleasure.

(4) As the owner proves to be a Jew the prohibition relating to wine used in connection with idol-worship does not arise, and as the majority of the inhabitants of the place are heathens who do not return lost articles, the owner must be assumed to have abandoned the hope of recovering the lost goods.

(5) Who maintains that in such a case the majority must be considered in deciding whether the finder is entitled to appropriate the article or not.

(6) Where the majority are heathens.

(7) Where the majority are Israelites.

(8) He may use the vessel in which the wine is contained, although he is forbidden to use the wine.

(9) Various kinds of network intended to catch the fish.

(10) As the network is likely to hold up the article floating in the river the owner hopes that the article will ultimately be recovered.

(11) Of the inhabitants of the territory through which the river Biran flows.

(12) By placing the network therein for the purpose of catching fish.

(13) He depended on the Israelites recovering the article during dredging operations and returning it to him.

(14) Where crowds congregate.

(15) Would he be entitled to keep it?

(16) Do not the two views contradict each other?

(17) I.e., in saying ‘he would have to return it’ R. Simeon b. Eleazar did not give a legal decision but indicated what he would regard as the proper action to take on the ground of morality. The term used (לפנים משורת הדין) means literally ‘within the line of justice,’ i.e. performing a good action even if one is not compelled to do so legally. Cf. B.K. (Sonc. ed.) p. 584, n. 2.

(18) Persons who deal in skins, leather and leather goods.

(19) Abaye.

(20) The owner is sure to have given up the hope of recovering the loss.

(21) As it may have been exchanged for, or replaced by, meat taken from an unclean animal or be otherwise unfit to be eaten by Jews.

(22) Bar Marion.

(23) From the time the vulture seized it until it dropped it.
(24) I.e., as regards the assumption that the kid had been slaughtered in accordance with the Jewish ritual and was therefore ‘Kasher’, or fit to be eaten by Jews.
(25) V. Hul. 12a.
(26) Which would show that they were unfit to be eaten.
(27) As otherwise it could not be assumed that the Jewish method of slaughter had been used.
(28) It could therefore be assumed that the Jewish method of slaughter was used, although the majority of the inhabitants were heathens. * The translation from here to the end of the tractate is by Rabbi Dr. H. Freedman.
(29) Which usually has some identification mark by which the owner may recognise it.
(30) Which also has an identification mark.
(31) Heaps of fruit or money also have identification marks, as explained in the Gemara below.

Talmud - Mas. Baba Metzia 25a

THREE COINS ON THE TOP OF EACH OTHER,[1] BUNDLES OF SHEAVES IN PRIVATE PREMISES, HOME-MADE LOAVES, FLEECES OF WOOL FROM THE CRAFTSMAN'S WORKSHOP, JARS OF WINE OR JARS OF OIL, THEY HAVE TO BE PROCLAIMED.

GEMARA. Obviously it is only when fruit is found in a vessel, or money in a purse. [that they have to be proclaimed]; but if the fruit is in front of the vessel, or the money in front of the purse, they belong to the finder. Our Mishnah thus teaches the same as our Rabbis taught [in another place]: If one finds fruit [lying] in front of a vessel, or money in front of a purse, they belong to the finder. If [the fruit is] partly in the vessel and partly on the ground, or if [the money is] partly in the purse and partly on the ground, they have to be proclaimed.

But the following contradicts it: If a man found an object lacking an identification mark at the side of an object possessing it, he is bound to proclaim [them];[2] if the identifier of the mark came and took his own,[3] the other [sc. the finder] is entitled to the object without a mark! — Said R. Zebid: There is no difficulty. The former [Baraitha] refers to a cask and flax; the latter, to a basket and fruit.[4] R. papa said: Both refer to a basket and fruit, yet there is no difficulty. The latter [Baraitha] holds good if something was still left therein; the former, if nothing was left therein.[5] Alternately, both [Baraithas] mean that nothing is left therein, yet there is no difficulty. In the latter, its [sc. the basket's] mouth is turned towards the fruit; in the former, it is not. Another alternative: in both its mouth faces the fruit, yet there is no difficulty. The former [Baraitha] treats of baskets with rims; the latter, of the baskets without.[6]

HEAPS OF FRUIT; HEAPS OF COINS. This proves that number is an identification mark![7] — [No.] Read: A heap of fruit.[8] Then it proves that place is a means of identification! [No.] Read: HEAPS OF FRUIT.[9]

THREE COINS ON TOP OF EACH OTHER. R. Isaac said: provided that they lie pyramid-wise.[10] It has been taught likewise: If a man finds scattered coins, they belong to him. If they are arranged pyramid-wise he is bound to proclaim them. Now is not this self-contradictory? [First] you state, ‘If a man finds scattered coins they belong to him,’ thus implying, but if they overlap,[11] he must proclaim them.[12] Then consider the latter clause: ‘If they are arranged pyramid-wise, He is bound to proclaim them,’ implying, however, that if they merely overlap, they are his? — All [coins] not arranged conically the Tanna designates scattered.

R. Hanina said: This was taught only of [coins of] three kings;[13] but if of one king, he need not proclaim them. How so? If they lie pyramid-wise, then even [if they are] of one king [the proclamation should be made]; if they do not lie pyramid-wise, even if they are of three kings there should be no need [to proclaim them]? — But if stated, it[14] was thus stated: ‘This was taught only of [coins of] one king, yet similar to those of three.'[15] How so? When they lie pyramidically, the broadest at the bottom, the medium-sized upon it, and the smallest on top of the middle one; in which case we assume that they were placed thus. If, however, they are of one king, all being of equal size, then even if they are lying upon each other they belong to him [the finder]: we assume that they fell thus together by mere chance. R. Johanan [however] maintained: Even if of the same king,[16] he must proclaim them.[17]

Now, what does he proclaim — the number?[18] Then why particularly three — even if two it should be the same? — Said Rabina: He announces 'coins'.[19]

R. Jeremiah propounded: What if they were disposed in a circle,[20] in a row, triangularly.[21] or ladderwise?[22] — Solve at least one [problem]. For R. Nahman said in Rabbah b. Abbuha's name: Wherever a chip can be inserted[23] whereby they [the coins] may be lifted simultaneously, a proclamation must be made.[24]

R. Ashi propounded:

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(1) V. Gemara below.

(2) E.g.. a purse and money; if the purse is identified, the money too belongs to its owner. This contradicts the Baraitha just quoted.

(3) But disclaimed ownership of the other object.

(4) The cask is identifiable, but not the flax; similarly the basket and the fruit. Now, had the flax fallen out of the cask, some would have remained therein; hence it is assumed that they were lying together by chance, and so the flax belongs to the finder. Fruit, however, can easily roll out of its basket entirely, and therefore both are assumed to belong to the same person.

(5) R. Papa would appear to reject R. Zebid's distinction. Rashi, however, observes that fruit baskets generally had an inside rim, which would prevent ail the fruit from rolling out. In that case, R. Papa and R. Zebid may agree, R. Papa referring to baskets with rims, R. Zebid to rimless ones. In point of fact, whereas Maimonides accepts R. Papa's explanation but rejects R. Zebid's, shewing that he holds them contradictory. Asheri and the Tur accept both.

(6) V. n. 3.

(7) Since fruit and.coins cannot be identified, the only possible distinguishing feature is the number of heaps.

(8) I.e., though the Mishnah employs the plural, that is only in a general way; yet the same holds good even of a single heap. In that case, of course, there is no number, the place where it was found being the mark of identification.

(9) I.e., though it has just been stated that the plural may be generic, on the other hand it may be particularly used, in which case number is the distinguishing feature. Hence the Mishnah merely proves that either number or place is an identification mark, but not both, and it cannot be shewn which.

(10) Conically, a large coin at the bottom, a smaller one above it, and so on. These must have been placed so, and the owner will be able to identify them by the manner of their disposal. — The reason of such disposal might have been that the owner found himself bearing the money on the Sabbath, or on Friday just before the commencement of the Sabbath; v. Shab. 153b.

(11) Lying partly on each other and partly on the ground. — Rashi. Jast: but if they lie irregularly, some of them piled, others scattered.

(12) Because they would not have fallen, but must have been placed thus.

(13) Each coin being of a different reign.

(14) The statement of R. Hanina.

(15) I.e., of different sizes.

(16) I.e., of equal size.

(17) Since they are arranged exactly on top of each other.

(18) That three coins were found, and the owner identifies them by their arrangement.

(19) Without stating a number; two being the smallest possible number of 'coins', it cannot be accepted as a mark of identification; hence the find is not proclaimed for less than three. The translation and explanation follows Asheri, who regards the question as bearing directly on the Mishnah and not on the views of R. Hanina and R. Johanan, as Rashi appears to regard it.

(20) Lit., ‘like a bracelet’.

(21) Lit., ‘as a tripod.’

(22) The greater part of the middle coin lying on the bottom one, and the greater part of the top coin lying on the middle one.

(23) [Adopting reading of some texts; cur. edd.: ‘between them’.]

(24) For they must have been placed so. Hence a proclamation is necessary if they lay ladderwise.

Talmud - Mas. Baba Metzia 25b

What if they are arranged as the stones of a Merculis way-mark?[1] — Come and hear: For it has been taught: If one finds scattered coins, they belong to him; [but if they lay] as the stones of a Merculis way-mark, he must proclaim them. And thus are the stones of a Mercules way-mark arranged: one at each side, and a third on top of both.[2]

Our Rabbis taught: If one finds a sela’ in a market place, and then his neighbour accosts him and says. ‘It is mine; it is new, a Nero coin or of such and such an emperor’ — he is ignored.[3] Moreover, even if his name is written upon it, his claim is still rejected,[4] because an identification mark is of no avail in respect to a coin, for one can say, He may have expended it and someone else lost it.[5]

MISHNAH. IF A MAN FINDS FLEDGLINGS TIED TOGETHER BEHIND A FENCE OR WALL, OR IN THE PATHWAYS THROUGH FIELDS, HE MUST NOT TOUCH THEM.[6] IF A MAN FINDS A VESSEL IN A DUNGHEAP: IF COVERED UP, HE MUST NOT TOUCH IT;[7] IF UNCOVERED. HE MUST TAKE AND PROCLAIM IT.

GEMARA. What is the reason?[8] — Because we say, A person hid them here, and if he [the finder] takes them, their owner has no means of identifying them. Therefore he must leave them until their owner comes and takes them. But why? let the knot be a means of identification![9] — Said R. Abba b. Zabda in Rab's name: They were tied by their wings, everyone tying them thus. Then let the place [where they were found] be an identification mark. — Said R. ‘Ukba b. Hama: It refers to such that can hop. But if they hop, they may have come from elsewhere, and should be permitted![10] — One may surmise that they came from elsewhere, but one can also surmise that a person hid them there: hence it is a case of doubtful placing, and R. Abba b. Zabda said in Rab's name: Whenever it is doubtful if an article was left [in a certain spot], one must not take it in the first instance; but if he took, he need not return it.

IF A MAN FINDS A VESSEL ON A DUNG HEAP: IF COVERED UP, HE MUST NOT TOUCH IT; IF EXPOSED, HE MUST TAKE AND PROCLAIM IT. But the following contradicts it: If one finds an article hidden in a dungheap, he must take and proclaim it, because it is the nature of a dungheap to be cleared away![11] — Said R. Zebid: There is no difficulty. The one refers to casks and cups; the other to knives and forks: in the case of casks and cups, he must not touch them;[12] in the case of knives and forks, he must take and proclaim them.[13] R. papa said: Both refer to casks and cups, yet there is no difficulty. The one refers to a dungheap that is regularly cleared away; the other, to one that is not cleared away regularly.[14] ‘A dungheap which is regularly cleared away’! — But then it is a voluntary loss?[15] — But it refers to a dungheap which was not regularly cleared away, but he [its owner] decided to clear it out.[16] Now, as for R. papa, it is well; on that account[17] it is stated, ‘because it is the nature of a dunghill to be cleared away.’[18] But according to R. Zebid, what is meant by, ‘because it is the nature of a dunghill to be cleared away’? — [This:] Because it is the nature of a dunghill that small articles should be cleared therein.[19]

MISHNAH. IF HE FINDS [AN ARTICLE] AMIDST DEBRIS OR IN AN OLD WALL,[20] THEY BELONG TO HIM. IF HE FINDS AUGHT IN A NEW WALL: IF IN THE OUTER HALF

[THEREOF], IT IS HIS; IN THE INNER HALF, IT BELONGS TO THE OWNER OF THE HOUSE.[21] BUT IF IT [THE HOUSE] USED TO BE RENTED TO OTHERS, EVEN IF HE FINDS [ARTICLES] IN THE HOUSE ITSELF, THEY BELONG TO HIM.

GEMARA. A Tanna taught: Because he [the finder] can say to him,[22] They belonged to Amorites.[23] Do then only Amorites hide objects. and not Israelites?[24] — This holds good only

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(1) I.e., a way-mark dedicated to Merculis or Mercurius, a Roman divinity identified with the Greek Hermes. The Gemara states below how these were disposed. Our text actually reads ‘Kulis’, and Tosaf. conjectures that this was the true name of the deity, but the Hamburg MS. reads ‘Merculis’.

(2) [The Baraitha has in mind the trilithon or dolmen erected in front of the image.]

(3) Lit., ‘he has said nothing’.

(4) V. last note.

(5) Lit., ‘it fell from another person.’

(6) These places are semi-guarded, and therefore the birds may have been placed there, as explained in the Gemara.

(7) Because the covering shews that it was placed there.

(8) For the first ruling in the case of the fledglings.

(9) The owner can say where they were tied together.

(10) Since the owner has no means of identifying them.

(11) And if he does not take it, a heathen or an unscrupulous Jew may do so when the heap is cleared and keep it for himself. — Now, ‘hidden’ means that it is covered up, yet it is stated that he must take and proclaim it.

(12) These are too large to have been thrown there inadvertently.

(13) Because they may have been thrown there by accident.

(14) In the former case the finder must take and proclaim them; in the latter, he must not touch them.

(15) Why then proclaim them?

(16) V. supra p. 151.

(17) Sc. the distinction he draws.

(18) I.e., at any time.

(19) Hence a knife or fork (v. p. 159 n. 8) must be taken and proclaimed.

(20) These had cavities in which the objects could be placed.

(21) The reference is to a wall fronting a public thorough. fare. If the find is in the ‘outer half,’ i.e., the part facing the street, it must have been placed there by a passer-by, who has forgotten it; therefore it belongs to the finder. If in the ‘inner half,’ i.e., the part facing the house it encloses, the owner of the house must have placed it there.

(22) The owner of the ruins or the old wall.

(23) I.e., to one of the races that formerly inhabited Palestine.

(24) Surely if the article is in the inner half of the cavity, nearer the house, it should belong to the owner of the house.

Talmud - Mas. Baba Metzia 26a

if it [the find] is exceedingly rusty.[1]

IN A NEW WALL: IF IN THE OUTER HALF [THEREOF], IT IS HIS; IN THE INNER HALF, IT BELONGS TO THE OWNER OF THE HOUSE. R. Ashi said: A knife follows its handle, and a purse its straps.[2] Then when our Mishnah states, IF IN THE OUTER HALF [THEREOF], IT IS HIS; IN THE INNER HALF, IT BELONGS TO THE OWNER OF THE HOUSE: let us see whether the handle or the straps point outwards or inwards? — The Mishnah refers to tow-cotton and bar metal.[3]

A Tanna taught: If the wall [cavity] was filled therewith, they divide.[4] But is that not obvious? — It is necessary [to state this] only when it [the cavity or the wall] slopes to one side: I might have thought that it [the article found there] had slid down.[5] Therefore we are taught [otherwise].

BUT IF IT [THE HOUSE] USED TO BE RENTED TO OTHERS, EVEN IF ONE FINDS

[ARTICLES] IN THE HOUSE ITSELF, THEY BELONG TO HIM. Why so: let it be assigned to the last [tenant]?[6] Did we not learn: Money found in front of cattle dealers at all times is [accounted as] tithe; on the Temple Mount, it is hullin; in [the rest of] Jerusalem, at any other part of the year, it is hullin; at the Festival season, it is tithe.[7] And R. Shemaia b. Ze'ira observed thereon: What is the reason? Because the streets of Jerusalem[8] were swept daily. This proves that we assume: the earlier [losses] have gone, and these [coins] are different ones. So here too, the earlier [deposits] have gone, and these belong to the last [tenant]?[9] — Said Resh Lakish on the authority of Bar Kappara: It means e.g., that he [the owner of the house] had let it as a temporary lodging to three people [simultaneously].[10] Then you may infer that the halachah agrees with R. Simeon b. Eleazar even in respect to a multitude of Israelites![11] — But, said R. Manassia b. Jacob, it means e.g., that he had let it as a temporary lodging to three gentiles. R. Nahman said in Rabbah b. Abbahu's name: It may even refer to three Jews.[12] What then is the reason? It is because the man who lost it despairs thereof, arguing thus: ‘Let us see, no other person but these was with me. Now, I have many times mentioned it in their presence so that they should return it to me, but they did not do so. Will they now return it![13] Had they intended to return it, they would have returned it to me,[14] hence the reason of their not returning it to me is that they intend stealing it.’[15] Now, R. Nahman follows his general reasoning. For R. Nahman said: If a person sees a sela’

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(1) Shewing that it was left there long ago. [An anticipation of modern archaeological research, v. Krauss, S., Hasoker, I, p. 131.]

(2) If a knife is found in a wall cavity, if the handle points inwards, it belongs to the owner of the house; outwards, it is assumed to have been placed there by a passer-by; similarly with a purse and its straps or laces.

(3) I.e., to articles where this criterion is inapplicable.

(4) Half belongs to the house owner and half to the finder.

(5) But was originally at the upper portion of the cavity, and the ownership should be determined accordingly.

(6) I.e., let the last tenant be assumed the owner (Tosaf.).

(7) Shek. VII, 2. If money is found in Jerusalem, the question arises, what is its status — is it ordinary secular coins (hullin) or tithe money? This was because the second-tithe (v. infra p. 517. n. 5) had to be eaten in Jerusalem or its monetary equivalent expended there, which money likewise was governed by the law of second tithe. Now, most of the flesh eaten in Jerusalem was bought with second tithe money, and generally took the form of peace offerings; when one could not stay long enough in Jerusalem to expend all the tithe money there, he would distribute it amongst the poor, or give it to his friends in Jerusalem. Consequently. if money is found in front of cattle dealers, whatever the time of the year, it is assumed to be of the second tithe. On the other hand, if found on the Temple Mount, we assume it to be hullin, even at Festival time, when most of the money handled is tithe, because the greater part of the year is not Festival, and then ordinary hullin is in circulation, and this money might have been lost before the Festival. But if found in the other streets of Jerusalem, a distinction is drawn, as stated in the text.

(8) But not the Temple Mount.

(9) Because before a tenant leaves his house he makes a thorough search to see that he leaves nothing behind.

(10) In addition to the tenant (so it appears to be understood by Tosaf. a.l. s.v. לשלשה and אפילו). Therefore whichever tenant lost it would have abandoned it in despair of its being returned, in accordance with the view stated by R. Simeon b. Eleazar supra 24a: three constitute a multitude.

(11) V. supra 24a.

(12) And still it does not follow that the halachah rests with R. Simeon b. Eleazar.

(13) After a lapse of some time. Surely not!

(14) And not assumed that it was lost by a former tenant.

(15) Thus in these special circumstances the loser may despair of the return thereof. But normally we do not follow the ruling of R. Simeon in the case of the majority of Israelites.

Talmud - Mas. Baba Metzia 26b

fall from one of two people [who are together], he must return it. What is the reason? He who dropped it does not despair thereof, for he argues: ‘Let us see, no other person but this one was with me; then I will seize him and say to him, You did take it.’ But in the case of three[1] he need not return it. What is the reason? — Because he who dropped it certainly abandons it, arguing to himself, ‘Let us see: there were two with me; if I accuse the one he will deny it, and if I accuse the other, he will deny it.’

Raba said: As for your ruling that in the case of three he need not return it, that holds good only if it [the coin lost] lacks the value of a perutah[2] for each [of the three]; but if it contains the equivalent of a perutah for each person, he is bound to return it. What is the reason? They may be partners, and therefore do not abandon it.[3] Others state. Raba said: Even if it is worth only two perutahs, he must return it. What is the reason? They may have been partners, and one renounced his portion in the owner's favour.[4]

Raba also said: If a man sees a sela’ fall, if he takes it before abandonment, intending to appropriate it,[5] he transgresses all [the following injunctions]: Thou shalt not rob;[6] thou shalt restore them;[7] and, thou mayest not hide thyself.[8] And even if he returns it after abandonment, he merely makes him [the loser] a gift, whilst the offence he has committed stands.[9] If he picks it up before abandonment, intending to return it, but after abandonment decides to appropriate it, he violates [the injunction,] thou shalt restore them.[10] If he waits until the owner despairs thereof and then takes it, he transgresses only, thou mayest not hide thyself.[11]

Raba also said: If a man sees his neighbour drop a zuz in sand, and then finds and takes it, he is not bound to return it. Why? He from whom it fell abandons it, and even if he is seen to bring a sieve and sift [the sand], he may merely be reasoning. ‘Just as I dropped something, so may another have lost an article, and I will find it.’[12]

MISHNAH. IF A MAN FINDS [AN ARTICLE] IN A SHOP, IT BELONGS TO HIM.[13] BETWEEN THE COUNTER AND THE SHOPKEEPER [‘S SEAT], TO THE SHOPKEEPER.[14] [IF HE FINDS IT] IN FRONT OF A MONEY-CHANGER, IT BELONGS TO HIM [THE FINDER]; BETWEEN THE STOOL[15] AND THE MONEY-CHANGER, TO THE MONEY-CHANGER. IF ONE BUYS PRODUCE FROM HIS NEIGHBOUR, OR IF HIS NEighbour SENDS HIM PRODUCE, AND HE FINDS MONEY THEREIN, IT IS HIS. BUT IF THEY [THE COINS] ARE TIED UP, HE MUST TAKE AND PROCLAIM THEM.[16]

GEMARA. R. Eleazar said: Even if they [the articles found] are lying on the [money-changer's] table [they belong to the finder]. We learnt: [IF HE FINDS IT] IN FRONT OF A MONEY-CHANGER, IT BELONGS TO HIM. [This implies,] but if it was on the table, it belongs to the money-changer.[17] Then consider the second clause: BETWEEN THE STOOL AND THE MONEY-CHANGER, TO THE MONEY-CHANGER; [implying,] but if on the table, it is his [the finder's], But [in truth] no inference can be drawn from this.[18] And whence does R. Eleazar know this? — Said Raba: Our Mishnah presented to him a difficulty. Why teach particularly, BETWEEN THE STOOL AND THE MONEY-CHANGER. IT BELONGS TO THE MONEY-CHANGER? Let it state. ‘on the table,’ or, ‘If one finds [an article] in a money-changer's shop.’ just as the first clause teaches, IF ONE FINDS [AN ARTICLE] IN A SHOP, IT BELONGS TO HIM. Hence it must follow that even if it lay on the table, it is his.[19]

IF ONE BUYS PRODUCE FROM HIs NEIGHBOUR etc. Resh Lakish said on R. Jannai's authority: This refers only

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(1) If it was dropped by one of three persons.

(2) Cf. Mishnah, infra 55a.

(3) When one discovers the coin gone, he thinks that his partner may have taken it as a practical joke. The stranger therefore picks it up before abandonment, and so must return it.

(4) Hence the two perutahs belong to two, i.e., a perutah for each, so that the article comes within the ambit of theft, if taken before abandonment.

(5) For it is regarded as theft if he picks it up then with the intention of keeping it.

(6) Lev. XIX, 13.

(7) Deut. XXII, 1.

(8) Ibid. 3-sc. from taking up and returning a lost article.

(9) Lit., 'he has committed it.'

(10) Because 'thou shalt not rob' is applicable only when the action itself is committed with that intention. [Nor is the injunction. 'thou mayest not hide thyself' applicable where the desire to appropriate it came to him after abandonment; v. Rashi and Tosaf.]

(11) Since he takes it after abandonment, he is not guilty of robbery, nor must he return it. But by waiting until then, he 'hid himself,' i.e., refrained from taking the find at the proper time.

(12) But he has no hopes of finding his own, which he has already abandoned. Therefore the finder need not return it.

(13) This refers to an article which cannot be identified. Since any customer might have dropped it, the shopkeeper has no particular claim to it; whilst the loser must have abandoned it, since it bears no mark of identification. Asheri, however, maintains that it refers even to an article which can be identified, because the loser argues to himself, 'In all probability the shopkeeper would have been the first to find it, and since I have complained of my loss in his presence and he has not responded, he evidently intends to keep it.' Therefore the loser abandons it, and so the finder may keep it. (V. supra 26a for a similar argument.)

(14) Customers having no access to that spot, the shopkeeper must have dropped it there.

(15) [The chest attached to the table in front of the money-changer, wherein the money was placed; v. Krauss, TA, II. 411.]

(16) The manner of tying, or the number of coins, can prove ownership.

(17) 'IN FRONT' denotes on the ground.

(18) It neither refutes nor supports R. Eleazar.

(19) I.e., these difficulties force him to translate 'IN FRONT OF A MONEY-CHANGER as meaning even on his table, though generally the phrase connotes on the ground.

Talmud - Mas. Baba Metzia 27a

to one who purchases from a merchant;[1] but if one buys from a private individual, he is bound to return [the coins].[2] And a tanna recited likewise before R. Nahman: This refers only to one who purchases from a merchant: but if from a private individual, he is bound to return [the coins]. Thereupon R. Nahman observed to him: 'Did then the private individual thresh [the grain] himself?'[3] 'Shall I then delete it?' he enquired. — 'No,' he replied; 'interpret the teaching of one who threshed [the grain] by his heathen slaves and bondswomen.[4]

MISHNAH. NOW, THE GARMENT TOO WAS INCLUDED IN ALL THESE: WHY THEN WAS IT SINGLED OUT?[5] THAT AN ANALOGY MIGHT BE DRAWN THEREWITH, TEACHING: JUST AS A GARMENT IS DISTINGUISHED IN THAT IT BEARS IDENTIFICATION MARKS AND IS CLAIMED, SO MUST EVERYTHING BE ANNOUNCED, IF IT BEARS IDENTIFICATION MARKS AND IS CLAIMED.[6]

GEMARA. What is meant by IN ALL THESE? — Said Raba: In the general phrase, [and in like manner shalt thou do] with every lost article of thy brother.[7]

Raba said: Why should the Divine Law have enumerated ox, ass, sheep and garment?[8] They are all necessary. For had the Divine Law mentioned 'garment' alone, I would have thought: That is only if the object itself can be attested, or the object itself bears marks of identification. But in the case of an ass, if its saddle is attested or its saddle bears marks of identification,[9] I might think that it is not returned to him. Therefore the Divine Law wrote 'ass,' to shew that even the ass [too is returned] in virtue of the identification of its saddle. For what purpose did the Divine Law mention ‘ox’ and ‘sheep’?’ — ‘Ox’, that even the shearing of its tail, and ‘sheep’, that even its shearings [must be returned].[10] Then the Divine Law should have mentioned ‘ox’, to shew that even the shearing of its tail [must be returned], from which the shearings of a sheep would follow a fortiori? — But, said Raba, ‘ass,’ mentioned in connection with a pit,[11] on R. Judah's view, and ‘sheep’ in connection with a lost article, on all views, are [unanswerable] difficulties.[12] But why not assume that it comes [to teach] that the dung [too must be returned]? — [The ownership of] dung is renounced.[13] But perhaps its purpose is to teach the law of identification marks? For it is a problem to us whether identification marks are Biblically valid [as a means of proving ownership] or only by Rabbinical law; therefore Scripture wrote ‘sheep’ to shew that it must be returned even on the strength of identification marks, thus proving that these are Biblically valid. — I will tell you: since the Tanna refers to identification marks in connection with ‘garment’, for he teaches, JUST AS A GARMENT IS DISTINGUISHED IN THAT IT BEARS IDENTIFICATION MARKS AND IS CLAIMED, SO MUST EVERYTHING BE ANNOUNCED, IF IT BEARS IDENTIFICATION MARKS AND IS CLAIMED, it follows that the purpose of ‘sheep’ is not to teach the validity of identification marks.[14]

Our Rabbis taught: [And so shalt thou do with all lost things of thy brother's] which shall be lost to him:[15] — this excludes a lost article worth less than a perutah. R. Judah said: And thou hast found it[16] — this excludes a lost article worth less than a perutah.[17] Wherein do they differ? — Said Abaye: They differ as to the texts from which the law is derived: one Master deduces it from, ‘which shall be lost to him;’ the other, from, ‘and thou hast found it.’[18] Now, he who derives it from, ‘which shall be lost to him,’ how does he employ, ‘and thou hast found it?’ — He requires it for Rabbanai's dictum. For Rabbanai said: And thou hast found it implies even if it has come into his possession.[19] Now, he who deduces it from, ‘and thou hast found it,’ how does he utilize, ‘which shall be lost to him?’ — He needs it for R. Johanan's dictum. For R. Johanan said on the authority of R. Simeon b. Yohai:[20] Whence do we know that a lost article swept away by a river is permitted [to the finder]? From the verse, ‘And so shalt thou do with all the lost things of thy brother which shall be lost to him and thou hast found it’: [this implies.] that which is lost to him but is available[21] to others in general, thus excluding that which is lost to him and is not available to others. And the other, whence does he infer Rabbanai's dictum? — He derives it from, and thou hast found it.[22] And the other, whence does he know R. Johanan's dictum? — From, [which shall be lost] to him.[23] And the other?[24] — In his opinion, to him has no particular significance.

Raba said: They differ in respect of [a loss worth] a perutah, which [subsequently] depreciated.[25] On the view that it is derived from, ‘which shall be lost to him,’ there is [the loss of a perutah]; but according to him who deduces it from, ‘and thou hast found it,’ there is not [a find of a perutah]. Now, he who emphasizes, ‘which shall be lost’ — surely, ‘and thou hast found it,’ must also be applicable, which is not [the case here]! — But they differ in respect of [an article now worth] a perutah, having appreciated.[26] On the view that it is deduced from, ‘and thou hast found it,’ there is [the find of a perutah]; whereas according to him who deduces it from, ‘which shall be lost,’ there is not [the loss of a perutah]. Now, he who emphasizes, ‘and thou host found it’ — surely, ‘which shall be lost,’ must also be applicable, which is not [the case here]! — But they differ in respect of [an article worth] a perutah, which fell and then rose in value again.[27] On the view that it is derived from, ‘which shall be lost.’ there is [the loss of a perutah]; but according to the opinion that it is inferred from, ‘and thou host found it,’ it must have had the standard of a ‘find’ from the time of being lost until found.

The scholars propounded: Are identification marks [legally valid] by Biblical or merely by Rabbinical law? What is the practical difference? —

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(1) Who himself buys from many people, so that the original ownership cannot be traced.

(2) ‘Private individual’ means one who grows his own produce.

(3) The money might have been lost by one of his workmen.
(4) These have no rights of ownership, and even if they lost the money, it still belongs to their master.
(5) Lit., ‘did it go forth.’
(6) Lit., ‘it has claimants’. The last phrase excludes articles which the owner has abandoned. — The whole Mishnah is explained in the Gemara.
(7) Deut. XXII, 3. — The ‘singling out’ of a garment is in the same verse: and in like manner shalt thou do with his garment.
(8) Thou shalt not see thy brother's ox or his sheep go astray, and hide thyself from them: thou shalt in any case return them unto thy brother . . . . In like manner shalt thou do with his ass, and so shalt thou do with his garment. — Ibid. 1, 3.
(9) But not the ass itself.
(10) If the finder had occasion to shear these animals while in his Possession.
(11) Ex. XXI, 33: And if a man shall open a pit . . . and on ox or an ass fall therein.
(12) V. B.K. 54a. The Rabbis maintain that the maker of the pit is not responsible if a man or utensils fall therein, interpreting, ‘ox,’ but not man, ‘ass,’ but not utensils. R. Judah, however, maintains that he is responsible for utensils: hence the difficulty, why mention ‘ass?’
(13) Hence it need not be returned.
(14) Though it is stated below that the Tanna may have mentioned identification marks in connection with ‘garment’ casually, yet that is sufficient to prove that in his opinion the purpose of ‘sheep’ is certainly not to prove their validity.
(15) Literal rendering of Deut. XXII, 3. (E.V.: which he hath lost.)
(16) Ibid.
(17) That which is not worth a perutah is neither a loss nor a find.
(18) But there is no difference in actual law.
(19) Lit., ‘hand.’ V: supra. p. 2.
(20) [Var. lec., ‘b. Jehozadak,’ v. supra p. 139. n. 4.]
(21) Lit., ‘found.’
(22) [ומצאתה in the perfect following the imperfect אשר תאבד is taken to denote the pluperfect.]
(23) Whereas his own deduction that the law applies only to a loss worth a perutah, is from ‘lost.’
(24) What does he derive from, ‘to (from) him’?
(25) I.e., when lost it was worth a perutah, but not when found.
(26) When lost, it was not worth a perutah, but its value had increased to a perutah by the time it was found.
(27) When lost, it was worth a perutah; then its value fell, but when found it was again worth a perutah.

Talmud - Mas. Baba Metzia 27b

In respect of returning a woman's divorce on the strength of identification marks:[1] should you say that they are Biblically [valid], we return it; but if only by Rabbinical law the Rabbis enacted this measure for civil matters only, not for ritual prohibitions?[2] — Come and hear: NOW, THE GARMENT TOO WAS INCLUDED IN ALL THESE. WHY THEN WAS IT SINGLED OUT? THAT AN ANALOGY MIGHT BE DRAWN THEREWITH, TEACHING: JUST AS A GARMENT IS DISTINGUISHED IN THAT IT BEARS IDENTIFICATION MARKS AND IS CLAIMED, SO MUST EVERYTHING BE ANNOUNCED. IF IT BEARS IDENTIFICATION MARKS AND IS CLAIMED![3] — The Tanna really desires [to teach] that there must be a claimant; identification marks are mentioned only incidentally.[4]

Come and hear: [Therefore Scripture wrote ‘ass,’ to shew that even] the ass [too is returned] in virtue of the identification marks of its saddle![5] — Read: in virtue of the witnesses [attesting to the ownership] of its saddle.[6]

Come and hear: And it [sc. the article found] shall be with thee until thy brother seek after it [and thou shalt return it to him]:[7] now, would it then have occurred to thee that he should return it to him before he sought after it![8] But [it means this:] examine him [the claimant], whether he be a fraud or not.[9] Surely that is by means of identification marks![10] — No: by means of witnesses. Come and hear: Testimony[11] may be given[12] only on proof [afforded by] the face with the nose, even if the body and the garment bear identification marks.[13] This proves that identification marks are not Biblically valid! — I will tell you: In respect to the body, [the proposed identification marks were] that it was short or long;[14] whilst those of his garments [are rejected] because we fear borrowing.[15] But if we fear borrowing, why is an ass returned because of the identification of the saddle? — I will tell you: people do not borrow a saddle, because it chafes the ass [‘s back].[16] Alternatively, the garments [were identified] through being white or red.[17] Then what of that which was taught: If he found it tied up in a purse, money bag, or to a ring, or if he found it amongst his [household] utensils, even a long time afterwards, it is valid.[18] Now should you think, we fear borrowing: if he found it tied up in his purse [etc.], why is it valid? Let us fear borrowing! — I will tell you: A purse, wallet, and signet ring are not lent: a purse and a money bag, because people are superstitious about it;[19] a signet ring, because one can commit forgery therewith.[20]

Shall we say that this is disputed by Tannaim? [For it was taught:] Testimony may not be given[12] on the strength of a mole; but Eleazar b. Mahabai said: Testimony may be so given.[21] Surely then they differ in this: The first Tanna holds that identification marks are [only] Rabbinically valid,[22] whilst Eleazar b. Mahabai holds that they are Biblically valid? — Said Raba: All may agree that they are Biblically valid: they differ here as to whether a mole is to be found on one's affinity.[23] One Master maintains that a mole is [generally] found on a person's affinity;[24] whilst the other holds that it is not. Alternatively, all agree that it is not; they differ here as to whether identification marks[25] are liable to change after death. One Master maintains: Identification marks are liable to change after death;[26] the other, that they are not. Alternatively, all agree that a mole is not liable to change after death, and identification marks are valid only by Rabbinical law; they differ here as to whether a mole is a perfect mark of identification. One Master maintains that a mole is a perfect mark of identification,[27] whilst the other holds that it is not.[28]

Raba said: If you should resolve that identification marks are not Biblically valid, why do we return a lost article in reliance on these marks?[29] Because one who finds a lost article is pleased that it should be returned on the strength of identification marks, so that should he lose anything, it will likewise be returned to him through marks of identification. Said R. Safra to Raba: Can then one confer a benefit upon himself with money that does not belong to him! But [the reason is this:] the loser himself is pleased to offer identification marks and take it back.[30] He knows full well that he has no witnesses; therefore he argues to himself, ‘Everyone does not know its perfect identification marks,[31] but I can state its perfect identification marks and take it back.’ But what of that which we learnt: R. Simeon b. Gamaliel said: If it was one man who had borrowed from three, he [the finder] must return [them] to the debtor; if three had borrowed from one, he must return them to the creditor.[32] Is then the debtor pleased that it [the promissory note] is returned to the creditor? — In that instance, he replied to him, it is a matter of logic. If it was one man who had borrowed from three, he must return [them] to the debtor, because they are to be found [together] in the debtor's possession, but not in the creditor's:[33] hence the debtor must have dropped it. If three had borrowed from one, it must be returned to the creditor, because they are to be found in the creditor's possession, but not in the debtor's.

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(1) If a messenger was sent with a divorce but lost it before delivery. Subsequently a divorce was found, and the messenger identified it by means of certain marks therein.

(2) It is a general principle that the Rabbis could freely enact measures affecting civil matters, since they had the power to abrogate individual rights of property under certain conditions. But they could not nullify ritual prohibitions. Hence, if identification marks are Scripturally valid, the divorce is returned to the messenger, who proceeds to divorce the woman therewith. But if they have no Scriptural force, the Rabbis could not institute a measure to free her from her marriage bonds which was not sanctioned by the Bible.

(3) Thus it is explicitly stated that the validity of identification marks is deduced from Scripture, hence Biblical.

(4) I.e., it may be that ‘garment’ teaches only that ownership must be claimed. Since, however, it is a fact that it can be claimed on the strength of identification marks, the Tanna mentions these too, even if their validity is only Rabbinical.

(5) Cf. p. 170, n. 6.

(6) Even if only the ownership of the saddle is attested, the ass too is returned: that is deduced from the verse.

(7) Ibid. 2.

(8) Surely not! Then why state it?

(9) Translating: until thy brother's examination — i.e., until thou hast examined thy brother — in respect thereof. — Darash, besides meaning ‘to seek’, also connotes ‘to make judicial investigation’; cf. Deut. XIII, 15: Then shalt thou (judicially) enquire (we-darashta).

(10) Thus proving that they are Biblically valid.

(11) To free a widow for marriage.

(12) As to the identity of a corpse.

(13) Yeb. 120a.

(14) These are naturally rejected, since many people are short or long. But it may well be that others are accepted.

(15) Granted that the ownership of the garments is established, that does not prove the identity of the corpse, as they might have been borrowed.

(16) A saddle must fit its particular ass.

(17) Cf. n. 4, [MS.M. omits this passage, and rightly so, seeing that it assumes that we do not fear borrowing, which would make the question that follows closely on irrelevant; v. n. 10.]

(18) Git. 27b. If a messenger loses a bill of divorce, and then finds one in the places mentioned, it is valid, and we do not fear that it might be a different document written for another husband and wife with identical names. A bill of divorce had to be written specifically for the woman it was intended to free.

(19) Believing it unlucky to lend them(Jast.).

(20) [MS.M. adds here the passage it omits above, v. n. 7.]

(21) Yeb. 120a.

(22) Therefore they cannot establish identity to break the marriage bond. Cf. p. 169, n. 1.

(23) I.e., a person born at the same hour and under the same planetary influence.

(24) And therefore it cannot establish identity.

(25) In Yeb, 120a, where this discussion is repeated, the text reads ‘mole’.

(26) Therefore they cannot establish identity.

(27) Which leaves no doubt whatsoever. Even if identification marks in general are only Rabbinically valid, that is when they are not absolutely perfect; but if they are, they certainly have Biblical force.

(28) Thus so far the problem remains unsolved.

(29) I.e., why did the Rabbis give them validity for this purpose?

(30) [The text is difficult and hardly intelligible as it stands. Read with some versions: ‘The loser himself is pleased that it should be returned (to any claimant) on the strength of identification marks.’]

(31) Even if others have seen and can generally describe it, they cannot give a minute and detailed description. [R. Safra employs the term ‘perfect identification marks’ (סימנין מובהקים) in a loose sense, as any identification mark in general is valid for the recovery of a lost article; cf. also infra p. 177. n. 4. V. R. Nissim, Hiddushim, a.l.]

(32) V. supra 20a, Mishnah.

(33) Since there are three separate creditors.

Talmud - Mas. Baba Metzia 28a

But what of that which we learnt: If one finds a roll of notes or a bundle of notes he must surrender [them]:[1] here too, [is then the reason] because the debtor is pleased that they should be returned to the creditor! — But, said Raba, identification marks are Biblically valid, because it is written, And it shall be with thee until thy brother seek after it. Now, would it then have occurred to you that he should return it to him before he sought it! But [it means this:] examine him [the claimant], whether he be a fraud or not.[2] Surely that is by means of identification marks! That proves it.

Raba said: Should you resolve that identification marks are Biblically valid . . . (‘Should you resolve!’ — but he has proved that they are Biblically valid! — That is because it can be explained as was answered [above].)[3] If two sets of identification marks [are offered by two conflicting claimants], it [the lost article] must be left [in custody].[4] [If one states] identification marks and [another produces] witnesses, it [the lost article] must be surrendered to him who has witnesses.[5] [If one states] identification marks, and [another also states] identification marks and [produces] one witness — one witness is as non-existent, and so it must be left. [If one produces] witnesses of weaving,[6] and [another] witnesses of dropping,[7] it must be given to the latter, because we argue, He [the first] may have sold, and another lost it. [If one states] its length, and [another] its breadth,[8] it must be given to [him who states its] length; because it is possible to conjecture the breadth when its owner is standing and wearing it, whereas the length cannot be [well] conjectured.[9] [If one states] its length and breadth, and another its gums,[10] it must be surrendered to the former. If the length, breadth, and weight [are stated by different claimants], it must be given to [him who states] its weight.

If he [the husband] states the identification marks of a bill of divorce, and she does likewise,[11] it must be given to her.[12] Wherewith [is it identified]? Shall we say, by its length and breadth? perhaps she saw it whilst he was holding it![13] — But it had a perforation at the side of a certain letter. If he identifies the ribbon [with which the divorce was tied], and she does likewise, it must be given to her. Wherewith [is it identified]? Shall we say, by [its colour], white or red? perhaps she saw it whilst he was holding it! — Hence, by its length. If he states, [it was found] in a valise, and she states likewise, it must be surrendered to him. Why? She knows full well that he places whatever he has [of his documents] in a valise.[14] MISHNAH. NOW, UNTIL WHEN IS HE [THE FINDER] OBLIGED TO PROCLAIM IT? UNTIL HIS NEIGHBOURS MAY KNOW THEREOF: THIS IS R. MEIR'S VIEW. R. JUDAH MAINTAINED: [UNTIL] THREE FESTIVALS [HAVE PASSED], AND AN ADDITIONAL SEVEN DAYS AFTER THE LAST FESTIVAL, GIVING THREE DAYS FOR GOING HOME, THREE DAYS FOR RETURNING, AND ONE DAY FOR ANNOUNCING.[15]

GEMARA. A Tanna taught: The neighbours of the loss [are referred to in the Mishnah]. What is the meaning of ‘the neighbours of the loss?’ Shall we say, the neighbours of the loser? But if they know him [who lost it], let them go and return it to him! — But [it means] the neighbours of the vicinity wherein the lost article was found.[16]

R. JUDAH MAINTAINED etc. But the following contradicts this: On the third day of Marcheshvan[17] we [commence to] pray for rain.[18] R. Gamaliel said: On the seventh, which is fifteen days after the Festival,[19] so that the last [of the pilgrims] in Eretz Yisrael[20] can reach the river Euphrates![21] — Said R. Joseph: There is no difficulty. The latter refers to the days of the First Temple, the former [sc. our Mishnah] to the Second. During the First Temple, when the Israelites were extremely numerous, as it is written of them, Judah and Israel were many, as the sand which is by the sea in multitude,[22] such a long period was required.[23] But during the Second Temple, when the Israelites were not very numerous, as it is written of them, The whole congregation together was forty and two thousand three hundred and threescore,[24] such a long time was unnecessary. Thereupon Abaye protested to him: But is it not written, So the priests and the Levites, and the porters, and the singers, and some of the people and the Nethinims, and all Israel, dwelt in their cities?[25] and that being so, the logic is the reverse. During the first Temple, when the Israelites were very numerous, the people united [for travelling purposes], and caravan companies were to be found travelling day and night, so long a period was unnecessary, and three days were sufficient. But during the second Temple, when the Israelites were not very numerous, the people did not join together [for travelling], and caravan companies were not available for proceeding day and night, this long period was necessary! — Raba said: There is no difference between the first Temple and the Second: the Rabbis did not put one to unreasonable trouble in respect of a lost article.

Rabina said: This [sc. our Mishnah] proves that when the proclamation was made, [the loss of] a garment was announced.[26] For should you think, a lost article was proclaimed [unspecified], another day should have been added to enable one to examine his belongings! Hence it follows that [the loss of] a garment was proclaimed. This proves it. Raba said: You may even say that a mere loss was proclaimed: the Rabbis did not put one to unreasonable trouble in respect of a lost article.

Our Rabbis taught: At the first Festival [of proclamation] it was announced: ‘This is the first Festival;’ at the second Festival it was announced: ‘This is the second Festival;’ but at the third a simple announcement was made.[27] Why so; let him announce: ‘It is the third Festival’? — So that it should not be mistaken for the second.[28] But the second, too,

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(1) To the creditor, if he states identification marks; v. supra 20a.

(2) V. supra p. 169 for notes.

(3) Supra p. 169.

(4) It cannot be returned to either. Cf. supra 20a: ‘It must lie until Elijah comes.’

(5) Even if identification marks are Biblically valid, yet witnesses stand higher.

(6) That he wove it.

(7) That he dropped it.

(8) This refers to a garment, these measurements being offered as marks of identification.

(9) [The breadth of the cloth out of which a toga was made was worn lengthwise, and the length breadthwise.]

(10) [גמא , the sum total of its length and breadth. The term Gam has been identified with the Greek Gnomon, the carpenter's square, and is derived from the Hebrew gimel, which has the shape of an axe, or carpenter's square. V. B.B. (Sonc. ed.) p. 251, n. 4.]

(11) Each claims ownership, the husband maintaining that he lost it before delivering it to his wife, so that she is still married to him, and now he has changed his mind and no longer wishes to divorce her, whilst the wife insists that she lost it after receiving it, so that she is divorced.

(12) Because the husband's knowledge is no proof of ownership, since he certainly saw it before delivering it to her; but if she had not received it, she would not know its identification marks.

(13) And before delivering it he changed his mind.

(14) Though this does not prove his ownership either, it must nevertheless be surrendered to him, since she cannot be declared free after a valid doubt has arisen.

(15) The three Festivals referred to are Passover, Weeks, and Tabernacles, when Jerusalem was visited by all Israel. This was the practice whilst the Temple stood and some time after; but v. Gemara on this.

(16) And R. Meir's reason is that it is probably theirs.

(17) The eighth month of the year, generally corresponding to mid-October-mid-November.

(18) V. P.B. p. 47.

(19) ‘The Festival’ without any further designation, always means Tabernacles, which lasted from the 15th to the 22nd of Tishri inclusive, Tishri being the seventh month of the year.

(20) [MS.M.: ‘The last of the Israelites (who had come from Babylon)].

(21) Before the rains commence, This shews that a far longer period than three days is necessary to enable every Jew to reach his house.

(22) I Kings IV, 20.

(23) [Owing to the communities being widely scattered.]

(24) Ezra II, 64.

(25) Neh. VII. 73. [So that they thus lived scattered ‘in their (former) cities’ despite their paucity in numbers.]

(26) I.e., the actual article lost, the claimant having to submit identification marks.

(27) Without stating that it was the third time of proclamation. But the first and second had to be specified, so that the loser should know that he still had a third, and not be compelled to hurry back home.

(28) Through faulty hearing.

Talmud - Mas. Baba Metzia 28b

one might mistake for the first! — In any case, the third is still to come.[1]

Our Rabbis taught: In former times, whoever found a lost article used to proclaim it during the three Festivals and an additional seven days after the last Festival, three days for going home, another three for returning, and one for announcing.[2] After the destruction of the Temple — may it be speedily rebuilt in our own days![3] — it was enacted that the proclamation should be made in the synagogues and schoolhouses. But when the oppressors increased, it was enacted that one's neighbours and acquaintances should be informed, and that sufficed. What is meant by ‘when the oppressors increased’? — They insisted that lost property belonged to the king.[4]

R. Ammi found a purse of denarii. Now, a certain man saw him displaying fear, whereupon he reassured him, ‘Go, take it for thyself: we are not persians who rule that lost property belongs to the king.’

Our Rabbis taught: There was a Stone of Claims[5] in Jerusalem: whoever lost an article repaired thither, and whoever found an article did likewise. The latter stood and proclaimed, and the former submitted his identification marks and received it back. And in reference to this we learnt: Go forth and see whether the Stone of Claims is covered.[6]

MISHNAH. IF HE [THE CLAIMANT] STATES THE ARTICLE LOST, BUT NOT ITS IDENTIFICATION MARKS, IT MUST NOT BE SURRENDERED TO HIM. BUT IF HE IS A CHEAT,[7] EVEN IF HE STATES ITS MARKS OF IDENTIFICATION, IT MUST NOT BE GIVEN UP TO HIM, BECAUSE IT IS WRITTEN [AND IT SHALL BE WITH THEE] UNTIL THE SEEKING OF THY BROTHER AFTER IT,[8] MEANING, UNTIL THOU HAST EXAMINED THY BROTHER WHETHER HE BE A CHEAT OR NOT.[9]

GEMARA. It has been stated: Rab Judah said: He proclaims. ‘[I have found] a lost article.’ R. Nahman said: He proclaims, ‘[I have found] a garment’. ‘Rab Judah said: He proclaims a lost article,’ for should you say that he proclaims a garment, we are afraid of cheats. ‘R. Nahman said: He proclaims. a garment’; for ‘we do not fear cheats, as otherwise the matter is endless’.[10]

We learnt: IF HE STATES THE ARTICLE LOST, BUT NOT ITS IDENTIFICATION MARKS, IT MUST NOT BE SURRENDERED TO HIM. Now, if you say that he proclaims a loss, it is well; we are thus informed that though he states that it was a garment, yet since he does not submit its identification marks, it is not returned to him. But if you say that he proclaims a garment, then if one [the finder] states that it was a garment, and the other [the claimant] states likewise, a garment, is it necessary to teach that it is not returned to him unless he declares its marks of identification? — Said R. Safra: After all, he proclaims a garment. [The Mishnah means that] he [the finder] stated [that he had found] a garment, whilst the other [the claimant] submitted identification marks. What then is meant by ‘HE DID NOT STATE ITS IDENTIFICATION MARKS’? — He did not state its perfect identification marks.[11]

BUT IF HE IS A CHEAT, IF HE STATES ITS IDENTIFICATION MARKS, IT MUST NOT BE GIVEN UP TO HIM. Our Rabbis taught: At first, whoever lost an article used to state its marks of identification and take it. When deceivers increased in number, it was enacted that he should be told, ‘Go forth and bring witnesses that thou art not a deceiver; then take it’. Even as it once happened that R. papa's father lost an ass, which others found. When he came before Rabbah son of R. Huna, he directed him, ‘Go and bring witnesses that you are not a fraud, and take it.’ So he went and brought witnesses. Said he to them, ‘Do you know him to be a deceiver?’ — ‘Yes’, they replied. ‘I, a deceiver!’ he exclaimed to them. ‘We meant that you are not a fraud,’ they answered him. ‘It stands to reason that one does not bring [witnesses] to his disadvantage.’ said Rabbah son of R. Huna.[12]

MISHNAH. EVERYTHING [SC. AN ANIMAL] WHICH WORKS FOR ITS KEEP[13] MUST [BE KEPT BY THE FINDER AND] EARN ITS KEEP. BUT AN ANIMAL WHICH DOES NOT WORK FOR ITS KEEP MUST BE SOLD, FOR IT IS SAID, AND THOU SHALT RETURN IT UNTO HIM,[14] [WHICH MEANS], CONSIDER HOW TO RETURN IT UNTO HIM.[15] WHAT HAPPENS WITH THE MONEY? R. TARFON SAID: HE MAY USE IT; THEREFORE IF IT IS LOST, HE BEARS RESPONSIBILITY FOR IT.[16] R. AKIBA MAINTAINED: HE MUST NOT USE IT; THEREFORE IF IT IS LOST, HE BEARS NO RESPONSIBILITY.

GEMARA. For ever?[17] — Said R. Nahman in Samuel's name: Until twelve months [have elapsed]. It has been taught likewise: As for all animals which earn their keep. e.g., a cow or an ass, he [the finder] must take care of them for twelve months; after that he turns them into money, which he lays by. He must take care of calves and foals three months, sell them and lay the money by. He must look after geese and cocks for thirty days, sell them and put the money by. R. Nahman b. Isaac observed: A fowl ranks as large cattle.[18] It has been taught likewise: As for a fowl and large cattle.[19] he must take care of them twelve months, then sell them and put the money by. For calves and foals the period is[20] thirty days, after which he sells them and lays the money by. Geese and cocks, and all which demand more attention than their profit is worth, he must take care of for three days, after which he sells them and lays the money by. Now this ruling on calves and foals contradicts the former one, and likewise the rulings on geese and cocks are contradictory? — The rulings on calves and foals are not contradictory: the former refers to grazing animals; the latter to those that require feeding stuffs.[21] The rulings on geese and cocks are likewise not contradictory: the former refers to large ones, the latter to small.[22]

BUT AN ANIMAL WHICH DOES NOT WORK FOR ITS KEEP. Our Rabbis taught: And thou shalt return it unto him: deliberate how to return it unto him, so that a calf may not be given as food to other calves, a foal to other foals, a goose to other geese, or a cock to other cocks.[23]

WHAT HAPPENS WITH THE MONEY? R. TARFON SAID: HE MAY USE IT etc. Now. this dispute is

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(1) Even if a mistake is made, no harm is done.

(2) V. Mishnah.

(3) This phrase has become liturgical.

(4) That was Persian law, which the Jews felt justified in secretly resisting.

(5) [Var. lec., ‘Stone of the erring (losses).’ On the attempt to localize the stone, v. J. N. Sepp. ZDPV, II, 49.]

(6) So Rashi. Lit., ‘is dissolving.’ The story is related in Ta'an. 19a of a certain Honi who prayed for rain so successfully that he was asked to reverse his prayer, more than enough having fallen. To which he answered, ‘Go forth and see whether the Claimants’ Stone is already covered with water, in which case I will pray for the rain to cease.’

(7) I.e., where the claimant is known to be one in general, but v. Gemara on this.

(8) Deut. XXII, 2.

(9) V. p. 169, n. 6.

(10) Even if no particular article is announced, a fraud may claim a certain article at a venture.

(11) I.e., he gave general marks which would cover many garments. [The term ‘perfect’ is used by R. Safra in a loose sense, cf. supra p. 171. n. 9.]

(12) Therefore the witnesses can withdraw their testimony, though normally this is forbidden. But in this case it is evident that they thought that he had asked, ‘Do ye know that he is not a deceiver?’ which was the usual form of the question.

(13) Lit., ‘does and eats.’

(14) Ibid.

(15) But if the finder keeps it and then charges the loser with its keep, it may exceed its actual worth, and so the return will be a loss.

(16) The advantage that he enjoys in that he may use it makes him a paid bailee.

(17) Surely the finder need not keep the animal indefinitely, even if it does earn its keep!

(18) And must be kept a twelvemonth.

(19) I.e., cows and oxen.

(20) Lit., 'he must take care of them.'

(21) In spring and summer, when the animals graze on natural pasture, they are to be kept three months; but in winter, when feeding stuffs must be bought for them, thirty days are sufficient.

(22) Small ones need more attention, and therefore they are kept only three days. — The translation follows Maim. and R. Han., and is also adopted by the Codes; v. H.M. 267, 24. Rashi reverses it.

(23) I.e., if a number of these is found, it should not be necessary to sell one to provide food for the others, but as soon as they cease to earn their keep they must all be sold.

Talmud - Mas. Baba Metzia 29a

[apparently] only if he [the finder] did use it. But if not, [all would agree] that if it is lost he is free [from responsibility]. Shall we say that this refutes R. Joseph? For it has been stated. A bailee of lost property: Rabbah ruled, he ranks as an unpaid bailee; R. Joseph maintained. as a paid bailee![1] — R. Joseph can answer you. As for theft and loss, all agree that he is responsible. They differ only in respect to [unavoidable] accidents, for which a borrower [alone is responsible]. R. Tarfon holds: The Rabbis permitted him [the finder] to use it, therefore he is a borrower in respect thereto. Whilst R. Akiba holds that the Rabbis did not permit him to use it, therefore he is not a borrower in respect thereto. If so, why does R. Akiba say 'THEREFORE'? For if you agree that they differ concerning theft and loss, it is well; hence it is taught. R. AKIBA MAINTAINED, HE MUST NOT USE IT; THEREFORE IF IT IS LOST HE BEARS NO RESPONSIBILITY. For I might think he is a paid bailee, in accordance with R. Joseph's view, and responsible for theft and loss; hence we are informed, 'THEREFORE' [etc.] i.e., since you say that he may not use it, he is not a paid bailee, nor is he responsible for theft and loss. But if you say that all agree that he is responsible for theft and loss, whilst they differ only in respect of [unpreventable] accidents, for which a borrower [alone is responsible], what is the meaning of R. Akiba's 'THEREFORE'? Surely he [the Tanna] should have stated thus: R. AKIBA MAINTAINED, HE MUST NOT USE IT [and no more]; then I would have known myself that since he may not use it, he is not a borrower, hence not responsible. What then is the need of R. Akiba's 'THEREFORE'?[2] — On account of R. Tarfon's 'THEREFORE'.[3] And what is the purpose of R. Tarfon's 'THEREFORE'? — He means this: Since the Rabbis permitted him to use it, it is as though he had done so,[4] and he is [therefore] held responsible for it. But it is taught, [IF] IT IS LOST![5]

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(1) And since a paid bailee is liable for loss, our Mishnah appears to refute R. Joseph.

(2) The question is a straightforward one, though put with a good deal of unnecessary circumlocution. [Rabbinovicz, D.S. a.l. suggests this to be an interpolation of Jehudai Gaon.]

(3) I.e., for the sake of balancing the Mishnah.

(4) Even if he does not use it.

(5) How then can it refer to unpreventable accidents?

Talmud - Mas. Baba Metzia 29b

— It is in accordance with Rabbah; for Rabbah said [elsewhere]: They were stolen by armed robbers: whilst 'lost' means that his ship foundered at sea.[1]

Rab. Judah said in Samuel's name: The halachah is as R. Tarfon. Rehabah had in his charge an orphan's money. He went before R. Joseph and enquired. 'May I use it?' He replied, 'Thus did Rab Judah say in Samuel's name, The halachah is as R. Tarfon. Thereupon Abaye protested, But was it not stated thereon: R. Helbo said in R. Huna's name: This refers only to the purchase price of a lost article, since he took trouble therein,[2] but not to money which was itself lost property:[3] and these[4] are likewise as lost money? — Go then,' said he to him;[5] 'they do not permit me to give you a favourable ruling.'

MISHNAH. IF ONE FINDS SCROLLS, HE MUST READ THEM EVERY THIRTY DAYS;[6] IF HE CANNOT READ, HE MUST ROLL THEM.[7] BUT HE MUST NOT STUDY [A SUBJECT] THEREIN FOR THE FIRST TIME.[8] NOR MAY ANOTHER PERSON READ WITH HIM.[9] IF ONE FINDS A CLOTH, HE MUST GIVE IT A SHAKING EVERY THIRTY DAYS, AND SPREAD IT OUT FOR ITS OWN BENEFIT [TO BE AIRED], BUT NOT FOR HIS HONOUR.[10] SILVER AND COPPER VESSELS MAY BE USED FOR THEIR OWN BENEFIT, BUT NOT [SO MUCH AS] TO WEAR THEM OUT. GOLD AND GLASSWARE MAY NOT BE TOUCHED UNTIL ELIJAH COMES.[11] IF ONE FINDS A SACK OR A BASKET, OR ANY OBJECT WHICH IT IS UNDIGNIFIED FOR HIM TO TAKE,[12] HE NEED NOT TAKE IT.

GEMARA. Samuel said: If one finds phylacteries in a sack, he must immediately turn them into money [i.e., sell them] and lay the money by. Rabina objected: IF ONE FIND SCROLLS, HE MUST READ THEM EVERY THIRTY DAYS; IF HE CANNOT READ, HE MUST ROLL THEM. Thus, he may only roll, but not sell them and lay the money by! — Said Abaye: phylacteries are obtainable at Bar Habu;[13] whereas scrolls are rare.[14]

Our Rabbis taught: If one borrows a Scroll of the Torah from his neighbour, he may not lend it to another. He may open and read it, providing, however, that he does not study [a subject] therein for the first time; nor may another person read it together with him. Likewise, if one deposits a Scroll of the Torah with his neighbour, he [the latter] must roll it once every twelve months, and may open and read it; but if he opens it in his own interest, it is forbidden. Symmachus said: In the case of a new one, every thirty days; in the case of an old one, every twelve months. R. Eliezer b. Jacob said: In both cases, every twelve months.

The Master said: 'If one borrows a Scroll of the Torah from his neighbour, he may not lend it to another.' Why particularly a Scroll of the Torah: surely the same applies to any article? For R. Simeon b. Lakish said: Here Rabbi has taught that a borrower may not lend [the article he borrowed], nor may a hirer re-hire [to another person]![15] — It is necessary to state it in reference to a Scroll of the Torah. I might have said, One is pleased that a precept be fulfilled by means of his property: therefore we are informed [otherwise].[16]

'He may open and read it.' But that is obvious! Why else then did he borrow it from him? — He desires to state the second clause: providing, however, that he does not study [a subject] therein for the first time.'

'Likewise, if one deposits a Scroll of the Torah with his neighbour, he [the latter] must roll it once every twelve months, and may open and read it.' What business has he with it?[17] Moreover, 'if he opens it in his own interests, It is forbidden; 'but have you not said, 'He may open and read it'! — It means this: If when rolling it he opens and reads it, that is permitted; but if he opens it in his own interests, it is forbidden.

'Symmachus said: In the case of a new one, every thirty days; in the case of an old one, every twelve months. R. Eliezer b. Jacob said: In both cases, every twelve months.' But R. Eliezer b. Jacob is identical with the first Tanna! — But say thus: R. Eliezer b. Jacob said: In both cases, every thirty days.

BUT HE MUST NOT STUDY [A SUBJECT] THEREIN FOR THE FIRST TIME, NOR MAY ANOTHER PERSON READ WITH HIM. But the following contradicts it. He may not read a section therein and revise it, nor read a section therein and translate it.[18] He may also not have more than three columns open [simultaneously], nor may three read out of the same volume. Hence two may read! — Said Abaye: There is no difficulty: here the reference is to one subject; there, to two.[19]

IF ONE FINDS A CLOTH, HE MUST GIVE IT A SHAKING EVERY THIRTY DAYS: Are we to say that a shaking benefits it? But R. Johanan said, He who has a skilled weaver in his house[20] has to shake his garment every day![21] — I will tell you: [shaking] every day is injurious, once in thirty days is beneficial thereto. Alternatively, there is no difficulty: this [our Mishnah] refers to [shaking] by one person; the other [R. Johanan's dictum], by two persons.[22] Another alternative: this [the Mishnah] refers to [a shaking, i.e., beating] by hand; the other, with a stick.[23] Or again, one refers to wool, the other to flax.[24]

R. Johanan said: A cupful of witchcraft, but not a cupful of tepid water.[25] Yet that applies only to a metal utensil, but there is no objection to an earthenware one. And even of a metal utensil, this holds good only if it [the water] is unboiled; but if it is boiled, it does not matter. Moreover, that is only if he throws no spice wood therein; but if he does, there is no objection.

R. Johanan said: If one is left a fortune[26] by his parents, and wishes to lose it, let him wear linen garments, use glassware, and engage workers and not be with them. ‘Let him wear linen garments’ — this refers to Roman linen;[27] ‘use glassware’ — Viz., white glass;[28] ‘and engage workers and not be with them’ — refer this

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(1) These are unpreventable. v. infra 43a.

(2) Before selling it he had to look after it for a certain time; therefore he is now privileged to use the money.

(3) If one finds money, so disposed that he is bound to announce it (v. supra 24b) he may not use it whilst waiting for the owner to claim it, since it needs neither care nor attention.

(4) Sc. the orphan's coins.

(5) R. Joseph to the disciple.

(6) If left unused longer, they become mouldy and moth eaten.

(7) To give them an airing.

(8) The long poring over the scroll and its consequent handling injured it.

(9) Since each unconsciously pulls the scroll to himself, the scroll is injured.

(10) To use as a tablecloth or bedspread.

(11) I.e., the finder must not use them at all, since they do not deteriorate.

(12) Lit., ‘which it is not his way to take.’

(13) Pr. n. a writer of phylacteries and mezuzoth, also mentioned in Ber. 53b. and Meg. 18b. — I.e., they are easily bought, and so their owner loses nothing when the finder sells them.

(14) Lit., ‘not found.’

(15) ‘Here’ refers to a Mishnah in Git. (29a) from which Resh Lakish deduced this.

(16) But the same certainly applies even with greater force to other articles.

(17) It was assumed that he may open and read it for his own purpose, since it was already taught once that he rolls it every twelve months for its own benefit; but how may one use a bailment in his own interests?

(18) Into the vernacular, which, in the case of Palestinian Jewry, was probably Aramaic; v. J.E. VI, 308.

(19) Rashi: two people may not read the same subject, because each pulls the Scroll to himself; but they may read two different subjects (in different columns), as each concentrates on his own; Maim. reverses it.

(20) Regularly engaged in weaving.

(21) Because of the fluff caused by the weaver. This shews that one shakes his garment only when he must.

(22) In which case each pulls it and strains the material.

(23) That is harmful.

(24) Rashi: a beating harms woollen garments, as it stretches them, but not linen garments. — But the order of the Gemara would seem to reverse it, ‘the one . . . the other’ referring to the Mishnah and R. Johanan respectively, and Maim. and others do in fact reverse it. Possibly linen garments or cloths were more delicately made in those days, or were otherwise weaker than woolens.

(25) One had better drink the former than the latter.

(26) Lit., 'much money.'

(27) [I.e., manufactured, not grown, in Rome; v. Krauss, op. cit. I, 537.]

(28) Which was rare and costly. [On the difficulty of the process for producing colourless glass among the ancients, v. Krauss, op. cit. II, 286.]

Talmud - Mas. Baba Metzia 30a

to [workers with] oxen, who can cause much loss.[1]

AND SPREAD IT OUT FOR ITS OWN BENEFIT, BUT NOT FOR HIS HONOUR. The scholars propounded: What if it is for their mutual benefit?[2] — Come and hear: HE MAY SPREAD IT FOR ITS OWN BENEFIT; this proves, only for its own benefit, but not for their mutual benefit! — Then consider the second clause: BUT NOT FOR HIS HONOUR; thus, it is forbidden only for his own honour, but permitted for their mutual benefit! Hence no inference can be drawn from this.

Come and hear: He may not spread it [a lost article] upon a couch or a frame for his needs, but may do so in its own interests. If he was visited by guests, he may not spread it over a bed or a frame, whether in his interests or in its own![3] — There it is different, because he may thereby destroy it,[4] either through an [evil] eye or through thieves.

Come and hear: If he took it [the heifer] into the team[5] and it [accidentally] did some threshing, it is fit;[6] [but if it was] in order that it should suck and thresh, it is unfit.[7] But here it is for their mutual benefit, and yet it is taught that it is unfit! — There it is different, because Scripture wrote, which hath not beets wrought with — under any condition. If so, the same should apply to the first clause too?[8] This [then] can only be compared to what we learnt: If a bird rested upon it [the red heifer] — it remains fit;[9] but if it copulated with a male, it becomes unfit.[10] Why so? — In accordance with R. Papa's dictum. For R. papa said: Had Scripture written 'ubad,[11] and we read it 'ubad, I would have said [that the law holds good] even if it were of itself;[12] whilst if it were written 'abad,[13] and we read it 'abad, I would have said, [it becomes unfit] only if he himself wrought with it. Since, however, it is written 'abad [active], whilst read 'ubad [passive],[14] we require that 'it was wrought with' shall be similar to 'he wrought with it';[15] just as 'he wrought [with it]' must mean that he approved of it, so also 'it was wrought with' refers only to what he approved.[16]

SILVER AND COPPER VESSELS MAY BE USED, etc. Our Rabbis taught: If one finds wooden utensils he may use them — to prevent them from rotting; copper vessels — he may use them with hot [matter], but not over the fire, because that wears them out; silver vessels, with cold [matter], but not with hot, because that tarnishes them; trowels and spades, on soft [matter], but not on hard, for that injures them; gold and glassware, [however], he may not touch until Elijah comes. Just as they [the Sages] ruled in respect of lost property, so also with reference to a bailment. What business has one with a bailment?[17] — Said R. Adda b. Hama in R. Shesheth's name: This treats of a bailment the owner of which has gone overseas.

IF ONE FINDS A SACK OR A BASKET, OR ANY OBJECT WHICH IT IS NOT DIGNIFIED FOR HIM TO TAKE, HE NEED NOT TAKE IT. How do we know this? — For our Rabbis taught: And thou shalt hide thyself:[18] sometimes thou mayest hide thyself, and sometimes not. E.g., if one was a priest, whilst it [the lost animal] was in a cemetery; or an old man, and it was inconsistent with his dignity [to lead the animal home]; or if his own [work] was more valuable than his neighbour's[19] — therefore it is said, and thou shalt hide thyself.[20] In respect of which [of these instances] is the verse required? Shall we say, in respect of a priest when it [the lost animal] is in a cemetery? — but that is obvious: one is a positive, whereas the other is a negative and a positive injunction, and a positive injunction cannot set aside a negative together with a positive injunction?[21] Moreover, a ritual prohibition cannot be abrogated on account of money![22] If, again, [it is required] where ‘his own [work] was more valuable than his neighbour's’ — that may be inferred from Rab Judah's dictum in Rab's name, for Rab Judah said in the name of Rab: Save that

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(1) Either by failing to plough up the land properly, so that the subsequent crop is a poor one (Tosaf.), or through carelessly driving the ox carts over the crops when engaged in reaping or vintaging, and so causing damage both to oxen and plants (Rashi).

(2) Lit., ‘for its purpose and for his purpose?’

(3) Pes. 26b. Thus proving that he may not use it for their mutual benefit.

(4) Lit., ‘burn it.’

(5) Of three or four cows used for threshing; his purpose was that it should suck.

(6) To be used to make atonement for a murder by an unknown person. V. Deut. XXI, 1-9. The heifer had to be one ‘which hath not been wrought with, and which hath not drawn in the yoke’ (v. 3). Though this heifer had done some threshing, it remains fit, because it had been taken into the team to feed, not to thresh.

(7) Pes. 26b.

(8) Though not intending that it should thresh, it nevertheless ought to become disqualified.

(9) And is not disqualified on the score that it has been put to some use.

(10) Parah II, 4.

(11) עובד passive. ‘was wrought with.’

(12) I.e., even if it ‘was wrought with’ entirely without its owners volition.

(13) עבד active, ‘with which he (the owner) had not wrought.’

(14) [==M.T. עבד The form is thus taken as passive Kal not Pu'al, v. Ges. K. ¤ 52e.]

(15) I.e., though it may have been put to work without the knowledge of its master, it shall nevertheless be only such work as its master would have approved.

(16) Now, if a bird rests on it, the master does not approve, since he derives no benefit; but he does derive benefit from its copulation. Similarly, if he takes it into the team and it accidentally does some threshing, he does not benefit thereby, as the team itself would have sufficed. Therefore it is not invalidated, unless that was his express purpose.

(17) How can there be a question of using a bailment? Let its owner come and use it to prevent it from rotting or otherwise being injured through disuse!

(18) Deut. XXII, 2. The beginning of the verse reads, Thou shalt not see thy brother's ox or his sheep go astray. In the exegesis that follows, it is assumed that the ‘not’ may or may not refer to ‘and thou shalt hide thyself’ according to circumstances.

(19) I.e., the value of the time he would lose in returning it exceeded that of the lost animal.

(20) Sanh. 18b.

(21) It is a positive command to return lost property, viz., thou shalt restore them unto thy brother; whereas a priest is forbidden to defile himself through the dead both by a positive command — They shall be holy unto their God (Lev. XXI, 6) — and a negative one — Speak unto the priests the sons of Aaron and say unto them, There shall none be defiled for the dead among his people (ibid. 1).

(22) The returning of lost property is after all only a monetary matter.

Talmud - Mas. Baba Metzia 30b

there shall be no poor among you:[1] [this teaches,] thine takes precedence over all others![2] — Hence [it is needed] in respect of an old man for whom it is undignified [to return the lost article].

Rabbah said: If he [the old man] smote it [the lost animal], he is [henceforth] under an obligation in respect thereof.[3] Abaye was sitting before Rabbah when he saw some [lost] goats standing. whereupon he took a clod and threw it at them. Said he [Rabbah] to him, ‘You have thereby become bound in respect of them. Arise and return them.’

The scholars propounded: What if it is dignified for one to return [a lost animal] in the field, but not in town? Do we say, a complete return is required, and since it is undignified for him to return it in town, he has no obligation at all; or perhaps, in the field at least he is bound to return it, and since he incurs the obligation in the field, he is likewise obligated in town?[4] The question stands.

Raba said: Where one would lead back his own, he must lead back his neighbour's too. And where one would unload and load his own, he must do so for his neighbour's.[5]

R. Ishmael son of R. Jose was walking on a road when he met a man carrying a load of faggots. The latter put them down, rested, and then said to him, ‘Help me to take them up.’ ‘What is it worth?’ he enquired. ‘Half a zuz,’ was the answer. So he gave him the half zuz and declared it hefker.[6] Thereupon he [the carrier] re-acquired it.[7] He gave him another half zuz and again declared it hefker. Seeing that he was again about to re-acquire it, he said to him, ‘I have declared it hefker for all but you.’ But is it then hefker in that case? Have we not learnt: Beth Shammai maintain, hefker for the poor [only] is valid hefker; whilst Beth Hillel rule, It is valid only if declared hefker for the poor and the rich, as the year of release.[8] — But R. Ishmael son of R. Jose did in fact render it hefker for all; and he stopped the other [from taking possession again] by mere words. Yet was not R. Ishmael son of R. Jose an elder for whom it was undignified [to help one to take up a load]?[9] — He acted beyond the requirements of the law. For R. Joseph learnt: And thou shalt shew them[10] — this refers to their house of life;[11] the way — that means the practice of loving deeds;[12] they must walk — to sick visiting; therein — to burial;[13] and the work — to strict law; that they shall do — to [acts] beyond the requirements of the law.[14]

The Master said: ‘they must walk — this refers to sick visiting.’ But that is the practice of loving deeds! — That is necessary only in respect of one's affinity.[15] For a Master said: A man's affinity takes away a sixtieth of his illness: yet even so, he must visit him ‘Therein to burial.’ But that [too] is identical with the practice of loving deeds? — That is necessary only in respect of an old man for whom it is undignified.[16] ‘That they shall do — this means [acts] beyond the requirements of the law.’ For R. Johanan said: Jerusalem was destroyed only because they gave judgments therein in accordance with Biblical law. Were they then to have judged in accordance with untrained arbitrators?[17] — But say thus: because they based their judgments [strictly] upon Biblical law, and did not go beyond the requirements of the law.

MISHNAH. WHAT IS LOST PROPERTY? IF ONE FINDS AN ASS OR A COW FEEDING BY THE WAY, THAT IS NOT CONSIDERED A LOST PROPERTY; [BUT IF HE FINDS] AN ASS WITH ITS TRAPPINGS OVERTURNED, OR A COW RUNNING AMONG THE VINEYARDS, THEY ARE CONSIDERED LOST. IF HE RETURNED IT AND IT RAN AWAY, RETURNED IT AND IT RAN AWAY, EVEN FOUR OR FIVE TIMES, HE IS STILL BOUND TO RESTORE IT, FOR IT IS WRITTEN, THOU SHALT SURELY RESTORE THEM.[18] IF HIS LOST TIME IS WORTH S SELA’, HE MUST NOT DEMAND, GIVE ME A SELA’,’ BUT IS PAID AS A LABOURER. IF A BETH DIN IS PRESENT, HE MAY STIPULATE IN THEIR PRESENCE;[19] BUT IF THERE IS NO BETH DIN BEFORE WHOM TO STIPULATE, HIS OWN TAKES PRECEDENCE.[20]

GEMARA. And all these that were mentioned already — are they then not lost property?[21] — Said Rab Judah: It means this: What is the general principle of lost property for which one is responsible?[22] IF ONE FINDS AN ASS OR A COW FEEDING BY THE WAY, THAT IS NOT CONSIDERED LOST PROPERTY, and he bears no responsibility toward it: [BUT IF HE FINDS] AN ASS WITH ITS TRAPPINGS OVERTURNED, OR A COW RUNNING AMONG THE VINEYARDS, THEY ARE CONSIDERED LOST, and he is bound [to return it]. And for ever?[23] — Said Rab Judah in Rab's name: Up to three days.[24] How so? If [he sees it] at night, even a single hour [shews that it is lost]; if by day, even if it is there longer, it is still [not proof it is lost]! — This arises only if it was seen either before daybreak or at twilight; now, for three days we assume that it is mere chance that it went forth [at these unusual hours]; but if more, it is certainly lost.

It has been taught likewise: If one finds a garment or a spade

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(1) Deut, XV, 4.

(2) Regarding the verse as an exhortation against bringing oneself to poverty.

(3) To return it. By smiting it to make it go in a certain direction he commences the work of returning it, and therefore must complete it.

(4) On the principle of the preceding dictum.

(5) V. Deut. XXII, 4, which is interpreted as meaning that one must help his neighbour to load or unload his animals. Here too he is exempt if it is inconsistent with his dignity, and Raba observes that the test is whether he would do this for his own.

(6) ‘Ownerless.’

(7) And again asked R. Ishmael to help him.

(8) Pe'ah VI, 1; ‘Ed. IV. 3. Produce acquired from hefker was exempt from tithes. If, however, it was only partially declared hefker i.e., for the poor alone, Beth Shammai and Beth Hillel dispute whether that is valid. Since in all cases of dispute between these two academies the halachah was according to Beth Hillel, we see that partial hefker is invalid; hence R. Ishmael's declaration was illegal. — The seventh year was called the year of release (shemittah), and its crops were free to all; v. Lev. XXV, 1-7.

(9) Why then pay him off?

(10) Ex. XVIII, 20.

(11) Rashi: i.e., industry and trade, the means of a livelihood. In B.K. 100a Rashi refers it to study, the life of the Jew.

(12) This is the literal translation of the phrase, gemiluth hasadim. It is sometimes translated, ‘the practice of charity,’ but that is inexact. Every act of kindness is regarded as done out of one's love for his fellow beings. [V. Abrahams, I., C.P.B. p. XIII. The inner meaning of the phrase is, ‘making good.’ ‘requiting’ — a making good to man for goodness of God, and it is connected with tenderness and mercy to all men and all classes; cf. J. Pe'ah IV.]

(13) To give burial to the poor who cannot pay for it. Directly arising out of this teaching, the Burial Societies (chevra kaddisha — ‘holy society’) have always formed an important part of Jewish communal organization.

(14) Lit., ‘within the line of judgment;’ v. B.K. (Sonc. ed.) p. 584, n. 2.

(15) V. p. 171. n. 1.

(16) Yet even he must take part in burial.

(17) [מגיזתא from גוז , ‘to cut,’ ‘to decide;’ so Jast. Cf. however B.K. (Sonc. ed.) p. 671, n. 10.]

(18) Deut. XXII, 1. השב תשיבם; the doubling of the verb — the usual idiom for emphasis — intimates that one is bound to return the same article many times, if necessary.

(19) Any three people constitute a Beth din, and the finder may stipulate before them that if he returns the article he shall be paid for lost time according to what he himself could earn; then he can claim his loss in full.

(20) And he is not bound to return the article at all and involve himself in loss.

(21) The article mentioned in the previous Mishnahs were all examples of lost property; why then state here ‘WHAT IS LOST PROPERTY? as though the previous ones were not?

(22) I.e., how may one recognise whether a particular article is lost or intentionally placed there by its owner?

(23) Can one say that no matter how long an animal is seen grazing by the way it was intentionally placed there?

(24) But if there longer, it must be assumed lost.

Talmud - Mas. Baba Metzia 31a

on a road, or a cow running among the vineyards it is lost property. [But if he finds] a garment at the side of a wall, or a spade at the side of a wall, or a cow grazing among the vineyards, it is not considered lost; yet [if he sees it] three consecutive days, it is lost. If one sees water overflowing [its banks] and proceeding [onwards], he must put up a wall[1] before it.[2]

Raba[3] said: [And so shalt thou do] with all lost things of thy brother's:[4] this is to include the loss of real estate. R. Hananiah observed to Raba:[5] It has been taught in support of you: If one sees water overflowing [its banks] and proceeding [onwards], he must put up a wall before it.[6] As for that, he replied, it does not support [me]: What are the circumstances here? When there are sheaves [on the field].[7] But if it contains sheaves, why state it?[8] — It is necessary [to state it only] when it contains sheaves which [still] need the soil. I might think, since they need the soil, they are as the soil itself:[9] therefore we are informed [otherwise].

IF ONE FINDS AN ASS OR A COW, etc. This is self-contradictory. You say. IF ONE FINDS AN ASS OR A COW FEEDING BY THE WAY, IT IS NOT CONSIDERED LOST PROPERTY: hence, only when feeding by the way are they not [regarded as] lost; but if running on a road, or feeding among the vineyards, they are considered lost! Then consider the second clause: [BUT IF HE FINDS] AN ASS WITH ITS TRAPPINGS OVERTURNED, OR A COW RUNNING AMONG THE VINEYARDS, THEY ARE CONSIDERED LOST; hence, only if running among the vineyards are they lost; but if running on the road, or feeding among the vineyards. they are not lost! — Said Abaye: His companion telleth it concerning him:[10] he [the Tanna] mentions feeding by the way, that it is not a lost animal, and the same applies to [a cow] feeding among the vineyards. He states that if running among the vineyards, it is lost, and the same holds good if it was running on the road. Raba said to him, if ‘his companion telleth it of him,’ let the lighter aspects be taught, from which the graver ones would follow a fortiori. [Thus:] Let him [the Tanna] teach that if it was running on the road it is considered lost; how much more so if running among the vineyards! And let him teach that when feeding among the vineyards it is not considered lost; how much more so when feeding by the way! — But. said Raba, the two statements on ‘running’[11] are not contradictory: in the one case its face is towards the field; in the other, towards the town.[12] The two statements on ‘feeding’ are likewise not contradictory: the one treats of the loss of itself;[13] the other of the loss of the soil. [Thus:] when he [the Tanna] teaches that if it is FEEDING BY THE WAY. THAT IS NOT CONSIDERED LOST PROPERTY, implying that if it is feeding among the vineyards there is a loss, the reference is to the loss of the soil.[14] And when he teaches that if it is running among the vineyards there is a case of loss, implying that if it is feeding among the vineyard there is none, the reference is to the loss of itself;[13] for when running among the vineyard it becomes lacerated, but not when feeding among the vineyards.[15] Now, if it is feeding among the vineyards, granted that it does not become lacerated, yet it should be necessary [to expel it] on account of the loss of the soil! — This refers to a heathen's[16] [vineyard]. Yet should it be necessary [to drive it out] on account of its own loss, lest they [the heathens] kill it? — This refers to a place where a warning is first given,[17] and only then is it slain. But perhaps a warning has already been given on its account? — If they gave warning, and care was not taken thereof [to prevent it from trespassing], it certainly ranks as a self-inflicted loss.[18]

IF HE RETURNED IT AND IT RAN AWAY, RETURNED IT AND IT RAN AWAY, etc. One of the Rabbis said to Raba, Perhaps ‘hasheb’[19] indicates once; ‘teshibem’[20] denotes twice? — He replied. ‘hasheb’ implies even a hundred times. As for ‘teshibem’, I know only [that he must return them] to his [the owner's] house; how do I know [that he can return them to] his garden or his ruins? Therefore Scripture writes, ‘teshibem’, implying, in all circumstances. How so? If they [the garden or ruins] are guarded, is it not obvious? Whilst if not, why [can one return them thither]? — In truth, it means that they are guarded, but we are informed this, viz., that the owner's knowledge is not required.[21] In accordance with R. Eleazar, who said: All require the owner's knowledge,[22] excepting in the case of the return of lost property, since Scripture extended the law to many forms of return.[23]

[If a bird's nest chance to be before thee in the way in any tree, on the ground, whether they be young ones, or eggs, and the dam sitting upon the young, or upon the eggs, thou shalt not take the dam with the young:] But shaleah teshalah [thou shalt surely let go] the dam etc.:[24] let us say that shaleah means once, teshalah twice?[25] — He replied, shaleah implies even a hundred times. As for teshalah: I know [this law] only [when the bird is required] for a permissive purpose;[26] how do I know it when it is required for the fulfilment of a precept?[27] Therefore Scripture writes,’teshalah’, implying under all circumstances.

One of the Rabbis said to Raba: [Thou shalt not hate thy brother in thine heart:] hokeah tokiah [thou shalt surely rebuke] thy neighbour.[28] Perhaps hokeah means once, tokiah twice? — He replied, hokeah implies even a hundred times. As for tokiah: I know only that the master [must rebuke] the disciple: whence do we know that the disciple [must rebuke] his master? From the phrase. ‘hokeah tokiah’, implying under all circumstances.

[If thou see the ass of him that hateth thee lying under its burden and wouldst forbear to help him,] thou shalt surely[29] help with him.[30] [From this] I know it only if the owner is with it; whence do I know [the law] if its owner is not with it? From the verse, ‘thou shalt surely help with him’ — in all circumstances.

[Thou shalt not see thy brother's ass or his ox fall down by the way, and hide thyself from them:] thou shalt surely help him to lift them up again:[31] [From this] I know it only if the owner is with it; whence do I know [this law] if the owner is not with it? From the verse, ‘thou shalt surely help him to lift them up again’.

Now, why must both unloading and loading be stated? — Both are necessary. For had Scripture mentioned unloading [only], I would have thought, that is because it entails suffering of dumb animals and financial loss;[32] but as for loading, where neither suffering of dumb animals nor financial loss is involved,[33] I might have thought that one need not [help], Whilst had we been informed in respect of loading, [I would have thought, that is] because it is remunerated;[34] but unloading, which is unremunerated,[35] I would have thought one need not [help]. Thus both are required. But on R. Simeon's view that loading too is without remuneration, what can you say? — In R. Simeon's view the verses are not explicit.[36]

Why need these two be written and also [the return of] the lost [animal]? — They are all needed. For had Scripture written these two [only]. [I would think it was] because they entail the suffering of both the owner and itself [sc. the animal]; but as for a lost [animal], which causes grief to the owner but not to itself, [the law] would not apply.[37] And if we were informed this of a lost animal, [I would think it was] because the owner is not with it;[38]

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(1) I.e., any obstacle to hinder its progress.

(2) That too falls within the category of restoring lost property — i.e., one must take the necessary steps to prevent loss.

(3) [MS.M. ‘Rabbah.’]

(4) Ibid, 3,

(5) [MS.M.: ‘Rabbah,’ cf. supra 6b.]

(6) He assumed that its purpose was that the soil should not become waterlogged.

(7) Hence they must be saved, but it is possible, as far as the Baraitha is concerned, that one is not bound to save land.

(8) For it is then obvious.

(9) And therefore, on the hypothesis stated in n. 9, do not need saving.

(10) Job XXXVI, 33; (E.V.: the noise thereof sheweth concerning it), i.e., each clause illumines the other.

(11) I.e., the explicit ruling in the second clause, and the implicit ruling in the first.

(12) If running on the road townwards, it must have been set in that direction, and is therefore not lost. If running forestwards, it is lost.

(13) I.e., of the animal.

(14) I.e., an animal feeding in vineyards causes damage. and therefore must be expelled. — Abedah (אבידה) means both a lost article and a loss.

(15) Thus on Raba's interpretation the Mishnah does not give a definition of what animal is to be regarded as lost, but treats of losses which the onlooker must prevent.

(16) V. supra p. 149. n. 6.

(17) To the owners, that the animal is trespassing.

(18) The owner is himself responsible for his loss.
(19) Inf. of the verb, meaning ‘to restore.’
(20) ‘Thou shalt restore then.’
(21) When lost property is returned, it is unnecessary to inform the owner.
(22) A thief, robber, or bailee, when returning the article stolen or left in his charge, must inform the owner; otherwise he remains responsible in the case of mishap.
(23) I.e., providing it is returned, it does not matter how.
(24) Deut. XXII, 6, 7: the Heb. lit., ‘to let go thou shalt let go’; v. p. 192. n. 5.
(25) But if the dam returns after being sent away twice, one may take both it and the young.
(26) I.e., for food.
(27) E.g., as a leper's sacrifice (v. Lev. XIV. 4): how do I know that even then the dam must not be taken?
(28) Lev. XIX. 17; cf. n. 1.
(29) This is expressed in Hebrew by the inf.
(30) Ex. XXIII, 5; this is an exhortation to help to unload the animal.
(31) Deut. XXII. 4. Cf. n. 1.
(32) As a result of the depreciation of the animal if it is not unloaded.
(33) V. infra p. 20.
(34) Though the passer-by is bound to help in the loading, he must be paid for his services.
(35) V. infra 32a.
(36) It is not clear which refers to unloading and which to loading. Therefore, had there been only one verse, I would have taken it to refer to one or the other, but not to both.
(37) I.e., there is no need to trouble to return it.
(38) Hence, since it is quite helpless, the passer-by is called upon to render assistance by restoring it.

Talmud - Mas. Baba Metzia 31b

but as for these two, seeing that their master is with them, [the law would] not [apply]: thus both are necessary.

He that smote him shall surely be put to death:[1] I know only [that he is to be executed] by the mode of death prescribed in his case: whence do I know that if you cannot execute him with the death prescribed for him, you may slay him with any death you are able? From the verse, ‘He shall surely be put to death’, meaning under all circumstances.

Thou shalt surely smite [the inhabitants of that city with the edge of the sword]:[2] I know only [that you may execute them] with the death[3] that is prescribed in their case. Whence do I know that if you cannot slay them with the death that is prescribed in their case, you may smite them in any manner you are able? From the verse, ‘Thou shalt surely smite’, implying under all circumstances.

Thou shalt surely return [the pledge unto him when the sun goeth down]:[4] from this I know it [sc. that the pledge must be returned] only if he [the creditor] distrained with the sanction of the court;[5] whence do we know if of one who distrained without the sanction of the court? From the verse, Thou shalt surely return it — implying in all cases.

If thou at all[6] take to pledge [thy neighbour's raiment, thou shall deliver it to him by that the sun goeth down]:[7] from that I know it [sc. that the pledge must be returned] only if he [the creditor] distrained with sanction [of the court]; whence do we know it of one who distrained without sanction [of the court]? Because it is stated, If thou at all take to pledge, implying in all cases. And for what purpose are both of these verses necessary?[8] — One refers to day raiment, the other to night clothes.[9]

Thou shalt surely open [thy hand unto thy brother, to thy poor, etc.].[10] I know this only of the poor of thine own city:[11] whence do I know it of the poor of another city? — From the expression, ‘Thou shalt surely open’, implying, in all cases.

Thou shalt surely give [him]:[12] I know only that a large sum must be given;[13] whence do I know that a small sum too must be given?[14] From the expression, Thou shalt surely give — in all circumstances.

Thou shalt furnish him liberally.[15] I know only that if the house [of the master] was blessed for his [the slave's] sake,[16] a present must be made. Whence do we know it even if the house was not blessed for his sake? Scripture teaches, ‘Thou shalt furnish him liberally’[17] under all circumstances. But according to R. Eleazar b. ‘Azariah, who maintained: If the house was blessed for his sake, a present is made to him, but not otherwise; what is the purpose of ‘ta'anik’?[18] — The Torah employs[19] human phraseology.[20]

And thou shalt surely lend him [sufficient for his need].[21] I know this only of one [a poor man] who has nought and does not wish to maintain himself [at your expense];[22] then Scripture saith. Give him by way of a loan. Whence do I know it if he possesses his own but does not desire to maintain himself [at his own cost]? From the verse, ‘Thou shalt surely lend him’.[23] But according to R. Simeon, who maintained: If he has his own but refuses to maintain himself [therewith], we are under no obligation toward him, why state ‘surely?’[24] — The Torah employs human phraseology.

IF HIS LOST TIME IS WORTH A SELA’, HE MUST NOT DEMAND, GIVE ME A SELA’,’ BUT IS PAID AS A LABOURER. A Tanna taught: He must pay him as an unemployed labourer. What is meant by ‘an unemployed labourer?’ — As a labourer unemployed in his particular occupation.[25]

‘IF A BETH DIN IS PRESENT, HE MAY STIPULATE IN THEIR PRESENCE. Issur and R. Safra entered into a business partnership. Then R. Safra went and divided it [the stock] without Issur's knowledge in the presence of two people. When he came before Rabbah son of R. Huna,[26] he said to him, ‘Go and produce the three people in whose presence you made the division; or else

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(1) Num. XXXV, 21.

(2) With reference to an idolatrous city. Deut. XIII, 16.

(3) Lit., ‘smiting’.

(4) Ibid. XXIV, 13.

(5) V. infra 113a.

(6) This also is expressed in the Hebrew by the inf.

(7) Ex. XXII. 25.

(8) Since they both state the same law.

(9) Deut. XXIV, 13 to the former; Ex. XXII, 25 to the latter. Cf. infra 114b.

(10) Deut. XV, 11.

(11) As implied by thy poor.

(12) Ibid. 10. The reference is to money lent before the year of release.

(13) Maharsha: because ‘give’ connotes something of value

(14) If one cannot lend much.

(15) Ibid. 24; this refers to the parting gifts made to a slave on his attaining his freedom.

(16) Because the verse ends: as the Lord thy God hath blessed thee thou shalt give unto him.

(17) V. supra note 2.

(18) ‘Thou shalt furnish’, i.e., the repetition of the verb.

(19) Lit., ‘speaks with’.

(20) And that repetition is normal.

(21) Ibid. 8: i.e., one must lend a poor man for his requirements.

(22) I.e., he does not want charity; hence Scripture orders that a loan shall be made to him.
(23) Even then one must lend, and claim the return of his money after the borrower's death. This is the explanation in Keth. 67b.
(24) v. p. 195. n. 2.
(25) Lit., ‘as a labourer unemployed in that work from which he was disturbed’ (by having to return the lost article) and willing to take less for the lighter task of restoring lost property than for his usual more arduous occupation; cf. p. 398. n. 2.
(26) For confirmation of his division, which was in order to dissolve their partnership.

two out of the three,[1] or else two witnesses that you did divide in the presence of three [others].'[2] 'How do you know this?' he asked him.[3] — He replied. 'Because we learnt. IF A BETH DIN IS PRESENT, HE MAY STIPULATE IN THEIR PRESENCE; BUT IF THERE IS NO BETH DIN BEFORE WHOM TO STIPULATE, HIS OWN TAKES PRECEDENCE.'[4] 'What comparison is there?' he retorted. 'In that case, Seeing that money is being taken from one and given to another, a Beth din is needed;[5] but here I took my own, and mere proof [is required that I shared fairly]; hence two are sufficient. In proof thereof we learnt: A widow may sell [of her deceased husband's estate] without the presence of Beth din!'[6] — Said Abaye to him, 'But was it not stated thereon: R. Joseph b. Manyumi said in R. Nahman's name: A widow does not need a Beth din of ordained scholars, but a Beth din of laymen is necessary?'

MISHNAH. IF HE FINDS IT [AN ANIMAL] IN A STABLE, HE HAS NO RESPONSIBILITY TOWARD IT [TO RETURN IT];[7] IN THE STREET, HE IS OBLIGED [TO RETURN IT]. BUT IF IT IS IN A CEMETERY, HE MUST NOT DEFILE HIMSELF FOR IT.[8] IF HIS FATHER ORDERS HIM TO DEFILE HIMSELF, OR SAYS TO HIM, 'DO NOT RETURN [IT].' HE MUST NOT OBEY HIM. IF ONE UNLOADS AND LOADS, UNLOADS AND LOADS, EVEN FOUR OR FIVE TIMES, HE IS [STILL] BOUND [TO DO IT AGAIN], BECAUSE IT IS WRITTEN, THOU SHALT SURELY HELP [WITH HIM].[9] IF HE [THE OWNER OF THE ANIMAL] WENT, SAT DOWN AND SAID [TO THE PASSER-BY], 'SINCE THE OBLIGATION RESTS UPON YOU, IF YOU DESIRE TO UNLOAD, UNLOAD:' HE [THE PASSER-BY] IS EXEMPT, BECAUSE IT IS SAID, 'WITH HIM'; YET IF HE [THE OWNER] WAS OLD OR INFIRM HE IS BOUND [TO DO IT HIMSELF]. THERE IS A BIBLICAL PRECEPT TO UNLOAD, BUT NOT TO LOAD. R. SIMEON SAID: TO LOAD UP TOO. R. JOSE THE GALILEAN SAID: IF IT [THE ANIMAL] BORE MORE THAN HIS PROPER BURDEN, HE [THE PASSER-BY] HAS NO OBLIGATION TOWARDS HIM [ITS OWNER], BECAUSE IT IS WRITTEN, [IF THOU SEE THE ASS OF HIM THAT HATETH THEE LYING] UNDER ITS BURDEN, WHICH MEANS, A BURDEN UNDER WHICH IT CAN STAND.

GEMARA. Raba said: The STABLE referred to is one which neither causes [the animal] to stray nor is it guarded.[10] It does not cause it to stray: since it is taught: HE HAS NO RESPONSIBILITY TOWARDS IT [TO RETURN IT]; nor is it guarded, since it is necessary to teach HE HAS NO RESPONSIBILITY TOWARD IT. For should you think that it is guarded: Seeing that if he finds it outside he takes it inside;[11] if he finds it inside, is it necessary to state [that he is not bound to return it]? But it must follow that it is unguarded. This proves it.

IF HE FINDS IT IN A STABLE, HE HAS NO RESPONSIBILITY TOWARD IT. R. Isaac said: Provided that it is standing within the tehum.[12] Hence it follows that [if he finds it] in the street, even within the tehum, he is still bound [to return it]. Others refer this to the second clause, IN THE STREET, HE IS OBLIGED [TO RETURN IT]. R. Isaac observed: Providing that it is standing within the tehum: hence it follows that [if he finds it] in a stable, even without the tehum, he is still under no obligation.

IF IT IS IN A CEMETERY, HE MUST NOT DEFILE HIMSELF FOR IT. Our Rabbis taught: Whence do we know that if his father said to him, 'Defile yourself', or 'Do not return it', he must disobey him? Because it is written, Ye shall fear every man his mother, and his father, and keep my Sabbaths: I am the Lord your God[13] — ye are all bound to honour Me.[14]

Thus, the reason is that Scripture wrote, ye shall keep my Sabbaths;[15] otherwise, however, I would have said that he has to obey him.[16] But why so? One is a positive command, and the other is both a positive and a negative command,[17] and a positive command cannot supersede [combined] positive and negative commands! — It is necessary. I might think, Since the honour due to parents is equated to that due to the Omnipresent, for it is said, Honour thy father and thy mother;[18] whilst elsewhere it is said: Honour the Lord with thy substance;[19] therefore he must obey him. Hence we are informed that he must not obey him.

THERE IS A BIBLICAL PRECEPT TO UNLOAD, BUT NOT TO LOAD. What is meant by — ‘BUT NOT TO LOAD’? Shall we say, not to load at all: wherein does unloading differ, because it is written, Thou shalt surely help him?[20] Yet in respect to loading, too, it is said, thou shalt surely help him to lift them up again![21] But [it means this:] It is a Biblical obligation to unload without remuneration, but not to load without payment, save only for remuneration. R. Simeon said: To load too without payment.

We have [thus] learnt here what our Rabbis taught: Unloading [must be done] without pay; unloading, for pay. R. Simeon said: Both without payment. What is the reason of the Rabbis? — For should you think it is as R. Simeon: let Scripture state loading, and unloading becomes unnecessary; for I would reason: If one is bound to load, though no suffering of dumb animals nor financial loss is involved;[22] how much more so unloading, seeing that both suffering of dumb animals and financial loss are involved![23] Then for what purpose is it written? To teach you that unloading must be performed without payment, but loading only for payment. And what is R. Simeon's reason? — Because the verses are not explicit.[24] And the Rabbis?[25] — Why [say,] The verses are not explicit? Here it is written, [If thou see the ass . . .] lying under his burden;[26] whilst there it is said, [Thou shalt not see thy brother's ass or his ox] fall down by the way, which implies, both they and their burdens are cast on the road.[27] And R. Simeon?[28] — ‘Fall down by the way’ implies they themselves [the animals], their load being still upon them.

Raba said:

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(1) Who shall testify that the division was made in the presence of three, including themselves.

(2) In each case the three would constitute a Beth din to ensure that the stock was rightly assessed and a fair division made.

(3) That three are necessary.

(4) And a Beth din implies three.

(5) It is so regarded because the Mishnah states that actually he is only entitled to the pay of an unemployed worker, hence, when he stipulates that he is to receive more, and the stipulation is allowed, it is the equivalent of taking money from one and giving it another. — The power of a Beth din to do this is based on the principle, hefker by Beth din is hefker, i.e., Beth din is empowered to abrogate a person's rights in his own property, and declare it ownerless; therefore the court can also take from one and give to another,

(6) For her alimony, and only two witnesses are required to see that she does not sell unreasonably below value.

(7) This is discussed in the Gemara.

(8) If he is a priest.

(9) Ex. XXIII, 5.

(10) I.e., it is in such a position that there is nothing to cause the animal to run away; on the other hand, it is unlocked, and there is nothing to prevent it from going.

(11) I.e., into a stable, and that is sufficient, as stated supra 31a, that he can simply take it into the owner's garden or ruins.

(12) A sabbath day's journey. i.e., 2000 cubits without the town boundary.

(13) Lev, XIX, 3.

(14) I.e., though every man must fear — i.e., reverence and obey his parents — his duty to God overrides his duty to them. The verse is therefore rendered thus: Ye shall fear every man his mother and his father; nevertheless (should they order you to desecrate the Sabbath), ye shall keep my Sabbaths, because I am the Lord your God.

(15) V. preceding note.

(16) His father, when he tells him not to return lost property.

(17) To obey one's parents is a positive command, as has just been quoted. To return lost property is a positive command — thou shalt surely restore it — and a negative injunction — thou mayest not hide thyself (Deut. XXII, 1, 3).
(18) Ex. XX, 12.
(19) Prov. III. 9: the fact that the same language is used of both shews that they are likened to each other.
(20) Ex. XXIII, 5.
(21) Deut. XXII, 4.
(22) V. supra p. 193.
(23) When the animal falls under its burden and help is needed to unload it.
(24) V. p. 194, n. 3.
(25) How do they rebut this argument?
(26) Ex. XXIII. 5: this certainly implies that the burden is still upon it, and help is required for unloading.
(27) And help is required to reload them.
(28) How can he maintain that the verses are not explicit?

Talmud - Mas. Baba Metzia 32b

From the arguments of both we may infer that [relieving] the suffering of an animal is a Biblical law. For even R. Simeon said [this][1] only because the verses are not clearly defined. But if they were, we would infer a minori.[2] On what grounds: Surely we infer it on the grounds of the suffering of dumb animals?[3] — [No.] Perhaps it is because financial loss is involved, and the argument runs thus: If one is obliged to load, though no financial loss is involved; how much more so to unload, seeing that financial loss is involved. But is there no financial loss involved when loading [is required]: may not the circumstances be that in the meanwhile he loses the market, or that thieves can come and rob him of all he has![4] Now, the proof[5] that [relieving] the suffering of an animal is Biblically enjoined is that the second clause states: R. JOSE THE GALILEAN SAID: IF IT [THE ANIMAL] BORE MORE THAN ITS PROPER BURDEN, HE [THE PASSER-BY] HAS NO OBLIGATION TOWARDS HIM [THE OWNER], BECAUSE IT IS WRITTEN, [IF THOU SEE THE ASS OF HIM THAT HATETH THEE LYING] UNDER ITS BURDEN, WHICH MEANS, A BURDEN UNDER WHICH IT CAN STAND: hence it follows that in the view of the first Tanna[6] he is obligated towards him [to help him]. Why so? Surely because relieving the suffering of an animal is Biblically enjoined![7] — [No] Perhaps they differ as to [the connotation of] ‘under its burden,’ R. Jose maintaining that we interpret ‘under its burden,’ a burden under which it can stand; whilst the Rabbis hold that we do not interpret ‘under its burden’ [thus.] [Moreover,] it may be proved that relieving the suffering of an animal is no Biblical [injunction], because the first clause states, IF HE [THE OWNER OF THE ANIMAL] WENT, SAT DOWN, AND SAID [TO THE PASSERBY], SINCE THE OBLIGATION RESTS UPON YOU TO UNLOAD, UNLOAD: HE [THE PASSER-BY] IS EXEMPT, BECAUSE IT IS SAID, ‘WITH HIM’. Now, should you think that [relieving] the suffering of an animal is a Biblical injunction, what difference does it make[8] whether the owner joins him [in relieving the animal] or not? — In truth, [relieving] the suffering of an animal is Biblically enjoined; for do you think that ‘EXEMPT’ means entirely exempt? Perhaps he is exempt [from doing it] without payment, yet he is bound [to unload] for payment, Scripture ordering thus: When the owner joins him, he must serve him for nought; when the owner abstains, he must serve him for payment;[9] yet after all [relieving] the suffering of an animal is Biblically enjoined.

(Mnemonic: Animal, animal, Friend, enemy, habitually lying down.) Shall we say that the following supports him?[10] ‘One must busy himself with an animal belonging to a heathen just as with one belonging to an Israelite’.[11] Now, if you say that [relieving] the suffering of an animal is a Biblical injunction, it is well; for that reason he must busy himself therewith as with one belonging to an Israelite. But if you say that [relieving] the suffering of an animal is not Biblically enjoined, why must he busy himself therewith as with an Israelite's animal? — There it is on account of enmity.[12] Logic too supports this. For it states: If it is laden with forbidden wine, he has no obligation towards it. Now if you say that [relieving the suffering of an animal is not Biblically enjoined, it is well: therefore he has no obligation toward it. But if you say it is Biblically enjoined, why has he no obligation toward it? — It means this: but he has no obligation to load it with forbidden wine.

Come and hear: In the case of an animal belonging to a heathen bearing a burden belonging to an Israelite, thou mayest forbear.[13] But if you say that [relieving] the suffering of an animal is Biblically enjoined, why mayest thou forbear: surely ‘thou shalt surely help with him’ is applicable! — After all, [relieving] the suffering of an animal is Biblically [enjoined]: the reference there is to loading. If so, consider the second clause: In the case of an animal belonging to an Israelite and a load belonging to a heathen, ‘thou shalt surely help.’ But if this treats of loading, why [apply] ‘thou shalt surely help him’? — On account of the inconvenience of the Israelite.[14] If so, the same applies in the first clause? — The first clause treats of a heathen driver, the second of an Israelite driver. How can you make a general assumption?[15] — As a rule, one goes after his ass.[16] But both ‘and thou mayest forbear’ and ‘thou shalt surely help’ refer to unloading! — Well [answer thus:] Who is the authority of this? R. Jose the Galilean, who maintained that [relieving the suffering of an animal is not Biblically [enjoined].[17]

Come and hear: If a friend requires unloading, and an enemy loading.[18] one's [first] obligation is towards his enemy, in order to subdue his evil inclinations.[19] Now if you should think that [relieving the suffering of an animal is Biblically [enjoined], [surely] the other is preferable! — Even so, [the motive] ‘in order to subdue his evil inclination’ is more compelling.[20]

Come and hear: The enemy spoken of is an Israelite enemy, but not a heathen enemy.[21] But if you say that [relieving] the suffering of an animal is Biblically [enjoined], what is the difference whether [the animal belongs to] an Israelite or a heathen enemy? — Do you think that this refers to ‘enemy’ mentioned in Scripture? It refers to ‘enemy’ spoken of in the Baraitha.[22]

Come and hear:

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(1) That unloading needs be explicitly commanded, besides loading.

(2) That one is bound to unload, as above, and the verse would be unnecessary.

(3) If one is bound to load, though no suffering is entailed, etc., as on 32a.

(4) Hence the argument must be based on the suffering of the animal, which proves that such suffering must be averted by Biblical law.

(5) Lit., ‘thou mayest know.’

(6) R. Simeon included.

(7) It is now assumed that the first Tanna admits the feasibility of R. Jose's interpretation of ‘its burden,’ consequently the only possible reason of the first Tanna is that relieving the suffering of an animal is a Biblical law,

(8) Lit., ‘what is it to me?’

(9) I.e., he must relieve the animal, but is entitled to demand payment.

(10) Raba.

(11) To relieve it from its burden.

(12) I.e., in order not to arouse the enmity of the heathen.

(13) This refers to Ex. XXIII, 5: If thou seest the ass of him that hateth thee lying under his burden, and wouldst forbear to help him, thou shalt surely help with him, The Talmud disjoins the two phrases ‘and wouldst forbear’ (one word in Heb. we-hadalta) and ‘thou shalt surely help him,’ teaching that sometimes the first applies, i.e., one is permitted to withhold his aid, and sometimes the second, viz., ‘thou shalt surely help him.’

(14) Who is forced to stay with the animal until it is laden and able to proceed.

(15) On what grounds can one assume that the first clause treats of a heathen driver etc.?

(16) Therefore, seeing that the first clause refers to an ass belonging to a heathen, the driver too is a heathen — probably the owner; and the same holds good of the second clause.

(17) As may be seen from his view in the Mishnah; but Raba's dictum is based on the view of the Rabbis.

(18) I.e., one meets two asses: one, belonging to a friend, is tottering under its burden, and help is needed to unload it; the other, belonging to an enemy, has fallen, and assistance is wanted to reload it.

(19) Tosef. B.M. II.

(20) Lit., ‘better’.

(21) Tosef. ibid. It is now assumed that this refers to Ex. XXIII, 5 (‘him that hateth thee’ == thine enemy).

(22) Quoted above: If a friend requires unloading, and an enemy loading etc.

Talmud - Mas. Baba Metzia 33a

[If thou seest the ass of him that hateth thee lying under its burden etc.:] ‘lying’ [just now], but not an animal that habitually lies down [under his burden]; ‘lying,’ but not standing;[1] ‘under its burden’, but not if it is unloaded;[2] ‘under its burden’ — a burden under which it can stand. Now, if you say that [relieving the suffering of an animal] is Biblically [enjoined], what does it matter whether it was lying [this once only], habitually lay down, or was standing? — The authority of this is R. Jose the Galilean, who maintained that [relieving] the suffering of an animal is [enjoined merely] by Rabbinical law. Reason supports this too. For it is taught: ‘under its burden’ — a burden under which it can stand. Now, whom do you know to hold this view? R. Jose the Galilean:[3] this proves it. But can you assign it to R. Jose the Galilean? Does not the second clause teach: ‘under its burden’ but not if it is unloaded. What is meant by ‘not if it is unloaded?’ Shall we say, if it is unloaded, there is no obligation at all?[4] But it is written, Thou shalt surely help to lift them up again![5] Hence it is obvious [that it means]. If unloaded, there is no obligation [to help to load it] without payment, but for remuneration. Now, whom do you know to hold this view? The Rabbis![6] — In truth, it is R. Jose the Galilean, yet in the matter of loading he agrees with the Rabbis.[7]

Our Rabbis taught: If thou see [the ass of him etc.]:[8] I might think; even in the distance;[9] therefore it is taught. If thou meet [thine enemy's ox or his ass going astray, thou shalt surely bring it back to him again].[10] If, ‘when thou meet’, I might think that meet is literally meant; therefore it is written. ‘If thou seest’, Now, what ‘seeing’ is the equivalent of ‘meeting?’ The Sages estimated this as two fifteenths[11] of a mil,[12] which is a ris.[13] A Tanna taught: And he must accompany it as far as a parsang.[14] Rabbah b. Bar Hana observed: Yet he receives payment [for this].

MISHNAH. IF [A MAN'S] OWN LOST ARTICLE AND HIS FATHER'S LOST ARTICLE [NEED ATTENTION], HIS OWN TAKES PRECEDENCE. HIS OWN AND HIS TEACHER'S — HIS OWN TAKES PRECEDENCE; HIS FATHER’ S AND HIS TEACHER'S — HIS TEACHER'S TAKES PRECEDENCE, BECAUSE HIS FATHER BROUGHT HIM INTO THIS WORLD, WHEREAS HIS TEACHER. ‘WHO INSTRUCTED HIM IN WISDOM, BRINGS HIM TO THE FUTURE WORLD. BUT IF HIS FATHER IS A SAGE,[15] HIS FATHER'S TAKES PRECEDENCE. IF HIS FATHER AND HIS TEACHER WERE [EACH] CARRYING A BURDEN, HE MUST [FIRST] ASSIST HIS TEACHER TO LAY IT DOWN,[16] AND THEN ASSIST HIS FATHER. IF HIS FATHER AND HIS TEACHER ARE IN CAPTIVITY, HE MUST [FIRST] REDEEM HIS TEACHER AND THEN HIS FATHER. BUT IF HIS FATHER IS A SAGE, HE MUST [FIRST] REDEEM HIS FATHER AND THEN HIS TEACHER.

GEMARA. Whence do we know this? — Rab Judah said in Rab's name: Scripture saith, Save that there shall be no poor among you[17] yours takes precedence over all others.[18] But Rab Judah also said in Rab's name: He who [strictly] observes this, will eventually be brought to it.[19]

IF HIS FATHER AND HIS TEACHER WERE [EACH] CARRYING A BURDEN etc. Our Rabbis taught: The teacher referred to is he who instructed him in wisdom, not he who taught him Bible and Mishnah:[20] this is R. Meir's view. R. Judah said: He from whom one has derived the greater part of his knowledge.[21] R. Jose said: Even if he enlightened his eyes in a single Mishnah only, he is his teacher. Said Raba: E.g., R. Sehora, who told me the meaning of zohama listron.[22]

Samuel rent his garment for one of the Rabbis who taught him the meaning of ‘One was thrust into the duct as far as the arm pit.[23] and another [key] opened [the door] directly.’[24]

‘Ulla said: The scholars in Babylon arise before and rend their garment for each other [in mourning]; but with respect to a [colleague's] lost article, when one has his father's [also to attend to,] he returns [a scholar's first] only in the case of his teacher put excellence.[25] R. Hisda asked R. Huna: ‘What of a disciple whom his teacher needs?’[26] ‘Hisda, Hisda,’ he exclaimed; ‘I do not need you, but you need me.’ Forty years[27] they bore resentment against and did not visit each other. R. Hisda kept forty fasts because R. Huna had felt himself humiliated, whilst R. Huna kept forty fasts for having [unjustly] suspected R. Hisda.

It has been stated: R. Isaac b. Joseph said in R. Johanan's name: The halachah is as R. Judah. R. Aha son of R. Huna said in R. Shesheth's name: The halachah is as R. Jose.[28] Now, did R. Johanan really say this? But R. Johanan said, The halachah rests with an anonymous Mishnah, and we have learnt, HIS TEACHER, WHO INSTRUCTED HIM IN WISDOM![29] — What is meant by WISDOM? The greater part of one's knowledge.

Our Rabbis taught: They who occupy themselves with the Bible [alone] are but of indifferent merit;[30] with Mishnah, are indeed meritorious, and are rewarded for it; with Gemara[31] — there can be nothing more meritorious; yet run always to the Mishnah more than to the Gemara. Now, this is self-contradictory. You say, ‘with Gemara — there can be nothing more meritorious;’ and then you say, ‘Yet run always to the Mishnah more than to the Gemara!’ — Said R. Johanan:

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(1) I.e., one is obliged to help to unload an animal that has fallen under its load, but not one that still stands under it.

(2) One is not obliged to help in loading it up again. The Gemara objects further in that this is explicitly ordered in Deut. XXII, 4.

(3) In the Mishnah supra 32a.

(4) Lit., ‘it is not unloaded at all’.

(5) Deut. XXII. 4: this is interpreted as referring to reloading.

(6) Mishnah supra 32a. as interpreted in the Gemara.

(7) That it must be remunerated.

(8) Ex. XXIII, 5.

(9) And one is bound to go there to help.

(10) Ibid. 4.

(11) Lit., ‘one in seven and a half.’

(12) A mil == 1000 cubits.

(13) A Persian measure.

(14) The passer-by, having helped to raise up the animal and replace its burden, must accompany it for a parasang, in case it falls again.

(15) [MS.M. adds: ‘equal (in wisdom) to his teacher.’]

(16) Lit., ‘put down his teacher's.’

(17) Deut. XV. 4.

(18) V. p. 187. n. 1.

(19) He who always takes the greatest care to safeguard his own first, so as not to become impoverished, will eventually be brought to poverty.

(20) ‘Wisdom’ means the intelligent understanding of the Mishnah, the grounds of its statements, which are frequently made without giving the reasons, and ability to reconcile opposing Mishnahs (Rashi).

(21) Whether Bible, Mishnah or Gemara.

(22) **. This is a utensil mentioned in Kel. XIII. 2, in reference to laws of ritual defilement, a soup-ladle with a spoon for removing the scum of soup on one side and a fork on the other.

(23) Jast.: ‘the duct of the arm-pit.’ a sewer in the Temple, so called from its shape.

(24) This is a Mishnah in Tam. 30b, treating of the clearing away of the ashes from the altar.

(25) Though they give each other the respect due to a teacher, e.g., rising and rending the garments, nevertheless, in a question of lost property, only he who has really taught them is regarded as such.

(26) Because he has traditions from other scholars of which his teacher is ignorant. — R. Hisda was R. Huna's disciple, and the latter regarded the question as having a personal sting.

(27) [R. Han. renders: You need me till the age of forty; cf. A.Z. 5a: ‘A man cannot probe the mind of his master up to the age of forty.’]

(28) V. Baraitha quoted above.

(29) This appears to agree with R. Meir, not R. Judah.

(30) Lit., ‘it is meritorious and it is not meritorious.’

(31) V. p. 60, n. 7. [Read with all MSS. and older prints: ‘Talmud’ (the discussions based on the older traditions of the Mishnah), the term ‘Gemara’, occurring throughout this passage in cur. edd., and denoting the complete mastery of a subject (Bacher, HUCA., 1904, 26-36), or, a summary embodying conclusions arrived at in schools (Kaplan, Redaction of the Talmud, p. 195 ff), having been substituted by the censor.]

Talmud - Mas. Baba Metzia 33b

This teaching[1] was taught in the days of Rabbi; thereupon everyone forsook the Mishnah and went to the Gemara; hence he subsequently taught them, ‘Yet run always to the Mishnah more than to the Gemara.’[2] How was that inferred?[3] — Even as R. Judah son of R. Ila'i expounded: What is the meaning of, Shew my people their transgression, and the house of Jacob their sins?[4] ‘Shew my people their transgression’ refers to scholars, whose unwitting errors[5] are accounted as intentional faults;[6] ‘and the house of Israel their sins’ — to the ignorant, whose intentional sins are accounted to them as unwitting errors. And that is the meaning of what we learnt: R. Judah said: Be heedful of the [Talmud],[7] for an error in Talmud is accounted as intentional.

R. Judah son of R. Ila'i taught: What is meant by the verse, Hear the word of the Lord, ye that tremble at his word?[8] — This refers to scholars; Your brethren said, to students of Scripture; that hate you — to students of the Mishnah;[9] that cast you out — to the ignorant.[10] [Yet] lest you say, their hope [of future joy] is destroyed, and their prospects frustrated, Scripture states , And we shall see your joy.[11] Lest you think, Israel shall be ashamed, — therefore it is stated, and they shall be ashamed: the idolaters shall be ashamed, whilst Israel shall rejoice.

CHAPTER III

MISHNAH. IF A MAN ENTRUSTS AN ANIMAL OR UTENSILS TO HIS NEIGHBOUR, AND THEY ARE STOLEN OR LOST, AND HE [THE BAILEE] PAYS [FOR THEM], DECLINING TO SWEAR (SINCE IT WAS RULED THAT A GRATUITOUS BAILEE MAY SWEAR AND BE QUIT); THE THIEF, IF HE IS FOUND, MUST RENDER DOUBLE, AND IF HE HAS SLAUGHTERED OR SOLD [THE ANIMAL], HE MUST REPAY FOURFOLD OR FIVEFOLD.[12] TO WHOM MUST HE PAY IT? TO HIM WITH WHOM THE BAILMENT WAS DEPOSITED.[13] IF HE SWEARS, NOT WISHING TO PAY, THE THIEF, IF FOUND, MUST REPAY DOUBLE, AND IF HE HAS SLAUGHTERED OR SOLD [THE ANIMAL], MUST REPAY FOURFOLD OR FIVEFOLD. TO WHOM MUST HE PAY IT? TO THE BAILOR.

GEMARA. Why must he state both ANIMAL and UTENSILS? — They are necessary. For if ANIMAL [alone] were stated, I might have said that only in the case of an animal does he [the bailor] make over the double repayment to him,[14] because it requires considerable attention, to be led in and out [of its stable]. But as for utensils, which do not require much attention, I might think that he does not make over the twofold repayment to him.[15] And if UTENSILS [alone] were stated, I might have argued that only in the case of utensils does he [the bailor] make over the twofold repayment to him, because their multiplication is not great.[16] But in the case of an animal, for which, if slaughtered or sold, he [the thief] must repay fourfold or fivefold, I might think that he [the bailor] does not make over the multiplied principal to him. Hence both are necessary.

Rami b. Hama objected: But one cannot transfer that which is non-existent![17] And even according to R. Meir, who maintained, One can transfer that which is non-existent, — that is only in the case of, e.g.. the fruit of a palm tree, which will naturally come [into existence].[18] But here,

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(1) That Gemara is higher than Mishnah.

(2) The two are not really in opposition. The Mishnah itself needs full discussion (Gemara) before it can be intelligently understood; on the other hand, discussion cannot be profitable unless it takes the Mishnah as its basis. It would appear that when Gemara was praised, number of disciples eagerly applied themselves thereto, forgetting however that the Mishnah is the foundation; and therefore the new statement was made, which is not so much a new statement as a fuller explanation of the old. — It is noteworthy that Gemara, i.e., discussion on the Mishnah, was already rife in the days of Rabbi (i.e.. R. Judah the Prince c. first half of third century C.E.); cf. Weiss, Dor II, p. 209.

(3) [That the study of Talmud is the more meritorious.]

(4) Isa. LVIII, I.

(5) [Through inadequate application to the study of the Talmud.]

(6) Sins through ignorance, in the case of scholars, are accounted as intentional, since had they studied more thoroughly they would not have erred. — ‘Transgression’ (פשע) really means rebellion, and refers to intentional sin, whilst ‘sin’ (חטא) often refers to sinning through ignorance, the root idea of חטא being ‘to be defective, to miss’.

(7) V. p. 206, n. 6.

(8) Ibid. LXVI, 5.

(9) There was a rivalry (perhaps amounting to enmity) between those who confined themselves exclusively to the Mishnah and those who developed a Gemara — i.e., discussion — upon it; cf. Sot. 22a.

(10) Maharsha: who ‘cast you out’ in that they have no desire to become partners with scholars in learning.

(11) ‘We’, plural. i.e., all classes of Israel.

(12) In accordance with Ex. XXI, 37.

(13) I.e., the bailee: since he paid for the bailment, all rights thereof vest in him; hence the thief must make restitution to him.

(14) When he receives payment for his bailment.

(15) It should be observed that the double payment is not regarded as becoming the bailee's automatically on account of the compensation he makes. That is because the liability is incurred on account of the theft, and the animal then belonged to the bailor.

(16) The thief can never be required to pay more than twofold.

(17) Lit., ‘which has not come into the world.’ — How then can the bailor make over the twofold repayment to the bailee?

(18) Hence we can sell his future crop.

Talmud - Mas. Baba Metzia 34a

who can say that it [the bailment] will be stolen? And should you assume that it will be stolen, who can say that the thief will be found? And even if the thief be found, who can say that he will repay [double]: perhaps he will confess [before his guilt is attested]. and thus be exempt?[1] — Said Raba: It becomes as though he [the bailor] had said to him, ‘If it be stolen, and you are willing to pay me [for it], then my cow be yours from this moment [of delivery]’[2] If so, even its shearings and offsprings too [should belong to the bailee].[3] Why has it been taught: Excepting its shearings and offsprings? — But. said R. Zera, it is as though he had said to him, ‘Except its shearings and offsprings.’ And why make this an absolute assumption? It may be taken for granted that one gives over those improvements which come from elsewhere, but not those which come from the stock itself.

Others state, Raba said: It becomes as though he said to him, ‘If it is stolen, and you are willing to reimburse me, then it is yours from just before the theft.’ Wherein do they [sc. the two versions of

Raba's reply] differ? — They differ in respect of the difficulty posited by R. Zera;[4] or if it was standing in the meadow.[5]

AND HE [THE BAILEE] PAYS [FOR THEM], DECLINING TO SWEAR etc. R. Hiyya b. Abba said in R. Johanan's name: HE PAYS is not literally meant, but once he said, 'I will pay,' even if he has not done so, [the law of the Mishnah holds good].[6]

We learnt: AND HE PAYS, DECLINING TO SWEAR; [this implies,] only if he actually pays, but not otherwise? But consider the second clause: IF HE SWEARS, NOT WISHING TO PAY; [which implies] only if he did not consent, but if he consented, even if he had not actually paid [the double repayment is his]! Hence no inference can be drawn from this.[7]

It has been taught in accordance with R. Johanan: If one hires a cow from his neighbour and it is stolen, and he declares, 'I will pay and not swear,'[8] and then the thief is discovered, he must pay double to the hirer.[9]

R. Papa said: If a gratuitous bailee merely says, 'I was negligent,' he [the bailor] assigns the twofold repayment to him, since he could have freed himself by [the plea of] theft. If a paid bailee merely says, 'It was stolen', the twofold repayment is made over to him, since he could, if he wished, have freed himself by pleading that it was hurt or had died. But if a borrower says, 'I will pay,' he [the bailor] does not assign him the twofold repayment; for how could he have freed himself? By [the plea], it died on account of its work? That is a rare occurrence.[10]

Others state, R. Papa said: A borrower too, once he says 'I will pay,' the double repayment becomes his, since he could, if he wished, free himself by [the plea], 'It died on account of its work.' Thereupon R. Zebid observed to him, Thus did Abaye say: As for a borrower, [the twofold repayment is not his] unless he has actually paid. Why? — Since all the benefit [of the loan] is his, he [the lender] does not make over the double repayment to him on the strength of mere words.

It has been taught in accordance with R. Zebid. If one borrows a cow from his neighbour and it is stolen, and the borrower hastens and pays for it, and then the thief is found, he must repay double to the borrower. Now, on the first version of R. Papa's dictum,[11] this is certainly not a refutation;[12] but must we say that it is a refutation of the second version?[13] — R. Papa can answer you: Is this stronger than our Mishnah, which states, HE PAYS, yet we interpreted it as meaning, he declares [that he will pay]; so here too, it means that he says [that he will pay]. How compare? There [in our Mishnah] it is not stated that 'he hastens', whilst here it says, 'he hastens'! — What is the meaning of 'he hastens'? He hastens to promise. But since [the teaching] in respect of a hirer is stated, 'and he says' [that he will pay], whilst [that] in respect of a borrower is stated, 'and he hastens'; this proves that it is stated advisedly [so]! — Were they then taught together?[14] The tannaim of the schools of R. Hiyya and R. Oshaia[15] were asked, and they affirmed that they were taught together.

Now it is obvious that if he [the bailee] declared, 'I will not pay,' and then said, 'I will pay' — then he has said, 'I will pay'.[16] But what if he [first] declared, 'I will pay.'

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(1) One who confesses before his guilt is attested is exempt from the money fine attaching to his crime; v. B.K. 75a.

(2) For it may be taken as axiomatic that one is willing to forego a possible twofold repayment in return for the safety of the principal.

(3) Since the ownership of the bailee is assumed to be retrospective, the shearings and offsprings from the time of its delivery as a bailment should be his.

(4) It arises on the first version, but not the second.

(5) just before the theft. Since this does not belong to the bailee, he cannot acquire it just then (for in order to acquire it, either he must perform meshikah (v. Glos.) or it must be standing within his domain); consequently the additional repayment made by the thief over and above the principal will belong to the bailor.

(6) This refutes the ruling reported in the name of R. Johanan.

(7) Only one clause is stated exactly, so that no particular inference can be drawn.

(8) Though a hirer is liable for theft, he could swear that an unpreventable accident had occurred, in which case he is free from responsibility.

(9) The Baraitha does not state that he actually paid, but merely declared his willingness to pay, yet the twofold repayment thereby becomes his.

(10) Hence a palpable lie, which one does not care to state.

(11) According to which the borrower does not acquire the double payment by his mere promise to pay.

(12) Since the Baraitha expressly states that the borrower actually paid.

(13) Which states that the borrower is entitled to the double payment on his mere promise to pay.

(14) They are separate Baraithas, and therefore the phraseology of one does not illumine the other.

(15) These were the principal authorities for the Baraitha.

(16) Hence the double repayment of the thief belongs to him.

Talmud - Mas. Baba Metzia 34b

and then declared, ‘I will not pay’: do we say, he has retracted; or perhaps, he intended keeping his word, and was merely repulsing him [the bailor]?[1] [Again,] if he declared, ‘I will pay,’ and died, whilst his sons declared, ‘We will not pay,’ what then? Do we say, they have retracted: or perhaps, they are keeping to their father's word, but merely repulsed him? [Again,] what if the sons did pay? Can he [the bailor] say to them, ‘I made over the [right of receiving] double repayment to your father only, because he did me a favour,[2] but not to you’: or perhaps, there is no difference? What if he [the bailee] paid to the sons?[3] Can they say to him, ‘Our father made over the double repayment to you because you did him a favour; but as for ourselves, you have done nothing for us’; or perhaps, there is no difference? What if the heirs [of the bailee] paid to the heirs [of the bailor]? What if he paid a half?[4] What if he borrowed two cows and paid for one of them?[5] What if he borrowed from partners and paid one of them?[6] What if partners borrowed and one of them paid?[7] What if one borrowed from a woman and paid her husband?[8] What if a woman borrowed and her husband paid? The questions stand.

R. Huna said: He [the bailee] is made to swear that it is not in his possession.[9] Why? We fear that he may have cast his eyes upon it.[10]

An objection is raised: If one lends his neighbour on a pledge and the pledge is lost, and he [the lender] says to him [the debtor], ‘I lent you a sela’ on it, and it was [only] worth a shekel’;[11] whilst the other maintains, ‘Not so; you did lend me a sela’ upon it and it was worth a sela’:’ he is free [from an oath].[12] ‘I lent you a sela’ on it and it was worth a shekel, whilst the other maintains, ‘Not so; you did lend me a sela’ on it, and it was worth three denarii;’[13] he is liable [to an oath].[14] [If the debtor pleads,] ‘You did lend me a sela’ on it, whilst it was worth two;’ and the other replies, ‘Not so: I lent you a sela’ on it and it was worth a sela’;’ he is free [from an oath].[15] ‘You did lend me a sela’ on it and it was worth two,’ whilst the other replies, ‘Not so: I lent you a sela’ on it and it was worth five denarii,’ he is liable [to an oath]. Now, who must swear? He who has the bailment [i.e., the creditor], lest the other swear and then this one produce the bailment.[16] To what does this[17] refer? Shall we say, to the second clause; but that [the oath rests upon the creditor] follows from the fact that it is he who makes partial admission![18] — But, said Samuel, it refers to the first clause. How can it refer to the first clause?[19] — He means the second subsection of the first clause, [viz.,] ‘I lent you a sela’ on it and it was worth a shekel,’ whilst the other maintains, ‘Not so: you did lend me a sela’ on it, and it was worth three denarii:’ he is liable [to an oath]. Now, the onus of the oath lies upon the debtor,[20] yet the Rabbis ordered that the creditor should swear, lest this one [sc. the debtor] swear and then the other produce the pledge. But if

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(1) Perhaps he was importuning him for the money, which he could not pay just then. Nevertheless, he might have intended to pay, and therefore the twofold repayment should belong to him.
(2) By taking care of the bailment.
(3) The bailor having died.
(4) I.e., he consented to pay half: does he acquire half of the double repayment?
(5) If it be assumed that when one consents to pay half only he does not acquire half of the double repayment, what if he consents to pay for one cow out of two: can this be regarded as a separate transaction altogether?
(6) His share: is he entitled to his half of the twofold repayment? Do we regard it as though he had paid the whole of one particular person's bailment, or must he have paid for the whole bailment itself?
(7) Has he a right to his half of the double repayment, since he paid for the whole of his share; or must the whole bailment be paid for?
(8) The reference is to ‘property of plucking’, q.v. p. 234. n. 10. Do we say, since the principal does not belong to the husband, restitution to him does not entitle the bailee to the double repayment; or perhaps, since the husband enjoys the usufruct, it does?
(9) This refers to the Mishnah. Though he offers to pay, he must nevertheless swear.
(10) I.e., coveted it, and so trumped up a story that it was stolen.
(11) Half a sela’.
(12) Since he maintains that he owes him nothing at all, there is no partial admission of the claims.
(13) One sela’ = 4 denarii.
(14) Since there is partial admission of indebtedness. The Gemara discusses below the meaning of ‘he.’
(15) V. n. 2 which applies here too, though the debtor is now the claimant.
(16) Because it is derogatory to the institution of the oath to swear when a matter may be practically proved (Tosaf.); Mishnah, Shebu. 43a.
(17) The last passage in the cited Mishnah.
(18) Why then state a different reason?
(19) Seeing that there no oath is taken.
(20) Since he is the defendant who makes partial admission.

Talmud - Mas. Baba Metzia 35a

R. Huna's dictum be correct, since the creditor must swear that it is not in his possession, how can he produce it? — Said Raba:[1] There are witnesses that it was burnt.[2] If so, whence can he produce it? — But, said, R. Joseph, there are witnesses that it was stolen. Yet after all, whence can he produce it? He may exert himself and bring it. If so, when the creditor swears, the debtor may take pains and bring it! — [No.] As for the creditor[‘s producing it], it is well: he knows who enters and leaves his house, and so he can go, exert himself, and produce it. But does the debtor know who enters and leaves the creditor's house?

Abaye said: We fear lest he plead, saying to him, ‘I found it after the oath.’ R. Ashi said: Both must swear: one [sc. the creditor] that it is not in his possession; and the other, how much it was worth — And this is its meaning: Who swears first? The creditor must swear first [that the pledge is not in his possession], lest the other swear and then he produce the bailment.

R. Huna b. Tahlifa said in Raba's name: The first paragraph of the second clause refutes R. Huna. ‘"You did lend me a sela’ on it, whilst it was worth two," and the other replies, "Not so: I lent you a sela’ on it and it was [only] worth a sela’," he is free [from an oath.]’ But if R. Huna's dictum is correct, since the creditor must swear that it is not in his possession, let him also swear, in virtue of a superimposed oath, how much it was worth![3] — Said R. Ashi: I repeated this discussion before R. Kahana, whereupon he observed to me: Let this apply where he believes him.[4] Then let the debtor believe the creditor in this too [viz.,] how much it was worth! — [The debtor reasons,] he [the creditor] did not fully ascertain it [sc. the value]. Then let the creditor believe the debtor, since he does fully know it? — [Nevertheless,] he does not believe him. Wherein lies the difference, that the debtor believes the creditor, but not vice versa? — The debtor applies to the creditor, The integrity of the upright shall guide them:[5] whereas the creditor applies to the debtor, but the perverseness of transgressors shall destroy them.[6]

A man once deposited jewels with his neighbour. When he demanded, ‘Give me my jewels,’ he replied, ‘I do not know where I put them.’ So he came before R. Nahman, Who said to him: Every [plea of] ‘I do not know’ is negligence; go and pay. Yet he did not pay, so R. Nahman went and had his house seized. Subsequently the jewels were found, [by which time] they had appreciated. Said R. Nahman: Let the jewels be returned to their [first] owner, and the house to its owner. Raba observed: I was sitting [then] before R. Nahman and it [the subject of our study] was the chapter, ‘IF ONE ENTRUSTS [etc.];[7] so I quoted to him, IF HE [THE BAILEE] PAYS, DECLINING TO SWEAR [etc.],[8] but he did not answer me.[9] And he did well not to answer me. Why? — There he did not trouble him to go to court,[10] whereas here he troubled him.

Shall we say that in R. Nahman's opinion a valuation is returnable?[11] — [No.] There it is different, because it was a valuation made in error, since the jewels were in existence from the first.[12] The Nehardeans said: A valuation is returnable until twelve months. Amemar said: Though I am of Nehardea, I hold that a valuation is always returnable. None the less, the law is that a valuation is always returnable, because it is said, And thou shalt do that which is right and good.[13]

Now it is obvious,if a valuation was made on behalf of a creditor,[14] and he went and valued it for his own creditor: we say to him [the second creditor], You are no better than the man in whose power you come.[15] If he sold, bequeathed or gifted it, these [the recipients] certainly entered it [the distrained estate] originally with the intention of [possessing] the land, not the money.[16] If it was appraised in favour of a woman [creditor], and she married:[17] or if a valuation was made of a woman's [estate] and she married, and then died: the husband ranks as a purchaser in respect to a wife's property: he neither returns [the estate to the debtor], nor is it returned to him.[18] For R. Jose b. Hanina said: In Usha it was enacted:[19] If a woman sells of her ‘property of plucking’ in her husband's lifetime and then dies, her husband [as heir] can claim it from the purchasers.[20]

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(1) [MS.: R. Joseph.]

(2) Consequently no oath is imposed.

(3) For superimposed oaths, v. supra 3a

(4) This clause means that the debtor believes the creditor that the pledge is lost and does not demand that he swear thereto. Hence there is no superimposed oath either.

(5) Prov. XI, 3; i.e., he assumes that the creditor's prosperity proves his trustworthiness.

(6) Ibid. This is a natural reasoning when the belief in material reward and punishment is strong.

(7) I.e., we were then studying the present chapter.

(8) The Mishnah proceeds to state that the double repayment belongs to the bailee, thus proving that once he pays he is entitled to all rights therein. So here too, since he had paid, albeit against his will, the increased value of the jewels should be his.

(9) Disdaining to reply.

(10) Hence he willingly gives over his rights to the bailee, in consideration of having received payment.

(11) V. supra, p. 99.

(12) But if an article is distrained because a debtor cannot repay, it may be that it is not returnable even if he subsequently acquires money.

(13) Deut. VI, 18.

(14) I.e., the debtor's goods were assessed, distrained, and given to the creditor.

(15) Just as he would have had to return the goods if the debtor could repay the loan, so must you too.

(16) Therefore it is not returnable to the debtor. The creditor himself would have had to return it on account of the verse quoted, for it is applicable to him, since in the first place he demanded money, not land. But it is inapplicable to these recipients, seeing that their thought was land, not money.

(17) And this seized estate became either the husband's, as ‘property of iron flock,’ or remained the wife's, the husband enjoying its usufruct, as ‘property of plucking.’

(18) If he wishes to settle his wife's debts.

(19) V. p. 558, n. 2.

(20) For he ranks as a previous purchaser.

Talmud - Mas. Baba Metzia 35b

Where, however, he [the debtor] himself gave it to him [the creditor] for his debt,[1] R. Aha and Rabina differ thereon: one maintains, It is returnable: the other, It is not. He who rules that it is not returnable holds that it is a true sale, since he voluntarily gave it in payment . But he who rules that it is returnable holds that it is not a true sale, and as for his giving it to him voluntarily and not going to court, — he gave it to him [merely] through shame.

And from what time can he [the creditor] enjoy the usufruct?[2] Rabbah said: As soon as he receives the adrakta.[3] Abaye said: The witnesses [to the adrakta], by their signatures, acquire the right for him.[4] Raba said: When the days of public announcement are ended.[5]

MISHNAH. IF A MAN HIRES A COW FROM HIS NEIGHBOUR, LENDS IT TO ANOTHER, AND IT DIES A NATURAL DEATH, THE HIRER MUST SWEAR THAT IT DIED NATURALLY, AND THE BORROWER MUST PAY THE HIRER.[6] SAID R. JOSE: HOW SHALL ONE DO BUSINESS WITH HIS NEIGHBOUR'S COW?[7] HENCE THE [VALUE OF THE] COW MUST BE RETURNED TO ITS OWNER.

GEMARA. R. Idi b. Abin said to Abaye: Let us see: how does the hirer acquire the cow?[8] By his oath![9] Then let the owner say to the hirer, ‘Take yourself off with your oath, whilst I bring an action[10] against the borrower!’ — Do you think, he replied to him, that the hirer acquires it through his oath! He acquires it from the time of its death, the oath being only to placate the owner.[11]

R. Zera said: It may sometimes happen [on the basis of this Mishnah] that the owner must render many cows to the hirer. How so? — If A hired it [an animal] from him [B] for one hundred days, and then B re-borrowed it from him for ninety days;[12] then A rehired it from B for eighty days [out of the ninety], and B. re-borrowed it from A for seventy days, and it died within the period of borrowing. Now on account of each separate borrowing he becomes liable for one cow.[13] R. Aha of Difti said to Rabina: Let us see, only one animal is involved, which was brought into [a certain state] and taken out [thence]: it was taken out of hiring and brought into borrowing, taken out of borrowing and brought into hiring! — Is the cow then still in existence, he replied, that we should say thus to him?[14] Mar son of R. Ashi said: He has a claim only in respect of two cows, one in respect of borrowing and one in respect of hiring, [for] there is one designation of borrowing and one designation of hiring.[15] That in respect of borrowing belongs entirely to him [the hirer],[16] whilst as for that of hiring, he must work therewith for the period of hiring and return it to its owner.[17]

R. Jeremiah said: Sometimes both [the hirer and the borrower] are liable to a sin-offering,

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(1) I.e., without waiting for a court order of distraint, to which all the previous rulings apply.

(2) When the court makes an order for distraint.

(3) V. Glos.

(4) Even before he receives the document.

(5) The estate to be distrained was announced for public sale, to go to the highest bidder; after the period of announcing is passed (the period is discussed in ‘Ar. 21b seq.) without its being sold, the creditor has a right to the usufruct.

(6) A hirer is free from liability in the case of natural death, but not a borrower.

(7) Surely it is inequitable that the hirer shall be paid for an animal that never belonged to him!

(8) I.e.,the freedom from responsibility for it, and the right to be paid by the borrower.
(9) By swearing that it died a natural death.
(10) Lit., 'will talk in an action.'
(11) That it had actually died a natural death.
(12) Out of the hundred, so that at their expiration A would have another ten days.
(13) For the Mishnah states that the hirer owes nothing to the owner, but the borrower is liable to the hirer. This is a general rule, and holds good even if the borrower is actually the owner, for the principle is the same. Furthermore, each borrowing is a separate transaction, notwithstanding that the borrowings run concurrently, and each imposes a separate liability. Hence the owner may have to pay several animals to the hirer.
(14) Since the cow is dead, that argument cannot be used, and each borrowing and hiring is a separate transaction.
(15) He agrees with R. Aha of Difti. Notwithstanding that there were two borrowings, they are regarded as one in the final analysis.
(16) Therefore the borrower, here the actual owner, must pay for it.
(17) I.e., the owner must supply him with an animal for the remaining period of hiring — in this case, ten days.

Talmud - Mas. Baba Metzia 36a

Sometimes both are liable to a guilt-offering, sometimes the hirer is liable to a sin-offering and the borrower to a guilt-offering, and sometimes the hirer is liable to a guilt-offering and the borrower to a sin-offering.[1] How so? For denying monetary liability [on oath] a guilt-offering is incurred; for a false statement,[2] a sin-offering.[3] 'Sometimes both are liable to a sin-offering.' E.g., if it died a natural death, and they maintained that an accident had befallen it. Thus, the hirer, who is free [from responsibility] in both cases,[4] is liable to a sin-offering, and the borrower, who is responsible in both cases, is [likewise] liable to a sin-offering. 'Sometimes both are liable to a guilt-offering.' E.g., if it was stolen, and they maintained that it had died of its work. Thus both deny monetary liability, since in fact they are responsible [for theft], whilst they free themselves. 'The hirer is liable to a sin-offering and the borrower to a guilt-offering.' E.g., if it died a natural death, and they maintained that it had died of its work. The hirer, who is free [from responsibility] in both cases, is liable to a sin-offering; the borrower, who is liable if it dies a natural death but frees himself with [the plea that] it died of its work, to a guilt-offering. 'The hirer is liable to a guilt-offering, and the borrower to a sin-offering.' E.g., if it was Stolen, and they maintained that it had died naturally. The hirer, who is liable for theft and loss but frees himself with [the plea,] it died naturally, incurs a guilt-offering; the borrower, who is responsible in both cases, a sin-offering.

Now, what does he [R. Jeremiah] thereby inform us?[5] — [His purpose is] to oppose R. Ammi's dictum, viz., For every oath which the judges impose no liability is incurred on account of an 'oath of utterance' because it is said, Or if a soul swear, uttering with his lips [etc.],[6] which implies a voluntary oath.[7] Therefore he informs us that it is not as R. Ammi.

It has been stated: If one bailee entrusted [his bailment] to another bailee — Rab said: He is not liable;[8] R. Johanan maintained: He is liable.[9] Abaye said: According to Rab's ruling, not only if a gratuitous bailee entrusted [the bailment] to a paid bailee, thereby enhancing its care; but even if a paid bailee entrusted [it] to an unpaid one, thus weakening its care, he is still not responsible. Why? Because he entrusted it to an understanding being.[10] Whilst according to R. Johanan's view: not only if a paid bailee entrusted [it] to an unpaid one, thus weakening its care; but even if an unpaid bailee entrusted it to a paid one, thereby enhancing its care, he is still responsible. Why? Because he [the bailor] can say to him, 'It is not my desire that my bailment should be in charge of another person.'

R. Hisda said: This ruling of Rab was not stated explicitly, but by implication. For there were certain gardeners who used to deposit their spades every day with a particular old woman. But one day they deposited them with one of themselves. Hearing the sounds of a wedding, he went out and entrusted them to that old woman. Between his going and returning, their spades were stolen, and when he came before Rab, he declared him not liable. Now, those who saw this thought that it was because if a bailee entrusts [the bailment] to another bailee he is free [from liability]; but that is not so: there it was different, Seeing that every day they themselves used to deposit [their spades] with that old woman.

Now, R. Ammi was sitting and recounting this discussion, whereupon R. Abba b. Memel raised an objection before him: IF A MAN HIRES A COW FROM HIS NEIGHBOUR, LENDS IT TO ANOTHER, AND IT DIES A NATURAL DEATH, THE HIRER MUST SWEAR THAT IT DIED NATURALLY, AND THE BORROWER MUST PAY THE HIRER. But if this [sc. R. Johanan's ruling] be correct, let him [the owner] say to him, ‘It is not my desire that my bailment should be in the hands of another person’! — He replied: The circumstances here are that the owner authorised him to lend it. If so, he ought to pay the owner![11] — It means that he said to him, ‘At your discretion’.[12]

Rami b. Hama objected [from the following Mishnah]: If one deposited money with his neighbour, who bound it up and slung it over his shoulder[13] [or] entrusted it to his minor son or daughter and locked [the door] before them, but not properly,[14] he is responsible, because he did not guard [it] in the manner of bailees.[15] Hence, it is only because they were minors; but if they were adults, he would be free [from liability]. Yet why so? Let him say to him, ‘It is not my desire that my bailment should be in the hands of another person’! — Said Raba: He who makes a deposit

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(1) The reference is to the Mishnah, where the hirer of an animal then lends it to another.

(2) Lit., ‘utterance of lips.’ V. Shebu. 32b.

(3) If one swears falsely, profiting thereby, he is liable to a guilt-offering; if he does not profit thereby, thus taking an ‘oath of utterance’, to a sin-offering] This is deduced from Lev. V, 4 f, 21, 25.

(4) Whether it dies a natural death or is the victim of a mishap.

(5) All these follow from well established principles in the last Mishnah, in Shebu. 49b, and R. Jeremiah adds nothing new.

(6) Lev. V, 4.

(7) I.e., in his opinion an ‘oath of utterance’ is only one taken quite voluntarily; but if imposed by a court, even if nothing is gained thereby, it is not an ‘oath of utterance’.

(8) For whatever he would not have been liable had he kept it himself.

(9) Even for unpreventable accidents, for which he would not have been liable had he kept it himself.

(10) I.e., who is capable of giving due care.

(11) The assumption is that he permitted him to lend it to that particular person; but in that case, it is as though he himself had lent it, and therefore he ought to receive the compensation.

(12) I.e., he gave him a general authorisation; hence the hirer is regarded as the lender and payment is made to him.

(13) Lit., ‘behind him.’

(14) I.e., he shut them in the house, so that they could not go out with the money, but did not close the door properly.

(15) V. infra 42a.

Talmud - Mas. Baba Metzia 36b

does so with the understanding that his [the bailee's] wife and children [may be put in charge thereof]. The Nehardeans said: This may be deduced too [from the Mishnah quoted] , for it states, ‘or entrusted it to his minor son or daughter . . . he is responsible’; hence, [if] to his adult son or daughter, he is not responsible, whence it follows that if [he entrusts it] to strangers, whether adults or minors, he is liable. For if otherwise, he [the Tanna] should have simply taught ‘minors’ : this proves it.

Raba said: The law is, If one bailee entrusts [the bailment] to another, he is responsible. Not only if a paid bailee entrusts [it] to an unpaid one, so weakening its care; but even if an unpaid bailee entrusts to a paid one, he is [still] responsible. Why? Because he [the bailor] can say to him, ‘You I believe on oath: the other I do not.’[1]

It has been stated: If he [the bailee] was negligent thereof,[2] and it went out into a meadow[3] and died naturally:[4] Abaye in Rabbah's name ruled that he is liable; Raba in Rabbah's name ruled that he is not liable. ‘Abaye in Rabbah's name ruled that he is liable.’ Any judge who does not give such a verdict is not a judge: not only is he liable on the view that , if the beginning is through negligence, and the end through an accident, one is liable;[5] but even on the view that one is not liable, in this case he is. Why? Because we say, The air[6] of the meadow land killed it.[7] ‘Raba in Rabbah's name ruled that he is not liable.’ Any judge who does not give such a verdict is not a judge: not only is he not liable on the view that, if the beginning is through negligence, and the end through an accident , one is not liable; but even on the view that he is liable, in this case he is not. Why? Because we Say, What difference does one place or another[8] make to the Angel of Death?[9] Now, Abaye admits that if it returned to its owner [sc. the bailee] and then died, he is free. Why? Because it had returned, and it could not be said that the air of the meadow killed it. Whilst Raba admits that if it was stolen from the meadow and died naturally in the thief's house, he [the bailee] is responsible. Why? Had the Angel of Death left it alone, it still would have been in the thief's house.[10]

Abaye said to Raba: According to you, who maintain, what difference does this place or that make to the Angel of Death: when R. Abba b. Memel raised an objection before R. Ammi, and he answered him, It means that the owner authorised the hirer to lend it,[11] — he should rather have answered him, What difference does this place or another make to the Angel of Death?[12] — He replied, According to you, who teach [the reason of R. Johanan's ruling[13] as being that the bailor can say,] ‘I do not wish my bailment to be in the hands of another’, that objection [of R. Abba b. Memel] can be raised.[14] But according to myself, who [maintain that it is because he can say,] ‘You I believe on oath, whilst the other I do not believe on oath,’ the objection cannot be raised at all.[15]

Rami b. Hama objected: If he [the bailee] took it up to the top of steep rocks and it fell and died, it is no accident.[16] Hence, if it died naturally, it is accounted an accident and he is not liable. Yet why so? Let him [the bailor] say to him, The [cold] mountain air killed it, or the exhaustion of [climbing] the mountain killed it! — The meaning there is that he took it up to a fertile and goodly pasture ground.[17] If so, it is the same even if it fell?[18] — He should have supported it [to prevent it from falling], but did not. If so, consider the first clause: If it ascended to the top of steep rocks and then fell down, it is an accident. Yet there too he should have supported it! — That holds good only if he supported it in its ascent, and supported it when it fell.[19]

SAID R. JOSE: HOW SHALL ONE DO BUSINESS WITH HIS NEIGHBOUR'S COW etc. Rab Judah said in Samuel's name: The halachah is as R. Jose. R. Samuel b. Judah asked Rab Judah: You have told us in Samuel's name that R. Jose disputed

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(1) And it is not within the bailee's power to put the bailor in such a position that he shall be forced to believe the other person on oath; hence he is responsible.

(2) Sc. the animal entrusted to his care, placing it in a stable improperly closed.

(3) Where it might have been stolen or killed by wild beasts.

(4) Thus the bailee was negligent, but the actual death per se was one for which a bailee is not responsible.

(5) V. infra 42a.

(6) Lit., ‘heat’.

(7) Hence his death is directly the result of his negligence.

(8) Lit., ‘here or there.’

(9) Therefore the initial negligence had absolutely nothing to do with the animal's death. But in the case discussed supra 42a (q.v.) it did have some slight bearing upon it.

(10) And lost, as far as the owner was concerned. Since this is directly the result of the bailee's negligence, he is responsible

(11) V. supra 36a.

(12) This answer is preferable, for then the Mishnah on 35a is not limited to a particular instance.

(13) Supra 36a.

(14) And having raised it, R. Ammi replied as he thought fit.

(15) Since in the Mishnah the hirer himself swears.

(16) Infra 93b.

(17) Which is a natural thing for shepherds: hence he is not liable on the score of cold air or exhaustion.

(18) Since, on the present hypothesis, he merely did his duty in taking it up.

(19) The animal's weight, however, being too much for him.

Talmud - Mas. Baba Metzia 37a

in the first [Mishnah][1] too: now, is the halachah as his view [there too] or not? — He replied: R. Jose did indeed dispute in the first too, and the halachah agrees with him in the first too. It has been stated likewise: R. Eleazar said: R. Jose differed in the first too, and the halachah agrees with him there also. But R. Johanan maintained: R. Jose agreed in the first [Mishnah], seeing that he [the bailee] had already paid for it.[2] [What!] only if he actually paid, but not otherwise? Yet did not R. Hiyya b. Abba say in R. Johanan's name: ‘HE PAID’ is not literally meant , but once he says, ‘I will pay’ , even if he has not done so [the ruling of the Mishnah holds good]? — Say thus: R. Jose agreed in the first [Mishnah], seeing that he had already declared, ‘I will pay for it’.

MISHNAH. IF A MAN SAYS TO TWO [OTHERS] I ROBBED ONE OF YOU OF A MANEH, BUT DO NOT KNOW WHICH OF YOU, OR THE FATHER OF ONE OF YOU DEPOSITED A MANEH WITH ME, AND I DO NOT KNOW WHOSE: HE MUST GIVE EACH A MANEH, SINCE HE HIMSELF CONFESSED.[3] IF TWO MADE A DEPOSIT WITH ONE PERSON, ONE A MANEH[4] AND THE OTHER TWO HUNDRED [ZUZ]: — THIS ONE SAID, THE TWO HUNDRED IS MINE, AND THE OTHER SAID LIKEWISE, THE TWO HUNDRED IS MINE: HE MUST GIVE A MANEH TO EACH, WHILST THE REST LIES UNTIL ELIJAH COMES.[5] SAID R. JOSE: IF SO, WHAT WILL THE DECEIVER LOSE?[6] BUT THE WHOLE MUST LIE UNTIL ELIJAH COMES. LIKEWISE, IF TWO UTENSILS [ARE DEPOSITED], ONE WORTH A MANEH AND THE OTHER ONE THOUSAND [ZUZ]: THIS ONE CLAIMS, THE BETTER ONE IS MINE, THE OTHER CLAIMS, THE BETTER ONE IS MINE: THE INFERIOR ONE MUST BE GIVEN TO ONE OF THEM, AND OUT OF THE SUPERIOR THE VALUE OF THE INFERIOR IS GIVEN TO THE SECOND, THE REST REMAINING UNTIL ELIJAH COMES. SAID R. JOSE: IF SO, WHAT WILL THE DECEIVER LOSE? BUT THE WHOLE MUST LIE UNTIL ELIJAH COMES.

GEMARA. This proves that money is collected as a result of doubt, and we do not say, Let the money stand in the presumptive ownership of its possessor. But this is contradicted by the following: IF TWO MADE A DEPOSIT WITH ONE PERSON, ONE A MANEH AND THE OTHER TWO HUNDRED [ZUZ], THIS ONE SAID, THE TWO HUNDRED IS MINE, AND THE OTHER SAID LIKEWISE, THE TWO HUNDRED IS MINE: HE MUST GIVE A MANEH TO EACH, WHILST THE REST LIES UNTIL ELIJAH COMES! — Said he to him:[7] Would you oppose a bailment to robbery! In the case of robbery, since he committed a transgression, the Rabbis penalised him;[8] whereas in the case of a bailment, where no wrong was committed by him, the Rabbis did not penalise him. But bailment may be opposed to bailment, and robbery to robbery. ‘Bailment may be opposed to bailment’. For the first clause teaches, OR, THE FATHER OF ONE OF YOU DEPOSITED A MANEH WITH ME, AND I DO NOT KNOW WHOSE; HE MUST GIVE EACH A MANEH. Now this is contradicted by [the Baraitha just quoted,] ‘If two made a deposit, etc.’ — Said Raba: In the first clause[9] it is regarded as though they had entrusted [their money] to him in two separate packages, so that he should have paid particular attention;[10] but in the second clause it is regarded as though they had made their deposits with him in a single package, so that he was not bound to take particular attention.[11] [How so?] Both made their deposits with him simultaneously,[12] so that he [the bailee] can say to them, You yourselves were not particular with each other:[13] should I then have been particular?

'And robbery may be opposed to robbery'. Here we learn IF A MAN SAYS TO TWO OTHERS, I ROBBED ONE OF YOU OF A MANEH, BUT I DO NOT KNOW WHICH OF YOU, OR, THE FATHER OF ONE OF YOU DEPOSITED A MANEH WITH ME, AND I DO NOT KNOW WHOSE: HE MUST GIVE EACH A MANEH. But the following is opposed thereto: If a man robbed one out of five, and does not know which one he robbed, and each claims, 'It was me he robbed': he may place the stolen article among them and depart: this is R. Tarfon's view.[14] This proves that money is not collected as a result of doubt, but we say, Let the money stand in the presumptive ownership of its possessor![15] And whence [does it follow] that our Mishnah here agrees with R. Tarfon?[16] Because It was taught thereon:[17] R. Tarfon admits that if one says to two people, 'I robbed one of you of a maneh, but do not know which of you,' he must give each a maneh![18] — There they were claiming from him; here it means that he came to fulfil his duty in the sight of Heaven.[19] This may be proved too, for it is stated SINCE HE HIMSELF CONFESSED.[20] This proves It.

The Master said: 'There they were claiming from him.' And what does he plead? — Rab Judah said in Rab's name: He is silent. R. Mattena said in Rab's name: He

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(1) Supra 34b, R. Jose maintaining: How can the bailee pocket the double repayment due on account of the theft of the bailor's property?
(2) And thereby acquired all rights in it.
(3) This is discussed in the Gemara.
(4) = 100 Zuz.
(5) V. p. 6, n. 2.
(6) There is nothing to induce him to confess.
(7) The answerer to the questioner, though their names are unmentioned. [This is, however, omitted in several MSS, v. D.S. a.l.]
(8) Therefore the first clause of the Mishnah rules that he must pay both.
(9) Where only one person deposited money with him.
(10) Who gave him the money; just as had two people made deposits at different times, hence in different packages, it would have been the bailee's duty to see which package belonged to each. Since he did not pay close attention, he must satisfy both claimants.
(11) What part of the package belonged to each other.
(12) Each in the other's presence.
(13) To prevent the other from seeing how much he deposited, lest he claim it as his own.
(14) B.K. 103b.
(15) And the robber is not bound to repay each, as in our Mishnah.
(16) Perhaps it reflects R. Akiba's views, who differs from R. Tarfon, v. B.K. ibid.
(17) If a man robbed one out of five etc.
(18) In agreement with our Mishnah.
(19) Legally he is not bound to pay all claimants, and the second Mishnah quoted treats of this aspect. But morally he can atone for his sin only by repaying all, so that none shall have suffered through his theft.
(20) Which shews that he was not being dunned, but wished to clear himself.

Talmud - Mas. Baba Metzia 37b

protests.[1] On the view that he protests — but silence is as admission.[2] But on the view that he is silent — this silence here[3] is not an admission, because he can say, 'The reason that I was silent before each is that I thought, Perhaps it was this one.'

The Master said: 'He may place the stolen article among them and depart.' And can all of them take it and go! Did not R. Abba b. Zabda say in Rab's name: Whenever he is doubtful if an article was left [in a certain spot], he must not take it in the first instance; but if he took, must not return it?[4] — Said R. Safra: It is laid by.[5]

Abaye said to Raba: Did then R. Akiba Say,[6] 'That is not the way to clear him of his crime, but he must restore the theft to each one;' thus proving that money is collected as a result of doubt, and we do not say, Let the money stand in the presumptive ownership of its possessor? But the following is opposed thereto: If a house collapsed on a person and his mother:[7] the son's heirs maintain, 'The mother died first;'[8] whilst the mother's heirs maintain, 'The son died first:'[9] both[10] agree that they must divide. And R. Akiba said thereon: I agree in this case that the property remains in its presumptive ownership![11] — There, he replied to him, both [heirs] plead 'perhaps';[12] but in the case of a person robbing one man of five, there is certainty against doubt.[13] But our Mishnah here, IF A MAN SAYS TO TWO [OTHERS], 'I ROBBED ONE OF YOU OF A MANEH,' which is a case of 'perhaps' on both sides, nevertheless states HE MUST GIVE EACH A MANEH! (Whence do you know that it agrees with R. Akiba? — Because it is taught thereon:[14] R. Tarfon admits that if one says to two people, 'I robbed one of you of a maneh, but do not know which,' [he must give each a maneh]. Now, to whom does he admit? [Surely] to R. Akiba, his opponent? And whence do you know that both sides plead 'perhaps?' Firstly, because it is not stated, They demand of him; and secondly, R. Hiyya taught: Each replies, 'I do not know!')[15] — But we have already interpreted it of one who wishes to fulfil his duty in the sight of heaven!

Rabina said to R. Ashi: Did then Raba say that whenever [deposits are made] in two separate packages, he [the bailee] should have paid particular attention?[16] But Raba — others state, R. Papa — said: All admit in the case of two people who entrusted [their lambs] to a shepherd, that the shepherd places [them] between them and is quit![17] — He replied: The circumstances there are that they deposited [the lambs] in the shepherd's fold without his knowledge.

LIKEWISE, IF TWO UTENSILS [ARE DEPOSITED], ONE WORTH A MANEH AND THE OTHER ONE THOUSAND [ZUZ] etc. And both [instances] are necessary. For if the first alone were stated, I might argue, Only there [sc. in the case of money] do the Rabbis rule [thus], because no loss is caused; but in the latter case, where great loss is involved [in the breaking of the larger utensil], they agree with R. Jose. And if the latter case [alone] were stated, I might argue, Only here does R. Jose rule [thus], but in the former, he agrees with the Rabbis.[18] Thus both are necessary.

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(1) To each claimant, 'I do not know you', thus denying the claim.

(2) Therefore he would have to pay each.

(3) [Despite the generally accepted principle that silence is treated as admission (Yeb. 87b).]

(4) This refers to an object bearing no mark of identification, found in a place where it is somewhat guarded, so that it is doubtful whether it was lost or intentionally put there. (V. Supra 25b.) Now, 'he must not return it' means that it must not be given to a claimant who cannot prove his ownership, for the true owner may come later and prove, by means of witnesses, that he deposited it there. Hence here too, if the money is left among the five, and all take it, the true victim suffers a permanent loss.

(5) The phrase means, he places the stolen article before them at court, and departs, i.e., he is now clear in the eyes of the law. Nevertheless, the money is kept until ownership is proved.

(6) In reference to R. Tarfon's ruling where one of five persons was robbed.

(7) And it is not known who predeceased whom, whilst the mother possessed property in her own rights.

(8) Hence her son inherited her property; and on his death, we inherit it.

(9) Hence we are the mother's direct heirs in his absence.

(10) Beth Shammai and Beth Hillel, who dispute in other cases.

(11) B.B. 155b. It is disputed by Amoraim a.l. whose presumptive ownership is meant. But whosoever Is meant, we see that R. Akiba admits that money cannot be collected when doubt arises.
(12) Neither can really pretend to know with certainty which died first.
(13) Whereas the thief himself is doubtful, each of the five declares positively that he was the victim.
(14) Sc. the other Mishnah.
(15) And R. Hiyya's Baraithas were authoritative expositions of the Mishnah. Hence the difficulty remains: the two rulings of R. Akiba are contradictory.
(16) V. supra 37a.
(17) This too refers to a controversy between R. Akiba and R. Tarfon. A and B: one deposited one lamb with a shepherd, and the other two, each subsequently maintaining that the two were his; then the shepherd merely puts the three lambs before them. Now, lambs are certainly as deposits in separate packages, yet the shepherd is not required to return two lambs to each. This contradicts Raba's former statement.
(18) Inverting the reasoning.

Talmud - Mas. Baba Metzia 38a

But R. Jose's reason is that the deceiver may suffer loss![1] — Hence both are necessary on the view of the Rabbis, and he [the Tanna] teaches a case of ‘not only this, but this too.’[2]

MISHNAH. IF A MAN DEPOSITS PRODUCE WITH HIS NEIGHBOUR, EVEN IF IT IS SUFFERING LOSS,[3] HE MUST NOT TOUCH IT. R. SIMEON B. GAMALIEL SAID: HE MUST SELL IT BY ORDER OF THE COURT, BECAUSE IT IS LIKE RETURNING LOST PROPERTY TO ITS OWNER.

GEMARA. What is the reason?[4] — Said R. Kahana: A man prefers a kab of his own to nine of his neighbour's.[5] But R. Nahman b. Isaac said: We fear lest the bailor had declared it terumah and tithe for other produce.[6]

An objection is raised: If one deposits produce with his neighbour, he must not touch it . Therefore its owner may declare it terumah and tithe for other produce. Now, on R. Kahana's explanation, it is well: hence he states, ‘therefore’. But on the view of R. Nahman b. Isaac, how state ‘therefore’?[7] — It means this: now that the Rabbis have ruled that it may not be sold because we fear [that the owner may have declared, etc.], therefore the owner may declare it terumah and tithe for other produce.

Rabbah b. Bar Hanah said in R. Johanan's name: The dispute is only when there is the normal rate of decrease; but when [the loss] exceeds the normal rate of decrease, all agree that it must be sold by a court order. Now, he certainly disagrees with R. Nahman b. Isaac;[8] but must we say that he differs from R. Kahana [too]? — [No.] R. Kahana referred only to the normal decrease. But did he not Say, A man prefers a kab of his own to nine of his neighbour's![9] — That was a mere exaggeration.

An objection is raised: ‘therefore its owner may declare it terumah and tithe for other produce;’ but let him fear lest [the loss] exceeded the normal decrease, so that it was sold , hence he [the bailor] eats tebel![10] — [A loss] above the normal decrease is rare.[11] But what if it does happen — we sell it? But let us fear lest the owner might have declared it terumah and tithe for other produce![12] — It is, in fact , sold to priests [only] at the price of terumah.[13] Then according to R. Nahman b. Isaac too, let it be sold to priests at the price of terumah! — They differ in this: viz., Rabbah b. Bar Hanah holds that [loss] above the normal decrease is altogether rare, and when it does happen, it exceeds the usual rate only after a considerable time.[14] Hence, if the owner declared it terumah and tithe for other produce, he would have done so before its loss exceeded the normal;[15] therefore, when it does exceed it we can sell it to priests at the price of terumah. R. Nahman b. Isaac, however, maintains that a greater decrease than normal is quite frequent, and when it happens, it may happen immediately.[16] Therefore, should you say that it is sold, it may happen that it is sold early, and when the owner declares it terumah and tithe for other produce he is unaware that it is [already] sold , and so eats tebel.

An objection is raised: If one deposits fruit with his neighbour, and it rots; wine, and it sours; oil, and it putrefies, or honey, and it turns rancid, he [the bailee] may not touch it: this is R. Meir's ruling. But the Sages maintain: He effects a remedy for them by selling them on the instructions of the court; and when he sells, he must sell to strangers, not to himself. Similarly, when the charity overseers have no poor to whom to distribute [their funds], they must change [the copper coins] with others, not themselves.[17] The overseers of the soup kitchen,[18] when they have no poor to whom to make a distribution, must sell to others, not themselves. Now, incidentally he [the Tanna] states, ‘fruit . . . and it rots’: surely that means, even more than the normal decrease?[19] — No: [it means] within the normal deterioration. But ‘wine, and it sours, oil and it putrefies, or honey, and it turns rancid’ are more than normal deterioration! — These are different: having arrived at that stage, they remain so.[20] Now, when oil putrefies, or honey becomes rancid,

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(1) And that obviously applies to both cases equally: how then could it be argued that if the second clause alone were taught, I might think that he agrees with the Rabbis in the first?

(2) I.e., having first taught the instance of money, he proceeds to state, Not only do the Rabbis rule thus where it involves no loss, but even in a dispute about utensils, where definite loss is caused.

(3) Through mildew or rodents.

(4) Of the first view.

(5) He would rather have a smaller quantity grown by himself than a larger quantity produced by another.

(6) Lit., ‘for another place.’ Produce may be declared Terumah (v. Glos.) or tithe for other produce lying elsewhere. If the bailor had done this, it obviously may not be sold.

(7) Seeing that the reason that he may not touch it is precisely because the bailor may have declared it terumah or tithe for other produce.

(8) If we fear that it was declared terumah or tithe, it certainly may not be sold under any circumstances.

(9) Which is certainly more than normal.

(10) V. Glos.; the plural is used here. — The produce might have been sold before it was declared tithe, in which case the bailor now eats untithed produce.

(11) Lit., ‘is not found.’

(12) In which case the buyer, though possibly a zar, (q.v. Glos.) eats terumah, which is forbidden.

(13) Which is less than that of ordinary produce: firstly, because only priests may eat it; and secondly, because it may not be eaten at all if it becomes defiled.

(14) Lit., ‘at a time ahead.’

(15) So that the produce is properly tithed.

(16) Before the lapse of a considerable time.

(17) Copper coins were unsuitable for keeping a long time, being liable to tarnish and mould. Therefore they would be exchanged for silver ones.

(18) תמחוי ; actual food was collected for this purpose, not money, and it was distributed to those in immediate need of a meal. V. B.B. 8b.

(19) Yet R. Meir rules that it must not be touched, which contradicts R. Johanan.

(20) And do not deteriorate any further; therefore nothing is gained by selling them. But produce goes on rotting more and more.

Talmud - Mas. Baba Metzia 38b

for what is it fit?[1] — Oil is of use to leather merchants;[2] honey, for the soreness of camels.[3]

‘But the Sages maintain, he must effect a remedy for them by selling them on the instructions of the court.’ But what remedy does he effect?[4] — Said R. Ashi: In respect of the gourds.[5] Wherein do they differ?[6] — One master holds, We care about a great loss, but not about a small one;[7] whilst the other master [sc. the Rabbis] holds that we care even for a small loss.[8]

R. SIMEON B. GAMALIEL SAID: HE MUST SELL IT BY ORDER OF THE COURT, BECAUSE IT IS LIKE RETURNING LOST PROPERTY TO ITS OWNER. It has been stated: R. Abba son of R. Jacob said in R. Johanan's name: The halachah agrees with the Sages. But R. Johanan has already said that once. For Rabbah b. Bar Hana said in R. Johanan's name: Wherever R. Gamaliel taught in our Mishnah, the halachah agrees with him, excepting in respect to 'Surety', 'Zidon', 'And the second [ruling] on Proof'![9] — There is a dispute of Amoraim on R. Johanan's views.[10]

Now from R. Simeon b. Gamaliel we may deduce that a relative is authorised to enter upon a captive's estate; whilst from the Rabbis we may infer that a relative is not permitted to enter upon a captive's estate.[11] How so? Perhaps R. Simeon b. Gamaliel ruled thus only in this case, since the stock itself is consumed, but there he too may hold that we do not authorise possession.[12] Whilst [on the other hand] the Rabbis rule thus only here, in accordance with either R. Kahana['s reason] or R. Nahman b. Isaac['s]; but there, it may indeed be that entry is permitted. Are we to say that these are two opinions [independent of each other]? But Rab Judah said in Samuel's name: The halachah agrees with R. Simeon b. Gamaliel; whilst Samuel ruled; A relative is permitted to enter upon a captive's estate. Surely that is because it is one ruling?[13] — No. They are two rulings.[14] Reason too supports this. For Raba said in R. Nahman's name: The halachah agrees with the Sages; nevertheless R. Nahman ruled: A relative is authorised to enter a captive's estate. Hence this proves that they are two different rulings. This proves it.

It has been stated: If a man is taken captive, Rab said: His next of kin is not authorised to enter upon his estate; Samuel said: His next of kin is authorised to enter into his estate. Now, if it was heard that he was dead, all agree that he is authorised to enter.[15] They differ where it was not heard that he had died: Rab said: We do not authorise him to enter, lest he cause them [the estates] to deteriorate;[16] but Samuel said: We authorise him to take possession, for since a Master said, 'We value it for them as for an aris',[17] he will not permit deterioration.

An objection is raised: R. Eliezer said: From the implication of the verse, And my wrath shall wax hot, and I will kill you with the sword,[18] I know that their wives shall be widows and their children fatherless; why then is it stated, and your wives shall be [widows, and your children fatherless]?[19] This teaches that their wives will seek to remarry and not be permitted, and their children desire to enter upon their father's estate and not be allowed![20] — Said Raba: What we learnt[21] is [that they are not permitted] to take possession and sell.[22] Now, this happened in Nehardea, and R. Shesheth decided the matter by reference to this Baraitha.[23] Said R. Amram to him: But perhaps what we learnt[24] was, to enter and sell? — Perhaps you are from Pumbeditha, he retorted, where they draw an elephant through the eye of a needle.[25] For these are[26] taught side by side with [the widowhood of] the wives: just as these are not permitted to [remarry] at all, so here too, they [sc. the heirs] are not [allowed to take possession] at all.

Now, whether the next of kin is permitted to enter upon a captive's estate is disputed by Tannaim. For it has been taught: If one enters upon a captive's estate, he is not ejected thence.[27] Moreover, even if he [the heir] heard that they [the owners] were making ready to come [to reclaim the land], and he anticipated it by reaping and consuming [the produce], he is a zealous man who profits thereby.[28] Now, the following are [included in the term], a 'captive's estates': If one's father, brother, or one of his legators went overseas, and it was reported that he had died.[29] If a man enters into abandoned estate, he is ejected therefrom. And the following are abandoned[30] estates: If one's father, brother, or one of his legators went overseas, and it was not reported that he had died. R. Simeon b. Gamaliel observed: I have heard that abandoned are as captive['s estates].[31] If a man enters into forsaken property[32] he is ejected thence. And the following are forsaken estates: If one's father, brother, or one of his legators is here [sc. in the country], but it is not known whither he has gone. Now, wherein do the former differ [from the latter], that the former are designated ‘abandoned,’ and the latter ‘forsaken’?

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(1) That R. Meir rules that it is sold.

(2) To make the leather supple.

(3) To rub the sore spots on the camel's back, caused by the chafing of the saddle.

(4) Since deterioration, in the case of oil and honey, does not go further, whilst its value has already dropped, how is the matter remedied by the sale?

(5) In which they are contained. These at least are saved, whereas if the honey or oil is kept therein they too are affected.

(6) Sc. R. Meir and the Rabbis, since on the present hypothesis R. Meir agrees that produce must be sold if the deterioration exceeds normal.

(7) Therefore when produce suffers its normal decrease, or oil and honey become rancid, and only their containers can be saved — in both cases a small loss — they must not be sold.

(8) To prevent it if possible.

(9) ‘Surety’, v. B.B. 173b; ‘Zidon’, v. Git. 74a; ‘Second (ruling) on Proof’, Sanh. 31a. Thus R. Johanan had already stated that in all cases, excepting these three, the halachah is as R. Simeon b. Gamaliel: why then state it again specifically in respect of our Mishnah?

(10) Rabbah b. Bar Hana held that he had stated a general rule, whilst R. Abba son of R. Jacob disputed it.

(11) If a man is taken captive, leaving his estate untended, it is disputed below whether a relative, sc. his next of kin, may take temporary possession of it, so as to save it from loss. Now, since R. Simeon b. Gamaliel holds that produce may be sold by the bailee to save it from loss, by the same reasoning the next of kin is permitted to enter a captive's estate, the Rabbis holding the reverse.

(12) The produce may entirely rot away, but real estate, even if it suffers loss through neglect, can never be destroyed entirely.

(13) I.e., the two cases are interdependent.

(14) Samuel's two views being coincidental.

(15) Tosaf.: ‘heard’ means that there was a rumour substantiated by one witness only. — Now, if the rumour is proved false, the owner returning before the usufruct of the estate has been enjoyed by the next of kin, the latter receives pay as a farmer-tenant, aris (v. Glos.); whilst if the rumour is true, he is the heir. Hence he may enter, and there is nothing to fear.

(16) Thinking that the owner may return, he will only be anxious to get as much out of the land as possible, neglecting to fertilise it and so exhausting the soil.

(17) Should the owner return, the relative is given a share in the produce as though he were an aris.

(18) Ex. XXII, 23.

(19) Ibid.

(20) Thus they will remain permanently widows and fatherless (in the sense that they cannot set up their own estate). This condition can come about when the fathers are taken captive and their death is not proved, R. Eliezer's dictum shows that in such a case the children are not permitted to enter their father's estate.

(21) [Render with MS.M.: ‘(What is meant is that . . .) to take, etc.,’ deleting ‘What we learnt,’ as this citation is not a Mishnah.]

(22) But they are permitted to take possession.

(23) That the heir should not enter the captive's estate.

(24) [Or, ‘What was meant was . . . . cf. p. 232, n. 9.]

(25) The scholars of the Pumbeditha academy were extremely subtle.

(26) The children who are not permitted to enter upon their father's estate.

(27) Lit., ‘we do not withdraw it from his hand.’

(28) I.e., his action is not blameworthy.

(29) V. p. 232. n. 3.

(30) נטושים .

(31) Viz., that the heirs are not ejected.

(32) רטושים ; the Gemara states below that this implies voluntary abandonment.

Talmud - Mas. Baba Metzia 39a

‘Abandoned’ implies against their will, as is is written, But the seventh year thou shalt let it rest and abandon it,[1] [i.e.,] by royal dispensation;[2] whereas ‘forsaken’ implies voluntarily, as it is written, The mother shall be forsaken[3] of her children.[4]

A Tanna taught: And for all these a valuation is made as for an aris.[5] To what does this refer? Shall we say, To captives: if he is considered ‘a zealous man who profits thereby,’[6] can there be a question concerning his own improvements![7] But if to forsaken property — surely it is taught that they are ejected therefrom! — Hence It must refer to abandoned [property]. [Then] according to whom? Shall we say, according to the Rabbis: but they rule that he is ejected therefrom. If R. Simeon b. Gamaliel, surely he observed, ‘I have heard that abandoned are as captives’ [estates]! — ‘They are as those of captives’, but not altogether so:[8] ‘as those of captives,’in that they are not ejected therefrom; ‘but not altogether so,’ for there [sc. in the case of captives’ estate] he is considered a zealous man who profits thereby, whereas here a valuation is made for him as for an aris.[9]

Now, wherein does it differ from what we learnt: If a man incurs expenditure on his wife's property, [whether] he expended much and enjoyed little [usufruct] or the reverse, what he expended he expended, and what he enjoyed he enjoyed![10] This is analogous only to what we learnt:[11] If a man incurs expenditure for the property of his wife, a minor, he is regarded as though he had incurred it for that of a stranger.[12] This shows that since he [her husband] could not place full reliance,[13] the Rabbis enacted a measure on his behalf,[14] in order that he might not cause them [the wife's estates] to deteriorate;[15] so here too, the Rabbis enacted a measure on his behalf, so that he might not cause them [the abandoned estates] to deteriorate.

‘And for all of these a valuation is made as for an aris.’ What does ‘all of these’ include? — It includes R. Nahman's dictum in Samuel's name: If a man is taken captive, his next of kin is authorised to enter into his estates. If he leaves voluntarily, his next of kin is not permitted to enter upon his estates.[16] Now R. Nahman, giving his own opinion, said: A fugitive is as a captive. Why does he flee? Shall we say, on account of poll-tax? But that is voluntary![17] — But [he means] one who flees on account of political offences.[18]

Rab Judah said in Samuel's name: If a man is taken captive, and leaves standing corn to be reaped, grapes to be vintaged, dates to be harvested, or olives to be gathered, Beth din enter his estate and appoint a steward who reaps, vintages, harvests and gathers; after that the next of kin is permitted to take possession.[19] Then let a permanent steward be appointed![20] — A steward is not appointed for bearded men.[21]

R. Huna said: A minor is not permitted to enter upon a captive's estates, nor the next of kin upon a minor's estates, nor a next of kin of a next of kin upon a minor's estates.[22] ‘A minor is not permitted to enter upon a captive's estates,’ lest he injure them. ‘Nor a next of kin of a next of kin upon a minor's estates’ — this refers to a brother on the mother's side.[23] ‘Nor a next of kin upon a minor s estates:’ since he [the minor] cannot protest, he may take presumptive possession thereof.[24] Said Raba: It follows from R. Huna's dictum that one cannot claim presumptive ownership of a minor s estate,[25]

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(1) ונטשת Ex. XXIII, 11; the reference is to the seventh year, in which land and its produce must be ‘abandoned’ — i.e., left free for all.

(2) By Scriptural command; hence against the owner's desire.

(3) רטשה .

(4) Hos. X, 14; Rashi explains that the reference is to voluntary flight, for fear of the ensuing war.
(5) V. Glos.
(6) And takes the whole of the produce (Rashi).
(7) Surely they belong entirely to him, not merely a third or quarter, as in the case of an aris.
(8) Lit., ‘as captives and not as captives.’
(9) For since it was not reported that the owner had died, the heir is assumed to have entered into his estates on the tacit understanding that he should be paid as an aris.
(10) Keth. 79b. The reference is to ‘property of plucking,’ the usufruct of which belongs to the husband, whilst the principal remains the wife's, reverting to her on the husband's death or if he divorces her. — In this case then the husband or his heirs cannot strike a balance between expenditure and revenue, and the question is raised, Why not give the same ruling in the case of abandoned property, instead of regarding the next of kin as an aris.
(11) In Keth. 80a the reading is: to what R. Jacob said in R. Hisda's name.
(12) The wife referred to is a fatherless child, who had not attained her majority. By Biblical law, only a father could contract a marriage on behalf of his daughter, a minor, but the Rabbis extended the privilege to her mother or brothers, in the absence of a father. (She herself cannot contract a marriage, her actions, as a minor, having no legal validity.) This marriage having only Rabbinical force, she could annul it, on attaining her majority, by declaring that she did not want her husband (mi'un), whereon she became free without the formality of a divorce.
(13) That the estate would remain in his possession, as she might annul the marriage.
(14) Sc. that he should be paid as an aris if his wife annulled the marriage.
(15) Through his neglect.
(16) [Had he approved of his next of kin, he himself would have appointed him over his estate before he left.]
(17) Surely he himself could have managed to appoint some one before he left, as there was no reason for the hasty flight.
(18) Others: ‘murder’. The penalty being a very heavy one, his flight is not voluntary. This case of R. Nahman is included in the term, ‘all of these.’
(19) And is paid as an aris. But he cannot take that which is completely grown without his toil.
(20) Rashi: who will receive nothing for his stewardship.
(21) No one is prepared to work for nothing on behalf of grown men. Stewards are indeed appointed on behalf of minors left fatherless, because stewardship then is regarded as a good deed.
(22) E.g., A is the brother of B, a minor, by the same father, whilst C is A's half brother by his mother, hence no blood-relation of B at all.
(23) As explained in n. 1.
(24) If one enjoys three consecutive years’ possession of an estate, without its owner formally protesting that it is not his, he is assumed to have bought or otherwise acquired it. Now, a minor cannot protest, and so the relative may claim it as his after three years, on the ground that he, and not the minor, had inherited them; the same applies to the relative's relative (as explained in n. 1), who may claim it as heir of the first next of kin.
(25) A cannot claim that he bought the estate from B, the minor's father, on the strength of three years’ undisturbed possession. This follows from the fact that R. Huna merely forbade a relative to enter upon a minor's estates, but not a stranger, which shows that a stranger's claim of presumptive ownership is ignored.

Talmud - Mas. Baba Metzia 39b

even if he attained his majority.[1] Now, this applies only to a brother by his father,[2] but there is no objection to a brother by his mother. And even of a brother by his father, this applies only to land; but there is no objection in respect of houses.[3] And even in respect of land, this holds good only if no deed of partition was drawn up.[4] But if a deed of partition had been drawn up, it is generally known.[5] This, however, is not so. It makes no difference whether a brother by his father or a brother by his mother,[6] whether land or houses, whether a deed of partition had been drawn up or not — we do not authorize them to take possession.

A certain old woman had three daughters; she and one daughter were taken captive, and of the other two daughters, one died, leaving a child behind. Said Abaye: What shall we do? Shall we [temporarily] assign the estates to the [third] Sister: but perhaps the old woman is dead, and a relative is not permitted to enter upon a minor's estates?[7] Shall we assign the estates to the child, but perhaps the woman is not dead, and a minor is not permitted to enter a captive's estate? — Said Abaye: Therefore half is given to the [last] sister, and a steward is appointed in respect of the other half on behalf of the child. Raba said: Since a steward is appointed for one half, a steward is appointed for the other half too. Subsequently it was heard that the old woman was dead.[8] Thereupon Abaye ruled: A third is given to the sister, a third to the child, and as for the remaining third,[9] a sixth is given to the sister, and a steward is appointed for the other sixth on behalf of the child. Raba said: Since a steward is appointed for one sixth, a steward is appointed for the other sixth.

There came a brother to Mari b. Isak from Be Hozai,[10] saying to him, ‘Divide [my father's estates] with me.’ ‘I do not know you,’ he replied. So they went before R. Hisda. Said he to him, ‘He [Mari] speaks truly to you, for it is written, And Joseph knew his brethren, but they knew him not,[11] which teaches that he had gone forth without the stamp of a beard and came [before them] with one.[12] Go then,’ he continued, ‘and produce witnesses that you are his brother.’ ‘I have witnesses,’ he replied, ‘but they are afraid of him, because he is a powerful man.’ Thereupon he said to the other [Mari], ‘Go you, and bring witnesses that he is not your brother.’ ‘Is that justice!’ he exclaimed, ‘the onus of proof lies on the claimant!’ ‘Thus do I judge in your case,’ he retorted, ‘and for all who are powerful men of your like’. ‘But after all,’ he argued, ‘witnesses will come and not testify [the truth]’.[13] ‘They will not commit two [wrongs],’ he rejoined.[14] Subsequently witnesses came [who testified] that he was his brother. ‘Let him share with me the vineyards and gardens which he planted,’ demanded he. ‘He speaks rightly to you,’ said he [R. Hisda], ‘For we learnt: If one leaves sons, adults and minors, and the adults improve the property, they improve it for both equally;[15]

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(1) After which the stranger had it in his possession three years. But this does not establish a claim, since he took possession whilst the orphan was a minor, who on attaining his majority may not have known that the estates were his father's, and hence did not protest.

(2) Who may claim that he inherited the estates.

(3) Since the neighbours can testify to their rightful ownership.

(4) Distinctly setting forth the portion of each.

(5) Lit. ‘it has a voice’. Hence there is no fear of a false claim.

(6) [As he can still claim it to be property belonging to his mother in her own right, to which he is entitled as heir.]

(7) For if she had died, part of her estates belonged to the grandchild.

(8) But nothing was known of the daughter.

(9) The share of the captive daughters.

(10) V. p. 508, n. 2.

(11) Gen. XLII, 8.

(12) So Mari may not recognise you too, even if you are his brother.

(13) If they are afraid of me, they will certainly testify in my favour whether it be the truth or not.

(14) Witnesses who can testify to your disadvantage may repress their evidence through fear of you, which is one wrong. But they will certainly not commit another by testifying falsely in your favour.

(15) Lit., ‘in the middle’. (V. B.B. 143b.) I.e., the minors take an equal share of the improvements.

Talmud - Mas. Baba Metzia 40a

and thus did Rabbah rule likewise, They improve it for both equally.’[1] Said Abaye to him:[2] How compare? There the adults are aware of the [existence of the] minors, and forego [their labour on their behalf]; but here, was he [Mari] aware [of him], that he should forego! Now, the matter travelled about[3] until it reached R. Ammi. Said he to them [his disciples]: Even a greater thing has been said, [viz.,] A valuation is made for them as for an aris:[4] shall he then not be paid [likewise] in his own![5] This [observation] was brought back to R. Hisda. Said he to them: How compare? There [in the case of a captive's estates] he entered with authority [of the court]; here he entered without authority.[6] Moreover, he [the claimant] was a minor [when Mari first took possession], and a relative is not permitted to enter into a minor's estates. When this [reply] was taken back to R. Ammi, he said to them: They did not complete it [sc. the narrative of this lawsuit] before me [by informing me] that he was a minor.

MISHNAH. IF A MAN ENTRUSTS PRODUCE TO HIS NEIGHBOUR, HE [THE BAILEE] MAY [WHEN RETURNING IT] MAKE A DEDUCTION FOR DECREASES [AS FOLLOWS]: FOR WHEAT AND RICE, NINE HALF KABS PER KOR;[7] FOR BARLEY AND MILLET, NINE KABS PER KOR; FOR SPELT AND LINSEED, THREE SE'AHS PER KOR: ALL DEPENDS ON THE QUANTITY AND THE TIME.[8] SAID R. JOHANAN B. NURI: WHAT DO THE MICE CARE; THEY EAT [THE SAME] WHETHER THE QUANTITY BE LARGE OR SMALL! HENCE HE MAY MAKE DEDUCTIONS ONLY FOR ONE KOR. R. JUDAH SAID: IF IT IS A LARGE QUANTITY HE CANNOT DEDUCT DECREASES AT ALL, BECAUSE IT INCREASES.[9]

GEMARA. But rice decreases by much more! — Said Rabbah b. Bar Hanah in R. Johanan's name: This refers to peeled rice.

FOR SPELT AND LINSEED, THREE SE'AHS PER KOR etc. R. Johanan said in R. Hiyya's name: This refers to linseed in its calyxes.[10] It has been taught likewise: For spelt and linseed in its calyxes and unpeeled rice, three se'ahs per kor.

ALL DEPENDS ON THE QUANTITY etc. A Tanna taught: It is thus per kor per annum.

SAID R. JOHANAN B. NURI etc. It has been taught: They [the Sages] said to R. Johanan, Much of it deteriorates and much is scattered.[11]

A Tanna taught: This holds good only if he [the bailee] mixed it with his own produce. But if he assigned him a special corner he can say to him, ‘Behold, here is yours before you.’[12] But what if he did mix it with his crops: let him see how much his own was![13] — It refers to one who drew his supplies therefrom. Then let us see how much he drew? — He does not know.

R. JUDAH SAID: IF IT IS etc. What constitutes a LARGE QUANTITY? — Said Rabbah b. Bar Hanah in R. Johanan's name: Ten kors. It has been taught likewise: What constitutes a large quantity? Ten kors.

A tanna recited before R. Nahman: When was this said? If he measured [the corn] for him out of the granary and returned [it] to him out of the granary. But if he measured [it] for him out of the granary and returned it to him out of the house, he may make no deduction for decreases, because it [the quantity] increases.[14] Are we dealing with imbeciles, he retorted, who give with a large measure and take back with a small! Perhaps you mean the season of the granary.[15] [Thus:] When is this said? If he measures it out to him at the harvest season and returns it to him in the harvest season. But if he measures it out to him at the harvest season and returns it to him in the rainy season [winter], he may make no deduction for decreases, because it increases.[16] Said R. Papa to Abaye: If so, the barrel [containing produce] ought to burst! — It did once happen that the barrel [did in fact] burst. Alternatively, it [the reason that the barrel does not generally burst] is on account of the tightness [of the crops].[17] MISHNAH. HE MAY DEDUCT A SIXTH IN THE CASE OF WINE. R. JUDAH SAID: A FIFTH. HE MAY DEDUCT THREE LOGS OF OIL PER HUNDRED, WHICH IS A LOG AND A HALF FOR LEES, AND ONE AND A HALF FOR ABSORPTION.[18] BUT IF IT WAS REFINED OIL, HE MAY MAKE NO DEDUCTION FOR LEES. IF THEY [THE CONTAINERS] WERE OLD BARRELS, HE MAY MAKE NO DEDUCTION FOR ABSORPTION.[19] R. JUDAH SAID: EVEN IF HE SELLS REFINED OIL TO HIS NEIGHBOUR DURING THE WHOLE

YEAR, THE LATTER MUST ACCEPT A LOG AND A HALF OF LEES PER CENT.[20]

GEMARA. But there is no dispute; each master rules in accordance with his region. In the locality of the first master they covered [the inside of the wine barrels] with wax, so there was not much absorption;[21] whilst in that of the other [sc. R. Judah] they covered [them] with pitch; hence they absorbed more.[22] Alternatively, it is on account of the clay [used in making the barrels]; the one quality absorbed more, the other less.

In Rab Judah's locality forty-eight jugfuls went to the [standard] barrel, a barrel being sold at six zuz, and Rab Judah retailed six [jugfuls] per zuz.

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(1) Rashi, regarding this last phrase, ‘and thus etc.’, as a continuation of R. Hisda's statement, substitutes Rab for Rabbah; firstly, because Rabbah was R. Hisda's pupil, and he would not quote his pupil's views in support of his own; and secondly, because an Amora is never adduced in support of a Mishnah. But Rab was his teacher, and he is cited not in support of the Mishnah, but in explanation thereof; as there is a view that this Mishnah refers only to a natural improvement, he quoted Rab as holding that it refers even to improvements directly effected by the brothers. Tosaf. retains our reading, explaining that this is not a continuation of R. Hisda's speech, but an observation by the Talmudic redactor that Rab once gave a similar ruling.

(2) [To Rabbah (according to Tosaf.).]

(3) Lit., ‘the matter rolled on’.

(4) V. supra 39a, in reference to a next of kin who enters into a captive's estates; on the latter's return, the former is paid for his improvements as an aris, receiving a half, third or a quarter, in accordance with local usage, though, of course, the land was not his at all.

(5) Even if the claimant is entitled to half of the improvement, surely Mari is entitled to a fraction of that half, as though he were an aris! R. Hisda, however, had not allowed for this.

(6) On his father's death he took possession without a court order.

(7) 1 Kor = 30 se'ahs = 180 kabs.

(8) I.e., these pro rata decreases hold good whatever the quantity; also, they are dependent on the time the produce is stored — the Gemara states that these are per annum.

(9) This is discussed below.

(10) Since they dry up and are blown away by the wind, the decrease is so large. But pure linseed does not suffer so great a loss.

(11) Besides the depredations of mice; therefore it does depend on quantity.

(12) Whatever the decrease.

(13) And knowing the combined quantity and by how much the whole has decreased, make a proportionate deduction.

(14) The measures used in the granary were larger than house measures, hence the same quantity shows a larger figure when measured by the latter; this increase counterbalances the normal decrease.

(15) I.e., summer, when the corn is harvested into the granary.

(16) In winter the crops swell up, the resultant increase counterbalancing the normal loss.

(17) Tightly pressed together in the barrel, they have no room to expand and cause it to burst.

(18) The barrels absorb that quantity.

(19) Old barrels have already absorbed as much as they can contain.

(20) I.e., if the vendor sells a quantity of oil but keeps it in his own barrels, supplying it in smaller quantities to the vendee as and when desired. Having received 98 1/2 logs of pure oil without sediment, the vendee must now accept 1 1/2 of lees.

(21) Not more than a sixth.

(22) Sc. a fifth.

Talmud - Mas. Baba Metzia 40b

Now, deduct thirty-six [from the forty-eight] for six [zuz],leaves twelve; deduct eight, which is the sixth [allowed for absorption], leaves four.[1] But Samuel said: He who profits must not profit more than a sixth?[2] — There are the barrels and the lees.[3] If so, it exceeds one sixth. — There is his trouble, and the cost of the crier.[4]

IF IT WAS REFINED OIL, HE MAY MAKE NO DEDUCTION FOR LEES etc. But it is impossible that it [the barrel] shall not absorb![5] — Said R. Nahman: This refers to [barrels] lined with pitch.[6] Abaye said: You may even say that they are not pitch lined: being laden, they are laden.[7]

R. JUDAH SAID: EVEN IF HE SELLS REFINED OIL TO HIS NEIGHBOUR DURING THE WHOLE YEAR, THE LATTER MUST ACCEPT A LOG AND A HALF OF LEES PER CENT. Abaye said: When you examine the matter, [you will conclude that] in R. Judah's opinion lees may be mixed [with the oil]; whilst on the Rabbis’ view lees may not be mixed. ‘In R. Judah's opinion lees may be mixed,’ and that is the reason that he [the vendee] must accept [the lees],[8] because he [the vendor] can say to him, ‘Had I desired to mix it up for you, could I not have done so? therefore now too, accept it.’[9] But let him answer, ‘Had you mixed it up for me, it could have been sold [together with the rest]: but what am I to do with it now? I cannot sell it separately!’ — This refers to a private individual, who prefers clear [oil].[10] But let him say to him, ‘Since you did not mix it up for me, you have renounced it in my favour?’[11] — R. Judah follows his general reasoning, not accepting [the theory of] renunciation. For we learnt: If one sells the yoke, he has not sold the oxen; if he sells the oxen, he has not sold the yoke. R. Judah said: The price decides [the matter]. E.g., if one says to another, Sell me your yoke for two hundred zuz, it is well known that a yoke is not priced at two hundred zuz.[12] But the Sages say: The price is no proof.[13]

‘Whilst on the Rabbis’ view lees may not be mixed,’ and that is the reason that he [the vendee] need not accept [the lees], because he can say to him [the vendor], ‘Had you desired to mix it up,[14] would it then have been permitted to you? Now too, [therefore,] I will not accept it.’

R. Papa objected to Abaye: On the contrary, the logic is the reverse. On the view of the Sages lees may be mixed up, and that is the reason that he need not accept it, because he can say, ‘Since you did not mix it up for me, you have renounced it in my favour. Whilst in the opinion of R. Judah lees may not be mixed up, and this is the reason that he must accept it, because he can say to him, ‘Had I desired to mix it up, it would not have been permitted to me, whilst you also refuse to accept it [separately]: if one buys and sells [at the same price] — do you call him a merchant!’[15]

A Tanna taught: The vendee and the depositor are both alike in respect of the scum.[16] What is meant by ‘in respect of the scum?’ Shall we say, Just as the vendee does not accept the scum, so does the depositor likewise not accept it?[17] But let him [the bailee] say to him, ‘What am I to do with your scum?’ But [on the contrary], just as the depositor must accept the scum, so must the purchaser likewise. Yet must the vendee accept the scum: but it has been taught: R. Judah said: [The loss due to] the muddy oil was assigned to the vendor alone, since the vendee accepts a log and a half of sediment without the scum![18] — There is no difficulty: The former treats of one who pays his money in Tishri and received [the wine or oil] in Nisan at Tishri prices;[19] the latter treats of one who pays his money in Nisan and receives [the oil] in Nisan at Nisan prices.[20] MISHNAH. IF A MAN DEPOSITS A BARREL WITH HIS NEIGHBOUR, ITS OWNER NOT DESIGNATING A PLACE FOR IT, AND HE [THE BAILEE] MOVES IT AND IT IS BROKEN, IF IT IS BROKEN WHILST IN HIS HAND,[21] — [IF HE MOVED IT] FOR HIS PURPOSES, HE IS RESPONSIBLE; FOR ITS OWN NEED, HE IS NOT RESPONSIBLE. IF IT IS BROKEN AFTER HE PUTS IT DOWN, WHETHER [HE MOVED IT] FOR HIS NEED OR FOR ITS OWN, HE IS NOT LIABLE. IF THE OWNER DESIGNATES A PLACE FOR IT, AND HE MOVES IT AND IT IS BROKEN, WHETHER WHILST IN HIS HAND OR AFTER HE PUTS IT DOWN, — [IF HE MOVED IT] FOR HIS PURPOSES, HE IS RESPONSIBLE; IF FOR ITS OWN NEED, HE IS NOT LIABLE.

GEMARA. Who is the authority of the Mishnah? — It is R. Ishmael, who ruled: The owner's knowledge is unnecessary.[22] For it has been taught: If one steals a lamb from a fold or a sela’ from a purse, he must return it whence he stole it:[23] this is R. Ishmael's view. R. Akiba said:

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(1) This then was his profit — 4 in 48 = 1/12 th.

(2) Yet 1/6 th is permissible: why then did Rab Judah content himself with 1/12 th?

(3) Which augment his profits.

(4) Who announced the wares. Others: the cost of piercing the bung.

(5) Even if old.

(6) These, if old, do not absorb.

(7) And cannot absorb more.

(8) As stated in the Mishnah.

(9) I.e., having received the refined oil in small quantities without lees, you must now accept one and a half logs of sediment separately.

(10) He bought it for his own use, not to resell, and therefore is glad that pure oil was delivered him; consequently he must accept the sediment separately.

(11) I.e., your right to mingle the lees with the oil.

(12) Hence he must have meant the yoke and the oxen.

(13) B.B. 77b. The vendee may have chosen this method of renouncing his money, i.e., gifting it, to the vendor. Since R. Judah rules that the price does prove the meaning of the terms used, he evidently rejects this plea of renunciation.

(14) After it had settled at the bottom.

(15) I.e., unless I am permitted to make a deduction from the quantity on account of the lees, I cannot make a living.

(16) Of the wine or oil. So translated by Rashi. In H.M. 228, 20 it is translated: ‘the muddy oil which ascends to the top’ (באר הגולה a.l.). Jast. translates: ‘the foam or froth of the wine or oil’; this, however, seems unsuited to the context.

(17) The measure bought by the vendee is calculated without the scum; and when the wine or oil is returned to the depositor, he too may insist that the measure due to him shall be calculated without it.

(18) Since 1 1/2 per cent is sediment (v. supra 40a) he is entitled that the rest shall be quite clear, without scum.

(19) In Tishri the oil is generally turbid with a scum on top, the price being correspondingly low. Hence in this case he must accept it.

(20) Which are higher, because by then the oil is clear and free from scum; hence he can refuse it.

(21) Lit., ‘out of his hand’.

(22) The first clause states that if he moves it for his own purpose, puts it down, and then it is broken, he is not responsible. Now, when he moves it for his own purpose, he is regarded as having stolen it, since a bailee must not make any use of a bailment, and there is a view, expressed immediately in the Gemara, that when a person steals an object he is responsible for it until he returns it and informs its owner that he has returned it. R. Ishmael holds that the owner's knowledge is unnecessary. Now, when the bailee puts the barrel down, he returns it to its owner, of course, without the owner's knowledge, and since the Mishnah rules that he is not responsible then, it must agree with R. Ishmael.

(23) After which he ceases to bear responsibility for it.

Talmud - Mas. Baba Metzia 41a

The owner's knowledge is required.[1] If R. Ishmael, why particularly if he designated [a place]: even if he did not, it is still the same! — This is a case of ‘it goes without saying.’ [Thus:] It goes without saying that if he designated [a place for it, the owner's knowledge of its return is not required,] since it is its place:[2] but even if no designation was made, so that it is not its place,[3] yet the owner's knowledge is not required. Then consider the second clause: IF THE OWNER DESIGNATES A PLACE FOR IT, AND HE MOVES IT AND IT IS BROKEN, WHETHER IN HIS HAND OR AFTER HE PUTS IT DOWN, — [IF HE MOVED IT] FOR HIS PURPOSE, HE IS RESPONSIBLE; IF FOR ITS OWN NEED, HE IS NOT LIABLE. That agrees with R. Akiba, who ruled, The owner's knowledge is required. If R. Akiba, why particularly if designation is made: even if not,it is likewise so?[4] — This is a case of ‘it goes without saying.’ [Thus:] It goes without saying that if he did not designate [a place for it, the owner's knowledge of its return is required,] since it is not its place;[5] but even if designation was made, so that it is its place,[6] the owner's knowledge is still required. Then the first clause agrees with R. Ishmael, and the second with R. Akiba? — Even so, for R. Johanan said: He who will explain me [the Mishnah of] BARREL so as to agree with one Tanna, I will carry his attire after him to the baths.[7] R. Jacob b. Abba interpreted it before Rab as meaning that he took it with the intention of stealing it; R. Nathan b. Abba interpreted it before Rab as meaning that he took it with the intention of using it.[8] Wherein do they [sc. R. Jacob b. Abba and R. Nathan b. Abba] differ? — In whether [unlawful] use must be accompanied by damage.[9] He who says, [He must have taken it] in order to steal it, holds that [unlawful] use must result in damage;[10] whilst he who maintains that it was in order to use it, is of the opinion that [unlawful] use need not result in damage.[11] R. Shesheth raised an objection: Does he [the Tanna] State ‘he took it?’ he actually Says, HE MOVES IT![12] But, said R. Shesheth, this treats of one who took it in order to reach down birds [whilst standing] upon it,[13] and he [the Tanna of the Mishnah] holds that a borrower without permission is regarded as a robber. Thus the whole of it [sc. the Mishnah] agrees with R. Ishmael, the second clause meaning that he did not return it to its place.[14] And R. Johanan?[15] — ‘HE PUTS IT DOWN’ implies in its own place.[16]

It has been stated: Rab and Levi: One maintained, [Unlawful] use [by the bailee] must involve damage; and the other maintained, It need not.[17] It may be proved that it was Rab who ruled that [unlawful] use need not involve damage. For it has been taught: If a shepherd who was guarding his flock left it and entered the town: then a wolf came and destroyed a sheep, or a lion, and tore it to pieces, he is free from liability. If he put his staff or wallet upon it, he is liable.[18] Now we pondered thereon: because he put his staff or wallet upon it, he is liable: but he [also] took them away![19] Whereupon R. Nahman said in the name of Rabbah b. Abbuha in Rab's name: It means that it is still upon it. Yet even if it was still upon it, what of that? but he had not taken possession of it![20] R. Samuel son of R. Isaac answered in Rab's name: It means that he smote it with his staff and it ran before him.[21] But he had inflicted no damage upon it! Hence this Surely proves that he [Rab] holds that [unlawful] use need not involve damage! — [No.] Say thus: He had weakened it with his staff.[22] This follows too from the fact that he states, He smote it with his staff.[23] This proves it. Now, since Rab holds that [unlawful] use must involve damage, it follows that Levi maintains that it does not: what is Levi's reason?[24] — Said R. Johanan on the authority of R. Jose b. Nehorai: [Unlawful] use stated in connection with a paid bailee differs from that stated in connection with a gratuitous bailee;[25]

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(1) V. n. 2.

(2) To which he returns it.

(3) Sc. that to which he returns it, since it has no fixed place which can be called its own.

(4) Tosaf.: the assumption that R. Ishmael and R. Akiba maintain their views in both cases, whether a particular place was assigned for the misappropriated article or not, is based on the fact that the two instances given are a lamb and a coin: a lamb has no particular place, going from pasture to pasture, whilst a coin has one, viz., the purse, and the purse too generally has a particular place.

(5) To which he returns it, so that it is not a perfect restoration.

(6) V. n. 1.

(7) I will act as his servant.

(8) Lit., ‘to put forth his hand’ — the language is Biblical; v. Ex. XXII, 7. These two Amoraim explain the Mishnah so that the whole may agree with one Tanna. R. Jacob b. Abba: The first clause means that he returned it to its place, since no particular place having been assigned to it, wherever he puts it is its place. Therefore, if it is broken, he is free from responsibility, the author of the Mishnah being R. Ishmael, who maintains that the owner's knowledge of the article's return is unnecessary. But in the second clause the meaning is that it is not returned to its place: therefore he is liable. For though R. Ishmael holds that the owner's knowledge is unnecessary, yet it must be put back into its place before the purloiner is freed of his responsibility. This, however, holds good only if he takes the barrel in the first place intending to steal it; if he merely desires to borrow it, we are not so strict, and wherever he put it back, even not in the place assigned to it, suffices to free him. R. Nathan b. Abba: He explains it likewise, but holds that even if the depositary takes it with the mere intention of using some of its contents, he forthwith becomes responsible (though he does not carry out his intention) for the whole of it (v. infra 44a), and remains so until he returns it to its own place. The assumption that the second clause means that he does not return it to its own place is implicit on both explanations, but these are interrupted whilst certain objections are raised.

(9) V. Ex. XXII, 9f: If a man deliver unto his neighbour . . . any beast to keep, and it die, or be hurt (i.e., suffer through an unpreventable accident) . . . Then shall an oath of the Lord be between them both, that he hath not put his hand unto his neighbour's goods — i.e., made use of them, which, being a bailee, he had no right to do. Thus Scripture teaches that if the depositary misappropriates the bailment to his own use, he is responsible for subsequent accidents. These two Amoraim differ as to whether that holds good always, or only if his use thereof resulted in damage.

(10) But otherwise it throws no responsibility upon the bailee. Hence, if he takes it merely to use it and did not use it, he is not liable, seeing that no damage was done.

(11) Hence the mere taking to use it is sufficient.

(12) Which certainly indicates that he took it for use, not to steal.

(13) I.e., he borrowed it without intending to steal it. (V. infra p. 257.)

(14) As explained on p. 245, n. 5; the last passage ‘the second clause meaning etc.’ applies to the three answers.

(15) Why does he find it so difficult to make the Mishnah reflect the view of one Tanna only?

(16) Therefore he could not accept that explanation.

(17) V. n. 1.

(18) V. infra 93b.

(19) Before the animal was attacked.

(20) Lit., ‘pulled’. And a bailee does not become responsible on account of (unlawful) use unless he takes possession of the bailment by means of ‘pulling’ meshikah, (v. Glos.) as appears from the Mishnah infra 43b, q.v.

(21) Which is the equivalent of meshikah. Thus there had been (unlawful) use (by putting his staff or wallet upon it) and meshikah.

(22) He had smitten it so hard as to weaken it; this is damage.

(23) Which would inflict a heavy blow. Otherwise he should simply have stated, He smote it and it ran before him (Rashi), or perhaps ‘smote’ too is unnecessary, since he could have said, He made it go by shouting at it. (R. Han. and Tosaf.).

(24) Rab's reason is not asked, for it stands to reason that no liability should be imposed unless his (unlawful) use causes loss, as otherwise it can hardly be called so.

(25) For the former v. p. 246, n. 1, to whom the verses quoted refer. An unpaid bailee: Ibid. 6f: If a man shall deliver unto his neighbour money or stuff to keep, and it be stolen out of the man's house; if the thief be found, let him pay double. If the thief be not found, then the master of the house shall he brought unto the judges, to see whether he have put his hand unto his neighbour's goods (i.e., made use thereof).

Talmud - Mas. Baba Metzia 41b

but I say,[1] It is not different. Wherein [and why] is it different? — For [unlawful] use should not have been stated in connection with a paid bailee, and it would have been inferred from a gratuitous bailee: if an unpaid bailee, who is not responsible for theft or loss, is nevertheless liable if he puts it [the bailment] to use; then a paid bailee, who is responsible for theft or loss, is surely [liable if he puts it to use]. Why then did Scripture state them [both]? To teach you that [unlawful] use need not involve damage.[2] ‘But I Say, It is not different,’ in accordance with R. Eleazar, who maintained: Both have the same purpose. How Say, ‘both have the same purpose’?[3] — Because one can refute [that argument]. As for a gratuitous bailee, [he may be liable if he used it] because he must repay double on a [false] plea of theft.[4] And he who does not refute [it thus] is of the opinion that [liability to] the principal without [the option of] an oath[5] is a greater responsibility than [having to pay] double after a [false] oath.[6]

Raba said: [Unlawful] use need not have been mentioned in connection with either an unpaid or a paid bailee, and it could have been inferred from a borrower.[7] If a borrower, who in using it acts with its owner's permission, is [nevertheless] responsible [for unpreventable accidents]; surely the same applies to unpaid and paid bailees! Then why is it stated [in connection with these two]? Once, to teach you that [unlawful] use need not involve damage.[8] And the other: that you should not say: It is sufficient that that which is deduced a minori shall be as that from which it is deduced: just as a borrower is exempt if the owner [is in his service],[9] so also are unpaid and paid bailees exempt, if the owner [is in their service.][10]

Now, on the view that [unlawful] use must involve damage, what is the purpose of these two [statements] on [unlawful] use?[11] — One, that you should not say, It is sufficient that that which is deduced a minori shall be as that from which it is deduced. And the other, for what was taught: [If a man shall deliver unto his neighbour money or stuff to keep, and it be stolen . . . If the thief be not found,] then the master of the house shall be brought unto the judges[12] — for an oath.[13] You say, 'for an oath'. But perhaps it is not so, the meaning being for judgment?[14] [Unlawful] use is stated below;[15] and [unlawful] use is stated above:[16] just as there, [the reference is] to an oath, so here too, for an oath [is meant].

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(1) R. Johanan stating his own opinion.

(2) That is the meaning of 'it differs' — i.e., not that its actual definition differs, but that its purpose in being stated is different. Thus: its mention in the section on a gratuitous bailee is to shew the actual law, whilst it is stated in the section on a paid bailee for the purpose of definition.

(3) In view of the above argument.

(4) In this respect his responsibility exceeds that of a paid bailee (v. B.K. 63b); therefore it might also have been regarded as greater in respect of misappropriation. Consequently it must be mentioned in connection with a paid bailee too, for its own purpose, and not for mere definition; hence it must involve damage.

(5) As in the case of a paid bailee.

(6) As in the case of a gratuitous bailee.

(7) A borrower is responsible for accidents, and when a bailee makes use of his bailment, he automatically becomes in a sense a borrower, but without permission.

(8) [The bailee consequently becomes liable for the whole bailment as soon as he takes it with the intention of putting to use a mere part thereof. This distinguishes him from a borrower authorised or unauthorised, whose liability is limited to the part actually borrowed. V. R. Nissim, Hiddushim, a.l.]

(9) Ibid. 13f: And if a man borrow aught of his neighbour, and it be hurt or die, the owner thereof being not with it, he shall surely make it good. But if the owner thereof be with it, he shall not make it good. The Rabbis interpret this as meaning that if the owner is in the borrower's service when the article is borrowed and/or when the accident occurs (v. 94a and 95b) he is not liable.

(10) Therefore (unlawful) use is mentioned in their case to show that even then they are responsible.

(11) As Raba observed.

(12) Ibid. 6, with reference to a gratuitous bailee.

(13) I.e., to swear that it was stolen. The verse is accordingly translated thus: If it be not found (that he spoke the truth, but) he himself is the thief, and the mister of the house has already been brought unto the judges, i.e., has already sworn that it was stolen, then, whom (sc. the bailee) the judges shall condemn, he shall pay double unto his neighbour. Hence a bailee must pay double only if he actually swore that it was stolen, but not on his mere plea.

(14) To plead that it was stolen, and the plea itself is sufficient to impose the penalty of twofold repayment.

(15) In connection with a paid bailee: Then shall an oath of the Lord be between them both, that he hath not put his hand unto his neighbour's goods; ibid. 10.

(16) In connection with an unpaid bailee: Then the mister of the house should be brought unto the judges, to see whether he have put his hands unto his neighbour's goods. (Ibid. 7.)

Talmud - Mas. Baba Metzia 42a

MISHNAH. IF A MAN DEPOSITED MONEY WITH HIS NEIGHBOUR, WHO BOUND IT UP AND SLUNG IT OVER HIS SHOULDER[1] [OR] ENTRUSTED IT TO HIS MINOR SON OR DAUGHTER AND LOCKED [THE DOOR] BEFORE THEM, BUT NOT PROPERLY, HE IS

LIABLE, BECAUSE HE DID NOT GUARD [IT] IN THE MANNER OF BAILEES. BUT IF HE GUARDED IT IN THE MANNER OF BAILEES, HE IS EXEMPT.

GEMARA. As for all, it is well, since indeed he did not guard it in the manner of bailees: but if HE BOUND IT UP AND SLUNG IT OVER HIS SHOULDER — what else should he have done? — Said Raba in R. Isaac's name: Scripture saith, and thou shalt bind up the money in thine hand[2] — even if bound up, it should be in thy hand.[3]

R. Isaac also said: One's money should always be ready to hand,[4] for it is written, and thou shalt bind up the money in thy hand.

R. Isaac also said: One should always divide his wealth into three parts: [investing] a third in land, a third in merchandise, and [keeping] a third ready to hand.

R. Isaac also said: A blessing is found only in what is hidden from the eye,[5] for it is written, The Lord shall command the blessing upon thee in thy hidden things.[6] The School of R. Ishmael taught: A blessing comes only to[7] that over which the eye has no power,[8] for it is said, The Lord shall command the blessing upon thee in thy hidden things.

Our Rabbis taught: When one goes to measure [the corn in] his granary, he should pray, ‘May it be Thy will, O Lord our God, to send a blessing upon the work of our hands.’ Having started to measure, he prays, ‘Blessed is He who sendeth a blessing on this pile.’ But if he measured and then prayed,[9] it is a vain prayer, because a blessing is not found in that which is [already] weighed, measured, or counted, but only in that which is hidden from the eye, for it is said, The Lord shall command the blessing upon thee in thy hidden things.

Samuel said: Money can only be guarded [by placing it] in the earth.[10] Said Raba: Yet Samuel admits that on Sabbath eve at twilight the Rabbis did not put one to that trouble.[11] Yet if he tarried after the conclusion of the Sabbath long enough to bury it [the money] but omitted to do so, he is responsible [if it is stolen]. But if he [the depositor] was a scholar, he [the bailee] might have thought, He may require the money for habdalah.[12] But nowadays[13] that there are money-diviners,[14] it can be properly guarded only [by placing it] under the roof beams. But nowadays that there are house breakers,[15] it can be guarded only [within the void spaces] between bricks. Raba said: Yet Samuel admits [that it may be] hidden] in the wall. But nowadays that there are rappers,[16] It can be guarded only in the handbreadth nearest to the earth or to the uppermost beams.[17]

R. Aha, son of R. Joseph, said to R. Ashi: We learnt elsewhere: If ruins collapsed on leaven, it is regarded as removed.[18] R. Simeon b. Gamaliel said: Provided that[19] a dog cannot search it out.[20] And it was taught [thereon]: How far is the searching of a dog? Three handbreadths.[21] How is it here?[22] Do we require [that it shall be covered by] three handbreadths or not? — There, he replied, we require three handbreadths on account of the smell [of the leaven];[23] but here [it is put into the earth] in order to cover it from the eye; therefore three handbreadths are not required. And how much [is necessary]? — Said Rafram of Sikkara:[24] one handbreadth.

A certain man deposited money with his neighbour, who placed it in a cot of bulrushes.[25] Then it was stolen. Said R. Joseph: Though it was proper care in respect to thieves,[26] yet it was negligence in respect to fire: hence the beginning [of the trusteeship] was with negligence though its end was through an accident, [and therefore] he is liable. Others Say: Though it was negligence in respect to fire, it was due care in respect to thieves, and when its beginning is with negligence and its end through an accident, he [the bailee] is not liable.[27] And the law is that when the beginning thereof is with negligence and the end through an accident, he is responsible.

A certain man deposited money with his neighbour. On his demanding, 'Give me my money,' he replied, 'I do not know where I put it.' So he went before Raba, [who] said to him: Every [plea of] 'I do not know' constitutes negligence: go and pay him.

A certain man deposited money with his neighbour, who entrusted it to his mother; she put it in her work basket and it was stolen. Said Raba: What ruling shall judges give in this case? Shall we say to him, 'Go and repay'?[28] Then he can reply,

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(1) Lit., 'behind him'.

(2) Deut. XIV, 25.

(3) Not over the shoulder, so that it can be properly guarded.

(4) And not in another man's keeping, so that advantage can immediately be taken of a trading bargain that is available.

(5) I.e., the exact quantity of which the owner does not know.

(6) Ibid. XXVIII, 8. (E.V. 'storehouses'.)

(7) Lit., 'is found only in'.

(8) I.e., hidden, and so not subject to the evil eye.

(9) Lit., 'uttered a benediction'.

(10) Otherwise the bailee is guilty of negligence — In ancient days there was probably no other place as safe. [Cf. Josephus, Wars, V. 7, 2, '. . . which the owners had treasured up under ground against the uncertain fortunes of war.']

(11) If one receives a bailment then, he cannot be expected to place it in the earth, and his not doing so does not constitute negligence. [Some texts rightly omit 'at twilight', all manner of work being then in any case prohibited.]

(12) Lit., 'separation', a short blessing recited as a rule over wine, thanking God for the distinction between the Sabbath and week-days. — In that case, the bailee was justified in not burying the money, as the scholar might require same for wine. The practice of reciting habdalah at home was not widespread; v. Ber. 331.

(13) [In the third century, when Babylonia entered upon its bitter struggles with the Romans for the possession of the rich lands of the Euphrates; v. Krauss, op. cit., p. 415.]

(14) Lit., 'sounders', who can sound the earth to discover cavities where money may be hidden.

(15) Who break through the beams.

(16) Who by rapping at the wall can discover its cavities and treasures.

(17) Asheri a.l. observes that all this held good only in the days of Samuel and his successors, when rappers, diviners, etc. were to be feared. Nowadays, however, we do not fear all this, and it is sufficient if a bailee puts the money entrusted to his charge in the place where he keeps his own.

(18) All leaven had to be removed from the house before Passover (Ex. XII, 15); if ruins fell on leaven, the leaven is regarded as removed, since it is inaccessible.

(19) Lit., 'whatever'.

(20) Pes. 31b.

(21) I.e., the leaven must be covered by not less than three handbreadths of debris; otherwise a dog can search it out, and it would therefore be necessary to remove the debris and destroy the leaven.

(22) In respect to placing money in the earth.

(23) If the leaven is covered by less, a dog can smell it.

(24) A town S. of Mahuza.

(25) So Jast. Rashi: in a fowler's trap.

(26) Who would normally not think of looking there for it.

(27) V. supra 36b.

(28) Because if a bailee entrusts the deposit to another he is responsible.

Talmud - Mas. Baba Metzia 42b

'All who deposit do so with the understanding that the wife and children [of the depositary may be entrusted with the bailment].' Shall we say to his mother, 'Go and pay:' she can plead, 'He did not tell me that it [the money] was not his own, that I should bury it.' Shall we say to him, 'Why did you not tell her?'[1] he can argue, 'If I told her it was mine, she was the more likely to guard it well.' But, said Raba, he must swear that he had entrusted that money to his mother, and his mother must swear that she had placed that money in her work basket, and it was stolen. Then he [the bailee] is free.

A certain steward for orphans[2] bought an ox on their behalf and entrusted it to a herdsman. Having no molars or [front] teeth to eat with, it died.[3] Said Rami b. Hama: What verdict shall judges give in this case? Shall we say to the steward, ‘Go and pay:’ he can reply, ‘I entrusted it to the herdsman.’[4] Shall we say to the herdsman, ‘Go and pay:’ he can plead, I put it together with the other oxen and placed food before it: I could not know that it was not eating! [But, why not] consider [the fact that] the herdsman was a paid keeper of the orphans, and as such should have made careful observation? — Had the orphans suffered loss, it would be even so. But we treat here of a case where the orphans suffered no loss, because the [first] owner of the ox was found and they received their money back from him.[5] Then who is the plaintiff? — The owner of the ox, who pleads that he [the steward] should have informed him. But what was he to inform him? He knew full well that it was a sale under false pretences! — He [the owner of the ox] was a middleman, who buys here and sells there.[6] Therefore [rules Rami] he [the middleman] must swear that he did not know [of the animal's toothless condition], and the herdsman must pay at the cheap price of meat.[7]

A certain man deposited hops with his neighbour, who himself also had a pile thereof. Now, he instructed his brewer, ‘Take[8] from this pile;’ but he went and took from the other. Said R. Amram: What verdict shall the judges give in this case? Shall they say to him, ‘Go and pay:’ he can plead. ‘I said to him, "Take from this [pile]."’ Shall we say to the brewer, ‘Go and pay’? He can argue, ‘He did not say to me, "Take from this [pile] but not from that."’ But if he [the brewer] tarried sufficient time to bring him [his own hops], yet did not do so,[9] then he [the bailee] revealed his mind that he was pleased therewith![10] — There was no tarrying. Yet after all, what loss is there: did he [the depositary] not benefit thereby?[11] — Said R. Samma, son of Raba: The beer turned into vinegar.[12] R. Ashi said: The reference is to thorns,[13]

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(1) And therefore you are responsible.

(2) Appointed by the court to administer their estate until they attained their majority.

(3) This loss could have been avoided had it been slaughtered and rendered fit for food.

(4) And thus fulfilled my obligations.

(5) On the grounds that it was bargain under false pretences.

(6) I.e., who does not keep the animal in his possession for any length of time, and need not have been aware of the animal's condition.

(7) Which is two thirds of the usual price. Rashi explains that this was a compromise, since the cowherd had a semi-valid plea, viz., ‘I put it together with other oxen, etc.’ Tosaf., however, holds that the verdict was strictly in accordance with the law, for since the animal could not live long, it would have had to be slaughtered before market day, when flesh does not fetch its proper price.

(8) Lit., ‘cast (into the beer)’.

(9) The deposited hops being further away.

(10) For he must have known that the brewer was taking the deposited hops, and yet did not stop him.

(11) When the hops were put in his beer. Then he must pay in any case.

(12) And so the bailee did not benefit thereby.

(13) I.e., not hops were deposited, but the thorns on which the hops hang, and this yielded an inferior brew (so Jast.). Rashi translates: inferior hops, mixed with thorns.

Talmud - Mas. Baba Metzia 43a

and he must pay him the value of the thorns.[1]

MISHNAH. IF A MAN DEPOSITS MONEY WITH A MONEY-CHANGER, IF BOUND UP, HE MUST NOT USE IT: THEREFORE IF IT IS LOST, HE DOES NOT BEAR THE RISKS

THEREOF;[2] IF LOOSE, HE MAY USE IT; THEREFORE IF IT IS LOST, HE BEARS THE RISKS.[3] [BUT IF HE DEPOSITS IT] WITH A PRIVATE INDIVIDUAL, WHETHER IT IS BOUND UP OR LOOSE, HE MAY NOT USE IT; THEREFORE IF IT IS LOST, HE DOES NOT BEAR THE RISKS THEREOF. A SHOPKEEPER IS AS A PRIVATE INDIVIDUAL: THIS IS R. MEIR'S VIEW. R. JUDAH SAID: A SHOPKEEPER IS AS A MONEY-CHANGER.

GEMARA. Because it is bound up he may not use it![4] — Said R. Assi in Rab Judah's name: This was taught of [money] bound up and sealed.[5] R. Mari said: [It means that it was tied] with an unusual knot.[6] Others say, R. Mari propounded: What if [it was tied with] an unusual knot? — The question stands.

IF LOOSE, HE MAY USE IT, etc. R. Huna said: Even if an [unpreventable] accident happened thereto [he is responsible]. But he [the Tanna] states, [IF] LOST![7] — It is as Rabbah [said]. For Rabbah said [elsewhere]: ‘Stolen’ means by armed robbers; ‘lost,’ that his ship foundered at sea.[8] R. Nahman [however] said: If an [unpreventable] accident happened thereto, [he is] not [responsible].[9] Raba objected to R. Nahman: According to you, who maintain that [he is] not [responsible] if an unpreventable accident happened to it, thus showing that he is not [accounted] a borrower in respect of it: but if not a borrower, he is not a paid bailee either![10] — He replied to him: In this I agree with you, but since he may benefit therefrom, he must confer benefit;[11] in return for the benefit [he enjoys] that should he come across a purchase shewing profit he can buy it therewith, he becomes a paid bailee in respect thereto,[12]

R. Nahman raised an objection to R. Huna's ruling: If he [the treasurer of the Sanctuary] deposits money[13] with a money-changer, if bound up, he may not use it; therefore if he expends it, the treasurer is not liable to a trespass offering.[14] If loose, he may use it; therefore if he expends it, the treasurer is liable to a trespass offering.[15] But if you Say, even if an [unpreventable] accident befalls it [the money changer is responsible], why particularly if he expends it? Even if he does not expend it, he should likewise be [liable]![16] — He replied: The same law holds good even if he does not expend it; but since the first clause states [if he expends it],[17] the second clause teaches likewise, [if] he expends it.

MISHNAH. IF A MAN MAKES [UNLAWFUL] USE OF A BAILMENT: BETH SHAMMAI MAINTAIN: HE IS PUNISHED IN RESPECT OF DECREASE AND INCREASE.[18] BETH HILLEL RULE: [HE MUST PAY ITS VALUE] AS WHEN IT IS WITHDRAWN.[19] R. AKIBA SAID: AS WHEN THE CLAIM IS MADE.

GEMARA. Rabbah[20] said: If one steals a barrel of wine from his neighbour, originally [i.e., at the time of theft] worth a zuz, but now [when he disposes thereof] worth four [zuz], if he breaks or drinks it, he must pay four; if it is broken of itself, he must pay a zuz. Why? Since if it were in existence, it would be returnable to its owner as it is, it is precisely when he drinks or breaks it that he robs him thereof, and we learnt: All robbers pay according to the time of robbery.[21] ‘If it is broken of itself, he must pay a zuz.’ Why? He does nothing at all to it then: for what do you declare him liable? For the time of the robbery![22] But then it was worth [only] a zuz.

We learnt: BETH HILLEL RULE: [HE MUST PAY ITS VALUE] AS WHEN IT IS WITHDRAWN. What is the meaning of AS WHEN IT IS WITHDRAWN? Shall we Say, as when it is withdrawn from the world:[23] and in what [case do Beth Hillel differ]? If in the case of depreciation,[24] — but is there any such opinion? Did we not learn, All robbers pay as at the time of robbery? And if in the case of appreciation, then it is identical with Beth Shammai[‘s ruling]!

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(1) Whereby these had benefited the beer.

(2) A gratuitous bailee not being responsible for loss.

(3) The fact that he may use it makes him a paid trustee.

(4) Surely the depositor may have bound it up for safety, not to shew that the money-changer was not to use it!

(5) Which was not necessary for mere safety, but to intimate that it was not to be used.

(6) Which he must have made to prevent the money-changer from opening the package.

(7) Which implies that he is not responsible for (unpreventable) accidents.

(8) Which are unpreventable accidents. 'Lost' in our Mishnah has the same meaning.

(9) Regarding him as a paid bailee, who is not responsible for unpreventable accidents, whereas R. Huna accounts him a borrower.

(10) For his only payment is his right to use it, but that makes him a borrower, who uses his bailment, and if that right is disregarded, he receives nothing to turn him into a paid bailee.

(11) By accepting the risks of a paid bailee.

(12) I.e., when he actually uses it, he does indeed become a borrower. But until then his benefit is only potential, and it is sufficient that this potential benefit shall render him a paid bailee, and not a borrower.

(13) Of the Sanctuary, in error thinking it his own.

(14) In accordance with Lev. V, 15, for putting money dedicated to the Sanctuary to secular use. Since it was bound up, the treasurer had not authorised him to use it, and therefore the money-changer is liable.

(15) Tosef. Me'il. II.

(16) For since the money-changer is responsible for unpreventable accidents, he is evidently regarded as a borrower from the moment it reaches his hand, even before he actually uses it. But in that case the treasurer has already withdrawn it from the possession of the Sanctuary, and that alone involves a trespass offering.

(17) And there it is necessary to show that even then the treasurer is not liable.

(18) If the bailment itself cannot be returned for any reason, being destroyed or otherwise disposed of. The meaning of this is discussed in the Gemara.

(19) V. Gemara.

(20) Alfasi reads: Raba.

(21) B.K. 93b, i.e., what its value was then.

(22) I.e., for the act of taking it.

(23) I.e., when destroyed or otherwise disposed of.

(24) After he had taken it; Beth Hillel maintaining that he must pay its depreciated value.

Talmud - Mas. Baba Metzia 43b

Hence it is obvious [that it means] as when it is withdrawn from its owner's possession.[1] Shall we [then] say that Rabbah rules in accordance with Beth Shammai?[2] — Rabbah can answer you: In the case of appreciation, none dispute.[3] When do they dispute? In the case of depreciation:[4] Beth Shammai maintain, [unlawful] use need involve no loss,[5] and when it depreciates it is in his possession that it does so;[6] whereas Beth Hillel maintain that [unlawful] use must involve loss,[7] and when it depreciates, it does so in the possession of its owner.[8] If so, when Raba said, [Unlawful] use need not involve damage,[9] , are we to say that Raba ruled as Beth Shammai? — But we treat here of, e.g., one who moves it in order to fetch down birds [whilst standing] upon it, and they differ in respect to an unauthorised borrower. Beth Shammai maintain: An unauthorised borrower is a robber, and therefore, when it depreciates, it does so in his possession. Whereas Beth Hillel hold that an unauthorised borrower is not a robber, and when it depreciates, it does so in the owner's possession. If so, when Raba said, An unauthorised borrower, in the view of the Rabbis, is accounted a robber,[10] are we to say that Raba ruled as Beth Shammai? — But there they differ in respect of the increments of a stolen article.[11] Beth Shammai maintain: The increments in the stolen article belong to the robbed person;[12] whereas Beth Hillel hold that they belong to the robber.[13] And [they differ] in the [same] controversy as the following Tannaim. For it has been taught: If one steals a ewe and shears it, or it bears young, he must pay for that itself, its shearings, and its young: this is R. Meir's view. R. Judah said: The stolen article returns in its original state.[14] This [interpretation] may also be inferred, because it is stated, BETH SHAMMAI MAINTAIN, HE IS PUNISHED IN RESPECT OF DECREASE AND INCREASE. BETH HILLEL RULE: [HE MUST PAY] AS WHEN IT IS

WITHDRAWN.[15] This proves it.

R. AKIBA SAID: AS WHEN THE CLAIM IS MADE. Rab Judah said in Samuel's name: The halachah agrees with R. Akiba. Yet R. Akiba admits in a case where there are witnesses.[16] Why? Because Scripture saith, He shall give it unto him to whom it appertaineth, in the day of his trespass offering,[17] and since there are witnesses, he incurs a trespass offering at that very moment. R. Oshaia said to Rab Judah: Rabbi, you say so. But R. Jose said in R. Johanan's name thus: R. Akiba differed even in a case where there are witnesses. Why? Because Scripture saith, He shall give it unto him to whom it appertaineth, in the day of his trespass offering,[18] and it is the court that declares him liable to a trespass offering.[19] R. Zera said to R. Abba b. Papa: When you go there [sc. to Palestine], take a circuitous route by the promontory of Tyre and make your way up to R. Jacob b. Idi and ask him if he had heard from R. Johanan whether the halachah is as R. Akiba or not. He answered him: Thus did R. Johanan say, The halachah is as R. Akiba in every case.[20] What is meant by ‘in every case?’ — Said R. Ashi: That you should not say, That is only if there are no witnesses, but not if there are. Alternatively, it may also refer to the case where he [the thief] returned it to its place and it was injured, [and ‘in every case’ was said] in opposition to R. Ishmael, who maintained: The owner's knowledge is unnecessary;[21] therefore we are informed that the owner's knowledge is required.[22] But Raba said: The halachah is as Beth Hillel.

MISHNAH. IF A MAN INTENDS TO MAKE USE OF A BAILMENT:[23] BETH SHAMMAI MAINTAIN, HE IS [FORTHWITH] RESPONSIBLE [FOR ALL ACCIDENTS]; BUT BETH HILLEL RULE, HE IS NOT RESPONSIBLE UNTIL HE [ACTUALLY] MAKES USE THEREOF, FOR IT IS SAID, [THEN THE MASTER OF THE HOUSE SHALL BE BROUGHT UNTO THE JUDGES, TO SEE] WHETHER HE HAD PUT HIS HAND UNTO HIS NEIGHBOUR'S GOODS.[24] IF HE [THE BAILEE] INCLINES THE BARREL [GIVEN INTO HIS KEEPING] AND TAKES A REBI'ITH[25] [OF WINE] THEREFROM, AND [LATER ON] IT IS BROKEN, HE MUST PAY ONLY FOR THE REBI'ITH. BUT IF HE LIFTS IT AND TAKES A REBI'ITH FROM IT AND IT IS BROKEN [AFTER A TIME], HE MUST PAY ITS ENTIRE VALUE.[26] [

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(1) Lit., ‘house’. And they dispute the case if it subsequently appreciated. Beth Shammai maintain that he must pay its value as when he disposes thereof, whilst Beth Hillel hold that he must pay its value at the time of the theft.

(2) Whereas it is a fixed principle that the halachah always agrees with Beth Hillel.

(3) That it must be paid for as at the time of disposal, ‘AS WHEN IT IS WITHDRAWN,’ meaning when it is withdrawn from the world.

(4) And as for the general rule, all robbers pay as at the time of robbery — that is only in the case of real robbery; here, however, it did not come into his hands at the outset through robbery but as a bailment.

(5) Therefore the bailee is accounted a robber from the time he takes it, when it immediately passes into his ownership, in the sense that he is henceforth responsible for it.

(6) Therefore he must pay its worth at the time of taking.

(7) But mere taking it for use does not make the trustee a thief.

(8) And he therefore pays according to the value at the time he disposes of it.

(9) Supra 41b.

(10) B.B. 88a.

(11) When the Mishnah speaks of increase and decrease, it does not refer to a rise or fall in the market price of the article, but to profit and loss attached thereto. E.g., a sheep is stolen, bearing a certain quantity of wool, and after it has grown more, the thief shears it; shorn, it shews a decrease on its state when stolen. Likewise, if the sheep conceives whilst in the thief's possession and lambs, thus shewing an increase.

(12) Therefore when repayment is made, the shearings and lamb must also be paid for.

(13) Hence he must pay the animal's worth at the time of the theft.

(14) I.e., he is only responsible for its value at the time of the robbery.

(15) But it does not state, He is punished in respect of depreciation and appreciation, which would connote a fall or rise in market price.

(16) Of the theft. Then he must pay its value at the time of the theft.

(17) Lev. V, 24. This is interpreted: he shall give it (i.e., pay for it) . . . as on the day he incurs a trespass offering.

(18) Interpreting as before.

(19) Hence he must pay its value at the time of the trial.

(20) Lit., 'always'.

(21) Having returned it whole, though not informing the owner, he ceases to be responsible for it.

(22) Hence he remains responsible for its injury, since he did not inform the owner of its return, in accordance with the view of R. Akiba, supra 40b-41a.

(23) I.e., expresses his intention in the presence of witnesses.

(24) Ex. XXII, 7, 10; the first verse refers to a gratuitous bailee; the second to a paid trustee: Then shall an oath of the Lord be between them both, that he hath not put his hand unto his neighbour's goods.

(25) A quarter log.

(26) A depositary is not responsible for accidents after putting a bailment to use unless he takes possession of it by drawing it to himself or lifting it up. Hence, if he merely inclines the barrel, it does not pass into his possession to render him responsible, and he must pay only for the actual amount he took. But if he lifts it up, it becomes his, and he is responsible for the whole of it.

Talmud - Mas. Baba Metzia 44a

GEMARA. How do we know it? — For our Rabbis taught: [Then the master of the house shall be brought unto the judges . . .] For all manner of trespass:[1] Beth Shammai maintain: This teaches that he is liable on account of [unlawful] intention just as for an [unlawful] act. But Beth Hillel say: He is not liable until he actually puts it to use, for it is said, [to see] whether he have put his hand unto his neighbour's goods. Said Beth Shammai to Beth Hillel: But it is already stated, For any word[2] of trespass! Whereupon Beth Hillel retorted to Beth Shammai: But it is already stated, [to see] whether he have put his hand unto his neighbour's goods! If so, what is the teaching of, for any word of trespass? For I might have thought: I know it only of himself;[3] whence do I know [that he is liable if] he instructed his servant or his agent [to use it]? From the teaching, For any word of trespass.[4]

IF HE INCLINES THE BARREL, etc. Rabbah said: This was taught only if it is broken: if, however, it soured, he must pay for the whole of it. Why? It was his arrows that affected it.[5]

BUT IF HE LIFTS IT, AND TAKES [A REBI'ITH] FROM IT, etc. Samuel said: 'TAKES' is not meant literally, but once he lifts it up in order to take [he is henceforth responsible] even if he does not take it. Shall we say that in Samuel's opinion [unlawful] use need not involve loss?[6] — I will tell you: That is not so, but here it is different, because he desires that the whole barrel shall be subservient to this rebi'ith.[7]

R. Ashi propounded: What then if he lifts up a purse in order to take a denar therefrom? Is it wine alone that can be guarded only by means of other wine,[8] whereas a zuz can be guarded [by itself]; or perhaps, the care given to a purse is not the same as that of a [single] denar?[9] The question stands.

CHAPTER IV

MISHNAH. GOLD ACQUIRES SILVER, BUT SILVER DOES NOT ACQUIRE GOLD; COPPER ACQUIRES SILVER, BUT SILVER DOES NOT ACQUIRE COPPER; CANCELLED COINS ACQUIRE CURRENT ONES, BUT CURRENT COINS DO NOT ACQUIRE CANCELLED COINS; UNCOINED METAL ACQUIRES COINED, BUT COINED METAL DOES NOT ACQUIRE UNCOINED METAL; MOVABLES ACQUIRE COINS, BUT COINS DO NOT ACQUIRE MOVABLES. THIS IS THE GENERAL PRINCIPLE:[10] ALL MOVABLES ACQUIRE EACH OTHER. E.G., IF [A] DREW INTO HIS POSSESSION [B'S] PRODUCE WITHOUT PAYING HIM THE MONEY, HE CANNOT RETRACT. IF HE PAID HIM THE

MONEY BUT DID NOT DRAW INTO HIS POSSESSION HIS PRODUCE, HE CAN WITHDRAW. BUT THEY [SC. THE SAGES] SAID: HE WHO PUNISHED THE GENERATION OF THE FLOOD AND THE GENERATION OF THE DISPERSION,[11] HE WILL TAKE VENGEANCE OF HIM WHO DOES NOT STAND BY HIS WORD. R. SIMEON SAID: HE WHO HAS THE MONEY IN HIS HAND HAS THE ADVANTAGE.[12] GEMARA — Rabbi[13] taught his son R. Simeon: Gold acquires silver. Said he to him: Master, in your youth you did teach us, Silver acquires gold; now, advanced in age, you reverse it and teach, Gold acquires silver. Now, how did he reason in his youth, and how did he reason in his old age? — In his youth he reasoned: Since gold is more valuable, it ranks as money; whilst silver, which is of lesser value, is regarded as produce: hence [the delivery of] produce effects a title to the money. But at a later age he reasoned: Since silver [coin]

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(1) Ibid. 8.

(2) E.V., 'all manner'.

(3) I.e., if the trustee himself puts the deposit to use.

(4) [He is liable for a mere verbal order (R. Han.).]

(5) By taking a small quantity he helped it to sour, because a full barrel does not sour as quickly as one that is not full (R. Han.).

(6) For there is no loss if he merely lifts it up.

(7) When he lifts the barrel up to take a quantity, he is regarded as having already taken it and put it back, because being in a full barrel it is less likely to sour; thus he makes the whole of the rest subservient to the quantity he desired, and is using the rest in that capacity. This renders him responsible for the whole.

(8) As explained on p. 260, n. 7.

(9) He knows that he will give greater care to a whole purse than to one coin, and therefore here too he may be regarded as having actually taken the coin and replaced it, so that it should be better kept, in which case the whole purse is made subservient to the denar.

(10) This is rightly omitted in Alfasi and Asheri, since the passage that follows does not summarize the principle upon which the foregoing is based.

(11) V. Gen. XI, 1-10.

(12) Lit., 'his hand is uppermost'. The general principle of this Mishnah is this: When one makes a purchase, the delivery of the money does not complete the transaction, and either party can withdraw from the bargain; on the other hand, once the goods are taken, the transaction is absolute and irrevocable, and neither party can withdraw, the purchase price being regarded henceforth as an ordinary debt caused by a loan. Now, in ancient days. when the value of coins depended on their weight and general condition, coins of one metal or denomination might themselves be purchased with other coins. Consequently, in such a transaction, it becomes necessary to determine which is to be regarded as the money and which as the goods. The Mishnah proceeds on the principle that those coins which have greater currency than others rank as money vis a vis the others, which are then regarded merely as movables. Now, silver coin had greater currency than gold coin — probably because the latter represented an unusually large sum of money in an agricultural community where money is generally scarce. Consequently, if one purchase gold denarii for silver denarii, as soon as he takes possession of the gold, the bargain is irrevocable and he is bound to render the silver coins to the vendor, i.e., the gold of the vendor gives him a legal title to the silver. On the other hand, if he first takes possession of the silver, the bargain is not concluded; hence revocable. On the same lines, copper coin rank as money vis a vis silver, so that when the former is taken, the transaction is legally closed; but not the reverse. The same principle operates in the other clauses of the Mishnah dealing with the purchase of money. In the case of barter, however, as soon as one party takes possession of the article that is bartered, the transaction is consummated, and neither party may withdraw.

(13) I.e., R. Judah the Prince, who compiled the Mishnah.

Talmud - Mas. Baba Metzia 44b

is current, it ranks as money; whilst gold, which is not current, is accounted as produce, and so the produce effects a title to the money.

R. Ashi said: Reason supports the opinion held in his youth, since it [the Mishnah] teaches: COPPER ACQUIRES SILVER. Now, should you agree that silver ranks as produce vis a vis gold, it is well: hence it states, COPPER ACQUIRES SILVER, to show that though it is accounted as produce in relation to gold, it ranks as money in respect of copper; but should you maintain that silver ranks as money in respect of gold, then [the question arises:] If in relation to gold, which is more valuable, you say that it ranks as money, is it necessary [to state so] in relation to copper, seeing that it is both more valuable and also current?[1] — It is necessary:[2] I might have thought that the [copper] coins,[3] where they do circulate, have greater currency than silver:[4] therefore we are taught that since there is a place where they have no circulation,[5] they rank as produce.

Now, R. Hiyya too regards gold [coin] as money. For Rab once borrowed [gold] denarii from R. Hiyya's daughter. Subsequently, denarii having appreciated, he went before R. Hiyya.[6] ‘Go and repay her current and full-weight coin,’ he ordered. Now, if you agree that gold ranks as money, it is well.[7] But should you maintain that it is produce, it is the equivalent of [borrowing] a se'ah for a se'ah [to be repaid later], which is forbidden?[8] -[That does not prove it, for] Rab himself possessed [gold] denarii [when he incurred the debt], and that being so, it is just as though he had said to her, ‘Lend me until my son comes’, or ‘until I find the key.’[9]

Raba said: The following Tanna is of the opinion that gold is money. For it has been taught: The perutah which they [the Sages] spoke of is an eighth of an Italian issar.[10] What is the practical bearing thereof? In respect of a woman's kiddushin.[11] The issar is a twenty-fourth of a silver denar. What is the practical bearing thereof? In respect to buying and selling.[12] A silver denar is a twenty-fifth of a gold denar. What is the practical bearing thereof? In respect to the redemption of the firstborn.[13] Now, if you agree that it [gold] is accounted as money, it is well: the Tanna thus assesses [the coins] on something of fixed value.[14] But should you say that it ranks as produce; can the Tanna give an assessment on the basis of that which rises and falls in value? Sometimes the priest may have to give him change.[15] whilst at others he [the father] will have to give an additional sum to the priest![16] Hence it is proved that it ranks as money. This proof is conclusive.

We learnt elsewhere: Beth Shammai say: One must not turn [silver] sela's into gold denarii; but Beth Hillel permit it.[17] Now, R. Johanan and Resh Lakish [differ thereon]: One maintains that the dispute concerns exchanging sela's for denarii. Beth Shammai holds that silver [coin] ranks as money, whereas gold counts as produce, and money may not be redeemed by produce.[18] Whilst In the opinion of Beth Hillel, silver [coin] ranks as produce and gold as money, and produce may be redeemed by money. But all agree that [actual] produce may be redeemed by [gold] denarii. Why so? By analogy with silver [coin] on the view of Beth Hillel. [Thus: consider] silver according to Beth Hillel, though ranking as produce vis a vis gold, it nevertheless counts as money in respect to [real] produce. So is gold too according to Beth Shammai; though accounted as produce vis a vis silver, it ranks as money in respect to [real] produce. But the other maintains: The dispute concerns the exchanging of [real] produce for [gold] denarii too,[19]

Now, on the view that the dispute concerns the exchanging of [real] produce for [gold] denarii too, [then] instead of stating their dispute in reference to the exchange of sela's for denarii, let them state it with reference to [actual] produce for denarii!-If the dispute were thus taught, I might have thought that it applies only to the exchange of produce for denarii; but as for exchanging sela'im for denarii, Beth Hillel concede to Beth Shammai that gold vis a vis silver ranks as produce and that [silver] may consequently not be redeemed [by gold]: therefore we are informed [that it is not so].

It may be proved that it is R. Johanan who holds that it may not be redeemed thus.[20] For R. Johanan said:

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(1) R. Ashi thus attempts to prove that the second clause of the Mishnah is more in consonance with the first clause on

Rabbi's early view, since on his subsequent opinion the whole of the second clause would be superfluous. Rashi observes that the second clause will be in the form taught to Rabbi by R. Meir his teacher, it being a Talmudic principle that an anonymous Mishnah agrees with R. Meir. Cf. however, Weiss, Dor II, ch. 22.

(2) I.e., even if silver coin be accounted as money in respect to gold, the second clause of the Mishnah must be stated.

(3) פריטי , the plural of the more familiar פרוטה .

(4) Cf. p. 262, n. 3, on currency of coins of small value.

(5) The actual place is not given.

(6) To consult him what to do, so as not to infringe the prohibition of interest.

(7) Notwithstanding its appreciation, he would be returning money of the same nominal value as that which he borrowed.

(8) Lest it appreciates in the meantime; v. infra 75a.

(9) V. infra 75a.

(10) The Roman assarius.

(11) V. Glos. This kiddushin must not be less than a perutah or its equivalent (Kid. 2a); hence it must be defined.

(12) Rashi: If one sold a denar for more than twenty-four issars, the vendee was cheated, and if the overcharge amounted to a sixth (v. infra 49b), it is returnable. Tosaf. rejects this, because in Kid. 12a it is stated that the issar was variable sometimes rising in value and sometimes falling, and therefore explains: If one sold an article for 24 issars, when these were worth a denar, and subsequently, before payment was made, the issar depreciated to 32 to the denar, the buyer must pay the full denar or 32 issars.

(13) Which, according to the Bible, is five shekels=30 silver denarii. So that if the father gave the priest a gold denar, he must return him five silver denarii.

(14) I.e., the gold denar is always theoretically reckoned at 25 silver denarii, and the redemption is assessed accordingly. So that even if the gold denar was actually worth 20 denarii, we do not regard the gold as having depreciated, but the silver as having appreciated; therefore, if the father gave a gold denar, he is still entitled to a proportionate return, which is now four denarii, notwithstanding that the gold denar is now nominally valued at 20 silver denarii, the exact sum required for redemption.

(15) Of a gold denar, sc. when it stands at more than twenty silver denarii.

(16) How then can the Tanna state that in respect of redemption the gold denar is always valued at 25 silver denarii?

(17) M. Sh. II, 7. A sela’= 4 denarii. The reference is to the second tithe, which had to be consumed in Jerusalem; if however, it was too burdensome to carry thither, it might be redeemed by money, which was to be expended there (Deut. XIV, 22-26). Now, if the produce had been thus exchanged for silver sela's, Beth Shammai rule that these silver coins may not be re-exchanged for gold denarii to lighten the burden still further. Beth Hillel, however, permit this, and the Talmud proceeds to discuss this difference of opinion.

(18) Since the Bible only authorises the reverse (ibid. 25).

(19) I.e., Beth Shammai regard gold as produce absolutely, even without reference to any other commodity, and therefore one may not redeem other produce therewith.

(20) I.e., that in the opinion of Beth Shammai not even real produce may be redeemed by gold denarii.

Talmud - Mas. Baba Metzia 45a

A denar may not be lent for a denar [to be returned].[1] Now, which denar is meant? Shall we say, a silver denar for a silver denar [to be repaid]: but is there any view that it does not rank as money even in relation to itself?[2] Hence it must obviously mean a gold denar for a gold denar. Now, with whom [does this ruling agree]? If with Beth Hillel — but they maintain that it ranks as coin! Therefore it must surely be in accordance with Beth Shammai, thus proving that it was R. Johanan who held that such redemption is not permissible! — No. In truth, I may assert that R. Johanan ruled that such redemption may be made, but a loan is different. For since the Rabbis treated it as produce in reference to buying and selling,[3] as we say that it is that [sc. gold] which appreciates or depreciates,[4] it ranks as produce in reference to loans too. This is reasonable too. For when Rabin came,[5] he said in R. Johanan s name: Though it was ruled that a denar may not be lent for a denar [to be repaid], yet the second tithe may be redeemed therewith. This proves it.[6]

Come and hear: If one changes[7] a sela''s worth of second tithe [copper] coins, Beth Shammai rule: the full sela''s worth of coins must be changed.[8] But Beth Hillel rule: [He may change] only a shekel's worth into silver, and retain a shekel's worth of coins.[9] Now, if in Beth Shammai's opinion redemption may be made with [copper] perutahs,[10] can there be a doubt that it may be redeemed with gold? — Copper coins are different, for where they circulate, they have greater currency.[11]

Another version puts is thus: R. Johanan and Resh Lakish [differ thereon]: One maintains that the dispute concerns changing sela's for [gold] denarii. Beth Shammai hold that 'the money' implies the first money, but not the second;[12] whereas Beth Hillel argue, 'the money . . . money' implies extension,[13] thus including even a second [redemption of] money. But all agree that [actual] produce may be redeemed by [gold] denarii, since it [sc. the gold denarii] is, after all still the first money. Whilst the other maintains: The dispute concerns the exchanging of [real] produce for [gold] denarii too.[14] Now, on the view that the dispute refers only to the exchange of sela's for denarii, instead of stating the dispute in reference to the exchange of sela's for denarii, let it be stated in reference to the exchange of sela's for sela's![15] — If the dispute were stated thus, I might have thought that it applies only thereto, but as for exchanging sela's for [gold] denarii, Beth Hillel concede to Beth Shammai that gold ranks as produce in respect to silver, and therefore such redemption is not permissible. Hence we are taught otherwise.

Come and hear: If one exchanges a sela' of second tithe in Jerusalem,[16] Beth Shammai say: He must exchange the whole sela' for [copper] coins.[17] But Beth Hillel rule: He must change it into a silver shekel, and [retain] a shekel's worth of [copper] coins.[18] Now, if silver may be redeemed with [copper] Perutahs, and we do not say. [It may be exchanged into] money once, but not twice: are we to say it in respect of gold, which is more valuable?[19] — Said Raba: Do you raise an objection from Jerusalem! Jerusalem is different, since it is written thereof, And thou shalt bestow that money [sc. in Jerusalem] for whatsoever thy soul lusteth after, for oxen, for sheep, [etc.].[20]

Come and hear: 'If one changes a sela''s worth of second tithe [copper] coins, Beth Shammai rule: the full sela''s worth of coins must be changed.[21] But Beth Hillel rule: He must change only a shekel's worth into silver, and retain a shekel's worth of coins'?[22] — Hence [we must assume that] all agree, that 'the silver . . . silver' is an extension, including even a second redemption of money.[23] But if a dispute between R. Johanan and Resh Lakish was stated, It was stated thus: One maintains: Their dispute concerns the changing of sela's into [gold] denarii only. Beth Shammai hold: We forbid this as a precautionary measure,

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(1) Lest it appreciates in the interval, and so the injunction of usury be violated.

(2) Since the aforementioned injunction applies only to produce, not coin.

(3) v. Mishnah: GOLD ACQUIRES SILVER.

(4) I.e., when the rate of exchange between silver and gold varies, we regard the change as having taken place in the value of the gold, the value of the silver remaining unaltered. That follows from the Mishnaic ruling. GOLD ACQUIRES SILVER, and it is axiomatic that variation is to be attributed to the produce, not the money.

(5) From Palestine to Babylon.

(6) The distinction between redemption and loan.

(7) Heb. פרט denotes to break up, hence primarily to change coins into others of smaller denomination. By extension, however, it came to mean any changing of coin, even for those of a larger denomination, and is thus used here.

(8) I.e., if one has that amount of coins for changing, he must change it all for a single sela'. Beth Shammai insist that the whole of the exchange must be done at once, not in two or three times, because the banker takes his commission on every single transaction, and so there is less left for spending in Jerusalem (Tosaf.); v. next note. But from Rashi it would appear that Beth Shammai's ruling is merely permissive, and is in contradistinction to the view of Beth Hillel. In that case, the passage should be translated: the full sel'a's worth of coins may be changed.

(9) For as soon as he enters Jerusalem, he needs small change-perutahs-to buy food. This will cause a general rush on the banker, the rate of exchange will advance, and the purchasing power of the money will be diminished, with the consequent reduction in the quantity of comestibles to be purchased and consumed as second tithe; v. ‘Ed. I, 9.

(10) Since Beth Shammai discuss the changing of copper coins of the second tithe into silver, they must admit that in the first place the produce was redeemed by these copper coins.

(11) So that though it may be redeemed for copper, it is nevertheless possible that it may not be redeemed with gold, in accordance with one of the views stated above.

(12) The reference is to Deut. XIV. 25: Then thou shalt turn it into money and bind up the money in thine hand, and shalt go unto the place which the Lord thy God shall choose. ‘The Money’, in the opinion of Beth Shammai, implies that the first money for which the second tithe was redeemed must be carried to Jerusalem, but not the second: i.e., once it was redeemed, the redemption money may not be exchanged for other coins.

(13) ‘Money’ is stated several times in the passage: Thou shalt turn it into money and bind up the money . . . And thou shalt bestow that money. . .; this repetition implies an extension of changing. I.e., that the money may be changed or redeemed more than once.

(14) Beth Shammai regard gold as produce, for which the agricultural products cannot be redeemed.

(15) Since here too it is a second redemption of money, which, according to Beth Shammai, is forbidden.

(16) Having brought sela's to Jerusalem, he now proceeds to change them into smaller coins for current use.

(17) v. p. 267. n. 4, which applies here too.

(18) For he may not stay long enough in Jerusalem to expend it all, in which case he must leave the rest there until his next visit. But copper coins are liable to corrosion, and therefore unsuitable for preserving; whilst should he wish to change them back into silver at the end of his stay, he must pay commission again (‘Ed. 1,10); v. p. 267, n. 4.

(19) And consequently has a greater claim to be regarded as produce (v. p. 262, n. 3). Tosaf. observes: It is obvious even to the questioner that a distinction must be drawn between Jerusalem and elsewhere. Outside Jerusalem, the main form of exchange is that of produce for perutahs or sela's, to lighten the burden of carrying, whereas in Jerusalem it is the reverse: the sela's being exchanged either for foodstuffs direct or into perutahs, for day-to-day purchases. Consequently, this cannot be urged as an objection against the first version of the difference between Resh Lakish and R. Johanan, or against the view expressed in the second version that Beth Shammai and Beth Hillel differ even in respect of the exchange of produce for gold denarii, the dispute centering on the question whether gold ranks as produce or coin. But it is raised as an objection against the view that Beth Shammai permit only one exchange into money, but not a further exchange; this difficulty is urged on the hypothesis that in that respect there is no difference between Jerusalem and elsewhere, to which Raba replies (v. text) that here too a distinction is drawn.

(20) Deut. XIV, 26: i.e., every form of exchange is permitted, even into coins of smaller denominations, for greater convenience.

(21) v. p. 267. n. 4.

(22) Though this does not refer to Jerusalem, both Beth Shammai and Beth Hillel agree that a second money change is permissible.

(23) v. p. 268, n. 2.

Talmud - Mas. Baba Metzia 45b

lest one postpone his pilgrimages [to Jerusalem], for he may not have the full number of silver coins[1] required for a [gold] denar, and so will not take them up [thither];[2] whilst Beth Hillel are of the opinion that we do not fear that he may postpone his pilgrimages, for even if they are insufficient to change into a denar, he will still take them up.[3] But all agree that produce may be redeemed with [gold] denarii, for since it rots [if kept long], he will certainly not keep it back. But the other maintains: The dispute refers even to the exchange of produce for denarii.[4]

Now, according to the version that by Biblical law it [the exchange] is indeed permitted, but that the Rabbis forbade it, it is well: hence he [the Tanna] teaches ‘he may turn’ ... ‘he may not turn.’[5] But according to the version that they differ in Scriptural law, he should have stated, ‘One can redeem’ ... ‘one cannot redeem!’[6] This difficulty remains.

It has been stated: Rab and Levi-one maintains: Coins can effect a barter; the other rules that they cannot —[7] Said R. Papa: What is his reason who maintains that a coin cannot effect a barter? Because his [the recipient's] mind is set on the legend thereof,[8] and the legend is liable to cancellation.[9]

We learnt: GOLD ACQUIRES SILVER. Does that not mean, even in virtue of barter, thus proving that a coin may effect a barter? — No; only in virtue of payment.[10] If so, instead of stating, GOLD ACQUIRES SILVER, he should have said, 'Gold sets up a liability for silver'![11] -Learn: 'Gold sets up a liability for [etc.]'[12] . Reason supports this too;[13] since the second clause states. SILVER DOES NOT ACQUIRE GOLD. Now, should you agree that it means, 'in virtue of payment.' it is well: thus we say, gold ranks as produce, silver as money, and money cannot effect a title in respect of produce. But should you maintain that the reference is to barter — let each acquire the other![14] Moreover, it has been taught: Silver does not acquire gold: E.g.. If one sells twenty-five silver denarii for a gold denar, even if the other party takes possession of the silver, he does not acquire it until he [the first] takes possession of the gold. Now, should you agree that the reference is to payment, it is well: therefore he gains no title thereto. But if you maintain that this treats of barter, let him acquire it! — What then: as payment? If so, consider the first clause: Gold acquires silver: e.g. If one sold a gold denar for twenty-five silver denarii, immediately the other party takes possession of the gold, the ownership of the silver vests [in the first] wherever it be. Now, should you agree that the reference is to barter, it is well: hence it is taught, the ownership of the silver vests [in the first] wherever it be.[15] But should you maintain that it treats of payment, instead of saying thus, he [the Tanna] should have taught: The man [the recipient of the gold] becomes liable [for the silver]![16] — Said R. Ashi: After all, it refers to payment, and what is meant by 'wherever it be', is 'just as it is,' viz., as he stipulated. [Thus:] If he had stated. 'I will give you [coins] out of a new purse',[17] he cannot give him [coins] out of an old purse,[18] even If they are superior.[19] Why? Because he can say, 'I need them to store away.'[20]

R. Papa said: Even on the view that a coin cannot effect a barter, — though indeed it cannot effect a barter, it can nevertheless be acquired through barter.[21] For this may be compared to produce, according to R. Nahman's view. Thus, though in R. Nahman's view produce cannot effect a barter,[22] yet it can surely be acquired through barter; so coin too is not [in any way] different.

An objection is raised: If one is standing in a granary and has no money with him, he may say to his friend, 'Behold, this produce is given to you as a gift;'

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(1) Lit., 'zuzim'.

(2) A gold denar was a large sum of money, and might exceed the whole value of the second tithe. Hence, if one were permitted to change the silver sela's into gold, he might postpone the pilgrimage altogether until another harvest.

(3) The weight of these silver coins will certainly not prevent anyone from going to Jerusalem.

(4) Even there the fear of postponement is entertained.

(5) Supra 44b.

(6) One may turn, etc., (lit., 'do') implies that such redemption is possible, and the only question is whether it is permitted (by the Rabbis) or not. But if it is a question of Biblical law, then the dispute is whether such a redemption is effective or not, for if e.g.. sela's cannot be redeemed by denarii, they still retain their sanctity even if so redeemed.

(7) Halifin = barter, exchange. It is a technical term, connoting delivery of a small object representing a larger one which is being bartered. Upon this delivery, the recipient becomes liable for the object he is to give in exchange, though he has not yet received the real object of barter, the transaction having been consummated by this delivery. Now, as was stated in the Mishnah, in a purchase the delivery of the money does not effect the transaction. That, however, may be only if it is delivered in payment. But what if the transaction is made as barter instead of purchase, i.e.. money is bartered for goods: can a coin received by one party in exchange for goods, or as a mere token of delivery, consummate the transaction? This is disputed by Rab and Levi.

(8) I.e., the figure which is stamped on the coin, and which gives it its value. Now, when an ordinary object is used as halifin, the recipient accepts its own intrinsic value as symbolical of the whole. But when a man receives a coin, he does not think of the intrinsic value of the metal, but merely of its worth on account of the legend it bears.

(9) The State may cancel that particular coin. In that case, nothing of value has been given at all, since, as stated in the previous note, the value of the metal is disregarded. Symbolical delivery, however, can be effected only by an article that has some intrinsic value.

(10) I.e., when it is delivered as actual payment for the silver coin, but not as a mere symbolical delivery of barter.

(11) GOLD ACQUIRES SILVER implies that immediately after the gold coin is delivered, the recipient's silver coin vests in the other party, wherever it be; and that indeed is the effect of a transaction consummated as barter. If, however, the gold coin is legally regarded as payment for the article, its effect is merely to create an obligation upon the recipient of an agreed amount of silver, which then ranks as an ordinary debt. In that case, the Mishnah should have stated, GOLD SETS UP A LIABILITY FOR SILVER.

(12) Though this type of answer frequently means that the text of the Mishnah actually needs emending (v. Weiss, Dor. 111,6 n. 14) that is probably not so here. The answer simply states that the Mishnaic phrase GOLD ACQUIRES SILVER means, ‘Gold sets up a liability for silver.’

(13) Sc. that the Mishnah refers to the delivery of gold coin as payment, not as barter.

(14) Since they are not regarded as coins at all, what is the difference between gold and silver?

(15) V. p. 271, n. 2.

(16) V. n. 2.

(17) I.e., new coins.

(18) I.e., old coins.

(19) E.g. better cast or weightier.

(20) Hence I require new coins, as old ones may become mouldy. According to this interpretation, the Baraitha does in fact refer to the recipient's liability.

(21) I.e., once the owner of the coin takes possession of an object either delivered to him symbolically or in exchange against it, the ownership of the money vests in the other party.

(22) I.e., one cannot make a symbolical delivery of fruit and thereby acquire the object that is being bartered. — For this view of R. Nahman, and the opposing view of R. Shesheth v. infra 47a.

Talmud - Mas. Baba Metzia 46a

then he may say. ‘Let it [sc. the produce] be redeemed for the money I have at home.’[1] Hence it is because he has no money with him;[2] but if he had money in his hand he should rather give possession thereof to his friend through meshikah,[3] who would then redeem [the tithe], which is a preferable [procedure], since he would then be a [real] stranger.[4] But if you say that coin may be acquired through barter, let him [the tithe-owner] give possession of the money [he has at home] to his friend by means of a scarf, and then let the latter redeem it![5] — The latter has no scarf. Then let him give possession thereof through soil![6] — He has no soil. But it is stated, ‘If one is standing in a granary!’ — It means in a granary not belonging to him.[7] And does the Tanna take the trouble of teaching us about a naked man, who possesses nought![8] Hence it must surely be that coin cannot be acquired by barter.[9] This proves it.

And R. Papa himself — retracted, as we find that R. Papa had thirteen thousand denarii at Be-Huzae,[10] which he transferred to R. Samuel b. Aha along with the threshold of his house.[11] When he [R. Samuel b. Aha] came [with the money], he [R. Papa] went forth to meet him up to Tauak.[12]

[To revert to the original discussion:] And ‘Ulla said likewise: Coin cannot effect a barter; and R. Assi said likewise: Coin cannot effect a barter; and Rabbah b. Bar Hanah said likewise in R. Johanan's name: Coin cannot effect a barter. R. Abba raised an objection against ‘Ulla: If his carters or labourers demanded [their wages] from a man in the market place, and he said to a money-changer, ‘Give me copper coins for a denar, and I will pay them,[13] whilst I will return you a denar's worth[14] and a tressis[15] Out of the coins which I have at home:’ then if he has money at home, it is permitted; otherwise, it is forbidden.[16] Now, should you think that coin cannot effect a barter, it is a loan, and hence forbidden![17] Thereupon he was silent. Said he to him: Perhaps both[18] refer to uncoined metal which bear no imprint.[19] so that they rank as produce, and therefore may be acquired by barter? — Even so, he replied. This too follows from the fact that he [the Tanna] states, a denar's worth and a tressis, but does not state. a current denar[20] and a tressis. This proves it. R. Ashi said: After all, [the return may be] in the character of repayment, though the reference indeed is to uncoined metal: since he has them [at home], it is as though he said, ‘Lend me until my son comes, or until I find the key.’[21]

Come and hear: Whatever can be used as payment for another object, as soon as one party takes possession thereof, the other assumes liability, for what is given in exchange.[22] ‘Whatever can be used as payment for another object’ — what is that? Coins: which proves that coins can effect a barter![23] -Said Rab Judah: It means this:

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(1) M. Sh. IV. 5. The reference is to second tithe produce, which, as stated above, might be redeemed instead of being taken to Jerusalem. Now, when a man redeemed his own second tithe produce, he had to add a fifth of its value, but not if he redeemed produce belonging to another. Cf. Lev. XXVII, 31: And if a man will at all redeem ought of his tithes, he shall add thereto a fifth part thereof. But, in order to evade this addition, a legal fiction might be resorted to: one gave his Produce to another and then redeemed it, thus redeeming the produce of another-then received it back. The Mishnah quoted gives an instance of such an evasion, which, as may be seen from the phraseology, was recognised and sanctioned by law.

(2) That is why the Tanna recommends that particular procedure, explicitly stating that it is to be followed when the tithe owner has no money with him.

(3) V. Glos.

(4) I.e, if he gave the money to his neighbour, whilst retaining the produce himself, his friend would actually be redeeming a tithe that is not his own! That is not such a glaring evasion as when a person gives the produce to his neighbour and then redeems it himself, and therefore is preferable; and the Tanna obviously permits the other procedure only because the latter is impossible, since the tithe owner has not the money with him.

(5) Instead of his gifting the produce to him, let his friend give him a scarf or handkerchief as halifin (v. supra p. 30. n. 3), for the money, and then redeem the tithe with this money (which need not actually be in his hand for the purpose of redemption), since the Tanna prefers this procedure. Hence it follows that money cannot be acquired through barter.

(6) I.e., the tithe owner should have given him a piece of soil, in virtue of which his friend could acquire the money too, it being a general principle that movables may be acquired by dint of real estate (Kid. 26a). — This is not an objection against the view that money can be acquired through barter, but is a difficulty that arises in this Mishnah itself. Rashi recognises it as such, and though Tosaf. attempts to shew that it is indeed an objection against the opinion just mentioned, the reasoning is not very plausible. It is quite possible that this passage bearing on the acquisition of money by dint of real estate is a later editorial interpolation. V. Kaplan. Redaction of the Talmud. Ch. XIII.

(7) But merely rented.

(8) This reverts to the objection that his friend should have acquired the money through barter, to which the answer was given that he had no scarf wherewith to effect the barter. This of course must mean that he had nothing at all, since any object can be used for the purpose, and so the Talmud objects further: surely the Tanna did not take the pains of stating such an exceptional case!

(9) Therefore the tithe owner has no other alternative but that stated in the Mishnah.

(10) V. p. 508. n. 2. — R. Papa was a very wealthy man, Cf. infra 65a.

(11) V. p. 273. n. 5. Since he had recourse to this mode, and did not employ the simple means of barter, he must have withdrawn from the view that coin can be acquired by means of barter. His purpose in transferring the money was that R Samuel b. Aba should bring it to him from Be-Huzae; without such transference, the bailee might have refused to let it out of his possession, as he would then have to bear the risks of the road.

(12) V.B.B. (Sonc. ed.) p. 310 and nn.

(13) Lit., ‘supply them’.

(14) The Heb. expression is very peculiar, יפה דינר At this stage, this was thought to be the equivalent of דינר יפה a good, I.e., current denar.

(15) A coin worth three issars. The text has טריסית , an incorrect form of טריסין (Jast.).

(16) It was assumed that the reason is this: If he has money at home, immediately he takes possession of the coins the money-changer acquires the ownership of the money at home by the process of barter; hence there is no usury, since theoretically the banker does not wait for his money. But this cannot operate if he has no money, in which case it is a pure loan upon which the tressis is interest.

(17) V. preceding note; the reasoning there is possible only on the assumption that coin can effect a barter.

(18) Sc. that which is given by the banker, and that which is returned.

(19) Uncoined pieces of metal were used as small change.

(20) V. p. 274. n. 6.

(21) V. infra 75a. The preceding discussion has assumed that the only basis upon which the transaction is permissible is barter. R. Ashi, however, points out that since it has been explained that the reference is to uncoined metal, the transaction may be viewed and carried out as a loan, the return being actually in the nature of repayment thereof; nevertheless it is permitted for the reason stated.

(22) I.e., for the halifin, or barter thereof. When A takes possession of the first, B automatically accepts the risks of the barter; e.g., if an ox is being given in exchange, the full risks of anything happening to it are now borne by B, though it has not actually reached his hand.

(23) For if the coins are given in the character of payment, they do not consummate the sale to render the purchaser responsible for all risks. Hence they are used as barter, as the passage stated.

Talmud - Mas. Baba Metzia 46b

Whatever is assessed as the value of another object,[1] as soon as one party takes possession thereof, the other assumes liability for what is given in exchange. Reason too supports this — For the second clause teaches: How so? If one bartered an ox for a cow, or an ass for an ox. This proves it. Now, on the original hypothesis that coin [is referred to], what is meant by ‘How so?’[2] — ‘It means this: And produce[3] too can effect a barter. How so? If one bartered an ox for a cow, or an ass for an ox. Now, that is well on the view of R. Shesheth, who maintained that produce can be employed for barter. But according to R. Nahman, who said: Only a utensil, but not produce, can effect a barter, what is meant by ‘How so’?-It means this: Money sometimes ranks as [an object of] barter. How so? If one bartered the money of an ox for a cow, or the money of an ass for an ox.[4] What is R. Nahman's reason?[5] He agrees with R. Johanan, who said: Biblically Speaking, [the delivery of] money effects a title. Why then was it said that only meshikah gives possession? As a precautionary measure, lest he say to him, ‘Your wheat was burnt in the loft.’[6] Now, the Rabbis enacted a preventive measure only for a usual occurrence, but not for an unusual occurrence.[7] Now, according to Resh Lakish, who maintains that meshikah is explicitly required by Biblical law: it is well if he agrees with R. Shesheth: then he can explain[8] it as R. Shesheth. But if he holds with R. Nahman, that produce cannot effect a barter, whilst money does not effect a title [at all], how can he explain it?[9] -You are forced to assume that he explains it as R. Shesheth.

We learnt: ALL MOVABLES ACQUIRE EACH OTHER, whereon Resh Lakish said: Even a purse full of money [when bartered] for a purse full of money.[10] -R. Aha interpreted it as referring to the Bithynian and Ancyrean[11] denarii, one of which was cancelled by the State, and one by local authorities.[12] And both are necessary. For if we were taught this of State cancellation,[13] that is because such coins have no [official] currency at all; but in the case of local repeal, since these coins circulate in another province, I might regard them as money, which cannot be acquired through barter. Whilst if it were stated in connection with local repeal, that is because they have neither a secret nor an open circulation [within that province]; but when cancelled by the State, since they circulate clandestinely, I might still regard them as coin, which cannot be acquired through barter. Thus both are necessary.[14]

Rabbah said in R. Huna's name: [If A said to B,] ‘Sell [it] me for these [coins],’ he acquires title thereto,[15]

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(1) I.e., anything but money. which needs no assessment.

(2) I.e., why is an instance given which does not illustrate the use of money as barter?

(3) Heb. פירי whilst this term is generally applicable only to objects of the vegetable kingdom, it may also be used, as here, to denote the animal kingdom too, in contradistinction to כלים , articles or utensils of use.

(4) E.g. A sold an ox to B for a certain sum of money, and B took possession, thereby becoming indebted to A for the purchase price. Then B said, ‘I have a cow which I can give you for the purchase price of the ox,’ to which A agreed. Now, notwithstanding that this is theoretically a fresh transaction, viz., B sells a cow to A, the money owing by B for the ox being regarded as though delivered to him by A for the cow, and it is a principle that the delivery of money alone does not consummate a purchase, it does so in this case, and neither can retract; i.e., it is barter, not payment.

(5) Why in fact should it be regarded as barter here, though normally money does not effect a title?

(6) V. infra 47b.

(7) I.e., such a transaction as the one under discussion is unusual; consequently, the Biblical law operates. Hence the delivery of the money effects a title, and neither can withdraw.

(8) The Mishnah under discussion.

(9) For, as we have seen, it involves either that produce can effect a barter, or that money should effect a title.

(10) This proves that money can effect a barter.

(11) Bithynia, a district in Asia Minor; Ancyra, a city of Galatia in Asia Minor (Jast.). [Zuckermann, Munzen, p. 33, on basis of variant נייקי for אנקא renders: victory (Gr. **) and Nigerian denarii, the former referring to coins of conquered countries recalled by the victorious state; the latter to the coins struck by Pescennius Niger, the rival of Septimius Severus, the currency of which was strictly limited to the province over which he ruled.]

(12) The exchange consisted of these coins which, being cancelled, are just the same as any other produce. — Coins repealed by the State might still have a clandestine circulation within a particular province: on the other hand, those cancelled by a local authority would have no currency at all within that province, but a full currency without.

(13) That these coins rank as produce.

(14) It may be observed that this type of reasoning is generally applied to two Tannaitic statements, as found in a Mishnah or a Baraitha. Here, however, it is applied to an Amoraic (R. Aha's) interpretation of what is itself an Amoraic (Resh Lakish's) comment on a Mishnah.

(15) If A was holding an undetermined number of coins in his hand, and suggested that B should sell him an article for them, without stating their value, and B agreed, immediately B takes possession of the coins the transaction is consummated, and neither can retract, though normally the delivery of money does not effect a title. The Talmud proceeds to discuss the reason for this.

but [the vendor] nevertheless has a claim of fraud against him.[1] ‘He acquires a title thereto,’ — even though he did not take possession thereof [sc. of the article]: since he [the other party] was not particular [as to the exact amount of money], he [the former] acquires it, for it partakes of the nature of barter. ‘Nevertheless, he has a claim of fraud against him,’ — because he had said to him, ‘Sell it me for these coins.’[2] R. Abba said in R. Hunas name: [If A said to B.] ‘Sell [it] me for these coins,’ he acquires a title thereto, and he [the vendor] has no claim of fraud against him.[3]

Now, it is certain [if money or an article is delivered as] payment, but he [the recipient] is not particular [that the value shall correspond] — then we have just said that he [the giver] acquires title, for it partakes of the nature of barter. But what if it[4] is delivered as barter, and he [the recipient] is particular?[5] -Said R. Adda b. Ahaba: Come and hear: If one was standing with his cow [in a market], and his neighbour came and asked him, ‘Why [have you brought] your cow [hither]?’ — ‘I need an ass,’[he replied]. ‘I have an ass which I can give you [in return for your cow].’ ‘What is the value of your cow?’ ‘So much.’ ‘What is the value of your ass?’ ‘So much.’[6] If the ass-owner drew the cow into his possession, but before the cow-owner had time to draw the ass into his possession it [the ass] died, he [the ass-owner] acquires no title thereto [the cow]. This proves that in the case of barter, where each is particular, no title is gained [unless both take possession]. Said Raba: Does then [the general law of] barter apply only to imbeciles, who are not particular? But indeed in all cases of barter they are certainly particular; nevertheless, title is acquired [when only one party takes possession].[7] Here however it means that one said, ‘[I give you] my ass in return for a cow and a lamb,’ and he drew the cow into his possession but not the lamb,[8] in which case the meshikah was not completed.[9]

The Master said: ‘“Sell it me for these [coins]." he acquires title thereto, yet he [the vendor] has a claim of fraud against him.’ Shall we say that in R. Huna's opinion coin may effect a barter?-No. R. Huna agrees with R. Johanan, who ruled: Biblically speaking, [the payment of] money effects a title. Why then was it said that only meshikah gives possession? As a precautionary measure, lest he say to him, ‘Your wheat was burnt in the loft.’ Now, the Rabbis enacted a preventive measure only for a usual occurrence, but not for an unusual occurrence.[10]

Mar Huna, the son of R. Nahman, said to R. Ashi: You have had it reported so.[11] But we had it reported thus: And R. Huna said likewise, Coin cannot effect a barter.[12]

Wherewith is a title effected?[13] -Rab said: With the utensil of the receiver; for the receiver wishes the bestower to take possession,[14] so that he [the latter] in his turn may determine to give him possession. Whilst Levi said: With the utensil of the bestower, as will be explained anon. R. Huna of Diskarta[15] said to Raba: Now, according to Levi, who maintained that it is with the utensil of the bestower, one will be able to acquire land in virtue of a garment, which is tantamount to secured property being acquired along with unsecured, whereas we learnt the reverse: Unsecured chattels may be acquired along with secured chattels![16] -Said he to him: Were Levi here, he would have smitten you[17] with fiery lashes! Do you really think that the garment gives him possession? [Surely not! but] in consideration of the pleasure he [the bestower] experiences in that the receiver accepts it from him, he wholeheartedly transfers it to him.[18]

This[19] is disputed by Tannaim: Now this was the manner in former times in Israel concerning redeeming and concerning changing, For to confirm all things; a man drew off his shoe, and gave it to his neighbour;[20] ‘redeeming’ means selling, and thus it is written, It shall not be redeemed;[21] ‘changing’ refers to barter, and thus it is written, He shall not alter it, nor change it;[22] for to confirm all things; a man drew off his shoe, and gave it to his neighbour. Who gave whom? Boaz gave to the kinsman. R. Judah said: The kinsman gave to Boaz.[23]

It has been taught: Acquisition may be made by means of a utensil, even if it is worth less than a perutah. Said R. Nahman: This applies only to a utensil, but not to produce.[24] R. Shesheth said: [It may be done] even with produce. What is R. Nahman's reason? — Scripture saith, 'his shoe': implying, only 'his shoe' [i.e., a utensil], but nothing else. What is R. Shesheth's reason? Scripture saith, for to confirm all things.[25] But according to R. Nahman too, is it not written, to confirm all things?-That means, to confirm all things the title to which is to be effected by means of a shoe.[26] And R. Shesheth too: is it not written, 'his shoe'?- R. Shesheth can answer you: [That is to teach,] just as his shoe is a clearly defined object, so must everything [used in this connection] be a clearly defined object, thus invalidating half a pomegranate or half a nut, which may not be [employed].[27]

R. Shesheth, the son of R. Iddi, said: In accordance with whom do we write nowadays, 'with a utensil that is fit for acquiring possession therewith'?[28] 'With a utensil' — that rejects the view of R. Shesheth, who maintains: A title may be effected by means of produce. 'That is valid' — this excludes Samuel's dictum, viz.: Possession can be obtained

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(1) If the money is less than the value of the article by a sixth, the vendor can claim the cancellation of the transaction (v. infra 49b).

(2) 'Sell' would imply to the vendor that the coins approximated to the value of the object.

(3) R. Abba holds that no particular significance attaches to the word 'sell' in such circumstances.

(4) Any other object except money.

(5) That the object given in symbolical delivery shall have a certain value. Is it still regarded as barter, and therefore the transaction is consummated by this symbolical delivery: or perhaps, since he insists that it shall have a certain value, it is the equivalent of money, and therefore does not effect a title?

(6) And the values tallied.

(7) Although it may be regarded as the equivalent of money.

(8) When the ass died.

(9) Lit., 'proper'.

(10) V. p. 276. n. 4. the transaction under discussion is likewise most unusual.

(11) As above. I.e., you are in doubt whether R. Huna holds that coin may effect a barter, but merely answered that his dictum does not compel us to assume that in his opinion it is so.

(12) As a definite statement.

(13) When A wishes to gain possession of an article belonging to B by means of a symbolical delivery of an object, Does A have to provide the article for effecting the title, the article he delivers being a symbolical exchange for that which he is to acquire; or B, the object he delivers being symbolical of that which he really intends giving?

(14) The object of symbolical recovery.

(15) [Deskarah, sixteen parasangs N.E. of Bagdad, Obermeyer, op. cit. p. 246.]

(16) Unsecured chattels==movables; secured chattels==real estate. The point of R. Huna's observation is this. Since Levi maintains that Possession is effected by means of the bestower's utensil, it follows that if the object transferred is land, the receiver gains Possession thereof in virtue of having taken the bestower's utensil, i.e., the former becomes an appendix to the latter, as it were. But the Mishnah has taught the reverse, viz., when one acquires real estate, he may likewise effect a title to movables that go with it, but not vice versa.

(17) Lit., 'he would have brought before you fiery lashes.' He would have threatened you with the ban for having imputed to him a wrong opinion (Rashi).

(18) So that when the bestower gives his garment, it is regarded as though he were actually receiving something.

(19) The controversy between Rab and Levi.

(20) Ruth IV, 7.

(21) Lev. XXVII, 33. The reference is to the redemption of a consecrated animal. Evidently, such redemption, if permitted, would be by means of money, i.e., buying the animal back (since substitution is separately dealt with, as the Talmud proceeds to shew); thus here too, by 'redeeming' selling for money is meant.

(22) Ibid. 10.

(23) Thus we see the same dispute here as between Rab and Levi.

(24) I.e., produce cannot be employed as a symbol of acquisition.

(25) Which he translates, for to confirm with all things — i.e., any article can confirm a transaction.

(26) I.e., both purchase and barter are consummated by the symbolical delivery of a shoe.

(27) Half a pomegranate has no distinctive individuality, which is the idea connoted here by 'clearly defined'.

(28) In a document recording a transaction by means of halifin. This phrase is also used in a woman's marriage settlement (kethubah).

Talmud - Mas. Baba Metzia 47b

by means of maroka.[1] 'For gaining possession' — this rejects Levi's view, that the utensils of the bestower [are required]:[2] therefore it teaches us: to obtain possession, but not to confer possession.[3] 'Therewith' — R. Papa said: It is to exclude coins. R. Zebid — others state, R. Ashi — said: It is to exclude objects the benefit of which is forbidden.

Others state: 'Therewith' excludes coins.[4] 'That is fit'; R. Zebid — others state, R. Ashi — said: That excludes objects whose use is forbidden.[5] But as for maroka, It Is unnecessary [to exclude that].[6]

UNCOINED METAL [ASIMON][7] ACQUIRES COINED. What IS ASIMON? — Said Rab: Coins that are presented as tokens[8] at the baths.[9] An objection is raised: The second tithe may not be redeemed by asimon, nor by coins that are presented as tokens at the baths; proving that ASIMON is not coins that are presented as tokens at the baths.[10] And should you answer that it is a definition,[11] surely the Tanna does not teach thus; [for we learnt:] The second tithe may be redeemed by 'asimon', this is R. Dosa's view. The Sages maintain: It may not. Yet both agree that it may not be redeemed with coins that are presented as tokens at the baths.[12] But, said R. Johanan. What is 'asimon'? A disk.[13] Now, R. Johanan follows his views [expressed elsewhere]. For R. Johanan said: R. Dosa and R. Ishmael both taught the same thing. R. Dosa: the statement just quoted. And what is R. Ishmael's dictum? — That which has been taught: And thou shalt bind up the money in thine hand;[14] this is to include everything that can be bound up in one's hand — that is R. Ishmael's view. R. Akiba said: It is to include everything which bears a figure.[15]

E. G., IF [A] DREW INTO HIS POSSESSION [B' s] PRODUCE, WITHOUT PAYING HIM THE MONEY, HE CANNOT RETRACT, etc. R. Johanan said: By Biblical law, [the delivery of] money effects possession. Why then was it said meshikah effects possession? Lest he [the vendor] say to him [the vendee]. 'Your wheat was burnt In the loft.'[16] But after all, whoever causes[17] the fire must make compensation! — But [for fear] lest a fire accidentally break out. Now, if the ownership is [still] vested in him [the vendor],[18] he will wholeheartedly take pains[19] to save it; if not, he will not do so. Resh Lakish said: Meshikah is explicitly provided for by Biblical law. What is Resh Lakish's reason? — Scripture saith, And if thou sell aught unto thy neighbour, or acquire aught of thy neighbour's hand[20] — i.e., a thing 'acquired' [by passing it] from hand to hand.[21] But R. Johanan maintains.'of [thy neighbour's] hand' is to exclude real estate from the law of fraud.[22] And Resh Lakish?[23] — If so,[24] Scripture should have written, 'And if thou sell aught unto thy neighbour's hand, ye shall not defraud:' why state, 'or acquire aught'? This proves that its purpose is to teach the need of meshikah. And R. Johanan: how does he utilise 'or buy'? — He employs it. even as was taught: 'And if thou sell aught . . . ye shall not defraud:' from this I know the law[25] only if the purchaser was defrauded. Whence do I know it if the vendor was cheated? From the phrase. 'or acquire aught... ye shall not defraud.' And Resh Lakish?[26] — He learns both therefrom.[27]

We learnt, R. SIMEON SAID: HE WHO HAS THE MONEY IN HIS HAND HAS THE ADVANTAGE. [This means,] only the vendor can retract, but not the purchaser.[28] Now, should you say that [by Biblical law the delivery of] money effects possession, it is well; therefore the vendor can retract, but not the vendee.[29] But if you say that [the delivery of] money does not effect a title [even by Biblical law], then the purchaser too should be able to retract![30] — Resh Lakish can answer you: I [certainly] did not state [my view] on the basis of R. Simeon's opinion, but according to the Rabbis.

Now, as for Resh Lakish, it is well: for precisely therein do R. Simeon and the Rabbis differ.[31] But according to R. Johanan, wherein do R. Simeon and the Rabbis differ? — In respect to R. Hisda's dictum, viz.: Just as they [sc. the Rabbis] enacted the law of meshikah in respect of the vendor, so did they institute it in respect to the vendee.[32] Thus, R. Simeon rejects this dictum of R. Hisda, whilst the Rabbis agree therewith.

We learnt: BUT THEY [SC. THE SAGES] SAID: HE WHO PUNISHED THE GENERATION OF THE FLOOD AND THE GENERATION OF THE DISPERSION, HE WILL TAKE VENGEANCE OF HIM WHO DOES NOT STAND BY HIS WORD. Now, if you say that the delivery of money effects a title, it is well: hence he is subject to the ‘BUT etc.’. If, however, you maintain that money does not effect a title, why is he subject to ‘BUT’?[33] — On account of his words.[34] But is one subject to ‘BUT’ on account of [mere] words? Has it not been taught:

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(1) This word is variously translated. Rashi and Asheri: a vessel made of baked ordure; Tosaf. and R. Han.: date-stones used for smoothing parchment, ‘fit’ implying a wider practicability than the strictly limited use of maroka.

(2) In which case they would confer possession.

(3) [למקניא the Pe'al, and not לקנויי the Af'el, causative.]

(4) ‘Therewith’ implies limitation.

(5) ‘Fit’, Heb. כשר , generally connotes fit for use, and is a term frequently employed in connection with dietary laws.

(6) Because It is too unsubstantial even to be thought fit for this purpose.

(7) GR. **.

(8) Heb. סימן Siman: perhaps this interpretation suggested itself to Rab on account of the similarity of the words.

(9) Rashi: The bath attendant received checks or tokens from intending patrons, so as to know how many would frequent them and what preparations to make. [According to Krauss, T.A., I, 225, these were received by visitors who in turn presented them to the bath-attendant, the olearius, as token payment.] For this purpose cancelled or defaced coins were used.

(10) M. Sh. I,2.

(11) I.e., ‘coins that are presented etc.’ is not a separate clause, but a definition of ‘asimon’. Tosaf. observes that on this hypothesis ‘or’ (coins etc.) would have to be deleted.

(12) ‘Ed. III, 2.

(13) פולסא Jast: circular plate or ring used as weight and as uncoined money.

(14) Deut. XIV, 25.

(15) I.e., a stamped image; וצרת is connected with צור , ‘to form a figure’. By contrast then, R. Ishmael must refer to metal not bearing this figure: and R. Johanan equates that with R. Dosa's dictum. This then agrees with his interpretation of ‘asimon’ as an (uncoined) disk.

(16) If the delivery of coin should transfer ownership to the vendee even whilst the purchase is in the vendor's possession, the latter will be remiss in attempting to save it, should a fire break out on his premises; therefore actual meshikah was instituted. On the other hand, if it were ruled that both meshikah and payment were necessary, if the purchaser took it into his possession without paying and a fire broke out on his premises, he would be remiss in saving it. Therefore the Rabbis enacted that the entire transfer of ownership depends on meshikah alone (Tosaf.). On meshikah, v. Glos.

(17) Lit., ‘throws’.

(18) Lit., ‘if you place it in his ownership.’

(19) Lit., ‘he will trouble himself.’

(20) Lit. rend. of Lev. XXV, 14.

(21) I.e., Scripture shows that the mode of acquisition is by taking the purchase from the vendor's hand, which is meshikah.

(22) The verse ends, ye shall not defraud one another. As stated infra 49b, a certain percentage of fraud or overcharging annuls the sale; but the word ‘hand’ implies that the reference is to something that can pass from hand to hand, sc. movables, but not land.
(23) Does he not admit this: and if he does, where is the reference to meshikah?
(24) That the only purpose of the verse is that stated by R. Johanan.
(25) That fraud annuls the purchase.
(26) Seeing that the verse is required for this purpose, how can it teach meshikah?
(27) ‘Or acquirest’ shows that the law of overreaching holds good when the vendor is the victim, and since ‘hand’ is written in conjunction with ‘acquirest’ rather than with ‘sell’, we learn that the acquisition is made by passing the purchase from hand to hand.
(28) I.e., when the purchaser has paid the money, the vendor, who holds it, has the advantage of being able to retract, but not the vendee.
(29) For, when the vendee delivers the money, ownership rests in him according to Biblical law, and it is only to safeguard his interests in case of accidental fire that the vendor is made to bear the risks until the delivery of the goods. Consequently, since the vendor is put at a disadvantage by the Rabbinical measure, in that he must bear the risks of fire or damage, it is equitable that he shall be compensated by being given the power to retract too. The vendee, on the other hand, is the gainer by the Rabbinical enactment of meshikah; therefore there is no need to increase his advantage still farther by permitting him to retract even if no accident befalls the goods. — This explanation follows R. Hananel; Rashi and R. Tam differ somewhat.
(30) Since the sale has been consummated neither by Biblical nor by Rabbinic law.
(31) R. Simeon maintaining that the delivery of money consummates the sale by Biblical law, and therefore the vendee cannot retract, whilst in the view of the Rabbis meshikah is a Scriptural requisite, and therefore both the vendor and the vendee can retract.
(32) Probably on the score of equitableness. For, notwithstanding the reasoning stated on p. 283. n. II (q.v.), there would be a distinct feeling of unfairness if only one could retract and not the other, e.g. if the price rose or fell.
(33) How is this action in retracting in any way reprehensible, seeing that the sale is not complete at all?
(34) I.e., it is morally wrong to withdraw from an agreement even if it lacks legal force.

Talmud - Mas. Baba Metzia 48a

R. Simeon said: Though they [sc. the Sages] ruled, [The delivery of] a garment acquires the gold denar,[1] but not vice versa: that however, is only the halachah[2] but they [also] said, He who punished the generations of the Flood, and of the Dispersion, the inhabitants of Sodom and Gomorrah, and the Egyptians at the [Red] Sea, He will exact vengeance of him who does not stand by his word; and he who enters into a verbal transaction effects no title, yet he who retracts therefrom, the spirit of the Sages is displeased with him. Whereon Raba observed: We have no other [condemnation] than that the spirit of the Sages is displeased with him![3] For words accompanied by [the passage of] money one is subject to ‘BUT’; for words unaccompanied thereby one is not subject to ‘BUT’.

Raba said: Both Scripture and a Baraitha[4] support Resh Lakish, ‘Scripture’, — for it is written, [If a soul sin . . .] and lie unto his neighbor in that which vas delivered him to keep or in the putting forth of the hand[5] or in a thing taken away by violence, or hath oppressed his neighbour:[6] ‘the putting forth of the hand’ — said R. Hisda: E.g., if he [the debtor] assigned a utensil to him for [the payment of] his debt[7] ‘Or hath oppressed’ — said R. Hisda: E.g., if he assigned him a utensil for that in respect of which he oppressed him.[8] Yet when Scripture repeated it,[9] it is written, Then it shall be, because he hath sinned, and is guilty, that he shall restore that which he took away, or the thing that he withheld by oppression, or that which was delivered him to keep; but ‘the putting forth of the hand’[10] is not repeated. Why so? surely because it lacked meshikah![11] Said R. Papa to Raba: But perhaps that follows from ‘oppression’, which Scripture did repeat?[12] — The circumstances here[13] are, e.g. that he [the employee] took it [the utensil] from him and then entrusted it to his keeping.[14] [But] this is identical with ‘bailment’! — There are two kinds of bailments —[15] If so, ‘the putting forth of the hand’ [i.e.. loan] should also be repeated, and it could [likewise] be applied to the case where, e.g.,he [the creditor] had taken it [the utensil assigned for repayment] from him [the debtor], and then re-deposited it with him?[16] — Had Scripture repeated it, it would have been neither a refutation nor a support:[17] since, however, Scripture did not repeat it, it supports him [Resh Lakish].[18]

Yet did not Scripture repeat, ‘the putting forth of the hand’? But it was taught: R. Simeon said: Whence do we know that what was stated above[19] is to be applied to what is stated below?[20] Because it is written, Or all that about which he hath sworn falsely.[21] And R. Nahman said in the name of Rabbah b. Abbuha in Rab's name: That is to extend the law of restoration to ‘the putting forth of the hand’! — Even so, Scripture did not explicitly repeat it —[22]

Where have we a Baraitha?[23] — For it has been taught:[24] If he gave it to a bath-attendant, he is liable to a trespass offering.[25] And Raba said thereon: This holds good only of a bath-attendant, since no meshikah is lacking.[26] But [if he gave it for] any other object, which requires meshikah,[27] he is not liable to a trespass offering until he does draw it into his possession.[28] But has it not been taught: If he gave it to a hairdresser, he is liable to a trespass offering. Now in the case of the hairdresser, must he [the treasurer] not draw the shears into his possession?[29] — The reference here is to a heathen barber, to whom the law of meshikah does not apply.[30] It has been taught likewise: If he [the treasurer] gave it [the perutah of hekdesh] to a hairdresser, a ship's captain,[31] or to any artisan, he is not liable to a trespass offering until he takes Possession.[32] Now these are self-contradictory![33] But this must surely prove that one refers to a heathen and the other to an Israelite hairdresser. This proves it.

R. Nahman ruled likewise: By Biblical law, [the delivery of] money effects a title, and Levi sought [the source of this ruling] in his Baraitha [collection] and found it; [Viz.,] If he [the treasurer] gave it to a wholesale provision merchant,[34] he is liable to a trespass offering.[35]

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(1) When one is bought for the other.

(2) The strict application of the law.

(3) I.e., the Baraitha does not mean that he is subjected to the curse, ‘He who punished etc.,’ but quite literally, that he who would retract is told that his action displeases the Rabbis, but nothing more. This proves that no curse is pronounced on account of mere words, and so contradicts the previous statement.

(4) [Or, ‘a Mishnah’ v. p. 287. n. 6.]

(5) E.V.: ‘in fellowship’.

(6) Lev. V, 21.

(7) The putting forth of the hand was understood to refer to a monetary loan. Now, if a debtor swears falsely in denying his debt, he is not liable to a sacrifice. Since, however, that passage states that he is liable to one (vv. 24-25: Or all that about which he hath sworn falsely . . . then he shall bring his trespass offering unto the Lord), R. Hisda explains that this refers to a false denial of a debt for the payment of which a utensil had been assigned by the debtor, for then the loan is equivalent to a bailment (‘in that which was delivered to him to keep’ — i.e., a bailment).

(8) Sc. his wages, the reference being to one who withholds his employee's wages (cf. Deut. XXIV, 14-15: Thou shalt not oppress an hired servant . . . At his day thou shalt give him his hire). Here too, a sacrifice for false denial of liability is incurred only if the employer had assigned an article for payment.

(9) In the passage dealing with restoration to be made by the repentant sinner.

(10) I.e., when he repents, he is not bound to restore the particular utensil assigned by him for the repayment of the loan.

(11) And therefore never really belonged to the creditor. This proves that by Biblical law meshikah is necessary for effecting ownership.

(12) For in the case of ‘oppression’ too, as interpreted in the text, there was a meshikah, and yet Scripture orders that the utensil shall be returned. So the same holds good of a loan. In fact, since ‘oppression’ is mentioned, viz., that the utensil assigned for the employee's wages must be returned in spite of the lack of meshikah, it follows that on the contrary meahikah is unnecessary, and thus the verse refutes Resh Lakish. This difficulty, though not explicitly raised by R. Papa, is implied, and the Talmud proceeds to answer it.

(13) Where the Torah provides for the return of the utensil assigned to the employee.

(14) Therefore it must be returned, since the employee had originally acquired the ownership thereof through meshikah.

(15) One, where the bailment belonged entirely to the bailor; and two, where it originally belonged to the bailee, as in the case under discussion.

(16) So that meshikah is not lacking.

(17) Of R. Johanan or Resh Lakish. For the former would explain it as meaning even if no meshikah had taken place, i.e., a utensil was assigned for the debt, but the creditor had never performed meshikah thereon; and still the debtor is liable to a sacrifice, because meshikah is unnecessary by Biblical law; whilst Resh Lakish would maintain that meshikah must have taken place for the law to operate.

(18) [For the only reason that can be given for the repetition by the Torah of ‘oppression’ and not of ‘the putting forth of the hand’, is that in the former it provides only for the case where meshikah had been performed, whilst in the case where it was absent, such as is indicated by the omission of the latter, there is no liability to a sacrifice.]

(19) Sc. Lev. V, 21.

(20) Ibid. 23: I.e., every detail enumerated in v. 21 must be understood in v. 23 et seq. too, even if Scripture does not repeat it.

(21) Ibid. 24: ‘all’ is a general term embracing every antecedent.

(22) Therefore the inference drawn on p. 286, n.1 holds good, whilst the extension of the law will apply to a loan which is exactly similar to ‘oppression’. viz., where meshikah was performed.

(23) Resuming Raba's statement that both Scripture and a Baraitha support Resh Lakish.

(24) Me'il. 20a. There, however, it is a Mishnah. [Several MSS texts in fact read דתנן ‘we have learnt’. This will involve the further emendation of ‘a Baraitha’ into ‘a Mishnah’. V. Strashun, a.l.]

(25) V. 99b. So here too (this is a continuation of the passage quoted there), if the Temple treasurer unwittingly gave a perutah of hekdesh to a bath-attendant for admission, he (the treasurer) is liable to a trespass offering.

(26) I.e., immediately the treasurer pays the perutah, he receives his return, the baths being open for him to enter, so that he need not perform meshikah with any object to receive his quid pro quo. Consequently, the bath-attendant in his turn becomes the legal owner of the perutah immediately it is given him, and for that the treasurer is liable to a sacrifice.

(27) I.e., with which the treasurer must perform meshikah in order to acquire it.

(28) For only then does the recipient of the perutah obtain a legal title thereto. This proves that meshikah is required by Biblical law. For if it were only a Rabbinic measure, whilst by Scriptural law the recipient of the perutah immediately acquires a title thereto, the treasurer would always be liable to a trespass offering, no matter for what he gave the perutah, since a Rabbinical enactment cannot free a person from an obligation that lies upon him pursuant to Scriptural law.

(29) It would appear that when one paid a hairdresser in advance, he signified his liability to trim the customer's hair by handing him the shears. But in any case, some form of meshikah is necessary, and yet the treasurer incurs a liability immediately he gives the money, which shews that meshikah is only a Rabbinical requirement.

(30) In a transaction with a heathen the delivery of money is certainly sufficient.

(31) For freight charges.

(32) Symbolically performing meshikah with an object connected with his payment.

(33) Sc. the two views on his liability in connection with a hairdresser, the first Baraitha stating that he is liable immediately he gives the money, whilst the Baraitha teaches that meshikah must first be performed.

(34) As a deposit for an order of provisions.

(35) Though he did not take possession of the goods, thus proving that meshikah is unnecessary by Biblical law.

Talmud - Mas. Baba Metzia 48b

But this refutes Resh Lakish!-Resh Lakish can answer you: That is on the basis of R. Simeon's ruling.[1]

BUT THEY [SC. THE SAGES] SAID, HE WHO PUNISHED, etc. It has been stated: Abaye said: He is [merely] told this.[2] Raba said: He is anathematised.[3] ‘Abaye said: He is [merely] told this,’ because it is written, And thou shalt not curse the ruler of thy people.[4] ‘Raba said: He is anathematised.’ because it is written, of thy people, implying [only] when he acts as is fitting for ‘thy people'.[5]

Raba said: Whence do I know[6] it? For [it once happened that] money was given to R. Hiyya b. Joseph [in advance payment] For salt. Subsequently[7] salt rose in price. On his appearing before R. Johanan,[8] he ordered him, 'Go and deliver [it] to him[9] [the purchaser], and if not, you must submit to [the curse]: He who punished.' Now if you say that one is merely informed — did R. Hiyya b. Joseph require to be told?[10] — What then: he is anathematised? Did R. Hiyya b. Joseph come to submit to a curse of the Rabbis?[11] But [what happened was that] only a deposit had been paid to R. Hiyya b. Joseph. He thought that he [the purchaser] was [morally] entitled only to the value thereof, whereupon R. Johanan told him that he was entitled to the whole [of the purchase].

It has been stated: A deposit — Rab said: It effects a title [only] to the extent of the value thereof.[12] R. Johanan ruled: It effects a title to the whole purchase. An objection is raised: If one gives a pledge[13] to his neighbour and says to him, 'If I retract; my pledge be forfeit to you;' and the other stipulates, 'If I retract, I will double your pledge';[14] the conditions are binding:[15] this is R. Jose's view, R. Jose following in this his general ruling that asmakta[16] acquires title. R. Judah [however] maintained: It is sufficient that it effects a title to the value thereof.[17] Said R. Simeon b. Gamaliel: When is that? If he [the depositor] said to him, 'Let my pledge effect the purchase'.[18] But if one sold a house or field for a thousand zuz, of which he [the vendee] paid him five hundred, he acquires title [to the whole], and must repay the balance even after many years.[19] Now surely. the same ruling applies to movables, viz., [if a deposit is given] without specifying [its purpose],[20] possession is gained of the whole![21] — No. As for movables, an unspecified deposit does not effect possession [of the whole]. And wherein do they differ?[22] — Real estate, which is actually acquired by [the delivery of] money,[23] is entirely acquired;[24] movables, which are acquired [by the delivery of money] only in respect of submission to [the curse] 'He who punished,' are not acquired entirely.[25]

Shall we say that this is disputed by Tannaim? [For it has been taught:] If one makes a loan to his neighbour against a pledge. and the year of release arrived, even if it [the pledge] is worth only half [the loan], it [the year of release] does not cancel [the loan]: this is the ruling of R. Simeon b. Gamaliel. R. Judah ha-Nasi said: If the pledge corresponds to [the value of] the loan, it does not cancel it; otherwise, it does.[26] What is meant by R. Gamaliel's statement, 'It does not cancel [the loan]'? Shall we say, To the value thereof? Hence it follows that in the opinion of R. Judah ha-Nasi even that half too is cancelled![27]

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(1) V. supra 47b and p. 284, n. 2.

(2) I.e., he is warned that God punishes those who do not keep their word.

(3) A formal curse is pronounced against him.

(4) Ex. XXII, 27. In Sanh. 85a it is shewn that this applies to all, not particularly a ruler.

(5) I.e., only then does the injunction hold good. But it is not fitting for an Israelite to break his word; cf. Zeph. III.13.

(6) Lit., 'say'.

(7) When the sale was to be delivered.

(8) To ask whether he could withdraw from the transaction.

(9) The original is in the plural. but the context shews that the singular is required, the plural to be understood indefinitely.

(10) That retraction would involve him in a curse.

(11) Surely he knew that he could not retract!

(12) In the case of movables only in respect of provoking the curse.

(13) ערבון Though this is the same word as used to indicate 'deposit', it means here a pledge, to be forfeited in certain conditions.

(14) I.e., 'I will return double Its value.'

(15) Lit., 'are fulfilled'.

(16) V. Glos.

(17) In case of retraction, the one does not forfeit his pledge, nor is the other bound to double it. But the transaction is absolute in respect of goods to the value of the deposit, and to that extent neither can withdraw.
(18) Of the whole, i.e., it was not merely given as a deposit payment, but with the intention of consummating the whole purchase. That, however, is impossible, and therefore R. Judah ruled that the transaction is completed only to the extent of the value of the pledge.
(19) The balance ranks as a loan, and the vendor cannot cancel the sale on its account. V. infra 77b.
(20) That it should act as a pledge or forfeit, but given without any purpose being stated.
(21) In respect of the curse. This refutes Rab's ruling.
(22) What is the essential difference between real estate and movables, to permit this distinction to be drawn?
(23) Though the delivery of money alone does not effect a title to movables, it does in respect to land.
(24) By the deposit.
(25) By the deposit, but only to the extent of the value of that deposit, and even that, only in respect of submitting to the curse.
(26) V. Deut. XV. 1-2: At the end of every seven years thou shalt make a release. And this is the manner of the release: Every creditor that lendeth aught unto his neighbour shall release it; he shall not exact it of his neighbour, or of his brother; because it is called the Lord's release. The Rabbis deduced from the phrase ‘he shall not exact it’ that the law of release does not apply to a loan for which the creditor holds a pledge, for he is then regarded as having already exacted it beforehand (Shebu. 44b).
(27) But surely that is impossible, since it is generally agreed that the law of release does not apply to what the creditor already has in hand!

Talmud - Mas. Baba Metzia 49a

For what purpose then does he hold the pledge? Surely then this proves that by ‘it does not cancel it’ R. Simeon b. Gamaliel means that it does not cancel it at all, whilst by ‘It does cancel it’ R. Judah refers to the half against which he holds no pledge. and they differ in this: R. Simeon b. Gamaliel holds that it [the pledge] effects a title to the whole [of the loan].[1] whilst R. Judah ha-Nasi holds that it effects a title only to the value thereof![2] — No. By ‘It does not cancel [the loan]’ R. Simeon b. Gamaliel means that half against which he holds a pledge. Then it follows that in R. Judah's opinion even the half against which he holds a pledge is also cancelled! But [if so,] what is the purpose of the pledge? — As a mere record of fact.[3]

R. Kahana was given money [in advance payment] for flax. subsequently flax appreciated, so he came before Rab. ‘Deliver [the goods] to the value of the money you received,’ said he to him; ‘but as for the rest, it is a mere verbal transaction, and a verbal transaction does not involve a breach of faith.’[4] For it has been stated: A verbal transaction: Rab said: It involves no breach of faith; R. Johanan ruled: It does involve a breach of faith.

An objection is raised: R. Jose son of R. Judah said: What is taught by the verse, A just hin [shall ye have]:[5] surely ‘hin’ is included in ‘ephah’?[6] But it is to teach you that your ‘yes’ [hen] should be just and your ‘no’ should be just![7] — Abaye said: That means that one must not speak one thing with the mouth and another with the heart.[8]

An objection is raised: R. Simeon said: Though they [sc. the Sages] ruled: [The delivery of] a garment acquires the gold denar, but not vice versa: that, however is only the halachah, but they [also] said: He who punished the generations of the Flood and of Dispersion, the inhabitants of Sodom and Gomorrah,and the Egyptians at the [Red] Sea, He will exact vengeance of him who does not stand by his word; [and he who makes a verbal transaction effects no title, yet he who retracts therefrom, the spirit of the Sages is displeased with him]![9] — It is a dispute of the Tannaim, for we learnt: It once happened that R. Johanan b. Mathia said to his son, ‘Go out and engage labourers.’ He went, and agreed to supply them with food. But on his returning to his father, the latter said, ‘My son, should you even prepare for them a banquet like Solomon's when in his glory. you cannot fulfil your Undertaking, for they are children of Abraham, Isaac and Jacob. But, before they commence work, go out and tell them, "[I engage you] on condition that you have no claim upon me other than bread and beans."'[10] Now, if you should think that words involve a breach of faith, how could he say to him, 'Go and withdraw'? — There it is different, for the labourers themselves did not rely [upon him]. Why? Because they knew full well that he himself was dependent upon his father.[11] If so, even if they had [already] commenced work, it is also thus![12] -Once they have commenced work, they certainly rely [upon him], for they reason: He must have reported to his father, who agreed thereto.

Now, did R. Johanan say thus?[13] But Rabbah b. Bar Hanah said in R. Johanan's name: If one says to his neighbour. 'I will make you a gift'. he can retract therefrom. 'He can [retract]' — but that is obvious![14] Hence [he must have meant], He is permitted to withdraw![15] — R. Papa replied: R. Johanan admits[16] in the case of a small gift,[17] because he [the recipient] relies thereon.[18] That is logical too. For R. Abbahu said in R. Johanan's name: If an Israelite says to a Levite, 'You have a kor of tithe in my Possession',[19] he [the Levite] may declare[20] it the terumah of the tithe for other produce.[21] Now, if you agree that he [the Israelite] cannot [morally] withdraw, it is well: therefore he [the Levite] is permitted [to declare this as the terumah of the tithe]. But if you say that he [the Israelite] can retract, why is he [the Levite] permitted [to declare etc.], seeing that it may thereby transpire that he eats tebel?[22] — The reference here is to a case where, e.g., he [the Levite] had already received it and then re-entrusted it to him [the Israelite] —[23] If so, consider the second clause: If he gave it to another Levite, he [the Levite] has nothing but resentment against him.[24] But if you should think that it means, e.g., that he took it from him and then re-entrusted it to him: why has he nothing but resentment against him? Since he took possession thereof, he has a monetary claim upon him! Hence it must certainly mean that he did not [first] take it from him. Which proves it.[25]

A certain man gave money for poppy seed. Subsequently poppy seed advanced in price, so he [the vendor] retracted and said, 'I have no poppy seed: take back your money.' But he would not take his money, and it was stolen. When they came before Raba, he said he him: Since he said to you, 'Take back your money,' and you would not, not only is he not accounted a paid bailee.[26] but he is not even a gratuitous bailee. Thereupon the Rabbis protested before Raba: But he [the vendor] would have had to submit to [the curse] 'He who punished'![27] — He replied: That is even so.[28]

R. Papi said: Rabina told me, 'One of the Rabbis, named R. Tabuth — others state, R. Samuel b. Zutra — who, if he were given all the underground treasures of the world[29] would not break his word, told me: That incident happened with me.[30] That day was Sabbath eve, and I was sitting when a certain man came, stood at the threshold, and asked me, "Have you poppy seed for sale?"

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(1) I.e., when the creditor receives a pledge for a portion of the loan, it is as though he were already actually in possession of goods to the value of the whole loan. Therefore it is unaffected by the law of release.

(2) And in the same way, when a deposit is given on goods in a sale, it effects possession of the whole or of its own value, according to these two Tannaim respectively.

(3) I.e., to prove the fact of the debt — presumably this refers to a verbal loan.

(4) Though the Mishnah states that he who does not stand by his word will be punished, that is only when his word is substantiated by the payment of money, which, though not legally, is morally binding. But where no money has been paid, a transaction can be cancelled without any scruples.

(5) Lev. XIX. 36.

(6) The preceding phrase is, a just ephah... (shall ye have).

(7) This is a play on words, 'hin', a measure being connected with hen, Aramaic for 'yes'. This shews that even a mere verbal transaction must not be violated, and so contradicts Rab.

(8) I.e., it is a general exhortation against deceitful speech, but does not refer to an actual transaction. Rashi: Whilst arranging a transaction, one must not there and then have the intention of withdrawing. But if a verbal bargain is made in good faith, there is nothing wrong in withdrawing from it subsequently if the market price changes.

(9) The refutation is contained in the bracketed passage, though it is not cited in the text. Thus we see that the breaking even of a mere verbal transaction is reprehensible.
(10) Infra 83a.
(11) I.e., that the terms he offered were subject to his father's ratification.
(12) He could still withdraw: why then was he particular that this stipulation should be made before they began?
(13) That a verbal transaction involves a breach of faith.
(14) Since there had been no meshikah, Why state it then?
(15) I.e., even morally, which contradicts R. Johanan's previous ruling.
(16) This is Rashi's reading. Our text reads: And R. Johanan admits.
(17) That the mere promise involves a breach of faith.
(18) That he will certainly fulfil his promise; hence he cannot retract without a breach of faith. But if one promises a large gift, the beneficiary himself does not have full confidence in the promise, and therefore withdrawal is permitted. In the case of a business transaction, each party naturally looks to the other to fulfil his undertaking, and therefore a breach of faith is involved (R. Han.).
(19) I have separated a kor of my produce as tithe, and will give it to you.
(20) Lit., ‘make’.
(21) Lit., ‘for another place’. The Levite himself had to give a tithe of the tithe he received to the priests; this was known as the terumah (separation) of the tithe תרומת מעשר . Now, R. Johanan states that when an Israelite promises a kor of tithe to a Levite, who himself possesses tithes for which he is bound to separate terumah, he may declare this kor to be the terumah thereof, even before it reaches his hand.
(22) Untithed produce. v. Glos. Immediately the Levite makes his declaration, he proceeds to eat of the tithes he possesses; but should the Israelite withdraw, the Levite's declaration is retrospectively invalid, and thus he has eaten tebel. This proves that the Israelite cannot retract without breach of faith, and therefore the Levite may make his declaration on the assumption that he will certainly not do so. — Though a kor is a large quantity, it is considered a small gift from the point of view of the Israelite, who must give it away in any case (Rashi).
(23) Hence it certainly belongs to the Levite, who acquired it by meshikah.
(24) But no legal claim.
(25) That in the case of a small gift one cannot retract.
(26) Who is responsible for theft.
(27) And possibly he would not have submitted, in which case it was his money that was lost.
(28) He must either submit thereto, in which case he is free from further responsibility, or deliver the goods.
(29) חללא cavern.
(30) This is told by R. Tabuth. He was the vendor referred to in the story of the poppy seed.

Talmud - Mas. Baba Metzia 49b

"No," I answered. "Then let me entrust this money to you”, he replied, "as it is growing dark,"[1] "The house lies before you." I replied; so he deposited it in the house, and it was stolen. When he came before Raba, he ruled: In every case of "The house lies before you," not only is one not a paid bailee,[2] he is not even a gratuitous trustee.’ Thereupon I observed to him ,[3] ‘But the Rabbis protested to Raba: He would have to submit to [the curse] "He who punished";[4] and he answered,"That is a pure fiction".’[5]

R. SIMEON SAID: HE WHO HAS THE MONEY IN HIS HAND HAS THE ADVANTAGE. It has been taught: R. Simeon said: When is that?[6] If the vendor has both the money and the produce. But if the money is in the vendor's hand, and the goods in the vendee's, he [the vendee] cannot retract, since the money is in his hand. [You say,] ‘in his hand’![7] but it is in the vendor's! — Say then, because his money's worth is in his hand.[8] .But that is obvious![9] — Said Raba: The circumstances here are, e.g., where the vendee's loft was rented to the vendor.[10] Now, why did the Rabbis institute meshikah? For fear lest he say to him, ‘Your wheat was burnt in the loft’.[11] But here it is [already] in the vendee's ownership; should fire accidentally break out, he will take the trouble to save it —[12]

A certain man gave money [in advance payment] for wine. Subsequently he learnt that one of the men of the Field-marshal[13] Parzak intended to seize it — Thereupon he said to him, ‘Return me my money:I do not want the wine’ — So he went before R. Hisda, who said to him, Just as meshikah was instituted in favour of the vendor,[14] so was it instituted in favour of the vendee too.

MISHNAH. FRAUD IS CONSTITUTED BY [AN OVERCHARGE OF] FOUR SILVER [MA'AHs] IN TWENTY FOUR. WHICH IS A SELA’, [HENCE] A SIXTH OF THE PURCHASE.[15] UNTIL WHAT TIME IS ONE PERMITTED TO REVOKE [THE SALE]?[16] UNTIL HE CAN SHEW [THE ARTICLE] TO A MERCHANT OR A RELATIVE.[17] R. TARFON RULED IN LYDDA THAT FRAUD IS CONSTITUTED BY EIGHT SILVER [MA'AHS] IN TWENTY-FOUR, WHICH IS A SELA’, [HENCE] A THIRD OF THE PURCHASE, WHEREAT THE LYDDAN MERCHANTS REJOICED. BUT, SAID HE TO THEM, ONE MAY RETRACT THE WHOLE DAY. THEN LET R. TARFON LEAVE US IN STATUS QUO, THEY REQUESTED; AND SO THEY REVERTED TO THE RULING OF THE SAGES.

GEMARA. It has been stated: Rab said: We learnt, A sixth of the [true] purchase price. Samuel said: A sixth of the money [actually] paid was also taught. Now, if that which is worth six [ma'ahs] was sold for five or seven, all agree that we follow the purchase price.[18] Wherein do they differ? If something worth five or seven [ma'ahs] was sold for six. According to Samuel, who maintained that we follow the money paid [too], both cases constitute fraud. But according to Rab, viz., that we follow only the purchase price, if something worth five is sold for six, the sale is null;[19] but if what is worth seven is sold for six, it is renunciation.[20] But Samuel maintained: When do we say that there is renunciation or annulment of the sale? Only if there is not a sixth on either side;[21] but if there is a sixth on one side, it is fraud.[22]

We learnt: FRAUD IS CONSTITUTED BY [AN OVERCHARGE OF] FOUR SILVER [MA'AHS] IN TWENTY FOUR, WHICH IS A SELA’, [HENCE] A SIXTH OF THE PURCHASE. Surely that means that one sold something worth twenty [ma'ahs] for twenty-four. which proves that a sixth of the money paid was also taught? No; It means that twenty-four [ma'ahs] worth was sold for twenty. Then who was overreached? The vendor! But consider the second clause: UNTIL WHAT TIME IS ONE PERMITTED TO REVOKE [THE SALE]? UNTIL HE CAN SHEW [THE ARTICLE] TO A MERCHANT OR A RELATIVE. Now, R. Nahman observed [thereon]: This was taught only of the purchaser; the vendor, however, can always withdraw![23] — But it means that one sold something worth twenty-four [ma'ahs] for twenty-eight.

We learnt: R. TARFON RULED IN LYDDA THAT FRAUD IS CONSTITUTED BY EIGHT SILVER [MA'AHS] IN TWENTY-FOUR, WHICH IS A SELA’, [HENCE] A THIRD OF THE PURCHASE. Surely that means that one sold something worth sixteen [ma'ahs] for twenty four, which proves that a third of the money paid was also taught?[24] — No: it means that what was worth twenty-four was sold for sixteen. Then who was overreached? the vendor! But consider the next clause; BUT, SAID HE TO THEM, ONE MAY RETRACT THE WHOLE DAY, whereon R. Nahman observed: This was taught only of the purchaser; the vendor, however, can always withdraw! But it means that one sold the value of twenty-four [ma'ahs] for thirty-two.[25]

It has been taught in accordance with Samuel: He who was deceived has the upper hand. E.g., if one sold an article worth five [ma'ahs] for six — who was defrauded? The vendee . Therefore the vendee has the upper hand, [and] he can demand of him [the vendor] either, ‘Return me my money’, or, ‘Return me the overcharge’.[26] If he sold him

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(1) The Sabbath was about to commence.

(2) To be responsible for theft.

(3) Rabina to the Rabbi who related this story.
(4) Which shows that a sale was in question.
(5) Lit., ‘the thing never happened’.
(6) That one can withdraw.
(7) Which grammatically refers to the vendee.
(8) I.e., he has already received the goods.
(9) That the sale cannot be revoked once the purchaser has taken possession, and even the Rabbis admit it.
(10) And the goods were stored therein.
(11) V. p. 282, n. 7. This assumes that by Biblical law the delivery of money alone consummates the sale.
(12) This is the reading of Alfasi. Our text: he will take the trouble to remove it. — The Rabbis who oppose R. Simeon presumably hold that even in these circumstances, seeing that the purchaser performed no meshikah, the sale is revocable.
(13) [Rufulus, a Persian high official; v. A.Z. (Sonc. ed.) pp. 163 n. 7 and 301, n. 3.]
(14) That he can withdraw before meshikah is performed.
(15) If the vendor overcharged by one sixth, he is considered to have defrauded the vendee, and the overcharge is recoverable; or the sale may be revoked.
(16) In the case of overcharge. Since he was imposed upon, the vendee is not only legally, but also morally entitled to cancel the bargain; hence the Mishnah states ‘permitted’. Opposing views are expressed in the Talmud (infra 50b) whether the vendee can retract from the bargain even if the vendor is prepared to make a refund.
(17) But after that the sale is absolute, notwithstanding the overcharge.
(18) Hence there was overreaching by one-sixth, and the law of the Mishnah operates.
(19) For the overreaching is more than one-sixth; in this case, the bargain is altogether null, and even if the vendor is prepared to make amends, the vendee is morally entitled to retract: even the defrauding party too can declare the sale null in these circumstances (infra 50b).
(20) Since it is only a seventh of the true purchase price, the vendor is regarded as having foregone part of his due.
(21) I.e., whether we regard the true purchase price or the money paid.
(22) Which is returnable, whilst the sale is valid.
(23) Since the article is no longer in his hand, he can retract whenever he finds that he was defrauded. This proves that the Mishnah treats of the vendee's being overreached.
(24) And therefore the same applies to the definition of ‘one-sixth’, and thus refutes Rab.
(25) I.e., a sixth in the purchase price.
(26) Lit., ‘what you deceived me.’

Talmud - Mas. Baba Metzia 50a

six [ma'ahs] worth for five — who was overreached? The vendor. Therefore the vendor has the upper hand!He can either say, ‘Return me the purchase’, Or, ‘Return me the sum underpaid’.[1]

The scholars propounded; On the view of the Rabbis, does [an overcharge of] less than a sixth immediately constitute renunciation, or only when he has had time to shew [the purchase] to a merchant or relative?[2] And should you object, [If it is] only when he has had time to shew [the purchase] to a merchant or a relative, wherein do a sixth and less than a sixth differ? [Yet] there is a difference, for in the case of a sixth, he has the upper hand, and can either withdraw or retain the ownership but have the overcharge returned; whereas in the case of less than a sixth, he must retain ownership and have the overcharge refunded. What then is our ruling? — Come and hear: [AND SO] THEY REVERTED TO THE RULING OF THE SAGES. Now, it was thought that less than a third on R. Tarfon's view is identical [in law] with less than a sixth on the view of the Rabbis. Now, should you say that [an overcharge of] less than a sixth, in the view of the Rabbis, [constitutes renunciation only] when he has had time to shew [the purchase] to a merchant or a relative, whereas according to R. Tarfon, the whole day [must pass before he loses the rights of redress], it is well: on that account they [the merchants] reverted [to the ruling of the Sages]. But if you say that less than a sixth, in the view of the Rabbis, immediately constitutes renunciation,

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(1) The figures given agree with Samuel.

(2) E.g., if eleven ma'ahs was paid for an article worth ten, is the vendee regarded as having there and then renounced the eleventh ma'ah, and so, even if he immediately demands its return, he has no redress; or perhaps it is accounted renunciation only if sufficient time elapsed to shew it to a merchant, but before that he can claim a refund?

Talmud - Mas. Baba Metzia 50b

whilst in R. Tarfon's view too [less than a third] immediately constitutes renunciation, why did they revert [etc.]? R. Tarfon's ruling was [surely] more advantageous to them, for what the Rabbis declared overreaching, R. Tarfon regarded as renunciation! — Do you really think that less than a third, according to R. Tarfon, is identical with less than a sixth on the view of the Rabbis? That is not so: from a sixth to a third, according to R. Tarfon, is as a sixth itself on the view of the Rabbis.[1] If so, whereat did they rejoice [in the first place]? Hence you may deduce that in the view of the Rabbis, in a case of annulment of the sale, one can always withdraw; they thus rejoiced when R. Tarfon told them that it [an overcharge up to a third] constitutes overreaching.[2] whilst they reverted [to the ruling of the Rabbis] when he told them [that the time for withdrawing is] all day. For if you should think that in the view of the Rabbis the annulment of the sale[3] is only within the time that he can shew it to a merchant or to a relative, whereat did they rejoice?[4] — They rejoiced in respect of a sixth itself.[5]

The scholars propounded: In the case of annulment of Sale, on the view of the Rabbis,[6] can one always retract, or perhaps only within the time necessary to shew [the purchase] to a dealer or a relative? And should you answer, [if only] within the time necessary to shew it to a dealer or a relative, wherein do a sixth and more than a sixth differ? There is a difference: for in the case of a sixth, [only] the defrauded party can retract, whereas in the case of more than a sixth both can retract.[7] What is the ruling? — Come and hear: THEY REVERTED TO THE RULING OF THE SAGES. Now, if you say that annulment of the sale, on the view of the Rabbis, is only within the time necessary to shew [the purchase] to a dealer or a relative, whereas on R. Tarfon's view it is all day, it is well: on that account they reverted [etc.][8] But if you say that in the case of annulment of sale, on the view of the Rabbis, one can always retract, why did they revert [etc.]? Surely R. Tarfon's ruling was more advantageous to them, since he declared overreaching [returnable] the whole day, but no more! — Annulment of sale is rare.[9]

Raba said: The law is: In the case of less than a sixth, the sale is valid;[10] more than a sixth, it is null; [exactly] a sixth, it is valid, but the overcharge is returnable;[11] and in both cases it is within the time necessary to shew [the purchase] to a merchant or a relative.

It has been taught in support of Raba: In the case of overreaching of less than a sixth, the sale is valid; more than a sixth, the sale is null; [exactly] a sixth, he [the defrauded party] retains ownership whilst the overcharge must be refunded: this is R. Nathan's view. R. Judah ha-Nasi said: The vendor has the upper hand;[12] if he wishes he can say, ‘Return me the Purchase,’ or, ‘Pay up the sum wherein you defrauded me.’ And in both cases, it is within the time necessary to shew [the purchase] to a merchant or a relative.[13]

UNTIL WHAT TIME IS ONE PERMITTED TO REVOKE [THE SALE] etc. R. Nahman said: This was taught only of the purchaser; but the vendor can always retract.[14] Shall we say that he is supported [by the Mishnah]? THEY REVERTED TO THE RULING OF THE SAGES. Now, if you agree that the vendor can always retract, it is well:

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(1) And in both cases the overcharge is returnable. But whereas the Rabbis maintain that an overcharge of more than a sixth entirely annuls the sale, R. Tarfon held that up to a third the defrauded party has the upper hand, and the sale may stand.

(2) Whereas on the ruling of the Rabbis, if it is more than one-sixth, the transaction is altogether cancelled.

(3) For an overcharge of more than a sixth.

(4) The problem of the time within which the sale may be annulled is raised immediately after this passage. Here the Talmud anticipates it by pointing out that since the dealers originally rejoiced at R. Tarfon's ruling, which, ex hypathesi, means that from a sixth up to a third constitutes overreaching, it must be assumed that annulment in the view of the Rabbis is not limited by time. For otherwise, there was no reason to rejoice in the first place. The argument is this: There is very little practical difference between a whole day and always, because a day is quite ample for finding out that one was overreached; but there is a great difference between a day and the short time necessary for shewing one's purchase to a merchant, which may easily pass before the defrauded party discovers his loss. Furthermore, it is rare to overreach by more than a sixth (presumably buyers were very keen in those days!). Consequently, when R. Tarfon told them that a returnable overcharge is up to a third, which, as they thought, meant within the shorter period only, after which there was no redress, whilst in the view of the Rabbis the purchase could be annulled at any time if the overcharge was more than a sixth, R. Tarfon's ruling was naturally to their advantage. But if the annulment of the sale according to the Rabbis is only within the shorter period, why did they rejoice? On the contrary. R. Tarfon's ruling that up to a third constitutes overreaching as against the Rabbis’ view that over a sixth annuls the sale was manifestly to their disadvantage: since according to the Rabbis both parties could withdraw, whilst on the view of R. Tarfon only the defrauded party had that right.

(5) For when we say that according to R. Tarfon from a sixth up to a third constitutes overreaching, a sixth itself is excluded, and not recoverable. Hence they might well rejoice, quite irrespective of the time within which the sale is revocable in the opinion of the Rabbis.

(6) Viz., for an overcharge of more than one-sixth.

(7) That is only if the defrauded party demands a refund. Otherwise, it is altogether illogical to give the defrauder a greater power of withdrawal than he would have enjoyed had the fraud amounted only to a sixth. (Tosaf. a.l. and B.B. 84a s.v. אי לאו)

(8) For their disadvantage in that the defrauded party had a longer time within which to retract outweighed their advantage that fraud of exactly one-sixth was not recoverable, as stated above.

(9) Therefore they did not regard the shorter period of R. Tarfon as particularly advantageous to them, the more so since a whole day is ample time for the defrauded party to discover that he was overreached. On the other hand, in respect of overreaching as distinct from annulment the longer period given by R. Tarfon (a whole day, as against the Rabbis’, ‘within the time necessary to shew the purchase to a merchant’) was definitely to their disadvantage, and therefore they reverted to the ruling of the Rabbis.

(10) Immediately, and the defrauded party has no redress.

(11) Thus Raba disagrees with the view formerly stated that in the case of a sixth the defrauded party can either demand a refund or cancel the sale.

(12) If he was defrauded; of course, if the vendee was defrauded, he has the upper hand.

(13) Notwithstanding that the vendor no longer has the article. This is discussed below.

(14) If he was defrauded, since he is no longer in possession of the article to be able to shew it to an expert, and he discovers the fraud only when he sees a similar article sold at a higher price; hence no limit can be set in his case, v. infra.

Talmud - Mas. Baba Metzia 51a

therefore they reverted. But if you say that the vendor is as the vendee, what difference did it make to them?[1] Just as the Rabbis[2] ameliorated [the position of] the vendee, so did they likewise that of the vendor! — The merchants of Lydda very seldom erred.[3]

Rami b. Hama's host[4] sold some wine,[5] and erred. Finding him depressed, he [Rami] asked him, ‘Why are you sad?’ ‘I sold wine,’ he replied, ‘and erred — , ‘Then go and retract ,’he counselled — ‘But I have tarried more time than is necessary to shew it to a dealer or a relative,’ said he. Thereupon he sent him to R. Nahman, who said to him: This was taught only of the vendee; but the vendor can always retract. Why? The vendee has the purchase in his hand; wherever he goes he shews it and is told whether he erred or not. But the vendor, who has not the purchase in his hand, [must wait] until he comes across an article like his, and only then can he know whether he erred or not.

A man had silk skeins[6] for sale. He demanded[7] Six [zuz], whilst they were worth five, yet if five and a half were offered, he would have accepted. Then a man came and said [to himself]. 'If I pay him five and a half, it is [immediate] renunciation;[8] therefore I will pay him six and then sue him at law.' When he went before Raba, he said to him: This was taught only of one who buys from a merchant; but when one buys from a private person,[9] he has no claim of fraud upon him.[10]

A man had jewellery for sale. He demanded sixty [zuz], whilst it was worth fifty; yet had he been offered fifty-five, he would have accepted. Then a man came and argued. 'If I give him fifty-five, it will constitute renunciation: therefore I will give him sixty and then sue him at law.' When he came before R. Hisda, he said to him: This was taught only of one who buys from a merchant; but when one buys from a Private individual, he has no claim of fraud against him. Said R. Dimi to him: 'Well spoken!'[11] and R. Eleazar said likewise, 'Well spoken!' But did we not learn, Just as the law of overreaching holds good in the case of a layman, so it holds good in the case of a merchant. Now, who is meant by 'a layman?' Surely a Private individual! — Said R. Hisda:[12] That applies to rough cloth garments..[13] But garments of personal use, which are dear to him, he would not sell but at an enhanced price.

MISHNAH. BOTH THE VENDEE AND THE VENDOR CAN CLAIM FOR OVERREACHING. JUST AS THE LAW OF OVERREACHING HOLDS GOOD IN THE CASE OF A LAYMAN, SO IT HOLDS GOOD IN THE CASE OF A MERCHANT. R. JUDAH SAID: THERE IS NO OVERREACHING FOR A MERCHANT.[14] HE WHO WAS DECEIVED HAS THE UPPER HAND; IF HE WISHES, HE CAN EITHER SAY, GIVE ME BACK MY MONEY,' OR, 'RETURN WHAT YOU OVERCHARGED ME.

GEMARA. Whence do we know this? — For our Rabbis taught: And if thou sell aught unto thy neighbour . . . ye shall not deceive.[15] From this I know it[16] only if the purchaser was defrauded; how do I know it if the vendor was overreached? Because Scripture states,' ... acquirest... ye shall not deceive' — Now, both vendee and vendor must be written, for had the Divine Law stated [the law only of] the vendor — that is because he knows his purchase;[17] but as for the purchaser, who is not experienced in the purchase,[18] I might think that the Divine Law did not apply the injunction of 'ye shall not defraud' to him. And had Scripture mentioned the vendee [only], that might be because he acquires [an article], for it is proverbial, 'When you buy, you gain'. But as for the vendor, who indeed loses thereby, as it is said, 'He who sells, loses,'[19] I might think that the Divine Law did not exhort him, 'ye shall not defraud;' hence both are necessary.

R. JUDAH SAID, THERE IS NO OVERREACHING FOR A MERCHANT. Because he is a merchant, has he no claim for overreaching? — Said R. Nahman in Rab's name: This was taught of a speculator.[20] Why? Because he well knows the value of what he sells, but foregoes [part thereof] to him [the vendee], the reason that he sells thus [cheaply] being that he has chanced upon another purchase;[21] nevertheless now he wishes to retract.[22] R. Ashi said: What is meant by 'THERE IS NO OVERREACHING FOR A MERCHANT? He is not subject to the law of overreaching. i.e., he can withdraw even for less than the [recoverable] standard of overreaching.[23]

It has been taught in accordance with R. Nahman: R. Judah said: There is no overreaching for a merchant, because he is an expert.[24]

HE WHO WAS DECEIVED HAS THE UPPER HAND. Who is the authority of our Mishnah, [seeing that] it is neither R. Nathan nor R. Judah ha-Nasi? For if R. Nathan — our Mishnah teaches, IF HE WISHES,[25] whereas the Baraitha[26] does not state, If he wishes;[27] whilst if it is R. Judah —

our Mishnah refers to the Vendee [only],[28] whereas the Baraitha refers to the Vendor.[29] (Mnemonic: Zab Rash.)[30] Said R. Eleazar: I do not know who taught this [Mishnah of] overreaching. Rabbah said: In truth, its authority is R. Nathan, but read in the Baraitha too, [If] he wishes [etc.]. Raba said: In truth, it is R. Judah ha-Nasi, but what the Mishnah omits is explained in the Baraitha.[31] Said R. Ashi: This too follows from the fact that it states. BOTH THE VENDEE AND THE VENDOR, yet proceeds to explain [the law of] the vendee [only]; this proves that the case of the vendor is merely left over. This proves it.

It has been stated: If one says to his neighbour, ‘I agree to this sale on condition that you have no claim of overreaching against me — Rab said: He [nevertheless] has a claim of overreaching against him. Whereas Samuel said: He has no claim of overreaching against him. Shall we say that Rab ruled in accordance with R. Meir, and Samuel in accordance with R. Judah? For it has been taught: If one says to a woman, ‘Behold thou art betrothed[32] unto me on condition that thou hast no claims upon me of sustenance, raiment and conjugal rights’ — she is betrothed, but the condition is null: this is R. Meir's view. But R. Judah said: In respect of civil matters, his condition is binding! — Rab can answer you: My ruling agrees even with R. Judah. R. Judah states his view there only in that case, because she knew [of her rights], and renounced them;

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(1) The longer period given by R. Tarfon.

(2) Here referring to R. Tarfon's ruling.

(3) Therefore the longer period within which they might recover the fraud was of little benefit to them, whilst on the other hand the longer period given to the vendee was definitely to their disadvantage.

(4) The word means ‘innkeeper’.

(5) חמרא , the word may also mean ‘ass’.

(6) Others: ‘beads’, ‘frontlets’. [Krauss T.A. I, 174. ‘girdles’.]

(7) Lit., ‘called’.

(8) The overcharge being less than a sixth.

(9) Lit., ‘householder’.

(10) A private person may attach a sentimental value to an object, which is naturally greater than the market price, and the vendee must be aware of this.

(11) Lit., (with כחך , ‘thy strength’, understood) ‘thy strength be firm’.

(12) Other versions: R. Papa.

(13) Which a private individual does not mind selling.

(14) This is explained below.

(15) Lev. XXV, 14.

(16) That an overcharge is returnable.

(17) Hence, if he overreaches, he does it wantonly. and therefore the overcharge is returnable.

(18) And if he underpays, it is unwittingly.

(19) Money goes, and he who sells loses the article and probably the money too later on; but he who buys has a permanent gain — sentiments natural to a private individual as well as to a noncommercial, agricultural community.

(20) So Jast. Rashi: a merchant who is a middleman, buying and selling from hand to hand.

(21) For which he needs immediate ready money.

(22) Possibly because his intended bargain did not mature.

(23) If he was deceived even by less than a sixth he can withdraw from the bargain, since that is his livelihood.

(24) This proves that he has no redress, not, as R. Ashi said, that he is put in an advantageous position.

(25) I.e., he has the choice of confirming the sale and recovering the fraud or cancelling the sale entirely.

(26) Supra 50b.

(27) But only enables him to recover the Fraud but not cancel the transaction.

(28) As being able to cancel the sale, since it states, GIVE ME BACK MY MONEY.

(29) V. supra 50b.

(30) V. p. 398, n. 5. Z for Eleazar; B for Rabbah; R for Raba; R for ASHi.

(31) V. p. 492. n. 2, and cf. p. 227. n 2.

[32] Lit., 'sanctified'.

Talmud - Mas. Baba Metzia 51b

but here, did he know [that he was defrauded], that he should make renunciation! Whilst Samuel can say: My ruling agrees even with R. Meir. Only there does R. Meir state that view, in so far as he certainly rejects[1] [a Biblical law];[2] but here, who can say that he disregards[3] anything at all?[4]

R. 'Anan said: I was told on Samuel's authority: If one says to his neighbour. '[I agree to this sale] on condition that you have no claim of overreaching against me,' then he can prefer no claim of overreaching against him. [But if he stipulates,] 'on condition that there is no overreaching therein' , then [in case of deceit] a charge of imposition can be preferred.[5]

An objection is raised: If one trades on trust,[6] or if one says to his neighbour. '[This sale is] on condition that you have no claim of overreaching against me,' then he has no claim of overreaching against him.[7] Now, according to Rab, who maintained, 'My ruling agrees even with R. Judah.'[8] who is the authority for this? — Said Abaye: It is clear [therefore] that Rab's ruling agrees with R. Meir [only], and Samuel's with R. Judah.[9] Raba said: There is no difficulty; one refers to a general [condition]; the other to a particular [stipulation]. As it has been taught: When is this said?[10] Of a general [condition].[11] But if one explicitly states [that he is overcharging], [e.g.,] if the vendor said to the vendee, 'I know that this article, which I sell you for two hundred zuz, is only worth one hundred, but I sell it to you on condition that you have no claim of overreaching against me,' then he has no claim of overreaching. And likewise, if the Purchaser said to the seller, 'I know that this article which I buy from you for one hundred [zuz] is worth two hundred, [yet I do so] on condition that you have no claim of overreaching against me,' then he has no claim of overreaching against him.

Our Rabbis taught: If one buys and sells on trust, he must not compute the inferior goods on trust and the superior at par, but either both on trust or both at par.[12] And he must pay him the cost of porterage, transport,[13] and storing;[14] but he does not receive payment for his own trouble, since he has already been paid in full. Whence was his payment in full given him? — Said R. Papa: This refers to cloth manufacturers, who give [a discount of] four per cent.[15]

MISHNAH. BY HOW MUCH MAY THE SELA' BE DEFICIENT AND YET INVOLVE NO OVERREACHING?[16] R. MEIR SAID: FOUR ISSARS, WHICH IS AN ISSAR PER DENAR[17] R. JUDAH SAID: FOUR PUNDIONS, WHICH IS A PUNDION PER DENAR.[18] R. SIMEON SAID:

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[1] Lit., 'eradicates'.

[2] I.e., if his condition is kept, he is certainly flouting the provisions of Scripture, therefore the condition is null.

[3] V. n. 1.

[4] Notwithstanding his stipulation, he may not actually overreach; therefore it is valid.

[5] Lit., 'there is overreaching therein.' I.e., the condition was not fulfilled, and therefore the sale is invalid.

[6] אמנה Rashi: A gives goods to B to sell at whatever price he can, to render him the money at a fixed date, whilst he pays him for his labour, i.e., he appoints him his salaried agent. [Tosaf.: The buyer (B) trusts the seller (A) as to the price he paid for the goods, and is willing to allow him a certain percentage for profit. This interpretation of the term אמנה is followed in the rendering of the next paragraph.]

[7] The first clause means, A cannot say to B, 'You sold below the market value and must therefore make it up. ' [According to Tosaf. (v. n. 6), B cannot prefer a charge of overreaching against A since he agreed to accept the goods at the price A originally paid for them (plus a percentage) irrespective of the market value.]

[8] V. supra 51a.

[9] Even as the first hypothesis.

[10] That notwithstanding a condition, each can prefer a claim of fraud against the other.

(11) I.e., if it was simply stipulated that there should be no claim for overreaching, without an explicit statement that a known overcharge was to be permitted in a certain transaction. In that case, Rab maintains that a claim can be preferred.
(12) Tosaf.: E.g.. A buys 10 articles for 10 zuz, 5 of which are worth 1 1/2 zuz each, whilst the other 5 are only worth 1/2 zuz each, and then sells them to B, who states that he is prepared to trust A as to what he paid for them and is willing to give him a certain percentage of profit: then A must not reckon the inferior goods at the average price of one zuz apiece, whilst quoting the better at 1 1/2 each, but must either strike an average for all, if he sells all together, or estimate each at its own value, if he sells them separately.
(13) Lit., 'the hire of a camel.'
(14) I.e., the seller is entitled to add his expenses to the cost.
(15) The cost price (10 zuz, as stated in the example in n. 3) is subject to a further manufacturer's discount; but the seller, in estimating his profits, bases it on the cost price before the discount is subtracted. That discount is regarded as full payment for his personal trouble (v. S. Strashun a.l.).
(16) Coins being valued by weight they depreciate in value after being in use for some time. The Mishnah discusses how far they may thus be underweight or defaced and yet, if tendered at their nominal value, involve no overreaching.
(17) A sela' == 4 denorii == 12 pundions; 1 pundion= 2 issars (assarius); i.e., 1/24 of Its value.
(18) I.e., 1/12.

Talmud - Mas. Baba Metzia 52a

EIGHT PUNDIONS, WHICH IS TWO PUNDIONS PER DENAR.[1] UNTIL WHAT TIME IS HE [THE DEFRAUDED PARTY] PERMITTED[2] TO RETRACT? IN TOWNS, UNTIL HE CAN SHEW [THE COINS] TO A MONEY-CHANGER; IN VILLAGES,[3] UNTIL [THE FOLLOWING] SABBATH EVE.[4] IF HE RECOGNISED IT, HE MUST ACCEPT IT BACK FROM HIM EVEN AFTER A TWELVE MONTH; AND HE HAS NOTHING BUT RESENTMENT AGAINST HIM.[5] AND ONE MAY REDEEM[6] THE SECOND TITHE THEREWITH AND HAVE NO FEAR,[7] BECAUSE IT IS MERE CHURLISHNESS.[8]

GEMARA. Now, the following is opposed [to the Mishnah]: To what extent is the sela' to be deficient to involve overreaching?[9] — Said R. Papa. There is no difficulty: Our Tanna reckons in an ascending fashion,[10] whilst the Tanna of the Baraitha reckons in a descending fashion.[11] Wherein do a sela' and a garment differ, that there is a dispute on the former but not the latter?[12] — Said Raba: Which Tanna is the authority for [one-sixth in the case of] a garment? R. Simeon.[13] Abaye said: In the case of a garment, one forgives [overreaching] up to a sixth, because people say, 'overpay for your back, but [give] only the exact worth for your stomach.'[14] But as for a sela', since it does not [readily] circulate,[15] one does not forgive [a deficiency].

[To turn] to the main text: To what extent is the sela' to be deficient to involve overreaching? R. Meir said, Four issars, which is one issur per denar; R. Judah said: Four pundions, which is one pundion per denar; R. Simeon said: Eight pundions, which is two pundions per denar. Above that, it may be sold at its [intrinsic] worth — By how much may it depreciate that it shall still be permissible to keep it? In the case of a sela', [it can depreciate] as far as a shekel;[16] in the case of a denar, as far as a quarter.[17] If it is an issar less, it is forbidden.[18] One may not sell it to a merchant, highwayman, or murderer,[19] because they cheat others with it, but should pierce and suspend it around the neck of his son or daughter.[20] The Master said: 'In the case of a sela', as far as a shekel; in the case of a denar, as far as a quarter.' Wherein does a sela' differ from a denar, that [the permitted deficiency of] a sela' is [only] as far as a shekel [i.e., half its value], whereas [that of] a denar is 'as far as a quarter? — Said Abaye: What is meant by 'a quarter?' A quarter shekel.[21] Said Raba: This may be proved too, since he [the Tanna] teaches. 'as far as a quarter',[22] and not a fourth part;[23] this proves it. But why should the denar be correlated to the shekel?[24] — He [the Tanna] thereby incidentally informs us that there is a kind of denar which is derived from a shekel.[25] This supports R. Ammi. For R. Ammi said: A denar which is derived from a shekel may be kept; from a sela', it may not be kept.[26]

‘If it is an issar less, it is forbidden.’ What does this mean? — Abaye said, It means this: if the sela’ depreciated by an issar more than the standard for overreaching,[27] it may not be [expended].[28] Raba demurred: If so, even [if the depreciation exceeds it but] slightly, it is likewise so![29] But, said Raba, if the sela’ depreciated an issar to the denar, it is forbidden [to offer it as a sela’], this anonymous ruling agreeing with R. Meir.

We learnt elsewhere: If a sela’ became unfit,[30] and it was prepared[31] for use as a weight, it is [liable to become] unclean.[32] How much may it depreciate that it shall still be permissible to keep it? In the case of a sela’, up to two denarii.[33] [When it is worth] less than this, it must be cut up.[34] What if [it is worth] more than this? R. Huna said: if worth less, it must be cut up, and if worth more than this, it must [also] be cut up.[35] R. Ammi said: If worth less, it must be cut up; but if worth more than this, it may be kept [as it is].

An objection is raised:

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(1) I.e., 1/6; thus R. Simeon assimilates this to overreaching in general.

(2) V. P. 295 , n. 11.

(3) Which contain no money-changers.

(4) When he goes shopping for the Sabbath, and so learns their value.

(5) This is discussed in the Gemara.

(6) Lit., ‘give it for’.

(7) Of invalid redemption.

(8) To refuse a coin as unfit on account of a slight depreciation.

(9) And the Baraitha then gives the same figures as in the Mishnah, which shews that these cases do constitute overreaching.

(10) Thus the Mishnah states, How far can it go on increasing its deficiency without involving overreaching? Until four issars etc., but when that point is reached, overreaching is involved. Whilst the Baraitha means, How far can the deficiency of a sela’ go on decreasing and still involve overreaching? Until four issars etc. Hence, in the Mishnah ‘until’ is exclusive, whereas in the Baraitha it is inclusive.

(11) Lit., ‘from bottom to top.’

(12) In the case of goods, here expressed by ‘a garment’, all agree (with the exception of R. Tarfon) that one-sixth constitutes overreaching, whereas the percentage for money is disputed.

(13) Who gives one-sixth for money too. Though the Mishnah on 49b states one-sixth as a general opinion, it is actually only R. Simeon's view.

(14) If one needs a garment, he should even overpay for it, clothing being virtually necessary to uphold one's dignity. For food, however, one should not pay more than its worth.

(15) When it becomes very deficient — the exact percentage of deficiency needed to impede circulation is disputed in the Mishnah.

(16) A shekel is half a sela’. Now, as the sela’ depreciates, there is no fear that it may be passed off as a full sela’, because its decreased thickness is obvious. But when it is reduced to less than a shekel, there is the danger that it may be passed off as a shekel, the extent of the depreciation not being so noticeable in view of the larger size in width which it would still retain as a depreciated sela’, and which would appear to compensate for its reduction in thickness. (The size of the sela’ was larger than that of the shekel, both in width and thickness.) Therefore it may not be kept at all. The Baraitha states further on what is to be done with it.

(17) A quarter denar was a separate coin, and the depreciated denar might likewise be passed off as a quarter.

(18) This is discussed infra.

(19) A robber who is prepared to commit murder.

(20) Tosef. B. M. III.

(21) Which is half a denar.

(22) רובע , the specific name of a coin, value a quarter shekel.

(23) רביע

(24) In speaking of a denar, why not say half a denar instead of a quarter of a shekel?

(25) I.e., if the shekel becomes deficient to half its value, it is legal tender for a denar.
(26) Because owing to its large size it may be passed off as a shekel.
(27) According to the respective opinions stated in the Mishnah.
(28) As a sela'.
(29) Since the limit of overreaching is passed, no matter by how little, it may surely not be offered as a full weight sela'.
(30) To be used as such, owing to its depreciation.
(31) By mutilation, so that it could not pass as an ordinary coin.
(32) As a coin, it is not subject to uncleanliness; but when employed as a weight, it is regarded as any other article of use, which is liable to become unclean.
(33) ==a shekel, as stated above.
(34) As it might be passed off as a shekel, Kel. XII, 7.
(35) I.e. , once it depreciates so much that overreaching is involved, even if its value exceeds a shekel, it must be mutilated, so that it shall not be offered as a sela'.

Talmud - Mas. Baba Metzia 52b

Above that,it may be sold at its [intrinsic] worth.[1] Surely that means that it depreciated by more than the limit for overreaching?[2] — No; 'above that' [means it is worth more] not yet having depreciated to an extent involving overreaching: then it may be sold at its intrinsic value.

An objection is raised: By how much may it depreciate that it shall still be permissible to keep it? In the case of a sela', [it can depreciate] as far as a shekel. Surely that means that it depreciated little by little?[3] — No; it means that it fell into a fire and so lost in value all at once.

The Master said: 'He should pierce and suspend it around the neck of his son or daughter.' But the following contradicts it: One must not employ it[4] as a weight,[5] cast it amongst his scrap-metal nor pierce and suspend it around the neck of his son or daughter; but must either pound it [to dust], melt it down, mutilate or cast it into the salt sea! — Said R. Eleazar — others state, R. Huna in R. Eleazar's name: There is no difficulty; the former refers to the middle [of the coins], the latter to its edge.[6]

UNTIL WHAT TIME IS HE [THE DEFRAUDED PARTY] PERMITTED TO RETRACT? IN TOWNS, UNTIL HE CAN SHEW [THE COINS] TO A MONEY-CHANGER; IN VILLAGES, UNTIL [THE FOLLOWING] SABBATH EVE. Why is a distinction [between towns and villages] made in respect to a sela' but not to a garment? — Abaye answered: Our Mishnah too, when it treats of a garment, refers to towns — Raba said: As for a garment, everyone has expert knowledge therein;[7] whereas in regard to a sela', since not every man can value it save a money-changer alone, it follows that in towns, where a money-changer is available, [he can retract] only until he shews it to a money-changer; whereas in villages, where none is available, [the period is] until Sabbath eve, when they [the villagers] go up to market.[8]

IF HE RECOGNISED IT, HE MUST ACCEPT IT BACK FROM HIM EVEN AFTER A TWELVEMONTH etc. Where [is this]? If in towns? But you have said, UNTIL HE CAN SHEW [THE COINS] TO A MONEY-CHANGER! Again, if in villages? But you have said, UNTIL [THE FOLLOWING] SABBATH EVE! — Said R. Hisda: Here a measure of piety was taught.[9] If so, consider the second clause: AND HE HAS NOTHING BUT RESENTMENT AGAINST HIM. To whom does this refer? If to the pious man,[10] let him neither accept it nor bear resentment against him![11] But if to the one from whom he accepted it, then after having had it accepted from him, should he bear resentment? — It means thus: but as for another person,[12] even if he does not re-accept it from him, he [to whom it was given as a full coin] HAS NOTHING BUT RESENTMENT AGAINST HIM. AND ONE MAY REDEEM THE SECOND TITHE THEREWITH AND HAVE NO FEAR, BECAUSE IT IS MERE CHURLISHNESS. R. Papa said:

This proves that he who is exacting in respect to coins[13] is dubbed a churl;[14] providing, however, that they [still] circulate. This [the Mishnah] supports Hezekiah, for Hezekiah said: When he comes to exchange it, he must exchange it as its intrinsic value; if he comes to redeem therewith, he estimates it at a proper [coin].[15] What does he mean?[16] -He means this: Though when he comes to exchange it, he exchanges it at its present value,[17] yet when he redeems [second tithe] therewith, he may estimate it as a good [coin].[18] Shall we say that Hezekiah holds that the second tithe may be treated disparagingly?[19] But did not Hezekiah say: With respect to second tithe [produce] worth less than a perutah, one may declare, ‘It, together with its fifth,[20] is redeemed with the first money [of redemption];’[21] because it is impossible for a person to calculate his money exactly![22] — What is meant by ‘a proper [coin]’? On the basis of the proper value [of the coin], because it [the second tithe] may not be lightly treated in two respects.[23]

The [above] text stated: ‘Hezekiah said: With respect to second tithe [produce] worth less than a perutah, one may declare, "It, together with its fifth, is redeemed by the first money [of redemption];" because it is impossible for a person to calculate his money exactly.’ An objection is raised: For terumah and the first fruits[24] one is liable to death and [the addition of] a fifth;[25]

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(1) Quoted from the Baraitha cited supra.

(2) Which proves that it may be kept.

(3) In which case it passes the standard of overreaching long before it drops to a shekel, thus refuting R. Huna.

(4) Sc. the worn coin which may no longer be kept owing to its deficient value.

(5) Lit., ‘must not make it a weight amongst his (other) weights.’

(6) When the coin is pierced in the middle, it cannot be circulated; hence this is permissible. But if it is pierced at the edge, one may file it round until the hole is gone and then use it as a coin: hence it is forbidden.

(7) Therefore even in a village one can readily find a person to value it.

(8) In the town.

(9) I.e., though he is not legally bound to take it back, yet as a measure of piety he should do so.

(10) I.e., who does not insist upon the letter of the law, but is guided by piety.

(11) v.p. 437, n. 1.

(12) One who insists upon his legal right not to take it back.

(13) Refusing to accept them even if slightly worn.

(14) Lit., ‘a malevolent soul.’

(15) If one exchanges a worn sela’ for perutahs, he must estimate it at its metallic, intrinsic value. If, however, he redeems second tithe produce with such coins, he gives the coins their nominal value, as though unworn.

(16) ‘When he comes... intrinsic value:’ but surely that is already stated in the Mishnah, that, when a coin depreciates to the extent that overreaching is involved, it may not be passed off at full value!

(17) When coming to change a sela’, which has depreciated, though not to the extent involving overreaching with which the second tithe was redeemed, into perutahs in Jerusalem, he naturally receives from money-changers perutahs only for its depreciated value (cf. Tosaf.).

(18) Thus Hezekiah informs us that when the Mishnah states that the second tithe may be redeemed therewith, it means that the coin is reckoned at its full nominal value, because to be exacting in regard to coins that are slightly worn is a mark of churlishness.

(19) As above, estimating the deficient sela’ at its full value, thus minimising that of the second tithe.

(20) V. p. 272, n. 9.

(21) I.e., money which has already been used in redeeming other second tithe produce.

(22) When one redeems the second tithe, he does not calculate its exact value, lest he underestimate it, and so redeems it at slightly more than its true worth. This slight excess may now be regarded as the redemption money of second tithe produce worth less than a Perutah, the smallest possible coin. This proves that in the first place it is liberally calculated, which contradicts his former statement that even deficient coins may be reckoned at their full value for this purpose.

(23) The defective coin is computed only at the proper value it possesses now, i.e., not only is full allowance made for its deficiency, but its valuation is slightly lowered even beyond that, so as to make quite certain that it does possess the value attributed to it. On this interpretation, Hezekiah asserts that we are stricter in respect to the redemption of the second tithe than in ordinary secular transactions. And the reason is, ‘because it may not be lightly treated in two respects’ — for the mere fact that it may be redeemed with a defective coin, which some might refuse as a coin at all, is considered a light treatment of the second tithe; we may certainly not subject it to the further indignity, as it were, of computing the value of this coin in a liberal spirit (Rashi). The statement in the Mishnah that the second tithe can be redeemed with it means, accordingly, ‘at its present intrinsic value,’ for to refuse to accept it thus is a mark of churlishness.

(24) V. Num. XXVIII. 26; Deut. XXVI, 1-4.

(25) If a zar (q.v. Glos.) or an unclean priest wantonly eats them, he is liable to ‘death at the hands of Heaven’; whilst If a zar eats them in ignorance of their true character, he must make restoration, adding a fifth to their value (Lev. XXII, 14). These laws were stated primarily with respect to terumah, but by Biblical exegesis they were extended to the first fruits too.

Talmud - Mas. Baba Metzia 53a

they are forbidden to zarim,[1] accounted as the priest's [personal] property,[2] are neutralised by one hundred and one [times their quantity].[3] and require washing of the hands[4] and the setting of the sun.[5] These provisions hold good of terumah and first fruits, which is not so in the case of [second] tithes.[6] Now, what is meant by ‘which is not so in the case of [second] tithes?’ Surely one may deduce that a tithe is neutralised by a greater quantity [than itself]:[7] but if Hezekiah's ruling is correct, it [the tithe] is an article which can become [otherwise] permitted, and whatever can become [otherwise] permitted is not neutralised even in a thousand [times its quantity]![8] — But how do you know that ‘which is not so in the case of the [second] tithe’ means that it is neutralised by a greater quantity [than itself]; perhaps it means that it cannot be neutralised at all?[9] — You cannot say thus, because in respect of terumah only the stringencies of terumah are taught, not its leniencies.[10] But he teaches ‘[they] are accounted the priest's property![11] — You cannot think so,[12] because it was distinctly taught: The second tithe is neutralized by a greater quantity [than itself]. And of which second tithe was this said? Of a tithe which is not worth a perutah[13] or which has once entered Jerusalem and gone forth again.[14] But if Hezekiah's ruling is correct, let Hezekiah's [remedy] be employed by redeeming it with the earlier money![15] — It means that he has not [yet] redeemed [any other].[16] Then let him bring the other tithe [produce] which he has and combine them?[17] — That [which is tithe] by Biblical law and that which is [so] only by Rabbinic law cannot be combined.[18] Then let him bring demai![19] — [We fear] lest he thereby bring certain [tithe].[20] Then let him bring two Perutahs, redeeming the tithe [that he brings] with a perutah and a half, and this [the intermixed tithe] with the rest?[21] — Do you think that one and a half perutah's worth of tithe consecrates[22] two perutahs? That is not so; one perutah[‘s worth] consecrates one Perutah, whilst the half perutah[‘s worth] does not consecrate [anything]; so again there is [tithe by] Biblical law[23] and [tithe by] Rabbinic law,[24] , and these two cannot be combined. Then let an issar be brought?[25] — [That is forbidden,] lest he bring perutahs [for that purpose].

‘Or which has once entered Jerusalem and gone forth again.’ But why so?[26] Let it be taken back again! — It refers to defiled [tithe]. Then let it be redeemed.[27] For R. Eleazar said: Whence do we know if second tithe [produce] became defiled, that it is to be redeemed

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(1) Zar (q.v.) pl. zarim. — This would appear obvious after the previous statement. Rashi observes that it is in fact unnecessary per se, but that its purpose is to mark the contrast with tithes, which, as the Mishnah proceeds to teach, is permitted to zarim. Tosaf., following J. Bik. II, explains: even half the minimum quantity, which involves no penalty of death or the addition of a fifth, is forbidden to zarim.

(2) In that he can employ them as kiddushin (q.v. Glos.) for betrothing a woman; v. infra n. 8.

(3) If a quantity of terumah or first fruits fell into hundred times as much hullin (common food) and cannot be distinguished therefrom, it is neutralised or annulled, and the whole is permitted to a zar.

(4) That is in respect of fruit. One's hands are normally said to be unclean with what is known as the second degree of uncleanliness — a low degree. This is insufficient to render the fruit of hullin or tithes unclean, and therefore these may be eaten with unwashed hands. But a stricter purity was demanded of terumah and first fruits; consequently it was enacted that the touch of ritually unclean hands imposes upon them third degree uncleanliness; therefore the hands must be washed before partaking of them. — This impurity is only Rabbinical, and therefore the washing of the hands alone was sufficient: for Biblical uncleanliness the immersion of the whole body in a ritual bath (mikweh) was necessary.

(5) If a priest became Biblically unclean, he required Immersion (v. n. 6) and then had to wait until sunset before he might eat of terumah or the first fruits (Lev. XXII, 7).

(6) (i) The (second) tithe may be eaten by a zar — consequently, of course, no penalty is involved therein; (ii) it is not the priest's property, as explained in n. 4., but sacred property given to the priests; hence it cannot be employed as kiddushin. — This is R. Meir's view (Kid. 52b); (iii) it does not require a hundred times its own quantity for neutralisation; (iv) the fruit may be eaten with unwashed hands; (v) when one becomes Biblically unclean, he may eat thereof immediately after immersion, without waiting for sunset (v. Hal. I, 9).

(7) If a quantity of the second tithe fell into a greater quantity of hullin it is neutralised and the whole ranks as hullin, 100 times the amount being unnecessary.

(8) This is a Talmudic principle with respect to the neutralisation of an object when intermixed with permitted commodities. Though normally a certain proportion of the latter is sufficient to neutralise the former, that does not operate if the former is destined to become permitted without recourse to neutralisation. E.g., if an egg is laid on a Festival, it is forbidden on that day, but not after. Now, if this egg was mixed up with no matter how many others on the day that it was laid, it is not neutralised, and all are forbidden on that day. For since it will be permitted on the morrow in any case, the principle of neutralisation is abandoned. Now, with respect to the second tithe, which is under discussion, since, as deduced, it can be annulled by a lesser quantity than is necessary for terumah, or indeed, since it can be annulled at all, it must refer to produce that cannot be otherwise made fit. Now, the remedy for ordinary second tithe that is mixed up with hullin is either to take the whole to Jerusalem, which can be easily done, as one has to eat the rest of the second tithe there in any case, and consume it there, or redeem the quantity that was intermixed. The only case in which these remedies cannot be employed is when the second tithe was unclean, so that the whole mixture may not be eaten, and is worth less than a perutah, and so not subject to redemption. But if Hezekiah's ruling that second tithe worth less than a Perutah can be redeemed by retrospectively including it in other redeemed produce is correct, the law of neutralisation cannot operate!

(9) In contradistinction to terumah, which is neutralised by 100 times its quantity.

(10) v. p. 313, n. 8. An examination of the various points shews that the object of the Tanna is to teach wherein terumah is more stringent than the tithe, not wherein it is lighter.

(11) Which is a leniency compared with the second tithe,

(12) That the second tithe cannot be neutralised at all,

(13) V, n. 2.

(14) This is explained below.

(15) This is a repetition, with a little more explanatory detail, of the difficulty already raised.

(16) So that he has no money with which it may be retrospectively redeemed.

(17) I.e., the tithe which is intermixed and that which he brings, and then redeem both.

(18) By Biblical law the tithe is certainly neutralised by a greater quantity than itself. Consequently, when it is thus intermixed, it is tithe only by Rabbinic law, whereas what is brought now is tithe according to Biblical law, and the two cannot be combined for the purpose of joint redemption, with the result that the tithe which he brings will remain unredeemed. But the retrospective combination permitted by Hezekiah is with produce that is already redeemed: hence it does not matter that the first was tithe by Biblical law and the second, sc. the mixed produce, only by Rabbinic law.

(19) V. Glos. This too is tithe only by Rabbinic law, and could be combined with the mixed produce.

(20) If he is permitted the remedy of demai, he may think that it is just the same if he brings certain tithe.

(21) I,e., let him first bring the other produce which he has to the value of a perutah and a half and redeem it all with the two perutahs; then declare that the half perutah's worth mixed up with hullin is redeemed by the two perutahs already used, in accordance with Hezekiah's teaching. — In the whole of this discussion, every suggestion that the mixed tithe should be capable of redemption on the basis of Hezekiah's ruling is a refutation of his views.

(22) Lit., ‘seizes hold of.’

(23) Sc. this half.

(24) The mixed produce.

(25) And tithe produce to a lesser value be redeemed therewith, the excess being used for the redemption of the mixed tithe. For though one and a half perutahs' worth cannot consecrate two perutahs, that is because they are two separate coins, hence divisible, and so one can become consecrated whilst the other remains hullin. If a single larger coin, however, is employed, the whole becomes consecrated, whilst the excess can retrospectively redeem the mixed tithe.

(26) Why may the intermixed tithe be neutralised?

(27) It being assumed that this refers even to produce worth a perutah.

Talmud - Mas. Baba Metzia 53b

even in Jerusalem?[1] From the verse, When thou art not able se'etho [‘to bear it’].[2] Now, ‘se'eth’[3] can only refer to eating, as it is written, And he took and sent mase'oth [‘messes’] unto them from before him![4] — But this refers to [commodities] purchased with the [redemption]money of the second tithe.[5] But let that also, which is bought with the [redemption] money of the second tithe, be redeemed, for we learnt: If what was redeemed with the [redemption-]money of the second tithe became defiled, it is [itself] to be redeemed![6] — This agrees with R. Judah, who ruled: It must be buried. If so, why particularly if it has gone forth [again]: the same applies even if it has not gone forth? — But after all, this refers to undefiled [tithe]: and what is meant by ‘gone forth’? That the walls [of Jerusalem] had fallen.[7] But did not Raba say: The law of the walls [of Jerusalem], in that it [the second tithe] must be eaten within them, is Biblical; but that they have retaining power[8] is merely Rabbinical: and [consequently] when would the Rabbis enact thus: only as long as the walls were standing, but not when they no longer existed [having fallen]![9] — The Rabbis drew no distinction whether the barriers were standing or not.[10]

R. Huna b. Judah said in R. Shesheth's name: A single clause is taught, [viz.,] Second tithe [produce] worth less than a perutah which has entered Jerusalem and gone forth [again].[11] But why so? Let it be taken back and eaten! — It means that the walls had fallen. Then let it be redeemed, for Raba said: The law of the walls [of Jerusalem], in that it [the second tithe] must be eaten within them, is Biblical; but that they have retaining power is merely Rabbinical; and [consequently, ought we not to say] when would the Rabbis enact thus: only as long as the walls were standing, but not when they no longer existed [having fallen]! — The Rabbis drew no distinction. If so,[12] why particularly if worth less than a perutah; even if worth a perutah, it is the same? — He [the Tanna] [implicitly] proceeds to a climax.[13] [Thus:] If it contains [a perutah's worth], it is unnecessary to state that the walls retain it.[14] But where it does not contain [a Perutah's worth], I might think that the walls do not retain it:[15] therefore we are taught [otherwise].

Our Rabbis taught: And if a man will at all redeem aught of his tithes [he shall add thereto the fifth part thereof]:[16] ‘of his tithes,’ but not all his tithes,[17] thus excluding second tithe [produce] worth less than a perutah.[18]

It has been stated: R. Ammi said, [This means] that [the tithe] itself is not [worth a perutah]; R. Assi maintained, Its fifth [is less than a perutah];[19] R. Johanan said, That [the tithe] itself is not [etc.]; R. Simeon b. Lakish said, Its fifth is less [etc.]. An objection is raised. For second tithe worth less than a perutah it is sufficient to declare, ‘That itself and its fifth are redeemed with the first money.’[20] Now, on the view that [it does not require redemption even if] its fifth is worth less [than a perutah], it is correct; hence he [the Tanna] states ‘it is sufficient,’ viz., though that itself contains [the value of a perutah], yet since its fifth does not, it is well. But on the view that [the tithe] itself is worth less, what is [the appropriateness of] ‘it is sufficient?’[21] This is indeed a difficulty.

The scholars propounded: Is the fifth calculated on the inner sum [sc. the principal] or on the outer [sc. the principal plus the addition]?[22] — Said Rabina: Come and hear: If the owners value it at twenty [sela's], the owners have priority, since they add a fifth. If a stranger declared, ‘I accept it for twenty-one,’

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(1) Where undefiled tithe cannot be redeemed.
(2) Deut. XIV, 24; The next verse says: Then thou shalt turn it into money..
(3) שאת , ‘to bear’.
(4) Gen. XLIII, 34. Thus he translates the first verse: If thou art not able to eat it — being defiled — then thou shalt turn it into money — i.e., redeem it.
(5) The original second tithe having been redeemed, the money was expended in Jerusalem upon commodities, which in turn became defiled. At this stage it is assumed that only the original tithe can be redeemed if defiled, but not that purchased with the redemption money.
(6) M. Sh. III. 10.
(7) After the second tithe was taken into Jerusalem. Now, the second tithe cannot be eaten there when the walls have fallen; on the other hand, having been brought there whilst the walls were standing, it is ‘retained’, i.e.,it cannot be redeemed.
(8) V. previous note.
(9) Hence the barriers having fallen, let the tithe be redeemed.
(10) But enacted a general measure that the walls have retaining power.
(11) This answers the objection against Hezekiah from the cited Baraitha (q.v. supra), the reason no resort can be had to Hezekiah's device being that the tithe has been ‘retained’ by the barriers, when redemption is no longer possible. — The Talmud proceeds to raise the same objections against this answer as against the previous explanation.
(12) That the reason of non-redemption is the ‘retaining’ power of the walls of Jerusalem.
(13) Lit., ‘he teaches a case of it is unnecessary to state it.’
(14) And it cannot be redeemed. For since it is of sufficient value to require redemption, the barriers sanctify it.
(15) Since it is not subject to the law of redemption.
(16) Lev. XXVII, 31.
(17) I.e., of is a limitation, implying that in certain cases there can be no redemption.
(18) Such a small quantity cannot be redeemed, and if one does declare it redeemed with a perutah, that perutah does not receive the sanctity of the second tithe to have to be expended in Jerusalem.
(19) Even if the produce is worth more than a perutah, no redemption is possible if the fifth to be added is less than a perutah.
(20) In accordance with Hezekiah's ruling, q.v. supra 52b and notes. It need not be taken to Jerusalem, nor is it necessary to combine it with other produce and redeem the whole.
(21) Since I could not think that redemption is necessary in such a case. But ‘it is sufficient’ implies that a concession is made when the law might have been stricter.
(22) E.g., if the principal is worth 20 zuz, must one add 4 zuz, a fifth of the principal, or 5, a fifth of the total?

Talmud - Mas. Baba Metzia 54a

the owners must give twenty-six; ‘for twenty-two,’ the owners must give twenty-seven; ‘for twenty-three,’ the owners must pay twenty-eight; ‘for twenty-four,’ the owners must pay twenty-nine; ‘for twenty-five,’ the owners must pay thirty; because a fifth is not added on this man's higher valuation.[1] This proves that the fifth is calculated on the outer sum.[2] This proves it. This is disputed by Tannaim: Then he shall add a fifth part of it thereto[3] — i.e., it [sc. the principal] plus its fifth shall amount to five:[4] this is the view of R. Josia. R. Jonathan said: ‘A fifth part of it’ means a fifth of the principal. The scholars propounded: Does the fifth restrain or not?[5] [Thus:] do four [zuz] redeem four [zuz's worth of second tithes], whilst a fifth is independently added,[6] so that the fifth is no bar [to the validity of the redemption]: or perhaps, four [zuz's worth] must be redeemed by five,[7] the fifth being [thus] a bar? — Said Rabina: Come and hear: demai[8] is not subject to the law of a ‘fifth’ or to the law of removal.[9] [This implies,] but the law of the principal does apply to it.[10] Why so?[11] [Surely because] the principal, which is indispensable for [tithe by] Biblical law, is required in the case of [tithe by] Rabbinic law; whereas the fifth, which is not a bar in [tithe by] Biblical law, is not required in the case of Rabbinic [tithe]![12] Shall we say that this is disputed by Tannaim? [It has been taught:] If one gave the principal but not the fifth: R. Eliezer ruled: It [the redeemed tithe] may be eaten [outside Jerusalem]; R. Joshua said: It may not be eaten. Said Rabbi: I approve of R.

Eliezer's view for the Sabbath, and R. Joshua's view for week-days.[13] Now, since he said ‘I approve of R. Eliezer's view for the Sabbath,’ it follows that their dispute applies even to week-days; and since he said, ‘I approve of R. Joshua's view for week-days,’ it follows that their dispute applies even to the Sabbath. Surely then, they differ in this reasoning, viz., R. Eliezer holds that the fifth is no bar, whilst R. Joshua holds that it is! — Said R. papa: That is not so. All agree that the fifth is no bar, but here they differ as to whether we fear culpable omission. One Master holds that we fear culpable omission;[14] whilst the other Master maintains that we do not fear this.

R. Johanan said: All agree in the case of hekdesh[15] that it is redeemed,[16] since the treasurers demand it in the market place.[17] Now, do they really not differ in respect to hekdesh? Surely it has been taught: If one gave the principal but did not give him [sc. the treasurer] the fifth: R. Eliezer said: He has redeemed it; whilst the Sages say: He has not redeemed it. Said Rabbi: I approve of R. Eliezer's view in respect to hekdesh,[18] and that of the Sages in respect to tithes. Now, since he said ‘I approve of R. Eliezer's view In respect to hekdesh,’ it follows that he himself [R. Eliezer] differs even in reference to the tithe; and since he said, ‘I approve of the view of the Sages in respect to tithes,’ it follows that they differ even on hekdesh! — But if it [R. Johanan's dictum] was stated, it was stated thus: R. Johanan said: All agree in respect to the Sabbath and hekdesh, that it is redeemed. Firstly, because it is written, And thou shalt call the Sabbath a delight;[19] and furthermore, since the treasurers demand it in the market place.

Rami b. Hama said: Now, it has been said that hekdesh cannot be redeemed by land, for the Divine Law ordered, Then he shall give the money, and it shall be assured to him;[20] but can its fifth be ‘redeemed by’ [i,e., rendered in] land? [Again,] terumah can be repaid only by hullin,[21] for the Divine Law saith, Then he shall give unto the priest the holy thing,[22] implying, that which is eligible to be holy:[23] can its fifth[24] be rendered out of what is not hullin? [Further, the second] tithe cannot be redeemed by asimon,[25] because the Divine Law said, And thou shalt bind up the money in thy hand,[26] thus including everything which has a figure:[27] can its [additional] fifth be exchanged for uncoined metal? Now, it eventually transpired[28] that it [these questions] reached Raba. Thereupon he said to them: Scripture saith, [Then he shall add the fifth part of the money of thine estimation] unto it,[29] [which is] to include its fifth as equal to itself [sc. the principal].[30]

Rabina said: We have learnt likewise: If one stole terumah but did not eat it, he must repay double the value of the terumah.[31] If he ate it,[32] he must repay two principals and a fifth, one principal and a fifth out of hullin,[33] and the other principal as the value of terumah.[34]

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(1) If a man consecrated an inherited field when the Jubilee laws were in force, the redemption was according to a fixed scale, as stated in Lev. XXVII, 16-19. If, however, he consecrated it when the Jubilee laws had fallen into desuetude, he had to value it for the purpose of redemption, whilst at the same time others too might redeem it and keep the field for themselves. Now, the owner had to add a fifth to his valuation, but not strangers. Consequently, if both he and strangers valued it equally, it was for him to redeem it, since he would add thereto. But if strangers made a higher offer, the owner had to redeem it at their assessment, adding a fifth on the basis of his own, as stated in the Mishnah quoted. In order that the price might not be unduly forced up, the Mishnah concludes that if the owner valued it at 20, whilst another valued it at 26, i.e., more than the owner's offer plus a fifth, the latter offer was accepted. Thus both the Temple treasury and the owner were safeguarded.

(2) Five on twenty.

(3) Lev. XXVII, 27.

(4) If the principal is four the total shall be five, the addition thus being a fifth of the total — an ‘outer’ fifth.

(5) If one redeems the second tithe without adding a fifth, does this omission restrain him from eating that produce outside Jerusalem, it being regarded as unredeemed, or not?

(6) But not as part of the actual redemption.

(7) It being a scriptural decree that the addition forms an integral part of the redemption.

(8) V. Glos.

(9) If one redeems second tithe of demai, he need not add a fifth. Again, ordinary (Biblical) tithes had (in accordance with Deut. XIV, 28ff.) to be removed from the house in the third year after the year of Release, but not demai (Dem. I, 2).
(10) I.e., unless redeemed at par it may not be eaten outside Jerusalem.
(11) Why this distinction?
(12) This proves therefore that the omission of the fifth does not invalidate redemption.
(13) On the Sabbath the redeemed tithe may be eaten, for otherwise the cheerfulness of the Sabbath might be destroyed, as one might not have anything else to eat. But on week-days it may not be eaten unless the necessary fifth has been added.
(14) If we permit eating the tithe even before the fifth has been added, one may intentionally omit his addition.
(15) V. Glos.
(16) Even before the necessary fifth is added, and it may then be eaten.
(17) There is no fear that the additional fifth will be intentionally omitted, since the treasurers enforce payment. [The treasurers are apparently not allowed to enter the premises of the donor to take a pledge; cf. Deut. XXIV, 11 (v. Strashun a. l.).]
(18) For the reason stated, cf. n. 5.
(19) Isa. LVIII, 13; v. n. 1.
(20) Actually there is no such verse. Rashi and Tosaf. here and in Pes. 35b s.v. שחילל , without pointing to the non-existence of this verse, quotes, Then he shall add the fifth part of the money of thy estimation unto it, and it shall be assured to him (Lev. XXVII, 19) as the source of this law, implying money, but not land. But in that case the obvious difficulty arises, to which Tosaf. draws attention in Pes. loc. cit., since the verse primarily refers to the fifth, how can one question whether the implication of ‘money’ as excluding land refers to the fifth too, besides the principal? In Bek. 51a s.v. אימא , however, Tosaf. states on the authority of the Sifra that the deduction is really based upon, and all thy estimations shall be according to the shekel of the sanctuary (v. 25), ‘shekel’ excluding land.
(21) If a zar (v. Glos.) eats it unwittingly, he must make restoration to the priest, and the repayment must be with money of hullin.
(22) Lev. XXII, 14.
(23) I.e., it becomes holy only when he gives it to the priest; hence he cannot repay him with what is already holy.
(24) Which had to be added to the principal: then he shall put the fifth part thereof unto it, ibid.
(25) Uncoined metal; v. supra 47b.
(26) Deut. XIV, 25.
(27) V. p. 282, n. 6. I.e., only a stamped coin can redeem, but not bullion or uncoined metal.
(28) Lit., ‘The thing was rolled on.’
(29) Lev. XXVII, 19, also in every place where the addition of a fifth is mentioned; v. XXII, 14; XXVII. 31 (E.V. ‘thereto’).
(30) I.e., the fifth must be redeemed in the same way as the principal; hence the answer to all the questions is in the negative.
(31) The usual punishment of a thief. V. Ex. XXII, 3. As terumah, its value is less than hullin, since it can be sold only to priests, and may not be eaten if defiled.
(32) Not knowing that it was terumah.
(33) I.e., in actual produce, notwithstanding that the value of terumah is less, for since he ate it, he derived the same benefit from it as though it were hullin.
(34) I.e., money to that value. For the second principal is a fine for theft; therefore it is rendered in money, and based on the actual market value of the article stolen (Ter. VI, 4).

Talmud - Mas. Baba Metzia 54b

This proves that the fifth is as the principal.[1]

Raba said: With respect to robbery it is written, [he shall even restore it in the principal,] and shall add the fifth part more thereto;[2] and we learnt: If he restored the principal and then swore [falsely] concerning the fifth,[3] he must then add[4] a fifth upon the fifth,[5] [and so on,] until the principal is less than a perutah's worth .[6] With respect to terumah, it is written, And if a man eat of the holy thing unwittingly, then he shall add the fifth part thereof unto it.[7] And we learnt: If one eats terumah unwittingly, he must restore the principal and a fifth; whether he eats, drinks or anoints [therewith]; whether it was undefiled or defiled terumah, he must pay a fifth and a fifth of the fifth.[8] With respect to [the second] tithe it is neither written[9] nor taught,[10] nor do we regard it at all as a problem.[11] With respect to hekdesh it is written, And if he that sanctified it will redeem his house, then he shall add the fifth part of the money of thy estimation unto it.[12] And we learnt: He who redeems his hekdesh adds a fifth.[13] Now, only a fifth was thus taught, but not a fifth of the fifth.[14] What then [is the law]? [The problem arises for this reason:] With respect to terumah it is written, and he shall add [we-yasaf];[15] then with respect to hekdesh too it is likewise written, and he shall add [weyasaf]:[16] or perhaps, with respect to terumah it is written he shall add [we-yasaf], and if you remove the waw from we-yasaf and add it to hamishito [the fifth part thereof] it becomes hamishithaw [the fifth parts thereof];[17] whereas in respect to hekdesh is written, and he shall add the fifth part [we-yasaf hamishith], and even if you remove the waw from we-yasaf and add it to hamishith, after all it only becomes hamishitho.[18] But cannot this [sc. the answer to the problem] be deduced from the fact that it [the fifth] is a second hekdesh, and R. Joshua b. Levi said: A fifth is added to first [i.e., original] hekdesh [in redemption], but not to second hekdesh.[19] — Said R. papa to Rabina: Thus did Raba say: The fifth ranks as original hekdesh.[20]

What is our decision in the matter? — R. Tabyomi said in Abaye's name: Scripture saith, Then he shall add the fifth part of the money of thy estimation [unto it]: thus its fifth is assimilated to its assessed value:[21] just as a fifth is added to the assessed value, so is a fifth added to the fifth of its value.[22]

The [above] text states: ‘R. Joshua b. Levi said: A fifth is added to first [i.e., original] hekdesh [in redemption], but not to second hekdesh’ Said Raba: What is R. Joshua b. Levi's reason? — Scripture says, And if he that sanctified it will redeem his house, [then he shall add the fifth part]: implying, only he who sanctified, but not he who transferred [its sanctity].[23]

A tanna recited before R. Eleazar: And if it be of the unclean beast,[24] then he shall redeem it according to thine estimation [, and shall add a fifth part of it thereto]:[25] just as an unclean beast is distinguished in that it is the original dedication,[26] belongs entirely to Heaven,[27] and it involves trespass;[28] so everything which is original hekdesh and belongs entirely to Heaven involves one in trespass. Thereupon R. Eleazar observed to the tanna: As for [the stipulation] that it must belong entirely to Heaven, it is well: that excludes sacrifices of secondary sanctity;[29] since its owners enjoy part thereof,[30] they involve no trespass offering. But what is ‘original dedication’ intended to exclude? [Do you mean that] only original hekdesh involves a trespass offering, but not final hekdesh![31] perhaps you said it in reference to the fifth, and in agreement with R. Joshua b. Levi?[32] — Even so, he replied, that is what I meant.

R. Ashi said to Rabina: Is an unclean animal capable only of original hekdesh,

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(1) Lit., ‘as itself.’ — It follows from the fact that the fifth has to be paid in produce, just as the principal.

(2) Lev. V, 24. This fifth is payable if the culprit first denied the robbery and swore falsely, and then repented. The Heb. for ‘the fifth part’ is וחמישיתיו , which is plural in form, lit., ‘and its fifth parts’. This justifies the ruling that the fifth itself becomes the principal and a fifth is payable upon that — i.e., there may be many fifth parts.

(3) Regretting his repentance before giving the fifth, he falsely swore that he had already paid it.

(4) If he repents again.

(5) I.e., the fifth is regarded as a new principal, and he is liable to a fifth of that on account of his false oath.

(6) ‘The principal’ refers to the fifth in respect of which he took a false oath (v. B.K. 103a).

(7) Ibid. XXII, 14. Here the Heb. reads חמישתו , sing.; nevertheless it is shewn further on that there is a Biblical allusion that there may be many fifths, as in the case of robbery.

(8) This fifth becomes the same as the original terumah, and if he ate it, he must restore that fifth and a fifth thereof, just as in the case of robbery (Ter. VI, 4).

(9) There is no allusion to the payment of many fifths.

(10) To that effect, e.g., if one redeems the second tithe, duly adding a fifth, and then wishes to redeem that fifth with other coins, it was not taught that he must add a fifth thereof.

(11) I.e., another fifth need certainly not be added, since there is not the slightest indication in the Bible to that effect.

(12) Lev. XXVII, 15.

(13) Infra 55b.

(14) I.e., it is not stated that if he wishes to redeem that fifth, which is now consecrated, that he must add a fifth thereof unto it.

(15) The and (we-) is interpreted as an extending particle, and therefore teaches that this fifth may be added more than once, i.e., on repeated redemption a fifth of the added fifth is required.

(16) Hence hekdesh too may require many fifths.

(17) On the plural form v. 322, nn. 5’ 10. It is one of the principles of exegesis that a letter may be taken from one word and added to another, and interpreted in the transposed form. Such removal and addition is permissible only at the beginning or end of a word, hut not in the middle; so here יסף חמישיוו (חמישיתיו)ץ ויסף חמישיתו

(18) I.e., sing., יסף חמישיתו ץ ויסף חמישית thus giving no hint that a second fifth may be required. Though the insertion of the waw in the middle of the word would turn it into plural viz., חמישיות ‘fifths’, such insertion is not permissible, as stated on previous note.

(19) This fifth is not the object originally dedicated, but a substitute for it through redemption, the second hekdesh. According to R. Joshua b. Levi's dictum, which is deduced from Scripture further on, hence authentic, no addition is necessary when redeeming the substitute; so that even if he redeemed the principal with which the original hekdesh had been redeemed, no fifth thereof would be necessary: surely then no fifth of the fifth is required!

(20) And not as a substitute at all. Thus: the original is redeemed at par, and that principal ranks as a substitute. The added fifth, however, is not a substitute, but in the nature of money now consecrated for the first time in obedience to the Scriptural law that when one redeems hekdesh he must consecrate something (viz., a fifth) in addition. Hence, though no fifth is added when the principal is redeemed, it may be necessary for the fifth.

(21) Lit., ‘the money of his estimation’.

(22) In point of fact the analogy appears defective, since a fifth is not added when the assessed value is itself redeemed, as has just been stated. But the argument is somewhat like this: the fifth is regarded in exactly the same light as the principal assessment: just as when the principal assessment is made, a fifth is to be added, so is a fifth of the fifth to be added likewise, and that is possible only in another redemption (Strashun, a. l.)

(23) Lit., ‘who caused to seize,’ i.e., who by means of redemption transferred sanctity from one object to another. The deduction is that a fifth is to be added only in the case of that which was sanctified itself, but not for that which received its sanctity through redemption.

(24) I.e., if an unclean animal was consecrated. The E.V. is ‘and if it be of an unclean beast,’ the def. art. being understood generically. But as the Talmud bases a particular conclusion upon it (55a), the literal translation has been given here.

(25) Ibid. 27.

(26) Its sanctity was not received through transference from another animal. The Talmud objects further on that it is possible for an unclean beast to possess transferred sanctity.

(27) I.e., its value goes entirely to the Temple, and nothing to the owner. But a clean animal is sacrificed, and the owner enjoys a portion thereof.

(28) It is now assumed that this means that if one makes use of it he must bring a trespass offering, just as for benefiting from any other form of hekdesh.

(29) קדשים קלים Sacrifices are divided into two grades of sanctity, the higher, which includes the burnt offering and sin offering, and the secondary or lower, e.g., the peace offering and thanks offering.

(30) The fat of these lower grade sacrifices was burnt on the altar, the breast and shoulder were the priests portions, and the rest was consumed by the owner.

(31) For the term ‘final hekdesh’ v.n.5. Surely ‘final hekdesh’ too involves trespass!

(32) By ‘trespass’, not the trespass offering for making use of hekdesh is meant, but the fifth which must be added on redemption, the fifth being called ‘trespass’ because there too (sc. when hekdesh is secularly used) a fifth must be added, as stated above, Lev. XXII, 14; thus he asked the Tanna whether he meant that no fifth was to be added in redeeming substitute hekdesh.

Talmud - Mas. Baba Metzia 55a

but not of intermediary hekdesh![1] — He replied, Because it is incapable of final hekdesh.[2] But R. Aha of Difti objected to Rabina: Yet it is capable of ‘intermediary hekdesh:’ then let a fifth be added too![3] — He replied: It is as final hekdesh: just as a fifth is not added for final hekdesh,[4] so for intermediary hekdesh no fifth is added. R. Zutra, son of R. Mari, said to Rabina: On what grounds[5] do you liken it to final hekdesh? Liken it [rather] to original hekdesh! — He replied: It is logical to liken it to final hekdesh, since thereby transferred [sanctity is deduced] from transferred [sanctity]. On the contrary, it should rather be compared with original hekdesh, [deducing] that which may be followed by sanctity from that which may be followed by sanctity![6] — It is as Raba said, [viz.,] [And the fire upon the altar shall be burning in it; it shall not be put out: and the priest shall burn wood on it every morning, and lay] the burnt offering [in order upon it; and he shall burn thereon the fat of the peace offering][7] implies ‘the first burnt offering;[8] so here too, [and if it be of] the unclean [beast] denotes the first uncleanliness [to which it may be subject].[9]

It has been taught in accordance with R. Joshua b. Levi: [If one declared,] ‘This cow is a substitute for this cow of hekdesh’;[10] ‘this garment be instead of this other garment of hekdesh’, his consecrated object is redeemed, whilst hekdesh has the upper hand.[11] [Even if he declares,] ‘This cow, which is worth five sela's be a substitute for this other cow of hekdesh’, or ‘this garment, worth five sela's, be instead of this other garment of hekdesh’, his consecrated object is redeemed.[12] For the first hekdesh he must add a fifth, but not for the second.[13]

MISHNAH. OVERREACHING IS CONSTITUTED BY FOUR SILVER [MA'AHS].[14] THE [MINIMUM] CLAIM IS TWO SILVER [MA'AHS],[15] AND ADMISSION IS [AT LEAST] THE VALUE OF A PERUTAH.’[16] A PERUTAH WAS SPECIFIED IN FIVE INSTANCES: [i] ADMISSION MUST BE [AT LEAST] THE EQUIVALENT OF A PERUTAH; [ii] A WOMAN IS BETROTHED BY THE VALUE OF A PERUTAH;[17] [iii] HE WHO BENEFITS FROM HEKDESH TO THE VALUE OF A PERUTAH IS LIABLE TO A TRESPASS OFFERING; [iv] HE WHO FINDS [AN ARTICLE] WORTH A PERUTAH IS BOUND TO PROCLAIM IT, AND [v] HE WHO ROBS HIS NEIGHBOUR OF THE VALUE OF A PERUTAH AND SWEARS [FALSELY] TO HIM [CONCERNING IT],[18] MUST FOLLOW HIM TO RETURN IT[19] EVEN AS FAR AS MEDIA.[20]

GEMARA. But we have already learnt it once: fraud is constituted by [an overcharge of] four silver [ma'ahs] in twenty four, which is a sela’, [hence] a sixth of the purchase![21] — He [the Tanna] desires [to state], THE [MINIMUM] CLAIM IS TWO SILVER [MA'AHs], AND ADMISSION IS [AT LEAST] THE VALUE OF A PERUTAH.[22] But that too we have [already] learnt: The judicial oath is [imposed] for a claim of two silver [ma'ahs] and an admission of a perutah! — The last clause is necessary, viz., A PERUTAH IS SPECIFIED IN FIVE INSTANCES.

A PERUTAH IS SPECIFIED IN FIVE INSTANCES etc. But let him [the Tanna] teach also, [The minimum] overreaching is a perutah![23] — Said R. Kahana: This proves that the law of overreaching does not apply to perutahs.[24] But Levi maintained: The law of overreaching does apply to perutahs. And thus did Levi read in his Baraitha [collection]:[25] A perutah was specified in five instances: [i] [Minimum] overreaching is a perutah; [ii] Admission is a perutah; [iii] The kiddushin of a woman is with a perutah; [iv] Robbery [imposes its obligations] on account of a perutah; and [v] The court session is on account of a perutah.[26] Now, why does our Tanna not include the court session? — He includes it under robbery.[27] Yet does he not teach both robbery and loss?[28] — Those are [both] necessary. ‘Robbery’, [to teach that] HE WHO ROBS HIS NEIGHBOUR OF THE VALUE OF A

PERUTAH AND SWEARS [FALSELY] TO HIM [CONCERNING IT], MUST FOLLOW HIM TO RETURN IT EVEN AS FAR AS MEDIA ‘A loss:’ [thus] HE WHO FINDS [AN ARTICLE] WORTH A PERUTAH IS BOUND TO PROCLAIM IT, even if it depreciated [after being found].[29] Now, why does Levi not teach that a loss [in the sense of the Mishnah] is [at least] a perutah? — He teaches robbery. But does he not teach both robbery and the court session?[30] — He needs [to teach that] in order to reject the view of R. Kattina, who said, The court sits[31] even for less than a perutah's worth. Now, why does Levi omit hekdesh? — He deals with hullin, not sacred objects. Then since our Tanna does treat of sacred objects, let him teach, The [minimum of second] tithe [to be eligible for redemption] is a perutah.[32] — [The omission is] in accordance with the view that if its fifth is less than a perutah [it cannot be redeemed]. Then let him state, The [added] fifth of the [second] tithe must be [not less than] a perutah. — He treats of principals, not fifths.[33]

The [above text] states: ‘R. Kattina said: The court sits even for less than a perutah's worth.’ Raba objected: And he shall make amends for the harm that he hath done in the holy thing:[34]

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(1) Three categories are distinguished: (i) original hekdesh, i.e., that which is itself consecrated in the first place, though it cannot be directly employed in the temple; (ii) intermediary hekdesh, viz., that which is consecrated instead of another, which required redemption — referred to above as ‘transferred hekdesh;’ (iii) ‘final hekdesh,’ that which is itself finally used as hekdesh, e.g., a clean beast, which is sacrificed, or a wood beam, which, if dedicated to Temple use, may be directly built into the Temple or similarly employed. — Now, R. Ashi observes that an unclean animal is capable of this intermediary or transferred sanctity, viz., if it is substituted for another. Another two expressions are used in this discussion, viz., ‘first hekdesh’ and ‘second hekdesh.’ ‘First hekdesh’ would appear to be synonymous with ‘original hekdesh;’ ‘second hekdesh,’ like ‘intermediary hekdesh,’ refers to transferred sanctity, but whereas the latter term is used in contrast to ‘final hekdesh’ to denote that which cannot itself be finally employed as hekdesh, ‘second hekdesh’ refers to that which can be finally used so.

(2) It cannot be used itself as hekdesh, not being eligible for the altar, nor can it be built into the Temple.

(3) If this unclean animal is redeemed as intermediary hekdesh.

(4) Since there is no fifth for final hekdesh, in accordance with the teaching reported by the tanna, apart from the fact that there can be no room for the addition of a fifth, since it is finally disposed of as hekdesh and not redeemed.

(5) Lit., ‘what do you see?’

(6) ‘Original’ and ‘intermediary’ hekdesh, (v. p, 325, n. 5), can be redeemed and thus ‘followed’ by the sanctity of the article wherewith it is redeemed. But this of course cannot apply to ‘final’ hekdesh.

(7) Lev. VI, 5.

(8) The definite article points to some particular sacrifice, and Raba observes that it denotes that the first, i.e., the burnt offering, must be the first thing to ascend the altar every day, and nothing else may take precedence over it. Tosaf. offers some other explanations.

(9) I.e., that it applies to original hekdesh only.

(10) [E.g., where the originally consecrated cow was dedicated for temple repairs, no redemption being possible in the case of a clean animal dedicated as an offering; cf. Lev. XXVI, 10; v. Tosaf.]

(11) If hekdesh is redeemed by an object of far less value than itself, the redemption is valid and the consecrated article loses its sanctity; nevertheless, the treasurers collect its full value. On the other hand, if the object substituted is worth more, there is no refund. So here too, if the second cow or garment is worth less than the original, the deficiency must be made good, whilst if it exceeds it, hekdesh gains. This is the meaning of ‘hekdesh has the upper hand.’ — In this clause, no actual value is ascribed to the substitute.

(12) Though he ascribes a certain value to the substitute, which it lacks. I might have thought that his declaration is therefore invalid, since it contains a misstatement. We are therefore taught otherwise.

(13) Should he desire to redeem the substitute, which is now sanctified in its turn, no addition is required. This agrees with R. Joshua b. Levi.

(14) In a purchase worth a sela’, i.e., a sixth, v. p. 295, n. 10.

(15) This is the smallest claim which can involve the imposition of an oath.

(16) As stated supra 3a, no oath is required by Biblical law unless part of one's claim is admitted. This admission must be for at least a perutah or its equivalent.

(17) The smallest sum of money or its equivalent whereby a woman can be betrothed is a perutah.
(18) Denying the theft.
(19) Lit., ‘must carry it after him.’
(20) If he repents, he does not obtain forgiveness unless he returns it to him personally, and he must go even so far.
(21) Supra 49b.
(22) V. p. 327, n. 5.
(23) That if the overreaching is less there is neither compensation nor cancellation of the sale.
(24) Which are copper coins. I.e., the minimum sum to which it applies is an issar, which is a silver coin.
(25) [Levi had a compilation of Baraithas similar to that of R. Hiyya and R. Hoshaia, v. B.B. (Sonc. ed.) p. 216, n. 5.]
(26) If liability is admitted or proved by witnesses, yet payment is refused, a court session orders measures of compulsion against the recalcitrant debtor. The smallest sum to be involved for this step to be taken is a perutah.
(27) For the same principle operates in both.
(28) HE WHO FINDS AN ARTICLE WORTH A PERUTAH IS BOUND TO PROCLAIM IT. The principles here too are identical, viz., that perutah is ‘money’, to the return of which the owner has a right, even if it involves considerable trouble. (9)Thus apart from the fact that the minimum which constitutes robbery is perutah, we are further informed that even such a small sum must be returned to the robbed man personally, though the expenses of such return far exceed the actual sum involved.
(29) So that by the time it is announced it is not worth a perutah; yet the announcement must be made.
(30) And in both these cases too the same principle is at stake.
(31) Lit., ‘meets’.
(32) But a lesser quantity must be consumed in Jerusalem.
(33) In all cases stated in the Mishnah the principal itself must be not less than a perutah.
(34) Lev. V, 16.

Talmud - Mas. Baba Metzia 55b

this [‘and’] extends the law of restoration even to less than a perutah's worth. Thus, it applies to hekdesh, but not to hullin![1] — But if stated, it was stated thus: R. Kattina said, if the court met for [a claim of] the equivalent of a perutah, they conclude [the hearing] even for less,[2] [because] at the beginning of a trial a perutah must be involved, but at the end a [claim of a] perutah is unnecessary.

MISHNAH. [THE ADDITION OF] A FIFTH [TO THE PRINCIPAL] IS PRESCRIBED IN FIVE CASES: [i] ONE WHO EATS TERUMAH, THE TERUMAH OF THE TITHE,[3] THE TERUMAH OF THE TITHE OF DEMAI, HALLAH,[4] AND THE FIRST FRUITS,[5] MUST ADD A FIFTH;[6] [ii] HE WHO REDEEMS THE FOURTH YEAR PLANTING[7] AND HIS OWN SECOND TITHE[8] ADDS A FIFTH; [iii] HE WHO REDEEMS HIS SACRED OBJECTS[9] ADDS A FIFTH; [iv] HE WHO BENEFITS FROM HEKDESH TO THE VALUE OF A PERUTAH ADDS A FIFTH;[10] AND [V] HE WHO ROBS HIS NEIGHBOUR OF A PERUTAH'S WORTH AND SWEARS [FALSELY] TO HIM [CONCERNING IT] MUST ADD A FIFTH.

GEMARA. Raba said: The terumah of the tithe of demai presented a difficulty to R. Eleazar: Did then the Sages set up protective measures for their enactments as for those of the Torah?[11] — Said R. Nahman in Samuel's name: The author of this [Mishnah] is R. Meir, who maintained: The Sages did set up protective measures for their enactments as for those of the Torah. For it has been taught: If one brought a divorce from countries overseas and delivered it to her [the wife] without declaring, ‘It was written in my presence and signed in my presence,’ he [her next husband] must divorce her [too], and their offspring is a bastard: this is R. Meir's view. But the Sages Say: Their offspring is not a bastard. What then shall he [the messenger] do? He must take it [the divorce] back from her, give it to her again in the presence of two witnesses and declare, ‘It was written in my presence and signed in presence.’[12] But according to R. Meir, [merely] because he did not declare to her, ‘It was written in my presence and signed in my presence,’ he must divorce her, and the child is a bastard! — Even so: R. Meir is consistent with his view. For R. Hamnuna said on ‘Ulla's authority: R. Meir used to say, Whenever one departs from the fixed procedure ordained by the Sages[13] in case of divorce, he [her next husband] must give a divorce, whilst the offspring is a bastard.

R. Shesheth objected: It [sc. the second tithe demai] is redeemed [by exchanging] silver for silver, copper for copper, silver for copper and copper for produce;[14] then he may redeem the produce: this is R. Meir's opinion. But the Sages say: He must carry the produce to Jerusalem and eat it there.[15] Now, is it permissible to redeem silver with copper?[16] Surely we learnt: If a sela' of the second tithe was intermixed with one of hullin,[17] he brings a sela''s worth of copper coins and declares: 'Wherever the sela' of the second tithe may be, it is redeemed with these coins.' Then he selects the best of them[18] and redeems them [the copper coins] therewith;[19]

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(1) I.e., no legal compulsion can be exerted to effect the restoration of something worth less than a perutah in the case of hullin; this follows from the fact that the Baraitha deduces the necessity of such restoration only in the case of sacred objects.

(2) If the claim of the plaintiff was reduced in the course of the trial.

(3) V. p. 293, n. 8.

(4) V. Glos.

(5) Which was to be given to the priest.

(6) If he eats any of these in ignorance of their true nature. These count as one, 'terumah' being a generic designation for all.

(7) When trees were planted, their fruit was forbidden during the first three years. The produce of the fourth was permitted, but on the same terms as the second tithe, viz., it either had to be taken to Jerusalem for consumption or redeemed without Jerusalem and the money expended there; v. Lev. XIX, 24ff.

(8) On 'his own' v. supra, p. 272 n. 9.

(9) Here too 'his' is emphatic.

(10) Lev. V, 16.

(11) By ruling that one who eats the terumah of the tithe of demai must make restitution and add a fifth, though the law of demai is altogether only Rabbinical.

(12) It was a Rabbinic law that when a divorce was brought from overseas the messenger had to make this declaration, though by Biblical law this is unnecessary. We see from the above that in R. Meir's opinion the Sages enacted their laws with such stringency that if this formality was omitted the divorcee's subsequent marriage is null, even to the extent that the offspring is a bastard, as the child of a married woman who conceived in adultery.

(13) Lit., 'from the coin struck by the Sages.'

(14) In each case the former of the pair is redeemed by the latter. Hence the last clause means that in the case of demai copper coins may be redeemed outside Jerusalem by substituting produce (not of the second tithe) for them, which produce in turn becomes sanctified.

(15) Dem. II, 6. The translation follows Tosaf. R. Meir permits the produce to be redeemed, though that itself was formerly employed for redeeming the money; whilst the Sages maintain that in these circumstances the produce itself must be taken to Jerusalem. Hence R. Meir is more lenient here in respect to demai than the Sages, which contradicts Samuel's assertion above that in this R. Meir is particularly stringent (more so than the Rabbis).

(16) According to Tosaf., this is adduced to shew further that R. Meir is more lenient than the Sages. In Rashi's view, however, this is part of the reasoning leading up to R. Shesheth's objection.

(17) And the owner wishes to spend the hullin money outside of Jerusalem.

(18) I.e., the best sela' of the two; these are now both hullin.

(19) With the finer sela' which now becomes second tithe.

Talmud - Mas. Baba Metzia 56a

because It was said, It [sc. the second tithe] may be redeemed [by substituting] copper for silver in case of emergency; not, however, that it should remain so, but that it should itself be redeemed in turn with silver.[1] Thus it is nevertheless stated that it [silver] may be exchanged in case of emergency, proving that only in an emergency is it done, but not otherwise![2] — R. Joseph replied:

Though R. Meir is more lenient in regard to its redemption, he is stricter in regard to the eating thereof.[3] For it has been taught: Only the wholesaler was permitted to sell demai,[4] but a private individual must tithe it in all cases:[5] this is R. Meir's view. But the Sages say: Both a wholesaler and a private individual may sell or send [produce] to his neighbour or give it to him as a gift without fear.[6] Rabina raised an objection: If one buys [loaves] from a baker,[7] he may tithe from the freshly baked for the stale, and vice versa, and even if they are of many moulds:[8] this is R. Meir's view.[9] Now, as for [giving tithe] from the stale [loaves] for the freshly baked, that is well, being in accordance with R. Elai. For R. Elai said: Whence do we know that if one separates [terumah] from inferior for better [produce] the terumah is terumah?[10] — Because it is written. And ye shall bear no sin by reason of it, when ye have heaved from it the best of it.[11] Now, if it is not sanctified,[12] why should one bear sin? Hence it follows that if one separates [terumah] from inferior [produce] for better, the terumah is terumah. But [when you say,] even if they are of many moulds, let us fear lest he come to separate from what is liable for what is [now] exempt,[13] and vice versa![14] — Said Abaye: R. Eleazar was right in his objection,[15] but Samuel did not answer it correctly. For R. Eleazar's difficulty referred to [a law involving] death at the hands of Heaven; whilst Samuel answered him [from a case involving] death by the Court: the latter may be different, since it is severer.[16] Again, R. Shesheth's refutation was not well grounded, for he [Samuel] referred to a law involving death, whilst R. Shesheth raised an objection from what is merely a negative injunction, for it is written, Thou mayest not eat within thy gates [the tithe of thy corn etc.].[17] Yet the objection R. Shesheth does raise is well answered by R. Joseph. But as for Rabina, instead of raising an objection from a baker, let him support him from the case of a wholesale bread merchant. For we learnt: If one buys [bread] from a breadseller,[18] he must give tithes on [the loaves of] each mould separately: this is R. Meir's view.[19] What then must you answer?[20] A breadseller buys from two or three. Hence in the case of a baker too, [you must say that] he buys from one man [only].[21] Raba said: Samuel answered well: The designation of death exists.[22] MISHNAH. THE FOLLOWING ARE NOT SUBJECT TO [THE LAW OF] OVERREACHING: [THE PURCHASE OF] SLAVES, BILLS,[23] REAL ESTATE AND SACRED OBJECTS.[24] THERE IS NEITHER DOUBLE REPAYMENT NOR FOURFOLD AND FIVEFOLD REPAYMENT IN THEIR CASE.[25] A GRATUITOUS BAILEE DOES NOT SWEAR [ON THEIR ACCOUNT], NOR DOES A PAID BAILEE[26] MAKE IT GOOD.[27] R. SIMEON SAID:

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(1) M.Sh. II, 6. This states the reason of this cumbersome procedure. For one might have thought a much simpler procedure possible, viz., one of the sela's could be taken and the following declaration made: ‘If this is the second tithe sela’, it is well; but if not, let this redeem the other.’ — Therefore the Mishnah states that even the substitution of copper coin for silver was permitted only in an emergency, but silver can in no circumstance be used for redeeming other silver, since it cannot be regarded as substitution when both are of the same metal. Nevertheless, it was not desirable that the second tithe should remain in the form of copper, because it was liable to corrosion, and moreover, silver was a more dignified and worthier form of exchange than copper. Therefore the copper coins had to be redeemed in turn with the best of the two sela's.

(2) Whereas in the case of demai it was stated on R. Meir's authority that even silver may be freely employed in redeeming silver and copper may redeem silver even without any emergency, thus proving that demai is treated more leniently than certain tithe. This contradicts R. Meir's previous statement that demai was enacted with the same stringency as certain tithe. Though, of course, a Mishnah cannot be employed to prove R. Meir wrong, since R. Meir, as a Tanna, could disagree, the point here is that this Mishnah is anonymous, and it is a Talmudic principle (Sanh. 86a) that an anonymous Mishnah agrees with R. Meir. — Rashi. For Tosaf.’s interpretation, which differs considerably from this, v. p. 331, nn. 2, 3.

(3) Either he is stricter than the Rabbis (Tosaf.); or he is as strict in regard to demai as in respect of certain tithe. — Our Mishnah treats of the eating thereof.

(4) Without first tithing it, for since it is known that a wholesaler buys from many people, including those who are lax in tithing, no person who is particular will eat of what the wholesaler sells without first tithing it. But a retailer must tithe demai before he sells it.

(5) If a private individual buys produce from an ignorant person, who is suspected of neglecting to tithe, and then resells, he must first tithe it, whether he sells large quantities, like a wholesaler, or small, like a retailer, because it will be assumed that he has in fact tithed it.

(6) I.e., in large measure, because it is a general presumption that whenever corn is sold or given in large quantities it has not been tithed; therefore we have no fear that the recipient will omit to tithe it. This dispute shews that in respect to the actual tithing, i.e., the eating of demai, R. Meir is more stringent than the Rabbis.

(7) The baker referred to is an ‘am-ha-aretz (q.v. Glos.) suspected of omitting the necessary tithes.

(8) It is a principle that one may separate tithe from one lot of commodities for another, but only when both are liable. Now, as the bread is of different moulds, it might be suggested that the baker bought the wheat from which he made his bread from different merchants, some of whom may have tithed their wheat whilst others had not, and it is forbidden to separate tithe from bread (or corn) already tithed for untithed produce. Nevertheless, since the tithe of demai is Rabbinical only, we assume that the baker had purchased all his wheat from the same merchant, and therefore they had been either all tithed or all untithed.

(9) Dem. v, 3.

(10) I.e., that the separation is valid.

(11) Num. XVIII, 32. This implies that one bears sin if he does not heave — i.e., separate — terumah from the best.

(12) When one separates terumah from inferior grain.

(13) Having been tithed already.

(14) V. note 2. Since this fear is not entertained, it follows that even R. Meir did not hold that the law of demai was enacted with the same stringency as Biblical tithes.

(15) v. supra 53b, the beginning of the Gemara immediately after the Mishnah.

(16) R. Eleazar objected to the law of the Mishnah that a fifth must be added in making restoration for the terumah of the tithe of demai, just as though it were Biblical. Now, even Biblical terumah is forbidden to a zar only on pain of death at the hand of Heaven, yet Samuel in his answer draws an analogy with divorce; but adultery, which ensues if an invalid divorce is pronounced valid, is punishable by death imposed by court; hence it is natural that every Rabbinical enactment in reference to divorce should have been given the same strictness as a Biblical requirement. But the same does not necessarily follow in the case of terumah.

(17) Deut. XII, 17. This is interpreted as referring to improperly redeemed tithes, such as with coins that may not be employed for the purpose, as appears in the discussion above. Now, whereas Samuel's assertion that the Rabbis enacted protective measures for their own enactments referred to a zar's eating the terumah of the tithe of demai, which, as already stated, involves death at the hands of Heaven, R. Shesheth objected to it on the grounds that in the case of redemption this is not so. But improper redemption is forbidden only by a negative injunction; therefore it is natural that a Rabbinical enactment in reference thereto should not be as strict as one In reference to the former law.

(18) Dem. v, 4. An am-ha-aretz (v. p. 333, n. 1), who buys bread from various bakers, which he in turn retails.

(19) Thus proving that R. Meir does fear lest one tithe from what is exempt for what is liable, though the law of demai is only Rabbinical, in agreement with Samuel's answer that Rabbinical measures, in R. Meir's opinion, were enacted with the same strictness as Biblical.

(20) Why does R. Meir draw a distinction between a baker and a breadseller?

(21) The use of ‘too’ is thus meant; just as one is bound to find a reason for his ruling on a breadseller, so can one also reconcile his ruling on a baker.

(22) Lit., ‘is in the world.’ I.e., in both cases there is a death penalty, and the fact that one is at the hand of Heaven only whilst the other is imposed by court does not vitiate the argument.

(23) Bills of debt which are purchased at a reduced price, the purchaser then collecting the debts for himself.

(24) Which the Temple treasurer sells on behalf of the Treasury; or when a private individual sells an animal dedicated as a sacrifice but rendered unfit by a blemish.

(25) The penalties in case of theft, cf. Ex. XXII, 3; XXI, 37. These penalties did not apply if the stolen property was hekdesh.

(26) Lit., ‘one who receives payment.

(27) In ordinary cases, if a bailment is stolen, the bailee, if gratuitous, swears that it was stolen through no negligence of his own, and is free from further responsibility; whilst a paid bailee is liable for theft. This however, is not so in the case of hekdesh.

Talmud - Mas. Baba Metzia 56b

SACRIFICES[1] FOR WHICH ONE [THE OWNER] BEARS RESPONSIBILITY ARE SUBJECT TO [THE LAW OF] OVERREACHING; THOSE FOR WHICH ONE BEARS NO RESPONSIBILITY ARE NOT SUBJECT THERETO.[2] R. JUDAH SAID: ALSO WHEN ONE SELLS A SCROLL OF THE TORAH, AN ANIMAL, OR A PEARL, THERE IS NO LAW OF OVERREACHING. THEREUPON THEY [SC. THE SAGES] SAID TO HIM: IT [THE LAW OF OVERREACHING] WAS ENACTED ONLY IN REFERENCE TO THESE.[3]

GEMARA. How do we know this? — For our Rabbis taught: And if thou sell a sale unto thy neighbour, or acquirest aught of thy neighbor's hand[4] — this applies to that which is 'acquired' [by being passed] from hand to hand, thus excluding land, which is not movable;[5] slaves, which are assimilated to landed estates;[6] and bills, for it is written, 'And if thou sell a sale,' implying, that which is intrinsically sold and intrinsically bought, excluding bills which are not intrinsically sold or bought, and exist only as evidence.[7] Hence it was said: If one sells his bills to a perfume dealer[8] they are subject to the law of overreaching. But surely that is obvious! — It is to reject R. Kahana's view, that overreaching does not apply to [a purchase involving only] perutahs; therefore we are taught that overreaching does apply to perutahs.[9]

SACRED OBJECTS-Scripture saith, One man shall not defraud his brother:[10] his brother, but not hekdesh.

Rabbah b. Mammel objected: Wherever 'his hand' is written, is it then literal! If so, when it is stated, And he took all his land out of his hand,[11] does that too mean that he held all his land in his hand! But it must mean, out of his possession, so here too, it means out of his possession! — Then wherever 'his hand' is written, is it not literal? But it has been taught: If the theft be certainly found in his hand [. . . he shall restore double].[12] From this I know [the law] only [if it is found] in his hand: whence do I know it of his roof, courtyard, or enclosure? From the phrase, If it certainly be found, implying in all circumstances. Hence this is only because the Divine Law wrote, 'If it certainly be found;' but otherwise I would have said that wherever 'his hand' is written, 'hand' is meant literally. Again, it has been taught: [Then let him write her a bill of divorcement] and he shall give it in her hand.[13] Thus I know only [that he can place it in] her hand; whence do I know it of her roof, court, or enclosure? Because it is written, and he shall give it, implying, in any manner.[14] Hence this is only because Scripture wrote 'and he shall give it'; but otherwise I would have said that wherever Scripture writes 'hand' it is meant literally! — But [in truth] 'his hand' is always meant literally; there, however,[15] it is different, because it cannot possibly be translated thus, but [must mean] 'his possession.'[16]

R. Zera propounded: Does the law of overreaching apply to hiring or not? The Divine Law said, '[and if thou sell] a sale', implying but not hire; or perhaps there is no difference? — Said Abaye: is it then written, a permanent sale? An undefined 'sale' is stated, and this too[17] for its day is a sale.[18]

Raba propounded: [What of] wheat which was sown in the soil:[19] does the law of overreaching apply thereto or not? Is it just as though he had placed it in a pitcher, hence subject to the law of overreaching: or perhaps he has assimilated it[20] to the soil?[21] [But] what are the circumstances? Shall we say that he declared, 'I cast six [measures] therein'; and then witnesses came and testified that he sowed five only? But Raba[22] said: [On account of] any fraud[23] in measure, weight or number, even if less than the standard of overreaching, one can withdraw![24] -But [the question arises] where he declared, 'I cast as much into it as was necessary; whilst it was subsequently revealed that he had not sown with it as much as was required: is it subject to the law of overreaching or not? Is it as though he had placed it in a pitcher, and hence subject to overreaching; or perhaps he assimilated it to the soil? Further, is an oath taken concerning it or not?[25] Is it as though he had placed it [the seed] in a pitcher, and therefore an oath must be taken; or perhaps, he assimilated it to the soil, and so no oath is taken?[26] [Again,] does the 'omer[27] permit it [for food] or not?[28] But how is this meant? If it took root, then we have learnt it; and if not, we have also learnt it. For we learnt: If they [the seeds] took root before the [bringing of the] ‘omer, the ‘omer permits them;[29] if not, they are forbidden until the bringing of the next ‘omer![30] — This arises only if he reaped and resowed it before the ‘omer,[31] then the ‘omer came and went,[32] whilst it did not take root before the [bringing of the] ‘omer.

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(1) Lit., ‘sacred objects.’

(2) If one declares, ‘Behold, I vow to offer a sacrifice’, and then dedicates an animal in fulfilment of his vow, he is responsible for it, and should it receive a blemish or be stolen he must replace it by another, since his vow did not specify that particular animal. R. Simeon therefore regards it as his, i.e., secular property, hence subject to the law of overreaching. But if he declares, ‘I vow to sacrifice this animal,’ and it is subsequently lost or stolen, he has no further responsibility in the matter. Consequently it is already sacred property, and as such not subject to the law of overreaching.

(3) This is explained in the Gemara.

(4) Lev. XXV, 14.

(5) And therefore incapable of being passed from hand to hand.

(6) V. p. 342, n. 4.

(7) Of a loan.

(8) For use as wrappers, stoppers, etc., I.e., for the value of the paper.

(9) For normally the value of the paper of a person's bills could only be a matter of perutahs, and would not amount to an issar.

(10) Ibid. 14: this is the literal translation.

(11) Num. XXI, 26.

(12) Ex. XXII, 3.

(13) Deut. XXIV, 1.

(14) V. supra p. 56 and notes.

(15) Sc. the verse quoted by Rabbah b. Mammel.

(16) I.e., ‘hand’ is always to be interpreted literally, save where the context forbids it.

(17) Sc. hiring.

(18) I.e., hiring an article is the equivalent of a temporary sale, and therefore subject to the law of fraud.

(19) A man was engaged to sow a field with wheat, the wheat being his (the employee's).

(20) Lit., ‘made it as nought.’

(21) And as the law of fraud does not apply to the soil, it neither applies to the wheat.

(22) In Kid. 42b the reading is ‘Rabbah.’

(23) Lit., ‘thing’.

(24) If the goods are not as specified, being short in measure, weight, or number, one can withdraw. It is unnecessary that the fraud shall he a sixth, for a sixth is required only when the goods are as specified. Otherwise it is altogether an erroneous bargain, and hence revocable. This being so, it will obviously apply to real estate too, so that even if the wheat be accounted part of the soil, the vendee can insist upon compensation or revoke the sale.

(25) E.g., if A maintained that B had undertaken to sow his soil with six measures of grain, with which he had supplied him, but had only used five, whilst B pleaded that he had used five and a half.

(26) No oath is imposed for a claim of land.

(27) V. Glos.

(28) The produce of each year was not permitted for food until the ‘omer (sheaf of corn) was brought to the Temple and waved before the Lord. (Lev. XXIII, 10-14); until then it was called hadash, ‘new.’

(29) The resultant crop, though maturing after the ‘omer, is nevertheless permitted for use.

(30) Men. 70a .

(31) I.e., he resowed that years grain, the ‘new’ crop, before the ‘omer. Had he not resown it, the ‘omer of course would have permitted it.

(32) The ‘omer was brought, and its time — the sixteenth of Nissan passed by.

Talmud - Mas. Baba Metzia 57a

Now, may one remove and eat it? Is it as though lying in a pitcher, and therefore made permissible by the ‘omer; or perhaps, he assimilated it to the soil?[1] The question stands.

Raba said in R. Hasa's name: R. Ammi propounded: Now these[2] are not subject to the law of overreaching. But are they subject to cancellation of sale or not?[3] — Said R. Nahman: R. Hasa subsequently said that R. Ammi solved it [thus:] They are not subject to the law overreaching, but are subject to cancellation of sale.

Now, R. Jonah said [the following] in respect to sacred objects, whilst R. Jeremiah said [it] in respect to real estate, both in R. Johanan's name, viz.: The law of overreaching does not apply thereto, but cancellation of sale does. He who said this in reference to sacred objects, would certainly [say it] in reference to real estate [too].[4] But he who referred this to land, would not [admit] sacred objects too, in accordance with Samuel. For Samuel said: If hekdesh worth a maneh was redeemed with the equivalent of a perutah, it is redeemed.[5]

We learnt elsewhere: If the consecrated [animal] was blemished, it becomes hullin, but its value must be assessed.[6] R. Johanan said: It becomes hullin by Biblical law, but its value must be assessed by Rabbinic law. But Resh Lakish maintained: That its value, must be assessed is also Biblical. What are the circumstances? Shall we say, that it is within the limit of overreaching?[7] In such a case, could Resh Lakish maintain that its value is assessed by Biblical law? Did we not learn, THE FOLLOWING ARE NOT SUBJECT TO [THE LAW OF] OVERREACHING: [THE PURCHASE OF] SLAVES, BILLS, REAL ESTATE AND SACRED OBJECTS? But if it refers to [a difference involving] cancellation of sale — could R. Johanan in that case say that its value must be made up by Rabbinical law [only]? Did not R. Jonah say in respect to sacred objects, and R. Jeremiah say in reference to real estate, yet both in R. Johanan's name: The law of overreaching does not apply thereto, but cancellation of sale does![8] — In truth, it refers to [a difference involving] cancellation of sale, but reverse it, [ascribing] R. Johanan's views to Resh Lakish and Resh Lakish's to R. Johanan.

Wherein do they[9] differ? — In respect to Samuel's dictum, viz., If hekdesh worth a maneh was redeemed with the equivalent of a perutah, it is redeemed. One Master[10] accepts Samuel's ruling, the other rejects it. Alternatively, all agree with Samuel; but here they differ in this: one Master maintains, [Only] if it was redeemed, but not in the first place;[11] whilst the other holds that it is permissible even at the very outset.[12] An alternative answer is this: In truth it refers to [a difference] within the limit of overreaching, and you must not reverse it. But they differ on R. Hisda's dictum, who said: What is meant by, they ARE NOT SUBJECT TO [THE LAW OF] OVERREACHING, is that they are not subject to the provisions of overreaching,

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(1) And therefore it is forbidden until the next ‘omer.

(2) That are enumerated in the Mishnah.

(3) If the fraud was more than a sixth. Though the law of overreaching in the case of a sixth, viz., that refund must be made, does not operate, yet the law of complete cancellation for more than a sixth may do.

(4) For since cancellation of sale applies to sacred objects, it proves that this does not come within the category of overreaching but of erroneous bargains. Now, if this applies to sacred objects which belong to Heaven, though technically speaking Heaven cannot err (cf. the principle of the British Constitution: The King can do no wrong), it surely holds good in respect to real estate. For since it is agreed that cancellation of sale is not the same as overreaching, we have no verse to exclude land therefrom.

(5) Thus in his opinion there can be no question of cancellation in respect of hekdesh: but v. infra.

(6) The first clause states that if a substitute is offered for an unblemished animal the latter retains its sanctity, because an unblemished animal cannot be redeemed. But if it was blemished, it becomes hullin, i.e., loses its sanctity, which the substitute assumes. Nevertheless, if the latter is not worth as much as the original it must be made up in money, which becomes hekdesh too. Tem. 27b.

(7) The substitute is worth less than the original only by an amount that constitutes overreaching, not cancellation.
(8) And this implies by Biblical law. Hence according to R. Jonah, R. Johanan is self-contradictory.
(9) R. Johanan and Resh Lakish.
(10) The one who holds that hekdesh is not subject even to cancellation of sale.
(11) And this is Biblical law, for when Scripture writes, then he shall redeem it according to thine estimation (Lev. XXVII, 27), it implies at its full value. Therefore, if redeemed with less, the deficiency must be made good.
(12) 'According to thine estimation' in his opinion means any value arbitrarily set upon it. Nevertheless, in order to safeguard the Temple treasury from loss, the Rabbis ordered the deficiency to be made good.

Talmud - Mas. Baba Metzia 57b

viz., that even less than the standard of overreaching [a sixth] is returnable.[1]

An objection is raised: [The prohibitions of] usury and overreaching apply to a layman, but not to hekdesh? — Is this then stronger than our Mishnah, which we interpreted as referring to the provisions of overreaching! So here too, [the prohibition of] usury and the provisions of overreaching apply to a layman, but not hekdesh.[2] If so, how can the second clause state, In this respect the case of a layman is more stringent than that of hekdesh?[3] — That refers to usury. Then it should also teach: In this respect the case of hekdesh is more stringent than that of a layman, viz., overreaching? — How compare? As for saying, 'In this respect the case of a layman is more stringent than that of hekdesh,' it is well, for there are no other [instances].[4] But [with respect to] hekdesh: is this [the only] stringency, and are there not others?[5]

How is usury by hekdesh possible? Shall we say that the treasurer [of hekdesh] lent one hundred zuz for one hundred and twenty? But he thereby committed a trespass,[6] and that being so, the money passes out into hullin and is a layman's![7] — Said R. Hoshaia: What is meant here is, e.g., if one [a layman] contracted to supply flour[8] at four se'ahs per sela', whilst it subsequently stood at three se'ahs per sela']. As we learnt: If one contracts to supply flour at four [se'ahs per sela'], and it [subsequently] stood at three, he must supply it at four; at three, and it [subsequently] stood at four, he must supply it at four, because hekdesh [always] has the upper hand.[9] R. papa said: This refers to bricks for building entrusted to the treasurer, in accordance with Samuel's dictum. For Samuel said: We build with unconsecrated material, and then consecrate it.[10]

NEITHER THERE IS DOUBLE REPAYMENT etc. Whence do we know this? — For our Rabbis taught: For all manners of trespass[11] — this is a general proposition: for ox, for ass, for sheep, for raiment[12] — this is a specialization; for every manner of lost thing which another challengeth [etc.][13] — this is another general proposition. Now, in a general proposition followed by a specialization followed again by a general proposition, you must be guided by the specialization alone: just as the specialization is clearly defined as a movable article which is intrinsically valuable, so everything movable which is intrinsically valuable [is included]; thus real estate is excluded, not being movable; slaves are excluded, being assimilated to real estate;[14] bills [too] are excluded, for though movables, they are not Intrinsically valuable. As for sacred objects, Scripture saith, [he shall pay double to] his neighbour: his neighbour, but not [to] hekdesh.

NOR FOURFOLD OR FIVEFOLD REPAYMENT etc. Why so? — The Divine Law decreed fourfold and fivefold, not threefold and fourfold repayment.[15]

[FURTHERMORE] A GRATUITOUS BAILEE DOES NOT SWEAR etc. How do we know this? — For our Rabbis taught: If a man shall deliver unto his neighbour — this is a general proposition;[16] money or stuff — that is a specialization; and it be stolen out of the man's house[17] is again a general statement: now in a general proposition followed by a specialization and again by a general proposition you must be guided by the peculiarities of the specialization. Just as the specialization is clearly defined as something movable and of value in itself, so everything movable and intrinsically valuable [is included]. Thus real estate is excluded, not being movable; slaves are excluded, being assimilated to real estate; bills [too] are excluded, for though movables, they are not intrinsically valuable. As for sacred objects, Scripture writes, [and if a man shall deliver unto] his neighbour,[18] but not hekdesh.[19]

NOR DOES A PAID BAILEE MAKE IT GOOD [etc.]. How do we know this? — For our Rabbis taught: If a man deliver unto his neighbour[20] — that is a general proposition; an ass, or an ox, or a sheep — that is a specialization; or any beast to keep — that is again a general proposition. Now, in a general proposition followed by a specialization followed again by a general proposition you must be guided solely by the specialization. Just as the specialization is clearly defined as a movable article which is intrinsically valuable, so everything movable which is intrinsically valuable [is included]. Thus real estate is excluded, not being movable; slaves are excluded, being assimilated to real estate; bills [too] are excluded, for though movables, they are not intrinsically valuable. As for sacred objects, Scripture saith, [If a man deliver unto] his neighbour; ‘his neighbour’, but not hekdesh.

[FURTHERMORE,] A GRATUITOUS BAILEE DOES NOT SWEAR etc. But the following contradicts this: If townspeople sent their shekels[21] and they were stolen or lost,[22] — if [this happened] after the separation of the funds,[23]

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(1) Thus R. Johanan disagrees with this, and therefore maintains that it must he made good only by Rabbinical law; whereas Resh Lakish accepts this view.

(2) As previously explained by R. Hisda.

(3) On the contrary, hekdesh is more stringent, since even less than a sixth constitutes overreaching.

(4) [Tosaf. and MS.M. omit ‘for there are no other,’ since the Mishnah in fact mentions several other instances where greater stringency applies to ordinary property than to that of hekdesh; the reading and argument run accordingly as follows: ‘As for saying, "In this respect the case of a layman is more stringent than that of hekdesh", it is well! But (with respect to) hekdesh, (what means) this is a stringency?’ Whilst, that is to say, there is a point in informing us of any additional instance where ordinary property is treated with greater stringency than hekdesh, there is none in teaching the reverse, as it is obvious that there is greater stringency in regard to hekdesh than to ordinary property.]

(5) Hence the proposed clause is inadmissible.

(6) By giving money of hekdesh and receiving nothing in immediate return, which is forbidden. The treasurer, of course, acted in ignorance, thinking it permissible on account of the benefit to be reaped by hekdesh.

(7) V. p. 566, n. 5, hence the prohibition of usury applies to it after all.

(8) For the Temple use in meal offerings.

(9) Shek. IV, 9. The contractor received payment in advance, and fixed the price before the market price was out. Now, if the purchaser were a laymen, this would be forbidden as usury, (infra 62b); as, however, the bargain is with hekdesh, it is permitted. According to this, the passage does not refer to a loan at all.

(10) When building was necessary in the Temple, the materials were not bought with sacred funds, for this would immediately consecrate them, and the workmen by sitting on them would be trespassing. Therefore the materials were bought on credit, and paid for out of the Temple funds only when built up, whereby they became sanctified. Similarly, if one donated these building materials, he did not formally consecrate them until built in. Now, in reference to our discussion, the meaning is that the treasurer lent some of these unconsecrated materials for a higher return. No trespass is involved, since they were unconsecrated; on the other hand, since they were lent on behalf of hekdesh, the prohibition of usury does not apply.

(11) Ex. XXII, 8.

(12) Ibid.

(13) Ibid. The verse continues . . . to be his, the cause of both parties shall come before the judges; and whom the judges shall condemn, he shall pay double unto his neighbour.

(14) As it is written, And ye shall take them (sc. non-Jewish slaves) as an inheritance for your children after you, to inherit them for a possession. (Lev. XXV, 46) ‘Inheritance’ and ‘inherit’ are terms applicable to landed estate, and by employing them for slaves Scripture assimilates slaves to real estate.

(15) For the larger includes the double repayment on account of theft. But since that double repayment does not operate here, as shewn above, one is left with a threefold and fourfold repayment, for which there is no Scriptural warrant.

(16) Implying, whatever he delivers.

(17) In Shebu. 43a ‘to keep’ is quoted instead of this phrase.

(18) Ex. XXII, 6.

(19) V. infra 94b, where it is stated that this passage, viz., Ex. XXII, 6-8, refers to a gratuitous bailee.

(20) Ibid. 9. V. infra 94b, where this is said to refer to a paid bailee.

(21) A capitation tax of one shekel was levied for the expenses of the communal sacrifices. Shek. 2a.

(22) From the hands of the messengers.

(23) The shekels were arranged in three baskets at different periods of the year. The translation follows Tosaf. Rashi: If the court proceedings took place after etc.

Talmud - Mas. Baba Metzia 58a

they [the messengers] swear to the treasurers.[1] But if not,[2] they must swear to the townspeople, who substitute other shekels in their stead. If they [the shekels] were [subsequently] found or returned by the thieves, both[3] are [sacred] shekels,[4] yet they are not credited to them for the following year![5] — Said Samuel: This refers to paid bailees; and they swear in order to receive their fees.[6] If so, ‘they swear to the treasurers’? Surely they should swear to the townspeople![7] — Said Rabbah: [It means this:] They swear to the townspeople in the presence of the treasurers, so that they should not be suspected[8] or stigmatised as culpable negligents. But it is taught, ‘and they were stolen or lost,’ whereas a paid bailee is responsible for loss or theft! And here too, granted that they do not make it good,[9] yet they must surely lose their wages![10] — Rabbah replied: ‘Stolen’ means by armed robbers; ‘lost’, that their ship foundered at sea.[11]

R. Johanan said:[12] Who is the author of this? R. Simeon, who maintained: Sacred objects for which one [the owner] bears responsibility are subject to overreaching, and oaths are taken on their account.[13] Now, that is well before the dividing of the funds; but after that they [the lost shekels] are sacred objects for which no responsibility is borne [by their owners]. For it has been taught: The division is made in respect of what is lost, collected, and yet to be collected![14] — But, said R. Eleazar, this oath was [in pursuance of] a rabbinical enactment, that people might not treat sacred objects lightly.[15]

NOR DOES A PAID BAILEE MAKE IT GOOD. R. Joseph b. Hama pointed out a contradiction to Rabbah. We learnt, NOR DOES A PAID BAILEE MAKE IT GOOD. But the following contradicts it: If one [sc: the Temple treasurer] engages a [day] worker to look after the heifer,[16] or a child,[17] or to watch over the crops,[18] he is not paid for the Sabbath;[19] therefore he is not responsible for the Sabbath.[20] But if he was engaged by the week, year, or septennate, he is paid for the Sabbath;[21] consequently, he bears the risks of the Sabbath.[22] Surely that means in respect to payment?[23] No; [it means] that he loses his wage.[24] If so, when the first clause states, ‘he is not responsible for the Sabbath,’ does that too refer to loss of wages? Is he then paid for the Sabbath? But it is stated, ‘he is not paid for the Sabbath!’ Thereupon he was silent. Said he to him, ‘Have you heard aught in this matter?’ — He replied: ‘Thus did R. Shesheth say: [We deal with the case] where he [the treasurer] acquired it from his hand.[25] And thus did R. Johanan say too: It means that he acquired it from his hand.’

R. SIMEON SAID: SACRIFICES FOR WHICH ONE [THE OWNER] BEARS RESPONSIBILITY ARE SUBJECT TO OVERREACHING, THOSE FOR WHICH HE BEARS NO RESPONSIBILITY ARE NOT SUBJECT THERETO. A tanna recited before R. Isaac b. Abba: For sacrifices for which he [the owner] bears responsibility he [a bailee] is liable,[26] because I can apply to them the verse, [If a soul sin, and commit a trespass] against the Lord and lie;[27] but for those [sacrifices] for which no responsibility is borne, he [a bailee] is not liable, because I read in respect to them, [If a soul sin.. .] against his neighbour, and lie.[28] — Said he to him, ‘Whither do you turn?[29]

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(1) That the loss was not due to their own culpable negligence. Once the funds were divided, the Temple treasury bore the risks of the monies not yet received, the dividing being held to cover money lost in transit. Therefore the oath had to be taken before the treasurers.

(2) I.e., that the theft or loss occurred before the dividing, in which case the senders are responsible and have to replace the monies.

(3) Sc. the first and the second shekels.

(4) Having been consecrated, they remain so.

(5) It is assumed that the messengers were unpaid, i.e., gratuitous bailees. Though the money was sacred, they had to swear, which contradicts our Mishnah.

(6) The oath was not imposed in order to free them from further responsibility, there being no responsibility in the case of hekdesh on the part of a paid bailee for theft. They had to swear that the money was not in their possession, and so receive their wages.

(7) The treasurers were not liable for their wages — why swear to them?

(8) The treasurers should not entertain suspicions that the whole matter had been arranged between the messengers and the townspeople acting in collusion to defraud the Temple funds.

(9) In accordance with our Mishnah that paid bailees are not responsible for hekdesh.

(10) Seeing that they had failed in their trust. Then what is the purpose of swearing?

(11) These are unpreventable accidents for which even paid bailees are not responsible, and hence they are entitled to their wages.

(12) In reconciling the two Mishnahs.

(13) Shebu. 42b.

(14) I.e., for him who sent his shekel but it was lost en route, or had entrusted it to a messenger who was still on the road, or was unavoidably prevented from remitting his shekel at the proper time — Adar; v. supra p. 343, n. 7. If one's shekel was not received until after the third division, it was assigned to the fund for repairing the Temple walls, etc. Thus we see that after the division the owners bear no further responsibility. Hence the objection to R. Johanan's answer: why an oath even then?

(15) Which would be the case if the mere statement that the shekels had been lost or stolen sufficed. But our Mishnah which teaches that there is no oath refers to the Biblical law.

(16) The red heifer (Num. XIX). The guardian was to take care that no yoke came upon it (ibid. 2).

(17) To prevent him from ritually defiling himself. The water for mixing with the ashes of the red heifer was drawn by a child, who had to be ritually clean.

(18) This refers to the barley specially sown seventy days before Passover (Men. 85a) for the ceremony of ‘sheaf waving’ (Lev. XXIII, 11) and to the wheat of which the two ‘wave loaves’ were made on Pentecost (ibid. 17). These crops were specially guarded.

(19) Since he is a day worker, each day is separately paid for, and payment for the Sabbath per se is forbidden.

(20) If harm came to his charges on that day.

(21) Because it is included in the rest, and not explicitly given for that day.

(22) Tosef. Shab. XVIII.

(23) Thus proving that a paid bailee of hekdesh must make good any loss.

(24) For having failed in their trust.

(25) I.e., the worker accepted responsibility, though by Biblical law he is exempt, and performed one of the acts whereby possession is effected.

(26) If one entrusts a consecrated animal to another, who denies having received it, and then repents and confesses, he is liable to a guilt offering, as prescribed in Lev. V, 21-25.

(27) Ibid. 21. By punctuating it thus, it appears that a sacrifice is due when one lies in respect of what is the Lord's, and it was now assumed that the Tanna meant that he is liable because this sacrifice, in respect of which he lied, is regarded as the Lord's property.

(28) Transposing the order of the text. I.e., those for which the owner bears no responsibility are secular property (‘his neighbour's'), whereas it has been shewn that this sacrifice is incurred only on account of God's.

(29) I.e., your ruling is not in the right direction. Jast.: towards the tail (connecting לייא with אליה) i.e., reverse it!

Talmud - Mas. Baba Metzia 58b

The logic is the reverse.'[1] 'Then shall I delete it?' he asked? 'No,' he replied, 'It means this: For sacrifices for which he [the owner] bears responsibility he [a bailee] is liable, for these are included in [If a soul sin . . .] against the Lord, and lie:[2] but for those for which he [the owner] bears no responsibility he [a bailee] is not liable, because they are excluded by . . . against his neighbour and lie.'[3]

R. JUDAH SAID: ALSO WHEN ONE SELLS A SCROLL OF THE TORAH, AN ANIMAL, OR A PEARL, THERE IS NO LAW OF OVERREACHING. It has been taught: R. Judah said, The sale of a scroll of the law too is not subject to overreaching, because its value is unassessable;[4] an animal or a pearl is not subject to overreaching, because one desires to match them.[5] Said they [the sages] to him, But one wishes to match up everything![6] And R. Judah?[7] — These are particularly important to him [the purchaser]; others are not. And to what extent?[8] — Said Amemar: Up to their value.[9]

It has been taught, R. Judah b. Bathyra said: The sale of a horse, sword, and buckler on [the field of] battle are not subject to overreaching, because one's very life is dependent upon them.[10]

MISHNAH. JUST AS THERE IS OVERREACHING IN BUYING AND SELLING, SO IS THERE WRONG DONE BY WORDS. [THUS:] ONE MUST NOT ASK ANOTHER, 'WHAT IS THE PRICE OF THIS ARTICLE?' IF HE HAS NO INTENTION OF BUYING. IF A MAN WAS A REPENTANT [SINNER], ONE MUST NOT SAY TO HIM, 'REMEMBER YOUR FORMER DEEDS.' IF HE WAS A SON OF PROSELYTES ONE MUST NOT TAUNT HIM, 'REMEMBER THE DEEDS OF YOUR ANCESTORS,' BECAUSE IT IS WRITTEN, THOU SHALT NEITHER WRONG A STRANGER, NOR OPPRESS HIM.[11]

GEMARA. Our Rabbis taught: Ye shall not therefore wrong one another;[12] Scripture refers to verbal wrongs. You say, 'verbal wrongs'; but perhaps that is not so, monetary wrongs being meant? When it is said, And if thou sell aught unto thy neighbour, or acquirest aught of thy neighbour [ye shall not wrong one another],[13] monetary wrongs are already dealt with. Then to what can I refer, ye shall not therefore wrong each other? To verbal wrongs. E.g., If a man is a penitent, one must not say to him, 'Remember your former deeds.' If he is the son of proselytes he must not be taunted with, 'Remember the deeds of your ancestors. If he is a proselyte and comes to study the Torah, one must not say to him, 'Shall the mouth that ate unclean and forbidden food,[14] abominable and creeping things, come to study the Torah which was uttered by the mouth of Omnipotence!' If he is visited by suffering, afflicted with disease, or has buried his children, one must not speak to him as his companions spoke to Job, is not thy fear [of God] thy confidence, And thy hope the integrity of thy ways? Remember, I pray thee, who ever perished, being innocent?[15] If assdrivers sought grain from a person, he must not say to them, 'Go to so and so who sells grain,' whilst knowing that he has never sold any. R. Judah said: One may also not feign interest in[16] a purchase when he has no money, since this is known to the heart only[17] , and of everything known only to the heart it is written, and thou shalt fear thy God.[18]

R. Johanan said on the authority of R. Simeon b. Yohai: Verbal wrong is more heinous than monetary wrong, because of the first it is written, 'and thou shalt fear thy God,' but not of the second. R. Eleazar said: The one affects his [the victim's] person, the other [only] his money. R. Samuel b. Nahmani said: For the former restoration is possible, but not for the latter.

A tanna recited before R. Nahman b. Isaac: He who publicly shames[19] his neighbour is as though he shed blood. Whereupon he remarked to him, ‘You say well, because I have seen it [sc. such shaming], the ruddiness departing and paleness supervening.’[20]

Abaye asked R. Dimi: What do people [most] carefully avoid in the West [sc. palestine]? — He replied: putting others to shame.[21] For R. Hanina said: All descend into Gehenna, excepting three. ‘All’ — can you really think so! But say thus: All who descend into Gehenna [subsequently] reascend, excepting three, who descend but do not reascend, viz., He who commits adultery with a married woman, publicly shames his neighbour, or fastens an evil epithet [nickname] upon his neighbour. ‘Fastens an epithet’ — but that is putting to shame! — [It means], Even when he is accustomed to the name.[22]

Rabbah b. Bar Hanah said in R. Johanan's name:

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(1) Sacrifices for which one bears responsibility are the property of their owner, whilst those for which no responsibility is borne are rather to be regarded as that of God (v. p. 335, n. 7).

(2) The real reason of liability is the fact that these are secular property. But to meet the objection that after all, having been sanctified, they are sacred property, the phrase ‘against the Lord and lie’ is adduced, to shew that even when there is an element of sacredness a guilt offering is still due.

(3) But since the owner is not responsible for them, they are entirely God's, not ‘his neighbour's.’

(4) Lit., ‘unlimited.’

(5) When a man possesses one ox, he may be very anxious to procure another of equal strength, because it is inconvenient to plough with two animals of dissimilar capacities. Therefore he may knowingly overpay, hence the law of overreaching does not apply. So with a pearl, if it exactly matches others in his possession.

(6) Whatever one buys may be needed to match something else, or is particularly suitable for the buyer's purpose, in which case the same argument holds good.

(7) Why does he draw a distinction between these articles and others?

(8) Can one overcharge without committing fraud? — it being assumed that R. Judah could not mean that there was no redress under any circumstances.

(9) I.e., if double is charged there is no redress; above that, however, involves overreaching.

(10) Hence the soldier needing them will knowingly overpay.

(11) Ex. XXII, 20.

(12) Lev. XXV, 17.

(13) Ibid. 14.

(14) Heb. nebeloth, terefoth, q.v. GIos.

(15) Job IV, 6f.

(16) Lit., ‘look up to.

(17) מסור ללב Lit., ‘entrusted to the heart.’

(18) Lev. XXV, 17. Man cannot know whether one's intentions are legitimate or not, since they are concealed, but God knows (Rashi). [This beautiful phrase מסור ללב which, were certain critics of Pharisaism right, ought never to have been on Pharisaic lips (Abrahams, I. Studies on Pharisaism, Second Series, p. 116), may also denote matters left to ethical research and conviction, which cannot be mastered, weighed or determined by will, but by a delicate perception, fine tact and a sensitiveness of nature. V. Lazarus, The Ethics of Judaism, I, 122 and 292.]

(19) Lit., ‘makes pale’.

(20) Thus the blood is drained from the victim's face, which is the equivalent of shedding his blood. [V. Wiesner, J. Mag. f. Jud. Gesch. u. Lit. 1875, p. 11.]

(21) Lit., ‘making faces white.’

(22) So that he experiences no humiliation, nevertheless it is very reprehensible when the intention is evil. — It is noteworthy that apart from these three — which are obviously stated in a heightened form for the sake of emphasis (V. Tosaf.) the idea of endless Gehenna is rejected. Cf. M. Joseph, Judaism as Creed and Lie, pp. 145 seq. ‘Nor do we believe in hell or in everlasting punishment . . . If suffering there is to be, it is terminable. The idea of eternal punishment is repugnant to the genius of Judaism.’

Better it is for man to cohabit with a doubtful married woman[1] rather than that he should publicly shame his neighbour. Whence do we know this? — From what Raba expounded, viz., What is meant by the verse, But in mine adversity they rejoiced and gathered themselves together... they did tear me, and ceased not?[2] David exclaimed before the Holy One, blessed be He, ‘Sovereign of the Universe! Thou knowest full well that had they torn my flesh, my blood would not have poured forth to the earth.[3] Moreover, when they are engaged in studying "Leprosies" and "Tents"[4] they jeer at me, saying, "David! what is the death penalty of him who seduces a married woman?" I reply to them, "He is executed by strangulation, yet has he a portion in the world to come. But he who publicly puts his neighbour to shame has no portion in the world to come."’[5]

Mar Zutra b. Tobiah said in Rab's name — others state, R. Hana[6] b. Bizna said in the name of R. Simeon the pious — others again state, R. Johanan said on the authority of R. Simeon b. Yohai: Better had a man throw himself into a fiery furnace than publicly put his neighbour to shame. Whence do we know it? — From Tamar.[7] For it is written, when she was brought forth, she sent to her father-in-law [etc].[8]

R. Hanina, son of R. Idi, said: What is meant by the verse, Ye shall not wrong one another [‘amitho]? — Wrong not a people that is with you in learning and good deeds .[9]

Rab said: One should always be heedful of wronging his wife, for since her tears are frequent she is quickly hurt.[10]

R. Eleazar said:[11] Since the destruction of the Temple, the gates of prayer are locked, for it is written, Also when I cry out, he shutteth out my prayer.[12] Yet though the gates of prayer are locked, the gates of tears are not, for it is written, Hear my prayer, O Lord, and give ear unto my cry; hold not thy peace at my tears.[13]

Rab also said: He who follows his wife's counsel will descend[14] into Gehenna, for it is written, But there was none like unto Ahab [which did sell himself to work wickedness in the sight of the Lord, whom Jezebel his wife stirred up].[15] R. papa objected to Abaye: But people say, If your wife is short, bend down and hear her whisper! — There is no difficulty: the one refers to general matters; the other to household affairs.[16] Another version: the one refers to religious matters, the other to secular questions.

R. Hisda said: All gates are locked, excepting the gates [through which pass the cries of] wrong [ona'ah], for it is written, Behold the Lord stood by a wall of wrongs, and in his hand were the wrongs.[17] R.Eleazar said: All [evil] is punished through an agent, excepting wrong, for it is written, And in his hand were the wrongs.[18] R. Abbahu said: There are three [evils] before which the Curtain[19] is not closed: overreaching, robbery and idolatry. Overreaching, for it is written, and in his hand was the overreaching. Robbery, because it is written, Robbery and spoil are heard in her; they are before me continually.[20] Idolatry, for it is written, A people that provoketh me to anger continually before my face; [that sacrificeth — sc. to idols — in gardens, and burneth incense upon altars of brick].[21]

Rab Judah said: One should always take heed that there be corn in his house; for strife is prevalent in a house only on account of corn [food], for it is written, He maketh peace in thy borders: he filleth thee with the finest of the wheat.[22] Said R. papa, Hence the proverb: When the barley is quite gone from the pitcher, strife comes knocking at the door[23] , R. Hinena b. papa said: One should always take heed that there be corn in his house, because Israel were called poor only on account of [the lack of] corn, for it is said, And so it was when Israel had sown etc., and it is further written, And they [sc. the Midianites and the Amalekites] encamped against them, [and destroyed the increase of the earth], whilst this is followed by, And Israel was greatly impoverished because of the Midianites.[24]

R. Helbo said: One must always observe the honour due to his wife, because blessings rest on a man's home only on account of his wife, for it is written, And he treated Abram well for her sake.[25] And thus did Raba say to the townspeople of Mahuza,[26] Honour your wives, that ye may be enriched.[27]

We learnt elsewhere: If he cut it into separate tiles, placing sand between each tile: R. Eliezer declared it clean, and the Sages declared it unclean;

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(1) E.g., one who was freed with a divorce, as to the validity of which doubts arose.

(2) Ps. XXXV, 15.

(3) Because of the many insults I am made to bear, which as stated above, drain the flesh of its blood.

(4) Two tractates in the sixth order of the Talmud, called ‘Purity.’ These are tractates of extreme difficulty and complexity, and have no bearing upon adultery or the death penalty. Thus David complained that even when engaged on totally different matters which required all their thought, they yet diverted their attention in order to humiliate him (Tosaf.). In Sanh. 107a, the reading is: ‘when they are engaged in the study of the four modes of death imposed by the Court, etc.

(5) Now Bath Sheba was a doubtful married woman, because every soldier of David's army gave his wife a conditional divorce before he left for the front, to take retrospective effect from the time of delivery in case he was lost in battle. So that when David took Bath Sheba it was doubtful whether she would prove a married woman at the time or not; and David maintained that his offence was not so grave as that of his companions.

(6) Var. lec.: Huna.

(7) Judah's daughter-in-law, with whom he unwittingly cohabited. Subsequently, on her breach of chastity being discovered, he ordered her to be burnt, and only rescinded the order when she privately sent proof to him of his own complicity; v. Gen. XXXVIII.

(8) Ibid. 25. She left it to him to confess but did not openly accuse him, choosing death rather than publicly putting him to shame.

(9) This is a play of words on עמיתו (‘his fellowman’) reading it as two words, עם אתו , the ‘people that is with him.’

(10) Lit., ‘her wronging is near;’ — a woman is very sensitive, and therefore quick to feel and resent a hurt.

(11) [MS.M. ‘For R. Eleazar said,’ the statement of R. Eleazar being thus added in elucidation of Rab's dictum.]

(12) Lam. III, 8.

(13) Ps. XXXIX, 13; the idea is that the destruction of the Temple may have made it more difficult to commune with God, yet earnest prayer from the depths of the heart is always accepted.

(14) Lit., ‘fall’.

(15) I Kings, XXI, 25; thus Ahab's downfall is ascribed to his action in allowing himself to be led astray by Jezebel.

(16) A man should certainly consult his wife on the latter, but not on the former, — not a disparagement of woman; her activities lying mainly in the home.

(17) אנך Amos VII, 7(E.V. ‘plumbline’) is here connected with אונאה , ‘overreaching’, ‘wronging’, i.e., God is always ready to plead the cause of one who has been wronged.

(18) I.e., God in person punishes these.

(19) The Curtain of Heaven. [Hiding. so to speak, human failings from the Divine gaze.]

(20) Jer. VI, 7.

(21) Isa. LXV, 3.

(22) Ps. CXLVII, 14: the two halves of the verse are parallel to each other.

(23) Lit., ‘house’.

(24) Jud. VI, 3, 4, 6.

(25) Gen. XII, 16.

(26) A large Jewish commercial town, situate on the Tigris. Raba had his academy there.
(27) The foregoing passages are Instructive on the Talmudic attitude to women. Though recognising the evil influence a bad woman can wield upon her husband, as evidenced by Ahab and Jezebel, these sayings breathe a spirit of tenderness and honour. As she is highly sensitive, the greatest care must be taken not to wound her feelings, and a husband must adapt himself to his wife; whilst it is emphatically asserted that prosperity in the home, as well as the blessings of home life, are to a great extent dependent upon her.

Talmud - Mas. Baba Metzia 59b

and this was the oven of ‘Aknai.[1] Why [the oven of] ‘Aknai? — Said Rab Judah in Samuel's name: [It means] that they encompassed it with arguments[2] as a snake, and proved it unclean. It has been taught: On that day R. Eliezer brought forward every imaginable argument ,[3] but they did not accept them. Said he to them: ‘If the halachah agrees with me, let this carob-tree prove it!’ Thereupon the carob-tree was torn a hundred cubits out of its place — others affirm, four hundred cubits. ‘No proof can be brought from a carob-tree,’ they retorted. Again he said to them: ‘If the halachah agrees with me, let the stream of water prove it!’ Whereupon the stream of water flowed backwards — ‘No proof can be brought from a stream of water,’ they rejoined. Again he urged: ‘If the halachah agrees with me, let the walls of the schoolhouse prove it,’ whereupon the walls inclined to fall. But R. Joshua rebuked them, saying: ‘When scholars are engaged in a halachic dispute, what have ye to interfere?’ Hence they did not fall, in honour of R. Joshua, nor did they resume the upright, in honour of R. Eliezer; and they are still standing thus inclined. Again he said to them: ‘If the halachah agrees with me, let it be proved from Heaven!’ Whereupon a Heavenly Voice cried out: ‘Why do ye dispute with R. Eliezer, seeing that in all matters the halachah agrees with him!’ But R. Joshua arose and exclaimed: ‘It is not in heaven.’[4] What did he mean by this? — Said R. Jeremiah: That the Torah had already been given at Mount Sinai; we pay no attention to a Heavenly Voice, because Thou hast long since written in the Torah at Mount Sinai, After the majority must one incline.[5]

R. Nathan met Elijah[6] and asked him: What did the Holy One, Blessed be He, do in that hour? — He laughed [with joy], he replied, saying, ‘My sons have defeated Me, My sons have defeated Me.’ It was said: On that day all objects which R. Eliezer had declared clean were brought and burnt in fire.[7] Then they took a vote and excommunicated him.[8] Said they, ‘Who shall go and inform him?’ ‘I will go,’ answered R. Akiba, ‘lest an unsuitable person go and inform him, and thus destroy the whole world.’[9] What did R. Akiba do? He donned black garments and wrapped himself in black,[10] and sat at a distance of four cubits from him. ‘Akiba,’ said R. Eliezer to him, ‘what has particularly happened to-day?’[11] ‘Master,’ he replied, ‘it appears to me that thy companions hold aloof from thee.’ Thereupon he too rent his garments, put off his shoes, removed [his seat] and sat on the earth, whilst tears streamed from his eyes.[12] The world was then smitten: a third of the olive crop, a third of the wheat, and a third of the barley crop. Some say, the dough in women's hands swelled up.

A Tanna taught: Great was the calamity that befell that day, for everything at which R. Eliezer cast his eyes was burned up. R. Gamaliel[13] too was travelling in a ship, when a huge wave arose to drown him. ‘It appears to me,’ he reflected, ‘that this is on account of none other but R. Eliezer b. Hyrcanus.’ Thereupon he arose and exclaimed, ‘Sovereign of the Universe! Thou knowest full well that I have not acted for my honour, nor for the honour of my paternal house, but for Thine, so that strife may not multiply in Israel! ‘At that the raging sea subsided.

Ima Shalom was R. Eliezer's wife, and sister to R. Gamaliel. From the time of this incident onwards she did not permit him to fall upon his face.[14] Now a certain day happened to be New Moon, but she mistook a full month for a defective one.[15] Others say, a poor man came and stood at the door, and she took out some bread to him.[16] [On her return] she found him fallen on his face. ‘Arise,’ she cried out to him, ‘thou hast slain my brother.’ In the meanwhile an announcement was made from the house of Rabban Gamaliel that he had died. ‘Whence dost thou know it?’ he questioned her. ‘I have this tradition from my father's house: All gates are locked, excepting the gates of wounded feelings.’[17]

Our Rabbis taught: He who wounds the feelings of a proselyte transgresses three negative injunctions, and he who oppresses him infringes two. Wherein does wronging differ? Because three negative injunctions are stated: Viz., Thou shalt not wrong a stranger [i.e., a proselyte],[18] And if a stranger sojourn with thee in your land, ye shall not wrong him,[19] and ye shall not therefore wrong each his fellowman,[20] a proselyte being included in ‘fellowman.’ But for ‘oppression’ also three are written, viz., and thou shalt not oppress him,[21] Also thou shalt not oppress a stranger,[22] and [If thou lend money to any of my people that is poor by thee,] thou shalt not be to him as a usurer[23] which includes a proselyte! — But [say] both [are forbidden] by three [injunctions].

It has been taught: R. Eliezer the Great said: Why did the Torah warn against [the wronging of] a proselyte in thirty-six, or as others say, in forty-six, places? Because he has a strong inclination to evil.[24] What is the meaning of the verse, Thou shalt neither wrong a stranger, nor oppress him; for ye were strangers in the land of Egypt? It has been taught: R. Nathan said: Do not taunt your neighbour with the blemish you yourself have.[25] And thus the proverb runs:[26] If there is a case of hanging in a man's family record, say not to him,[27] ‘Hang this fish up for me.’

MISHNAH. PRODUCE MAY NOT BE MIXED WITH OTHER PRODUCE, EVEN NEW WITH NEW,

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(1) This refers to an oven, which, instead of being made in one piece, was made in a series of separate portions with a layer of sand between each. R. Eliezer maintains that since each portion in itself is not a utensil, the sand between prevents the whole structure from being regarded as a single utensil, and therefore it is not liable to uncleanness. The Sages however hold that the outer coating of mortar or cement unifies the whole, and it is therefore liable to uncleanness. (This is the explanation given by Maimonides on the Mishnah, Kel. V, 10. Rashi a.l. adopts a different reasoning). ‘Aknai is a proper noun, probably the name of a master, but it also means ‘snake’. (Gr. **) which meaning the Talmud proceeds to discuss.

(2) Lit., ‘words’.

(3) Lit., ‘all the arguments in the world’.

(4) Deut. XXX,12.

(5) Ex. XXIII,2; though the story is told in a legendary form, this is a remarkable assertion of the independence of human reasoning.

(6) It was believed that Elijah, who had never died, often appeared to the Rabbis.

(7) As unclean.

(8) Lit., ‘blessed him,’ a euphemism for excommunication.

(9) I.e., commit a great wrong by informing him tactlessly and brutally.

(10) As a sign of mourning, which a person under the ban had to observe.

(11) Lit., ‘what is this day (different) from yesterday (or to-morrow)?’

(12) Rending the garments etc. were all mourning observances. (In ancient times mourners sat actually upon the earth, not, as nowadays, upon low stools.) — The character of R. Eliezer is hotly contested by Weiss and Halevi. The former, mainly on the basis of this story (though adducing some other proof too), severely castigates him as a man of extreme stubbornness and conceit, who would brook no disagreement, a bitter controversialist from his youth until death, and ever seeking quarrels (Dor. II, 82). Halevy (Doroth 1, 5, pp. 374 et seqq.) energetically defends him, pointing out that this is the only instance recorded in the whole Talmud of R. Eliezer's maintaining his view against the majority. He further contends that the meekness with which he accepted his sentence, though he was sufficiently great to have disputed and fought it, is a powerful testimony to his humility and peace-loving nature.

(13) The Nasi and the prime mover in the ban against R. Eliezer.

(14) After the Eighteen Benedictions there follows a short interval for private prayer, during which each person offered up his own individual supplications to God. These were called supplications (תחנון), and the suppliant prostrated himself upon his face; they were omitted on New Moons and Festivals. — Elbogen, Der judische Gottesdienst, pp. 73 et seqq. Ima Shalom feared that her husband might pour out his grief and feeling of injury in these prayers, and that God, listening to them, would punish R. Gamaliel, her brother.

(15) Jewish months consist of either 30 days (full) or 29 (defective). Thinking that the previous month had consisted of 29 days, and that the 30th would be New Moon, she believed that R. Eliezer could not engage in these private prayers in any case, and relaxed her watch over him. But actually it was a full month, so that the 30th was an ordinary day, when these prayers are permitted.

(16) I.e., she did not mistake the day, but was momentarily forced to leave her husband in order to give bread to a beggar.

(17) Lit., ‘wrong’, v. p. 354, n. 4. She felt sure that R. Eliezer had seized the opportunity of her absence or error to cry out to God about the ban.

(18) Ex. XXII, 20.

(19) Lev. XIX, 33.

(20) Lev. XXV, 17.

(21) Ex. XXII, 20.

(22) Ex. XXIII, 9.

(23) Ex. XXII, 24

(24) So Rashi in Hor. 13a. Jast.: because his original character is bad — into which evil treatment might cause him to relapse.

(25) Thus be translates the verse: Do not wrong a proselyte by taunting him with being a stranger to the jewish people seeing that ye yourselves were strangers in Egypt.

(26) Lit., ‘people say.’

(27) [So MS.M.; cur. edd. read, ‘to his fellow’.]

Talmud - Mas. Baba Metzia 60a

HOW MUCH MORE SO NEW WITH OLD![1] YET IN TRUTH IT WAS SAID THAT STRONG WINE MAY BE MIXED WITH MILD, BECAUSE IT IMPROVES IT.[2] A MAN MUST NOT MIX THE LEES OF WINE WITH WINE, BUT HE [THE VENDOR] MAY GIVE HIM [THE VENDEE] ITS LEES.[3] IF HIS WINE WAS DILUTED WITH WATER HE MUST NOT SELL IT IN HIS SHOP [IN SMALL QUANTITIES] UNLESS HE INFORMS HIM [THE CUSTOMER], NOR TO A MERCHANT, EVEN IF HE INFORMS HIM, BECAUSE [THE LATTER BUYS IT] ONLY IN ORDER TO CHEAT THEREWITH. WHERE IT IS THE PRACTICE TO ADULTERATE WINE WITH WATER, IT IS PERMISSIBLE.[4] A MERCHANT MAY PURCHASE [GRAIN] FROM FIVE GRANARIES AND PUT IT INTO ONE STORE-ROOM,[5] OR [WINE] FROM FIVE PRESSES AND PUT IT INTO THE SAME CASK, PROVIDING THAT IT IS NOT HIS INTENTION TO MIX THEM.[6]

GEMARA. Our Rabbis taught: it goes without saying, when new [produce] stands at four [se'ahs per sela’], whilst old is priced at three, that they may not be intermixed; but even when new is at three and old at four, they may still not be mixed, because [the higher price of the new corn is due to the fact that] one wishes to store them until old.[7]

YET IN TRUTH IT WAS SAID THAT STRONG WINE MAY BE MIXED WITH MILD, BECAUSE IT IMPROVES IT. R. Eleazar said: From this it may be concluded that wherever it is stated ‘in truth it was said’, that is the halachah.[8] Said R. Nahman: This was taught only when they [the wines] are in the Presses.[9] But nowadays [wines] are mixed [even] after they have left the presses.[10] — Said R. Papa: It is known and forgiven. R. Aha son of R. Ika said: That is in accordance with R. Aha. For it has been taught: R. Aha permits [mixing] in a commodity that is [first] tasted.[11]

A MAN MUST NOT MIX THE LEES OF WINE WITH WINE, BUT HE [THE VENDOR] MAY GIVE HIM [THE VENDEE] ITS LEES. But you have ruled in the first clause that they may not be mixed at all? And should you reply that what is meant by, BUT HE MAY GIVE HIM ITS

LEES, is that he informs him thereof; since the subsequent clause states, HE MUST NOT SELL IT IN HIS SHOP UNLESS HE INFORMS HIM [THE CUSTOMER], NOR TO A MERCHANT, EVEN IF HE INFORMS HIM, it follows that this clause means even if he does not inform him! — Said Rab Judah: It means this: A MAN MUST NOT MIX THE LEES OF yesterday's WINE with that of to-day's, nor vice versa, BUT HE [THE VENDOR] MAY GIVE HIM [THE VENDEE] ITS OWN LEES. It has been taught likewise: R. Judah said: When a man pours out[12] wine for his neighbour [selling it to him], he must not mix [the lees] of yesterday's wine with that of to-day's, nor vice versa, but may mix yesterday's with yesterday's and to-day's with to-day's.[13]

IF HIS WINE WAS DILUTED WITH WATER HE MUST NOT SELL IT IN HIS SHOP [IN SMALL QUANTITIES] UNLESS HE INFORMS HIM, etc. Raba once brought wine from a shop. After diluting it he tasted it, and on finding that it was not good he returned it to the shop.[14] Thereupon Abaye protested: But we learnt, NOR TO A MERCHANT, EVEN IF HE INFORMS Him![15] — He replied: My mixing is well known.[16] And should you object, He may add [wine thereto], thus strengthening it, and then sell it [as pure wine] — if so, the matter is endless![17]

WHERE IT IS THE PRACTICE TO ADULTERATE WINE WITH WATER, IT IS PERMISSIBLE, etc. A Tanna taught: In proportions of a half, a third or a quarter.[18] Said Rab: And this [sc. the Mishnah] was stated in the time of the presses.[19]

MISHNAH. R. JUDAH SAID: A SHOPKEEPER MUST NOT DISTRIBUTE PARCHED CORN OR NUTS TO CHILDREN, BECAUSE HE THEREBY ACCUSTOMS THEM TO COME TO HIM;[20] THE SAGES PERMIT IT. NOR MAY HE REDUCE THE PRICE; BUT THE SAGES SAY, HE IS TO BE REMEMBERED FOR GOOD. ONE MUST NOT SIFT POUNDED BEANS:[21] THIS IS THE VIEW OF ABBA SAUL. BUT THE SAGES PERMIT IT. YET THEY ADMIT THAT HE MUST NOT PICK OUT [THE REFUSE] FROM THE TOP OF THE BIN,[22] BECAUSE ITS ONLY PURPOSE IS TO DECEIVE THE EYE. MEN, CATTLE, AND UTENSILS MAY NOT BE PAINTED.[23]

GEMARA. What is the Rabbis' reason? — Because he [this shopkeeper] can say to him [another shopkeeper], 'I distribute nuts; you distribute plums.

NOR MAY HE REDUCE THE PRICE; BUT THE SAGES SAY, HE IS TO BE REMEMBERED FOR GOOD, etc. What is the Rabbis' reason? —

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(1) If one undertakes to supply the produce of a particular field, he may not intermix it with the produce of another, even of the same year. If he undertakes to supply last year's grain, he may certainly not intermix the current year's the former being more suitable for milling.

(2) But not vice versa; having agreed to supply full-bodied wine, one must not mix it with light wine.

(3) This is discussed in the Gemara.

(4) Because there is no cheating then, the practice being known and taken into account.

(5) For selling from the whole indiscriminately.

(6) I.e., he must not represent that he bought all from the same source, which is known for providing superior merchandise.

(7) The higher price of the new corn is not due to its superiority, but to the fact that there is no sale that year and merchants are buying ahead for the following, whereas if they store last year's grain, it may be too old when they need it. Hence when one stipulates that he wants old corn, it is evident that he requires it for immediate use, and therefore it may not be mixed with new, though this is dearer.

(8) Since the reason given is that it improves it, leaving no room for doubt on the matter, and this is introduced by the phrase, 'in truth etc.,' it follows that this phrase indicates the absolute certainty of the law. [Adopting this principle, the Tanna of our Mishnah will permit the mixing of old produce with new, contrary to the view of the Tanna in Tosef. B.M. III, v. Rosenthal, F., Hoffmann's Festschrift, p. 34ff.]

(9) The mixing is then advantageous. But after each has acquired its own taste and bouquet, mixing of different wines has a deleterious effect.
(10) Lit., ‘not among the presses.’
(11) Since the customer tastes the wine before buying it, there is no fraud.
(12) The Heb. השופה denotes ‘to pour out slowly,’ so as to leave the sediment behind.
(13) The lees of a different day's wine have an injurious effect, but not those of the same day's. Rashi, however observes that this is not meant literally, but that wine when sold may contain its own sediment, but not that of a different wine. ‘To-day's’ and ‘yesterday's’ are merely employed a convenient expressions of different wines.
(14) For sale there.
(15) And this shopkeeper too will sell it as unadulterated wine.
(16) It was generally known that Raba diluted the wine with very much water. So that a prospective customer, in tasting it beforehand, would know what proportion of wine it contained, and pay accordingly.
(17) It would be forbidden to sell even water to a wine-merchant, lest he mix it with wine and sell the whole as pure. But that is obviously absurd. Therefore the Mishnah forbids only a sale of those commodities which lend themselves to immediate deceit.
(18) I.e., whatever proportions are permitted by custom, but not more.
(19) The wine may be diluted whilst it is yet in the press, but not after.
(20) When sent by mothers to make a purchase; this is unfair competition.
(21) To remove the refuse. Owing to the better appearance of the beans he advances the price by more than the value of the refuse removed, and therefore this Tanna forbids it as fraud.
(22) Leaving the refuse underneath.
(23) To give them a younger or newer appearance, and thus make them realise a higher price. ‘Men’ refers to slaves.

Talmud - Mas. Baba Metzia 60b

Because he eases the market.[1]

ONE MUST NOT SIFT POUNDED BEANS: THIS IS THE VIEW OF ABBA SAUL. BUT THE SAGES PERMIT IT, etc. Who are the Sages? — R. Aha. For it has been taught: R. Aha permitted it in a commodity that may be seen.[2]

MEN, CATTLE, AND UTENSILS MAY NOT BE PAINTED. Our Rabbis taught: An animal may not be given an appearance of stiffness, entrails may not be inflated,[3] nor may meat be soaked in water.[4] What is meant by ‘one may not give an appearance of stiffness’? — Here [in Babylon] it is explained as referring to branbroth.[5] Ze'iri said in R. Kahana's name: Brushing up [an animal's hair].[6] Samuel permitted fringes to be put on a cloak.[7] Rab Judah permitted a gloss to be put on fine cloths.[8] Rabbah permitted hemp-cloths to be beaten.[9] Raba permitted arrows to be painted. R. Pappa b. Samuel allowed baskets to be painted. But did we not learn, MEN, CATTLE, AND UTENSILS MAY NOT BE PAINTED? — There is no difficulty; one refers to new, the other to old.[10]

What is the purpose of painting men? — As in the case of a certain aged slave who went and had his head and beard dyed ,[11] and came before Raba, saying to him, ‘Buy me.’ ‘Let the poor be the children of thy house,’[12] he replied. So he went to R. Papa b. Samuel, who bought him. One day he said to him, ‘Give me some water to drink.’ Thereupon he went, washed his head and beard white again, and said to him, ‘See, I am older than your father.’[13] At that he applied to himself the verse, ‘The righteous is delivered out of trouble, and another cometh in his stead.[14]

CHAPTER V

MISHNAH. WHAT IS NESHEK AND WHAT IS TARBITH?[15] WHAT IS NESHEK? ONE WHO LENDS A SELA’ [FOUR DENARII] FOR FIVE DENARII, OR TWO SE'AHS[16] OF WHEAT FOR THREE; THAT IS FORBIDDEN,[17] BECAUSE HE [THEREBY] ‘BITES’ [THE

DEBTOR]. AND WHAT IS TARBITH? THE TAKING OF INTEREST ON PRODUCE, E. G., IF A MAN PURCHASED WHEAT AT A GOLD DENAR [TWENTY-FIVE SILVER DENARII] PER KOR,[18] WHICH WAS THE CURRENT PRICE,[19] AND [SUBSEQUENTLY] WHEAT APPRECIATED TO THIRTY DENARII PER KOR. THEN [THE PURCHASER] SAID TO HIM, ‘GIVE ME MY WHEAT, AS I WISH TO SELL IT AND BUY WINE WITH THE PROCEEDS;’ TO WHICH [THE VENDOR] REPLIED, ‘LET THE WHEAT BE CHARGED TO ME AS A DEBT OF THIRTY DENARII [PER KOR]. AND YOU HAVE A CLAIM OF WINE UPON ME FOR ITS VALUE;’[20] BUT HE ACTUALLY HAS NO WINE [AT THE TIME].

GEMARA. Now, since he [the Tanna] disregards[21] the Biblical [meaning of] interest[22] and defines its Rabbinical [connotation][23] . it follows that Biblically speaking neshek and tarbith are Synonymous: whereas [in fact] there are Scriptural expressions, neshek of money, and ribbith of food![24] — Do you think then that there can be neshek [loss to the debtor] without tarbith [profits to the creditor], or tarbith without neshek? How might there be neshek without tarbith? If he lent him a hundred [perutahs] for one hundred and twenty [perutahs], at first [when the loan is made] a danka[25] being valued at a hundred [perutahs], and subsequently [when the loan was repaid] at a hundred and twenty,[26] there is neshek, for he ‘bites’ him [the debtor] by taking from him something which he [the creditor] did not give; yet there is no tarbith [to the creditor], for there is no profit, since he lent him a danka and received back a danka! But, after all, if the original rate is the determining factor,[27] there is both neshek and tarbith; if the subsequent rate, there is neither neshek nor tarbith? Furthermore, how is tarbith [profit to the creditor] conceivable without neshek [loss to the debtor]? If he lent him a hundred [perutahs] for a hundred, the hundred being worth a danka at first, and now a fifth:[28] if you regard the first rate, there is neither neshek nor tarbith; if the final rate, there is both neshek and tarbith! — But, said Raba, you can find neither neshek without tarbith nor tarbith without neshek, and the only purpose of Scripture in stating them separately[29] is [to teach] that one transgresses two prohibitions [by taking interest].[30]

Our Rabbis taught: [Thou shalt not give him thy money upon neshek [usury], nor lend him thy victuals for marbith [interest];[31] [from this] I only know that the prohibition of neshek applies to money, and that of ribbith to provisions:[32] whence do we know that [the prohibition] neshek applies to provisions [too]? From the verse, [Thou shalt not lend upon usury to thy brother neshek of money], neshek of victuals.[33] Whence do we know that the prohibition of ribbith applies to money? From the verse, neshek of money:

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(1) Competition is healthy, and prevents a ‘hold up.’

(2) The purchaser sees what he buys, and therefore there is no fraud.

(3) In a shop, where they are displayed for sale, to make them look larger.

(4) To make it look fat.

(5) Which bloats the animal fed on it.

(6) For the same purpose.

(7) To make it look more valuable.

(8) By rubbing it with a certain substance.

(9) To make it appear thinner and of finer texture.

(10) Old utensils may not be painted, as the purpose is to deceive and make them look new. But new ones may be painted to improve their appearance.

(11) Black, making him look a young man.

(12) This is a Mishnah in Aboth I, 5. Raba, by emphasizing the ‘thy’, gave it the meaning — ‘I had rather give my hospitality to the poor of my own people.’

(13) And it is not meet that you should impose menial tasks upon me. — It is noteworthy that the slave knew that he could rely upon the decency of the Jew to respect his age, though a slave, and one, moreover, who had practised deceit. This is in marked contrast to the treatment meted out to slaves amongst other people, both in ancient and in comparatively recent times.

(14) Prov. XI, 8; the verse actually reads, ‘and the wicked etc.’ ‘Another’ was probably substituted by R. Papa intentionally: ‘Raba — the righteous — was delivered from trouble, but I had the misfortune to buy you.

(15) Neshek, from נשך ‘to bite’, denotes usury, ‘bitten out’, as it were, from the debtor, something received for nothing given. Tarbith, marbith, and ribbith from רבי , ‘to increase’, denotes increase, profits. The question of the Mishnah is posited on Lev. XXV, 36: Take thou no neshek from him, nor tarbith.

(16) Se'ah == six kabs, or 13,184.44 cu. cm. J.E. XII, 488.

(17) [Rightly omitted in most texts.]

(18) Kor is a measure of capacity, equal to thirty se'ahs. B.B. 86b, 105a.

(19) One may purchase ‘futures’ in wheat at the current price, paying for it at the time of purchase and receiving it later, even if the price advances, without infringing the prohibition of usury.

(20) Pricing the wine too at current rates.

(21) In his explanation of marbith.

(22) Which is usury on a loan transaction.

(23) [The illustration of marbith by way of purchase in the Mishnah being a Rabbinical extension of the law.]

(24) Thou shalt not give him any money upon neshek, nor lend him thy victuals for marbith. Lev. XXV, 37.

(25) Pers. dankh; **, a small Persian coin, the sixth of a denar, in general, one-sixth.

(26) So Rashi. Tosaf., however, points out that the current value of a sixth of a denar was 32 perutahs, and it is inconceivable that the perutah should depreciate to such an extent. Tosaf, therefore renders: a hundred ma'ahs (ma'ah==a sixth of the denar==a danka) for a sixth of a maneh (maneh == 100 common shekels or zuz); or 100 issars (issar == 8 perutahs) for a sixth of a gold denar.

(27) Lit., ‘if you go according to the beginning’.

(28) Of a denar, or, as stated above in n. 3.

(29) V. Lev. XXV, 37, quoted in n. 1.

(30) Each involving the penalty of lashes.

(31) Lev. XXV, 37.

(32) I.e., that in lending money on interest, the prohibition of neshek, and in lending provisions on interest, the prohibitions of ribbith, are violated.

(33) Deut. XXIII, 20.

Talmud - Mas. Baba Metzia 61a

now, since this is redundant in respect of money neshek, as it is already written, Thou shalt not lend upon usury to thy brother,[1] utilise the subject [to teach that the prohibition of] ribbith [applies to] money.[2] [From this] I know it only of the borrower:[3] whence do we know it of the lender? Neshek is stated in reference to the borrower; also in reference to the lender:[4] just as with respect of the neshek written in reference to the borrower, no distinction is drawn between money and provisions, neshek and ribbith,[5] so also, in respect to neshek written in reference to the lender, you must draw no distinction between money and provisions, neshek and ribbith. Whence do we know to extend [the law] to everything?[6] From the verse, neshek of anything that is lent upon usury.

Rabina said: There is no need of any verse [to teach] either that the prohibition neshek in respect of victuals, or of ribbith in respect of money, [applies to the lender]. For were it written, ‘Thy money thou shalt not give him upon neshek, and thy food upon marbith,’ [it would be] even as you say.[7] Since, however, it is written, Thy money thou shalt not give him upon neshek and upon marbith thou shalt not lend thy victuals,[8] read it thus: ‘Thy money thou shalt not give him upon neshek and upon marbith, and upon neshek and upon marbith thou shalt not give thy victuals.’[9] But does not the Tanna state, ‘it is said...it is said’?[10] — He means this: if the verse were not written [in such a way], I should have adduced a gezerah shawah: now, however, that the verse is couched [thus], the gezerah shawah is unnecessary. Then for what purpose do I need the gezerah shawah? — In respect of neshek of anything for which usury may be given, which is not written in connection with the lender.[11]

Raba said: Why did the Divine Law write an injunction against ribbith, an injunction against robbery, and an injunction against overreaching?[12] — They are necessary. For had the Divine Law stated an injunction against ribbith [only], [no other prohibition could be deduced therefrom] because it is anomalous,[13] the prohibition lying even upon the debtor.[14] Again, had the Divine Law written an interdict against robbery [I might argue that] that is because it is against his [the victim's] wish,[15] but as for overreaching, I might maintain [that it is] not [forbidden].[16] And were there a prohibition in the Divine Law against overreaching only, [I might reason,] that is because he [the defrauded] does not know [of his loss], to be able to pardon.[17]

Now one could not be deduced from another: but cannot one be derived from the other two? — Which could be [thus] deduced? Should the Divine Law omit the prohibition of usury, that it might follow from these [robbery and fraud]? [But I would argue,] The reason why these are [forbidden] is because they lack [the victim's] consent:[18] will you say [the same] of usury, which is [taken] with his [the debtor's] consent? And if the Divine Law omitted the injunction against overreaching, that it might be deduced from the others, [I would argue:] The reason why the others are [forbidden] is because commerce[19] is not carried on thus![20] — But the Divine Law should not have stated the prohibition of robbery, and it would have followed from the others. For what objections will you raise: as for interest, that it is an anomaly? Then let overreaching prove it.[21] [Should you argue,] As for fraud, [the reason of the prohibition] is that he [the victim] is in ignorance thereof, and cannot pardon: then let interest prove it.[22] And thus the argument revolves: the distinguishing feature of one is not the distinguishing feature of the other, and vice versa. The characteristic common to both is that he robs him. So also may I adduce [actual] robbery [as prohibited]! — I will tell you: That indeed is so. Then what is the need of an injunction against robbery? In respect of withholding the payment of a hired worker. But [the prohibition against the] withholding of such payment is explicitly stated: Thou shalt not oppress an hired servant that is poor and needy! . . . at his day thou shalt give him his hire![23] — To teach that he [who withholds payment] transgresses two negative precepts.[24] Then let it[25] be referred to interest or fraud, that [in their case] two negative commands are transgressed?[26] — It is a matter deduced from its context,

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(1) The object of the loan being unspecified, it must include money, particularly as the verse ends, neshek of anything for which there can be neshek.

(2) It is one of the methods of the Talmudic exegesis that if a verse is redundant in respect of its own subject, it is applied to some other.

(3) This verse is assumed to refer to the debtor, and thus translated: Thou shalt not cause thy brother to take neshek, neshek of money etc. This follows because תשיך is hif'il, causative; were the lender referred to, Scripture should have written תשוך , kal. Hence it teaches that if a borrower repays more than he receives, whether money or provisions, he transgresses two injunctions.

(4) Lev. XXV,37.

(5) I.e., the prohibitions under neshek and ribbith apply to both money and food.

(6) To things which are neither money nor food.

(7) For then the two clauses would be distinctly separated, neshek being related to money, and marbith to provisions.

(8) Literal translation with disregard of the accents.

(9) I.e., since neshek and marbith are coupled in the middle of the verse, they are both read with the first half of the verse, which treats of money, and with the second half, dealing with provisions.

(10) V. supra. Since the Tanna deduces its applicability to the lender by a gezerah shawah, how can Rabina, an Amora, maintain that it is inherent in the verse itself, it being axiomatic that an Amora cannot disagree with a Tanna?

(11) V. p. 364. n. 4. Therefore the gezerah shawah teaches that the lender violates these injunctions, whatever he lends upon usury.

(12) Since the essence of all three is the taking of money (or goods) to which one is not entitled, had one been prohibited, the others would have followed as a matter of course.

(13) Lit., ‘novel’.

(14) It is a principle of exegesis that an anomaly cannot provide a basis of analogy for other laws.

(15) The thing stolen is taken against the desire of its owner.
(16) Since the money of which the victim is defrauded is given of his own free will.
(17) So the injury remains permanently. But in robbery and usury the victim's forgiveness may wipe it out.
(18) Even in fraud, though the money is given of one's free will, still he does not consent to be defrauded.
(19) Lit., ‘buying and selling’.
(20) I.e., by robbery or usury. But overcharging is sometimes a normal incident in trade, i.e., when one is particularly in need of an article, he may knowingly overpay.
(21) That robbery is prohibited, the prohibition against overreaching not being anomalous.
(22) The interest charge is known to the debtor and yet is forbidden.
(23) Deut. XXIV, 14f.
(24) The one quoted and the one against robbery making the offender liable to a twofold penalty of lashes. [The same answer could not apply to robbery itself, as robbery does not carry with it the penalty of flogging. V. Mak. 17a (Tosaf).]
(25) The superfluous injunction against robbery.
(26) I.e., instead of saying that it intimates an additional injunction against withholding the wage of a hired worker.

Talmud - Mas. Baba Metzia 61b

and it [the injunction against robbery] is written in connection with a hired worker.[1]

What is the need of the injunction, Ye shall not steal,[2] which the Divine Law wrote? — For that which was taught: ‘Ye shall not steal,’[3] [even] in order to grieve;[4] ‘ye shall not steal,’ [even] in order to repay double.[5]

R. Yemar said to R. Ashi: For what purpose did the Divine Law state [separately] the prohibition against [false] weights?[6] — He replied: [To forbid] the steeping of weights in salt.[7] But that is pure robbery! — [To teach] that one transgresses at the very moment that this is done.[8]

Our Rabbis taught: Ye shall do no unrighteousness in judgment, in meteyard, and in weight, or in measure:[9] ‘meteyard’ means land measurement, [and] it forbids measuring for one in summer and for another in winter.[10] ‘In weight’, prohibits the steeping of weights in salt; and ‘in measure’ [teaches] that one must not cause [the liquid] to foam.[11] Now surely, you can reason a minori: if the Torah objected to a [false] mesurah, which is but a thirty-sixth of a log, how much more so a hin, half a hin, a third of a hin, and a quarter of a hin; a log, half a log or quarter log.[12]

Raba said: Why did the Divine Law mention the exodus from Egypt in connection with interest, fringes and weights?[13] The Holy One, blessed be He, declared, ‘It is I who distinguished in Egypt between the first-born and one who was not a first-born;[14] even so, it is I who will exact vengeance from him who ascribes his money to a Gentile and lends it to an Israelite on interest,[15] or who steeps his weights in salt, or who [attaches to his garment threads dyed with] vegetable blue[16] and maintains that it is [real] blue.’[17]

Rabina happened to be in Sura on the Euphrates.[18] Said R. Hanina of Sura on the Euphrates: Why did Scripture mention the exodus from Egypt in connection with [forbidden] reptiles?[19] — He replied: The Holy One, blessed be He, said, I who distinguished between the first-born and one who was not a first-born, [even] I will mete out punishment to him who mingles the entrails of unclean fish with those of clean fish and sells them to an Israelite.[20] Said he: My difficulty is ‘that bringeth you up’! Why did the Divine Law write ‘that bringeth you up’ here?[21] — [To intimate] the teaching of the School of R. Ishmael, he replied. Viz., The Holy One, blessed be He, declared, ‘Had I brought up Israel from Egypt for no other purpose but this, that they should not defile themselves with reptiles, it would be sufficient for me.’[22] But, he objected, is their reward [for abstaining from them] greater than [the reward for obeying the precepts on] interest, fringes and weights?[23] — Though their reward is no greater, he rejoined, it is more loathsome to eat them [than to engage in the other malpractices].[24]

AND WHAT IS TARBITH? THE TAKING OF INTEREST ON PRODUCE. E.G., IF ONE PURCHASES WHEAT AT A GOLD DENAR, etc. Is then the preceding example[25] not interest? — R. Abbahu said: Hitherto it [i.e., the first instance] is interest in the Biblical sense, but from here onward by Rabbinical law.[26] And Raba said likewise: Hitherto it is interest in the Biblical sense, but from here onward in the Rabbinical sense. So far,[27] He [sc. the wicked] shall prepare it, and the just shall put it on.[28] ‘So far’ and no further?[29] — But, [say] even thus far, ‘He shall prepare it, and the just put it on.’ Thus far it is direct[30] interest, from here onward it is indirect interest.[31]

R. Eleazar said: Direct interest can be reclaimed in court,[32] but not indirect interest. R. Johanan ruled: Even direct interest cannot be reclaimed in court. R. Isaac said: What is R. Johanan's reason?[33] The Writ saith, He hath given forth upon usury, and hath taken increase: shall he then live? he shall not live: he hath done all these abominations:[34] For it [this transgression] death is prescribed, but not return [of the money]. R. Adda b. Ahaba said: Scripture saith, Take thou no usury of him, or increase: but fear thy God:[35] fear is prescribed, but not return. Raba said: It follows from the essential meaning of the verse, He shall surely die: his blood shall be upon him;[36] thus those who lend upon usury are compared to shedders of blood:[37] just as those who shed blood can make no restitution, so those who lend upon interest can make no restitution.

R. Nahman b. Isaac said: What is R. Eleazar's reason?[38] Scripture saith,

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(1) Lev. XIX, 13: Thou shalt not oppress thy neighbour, neither rob him: the wages of him that is hired shall not abide with thee all night until the morning — and is by preference to be applied to the latter.

(2) Ibid. II.

(3) Adopting the reading as amended by Asheri and others. [The verse ‘Thou shalt not steal’, Ex. XX, 13, given in cur. edd. is explained as an injunction against abduction; v. Sanh. 86a.]

(4) I.e., even if the intention is merely to cause the owner temporary grief at his loss, and then return it.

(5) One may not stage a theft in order to repay double and thus make a gift to his fellow.

(6) Seeing that it is tantamount to robbery.

(7) Which naturally makes them heavier, and then using them when buying.

(8) I.e., merely steeping is forbidden, even without subsequent use.

(9) Lev. XIX, 35, מדה ‘meteyard’, is lineal measure; משורה ‘measure’, means liquid measure of capacity.

(10) Rashi: when brothers divide a landed legacy, one's portion must not be measured off in summer and another's in winter, because the measuring cord gives in winter and shrinks in summer.

(11) The foam subsiding, the measure is found to be short.

(12) I hin == 12 logs == 6.072 lit.; 1 log == 0.506 lit. J.E. XII, 484.

(13) Interest: Take thou no usury from him, nor increase . . . I am the Lord your God, which brought you forth out of the land of Egypt (Lev. XXV, 36,38); fringes: Speak unto the children of Israel, and bid them that they make fringes in the borders of their garments . . . I am the Lord your God, which brought you out of the land of Egypt (Num. XV, 38, 41); weights: Just balances, just weights, a just ephah, and a just hin, shall ye have: I am the Lord your God which brought you out of the land of Egypt (Lev. XIX, 36).

(14) Though this, particularly where the child is a first-born on the father's and not on the mother's side, is not always known to man but only to God.

(15) Gentiles being permitted to take interest, Jews pretended that their money belonged to them, and then lent it upon interest.

(16) [Probably indigo blue, an imitation of the genuine blue; תכלת , obtained from the blood of a mollusc, is enjoined in Scripture; Num. XV, 38.]

(17) These fraudulent actions may escape the notice of man, but not of God, who can distinguish what to man is indistinguishable.

(18) [Not the Sura of academy fame, but a town on the right bank of the Euphrates, 45 parasangs N. of Circesium; v. Obermeyer, op. cit. p. 38.]

(19) Lev. XI, 44, 45: Neither shall ye defile yourselves with any manner of creeping thing that creepeth upon the earth. For I am the Lord that bringeth you up out of the land of Egypt.
(20) In a wider sense, שרצים (reptiles) is used of all forbidden creatures, as here.
(21) Whereas in connection with interest etc. the expression is ‘who brought you out of’; v. p. 366, n. 13.
(22) I.e., I elevated them above such baseness, ‘who brought you up’ being understood in a spiritual sense.
(23) This being implied by his answer.
(24) So that ‘brought you up’, i.e., elevated you above such repulsiveness, is more appropriate to this than to the other laws.
(25) [Lit., ‘is that stated’ according to MS.M.; cur. edd. ‘Are all these stated’.] Viz., lending a sela’ that five denarii should be returned.
(26) Lit., ‘according to these words’. Lending a sum of money for a larger return is Biblically forbidden; but buying ahead, as illustrated in the Mishnah, was prohibited by the Rabbis.
(27) I.e., usury as defined in the first clause.
(28) Job XXVII, 17: i.e., if a man received interest, his heirs (‘the just’) are under no obligation to return it, but may put it to their own use.
(29) Surely not! If interest that is Biblically forbidden is not returnable by the heirs, surely that which is only forbidden by the Rabbis need not be returned!
(30) Lit., ‘fixed’.
(31) Lit., ‘dust of interest’ אבק רבית. Lending a sela’ for five denarii is direct interest: speculating on ‘futures’ is only indirect interest, for it is not certain that the wine will appreciate in value.
(32) Lit., ‘through the Judges’.
(33) For it is logical that that which is taken illegally should be returnable.
(34) Ezek. XVIII, 13.
(35) Lev. XXV, 36.
(36) Ezek. ibid.
(37) Translating the last phrase: ‘his blood’, i.e., the blood shed by taking usury, shall be upon him.
(38) That direct interest can be recovered in court.

[Take thou no usury of him, or increase: but fear thy God;] that thy brother may live with thee; [implying] return it to him, that he may be able to live with thee.

Now how does R. Johanan interpret, ‘that thy brother may live with thee?’ — He utilises it for that which was taught: If two are travelling on a journey [far from civilisation], and one has a pitcher of water, if both drink, they will [both] die, but if one only drinks, he can reach civilisation, — The Son of Patura taught: It is better that both should drink and die, rather than that one should behold his companion's death. Until R. Akiba came and taught: ‘that thy brother may live with thee:’ thy life takes precedence over his life.[1]

An objection was raised: If their father left them usury money, though they know it to be usury, they are not bound to return it. [This implies,] But their father is bound to return it![2] — In truth, their father too is not bound to return it: but because the second clause desires to state, ‘If their father left them a cow, or a garment, or any distinguishable object [received as interest], they must return it for the sake of their father's honour,’ the first clause too is taught with reference to them.[3] But are they then bound to make restitution for the sake of their father's honour? [Why not] apply here, Thou shalt not curse a ruler of thy people,[4] [which means], only if he acts as is fitting for ‘thy people’?[5] — It is as R. Phinehas [in another connection] said in Raba's name: If he repented; so here too, [we deal with a case] where he repented. But if he repented, how came it [the money] to be still in his possession?[6] — He died before he had time to return it.

An objection was raised: Robbers, and those who lend on usury, even when they have exacted it, must make restitution. Now, how can ‘even when they have exacted it’ apply to robbers? If it is robbed, it is robbed; and if not, can you call them robbers? But say thus: Robbers; and those meant thereby are those who lend upon usury, even when they have exacted it, must make restitution! — It is a dispute of Tannaim. For it was taught: R. Nehemiah and R. Eliezer b. Jacob exempt the lender and the surety [from punishment],[7] because they have a positive duty.[8] Now, what is meant by a ‘positive duty’? Surely that we bid them, ‘Arise and return [the usury];’ from which it follows that the first Tanna[9] maintains that they are not bound to make a return.[10] No! By ‘positive duty’ is meant [that they are bid] to tear up the bond [of indebtedness].[11] But what is his[12] opinion? If he maintains: A bond, which is destined to be exacted, is as though it were already exacted,[13] they have [already] committed their transgression![14] Whilst if it is not as already collected, they have committed no wrong![15] — In truth, in his view a bond, destined to be exacted, is not as though already exacted, and what he teaches us is that the [mere] ‘putting on’ [of usury] is a transgression.[16] This also stands to reason. For we learnt: The following transgress the negative injunction: the lender, the borrower, the surety and the witnesses.[17] Now, with respect to all, it is well, [since] they commit an action. But what have the witnesses done? Hence it surely must be that the [mere] ‘putting on’ [of usury] is a substantial act [and in this case, a transgression]. This proves it.

R. Safra said: Wherever by their law [i.e., non-Jewish law] exaction is made from the debtor for the creditor, restoration is made by our law from the creditor to the debtor; wherever by their law there is no exaction from the debtor to the creditor, there is no restoration by our law from the creditor to the debtor. Said Abaye to R. Joseph: Now, is this a general rule? Behold, there is the case of a se'ah [lent] for a se'ah which, by their law, the debtor is forced to repay the creditor, yet by ours it is not returnable from the creditor to the debtor![18] He replied, They [regard it] as having come into his possession merely as a trust.[19] Rabina said to R. Ashi: But mortgages without deduction,[20] which by their law is exacted from the debtor for the creditor,[21]

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(1) With thee implies that thy life takes first place, but that he too has a right to life after thine is assured. [For an excellent exposition of R. Akiba's dictum, v. Simon, Leon, Essays on Zionism and Judaism by Achad Ha-am (1922), pp.

236ff.]

(2) Thus contradicting R. Johanan's ruling.

(3) But the father himself cannot be compelled to make restitution.

(4) Ex. XXII, 27: this is interpreted as a general injunction to safeguard another Jew's honour.

(5) I.e., righteously. But if a man took usury, his children are under no obligation to safeguard his honour.

(6) For true repentance necessitates the restoration of that which was wrongfully taken.

(7) The penalty of lashes attached to the injunction against interest.

(8) Lit., ‘because there is "arise and do" in their case.’ The transgression of a negative command is punished by flagellation, but not if it can be remedied by a subsequent positive action.

(9) The existence of another Tanna who disputes this is assumed, since this is stated in the name of particular teachers, instead of anonymously.

(10) [And consequently the wrong they had committed cannot be remedied.]

(11) I.e., having lent money upon interest, and drawn up a bond, it is the lender's duty to tear it up, thus rendering it invalid. [Where, however, payment was exacted, restitution effects no remedy of the offence.]

(12) I.e., R. Nehemiah's and R. Eliezer b. Jacob's.

(13) So that tearing up the bond is the equivalent of returning the interest.

(14) [And if the tearing up of the bond is considered a remedial action, why should the return of the interest, where actually exacted, not be considered so?]

(15) Who then can dispute that they are exempt from punishment?

(16) Cf. Ex. XXII, 24. For which, in the view of the first Tanna, punishment is incurred, whilst R. Eliezer b. Jacob and R. Nehemiah exempt them therefrom, because it may be followed by a positive action remedying it.

(17) Infra 75b.

(18) Jewish law prohibits the lending of a measure of wheat for the return of a similar measure, as the wheat may at the time of repayment stand at a higher price (v. infra 75a); by Gentile law, this transaction is permissible, and the debtor must repay it to the creditor. Yet though Jewish law forbids it, the debtor cannot demand its return after repayment, since it is only indirect interest.

(19) I.e., in their view, it is not interest at all. A entrusts a se'ah to B, and then B returns it. But R. Safra referred to what the Gentiles recognised as interest, which by their code is permissible.

(20) I.e., the debtor mortgages a field of which the creditor takes possession and enjoys the usufruct without deducting its value from the principal. This is prohibited; v. 67b.

(21) I.e., if the debtor retained the produce for himself the creditor can claim it from him at law.

Talmud - Mas. Baba Metzia 62b

yet by our law is not restored from the creditor to the debtor?[1] — He replied: They [regard it] as having come into his hand by the law of purchase.[2] Then, when R. Safra said, ‘Wherever by their law, etc.’, what did he mean to tell us?[3] — [This]: ‘Wherever by their law exaction is made from the debtor for the creditor, restoration is made by our law from the creditor to the debtor;’ this refers to[4] direct interest, and in accordance with R. Eleazar.[5] ‘Wherever by their law there is no exaction from the debtor to the creditor, there is by our law no restoration from the creditor to the debtor;’ this refers to prepaid and postpaid interest.[6]

E. G., IF ONE PURCHASED WHEAT AT A GOLD DENAR PER KOR, WHICH WAS THE CURRENT PRICE etc. But what does it matter if he has no wine? Did we not learn:[7] One must not fix a price [for produce] until the market price is known;[8] once the market price is established, a fixed price may be agreed upon, for even if this [vendor] has no stock, another has?[9] — Rabbah replied: Our Mishnah refers to the creating of a debt for the value thereof.[10] And as it has been taught: If one was his neighbour's creditor for a maneh, and he went and stood at his [the debtor's] granary and demanded, ‘Give me my money, as I wish to purchase wheat therewith;’ to which he answered, ‘I have wheat with which to supply you; go and calculate [the amount] at the current price, and I will furnish you with it, [spreading it over] the whole year,’ — that is forbidden, because it is not as though the issar[11] had come to his hand.[12] Abaye said to him: If the reason [in the

Mishnah is that] it is not ‘as though the issar had come to his hand,’ why particularly [state the case] where he has no wine? Even if he has, it is also [forbidden]![13] But, said Abaye, our Mishnah is as R. Safra learnt in the collection of Baraithas on interest of the college of R. Hiyya. For R. Safra learnt in the collection of Baraithas on interest of the college of R. Hiyya: Some things are [essentially] permitted, yet forbidden as [constituting] an evasion of usury. How so? If A requested B, ‘Lend me a maneh;’ to which he replied, ‘I have no maneh, but wheat to the value thereof, which I will give you;’ and thereupon he gave him a maneh's worth of wheat, [calculated on the current price] and repurchased it for twenty-four sela's;[14] now, this is [essentially] permitted, yet may not be done on account of evasion of usury. So here [in the Mishnah] too: e.g., A said to B, ‘Lend me thirty denarii,’ to which he replied, ‘I have not thirty denarii, but wheat for the same, which I can give you.’ He then gave him thirty denarii's worth of wheat [calculated at the current price] and repurchased it for a gold denar.[15] Now,[16] if the debtor has wine, which he gives him against the thirty denarii, he [the creditor] merely receives provisions from him, and there is no objection; but, if not, since he has no wine, to receive money certainly smacks of usury.[17] Raba said to him: If so [instead of], GIVE ME MY WHEAT, the Tanna should state, ‘Give me the money for my wheat’![18] — Read: ‘the money for my wheat.’ [Instead of,] AS I WISH TO SELL IT, he should state, ‘Which I sold you.’ Read: ‘which I sold you.’ THE WHEAT SHALL BE ACCOUNTED AS A DEBT TO ME OF THIRTY DENARII — but from the very beginning, had it not been fixed thus against him?[19] — He said thus to him, ‘For the value of your wheat which you have accounted against me at thirty denarii, you have a claim of wine upon me’, whereas he [the debtor] has no wine. But it is stated, [IF A MAN PURCHASED WHEAT] AT A GOLD DENAR PER KOR, WHICH WAS THE MARKET PRICE![20] But, said Raba,[21] when I die, R. Oshaia will come to meet me,[22]

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(1) Because it is not accounted as direct interest, since the crop may fail.

(2) I.e., theoretically a mortgaged field is sold to the creditor, which the debtor redeems by repaying the loan. Hence, if the debtor seizes its produce, he seizes something that belongs to the creditor by right of purchase, not as interest.

(3) To what case does this actually apply?

(4) Lit., ‘and what is it?’

(5) Supra 61b.

(6) V. infra 75b. Such interest is not actionable in Gentile law, and therefore, if paid, is not returnable by Jewish law.

(7) Infra 72a.

(8) I.e., A must not buy ahead from B at a fixed price, paying him now.

(9) I.e., B may undertake to supply A at the current price, even if he has no produce and may have to buy it himself later for delivery at a higher price; yet since B could immediately purchase it from some other merchant, it is not interest. Why then is this forbidden in the Mishnah?

(10) The vendor did not return to the purchaser the money he had received from him for the wheat, but indebted himself for it on the basis of the present advanced price, and undertook to supply him with wine to its value.

(11) I.e., the payment for the wheat.

(12) Now, had he actually received money, it would not be forbidden as interest despite the possible rise in the price, as on p. 372, n. 8, but as he receives no money, should he have to pay more later, the excess is usury; and it is likewise so in the Mishnah.

(13) For in the Baraitha quoted, he actually has wheat, yet it is forbidden.

(14) A maneh contains 100 zuz, and a sela’== 4 zuz; hence 24 sela’ == 96 zuz. The debtor, being in urgent need of the money, had to sell it for less than its real worth.

(15) I.e., 25 denarii, so that the debtor has to make, in addition to the gold denar which he received in cash, a return for their remaining five denarii, — a total of 30 denarii.

(16) [When the creditor asks for the thirty denarii for the purpose of buying wine and the debtor offers to supply it.]

(17) For the debtor actually received only 25 denarii, which the creditor paid him in cash for the wheat, whilst he repaid him 30 denarii. On this explanation, IF A MAN PURCHASED WHEAT AT A GOLD DENAR PER KOR, refers to the creditor as purchaser and the debtor as vendor. The rest of the Mishnah does not agree with this interpretation, and Raba proceeds to raise this objection.

(18) Since the creditor had previously given the wheat to the debtor, and was now demanding payment.

(19) I.e., this involves no new arrangement, as is implied in the Mishnah.

(20) Whereas on this interpretation it is obvious that the creditor repurchased it at 25 when the current price was 30.

(21) The reading of R. Han. and Alfasi is: This refers to a case where he wishes to create a debt for its value, and as R. Oshaia taught; v. p. 372, n. 9.

(22) I.e., pay honour to me in the Great Beyond.

Talmud - Mas. Baba Metzia 63a

for I interpret the Mishnayoth in accordance with his views. For R. Oshaia taught: If a man was his neighbour's creditor for a maneh, and he went and stood at his granary and said, ‘Repay me my money, as I wish to purchase wheat therewith,’ and he [the debtor] replied, ‘I have wheat which I will supply you; go and charge me therewith against my debt at the current price.’ The time came for selling,[1] and he said to him, ‘Give me the wheat,[2] which I wish to sell and purchase wine with the proceeds;’ to which he replied, ‘I have wine; go and assess it for me at the current price.’ Then the time came for selling wine, and he said to him, ‘Give me my wine, for I wish to sell it and purchase oil for it;’ to which he replied, ‘I have oil to supply you; go and assess it for me at the current price:’ in all these cases, if he possesses [these commodities] it is permitted; if not, it is forbidden.[3] [So in the Mishnah.] And what is meant by ‘IF A MAN PURCHASED’? He purchased against his debt.[4] Raba said: Three deductions follow from R. Oshaia: [i] the debt may be offset against provisions, and we do not say, it is not as if the issar had come to his hand;[5] [ii] but only if he [the debtor] possesses [these commodities]; and [iii] R. Jannai's view is correct, viz., what is the difference between them themselves [sc. the provisions] and the value thereof?[6] For it was stated: Rab said: One may buy on trust against [future delivery of] crops, but not against [repayment of] money at [future prices].[7] But R. Jannai said: What is the difference between them themselves [sc. the crops] and the value thereof?[8]

An objection was raised: In all these cases, if he possesses [these commodities], it is permitted.[9] — R. Huna answered in Rab's name: This means that he drew [the produce into his possession].[10] If he drew it into his possession, need it be taught?[11] — But, e.g., he assigned a corner [of the granary] to him.[12] Samuel said: This is taught in accordance with R. Judah, who ruled: One-sided usury is permitted.[13] For it has been taught: If a man was his neighbour's creditor for a maneh, for which he [conditionally] sold him his field;[14] if the vendor enjoys the usufruct, it is permitted; if the purchaser, it is forbidden.[15] R. Judah ruled: Even if the purchaser has the usufruct, it is permitted.[16] R. Judah said to them: It once happened that Boethus b. Zunin [conditionally] sold his field, with the approval of R. Eleazar b. Azariah, and the purchaser took the usufruct. Said they to him: [Would you adduce] proof from thence? The vendor enjoyed its usufruct, not the purchaser. Wherein do they[17] differ? — Abaye said: They differ with respect to one-sided interest.[18] Raba said: They differ with respect to interest [received] on condition that it shall be returned.[19]

Raba said: Now that R. Jannai ruled:

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(1) There was a time when wheat was generally sold, when it generally appreciated in value.

(2) He had not given it to him before.

(3) If the debtor actually possesses these commodities, as soon as he agrees to furnish him with a certain quantity thereof, that quantity belongs to the creditor, even if he does not actually take it; and if it appreciates, his own appreciates, and there is no suggestion of usury, even if the transaction is made several times, each time at an enhanced value. But if the debtor lacks them, and when the bargain is struck, actually receives no money, it has the appearance of a ruse to increase his indebtedness (v. p. 373, nn. 4, 6), and is thus like usury, and consequently forbidden.

(4) Thus: A owing a gold denar to B, credited him with a kor of wheat for it, which was the current price; then the kor appreciated to 30 denarii, and A credited B with wine to the value of 30 denarii. Actually Raba's explanation coincides with Rabbah's (supra 62b); this is particularly evident from the reading of R. Han. and Alfasi, given p. 374, n. 4, in which Raba uses the same words as Rabbah; Raba merely quotes R. Oshaia's dictum to dispose of the difficulties urged against Rabbah's explanation, as is seen in the deductions he makes: v. n. 2.

(5) This disposes of the criticism levelled on 62b against Rabbah's explanation on the strength of the Baraitha quoted there . . . R. Oshaia's dictum differs from that Baraitha, and Rabbah's interpretation, with which Raba's is identical (v. preceding note), agrees with R. Oshaia.

(6) The Talmud proceeds to explain this.

(7) I.e., a man may buy crops at present prices, paying immediately, for delivery at some future date, even though they may have appreciated in the meanwhile. But he may not arrange to receive the future value of the crops, for since he may thus receive in actual money more than he gave, it has the appearance of usury.

(8) Since he may receive the crops, though they represent more than was paid, he may also receive money in lieu thereof. R. Oshaia's ruling, that the creditor may be credited with wine calculated on the low price and according to the appreciated value of the wheat, supports this view, that the crops owing to him may be deemed as actual money.

(9) Quoted from the Baraitha of R. Oshaia cited above; as this supports R. Jannai (v. preceding note), it refutes Rab.

(10) Hence it is actually his own, and not merely a debt, and therefore the subsequent transactions are permitted; v. p. 374, n. 8.

(11) It is then obvious!

(12) Declaring, ‘The wheat in this corner be yours for my debt.’ R. Oshaia thus teaches that mere assignation has legal validity to render it his, and no longer a debt.

(13) I.e., that which might result in an appearance of usury, as in the case under discussion. For he may give him the crops, in which case there is no suspicion of usury: only when he gives money in lieu thereof, does it appear as such.

(14) ‘If I do not repay by a certain date, the field is sold to you from now;’ v. infra 65b.

(15) For should the money be repaid, he will have received usury thereon.

(16) For it is not certain that the field will be redeemed, in which case there is no usury. Hence it is regarded as ‘one-sided’ usury’, which R. Judah permits.

(17) R. Judah and the Rabbis who oppose him.

(18) As explained above.

(19) I.e., even R. Judah admits that if the purchaser retains the crops after repayment, it is forbidden. But they differ where it is stipulated that if the loan is repaid, the creditor must return the value of the crops he has taken. R. Judah permits this arrangement, since thereby an infringement of usury is precluded, whilst the Rabbis maintain that even this is forbidden, for when he enjoys the usufruct it is actually interest on money lent (Rashi). Tosaf. explains that there is a real possibility of interest. Thus: should he fail to repay the entire loan, the creditor retains the whole value of the crops, even if it exceeds the deficit.

Talmud - Mas. Baba Metzia 63b

We reason, ‘What is the difference between them themselves [sc. the crops] and their value?’ we argue [conversely] too, ‘What is the difference between their value and them themselves?’ and [consequently] one may contract to supply [provisions] at the current market price even if he has none.[1] R. papa and R. Huna the son of R. Joshua objected to Raba's [statement]: In all these cases, if he possesses [these commodities], it is permitted; if not, it is forbidden![2] — He answered them: There [the reference is to] a loan, here to a sale.

Rabbah and R. Joseph both said: Why did the Rabbis rule, A man may contract to supply [provisions] at the current market price, even if he has none? Because he [the purchaser] can say to him [the vendor], ‘Take your favours and throw them in the bush! How do you benefit me? Had I money, I could have bought cheaply in Hini and Shili.’[3] Abaye said to R. Joseph: If so, should it not be permitted to lend a se'ah for a se'ah, since he [the borrower] could say, Take your favours and throw them in the bush! For,’ he could argue, ‘would my wheat have gone to ruin in my granary?’ — He replied: There it is a loan, here a purchase. R. Adda b. Abba said to Raba: But he would have to pay money to a broker![4] — He replied: He [the purchaser] must give that too to him. R. Ashi said: people's money is their broker.[5]

Rabbah and R. Joseph both said: He who advances money at the early market price[6] must [personally] appear at the granary. For what purpose? If to acquire it — but he does not thereby acquire it![7] If that he [the vendor] may have to submit to [the curse], ‘He who punished, etc.,’[8] — even without his appearing there, he must submit thereto! — In truth, it is that he may submit to the curse; but he who advances money on an early market generally gives it to two or three people:[9] hence, if he appears before him, [he shews] that he relies upon him [for supplies]; but if not, he [the vendor] can plead, ‘I thought that you found better produce than mine, and bought it [intending that I should return your money].’ R. Ashi said: Now that you say it is because of his relying upon him, then even if he met him in the market and said to him, [‘I rely upon you’,] he relies upon him.[10]

R. Nahman said: The general principle of usury is: All payment for waiting [for one's money] is forbidden. R. Nahman also said: If one gives money to a wax merchant, when it is priced at four [standard measures per zuz], and he [the vendor] proposes,’I will supply you five [per zuz];’[11] if he possesses it, it is permitted; if not, it is forbidden. But this is obvious![12] — It is necessary [to teach this] only when he has [wax] credits in town:[13] I might think that in such a case it is as though [he had said, ‘Lend me] until my son comes, or until I find the key:’[14] therefore he teaches, since it must yet be collected, it is as non-existent.

R. Nahman also said: If one borrows money from his neighbour and found a surplus therein, if it is an amount about which there could be an error, he must return it; otherwise, it is simply a gift. When is it ‘an amount about which there could be an error’? — R. Abba, the son of R. Joseph said:

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(1) For, just as it is certainly permissible if he has the stock, so also when he has the money furnished by the purchaser to buy it, for there is no essential difference between stock and money. — In such passages the reference is to contracting ahead, when the crops are probably dearer.

(2) Quoted from R. Oshaia's Baraitha. Whereas Raba permits it even if he has none.

(3) [On Hini and Shili, v. B.B. (Sonc. ed.) p. 753, n. 6. There was the central corn market, which supplied corn throughout Northern Babylon, and where wheat was procurable at lower prices (v. Obermeyer, op. cit. p. 32). I.e., ‘I could buy it there before the rise in prices,’ and thus the purchaser derives no benefit by advancing the money to the seller. The question of usury consequently does not arise.]

(4) By paying for the wheat beforehand the buyer saves the broker's fee, which he would have had to pay each time he wanted to make a purchase. This saving constitutes interest on his money.

(5) I.e., if he can pay cash, he needs no intermediary.

(6) Soon after the harvest, before trade commences in earnest and a general price is fixed, there is some desultory selling at a low price. Buying ahead at this price is also permitted if the vendor has supplies.

(7) Merely by appearing there, but must draw it into his possession — perform meshika.

(8) V. supra 44a. So here too: the vendor should be morally bound, though the purchaser has not formally acquired it.

(9) Presumably because the vendor would not accept a large order.

(10) And thereby submits himself to the curse.

(11) If you accept it later, though paying the money now.

(12) As various Baraithas have already stated.

(13) I.e., he has already paid for stocks, which are now due to him.

(14) v. infra 75a; here too, I might regard it as being already in his possession, though temporarily inaccessible.

Talmud - Mas. Baba Metzia 64a

In [denominations of] tens or fives.[1] R. Aha the son of Raba asked R. Ashi: But what if he [the lender] is a hard man, who never gives presents? — He replied: He may have robbed him [on a previous occasion], and now included it in the total sum. For it has been taught: If one robbed his neighbour, and then included it in the account, he is quit [of his obligation]. But what if he [the lender] had come from elsewhere, and had never had business dealings with him? — He replied: He [the borrower] might have been robbed by some other person, and might say to him [the lender], ‘When so and so borrows money from you, include this in the sum.’

R. Kahana said: I was sitting at the end of Rab's sessions,[2] and heard him repeatedly mention ‘gourds’,[3] but did not know what he meant. After Rab arose [and departed], I asked them [sc. the students], To what did Rab refer in his repeated mention of gourds’? — They answered me, Thus did Rab say: If a man gives money to a gardener for gourds, ten gourds of a span's length being priced [at a zuz], and says to him, ‘I will give you [gourds] a cubit in length [for the money];’ if he actually has them, it is permitted; but if not,[4] it is forbidden.[5] Is this not obvious? — I might think, since they naturally grow large [without requiring labour], it is in order. He therefore taught [otherwise]. With whom does this agree? — With the following Tanna. For it has been taught: If one is going to milk his goats, shear his sheep, or remove the honey from the combs, and meeting his neighbour, says to him, ‘The milk which my goats will yield is sold to you; the wool sheared from my sheep is sold to you; the honey to be removed from my combs is sold to you;’ it is permitted.[6] But if he said to him, ‘So much of my goats’ milk yield is sold to you; so much of my sheep's shearings is sold to you; or so much of the honey which will be removed from the honeycombs is sold to you,’[7] it is forbidden.[8] Now, though such yield comes naturally,[9] yet since it is non-existent just then [when the transaction is made], it is forbidden.[10] Others Say, Raba ruled [in reference to the gourds]: Since they grow naturally, it is permitted. But it has been taught that ‘so much and so much’[11] is forbidden! — There, the increase is not in [the product] itself, for the present yield is taken and other comes in its stead;[12] here, however, that itself [the produce he has in his garden] increases [in size], for if that is taken away, others do not grow in its place.[13]

Abaye said: A man may say to his neighbour, ‘Here are four zuz for a barrel of wine; if it turns sour, it is in your ownership;[14] but if it appreciates or depreciates [in value], it is in mine.’ Said R. Sherabia to Abaye:

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(1) They used to count in fives and tens (Tosaf.). Now, if the amount should have been e.g., fifty, and it was fifty-five or sixty, the lender may have mistakenly counted eleven fives instead of ten, or six tens instead of five; but if it were fifty-two or-three etc., it is impossible that it should have been an error.

(2) שלהי פרקי ; the phrase seems to be a technical term denoting a special session at the end of a series of lectures devoted to the reviewing of the conclusions reached during the course. Kaplan J. op. cit. p. 257.]

(3) [As a kind of mnemonic, loc. cit.]

(4) His gourds being small, and the purchaser must wait until they grow.

(5) For he gives him larger gourds in return for waiting, which looks like usury.

(6) For it is a speculation: though the buyer may receive more than his money's worth (the price being fixed and paid in advance), the yield might also be poor, in which case he would lose.

(7) And in each case giving him a particular low quotation in return for advance payment.

(8) Since a definite quantity must be supplied, the lower quotation is usury.

(9) Should there not be an immediate sufficiency, the goats etc. will yield again.

(10) Thus Rab's dictum is in accordance with this Baraitha.

(11) Viz., the dealings stated above.

(12) Hence it is forbidden.

(13) Without replanting, since he supplies the gourds actually in his garden, it is not usury to keep them in the soil until they grow larger and then supply them.

(14) So that another must be supplied.

Talmud - Mas. Baba Metzia 64b

But that is near to profit [if it appreciates] and remote from loss.[1] — He replied: Since he accepts the risk of depreciation, it is near to both [profit and loss].

MISHNAH. IF A MAN LENDS [MONEY] TO HIS NEIGHBOUR, HE MUST NOT LIVE RENT-FREE IN HIS COURT, NOR AT A LOW RENT, BECAUSE THAT CONSTITUTES

USURY.

GEMARA. R. Joseph b. Minyomi said in R. Nahman's name: Though it has been ruled, if one dwells in his neighbour's court without his knowledge, he need not pay him rent, yet if he lent him [money] and then dwelt in his court, he must pay him rent. What does he teach us? We have [already] learnt: IF A MAN LENDS [MONEY] TO HIS NEIGHBOUR, HE MUST NOT LIVE RENT-FREE IN HIS COURT, NOR AT A LOW RENT, BECAUSE THAT CONSTITUTES USURY? — If from the Mishnah, I might have thought that that holds good only of a court which exists for letting, and a man [sc. the creditor] who generally rents. But if it is a court which is not for letting, and a person who does not generally rent,[2] I would say, It is not so:[3] therefore he teaches us [otherwise].

Others say: R. Joseph b. Minyomi said in R. Nahman's name: Though it has been ruled, If a man dwells in his neighbour's court without his knowledge, he is not bound to pay him rent, [yet if he proposes to him,] ‘Lend me money, and live in my court,’ he [the creditor] must pay rent. Now, he who rules, [Even] if he had [already] lent him, [he must pay rent], will certainly hold the same if he proposed, ‘Lend me [etc.].’ But he who rules, [if he says,] ‘Lend me,’ [he must pay him rent], will, in the case where he has already lent him, hold that it is unnecessary. Why so? Since he did not originally lend the money for this purpose, there is no objection to it.[4]

R. Joseph b. Hama seized the slaves of people who owed him money and put them to service. Said his son Raba to him: Why does the Master do thus? — He replied: I agree with R. Nahman. For R. Nahman said: A slave[‘s labour] is not worth the bread he eats.[5] Said he to him: perhaps R. Nahman said this only of such as his servant Daru, who went about dancing in taverns; but did he say this of other servants! — He replied: I am of the same opinion as R. Daniel son of R. Kattina, who said in Rab's name: If one seizes his neighbour's slave and puts him to service, he is free [from payment],

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(1) Since he is safeguarded if it turns sour. Such an arrangement is forbidden infra 70a.

(2) Because he has his own property (Rashi).

(3) He is not bound to pay the rent.

(4) I.e., having lived there, he is not bound to pay the rent. The Mishnah then which says that he must not live rent free means that no condition to that effect is permissible.

(5) Hence, having to provide them with food, I gain nothing by their labour, and receive no interest.

Talmud - Mas. Baba Metzia 65a

because he [the owner] is pleased that his slave does not become demoralized [through idleness]. But, he urged, that is only if one has no monetary claim upon him; since you, Sir, have a monetary claim upon them, it looks like usury. For R. Joseph b. Minyomi said in R. Nahman's name: Though it has been ruled, if one dwells in his neighbour's court without his knowledge, he is not bound to pay him rent; yet if he lent him [money] and then dwelt in his court, he must. He replied: Then I repent thereof.

Abaye said: If a man had a claim of usury upon his neighbour, and the market price of wheat was four grivas[1] a zuz, whilst he [the debtor] gave him five; when we reclaim it from him,[2] we only reclaim four, but as for the other, he merely favoured him with a cheap rate.[3] Raba said: We reclaim five, because from the very outset he acquired it all as interest.

Abaye also said: If a man had a claim of four zuz in interest upon his neighbour, and he gave him a garment for it, when we compel repayment, we make him repay four zuz, but not the garment.[4] Raba said: We compel him to return the garment. Why so? That people may not say, ‘The garment he wears is a garment of usury.’ Raba said: He who has a usury claim of twelve zuz upon his neighbour, and he [the debtor] rented him his court-yard, such as is generally let at ten zuz, for twelve; when we make him disgorge, we force him to repay twelve. R. Aha of Difti said to Rabina: But cannot he protest, ‘When I rented it thus [at such a high rent], it was because I profited thereby;[5] now, however, that I do not profit, just at [the same rate] as all rent it, so will I’?[6] — Because he [the debtor] can say to him, ‘You understood [its value] and accepted it [at twelve zuz].’

MISHNAH. RENT MAY BE INCREASED, BUT NOT THE PURCHASE PRICE. E.G., IF A MAN RENTS HIS COURT, AND SAYS TO HIM [THE TENANT], ‘IF YOU PAY ME NOW [FOR THE YEAR], YOU CAN HAVE IT FOR TEN SELA'S PER ANNUM; IF MONTHLY, AT A SELA’ PER MONTH — THAT IS PERMITTED. IF HE SELLS HIS FIELD, AND SAYS TO HIM [THE PURCHASER], ‘IF YOU PAY ME NOW, IT IS YOURS FOR A THOUSAND ZUZ; BUT IF AT HARVEST TIME, FOR TWELVE MANEHS’[7] — THAT IS FORBIDDEN.

GEMARA. What is the difference between the first clause and the second? — Rabbah and R. Joseph both said: Rent is payable at the end [of the year]; hence, since it is not yet time to claim, it is not payment for waiting,[8] but this [a sela’ per month] is its actual value; and as for his proposition, IF YOU PAY ME NOW [FOR THE YEAR], YOU CAN HAVE IT FOR TEN SELA’ PER ANNUM, he is favouring him with a cheaper rent [than normal]. But in the second clause, the reference is to purchase, where the money is immediately due; therefore [the higher price] is payment for waiting, which is forbidden. Raba said: The Rabbis scrutinised this ruling, and based it on Scripture: As the hiring of a year in a year,[9] [which intimates,] the hire of one year is not payable until the next.[10]

BUT IF AT HARVEST TIME, FOR TWELVE MANEHS — THAT IS FORBIDDEN. R. Nahman said: An increased credit price[11] is permitted. Rami b. Hama, others Say, R. ‘Ukba b. Hama, refuted R. Nahman: BUT IF AT HARVEST TIME, FOR TWELVE MANEHS — THAT IS FORBIDDEN? — He replied: There [the increase] was stipulated; here no stipulation is made. R. papa said: The increased credit price which I take is permitted.[12] Why? Because my beer will not deteriorate [if I keep it until Nisan], [and] I am in no need of money;[13] hence, I merely confer a benefit upon the purchaser [by letting him have it earlier]. But R. Shesheth the son of R. Idi said to R. papa: Why should you merely consider yourself? Consider them [the purchasers]: had they money, they would purchase at present prices; lacking it, they must buy it at the higher future prices.[14] R. Hama said: My increased credit price is certainly permitted.[15] Why? They are pleased that it shall remain in my ownership, so that wherever they go they are released from taxation and the market is held up for them.[16]

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(1) A dry measure. Jast. and J.E. XII, 488, identify it with a se'ah, on the strength of a passage in ‘Er. 14b.

(2) Direct interest can be reclaimed, infra 656.

(3) Hence, it is not part of the interest.

(4) The garment is regarded as a sale, and hence not returnable.

(5) Receiving it as interest due.

(6) I.e., only ten zuz should be reckoned for it.

(7) == 1200 zuz.

(8) I.e., the higher price for the monthly arrangement cannot be regarded as such, since the money is not yet due.

(9) Lev. XXV, 53.

(10) I.e., at the end of the year. This is a mere support, not the actual source of the law.

(11) Tarsha, lit., ‘deaf or silent usury’ (Jast.); i.e., selling goods on credit at more than cash price but without stipulating that the addition is on account of credit.

(12) R. Papa was a manufacturer of beer. He sold it in Tishri, when prices are low, to be paid for in Nisan at Nisan prices, which are higher.

(13) To have to sell it earlier — he was a wealthy man.

(14) So that it is usury from their point of view.

(15) R. Hama sold goods where they were cheap at the higher cost of some other place. The purchaser then conveyed the goods there at R. Hama's risk. Since R. Hama bore the risk, the goods were his until brought there, therefore they really sold his wares, and so he was entitled to the prices of that place.
(16) No one being permitted to sell until they had sold out, which was the scholar's privilege.

Talmud - Mas. Baba Metzia 65b

Now, the law is as R. Hama;[1] and the law is as R. Eleazar;[2] and the law is as R. Jannai, who said: What is the difference between them themselves [sc. the provisions] and the value thereof?[3]

MISHNAH. IF A MAN SOLD A FIELD, AND HE [THE BUYER] HAVING PAID PART OF THE PURCHASE PRICE, THE VENDOR PROPOSED, ‘WHENEVER YOU DESIRE, BRING ME THE BALANCE AND TAKE YOUR OWN’ [SC. THE FIELD], THAT IS FORBIDDEN.[4] IF HE LENT MONEY ON A FIELD AND SAID TO HIM [THE DEBTOR], ‘IF YOU DO NOT REPAY ME WITHIN THREE YEARS, IT [THE FIELD] IS MINE’ — IT BECOMES HIS; AND THUS DID BOETHUS B. ZUNIN DO, [ACTING] WITH THE APPROVAL OF THE SAGES.

GEMARA. Who enjoys the usufruct? — R. Huna said: The vendor; R. ‘Anan said: It is entrusted to a third party.[5] But there is no dispute: the former is the case if he stipulated, ‘When you bring it [the balance], [then] acquire it;’[6] the latter if he stipulated, ‘When you bring it, acquire it from now.’[7]

R. Safra learnt in the [collection of Baraithas on] usury of the School of R. Hiyya: Sometimes both [the vendor and the purchaser] are permitted [to enjoy the usufruct]; sometimes both are forbidden; sometimes the vendor is permitted and the purchaser forbidden; and sometimes the purchaser is permitted and the vendor forbidden.[8] Thereupon Raba explained: ‘Sometimes both are permitted,’ viz., if he stipulates, ‘Acquire [forthwith] in proportion to your deposit;’[9] ‘sometimes both are forbidden,’ if he stipulates, ‘When you bring it [the balance], let it be yours from now;[10] ‘sometimes the vendor is permitted but the purchaser forbidden,’ if he stipulates, ‘When you bring it, [then] acquire it;’ ‘and sometimes the purchaser is permitted and the vendor forbidden,’ if he states, ‘Let it be yours from now, and the balance be a loan [from me to you].’

Which Tanna holds that both are forbidden? — R. Huna the son of R. Joshua said: It does not agree with R. Judah; for were it in accordance with R. Judah — surely, he maintained that one-sided interest is permitted.[11]

If a man mortgages a house or a field, and he [the creditor] says to him, ‘Should you wish to sell it, you must let me have it at this price [less than its value],’ — that is forbidden: ‘at its real value,’ — that is permitted. Which Tanna maintains that [if he stipulates] ‘at this price,’ it is forbidden — R. Huna the son of R. Joshua said: It does not agree with R. Judah; for were it in accordance with him — surely he holds that one-sided interest is permitted.[12]

If he sells a house or a field, and says to the purchaser, ‘When I have money, resell it to me,’ — that is forbidden. [If the buyer says], ‘When you have money, I will resell it to you,’ — that is permitted.[13] With which Tanna does this agree? — R. Huna the son of R. Joshua said: Not with R. Judah; for if it agreed with him — surely he ruled that one-sided interest is permitted.[14] What is the difference between the first clause and the second? — Raba answered: In the second clause, he [the buyer] stipulated that it [the re-sale] should be voluntary.[15]

A man once sold an estate to his neighbour without surety.[16] Seeing that he [the purchaser] was disquieted, he said to him, ‘Why are you disquieted? Should it be seized from you [for a debt of mine], I will repay you out of the best of my estate, [even] for your improvements and the crops.’ Said Amemar:

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(1) With reference to this form of interest.
(2) Supra 61b, that direct interest is legally reclaimable.
(3) Supra 63a.
(4) Rashi: When the balance is paid, the field shall have belonged to the buyer from the time of purchase. Now, should the vendor take the usufruct, when the balance is paid, he has enjoyed that which really belonged to the purchaser, and it looks like interest on the balance, for which he waited. On the other hand, should the purchaser take its profits from the time of the deposit and never complete the transaction, the deposit being returned, he has thus received interest on it.
(5) Who retains them for one or the other, as the case may be.
(6) Hence in the meanwhile the profit is the vendor's.
(7) Therefore neither the vendor nor the purchaser can take the profit, and hence it is entrusted to a third party.
(8) Without stating the conditions of each.
(9) Then they share the profit on a pro rata basis.
(10) As explained on p. 384, n. 5.
(11) V. p. 384, n. 7. Here too, should the vendor take the usufruct and the sale remain uncompleted, there is no interest, and therefore on R. Judah's view, it is permitted.
(12) V. supra 63a. Here too, there is no certainty that the mortgagee will sell his field at all.
(13) The first is forbidden, as it looks like evasion of usury: the purchaser gives a sum of money to the vendor, in return for which he uses the field until the former repays him.
(14) V. supra 63a. Here too, it may be that the field will not be repurchased, in which case there is no interest.
(15) At the option of the buyer; therefore it is purely a business deal. But when the vendor stipulates that the buyer must re-sell, it is a disguised loan.
(16) V. supra 14a.

Talmud - Mas. Baba Metzia 66a

They are merely words of good cheer[1] R. Ashi said to him: Why so? [Is it] because the buyer should have stipulated, whilst here the vendor did so, and therefore you maintain that they were merely words of good cheer? But [what of] the Baraitha wherein it is taught: [If the purchaser says,] ‘When you have money, I will resell it to you,’ that is permitted? Now, surely [there too] though the vendor should have made this stipulation,[2] the vendor did not stipulate but the buyer; and yet when we asked,[3] What is the difference between the first clause and the second, Raba answered: In the second clause he [the purchaser] stipulates that it [the resale] should be voluntary, thus implying that if he does not stipulate that it should be voluntary [the transaction would be forbidden], and we do not assume that [his offer] was merely words of good cheer![4] — He replied: What was said was that it is accounted as though he had stipulated that it [the re-sale] should be voluntary.[5]

A certain sick man[6] wrote a get[7] for his wife.[8] He then groaned and sighed, whereupon she [his wife] said to him, ‘Why do you sigh? should you recover, I am yours.’ Said R. Zebid: These were mere words of consolation. R. Aha of Difti asked Rabina: And what if they were not mere words of consolation? Does it lie within her power to insert a condition in the get? Surely it rests only with him to give the get on a condition! — I might think, he himself meant to give the get in accordance with her desires.[9] Hence he teaches otherwise.[10]

IF HE LENT MONEY ON A FIELD. R. Huna said: [If he stipulated thus] when lending the money, it becomes completely his;[11] if after, he acquires [of the field] only in proportion to the money owing. R. Nahman said: [Even if the stipulation was made] after lending the money, it becomes completely his. Now, R. Nahman gave a practical decision at the Resh Galutha's [court][12] in accordance with his ruling. Rab Judah [however] tore up the document [embodying his decision]. Said the Resh Galutha to him: Rab Judah has torn up your document. He replied: Did then a child tear it up? It was a great man who tore it up. He must have seen some reason therein [to invalidate it], and hence tore it up. Others say: He [R. Nahman] replied: A child has torn it up, for in civil law everyone is a child compared to me.

Subsequently R. Nahman ruled: Even [if the stipulation was made] when the money was being handed over, he [the creditor] acquires no rights therein at all. Raba objected to R. Nahman: IF YOU DO NOT REPAY ME WITHIN THREE YEARS, IT [THE FIELD] IS MINE,' — IT BECOMES HIS! — He replied: I used to rule that an asmakta[13] is binding, but Minyomi ruled that it is not.[14] But [then] according to Minyomi, is not our Mishnah difficult? — If you wish, I can answer that the Mishnah agrees with R. Jose, who ruled that an asmakta is legally valid;

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(1) I.e., to tranquillise the buyer, but not seriously meant, and therefore of no legal consequence.

(2) The attachment to one's soil is very strong, and when a man sells his estate through financial exigencies, it may be assumed that he would like the option of repurchasing.

(3) Supra.

(4) But binding, though it is to the purchaser's disadvantage.

(5) Since it is a stipulation which would come most naturally from the vendor, whereas it was actually made by the purchaser, its voluntary character is inherent. On this interpretation Raba's dictum supports Amemar.

(6) שכיב מרע , a man expecting to die.

(7) v. Glos.

(8) He was childless, and the divorce was to free her from the tie of his brother (v. Deut. XXV 5ff), but he did not stipulate that it should be valid only if he died.

(9) Therefore the stipulation should be regarded as his, and so valid.

(10) That her words were not meant to be binding at all.

(11) If the loan is not repaid.

(12) Resh Galutha, exilarch, was the official title of the head of Babylonian Jewry, whose son-in-law R. Nahman was.

(13) V. Glos.

(14) And he persuaded me to his ruling.

Talmud - Mas. Baba Metzia 66b

alternatively, it means that he said to him: 'Let it be yours from now.'[1]

Mar Yanuka and Mar Kashisha, the sons of R. Hisda,[2] said to R. Ashi: Thus did the Nehardeans say in R. Nahman's name: An asmakta, in its time, is binding; out of its time, it is not binding.[3] Said he to them: Every agreement [not merely an asmakta] is binding only when it matures, but not otherwise! perhaps you mean thus: If he [the debtor] meets him [the creditor] within the period [of repayment] and says to him, 'Take possession,'[4] he acquires it; if after the time [fixed for repayment] and he says to him, 'Take possession,' he does not acquire it. Why? He spoke thus [merely] through shame.[5] Yet that is incorrect:[6] even if within the period, he obtains no legal right, and as for his saying, 'Take possession,' he intends [thereby] that when the time comes he shall not trouble him.[7]

R. papa said: An asmakta is sometimes legally binding and sometimes not. If he [the creditor] found him [the debtor] drinking beer [at the expiration of the period], it is binding; if he was endeavouring to procure money, it is not binding.[8] R. Aha of Difti said to Rabina: perhaps he was drinking to drown his anxiety, or else someone had assured him of the money? But, said Rabina, if he insists on its full value, it [his offer to the creditor to take the field] is certainly valid.[9] Said R. Aha of Difti to Rabina: perhaps that is due to fear lest his land lose its worth?[10] But, said R. Papa, if he is particular about his land, it [his offer to the creditor] is certainly binding.[11]

R. Papa also said: Although the Rabbis ruled that an asmakta gives no legal title, yet it creates a mortgage from which payment may be exacted.[12] Said R. Huna the son of Nathan to R. Papa: Did he then say to him, 'Let it be yours for the exaction of your debt'? Mar Zutra, the son of R. Mari, objected before Rabina: But even if he had said, 'Let it be yours for the exaction of your debt' — has he a legal title? After all, it is an asmakta, and an asmakta is not binding. But when did R. Papa rule that it creates a mortgage? — If he stipulated, ‘You shall receive payment only out of this.’[13]

A man once sold land to his neighbour with security. Said he [the purchaser] to him, ‘Should this be seized from me, will you repay me out of your "very best"?’ — He replied, ‘I will not repay you out of the "very best", as I want them for myself, but out of other "best" which I possess.’[14] Subsequently it was seized from him. Then there came an inundation and swamped the very best [land]. R. Papa thought to rule: He promised him of ‘the best’, which is intact. Said R. Aha of Difti to him: But he [the vendor] can plead, ‘When I promised to repay you from the "best", the very best" was existent; but now the "best" has replaced the "very best".’[15]

Rab b. Shaba owed money to R. Kahana. ‘If I do not repay you by a certain date’, said he to him, ‘you may exact your debt out of this wine.’[16] Now, R. papa thought to argue, Where do we rule that an asmakta is not binding, only in respect of land, which is not for sale;[17] but as for wine, since its purpose is to be sold, it is just the same as money. But R. Huna, the son of R. Joshua, said to R. Papa: Thus is it stated in Rabbah's name: No ‘if’ is binding.[18]

R. Nahman said: Now that the Rabbis have ruled, An asmakta gives no claim, both the land and its produce are returnable.[19] Shall we say that R. Nahman holds that renunciation in error is invalid?[20] Surely it has been stated: If one sells his neighbour the fruit of a palm tree — R. Huna said: As long as it is non-existent [the fruit not having grown yet], he can retract;[21] but when it is [already] come into existence, he cannot. R. Nahman said: Even when it has come into existence, he can retract. Yet R. Nahman said: I admit that if he [the purchaser] snatched and consumed it, he [the vendor] has no claim upon him![22] — There it is a sale; here it is a loan.[23]

Raba said:

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(1) In which case it is not an asmakta at all. For the money is given as the purchase price, not as a loan, save that the vendor has the option of repurchase.

(2) Yanuka is derived from a root meaning youth, Kashisha, age. Accordingly, Rashi in Keth. 89b says that Mar Yanuka was the younger, and Mar Kashisha the older. Tosaf. in B.B. 7b, s.v. מר ינוקא , reverses it: Mar Yanuka means a son born in R. Hisda's youth, Mar Kashisha, in his old age.

(3) R. Ashi assumed this to mean: when the obligation matures, it is binding, and the creditor can foreclose; but not before.

(4) I.e., I have no intention of redeeming it when the time comes.

(5) At not having repaid the loan, yet was not in earnest; therefore it is an asmakta and non-binding.

(6) Granted that this is your meaning, the ruling is incorrect.

(7) By demanding repayment.

(8) If repayment was due, and the debtor told him to take the field, at the same time engaging in frivolous pursuits, it is evident that he does not care about it and is in earnest. But if he was attempting to find the money, he was obviously anxious to retain his estate, and therefore his offer was not really meant and is not binding.

(9) Rashi: if when selling some of his articles he insists on obtaining their full value, he is not anxious for the field, as otherwise he would sell for less and repay. Tosaf:. If, when he borrowed, he was mindful of borrowing to the full value of the field, he must have borne in mind the possibility of nonredemption, and therefore means the creditor to have it now.

(10) If he were seen selling articles (on Rashi's interpretation) or mortgaging a field (Tosaf.) at less than their value, his financial straits would be known, with the result that his property would drop in price. Yet he really may wish to retain the field

(11) Rashi: if he is particular not to sell any land, even for its full value, he is obviously not anxious to retain the mortgaged estate, as otherwise he would have sold off some other field. (Presumably this assumption is made because he could not have obtained on a mortgage the same money as by a sale in the open market) Tosaf.: If, when borrowing, he was insistent that the mortgage should be on that particular field, he evidently anticipated the possibility of non-redemption, and was reconciled to it.

(12) I.e., though the creditor cannot seize the whole field, which is probably worth more than the debt, he can claim payment from that particular field, and refuse to be fobbed off with another.

(13) Since he assigned the field for repayment in all circumstances, it is no longer asmakta as far as the amount of the debt is concerned.

(14) ‘Very best’, עידי עידית , and ‘best’, עידית , denote two grades of soil.

(15) So that he must be indemnified out of medium quality soil.

(16) And a valuation was made, but it subsequently appreciated.

(17) V. p. 386, n. 6; therefore the offer to give land is not genuine.

(18) A stipulation, ‘"if" I do not repay, take so and so,’ is not binding.

(19) The reference is to the case stated in the Mishnah on 65b. If the creditor after three years returns the field and enjoys the usufruct, he must return both. [Maim. Yad., Laweh. VI, 4, and Alfasi, include in the return also the usufruct enjoyed by the creditor during the three years.]

(20) The debtor, in permitting the creditor to possess its usufruct, has obviously renounced his own rights; but erroneously, not knowing that the creditor's title is invalid, and R. Nahman rules that the produce is returnable.

(21) Because one cannot give possession of that which is non-existent.

(22) Though the vendor permitted him only because he was unaware that he could retract, hence in error; thus proving that an erroneous renunciation is valid.

(23) And in a loan it looks like interest.

Talmud - Mas. Baba Metzia 67a

I was sitting before R. Nahman,[1] and wished to refute him from the law of ‘overreaching’;[2] but observing [my intentions] he drew my attention to the case of a barren woman.[3] [Raba proceeds to explain.] Now ‘overreaching’, being as it is [the result] of renunciation in error,[4] [we find that it] is not a [legal] renunciation! ‘But observing [my intention], he drew my attention to a barren woman,’ for a barren woman [makes] renunciation in error, and yet it is valid. For we learnt:[5] An objecting woman,[6] a consanguineous relation in the second degree,[7] and a constitutionally barren woman can claim no kethubah,[8] usufruct,[9] alimony,[10] or worn out raiment.[11] But it is not so: neither [the law of] ‘overreaching’ refutes him, nor [that of] a ‘barren woman’ supports him. [Thus: the law of] overreaching does not refute him, for he [the victim did not know that he was defrauded at all, that he should forego it.[12] Nor does [the law of] a ‘barren woman’ support him, because she is satisfied to be designated a married woman.[13]

A woman once instructed a man, ‘Go and buy me land from my relatives,’ and he went and did so. Said he [the vendor] to him [her agent], ‘If I have money, will she return it to me?’ ‘You and Nawla,’[14] he replied, ‘are relatives.’[15] Rabbah son of R. Huna said: Whenever one says, ‘You and Nawla are relatives,’ he [the vendor] relies upon it, and does not completely transfer it [the object of sale].[16] Now, the land is [certainly] returnable; but what of the crops?[17] Is it as direct usury, which can be legally reclaimed;[18] or perhaps it is only indirect[19] usury, and cannot be reclaimed? — Rabbah b. Rab said: It stands to reason that it is considered indirect usury and cannot be reclaimed in court. And thus did Raba say, It is considered indirect usury and cannot be reclaimed in court.

Abaye inquired of Rabbah: What of a mortgage?[20] Is the reason there [in the previous case] that he made no stipulation? Then here too there was no stipulation![21] Or, perhaps, there it is a sale, but here a loan? — He replied: The reason there is that no stipulation was made; so here too there was no stipulation. R. papi said: Rabina gave a practical decision, calculated [the value of] the crops, and ordered it to be returned, thus disagreeing with Rabbah son of R. Huna.

Mar,[22] the son of R. Joseph, said in Raba's name: With reference to a mortgage: Where it is customary to make [the creditor] quit [whenever the loan is repaid],[23] if he took the usufruct to the amount of the loan, he must quit it;[24] but if in excess thereof, [the surplus] is not returnable;[25] nor is one loan[26] balanced against another.[27] But when it [the mortgaged estate] belongs to orphans, if he [the creditor] enjoyed its usufruct to the amount of the loan, he must quit it; if it [the usufruct] exceeded it, [the surplus] is returnable, and one loan is balanced against another. R. Ashi said: Now that you rule, If the usufruct exceeded the loan, [the balance] is not returnable; then even if it [merely] equalled it, he must not be dismissed without payment. Why? Because to dismiss him without payment is tantamount to making him return [what he has already had]; whereas it is only indirect interest, which is not reclaimable at law. R. Ashi gave a practical decision in reference to orphans [minors],

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(1) When be said, ‘I admit that if he removed, etc.’

(2) Supra 51a: though given voluntarily, and hence an erroneous abandonment, it is nevertheless returnable.

(3) איילונית , a woman constitutionally incapable of child-birth.

(4) Since the money fraudently taken is given under the mistaken impression that it is due.

(5) Keth. 100b.

(6) ממאנת , lit., ‘a woman who refuses’. If a girl, a minor, was married by her mother or elder brothers, who by Rabbinical law were empowered to marry her, on attaining her majority she could annul the marriage merely by objecting to it.

(7) Lit., ‘a second’. E.g., the Bible interdicts marriage with one's mother; the Rabbis add, one's grandmother; this is called forbidden relationship in the second degree.

(8) V. Glos.

(9) The Rabbis enacted that the usufruct of the wife's melog property (v. Glos.) belongs to the husband, in return for which he must ransom her, should she ever be taken captive. These are not entitled to this consideration, and yet if divorced cannot demand repayment of the usufruct seized by the husband.

(10) The conditions depriving maintenance rights, in respect of an objector, are stated in Keth. 107b thus: If she borrows money in the husband's absence for her maintenance, and then, on his return, she objects, her creditor cannot obtain repayment from him. Tosaf. here states that similar conditions apply to the constitutionally barren woman, her borrowings having been made before she was certified as such. With respect to a ‘secondary relation’, Tosaf. maintains that the reference is to her widowhood; after her husband's death, she cannot demand maintenance from his estate.

(11) If raiment formed part of the dowry she brought her husband, and it became worn out, so that it is no longer in existence, she cannot claim payment for it (Tosaf.). Rashi: She cannot demand even her worn out raiment which is still fit for some use. Now, with respect to a barren woman, though her renunciation of ownership rights in her dowry in favour of her husband was in error, for when marrying him, she did not foresee that she would prove incapable of childbirth, that renunciation is valid, and she cannot demand their return.

(12) So that there is no renunciation at all, even in error, and therefore it must be returned.

(13) And in return for that she knowingly, not in error, brings in a dowry to her husband, even if she should have to forfeit it eventually.

(14) [A proper noun; others: ‘and so-and-so,’ ‘and she’.]

(15) She will certainly permit you to repurchase the land when you are able.

(16) Hence the sale is conditional, and the field can always be redeemed.

(17) Raised after the sale.

(18) Since such a sale is really a loan (v. Mishnah on 65b), the crops which the purchaser enjoys are in the nature of direct interest.

(19) V. supra, 61b.

(20) If a field was mortgaged and no stipulation made about its crops, and the creditor took them.

(21) Hence it is not returnable.

(22) Var. lec.: Raba.

(23) And until then, he is in possession and enjoys its usufruct.

(24) I.e., if the debtor makes the claim, the usufruct is counted as repayment, and the creditor has no further title.

(25) Because it is not direct interest.

(26) Lit., ‘bond.’

(27) I.e., if the debtor owes him more money on another bond, the excess cannot be deducted from it.

Talmud - Mas. Baba Metzia 67b

just as though they were adults.[1]

Raba, the son of R. Joseph, said in Raba's name: With reference to a mortgage, where it is the usage to make [the creditor] quit [whenever] the loan is repaid],[2] one must not enjoy the usufruct without making a [fixed annual] deduction.[3] But a scholar must not enjoy the usufruct even at a [fixed] allowance. How else shall he take them? — By a stipulated time limit.[4] Now, this is well on the view that a stipulated time limit is permitted; but on the view that it is forbidden, what can you say? For it has been stated: As for a stipulated time limit, R. Aha and Rabina differ therein: one maintained that it is permitted — the other that it is forbidden. What is meant by a ‘stipulated time limit’? — If he [the creditor said], ‘For the first five years, the usufruct is mine without deduction; thereafter, I will make you a full allowance for the crops.’ Others maintain: Any arrangement involving no deduction is forbidden. What then is meant by a ‘stipulated time limit’? — If he [the creditor] said to him, ‘For the first five years the usufruct is mine at a [fixed] deduction;[5] thereafter, I will make you a full allowance for the crops.’ Now, he who forbids the first arrangement will permit the second; but he who forbids [even] the second, on what condition may he [a scholar] have the usufruct? — When it is as the mortgage bonds arranged in Sura, in which it was written, ‘On the expiry of a certain number of years this estate reverts [to the debtor] without any payment.[6]

R. Papa and R. Huna, the sons of R. Joshua, said: As for a mortgage, where it is the practice to make [the creditor] quit [whenever the loan is repaid], the [creditor's] creditor cannot exact his debt from it,[7] the first-born receives no double portion therein,[8] and the seventh year cancels it [the privilege of usufruct].[9] But where the creditor is not obliged to give up possession [whenever the loan is repaid], his creditor can exact his debt from it, the first-born receives a double portion, and the seventh year does not cancel it.[10]

Mar Zutra also said in R. Papa's name: With reference to mortgaged property, where it is the usage to make [the creditor] quit, he must give up possession [absolutely], even of the dates on the mattings;[11] but if he has already picked them up [and placed them] in baskets, they are his.[12] But on the view that the purchaser's utensils effect ownership for him even in the domain of the vendor,[13] even if they have not been gathered into baskets, they are his.[14]

Now, it is obvious, where the usage is that the creditor must quit, but he stipulated [when making the loan], ‘I will not quit it [before a certain time]’ — then surely he has so stipulated [and it is binding]. But what if he promised to quit [immediately on repayment] where the usage does not compel him to go: is it necessary to submit him to a binding act[15] or not?[16] — R. Papa said: It is unnecessary; R. Shesheth the son of R. Idi ruled: It is necessary. And the law is that he must perform a binding act.

Now, if he [the debtor] states, ‘I am about to bring you the money,’[17] he [the creditor] may not take the usufruct [in the meanwhile].[18] [Where he however states] ‘I will go, make earnest effort [to obtain it], and bring the money’ — Rabina ruled: He may take the usufruct; Mar Zutra, the son of R. Mari, said: He may not. And the law is that he may not take the usufruct.

R. Kahana, R. Papa and R. Ashi did not take usufruct with deduction; Rabina did. Mar Zutra said: What is the reason of him who takes it with deduction? — Because it is analogous to ‘a field of possession’;[19] with respect to this, did not the Divine Law order, even though there may be greater usufruct therefrom,

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(1) And did not allow the dismissal of the creditors without payment in spite of the discrimination above in their favour.

(2) V. supra n. 2.

(3) For every year of possession the creditor must allow a fixed deduction from the debt, even if the usufruct in a particular year amounts to less. This removes it from the category of loans and turns it into a temporary sale, so that even when the usufruct exceeds the allowance it is not interest.

(4) This is explained below.

(5) Less than the average value of the crops.

(6) Converting it into a sale.

(7) If the creditor dies, and the usufruct of the estate passes on to his children, his creditor cannot demand repayment out of the usufruct of the field. For since it must be returned whenever the loan is repaid, the heirs have no possible title to the land itself, but to its usufruct, which, regarded as movable property, cannot be distrained upon from the heirs for debt.

(8) On the view that a first-born receives no double portion of debts (v. B.B. 124b), and since the creditor may have to quit the land at any moment, this is merely a debt.

(9) Like any other loan on a written bond. Though a loan against a pledge consisting of movable property is not cancelled by the seventh year, this is not regarded as such.

(10) For in these circumstances he is regarded as having bought the land for the period arranged.

(11) Spread on the ground to receive the dates falling 'at gleaning'. He must quit immediately on receiving his money, and may take nothing whatsoever.

(12) For the 'lifting up' from the mats effects possession.

(13) V. B.B. 85a and b.

(14) Because the mats spread by the creditor are his utensils, and the dates falling upon them, become his.

(15) I.e., that he shall perform a symbolical act(kinyan q.v. Glos.) to bind him to his undertaking.

(16) Since usage is otherwise, his mere word may not be binding.

(17) Where usage forced the creditor to quit immediately.

(18) Since the debtor has the money ready, it is accounted as though he had already repaid him.

(19) שדה אחוזה , Lev. XXVII, 16-18: if one sanctified 'a field of his inheritance' from the year of jubilee, it was to be redeemed at a fixed price, as stated; and if he sanctified it some years after the jubilee, the redemption price was proportionate to the number of years left until the next jubilee.

Talmud - Mas. Baba Metzia 68a

that it should be redeemed at four zuz?[1] So here too, it is in no way different.[2] But he who holds it forbidden argues thus: 'a field of possession' is a matter of sanctification, which the Divine Law based upon [a fixed] redemption;[3] here, however, it is a loan, and so it looks like interest.

R. Ashi said: The elders of the town Mehasia told me that an unconditional mortgage[4] is for a year. What is the practical outcome [of this fact]? That, if he [the creditor] has enjoyed the usufruct for a year he can be forced to quit, but not otherwise.

R. Ashi also said: The elders of the town of Mehasia told me, What is the meaning of mashkanta [a pledge]? That it abides with him [the mortagee].[5] In respect to what has this a practical bearing? — In respect to [the right of] pre-emption.[6]

Raba said: The law permits neither the credit interests of R. papa, nor the bonds of the Mahuzeans, nor the Narshean tenancies. The credit interests of R. Papa means the credit sales arranged by R. Papa.[7] 'The bonds of the Mahuzeans' they add the [estimated] profit to the principal and record it [the whole] in a bond;[8] for who knows that there will be profit?[9] Mar, the son of Amemar, said to R. Ashi: My father does so, but when they [his agents] come before him [and declare that they have earned no profit], he believes them. He replied: That is well whilst he is alive: but what if he dies and the notes are transferred to his heirs?[10] (This [supposition] was 'an unwitting order which proceedeth from the ruler',[11] and Amemar died.)

'Narshean tenancies': — for they wrote thus: A mortgaged his field to B, and then he [the debtor] rented it from him.[12] But when did he [the creditor] acquire it, to transfer it to the debtor?[13] Nowadays, however, that the note is drawn up thus: He [the creditor] hath acquired it from him, hath been in possession such and such a time,[14] and then re-rented it to him, so as not to shut the door in the borrowers' faces;[15] it is well. But, still this is no justification.[16]

MISHNAH. A MAN MAY NOT COMMISSION A TRADESMAN ON A HALF PROFIT BASIS,[17] NOR ADVANCE MONEY FOR PROVISIONS [TO BE SOLD] ON HALF PROFITS, UNLESS HE PAYS HIM A WAGE AS A WORKER. FOWLS MAY NOT BE SET TO BROOD ON HALF PROFITS,[18] NOR MAY CALVES OR FOALS BE ASSESSED THUS,[19] UNLESS HE PAYS HIM FOR HIS LABOUR AND FOODSTUFFS. BUT CALVES AND FOALS MAY BE ACCEPTED [WITHOUT ASSESSING THEIR VALUE AT ALL] ON HALF PROFITS;[20] AND THEY ARE BRED UNTIL A THIRD GROWN; WHILST AN ASS IS BRED UNTIL IT CAN BEAR BURDENS.[21] GEMARA. It has been taught: [Unless he is paid] as an unemployed worker.[22] What is meant by, 'as an unemployed worker'? —

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(1) That is the redemption price per annum of a field that requires a homer of barley seed. Shekel (Biblical)==sela'==4 zuz.

(2) I. e., the fixed deduction may be less than the average value of the crops.

(3) I.e., to sanctify an inherited field is equivalent to dedicating a certain sum fixed by Scripture.

(4) I.e., where no conditions were stipulated as to its length.

(5) משכנתא is derived from שכן , 'to abide.'

(6) When a person sells a field, the adjoining neighbour (of this field) has the first option to buy it.

(7) V. supra 65a.

(8) I.e., they supplied goods to their agents for sale on a profit-sharing basis, calculated their share, and then drew up a note against the agent for the entire amount.

(9) Hence they appear to be taking interest.

(10) They would simply see the debt, and might not believe the agents.

(11) Eccl. X, 5: such an order is nevertheless obeyed.

(12) At a fixed rental, paid in produce.

(13) Hence it is direct interest thinly disguised.

(14) Taking the usufruct at a fixed allowance on the debt.

(15) A proverbial expression. Unless the creditor received certain privileges, no man could ever borrow.

(16) Hence even this practice is forbidden.

(17) I.e., give him goods to sell in his shop and take half a share of the profits. Under this arrangement the retailer generally accepted complete responsibility for half the stock, and even if it depreciated, rendered payment in full. Consequently, the half is a loan, since its owner takes no risk whatsoever therein, and the labour of selling the second half for the owner's benefit is interest on the first, and hence forbidden. V. infra 104b.

(18) I.e., one may not give eggs to a fowl keeper for hatching, the latter to receive half the profits, but on the other hand, take full responsibility for half the eggs.

(19) As before, one may not commission a farmer to breed them, to receive half the profits, whilst bearing full responsibility for the present value of half the stock.

(20) No value was attached to them at all, but when grown, the breeder received half their worth for his labour. On the other hand, when they perished, he bore no responsibility: consequently it did not come within the category of a loan.

(21) It was customary to breed them to that stage before the profits were shared.

(22) Referring to the Mishnah.

Talmud - Mas. Baba Metzia 68b

Abaye said: As a labourer unemployed in his craft.[1] Now they [the first two clauses of the Mishnah] are [both] necessary. For if the case of a tradesman were taught, I would think that only a storekeeper is it sufficient to pay as an unemployed worker, seeing that his efforts are not great;[2] but [when one is advanced] money for buying provisions, his toil being great,[3] I would think it insufficient to pay him [merely] as an unemployed artisan. Whilst if [the case of advancing] money to buy provisions were taught, I would think that only there must he be paid as an unemployed worker, since much work is involved; but for a shopkeeper, who makes very little effort, I would think a mere trifle sufficient, e.g., even if he just dipped [his bread] into his vinegar, or ate a dried fig of his, it is enough. Therefore both are necessary.

(Mnemonic:[4] How much are goats and fowls assessed?) Our Rabbis taught: How much must he be paid?[5] Whether much or little [it matters not]: this is R. Meir's view. R. Judah said: Even if he merely dipped [his bread] into his vinegar, or joined him in a dried fig, that is his pay. R. Simeon b. Yohai said: He must remunerate him in full.

Our Rabbis taught: Neither goats, sheep, nor anything which does not toil for its food[6] may be assessed on halfprofits.[7] R. Jose, son of R. Judah, said: Goats may be assessed, because they yield milk; and sheep, because they yield wool by being shorn, by passing through water[8] and by being plucked;[9] and fowls, because they lay [eggs] for their food. But [what of] the first Tanna: are the shearings and milk insufficient to pay for his labour and food?[10] — As for the shearings and milk, all agree [that they are adequate]. The conflict refers to whey and wool refuse:[11] the first Tanna is of R. Simeon b. Yohai's opinion, who maintained that he must remunerate him in full;[12] whilst R. Jose son of R. Judah agrees with his father, who ruled that even if he merely dipped [his bread] into his vinegar, or joined him in a dried fig, that is adequate payment.

Our Rabbis taught: A woman may hire a fowl to her neighbour in return for two fledglings.[13] If a woman proposes to her neighbour, ‘I have a fowl, and you have eggs: let us equally share the fledglings,’[14] — R. Judah permits, whilst R. Simeon forbids it. But [what of] R. Judah: does he not require payment to be made for labour and food? — There are the addled eggs.[15]

Our Rabbis taught: Where it is the usage to make a payment for shouldering beasts,[16] such payment may be made, and general custom must not be abrogated. R. Simeon b. Gamaliel said: A calf may be assessed with its mother, and a foal with its mother, and even where it is customary to make a monetary payment for shouldering.[17] But R. Simeon b. Gamaliel! Does he not require payment for his labour and food?[18] — There is the dung.[19] But the other?[20] — The ownership of dung is renounced.[21]

R. Nahman said: The halachah is as R. Judah; the halachah is as R. Jose son of R. Judah; and the halachah is as R. Simeon b. Gamaliel.

A bond was issued against the children of R. ‘Ilish, stipulating half profits and half loss.[22] Said Raba: R. ‘Ilish was a great man, and he would not have fed [another person] with forbidden food.[23] It must be taken to mean:[24] either half profit and two thirds loss;

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(1) E.g., if he was originally a carpenter, who works very hard, and accepted a commission to sell provisions instead on half profits, he must be paid in addition as much as the average man would demand for changing over from strenuous labour to work of a lighter nature.

(2) The goods being given him.

(3) As in addition to selling he has the work of buying too.

(4) A few words or letters, each being the catchword of a subject, strung together and generally forming a simple phrase, as an aid to the memory.

(5) Referring to the Mishnah.

(6) Lit, ‘and eats’.

(7) I.e., on an arrangement such as is forbidden in the Mishnah; v. p. 397, n. 6. But if it toils for its food, e.g., an ox that ploughs or an ass that bears burdens, the breeder has the profit of its work in return for its food and his own labour, and therefore it does not fall under the ban of usury.

(8) Subjected to a vigorous washing, which removed their wool; v. Hul. 137a.
(9) In passing through bushes, etc. (Jast.)
(10) Surely not!
(11) [Where the breeder is allowed only these.]
(12) Hence whey and wool refuse are insufficient.
(13) I.e., she may receive the eggs from her neighbour, set her own fowl to brood upon them, and receive two fledglings for her trouble.
(14) [In this case, the owner of the fowl, while assuming full responsibility for half the eggs, receives no extra compensation for her trouble.]
(15) These cannot be hatched, and the egg-owner receives them in return for her labour. This, of course, is very little, but R. Judah has already stated above that even the smallest payment is sufficient. — Addled eggs may be eaten, and hence are of some slight value.
(16) I.e., where calves and foals are given to breed at half profits, but the breeder is paid for having to carry them on his shoulder whilst they are very small.
(17) If both the mother and the young are given to breed on a profit sharing basis, the profit which the breeder receives from the work of the mother is adequate compensation for both, and no further payment is necessary.
(18) The objection is raised on the hypothesis that unless the breeder receives some separate payment for the young, the arrangement amounts to usury; v. p. Mishnah 68a.
(19) Which has a monetary value.
(20) The first Tanna, who insists upon payment.
(21) The owner does not want it in any case, and so it constitutes no payment.
(22) I.e., a bond whereby R. ‘Ilish had undertaken to trade on these terms: this arrangement is forbidden as usury; v. infra 104b.
(23) He would not have made an arrangement whereby another should enjoy the illegitimate profits of usury.
(24) Lit., ‘whatever be your opinion.’

Talmud - Mas. Baba Metzia 69a

or half loss and two thirds profit.[1] R. Kahana said: I repeated this ruling before R. Zebid of Nehardea, whereupon he suggested to me: But perhaps R. ‘Ilish had dipped his bread into his vinegar, and R. Nahman has ruled, The halachah is as R. Judah?[2] — He replied: It was not stated that such is the halachah, but that [all three proceed on the same] principle. That is logical too; for should you not agree thereto, why enumerate the halachah [of every case]? He should have stated, The halachah is as R. Judah, who is the most lenient of all.[3]

Rab said: [If one stipulates, ‘Receive] the excess above a third as your remuneration,’ it is permitted.[4] But Samuel said: And if there was no excess above a third, shall he go home empty handed?[5] Hence, said Samuel, he must stipulate a denar [for his labour]. Now, is it Rab's opinion that a denar need not be fixed? But Rab said: The calf's head is the breeder's.[6] Surely that means that he said to him, ‘Receive the excess above a third as your payment’?[7] — No. It means that he said to him,[8] ‘Either the excess above a third, or the calf's head for the breeder.’[9] Alternatively, when did Rab rule that [a stipulation], ‘Receive the excess above a third as your payment,’ is permitted, when he [the breeder] has a cow of his own, for people say, ‘It is the same whether one mixes fodder for an ox or for oxen.[10]

R. Eleazar of Hagrunia[11] bought a cow and gave it to his aris.[12] The latter fattened it, and received the head in payment and also half the profit.[13] Said his [the aris's] wife to him, ‘Had you been in partnership with him, he would have given you the tail too [as your share].’ So he went and bought [a cow] in partnership with him, but he [R. Eleazar] divided the tail, and then said: ‘Come, let us divide the head too.’ ‘What! Shall I not receive even as much as before?’ exclaimed he. ‘Until now’, he [R. Eleazar] replied, ‘the money was [altogether] mine; had I not given you a little more [than half], It would have looked like usury. Now, however, we are partners: what will you plead? I have worked rather more? But people say ‘The average aris binds himself to the landowner to find him pasture.’[14]

Our Rabbis taught: If one entrusts his neighbour with cattle on a valuation,[15] how long is he bound to attend thereto? Symmachus said: In the case of asses, eighteen months; small cattle,[16] twenty-four months. Should he wish to divide [the profits] within this period, his partner can prevent it, but the attention of the first year cannot be compared with that of the second.[17] Why say ‘but’?[18] — Therefore [say thus]: Because the attention necessary in the first year cannot be compared with that of the second.[19]

Another [Baraitha] taught: If one entrusts his neighbour with cattle on valuation, how long is he bound to attend to the young?[20] In the case of small cattle, thirty days; large cattle, fifty days. R. Jose said: In the case of small cattle, three months, because they need much attention. How [do they need] much attention? Because their teeth are very small.[21] Thereafter, he [the breeder] receives his own half [of the young] and a half of his neighbour's half.[22] R. Menashia b. Gada took his own half and half of his partner's half. Then he came before Abaye. Said he to him: Who divided for you?[23] Moreover, the local usage here is to breed [until fully grown], and we learnt: Where it is the usage to breed, they [the young] must be fully bred.[24]

Two Cutheans[25] entered on a share partnership.[26] Then one went and divided the money without his partner's knowledge. So they came before R. Papa.[27] Said he to him [the plaintiff]: What difference does it make? Thus did R. Nahman rule: Monies are held to be already divided. The following year they bought wine in partnership. Thereupon the other arose and divided it without his partner's knowledge. Again they came before R. Papa. Said he to him: Who divided it for you? — I see, he replied, that you are biassed in my partner's favour.[28] Said R. Papa:

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(1) I.e., the man on whose behalf R. ‘Ilish had traded must be content with this arrangement, either to receive half the profits but to bear two-thirds of the loss, or if R. ‘Ilish were to stand half the loss, he must receive two-thirds of the profit. That interpretation had to be put upon the bond.

(2) That this is sufficient to remove a 50% profit and loss arrangement from the category of usury.

(3) Then the rest would have followed automatically. Hence, in fact, such small remuneration is inadequate, and therefore Raba was justified in his assumption.

(4) If one gives calves or foals to a breeder on a half profit half loss basis, which, as stated above, is forbidden, but adds that should it appreciate by more than a third of its present value, the excess belongs to the breeder, that constitutes payment, though such appreciation is uncertain.

(5) I.e., such a speculation does not obliterate the character of usury.

(6) If one accepts a calf for fattening on a fifty-fifty basis, he must receive its head in return for his labour, and the rest is shared.

(7) But as there was no excess, he must receive the calf's head instead, proving that Rab admits that the breeder must receive a definite payment that is independent of speculative appreciation.

(8) [MS.M. rightly omits ‘that he said to him.’]

(9) [MS.M. rightly omits ‘for the breeder.’]

(10) No additional labour is entailed, and therefore a speculative arrangement is permitted.

(11) [A suburb of Nehardea, Obermeyer, op. cit., p. 265ff.]

(12) V. Glos.

(13) The arrangement having been on a fifty-fifty basis of profit or loss.

(14) I.e., the slight additional work done by the aris is really an unexpressed part of his contract.

(15) For breeding. V. Mishnah 68a, and notes a.l.

(16) E.g., sheep, goats.

(17) Which involves greater expenditure in food.

(18) On the contrary, this states the reason.

(19) Therefore the owner can insist on his keeping it for two years.

(20) The young too are shared as part of the profit. Now, the breeder would naturally wish to divide immediately on birth, since he has no profit in the owner's half.
(21) And it is a tacit understanding that the breeder should attend to it until it needs only normal attention.
(22) The original arrangement to share in the profits extends to the increased value of the young which he must continue to look after as stated above, and he takes his own half complete, plus half the increased value of the owner's half.
(23) Who checked your assessment of the value of half a share?
(24) Hence he is only entitled to his own half, and no more.
(25) Samaritans.
(26) As in the case of breeding, one investing the money, and the other trading with it.
(27) This shews that though by this time Jews regarded them as Gentiles, they nevertheless submitted to Jewish jurisdiction.
(28) For last year you upheld his dividing without my knowledge, but now disallow mine without his.

Talmud - Mas. Baba Metzia 69b

In such a case[1] it is certainly necessary to inform him [of the grounds of my verdicts]: As for coins, would he take good coins and leave short-weight ones [for you]? But in the case of wine, everybody knows that some wine is sweet and some is not.[2]

The above text states: 'R. Nahman said: Monies are held to be already divided.' But that is only if they are all good or of full weight, but not if some are good, and others of full weight.[3]

R. Hama used to hire out a zuz for a peshita per day.[4] [As a result] his money evaporated.[5] Now he argued, [Wherein does it differ] from a spade?[6] But the analogy is false: the self-same spade is returned, and its depreciation is assessable; whereas the self-same coins are not returned, nor can their depreciation be estimated.[7]

Raba said: One may say to his neighbour, 'Take these four zuz and lend money to so-and-so,'[8] [because] the Torah forbade only usury which comes from the borrower to the lender. Raba also said: One may say to his neighbour, 'Here are four zuz, and persuade so-and-so to lend me money.' Why so? He merely receives a fee for his talking; just as Abba Mar, the son of R. Papa, used to take balls of wax from wax dealers, and then persuade his father to lend them money. But the Rabbis protested to R. papa: Your son enjoys usury. He replied: Such interest we may enjoy: the Torah forbade only interest that comes from the borrower [direct] to the lender; but here he receives a fee for his talking, which is permitted.

MISHNAH. ONE MAY ASSESS COWS, ASSES, AND ALL ANIMALS WHICH TOIL FOR THEIR FOOD ON HALF [PROFIT AND LOSS].[9] WHERE IT IS THE USAGE TO DIVIDE THE YOUNG IMMEDIATELY [ON BIRTH], THEY MUST DIVIDE; WHERE IT IS CUSTOMARY TO BREED THEM, THEY MUST BE BRED. R. SIMEON B. GAMALIEL SAID: A CALF MAY BE ASSESSED WITH ITS MOTHER, AND A FOAL WITH ITS MOTHER.[10] AND ONE MAY OFFER AN INCREASED LAND RENTAL WITHOUT FEAR OF USURY.[11]

GEMARA. Our Rabbis taught: One may offer an increased land rental without fear of usury. E.g., If one rents a field from his neighbour for ten kor annually, and proposes, 'Give me two hundred zuz to expend thereon [sc. in improving the land], and I will pay you twelve kor annually,' it is permitted. But an increased rental may not be offered for a shop or a ship.[12] R. Nahman said in the name of Rabbah b. Abbuhah: Sometimes an increased rental may be offered for a shop, [e.g., in consideration of a loan] for decorations; or for a ship, to build a sail-yard therein. For a shop, in return for decorations, that it may be attractive for customers and thus earn more profit; and for a ship, to build a sail-yard therein; for the more beautiful its sail-yard, the greater is the hire.[13]

As for a ship, Rab said: Both hire and loss [is permitted].[14] Said R. Kahana and R. Assi to Rab: If hire, no loss; if loss, no hire.[15] Thereupon Rab was silent [being unable to answer]. R. Shesheth observed: Why was Rab silent? Had he never heard what was taught: ‘Though it was ruled that one must not accept from an Israelite "iron flock" [investment with absolute immunity for the investor],[16] yet such may be accepted from heathens![17] It was, nevertheless, ruled that if one assesses a cow for his neighbour, and says to him, "Your cow is charged to me at thirty denarii,[18] and I will pay you a sela’ per month," — it is permitted, because he did not assess it as money.’ But did he not? — R. Shesheth said: He did not assess it as money whilst alive, but only in case of death.[19] R. papa said: The law is: For a ship, both hire and loss [is allowed],

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(1) That the litigant doubts my impartiality.

(2) Hence there can be no question of unfair division of money, as there may be in respect of wine.

(3) Some coins of particular mint were preferred to any others for current use; they were considered ‘good’; on the other hand, money-changers, who assessed them by weight, preferred those of full weight. Now, if all are ‘good’ or of full weight, one partner himself may make the division; but if some are ‘good’ and the others of full weight, they are not accounted as already divided, since some prefer the first and others the second.

(4) I.e., instead of calling it lending, he hired out money, as one hires any other commodity. [Such an arrangement was not without advantage to the borrower, as it exempted him, in the same way as any other hirer, from responsibility in case of an unpreventable accident befalling the money, v. infra 93b (cf. Tosaf.)].

(5) V. infra 71a; the penalty for usury is that one's wealth disappears.

(6) One may charge for hiring a spade; why not for hiring out money?

(7) Even if by chance the same coins should be returned.

(8) Though the lender thus receives interest.

(9) V. supra p. 398, n. 7.

(10) V. p. 399, n. 10.

(11) This is discussed in the Gemara.

(12) In consideration of a loan for stock. In the first case, the money is expended on the field itself and therefore it is the equivalent of renting a better field, and hence worth more, notwithstanding that the 200 zuz must be separately repaid. But here the capital value of the shop and ship is not increased; therefore the money advanced for stock is an ordinary loan, and the higher rental constitutes interest.

(13) In each case the money is expended in the shop or ship itself and therefore permitted.

(14) I.e., one may hire a ship at the lessee's risk in case it is damaged or sunk.

(15) I.e., the two together should be forbidden. For if the ship be assessed and the lessee accepts all responsibility, it is as though he had borrowed money to its value, and the rent is usury.

(16) צאן ברזל (V. B.B. Sonc. ed. p. 206, n. 3) I.e., one may not accept a business on a profit sharing basis, whilst guaranteeing the investor absolute safety of his money, like ‘iron sheep’, which cannot come to harm. For if the investor's money is secured, it is a loan, on which he receives half profit as interest.

(17) Because one may receive from or give interest to a heathen.

(18) Should it perish or come to harm.

(19) I.e., only if it perishes is he responsible for it; but should there be a price-drop whilst it is alive, the hirer is not responsible, and this saves it from being considered a loan. Hence in the case of the ship too, since the lessee is responsible only for shipwreck, but not for a drop in its market value, it is not an ordinary loan, and therefore a hiring fee is permissible.

Talmud - Mas. Baba Metzia 70a

and the practice of shipowners[1] is [to receive] the hire at the time of meshikah[2] and the [payment for] loss when it is shipwrecked. But does such a thing depend upon custom?[3] — The usage arose as the result of the Baraitha which was taught.[4]

R. ‘Anan said in Samuel's name: Orphan's money may be lent out at interest.[5] R. Nahman objected: Because they are orphans we are to feed them with forbidden food! Orphans who eat what is not rightfully theirs may follow their testator! Now tell me, said he, what actually transpired?[6] — He replied: A cauldron, belonging to the children of Mar ‘Ukba [who were orphans], was in Samuel's care, and he weighed it before hiring it out and weighed it when receiving it back, charging for its hire and for its loss of weight: but if a fee for hiring, there should be no charge for depreciation, and if a charge for depreciation, there should be no fee for hiring.[7] He replied: Such a transaction is permitted even to bearded men, since he [the owner] stands the loss of wear and tear, for the more the copper is burnt, the greater is its depreciation.[8]

Rabbah b. Shilah said in R. Hisdah's name — others state, Rabbah b. Joseph b. Hama said in R. Shesheth's name: Money belonging to orphans may be lent on terms that are near to profit and far from loss.[9]

Our Rabbis taught: [One who invests money on terms] near to profit but far from loss is a wicked man; near to loss but far from profit is a pious man; near to both or far from both — that is the arrangement of the man in the street.[10] Rabbah asked R. Joseph: What is done with orphan's money? — He replied: It is entrusted to Court, and paid out to them in instalments.[11] But surely the principal will disappear! he urged. What then would you do? he asked. — He replied: We seek out a man who possesses broken pieces of gold,[12] take the gold from him,[13] and entrust to him the orphan's money on terms that are near to profit and far from loss. But an object which bears an identification mark[14] cannot [be taken as a security][15] , lest it was [merely] entrusted to him, and its owner may come, state the mark [which proves his ownership] and take it away. R. Ashi demurred: That is well if you find a man who possesses broken gold; but if you do not, is the orphan's money to be frittered away? — But, said R. Ashi, we seek out a man whose property is secure,[16] who is trustworthy, obedient to the law of the Bible,[17] and will not suffer a ban of the Rabbis,[18] and the money is given to him in the presence of a Beth din.[19]

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(1) Lit., ‘the pitchers’, those who pitch their boats.

(2) V. Glos.

(3) It depends upon whether it is permissible or not, for were the latter the case, such usage would have to be abrogated.

(4) Supra 69b end.

(5) I.e., if they are minors.

(6) R. Nahman assumed that R. ‘Anan had not actually heard such a law from Samuel, but must have deduced it from some incident.

(7) V. p. 405, n. 2; the same reasoning applies here, and therefore he concluded that interest may be taken on orphan's money.

(8) Though the hirer pays for actual loss of weight, yet even the rest loses in value the more often it is placed upon the fire, and therefore the hiring fee is not interest.

(9) I.e., the orphans taking a share of the profit, but none of the loss. Though this is forbidden to adults as indirect interest, the Rabbis permitted it in the case of orphans who, being unable to earn money themselves, might soon be reduced to penury if not permitted to put out their money on advantageous terms.

(10) ‘Near to both’ — taking more than half the profit, and standing more than half the loss; ‘far from both’ — less than half the profit or loss.

(11) Lit., ‘coin by coin.’

(12) Then they are certainly his, for when money is given into the safe-keeping of others, only proper coins are given — i.e., a wealthy person is sought.

(13) [Omitted in some texts, v. Rashal and D.S.]

(14) I.e., any object which a person may claim as his own on the strength of identification marks.

(15) [Or, as proof of wealth.]

(16) I.e., whose ownership thereof is universally acknowledged.

(17) [MS.M. rightly omits ‘of the Bible’, there being no distinction between Rabbinic and Biblical law in regard to the obedience expected of a man to be entrusted with orphan's money.]

(18) Who will obey them rather than come under their ban.

(19) That he may be duly impressed with the solemnity of his obligations (Asheri).

Talmud - Mas. Baba Metzia 70b

MISHNAH. ONE MAY NOT ACCEPT FROM AN ISRAELITE AN ‘IRON FLOCK’ [INVESTMENT WITH COMPLETE IMMUNITY FOR THE INVESTOR], BECAUSE THAT IS USURY. BUT SUCH MAY BE ACCEPTED FROM HEATHENS.[1] AND ONE MAY BORROW FROM AND LEND TO THEM ON INTEREST. THE SAME APPLIES TO A RESIDENT ALIEN.[2] AN ISRAELITE MAY LEND A GENTILES MONEY [ON INTEREST] WITH THE KNOWLEDGE OF THE GENTILE, BUT NOT OF THE ISRAELITE.[3]

GEMARA. Shall we say that it stands under the ownership of the contractor?[4] But the following is opposed thereto: If one undertakes [to breed sheep] on ‘iron flock’ terms for a heathen,[5] the young are exempt from [the law of] firstlings![6] — Abaye answered: There is no difficulty; in the one case, he [the owner] accepted [the risk of] unpreventable accident and depreciation; in the other, he did not.[7] Said Raba to him: If the owner accepts the risk of depreciation and [unpreventable] accidents, do you designate it ‘iron flock’? Moreover, instead of the second clause teaching, BUT SUCH MAY BE ACCEPTED FROM GENTILES, let a distinction be drawn and taught in that [sc. the first clause] itself, [thus:] When does this hold good [that ‘iron flock’ may not be accepted from a Jew], only if he [the investor] does not bear the risk of unpreventable accidents or depreciation; but if the investor accepts these risks, it is permissible? — But, said Raba, in both cases [viz., as taught in our Mishnah and with reference to firstlings] he [the investor] does not accept the risk of accidental damage or depreciation; but with respect to the firstlings, this is the reason that the young are exempt thereof: since if he [the breeder] did not render the money,[8] the heathen would come and seize the cow [entrusted to the breeder in the first place], and should he not find the cow, seize the young, it is a case of ‘the hand of a heathen coming in the middle’,[9] and wherever that is so, there is exemption from the law of firstlings:

He that by usury and unjust gain increaseth his substance, he shall gather it for him that pitieth the poor.[10] Who is meant by, for him that pitieth the poor? — Rab said: e.g., King Shapur.[11] R. Nahman observed: Huna told me that [this verse] is needed to show that usury [taken] even from a heathen [leads to loss of one's wealth]. Raba objected to R. Nahman: Unto a stranger tashshik:[12] now, what is meant by ‘tashshik’: surely that ‘thou mayest receive usury’? — No: ‘thou mayest give usury.’[13] [What!] Cannot one do without?[14] — It is to exclude ‘thy brother,’ [to whom thou mayest] not [give usury].[15] As for thy brother, is it not explicitly stated, but unto thy brother thou shalt not give usury?[16] — [To intimate] that both a positive and negative injunction are violated.[17] He [further] raised an objection: ONE MAY BORROW FROM AND LEND MONEY TO THEM ON INTEREST, AND THE SAME APPLIES TO A RESIDENT ALIEN![18] — R. Hiyya, the son of R. Huna, said: This [permission] is granted only [up to]

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(1) V. p. 405, n. 3.

(2) Heb. גר תושב , one who, for the sake of acquiring citizenship in Palestine, renounced idolatry and undertook to observe the Seven Noachian laws, the laws binding upon all mankind. [For a full discussion of the term v. Moore, G. F., Judaism I. 338ff.]

(3) The meaning of this is discussed in the Gemara.

(4) Since it is regarded as interest.

(5) I.e., to divide the profit, whilst guaranteeing the heathen full security against loss.

(6) As stated above (Mishnah, 69b), the young are equally divided between the investor and breeder. Now, if the young themselves calved, though half of them belong to the Jew, the obligation of firstlings does not apply to them. This proves that they are regarded as the property of the investor, not the contractor.

(7) If the investor accepts these risks (אונסא וזולא), the property stands under his ownership, and hence the law of firstlings does not apply. If the contractor accepts full risks, there is usury, which in the case of a Jewish investor is forbidden. [Gulak, Tarbiz. III, p. 140, suggests that the phrase אונסא וזולא means accident due to fall in the market price. Abaye accordingly was referring to the original type of ‘iron flock’ investment in which the responsibility assumed by the contractor was limited to injuries to the ‘body of the investment itself.’]

(8) Due pursuant to the agreement.

(9) I.e., the heathen retains certain rights therein.

(10) Prov. XXVIII, 8.

(11) Shapur I, King of Persia, and a contemporary of Samuel (third century), with whom he was on terms of intimacy. He took money from the Jews and made grants thereof to poor heathens. (Rashi: To heathens, who are poor in that they have no fulfilment of precepts and good deeds to their credit.)

(12) Deut. XXIII, 21.

(13) V. p. 363, n. 4.

(14) This objection is based on the hypothesis that the verse cannot be merely permissive, ‘thou mayest give usury to heathens’, since there was never any reason for supposing otherwise. Hence it can only mean (on R. Nahman's interpretation), ‘thou must give usury to a Gentile’, which is absurd.

(15) I.e., the law is only permissive, but stated in order to exclude a Jew, by implication.

(16) So rendered on R. Nahman's views.

(17) By giving usury to a Jew. For the negative implication of ‘unto the Gentile thou mayest give usury’ is technically a positive command, since cast in that form.

(18) Thus distinctly stating that it is permitted.

Talmud - Mas. Baba Metzia 71a

the [minimum] requirements of a livelihood.[1] Rabina said: Here [in the Mishnah] the reference is to scholars. For why did the Rabbis enact this precautionary measure?[2] Lest he learn of his ways.[3] But being a scholar, he will [certainly] not learn of his ways.

Others referred this statement of R. Huna to [the teaching] which R. Joseph learnt: If thou lend money to any of my people that is poor by thee:[4] [this teaches, if the choice lies between] my people and a heathen, ‘my people’ has preference; the poor or the rich — the ‘poor’ takes precedence; thy poor [sc. thy relatives] and the [general] poor of thy town — thy poor come first; the poor of thy city and the poor of another town — the poor of thine own town have prior rights. The Master said: ‘[If the choice lies between] my people and a heathen — "my people" has preference.’ But is it not obvious? — R. Nahman answered: Huna told me it means that even if [money is lent] to the heathen on interest, and to the Israelite without [the latter should take precedence].

It has been taught: R. Jose said: Come and see the blindness of usurers. If a man calls his neighbour wicked, he cherishes a deep-seated animosity against him;[5] whilst they bring witnesses, a notary, pen and ink, and record and attest, ‘So-and-so has denied the God of Israel.’[6]

It has been taught: R. Simeon b. Eleazar said: He who has money and lends it without interest, of him Scripture writes. He that putteth not out his money to usury, nor taketh reward against the innocent. He that doeth these things shall never be moved;[7] thus you learn that he who does lend on interest, his wealth[8] dissolves.[9] But do we not see [people] who do not lend on interest, yet their wealth dissolves? — R. Eleazar said: The latter sink [into poverty] but re-ascend, whereas the former sink but do not re-ascend.[10]

Wherefore lookest thou upon them that deal treacherously, and holdest thy tongue when the wicked devoureth the man that is more righteous than he?[11] R. Huna said: ‘the man that is [merely] more righteous than he,’ he devoureth: but the man that is completely righteous, he cannot devour.

It has been taught: Rabbi said: The righteous proselyte[12] who is mentioned in connection with the sale [of oneself for a slave], and the resident alien who is mentioned with reference to usury — I know not their purpose. ‘The righteous proselyte who is mentioned in connection with a sale’ — as it is written, And if thy brother that dwelleth with thee be waxen poor, and be sold unto thee;[13] and not only ‘unto thee’ [a Hebrew], but even to a proselyte, as it is written, [and sell himself] unto a proselyte;[14] and not alone to a righteous proselyte, but even to a resident alien, as it is written, to a proselyte [and] a settler;[15] or to a family of the proselyte — i.e., to a heathen; hence, when it is said, or to the stock etc. it must refer to one who sells himself to the service of the idol itself.[16]

Now,[17] the Master said: ‘And not only unto thee, but even unto a proselyte,’ as it is written, [and sell himself] unto a proselyte.’ Are we to say that a proselyte may acquire a Hebrew slave? But the following contradicts it: A proselyte cannot be acquired as a Hebrew slave, nor may a woman or a proselyte acquire a Hebrew slave. ‘A proselyte cannot be acquired as a Hebrew slave’, for the verse, and he shall return unto his own family, must be applicable. which it is not [in the case of a proselyte];[18] ‘nor may a woman or a proselyte acquire a Hebrew slave’ — a woman, because it is not seemly;[19] a proselyte, because it is a tradition that he who can be acquired can himself acquire, but he who cannot be acquired, cannot himself acquire! — R. Nahman b. Isaac said: He cannot acquire [him] under the provisions of an Israelite [owner], but may acquire [him] as a non-Israelite [master]. For it has been taught: He [sc. a Hebrew slave] whose ear is bored,[20] and he who is sold to a heathen, serve neither the son nor the daughter.[21]

The Master said: ‘Nor may a woman or a proselyte acquire a Hebrew slave.’ Must we assume that this disagrees with R. Simeon b. Gamaliel? For it has been taught: A woman may acquire female but not male slaves. R. Simeon b. Gamaliel ruled: She may acquire even male slaves! — It may agree even with R. Simeon b. Gamaliel, yet there is no difficulty: the former applies to a Hebrew slave, the latter to a Canaanite slave. A Hebrew slave she deems to be self-respecting;[22] whereas a Canaanite slave she deems unreservedly dissolute.[23] But what of that which R. Joseph learned: A widow may not breed dogs,[24] nor permit a scholar to live with her as a boarder? Now, [the prohibition] of a scholar is intelligible, since she deems him self-respecting; but as for a dog since it will follow her [if she commits bestiality], she will surely be afraid![25] — I will tell you: since it follows her even if she merely throws it a piece of meat, that will be assumed the cause of its attachment.[26]

‘The resident alien who is mentioned with reference to usury:’ — What is it? — For it is written, And if thy brother be waxen poor, and fallen in decay with thee; then thou shalt relieve him; yea, though he be a proselyte or a settler, that he may live with thee. Take thou no usury of him nor increase: but fear thy God; that thy brother may live with thee.[27] But the following opposes it: ONE MAY BORROW FROM AND LEND TO THEM ON INTEREST; THE SAME APPLIES TO A RESIDENT ALIEN! — R. Nahman b. Isaac replied: Is it then written, ‘Take thou no usury of them’?[28] ‘of him’ is written, [meaning] of an Israelite.[29]

Our Rabbis taught: Take thou no usury of him, or increase, but thou mayest become a surety for him.[30]

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(1) But one may not take usury from a Gentile in order to accumulate wealth.

(2) Of forbidding usury from a heathen, on R. Nahman's view. Though R. Nahman based his opinion on a verse of Proverbs, it is obvious that it is only a Rabbinical, not a Biblical interdict.

(3) Rashi: Through business intercourse with him.

(4) Ex. XXII, 24.

(5) Lit., ‘descends (in his rage) against his life’.

(6) To exact usury in defiance of the Biblical precept is tantamount to rejection of God — the highest degree of wickedness.

(7) Ps. XV, 5.

(8) Lit., ‘his possessions.’

(9) I.e., he is ‘moved’.

(10) Translating, he that doeth these things shall not for ever be moved, i.e., shall not sink into penury for good.
(11) Hab. I, 13.
(12) [גר צדק ‘Righteous’ in the sense of ‘upright’, ‘genuine’, ‘real’. V. Moore, op. cit. I, 338.]
(13) Lev. XXV, 39.
(14) Ibid. 47.
(15) Ibid. This deduction is arrived at by treating גר , (proselyte) and תושב (settler, citizen) as two separate substantives, thus: and sell himself unto a proselyte and unto a resident alien. i. e., even as they are treated at the beginning of the verse: and if a proselyte (גר) or a settler (ושב) wax rich etc. (Rashal).
(16) To hew wood and draw water in its service. This Baraitha is quoted more fully in ‘Ar. 20b; the successive depths of degradation are the fate of him who trades in the commodities of the seventh year, this being deduced from the fact that these laws of sale follow those of the seventh year prohibitions.
(17) He now proceeds to explain Rabbi's difficulty.
(18) V. Lev. XXV, 10. Because a proselyte loses all relationship with his former kin, hence has no family.
(19) Lest she be suspected of immoral designs.
(20) V. Ex. XXI, 5f.
(21) As heirs. Thus, a proselyte can acquire a Hebrew slave under the laws applicable to a heathen owner, so that if he dies his children do not inherit him (the slave), but not as an Israelite, who is able to transmit him as a legacy.
(22) I.e., he has a feeling of shame and regard for appearances. Therefore she may be emboldened to an illicit relationship, in the certainty that he will not disclose the fact: hence she may not purchase him.
(23) Feeling no shame therein; therefore she fears intimacy with him, lest he boast thereof, and so may buy him.
(24) For fear of malicious slander, but not because she is actually suspected of bestiality (Tosaf.).
(25) Why is she then forbidden to breed dogs?
(26) Hence she does not fear to commit bestiality, and though, as stated in n. 3, she is not suspected thereof, yet the mere fact that she can indulge without fear of discovery gives tongue to slander.
(27) Lev. XXV, 35f; this implies that usury may not be taken from a citizen proselyte.
(28) Which would apply to all the antecedents.
(29) [‘Proselyte’ being mentioned only with reference to assisting him in his need.]
(30) I.e., for one who is borrowing money on interest.

Talmud - Mas. Baba Metzia 71b

A surety to whom? Shall we say to an Israelite?[1] But we learnt: The following violate the negative precept: The lender, the borrower, the surety, and the witnesses![2] Again if it means to a heathen:[3] since, however, it is the law of the heathen[4] to claim direct from the surety, it is he [the surety] who borrows from him![5] — R. Shesheth answered: It means that he engaged himself to bring his actions in accordance with Jewish law.[6] But if he engaged to abide by Jewish law, he should not take usury either! — R. Shesheth replied: He pledged himself for the one but not for the other.

AN ISRAELITE MAY LEND A HEATHEN'S MONEY [ON INTEREST] WITH THE KNOWLEDGE OF THE HEATHEN, BUT NOT OF THE ISRAELITE. Our Rabbis taught: An Israelite may lend a heathen's money [on interest] with the knowledge of the heathen, but not of the Israelite. E.g., if an Israelite borrowed money from a heathen on interest, and was about to repay it, when another Israelite met him and proposed. ‘Give it to me and I will pay you as you pay him’ — that is forbidden; but if he presented him to the heathen,[7] it is permitted.[8] Similarly, if a heathen borrowed money from an Israelite on interest, and was about to repay it, when another Israelite met him and proposed. ‘Give it to me, and I will pay you as you pay him,’ it is permitted; but if he presented him to the Israelite, it is forbidden.[9] Now, the second clause is well, for there the ruling is in the direction of greater stringency; but as for the first clause, since the law of agency does not apply to a heathen, it is he [the Israelite] who takes interest from him [his fellow-Israelite]![10] — R. Huna b. Manoah said in the name of R. Aha, the son of R. Ika: Here it is meant that he [the heathen] said to him [the Israelite], ‘put it [the money] on the ground and you may go.’[11] If so, why state it? — But, said R. Papa, it means, e.g., that he [the heathen] took it [from the first creditor] and personally gave it [to the second]. Yet even so, why state it? — I might think that the heathen himself, in acting so, transfers the money pursuant to the wish of the Israelite,[12] therefore it is taught otherwise. R. Ashi said: When do we maintain that agency cannot be vested in a heathen, only in reference to terumah;[13] but in all other Biblical matters the principle of agency holds good in the case of a heathen. This [distinction], however, of R. Ashi must be rejected.[14] For why does terumah differ, that [agency] is not [allowed to a heathen]? Because it is written, [Thus] ye, ye also [shall offer an heave offering etc.],[15] [teaching], just as ye are members of the Covenant, so also must your deputies be members of the Covenant! But [is not] the principle of agency, as applied to all Biblical matters, derived from terumah![16] Hence R. Ashi's distinction is to be rejected.

Others state: R. Ashi said: In what sense do we maintain that agency cannot be vested in a heathen, only that they cannot be agents for us; but we can be agents for them.[17] But this [distinction] of R. Ashi is to be rejected. For why the difference, that they cannot be agents for us? Because it is written, ‘Ye, ye also’, which teaches the inclusion of your agents; just as ‘ye’ are members of the Covenant, so must your agents be members of the Covenant? But with reference to ourselves being agents to them, does not the same [exegesis] apply: by ‘just as "ye" [who appoint agents],’ members of Covenant are meant.[18] Hence R. Ashi's distinction is non-acceptable.

Rabina said: Though a heathen has no power of agency, yet, by Rabbinical law, one can obtain possession on his behalf. For this is similar to a minor: surely, a minor, though excluded from the principle of agency,

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(1) I.e., on behalf of a Jew borrowing from a Jew.

(2) Infra 75b.

(3) I.e., a surety on behalf of a Jewish borrower to a Gentile lender.

(4) [I.e., according to Persian law, v. B.B. 173b.]

(5) From the point of view of Jewish law there are two transactions in this loan: the surety borrows money from the Gentile and pays interest thereon, and lends money to the Jew, upon which he receives interest. Hence it should be forbidden.

(6) Should the debtor fail to repay, he would bring an action against him first.

(7) I.e., obtained the Gentile's authority for the transaction.

(8) For then the Jew is merely the agent of the Gentile, and it is the latter who makes the loan, not the former.

(9) For then the Gentile is merely the agent of the Jew.

(10) There is a well-defined principle in Jewish law that a man's agent is legally as himself. But this does not hold good between a Jew and a heathen. Now, in the second clause, where the heathen presents the Jewish borrower to the Jewish lender, yet actually gives his own money, the transaction should be permitted, because he cannot be legally regarded as the Jew's agent. Nevertheless, since the transaction does appear as between two Jews, the heathen acting merely as a vehicle of delivery, the Rabbis recognised the principle of agency, and forbade it. But in the first clause, where the Jew actually gives the money to his fellow-Jew, why should he be regarded as an agent of the heathen, and the transaction rendered legal?

(11) So that the second Jew does not receive it from the first.

(12) I.e., that he is merely the means of the actual loan from one Jew to another.

(13) V. Glos. A Jew cannot appoint a heathen to separate his terumah for him.

(14) בדותא V. Supra, p 47, n. 1 .

(15) Num. XVIII, 28. It would have been sufficient to state, ‘Thus ye shall offer etc.’; it is a general principle of exegesis that ‘also’ (גם) denotes extension; hence ‘ye also’ implies that someone besides yourselves may separate your terumah. At the same time, since the extension is directly applied to ‘ye’, those whom it includes must be similar to ‘ye’.

(16) In Kid. 41b; hence just as a heathen cannot be deputed to separate terumah, so he is invalid in all other matters.

(17) Hence in the first clause under discussion the loan is permissible, if the second Jew was presented to the heathen, even if the money passed directly from one Jew to another.

(18) I.e., the same exegesis which shows that the agents must be Jews, also shews that the principals must be Jews.

Talmud - Mas. Baba Metzia 72a

is nevertheless, by Rabbinical law, eligible to [vicarious] possession;[1] so here too, there is no difference.[2] But the analogy is false; an Israelite [minor] comes [eventually] within the principle of agency, but a heathen never does.[3]

Our Rabbis taught: If an Israelite borrowed money on interest from a heathen and then recorded them [Viz., the principal and the interest] against him as a loan,[4] and he [the creditor] became a proselyte: if this settlement preceded his conversion, he may exact both the principal and the interest; if it followed his conversion, he may collect the principal, but not the interest.[5] Similarly, if a heathen borrowed money on interest from an Israelite, and then recorded them [the principal and the interest] against him as a loan, and became a proselyte: if the settlement preceded his conversion, he [the Israelite] may exact both the principal and the interest; if it followed his conversion, he may exact the principal but not the interest. R. Jose ruled: If a heathen borrowed money from an Israelite on interest, then in both cases [whether conversion preceded the settlement or the reverse] he may collect both the principal and the interest. Raba said in the name of R. Hisda in the name of R. Huna: The halachah is as R. Jose. Raba said: What is the reason of R. Jose? That it should not be said that he turned a proselyte for the sake of money.[6]

Our Rabbis taught: If a bond contains interest written therein, he [the note-holder] is penalised and can collect neither the principal nor the interest; this is R. Meir's view. The Sages maintain: He may exact the principal, but not the interest. Wherein do they differ? — R. Meir is of the opinion that we inflict the forfeiture of what is permissible on account of what is forbidden; whilst the Sages hold that we do not inflict the forfeiture of the permissible on account of the forbidden.

We learnt elsewhere: Ante-dated bonds are invalid; post-dated bonds are valid.[7] But why invalid? Though a seizure cannot be made by means of them as from the earlier [incorrect] date, why not seize [estate for repayment] as from the later [correct] date?[8] — R. Simeon b. Lakish said: This was taught as a matter of dispute, and agrees with R. Meir.[9] R. Johanan said: It may agree even with the Rabbis; but it is a precautionary measure, lest he exact [his debt from sold property] as from the earlier date.[10]

A man once pledged an orchard to his neighbour for ten years.[11] After he [the creditor] had taken its usufruct for three years, he proposed to him [the debtor], ‘If you sell it to me, it is well; if not, I will hide the mortgage deed and claim that I have bought it.’[12] Thereupon he [the debtor] went, arose, transferred it to his young son [a minor], and then sold it to him. Now, the sale is certainly no sale;[13] but is the [purchase-]money accounted as a written debt, and collectable from [sold] mortgaged property, or perhaps it is [only] as a verbal debt, which cannot be collected from mortgaged property?[14] Said Abaye: Is this not covered by R. Assi's dictum? Viz.,

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(1) I.e., an adult may take possession on behalf of a minor.

(2) Hence in the first clause, where the second borrower is presented to the heathen, the first Jew takes possession of the money which he was about to repay on behalf of the heathen, and therefore it is the latter's money that is lent on interest, and hence permissible.

(3) For to take possession on another man's behalf is akin to becoming his agent. Thus the Rabbis conferred upon a minor the privilege of being so benefited, because he is potentially an agent or a principal, but a heathen is not even potentially so. [Levinthal, I.H., JQR, (N.S.) XIII, p. 150, suggests the principal reason swaying the Rabbis in their decision barring the heathen from acting as agent to have been the fact that the agent in Jewish law is frequently compelled to take an oath, and the oath being considered a most sacred role in the life of the people there was no desire to force a heathen to comply with the strictness of that act.]

(4) I.e., drew up a bond in which the combined principal and interest figured as the principal.

(5) Since the bond was drawn up when he was forbidden usury.

(6) To evade the payment of interest.

(7) Sheb. X, 5; v. supra 17a.

(8) Though it is only right that the creditor should not seize land sold after the date of the bond but prior to the actual loan, why should he not seize land sold after the loan was made?

(9) Who maintains that we inflict the forfeiture of what is permissible on account of what is forbidden. So here too.

(10) To prevent this, such a bond was declared entirely invalid.

(11) [So according to some texts; v. D.S.]

(12) Three years' possession of an estate establishes a presumptive title thereto, even without a deed of sale, the onus of disproof lying upon the first owner.

(13) Because it no longer belonged to the debtor (Rashi).

(14) When one sold land, he indemnified the purchaser against its possible seizure for the vendor's debt by mortgaging his other property to him, which he could in turn seize even if subsequently sold. Similarly, in a written loan the debtor's estates were held to be pledged, even if subsequently sold; but if the loan was merely verbal, the debt could be exacted only from the free estate. Now the question arises whether the purchase money in this case, which of course, the vendor must return, ranks as a written debt, or only as a verbal one.

Talmud - Mas. Baba Metzia 72b

If he [the debtor] admits the genuineness of a bond, he [the creditor] need not confirm it'[1] and can collect [his debt] from mortgaged property [sold after the debt was contracted]![2] Thereupon Raba said to him: How compare? There it is permissible to write it, but here it is not permissible to write it at all![3] Now, Meremar sat and recited this discussion, whereupon Rabina said to Meremar: If so, when R. Johanan said;[4] It is a precautionary measure, lest he exact his debt as from the earlier date, — let us say that it was not permissible to write it at all! — Said he: Is there the least analogy? There, granted that it was not permissible to write it from the earlier date, it was permissible to write it from the later date; but here it was not permissible to write it at all. But surely with respect to that which has been taught: As to claims for land improvement,[5] e.g., if one took away unlawfully a field from his neighbour and sold it to another, who effected improvements therein, and then it was seized from him [by the first owner], when he [the buyer] exacts [his due from the robber], he may collect the principal [even] from mortgaged property [that has since been sold], but the improvements only from the free [i.e., unsold] property[6] — let us say that it [the deed of sale] was not permissible to be written at all![7] — How now? There, whether on the view that he [the vendor] is anxious not to be called a robber, or on the view that he is desirous of retaining his [the purchaser's] trust,[8] he seeks to pacify the first owner, so as to validate the deed.[9] Here, however, it was his purpose to save it from his clutches, shall he then validate the deed?[10]

MISHNAH. A MAN MUST NOT FIX A PRICE FOR PRODUCE UNTIL THE MARKET PRICE IS KNOWN; ONCE THE MARKET IS ESTABLISHED, A FIXED PRICE MAY BE AGREED UPON, FOR EVEN IF ONE HAS NO STOCK, ANOTHER HAS. IF HE WAS OF THE FIRST HARVESTERS, HE [THE BUYER] MAY ENTER INTO A CONTRACT FOR [THE CROPS IN] THE STACK,[11] THE BASKET OF GRAPES,[12] THE VAT OF OLIVES,[13] POTTERS' LUMPS OF CLAY,[14] AND FOR LIME WHEN IT HAS ALREADY BEEN PLACED IN THE KILN.[15] ONE MAY ALSO MAKE A FIXED CONTRACT FOR MANURE FOR THE WHOLE YEAR. R. JOSE MAINTAINED: NO CONTRACT FOR MANURE MAY BE ENTERED INTO UNLESS HE [THE VENDOR] HAS THE MANURE IN DUNG PITS; BUT THE SAGES PERMIT IT. AND ONE MAY ALSO BARGAIN FOR THE LOWEST PRICE.[16] R. JUDAH SAID: EVEN IF HE DID NOT STIPULATE FOR THE LOWEST PRICE, HE MAY DEMAND, 'SUPPLY ME AT THIS PRICE, OR RETURN MY MONEY.'[17]

GEMARA. R. Assi said in R. Johanan's name: One may not fix a contract at market prices.[18] R. Zera questioned R. Assi: Did R. Johanan rule thus even of a great fair?[19] He replied: R. Johanan referred only to town markets, where values fluctuate.[20] Now, on the original hypothesis that R.

Johanan referred even to a great fair, how is our Mishnah conceivable, which teaches, A MAN MUST NOT FIX A PRICE FOR PRODUCE UNTIL THE MARKET PRICE IS KNOWN; ONCE THE MARKET PRICE IS ESTABLISHED, A FIXED PRICE MAY BE AGREED UPON? — Our Mishnah relates to wheat in granaries and ships, whose fixed price extends over a long period.[21]

Our Rabbis taught: One may not contract for commodities until the market price is out; once the market price is established, a contract may be entered into, for even if one [the vendor] has no stock, another has. If the new supplies were at four [se'ahs per sela'] and the old at three, a contract may not be made until the price has been equalised for the new and old.[22] If the gleaned grains[23] were [priced] at four [se'ahs and upward per sela'], whilst ordinary stock[24] at three, a contract must not be entered into [at a fixed maximum price] until the same market price has been established for the gleaner[25] and the merchant.

R. Nahman said: One may contract for gleanings at the price of gleanings.[26] Said Raba to R. Nahman: Why does the gleaner differ?[27] Because if he lacks stock, he will borrow from his fellow gleaner? Then even a merchant[28] can borrow from a gleaner![29] — He replied: A merchant deems it undignified to borrow from a gleaner. Alternatively, he who pays money to a merchant expects to receive best quality produce.[30]

R. Shesheth said in R. Huna's name: One may not borrow upon the market price.[31] Thereupon R. Joseph b. Hama said to R. Shesheth — others say, R. Jose b. Abba said to R. Shesheth: Did R. Huna actually rule thus? But a problem was propounded of R. Huna: The students who borrow in Tishri and repay in Tebeth — is it permitted or forbidden?[32] He replied: Wheat may be procured in Hini and Shili:[33] if they wish, they can buy [in Tishri] and repay![34] — At first R. Huna held that one must not borrow, but on hearing that R. Samuel b. Hiyya said in R. Eleazar's name that one may, he too ruled likewise.

Our Rabbis taught: If a man was transporting a load from place to place,[35] when his neighbour met him and proposed: 'Let me have it, and I will pay you for it the price you would obtain there,'

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(1) For if the debtor asserts that it is forged, the signatories thereto must attest their signatures.

(2) [V. supra 7a. Similarly here, since he admits having written the deed, the money liability involved ought to rank as a written debt!]

(3) [Since the sale was invalid.]

(4) With reference to an ante-dated bond of indebtedness.

(5) V. supra 14b.

(6) He is empowered to collect the principal even from sold property in virtue of the deed of sale, which guarantees to indemnify the purchaser in the event of its being seized and mortgages the vendor's estates for that purpose.

(7) Hence should be invalid.

(8) V. supra 15b.

(9) I.e., when selling the field, it is his intention to compensate the first owner, so that the deed drawn up for the second may be valid. Consequently, it is genuine, and the purchaser can act thereon.

(10) Surely not! Hence its writing was unwarranted, and therefore it may be regarded as invalid.

(11) I.e., for the grain already in stacks, though no market price has been established.

(12) A basket used for carrying grapes during the vintage; the meaning is that one may fix a price for the wine to be manufactured from grapes already vintaged in baskets.

(13) As in the preceding note.

(14) I.e., for the earthenware to be manufactured thereof.

(15) In all these cases the vendor is held to be in possession of the articles he is selling, though they are not completely manufactured. Consequently, a price may be agreed upon and paid, and though delivery will not be effected until later, by which time the market price may have advanced (for in all these cases the reference is to a sale before a market price has been established at all), it is nevertheless permissible, the lower pre-payment not ranking as interest.

(16) Lit., ‘the high price’, i.e., the price at the height of the market when the commodity is cheap. After fixing a price, the vendor may contract to supply stock throughout the year at the lowest price prevailing at the time of each delivery. Thus, the first price fixed is only to be regarded as a maximum, not to be exceeded if the market price advances.
(17) In the whole Mishnah the reference is to advance payment at a fixed rate. R. Judah maintains that even without a definite stipulation it is always implied, therefore the purchaser can insist upon the advantage of a price-drop or rescind the sale, without being deemed dishonourable and subject to the curse. (V. supra 44a.)
(18) I.e., to supply for a certain period at the market price prevailing at the time of the contract. This prohibition naturally refers only to the case where the vendor himself lacks supplies when making the contract.
(19) That one may not contract at the market price ruling in great fairs, though such are generally stable, and a fair indication of value. — Durmos, the word in the text, is a disguise of ‘**, or Mercurius, the divinity of commerce to whom a great annual fair, probably of Tyre, was dedicated (Jast.). [Krauss, Lehnworter, connects it with the Gr. **, race-course, which was also the market-place.]
(20) Lit., ‘are not fixed.’
(21) When the wheat has been stored, or sufficient has been imported, its price is stabilised and there is no fear of appreciation, which may result in an appearance of interest.
(22) New supplies were cheaper, because they were not yet fully dried. Now the purchaser, though paying early, does not receive the wheat until that too becomes old, and if he contracts for the whole at the price of new, he receives interest. Therefore he must wait until the same market price is fixed for both.
(23) I.e., grains gleaned in small quantities from many fields, and consequently of inferior quality and cheaper.
(24) Lit., ‘of all men’.
(25) I.e., the petty trader in gleanings.
(26) Though a contract may not be made until the prices are equalised, that is only if the vendor may supply gleanings or ordinary stock; but if the vendor is a gleaner, supplying only gleanings, the transaction is permitted.
(27) That you permit it.
(28) Lit., ‘a householder’, ‘landlord’.
(29) Hence the transaction should be universally permitted, for even an ordinary factor may obtain supplies of gleanings when his own stock is exhausted.
(30) Hence, if he pays the lower price of gleanings, he receives interest for advancing the money.
(31) Rashi: One may not borrow money with the stipulation that if it is not repaid by a certain date, provisions will be supplied in its stead at the market price prevailing at the time of the loan, which is lower than that which will prevail later. Others: One may not borrow a se'ah of corn to repay a se'ah later, when its value will have advanced, in reliance upon the fact that the corn has a fixed market price, and it is possible for the borrower to obtain a se'ah now or at any time that the price remains unaltered, either by cash or on credit, and keep it until repayment is due.
(32) Tishri is the seventh month of the Jewish year, Tebeth the tenth. If they borrow money in Tishri and repay in kind in Tebeth at the prices of Tishri; or (taking the second interpretation, p. 420, n. 11) if they borrow provisions in Tishri and return the same quantity in Tebeth, is the transaction permitted?
(33) V. p 377, n. 3.
(34) Hence the transaction is not usurious. This contradicts R. Huna's former ruling.
(35) To sell, its value there being greater.

Talmud - Mas. Baba Metzia 73a

if the vendor retains the title thereto, it is permitted; if the vendee, it is forbidden.[1] If he was transporting provisions from place to place, when his neighbour met him and proposed, ‘Let me have them, and I will supply you [later] with provisions that I have there,’ if he actually possesses provisions there, it is permitted;[2] if not, it is forbidden. But carriers[3] supply in the dearer place at the prices of the cheaper,[4] without fear [of incurring the guilt of usury]. Why? — R. Papa said: They are satisfied by being informed of the market price.[5] R. Aha the son of R. Ika said: They are satisfied with the extra discount they receive.[6] Wherein do they differ? — In respect of a new trader.[7]

In Sura four [se'ahs] went [to the zuz]; in Kafri,[8] six. So Rab gave money to the carrier,[9] accepted himself the risks of carriage, and received five [se'ahs per zuz]. But why not take six?[10] — For a man of great repute it is different.[11]

R. Assi propounded of R. Johanan: May this be done with small ware?[12] — He replied: R. Ishmael son of R. Jose wished to do so with linen garments, but was not allowed by Rabbi. Others say, Rabbi wished to do so with small ware, but R. Ishmael son of R. Jose did not allow him.

An orchard:[13] Rab forbade it; Samuel permitted it. Rab forbade it: Since it is worth more later on, it looks like payment for waiting.[14] Samuel permitted it: Since there may be cause for regret,[15] it does not look like payment for waiting.[16] R. Shimi b. Hiyya said: But Rab agrees [where the ploughing is done] with [the aid of] oxen, since great loss is caused.[17]

Samuel said to those who advance seed grain to be returned in new grain:[18] Busy yourselves[19] in the field, that ye may have a title to the soil itself;[20] for if not, it will be accounted as a loan to you, and forbidden.

Raba advised those who keep watch over the cornfields: Go out and find some occupation[21] in the barn, that your wages may not be payable until then;[22] since wages are not payable until the end [of one's task], and it is only then that they make you the gift.[23]

The Rabbis protested to Raba: You enjoy usury. For everyone [who leases a farm] accepts four [kor as annual rent] and dismisses the tenant in Nisan;[24] whilst you wait until Iyar[25] and receive six.[26] He retorted: It is you who act contrary to the law; the land is in bond to the tenant;[27] if you make him quit in Nisan [before the crops are ripened], you cause him much loss. Whereas I wait until Iyar, thus greatly enhancing his profits.[28]

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(1) I.e., if the vendor bears the risk of carriage thither, it is not a loan, the vendee really selling it there on his behalf, and hence permitted. But if the vendee assumes responsibility, it immediately passes into his possession, and he is indebted for its value as a loan. Hence, since he repays more than it is worth where he receives it, it is usury.

(2) For it is as though they were immediately transferred to the lender, and if they appreciate, it is the lender's which appreciates.

(3) Lit., 'ass drivers.'

(4) They receive money in the dearer place to supply provisions at a later date at the lower price of elsewhere.

(5) For through the ready money they thus have in hand they are recognised as traders and receive credit, and this is ample repayment for their labour of bringing the provisions at their risk from one place to another (Rashi). Tosaf. in name of R. Han.: They are satisfied by being kept informed, by those who advance them money, of any rise in the market price in the dearer place during their absence, and thus aided in their sales.

(6) [In consideration of the fact that they supply the produce in the dearer place at cheap rates.]

(7) I.e., if the carrier has only just begun to trade thus. On the first view, that it is permitted because they are satisfied to be known as merchants and receive credit, it is permitted here too, since the same reason operates; (according to Tosaf., being new traders and inexperienced in price fluctuations, they are sufficiently compensated by being informed thereon). But on the second view, being new, they lack the farmer's confidence, who may not believe that they are supplying the produce in the dear place at cheap rates, and hence receive no additional discount. Therefore the transaction is forbidden, for his labour of carriage is merely on account of the money advanced, and thus partakes of the nature of usury.

(8) [South of Sura, Obermeyer, op. cit., p. 316.]

(9) To bring the produce from Kafri.

(10) As above; the more so in that since he accepted the risks of the road, it was an ordinary purchase.

(11) He must be more considerate.

(12) Does the above law of carriers hold good for all merchandise, or only for wheat? For it may be argued that the two reasons stated apply only to wheat, in which there are frequent price fluctuations and a constant demand. But in other merchandise the prices are more stable, which disposes of the first reason as explained by Tosaf., and the demand is less constant, and hence he is not likely to receive a greater discount, for the demand having been satisfied, it will not recur for a considerable time; nor is he, for the same reason, likely to receive recognition as a trader.

(13) Rashi: ‘vineyard’. I.e., to advance money at a fixed price for the fruits of the orchard before they are ripe, to be delivered when ripe. The fixed price is naturally less than that of ripe fruit.
(14) V. supra 63b.
(15) If the orchard is smitten with hail, or the plants with disease, the risks of which are borne by the purchaser. [Others: ‘a mishap may befall it.]
(16) But as a speculation. He may (and probably will) receive more than his money's worth, but on the other hand he may lose it.
(17) V. supra 30a top. Hence there is a greater element of risk which converts it into a speculation. [Tosaf.: Cattle breeders (who buy the offspring before it is born) since the risks are great.]
(18) Rashi and Jast. Tosaf.: who advance money for loads of faggots, to be delivered at vintage time. Lit., ‘who cut grapes or branches.’
(19) Lit., ‘turn over.’
(20) On which the grain grows; hence the grain, or, as Tosaf. interprets, the growing faggots are already yours. To do some work in a field was a method of obtaining a title thereto.
(21) Lit., ‘turn over.’
(22) I.e., until you have finished those self-imposed tasks.
(23) Lit., ‘remit in your favour’ (what they pay you over and above the stipulated wage). These watchers were not paid until the corn was winnowed, though wages were due to them immediately after harvesting; but in consideration thereof they were given something above their due. Now this has the appearance of interest, therefore Raba advised them to find some small tasks in the barn, so that their wages should not be legally payable until they actually received them, in which case the ‘tip’ would be a gift, not interest. [So according to some texts; cur. edd.: ‘They reduce the price in your favour. According to this reading the watchers received payment in kind at a cheaper rate in compensation for waiting for their wages; hence Raba's advice.]
(24) The first month of the Jewish Year. They insist that he shall reap then and quit the field. [This haste in harvesting the corn before it was quite ripe was due to the unsettled state of the country during the Persian — Roman wars. Funk, S., Die Juden in Babylonian, II, p. 85.]
(25) The second month.
(26) The protest was based on the assumption that the additional two was payment for waiting the extra month.
(27) I.e., he has a title thereto until the crops are fully ripe.
(28) Hence I am entitled to a greater rental in return for the greater value they receive [Raba's prominence assured his property of government protections and he could safely ‘allow his crops to remain in the field until they ripened fully. Funk, loc. cit.]

Talmud - Mas. Baba Metzia 73b

A certain heathen gave a house in pledge[1] to R. Mari b. Rachel,[2] and then sold it to Raba. Thereupon he [R. Mari] waited a full year, took the rent, and offered it to Raba.[3] Said he to him: ‘The reason that I have not offered you rent before this is that an unspecified pledge is a year. Had the heathen wished to make me quit [within the year], he would have been unable;[4] but now you must take rent for the house’. He replied: ‘Had I known that it was pledged to you, I should not have bought it. Now I will treat you according to their laws; for until they redeem the pledge[5] they receive no rent; so I will take no rent from you until you are paid out’.[6]

Raba of Barnesh[7] said to R. Ashi: See, Sir, the Rabbis enjoy[8] usury. For they advance money for wine in Tishri, and receive choice quality in Tebeth![9] He replied: They too pay their money for wine, not vinegar, and from the very beginning, wine is wine, and vinegar, vinegar;[10] it is then [when they pay] that they select choice wine.[11]

Rabina gave money [for wine] to the residents of Akra dishanwatha,[12] and they supplied[13] a liberal addition.[14] So he went to R. Ashi and asked him: Is it permitted?[15] Yes, he replied; they but forego [their rights] in your favour.[16] But, said he, the land is not theirs![17] — The land is pledged for the land tax, he replied, and the king has decreed: He who pays the land tax is entitled to the usufruct.

R. Papa said to Raba: See, there are some scholars who advance money for people's poll tax and then put them to much service! — He replied: I might have died, without telling you this thing. Thus said R. Shesheth: The surety[18] of these people lies in the king's archives, and the king has decreed that he who does not pay his poll tax is made the servant of him who pays it [on his behalf].

R. Se'oram, Raba's brother, used to seize people of disrepute and make them draw Raba's litter. Said Raba ‘to him: You have done well. For it has been taught:[19] If you see a man who does not behave in a seemly fashion, whence do we know that you may make him your servant? From the verse, They [sc. Canaanite slaves] shall be your bondmen for ever and your brethren the children of Israel [likewise].[20] I might think that this is so even of one who behaves in a seemly fashion; therefore it is taught, but over your brethren, the children of Israel, ye shall not rule one over another with rigour.[21]

R. Hama said: If a man gives his neighbour money to buy wine for him, and he negligently fails to do so, he must compensate him as it is sold in the market of Belshafat.[22] Amemar said: I repeated this ruling before R. Zebid of Nehardea, whereupon he observed: R. Hama's dictum applies only to unspecified wine, but not to a particular wine, [for] who knows that he could have obtained it for him?[23] R. Ashi said: Even for unspecified wine it is also not [correct]. Why? Because it is an asmakta, and an asmakta establishes no legal claim.[24] But in R. Ashi's view, how does this differ from what we learnt: [If the tenant-farmer declares], ‘If I let it lie waste without cultivating it, I will pay with the best [of produce,’[25] he is bound to do so]? — There it is in his power [to cultivate it];[26]

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(1) V. supra 67b.

(2) He was the son of a Jewess and a proselyte, conceived before conversion and born after, and was therefore called by his mother's name.

(3) For the coming year, but not for the past.

(4) Therefore I was entitled to live rent-free in the house. V. supra 67b.

(5) Lit., ‘make (the creditor) quit.

(6) Lit., ‘until I cause you to quit by (payment of) money,’ i.e., until I compel the heathen to repay you. This was not forbidden as usury, since not Raba but the heathen owed him money (Rashi).

(7) [Near Matha Mahasia, a suburb of Sura, Obermeyer, op. cit. p. 297.]

(8) Lit., ‘devour’.

(9) Whereas had they taken it in Tishri, it might have turned sour by Tebeth. Thus in return for their advancing the money before the receipt of the goods the vendor takes the risk of deterioration, which is usury. Now, though it was stated, supra 72b, that one may buy wheat ahead if the buyer has stock when the money is paid, Raba of Barnesh thought that wine is different, because it is liable to turn sour. (Rashi).

(10) I.e., good wine remains good; if it turns now, it was poor from the very beginning, already containing the germs of deterioration, as it were, but its faultiness was not then discernible.

(11) And they insist on receiving it, because only if it is sound now was it sound then.

(12) [Fort of Shanutha, 4 parasangs west of Bagdad, and identical with Be-Kufai; v. B.B. (Sonc. ed.) p. 120, n. 8, the former being the Arabic, the latter the Aramaic name of the Fort, Obermeyer, op. cit., p. 268.]

(13) Lit., ‘they poured’.

(14) [So Jast. Others: an additional jug, measure.]

(15) Or is it usury for having paid the money in advance?

(16) The right of giving you exactly the stipulated quantity.

(17) By paying the land tax on behalf of the original owners, who, being unable to pay it, had fled, they had become possessed thereof, and it is questionable whether they have the right to dispose of the wine.

(18) So Jast. Rashi: the service-warrant.

(19) [So according to some texts; cur. edd.: ‘we learnt’. The quotation however is not from a Mishnah.]

(20) Lev. XXV, 46.

(21) Ibid. The verse, of course, is not actually thus interpreted, but merely cited in support of his practice, with the caveat that men of good standing must not be molested.

(22) Walshafat, v. B.B. (Sonc. ed.) p. 409, n. 6. Having neglected to buy a vintage, when wine is cheap, so that it must now be bought at ordinary market prices, he must duly compensate him. [Obermeyer, op. cit. p. 185, renders: he pays him (the agent) only in accordance with the (low) price current in the wine market of Balash-Abad.]

(23) Even had he not been negligent, he might have failed to obtain the particular wine ordered.

(24) V. Glos. Even if the agent undertook to forfeit the loss, should he not buy the wine, his pledge is invalid, not having been meant seriously.

(25) V. infra 104a.

(26) Therefore his undertaking is not an asmakta, but seriously meant.

Talmud - Mas. Baba Metzia 74a

here it does not rest with him.[1]

Raba said: If three men gave money to one person to purchase something for them, and he purchased on behalf of one only, he has purchased [it] for all three.[2] This is so only if he [the agent] did not make up a separate sealed package of each man's money; but if he did, then for whom he has bought, he has bought, and for whom he has not bought, he has not bought.

R. papi said in Raba's name: The mark [on the wine-barrels][3] gives possession. In respect of what [does it effect a title]? — R. Habiba said: In respect of actual possession.[4] The Rabbis said: For the acceptance of the curse.[5] And the law is that [it gives possession only] in respect of submission to the curse. But where it is the usage that this gives actual possession, it does so [with full legal recognition].[6]

IF HE WAS OF THE FIRST HARVESTERS. Rab said: If [only] two [processes] are wanting [before the crops are ready for delivery] a contract may be made; if three, no contract may be made. Samuel said: [If they are to be done] by man, even if a hundred [are lacking] an agreement may be effected; if by Heaven,[7] even when one [is lacking] no contract may be made. We learnt: HE MAY ENTER INTO A CONTRACT FOR [THE CROPS IN] THE STACK. But it still wants spreading out in the sun to dry, threshing, and winnowing?[8] — It means that it had already been spread out [and dried] in the sun. But on Samuel's view, that if dependent on Heaven, even when one [process is lacking] no contract may be made, does it not need winnowing, which is in the power of Heaven?[9] — It can be done with a fan.

AND FOR THE BASKET OF GRAPES. But they yet need heating,[10] placing in the press, treading, and being drawn [into the pit]![11] As R. Hiyya learnt: [A contract may be made] in respect of the heated mass of olives; so here too, it is for the heated mass of grapes. But three processes are still wanting! — [It refers] to a place where the buyer draws [the wine into the pit].[12]

AND FOR THE VAT OF OLIVES. But it must yet be heated, placed between the boards [of the olive press], pressed, and conducted [into the oil pit]! — As R. Hiyya taught: [The contract may be made] in respect of the heated mass of olives. [So here too.] But three processes are still wanting! — [It refers] to a place where the buyer draws [the oil into the pit].

AND FOR POTTERS’ LUMPS OF CLAY. But why? Surely it requires moulding, drying, placing in the oven, burning, and taking out! — [It means,] when they have been moulded and dried. But there are still three [processes wanting]! — [It refers] to a place where the buyer removes [the earthenware from the oven.]

AND FOR LIME, WHEN IT HAS ALREADY BEEN PLACED IN THE KILN. But it requires to be burnt, removed [from the kiln], and crushed![13] — [It refers] to a place where the purchaser crushes it. But on the view of Samuel, who maintained that if they are to be done by man, even when a hundred [processes are wanting] a contract may be made, why must it have ‘BEEN PLACED IN THE KILN? — Say thus: when it is ready for placing in the kiln.[14]

AND FOR POTTERS’ LUMPS OF CLAY. Our Rabbis taught: Contracts may not be entered into for potters’ lumps of clay until they are kneaded [into lumps]: this is R. Meir's view. R. Jose said: This refers only to white earth;[15] but for black earth, such as that of Kfar Hanania and its environs, Kfar Sihin[16] and its environs, an agreement may be concluded, for even if one [merchant] has none, another has.

Amemar paid money [for earthenware] when he [the manufacturer] had stocked himself with the earth. In accordance with whom [did he do this]? If in accordance with R. Meir? Surely R. Meir ruled [that no contract may be made] until they are kneaded [into clay]![17] If with R. Jose, surely he said, Even if one has none, another has?[18] — In truth, it was In accordance with R. Jose, but in Amemar's locality earth [for this purpose] was rare; hence, if he is stocked therewith, each places full reliance;[19] if not, they place no reliance.[20]

ONE MAY ALSO MAKE A FIXED CONTRACT FOR MANURE FOR THE WHOLE YEAR. But are not the Sages identical with the first Tanna?[21] — Raba said:

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(1) For he might have failed to procure the wine at the stipulated price in any case. Hence his undertaking was an asmakta.

(2) All three must share it.

(3) סיטומתא . When merchants bought wine, they left it in the cellars of the growers, taking out barrel by barrel according to need, and affixed a mark on each that they had bought. [Asheri in name of R. Han. explains it as ‘handshake’, a recognised method among traders of closing a deal.]

(4) That by affixing a mark it passes completely into the possession of the merchant, as though meshikah (v. Glos.) had taken place, and henceforth he must bear all risks.

(5) Lit., ‘He who punished etc.’; v. supra 44a. It still belongs to the wine-grower (the payment of money not effecting a change of ownership), but should he desire to rescind the sale, as he may legally do, he must submit to the curse.

(6) I.e., a method of acquisition based on local usage receives full legal recognition.

(7) I.e., processes not dependent on man.

(8) This refutes both Rab and Samuel, for three processes are wanting, one of which, at least, sc. drying by the sun, is not in man's power.

(9) This was done by throwing the corn to the wind, which separated the grain from the chaff.

(10) prior to manufacture the grapes were heated and caused to shrink by exposure to the sun.

(11) This too refutes Rab and Samuel.

(12) Hence only two processes are wanting.

(13) Before it is fit for use.

(14) I.e., when he has the materials for making the lime, the fuel, etc., with which the kiln was fired.

(15) Which is rare and difficult to obtain.

(16) Both in Galilee.

(17) But not while it is still earth.

(18) So that Amemar could have given money even sooner.

(19) Upon the transaction, which cannot be rescinded without submission to a curse.

(20) And each may retract.

(21) V. Mishnah, 72b.

Talmud - Mas. Baba Metzia 74b

They differ with respect to winter.[1]

AND ONE MAY ALSO BARGAIN FOR THE LOWEST PRICE. A man once paid money [in advance] for his father-in-law's dowry,[2] [i.e., the trousseau comprised therein.] Subsequently the dowry fell in price.[3] So they came before R. Papa. Said he to him [the purchaser]: If you have contracted for the lowest price, you can take at present prices; if not, you must accept at the original price. But the Rabbis protested to R. Papa: Yet if he did not stipulate [thus], must he accept at previous prices? Surely it is only money [that has passed between them], and money gives no title! — He replied: I too spoke only with reference to submission to the curse. If he stipulated for the lowest price, and the vendor wishes to retract, the vendor must submit to the curse; if no stipulation has been made, and the purchaser wishes to retract, the purchaser must submit to the curse. Rabina said to R. Papa: Whence do you know that it [our Mishnah under discussion] accords even with the Rabbis who disagree with R. Simeon and maintain that money does not effect possession;[4] and yet even so, [only] if he stipulated for the lowest price does he receive at the present value, but if not, he must accept it at the previous price?[5] Perhaps it accords [only] with R. Simeon, who maintained that money effects possession,[6] so that, if he stipulated for the lowest price, he receives it at current values, but if not, he must accept it at previous prices, because his money has effected possession for him; whereas in the opinion of the Rabbis, whether he stipulated or not, he can take it at present prices, for a man's intention is for the lowest price?[7] — He replied: You must assume that R. Simeon ruled [that the purchaser is morally in possession after paying money] only if the price remained uniform; but did he rule thus when there were two prices?[8] For should you not admit this, does R. Simeon maintain that the provision of the curse never applies to the purchaser?[9] And should you rejoin, That indeed is so — surely it has been taught: At all events, such is [merely] the halachah; but the Sages said, He who punished etc.[10] What is meant by ‘at all events’? Surely that it matters not whether the vendor or the purchaser [retracts], he must submit to the curse? Hence R. Simeon gave his ruling [that the vendee cannot legally cancel the sale] only if the price remained uniform, but if not there were two prices.

R. Aha, the son of Raba, said to Raba: But does it not follow [that there is no curse in the case under discussion], since in the first place he [the father-in-law] had only appointed him [the son-in-law] as his agent?[11] — He replied: This refers to a merchant who buys and sells.[12] MISHNAH. A MAN MAY LEND HIS TENANTS[13] GRAIN FOR [AN EQUAL QUANTITY OF] GRAIN [TO BE RETURNED] FOR SOWING PURPOSES, BUT NOT FOR FOOD. FOR RABBAN GAMALIEL USED TO LEND HIS FARMER-TENANTS GRAIN FOR GRAIN FOR SOWING; AND IF IT WAS DEAR AND BECAME CHEAP, OR CHEAP AND BECAME DEAR, HE WOULD ACCEPT [A RETURN] ONLY AT THE LOWER PRICE;[14] NOT BECAUSE THE HALACHAH IS SO, BUT BECAUSE RABBAN GAMALIEL DESIRED TO SUBMIT HIMSELF TO GREATER STRINGENCY.[15]

GEMARA. Our Rabbis taught: A MAN MAY LEND HIS TENANTS GRAIN FOR GRAIN FOR SOWING. That is only if he [the tenant] has not entered therein;[16] but if he has entered therein, it is forbidden. Why does our Tanna draw no distinction whether he has entered therein or not, whereas the Tanna of the Baraitha does?Raba replied: R. Idi explained the matter to me: In the locality of our Tanna the aris provided the seed, and whether he has yet entered therein or not, as long as he has not provided the seed he [the landlord] can make him quit;[17] hence, when he enters therein [and the owner provided the seed] it is [straightway] for a lower return.[18] But in the locality of the Tanna of the Baraitha the landowner provided the seed;[19] hence, if he [the aris] has not yet entered therein, so that he [the landlord] can make him quit, when he does enter, it is for a lower return; but if he has already[20] entered, so that he cannot force him to quit, it is forbidden.[21]

Our Rabbis taught: A man may propose to his neighbour,

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(1) When very little dried manure for fertilising is available. The first Tanna permits a contract even for winter (‘FOR

THE WHOLE YEAR'); but the Sages, who permit the transaction because even if one has none another may have it, refer only to summer, when it is plentiful, but not to winter, when there may be a shortage amongst all merchants.

(2) Which the father in-law was to provide, the father-in-law having made him his agent.

(3) Before delivery.

(4) In respect of both the vendor and purchaser; v. supra 44a.

(5) Or rescind the sale only on submission to a curse.

(6) In respect of the purchaser, viz., that he cannot rescind the bargain at all, even on pain of submission to the curse.

(7) Since the Rabbis maintain that the vendee may rescind the sale even without a drop in price, but that he is subject to the curse, it may be that if the price falls, he is even morally entitled to retract, for a 'most favoured-sale' is implicit in every such transaction.

(8) I.e., if the price fell.

(9) For if the sale is always legally binding upon the purchaser there is no possibility of his ever having to submit to the curse.

(10) V. supra 48a; this was said by R. Simeon.

(11) Since the father-in-law provides the dowry, the son-in-law merely acted on his behalf in placing the order. The latter is not subject to the curse, since he does not retract, whilst the former may repudiate his agent for not having fulfilled his task in a proper manner by making the necessary stipulation.

(12) The son-in-law did not act as an agent, but bought on his own account, to sell to his father-in-law.

(13) Aris, a tenant who pays a percentage of the crops as rent.

(14) I.e., if he lent them grain when it was cheap, and then it advanced, he would only accept current value, hence a smaller quantity.

(15) Therefore the Tanna finds it necessary to state the true halachah.

(16) I.e., has not commenced any work in the field.

(17) Even if he has ploughed the field, he can be forced to quit.

(18) Since he could have been forced to leave the field altogether, the seed which the owner provides is not regarded as a loan but as an addition, as it were, to the land he leases him; and in consideration thereof the aris is to pay him the same quantity over and above what he would otherwise have to pay him. Therefore, even if the seed advances in price, there is no interest on a loan.

(19) I.e., normally; but in this case, owing to the superior quality of the soil, the owner had stipulated that the aris was to provide it.

(20) And then agreed to provide the seed himself, contrary to local usage, and then the owner advanced it, the same quantity to be repaid later.

(21) For in that case, the land already having been leased, it cannot be maintained that the seed advanced is an addition to the field.

Talmud - Mas. Baba Metzia 75a

'Lend me a kor of wheat,' and stipulate a monetary return:[1] if it depreciates, he returns wheat; if it advances, he repays its value [as at the time of borrowing]. But did he not stipulate?[2] — R. Shesheth answered: It is thus meant: if no stipulation is made, and it depreciates, he takes wheat; if it advances, he repays its [original] value.

MISHNAH. A MAN MAY NOT SAY TO HIS NEIGHBOUR, 'LEND ME A KOR OF WHEAT AND I WILL REPAY YOU AT HARVEST TIME;'[3] BUT HE MAY SAY, 'LEND ME UNTIL MY SON COMES, OR UNTIL I FIND THE KEY.'[4] HILLEL, HOWEVER, FORBADE [EVEN THIS.] AND THUS HILLEL USED TO SAY: A WOMAN MUST NOT LEND A LOAF TO HER NEIGHBOUR WITHOUT FIRST VALUING IT, LEST WHEAT ADVANCES AND THUS THEY [THE LENDER AND BORROWER] COME TO [TRANSGRESS THE PROHIBITION OF] USURY.

GEMARA. R. Huna said: If he possesses a se'ah, he may borrow a se'ah; two se'ahs, he may borrow two se'ahs.[5] R. Isaac said: Even if he has only a se'ah, he may borrow many kors against it.[6]

R. Hiyya taught the following, which is in support of R. Isaac: [One may not borrow wine or oil for the same quantity to be returned, because] he has not a drop of wine or oil.[7] Surely then, if he has, he may borrow a large quantity against it.[8]

HILLEL, HOWEVER, FORBADE [EVEN THIS]. R. Nahman said in Samuel's name: The halachah agrees with Hillel's ruling. The law is nevertheless not in accordance with him.[9]

AND THUS HILLEL USED TO SAY, A WOMAN MUST NOT LEND, etc. Rab Judah said in Samuel's name: This is Hillel's view, but the Sages maintain, One may borrow and repay unconditionally.

Rab Judah also said in Samuel's name: The members of a company who are particular with each other[10] transgress [the prohibition of] measure, weight, number, borrowing and repaying on the Festival,[11] and, according to Hillel, usury too.[12]

Rab Judah also said in Samuel's name: Scholars may borrow from each other on interest. Why? Fully knowing that usury is forbidden, they merely present gifts to each other.[13] Samuel said to Abbuha b. Ihi: Lend me a hundred peppercorns for a hundred and twenty. And this is well.[14]

Ran Judah said in Rab's name: One may lend to his sons and household on interest, in order to give them experience thereof.[15] This, nevertheless, is incorrect, because he will come to cling thereto.[16]

MISHNAH. A MAN MAY SAY TO HIS NEIGHBOUR, ‘HELP ME TO WEED, AND I WILL HELP YOU; ASSIST ME TO HOE, AND I WILL ASSIST YOU.’[17] BUT HE MAY NOT SUGGEST, ‘DO YOU WEED WITH ME, AND I WILL HOE WITH YOU; DO YOU HOE WITH ME, AND I WILL WEED WITH YOU.’[18]

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(1) Viz., its value when borrowing.

(2) To return money; why then repay wheat if its value falls?

(3) Lest it become dearer.

(4) I.e., he has it, but it is temporarily inaccessible. Since the prohibition of lending a se'ah for a se'ah is only Rabbinical, it was not enacted when the borrower actually possesses the grain.

(5) The reference is to ‘LEND ME UNTIL MY SON COMES etc.’

(6) For in point of fact, the se'ah that he has does not pass into the lender's possession, and he could, if he wished, dispose of it and then purchase a se'ah for repayment, even at a higher price. Thus, having borrowed one se'ah, he is at liberty to dispose of the first and remain in debt for what he borrowed: this se'ah (the borrowed one) then serves as a standby for another, and the second for a third, and so on.

(7) Hence, if the price of wine or oil advances, there is usury.

(8) Lit., ‘many drops’.

(9) Sc., R. Nahman in Samuel's name.

(10) I.e., members of a company at one table, each of whom has his own provisions, and when one borrows from another, are particular to weigh, measure, or count, that the exact quantity may be returned.

(11) On a Festival one may borrow from his neighbour, but not by weight, measure or number. Likewise, he may not use the terms ‘lend’ and ‘repay’, for these belong to monetary transactions. Now Rab Judah observes, when members of a company are particular with each other, they are likely to be led into the transgression of these prohibitions.

(12) When members of a company are not particular with each other, and one borrows and returns the same amount after it has advanced, there is no usury, since neither cares whether the exact amount is returned or not. But if they are particular, every change in value is scrupulously noted, and therefore, if it advances, there is usury. This does not refer particularly to Festivals. Since Rab Judah maintains that Hillel's ruling applies only to members who are particular with each other, it follows that neighbours, in respect of whom Hillel stated his view, are always so regarded. (Tosaf.)

(13) This refers only to a trifling matter, such as might be given in any case. (Tosaf.) [They are not as petty and niggardly in their relations to one another as those whose only common bond of interest is the dining table; v. Rappaport, J.H., Das Darlehen, p. 135.]

(14) I.e., it is not usury.

(15) Lit., 'to let them know the taste of usury'; i.e., that they should know the bitterness and cankering cares of having to return more than is borrowed.

(16) In teaching his children the dark side of interest, he himself will be impressed with its happy side-for the lender-and engage in it.

(17) Though by the time he comes to reciprocate labour costs may have advanced.

(18) One may be more difficult than the other, and so there may be an appearance of usury.

Talmud - Mas. Baba Metzia 75b

ALL THE DAYS OF THE DRY SEASON ARE EQUAL,[1] AND LIKEWISE OF THE RAINY SEASON.[2] [BUT] ONE MAY NOT SAY, 'PLOUGH WITH ME IN THE DRY SEASON, AND I WILL PLOUGH WITH YOU IN THE RAINY SEASON'.[3] RABBAN GAMALIEL SAID: THERE IS [A FORM OF] PREPAID INTEREST AND ONE OF POSTPAID INTEREST. E. G., IF ONE MADE UP HIS MIND TO BORROW FROM HIS NEIGHBOUR AND SENT HIM [A GIFT], SAYING, 'IT IS IN ORDER THAT YOU SHOULD LEND ME' — THAT IS INTEREST IN ADVANCE. IF HE BORROWED FROM HIM, REPAID HIS MONEY, AND THEN SENT HIM [A GIFT], SAYING, 'IT IS ON ACCOUNT OF YOUR MONEY WHICH, [AS FAR AS YOU WERE CONCERNED], LAY IDLE WITH ME' — THAT IS POSTPAID INTEREST. R. SIMEON SAID: THERE IS A FORM OF VERBAL INTEREST. [THUS:] HE [THE BORROWER] MAY NOT SAY TO HIM [THE LENDER], 'KNOW THAT SO-AND-SO HAS COME FROM SUCH AND SUCH A PLACE.'[4]

THE FOLLOWING TRANSGRESS NEGATIVE INJUNCTIONS: THE LENDER, THE BORROWER, THE SURETY, AND THE WITNESSES; THE SAGES ADD, THE NOTARY TOO. THEY VIOLATE: THOU SHALT NOT GIVE [HIM THY MONEY UPON USURY],[5] TAKE THOU [NO USURY] OF HIM,[6] THOU SHALT NOT BE TO HIM AS AN USURER,[7] NEITHER SHALL YE LAY UPON HIM USURY,[8] AND THOU SHALT NOT PUT A STUMBLING BLOCK BEFORE THE BLIND, BUT SHALT FEAR THY GOD: I AM THE LORD.[9]

GEMARA. It has been taught: R. Simeon b. Yohai said: Whence do we know that if a man is his neighbour's creditor for a maneh, the latter must not extend a greeting to him, if that is not his usual practice? From the verse, Usury of any word which may be usury, [teaching] that even speech is forbidden.

THE FOLLOWING TRANSGRESS. Abaye said: The lender infringes all;[10] the borrower: Thou shalt not cause thy brother to take usury,[11] but unto thy brother thou shalt offer no usury,[12] and thou shalt not put a stumbling block before the blind. The Surety and the witness: only, neither shall ye lay upon him usury.[13]

It has been taught: R. Simeon said: Those who lend on interest lose more than they gain.[14] Moreover, they impute wisdom[15] to Moses, our Teacher, and to his Torah, and say, 'Had Moses our Teacher known that there is profit in this thing [sc. usury], he would not have prohibited it.'[16]

When R. Dimi came,[17] he said: Whence do we know that if one is his neighbour's creditor for a maneh and knows that he has nought [for repayment], he may not even pass in front of him? From the verse, Thou shalt not be to him as an usurer.[18] R. Ammi and R. Assi say: It is as though he subjected him to a twofold trial,[19] for it is written, Thou hast caused man to ride over our heads,' we went through fire and through water.[20]

Rab Judah said in Rab's name: He who has money and lends it without witnesses infringes, and thou shalt not put a stumbling block before the blind.[21] Resh Lakish said: He brings a curse upon himself, as it is written, Let the lying lips be put to silence; which speak grievous things proudly and contemptuously against the righteous.[22]

The Rabbis observed to R. Ashi: Rabina fulfils all the Rabbinical requirements. He [R. Ashi] sent word to him [Rabina] on the eve of the Sabbath: ‘Please, let me have [a loan of] ten zuz, as I just have the opportunity of buying a small parcel of land.’ He replied, ‘Bring witnesses and we will draw up a bond.’ ‘Even for me too!’ he sent back. ‘You in particular,’ he retorted, ‘being immersed in your studies, you may forget, and so bring a curse upon me.

Our Rabbis taught: Three cry out[23] and are not answered. Viz., he who has money and lends it without witnesses; he who acquires a master for himself; and a henpecked husband. ‘He who acquires a master for himself;’ what does this mean? — Some say: He who attributes his wealth to a Gentile;[24] others: He who transfers his property to his children in his lifetime; others: He who is badly-off in one town and does not go [to seek his fortune] elsewhere.

CHAPTER VI

MISHNAH. IF A MAN ENGAGES ARTISANS AND THEY DECEIVE EACH OTHER, THEY CAN ONLY CHERISH RESENTMENT AGAINST EACH OTHER.[25] IF HE HIRES AN ASS-DRIVER OR A WAGGONER[26] TO BRING LITTER-CARRIERS AND PIPERS FOR A BRIDE OR FOR THE DEAD,[27] OR LABOURERS TO REMOVE HIS FLAX FROM THE WATER OF STEEPING, OR ANYTHING WHICH WOULD BE IRRETRIEVABLY LOST,[28] AND THEY [THE WORKERS] BREAK THEIR ENGAGEMENT;[29] IF IT IS A PLACE WHERE NO OTHERS ARE AVAILABLE AT THE SAME WAGE, HE MAY HIRE [WORKERS] AGAINST THEM[30] OR DECEIVE THEM.[31] IF HE ENGAGES ARTISANS AND THEY RETRACT [AFTER DOING SOME WORK]. THEY ARE AT A DISADVANTAGE;

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(1) Lit., ‘one.’

(2) I.e., there is no fear that one day may be longer than another or more difficult for working, so that the value of labour on one is greater than on the other.

(3) In different seasons the work is of unequal difficulty.

(4) The mere giving of information which he would otherwise not have given, is interest. But the text in J. a.l. is, ‘Know that if so-and-so has come, etc.’ On this reading, it is the lender who speaks thus to the borrower, and to make the sense complete, Maim. Yad, Loweh, 13, adds, ‘and when he comes, shew him hospitality.’ Now, though the borrower would probably have done this in any case, his doing it at the lender's behest becomes interest, and is forbidden. The passage then must be translated: R. Simeon said, There is a form of interest arising through (the creditor's) words (orders). (V.J.D. CLX, 12 ט ז a.l. ¤ 5 and ביאור הגר א a.l. ¤ 21.)

(5) Lev. XXV, 37.

(6) Ibid. 36.

(7) Ex. XXII, 24.

(8) Ibid.

(9) Lev. XIX, 14. The borrower, by offering interest and appealing to the creditor's avarice, places a stumbling block before him.

(10) The injunctions enumerated in the Mishnah.

(11) Deut. XXIII, 20. For this translation v. p. 363, n. 4.

(12) Ibid. 21. Alfasi and the Asheri Omit this, and Maim.’s text likewise appears to have omitted it.

(13) I.e., take no part in a transaction which imposes usury.

(14) V. supra 71a: He who lends on interest, his wealth dissolves . . . and he sinks into poverty, never to rise again.

(15) A euphemism for folly.

(16) Lit., ‘written it’.
(17) From Palestine to Babylon.
(18) I.e., do not emphasize that he is in your debt: and so put him to shame.
(19) Lit., ‘judged him with two verdicts.’
(20) Ps. LXVI, 12; v. Ber. 6b.
(21) Lev. XIX, 14.
(22) Ps. XXXI, 19; when the creditor demands repayment, and the debtor denies the loan, he is reviled for preferring unjust claims.
(23) I.e., vent their grievances at law.
(24) V. p. 367, n. 2; the Gentile may learn of this, and demand its return.
(25) But have no legal redress. In the view of the Rabbis, even for resentment there must be some justifiable cause; otherwise it is morally wrong.
(26) The Karlsruhe MS. and Tosaf. read קרר , (קרר to roll, drag; cf. גרר a waggoner). Our editions read קדר , which, according to Jast., is a dialect form of קרר . Tosaf. suggests that קדר , (a potter) may be used in the Mishnah, because potters generally have waggons (for conveying their wares).
(27) It was a custom to have professional mourners and pipers, who played sad music at funerals. The numbers varied according to wealth and social position, but even the poorest had at least one professional mourner and two pipers.
(28) If postponed. The bringing of pipers for a funeral or marriage is included in this category, because they are required for a particular time, and without them the ceremony suffers (Tosaf.).
(29) Lit., ‘withdrew’ in the middle of their work.
(30) I.e., at a higher wage. and claim the difference from the first.
(31) This is discussed in the Gemara.

Talmud - Mas. Baba Metzia 76a

IF THE EMPLOYER RETRACTS, HE IS AT A DISADVANTAGE.[1] HE WHO ALTERS [THE CONTRACT] IS AT A DISADVANTAGE,[2] AND HE WHO RETRACTS IS AT A DISADVANTAGE.

GEMARA. It is not stated, One or the other retracts. but THEY DECEIVE EACH OTHER, implying the artisans deceive each other:[3] viz., the employer instructed him [sc. his employee]. ‘Go and hire me workers;’ whereupon he went and deceived them. How so? If the employer's instructions were at four [zuz per day], and he went and engaged them for three, what cause have they for resentment? They understood and agreed! Whilst if the employer's instructions were for three, and he went and engaged them at four, what then were the conditions? If he [who engaged them] said to them, ‘I am responsible for your wages.’ he must pay them out of his [pocket]. For it has been taught: If one engages an artisan to labour on his [work], but directs him to his neighbour's, he must pay him in full, and receive from the owner [of the work actually done] the value whereby he benefitted him![4] — It is necessary to teach this only if he said to them, ‘The employer is responsible for your pay.’ But let us see at what rate workers are engaged?[5] — It is necessary [to teach this] only when some [workmen] engage themselves for four [zuz] and others for three. Hence they can say to him, ‘Had you not told us that it is for four zuz, we would have taken the trouble to find employment at four.’[6] Alternatively, this may refer to a householder.[7] Hence he can say to him, ‘Had you not promised me four, it would have been beneath my dignity to accept employment.’ Or again, it may refer, after all, to [normal] employees. Yet they can say to him [the foreman], ‘Since you told us it was for four, we took the trouble of doing the work particularly well.’ But then let us examine the work?[8] — This refers to a dyke.[9] But even [in] a dyke, it [superior workmanship] may be distinguished! — It means that it is filled with water, and so not noticeable. Another possibility is this: In truth, it means that the employer gave instructions for four, and he went and engaged them for three; but as to your objection, ‘They understood and accepted!’ — they can remonstrate with him. ‘Do you not believe in, Withhold not good from them to whom it is due?’[10]

It is obvious, if the employer instructed him [to engage labourers] for three [zuz per day], and he went and promised them four, but they stipulated, ‘According to the employer's instructions’, that their reliance was upon him [who engaged them],[11] But what if the employer instructed him [to engage them] at four, and he went and promised them three, and they said, ‘Be it as the employer instructed’? Did they rely on his [the agent's] words, saying to him, ‘We believe you that the employer has instructed you thus’; or perhaps they relied upon the words of the employer?[12] — Come and hear: [If a woman said to a man.] ‘Bring me my divorce,’ and [he went and stated to her husband,] ‘Your wife authorised me to accept the divorce on her behalf;’ [to which] he replied. ‘Take it, in accordance with her instructions,’ — R. Nahman said in the name of Rabbah b. Abbuhah in Rab's name: Even when the divorce reaches her hand, she is not divorced. This proves that he [the husband] relies upon his [the agent's] statement. For should you maintain that he relies upon hers, then at least when the divorce reaches her hand, let her be divorced![13] Said R. Ashi:

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(1) Thus, in the first instance, if labour costs increased after they retracted, the employer may deduct the increase that he will have to pay from the wages due for the work already done. If, on the other hand, they decrease, the profit is the employer's, and the workers cannot demand the whole sum originally agreed upon less the (diminished) cost of completing the work. In the second instance, the employer must pay his workmen for what they have already done pro rata even if labour costs advance, and he must pay more for the rest. Should they decrease, however, he is bound to pay the whole sum originally agreed upon less only the diminished cost of the rest.

(2) E.g., if a dyer was ordered to dye wool red, and dyed it black, he can only demand either his own expenses for dyeing or the increased value of the wool, whichever is less.

(3) Because to denote that the employer and employees deceived each other, the Mishnaic idiom requires the first phrase.

(4) And when an employer instructs a foreman to engage labourers at three sins, and he engages them at four, it is as though he had engaged them for himself but directed them to his employer's work.

(5) For if four zuz is the usual wage. the foreman has a right to claim that sum from the employer, as stated in the Baraitha just cited, he receives the value whereby he benefitted him. If, on the other hand, three is the usual wage, the workers must accept this without any resentment, since he explicitly stipulated that the responsibility for their wages rested on the employer.

(6) Hence they have righteous cause for resentment. Yet, since he stipulated that the employer was responsible for their wages, they have no legal redress.

(7) I.e., who works for himself, but if offered a high wage, is willing to work for another.

(8) To see if it is really worth the higher wage, in which case the employer must pay four, notwithstanding his instructions. This, however, is only when some receive four zuz for superior work, but if none do, they have no legal claim. (H.M. CXXXII, 1 and באר היטב , a.l.)

(9) They were engaged to dig a dyke.

(10) Prov. III, 27. Though they undertook to work for three they are justified in resenting that the employer's agent offered them less than he might have done.

(11) I.e., they certainly did not stipulate for less.

(12) I.e., by saying, ‘Be it as the employer instructed’, they meant to stipulate that if he had stated more than three, they were to receive the higher wage.

(13) A woman is not divorced until the divorce actually reaches her hand or the hand of an agent appointed by her for the express purpose of accepting it on her behalf: further, an agent's powers are strictly limited to the terms of his appointment, and he may not exceed them in the least. Now, in this case, the wife merely authorised the agent to bring it to her, whereas the agent stated to the husband that he was delegated to accept it on her behalf; whilst the husband, in handing him the divorce, asserted that he was giving it in accordance with her instructions. Now, no man can take a divorce to a woman on her husband's behalf, unless her husband appoints him for that purpose; and a husband cannot authorise a man to accept a divorce on his wife's behalf, i.e., that by his acceptance she shall be divorced, for such appointment is the wife's prerogative. Hence, when the husband said, ‘Take it in accordance with her instructions’, he must have meant, ‘I believe that she appointed you to accept it on her behalf, that by your acceptance she should become divorced’; consequently he did not appoint him as agent to take it to his wife. (For though the wife had appointed him as her agent to bring it to her, the husband too must appoint him as his agent to take it to her; otherwise the divorce is invalid. But in this case, the husband, believing that he was agent for acceptance, would naturally not instruct him to take it to her.) Therefore, she is not divorced at all, neither by his acceptance, since she did not authorise him to accept it for her, nor even by her own, since he had not been authorised by the husband to take it to her. Now, this holds good on the hypothesis that the husband relied on the agent's statement only. But, if it be assumed that he meant, 'I give it to you exactly in accordance with her instructions, and not merely in accordance with your word,' that is tantamount to saying, 'As she has instructed you to be her agent to bring it to her, so do I instruct you to be my agent to carry it to her'; and therefore, when it reaches her hand, she should certainly be divorced. This proves that the husband relied on the agent's statement only, and by analogy, the workers rely upon the employer's delegate.

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How now! That were well, had the reverse been taught, thus: [If a woman said to a man,] 'Accept the divorce on my behalf;' and he [went and stated to her husband.] 'Your wife instructed me, Bring me my divorce,' [to which] he replied. 'Take it, in accordance with her instructions: and had R. Nahman ruled [thereon] in the name of Rabbah b. Abbuha in Rab's name that immediately the divorce comes into his [the agent's] hands, she is divorced; that would have proved that he [the husband] relied upon her word.[1] Again had he ruled that [only] when the divorce reaches her hand, is she divorced; that would shew that he relied upon the agent's statement.[2] But there [where R. Nahman did state his ruling], it is because the agent himself entirely cancelled[3] his appointment, by declaring, 'I am willing to be an agent for acceptance, but not for delivery.'[4]

[Reverting to the Mishnah:] If you prefer I can say, this Tanna designates retracting too, 'deceiving'.[5] For it has been taught: If one hires labourers and they deceive the employer, or the employer deceives them, they have nothing but resentment against each other [but no legal redress]. Now, this holds good only if they have not gone [to the scene of their labour]; but if ass-drivers [are engaged to convey a load of grain from a certain place and] go [there] and find no grain, or labourers [hired to plough a field] go and find the field a swamp [unfit for ploughing], he must pay them in full; yet travelling with a load is not the same as travelling empty-handed, nor is working the same as sitting idle.[6] [Moreover,] this holds good only if they have not commenced work; but if they have commenced work, the portion done is assessed for them.[7] E.g., if they contract to harvest [a field of] standing corn for two sela's and they harvest half, and leave half; or to weave a garment for two sela's, and they weave half and leave half, the portion done is assessed: if it is worth six denarii, he must pay them a sela' [Four denarii], or they can complete the work and receive two sela's;[8] if it is worth a sela', he must pay them a sela'.[9] R. Dosa said: That which still remains to be done is assessed. [Thus:] if it is worth six denarii, he pays them a shekel [two denarii], or they can complete their work and receive two sela's[10] if a sela', he must pay them a sela'. Now, this holds good only if there is no irretrievable loss [if the work is postponed until fresh labourers are found]; but if there is, he can engage [workers] at their cost, or deceive them. How does he deceive them? He says to them, 'I have promised you a sela'; come and receive two.' To what extent may he engage [workers] against them? Even to forty or fifty zuz.[11] But when is this said, [only] if no artisans are available for hiring;[12] but if there are, and he [the first worker] says to him, 'Go out and engage one of these,' he has nothing but resentment against him.[13]

A tanna recited before Rab:[14] He must pay them in full. Whereupon he [Rab] observed: My uncle [R. Hiyya] said, 'Were it I, I would have paid them only as unemployed labourers:'[15] yet you say. 'he must pay them in full'! But surely, it is taught thereon: But travelling with a load is not the same as travelling empty-handed, nor is working the same as idling! — Now it [the Baraitha] had not been completed before him [Rab].[16] Others say, it had been completed before him,[17] and he [Rab] observed thus: My uncle said, 'Were it I, I would not have paid him at all';[18] yet you say [he must pay him] as an unemployed labourer! But this [Baraitha] opposes it! — There is no difficulty: the latter ruling is if he viewed the field the previous evening; the former, if he did not.[19] Just as Raba said: If one engaged labourers to cut dykes, and rain fell and rendered it [the land] waterlogged [making work impossible], if he inspected it the previous evening,

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(1) Since the divorce takes effect immediately the agent accepts it.

(2) And thus himself appointing him an agent to take the divorce to his wife.

(3) Lit., ‘uprooted’.

(4) By claiming that he was an agent for acceptance when in fact he was merely authorized to bring her the divorce, he shewed unwillingness to take all that trouble, and so ipso facto cancelled his own authority. Therefore, even if the husband's assertion meant that he relied upon his wife, and the agent, moreover, subsequently changed his mind and did deliver it, the delivery is invalid, since he himself had destroyed his authority. But in the hypothetical reverse case posited by R. Ashi, the agent's statement that he was empowered only to bring it to the wife, when in fact he was authorised to accept it, did not annul his powers; if he was willing to go so far as to deliver it, he was certainly prepared for the lesser service of accepting it on the wife's behalf.

(5) I.e., the Mishnah means that the deceit was between the employer and the labourers, one side having retracted from the agreement, and this too is called ‘deceiving’.

(6) I.e., though the labourers can claim for the loss of the day's work, and the ass-drivers likewise, a man is always prepared to accept somewhat less than a full day's wages if he is permitted to be idle that day, and it is only to that lesser sum that they are entitled.

(7) In the first clause the reference is to time workers: here, to workers who contracted for the whole task, e.g., to plough a field for a fixed remuneration.

(8) I.e., if the half done is now worth six denarii, labour costs having advanced, so that the employer must pay six denarii for the other half, he must nevertheless give them the sela’ (four denarii) for their half, although he thereby loses on the whole: for this Tanna rejects the view of our Mishnah that he who breaks the agreement is at a disadvantage, as explained on p. 437. n. 8.

(9) v. infra 77a.

(10) R. Dosa agreeing with the Tanna of our Mishnah.

(11) I.e., he may even pay fresh workers for the remainder much more then the first were to receive for the whole, and recoup himself from the first batch.

(12) Hence he must pay far above the normal.

(13) In any case the term ‘deceiving’ is employed in this Baraitha to denote ‘retracting’ and so likewise in our Mishnah.

(14) In connection with the above: ‘if the ass-drivers went and found no grain etc.’

(15) As explained on p. 441, n. 6; cf. also p. 398, n. 2.

(16) I.e., when the tanna recited the Baraitha and said ‘he must pay in full’, he went no further, whereupon Rab observed that his uncle's view differed.

(17) I.e., the Tanna had added, ‘but travelling with a load etc.’, and yet Rab observed that his uncle differed.

(18) It was their misfortune that the field proved to be a marsh.

(19) Rashi: if the labourer inspected the field the previous evening, he has no claim now, since when he undertook to plough it, he saw the condition of the field. Maim: If the land owner inspected it the previous evening, found it fit, and engaged workers, but overnight heavy rains turned it into a swamp, the labourers have no redress, since it was not the employer's fault.

the loss is the workers; if not, the loss is the employer's, and he must pay them as unemployed workers.[1]

Raba also said: If one engaged labourers for irrigation, and there fell rain [rendering it unnecessary], the loss is theirs.[2] But if the river overflowed[3] , the loss is the employer's,[4] and he must pay them as unemployed labourers.

Rab also said: If one engaged labourers for irrigation, and the river [whence the water was drawn] failed at midday; if such failure is unusual, the loss is theirs;[5] if usual: if [the labourers] are of that town [and so would know about it] the loss is theirs; if not, the loss is the employer's.[6]

Raba also said: If one engaged labourers for a piece of work, and they completed it in the middle of the day;[7] if he has some [other] work easier than the first, he can give it to them, or even if of equal difficulty, he can charge them [with it]; but if it is more difficult, he cannot order them to do it, and must pay them in full. But why? Let him pay them as unemployed workers! — Raba referred to the workers[8] of Mahuza, who, if they do not work, feel faint.[9]

The Master said: ‘The portion done is assessed for them. E.g., if it is worth six denarii, he must pay them a sela’.[10] The Rabbis hold that the workers [always] have the advantage.

‘Or they can complete the work and receive two sela's.’ Is this not obvious? — This is necessary only when labour costs advanced, and the workers retracted. Thereupon the employer went and persuaded them [to return]. I might think that they can say to him, ‘When we allowed ourselves to be persuaded, it was on the understanding that you would increase our remuneration.’ Therefore we are informed that he [the employer] can answer them, ‘It was on the understanding that I should take particular pains over your food and drink.’[11]

‘If it is worth a sela’, he must pay them a sela’.’ Is this not obvious? — This is necessary only if labour was cheap originally [when he hired them], whilst he engaged them for a zuz above [the usual cost], but subsequently[12] labour appreciated and stood at more than a zuz; I might think that they can plead. ‘You promised us a zuz above [the usual price]; give us a zuz more [than was stipulated, since that is now the usual wage].’ We are therefore told that he [the employer] may answer them,’ When did I promise you an extra zuz, only when you did not agree;[13] but now you have agreed.’[14]

‘R. Dosa said: That which still remains to be done is assessed [thus]: if it be worth six denarii, he pays them a shekel.’ In his opinion, the labourer is at a disadvantage.[15]

‘Or they can complete their work and receive two sela's.’ Is this not obvious? — This is necessary only when labour costs diminished, and the employer retracted; whereupon the labourers went and persuaded him. I might think, he can say to them, ‘[I re-engaged you] on the understanding that you allow a rebate on your wages’: therefore we are taught that they can answer him, ‘It was on the understanding that we perform our work particularly well.’

‘If a sela’, he must pay them a sela’.’ Is this not obvious? — R. Huna. the son of R. Nathan, said: It is necessary only in a case where they [the labourers] contracted for a zuz below [the usual wage] in the first place, and subsequently labour costs fell. I might think that [the employer can plead.] ‘You agreed with me for a zuz less [than usual], hence I will give you a zuz less;’[16] so we are taught that they can reply. ‘We agreed upon a zuz less only when you would not agree [to pay the full price]; but now you have agreed.’

Rab said: The halachah is as R. Dosa. But did Rab really rule thus? Did not Rab say: A worker can retract even in the middle of the day? And should you answer, R. Dosa draws a distinction between time work and piece work,[17] [I can rejoin,] Did he really admit a distinction? Has it not been taught: If one engages a labourer, and in the middle of the day he [the labourer] learns that he has suffered a bereavement,[18] or is smitten with fever: then if he is a time worker,

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(1) If the labourer had not inspected the land beforehand, he can plead. 'You know the nature of your soil and that work is impossible upon it after a heavy rain, and so should have informed me in time to find other work'; therefore the employer must bear the loss. If the labourer had seen it he should have known himself, therefore the loss is his. (So one interpretation of Asheri.) It may also refer to the employer's inspection, as in the previous note. (The weight of authority is in favour of referring the inspection to the employer himself. V. H.M. CCCXXX, 1 and באר הגולה , a.l.)

(2) Since rain is bound to obviate the need of irrigation, it is an implied condition that the employer may dispense with their services on account thereof.

(3) Lit., 'came'.

(4) Because the worker cannot know that the field is so situated, by means of canals leading thereto, that the river's overflow irrigates it.

(5) The employer not being responsible for an unforeseen event.

(6) It is a general principle that if something happens which might be foreseen by both employer and employee, the latter bears the loss of time. H.M. CCCXXXIV, 1

(7) Having been engaged for the whole day.

(8) Jast.: public labourers: Maim.: field diggers: Rashi: navvies accustomed to continual portering. [Mahoza. where Raba had his school, was an important loading centre on the Tigris near Ktesiffon. V. Obermeyer. op. cit. p. 173.]

(9) Idleness is a trial to them; therefore they are entitled to full pay.

(10) v. p. 442, n. 2.

(11) But not pay you more.

(12) I.e., by the time they had done half the work.

(13) To work for less than a sela'.

(14) To receive it. I cannot pay more, as that is my maximum.

(15) v. p. 437. n. 8.

(16) Than the present price, hence, a zuz below the agreed figure.

(17) If a labourer engages himself by the day or week, he can retract and lose nothing; but if he contracts to do a particular piece, he is thereby at a disadvantage; for the reason of the first (stated supra 10a, q.v.) does not apply to a contractor, since not being tied he is his own master.

(18) Lit., 'one had died unto him', viz., one of the relatives for whom a week of mourning must be observed, during which all labour is forbidden.

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he must pay him his wages;[1] if a contract worker, he must pay him his contract price. Now, with whom does this agree? If with the Rabbis, why particularly if he learns that he has suffered a bereavement or is smitten with fever and so unfortunately compelled [to break the agreement]? Even if he is not compelled, surely the Rabbis maintain that the labourer has the advantage! Hence it must agree with R. Dosa, thus proving that he allows no distinction between time work and contract work! — Said R. Nahman b. Isaac: Here the reference is to a thing of irretrievable loss, and therefore it agrees with all.[2]

We learnt: HE WHO ALTERS [HIS CONTRACT] IS AT A DISADVANTAGE, AND HE WHO RETRACTS IS AT A DISADVANTAGE. Now, it is well [to state]. HE WHO ALTERS [HIS CONTRACT] IS AT A DISADVANTAGE, as thereby R. Judah's opinion is given as a general view;[3] but what is added by, HE WHO RETRACTS IS AT A DISADVANTAGE?[4] Surely [its purpose is] to extend the law to a [time] worker, and in accordance with R. Dosa?[5] — But R. Dosa refers to both cases [alike], whereas Rab agrees with him in one and disagrees in the other.

Alternatively, HE WHO RETRACTS IS AT A DISADVANTAGE [is stated] for this purpose. Viz., It has been taught: He who retracts — how is that? If A sold a field to B for a thousand zuz, and B paid a deposit of two hundred zuz, if the vendor retracts, the purchaser has the advantage; if he desires, he can demand, 'Either return me my money or give me land to the value thereof.' And from what part [of the estate] must he satisfy his claim? From the best. But if the purchaser retracts, the vendor has the advantage; if he desires, he can say to him, 'Here is your money.' Alternatively, he can say. 'Here is land for your money.' And what [part of the field] may he offer him? The worst.[6] R. Simeon b. Gamaliel said: They are instructed [so to act as] to make it impossible [for either] to withdraw. How so? He [the vendor] must draw up a deed, stating. 'I [so-and-so] have sold such and such a field to so-and-so for a thousand zuz, upon which he has paid me two hundred zuz, and now I am his creditor for eight hundred zuz.' Thus he [the vendee] acquires the title thereto, and must repay him the rest, even after many years.[7]

The Master said: 'And from what part [of the estate] must he satisfy his claim? From the best.' Now, this was assumed to mean, 'from the best part of his estate.'[8] But let him [the buyer] be even as an ordinary creditor! And we learnt: A creditor is entitled to medium quality![9] Moreover, here is the land for which he paid money! — R. Nahman b. Isaac said: [It means,] From the best therein [sc. the field bought] and[10] the worst therein. R. Aha, the son of R. Ika. said: It may even mean the best part of his estate; yet the average person, when buying a field for a thousand zuz, must sell off his other property cheaply.[11] and hence he is as one who has sustained damage.[12] And we learnt: For damages[13] we assess [and collect] the best [of the offender's estate].

'R. Simeon b. Gamaliel said: They are instructed [so to act as] to make it impossible [for either] to withdraw. How so? He [the vendor] must draw up a deed, stating. "I [so-and-so have sold such and such a field to so-and-so for a thousand zuz, etc."' Hence, it is only because he writes thus;[14] but if not, he [the purchaser] does not acquire it. But has it not been taught: If a man gives a deposit to his neighbour and stipulates. 'If I retract, this deposit be forfeited to you.' and the other stipulates. 'If I retract, I will double you your deposit.' the conditions are effective: this is R. Jose's view, R. Jose [ruling here] in accordance with his general opinion that an asmakta is valid. R. Judah said: It is sufficient that he [the purchaser] shall gain possession [of the object sold] in proportion to his deposit. Said R. Simeon b. Gamaliel: This holds good only if he stipulates, 'Let my deposit effect possession'; but if he sells him a field for a thousand zuz, of which he pays him five hundred, he acquires [it all], and must repay him the balance even after many years?[15] — There is no difficulty: The former refers to a case where he [the vendor] repeatedly dunned[16] [the buyer] for his money;[17] the latter, where he did not repeatedly demand his money. For Raba said: If one sold an article to his neighbour, and repeatedly demanded payment, it does not become his [the purchaser's];[18] but if not, he [the buyer] acquires it.[19]

Raba also said: If one lent a hundred zuz to his neighbour, who repaid him a zuz at a time, it is [valid] repayment, but he may bear resentment against him, for he can complain, 'You have destroyed it for me.'[20]

A man once sold an ass[21] to his neighbour, and one zuz [of the purchase price] being left [unpaid], he [the vendor] made repeated calls for it. Now, R. Ashi sat and cogitated thereon: What [is the law] in such a case? Does he [the purchaser] acquire it or not?[22] Said R. Mordecai to R. Ashi: Thus did Abimi of Hagronia say in Rab's name: One zuz is as [many] zuz, and he does not acquire it. R. Aha, the son of R. Joseph, protested to R. Ashi: But we have stated in Raba's name that he does acquire it! — He replied: You must interpret your teaching [as referring] to one who sells his field

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(1) I.e., pro rata, according to the time worked, but without making any further deduction on account of his breaking the agreement. For since he is unable to continue, he is not penalised and put at a disadvantage, as are others.

(2) All agree that the labourer is in this case at a disadvantage, unless he is unavoidably prevented from adhering to his bargain.

(3) Lit., ‘The Tanna of the Mishnah states anonymously the view of R. Judah,’ indicating that he agrees with it, teaching it as the general opinion. For the reference v. infra 78b.

(4) Since that is implied in the whole Mishnah. It is axiomatic that if a Mishnah states a general principle after the detailed case in which it is embodied, its purpose is extension.

(5) For the first clause of the Mishnah would appear to refer to a contract worker; therefore the general principle is added to shew that the same holds good of a time worker too. And that can agree with none but R. Dosa, since the Rabbis maintain that the advantage is on the side of the labourers. Thus it is proved that R. Dosa draws no distinction between a time worker and a contractor.

(6) The reasons are discussed below.

(7) The point is that the other 800 zuz are described on this bond not as the balance due but as an ordinary debt, and therefore does not affect the ownership of the field, which passes to the buyer on payment of money.

(8) I.e., not particularly of the field sold, but the best of any land that the vendor might own.

(9) If the debtor does not repay, the creditor can exact payment only from his medium quality fields, not from the best. And even that is a special privilege.

(10) Referring to the second case where the buyer retracts.

(11) Very few people possessed such large sums in actual cash; hence the purchaser would have to sell off much of his own estate to raise it, and, as is natural under the circumstances, below its value.

(12) If the vendor subsequently retracts, the purchaser has sold his own estate cheaply for no purpose.

(13) Lit., ‘those who suffer damage.’

(14) I.e., describing the balance as an ordinary debt.

(15) V. supra 48b. This shews that the transaction is binding though the balance was not arranged as an ordinary debt.

(16) Lit., ‘was going in and out.’

(17) Lit., ‘comes in and out for money’. This proves that he sold his field through financial pressure, and therefore, unless he explicitly arranged for the balance to be treated as an ordinary loan, he can cancel the sale if full payment is delayed.

(18) [Even if there was meshikah (v. Glos.); so according to the majority of authorities. Cf. Tosaf. and H.M., CXC. 11.]

(19) And the purchase money is regarded as an ordinary debt.

(20) A hundred zuz in a lump sum can be put to business use; one zuz at a time is spent as received, with no visible or tangible advantage.

(21) The text is חמרא , which may mean ‘ass’ or ‘wine’, and Rashi translates ‘ass’. The reason is that in Rashi's opinion, this assumption, viz. that the vendor's repeated demand for money proves that he sold the article only because he was hard pressed, applies only to land or such articles which are not normally sold, such as an ass which is kept for work on the land; but in the case of wine, which is a normal article of sale, it proves nothing, and hence the consequences drawn from it do not hold good (Maharam). [Alternatively: In the case of wine there would be no reason for cancelling the whole sale for the sake of the single zuz, the buyer surely being entitled to retain wine for the amount he had paid up; Maharsha, מהדורא בתרא .]

(22) Since the balance is so small.

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because of its poor quality.[1]

Now if a man wished to sell [a small field] for a hundred zuz, but finding [no purchaser for so small a field in spite of much seeking] he sold [a larger one] for two hundred [zuz] and made repeated calls for his money, it is obvious that he [the purchaser] does not acquire it.[2] But what if he wished to sell for a hundred, did not find [a purchaser], though had he taken pains he could have found one; but he took no trouble and sold a field for two hundred, and now he makes repeated calls for his money? Is he as one who sells a field because of its poor quality, or not?[3] — This problem remains unsolved.

IF HE HIRES AN ASS-DRIVER OR A WAGGONER . . . HE MAY HIRE [LABOURERS] AGAINST THEM, OR DECEIVE THEM. How far may he hire [labourers] against them? — R. Nahman said: Up to their wages.[4] Raba raised an objection to R. Nahman: Even to forty or fifty zuz.[5] — He replied: That was taught only if the bundle [of the workers, tools, etc.] had come into his possession.[6]

MISHNAH. IF ONE HIRES AN ASS TO DRIVE IT ON THE MOUNTAIN [TOP]. BUT DRIVES IT ON THE PLAIN, OR TO DRIVE IT ON THE PLAIN BUT DRIVES IT ON THE MOUNTAIN. EVEN IF BOTH ARE TEN MILS,[7] AND IT PERISHES, HE IS LIABLE [FOR DAMAGES]. IF HE HIRES AN ASS TO DRIVE IT ON THE MOUNTAIN [TOP], BUT DRIVES IT ON THE PLAIN, IF IT SLIPS [AND SUSTAINS INJURIES], HE IS EXEMPT;[8] BUT IF IT IS [INJURIOUSLY] AFFECTED BY THE HEAT, HE IS LIABLE.[9] [IF HE HIRES IT] TO DRIVE ON THE PLAIN, BUT DRIVES IT ON THE MOUNTAIN, IF IT SLIPS, HE IS LIABLE; IF AFFECTED BY THE HEAT, HE IS NOT; YET IF IT IS ON ACCOUNT OF THE ASCENT,[10] HE IS LIABLE. IF ONE HIRES AN ASS, AND IT IS STRUCK BY LIGHTNING,[11] OR SEIZED AS A [ROYAL] LEVY:[12] HE [THE OWNER] CAN SAY TO HIM, ‘BEHOLD, HERE IS YOUR [HIRED] PROPERTY BEFORE YOU.’[13] BUT IF IT PERISHES OR IS INJURED, HE [THE OWNER] MUST SUPPLY HIM WITH A SUBSTITUTE.

GEMARA. Why is no distinction drawn in the first clause [between the causes of death], whilst it is in the second? — The School of R. Jannai said: In the first clause it means that it died on account of the air, and so we say, The mountain air killed it, [or] the air of the plain killed it.[14] R. Jose b. Hanina said: It means, e.g., that it died through fatigue.[15] Rabbah said: It means that it was bitten by a serpent.[16] R. Hiyya b. Abba said in R. Johanan's name: This [the first clause] agrees with R. Meir, who ruled: Whoever disregards the owner's stipulation

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(1) Then we may assume that he willingly sold it, and his repeated demands for payment are due not to financial need, but to fear that the purchaser might retract.

(2) For it is certain that he sold only under pressure, though a hundred would have sufficed him, and now he presses for money to buy a smaller field with the surplus.

(3) Since he took but little trouble to find a purchaser for a small field, it may well be that he was not altogether displeased with selling the larger one.

(4) If the first labourers had done part of the work, but received no wages yet, he may offer the whole sum agreed upon to fresh workers, and pay the first nothing.

(5) V. p. 442. n. 5.

(6) Only if actually in possession of property belonging to the workers may he engage fresh ones at their expense up to the value thereof, even if it exceeds the original amount; but not otherwise.

(7) A mil==2000 cubits.

(8) Because there is less likelihood of slipping on the plain than on the mountain top, therefore he has minimised the risk.

(9) Because it is warmer on the plain than on the mountain top.

(10) The ascent to the top of the mountain heating and affecting it.

(11) This is the literal meaning of והבריקה ; but it is discussed in the Gemara (78b), and other meanings are suggested.

(12) אנגריא , **, forced labour, to which man or beast were liable.

(13) I.e., he is not bound to supply another in its stead.

(14) I.e., the climate of either of these places did not suit it.

(15) Thus, if it was driven on the mountain instead of on the plain, the owner can plead that the ascent had overtaxed its strength. Contrariwise, if driven through the plain instead of on the mountain, it can be urged that the bracing air of the mountain, which is lacking on the plain, would have revived it.

(16) And the owner can plead, ‘Had you kept to the place agreed upon, that fate would not have met it.’

Talmud - Mas. Baba Metzia 78b

is treated as a robber.[1] Which [ruling of] R. Meir [shews this opinion]? Shall we say, R. Meir's [view] in respect to a dyer? For we learnt: If one gives wool to a dyer to be dyed red, but he dyed it black, or to dye it black and he dyed it red, R. Meir said: He must pay him for his wool. R. Judah said: If its increased value exceeds the cost [of dyeing], he [the wool owner] must pay him the cost: if the cost [of dyeing] exceeds the increase in value, he must pay him for the increase.[2] But how do you deduce this? perhaps there it is different, for he gained possession thereof by the change [wrought by his] act![3] But it is R. Meir's ruling on Purim[4] collections. For it has been taught: The Purim collections must be distributed for purim;[5] local collections belong to the town,[6] and no scrutiny is made in the matter,[7] but calves are bought therewith [in abundance], slaughtered, and eaten, and the surplus goes to the charity fund.[8] R. Eliezer said: The purim collections must be utilised for purim [only],[9] and the poor may not buy [even] shoestraps therewith, unless it was stipulated in the presence of the members of the community [that such shall be permitted]: this is the ruling of R. Jacob, stated on R. Meir's authority; but R. Simeon b. Gamaliel is lenient [in the matter].[10] But perhaps there too, the reason is that he [the donor] gave it only [that it be used] for purim and not for any other purpose?[11] But it is this dictum of R. Meir. For it has been taught: R. Simeon b. Eleazar said on R. Meir's authority: If one gives a denar to a poor man to buy a shirt, he may not buy a cloak therewith; to buy a cloak, he must not buy a shirt, because he disregards the donor's desire.[12] But perhaps there it is different, because he may fall under suspicion. For people may say. ‘So-andso promised to buy a shirt for that poor man, and has not bought it;’ or, ‘so-and-so promised to buy a cloak for that poor man, and has not bought it!’ — If so, it should state, ‘because he may be suspected’: why state ‘because he disregards the donor's desire?’ This proves that it is [essentially] because he makes a change, and he who disregards the owner's desire is called a robber.

IF ONE HIRES AN ASS, AND IT IS STRUCK BY LIGHTNING [WE-HIBRIKAH]. What is meant by we-hibrikah? — Here [in Babylon] it is translated, nehorita.[13] Raba said: paralysis of the feet.[14] A man once said, ‘[I saw] vermin in the royal garments.’ Said they to him, ‘In which: in linen[15] or in wool[16] garments?’ Some say: He replied. ‘In linen garments;’ whereupon he was executed.[17] Others maintain: He replied. ‘In wool garments;’ so he was set free.

OR SEIZED AS A [ROYAL] LEVY, HE CAN SAY TO HIM, ‘BEHOLD, HERE IS YOUR PROPERTY BEFORE YOU.’ Rab said: This was taught only in respect of a levy that is returned;[18] but if it is a nonreturnable levy, he [the owner] must provide him with [another] ass [in its stead].[19] Samuel said: Whether it is a returnable levy or not, if it is taken on the route of its journey, he [the owner] can say to him, ‘Behold, here is yours before you;’ but if it is not taken on its route, he is bound to supply him [with another] ass in its stead.[20]

An objection is raised: If one hires an ass, and it is struck by lightning or turns rabid, he [the owner] can say to him, ‘There is yours before you.’[21] If it perished or was seized as a levy, he must supply him with [another] ass.[22] Now, on Rab's view, it is well, and there is no difficulty: there [in the Mishnah] the reference is to a levy that is returned; here [in the Baraitha], to one that is not. But on Samuel's view, is there not a difficulty? And should you answer, On Samuel's view too there is no difficulty: there [in the Mishnah] it means that it was seized on the route of its journey, whilst here [in the Baraitha] that it was not; yet surely, since the second clause states, R. Simeon b. Eleazar said: If it was taken on the route of its journey, he [the owner] can say to him, ‘Behold here is yours before you.’ but if not, he must supply him with [another] ass-does it not follow that according to the first Tanna there is no difference? — Samuel can answer you: Is there not R. Simeon b. Eleazar who agrees with me? Then my ruling is based on his. Alternatively, the whole [Baraitha] is based on R. Simeon b. Eleazar, but its text is defective, and was thus taught: If one hires an ass, and it is struck by lightning, or becomes rabid, he [the owner] can say unto him, ‘Behold, here is yours before you.’ If it perished, or was seized as a levy, he must supply him with [another] ass. This holds good [only] if it was not seized on the route of its journey; but if it was, he can say to him, ‘Behold, here is yours before you.’

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(1) Who is responsible for whatever happens; hence no distinction is drawn: whereas the second clause agrees with the Rabbis.

(2) B.K. 100b. And it is assumed that R. Meir's ruling is because he regards the dyer as a robber, since he disobeyed the owner's instructions, and therefore he must pay for the wool.

(3) V. B.K. loc. cit.; an opinion is there stated that if one steals an article and makes some change in it, it becomes his, in that he must pay for it but cannot be compelled to return the article itself. So here too, having changed the wool from white to black or red, it becomes the dyer's, who must therefore pay for the wool. But in the Mishnah no change is wrought in the ass itself before death; how do we know that here too R. Meir regards the mere change of locality as a theft, to render him responsible for whatever happens?

(4) The minor festival on the fourteenth of Adar, instituted in memory of Haman's downfall and the rescinding of the decree of destruction against the Jews. Est. IX, 21, 26.

(5) It was customary to make collections for distribution to the poor for Purim. These must be entirely devoted to this purpose, and even if the collection is very large none of it may be diverted to any other charity.

(6) As before: collections for local relief may not be diverted, even if they exceed the need.

(7) Whether the poor really need it all.

(8) I.e., calves must be bought with the entire sum, and that which cannot be eaten by the poor on Purim is resold, the money going to the general charity fund.

(9) [Some texts omit ‘but calves . . . (only)’. Cf. text, infra 106b.]

(10) It is assumed that the reason of R. Meir's stringency is that the poor, by disregarding the donor's wish, become robbers, and therefore all such diversions are forbidden.

(11) Consequently, when the poor man wishes to divert it to some other use, it is not a case of robbery, but simply that it is not his for that purpose, and is deemed never to have come into his possession.

(12) The reasoning is as above. But the same refutation cannot be given as there, for in that case, why should R. Meir state two laws which are both based on exactly the same principle? Maharsha מהדורא בתרא

(13) Affection of the eye-sight occasioned by lightning (ברק). prob. Gutta Serena (Jast.).

(14) Caused by vermin.

(15) Lit., ‘silver covering’. i.e., white.

(16) Lit., gold covering’, i.e., woollen garments dyed golden.

(17) Because these worms do not attack linen garments; therefore it was said merely to disgrace the king.

(18) Hence the owner can say. ‘It is your misfortune that it was seized, and you must wait until it is returned.’

(19) For it is just as though it had perished.

(20) When an animal was seized as a levy, it was driven along until another was overtaken, when the first was returned (even in the case of nonreturnable seizure, which means nonreturnable unless replaced by another). Hence, if driven in the direction for which it was hired, the owner can say, ‘Go along with it, until another replaces it.’ But otherwise he must replace it himself, as he cannot expect the hirer to go out of his way until it is returned (Rashi). Tosaf.: If the levy is made haphazardly, whatever is met with on the road being taken (i.e., if it is taken as it goes along), the owner can say, ‘Your misfortune is responsible, for had I kept it at home, it would not have been seized.’ But if there is systematic searching in people's houses and fields, so that it cannot be regarded as the ill-luck of the hirer, the owner must replace it.

(21) Because it is still fit to bear loads.

(22) This ruling contradicts the Mishnah.

Talmud - Mas. Baba Metzia 79a

This is the view of R. Simeon b. Eleazar; for he used to maintain: If it was taken on the route of its journey, he can say to him, ‘Here is yours before you;’ if not, he is bound to replace it. But can you possibly assign it [all] to R. Simeon b. Eleazar? Surely, the first clause states, ‘If one hires an ass, and it is struck by lightning or turns rabid, he [the owner] can say to him, "Here is yours before you:"’ whereas R. Simeon b. Eleazar ruled: If one hires an ass to ride upon it, and it is struck by lightning or turns rabid, he [the owner] must furnish him with another! — Said Rabbah son of R.

Huna: If for riding, the case is different.[1] R. papa said: [And to carry] glassware is the same as for riding.[2]

Rabbah son of R. Huna said in Rab's name: If one hires an ass for riding and it perishes midway, he must pay him his hire for half the journey, and can only bear resentment against him.[3] How so? If another can be obtained for hire, what cause is there for resentment? If not, is he then bound to render him his hire?[4] — In truth, it means that another is not obtainable [here] for hiring, [yet he is bound to pay for half the journey,] because he [the owner] can say to him, ‘Had you desired to go as far as this [where it died], would you not have had to pay its hire?’ Now, what are the circumstances? If he simply promised him an ass, without specifying which, then surely he is bound to replace it;[5] whilst if he promised him this ass: if its value [sc. of the carcase] is sufficient to buy another, let him buy one.[6] — This [ruling] holds good only when its value is insufficient to purchase [another]. Yet if its value is sufficient for hiring, let him hire another![7] — Rab follows his view [expressed elsewhere], for Rab said: The principal must not be destroyed.[8] For it has been stated: If a man hires an ass and it perishes midway — Rab said: If its value [sc. of the carcase] is sufficient to buy [another], he must buy one; [if only] to hire, he [who engaged it] may not hire. But Samuel said: Even if only to hire, he may do so. Wherein do they differ? — Rab maintained: The principal may not be destroyed; Samuel maintained: The principal may be destroyed.

An objection is raised: If the tree withered or was broken down, both are forbidden to use it. What then shall be done? Land must be bought therewith, and he takes the usufruct.[9] Now here, immediately on the advent of the Jubilee year, the land reverts to its [first] owner,[10] and thus the principal is destroyed![11] — Here the reference is to a sixty years’ purchase. For R. Hisda said in R. Kattina's name: Whence do we learn that if one sells his field for sixty years, it does not return [to the first owner] in the year of Jubilee? From the verse, The land shall not be sold in perpetuity.[12] [shewing that it refers to a sale] which, in the absence of the law of Jubilee,[13] would be for ever; hence, when the law of Jubilee supervenes, it is not in perpetuity; thus excluding this [sale. viz., for sixty years], which, even in the absence of the law of Jubilee, is not for ever.[14] But after all, on the expiration of the sixty years the land returns to its [first] owner, and thus [the debtor's] principal is destroyed! — But here the reference is to the time when the law of Jubilee is not in force. Reason too supports this. For should you assume that it refers to the time when the law of Jubilee is in force, and that we destroy the principal, let him [the creditor] cut up the wood and take it![15] — As for that, it is no difficulty: the period of mortgage might expire before the Jubilee, or he [the debtor] might obtain money and redeem it four or five years before the Jubilee.[16]

Our Rabbis taught: If one hires a ship, and it sinks in mid-journey; R. Nathan said: If he has paid [the hire], he cannot take [it back]; but if not, he need not pay it [now]. How so? Shall we say [that the agreement was for] this particular ship and an unspecified [cargo of] wine [as freight],[17] then [even] if he has already paid, why cannot he claim it back? Let him say, ‘Provide me with that ship, and I will bring the wine.’[18] But if it refers to an unspecified ship and a particular cargo of wine, even if he has not yet paid, why must he not pay now?

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(1) A blind or rabid animal is fit to carry burdens, but not to be ridden upon.

(2) Owing to is fragile nature it must be carried smoothly; but an ass so affected will jolt it violently and break it.

(3) For having given him a feeble ass; but he has no legal redress.

(4) Surely not, seeing that he probably suffers loss through not reaching his destination.

(5) As stated above.

(6) Since he hired him this particular ass, it is pledged for the journey, and therefore, if with the value of the carcase one can buy another, even such a poor one that it is fit only to complete the journey, the purchase should be made.

(7) Since, as stated above, in the case of the animal's death another must be provided; and when a particular animal was hired, whatever can be procured for its carcase is part of the original.

(8) I.e., when an animal is hired for a certain task, e.g., to take a man on a journey, one cannot demand that the whole capital value of the animal shall be lost in order to fulfil the engagement. Hence, when the Mishnah states that if it died another must be provided in its place, it means that more money must be added to that realised by the carcase and another bought, so that the value of the carcase ultimately remains with the owner. But he is not bound to hire an animal for the money realised by the carcase for the completion of the task, the whole principal thus being lost to the owner.

(9) The reference is to a mortgage. If a tree was mortgaged, it being agreed that the creditor should enjoy its usufruct for a number of years, after which it would revert to the debtor without any further payment, and then it withered, ceasing to yield, or was overthrown by a storm, neither the creditor nor the debtor may use up the wood thereof, because each thereby wholly destroys the other's interest therein. Therefore the wood must be sold and land bought with the proceeds, of which the creditor takes the usufruct in accordance with the original agreement.

(10) Lev. XXV, 13, 23.

(11) Nothing whatever being left of the tree by the time it has to revert to the debtor, in case Jubilee precedes it.

(12) Ibid. 23.

(13) I.e., if it is for no specified period.

(14) Hence Jubilee does not affect it, and when the mortgage expires, it reverts to the debtor, and his principal is not destroyed.

(15) For the years of usufruct still due to him. Why then trouble to buy a field?

(16) So that, even if Jubilee is in force and the principal may be destroyed, it is still preferable to buy a field.

(17) I.e., the shipowner engaged to provide this particular ship to carry any cargo of wine a certain distance.

(18) Since you undertook to carry any cargo of wine in this particular ship, I can bring another, the first having sunk, but you must furnish the same ship for the entire journey: as you cannot, you must return the hire.

Talmud - Mas. Baba Metzia 79b

Let him [the shipowner] say, ‘Bring me that wine, and I will provide a ship!’ — Said R. Papa: It is possible only in the case of ‘This ship’ and ‘This wine’.[1] But in the case of an unspecified ship and unspecified wine, they must divide.[2]

Our Rabbis taught: If one hires a ship and unloads it in mid-route, he must pay him for half the journey, and he [the owner] has nothing but resentment against him. What are the circumstances? Shall we say, that he can find someone to whom to hire it? Why bear resentment?[3] Whilst if he can find no one to whom to hire it, he must surely pay him the whole hiring-fee! — In truth, it means that he can find someone to whom to hire it; and the reason that he has cause for resentment is because of the trampling of the ship.[4] If so, it is a just complaint, and he is entitled to financial compensation! — But what is meant by ‘he unloaded it’ is that he unloaded [more of] his cargo within it.[5] Then what ground has he for complaint? — Because his intentions were thwarted;[6] or on account of the additional cordage necessary.[7]

Our Rabbis taught: If one hires an ass for riding, the hirer may put upon it his clothing,[8] water bottle, and provisions for that journey; beyond that, the ass-driver[9] can prevent him.[10] The ass-owner can place upon it the fodder, straw and provisions for one day; but beyond that, the hirer can prevent him.[11] How is it meant? If [food] can be purchased, let the ass-driver too prevent him;[12] whilst [if provisions] are not obtainable [on the road], the hirer too should not be able to prevent him! — R. Papa answered: This arises when it is indeed possible to procure it, after some trouble, from stage to stage. Now, for the ass-driver it is a normal matter to take trouble and purchase [his stores at various places],[13] but not for the hirer.

Our Rabbis taught: If one hires an ass for a man to ride upon it, It may not be ridden by a woman; if for a woman, it may be ridden by a man; and a woman [includes] both large and small, and even if pregnant or one giving suck.[14] Seeing that you permit a woman giving suck,[15] is it necessary to state a pregnant woman? — R. Papa said: It means, even a pregnant woman who is at the same time feeding [another infant]. Abaye said: This proves that the weight of a fish depends on the size of its belly.[16] What does this matter? — In respect of buying and selling.[17]

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(1) So that neither can fulfil his contract; therefore the plaintiff is at a disadvantage.

(2) Only half the fee is payable, whether it has been delivered or not, since each is theoretically in a position to fulfil his part of the agreement.

(3) Since he loses nothing.

(4) I.e., the damage done by trampling upon it in loading and unloading.

(5) Rashi: he loaded it with a great cargo, i.e., though he is bound to pay the shipowner extra, the agreement being based on the freightage, yet the latter has cause for resentment, in that the journey occupies a longer time than he expected. Tosaf. rejects the interpretation and substitutes: he unloaded it from himself, and reloaded it (upon another) within the ship. i.e., in the middle of the journey he sold the cargo to another; the shipowner has cause for complaint, because he may find the second awkward to deal with. This interpretation is accepted by Asheri a.l. and in H.M. CCCXI, 6.

(6) V. preceding note. Either his intentions to return quickly (Rashi). or to have this man particularly as the hirer.

(7) For the extra load (which the second may wish to add, according to Tosaf., or quite simply, on Rashi's interpretation). The shipowner having failed to provide himself with additional cordage, may have to pay a higher price for the cordage on his voyage than in the ship's home port, and therefore he has cause for resentment.

(8) Var. lec.: his pillow for sleeping.

(9) The owner.

(10) He can object to a greater burden being placed upon the ass, seeing that it was hired only for riding, but these being neccesities are included therein.

(11) It appears that the ass-driver had to provide the ass's food for the journey. The ass-driver can therefore place upon it the food for one day only. But the latter cannot insist on loading it at the outset with all the necessary provisions, for such a heavy load might retard the rate of progress.

(12) Sc. the hirer, from loading it with the whole of the provisions required for the journey.

(13) That being part of his work.

(14) I.e., if an ass is hired for a woman, any woman may ride upon it.

(15) Which means with the child she is feeding (Rashi).

(16) Since it is mentioned that a pregnant woman is heavier than another.

(17) If one buys a fish by weight, he should first have the belly removed.

Talmud - Mas. Baba Metzia 80a

MISHNAH. IF A MAN HIRES A COW FOR PLOUGHING ON THE MOUNTAIN AND PLOUGHS [THEREWITH] ON THE PLAIN, IF THE COULTER BROKE, HE IS NOT LIABLE; FOR PLOUGHING ON THE PLAIN, BUT PLOUGHS ON THE MOUNTAIN, IF THE COULTER BROKE, HE IS LIABLE.[1] [IF HE HIRES IT] TO THRESH PULSE, BUT THRESHES GRAIN, HE IS NOT LIABLE;[2] BUT IF TO THRESH PULSE AND HE THRESHES GRAIN, HE IS LIABLE, BECAUSE PULSE IS SLIPPERY.

GEMARA. But if he did not change [the conditions of the contract], who must pay?[3] — R. Papa said: He who handles the share; R. Shisha the son of R. Idi said: He who handles the coulter; and the law is that he who handles the coulter must pay.[4] But if the place was known to abound in stony clods, both are responsible.[5]

R. Johanan said: If one sold a cow to his neighbour and informed him, ‘This cow is a butter, a biter, a habitual kicker, and prone to break down [under a load],’ and it possessed one of these defects, which he inserted amongst the other blemishes [of which it was free], it is a sale in error.[6] [But if the vendor said.] ‘It has this defect,’ [which it actually had] ‘and another too,’ [not specifying which,] it is not a sale in error.[7]

It has been taught likewise: If one sold a maidservant to his neighbour. and informed him, ‘This maidservant is an idiot, an epileptic, and a dullard;’ and she possessed one of these defects, which he inserted amongst the others [which she did not have]; it is a sale in error. [But if the vendor said, ‘She has] this defect’ [which she actually possessed], ‘and another too’ [not specifying which], it is not a sale in error. Said R. Aha the son of Raba to R. Ashi: What if she had all these defects? — R. Mordecai observed to R. Ashi: Thus do we say in Raba's name: If she had all these defects, it is not a sale in error.[8]

MISHNAH. IF A MAN HIRES AN ASS FOR BRINGING [A CERTAIN QUANTITY OF] WHEAT, AND HE BRINGS WITH IT [AN EQUAL WEIGHT OF] BARLEY INSTEAD, HE IS RESPONSIBLE.[9] [FOR CARRYING] CORN, AND HE BRINGS WITH IT STRAW, HE IS LIABLE [FOR DAMAGE]. BECAUSE BULK IS [AS GREAT] A STRAIN AS WEIGHT;[10] TO BRING A LETHECH[11] OF WHEAT, AND HE BRINGS WITH IT A LETHECH OF BARLEY, HE IS EXEMPT.[12] BUT IF HE INCREASES THE WEIGHT, HE IS LIABLE. BY HOW MUCH MUST HE INCREASE IT IN ORDER TO BE LIABLE? SYMMACHUS SAID ON R. MEIR'S AUTHORITY: BY A SEAH IN THE CASE OF A CAMEL, AND THREE KABS IN THE CASE OF AN ASS. GEMARA. It has been stated: Abaye said: We learnt, IS [AS GREAT] A STRAIN AS WEIGHT; Raba said: We learnt, IS A STRAIN [WHEN ADDED TO] WEIGHT. [Thus:] ‘Abaye said: We learnt, IS [AS GREAT] A STRAIN AS WEIGHT:’ bulk is equal to weight; therefore if he added three kabs [the bulk being equal], he is liable. ‘Raba said: We learnt, IS A STRAIN [WHEN ADDED TO] WEIGHT: i.e., the weight being equal, the [greater] bulk is an additional strain.[13] We learnt: TO BRING A LETHECH OF WHEAT, AND HE BRINGS A LETHECH OF BARLEY, HE IS EXEMPT. BUT IF HE INCREASES THE WEIGHT, HE IS LIABLE. Surely that means, by three kabs?[14] — No. It means by a se'ah.[15] But thereon it is stated, BY HOW MUCH MUST HE INCREASE IT, IN ORDER TO BE LIABLE? — SYMMACHUS SAID ON R. MEIR'S AUTHORITY: A SE'AH IN THE CASE OF A CAMEL, AND THREE KABS IN THE CASE OF AN ASS! — It is thus meant: But if he did not alter [the terms of hiring]. I.e., [he engaged to] bring wheat, and brought wheat; barley, and brought barley: BY HOW MUCH MUST HE INCREASE IT [SC. THE WHEAT], IN ORDER TO BE LIABLE? — SYMMACHUS SAID ON R. MEIR'S AUTHORITY: BY A SE'AH IN THE CASE OF A CAMEL, AND THREE KABS IN THE CASE OF AN ASS.

Come and hear: [It has been taught: If he hired an ass] to bring a lethech of wheat, and he brought

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(1) Because mountain soil is rockier and harder. — The implements were supplied by the owner of the cow.

(2) If the animal slipped and was injured.

(3) Two labourers were needed for the ploughing; one who used the goad to direct the animal, and one who forced the coulter into the earth. These workers were furnished by the owner. Now, the Talmud asks, if the agreement was not broken, so that the hirer is free from liability, which of these two workers is liable?

(4) For even if the other had directed the plough badly, yet had not the coulter been forced too deeply into the soil, it would not have broken.

(5) For then the slightest deviation from the right course endangers the plough.

(6) Which the purchaser can cancel. For the vendor, in enumerating a string of defects, which the buyer himself sees are absent, wishes him to assume that the one it actually has is also absent.

(7) For since he actually mentioned the defect by name, and no other specifically, the buyer should have examined the animal.

(8) For the buyer cannot plead that he thought that the vendor was enumerating many fictitious defects in order to deceive him about a real one.

(9) If the ass breaks down or is injured by the load. Barley is lighter than wheat, therefore an equal weight of barley is bulkier, and that imposes a greater strain on the ass.

(10) Therefore a greater bulk imposes a greater strain.

(11) Half a kor.

(12) The bulk being the same, and the weight less.

(13) [Where however the bulk is equal, an additional weight of three kabs of barley involves no liability.]

(14) Though even there, the total weight is less. This refutes Raba.

(15) Whereby the weights are equalised.

Talmud - Mas. Baba Metzia 80b

sixteen [se'ahs] of barley,[1] he is liable. This implies, [if he merely added] three kabs, he is exempt![2] — Abaye interpreted it [as referring] to levelled measures [of corn].[3]

Our Rabbis taught: A kab [is a culpable overload] for a porter:[4] an artaba[5] for a canoe;[6] a kor for a ship; and three kors for a large liburna.[7]

The Master said: ‘A kab [is a culpable overload] for a porter.’ But if it is too heavy for him, is he not an intelligent being? Let him throw it down! — Said Abaye: It means that it [the weight] struck him down immediately.[8] Raba said: You may even say that it did not strike him down immediately, but this is taught only with regard to extra pay.[9] R. Ashi said: He might have thought that he had been seized with weakness.[10]

‘A kor for a ship, and three kors for a large liburna’. R. Papa said: From this it follows that the average ship takes a load of thirty kors.[11] What practical difference does it make? — In respect of buying and selling.[12]

MISHNAH. ALL ARTISANS ARE REGARDED AS PAID BAILEES;[13] BUT IF THEY DECLARE,[14] ‘TAKE YOUR PROPERTY AND THEN BRING US MONEY, THEY RANK AS UNPAID BAILEES.[15] [IF A MAN SAID TO ANOTHER] ‘KEEP THIS ARTICLE [FOR ME], AND I WILL KEEP [ANOTHER] FOR YOU,’ HE RANKS AS A PAID BAILEE. [IF HE REQUESTED,] ‘KEEP [THIS] FOR ME,’ AND HE REPLIED, ‘PUT IT DOWN BEFORE ME,’ HE IS AN UNPAID BAILEE. IF A MAN LENDS ANOTHER ON A PLEDGE,[16] HE RANKS AS A PAID TRUSTEE. R. JUDAH SAID: IF HE LENDS HIM MONEY [ON A PLEDGE], HE IS AN UNPAID TRUSTEE; IF PROVISIONS, HE IS A PAID BAILEE. ABBA SAUL SAID: ONE MAY HIRE OUT A PLEDGE TAKEN FROM A POOR MAN, FIXING A HIRING FEE AND PROGRESSIVELY DIMINISHING THE DEBT, BECAUSE IT IS LIKE RETURNING A LOST ARTICLE.[17]

GEMARA. Must we say that our Mishnah does not accord with R. Meir? For it has been taught: One who hires [e.g., an animal], how does he pay [if it comes to harm]? R. Meir said: As an unpaid trustee; R. Judah said: As a paid trustee.[18] — You may assume [it to agree] even with R. Meir: in return for that benefit, that he [the employer] forsakes everyone else and engages him, he becomes a paid bailee in respect thereof. If so, the same applies to a hirer: in return for that benefit, in that he forsakes everyone else and hires [it] to him, he becomes a paid trustee in respect thereof! But [say thus:] You may assume [it to agree] even with R. Meir: in return for that benefit, that he pays him somewhat more [than his due], he becomes a paid bailee in respect thereof.[19] If so, the same applies to a hirer; may one not be referring to a case where he gives him slightly better value?[20] But [say thus]: You may assume [it to agree] even with R. Meir: in return for that benefit, that he holds it against his remuneration and is not forced to go seeking for money, he ranks as a paid bailee in respect thereof. Alternatively, it is as Rabbah b. Abbuha reversed [the Baraitha] and learnt: How does a hirer pay? R. Meir said: As a paid bailee; R. Judah said: As an unpaid bailee.[21]

BUT IF THEY DECLARE, ‘TAKE YOUR PROPERTY AND THEN BRING US MONEY.’ THEY RANK AS UNPAID BAILEES. We learnt elsewhere: If the borrower instructed him [sc. the lender] to send [the animal], and he sent it, and it died [on the road, before reaching him], he is liable for it. The same holds good when he returns it.[22] Rafram b. Papa said in R. Hisda's name: This was stated only if he returned it within the period for which he borrowed it; but if after, he is not liable.[23]

R. Nahman b. Papa raised an objection: BUT IF THEY DECLARE, ‘TAKE YOUR PROPERTY AND THEN BRING US MONEY,’ THEY RANK AS UNPAID BAILEES:

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(1) I.e., an additional se'ah.

(2) This contradicts Abaye.

(3) [Instead of a load of 15 se'ahs of wheat liberally measured, he brought one consisting of barley counted by levelled measures, in which case there is no liability unless the addition was a se'ah (Rashi); others: reduced in weight by being worm-eaten.]

(4) Lit., ‘the shoulder’, I.e., if a man is engaged to carry a certain burden, which is increased by a kab, and he breaks down, his employer is liable.

(5) Persian measure. [Rashi: a lethech.]

(6) A small boat.

(7) **; a light, fast-sailing vessel (Jast.).

(8) As soon as he took it up, and before realising that it was too heavy for him, fell under it.

(9) If the load exceeds the weight agreed upon by a kab, he is entitled to additional remuneration.

(10) I.e., actually it means that he broke down under the additional weight, yet, though an intelligent being, he did not throw it away, thinking that the fault was in his own weakness, and being unaware that the weight was greater than stipulated.

(11) Because the overload is assessed at a thirtieth of the legitimate freight.

(12) If one sells a ship, without specifying its capacity, it must be at least thirty kors, and otherwise the sale is invalid.

(13) I.e., contractors who accept material for manufacture, e.g., a carpenter who receives wood for making up into a table, rank as a paid trustee thereof, in that, if it is stolen, they are held responsible.

(14) After the work is completed.

(15) Who are responsible only for negligence, but not for theft.

(16) Which the lender takes into his own keeping.

(17) The grounds for the various rulings of this Mishnah are discussed in the Gemara.

(18) R. Meir maintains: since he pays for the benefit he receives, he is taking care of it gratuitously; whilst in R. Judah's view, since it comes into his hands for his benefit, he is a paid trustee, notwithstanding that he pays for that benefit. Superficially, the same reasoning applies to an artisan: the object comes into his keeping for his own benefit, viz., that he may earn money thereby; but at the same time, he gives his labour for that benefit.

(19) Rashi: it is impossible to assess exactly in the case of a contractor the value of the actual labour involved, and therefore he is assumed to be slightly overpaid. Tosaf., observes that this answer might have been refuted by a reference to those who do not overpay, but that it is refuted in another way.

(20) I.e., the dispute between R. Meir and R. Judah does not differentiate between normal and better value, e.g., if the owner accepts less than the usual hire; but there too R. Meir should say: In return for the benefit received by the remission of part of the hiring fee he becomes a paid bailee.

(21) The insistent attempts to prove that the Mishnah does agree with R. Meir, even though, as in the last reply, it is only at the cost of assuming that it does not agree with R. Judah, are due to the fact that our Mishnah was taught anonymously, and it is a general rule that an anonymous Mishnah must agree with R. Meir.

(22) Infra 98b. A gratuitous borrower is liable for every mishap. Now, if he explicitly instructs the lender to send it to him, he is responsible for it immediately the lender entrusts it to a person for delivery, and therefore if it perishes on the road, he must make it good. Likewise, if the borrower entrusts it to his agent for return, without receiving explicit instructions to that effect from the lender, he remains responsible for it until it is actually returned.

(23) For when that period has expired, he ceases to bear the responsibilities of a borrower.

Talmud - Mas. Baba Metzia 81a

surely this implies, [if they inform him.] ‘I have completed it,’ they rank as paid bailees.[1] — No. [Deduce thus:] But if they say. ‘Bring money and then take your property,’ they are paid bailees.[2] But what if they declare, ‘I have completed it.’[3] [do] they rank as unpaid bailees? If so, instead of teaching. BUT IF THEY DECLARE, ‘TAKE YOUR PROPERTY AND THEN BRING US MONEY,’ THEY RANK AS UNPAID BAILEES; let it teach the case of ‘I have completed it’,[4] from which ‘take your property follows a fortiori![5] — It is particularly necessary to state the case of ‘Take your property,’ for I might think that he is not even an unpaid bailee;[6] hence we are told [that he is].

Others say, R. Nahman b. Papa said: We too have learnt likewise: BUT IF THEY DECLARE, ‘TAKE YOUR PROPERTY AND THEN BRING US MONEY’. THEY RANK AS UNPAID BAILEES. Surely the same holds good if he says. ‘I have completed it’![7] — No. The case of ‘Take your property’ is different.

Huna Mar, the son of Meremar, [sitting] before Rabina, opposed two Mishnahs to each other and reconciled them. We learnt, BUT IF THEY DECLARE, ‘TAKE YOUR PROPERTY AND THEN BRING US MONEY,’ THEY RANK AS UNPAID BAILEES, and [presumably], the same holds good if he informs him, ‘I have finished it.’ But the following contradicts it: If the borrower instructs him [Sc. the lender] to send [the animal], and he does so, and it dies [on the road before reaching him], he is responsible for it. The same holds good when he returns it! — And he reconciled them by the dictum of Rafram b. Papa in R. Hisda's name: This was stated only if he returned it within the period of the loan; but if after, he is not liable.

The scholars propounded: [Does it mean,] He is not liable as a borrower, yet liable as a paid bailee; or perhaps, he is not even a paid bailee? — Said Amemar: Logically it means that he is exempt from the liabilities of a borrower, but is responsible as a paid bailee; for since he has benefited, he must give benefit in return.[8]

It has been taught in accordance with Amemar: If one takes goods from a tradesman [on approval] to send them [as a gift] to his father-in-law, and stipulates. ‘If they are accepted, I will pay you their value, but if not, I will pay you its goodwill benefit;’[9] if they are accidentally damaged on the outward journey, he is liable;[10] but exempt if on the return journey, because he is regarded as a paid bailee.[11]

A man once sold an ass to his neighbour. Said the latter, ‘I will take it to that place, if it is sold, it is well; if not, I will return it to you.’ He went, but it was not sold, and on his way back it was accidentally injured. On his going before R. Nahman, he held him liable. Thereupon Raba raised an objection to R. Nahman: If they are damaged on the outward journey, he is liable; but exempt if on the return journey, because he is regarded as a paid bailee! — He answered: The return journey of this person is an outward journey. Why so? — It is common-sense. For if he found a purchaser on his return, would he not sell it?

‘KEEP [THIS ARTICLE] FOR ME, AND I WILL KEEP [ANOTHER] FOR YOU.’ HE RANKS AS A PAID BAILEE. But why so? Is it not a trusteeship wherein the owner [is pledged to the service of the bailee]?[12] — R. Papa said: It means that he proposed to him, ‘KEEP [THIS ARTICLE] FOR ME to-day, AND I WILL KEEP [ANOTHER] FOR YOU to-morrow.’[13]

Our Rabbis taught: [If A proposes to B,] ‘Keep [this article] for me and I will keep [an article] for you’; ‘lend me, and I will lend you’; ‘keep [this article] for me, and I will lend you [another]’; ‘lend me, and I will keep [an article] for you’ — in all these cases they rank as paid trustees. But why so? Is it not a trusteeship wherein the owner [is pledged to the service of the bailee]? — Said R. Papa: it means that he proposed to him, ‘Keep [this article] for me to-day, and I will keep [an article] for you to-morrow.’

There was a company of perfume sellers[14] of whom each day a [different] one baked for all. One day they said to one of them, ‘Go and bake for us.’ ‘Then guard my robe,’ he rejoined. Before his return it was stolen through their negligence; so they went before R. Papa, who held them responsible. Said the Rabbis to R. Papa: But why? Is it not a trusteeship wherein the owner [is pledged to the service of the bailee]? Thereupon he was ashamed. Subsequently it was discovered that just then he [the owner] had been drinking beer.[15] Now, on the view that he [sc. the bailee] is not liable for negligence when the owner [is pledged to the service of the bailee], it is well: on that account he was ashamed. But on the view that he is,[16] why was he ashamed? — But [it happened thus:] That day was not his [for baking], yet they requested him 'Go bake for us,' to which he rejoined, 'In return for my baking for you guard my robe.'[17]

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(1) Though the owner knows that it is ready for removal, the artisan remains as responsible as before. Then by analogy, in the case of a borrower, even when the period of the loan expires he remains just as responsible as within the period.

(2) Because they benefit by holding the article until the money is paid.

(3) Without stating that they hold it against payment.

(4) Viz., that even then he ranks as an unpaid bailee.

(5) If he ranks as an unpaid bailee even when he merely informs him that he has completed it. without stating that he relinquishes his hold upon it, surely the same holds good when he explicitly informs the owner that he can take it1.

(6) For 'Take your property' may imply that he refuses all further responsibility — an unpaid bailee is liable for negligence.

(7) V. supra p. 464 and notes.

(8) And hold himself responsible until it reaches the owner.

(9) I.e., for the benefit I derive from my father-in-law's knowledge that I desired to make him a present.

(10) Having undertaken to pay for them in case they are accepted, they are accounted in the meantime his property.

(11) [Since he has no longer any intention of buying them, the goods cannot be accounted any more his property, and his liability can arise only in consequence of the goodwill he enjoyed, which makes him rank as a paid bailee, even though the tradesman had actually received payment for this benefit. How much more should this be the case with a gratuitous borrower.]

(12) V. infra 94a; so here too: whilst the bailee has the article in his care, the owner is, under the conditions of trusteeship agreed upon, in the service of the bailee.

(13) So that the trusteeship and the owner's reciprocal service are not contemporaneous.

(14) Lit., 'dealers in aloe'.

(15) I.e., he had not yet commenced baking, so was not in their service. Thus R. Papa's verdict was just, after all.

(16) V. infra 95a.

(17) Hence they became paid trustees.

Talmud - Mas. Baba Metzia 81b

Before he returned, it was stolen,[1] and they went before R. Papa, who held them responsible.[2] The Rabbis protested to R. Papa: Why so? Is it not a trusteeship wherein the owners [are pledged to the service of the bailee]? So he was ashamed. But subsequently it was discovered that just then he had been drinking beer. Two men were travelling together on a road, one [of whom] was tall, and the other short. The tall one was riding an ass, and had a [linen] sheet, whilst the short one was wearing a [woollen] cloak, and walked on foot. On coming to a river, he took his cloak, placed it upon the ass, and took the other man's linen and covered himself therewith.[3] Then the water swept the sheet away: so they came before Raba, who ruled him [the short man] liable. But the Rabbis protested to Raba: Why so? Is it not a case of borrowing wherein the owner [is pledged to service]?[4] So he was ashamed, subsequently it was learnt that he had taken it [the linen sheet] and put [his own on the ass] without his knowledge.[5]

A man hired an ass to his neighbour and said to him, 'See that you do not go by way of Nehar Pekod,[6] where there is water,[7] but by the way of Naresh,[8] where there is none.' But he did go by way of Nehar Pekod, and the ass died. When he returned, he pleaded. 'True, I took the route of the Nehar Pekod, but there was no water.'[9] Said Rabbah to him [the owner]: Why should he have lied? Had he wished, he could have said, 'I went by way of Naresh.' But Abaye observed: We do not reason, ‘What is the purpose of lying,’ if there are witnesses [to the contrary].[10]

[IF HE REQUESTS,] ‘KEEP [THIS] FOR ME,’ AND HE REPLIES, ‘PUT IT DOWN BEFORE ME.’ HE IS AN UNPAID BAILEE. R. Huna said: If he replies. ‘Put it down before you,’ he is neither an unpaid nor a paid bailee.[11]

The scholars propounded: What if he simply said, ‘Put it down’? — Come and hear: [IF HE REQUESTS,] ‘KEEP [THIS] FOR ME’ AND HE REPLIES, ‘PUT IT DOWN BEFORE ME,’ HE IS AN UNPAID BAILEE. From which it follows that if he does not particularise at all there is no obligation at all. On the contrary, since R. Huna said: If he replied. ‘Put it down before you’ — it is [only] then that he is neither an unpaid nor a paid bailee; it follows that if he does not particularise he is a paid bailee. But no conclusions are to be drawn from this.

Shall we say that this is disputed by Tannaim? [For we learnt:] If he brought them in with [the owner's] permission, the courtyard owner is liable. Rabbi said: In all these cases he is not liable unless he explicitly undertook to guard.[12] But how does this follow? Perhaps the Rabbis rule [that he becomes a bailee] only there, in the case of a courtyard, which is a guarded place. so that when he [the owner] said to him, ‘Bring it in’, he meant, ‘Bring it in, and I will take care of it for you’; but here, in a market place, which is unguarded, he may have meant, ‘Put it down, take a seat, and guard it. Contrariwise, perhaps Rabbi rules [that he does not become a bailee] only there, in the case of a [private] courtyard, to enter wherein permission is necessary, so that when he gave him permission to enter, he meant, ‘[Come in,] sit down, and guard it.’ But here, he must have meant, ‘Put it down and I will guard it;’ for should you think, he meant, ‘Put it down, take a seat, and guard it’ — does he require his permission to put it down?

IF A MAN LENDS ANOTHER ON A PLEDGE, HE RANKS AS A PAID TRUSTEE. Shall we say that our Mishnah does not agree with R. Eliezer? For it has been taught: If one lends his neighbour [money] against a pledge and the pledge is lost, he must swear [that it was not due to his negligence], and then be repaid:[13] this is R. Eliezer's opinion. R. Akiba ruled: He [the debtor] can say to him: ‘Did you lend me against aught but the pledge? the pledge being lost, your money [too] is lost.’ But if he lends him a thousand zuz against a note and a pledge is deposited for it, all agree that if the pledge is lost, the money is lost![14] — You may say that it agrees even with R. Eliezer, yet there is no difficulty: in the latter case he took the pledge when the loan was made;[15] in the former, he did not take the pledge at the time of the loan.[16] But in both cases,

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(1) Not through their negligence.

(2) Because a paid trustee is responsible for theft even if not due to negligence.

(3) Because wool is more absorbent than linen, therefore much heavier when saturated.

(4) For whilst the short man had the sheet, the tall man was pledged to guard his cloak.

(5) In which case he is certainly liable.

(6) [West of Mahuza, identical with Nehar Malka, situated on the canal of the same name on the west bank of the Tigris. Obermeyer. op cit., pp. 273. 275.]

(7) [The canal might overflow its banks, with dangerous consequences for the ass; Obermeyer. p. 275.]

(8) Identical with Nahras or Nahr-sar, on the canal of the same name, on the East bank of the Euphrates. Obermeyer. p. 307.

(9) It was summer, and the river bed was dried up.

(10) For it is well known that that road is never free of water.

(11) Because that is simply a refusal to take care of it.

(12) V. B.K. 47b. If a potter brought his pots into a stranger's courtyard, and the latter's ox trampled upon and broke them, or if a man brought his ox or provisions into another's court, and an ox belonging to the latter killed it or consumed them, — the Rabbis rule, if the courtyard owner had given him permission to enter, it is regarded as though he had undertaken to guard them, and therefore he is responsible. Rabbi, however, maintained that he must explicitly undertake to guard it; otherwise he bears no liability. Hence, by analogy, in the case under discussion, in the view of the Rabbis, when he says ‘Put it down’, he becomes an unpaid bailee, but not in the view of Rabbi.

(13) Lit., ‘take his money’.

(14) Shebu. 43b. A paid bailee is responsible for loss, but not an unpaid bailee, who is liable only for negligence. Now, R. Eliezer maintains that when money is lent on a pledge without a written bond, it is not meant as a security for the money in case the debtor defaults, but merely as a proof of loan; but should the debtor fail, some other property might be seized by the creditor. Consequently the creditor is merely a bailee, and since R. Eliezer does not hold him responsible for loss, he obviously regards him as an unpaid bailee, and thus disagrees with the Mishnah. R. Akiba, on the other hand, holds that the pledge is a security for the money; hence, if that is lost, the money is lost too. If, however, a bond is indited, it cannot be asserted that the pledge was intended merely as proof, therefore all agree that if lost, the money is lost too.

(15) Then R. Eliezer regards it as merely a proof of loan.

(16) But afterwards, payment falling due and the debtor being unable to repay, the creditor obtained a court order to take a pledge. That pledge is certainly a security for the money, and the benefit of being thereby certain of repayment renders the creditor a paid bailee.

Talmud - Mas. Baba Metzia 82a

IF A MAN LENDS ANOTHER ON A PLEDGE is taught![1] — But [say thus:] There is no difficulty: in the latter case, he lent him money; in the former [sc. our Mishnah], provisions.[2] But since the following clause states, R. JUDAH SAID: IF HE LENDS HIM MONEY ON A PLEDGE, HE IS AN UNPAID TRUSTEE; IF PROVISIONS, HE IS A PAID BAILEE; that proves that the first Tanna admits no distinction! — The whole [Mishnah] is according to R. Judah, but it is defective, and should read thus: IF A MAN LENDS ANOTHER ON A PLEDGE, HE RANKS AS A PAID TRUSTEE; this holds good only if he lends him provisions; but if money, he is an unpaid trustee. For R. JUDAH SAID: IF HE LENDS HIM MONEY ON A PLEDGE, HE IS AN UNPAID TRUSTEE; IF PROVISIONS, HE IS A PAID BAILEE. But if so, does not the Mishnah disagree with R. Akiba?[3] Hence it is perfectly clear that our Mishnah does not agree with R. Eliezer.[4]

Shall we say [that the dispute arises] when the pledge is not worth the money lent, and that they differ in regard to Samuel's dictum? For Samuel said: If a man lends his neighbour a thousand zuz, and the latter deposits the handle of a saw against it, If the saw handle is lost, the thousand zuz is lost.[5] — [No!] When the pledge is worth less than the loan, all reject Samuel's ruling.[6] But here [the dispute arises] only if it is worth the loan, and they differ with respect to R. Isaac's dictum. For R. Isaac said: Whence do we know that the creditor acquires a title to the pledge?[7] From the verse, [In any case thou shalt deliver him the pledge again when the sun goeth down. . .] and it shall be righteousness unto thee:[8] if he has no title thereto, whence is his ‘righteousness’?[9] Hence it follows that the creditor acquires a title to the pledge.[10] But is this reasonable? Verily, R. Isaac's dictum refers to a pledge, not taken when the loan was made;[11] but did he say it with reference to a pledge taken at the time of the loan? — Hence where the pledge was not taken when the loan was made, all agree with R. Isaac. But here the reference is to a pledge taken at the time of the loan, and they differ as to the guardian of lost property. For it has been stated: He who is in charge of lost property — Rabbah said: He ranks as an unpaid bailee; R. Joseph maintained: As a paid bailee.[12] Shall we say that R. Joseph's view is disputed by Tannaim? — No. With respect to one who guards lost property, all agree with R. Joseph. But here

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(1) Which implies that it was given at the time of the loan.

(2) Since provisions deteriorate, the creditor derives a benefit from lending them, as he will have fresh provisions returned, and consequently he ranks as a paid bailee.

(3) Since R. Akiba maintains that if the pledge is lost the money too is lost, he treats him as a paid bailee even in the case of money. Whereas it is a general principle that an anonymous Mishnah is R. Meir's, and taught on the basis of R. Akiba's view; V. Sanh. 86a.

(4) I.e., the distinction between money and provisions cannot be maintained, the text of the Mishnah being correct, and therefore it definitely does not agree with R. Eliezer.

(5) Shebu. 43b. Thus, R. Akiba agrees with it; whilst R. Eliezer maintains, since the pledge is not worth the loan, it must have been meant merely as evidence of the loan. But if the pledge is worth the loan, all agree that it is a security, and therefore, if lost, the loan too is lost.

(6) According to R. Eliezer he bears no responsibility at all, according to R. Akiba his responsibility is limited to the value of the pledge.

(7) That whilst it is in his possession it is his, and hence he is responsible for all accidents.

(8) Deut. XXIV, 13.

(9) There is no particular righteousness in returning what does not belong to one.

(10) R. Eliezer disagrees. R. Akiba agrees with this.

(11) V. infra 113a, where the verse is interpreted as relating to such a case; the pledge then is obviously a surety for the money.

(12) V. supra 29a. R. Akiba, reasoning on the same lines as R. Joseph, regards the creditor as a paid bailee, since it is a positive duty to assist a fellow-man with a loan (cf. Lev. XXV, 35), whilst R. Eliezer regards him as an unpaid bailee.

Talmud - Mas. Baba Metzia 82b

they differ where the creditor needs the pledge;[1] one Master [sc. R. Akiba] maintaining that he fulfils a religious precept in making the loan, and therefore ranks as a paid bailee; whereas the other Master [sc. R. Eliezer] holds that he fulfils no religious precept thereby, since he desires his own benefit; therefore he is an unpaid bailee.[2]

ABBA SAUL SAID: ONE MAY HIRE OUT THE PLEDGE OF A POOR MAN, FIXING A PRICE AND PROGRESSIVELY DIMINISHING THE DEBT. R. Hanan b. Ammi said in Samuel's name: The halachah is as Abba Saul. But even Abba Saul ruled thus only in respect of a hoe, mattock, and axe, since their hiring fee is large whilst their depreciation is small.

MISHNAH. IF A MAN [A BAILEE] MOVED A BARREL FROM ONE PLACE TO ANOTHER AND BROKE IT, WHETHER HE IS A PAID OR AN UNPAID BAILEE, HE MUST SWEAR.[3] R. ELIEZER SAID: [I TOO HAVE LEARNT THAT] BOTH MUST SWEAR, YET I AM ASTONISHED THAT BOTH CAN SWEAR.[4]

GEMARA. Our Rabbis taught: If a man moved a barrel for his neighbour[5] from one place to another and [in doing so] broke it, whether a paid or an unpaid bailee, he must swear; this is R. Meir's view. R. Judah ruled: An unpaid bailee must swear; whereas a paid trustee is responsible.[6]

R. ELIEZER SAID: [I TOO HAVE LEARNT THAT] BOTH MUST SWEAR, YET I AM ASTONISHED THAT BOTH CAN SWEAR. Shall we say that in R. Meir's opinion one who stumbles [and thereby does damage] is not regarded as [culpably] negligent?[7] But it has been taught: If his pitcher was broken, and he did not remove it; or if his camel fell down, and he did not raise it up — R. Meir holds him liable for any damage they may cause; whilst the Sages rule: He is exempt by laws of man, but liable by the laws of Heaven;[8] and it is an established fact that they differ on the question whether stumbling amounts to negligence![9] — Said R. Eleazar: Separate them! The two [Baraithas] are not both by the same teacher.[10] And R. Judah comes to teach that an unpaid bailee must swear, whilst a paid bailee must make it [sc. the damage] good, each in accordance with his own peculiar law.[11] Whereupon R. Eliezer observes: Verily, I have a tradition in accordance with R. Meir; nevertheless I am astonished that both should swear. As for an unpaid bailee, it is well; he swears that he was guilty of no negligence. But why should a paid bailee swear? Even if not negligent, he is still bound to pay![12] And even with respect to an unpaid bailee it [the ruling] is correct [only] if [the accident happened] on sloping ground; but if not on sloping ground, can he possibly swear that he was not negligent![13]

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(1) For use of which he remits a portion of the debt.

(2) Nor does his use of it make him a paid bailee, since he makes an allowance on the debt in return.

(3) That it was due to negligence.

(4) To be freed from responsibility. The grounds for his astonishment are discussed below,

(5) [MS.M. omits ‘for his neighbour’.]

(6) Even if it was not caused by his negligence.

(7) For if the barrel was broken in the course of being moved, at the very least it is as though it were damaged through his stumbling; and since R. Meir rules that he must swear that he had not been negligent, it follows that stumbling is not negligence.

(8) V. B.K. 29a.

(9) R. Meir maintains that it does; consequently, if his pitcher broke — due to his stumbling or any other similar cause — he is culpably negligent. and therefore liable for damages. Thus this contradicts his ruling in the Mishnah!

(10) Lit., ‘he who taught this one did not teach the other.’ They are irreconcilable and reflect two opposing views on R. Meir's opinion.

(11) On the assumption of the first Baraitha that R. Meir does not regard stumbling as negligence. R. Judah agrees with R. Meir. Consequently the unpaid bailee must swear that there was no negligence; but the paid bailee is responsible for damage caused by stumbling even though it is not accounted as negligence; hence he does not agree with R. Meir that both bailees must swear.

(12) As explained in n. 2.

(13) For stumbling on level ground is certainly negligence.

Talmud - Mas. Baba Metzia 83a

And even on sloping ground, it is reasonable [that the bailee swears] where no evidence is possible;[1] but where evidence is possible, let him adduce evidence and [only] then be free from liability! For it has been taught: Issi b. Judah said: [If a man deliver unto his neighbour an ass . . . to keep; and it die, or be hurt, or driven away,] no man seeing it: Then shall an oath of the Lord be between them both;[2] hence it follows, if there be a spectator, he must bring evidence and then be free.[3]

But R. Hiyya b. Abba said in R. Johanan's name: This oath is a Rabbinical institution. For should you not rule thus, no man would move a barrel for his neighbour[4] from one place to another.[5] What does he swear?[6] — Raba said: ‘I swear that I broke it unintentionally.’ And R. Judah comes to teach that an unpaid bailee must swear, whilst a paid bailee must make it good, each in accordance with his own peculiar law.[7] Whereupon R. Eliezer observes: Verily, I have a tradition in accordance With R. Meir; nevertheless, I am astonished that both should swear. As for an unpaid bailee, it is well: he swears that he was guilty of no negligence. But why should a paid bailee swear? Even if not negligent, he is still bound to pay! And even with respect to an unpaid bailee, it [sc. the ruling] is correct [if the accident happened] on sloping ground; but if not on sloping ground, can he possibly swear that he was not negligent! And even on sloping ground, it is reasonable [that the bailee swears] where no evidence is possible; but where it is, let him adduce evidence and [only] then be freed from liability! For it has been taught: Issi b. Judah said: [If a man deliver unto his neighbour an ass . . . to keep: and it die, or be hurt, or driven away,] no man seeing it: Then shall an oath of the Lord be between them both;[8] hence it follows, if there be a spectator, he must bring evidence and then be free.

A man was once moving a barrel of wine in the manor of Mahuza,[9] and broke it on a projection[10] of Mahuza: so he came before Raba. Said he to him: The manor of Mahuza is a frequented place: go and bring evidence;[11] then you are free from liability. Thereupon R. Joseph, his son, said to him: In accordance with whom [is your verdict]? With Issi?[12] — Yes, said he, in accordance with Issi; and we agree with him.

A man instructed his neighbour. ‘Go and buy me four hundred barrels of wine.’ So he went and bought [them] for him; subsequently, however, he came before him and said, ‘I bought you the four hundred barrels of wine, but they turned sour.’ So he came before Raba. ‘When four hundred barrels of wine turn sour,’ said he to him, ‘the facts should be widely known.[13] Go and bring proof that originally, when bought, the wine was sound, then will you be free from liability.’ R. Joseph. his son, observed to him: In accordance with whom [is your verdict]? With Issi? — Yes, said he, in accordance with Issi; and we agree with him.

R. Hiyya b. Joseph instituted a measure in Sikara.[14] Viz., those who carry burdens on a yoke, and they break, must pay half. Why? Because it [the burden] is too much for one, yet too little for two:[15] therefore it lies midway between accident and negligence.[16] Those who carry on a pole must pay all.[17]

Some porters [negligently] broke a barrel of wine belonging to Rabbah son of R. Huna.[18] Thereupon he seized their garments; so they went and complained to Rab.[19] ‘Return them their garments,’ he ordered. ‘Is that the law?’ he enquired. ‘Even so,’ he rejoined: ‘That thou mayest walk in the way of good men.’[20] Their garments having been returned, they observed. ‘We are poor men, have worked all day, and are in need: are we to get nothing?’ ‘Go and pay them,’ he ordered. ‘Is that the law?’ he asked. ‘Even so,’ was his reply: ‘and keep the path of the righteous.’[21]

CHAPTER VII

MISHNAH. ONE WHO ENGAGES LABOURERS AND DEMANDS THAT THEY COMMENCE EARLY OR WORK LATE — WHERE LOCAL USAGE IS NOT TO COMMENCE EARLY OR WORK LATE HE MAY NOT COMPEL THEM. WHERE IT IS THE PRACTICE TO SUPPLY FOOD [TO ONE'S LABOURERS], HE MUST SUPPLY THEM THEREWITH; TO PROVIDE A RELISH, HE MUST PROVIDE IT. EVERYTHING DEPENDS ON LOCAL CUSTOM. IT ONCE HAPPENED THAT R. JOHANAN B. MATHIA SAID TO HIS SON, ‘GO OUT AND ENGAGE LABOURERS.’ HE WENT AND AGREED TO SUPPLY THEM WITH FOOD. BUT ON HIS RETURNING TO HIS FATHER, THE LATTER SAID, MY SON, SHOULD YOU EVEN PREPARE FOR THEM A BANQUET LIKE SOLOMON'S WHEN IN HIS GLORY,[22] YOU CANNOT FULFIL YOUR UNDERTAKING, FOR THEY ARE CHILDREN OF ABRAHAM, ISAAC AND JACOB. BUT, BEFORE THEY START WORK, GO OUT AND TELL THEM, ‘’[I ENGAGE YOU] ON CONDITION THAT YOU HAVE NO CLAIM UPON ME OTHER THAN BREAD AND PULSE.’’ R. SIMEON B. GAMALIEL SAID: IT WAS UNNECESSARY [TO STIPULATE THUS]; EVERYTHING DEPENDS ON LOCAL CUSTOM.

GEMARA. Is it not obvious? — It is necessary [to teach it] only when he [the employer] pays them a higher wage [than usual]: I might think that he can plead, ‘I pay you a higher wage in order that you may start earlier and work for me until nightfall;’ we are therefore taught that they can reply, ‘The higher remuneration is [only] for better work [but not longer hours].’

Resh Lakish said:

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(1) I.e., if it was an unfrequented place.

(2) Ex. XXII, 9f.

(3) But an oath is insufficient.

(4) [MS.M. omits ‘for his neighbour’.]

(5) R. Hiyya does not answer the foregoing difficulties, but reverts to the alleged contradiction in R. Meir's views, and harmonises them. Thus: Both Baraithas have the same author, and, as appears from the second, stumbling is certainly accounted as negligence. Nevertheless, R. Meir holds that in this case the Rabbis freed him from liability, as a measure necessary for the common good. Hence he need only take an oath.

(6) He cannot swear that he was guiltless of negligence, since on the present hypothesis stumbling itself is negligence.
(7) This passage and the following have already been given above. There it was all R. Eliezer's explanation of the Baraitha and the Mishnah; here it is R. Hiyya's. But on R. Hiyya's version, the sentence just given does not bear quite the same interpretation as before (q.v.) Thus: R. Judah disagrees with R. Meir, and holds that stumbling is not negligence but midway between negligence and an accident, and thus analogous to theft and loss, for which an unpaid bailee is not responsible, whereas a paid bailee is. Therefore the paid bailee must make good the damage, whilst the unpaid bailee swears that he was not otherwise negligent and is thereby freed from liability. Hence, there is no particular Rabbinical measure in this case, but each is dealt with in accordance with his own law.
(8) Ibid.
(9) V. B.B. (Sonc. ed.) p. 60, n. 4.
(10) E.g., a moulding, or perhaps a balcony or a bay window projecting from the wall (Jast. s.v. זיז and זיזא).
(11) Some texts add ‘That there was no culpable negligence’.
(12) That in a frequented locality an oath is not accepted.
(13) I.e., where you bought them, where you stored them, when they turned sour etc.
(14) Near Mahoza.
(15) Consequently, one person would carry it.
(16) Lit., ‘it is near to accident and near to negligence.’
(17) Rashi explains that it was a pole made for a two-man burden. Therefore, when one carries it alone, it is culpable negligence, for which he bears full responsibility.
(18) [So according to Alfasi; cur. edd.: ‘b. Bar Hanan,’ MS.M.: ‘b. Bar Hanah.’ v. next note.]
(19) [Other texts: ‘Raba’, according to which preference is to be given to reading: Rabbah. b. R. Hanan, v. D.S.]
(20) Prov. II, 20.
(21) Ibid. Actually they were responsible, but Rab told him that in such a case one should not insist on the letter of the law.
(22) Lit., ‘in his time’.

Talmud - Mas. Baba Metzia 83b

A labourer's entry [to town] is in his own time, and his going forth [to the fields] is in his employer's;[1] as it is written, The sun ariseth, they [sc. the animals] gather themselves together, and lay them down in their dens. Man goeth forth unto his work and to his labour until the evening.[2] But let us see what is the usage? — This refers to a new town. Then let us see whence they come? — It refers to a conglomeration.[3] Alternatively. it means that he said to them, ‘You are engaged to me as labourers [whose conditions of work are set forth] in the Bible.’[4]

R. Zera lectured — others say. R. Joseph learnt: What is meant by, Thou makest darkness, and it is night: wherein all the beasts of the forest do creep forth?[5] Thou makest darkness, and it is night — this refers to this world, which is comparable to night; wherein all the beasts of the forest do creep forth — to the wicked therein, who are like the beasts of the forest. The sun ariseth — for the righteous;[6] the wicked are gathered in — for Gehenna; and lay them down in their habitations — not a single righteous man lacks a habitation as befits his honour. Man goeth forth unto his work — i.e., the righteous go forth to receive their reward;[7] and to his labour until the evening — as one who has worked fully until the very evening.[8]

R. Eleazar, son of R. Simeon, once met an officer of the [Roman] Government who had been sent to arrest thieves,[9] ‘How can you detect them?’ he said. ‘Are they not compared to wild beasts, of whom it is written, Therein [in the darkness] all the beasts of the forest creep forth?’[10] (Others say, he referred him to the verse, He lieth in wait secretly as a lion in his den.)[11] ‘Maybe,’ [he continued,] ‘you take the innocent and allow the guilty to escape?’ The officer answered, ‘What shall I do? It is the King's command.’ Said the Rabbi, ‘Let me tell you what to do. Go into a tavern at the fourth hour of the day.[12] If you see a man dozing with a cup of wine in his hand, ask what he is. If he is a learned man, [you may assume that] he has risen early to pursue his studies; if he is a day labourer he must have been up early to do his work; if his work is of the kind that is done at night, he might have been rolling thin metal.[13] If he is none of these, he is a thief; arrest him.’ The report [of this conversation] was brought to the Court, and the order was given: ‘Let the reader of the letter become the messenger.’[14] R. Eleazar, son of R. Simeon, was accordingly sent for, and he proceeded to arrest the thieves. Thereupon R. Joshua, son of Karhah, sent word to him, ‘Vinegar, son of wine![15] How long will you deliver up the people of our God for slaughter!’ Back came the reply: ‘I weed out thorns from the vineyard.’ Whereupon R. Joshua retorted: ‘Let the owner of the vineyard himself [God] come and weed out the thorns.’

One day a fuller met him, and dubbed him: ‘Vinegar, son of wine.’ Said the Rabbi to himself, ‘Since he is so insolent, he is certainly a culprit.’ So he gave the order to his attendant: ‘Arrest him! Arrest him!’ When his anger cooled, he went after him in order to secure his release, but did not succeed. Thereupon he applied to him, [the fuller] the verse: Whoso keepeth his mouth and his tongue, keepeth his soul from troubles.[16] Then they hanged him, and he [R. Eleazar son of R. Simeon] stood under the gallows and wept. Said they [his disciples] to him: ‘Master, do not grieve; for he and his son seduced a betrothed maiden on the Day of Atonement.’ [On hearing this,] he laid his hand upon his heart[17] and exclaimed: ‘Rejoice, my heart! If matters on which thou [sc. the heart] art doubtful are thus,[18] how much more so those on which thou art certain! I am well assured that neither worms nor decay will have power over thee.’ Yet in spite of this, his conscience disquieted him. Thereupon he was given a sleeping draught, taken into a marble chamber,[19] and had his abdomen opened, and basketsful of fat removed from him and placed in the sun during Tammuz and Ab,[20] and yet it did not putrefy.[21] But no fat putrefies![22] — [True,] no fat putrefies; nevertheless, if it contains red streaks,[23] it does. But here, though it contained red streaks, it did not. Thereupon he applied to himself the verse, My flesh too shall dwell in safety.[24]

A similar thing[25] befell R. Ishmael son of R. Jose.

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(1) The working day on the field extended from sunrise until the stars appear. The labourer returns home in his own time, i.e., after the stars appear, but goes to work in the time of the employer, starting from home at sunrise. [Tosaf. reverses the explanation.]

(2) Ps. CIV, 22f. This is interpreted: Man goeth forth when the sun ariseth — hence in his employer's time — and is bound to his labour until the evening — returning home in his own time.

(3) I.e., a town made up of inhabitants from various other places, and so lacking uniformity in this matter.

(4) In that case local custom is overridden.

(5) Ibid. 20.

(6) In the Hereafter.

(7) פעל , the word used in the text, often means not ‘work’, but its reward: Cf. Lev. XIX, 13: The wages (פעולת) of him that is hired etc.

(8) I.e., until his death.

(9) [(a) Freebooters (latrones) who overran Judea during the war between the Emperor Severus and his rival Pescennius Niger (193-4 C.E.) (Graetz, Geschichte der Juden, IV, p. 207); or (b) ordinary robbers (Krauss. MGWJ, 1894. p. 151).]

(10) Ps. CIV, 20.

(11) Ps. X, 9.

(12) 10 a.m., the usual breakfast hour.

(13) Without using a hammer, so that he did not attract attention.

(14) Let him who gave the advice carry it out.

(15) Degenerate son of a righteous father.

(16) Prov. XXI, 23.

(17) Lit., ‘his inwards’.

(18) Seen to be just. He was doubtful whether the man had really merited hanging. But now he saw that he was, for the seduction of a betrothed maiden is punished by stoning, and all who are stoned are hung.

(19) An operating theatre(?)

(20) The summer months, corresponding to about June and July.
(21) This was taken as a sign that he had acted rightly and would be proof against decay.
(22) Rashi: unless flesh adheres to it.
(23) Which are a fleshy substance.
(24) Ps. XVI, 9.
(25) Viz., that he became an informer to the State.

Talmud - Mas. Baba Metzia 84a

[One day] Elijah met him and remonstrated with him: ‘How long will you deliver the people of our God to execution!’ — ‘What can I do’, he replied, ‘it is the royal decree.’ ‘Your father fled to Asia,’[1] he retorted, ‘do you flee to Laodicea!’

When R. Ishmael son of R. Jose and R. Eleazar son of R. Simeon met, one could pass through with a yoke of oxen under them and not touch them.[2] Said a certain [Roman] matron to them, ‘Your children are not yours!’ They replied, ‘Theirs [sc. our wives’] is greater than ours.’ ‘[But this proves my allegation] all the more!’ [She observed]. Some say, they answered thus: ‘For as a man is, so is his strength.’[3] Others say, they answered her thus: ‘Love suppresses the flesh.’ But why should they have answered her at all; is it not written, Answer not a fool according to his folly?[4] — To permit no stigma upon their children.

R. Johanan said: The waist of R. Ishmael son of R. Jose was as a bottle of nine kabs capacity. R. papa said: R. Johanan's waist was as a bottle containing five kabs; others say, three kabs. That of R. papa himself was as [large as] the wicker-work baskets of Harpania.[5]

R. Johanan said: I am the only one remaining of Jerusalem's men of outstanding beauty. He who desires to see R. Johanan's beauty, let him take a silver goblet as it emerges from the crucible,[6] fill it with the seeds of red pomegranate, encircle its brim with a chaplet of red roses, and set it between the sun and the shade: its lustrous glow is akin to R. Johanan's beauty.

But that is not so; for did not a Master say: R. Kahana's beauty is a reflection of R. Abbahu's; R. Abbahu's is a reflection of our Father Jacob's; our Father Jacob's was a reflection of Adam's; whereas R. Johanan is omitted! — R. Johanan is different, because he lacked a beard.[7]

R. Johanan used to go and sit at the gates of the mikweh.[8] ‘When the daughters of Israel ascend from the bath’,said he, ‘let them look upon[9] me, that they may bear sons as beautiful and as learned as I.’ Said the Rabbis to him: ‘Do you not fear an evil eye?’ — ‘I am of the seed of Joseph’, he replied, ‘against whom an evil eye is powerless.’ For it is written, Joseph is a fruitful bough, even a fruitful bough by a well:[10] whereon R. Abbahu observed: Render not [by a well] but, ‘above the power of the eye.’[11] R. Jose son of R. Hanina deduced it from the following: and let them multiply abundantly like fish in the midst of the earth:[12] just as fish in the seas are covered by water and the eye has no power over them, so also are the seed of Joseph — the eye has no power over them.

One day R. Johanan was bathing in the Jordan, when Resh Lakish saw him and leapt into the Jordan after him. Said he [R. Johanan] to him, ‘Your strength should be for the Torah.’[13] — ‘Your beauty,’ he replied, ‘should be for women.’ ‘If you will repent,’ said he, ‘I will give you my sister [in marriage], who is more beautiful than I.’ He undertook [to repent]; then he wished to return and collect his weapons, but could not.[14] Subsequently, [R. Johanan] taught him Bible and Mishnah, and made him into a great man. Now, one day there was a dispute in the schoolhouse [with respect to the following. Viz.,] a sword, knife, dagger, spear, hand-saw and a scythe — at what stage [of their manufacture] can they become unclean? When their manufacture is finished.[15] And when is their manufacture finished? — R. Johanan ruled: When they are tempered in a furnace. Resh Lakish maintained: When they have been furbished in water. Said he to him: ‘A robber understands his trade.’[16] Said he to him, ‘And wherewith have you benefited me: there [as a robber] I was called Master, and here I am called Master.’[17] ‘By bringing you under the wings of the Shechinah,’ he retorted. R. Johanan therefore felt himself deeply hurt,[18] [as a result of which] Resh Lakish fell ill. His sister [sc. R. Johanan's, the wife of Resh Lakish] came and wept before him: ‘Forgive him[19] for the sake of my son,’ she pleaded. He replied: ‘Leave thy fatherless children. I will preserve them alive.’[20] ‘For the sake of my widowhood then!’ ‘And let thy widows trust in me,’[21] he assured her. Resh Lakish died, and R. Johanan was plunged into deep grief. Said the Rabbis, ‘Who shall go to ease his mind? Let R. Eleazar b. Pedath go, whose disquisitions are very subtle.’ So he went and sat before him; and on every dictum uttered by R. Johanan he observed: ‘There is a Baraitha which Supports you.’ ‘Are you as the son of Lakisha?’[22] he complained: ‘when I stated a law, the son of Lakisha used to raise twenty-four objections, to which I gave twenty-four answers, which consequently led to a fuller comprehension of the law; whilst you say, "A Baraitha has been taught which supports you:" do I not know myself that my dicta are right?’ Thus he went on rending his garments and weeping, ‘Where are you, O son of Lakisha, where are you, O son of Lakisha;’ and he cried thus until his mind was turned. Thereupon the Rabbis prayed for him, and he died.

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(1) Jose b. Halafta fled to Asia Minor in consequence of his having been ordained by Judah b. Baba (Sanh. 14a) in defiance of the Hadrianic edict.

(2) Their waists were so large that as they stood waist to waist there was room for a yoke of oxen to pass beneath them!

(3) Judges VIII, 21.

(4) Prov. XXVI, 4.

(5) [A rich agricultural town in the Mesene district S. of Babylon, famous for its manufacture of baskets made of fibres of palm leaves. V. Obermeyer, op. cit. p. 200. This humourous and exaggerated description of the figures of these Rabbis has been stated to prevent any stigma being attached to the offspring of people of large contour, Tosaf.]

(6) I.e., immediately it leaves the silversmith's hands, whilst it is still glowing with heat.

(7) Lit., ‘facial glory’.

(8) V. Glos.

(9) Lit., ‘meet’.

(10) Gen. XLIX, 22.

(11) עולי עין , a play on עולי עין .

(12) Ibid. XLVIII, 16.

(13) I.e., devoted to study.

(14) His mere decision to turn to the study of the Torah had so weakened him that he lacked the strength to don his heavy equipment.

(15) Before that they are not complete articles or utensils, and only such can become unclean.

(16) This was quoted only proverbially, though in later times it was taken literally, and Resh Lakish was held to have been a robber. Actually, he had been a circus attendant, to which his necessitous circumstances had reduced him, and these weapons were used in the course of that calling. (Graetz, Geschichte, IV, 238, n. 6). Weiss, Dor, III, p. 83, n. 2, understands the phrase literally, but translates לסתאה as ‘thief-catcher.’ If that be correct, Resh Lakish at one time helped the Roman government, just as R. Eleazar b. R. Simeon and R. Ishmael b. R. Jose had done

(17) Heb. רבי is equally applicable to a captain of a gang and a Rabbi (Rashi).

(18) By the remark of Resh Lakish that he had not benefited him.

(19) Lit., ‘do’.

(20) Jer. XLIX, 11.

(21) Ibid.

(22) The full name of Resh Lakish was R. Simeon b. Lakish. Weiss, Dor, II, 71 deduces from the use of Lakisha here that Lakish was not a patronym but the name of a town, בן or בר meaning ‘a citizen of,’ i.e., R. Simeon, a townsman of Lakish. But Bacher, Ag. der Pal. Am. I, 340, 1 defends Lakish as a patronym.

Talmud - Mas. Baba Metzia 84b

[Reverting to the story of R. Eleazar son of R. Simeon] yet even so,[1] R. Eleazar son of R. Simeon's fears were not allayed,[2] and so he undertook a penance. Every evening they spread sixty sheets for him, and every morning sixty basins of blood and discharge were removed from under him. In the mornings his wife prepared him sixty kinds of pap,[3] which he ate, and then recovered. Yet his wife did not permit him to go to the schoolhouse, lest the Rabbis discomfort him. Every evening he would exhort them,[4] 'Come, my brethren and familiars!' whilst every morning he exclaimed, 'Depart, because ye disturb my studies!' One day his wife, hearing him, cried out, 'You yourself bring them upon you; you have [already] squandered the money of my father's house!'[5] So she left him[6] and returned to her paternal home.[7] Then there came sixty seamen who presented him with sixty slaves, bearing sixty purses.[8] They too prepared sixty kinds of pap for him, which he ate. One day she [his wife] said to her daughter, 'Go and see how your father is faring now.' She went, [and on her arrival] her father said to her, 'Go, tell your mother that our [wealth] is greater than theirs' [sc. of his father-in-law's house]. He then applied to himself the verse, She is like the merchant's ships; she bringeth her food from afar.[9] He ate, drank, and recovered, and went to the schoolhouse. Sixty specimens of blood were brought before him, and he declared them all clean. But the Rabbis criticised him, saying, 'Is it possible that there was not [at least] one about which there was some doubt!' He retorted, 'If it be as I [said], let them all be males; if not, let there be one female amongst them.'[10] They were all males, and were named 'Eleazar', after him.

It has been taught: Rabbi said: How much procreation did this wicked [state] prevent in Israel.[11]

On his death-bed he said to his wife, 'I know that the Rabbis are angry with me, and will not properly attend to me. Let me lie in an upper chamber,[12] and do you not be afraid of me.' R. Samuel b. Nahmani said: R. Jonathan's mother told me that she was informed by the wife of R. Eleazar son of R. Simeon: 'I kept him lying in that upper chamber not less than eighteen nor more than twenty-two years. Whenever I ascended there, I examined his hair, and [even] if a single hair had fallen out, the blood would well forth. One day, I saw a worm issue from his ear, whereat I was much grieved, but he appeared to me in my dream and told me that it was nothing. ["This has happened," said he,] "because I once heard a scholar insulted and did not protest, as I should have done." Whenever two people came before him [in a lawsuit], they stood near the door, each stated his case, and then a voice issued from that upper chamber, proclaiming, "So-and-so, you are liable; soand-so, you are free."' Now, one day his wife was quarrelling with a neighbour, when the latter reviled [her, saying,] 'Let her be like her husband, who was not worthy of burial!' Said the Rabbis: 'When things have gone thus far,[13] it is certainly not meet.'[14] Others say: R. Simeon b. Yohai appeared to them in a dream, and complained: 'I have a pigeon amongst you which you refuse to bring to me.' Then the Rabbis went to attend to him [for burial], but the townspeople of Akabaria[15] did not let them; because during all the years R. Eleazar son of R. Simeon slept in his upper chamber no evil beast came to their town. But one day — it was the eve of the Day of Atonement, when they were busily occupied, the Rabbis sent [word] to the townspeople of Biri,[16] and they brought up his bier, and carried it to his father's vault, which they found encircled by a serpent. Said they to it, 'O snake, O snake, open thy mouth, and let the son enter to his father.' Thereupon it opened [its mouth] for them. Then Rabbi sent [messengers] to propose [marriage] to his wife. She sent back: 'Shall a utensil, in which holy food has been used, be used for profane purposes!' There [sc. in Palestine] the proverb runs: Where the master hung up his weapons, there the shepherd hung up his wallet. He sent back word, 'Granted that he outstripped me in learning, was he [also] my superior in good deeds?' She returned, 'Yet at least he outstripped you in learning, though I did not know it. But I do know [that he exceeded you] in [virtuous] practice, since he submitted himself to mortification.'

'In learning'. To what is the reference? — When Rabban Simeon b. Gamaliel and R. Joshua b. Karhah sat on benches, R. Eleazar son of R. Simeon and Rabbi sat in front of them on the ground,[17] raising objections and answering them. Said they, 'We drink their water [i.e., benefit from their learning], yet they sit upon the ground; let seats be placed for them!' Thus were they promoted. But

R. Simeon b. Gamaliel protested: ‘I have a pigeon amongst you, and ye wish to destroy it!’[18] So Rabbi was put down. Thereupon R. Joshua b. Karhah said: ‘Shall he, who has a father, live, whilst he who has no father[19] die!’ So R. Eleazar son of R. Simeon too was put down, whereat he felt hurt saying, ‘Ye have made him equal to me!’[20] Now, until that day, whenever Rabbi made a statement, R. Eleazar son of R. Simeon supported him. But from then onward, when Rabbi said, ‘I have an objection,’ R. Eleazar son of R. Simeon retorted, ‘If you have such and such an objection, this is your answer; now have you encompassed us with loads of answers in which there is no substance.’[21] Rabbi, being thus humiliated, went and complained to his father. ‘Let it not grieve you,’ he answered, ‘for he is a lion, and the son of a lion, whereas you are a lion, the son of a fox.’[22] To this Rabbi alluded when he said, Three were humble; viz., my father,

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(1) Notwithstanding that his fat did not putrefy; v. supra 83b.

(2) Lit., ‘his mind was not at rest’, that he had not ensnared innocent men too.

(3) Made of figs (Rashi).

(4) His pains and sores personified.

(5) By illness.

(6) Lit., ‘rebelled’.

(7) The Heb. expression means her father's house after his death.

(8) These seamen had encountered a violent storm at sea, and had prayed to be delivered for the sake of R. Eleazar son of R. Simeon. This gift then was a thanksgiving offering to him (Tosaf.).

(9) Prov. XXXI, 14. ‘she’ is referred to the Torah; for the sake of his learning, in the merit of which the seamen had been delivered, his ‘food’ — i.e. wealth — had been brought to him from afar.

(10) I.e., the children of those women whose blood he had declared clean.

(11) R. Eleazar son of R. Simeon having been appointed by the state to track down malefactors, could not come to the school, where, by his wide knowledge of what is clean or unclean he would have permitted many women to their husbands.

(12) Instead of being buried.

(13) I.e., that people know that he is dead yet unburied.

(14) It dishonours him.

(15) Josephus (Wars, II, XX, 6) mentions that he fortified a place of that name in Upper Galilee; it was probably identical with Akhbura, a town to the south of Safed. Neubauer p. 226f.

(16) A neighbouring town. [Either Bira, S.E., or Kfar Bir'im, N.W. of Gush Halab; Klein, Neue Beitrage, p. 39.]

(17) This was the usual way of study, the master sitting on a seat, the disciples on the ground.

(18) He feared that his son's promotion — he was Rabbi's father — would excite the evil eye and react to his injury.

(19) R. Simeon b. Yohai, the father of R. Eleazar son of R. Simeon, was dead.

(20) Whilst he thought himself higher. — This proves the point that he was a greater scholar than Rabbi; v. also further.

(21) I.e., R. Eleazar anticipated all his objections and answered them by shewing that there was no reality in the proposed difficulties and consequently in the answer given, and thus he accused Rabbi of being the cause of many answers which are quite unimportant.

(22) He has a greater scholastic ancestry than you, R. Simeon b. Yohai, his father, having been more learned than I.

Talmud - Mas. Baba Metzia 85a

the Bene Bathyra, and Jonathan, the son of Saul. ‘R. Simeon b. Gamaliel,’[1] as has been said, ‘The Bene Bathyra,’ as a Master said: They placed him at the head and appointed him Nasi[2] over them.[3] ‘Jonathan, the son of Saul,’ for he said to David, And thou shalt be king over Israel, and I shall be next unto thee.[4] But how does this prove it: perhaps Jonathan the son of Saul [spoke thus] because he saw that the people were flocking to David? The Bene Bathyra too, because they saw that Hillel was their superior [in learning]? But R. Simeon b. Gamaliel was certainly very modest.[5]

Rabbi observed: Suffering is precious.[6] Thereupon he undertook [to suffer likewise] for thirteen years, six through stones in the kidneys[7] and seven through scurvy: others reverse it. Rabbi's house-steward was wealthier than King Shapur.[8] When he placed fodder for the beasts, their cries could be heard for three miles, and he aimed at casting it [before them] just then when Rabbi entered his privy closet, yet even so, his voice [lifted in pain] was louder than theirs, and was heard [even] by sea-farers. Nevertheless, the sufferings of R. Eleazar son of R. Simeon were superior [in virtue] to those of Rabbi. For whereas those of R. Eleazar son of R. Simeon came to him through love, and departed in love,[9] those of Rabbi came to him through a certain incident, and departed likewise.

‘They came to him through a certain incident.’ What is it? — A calf was being taken to the slaughter, when it broke away, hid his head under Rabbi's skirts, and lowed [in terror]. ‘Go’, said he, ‘for this wast thou created.’ Thereupon they said [in Heaven], ‘Since he has no pity, let us bring suffering upon him.’

‘And departed likewise.’ How so? — One day Rabbi's maidservant was sweeping the house; [seeing] some young weasels lying there, she made to sweep them away. ‘Let them be,’ said he to her; ‘It is written, and his tender mercies are over all his works.’[10] Said they [in Heaven], ‘Since he is compassionate, let us be compassionate to him.’

During all the years that R. Eleazar suffered, no man died prematurely. During all those of Rabbi the world needed no rain;[11] for Rabbah son of R. Shilah said: The day of rain is as hard [to bear][12] as the day of judgment. And Amemar said: But that it is necessary to the world, the Rabbis would have prayed that it might cease to be. Nevertheless,[13] when a radish was pulled out of its bed, there remained a cavity full of water.

Rabbi chanced to visit the town of R. Eleazar son of R. Simeon.[14] ‘Did that righteous man leave a son?’ he inquired. ‘Yes,’ they replied; ‘and every harlot whose hire is two [zuz], hires him for eight.’[15] So he had him brought [before him], ordained him a Rabbi,[16] and entrusted him to R. Simeon b. Issi b. Lakonia, his mother's brother [to be educated]. Every day he would say, ‘I am going to my town; to which he [his instructor] replied, ‘They have made you a Sage, spread over you a gold trimmed cloak [at the ceremony of ordination] and designated you "Rabbi", and yet you say, I am going back to my town!’ Said he, ‘I swear that this [my desire] has been abandoned.’ When he became a great [scholar], he went and sat in Rabbi's academy. On hearing his voice, he [Rabbi] observed: ‘This voice is similar to that of R. Eleazar son of R. Simeon.’ ‘He is his son,’ they [his disciples] told him. Thereupon he applied to him the verse, The fruit of the righteous is a tree of life; and he that winneth souls is wise.[17] [Thus:] ‘The fruit of the righteous is a tree of life’ — this refers to R. Jose, the son of R. Eleazar, the son of R. Simeon;[18] ‘And he that winneth souls is wise’ — to R. Simeon b. Issi b. Lakonia. When he died, he was carried to his father's burial vault, which was encompassed by a snake. ‘O snake, O snake,’ they adjured it, ‘open thy mouth and let the son enter to his father;’ but it would not uncoil for them. Now, the people thought that one was greater than the other,[19] but there issued a Heavenly Voice, proclaiming: ‘It is not because one is greater than the other, but because one underwent the suffering of the cave, and the other did not.’[20]

Rabbi chanced to visit the town of R. Tarfon. Said he to them: ‘Has that righteous man, who used to swear by the life of his children,[21] left a son?’ They replied: ‘He has left no son, but a daughter's son remains, and every harlot who is hired for two [zuz] hires him for eight.’ So he had him brought before him and said to him: ‘Should you repent, I will give you my daughter.’ He repented. Some say, he married her [Rabbi's daughter] and divorced her; others, that he did not marry her at all, lest it be said that his repentance was on her account. And why did he [Rabbi] take such [extreme] measures? — Because, [as] Rab Judah said in Rab's name — others Say, R. Hiyya b. Abba said in R. Johanan's name — others say, R. Samuel b. Nahmani said in R. Jonathan's name: He who teaches Torah to his neighbour's son will be privileged to sit in the Heavenly Academy, for it is written, If thou [sc. Jeremiah] wilt cause [Israel] to repent, then will I bring thee again, and thou shalt stand before me.[22] And he who teaches Torah to the son of an ‘am ha-arez,[23] even if the Holy One, blessed be He, makes a decree, He annuls it for his sake, as it is written, and if thou shalt take forth the precious from the vile, thou shalt be as my mouth.[24]

R. Parnak said in R. Johanan's name: He who is himself a scholar, and his son is a scholar, and his son's son too, the Torah will nevermore cease from his seed, as it is written, As for me, this is my covenant with them, saith the Lord; My spirit is upon thee, and my words which I have put in thy mouth, shall not depart out of thy mouth, nor out of the mouth of thy seed, nor out of the mouth of thy seed's seed, saith the Lord, from henceforth and for ever.[25] What is meant by ‘saith the Lord’? — The Holy one, blessed be He, said, I am surety for thee in this matter. What is the meaning of ‘from henceforth and for ever’? — R. Jeremiah said: From henceforth [i.e., after three generations] the Torah seeks its home.[26]

R. Joseph fasted forty fasts,[27] when he was made to read [in his dream], ‘They shall not depart out of thy mouth.’ He fasted another forty, and was made to read, ‘They shall not depart out of thy mouth, nor out of the mouth of thy seed.’ He fasted another forty, and was made to read, ‘They shall not depart out of thy mouth, nor out of the mouth of thy seed, nor out of the mouth of thy seed's seed.’ Henceforth, said he, I have no need [to fast]; the Torah seeks its home.

When R. Zera emigrated to Palestine, he fasted a hundred fasts to forget the Babylonian Gemara, that it should not trouble him.[28] He also fasted a hundred times that R. Eleazar might not die in his lifetime, so that the communal cares[29] should not fall upon him. And yet another hundred, that the fire of Gehenna might be powerless against him. Every thirty days he used to examine himself [to see if he were fireproof]. He would heat the oven, ascend, and sit therein, but the fire had no power against him. One day, however, the Rabbis cast an [envious] eye upon him, and his legs were singed, whereafter he was called, ‘Short and leg-singed.’[30]

Rab Judah said in Rab's name: What is meant by, Who is the wise man, that may understand this? and who is he to whom the mouth of the Lord hath spoken, that he may declare it, why the land perisheth?[31] This question[32]

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(1) The father of Rabbi.

(2) The Patriarch, head of Palestinian Jewry.

(3) The story is given in full in Pes. 66a. On one occasion the eve of Passover fell on the Sabbath, and none knew whether the Paschal sacrifice might be offered or not. Thereupon Hillel proved by argument and tradition that it was permissible, upon which the Bene Bathyra, the then heads of Palestinian Jewry, voluntarily resigned their leadership in his favour.

(4) I Sam. XXIII, 17.

(5) I.e., though the action of the other two might be explained away as not due to humility, that of R. Simeon b. Gamaliel could not.

(6) Because he saw that as a reward for the suffering to which R. Eleazar son of R. Simeon had submitted his body remained intact, defying decomposition and decay for many years.

(7) Or, in the bladder, Jast.

(8) V. p. 408, n. 5.

(9) V. supra 84a bottom: he summoned his sufferings, loving them as a means of ennoblement and likewise dismissed them, that he might be free to study.

(10) Ps. CXLV, 9.

(11) Everything growing without rain.

(12) Owing to the inconvenience and discomfort to which people are put.

(13) Though no rain fell.

(14) After his death.

(15) On account of his beauty.

(16) That the honour and the title might turn him to the Torah.

(17) Prov. XI, 30.
(18) I.e., a line of righteous men.
(19) I.e., the father was greater than the son, who was therefore unworthy to he buried with him.
(20) R. Simeon b. Yohai and his son Eleazar were hidden in a cave from the Roman authorities for thirteen years, Shab. 33b.
(21) [He frequently used the oath ‘May I bury my children’ — e.g. Oh. XVI, 1]
(22) Jer. XV, 19.
(23) V. Glos.
(24) Ibid.
(25) Isa. LIX, 21: thus, once the Torah has been in thy own mouth, thy seed's, and thy seed's seed — i.e., three generations — it shall not depart for ever.
(26) I.e., it becomes hereditary in that family.
(27) That the Torah should always remain with him.
(28) The Palestinian method of study was far simpler than the Babylonian, and R. Zera was anxious that his keen dialectic method acquired in Babylon should not interfere with the clearer course adopted in Palestine. Cf. Sanh. (Sonc. ed.) p. 138, n. 11. [On the term ‘Gemara’ v. supra p. 206, n. 6. Kaplan, op. cit., pp. 258ff., on the basis of his definition, explains that Gemara texts as recorded by different schools frequently presented variations in substance, style and phraseology to the confusion of the student, and it was for freedom from this handicap that R. Zera prayed when he decided to join the school in Palestine.]
(29) [Of Tiberias, where R. Zera was a communal leader and finally became the head of the School.]
(30) He was of short stature.
(31) Jer. IX, 11.
(32) Lit., ‘thing’.

Talmud - Mas. Baba Metzia 85b

was put by the Sages, but they could not answer it; by the prophets, but they [too] could not answer it, until the Holy One, blessed be He, Himself resolved as it is written, And the Lord said, Because they have forsaken my law which I set before them.[1] Rab Judah said in Rab's name: [That means] that they did not first utter a benediction over the Torah [before studying it].[2]

R. Hama said: What is meant by, Wisdom resteth in the heart of him that hath understanding; but that which is in the midst of fools is made known?[3] ‘Wisdom resteth in the heart of him that hath understanding’ — this refers to a scholar, the son of a scholar; ‘but that which is in the midst of fools is made known’ — to a scholar, the son of an ‘am ha-arez.[4] Said ‘Ulla: Thus it is proverbial, One stone in a pitcher cries out ‘rattle, rattle.’[5]

R. Jeremiah questioned R. Zera: What is meant by, The small and great are there [sc. the next world]; and the servant is free from his master?[6] Do we then not know that ‘the small and great are there’? — But [it means that] he who humbles himself for the sake of the Torah in this world is magnified in the next; and he who makes himself a servant to the [study of the] Torah in this world becomes free in the next.

Resh Lakish was marking the burial vaults of the Rabbis.[7] But when he came to the grave of R. Hiyya, it was hidden from him,[8] whereat he experienced a sense of humiliation. ‘Sovereign of the Universe!’ he exclaimed, ‘did I not debate on the Torah as he did?’ Thereupon a Heavenly Voice cried out in reply: ‘You did indeed debate on the Torah as he did, but did not spread the Torah as he did.’ Whenever R. Hanina and R. Hiyya were in a dispute, R. Hanina said to R. Hiyya: ‘Would you dispute with me? If, Heaven forfend! the Torah were forgotten in Israel, I would restore it by my argumentative powers.’ To which R. Hiyya rejoined: ‘Would you dispute with me, who achieved that the Torah should not be forgotten in Israel? What did I do? I went and sowed flax, made nets [from the flax cords], trapped deers, whose flesh I gave to orphans, and prepared scrolls [from their skins], upon which I wrote the five books [of Moses]. Then I went to a town [which contained no teachers] and taught the five books to five children, and the six orders [of the Talmud] to six children[9] And I bade them: "Until I return, teach each other the Pentateuch and the Mishnah;" and thus I preserved the Torah from being forgotten in Israel.'[10] This is what Rabbi [meant when he] said, 'How great are the works of Hiyya!' Said R. Ishmael son of R. Jose to him, '[Are they] even [greater] than yours?' 'Yes,' he replied, 'And even than my father's.' 'Heaven forfend!' he rejoined, 'Let not such a thing be [heard] in Israel!'

R. Zera said: Last night R. Jose son of R. Hanina appeared to me [in a dream], and I asked him, 'Near whom art thou seated [in the Heavenly Academy]?' — 'Near R. Johanan.' 'And R. Johanan near whom?' — 'R. Jannai.' 'And R. Jannai?' — 'Near R. Hanina.' 'And R. Hanina?' — 'Near R. Hiyya.' Said I to him, 'And is not R. Johanan [worthy of a seat] near R. Hiyya?' — He replied, 'In the region of fiery sparks and flaming tongues, who will let the smith's son enter?[11]

R. Habiba said: R. Habiba b. Surmakia told me: I saw one of the Rabbis whom Elijah used to frequent, whose eyes were clear in the morning, but in the evening they looked as though burnt in fire. I questioned him, 'What is the meaning of this?' And he answered me [thus]: 'I requested Elijah to shew me the [departed] Rabbis as they ascend to the Heavenly Academy. He replied: "Thou canst look upon all, excepting the carriage of R. Hiyya: upon it thou shalt not look." "What is their sign?"[12] "All are accompanied by angels when they ascend and descend, excepting R. Hiyya's carriage, who ascends and descends of his own accord."[13] But unable to control my desire, I gazed upon it, whereat two fiery streams issued forth, smote and blinded me in one eye. The following day I went and prostrated myself upon his grave, crying out, "It is thy Baraitha that I study!"[14] and I was healed.'[15]

Elijah used to frequent Rabbi's academy. One day — it was New Moon — he was waiting for him, but he failed to come. Said he to him [the next day]: 'Why didst thou delay?' — He replied: '[I had to wait] until I awoke Abraham, washed his hands, and he prayed and I put him to rest again; likewise to Isaac and Jacob.' 'But why not awake them together?' — 'I feared that they would wax strong in prayer[16] and bring the Messiah before his time.' 'And is their like to be found in this world?' he asked. — 'There is R. Hiyya and his sons', he replied. Thereupon Rabbi proclaimed a fast, and R. Hiyya and his sons were bidden to descend [to the reading desk].[17] As he [R. Hiyya] exclaimed, 'He causeth the wind to blow', a wind blew; he proceeded, 'he causeth the rain to descend', whereat the rain descended. When he was about to say, 'He quickeneth the dead'[18] , the universe trembled, [and] in Heaven it was asked, 'Who hath revealed our secret to the world?'[19] 'Elijah', they replied. Elijah was therefore brought and smitten with sixty flaming lashes; so he went, disguised himself as a fiery bear, entered amongst and scattered them.

Samuel Yarhina'ah[20] was Rabbi's physician. Now, Rabbi having contracted an eye disease, Samuel offered to bathe it with a lotion, but he said, 'I cannot bear it.' 'Then I will apply an ointment to it,' he said. 'This too I cannot bear,' he objected. So he placed a phial of chemicals under his pillow, and he was healed.[21] Rabbi was most anxious[22] to ordain him, but the opportunity was lacking.[23] Let it not grieve thee, he said; I have seen the Book of Adam,[24] in which is written, 'Samuel Yarhina'ah

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(1) Ibid. 12.

(2) The Ran in Ned. 81a explains that it is assumed that the Torah was studied; for otherwise, the question would easily have been answered by the Sages and Prophets. Yet it was studied not for its own sake but only for the preferment it might give. This is expressed by saying that they recited no benediction before studying it, i.e., it was not in itself dear to them. The selfish motive could be known to none but God.

(3) Prov. XIV, 33.

(4) V. Glos. His scholarship then stands out, and 'is made known'.

(5) But when the Pitcher is filled with stones they have no room for rattling. So also, one scholar in a family of fools achieves fame, whilst a whole family of scholars are taken for granted.

(6) Job III, 19.

(7) That priests should not go there and become defiled, thus transgressing the law through the instrumentality of righteous men.

(8) He could not find its exact spot.

(9) The Talmud is divided into six ‘orders’, viz.: Seeds, Festivals, Women, Damages, Sacred Objects and Purity.

(10) Scholars dispute whether Rabbi wrote down the Mishnah after compiling it. It is perhaps noteworthy in this connection that, whereas in this story it is stated that R. Hiyya wrote the five books of Moses, nothing is said about his writing the Mishnah for his pupils. [Though possibly these activities of R. Hiyya cover a period before the final compilation of the Mishnah by Rabbi.]

(11) R. Johanan's cognomen was Bar Nappaha, lit., ‘the smith's son’.

(12) By which I may distinguish between the carriages of the other Rabbis and R. Hiyya's.

(13) His merit being so great, he is not in need of the angel's assistance.

(14) There were several sets of Baraithas — laws not included by Rabbi in his compilation of the Mishnah — the most important and authentic of which were those by R. Hiyya and R. Oshaia.

(15) Yet the redness of the burning was still perceptible.

(16) If they prayed simultaneously.

(17) In the synagogue of Talmudic times the reading-desk was on a lower level than the rest of the building. On fast days, according to the Midrash Tanhuma on בשלח , three men led the congregation in prayer, instead of one, as usual.

(18) V. P. B. p. 44.

(19) That R. Hiyya's prayers are so efficacious.

(20) ירחינאה , the Lunar Expert or Astronomer. The word is an epithet of Samuel, the Babylonian amora, on account of his great astronomical skill, v. R.H. 20b.

(21) The vapour being sufficiently powerful to penetrate to the eye, though not applied directly.

(22) Lit., ‘grieved’.

(23) Possibly he could not assemble the Ordination Board.

(24) [Cf. Gen. V, 1. This is not to be confused with the Apocryphal Book of Adam known in many versions (v. J. E. I, 179f), but a book which God showed to Adam containing the genealogy of the whole human race, and which is the Jewish form of the view prevalent among Babylonians (v. Ginszberg, Legends, VI, p. 82), though this does not mean to imply that there was no Jewish version of the Book of Adam current in the days of Rabbi. Funk, Monumenta, I, p. 324, however, on the basis of Babylonian parallels, where the stars are described as the ‘writing of Heaven’, renders the statement of Rabbi simply to mean, ‘I have seen it written in the stars’.]

Talmud - Mas. Baba Metzia 86a

shall be called "Sage’’, but not "Rabbi’’, and Rabbi's healing shall come through him. Rabbi and R. Nathan conclude the Mishnah, R. Ashi and Rabina[1] conclude [authentic] teaching,[2] and a sign thereof is the verse, Until I went to the sanctuary of God; then understood I their end.’[3]

R. Kahana said: R. Hama, the son of the daughter of Hassa,[4] related to me [that] Rabbah b. Nahmani died through persecution,[5] information having been laid against him to the State. Said they [the informers]: There is an Israelite who keeps back twelve thousand Israelites from the payment of the royal poll-tax one month in summer and one in winter.[6] Thereupon a royal officer was sent for him, but did not find him. He [Rabbah] then fled from Pumbeditha to Akra, from Akra to Agama,[7] from Agama to Sahin, from Sahin to Zarifa, from Zarifa to ‘Ena Damim,[8] and thence back to Pumbeditha. In Pumbeditha he found him; for the royal officer chanced to visit the same inn where Rabbah [was hiding]. Now, they placed a tray before him [the royal officer], gave him two glasses of liquor, and then removed the tray;[9] whereupon his face was turned backward [by demons]. ‘What shall we do with him?’ said they [the inn attendants] to him [Rabbah]; ‘he is a royal officer.’ ‘Offer him the tray again,’ he replied, ‘and let him drink another goblet; then remove the tray, and he will recover.’ They did so, and he recovered. ‘I know,’ said he, ‘that the man whom I require is here;’ he searched for and found him. He then said, ‘I will depart from here; if I am slain, I will not disclose [his whereabouts]; but if tortured, I will.’ He was then brought before him, and he led him into a chamber and locked the door upon him [to keep him there as a prisoner]. But he [Rabbah] prayed, whereupon the wall fell down, and he fled to Agama; there he sat upon the trunk of a [fallen] palm and studied. Now, they were disputing in the Heavenly Academy thus: If the bright spot preceded the white hair, he is unclean; if the reverse, he is clean.[10] If [the order is] in doubt — the Holy One, blessed be He, ruled, He is clean; whilst the entire Heavenly Academy maintained, He is unclean.[11] Who shall decide[12] it? said they. — Rabbah b. Nahmani; for he said, I am pre-eminent[13] in the laws of leprosy and tents.[14] A messenger was sent for him, but the Angel of Death could not approach him, because he[15] did not interrupt his studies [even for a moment]. In the meantime, a wind blew and caused a rustling in the bushes, when he imagined it to be a troop of soldiers. ‘Let me die,’ he exclaimed, ‘rather than be delivered into the hands of the State. As he was dying, he exclaimed, ‘Clean, clean!’[16] when a Heavenly Voice cried out, ‘Happy art thou, O Rabbah b. Nahmani, whose body is pure and whose soul had departed in purity!’ A missive fell from Heaven in Pumbeditha, [upon which was written,] ‘Rabbah b. Nahmani has been summoned[17] by the Heavenly Academy. So Abaye and Raba and all the scholars went forth to attend on him [at his burial], but they did not know his whereabouts. They went to Agama and saw birds stationed there and overshadowing it [to give protection]. ‘This’, said they, ‘proves that he is there. They bewailed him for three days and three nights; but there fell a missive from Heaven, ‘He who [will now] hold aloof [from the lamentations] shall be under a ban.’ So they bewailed him for seven days, and then there fell a missive from Heaven, ‘Return in peace to your homes.’ On the day that he died a hurricane lifted an Arab who was riding a camel, and transported him from one bank of the River Papa[18] to the other. ‘What does this portend?’ he exclaimed. — ‘Rabbah b. Nahmani has died,’ he was told. ‘Sovereign of the Universe!’ he cried out. ‘The whole world is Thine, and Rabbah b. Nahmani too is Thine. Thou art [the Friend] of Rabbah, and Rabbah is Thine; why dost Thou destroy the world on his account!’ Thereupon the storm subsided.

R. Simeon b. Halafta was a fat man.[19] One day, feeling hot, he climbed up, sat on a mountain boulder, and said to his daughter, ‘Daughter, fan me with a fan, and I will give you bundles of spikenard.’ Just then, however, a breeze arose, whereat he observed, ‘How many bundles of spikenard [do I owe] to the Master of the [breeze]?’

EVERYTHING DEPENDS ON LOCAL CUSTOM. What does EVERYTHING add?[20] — The case where it is customary to break bread[21] and drink a small measure [of liquor];[22] if he [the employer] demanded of them, ‘Come early, that I may bring it to you,’[23] they can answer, ‘You have no power [to demand this].’

IT ONCE HAPPENED THAT R. JOHANAN B. MATHIA SAID TO HIS SON, ‘GO OUT AND ENGAGE’ etc. A story [is quoted] contradicting [the stated law]![24] — The text is defective, and should read thus: But if he stipulates to provide them with food,

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(1) [According to Sherira Gaon, Letter, p. 95, (ed. Lewin) the reference is to Rabina II, son of R. Huna.]

(2) Rashi: Before Rabbi, the Mishnah was in no systematic order, each Tanna teaching in which order he desired. Rabbi compiled and arranged these teachings in a systematized order, admitting those which he considered authentic and rejecting others. This compilation formed the basic code of Jewish law (though Weiss, Dor. II, p. 183, maintains that he never intended it to be authoritative); subsequently scholars might define and explain it, and deduce new laws from it, but not dispute with it. In the course of time the discussions on the Mishnah grew to very large dimensions, and it was the work of Rabina and R. Ashi to compile the huge mass of accumulated material and give it an orderly arrangement. This is expressed by saying that they were at the end of authentic teaching (hora'ah), i.e., they edited the Talmud. [The signification of the term hora'ah is obscure and has been variously explained: (a) transmission of the oral Law; (b) the insertion by scholars of halachic matter in the Talmud; (c) the right to change the Talmud whether in substance or form;

(d) legislative activity, v. Kaplan, op. cit., pp. 34 and 289ff.]

(3) Ps. LXXIII, 17; מקדשי ('sanctuary') bears a slight resemblance to אשי (Ashi), and אבינה ('understood') to רבינא (Rabina): thus R. Ashi and Rabina are 'their end', sc. of the Talmud.

(4) Var. lec.: Hama.

(5) [Sherira, letter, P. 87: 'persecution of the Law'.]

(6) They used to flock to the academy in Nisan and Tishri, the months of popular lectures, and in consequence the tax-collectors could not obtain their taxes for these months. So Rashi. [The Karasa (poll-tax) appears to have been payable monthly, and the absence of so many tax-payers during these two months in the year (according to Sherira, Adar and Elul, litter, p. 87) was responsible for a drop in the monthly royal revenue. There was, however, no question of evading the tax, as the arrears could in any case be collected with subsequent payments. Obermeyer, op. cit., p. 237. For another explanation connecting it with the exemption of scholars from taxes, (cf. B.B. 8a) v. J. Kaplan. Horeb (New York 1934), I. ;1, pp. 42ff. 1.]

(7) There is only an אקרא דאגמא (Akra di Agama) mentioned elsewhere in the Talmud (v. B.B. (Sonc. ed.) p. 529, n. 11), and Neubauer p. 368, n. 2, suggests that the same should be read here too.

(8) [All these places appear to be in the neighbourhood of Pumbeditha. 'Ena Damim is probably to be identified with the village Dimima on the canal Nahr 'Isa on the Euphrates; Sahin and Zarifa cannot be exactly located. Obermeyer, loc. cit. n. 3.]

(9) To drink an even number of glasses would excite the ill-will of certain demons; he had thus been unintentionally placed in danger.

(10) V. Lev. XIII, 1-3. As stated here, the bright spot must appear first, and then the white hair.

(11) It is a daring fancy to picture the Almighty disputing with the Heavenly Academy on one of His own laws, but is in keeping with the spirit of Talmudic inquiry that the Law once having been given, it is for man to interpret it. Cf. supra 59b.

(12) Lit., 'prove it'.

(13) Lit., 'unique'.

(14) I.e., uncleanliness caused by the dead.

(15) Lit., 'his mouth'.

(16) As though the subject of the Heavenly controversy had already been communicated to him.

(17) Lit., 'sought for'.

(18) [The canal passing through Pumbeditha. Obermeyer, op. cit., p. 237.]

(19) Because the beginning of this narrative portion (aggadah) deals with R. Eleazar b. Simeon, who was very fat, a story is related about another fat man (Rashi).

(20) When a particular law is followed by a general proposition in this form, it is axiomatic that its purpose is to extend the law to a case that does not obviously follow from the first.

(21) [Lit., 'to wrap the bread', to break a piece of bread and place some relish in between. For a discussion of the phrase, v. Krauss, T.A. III, 51.]

(22) אנפק = 1 log.

(23) That the workmen should eat and drink before their day starts.

(24) After stating that everything depends on local custom, the Tanna narrates a story which contradicts this, for custom certainly fixed the limits of the meals.

Talmud - Mas. Baba Metzia 86b

he thereby increases [his obligations] to them.[1] And IT ONCE HAPPENED LIKEWISE THAT R. JOHANAN B. MATHIA SAID TO HIS SON, 'GO OUT AND ENGAGE LABOURERS.' HE WENT, AND AGREED TO SUPPLY THEM WITH FOOD. BUT WHEN HE RETURNED TO HIS FATHER, HE SAID TO HIM, 'MY SON, SHOULD YOU EVEN PREPARE A BANQUET FOR THEM LIKE SOLOMON'S, WHEN IN HIS GLORY, YOU CANNOT FULFIL YOUR DUTY, FOR THEY ARE THE CHILDREN OF ABRAHAM, ISAAC AND JACOB.'

Shall we say that the meals of Abraham, the Patriarch, were superior to those of Solomon; but is it not written, And Solomon's provisions for one day were thirty measures of fine flour and three score measures of meal. Ten fat oxen, and twenty oxen out of the pastures, and an hundred sheep, besides harts, and roebucks, and fallowdeer, and fatted fowl:[2] whereon Gorion b. Astion said in Rab's name: These were for the cook's dough;[3] and R. Isaac said: These [animals] were but for the [mincemeat] puddings. Moreover, said R. Isaac, Solomon had a thousand wives, and each prepared this quantity in her own house. Why? Each reasoned, 'He may dine in my house to-day.' Whereas of Abraham it is said, And Abraham ran unto the herd, and fetched a calf tender and good:[4] whereon Rab observed: 'A calf,' means one; 'tender' — two; and 'good' — three![5] — There the three calves were for three men, whereas here [the provisions enumerated] were for all Israel and Judah, as it is written, Judah and Israel were many, as the sand which is by the sea in multitude.[6]

What is meant by 'fatted fowl'? — Rab said: [Fowls] fed against their will. Samuel said: [Fowls] naturally fat. R. Johanan said: Oxen which had never toiled[7] were brought from the pastures, and likewise fowls [that had never toiled][8] from their dungheaps.[9]

R. Johanan said: The best of cattle is the ox; the best of birds is the fowl. Amemar said: A fattened black hen[10] which moves about the vats, and which cannot step over a stick.[11]

And Abraham ran unto the herd and fetched a calf, tender and good. Rab said: 'A calf', means one; 'tender' — two; and 'good' — three. But perhaps it [all means] one, as people say, a tender and good [calf]? — If so, Scripture should have written, [a calf] tender, good; why 'and' good? This proves that it is for exegesis.[12] Then perhaps it means two?[13] — Since 'good' is for exegesis, 'tender' [too] is for the same purpose. Rabbah b. 'Ulla — others say, R. Hoshaia — and others again Say, R. Nathan son of R. Hoshaia objected: And he gave unto a young man; and he hasted to dress it?[14] — He gave each to one young man. [But is it not written] And he took butter and milk, and the calf which he had dressed, and set it before them?[15] — [This means,] each, as soon as it was ready, was brought before them. But why three? Would not one have sufficed? — R. Hanan b. Raba said: In order to offer them three tongues with mustard.[16]

R. Tanhum b. Hanilai said: One should never break away from custom. For behold, Moses ascended on High and ate no bread, whereas the Ministering Angels descended below and ate bread.[17] 'And ate' — can you really think so! — But say, appeared to eat and drink.

Rab Judah said in Rab's name: Everything which Abraham personally did for the Ministering Angels, the Holy One, blessed be He, did in person for his sons; and whatever Abraham did through a messenger,[18] the Holy One, blessed be He, did for his sons through a messenger. [Thus:] And Abraham ran unto the herd — And there went forth a wind from the Lord;[19] and he took butter, and milk[15] — Behold, I will rain bread from heaven for you;[20] and he stood by them under the tree — Behold, I will stand before thee there upon the rock, etc.;[21] And Abraham went with them to bring them on the way[22] — And the Lord went before them by day;[23] Let a little water, I pray you, be fetched[24] — and thou shalt smite the rock, and there shall come water out of it, that the people may drink.[25] But he is thus in conflict with R. Hama son of R. Hanina. For R. Hama son of R. Hanina said, and the School of Ishmael taught likewise: As a reward for three things [done by Abraham] they [his descendants] obtained three things. Thus: As a reward for, [and he took] butter and milk, they received the manna; as a reward for, And he stood by them, they received the pillar of cloud;[26] as a reward for, Let a little water, I pray you, be fetched, they were granted Miriam's well.[27]

Let a little water, I pray you, be fetched, and wash your feet:[28] R. Jannai son of R. Ishmael said: They [the travellers] protested to him [Abraham], 'Dost thou suspect us of being Arabs, who worship the dust on their feet? Ishmael has already issued from thee.'[29]

And the Lord appeared unto him in the plains of Mamre: and he sat in the tent door in the heat of the day.[30] What is meant by 'in the heat of the day'? — R. Hama son of R. Hanina said: It was the third day from Abraham's circumcision,[31] and the Holy One, blessed be He, came to enquire after Abraham's health; [moreover,] he drew the sun out of its sheath,[32] so that the righteous man [sc. Abraham] should not be troubled with wayfarers. He sent Eliezer out [to seek travellers], but he found none. Said he, ‘I do not believe thee’. (Hence they say there — sc. in Palestine — slaves are not to be believed.) So he himself went out, and saw the Holy One, blessed be He, standing at the door; thus it is written, Pass not away, I pray thee, from thy servant.[33] But on seeing him tying and untying [the bandages of his circumcision], He said, ‘It is not well that I stand here’; hence it is written, And he lifted up his eyes and looked, and lo, three men stood by him, and when he saw them, he ran to meet them:[34] at first they came and stood over him, but when they saw him in pain, they said, ‘It is not seemly to stand here.’[35]

Who were the three men? — Michael, Gabriel, and Raphael. Michael came to bring the tidings to Sarah [of Isaac's birth]; Raphael, to heal Abraham;[36] and Gabriel, to overturn Sodom.[37] But is it not written, And there came the two angels to Sodom at even?[38] — Michael accompanied him to rescue Lot. [The Writ] supports this too, for it is written, And he overthrew those cities,[39] not, and they overthrew: this proves it.

Why is it written in the case of Abraham, [And they said,] So do, as thou hast said;[40] whereas of Lot it is written,

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(1) I.e., where local usage is to give food, no stipulation need be made. Hence, if it was, it can only mean that he was to give them more than usual.

(2) I Kings V, 2f.

(3) Cooks used to place dough above the pot, to absorb the steam and vapour.

(4) Gen. XVIII, 7.

(5) I.e., each adjective denotes another. Hence the two passages prove that Solomon's meals were infinitely larger than Abraham's.

(6) I Kings IV, 20.

(7) The idleness made them extra fat.

(8) I.e., had no brood.

(9) R. Johanan treats the adj. ‘fatted’ as referring to all the animals enumerated.

(10) Be Botni; so Rashi. Jast. conjectures this to be a geographical term.

(11) Through fatness. This is Amemar's explanation of ‘fatted fowl’.

(12) I.e., implying another.

(13) Since the first adjective has no copulative.

(14) Gen. XVIII, 7; thus the singular is used.

(15) Ibid. 8; thus there was only one young man.

(16) This was esteemed as a great delicacy.

(17) Thus conforming to, ‘When in Rome, do as Rome does’.

(18) Lit., ‘a servant’.

(19) Num. XI, 31.

(20) Ex. XVI, 4.

(21) Ibid. XVII, 6.

(22) Gen. XVIII, 16.

(23) Ex. XIII, 21.

(24) Gen. XVIII, 4; this implies an order to a servant.

(25) Ex. XVII, 6.

(26) עמוד הענן , lit., ‘the standing (column) of cloud.’

(27) Miriam's well corresponds to the verse quoted above: and thou shalt smite the rock, etc. The dispute is in respect of ‘and he stood by them’: according to Rab, his reward was the promise contained in ‘behold, I will stand before thee there by the rock’; whereas in R. Hama b. R. Hanina's opinion, it was the ‘pillar of cloud’. [This is an illustration of the principle ‘measure for measure’, which is God's guiding rule for reward and punishment.]

(28) Gen. XVIII, 4;
(29) I.e., thine own son does so.
(30) Gen. XVIII, 1.
(31) When one is particularly weak. Cf. Gen. XXXIV, 25.
(32) I.e., He made it pour forth all its heat.
(33) Gen. XVIII, 3. He called himself ‘thy servant’, because he was speaking to God.
(34) Ibid. 2.
(35) So they removed to a distance; hence it is first said that they ‘stood by him’, and then that ‘he ran to meet them’.
(36) Heb. רפאל means ‘healer of God’.
(37) Gabriel means ‘strength of God’.
(38) Gen. XIX, 1.
(39) Ibid. 25.
(40) Ibid. XVIII, 5: they immediately accepted the invitation.

Talmud - Mas. Baba Metzia 87a

And he pressed upon them greatly?[1] — R. Eleazar said: This teaches that one may shew unwillingness to an inferior person,[2] but not to a great man.

It is written, And I will fetch a morsel of bread;[3] but it is also written, And Abraham ran unto the herd:[4] Said R. Eleazar: This teaches that righteous men promise little and perform much; whereas the wicked promise much and do not perform even little. Whence do we know [the latter half]? — From Ephron. At first it is written, The land is worth four hundred shekels of silver;[5] but subsequently, And Abraham hearkened unto Ephron; and Abraham weighed to Ephron the silver, which he had named in the audience of the sons of Heth, four hundred shekels of silver, current money with the merchant;[6] indicating that he refused to accept anything but centenaria,[7] for there is a place where shekels are called centenaria.[8]

Scripture writes, [ordinary] meal, and [it is then written], fine meal![9] — Said R. Isaac: This shews that a woman looks with a more grudging eye upon guests than a man.[10]

It is written, Knead it, and make cakes upon the hearth;[11] but it is also written, And he took butter and milk, and the calf;[12] yet he brought no bread before them! — Ephraim Maksha'ah,[13] a disciple of R. Meir, said in his teacher's name: Our Patriarch Abraham ate hullin[14] only when undefiled,[15] and that day our mother Sarah had her menstrual period.[16]

And they said unto him, Where is Sarah thy wife? And he said, Behold, She is in the tent:[17] this is to inform us that she was modest.[18] Rab Judah said in Rab's name: The Ministering Angels knew that our mother Sarah was in the tent, but why [bring out the fact that she was] in her tent? In order to make her beloved to her husband.[19] R. Jose son of R. Hanina said: In order to send her the wine-cup of Benediction.[20]

It has been taught on the authority of R. Jose: Why are the letters ejw in elajw dotted?[21] The Torah thereby taught etiquette, that a man must enquire of his hostess [about his host].[22] But did not Samuel say: One must not inquire at all after a woman's well-being?[23] — [When enquiry is made] through her husband, it is different [and permitted].

After I have waxed old, I have had youth.[24] R. Hisda said: After the flesh is worn and the wrinkles have multiplied, the flesh was rejuvenated, the wrinkles were smoothed out, and beauty returned to its place.

It is written, And my lord is old;[25] but it is also written, [And the Lord said unto Abraham, Wherefore did Sarah laugh, saying, Shall I of a surety bear a child,] seeing that I am old?[26] the Holy One, blessed be He, not putting the question in her words! — The School of Ishmael taught: Peace is a precious thing, for even the Holy One, blessed be He, made a variation for its sake, as it is written, Therefore Sarah laughed within herself, saying, After I am waxed old, shall I have pleasure, my Lord being old also; whereas it is further written, And the Lord said unto Abraham etc. . . seeing that I am old.[27]

And she said, Who would have said unto Abraham, that Sarah should have given children suck?[28] How many children then did Sarah suckle?[29] — R. Levi said: On the day that Abraham weaned his son Isaac, he made a great banquet, and all the peoples of the world derided him, saying, 'Have you seen that old man and woman, who brought a foundling from the street, and now claim him as their son! And what is more, they make a great banquet to establish their claim!' What did our father Abraham do? — He went and invited all the great men of the age, and our mother Sarah invited their wives. Each one brought her child with her, but not the wetnurse, and a miracle happened unto our mother Sarah, her breasts opened like two fountains, and she suckled them all. Yet they still scoffed, saying, 'Granted that Sarah could give birth at the age of ninety, could Abraham beget [child] at the age of a hundred?' Immediately the lineaments of Isaac's visage changed and became like Abraham's, whereupon they all cried out, Abraham begat Isaac.[30]

Until Abraham there was no old age;[31] whoever wished to speak to Abraham would speak to Isaac, and the reverse.[32] Thereupon he prayed, and old age came into existence, as it is written, And Abraham was old and well-stricken in age.[33] Until Jacob there was no illness:[34] then Jacob came and prayed, and illness came into being, as it is written, And one told Joseph, Behold, thy father is sick.[35] Until Elisha no sick man ever recovered, but Elijah came and prayed, and he recovered, for it is written, Now Elisha was fallen sick of his sickness whereof he died,'[36] thus proving that he had been sick on previous occasions too[37] , [but had recovered].

Our Rabbis taught: On three occasions did Elisha fall sick: once when he repulsed Gehazi with both hands;[38] a second time when he incited bears against children;[39] and a third with the sickness whereof he died, as it is written, Now Elisha was fallen sick of his sickness whereof he died.[36]

BUT, BEFORE THEY BEGIN WORK, GO OUT AND TELL THEM, '[I ENGAGE YOU] ON CONDITION THAT YOU HAVE NO OTHER CLAIM UPON ME BUT BREAD AND PULSE' etc.

R. Aha, the son of R. Joseph, said to R. Hisda: Did we learn, 'Bread [made] of pulse,' or 'bread and pulse'? — He replied: In very truth, a waw ['and'] is necessary[40] as large as a rudder on the Libruth.[41]

R. SIMEON B. GAMALIEL SAID: IT WAS UNNECESSARY [TO STIPULATE THUS]: EVERYTHING DEPENDS ON LOCAL CUSTOM. What does EVERYTHING add?[42] — It adds that which has been taught: If one engages a labourer, and stipulates, '[I will pay you] as one or two townspeople [are paid],' he must remunerate him with the lowest wage [paid]: this is R. Joshua's view. But the Sages say: An average must be struck.[43] MISHNAH. NOW, THE FOLLOWING [LABOURERS] MAY EAT [OF THAT UPON WHICH THEY ARE EMPLOYED] ACCORDING TO SCRIPTURAL LAW: HE WHO IS ENGAGED UPON THAT WHICH IS ATTACHED TO THE SOIL WHEN ITS LABOUR IS FINISHED,[44] AND UPON THAT WHICH IS DETACHED FROM THE SOIL BEFORE ITS LABOUR IS COMPLETED,[45] PROVIDING THAT IT IS SOMETHING THAT GROWS FROM THE EARTH. BUT THE FOLLOWING MAY NOT EAT: HE WHO IS ENGAGED UPON THAT WHICH IS ATTACHED TO THE SOIL

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(1) Ibid. XIX, 3.

(2) In declining his invitation.

(3) Ibid. XVIII, 5.

(4) Ibid. 7 — very much more than he offered.

(5) Ibid. XXIII, 15.

(6) Ibid. 16.

(7) Centenarius = 100 manehs; a maneh = 100 zuz = 25 shekels.

(8) Hence he gave him 400 centenaria, instead of ordinary shekels as he demanded at first: this is deduced from the phrase ‘current money with the merchant’, implying that it was recognised everywhere as a shekel.

(9) Ibid. XVIII, 6: And Abraham hastened into the tent unto Sarah, and said, Make ready quickly three measures of קמח סלת ; the two words being apparently mutually exclusive.

(10) [Thus Abraham had to give her clear and specific instructions to provide fine meal; v. Meklenburg, J.Z. הכתב והקבלה a.l.]

(11) Ibid.

(12) Ibid. 8.

(13) Probably the disputant. [Or perhaps name of a place; v. Klein, MGWJ, 1920, P. 192.]

(14) V. Glos.

(15) I.e., he treated hullin as consecrated food, which may not he eaten when defiled.

(16) And so defiled the bread she had baked. As she was already old, the phenomenon was an earnest of the rejuvenation which was to make the birth of Isaac possible.

(17) Ibid. 9.

(18) And therefore kept herself secluded.

(19) By impressing him with her modesty.

(20) [The wine-cup over which the Grace after meals is recited and which is partaken by all the guests. V. Ber. 51a.]

(21) And they said unto him, אליו , is written אליו ; איו means, ‘where is he?’

(22) Thus they asked Sarah, Where is he (sc. Abraham)’ just as they asked him about her (Tosaf.). [Rashi interprets: that a man should enquire (of the host) about the hostess. On dotted letters, v. Sanh. (Sonc. ed.) p. 285, n. 3.]

(23) According to Tosaf.’s interpretation of the preceding dictum, this question cannot refer to it, but to the literal meaning of the verse, that they enquired after Sarah.

(24) Ibid. 12.

(25) Ibid. 12.

(26) Ibid. 13.

(27) [I.e., God did not report that part of her statement which referred to Abraham's old age, דעת זקנים , a.l.]

(28) Ibid. XXI, 7.

(29) Seeing that she had only one.

(30) Ibid. XXV, 19.

(31) I.e., old age did not mark a Person.

(32) Because they looked exactly alike.

(33) Gen. XXIV, 1. He is the first mentioned to have been ill.

(34) One lived his allotted years in full health and then died suddenly.

(35) Ibid. XLVIII, 1; v. preceding note.

(36) II Kings XIII, 14.

(37) Lit., ‘with a different sickness’.

(38) V. Sanh. 107b.

(39) V. II Kings II, 23f.

(40) I.e., bread and beans.

(41) Libruth, a river or canal, unidentified. [For various attempts to explain the phrase. v. Perles, J. Beitrage z. rab. Sprach u. Alter., 1893, p. 6.]

(42) V. p. 496, n. 3.

(43) And R. Simeon b. Gamaliel's principle teaches the view of the Sages.

(44) I.e., when it is removed from the soil.

(45) I.e., before it reaches the stage of being liable to tithes or the ‘separation of dough’.

Talmud - Mas. Baba Metzia 87b

BEFORE ITS LABOUR IS COMPLETED, UPON THAT WHICH IS DETACHED FROM THE SOIL AFTER ITS LABOUR IS COMPLETED,[1] AND UPON THAT WHICH DOES NOT GROW FROM THE SOIL.[2]

GEMARA. Whence do we know these things? — It is written, When thou comest into thy neighbour's vineyard, then thou mayest eat.[3] We have found [this law to be true of] a vineyard: whence do we know it of all [other] things? We infer [them] from the vineyard: just as the vineyard is peculiar in that it [sc. its products] grow from the earth, and at the completion of its labour[4] the labourer may eat thereof; so everything which grows from the soil, the labourer may eat thereof at the completion of its work. [But, might it not be argued:] As for a vineyard, [the worker's privilege may be due to the fact] that it is liable to [the law of] gleanings, [which other cereals are not]? — We, deduce it[5] from the standing corn. But how do we know it of standing corn itself? — Because it is written, When thou comest into the kamath [standing corn] of thy neighbour, then thou mayest pluck the ears with thine hand.[6] But [may you not argue:] as for standing corn, that is because it is liable to hallah?[7] (And how do you know that this kamah means [only] such standing crops as are liable to hallah: perhaps Scripture means all standing crops?[8] — That is derived from the use of kamah in two places. Here it is written, When thou comest into the kamath [standing corn of] thy neighbour; whilst elsewhere it is written, from such time as thou beginnest to put the sickle to the kamah [corn]:[9] just as there, a kamah which is liable to hallah is meant, so here too.) [Hence, repeating the difficulty] one may refute [the analogy drawn from standing corn]: as for standing corn, that is because it is liable to hallah! — Then let the vineyard prove it. As for a vineyards that is because it is liable to [the law of] gleanings! — Let the standing corn prove it. And thus the argument revolves: the peculiarity of one is not that of the other, and vice versa. The feature common to both is, they grow from the soil, and the worker may [thus] eat of them when their labour is being finished; so also, everything which grows from the soil, when at the completion of its labour, the worker may eat of it. [No, this does not follow, as it might be argued that] their common feature is that both are used in connection with the altar;[10] and so olives will be inferred too, since they also are thus used?[11] (But are olives inferred through [partaking of] a common feature? They themselves are designated kerem,[12] as it is written, And he burnt up both the shocks and the standing corn, and also the olive kerem.[13] — R. Papa said: It is designated olive kerem, but not simply kerem.) But still, the difficulty remains![14] — Samuel answered: Scripture saith, and a sickle [thou shalt not move unto thy neighbour's standing corn], which [i.e., the ‘and’] extends the law to everything which requires a sickle. But this word ‘sickle’ is needed [to intimate that] when the sickle [is used] you may eat, but not otherwise![15] — That follows from, but thou shalt not put any in thy vessel.[16] Now, this [deduction] is satisfactory in respect of that which requires the sickle, but what of that which does not?[17] — But, said R. Isaac, the Writ says, kamah,[18] to extend the law to everything which stands upright [from the soil].[19] But have you not employed the analogy of kamah, written twice, to shew that it means [only] such standing crops as are liable to hallah?[20] — That was only before the word ‘sickle’ was adduced: now, however, that ‘sickle’ has been quoted, everything which needs a sickle is embraced, even if not liable to hallah; hence, what is the purpose of kamah? To include everything which stands upright.

But now that we infer [these laws] from ‘sickle’ and kamah, what is the need of, ‘When thou comest into thy neighbour's vineyard’?[21] — To teach its [detailed] laws, replied Raba. As it has been taught: When thou comest — ‘coming’ is mentioned here; and elsewhere too it is said, [Thou shalt not oppress a hired servant . . . . At this day thou shalt give him his hire,] neither shall the sun come down upon it:[22] just as there Scripture refers to an employee, so here too. ‘Into thy neighbour's vineyard’, but not into a heathen's vineyard.[23] Now, on the view that the robbery of a heathen is forbidden, it is well: but if it be held permitted — does an employee need [a verse to grant him permission]![24] — He interprets ‘into thy neighbour's vineyard’, as excluding a vineyard of hekdesh.[25]

‘Then thou mayest eat’, but not suck out [the juice]; ‘grapes’, but not grapes and something else;[26] ‘as thine own person’, as the person of the employers, so the person of the employee: just as thou thyself[27] mayest eat [thereof] and art exempt [from tithes], so the employee too may eat and is exempt.[28] ‘To thy satisfaction’: but not gluttonously; ‘but thou shalt not put any in thy vessel’: [only] when thou canst put it into thine employer's baskets, thou mayest eat, but not otherwise.[29]

R. Jannai said: Tebel[30] is not liable to tithes

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(1) In the sense stated in n. 2.

(2) E.g., one who milks cows or makes cheeses may not partake of the milk or cheese.

(3) Deut. XXIII, 25. Further on it is explained that the verse refers to a labourer.

(4) I.e., when the grapes are vintaged.

(5) That the law applies to other products too.

(6) Ibid. 26.

(7) V. Glos.

(8) E.g., crops of beans, which are not liable to hallah.

(9) Ibid. XVI, 9. The reference is to the ‘omer of barley brought on the second day of Passover. cf. Lev. XXIII, 10: barley is liable to hallah.

(10) Wine for libations and meal for meal offerings.

(11) Most of the meal offerings were mingled with oil.

(12) The word translated ‘vineyard’ in Deut. XXIII, 25.

(13) Judg. XV, 5.

(14) That the common feature is that they are employed in connection with the altar.

(15) I.e., when the cereals are ready to be cut off with the sickle.

(16) Deut. XXIII, 25. This shews that the reference is to those which can be put in a vessel. sc. removed from the soil.

(17) E.g., the harvesting of dates. How do we know that the labourer may eat of them?

(18) Lit., ‘standing’, E.V.: standing corn.

(19) I.e., all crops.

(20) V. supra.

(21) For the vineyard too may be deduced thus.

(22) Ibid. XXIV, 14, 15.

(23) The text has כותי , Cuthean, but under the influence of the censorship this word was frequently substituted for Gentile. The deduction is, only in an Israelite's vineyard is the labourer enjoined, but thou shalt not put any in thy vessel, but not in a Gentile's.

(24) The robbery of a heathen, even if permitted, is only so in theory, but in fact it is forbidden as constituting a ‘hillul hashem’, profanation of the Divine Name. But the consensus of opinion is that it is Biblically forbidden too, i.e., even in theory; v. H.M. 348, 2, and commentaries a.l.; Yad, Genebah, 1, 2; 6, 8; v. however, n. 9.

(25) V. Glos. The labourer is not permitted to pluck and eat grapes from a vineyard belonging to the sanctuary. [The interpretation of the passage follows Rashi, who was driven to adopt it, having regard to the text he had before him. The difficulty of this interpretation is, however, evident. It not only involves a difference in the explanation of the same deduction as applying to a heathen (v. n. 7) and as applying to hekdesh, but it runs counter to the passage in Sanh. (v. Sonc. ed. pp. 388f), which makes it clear that robbery of a heathen was never condoned, hut always regarded as an offence, though it was non-actionable. Moreover, the condemnation of taking usury from a heathen (supra 70b) should be sufficient to dispel all doubt as to the Rabbinic attitude on the matter. A solution to the Problem is supplied by the variant (v. D.S. a.l.): ‘Now on the view that the robbery of a heathen is forbidden, it is well; but if it is held to be permitted, what can be said?’ The argument would accordingly run as follows: ‘If it is held that the robbery of a heathen is forbidden (to be kept) and is then on all fours with that of an Israelite, it is understood that the Law has permitted the employee to pluck and eat the grapes only in an Israelite's vineyard, but not if the vineyard belonged to a heathen; but if the robbery of a heathen is permitted, i.e., to be kept, is it possible that the Law, whilst allowing a delinquent to enjoy the property stolen from a heathen, should forbid the employee to pluck the grapes from the employer's vineyard?’]

(26) I.e., the labourer must not make a meal of bread and grapes.

(27) To whom the grapes belong.

(28) Until the grapes have been turned into wine and conducted into the pit, whither the expressed juice runs, their owner may eat of them without tithing. Should he, however, sell them before that, they are immediately subject to tithes, which must be rendered by the purchaser before eating. Now, I might think that since the employee eats them in part remuneration for his labour, they are as bought with his labour, and therefore may not be eaten without tithing. Therefore this word כנפשך (lit., ‘as thy own soul,’ ‘person’) intimates that he is on the same footing in this respect as the owner.

(29) V. supra p. 505, n. 9.

(30) V. Glos.

Talmud - Mas. Baba Metzia 88a

until it sees the front of the house,[1] for it is written, I have brought away the hallowed things out of mine house.[2] R. Johanan said: Even a courtyard establishes liability to tithes, for it is written, that they may eat at thy gates and be filled.[3] But according to R. Johanan, is it not written, out of mine house? — He can answer you: [It teaches that] the court yard must be similar to the house [in order to impose liability]: just as a house is guarded, so also must the courtyard be guarded.[4] But R. Jannai! Is it not written, ‘in thy gates’? — That is required [to shew] that it must be brought into [the house] through the gates, but not over the roof or through [back] enclosures, when no liability is established.

R. Hanina of Be-Hozae[5] raised an objection: As thine own person: as the person of the employer, so the person of the employee; just as thou thyself mayest eat [thereof] and art exempt [from tithes], so also the employee may eat, and is exempt. This thus implies that a purchaser is liable:[6] and does it not mean even in the field?[7] — R. Papa said: This refers to a fig tree growing in a garden, but with its branches inclining to the court-yard,[8] or, to the house, on the view that [it must see the front of] the house. If so, even the [first] owner should be liable![9] — The owner's eyes are upon the [whole] fig-tree, whereas the buyer has eyes only for his purchase.[10] But is a purchaser at all liable by Biblical law? Has it not been taught: Why were the bazaars of Beth Hini[11] destroyed? Because they based their actions upon Scripture.[12] They used to say,

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[1] I.e., unless it is taken into the house through the front door, not through the roof or backyard.

[2] Ibid. XXVI, 13: the deduction presumably is thus: as it is openly brought out of the house through the front, so it must have been taken in, in order to become ‘hallowed’, i.e., tithed.

[3] Ibid. 22: ‘they’ refers to the Levite etc., who eat the tithes ‘at thy gates’, which implies that the crops had not entered the house but remained at ‘thy gate’, i.e., in the courtyard.

[4] But if free and open to all, it establishes no liability.

[5] [The Modern Khuzistan, province S. W. Persia, Obermeyer, op. cit. pp. 204ff.]

[6] V. P. 507, n. 3.

[7] For just as the employee eats it on the field, by implication, if a purchaser desires to eat thereof on the field, he is liable, though it has not yet seen the front of the house or the courtyard.

[8] So that immediately the fruit is plucked it sees the front thereof.

[9] For immediately it is plucked it fulfils the conditions of liability by seeing the front of the house or court.

[10] I.e., the owner does not regard a single branch; therefore, since the whole tree does not face the house, he is exempt. But the purchaser is interested only in his purchase; hence, if the branch from which his figs are gathered faces the house or courtyard, he is liable.

[11] Bethania, a place near Jerusalem; Jast. [The parallel passage in J. Pe'ah I, has the bazaars of Beth Hanan, v. Sanh. (Sonc. ed.) p. 267, n. 4. These were stores set up on the Mount of Olives for the supply of pigeons and other commodities required for sacrifices, and owned by the powerful priestly family, to whom they proved a source of wealth. They were destroyed three years before the fall of Jerusalem; v. Derenbourg, Essai, p. 468, and Buchler, Priester und Cultus, p. 189.]

(12) Disregarding Rabbinical law.

Talmud - Mas. Baba Metzia 88b

Thou shalt truly tithe . . . And thou shalt eat, [implies] but not if thou sellest it; the increase of thy seed, but not if it is purchased![1] — But [the liability of a purchaser] is only by Rabbinic law, and the verse[2] is a mere support. Then what is the purpose of, ‘as thine own person?[3] — As has been taught: ‘As thine own person’: just as if thou muzzlest thine own [mouth], thou art guiltless, so also, if thou muzzlest [the mouth of] thy labourer, thou art free [from transgression].[4]

Mar Zutra raised an objection: What is their harvesting time for [liability to] tithes? In the case of cucumbers and gourds, when they are blossomed.[5] And R. Assi interpreted this: As soon as their blossoms are shed. Now, does that not mean, as soon as their blossoms are shed even in the field?[6] — No, only in the house. If so, instead of saying, ‘as soon as’, etc., he [the Tanna] should state [they are not liable] ‘until their blossoms are shed’.[7] Had he stated ‘until etc.’, I would think that it means until the shedding of their blossom is complete; therefore we are taught, by stating ‘as soon as’ etc., that it means as soon as the shedding commences.

Mar Zutra, the son of R. Nahman, raised an objection: Its harvesting time in respect of tithes, in that the prohibition of tebel is transgressed,[8] is when its work is finished. And what is the finishing of its work? When it is brought in. Now, surely, ‘when it is brought in’ means, even in the field?[9] — No; when it is brought into the house, that is the completion of its work. Alternatively, R. Jannai's dictum[10] refers only to olives and grapes, which are not gathered into a threshing floor;[11] but in the case of wheat and barley, the threshing floor is distinctly stated.[12]

We now know that man [may eat when employed upon] what is attached to the soil, and an ox of what is detached;[13] whence do we know that man may eat of what is detached?[14] — It follows a minori, from an ox: if an ox, which does not eat of what is attached,[15] may nevertheless eat of what is detached; then a man, who may eat of what is attached,[16] may surely eat of what is detached! As for an ox, [it may be argued] that [sc. the privilege mentioned] is because you are forbidden to muzzle him; can you assume the same of man, whom you are not forbidden to muzzle?[17] (But then let the muzzling of man be interdicted, a fortiori, from an ox: if you must not muzzle an ox, whose life you are not bidden to preserve, then man, whose life you are bidden to preserve,[18] you must surely not muzzle him! — Scripture teacheth, ‘As thine own person’, so is the person of the labourer: just as ‘thine own person’, if you muzzle [yourself], you are free [from penalty], so also, if you muzzle the labourer, you are free.) Then [the question remains], whence do we know that man [may eat when engaged upon] what is attached? — Scripture saith, ‘[When thou comest into] the standing corn . . . [but thou shalt not move a sickle unto thy neighbour's] standing corn,’ — twice: since its purpose is not to teach that man may eat of what is attached,[19] apply it to man, in respect of what is detached. R. Ammi said: That man may eat of what is detached, no [redundant] verse is necessary. For it is written, ‘When thou contest into thy neighbour's vineyard’: does this not hold good even if he was hired for porterage?[20] And yet the Torah states that he may eat [of the grapes].

Whence do we know than an ox [may eat] of what is attached? — It follows, a minori, from man: if man, who does not eat of what is detached,[21] may eat of what is attached; then an ox, which may eat of what is detached, may surely eat of what is attached! — As for man, [may it not be argued,] that [sc., the privilege mentioned] is because you are bidden to preserve his life; will you say the same of an ox, whose life you are not bidden to preserve? (But then infer a duty to preserve the life of an ox,[22] a minori: if man, though you are not forbidden to muzzle him, you are commanded to preserve his life; then an ox, which you may not muzzle, you are surely commanded to keep it alive!? — Scripture saith, That thy brother may live with thee, — thy brother, but not an ox.) Then [the question remains,] whence do we know that an ox may eat of what is attached? — Scripture saith, ‘[When thou contest into] thy neighbour's [vineyard] . . . [When thou comest into the standing corn of] thy neighbour’ — twice: since it[23] is unnecessary for man in respect of what is attached, apply it to an ox in respect of what is attached.

Rabina said: Neither for a man, in respect of what is detached, nor for an ox, in respect of what is attached, are the [above] verses necessary; because it is written, Thou shalt not muzzle the ox, when he treadeth out the corn.[24]

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(1) V. Deut. XIV, 22f. Hence, only when the farmer consumes his crops himself must he tithe it, but not if he sells it; likewise, only the increase of one's own seed is liable, but not bought grain. And this is designated Biblical law.

(2) Sc. כנפשך , exempting the labourer.

(3) V. p. 507, n, 3 end. Since, however, a purchaser is exempt by Biblical law, it follows, even without a verse, that a labourer is exempt.

(4) I.e., although the labourer is entitled to eat, yet if the employer stipulates that he shall not, or forcibly prevents him — metaphorically referred to as muzzling, cf. Deut. XXV, 4: Thou shalt not muzzle the ox when he treadeth out the corn — he is not punished for transgressing the injunction just quoted.

(5) Ma'as. I, 5.

(6) Though they have not yet faced the courtyard or the house.

(7) ‘As soon as etc.,’ implies that wherever they are the shedding renders them liable. The suggested emendation, however, would imply, even when brought into the house, they are still not liable until, etc.

(8) Sc. if one eats anything thereof without tithing it. Before it becomes liable to tithes it is permissible to make a light meal of it, without transgressing the prohibition of tebel.

(9) ‘Brought in’ being understood in the sense of ‘collected into a stack’.

(10) Supra 87b, bottom.

(11) Hence the liability to tithes is established only when they ‘see the face of the house.’

(12) Num. XVIII, 30: Then it shall be counted unto the Levites as the increase of the threshing floor. This shews that in the case of cereals the threshing floor establishes the Levite's right to the tithe.

(13) Deut. XXV, 4. Threshing follows reaping, when the crops are no longer in the earth.

(14) As stated in the Mishnah.

(15) I.e., which Scripture does not explicitly permit to do so, though it is inferred below.

(16) I.e., permission is explicitly granted: Deut. XXIII, 25f.

(17) V. supra p. 509, n. 5.

(18) V. Lev. XXV, 36.

(19) It being unnecessary to state ‘standing corn’ twice for that purpose.

(20) I.e., for carrying the cut-off grapes to the press or elsewhere; for Scripture does not specify the nature of the work.

(21) V. p. 510, n. 7.

(22) I.e., until it is actually needed for food, one should be bidden to keep it in good health and save it from an unnecessary death.

(23) The repetition of ‘thy neighbor’.

(24) Deut. XXV, 4.

Talmud - Mas. Baba Metzia 89a

Now consider: everything is included in this prohibition of muzzling, because we employ the analogy of ‘ox’ written here and in the case of the Sabbath:[1] then Scripture should have written, ‘Thou shalt not thresh with muzzled [animals]:’ why write, ‘ox’? To assimilate the muzzler [sc. man] to the muzzled [sc. ox and animals in general], and vice versa. Just as the muzzler [man] may eat of what is attached, so the muzzled may eat of what is attached; and just as the muzzled may eat of what is detached, so the muzzler may eat of what is detached.

Our Rabbis taught: ‘Threshing’:[2] just as threshing is peculiar in that it applies to what is grown in the earth, and the labourer may eat whilst employed thereon; so also, of everything which is grown in the earth, the labourer may eat. Hence milking, pressing thick milk,[3] and cheese-making are excluded: since they are not earth-grown, the labourer may not partake thereof. But why is this needed? Does it not follow from, ‘When thou comest into thy neighbour's vineyard’? — It is necessary: I might think, since ‘kamah’ is written to include everything that stands upright,[4] it also embraces what is not earth-grown; therefore we are taught otherwise.

Another [Baraitha] teaches: ‘Threshing’: just as threshing is peculiar in that it is an employment at the completion of its labour,[5] and the worker may eat whilst engaged thereon; so during every thing which is done at the completion of its labour, the worker may eat. Hence weeding amongst garlic and onions is excluded: as it is not the completion of the work,[6] the labourer may not eat. But why is this necessary?[7] Does it not follow from, but thou shalt not put any in thy vessel?[8] — It is necessary, [to intimate that he may not eat] even when removing small onions from amongst large ones.[9]

Another [Baraitha] taught: ‘Threshing’: just as threshing is peculiar as being a process which does not complete its work [to render it liable] to tithes, and the labourer may eat thereof; so also during everything which does not complete the work [to subject it] to tithes, the labourer may eat. Hence separating dates and dried figs [sticking together] is excluded: since its work is finished in respect of tithes, the worker may not eat. But has it not been taught: When separating dates and dried figs, the worker may partake thereof? — R. Papa replied: That refers to half-ripe dates.[10]

Another [Baraitha] taught: ‘Threshing’: just as threshing is peculiar in that it is a process which does not finish its work for hallah,[11] and the labourer may eat whilst engaged thereon; so during every process which does not finish its work in respect of hallah, the labourer may eat. Thus kneading, shaping [the dough] and baking are excluded; since its work is completed in respect of hallah, the worker may not eat whilst engaged thereon. But its work is complete in respect of tithes![12] — There is no difficulty: the reference is to the Diaspora,[13] where there are no tithes. If so, hallah too is not practised![14] — But after all, this refers to Palestine, yet there is no difficulty. For the reference is to the seven years of conquest and seven years of division.[15] For a Master said: In the seven years of conquest and the seven of division there was a liability to hallah, but not to tithes. But is it the tithing that is responsible? It is the finishing of the work that is responsible![16] — But, said Rabina, combine [the two Baraithas] and read [thus]: ‘Threshing’: just as threshing is peculiar in that its work is not complete in respect of tithes and hallah, and the worker may eat whilst engaged thereon, so during everything, the work of which is not complete in respect of tithes and hallah, the labourer may eat.[17]

The scholars propounded: Is the labourer permitted to parch [the ears of corn] at a fire and eat them? Is it the equivalent of [eating] grapes together with something else,[18] or not?[19] — Come and hear: An employer may give his employees wine to drink, that they should not eat many grapes; [on the other hand,] the labourers may dip their bread in brine, that they should eat many grapes![20]

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(1) V. B.K. 54b. Just as ‘ox’ is singled out in connection with the Sabbath, yet at the same time Scripture adds that all animals must rest (Deut. V. 14), so by ‘ox’ here all animals are meant.

(2) I.e., the law forbidding the muzzling of an ox during ‘threshing’, ‘treading out the corn’, from which it was deduced that both man and beast may eat of that upon which they labour.

(3) In the process of making a certain kind of cheese,

(4) V. supra.

(5) Sc. of harvesting.

(6) Of producing these vegetables.

(7) Sc. the analogy from threshing.

(8) Deut. XXIII, 25. V. p. 505, n. 9.

(9) I.e., onions which never grow to a large size. These were removed to give the others room for more vigorous growth. Now, although these are ‘Put into the employer's basket,’ the labourer may not eat, not being engaged upon the completion of the work.

(10) I.e., a kind of date and fig which does not fully ripen on the tree but only in the house. The 'separating' spoken of here means before they have ripened in the house, and so are not finished in respect of tithes.

(11) V. Glos.

(12) And, as stated above, that alone forbids the worker to eat; why then base the ruling upon hallah?

(13) Lit., 'outside the land,' sc. Palestine.

(14) Though a small Portion of dough is separated and burnt even in the Diaspora, that is only symbolical; but the real law of hallah requires that a definite portion be given to the priests, and that is not practised outside Palestine.

(15) I.e., the Baraitha treats of the fourteen years during which Palestine was conquered and allotted to the tribes by Joshua.

(16) As deduced by analogy from 'threshing'. And therefore, whether the law of tithes is in force or not, once the stage of threshing or its equivalent is reached, when there would be a liability to tithes if the law were in force, the labourer may not eat. And so the difficulty remains: why exclude kneading on the grounds of liability to hallah, seeing that threshing preceded it?

(17) Hence, if it is a process which completes the work for tithes, and there is no further stage to subject it to hallah, e.g., the separating of dates, the labourer may not eat. If, however, its final stage is liability to hallah, e.g., wheat, the last stage of which is the kneading, when it is subject to hallah, if the worker is engaged upon an earlier stage, though it is already liable to tithes, he may eat. Rashi and Tosaf.

(18) Which is forbidden. Supra.

(19) For it may be argued that since grapes may not be eaten with bread, because thereby an unreasonably large quantity is consumed, the same holds good of parched corn, which is more palatable than unparched.

(20) The moistened bread creating an appetite. So, by analogy, a labourer may parch the corn.

Talmud - Mas. Baba Metzia 89b

— As for making the man fit [to eat more], of that there is no question: our problem is only whether the food may be rendered more appetising?[1] What is the ruling? — Come and hear: Labourers may eat the top most grapes of the [vine-] rows,[2] but must not parch them at the fire! — There it [the prohibition] is on account of loss of time:[3] but our problem arises when he has his wife or children with him; what then?[4] — Come and hear: He [the labourer] may not parch [the crops] at the fire and eat, nor warm them in the earth,[5] nor crush them on a rock; but he may crush them between his hands and eat them! — There [too] it is on account of loss of time. That too is logical: for should you think it[6] is because he [thereby] makes the fruit tasteful, what tastefulness is there [acquired by crushing them] on a rock? — [No; the reasoning is incorrect,] because it is impossible for it not to become slightly [more] tasteful.

Come and hear: Workers engaged in picking figs, harvesting dates, vintaging grape, or gathering olives, may eat, and are exempt [from tithes],[7] because the Torah privileged them. But they must not eat these with their bread, unless they obtain permission from the owner, nor dip them in salt and eat![8] — Salt is certainly the same as grapes and something else.[9]

[It has just been stated:] 'Nor dip them in salt and eat.' But the following contradicts it: if one engages a labourer to hoe and to cover up the roots of olive trees, he may not eat.[10] But if he engages him to vintage [grapes], pluck [olives], or gather [fruit], he may eat, and is exempt [from tithes], because the Torah privileged him. If he [the labourer] stipulates [that he is to eat], he may eat then, singly, but not two at a time.[11] And be may dip them in salt and eat. Now, to what [does this refer]? Shall we say, to the last clause? But having stipulated, he can [obviously] eat just as he wishes! Surely then it must refer to the first clause![12] — Abaye answered: There is no difficulty: here it [the second Baraitha] refers to Palestine; there [the first] to the Diaspora. In Palestine, dipping [in salt] establishes [a liability to tithes]; in the Diaspora, it does not.[13] Raba demurred: Is there aught for which dipping establishes [a liability] in Palestine, but not in the Diaspora, so that it is permitted from the very outset?[14] But, said Raba, both in palestine and without, for one [fig] salting does not establish [liability],[15] but for two it does. But if he [sc. the labourer] stipulates [that he is to eat], whether he salts or not, he may eat [them] one by one, but not in twos. [Hence:] If he neither stipulates nor salts them, he may eat them two by two; if he salts them, he may eat them one by one, but not two by two, even if he obtained the employer's permission,[16] because they become tebel in respect of tithes, the salting establishing [that liability].[17] And whence do we know that salting establishes [liability only for] two? — Said R. Mattena: Scripture saith, For he hath gathered them as the sheaves to the threshing floor.[18]

Our Rabbis taught: When cows stamp [hullin] grain[19]

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(1) Lit., 'fit'.

(2) They may conserve their appetite till they reach these, which being more exposed to the sun than the lower ones, are sweeter (Rashi).

(3) Lit., 'cessation of work'.

(4) There is no loss of time, as they can singe it.

(5) By placing them in warm soil.

(6) I.e., the Prohibition referred to.

(7) V. p. 507, n.3.

(8) Now, it was assumed that dipping in salt is forbidden because it renders it more appetising, and therefore parching too will be forbidden.

(9) I.e., no deduction may be drawn from this, for salt is an addition. Yet it may be permissible to parch corn, since nothing is added.

(10) Of the olives, because it is not the finish of the work.

(11) Two together count as a store, therefore are subject to tithes. Since the labourer stipulates that he is to eat, it is part of his payments and hence ranks as bought, and therefore he may not eat them; v. supra 88a.

(12) Where no stipulation was made: hence it contradicts the first Baraitha.

(13) When one dips an olive in salt he shews that he attaches value to it, which renders it completely ready for eating, and precludes further storing. Hence, in Palestine, where tithing is Biblical, the dipping imposes a liability. But in the Diaspora, where it is only Rabbinical and consequently less stringent, it does not.

(14) Sc. to partake thereof without having rendered the tithes. Though tithes in the Diaspora are only Rabbinical, the Rabbis formulated the law on the same conditions as in Palestine, and therefore, whatever establishes a liability there establishes it in the Diaspora too.

(15) Being of insufficient value.

(16) For otherwise, not having stipulated, he may not salt them at all, as stated above.

(17) V. p. 515, n. 7. Only when the stage of liability is reached it is called tebel. — Thus the first Baraitha refers to eating two at a time; no stipulation having been made, they may not be dipped in salt, But the second refers to a case where a stipulation was made; since the mere stipulation establishes a liability for two, it follows that he must eat the fruit singly, and that being so, the Tanna can state in general terms that he may salt them.

(18) Mic. IV, 12. Thus there can be no threshing floor, i.e., storage, the final stage of which imposes liability, without gathering, and there cannot be gathering of less than two (actually, the Heb. has עמיר sing., but the plural must be understood).

(19) V. Glos. Barley grain was soaked in water, dried in an oven, and threshed by the treading of cows, which removed the husks.

Talmud - Mas. Baba Metzia 90a

or thresh terumah and tithes,[1] there is no prohibition of, Thou shalt not muzzle [the ox when he treadeth out — i.e., threshes — his corn];[2] but for the sake of appearances[3] he must bring a handful of that species and hang it on the nosebag at its mouth. R. Simeon b. Yohai said: He must bring vetches and hang them up for it, because these are better for it than anything else. Now the following contradicts it: When cows are stamping on grain, there is no prohibition of, Thou shalt not muzzle; but when they thresh terumah or tithes, there is. When a heathen threshes with an Israelite's cow, that prohibition is not transgressed;[4] but if an Israelite threshes with a heathen's beast, he does. Thus the rulings on terumah are contradictory, and likewise those on tithes. Now, as for the rulings on terumah, it is well, and there is no difficulty: the one refers to terumah [itself]; the other to the produce of terumah;[5] but as for the rulings on tithes, these are certainly difficult. And should you answer, there is no contradiction in the rulings on tithes either, one referring to tithes and the other to the produce of tithes[6] — as for the produce of terumah, the answer is fitting, since it is terumah;[7] but the produce of tithes is hullin. For we learnt: The produce of tebel and the produce of the second tithe[8] are hullin![9] — But there is no difficulty: the one refers to the first tithe; the other to the second.[10] Alternatively, both refer to the second tithe, yet there is no difficulty: the one [sc. the first Baraitha] agrees with R. Meir; the other with R. Judah. [Thus:] The one agrees with R. Meir, who maintained that the second tithe is sacred property;[11] the other with R. Judah, who held it secular property.[12] [And] how is it conceivable?[13] — E.g., if he [the owner] anticipated [the tithing] whilst it was yet in ear. But [even] on R. Judah's view, does it not require the wall [of Jerusalem]?[14] — He threshed it within the walls of Beth Pagi.[15] Another alternative is this: there is no difficulty: one refers to a certain tithe, the other to a doubtful tithe.[16] Now that you have arrived at this [solution], there is no contradiction between the two rulings on terumah too: the one refers to certain terumah, the other to doubtful terumah. Now, that is well with respect to a doubtful tithe, which exists. But is there a doubtful terumah? Has it not been taught: He[17] also abolished the widuy[18] and enacted the law of demai. Because he sent [messengers] throughout the territory of Israel, and saw that only the great terumah was rendered![19] — But there is no difficulty: the one refers to terumah of the certain tithe; the other to terumah of the doubtful tithe.

The scholars put a problem to R. Shesheth: What if it ate and excreted?[20] Is it [sc. the prohibition of muzzling] because it [the crops] benefits her, whereas here it does not; or because it sees and is distressed [through inability to eat], and here too it is distressed [if muzzled]? — R. Shesheth replied: We have learnt it: R. Simeon b. Yohai said: He must bring vetches and hang them up for her, because these are better for her than anything else. This proves that the reason is that it benefits her. This proves it.

The scholars propounded: May one say to a heathen, ‘Muzzle my cow and thresh therewith’? Do we say, the principle that an instruction to a heathen is a shebuth[21] applies only to the Sabbath, [work] being forbidden on pain of stoning;[22] but not to muzzling, which is prohibited merely by a negative precept: or perhaps there is no difference? — Come and hear: If a heathen threshes with the cow of an Israelite, he [the Israelite] does not infringe the precept, Thou shalt not muzzle! [This implies,] He merely does not infringe it,[23] yet it is forbidden![24] — Actually, it is not even forbidden; but because the second clause states that if an Israelite threshes with a heathen's cow, he does infringe;[25] the first clause too teaches that he does not infringe.

Come and hear: For they [the scholars] sent to Samuel's father: What of those oxen

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(1) Though stated above that at the stage of threshing there is no liability of tithes, yet the owner can separate the terumah and the tithes, if he wishes, whilst the grain is in the ear; in that case the cows thresh ears of corn that are actually terumah or tithes.

(2) Deut. XXV, 4; stamping, because that is a later stage. With respect to terumah, (v. Glos.) etc., two reasons are given: (i) Since threshing of terumah is not usual, the injunction could not have applied to it (Rashi); (ii) . . . when he treadeth out his corn, excludes terumah, which is entirely prohibited to an Israelite (i.e., not a priest), and tithes, which are considered as sacred property, though not forbidden, and therefore not ‘his’ (Tosaf.).

(3) That one who sees it should not think he is transgressing.

(4) I.e., the Jew does not transgress by permitting the Gentile to muzzle his cow.

(5) With respect to the former there is no prohibitions as explained on p. 516, n. 7. But if it were sown and produced a further crop, Biblically speaking it is not terumah at all, but ordinary hullin, though by a Rabbinical enactment it ranks as such. Since the Rabbis cannot nullify a Scriptural prohibition, the injunction, Thou shalt not muzzle, remains in force.

The reason for this Rabbinical measure was that otherwise the Israelite might evade his obligations by separating terumah and then resowing it. Also, should a priest possess defiled terumah, which may not be eaten, he might keep it for resowing, when likewise it reverts to hullin by Scriptural law; but whilst keeping it he might forget its defiled nature and eat it.

(6) As in the case of terumah.

(7) I.e., by Rabbinical law, and therefore it is necessary to teach that in this respect the Scriptural law applies.

(8) Two tithes were separated; the first, given to the Levite, and the second, which was retained by the Israelite and eaten in Jerusalem, v. Deut. XIV, 22ff.

(9) As stated above, p. 516, n. 3, the crops are called tebel only when the stage of liability to this has been reached. Before that it is permissible to make a light meal thereof even without tithing, but not after. Now, if the stage of liability was reached, so that it became tebel, and it was resown, the produce is not tebel but hullin, and one may enjoy a light meal thereof before tithing. As for the second tithe, the Rabbis did not enact that its produce shall be second tithe too, as in the case of terumah, because there was no fear that the Israelite would keep and resow it, in order to evade his obligations, since the second tithe might be redeemed and eaten outside palestine, v. Ter. IX. 4.

(10) The first tithe is regarded as his corn, since an Israelite may eat it too, and without restriction of place, hence the prohibition of muzzling applies. But the second tithe, since it must be eaten in Jerusalem, is regarded as sacred property, and so not included in the prohibition (Tosaf.).

(11) Lit., ‘property of the (Most) High.’

(12) Kid. 24a.

(13) That it should be a tithe before threshing: — The bracketed ‘and’ (ו) is absent from our text and Rashi's, but given in Tosaf.

(14) I.e., since he tithed the crops in ear, nothing thereof is to be consumed — not even by beasts — outside the walls of Jerusalem. How then may the animal thresh it unmuzzled?

(15) The outer wall of Jerusalem, added to the original limits of the town; v. Sanh. (Sonc. ed.) p. 67, n. 9.

(16) Heb. דמאי . Corn purchased from the ignorant peasants, who were very lax in their rendering of tithes, had to be tithed by the purchaser, for fear that the vendor had not done so. This was called a doubtful tithe, and required only by Rabbinical law; therefore the prohibition of muzzling applies; v. p. 517, n. 2.

(17) Sc. John Hyrcanus.

(18) Lit., ‘confession’; v. Deut. XXVI, 1-15. The declaration referred to is called widuy. But John Hyrcanus abolished it, because of the verse, I have brought away the hallowed things out of mine house, and also have given them unto the Levite, ‘Them’ refers to the first tithe, but according to the Talmud, after the return from Babylon Ezra enacted that it should be given to the priests, as a punishment to the Levites for their reluctance to return to the Holy Land. Since one could not truthfully say, I have given them unto the Levite, the recital was abolished.

(19) Because of the dread of the penalty involved — death at the hands of Heaven. The separation of terumah made by the Israelites and given to the priests was called ‘the great terumah’, to distinguish it from ‘the terumah of the tithe’, i.e., a tenth part given by the Levite, of the tithe he received, to the priest, and which had the higher sanctity of terumah. Since, then, even the irreligious rendered the great terumah, the law of demai would not have been enacted in respect thereto.

(20) Through suffering with diarrhoea.

(21) Lit., ‘rest, abstention from work’, and is mainly applied to types of work which, though not falling within the definition of labour forbidden on the Sabbath, are nevertheless prohibited as being out of keeping with its sacredness. To instruct a Gentile to work on the Sabbath is a shebuth, i.e., not actual labour, yet interdicted as not harmonising with the Sabbath. This is an instance where one may not instruct a Gentile to do what is forbidden to oneself, and the problem here is whether this prohibition applies to all forbidden acts.

(22) Hence it is unseemly to bid a Gentile do it.

(23) In the sense that he incurs punishment.

(24) For an Israelite to bid him to do this.

(25) And is punished.

Talmud - Mas. Baba Metzia 90b

which Arameans[1] steal [at the instance of the owners] and castrate?[2] He replied: Since an evasion was committed with them, turn the evasion upon them [their owners], and let them be sold![3] — R. Papa replied: The Palestinian scholars[4] hold with R. Hidka, viz., that the Noachides are themselves forbidden to practise castration, and hence he [the Israelite, in instructing the heathen to do it,] violates, Ye shall not put a stumbling block before the blind.[5] Now, Raba thought to interpret: They must be sold for slaughter.[6] Thereupon Abaye said to him: It is sufficient that you have penalised them to sell.[7]

Now, it is obvious that an adult son is as a stranger;[8] but what of a minor son? — R. Ahi forbade it;[9] whilst R. Ashi permitted it. Meremar and Mar Zutra — others state, certain two hasidim —[10] interchanged with each other.[11]

Rami b. Hama propounded: What if one put a thorn in its [sc. the animal's] mouth?[12] [You ask, What] if one put [a thorn in its mouth]? Surely that is real muzzling![13] — But [the problem is], what if a thorn stuck in its mouth?[14] [Similarly,] What if one caused a lion to lie down outside [the field in which the ox was threshing]?[15] 'What if one caused a lion to lie down?' Surely that is actual muzzling! — But [the problem is], What if a lion lay down outside [of its own accord]?[16] What if one placed its [sc. the animal's] young outside the field?[17] What if it thirsted for water [and so could not eat]? What if he spread a leather cover over the grain to be threshed?[18] — Solve one of these problems from the following [Baraitha]. For it has been taught: The owner of the cow[19] may let it go hungry, that it should eat much of the grain it threshes; whilst on the other hand, the landowner may untie a bundle of [trodden] sheaves before the cow, that it should not eat much of the threshing![20] — There it is different, because it does eat nevertheless. Alternatively [it means], the field owner may untie a bundle of [trodden] sheaves in front of the cow before the commencement [of the threshing], so that it should not eat much of the corn that is threshed.[21]

R. Jonathan asked R. Simai: What if he muzzled it outside?[22] Does Scripture mean, [Thou shalt not muzzle] an ox when [i.e., at the time that] it thresheth,[23] whilst this is not [done] when it thresheth? Or perhaps Scripture meant, Thou shalt not thresh with a muzzled ox? — He replied: You may learn from your father's house.[24] Do not drink wine or strong drink, thou, nor thy sons with thee, when ye enter [into the tabernacle etc.].[25] Now, is it forbidden only when ye enter, yet one may drink before and then enter? But Scripture saith, And that ye may put difference between holy and unholy![26] Hence, just as there, when the priest has entered there must be no drunkenness, so here too: when threshing, the ox must not be in a muzzled state.

Our Rabbis taught: He who muzzles an ox or harnesses together [two] heterogeneous animals[27] is exempt [from punishment], and only he who threshes or drives them is flagellated.[28]

It has been stated: If one frightened it off[29] with his voice, or drove them [sc. the yoke of heterogeneous animals] with his voice: R. Johanan held him liable to punishment, the movement of the lips being an action; Resh Lakish ruled that he is not, because [the use of] the voice is not an action.[30] R. Johanan raised an objection to Resh Lakish:

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(1) [From the third century onward the Babylonian heathens, the Mandeans or Sabeans, were designated Arameans, v. Obermeyer, op. cit. p. 75.]

(2) [This was a device resorted to by Jewish owners in order to evade the relevant prohibition; Lev. XXII, 24.]

(3) This proves that one may not even instruct a heathen to perform that which is forbidden merely by a negative precept, as castration.

(4) Lit., 'children of the West'.

(5) Lev. XIX, 14. But muzzling is not forbidden to heathens.

(6) Which brings less than when sold for work.

(7) Without insisting that they lose part of their value.

(8) To whom it may be sold.

(9) To sell them to him.
(10) Lit., 'pious men', a designation of men known for their extreme piety.
(11) I.e., their oxen having been castrated without their knowledge (Tosaf.).
(12) To prevent it from eating; is it the equivalent of muzzling or not?
(13) Surely there can be no doubt that it is forbidden.
(14) Is the owner bound to remove it or not?
(15) Thereby frightening off the animal from eating.
(16) Is the owner bound to chase it away or not?
(17) And the mother in her yearning toward it could not eat. Here the Talmud does not object that this is actual muzzling, because yearning is not as strong a preventive as terror. But other texts read: what if its young stationed itself, etc.? (Tosaf.)
(18) So that it might not see the grain.
(19) Who hires it out.
(20) Thus, one may do something to prevent the cow from eating, and it is assumed that this is analogous to spreading a leather over the grain.
(21) Whereas the problem is whether a leather may be spread when it is threshing.
(22) I.e., before it entered the field.
(23) I.e., the muzzling must be done then.
(24) I.e., from the law appertaining to priests, R. Jonathan being one. [The reference is to R. Jonathan b. Joseph, the Tanna, a disciple of R. Ishmael, and not to R. Jonathan. the disciple of R. Hiyya, who certainly was no priest; v. Sanh. 71a. The question he put to R. Simai who, as a younger contemporary of Rabbi was considerably his junior, would then be merely to test him. It is, however, preferable to read with MS. Venice, 'R. Simeon (b. Yohai)' instead of 'R. Simai'; v. Hyman Toledoth, II. p. 698.]
(25) Lev. X, 9.
(26) Ibid. 20; and for that it does not signify whether one drinks before entering or after.
(27) But leaves them for another to plough with.
(28) Tosef. Kel. V.
(29) Lit., 'muzzled it'.
(30) Punishment is incurred for the violation of a negative precept only when it entails a positive action, and R. Johanan and Resh Lakish dispute whether speech is such.

Talmud - Mas. Baba Metzia 91a

Not that one is permitted to make an exchange, but that if he did the exchange is valid, and he receives forty [lashes]![1] He replied: That accords with R. Judah, who maintained that one is flagellated for [violating] a negative precept which involves no action.[2] But can you make this agree with R. Judah? Does not the first clause state: All have power to exchange, both men and women. Now, we pondered thereon, what is 'all' intended to add?[3] [And we answered,] An heir.[4] And this does not agree with R. Judah: for if it did, surely he maintained that an heir can neither exchange nor lay hands?[5] — This Tanna agrees with R. Judah in one ruling,[6] and disagrees in another.[7]

Our Rabbis taught: If one muzzles a beast and threshes therewith, he is flagellated, and pays [to the owner of the cow] four kabs in the case of a cow, and three kabs for an ass.[8] But [is it not a principle], one is not flagellated and executed; nor is one flagellated and made to pay? — Abaye replied: This is in accordance with R. Meir, who maintained, One is flagellated and also made to pay.[9] Raba said:[10] The Torah forbade the hire [of a harlot], even if one had relations with his mother.[11] R. Papa said: He becomes liable for its food from the moment of meshikah,[12] whereas flagellation is not incurred until muzzling.[13]

R. Papa said: The following problems were propounded to me by the disciples of R. Papa b. Abba, and I gave stringent rulings,[14] one in accordance with the law, the other not in accordance with the law.[15] They asked of me: May dough be kneaded with milk? And I ruled that it was forbidden, this being in accordance with the law. For it has been taught: Dough may not be kneaded with milk, and if it is, the whole loaf is forbidden, because it may lead to transgression.[16] Likewise, an oven may not be greased with tail fat,[17] and if it is, the whole loaf [baked therein] is forbidden, until the oven is heated through.[18] The other problem they propounded of me was: May two heterogeneous animals [of opposite sexes] be led into a stable?[19] And I answered them that it is forbidden, this not being in accordance with the law. For Samuel said: In the case of adulterers, they [sc. the witnesses] must have seen them in the posture of adulterers;[20] but in respect to diverse species, they must have seen him assisting [the copulation] even as [one places the] painting stick in the tube.[21]

R. Ahadboi b. Ammi raised an objection: Had Scripture stated, Thou shalt not cause thy cattle to gender,[22] I might have thought [it to mean], One must not hold a beast when the male [even of its own kind] copulates with it; therefore it is said, with a diverse kind. Surely then this proves that in the case of different species one may not even hold [the female]!? — By 'holding', 'assisting' is meant, and why is it designated 'holding'? As a more delicate term.

Rab Judah said: In animals of the same species, one may 'assist' [at copulation] even as [one places the painting] stick in the tube, and it is not even forbidden on account of obscenity. Why? Because he is engaged in his work.[23] R. Ahadboi b. Ammi raised an objection:

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(1) Tem. 2a. This refers to Lev. XXVII, 33; neither shall he change it (sc. the consecrated animal): and if he change it at all, then both it and the change thereof shall be holy. The first clause of the passage states that all have power to exchange, and then it goes on to say that that does not mean that one may exchange, but merely that his action is valid, the substitute too becoming holy, and that his action is punished by flagellation. Now, this offence consists only of speech, and hence this Mishnah refutes Resh Lakish's view that speech is an unsubstantial action.

(2) But those who require an action do not consider speech sufficient.

(3) V. p. 496, n.3.

(4) I.e., if the heir exchanged the animal consecrated by his deceased father, the substitute is valid.

(5) Upon certain sacrifices the owner laid his hands prior to its slaughter. If the owner died, R. Judah maintained that the heir could not perform this ceremony.

(6) Viz., that a person is flagellated for a negative precept involving no action.

(7) Maintaining against R. Judah that the heir can exchange.

(8) That is the estimated quantity they eat per day. V. H.M. 338. 4. Isserles.

(9) V. B.K 71a.

(10) [MS. Rome inserts: 'It may even be in accordance with the Rabbis, but this is stated if he wishes to appear justified before Heaven (lit., 'at the hands of Heaven'), even as is the case with the hire, for the Torah forbade, etc.' This renders clearer the argument that follows, v. Tosaf.]

(11) V. Deut. XXIII, 19: Thou shalt not bring the hire of a whore . . . into the house of the Lord thy God for any vow. Now, 'hire' and 'whore' are quite unspecified, even if the latter is his own mother, in which case he is liable to death for incest. This proves that notwithstanding his liability to death, in which the money payment is merged, he strictly speaking (should he wish 'to appear justified before Heaven') must pay her the fee. For if she has no claim upon him at all, then even if he does pay her, it is not the hire of a harlot, but an ordinary gift to her which is not forbidden as a vow. Again, since it is recognised as a debt, if the harlot forcibly seized it from him, he cannot demand its return. So here too: though he is flagellated for threshing with a muzzled ox, he is morally indebted to its owner, and that is the meaning of the Baraitha, 'and pays.' etc. Or, if the owner seized it from him, he need not return it.

(12) V. Glos.

(13) Though two penalties cannot be imposed, that is only when incurred simultaneously. But these two are not, the one preceding the other.

(14) Lit., 'I answered them in the direction of prohibition.'

(15) But merely with an extra degree of stringency.

(16) The bread may not be eaten with meat, consequently it is altogether forbidden, even with non-meat foods.

(17) Which is forbidden fat.

(18) To glow heat to remove all traces of the fat.

(19) The question is whether this is a transgression of Lev. XIX, 19: Thou shalt not cause thy cattle to gender with a diverse kind. Does ‘cause’ mean to give the opportunity only, as here, or actually to make the two copulate?

(20) I.e., when witnesses testify to adultery, it is not necessary for them to witness fornication in order to impose punishment.

(21) Only then is Lev. XIX, 19, quoted in n. 4 infringed; hence, R. Papa's ruling that they may not even be led into one stable was merely a matter of additional stringency, not the Biblical law.

(22) Without adding ‘with a diverse kind’.

(23) Therefore it will not lead to impure thoughts. But one may not look upon the animals copulating, because the spectacle may excite evil passions.

Talmud - Mas. Baba Metzia 91b

Had Scripture stated, Thou shalt not cause thy cattle to gender, I should have thought [it to mean], One must not hold a beast for the male to copulate with it; therefore it is said, with a diverse kind. Hence, only in regard to different species is it forbidden; but in the same species,it is permitted. Yet even there, only holding is permitted — but not ‘assisting’. — What is meant by ‘holding’? ‘Assisting’. And why is it called ‘holding’? As a delicate term.

R. Ashi said: This question was put to me by the scholars of Rabbana[1] Nehemiah, the Resh Galutha:[2] May an animal be led into a stable together with one of its own species and another heterogeneous to it? [Do we argue,] Having its own kind, it will be attracted thereto; or perhaps, even so, it is not [permitted]? And I answered them that it is forbidden; not because the law is so, but on account of the licentiousness of slaves.[3]

MISHNAH. IF HE [THE LABOURER] WORKS WITH HIS HANDS BUT NOT WITH HIS FEET, OR WITH HIS FEET BUT NOT WITH HIS HANDS; [AND] EVEN IF HE WORKS WITH HIS SHOULDERS [ONLY], HE MAY EAT. R. JOSE SON OF R. JUDAH SAID: [HE MAY NOT EAT] UNLESS HE WORKS WITH HIS HANDS AND FEET.

GEMARA. What is the reason [of the first Tanna]? — When thou comest into they neighbour's vineyard[4] implies, for whatever work he may do.

R. JOSE SON OF R. JUDAH SAID: [HE MAY NOT EAT] UNLESS HE WORKS WITH HIS HANDS AND FEET. What is the reason of R. Jose son of R. Judah? — He [the labourer] is likened to the ox:[5] just as the ox [does not eat unless] it works with its hands and feet,[6] so the labourer too must work with his hands and feet.

Rabbah son of R. Huna propounded: According to R. Jose son of R. Judah, what if one threshes with geese and fowls?[7] Is it necessary that [the work shall be done] with all its [sc. the creature that threshes] strength, which provision is complied with? Or perhaps, it must work with its fore-feet and hind-feet, which is here absent? — The problem remains unsolved.

R. Nahman said in Rabbah b. Abbuha's name: Labourers, before they walk both lengthwise and crosswise in the winepress, may eat grapes but drink no wine. Having walked lengthwise and crosswise in the winepress, they may eat grapes and drink wine.[8]

MISHNAH. WHEN HE [THE LABOURER] IS WORKING AMONG FIGS, HE MUST NOT EAT OF GRAPES; AMONG GRAPES, HE MUST NOT EAT OF FIGS. YET HE MAY RESTRAIN HIMSELF UNTIL HE COMES TO THE CHOICE QUALITY [FRUIT] AND THEN EAT.[9] NOW, WITH RESPECT TO ALL OF THEM [SC. THE LABOURERS], PERMISSION WAS GIVEN ONLY WHEN THEY ARE ACTUALLY AT WORK;[10] BUT IN ORDER TO SAVE THE EMPLOYER'S TIME,[11] THEY[12] RULED, LABOURERS MAY EAT AS THEY WALK

FROM ROW TO ROW,[13] AND WHEN RETURNING FROM THE WINEPRESS. AND AS FOR AN ASS, [IT MAY EAT] WHILST BEING UNLADEN.[14]

GEMARA. The scholars propounded: Whilst working on one vine, may he [the labourer] eat of another?[15] Is it merely necessary [that thou shalt eat only] of the kind which thou puttest into the employer's baskets,[16] which [requirement] is fulfilled; or is it stipulated that [thou shalt eat only] that [i.e., the tree from] which thou puttest into the employer's baskets, which is here lacking? [But] should you say, when working on one vine he may not eat of another, how can an ox eat of what is attached to the soil?[17] — R. Shisha the son of R. Idi replied: It is possible in the case of a straggling branch.[18] Come and hear: IF HE [THE LABOURER] IS WORKING AMONG FIGS, HE MUST NOT EAT OF GRAPES. This implies that he may eat of figs [when working] on figs, on the same conditions that [he may not eat of] figs [when working] on grapes:[19] but should you say, If he works on one vine he may not eat of another, how is this possible? — R. Shisha, the son of R. Idi said: It is possible in the case of an overhanging branch.[20]

Come and hear: BUT HE MAY RESTRAIN HIMSELF UNTIL HE COMES TO THE CHOICE QUALITY [FRUIT], AND THEN EAT. But should you say: Whilst employed on one vine he may eat of another, let him go, bring [the choice fruit] and eat it [and why restrain himself]? — There it is [forbidden] because of loss of time; [in that case,] there is no question.[21] Our problem arises only if he has his wife and children with him:[22] what then? — Come and hear: NOW, WITH RESPECT TO ALL OF THEM [SC. THE LABOURERS], PERMISSION WAS GIVEN ONLY WHEN THEY ARE ACTUALLY AT WORK, BUT IN ORDER TO SAVE THE EMPLOYER'S TIME, THEY RULED, LABOURERS MAY EAT AS THEY WALK FROM ROW TO ROW, AND WHEN RETURNING FROM THE WINE-PRESS. Now, it was assumed that walking [from vine to vine] is regarded as actual work [it being necessary thereto], yet he may eat only in order to save the employer's time, but not by Scriptural law; thus proving that whilst engaged on one vine he may not eat of another! — No. In truth I may assert that whilst engaged on one vine he may eat of another; but walking is not regarded as actual work. Others say, it was assumed that walking is not regarded as actual work, and only on that account may he not eat by Scriptural law, because he is not doing work; but if he were doing actual work, he might eat even by Biblical law, thus proving that whilst engaged on one vine he may eat of another! — No; in truth I may assert that whilst engaged on one vine he may not eat of another;

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(1) So the text as emended by Rashal: Rabbana was a Babylonian title.

(2) V. p. 387, n. 8.

(3) Which might receive an impetus by such an act.

(4) Deut. XXIII, 25.

(5) V. top of 89a.

(6) I.e., with its fore and hind-feet, both of course, being employed in threshing.

(7) May their beaks be muzzled or not?

(8) Labourers trod out the wine from the grapes by walking upon them lengthwise and crosswise. Now, when they have walked only in one direction, the wine is not yet visible, therefore they must confine themselves to the grapes, since the labourer may eat only of that upon which he is engaged. But when they have walked in both directions, the expressed wine is visible, and therefore they may drink thereof.

(9) I.e., he is not bound to eat as soon as he feels hungry, but may wait until he reaches the best.

(10) But not to finish their work and then eat.

(11) Lit., ‘to restore lost property to the owners.’

(12) The Rabbis.

(13) Though they are not actually working then.

(14) This is discussed in the Gemara.

(15) I.e., cut a cluster of grapes from one vine of choicer quality and then come and work upon another.

(16) The phraseology is based upon Deut. XXIII, 25: but thou shalt not put any in thy vessel, which implies that the labourer may eat only of that which he does put into the employer's vessel.

(17) For, as stated supra 89a, the same conditions govern both man and beast. Now, as the ox stands in front of the cart into which the grapes are laden the labourers naturally gather the grapes not from the vine in front of the ox, but behind it, which is level with the cart. Hence, the ox cannot possibly eat of the vine upon which it is employed (Rashi). Tosaf.: When the ox is threshing grain attached to the soil, its mouth cannot reach the ears upon which it actually treads. Now, in the case of detached corn, that does not matter, because the whole is regarded as one bundle; but in the case of growing corn, each little tuft is regarded as separate.

(18) A vine which stretches from behind the ox to in front of it, so Rashi. Tosaf.: A luxuriant growth, i.e., long ears of corn which reach from the feet of the ox to its mouth. Hence, the Talmudic objection being answered, the problem remains.

(19) I.e., on a different tree.

(20) I.e., when one vine overhangs another, and when a vine overhangs a fig-tree. Actually, he has to work upon both, since one must be disentangled from the other. In that case he may eat of the overhanging vine whilst working on the other, but not of the overhanging fig-tree.

(21) It is certainly forbidden.

(22) There is no loss of time, as they can bring it.

and walking is regarded as actual work.[1]

AND AS FOR AN ASS, [IT MAY EAT] WHILST BEING UNLADEN. But when it is unladen, whence can it eat?[2] Say until it is unladen.[3] We have [thus] learnt [here] what our Rabbis taught: An ass and a camel can eat of the load on their backs, providing that he [the driver] does not personally take thereof and feed them.

MISHNAH. A LABOURER MAY EAT CUCUMBERS, EVEN TO THE VALUE OF A DENAR, OR DATES, EVEN TO THE VALUE OF A DENAR. R. ELEAZAR HISMA SAID: A LABOURER MUST NOT EAT MORE THAN HIS WAGE. BUT THE SAGES PERMIT IT; YET ONE IS ADVISED NOT TO BE GREEDY, AND THUS SHUT THE DOOR IN HIS FACE.[4]

GEMARA. Are not the Sages identical with the first Tanna? — They differ as to whether [the labourer] is advised [not to be greedy]. The first Tanna holds that he is not advised; whilst the Rabbis[5] maintain that he is. Alternatively, they differ in respect of R. Assi's dictum. For R. Assi said: Even if engaged merely to gather a single cluster, he may eat it.[6] R. Assi also said: Even if he [as yet] vintaged only one cluster, [having been engaged for the day,] he may eat it. Now, both [dicta] are necessary. For if the first [only] were stated,I would think that that is so, since there is nothing [else] to put into the employer's vessels;[7] but when there is something to put into the employer's vessels, I would think that he must first put [some there] and then eat. Whilst if the second statement [only] were made, I would think that the reason is that it can be eventually fulfilled;[8] but where it cannot be eventually fulfilled,[9] I might think that he may not eat. Hence both are necessary.

[Reverting to the Mishnah:] Alternatively, I can say, they differ in respect of Rab's dictum. For Rab said: I found a secret scroll of the School of R. Hiyya[10] wherein it was written, Issi b. Judah said: When thou comest into thy neighbour's vineyard[11] Scripture refers to the coming in of any man.[12] Whereon Rab commented: Issi makes life impossible for any one.[13]

R. Ashi said: I repeated the [above] teaching before R. Kahana. [Thereupon] he observed:[14] Perhaps [Issi b. Judah referred] to those who labour for their food, working and eating.[15] And Rab?[16] — Even then, a man prefers to engage labourers to vintage his vineyard, rather than that any one should enter.

The scholars propounded: Does the labourer eat his own [sc. when partaking of the fruit upon which he is engaged], or does he eat of Heaven's [gift]?[17] What practical difference does this make? If he said, ‘Give it [the fruit that I might have eaten] to my wife and children.’ Now, should you say that he eats his own, we must give it to them. But if he eats of Heaven's [gift], then upon him Scripture conferred this privilege, but not upon his wife and children. What is our ruling? — Come and hear: A LABOURER MAY EAT CUCUMBERS, EVEN TO THE VALUE OF A DENAR, OR DATES, EVEN TO THE VALUE OF A DENAR. Now, should you say that he eats of his own, when he is engaged for a danka,[18] shall he eat for a denar?[19] — What then: he eats of Heaven's [gift]? Yet after all, being engaged for a danka, shall he eat for a denar![20] Hence, what must you reply? That the All-Merciful privileged him;[21] so here too,[22] the All-Merciful conferred that privilege upon him.[23]

Come and hear: R. ELEAZAR HISMA SAID: A LABOURER MUST NOT EAT MORE THAN HIS WAGE. BUT THE SAGES PERMIT IT. Now, surely they differ in respect of this: one [sc. R. Eleazar Hisma] maintains that he eats his own,[24] whilst the other holds that he eats the [gift] of Heaven! — No. All agree that he eats his own, but here they differ with respect to the interpretation of [then thou mayest eat grapes thy fill] according to thy soul. One Master[25] maintains, ‘according to thy soul' means that for which thou riskest thy life;[26] whilst the other Master [R. Eleazar] interprets, 'As thyself': just as if thou muzzlest thyself thou art exempt [from punishment], so the labourer, if thou muzzlest him,[27] thou art exempt.[28]

Come and hear: If a nazir[29] said, 'Give [the grapes I might have eaten] to my wife and children,' he is not heeded. Now should you say, he eats his own, why is he disregarded? — There it is because, 'Go, go, thou nazirite,' say we, 'take the most devious route, but approach not the vineyard.'[30]

Come and hear: If a labourer said, 'Give [the grapes] to my wife and children,' we do not heed him. Now should you say, he eats his own, why not? — What is meant by 'a labourer'? A nazir. But the case of a nazir has been taught, and also that of a labourer! — Were they then taught together?[31]

Come and hear: Whence do we know that if a labourer said, 'Give [the fruit] to my wife and children,' he is not heeded? From the verse, But thou shalt not put any in thy vessel.[32] And should you reply, This too refers to a nazir; if so, is it on account of 'but thou shalt not put any in thy vessel': surely it is because, 'Go, go, thou nazirite', we say, etc.! — That is indeed so, but since he is referred to as a labourer, the verse relating to a labourer is cited.[33]

Come and hear: If one engages a labourer to dry figs,[34]

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(1) And yet were it not for the consideration of the employer's time, he would not be permitted to eat.

(2) Its whole burden is removed at once, and then it is led away.

(3) I.e., as long as it is laden, it may eat of its burden.

(4) I.e., he will be unable to obtain employment, if he eats too greedily.

(5) The Sages.

(6) The first Tanna accepts this, and means thus: A labourer may eat cucumbers even if he was engaged only to work on these which he actually eats, whilst the Sages permit him to eat more than his wage (for which reason the Rabbis make mention of his wage, whilst the first Tanna omits all reference thereto), but not all that for which he was engaged.

(7) And Scripture having permitted the labourer to eat, he cannot be bidden to refrain.

(8) Viz., the putting into the employer's utensils.

(9) I.e., if he was engaged only for that cluster, and he eats it.

(10) מגילת סתרים : Oral law being unwritten, when one particularly desired to remember a halachah, he recorded it but kept it secret (Rashi). [Kaplan, J. op. cit., p. 277, argues with great plausibility that the concealment of the scroll had nothing to do with the interdict of writing halachah records, but was due to its contents which, as will be seen, were not well adapted to unrestricted publicity. The same scroll contained another teaching by the same Tanna, which likewise was liable to abuse. Shab. 6b; 96b.]

(11) Deut. XXIII,25.

(12) Not only a labourer.

(13) Social life is impossible if any person may enter and eat of one's crops. — Now, the first Tanna agrees with Rab, and hence says, only A LABOURER MAY EAT etc.; but the Sages maintain that any person may enter; hence they say that the labourer may eat more than his wage, since even if no wage is due at all — i.e., if he is not an employee he may still eat.

(14) [Following reading of Alfasi and Asheri. Cur. edd. omit 'he observed'. Render accordingly: 'R. Ashi said, I put the (following) question (lit., 'discussion') to R. Kahana. Perhaps etc.' Cf. B.B. 114a; v. Strashun, S.]

(15) I.e., any man, even when not engaged by the owner, may enter a vineyard, assist in the vintaging, and eat. But it is unreasonable to suppose that Issi b. Judah permitted all and sundry to enter any man's vineyard, eat his fill, and make no return.

(16) If that be the correct interpretation, why does Rab object?

(17) I.e., is it actually part of his salary, and in the nature of a bonus, or a special Divine favour bestowed upon the labourer?

(18) V. Glos.

(19) Surely it is unreasonable that the additional bonus shall far exceed the wage actually stipulated.
(20) For it is likewise unreasonable that the privilege conferred by Scripture shall exceed his actual due.
(21) Notwithstanding that it exceeds his wage.
(22) I.e., even if he is assumed to eat his own.
(23) To eat even more than his wages, and still it is an addition thereto.
(24) And therefore the bonus cannot exceed the principal.
(25) I,e., the Sages.
(26) Lit., 'soul'. I.e., in return for ascending the tree to gather the fruit, thereby endangering his life, the labourer may eat, That being so, there is no limit to the quantity.
(27) V. p. 509, n. 5.
(28) There thus being no warrant for the labourer to eat more than his wage.
(29) V. Glos. The reference is to a labourer, a nazirite, engaged on vintaging. A nazirite is forbidden to eat grapes.
(30) This was proverbial: a man must not venture into temptation. Hence while it may be that the labourer eats of his own, here he is penalised for having accepted employment in a vineyard at all.
(31) Both refer to the same, but were not taught together. V. supra 34a.
(32) I.e., only he may eat, but none on his behalf.
(33) But merely as a support, the law itself being Rabbinical, as stated in n. 7.
(34) Figs were dried in the field and then pressed into cakes, the labourer being engaged for this purpose.

Talmud - Mas. Baba Metzia 92b

he [the labourer] may eat and is exempt from tithes.[1] [But if he stipulates, 'I accept the work] on condition that I and my son eat, or, 'that my son eat for my wage:'[2] he may eat, and is exempt; and his son may eat, but is liable.[3] Now should you say, he eats his own, why is his son liable?[4] — Said Rabina: Because it looks like purchase.[5]

Come and hear: If one engages labourers to work upon his fourth year plantings,[6] they may not eat;[7] but if he [the employer] did not inform them [that they were of the fourth year], he must redeem [the fruit][8] and let them eat it.[9] Now should you Say, he eats of Heaven's [gift], why must he redeem [the fruit] and let them eat it? Surely the All-Merciful conferred no privilege upon them in respect of that which is forbidden! — There it is because it looks like an erroneous bargain. [If so,] consider the second clause: If his figs cakes were broken,[10] or if his barrels of wine burst open,[11] they may not eat.[12] But if he did not inform them,[13] he must tithe [the fruit and wine] and let them partake [thereof].[14] Now should you say, He eats of Heaven's [gift], why must he tithe and let them eat: surely the All-Merciful conferred no privilege upon him in respect of what is forbidden! And should you reply, Here too it is because [otherwise] it looks like an erroneous bargain, [I can rejoin,] now as for the breaking of his fig-cakes, it is well, since it does look like an erroneous bargain; but if his barrels burst, where is the erroneous bargain? Surely he [the labourer] knew that they were tebel in respect of tithes! — R. Shesheth replied: It means that his barrels burst open into the tank.[15] But has it not been taught: Wine [is subject to tithes] when it descends into the tank?[16] — This agrees with R. Akiba, who ruled [it is not liable] until the scum is removed; so that they [the labourers] can say to him, 'We did not know [thereof].' But can he not retort, 'The possibility of its having been skimmed should have occurred to you'? — It refers to a locality where the same person who draws [the wine from the tank into barrels first] skims it. And now that R. zebid learned out of the Baraitha of R. Oshaia:[17] Wine [is subject to tithes] when it is run into the tank and skimmed. R. Akiba said: When it is skimmed in barrels:[18] you may even say that the barrels did not burst open into the tank; yet they can say, 'We did not know that it had been skimmed.' But can he not say to them, 'The possibility of its having been skimmed should have occurred to you'? — It refers to a place where the same person who closes it[19] also skims it.

Come and hear: A man may stipulate [to receive payment instead of eating] for himself, his son or daughter that are of age, his manservant and maidservant that are of age, and his wife; because they have understanding.[20] But he may not stipulate [thus] for his son or daughter that are minors, his manservant or maidservant that are minors, nor in respect of his beasts; because they have no understanding.[21] Now it is being assumed that he[22] provides them with food, should you then say that he [the labourer] eats of Heaven's [gift], it is well: consequently, one may not stipulate [to deprive them of their rights]. But if you maintain that he eats of his own, let him stipulate [thus] even for minors![23] — In this case it means that he does not provide them with food.[24] If so, [for] adults too [he cannot stipulate thus]! — Adults know [their rights] and forego them. But R. Hoshaia taught: A man may stipulate [as above] for himself and his wife, but not in respect of his beast;[25] for his son and daughter, if adults, but not if minors; for his Canaanite manservant and maidservant, whether adults or minors. Now presumably, both[26] mean that he provides them with food, and they differ in the following: one Master [sc. that of the Baraitha] maintains that he [the labourer] eats of his own;[27] whereas the other holds that he eats of Heaven's! — No; all hold that he eats his own, yet there is no difficulty: here [in the Mishnah] he does not provide them with food,[28] whereas in the Baraitha he does. How do you explain it: that he provides them with food? If so, let him stipulate for [his son and daughter if] minors too? — The All-Merciful did not privilege him to cause distress to his son and daughter.[29] Now, how do you explain the Mishnah? That he does not provide them with food!

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(1) Having yet to be dried, their work is not finished, v. supra 87a.

(2) Rashi: for the wage stipulated, so that he would draw no pay. Tosaf: instead of me.

(3) For it is as though he bought them (Ma'as. II, 7). V. supra 88a-b; cf. p. 507, n. 3.

(4) For then it is part of his wage, still the Bible exempted him, though eating fruit as part of one's wage is akin to purchase. Then surely the same should hold good of his son!

(5) More so than when he himself eats, regard being had to the stipulation he made.

(6) The fruit of a tree in the fourth year of its planting was to be eaten in Jerusalem, like the second tithe; v. Lev. XIX, 24.

(7) Whilst working, since it must be taken to Jerusalem.

(8) These fruits, just as those of the second tithe, could be redeemed, the redemption money to be expended in Jerusalem, whilst the fruit could then be eaten anywhere as ordinary hullin (v. Glos.).

(9) V. infra 93a.

(10) I.e., after having been pressed into cakes, the cakes were accidentally broken up, and labourers were engaged to re-press them.

(11) And he hired labourers to re-fill them.

(12) Since, as stated supra 89a, when fruit is already liable to tithes, the labourers may not eat.

(13) That they had been pressed once, and so were liable to tithes.

(14) V. infra 93a.

(15) In which wine is stored, so that the labourer might have thought that it had not been barrelled yet.

(16) And the labourers could have then known that they were liable to tithing.

(17) [Var. lec.: R. Zebid son of R. Hoshaia. V. A. Z, (Sonc. ed.) p. 27, n. 4.]

(18) Rashi: When it has been skimmed in the barrels; after being filled in the barrels it ferments again and more scum settles on top, which must be removed.

(19) By pasting in the bung.

(20) They know that they are entitled to eat, but forego their rights.

(21) V. infra 93a. The understanding of a minor is not legally recognised.

(22) The father or owner who hires them out.

(23) Since all their rights belong to him, and just as he receives their wages, so he can receive the food due to them as part wages.

(24) So that he has no right even to their wages. This is on the assumption that when the master provides no food, he is not entitled to their work. This is a subject of dispute; v. infra 93a top.

(25) Because of the prohibition of muzzling.

(26) The Mishnah first quoted, which states that this stipulation may not be made for one's servants, if minors; and the Baraitha, which permits it.

(27) Therefore his master may stipulate this, v, n. 1.

(28) Hence he cannot stipulate.

(29) Though entitled to their work, and providing them with food, he causes them to suffer by not eating of that upon which they are actually engaged.

Talmud - Mas. Baba Metzia 93a

That agrees with the view that the master cannot say to his slave, ‘Work for me, yet I will not feed you.’ But on the view that he can say so, what can you answer?[1] — Both [teachings] therefore deal with a case where he does not provide them with food, but they differ on this very matter: one Master[2] maintains that he can [demand their work and refuse their food]; and the other[3] holds that he cannot. Then what of R. Johanan, who ruled that the master can say this: does he forsake the Mishnah and follow the Baraitha?[4] — But all agree that he eats of Heaven's [gift), and he [certainly) cannot stipulate.[5] In what sense then did R. Hoshaia teach that he can stipulate? — [In regard to] food.[6] Then by analogy, in respect of an animal [a similar arrangement is that the hirer should feed it with) straw;[7] then let him stipulate! Hence they must differ therein: one Master [sc. of the Baraitha] maintains that he eats his own; whereas the other holds that he eats of Heaven's [gift].

MISHNAH. A MAN MAY STIPULATE [TO RECEIVE PAYMENT INSTEAD OF EATING] FOR HIMSELF, HIS SON OR DAUGHTER THAT ARE OF AGE, HIS MANSERVANT AND MAIDSERVANT THAT ARE OF AGE, AND HIS WIFE; BECAUSE THEY HAVE UNDERSTANDING. BUT HE MAY NOT STIPULATE [THUS] FOR HIS SON OR DAUGHTER THAT ARE MINORS, HIS MANSERVANT OR MAIDSERVANT THAT ARE MINORS, NOR IN RESPECT OF HIS BEASTS; BECAUSE THEY HAVE NO UNDERSTANDING.[8] IF ONE ENGAGES LABOURERS TO WORK UPON HIS FOURTH YEAR PLANTINGS, THEY MAY NOT EAT; BUT IF HE DID NOT INFORM THEM [THAT THEY WERE OF THE FOURTH YEAR], HE MUST REDEEM [THE FRUIT] AND LET THEM EAT IT. IF HIS FIG-CAKES WERE BROKEN, OR HIS BARRELS OF WINE BURST OPEN, THEY MAY NOT EAT. BUT IF HE DID NOT INFORM THEM, HE MUST TITHE [THE FRUIT OR WINE] AND LET THEM PARTAKE [THEREOF].[9] THOSE WHO GUARD FRUITS MAY EAT THEREOF, IN ACCORDANCE WITH GENERAL CUSTOM,[10] BUT NOT BY SCRIPTURAL LAW. GEMARA. THOSE WHO GUARD FRUITS [etc.] Rab said: This was stated only of those who look after gardens and orchards;[11] but those who guard wine-vats and [grain] stocks may eat [even] by Biblical law.[12] In his [Rab's] opinion guarding is counted as labour. But Samuel said: This was stated only of those who guard wine-vats and [grain] stocks; but those who look after gardens and orchards may eat neither by Biblical law nor by general custom. In his view, guarding is not considered labour.[13]

R. Aha son of R. Huna raised an objection. He who guards the [red] heifer defiles his garments.[14] Now should you maintain, Guarding is not considered labour, why does he defile his garments?[15] — Rabbah b. ‘Ulla said: As a precautionary measure, lest he move a limb thereof.[16]

R. Kahana raised an objection: He who guards four or five cucumber beds[17] must not eat his fill of one of them, but proportionately of each. Now if guarding is not considered labour, why eat at all?[18] — R. Shimi b. Ashi replied: This refers to those which are removed [from the plant].[19] But then this work is finished for tithes![20] — Their blossom had not yet been cut off.[21]

R. Ashi said: Reason supports Samuel. For we learnt: Now, the following [labourers] may eat by Scriptural law: he who is engaged upon what is attached to the soil, when the labour thereof is completed; and upon what is detached,[22] etc. This implies that some eat not by Scriptural law but in accordance with general custom. Then consider the second clause: But the following do not eat. What is meant by ‘do not eat’? Shall we say, they do not eat by Scriptural law, yet eat in accordance with general custom — then is it not identical with the first clause? Hence it must surely mean that they eat neither by Scriptural nor by unwritten law. And who are they? ‘He who is engaged upon that which is attached to the soil before its labour is completed.'[23] How much more so then they who look after gardens and orchards!

MISHNAH. THERE ARE FOUR BAILEES: A GRATUITOUS BAILEE, A BORROWER, A PAID BAILEE AND A HIRER. A GRATUITOUS BAILEE MUST SWEAR FOR EVERYTHING.[24] A BORROWER MUST PAY FOR EVERYTHING.[25] A PAID BAILEE OR A HIRER MUST SWEAR CONCERNING AN ANIMAL THAT WAS INJURED,[26] CAPTURED [IN A RAID] OR THAT PERISHED;[27] BUT MUST PAY FOR LOSS OR THEFT.

GEMARA. Which Tanna [maintains that there are] four bailees? — R. Nahman said in Rabbah b. Abbuha's name: It is R. Meir. Said Raba to R. Nahman: Does any Tanna dispute that there are four bailees?[28] — He replied: I mean this: Which Tanna holds that a hirer ranks as a paid bailee? R. Meir. But we know R. Meir to hold the reverse? For it has been taught: How does a hirer pay? R. Meir said, As an unpaid bailee. R. Judah ruled, As a paid one! Rabbah b. Abbuha learnt it reversed.[29] If so, are there four? Surely there are only three! — R. Nahman b. Isaac replied: There are indeed four bailees, but they fall into three classes.[30]

A shepherd was once pasturing his beasts by the banks of the River Papa,[31] when one slipped and fell into the water [and was drowned]. He then came before Rabbah, who exempted him [from liability], with the remark, 'What could he have done?

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(1) On the hypothesis that he eats his own. According to the latter view the slave is supported by charity.

(2) The Baraitha.

(3) The Mishnah.

(4) Surely not, since the former is more authentic than the latter.

(5) That the slaves shall not eat.

(6) I.e., he may arrange for the owner of the vineyard to feed the slave before he starts work, so that he has no appetite for the grapes.

(7) Before it starts threshing the more valuable grain.

(8) V. supra p. 533, n.7.

(9) V. supra p. 532.

(10) Lit., 'the laws of the land'.

(11) Their fruits being attached to the soil, and they do not remove them; hence they may not eat by Scriptural law.

(12) Since these are detached.

(13) Hence, when it is exercised upon detached fruits, the guardian may eat by general custom; but if they are attached, he may not eat at all.

(14) V. Num. XIX. All who take part in the preparation of the red heifer, from the slaughter onwards, defile their garments.

(15) Since it is not an occupation in the legal sense.

(16) Which would really render him unclean through contact. Thus the defilement of the guardian is only by Rabbinical law, in contradistinction to those who perform a positive action, whose defilement is Scriptural.

(17) Belonging to as many persons.

(18) Since on this view he may not eat of what is attached, even by general custom.

(19) I.e., they are detached.

(20) V. supra p. 89a.

(21) V. supra 88b.

(22) Supra 504.

(23) V. p. 504.

(24) I.e., if the bailment is lost or destroyed through any cause, excepting negligence, the unpaid trustee must swear to the occurrence, and is free from liability.

(25) Whatever the mishap, he is liable to pay.

(26) Lit., 'broken'.

(27) A paid bailee is exempt from liability in these cases; therefore he must swear that it really was so.

(28) Surely not! The four bailees enumerated in the Mishnah must exist.

(29) I,e., according to his reading of the Baraitha, R. Meir ruled that he ranked as a paid trustee, and R. Judah as an unpaid one. (8) Since the hirer ranks as a paid bailee. This difficulty arises in any case, and the phrase ‘if so’ does not imply here that if the hirer ranked as an unpaid bailee there is no difficulty, but is merely introductory (Tosaf.). But in the parallel passage of Shebu. 49a the phrase is absent from Rashi's version.

(30) Lit., ‘their laws are three’, a hirer and a paid bailee being in the same category.

(31) V. supra, p. 496, n. 1.

Talmud - Mas. Baba Metzia 93b

He guarded [them] as people guard.’[1] Abaye protested, ‘If so, had he entered the town when people generally enter it [leaving his charges alone], would he still be exempt?’ — ‘Yes’, he replied. ‘Then had he slept a little when other people sleep, would he also be exempt?’ — ‘Even so,’ was his answer. Thereupon he raised an objection: The following are the accidents for which a paid bailee is not responsible: E.g., And the Sabeans fell upon them [sc. the oxen and asses], and took them away; yea, they have slain the servants with the edge of the sword![2] — He replied, ‘There the reference is to city watchmen.’[3]

He further raised an objection: To what extent is a paid bailee bound to guard? Even as far as, Thus I was; in the day the drought consumed me, and the frost by night?[4] — There too, he answered, the reference is to the city watchman. Was then our father Jacob a city watchman? he asked. — [No.] He merely said to Laban, ‘I guarded for you with super-vigilance, as though I were a city watchman.’

He raised another objection: If a shepherd, who was guarding his flock, left it and entered the town, and a wolf came and destroyed [a sheep]; or a lion, and tore it to pieces, we do not say, ‘Had he been there, he could have saved them;’ but estimate his strength: if he could have saved them, he is responsible; if not, he is exempt.[5] Surely it means that he entered [the town] when other people generally do? — No. He entered when people do not generally enter. If so, why is he not responsible? Where there is negligence in the beginning, though subsequently an accident supervenes, he is liable![6] — It means that he heard the voice of a lion, and so entered. If so, why judge his strength? What could he then have done? — He should have met it with [the assistance of other] shepherds and staves. If so, why particularly a paid bailee? The same applies even to an unpaid one. For you yourself, Master, did say: If an unpaid bailee could have met [the destroyer, e.g., a lion] with other shepherds and staves, but did not, he is responsible! — An unpaid bailee [must obtain their help only when he can procure them] gratuitously; whereas a paid bailee must even [engage them] for payment. And to what extent?[7] — Up to their value.[8] But where do we find that a paid trustee is responsible for accidents?[9] — Subsequently he collects the money from the owner. Said R. Papa to Abaye: If so, how does he benefit him? — It makes a difference on account of the attachment of the animals[10] or the additional trouble.[11]

R. Hisda and Rabbah son of R. Huna disagree with Rabbah's dictum, for they maintain: [The owner can say], ‘I paid you wages precisely in order that you should guard with greater care.’

Bar Adda, the carrier, was leading beasts across the bridge of Naresh,[12] when one beast pushed another and threw it into the water. On his appearing before R. Papa, the latter held him responsible. ‘But what was I to do?’ he protested. — ‘You should have led them across one by one,’ he replied. ‘Do you know of your sister's son[13] that he could have led them across one by one?’ he asked.[14] — ‘Your predecessors before you have already complained, but none pay heed to them,’ he replied.

Aibu entrusted flax to Ronia. Then Shabu[15] came and stole it from him;[16] but subsequently the thief's identity became known. Then he [the trustee] came before R. Nahman, who ruled him liable.[17] Shall we say that he disagrees with R. Huna b. Abin. For R. Huna b. Abin sent word:[18] If it [the bailment] was stolen through an accident, and then the thief's identity became known, if he was a gratuitous bailee, he can either swear [that he had not been negligent] or settle with him;[19] if a paid trustee, he must settle with him, and cannot swear! — Said Raba: There,[20] officers were about, and had he [Ronia] cried out, they would have come and protected him.[21]

MISHNAH. [IF] ONE WOLF [ATTACKS], IT IS NOT AN UNAVOIDABLE ACCIDENT;[22] IF TWO [ATTACK], IT IS AN UNAVOIDABLE ACCIDENT. R. JUDAH SAID: WHEN THERE IS A GENERAL VISITATION OF WOLVES, EVEN [THE ATTACK OF] ONE IS AN UNAVOIDABLE ACCIDENT.[23] [THE ATTACK OF] TWO DOGS IS NOT AN UNAVOIDABLE ACCIDENT. JADDUA THE BABYLONIAN SAID ON R. MEIR'S AUTHORITY: IF THEY ATTACK FROM THE SAME SIDE, IT IS NOT AN UNAVOIDABLE ACCIDENT; FROM TWO DIFFERENT DIRECTIONS, IT IS. A ROBBER'S [ATTACK] IS AN UNAVOIDABLE ACCIDENT. [DAMAGE DONE BY] A LION, BEAR, LEOPARD, PANTHER AND SNAKE RANKS AS AN UNAVOIDABLE ACCIDENT. WHEN IS THIS? IF THEY CAME [AND ATTACKED] OF THEIR OWN ACCORD: BUT IF HE [THE SHEPHERD] LED THEM TO A PLACE INFESTED BY WILD BEASTS AND ROBBERS, IT IS NO UNAVOIDABLE ACCIDENT. IF IT DIED A NATURAL DEATH, IT IS AN UNAVOIDABLE ACCIDENT: [BUT] IF HE MALTREATED IT[24] AND IT DIED, IT IS NO UNAVOIDABLE ACCIDENT. IF IT ASCENDED TO THE TOP OF STEEP ROCKS AND THEN FELL DOWN, IT IS AN UNAVOIDABLE ACCIDENT; BUT IF HE TOOK IT UP TO THE TOP OF STEEP ROCKS AND IT FELL AND DIED, IT IS NO UNAVOIDABLE ACCIDENT.

GEMARA. But has it not been taught: [The attack of] one wolf is an accident? — R. Nahman b. Isaac replied: That is when there is a visitation of wolves, and is R. Judah's view.

[THE ATTACK OF] A ROBBER IS AN UNAVOIDABLE ACCIDENT. But why so: let man stand against man — Said Rab: This refers to an armed robber.

The scholars propounded: What of an armed robber and an armed shepherd? Do we say, man must stand against man; or perhaps, the former is prepared to risk his life, but this cannot be expected of the latter? — Reason teaches that the one risks his life, but not the other.[25] Abaye asked Raba: What if the shepherd met him [sc. the robber] and said to him, ‘Thou vile thief! We are stationed in such and such a place;

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(1) Therefore it is not like any ordinary loss, for which a paid trustee is responsible, but like an accident, for which he is exempt.

(2) Job I, 15: this proves that they are free from liability only for exceptional and unpreventable mishaps.

(3) Appointed to watch at night, and upon whose vigilance the safety of the town depends; greater care is demanded from them.

(4) Gen. XXXI, 40.

(5) V. supra 41a.

(6) V. supra, 42a. Thus here too, he might have averted some slight mishap, had he been at his post; and therefore by deserting it he displayed negligence and should be liable, notwithstanding that subsequently the damage was unpreventable.

(7) Is he bound to hire helpers?

(8) Sc. of his charges.

(9) Unless he engages helpers at his own cost; it being assumed that this is the meaning of obtaining assistance for payment.

(10) Their owner prefers these to be saved, because he knows them, even if the cost of saving is as much as buying different ones.

(11) Of procuring other animals.

(12) [Supra p. 468, n. 3. It was situated on the canal Nars, a tributary of the Euphrates, Obermeyer, op. cit. p. 307.]

(13) I.e., your co-religionist.

(14) How can you assume that this would have been possible or convenient?

(15) A certain armed robber (Rashi).

(16) The theft being carried out in such a way that it could be regarded as an unpreventable accident from the point of view of the trustee.

(17) Though it was an accident; yet since the thief was known, it was for the trustee — an unpaid one — to sue him. This was the assumed reason for his liability.

(18) From Palestine to Babylon.

(19) I.e., pay him. But he is given the option of freeing himself by an oath, and in this he disagrees with R. Nahman.

(20) in the case of Ronia.

(21) Therefore the theft was due to negligence, and his liability was due to that, and not to the fact that the thief's identity was eventually discovered.

(22) The shepherd could have warded him off, and therefore, being a paid bailee, he is responsible.

(23) For then they are particularly fierce.

(24) E.g., by starvation or exposure.

(25) Hence it is an unavoidable accident.

Talmud - Mas. Baba Metzia 94a

we have this number of men, this number of dogs, so many sharp-shooters are assigned to us;' and he came and robbed him of them? — He replied: Then he has led them to the place of wild beasts and robbers.[1]

MISHNAH. A GRATUITOUS BAILEE MAY STIPULATE TO BE FREE FROM AN OATH;[2] A BORROWER, FROM PAYMENT; A PAID BAILEE AND A HIRER, FROM AN OATH[3] OR PAYMENT.[4] A STIPULATION CONTRARY TO A SCRIPTURAL ENACTMENT IS NULL; ALSO, EVERY STIPULATION WHICH IS PRECEDED BY THE ACTION[5] IS NULL; AND WHATEVER CAN BE FULFILLED EVENTUALLY, AND IT IS STIPULATED AT THE OUTSET, THE STIPULATION IS VALID.

GEMARA. But why so? Is it not a stipulation contrary to Scriptural law, which is null?[6] This agrees with R. Judah, who maintained: In civil matters[7] the stipulation is valid. For it has been taught: If one says to a woman, 'Behold, thou art betrothed unto me on condition that thou hast upon me no claims of sustenance, raiment and conjugal rights', she is betrothed, but the condition is null; this is R. Meir's view. R. Judah said: In respect of money matters, his condition is valid.[8]

But can you assign it to R. Judah? Then consider the second clause: A STIPULATION CONTRARY TO A SCRIPTURAL ENACTMENT is NULL: does not this agree with R. Meir? — That is no difficulty; in truth, it is R. Judah's view, but this second clause does not refer to civil matters. Then consider the latter clause: EVERY STIPULATION WHICH IS PRECEDED BY AN ACTION IS NULL. Now, whom do you know to hold this view? R. Meir. For it has been taught: Abba Halafta, of Kefar Hananiah,[9] said on R. Meir's authority: If the condition [is stated] before the act, it is valid; if the reverse, it is not! — But it is all in accordance with R. Meir: yet here it is different, because at the very outset he accepted no liability.[10]

It has been taught: And a paid bailee may stipulate to be [liable] as a borrower: How: with [mere] words?[11] — Said Samuel: If he acquires it from his hand.[12] R. Johanan said: You may even say that he does not acquire it from his hand; yet in return for the benefit he receives in that he achieves thereby a reputation for being trustworthy, he renders himself fully responsible.

AND WHATEVER CAN BE FULFILLED EVENTUALLY etc. R. Tabla said in Rab's name: This is the view of R. Judah b. Tema. But the Sages say: Even if it is impossible to fulfil it eventually, and one stipulates it at the beginning, the stipulation is valid. For it has been taught: [If one says,] Here is thy divorce, on condition that thou ascendest to Heaven or descendest to the deep, on condition that thou swallowest a hundred cubit cane or crossest the great sea on foot; if the condition is fulfilled, the divorce is valid, but not otherwise.[13] R. Judah b. Tema said: In such a case it is a [valid] divorce. R. Judah b. Tema stated a general rule: That which can never be fulfilled, and he [the husband] stipulates it at the beginning, it is only to repel her,[14] and is valid.

R. Nahman said in Rab's name: The halachah is as R. Judah b. Tema. R. Nahman b. Isaac said: Our Mishnah too proves it,[15] for it states: WHATEVER CAN BE FULFILLED EVENTUALLY, AND IT IS STIPULATED AT THE OUTSET, THE STIPULATION IS VALID. Hence, if it is impossible of fulfilment, the stipulation is null. This proves it.[16]

CHAPTER VIII

MISHNAH. IF A MAN BORROWS A COW AND BORROWS OR HIRES ITS OWNER WITH IT,[17] OR IF HE FIRST HIRES THE OWNER AND THEN BORROWS THE COW, AND IT DIES, HE IS NOT RESPONSIBLE, FOR IT IS WRITTEN, BUT IF THE OWNER THEREOF BE WITH IT, HE SHALL NOT MAKE IT GOOD.[18]

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(1) To provoke robbers and challenge them to attack is the equivalent of going into danger.

(2) In case he pleads that it was stolen or lost.

(3) If they plead an unavoidable accident.

(4) For loss or theft.

(5) E.g., if A arranges that B shall perform a certain action on a certain condition, but states the action before the condition, the stipulation is invalid. The law of stipulation is based on that made by Moses in respect to the request of the Gaddites and Reubenites, q.v.; And Moses said unto them, If ye will do this thing, if ye will go armed before the Lord (Num. XXXII, 20-22). Just as the condition was mentioned there first, so must it be in all cases (Rashi). [Maim. Yad, Ishshuth VI, 2, explains simply, ‘If the condition was made after the action had already taken place.’]

(6) The degrees of liability of the different bailees are stated explicitly, and also partly deduced from Scripture.

(7) Lit., ‘in a monetary matter’.

(8) Hence she has no claims of sustenance and raiment, but is entitled to conjugal rights.

(9) [A village in Galilee, v. Klein, S., NB, p. 28.]

(10) Before the bailment came into his hand, he explicitly stated the extent of liability he was prepared to accept; hence, when he receives his charge, his responsibility is already limited. But one cannot be only partly married; therefore, notwithstanding his stipulation, he must hear the full liability involved in marriage.

(11) Surely one cannot assume additional responsibilities, over and above the normal, by mere words!

(12) I.e., performed one of the acts whereby possession is effected. These acts were also valid to legalise a liability which one wished to assume.

(13) I.e., it is assumed that he meant the act to be invalid.

(14) I.e., to distress and make her think that he is not divorcing her.

(15) That the halachah is so.

(16) Since it is taught anonymously.

(17) I.e., the owner lending his personal service.

(18) Ex. XXII, 14.

Talmud - Mas. Baba Metzia 94b

BUT IF HE FIRST BORROWS THE COW, AND ONLY SUBSEQUENTLY BORROWS OR HIRES ITS OWNER, AND IT DIES, HE IS LIABLE, AS IT IS WRITTEN, THE OWNER THEREOF NOT BEING WITH IT,[1] HE SHALL SURELY MAKE IT GOOD.[2]

GEMARA. Since the second clause states, AND THEN BORROWS THE COW, it follows that when the first clause reads, WITH IT, it is literally meant.[3] But is it possible that it shall be literally WITH IT; the cow is acquired only by meshikah, whereas its owner is acquired by his promise?[4] — I can answer either that the cow was standing in the borrower's courtyard, so that meshikah is not wanting;[5] or alternatively, that he [the borrower] said to him, ‘You yourself are not lent [to me] until I perform meshikah on your cow.’

We have learnt elsewhere: There are four bailees: a gratuitous bailee, a borrower, a paid bailee, and a hirer. A gratuitous bailee swears for everything. A borrower pays for everything. A paid bailee or a hirer swears concerning an animal that was injured, captured, or that perished; but pays for loss or theft.[6] Whence do we know these things? — For our Rabbis taught: The first section refers to a gratuitous bailee, the second to a paid one, and the third to a borrower.[7] Now, as for the third referring to a borrower, it is well, for it is explicit: And if a man borrow aught of his neighbour, and it be hurt, or die, the owner thereof being not with it, he shall surely make it good.[8] But as for the first treating of an unpaid bailee and the second of a paid one, perhaps it is the reverse? — It is reasonable [to assume] that the second refers to a paid bailee, since he is responsible for theft and loss. On the contrary, [is it not more logical that] the first refers to a paid bailee, since he is liable to restitution of twice the principal in a [false] plea of theft?[9] — Even so [to pay] the principal without the option of an oath is a heavier liability than to pay double after a [false] oath, the proof being that the borrower, though all the benefit is his, yet pays only the principal.[10] But is it so, that in the case of a borrower all the benefit is his? But does it [sc. the animal borrowed] not require food? — [It is all his,] when it [the animal] is standing on a common.[11] But it needs [special] guarding![12] — Where there is a town watch. Alternatively, do not say, all the benefit is his, but, most of the benefit is his.[13] Or again, [refer it] to the borrowing of utensils.[14]

‘A paid bailee or a hirer swears concerning an animal that was injured, captured, or perished; but pays for loss or theft.’ Now, as for theft, it is well, for it is written, And if it indeed be stolen from him, he shall make restitution unto the owner thereof;[15] but whence do we know it of loss? — For it has been taught: ‘And if it indeed be stolen’;[16] from this I know only theft: whence do I know loss? From the expression, ‘And if it indeed be stolen’, implying no matter how [it disappears].[17] Now, that agrees with the view that we do not say that the Torah employs human phraseology; but on the view that we do say that the Torah employs human phraseology, what can you say?[18] — In the West[19] they said, It follows a fortiori: if he must pay for theft, which is near to accident, then surely he is liable for loss, which is more akin to negligence. And the other?[20] — That which is derived by an a fortiori argument, Scripture [often] takes the trouble to write.

‘And a borrower pays for everything.’ Now, as for the animal that is injured, or perishes, it is well, for it is written, ‘And if a man borrow aught of his neighbour, and it be hurt or die’; but whence do we know that a borrower is responsible for capture? And should you say, Let us derive it from the case of injury and death: [it may be rejoined,] as for these, [he is responsible] because they are accidents which may be foreseen; but can you say that capture [is the same], Seeing that it is an unforseeable accident? — But [deduce it thus:] Injury and death are stated [as cause of liability] in the case of a borrower, and they are likewise enumerated in the case of a paid bailee: just as there, capture falls within the same category,[21] so here too, capture is included. But this may be refuted: as for a paid bailee, [it is mentioned] as a cause of exemption; but can you say the same of a borrower, [for whom you would include it] as a cause of liability? — But [it may be derived] in accordance with R. Nathan's teaching. For it has been taught: R. Nathan said: [‘And if a man borrow aught of his neighbour, and it be hurt,] or [die]’: ‘or’ extends the law to capture.[22] But is not this ‘or’ needed as a disjunctive? For I might think that he is responsible only if it is injured and also dies; therefore Scripture states otherwise. Now, on R. Jonathan's view, it is well; but on R. Joshia's, what can you say? For it has been taught: For any man that curseth his father and his mother [shall surely be put to death]:[23] from this I know only [that he is punished for cursing] his father and his mother; whence do I know [the same] if he cursed his father without his mother, or his mother without his father? From the passage, his father and his mother he hath cursed; his blood shall be upon him: implying a man that cursed his father; a man that cursed his mother:[24] this is R. Joshia's opinion. R. Jonathan said: The [beginning of the] verse implies either the two together or each separately,

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(1) Or ‘with him’ (the bailee).

(2) Ibid. 13.

(3) I.e., they are both borrowed simultaneously.

(4) When the owner says. ‘I lend you my personal services and my cow’, he himself is immediately at the service of the borrower, whereas the cow does not pass into his possession, to bear responsibility for it, until he actually performs meshikah (v. Glos.).

(5) Since it is already in his possession, whilst meshikah is only an expedient for bringing it into his possession.

(6) V. supra Mishnah 93a for notes.

(7) The reference is to Ex. XXII, 6-8; 9-12; and 13f. The first states that the bailee is exempt from responsibility in the case of theft: the second, only in the case of the animal dying etc., but not for theft. The third explicitly deals with borrowing.

(8) Ibid. 13.

(9) V. Ibid. 7, 8. This is interpreted in B.K. 63b as referring to the payment due by the bailee for a false plea of theft.

(10) Though undoubtedly his liabilities are the greatest of all bailees.

(11) The borrower living on a common, and since Scripture does not specify the locality of the borrower, even such is meant.

(12) Which involves extra cost.

(13) And still the argument holds good.

(14) Requiring neither food nor a special watch.

(15) Ibid. 11.

(16) The emphasis of ‘indeed’ is expressed, as usual, by the double form of the verb, גנב יגנב , the infinitive followed by the imperfect.

(17) This is deduced from the emphatic form.

(18) For this emphasis is a normal idiom, and on the latter view, its purpose is not to extend the law.

(19) Palestine.

(20) He who maintains that we do not say that the Torah employs human phraseology, and interprets emphatic forms to include loss; but surely this follows from an a fortiori reasoning!

(21) Since it is explicitly mentioned in v. 9.

(22) V. B.K. 43b.

(23) Lev. XX, 9.

(24) At the beginning of the sentence that curseth is in immediate proximity to his father: at the end, cursing is mentioned nearest to his mother, shewing that each is separate.

Talmud - Mas. Baba Metzia 95a

unless the verse had explicitly stated ‘together’![1] — You may say so even according to R. Joshia: it [sc. ‘or’] is unnecessary here for the purpose of separation. Why? It is a matter of logic: what is the difference whether it is wholly killed or only partly?[2]

Whence do we know that a borrower is responsible for theft and loss? And should you say, It follows from injury and death: [I would rejoin,] as for these, [he is responsible] because it is impossible to take the trouble of finding it again;[3] will you then say [the same] in the case of theft and loss, seeing that with trouble it may be found?[4] — But [it may be derived] even as it has been taught: [And if a man borrow aught of his neighbour,] and it be hurt, or die — from this I know [the law] only for injury and death: whence do I know it for theft and loss? — You can reason a minori: if a paid bailee, who is not responsible for injury and death, is nevertheless liable for theft and loss;

then a borrower, who is liable for the former, is surely liable for the latter too! And this is an a minori argument which cannot be refuted. Why state that it ‘cannot be refuted’?[5] — For should you object, It may be refuted, thus: as for a paid bailee, [he is responsible for theft and loss] because he must make restitution of twice the principal [if discovered] in a [false] plea of [loss through] an armed robber,[6] [I would reply,] yet notwithstanding, the fact that the borrower is responsible for the principal[7] is a greater severity. Alternatively, he maintains that an armed robber is a gazlan.[8]

We have thus learned[9] responsibility;[10] whence do we know freedom from liability?[11] And should you say, It is deduced from injury and death: [it might be argued,] as for these, [he is free] because they are unavoidable accidents? — But it follows from a paid bailee. And whence do we know it of a paid bailee himself? — The liability of a paid bailee is equated to that of a borrower: just as there, when the owner is lent for personal service, he [sc. the borrower] is free thereof, so here too [in the case of a paid bailee], when the owner is lent for personal service, he is free thereof. How is this deduced? If by analogy,[12] that may be refuted, as [in fact] we have refuted it, since they [sc. injury etc.] are accidents![13] — But Scripture saith, ‘And if a man borrow’: the waw [copulative ‘and’] indicates conjunction with[14] the preceding subject, and the upper section is determined by the lower.[15] But even so, [the law of] a borrower cannot be deduced from [that of] a paid bailee, since it [the similarity] may be refuted. As for a paid bailee, that [sc. his non-liability for theft when the owner is in his service] is because he is exempt in the case of injury and death: will you say the same of a borrower, who is liable for these? — But [reason this]: Whence do we know that a borrower is liable for theft and loss [at all]? [Is it not] because we deduce it from a paid bailee?[16] Then it is sufficient that the conclusion of an a minori proposition shall be as its premise: just as theft and loss in the case of a paid bailee, when the owner is in his service, impose no liability; so also with respect to theft and loss in the case of a borrower, when the owner is in his service there is no responsibility. Now, that is well on the view that we accept this limitation;[17] but on the view that rejects it, what can you say? — But [answer thus]: Scripture saith, ‘And if a man borrow’: the ‘waw’ indicates conjunction with the preceding subject, and so the lower section illumines the upper and is itself illumined thereby.[18]

It has been stated: When there is culpable negligence [on the part of an unpaid bailee], and the owner is in [his service] — R. Aha and Rabina dispute therein: One maintains that he is liable; the other that he is exempt. He who rules that he is liable maintains that a Scriptural verse may be interpreted [as applying] to the immediately preceding subject, but not to the one anterior thereto: consequently, But if the owner thereof be with it, etc.,[19] does not refer to a gratuitous bailee;[20] on the other hand, negligence [as a cause of liability] is not stated in connection with a paid bailee and a borrower. Therefore, liability [for negligence] in the case of the paid bailee and borrower too follows a minori from a gratuitous bailee. But that there should be no liability for it, when the owner is in their service, that cannot be maintained even in respect of a paid bailee and a borrower.[21] Why so? Because when Scripture states in respect of a borrower and a paid bailee,[22] But if the owner thereof be with it, he shall not make it good, it refers only to those cases of liability which are explicitly stated.[23] Whilst he who maintains that he is not responsible, is of the opinion that the verse may be interpreted as bearing upon the preceding subject and the one anterior thereto; hence, when it is stated, But if the owner thereof [etc.], it refers to a gratuitous bailee too.

We learnt: IF A MAN BORROWS A COW AND BORROWS ITS OWNER WITH IT, OR BORROWS A COW[24] AND HIRES THE OWNER WITH IT, OR IF HE FIRST BORROWS OR HIRES THE OWNER AND THEN BORROWS THE COW, AND IT DIES, HE IS NOT RESPONSIBLE. But a gratuitous bailee is not mentioned![25] — But even on your reasoning, is then a paid bailee mentioned?[26] Hence [it must be said,] the Tanna states [only] what

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(1) I.e., the waw implies both conjunction and separation, and in the absence of an explicit statement to the contrary it is assumed to connote separation. v. Sanh. 85b. Hence, in his view the ‘or’ is unnecessary, and may teach the inclusion of capture; but in R. Joshia's view it is necessary, and so the question remains.

(2) For an injury is the equivalent of partial death, with respect to the value of the animal.

(3) I.e., the loss is absolute.

(4) Hence it may be argued that the owner must seek them, and the borrower is free from liability.

(5) The emphatic assertion suggests that the Tanna has a particular refutation in mind, but maintains that it is false.

(6) V. supra. The same holds good here.

(7) When he really is attacked by an armed robber.

(8) Lit., 'robber', who robs by open violence and is not subject to the twofold payment (v. B.K. 79b), as distinct from gannab, a thief who steals in secret. Consequently, the punishment of twofold payment does not apply to a paid bailee who falsely pleads an attack by an armed robber.

(9) Lit., 'found'.

(10) I.e., that a borrower is responsible for theft and loss.

(11) In the case of theft or loss, when the owner of the bailment has lent his personal service too.

(12) מה מצינו Lit., 'what (do) we find?' i.e., as we find a paid bailee and a borrower responsible for certain mishaps, and we also find that the former ceases to be responsible when the owner of the bailment is personally in his service, so the same is assumed of the latter.

(13) Whereas theft is not so unpreventable.

(14) Lit., 'adds to'.

(15) וכי . I.e., the waw indicates that the provisions of each section, in part at least, apply to the other. Hence, since the lower states that a borrower is exempt when the owner lends his personal service, the same holds good in the upper section dealing with a paid trustee.

(16) As stated supra.

(17) Lit., 'that agrees (that we say), Dayyo, it is sufficient.' v. B.K. 25a.

(18) Hence, just as a borrower is free from responsibility when the owner is in his service, where he would otherwise be liable, sc. for injury and death, so the paid bailee is free in similar circumstances where he would otherwise be liable, viz., for theft and loss. And just as a paid bailee is not responsible in these cases, so likewise a borrower. Now, since the whole is thus deduced by analogy, it is not subject to refutation. But above, only the first half was deduced by analogy (hekkesh, v. Glos.), the second half being derived a minori; and an a minori reasoning (Kal wa-homer, v. Glos.) is subject to refutation.

(19) Mentioned in the case of borrower.

(20) Which is two sections remote from the borrower.

(21) Notwithstanding that in cases of mishaps this fact does free them from liability.

(22) The first explicitly, and the second by exegesis.

(23) But not for negligence, the liability for which is derived a minori.

(24) [This phrase does not occur in our Mishnah but is introduced by the Talmud in the text to exclude the possible assumption that the reference here is to the hiring of the cow. V. Strashun, a.l.]

(25) Which proves that the service of the owner does not free him where he would otherwise be responsible, viz., in the case of culpable negligence, thus refuting the contrary view.

(26) Though all agree that he is exempt from his liabilities if the owner is in his service.

Talmud - Mas. Baba Metzia 95b

is explicitly written, and not what is exegetically derived.

Come and hear: If he borrows it [sc. the animal], and borrows its owner along with it; if he hires it and hires the owner with it; if he borrows it, and hires the owner along with it; or if he hires it and borrow its owner with it; even if the owner is working elsewhere,[1] and it dies, he is not liable. Now, it was assumed that this Tanna agrees with R. Judah that a hirer ranks as a paid bailee: thus we see that this Tanna includes what is derived exegetically, yet omits an unpaid trustee! — This agrees with R. Meir, who maintains that a hirer ranks as a gratuitous trustee; and so he states [the law] of an unpaid bailee, and the same applies to a paid bailee. If you wish,[2] I can say it is as Rabbah b. Abbuha reversed [the dispute] and taught: How does a hirer pay? R. Meir said, As a paid bailee; R. Judah said, As an unpaid bailee.[3]

R. Hamnuna said: He is always responsible unless it [the bailment] be a cow, and he [its owner] ploughs therewith [in the bailee's service], or an ass, and he drives it along, and unless the owner is in the bailee's service from the time the loan is made until it is injured or dies. Thus we see that in his view, 'But if the owner thereof be with it,' refers to the whole transaction.[4]

Raba raised an objection: If he borrows it [sc. the animal], and borrows its owner along with it; if he hires it and hires the owner with it; if he hires it and borrows its owner with it; or if he borrows it and hires the owner along with it; even if the owner is working elsewhere, and it dies, he is not liable. Surely, that means on different work![5] — No; it means on the same work [as the animal was doing]. Then how can it be elsewhere? — [It means] that he went along breaking up [the ground] ahead of it. But since the second clause refers to [working] near it, it follows that the first clause means [actually] a different work! For the second clause states: If he [first] borrows it [sc. the animal] and then borrows its owner; if he hires it and then hires its owner with it, even if the owner is ploughing at its side, and it perishes, he [the borrower or hirer] is responsible! — I will tell you: Both the first clause and the last refer to the same work; and the first clause teaches something of noteworthy interest, and the second likewise. The first clause teaches something of noteworthy interest: though he [the owner] is actually by its side, but yet engaged on the same work, since the owner was in his service from the time the loan was made, he [the bailee] is not responsible. And the second likewise teaches us something of noteworthy interest: though he [the owner] is by its side, yet since the owner was not in his service from the time of the loan, he is responsible. How so? Now, if you concede that the first clause refers to different work and the second to the same, it is well: that very fact is remarkable.[6] But if you suggest that both the first clause and the second refer to the same work, what is there remarkable? Both[7] are on the same work![8] And moreover it has been taught:[9] From the verse, But if the owner thereof be with it, he shall not make it good, do I not know, by implication, that if the owner thereof is not with it, that he must make it good? Why then is it [explicitly] stated, And the owner thereof not being with it, [he shall surely make it good]? To teach you: if he is in his service when the loan is made, he need not be so at the time of injury or death; but though in his service at the time of injury or death, he must also have been so with him at the time of loan.[10] And another [Baraitha] further taught:[8] From the verse, The owner thereof being not with it, he shall surely make it good, do I not know by implication, that if the owner thereof is in his service, that he is free from liability? Why then is it stated, But if the owner thereof be with it [etc.]? To teach you: Once it [the animal] has left the lender's possession, its owner being [simultaneously] in his service, even for a single hour, and it dies, he [the borrower] is free from liability.[11] The [complete] refutation of R. Hamnuna is indeed unanswerable.[12]

Abaye, holding with R. Joshia, explains the verses in accordance with him; Raba, agreeing with R. Jonathan, interprets them on the basis of his views.[13] [Thus:] 'Abaye, holding with R. Joshia, explains the verses in accordance with him,' 'The owner thereof being not with it, he shall surely make it good': hence, it is only because he was not with him on both occasions;[14] but if he were with him on one occasion but not on the other, he would be free from responsibility.[15] But [on the Other hand], it is written, 'But if the owner thereof be with it he shall not make it good': hence, it is only because he was with him on both occasions, but if he was with him on one occasion but not on the other, he is responsible. [This contradiction is] to teach you: If he was with him at the time of the loan, he need not have been with him at the time of the injury or death; but though he were with him at the time of the injury or death he must also have been with him when the loan was made.[16]

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(1) I.e., not in the same place as the animal, yet in the service of the borrower or hirer.

(2) [Should you for some reason prefer to ascribe this anonymous Baraitha to R. Judah (Rashi).]

(3) According to this, the Baraitha is taught on the basis of R. Judah's views.

(4) I.e., the owner must be in the borrower's service all the time, and employed on the labour done with the borrowed ox or ass.

(5) This refutes R. Hamnuna.

(6) That though he is free from responsibility when the owner is in his service even for different work, he is nevertheless liable if he is not in service from the very beginning, even if engaged on the same work at the time of death.

(7) Whether he breaks up the ground before it, or guards it from behind.

(8) And thus there stands Raba's cited objection to R. Hamnuna.

(9) In refutation of R. Hamnuna's ruling.

(10) This proves that ‘and the owner thereof not being with it’ refers directly to the time of the loan, and not as R. Hamnuna holds, to the whole time of the transaction.

(11) This Baraitha is identical with the preceding and differs only in form.

(12) The first part of his statement from the first teaching, and the latter from the last two Baraithas cited.

(13) For the dispute of R. Joshia and R. Jonathan, v. supra 94b. The Talmud now explains how the Tannaim deduce that the owner must be pledged to the borrower's service at the time of the loan, but not when the injury or death occurs.

(14) Of the loan and the injury or death.

(15) Since the beginning of the verse mentions both the loan and the mishap, the second half, the owner thereof etc., must refer to both likewise, i.e., the owner was not with him when he borrowed, nor when it died. That is the natural interpretation according to R. Joshia's view that the waw is definitely conjunctive, so that (and it die) links the whole verse.

(16) It is explained below why this is assumed, and not the reverse.

Talmud - Mas. Baba Metzia 96a

‘Raba, agreeing with R. Jonathan, interprets them on the basis of his views’: ‘The owner thereof being not with it, he shall surely make it good’: this may imply that he is in his service either on both occasions or on one; in both cases he is free from responsibility. On the other hand, it is also written, ‘But if the owner thereof be with it, he shall not make it good’; this too implies whether he is not with him on both occasions or only on one, he is liable. [Hence this contradiction is] to teach you: If he was with him at the time of the loan, he need not have been with him at the time of the injury or death; but though he were with him at the time of the injury or death he must also have been with him when the loan was made.

But may I not reverse it? — It is logical that the time of the loan is stronger [in remitting liability], in that it brings it [the animal] into his possession. On the contrary, are not injury and death more likely [to cancel responsibility], since he then becomes [actually] liable for accidents? — Were there no loan, what would injury and death effect?[1] But if not for injury and death, what liability is imposed by borrowing?[2] — Even so, [the responsibility imposed by] borrowing is greater, since he thereby becomes responsible for his food.[3]

R. Ashi said: Scripture saith, ‘And if a man borrow aught of his neighbour,’ [implying, aught of his neighbour,] but not his neighbour with it [sc. the animal], then, ‘he shall surely make it good:’ hence, if his neighbour is with him [when he borrows], he is free from liability.[4] If so, what is the need of, ‘the owner thereof being not with . . . But if the owner thereof be with it’?[5] — But for these, I should have thought that this [sc. aught of his neighbour] is the ordinary Scriptural idiom.[6]

Rami b. Hama propounded: What [is the law] if he borrows it in order to commit bestiality therewith? Must the loan be as people generally borrow, whereas people do not borrow for such a purpose?[7] Or perhaps the reason is because of the pleasure [he derives from the loan]: in which case here too he has pleasure?[8] What [again, is the law] if he borrows it for appearance's sake?[9] Is it necessary that something of monetary value shall be lent,[10] which [condition is fulfilled] here? Or perhaps, something of monetary value, by which he [the borrower] directly benefits, is required — which is not [the case here]? What if he borrows it for work worth less than a perutah: must there be monetary value, and there is some? Or perhaps less than a perutah is of no account? What if he borrows two cows for a perutah's value of work? Do we say, consider[11] the borrower and lender, and there is [monetary value]? Or perhaps, the criterion is [the work of] the cows, and in [that of] each there is none?[12] What if he borrows from partners, one of whom lends himself to him? Must all its owners [be in the bailee's service], which condition is absent here? Or perhaps, he after all bears no liability for his half?[13] What if partners borrow, and he [the animal's owner] lends himself to one of them? Must there be [a pledge of service] to all the borrowers, which, however, is absent here? Or perhaps, for that half [of the partnership] to which he is pledged there is no responsibility? What if he borrows from a woman, and her husband pledges his service? Or what if a woman borrows, and he [the owner] lends himself to her husband?[14] Is a title to usufruct as a title in the principal itself,[15] or is it not?

Rabina asked R. Ashi: What if one says to his agent, ‘Go and loan yourself [for service] on my account, together with my cow;’ must there actually be its [sc. the bailment's] owner, which is absent here? Or perhaps, ‘a man's agent is as himself;’ hence the condition is fulfilled? — Said R. Aha, the son of R. Awia, to R. Ashi: As for the husband,[16] that is disputed by R. Johanan and Resh Lakish; with reference to an agent, that is disputed by R. Jonathan and R. Joshia.

‘As for the husband, that is disputed by R. Johanan and Resh Lakish.’ For it has been stated: If one sells his field to his neighbour for its usufruct, R. Johanan said: He must bring [the first fruits] and recite [the confession];[17] Resh Lakish maintained: He brings [the first fruits], but does not recite [the confession]. ‘R. Johanan said: He must bring [the first fruits] and recite [the confession]’ because he holds that a title to usufruct is equal to a title to the principal itself. ‘Resh Lakish maintained: He brings [the first fruits] but does not recite,’ — a title to usufruct is not as a title to the principal itself.[18]

‘With reference to an agent, that is disputed by R. Jonathan and R. Joshia.’ For it has been taught: If one says to his epitropos,[19] ‘All vows which my wife may vow from now until I return from such a place, annul for her,’ and he does so, I might think that they are annulled, therefore Scripture writes, Her husband may establish it, or her husband may make it void:[20] this is R. Joshia's view. R. Jonathan said: We find in the whole Torah that a man's agent is [legally] as himself.[21]

R. ‘Ilish asked Raba: What [is the law] if one says to his slave, ‘Go and loan yourself together with my cow’? The problem arises whether it be maintained that a man's agent is as himself or not. [Thus:] The problem arises on the view that a man's agent is as himself, for that may apply only to an agent who is subject to [Scriptural] commands, but not to a slave, who is not subject thereto.[22] Or, on the other hand, even on the view that a man's agent is not as himself, that may hold good of an [independent] agent, but as for a slave, ‘the hand of a slave is as the hand of his master’?[23] — He replied: It is logical that ‘the hand of a slave is as the hand of his master.’[24]

Rami b. Hama propounded: Does the husband rank as a borrower in his wife's property,

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(1) I.e., though the actual payment must be made on account of these, it is the fact of loan which conditions it.

(2) Surely, none at all!

(3) The point of the discussion is this. It is evident that Scripture remits liability when the owner is in the bailee's service. Hence the question is, what actually imposes that liability which is to be remitted? And the Talmud answers that it is the act borrowing, rather than injury or death, which imposes it, since borrowing certainly imposes another liability, viz., that of food.

(4) Thus, the verse itself intimates that the owner must not be with him, i.e., in his service, at the time of borrowing.

(5) Since, according to R. Ashi, it is intimated in the words he quotes.

(6) So that no deduction could be made from the ‘of’ with respect to of non-liability when owner is in the service of the bailee. Now, however, that such is explicitly stated, and, moreover, the apparent contradiction intimates that the owner must be in his service at a particular time, the beginning of the verse, cited by R. Ashi, shews that the time of borrowing is meant.

(7) Hence he is not liable for accidents.

(8) That the borrower is usually responsible for accidents.

(9) I.e., that he should be thought wealthy, and so obtain credit.

(10) In order to impose liability.

(11) Lit., ‘go’ according to’.

(12) This problem, of course, arises only on the supposition that a cow must do a perutah's worth of work.

(13) Sc. of the partner who pledged his service.

(14) The reference is to the class of property designated נכסי מלוג ‘goods of plucking’ — of which the husband enjoys the usufruct, whilst the principal belongs to the wife.

(15) In which case the husband and wife are partners, and so this will depend on the previous problem.

(16) I.e., the problem concerning him.

(17) V. supra, p. 518, n. 9. Though the usufruct only belongs to him, he can nevertheless say, And now, behold, I have brought the first fruits of the land, which thou, O Lord, hast given me (Deut. XXVI, 10).

(18) V. B.B. 136b.

(19) His general steward, appointed in loco domini.

(20) Num. XXX, 14.

(21) Hence the vows are annulled. The same reasoning applies to the problem under discussion.

(22) V. supra, 71b and 72a.

(23) I.e., having no independent existence, his actions are certainly like those of his master.

(24) Hence it is accounted as though the owner is in the borrowers service.

Talmud - Mas. Baba Metzia 96b

or as a hirer?[1] — Said Raba: His very subtlety has led him into error; what will you? If he ranks as a borrower, it is a loan when the owner is in his service; if a hirer, it is a hiring in similar circumstances?[2] — But when does Rami b. Hama's problem arise? If he hired a cow from her and then married her[3] — what [is the law] then? Does he rank as a borrower or as a hirer? Does he rank as a borrower, and so the [present] loan, when the owner is in his service,[4] abrogates hiring effected when the owner was not in his service? Or, perhaps, he ranks as a hirer, and the status of a hirer remains unchanged? But wherefore this differentiation? [If it is maintained that] should he rank as borrower, the borrowing effected when the owner is in his service cancels the hiring effected without the owner being engaged in his service, why not apply the same principle even if he is considered a hirer, and say that the [new] hiring effected with the owner in his service abrogates the [old] hiring effected without the owner's being in his service? — But when does Rami b. Hama's problem arise? E.g., if she hired a cow from a stranger[5] and then was married [not to the owner]. Now, on the view of the Rabbis, who maintain that the borrower must pay the hirer, there is no problem, for it is certainly a case of a loan plus the owner's service. Where the problem arises is on the view of R. Jose, who ruled, the cow must be returned to its first owner. [Hence the question,] what [is the law] then? Does he rank as a borrower or as a hirer?[6] — Said Raba: The husband ranks neither as a borrower nor as a hirer, but as a purchaser.[7] This follows from the dictum of R. Jose son of R. Hanina. For R. Jose son of R. Hanina said: In Usha it was enacted:[8] If a woman sells of her ‘property of plucking’ in her husband's lifetime, and then dies, her husband [as her heir] can claim it from the purchaser.[9]

Rami b. Hama propounded: When the husband [obtains the privilege of usufruct] in his wife's property [which belonged to hekdesh], who is liable to a trespass offering?[10] Raba [thereupon] observed: Who then should be liable to a trespass offering? The husband? He is willing to acquire a right in what is permitted, but not in what is forbidden! The wife?[11] But she [herself] does not [particularly] wish him [the husband] to acquire even what is permitted![12] The Beth din?[13] When did the Rabbis enact that the husband ranks as a purchaser, only in respect of what is permitted, not in respect of what is forbidden! — But, said Raba, the husband is liable to a trespass offering when he actually expends it, just as in general, when one withdraws money of hekdesh [and converts it] into hullin.

The scholars propounded: What if it [the borrowed animal] became emaciated through its work?[14] Said one of the Rabbis, R. Helkiah the son of R. Awia by name:[15] Then it follows that if it died through the work, he is certainly responsible. But let him say to him [the lender], ‘I did not borrow for exhibition in a show case!’[16] — But, said Raba, not only is it unnecessary to state that if it became emaciated through work he is not responsible, but even if it died through work, he is still not liable, because he can say, ‘I did not borrow it that it should stand in a showcase.’

A man once borrowed an axe from his neighbour, and it broke. When he came before Raba, he said to him, ‘Go and bring witnesses that you did not put it to foreign use, and you are free from liability.’ But what if there are no witnesses? — Come and hear: For a man once borrowed an axe from his neighbour, and it broke. When he came before Rab, he said to him, ‘Go and return him a good axe.’ Said R. Kahana and R. Assi to Rab:

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(1) It is assumed that the question is whether he is responsible for accidents when working with his wife's, ‘property of plucking,’ (q.v., p. 555, n. 4) or not, as a borrower or as a hirer respectively.

(2) Since the wife is pledged to her husband's service from the time of marriage.

(3) Or if he borrowed, etc., hiring being mentioned as the more usual (Tosaf.).

(4) As explained in n. 2.

(5) Lit., ‘from the world.’

(6) For this dispute of the Rabbis and R. Jose v. supra 35b Now, since the Rabbis maintain that the borrower is concerned only with the lender, not with the first owner, then in this case we consider only the husband's relationship to his wife, and therefore he is not responsible for accidents. But on R. Jose's view that the borrower is referred direct to the first owner, who, of course, is not in his service, the question is whether he ranks as a borrower, and is responsible for accidents, or as a hirer, who is not. In return for the usufruct the husband is bound to ransom his wife if captured, and that liability may give him the rank of a hirer in relation to his wife.

(7) Hence he is not liable

(8) Usha was a city of Galilee, near Shefar'am, Tiberias and Sepphoris, where an important Rabbinical synod was held on the cessation of the Hadrianic religious persecution, about the middle of the second century; v. B.B. (Sonc. ed.) p. 207, n. 3.

(9) Which proves that the husband is accounted a previous purchaser.

(10) E.g., if she inherited property after marriage, which included, unknown to her husband, money belonging to hekdesh (v. Glos.). By a Rabbinical enactment, the husband becomes a beneficiary in respect of the usufruct of anything inherited by his wife after marriage. Now, it was assumed that the very fact that the husband is empowered to spend this money for its usufruct is as though it were already removed from the possession of hekdesh, even if it has not been actually expended. Since such removal, if done unintentionally, imposes a liability to a trespass offering, Rami b. Hama asked upon whom it falls.

(11) For conferring the right upon her husband.

(12) The privilege was conferred upon him by a Rabbinical enactment, not by her desire.

(13) For conferring that privilege.

(14) Is the borrower liable for the loss in value or not?

(15) [This is the only instance where his name occurs.]

(16) Lit., to ‘be placed under a bridal canopy.’

Talmud - Mas. Baba Metzia 97a

is that the law?[1] Thereupon Rab was silent. And [indeed] the law agrees with R. Kahana and R. Assi, that he returns him the broken axe and makes up its full value.

A man borrowed a bucket from his neighbour, and it broke. When he came before R. Papa, he said to him, ‘Go and bring witnesses that you did not put it to foreign use, and you will be free from liability.’

A man borrowed a cat from his neighbour; the mice then formed a united party and killed it. Now, R. Ashi sat and pondered thereon: How is it in such a case? Is it as though it had died through its work, or not? Thereupon R. Mordecai said to R. Ashi: Thus did Abimi of Hagronia say in Raba's name: A man whom woman killed — [for him] there is no judgment nor judge![2] Others say: It ate many mice, whereby it sickened and died. Now, R. Ashi sat and cogitated thereon: How is it in this case? — Said R. Mordechai to R. Ashi: Thus did Abimi of Hagronia say: A man whom women killed[3] — for him there is no judgment nor judge.

Raba said: If a man wishes to borrow something from his neighbour and yet be free from responsibility, he should say to him, ‘Give me a drink of water,’ so that it constitutes a loan together with the owner's service. But if he [the lender] is wise, he should answer him, ‘[First] borrow it by threshing with it, and then I will give you a drink.’

Raba said: A teacher of children, a gardener,[4] a butcher, a cupper and a town barber[5] — all [if they lend something] whilst at work, are treated in regard to the loan as being in the service [of the borrower].

The scholars said to Raba: ‘You, Master, are loaned to us.’[6] This enraged him: ‘You wish to deprive me of my possessions!’[7] he exclaimed. ‘On the contrary, you are loaned to me! For I can change you over from one tractate to another, whilst you cannot!’[8] But neither was entirely correct. He was lent to them during the Kallah days,[9] whilst they were loaned to him for the rest of the year.

Meremar b. Hanina hired a mule to inhabitants of Be Hozae[10] and went forth to assist them in loading it, but through a negligent act on their part it died. When they came before Raba, he held them liable. His disciples objected: But it is negligence with the owner [in service]! So he was ashamed. Subsequently it was ascertained that he had gone forth to supervise the loading.[11] Now, on the view that for negligence with the owner in service there is no responsibility, it is well; for that reason he was ashamed. But on the view that one is liable, why was he ashamed? — They were not negligent with respect thereto, but it was stolen, and it died a natural death in the thief's possession; and they came before Raba, who ruled them responsible. Thereupon the Rabbis protested to Raba: But it was theft whilst the owner was in their service! But subsequently it was ascertained that he had gone out to supervise its loading.

MISHNAH. IF ONE BORROWS A COW, BORROWING IT FOR HALF A DAY AND HIRING IT FOR HALF A DAY; OR IF HE BORROWS IT FOR ONE DAY AND HIRES IT FOR THE NEXT; OR IF HE HIRES ONE AND BORROWS ANOTHER, AND ONE COW DIES, THE LENDER ASSERTING THAT THE BORROWED ONE DIED, OR IT DIED ON THE DAY WHEN IT WAS BORROWED,

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(1) Is not the law rather that the broken axe is returned and the loss made up? v. B.K. 10b.

(2) I.e., no redress. He is not worthy of being called a man! The same applies to a cat that is eaten by mice.

(3) Through excessive gratification.

(4) Who plants gardens for others on a percentage.

(5) [ספר others: a notary ספר cf. B.B. (Sonc. ed.) p. 106, n. 7.]

(6) I.e., ‘you are pledged to our service, to teach us.’

(7) I.e., ‘to borrow from me and be exempt from liability.’

(8) I.e., ‘I can select for subject of study any tractate I fancy, and you have not the right to protest.’

(9) Kallah, general assembly, refers to the months of Adar and Ellul, before Passover and the High Festivals respectively, when popular lectures were given on the coming Festivals. During this time the teacher was restricted to those particular subjects, and therefore stood in the service of his disciples. On Kallah v. B.B. (Sonc. ed.) p. 60, n. 7.

(10) V. p. 508, n. 2.

(11) To see that it was not overloaded. Hence he was not in their service at all, and so Raba's verdict was just.

Talmud - Mas. Baba Metzia 97b

OR DURING THE HOUR FOR WHICH IT WAS BORROWED; AND THE OTHER REPLIES, ‘I DO NOT KNOW’, HE MUST PAY. IF THE HIRER ASSERTS: THE HIRED ONE DIED, [OR], IT DIED ON THE DAY WHEN IT WAS HIRED, OR IT DIED DURING THE HOUR FOR WHICH IT WAS HIRED, AND THE OTHER REPLIES, ‘I DO NOT KNOW,’ HE IS NOT LIABLE. BUT IF ONE ASSERTS THAT IT WAS THE BORROWED ONE AND THE OTHER THAT IT WAS THE HIRED ONE, THE HIRER MUST SWEAR THAT THE HIRED ONE DIED [WHICH FREES HIM FROM LIABILITY]. IF THE ONE SAYS, ‘I DO NOT KNOW,’ AND THE OTHER SAYS, ‘I DO NOT KNOW,’ THEY MUST DIVIDE.[1]

GEMARA. Hence it follows, [that if A says to B,] ‘You owe me a maneh,’ and B pleads, ‘I do not know,’ he is bound to pay. Shall we say that this refutes R. Nahman? For it has been taught: [If A says to B,] ‘You owe me a maneh,’ and B pleads, ‘I do not know,’ R. Huna and Rab Judah rule that he must pay; R. Nahman and R. Johanan say: He is not liable! — It is as R. Nahman answered [elsewhere], e.g., there is a dispute between them involving an oath; so here too, it means that there is a dispute between them involving an oath.[2] What is meant by a dispute involving an oath? — As Raba's [dictum].

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(1) I.e., share the loss.

(2) I.e., his plea was such that he should have taken an oath, and being unable, since he said, ‘I do not know’, he must pay instead, but when A claims a maneh, and B simply answers, ‘I do not know’, he is not thereby liable to an oath, and hence is free altogether.

Talmud - Mas. Baba Metzia 98a

For Raba said: [If A says to B,] ‘You owe me a maneh,’ to which he replies, ‘I [certainly] owe you fifty [zuz], and as for the rest, I do not know,’ since he cannot swear,[1] he must pay [all]. [On these lines,] the first clause [of our Mishnah] is conceivable when two, and the second, when three [cows are involved]. [Thus:] ‘The first clause, when two [are involved].’ A said to B, ‘I gave you two cows, loaned for half a day and hired for half (or, [he says: they were] loaned for one day, and hired for another) and both died during the time they were borrowed.’ To which B replied, ‘One indeed did die then, but as for the other, I do not know whether it was during the time it was borrowed or the period of hire,’ — since he cannot swear, he must pay.

‘And the second clause, where three [cows are involved].’ [Thus:] A said to B, ‘I gave you three cows, two loaned and one hired, and the two loaned ones died.’ To which the borrower replied, ‘Tis true that one borrowed animal died; but as for the other, I do not know whether the borrowed one died and the one alive is the hired one, or the hired one died and the one alive is the borrowed;’ since he cannot swear, he must pay.

And according to Rami b. Hama, who maintained that the four bailees must partially deny and partially admit [liability],[2] the first clause is possible only when three, and the second when four [animals are involved]. ‘The first clause when three [are involved]’: A said to B, ‘I gave you three cows, half a day on loan and half on hire, (or, [he says, I gave you them] one day, on loan and one on hire,) and the three died, all in the period when they were borrowed.’ To which the borrower replied, ‘As for one, the claim is entirely unfounded [I never received it]; the second did die in the period when it was borrowed; of the third, I do not know whether it died during the time it was borrowed or the period when it was hired.' Since he cannot swear, he must pay.

'And the second clause, where four [animals are involved].' A said to B, 'I gave you four cows, three loaned and one hired, and the three loaned ones died.' To which the borrower replied,

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(1) As one who partly admits and partly denies liability; supra 3a.

(2) V. supra 5a; in his view, 'I do not know' does not constitute denial; only a plea such as 'I have returned that particular animal,' or 'I never received it.'

Talmud - Mas. Baba Metzia 98b

'As for one, the claim is entirely unfounded; with respect to the second, it is true that a borrowed one died; and as to the others, I do not know whether it was the hired one that died and the one alive is the borrowed one, or whether it was the borrowed one that died and the one alive is the hired one;' and since he cannot swear he must pay.

BUT IF ONE ASSERTS THAT IT WAS THE LOANED ONE, AND THE OTHER THAT IT WAS THE HIRED ONE, THE HIRER MUST SWEAR THAT THE HIRED ONE DIED. But why so? What he claims from him he does not admit; and what he admits he does not claim?[1] — Said 'Ulla: [He swears] through the superimposition [of an oath]. For he [the lender] can demand, 'You must at least swear that it died of natural causes; and since you must swear thus, swear also that the hired one died.'[2]

IF BOTH SAY, 'I DO NOT KNOW,' THEY MUST DIVIDE. Who is the author of this? — Symmachus, who ruled: When money lies in doubt, it is divided.[3]

R. Abba b. Mammel propounded: What [is the ruling] if the borrowing was made together with the owner's [service], but subsequently it [the bailment] was hired without the owner?[4] Do we say, the borrowing stands alone, and the hiring stands alone? Or perhaps the hiring is a continuation of the loan, since he is responsible for theft and loss?[5] And should you rule that hiring is a continuation of the loan, what if he hired it together with the owner's [service], and then borrowed it without the owner? Shall we say that borrowing is certainly not included in hiring?[6] Or perhaps, being partly related thereto, it is wholly related thereto. And should you rule that we do maintain that partial relationship is regarded as complete relationship, what if one borrowed it with the owners [service], hired it without the owner's, and borrowed it again [without the owner]? Does the borrowing revert to its former status? Or perhaps, the hiring breaks the connection? [Likewise,] if it was hired with the owner's [service], then borrowed, and then hired again [the last two without] — do we Say, the hiring reverts to its former status? Or perhaps, the intermediate borrowing breaks the connection? These problems remain unsolved.

MISHNAH. IF A MAN BORROWS A COW, AND HE [THE LENDER] SENDS IT TO HIM BY HIS SON, SERVANT OR AGENT; OR BY THE SON, SERVANT OR AGENT OF THE BORROWER, AND IT DIES [ON THE ROAD], HE IS NOT LIABLE. BUT IF THE BORROWER SAID TO HIM, 'SEND IT TO ME BY MY SON, SERVANT, OR AGENT,' OR 'BY YOUR SON, SERVANT OR AGENT, OR IF THE LENDER SAID TO HIM, 'I AM SENDING IT TO YOU BY MY SON, SERVANT OR AGENT,' OR 'BY YOUR SON, SERVANT OR AGENT, AND THE BORROWER REPLIED, 'SEND IT,' AND HE SENT IT, AND IT DIED [ON THE ROAD], HE IS RESPONSIBLE. AND THE SAME HOLDS GOOD WHEN HE RETURNS IT.[7]

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(1) Though the Mishnah was made to refer to a number of animals, that was only according to R. Nahman; whereas on the view of R. Huna and Rab Judah the Mishnah is literally understood. But in that case, there is no partial admission and partial rejection of the claim, the admission being in respect of something not claimed at all.

(2) גלגול שבועה , lit., ‘rolling oath,’ v. supra 3a. Thus, here, the lender can plead, ‘Even on your own plea, you must still swear that it died naturally, not through your negligence.’ (This answer rejects Rami b. Hama's ruling that no oath is imposed at all upon bailees, even when they plead loss, theft, death, etc., unless there is also partial rejection of the claim, as above.) Since the bailee is thus bound to swear, another oath, viz., that the hired one and not the borrowed one died, is administered. The superimposed oath is Biblical, v. Sot. 18a.

(3) v. supra 2b.

(4) I.e., whilst the animal was yet in the borrower's possession, he hired it for a further period; at the time of hiring, its owner was not in his service, though he was when the loan was made.

(5) I.e., by becoming a hirer, he adds nothing to the liabilities of a borrower, and since he bears this responsibility on account of the first meshikah as a borrower, his present responsibility is but a continuation of the first.

(6) Since there is greater responsibility in the former than in the latter.

(7) If the lender instructs him to send it back, the borrower is free from the risks of the road, but not otherwise.

Talmud - Mas. Baba Metzia 99a

GEMARA. If he sends it by his [sc. the lender's] servant, [why does the Mishnah state that] he is liable?[1] Is not the hand of the servant as the hand of his master?[2] — Said Samuel: This refers to a Hebrew servant, whose body does not belong to him [his master]. Rab said: It may refer even to a heathen servant, yet it is considered as though he [the borrower] said to him, ‘Strike it with a stick and it will come [to me].’[3]

An objection is raised: If one borrows a cow, and sends it to him [the borrower] by his son or agent, he is liable [for accidents on the road]; by his servant, he is not. Now, on Samuel's view it is well: our Mishnah refers to a Hebrew servant; the Baraitha to a heathen servant. But according to Rab, is there not a difficulty? — Rab can answer you: Do not answer [above], it is considered as though he said to him etc.; it means that he had [actually] said to him, ‘Strike it with a stick, and it will come.’[4] For it has been stated: [If A said to B,] ‘Lend me your cow;’ and he asked him, ‘By whose hand shall [I send it]?’ to which he replied, ‘Strike it with a stick, and it will come,’ said R. Nahman, in the name of Rabbah b. Abbuha in Rab's name: Once it leaves the lender's possession and it dies, he [the borrower] is responsible.

Shall we say that the following [Baraitha] supports him:[5] [If A said to B,] ‘Lend me your cow, and he asked him, ‘By whose hand [shall I send it]?’ to which he replied, ‘Hit it with a stick, and it will come:’ once it leaves the lender's possessions and it dies, he [the borrower] is responsible? — R. Ashi said: [No. For] we deal here with a case where the borrower's court was within the lender's, so that when he sends it, it will certainly go there.[6] If so, why state it? — It is necessary to state it only when there are narrow passages [in various directions in the courtyard]. I might think that he [the borrower] does not place full reliance [on its coming to him, for] perhaps it may stand there [sc. in a by-path] and not come to him: therefore we are taught that he places full reliance [that it will come].

R. Huna said: If a man borrows an axe from his neighbour and he cleaves [wood] therewith, he acquires it; if he does not cleave [wood] therewith, he does not acquire it. In what respect? Shall we say, in respect of [unavoidable] accidents?[7] But wherein does it differ from a cow, [for which he is responsible] from the time of the loan?[8] — Hence in respect of returning it. Once he cleaves [wood] therewith, the lender cannot retract;[9] if not, the lender can retract.

Now, he [R. Huna] is in conflict with R. Ammi. For R. Ammi said: If a man lends an axe belonging to the Sanctuary, he is liable for trespass in respect of its goodwill value, and his neighbour may use it[10] forthwith.[11] Now, if he [the borrower] does not acquire it [until he actually uses it], why is he [the lender] liable for trespass, and why may his neighbour use it forthwith? Let him return it, gain no title thereto, and so not be liable for trespass![12]

He [R. Huna] is also in conflict with R. Eleazar. For R. Eleazar said: Just as they [the Rabbis] instituted meshikah for purchasers,[13] so did they institute meshikah for bailees. It has been taught likewise: Just as they instituted meshikah for purchasers, so did they institute meshikah for bailees. And just as

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(1) If the borrower instructed him to send it.

(2) So that it is as though it had never left the lender's possession.

(3) And as soon as it leaves the domain of the owner, the responsibility rests on the borrower.

(4) I.e., in the Mishnah the borrower did instruct the lender to let it come of istelf, whereby he immediately assumed the risks of the road; and he is not freed of the liability merely because the lender sent his servant to accompany it.

(5) Rab.

(6) The borrower's courtyard led into the lender's; in that case he assumes responsibility. But if part of the highway is to be traversed, he would not assume responsibility. The Baraitha accordingly affords no support to Rab.

(7) I.e., he gains title thereto to be liable for unavoidable accidents.

(8) Even before use.

(9) But it belongs to the borrower for the whole period of the loan.

(10) Lit., ‘cleave therewith.’

(11) For unwittingly removing an article from the possession of the Sanctuary one had to pay thereto the principal plus a fifth of the value of the benefit of such removal. In this case, his benefit is only the goodwill of the borrower to whom he lent it, upon which a monetary value is placed. Further, having thus removed it from the possession of hekdesh, it becomes hullin (v. Glos.), and therefore the borrower may freely use it, at the very outset, as soon as it comes into his hand.

(12) Hence it follows that in R. Ammi's opinion it becomes the borrower's by the act of meshikah (v. Glos.), even before he uses it.

(13) As the means of gaining legal possession.

Talmud - Mas. Baba Metzia 99b

real estate is acquired by means of money, a deed, or hazakah,[1] so is hiring effected by the same means. But what has hiring to do [with these]?[2] — R. Hisda said: It refers to the renting[3] of real estate.

Samuel said: If a man robbed his neighbour of a cake of pressed dates containing fifty dates, which, sold together, bring fifty [perutahs] less one; whilst, sold separately, realise fifty perutahs, — in the case of secular property,[4] he must repay forty nine [perutahs]; in the case of hekdesh[5] he must pay fifty, plus the fifth thereof. This, however, is not so in the case of one who injures [property belonging to] hekdesh, for such a one does not add a fifth. For a Master stated: And if a man eat of the holy thing [unwittingly, then he shall put the fifth part thereof unto it etc.]:[6] this excludes one who injures [the holy thing]. To this R. Bibi b. Abaye demurred: In the case of secular property, why must he pay [only] fifty less one? Can he not say, ‘I would have sold them singly’? — R. Huna the son of R. Joshua replied: We learnt, The area of a se'ah[7] in that field is assessed.[8]

Shall we say that in Samuel's opinion the law appertaining to secular property is not the same as that of the [Most] High?[9] But we learnt: If he [the steward in charge of the sanctuary] took a stone or beam of hekdesh,[10] he is not guilty of trespass. If he gave it to his neighbour, he [the steward] is guilty of trespass, but not the latter.[11] If he built it into his house, he is not liable for trespass unless he dwells in [and enjoys the use of] it to the value of a perutah.[12] Now, R. Abbahu sat before R. Johanan and said in Samuel's name: This proves that if a man dwells in his neighbour's courtyard without his permission, he must pay him rent![13] — Did not R. Johanan observe to him,[14] Samuel retracted from that [inference]? But how do you know that he retracted from the latter; perhaps he retracted from the former?[15] — No: [he must have retracted from the latter,] in accordance with Raba's[16] dictum; for Raba said: Hekdesh without [its owner's] knowledge is as secular property with [its owner's] knowledge.[17]

Raba said: If carriers broke a shopkeeper's barrel of wine, which on a market day is sold for five [zuz], but on other days for four, if they make a return on the market day, they return a barrel of wine; but if on other days,[18] they must return five [zuz].[19] That, however, holds good only if he had no [other] wine for sale; but if he had [some left after the market], then he should have sold that. And they deduct the payment for his trouble and the value of the tapping.[20]

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(1) V. Glos.

(2) It was assumed that it refers to the hiring of movable property, in respect of which money, etc., does not effect possession.

(3) Lit., 'hiring.'

(4) Lit., 'to an ordinary man.'

(5) V. Glos. I.e., if he stole them from the sanctuary.

(6) Lev. XXII, 14.

(7) V. Glos.

(8) v. B.K. 55b. If an animal enters a field and eats part of the crops, the value of the crops themselves are not assessed for the purpose of damages, but the decrease in the sale value of the se'ah area in which the damage was done, — an assessment which is obviously less than the former. This shews that in respect to repayment a lenient attitude is taken, and the same applies here.

(9) I.e., hekdesh.

(10) Intending to put it to secular use.

(11) The steward is guilty of having removed it from the possession of hekdesh; for which very reason his neighbour is not guilty, since it is no longer hekdesh. Cf. p. 566, n. 5.

(12) Me'ii. 19b; v. B.K. 20b.

(13) Just as one is guilty of trespass in living under that beam, though the beam is so built in as to leave it unaltered, which shews that there is a debt due to hekdesh for this. Now, this inference of Samuel proves that he regards hekdesh and secular property on a par.

(14) [This is the reading of Bah; cur. edd.: 'R. Johanan said to him,' which Rashi omits; cf. B.K. 20b.]

(15) I.e., the law of stealing dates.

(16) Var. lec.: Rabbah's.

(17) I.e., if one makes use of hekdesh, even if the steward is ignorant thereof, he is just as liable as when one makes use of secular property and its owner knows and demands repayment. The reason is that the real owner of hekdesh is God, Who always knows. This proves that the two are not equal, and therefore Samuel is more likely to have retracted from the latter.

(18) After the market day.

(19) But he can refuse a barrel of wine, since he could have obtained a higher price on market day.

(20) The cost of making a bung hole for the wine to be drawn. According to another reading, the crier's fee, who announced that he had wine for sale, v. supra 40b.

Talmud - Mas. Baba Metzia 100a

MISHNAH. IF A MAN EXCHANGED A COW FOR AN ASS, AND IT CALVED; AND LIKEWISE IF HE SOLD HIS MAIDSERVANT, AND SHE BORE A CHILD, THE ONE MAINTAINING, 'IT WAS BEFORE I SOLD HER,' WHILST THE OTHER SAID, 'IT WAS AFTER I BOUGHT HER' — THEY MUST DIVIDE.[1] IF HE [THE VENDOR] HAD TWO SERVANTS, ONE AN ADULT AND THE OTHER A CHILD; OR LIKEWISE TWO FIELDS, ONE LARGE AND ONE SMALL, THE PURCHASER MAINTAINING, 'I BOUGHT THE LARGE ONE,' WHILST THE OTHER SAYS, 'I DO NOT KNOW,' HE ACQUIRES THE LARGE ONE. IF THE VENDOR SAYS, 'I SOLD THE SMALL ONE,' AND THE OTHER SAYS, 'I DO NOT KNOW,' HE RECEIVES ONLY THE SMALL ONE. IF ONE [THE VENDEE] CLAIMS THAT IT WAS THE LARGE ONE, AND THE OTHER THAT IT WAS THE SMALL ONE, THE

VENDOR MUST SWEAR THAT HE HAD SOLD THE SMALL ONE. IF THIS ONE SAYS, ‘I DO NOT KNOW,’ AND THE OTHER SAYS, ‘I DO NOT KNOW,’ THEY MUST DIVIDE.

GEMARA. Why should they divide? Let us see in whose possession it [sc. the calf or child] is, and then apply to the other the principle, He who claims from his neighbour has the onus of bringing proof? — R. Hiyya b. Abin said in Samuel's name: It means that it [the calf] was standing in a meadow; the maidservant, too, was in the market-stand.[2] Then let us presume the ownership of the first master, and apply to the other the principle, He who claims from his neighbour bears the onus of proof?[3] — This agrees with Symmachus, who ruled: When the ownership of property is in doubt, it is divided [among the claimants] without an oath. Now, when did Symmachus rule thus? Where [each] claimant pleads, ‘Perhaps [it is mine];’ but did he maintain it likewise when each states, ‘[I am] certain’?[4] — Said Rabbah son of R. Huna: Even so: Symmachus ruled thus even when each states ‘[I am] certain.’ Raba said: In truth, Symmachus ruled thus only when each pleads, ‘perhaps,’ but not when each states, ‘[I am] certain:’ but read [in the Mishnah]: The vendor maintains, ‘Perhaps it was before I sold [her],’ and the vendee, ‘Perhaps it was after I bought [her].’

We learnt: IF THIS ONE SAYS, ‘I DO NOT KNOW, AND THE OTHER SAYS, ‘I DO NOT KNOW,’ THEY MUST DIVIDE. Now, on Raba's view, it is well; since the last clause refers to when both state ‘perhaps’, the first may likewise refer to a case where both plead ‘perhaps’. But according to Rabbah son of R. Huna, who maintained: Indeed, Symmachus ruled thus even when both plead ‘certain’ — if they divide even on certain claims,[5] is it necessary to teach it when their claims are uncertain? — As for that, it is no argument. The last clause is stated in order to throw light on the first: [viz.,] that you should not say that the first clause refers [only] to a doubtful plea on both sides, but where both contend with certainty, it is not so;[6] therefore the last clause teaches the case of ‘perhaps’, on the part of both, from which it follows that the first refers to a plea of certainty by both;[7] and even then, they must divide.

We learnt: IF ONE [THE VENDEE] CLAIMS THAT IT WAS THE LARGE ONE, AND THE OTHER [THE VENDOR] THAT IT WAS THE SMALL ONE, THE VENDOR MUST SWEAR THAT HE HAD SOLD THE SMALL ONE. Now, on Raba's view, that Symmachus gave his ruling only where each [claimant] is uncertain, but not when they are both positive, it is well: hence he must swear.[8] But according to Rabbah son of R. Huna, who maintained that the ruling of Symmachus does indeed hold good even when both are positive, why should the vendor swear? Let them divide! — Symmachus admits [that one must swear] where an oath is necessary by Biblical law, as we interpret this below.

IF HE HAD TWO SERVANTS, ONE AN ADULT AND THE OTHER A CHILD, etc. Why should he swear? What he claims he does not admit, and what he admits he does not claim?[9] Moreover, it is a case of ‘Here it is’?[10] Moreover, an oath is not taken with respect to slaves?[11] — Rab said: It means that he demands money: [the vendee claims] the price of an adult slave, whilst [the vendor offers] the value of a child slave; similarly, the value of a large field and that of a small one [are involved].[12] Samuel said: It means that he [the purchaser] claims raiment for an adult slave, and the vendor offers raiment for a child slave;[13] or [the dispute concerns] the sheaves of a large field and those of a small one.

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(1) When a man buys an animal, it does not become his even after payment, until he performs meshikah. Hence there is no possibility of conflict, since it must be known whether it had calved before or after meshikah. But when an exchange is made, as soon as meshikah is performed on one animal the complete exchange is effected on both. Hence the dispute could arise with respect to the cow only in the case of an exchange. But in respect of the maidservant the dispute is possible even in the case of a sale, because possession of her is effected by paying the purchase price.

(2) A narrow path adjoining the open road where slaves, cattle, etc., are sold. Thus they were in neither's possession. The Talmud could have answered that they were standing in the street, but, it is unusual to be in the street for a lengthy time

(Tosaf.).

(3) For when the ownership of an object is in dispute, one may presume that it has not changed hands, unless there is proof to the contrary.

(4) As in the Mishnah, v. supra 3b, and B.K. 38b.

(5) Since, on his view, the first part of the Mishnah refers to such.

(6) I.e., they do not divide.

(7) As it is superfluous to state two identical clauses.

(8) Since they were both positive.

(9) V. supra pp. 19 and 563, n. 1.

(10) Helak, v. supra p. 13. n. 5. When the vendor admits the sale of the child, he offers it immediately to the claimant, and there is a view that in such case there is no oath.

(11) V. Shebu. 42b.

(12) Hence all three difficulties are removed: with respect to the second, the vendor admits that he owes the value of a child slave, etc., but does not immediately offer it.

(13) Where the purchase of raiment for a slave is in dispute.

Talmud - Mas. Baba Metzia 100b

. [You say] ‘Raiment’, but [surely] what he claims he does not admit, and what he admits he does not claim! — Even as R. papa said [below], when it is on the roll; so here too, when it is on the roll.[1] Now, this presented a difficulty to R. Hoshaia:[2] does then the Mishnah state ‘raiment’? It states ‘a slave’! — But, said R. Hoshaia, it means, e.g., that he claimed a slave together with his raiment, or a field with its sheaves. But still the difficulty remains: With respect to raiment, what he claims he does not admit; and what he admits he does not claim! — Said R. papa: It refers to cloth on the roll.[3] This presented a difficulty to R. Shesheth: Does he [the Tanna] wish to teach us that [movable property] binds [immovable]? But we have already learnt it: Unsecured chattels bind secured property in respect of an oath![4] — But, said R. Shesheth, [the Tanna of the Mishnah] is R. Meir, who maintained that a slave ranks as movable chattels. But the difficulty still remains: what he claims he does not admit; what he admits he does not claim. — He [the Tanna] is of R. Gamaliel's opinion. For we learnt: If he [the plaintiff] claims wheat, whilst the other [the defendant] admits [owing] barley, he is free [from an oath]. R. Gamaliel held him liable. Yet even so, it is still a case of ‘Here it is!’ — Said Raba: In the case of the slave [which he admitted], he [the seller] had cut off his hand; and in the case of the field, he had dug in its pits, ditches, and cavities.[5]

But are we not informed that R. Meir holds the reverse? For we learnt: If a man took by violence a cow, and it aged, or slaves, and they aged, he must pay their value at the time of the robbery.[6] R. Meir said: In the case of slaves he can say to him [the owner], ‘Behold, here is yours before you!’[7] — That is no difficulty. It is as Rabbah b. Abbuha[8] reversed [the Mishnah] and read: R. Meir said: He must pay their value at the time of the robbery; but the Sages ruled: In the case of slaves he can say to him [the owner], ‘Behold, here is yours before you.’ But [there is this difficulty]: How do we know that R. Meir holds that real estate is equated to slaves: just as an oath is taken for slaves, so also is an oath taken for real estate? Perhaps [in his opinion] there is an oath only in respect of slaves, but not for immovable property?[9] — You cannot think so. For it has been taught : If a cow is exchanged for an ass, and it calved; likewise, if one sells his maidservant, and she bore a child, one says, ‘It happened in my possession,’ and the other is silent, the former acquires it. If each says, ‘I do not know,’ they divide; if each pleads, ‘It happened in my ownership,’ the vendor must swear that she bore whilst in his possession, because all who take an oath in accordance with Scriptural law, swear to be freed from liability:[10] this is R. Meir's view. But the Sages rule: No oath is taken in respect of slaves or lands.[11] Surely then it follows that in R. Meir's opinion an oath is taken [even on lands]. But how is this to be inferred? perhaps they argue by analogy:[12] Just as you admit to us in the matter of lands [that there is no oath], so should you admit in respect to slaves? The proof[13] is this: We learnt, R. Meir said: Some things are similar to real estate, yet do not rank as such; but the Sages dispute it. E.g., [If A claims from B,] ‘I delivered you ten laden vines,’ and B replies, ‘There were only five,’ — R. Meir makes him liable; but the Sages say: That which is attached to the soil is as the soil.[14] Whereon R. Jose son of R. Hanina said: They differ with respect to grapes which are ready for vintaging: one Master [sc. R. Meir] regards them as already vintaged;[15] whilst the other maintains that they are not as already vintaged! But after all, it must be explained as R. Hoshaia:[16] and as to your difficulty, ‘[does the Tanna wish to teach that movable property] binds [immovable]?’ It is necessary. For I might think that a slave's garment is as the slave himself; likewise the sheaves of a field are as the field itself:[17] therefore we are taught [otherwise].

‘If each says, "I do not know," they must divide.[18] With whom does this agree? With Symmachus, who ruled: When the ownership of property is in doubt, it is divided. Then consider the latter clause: ‘If each pleads, "It happened in my ownership," the vendor must swear that she bore whilst in his possession.’ Now according to Rabbah son of R. Huna, who maintained: Indeed, Symmachus gave his ruling even where both make positive statements; why should he swear? Surely they ought to divide! — Symmachus admits [that one must swear] when an oath is required by Biblical law; [the circumstances being] that he [the owner] had cut off her [sc. the slave's] hand, and in accordance with Raba's explanation.[19]

MISHNAH. IF ONE SELLS HIS OLIVE TREES FOR THEIR WOOD,[20] AND THEY YIELD LESS THAN A QUARTER LOG [OF] OIL] PER SE'AH [OF OLIVES],[21] IT IS THE PURCHASER'S.[22] BUT IF THEY PRODUCED [OLIVES YIELDING] A QUARTER LOG [OF OIL] PER SE'AH, ONE [THE PURCHASER] CLAIMING, ‘MY OLIVE TREES PRODUCED THEM;’ AND THE OTHER [THE VENDOR] MAINTAINING, ‘IT WAS MY LAND WHICH CAUSED THE YIELD,’ THEY MUST DIVIDE. IF THE RIVER SWEPT AWAY A MAN'S OLIVE TREES AND DEPOSITED THEM IN HIS NEIGHBOUR'S FIELD [AND THERE THEY PRODUCED OLIVES] [AND] ONE MAINTAINS, ‘MY OLIVE TREES PRODUCED THEM,’ WHEREAS THE OTHER CLAIMS, ‘MY LAND CAUSED THE YIELD,’ THEY DIVIDE.

GEMARA. How is it meant? If he stipulated, ‘Cut [them] down immediately,’ then even [if the oil yield is] less than a quarter log [per se'ah], it should belong to the landowner; whilst if he stipulated, ‘Cut [them] down whenever you desire,’ even when it is a quarter log, it ought to be the purchaser's? — It is necessary to state this only when he made no stipulation: [in which case] when there is less than a quarter log, one is not particular;[23] when [however] there is a quarter log, people are particular. R. Simeon b. Pazzi[24] said: The quarter log that was stated

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(1) I.e., not the actual garment is in dispute, but the amount of cloth; one says it was for an adult slave; the other, that it was for a child slave.

(2) [Read with MSS.: Rab Hoshaia; Cur. edd.: R(abbi) Hoshaia.]

(3) Though no oath is administered on real estate and slaves, yet where an oath is due on account of movable property, one is administered for the former too (v. p. 11, n. 3).

(4) ‘Unsecured’ and ‘secured’ refer to movable and immovable property respectively. V. preceding note.

(5) Subsequent to the transaction, so that he does not offer immediately all he has admitted, as he would have to make the damage good.

(6) B.K. 95a. Because when he committed the theft, they passed into his possession, and there and then the liability for repayment fell upon him.

(7) Because slaves, like real estate, cannot be stolen, i.e., they never quit the original ownership through theft, and are considered to be, and grow old, in the legal possession of their rightful owner. This contradicts what has been stated, namely, that R. Meir treats slaves as movables.

(8) [Read with MSS.: Rab; v. B.k,. 96b.]

(9) Whilst our Mishnah states that an oath is administered when it is disputed which field was sold, so that our Mishnah cannot after all represent the view of R. Meir.

(10) I.e., the plaintiff is not permitted to swear to sustain his claim, but only the defendant, in order to refute it.

(11) B.K. 96b.
(12) Lit., ‘perhaps they say to him, "just as".’
(13) That R. Meir agrees that there is no oath for lands.
(14) Shebu. 44b.
(15) Hence he says, they are similar to land, in that they are attached thereto, yet do not rank as such, being regarded as already vintaged hence detached, and subject to the laws of oaths. — This shews that for land itself there is no oath, in R. Meir's opinion.
(16) [V. supra p. 571, n. 6. The reading,’Rab Hoshaia’ is confirmed here by MSS.M.]
(17) Hence there should be no oath.
(18) The quotation is from the Baraitha, not the Mishnah, as is seen from the second clause quoted, which is absent in the Mishnah.
(19) Supra p. 572.
(20) I.e., that the purchaser should cut them down for wood.
(21) I,e., they were left in the soil for some time, and produced very inferior olives, in a se'ah of which there was less than a quarter log of oil.
(22) Lit., ‘they belong to the owner of the olive trees.’
(23) About the benefit derived by the purchaser from his soil.
(24) Var. lec.: b. Lakish.

Talmud - Mas. Baba Metzia 101a

is exclusive of expenses.[1]

IF THE RIVER SWEPT AWAY A MAN'S OLIVE-TREES. ‘Ulla said in the name of Resh Lakish: This was stated only if they were uprooted together with their clods of earth, and after three years [of having been swept away]; but within the three years, it all belongs to the owner of the olive trees, for he can say to him [the landowner]: ‘Had you planted them, could you have eaten of them within three years?’[2] But cannot he answer: ‘Had I planted them, I would have enjoyed the whole of their usufruct after three years; whereas now you share it with me?’[3] But, when Rabin came,[4] he said in the name of Resh Lakish: This holds good only if they were uprooted together with their clods, and within three years; but after three years, it all belongs to the field-owner. For he can say to him, ‘Had I planted them myself, would I not have enjoyed their entire usufruct after three years?’[5] But let him answer: ‘Had you planted them, you could not have enjoyed anything at all within three years, whereas as it is, you share half with me!’ — Because he can retort, ‘Had I planted, they would have been small, and I could have sown beets and vegetables under them.’[6]

A Tanna taught: If he said, ‘I wish to take my olive trees,’ he is not heeded. Why? — R. Johanan said: That Palestine may be well cultivated. Said R. Jeremiah: For such an answer a master is necessary.[7]

We learnt elsewhere: R. Judah said: If one leases a field of his father's from a heathen,[8] he must tithe [all the crops] and then give him [the heathen] his share.[9] Now, the scholars understood it thus: What is meant by ‘a field of his fathers’ is Palestine. And the reason it is called the ‘field of his fathers’ is because it is a field of Abraham, Isaac and Jacob. And he [R. Judah] holds: A heathen cannot acquire a title in Palestine to free [the crops] from tithes; also, one who leases [on a percentage] is as a renter [at a fixed rent]: just as a renter must tithe crops and pay him, whether the field produces or not,[10] because it is as repaying a debt: so also, he who leases a field is as though he were settling a debt: and therefore must first tithe the crops and then pay him. R. Kahana said to R. Papi — others state, to R. Zebid: But what of [the Baraitha] that was taught: R. Judah said: If one leases a field of his fathers from a heathen oppressor,[11] he must tithe [the crops] and pay him [his percentage] — why particularly from an oppressor? Does not the same hold good even if he is not an oppressor? — But in truth, a heathen can acquire a title in Palestine to free [crops] from tithes, whilst a lessee is not as a renter, and ‘a field of his fathers’ is meant quite literally.[12] But him [the son] the Rabbis penalised,[13] because since it is more precious to him [than to others], he will go and lease it [on such disadvantageous terms]; whereas others would not [accept it on such terms].[14] But why did the Rabbis penalise him? — R. Johanan said: In order that it might come absolutely into his possession.[15] Said R. Jeremiah: For such an answer a master is needed. It has been stated: If one enters his neighbour's field and plants it without permission, Rab said: An assessment is made, and he is at a disadvantage.[16] Samuel said: We estimate what one would pay to have such a field planted. Said R. Papa: There is no conflict. The latter [Samuel] refers to a field suitable for planting;[17] the former [Rab] to a field unsuitable for planting.

Now, this ruling of Rab was not explicitly stated, but inferred from a general ruling. For a man came before Rab.[18] ‘Go and assess it for him,’ said he.[19] He demurred, ‘But I do not desire it.’[20] Said he to him, ‘Go and assess it for him, and he shall be at a disadvantage.’ ‘But I do not desire it,’ he reiterated. Subsequently he saw that he had fenced and was guarding it, whereupon he said to him, ‘You have revealed your mind that you desire it. Go and assess it for him, and he [the planter] shall be at an advantage.’

It has been stated: If one enters his neighbour's ruins and rebuilds them without permission, and then says to him, ‘I want my timber and stones back’ — R. Nahman said: His request is granted. R. Shesheth said: His request is not granted.

An objection is raised: R. Simeon b. Gamaliel said: Beth Shammai maintain, His request is granted; Beth Hillel hold, It is not granted. Shall we then say that R. Nahman ruled in accordance with Beth Shammai![21] — He agrees with the following Tanna. For it has been taught: His request is acceded to: this is the opinion of R. Simeon b. Eleazar. R. Simeon b. Gamaliel said: Beth Shammai maintain, His request is granted; Beth Hillel, It is not.[22]

What is our decision on the matter? — R. Jacob said in R. Johanan's name:

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(1) I,e., after deducting the cost of gathering and pressing, there remains the value of a quarter log of oil per se'ah of olives.

(2) The fruit of a tree may not be eaten within the first three years of planting (v. Lev. XIX, 23). Further, if an old tree is swept away together with the clods of earth in which it grew, and deposited elsewhere and takes root; if these clods were sufficient for its subsequent growth, it still ranks as an old tree, and the three-year prohibition does not apply (v. ‘Orl. I, 3); otherwise it does, the trees being regarded as newly planted. Hence Resh Lakish observes on the Mishnah: Only when the trees are swept away with their clods, and three years have passed, is the field-owner entitled to half; because had he planted them, when first swept away, with their clods, the three year prohibition would already have ended, and he can consequently claim that the tree-owner benefits from his soil. But within three years he has no claim at all, since it is only in virtue of their own clods that the fruit is permissible, and so no benefit at all is derived from the new soil.

(3) And in virtue of this, he is entitled to half within three years too.

(4) From Palestine to Babylon.

(5) Whilst the cost of buying young olive trees for planting is trifling, and insufficient to justify half of the present usufruct going to the owner of the olive trees (Tosaf.). — The same applies above.

(6) ‘But with your olive trees being large, with spreading roots, I lost the entire use of the soil.’

(7) Without R. Johanan one would not have conjectured it.

(8) On a fixed percentage.

(9) Dem. VI, 2.

(10) The rent being paid in crops.

(11) [מציק , As a result of the Roman War Vespasian had declared fields in Judea his private property and distributed them among his soldiers from whom the original owners had finally to lease them. V. Buchler, Der gal. ‘Amh. p. 35, and Klein, S. NB p. 12ff.]

(12) And it means that the Gentile had stolen it from his ancestral field.

(13) That he must tithe the whole field, and then give the Gentile his percentage of the whole harvest, as before tithing.
(14) Therefore, others were not required to tithe the whole.
(15) Finding the terms so onerous, he will be induced to buy it back.
(16) He is paid for the cost of planting or for the improvements, whichever is less.
(17) Trees, rather than for sowing.
(18) In a case similar to the foregoing.
(19) I.e., go and assess the value of the trees he planted.
(20) 'I wish to grow cereals, not plant trees.'
(21) It is a general principle that in every dispute between Beth Shammai and Beth Hillel, the halachah is as the latter.
(22) But according to R. Simeon b. Eleazar there is no dispute, and R. Nahman agrees with him.

Talmud - Mas. Baba Metzia 101b

In the case of a house, his demands are ignored; in the case of a field,[1] they are granted. Why so in the case of a field? — For the sake of the cultivation of Palestine. Others say: Because of the impoverishment of the soil.[2] Wherein do they differ?[3] — In respect to the Diaspora.[4]

MISHNAH. IF ONE RENTS A HOUSE TO HIS NEIGHBOUR IN WINTER, HE CANNOT EVICT HIM FROM THE FESTIVAL[5] UNTIL PASSOVER. IN SUMMER, [HE CANNOT EVICT HIM FOR] THIRTY DAYS. IN LARGE CITIES, WHETHER IN SUMMER OR IN WINTER, [THE PERIOD IS] TWELVE MONTHS. BUT WITH RESPECT TO SHOPS, WHETHER IN TOWNS OR IN LARGE CITIES, [HE NEED NOT QUIT FOR] TWELVE MONTHS.[6] R. SIMEON B. GAMALIEL SAID: A BAKER'S SHOP AND A DYER'S SHOP ARE FOR THREE YEARS.

GEMARA. Why is it different in winter? Because when one rents a house in winter it is for the whole of the winter![7] Then does not the same apply to summer, for when one rents a house it is for the whole summer? — But as for winter, this is the reason, because houses are not available for renting.[8] Then consider the second clause: BUT IN LARGE CITIES, WHETHER IN SUMMER OR IN WINTER, [THE PERIOD IS] TWELVE MONTHS. Hence, if this period expires in winter, he can evict him — but why, seeing that no house is available for renting? — Said Rab Judah: This refers to the notice that must be given. And this is what it [the Mishnah] teaches: If one rents his house to his neighbour for an unspecified period, he cannot evict him in winter [if the year expires then] between the Festival and Passover, unless he gave him notice [in the summer] thirty days before. It has been taught likewise: When they [the Sages] said thirty days or twelve months, it was only in respect of notice. And just as the landlord must inform him [that he will not renew the lease], so must the tenant give notice [that he will not re-rent it]. For otherwise he can say to him, 'Had you notified me, I would have taken the trouble to find a good tenant for it.'[9]

R. Assi said: If it [the lease] entered one day into winter, he cannot evict him from the Festival until Passover.[10] But we learnt: THIRTY DAYS! — He means thus: If one of these thirty days fell in winter, he cannot evict him from the Festival until Passover.[11] R. Huna said: Yet if he wishes to increase the rent, he can do so.[12] R. Nahman demurred: This is like holding him by the secrets to force him to give up his cloak![13] But this [that he can raise the rent] holds good only if house rents advanced [in general].

Now, it is obvious that if his own [sc. the landlord's] house fell in, [and no notice to quit had been given,] he can say to him, 'You are no better than I.'[14] If he sold, rented, or gifted it [to another], he [the tenant] can say to him [the new owner], 'You are no better than the man whence you derive your rights.'[15] If he appointed it a home for his son after marriage,[16] we consider [the matter], if it were possible for him [the landlord] to have informed him [that it would be needed for his son], then he should have informed him.[17] But if not, he can say to him, 'You are no better than I.'[18]

A man once bought a boat-load of wine. Having nowhere to store it, he asked a certain woman, ‘Have you a place for renting?’ She replied, ‘No.’ So he went and married her, whereupon she gave him a place for storage. He then went home, wrote a divorce, and sent it to her. So she went, hired carriers against that itself,[19] and had it put out in the road. Said R. Huna, son of R. Joshua: As he did, so shall be done unto him, his requital shall recoil upon his head. Not only if it is not a courtyard that stands to be rented; but even if it is a courtyard that is for renting, she can say to him, ‘To anybody else I am willing to rent it, but not to you, because you appear to me like a lion in ambush.’

R. SIMON B. GAMALIEL SAID: A BAKER'S SHOP AND A DYER'S SHOP ARE FOR THREE YEARS. It has been taught: Because they give very much credit.

MISHNAH. IF ONE RENTS A HOUSE TO HIS NEIGHBOUR, THE LANDLORD MUST PROVIDE THE DOOR, DOOR-BOLT, LOCK, AND EVERYTHING WHICH REQUIRES A SKILLED WORKER. BUT WHAT DOES NOT REQUIRE A SKILLED WORKER MUST BE DONE BY THE TENANT. THE DUNG BELONGS TO THE LANDLORD, AND THE TENANT IS ENTITLED ONLY TO THAT WHICH ISSUES FROM THE OVEN OR THE POT RANGE.[20]

GEMARA. Our Rabbis taught: If a man rents a house to his neighbour, the landlord must erect doors, make the windows, strengthen the ceiling, and support the joists.[21] The tenant must provide the ladder [for ascending to the loft] parapet,[22] fix a gutterspout,[23] and plaster his roof.

R. Shesheth was asked: Who must provide the mezuzah?[24] Is then the mezuzah a problem? Did not R. Mesharsheya Say: The obligation of the mezuzah lies upon the inhabitant? But [the question is,] who must provide the place for the mezuzah?[25] — Said R. Shesheth to them: We have learnt it: BUT WHAT DOES NOT REQUIRE A SKILLED WORKER, MUST BE DONE BY THE TENANT; and this too requires no skill, [for] it can be [placed]

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(1) I.e., if one plants his neighbour's field without permission, and then desires to remove the plants.

(2) The plants, in drawing their sustenance from the soil, have impoverished it, and the owner of the field is entitled to some compensation.

(3) These two answers.

(4) The first reason does not hold good there, and so his request is acceded to; the second does, hence it is ignored.

(5) ‘The Festival’, without a qualifying epithet, always means the Festival of Tabernacles.

(6) Because the shopkeeper gives credit, and he may lose it if he moves frequently.

(7) It being assumed at this stage that ‘in winter’ means ‘for winter.’

(8) I.e., ‘in winter’ and ‘in summer’ are meant literally, as the time of renting, the period being unspecified.

(9) Therefore he must pay him damages.

(10) This was assumed to mean, if the year expired even one day in winter, he cannot be evicted the whole winter, irrespective of any notice given.

(11) I.e., the whole of the thirty days’ notice must fall in summer.

(12) Though he cannot evict him without due notice, he can nevertheless raise the rent at the expiration of the year without it.

(13) To permit him to raise the rent is the same as permitting him to evict.

(14) The tenant must quit the house at the end of the year, because the fact that no houses are available operates now just as strongly in the landlord's favour, for he too could not have known that his house would fall in.

(15) Lit., ‘come’. I.e., just as he could not have evicted me, so you cannot either.

(16) So Rashi; Jast.: he gave it to his son as a bridal room,

(17) Otherwise, he cannot evict him.

(18) So he must quit.

(19) To pay them out of that very wine,

(20) I.e., the ashes, which, like the dung, were valuable as manure. This is discussed in the Gemara.

(21) If these became damaged.
(22) Round the roof of the house; v. Deut. XXII, 8.
(23) Rashi: a board that was placed near the eaves to carry off the water. Jast.: a detachable tube for that purpose. It was a simple affair, for the fixing of which no skill was required.
(24) V. Glos.
(25) It was fixed on the doorpost, in which, if of stone, a cavity was made to contain it. Now, who must make this cavity?

Talmud - Mas. Baba Metzia 102a

in a woodentube.[1]

Our Rabbis taught: If one rents a house to his neighbor, the tenant must provide a mezuzah. But when he quits it, he must not take it with him, excepting if it be leased from a Gentile, in which case he must remove it when he quits. And it once happened that a man took it away with him, and he lost[2] his wife and two children. A story is quoted in contradiction![3] — Said R. Shesheth: It refers to the first clause.[4]

THE DUNG BELONGS TO THE LANDLORD, AND THE TENANT IS ENTITLED ONLY TO THAT WHICH ISSUES FROM THE OVEN OR THE POT RANGE. To what does this refer? Shall we say, to a courtyard which was rented to the tenant, and to oxen belonging to the tenant, then why is it [the dung] the landlord's? But if a courtyard which was not leased to the tenant,[5] and the landlord's oxen are meant, is it not obvious? — It is necessary to teach this only in respect of a courtyard belonging to the landlord and oxen that had strayed thither from elsewhere.[6] Now, this supports R. Jose son of R. Hanina, who said: A man's courtyard effects a title on his behalf even without his knowledge.[7]

An objection is raised: If a man declared, ‘Any lost property that may enter therein to-day, let my courtyard effect possession thereof on my behalf,’ his declaration is valueless. Now if R. Jose son of R. Hanina's ruling, that a man's courtyard effects a title on his behalf even without his knowledge, is correct, why is his declaration valueless? — The reference here is to an unguarded courtyard.[8] If so, consider the second clause: If a rumour was spread in town that he had found something,[9] his declaration holds good. Now if it is an unguarded courtyard, what if such a rumour did spread? — Since a rumour was spread, people keep aloof from it [in recognition of his ownership], and so it becomes as a guarded courtyard.

An objection is raised: The manure [i.e., the ashes] which comes forth from the oven and the pot-range, and that which is caught from the air,[10] belong to him [the tenant]; but that of the stable and the courtyard, to the landlord.[11] Now if R. Jose son of R. Hanina's dictum is correct, [viz.,] that a man's courtyard effects a title for him even without his knowledge, then when he [the tenant] catches it up from the air, why does it belong to him? Is it not the air of his [the landlord's] courtyard?[12] — Abaye answered: It means that he fastened a utensil to the body of the cow.[13] Raba answered: [An object in] the air, in which it is not destined to come to rest, is not regarded as at rest.[14] But does Raba regard this as certain? Did he not propound: What if one threw a purse by one door and it issued from another — is [an object in] the air, in which it is not destined to come to rest, regarded as at rest, or not?[15] — In that case, there is nothing whatsoever to stop it;[16] but here a utensil is interposed.

‘But that of the stable and the courtyard [belongs] to the landlord.’ Need both be taught?[17] — Abaye said: It means thus: But that of the stable in the courtyard belongs to the landlord.[18] Said R. Ashi: From this it follows that he who rents his courtyard in general terms does not rent the stable therein.

An objection is raised: [Wild] doves of the dovecote, and doves of the loft,[19] are subject to the laws of sending away,[20] and are forbidden as robbery, [but only] for the sake of peace.[21] Now if R. Jose son of R. Hanina's dictum, that a man's courtyard effects a title on his behalf without his knowledge, is correct, then apply here the verse, If a bird's nest chance to be before thee,[22] excluding that which is [always] at thy disposal![23] — Raba explained: As for the egg, when the greater part of it has issued [from the body of the fowl], it is subject to the law of sending away,[24] whilst he [the owner of the court] does not acquire it until it falls into the courtyard; and when it is stated, ‘They are subject to the law of sending away,’ [it means] before it falls into the court. If so, why are they forbidden as robbery?[25] [That refers] to the dam. Alternatively it may refer to the eggs, after all: but when the greater part thereof has issued, his intention is set thereon.[26] But now that Rab Judah said in Rab's name: The eggs must not be taken as long as the dam is sitting upon them, for it is written, But thou shalt in any wise let the dam go [first, and only then] take the young to thee,[27] you may say that it holds good even if it [the egg] fell into his courtyard: [nevertheless it is subject to the law of sending away, because] wherever he himself might acquire it, his courtyard acquires it for him; but where he himself might not acquire it,[28] his courtyard cannot acquire it for him either. If so, are they forbidden as robbery [only] for the sake of peace? If he [the stranger] sends the dam away, it is real robbery;[29] whilst if not, she is to be sent away![30] — This refers to a minor, who is not obliged to send her away.[31] But is a minor subject to provisions enacted for the sake of peace?[32] — It means thus: The father of the minor must return them for the sake of peace.

MISHNAH. IF ONE RENTS A HOUSE TO HIS FELLOW FOR A YEAR, AND THE YEAR WAS INTERCALATED,[33] THE INTERCALATION IS IN THE TENANT'S FAVOUR.[34] IF HE LET IT TO HIM BY THE MONTH, AND THE YEAR WAS INTERCALATED, THE INTERCALATION IS IN THE OWNER'S FAVOUR.[35] IT HAPPENED IN SEPPHORIS THAT ONE RENTED A BATHHOUSE FROM HIS NEIGHBOUR FOR TWELVE GOLD DENARII PER ANNUM, AT A GOLD DENAR PER MONTH;

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(1) Lit., ‘the tube of a reed.’ And attached to the doorpost; i.e., it is not essential to have a cavity at all.

(2) Lit., ‘buried’.

(3) Assuming that it referred to a Gentile landlord.

(4) Where he had rented it from an Israelite.

(5) I.e., he had rented the house only.

(6) And it may be assumed that the owner of the oxen renounces his rights to the dung, and so the courtyard gives the landlord a title thereto.

(7) V. supra 11a. Just as here, though the landlord is ignorant that dung is being deposited in his courtyard, it immediately becomes his.

(8) Which cannot effect possession; v. supra loc. cit.

(9) E.g., that a hind with a broken leg had entered his field and could go no further, or that the river's overflow had deposited fish in his land.

(10) I.e., if the tenant placed a utensil to catch the manure as it falls, before it reaches the ground.

(11) This was understood to refer to a courtyard not rented to the tenant.

(12) I.e., before it even falls into the tenant's utensil, it must have entered the air of the landlord, and is therefore his.

(13) So that the dung is immediately received by it, without going through the air at all.

(14) The air above one's ground is accounted as the ground itself, in respect of an object that may enter it, only if it will eventually come to rest on that ground. Here, however, though the dung passes through the air of the landlord's courtyard, it will not come to rest there on account of the tenant's utensils, and therefore the air does not effect possession for him.

(15) V. supra 12a.

(16) From coming to rest — excepting, of course, its own momentum.

(17) Surely one is sufficient, since the same principle operates in both cases.

(18) Even if the courtyard is rented to the tenant.

(19) In both cases they seek their food abroad, but come to nest in the dovecote or the loft.

(20) I.e., when they are sitting on eggs, one must not take both them and the eggs, but must send the dam away, Deut. XXII, 6f.

(21) I.e., strictly speaking, they are ownerless, being semi-wild; nevertheless, for the sake of peace, the Rabbis recognised the title of the owner of the dovecote, and so another must not take them.

(22) Deut. XXII, 6.

(23) I.e., the law applies only to wild doves, under no ownership, but not when they are thine and in thy courtyard.

(24) In the case of a wild bird, if one wished to take the egg at that moment, he would have to send the dam away.

(25) Since the courtyard has not yet effected possession for him.

(26) Therefore, though in strict law they are not yet his, for the sake of peace a stranger may not take them.

(27) Ibid. 'The young' is understood to mean the eggs too.

(28) Since the dam is sitting upon it.

(29) Since, on the dam being sent away, the eggs immediately become the property of the courtyard owner.

(30) Before the eggs can be taken, so that they are forbidden in any case.

(31) Not being of an age when precepts are incumbent upon him.

(32) Surely not!

(33) The Jewish year is partly lunar, partly solar. I.e., it consists of twelve months, which give 355 or 356 days. But at the same time, the Festivals must fall in the proper seasons, Passover in the vernal equinox and Tabernacles in the autumnal equinox. Since this depends on the solar year, which consists of 365 days, the deficiency was made good by the addition periodically of an extra month to the year; v. Sanh. 11a.

(34) He cannot be charged rent for the extra month.

(35) Though a lease for an unspecified period is for a year, the lessee must pay rent for the extra month.

Talmud - Mas. Baba Metzia 102b

AND THE MATTER CAME BEFORE RABBAN SIMEON B. GAMALIEL AND R. JOSE, WHO ORDERED THEM TO DIVIDE THE INTERCALATED MONTH.

GEMARA. A story is quoted in contradiction [of the ruling given]! — The text is defective, and is thus meant: But if he said to him, '[I let it to you] for twelve golden denarii per annum, at a golden denar per month,' they must share. And IT HAPPENED IN SEPPHORIS THAT ONE RENTED A BATHHOUSE FROM HIS NEIGHBOUR FOR TWELVE GOLD DENARII PER ANNUM, AT A GOLD DENAR PER MONTH, AND THE MATTER CAME BEFORE RABBAN SIMEON B. GAMALIEL AND R. JOSE, WHO ORDERED THEM TO DIVIDE THE INTERCALATED MONTH.

Rab said: Were I there, I would have awarded the whole of it to the owner. Now, what does this teach us — that the last expression alone is regarded?[1] But Rab has already said it once. For R. Huna said in the name of the college of Rab:[2] [If the agreed price is] an istera, a hundred ma'ahs, then a hundred ma'ahs [are due];[3] if a hundred ma'ahs, an istera [are arranged], an istera [is meant]?[4] — If from there, I might have thought that [the second term] defines the first;[5] therefore we are informed otherwise.[6]

Samuel said: We refer to a case where he [the landlord] comes [to claim rent] in the middle of the month. But if he comes at the beginning, it is all the landlord's; at the end, it is all the tenant's.[7] Now, did Samuel reject the principle that the last term only is regarded? But Rab and Samuel both said: [If A says to B,] 'I sell you a kor for thirty [sela'im],' he can retract even at the last se'ah.[8] [But if he says,] 'I sell you a kor for thirty, a sela' per se'ah,' then as he [the vendee] takes each, he acquires it![9] — The reason there is that he has taken possession;[10] so here too, has he not taken possession?[11]

But R. Nahman ruled: Land remains in the presumptive possession of its owner.[12] Now, what does this teach us — that the last term is decisive? But that is Rab's teaching![13] [He informs us that it is thus] even if the terms were reversed.[14]

R. Jannai was asked: If the tenant maintains, ‘I have paid [rent],’ and the landlord pleads, ‘I have not received [it],’ upon whom rests the onus of proof? But when [does the dispute take place]? If within the term, we have learnt it; if after, we have [likewise] learnt it! For we learnt: If the father died within the thirty days, the presumption is that he [the firstborn] has not been redeemed, unless proof is adduced to the contrary; after thirty days, he is presumed to have been redeemed, unless told that he was not![15] The question is only [when the dispute arises] on the day that completes the term: does one pay on the day which completes the term, or not? — R. Jannai replied: We have learnt it:

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(1) I.e., if an agreement is made, of which the two terms are contradictory, as here, the latter alone counts.

(2) Though the expression be Rab may simply mean ‘the schoolmen’, without any particular reference to Rab (cf. Weiss, Dor. III. 141, and Bacher, Ag. der Bab. Am. 2), it is here understood as the college of Rab, the dictum being assigned actually to him.

(3) An istera is half a zuz = 96 Perutahs or ma'ahs.

(4) Which shews that in all cases the second expression is decisive.

(5) I.e., an istera, for which I will accept 100 light-weight ma'ahs, so that they are only worth an istera. In that case, the second term is binding because it defines the first.

(6) That the two terms are indeed contradictory, both there and here, and that the second is decisive.

(7) Reverting to the Mishnah, which states that R. Simeon b. Gamaliel and R. Jose ruled that the intercalated month is divided, he applies to it the principle that possession establishes a title. Hence, if the landlord comes to demand the rent for the extra month in the middle of the month, the tenant retains the half month which he has already enjoyed, but must pay for the second half, since the house undoubtedly belongs to the landlord, whilst the ownership of it for the next half month is disputed. The rest of Samuel's dictum is based on the same principle.

(8) If the vendee begins to carry it away, the possession is not effected until meshikah is performed upon the whole, which ranks as a single purchase, and even when only a se'ah remains, both parties can cancel the bargain.

(9) Each se'ah counting as a separate transaction, which is completed when meshikah is performed thereon, v. B.B. 105a. This shews that the second expression, ‘a sela’ per se'ah,’ is the decisive one, not the first, and so contradicts Samuel's previous dictim.

(10) Actually, it is doubtful whether the first or the last term is binding, and on that account the vendee acquires each se'ah as he takes it, since he is then in possession.

(11) Therefore the tenant does not pay for what he has already enjoyed.

(12) Hence the intercalated month belongs to the landowner, and he may demand rent even at the end of the month.

(13) Why then should R. Nahman state it?

(14) Because it does not depend on order, but on presumption.

(15) Bek. 49a. This refers to the redemption of the firstborn. Cf. Num. XVIII, 16: And those that are to be redeemed from a month old shalt thou redeem. Hence, if the father died within the month, it is assumed that he had not redeemed the child before the obligation matured; on the other hand, if he died after, it is assumed that he had redeemed him at the proper time. Now, rent is payable at the end of the year, and the same principle holds good.

Talmud - Mas. Baba Metzia 103a

A hired labourer [engaged for a period], on the expiration of his term swears and is paid.[1] Thus,it is only the employee whom the Rabbis subjected to an oath, because the employer is occupied with his labourers. But here, the tenant is believed on oath.[2]

Raba said in R. Nahman's name: If one leased a house to his neighbour for ten years, and wrote a deed to that effect [but without dating it,] and then alleged, ‘You have held it for five years,’ he is believed.[3] Said R. Aha of Difti to Rabina: If so, if A lent B one hundred zuz against a bond, and then B said, ‘I have repaid you half,’ is he also believed?[4] — He replied: What comparison is there? In that case, the purpose of the bond is to ensure repayment. Had he really repaid him, he should have written the fact on it, or obtained a receipt. But here he can say, ‘The reason I wrote you a deed was that you should not claim ownership through unbroken possession.’[5]

R. Nahman said: One can borrow [an article] ‘in its good state’ for ever.[6] Said R. Mari the son of Samuel's daughter:[7] Providing, however, that he formally acquired it from him.[8] R. Mari son of R. Ashi observed: He must return him the handle.[9]

Raba said: If one asks his neighbour, ‘Lend me a hoe for hoeing this garden,’ he may hoe [only] that garden; ‘for hoeing a garden,’ he may hoe any garden; ‘for hoeing gardens’, he may hoe all his gardens[10] and return him the handle.

R. Papa said: If one says to his neighbour, ‘Lend me this well [for irrigation],’ and it falls in, he cannot rebuild it.[11] ‘[Lend me] a well,’ and it falls in, he can rebuild it,[12] [But if he Says: ‘Lend me] the place for a well,’ he can go on sinking shafts in his land until he chances upon [a water supply]. It is also necessary that he shall have formally acquired it from him.[13]

MISHNAH. IF ONE RENTS A HOUSE TO HIS NEIGHBOUR, AND IT FALLS IN [WITHIN THE PERIOD OF LEASE], HE MUST PROVIDE[14] HIM WITH ANOTHER. IF IT WAS A SMALL ONE, HE CANNOT FURNISH HIM WITH A LARGE ONE, OR VICE VERSA. NOR CAN HE OFFER HIM TWO INSTEAD OF ONE, OR ONE INSTEAD OF TWO. HE MAY NEITHER DIMINISH NOR INCREASE THE NUMBER OF WINDOWS, EXCEPTING BY COMMON AGREEMENT.

GEMARA. What are the circumstances? If he stipulated, ‘This house’, then if it falls, he is quit [of any further obligation]. Whilst if he said, ‘A house,’ without specifying which, why cannot he provide two instead of one, or a large house instead of a small? — Said Resh Lakish: It means that he had said to him, ‘The house which I let to you is of this length.’ If so, why teach it?[15] — But when Rabin came,[16] he said in the name of Resh Lakish: It means that he said, ‘I let you a house like this one.’ But still [the difficulty remains,] Why state it? — It is necessary to teach it only if it [the house shewn as a model] stood on the river bank. I might think, what is meant by ‘like this’? One situated on the river bank.[17] Therefore we are taught [otherwise]. [

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(1) Shebu. 45b; infra 111a. If there is a dispute between him and the employer on the last day, the latter alleging that he has already paid him, the former swears that he was not paid, and receives his wages. Though it is a general rule that the defendant swears to be free from payment (v. p. 572, n. 6), the Rabbis made an exception in this case, because an employer, busy with his workers, may very easily imagine that he has paid one instead of another.

(2) As is usually the case, though it is the day on which the term expires.

(3) On the same principle as R. Nahman's dictum on 102b, q.v.

(4) Surely not: yet the cases are analogous.

(5) V, B.B. III, 1. But not to shew how long the tenancy had lasted. [According to this interpretation, which follows Rashi, it is assumed that the deed, although in the possession of the tenant, served to give the matter publicity and thus preclude the possibility of the tenant claiming ownership on the strength of undisturbed occupation over a number of years. Tosaf., however, in the name of R. Han., preserves a preferable reading to the effect that the deed was drafted by the tenant in favour of the owner and recorded that he had hired the house for ten years from a certain date at so much per year. After five years the tenant says to the landowner, ‘You hold already rent for five years,’ whereas the landowner maintains, ‘I hold rent for three years only;’ in that case the tenant is believed on oath, because the tenant can say to the landowner, ‘The reason I wrote you a deed was that I should not claim ownership through unbroken possession.’]

(6) I.e., if the lender states, ‘I lend it to you in its good state,’ it means as long as it is fit for its purpose, and so, even if he returns it, he can take it again whenever he needs it.

(7) He was begotten by a Gentile, who turned proselyte by the time of his birth; and is therefore called by his maternal grandfather, not by his own father.

(8) I.e., had performed an act effecting possession, or, as in this case, a right to the use of an article.

(9) If the article is broken or damaged and unfit for its purpose, he must return the remains, since it was not a gift but

only a loan (Rashi). [Wilna Gaon: He may not repair it and retain it for further use.]
(10) And we do not say that he may have only two.
(11) The borrower cannot rebuild and claim that it is lent to him as long as he needs it, since he specified, ‘This well,’ and it is no longer the same when rebuilt.
(12) And retain it until he has irrigated all his fields.
(13) V. note 3.
(14) Lit., ‘set up’.
(15) It is obvious.
(16) From Palestine to Babylon.
(17) I.e., the locality.

Talmud - Mas. Baba Metzia 103b

CHAPTER IX

MISHNAH. IF ONE LEASES A FIELD FROM HIS NEIGHBOUR,[1] WHERE IT IS THE USAGE TO CUT [THE CROPS], HE MUST CUT; TO UPROOT [THEM], HE MUST UPROOT [THEM]; TO PLOUGH AFTER IT,[2] HE MUST PLOUGH AFTER IT. IT IS ALL DETERMINED BY LOCAL CUSTOM. AND JUST AS THEY DIVIDE THE GRAIN.[3] SO THEY ALSO SHARE IN THE STRAW AND STUBBLE. AND JUST AS THEY DIVIDE THE WINE, SO DO THEY SHARE

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(1) Paying either an agreed percentage of the crops or a fixed measure of the grain in rent.
(2) After reaping and weeding, to turn its soil, so that weeds should not grow again.
(3) When the rent is a percentage of the produce.

Talmud - Mas. Baba Metzia 103b

IN THE BRANCHES [CUT FROM THE VINE] AND THE CANES [USED FOR SUPPORTING THE VINES]. AND BOTH SUPPLY THE CANES.[1]

GEMARA. It has been taught: Where it is the usage to cut [off the crops], he must not uproot; to uproot, he must not cut. And each can restrain the other [from varying the usual procedure]. ‘To cut, he must not uproot:’ the one [the lessor] can say. ‘I want my field manured with stubble;’[2] and the other may say, ‘It is too much labour[3] [to uproot thus]’ .[4] ‘To uproot, he must not cut.’ The one [the lessor] can say, ‘I wish my field to be cleared [of stubble];’ and the other, ‘I need the stubble.’[5] ‘And each can restrain the other [from varying the usual procedure].’ Why state this?[6] — This gives the reason. [Thus:] Why may he not uproot when the usage is to cut, and vice versa? Because each can restrain the other.

TO PLOUGH AFTER IT, HE MUST PLOUGH AFTER IT. Is this not obvious? — It is necessary only for a place where weeding is not done [whilst the corn is standing]; and he [the lessee] went and weeded it. I might think that he can plead, ‘I weeded it in order to be exempt from [subsequent] ploughing.’ Therefore we are taught that he should have distinctly stated this [beforehand].

IT IS ALL DETERMINED BY LOCAL CUSTOM. What does ALL include?[7] — It includes that which our Rabbis taught: Where it is customary to lease the trees together with the field, they are leased;[8] where it is not customary to do so, they are not leased. ‘Where it is customary to lease the trees together with the field, they are leased.’ But is this not obvious? — It must be taught only where [fields] are generally leased for a third [share to be the owner's]; and he went and leased it for a quarter share. I might think that he can plead. ‘I gave it to you at a lower rental on the understanding that you would receive no share of the trees.’ Therefore we are informed that he should have distinctly stated this [beforehand].

‘Where it is not customary to do so, they are not leased.’ But is it not obvious? — It must be taught only where it is generally rented for a quarter share, and he [the lessee] went and rented it for a third [to be received by the lessor]. I might think that he can plead. ‘I offered you a higher rental on the understanding that I would receive a share of the trees.’ We are therefore informed that he should have distinctly stated this.

JUST AS THEY DIVIDE THE GRAIN, SO THEY ALSO SHARE IN THE STRAW AND STUBBLE. R. Joseph said: In Babylon it is the practice not to give [a share of the] straw to the aris.[9] What is the practical bearing of this? — That if there is a person who does give, it is his generosity, and he creates no precedent.[10]

R. Joseph said: The lowest, the middle and the uppermost layers[11] and the thorn stakes[12] must be furnished by the landowner; the shrubs themselves, by the tenant. This is the general principle: whatever is essential for guarding the boundary line [of the field] must be provided by the landlord; that which is required for additional protection, by the aris.

R. Joseph said: The mattock, shovel, [irrigation] bucket and hose must be furnished by the lessor; whilst the tenant must cut the dykes.[13]

AND JUST AS THEY DIVIDE THE WINE, SO DO THEY SHARE IN THE BRANCHES AND CANES. What is the purpose of canes? The School of R. Jannai said: [The reference is to] smooth canes, used for propping up the vines.

AND BOTH SUPPLY THE CANES. Why state this?[14] — This gives a reason. Why do they both share the canes? Because they BOTH SUPPLY THE CANES.

MISHNAH. IF ONE LEASES A FIELD FROM HIS NEIGHBOUR,[15] WHICH IS DEPENDENT ON IRRIGATION, OR IS STOCKED WITH TREES, AND THE SPRING [WHICH IRRIGATED THE FIELD] DRIES UP, OR THE TREES ARE FELLED, HE CANNOT REDUCE THE RENTAL. BUT IF HE SAYS, ‘LEASE ME THIS FIELD WHICH REQUIRES IRRIGATION,’ OR ‘THIS FIELD, WHICH CONTAINS TREES,’ AND THE SPRING DRIES UP OR THE TREES ARE FELLED, HE MAY MAKE A DEDUCTION FROM THE RENTAL.

GEMARA. How is it meant? Shall we say. the main river[16] dried up; then why cannot he reduce the rent? Let him say. ‘It is a universal blow!’[17] — Said R. Papa: It means that the tributary dried up, [by which the water was brought to the field,] so that he [the lessor] can say to him,

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(1) Necessary each year for the vines.

(2) Therefore! want the grain cut, which leaves the stalks in the earth.

(3) Lit., ‘I am not able.’

(4) If the lessor wishes it to be plucked. Therefore neither can demand a variation of the local usage.

(5) For my cattle, and so I do not wish it to remain in the soil.

(6) It is included in the first clause.

(7) V. p. 496, n. 3.

(8) I.e., if a field is leased for sowing grain, and it contains some trees too, though the lessee has no work in connection with the latter, he receives his share thereof, if such is the local usage.

(9) v. Glos.

(10) Lit.,’It is a benevolent eye and we learn nothing from him.’

(11) An earthen rampart was erected round the field. One layer of earth was placed first (בוכרא < בכור cf. ביכורים , the first fruits); this being trodden in, another was added (טפתא < טפי more, additional), and then these were surmounted (ארכבתא < רכב riding upon) by a third.

(12) A fence was made round the field by placing stakes and drawing thorny shrubs across them.

(13) Through which the water is conducted from the river to the field.

(14) It is obvious, since it is taught that they share in them.

(15) At a fixed rental in crops.

(16) Which supplied the spring.

(17) In which all must share the loss; v. infra 105b.

Talmud - Mas. Baba Metzia 104a

‘You should have brought up the water in buckets.’

R. Papa said: These first two Mishnahs [of this chapter] hold good in the cases of both a fixed rental lease and a percentage lease;[1] but in the subsequent [Mishnahs] those which apply to a percentage lease do not apply to a fixed rental, and those that apply to a fixed rental do not apply to a percentage lease.[2]

BUT IF HE SAID, ‘LEASE ME THIS FIELD WHICH REQUIRES IRRIGATION,’ etc. But why so? Let him [the lessor] say to him, ‘I merely defined it for you by name.’[3] Has it not been taught: If one says to his neighbour, ‘I sell you a beth kor[4] of land’; even if it contains only a lethech,[5] it [the bargain] is fulfilled, because he sold him only a place by name; providing, however, that it is called beth kor. ‘I sell you a vineyard,’ even if it contains no vines, it is a valid sale, because he sold him only a name; providing, however, that it is called vineyard. ‘I sell you an orchard,’ even if it contains no pomegranates it becomes his, because he sold him only a name; providing that it was called orchard.[6] Thus we see that he can plead, ‘I merely defined it by name:’ so here too, let him plead, ‘I merely defined it for you by name’! — Samuel replied: There is no difficulty. In the latter case the lessor stated this to the lessee; In the former, [i.e., the Mishnah] the lessee spoke thus to the lessor. If the lessor stated it to the lessee, it is mere name; if the lessee says it to the lessor, it particularizes.[7] Rabina said: In both cases it means that the lessor stated this to the lessee. [Nevertheless,] since he states, ‘THIS FIELD,’ it follows that we are dealing with a case where he is standing therein; then why tell him that it is dependent on irrigation?[8] Hence he must have meant, ‘A field dependent on irrigation as now situated.’[9]

MISHNAH. IF ONE LEASES A FIELD [AT A PERCENTAGE] FROM HIS NEIGHBOUR AND NEGLECTS IT, WE ASSESS IT HOW MUCH IT OUGHT TO PRODUCE, AND HE MUST PAY HIM [THE AGREED PERCENTAGE]. FOR THUS HE WRITES HIM, ‘SHOULD I NEGLECT AND NOT TILL IT, I WILL PAY OF THE BEST.’[10]

GEMARA.R. Meir used to interpret common terms [of speech or writing]. For it has been taught: R. Meir said: ‘If I neglect and do not till it, I will pay of the best.[11] R. Judah used to interpret common terms. For it has been taught: R. Judah said: A husband must bring a sacrifice of the rich for his wife, and likewise for every obligatory sacrifice of hers; because he writes thus for her [in the kethubah: ‘I undertake] your liabilities incurred by you hitherto.’[12]

Hillel the Elder[13] used to interpret common speech. For it has been taught: The men of Alexandria used to betroth[14] their wives, and when they were about to take them for the huppah[15] ceremony, strangers would come and tear them away. Thereupon the Sages wished to declare their children bastards.[16] Said Hillel the Elder to them, ‘Bring me your mother's kethubahs.’ When they brought them, he found written therein, ‘When thou art taken for the huppah, be thou my wife.’ And on the strength of this they did not declare their children bastards.[17]

R. Joshua b. Karhah interpreted common speech. For it has been taught: R. Joshua b. Karhah said:

If a man makes a loan to his neighbour, he must not seize from him a pledge that is worth more than the debt;[18] because he writes thus unto him:[19] ‘The repayment which is due to you from me shall be to the full value of this [pledge]’.[20] Now, the reason [that he may claim the value of the pledge] is [only] because he wrote thus; hence, had he not written thus, he would have no title thereto. But did not R Johanan say: If he [the creditor] took a pledge from him, returned it to him, and then he [the debtor] died, the former may distrain it from his children?[21]

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(1) I.e., the statements that where it is customary to cut the grain, it may not be uprooted (IX, I), and that no allowance is made for the failing of a spring (IX, 2), are independent of whether the leaseholder pays a fixed rent or a percentage of the crops.

(2) This is explained on each Mishnah.

(3) But did not guarantee the source of irrigation.

(4) Lit., ‘an area requiring a kor of seed,’ fifty cubits square taking a se'ah of seed (1 kor ==30 se'ahs).

(5) Half a kor.

(6) B.B. 7a.

(7) I.e., it must be a field that contains these amenities of irrigation.

(8) Surely the lessee sees that for himself!

(9) I.e., the water flowing direct to the field without the labour of transport.

(10) This can obviously refer only to a lease on a percentage rental. If the rent is fixed, there is no room for computation.

(11) I.e., though it is not a Rabbinical enactment that this clause be stated in the conveyance, yet since it was a common practice to insert it, R. Meir paid heed to it, and gave his rulings accordingly.

(12) Certain sacrifices were variable, depending on their owner's financial position (v. Lev. V, 1 — 13; XII, 1-8). Now, in a strictly legal sense, every married woman is poor, since she has no proprietary rights. Nevertheless, if he is wealthy, he must bring the sacrifice of a rich person. This rendering is according to the text in our editions, and means: The husband undertakes to settle her liabilities, in respect of sacrifices (Tosaf.) incurred before marriage, e.g., for leprosy. And presumably he is certainly liable for sacrifices which she incurs after marriage, e.g., for childbirth. Rashi, quoting the Sifra, gives this reading. R. Judah said: Therefore, if he divorces her, he is free from this liability; for thus she writes (in the receipt for the settlement of her kethubah), ‘(I free you) from all the liabilities hitherto borne by you in respect of myself.’

(13) I.e., the famous Hillel, head of the great school, Beth Hillel. So called to distinguish him from R. Hillel, an amora of the fourth century.

(14) מקדשין the first stage of marriage, v. Glos. s.v. Kiddushin.

(15) V. Glos.

(16) Being born in adultery.

(17) Though normally the kiddushin effected marriage, in that the woman became forbidden to strangers as a married person. yet since the kethubahs distinctly stated that it was to be valid only when the huppah was performed, Hillel recognised the children of those unions as legitimate. V. Halevy. Doroth, I, 3, p. 103. This is an interesting foreshadowing of the modern practice which combines the kiddushin and the huppah. [It is suggested that the clause inserted by the Alexandrian Jews was mainly designed to free the husband from all obligations until actual marriage. v. Epstein. M. Jewish Marriage Contract, p. 295.]

(18) This refers to a pledge taken after the loan, when repayment is due.

(19) I.e., if the creditor returns the pledge for an appreciable length of time, it is first assessed and this statement written.

(20) Hence, if it exceeded the debt, he would be receiving interest.

(21) And it is not regarded as movable property of orphans on which the creditor cannot distrain. This proves that he has a title to it even without that proviso.

Talmud - Mas. Baba Metzia 104b

— The writing [of that clause] serves to countervail depreciation.[1] R. Jose interpreted common terms. For it has been taught: R. Jose said: Where it is the practice to treat the kethubah as an ordinary debt,[2] he [the husband] can collect it [from her father] likewise as a debt.[3] [When it is the local usage] to double [the dowry],[4] he [the husband] can collect [from her father] only half [the

Written sum]. The Neharbeleans[5] used to collect a third.[6] Meremar used to empower [the husband] to collect even the addition. Said Rabina to Meremar: But has it not been taught: [Where it is the usage] to double, he can collect only half? — There is no difficulty: In the one case, possession was formally effected;[7] in the other, it was not.

Rabina was writing a large amount for [the dowry of] his daughter [more than he was actually giving]. Said they [the other side] to him, ‘Let us effect a formal possession from you.’ To which he replied, ‘If a formal possession, then no doubling; if doubling, no formal possession.

A certain man once said, ‘Give my daughter four hundred zuz as her kethubah.’ R. Aba, son of R. Awia, sent an enquiry to R. Ashi: Does it mean, four hundred zuz [as the actual dowry], hence eight hundred [to be written]; or four hundred zuz [as the sum to be recorded], the equivalent of two hundred zuz [the real dowry].[8] R. Ashi replied: We see: if he said, ‘Give her four hundred zuz,’ eight hundred [are to be recorded]; but if he said, ‘Write her four hundred zuz’, he meant two hundred actual. Others state: R. Ashi replied, We see: if he said, ‘For her kethubah,’ it is four hundred actual, and eight hundred [written]; if he said, ‘In her kethubah,’ it means four hundred [written], which is two hundred actual. Yet that is incorrect: whether he said, ‘For her kethubah,’ or, ‘In her kethubah,’ it means four hundred [written], which is two hundred [actual]. Unless he says, ‘Give her’, without further qualifications.

A certain man once leased a field from his neighbour and stated: ‘If I do not cultivate it, I will give you a thousand zuz.’[9] Now, he left a third uncultivated. Said the Nehardeans: It is but just that he should pay him three hundred thirty-three one-third zuz. But Raba said: It is an asmakta,[10] and an asmakta effects no title. But in Raba's view, wherein does it differ from what we learnt: ‘SHOULD I NEGLECT AND NOT TILL IT, I WILL PAY OF THE BEST?’[11] — In that case, there was no exaggeration; but here, since he stated such a large sum, it was a mere exaggeration [not to be taken seriously].

A certain man once leased a field[12] for sesame. He sowed wheat instead, but the wheat appreciated to the value of sesame.[13] Now, R. Kahana thought to rule: He [the tenant] can make a deduction [from the percentage due] on account of the [diminished] impoverishment of the soil. But R. Ashi said to R. Kahana: People say, ‘Let the soil become impoverished rather than its owner.’[14]

A certain man once leased a field for sesame. He sowed wheat, however, but the wheat subsequently exceeded the sesame in value. Now, Rabina thought to rule that he [the lessor] must give him [the tenant] the increased value.[15] Said R. Aha of Difti to Rabina: Was he [the tenant] the only cause of the higher value, and the earth not at all?[16] The Nehardenas said: An ‘iska[17] is a semi loan and a semi trust, the Rabbis having made an enactment which is satisfactory to both the debtor and the creditor.[18] Now that we say that it is a semi loan and a semi trust, if he [the trader] wishes to drink beer therewith [i.e., for the loan part] he can do so.[19] Raba said: [No.] It is therefore called ‘iska [business] because he can say to him, ‘I gave it to you for trading, not for drinking beer.’ R. Idi b. Abin said: And if he [the trader] dies,it ranks as movable property in the hands of his children.[20] Raba said: It is therefore called ‘iska, that if he dies, it shall not rank as movable property in the hands of his heirs.[21]

Raba said: If there is one ‘iska and two bonds, it is to the investor's disadvantage.[22]

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(1) If the pledge depreciated in value, the creditor would lose, but for that clause, which assures him that he will receive its full value as at the time he returns it, and in virtue of which he is empowered to seize other objects of the debtor's.

(2) I.e., if a woman is widowed, she is empowered to sue for her marriage settlement, part of which had formed in the first place the dowry given to her husband by her father or family, just as for an ordinary debt.

(3) Since it will he subsequently reclaimed from him, he can legally claim it from the father at the time of marriage, or subsequently.

(4) l.e., to state double the amount for the actual dowry in the kethubah to make it appear greater, whilst actually only half the stated amount is payable on widowhood or divorce. [This was inserted as a mark of honour to the bridal couple. v. Epstein. M. ap. cit., p. 104.]

(5) Nehar Bil, E. of Bagdad. v. Sanh. (Sonc. ed.) p. 89, n. 1].

(6) They used to state in the kethubah treble the actual amount.

(7) By means of a kinyan (v. Glos.). The husband then acquires a title to the whole.

(8) It was in a place where the amount was doubled.

(9) A percentage lease is referred to.

(10) V. Glos.

(11) And, as seen from the Mishnah, the statement is binding.

(12) V. n. I.

(13) A sesame crop is more valuable than a wheat crop; on the other hand, it exhausts the soil more. But in this case, owing to an advance in the price of wheat, the crop lost nothing through the change, and there was the further profit that the soil was less exhausted than it would otherwise have been.

(14) I.e., he should have carried out his contract and not jeopardised the owner's receipts. He therefore cannot make a deduction now.

(15) I.e., that the lessor receives his percentage only on the potential sesame crop.

(16) Both contributed, hence both share.

(17) V. Glos.

(18) I.e., half the capital value of the stock is a pure loan for which the trader bears full responsibility; the other half is a bailment, so that the investor bears all risks of depreciation. To avoid the charge of usury, however, the trader generally received two — thirds of the profit. V. supra 68b.

(19) I.e., he need not use it for business at all.

(20) The half which is a loan is counted as movable chattels, which are not subject to seizure for debt from the heirs. Hence the investor loses it.

(21) I.e., it is permanent trading stock, and therefore always available for the satisfaction of the investor's claims.

(22) As stated supra 68b, the investor generally received a third of the profits, but stood half the losses. Now, if he invests two bales of goods and draws up one bond: if there is a loss upon one and a profit upon the other, it is all counted as one investment, and he receives a third of the net profit upon both. But if he draws up a separate instrument for each, he bears half of the loss incurred on one, and receives only a third of the profit earned on the other, and so is at a disadvantage.

Talmud - Mas. Baba Metzia 105a

If two ‘iskas were arranged but only one bond drawn up, it is to the debtor's disadvantage.[1]

Raba also said: If a man accepted an ‘iska from his fellow, and lost thereon; but then made it good by an effort, yet had not informed him [the investor of the loss], he cannot [then] say to him, ‘Deduct the previous loss incurred;’[2] because he can retort, ‘You took the trouble of making it good to avoid the odium of inefficiency.’[3]

Raba also said: If two men accept[4] an ‘iska and make a profit, and one says to the other, ‘Come, let us divide now’ [before the time for winding up]: then if the other objects [saying], ‘Let us earn more profits,’ he can legally restrain him [from closing the transaction]. [For] if he claims, ‘Give me half the profits,’ he can reply, ‘The profit is mortgaged for the principal.’[5] Whilst if he proposes, ‘Give me half the profits and half of the principal,’[6] he can answer, ‘[The parts of the] ‘iska are interdependent.’[7] Whilst if he proposes, ‘Let us divide the profit and the principal, and should you incur a loss I will bear it with you:’ he can answer, ‘No. The fortune of two is better than that of one.’

MISHNAH. IF A MAN LEASES A FIELD FROM HIS NEIGHBOUR AND REFUSES TO

WEED IT, SAYING, WHAT DOES IT MATTER TO YOU, SEEING THAT I PAY YOU YOUR RENTAL?' HIS PLEA IS NOT HEEDED, BECAUSE HE [THE LESSOR] CAN REPLY, 'TOMORROW YOU MAY LEASE IT, AND IT WILL BE OVERGROWN WITH WEEDS.'[8]

GEMARA. And should he [the tenant] say, 'I will plough it afterwards,'[9] he can reply, 'I want good wheat.'[10] And should he say, 'I will buy for you wheat from the market,' he can answer, 'I want wheat from my own soil.' Should he reply, 'Then I will weed for you the area necessary for your portion,' he can retort, 'You will bring my land unto disrepute.'[11] But we learnt, because IT WILL BE OVERGROWN WITH WEEDS![12] — But [he is not heeded] because he can answer him, 'Once a bung falls out, it is fallen.'[13]

MISHNAH. IF A MAN LEASES A FIELD TO HIS NEIGHBOUR, AND IT DOES NOT YIELD [A SATISFACTORY CROP]: IF THERE IS ENOUGH TO MAKE A STACK, HE [THE TENANT] IS BOUND TO GO ON WORKING THEREIN.[14] SAID R. JUDAH: WHAT STANDARD IS A STACK?[15] BUT [THE STANDARD IS] IF THERE IS ENOUGH FOR RESOWING.[16]

GEMARA. Our Rabbis taught: If a man leases a field from his neighbour, and it does not yield [a satisfactory crop], and there is enough to make a stack, he [the tenant] is bound to go on working therein, because he writes him thus:[17] 'I will stand, plough, sow, cut, bind, thresh, winnow, and set up a stack before you, and you will come and receive half; whilst I will receive half in return for my labour and expenses.' And how much is meant by, 'enough to make a stack'? — R. Jose son of R. Hanina said: Sufficient for the winnowing fan to stand therein .[18] The scholars propounded: What if the winnowing fan protrudes from both sides?[19] — Come and hear: R. Abbahu said: I received an explanation thereof from R. Jose son of R. Hanina: Providing that the receiver does not see the sun.[20]

It has been stated: Levi said: Three se'ahs; the School of R. Jannai said: Two; Resh Lakish said: The two se'ahs mentioned are exclusive of expenses.[21]

We learnt elsewhere: Wild olives and grapes — Beth Shammai declare them unclean; Beth Hillel, Clean.[22] What is meant by 'wild [perize] olives?' — Said R. Huna: Wicked olives [i.e., which yield very little oil]. R. Joseph said: And what verse [warrants this interpretation]? — Also the robbers [perize] of thy people shall exalt themselves to establish the vision; but they shall fail.[23] R. Nahman b. Isaac said: It is from this verse: If he beget a son that is a robber [pariz] a shedder of blood.[24] And what is the standard of wild olives?[25] — R. Eleazar said: Four kabs per loading.[26] The School of R. Janna said: Two se'ahs. But there is no dispute: the former treats of a place when one kor is put into the press at a time; the latter, where three kors are put into the press.[27]

Our Rabbis taught:

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(1) If two 'iskas were arranged on different dates, but recorded in one note, the result is the converse of the preceding, and hence to the trader's disadvantage.

(2) I.e., bear half of that loss, whilst receiving only a third of the profits earned subsequently.

(3) Lit., 'Not to be called, one who causes losses in investments.'

(4) From an investor, a period being fixed for its winding up.

(5) In case there are subsequent losses.

(6) For the return of which the trader is personally responsible to the investor.

(7) 'You might profit on your half, and I lose on mine; but both halves are security for each other.'

(8) This can apply only to a fixed rental lease, for in the case of a percentage lease the tenant obviously cannot argue thus.

(9) The Gemara continues the argument of the Mishnah. should the tenant say, 'I will plough the field after the harvest.' (V. supra).

(10) The rental being a fixed measure of the wheat grown by the tenant. But if the field is not weeded, the crop is of poor

quality.
(11) If it is seen overgrown with weeds.
(12) Which shews that that is an all-sufficing reply.
(13) And the wine that gushes out cannot be replaced. So here too, even if the tenant offers to plough the field after the harvest, he can reply, ‘Once weeds have taken root, they cannot be entirely eradicated.’
(14) Though he wishes to cease work, the yield being in, sufficient reward for his labour.
(15) Surely the same limit cannot apply to all fields, irrespective of size!
(16) I.e., if the yield is at least sufficient to resow the field the following year.
(17) In the tenancy agreement.
(18) If put into the pile, it will stand upright.
(19) Whilst the stack is sufficient to maintain it upright, the whole breadth of the fan is not covered in, but protrudes from both sides of the pile. Does the law of the Mishnah and Baraitha apply in this case or not?
(20) The receiver is the lower part of the shovel which receives the grain; this must be entirely covered in by the pile, i.e., ‘not see the sun,’ and the sides of the shovel are part of the receiver.
(21) This quantity must be left clear, in order for the tenant to be bound to go on cultivating the field.
(22) Beth Shammai regard them as fit to be eaten, hence they are subject to the uncleanness of food; Beth Hillel maintain that they are not fit, and therefore exempt from that law.
(23) Dan. XI, 14.
(24) Ezek. XVIII, 10.
(25) How little oil must they produce to be put in this category?
(26) קורה , the beam of the olive press. If when that is fully laden with olives there is not more than four kabs yield, they are designated ‘wild olives.’
(27) The presses varied in size, which explains the varying definitions. One se'ah ==6 kabs, hence 2 se'ahs ==3 times 4 kabs.

Talmud - Mas. Baba Metzia 105b

If they ascended a tree of feeble strength, or a feeble branch, he is unclean.[1] How is ‘a tree of feeble strength’ defined? — The School of R. Jannai said: If its roots lack sufficient breadth for a quarter [kab] to be hollowed out of it.[2] What is the definition of a feeble branch? — Resh Lakish said: That which is hidden in the grip of the hand.[3]

We learnt elsewhere: If a man travels through grave area[4] over [loose] stones that can be moved, if he travels upon a man or beast of feeble strength, he is unclean.[5] What is meant by ‘a man of feeble strength’? — Resh Lakish said: One whose knees knock together because of the rider upon him. What is meant by ‘a beast of feeble strength’? — The School of R. Jannai ‘said: If the rider causes it to excrete [through the strain].

The School of R. Jannai said: In respect of prayer and phylacteries [the limit of a burden is] four kabs. What is the reference in respect of prayer? — As it has been taught: If a man bears a burden on his shoulder, and the time for prayer arrives, if it is less than four kabs,he slings it over his back, and prays; if four kabs, he must place it on the ground, and then pray. What is the reference in respect of phylacteries? — As it has been taught: If a man is carrying a load on his head, and phylacteries are on his head [at the same time],[6] if the phylacteries are crushed under it, it is forbidden; otherwise, it is permitted. Of what burden was this said? — A burden of four kabs.

R. Hiyya taught: If a man carries out manure on his head, and has phylacteries on his head [at the same time], he must not remove them to the side, nor fasten them to his loins, because such is a contemptuous treatment; but must bind then, on his arm in the place of phylacteries.[7] On the authority of the school of R. Shila it was said: Even their wrapper[8] may not be placed on the head [as a burden] whilst the phylacteries are being worn. And how much?[9] — Said Abaye: Even a sixteenth of a Pumbeditheau weight.[10]

SAID R. JUDAH: WHAT STANDARD IS A STACK? BUT [THE STANDARD IS] IF THERE IS ENOUGH FOR RESOWING. And how much is needed for resowing? — R. Ammi said in R. Johanan's name: Four se'ahs per kor.[11] — R. Ammi, giving his own opinion, said: Eight se'ahs per kor. An old man said to R. Mama, son of Rabbah b. Abbuha: I will explain it to you. During R. Johanan's lifetime the land was fertile;[12] during that of R. Ammi it was poor.

We learnt elsewhere: If the wind scattered the sheaves,[13] we compute how much gleanings it [that field] was likely to provide, and so much must be given to the poor. R. Simeon b. Gamaliel said: The poor must be given the measure for resowing.[14] And how much is that? — When R. Dimi came,[15] he said in the name of R. Eleazar — others state, in the name of R. Johanan: Four kabs per kor.

R. Jeremiah propounded: Does that mean, for a kor that is sown, or for a kor that is harvested?[16] [Further, if it means for a kor that is sown,] is it for hand sowing or by oxen?[17] — Come and hear: For when Rabin came, he said in the name of R. Abbahu in the name of R. Eleazar — others say, in the name of R. Johanan: Four kabs for a kor of seed. But the question still remains: for hand sowing or by oxen? The problem remains unsolved.

MISHNAH. IF A MAN LEASES A FIELD FROM HIS NEIGHBOUR, AND IT [THE CROP] IS EATEN BY GRASSHOPPERS, OR BLASTED [BY TEMPEST], IF IT WAS A WIDESPREAD EPIDEMIC,[18] HE CAN DEDUCT FROM THE RENTAL; IF IT WAS NOT A WIDESPREAD EPIDEMIC, HE MAY NOT DEDUCT FROM THE RENTAL. R. JUDAH SAID: IF HE LEASED IT ON A MONEY RENTAL,[19] THEN IN BOTH CASES HE MAY MAKE NO DEDUCTIONS FROM THE RENTAL.[20]

GEMARA. How far must it extend to be called a widespread epidemic? — Rab Judah said: E.g., if the greater part of the plain [in which this field lay] was blasted.[21] ‘Ulla said: If four fields, on the four sides thereof, were blasted. ‘Ulla said: They propounded in the West [sc. the academies of Palestine]: What if one furrow over the entire length was blasted? What if one furrow was left [unblasted] over their entire length?[22] What if pits lay between?[23] What if they were separated by a field of fodder?[24]

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(1) Zab. III, 1. This refers to a person who suffers from issue and a clean person. Now, if the two sit on an object in such a manner that one causes the other to move, e.g., on the two ends of a see-saw, on a rickety branch, whether the unclean person supports the weight of the clean person or vice versa, even if they do not come into actual contact, the clean person is defiled. Now, when they both ascend a feeble tree, which bends under their weight, or a feeble branch, even if the tree itself is strong. the same result ensues, one bending over — technically called ‘leaning’ — through the other, hence the clean person is defiled.

(2) The measures were in standard shapes, so that a certain minimum breadth would be required for this.

(3) I.e.,it is so thin that the hand entirely encircles it (Rashi). Jast.: when it is hidden under (fully covered with) moss.

(4) בית הפרס Lit., ‘a field of a Peras square.’ Peras=half (the length of a furrow of 100 cubits), and it is a term applied to a field declared unclean on account of a grave that was ploughed therein. Maim. and Asheri on Oh. XVII, 1 translate פרס as derived from פרס to extend, i.e., the area over which the bones may extend. Others derive it from פרס to break, i.e., an area of splintered bones; v. Jast.

(5) The person who actually walks on this field becomes unclean, even if it contains no loose stones. But if one rides upon a man or beast, without himself coming into contact with the field, he becomes unclean only if he causes loose stones to be moved. Hence two conditions are necessary for his defilement: (i) that the field shall contain loose stones; (ii) that the man or beast ridden upon shall be weak and bowed down by the weight of the rider, so that he disturbs the stones more than he would otherwise have done. But if the bearers are so strong that the rider makes no difference to their gait, the latter is clean.

(6) In Talmudic times the phylacteries were worn during the day even whilst one was engaged in his ordinary Pursuits.

(7) I..e, the upper half, above the elbow.

(8) I.e., in which the phylacteries are put away when not in use, as at night.
(9) Must he the weight of a burden, to be forbidden on the head when the phylacteries are being worn.
(10) I.e., even the smallest weight is forbidden.
(11) I.e., in an area where a kor ought to grow only four se'ahs grew, which is the quantity needed for sowing such an area.
(12) Hence the lesser quantity sufficed.
(13) Over the field, and so they became mingled with the gleanings that must be left for the poor, and it is not known which is which.
(14) Pe'ah V, 1.
(15) From Palestine to Babylon.
(16) I.e., is it for an area that requires a kor of seed that four kabs are estimated as gleanings, or for an area that produces a kor?
(17) Sowing was done either by hand, a man walking along and scattering the seed, or by oxen drawing a cart with a perforated bottom, in which the seed was placed. The latter method was more wasteful, and required a greater quantity of seed for a given area than the former.
(18) Lit., ‘a regional mishap’.
(19) Generally the rental was paid in crops.
(20) [This Mishnah applies only to a fixed rental, for with a percentage rental there can be no deduction, both sharing whatever the yield may be.]
(21) [Maim. and Asheri (on basis of slightly different reading): ‘most of the fields in that city’, v. Wilna Gaon's Glosses.]
(22) Must the whole of the four fields have suffered, or is it sufficient that a furrow over the whole length of each shall have been affected? And if that is insufficient, what if the entire fields were affected with the exception of a furrow in each?
(23) There were no fields immediately contiguous, but the field was surrounded by pits, on the outer edges of which lay other fields, which were affected. Does this come within the scope of the definition or not?
(24) Which was unaffected, whilst the fields beyond were.

Talmud - Mas. Baba Metzia 106a

What if they were separated by a different cereal?[1] Further, is wheat as different seed in relation to barley, or not?[2] What if others were smitten by blasting, and his by mildew, or others were smitten by mildew and his by blasting? The problems remain unsolved.

What if he [the lessor] said to him [the lessee], ‘Sow it with wheat,’ and he went and sowed it with barley, and then the greater part of the plain was blasted, and his barley too was blasted: do we say that he can argue, ‘Had I sown wheat, it also would have been blasted’; or perhaps he can answer him, ‘Had you sown it with wheat, [the Scriptural promise,] Thou shalt also decree a thing, and it shall be established for thee,[3] would have been fulfilled unto me?’[4] — It is reasonable that he can in fact answer him, ‘Had you sown it with wheat, [the promise,] ‘Thou shalt also decree a thing, and it shall be established for thee: and the light shall shine upon thy ways’ would have been fulfilled unto me.

What if all the lessor's fields were blasted, and this one was blasted, yet the greater part of the plain was unaffected? Do we say, Since the greater part of the plain was unaffected, he can make him no deduction? Or perhaps, since all his lands were blasted, he can say to him, ‘This transpired on account of your evil fate,[5] the proof being that all your fields have been blasted’? — It is reasonable that he can answer him, ‘Had it been on account of my bad luck, a little would have remained [unaffected], as it is written, For we are left but few of many.’[6]

What if all the lessee's fields were blasted, and the greater part of the plain too, and this field also was blasted along with them? Do we say, Since the greater part of the plain was affected, he can deduct his? Or perhaps, since all his fields were blasted, he [the lessor] can say to him, ‘It is due to your misfortune, the proof being that all your fields have been smitten'? — It is logical that he can indeed say to him, 'It is due to your misfortune.' Why so? Here too let him answer, 'Had it been on account of my ill-luck, a little would have remained to me, in fulfilment of the verse, For we are left few of many'? — Because he can retort, 'Were you worthy that aught should remain to you, something of your own would have escaped.'[7]

An objection is raised: If it was a year of blasting or mildew, or the seventh year, or years like those of Elijah,[8] they are not included in the count.[9] Now blasting and mildew are stated as analogous to years like those of Elijah: just as during the years of Elijah there was no produce at all, so in the former too. But if there were some harvests [elsewhere], it is accounted to him,[10] and we do not term it an epidemic![11] — Said R. Nahman b. Isaac: There it is different, because Scripture says, According to the number of years of the harvests, he shall sell into thee,[12] [meaning], years in which the world enjoys harvests.[13] R. Ashi objected before R. Kahana: If so, the seventh should be included in the count, since there are harvests outside Palestine! — The seventh year, replied he, is excluded by royal decree.[14] Mar Zutra, the son of R. Mari, said to Rabina: If so, the seventh year should not rank for rebate; why then did we learn, He must pay a sela' and a pundion per annum?[15] — He replied, There it is different, because it [the seventh year] is fit for fruits to be spread out therein.[16]

Samuel said: This [sc. that a deduction may be made when there is a widespread epidemic] was taught only if he [the lessee] sowed it [the field], it [the crop] grew and was eaten by grasshoppers;[17] but not if he failed to sow it altogether, because he can say to him, 'Had you sown it, the promise, They shall not be ashamed in the evil time,' anid in the days of famine they shall be satisfied,[18] would have been fulfilled for me.'[19] R. Shesheth raised an objection: If a shepherd, who was guarding his flock,left it and entered the town; and then a wolf came and killed [a sheep], or a lion [came], and tore it to pieces, we do not say, 'Had he been there, he could have saved them,' but judge his strength: if he could have saved them, he is responsible; if not, he is exempt.[20] But why so? Let him say to him, 'Had you been there, the verse, Thy servant slew both the lion and the bear,[21] would have been fulfilled for me!' — Because he can answer, 'Had you been worthy that a miracle should happen on your behalf, it would have happened, as in the case of R. Hanina b. Dosa, whose goats brought in bears by their horns.'[22] But cannot he reply, 'Granted that I am not worthy of a great miracle,[23] yet am I worthy of a minor one!'[24]

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(1) If it be resolved that fodder is not a separation, what if it was surrounded by fields of different cereals, but still for human beings; these being unaffected, whilst those beyond, which were the same, being affected?

(2) If it be answered that fields of different seed break the continuity and are disregarded, what if a wheat field was surrounded by fields of barley?

(3) Job XXII, 28.

(4) I.e.,the promise that my hopes and prayers would be fulfilled; but these were for wheat, not barley.

(5) [לתא , lit., 'cause'; Ginsberg, L. MGWJ, LXXVIII, p. 19.]

(6) Jer. XLII, 2. When misfortune is decreed upon a person, it is not absolute. That itself proves that in this case it was not due to the lessor's bad fortune, but was a natural phenomenon.

(7) Where all the lessor's fields have been affected, he can argue, 'Something has in fact been left to me, viz., the rent I receive, even though reduced. This proves that it is my fate that something should be left to me, and therefore if this blasting were due to my evil fortune, some of my fields would have escaped, in accordance with the verse. But nothing at all has been left to you, which shews that you are excluded from that promise; so that after all it may be your peculiar fate that is responsible' (Tosaf.).

(8) I.e., of drought.

(9) 'Ar. 29b. This refers to a sale of land when the law of Jubilee was in force. The vendor always retained the option of repurchase, but not before the estate had been in the vendee's possession for at least two years. But if one of these was a year of blasting, etc., it was not counted.

(10) The vendee is regarded as having enjoyed a year's harvest, to be taken into account in assessing the redemption price, which was calculated on a pro-rata basis, according to the number of years to the Jubilee and the length of time the vendee had been in possession.

(11) To be charged to the first owner. This contradicts the Mishnah.

(12) Lev. XXV. 15.

(13) And this is the verse from which pro rata redemption after two years is deduced (‘Ar. 29b). Hence, even if there is a widespread blight in which the whole plain is smitten, yet since some harvests are reaped elsewhere, the year is taken into account.

(14) I.e., since Scripture forbade sowing in the seventh year, it was specifically excluded from the years of produce; hence is regarded as non-existent.

(15) ‘Ar. 25a. The reference is to Lev. XXVII, 16-19: And if a Man shall sanctify unto the Lord a field of his possession, then thy estimation shall be according to the seed thereof an homer of barley seed shall be valued at fifty shekels of silver. If he sanctify his field from the year of jubilee, accordingly to thy estimation it shall stand. But if he sanctify the field after the jubilee, then the priest shall reckon unto him the money according to the years that remain, even unto the year of jubilee, and it shall be abated from thy estimation. Now, the Mishnah states that according to this reckoning, for every year that remains a sela’ and a pundion, which is 1/48th of a sela’, is due. This shews that the fifty shekels are divided into 49, the number of years in a jubilee (excluding the jubilee itself). But if the Sabbatical years, not being years of seed, are excluded, there are only 42 years of seed into which the fifty must he divided, which gives almost a sela’ and a denar per annum.

(16) I.e., some use can be made of the seventh year, and the Bible did not specify ‘years of harvests’ in this connection.

(17) I.e., blighted.

(18) Ps. XXXVII, 19.

(19) Therefore no deduction can he made, notwithstanding the widespread epidemic.

(20) Supra 41a.

(21) I Sam. XVII, 36.

(22) Complaints being made that his goats were damaging the crops, he exclaimed, ‘If it be so, let bears devour them; if not, let them capture bears and bring them in by their horns.’ In the evening his goats came in, drawing the bears by their horns! V. Ta'an. 25a.

(23) That my flock should be saved even in your absence.

(24) That it should be saved through your presence.

Talmud - Mas. Baba Metzia 106b

— This indeed is a difficulty.

One [Baraitha] teaches: He [the tenant] must sow it [the field] the first and second time, but not the third.[1] But another [Baraitha] teaches: He must resow it a third time, but not a fourth! — There is no difficulty: the former is according to Rabbi; the latter, R. Simeon b. Gamaliel. The former is according to Rabbi, who maintained that a presumption is established by an occurrence happening twice. The latter, R. Simeon b. Gamaliel, who held that a presumption is established only when it occurs three times.[2]

Resh Lakish said: This was taught only if he sowed it, it grew, and was devoured by locusts. But if he sowed it, and it did not grow at all, the lessor can say to him, 'Go on repeatedly sowing [the field] during the extra period of sowing.' And until when is that? — Said R. Papa: Until the aris[3] comes from the field and kimah is situated overhead.[4]

An objection is raised: R. Simeon b. Gamaliel said on the authority of R. Meir, and R. Simeon b. Menasya said likewise: [The second] half of Tishri, Marcheshvan, and the first half of Kislev is seed-time; [the second] half of Kislev, Tebeth, and half Shebat are the winter months; [the second] half of Shebat, Adar, and [the first] half of Nisan, cold months; [the second] half of Nisan, Iyar, and [the first] half of Sivan is the period of harvests; [the second] half of Sivan, Tammuz, and the first half of Ab are summer; the second half of Ab, Ellul and the first half of Tishri, hot months. R. Judah counted [these periods] from [the beginning of] Tishri; R. Simeon, from Marcheshvan.[5] Now, who gives the most lenient interpretation?[6] R. Simeon [who counts from Marcheshvan]; and yet he does not extend the [sowing] season so far! — There is no difficulty. The latter refers to a field leased for early sowing;[7] the former, to one leased for late sowing.[8]

R. JUDAH SAID: IF HE LEASES IT ON A MONEY RENTAL. A certain man leased a field by the bank of the River Malka Saba[9] on a money rental, for sowing garlic. But the River Malka Saba became dammed up.[10] When he came before Raba, he said to him, 'It is unusual for the River Malka Saba to become dammed; this is a widespread blow; [therefore] go and deduct.' But the Rabbis protested to Raba, did we not learn, R. JUDAH SAID: IF HE LEASED IT ON A MONEY RENTAL, THEN IN BOTH CASES HE MAY MAKE NO DEDUCTION? — He replied: None pay heed to this ruling of R. Judah.

MISHNAH. IF A MAN LEASED A FIELD AT AN ANNUAL RENTAL OF TEN KORS WHEAT, AND IT [THE FIELD] WAS SMITTEN,[11] HE CAN PAY HIM THEREOF.[12] IF, [ON THE OTHER HAND,] THE WHEAT GROWN WAS OF CHOICE QUALITY, HE [THE TENANT] CANNOT SAY, 'I WILL PURCHASE WHEAT IN THE MARKET [FOR YOUR RENTAL],' BUT MUST PAY HIM THEREOF.[13] GEMARA. A man leased a field to grow fodder for [several] kors of barley. [The field] having produced a crop of fodder,[14] he ploughed and resowed it with barley, which was, however, blighted. So R. Habiba, of Sura on the Euphrates,[15] sent to Rabina: How is it in such a case? Is it analogous to the law, IF IT WAS SMITTEN, HE CAN PAY HIM THEREOF, or not? — He replied: How compare? In that case the soil had not performed the owner's behest; but here it had.[16] A certain man leased a vineyard from his fellow for ten barrels of wine: but that wine[17] turned sour. Now, R. Nahman thought to rule, This is the same as our Mishnah: IF IT WAS SMITTEN, HE CAN PAY HIM THEREOF. But R. Ashi said to him: What analogy is there? There the soil had not performed its duty, whilst here it had.[18] Yet R. Ashi admits in the case of grapes that had become wormy, or a field whose sheaves were smitten.[19]

MISHNAH. IF ONE LEASES A FIELD FROM HIS NEIGHBOUR TO SOW BARLEY, HE MUST NOT SOW WHEAT;[20] [TO SOW] WHEAT, HE MAY SOW BARLEY. BUT R. SIMEON

B. GAMALIEL FORBIDS IT. [IF RENTED FOR] CEREALS, HE MAY NOT SOW PULSE; BUT IF [FOR] PULSE HE MAY SOW CEREALS.[21] R. SIMEON B. GAMALIEL FORBIDS IT. GEMARA. R. Hisda said: What is R. Simeon b. Gamaliel's reason? — Because it is written, The remnant of Israel shall not do iniquity nor speak lies; neither shall a deceitful tongue be found in their mouth.[22]

An objection is raised: The Purim collections must be utilized for Purim only, and no scrutiny is made in the matter. The poor may not even buy shoestraps therewith, unless this was stipulated in the presence of members of the community: this is the ruling of R. Jacob, who stated it in the name of R. Meir; but R. Simeon b. Gamaliel

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(1) Having sown the field once, and it was blighted, he must resow it; otherwise he can make no deduction even if the epidemic was widespread. But if it was smitten again, he need not sow it a third time.

(2) V. Sanh. 81b. Hence, the crops having been twice blighted, there is a presumption that they will be smitten a third time too, according to Rabbi; and therefore without sowing a third time, he may deduct. But in the view of R. Simeon b. Gamaliel, they must be blighted three times before he may presume thus.

(3) V. Glos.

(4) Kimah is the name of a constellation, conjectured by Jast. to be Daco, not the Pleiades. In the month of Adar, corresponding to mid-February to March, the kimah appears to be overhead at the time the peasant finishes his work, viz., about four in the afternoon. Thus R. Papa states that the seed time is up to Adar.

(5) The passage is an explanation of the terms mentioned in Gen. VIII, 22: While the earth remaineth, seed-time (זרע) and harvest (קציר), and cold (וקר) and heat (וחם), summer (וקיץ) and winter (וחרף), and day and night shall not cease.

(6) Who starts the seasons latest, and so gives the latest period for seed-time.

(7) E.g., Wheat and rye.

(8) Barley and pulse, which are sown in Adar.

(9) [The large canal in the district of Mahuza; v. Obermeyer, op. cit. p. 170.]

(10) At a higher point than the field, so that it was insufficiently watered for garlic to grow.

(11) The crops being blasted or mildewed.

(12) Of the crops grown in that field, notwithstanding their poor quality.

(13) [This Mishnah, too, obviously deals with a fixed rental.]

(14) This requires only thirty days.

(15) [Whilst the town of Sura lay on the Sura canal, its west side was situated on the Euphrates, Obermeyer, op. cit. 293.]

(16) I.e., in the Mishnah it had been leased for barley, and the barley had been smitten. Therefore the lessor must accept his rent out of the crop. Here, however, the fodder, for which it had been rented, had not been affected, and it had never been leased for barley; consequently, he must supply him with sound barley, as the original understanding had been.

(17) Viz., which was manufactured from the grapes of that vineyard.

(18) The grapes were sound; therefore he must buy him good wine.

(19) Then the lessor must accept payment out of the crop. Though the sheaves were already detached from the soil, yet since they had to be spread out on the field for drying, they still needed the soil, and therefore it is as though they were smitten whilst growing.

(20) Because wheat exhausts the soil more than barley. This can refer only to a fixed rental; for in the case of a percentage rental, since a wheat crop is of greater value than a barley crop, he may sow wheat, as stated supra 104a: Let the field be impoverished, rather than its owner.

(21) The reasoning is the same as in the case of barley and wheat. [MS.M. reverses the position of cereals and pulse, a reading adopted by Maim. and Alfasi, cf. n. 5 below.]

(22) Zeph. III, 13.

Talmud - Mas. Baba Metzia 107a

is lenient in the matter.[1] — Said Abaye: R. Simeon b. Gamaliel's reason is in accordance With you, Master.[2] For the Master said: If one wishes his land to become sterile, let him sow it one year with wheat and the following with barley, one year lengthwise and the following crosswise.[3] Yet that is only if he does not plough it [after the harvest] and repeat [before sowing]; but if he does, no harm is done.

[IF RENTED FOR] CEREALS, HE MAY NOT SOW PULSE, etc. Rab Judah taught Rabin: [If rented for] cereals, he may sow pulse. Said he to him: But did we not learn, [IF RENTED FOR] CEREALS, HE MAY NOT SOW PULSEE? — He replied: There is no difficulty; this [sc. my ruling] refers to ourselves; the other, to them [the Palestinians].[4]

Rab Judah said to Rabin son of R. Nahman: My brother Rabin! The cress that grows among flax is not forbidden [to strangers] as robbery;[5] but that which grows on the borders [of the field] is so forbidden. Yet if it has become hardened for sowing,[6] even that which grows among the flax is forbidden as robbery. Why? — Because the damage is already done.[7]

Rab Judah said to Rabin son of R. Nahman: [Some of] these [fruits] of mine are really yours; and some of yours are really mine.[8] And the practice of abutting neighbours is to regard a tree as belonging to the field whither its roots tend. For it has been stated: If a tree stands by the boundary line [between two fields]: Rab said: Whither each is inclined, there it belongs; Samuel said: They share [therein].[9]

An objection is raised: If a tree stands by the boundary, they [the owners of the adjacent fields] share therein. This refutes Rab's ruling! — Samuel interpreted this on Rab's views as meaning that it takes up the whole [breadth of] the boundary.[10] If so, why state it? — It is necessary [to teach it] only when its weight overhangs in one direction.[11] But even so, why state it? — I might think that he [one field owner] can say, ‘Divide thus.’[12] Therefore we are informed that he can reply, ‘What reason is there for dividing in this manner? Divide it otherwise!’[13]

Rab Judah said to Rabin son of R. Nahman: My brother Rabin, do not buy a field that is near a town; for R. Abbahu said in the name of R. Huna in Rab's name: One may not stand over his neighbour's field when its crop is full grown.[14] But that is not so! For when R. Abba met Rab's disciples, and asked them: what comments did Rab make upon these verses: Blessed shalt thou be in the city, and blessed shalt thou be in the field. Blessed shalt thou be when thou comest in, and blessed shalt thou be when thou goest out?[15] They answered him: Thus did Rab say: ‘Blessed shalt thou be in the city’ — that thy house shall be near a synagogue; ‘and blessed shalt thou be in the field’ — that thy property shall be near the city; ‘Blessed shalt thou be when thou comest in’ — that thou shalt not find thy wife in doubt of niddah[16] on returning home from thy travels; ‘and blessed shalt thou be when thou goest out’ — that thine offsprings shall be as thee.[17] Whereupon he observed: R. Johanan did not interpret thus, but: ‘Blessed shalt thou be in the city’ — that the privy closet shall be near to thy table,[18] but not the synagogue.[19] R. Johanan's interpretation is in accordance with his opinion, viz., One is rewarded for walking [to a synagogue]. ‘And blessed shalt thou be in the field’ — that thy estate shall be divided in three [equal] portions of cereals, Olives, and vines. ‘Blessed shalt thou be when thou comest in, and blessed shalt thou be when thou goest out’ — that thine exit from the world shall be as thine entry therein: just as thou enterest it without sin, so mayest thou leave it without![20]

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(1) V. supra 78b. This proves that R. Simeon b. Gamaliel does not forbid a change of this description, where the original owner suffers no loss.

(2) Viz., Rabbah b. Nahmani; Abaye having been brought up in his house, he addressed him ‘Mar’, ‘Master’, ‘Sir’.

(3) I.e., sowing in such succession injures the fertility of the soil. Therefore, if he leased it for wheat, he may not sow it with barley, in the opinion of R. Simeon b. Gamaliel, lest wheat had been sown there the previous year.

(4) Palestine is not so well watered, and the impoverishment of the soil is a real danger; hence, if rented for cereals, pulse must not be sown, as they are a greater drain upon the soil. But Babylonian soil being more marshy and humid, there is no such danger. [According to Maim. Yad, Sekiroth, VIII, 7, the position of cereals and pulse is reversed throughout the passages, cf. p. 610, n. 8.]

(5) Because the injury it does to the flax is greater than its value, and the owner is pleased when people tear it out.

(6) I.e., fully grown.

(7) And it causes no further damage now.

(8) Their fields were contiguous, and each had trees planted near the intervening border. Rab Judah observed that some of his trees, though planted in his own soil, extended their roots into that of his neighbour and drew nourishment thence. Therefore those fruits really belonged to Rabin, and vice versa.

(9) Rashi translates: The tree stands near the boundary, whereon Rab rules that its ownership is fixed by the direction of its roots. Tosaf.: The tree stands actually on the boundary line, the roots spreading equally into both fields, and Rab rules that the ownership is fixed by its branches: it belongs to the field over which they preponderate.

(10) Rashi: The roots tending equally in both directions. Tosaf.: The branches overspread the whole boundary.

(11) Rashi: The weight of its branches and fruit are toward one side. Tosaf:. Though the branches are confined to the boundary, the fruit facing one field exceeds that which fronts the other.

(12) I.e., you take the fruit facing your field, and I will take that facing mine.

(13) E.g., instead of dividing the tree parallel to the length of the boundary, which gives one more than the other, divide it along its breadth.

(14) Lit., ‘when it is with its standing crop’. The reason is that he might injure it through the evil eye.

(15) Deut. XXVIII, 3,6.

(16) V. Glos.

(17) Translating the Heb. בצאתך ‘in respect of that which goeth forth from thee.’

(18) Metaphorically: there shall be adequate and readily accessible sanitation.

(19) I.e., in his opinion it is not desirable that the synagogue shall be near at hand, because, as stated in the Gemara, one is rewarded for walking to the synagogue.

(20) Reverting to the interpretation given in the name of Rab, the second passage contradicts Rab Judah's remark.

Talmud - Mas. Baba Metzia 107b

— There is no difficulty: the latter dictum is meant when it [the field] is surrounded by a wall and a hedge;[1] the former, when it is not so surrounded.

And the Lord shall take away from thee all sickness.[2] Said Rab: By this, the [evil] eye is meant.[3] This is in accordance with his opinion [expressed elsewhere]. For Rab went up to a cemetery, performed certain charms,[4] and then said: Ninety-nine [have died] through an evil eye, and one through natural causes. Samuel said: This refers to the wind. Samuel follows his views, for he said: All [illness] is caused by the wind. But according to Samuel, what of those executed by the State? — Those, too, but for the wind [which enters and plays upon the wound], an ointment could be compounded for them [which would cause the severed parts to grow together], and they would recover. R. Hanina said: This refers to the cold.[5] For R. Hanina said: Everything is from Heaven, excepting cold draughts, as it is written, Cold draughts are in the way of the froward: he that doth keep his soul shall be far from them.[6] R. Jose b. Hanina said: This refers to the excretions, for a Master said: The nasal and aural excretions are injurious when in great quantities, but beneficial in small. R. Eleazar said: This refers to [diseases of the] gall. It has been taught likewise: By mahala [‘sickness’,[7] illness caused by the] gall is meant; and why is it called ‘mahala’? Because it sickens the whole human frame. Alternatively, because eighty-three illnesses are dependent upon the gall,[8] and all of them may be rendered nugatory by eating one's morning bread with salt and drinking a jugful of water.

Our Rabbis taught: Thirteen things were said of the morning bread: It is an antidote against heat and cold, winds and demons; instils wisdom into the simple, causes one to triumph in a lawsuit,[9] enables one to study and teach the Torah, to have his words heeded, and retain scholarship;[10] he [who partakes thereof] does not perspire, lives with his wife and does not lust after other women; and it kills the worms in one's intestines. Some say, it also expels jealousy and induces love.[11] Rabbah asked Raba b. Mari: Whence comes the proverbial expression, ‘Sixty runners speed along, but cannot overtake him who breaks bread in the morning;’ also the Rabbinical dictum, ‘Arise early and eat — in summer, on account of the heat, in winter, on account of the cold’? — He replied: Because it is written, They shall not hunger nor thirst; neither shall the cold nor sun smite them.[12] Thus, ‘the cold or sun shall not smite them’, because ‘they shall not hunger nor thirst.’ Said he to him: You deduce it from that verse; but I, from this: And ye shall serve the Lord your God, and he shall bless thy bread, and thy water:[13] ‘And ye shall serve the Lord your God’ — this refers to the reading of the shema’[14] and prayer; ‘and he shall bless thy bread, and thy water’ — to bread and salt and a jug of water. Thenceforth: And I will take sickness away front the midst of thee.[15]

Rab Judah said to R. Adda the surveyor: Do not treat surveying lightly. because every bit [of ground] is fit for garden saffron.[16] Rab Judah [also] said to R. Adda the surveyor: The four cubits on the canal banks you may treat lightly, but those on the river banks do not measure at all.[17] Rab Judah is in harmony with his views, for Rab’ Judah said: Four cubits on the banks of a canal belong to the estate owners it serves; but those on the banks of a river are common property.[18]

R. Ammi announced: Cut down [all vegetation] in the shoulderbreadth of bargees on both sides of the river.[19] R. Nathan b. Hoshia had sixteen cubits thus cut down. Thereupon the people of Mashrunia[20] came and smote him. He thought that it is as a public thoroughfare.[21] But that is incorrect; only there [for a public road] is so much necessary, but here it [the clear space] is required for hauling the ropes; therefore the full shoulderwidth of the bargees is enough.

Rabbah son of R. Huna possessed a forest by the river bank. Being requested to make a clearing [by the water's edge], he replied, ‘Let the owners above and below me first clear [their portion], and then I will cut down mine.’ But how might he act so? Is it not written, Gather yourselves together, yea, gather:[22] which Resh Lakish translated, First adorn yourself, and then adorn others?[23] — In that Instance the [neighbouring] forests belonged to Parzak, the Field-marshal.[24] Therefore he [Rabbah] said: ‘If they cut down [their forests], I will do so likewise; but if not, why should I? For if they can still haul their ropes,[25] they have room for walking;

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(1) Which shut it out from sight; then it is advantageous to have it near the town, for convenience of transport, whilst at the same time it is not subject to the evil eye.

(2) Ibid. VII, 15.

(3) Rab translates: will take away from thee the cause of all sickness, which in his view is the evil eye.

(4) Lit., ‘did what he did,’ and so translated by Rashi. By means of whispering certain charms over the graves he learnt what had caused the death of their occupants.

(5) Deriving פחים from נפח to blow; others: cold and heat, connecting פחים with פחם , a glowing coal. V. A.Z. (Sonc. ed.) p.11, n. 2.

(6) Prov. XXII, 5; i.e., sickness brought about through these causes are avoidable, but through all others are not.

(7) With reference to Ex. XXIII, 25.

(8) The numerical value of מחלה is 83. V. B.K. (Sonc. ed.) p. 535, nn. 6-7

(9) The contentedness and tranquility which result from it enables the litigant to make the best of his plea.

(10) All these as in preceding note.

(11) Rashi: when man's mind is confused, be is easily angered — hence. ‘feed the brute.’

(12) Isa. XLIX. 10.

(13) Ex. XXIII. 25.

(14) V. Glos.

(15) Ibid.

(16) A particularly choice quality of saffron. As a surveyor, he measured out land in business transactions, divided inheritances, etc.

(17) No sowing was permitted within four cubits of the border of a canal so as not to damage its banks. These four cubits were marked off, and Rab Judah told R. Adda that he was not to be particular to measure them exactly. The four cubits on river banks were similarly treated, and Rab Judah observed that these need not be measured at all, but simply guessed.

(18) Therefore they must be given very liberally, hence he told him merely to guess the measurement.

(19) The bargees pulled the laden boats whilst they walked on the river bank. They naturally walked in a slanting fashion, bearing away from the river, and the full breadth that they might need had to be kept clear.

(20) To whom the forest belonged.

(21) For which sixteen cubits are given; B.B. 99b.

(22) Zeph. II, I.

(23) By connecting קשש , the root of התקוששו , with קשט , ‘to adorn.’ Be just yourself, before demanding it of others.

(24) V. supra p. 295, n. 8.

(25) Notwithstanding that the noble's forests are not cleared.

Talmud - Mas. Baba Metzia 108a

if not, they cannot walk there [in any case]’.[1]

Rabbah son of R. Nahman was travelling in a boat, when he saw a forest on the river bank. Said he: ‘To whom does this belong?’ — ‘To Rabbah son of R. Huna’, he was informed. He thereupon quoted, ‘Yea, the hand of the princes and rulers hath been chief in this trespass.[2] Cut it down, cut it down’, he ordered. Then Rabbah son of R. Huna came and found it cut down. ‘Whoever cut it down’,he exclaimed, ‘may his branches be cut down!’[3] It was related that during the whole lifetime of Rabbah son of R. Huna none of Rabbah son of R. Nahman's children remained alive.

Rab Judah said: All must contribute to the repair of the breaches in the wall,[4] even orphans; but not the Rabbis. Why? — The Rabbis need no protection.[5] But for the digging of wells [for drinking purposes] even the Rabbis are liable. But that is only if they [the townspeople] do not go out in bands;[6] if however, they do, [the Rabbis] are not [liable], because it is not In keeping with their dignity.[7]

Rab Judah said: When the river needs dredging,[8] those dwelling on the lower reaches must aid the upper inhabitants, but not vice versa.[9] But it is the reverse in respect to rain water.[10]

It has been taught likewise: If five gardens draw their water from the same well, and the well is damaged, all must assist the upper field; hence the lowest must aid all the rest, yet must repair by himself.[11] Likewise, if five courts run off their [surplus] water into one dyke, and the dyke is damaged, all must assist the lowest in the repairs;[12] hence the highest must assist all in repairing, yet must repair by himself [receiving no aid from the others.]

Samuel said: He who takes possession of the wharfage of a river is an impudent person, but cannot be [legally] removed.[13] But nowadays that the Persian authorities write [in the warrant of ownership], ‘Possess it [sc. the field on the river bank] as far as the depth of water reaching up to the horse's neck’, he is removed.[14]

Rab Judah said in Rab's name: If one takes possession[15] [of an estate lying] between [the fields belonging to] brothers or partners, he is an impudent man, yet cannot be removed. R. Nahman said: He can even be removed too; but if it is only on account of the right of pre-emption, he cannot be evicted.[16] The Nehardeans said: He is removed even on the score of the right of pre-emption, for it is written, And thou shalt do that which is right and good in the sight of the Lord.[17]

What if one came to take counsel of him [sc. the neighbour who enjoys the right of pre-emption] and asked, ‘Shall I go and buy it?’ and he replied, ‘Go and buy it’: is formal acquisition from him necessary,[18] or not? — Rabina[19] ruled: No formal acquisition is necessary; the Nehardeans maintained: It is. And the law is that a formal acquisition is needed.[20] Now that you say that a formal acquisition is necessary, — if he did not acquire it of him [and bought the field], it advances or falls in his [the abutting neighbour's] ownership.[21] Now, if he bought it for a hundred [zuz], whereas it is worth two hundred, we see: if he [the original vendor] would have sold it to any one at a reduced figure, he [the abutting neighbour] pays him [the vendee] a hundred [zuz] and takes it. But if not [and it was a special favour to the vendee], he must pay him two hundred and only then take it. But if he bought it for two hundred, its value being only one hundred, — it was [at first] thought that he [the abutting neighbour] can say to him, ‘I sent you for my benefit, not for my hurt.’[22] But Mar Kashisha, the son of R. Hisda,[23] said to R. Ashi: Thus did the Nehardeans say in R. Nahman's name: There is no law of fraudulent purchase in respect to real estate.[24]

If one sold a griwa[25] of land in the middle of his estate, we see: if it is of the choicest or of the most inferior quality, the sale is valid;

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(1) Since the noble could not be compelled to clear his forest, Rabbah's clearing would serve no purpose.

(2) Ezra IX, 2.

(3) I.e., may his children die!

(4) As a measure of defence.

(5) The merit of their learning protects them.

(6) To dig it personally, but merely furnish the money for it.

(7) On the whole passage v. B.B. (Sonc. ed.) p. 33.

(8) Of mud and refuse which impede the free flow of the water.

(9) If there are obstacles on the upper parts of the river, the water flow is adversely affected for the lower too. But on the other hand, there is no profit for the upper inhabitants to clear the lower portions, for the greater the ease with which the water runs downwards, the less water is left for them.

(10) Where the rainfall has to be drained away because it injures the roads etc., those on the upper reaches must aid the lower, because if the lower water is not carried off the upper cannot be either. But those living below have no profit in the drainage of the town situated by the upper reaches of the river.

(11) As before, it is in the interest of each that the water from above shall flow freely to his own field, but not that it shall continue after it has passed his estate. Therefore the lowest of all must assist in the repairing if the course is blocked above, but none need help him if it is blocked at his own estate.

(12) If it was damaged at his court.

(13) As stated above, p. 425, under Persian law, he who paid the land tax on a plot of land was entitled to it. A large clear space on the river bank was left for the purpose of unloading. It would appear that originally no one had a particular claim to it, and the revenue suffered accordingly. Hence, if one paid the land tax and seized it, he could not be legally removed; nevertheless, since this would cause considerable public inconvenience, he was stigmatised as an impudent man, lacking in civic responsibility.

(14) Though the owners fence off their fields at some distance from the water's edge, the land actually belongs to them, and therefore none can legally seize it.

(15) By paying the land tax thereon.

(16) I.e., if the two fields on either side do not belong to brothers or partners, yet the owners allege that they had a prior right to pay the tax and take the land, and had intended doing so, in accordance with the right of pre-emption (v. p. 396, n. 6), their plea is unavailing.

(17) Deut. VI, 18. This is regarded as an exhortation to the purchaser: ‘Why buy a field just here, where it is more useful to its neighbour than another field not adjacent to his, when you can as easily buy a similar field elsewhere, seeing that it makes no difference to you?’

(18) [The performance of a kinyan confirming the surrender of the abutting neighbour's right of pre-emption.]

(19) Alfasi reads: R. Nahman.

(20) Otherwise the neighbouring estate owner can say, ‘I merely stood aside whilst you established its price, as I knew that I would be charged more, being particularly anxious to obtain it.’

(21) I.e., the purchase is legally invalid, the abutting neighbour retaining his option on it. Therefore if it appreciates after the purchase, he can insist on taking it over from the vendee at its value at the time of purchase, and the profit of the advance is his. Contrariwise, if it loses in value, he must pay the vendee its full original value.

(22) For the vendee has in fact involuntarily become the neighbour's agent for purchase. Hence the latter can repudiate his act and insist on receiving it at its market value.

(23) V. p. 388, n. 4.

(24) Hence the neighbour must render the price paid by the vendee.

(25) V. Glos.

Talmud - Mas. Baba Metzia 108b

otherwise it is mere evasion.[1]

A gift is not subject to the law of pre-emption. Said Amemar: But if he [the donor] promised[2] security of tenure,[3] it is subject thereto.[4] When one sells all his property to one person, the law of pre-emption does not apply.[5] [Likewise, if it is sold] to its original owner, it is not subject to the law of pre-emption. If one purchases from or sells to a heathen, there is no law of pre-emption. ‘If one purchases from a heathen’ — because he [the purchaser] can say to him [the abutting neighbour], ‘I have driven away a lion from your boundaries.’ ‘If he sells to a heathen’ — because a heathen is certainly not subject to [the exhortation], ‘And thou shalt do that which is right and good in the sight of the Lord.’ Nevertheless, he [the vendor] is placed under a ban, until he accepts responsibility for any injury that might ensue through him [the heathen]. A mortgage is not subject to the law of pre-emption. For R. Ashi said: The elders of Matha Mehasia told me, What is the meaning of mashkanta [a pledge, mortgage]? That it abides with him [the mortgagee].[6] What is its practical bearing? In respect to pre-emption. When one sells [an estate] that is far [from the vendor's domicile] in order to buy one that is near, or an inferior property to repurchase a better, the law of pre-emption does not apply.[7] [When an estate is sold] for polltax, alimony [of a widow and her daughters] and funeral expenses, the law of pre-emption does not apply, for the Nehardeans said: For poll-tax, alimony, and funeral expenses an estate is sold without public announcement.[8] [A sale] to a woman, orphans, or a partner is not subject to the law of pre-emption.[9]

Of urban neighbours and rural neighbours, the former have priority;[10] of a neighbour [but not of the field to be sold] and a scholar, the latter takes precedence; of a relative and a scholar, the latter has priority. The scholars propounded: What of a neighbour and a relative? — Come and hear: Better is a neighbour that is near that a brother that is far off.[11]

If one offers well-formed coins, and the other full — weight coins,[12] the law of pre-emption does not apply. If these [the coins of the abutting neighbour] are bound up, and those [of the purchaser] unsealed, there is no pre-emption.[13] If he [the neighbour] says, ‘I will go, take trouble, and bring money;’ we do not wait for him. But if he says, ‘I will go and bring money;’ we consider: if he is a man of substance, who can go and bring the money [without delay], we wait for him; if not, we do not wait for him.

If the land belongs to one and the buildings [upon it] to another, the former can restrain the latter,[14] but the latter cannot restrain the former.[15] If the land belongs to one and the palm-trees [upon it] to another, the former can restrain the latter, but the latter cannot restrain the former. [If a stranger wishes to purchase] the land for building houses, and [the abutting neighbour wants] the land for sowing, habitation is more important; and there is no law of pre-emption. If a rocky ridge or a plantation of young palm trees lay between [the fields], we consider: If he [the abutting neighbour] can enter therein even with a single furrow,[16] it is subject to the law of pre-emption, but not otherwise.[17] If one of four neighbours [on the four sides of a field] forestalled the others, the sale is valid; but if they all come together, it [the field] is divided diagonally.[18]

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(1) If A buys a small piece of land in the middle of B's estate, he immediately becomes a neighbour to the surrounding estate, just as C, the original neighbour on the outer side. Now, if the land bought by A is distinctly inferior or superior to the rest, it is natural that it should be sold separately, and the sale is genuine. But if it is just the same, it is obviously a mere fiction to make A the neighbour of B, and therefore C retains his rights of pre-emption.

(2) Lit., ‘wrote’.

(3) I.e., in case it is seized for the donor's debt, another will be supplied.

(4) Because it must have been a disguised sale, no person promising security for a gift.

(5) Because the purchaser might refuse to buy the rest if he must give up any portion thereof.

(6) [משכנתא from שכן ‘to rest’, ‘abide’. The mortgagee is considered the nearest abutting neighbour,. v. B.M. (Sonc. ed.) p. 396, n. 6.]

(7) Since the vendor may suffer through the delay, and no privilege is given to one which entails a disadvantage to another.

(8) In other cases of forced sale by order of the court, it was publicly announced so as to attract bidders. But these were regarded as matters of urgency, and therefore the announcement was dispensed with. For the same reason, one cannot wait for the neighbouring estate-owner to avail himself of his privilege.

(9) It was not held seemly that a woman should go about in search of land to buy; therefore the first purchase she makes is valid, even though it infringes upon the rights of pre-emption. The same privilege is accorded to orphans, on account of their generally defenceless state. With respect to partners, there are different interpretations. Rashi: If A and B are partners in a field, and C is their neighbour, A can sell his portion to B, and C cannot plead, ‘Since I am a neighbour, I am entitled to buy half that portion, as in the case of two neighbours.’ Tosaf. and R. Hai (quoted in Asheri a.l.): If A and B are partners in general, in land, or in business, A can sell a field to B (in which they are not partners) notwithstanding that C is a neighbour. In actual law, both interpretations are accepted; v. H.M. 175, 12 and 49.

(10) If A is selling a field, and B is his neighbour in town, having a house next to his, whilst C is a neighbour of a field belonging to A, but not of that which is for sale, so that neither is a neighbour of the field to be sold, priority must be given to B, the urban neighbour. Thus, this does not refer to pre-emption at all. So Rashi, who bases his interpretation on the following arguments: (i) Whereas the whole of the preceding passage uses the phrase ‘the law of neighbourly pre-emption’ (דינא דבר מצרא), this passage speaks of priority, in quite a different phrase (קודמין); (ii) Had the reference been to pre-emption, the previous passage should have included it, reading, (A sale) to a woman, orphans, a partner, and urban neighbour, and a scholar (as this passage continues) is not subject to pre-emption; (iii) Surely a scholar cannot infringe upon the pre-emption rights of an ignoramus! Tosaf. holds that the passage does refer to pre-emption, but treats of two neighbours. The weight of authority supports Rashi's view; v. H.M. 175, 50.

(11) Prov. XXVII, 10.

(12) V. p. 403, n. 4. If the neighbour offers the former and the purchaser the latter, or vice versa, the vendor can insist upon a particular preference.

(13) If a neighbour and a stranger send money for the field, the former's coins being bound up and sealed in a package, whilst the latter's are open to view, and the vendor maintains that he is afraid to open the package, lest the sender claim that it contained more, he can sell to the stranger.

(14) From selling them to a stranger, if he wishes to buy himself.

(15) The landowner is regarded as permanent on the land, hence he can restrain the house-owner; not so the latter, who is held to have no permanent stake in the land.

(16) I.e., the separation is not continuous.

(17) Because the main reason of the right of pre-emption is that it is cheaper to cultivate two adjoining fields than two separate ones, as a long continuous furrow can be ploughed and sown in a single operation.

(18) v. figure.

Talmud - Mas. Baba Metzia 109a

MISHNAH. IF A MAN LEASES A FIELD FOR BUT A FEW YEARS,[1] HE MUST NOT SOW IT WITH FLAX,[2] NOR HAS HE A RIGHT TO THE SYCAMORE BEAMS.[3] BUT IF HE LEASED IT FOR SEVEN YEARS, HE MAY IN THE FIRST YEAR SOW IT WITH FLAX, AND HAS A

RIGHT TO THE SYCAMORE BEAMS.

GEMARA. Abaye said: He has no rights to the sycamore beams, but is entitled to the improvement in the sycamores themselves,[4] Raba said: He is not even entitled to the improvement.

An objection is raised: If one leases a field, when his lease expires[5] an assessment is made for him. Surely that means that the improvement in the sycamores are assessed for him! — No. The vegetables and beets are assessed for him. The vegetables and beets! Let him uproot and take them away! — It was before market day.[6]

Come and hear: If one leases a field, and the seventh year [i.e., the year of release] intervenes, an assessment is made for him. Does then the seventh year withdraw the land [from the lessee]?[7] — But read thus: If one leases a field, and the Jubilee arrives, an assessment is made for him. Yet even so, does then the Jubilee cancel a leasehold: Scripture [merely] forbade a sale in perpetuity![8] — But read thus: If one buys a field from his neighbour, and the Jubilee arrives, an assessment is made for him! And should you answer: Here too, the vegetables and beets are assessed for him, [I would reply] these are free to all in the Jubilee! Hence It must surely refer to the improvement of the sycamores![9] — Abaye explained the cited Baraitha on the basis of Raba's views: There it is different, because the Writ saith, Then the house that was sold shall go out [in the year of Jubilee]:[8] [only] that which was sold is returnable [to the first owner], but not the improvements. Then let us learn from it![10] — There it is a true sale, and Jubilee is a royal revocation.[11]

R. Papa leased a field for growing fodder. Now, some young trees sprouted up therein. When he [R. Papa] was about to quit, he said to them [the original owners]: Give me the improvement,[12] Said R. Shisha the son of R. Idi to R. Papa: If so, [had you leased] palm-trees, and these grew thicker [during the period of lease], would you then, Master, also demand the improvement? — He replied: There, I should not have taken possession for that purpose; but here I leased it[13] for that.[14] With whom does this agree? With Abaye, who maintained that he is entitled to the improvement In the sycamores? — It may agree even with Raba. There he [the lessee] suffers no loss [through the improvement of the sycamores]; here there is a loss. But he [the lessor] said to him, ‘Wherein did I cause you to suffer loss? Through the [diminished] area for fodder. Then take the value of the fodder [that would have grown] in their place, and go.’ He replied, ‘I would have sown it with garden saffron,’[15] Said he to hini, ‘You have [thus] shown that your intention was to remove [what you did sow] and depart:[16] then take your saffron and go. You are entitled only to the value of the wood.’[17]

R. Bibi b. Abaye leased a field and surrounded it with a ridge, from which there sprung forth sorb bushes. When he left the field [on the expiration of the lease], he said to them, ‘Give me the improvements I effected.’[18] Said R. Papi: ‘Because you come from Mamla, you speak words of no substance.[19] Even R. Papa claimed [improvements] only because he suffered loss; but here, what loss have you sustained?’

R. Joseph had a gardener.[20] Now, he died and left five sons-in-law. Said R. Joseph: Hitherto there was one, and now there are five; hitherto they did not rely on each other [to do the work] and so caused me no loss, whilst now they will, and cause me loss. [Therefore] he said to them: If you accept the improvements due to you and quit, it is well; if not,I will evict you without [giving you] the improvements. For Rab Judah — others state, R. Huna — others state, R. Nahman — said: If a gardener dies, his heirs may be evicted without [receiving] the improvements . — But [nevertheless] that is incorrect.

A certain gardener said to his employers, ‘Should I cause loss, I will quit.’ He did [then] cause loss, Said Rab Judah: He must quit without [receiving] the improvements. R. Kahana said: He must quit, but receives the improvements [he effected]. Yet R. Kahana admits that if he said, ‘I will quit without the improvements,’ he is evicted without [receiving] improvements. Raba said: [Even then,] It is an asmakta,[21] which is not binding. But according to Raba, wherein does it differ from what we learnt: ‘Should I neglect and not till it, I will pay with the best [crops]?’[22] — There he merely pays for the loss he caused;[23] here [it is sufficient that] we make a deduction on account of what he spoiled — whilst the rest must be given him.[24]

Ronia was Rabina's gardener. Having spoiled it, he was dismissed. Thereupon he went before Raba, complaining — ‘See, Sir, how he has treated me.’ ‘He has acted within his rights,’ he informed him. ‘But he gave me no warning,’ protested he. ‘No warning was necessary,’ he retorted. This is in accordance with Raba's views. For Raba said: Elementary teachers, a gardeners butcher, a cupper[25]

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(1) Less than seven years.

(2) Because it greatly impoverishes the soil, which does not regain its fertility until after seven years. This can apply only to a lease on a fixed rental, for if on a percentage basis, the lessor himself profits thereby (Rashi); v. p. 597.

(3) The branches of sycamore trees were lopped off and fashioned into beams for building purposes. But as they required seven years to grow again, a lessee for a short term has no right to them.

(4) If the sycamores improved during his lease, the improvement is assessed, and the lessee is entitled thereto.

(5) Lit., ‘his time came to quit.’

(6) And if they are stored, their value depreciates. Hence they are assessed, but left in the field.

(7) This is an interjection.

(8) Cf. Lev. XXV, 33.

(9) This contradicts Raba.

(10) In reference to a lease: Just as there, the vendee is entitled to improvements, so here too.

(11) Of the sale. Hence, only what Scripture distinctly states is to return, sc. the purchase, is returnable, but not the improvements. But in the case of a lease the return is pursuant to a human agreement; hence, in Raba's view, it goes back just as it is, including the improvements.

(12) The value of the trees.

(13) Lit., ‘descended therein.’

(14) When leasing palm-trees, the lessee thinks only of the fruit, but when leasing a field for fodder, his mind is set upon anything that may grow there.

(15) Which is much more valuable.

(16) By answering, ‘I would have sown it with saffron,’ you have shewn that you would have planted something which could be entirely removed when grown, and not that which, whilst the stock remained, would show you a profit on its improvement, e.g., young palm-trees.

(17) I.e., you must regard these trees as though they were saffron and you had to remove them entirely, and thus you have no other claim but for the value of the timber.

(18) The value of these bushes.

(19) The Aruch holds Mamla to be a place name, whose inhabitants were short-lived. Because you come from such a place, you speak words that are short-lived i.e., use untenable arguments. Rashi: Because you are descendants of Eli (who were likewise short-lived, v I Sam. II, 31ff.) you speak etc. [For another interpretation v. B.B. (Sonc. ed.) p. 582, n. 6.]

(20) Who worked for half profit.

(21) V. Glos.

(22) Supra 104a. It is there stated that their condition is binding.

(23) Since he neglects the whole field, he involves its owner in considerable loss, and there are no profits to offset it,

(24) But he must not be deprived of all his share in the improvements, which exceeds the loss.

(25) So translated by Rashi supra 97a. Here he translates: a circumciser.

Talmud - Mas. Baba Metzia 109b

and the town scribe,[1] are all regarded as being permanently warned.[2] The general principle is this:

for every loss that is irrecoverable, [the workers] are regarded as being permanently warned.

A certain gardener said, ‘Give me my improvements, as I wish to emigrate to Palestine.’ When he came before R. Papa b. Samuel he ordered: ‘Give him the improvements’.But Raba protested: ‘Has only he effected the increased value, and not the soil?’[3] He replied, ‘I meant half thereof.’ ‘But,’ he protested, ‘hitherto the owner took half and the gardener half; whereas now he must give a share to an aris!’[4] He replied , ‘I meant a quarter of the improvement .’ Now R. Ashi thought this to mean a quarter [of the residue],[5] which is a sixth [of the whole]. For R. Minyomi, the son of R. Nehumi, said: Where it is the practice for a gardener to receive half profits and an aris one third,[6] and a gardener wishes to quit, he is given [his share of the] profits and dismissed, [a share being computed in such a way] that the employer sustains no loss [through having to engage an arts]. Now, should you assume that he meant a quarter [of the residue after paying the aris his share], which is a sixth of the whole, it is well; but if you say that it means a literal quarter, the employer loses a twelfth![7] R. Aha, the son of R. Joseph, said to R. Ashi: But cannot he [the gardener] say to him, ‘Do entrust your own portion to the aris; whilst as for me, I can do what I wish with my own share’?[8] — He replied: When you arrive at ‘The slaughter of consecrated animals,’ come and place your difficulties before me.[9]

The [above] text states: ‘R. Minyomi, son of R. Nehumi said: Where it is the practice for a gardener to receive half profits and an arts one third, and a gardener wishes to quit, he is given [his share of] the profits and then dismissed, [a share being computed in such a way] that the employer sustains no loss.’ R. Minyomi, son of R. Nehumi [also] said: Of an old [vine] trunk [the gardener receives] half;[10] but if the river inundated it,[11] he receives a quarter.[12]

A certain man pledged a vineyard with his fellow for ten years,[13] but it aged after five.[14] Abaye said: They [the aged trunks] rank as produce;[15] Raba ruled: As principal; therefore land must be bought therewith, of which he [the mortagee] enjoys the usufruct.

An objection is raised: If the tree withered or was cut down, both are forbidden to use it. What then shall be done? It must be sold for timber, land bought with the proceeds, and he [the mortgagee] takes the usufruct.[16] Surely ‘withered’ is similar to ‘cut down’: just as the latter means, in its due time, so the former too; and yet it is taught, ‘It must be sold for timber, land bought with the proceeds, and he [the mortagee] takes the usufruct’: thus proving that it ranks as principal? — No; ‘cut down’ is similar to ‘withered:’just as the latter [implies] before its time,[17] so the former too.

Come and hear: If aged vines and olive trees fell to her [as an inheritance],[18]

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(1) [Or ‘barber’, v. B.B. (Sonc. ed.) p. 106, n. 7.]

(2) Of dismissal, should their work be unsatisfactory.

(3) Surely the owner of the soil is entitled to at least half.

(4) The gardener having left the work unfinished, an aris (v. Glos.) must be engaged, who will also demand his share, and so the owner loses thereby. .

(5) After allowing for the share of the aris, v. n. 9.

(6) A gardener plants the vineyard, whereas an aris comes to a vineyard already in existence, hence he receives a smaller portion.

(7) E.g., if the profits are six denarii, the gardener and the employer would each have received three. But now an aris must be engaged, who receives a third of the net profits, i.e., two denarii. Hence, if the gardener receives a quarter of the whole, i.e., 1 1/2 denarii, the employer is left with 2 1/2, a twelfth of the whole less than his due; but if he is allotted only a quarter of the residue, i.e. , of 7 denarii, the employer is still left with his full share.

(8) [Even if the gardener should receive a quarter, not a sixth, the employer stands to lose nothing, for the gardener can tell him to entrust the remaining three quarters to an aris, who will receive a third of it for his labour, and a half of the whole will still be left for the owner. Thus: 1/3 x 3/4 x 6 = 1 1/2 (share of the aris); 3/4 x 6 — 1 1/2 = 3, half of the whole (share of the employer).]

(9) 'The slaughter of consecrated animals' is in the name of a tractate of the Talmud, now called 'Sacrifices' (זבחים), of great subtlety. I.e., 'I see from the question that you have a keen subtle mind — it will be particularly interesting to hear your comments on that Tractate.' Rashi gives two views on this remark. One, that he accepted its reasoning, and complimented him thereon; another, that he merely evaded it by a sarcastic reference to its oversubtlety.

(10) When it no longer bears fruit and is cut down for its wood.

(11) Either uprooting it entirely, or waterlogging the soil and making the vine unfit for fruit, at least for a long time,

(12) As a gardener who wishes to quit in the middle. In the first instance, the ageing of a vine is natural, and therefore it is tacitly understood that when no longer fruit-bearing it shall be treated as the rest. But an inundation is unnatural; hence it is considered as though the gardener had suddenly quitted it,

(13) On a time mortgage. V. supra p. 394.

(14) And was unable to produce. This was when it was expected to age.

(15) Therefore they belong to the mortgagee.

(16) V. supra 79a.

(17) Because the ordinary withering due to age is expressed by 'aged', though that too may imply untimely withering, but 'withered' can only mean prematurely, Tosaf.

(18) The reference is to a married woman, of whose inheritance the husband enjoys the usufruct, v. Keth. 79b.

Talmud - Mas. Baba Metzia 110a

they are sold for timber and land bought with the proceeds, whereof he [the husband] enjoys the usufruct![1] — Read: 'and they aged.'[2] Alternatively: have we not explained it that, e.g., they fell to her in another field [not belonging to her]? so that the [entire] principal is destroyed.[3]

A certain note[4] stated an unspecified number of years. Now, the creditor maintained that it meant three; whilst the debtor insisted upon two. Thereupon the creditor anticipated [the findings of the court] and enjoyed the usufruct. Now, whom do we believe? — Rab Judah said: The land stands in the presumptive possession of its owner.[5] R. Kahana said: The usufruct is in the presumptive possession of him who enjoyed it.[6] And [indeed], the law is in accordance with R. Kahana, who maintained that the usufruct is in the presumptive possession of those who enjoyed it. But have we not an established principle that the law is in accordance with R. Nahman [in civil law], and he [himself][7] ruled that the land is in the presumptive possession of its owner?[8] — There it is in a matter that is not destined to be cleared up; here, however, it is a matter [the truth of which] may be finally revealed,[9] and a Court is not to be troubled twice.[10]

If the creditor maintains that it [the mortgage] was for five years, whilst the debtor says that it was for three: and when he challenges him, 'Bring forth your note,' he pleads, 'The note is lost,' — Rab Judah ruled: We believe the creditor, since he could have pleaded, 'I have bought it [outright].'[11] Said R. Papa to R. Ashi: R. Zebid and R. 'Awira disagree with Rab Judah's ruling. Why? — Since this document is for the purpose of collection,[12] he [the creditor] must have taken great care of it, and [now] he is actually Suppressing the document, thinking, 'I will enjoy its usufruct for an additional two years.' Rabina said to R. Assi: If so, a mortgage after the fashion of Sura, which was drawn up thus: 'On the completion of this number of years, this estate shall go out [of the mortgagee's possession] without further payment:' if he suppresses the mortgage deed and pleads, 'I have bought it' — is he then believed: would then the Rabbis have enacted a measure which may lead to loss? — He replied: There the Rabbis enacted that the mortgager should pay the land-tax and repair ditches.[13] But what of an estate that has no ditches and is not subject to land-tax? Then he should have made a formal protest,[14] he answered. But what if he did not protest? — Then he brought the loss upon himself.

If the aris claims, 'I entered [the field] on half profits'; whilst the landlord maintains, 'I engaged him on a third profits'; who is believed? — Rab Judah said: The owner is believed; R, Nahman ruled: It all depends on local usage. Now, it was assumed that there is no dispute, the latter ruling[15] refers to a place where an aris receives half; the former, where he receives a third. But R. Mari, son of Samuel's daughter,[16] said to them [the scholars]: Thus did Abaye say: Even in places where the aris receives a half, there is still a dispute; Rab Judah ruling that the landlord is believed, since he could have pleaded, ‘He is my hired labourer’ or ‘my gleaner.’[17]

If orphans maintain, ‘We have created the improvements;’ whilst the creditor contends, ‘Your father created them:’[18] upon whom lies the onus of proof?

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(1) This proves that they rank as principal; for if as fruit, the husband might enjoy them direct.

(2) Prematurely. Even Abaye admits that in such a case it does not count as produce, since it was unexpected.

(3) If the husband uses it direct, whereas the principal of the legacy must remain the wife's. But if she inherited them in her own field or vineyard, the husband could sell them for timber and utilise the proceeds direct, since the soil is still left for the wife. The dispute of Abaye and Raba refers to a similar case, viz,, where land and its trees were pledged. But if only trees, the field not belonging to the debtor, presumably Raba agrees that they rank as principal, not produce.

(4) Concerning a mortgage in the fashion of Sura, (v. p. 394) which was that the land reverted to the debtor after an agreed period without further payment.

(5) V. supra 102b, Thus, since there is a dispute about the third year, we presume that it belongs to the debtor, since he is its known owner, unless there is proof to the contrary; and therefore the creditor is forced to repay.

(6) It being a general rule that the onus of proof lies on the plaintiff, who in this case is the debtor, since the creditor has already taken it.

(7) So the text according to Rashi and Rashal.

(8) V. supra 102b.

(9) By the signatories to the note, who can attest the intended period.

(10) If the return of the usufruct is ordered, witnesses may attest that the intended period was three years, and the matter will have to come before Court a second time.

(11) For three years establish a presumption of ownership, in the absence of a deed of a sale; v, B.B. III. 1.

(12) I.e., of the debt, in the form of usufruct; without it, the debtor could have evicted the creditor at the very outset.

(13) Round about the field, for irrigation. Hence the true ownership is known.

(14) I,e., a declaration that the land was not purchased by the creditor. This of course had to be done before three years.

(15) That it depends on local usage, and since this was said in contradistinction to Rab Judah's dictum, it must mean that the aris is believed

(16) V. p. 588, n. 2.

(17) I.e., ‘I have only hired him for a few days, and thus could have dismissed him with a small wage’; לקיט , here translated ‘gleaner’, was a sort of client or retainer (Jast.).

(18) A creditor of the deceased has no claim upon the increased value of an estate effected by the heirs; but v. p. 630, n. 5.

Talmud - Mas. Baba Metzia 110b

Now, R. Hanina thought to rule: The land stands in the presumptive ownership of the orphans; therefore the creditor must adduce proof. But a certain old man observed to him, Thus did R. Johanan rule: It is for the orphans to adduce proof. Why? — Since land stands to be seized [for debt] it is as though it were already seized;[1] hence the onus of proof lies upon the orphans.

Abaye said: We have learnt likewise: If it is doubtful which came first, he must cut it down without compensation.[2] This proves, since it stands to be cut down,[3] we say to him, ‘Bring proof [that the tree was here first] and then receive [compensation];’ so here too, since the note[4] is for the purpose of collection,[5] it is as though already collected, and therefore the orphans must prove [their contention]. [Subsequently] the orphans brought proof that they had effected the improvements. Now, R. Hanina thought to rule that when their claims are being satisfied,[6] it is done with land.[7] But that is incorrect: their claims are satisfied with money. This follows from R. Nahman's dictum. For

R. Nahman said in Samuel's name: In three cases the improvements are assessed and payment made in money, viz., [In the settlement of the debt of] the first born to the ordinary son; of the creditor or of the widow[8] who collected her kethubah to orphans; and of the creditors to the vendees.[9] Rabina objected before R. Ashi: Shall we say that in Samuel's opinion the creditor must return the improvement to the vendees?[10] Has then the vendee any title to the improvement: Surely Samuel said: A creditor collects the improvements! And should you reply, There is no difficulty, the one refers to an improvement touching the carriers; the other to an improvement not touching the carriers.[11] Surely cases arose daily where Samuel ordered distraint even of the improvement touching the carriers! — There is no difficulty: in one case, the value of the land and its improvement is claimed; in the other, the value of the land and its improvement is not claimed. But where the value of the land and its improvement is not claimed, [you say that] he must pay the vendee money [for his improvements] and can dismiss him. Now, that agrees well with the view that [even] if the vendee has money, he cannot pay off the creditor. But on the view that he can,[12] let him say to him, ‘Had I money, I would have paid you off from the whole estate; now that I have no money, give me a griwa of land in any field, to the value of my improvements’? — The circumstances here are that he [the original debtor] had created it [the field] an hypothec,[13] declaring to him, ‘Your payment shall come Only out of this.’[14] MISHNAH. IF ONE LEASES A FIELD FOR A SEPTENNATE FOR SEVEN HUNDRED ZUZ, THE SABBATICAL YEAR IS INCLUDED. BUT IF HE LEASES IT FOR SEVEN YEARS FOR SEVEN HUNDRED ZUZ, IT IS NOT INCLUDED. A WORKER ENGAGED BY THE DAY CAN COLLECT [HIS WAGES] THE WHOLE OF THE [FOLLOWING] NIGHT; IF ENGAGED BY THE NIGHT, HE CAN COLLECT IT THE WHOLE OF THE [FOLLOWING] DAY.[15] IF ENGAGED BY THE HOUR, HE CAN COLLECT IT THE WHOLE DAY AND NIGHT.[16] IF ENGAGED BY THE WEEK, MONTH, YEAR, OR SEPTENNATE, IF HIS TIME EXPIRES BY DAY, HE CAN COLLECT [HIS WAGES] THE WHOLE OF THAT DAY; IF BY NIGHT, HE CAN COLLECT IT ALL NIGHT AND THE [FOLLOWING] DAY.

GEMARA. Our Rabbis taught: Whence do we know that a worker hired by day collects [his wages] all night? From the verse, the wages of him that is hired shall not abide with thee all night until the morning.[17] And whence do we know that a worker hired by the night collects it the whole of the [following] day? Because it is written, At his day shalt thou give him his hire.[18] But let us say the reverse?[19] — Wages are payable only at the end [of the engagement].[20]

Our Rabbis taught: From the implication of, The wages of him that is hired shall not abide with thee all night, do I not know that it means, until the morning? Why then is it written, until the morning? To teach that he [the employer] violates [the injunction] only until the first morning. But thereafter? — Said Rab: He transgresses, Thou shalt not delay [payment]. R, Joseph said: What verse [shews this]?[21] — Say not unto thy neighbour, Go, and come again, and to-morrow I will give; when thou hast it by thee.[22]

Our Rabbis taught: If one instructs his neighbour, ‘Go out and engage for me workers,’ neither transgresses the injunction, Thou shalt not keep [the wages] all night. The former, because he did not engage them;

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(1) And is in the theoretical possession of the creditor.

(2) V. B.B. 24b. A space of fifty cubits around a city had to be left entirely free for the beauty of the town, If one had a tree within fifty cubits, which he had planted after the town-boundaries had been fixed there, he must remove it without compensation. If it had originally been planted outside fifty cubits, but then, owing to the town's extension, it came within the prohibited area, he receives compensation, but is still bound to cut it down. If, however, it is unknown which was there first, there is no compensation.

(3) In any case.

(4) [Read with some texts ‘the land.’]

(5) The creditor can seize the land for his debt, including the improvements, save that, if effected by the heirs, he must pay for them.
(6) For the return of the increased value. The literal rendering of the text is, 'Where we dismiss them' — by satisfying their claims.
(7) They are given a portion of the land equal to the increase in value of the whole.
(8) Lit., 'wife.'
(9) (i) A firstborn receives a double share of the estate left by the deceased (Deut. XXI, 17), but not of the improvements effected after death. Now, if the division was not made immediately but some time after death, and both the firstborn and the ordinary son had effected improvements upon the whole estate in the interval: when the firstborn subsequently takes his double share, it contains part of the joint improvements to which he is not entitled. An assessment is therefore made, and he must pay the ordinary sum for it, not by allotting him an additional piece of ground, but in money. Similarly (ii) when a widow or a creditor seizes the estate in satisfaction of their claim, which was improved by the heirs after the deceased's death, to which improvements they are not entitled. (iii) If a debtor sells land after contracting a written debt, the creditor can seize the land from the vendee, if the unsold estate is insufficient; but he must compensate the vendee for his improvements. This too is done with money, not land, but v. text on iii.
(10) [So according to MS.M.; text incur. edd. is somewhat defective.]
(11) Jast.: an improvement touching the carriers, i.e., an increase in the value of the crop, opp. to an increase in the value of the land; v. supra p. 89, n. 4.
(12) Just as the original debtor.
(13) V. supra p. 90 n. 5.
(14) In that case all agree that the vendee cannot retain a portion of the land against his improvements.
(15) In the sense that if he is paid any time during that day or night, his employer does not violate the injunctions against delaying payment. Lev. XIX, 13 and Deut. XXIV, 15.
(16) V. infra Gemara.
(17) Lev. XIX, 13; hence, if paid before morning, it is well.
(18) Deut. ibid.
(19) That the night worker must be paid during the night for which he is engaged, the first verse quoted being so interpreted: similarly the day worker.
(20) Deduced from a verse supra 65a, q.v.
(21) Actually there is no such injunction.
(22) prov. III, 28.

Talmud - Mas. Baba Metzia 111a

the latter, because the wages [i.e., the labour for which wages are due] are not with him. How so? If he [the agent] assured them, 'I am responsible for your wages,' then he is responsible.[1] For it has been taught: If one engages a workman to labour on his [work], but directs him to that of his neighbour, he must pay him in full, and receive in turn from the owner [of the work actually done] the value whereby he benefited him! — It holds good only if he said to them, 'The employer is responsible for your wages.[2]

Judah b. Meremar used to instruct his attendant, 'Go and engage labourers for me, and say to them, Your employer is responsible for your wages.' Meremar and Mar Zutra used to engage [labourers] on each other's behalf.

Rabbah son of R. Huna said: The market traders of Sura do not transgress [the injunction], The wages of him that is hired shall not abide all night [etc,], because It is well known that they rely upon the market day.[3]

IF ENGAGED BY THE HOUR, HE CAN COLLECT IT ALL DAY AND NIGHT. Rab said: A man engaged by the hour for day work can collect [his wages] all day;[4] for night work, can collect [it] all night. Samuel maintained: A man engaged by the hour for day work can collect it all day; for night work, all night and the following day.

We learnt: IF ENGAGED BY THE HOUR, HE CAN COLLECT IT ALL DAY AND NIGHT, this refutes Rab![5] — Rab can answer you: It is meant disjunctively. [Thus:] If engaged by the hour for day work, he can collect his wages all day; for night work, he can collect it all night.

We learnt: IF ENGAGED BY THE WEEK, MONTH, YEAR OR SEPTENNATE, IF THE TIME EXPIRES BY DAY, HE CAN COLLECT HIS WAGE THE WHOLE OF THAT DAY; IF BY NIGHT, HE CAN COLLECT [IT] ALL NIGHT AND THE FOLLOWING DAy![6] — Rab can answer you: It is a dispute of Tannaim. For it has been taught: A man engaged by the hour for day work collects his wage all day; for night work, all night: this is R. Judah's opinion. R. Simeon said: A man engaged by the hour for day work collects all day; for night work, all night and the [following] day. Hence it was said: Whoever witholds[7] the wages of a hired labourer transgresses these five prohibitions of five denominations and one affirmative precept as follows:[8] Thou shalt not oppress thy neighbour;[9] neither rob him;[10] Thou shalt not oppress an hired servant that is poor;[11] The wages of him that is hired shall not abide all night with thee;[12] At his day shalt thou give him his hire;[13] and, neither shall the sun go down upon it.[14] But Surely those that apply at day[15] do not apply at night, and those that apply at night do not apply at day! — Said R. Hisda: It refers to hiring in general.[16]

What is meant by ‘oppression’ and ‘robbery’? — R. Hisda said: ‘Go, and come again,[17] go and come again’ — that is ‘oppression’;[18] ‘You have indeed a charge upon me, but I will not pay it’ — that is ‘robbery’. To this R. Shesheth demurred:[19] For what form of ‘oppression’ did Scripture impose a sacrifice?[20] For that which is analogous to a bailment,[21] where one [falsely] repudiates a debt of money [or its equivalent]! — But, said R. Shesheth, ‘I have paid you’ — that is ‘oppression’; ‘You have indeed a charge upon me but I will not pay you’ — that is ‘robbery’. To this Abaye demurred:[22] What is ‘robbery’ for which Scripture imposed a sacrifice? — That which is analogous to a bailment, where one falsely repudiates a [debt of] money [or its equivalent]![23] — But, said Abaye, ‘I never engaged you’ — that is ‘oppression’ ; ‘I paid you’ — that is ‘robbery’. Now, as for R. Shesheth, how does ‘oppression’ differ from ‘robbery’, that he objected to the former, but not the latter?[24] — He can answer you: ‘Robbery’ implies that he first robs him and then repudiates [liability].[25] If so, may not ‘oppression’ too refer to subsequent repudiation?[26] — What comparison is there? As for the other [sc. ‘robbery’], it is well, for it is written [And lie unto his neighbour] . . . Or in a thing taken away by violence,[27] which implies that he originally made admission to him. But with respect to ‘oppression’ , is it then written, Or in a thing of oppression?[28] — or hath oppressed his neighbour is stated, implying that he had already oppressed him.[29] Raba said: ‘Oppression’ and ‘robbery’ are identical. Why then did Scripture divide them? — [To teach] that two negative precepts are infringed. MISHNAH. WHETHER IT BE THE HIRE OF MAN, BEAST, OR UTENSILS, IT IS SUBJECT TO [THE LAW], AT HIS DAY THOU SHALT GIVE HIM HIS HIRE,[30] AND, THE WAGES OF HIM THAT IS HIRED SHALL NOT ABIDE WITH THEE UNTIL THE MORNING.[31] WHEN IS THAT? ONLY IF HE DEMANDED [IT] OF HIM; BUT OTHERWISE, THERE IS NO INFRINGEMENT. IF HE GAVE HIM AN ORDER TO A SHOPKEEPER OR A MONEY-CHANGER,[32] HE IS NOT GUILTY OF INFRINGEMENT. A HIRED LABOURER, WITHIN THE SET TIME,[33] SWEARS AND IS PAID.[34] BUT IF HIS SET TIME PASSED,[35] HE CANNOT SWEAR AND RECEIVE PAYMENT; YET IF HE HAS WITNESSES THAT HE DEMANDED PAYMENT (WITHIN THE SET TIME),[36] HE CAN [STILL] SWEAR AND RECEIVE IT. ONE IS SUBJECT TO [THE LAW], AT HIS DAY THOU SHALT GIVE HIM HIS HIRE, IN RESPECT OF A RESIDENT ALIEN,[37] BUT NOT TO THAT OF, THE WAGES OF HIM THAT IS HIRED SHALL NOT ABIDE WITH THEE UNTIL THE MORNING.

GEMARA. Who is the authority for our Mishnah? [For] it is neither the first Tanna who interpreted ‘of thy brethren’, or R. Jose son of R. Judah. To what is the reference? — It has been taught:

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(1) And therefore subject to the injunction.
(2) Nevertheless, the employer is not subject to the prohibition, because he did not hire the workers himself.
(3) Therefore it is implicitly understood and stipulated, as it were, that the worker is not to be paid before.
(4) E.g., if he was engaged until midday, he must be paid during the rest of the day; otherwise the employer transgresses the injunctions quoted above; similarly the rest of the passage.
(5) For Samuel can say that it applies to a night worker, but on Rab's view it can apply to
(6) And finishing during the day or the night is the same as the case of an hour worker, and thus refutes Rab,
(7) Lit., ‘suppresses’.
(8) שמות lit., ‘names’, i.e., designations of negative precepts, the designation being by the characteristic word of the injunction.
(9) Lev. XIX, 13.
(10) Ibid.
(11) Deut.XXIV, 14.
(12) Lev. ibid.
(13) Deut. XXIV, 15 — these are affirmative precepts.
(14) Ibid.
(15) I.e., to a worker hired by the day.
(16) I.e., these injunctions were written in connection with hiring workers, though it is indeed true that in no single instance are they all infringed together.
(17) Prov. III, 28.
(18) I.e., continually deferring payment, though intending to pay eventually.
(19) [It is clear from Rashi that what follows is not a citation from a Baraitha, but a piece of R. Shesheth's own Biblical exegesis.]
(20) V. Lev. V, 20, 25: If a soul sin, and commit a trespass against the Lord, and lie unto his neighbour in that which was delivered to him to keep (פקדון), or in fellowship, or in a thing taken away by violence (עשק) or hath oppressed his neighbour (עשק) . . . he shall bring his trespass offering unto the Lord.
(21) ‘In that which was delivered to him to keep.’
(22) [Cf. p.634,n. 14].
(23) But admitting liability whilst refusing to pay is not repudiation.
(24) For the same Baraitha [or ‘exegesis’, v. p. 634, n. 14] which refutes R. Hisda's definition of ‘oppression,’ refutes his own of ‘robbery’ too.
(25) privately he admitted liability, but refused to pay, thereby robbing him; but when sued at court, he repudiated lability altogether. Thus his definition is not opposed to the other, which is based on Biblical exegesis.
(26) I.e., R. Hisda's definition of oppression may be correct. Privately, he put him off repeatedly, but when sued, denied liability.
(27) Ibid. This implies, the thing having already been taken away by violence, i.e., he refused to settle an admitted liability, he now lies concerning it and denies liability altogether, in accordance with R. Shesheth's amended definition.
(28) Which would likewise imply having first oppressed him, he now denies liability.
(29) Denying liability as soon as the worker asked for pay.
(30) Deut.XXIV 15.
(31) Lev.XIX 13.
(32) To supply him to the extent of his wages.
(33) When payment is due, as defined in preceding Mishnah.
(34) V. p. 587, n. I.
(35) I.e. if the set time has lapsed.
(36) [Some texts rightly omit bracketed words, v. infra P. 113a.]
(37) v, p. 407, n. 8.

Talmud - Mas. Baba Metzia 111b

[Thou shalt not oppress an hired servant that is poor and needy. whether he be] of thy brethren — this excludes idolaters;[1] or of thy strangers — this means a righteous proselyte;[2] that are in thy gates — i.e., an alien who eats unclean food.[3] From this I know [the law only in respect off man's hire; whence do I know to extend it to animals and utensils? From, that are in thy land,[4] implying, all that are in thy land. And in respect of all[5] these injunctions,[6] all are transgressed. Hence it was said: The hire of man, animal, and utensils are identical in that they are subject to [the laws], At his day shalt thou give him his hire, and, the wages of him that is hired shall not abide with thee all night until the morning. R. Jose son of R. Judah said: In respect to a resident alien one is subject to [the law], At his day thou shalt give him his hire; but not to that of, Thou shalt not keep all night [the wages of him that is hired, etc.]. In respect of [the hire of] animals and utensils, only the injunction, Thou shalt not oppress [etc.],[7] is applicable. Now, who is [the authority for our Mishnah]? If the first Tanna, who interpreted ‘of thy brethren,’ the resident alien presents a difficulty.[8] If R. Jose. [the hire of] animals and utensils presents a difficulty![9] — Said Raba: This Tanna [of our Mishnah] is a Tanna of the School of R. Ishmael, who taught: Whether it be the hire of man, beast, or utensil, it is subject [to the laws], At his day thou shalt give him his hire, and, The wages of him that is hired shall not abide with thee. In respect of a resident alien one is subject to [the law]. At his day thou shalt give him his hire, but not to, Thou shalt not keep. [etc.].

What is the reason of the first Tanna who interprets [the verse] ‘of thy brethren’? — He deduces [identity of law] from the word ‘hire’ written twice.[10] R. Jose son of R. Judah, however, does not accept this deduction. But granted that he does not, yet one should be liable to [the law]. At his day thou shalt give him his hire, in respect of animals and utensils too![11] — R. Hanania learnt: Scripture saith, Neither shall the sun go down upon it, for he is poor;[12] [hence it applies only to] those who are subject to poverty or wealth, and so excludes animals and utensils, which are not subject to poverty and wealth. And the first Tanna, how does he interpret this [verse], ‘for he is poor’? — It is necessary to shew that the poor receive precedence over the wealthy.[13] And R. Jose son of R. Judah?[14] — That follows from, Thou shalt not oppress an hired servant that is poor and needy. And the first Tanna?[15] — One teaches the priority of the poor man over the rich; the other, the priority of the poor, over the needy.[16] And both are necessary. For if we were [merely] informed [of the poor man's priority over] the needy, [I would think that it is] because he [the needy] is not ashamed to demand it [his wage] from him. But as for the wealthy, who is ashamed to demand it from him, I might say that it is not so [viz., that the poor takes no precedence over him]. Whilst if we learnt this in respect to the wealthy, I would think that it is because he is not in need thereof; but as for the needy, who needs it [more], I might argue that it is not so.[17] Hence both are necessary.

Now as to our Tanna, in either case, [it is difficult]: if he accepts the deduction of ‘hired’ written twice, then even a resident alien should also be included;[18] if he rejects it, whence does he know [the inclusion of] animals and utensils? — In truth, he does not accept this deduction. Yet there[19] it is different, because Scripture writes, The wages of him that is hired shall not abide with thee all night until the morning: implying, whosoever's hire is with thee.[20] If so, then even a resident alien too [is meant]! — The Writ saith, [Thou shalt not oppress] thy neighbour: ‘thy neighbour’ [is specified], but not a resident alien. If so, then even animals and utensils too should be excluded! — But Surely ‘with thee’ is written![21] What reason have you to include animals and utensils and exclude a resident alien?[22] — It is logical that animals and utensils are to be included , since they come within the category of the property of ‘thy neighbour’, whereas [the hire of] a resident alien is not within this category.

Now the first Tanna, who interpreted ‘of thy brethren,’ what is his exegesis on ‘thy neighbour’?[23] — He needs this, even as it has been taught: [Thou shalt not oppress] thy neighbour, but not an Amalekite.[24] An Amalekite? But that follows from ‘of thy brethren! — One gives permission in regard to his ‘oppression’ ;[25] the other, in regard to [the retention] of his ‘robbery’[26] And both are necessary. For if we were informed that [the retention] of his ‘robbery’ is permitted, that may be because he [the Amalekite] has not worked for him. But as for oppressing him [by withholding his wages] — I would think that that is not [permitted]. Whilst if we were taught thus about oppressing him, that may be because it [his wage] has not yet reached his [the Amalekite's] hand .[27] But as to his ‘robbery’ — I would think [the retention thereof] is not [allowed]. Hence both are necessary.

And R. Jose son of R. Judah, how does he interpret this verse, The wages of him that is hired shall not abide with thee all night until the morning?[28] — He needs it to teach the law stated by R. Assi, viz., even if he [the employer] engaged him only to vintage a single cluster of grapes, he is subject to, [It] shall not abide, . . . all night, etc.[29] And the other?[30] — That follows from the verse, And setteth his soul [i.e.,life] upon it, implying, anything for which he risks his life.[31]

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(1) Lit., ‘others’, the several injunctions insisting on prompt payment do not apply in regard to them.
(2) V. supra p. 410, n. 8.
(3) Lit., ‘carcases’ i.e.,a resident alien.
(4) Deut. XXIV, 14.
(5) Viz., the hire of an Israelite, proselyte, animal, utensil.
(6) Viz., those of Deut. and Lev.
(7) Deut. XXIV, 14.
(8) According to the first Tanna all injunctions apply to a resident alien, in opposition to our Mishnah.
(9) For R. Jose does not apply to them the injunction enumerated in our Mishnah.
(10) Deut. XXIV, 14: Thou shalt not oppress an hired servant (שכיר) that is poor and needy, whether he be of thy brethren, or of thy strangers that are in thy land within thy gates. — The latter part of the verse has been interpreted above as extending the injunction to the hire of a resident alien, animal, and utensils. Lev. XIX. 13 : The wages of him that is hired (שכיר) shall not abide with thee until the morning. Just as the first verse refers to an Israelite, resident alien, animals and utensils, so the latter too.
(11) Since, by exegesis. Deut. XXIV, 14, the preceding verse, extends the law to these; v. n. 4.
(12) Ibid. 15.
(13) If he owes both their hire, or the hire of their animals, or utensils — and has sufficient for one only, the poor must be paid first.
(14) Whence does he learn this?
(15) Surely he agrees that this last verse teaches the priority of the poor man!
(16) Heb. אביון (needy) < אבי , denotes a desirous person who, in his utter destitution, which is greater than that of a עני (a ‘poor man’), longs for everything. In his longing he is not ashamed to ask, which a poor man is too proud to do.
(17) That the poor has no priority over him.
(18) In Deut, and Lev.
(19) I.e., in respect to Deut. XXIV, 15: at his day etc. Lev. XIX. 13 : The wages of him etc.
(20) I.e., even of animals and utensils. And since the subject matter of this injunction is identical with that of Deut. XXIV, 15, that too is included.
(21) Interpreted as above.
(22) Perhaps it is the reverse.
(23) Since the inclusion of animals, etc., is deduced from the use of ‘hired’ twice.
(24) A substitution by the censor for original ‘heathen’.
(25) I.e., the withholding of his wages beyond the set time.
(26) V. p. 506, n. 8.
(27) Hence he takes nothing away from him that is actually in his possession.
(28) Since he does not agree that ‘with thee’ extends the law to the hiring of animals and utensils,
(29) I.e., not even the smallest sum due to a labourer may be withheld all that time.
(30) The first Tanna, who interprets ‘with thee’ differently, — whence does he learn R. Assi's dictum?
(31) V. p. 531, n. 3; hence, even the vintaging of a single cluster is included.

Talmud - Mas. Baba Metzia 112a

Talmud - Mas. Baba Metzia 112a

And the other? — That is needed, even as it has been taught: And he setteth[1] his soul [i.e., life] upon it: why did this man [the labourer] ascend the ladder, suspend himself from the tree, and risk death itself; was it not that you should pay him his wages?[2] Another interpretation: And he setteth his soul upon it [teaches]: he who withholds an employee's wages is as though he deprived him of his life. R. Huna and R. Hisda [differ on this]: one says. The life of the robber [is meant];[3] the other, The life of the robbed. The view that the life of the robber is meant is based on the verse, Rob not the poor, because he is poor: neither oppress the afflicted in the gate:[4] which is followed by, For the Lord will plead their cause, and spoil the soul of those that spoiled them.[5] Whilst the opinion that it means the life of the robbed follows from, So are the ways of every one that is greedy of gain; he taketh away the life of its [rightful] owner.[6] And the other too: is it not written, he taketh away the life of its [rightful] owner? — It means, of its present owner.[7] And the other too: is it not written, and spoil the soul of those that spoiled them? — That states a reason. Thus: Why shall he spoil those that spoiled them? — Because they took their lives.[8]

WHEN IS THAT? ONLY IF HE DEMANDED IT OF HIM; BUT OTHERWISE, THERE IS NO INFRINGEMENT. Our Rabbis taught: The wages of him that is hired shall not abide all night. I might think this holds good even if he did not demand it . Therefore Scripture writes, ‘with thee,’ meaning., by thy desire.[9] I might think that even if he lacks it , he is still guilty: but Scripture states , ‘with thee,’ meaning, only when it [the hire] is with thee. I might think that it [the prohibition] is in force even if he gave him an order to a trader or a money-changer in his favour; but Scripture teaches, ‘with thee’,[10] but not if he gave him an order to a trader or a money-changer on his behalf.

IF HE GAVE HIM AN ORDER TO A SHOPKEEPER OR A MONEYCHANGER ON HIS BEHALF, HE IS NOT GUILTY OF INFRINGEMENT. The scholars propounded: Can he [the employee] return [to the employer] or not?[11] — R. Shesheth ruled: He cannot return [to him]; Rabbah held: He can return. Rabbah said: Whence do I infer this? — Since it is taught: HE IS NOT GUILTY OF INFRINGEMENT, it is implied, there is only no infringement, yet he can return to him [for payment].[12] But R. Shesheth explained: What is meant by, HE IS NOT GUILTY OF INFRINGEMENT? He is no longer within the ambit of infringement.[13]

R. Shesheth was asked: Does the injunction. ‘The wages of him that is hired shall not abide all night’ hold good in respect of a contract or not?[14] Does the artisan obtain a title in return for the improvement [he effected] in the article, so that it [his wages] rank as a loan, or does he not, and hence it is considered wages?[15] — R. Shesheth replied: One does transgress [the law]. But has it not been taught: There is no transgression [in this case]? — There it means that he gave him an order to a shopkeeper or a money-changer.

Shall we say that the following supports him: If one gave his garment to an artisan [i.e., cloth, to make a garment, which he completed and then informed him [that it was ready], even after ten days he does not transgress [the law], ‘Thou shalt not keep all night’. But if he delivered it to him [even] at midday, as soon as the sun sets upon it he is guilty of the transgression. Now, should you say that the artisan obtains a title in return for the improvement [he effects upon] the article, why is he guilty [of that transgression]? — R. Mari son of R. Kahana said: This refers to the removal of the woolly surface of a thick coat.[16] But why did he give it to him [to do this]? [Surely] to soften it! Then that is its improvement?[17] — But this holds good only if he engaged him for stamping,[18] every stamping manipulation for a ma'ah.[19]

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(1) Lit., ‘lifteth up.’

(2) So that for withholding it one is punished as for taking life.

(3) I.e., he brings death upon himself,

(4) prov, XXII, 22.
(5) Ibid. 23.
(6) Ibid, I, 19.
(7) Translating as the E.V.: which taketh away the life of the owners thereof.
(8) Translating: and spoil those that spoiled (i.e., deprived them of) their lives.
(9) But not by his, i.e., he claimed his wages immediately.
(10) I.e., when the charge remains upon thee.
(11) If the shopkeeper did not supply him. Do the employer's obligations in respect of him still continue, or is the employee considered to have transferred them to another? [Tosaf. rightly points out that the problem under consideration is only in reference to the injunctions relating to the payment within the set time, should the workman return to the employer and ask for his wages; for it is evident that the employer cannot relieve himself of his obligations by merely giving the workman a draft on a shopkeeper.]
(12) For the passage implies that there is still a debt upon the employer, though that particular injunction is no longer applicable. [Tosaf.: The passage implies that there is no infringement as long as the workman relies on the trader for payment.]
(13) Because there is no longer any charge upon him. [Or, because he is no longer under any obligation to pay within the set time. Tosaf.]
(14) I.e., if the employee was not engaged by the day, but contracted to do a piece of work.
(15) This question is discussed in B.K. 98b, et seq. One view is that when, e.g., wood is given to an artisan and he makes a box, it becomes legally his, on account of his improvements; and when he returns it to his employer it is in the nature of a sale. Hence, with respect to our subject, if the employer does not pay him, he owes him an ordinary debt, as a loan, and so the injunction is inapplicable. If, however, this view be rejected, it remains subject to the law of wages, and the prohibition holds good.
(16) Which is not considered an improvement.
(17) And so the difficulty remains.
(18) A process of flattening cloth.
(19) I.e., he did not contract for the whole piece of work at all, but was paid according to the amount done.

Talmud - Mas. Baba Metzia 112b

A HIRED LABOURER, WITHIN THE SET TIME, SWEARS AND IS PAID. Why did the Rabbis enact that a hired labourer should swear and receive [payment]?[1] — Rab Judah said in Samuel's name: Great laws were taught here.[2] Are these then [traditional] ‘laws’?[3] They are surely merely [Rabbinical] measures! — But said Rab Judah in Samuel's name: Important enactments were taught here. ‘Important’? Does that imply the existence of unimportant ones?[4] — But, said R. Nahman in Samuel's name: Fixed[5] measures were taught here. Thus: The oath is the employer's privilege, but the Rabbis took it away from the employer and imposed it upon the employee, for the sake of his livelihood. And on account of the employee's livelihood, are we to cause loss to the employer?[6] — The employer himself is pleased that the employee should swear and be paid, so that workers should engage themselves to him. [On the contrary], the employee himself is pleased that the employer should take an oath and be exempt, so that he should engage him! — The employer is bound to engage [labourers] . But the employee too is forced to seek employment! — But [the reason is that] the employer is busily occupied with his labourers.[7] If so, let us award it [the wages] to him without an oath! — [The oath is] in order to appease the employer. Then let him pay him in the presence of witnesses.[8] — It is too much trouble. Then let him pay him in advance![9] — Both prefer credit.[10] If so,[11] even if the dispute concerns a stipulated amount,[12] it should be likewise so. Why then has it been taught: If the labourer maintains, ‘You arranged with me for two [zuz].’ and the other [sc. the employer] pleads, ‘I arranged only for one,’ the plaintiff must furnish proof?[13] — The stipulated wage is certainly well remembered. [Again] if so, even if the set time passed, he should also be believed. Why did we learn: BUT IF HIS SET TIME PASSED, HE CANNOT SWEAR AND RECEIVE PAYMENT? — It is a presumption that the employer will not transgress [the law]. The wages of him that is hired etc. But have you not said that he is busy with his employees? —

That is only before his obligation matures;

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(1) The general principle being the reverse; v. p. 572. n. 6. ,

(2) I.e., of great importance, as the Talmud proceeds to explain.

(3) Heb. הלכות , i.e., Scriptural, or traditionally ascribed to Moses.

(4) I.e., worthy to be perpetuated.

(5) Surely not!

(6) Since legally it is his privilege to swear to be free from payment.

(7) V. p. 587. n. 1.

(8) The Rabbis should have enacted that workers must be paid in the presence of witnesses, with the result that if the employer pleads that he paid him without witnesses, the employee could then receive payment without swearing.

(9) Let this be a Rabbinical measure, with the result that if the worker subsequently claims that he has not been paid, he will be disbelieved.

(10) The employer, because he may not yet have the money; the employee, because he may lose it whilst working in the field.

(11) Reverting to the final reason. If we assume that the employer, being busily engaged, might have forgotten the exact facts.

(12) Lit., 'even if he stipulated.'

(13) Shebu. 46a.

Talmud - Mas. Baba Metzia 113a

but when it matures, he charges himself therewith and remembers it . But is the employee then likely to transgress [the law, Thou shalt not rob?[1] — There [in the case of the employer] we have two presumptions [in his favour]; whilst here there is only one. Thus: In respect to the employer there are two presumptions. Firstly, that he will not transgress [the law] . [It] shall not abide all night, etc.; and secondly, that the employee will not permit delay of his payment. But in favour of the employee there is only the one presumption [stated above]. YET IF HE HAS WITNESSES THAT HE DEMANDED PAYMENT, HE CAN STILL SWEAR AND RECEIVE IT, But he [still] demands it now! Said R. Assi: It means that he demanded payment within the set time. But perhaps he paid him subsequently! — Abaye answered: He demanded it all the set time.[2] And [does this hold good] for ever![3] — Said R. Hama b. 'Ukba: [He is thus privileged only] for the period following[4] the day of his claim.[5]

MISHNAH. IF A MAN LENDS [MONEY] TO HIS FELLOW, HE MAY TAKE A PLEDGE OF HIM [WHEN THE DEBT MATURES] ONLY THROUGH THE COURT, AND HE MAY NOT ENTER HIS HOUSE TO TAKE THE PLEDGE, FOR IT IS WRITTEN, THOU SHALT STAND WITHOUT.[6] IF HE POSSESSED TWO ARTICLES, HE MUST TAKE ONE AND LEAVE ONE, RETURNING THE PILLOW AT NIGHT AND THE PLOUGH BY DAY. BUT IF HE [THE DEBTOR] DIES, HE NEED NOT RETURN [THE PLEDGE] TO HIS HEIRS. R. SIMEON B. GAMALIEL SAID: EVEN TO HIM HIMSELF [THE DEBTOR] HE MUST RETURN IT ONLY UP TO THIRTY DAYS; AFTER THAT, HE MAY SELL IT ON THE INSTRUCTIONS OF THE COURT.

GEMARA. Samuel said: Even the court officer[7] may only forcibly seize [it], but not [enter to] take a pledge.[8] But did we not learn: IF A MAN LENDS MONEY TO HIS FELLOW, HE MAY TAKE A PLEDGE OF HIM ONLY THROUGH THE COURT, which proves that a pledge may be taken by the court? — Samuel can answer you: Say, He may forcibly seize [outside the house] only through the court. That interpretation too is logical. For the second clause States: AND HE MAY NOT ENTER HIS HOUSE TO TAKE THE PLEDGE. To whom does this refer? Shall we say, to the creditor?[9] But that is known from the first clause! Hence it must surely refer to the court officer.[10] As for that, it is not proof. For[11] this is its meaning: IF A MAN LENDS MONEY TO HIS

FELLOW, HE MAY TAKE A PLEDGE OF HIM ONLY THROUGH THE COURT, from which it follows that a pledge may be taken through the court. But the creditor himself may not even seize forcibly [outside], so that HE MIGHT NOT ENTER HIS HOUSE TO TAKE THE PLEDGE.[12]

R. Joseph raised an objection: No man shall take the nether or the upper millstone to pledge;[13] hence, other things may be taken to pledge. Thou shalt not take a widow's raiment to pledge:[14] implying, if it belongs to others, it may be taken in pledge.[15] By whom? Shall we Say, the creditor? But it is written, Thou shalt not go into the house to fetch his pledge.[16] Hence it must surely mean the court officer![17] — R. Papa, the son of R. Nahman, explained it before R. Joseph — others state, R. Papa, the son of R. Joseph, before R. Joseph: In truth, the creditor is meant , and it is to intimate that he violates two prohibitions.[18]

Come and hear: From the implication of the verse, Thou shalt stand without,[19] do I not know that the man of whom you claim shall bring it out? Then what is taught by, And the man? The inclusion of the court officer. Surely that means that he is like the debtor![20]

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(1) Surely not! Just as it is assumed that the employer must have paid him, because he would not transgress a Biblical injunction, so the same should be assumed of the employee, and therefore he should be believed,

(2) Until the set time lapsed, the employer thus transgressing the Biblical prohibition.

(3) Can we really say that whenever the labourer demands payment, even years after, he is believed on oath, since he has witnesses that he once demanded it of him during all the set time? Surely that is most inequitable!

(4) Lit., ‘against.’

(5) E.g., if he was a day worker, engaged for Monday, he must be paid between Monday evening and Tuesday morning. If he has witnesses that he claimed his money during the whole of that period, he is believed on oath from Tuesday morning until evening, but not later. (So explained in H.M. 89, 3.)

(6) Deut. XXIV. 11.

(7) Lit., ‘agent’.

(8) נתח denotes to take by force; משכן , to enter the house and take a pledge. Thus, he may only seize an article from him in the street, but not enter the house and distrain.

(9) That he may not enter without the Permission of the Court.

(10) Which supports Samuel's ruling.

(11) [MS.M. and Tosaf. insert: There is a lacuna (in the text of the Mishnah).]

(12) But as for the court officer, he may enter the house.

(13) Ibid, 6.

(14) Ibid. 17.

(15) [The term חבל , ‘take to pledge’, occurring here, as with the millstone, is taken to denote entering the house for the purpose.]

(16) Ibid. 10.

(17) Which proves that he may enter, and so refutes Samuel.

(18) I.e., no man shall take the nether, etc., and, Thou shalt not take a widow's, etc., refers to the creditor himself; but these injunctions do not teach that other articles may be distrained, or that one may distrain upon any but a widow, for these two are forbidden in the verse, Thou shalt not go into his house, etc. Their purpose is to intimate that in respect of these, two injunctions are transgressed, viz., the general one last cited, and the specific one.

(19) Ibid. 11.

(20) That he and the debtor enter the house to take the pledge, translating, and the man — sc. the court officer — and he of whom thou dost claim, etc. This refutes Samuel.

Talmud - Mas. Baba Metzia 113b

— No. It means that the court officer is like the creditor.[1]

Come and hear: If thou at all take thy neighbour's raiment to pledge,[2] this refers to the court officer. You say it refers to the court officer, but perhaps it is not so, the reference being to the creditor? When Scripture writes, Thou shalt not go into his house to fetch his pledge. it obviously speaks of the creditor.[3] Hence, to whom can I refer, if thou at all take thy neighbour's raiment to pledge? Surely to none but the court officer?[4] — It is a controversy of Tannaim. For it has been taught: When the court officer comes to take a pledge of him, he must not enter the house, but stand without, whilst he [the debtor] takes the pledge out to him; for it is written, Thou shalt stand without, and also the man.[5] Whereas another [Baraitha] taught: When the creditor comes to take a pledge of him, he must not enter the house, but stand without, whilst he [the debtor] enters, and brings him out his pledge. But when the court officer comes to take a pledge of him, he may enter the house and take it.[6] And he must not take in pledge articles used in the preparation of food. Further,a couch, a couch and a mattress must be left in the case of a wealthy man, and a couch,a couch and a matting for a poor man. Only for himself [the debtor] must these be left, but not for his wife, sons, and daughters. Just as an assessment is made in favour of a debtor,[7] so also is it made in the case of ‘valuations’.[8] On the contrary! The main law of assessment is written in reference to ‘valuations’. — But say: just as an assessment is made in the case of ‘valuations’, so also in favour of a debtor.

The Master said: ‘Further, a couch, a couch and a mattress must be left to a wealthy man, and a couch, a couch and a matting for a poor man.’ For whom [is the second couch]? Shall we say, For his wife, sons, and daughters? But you say, ‘but not for his wife, sons and daughters’! Hence both are for himself. Then why two? — One at which he eats and the other on which he sleeps. Even as Samuel said, viz.: For all things I know the cure, except the following three: [i] eating bitter dates on an empty stomach; [ii] girding one's loins with a damp flaxen cord; and [iii] eating bread and not walking four cubits after it.[9]

A tanna recited before R. Nahman: Just as assessment is made in the case of ‘valuations’, so is it also made for debtors. Said he to him: If we even sell [his property], shall we make an assessment for him![10] But do we really sell [his property]? Did we not learn: AND HE MUST RETURN THE PILLOW AT NIGHT, AND THE PLOUGH BY DAY? — The tanna recited the view of R. Simeon b. Gamaliel before him, whereupon he observed: Seeing that according to R. Simeon b. Gamaliel we even sell [his property], shall we make an assessment for him! For we learnt: R. SIMEON B. GAMALIEL SAID: EVEN TO HIM HIMSELF [THE DEBTOR] HE MUST RETURN IT ONLY UP TO THIRTY DAYS; AFTER THAT, HE MAY SELL IT ON THE INSTRUCTIONS OF THE COURT. But how do you know that R. Simeon b. Gamaliel means an outright sale: perhaps he means this: until thirty days he must return it as it is; after that, only what is fitting for him [the debtor] is returned, whilst what is not fitting for him is sold![11] — Should you think that R. Simeon b. Gamaliel accepts this view, there is nothing that is unfitting for him. For Abaye said: R. Simeon b. Gamaliel, R. Simeon,[12] R. Ishmael and R. Akiba, all maintain that all Israelites are princes. R. Simeon b. Gamaliel — for we learnt: Neither lof[13] nor the mustard plant [may be moved on the Sabbath].[14] R. Simeon b. Gamaliel gave permission in the case of lof, because it is food for ravens.[15] R. Simeon: For we learnt: Princes may anoint their wounds with rose oil on the Sabbath, since it is their practice to anoint themselves on week-days.[16] R. Simeon said: All Israel are princes.[17] R. Ishmael and R. Akiba: For we learnt: If one was a debtor for a thousand zuz, and wore a robe a hundred manehs in value, he is stripped thereof and robed with a garment that is fitting for him. But therein a Tanna taught on the authority of R. Ishmael and R. Akiba: All Israel are worthy of that robe.[18]

Now, on the original assumption that he [the debtor] was allowed what was fitting for him, whilst that which was unfitting for him was sold, [it may be asked:] as for a pillow and bolster, articles of inferior quality may suffice for him;[19] but in respect of a plough, what is there available?[20] — Raba b. Rabbah replied: [The Mishnah refers to] a silver strigil.[21] To this R. Haga demurred: But let him [the creditor] say to him: you are not thrown upon me![22] — Abaye answered him:

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(1) Translating: thou — sc. the creditor — shalt stand without together with the man, i.e., the court officer; whilst he of whom thou dost claim etc.
(2) Ex. XXII. 25.
(3) Who is forbidden to enter.
(4) Thus the two are placed in opposition, shewing that the court officer may enter the house. This definitely refutes Samuel.
(5) Sc. the court messenger; v, n. 2.
(6) Thus the two Baraithas differ on Samuel's dictum.
(7) He must be left sufficient to be able to earn a livelihood.
(8) Vows whereby one's own value is promised to the Temple. Scripture set a fixed value, depending on the age and sex of the vower (Lev. XXVII. 1-8). But if he was poor, his means were assessed and the valuation reduced. Cf. ibid, 8: But if he be poorer than thy estimation, then he shall present himself before the priest, and the priest shall value him: according to the means of him that vowed shall the priest value him.
(9) Before retiring. Rashi: hence one must have a couch for dining placed four cubits distant from the sleeping couch, so that he will be bound to take the necessary exercise!
(10) To leave him sufficient money to buy these articles! — (Tosaf.).
(11) E.g., if silk nightwear was seized, it is sold, and out of the proceeds cheaper nightwear is bought for the debtor, and the residue goes to the creditor. Thus even R. Simeon b, Gamaliel may agree that some exemption is made.
(12) I.e., R. Simeon b. Yohai.
(13) A plant similar to colocasia, with edible leaves and root, and bearing beans. It is classified with onions and garlic (Jast.). The beans are edible when boiled, but not raw.
(14) It is a general principle that only those foodstuffs which are fit for consumption on the Sabbath may be moved on that day. Since, however, the lof beans may not be boiled, nor may the mustard grains be ground. on the Sabbath, they are not fit for food, and therefore must not be handled.
(15) And since it was a royal practice to keep ravens — for sport or adornment — it is fitting that Jews too should keep them; (v. Shab. 126b) hence the lof has its uses on the Sabbath, and therefore may be moved from one place to another.
(16) Even when they have no bruises, but merely for suppleness. Therefore it does not appear as a healing ointment, and so is permitted on the Sabbath (v. Shab. 111a). (Healing in general is forbidden on the Sabbath, excepting in cases of urgency.)
(17) Hence it is permitted for all.
(18) Because they are of princely descent.
(19) Lit., ‘the difference (between these lower priced articles) is available for him (the creditor).’
(20) Nothing inferior can be substituted, yet in respect of that too R. Simeon b. Gamaliel ruled that it was to be sold after thirty days.
(21) A flesh scraper or brush, used for exciting the action of the skin, This too is called מחרישה , and R. Simeon b. Gamaliel rules that after thirty days it must be sold, an inferior one bought, and the creditor pockets the difference.
(22) ‘I have no particular responsibility toward you.’

Talmud - Mas. Baba Metzia 114a

Precisely so: He is indeed thrown upon him, because it is written, and thine shall be the righteousness.[1]

The scholars propounded: Is an assessment made for a debtor? Do we adduce [the law of] ‘poverty’ [written here] from that of ‘valuations’[2] or not? — Come and hear: For Rabin sent word in his letter:[3] I asked this thing of all my teachers, and they gave me no answer thereon. But in truth, the following problem was raised:[4] If one Says. ‘I vow a maneh for Temple purposes.’[5] is he assessed?[6] R. Jacob, on the authority of Bar Pada, and R. Jeremiah, on the authority of Ilfa, said: [It follows] a minori from an ordinary debtor: if no assessment is made even for a debtor, to whom [the p]edge] is returned;[7] then in regard to hekdesh,[8] where it [the pledge] is not returned, Surely, there is no assessment! But R. Johanan ruled: It is written, [When a person shall make] a vow by thy valuation [shall the persons be for the Lord]:[9] just as a means test is applied for ‘valuations’, so also for a vow to hekdesh. And the other?[10] — That is to teach the judgment [of a limb] according to its importance: just as in ‘valuations’ [a limb] is judged according to its importance, so in a vow to hekdesh too.[11]

But let there be an assessment for a debtor, a minori from ‘valuations’: If an assessment is made in the case of ‘valuations’, where [the pledge] is not returned: then surely there should be an assessment for a debtor, where [the pledge] is returned: — Scripture writes, But if he be poorer than thy estimation: ‘he’, but not a debtor. And the other?[12] — This teaches that he must remain in his poverty from beginning to end.[13]

Now, in the case of [a vow to] hekdesh, let it [the pledge] be returned,[14] a minori from a debtor: If it [the pledge] is returned to a debtor, for whom there is no means test, surely it is returned in the case of [a vow to] hekdesh, seeing that an assessment is made there! — The Writ saith, That he may sleep in his own raiment, and bless thee.[15] thus excluding hekdesh, which needs no blessing. Does it not? But it is written, When thou hast eaten and art full, then thou shalt bless the Lord thy God![16] But Scripture saith, And it shall be accounted as righteousness [i.e.,a charitable act] unto thee:[17] hence it [the law of returning] holds good only for him [the creditor] for whom the act of righteousness is necessary.[18] thus excluding hekdesh [as a creditor], which does not require [the merit of] righteousness.

Rabbah b. Abbuha met Elijah[19] standing in a non-Jewish cemetery. Said he to him: Is a means test to be applied in favour of a debtor? — He replied: We deduce [the law of] poverty [written here] from that of ‘valuations’. In respect of ‘valuations’ it is written, But if he be poorer than thy valuation [. . . according to the means of him that vowed shall the priest value him]. Whilst of a debtor it is written, And if thy brother be waxen poor [‘ . . then thou shalt relieve him].

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(1) Deut. XXIV, 13; i.e., the creditor bears a peculiar responsibility towards the debtor, more so than other persons.

(2) Debt: And if thy brother be waxen poor (ימוך) . . . then thou shalt relieve him; Lev. XXV, 35. Valuations: But if he be poorer (מך) than thy estimation . . . according to the means of him that vowed shall the priest value him; Ibid, XXVII, 8. Hence, just as the means test is applied in the latter case, exempting the vower from his full obligations, so in the former too,

(3) From Palestine.

(4) At a session, and its answer is also an answer to the one under discussion.

(5) Lit., ‘Temple repair.’ It is the technical term for anything needed in the Temple, except sacrifices.

(6) If he could not pay it, and the Temple officers came to distrain for it, must his means be assessed, to exempt from sale such things as he needs?

(7) A day article by day, and a night article by night, until the pledge is sold.

(8) I.e., when we distrain for the payment of a vow to hekdesh (v. Glos.).

(9) Ibid. 2. Now, ‘vow’ (נדר) applies to any vow, whilst ‘valuation’ (ערכך) to the dedication of one's own value (to sacred purposes). Since the two are written in conjunction, it follows that the same law applies to both.

(10) R. Jacob, etc., who holds that there is no assessment for hekdesh. How do they interpret the juxtaposition of these two words?

(11) If one said, ‘I vow the valuation of my ‘’head,” heart, liver or any vital organ, he must give his entire value, since his whole life depends upon it. Hence, similarly. if one said, ‘I vow the price of my heart etc., to hekdesh’ (not using the word ערך), he must give his entire value. — In a vow of ‘valuations’ ערכין , the amount is fixed according to age and sex, irrespective of the man's actual worth; whereas in an ordinary vow he is assessed at his value if sold as a slave. — In any case, from this discussion it clearly emerges that no assessment is made for a debtor.

(12) The first Tanna of our Mishnah, who states: BUT IF HE (THE DEBTOR) DIED, HE NEED NOT RETURN THE PLEDGE TO HIS HEIRS, which implies that it is always returned to the debtor himself, shewing that certain objects are assessed as vital and exempted from seizure.

(13) If he vowed his ‘valuation’ whilst a poor man, but became wealthy before being assessed, he must pay in full. That is deduced from the emphatic ‘he’, i.e., at assessment too he must be too poor for the fixed valuation.

(14) Day attire by day, and night attire by night. (Cf. p. 320. n. 5.)

(15) Deut. XXIV, 13.

(16) Ibid. VIII, 10, Thus, even God demands of man a blessing!

(17) Ibid. XXIV, 13.

(18) To be worthy of being deemed righteous before God.

(19) It was believed that Elijah often appeared to saintly men.

Talmud - Mas. Baba Metzia 114b

[He asked him further:] Whence do we know that a naked man must not separate [terumah]? — From the verse, That He see no unclean thing in thee.[1] Said he [Rabbah] to him: Art thou not a priest:[2] why then dost thou stand in a cemetery?[3] — He replied: Has the Master not studied the laws of purity?[4] For it has been taught: R. Simeon b. Yohai said: The graves of Gentiles do not defile, for it is written, And ye my flock, the flock of my pastures, are men;[5] only ye are designated ‘men’.[6] — He replied: I cannot even adequately study the four [orders]; can I then study six?[7] And why? he inquired. — I am too hard — pressed[8] , he answered. He then led him into Paradise and said to him: Remove thy robe and collect and take away some of these leaves. So he gathered them and carried them off. As he was coming out, he heard a remark, ‘Who would so consume his [portion in] the world [to come] as Rabbah b. Abbuha has done?’ Thereupon he scattered and threw them away. Yet even so, since he had carried them in his robe, it had absorbed their fragrance, and so he sold it for twelve thousand denarii, which he distributed among his sons-in-law.

Our Rabbis taught: And if the man be poor, thou shalt not sleep in his pledge:[9] hence, if he is wealthy, thou mayest sleep thus. What does this mean?[10] — Said R. Shesheth: This is the meaning: And if the man be poor, thou shalt not sleep whilst his pledge is in thy possession; but if he is wealthy, thou mayest do so.[11]

Our Rabbis taught: If a man lends [money] to his fellow, he may not take a pledge of him, nor is he bound to return it to him, and he transgresses all these injunctions.[12] What does this mean? — R. Shesheth said: This: If a man lends [money] to his fellow, he may not [himself] take a pledge of him; and if he did take a pledge of him [by means of a court officer], he is bound to return it;[13] whilst ‘he transgresses all these injunctions’ refers to the last clause.[14] Raba said: It is thus meant: If a man lends money to his neighbour, he may not take a pledge of him [himself], and if he took a pledge of him [through the court], he must return it.[15] Now, when is this? If the pledge was not taken at the time of the loan.[16] But if it was taken at the time of the loan,[17] he is not bound to return it to him.[18] Whilst ‘and he transgresses all these injunctions’ refers to the first clause.[19]

R. Shizebi recited before Raba: Thou shalt return it unto him until the sun goeth down[20] — this refers to night attire; in any case thou shalt deliver him the pledge again when the sun goeth down — to an object of day attire. Said he to him: Of what use is an article of day attire by night,[21] and a night attire by day? Shall I then delete it? he asked. — No, was his reply. It reads thus: Thou shalt return it unto him until the sun goeth down — this refers to an article of day attire, which may be taken in pledge by night; in any case thou shalt deliver him the pledge again when the sun goeth down — to a night attire, which may be taken in pledge by day. R. Johanan said: If he took a pledge of him, [returned it,] and then he [the debtor] died, he may distrain it from his children. An objection is raised: R. Meir said: Now, since a pledge is taken, why is it returned?[22] ‘Why is it returned?’ [you ask.][23] — Surely Scripture ordered, Return it! But [say thus]: Since it is returned,

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(1) Ibid. XXIII, 15; man must not appear before God in an unclean state, which includes a state of nudity. When one separated terumah, he had to utter a benediction, and this is regarded as appearing before God.

(2) According to legend, Elijah and Phinehas (Aaron's grandson) were identical.

(3) A priest must not defile himself through the dead. Standing in or near a grave effects such defilement.

(4) טהרות ; this is also the name of the sixth order of the Talmud, treating of these laws. From Rabbah's answer, that he has had no time to study the six orders, it appears that he was referring to the actual order, though he proceeds to quote a Baraitha and not a Mishnah from that order.
(5) Ezek. XXXIV, 31.
(6) Cf. Num. XIX, 14: This is the law, when a man dieth in a tent; all that come into the tent, and all that is in the tent, shall be unclean seven days.
(7) The four orders referred to are ‘Festivals,’ ‘Women,’ ‘Damages,’ and ‘Consecrated Objects.’ These were considered of permanent and practical importance. , even the last named, though sacrifices were not practised outside Palestine, because the study thereof was held to be the equivalent of actually offering them; Men. 110a. But the other two, viz., ‘Seeds’ and ‘Purity,’ were of no practical importance outside Palestine, and therefore not studied intensively (Rashi). Tosaf. a.l. however, observes that it is evident from the Talmud that they were well — versed in these two, and therefore conjectures that the reference is to the Tosefta (i.e., the additional Baraithas, excluded by Rabbi from his Mishnah compilation). In point of fact, the dictum quoted by Elijah here is not found in any Mishnah. It does not form part of our Tosefta either, but our Tosefta is not identical with that mentioned in the Talmud. V. also Weiss, Dor, lii, p. 186-7.
(8) He was poor and had to eke out a living.
(9) Deut. XXIV, 12. E.V.; ‘with his pledge’.
(10) Surely the pledge, even of a wealthy man, may not be used by the creditor, since that constitutes interest!
(11) Only in the case of a poor debtor must a night article be returned for the night, and a day one by day, but not in the case of a wealthy debtor.
(12) Viz., Thou shalt not sleep in his pledge: In any case, thou shalt deliver him the pledge when the sun goeth down (Ibid. 12f); Thou shalt deliver it unto him by that the sun goeth down (Ex. XXII, 25). On ppv, lit., ‘names’, v. p. 634. n, 3.
(13) V. p. 650, n. 4,
(14) If he does not return them, R. Shesheth thus assumes the text to be corrupt, and emends it considerably.
(15) As before.
(16) And is therefore in the nature of distraint.
(17) As a security.
(18) Every morning or evening, as the case may be, even if the debtor is in need of it.
(19) Sc. distraint. Thus Raba does not emend any part of the existing text, but adds to it.
(20) E.V.: ‘Thou shalt deliver it unto him by that the sun goeth down,’ Deut, XXIV, 13.
(21) [Raba explains the phrases ‘night attire’ and ‘day attire’ as denoting attires taken in pledge respectively by night and day.]
(22) How can the creditor's claims be satisfied?
(23) This is an interjection.

Talmud - Mas. Baba Metzia 115a

why is it again taken in pledge?[1] — So that the Sabbatical year should not cancel it [the debt].[2] and that it [the pledge] should not be accounted as movable property in the hands of his children.[3] Now, the reason is only that he took the pledge again;[4] but had he not taken the pledge again, it would not be so![5] — R. Adda b. Mattena replied: Are you not bound in any case to emend it? Then emend it thus: Since it is returned, why is it taken in pledge in the first place? That the Sabbatical year should not cancel it, and that it should not rank as movable property in the hands of his children.[6]

Our Rabbis taught: Thou shalt not go into his house to fetch his pledge: his [the debtor's] house thou mayest not enter, but thou mayest enter the house of the surety [to distrain]; and thus it is written, Take his garment that is surety for a stranger;[7] also, My son, if thou be surety for thy friend, If thou hast stricken thy hand with a stranger, thou art snared with the words of thy mouth. Do this now, my son, and deliver thyself when thou art come into the hand of thy friend; go, humble thyself and make sure thy friend:[8] thus, if thou owest him money, untie thy hand to him [i.e., pay him]; if not[9] bring many [of thy] friends round him.[10] Another interpretation:[11] His house thou mayest not enter, but thou mayest enter [to distrain] for porterage fees, payment for hiring asses, the hotel[12] bill, or artists' fees.[13] I might think that this holds good even if it[14] was converted into a loan: therefore Scripture writes, When thou dost lend thy brother anything.[15]

MISHNAH. A MAN MAY NOT TAKE A PLEDGE FROM A WIDOW, WHETHER SHE BE RICH OR POOR, FOR IT IS WRITTEN, THOU SHALT NOT TAKE A WIDOW'S RAIMENT TO PLEDGE.[16] GEMARA. Our Rabbis taught: Whether a widow be rich or poor, no pledge may be taken from her: this is R. Judah's opinion. R. Simeon said: A wealthy widow is subject to distraint, but not a poor one, for you are bound to return [the pledge] to her, and you bring her into disrepute among her neighbours. Now, shall we say that R. Judah does not interpret the reason of the Writ, whilst R. Simeon does?[17] But we know their opinions to be the reverse. For we learnt: Neither shall he multiply wives to himself, [that his heart turn not away];[18] R. Judah said: He may multiply [wives], providing that they do not turn his heart away. R. Simeon said: He may not take to wife even a single one who is likely to turn his heart away; what then is taught by the verse, Neither shall he multiply wives to himself? Even such as Abigail![19] — In truth, R. Judah does not Interpret the reason of Scripture; but here it is different, because Scripture itself states the reason: Neither shall he multiply wives to himself, and his heart shall not turn away. Thus, why 'shall he not multiply wives to himself'? So 'that his heart turn not away.' And R. Simeon [argues thus]: Let us consider. As a general rule, we interpret the Scriptural reason:[20] then Scripture should have written, 'Neither shall he multiply [etc.].' whilst 'and his heart shall not turn away' is superfluous, for I would know myself that the reason why he must not multiply is that his heart may not turn away. Why then is 'shall not turn away' [explicitly] stated? To teach that he must not marry even a single one who may turn his heart.

MISHNAH. HE WHO TAKES A MILL IN PLEDGE TRANSGRESSES A NEGATIVE COMMANDMENT AND IS GUILTY ON ACCOUNT OF TWO [FORBIDDEN] ARTICLES, FOR IT IS WRITTEN, NO MAN SHALL TAKE THE NETHER OR THE UPPER MILLSTONE TO PLEDGE.[21] AND NOT THE NETHER AND THE UPPER MILLSTONES ONLY WERE DECLARED FORBIDDEN, BUT EVERYTHING EMPLOYED IN THE PREPARATION OF FOOD FOR HUMAN CONSUMPTION,[22] FOR IT IS WRITTEN, FOR HE TAKETH A MAN'S LIFE TO PLEDGE.[23]

GEMARA. R. Huna said: If a man takes to pledge the nether millstone, he is twice flagellated, [once] on account of the [injunction against] the nether millstone, and [once] on account of, 'for he taketh a man's life to pledge,' for the nether and the upper millstones, he is thrice flagellated: (twice) on account of the nether and the upper millstones, and (once) on account of, 'for he taketh a man's life to pledge.' But Rab Judah maintained: For taking to pledge the nether millstone, he is flagellated once; for the upper millstone he is likewise flagellated once; for the nether and upper millstones he is flagellated twice; and as for, 'for he taketh a man's life to pledge'

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(1) Since it must be returned again the following day, what is the creditor's advantage?

(2) When the creditor holds a pledge against his debt, it is not cancelled by the Sabbatical year. v. Shebu. 48b .

(3) After death, v. p. 598.

(4) And it was in the creditor's hands when the debtor died.

(5) But would rank as any other legacy of movable property. which cannot be seized for the testator's debts, which refutes R. Johanan.

(6) [Once the creditor takes it in pledge, it becomes his property. and when he returns it for the debtor's use, it is considered as a bailment.]

(7) Prov. XX, 16.

(8) Ibid. VI. 1-3.

(9) But hast wronged him in some other way, slander, or an affront to his pride.

(10) To apologise in their presence. This is a play on words and a comment on the last phrase: התרפס (E.V. 'humble thyself') is read, התר פס 'unloose the wrist (of thy hand)', רהב רעיך , is translated, 'make thy neighbour proud' — by a public apology.

(11) Lit., 'in a second direction.'

(12) Lit., 'inn'.

(13) I.e., for any debt incurred on account of service.

(14) The payment due for service.

(15) Deut. XXIV, 10.

(16) Ibid. 17.

(17) I.e., R. Judah applies the law to all, whilst R. Simeon seeks the reason of any Scriptural law, and having found it, exempts from the scope of the law those to whom it is inapplicable.

(18) Ibid. XVII, 17.

(19) The most righteous. This shews that R. Judah interpreted the Scriptural reason, whilst R. Simeon did not; v, Sanh. 21a.

(20) On his view, i.e., where it is not stated.

(21) Deut. XXIV, 6; hence, in taking the mill, which consists of both, he seizes two forbidden articles.

(22) Lit., 'food of the soul.'

(23) Ibid.

Talmud - Mas. Baba Metzia 115b

— this refers to other articles.

Shall we say that Abaye and Raba differ in the same controversy as R. Huna and Rab Judah? For Raba said: If one ate it [the Paschal sacrifice] half roasted, he is flagellated twice: once on account of [the injunction against] half-roast [flesh]. and again because of the verse, [Eat not. . .] but roast with fire. [If he ate it] boiled, he is flagellated twice: once because of the prohibition against boiled [flesh], and again because of the Verse, [Eat not. . .] but roast with fire. For both half-roast and boiled, he is flagellated thrice, on account of [the injunction against] half-roast, boiled, and the injunction, Eat not . . . but roast with fire.[1] Abaye said: One is not flagellated on account of an implied prohibition.[2] Shall we assume that Abaye agrees with Rab Judah, Raba with R. Huna?[3] — Raba can answer you: My ruling agrees even with Rab Judah's. It is only there that Rab Judah maintains [his view], because, 'for he taketh a man's life,' does not [necessarily] imply the nether and the upper millstones; hence it must refer to other things: But here, what is the purpose of 'save roast with the fire'?[4] Hence it must be for [the addition of] a negative precept. Abaye can argue likewise: My ruling agrees even with R. Huna's. It is only there that R. Huna maintains [his view], because 'for he taketh a man's life'

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(1) This refers to: Eat not of it raw, nor sodden (i.e., boiled) at all with water, but roast with fire, Ex. XII, 9.

(2) Thou shalt not eat it save roast with the fire: this is not a direct prohibition of a particular method of preparation, but includes everything that is not 'roast with the fire.'

(3) On the hypothesis that the phrase, for he taketh a man's life to pledge, which specifies no article, is likewise a general or implied prohibition, and R. Huna rules that it involves flagellation, whereas Rab Judah holds that it does not.

(4) For semi-roasting and boiling includes every manner of preparation except roasting, and these are explicitly forbidden.

Talmud - Mas. Baba Metzia 116a

is [an] additional [injunction],[1] and that being so, relate it to the nether and upper millstones [too].[2] But here, 'save roast with fire' is not [an] additional [prohibition], for it is needed for what has been taught: When one is subject to [the command], Arise and eat 'roast', one is [also] subject to, 'Eat not of it raw;' when he is not subject to the former, he is not subject to the latter.[3]

It has been taught in accordance with Rab Judah: If one takes in pledge a pair of barber's shears or a yoke of oxen, he incurs a double penalty.[4] But if he takes in pledge each part separately, he incurs only one penalty. And another [Baraitha] taught [likewise:] If one took a pair of barber's shears or a yoke of oxen in pledge. I might think that he incurs only one penalty, therefore Scripture teaches, No man shall take the nether or the user millstone to pledge; just as the nether and the upper millstones are distinguished in that they are two objects which [together] perform one operation, and a penalty is incurred for each separately, so all things which are two objects used [together] for one operation, a penalty is incurred for each separately.[5]

A certain man took a butcher's knife in pledge. On his coming before Abaye, he ordered him: Go and return it, because it is a utensil used in the preparation of food, and then come to stand at judgment for it [the debt].[6] Raba said: He need not stand at judgment for it, but can claim [the debt] up to its [sc. the pledge's] value.[7] Now, does not Abaye accept that logic? Wherein does it differ from the case of the goats which ate some husked barley, whereupon their owner came, seized them, and preferred a large claim [for damages]; and Samuel's father ruled that he can claim up to their value?[8] — In that case, It was not an object that is generally lent or hired, whereas in this case it is.[9] For R. Huna b. Abin sent word:[10] With respect to objects that are generally lent or hired, if a man claims, ‘I have purchased them,’ he is not believed.[11] Now, does then Raba disagree with this reasoning? But Raba himself ordered orphans to surrender scissors for woollen cloth and a book of aggada,[12] which are objects that are generally loaned or hired![13] — [No.] These too, since they depreciate in value, people are particular not to loan. [

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(1) I.e., this is certainly required as an additional injunction against seizing any article employed in the preparation of food.

(2) For once it is recognised as a separate injunction, there is no reason for excluding the millstones from its scope, notwithstanding that they are already mentioned; hence in respect of the millstones we have an additional prohibition.

(3) I.e., the prohibition of half-roast meat holds good only on the evening of the fifteenth, when one is bidden to eat the roast of the passover sacrifice, but not on the day of the fourteenth, before the obligation commences.

(4) Barber's shears were so made that each half could be used separately. ‘The yoke of oxen’ is translated by Rashi: (i) a pair of oxen for ploughing together with their yoke; (ii) the yoke alone, which he conjectures to have been jointed. Tosaf. on 113a s.v. ואת , on the grounds that only objects directly used in the preparation of food are forbidden, translates (with a slightly different reading): a pair of vegetable scissors for trimming vegetables, and a pair of oxen that stamped out the corn. According to both interpretations, the scissors and the oxen (or their yoke) were divisible, and therefore rank as two distinct objects, thus involving a double penalty for the infringement of, ‘for he taketh a man's life to pledge.’

(5) It is not altogether clear how these Baraithas support Rab Judah, nor whether they support him singly or only in conjunction with each other. Rashi maintains that the proof is adduced from the combination of the two. The mere fact that he is flagellated twice only, not three times, does not support him, since there is no verse to imply three in this case even on R. Huna's view, which is limited to the nether and upper millstones. The proof, however, lies in the fact that the verse, ‘no man shall take, etc.’ is extended to all articles and quoted to shew double flagellation, whilst no reference is made to threefold punishment. Tosaf. maintains that the proof does follow from the first Baraitha alone (so that the second teaching is introduced by ‘Another Baraitha, etc.’ not, ‘And another Baraitha etc.’).

(6) Bring proof that he is in your debt.

(7) Even without witnesses or an I.O.U.; since he could have pleaded in the first place that he had bought the pledge, he is now believed, up to the value of the pledge.

(8) Since he could have pleaded that he had bought them from their first owner.

(9) Hence the Possession of the butcher's knife did not prove ownership; therefore Abaye held that the debt itself had to be proved.

(10) From Palestine to Babylon.

(11) V. B.B. 36a.

(12) V. B.B. (Sonc. ed.) p. 215. n. 1,

(13) Their first owners, who were known, pleaded that they had lent these objects to the deceased, and Raba accepted their plea. But if a counter.plea of ‘I bought them’ is valid in such cases, it should have been advanced on their behalf, it being a general rule that the court itself assumes what the deceased might legally have pleaded, when the orphans themselves are ignorant of the true facts.

Talmud - Mas. Baba Metzia 116b

C H A P T E R X

MISHNAH. IF A HOUSE [I.E.. THE GROUND FLOOR] AND AN UPPER STOREY, BELONGING TO TWO,[1] COLLAPSED, BOTH MUST SHARE [PROPORTIONATELY] IN THE TIMBER, STONES, AND EARTH.[2] WE ALSO SEE WHICH STONES [I.E., BRICKS] ARE MORE LIKELY TO HAVE BEEN BROKEN.[3] IF ONE [OF THEM] RECOGNISED SOME OF HIS STONES, HE CAN TAKE THEM, BUT THEY ARE COUNTED IN [HIS SHARE].

GEMARA. Since it is stated, WE SEE [etc.], it follows that it is possible to gauge whether it fell through pressure or a shock. If so, in the first clause, why do they divide? Let us see: if it fell through a shock, then [the timber etc. of] the upper storey was broken; if through pressure, the lower portion was damaged![4] — It is meant that it collapsed at night. Then let us examine it in the morning![5] — It [the debris] had been cleared away. Then let us see who had cleared it away, and ask them! — Public [workers] had cleared it away, and departed. Then let us see in whose possession they are [now] situated, so that the other becomes the claimant, upon whom the onus of proof will lie! — They [the materials] are now in a courtyard belonging to both, or in the street. Alternatively, partners in such matters are not particular with each other.[6]

IF ONE RECOGNISED etc. Now, what does the other plead. If he agrees, then it is obvious. If not, why should this one take them? Hence it must mean that he replied. 'I do not know.' Shall we say that this refutes R. Nahman? For it has been stated: [If A says to B.] 'You owe me a maneh,' and B pleads. 'I do not know': R. Huna and Rab Judah rule that he must pay; R. Nahman and R. Johanan say: He is not liable! — It is as R. Nahman answered [elsewhere]: E.g., there is a dispute between them involving an oath; so here too, there is a dispute between them involving an oath. What is meant by a dispute involving an oath? — As Raba's dictum. For Raba said: [If A says to B,] 'You owe me a maneh,' to which he replies. 'I [certainly] owe you fifty zuz, but as for the rest, I do not know,' since he cannot swear, he must pay [all].[7]

BUT THEY ARE COUNTED IN HIS SHARE. Raba thought this meant in his share of broken materials,[8] thus proving that since he says. 'I do not know,' his position is considerably worsened. Said Abaye to him: On the contrary, the position of the other should be much worse; for since he knows only of these, but of no more, he should be entitled to no more, and the other should receive all the rest! — But, said Abaye, it means in his share of whole materials. if so, what does it [his knowledge] profit him? — In respect of extra wide bricks, or well — kneaded clay.[9]

MISHNAH. [IN THE CASE OF] A HOUSE AND AN UPPER STOREY, IF THE UPPER STOREY WAS BROKEN THROUGH, AND THE LANDLORD REFUSES TO MEND IT, THE INHABITANT OF THE UPPER STOREY CAN DESCEND AND DWELL BELOW, UNTIL HE REPAIRS THE TOP. R. JOSE SAID: THE LOWER ONE MUST PROVIDE THE TIKRAH[10] AND THE UPPER ONE THE PLASTERING.[11]

GEMARA. 'BROKEN THROUGH:' over what area?[12] — Rab said: The greater part; Samuel said: Four [handbreadths]. 'Rab said: The greater part.' but not only four [handbreadths],[13] because one can dwell partly below and partly above.[14] 'Samuel said: Four [handbreadths]:' one cannot dwell partly below and partly above. How is it meant? If he [the landlord] had said to him, '[I rent you] this storey, it is gone.[15] But if he simply stated, 'A storey,' then let him rent him another! — Raba said: It arises only if he stated, 'This garret, which I rent you, as long as it stands, go up thither; and when it comes down [through the weather],descend you too [to the ground floor].’ If so, why state it? — But, said R. Ashi, it means that he said to him, ‘This storey which is upon this house, I rent to you;’ thus he pledged the house for the storey. And this is in accordance with what Rabin son of R. Adda related in R. Isaac's name: It once happened that a man said to his neighbour. ‘I sell you a hanging vine which is over this peach tree,’ and the peach tree was later uprooted.[16] When the matter came before R. Hiyya, he said to him: You are bound to put up a peach tree for him, as long as the vine is in existence.

R. Abba b. Memel propounded:

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(1) E.g., legatees who had thus divided their legacy.

(2) I.e., proportionally to the respective heights of each, they must divide the whole beams, bricks, etc., and likewise the broken ones.

(3) E.g., if the lower part of the house received a shock like that of a battering ram, it may be assumed that the broken stones are of that portion. If, on the other hand, the shock was evenly distributed, as that of a hurricane, it is most probable that the broken stones are of the upper storey, since they had a greater distance to fall.

(4) V. n. 5.

(5) For if it fell through pressure, it will be on its site, whereas if a shock overthrew it, the materials will be strewn at a distance.

(6) Since the house belongs to both, even if they have separate courtyards, neither objects to the other making use of his. Possession in such a case does not prove ownership.

(7) V. supra 97b and 98a for notes. So here too, A claims that he recognises a certain quantity of materials, and B admits part of it and pleads ignorance with respect to the rest.

(8) I.e., A taking a certain quantity of unbroken materials, B receives an equal (or proportionate) quantity of broken ones, and they share in the rest.

(9) I.e., the whole materials which he recognises as his own may be superior to the other whole ones.

(10) Explained in the Gemara.

(11) The cement or plaster above the ceiling.

(12) Lit., ‘how much?’

(13) In that case he cannot take possession of the ground floor.

(14) I.e., when only four handbreadths are broken through, he lacks the space required for one utensil, and so he can only claim that in the lower dwelling; this is referred to as living partly below and partly above.

(15) It is the tenant's misfortune, and he has no claim.

(16) The vine thus losing its support.

Talmud - Mas. Baba Metzia 117a

When he [the tenant] dwells there [downstairs], does he dwell there alone, as formerly, or do both dwell there, because he [the landlord] can say to him, ‘I did not rent it to you that you should evict me.’ Now, should you say, both dwell therein, does he, when he makes use thereof, use it by way of the [lower] doors, or through the roof?[1] Do we say, It must be as originally: just as it was then by way of the roof, so now likewise. Or perhaps, he can say to him, ‘I undertook to ascend, but not to ascend and descend.’ Now, should you rule that he can say to him, ‘I did not undertake to ascend and descend,’ what of two storeys, one on top of the other? Now, if the upper one was broken through, he can certainly descend and dwell in the lower one; but if the lower one was broken through, can he ascend and dwell[2] in the upper?[3] Do we say, that he [the landlord] can say to him, ‘You undertook whatever is designated ascending [whether a greater or a lesser height]’? Or perhaps, he undertook one ascent, but not two? — These problems remain unsolved.

R. JOSE SAID: THE LOWER ONE MUST PROVIDE THE TIKRAH AND THE UPPER ONE THE PLASTERING. What is the TIKRAH? — R. Jose b. Hanina said: The reeds, thorns[4] and clay.[5] R. Simeon b. Lakish said: Boards. But there is no dispute; each [speaks] in accordance with local usage.

Two dwelt [in a house], one above and one below. Now, the plaster [on the ceiling between the two] became broke, so that when the one above washed with water, it dripped down, causing damage to the one below.[6] Now, who must repair? — R. Hiyya b. Abba said: The upper dweller; R. Elai said on the authority of R. Hiyya son of R. Jose: The lower one. Now, the sign thereof is, And Joseph was brought down to Egypt.[7] Shall we say that R. Hiyya b. Abba and R. Elai dispute on the same lines as R. Jose and the Rabbis [in the Mishnah]?[8] [Thus:] The ruling that the upper one must repair it is based on the view that he who inflicts the damage must remove himself from him who sustains it; whilst the opinion that the lower one must repair it agrees with the view that the injured party must remove himself from him who inflicts the injury![9] — Is it then reasonable [to maintain] that R. Jose and the Rabbis dispute with reference to damages? Surely we know them to hold the reverse! For we learnt: A tree must be removed [at least] twenty-five cubits from a pit.[10] and in the case of the carob and the sycamore trees, fifty cubits;[11] whether it be above[12] or level therewith. If the pit was there first, he must cut down [the tree], but [the pit owner] must compensate him. If the tree was there first, he need not cut it down. If it is doubtful which came first, he need not cut it down. R. Jose said: Even if the pit was there prior to the tree, he need not cut it down, for the one digs in his own, and the other plants in his own.[13] This proves that in R. Jose's opinion the injured party must remove himself; whilst the Rabbis hold that he who inflicts the injury must remove! — But if it can be said that they [R. Hiyya b. Abba and R. Elai] dispute on the same lines as R. Jose and the Rabbis, it is on their opinions as displayed there. Then wherein do R. Jose and the Rabbis, of the present Mishnah, differ? — In the strengthening of the ceiling. The Rabbis maintain: the plaster strengthens the ceiling, and that is the duty of the lower dweller. Whilst R. Jose maintains that the plaster is for the purpose of levelling the depressions,[14] and that must be done by the upper tenant. But that is not so. For R. Ashi said: When I was at R. Kahana's college, we said, R. Jose agrees in the case of his arrows![15] — It means that the water was interrupted, and only subsequently fell down.[16]

MISHNAH. IF A HOUSE AND AN UPPER STOREY, BELONGING TO TWO,[17] COLLAPSED, AND THE OWNER OF THE UPPER STOREY PROPOSED TO THE HOUSE OWNER TO REBUILD, WHILST THE LATTER DECLINED, THE FORMER MAY BUILD THE HOUSE [i.e., THE LOWER STOREY] AND DWELL THEREIN, UNTIL HE [THE LATTER] REIMBURSES HIM FOR HIS EXPENDITURE. R. JUDAH SAID: THEN THIS MAN INDEED SHALL HAVE DWELT IN HIS NEIGHBOUR'S HOUSE, AND SO MUST PAY HIM RENT.[18] BUT THE OWNER OF THE UPPER STOREY MUST BUILD UP THE HOUSE AND THE UPPER STOREY AND ROOF IT OVER, AND THEN DWELL IN THE HOUSE UNTIL HE IS REIMBURSED.[19] [

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(1) I.e., reaching as hitherto the upper storey by means of the specially provided ladder and thence descending into the house.

(2) [Cf. Tosaf. Cur. edd. read instead ‘entirely’, which is rightly omitted in most texts.]

(3) Where one of the two had been rented.

(4) The thorns were presumably for binding the other materials by becoming entangled in them.

(5) [So Aruch, reading וסטיני . According to Rashi, who preserves וטינא of cur. edd., the word is a name of a Sage and is to be connected with what follows: ‘Justinian in the name of Resh Lakish said.’]

(6) The ceiling itself, i.e., the planks, was unaffected, and the water dripped down through the cracks in the plaster. This was not a case of renting, but of two owners.

(7) Gen. XXXIX. 1. This is a sign given to aid to memory: thus: Joseph (Jose) was brought down — rules that the lower one must repair.

(8) For it was assumed that when R. Jose ruled that the tenant above must provide the plastering, it is in order that his water should inflict no damage upon the tenant below, it being the duty of the person who inflicts damage to remove himself from him who sustains it; on the other hand, the tenant below must furnish (i.e., repair) the ceiling itself, which is the floor of the upper storey, since that is an essential part of the storey which he rented to him. Whilst the first Tanna holds that the injured party must remove himself: therefore he, i.e, the lower dweller, must repair the whole ceiling, including the plastering.

(9) As the Rabbis.

(10) Because its roots undermine the earth, and if nearer, ultimately cause it to collapse.

(11) Their roots are longer.

(12) I.e., whether the pit is on higher ground than the tree, so that the roots go below it.

(13) V. B.B. 25b and supra p. 630.

(14) I.e., the ceiling of wood beams forms an unequal surface for the man above to walk upon, and therefore it is overlaid by a dressing of concrete chippings, which forms a smooth and level pavement.

(15) Though R. Jose holds that the injured person has to remove, that is only where the injury does not come immediately and directly, as in the case of the pit and the tree. When the tree is planted, no damage at all is done; only later, when it is grown and its roots have spread, is injury caused. But when one washes his hands and the water falls through the crevices in the flooring upon the dweller below, the injury proceeds directly from above, as when a man shoots arrows, in which case R. Jose admits that the man who causes the injury must remove himself. How then can R. Hiyya b. Jose rule that the dweller below must repair the ceiling?

(16) The place for washing was not directly over the broken portion but in some other part of the room, whence it trickled to the cracks, and only then dropped down. That is not direct and immediate injury.

(17) v. p. 660, n. 1.

(18) When the house-owner reimburses him, the house becomes retrospectively his. Now, in R. Judah's opinion, if A benefits from an article belonging to B, though B does not lose thereby, he must pay him. So here too, the owner of the upper storey has dwelt in the other's house, and though the latter lost nothing thereby, since had not the former built it he would have had no house in any case, the owner of the upper storey must nevertheless pay rent.

(19) In this case, the house-owner sustains no loss, as explained in the previous note, but the owner of the upper storey does not benefit either, since he could live in his own garret; here R. Judah admits that no rent is payable. So Rashi. Tosaf., however, points out that he benefits by not having to climb stairs. Therefore, on a slightly different reading, Tosaf. translates: and then dwell in his upper storey, not permitting the other to enter the house until he is reimbursed.

Talmud - Mas. Baba Metzia 117b

GEMARA. R. Johanan said: In three places has R. Judah taught us that one may not benefit from his neighbour's property. One, what we learnt [in the Mishnah]. What is the second? — We learnt: If one gives a dyer wool to be dyed red, but he dyed it black, or to dye it black and he dyed it red; R. Meir said: He [the dyer] must pay him for the wool.[1] R. Judah said: If the increased value exceeds the cost [of dyeing], he [the wool owner] must pay him the cost; if the cost exceeds the increased value, he must pay him for the latter.[2] And what is the third? — That which we learnt: If a man repaid a portion of his debt, and then placed the bond in the hands of a third party, declaring. ‘If I do not repay the balance within thirty days, return the note to the creditor:’[3] and the time arrived, and he did not repay. R. Jose maintained: The third party must surrender [the bond to the creditor]. R. Judah ruled: He must not return it .[4] But whence [does it follow]? Maybe R. Judah states his ruling here,[5] only because there is blackening [of the walls].[6] Or, [in the second case] ‘to be dyed red, but he dyed it black,’ the reason is that he did otherwise [than he was instructed], and we learnt: He who alters [the contract] is at a disadvantage. Again, in the case of one who repaid a portion of his debt, it [the order to the third party] is an asmakta,[7] and we thus learn that R. Judah holds that an asmakta gives no title.[8] R. Aha b. Adda said on ‘Ulla's authority: If the owner of the lower storey wishes to alter [the building materials from hewn] to unhewn stones, he is permitted; [from unhewn stones] to hewn stones, he is forbidden;[9] [from whole bricks] to half-bricks,[10] he is permitted; [from half-bricks] to whole bricks, he is forbidden; to ceil it with cedars,[11] he is permitted; with sycamores.[12] he is forbidden; to diminish the number of windows, he is permitted; to increase them, he is forbidden; to elevate [the storey], he is forbidden; to decrease its height, he is permitted.[13] Whereas if the owner of the upper storey wishes to alter to hewn stones, he is permitted; to unhewn stones, he is not permitted; to half-bricks, he is not permitted; to whole bricks, he is permitted; to ceil it with cedars, he is not permitted; with sycamores, he is permitted; to increase the number of windows, he is permitted; to diminish them, he is not permitted; to elevate the [upper storey], he is not permitted; to decrease its height, he is permitted.[14]]

What if neither possesses [the wherewithal for rebuilding]?[15] (It has been taught: When neither possesses [money for rebuilding]. the garret owner has no claim at all upon the land.)[16] It has been taught: R. Nathan said: The owner of the lower portion receives two-thirds [of the land], and the owner of the upper, one-third. Others say, The owner of the lower portion receives three-quarters, and that of the upper, one-quarter. Rabbah said: Hold fast to R. Nathan's ruling, because he is a judge, and has penetrated to the depths of civil law. By how much does the loft impair the value of the house [i.e., the lower storey]? — By a third.[17] Therefore he is entitled to a third.

MISHNAH. SIMILARLY, IF AN OLIVE PRESS[18] WAS BUILT IN A ROCK AND ABOVE IT WAS A GARDEN, AND THE ROOF OF THE PRESS WAS BROKEN THROUGH,[19] THE OWNER OF THE GARDEN CAN DESCEND AND SOW BELOW [ON THE FLOOR OF THE PRESS], UNTIL THE PRESS-OWNER REPAIRS THE VAULTING [TO PROVIDE A SUPPORT FOR THE GARDEN ABOVE]. IF A WALL OR A TREE FELL INTO A PUBLIC THOROUGHFARE AND CAUSED DAMAGE, HE [ITS OWNER] IS FREE FROM LIABILITY. BUT IF HE WAS GIVEN A [FIXED] TIME TO CUT DOWN THE TREE OR PULL DOWN THE WALL, AND THEY FELL: IF WITHIN THE PERIOD, HE IS NOT LIABLE; AFTER THAT PERIOD HE IS LIABLE. IF A MAN'S WALL WAS NEAR HIS NEIGHBOUR'S GARDEN AND IT COLLAPSED [INTO THE GARDEN], AND WHEN HE DEMANDED, ‘REMOVE YOUR STONES’, HE REPLIED,

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(1) I.e., the wool becomes the dyer's, and he must pay the original owner for it.

(2) For if the dyer should retain the wool, as R. Meir rules, he profits in that the wool-owner has brought him wool, thus saving him the labour of procuring it himself; V.B.K. 100b.

(3) Who will thus be enabled to demand the full amount.

(4) And it is assumed that the reason is because the creditor thereby derives benefit from the debtor's money, which is forbidden (v. B.B. 168a).

(5) That the upper tenant would have to pay rent.

(6) I.e., it loses its newness through his dwelling therein, hence the house-owner actually sustains a loss, and therefore the other must pay him rent.

(7) v. Glos.

(8) But all three do not prove that normally one may derive no benefit from his neighbour's property where the latter suffers no loss thereby.

(9) [Unhewn stones are wider by one handbreadth then hewn stones, v. B.B. Mishnah 2a.]

(10) Between which there was a filling of rubble. This made the wall stronger than if built with whole bricks, which allowed for no filling. v. ibid.

(11) In the place of the former sycamores.

(12) In the place of the former cedars.

(13) שומעין לו and אין שומעין לו , here translated ‘he is permitted’ and ‘he is forbidden’ respectively, are literally, ‘we hearken to him,’ ‘we do not hearken to him.’ The general principle is: if he wishes to make an alteration which strengthens the lower storey and adds to its weight, so that it can the better bear the burden of the upper portion, he is permitted. But he may not weaken it.

(14) He may weaken the upper portion, thereby giving the lower a lesser burden, but not strengthen it through increasing the burden.

(15) So that the owner of the lower portion wishes to turn it to agricultural purposes, whilst the owner of the upper storey demands a share in it (Tosaf.).

(16) Rashal deletes the whole of the bracketed passage. on the authority of Asheri. Alfasi retains it.

(17) The duration of the lower portion is lessened by one-third on account of the weight of the upper. Thus it may be held that the owner of the upper storey has a right to a third of the ground.

(18) The Heb. בית הבד , denotes the building in which the olive press, the tank, and all other objects required for pressing olives are housed.

(19) Thus undermining the soil above and rendering it unfit for sowing.

Talmud - Mas. Baba Metzia 118a

THEY ARE BECOME YOURS,[1] HE IS NOT HEEDED. [ON THE OTHER HAND,] IF AFTER THE LATTER AGREED [TO THE PROPOSAL [AND REMOVED THEM] HE SAID, ‘HERE ARE YOUR [REMOVAL] EXPENSES, AND I WILL TAKE BACK MINE [THE STONES].’ HE IS [LIKEWISE] NOT HEEDED. IF A MAN ENGAGES A LABOURER TO WORK FOR HIM ON STRAW OR STRUBBLE,[2] AND WHEN HE DEMANDS HIS WAGES, SAYS TO HIM, ‘TAKE THE RESULTS OF YOUR LABOUR FOR YOUR WAGE, HE IS NOT HEEDED. IF AFTER HE AGREED [TO THE PROPOSAL] HE SAID TO HIM, ‘HERE IS YOUR PAYMENT, AND I WILL TAKE MY PROPERTY,’ HE IS [LIKEWISE] NOT HEEDED.

GEMARA. BROKEN THROUGH: Rab said, The greater part thereof; Samuel ruled, Four [handbreadths]. ‘Rab said, The greater part thereof;’ but if only four [handbreadths,] one can sow partly above and partly below.[3] ‘Samuel said, Four [handbreadths]:’ one cannot [be expected to] sow partly above and partly below. Now, both [disputes] are necessary.[4] For if we taught [it] in connection with a dwelling, [it might be said that] only there does Samuel state his ruling, because it is unusual for a man to dwell partly in one place and partly in another; but with respect to sowing, where it is quite usual for a man to sow here a little and there a little, I might say that he agrees with Rab. Whilst if only the present dispute were stated, [I might argue that] only here does Rab hold this view; but in the other case, he agrees with Samuel. Hence both are necessary.

IF HE WAS GIVEN A [FIXED] TIME. And what time is given by the Court? — Said R. Johanan: Thirty days.

IF A MAN'S WALL etc. But since the last clause teaches, ‘HERE ARE YOUR [REMOVAL] EXPENSES,’ it follows that he [the garden owner] has removed them. Thus, it is only because he removed them;[5] but why so? Let his field effect possession for him! For R. Jose son of R. Hanina said: A man's courtyard effects possession for him even without his knowledge! — That is only where he [the original owner] desires to grant him possession; but here he merely seeks to evade him.[6]

IF A MAN ENGAGES A LABOURER TO WORK WITH HIM ON STRAW etc. Now, both are necessary. For if only the first were stated, that when he proposes, ‘LET THEM BE YOURS’, HE IS NOT HEEDED, [it might be said that] that is because he [the garden owner] has no wage claim upon him; here, however, that he [the labourer] has a wage claim, I might argue that he [the employer] is listened to, because it is proverbial, ‘From your debtor accept [even] bran in payment.’ Whilst if this clause [alone] were taught, [it might be that] only in this case, once he [the worker] accepts the proposal, is he [the employer] not heeded,[7] because he has a wage claim upon him;[8] but in the former case, where he has no wage claim upon him, I might think that he is heeded:[9] hence both are necessary.

HE IS NOT HEEDED.[10] But has it not been taught. He is heeded? — Said R. Nahman: There is no difficulty: here [in the Mishnah] the reference is to his own work, there [in the Baraitha], to his neighbour's.[11] Raba said to R. Nahman: [When he is employed] on his own, what is the reason [that he is not heeded]? Because he [the labourer] can say to him, ‘You are responsible for my wages’? [But when employed] by his neighbour he can also say to him, ‘You are responsible for my hire’! For it has been taught: If one engaged an artisan to labour on his [work], but directed him to his neighbour's, he must pay him in full, and receive from the owner [of the work actually done] the value of the labour whereby he benefited! — But, said R. Nahman, there is no difficulty: here it refers to his own; there, to that of hefker.[12] Raba raised an objection against R. Nahman: That which is found by a labourer [whilst working for another] belongs to himself. When is that? If the employer had instructed him, ‘Weed or dig for me to — day.’ But if he said to him. ‘Work for me to-day’ [without specifying the nature of the work], his findings belong to the employer![13] — But, said R. Nahman, there is no difficulty: here [in the Mishnah] the reference is to lifting up; there, to watching.[14]

Rabbah said: [Whether] ‘watching’ [effects possession] in the case of hefker is disputed by Tannaim. For we learnt: Those who keep guard over the aftergrowth of the Sabbatical year are paid out of Temple funds.[15] R. Jose said: He who wishes can donate [his work] and be an unpaid watcher. Said they [the Sages] to him: You say so, [but then] they are not provided by the public.[16] Now, surely, the dispute is on this question: the first Tanna holds that ‘watching’ hefker effects possession;[17] hence, if he is paid, it is well,[18] but not otherwise. Whilst R. Jose maintains that ‘watching’ does not effect possession of hefker; hence, only when the community go and fetch it is possession effected. And what is meant by. ‘You say [etc.]’?[19] They said thus to him: From your statement[20] [and] on the basis of our ruling,[21] [it transpires that] the omer[22] and the two loaves[23] are not provided by the public![24] — Said Raba: That is not so. All agree that ‘watching’ effects possession of hefker; but they differ here as to whether we fear that he will not deliver it whole-heartedly. Thus, the Rabbis hold that he must be paid, for otherwise there is the fear lest he does not deliver it wholeheartedly,[25] whilst R. Jose holds that this fear is not entertained. And what is meant by ‘You say’? — They say thus to him: From your statement, [and] on the basis of our ruling that we fear that it will not be surrendered whole-heartedly, the ‘omer and the two loaves are not provided by the public.

Others say, Raba said: All agree that ‘watching’ does not effect possession in the case of hefker; but they dispute here whether we entertain a fear of violent men. The first Tanna holds that the Rabbis enacted that he shall be paid four zuz, so that violent men may hear thereof[26] and hold aloof;[27] whilst R. Jose holds that they did not enact [thus].[28]

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(1) ‘Remove them yourself, and keep them for your trouble.’

(2) E.g., to collect or tie it into bundles.

(3) I.e., the garden-owner can only demand an equivalent space in the press, but not transplant his whole garden thither.

(4) V. supra 116b, where Rab and Samuel dispute likewise with reference to a house.

(5) That they belong to the garden owner.

(6) He does not really wish the garden owner to have the bricks, but seeks to evade his responsibilities by telling him to clear them away and keep them for himself, thinking, however, to claim them subsequently. Therefore, unless the latter actually takes advantage of the offer, the bricks remain his.

(7) When he desires to go back upon it.

(8) And therefore has a strong title to the materials, since they were offered in lieu of wages.

(9) When desiring to cancel his accepted proposal.

(10) When he offers the workman the material in lieu of wages.

(11) If the labourer was employed to work for a third party, he can be forced to accept the materials in lieu of wages.

(12) V. Glos. R. Nahman maintains (supra 10a) that if a person lifts up an object of hefker on his neighbour's behalf, it belongs to himself. Hence, when a worker collects sheaves of hefker for an employer, they belong to himself, and therefore the offer must be accepted.

(13) V. supra 10a.

(14) Lit., ‘looking’. In both instances the reference is to hefker. But if the labourer was engaged to tie sheaves, thus having to lift them up, his employer acquires title to them, and therefore must pay him. But if his work was to keep guard, the mere watching does not effect possession, and therefore his employer can force him to accept them as his wages.

(15) Lit., ‘the terumah of the Chamber’, i.e., the funds contributed by shekel payers.

(16) A sheaf of the earliest barley crop was brought as a heave offering in the Temple; likewise two loaves made of the first wheat to ripen (Lev. XXIII. 10f. 17). These had to be public property, and not that of any individual, and men were engaged and paid out of public funds to watch over a field of corn to see which sheaves ripened the earliest. As there was no sowing in the seventh year, there could only be a crop spontaneously grown from seed that had fallen the previous year. This crop was hefker, as all seventh year crops were, and the Tannaim dispute whether the watchman had to accept payment or not.

(17) The aftergrowth thus belong to the watchman.

(18) For then possession is effected on behalf of the public.

(19) Seeing that according to R. Jose the sheaves are not the property of the watcher.

(20) That he may forego payment.

(21) That watching gives a title to hefker.

(22) Sheaf of barley. Lev. XXIII. 9ff.

(23) Made of the new wheat, ibid. 16ff.

(24) We thus see that the question whether 'watching' effects possession in hefker is a point of issue between Tannaim.

(25) And if it is not surrendered whole-heartedly, it belongs to the watchman, and is thus not provided by the public.

(26) That it is being watched on behalf of hekdesh.

(27) Otherwise, they may think that he is watching it on his own behalf and seize it themselves; for though they respect the rights of hekdesh, they will not respect those of a private individual.

(28) The fear being groundless.

Talmud - Mas. Baba Metzia 118b

And what is meant by 'You say'? They say thus to him: From your statement,[and] on the basis of our opinion, [it follows that] they are not provided by the public.[1] And when Rabin came,[2] he likewise said in R. Johanan's name: They differ as to whether we fear [the action of] men of violence.

MISHNAH. IF A MAN TAKES OUT MANURE INTO A PUBLIC THOROUGHFARE, IT MUST BE APPLIED [TO THE SOIL] IMMEDIATELY AFTER BEING TAKEN OUT.[3] MORTAR MUST NOT BE STEEPED IN THE STREET, NOR MAY BRICKS BE FORMED THERE.[4] CLAY MAY BE KNEADED IN THE STREET.[5] BUT BRICKS MAY NOT BE [MOULDED]. WHEN ONE IS BUILDING IN A PUBLIC ROAD,[6] THE BRICKS MUST BE LAID IMMEDIATELY THEY ARE BROUGHT.[7] IF HE CAUSES DAMAGE, HE MUST MAKE IT GOOD. RABBAN SIMEON B. GAMALIEL SAID: ONE MAY PREPARE HIS MATERIALS EVEN THIRTY DAYS BEFOREHAND.[8]

GEMARA. Shall we say that our Mishnah does not agree with R. Judah? For it has been taught: R. Judah said: When it is the time for manure to be taken out, a man may put his manure out into the street and leave it heaped up for full thirty days, that it should be trodden down by the foot of man and beast for on this condition did Joshua allot the Land to Israel![9] — It may even agree with R. Judah, for he admits that if he thereby causes damage, he must make it good.[10] But have we not learned: R. Judah said: In the case of a Chanukah[11] lamp he is not liable, because this was done under authority.[12] Surely that means, under authority of the Court?[13] — No. It means the authority of a precept.[14] But it has been taught: All those whom the Rabbis permitted to commit a nuisance on the public thoroughfare,[15] if they cause damage, they are bound to pay; whilst R. Judah exempts them! Hence it is clear that our Mishnah does not agree with R. Judah.

Abaye said: R. Judah, Rabban Simeon b. Gamaliel, and R. Simeon[16] all maintain that wherever the Sages gave permission [to do a certain thing] and damage was thereby caused, there is no liability. 'R. Judah', as stated. 'Rabban Simeon b. Gamaliel', — for we learnt: ONE MAY PREPARE HIS MATERIALS EVEN THIRTY DAYS BEFOREHAND.[17] 'R. Simeon', — for we learnt: If he placed it [a stove] in an upper storey, there must be a flooring[18] of three handbreadths deep under it;[19] but for a small stove,[20] one handbreadth.[21] Nevertheless, if he causes damage, he must make it good. R. Simeon said: All these measurements were stated only so that if he causes damage he is free from liability.[22]

Our Rabbis taught: Once the quarryman has delivered [the stones for building] to the chiseller [for polishing and smoothing], the latter is responsible [for any damage caused by them]; the chiseller having delivered them to the haulier, the latter is responsible; the haulier having delivered them to the porter,[23] the latter is responsible; the porter having delivered them to the bricklayer, the latter is responsible; the bricklayer having handed them over to the foreman,[24] the foreman is liable. But if after he had [exactly][25] laid the stone upon the row, it caused damage, all are responsible. But has it not been taught: Only the last is responsible, whilst all the others are exempt? — There is no difficulty: the latter refers to time-work;[26] the former, to contracting.[27] MISHNAH. IF TWO GARDENS ARE SITUATED ONE ABOVE THE OTHER, AND VEGETABLES GROW BETWEEN THEM,[28] R. MEIR SAID: THEY BELONG TO THE UPPER GARDEN; R. JUDAH MAINTAINED, TO THE LOWER GARDEN. SAID R. MEIR: SHOULD THE OWNER OF THE UPPER GARDEN WISH TO REMOVE HIS GARDEN [I.E., TAKE AWAY THE EARTH], THERE WOULD BE NO VEGETABLES. SAID R. JUDAH: SHOULD THE LOWER ONE WISH TO FILL UP HIS GARDEN [WITH SOIL],[29] THERE WOULD BE NO VEGETABLES. THEN, SAID R. MEIR, SINCE BOTH CAN PREVENT EACH OTHER [FROM HAVING VEGETABLES AT ALL], WE CONSIDER WHENCE THE VEGETABLES DRAW THEIR SUSTENANCE.[30] R. SIMEON SAID: AS FAR AS [THE OWNER OF] THE UPPER GARDEN CAN STRETCH OUT HIS HAND AND TAKE BELONGS TO HIM, WHILST THE REST BELONGS TO [THE OWNER OF] THE LOWER GARDEN.

GEMARA. Raba said: As for the roots, all agree that they belong to the upper owner. They disagree only with respect to the leaves:[31] R. Meir maintains: The leaves are counted with[32] the roots; whilst R. Judah holds that they are not. Now, they follow their views [expressed elsewhere]. For it has been taught: That which issues from the trunk and the roots belongs to the landowner: this is R. Meir's opinion. R. Judah said: [That which grows] out of the trunk belongs to the tree-owner; out of the roots, to the land-owner.[33]

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(1) On this version this phrase has not the same meaning as above. The ‘omer and the two loaves certainly come from the public, since it is now assumed that watching over hefker does not effect a title. But the Rabbis objected that since it was enacted that the watcher must receive four zuz, if he foregoes it and it goes into the public funds, these now include four zuz of private money, and when later on animals are bought therewith for communal sacrifices, such as the daily burnt offerings and the Sabbath and Festival Additional offerings, instead of being paid for by public funds, as they should be, they are partly paid for by private money (Rashi.)

(2) From Palestine to Babylon.

(3) Lit., ‘the carrier carries it out, and he who applies it must apply it’ — i.e., it may not be left in the street for any length of time, but must be taken straight to the fields.

(4) Rashi: the clay was run into moulds and allowed to dry and harden into bricks. This may not be done in a public thoroughfare.

(5) For immediate use.

(6) I.e.; a building coming up to the street, so that the materials etc. must be in the street.

(7) Lit., ‘the brick hauler brings them and the builder builds them (into the wall)’ — i.e., they must not lie in the street longer than is absolutely necessary.

(8) I.e., deposit them on the site, in readiness for building; and during this time he is not responsible for any damage that may ensue.

(9) V. B.K. 30a and 81b.

(10) Notwithstanding that he was entitled to have it there.

(11) V. Glos.

(12) If one placed a light outside his house and a camel passed by laden with flax, which caught fire from the light, he is liable for the damage. But if it was a Chanukah lamp, he is exempt; V. B.K. 30a, and 62b.

(13) Thus shewing that one is not responsible for damage caused by his property in a public thoroughfare, if it is there by permission of the Court.
(14) Which stands higher, but not that of the court or general authorities, which is insufficient to exempt him from his liabilities.
(15) E.g., to put out the manure, as here, or discharge foul water in winter.
(16) b. Yohai.
(17) V. p. 673. n. 5.
(18) מעזיבה , v. p. 662, n. 2.
(19) Otherwise it can cause damage to the lower storey.
(20) just large enough for two pots.
(21) Because it does not give out so much heat.
(22) B.B. 20b.
(23) Who handed them to the bricklayer.
(24) For exact setting. After the stones were placed in a row, there was a foreman or supervisor who saw that they were correctly placed, and remedied faulty placing (Rashi).
(25) [The text is uncertain (v. D.S.). but this seems to be the correct interpretation according to the reading in cur. edd.; on variants in the parallel passages. V. Krauss, TA. I, 302.]
(26) Lit., 'hiring'. i.e., men engaged by the week, day or hour. In that case, each is quit of responsibility as soon as it leaves his hand, and so the final responsibility is left with the last.
(27) If they jointly contracted for the building. In that case, each is severally responsible whilst the stone is in his hand; but when it is laid, the joint responsibility is reassumed.
(28) I.e., they are contiguous, but one is on a higher level than the other, and vegetables grow on the connecting bank.
(29) To make it level with the higher one.
(30) And this determines their ownership.
(31) Which are suspended in the air-space above the lower garden.
(32) Lit., 'thrown after'.
(33) The reference is to the offshoots of a tree which does not belong to the same owner as the field in which it is situated, v. B.B. 81a.

Talmud - Mas. Baba Metzia 119a

And we learnt[1] similarly in the case of 'orlah:[2] A tree which issues from the trunk or from the roots is subject to 'orlah: this is the opinion of R. Meir.[3] R. Judah said: That which grows out of the trunk is not subject thereto;[4] but out of the roots, is subject. And both are necessary. For if the first were taught, [I would argue,] only there does R. Judah rule so, because it is [a question of] civil law.[5] But with respect to 'orlah, which is a ritual prohibition[6] I might think that he agrees with R. Meir. And if the latter were taught, I might argue, only here does R. Meir rule so, but in the former case he agrees with R. Judah. Hence both are necessary. R. SIMEON SAID: AS FAR AS THE OWNER OF THE UPPER GARDEN CAN STRETCH OUT HIS HAND, etc. The disciples of R. Jannai said: providing, however, that he does not strain himself. R. 'Anan — or according to others, R. Jeremiah — propounded: What if he can reach its leaves but not the roots, or he can reach the roots but not the leaves?[7] The problem remains unsolved.

Ephraim the Scribe, a disciple of Resh Lakish, said on the authority of the latter: The halachah agrees with R. Simeon. When this was told to King Shapur.[8] he observed, 'Let a palanquin be put up for R. Simeon.'[9]

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(1) [Var. lec.: 'It has been taught.' the citation that follows not being from a Mishnah but from Tosef. 'Orl.]
(2) V. Glos.
(3) In both cases he regards it as a new growth from the earth.
(4) It being regarded as part of the old tree.
(5) Lit., 'money'.

(6) And where such is in doubt, the more stringent ruling is adopted.

(7) [Omitted in some texts, there being no question that in this case it is considered to be within his reach; v. Wilna Gaon, Glosses.]

(8) King Shapur I,a contemporary of Samuel and a close friend of his. Rashi argues that he is actually meant, as he was well versed in Jewish civil law, and dismisses the theory of other commentators that this is an allusion to Samuel, who was frequently so designated. [On the interest of King Shapur I in Jewish customs and practices, prompted probably by his desire to win Jewish support in his struggle with the Romans, cf. Suk. 53a and A.Z. 76b; v. Funk, op. cit., p. 72.]

(9) He deserves a triumphal procession for his acuteness in civil law.

Talmud - Mas. Baba Bathra 2a

CHAPTER I

MISHNAH. IF JOINT OWNERS AGREE TO MAKE A MEHIZAH[1] IN A COURTYARD,[2] THEY SHOULD[3] BUILD THE WALL IN THE MIDDLE. IN DISTRICTS WHERE IT IS USUAL TO BUILD OF GEBIL, GAZITH, KEFISIN OR LEBENIM,[4] THEY MUST USE SUCH MATERIALS, ALL ACCORDING TO THE CUSTOM OF THE DISTRICT. IF GEBIL IS USED, EACH GIVES THREE HANDBREADTHS.[5] IF GAZITH IS USED, EACH GIVES TWO HANDBREADTHS AND A HALF.[6] IF KEFISin ARE USED, EACH GIVES TWO HANDBREADTHS.[7] IF LEBENIM ARE USED, EACH GIVES A HANDBREADTH AND A HALF.[8] THEREFORE IF THE WALL FALLS,[9] [IT IS ASSUMED THAT] THE PLACE [IT OCCUPIED] AND THE STONES BELONG TO BOTH. SIMILARLY WITH AN ORCHARD,[10] IN A PLACE WHERE IT IS CUSTOMARY TO FENCE OFF, EITHER CAN BE COMPELLED TO DO SO. BUT IN A STRETCH OF CORNFIELDS, IN A PLACE WHERE IT IS USUAL NOT TO FENCE OFF [THE FIELDS]. NEITHER CAN BE COMPELLED. IF, HOWEVER, ONE DESIRES TO MAKE A FENCE, HE MUST WITHDRAW A LITTLE AND BUILD ON HIS OWN GROUND, MAKING A FACING ON THE OUTER SIDE.[11] CONSEQUENTLY,[12] IF THE WALL FALLS, THE PLACE AND THE STONES [ARE ASSUMED TO] BELONG TO HIM. IF, HOWEVER, THEY BOTH CONCUR, THEY BUILD THE WALL IN THE MIDDLE AND MAKE A FACING ON BOTH SIDES. CONSEQUENTLY IF THE WALL FALLS, [IT IS ASSUMED THAT] THE PLACE AND THE STONES BELONG TO BOTH.

GEMARA. It was presumed [in the Beth Hamidrash] that MEHIZAH means a wall, as it has been taught: If the mehiza of a vineyard has been broken down, the owner [of an adjoining cornfield] can require the owner of the vineyard to restore it.[13] If it is broken down again. he can again require him to restore it.

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(1) This word may mean either ‘partition’ or ‘division’. The Gemara discusses which sense is intended here.

(2) A yard on to which two or more houses open.

(3) I.e., unless they agree otherwise.

(4) These are names of various kinds of bricks, and their precise sense is explained in the Gemara infra.

(5) Because a wall of gebil usually was six handbreadths thick.

(6) The usual breadth of such a wall being five handbreadths.

(7) The usual breadth being four handbreadths.

(8) The usual breadth being three handbreadths.

(9) At some subsequent time, when the circumstances under which it was put up have been forgotten.

(10) Or ‘a vegetable garden’.

(11) The point of this remark is discussed in the Gemara.

(12) In consequence of the rule just given.

(13) If there is a fence between a cornfield and a vineyard, the owner of the cornfield may sow right up to the fence, but if there is no fence he must not bring his seeds nearer than four cubits to the vineyard. V. infra 26a.

Talmud - Mas. Baba Bathra 2b

If [the owner of the vineyard] neglects the matter and does not restore it, he causes his neighbour's produce to become forfeit[1] and is responsible for his loss. [This being so,] the reason [why either can be compelled to join in putting up the wall] is because they both agreed;[2] but if either did not agree. he cannot be compelled. From this we infer that ‘overlooking’ is not regarded as a substantial damage.[3]

But may I not say that MEHIZAH means ‘division’, as in the verse, And the congregation's half[4] [mehezath. lit., ‘division’]. That being so, since they agreed to make a division, either can compel the other to build a wall,[5] from which we infer that overlooking is recognised as a substantial damage! — If that is the case,[6] why does the Mishnah say. WHO AGREED TO MAKE A DIVISION [MEHIZAH]? It should say, ‘who agreed lahazoth [to divide]’? — You[7] say then that MEHIZAH means a wall. Why then does the Mishnah say. THEY MUST BUILD THE WALL? It should say simply. ‘They must build it’? — If the Mishnah had said ‘it’, I should have understood that a mere fence of sticks is sufficient. It tells us [therefore that the partition must be a wall].

THEY MUST BUILD THE WALL IN THE MIDDLE. Surely this is self-evident? — It had to be stated in view of the case where one of the partners had to persuade the other to agree. You might think that in that case the second can say to the first: When I consented to your request. I was willing to lose part of my air space.[8] but not part of my ground space.[9] Now we know [that he cannot say so].

But is then overlooking no substantial damage? Come and hear: SIMILARLY WITH AN ORCHARD?[10] — There is a special reason in the case of an orchard, as we find in a saying of R. Abba; for R. Abba said in the name of R. Huna, who said it in the name of Rab: It is forbidden to a man to stand about in his neighbour's field when the corn In It is In the ear.[11] But the Mishnah says AND SIMILARLY?[12] — This refers to the gebil and the gazith.[13]

Come and hear:[14] ‘If the wall of a courtyard falls in, he [the joint owner] can be compelled to help in rebuilding to a height of four cubits’?[15] — If it falls, the case is different.[16] But what then was the point of the objection?[17] — Because it could be said that this statement was required only as an introduction to the next, which runs, ‘Above four cubits he is not compelled to help in rebuilding.’[18] Come and hear: [Every resident in a courtyard] can be compelled to assist in building a gateway and a door to the courtyard.[19] This shows, does it not, that overlooking is a substantial damage? Injury inflicted by the public is in a different category. Is then overlooking by a private individual not an injury? Come and hear [this]: ‘A courtyard need not be divided [on the demand of one party] unless it is large enough to allow four cubits to each’,[20] which shows that if enough space will be left to each, a division can be demanded. Must not that division be made by a wall? — No; a mere fence of sticks is sufficient.[21]

Come and hear: ‘[A wall built facing] windows, whether above, below, or opposite. [must be kept] four cubits away’;[22] and in explanation of this it was taught that [if higher] it must be four cubits higher so that one should not be able to peep over and look in, and [if lower] four cubits lower so that one should not be able to stand on it and look in,[23] and four cubits away so as not to darken the windows? — Damage [caused by looking into] a house is different.[24]

Come and hear: ‘R. Nahman said in the name of Samuel: If a man's roof adjoins his neighbour's courtyard, he must make a parapet four cubits high’?[25] — There is a special reason there, because the owner of the courtyard can say to the owner of the roof, I have fixed times for using my courtyard, but you have no fixed times for using your roof, and I do not know when you may be going up there

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(1) Because that part which is sown near the vineyard is regarded as being sown in the vineyard itself, and therefore when the produce reaches a certain height it becomes forfeit, according to the law in Deut. XXII, 9. Thou shalt not sow thy vineyard with mingled seeds.

(2) To divide the courtyard by means of a wall and not merely by a fence of sticks.

(3) Lit., ‘the damage of overlooking is not called damage’. The ‘overlooking’ is the power of either owner to see what the other is doing in his half of the courtyard.

(4) Num. XXXI, 43.

(5) And not merely a fence of sticks.

(6) That mehizah means ‘division’.
(7) I.e., you who object to mehizah being taken to mean ‘division’.
(8) By allowing, say. a thin partition of boards which would prevent my looking over into your part.
(9) Lit., ‘service’: the space in his own half which would be taken up by a thick wall.
(10) What reason can there be here save to prevent overlooking?
(11) So as not to injure it by casting on it the ‘evil eye’; hence this is no proof that overlooking is an injury.
(12) Which implies that the reason is the same in the case of an orchard as in the case of a courtyard.
(13) That is to say. that the wall in an orchard, if there is to be one, must also be made of these materials.
(14) A further objection to the thesis that overlooking is no injury.
(15) Infra 5a. This would show that overlooking is an injury.
(16) Because the joint owners had already agreed to have a wall.
(17) Lit., ‘He who asks this, how can he ask it.’ the answer being so obvious.
(18) And if this is so,then the case of the wall falling is not different from the case of there being no wall, and overlooking is an injury. Consequently the objection from the statement ‘If the wall falls in, etc,’ is a sensible one.
(19) So as to prevent the passers.by looking in, Infra 7a.
(20) Infra 11a.
(21) And overlooking is not a substantial damage.
(22) Infra 22a. The reference is to a wall built by the joint owner of a courtyard opposite his neighbour's windows.
(23) Which shows that overlooking even by a private individual is a substantial damage.
(24) Because greater privacy is required in a house,
(25) So that he should not be able to look over into the courtyard when using the roof. Infra 6b.

Talmud - Mas. Baba Bathra 3a

so that I may keep out of your sight.[1] Another version [of the above discussion is as follows]. It was presumed [in the Beth Hamidrash] that mehizah means ‘division’, as in the verse, and the congregation's mehezath was etc. Since then the partners agree to make a division, they are compelled [according to the Mishnah] to build a wall. This would show that overlooking is a substantial damage. May I not say, however, that mehizah means a wall, as we have learnt: ‘If the mehizah of a vineyard has been broken down, the owner [of an adjoining cornfield] can require the owner of the vineyard to restore it. If it is broken down again, he can again require him to restore it. If [the owner of the vineyard] neglects the matter and does not restore it, he causes his neighbour's produce to become forfeit, and is responsible for his loss.’ [This being so],[2] the reason why either can be compelled [to assist in putting up the wall] is because they both agreed; but if either did not agree, he cannot be compelled. From which we infer that overlooking is not a substantial damage. If that is so,[3] instead of THEY SHOULD BUILD THE WALL, the Mishnah should say, they should build it’? — You say then that mehizah means ‘division’. If so, instead of ‘who agreed to make a division’, the Mishnah should say, ‘who agreed to divide’? — It is usual for men to say, ‘Come, let us make a division.’[4]

But if overlooking is a substantial damage, why does it speak of the partners agreeing? Even if they do not agree, [either should be able to demand a division]? — To this R. Assi answered in the name of R. Johanan: Our Mishnah is speaking of a courtyard where there is no right of division,[5] and where therefore [a division is made only] if both agree.

The Mishnah then tells us [according to this] that where there is no right of division, they may still divide, if they so agree. We have learnt this already, [in the following passage]: ‘When does this rule apply?[6] When both of them do not consent to divide; but if both consent, even when it is smaller than this they divide’?[7] — If I had only that to go by, I should say that where it is smaller than this they may divide with a mere fence of sticks. Therefore it tells us here that it must be a wall.[8]

But could not the Mishnah then state this case and omit the other?[9] — The other case was stated to introduce the succeeding clause: Scrolls of the Scriptures must not be divided even if both [joint owners] agree.

How then have you explained the Mishnah? As applying to a courtyard in which there is no right of division. If it is speaking of one in which there is no right of division, even if both owners consent, what does it matter? Either of them can retract? — R. Assi answered in the name of R. Johanan: We assume that each made a formal contract with the other, by means of a kinyan.[10] But even if they made such a contract what does it matter, seeing that it relates only to a verbal agreement?[11] — [We assume that] they contracted by a kinyan to take different sides.[12] R. Ashi said: [And this becomes effective if[13]] for instance one traverses his own part and takes formal possession[14] and the other does likewise.

IN DISTRICTS WHERE IT IS USUAL TO BUILD etc. GEBIL denotes untrimmed stones; GAZITH, squared stones, as it is written, All these were of costly stones according to the measure of hewn stones [gazith].[15] KEFISIN are half bricks and LEBENIM whole bricks.[16]

Rabbah the son of Raba said to R. Ashi: How do we know that gebil means untrimmed stones, and that the extra handbreadth[17] is to allow for the projection of the rough edges? May it not be that gebil is half the thickness of gazith, and this extra handbreadth is to allow for the mortar between the rows,in the same way as we defined kefisin to be half-bricks and lebenim whole bricks, the extra handbreadth being for the mortar between the rows? — He replied: Granting your analogy [between gebil and kefisin], how do we know that kefisin means half-bricks? From tradition. Similarly we know from tradition [that gebil means untrimmed stones]. According to another version, R. Aha the son of R. Awia said to R. Ashi: How do we know that kefisin means half bricks and the extra handbreadth is for the mortar between the rows? May it not be that kefisin means untrimmed stones and the extra handbreadth is for the projection of the rough edges, in the same way as we define gebil to be untrimmed stones and gazith to be polished stone, the extra handbreadth being for the mortar between the rows? — He replied: Granting your analogy [between kefisin and gebil], how do we know that gebil means untrimmed stones? From tradition. So we know this also from tradition.

Abaye said: We learn from this[18] that the space between the layers [in a wall] should be a handbreadth.[19] This, however, is the case only if it is filled with mortar,[20] but if with rubble,[21] more space is required. Some say: This is the case only if it is filled with rubble, but if mortar is used, not so much is required.

[The Mishnah seems] to assume that where squared stones are used, if for every four cubits of height there is a breadth of five handbreadths, the wall will stand, but otherwise not. What then of the Ammah Traksin[22] which was thirty cubits high but only six handbreadths broad, and yet it stood? — The one extra handbreadth enabled it to stand.[23] Why was there no Ammah Traksin in the Second Temple?[24] — A thickness of six handbreadths will sustain a wall of thirty cubits but not more.[25] How do we know that the Second Temple Was higher [than the first]?-Because it is written, Greater shall be the glory of the latter' house than the former.[26] [The word 'greater' was interpreted differently by] Rab and Samuel [or, according to another report, by R. Johanan and R. Eleazar], one referring it to the size and the other

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(1) Joint owners of a courtyard, however, if they do not divide it, do not use it for private purposes.

(2) That mehizah means wall.

(3) That mehizah means wall.

(4) And the Mishnah reproduces this expression.

(5) That is to say, one not large enough to allow of four cubits being assigned to each.

(6) That a courtyard is not to be divided if each part will not be large enough to be still called a courtyard.

(7) Infra 22a.

(8) Because overlooking is a substantial damage.

(9) The later Mishnah just quoted, seeing that we can learn this rule from the Mishnah here.

(10) Lit., ‘acquisition’: the handing of a small article, usually a piece of cloth, by one of the contracting parties to the other, as a symbol that the object transferred has passed from the ownership of the one to that of the other. v. B.M. 47a.

(11) That is to say, that of which ownership is acquired by the kinyan is only a verbal promise (viz. to divide), not any concrete article.

(12) E.g., one the north side and one the south, so that something concrete was involved in the transaction.

(13) V. Tosaf. s.v. רב

(14) By digging a little or so forth.

(15) I Kings VII, 9.

(16) A whole brick was three handbreadths thick, but if two half-bricks were used, an extra half-handbreadth would be required for each for the mortar.

(17) Required for a wall of gebil as against a wall of gazith.

(18) From the fact that kefisin require a handbreadth more than lebenim.

(19) Unless otherwise specified in a contract for a wall.

(20) Made only of clay or mud.

(21) In which small stones are mixed with the clay.

(22) Lit., ‘the cubit of the partition’ (perhaps =Gr. **): a wall separating the Holy from the Holy of Holies in the Temple of Solomon.

(23) I.e., although five handbreadths are required for a height of four cubits, six handbreadths will sustain a wall much higher.

(24) Where only a curtain separated the Holy from the Holy of Holies.

(25) The Second Temple was 100 cubits high. v. Mid. IV, 6.

(26) Hag. II, 9.

Talmud - Mas. Baba Bathra 3b

to the duration; and both are correct.[1]

Why did they not [in the Second Temple] build a wall thirty cubits high and use a curtain for the remaining [seventy cubits]? — Even the thirty cubit wall [of the First Temple] was only sustained by the ceiling and plaster [of the room above it], but without such a ceiling and plaster it could not stand [with a breadth of only six handbreadths]. But why did they not build a wall as high as possible [with a breadth of six handbreadths] and use a curtain for the rest? — Abaye replied: It was known to them by tradition that the partition should be wholly a wall or wholly a curtain, either wholly a wall as in the First Temple, or wholly a curtain as in the Tabernacle.

The question was raised: [Do the measurements given in the Mishnah] apply to the material with the [outside] plaster, or to the materials without the plaster?[2] — R. Nahman b. Isaac replied: It is reasonable to assume that the plaster is included, since if the plaster is not included, its measurement should [also] have been specified. We may conclude therefore that the plaster is included. No! l may still say that the measurements given refer to the material without the plaster, and the reason why that of the plaster is not specified is because it is less than a handbreadth. But in the case of bricks, does it not say that one gives a handbreadth and a half and the other likewise?[3] — There [half-handbreadths are mentioned] because the two halves can be combined [to form a whole one].

Come and hear [an objection to this]: ‘The beams of which they speak should be wide enough to hold an ariah, which is the half of a lebenah of three handbreadths’.[4] — There it is speaking of large bricks. This is indicated also by the expression ‘half a brick of three handbreadths’ which implies that there is a smaller variety. Hence it is proven.[5]

R. Hisda said: A synagogue should not be demolished before another has been built to take its place. Some say the reason is lest the matter should be neglected,[6] others to prevent any interruption of religious worship.[7] What practical difference does it make which reason we adopt? — There is a difference if there is another synagogue.[8] Meremar and Mar Zutra pulled down and rebuilt a summer synagogue in winter and a winter synagogue in summer.[9]

Rabina asked R. Ashi: Suppose money for a synagogue has been collected and is ready for use, is there still a risk?[10] — He replied: They may be called upon to redeem captives and use it for that purpose.[11] [Rabina asked further]: Suppose the bricks are already piled up and the lathes trimmed[12] and the beams ready, what are we to say? — He replied: It can happen that money is suddenly required for the redemption of captives, and they may sell the material for that purpose. If they could do that, [he said], they could do the same even if they had already built the synagogue?[13] — He answered: People do not sell their dwelling-places.[14]

This rule [about pulling down a synagogue] only applies if no cracks have appeared in it, but if cracks have appeared, they may pull down first and build afterwards. A case in point is that of R. Ashi, who, observing cracks in the synagogue of Matha Mehasia,[15] had it pulled down. He then took his bed there and did not remove it until the very gutters [of the new building] had been completed.

But how could Baba b. Buta have advised Herod to pull down the Temple,[16] seeing that R. Hisda has laid down that a synagogue should not be demolished until a new one has been built to take its place? — If you like l can say that cracks had appeared in it, or if you like I can say that the rule does not apply to Royalty, since a king does not go back on his word. For so said Samuel: If Royalty says, I will uproot mountains, it will uproot them and not go back on its word.

Herod was the slave of the Hasmonean house, and had set his eyes on a certain maiden [of that house].[17] One day he heard a Bath Kol[18] say, ‘Every slave that rebels now will succeed.’ So he rose and killed all the members of his master's[19] household, but spared that maiden. When she saw that he wanted to marry her, she went up on to a roof and cried out, ‘Whoever comes and says, I am from the Hasmonean house, is a slave, since I[20] alone am left of it, and I am throwing myself down from this roof.’ He preserved her body in honey for seven years. Some say that he had intercourse with her, others that he did not. According to those who say that he had intercourse with her, his reason for embalming her was to gratify his desires. According to those who say that he did not have intercourse with her, his reason was that people might say that he had married a king's daughter.

Who are they, he said, who teach, From the midst of thy brethren thou shalt set up a king over thee,[21] [stressing the word ‘brethren’]? The Rabbis! He therefore arose and killed all the Rabbis, sparing, however, Baba b. Buta, that he might take counsel of him.

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(1) The First Temple is supposed to have stood 410 years, the Second 420.

(2) For which an extra allowance has to be made.

(3) Which shows that measurements less than a handbreadth are specified by the Mishnah. (5) The beam placed across the entrance to an alley-way to enable articles to be carried in it on Sabbath.

(4) ‘Er. 13 b. This shows that a lebenah is three handbreadths without the plaster.

(5) That the three handbreadths of the Mishnah includes the plaster.

(6) So that the congregation will be left without a synagogue. Lit., ‘on account of transgression’.

(7) During the time when the second synagogue is being built. Lit., ‘on account of prayer’.

(8) In which case the second reason does not apply.

(9) In the summer a more airy building was used to escape the heat.

(10) That the building of the new one may be neglected.

(11) The redemption of captives was regarded as a mizwah of very great importance, and would take precedence of the building of a synagogue. Hence even in this case the old should not be demolished till the new is ready.

(12) For the roof.

(13) And therefore they should never pull down the old one.
(14) And much less a synagogue.
(15) [A suburb of Sura which attained fame as a centre of learning in the days of R. Ashi. v. Obermeyer, Die Landschaft Babyloniens, 289.]
(16) V. infra.
(17) Mariamne, the daughter of Alexander, a son of Aristobulus II. According to Josephus, she was put to death by Herod after being married to him several years.
(18) A voice from heaven. V. Gloss.
(19) [V. D.S. a.l.]
(20) Lit., 'this maiden'.
(21) Deut. XVII, 15.

Talmud - Mas. Baba Bathra 4a

He placed on his head a garland of hedgehog bristles and put out his eyes. One day he came and sat before him and said: See, Sir, what this wicked slave [Herod] does. What do you want me to do to him, replied Baba b. Buta. He said: I want you to curse him. He replied with the verse, Even in thy thoughts thou shouldst not curse a king.[1] Said Herod to him: But this is no king. He replied: Even though he be only a rich man, it is written, And in thy bedchamber do not curse the rich;[2] and be he no more than a prince, it is written, A prince among thy people thou shalt not curse.[3] Said Herod to him: This applies only to one who acts as one of 'thy people', but this man does not act as one of thy people. He said: I am afraid of him. But, said Herod, there is no-one who can go and tell him, since we two are quite alone.[4] He replied: For a bird of the heaven shall carry the voice and that which hath wings shall tell the matter.[5] Herod then said: I am Herod. Had I known that the Rabbis were so circumspect, l should not have killed them. Now tell me what amends I can make. He replied: As you have extinguished the light of the world, [for so the Rabbis are called] as it is written, For the commandment is a light and the Torah a lamp,[6] go now and attend to the light of the world [which is the Temple, of which] it is written, And all the nations become enlightened by it.[7] Some report that Baba b. Buta answered him thus: As you have blinded the eye of the world, [for so the Rabbis are called] as it is written, if it be done unwittingly by the eyes of the congregation,[8] go now and attend to the eye of the world, [which is the Temple] as it is written, I will profane my sanctuary, the pride of your power, the delight of your eyes.[9] Herod replied: I am afraid of the Government [of Rome]. He said: Send an envoy, and let him take a year on the way and stay in Rome a year and take a year coming back, and in the meantime you can pull down the Temple and rebuild it. He did so, and received the following message [from Rome]: If you have not yet pulled it down, do not do so; if you have pulled it down, do not rebuild it; if you have pulled it down and already rebuilt it, you are one of those bad servants who do first and ask permission afterwards. Though you strut with your sword, your genealogy[10] is here; [we know] you are neither a reka[11] nor the son of a reka, but Herod the slave who has made himself a freedman. What is the meaning of reka? — It means royalty, as it is written, I am this day rak[12] and anointed king.[13] Or if you like, I can derive the meaning from this verse, And they cried before him, Abrek.[14]

It used to be said: He who has not seen the Temple of Herod has never seen a beautiful building. Of what did he build it? Rabbah said: Of yellow and white marble. Some say, of blue, yellow and white marble. Alternate rows [of the stones] projected,[15] so as to leave a place for cement. He originally intended to cover it with gold, but the Rabbis advised him not to, since it was more beautiful as it was, looking like the waves of the sea.

How came Baba b. Buta to do this [to give advice to Herod], seeing that Rab Judah has said in the name of Rab (or it may be R. Joshuah b. Levi) that Daniel was punished only because he gave advice to Nebuchadnezzar, as it is written, Wherefore, O king, let my counsel be acceptable unto thee, and atone thy sins by righteousness and thine iniquities by showing mercy to the poor, if there may be a lengthening of thy tranquility etc.,[16] and again, All this came upon the king Nebuchadnezzar,[17] and again, At the end of twelve months etc.?[18] — If you like I can say that this does not apply to a slave [of an Israelite, such as Herod was.] who is under obligation to keep the commandments [of the Torah], or if you like I can say that an exception had to be made in the case of the Temple which could not have been built without the assistance of Royalty.

From whence do we learn that Daniel was punished? Shall I say from the verse, And Esther called to Hatach,[19] who, as Rab has told us, was the same as Daniel? This is a sufficient answer if we accept the view of those who say that he was called Hatach because he was cut down [hatach] from his greatness.[20] But on the view of those who say that he was called Hatach because all matters of state were decided[21] [hatach] according to his counsel, what answer can we give? — That he was thrown Into the den of lions.

ALL ACCORDING TO THE CUSTOM OF THE DISTRICT. What further implication is conveyed by the word ‘ALL’?[22] — That we include places where fences are made of palm branches and branches of bay trees.

THEREFORE IF THE WALL FALLS, THE PLACE AND THE STONES BELONG TO BOTH. Surely this is self-evident? — It required to be stated in view of the case where the wall has fallen entirely into the property of one of them, or where one of them has cleared all the stones Into his own part. You might think that in that case the onus probandi falls on the other as claimant. Now we know [that this is not so].

SIMILARLY IN AN ORCHARD, IN A PLACE WHERE IT IS CUSTOMARY TO FENCE OFF. The text itself seems here to contain a contradiction. You first say, SIMILARLY IN AN ORCHARD, IN A PLACE WHERE IT IS CUSTOMARY TO FENCE OFF, EITHER CAN BE COMPELLED, from which I infer that in an ordinary[23] [orchard] he cannot be compelled to fence off. Now see the next clause: BUT IN A STRETCH OF FIELDS, IN A PLACE WHERE IT IS USUAL NOT TO FENCE OFF, NEITHER CAN BE COMPELLED, from which I infer that in an ordinary[23] [stretch] he can be compelled. Now if you say that he cannot be compelled in an ordinary orchard, do we require to be told that he cannot be compelled in an ordinary stretch of fields?[24] — Abaye replied: We must read the Mishnah thus: ‘Similarly with an ordinary orchard:[23] and also where it is customary to put fences in a stretch of fields, he can be compelled.’[25] Said Raba to him: If that is the meaning, what are we to make of the word BUT?[26] No, said Raba; we must read the Mishnah thus: ‘Similarly with an ordinary orchard, which is regarded as a place where it is customary to make a fence, and he can be compelled: but an ordinary stretch of cornfields is regarded as a place where it is not customary to make a fence, and he is not compelled.’

IF, HOWEVER, ONE DESIRES TO MAKE A FENCE, HE MUST WITHDRAW A LITTLE AND BUILD ON HIS OWN GROUND, MAKING A FACING. How does he make a facing? — R. Huna says: He bends the edge over towards the outer side. Why should he not make it on the inner side?[27] — Because then his neighbour may make another one on the outer side[28] and say that the wall belongs to both of them.[29] If he can do that, then even if the ledge is on the outer side he can cut it off and say that the wall belongs to both? — Breaking off would be noticeable.

According to another version, R. Huna said: He bends the edge over on the inner side. Why should he not bend it over on the outer side? — His neighbour may break it off and say that the wall belongs to both of them.[29] If he can do that, he can join one on and claim that the wall belongs to both? — Such a joining on would be noticeable. But the Mishnah says, ON THE OUTER SIDE?[30] — This is certainly a difficulty.

R. Johanan said:

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(1) Eccl. X, 20.
(2) Ibid.
(3) Ex. XXII, 27.
(4) Lit., ‘Since you and I sit (here).’
(5) Eccl. X, 20.
(6) Prov. VI, 23.
(7) Isa. II, 2. The Hebrew word is ונהרו (lit. ‘and shall flow’), which here is connected with the Aramaic נהורה ‘light’.
(8) Literal rendering of Num. XV, 24.
(9) Ezek. XXIV, 21.
(10) Lit., ‘book’.
(11) [רכה , prob. a transliteration of the Latin rex]
(12) In the E.V. ‘tender’
(13) II Sam. III, 39
(14) אברך prob. an Egyptian word meaning ‘ruler’, interpreted by the Rabbis to mean ‘father of the king’. Gen. XLI, 43.
(15) Lit., ‘it sent forth an edge and drew in an edge’.
(16) Dan. IV, 24.
(17) Ibid. 25.
(18) Ibid. 26. The twelve months’ reprieve is regarded as a result of Daniel's advice.
(19) Esther, IV, 5.
(20) חתך to cut, this being his punishment.
(21) חתך denotes ‘to determine’, ‘to decide’, as well as ‘to cut’.
(22) Which appears to be superfluous.
(23) I.e., where no definite custom exists.
(24) Where there is no damage from ‘overlooking’, as in an orchard.
(25) Thus Abaye takes the words IN A PLACE WHERE IT IS CUSTOMARY TO FENCE with IN A STRETCH OF FIELDS.
(26) On Abaye's theory, this should come after IN A STRETCH OF FIELDS, not before it,
(27) Which would equally be a sign that the wall is his.
(28) I.e., on his side.
(29) Lit., ‘say it is mine and his’, as having jointly made it originally.
(30) How then could R. Huna say that he should make the facing on the inner side?

Talmud - Mas. Baba Bathra 4b

[The man who makes the wall] should smear it [with lime] on the outer side to the extent of a cubit. Why not on the inner side? — His neighbour will do the same on the outer side and claim that the wall is joint property. If he can do that, he can also scrape off the mark [on the outer side] and claim a share in the wall?[1] — Scraping is noticeable.

[Suppose the partition is made of] palm branches, [how is he to make a mark]? — R. Nahman said: He should direct the points of the branches[2] outwards. Why not inwards? — Because then his neighbour may also turn points outwards and say that the fence is joint property.[3] If he can do that,he can also cut off the points [if they are outside] and throw them away? — [The other should therefore] smear clay over them. But even so the neighbour can come and scrape it away? — Scraping would be noticed. Abaye said [that for a partition made of] palm branches there is no security save by a written deed.[4]

IF, HOWEVER, THEY BOTH CONCUR. Raba of Parazika[5] said to R. Ashi: Let neither of them make a mark? — The rule is required for the case where one made a mark first, so that if the other does not do likewise, the first may claim [the whole wall] as his own. Is the Tanna then teaching us how to guard against rogues? — And is not the previous regulation also[6] a precaution against rogues? Raba replied: This is right and proper in the former clause:[7] the Tanna first states the law and then teaches how it should be safeguarded. But in the latter clause what law has he laid down that he should teach us how to safeguard it?[8] Rabina said: We are here dealing with a partition made of palm branches, and the object of the Mishnah is to exclude the view of Abaye, that for a fence made of palm branches there is no security save through a written deed. It therefore tells us that the making of a facing is sufficient.

MISHNAH. IF A MAN HAS FIELDS SURROUNDING THOSE OF ANOTHER ON THREE SIDES AND FENCES THE FIRST, SECOND, AND THIRD, THE OTHER IS NOT BOUND [TO SHARE IN THE COST].[9] R. JOSE SAID: IF HE[10] TAKES IT UPON HIMSELF TO FENCE[11] THE FOURTH, THE WHOLE[12] COST DEVOLVES UPON HIM.

GEMARA. Rab Judah said in the name of Samuel: The halachah follows R. Jose who said: IF HE TAKES IT UPON HIMSELF TO FENCE THE FOURTH, THE WHOLE COST DEVOLVES UPON HIM; and it makes no difference whether it is the encloser or the enclosed who does so.

It has been stated: R. Huna said, [The contribution to the cost of] the whole must be proportionate to the actual cost of erecting the fence;[13] Hiyya b. Rab said, It must be proportionate to the cost of a cheap fence of sticks.[14]

We have learnt: IF A MAN HAS FIELDS SURROUNDING THOSE OF ANOTHER ON THREE SIDES AND FENCES THE FIRST, SECOND, AND THIRD SIDES, THE OTHER IS NOT COMPELLED [TO CONTRIBUTE TO THE COST]; which would imply that if the other fences the fourth side also , he must contribute [to the cost of the whole]. Now see the next clause: R. JOSE SAYS, IF HE TAKES IT UPON HIMSELF TO FENCE THE FOURTH, THE COST OF THE WHOLE DEVOLVES UPON HIM. This accords very well with the opinion of R. Huna who said [that he contributes to the cost of] the whole in proportion to the outlay on the fence; there is a genuine difference of opinion between the first Tanna and R. Jose, the former holding that the contribution has to be proportionate to the cost of a cheap fence of sticks, but not to the actual outlay, and R. Jose that it has [in all cases] to be proportional to the actual outlay. But if we accept the view of Hiyya b. Rab who said that it need only be proportionate to the cost of a cheap fence of sticks, what difference is there between the first Tanna and R. Jose? If he is not to give him even the cost of a cheap fence, what else can he give?[15] — If you like I can say that they differ as regards the hire of a watchman,[16] the first Tanna holding that he must pay the cost of a watchman[17] but not of a cheap fence, and R. Jose holding that he must pay the cost of a cheap fence. If you like, again, I can say that they differ as to the first, second and third sides, the first Tanna holding that he has to contribute only to the cost of fencing the fourth side, but not the first, second and third,[18] and R. Jose holding that he has to contribute to the cost of the first, second and third sides also.[19] If you like, again, I can say that they differ as to whether the fence in question must be built by the owner of the surrounding fields or of the enclosed field, [if the latter is to contribute to the cost of the whole]. The first Tanna holds that the reason [why the owner of the enclosed field has to contribute] is because the took the initiative [in building the fourth fence] and that is why the cost of the whole devolves on him, but if the owner of the surrounding fields took the initiative, the other has only to pay him his contribution to the fourth fence.[20] R. Jose on the other hand holds that it makes no difference whether the owner of the enclosed or of the surrounding fields took the initiative In building the fourth fence, in either case the former has to pay the latter his share of the whole. According to another version [of this last clause], they differ as to [whether the fourth fence has to be built by] the owner of the enclosed or the surrounding fields [in order to make the former liable for contributing to its cost]. The first Tanna holds that even if the owner of the surrounding fields makes the fourth fence, the other has to contribute to the cost,[21] whereas R. Jose holds that if the owner of the enclosed field takes it upon himself to build the fourth fence, then he has to contribute to the cost [of the whole] because he makes it clear that he approves of it, but if the owner of the surrounding fields builds it, the other does not pay him anything.[22]

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(1) V. n. 4.

(2) [Another rendering, ‘The staves supporting the hedge’ (R. Han).]

(3) V. p. 14, n, 4.

(4) That is to say, there is always the possibility of fraud unless there is evidence in writing duly witnessed as to how the partition was made.

(5) [Identified with Farausag. a district near Bagdad. V. Obermeyer, op. cit,, 269.

(6) That if one builds the fence on his own ground he should make a mark.

(7) That the one who wants to build should withdraw into his own ground.

(8) There is no law that a fence should be built in a stretch of cornfields.

(9) Whether because there is no custom that fields should be fenced or because the fencing is of little advantage so long as the fourth side is open.

(10) The question which of the two is meant is discussed in the Gemara.

(11) Lit., ‘rose up and fenced’.

(12) I.e., his share in the cost of the whole.

(13) Which will vary according to the materials used by the encloser.

(14) Because the other can say that this is all that he requires.

(15) That is to say, can even the Rabbis fix his contribution at anything less than this?

(16) During the time that the corn is ripe.

(17) This would be less than the cost of a cheap fence, and the Rabbis might say that since this is all he requires, this is all that the fence is worth to him, and he need not contribute more than this.

(18) That is to lay, we infer only this from the language of the Mishnah, and not, as above, that he has to contribute to the cost of the whole.

(19) Proportionately to the actual cost, according to one authority, and to the cost of a cheap fence according to the other.

(20) It is not clear on what grounds this opinion is ascribed to the first Tanna, as there is no hint of it in the Mishnah. Rashi does not seem to have had the whole of this clause in his text; v. D. S. a.l.

(21) Apparently the cost of the whole is meant.

(22) Because he can say that he does not want any fencing.

Talmud - Mas. Baba Bathra 5a

[One] Ronya had a field which was enclosed on all four sides by fields of Rabina. The latter [fenced them and] said to him: pay me [towards] what I have spent for fencing.[1] He refused to do so. Then pay [towards] the cost of a cheap fence of sticks.[2] He again refused. Then pay me the hire of a watchman.[3] He still refused. One day Rabina saw Ronya gathering dates, and he said to his metayer: Go and snatch a cluster of dates from him. He went to take them, but Ronya shouted at him, whereupon Rabina said: You show by this[4] that you are glad of the fence. If it is only goats [you are afraid of], does not your field need guarding? He replied: A goat can be driven off with a shout.[5] But, he said, don't you require a man to shout at it? He appealed to Raba, who said to him: Go and accept his last offer,[6] and if not, I will give judgment against you according to R. Huna's interpretation of the ruling of R. Jose.[7]

Ronya bought a field adjoining a field of Rabina. The latter thought he was entitled to eject him in virtue of his right of preemption.[8] Said R. Safra the son of R. Yeba to Rabina: You know the saying, The hide costs four zuzim, and four are for the tanner.[9]

MISHNAH. IF THE PARTY WALL OF A COURTYARD FALLS IN, EACH OF THE NEIGHBOURS CAN BE COMPELLED BY THE OTHER TO [CONTRIBUTE TO THE COST OF] REBUILDING IT TO A HEIGHT OF FOUR CUBITS.[10] [EACH OF THEM] IS ALWAYS

PRESUMED TO HAVE GIVEN HIS SHARE[11] UNTIL THE OTHER BRINGS A PROOF THAT HE HAS NOT GIVEN.[12] FOR REBUILDING HIGHER THAN FOUR CUBITS NEITHER CAN BE COMPELLED [TO CONTRIBUTE]. IF, HOWEVER, [THE ONE WHO HAS NOT CONTRIBUTED][13] BUILDS ANOTHER WALL CLOSE TO IT,[14] EVEN THOUGH HE HAS NOT YET PUT A ROOFING OVER THE SPACE BETWEEN, THE [PRO RATA] COST OF THE WHOLE DEVOLVES UPON HIM,[15] AND HE IS PRESUMED NOT TO HAVE GIVEN UNTIL HE ADDUCES PROOF THAT HE HAS GIVEN.[16]

GEMARA. Resh Lakish has laid down: If a lender stipulates a date for the repayment of a loan, and the borrower pleads [when the date of payment arrives] that he paid the debt before it fell due, his word is not accepted . Let him only pay when it does fall due! Abaye and Raba, however, both concur in saying that it is not unusual for a man to pay a debt before it falls due; sometimes he happens to have money, and he says to himself, I will go and pay him,

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(1) According to the ruling of R. Jose as interpreted by R. Huna.

(2) According to the same ruling as interpreted by Hiyya b. Rab.

(3) According to one version of the opinion of the Rabbis.

(4) By the fact that you do not want people to enter your field.

(5) [Adopting the reading of the Bah, v. D.S.]

(6) Lit., 'appease him with what he is willing to be appeased with,' i.e., the hire of a watchman.

(7) Viz., to contribute half of his actual outlay, this being the halachah.

(8) As owner of the adjoining field.

(9) Apparently R. Safra meant that by having two fields instead of one, Ronya, who was a poor man, would save expense, and therefore Rabina ought to let him keep it. But the exact application of the saying here is obscure. v. Rashi and Tosaf.

(10) This being the minimum to prevent overlooking.

(11) In case he is sued by the other after the wall is built.

(12) Because, as most people know the rule about contributing, we presume that if the other had not paid as soon as the wall was finished, he would have sued him at once.

(13) To the rebuilding higher than four cubits.

(14) With the intention of roofing over the intervening space.

(15) Because he makes it clear retrospectively that he is well satisfied to have the wall at its present height.

(16) Because this rule is not so well known, and the builder of the first wall may have learnt only some time after that he was able to recover his outlay.

Talmud - Mas. Baba Bathra 5b

so as to be quit of him.[1]

We have learnt: EACH IS PRESUMED TO HAVE GIVEN HIS SHARE UNTIL THE OTHER BRINGS PROOF THAT HE HAS NOT GIVEN. How are we to understand this? Are we to suppose that he says to the claimant: I paid when the payment was due?[2] Then it is self-evident that he is presumed to have given.[3] We must suppose then that he pleads: I paid you before the payment was due. This would show, [would it not], that it is not unusual for a man to pay a debt before it is due? — Here the case is different, because with every layer [of the wall that is finished some] payment becomes due.[4]

Come and hear [this]: HE IS PRESUMED NOT TO HAVE GIVEN UNTIL HE ADDUCES PRO OF THAT HE HAS GIVEN. How are we to understand this? Are we to assume that he says to him: I paid you when payment became due?[5] If so, why should we not take his word? We must suppose therefore that he says, I paid you before payment became due; which would show, [would it not], that it is not unusual for a man to pay before the time? — The case here is different, since he may say to himself, How do I know that the Rabbis will make me pay?[6]

R. Papa and R. Huna the son of R. Joshua followed in practice the ruling of Abaye and Raba, whereas Mar son of R. Ashi followed Resh Lakish — The law is as stated by Resh Lakish, and [the ruling applies] even to orphans,[7] in spite of what has been laid down by a Master, that one who seeks to recover a debt from the property of orphans need not be paid unless he first takes an oath, because the presumption is that a man does not pay a debt before it falls due. The question was raised: If the creditor claims payment some time after the debt falls due, and the debtor pleads, I paid it before it fell due, how do we decide? Do we say that even where there is a presumption [against him][8] we plead [on his behalf], 'what motive has he to tell a lie',[9]

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(1) Lit., 'so that he may not trouble me'.

(2) Viz., when the wall reached a height of four cubits.

(3) According to the rule that in money claims the word of the defendant is taken against that of the claimant.

(4) Because each is equally under obligation to build the wall.

(5) I.e., as soon as the wall was finished.

(6) As explained above, p. 19, n. 7. And therefore we do not believe him even if he says that he paid when payment fell due.

(7) That is to say, if the debtor dies, the payment may be recovered from his orphans in the same way as from himself, i.e., without taking an oath.

(8) E.g., the presumption that a man does not pay before the time.

(9) And we therefore accept his word.

Talmud - Mas. Baba Bathra 6a

or is the rule that where there is such a presumption we do not advance this plea? — Come and hear: EACH IS PRESUMED TO HAVE GIVEN HIS SHARE UNTIL THE OTHER BRINGS PROOF THAT HE HAS NOT GIVEN. How are we to understand this? Are we to suppose that the claim was made some time after the payment fell due, and the defendant pleads, I paid you when it fell due?[1] Then this is self-evident. We must suppose then that he pleads, I paid you before the time of payment; from which we would infer that even where there is a presumption against the defendant, we plead [on his behalf], What motive has he to tell a lie? The case here is different, because with every layer [that is finished some] payment becomes due.[2]

Come and hear: FOR REBUILDING HIGHER THAN FOUR CUBITS NEITHER CAN BE COMPELLED [TO CONTRIBUTE]. IF, HOWEVER, HE BUILDS ANOTHER WALL CLOSE TO IT . . . UNTIL HE ADDUCES PROOF THAT HE HAS GIVEN. How are we to understand this? Are we to suppose that the claim is made some time after and the defendant pleads, I paid you when the money fell due? If so, why [should we] not [believe him]? We must suppose therefore that he pleads, I paid you before the time of payment, [and yet he has to contribute]; which would show [would it not] that where there is a presumption [against him], we do not plead [on his behalf], What motive has he to tell a lie? — Here the case is different, because he can say to himself, How do I know that the Rabbis will compel me to pay?[3]

Said R. Aha the son of Raba to R. Ashi: Come and hear [this]: [If a man says to another], You owe me a maneh, and the other says, That is so, and if on the next day when the lender says, Give it to me, the borrower pleads, I have given it to you, he is quit, but if he says, I do not owe you anything,[4] he is liable to pay. Now the expression, 'I have given it to you' is equivalent, is it not, to 'I paid when it fell due', and the expression, 'I do not owe you anything'[4] to 'I paid you before it fell due'; and we are told that in the latter case he is liable; which would show that where there is a presumption [against him][5] we do not plead [on his behalf], what motive has he to tell a lie? — Not so: the expression 'I do not owe you anything' means 'I never borrowed from you,'[6] [and therefore he is liable] because a Master has laid down that to say ‘I have not borrowed’ is equivalent to saying ‘I have not paid’.

IF HE PUTS UP ANOTHER WALL CLOSE TO IT, THE COST OF THE WHOLE DEVOLVES ON HIM. R. Huna said: If the second wall matches half [the first wall],[7] it is the same as if it matched the whole.[8] R. Nahman, however, said that where it matches it matches, and where it does not it does not.[9] R. Huna, however, admits [that R. Nahman's ruling applies] to a projection joined on to a house;[10] and R. Nahman admits [that R. Huna's ruling applies] to a sustaining beam[11] or fittings for fixing planks.[12]

R. Huna said: [If in the part of the wall above four cubits] there are cavities,[13] this does not create a presumption that [the one who built it was assisted by the other], even if he made the wooden lining in the cavities; for he can plead [when claiming part payment for it from the other]: The reason why I put them In was to prevent my wall becoming damaged, should you persuade me [to let you put cross beams in].[14]

R. Nahman said: If a man has acquired a prescriptive right[15] to rest small beams [upon his neighbour's wall], that does not give him the right to [rest] large beams upon it, but if he has acquired the right to [rest] large beams, that does give him the right to [rest] small beams. R. Joseph, however, said that if he has acquired the right to [rest] small beams, he also has the right to [rest] large beams. According to another version, R. Nahman said that if he has acquired the right for small beams he has the right for large beams, and if he has acquired the right for large beams he has the right for small beams.

R. Nahman said: If a man has a prescriptive right[16] to let water drip [from his roof into his neighbour's courtyard], he also has the right to [carry it off there by means of] a gutter-pipe;[17] but if he has acquired the prescriptive right to [carry it off by means of] a gutter-pipe, he has not also the right to let it drip [from the roof]. R. Joseph, however, said that if he has acquired the right to [carry it off by means of] a gutter-pipe, he has also the right to let it drip [from the roof]. According to another version, R. Nahman said that if he has acquired the prescriptive right to carry it off by a gutter-pipe, he has the right to let it drip [from the roof], but he has not the right to [let it drip from] a cone-shaped roof of reeds;[18] whereas R. Joseph says that he has that right also. In a case which came before him, R. Joseph decided according to his own view.

R. Nahman said in the name of Rabbah b. Abbuha: If a man lets an apartment to another

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(1) When the wall was finished.

(2) And therefore he does not really plead that he paid before the time.

(3) V. p. 19 n. 7.

(4) Lit., ‘Nothing of yours is in my hand’.

(5) The presumption that a debtor does not pay before the time.

(6) Lit., ‘The thing never happened’.

(7) I.e., if it is built up to half the same length or height.

(8) And he has to contribute to the cost of the whole, the reason being that in all probability he will subsequently finish it and make a roofing.

(9) And he only pays proportionately to the amount he has built.

(10) Apparently what is referred to is a wall which the other neighbour (the one who did not raise the party wall) builds out from his own house parallel to the party wall. As it is evident that he has no intention of extending this, he contributes to the increased height of the party wall only in proportion to its height or length. Another e לופתא

(11) A thick beam laid on top of the wall to sustain further building.

(12) Cavities made of lathes alongside of the wall in which upright beams may afterwards be placed. In both these cases he shows his intention of building higher, and therefore must contribute to the cost of the whole.

(13) Which would be suitable for resting cross beams in, if another wall is built opposite.

(14) If Reuben raises the party wall higher than four cubits, at the same time putting cavities in it, and Simeon subsequently builds a wall parallel to it, Simeon cannot point to the cavities as proof that he has paid his share for the party wall, because Reuben can say that he put them in of his own accord as a precaution.

(15) That is to say, if the other has allowed him to do so without protesting, and he can also plead (but without adducing proof) that he acquired the right by gift or purchase.

(16) V. preceding note.

(17) Because if the water flows down in this way it is more useful to the owner of the courtyard.

(18) From which the water would drip so continuously as to become a nuisance.

Talmud - Mas. Baba Bathra 6b

in a large residence,[1] the latter is at liberty to use the projecting beams[2] and the cavities in the walls[3] up to a distance of four cubits [from his room], and also the thickness of the wall,[4] if this is the local custom, but not [the part of the wall facing] the front garden.[5] R. Nahman, however, speaking for himself said that he may use even the side facing the front garden, but not the yard at the back of the house. Raba, however, said that he may use the yard at the back also.

Rabina said: [If a man is allowed by his neighbour to support] the beam of his hut [on his wall] for thirty days, this does not constitute prescriptive right,[6] but after thirty days it does constitute prescriptive right. If the hut, however, is for religious purposes,[7] [should no objection be raised] within seven days, this does not constitute prescriptive right, but [if objection is raised only] after seven days, it does.[8] If, however, he attaches it with clay [and still the neighbour does not object], he acquires prescriptive right immediately.

Abaye said: If there are two houses on opposite sides of a public thoroughfare, the owner of the one should make a parapet for half his roof, and the other a parapet for half his roof, in such a way that the parapets do not face one another,[9] though each should extend [his parapet a little beyond the middle].[10] Why [does Abaye] state [this rule in connection with] a public thoroughfare, [seeing that] it could apply equally to private ground? It was more necessary to state it in connection with a public thoroughfare. For you might think that in this case one might [refuse to build], Saying to the other: When all is said and done you have to guard your privacy against the public;[11] therefore we are told here that this is not so, since the other can retort: The public can only see me by day but not by night, whereas you can see me both by day and night; or again, the public can see me when I am standing but not when I am sitting, but you can see me whether I am standing or sitting; the public can see me when they look directly at me, but not otherwise, but you see me even without looking.

The Master has just said: ‘The one should make a parapet for half his roof and the other should make a parapet for half his roof, In such a way that the parapets do not face one another, though each should extend [his parapet a little beyond the middle].’ Surely this rule is obvious? — We require it for the case where one of the owners builds a parapet first [without consulting the other]. You might think that in that case the other is’ entitled to say to him: Complete the parapet and I will reimburse you.[12] We,are therefore told [that he cannot insist upon this], since the other can say to him: Why don't you want to build? Because it might weaken your wall. I too [don't want] my wall to be weakened.

R. Nahman said in the name of Samuel: If a man's roof adjoins another man's courtyard,[13] he must make a parapet four cubits high, but between one roof and another this is not necessary. To this R. Nahman added in his own name that a wall of four cubits is not required, but a partition of ten handbreadths is required. For what purpose [is such a partition required]? If to prevent ‘overlooking’ we require four cubits? If for the purpose of convicting his neighbour of felonious entry,[14] a mere fence of sticks would suffice? If to prevent kids and lambs from jumping over, a partition too high for them to jump over at a headlong run would suffice? — The actual reason is that he may be able to convict his neighbour of felonious entry. If there is only a fence of sticks, the latter can find an excuse,[15] but if there is a partition of ten handbreadths he can find no excuse.

An objection was brought [against this ruling of R. Nahman] from the following: If the other's courtyard is higher than his roof, there is no need for it. Does not this mean that there is no need for a partition at all? — No; it means that there is no need for a wall of four cubits, but a partition of ten handbreadths is required.

It has been stated: If two courtyards adjoin and one is higher than the other, R. Huna says that the owner of the lower one has to build [the party wall] up from his level, and the owner of the higher one starts building from his level.[16] ‘Ulla and R. Hisda, however, say that the owner of the higher one has to assist[17] the owner of the lower in building from his level. It has been taught in agreement with R. Hisda: If there are two adjoining courtyards of which one is higher than the other, the owner of the higher one must not say to the other, I will start building [the party wall] from my level, but he must assist the other to build from his level.[17] If, however, his courtyard is higher than his neighbour's roof, he has no liability. Two men were living [in the same house], one in the upper room and one in the lower. The lower, room began to sink into the ground, so the owner of the lower room said to the one above: ‘Let us rebuild the house.’ The other replied: ‘l am quite comfortable.’

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(1) With a single long wall bordering a number of rooms which are let off separately.

(2) Used for resting articles on or hanging them out.

(3) Used for placing articles in,

(4) If the room is on the top storey.

(5) An ornamental garden at the main entrance of the residence.

(6) V. p. 22 n. 9.

(7) I.e., for the Feast of Tabernacles.

(8) Because he does not require it again for the same purpose till the next Feast of Tabernacles, and therefore if the owner of the house allows him to keep it there beyond the seven days, he in a way recognises his right to keep it there permanently.

(9) E.g.,if one builds on the north side, the other should build on the south.

(10) To avoid the possibility of ‘overlooking’.

(11) And the steps which you take to protect yourself against them will suffice to protect you against me.

(12) Lit., ‘take the expense.’ [Heb. uzinka, a Persian word meaning ‘cost’, v. Krauss, TA. I, 20.]

(13) On the side of a hill.

(14) Lit., ‘for his being caught there like a thief.’

(15) E.g., that something of his fell on to the other's roof and he stepped over to get it.

(16) And he has not to contribute to the cost of the wall until it reaches the level of his courtyard.

(17) I.e., by contributing to the cost.

Talmud - Mas. Baba Bathra 7a

‘Then let me take it down and rebuild it,’ said the first. He replied: ‘Meanwhile I have nowhere to live.’ Said the first: ‘I will hire you a place.’ ‘I do not want the bother,’ he replied. [‘But,’ said the first,] ‘I cannot live in my place.’ [To which he replied,] ‘You can crawl on your belly[1] to get in, and crawl on your belly to get out. Said R. Hama: He had a full right to stop him [rebuilding]. This, however, is the case only if the beams [of the upper room] did not sink lower than ten handbreadths [from the ground], but if they came as low as this, the owner of the lower room can Say: Below ten handbreadths is my property and is not subject to you.[2] Further, [the one above was within his rights] only if they had not made an agreement with one another,[3] but if they had made an agreement with one another, then they must take down the house and rebuild it. And if they did make an agreement with one another, how low [must the upper chamber sink before the one below can demand rebuilding]? — The Rabbis stated in the presence of Rabbah in the name of Mar Zutra the son of R. Nahman, who said it in the name of R. Nahman: Till [the lower room fails to answer the requirement laid down for] that of which we have learnt,[4] Its height must be equal to half its length and half its breadth [combined]. Said Rabbah to them: Have I not told you not to hang empty bottles[5] on R. Nahman? What R. Nahman said was, ‘It must be fit for human habitation’. And how much is this? — R. Huna the son of R. Joshua said: Big enough for one to bring in a bundle [of reeds] of Mahuza[6] and turn round with them.

A certain man began to build a wall facing his neighbour's windows. The latter said to him, ‘You are shutting out my light.’ Said the first, ‘Let me close up your windows here and I will make you others above the level of my wall.’ He replied, ‘You will damage my wall by so doing.’ ‘Let me then,’ he said, ‘take down your wall as far as the place of the windows and then rebuild it, fixing windows in the part above my wall.’ He replied, ‘A wall of which the lower part is old and the upper part new will not be firm.’[7] ‘Then,’ he said, ‘let me take it all down and build it up from the ground and put windows in it.’ He replied, ‘A single new wall in a house, the rest of which is old, would not be firm.’ He then said, ‘Let me take down the whole house and put windows in the new building.’ He replied, ‘Meanwhile I have no place wherein to live.’ ‘I will rent a place for you,’ said the other. ‘I don't want to bother,’ said the first. Said R. Hama [on hearing of the case]: He had a perfect right to stop him. Is not this case the same as the other? Why, then, this repetition? — To tell us [that the owner of the house may exercise his veto] even though he only Uses it for storing straw and wood.[8]

Two brothers divided [a house which they inherited], the one taking as part of his share a verandah open at one end[9] and the other the front garden. The one who obtained the garden went and built a wall in front of the opening of the verandah. Said the other, ‘You are taking away my light.’ ‘I am building on my own ground,’ he replied. Said R. Hama: He was quite within his rights in saying so. Rabina asked R. Ashi: How does this case differ from what was taught: ‘If two brothers divide an inheritance, one taking a vineyard and the other a cornfield [adjacent], the owner of the vineyard can claim four cubits in the cornfield,[10] since it was understood that on that condition they divided’? — He replied: There [the reason is] that they struck a balance with one another.[11] What then [said Rabin] do we suppose here? That they did not compensate one another? Are we dealing with idiots, of whom one takes a verandah and the other a garden, and yet no question of compensation is raised? He replied: Granted that compensation was allowed for the bricks, beams, and planks, no allowance was made for the air space.[12] But cannot he say, ‘At first you let me have a verandah as my share, now you are only letting me have a dark room’? — R. Shimi b. Ashi said: He let him have something which happened to be called so. Has it not been taught: ‘If a man says, I sell you a beth kor of ground,[13] even if it subsequently prove to be only a lethek[14] the sale is valid, since he sold him only something designated a beth kor, provided always that the land in question is commonly called a beth kor. [If a man says], I sell you an orchard, even though there are no pomegranates in it, the sale is valid, since he only sold him something designated so, provided the place is commonly called an orchard. [If a man says], I sell you a vineyard, even if there are no vines in it the sale is valid, since he only sold him something designated so, provided always that the place is commonly called a vineyard’?[15] — Are the cases parallel? There the vendor can say to the purchaser, I sold you [something called by] a certain name; here the one who obtains the verandah can say, I only took this as my share on condition that I should be able to live in it as our father lived.[16]

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(1) According to another rendering, ‘You can bend yourself double’.

(2) And therefore I can demand to have the house pulled down and rebuilt.

(3) To rebuild the house if it sank.

(4) If one undertakes to build a (one-roomed) house without specifying the size. Infra 98b.

(5) I.e., not to attribute absurd opinions to him.

(6) Which were exceptionally long.

(7) Because the new cement does not stick well to the old.

(8) And therefore he cannot say that he will have nowhere to live if it is pulled down.
(9) אספלידה Gr. ** a cave, a recess; hence, a sitting room in the shape of a hall; v. Tosaf. s.v. אספלידה.
(10) To allow room for his oxen to turn when working the vineyard.
(11) The one who received the more valuable portion giving compensation to the other.
(12) By the owner of the verandah, so that he should have the right of keeping it empty.
(13) I.e., a piece of ground large enough for the sowing of a kor of seed. A kor= 30 se'ah, and a beth kor (lit.. ‘house of a kor’)=75,000 sq. cubits.
(14) Half a kor.
(15) B.M. 104a.
(16) And therefore it must not be interfered with, even at the cost of restricting the other's building rights.

Talmud - Mas. Baba Bathra 7b

Mar Yanuka and Mar Kashisha the sons of R. Hisda said to R. Ashi: The Nehardeans[1] in this are applying their own principle; for R. Nahman said in the name of Samuel:[2] If brothers divide [property which they have inherited], neither has the right of way against the other,[3] nor the right of ‘windows’[4] against the other, nor the right of ‘ladders’[5] against the other, nor the right of a watercourse[6] against the other; and take good heed of these rulings, because they are firmly established. Raba, however, said that each has these rights against the other.

There was a bond [inherited] by orphans [from their father] against which a receipt was produced [by the borrower]. R. Hama said: We neither enforce payment on the strength of the bond, nor do we tear it up. ‘We neither enforce payment’, because a receipt is produced against it, ‘nor do we tear it up’, because it is possible that when the orphans grow up they will bring evidence invalidating the receipt. Said R. Aha the son of Raba to Rabina: What is the accepted ruling in such a case? — He replied: In all [the above-mentioned cases] the law follows R. Hama, save only in the matter of the receipt, the reason being that we do not presume the witnesses [who have signed the receipt] to have been guilty of a falsehood. Mar Zutra the son of R. Mari, however, said that in this also the law follows R. Hama, since if the receipt were genuine the defendant ought to have produced it in the lifetime of the father, and since he did not do so, the inference is that it was forged. MISHNAH. HE [A RESIDENT OF A COURTYARD] MAY BE COMPELLED [BY THE REST] TO [CONTRIBUTE TO] THE BUILDING OF A PORTER'S LODGE[7] AND A DOOR[8] FOR THE COURTYARD. RABBAN SIMEON B. GAMALIEL, HOWEVER, SAYS THAT NOT ALL COURTYARDS REQUIRE A PORTER'S LODGE.[9] HE [A RESIDENT OF A CITY] MAY BE COMPELLED TO CONTRIBUTE TO THE BUILDING OF A WALL, FOLDING DOORS AND A CROSS BAR. RABBAN SIMEON B. GAMALIEL SAYS THAT NOT ALL TOWNS REQUIRE A WALL. HOW LONG MUST A MAN RESIDE IN A TOWN TO BE COUNTED AS ONE OF THE TOWNSMEN?[10] TWELVE MONTHS. IF, HOWEVER, HE BUYS A HOUSE THERE, HE IS AT ONCE RECKONED AS ONE OF THE TOWNSMEN.

GEMARA. [TO THE BUILDING OF A PORTER'S LODGE.] This would seem to show that a porter's lodge is an improvement: yet how can this be, seeing that there was a certain pious man[11] with whom Elijah used to converse until he made a porter's lodge, after which he did not converse with him any more?[12] — There is no contradiction; in the one case we suppose the lodge to be inside [the courtyard], in the other outside.[13] Or if you like I can say that in both cases we suppose the lodge to be outside, and still there is no difficulty, because in the one case there is a door and in the other there is no door.[14] Or again we may suppose that in both cases there is a door, and still there is no difficulty, because in the one case there is a latch[15] and the other there is no latch. Or again I may say that in both cases there is a latch and still there is no difficulty, because in the one case the latch is inside and in the other outside.[16] HE MAY BE COMPELLED TO CONTRIBUTE TO THE COST OF A PORTER'S LODGE AND A DOOR. It has been taught: Rabban Simeon b. Gamaliel Says: Not all courtyards require a porter's lodge; a courtyard which abuts on the public thoroughfare requires a lodge, but one which does not abut on the public thoroughfare[17] does not require such a lodge. The Rabbis, however, hold that [it does, because] sometimes in a crowd people force their way in.

HE MAY BE COMPELLED TO CONTRIBUTE TO THE BUILDING OF A WALL etc. It was taught:[18] Rabban Simeon b. Gamaliel says that not all cities require a wall; a town adjoining the frontier requires a wall, but a town which does not adjoin the frontier does not require a wall. And the Rabbis?[19] — [They hold that it does, because] it may happen to be attacked by a roving band. R. Eleazar inquired of R. Johanan: Is the impost [for the wall] levied as a poll tax or according to means? He replied: It is levied according to means; and do you, Eleazar my son, fix this ruling firmly in your mind.[20] According to another version, R. Eleazar asked R. Johanan whether the impost was levied in proportion to the proximity of the resident's house to the wall or to his means. He replied: In proportion to the proximity of his house to the wall:[21] and do you, Eleazar my son, fix this ruling firmly in your mind.

R. Judah the Prince[22] levied the impost for the wall on the Rabbis. Said Resh Lakish: The Rabbis do not require the protection [of a wall], as it is written, If I should count them, they are more In number than the sand.[23] Who are these that are counted? Shall I say the righteous,[24] and that they are more in number than the sand? Seeing that of the whole of Israel it is written that they shall be like the sand on the sea shore,[25] how can the righteous alone be more than the sand? — What the verse means, however, is I shall count the deeds of the righteous and they will be more in number than the sand. If then the sand which is the lesser quantity protects [the land] against the sea, how much more must the deeds of the righteous, which are a larger quantity, protect them? When Resh Lakish came before R. Johanan, the latter said to him: Why did you not derive the lesson from this verse, lam a wall and my breasts are like towers,[26] where 'I am a wall' refers to the Torah ' and 'my breasts are like towers'

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(1) R. Hama was from Nehardea, v. Sanh. 17b.

(2) Who was also from Nehardea.

(3) I.e., across the other's field to his own field.

(4) The right to stop the other from taking away his light.

(5) The right to rest a ladder in the other's courtyard in order to climb to his own room, or even to place the ladder in his own courtyard and let it rest against the other's room (v. Tosaf.).

(6) The right to carry water from the river to his own field through the other's; all this notwithstanding the fact that the father was accustomed to do these things.

(7) Lit., 'a gate house'.

(8) In the main gate.

(9) The Gemara discusses which are meant.

(10) And become liable to these imposts.

(11) [Wherever an incident is related of a 'pious man', either Judah b. Baba or Judah b. Ila'i is meant. (Tem. 16b).]

(12) Because the lodge prevented the cries of poor men from being heard within the courtyard.

(13) If the lodge is outside, the poor man can get behind it and it does not prevent his voice from being heard.

(14) If there is a door to the lodge, the poor man cannot go through it, and it prevents him from being heard.

(15) By means of which the poor man can open it and enter.

(16) If the latch is inside the poor man cannot open the door with it, and so cannot make his voice heard.

(17) Being somewhat drawn back into private ground.

(18) (V. Rashal a.l. and D.S.)

(19) The representatives of the anonymous opinion cited in the Mishnah. Why do they make no such distinction?

(20) Lit., 'Fix nails in it'.

(21) According to Tosaf., this means that the poor man at a distance from the wall paid less than the poor man near the wall, and so with the rich, but the rich man at a distance from the wall still paid more than the poor man near.

(22) [Judah III, v. Halevy, Doroth, II, 336.]

(23) Ps. CXXXIX, 18.
(24) Referred to in the word רעיך in the previous verse, which Resh Lakish translates ‘friends’ (E.V. ‘thoughts’).
(25) Gen. XXII, 17.
(26) Cant. VIII, 10.

Talmud - Mas. Baba Bathra 8a

to the students of the Torah?[1] — Resh Lakish, however, adopts the exposition [of this verse] given [also] by Raba, viz. that ‘I am a wall’ refers to the community of Israel,[2] and ‘my breasts are like towers’, to synagogues and houses of study.

R. Nahman b. R. Hisda[3] levied a poll tax on the Rabbis. Said R. Nahman b. Isaac to him: You have transgressed against the Law, the prophets, and the Holy Writings. Against the Law, where it says, Although[4] he loveth the peoples, all his saints are in thy hand.[5] Said Moses to the Holy One, blessed be He: Sovereign of the Universe, even at the time when Thou fondlest [other] peoples,[6] let all [Israel's] saints be in Thy hand. [The verse proceeds,] And they are cut[7] at thy feet.[8] R. Joseph learned: These are the students of the Torah who cut their feet in going from town to town and country to country to learn the Torah. He shall receive of thy words:[9] alluding to their discussing the utterances of God.[10] You have transgressed against the Prophets, where it says, Yea, though they study[11] among the nations, now I shall gather them, and a few of them shall be free[12] from the burden of king and princes.[13] This verse, ‘Ulla has told us, is written [partly] in Aramaic,[14] [and is to be expounded thus:] If they all study, I will gather them even now, and if only a few of them study, they [those few] shall be free from the burden of king and princes.[15] You have transgressed against the Holy Writings, as it is written, It shall not be lawful to impose upon them [the priests and Levites etc.] minda, belo, and halak[16] and Rab Judah has explained that minda means the king's tax, belo the poll tax, and halach denotes annona.[17]

R. Papa levied an impost for the digging of a new well on orphans [also]. Said R. Shesheth the son of R. Idi to R. Papa: perhaps no water will be found there?[18] — He replied: I will collect the money from them in any case. If water is found, well and good, and if not, I will refund them the money. Rab Judah said: All must contribute to the building of doors in the town gates, even orphans; not, however, the Rabbis, [since] they do not require protection. All must contribute to the digging of a well[19] [for a public fountain], including the Rabbis. This, however, is only when there is no corvee,[20] but when the digging is done by corvee, we do not expect the Rabbis to participate.

Rabbi once opened his storehouse [of victuals] in a year of scarcity, proclaiming: Let those enter who have studied the Scripture, or the Mishnah, or the Gemara, or the Halachah, or the Aggada; there is no admission, however, for the ignorant.[21] R. Jonathan b. Amram pushed his way in and said, ‘Master, give me food.’ He said to him, ‘My son, have you learnt the Scripture?’ He replied, ‘No.’ ‘Have you learnt the Mishnah?’ ‘No.’ ‘If so,’ he said, ‘then how can I give you food?’ He said to him, ‘Feed me as the dog and the raven are fed.’[22] So he gave him some food. After he went away, Rabbi's conscience smote him and he said: Woe is me that I have given my bread to a man without learning! R. Simeon son of Rabbi ventured to say to him: Perhaps it is Jonathan b. Amram your pupil, who all his life has made it a principle not to derive material benefit from the honour paid to the Torah. Inquiries were made and it was found that it was so; whereupon Rabbi said: All may now enter. Rabbi [in first refusing admission to the unlearned] was acting in accordance with his own dictum. For Rabbi said: It is the unlearned who bring misfortune on the world. A typical instance was that of the crown[23] for which the inhabitants of Tiberias were called upon to find the money. They came to Rabbi and said to him, ‘Let the Rabbis give their share with us.’ He refused. ‘Then we will run away,’ they said. ‘You may,’ he replied. So half of them [the ‘am ha-ares] ran away. Half of the sum demanded was then remitted. The other half then came to Rabbi and asked him that the Rabbis might share with them. He again refused. ‘We will run away,’ they said. ‘You may,’ he replied. So they all ran away, leaving only a certain fuller. The money was then demanded of him, and he ran away, and the demand for the crown was then dropped. Thereupon Rabbi said: I see that trouble comes on the world only on account of the unlearned.[24]

HOW LONG MUST HE BE IN THE TOWN TO BE COUNTED AS ONE OF THE TOWNSMEN, etc. Does not this conflict with the following: ‘If a caravan of asses or camels on its way from one place to another stays there[25] overnight and goes astray with the population, the members of the caravan are condemned to be stoned[26] but their property is left untouched; if, however, they have stayed there thirty days, they are condemned to death by the sword and their property is also destroyed’?[27] — Raba replied: There is no contradiction. The one period [twelve months is required], in order to make a man a full member[28] of the town, the other [makes him] only an inhabitant[29] of the town, as it was taught: If a man vows that he will derive no benefit from the men of a certain town, he must derive no benefit from anyone who has resided there twelve months, but he may derive benefit from one who has resided there less then twelve months. If he vows to derive no benefit from the inhabitants of the town, he may derive none from anyone who has resided there thirty days, but he may from one who has resided there less than thirty days.

But is twelve months’ residence required for all imposts? Has it not been taught: ‘[A man must reside in a town] thirty days to become liable for contributing to the soup kitchen,[30] three months for the charity box,[31] six months for the clothing fund, nine months for the burial fund, and twelve months for contributing to the repair of the town walls’? — R. Assi replied in the name of R. Johanan: Our Mishnah also in specifying the period of twelve months was thinking of the repair of the town walls.

R. Assi further said in the name of R. Johanan: All are required to contribute to the repair of the town walls, including orphans, but not the Rabbis, because the Rabbis do not require protection. R. Papa said: For the repair of the walls, for the horse-guard[32] and for the keeper of the armoury[33] even orphans have to contribute, but the Rabbis [do not, since they] do not require protection. The general principle is that even orphans have to contribute for any public service from which they derive benefit. Rabbah levied a contribution for charity on the orphans of the house of Bar Merion; whereupon Abaye said to him: Has not R. Samuel b. Judah laid down that money for charity is not to be levied on orphans even for the redemption of captives? — He replied: I collect from them In order to give them a better standing.

Ifra Hormizd the mother of King Shapur[34] sent a chest of gold coins to R. Joseph, with the request that it should be used for carrying out some really important religious precept. R. Joseph was trying hard to think what such a precept could be, when Abaye said to him: Since R. Samuel b. Judah has laid down that money for charity is not to be levied from orphans even for the redemption of captives, we may conclude

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(1) Who therefore require no protection.

(2) Which as it were walls itself round against heathen influence.

(3) [As head of Daraukart where R. Nahman b. Isaac also lived. V. Hyman. Toledoth, II, 471.]

(4) Heb. אף E.V. ‘Yea’.

(5) Deut. XXXIII, 3.

(6) Allowing them to have dominion over Israel.

(7) E.V. ‘nestle’.

(8) Ibid.

(9) Ibid.

(10) I.e., the Torah.

(11) E.V.’hire.

(12) E.V. ‘begin’ or ‘sorrow’. ויחלו is taken as from חלל, ‘to break’, ‘to be exempt’, hence ‘to be free’.

(13) Hos. VIII, 10.

(14) That is to say, the word ‘יתנו’ is to be understood as if it were an Aramaic and not a Hebrew word.

(15) Hence you transgress against the Prophets in levying a tax on the students of the Torah.

(16) E.V. ‘tribute, custom, or toll’. Ezra VII, 24.

(17) ‘Produce tax’. The rabbis are the upholders of the Law, like the priests and Levites; hence to levy imposts on them is to transgress against the Holy Writings.

(18) And though other persons may excuse the waste of their money, the trustees of orphans are not allowed to do so.

(19) [פתיא lit. ‘a drinking vessel’, hence by metonymy ‘well’.]

(20) I.e., when the inhabitants are not called on to go out en masse to perform the work, but can make a money contribution.

(21) Heb. ‘am ha-ares, lit., ‘people of the land’, generally denoting ‘the ignorant’, ‘the boor’.

(22) Apparently he was referring to the verse, He giveth to the beast his food, to the young ravens which cry (Ps. CXLVII, 9), and what he meant was: ‘As God can feed these, so you can feed me.’

(23) For the Emperor of Rome (Rashi). [Others: Aurum coronarium, a special tax which the Jews had to pay to the Roman Emperor. v. Kohut, .Aruch, s.v. כלילא On the nature of this tax, v. Juster, Les Juifs dans l'Empire Romain, I, 385.]

(24) I.e., that it was only through them that the crown was demanded in the first instance.

(25) In a city which is seduced into idolatry. V. Deut, XIV, 12 seq.

(26) Like any other individuals who are guilty of idolatry.

(27) Like the inhabitants of the doomed city (v. Sanh. 111b). This would show that thirty days’ residence is sufficient to enroll a man among the inhabitants of a town.

(28) Lit., ‘a son of the town’.

(29) And the verse in Deut. speaks of inhabitants.

(30) Tamhui, a kind of dish wherein food was collected.

(31) Kuppah, basket, bag.

(32) A horseman whose function it was to ride round the walls to see that they were in proper condition.

(33) The superintendent of the town armoury, which was kept near the gate (Rashi). [Krauss, TA. 1,525, renders ‘the treasury’.]

(34) [Shapur II, king of Persia, son of King Hormizd; lived (and reigned) 310-379 C.E.]

Talmud - Mas. Baba Bathra 8b

that the redemption of captives is a religious duty of great importance.

Raba asked Rabbah b. Mari: Whence is derived the maxim of the Rabbis that the redemption of captives is a religious duty of great importance? — He replied: From the verse, And it shall come to pass when they say unto thee, Whither shall we go forth, then thou shalt tell them, Thus saith the Lord, Such as are for death, to death, and such as are for the sword, to the sword, and such as are for famine, to the famine, and such as are for captivity, to captivity:[1] and [commenting on this] R.Johanan said: Each punishment mentioned in this verse is more severe than the one before. The sword is worse than death; this I can demonstrate either from Scripture, or, if you prefer, from observation. The proof from observation is that the sword deforms but death does not deform; the proof from Scripture is in the verse, Precious in the eyes of the Lord is the death of his saints.[2] Famine again is harder than the sword; this again can be demonstrated either by observation, the proof being that the one causes [prolonged] suffering but the other not, or, if you prefer, from the Scripture, from the verse, They that be slain with the sword are better than they that be slain with hunger.[3] Captivity is harder than all, because it includes the sufferings of all.[4]

Our Rabbis taught: The charity fund is collected by two persons [jointly] and distributed by three. It is collected by two, because any office conferring authority over the community[5] must be filled by at least two persons. It must be distributed by three, on the analogy of money cases[6] [which are tried by a Beth din of three]. Food for the soup kitchen is collected by three and distributed by three, since it is distributed as soon as it is collected.[7] Food is distributed every day, the charity fund every Friday. The soup kitchen is for all comers, the charity fund for the poor of the town only. The townspeople, however, are at liberty to use the soup kitchen like the charity fund and vice versa, and to apply them to whatever purposes they choose.[8] The townspeople are also at liberty to fix weights and measures, prices, and wages, and to inflict penalties for the infringement of their rules.[9]

The Master said above: 'Any office conferring authority over the community must be filled by at least two persons.' Whence is this rule derived? — R. Nahman said: Scripture says, And they shall take the gold[10] etc. This shows that they were not to exercise authority over the community, but that they were to be trusted.[11] This supports R. Hanina, for R. Hanina reported [with approval] the fact that Rabbi once appointed two brothers to supervise the charity fund.[12]

What authority is involved [in collecting for charity]?-As was stated by R. Nahman in the name of Rabbah b. Abbuha, because the collectors can take a pledge for a charity contribution even on the eve of Sabbath.[13] Is that so? Is it not written, I will punish all that oppress them,[14] even, said R. Isaac b. Samuel b. Martha in the name of Rab, the collectors for charity? — There is no contradiction. The one [Rab] speaks of a well-to-do man, the other of a man who is not well-to-do; as, for instance, Raba compelled R. Nathan b. Ammi to contribute four hundred zuz for charity.

[It is written], And they that be wise shall shine as the brightness of the firmament:[15] this applies to a judge who gives a true verdict on true evidence.[16] And they that turn many to righteousness [zedakah] as the stars for ever and ever:[17] these are the collectors for charity [zedakah]. In a Baraitha it was taught: They that are wise shall shine as the brightness of the firmament: this applies to a judge who gives a true verdict on true evidence and to the collectors for charity: and they that turn many to righteousness like the stars for ever and ever: this applies to the teachers of young children.[18] Such as who, for instance? — Said Rab: To such as R. Samuel b. Shilath. For Rab once found R. Samuel b. Shilath in a garden, whereupon he said to him, 'Have you deserted your post'?[19] He replied, 'I have not seen this garden for thirteen years, and even now my thoughts are with the children.' And what does Scripture say of the Rabbis? — Rabina answered: They that love him shall be as the sun when he goeth forth in his night.[20]

Our Rabbis taught: The collectors of charity [when collecting] are not permitted to separate from one another, though one may collect at the gate while the other collects at a shop [in the same courtyard].[21] If one of them finds money in the street, he should not put it into his purse but into the charity box,[22] and when he comes home he should take it out. In the same way, if one of them has lent a man a mina and he pays him in the street, he should not put the money into his own purse but into the charity box, and take it out again when he comes home.

Our Rabbis taught: If the collectors [still have money but] no poor to whom to distribute it, they should change the small coins into larger ones[23] with other persons, but not from their own money.[24] If the stewards of the soup kitchen [have food over and] no poor to whom to distribute it, they may sell it to others but not to themselves. In counting out money collected for charity, they should not count the coins two at a time,[25] but only one at a time.

Abaye said: At first the Master[26] would not sit on the mats in the synagogue;[27] but when he heard that it had been taught that 'the townspeople can apply it to any purpose they choose,'[28] he did sit on them. Abaye also said: At first the Master used to keep two purses, one for the poor from outside and one for the poor of the town. When, however, he heard of what Samuel had said to R. Tahalifa b. Abdimi, 'Keep one purse only

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(1) Jer. XV, 2.

(2) Ps. CXVI, is.

(3) Lam. IV, 9.

(4) Since the captors can inflict on the captives what suffering they wish.

(5) V. infra.

(6) The collectors having to adjudge the merits of various claimants.

(7) Hence if a third had to be found to assist in the distribution, delay might be caused.

(8) Tosaf. mentions that in virtue of this rule Rabbenu Tam diverted money collected for charity to the payment of the town guard, since it had been collected on this condition.

(9) Lit., 'to remove (those who infringe) their regulations.'

(10) Ex. XXVIII, 5. The emphasis is on 'they', denoting a minimum of two.

(11) The gold was brought as a free-will offering, but each of the 'wise men' took what he required without rendering account.

(12) As treasurers, although two brothers count only as one person.

(13) When the householder may plead that he is busy preparing for Sabbath.

(14) Jer. XXX, 20.

(15) Dan. XII, 3.

(16) Lit., 'true to its own truth', v. Tosaf. s.v. דין

(17) Ibid.

(18) Because they also turn their pupils to righteousness.

(19) Lit., 'your faith' or 'trustworthiness'.

(20) Judges V, 31.

(21) As they are still in sight of one another.

(22) So that people should not be able to say that he was appropriating charity funds.

(23) For fear the small coins should rust.

(24) Lest people should say that they do not give full value.

(25) Lest people should say that they take two and only count one.

(26) Rabbah.

(27) Because they were bought out of the charity funds.

(28) Supra p. 37

Talmud - Mas. Baba Bathra 9a

and stipulate [with the townspeople] that it may be used for both,' he also kept only one purse and made this stipulation. R. Ashi said: I do not even need to stipulate, since whoever comes [to give me money for charity] relies on my judgment, and leaves it to me to give to whom I will.

There were two butchers who made an agreement with one another that if either killed on the other's day, the skin of his beast should be torn up. One of them actually did kill on the other's day, and the other went and tore up the skin. Those who did so were summoned before Raba, and he condemned them to make restitution. R. Yemar b. Shelemiah thereupon called Raba's attention to [the Baraitha which says] that the towns-people may inflict penalties for breach of their regulations. Raba did not deign to answer him. Said R. Papa: Raba was quite right not to answer him; this regulation holds good only where there is no distinguished man in the town, but where there is a distinguished man, they certainly have not the power to make such stipulations.

Our Rabbis taught: The collectors for charity are not required to give an account of the moneys entrusted to them for charity, nor the treasurers of the Sanctuary of the moneys given for holy purposes. There is no actual proof of this [in the Scriptures], but there is a hint of it in the words, They reckoned not with the men into whose hand they delivered the money, to give to them that did the work, for they dealt faithfully.[1]

R. Eleazar said: Even if a man has in his house a steward on whom he can rely, he should tie up and count out [any money that he hands to him], as it says, They put in bags and told the money.[2] R.

Huna said: Applicants for food are examined[3] but not applicants for clothes. This rule can be based, if you like on Scripture, or if you prefer, on common sense. ‘It can be based if you like on common sense’, because the one [who has no clothing] is exposed to contempt, but not the other. ‘Or if you prefer on Scripture’ — on the verse, Is it not to examine [paros][4] the hungry before giving him thy bread [for so we may translate since] the word paros is written with a sin,[5] as much as to say, ‘Examine and then give to him:’ whereas later it is written, When thou seest the naked, that thou cover him,[6] that is to say, immediately. Rab Judah, however, said that applicants for clothes are to be examined but not applicants for food. This rule can be based if you like on common sense or if you prefer on Scripture. ‘If you like on common sense’ — because the one [without food] is actually suffering but not the other. ‘Or if you prefer on Scripture’ — because it says, Is it not to deal thy bread to the hungry, that is, at once[7] whereas later it is written, When thou seest the naked, that is to say, ‘When you shall have seen [that he is deserving]’. It has been taught in agreement with Rab Judah: If a man says, ‘Clothe me,’ he is examined, but if he says, ‘Feed me,’ he is not examined.

We have learnt in another place: The minimum to be given to a poor man who is on his way from one place to another is a loaf which costs a pundion when four se'ahs of wheat are sold for a sela’.[8] If he stays overnight, he is given his requirements for the night. What is meant by ‘requirements for the night’? — R. Papa said: A bed and a pillow. If he stays over Sabbath, he is given food for three meals.[9]

A Tanna taught: If he is a beggar who goes from door to door, we pay no attention to him.[10] A certain man who used to beg from door to door came to R. Papa [for money], but he refused him. Said R. Samma the son of R. Yeba to R. Papa: If you do not pay attention to him, no one else will pay attention to him; is he then to die of hunger? But, [replied R. Papa,] has it not been taught, If he is a beggar who goes from door to door, we pay no attention to him? — He replied: We do not listen to his request for a large gift, but we do listen to his request for a small gift.[11] R. Assi said: A man should never neglect to give the third of a shekel [for charity] in a year, as it says, Also we made ordinances for us, to charge ourselves yearly with the third part of a shekel for the service of the house of our Lord.[12] R. Assi further said: Charity is equivalent to all the other religious precepts combined; as it says, ‘Also we made ordinances’: it is not written, ‘an ordinance’, but ‘ordinances’.

R. Eleazar said: He who causes others to do good is greater than the doer, as it says, And the work[13] of righteousness [zedakah] shall be peace,[14] and the effect of righteousness quiet and confidence for ever.[15] If a man is deserving, then shalt thou not deal thy bread to the hungry,[16] but if he is not deserving, then thou shalt bring the poor that are cast out to thy house.[17] Raba said to the townsfolk of Mahuza: I beg of you, hasten [to the assistance of] one another, so that you may be on good terms with the Government. R. Eleazar further said: When the Temple stood, a man used to bring his shekel and so make atonement. Now that the Temple no longer stands, if they give for charity, well and good, and if not, the heathens will come and take from them forcibly. And even so it will be reckoned to them as if they had given charity, as it is written, [I will make] thine exactors righteousness[18] [zedakah].

Raba said: The following was told me by the suckling

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(1) II Kings XII, 16. According to Tosaf., this is not a proof, because the men of that generatlon were exceptionally righteous.

(2) Ibid. Although they had perfect confidence in the workers, the priests before giving them the money first put it in bags and counted it.

(3) To see that they are not impostors.

(4) Isa. LVIII, 7. E.V. ‘deal’.

(5) פּרוש= ‘make plain’, ‘examine’. In our texts the word is written פּרום. V. Tosaf. Shab. 55b, s.v. מעבירים.

(6) Ibid.

(7) The word פרוש being interpreted as it is read.
(8) Such a loaf would contain half a kab of wheat.
(9) Three meals being obligatory on the Sabbath.
(10) To give him money from the charity fund, v. Tosef. Pe'ah, IV.
(11) I.e., something less than a complete meal.
(12) Neh. x, 33. If for the repair of the Temple, a fortiori for charity.
(13) מעשה: taken in the sense of ‘causing others to do righteousness’.
(14) And not righteousness (i.e., charity, or those who give charity) itself.
(15) Isa. XXXII, 17.
(16) Isa. LVIII, 7.
(17) Ibid. The reference is to tax-collectors, מרודים (E.V. ‘cast out’) being connected with root רגה ‘to rule’, v. infra.
(18) Ibid. LX, 17.

Talmud - Mas. Baba Bathra 9b

who perverted the way of his mother,[1] in the name of R. Eleazar. What is the meaning of the verse, And he put on righteousness as a coat of mail?[2] It tells us that just as in a coat of mail every small scale joins With the others to form one piece of armour, so every little sum given to charity combines with the rest to form a large sum. R. Hanina said: The same lesson may be learnt from here: And all our righteousness is as a polluted garment.[3] Just as in a garment every thread unites with the rest to form a whole garment, so every farthing given to charity unites with the rest to form a large sum. Why was he [R. Shesheth] called ‘the suckling who perverted the way of his mother’? The reason is this. R. Ahadboi b. Ammi asked R. Shesheth: Whence do we infer that a leper while he is counting his days [for purification][4] renders unclean a man [who touches him]? He replied: Since he renders garments unclean,[5] he renders a man unclean. But, he said, perhaps this only applies to clothes which he actually wears; for similarly we have the case of the lifting of a carcase which makes the garments unclean but not the man?[6] — He replied: And whence do we know that a creeping thing makes a man unclean? Is it not from the fact that it makes garments unclean?[7] — He replied: Of the creeping thing it is distinctly written, Or whosoever toucheth any creeping thing whereby he may be made unclean.[8] — How then, he [R. Shesheth] said, do we know that [human] semen makes a man unclean? Do we not say that because it makes garments unclean, therefore it makes a man unclean? — He replied: The rule of semen is also distinctly stated, since it is written in connection with it, Or a man [whose seed goeth from him],[9] where [the superfluous phrase ‘or a man’] brings under the rule one who touches the seed.[10] He [R. Ahadboi] made his objections in a mocking manner which deeply wounded R. Shesheth, and soon after R. Ahadhoi b. Abba lost his speech and forgot his learning. His[11] mother came and wept before him,[12] but in spite of all her cries he paid no attention to her. At length she said: Behold these breasts from which you have sucked. Then at last he prayed for him and he was healed.

But what is the answer to the question that has been raised?[13] — As it has been taught: R. Simeon b. Yohai says: ‘Washing of garments’ is mentioned in connection with the period of the leper's counting,[14] and ‘washing of garments’ is also mentioned in connection with the period of his definite uncleanness.[15] Just as in the latter case he renders any man he touches unclean, so also in the former case.

R. Eleazar said: A man who gives charity in secret is greater than Moses our Teacher, for of Moses it is written, For I was afraid because of the anger aid the wrath,[16] and of one who gives charity [secretly] it is written, A gift in secret subdues anger.[17] In this he [R. Eleazar] differs from R. Isaac, for R. Isaac said that it subdues ‘anger’ but not ‘wrath’ , since the verse continues, And a present in the bosom fierce wrath, [which we can interpret to mean], ‘Though a present is placed in the bosom , yet wrath is still fierce.’ According to others, R. Isaac said: A judge who takes a bribe brings fierce wrath upon the world; as it says, And a present etc. R. Isaac also said: He who gives a small coin to a poor man obtains six blessings, and he who addresses to him words of comfort obtains eleven blessings. 'He who gives a small coin to a poor man obtains six blessings' — as it is written, Is it not to deal thy bread to the hungry and bring the poor to thy house etc., when thou seest the naked etc.[18] 'He who addresses to him comforting words obtains eleven blessings', as it is written, If thou draw out thy soul to the hungry and satisfy the afflicted soul, they shall thy light rise in the darkness and thine obscurity be as the noonday,' and the Lord shall guide thee continually and satisfy thy soul in drought ... and they shall build from thee the old waste places and thou shalt raise up the foundations of many generations, etc.[19]

R. Isaac further said: What is the meaning of the verse, He that followeth after righteousness[20] and mercy findeth life, righteousness and honour?[21] Because a man has followed after righteousness, shall he find righteousness?[22] — The purpose of the verse, however, is to teach us that if a man is anxious to give charity, the Holy One, blessed be He, furnishes him money with which to give it. R. Nahman b. Isaac says: The Holy One, blessed be He, sends him men who are fitting recipients of charity, so that he may be rewarded for assisting them. Who then are unfit?[23] — Such as those mentioned in the exposition of Rabbah, when he said: What is the meaning of the verse, Let them be made to stumble before thee; in the time of thine anger deal thou with them?[24] Jeremiah said to the Holy One, blessed be He: Sovereign of the Universe, even at the time when they conquer their evil inclination and seek to do charity before Thee, cause them to stumble through men who are not fitting recipients, so that they should receive no reward for assisting them.

R. Joshua b. Levi said: He who does charity habitually will have sons wise, wealthy, and versed in the Aggadah.[25] 'Wise' as it is written,[26]

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(1) R. Shesheth. V. infra.

(2) Isa. LIX, 17.

(3) Ibid. LXIV, 5.

(4) In the seven days after he brings the birds, and before he brings his offering. V. Lev. XIV, 8.

(5) As we know because it is written, On the seventh day he shall wash his clothes. (Ibid. 9.)

(6) As it is written, Whosoever shall bear aught of the carcase of them shall wash his clothes (Lev. XI, 25). but it is not said that he renders other persons or garments unclean by his touch.

(7) Ibid. 31.38.

(8) Ibid. XXII, 5.

(9) Ibid. 4.

(10) As the text might have run, 'Whoso toucheth anything unclean, and whose seed goeth etc.' V. Malbim, a.l.

(11) This is usually taken to refer to R. Shesheth. R. Hana, however, refers it to R. Ahadboi, whose mother he presumes to have nursed R. Shesheth. V. Tosaf. s.v. אתיא.

(12) To induce him to pray that R. Ahadboi should be healed.

(13) In regard to the leper. Lit., 'now that the subject has been discussed, whence do we know it?'

(14) I.e., at the end of the seven days. Lev. XIV, 9.

(15) I.e., when he first emerges from this into the seven day period. Lev. XIV, 8. The analogy is based on a similarity of expression, Gezerah Shawah, v. Glos.

(16) Deut. IX, 19.

(17) Prov. XXI, 14.

(18) Isa. LVIII, 7. The six blessings are to be found in the next two verses, Then shall thy light break forth etc.

(19) Ib. 10-12.

(20) The Hebrew is zedakah, which is taken in the Rabbinical sense of 'charity'.

(21) Prov. XXI, 21.

(22) I.e., because he gives charity, shall his reward be that he shall obtain charity when he requires it?

(23) Lit., 'to exclude what?'

(24) Jer. XVIII, 23.

(25) Possibly ‘aggadah’ has here its original meaning of ‘telling’, i.e., ‘eloquence’.
(26) In the verse from Prov. XXI, quoted above.

Talmud - Mas. Baba Bathra 10a

He shall find life;[1] ‘wealthy’ as it is written, [He shall find] righteousness;[2] ‘versed in the Aggadah’ as it is written, And [he shall find] honour: and it is written elsewhere , The wise shall inherit honour.[3]

It has been taught: R. Meir used to say: The critic [of Judaism] may bring against you the argument, ‘If your God loves the poor, why does he not support them?’ If so, answer him, ‘So that through them we may be saved from the punishment of Gehinnom.’ This question was actually put by Turnus Rufus[4] to R. Akiba: ‘If your God loves the poor, why does He not support them?’ He replied, ‘So that we may be saved through them from the punishment of Gehinnom.’ ‘On the contrary,’ said the other, ‘it is this which condemns you to Gehinnom. I will illustrate by a parable. Suppose an earthly king was angry with his servant and put him in prison and ordered that he should be given no food or drink, and a man went and gave him food and drink. If the king heard, would he not be angry with him? And you are called "servants", as it is written, For unto me the children of Israel are servants.’[5] R. Akiba answered him: ‘I will illustrate by another parable. Suppose an earthly king was angry with his son, and put him in prison and ordered that no food or drink should be given to him, and someone went and gave him food and drink. If the king heard of it, would he not send him a present? And we are called "sons’, as it is written, Sons are ye to the Lord your God.’[6] He said to him: ‘You are called both sons and servants. When you carry out the desires of the Omnipresent you are called "sons", and when you do not carry out the desires of the Omnipresent, you are called "servants" . At the present time you are not carrying out the desires of the Omnipresent. R. Akiba replied: ‘The Scripture says, Is it not to deal thy bread to the hungry and bring the poor that are cast out to thy house. When "dost thou bring the poor who are cast out[7] to thy house"? Now; and it says [at the same time], Is it not to deal thy bread to the hungry?’

R. Judah son of R. Shalom preached as follows: In the same way as a man's earnings[8] are determined for him from New Year,[9] so his losses are determined for him from New Year. If he finds merit [in the sight of Heaven], then, ‘deal out thy bread to the poor’;[10] but if not, then, he will ‘bring the poor that are outcast to his house.’[11] A case in point is that of the nephews of Rabban Johanan b. Zakkai. He saw in a dream that they were to lose seven hundred dinars in that year. He accordingly forced them to give him money for charity until only seventeen dinars were left [of the seven hundred]. On the eve of the Day of Atonement the Government sent and seized them. R. Johanan b. Zakkai said to them, ‘Do not fear [that you will lose any more]; you had seventeen dinars and these they have taken.’ They said to him, ‘How did you know that this was going to happen?’ He replied, ‘I saw it in a dream.’ ‘Then why did you not tell us?’[12] they asked. ‘Because,’ he said, ‘I wanted you to perform the religious precept [of giving charity] quite disinterestedly.’

As R. Papa was climbing a ladder, his foot slipped and he narrowly escaped falling. Had that happened, he said, mine enemy[13] had been punished like Sabbath breakers and idolaters.[14] Hiyya b. Rab from Difti[15] said to him: Perhaps a beggar appealed to you and you did not assist him; for so it has been taught: R. Joshua b. Korhah says, Whoever turns away his eyes from [one who appeals for] charity is considered as if he were serving idols. It is written In one place, Beware that there be not a base thought in thine heart,[16] and in another place, Certain base fellows are gone out.[17] Just as in the second case the sin is that of idolatry, so in the first case the sin is equivalent to that of idolatry.

It has been taught: R. Eliezer son of R. Jose said: All the charity and deeds of kindness which Israel perform in this world [help to promote] peace and good understanding between them and their Father in heaven, as it says, Thus saith the Lord, Enter not into the house of mourning, neither go to lament, neither bemoan them, for I have taken away my peace from this people . . . even lovingkindness and tender mercies, [where] 'lovingkindness' refers to acts of kindness, and 'tender mercies' to charity.[18]

It has been taught: R. Judah says: Great is charity, in that it brings the redemption nearer, as it says, Thus saith the Lord, Keep ye judgment and do righteousness [zedakah], for my salvation is near to come and my righteousness to be revealed.[19] He also used to say: Ten strong things have been created in the world. The rock is hard, but the iron cleaves it. The iron is hard, but the fire softens it. The fire is hard, but the water quenches it. The water is strong, but the clouds bear it. The clouds are strong, but the wind[20] scatters them. The wind is strong, but the body bears it. The body is strong, but fright crushes it. Fright is strong, but wine banishes it. Wine is strong, but sleep works it off. Death is stronger than all, and charity saves from death, as it is written, Righteousness [zedakah] delivereth from death.[21]

R. Dosthai son of R. Jannai preached [as follows]: Observe that the ways of God are not like the ways of flesh and blood. How does flesh and blood act? If a man brings a present to a king, it may be accepted or it may not be accepted; and even if it is accepted , it is still doubtful whether he will be admitted to the presence of the king or not. Not so God. If a man gives but a farthing to a beggar, he is deemed worthy to receive the Divine Presence, as It is written, I shall behold thy face in righteousness [zedakah], I shall be satisfied when I awake with thy likeness.[22] R. Eleazar used to give a coin to a poor man and straightway say a prayer, because, he said, it is written, I in righteousness shall behold thy face.[23] What is the meaning of the words, I shall be satisfied when I awake with thy likeness? R. Nahman b. Isaac said: This refers to the students of the Torah[24] who banish sleep from their eyes in this world,and whom the Holy One, blessed be He, feasts with the resplendence of the Divine presence in the future world.

R Johanan said: What is the meaning of the verse, He that hath pity on the poor lendeth unto the Lord.[25] Were it not written in the Scripture, one would not dare to say it: as it were, the borrower is a servant to the lender.[26]

R. Hiyya b. Abin said: R. Johanan pointed out that it is written, Riches profit not in the day of wrath, but righteousness [zedakah] delivereth from death,[27] and it is also written, Treasures of wickedness profit nothing, but righteousness [zedakah] delivereth from death.[28] Why this double mention of righteousness? — One that delivers him from an unnatural death and one that delivers him from the punishment of Gehinnom. Which is the one that delivers him from the punishment of Gehinnom? The one in connection with which the word 'wrath' is used, as it is written, A day of wrath is that day.[29] What kind of charity is that which delivers a man from an unnatural death?

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(1) Life also occurs in connection with wisdom, Prov. VIII, 35.

(2) I.e., money wherewith to do charity.

(3) Prov. III, 3 5. The wise are honoured for their eloquent discourses.

(4) Tineius Rufus, Roman Governor of Judea.

(5) Lev. XXV, 55.

(6) Deut. XIV, 1.

(7) Apparently this is a reference to the tax-collectors, v. supra, p. 41, n. 9.

(8) Lit., 'food'.

(9) As the day of Judgment, when the fate of all creatures is decided for the following year.

(10) I.e., his losses will take the form of charity.

(11) The expression 'poor that are outcast' seems here also to be applied to the tax-gatherers.

(12) So that we could have given the whole in charity.

(13) I.e., he himself.

(14) These were executed by stoning, to which death by a fall was akin; v. Sanh. 45a.

(15) [A town near Apamea on the Tigris; v. Obermeyer, op. cit. 197.]
(16) Deut. xv, 9’ The ‘base thought’ is not to lend to the poor before the Sabbatical year of release.
(17) Ibid. XIII, 14. The lesson is based on the occurrence of the word ‘base’ (Heb. belial) in both contexts.
(18) Jer. XVI, 5. The ‘peace’ consists in the charity and lovingkindness which they used to do. [On the difference between charity ‘zedakah’ and lovingkindness, ‘gemiluth hasadim,’ v. Tosef. Pe'ah IV.]
(19) Isa. LVI, I.
(20) Heb. ruah, which also means ‘breath’.
(21) Prov. X, 2.
(22) Ps. XVII, 15.
(23) I.e., ‘When I am in righteousness through giving charity I shall behold thy face in prayer.’
(24) Lit., ‘the disciples of the wise.’
(25) Prov. XIX, 17.
(26) Ibid. XXII, 7.
(27) Ibid. XI, 4.
(28) Ibid. X, 2.
(29) Zeph. I, is.

Talmud - Mas. Baba Bathra 10b

When a man gives without knowing to whom he gives. and the beggar receives without knowing from whom he receives. ‘He gives without knowing to whom he gives’: this excludes the practice of Mar ‘Ukba.[1] ‘The beggar receives without knowing from whom he receives’: this excludes the practice of R. Abba.[2] How is a man then to do? — He should put his money into the charity box.

The following was adduced in objection to this: ‘What is a man to do in order that he may have male offspring? R. Eliezer says that he should give generously to the poor; R. Joshua says that he should make his wife glad to perform the marital office. R. Eliezer b. Jacob says: A man should not put a farthing into the charity box unless it is under the supervision of a man like R. Hanina b. Teradion’?[3] — In saying [that a man should put his money into the charity box] we mean, when it is under the supervision of a man like R. Hanina b. Teradion.

R. Abbahu said: Moses addressed himself to the Holy One, blessed be He, saying: ‘Sovereign of the Universe, wherewith shall the horn of Israel be exalted?’ He replied, ‘Through taking their ransom.’[4] R. Abbahu also said: Solomon the son of David was asked: How far does the power of charity extend? He replied: Go and see what my father David has stated on the matter: He hath dispersed, he hath given to the needy, his righteousness endureth for ever.[5] R. Abba said: [The answer might be given] from here: He shall dwell on high; his place of defence shall be the munitions of the rocks; his bread is given him, his waters are sure.[6] Why shall he dwell on high and his place be with the munitions of the rocks? Because his bread is given [to the poor], atid his waters are sure.

R. Abbahu also said: Solomon was asked: Who has a place in the future world? He answered: He to whom are applied the words, and before his elders shall be glory.[7] A similar remark was made by Joseph the son of R. Joshua. He had been ill and fell in a trance. [After he recovered], his father said to him: ‘What vision did you have?’ He replied, ‘I saw a world upside down, the upper below and the lower above.’[8] He said to him: ‘You saw a well regulated world.’ [He asked further]: ‘In what condition did you see us [students]?’ He replied: ‘As our esteem is here, so it is there. I also [he continued] heard them saying, Happy he who comes here in full possession of his learning. I also heard them saying, No creature can attain to the place [in heaven] assigned to the martyrs of the [Roman] Government.’ Who are these? Shall I say R. Akiba and his comrades?[9] Had they no other merit but this? Obviously even without this [they would have attained this rank]. What is meant therefore must be the martyrs of Lud.[10]

Rabban Johanan b. Zakkai said to his disciples: My sons, what is the meaning of the verse, Righteousness exalteth a nation, but the kindness of the peoples is sin?[11] R. Eliezer answered and said: ‘Righteousness exalteth a nation:’ this refers to Israel of whom it is written, Who is like thy people Israel one nation in the earth?[12] But ‘the kindness of the peoples is sin’: all the charity and kindness done by the heathen is counted to them as sin, because they only do it to magnify themselves, as it says, That they may offer sacrifices of sweet savour unto the God of heaven, and pray for the life of the king and of his sons.[13] But is not an act of this kind charity in the full sense of the word, seeing that it has been taught: ‘If a man says, — I give this sela for charity in order that my sons may live and that I may be found worthy of the future world, he may all the same be a righteous man in the full sense of the word’? — There is no contradiction; in the one case we speak of an Israelite, in the other of a heathen.[14]

R.Joshuah answered and said: ‘Righteousness exalteth a nation,: this refers to Israel of whom it is written, Who is like thy people Israel, one nation on the earth? ‘The kindness of peoples is sin’: all the charity and kindness that the heathen do is counted sin to them, because they only do it in order that their dominion may be prolonged, as it says, Wherefore O king, let my counsel be acceptable to thee, and break off thy sins by righteousness, and thy iniquities by showing mercy to the poor, if there may be a lengthening of thy tranquility.[15] Rabban Gamaliel answered Saying: ‘Righteousness exalteth a nation’: this refers to Israel of whom it is written, Who is like thy people Israel etc. ‘And the kindness of the peoples is sin:’ all the charity and kindness that the heathen do is counted as sin to them, because they only do it to display haughtiness, and whoever displays haughtiness is cast into Gehinnom, as it says, The proud and haughty man, scorner is his name, he worketh in the wrath [‘ebrah] of pride,[16] and ‘wrath’ connotes Gehinnom, as it is written, A day of wrath is that day.[17] Said Rabban Gamaliel: We have still to hear the opinion of the Modiite. R. Eliezer the Modiite[18] says: ‘Righteousness exalteth a nation’: this refers to Israel of whom it is written, Who is like thy people Israel, one nation in the earth. ‘The kindness of the peoples is sin’: all the charity and kindness of the heathen is counted to them as sin, since they do it only to reproach us, as it says, The Lord hath brought it and done according as he spake, because ye have sinned against the Lord and have not obeyed his voice, therefore this thing is come upon you.[19] R. Nehuniah b. ha-Kanah answered saying: ‘Righteousness exalteth a nation, and there is kindness for Israel and a sin-offering for the peoples.’ Said R. Johanan b. Zakkai to his disciples: ‘The answer of R. Nehuniah b. ha-Kanah is superior to my answer and to yours, because he assigns charity and kindness to Israel and sin to the heathen.’ This seems to show that he also gave an answer; what was it? — As it has been taught: R. Johanan b. Zakkai said to them: Just as the sin-offering makes atonement for Israel, so charity makes atonement for the heathen.[20]

Ifra Hormiz[21] the mother of King Shapur sent four hundred dinarim to R. Ammi,[22] a but he would not accept them. She[23] then sent them to Raba, and he accepted them, in order not to offend[24] the Government. When R. Ammi heard, he was indignant and said: Does he not hold with the verse, When the boughs thereof are withered they shall be broken off, the women shall come and set them on fire?[25] Raba [defended himself] on the ground that he wished not to offend the Government. Was not R. Ammi also anxious not to offend the Government? — [He was angry] because he ought to have distributed the money to the non-Jewish poor. But Raba did distribute it to the non-Jewish poor? — The reason R. Ammi was indignant was

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(1) Who used every day to put four zuzim in a box for the poor of his immediate neighbourhood, so that he knew to whom he gave though they did not know from whom they received.

(2) Who used to go into a poor neighbourhood and drop coins behind him, so that the poor knew who gave but he did not know who received. v. Keth. 6a.

(3) I.e., as reliable as R. Hanina, but not necessarily as pious. V. Tosaf. s.v. אלא.

(4) Lit., ‘If thou wilt lift up’. (E.V. ‘When thou takest up’.) The reference is to the ransom that was to be taken from the

Israelites whenever they were numbered, Ex. XXX, 12. This ransom was to be given for the service of the Tabernacle, but money given for charity according to the Rabbis serves the same purpose.
(5) Ps. CXII, 9.
(6) Isa. XXXIII, 16.
(7) Isa. XXIV, 23. I.e., everyone who is honoured in this world for his wisdom.
(8) I.e., the poor who are despised here are highly honoured there. But v. also Tosaf, s.v. עליונים
(9) Who were martyred after the suppression of the revolt of Bar Cochba.
(10) Lulianus and Pappus, who were executed in Lydda in the reign of Hadrian. [On these martyrs, v. J.E. IX, 512, s.v. Pappus.]
(11) Prov. XIV, 34.
(12) II Sam. VII, 23.
(13) Ezra VI, 10. Artaxerxes wrote thus to the Governor of Jerusalem when he ordered him to give Ezra all that he required.
(14) Because the Israelite, whatever he may say, really gives the charity for its own sake.
(15) Dan, IV, 27.
(16) Prov. XXI, 24.
(17) Zeph. I, is.
(18) From Modim, near Jerusalem, the ancient home of the Maccabean family.
(19) Jer. XL, 3. Spoken by Nebuzaradan to Jeremiah.
(20) And we translate the verse: Righteousness exalteth a nation (Israel), and the kindness of peoples is a sin — offering for them.
(21) V. Supra 8a.
(22) [R. Ammi at Caesarea (Hyman op cit. p. 222)].
(23) [V. D.S. a.l.]
(24) Lit., ‘to be at peace with’.
(25) Isa. XXVII, 11. When the heathen have received the reward of their pious deeds in this world, their power will be broken.

Talmud - Mas. Baba Bathra 11a

that he had not been fully informed.[1]

It has been taught: The following incident is related of Benjamin the Righteous who was a supervisor of the charity fund. One day a woman came to him in a year of scarcity, and said to him: ‘Sir, assist me.’ He replied, ‘I swear, there is not a penny in the charity fund.’ She said, ‘Sir, if you do not assist me, a woman and her seven children will perish.’ He accordingly assisted her out of his own pocket. Some time afterwards he became dangerously ill. The angels addressed the Holy One, blessed be He, saying: Sovereign of the Universe, Thou hast said that he who preserves one soul of Israel is considered as if he had preserved the whole world; shall then Benjamin the Righteous who has preserved a woman and her seven children die at so early an age? Straightway his sentence[2] was torn up. It has been taught that twenty-two years were added to his life.

Our Rabbis taught: It is related of King Monobaz[3] that he dissipated all his own hoards and the hoards of his fathers in years of scarcity. His brothers and his father's household came in a deputation to him and said to him, ‘Your father saved money and added to the treasures of his fathers, and you are squandering them.’ He replied: ‘My fathers stored up below and I am storing above, as it says, Truth springeth out of the earth and righteousness looketh down from heaven.[4] My fathers stored in a place which can be tampered with, but I have stored in a place which cannot be tampered with, as it says, Righteousness and judgment are the foundation of his throne.[5] My fathers stored something which produces no fruits, but I have stored something which does produce fruits, as it is written, Say ye of the righteous [zaddik] that it shall be well with them, for they shall eat of the fruit of their doings.[6] My fathers gathered treasures of money, but I have gathered treasures of souls, as it is written, The fruit of the righteous [zaddik] is a tree of life, and he that is wise winneth souls.[7] My fathers gathered for others and I have gathered for myself, as it says, And for thee it shall be righteousness [zedakah].[8] My fathers gathered for this world, but I have gathered for the future world, as it says, Thy righteousness [zedakah] shall go before thee, and the glory of the Lord shall be thy rearward.'[9]

IF HE ACQUIRES A RESIDENCE IN IT, HE IS COUNTED AS ONE OF THE TOWNSMEN. The Mishnah is not in agreement with Rabban Simeon b. Gamaliel, since it has been taught: Rabban Simeon b. Gamaliel says: If he acquires a piece of property, however small,[10] in it, he is reckoned as a townsman. But has it not been taught: If he acquires in it a piece of ground on which a residence can be put up [but not smaller], he is reckoned as one of the townsmen? — Two Tannaim have reported the dictum of Rabban Simeon b. Gamaliel differently.

MISHNAH. A COURTYARD SHOULD NOT BE DIVIDED UNLESS THERE WILL BE [AFTER THE DIVISION] AT LEAST FOUR CUBITS FOR EACH OF THE PARTIES. A FIELD SHOULD NOT BE DIVIDED UNLESS THERE WILL BE NINE KABS' [SPACE][11] FOR EACH. R. JUDAH SAYS, UNLESS THERE WILL BE NINE HALF-KABS [SPACE] FOR EACH. A VEGETABLE GARDEN SHOULD NOT BE DIVIDED UNLESS THERE WILL BE HALF A KAB FOR EACH. R. AKIBA, HOWEVER, SAYS, A QUARTER KAB'S SPACE. A HALL, A DRAWING ROOM,[12] A DOVECOT, A GARMENT, A BATHHOUSE, AN OLIVE PRESS AND AN IRRIGATED PLOT OF LAND SHOULD NOT BE DIVIDED UNLESS SUFFICIENT WILL BE LEFT FOR EACH PARTY.[13] THE GENERAL PRINCIPLE IS THAT IF AFTER THE DIVISION EACH PART WILL RETAIN THE DESIGNATION APPLIED TO THE WHOLE, THE DIVISION MAY BE MADE, BUT IF NOT, IT SHOULD NOT BE MADE. WHEN IS THIS THE RULE? WHEN ONE OR OTHER OF THE OWNERS IS NOT WILLING TO DIVIDE. BUT IF BOTH AGREE, THEY CAN DIVIDE EVEN IF LESS THAN THESE QUANTITIES [WILL BE LEFT]. SACRED WRITINGS, HOWEVER, MAY NOT BE DIVIDED EVEN IF BOTH AGREE.[14]

GEMARA. R. Assi said in the name of R. Johanan: The four cubits [of the courtyard] mentioned [in the Mishnah] are exclusive of the space in front of the doors.[15] It has been also taught to the same effect: A courtyard should not be divided unless eight cubits will be left to each party. But have we not learnt, FOUR CUBITS TO EACH? — The fact [that the Baraitha says eight] shows [that we must interpret the Mishnah] as R. Assi indicates. Some put this argument in the form of a contradiction: We learn, A COURTYARD SHOULD NOT BE DIVIDED UNLESS THERE WILL BE FOUR CUBITS FOR EACH OF THE PARTIES. [But how can this be], seeing that it has been taught: 'Unless there are eight cubits for each'? — R. Assi answered in the name of R. Johanan: The four cubits mentioned [in the Mishnah] are exclusive of the space in front of the doors.

R. Huna said: Each party takes a share in the courtyard proportionate to the number of his doors;[16] R. Hisda, however, says that four cubits are allowed for each door and the remainder is divided equally. It has been taught in agreement with R. Hisda: Doors opening on to the courtyard carry with them a space of four cubits. If one of the joint owners has one door and the other two doors, [if they divide] the one who has one door takes four cubits and the one who has two doors takes eight cubits, and the remainder is divided equally. If one has a doorway eight cubits broad, he takes eight cubits facing his door and four cubits in the courtyard. What are these four cubits in the courtyard doing here? — Abaye answered: What it means is this: He takes eight cubits in the length of the courtyard and four in the width of the courtyard.

Amemar said: [A pit for holding] date stones[17] carries with it four cubits on every side. This is the case, however, only if he has no special door from which he goes to it,[18] but if he has a special door for reaching it,

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(1) I.e., he had not been told that Raba had distributed the money to non-Jewish poor, as was not unusual. [The alms distributed by heathens were frequently derived from robbery, hence the Rabbis' attitude towards heathen charity; v. Buchler, Sepphoris, p. 44.]
(2) In the heavenly records.
(3) [King of Adiabene (first century C.E.) who embraced Judaism. v. Josephus Ant. XX, 2-4.]
(4) Ps. LXXXV, II. The righteousness (zedek) here is God's righteousness in rewarding good deeds.
(5) Ibid. XCVII, 2.
(6) Isa. III, 10.
(7) Prov. XI, 30.
(8) I.e., the zedakah shall be your own. Deut. XXIV, 13.
(9) Isa. LVIII, 8.
(10) Even too small to build a house on,
(11) I.e., an area for the sowing of nine kabs. 1 kab's space = 416 square cubits.
(12) [Or 'water-tower' (Aruk).]
(13) Not necessarily as much as nine kabs.
(14) I.e., scrolls of Scripture, since to cut them up shows disrespect.
(15) A space of four cubits was allowed in front of each door for loading and unloading animals. V. infra.
(16) Lit., 'A courtyard is divided according to its entrances'. If one has a house with two doors opening on to the courtyard and the other only one door, the former takes two-thirds and the latter one-third.
(17) For feeding animals.
(18) Because then he requires space to get behind it.

Talmud - Mas. Baba Bathra 11b

it carries with it only four cubits in front of his door.

R. Huna said: An exedra[1] does not carry with it four cubits. For why are the four cubits ordinarily allowed? To provide space for the owner to unload his animals. If there is an exedra he can go into it and unload there. R. Shesheth raised an objection [to this from the following]: 'Gates of exedras equally with gates of houses carry with them four cubits? — That was taught in reference to the exedra of a school-house. That the gate of the exedra of a schoolhouse carries with it four cubits is obvious, is it not, since it is a proper room?[2] — We should say, therefore, [that it was taught in reference to a] Roman exedra.[3]

Our Rabbis taught: A lodge,[4] an exedra, and a balcony[5] carry with them four cubits. If there are five rooms opening on to the balcony, they carry with them only four cubits between them.[6]

R. Johanan inquired of R. Jannai whether a hen-coop[7] carried with it four cubits or not. He replied: Why are the four cubits ordinarily allowed? — To provide room for a man to unload his animal. Here the fowls can clamber up the wall to get out and clamber down the wall to get in.

Raba inquired of R. Nahman: If a room is half roofed over and half unroofed, has it four cubits or not? He replied: It has not four cubits. If the roofing is over the inner part,[8] this goes without saying, since it is possible for him to go into the room and unload.[9] But even if the roofing is over the outer part, it is still possible for him to go right through and unload [under the open part].

R. Huna inquired of R. Ammi: If a man residing in one alleyway desires to open[10] a door on to another alley-way,[11] can the residents of this alley-way prevent him or not? He replied: They can prevent him. He then inquired: Are troops billeted per capita[12] or [on each one] according to the number of his doors? He replied: Per capita. It has been taught to the same effect: The dung in the courtyard is divided according to doors [belonging to each resident], billeted troops per capita.

R. Huna said: If one of the residents of an alley-way desires to fence in the space facing his door,[13] the others can prevent him, on the ground that he forces more people into their space.[14] An objection was brought [against this from the following]: 'If five [adjoining] courtyards open on an alley-way, all [the inner ones] share with the outside one[15] the use [of the part facing it], but the outside one can use that part only. The remainder [the inner three] share with the second, but the second has the use only of the part facing itself and the outside one. Thus the innermost one has sole use of the part facing itself and shares with all the others [the use of the part facing them]'?[16] — There is a difference on this point between Tannaim, as it has been taught: If one of the residents of an alley-way desires to open a door on to another alley-way, the residents of that alley-way can prevent him. If, however, he only desires to reopen there one which had been closed, they cannot prevent him. This is the opinion of Rabbi. R. Simeon b. Gamaliel says: If there are five adjoining courtyards opening on to an alleyway, they all share the use of it alike.[17] How does 'courtyards' come in here? — There is a lacuna in the text, and it should run as follows: [They cannot prevent him;] and similarly, if there are five courtyards opening on to an alley-way, all share with the outside one, but the outside one can use that part only etc. This is the opinion of Rabbi.[18] R. Simeon b. Gamaliel, however, says that if five courtyards open on to an alley-way, they all share the use of it.

The Master has stated: If he desires to reopen a door which has been closed, the residents of the other courtyard cannot prevent him. Raba said: This rule was meant to apply only if he had not taken down the posts of the closed door,[19] but if he had done so, then the residents of the courtyard can prevent him reopening it. Abaye said to Raba: It has been taught in support of your opinion:

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(1) A covered way, open at the sides.

(2) Having sides with lattice-windows, and not being suitable for unloading.

(3) Which had only sides a few feet high, not reaching to the roof, yet preventing unloading. [V. Krauss, TA. I, 367.] ,

(4) At the entrance of a large house.

(5) A verandah on an upper storey with rooms opening out on to it and reached by a ladder or stair from the courtyard.

(6) In the courtyard in front of the ladder by which the landing is reached.

(7) With a door opening into the courtyard.

(8) The part away from the courtyard.

(9) Because the unroofed part is not likely to be obstructed with furniture.

(10) Lit., 'to turn round'.

(11) Supposing his house abuts on two alley-ways.

(12) I.e., if a certain number are billeted on a courtyard, are they distributed equally among all the residents of the courtyard. (V. however Tosaf. or Maim. Yad Shekenim II, 8.]

(13) I.e., the door of a courtyard opening on to an alley-way which leads to the public thoroughfare.

(14) Lit., 'increases the way for them'. This would more naturally mean, 'makes them go roundabout way' (So Rashi). We do not, however, find anywhere that the residents of a courtyard had a right to a space in the alley-way facing their gate, as they had in the courtyard facing their door. Tosaf. therefore supposes that the reference here is to the resident of the courtyard at the extreme end of the alley-way, where it forms a cul-de-sac. Hence the rendering adopted.

(15) The one nearest the street.

(16) Why then should he not be allowed to fence in the space facing his door seeing that the others have no right to use that part?

(17) Which supports the opinion of R. Huna.

(18) And contrary to the opinion of R. Huna.

(19) Because he thus shows that it is his intention to reopen it one day.

Talmud - Mas. Baba Bathra 12a

A room that is shut up carries with it four cubits in the courtyard,[1] but if the posts [of the door] have been taken down, it does not carry with it four cubits. If a room is shut up it does not render unclean all the space around it,[2] but if the posts have been taken down it does render unclean all the space around it [to a distance of four cubits].[3]

Rabbah b. Bar Hana said in the name of R. Johanan: If the people of a town desire to close alley-ways which afford a through way to another town, the inhabitants of the other town can prevent them. Not only is this the case if there is no other way, but even if there is another way they can prevent them, on the ground of the rule laid down by Rab Judah in the name of Rab, that a field path to which the public have established a right of way must not be damaged.

R. ‘Anan said in the name of Samuel: If the residents of alleyways which open out on to the public thoroughfare desire to set up doors at the entrance, the public [who use the thoroughfares] can prevent them. It was thought that this right extended only to a distance of four cubits [from the public thoroughfare], in accordance with what R. Zera said in the name of R. Nahman, that the four cubits [in the alley.way] adjoining the public thoroughfare are on the same footing as the public thoroughfare. This, however, is not the case. For R. Nahman's rule applies only to the matter of uncleanness,[4] but here [in the case of the doors it does not apply because] sometimes people from the street are pushed in by the crowd a good distance.

A FIELD SHOULD NOT BE DIVIDED UNLESS THERE WILL BE NINE KABS’ SPACE TO EACH. There is no difference [between this authority and R. Judah who said nine half-kabs]; each was speaking for his own district.[5] What is the rule in Babylon? — R. Joseph said: [There must be] a day's ploughing [for each]. What is meant by a day's ploughing? If a day's ploughing in seed time,[6] that is not a two full days’ ploughing in plough time,[7] and if a day's ploughing in plough time, that is not a full day's ploughing in seed time?[8] — If you like I can say that a day's ploughing in plough time is meant, and in seed time [it takes a full day] where one ploughs twice,[9] or if you like I can say that a day's ploughing in seed time is meant and in plough time [two full days are needed] where the ground is difficult.

If a trench is divided, R. Nahman said [enough must be left for each party to provide] a day's work in watering the field. If a vineyard, the father[10] of Samuel said that three kabs’ space must be left to each. It has been taught to the same effect: If a man says to another, I sell you a portion in a vineyard, Symmachus said, he must not sell him less than three kabs’ space. R. Jose, however, said that this is sheer imagination.[11] What is the rule in Babylon? Raba b. Kisna said: Three rows each with twelve vines, enough for a man to hoe round in one day.

R. Abdimi from Haifa said: Since the day when the Temple was destroyed, prophecy has been taken from the prophets and given to the wise. Is then a wise man not also a prophet?[12] — What he meant was this: Although it has been taken from the prophets, it has not been taken from the wise. Amemar said: A wise man is even superior to a prophet, as it says, And a prophet has a heart of wisdom.[13] Who is compared with whom? Is not the smaller compared with the greater?[14] Abaye said: The proof [that prophecy has not been taken from the wise] is that a great man makes a statement, and the same is then reported in the name of another great man.[15] Said Raba: What is there strange in this? Perhaps both were born under one star.[16] No, said Raba; the proof is this, that a great man makes a statement and then the same is reported

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(1) If ever it comes to be divided.

(2) If there is a dead body lying there.

(3) Because then it is regarded no longer as a room but as a grave. V. Tosef. Oh. XVIII.

(4) If there is a suspicion of uncleanness in the four cubits up the alley-way it is treated as if it occurred in a public place and is deemed clean. Toh. IV, II.

(5) I.e., in the district of the first Tanna, less than nine kabs was not reckoned a field worth sowing. V. Tosaf. s.v ולא.

(6) When the ground is soft, having been already broken up by the first ploughing in the autumn.

(7) But something between one and two days, so that the ploughman will not be able to hire oxen to advantage.

(8) And therefore again the ploughman will not be able to hire oxen to advantage.
(9) Both before and after putting the seed in, and so takes a full day.
(10) Abba b. Abbu.
(11) Lit., 'words of prophesying'.
(12) I.e., were not wise men prophets also before the Temple was destroyed?
(13) Ps. XC, 12. The word נביא in the text (E.V. 'that we nay get us') is taken here in the sense of 'prophet'.
(14) And here the prophet is compared with the wise man.
(15) The first having hit upon the same idea quite independently.
(16) And this was why they hit on the same idea.

Talmud - Mas. Baba Bathra 12b

in the name of R. Akiba b. Joseph.[1] Said R. Ashi: What is there strange in this? perhaps in this matter he was born under the same star. No, said R. Ashi; the proof is that a great man makes a statement and then it is found that the same rule was a halachah communicated to Moses at Mount Sinai. But perhaps the wise man was no better than a blind man groping his way through a window?[2] — And does he not give reasons [for his opinions]?[3]

R. Johanan said: Since the Temple was destroyed, prophecy has been taken from prophets and given to fools and children. How given to fools? — The case of Mar son of R. Ashi will illustrate. He was one day standing in the manor of Mahuza[4] when he heard a certain lunatic exclaim: The man who is to be elected head of the Academy in Matha Mehasia[5] signs his name Tabiumi. He said to himself: Who among the Rabbis signs his name Tabiumi? I do. This seems to show that my lucky time has come. So he quickly went to Matha Mehasia. When he arrived, he found that the Rabbis had voted to appoint R. Aha of Difti as their head. When they heard of his arrival, they sent a couple of Rabbis to him to consult him.[6] He detained them with him, and they sent another couple of Rabbis. He detained these also, [and so it went on] until the number reached ten. When ten were assembled, he began to discourse and expound the Oral Law and the Scriptures, [having waited so long] because a public discourse[7] [on them] should not be commenced if the audience is less than ten. R. Aha[8] applied to himself the saying: If a man is in disfavour [with Heaven] he does not readily come into favour, and if a man is in favour he does not readily fall into disfavour.

How has prophecy been given to children? A case in point is that of the daughter of R. Hisda. She was sitting on her father's lap, and in front of him were sitting Raba and Rami b. Hama. He said to her: Which of them would you like? She replied: Both. Whereupon Raba said: And let me be the second.[9]

R. Abdimi from Haifa said: Before a man eats and drinks he has two hearts,[10] but after he eats and drinks he has only one heart, as it says, A hollow [nabub] man is two-hearted,[11] the word nabub occurring also in the text nebub luhoth,[12] which we translate 'hollow with planks'. R. Huna the son of R. Joshua said: If a man is a wine drinker, even though his heart[13] is closed like a virgin, the wine opens[14] it, as it is said: New wine shall make open out [yenobeb] the maids.[15]

R. Huna the son of R. Joshua said: That the portion [of a field assigned to a first-born][16] as a first-born and the portion assigned to him as an ordinary son should be contiguous goes without saying. What is the rule in the case of a brother-in-law?[17] — Abaye replied: It is just the same. Why so? Because the Divine Law calls him 'first-born'.[18] Raba, however, said: The text says: And he shall be the first-born: this means that he is regarded as a firstborn, but the assignment is not made to him as to a firstborn.[19]

A certain man bought a field adjacent to the estate of his father-in-law.[20] When they came to divide the latter's estate, he said: Give me my share next to my own field. Rabbah said: This is a case where a man can be compelled not to act after the manner of Sodom.[21] R. Joseph strongly objected to this, on the ground that the brothers[22] can say to him: We reckon this field as specially valuable like the property of the family of Mar Marion.[23] The law follows R. Joseph.

If there are two fields[24] with two channels [running by them],[25] Rabbah said: This is a case where we can apply the rule that a man can be compelled not to act after the manner of Sodom. R. Joseph strongly objected to this on the ground that sometimes one channel may continue running while the other dries up.[26] The law follows R. Joseph. If, however, there are two fields adjoining one channel, R. Joseph says that in such a case we do compel a man not to act after the manner of Sodom.[27] Abaye objected to this strongly on the ground that the one [who has two fields in the middle] can say, I want you to have more metayers.[28] The law, however, follows R. Joseph; the increase in the number of metayers is not a matter of consequence. [

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(1) Who certainly was a much greater man, so that the explanation that they were born under one star will not hold.

(2) I.e., he hit on the idea by chance.

(3) Hence we must say that his agreement with Moses was due not to chance but to the spirit of prophecy. [This is another way of expressing the belief that revelation did not cease with the extinction of prophecy. V. Herford, Talmud and Apocrypha, 72ff.]

(4) [A town on the Tigris, South of Bagdad. On the manor of Mahuza, Rostaka di Mahuza, v. Obermeyer, op. cit., 172.]

(5) A position previously held by his father. For Matha Mehasia v. p. 10 n. 1.

(6) In connection with R. Aha's appointment (Rashi).

(7) Lit., ‘a discourse In the kallah’. [Name given to an assembly at which the Law was expounded to scholars, as well as to the half yearly assemblies of the Babylonian Academies. The word has been variously explained as ‘bride’, because of the declaration of love and loyalty to the Torah, or from ‘crown’, with reference to the round formation of the sitting accommodation or again Gr. **, = school. On further suggestions, v. Krauss, S,, in Poznanski's Memorial Volume, 142ff.]

(8) When he saw that he had lost his chance.

(9) [This was fulfilled, v. Yeb. 34b.]

(10) I.e., he finds it hard to make up his mind for one thing.

(11) Job XI, 12. E.V. ‘Vain man is void of understanding.’

(12) Ex. XXVII, 8.

(13) ‘Heart’ here seems to have the sense of ‘mind’ or ‘understanding’.

(14) Lit., ‘makes it open-eyed’.

(15) I.e., maiden-hearts, Zech. IX, 17.

(16) The first-born received a double portion in his father's inheritance, Deut. XXI, 16.

(17) A man who marries his brother's widow if he has died without offspring, and who is also entitled to a double portion. The question is, can he claim that the two portions should be contiguous without making compensation to the other brothers?

(18) Deut. XXV, 6: And it shall be that the first.born which she beareth. The Rabbis, however, translate for halachic purposes thus: ‘And he (the brother) shall be the first-born; she shall be one capable of bearing’.

(19) Lit., ‘His being is as a first-born, but his assignment is not as a firstborn’. I.e., he receives a double portion as a first-born, but cannot demand that the two portions shall be contiguous like a first-born.

(20) Whom we must suppose to have had only daughters. Rashi, however, translates ‘father’, though this is not the usual meaning of בי נשיא.

(21) I.e., not to adopt a dog-in-the-manger attitude, refusing to confer a benefit which costs him nothing.

(22) According to another reading, ‘sisters’. V. Tosaf. s.v. אמיצרא

(23) So Rashi. This, however, does some violence to the word מעלינן, and Tosaf. translates: The brothers can even say to him, We value this field like those of Mar Marion's (and demand compensation accordingly).

(24) Left by a father to two sons.

(25) And one brother demands the field adjoining land he already possesses.

(26) Hence the other brother has a right to insist on having the fields equally divided so that he should have a field by each channel; seeing that each field has a channel, the other brother stands to lose nothing by acceding to the request.

(27) And to allow the other to have two fields contiguous to one another.

(28) If his two fields are separated, he will want more men to work them, and therefore the fields of the other which are in between will be better guarded.

Talmud - Mas. Baba Bathra 13a

If there is a channel on one side and a river on the other, the field is to be divided diagonally.[1]

A HALL etc. If they are not large enough to leave sufficient space for both after division, what is the ruling? — Rab Judah says: [One partner] has the right to say [to the other], You name a price [for my share] or let me name a price [for your share].[2] R. Nahman says: He has not the right to say, You name a price or let me name a price Said Raba to R. Nahman: On your view that one has not the right to say to the other, You name a price or let me name a price, how are a first-born and another son[3] to manage to whom their father has left a slave and an unclean animal? — He replied: What I say is that they work for the one one day and the other two days.

An objection was brought [against the opinion of Rab Judah from the following]: 'If one is half a slave and half free, he works for his master one day and for himself one day alternately. This is the opinion of Beth Hillel. Beth Shammai say: You have made matters right for his master but not for him. To marry a bondwoman he is not permitted;[4] to marry a free woman he is not permitted.[5] Shall he then remain unmarried? And has not the world been created only for propagation, as it is written, He created it not a waste, he formed it to be inhabited?[6] No; what we do is to compel his master to consent to emancipate him, and we give him a bond for half his value. Beth Hillel hearing this retracted their opinion and adopted the ruling of Beth Shammai'?[7] — This is not quite a case in point, because while the slave can say, 'I will name a price,' he cannot [at any time] say to the master, 'You name a price'.[8] Come and hear: If there are two brothers, one rich and one poor, to whom their father leaves a bath and an olive press, if he made them for renting, then the brothers share the rental, but if he made them for his own use, then the rich brother can say to the poor one,

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(1) According to R. Han., we suppose the channel to be on two sides and the river on two sides, v. fig. 1. According to Rashi, however, we suppose the channel and the river to be only on each of two adjacent sides, and in order that each may have the same share both in the river and the channel, the field must be divided into eight strips, v. fig. 2.

(2) I.e., either can compel the other to sell his portion, or to buy from him, so that the whole will be in one ownership.

(3) The rule would apply equally if neither of the brothers was a first-born, (v. however Tosaf. I.v. בכור).

(4) Being an Israelite.

(5) Not being an Israelite.

(6) Isa. XLV, 18.

(7) Hag. 2a. Only because of Beth Shammai's argument, but not because they recognised any right to say, 'You name' etc.

(8) Because as an Israelite, he cannot be sold, like an ordinary slave, for more than six years.

Talmud - Mas. Baba Bathra 13b

'Take slaves and let them wash you down in the bath, take olives and make oil from them in the press'?[1] — There too, the poor brother can say to the other, 'You name a price,' but he cannot say, 'I will name a price.'[2]

Come and hear: ANYTHING WHICH IF DIVIDED WILL STILL RETAIN THE SAME NAME IS TO BE DIVIDED, AND IF NOT, A MONEY VALUE HAS TO BE ENTERED FOR IT?[3] — There is a difference on this point between Tannaim, as it has been taught: If a man says [to his partner], You take the prescribed minimum [in the courtyard][4] and I will take less,[5] his suggestion is adopted. Rabban Simeon b. Gamaliel says that his suggestion is not adopted. What are the circumstances? If we take the statement as it stands, what is the reason of Rabban Simeon b. Gamaliel? Therefore we must suppose that there is a lacuna, and it should run thus: If one says, ‘You take the standard space, and I will take less,’ his suggestion is adopted. If he says, ‘You name a price or I will name a price,’ his suggestion is also adopted. And in regard to this Rabban Simeon remarks that his suggestion is not adopted. This, however, is not so. The statement is to be taken as it stands, and as to your question, what reason can Rabban Simeon b. Gamaliel have, it is because he can say to him [the one who offers to take less], ‘If you want me to pay for the extra, I have no money, and if you want to make me a present,I prefer not,[6] since it is written, He that hateth gifts shall live.’[7] Abaye said to R. Joseph: This opinion of Rab Judah[8] really comes from Samuel, as we have learnt: SCROLLS OF THE SCRIPTURE MAY NOT BE DIVIDED EVEN IF BOTH AGREE, and on this Samuel remarked: This rule was only meant to apply if the whole is in one scroll, but if it is in two scrolls they may divide. Now if you maintain that a man has no right to say, ‘You name a price or I will name a price,’ why should the rule apply only to one scroll? Why not to two scrolls also?[9] — R. Shalman explained that Samuel referred to the case where both consent.[10]

Amemar said: The law is that a partner has the right to say, ‘You name a price or let me name a price.’ Said R. Ashi to Amemar: What do you make of the statement of R. Nahman?[11] — He replied: I don't know of it; meaning, I don't hold with it. How could he say this, seeing that Raba b. Hinnena and R. Dimi b. Hinnena were left by their father two bond-women, one of whom knew how to bake and cook and the other to spin and weave, and they came before Raba[12] and he said to them: A partner has no right to say, ‘You name a price or let me name a price?’ — The case is different there because each of them wanted both the women. So when one said, ‘You take one and I will take one’, this was not the same as, ‘You name a price or let me name a price.’[13] But what of a copy of the Scriptures in two scrolls, where both are required[14] and yet Samuel said: The rule that they must not be divided applies only where there is one scroll, but if there are two, they may be divided? — This has been explained by R. Shalman to refer to the case where both consent.[15] Our Rabbis taught: It is permissible to fasten the Torah,[16] the prophets, and the Hagiographa together. This is the opinion of R. Meir. R. Judah, however, says that the Torah, the prophets, and the Hagiographa should each be in a separate scroll; while the Sages say that each book should be separate. Rab Judah said: it is related that Boethus b. Zonin had the eight prophets[17] fastened together at the suggestion of R. Eleazar b. Azariah. Others, however, report that he had them each one separate. Rabbi said: On one occasion a copy of the Torah, the prophets, and the Hagiographa all bound up together was brought before us, and we declared them fit and proper.

Between each book of the Torah there should be left a space of four lines, and so between one Prophet and the next. In the twelve Minor Prophets, however, the space should only be three lines.[18] If, however, the scribe finishes one book at the bottom [of a column], he should commence the next at the top [of the next].[19] Our Rabbis taught: If a man desires to fasten the Torah, the Prophets and the Hagiographa together, he may do so. At the beginning he should leave an empty space sufficient for winding round the cylinder, and at the end an empty space sufficient for winding round the whole circumference [of the scroll].[20] If he finishes a section at the bottom [of one column], he commences the next at the top [of the next],

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(1) Infra 172a.

(2) Because he himself has no money with which he might pay it. Hence this too is no proof that one partner has no right to say to the other, ‘You name’ etc.

(3) And an equivalent has to be allowed by the one who obtains it. Hence a partner has the right to say, ‘You name’ etc.

(4) I.e., four cub its.

(5) Supposing the courtyard is too small to allow four cubits to each.

(6) But R. Simeon may still agree that he can say. ‘You name a price etc.’

(7) Prov. XV, 27.

(8) That one has a right to say, ‘You name a price etc.’

(9) Presumably the two scrolls are not equal in value, and if so how can one force the other to divide unless he can say to him, ‘You name a price (for the extra value) or let me name it.’

(10) I.e., the words of the Mishnah, ‘even though both agree’ refer to the case where there is only one scroll, not where there are two.

(11) Who said there is no such right.

(12) To decide whether one could force the other to divide them, the one who received the more valuable one giving compensation.

(13) Which properly means, ‘You buy my portion from me or let me buy yours from you.’

(14) One being deficient without the other.

(15) Which shows that the principle, ‘You name’ etc., extends even to such cases.

(16) The Pentateuch.

(17) According to the Rabbinical classification, these are Joshua, Judges, Samuel, Kings, Isaiah, Jeremiah, Ezekiel and the twelve Minor Prophets.

(18) Since all these only form one book.

(19) And there is no need to leave a space of four lines.

(20) When it is rolled up.

Talmud - Mas. Baba Bathra 14a

and if he wants to divide he may do so. What is the meaning [of these last words]? — What it means is, Because if he wants to divide he may do so.[1]

A contradiction was pointed out [between this rule and the following]: At the beginning of the book and the end there must be sufficient empty space to roll round. To roll round what? If to roll round the cylinder, this contradicts what was said about the circumference![2] If to roll round the circumference, this contradicts what was said about the cylinder![3] — R. Nahman b. Isaac answered: The statement applies in both ways.[4] R. Ashi, however, replied that this statement refers only to a Scroll of the Law,[5] as it has been taught: Other books are rolled up from the beginning to the end,[6] but the Scroll of the Law closes at its middle, there being a cylinder at each end. R. Eliezer son of R. Zadok said: This is how the scribes in Jerusalem used to make their scrolls.

Our Rabbis taught: A scroll of the Law should be such that its length does not exceed its circumference nor Its circumference its length,[7] Rabbi was asked what should be the size of a scroll of the Law.[8] He replied: With thick parchment, six handbreadths, with thin parchment[9] I do not know. R. Huna wrote seventy scrolls of the Law and hit the exact measurement with only one. R. Aha b. Jacob wrote one on calf's skin, and hit it exactly. The Rabbis looked at him [enviously] and he died. The Rabbis said to R. Hamnuna: R. Ammi wrote four hundred scrolls of the Law. He said to them: Perhaps he copied out the verse, Moses commanded us a law.[10] Raba [similarly] said to R. Zera: R. Jannai planted four hundred vineyards, and he answered: Perhaps each consisted of two and two vines facing and one as a tail.[11]

An objection was brought [against the statement regarding the size of a scroll from the following]: The ark which Moses made was two cubits and a half in length, a cubit and a half in breadth, and a cubit and a half in height, the cubit being six handbreadths. The tablets were six handbreadths in length, six in breadth and three in thickness. They were placed lengthwise in the ark.[12] Now how much of the length of the ark was taken up by the tablets? Twelve handbreadths. Three therefore were left. Take away one handbreadth, a half for each side of the ark,[13] and there were left two handbreadths, and in these the scroll of the Law was deposited. [That a scroll was in the ark we know because] it says, There was nothing in the ark save the two tables of stone which Moses put there.[14] Now in the words ‘nothing’ and ‘save’ we have a limitation following a limitation, and the purpose of a limitation following a limitation is to intimate the presence of something which is not mentioned, in this case the scroll of the Law which was deposited in the ark. You have accounted for the length of the ark, now account for its breadth. How much of the [breadth of the] ark do the tables take up? Six handbreadths. Three therefore are left. Take away one, half for [the thickness of] each side, and two are left, so as to allow the scroll to be put in and taken out without squeezing. This is the opinion of R. Meir. R. Judah says that the cubit of the ark had only five handbreadths . The tables were six handbreadths in length, six in breadth and three in thickness, and were deposited lengthwise in the ark. How much did they take up of the ark? Twelve handbreadths. There was thus left half a handbreadth, a finger's breadth[15] for each side. You have accounted for the length of the ark, now go and account for its breadth. How much of the [breadth of the] ark was taken up by the tablets? Six handbreadths. There were thus left a handbreadth and a half. Take away from them half a handbreadth, a finger's breadth for each side, and there will be left a handbreadth. Here were deposited the columns[16] mentioned in the verse, King Solomon made himself a palanquin of the wood of Lebanon, he made the pillars thereof of silver, the bottom there of of gold, the seat of purple, etc.[17] At the side of the ark was placed the coffer in which the Philistines sent a present to the God of Israel, as it says, And put the jewels of gold which ye return him for a guilt offering in a coffer by the side thereof, and send it away that it may go,[18] and on this was placed the scroll of the Law, as it says, Take this book of the law, and put it by the side of the ark of the covenant of the Lord;[19] It was placed by the side of the ark and not in it. What then do I make of the words, There was nought in the ark save?[20] This intimates that

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(1) He should therefore take care that in case he decides to divide, one of the scrolls does not commence with an empty space of four lines. Tosaf. points out that this seems to contradict the rule given above, that a scroll should not be divided, and explains that this applies only to a division between two owners.

(2) Which would require a much larger piece at the end.

(3) Which would require much less at the beginning.

(4) I.e., enough for the stick at the beginning and the circumference at the end.

(5) Which has two cylinders.

(6) Having only one cylinder.

(7) When rolled up.

(8) I.e., what should be its length so that when the text had been completed in script of ordinary size the length should be equal to the circumference.

(9) ‘Split parchment’.

(10) Deut. XXXIII, 4. Life would not be long enough for writing four hundred complete scrolls.

(11) V. Sotah 43a.

(12) I.e., one next to the other along the length of the ark.

(13) Viz., for the thickness.

(14) I Kings VIII, 9.

(15) One handbreadth = 4 finger-breadths.

(16) Two silver sticks like the sticks of a scroll placed on each side of the tables.

(17) Cant. III, 9,10.

(18) I Sam. VI, 8.

(19) Deut. XXXI, 26.

(20) I.e., the double limitation.

Talmud - Mas. Baba Bathra 14b

the fragments of the tables[1] were [also] deposited in the ark. Now if we assume that the circumference of the scroll was six handbreadths, — let us see: a circumference of three handbreadths means a width of one.[2] Since then the scroll closed in the middle, the space between the two cylinders must have been over and above the two handbreadths. How did this get in to the two handbreadths?[3] — The scroll read in the Temple Court[4] was rolled round one cylinder. Even so, how could two handbreadths get into exactly two? R. Ashi replied: The scroll was rolled together up to a certain point [and placed in the ark], and then the remainder was rolled up on top.

If we accept R. Judah's theory, where was the scroll placed before the coffer came? — A ledge projected from the ark, and on this the scroll was placed. What does R. Meir make of the words, At the side of the ark? — This is to indicate that the scroll is to be placed at the side of the tables and not between them; but even so, it was in the ark, only at the side.

According to R. Meir, where were the [silver] sticks placed?[5] — Outside. And whence does R. Meir learn that the fragments of the [first] tables were deposited in the ark?[6] — From the same source as R. Huna, who said: What is the meaning of the verse, Which is called by the Name, even the name of the Lord of Hosts that sitteth upon the Cherubim?[7] [The repetition of the word ‘name’] teaches that the tables and the fragments of the tables were deposited in the ark. And, what does R. Judah make of these words? — He requires them for the lesson enunciated by R. Johanan, who ‘said in the name of R. Simeon b. Yohai: This teaches us that the Name [of four letters] and all the subsidiary names [of God] were deposited in the ark. And does not R. Meir also require the verse for this lesson? — Certainly he does. Whence then does he learn that the fragments of the first tables were deposited in the ark? He learns it from the exposition reported [also] by R. Joseph. For R. Joseph learned: Which thou brakest and thou shalt put them:[8] [the juxtaposition of these words] teaches us that both the tablets and the fragments of the tablets were deposited in the ark. And what does R. Judah make of this verse? — He requires it for the lesson enunciated by Resh Lakish, who said: Which thou brakest: God said to Moses, Thou hast done well[9] to break.[10]

Our Rabbis taught: The order of the Prophets is, Joshua, Judges, Samuel, Kings, Jeremiah, Ezekiel, Isaiah, and the Twelve Minor Prophets. Let us examine this. Hosea came first, as it is written, God spake first to Hosea.[11] But did God speak first to Hosea? Were there not many prophets between Moses and Hosea? R. Johanan, however, has explained that [what It means is that] he was the first of the four prophets who prophesied at that period,[12] namely, Hosea, Isaiah, Amos and Micah. Should not then Hosea come first? — Since his prophecy is written along with[13] those of Haggai, Zechariah and Malachi, and Haggai, Zechariah and Malachi came at the end of the prophets, he is reckoned with them. But why should he not be written separately and placed first? — Since his book is so small, it might be lost [if copied separately]. Let us see again. Isaiah was prior to Jeremiah and Ezekiel. Then why should not Isaiah be placed first? — Because the Book of Kings ends with a record of destruction and Jeremiah speaks throughout of destruction and Ezekiel commences with destruction and ends with consolation and Isaiah is full of consolation;[14] therefore we put destruction next to destruction and consolation next to consolation. The order of the Hagiographa is Ruth, the Book of Psalms, Job, Prophets, Ecclesiastes, Song of Songs, Lamentations, Daniel and the Scroll of Esther, Ezra and Chronicles.[15] Now on the view that Job lived in the days of Moses, should not the book of Job come first? — We do not begin with a record of suffering. But Ruth also is a record of suffering?[16] — It is a suffering with a sequel [of happiness], as R. Johanan said: Why was her name called Ruth? — Because there issued from her David who replenished[17] the Holy One, blessed be He, with hymns and praises.

Who wrote the Scriptures? — Moses wrote his own book and the portion of Balaam[18] and Job. Joshua wrote the book which bears his name and [the last] eight verses of the Pentateuch.[19] Samuel wrote the book which bears his name and the Book of Judges and Ruth. David wrote the Book of Psalms, including in it the work of the elders, namely, Adam, Melchizedek, Abraham, Moses, Heman, Yeduthun, Asaph,

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(1) The first tables which Moses broke.

(2) And therefore the scroll must have been two handbreadths wide.

(3) If we assume with R. Meir that there was a scroll in the ark.

(4) On Tabernacles, in accordance with Deut. XXXI, 9-13.

(5) Since there was no room for them in the ark alongside the Scroll at the base of the tables.

(6) Seeing that the verse on which R. Judah bases this is needed by him for another lesson.
(7) II Sam. VI, 2.
(8) Deut. X, 2.
(9) ישר כחך a play on אשר שברת.
(10) Although I did not tell thee. The words ‘which thou brakest’ can be utilised for this lesson because they are strictly speaking superfluous.
(11) Hos. I; 2.
(12) In the reigns of Uzziah, Jotham, Ahaz, and Hezekiah.
(13) I.e., copied on the same scroll.
(14) Strictly speaking, this applies only to the latter half of Isaiah, ch. XL-LXVI, though strains of consolation are interspersed throughout the first part also.
(15) With the exception of Job, the order is meant to be chronological, Ruth being ascribed to Samuel, the Psalms to David, Proverbs, Ecclesiastes and the Song of Songs to Solomon, Lamentations to Jeremiah, and Esther to the period of the Captivity (v. Rashi).
(16) As it says, ‘And there was a famine in the land(Ruth I,i)
(17) רוה which R. Johanan connects with רות
(18) The parables of Balaam in Num. XXIII, XXIV.
(19) Recording the death of Moses.

Talmud - Mas. Baba Bathra 15a

and the three sons of Korah.[1] Jeremiah wrote the book which bears his name, the Book of Kings, and Lamentations. Hezekiah and his colleagues wrote (Mnemonic YMSHK)[2] Isaiah,[3] Proverbs,[4] the Song of Songs and Ecclesiastes. The Men of the Great Assembly wrote (Mnemonic KNDG)[5] Ezekiel,[6] the Twelve Minor Prophets,[7] Daniel and the Scroll of Esther. Ezra wrote the book that bears his name[8] and the genealogies of the Book of Chronicles up to his own time. This confirms the opinion of Rab, since Rab Judah has said in the name of Rab: Ezra did not leave Babylon to go up to Eretz Yisrael until he had written his own genealogy. Who then finished it [the Book of Chronicles]? — Nehemiah the son of Hachaliah.

The Master has said: Joshua wrote the book which bears his name and the last eight verses of the Pentateuch. This statement is in agreement with the authority who says that eight verses in the Torah were written by Joshua, as it has been taught: [It is written], So Moses the servant of the Lord died there.[9] Now is it possible that Moses being dead could have written the words, ‘Moses died there’? The truth is, however, that up to this point Moses wrote, from this point Joshua wrote. This is the opinion of R. Judah, or, according to others, of R. Nehemiah. Said R. Simeon to him: Can [we imagine the] scroll of the Law being short of one word, and is it not written, Take this book of the Law?[10] No; what we must say is that up to this point the Holy One, blessed be He, dictated and Moses repeated and wrote, and from this point God dictated and Moses wrote with tears, as it says of another occasion, Then Baruch answered them, He pronounced all these words to me with his mouth, and I wrote them with ink in the book.[11] Which of these two authorities is followed in the rule laid down by R. Joshua b. Abba which he said in the name of R. Giddal who said it in the name of Rab: The last eight verses of the Torah must be read [in the Synagogue service] by one person alone?[12] — It follows R. Judah and not R. Simeon. I may even say, however, that it follows R. Simeon, [who would say that] since they differ [from the rest of the Torah] in one way, they differ in another.

[You say that] Joshua wrote his book. But is it not written, And Joshua son of Nun the servant of the Lord died?[13] — It was completed by Eleazar. But it is also written in it, And Eleazar the son of Aaron died?[14] — Phineas finished it. [You say that] Samuel wrote the book that bears his name. But is it not written in it, Now Samuel was dead?[15] — It was completed by Gad the seer and Nathan the prophet. [You say that] David wrote the Psalms, including work of the ten elders. Why is not Ethan the Ezrahite also reckoned with? — Ethan the Ezrahite is Abraham. [The proof is that] it is written in the Psalms, Ethan the Ezrahite,[16] and it is written elsewhere, Who hath raised up righteousness from the East.[17]

[The passage above] reckons both Moses and Heman. But has not Rab said that Moses is Heman, [the proof being] that the name Heman is found here [in the Psalms] and it is written elsewhere [of Moses], In all my house he is faithful?[18] — There were two Hemans. You say that Moses wrote his book and the section[19] of Balaam and Job. This supports the opinion of R. Joshua b. Levi b. Lahma who said that Job was contemporary with Moses — [The proof is that] it is written here [in connection with Job], O that my words were now [efo] written,[20] and it is written elsewhere [in connection with Moses], For wherein now [efo] shall it be known.[21] But on that ground I might say that he was contemporary with Isaac, in connection with whom it is written, Who now [efo] is he that took venison?[22] Or I might say that he was contemporary with Jacob, in connection with whom it is written, If so now [efo] do this?[23] or with Joseph, in connection with whom it is written, Where [efo] they are pasturing?[24] — This cannot be maintained; [The proof that Job was contemporary with Moses is that] it is written [in continuation of the above words of Job], Would that they were inscribed in a book, and it is Moses who is called ‘inscriber’, as it is written, And he chose the first part for himself, for there was the lawgiver's [mehokek, lit. ‘inscriber's’] portion reserved.[25] Raba said that Job was in the time of the spies. [The proof is that] it is written here [in connection with Job], There was a man in the land of Uz, Job was his name,[26] and it is written elsewhere [in connection with the spies], Whether there be wood [ez] therein.[27] Where is the parallel? In one place it is Uz, in the other EZ? — What Moses said to Israel was this: [See] if that man is there whose years are as the years of a tree and who shelters his generation like a tree.

A certain Rabbi was sitting before R. Samuel b. Nahmani and in the course of his expositions remarked, Job never was and never existed, but is only a typical figure.[28] He replied: To confute such as you the text says, There was a man in the land of Uz, Job was his name. But, he retorted, if that is so, what of the verse, The poor man had nothing save one poor ewe lamb, which he had bought and nourished up etc.[29] Is that anything but a parable? So this too is a parable. If so, said the other, why are his name and the name of his town mentioned?

R. Johanan and R. Eleazar both stated that Job was among those who returned from the [Babylonian] Exile, and that his house of study was in Tiberias. An objection [to this view] was raised from the following: ‘The span of Job's life was from the time that Israel entered Egypt till they left it.’ —

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(1) To Adam are ascribed the verses, Thine eyes did see mine imperfect substance etc. (Ps. CXXXIX, 16); to Melchizedek Ps. CX; to Moses, Ps. XC. Abraham is identified with Ethan the Ezrahite (Ps. LXXXIX).

(2) י = Yeshaiah (Isaiah); מ = Mishle (Proverbs); ש = Shir ha-Shirim (Song of Songs); ק =Koheleth (Ecclesiastes). The word ‘wrote’ here seems to have the meaning of ‘edited’ or ‘published’.

(3) According to Rashi, Isaiah was executed by Manasseh before he could reduce his own prophecies to writing.

(4) V. Prov. XXV, 1.

(5) ק = Ezekiel; נ = Shenem ‘Asar (Twelve minor prophets); ד = Daniel;ג = Megillath Esther (The Scroll of Esther).

(6) Rashi supposes that the reason why Ezekiel did not write his own book was that he lived out of Eretz Yisrael. The same reason applies to Daniel.

(7) Who apparently did not publish their prophecies themselves because they were too small.

(8) This includes Nehemiah.

(9) Deut. XXXIV, 5.

(10) Deut. XXXI, 26. And this was said by Moses before he died.

(11) Jer. XXXVI, 18.

(12) Apparently this means that it is not requisite that another person should stand by him, as in the case of the rest of the Torah. Or it may mean that these eight verses must always be read to (or by) one person only.

(13) Josh. XXIV, 29.
(14) Ibid. 33.
(15) I Sam. XXVIII, 3.
(16) Ps. LXXXIX, I.
(17) Isa. XLI, 2. The word ‘ezrahi’ is also taken to mean ‘eastern’, while ‘Ethan’ (strong) is regarded as equivalent to ‘righteous’.
(18) The word ‘heman’ is also taken to mean ‘faithful’.
(19) [Var. lec., ספר ‘the book’.]
(20) Job XIX, 23.
(21) Ex. XXXIII, 16.
(22) Gen. XXVII, 33.
(23) Gen. XLIII, II.
(24) Ibid. XXXVII, 16.
(25) Deut. XXXIII, 21.
(26) Job 1, 1.
(27) Num. XIII, 20.
(28) To teach men the virtue of resignation.
(29) II Sam. XII, 3. This was Nathan's parable to David.

Talmud - Mas. Baba Bathra 15b

Say, As long as from the time they entered Egypt till they left it.[1] An objection was further raised[2] [from the following]: Seven prophets prophesied to the heathen, namely, Balaam and his father, Job, Eliphaz the Temanite, Bildad the Shuhite, Zophar the Naamathite, and Elihu the son of Barachel the Buzite.[3] He replied:[4] Granted as you say [that Job was one of these], was not Elihu the son of Barachel from Israel, seeing that the Scripture mentions that he was from the family of Ram?[5] Evidently [the reason why he is included] is because he prophesied to the heathen. So too Job [is included because] he prophesied to the heathen.[6] But did not all the prophets prophesy to the heathen? — Their prophecies were addressed primarily to Israel, but these addressed themselves primarily to the heathen.

An objection was raised [from the following]: There was a certain pious man among the heathen named Job, but he [thought that he had] come into this world only to receive [here] his reward, and when the Holy One, blessed be He, brought chastisements upon him, he began to curse and blaspheme, so the Holy One, blessed be He, doubled his reward in this world so as to expel him from the world to come. There is a difference on this point between Tannaim, as it has been taught: R. Eliezer says that Job was in the days ‘of the judging of the judges,’[7] as it says [in the book of Job], Behold all of you together have seen it; why then are ye become altogether vain?[8] What generation is it that is altogether vain? You must say, the generation where there is a ‘judging of the judges’.[9] R. Joshua b. Korhah says: Job was in the time of Ahasuerus, for it says, And in all the land were no women found so fair as the daughters of Job.[10] What was the generation in which fair women were sought out? You must say that this was the generation of Ahasuerus. But perhaps he was in the time of David [in connection with whom] it is written, So they sought for a fair damsel?[11] — In the case of David [the search was only] in all the border of Israel, in the case of Ahasuerus, in all the land. R. Nathan says that Job was in the time of the kingdom of Sheba, since it says , The Sabaeans fell on them and took them away.[12] The Sages say that he was in the time of the Chaldeans, as it says, The Chaldeans made three bands.[13] Some say that Job lived in the time of Jacob and married Dinah the daughter of Jacob. [The proof is that] it is written here [in the book of Job], Thou speakest as one of the impious women [nebaloth] speaketh,[14] and it is written in another place [in connection with Dinah], Because he had wrought folly [nebelah] it, Israel.[15] All these Tannaim agree that Job was from Israel, except those who say [that he lived in the days of Jacob]. [This must be so,] for if you suppose that [they regarded him as] a heathen, [the question would arise,] after the death of Moses how could the Divine Presence rest upon a heathen,[16] seeing that a Master has said, Moses prayed that the Divine Presence should not rest on heathens, and God granted his request as it says, That we be separated, I and thy people, from all the people that are upon the face of the earth.[17]

R.Johanan said: The generation of Job was given up to lewdness. [The proof is that] it says here [in the book of Job], Behold all of you have seen [hazitem] it; why then are ye become altogether vain? and it is written elsewhere, Return, return, O Shulamite, return, return that we may look upon [nehezeh,] thee.[18] But may not the reference be to prophecy, as in the words, The vision [hazon] of Isaiah son of Amoz?[19] — If so, why does it say: Why are ye become altogether vain?

R.Johanan further said: What is the import of the words, And it came to pass in the days of the judging of the judges? It was a generation which judged its judges. If the judge said to a man, 'Take the splinter from between your teeth,'[20] he would retort, 'Take the beam from between your eyes.' If the judge said, 'Your silver is dross,' he would retort, 'Your liquor is mixed with water.'[21]

R.Samuel b. Nahmani said in the name of R. Jonathan: Whoever says that the malkath [queen] of Sheba was a woman is in error; the word malkath here[22] means the kingdom of Sheba.

Now there was a day when the sons of God came to present themselves before the Lord, and Satan came also among them. And the Lord said unto Satan, whence comest thou? And Satan answered etc.[23] He addressed the Holy One, blessed be He, thus: Sovereign of the Universe, I have traversed the whole world and found none so faithful as thy servant Abraham. For Thou didst say to him, Arise, walk through the land to the length and the breadth of it, for to thee I will give it,[24] and even so, when he was unable to find any place in which to bury Sarah until he bought one for four hundred shekels of silver, he did not complain against thy ways. Then the Lord said to Satan, Hast thou considered my servant Job? for' there is none like him in the earth etc.

Said R. Johanan: Greater praise is accorded to Job than to Abraham. For of Abraham it is written, For now I know that thou fearest God,[25] whereas of Job it is written, That man was perfect and upright and one that feared God and eschewed evil.[26] What is the meaning of 'eschewed evil'? — R. Abba b. Samuel said: Job was liberal with his money. Ordinarily, if a man owes half a prutah [to a workman], he spends it in a shop,[27] but Job used to make a present of it [to the workman].

And then Satan answered the Lord and said, Doth Job fear God for nought? Hast thou not made at hedge about him and about his house etc.[28] What is the meaning of the words, Thou hast blessed the work of his hands?[29] — R. Samuel b. R. Isaac said: Whoever took a prutah from Job had luck with it. What is implied by the words, His cattle is increased in the land,[30] — R. Jose b. Hanina said: The cattle of Job broke through the general rule. Normally wolves kill goats, but in the cattle of Job the goats killed the wolves. But put forth thine hand now and touch all that he hath, and he will renounce thee to thy face... And the Lord said unto Satan, Behold all that he hath is in thy power, only upon himself put not forth thine hand etc. . . . And it fell on a day when his sons and daughters were eating and drinking wine in their eldest brother's house that there came a messenger unto Job and said, The oxen were plowing etc.[31] What is meant by the words, The oxen were plowing and the asses feeding beside them?[32] — R. Johanan said: This indicates that the Holy One, blessed be He, gave to Job a taste of the

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(1) Viz. 210 years. Job's years were doubled after his sufferings and he lived on for 140 years. He must therefore have been 70 at the time. This makes a total of 210.

(2) Against the idea that Job was an Israelite.

(3) This seems to show that Job was a heathen prophet.

(4) This is omitted in some texts.

(5) Job XXXII, 2. Had he not been from Israel, his genealogy would not have been given. Or possibly 'Ram' is a name

of Abraham (Rashi).
(6) Though he was himself an Israelite.
(7) This is a literal translation of the opening words of the Book of Ruth, rendered in the E.V., ‘in the days when the Judges judged.’
(8) Job XXVII, 12.
(9) By the common people, in whom the judges inspire no respect.
(10) Job XLII, is.
(11) I Kings 1,3.
(12) Job 1, 15.
(13) Ibid. 17.
(14) Ibid. 11, 10.
(15) Gen. XXXIV, 7.
(16) And all agree that Job was a prophet.
(17) Ex. XXXIII, 16. This difficulty, however, would not arise if we suppose Job to have been in the days of Jacob.
(18) Cant. VI, 13.
(19) Isa. I, I.
(20) This is the reading in ‘En Yakob. In the text of the Talmud the word is ‘eyes’, which does not seem to make such good sense.
(21) Cf. Isa. 1, 22.
(22) 1 Kings X, 1.
(23) Job 1, 6,7.
(24) Gen. XIII, 17.
(25) Ibid. XXII, 12.
(26) Job 1, 1.
(27) Since a prutah cannot be divided, if a man owes a workman half a prutah he buys something in a shop with a prutah and gives the workman half.
(28) Job 1,9,10.
(29) Ibid.
(30) Ibid.
(31) Ibid. 11-14.
(32) Ibid. 14.

Talmud - Mas. Baba Bathra 16a

future world.[1] While he was yet speaking there came also another and said, The fire of God. . . While he was yet speaking there came also another and said, The Chaldeans made three bands . . . and fell upon the camels and have taken them away . . . While he was yet speaking there came also another and said, Thy sons and thy daughters were eating and drinking wine in their eldest brother's house, and behold there came a great wind from the wilderness and smote the four corners of the house and it fell upon the young men . . . Then Job arose and rent his mantle and shaved his head. . . and he said, Naked came I out of my mother's womb and naked shall I return thither; the Lord gave and the Lord hath taken away; blessed be the name of the Lord. In all this Job sinned not nor charged God with foolishness. Again there was a day when the sons of God came to present themselves . . . and the Lord said unto Satan, From whence comest thou? And Satan answered the Lord and said, From going to and fro in the earth etc.[2] He said: Sovereign of the Universe, I have traversed the whole earth, and have not found one like thy servant Abraham. For thou didst say to him, Arise, walk through the land in the length of it and the breadth of it, for to thee I will give it, and when he wanted to bury Sarah he could not find a place in which to bury her, and yet he did not complain against thy ways. Then the Lord said unto Satan, Hast thou considered my servant Job, for there is none like him in the earth . . . and he still holdeth fast his integrity, although thou movedst me against him to destroy him without cause.[3] Said R. Johanan: Were it not expressly stated in the Scripture, we would not dare to say it. [God is made to appear] like a man who allows himself to be persuaded against his better judgment. A Tanna taught: [Satan] comes down to earth and seduces, then ascends to heaven and awakens wrath; permission is granted to him and he takes away the soul.

And Satan answered the Lord and said, Skin for skin, yea, all that a man hath will he give for his life. But put forth thine hand now and touch his bone and his flesh, and he will renounce thee to thy face. And the Lord said unto Satan, Behold he is in thine hand: only spare his life. So Satan went forth from the presence of the Lord and smote Job etc.[4] R. Isaac said: Satan's torment was worse than that of Job; he was like a servant who is told by his master, ‘Break the cask but do not let any of the wine spill.’ Resh Lakish said: Satan, the evil prompter, and the Angel of Death are all one. He is called Satan, as it is written, And Satan went forth from the presence of the Lord.[5] He is called the evil prompter:[6] [we know this because] it is written in another place, [Every imagination of the thoughts of his heart] was only evil continually,[7] and it is written here [in connection with Satan] ‘Only upon himself put not forth thine hand.[8] The same is also the Angel of Death, since it says, Only spare his life,[9] which shows that Job's life belonged to him.

R. Levi said: Both Satan and Peninah had a pious purpose [in acting as adversaries]. Satan, when he saw God inclined to favour Job said, Far be it that God should forget the love of Abraham. Of Peninah it is written, And her rival provoked her sore for to make her fret.[10] When R. Aha b. Jacob gave this exposition in Papunia,[11] Satan came and kissed his feet.[12]

In all this did not Job sin with his lips.[13] Raba said: With his lips he did not sin, but he did sin within his heart. What did he say?[14] The earth is given into the hand of the wicked, he covereth the faces of the judges thereof; if it be not so, where and who is he?[15] Raba said: Job sought to turn the dish upside down.[16] Abaye said: Job was referring only to the Satan. The same difference of opinion is found between Tannaim: The earth is given into the hand of the wicked. R. Eliezer said: Job sought to turn the dish upside down. R. Joshua said to him: Job was only referring to the Satan.

Although thou knowest that I am not wicked, and there is none that can deliver out of thine hand.[17] Raba said: Job sought to exculpate the whole world.[18] He said: Sovereign of the Universe, Thou hast created the ox with cloven hoofs and thou hast created the ass with whole hoofs; thou hast created Paradise and thou hast created Gehinnom: thou hast created righteous men and thou hast created wicked men, and who can prevent thee?[19] His companions answered him: Yea, thou doest away with fear’ and restrainest devotion before God.[20] If God created the evil inclination, He also created the Torah as its antidote.[21]

Raba expounded: What is meant by the verse, The blessing of him that was ready to perish came upon me, and I caused the widow's heart to sing for joy.[22] ‘The blessing of him that lost[23] came upon me:’ this shows that Job used to rob orphans of a field and improve it and then restore it to them. ‘And I caused the widow's heart to sing for joy:’ if ever there was a widow who could not find a husband, he used to associate his name with her,[24] and then someone would soon come and marry her. Oh that my vexation were but weighed, and my calamity laid ill the balances together.[25] Rab said: Dust should be put in the mouth of Job, because he makes himself the colleague of heaven.[26] Would there were an umpire between us, that he might lay his hand upon us both.[27] Rab said: Dust should be placed in the mouth of Job: is there a servant who argues with his master? I made a covenant with thine eyes; how then should I look upon a maid?[28] Rab said: Dust should be placed in the mouth of Job; he refrained from looking at other men's wives. Abraham did not even look at his own, as it is written, Behold now I know that thou art a fair woman to look upon,[29] which shows that up to then he did not know.

As the cloud is consumed and vanisheth away, so he that goeth down to Sheol shall come up no more.[30] Raba said: This shows that Job denied the resurrection of the dead. For he breaketh me with a tempest and multiplieth my wounds without cause.[31] Rabbah said: Job blasphemed with [mention of] a tempest, and with a tempest he was answered. He blasphemed with [mention of] a tempest, as it is written, For he breaketh me as with a tempest. Job said to God: Perhaps a tempest has passed before thee, and caused thee to confuse Iyob [Job] and Oyeb [enemy]. He was answered through a tempest, as it is written, Then the Lord answered Job out of the whirlwind[32] and said, ... Gird tip now thy loins like a man, for I will demand of thee and declare thou unto me.[33] ‘I have created many hairs in man, and for every hair I have created a separate groove, so that two should not suck from the same groove, for if two were to suck from the same groove they would impair the sight of a man. I do not confuse one groove with another; and shall I then confuse Iyob with Oyeb? Who hath cleft a channel for the waterflood?[34] Many drops have I created in the clouds, and for every drop a separate mould, so that two drops should not issue from the same mould, since if two drops issued from the same mould they would wash away the soil, and it would not produce fruit. I do not confuse one drop with another, and shall I confuse Iyob and Oyeb?’ (How do we know that the word te'alah [channel] here means a mould? Rabbah b. Shila replied: Because it is written, And he made a trench [te'alah] as great as would contain two measures of seed.)[35] Or a way for the lightning of the thunder.[36] Many thunderclaps have I created in the clouds, and for each clap a separate path, so that two claps should not travel by the same path, since if two claps travelled by the same path they would devastate the world. I do not confuse one thunderclap with another, and shall I confuse Iyob with Oyeb? Knowest thou the time when the wild goats of the rock bring forth, or canst thou mark when the hinds do calve?[37] This wild goat is heartless towards her young. When she crouches for

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(1) R. Johanan understands the text to imply that so soon as the oxen had ploughed and the seed had been cast, the produce sprang up and the asses ate it. Similarly in the future world conception and birth will be on the same day (v. Sanh. 30b).

(2) Ibid. I, 18 — II, 2.

(3) Ibid. 3.

(4) Ibid. 4-7.

(5) Ibid. 7.

(6) Heb. Yezer Hara’.

(7) Gen. VI, 5.

(8) Job I, 12.

(9) Ibid. II, 6.

(10) I Sam. I, 6. By making Hannah fret, Peninah caused her to pray.

(11) [A place between Bagdad and Pumbeditha, Obermeyer, op. cit., p. 242.]

(12) Out of gratitude.

(13) Job II, 10.

(14) Which shows that he harboured sinful thoughts?

(15) Ibid. IX, 24.

(16) I.e., to declare all God's works worthless.

(17) Ibid. X, 7.

(18) Raba translates על דעתך: Didst thou will, I should not be wicked.

(19) As much as to say, that the wall is not free.

(20) Ibid. XV, 4.

(21) Lit., ‘spices’.

(22) Ibid. XXIX, 13 .

(23) So Raba translates the word אובד.

(24) By saying that she was a relative of his, or pretending to woo her.

(25) Ibid. VI, 2.

(26) By desiring to weigh his pleas in the balance with those of God.

(27) Ibid. IX, 33.

(28) Ibid.XXXI, I.

(29) Gen.XII, 11.

(30) Job VII, 9.

(31) Ibid. IX,17.
(32) The Hebrew word is se'arah, which can also be translated ‘hair’.
(33) Ibid. XXXVIII, 1, 3.
(34) Ibid. 25.
(35) I Kings XVIII, 32.
(36) Job XXXVIII, 25.
(37) Ibid. XXXIX, 1.

Talmud - Mas. Baba Bathra 16b

delivery, she goes up to the top of a mountain so that the young shall fall down and be killed, and I prepare an eagle to catch it in his wings and set it before her, and if he were one second too soon or too late it would be killed.[1] I do not confuse one moment with another, and shall I confuse Iyob with Oyeb? Or canst thou mark when the hinds do calve? This hind has a narrow womb. When she crouches for delivery, I prepare a serpent which bites her at the opening of the womb, and she is delivered of her offspring; and were it one second too soon or too late, she would die.[2] I do not confuse one moment with another, and shall I confuse Iyob with Oyeb? Job speaketh without knowledge, and his words are without wisdom.[3] Raba said: This teaches that a man is not held responsible for what he says when in distress.[4]

Now when Job's three friends heard of all this evil which was come upon him, they came every one from his own place, Eliphaz the Temanite, and Bildad the Shuhite, and Zophar the Naamathite; and they made an appointment together to come to bemoan him and to comfort him.[5] What is the meaning of, they made an appointment together? — Rab Judah said in the name of Rab: It teaches that they all entered [the town together] through one gate, although, as it has been taught, each one lived three hundred parasangs away from the other. How did they know [of Job's trouble]? — Some say that they had crowns,[6] and some say that they had had certain trees, the distortion or withering of which was a sign to them. Raba said: This bears out the popular saying: Either a friend like the friends of Job or death.

And it came to pass, when men began to multiply [larob] on the face of the ground and daughters were born to them.[7] R. Johanan says: [the word larob indicates that] increase [rebiah] came in to the world;[8] Resh Lakish says [it indicates that] strife [meribah] came into the world. Said Resh Lakish to R. Johanan: On your view that it means that increase came into the world, why was not the number of Job's daughters doubled?[9] He replied: Though they were not doubled in number,[10] they were doubled in beauty, as it says, He also had seven sons and three daughters. And he called the name of the first Jemimah, and the name of the second Keziah, and the name of the third Keren-Happuch[11] — Jemimah, because she was like the day [yom]; Keziah, because the emitted a fragrance like cassia [keziah]; Keren-Happuch[12] because — so it was explained in the academy of R. Shila[13] — she had a complexion like the horn of a keresh.[14] This explanation was laughed at in the West,[15] [where it was pointed out that a complexion like] the horn of a keresh would be a blemish.[16] [But what it should be], said R. Hisda, [is], like garden crocus of the best kind.[17] (The word puch means pigment, as it is said, Though thou enlargest thine eyes with paint [puch].)[18]

A daughter was born to R. Simeon the son of Rabbi, and he felt disappointed. His father said to him: Increase has come to the world. Bar Kappara said to him: Your father has given you an empty consolation. The world cannot do without either males or females. Yet happy is he whose children are males, and alas for him whose children are females. The world cannot do without either a spice-seller or a tanner. Yet happy is he whose occupation is that of a spice-seller, and alas for him whose occupation is that of a tanner. On this point[19] there is a difference between Tannaim. [It is written,] The Lord had blessed Abraham in all things[20] [ba-kol].What is meant by ‘in all things’? R. Meir said: In the fact that he had no daughter; R. Judah said: In the fact that he had a daughter.

Others say that Abraham had a daughter whose name was ba-kol. R. Eliezer the Modiite said that Abraham possessed a power of reading the stars[21] for which he was much sought after by the potentates of East and West.[22] R. Simeon b. Yohai said: Abraham had a precious stone hung round his neck which brought immediate healing to any sick person who looked on it, and when Abraham our father departed from this world, the Holy One, blessed be He, suspended it from the orb of the sun. Abaye said: This bears out the popular saying, As the day advances the illness lightens. Another explanation is that Esau did not break loose so long as he was alive. Another explanation is that Ishmael repented while he was still alive. How do we know that Esau did not break loose while he was alive? Because it says, And Esau came in from the field[23] and he was faint.[24] It has been taught [in connection with this] that that was the day on which Abraham our father died, and Jacob our father made a broth of lentils to comfort his father Isaac. Why was it of lentils? — In the West they say in the name of Rabbah b. Mari: Just as the lentil has no mouth,[25] so the mourner has no mouth [for speech]. Others say: Just as the lentil is round, so mourning comes round to all the denizens of this world. What difference does it make in practice which of the two explanations we adopt? — The difference arises on the question whether we should comfort with eggs.[26]

R. Johanan said: That wicked [Esau] committed five sins on that day. He dishonoured a betrothed maiden, he committed a murder, he denied God, he denied the resurrection of the dead, and he spurned the birthright. [We know that] he dishonoured a betrothed maiden, because it is written here, And Esau came in from the field,[27] and it is written in another place [in connection with the betrothed maiden], He found her in the field.[28] [We know that] he committed murder, because it is written here [that he was] faint, and it is written in another place, Woe is me now, for my soul fainteth before the murderers.[29] [We know that] he denied God, because it is written here, What benefit is this to me, and it is written in another place, This is my God and I will make him an habitation.[30] [We know that] he denied the resurrection of the dead because he said, Behold, I am on the way to die: also that he spurned the birthright because it is written, So Esau despised his birthright. And whence do we know that Ishmael repented while Abraham was still alive? — From the discussion which took place between Rabina and R. Hama b. Buzi when they were once sitting before Raba while he was dozing. Said Rabina to R. Hama b. Buzi: Do your people really maintain that wherever the term ‘giving up the ghost’ [gewi'ah] is used in connection with the death of any person, it implies that that person died righteous? That is so, he replied. But what then of the generation of the Flood?[31] [he asked.] We only make this inference, he replied, if both, ‘giving up the ghost’ and ‘gathering in’ are mentioned. But, he rejoined, what of Ishmael, who is said both to have ‘given up the ghost’ and ‘been gathered in’?[32] At this point Raba awoke and heard them. Children, he said, this is what R. Johanan has said: Ishmael repented in the lifetime of his father. [We know this] because it says, And Isaac and Ishmael his sons buried him.[33] But perhaps the text arranges them in the order of their wisdom? — If that were so, then why in the verse, And Esau and Jacob his sons buried him[34] are they not arranged in the order of their wisdom? What we have to say is that the fact of the text placing Isaac first shows that Ishmael made way[35] for him, and from the fact that he made way for him we infer that he repented in Abraham's lifetime.

Our Rabbis taught: There were three to whom the Holy One, blessed be He, gave a foretaste

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(1) [V. Lewysohn, Zoologie des Talmuds, p. 115.]

(2) V. Lewysohn, op. cit., p. 111 .

(3) Job XXXIV, 3 5.

(4) Since it simply says ‘without knowledge’ but not ‘with wickedness’.

(5) Ibid. II, II.

(6) On which a portrait of each was engraved, and if trouble came upon any one of them, the portrait changed.

(7) Gen. VI, 1.

(8) Because girls are married earlier than boys.

(9) Like his cattle. V. Job XLII, 22.

(10) Lit., ‘in names

(11) Job XL, 13, 24.

(12) Lit., ‘horn of pigment’.

(13) [In Nehardea.]

(14) A kind of antelope.

(15) Palestine. [By this expression R. Jose b. Haninah is meant. V. San. 17b.]

(16) Because it is blackish.

(17) This is according to the reading of Rashi, *כבורכמא דרישקא. Tosaf., however, reads כבוחלא דרישקא pigment made from saffron’, which had a specially beautifying effect on the skin. In this case the name Keren-Happuch will mean, ‘the gloss of pigment’.

(18) Jer. IV, 30.

(19) Whether a daughter is a blessing or not.

(20) Gen. XXIV, 1.

(21) [A variant rendering: ‘He possessed an astrological instrument’. Current texts have ‘in his heart’ — Tosef. Kid. V, reads ‘in his hand’. V. Bacher, Agada der Tanaiten, I, 200.]

(22) Lit., ‘the potentates . . . used to attend early at his gate’.

(23) This implies that he had broken loose, v. infra.

(24) Gen. XXV, 29.

(25) I.e., not cleft, like other kinds of pulse.

(26) Which have no cleft, but are not perfectly round.

(27) Gen. XXV, 29.

(28) Deut. XXII, 27.

(29) Jer. IV, 31.

(30) Ex. XV, 2.

(31) Of which it is written, And all flesh gave up the ghost (wa-yigwa’), Gen. VII, 21.

(32) Gen. XXV, 17.

(33) Ibid. 9.

(34) Ibid. XXXV, 29.

(35) Lit., ‘made him lead’.

of the future world while they were still in this world, to wit, Abraham, Isaac, and Jacob. Abraham [we know] because it is written of him, [The Lord blessed Abraham] in all,[1] Isaac, because it is written, [And I ate] of all;[2] Jacob, because it is written, [For I have] all.[3] Three there were over whom the evil inclination[4] had no dominion, to wit Abraham, Isaac and Jacob, [as we know] because it is written in connection with them, in all, of all, all.[5] Some include also David, of whom it is written, My heart is wounded within me.[6] And the other authority? — He understands him to be referring here to his distress.

Our Rabbis taught: Six there were over whom the Angel of Death had no dominion,[7] namely, Abraham, Isaac and Jacob, Moses, Aaron and Miriam. Abraham, Isaac and Jacob we know because it is written in connection with them, in all, of all, all;[8] Moses, Aaron and Miriam because it is written in connection with them [that they died] By the mouth of the Lord.[9] But the words ‘by the month of the Lord’ are not used in connection with [the death of] Miriam? — R. Eleazar said: Miriam also died by a kiss, as we learn from the use of the word ‘there’ [in connection both with her death] and with that of Moses.[10] And why is it not said of her that [she died] by the month of the Lord? — Because such an expression would be disrespectful.[11]

Our Rabbis taught: There were seven over whom the worms had no dominion, namely, Abraham, Isaac and Jacob, Moses, Aaron and Miriam, and Benjamin son of Jacob. Abraham, Isaac and Jacob [we know] because it is written of them, ‘in all, of all, all’: Moses, Aaron and Miriam because it is written in connection with them, By the mouth of the Lord. Benjamin son of Jacob, because it is written in connection with him, And to Benjamin he said, The beloved of the Lord, he shall dwell thereon[12] in safety.[13] Some say that David also [is included], since it is written of him, My flesh also shall dwell [in the grave] in safety.[14] The other, however, explains this to mean that he is praying for mercy.[15]

Our Rabbis taught: Four died through the counsel of the serpent,[16] namely, Benjamin son of Jacob, Amram the father of Moses, Jesse the father of David, and Kilab the son of David. We know this only from tradition in regard to all of them save Jesse the father of David, in regard to whom it is stated distinctly in the Scripture, as it is written, And Absalom set Amasa over the host instead of Joab. Now Amasa was the son of a man whose name was Isra the Israelite, that went in to Abigal the daughter of Nahash, sister to Zeruiah Joab's mother.[17] Now was she the daughter of Nahash? Was she not the daughter of Jesse, as It is written, And their [Jesse's sons’] sisters were Zeruiah and Abigail?[18] What it means therefore is, The daughter of him who died through the counsel of the serpent [nahash].

CHAPTER II

MISHNAH. A MAN SHOULD NOT DIG A PIT [IN HIS OWN FIELD] CLOSE TO THE PIT OF HIS NEIGHBOUR,[19] NOR A DITCH NOR A CAVE NOR A WATER-CHANNEL NOR A FULLER'S POOL,[20] UNLESS HE KEEPS THEM AT LEAST THREE HANDBREADTHS FROM HIS NEIGHBOUR'S WALL[21] AND PLASTERS [THE SIDES]. A MAN SHOULD KEEP OLIVE REFUSE,[22] DUNG, SALT, LIME, AND FLINT STONES AT LEAST THREE HANDBREADTHS FROM HIS NEIGHBOUR'S WALL[23] OR PLASTER IT OVER. SEEDS, PLOUGH FURROWS, AND URINE SHOULD BE KEPT THREE HANDBREADTHS FROM THE WALL. MILL — STONES SHOULD BE KEPT THREE HANDBREADTHS AWAY RECKONING FROM THE UPPER STONE, WHICH MEANS FOUR FROM THE LOWER STONE. AN OVEN SHOULD BE KEPT THREE HANDBREADTHS RECKONING FROM THE FOOT OF THE BASE,[24] WHICH MEANS FOUR FROM THE TOP OF THE BASE.

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(1) Ibid. XXIV, 1 .
(2) Ibid. XXVII, 33.
(3) Ibid. XXXIII, 11.
(4) [On the evil inclination, v. Porter, F.C. , The Yezer Hara’, A Study in the Jewish doctrine of Sin.]
(5) Which shows that they were completely righteous.
(6) Ps. CIX, 22.
(7) But they died by a ‘kiss’.
(8) And therefore they did not lack this final honour.
(9) Num. XXXIII, 38; Deut. XXXIV, 5.
(10) Num. XX, I, and Deut. XXXIV, 5.
(11) If used in connection with a female.
(12) I.e., rest in the grave in reliance on that love.
(13) Deut. XXXIII, 12. E.V. ‘the beloved of the Lord shall dwell in safety by him’.
(14) Ps. XVI, 9.
(15) In which case we translate, ‘may my flesh dwell etc.’
(16) The counsel given by the serpent to Eve, which brought death on all mankind, and not for any sin they themselves committed. [The reference is to physical death only and is thus not to be confused with the doctrine of ‘original sin’ involving the condemnation of the whole human race to a death that is eternal.]
(17) II Sam. XVII, 25.
(18) I Chron. II, 16.
(19) For fear of loosening the sides. On the terms בור (pit), שיח (ditch), מערה (cave), v.B.K.V.
(20) A shallow pool for soaking and washing soiled linen.
(21) I.e., the side of the pit, v. infra.
(22) The refuse from olives which have been pressed for oil.
(23) A mud wall which might be injured by the proximity of these articles, v. infra.
(24) Ovens were fixed not on the ground but on a sort of platform narrower at the top than the bottom. According to another interpretation we should translate, ‘three from the belly of the oven, which means four from the rim,’ the ovens being in shape like earthenware jars swelling in the middle; v. Tosaf.

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GEMARA. The Mishnah [in the first sentence] begins by speaking of the neighbour's PIT and finishes by speaking of his WALL. [How is this]? — Said Abaye [or according to others Rab Judah]: The word WALL must here be understood to mean the wall [i.e. side] of his pit. But still why does not the Mishnah say, ‘but he should keep them at least three handbreadths from his neighbour's pit’?[1] — The use of the word WALL teaches us that the wall of the pit must itself be three handbreadths thick.[2] This ruling has a practical bearing on cases of sale, as it was taught: If a man says to another, ‘I will sell you a pit and its walls,’ the wall must be not less than three handbreadths thick.

It has been stated: If a man desires to dig a pit close up to the boundary [between his field and his neighbour's]. Abaye says he may do so and Raba says he may not do so. Now in a field where pits would naturally be dug,[3] both agree that he may not dig close up. Where they differ is in the case of a field where pits would not naturally be dug; Abaye says he may dig, because it is not naturally a field for digging pits [and therefore his neighbour is not likely to want to dig one on the other side]. while Raba says he may not dig; because his neighbour can say to him, ‘Just as you have altered your mind and want to dig, so I may alter my mind and want to dig.’ Others report [this argument as follows]: In the case of a field where pits would not naturally be dug, both [Abaye and Raba] agree that he may dig close up to the boundary. Where they differ is in the case of a field where pits would naturally be dug. Abaye says that in such a field the owner may dig, and would be allowed to dig even by the Rabbis who lay down that a tree must not be planted within twenty-five cubits of a pit;[4] for they only rule this because at the time of planting the pit already exists, but here when the man comes to dig the pit there is no pit on the other side. Raba on the other hand says that he may not dig, and would not be allowed to dig even by R. Jose. who laid down that [in all circumstances] the one owner can plant within his property and the other dig within his;[4] for he only rules thus because at the time when the former plants there are as yet no roots which could damage the pit, but in this case the owner of the other field can say to the man who wants to dig the pit, ‘Every stroke with the spade which you make injures my ground.’

We learnt: A MAN SHOULD NOT DIG A PIT CLOSE TO THE PIT OF HIS NEIGHBOUR. [From this it appears that] the reason [why he must not dig] is because there is another pit in existence, but if there is not, then he may dig. Now this would be in order if we accept the version [of the argument reported above] according to which Abaye and Raba agree that in a field where pits would not naturally be dug the owner may dig close up to the boundary; we may then interpret the Mishnah to speak of a field where pits would not naturally be dug.[5] If, however, we accept the version according to which Abaye and Raba differ in regard to a field where pits would not naturally be dug, then, while the Mishnah is in order according to the ruling of Abaye,[6] it presents a difficulty [does it not], according to that of Raba? — Raba could reply to you: It has already been reported in this connection that Abaye [or it may be Rab Judah] said that the word WALL in the Mishnah means ‘the wall of his pit’.[7]

Others report this discussion as follows. [The Mishnah says that a man should not dig a pit close to the pit of his neighbour,] and it has been reported in this connection that Abaye [or it may be Rab Judah] said that WALL here must be explained to mean the wall [side] of his neighbour's pit. Now all will be in order if we accept the version of Abaye and Raba's argument according to which in a field where pits would naturally be dug both agree that he should not dig close to the boundary; for in this case we explain the Mishnah [also] to refer to a field where pits would naturally be dug.[8] If, however, we take the version according to which Abaye and Raba differ in regard to a field where pits would naturally be dug, while the Mishnah is in order according to the ruling of Raba, it presents a difficulty [does it not], according to that of Abaye? — Abaye might reply that the Mishnah speaks of the case where both owners want to dig at the same time.[9]

Come and hear: If the soil at the boundary is of crumbling rock[10] and the one owner wants to dig a pit on his side and the other owner on his side, the one keeps three handbreadths away from the boundary and plasters the sides of his pit, and the other does likewise?’[11] Crumbling rock is different. But how could the questioner have raised the question at all?[12] The questioner thought that the same law would apply to ordinary soil, but that it was necessary to specify the rule about crumbling rock, as otherwise I might think that, since it is crumbling [i.e. soft] rock, an even greater space was required for it. Now the Baraitha tells us [that it is not so].

Come and hear: A MAN SHOULD KEEP OLIVE REFUSE, DUNG,

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(1) We suppose the neighbour's pit to commence three handbreadths from the boundary on his side. Hence if we were to understand the word ‘pit’ here to mean the hollow of the pit, the other would still be able to dig right up to the boundary. We should therefore have to understand ‘pit’ to mean ‘the side of the pit’, and so there is no need to substitute the word ‘wall’.

(2) Because we understand the Mishnah to mean, ‘he must keep the hollow of his pit three handbreadths from the side of the other's pit’, i.e., three from the boundary, which are filled by the side of his own pit. This is the explanation of Rashi, and is apparently forced. Tosaf, greatly simplifies the passage by omitting the sentence, ‘But still why . . . neighbour's pit’ (or, alternatively, by inserting it after ‘speaking of his wall’). The explanation would then be as follows: Abaye says that he must keep his pit three handbreadths from the side of his neighbour's pit (which presumably comes up to the boundary), and we infer from this that the neighbour also must not dig his pit close up to the boundary; whereas if the word ‘pit’ had been used, we should not have been able to infer this.

(3) E.g., a field requiring irrigation.

(4) Lest the roots spread and injure the pit, v. infra 25a.

(5) And there is no contradiction between the Mishnah and Abaye and Raba.
(6) Who said he may dig so long as there is no pit on the other side.
(7) Which implies that, even if there is no pit on the other side, the pit itself must be kept three handbreadths from the boundary to allow space for the wall (i.e. side).
(8) V. p. 3 n. 2.
(9) For then certainly each would have to keep three handbreadths away.
(10) Lit. 'a rock that comes (to pieces) in the hands.'
(11) Tosef. B.B.I. From this I infer that even if there is no pit on the other side, the first pit has to be kept three handbreadths away, which is contrary to the opinion of Abaye.
(12) I.e., the answer being so obvious, what was his idea in asking such a question?

Talmud - Mas. Baba Bathra 18a

SALT, LIME, AND FLINT STONES AT LEAST THREE HANDBREADTHS FROM HIS NEIGHBOUR'S WALL OR PLASTER THEM OVER. The reason is that there is a wall, but if there is no wall he may bring these things close up to the boundary?[1] — No; even if there is no wall, he still may not bring them close up. What then does the mention of the 'WALL' here tell us? — It tells us that these things are injurious to a Wall.

SEEDS, PLOUGH FURROWS AND URINE SHOULD BE KEPT THREE HANDBREADTHS FROM THE WALL. The reason is that there is a wall, but if there is no wall he may bring these things close up to the boundary? — No; even if there is no wall he may not bring them close up. What then does the mention of the 'WALL here tell us? — It tells us that moist things are bad for a wall.

Come and hear: MILL-STONES SHOULD BE KEPT AT A DISTANCE OF THREE HANDBREADTHS RECKONING FROM THE UPPER STONE, WHICH MEANS FOUR FROM THE LOWER STONE. The reason is that there is a wall, and if there is no wall he may bring them close up? — No; even if there is no wall, he may not bring them close up. What then does this tell us? — It tells us that the shaking [caused by turning the millstones] is bad for the wall.

Come and hear: AN OVEN SHOULD BE KEPT AWAY THREE HANDBREADTHS RECKONING FROM THE FOOT OF THE BASE, WHICH MEANS FOUR FROM THE TOP OF THE BASE. The reason is that there is a wall, but if there is no wall he may bring it close Up? — No; even if there is no wall he may not bring it close up. What then does this tell us? — That the heat [from the oven] is bad for the wall.

Come and hear: A man may not open a bakery or a dyer's workshop under another person's storehouse[2] nor make a cowshed there.[3] The reason is that there is a storehouse there, but if there is no storehouse, he may, [may he not]?[4] — A place where persons can live[5] is different. This is indicated by the Baraitha taught in connection with this Mishnah: 'If the cowshed was there before the granary, he is permitted to keep it.'[6]

Come and hear: A man should not plant a tree nearer than four cubits to his neighbour's field. Now it has been taught in reference to this that the four cubits here mentioned are to allow space for the work of the vineyard.[7] The reason then is that there should be space for the work of the vineyard. but were it not for this he would be allowed to plant close up, [would he not,] although the tree has roots which can injure the other's field?[8] — We are dealing here with the case where there is a piece of hard rock between.[9] This is further indicated by the fact that the passage goes on: 'If there is a fence between,[10] each one can plant close up to the fence on his own side.'[11] If that is so,[12] what do you make of the next clause: 'If the roots of his tree spread into his neighbour's field, he may cut them out to a depth of three handbreadths, so that they should not impede the plough'?[11] Now if there is hard rock between, how can the roots get there? — What the passage means is this: If there is no hard rock between and the roots spread into his neighbour's field, then he may cut them out to a depth of three handbreadths, so as not to impede the plough. Come and hear: A tree [in one man's field] must be kept twenty five cubits from a pit [in another man's field]. The reason is that there is a pit; if there is no pit, he may plant close up? — No; even if there is no pit he may not plant close up, and this statement teaches us that up to twenty-five cubits the roots are liable to spread and injure the pit. If that is so, what do you make of the next clause: ‘If the tree was there already, he is not required to cut it down’? Now if he may not plant close up, how can you apply this statement?[13] — As R. papa said in another connection, ‘in the case of a purchase;’[14] so here, in the case of a purchase.[15]

Come and hear: Water in which flax is steeped must be kept at a distance from vegetables. and leeks from onions, and mustard from a beehive.[16] The reason is that there are vegetables there; otherwise he may bring them close up [to the boundary]?-No; even if there are no vegetables he may not bring them close up, and what this statement teaches us is that these things are bad for one another. If that is so, what of the next clause: R. Jose declares it permissible in the case of mustard; [and it has been taught in reference to this, that the reason is][17] because the sower can say to his neighbour. ‘Just as you can tell me to remove my mustard from your bees, I can tell you to remove your bees from my mustard, because they come and eat the stalks of my mustard plants’?[18]

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(1) Tosaf, asks here, how can we argue from these things to a pit, seeing that they do not injure the soil, and Raba might well allow them to be brought close up while disallowing the pit? The answer given is (a) that they also make the soil on the other side less suitable for a pit; (b) that it may be inconvenient for the man who wants to dig the pit to wait till they have been removed. The same would apply to the next three difficulties raised by the Gemara, which are all addressed to Raba.

(2) An upper storey for storing corn, wine and oil. The reason is that the heat from the bakery or the smoke from the workshop is bad for them.

(3) Because the smell is bad for the things above, v. infra 25b.

(4) Tosef. B.B. I. Notwithstanding that the owner of the upper storey might subsequently decide to turn it into a storehouse. Similarly in the case of the pit, we should think that it may be dug close up to the boundary so long as there is not a pit on the other side.

(5) Because all these places can be used for human habitation; hence we do not forbid them on account of a problematical damage which may arise from them.

(6) Whereas in the case of the lime, etc., it does not say that it is permitted to keep them there. This is taken by Raba as an indication that a cowshed, as well as similar places that can be used for human habitation (v. Tosaf.), is on a different footing from the lime, etc.

(7) To plough round it or to stand the waggon at harvest time. This applies not only to a vine but to any tree, only the passage quoted happens to speak of vines.

(8) Similarly the pit should be allowed to be dug close up to the boundary, although it may injure the land on the other side. The argument is again against Raba.

(9) Which would prevent the roots from spreading. Hence there is no analogy between this case and that of the pit.

(10) Which makes it impossible for the one working in his vineyard to trespass on the field of the other. According to another reading (which seems preferable), we should translate: ‘Come and hear: If there is a fence . . . on his side.’ — Here too we assume that there is hard rock between.

(11) Infra 26a.

(12) I.e., that there is hard rock between.

(13) If, on the other hand, it was planted there illegally, why should it not be cut down?

(14) V. infra.

(15) I.e., if a man planted a tree in his field and then sold half of the field, not containing the tree, and the purchaser dug a pit within 25 cubits of the tree, the original owner is not required to cut it down.

(16) Infra 25a. Rashi explains that the bees taste the mustard and then eat their honey to take away the sharpness.

(17) The bracketed part is omitted in our printed texts.

(18) And you are as liable to damage me as I am you.

Talmud - Mas. Baba Bathra 18b

Now if a man is not allowed to bring these things close up to the boundary, in what conditions could such a remark be made?[1] R. Papa answered: In the case of a purchaser.[2] But if we are speaking of a purchaser, what reason have the Rabbis for prohibiting?[3] Also, why does R. Jose permit only in the case of the mustard? Why not the water and the leeks also? — Rabina replied: The Rabbis hold that it is incumbent on the one who inflicts the damage to remove himself.[4] We may infer from this that in the opinion of R. Jose it is incumbent on the one who suffers the damage to remove himself, and if that is so, then he should permit flax — water to be placed close to vegetables?[5] — The truth is that R. Jose also holds that it is incumbent on the one who inflicts the damage to remove himself, and he argued with the Rabbis as follows: I grant you are right in the case of the flax water and the vegetables, because the former harms the latter but not vice versa, but the case is different with bees and mustard, because both are harmful to one another. What have the Rabbis to say to this?-That bees do no harm to mustard; the grains they cannot find, and, if they eat the leaves, they grow again.

But does R. Jose in fact hold that it is incumbent on the one who inflicts the damage to remove himself? Have we not learnt: ‘R. Jose says: Even if the pit was there before the tree, the tree need not be cut down, because the one owner digs in his property and the other plants in his’?[6] — The truth is that R. Jose holds it to be incumbent on the one who suffers the damage to remove himself, and here he was arguing with the Rabbis on their own premises. thus: ‘In my view the one who suffers the damage has to remove himself, and therefore in this case it is not necessary to remove even the flax-water from the vegetables. But on your view that the one who inflicts the damage must remove himself, I grant you are right in the case of the flax-water and the vegetables, because the former injures the latter but not vice-versa. But this does not apply to bees and mustard, where both injure one another.’ To which the Rabbis can reply that bees do not injure mustard; the grains

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(1) I.e., the man who says this virtually admits that the other had a perfect right to bring his bees close up to the boundary before he sowed his mustard.

(2) I.e., after he placed flax — water or sowed mustard in his field, he sold the other half, and the purchaser sowed vegetables or put a beehive close to the boundary. But otherwise, according to Raba, the mustard and the bees would have to be removed from the boundary.

(3) Why should the seller have to remove his bees or mustard, seeing that when he placed them there he was perfectly within his rights?

(4) I.e. the article causing the damage. Hence, since the seller's property is causing the damage he must remove it, although he had a right to place it there at first. Rabbenu Tam here adopts the reading of R. Han. אלא אמר רבינא "The truth is." said Rabina. . ., Rabina's answer would then not be in support of Raba, but would involve the abandonment of all the defences made on behalf of Raba above, and an admission that, according to the Rabbis, such articles as lime, tree roots, etc. can be brought close up to the boundary so long as there is at the time nothing to injure on the other side, the only exception being the pit, because the digging of it injures the soil on the other side.

(5) And the owner of the former can say to the owner of the latter, ‘It is for you to remove them if they are being injured.’

(6) Infra 25b.

Talmud - Mas. Baba Bathra 19a

they cannot find, and the leaves grow again.

NOR A FULLER'S POOL. R. Nahman said in the name of Rabba b. Abbuha: The three handbreadths mentioned here apply only to the soaking pool,[1] but the washing pool must be kept four cubits from the wall.[2] We find this also taught [in a Baraitha]: The fuller's pool must be kept four cubits away. But did we not learn, THREE HANDBREADTHS? — This shows [that the Mishnah must be understood] as R. Nahman has explained. Some put this statement in the form of a contradiction [which is afterwards reconciled,] thus: We learnt A FULLER'S POOL MUST BE KEPT THREE HANDBREADTHS AWAY. But does not a Baraitha say four cubits? — Said R. Nahman in the name of Rabbah b. Abbuha: There is no contradiction. The Mishnah speaks of the soaking pool and the Baraitha of the washing pool. R. Hiyya the son of R. Awia added a gloss to this effect to the Mishnah itself: 'Unless he removes the edge of the soaking pool three handbreadths from the wall.'

AND PLASTER THE SIDES. The question was raised: Is the proper reading of the Mishnah 'and plaster' or 'or plaster'?-Obviously 'and plaster' is the proper reading, for if the Mishnah meant to say 'or', then the first two clauses could have been run into one.[3] But possibly ['or' is after all the right reading, and the reason why the two clauses are not combined is because] they are not in the same category. the damage in one case arising from moisture[4] and in the other from steam?[5] — Come and hear: R. Judah says. If there is crumbling rock between the two properties, each owner can dig a pit on his own side and each must keep away from the boundary three handbreadths and plaster his pit.[6] The reason is [is it not,] that the soil between is crumbling, but otherwise there is no need to plaster?[7] — No. This is the rule even if the soil is not crumbling; he still has to plaster.[8] The case of crumbling soil, however, is specified, because otherwise I might have thought that with crumbling soil a greater distance still was required. Now he teaches us [that this is not so].

OLIVE REFUSE, DUNG, SALT, LIME AND FLINT STONES SHOULD BE KEPT, etc. We have learnt in another place:[9] In what materials may food be kept warm [for the Sabbath] and in what may it not be kept warm? It may not be kept warm in olive refuse or in dung or in salt or in lime or in sand,[10] whether moist or dry. Why is it that here flint stones are included in the list and not sand, and there sand is included and not flint stones? — R. Joseph answered: Because it is not usual to keep food warm in flint stones. Said Abaye to him: And is it usual to keep food warm in woollen fleeces and strips of purple wool? And yet [these are mentioned in] a Baraitha which says: 'Food may be kept warm in woollen fleeces and strips of purple wool and fluff, but these things must not be carried on Sabbath.' No, said Abaye. The truth is that, his neighbour telleth concerning him.[11] The Mishnah here mentions flint stones, and the same rule applies to sand, and there it mentions sand and the same rule applies to flint stones. Said Raba to him: If his neighbour telleth concerning him, should not the Mishnah mention the whole list in one place and only one item in the other, allowing us to understand that the same rule applies to the rest? No, said Raba. The reason why flint stones are not mentioned in connection with Sabbath is because they are liable to crack the pot .[12] and the reason why sand is not mentioned here is because while it makes hot things hotter, it makes cold things colder.[13] But R. Oshiah included sand in his Baraitha[14] [in the list of things that have to be kept away from the boundary]? — He was speaking of things which produce moisture. Then why should our Tanna also not include it on the ground of its producing moisture? — He has mentioned specifically A DITCH.[15] Yet in spite of mentioning a ditch he also mentions A FULLER'S POOL?[16] — Both of these required to be specified. For if he had mentioned only a ditch. I should have said that this was because it was a fixture, but I should not have included a fuller's pool which is not a fixture.[17] And if he had mentioned a fuller's pool. I should have said that this was because its waters are stagnant. but I should not have included a ditch [which has running water]. Hence both were necessary.

SEEDS AND PLOUGH FURROWS ARE KEPT AWAY etc. Cannot seeds be inferred from plough furrows? — Seeds can be dropped without ploughing. Cannot plough furrows be inferred from seeds?[18] Ploughing can be done for trees.[19] Cannot both be inferred from water?[20] — The Tanna is speaking of Eretz Yisrael, of which it is written, it drinketh water of the rain of heaven.[21] Our Mishnah would imply that seeds

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(1) A pool in which the dirty linen was soaked two or three days before washing.
(2) Because of the splashing.
(3) Viz., the clause about the pit. etc., and the clause about the olive refuse, etc., where we have ‘or cement’, the damage there being too slight to require both plastering and removal to a distance, v. Tosaf. 17a. וסד
(4) From the water in the pit. etc.
(5) From the olive refuse, etc.
(6) Supra 17b.
(7) And we therefore read in the Mishnah, ‘or plaster’.
(8) And we therefore read, ‘and plaster’.
(9) Shab. 47b.
(10) All things which give of a steam.
(11) Job XXXVI 33; ‘v’: E. V. ‘noise’ is rendered here ‘friend’, companion’; i.e. one passage elucidates the other.
(12) Or ‘make rusty’. They are therefore not used at all, whereas purple wool is used sometimes.
(13) And therefore does not injure a wall.
(14) The Tosefta of R. Oshiah.
(15) And this can include all things that give off moisture.
(16) And therefore he should specify (moist) sand as well.
(17) Since the fuller may abandon it after a time.
(18) Because ploughing is only for the sake of sowing.
(19) Ploughing the ground under trees was supposed to improve them.
(20) Trees and seeds require watering; hence their prohibition could have been inferred from that of moisture.
(21) Deut. XI, 21. And therefore seeds are sown and trees planted in fields where there is no irrigation; hence their prohibition had to be mentioned separately.

Talmud - Mas. Baba Bathra 19b

spread their roots; how is it then that we have learnt. ‘If a man bends over the bough of a vine and plants it in the earth, if there are not three handbreadths of earth over it he must not sow seed on it’[1] and to this a gloss was added in a Baraitha ‘but he may sow all round it’?[2] R. Hagga answered in the name of R. Jose: The reason here [in the case of the wall] is because the seeds break up the soil and bring up loose earth [and not because they spread].

AND URINE MUST BE REMOVED THREE HANDBREADTHS etc. Rabbah b. Bar Hana said: It is permissible for a man to make water on the side of another man's wall, as it is written, And I will cut off from Ahab one that pisseth against the wall and him that is shut up and him that is left at large in Israel.[3] But did we not learn, URINE MUST BE KEPT THREE HANDBREADTHS FROM THE WALL? — This refers to slop water. Come and hear: A man should not make water on the side of another man's wall, but should keep three handbreadths away. This is the rule for a wall of brick, but if the wall is of stone. he need keep away only so far as not to do any damage. How much is this? A handbreadth. If the wall is of hard stone, it is permitted.[4] Does not this confute the dictum of Rabbah b. Bar Hana? — It does. But Rabba b. Bar Hana based himself on the Scripture? — The meaning of the verse is this: ‘Even a creature whose way is to piss against a wall I will not leave him. And what is this? A dog.’[5] R. Tobi b. Kisna said in the name of Samuel: A thin wafer does not narrow a window space.[6] Why a thin one? The same can be said even of a thick one? — The Rabbi gave an extreme instance. It goes without saying in the case of a thick cake that since it is fit for food the owner does not mentally ignore its existence, [and therefore it does not narrow the window space]; but with a thin one, since it soon becomes uneatable,[7] I might think that he does ignore its existence. Therefore R. Tobi tells us [that even a thin cake does not narrow the window space]. Cannot this be derived from the fact that a wafer is a thing which is capable of becoming [ritually] unclean, and the rule is that anything which is capable of becoming ritually unclean cannot form a partition to prevent the passage of uncleanness?[8] — We assume the wafer in this case to have been kneaded with fruit juice.[9]

An objection [to the rule as stated above] was raised: If a basket full of straw or a jar full of dry figs is placed in a window space, then we decide as follows. If when the basket and the jar are taken away the straw and the figs can stand by themselves, then they form a partition, but if not, they do not.[10] Now straw is fit for the food of animals?[11] — We speak here of straw which has become mouldy. But it is fit for making clay? — We speak of straw which has thorns in it. But it is fit for fuel? — We speak of damp straw. Even so it can be used on a big fire? — A big fire is something uncommon. But figs are fit to eat?[12] — Samuel replied: We speak of figs which have bred worms. (So Rabbah b. Abbuha also explained: We speak of figs which have bred worms.) How are we to picture this jar? If its mouth faces outwards,[13]

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(1) Kil. VII, 1.

(2) Which shows that the roots do not spread, otherwise they would form kilayim (v. Deut. XXII, 9).

(3) I Kings XXI, 21.

(4) Tosef. B.B. 1.

(5) This section seems to be an interpolation, having no connection with the subject in hand.

(6) If a dead body is in a room between which and an adjoining room there is an opening of a handbreadth square or more, the uncleanness spreads to the adjoining room unless the opening is reduced to the dimension of less than a handbreadth square by means of something which is not useful for any other purpose.

(7) Because it soon becomes mouldy through contact with the wall.

(8) Hence there would appear to be no point in stating the rule.

(9) And such a wafer is not subject to uncleanness like one kneaded with water, wine, or oil.

(10) Oh. VI. 2.

(11) And yet it is allowed to form a partition.

(12) And yet they are allowed to form a partition.

(13) I.e., towards the second room, with no dead body in it.

Talmud - Mas. Baba Bathra 20a

it forms itself a partition, because an earthenware vessel does not communicate uncleanness from its outside? —[1] We suppose therefore that its mouth is turned inwards.[2] Or if you like I can say that its mouth is turned outwards, and here we are speaking of a jar of metal.[3] A [further] objection was raised [against the rule from the following]: Grass which has been plucked up and placed in the window or which has grown there of itself, rags less than three-by-three handbreadths,[4] a limb or flesh hanging from an animal, a bird nesting in the window, a non-Jew sitting in the window or a child born at the eighth month which has been placed there, salt, an earthenware vessel, or a scroll of the Law-all these narrow the window space.[5] On the other hand, snow, hail, ice, hoar frost and water do not narrow the window space.[6] Now ‘grass’ is food for cattle?[7] — We speak here of poisonous grass.[8] ‘Or which has grown there’ of itself — will it not be removed as injurious to the wall?[9] — Rabbah said: We speak here of the wall of a ruin. R. papa said: The rule applies even to the wall of an inhabited place. where the grass springs up from more than three handbreadths distance from the window.[10] ‘Rags’ are useful for mending clothes? — We speak of thick rags. These are useful for a blood-letter?[11] — We speak of sacking. If the Baraitha speaks of sacking, it should say ‘less than four by four,’[12] not ‘three by three’? — It means, rough like sacking. ‘A limb or flesh hanging from an animal.’ Will not the animal go away? — We suppose it to be tied. But it can be killed [for food]? — We suppose it to be an unclean animal. In that case it can be sold to a non-Jew? — We suppose it to be too scraggy. In that case he can cut off the limb and throw it to the dogs? — As this would cause pain to a living creature, he would not do so. ‘A bird-nesting in the window’ — will it not fly away? — We suppose it to be tied. Then he will kill it [for food]? — We suppose it to be unclean. Then he will sell it to a non — Jew? — We suppose it to be a kallanitha.[13] Then he will give it to a child? — It will scratch. A kallanitha does not scratch? — We mean, as scraggy as a kallanitha. ‘A non-Jew[14] sitting in the window' — will he not get up and go? — We suppose him to be tied there. Then some one will come and untie him? — We suppose him to be leprous. Another leper will come and loosen him? — We suppose he is a prisoner of the Government. Or 'a child born in the eighth month[15] placed in the window.' Will not its mother come and lift it up? — We assume it is on the Sabbath, [when she may not lift him], as it was taught: A child born at eight months is on a par with a stone and may not be carried on Sabbath, but his mother may bend over him and give him suck for the sake of her health.[16] 'Salt' is useful? — We speak of bitter salt. This is useful for preparing skins [for tanning]? — We suppose there are thorns in it. But since it is injurious to the wall it will be taken away? — We suppose it to be resting on a piece of earthenware. But this itself will form a partition? —

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(1) I.e., it does not communicate uncleanness from the room where the dead body is to the adjoining room, and therefore it should form a partition.

(2) Towards the room where the dead body is. and through its mouth it communicates uncleanness to the adjoining room.

(3) Which is liable to communicate uncleanness from its outside as well as inside.

(4) I.e., too small to be themselves capable of receiving uncleanness.

(5) And so can serve to prevent the uncleanness from penetrating into the next room.

(6) Tosef. Oh. XIV.

(7) Why then should it be reckoned as narrowing the window space?

(8) Heb. Afrazta. St. John's wort.

(9) And since it is liable to be removed at any moment, we should count it as non-existent.

(10) In which case it is not injurious to the wall and is not likely to be removed.

(11) For staunching the blood or wiping away stains.

(12) Because for the purposes of being subject to uncleanness, the minimum size of sacking is four handbreadths by four, not three by three as in the case of cloth.

(13) An unknown bird, which obviously must have been very scraggy.

(14) A non-Jew is not subject to uncleanness.

(15) A child born at eight months is not considered viable and thus is not subject to uncleanness.

(16) Lit. 'danger', arising from an undue pressure of milk in her breasts.

Talmud - Mas. Baba Bathra 20b

We speak of a piece which has no size to speak of, [and may even be carried on Sabbath]. as we have learnt: A piece of earthenware [which must not be carried on Sabbath] must be big enough to put between one window post and another.[1] 'An earthenware vessel' is it not useful? — We suppose it to be dirty. It is still useful for a blood-letter [to collect the blood]? — We suppose it has a hole in it. 'A scroll of the Law' can serve for reading the Law? — We suppose the scroll to be worn out.[2] Then it ought to be stored away?[3] — That is the place where it is stored away.

Rab said: A partition may be made with anything save salt[4] and grease.[5] Samuel said: Even with salt. R. papa said: There is no conflict between them [Rab and Samuel] — One speaks of salt of Sodom and the other of salt of Istria.[6] Seeing. however, that Rabbah has said that a man may set up two piles of salt and place a beam over them [to make an alley-way],[7] because the salt keeps the beam in place and the beam keeps the salt in place, even the salt of Istria may be used for this purpose, and still there is no conflict between Rab and Samuel, because one speaks of the case where there is a beam and the other of the case where there is not.

MILL-STONES SHOULD BE KEPT AT A DISTANCE OF THREE HANDBREADTHS RECKONING FROM THE UPPER STONE WHICH MEANS FOUR FROM THE LOWER STONE. What is the reason for this? Because of the shaking. But was it not taught: Millstones fixed on a base[8] must be kept three handbreadths from the casing which means four from the sieve. Now what shaking is there there?[9] — We must say then that the reason is because of the noise.

AN OVEN MUST BE KEPT THREE HANDBREADTHS RECKONING FROM THE FOOT OF THE BASE ETC. Abaye said: We learn from this that the base of an oven projects [normally] one handbreadth This has a practical bearing on questions of sale.[10]

MISHNAH. AN OVEN SHOULD NOT BE FIXED IN A ROOM UNLESS THERE IS ABOVE IT AN EMPTY SPACE OF AT LEAST FOUR CUBITS.[11] IF IT IS FIXED IN AN UPPER CHAMBER. THERE MUST BE UNDER IT PAVED FLOORING[12] AT LEAST THREE HANDBREADTHS THICK.[13] FOR A SMALL STOVE[14] ONE HANDBREADTH IS ENOUGH. IF IN SPITE OF THESE PRECAUTIONS DAMAGE IS CAUSED, THE OWNER OF THE OVEN MUST PAY FOR THE DAMAGE. R. SIMEON, HOWEVER, SAID THAT ALL THESE LIMITATIONS WERE ONLY LAID DOWN WITH THE IDEA THAT IF AFTER OBSERVING THEM HE STILL CAUSES DAMAGE, HE IS NOT LIABLE TO PAY. A MAN SHOULD NOT OPEN A BAKERY OR A DYER'S WORKSHOP UNDER HIS NEIGHBOUR'S STOREHOUSE,[15] NOR A COWSHED. IN POINT OF FACT[16] THE RABBIS PERMITTED [A BAKERY OR DYER'S WORKSHOP TO BE OPENED] UNDER WINE,[17] BUT NOT A COWSHED.

GEMARA. [THERE MUST BE UNDER IT PAVED FLOORING AT LEAST THREE HANDBREADTHS etc.] But has it not been taught that there must be four handbreadths under an [ordinary] oven and three under a small oven? — Said Abaye: This refers to the ovens of bakers, for our large oven is like their small one.

A MAN SHOULD NOT OPEN A BAKERY etc. A Tanna taught: If the cowshed is there before the storehouse,[18] it may be opened.

Abaye raised the following questions: If [the owner of the upper room] has cleared out and swept[19] [the room] in preparation for a storehouse [but has not yet placed any produce there], what is the ruling?[20] If he has opened out a number of windows[21] there, what is the ruling? [If there is an exedra[22] under the storehouse. what is the ruling?][23] If he builds a room on the roof,[24] what is the ruling? — These questions must stand over. R. Huna the son of R. Joshua asked: If he stores there figs and pomegranates.[25] what is the ruling? — This question also must stand over. IN POINT OF FACT THE RABBIS PERMITTED IN THE CASE OF WINE etc. A Tanna taught: They declared it permissible in the case of wine because [the smoke][26] improves it, while they forbade a cowshed because [the smell] spoils it. R. Joseph said: Our wine is adversely affected even by the smoke of a lamp. R. Shesheth said: Cropped corn[27] is on the same footing as a cowshed.[28] MISHNAH. IF A MAN DESIRES TO OPEN A SHOP IN A COURTYARD, HIS NEIGHBOUR MAY PRESENT HIM ON THE GROUND THAT HE WILL NOT BE ABLE TO SLEEP THROUGH THE NOISE OF PEOPLE COMING AND GOING. A MAN, HOWEVER, MAY MAKE ARTICLES IN THE COURTYARD TO TAKE OUT AND SELL IN THE MARKET, AND HIS NEIGHBOUR CANNOT PREVENT HIM ON THE GROUND THAT HE CANNOT SLEEP FROM THE NOISE OF THE HAMMER OR OF THE MILL-STONES[29] OR OF THE CHILDREN.[30]

GEMARA. Why is the rule in the second case not the same as in the first?[31] — Abaye replied: The second clause must refer to [a man in] another courtyard. Said Raba to him: If that is so, the Mishnah should say. ‘In another courtyard it is permissible’? — No, said Raba:

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(1) Shab. 82a. It was usual to place potsherds between the posts of a window-space at the top and the bottom and to plaster them with mud so as to support the wall.

(2) And therefore it cannot be used for the synagogue reading.

(3) Because it was forbidden to destroy scrolls of the Law.

(4) Because it crumbles.

(5) Because it melts.
(6) A town in Pontus. The salt of Sodom was thick and hard. [v. Krauss op. cit. I. 499ff.]
(7) In which things may be carried on Sabbath.
(8) Lit., 'ass'.
(9) According to Rashi, such millstones are small and light, and would not cause any shaking.
(10) I.e., if an oven is sold without specification, it is understood that the base is to project a handbreadth.
(11) So that the flames should not catch the ceiling.
(12) Usually made of stone chippings. clay etc.
(13) So that it should not burn the woodwork underneath.
(14) Heb. Kirah, כירה, a portable stove with accommodation for two pots.
(15) V. supra 182.
(16) באמת On this term, v. B.M. 60a.
(17) Because smoke does not injure wine, v. infra.
(18) I.e., before the room above is actually used as a storehouse. v. p. 92 nn. 1,2.
(19) Lit., 'sprinkled' (the floor).
(20) I.e., do these preparations in themselves constitute the room a storehouse?
(21) Presumably for letting in air to keep the corn fresh.
(22) V. supra p. 55.
(23) This apparently means that a bakery is opened in the exedra under the storeroom, as it is difficult to imagine an exedra being actually built under an upper storey. The whole clause is suspect. and is omitted in some editions. V. Bah and R. Gershom; H.M. 255.
(24) Lit., an upperstorey on top of his house'. Such places were normally used for storerooms. [Maimonides (Yad. Shekenim, IX, 13) renders: 'If the owner of the bakery made an extra floor within his shop' so that the upper part could be used as a storeroom.]
(25) Does this count as a storeroom, or do we call a storeroom only one where corn, wine and oil are kept?
(26) So Rashi; but according to Tosaf. (18a, s. v. לא the heat is referred to, not the smoke.
(27) Corn cut before it has grown to any height and used for fodder.
(28) Because it emits an evil smell which injures the wine stored above.
(29) This is one among many instances of the preference shown by the Rabbis to industry over trade.
(30) This would naturally refer to the noise made by children coming to buy from the shop. and so would seem to contradict the first clause. Hence the question of the Gemara which immediately follows.
(31) V. preceding note.

Talmud - Mas. Baba Bathra 21a

the concluding words refer to school children, from the time of the regulation of Joshua b. Gamala,[1] of whom Rab Judah has told us in the name of Rab: Verily the name of that man is to be blessed, to wit Joshua ben Gamala, for but for him the Torah would have been forgotten from Israel. For at first if a child had a father, his father taught him, and if he had no father he did not learn at all. By what [verse of the Scripture] did they guide themselves? — By the verse, And ye shall teach them to your children.[2] laying the emphasis on the word 'ye'.[3] They then made an ordinance that teachers of children should be appointed in Jerusalem. By what verse did they guide themselves? — By the verse, For from Zion shall the Torah go forth.[4] Even so, however, if a child had a father, the father would take him up to Jerusalem and have him taught there, and if not, he would not go up to learn there. They therefore ordained that teachers should be appointed In each prefecture,[5] and that boys should enter school at the age of sixteen or seventeen. [They did so] and if the teacher punished them they used to rebel and leave the school. At length Joshua b. Gamala came and ordained that teachers of young children should be appointed in each district and each town. and that children should enter school at the age of six or seven.

Rab said to R. Samuel b. Shilath:[6] Before the age of six do not accept pupils; from that age you can accept them. and stuff them with Torah like an ox. Rab also said to R. Samuel b. Shilath: When you punish a pupil, only hit him with a shoe latchet.[7] The attentive one will read [of himself]. and if one is inattentive. put him next to a diligent one.[8]

An objection was raised [from the following against the answer of Raba]: 'If a resident in a courtyard desires to become a Mohel. a blood-letter, a tanner, or a teacher of children, the other residents can prevent him?'[9] — The reference here is to a teacher of nonjewish children.[10]

Come and hear: If two persons live in a courtyard and one of them desires to become a Mohel, a blood-letter, a tanner, or a teacher of children, the other can prevent him! — Here too the reference is to a teacher of non-Jewish children.

Come and hear: If a man has a room in a courtyard which he shares with another, he must not let it either to a Mohel, or bloodletter, or a tanner, or a Jewish teacher[11] or a non-Jewish teacher! — The reference here is to the head teacher of the town [who superintends the others].[12]

Raba said: Under the ordinance of Joshua ben Gamala. children are not to be sent [every day to school] from one town to another,[13] but they can be compelled to go from one synagogue to another [in the same town]. If, however, there is a river in between, we cannot compel them. But if, again. there is a bridge, we can compel them — not, however, if it is merely a plank.

Raba further said: The number of pupils to be assigned to each teacher is twenty-five. If there are fifty, we appoint two teachers. If there are forty, we appoint an assistant, at the expense of the town.

Raba also said: If we have a teacher who gets on[14] with the children and there is another who can get on better, we do not replace the first by the second, for fear that the second when appointed will become indolent.[15] R. Dimi from Nehardea, however, held that he would exert himself still more if appointed: 'the jealousy of scribes increaseth wisdom.'[16]

Raba further said: If there are two teachers of whom one gets on fast but with mistakes and the other slowly but without mistakes, we appoint the one who gets on fast and makes mistakes, since the mistakes correct themselves in time. R. Dimi from Nehardea on the other hand said that we appoint the one who goes slowly but makes no mistakes, for once a mistake is implanted it cannot be eradicated. This can be shown from the Scripture. It is written, For Joab and all Israel remained there until he had cut off every male in Edom.[17] When Joab came before David, the latter said to him:

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(1) A High Priest in the decade before the destruction of the Temple.

(2) Deut. XI, 19.

(3) V. Tosaf.

(4) Isa. II, 3.

(5) The district under an 'Eparchas', which might be either a town or a province.

(6) V. supra p. 38.

(7) I.e., do not hurt him too much.

(8) So that he will listen and gradually become studious.

(9) Because all these have a great many visitors who cause a good deal of noise.

(10) Instruction by whom does not come within the enactment of Joshua b. Gamala.

(11) Heb. sofer סופר generally meaning 'scribe', is here taken to denote 'teacher' (Rashi). Tosaf., however, translates 'townscribe', to whom people come to have their documents written. R. Gershom renders 'hair-dresser', as though the original were ספר

(12) And who therefore has an exceptionally large number of visitors.

(13) For fear they may come to harm on the way, but any parent can compel the community of his town to appoint a teacher.

(14) Lit., 'reads', viz., the prayers or the Scripture.

(15) Having no competitor to fear.

(16) I.e., the jealousy of the one who has been replaced will be a stimulus to the other not to disgrace himself.

(17) 1 Kings XI, 16.

Talmud - Mas. Baba Bathra 21b

Why have you acted thus [i.e. killed only the males]? He replied: Because it is written, Thou shalt blot out the males [zekar] of Amalek.[1] Said David: But we read, the remembrance [zeker][2] of Amalek? He replied: I was taught to read zekar.[3] He [Joab] then went to his teacher and asked: How didst thou teach me to read? He replied: Zeker. Thereupon he drew his sword and threatened to kill him. Why do you do this? asked the other. He replied: Because it is written, Cursed be he that doeth the work of the Lord negligently.[4] He said to him: Be satisfied that I am cursed.[5] To which Joab rejoined: [It also says]. Cursed be he that keepeth back his sword from blood.[6] According to one report he killed him; according to another, he did not kill him.

Raba further said: A teacher of young children, a vine-dresser, a [ritual] slaughterer, a blood-letter, and a town scribe are all liable to be dismissed immediately[7] [if inefficient]. The general principle is that anyone whose mistakes cannot be rectified[8] is liable to be dismissed immediately [if he makes one].

R. Huna said: If a resident of an alley sets up a handmill and another resident of the alley wants to set up one next to him, the first has the right to stop him, because he can say to him, ‘You are interfering with my livelihood.’ May we say that this view is supported by the following: ‘Fishing nets must be kept away from [the hiding-place of] a fish [which has been spotted by another fisherman] the full length of the fish's swim.’ And how much is this? Rabbah son of R. Huna says: A parasang?’ — Fishes are different, because they look about [for food].[9]

Said Rabina to Raba: May we say that R. Huna adopts the same principle[10] as R. Judah? For we have learnt: R. Judah says that a shopkeeper should not give presents of parched corn and nuts to children, because he thus entices then, to come back to him. The Sages, however, allow this! — You may even say that he is in agreement with the Rabbis[11] also. For the ground on which the Rabbis allowed the shopkeeper to do this was because he can say to his rival, Just as I make presents of nuts so you can make presents of almonds;[12] but in this case they would agree that the first man can say to the other. ‘You are interfering with my livelihood.’[13]

An objection was raised [against Rab Huna's ruling from the following:] ‘A man may open a shop next to another man's shop or a bath next to another man's bath, and the latter cannot object. because he can say to him, I do what I like in my property and you do what you like in yours?’ — On this point there is a difference of opinion among Tannaim, as appears from the following Baraitha: ‘The residents of an alley can prevent one another from bringing in[14] a tailor or a tanner or a teacher or any other craftsman,[15] but one cannot prevent another[16] [from setting up in opposition].’ Rabban Simeon b. Gamaliel, however, says that one may prevent another.[17]

R. Huna the son of R. Joshua said: It is quite clear to me that the resident of one town can prevent the resident of another town [from setting up in opposition in his town] not, however, if he pays taxes to that town — and that the resident of an alley cannot prevent another resident of the same alley [from setting up in opposition in his alley].[18] R. Huna the son of R. Joshua then raised the question: Can the resident of one alley prevent the resident of another [from competing with him]?[19] — This must stand over.

R. Joseph said: R. Huna agrees that a teacher cannot prevent [another teacher from setting up in the same alley], for the reason mentioned,

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(1) Deut. XXV, 19.
(2) זכר-voweled=zaycher
(3) זכר voweled=z'char
(4) Jer. XLVIII. 20, The ‘negligence’ consisted in the fact that his teacher had allowed him when a boy to read zekar without correcting him (v. Tosaf.).
(5) Lit., ‘Leave this man that he may abide in the curse.’
(6) Ibid.
(7) Lit., ‘Are constantly under warning.’
(8) E.g.. a slaughterer who made the animal trefa, or a bloodletter who caused the death of his patient, or a scribe who made a mistake in a scroll of the Law.
(9) Hence the fisherman who knows where the hole is places bait within the fish's swim, and if another does this he is poaching on the preserves of the first. But this cannot be said of one who sets up an opposition mill,
(10) Viz,, that one man must not interfere with another's livelihood.
(11) I.e., the Sages just quoted.
(12) And therefore I am not interfering with your chances,
(13) And therefore must not set up next to me.
(14) I.e., from letting an apartment to.
(15) If there is already one in the court.
(16) Lit., ‘his neighbour’.
(17) R. Huna is thus in agreement with R. Simeon b. Gamaliel.
(18) According to the view of the Rabbis just given.
(19) Would the Rabbis put him on the same footing as a resident of the same alley or not?

Talmud - Mas. Baba Bathra 22a

that ‘the jealousy of scribes increaseth wisdom’.

R. Nahman b. Isaac said: R. Huna the son of R. Joshuah also agrees that itinerant spice-sellers cannot prevent one another from going to any given town, because, as a Master has stated, Ezra made a rule for Israel that spice-sellers should go about from town to town so that the daughters of Israel should be able to obtain finery. This, however, only means that they are at liberty to go from house to house [in the strange town], but not to settle there. If, however, the seller is a student, he may settle also, a precedent having been set by Raba in allowing R. Josiah and R. Obadiah to settle, in despite of the rule. The reason he gave was that, as they were Rabbis, they would be disturbed in their studies [if they had to return to their own town].

Certain basket-sellers brought baskets to Babylon [to sell]. The townspeople came and stopped them, so they appealed to Rabina. He said, ‘They have come from outside and they can sell to the people from outside.’[1] This restriction, however, applied only to the market day, but not to other days; and even on the market day only for selling in the market, but not for going round to the houses.

Certain wool-sellers brought wool to Pum Nahara. The townspeople tried to stop them from selling it. They appealed to Rab Kahana, who said, ‘They have a perfect right to stop you.’ They said, ‘We have money owing to us here.’ ‘If so.’ he replied. ‘you can go and sell enough to keep you till you collect your debts, and then you must go.

R. Dimi from Nehardea brought a load of figs in a boat. The Exilarch said to Raba, ‘Go and see if he is a scholar, and if so, reserve the market for him.’[2] So Raba said to R. Adda b. Abba, ‘Go and smell his jar.’[3] The latter accordingly went out and put to him the following question: ‘If an elephant swallows an osier basket and passes it out with its excrement,is it still subject to uncleanness?’[4] He could not give an answer. ‘Are you Raba?’ he asked R. Adda. The latter tapped him on his shoes and said, ‘Between me and Raba there is a great difference, but at any rate I can be your teacher, and so Raba is the teacher of your teacher.’ They did not reserve the market for him, and so his figs were a dead loss. He appealed to R. Joseph. saying: ‘See how they have treated me.’ He said to him, ‘He who did not delay to avenge the wrong done to the king of Edom will not delay to avenge the wrong done to you. as it is written, Thus saith the Lord, For three transgressions of Moab, yea for four I will not turn away the punishment thereof; because he burned the bones of the king of Edom into lime.’[5] Shortly afterwards R. Adda b. Abba died. R. Joseph said: It is through me that he has been punished.[6] because I cursed him. R. Dimi from Nehardea said: It is through me that he has been punished. because he made me lose my figs. Abaye said: It is through me[7] that he has been punished. because he used to say to the students, ‘Instead of gnawing bones in the school of Abaye. why do you not eat fat meat in the school of Raba?’[8] Raba said: It is through me that he has been punished, because when he went to the butcher's to buy meat he used to say to the butchers, ‘Serve me before the servant of Raba, because I am above him.’ R. Nahman b. Isaac said: It is through me that he has been punished. How was this? R. Nahman b. Isaac was the regular preacher [on Sabbaths]. Every time before he went to give his discourse,[9] he used to run over it with R. Adda b. Abba; and only then would he attend the Kallah. One day R. Papa and R. Huna the son of R. Joshua got hold of R. Adda b. Abba because they had not been present at the concluding discourse [of Raba on the tractate Bekhoroth],[10] and said to him: Tell us how Raba discussed the law of the ‘Tithing of cattle.’[11] He then gave them a full account of Raba's discourse.[12] Meanwhile dusk had set in and R. Nahman b. Isaac was still waiting for R. Adda b. Abba. The Rabbis said to him: Come, for it is late; why do you still sit, Sir? He said:I am waiting for the bier of R. Adda b. Abba. Soon after the report came that R. Adda b. Abba was dead. The most likely opinion is that R. Nahman b. Isaac was the cause of his punishment.[13] MISHNAH. IF A MAN HAS A WALL RUNNING ALONGSIDE HIS NEIGHBOUR'S WALL, HE SHOULD NOT BRING ANOTHER WALL ALONGSIDE UNLESS HE KEEPS IT [AT LEAST] FOUR CUBITS AWAY.[14] IF THERE ARE WINDOWS [IN THE NEIGHBOUR'S WALL]. HE MUST LEAVE A CLEAR SPACE OF FOUR CUBITS WHETHER ABOVE OR BELOW OR OPPOSITE.[15]

GEMARA. [HE SHOULD NOT BRING ANOTHER WALL etc.] How came the first wall to be close up?[16] — Rab Judah said: The Mishnah must be understood as follows:

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(1) People who had come into Babylon from other towns.

(2) So that no one else should sell till he has disposed of his stock.

(3) To see whether the wine is good; i.e. test his scholarship.

(4) I.e., is it regarded as being still a basket or as excrement. (5) As if to say that he would do better to go further.

(5) Amos II, 1.

(6) By an untimely death.

(7) For the insult offered to me.

(8) Where the teaching is so much superior.

(9) Heb. kallah, v. Glos.

(10) According to another interpretation given by Rashi: ‘Because they had not been present at the meeting when R. Nahman was appointed the official preacher.’

(11) Name of the last chapter of Tractate Bekhoroth.

(12) Lit., ‘He said to them: Thus said Raba and thus said Raba.’

(13) According to Tosaf., each of these Rabbis lamented the fact that through him punishment had befallen R. Adda b. Abba, because of the dictum (Shab. 249). ‘Whoever is the cause of punishment befalling his fellow man is not permitted within the inner circle of the Holy One, blessed be He.’

(14) The meaning of this is discussed in the Gemara which follows.

(15) The reason is given in the Gemara, infra.

(16) The point of this question apparently is that the first wall also ought to have been four cubits away.

Talmud - Mas. Baba Bathra 22b

Talmud - Mas. Baba Bathra 22b

If a man wants to build a wall alongside of his neighbour's wall, he must not do so unless he keeps it [at least] four cubits away. Raba strongly objected to this, on the ground that it says. IF A MAN [ALREADY] HAS A WALL RUNNING ALONGSIDE OF HIS NEIGHBOUR'S WALL. No, said Raba: what it means is this: If a man had a wall running alongside of his neighbour's wall at a distance of four cubits and it falls down, he must not bring another wall alongside unless he keeps it four cubits away[1] . the reason being that the treading of the earth between [by foot passengers] is good for the walls [on both sides].[2] Rab said: This Mishnah applies only to the wall of a vegetable garden,[3] but [if] the wall [is that] of a courtyard, he may bring [his wall] as close to it as he likes. R. Oshiah, however, said: It makes no difference whether it is a vegetable garden or a courtyard. he must not bring his wall closer to it than four cubits. R. Jose b. Hanina says: There is no conflict between Rab and R. Oshiah; the former speaks of [a courtyard in] an old town[4] and the latter of [one in] a new one.[5] We learnt: IF THERE ARE WINDOWS [IN THE NEIGHBOUR'S WALL] HE MUST LEAVE A CLEAR SPACE OF FOUR CUBITS, WHETHER ABOVE OR BELOW OR OPPOSITE; and in a Baraitha commenting on this it is stated that a space must be left ‘above’ so that he should not be able to peep into the other one's room, and ‘below’ so that he should not stand on tiptoe and look in, and opposite’ so that he should not take away his light. The reason then [why the second wall must be kept away from the first] is that he should not take away his light. and not, as you say, that the ground between should be trodden?[6] — Here [in the Baraitha] we are dealing with a wall which runs at right angles to the first wall.

How far [must such a wall be kept away so as not to take away the other's light]?[7] — R. Yeba the father-in-law of Ashian b. Nidbak said in the name of Rab: The breadth of a window. But cannot he still look through?[8] — R. Zebid says: We presume that he makes the top of the wall slope.[9] But does not our Mishnah say. [at least] four cubits? — There is no contradiction: in the one case the wall running at right angles is on one side [only of the window].[10] in the other [there are walls at right angles] on both sides [of the window].[11] Come and hear: The wall must be kept away from the [neighbour's] roof-gutter four cubits, so as to allow room for setting a ladder.[12] The reason, it appears, is that there may be room for a ladder, but not that there may be room for treading? — Here we are dealing with an overhanging gutter,[13] where there is no need to make allowance for treading, because there is room to walk under the gutter. MISHNAH. A LADDER MUST BE KEPT AWAY FROM A PIGEON COTE FOUR CUBITS SO THAT A WEASEL SHOULD NOT BE ABLE TO SPRING [FROM THE LADDER ON TO THE COTE]. THE WALL MUST BE KEPT FOUR CUBITS FROM THE [NEIGHBOUR'S] ROOF-GUTTER SO AS TO ALLOW ROOM FOR SETTING A LADDER.[14]

GEMARA. Shall I say that the Mishnah does not concur with R. Jose. who has laid down that ‘the one may dig [a pit where he likes] in his property. and the other may plant [a tree where he likes] in his property’?[15] — You may say that even R. Jose would concur with the Mishnah here. For R. Ashi has told us that ‘when we were with R. Kahana, he said to us that R. Jose admitted that a man was responsible for the damage of which he is the cause.’[16] Here too, it may happen that while the man is setting the ladder the weasel is sitting in a hole close by and jumps on to it. But here he is merely the indirect cause? Said R. Tobi bar Mattanah: This is equivalent to saying that it is prohibited to cause damage indirectly, [even where the damage, if caused, need not be paid for].

R. Joseph had some small date trees

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(1) Tosaf. points out that this would imply that according to Raba the second wall must be four cubits away only if the first was also, which is incorrect.

(2) By strengthening the foundations.

(3) Because there is no treading from the inside.’

(4) Where the ground has already been well trodden.
(5) Where the ground still requires treading; hence a space must be left between the walls.
(6) And therefore if there are no windows he need not leave a space.
(7) This question has reference to the Baraitha just mentioned, where no exact measurements are mentioned.
(8) If the second wall is not considerably higher than the first.
(9) So that he cannot stand or sit on it.
(10) And therefore a small space is sufficient to let in light.
(11) And therefore a space of full four cubits is required.
(12) In case he wants to climb up to the gutter to clean it. V. next Mishnah. [This interpretation follows Rashi; for other explanations, v. H.M. Tur and Beth Joseph 154.]
(13) Which projects from the roof over the neighbouring courtyard.
(14) V. p. 113. n. 7.
(15) Whereas here the man may not place the ladder where he likes in his own property. V. infra 25b, and supra 17b.
(16) Lit., 'for his arrows', i.e., for damage resulting from an action which is in itself legitimate.

Talmud - Mas. Baba Bathra 23a

under which cuppers used to sit [and let blood], and ravens used to collect to suck up the blood, and they used to fly on to the date trees and damage them. So R. Joseph said to the cuppers. 'Take away your croakers from here.' Said Abaye to him, 'But they are only the indirect cause?' — He replied: 'R. Tobi bar Mattanah has expressly said: This is equivalent to saying that it is prohibited to cause damage indirectly.' But [R. Joseph] had given them a right [to let blood under the trees]?[1] — R. Nahman has said in the name of Rabbah b. Abbuha; There is no legal title to things causing damage.[2] But are we not told in a gloss on this statement that R. Mari says it refers [for instance] to smoke, and R. Zebid to a privy?[3] — Said R. Joseph to him, 'I am very sensitive, and these ravens are as offensive to me as smoke or a privy.'

MISHNAH. A PIGEON COTE MUST BE KEPT FIFTY CUBITS FROM A TOWN.[4] A MAN SHOULD NOT PUT UP A PIGEON COTE ON HIS OWN ESTATE UNLESS THERE IS A CLEAR SPACE OF FIFTY CUBITS ALL ROUND. R. JUDAH SAYS, THE SPACE SHOULD BE SUFFICIENT FOR THE SOWING OF FOUR KOR,[5] WHICH IS AS MUCH AS A BIRD FLIES AT A TIME. IF, HOWEVER, HE BUYS IT [FROM ANOTHER] WITH ONLY THE SPACE FOR SOWING A QUARTER OF A KAB ROUND IT,[6] HE HAS A RIGHT TO KEEP IT.

GEMARA. No more than fifty cubits? — Does not this contradict the following: 'Snares may be spread for pigeons only at a distance of thirty ris[7] from a Yishub [town or village]'?[8] — Abaye replied: pigeons cover much ground. but they eat their fill within fifty cubits of their starting point. And do they fly no further than thirty ris?[9] Has it not been taught: 'Where there are towns and villages. nets should not be spread even within a hundred miles'? — R. Joseph said: This means, where there is a succession of vineyards;[10] Raba said: It means, where there is a succession of pigeon cotes.[10] Then should not the prohibition be laid down because of the pigeon cotes themselves?[11] — If you like I can answer that they [the intermediate cotes] belong to [the man who sets the snares] himself; and if you like that they belong to heathens[12] , and if you like that they are no-one's property.

R.JUDAH SAYS THE SPACE SHOULD BE SUFFICIENT FOR THE SOWING OF FOUR ..... HE HAS A RIGHT etc. R. papa [or, according to others, R. Zebid] said: This implies that the Beth Din may plead the cause[13] of an heir and may plead the cause of a purchaser. But we have already learnt the rule about the heir in the following statement: 'He who claims [a property] qua heir has no need to plead [that his father bought the property]'?[14] — The point of R. Zebid's statement lies in the reference to the purchaser. But in regard to the purchaser also we have learnt that 'if a man buys a courtyard in which are beams and balconies projecting over the main thoroughfare, he has a legal right to retain them'?[15] — Both statements are necessary. For if I had only the statement regarding the main thoroughfare to go by, I should say that the reason there [for allowing the right to stand] is because the courtyard had been originally drawn back from the main thoroughfare [to allow room for the projection], or that the public had waived its right[16] [to have them removed] in his favour, but this reason would not apply here [to the pigeon cote]. And if I had only the statement here, I would say that the reason is because, having only an individual to deal with, the owner obtained his consent, or that the other waived his right in his favour, but in the case of the public, who is there to consent and who is there to allow? Hence both statements are required.

HE HAS A RIGHT TO KEEP IT. But has not R. Nahman said in the name of Rabbah b. Abbuha that there is no legal title to things which cause damage? — R. Mari replied that this applies to such a thing as smoke; R. Zebid, to such a thing as a privy.[17] MISHNAH.

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(1) Either (a) by allowing them to do so for three years without protest. or (b) by selling them the ground under the trees. V. Tosaf.

(2) Cf. infra p. 116

(3) Which are both irritating and offensive.

(4) So that the pigeons should not eat the seeds of the vegetable gardens, or those spread on the roofs (Tosaf.).

(5) I.e. one Beth-Kor on each side. A Beth.Kor (space for the sowing of a kor) = 7500 square cubits.

(6) About 105 square cubits.

(7) About four miles.

(8) For fear that he may snare pigeons belonging to others. V. B.K. 79b.

(9) This question has reference to the rule about snares, not to the rule about dovecotes.

(10) So that the birds can fly from one to another.

(11) And not because of the pigeons of a town.

(12) V. B.K. Mishnah 37b. (Sonc. ed.).

(13) I.e., if a man inherits a property from his father and another man claims it, if it is proved that the father occupied it for three years, the Beth-Din can plead on behalf of the heir that the father had originally bought it from the man, whereas they would not do so for the father, if he did not put forward the plea on his own account. Similarly with a man who has bought a field which is then claimed by a third party.

(14) Because, if the father has occupied it three years. the Beth-Din assume this without his pleading it. V. infra 410.

(15) Infra 60a. Which is exactly similar to the rule laid down here, that the purchaser has a right to retain the dovecotes. Why then should both statements be made?

(16) According to Tosaf., through the 'seven headmen of the town', the boni viri, at a public meeting.

(17) V. supra p. 115. n. 1. But a pigeon cote is in a different category.

Talmud - Mas. Baba Bathra 23b

A YOUNG PIGEON WHICH IS FOUND ON THE GROUND WITHIN FIFTY CUBITS FROM A COTE BELONGS TO THE OWNER OF THE COTE; IF FOUND BEYOND FIFTY CUBITS FROM THE COTE, IT BELONGS TO THE FINDER. IF IT IS FOUND BETWEEN TWO COTES IT BELONGS TO THE ONE TO WHOSE COTE IT IS NEARER. IF IT IS EXACTLY MIDWAY, THEY MUST SHARE IT.

GEMARA. R. Hanina says: If a case can be decided one way on the ground of 'majority' and another way on the ground of 'nearness',[1] we decide on the ground of 'majority'. And although the plea of 'nearness' equally with the plea of 'majority' derives its warrant from the Scripture,[2] yet the plea of 'majority' carries greater weight.

R. Zera questioned this. Scripture tells us, And it shall come to pass that the city nearest unto the slain man . . . [shall bring a heifer]. that is to say, even though there are other towns [in the vicinity] with a larger population? — We assume that there are none. But [if 'majority' is the decisive factor] why not take the biggest town anywhere? — Scripture speaks of a town surrounded by mountains.[3]

We learnt: A YOUNG PIGEON WHICH IS FOUND ON THE GROUND WITHIN FIFTY CUBITS OF A COTE BELONGS TO THE OWNER OF THE COTE; and this even though there may be a bigger cote in the neighbourhood? We assume that there is not. If that is so, then what of the next clause: IF FOUND BEYOND FIFTY CUBITS FROM THE COTE, IT BELONGS TO THE FINDER? Now if there are no other cotes in the neighbourhood, there can be no question that the bird comes from this one?[4] — Our Mishnah speaks [in the first clause] of a bird which can only hop. since Mar ‘Ukba has laid down that a bird which can only hop does not go further than fifty cubits.[5]

R. Jeremiah raised the question: If one foot is within fifty cubits and the other beyond. how do we decide? It was for this that they turned R. Jeremiah out of the Beth Hamidrash.[6] Come and hear: IF IT IS FOUND BETWEEN TWO COTES. IT BELONGS TO THE OWNER TO WHOSE COTE IT IS NEARER: and this though one may have more birds than the other? — We are dealing here with the case where both are equal. But [if it is more than fifty cubits from each] let us say that it comes from the biggest anywhere?[7] — We are dealing here

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(1) I.e., if a thing may conceivably belong to either of two categories, one of which is the more numerous, but the other in closer proximity; v. next note.

(2) The plea of ‘majority’ is derived from the words אחרי רבים להטות(Ex. XXIII, 2). which the Rabbis render (for purposes of halachah), ‘Incline judgment after a majority.’ i.e., according to the answer to the question. To what class do most things like this belong? The plea of ‘nearness’ is derived from the verse, And it shall come to pass that the city which is nearest etc. (Deut. XXI. 3)’ i.e., we decide according to the answer to the question. Where are the nearest examples of things of this kind? (in this case, potential murderers).

(3) So that the murderer would not naturally come to the spot from another town.

(4) Hence we cannot assume that there is no larger cote in the neighbourhood. and therefore the answer to the previous objection will not stand.

(5) Hence if it is found beyond 50 cubits it must have flown and may have come from ‘the biggest anywhere’, and therefore belongs to the finder.

(6) According to Rashi, because his question was regarded as foolish, but according to Tosaf., because he ventured to call in question the statement of the Rabbis that a young bird can hop only fifty cubits.

(7) And therefore belongs to the finder.

Talmud - Mas. Baba Bathra 24a

with a path between vineyards; for though [there is ground for saying that] it came from a distance. [because it is more than fifty cubits from a cote],[1] yet here, since it can only hop, it cannot have come from a distant cote, because a bird will only hop away from the cote so long as it can still see the cote on turning round, but no further.

Abaye said: We too know R. Hanina's rule[2] from the Mishnah. which says: ‘If blood[3] is found in the ‘anteroom’[4] and there is any doubt about its character, it is reckoned unclean, because it is presumed to be from the ‘source’[4] — notwithstanding the fact that there is an ‘upper chamber’[4] which is nearer. Said Raba to him: You are speaking of a case where there is ‘frequency’ as well as ‘majority’;[5] where there are both ‘frequency’ and ‘majority’ no one questions that they carry more weight than ‘nearness’.

R.Hiyya taught:[6] Blood found in the ‘anteroom’ renders [the woman] liable [for a sin-offering] if she enters the Sanctuary,[7] and terumah must be burnt on its account.[8] Raba remarked: From this statement of R. Hiyya three lessons may be derived. One is [that where we have to choose between] ‘majority’ and ‘nearness’, we decide on the ground of ‘majority’.[9] The second is that the rule of ‘majority’ derives its warrant from the Scripture. The third is that R. Zera was right when he laid down that [in the case of a piece of meat] we decide on the ground of ‘majority’ even though the town gates are closed,[10] because the case of the woman here is analogous to the case where the town gates are closed,[11] and even so we decide on the ground of ‘majority’. But was it not Raba himself who said that where ‘majority’ and ‘frequency’ were combined no one questioned that they carried more weight than ‘nearness’ [whereas here he says that ‘majority’ itself carries more weight]? — Raba retracted the objection he then made to Abaye.

It has been stated: If a barrel of wine is found floating on the river [Euphrates]. Rab says, if it is opposite a town where the majority of the inhabitants are Jews, the wine is permitted, and if opposite a town where the majority of the inhabitants are nonjews. the wine is prohibited. Samuel, however, says that even if it is found opposite a town where the majority of the inhabitants are Jews, it is prohibited, because it may be supposed to have come from Hai di-Kira.[12] May we say that the ground on which they join issue is the dictum of R. Hanina [that we follow the ‘majority’ in preference to ‘nearness’]. Samuel accepting it[13] and Rab not accepting it?[14] — No: both accept the dictum of R. Hanina. and the ground on which they join issue is this, that in the opinion of Rab. if the barrel had come from Hai di-Kira it would have been sunk or stuck in the bays[15] or shallows[16] of the river, whereas Samuel thinks that it can have been carried along by the force of the stream.

A barrel of wine [which had been stolen] was found in a vineyard which was ‘uncircumcised’,[17] and Rabina permitted the wine to be drunk. Shall we say it was because he held with R. Hanina?[18] -There was a different reason in that case, viz., that if the wine had been stolen from that vineyard it would not have been hidden there. This, however, applies only to wine, but [stolen] grapes might be hidden [in the same vineyard].

A number of flasks of wine were found between trunks of vines[19] [of a Jew] and Raba permitted the wine to be drunk.[20] Shall we say that he did not hold with R. Hanina?[21] — There was a different reason in that case, viz, that most

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(1) The vines having enabled it to hop further than it would otherwise be able to do.

(2) That ‘majority’ is the decisive factor.

(3) The reference is to a woman who finds on her body blood which may be either the blood of childbirth, and therefore clean, or the blood of an issue and therefore unclean. V. Lev. XV. 25.

(4) For an explanation of these terms. v. Niddah, ad init.

(5) I.e., although the blood might have come from the ‘upper chamber’ which is nearer, we yet presume it to have come from the ‘source’ where there is more blood and whence blood more frequently flows.

(6) Reading תני ר חייא v. Tosaf.

(7) Before due purification, because it is certainly unclean.

(8) I.e., if the woman touched the terumah in this unclean state.

(9) Since if we decided that the blood belongs to that category to which it is nearest, it would not render the woman liable to a sin-offering nor necessitate the burning of terumah.

(10) If there are ten butchers’ shops in a town of which nine sell ‘kosher’ meat and the tenth ‘trefa’, then if a piece of meat is found near the one which sells ‘trefa’ meat we still say, on the ground of ‘majority’, it is ‘kosher’, and this (R. Zera maintains) not only if the town gates are open so that there is a possibility of it having been brought in by Jews from outside, forming a ‘majority’, but even if they are closed, i.e., even if there is only one ‘majority’ and not two.

(11) In the fact that there is only one ‘majority’. viz. that the ‘majority’ of blood emanates from the source; v. Keth. 15a.

(12) [Ihi di-Kira, the modern Hit (v. Obermeyer. Die Landschaft Babylonien. 59ff.). A town in the North of Babylonia which was outside the Jewish settlement.]

(13) And so this barrel is prohibited. because most barrels are from non-Jews.

(14) And this barrel is permitted because it is near a Jewish town.

(15) Formed by protruding rocks.

(16) Formed by melting snows. This is Rashi's explanation. Others render ‘bends and inlets’, v. Aruch.

(17) I.e., had been planted less than three years. V. Lev. XIX. 23.

(18) And most wine is from vineyards of more than four years’ standing.

(19) [בי קופאין* or ‘at Be Kufai’, a village 4 parasangs west of Bagdad; v. Obermeyer; p. 267.]

(20) As being presumably Jewish and not Gentile wine.

(21) Deciding according to ‘nearness’ and not ‘majority’.

Talmud - Mas. Baba Bathra 24b

wine-bottlers were Jews.[1] And we only say this if the flasks are big ones,[2] but if they are small ones, we may argue that passers-by [non-Jews] let them drop. If, however, there are some big ones with them. we can say that the small ones were [merely] used as ballast. MISHNAH. TREES MUST BE KEPT AT A DISTANCE OF TWENTY-FIVE CUBITS FROM A TOWN; CAROBS AND SYCAMORE TREES[3] FIFTY CUBITS. ABBA SAUL SAYS THAT ALL WILD FRUIT TREES[4] MUST BE KEPT AT A DISTANCE OF FIFTY CUBITS. IF THE TOWN WAS THERE FIRST, THE TREE IS CUT DOWN[5] AND NO COMPENSATION IS GIVEN. IF THE TREE WAS THERE FIRST, IT IS CUT DOWN BUT COMPENSATION MUST BE GIVEN. IF THERE IS A DOUBT WHICH WAS FIRST, IT IS CUT DOWN AND NO COMPENSATION IS GIVEN.

GEMARA. [TREES MUST BE KEPT AT A DISTANCE etc.] What is the reason for this regulation? — ‘Ulla says. to preserve the amenities of the town.[6] But could we not derive this rule from the regulation[7] that suburb[8] must not be turned into cultivated field nor cultivated field into suburb? — The rule had to be stated here to meet the view of R. Eleazar, who said that cultivated field may be turned into suburb, and suburb may be turned into cultivated field; even on his view trees must not be planted [close to the town], so as not to spoil the amenities of the town. And the Rabbis too who said that a cultivated field may not be turned into suburb nor suburb into cultivated field, meant this to apply only to the sowing of vegetables but not to the planting of trees; yet here they too would prohibit on account of the amenities of the town. What ground have you for saying that there is a difference [in this respect] between vegetables and trees? — Because it has been taught: ‘If an enclosure, big enough to sow more than two se'ahs in, is fenced round for dwelling purposes, then if the greater part of it is sown with vegetables, it is reckoned as a vegetable garden and it is forbidden [to carry in it on Sabbath], but if the greater part of it is planted with trees it is reckoned as a courtyard and it is permissible [to carry in it on Sabbath].[9] IF THE TOWN WAS THERE FIRST, THE TREE IS CUT DOWN AND NO COMPENSATION IS GIVEN etc. Why in the analogous case of a pit is it laid down[10] that the owner may cut down the tree but must give compensation, whereas here it is cut down without compensation being given? — R. Kahana said: A pot with two cooks[11] is neither hot nor cold.[12] But what contradiction is there? perhaps a difference is made between injury to the public and injury to an individual?[13] — [We must therefore say that] if R. Kahana really made this remark, he meant it to apply to the next clause in the Mishnah: IF THE TREE WAS THERE FIRST, IT IS CUT DOWN BUT COMPENSATION MUST BE GIVEN [Regarding this we may ask.] Why cannot the owner of the tree say: Give me the money first and I will then cut it down? And it was in regard to this that R. Kahana answered: A pot with two cooks is neither hot nor cold.

IF THERE IS A DOUBT WHICH WAS FIRST, IT IS CUT DOWN WITHOUT COMPENSATION BEING GIVEN. Why in the analogous case of a pit is it laid down that he should not cut down the tree?[14] — In the case of the pit where, if the tree was certainly [there first]. it is not to be cut down, then if there is a doubt we also do not say to him ‘Cut it down.’ But in this case where even if the tree was certainly there first it has to be cut down, then if there is a doubt we also order him to ‘Cut it down.’[15] And if the question of compensation arises, we say to him: prove that it is yours[16] and you will be paid.

MISHNAH. A FIXED THRESHING-FLOOR MUST BE KEPT FIFTY CUBITS FROM A TOWN.[17] A MAN SHOULD NOT FIX A THRESHING-FLOOR ON HIS OWN ESTATE

UNLESS THERE IS A CLEAR SPACE ALL ROUND OF FIFTY CUBITS. HE MUST KEEP IT AWAY FROM THE PLANTATION OF HIS NEIGHBOUR AND HIS PLOUGHED FALLOW A SUFFICIENT DISTANCE TO PREVENT DAMAGE BEING CAUSED.[18]

GEMARA. Why this difference between the beginning and the end [of this Mishnah]?[19] — Abaye said: The last clause refers to a threshing-floor which is not fixed. What do you mean by a threshing-floor which is not fixed? — R. Jose said in the name of R. Hanina: One that does not require the use of a winnowing shovel.[20] R. Ashi [however], said: The last clause gives the reason for the first,[21] as much as to say: Why is a fixed threshing-floor kept fifty cubits away from a town? — To prevent it doing damage.

An objection [to Abaye's opinion] was raised from the following: ‘A fixed threshing-floor must be kept fifty cubits away from a town, and as it must be kept fifty cubits from a town, so it must be kept fifty cubits from a neighbour's cucumber and pumpkin fields, from his plantations and his ploughed fallow, to prevent damage being caused.’ This squares with the opinion of R. Ashi, but conflicts with that of Abaye[22] [does it not]? — [This indeed] is a difficulty. We can understand [why the threshing-floor must be kept away] from the cucumber and pumpkin fields, because the dust goes and penetrates into them and dries them up but [why should it be kept away] from the ploughed fallow? — R. Abba b. Zebid [or it may be R. Abba b. Zutra] replied:

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(1) And therefore the flasks were probably left there by Jews.

(2) And so evidently for sale. (13) To balance the panniers of the baggage asses.

(3) Which are very leafy.

(4) I.e., trees not usually planted in orchards.

(5) Lit., ‘He cuts it’. to be taken impersonally, and denoting the townsmen who have to pay the compensation.

(6) So as to leave a clear space outside the wall.

(7) ‘Ar. 33b.

(8) Or ‘open space’. Cf. Num. XXXV, 4.

(9) ‘Er. 23b. This shows that vegetables turn ground into a ‘field’, but trees do not.

(10) V. infra 25b.

(11) Lit., ‘partners’.

(12) If therefore compensation is to be given. every resident in the town will wait for some other to make the first move, and the eyesore will remain. V. Tosaf. s.v. מאי שנא.

(13) The former kind being regarded more seriously.

(14) V. infra 25b.

(15) I.e., in each case the rule where there is a doubt is the same as the rule where there is no doubt whether the tree was there first.

(16) I.e., that your tree was there first.

(17) On account of the chaff which flies about.

(18) This distance being presumably less than fifty cubits. Hence this rule apparently contradicts the preceding clause.

(19) V. note I.

(20) I.e., where only a small heap is placed which is winnowed by the wind itself without being lifted by a shovel.

(21) And the distance required there also is fifty cubits.

(22) Because it shows that there is no reason to take the last clause of the Mishnah, despite the phrase to prevent damage being caused’, as referring to a threshing-floor which is not fixed (v. Tosaf.).

Talmud - Mas. Baba Bathra 25a

Because it over-manures it.

MISHNAH. CARRION, GRAVES, AND TANYARDS MUST BE KEPT FIFTY CUBITS FROM A TOWN.[1] A TANYARD MUST ONLY BE PLACED ON THE EAST SIDE OF THE

TOWN. R. AKIBA, HOWEVER, SAYS IT MAY BE PLACED ON ANY SIDE EXCEPT THE WEST, PROVIDING IT IS KEPT FIFTY CUBITS AWAY. FLAXWATER[2] MUST BE KEPT AWAY FROM VEGETABLES AND LEEKS FROM ONIONS AND MUSTARD PLANTS FROM A BEEHIVE. R. JOSE. HOWEVER, DECLARES IT PERMISSIBLE [TO COME NEARER] IN THE CASE OF MUSTARD.

GEMARA. The question was asked: How are we to understand R. Akiba's ruling?[3] [Does he mean to say that] IT [a tanyard] MAY BE PLACED ON ANY SIDE, namely, be set close to the city, EXCEPT ON THE WEST, where also it may be set, but only at a distance of fifty cubits? Or IT MAY BE PLACED ON ANY SIDE . . . PROVIDING IT IS KEPT FIFTY CUBITS AWAY, EXCEPT ON THE WEST, where it must not be placed at all? — Come and hear: R. Akiba says: [A tanyard] may be set on any side at a distance of fifty cubits, save on the west side, where it must not be placed at all, because it is a constant abode.

Said Raba to R. Nahman: A constant abode of what? Shall I say of winds? How can this be, seeing that R. Hanan b. Abba has said in the name of Rab: Four winds blow every day and the north wind with all of them, for without this the world could not endure a moment. The south wind is the most violent, and were it not that the Son of the Hawk[4] stays it with his wings it would destroy the world, as it says, Doth the hawk soar by the wisdom, and stretch her wings towards the south?[5] — No; what it means is that it is the constant abode of the Shechinah.[6] For so said Joshua b. Levi: Let us be grateful to our ancestors[7] for showing us the place of prayer, as it is written, And the host of heaven worshippeth thee.[8] R. Aha bar Jacob strongly demurred to this [interpretation]. Perhaps, he said, [the sun and moon bow down to the east], like a servant who has received a gratuity from his master and retires backwards, bowing as he goes.[9] This [indeed] is a difficulty. R. Oshaia expressed the opinion that the Shechinah is in every place. For R. Oshaia said: What is the meaning of the verse, Thou art the Lord, even thou alone; thou hast made heaven, the heaven of heavens, etc.?[10] Thy messengers are not like the messengers of flesh and blood. Messengers of flesh and blood report themselves [after performing their office] to the place from which they have been sent, but thy messengers report themselves to the place to which they are sent, as it says. Canst thou send forth lightnings that they may go and say to thee, here we are.[11] It does not say, ‘that they may come and say,’ but ‘that they may go and say,’ which shows that the Shechinah is in all places. R. Ishmael also held that the Shechinah is in all places, since R. Ishmael taught: From where do we know that the Shechinah is in all places?[12] — Because it says. And behold, the angel that talked with me went forth, and another angel went out to meet him.[13] It does not say, ‘went out after him,’ but went out to meet him.’ This shows that the Shechinah is in all places. R. Shesheth also held that the Shechinah is in all places, because [when desiring to pray] he used to say to his attendant:[14] Set me facing any way except the east. And this was not because the Shechinah is not there, but because the Minim[15] prescribe turning to the east. R. Abbahu, however, said that the Shechinah is in the west; for so said R. Abbahu: What is the meaning of ‘Uryah’?[16] It is equivalent to avir Yah[17] [air of God].

R. Judah said: What is the meaning of the verse, My doctrine shall drop [ya'arof][18] as the rain?[19] This refers to the west wind which comes from the back [‘oref][20] of the world. My speech shall distil [tizzal][21] as the dew:[22] this is the north wind which makes gold flow,[23] and so it says: Who lavish [ha-zalim] gold from the purse.[24] As the small rain [se'irim][25] upon the tender grass:[26] this is the east wind which rages through the world like a demon [sa'ir].[27] And as showers upon the herb:[28] this is the south wind which brings up showers and causes the grass to grow.

It has been taught: R. Eliezer says that the world

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(1) Because of the bad smell.

(2) V. supra 18a.

(3) Lit., ‘how does R. Akiba say.’

(4) An angel so called.
(5) Job XXXIX. 26.
(6) Divine Presence, v. Glos.
(7) The 'Members of the Great Assembly', who handed down the Book of Nehemiah with this verse in it.
(8) Nehem. IX. 6. This would show that the sun and moon in the east bow down to the Shechinah which is in the west.
(9) I.e., the verse refers to the sun and moon at their setting and not at their rising, and hence the Shechinah is in the east.
(10) Nehem. IX, 6.
(11) Job XXXVIII. 35.
(12) [Cf. Ahelson, The Immanence of God in Rabbinic Literature, p. 208.]
(13) Zech. II,7.
(14) R. Shesheth was blind.
(15) Jewish sectaries, here probably a sect of Jewish fire-worshippers.
(16) אוריה from a Persian word meaning 'evening'. V. Levy, Worterbuck.
(17) אויר יה
(18) יערף
(19) Deut. XXXII, 2.
(20) ערף The West is called 'back' as opposed to the East, the Hebrew word for which (kedem) also means 'front'.
(21) תזל
(22) Deut. XXXII, 2.
(23) According to Rashi, because it dries up the produce and causes scarcity, so that corn has to be bought with money.
(24) Isa. XLVI, 6, tizzal, being taken from root zalal meaning both 'to flow' and 'to be cheap'.
(25) שעירים
(26) Deut. XXXII, 2.
(27) Lit., 'he-goat'. It was anciently believed that hegoats were possessed with demons. Cf. Zohar, on Lev. XVII.
(28) Deut. XXXII, 2.

Talmud - Mas. Baba Bathra 25b

is like an exedra,[1] and the north side is not enclosed, and so when the sun reaches the north-west corner, it bends back and returns [to the east] above the firmament. R. Joshua, however, says that the world is like a tent,[2] and the north side is enclosed, and when the sun reaches the north-west corner it goes round at the back of the tent [till it reaches the east], as it says. It goeth toward the south and turneth again toward the north, etc.:[3] 'it goes toward the south' — by day, and 'turneth again toward the north' — by night. It turneth about continually in its course and the wind returneth again to its circuits:[4] this refers to the eastern and western sides of the heaven, which the sun sometimes traverses and sometimes goes round.[5] He [R. Joshua] used to say: We have come round to the view of R. Eliezer,[6] [since we have learnt]: 'Out of the chamber cometh the storm:[7] this is the south wind; and from the scatterers cold:[8] this is the north wind.[9] By the breath of God ice is given:[10] this is the west wind: and the abundance of waters in the downpouring:[11] this is the east wind.' But it has just been stated by a Master that it is the south wind which brings showers and makes the grass grow? — There is no contradiction; when the rain falls gently [it is from the south], and when it falls heavily [it is from the east.] R. Hisda said: What is meant by the verse, Out of the north cometh gold?[12] This refers to the north wind which makes gold flow; and so it says: Who lavish [ha-zalim] gold from the purse.[13]

Rafram b. Papa said in the name of R. Hisda: Since the day when the Temple was destroyed the south wind has not brought rain, as it says. And he decreed on the right hand and there was hunger and he consumed on the left and they were not satisfied;[14] and it is written, North and right hand[15] thou hast created them.

Rafram b. Papa also said in the name of R. Hisda: Since the day when the Temple was destroyed, rain no longer comes down from the 'good storehouse', as it says. The Lord shall open up to thee his good treasure:[16] When Israel act according to the will of God and are settled in their own land, then rain comes down from a ‘good storehouse’, but when Israel are not settled on their own land, then the rain does not come down from a ‘good storehouse’.

R. Isaac said: He who desires to become wise should turn to the south [when praying], and he who desires to become rich should turn to the north. The symbol [by which to remember this] is that the table [in the Tabernacle] was to the north of the altar and the candlestick to the south.[17] R. Joshua b. Levi, however, said that he should always turn to the south, because through obtaining wisdom he will obtain wealth, as it says. length of days are in her [wisdom's] right hand, in her left hand are riches and honour.[18] But was it not R. Joshuah b. Levi who said that the Shechinah is in the west? — [He means that] one should turn partly to the south. Said R. Hanina to R. Ashi: Those like you who live to the north of Eretz Yisrael[19] should turn to the south. How do we know that Babylon is to the north of Eretz Yisrael? — From the scriptural verse, Out of the north evil shall break forth upon all the inhabitants of the land.[20]

FLAX-WATER MUST BE KEPT AWAY FROM VEGETABLES etc. A Tanna has taught: R. Jose holds it permissible in the case of mustard. because the owner can say to the other, ‘As well as you can tell me to remove my mustard from your bees, I can tell you to remove your bees from my mustard, because they come and eat the twigs of my mustard plants.’[21]

MISHNAH. A TREE MUST BE KEPT AWAY FROM A PIT [IN A NEIGHBOUR’ S FIELD] TWENTY-FIVE CUBITS — A SYCAMORE OR A CAROB FIFTY CUBITS;[22] IT MAKES NO DIFFERENCE WHETHER THE TREE IS ON HIGHER OR LOWER GROUND OR ON A LEVEL WITH THE PIT. IF THE PIT WAS THERE FIRST, THE OWNER CAN HAVE THE TREE CUT DOWN ON GIVING COMPENSATION. IF THE TREE WAS THERE FIRST, HE CAN NOT HAVE IT CUT DOWN. IF THERE IS A DOUBT WHICH WAS THERE FIRST, HE CANNOT HAVE IT CUT DOWN. R. JOSE, HOWEVER, SAYS THAT EVEN IF THE PIT WAS THERE BEFORE THE TREE THE OWNER CANNOT HAVE THE TREE CUT DOWN, BECAUSE THIS ONE DIGS IN HIS PROPERTY, THE OTHER PLANTS IN HIS.

GEMARA. A Tanna has taught: ‘Whether the tree is on higher ground than the pit or the pit is on higher ground than the tree.’ If the tree is on higher ground than the pit, we can understand the prohibition, because the roots spread and damage the pit. But if the pit is higher than the tree, what reason is there? — R. Haga said in the name of R. Jose: Because the roots undermine the soil and damage the floor of the pit.

R. JOSE SAYS THAT EVEN IF THE PIT WAS THERE BEFORE THE TREE THE OWNER CANNOT HAVE THE TREE CUT DOWN, BECAUSE THIS ONE DIGS IN HIS PROPERTY. THE OTHER PLANTS IN HIS. R. Judah says in the name of Samuel: The halachah is according to R. Jose. R. Ashi said: When we studied with R. Kahana we used to say that R. Jose admits that a man is responsible for damage of which lie is the cause.[23]

Papi Yona'ah[24] was a poor man who made some money and built a country house. There were in his neighbourhood some sesame-oil makers who, when they crushed the sesame seeds, used to make his villa shake. He appealed against them to R. Ashi,[25] who said to him: When we studied with R. Kahana, we used to say that R. Jose admits that a man is responsible for the damage of which he is the cause.[26] How much

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(1) I.e., closed on three sides and open on the fourth.

(2) I.e., completely enclosed (by the firmament).

(3) Eccl. I, 6. Although in the text this is said of the wind, it is taken to refer to the sun also.

(4) Ibid.

(5) I.e., it traverses them in summer when it is above the horizon, and goes round in winter when it is below the horizon.
(6) That the world resembles an exedro.
(7) Job XXXVII, 9'
(8) Ibid.
(9) The Hebrew word translated scatterers' is מזרים which is taken by R. Joshua to mean 'unenclosed'.
(10) Job XXXVII, 20.
(11) Ibid.
(12) Ibid. 22.
(13) Isa. XLVI. 6; v. supra p. 126, n. 2.
(14) Isa. IX. 19.
(15) Ps. LXXXIX, 13; this shows that the right hand is the south.
(16) Deut. XXVIII, 12.
(17) The table being the symbol of plenty, and the candlestick of knowledge.
(18) Prov. III,16.
(19) R. Ashi was in Babylonia.
(20) Jer. I,14.
(21) V. supra 18a.
(22) Because the roots spread to a great distance.
(23) Lit., 'for his own arrows.' V. supra p. 114, n. 3.
(24) Perhaps 'of Yawan', i.e. Greece.
(25) Lit., 'He came before R. Ashi.'
(26) And therefore you are entitled to stop them.

Talmud - Mas. Baba Bathra 26a

[must the house shake to constitute damage]? — Enough to make the lid of a pitcher rattle.[1]

When the people in the house of Bar Marion the son of Rabin used to beat flax, the dust used to fly about and annoy people. They appealed to Rabina. He said to them: When we say that R. Jose admits that a man is responsible for damage of which he is the cause, this applies only to the case where he himself sets the cause of the damage in motion. Here it is the wind which carries the dust about, [and therefore they are not liable]. Mar, son of R. Ashi, strongly objected to this, saying: How do these man differ from a man winnowing [on Sabbath] when the wind carries the chaff further?[2] — The case was stated before Meremar. and he said: This is in fact on all fours with that of the man winnowing on Sabbath when the wind comes and helps him.[3] And how does Rabina[4] differentiate this case from that of the spark flying from the smith's hammer and doing damage, for which the smith is responsible?[5] — [He could reply that] the smith is glad to see the spark fly out,[6] but here the people beating the flax do not want the dust to fly about.

MISHNAH. A MAN SHOULD NOT PLANT A TREE [IN HIS OWN FIELD] CLOSE TO HIS NEIGHBOUR'S FIELD[7] UNLESS HE KEEPS IT AT A DISTANCE OF FOUR CUBITS; THIS APPLIES BOTH TO A VINE AND TO ALL OTHER TREES. IF THERE IS A FENCE BETWEEN THE TWO FIELDS, EACH MAY PLANT CLOSE UP TO THE FENCE ON HIS OWN SIDE.[8] IF THE ROOTS [OF ONE MAN'S TREE] SPREAD INTO HIS NEIGHBOUR'S FIELD, [THE LATTER] CAN CUT THEM AWAY TO A DEPTH OF THREE HANDBREADTHS SO THAT THEY SHOULD NOT IMPEDE THE PLOUGH. IF HE DIGS A PIT, DITCH, OR CAVE, HE CAN CUT RIGHT DOWN [TO ANY DEPTH]. AND THE WOOD BELONGS TO HIM.[9]

GEMARA. A Tannahas taught: The four cubits here mentioned are to allow space for the work of the vineyard.[10] Samuel said: This rule was only laid down for Eretz Yisrael; in Babylonia two cubits are sufficient.[11] This is also stated in a Baraitha: 'A man should not plant a tree nearer than two cubits to his neighbour's field.' But does not our Mishnah say four? — It must be therefore as

Samuel has explained. This argument is also stated in the form of a contradiction [which is afterwards reconciled, thus]: Our Mishnah says: A MAN SHOULD NOT PLANT A TREE CLOSE TO HIS NEIGHBOUR'S FIELD UNLESS HE KEEPS IT AT A DISTANCE OF FOUR CUBITS. But does not a Baraitha say two cubits? — Said Samuel: There is no contradiction. The Mishnah refers to Eretz Yisrael, the Baraitha to Babylon.[12]

Raba, son of R. Hanan, had some date trees adjoining a vineyard of R. Joseph. and birds used to roost on the date trees and fly down and damage the vines. So Raba, son of R. Hanan, told R. Joseph to cut down his date trees. Said the latter: But I have kept them [four cubits] away? This, replied the other, applies only to other trees, but for vines we require more. But does not our Mishnah say that THIS APPLIES BOTH TO VINES AND TO ALL OTHER TREES? Said he:[13] This is so where there are other trees or vines on both sides,[14] but where there are other trees on one side and vines on the other a greater space is required.[15] Said R. Joseph: I will not cut them down, because Rab has said that it is forbidden to cut down a date tree which bears a kab of dates, and R. Hanina has said, ‘My son Shikhath only died because he cut down a date tree before it was dead.’[16] You, Sir, can cut them down if you like.

R. Papa had some date trees close to the field of R. Huna the son of R. Joshua. [One day] he found him[17] digging and cutting out the roots. What [do you mean by] this? he said to him. He replied: We learnt: IF THE ROOTS SPREAD INTO HIS NEIGHBOUR'S FIELD, [THE LATTER] MAY CUT THEM AWAY TO A DEPTH OF THREE HANDBREADTHS SO THAT THEY SHOULD NOT IMPEDE THE PLOUGH. Said the other: [The Mishnah] only [says] three, but you. Sir, are going deeper. He replied: I am digging for pits. ditches, and caves, In regard to which we learnt: IF HE DIGS A PIT, DITCH, OR CAVE, HE CAN CUT RIGHT DOWN AND THE WOOD BELONGS TO HIM. Said R. Papa [subsequently]: I tried all kinds of argument with him, but I could not convince him

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(1) According to others, ‘as much as the lid shakes when the jar is held in the hands.’

(2) If a man winnows on Sabbath and the wind carries the chaff more than four cubits, he breaks the law regarding throwing on Sabbath.

(3) And therefore the flax-beating could be stopped.

(4) Who may say that a principle applying to a Sabbath prohibition does not necessarily apply to a trespass against property.

(5) This being also a trespass against property rendering the smith liable although the spark is carried by the wind.

(6) So that it shall not damage his own smithy.

(7) Whether a corn field or an orchard.

(8) Lit., ‘This one may plant it close to the fence on this side, and this one etc.’ because then there is no danger of Kilayim. V. supra 18a.

(9) The Gemara discusses which one is meant.

(10) I.e., so that he can plough under his vine without encroaching on his neighbour's field.

(11) Because a shorter plough was used there.

(12) Lit., ‘here in Eretz Yisrael, here in Babylon.’

(13) Raba.

(14) Lit., ‘a tree for a tree, and vines for vines, but a tree for vines, etc.’

(15) Tosaf. points out that R. Joseph could be held responsible only if he had planted the date trees as saplings, but not if they had grown from date stones.

(16) Lit., not its time.’

(17) Lit., ‘he went and found him.’

Talmud - Mas. Baba Bathra 26b

till I adduced the dictum of Rab Judah: ‘A strip of land over which the public has established a right of way must not be obstructed.'[1] After he [R. Papa] had left him, he [R. Huna] said: Why did I not answer him, '[The prescriptive right of a tree is only][2] within sixteen cubits [from the trunk].[3] [but I am cutting at a distance of][4] more than sixteen cubits'?

IF HE DIGS A PIT, DITCH OR CAVE HE CAN CUT RIGHT DOWN [TO ANY DEPTH] AND THE WOOD BELONGS TO HIM. Jacob of Hadayab[5] put the question to R. Hisda: To whom does the wood belong? — He replied: We [can] learn the answer [from the following Mishnah]: If the roots of a tree belonging to a layman spread into a field belonging to the Sanctuary, they may not be used [by a layman], but their use does not involve a trespass.[6] If now you say that the roots follow the tree, then there is a good reason why the use of them does not involve a trespass. But if you say that they take their character from the soil in which they are found, why is a trespass not involved? — What then [will you conclude] — that the tree is the decisive factor?[7] [If so], let us see what follows:[8] If the roots of a tree belonging to the Sanctuary spread into the field of a layman, they must not be used, but their use does not involve a trespass. Now if the tree is the decisive factor, why is no trespass involved? In fact, [this Mishnah, I should say,] tells us nothing about the question in hand, because it is concerned with 'a subsequent growth',[9] and it holds that the law of trespass does not apply to 'subsequent growth'.[10] Rabina replied that there is no contradiction [although in the first case the tree is the decisive factor and not in the second]. [In the first case we suppose][11] the roots to be within sixteen cubits of the tree, [and in the second case][11] beyond sixteen cubits from it.

'Ulla said: A tree which is nearer than sixteen cubits to the boundary of a neighbour's field is a robber, and the offering of first fruits should not be brought from it.[12] From whence does 'Ulla derive this idea? Shall we say from [the following Mishnah] which we learnt: 'If ten shoots are planted at [equal] intervals in a beth se'ah,[13] then the whole of the beth seah may be ploughed up to New Year [of the Sabbatical year]'?[14] [This cannot be.] For what is the total area occupied? — Two thousand five hundred cubits. How much is that for each tree? — Two hundred and fifty cubits. Now, this is less than the space mentioned by 'Ulla.[15] Can it be then from [the following Mishnah] which we learnt: 'If there are in a field three trees belonging to three different men, they can be combined [to place the field in the category of a plantation field],[16] and the whole

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(1) Because the public has acquired a prescriptive right of way over it. I also have a prescriptive right to let my tree stand where it is.

(2) Lit., 'here.'

(3) Because up to that distance the roots suck from the soil, though they actually spread 25 cubits. V. infra.

(4) Lit., 'here'.

(5) Adiabene.

(6) (Me'i. 13b). Heb. me'ilah, מעילה the technical name for the improper use of holy things by laymen (as distinct from the Sanctuary). V. Lev. V. 15.

(7) And the wood in this case belongs to the owner of the tree.

(8) Lit., 'read the end (clause)' in the Mishnah just quoted.

(9) E.g.. the roots, which spread after the tree was consecrated.

(10) V. Pes. 66b.

(11) Lit. 'here'.

(12) Because it says. thou shalt take the first of all the fruit of the ground which thou bringest from thy land (Deut. XXVI, 2.)

(13) An area of fifty cubits by fifty.

(14) (Sheb. I, 6). Because the whole of the area is required for the nourishment of the trees and the ploughing is therefore purely for their benefit, and not for the purpose of sowing.

(15) Who says that the tree sucks from an area with a radius of 26 cubits, which would be much more than 250 cubits.

(16) A 'plantation field' was allowed to be ploughed up to the Feast of Weeks preceding the Sabbatical year, but a cornfield only up to the Passover. If the three trees are not combined, only the space required for each one can be ploughed up to the Feast of Weeks.

Talmud - Mas. Baba Bathra 27a

beth se'ah may be ploughed in virtue of them.' What is the total area of the field? — Two thousand five hundred cubits. How much is that for each tree? — Eight hundred and thirty-three and a third. 'Ulla still claims more for his tree![1] — [We must suppose that] 'Ulla did not give an exact figure. [Is that so?] We may presume that an authority does not give an exact figure where by so doing he makes the law more stringent. But can I say that he does so where he makes the law less stringent?[2] — You are assuming that 'Ulla was thinking of a square. In reality he was thinking of a circle. Let us see. The area of a square exceeds that of the [inscribed] circle by a quarter. Hence there remains for [the circle from which 'Ulla's tree sucks] seven hundred and sixty-eight cubits.[3] But the space allowed [by the Mishnah] is still half a cubit more [in length]?[4] — That is where 'Ulla was not exact, and he thereby made the law more stringent. Come and hear: 'If a man buys a tree and the soil around, he brings first-fruits from it and makes the declaration.[5] ['Soil' means any quantity,] does it not, however small?[6] — No: it must be sixteen cubits.

Come and hear: If a man buys two trees in another man's field, he brings first-fruits from them but does not make the declaration. [We infer] from this that if he buys three he does make the declaration. And any quantity of soil is sufficient, is it not?[7] — No; here too it must be sixteen cubits.

Come and hear: R. Akiba says: 'The smallest piece of landed property is subject to the rule of the corner[8] and first-fruits. and a prosbul[9]

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(1) 1024 cubits (reckoning 32 square).

(2) As 'Ulla does, by exempting from the obligation of first fruits a tree which is really liable to it.

(3) = three quarters of 1024.

(4) The area of the circle allowed by the Mishnah for each tree is 833 1/3 cubits. The square in which this is inscribed would (according to the reckoning of the Talmud) have an area of 1111 1/9 cubits. The side of such a square would he 33.3 cubits. Hence the radius of the area from which the tree sucks would be practically 16 2/3 cubits. (Rabbenu Tam proposed to read here 'two-thirds' instead of 'one-half'.)

(5) V. Deut. XXVI. 3ff.

(6) Which would show that a tree sucks only from a very narrow space.

(7) The rule is that if a man buys three trees in a field he acquires the soil under them unless the contrary is specified. V. infra 81a.

(8) פאה V. Lev. XIX, 9.

(9) V. Glos.

Talmud - Mas. Baba Bathra 27b

can be made out on the strength of it, and movables can be acquired by means of it'?[1] — Here we are speaking of [the first-fruits of] wheat. This is indicated also by the expression in the Mishnah 'the very smallest'.[2] Come and hear: If a tree is partly in Eretz Yisrael and partly outside of Eretz Yisrael,[3] fruit subject to tithe and fruit not subject to tithe are mixed up in it. This is the opinion of Rabbi. Rabban Simeon b. Gamaliel, however, says that that which grows where the obligation extends [i.e.,in Eretz Yisrael] is liable and that which grows where the obligation does not extend [i.e.. outside Eretz Yisrael] is not liable.' The difference of opinion between them only consists in this, does it not, that the latter holds that we can decide retrospectively [which fruit belongs to which root] and the former holds that we cannot, but both agree that anything which grows where the obligation does not extend is not liable?[4] — No. We here deal with the case where the roots are divided by a hard rock. If so, what is the reason of Rabbi [for declaring the two kinds to be mixed together]? Because they mix again higher up. Wherein then lies the ground of the difference between

Rabbi and Rabban Simeon? — The former holds that the air mixes the saps [though coming from separate roots], and the latter holds that each remains separate.[5]

And must the tree be kept sixteen cubits from the boundary and no more? Have we not learnt that ‘a tree must be kept a distance of twenty-five cubits from a pit’?[6] — Abaye replied: Though the roots spread much further, they only exhaust the soil up to a distance of sixteen cubits, no more. When R. Dimi came,[7] he reported that Resh Lakish had asked R. Johanan what the ruling was regarding a tree situated within sixteen cubits of the boundary, and he had answered: It is a robber, and first-fruits should not be brought from it. When Rabin came he said in the name of R. Johanan: The rule both for a tree close to the boundary of a neighbour's field, and for one which overhangs [another's field], is that the owner brings first-fruits and makes the declaration, since it was on that condition that Joshua gave Israel possession of the land.[8]

MISHNAH. IF A MAN'S TREE OVERHANGS HIS NEIGHBOUR'S FIELD. THE LATTER MAY CUT AWAY THE BRANCHES TO A HEIGHT SUFFICIENT TO ALLOW HIM TO USE THE OXGOAD OVER THE PLOUGH.[9] IF THE TREE IS A CAROB OR SYCAMORE, HE CAN CUT DOWN [ALL THE BRANCHES] PLUMB [WITH THE BOUNDARY].[10] IF THE FIELD IS AN IRRIGATED ONE. [THE BRANCHES OF ALL] TREES MAY BE CUT DOWN PLUMB.[11] ABBA SAUL SAYS THAT THE BRANCHES OF ANY WILD FRUIT-BEARING TREE[12] CAN BE CUT DOWN PLUMB.

GEMARA. The question was raised: Does Abba Saul's statement refer to the first clause in the Mishnah or the second?[13] — Come and hear: Abba Saul says, If the field is an irrigated one, the branches of all trees may be cut down plumb, because the shade is injurious to an irrigated field. This shows that his statement refers to the first clause.[14] R. Ashi said: The language of [his statement as recorded in] our Mishnah also indicates this, since it states ANY WILD FRUIT-BEARING TREE.[15] If this refers to the first clause, the word ANY. . . [TREE] is in place, but if it refers to the second clause, it should say simply ‘wild fruit-bearing trees’. This shows that it refers to the first clause.

MISHNAH. IF A TREE OVERHANGS A PUBLIC THOROUGHFARE THE BRANCHES SHOULD BE CUT AWAY TO A HEIGHT SUFFICIENT TO ALLOW A CAMEL TO PASS UNDERNEATH WITH ITS RIDER. R. JUDAH SAYS,. SUFFICIENT FOR A CAMEL LADEN WITH FLAX OR BUNDLES OF VINE-RODS. R. SIMEON SAYS THAT [THE BRANCHES OF] ALL TREES SHOULD BE CUT AWAY PLUMB [WITH THE STREET] TO GUARD AGAINST UNCLEANNESS.

GEMARA. Who is the Tanna [of the Mishnah] who rules that in [making regulations to prevent] damage we consider only conditions as they are at present [and not as they are likely to become in the future]?[16] — Resh Lakish replied: This ruling is not a unanimous one, and it follows the opinion of R. Eliezer. For we learnt: ‘A cavity must not be made under a public thoroughfare, nor pits, ditches, or caves. R. Eliezer says it is permissible if the covering is sufficient to bear a moving cart laden with stones.’[17] R. Johanan said: You may even say that the Rabbis [of that Mishnah] also concur [with the ruling here]. For there they prohibit because the cover may give way unexpectedly, but here every branch can be cut down as it grows.[18]

R.JUDAH SAYS: A CAMEL LADEN WITH FLAX OR BUNDLES OF VINE-RODS. The question was asked: Which is the higher limit, that of R. Judah or that of the Rabbis?[19] — There can be no doubt that the limit of the Rabbis is higher, for if the limit of R. Judah is higher, how do the Rabbis manage with anything that [still] comes within the limit of R. Judah?[20] You say then that the limit of the Rabbis is higher. How then will R. Judah manage with something which [still] comes within the limit of the Rabbis?[21] — He [i.e. the rider] can bend down and pass underneath.

RABBAN SIMEON SAYS:[THE BRANCHES OF] ALL TREES SHOULD BE CUT AWAY PLUMB TO GUARD AGAINST UNCLEANNESS. A Tanna taught [in connection therewith]: ‘Because [they can form] a tent over uncleanness.’[22] This is self-evident, since we learnt, TO GUARD AGAINST UNCLEANNESS? — If I only had our Mishnah to go by I might say that [what it means is that] a raven may bring uncleanness[23] and throw it on the branches, and therefore It is sufficient to thin out the branches.[24] Now I know [that this is not sufficient]. [

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(1) I.e., the same act which confers ownership of the land can confer ownership of the movables also (Pe'ah III, 6).

(2) Which could not be applied to land on which a tree was planted.

(3) I.e., right on the border.

(4) Even within 16 cubits of the boundary, and we do not say that it sucks from Eretz Yisrael.

(5) Lit., ‘this one stands by itself and this one stands by itself.’

(6) Supra 25b.

(7) From Palestine.

(8) Viz., that they should not begrudge one another this liberty.

(9) I.e., to allow him to raise his hand to the full height over the plough while holding the whip; or, ‘as far as the handle protrudes over the plough’ (Jast.).

(10) Because they throw an excessive shade.

(11) Because the shade is injurious to such a field.

(12) V. supra p. 121, n. 2.

(13) I.e., does he mean that the branches of wild fruit-bearing trees can be cut down plumb in any fields, or that in an irrigated field only the branches of such trees may be cut down plumb, but not of other trees?

(14) And he means that the branches of wild fruit-bearing trees can be cut down plumb anywhere.

(15) I.e., besides the sycamore and carob.

(16) I.e., seeing that the branches will grow again, why not have the whole tree cut down?

(17) In spite of the fact that the covering will in course of time wear out (v. infra 60a).

(18) Lit., ‘first, first.’

(19) The representatives of the anonymous opinion cited first in the Mishnah.

(20) Seeing that according to the Rabbis the boughs are to he cut away only enough to allow a camel with its rider to pass under, if a load of flax is higher. how will it go under?

(21) I.e., a camel with its rider.

(22) If any part of a dead body is under the tree, the branches form a tent over it, and all who pass under become unclean.

(23) I.e., any part of a dead body, which communicates defilement to all who pass beneath it.

(24) So that nothing can rest on them. According to another interpretation ‘to put scarecrows on the branches’ (Jast.).

Talmud - Mas. Baba Bathra 28a

CHAPTER III

MISHNAH. A PRESUMPTIVE TITLE[1] TO HOUSES, PITS, DITCHES AND CAVES, DOVECOTES, BATHS, OLIVE PRESSES, IRRIGATED FIELDS, SLAVES, AND ANYTHING WHICH IS CONTINUALLY PRODUCING[2] IS CONFERRED BY THREE YEARS [UNCHALLENGED POSSESSion][3] FROM DAY TO DAY.[4] A PRESUMPTIVE TITLE TO A NON-IRRIGATED FIELD IS CONFERRED BY THREE YEARS’ POSSESSION NOT RECKONED FROM DAY TO DAY.[5] R. ISHMAEL SAYS: IT IS SUFFICIENT TO HAVE THREE MONTHS IN THE FIRST YEAR, THREE MONTHS IN THE LAST AND TWELVE IN THE MIDDLE,[6] MAKING EIGHTEEN MONTHS IN ALL. R. AKIBA SAYS: ALL THAT IS REQUIRED IS A MONTH IN THE FIRST, A MONTH IN THE LAST, AND TWELVE MONTHS IN THE MIDDLE, MAKING FOURTEEN MONTHS IN ALL.[7] R. ishmael SAYS: THIS REFERS ONLY TO A CORNFIELD,[8] BUT IN A FIELD PLANTED WITH TREES,[9] IF A MAN

HARVESTS HIS GRAPES, GATHERS IN HIS OLIVES, AND CULLS HIS FIGS, THIS COUNTS AS THREE YEARS.[10] GEMARA. R. Johanan said: I have heard those who attended at Usha[11] reasoning thus: Whence do we derive the rule that a presumptive title is acquired in three years?[12] — From the ‘goring ox’.[13] Just as in the case of the’ goring ox’, after goring three times[14] it passes out of the denomination[15] of Tam[16] into that of Mu'ad,[17] so after a man has cropped[18] a field for three years it passes [entirely] out of the possession of the seller and is established in the possession of the buyer.[19] It may be objected to this that just as in the case of the goring ox its master does not become liable[20] till the fourth goring, so here the property should not become the fixed possession of the holder[21] till the end of the fourth year? — How can you compare the two cases.[22] There, as soon as the ox has gored three times, it is regarded as Mu'ad

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(1) Heb. hazakah, חזקה, which combines the meanings of ‘holding’ or ‘occupation’, and ‘presumed ownership’. What is meant is a title not supported by documents or witnesses, but based on the mere fact of possession. The English legal term Is usucaption’.

(2) Lit., ‘yielding fruits’.

(3) As will be seen later, such possession creates a presumption of ownership only if the possessor pleads at the same time that he came by the object in a lawful manner, e.g., by purchase or gift. If he does not advance this plea, the fact of his years’ possession has no legal value.

(4) I.e., from any date in one year to a corresponding date three years later. The reason for this regulation is discussed in the Gemara.

(5) As explained in what follows.

(6) Because some crops are sown in the last three months of the year and some in the first three, and to crop the field at these times is equivalent to possessing it for a year.

(7) For R. Akiba's reason, v. infra 362.

(8) Lit., ‘field of white’, so called because the corn casts no shade. (Jast.)

(9) Which is also a kind of non.irrigated field.

(10) Even though all three processes are carried out in one year, the idea being that the rightful owner would not permit another to take three crops off his field without protesting.

(11) Usha was a town in Upper Galilee near Tiberias. Here, after the destruction of the Second Temple, the Sanhedrin was established when it left Jabneh, and here too after the war of Bar Cochba a synod was held composed mainly of the pupils of Judah b. Baba. On the question who is meant here by ‘those who attended at Usha,’ v. infra, p. 141, n. 4.

(12) I.e., Why three precisely?

(13) Lit., ‘Mu'ad ox’ (v. Glos.). V. Ex. XXI, 29.

(14) This is based on the words of the text, from yesterday and the day before,’ which, with to-day, make three; v. B.K 23b.

(15) Here again. the Hebrew word is hazakah, which here has the meaning of ‘presumed character’.

(16) Lit., ‘innocent’, involving the payment of half the damage only. V. Glos.

(17) Lit., ‘testified against’ and liable to pay for the damage in full.

(18) Lit., ‘eaten’.

(19) I.e., so completely that he need no longer retain his title-deeds.

(20) To pay the full damage.

(21) If be can bring no proof of ownership.

(22) Lit., ‘so now’

Talmud - Mas. Baba Bathra 28b

. but until it has gored the fourth time there is no reason why the owner should pay, whereas here, as soon as the use of it has been enjoyed for three years, the property becomes the fixed possession of the holder.

Now if this is correct[1] [that the law of hazakah is derived from the law of the ox], it would follow that three years’ possession would confer a legal title even without a plea [of justification].[2] Why then have we learnt[3] that possession without a plea of justification does not confer a legal title? — The reason why [we confirm the holder in possession when he pleads justification] is because it is possible that his plea is truthful.[4] But if he himself advances no plea, shall we put in a plea for him?[5]

R. ‘Awira brought a strong objection against this analogy [between the field and the ox]. On this principle, he said, a protest made not in the presence of the holder should not be valid,[6] after the analogy of the Mu'ad ox; for just as in the case of the Mu'ad ox [the warning] must be given in the presence of the owner, so here the protest should be made in the presence of the holder? — There [in the case of the ox] Scripture says, And it hath been testified to his owner';[7] here [in the case of property] ‘your friend has a friend, and the friend of your friend has a friend.’[8]

Now [suppose we accept the ruling] according to R. Meir, who said: ‘If there was an interval between the gorings the owner is liable, all the more so then if they followed closely on one another.’[9] [On the analogy of this], if a man gathered three crops on one day,as for instance figs [in three stages of ripeness]. this should constitute presumptive right, [should it not]?[10] - No; the action must be strictly analogous to the case of the Mu'ad ox. Just as in the case of the Mu'ad ox at the time when the first goring took place there was as yet no second goring, so here at the time when the first fruit is plucked the second must not yet be in existence. But suppose he gathered[11] three crops in three days, as of a caperbush,[12] should not that confer presumptive right? — In this case also the [second] fruit exists already [when he gathers the first crop] and it merely goes on ripening. But suppose he gathered three crops in thirty days, as of clover[13] — should not this confer presumptive right? How exactly do you mean? That it is cropped as it grows? Then this is merely partial eating[14] [and not the full eating required to confer presumptive right]. But suppose then that he consumed three crops in three months, as of clover,[15] should not this confer presumptive right? — Who is meant by the ‘Rabbis who attended Usha’? — R. Ishmael;[16] and this actually would be the view of R. Ishmael, as we have learnt: R. ISHMAEL SAYS: THIS REFERS ONLY TO A CORNFIELD, BUT IN A FIELD PLANTED WITH TREES, IF A MAN HARVESTS HIS GRAPES, GATHERS IN HIS OLIVES, AND HARVESTS HIS FIGS, THIS COUNTS AS THREE YEARS.

And whence do the Rabbis[17] derive the rule [that three years possession confers presumptive right]?-R. Joseph said: They derive it from the Scriptural verse, Men shall buy fields for money and subscribe the deeds and seal them.[18] For there the prophet is speaking in the tenth year [of Zedekiah][19] and he warns the people [that they will go into captivity] in the eleventh.[20] Said Abaye to him: perhaps he was merely giving a piece of good advice?

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(1) Here follows a further objection against the analogy from the goring ox.

(2) E.g., that the holder bought it from the claimant, but has lost the deed. V. infra 41a.

(3) Infra 49a.

(4) Lit., ‘as he says now’, E.g., if the claimant says, ‘You stole it from me,’ and the holder says, ‘I bought it from you,’ the fact that he has had the use of the land for three years creates a presumption that he is speaking the truth.

(5) Hence the fact that a plea of justification is required does not militate against deriving the law of hazakah from that of the ox,

(6) And the rule is that it is valid. V. infra 39a.

(7) Ex. XXI, 29, implying ‘in the presence of the owner’.

(8) A popular saying. Someone is bound to tell the holder that the claimant has protested against his occupation of the land, and he will therefore take care not to lose his title-deed.

(9) R. Meir uses this a fortiori argument in support of his view against that of R. Judah who defines a Mu'ad, ‘an ox who gored on three successive days but not who gored three times in one day,’ v, B.K. 24a.

(10) And this is against all authority.

(11) Lit., ‘ate’.

(12) One fruit of which is still very small when another is plucked.

(13) Which is cropped three times in a month.

(14) Lit., ‘he merely plucks and eats it.’

(15) Which is plucked up and sown afresh every month, so that all three crops have time to ripen fully.

(16) We do not hear of R. Ishmael after the war of Bether, so he probably attended the Sanhedrin at Usha in the early part of the 2nd century C.E. As R. Johanan was not born till the later part of the century, he could hardly have known R. Ishmael personally. Perhaps we should translate above: ‘I heard from those who attended (the Synod) at Usha that (those who attended the Sanhedrin there in the previous generation) used to say, etc.’

(17) Who do not accept it. Ishmael's view that the rule of hazakah is derived from that of the ox.

(18) Jer. XXXII, 44.

(19) V. Ibid. 1.

(20) V. Ibid. XXXIX, 2. As they will thus not have the use of the fields for more than two years, he warns them to be careful of their title-deeds.

Talmud - Mas. Baba Bathra 29a

For if you hold otherwise, what do you make of the verse, Build ye houses and dwell in them, and plant gardens and eat the fruit of them?[1] That obviously is a piece of good advice,[2] and so here too; the proof is that it says in the same connection, and put them in an earthen vessel that they may continue many days![3] — No, said Raba, [the reason according to the Rabbis is this]: For the first year a man will forgo [his rights to the produce], for two years a man will forgo [his rights], but for a third year no man will forgo his rights. Said Abaye to him: In that case, when the land is restored [to the original owner on claiming it after two years], it should be restored without the produce;[4] why then has R. Nahman laid down that both the property and the produce have to be restored?[5] — Raba therefore correcting himself said: For the first year a man is not particular about another man usurping his field,[6] nor is he particular for the second year, but the third year he is particular. Said Abaye to him: If that is so, what of the people of Bar Eliashib who object even to anyone crossing their field? In their case should not occupation confer presumptive right immediately [if they do not object]? And if you say that that if so, then you introduce a kind of sliding scale?[7] — Raba therefore [again corrected himself and] said: For one year a man takes care of his title-deed, and so for two, three years does he take care; beyond that he does not take care. Said Abaye to him: If that is so, then [it would follow that] a protest made not in the presence of the holder is no protest, since the latter can say, ‘If you had protested to me personally, I should have taken more care of my title-deed’? — The other can retort, ‘[You must have known of my protest because] your friend has a friend and your friend's friend has a friend.’[8]

R.Huna said: The three years mentioned in the Mishnah only count if the occupier took the crops in all three successively. What does this statement tell us? Does not the Mishnah say that PRESUMPTIVE TITLE IS CONFERRED BY THREE YEARS [POSSESSION] FROM DAY TO DAY? — You might think that the expression FROM DAY TO DAY was only meant to exclude short years,[9] and that interrupted years were permissible;[10] now I know that this is not so. R. Hama said: R. Huna admits [that interrupted years are also sufficient] in places where it is customary to leave fields fallow [in alternate years]. Is not this self-evident?[11] — It required to be stated in view of the case where some owners leave their fields fallow and some do not, this man being one of those who do. You might think that in this case the claimant can say to him, ‘If the field is yours, you ought to have sown it.’[12] Now I know that this is not so, because the other can answer, ‘I cannot keep watch over a single field in a whole valley’;[13] or he can also answer, ‘I prefer this way, because it makes the field more productive.’

We learnt: [PRESUMPTIVE TITLE TO HOUSES] IS CONFERRED BY THREE YEARS [POSSESSION]. [Why should this be, seeing that] in the case of houses we can know if a man lives there by day but not if he lives there by night?[14] Abaye answered: Who is it that testifies to [a man having lived in] a house? — The neighbours; and the neighbours know whether he has lived in it by night as well as by day. Raba answered: [The way it can be known] is if, for instance, two persons come forward and say, We hired the house from him and lived in it day and night for three years. Said R. Yemar to R. Ashi: But these men are interested witnesses,[15] because if they do not make this assertion we shall tell them to go and pay the rent to the claimant?[16] -R. Ashi replied: Only incompetent judges would proceed thus.[17] [No.] The case Raba has in mind is where they come with the rent and inquire to whom they are to give it.

Mar Zutra said: If the claimant demands that two witnesses should be produced to testify that the occupier lived in the house three years day and night, his demand is valid.

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(1) Ibid. XXIX, 5.

(2) And not a rule of law.

(3) Ibid. XXXII, 24. This obviously is a piece of good advice merely, and thus the question remains, whence do the Rabbis derive the rule that three years' possession confers presumptive right?

(4) Because the original owner waived his right for the time being.

(5) v. infra p. 155.

(6) Though he does not waive his right to the produce.

(7) The period required to confer hazakah will vary with the degree to which the original owners are particular.

(8) V. supra p. 140.

(9) E.g. six months in the first year and six in the last.

(10) So long as three full years were made up altogether.

(11) That in such places there must be three full years of occupation in all, but not necessarily at one stretch.

(12) Even though the fields all round are left fallow.

(13) Because he would have to bear singly the whole expense of the watchman.

(14) And according to R. Huna, the occupation must be continuous.

(15) And therefore their evidence cannot be accepted.

(16) To whom but for their evidence we should assign the house.

(17) I.e., accept their evidence, if they have already paid rent to the defendant.

Talmud - Mas. Baba Bathra 29b

[And though in this case the court does not suggest the plea] Mar Zutra admits that where the claimant is an itinerant peddler,[1] even if he does not raise the plea, the court raises it for him.[2] R. Huna also admits that [though normally the three years must be continuous], in the case of the shops of Mahuza[3] [this is not necessary], because they are only used by day and not by night.

Rami b. Hama and R. 'Ukba b. Hama bought a maidservant in partnership, the arrangement being that one should have her services during the first, third and fifth years, and the other during the second, fourth and sixth. Their title to her was contested, and the case came before Raba. He said to the brothers: Why did you make this arrangement? So that neither of you should obtain a presumptive right against the other [was it not]?[4] Just as you have no presumptive right against each other, so you have no presumptive right against outsiders. This ruling, however, only holds good if there was no written agreement between them to share [the maidservant]:if there was such an agreement, it would become bruited abroad.[5]

Raba said: If the occupier has utilised[6] the whole field except the space of the sowing of a quarter of a kab, he acquires ownership [after three years] of the whole field with the exception of that space. Said R. Huna the son of R. Joshua: This only applies [if the space so left over] was suitable for sowing; but if it was not suitable for sowing, it is acquired along with the rest of the field. To this R. Bibi b. Abaye strongly objected, saying: If that is so, how does a man acquire a piece of rock [through occupation]? Is it not by stationing his animals there and laying out his crops there?[7] So here too, he should have stationed his animals there and laid out his crops there. A certain man said to another, 'What right have you[8] in this house?' He replied, 'I bought it from you, and I have had the use of it for a period of hazakah.'[9] To which the other replied, 'But I have been living in an inner room [and therefore did not protest].'[10] The case was brought before R. Nahman, who said to the defendant: You must prove that you have had constant use of the house[11] [for three years without the claimant]. Said Raba to him: Is this a right decision? Is not the onus probandi in money cases always on the claimant?

A contradiction was pointed out between Raba's ruling here and his ruling in another place, and between R. Nahman's ruling here and his ruling in another place. For a certain man

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(1) V. supra p. 109.

(2) Because as such people are away for long periods, it is easy for other persons to occupy their houses without being noticed.

(3) An important commercial centre in Babylonia.

(4) By having three years' undisturbed possession.

(5) And therefore it was incumbent on the claimant to lodge a protest before three years had passed, and since he did not do so, a presumptive right has been established.

(6) Lit., 'eaten'.

(7) I.e., by making some use of the ground to show that it is his.

(8) Lit., 'What do you want?'

(9) I.e., three years. And therefore it is mine, although I cannot produce any record of the purchase.

(10) Because to a certain extent I had the use of your room, being able to pass in and out, and therefore it has not belonged to you for three years.

(11) Lit., 'prove your eating'.

Talmud - Mas. Baba Bathra 30a

said to another, 'I will sell you all the property of Bar Sisin's.'[1] There was a piece of land which was called Bar Sisin's, but the vendor said, 'This is not really the property of Bar Sisin though it is called Bar Sisin's.' The case was brought before R. Nahman, and he decided in favour of the purchaser. Said Raba to him: Is this a right decision? Does not the onus probandi always lie on the claimant? There is thus a contradiction between these two remarks of Raba, and also between the two rulings of R. Nahman.[2] Between the two remarks of Raba there is no contradiction. In the latter case the seller is in possession; in the former the purchaser is in possession.[3] Neither is there any contradiction between the two rulings of R. Nahman. [In the latter case,] since the seller professed to sell the property of Bar Sisin's and this land is called Bar Sisin's, it is for him to prove that it is not Bar Sisin's, but here let the occupier [in pleading presumptive right] be but treated as if he produced a document of sale,[4] in which case should we not say to him: 'Prove your document to be valid and you can remain in ownership of the property'?[5]

A certain man said to another, 'What right have you in this house?' He replied, 'I bought it from you and have had the use of it for the period of hazakah.' Said the other, 'I was abroad[6] all the time [and therefore did not know or protest].' 'But,' said the first, 'I have witnesses to prove that you used to come here for thirty days every year.' 'Those thirty days,' he replied, 'I was occupied with my business.' [On hearing of the case] Raba said: It is quite possible for a man to be fully occupied with his business for thirty days [and not to know that another has occupied his house].

A certain man said to another, 'What right have you on this land?' He replied, 'I bought it from so-and-so who told me that he had bought it from you.' Said the first, 'You admit then

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(1) I.e., which I acquired from Bar Sisin.

(2) Because in the former case Raba decides in favour of the purchaser and R. Nahman in favour of the seller, and in the latter case Raba decides in favour of the seller and R. Nahman in favour of the purchaser.

(3) And Raba decides in each case in favour of the party in possession.

(4) The three years' occupation taking the place of a title-deed.

(5) So here we can say to him, 'Prove that you have had unchallenged occupation'. Thus in both cases R. Nahman requires the party in possession to prove his right.

(6) Lit., 'in outside markets;' i.e., in places not on any caravan route.

Talmud - Mas. Baba Bathra 30b

that this land was once mine and that you did not buy it from me. Clear out; you have no case against me.'[1] [On hearing of this] Raba said: He was quite within his rights in what he said to him.[2]

A certain man said to another, 'What right have you on this land?' He replied, 'I bought it from so-and-so and have had the use of it for the period of hazakah.' Said the other, 'So-and-so is a robber.''But,' said the first, 'l have witnesses to prove that I came and consulted you and you advised me to buy the property.' 'The reason is,' said the other, 'that I preferred to go to law with you rather than with him.'[3] [On hearing of this] Raba said: He was quite within his rights in what he said to him. What authority does Raba follow? — The authority of Admon; for we have learnt: 'If a man claims a field after having witnessed[4] to the sale of it to another, Admon says that [his claim is still admissible] because he can say, I prefer to go to law with the second rather than the first; the Sages, however, say that [by so doing] he forfeits his right [to put forward a claim]. — You may even say that Raba is in agreement with the Rabbis[5] also. For in that case [they quash his right to make a claim] because he has actually done something [which conflicts with it],[6] but in this case [he has merely said something], and a man may easily let a word slip out of his mouth.

A certain man said to another, 'What right have you on this land?' He replied, 'I bought it from so-and-so and I have had the use of it for the period of hazakah.' Said the first, 'So-and-so is a robber.' 'But,' said the other, 'I have witnesses to prove that you came the evening [before] and said to me, "Sell it to me".' 'My idea was,' said the first, 'to buy what I was already legally entitled to. [On hearing of it] Raba said: It is not unusual for a man to buy what he is already legally entitled to.[7]

A certain man said to his neighbour, 'What right have you on this land?' He replied, 'I bought it from so-and-so and have had the use of it for the period of hazakah.'[8] Said the other, 'But I have a title deed to prove that I bought it from him four years ago.' Said the other; 'Do you think that when I say the period of hazakah l mean only three years? I mean a lot of years.'[9] Said Raba: It is not unusual to refer to a long period of years as 'the period of hazakah'. This [maxim] would apply [to the present case] only if the occupier has had the use of the land for seven years, so that his presumptive right came before the deed;[10]

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(1) Lit., 'you are not my litigant.'

(2) Because the occupier had no proof that the man from whom he bought the land bought it from the original owner. Hence his occupation is not supported by any genuine plea.

(3) Lit., 'The second suits me, the first is a harder customer.'

(4) I.e., signed his name as witness to the contract of sale.

(5) I.e., the Sages.

(6) Viz., signed a document.

(7) In order to avoid the trouble of going to law.

(8) Meaning thereby presumably 'three years'.

(9) And the reason why I said merely 'period of hazakah' was because I did not know you had a deed going back further than three years.

(10) Since he had already had the use of the land for three years after his alleged purchase of it, and his title was therefore unassailable.

Talmud - Mas. Baba Bathra 31a

Talmud - Mas. Baba Bathra 31a

but if only six years, then no protest could be more effective than this.[1]

[There was a case] where one said, '[This land belonged] to my father,'[2] and the other pleaded, 'It belonged to my father'. The one brought witnesses to prove that it belonged to his father, and the other brought witnesses to prove that he had had the use of it for the period of hazakah. Rabbah said [in giving judgment]: What motive had he[3] to tell a falsehood? If he liked, he could have pleaded [without fear of contradiction], 'I bought it from you and had the use of it for the period of hazakah.'[4] Said Abaye to him: But the consideration, 'why should he tell a falsehood,' is not taken into account where it conflicts with evidence?[5] So the occupier pleaded again, 'Yes, it did belong to your father, but I bought it from you, and what I meant by saying that it belonged to my father was that I felt as secure In it as if it had belonged to my father.' [The question here arises:] Is a litigant allowed to alter his pleas[6] [in the course of the case], or is he not allowed to alter his pleas? 'Ulla said: He is allowed to alter his pleas; the Nehardeans say, he is not allowed to alter his pleas. 'Ulla, however, admits that if this man had pleaded at first,' It belonged to my father and not to yours,' he could not later alter his plea [to say, 'It did belong to yours']. 'Ulla also admits that if a man does not amend his pleas in any way when in court, but after leaving the court comes In again and amends them, the rule that he may alter his original plea does not apply, because we assume that someone has suggested the amended plea to him. The Nehardeans [on their side] admit that if [after saying, 'It belonged to my father'] he pleads, 'my father who bought it from your father,' he is allowed to alter his plea [to this effect];[7] also that if a man makes certain statements outside [the court] and then wants to plead something quite different in court, he may do so, because a man often does not wish to state his case save in actual court. Amemar said: I am a Nehardean, and l hold that pleas may be altered. And such is the accepted ruling, that pleas may be altered.

[A case arose in which] one said, 'This [land belonged] to my father,' and the other said, 'To my father,' but the one brought witnesses to prove that it had belonged to his father and that he had had the use of it for the period of hazakah, and the other brought witnesses [only] to prove that he had had the use of it for a sufficient number of years to confer a legal title. Said R. Nahman: The evidence that the one has had the use of it cancels out the evidence that the other has had the use of it, and the land is therefore assigned to the one who brings evidence that it belonged to his father. Said Raba to him: But the evidence has been confuted?-He replied: Granted that it has been confuted in regard to the user,[8]

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(1) Namely, the action of the original owner in selling the land after the occupier had been on it only two years, so that in reality he never acquired hazakah.

(2) Lit., 'fathers'.

(3) The latter, who occupied the field.

(4) Which is a stronger plea and therefore we believe him when he says that he inherited it from his father.

(5) In this case, the evidence brought by the claimant that the land had belonged to his father.

(6) Lit., 'plead and again plead,' i.e., modify or expand the first plea, but not contradict it entirely. V. infra.

(7) Because he is simply making his former plea more emphatic, and not altering it.

(8) Lit., 'the eating of it.'

Talmud - Mas. Baba Bathra 31b

has it been confuted in regard to the father? May we say that [in principle] the difference between R. Nahman and Raba here is the same as that between R. Huna and R. Hisda in the following statement: If two sets[1] of witnesses contradict one another [so that one set must be giving false evidence], R. Huna says that each set may give evidence as a whole [in another case];[2] R. Hisda, however, says, What have we to do with false witnesses?' May we say then that R. Nahman here follows R. Huna[3] and Raba, R. Hisda?-No. There is no difference between them in the application of R. Hisda's ruling.[4] Where they differ is in the application of R. Huna's ruling. R. Nahman would thus have acted on the ruling of R. Huna, whereas Raba [would maintain] that R. Huna only meant it to apply to evidence given in another case entirely, but not, as here, to another part of the same case.

He[5] then brought witnesses to prove that the land had belonged to his father. R. Nahman [thereupon] said: As we put him out, so we can put him in;[6] and we disregard any disrepute that this may bring on the Beth din.[7] Raba [or others say R. Ze'ira] objected [to this ruling on the strength of the following]: If two witnesses declare that a man is dead and two others declare that he is not dead, or if two declare that his wife had been divorced from him and two that she had not been divorced, she must not marry again, but if she has married she need not leave [her husband]. R. Menahem, son of R. Jose, says that she must leave [the second husband]. Said R. Menahem, son of R. Jose: When do I say that she must leave the husband? — If the witnesses [who say he is not dead] came first and she married afterwards;[8] but if she was married before these witnesses came she need not leave her husband.'[9] R. Nahman replied: I was going to act [according to the declaration I just made].[10] Now, however, that you have brought arguments against me and that R. Hamnuna in Sura has [likewise] refuted me, I shall not act so. [In spite of this statement, however,] he subsequently did act so Those who saw it thought he had made a mistake, but this was not the case, because he had the support of great authorities.[11] For we learnt: A man is not given the status of priest[12] On the evidence of one witness. Said R. Eliezer: This is only when his title is called into question; but if no one calls his title into questions one witness is sufficient. Rabban Simeon b. Gamaliel said in the name of R. Simeon the son of the Segan:[13] One witness is sufficient to prove a man's title to be a priest. Is not Rabban Simeon b. Gamaliel merely repeating R. Eliezer? And should you say that they differ in regard to the case where there is only one challenger, R. Eliezer holding that an objection is valid if raised by one challenger, and Rabban Simeon b. Gamaliel holding

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(1) In regard to all the discussion which follows it should be borne in mind that according to Jewish law, two witnesses are required to establish a case (v. Deut. XIX, 15).

(2) I.e., it is not disqualified by the suspicion of having given false evidence in this case. But one witness from one set may not combine with one from the other in another case, because one of them has certainly given false evidence in this case.

(3) In admitting the evidence of witnesses whose veracity is suspect.

(4) Both would agree that according to R. Hisda the evidence in regard to the father cannot be accepted.

(5) I.e., the occupier, having heard R. Nahman's decision.

(6) Lit., we put him down and we can raise him up.'

(7) Which will be criticised for altering its decisions.

(8) Because in that case if she bad consulted the Beth din, they would not have allowed her to marry.

(9) For fear that she might bring into disrepute the Beth din which gave her permission to marry again. This refutes R. Nahman.

(10) And reverse the first decision on the production of new evidence.

(11) Lit., 'trees'.

(12) So as to be entitled to receive the priestly dues and perform the priestly functions.

(13) The title given to the Deputy High Priest.

Talmud - Mas. Baba Bathra 32a

that there must be two, then what of the statement of R. Johanan who said that according to all authorities no objection is valid unless it is raised by two challengers? We suppose therefore that the objection has been raised by two; and here we are dealing with a case where the father of this man is known to have been a priest, but a report has been spread that his mother was a divorced woman[1] or a haluzah,[2] and we therefore deposed him, and then one witness came and testified that he was a genuine priest and we reinstated him, and then two came and testified that his mother was a divorced woman or a haluzah and we degraded him again, and then one more witness came and testified that he was a genuine priest. Now all authorities agree that the evidence [of the two witnesses who testify to his genuineness] is combined [although they did not testify in each other's presence], and the point at issue is whether or not we disregard any disrepute that may be brought upon the Beth din [for altering its decision]. R. Eliezer held that once we have deposed him we do not reinstate him, for fear of bringing disrepute on the Beth din, whereas Rabban Simeon b. Gamaliel says that just as we have deposed him so we can reinstate him, and we disregard any disrepute that may be brought thereby on the Beth din.[3]

R. Ashi strongly disputed this explanation [saying]: If this is the case, why [should R. Eliezer refuse to reinstate him] if only one witness appears at the end? Why not even if two come together?[4] No, said R. Ashi. All agree that we disregard any disrepute that may be brought on the Beth din,[5] and the point at issue here is whether the evidence [of different witnesses] can be combined, a point on which we find a difference between Tannaim. For it has been taught: ‘The evidence of the two witnesses is not combined, and does not carry weight unless they both [testify to] have seen at the same time. R. Joshua b. Korhah, however, says that the evidence is combined even if one [testifies that he] saw at one time and the other at another.[6] Nor is their evidence accepted in the Beth Din unless they testify together. R. Nathan, however, says that the evidence of one may be taken on one day and the evidence of the other when he comes on the next day.’[7]

A certain man said to another, ‘What are you doing on this land?’ He replied, ‘I bought it from you, and here is the deed of sale.’

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(1) And therefore he was disqualified, on the basis of Lev. XXI, 7.

(2) V. Glos. The Rabbis forbade a priest to marry a haluzah also.

(3) And R. Nahman in his dictum was thus following R. Simeon b. Gamaliel.

(4) Since R. Eliezer is anxious to safeguard the dignity of the Beth din.

(5) And therefore R. Nahman had great authorities on his side.

(6) E.g., one testifies that he saw the claimant lend the defendant a certain sum on one day, while the other maintains that it was on the next day. This first clause of the Baraitha here quoted has nothing to do with the argument, and is only inserted to make the quotation complete.

(7) Thus R. Gamaliel agrees with R. Nathan and R. Eliezer with the anonymous opinion.

Talmud - Mas. Baba Bathra 32b

‘It is a forged document,’ said the first. On this the other leaned over to Rabbah and whispered to him, ‘It is true that this is a forged document;[1] I had a proper deed but I lost it, so I thought it best to come into court with some sort of document.’ Said Rabbah: What motive has he for telling a falsehood? If he had liked he could have said [without fear of contradiction] that the document was genuine. Said R. Joseph to him: On what do you base your decision? On this document? But this document is only a piece of clay![2]

A certain man said to another, ‘Pay me the hundred zuz that I am claiming from you; here is the bond.’ Said the other: ‘It is a forged bond.’ The first thereupon leaned over and whispered to

Rabbah, ‘It is true the bond is forged ‘ but I had a genuine bond and lost it, so I thought it best to come into court with some sort of document.’ Rabbah thereupon said: What motive has he for telling a falsehood? If he had liked, he could have said that it is a genuine bond. Said R. Joseph to him: On what do you base your decision? On this document? But this document is only a piece of clay. R. Idi b. Abin said: The accepted ruling follows the view of Rabbah in the case of the land[3] and that of R. Joseph in the case of the money.[4] It follows the view of Rabbah in the case of the land, because [we say,] Let the land remain in its present owner ship;[5] and that of R. Joseph in the case of the money, because we again say, Let the money remain in its present ownership.[6]

A certain [man who had gone] surety for a borrower said to him, ‘Give me the hundred zuz which I paid the lender on your behalf; here is your bond.’ Said the other, ‘Did I not pay you?’ He rejoined, ‘Did you not borrow the money from me again?’ R. Idi b. Abin [before whom the case came] sent a message to Abaye [enquiring] as to the ruling for such a case.[7] Abaye sent him back answer: What do you want to know?[8] Did you not yourself say that the accepted ruling is that of Rabbah in the case of the land and of R. Joseph in the case of the money, namely, that the money should remain In Its present ownership?[9] This, however, holds good only if the surety said to the other, ‘After repaying, you again borrowed the money from me.’[10] If, however, he says, ‘I returned it to you because the coins were worn or rusty,’ the obligation of the bond still remains.

It was rumoured of Raba b. Sharshom that he was using for himself land that belonged to orphans [for whom he was trustee]. So Abaye sent for him and said to him: Tell me now the main facts of the case. He said: I took over this land from the father of the orphans as a mortgage [for money that he owed me], and he owed me

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(1) Possibly one not actually forged but referring to a fictitious sale.

(2) And since he has admitted as much, how can you say that ‘if he had liked he could have said it was genuine’?

(3) Where the defendant produces the forged document.

(4) Where the claimant produces the forged document.

(5) Lit., ‘where it stands’.

(6) Since there is a doubt to whom it belongs.

(7) I.e., which he should believe.

(8) Following reading of Rashb.

(9) The bond after it has been honoured is regarded by Abaye as on the same footing as the ‘forged’ bond mentioned above.

(10) Because the previous transaction was now closed, and the bond no longer had any force.

Talmud - Mas. Baba Bathra 33a

other money besides.[1] When I had had the use of the land for the number of years covered by the mortgage, I said to myself: If I restore the land to the orphans and then tell them that I have still a claim on their father for more money, [I shall have to comply with] the rule of the Rabbis that ‘anyone who claims to recover from orphans must support his claim with an oath.’ I will therefore keep back the mortgage bond and continue to use the land to the extent of the money still owing to me; for since, if I were to say that I had bought the land, my plea would be accepted,[2] I shall certainly be believed when I say that they owe me money. Said Abaye to him: You could not plead that you have bought the land, because common report says that it belongs to the orphans.[3] Go therefore and restore it to them, and when they become of age[4] claim your debt from them in court.

A relative of R. Idi b. Abin died, leaving a date tree. [R. Idi and another man disputed its possession] R. Idi saying, ‘I am the nearer relative,’ whilst the other man said, ‘I am the nearer relative;’ [and the other man seized the tree]. Eventually, however, he admitted that R. Idi was a nearer relative, and R. Hisda assigned to him the tree. He [R. Idi] then claimed: ‘Let him return me the produce which he has consumed from the time he seized it.' Said R. Hisda: 'So this is the man[5] who is said to be a great authority! On what ground do you base[6] [your ownership]? On this man s admission. But he has been saying till now that he was the nearer relative.'[7] Abaye and Rab did not concur in R. Hisda's decision;

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(1) For which no land had been mortgaged to him.

(2) Because he had had unchallenged occupation for more than three years.

(3) And this is equivalent to a protest, in which case no right can be proved save through a deed of sale.

(4) I.e., thirteen years old.

(5) Referring to R. Idi.

(6) Lit., 'on whom'.

(7) And therefore he is in effect making you a gift of the tree, though you cannot claim it by law. Hence you cannot claim the produce, if he does not choose to give you that also.

Talmud - Mas. Baba Bathra 33b

they held that the man's admission covered the produce as well as the tree.[1]

[A case arose] in which one said, ['The land belonged] to my father,' and another said 'To my father,' but while the one brought witnesses to prove that it had belonged to his father [up to the time of his death], the other brought witnesses to prove that he had had the use of it for the period of hazakah.[2] [When the case came before] R. Hisda, he said: What motive has he [who occupies it] to tell a falsehood? If he likes he can say, 'I bought it from you and have had the use of it for the period of hazakah.'[3] Abaye and Raba, however, did not concur in this judgment of R. Hisda, on the ground that we do not advance the plea 'What motive had he to tell a falsehood' when it conflicts with direct evidence. A certain man said to another, 'What are you doing on this land?' He replied, 'I bought it from you and have had the use of It for the period of hazakah.' He then went and brought witnesses to prove that he had had the use of it for two years [but could not find witnesses for the third]. R. Nahman thereupon decided that he should restore both the land and the produce. R. Zebid said: If he had pleaded, 'I was working[4] the land for the produce only [as a metayer],' his plea would have been accepted.[5] For has not Rab Judah laid down that if a man takes a pruning knife and rope In his hand and says, 'I am going to gather the dates from the tree of so-and-so who has sold them to me,' his word is accepted, because a man would not take the liberty of gathering the dates from a tree which did not belong to him? So here, a man would not take the liberty to consume produce that did not belong to him. But might not the same be said of the land also?[6] -If he [the occupier] claims the land, we say to him: Show us your deed of sale. Cannot we then say the same in the case of the produce also? — Written agreements are not usually made in regard to produce.

A certain man said to another, 'What right have you on this land?' He replied, 'I bought it from you and I have had the use of it for the period of hazakah;' and he brought one witness to prove that he had had the use of it for three years. The Rabbis of the court of Abaye[7] propounded the opinion that this case was parallel to that of the bar of metal[8] [which was decided] by R. Abbah. [What happened was] that a certain man seized a bar of metal from another, and the latter brought the case before R. Ammi, before whom R. Abbah was sitting at the time. He brought one witness to prove that the man had snatched the article from him. 'Yes,' said the other, 'I did snatch, but it was my own property that I snatched.' R. Ammi thereupon said:

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(1) Lit., 'Since he admitted, he admitted.' The above is the interpretation of this passage given by Rashb., and though satisfactory in itself it does a certain amount of violence to the original. Tosaf. therefore reads, instead of 'he admitted that R. Idi was a nearer relative', simply 'he admitted', i.e., he gave way, allowing R. Idi to keep the tree, though he did not formally admit that he was the nearer relative. We then translate lower down: 'Through whose word (do you become owner of the tree)? Through this man's etc:' and in the last sentence, 'Since he gave way (in regard to the tree), he must give way (in regard to the produce).' R. Han. reads, instead of 'he admitted etc.', 'R. Idi brought witnesses to prove that he was the relative' (or, alternatively, 'the nearer relative'). In that case we translate the last sentence, 'Abaye and Raba held . . . that since he admitted (that he consumed the produce), he must abide by the admission (and pay for it).'

(2) I.e., not less than three years.

(3) And therefore we believe him when he says that it belonged to his father.

(4) Lit., 'l went down to.'

(5) And he would not have had to restore the produce as well as the land.

(6) I.e., that if the occupier pleads, 'I bought it from the claimant', his word should be accepted, because he would not take the liberty of occupying it otherwise.

(7) Lit., 'the Rabbis sitting before Abaye.'

(8) Presumably silver or gold.

Talmud - Mas. Baba Bathra 34a

How are the judges to decide this case? Shall we make him pay? — There are not two witnesses against him. Shall we let him off scot free? — There is one witness.[1] Shall we administer an oath to him? — But he admits that he snatched the article, and since he admits that, he is, as far as this case goes, a robber.[2] Said R. Abba to him: He is [in the position of a man who is] legally under obligation to take an oath and is yet unable to take it; and the rule is that whoever is under obligation to take an oath which he cannot take must pay.[3] Abaye, however, said to the Rabbis: Are the two cases on all fours? [There in the case of the bar of metal] the witness comes to oppose [the defendant], and if there were another witness with him we should make him give up the article. Here [in the case of the land] the witness comes to support [the defendant], and if there were another witness we should confirm his title to the land.[4] If you do wish to draw a parallel with the case of R. Abbah, it would be in the case of one witness [who testifies that the occupier has had the use of the land] two years, and [where the claim is for] the produce.[5]

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(1) And therefore, since the claim is a pecuniary one, he could be called upon to deny the allegation on oath (V. Shebu. 40a).

(2) And therefore he is disqualified in this case from taking an oath in court.

(3) In the case of the land the occupier ought to take an oath to deny the allegation of the one witness, but he cannot take an oath since he admits that he made use of the produce. Hence he should not only give up the land but make restitution for the produce he has consumed.

(4) Since therefore the witness is in support of the occupier he cannot be made without more ado to pay for the produce, but might take an oath to confirm his claim in regard to the produce, though in the absence of two witnesses to prove his right he would have to return the land; v. Yad Ramah, a.l.

(5) Here the witness is against the occupier, since he testifies that he occupied it only two years and not three, and if another witness made the same statement he would have to pay. Hence he is under obligation to deny the statement of the one witness on oath. This, however, he cannot do, as he admits that he has consumed the produce for two years. Hence he must pay.

Talmud - Mas. Baba Bathra 34b

There was a certain river boat about which two men were disputing.[1] One said, 'It is mine', and the other said, 'It is mine. One of them went to the Beth din and appealed to them: 'Attach the boat[2] until I bring witnesses to prove that it belongs to me.' [In such a case] should we attach the boat or not?[3] R. Huna says we should attach it,[4] and Rab Judah says we should not.[5] [The Beth din having attached the boat],[6] the man went to look for his witnesses but did not find them, whereupon he requested the Beth din to release the boat, leaving it to the stronger to obtain possession.[7] In such a case should we release or not? Rab Judah says we should not release,[8] R. Papa says we should release.[9] The accepted ruling is that we should not attach in the first instance, but if we have attached we should not release.[10]

[If there are two claimants to a property[11] and] one says,' It belonged to my father,' while the other says, 'To my father' [without either of them bringing any evidence], R. Nahman says that whichever is stronger can take possession.[12] Why, [it may be asked,] should the ruling be different here from the case in which two deeds [of sale or gift relating to the same property and] bearing the same date

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(1) But apparently without having actually seized the boat, since in that case the law would be that they should divide it, according to B.M. ad init.

(2) So that the other should not sell it in the meanwhile.

(3) I.e., which course is more likely to assist the rightful owner to obtain possession?

(4) Because we presume that he will succeed in finding witnesses, and therefore we prevent the boat from being disposed of in the interval.

(5) Because we are afraid he will not find witnesses and we shall not know to whom to restore the boat, and therefore it is best to leave it alone.

(6) It is not clear from the text whether this is a hypothetical case, or whether the Beth din really did attach the boat, perhaps on the request of both parties.

(7) Lit., 'to prevail' — whether by argument or by force.

(8) Because once property has come into the hands of the Beth din, it is not right that they should release it except to restore it to the proper owner.

(9) Because they only attached it from the first on this condition.

(10) I.e., the halachah follows R. Judah.

(11) Whether landed property or other.

(12) v. supra n. 7.

Talmud - Mas. Baba Bathra 35a

are presented in court,[1] in which case Rab rules that the property should be divided between the claimants, and Samuel that the judges should assign it according to their own discretion?[2] — In that case there is no chance that further evidence should come to light,[3] here there is a chance that further evidence may come to light.[4] But why should the ruling here be different from what we have learnt: 'If a man exchanges a cow for an ass and it calves, and similarly if a man sells a female slave and she bears a child, if the seller says that the birth took place before the sale[5] and the purchaser that it took place after the sale,[6] they must share the offspring'?[7] In that case each

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(1) I.e., where a man has first assigned a property to Reuben and then on the same day made out another deed assigning it to Simeon. The hour of the day at which the deed was written or transferred was not usually specified, save in Jerusalem.

(2) According to Rashb. this means that they should estimate which of the two claimants the donor was more likely to favour; according to Tosaf. they should consult purely their own judgment.

(3) The deeds themselves being the whole of the evidence bearing on the case.

(4) In which case the man who has seized the property may still be dispossessed.

(5) Lit., 'before I sold it, I.e., before the purchaser had taken possession, and therefore the offspring was not included in the sale.

(6) Lit., 'since I bought it.'

(7) The transaction has to be one of exchange and not of sale in the case of the cow, for the reason that, in the case of all movables except human beings, a transaction of sale is not completed until the article bought is 'pulled' by the purchaser. Hence no dispute would have been possible about the calf. In the case of an exchange, however, the transaction is concluded as soon as the article given in exchange-here, the ass-is handed over. V. B.M. 100a.

Talmud - Mas. Baba Bathra 35b

had [at some time] a pecuniary interest [in the article in dispute].[1] but in this case of R. Nahman, if the property belonged to one, It never belonged to the other.

The Nehardeans laid down that if an outsider[2] comes and seizes the property, he is not forced to surrender it,[3] because R. Hiyya taught: He who robs the public[4] is not a robber in the legal sense.[5] R. Ashi said: He is indeed a robber in the legal sense,[6] and why [does R. Hiyya say that] he is not a robber in the legal sense? Because he is unable to make restitution like an ordinary robber.[7]

THEIR PERIOD OF HAZAKAH IS THREE YEARS FROM DAY TO DAY. R. Abba said: If [the claimant of a piece of land] helps [the man In possession] to lift a basket of produce on to his shoulders, this at once creates a presumption [that the land belongs to the latter].[8] R. Zebid said: If, however, he pleads, ‘I have installed him [as a metayer] with a right to the produce [but not the ownership of the land],’ his plea is accepted. This too is only the case if the plea is made within three years [of the alleged transfer], but not later. Said R. Ashi to R. Kahana: If he had made him a metayer [for more than three years], what was he to do?[9] He said: He should have lodged a protest within three years. For, were you not to say so, then what about the so-called ‘mortgage of Sura’[10] containing the stipulation, ‘On the termination of these [X] years this land shall be given up without payment.’ Now suppose the mortgagee suppresses the mortgage bond and asserts that he has bought the land; are we indeed to say that his plea is to be accepted? Would the Rabbis make a regulation[11] which would expose the mortgager to unfair loss? But the fact is that he can protect himself by lodging a protest within three years; and so in this case also he can protect himself by lodging a protest within three years.

Rab Judah said in the name of Rab: A Jew who derives his title from a non-Jew is on the same footing as a non-Jew:[12] just as a non-Jew cannot prove his right save through producing a deed of sale,[13] so the Jew who derives his title from a non.Jew [to a field originally belonging to a Jew] cannot prove his right save through producing a deed of sale.[14] Said Raba: If, however, the Jew pleads,

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(1) I.e., each was at some time the owner of the cow or the slave.

(2) Lit., ‘a man from the street’.

(3) Because possibly it belongs to neither of the claimants.

(4) The two claimants being regarded as the ‘public’ (lit., ‘many’).

(5) And cannot be forced to make restitution.

(6) And must be deprived of the property.

(7) Because he does not know to which of the two claimants he should restore the property, and therefore he cannot make atonement like an ordinary robber.

(8) This act being a kind of admission that the land belongs to him.

(9) So as to ensure that he will be able to recover the property at the end of the period of leasing.

(10) A form of deed by which a borrower transferred property to the lender for a fixed number of years.

(11) Viz., that three years’ occupation gives a title to ownership.

(12) In the matter of hazakah.

(13) It is assumed that a Jew is afraid to protest against the occupation of his land by a non-Jew, and therefore three years’ undisturbed occupation confers no hazakah on the latter.

(14) Given by the original Jewish owner to the non-Jew, even though both he himself and the non-Jew have enjoyed undisturbed occupation for three years.

Talmud - Mas. Baba Bathra 36a

‘The non-Jew said to me that he had bought it from you,’ his plea is accepted. [But] can it be possible that a plea which would not be accepted if put forward by a non-Jew[1] should be accepted if put forward by a Jew in the name of a non-Jew? Raba therefore corrected himself as follows: If the

Jew pleads, ‘The non-Jew bought it from you in my presence and sold it to me,’ his plea is accepted, because if he had liked he could have brought against him [without fear of contradiction the still stronger plea], ‘I myself bought it from you.’

Rab Judah further said:[2] If a man takes a knife and a rope and says, ‘I am going to gather the fruit from so-and-so's date tree which I have bought from him, ‘his statement is accepted, because a man would not ordinarily presume to gather the fruit from a tree which does not belong to him. Rab Judah further said: If a man occupies the strip of another man's field outside of the ‘wild animals’ fence,’[3] this does not constitute a hazakah, because the owner can say, [The reason why I did not protest was because] whatever he sows, the wild animals eat up. Rab Judah further said: If he ate thereof[4] [only] ‘uncircumcised’ produce,[5] this does not count towards the three years of hazakah. It has also been taught to the same effect: If he takes from it only ‘uncircumcised’ produce, the produce of ‘mingled seed’ ,[6] or the produce of the Sabbatical year,[7] this does not confer hazakah. R. Joseph said: If he takes from the field immature produce,[8] this does not confer hazakah.[9] If, however-added Raba-the field is in the ‘neck of Mahuza’,[10] this does confer hazakah. R. Nahman said: The occupation of land which is full of cracks does not confer hazakah.[11] If the land yields no more than is sown In it,[12] its occupation does not confer hazakah.[13] Members of the Exilarch's house do not obtain hazakah through occupation of our fields,[14] nor do we obtain hazakah through occupation of theirs.[15]

AND SLAVES etc. Is there then a presumptive title to slaves? Has not Resh Lakish laid down that ‘there is no presumptive title to living creatures?[16] — Said Raba: [What Resh Lakish meant is that] there is no presumptive title in regard to them immediately, but there is after three years’ possession.[17] Raba further said: If the slave is an infant in a cradle, presumptive right to it is conferred immediately.[18] Surely this is self-evident? — It required to be stated on account of the case where the child has a mother. You might think in that case that there is a chance that the mother brought it into the house where It now is [and left it there]. [Raba therefore] tells us that a mother does not forget her child.

Some goats [went into a field] in Nehardea [and] ate some peeled barley [which they found there]. The owner of the barley went and seized them, and made a heavy claim on the owner of the goats.[19] The father of Samuel said: He can claim up to the value of the goats, because if he likes he can plead that the goats themselves are his by purchase.[20] [But surely] Resh Lakish has said that there is no hazakah to living things? Goats are an exception, because they are entrusted to a goatherd.[21] But they are left to themselves morning and evening?[22] — In Nehardea thieves abound, and the goats are delivered from hand to hand.[23]

R. ISHMAEL SAYS, THREE MONTHS etc. May we say that the actual difference [between R. Ishmael[24] and R. Akiba[25]] is in regard to ploughing,[26] R. Ishmael holding that ploughing does not help to confer hazakah and R. Akiba that it does? — If this were the case, why should R. Akiba require a month

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(1) Because, as stated above, the non-Jew can only prove his right by producing the deed of sale.

(2) v. supra 33b.

(3) In fields adjoining woods it was customary to make a fence a little within the border of the field and to throw seeds on the strip outside, so that the animals from the wood should eat what grew from these and not seek to penetrate within the fence.

(4) The field he occupied.

(5) ‘Orlah; Lev. XIX, 23, 24. When ye come to the land and plant trees for food, ye shall count the food thereof as uncircumcised; three years it shall be as uncircumcised unto you; it shall not be eaten of.

(6) Kila'im; v. Lev. XIX, 29; Deut. XXII, 9.

(7) ‘Orlah and Kila'im are prohibited; the produce of the Sabbatical year was common property. Hence the owner would not trouble to protest in these

(8) To feed cattle with.

(9) Because by such a proceeding the occupier seemed to show that he was conscious that the field did not belong to him, and therefore the owner would not trouble to protest.

(10) A fertile valley in the district of Mahuza where it was customary to do this, because corn was so abundant that it paid to feed cattle with it.

(11) Such land being practically barren.

(12) Lit., ‘if he takes out a kor (of seed) and brings in a kor (of produce).’

(13) Because it is not worth the owner's while to protest.

(14) Because the ordinary man is afraid to protest against the occupation.

(15) Because knowing that they are able to take forcible possession whenever they please, they do not trouble to protest.

(16) Lit., ‘those kept in the folds’, i.e., young animals, because they are liable to stray.

(17) And in this respect living things differ from inanimate, possession of which confers presumptive right immediately, on the presumption that ‘whatever a man holds is his’.

(18) Because the child could not have got into the house by itself; hence the presumption is that it was bought from the previous owner.

(19) I.e., he asserted that the goats had eaten barley to a much greater value than their own.

(20) I.e., if he asserted that the goats belonged to him, his plea would be valid (in default of rebutting evidence). Hence, in default of further evidence on either side, he can claim compensation up to the value of the goats.

(21) And therefore if they are found in another man's property, it is presumed that he has bought them.

(22) In the morning when they go by themselves from their owners to the goatherd, and in the evening when they go back by themselves from the goatherd to the owners.

(23) I.e., from the owners to the goatherds and vice-versa, and therefore have no chance to stray.

(24) Who requires a minimum of eighteen months. V. supra 28a.

(25) Who requires a minimum of fourteen months.

(26) I.e., if one ploughed the field without sowing.

Talmud - Mas. Baba Bathra 36b

in the first and third years? Even one day would be enough.[1] — No! Both are agreed that ploughing does not help to confer)hazakah, and the difference between them is whether a full or partially grown crop is required.[2] Our Rabbis taught: Ploughing does not help to confer hazakah. Some authorities hold, however, that it does help. Who are ‘some authorities’? — R. Hisda said: This is the opinion of R. Aha, as we see from the following: If a man ploughs a field fallow one year and sows it two,[3] or [even] ploughs it fallow two years and sows it one, this does not confer hazakah. R. Aha, however, says that it does give him a presumptive right.

R. Bibi inquired of R. Nahman: What is the reason of those authorities who lay down that ploughing does confer hazakah? — [He answered:] A man will not see someone else plough his field and keep quiet. And what is the reason of those who say that ploughed fallow does not confer hazakah?- Because the owner says to himself, ‘The more he ploughs the better for me.’[4] The people of Pum Nahara sent to inquire of R. Nahman b. R. Hisda as follows: Will our master be so good as to instruct us whether ploughed fallow helps to confer hazakah or not? He replied: R. Aha and all the chief authorities of the age hold that ploughed fallow does help to confer hazakah. R. Nahman b. Isaac said: You gain nothing by citing authorities;[5] for Rab and Samuel in Babylon and R. Ishmael and R. Akiba in Eretz Yisrael held that ploughing does not help to confer presumptive right. The views of R. Ishmael and R. Akiba [on the subject] can be derived from the Mishnah.[6] Where do we find the view of Rab on the subject? — In the following statement: Rab Judah said in the name of Rab: This[7] is the view of R. Ishmael and R. Akiba, but the Sages say that the hazakah [of such a field] is conferred only by occupation for three full years.[8] Now the expression ‘full years’ is intended to exclude ploughed fallow, is it not?[9] Where is the view of Samuel on the subject expressed? — In the following statement: Rab Judah said in the name of Samuel: This is the view of R. Ishmael and R. Akiba, but the Sages say that hazakah is not obtained until the occupier- has gathered in three crops of dates and culled three vintages and plucked three crops of olives. Where does the difference arise between Rab and Samuel? — The difference arises In the case of a young date tree.[10]

R. ISHMAEL SAID: THIS APPLIES ONLY TO A CORNFIELD etc.

Abaye said: On the strength of R. Ishmael's ruling,[11] we may attribute the following opinion to the Rabbis.[12] Suppose a man has thirty trees in a field planted ten to the beth se'ah,[13] then if he takes the produce of ten in one year, ten in the next, and ten in the third year, this constitutes hazakah.[14]

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(1) Since a field can be ploughed in one day.

(2) R. Ishmael requires a full crop, which takes at least three months to grow, and R. Akiba requires only a partially grown crop, for which one month is sufficient.

(3) I.e., the first and the third year.

(4) Lit., ‘Let him only put every tooth of the plough into the ground,’ i.e., so that he shall find it better prepared when he comes to it.

(5) Lit., ‘Is it an advantage (to you) to reckon up authorities?’

(6) Where both lay down that a certain amount of cropping must be done in each of the three years.

(7) That the period of hazakah for a non-irrigated field is not three full years but either eighteen months or fourteen months, in either case three crops being necessary.

(8) Lit., ‘from day to day’.

(9) Because if the mere ploughing confers hazakah, one day in the year is sufficient. As Tosaf. points out, this reasoning conflicts with the statement made above, that the reason why the Rabbis require three full years is because up to that time a man is careful of his title-deeds.

(10) Which produces three crops in less than three years. According to Rab, three croppings of such a tree would not confer hazakah, according to Samuel they would. R. Han., however, interprets the text to mean ‘a date tree which casts its fruit,’ and which therefore is not cropped three times even in three years. (V. Rashb.)

(11) Viz., that the gathering in of one kind of crop is equivalent to occupation for a year.

(12) The Rabbis differ from R. Ishmael only in requiring three years where he requires one, but they would agree with him as to what constitutes a crop. Hence we may attribute to them the ruling which follows.

(13) 50 cubits square. The reason why ten is taken is because if there are more than ten to the beth se'ah, this constitutes a ‘wood’, and to plant a field so thickly is not the ordinary way of occupying it. If again there are less, the field is not occupied properly. Cf supra 26b

(14) I.e., though the owner gathered grapes in each set only in one of the three years, he was reckoned as occupying the whole of the field, and so with the other two crops.

Talmud - Mas. Baba Bathra 37a

For did not R. Ishmael lay down that one kind of crop confers a presumptive title to the whole field? So here, one set of ten trees confers a presumptive title to the others, and vice versa.[1] This, however, is only the case if the other twenty did not produce [in the other two years]; for if they did produce and he did not take the produce, he obtains no hazakah. And in any case [it is necessary that the trees of which he does take the produce] should be spread about the field.[2]

[If a man sells a field to two persons, the ground to one and the trees to the other, and] if the one takes possession of the ground and the other takes possession of the trees,[3] R. Zebid says that the one becomes legal owner of the trees[4] and the other becomes the legal owner of the ground .[5] R. Papa strongly objected to this ruling. According to this, [he said,] the owner of the trees has no right whatever in the ground, and the owner of the ground can therefore tell him [when the tree withers], ‘Cut down your tree and take it and be gone.’ No, said R. Papa, [the law is that] the one becomes owner of the trees and half the ground, and the other of half the ground.

There is no question that if a man sells a piece of ground[6] and retains the trees on it for himself, he is entitled to a certain amount of ground [round the trees]. This ruling would be accepted even by R. Akiba, who said [in regard to a field with a well in it] that the seller interprets the terms of the sale liberally.[7] For this only applies to a well and a cistern, which do not impair the soil,[8] but in the case of trees which do impair the soil[9]

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(1) Lit., 'these... to these and these... to these.'

(2) Lit., 'be divided' (the fruits between the various sets of trees). Because if he takes the produce of ten in one beth se'ah, this is counted as a field by itself, and confers no right to the rest.

(3) By digging or some similar action.

(4) I.e., of the trees only, without any rights in the ground under or round them.

(5) I.e., the ground under the trees and as much round them as is required for tending them (Rashb.).

(6) To one purchaser. V. infra.

(7) Lit., 'he sells with a kindly eye,' i.e., if a man owns a courtyard or a field with a well in it, and sells the courtyard but not the well, he does not ipso facto retain a right of way through the courtyard or the field to the well, but has to pay for it, if required, to the purchaser. V. infra 64a.

(8) There is therefore no danger that he will at some future time be called upon by the purchaser of the field to remove the well; hence it does not occur to him to reserve the ground round it for himself.

(9) Through the spreading of the roots.

Talmud - Mas. Baba Bathra 37b

he would certainly reserve for himself [some of the soil], since otherwise the purchaser can say to him [when the tree withers], 'Pluck up your tree and be gone. If, however, a man sells the trees [in a field[1] and retains the ground for himself], in this there applies the dispute between R. Akiba and the Rabbis [viz., whether the purchaser is entitled to any ground round the trees]. According to R. Akiba, who holds that the vendor interprets the terms of the sale liberally, the purchaser is entitled [to such ground]; according to the Rabbis, he is not. That R. Akiba would allow the purchaser such ground would not be questioned even by R. Zebid, who said [in the case mentioned above] that he is not so entitled. For this was only where there were two purchasers, the reason being that one can say to the other, 'Just as I have no share in the trees, so you have no share in the ground.' Here, however, the seller interprets the terms of the sale liberally. That the Rabbis in this case do not allow the purchaser such ground would not be questioned even by R. Papa, who said above that he is so entitled. For this was only where there are two purchasers, the reason being that one [the purchaser of the ground] can say to the other, 'Just as the vendor interpreted the terms of sale generously for you,[2] so he did for me.'[3] Here, however, the seller interprets the terms of sale strictly.[4]

The Nehardeans say: [If the thirty trees mentioned above[5] are planted] close together,[6] the gathering in of their produce does not confer hazakah. Raba strongly questioned this ruling. On this view, he said, how is hazakah to be obtained in a row of clover?[7] No, said Raba; [what we should say is that] if a man sells saplings closely planted, the purchaser does not acquire any of the soil.[8] R. Zera said: A similar [difference of opinion is found] between Tannaim, [in the following Mishnah]: If a vineyard is planted on less than four cubits,[9] R. Simeon says that it is not a vineyard in the legal sense,[10] whereas the Rabbis say that it is a proper vineyard, the middle row being regarded as non-existent.[11] The Nehardeans say: If a man sells a date tree to another, the purchaser acquires the soil [under it] from its base to the furthest depth.[12]

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(1) The case here discussed is one in which only two trees are sold, since there is no question that the sale of three trees carries with it a certain amount of ground round the trees. V. infra 81a.

(2) By making over the tree and its produce to you in perpetuity.

(3) By allowing me ground under and round the tree.

(4) Lit., 'sells with a malignant eye.'

(5) The text here reverts to the discussion of the subject of the thirty trees.

(6) The 'trees' in question are apparently saplings which are meant to be transplanted.

(7) Which also is planted closely, and with a view to transplanting.

(8) Because they are meant to be uprooted.

(9) I.e., with less than four cubits between the rows of vines.

(10) And corn or other seed sown there does not form kilayim.

(11) Kil. V, 2; v. infra 83a. And similarly in regard to the trees, the Rabbis look upon the middle ones as non-existent, and therefore if the owner sells them the purchaser acquires the soil round them; whereas Raba follows R. Simeon.

(12) And can therefore plant a new one when this one withers.

Talmud - Mas. Baba Bathra 38a

Raba strongly questioned this ruling, on the ground that the seller can say, 'What l sell you is [sold in the same way as] garden crocus;[1] pluck up your garden crocus and be off'?- No, said Raba; this is only the case when he is able to plead so expressly.[2] Mar Kashisha the son of R. Hisda said to R. Ashi: If the seller did sell him [the tree in the same way as] a plot of garden crocus,[3] what was he to do?[4] — He should have lodged a protest within three years. For should you not say so,[5] then in the case of the 'mortgage of Sura'[6] which stipulates that 'on the termination of these [X] years this land shall be given up without payment,' if the mortgagee suppresses the bond and says that he has bought the land, would his plea indeed be valid? Have the Rabbis then made a regulation through which the mortgager is exposed to unfair loss?[7] The fact is that he should protect himself by lodging a protest. So here also it is incumbent on him to lodge a protest.

MISHNAH. THERE ARE [IN ERETZ YISRAEL] THREE DISTRICTS [WHICH ARE DISTINCT FROM EACH OTHER[8]] IN THE MATTER OF HAZAKAH — JUDEA, TRANSJORDAN, AND GALILEE. THUS, IF THE OWNER IS IN JUDEA AND THE OCCUPIER IN GALILEE, OR THE OWNER IN GALILEE AND THE OCCUPIER IN JUDEA, THE OCCUPATION DOES NOT CONFER HAZAKAH;[9] IT ONLY DOES SO IF THE OWNER IS IN THE SAME DISTRICT[10] WITH THE OCCUPIER. R. JUDAH SAYS: THE PERIOD IN WHICH OCCUPATION CONFERS HAZAKAH WAS FIXED AT THREE YEARS ONLY IN ORDER THAT IT MIGHT BE POSSIBLE WHEN A MAN IS IN SPAIN[11] FOR ANOTHER TO OCCUPY HIS FIELD ONE YEAR, AND FOR INFORMATION TO BE BROUGHT TO HIM [WHICH WILL ALSO TAKE] A YEAR, AND FOR HIM TO RETURN HIMSELF, [WHICH WILL TAKE] A THIRD YEAR.[12] GEMARA. What is the reason of the first Tanna [on which he bases his ruling]?[13] If he holds that a protest raised by the owner not in the presence of the occupier is a valid protest, then [it should be valid] even [if the owner is] in Judea and [the occupier in] Galilee.[14] If, however, he holds that a protest [raised by the owner] not in the presence of the occupier is not a valid protest, then [it should be equally] invalid even if both are in Judea?[15] -R. Abba b. Memel replied in the name of Rab: The first Tanna is indeed of the opinion that a protest raised [by the owner] not in the presence of the occupier is a valid protest, and our Mishnah was formulated at a time when there were hostilities between Judea and Galilee.[16] Why then are Judea and Galilee particularly specified?[17] — To show us

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(1) Which it was customary to uproot after it had ripened, the soil being left to the owner of the field.

(2) That is to say, if he advances this plea, it is accepted (in default of rebutting evidence), even though he has no document to prove it.

(3) I.e., without making any express stipulation.

(4) To prevent the purchaser after three years affirming that he bought the soil also and wants to plant another.

(5) I.e., that such a step is effective.

(6) V. supra p. 159, n. 4'

(7) I.e., the danger of losing his land.

(8) I.e., form self-contained units, as explained in what follows.

(9) I.e., the fact of the occupier having had unchallenged possession of the land for three years does not create a presumption that he is the owner. The reason is discussed in the Gemara.

(10) I.e., Judea, Transjordan and Galilee.

(11) Spain is taken as being the furthest point to which an owner of land in Eretz Yisrael was likely to go.

(12) R. Judah therefore does not hold that the period of three years was fixed because after that a man is not careful of his title-deed (V. supra 29a), nor does he regard Judea, Transjordan and Galilee as self-contained units in the matter of hazakah.

(13) That the three districts are independent.

(14) Because someone is sure to convey information of it to the occupier, and he will be careful of his title-deed if he has one.

(15) But in different towns.

(16) Hence caravans did not travel between them and it was difficult to know in one what was going on in the other.

(17) l.e., why should not the Tanna have formulated his ruling thus: ‘All districts of Eretz Yisrael are independent units in regard to hazakah when they are not on peaceful terms.’

Talmud - Mas. Baba Bathra 38b

that Judea and Galilee are normally reckoned to be on hostile terms.[1]

Rab Judah said: Rab laid down that occupation of the property of a fugitive does not confer hazakah.[2] When I related this to Samuel,[3] he said to me: Must then the owner [in ordinary cases] make his protest in the presence of the occupier?[4] [According to Samuel then,] what did Rab mean to teach us in this ruling? That [as a rule] a protest raised not in the occupier's presence is invalid?[5] But [how can this be,] seeing that Rab has laid down[6] that a protest raised not in the occupier's presence is valid? — Rab [in making this latter statement] was giving the reason of the Tanna of our Mishnah, but he did not himself concur.

There is another version [of this passage, as follows:] Rab Judah said: Rab laid down that occupation of the property of a fugitive does confer hazakah. When I related this to Samuel, he said: Of course! Do you imagine the protest has to be made in the presence of the occupier? What then does Rab desire to indicate [by this ruling?] That a protest made not in the occupier's presence is valid? But surely this has been laid down by Rab already? — The truth is that this is what Rab wishes to indicate, that even if the owner made his protest in the presence of two men who are not able to report it to the occupier,[7] it is still a valid protest.[8] For so R. Anan reported: ‘It has been expressly stated to me by Mar Samuel that if the protest is made in the presence of two men who are able to report it to the occupier, it is valid, but if of two men who are not able to report it to the occupier, it is not valid. And Rab?[9] — [He goes on the principle that] "your friend has a friend and your friend's friend has a friend".’[10]

Raba said: The law is that it is not permissible to take possession of the property of a fugitive,[11] and a protest made not in the presence of the occupier is valid. Are not these two rulings contradictory?-No; the latter relates to a fugitive on account of debt, the former to a fugitive on account of manslaughter.[12]

What constitutes a protest?-R. Zebid says: If the owner says, ‘So-and-so is a robber,’ this is no protest.[13] If, however, he says: ‘So-and-so is a robber who has seized my land wrongfully

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(1) I.e., that communication between them is difficult.

(2) Even if the owner makes no protest.

(3) Rab Judah was first a pupil of Rab and when Rab died he studied under Samuel.

(4) Which the fugitive cannot do.

(5) This being the reason why, in the case of the fugitive, the unchallenged occupation does not confer a title of ownership.

(6) V. supra.

(7) E.g., because they are about to go abroad.

(8) And Samuel did not think of this; hence his surprise at Rab's saying something which appeared self-evident.

(9) What is his view?

(10) And therefore if the two persons in whose presence the protest is made are not themselves able to report it, the protest is still valid, as in any case it will eventually reach the ears of the occupier.

(11) Presumably because a protest made not in the presence of the occupier is not valid.

(12) A fugitive on account of debt does not mind his whereabouts being known, so he will not refrain from making a protest, but a fugitive on account of manslaughter will not do this, for fear lest he may be discovered.

(13) Because this constitutes no warning to the occupier to take care of his deed of purchase.

Talmud - Mas. Baba Bathra 39a

and tomorrow I am going to sue him,' this is a protest.[1] Suppose the owner says to those to whom he makes the protest, 'Do not tell the occupier,' is this a valid protest?-R. Zebid says, [It is not, because] he has distinctly told them not to tell. R. Papa, however, says [that it is, because] what he meant was, 'Do not tell the occupier, but you can tell others,' and 'your friend has a friend and your friend's friend has a friend.' If the men to whom he made the protest say, 'We will not tell the occupier,' [is it a protest?]-R. Zebid says [that it is not, because] they distinctly say, 'We will not tell him' — R. Papa, however, says that it is, because what they meant was,'We will not tell the occupier himself but we will tell others,' and 'your friend has a friend and your friend's friend has a friend.' If he said to them, 'Don't say a word about this,' [is it a protest?] — R. Zebid says [it is not, because] he has told them not to say a word. If they say to him, 'We will not say a word about it,' [even] R. Papa says [it is not a protest, because] they tell him distinctly, 'We are not going to say a word.' R. Huna the son of R. Joshua, however, says that [it is a protest, because] if a man has no responsibility in regard to a certain statement, he will blurt it out without thinking.[2]

Raba said in the name of R. Nahman: A protest made not in the presence of the occupier is a valid protest — Raba questioned[3] R.Nahman's ruling [on the ground of the following]: R. JUDAH SAYS THAT THE PERIOD IN WHICH OCCUPATION CONFERS HAZAKAH WAS FIXED AT THREE YEARS IN ORDER THAT IT MIGHT BE POSSIBLE FOR A MAN TO BE IN SPAIN DURING THE FIRST YEAR IN WHICH HIS FIELD IS OCCUPIED AND FOR INFORMATION TO BE BROUGHT TO HIM IN THE SECOND YEAR AND FOR HIM TO RETURN HIMSELF IN THE THIRD YEAR. Now if we are to assume, [he said], that a protest made not in the presence of the occupier is a valid protest, why should the man have to come back? Let him stay where he is and make the protest! — There [R. Judah is merely suggesting] as a piece of good advice that he should return and take possession of his land and the produce.I From the fact that Raba questioned R. Nahman's ruling, it would seem that he was not of opinion that a protest made not in the occupier's presence is valid. [How can this be,] seeing that Raba has laid down that a protest made not in the presence of the occupier is valid?[4] — He adopted this view after he had learnt it from R. Nahman.

R. Jose b. Hanina once came across the disciples of R. Johanan, and inquired of them whether R. Johanan had ever laid down the number of persons in whose presence a protest must be made. R. Hiyya b. Abba [replied] that R. Johanan had laid down that a protest must be made in the presence of two persons; R. Abbahu, that it must be made in the presence of three persons. May we say that the difference in principle [between R. Hiyya b. Abba and R. Abbahu] is in regard to the dictum of Rabbah son of R. Huna, for Rabbah son of R. Huna said that disparaging remarks made in the presence of three persons

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(1) According to R. Han. the warning lies in the threat to go to law; according to Rashb. in the use of the term 'my land'.

(2) And therefore the chances are that they will after all tell.

(3) In spite of the fact that he reported it himself. (3) Because the longer he delays the more trouble he will have to recover the produce; the protest, however, is valid if made abroad.

(4) V. supra p. 168.

Talmud - Mas. Baba Bathra 39b

do not constitute slander?[1] The one who says that a protest can be made in the presence of two persons [R. Hiyya bar Abba], we would say, does not accept the dictum of Rabbah son of R. Huna,[2] while the one who says that three persons must be present [R. Abbahu] does accept it? — No; both accept the dictum of Rabbah son of R. Huna, and the essential difference between them here is this: the one who says that the protest may be made in the presence of two persons is of opinion that a protest made not in the presence of the occupier is no protest,[3] whereas the one who says that three persons must be present is of opinion that a protest made not in the presence of the occupier is valid.[4] Alternatively we may reply that both [R. Hiyya b. Abba and R. Abbahu] agree that a protest made not in the presence of the occupier is valid, and the point on which they join issue here is this, that the one who says the protest may be made in the presence of two persons considers that [what] we require [them for is] to provide evidence,[5] while the one who holds that three persons must be present considers that [what] we require [them for is to ensure] that the matter should be bruited abroad.

Giddal b. Minyumi had occasion to make a protest [against the occupation of some land of his]. He found R. Huna and Hiyya b. Rab and R. Hilkiah b. Tobi sitting together and made his protest in their presence. A year later he again came to make a protest. They said to him: This is not necessary. Rab has laid down distinctly that if the owner makes a protest in the first year he need not repeat it.[6] (According to another report, Hiyya b. Rab said to him: Since the owner made a protest in the first year he need not repeat it.) Resh Lakish said in the name of Bar Kappara: It is necessary to repeat the protest every three years. R. Johanan found this dictum very surprising. Can a robber, he said, obtain a title from continued occupation?[7] A robber, do you say? What you should rather say is ‘Can one who is like a robber[8] obtain a title from continued occupation?’ Raba said: The law is that the owner must make a protest at the end of every three years.

Bar Kappara taught: If an owner protests [against the occupation of his land] and [after an interval] repeats his protest a second and a third time,[9] if he [always] adheres to his first plea the occupation confers no title, but if he does not then it does confer a title.[10]

Raba said in the name of R. Nahman: A protest [against the occupation of property] must be made in the presence of two persons

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(1) Lit., ‘evil tongue’. For the essence of the ‘evil tongue’ is that the remarks made should not come to the ears of the person disparaged, but if they are made in the presence of three persons they are pretty sure to come to his knowledge.

(2) I.e., he holds that even if made in the presence of only two persons a statement will come to the ears of the person concerned; hence it is sufficient for the owner to make his protest in the presence of two persons.

(3) Hence the question of publicity does not arise, and the two persons are needed only to act as witnesses that the protest has been made by the owner to the occupier.

(4) Hence three persons most be present at such a protest to ensure that sufficient publicity is given to it.

(5) That the protest has been duly made within the specified three years.

(6) Within the next three years, v. infra.

(7) If the rightful owner neglects to protest within a given time.

(8) Since he pleads that he had a deed of purchase and lost it, he can hardly be put on the same footing as a robber. On the other hand, since he cannot produce the deed and continues to occupy the land after the former owner's protest, he is like a robber.

(9) Lit., ‘repeats his protest and repeats his protest’.

(10) E.g., if he says on the first occasion ‘so-and-so is robbing me of my field,’ and on the second occasion ‘so-and-so has only taken this field from me on mortgage, not purchased it,’ this being a virtual admission that his first plea was false. Hence neither plea is accepted, and the occupier is entitled to the land.

Talmud - Mas. Baba Bathra 40a

, and they are at liberty to write it down without being definitely instructed by the protester to do so.[1] A moda'ah[2] must be made in the presence of two persons, and they are at liberty to write it down without being definitely instructed to do so.[3] An admission of a debt must be made in the presence of two persons, and they must not write it unless definitely instructed to do so.[4] A transfer [by means of a cloth][5] must be carried out in the presence of two persons, and they may record it in writing without being definitely instructed to do so.[6] For certifying [the signatures of witnesses to] documents[7] [a Beth din of] three persons is required. (The mnemonic [for these is] Mamhak.)[8] Said Raba: If I have any difficulty about any of these rulings, it is this: How are we to regard this legal transfer [by means of a cloth]? If it is on a par with a proceeding of the Beth din, then we should require three persons. If it is not on a par with the proceedings of the Beth din, why can it be recorded without the permission of the seller?[9] — After posing the question, he himself resolved it. ‘In fact a kinyan’, he said, ‘is not on the same footing as a proceeding of the Beth din, and the reason why the witnesses may record it in writing without definite instructions from the transferor is because a kinyan unless there are instructions to the contrary, is intended to be recorded in writing.’[10]

Both Rabbah and R. Joseph hold that a moda'ah[11] should not be issued save against a man who does not obey the decisions of the Beth din.[12] [This is not the opinion of] Abaye and Raba, who said [to one another]: It can be issued even against me and against you.[13]

The Nehardeans say that a moda'ah

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(1) Lit. , ‘he need not say, write’, because such a document is of advantage to him, and ‘an advantage may be conferred on a man without his permission.’

(2) Lit. ‘notification’: an affidavit made by a man that a sale or a gift which he is about to execute is being forced on him against his will, and that he intends when opportunity arises to take legal steps to annul it.

(3) Because this also is to the advantage of the notifier.

(4) Lit., ‘he must say write’, because it is a disadvantage to the debtor to have his debt recorded in writing, and ‘a disadvantage may not be inflicted on a man without his consent.’

(5) Heb. kinyan. V. p. 6, n. 2 and Glos.

(6) The reason is discussed lower down.

(7) If a document signed by witnesses is brought before a Beth din and the Beth din certifies that the signatures are genuine, no question can subsequently be raised about their genuineness. The Beth din's endorsement was called honpak.

(8) M for mehaah (protest); M for moda'ah (notification); H for hoda'ah (admission); K for kinyan (transfer).

(9) Seeing that it is a disadvantage to him, confirming as it does the title of the transferee. But the proceedings of the Beth Din are of course independent of this rule.

(10) Because by using the kinyan the transferor shows that he is really anxious to make the transfer, since the exchange of the cloth in itself closes the transaction.

(11) V. supra p. 173, n. 2.

(12) Because otherwise the man who issues the moda'ah ought rather to sue him for trying to exercise constraint on him.

(13) Because sometimes it is not easy to bring the matter at once before the Beth din.

Talmud - Mas. Baba Bathra 40b

that does not contain the words ‘we, [the undersigned] are cognisant that so-and-so is acting under duress’, is no moda'ah. Of what kind of moda'ah are we speaking? If of one relating to a get [bill of divorce] or a gift. [why should the witnesses have to make this declaration, seeing that] it [only states something which] is more or less self-evident?[1] If again It is one relating to a sale, has not Raba laid down that we do not issue a moda'ah relating to a sale?[2] — [We are] in fact [speaking here of one relating] to a sale, and Raba admits [that such a one may be issued] where the seller acts under [such] constraint as [is exemplified] in the following case. A man mortgaged an orchard to another man for three years. The latter, after he had had the use of the orchard for the three years necessary for hazakah, said to the owner: ‘If you will sell it to me, well and good, and if not, I will suppress the mortgage deed and say that I purchased it outright.’ In such a case a moda'ah may be issued [on the owner's behalf].[3]

Rab Judah said: A deed of gift drawn up in secret is not enforceable. What is meant by a deed of gift drawn up in secret? R. Joseph said: If the donor said to the witnesses, ‘Go and write it in some hidden place.’ Others report that what R. Joseph said was: If the donor did not say to the witnesses, ‘Find a place in the street or in some public place and write it there.’ What difference does it make which version we adopt? — It makes a difference where the donor simply told the witnesses to write, without saying where.[4] Said Raba: Such a deed can serve as a moda'ah in respect of another.[5] R. Papa said: This statement attributed to Raba was not actually made by him but is inferred [wrongly] from the following ruling of his. A certain man wanted to betroth a woman, and she said to him, If you assign to me all your property I will become engaged to you, but otherwise not. He accordingly assigned to her all his property. Meanwhile, however, his eldest son had come to him and said, What is to become of me? He accordingly took witnesses and said to them, Go and hide yourselves in Eber Yamina[6] and write out [an assignment of my property] to him.[7] The case came before Raba, and he decided that neither party had acquired a title to the property. Those who witnessed this proceeding thought that Raba's reason was because the one deed was a moda'ah in respect of the other.[8] This is not entirely correct. [The secret gift] in that case [did indeed annul the later assignment] because the circumstances showed that the assignment to the woman was made under constraint. Here,[9] however, it is [evidently] the giver's desire that the one [the latter assignee] should obtain possession and not that the other should obtain possession.[10]

The question was asked [in the Beth Hamidrash]:

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(1) In the case of a get or a gift, there is no motive for a man to say that he is acting under constraint unless this is actually the case; hence there is no reason why the witnesses should have independent knowledge of the fact. In the case of a sale, however, it may happen that a man sells something in order to raise money, but with the idea of buying it back as soon as possible, and he may therefore be tempted to issue a moda'ah falsely in order to facilitate this.

(2) Where the sale, though compulsory, would not inflict real loss. V. infra 46a.

(3) Because if he does not sell he will lose the whole. It may be asked here how in such a case can the witnesses obtain independent knowledge that the sale was made under constraint? R. Han. says it can happen in this way. Suppose the witnesses first hear the owner claim the field and the occupier assert that he has bought it. Then the owner tells the occupier that he is willing to sell the field to him, and the latter tells him to draw up a deed of sale, not in his presence. The owner then tells the witnesses, who are thus able to say in the moda'ah that they know that the owner is selling under constraint.

(4) According to the first version such a deed is valid, according to the second it is not valid.

(5) I.e., even though not enforceable itself, it can render a subsequent deed or gift of the same thing invalid.

(6) [‘The south side’, a suburb of Mahoza, Obermeyer. p. 181].

(7) Before he had made the assignment to the woman.

(8) The deed of assignment to the son, being drawn up in secret, was not itself enforceable, but was able to render invalid the subsequent assignment to the woman.

(9) Where the second assignment is not made under constraint.

(10) As is shown by the fact that the deed of gift is written in secret.

Talmud - Mas. Baba Bathra 41a

What is the rule where the donor does not specify [the place of writing]?[1] — Rabina said that we take no account of this;[2] R. Ashi said that we do take account of it.[3] The law is that we do take account of it.

MISHNAH. THE FACT OF POSSESSION[4] IF NOT REINFORCED BY SOME PLEA OF RIGHT DOES NOT OF ITSELF CONFER A TITLE OF OWNERSHIP. FOR INSTANCE, IF A MAN SAYS TO ANOTHER, WHAT ARE YOU DOING ON MY PROPERTY, AND HE REPLIES, NO-ONE HAS EVER SAID A WORD TO ME ABOUT IT, HIS OCCUPATION CONFERS NO TITLE. IF, HOWEVER, HE PLEADS, I AM HERE BECAUSE YOU SOLD THE LAND TO ME, BECAUSE YOU GAVE IT TO ME, BECAUSE YOUR FATHER SOLD IT TO ME, BECAUSE YOUR FATHER GAVE IT TO ME, THEN HIS OCCUPATION CONFERS A TITLE OF OWNERSHIP. AN OCCUPIER BY VIRTUE OF INHERITANCE[5] DOES NOT REQUIRE ANY SUCH PLEA.[6]

GEMARA. [THE FACT OF POSSESSION IF NOT REINFORCED BY SOME PLEA OF RIGHT DOES NOT OF ITSELF CONFER A TITLE OF OWNERSHIP.] Surely this is self-evident? — [The reason for stating it is this] We might say: The land really was sold to this man, and he had a deed and has lost it,and the reason why he pleads as he does is because he thinks that if he says he bought the land he will be asked to produce the deed of sale. Let the Beth din then suggest to him that perhaps he had a deed and lost it, on the principle of Open thy mouth for the dumb.[7] The Mishnah therefore tells us [that this is not so].[8]

(Mnemonic ‘ANab.[9])

R.’Anan's[10] field was flooded through the bursting of a dam.[11] He afterwards went and restored the fence, [which, however, he built] on land belonging to his neighbour. The latter [on discovering this] sued him before R. Nahman. He said to him: ‘You must restore the land.’ ‘But,’ he rejoined, ‘I have become the owner of it by occupation?’[12] — Said R. Nahman to him: ‘On whose authority [do you rely]? On that of R. Ishmael and R. Judah, who both lay down that [if the occupation takes place] in presence of the owner [without protest], it constitutes a title at once. The law however, is not in accordance with their ruling.’[13] R. ‘Anan thereupon said: ‘But this man has tacitly waived his right because he came and helped me to build the fence?’ R. Nahman replied: ‘This was a waiver given in error. You yourself, had you known that the land was his, would not have built the fence on it. Just as you did not know, so he also did not know.’

R. Kahana's land was flooded through the bursting of a dam. He afterwards went and built a new fence on land which did not belong to him.

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[1] I.e., whether the deed of gift was to be written in a secret or a public place. This question was left open above.

[2] I.e., we do not suppose that the donor meant it to be written secretly, and therefore it is enforceable.

[3] And therefore the deed is not enforceable. if however, the gift has been made it cannot be recovered.

[4] For three years in the case of land, etc., immediate in the case of movables.

[5] I.e., one who inherited the land from the previous occupier.

[6] Because he cannot be expected to know how his father came by the property.

[7] Prov. XXXI, 8.

[8] And though the plea is valid if put forward by him, we do not suggest it to him.

[9] [The meaning of this mnemonic is obscure. V. Brull, J. Die Mnemotechnik des Talmuds, 40, and D.S. a.l. for attempted interpretations.]

[10] Var. lec. ‘Hanan’.

[11] And the boundary marks were obliterated.

(12) Because the owner has allowed me to remain in possession of it a certain time without protest.

(13) But that of the Rabbis, who say that three years occupation is required to confer a title.

Talmud - Mas. Baba Bathra 41b

He came before Rab Judah, and the other went and brought two witnesses, one of whom asserted that R. Kahana had encroached to the extent of two rows[1] and the other to the extent of three rows. Rab Judah said to R. Kahana: Go and compensate the man for two out of the three rows. Said R. Kahana: Who is your authority [for this ruling]?[2] [He replied:] Rabbi Simeon b. Eleazar, as it has been taught: 'Rabbi Simeon b. Eleazar states that Beth Shammai and Beth Hillel agreed that if there are two sets of witnesses [to a loan], one of which says [that the loan was for] one maneh and the other [for] two manehs, [their evidence is accepted in respect of the one maneh] because one maneh is included in two. Where they differed was in the case where there is one pair [of witnesses of whom] one says that [the loan was for] a maneh and the other [that it was for] two manehs. In that case Beth Shammai held that their evidence is at variance, whereas Beth Hillel held that two manehs include one.' R. Kahana rejoined: But I can bring you a letter from the West [Eretz Yisrael] to show that the halachah does not follow R. Simeon. To which Rab Judah replied: [Meanwhile my decision can stand] till you bring it.

A certain man lived four years in an upper room in Kashta. One day the owner of the room came and found him there, and said to him: What are you doing in this house? He replied: I bought it from so-and-so who bought it from you. He summoned him before R. Hiyya, who said to the occupier: If you can bring evidence to show that the man from whom you bought the house lived in it even for a single day, I will declare you the owner, but otherwise not. Rab said afterwards [to his disciples]: I was sitting in front of my uncle[3] and I said to him, 'Will not a man sometimes buy and sell [a thing] on [the same] night?'[4] I noted, however, his agreement in the case where the occupier said, 'The man from whom I bought it bought it from you in my presence;' then his word is accepted, because had he wished he [could have put forward a still stronger plea] by saying, I myself bought it from you. Raba said: The ruling of R. Hiyya is more likely to be right, because the Mishnah says [here], AN OCCUPIER BY VIRTUE OF INHERITANCE DOES NOT REQUIRE ANY PLEA. It is a plea that he does not require, but he does require to bring a proof [that the person from whom he inherited the land occupied it]![5] — Possibly, however, the Mishnah means that he requires neither plea nor proof.[6] Or, if you like, I can say that a purchaser is [on a] different [footing from an heir], because he is not likely to have thrown away money for nothing.[7]

The question was asked [in the Beth Hamidrash:] If the previous owner was seen [on the property],[8] what [are we to infer]?[9] — Abaye replied: That is just what we mean.[10] Raba, [however], said: It is quite possible for a man to measure out his field and not sell it after all.

Three [successive] purchasers of the same field can count as one.[11] Rab said: [This is only] if all the purchases were effected by deed.[12] Does this indicate that in Rab's opinion a sale by deed becomes generally known but a sale in the presence of witnesses does not become generally known? Surely Rab [himself] has laid down that if a man sells a field [with a guarantee][13] in the presence of witnesses, the purchaser may recover even from property on which there is a lien?[14] — In that case the purchasers

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(1) Or 'beds'.

(2) That where two witnesses partly agree and partly differ you may accept what is common ground between them.

(3) R. Hiyya.

(4) And therefore why do you demand proof that the man from whom he bought it lived there.

(5) And the same rule should apply to one who occupies in virtue of purchase from a third party.

(6) And therefore Rab may be right.

(7) Viz., to the third party from whom he bought it, unless he had made sure that he had bought it from the original owner. Hence even if we say that an heir requires to bring proof that his father occupied the land, the purchaser from a third party is not required to bring similar proof.

(8) Taking its measurements.

(9) Does this constitute proof that he sold it or not?

(10) I.e., the kind of thing that constitutes 'proof'.

(11) If A occupies a field one year and then sells it to B, who occupies it a second year and then sells it to C, who occupies it a third year, C at the end of the third year can claim ownership in virtue of the three years' occupation.

(12) I.e., B's purchase from A and C's from B. The reason is that such purchases are likely to become known to the original owner, but otherwise they are not likely to become known to him and he may think that the successive occupiers have no intention of claiming the land as their own and therefore does not trouble to protest.

(13) That if the property is claimed by a third party and has to be surrendered to him, he will allow the purchaser to recover the purchase price from any part of his remaining property.

(14) I.e., even from property which the vendor has subsequently mortgaged or sold, the presumption being that the persons who have bought this property from him or taken it on mortgage were aware that there was a lien on his property. This would show that a sale in the presence of witnesses does become known.

Talmud - Mas. Baba Bathra 42a

have only themselves to blame.[1]

But did Rab indeed give this ruling? Have we not learnt [in a Mishnah]: If a man lends money to another on a bond, he may recover his debt even from property on which there is a lien[2] [supposing there are no free assets]; if, however, the loan was made only in the presence of witnesses, he may only recover from property on which there is no lien? And should you answer that Rab is himself [considered] a Tanna and may dispute [the ruling of a Mishnah], this can hardly be, since Rab and Samuel have both laid down that a loan [contracted] by word of mouth[3] cannot be recovered either from the heirs [of the debtor] or from those who have [subsequently] purchased [from him].[4] — Are you arguing from a loan to a sale? When a man borrows money, he does so as secretly as possible, in order that his property may not depreciate.[5] If he sells land, however, he does so as publicly as possible, in order that people may know about it.[6]

Our Rabbis taught: If the father[7] occupies[8] [the field] a year and the son two years, or the father two years and the son one year, or the father one year, the son one year and the purchaser[9] one year, such occupation confers a title of ownership. Now this would indicate, would it not, that when a man purchases [a piece of land] it becomes generally known?[10] But this would seem to conflict [with the following]: If a man occupies a field in the lifetime of the father[11] one year and two years in the lifetime of the son, or two years in the lifetime of the father and one year in the lifetime of the son, or one year in the lifetime of the father, one year in the lifetime of the son, and one year in the lifetime of the purchaser,[12] such occupation confers a title of ownership. Now if you assume that the purchase [of a piece of land] becomes generally known, surely there can be no protest stronger than this, [that the son has sold the land]?[13] — R. Papa said: The case of which this passage speaks is where the son sells all his fields without specifying [any one in particular].[14]

MISHNAH. CRAFTSMEN,[15] PARTNERS, METAYERS, AND TRUSTEES HAVE NO HAZAKAH.[16] A MAN HAS NO HAZAKAH IN THE PROPERTY OF HIS WIFE NOR HAS A WOMAN HAZAKAH IN THE PROPERTY OF HER HUSBAND. A FATHER HAS NO HAZAKAH IN THE PROPERTY OF HIS SON NOR HAS A SON HAZAKAH IN THE PROPERTY OF HIS FATHER. THESE STATEMENTS APPLY ONLY TO CASES [WHERE OWNERSHIP IS CLAIMED] ON THE GROUND OF POSSESSION. IN THE CASE, HOWEVER, WHERE LAND IS PRESENTED AS A GIFT, OR OF BROTHERS DIVIDING AN INHERITANCE, OR OF ONE WHO SEIZES THE PROPERTY OF A PROSELYTE,[17] OWNERSHIP CAN BE CLAIMED AS SOON AS THE FIRST STEP HAS BEEN TAKEN TOWARDS MAKING A DOOR OR A FENCE OR AN OPENING.

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(1) Although the sale of the first property was not generally known, they should have enquired whether there was any lien on the property which they bought subsequently.

(2) Because anyone who lent the borrower money or bought from him subsequently ought to have known that there was already a prior claim on him.

(3) I.e., in the presence of witnesses but without a bond.

(4) Which is equivalent to saying that it cannot be recovered from property on which there is a lien.

(5) As it will if people know that he is pressed for money.

(6) And so he may have more offers. Hence there is no contradiction between the two rulings of Rab.

(7) The man who purchased the field.

(8) Lit., ‘eats’.

(9) The man who purchases from the son.

(10) Because otherwise the original owner can say that he did not think that the last occupier intended to claim the land, and therefore did not trouble to make a protest.

(11) The original owner.

(12) The man who purchases from the son.

(13) And if it is not a protest, the reason must be that it does not become generally known.

(14) As in that case the occupier can plead that he understood that the sale did not include the field in question and therefore did not constitute a protest. But if he specifically sells that field, this constitutes a protest, because the sale is bound to come to the knowledge of the occupier, and the occupation therefore confers no title to ownership.

(15) To whom articles are taken for repair.

(16) I.e., the fact of their being in possession of any piece of (movable) property does not in itself constitute any title to ownership, since it is understood that they are left temporarily in possession of property by the rightful owners. V.I. delete ‘craftsmen’.

(17) A proselyte who dies without (Jewish) issue has no heirs, and his property after death falls to the first occupier.

Talmud - Mas. Baba Bathra 42b

GEMARA. Samuel's father[1] and Levi learnt [from the Mishnah] that a partner has no hazakah, still less a craftsman.[2] Samuel, however, learnt that a craftsman has no hazakah, but a partner has.[3] Samuel in this is consistent. For Samuel has said that partners have hazakah as against each other and can give evidence in one another's favour[4] and can stand to one another in the relation of paid keepers [of their common property].[5] R. Abba pointed out the following contradiction to R. Judah in the [burial] cave of R. Zakkai's field: Did Samuel really say that a partner has hazakah? Has not Samuel said that a partner is regarded as having freedom of entry[6] [into the whole of the joint property], and is not this equivalent to saying that a partner has no hazakah [against the other partner]?[7] — [He replied:] There is no contradiction. In the one case [Samuel is speaking of a partner] who takes possession of the whole [of the joint field], in the other of one who takes possession of only half of it.[8] [To the question which is which,][9] some answer one way and some the other.[10] Rabina said: In both cases [Samuel is speaking] of a partner who takes possession of the whole [of the joint field], but still there is no contradiction, because in the one case he speaks of a field which has to be divided [if either partner demands][11] and in the other of a field which has not to be divided [if either partner objects].[12]

[To revert to] a previous text: ‘Samuel said that a partner is regarded as having freedom to work the whole of the joint property.’ What does this tell us? That a partner has no hazakah? Why does he not say distinctly that a partner has no hazakah? — R. Nahman said in the name of Rabbah b. Abbuha: [He chooses the other mode of expression] to show that the partner is entitled to a full half of the mature produce[13] in a field that is not meant for plantation in the same way as he would be in a field meant for plantation.[14]

Partners may give evidence in one another's favour.

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(1) Abba b. Abba.

(2) Because unlike the partner he never had any share in the property. Evidently therefore they omitted the word ‘craftsmen’ from the Mishnah (Rashb.).

(3) Because the fact that he has been left in undisturbed possession of the whole of the joint property constitutes a presumption that the other partner has made over to him his share.

(4) Not being regarded as interested parties even where the matter in dispute is a part of the joint property.

(5) If some of the joint property is stolen while in possession of A, B can claim from him restitution of his share in the same way as he could claim from someone in whose charge he had placed it for a fee, A's ‘fee’ being constituted by B's willingness to take charge of it with the same responsibility for a similar period.

(6) I.e., permission from the other partner to work the whole of the joint field for his own benefit.

(7) Because this permission naturally does not mean any waiving by the other partner of his title to his share of the property.

(8) Viz., the better half, and afterwards he maintains that a division has been actually effected and that this half belongs to him.

(9) I.e., which kind of partner, according to Samuel, has hazakah and which has not.

(10) Some say that by taking possession of the whole field the partner acquires hazakah, because it is not usual for the other partner to allow this, and that by taking possession of one half, even the better half, he does not acquire hazakah, because one partner will often allow the other to do this several years running. Others say that by taking possession of the whole a partner does not acquire hazakah because it is the custom of joint owners that each should occupy the whole property several years running, but by taking possession of one particular half he does acquire hazakah because the presumption is that had the field not been divided he would not have confined himself to this particular half.

(11) I.e., a field which allows of four cubits square being assigned to each. Possession of such a field confers hazakah since, as there is room for both, one partner is not likely to allow the other to occupy the whole for several years running.

(12) I.e., a plot too small to allow of four cubits being assigned to each partner. In this case it would be natural for each partner to work the whole plot several years running, and therefore possession of the whole does not constitute a title of ownership.

(13) Lit., ‘improved value that reaches the shoulders,’ or ‘improved value that is dealt with by the carriers.’ The exact meaning of the expression is obscure; it obviously refers to the improved value of trees as opposed to the improved value of land, but there is a difference of opinion as to whether all fruit trees are included, or only those that need careful tending, like vines. V. Tosaf. s.v. שבח המגיע לכתפים

(14) If a man plants another man's field without the latter's permission, he is entitled to the whole of the ‘mature produce that reaches the shoulders,’ but only on condition that the field was meant for plantation and not for sowing. Otherwise he can recover no more than his outlay. If, however, he has the consent of the owner, he takes the whole of the produce in any case. Samuel here tells us that the partner in this respect is on the same footing as the metayer who works the field with the owner's consent.

Talmud - Mas. Baba Bathra 43a

How so? Are they not interested parties?[1] — We are assuming here that the one [who gives evidence] makes a written declaration stating: I have[2] no claim on this field. And suppose he does make such a declaration, what does it matter, seeing that it has been taught: If a man says to another,[3] I have no claim on this field, I have no concern in it, I entirely dissociate myself from it,[4] his words are of no effect?[5] — We are assuming here that the other partner obtained from him a formal transfer.[6] And suppose he does obtain from him a formal transfer, what does it matter? The other can still keep it safe for his own creditor,[7] as we learn from the statement of Rabin b. Samuel, who said in the name of Samuel: If a man sells a field to another [even] without accepting responsibility,[8] he cannot give evidence as to the latter's title, because he may [want to] keep it safe for his own creditor?[9] — We are assuming that he has accepted responsibility [towards his partner]. Responsibility in respect of whom? If we say, responsibility in general,[10] then all the more would he prefer it [to be in the hands of the partner, and he is therefore an interested party]! — We must therefore say, responsibility in respect of his own debt.[11]

And suppose the partner does renounce his interest in the property, does he do so sincerely?[12] Has it not been taught: If a scroll of the Law belonging to the inhabitants of a town has been stolen, the judges of that town must not try [the alleged culprit] nor can the inhabitants of the town give evidence [against him]?[13] Now if a partner can renounce his interest, why cannot two of the townspeople renounce their interest in, the scroll and try [him]?[14] — A scroll of the Law is different, because it is for public reading.[15] Come and hear: If a man says: Distribute a maneh to the inhabitants of my town [and it is stolen], the judges of that town must not try [the alleged culprit] nor may the inhabitants give evidence against him. Why [should this be]? Cannot two of them renounce their share in the gift and try him? — Here too [we are dealing with] a scroll of the Law.[16] Come and hear: If a man says: Distribute a maneh to the poor of my town [and it is stolen, the alleged culprit] is not to be tried by the judges of that town and the inhabitants of that town cannot give evidence in the case. What! Do you imagine then that, because the poor receive, the judges are to be disqualified?[17] What therefore you mean to say is this: the case must not be tried by the poor judges of that town, nor may the poor of the town give evidence. Why now should this be? Cannot two of them renounce their share and try the case? — Here too we [are dealing with] a scroll of the Law, and the reason why the donor designated the recipients as ‘poor’ is because all are poor in respect of a scroll of the Law. Or if you like again I can indeed say that the poor literally are meant ‘ and the particular poor referred to are those whose support devolves on the judges.[18] How are we to understand this? If there is a fixed levy,[19] let two of them give their contribution and then try the case.[20] We assume therefore that there is no fixed levy.[21] Or if you like I can say that there is indeed a fixed levy, yet still the rich are pleased [that the maneh should be given to the poor], because after all there is a surplus.[22]

[Samuel said above that partners] may stand to one another in the relation of paid keepers of their common property.

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(1) Lit., ‘in contact with their evidence’.

(2) I.e., I shall henceforth have.

(3) I.e., his partner.

(4) Lit., ‘My hands are removed from it.’

(5) Because all these expressions refer properly to something which has yet to accrue to a man, but he cannot divest himself of his ownership of something which he already possesses until he says expressly to the donee, ‘I make the field over to you,’ or words to that effect.

(6) Lit., ‘they acquired it from his hand’ (by a kinyan sudar).

(7) If A has borrowed money from C on the security of his share in a field and then makes over his share to his partner B, it is to his interest that the field should be recognised as belonging to B rather than to any other person, so that C may seize the mortgaged part of the field in consideration of the debt and A will thus be saved from becoming a defaulter. Hence if B's title to the field is contested, A is an interested party and cannot give evidence in B's favour, although he has himself formally renounced all share in the field.

(8) That if the field is seized on account of a debt which he has previously contracted, he will refund the purchaser his money.

(9) At the time when the creditor claims the repayment of the loan.

(10) E.g., in respect of one who claims the land as having previously belonged to himself or his father, and not merely of a creditor.

(11) As explained above in note 3 . In this case, if he does not wish to become a defaulter, he must either pay his creditor or compensate his partner. Hence it makes no difference to him whether the land remains in the hands of his partner or not, and therefore his evidence is admissible.

(12) Lit., ‘does he renounce it’. Even if he transfers the property to the partner in such a way as to make his renunciation apparently complete (as explained above), is there not still the possibility of collusion between him and the partner, so that his evidence would still be inadmissible.

(13) Because all the townspeople have a share in the scroll and are therefore interested parties.

(14) Which shows that renunciation cannot be made by the process described above.

(15) And therefore none of the townspeople can entirely divest himself of his interest in it, unless he leaves the town.

(16) I.e., the gift was made for purchasing a scroll, and therefore none of the townspeople can entirely divest himself of his interest in it, unless he leaves the town.

(17) This question relates to the form of the statement just made, which contains a manifest absurdity, and is therefore corrected in the next sentence.

(18) Who are presumably wealthy.

(19) On the rich for the support of the poor.

(20) For then they are no longer interested in the donation.

(21) But money is collected from the rich as occasion arises. Hence as long as the donation is in existence they have an interest in it.

(22) Lit., ‘since there is something over, there is something over’, and for the time being they are not called on to pay.

Talmud - Mas. Baba Bathra 43b

Why should this be, seeing that this is a case of keeping with the owner present?[1] — R. Papa replied: [Samuel's rule applies] where one said to the other, You keep [the whole property for me] today and I will keep it [for you] tomorrow.[2]

Our Rabbis taught: If a man sells to another a house or a field, he is not allowed to testify to the latter's title to it[3] because he is responsible to him for it.[4] If, however, he sells him a cow or a garment, he can testify to his title to it, because he is not responsible to him for it. Why should the rule in the second case be different from that in the first? — R. Shesheth said: The first rule [applies to a case where, for instance,] Reuben wrongfully takes a field from Simeon and sells it to Levi, and then Judah comes and contests Levi's title, Simeon then must not go and give evidence in favour of Levi, thinking that [if Levi retains it] it will be easier for him to recover it.[5] But if he has once testified that it belongs to Levi, how can he recover it from him?[6] — [We suppose] that what he will say [in evidence] is, I know that this field does not belong to Judah.[7] But cannot he recover it from Judah by means of the same proofs by which he recovers it from Levi?[8] — He says: It is easier for me to deal with the second [Levi] than with the first [Judah].[9] Or if you like I can reply that both [Simeon and Judah] have witnesses [to prove their title], and the Rabbis have laid down that in such cases the land shall remain in possession of its present owner.[10]

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(1) According to Tosaf, we must suppose that both commenced to keep watch over the property together. Hence at the beginning each was in the position of a man taking charge of an article while the owner is still with him, and in such a case the keeper, even if he receives a fee, is not responsible even if the owner subsequently departs (cf. Ex. XXII, 1 5, and B.M. 95a).

(2) I.e., they made a special stipulation that each should be responsible in turn.

(3) Supposing that a third party claims it from him.

(4) The meaning of this is discussed later.

(5) I.e., he may consider that he has a better chance of recovering it from Levi (from whom he may claim it as having been purchased from a robber) than from Judah, and therefore he has an interest in testifying on Levi's behalf.

(6) And so how can he think any such thing?

(7) Without committing himself to the statement that it belongs to Levi.

(8) E.g., if Judah has claimed the property on the ground that Reuben sold it to him. In that case we should think there can be no objection to Simeon's testifying that Reuben sold the field to Levi, because even if the field is ultimately assigned to Judah, Simeon can recover it from him on the ground that Reuben took it from him (v. Tosaf. s.v. כגון דאית ליה).

(9) Lit., ‘the first is easy for me, the second difficult’.

(10) And therefore, if the land is once assigned to Judah, Simeon will not be able to recover it from him. Hence if Judah claims it from Levi (from whom Simeon can certainly recover), Simeon must not give evidence against him.

Talmud - Mas. Baba Bathra 44a

But [if the explanation of R. Shesheth is correct],[1] why should the rule not be stated in reference to the robber himself?[2] — Because It was necessary to state the second clause [viz.]: ‘if he sells him a cow or a garment.’ For in this case the selling is essential, in order that there may be both giving up [on the part of the original owner] and change of ownership,[3] but if the robber does not sell the article, since in this case the original owner may still recover it, he may not give evidence.[4] Hence in the first clause also the ‘selling’ is inserted. But [is this rule sound in regard] even to the second clause? Granted that the original owner abandons his claim to the article itself, he has not abandoned his claim to the money, has he?[5] — The rule requires to be stated to cover the case where the robber has died, as we have learnt: If a man robs [someone of food] and gives it to his children to eat or bequeaths it to them, they are not under obligation to repay it. But [if this explanation is correct], why should not the rule be stated in reference to the heir [of the thief]?[6] It is true, there is a reason [why it should not] if we accept the opinion that the ownership of an heir [of a thief] is not on the same footing as the ownership of a purchaser [from a thief],[7] but on the view that the ownership of the heir is on the same footing as the ownership of the purchaser, what are we to say? And Abaye finds yet another difficulty [in the explanation of R. Shesheth, viz. that the expressions] ‘because he is responsible for it,’ ‘because he is not responsible for it’ [are on this theory improperly used,[8] and] the Baraitha should say, ‘because it may be recovered by him’, ‘because it cannot be recovered by him’? — We must therefore [understand the above rulings] in the light of the dictum enunciated by Rabin b. Samuel in the name of Samuel, viz. If a man sells a field to another [even] without [accepting] responsibility, he cannot give evidence as to the latter's title, because he can keep it safe for his own creditor.[9] This applies only to a house or a field, but in the case of a cow or a garment, not only is there no question

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(1) That we are dealing with a case where the land has been stolen.

(2) I.e., that Simeon must not testify to the title of Reuben himself if it is challenged by a third party. The rule in fact should be stated thus: If a man wrongfully seizes a house or a field, the original owner must not testify on his behalf because the thief is responsible to him for it.

(3) If a man is robbed of something (other than land), he does not lose his claim to it until (a) he has given up hope of recovering it, and (b) it has changed hands. Hence until the cow or the garment is sold, Simeon still has an interest in it and therefore is debarred from giving evidence. But in the case of land, a man never loses his claim, and therefore even if the land has been sold, Simeon may not give evidence.

(4) In favour of one who has obtained it from the robber, if his title is contested by a third party.

(5) He still has a claim on the thief for the value of the article, and is therefore still an interested party.

(6) Viz., in the following form: ‘If a man robs another of a house and bequeaths it to his son, the original owner cannot testify etc. . . . if he robs him of a cow and bequeaths it. . . etc.’

(7) I.e. , that inheritance does not constitute ‘change of ownership’ and that an heir is liable so long as the article stolen is in his possession and the original owner has not given op hope of recovery, and therefore the owner would be an interested party even in the case of a cow, etc.

(8) According to the explanation of R. Shesheth, the expression here means that the purchaser (Levi) is responsible, but elsewhere it invariably means that the seller is responsible.

(9) V. supra p. 184, n. 3.

Talmud - Mas. Baba Bathra 44b

that [if he sells them without] having declared them security [to a creditor], the creditor has no lien on them[1] (the reason being that they are movables, and movables cannot be mortgaged to a creditor; and even if the debtor gives a written promise to pay ‘from the coat on his back’, that is only binding so long as they are actually there but not if they are not there) , but even if he did declare them to be security, the creditor still has no lien on them.[2] The reason is to be found in the dictum of Raba, for

Raba said: If a man declares his slave security for a debt, and then sells him, the creditor can seize him [in satisfaction of the debt], but if he declares his ox or his ass security for the debt and then sells it, the creditor cannot seize it [in payment of the debt],[3] the reason being that the former [the hypothecating of a slave] becomes generally known, but the latter [that of an ox or an ass] does not become generally known.[4] But is there not a possibility[5] that he [the seller] mortgaged to him [the creditor] movables along with landed property,[6] and Raba has laid down that if a man mortgages to another movables along with landed property, the latter acquires a lien over the land and acquires one over the movables also[7] (providing — R. Hisda adds — he inserts in the bond the words,'this bond is no mere asmakta[8] or draft form')? — We assume here that the seller sold [the cow or the garment] immediately after himself acquiring it.[9] But is there not still a possibility that this is a case where [the seller has given his creditor a bond on movables which] he will hereafter acquire,[10] and may we not learn from this fact[11] that if [a man gives his creditor a bond on movables which] he is hereafter to acquire, and then acquires them and sells them or acquires them and bequeaths them, the creditor has no lien on them?[12] — This,[13] however, was only meant to apply to the case where the witnesses say, We know that this man never owned any land.[14]

But has not R. Papa said: Although the Rabbis have laid down that if a man sells his field to another without a guarantee[15] and his creditor comes and seizes it, the purchaser cannot recover [the price of the field] from him, yet if it is found that the field did not belong to him, he can recover?[16] — In this case we suppose that the purchaser recognises the ass [he bought] as being the foal of an ass belonging to the seller.[17] R. Zebid, however, says that even if it is found that the field did not belong to the seller, the purchaser cannot recover from him, because he can say to him, That was precisely why I sold to you without a guarantee.

[To revert to] the above text, 'Rabin b. Samuel said in the name of Samuel: If a man sells a field to another without [accepting] responsibility, he cannot give evidence as to the latter's title, because he can keep it safe for his own creditor'.[18] How can this be?

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(1) And therefore the seller who is also the debtor has no special interest in confirming them in the possession of the purchaser and so can testify on his behalf.

(2) And therefore the seller can still testify on the purchaser's behalf.

(3) Therefore the seller, since he knows that his own creditor cannot seize the ox or ass in question, has no special interest in their retention by the man to whom he sold them, and therefore he may testify on his behalf if his title to them is challenged by a third party.

(4) And therefore it is not fair that the purchaser should be penalised.

(5) Lit., 'Let us apprehend perhaps'.

(6) I.e., he gave his creditor a lien on his landed property along with the movable property contained therein.

(7) Therefore if the borrower afterwards sells the movables, the creditor can distrain on them in the same way as on the land.

(8) אסמכתא Lit., 'assurance': a statement by a debtor on paying part of his debt that if he does not pay the rest by a certain time he will again become liable for the whole. Such a declaration has no legal force.

(9) And therefore we are quite certain that he did not mortgage it for a debt of his own. Hence he may testify to the purchaser's title, as he has no personal interest in the matter.

(10) I.e., when borrowing the money, he has given the lender the right to recover from his land and all the movables which it contains or shall hereafter contain.

(11) That we disregard this possibility.

(12) This question is discussed infra 157a and left undecided.

(13) That we disregard the possibility of the seller having mortgaged movables along with landed property.

(14) In this case the movables cannot be mortgaged, and there is no objection to the seller giving evidence on behalf of the purchaser.

(15) That he will make restitution if the field is attached by a third party.

(16) Hence if the cow or the ass is claimed from the purchaser by a third party who proves that it was stolen from him, the purchaser can recover from the seller, and it is therefore to the latter's interest that it should remain in his possession and he cannot testify on his behalf.

(17) And similarly with a garment, that it was woven in his house. This is tantamount to an admission on his part that the animal or garment did belong to the seller, and after such an admission he cannot claim restitution from him.

(18) V. supra p. 184

Talmud - Mas. Baba Bathra 45a

If he has other land, the creditor can seize that.[1] If he has no other land, what advantage has he [from the land remaining in the hands of the purchaser]?[2] — The rule actually applies to the case where he has no other land, and the reason for it is that the seller is anxious if possible not to be a defaulter.[3] But when all is said and done, he does become a defaulter in respect of the purchaser? — [The rule is still sound] because he says: It was for this very reason that I sold it to you without a guarantee.[4]

Raba [or some say, R. Papa] issued a proclamation: [Know] all you that go up [to Eretz Yisrael] or go down [to Babylon] that if an Israelite sells an ass to a fellow-Israelite and a Gentile comes and forcibly takes it from him,[5] it is the duty of the first to help him to rescue It.[6] This, however, only applies if the purchaser cannot recognise the ass as the foal of the seller,[7] but if he can recognise it as the foal of the ass of the seller, [he need] not [help him].[8] Further, we only say [that he has this duty] if the non-Jew does not forcibly take the saddle along with the ass,[9] but if he takes the saddle along with the ass, [we do] not [say so]. Amemar said: Even without all these qualifications he need not help him, because generally speaking the heathen is a grabber,[10] and so Scripture says of them, Their mouth speaketh vanity and their right hand is a right hand of falsehood.[11]

A CRAFTSMAN HAS NO HAZAKAH. Rabbah said: This rule was meant to apply only to the case where the owner delivered the article to the craftsman in the presence of witnesses, but if he delivered it to him without any witnesses being present, since he [the craftsman] is able to plead [without fear of contradiction] that the transaction never took place at all,[12] if he puts forward [the more probable] plea that he has purchased it [from the claimant][13] , his plea is accepted.[14] Said Abaye to him: If that is so,[15] then even [if he has delivered it to him] in the presence of witnesses, since he is able to plead ‘I have returned it to you’,[16] if he only pleads ‘I have bought it’, his word should certainly be accepted! Rabbah replied: Is it your view

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(1) Lit., ‘he (the creditor) will come back on his (the debtor's property.

(2) Because even if the purchaser has to give up the land, the seller has no assets from which he can obtain restitution.

(3) Lit., ‘a wicked man who borrows and does not repay.’ Ps. XXXVII, 21.

(4) I.e., so that if it is taken from you I shall not be called a defaulter, even if I do not make restitution.

(5) On the ground that it was stolen from him.

(6) By convincing the Gentile that it is not his. If, however, a Jew forcibly takes it, the seller need not help the purchaser, because the latter can summon the Jew for assault, even if the ass did rightly belong to him.

(7) And therefore should he go to law with the Gentile, he will not be able to prove that the animal is not his.

(8) Because he will be able to recover the ass from the Gentile by process of law.

(9) Because this is a sign that he only desires to assert his right, but if he takes the saddle as well, the presumption is that he is a robber, and can be proved so in a court of law.

(10) And he is likely therefore to have no case in a court of law.

(11) p. 5, CXLIV, 8.

(12) But that either he never had the garment or it was given him by someone else.

(13) Lit., ‘It is purchased in my hand.’

(14) According to Rabbah, therefore, the essential point is whether the article was originally transferred in the presence of witnesses, and it makes no difference whether the owner has or has not seen it in the hands of the repairer.

(15) Viz., that the fact of his seeing it in his hands makes no difference.

(16) If it has not been seen in his possession.

Talmud - Mas. Baba Bathra 45b

that if a man entrusts an article to another in the presence of witnesses, the latter need not return it in the presence of witnesses?[1] This is quite wrong;[2] if a man entrusts an article to another in the presence of witnesses, he must return it in the presence of witnesses.[3]

Abaye raised an objection [to this from the following]: If a man sees his slave in the possession of a craftsman or his garment in the possession of a fuller, and says to him: ‘How comes this with you?’ [and the other replies:] ‘You sold it to me,’ or, ‘You made a present of it to me,’ his plea is of no effect. [If he says], ‘In my presence you told him to sell it or to give it to me,’ his plea is valid. Why is the ruling here different in the second case and in the first?[4] — Rabbah explains that the second ruling refers to the case where the slave or the garment is in the hands of a third party who says to the claimant: ‘In my presence you told him [the craftsman] to sell it [to me] or to present it as a gift.’ In such a case, since if he chose he could plead ‘I bought it from you,’ when he merely pleads ‘In my presence you told him to sell it,’ his plea is certainly accepted. Now[5] the first ruling refers to the case where the claimant ‘sees’ [the article in the craftsman's possession] . What are the circumstances? If there are witnesses [that he entrusted the article to the craftsman], let him bring the witnesses and obtain possession.[6] We must suppose therefore that there are no witnesses, and nevertheless if he sees the article he can seize it?[7] — [Rabbah replies]: No; the case is in fact one where [the article has been entrusted] in the presence of witnesses, but we must suppose also that the claimant sees it [in the possession of the craftsman].[8] But, [said Abaye,] you yourself said that if a man entrusts an article to another in the presence of witnesses he must return it in the presence of witnesses? — Rabbah replied: I retract [this opinion].

Raba sought to confute [Abaye and] to support Rabbah [from the following]: If a man gives his garment to a workman [to repair], if the workman says, You undertook to give me two [zuzim] and the owner says,I only undertook to give you one, then as long as the garment is in possession of the workman, it is for the owner to bring proof; if the workman has returned it, then if the prescribed time has not yet elapsed[9] he can take an oath and recover his claim,[10] but if the prescribed time has elapsed, then the rule applies that the onus probandi is on the claimant.[11] Now what are the circumstances? If [the owner gave the garment to the workman] in the presence of witnesses, then let us see what the witnesses say.[12]

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[1] Because only on this supposition would his plea that he has bought it be valid, this plea itself being only a modified form of the plea ‘I returned it to you’.

[2] Lit., ‘It cannot enter your mind.’

[3] Therefore he cannot plead, ‘I returned it to you,’ nor, consequently, ‘I bought it’.

[4] This question refers to the meaning of the above dictum; its bearing on the argument comes later.

[5] Lit. , ‘At all events’. Abaye's objection is now stated.

[6] Since according to you (Rabbah) the craftsman cannot plead that he returned it unless he had witnesses to that effect.

[7] Which shows that the ‘seeing’ is the essential point, and not the delivery in the presence of witnesses.

[8] Rabbah now lays down that two conditions must be fulfilled if the craftsman is not to have hazakah — the delivery in the presence of witnesses and the ‘seeing’.

[9] I.e., if the sun has not yet set. V. Deut. XXIV, 15.

[10] In a dispute about wages between an employer and a workman, if there is no evidence on either side, the word of the workman if given on oath is accepted.

[11] I.e., the workman. V. B.M. 112b; Shebu. 46a.

[12] Presumably the witnesses also were aware of the payment stipulated.

Talmud - Mas. Baba Bathra 46a

We must suppose therefore that there were no witnesses, and the ruling stated is that the word of the workman is to be taken;[1] since he is able to plead that he has bought it,[2] his word is taken as to his payment. — [To which Abaye answers]: No. The case, in fact, is one in which there were no witnesses [to the original transfer] ‘ but we suppose that the owner has not seen it [in the hands of the workman].[3]

R. Nahman b. Isaac raised an objection [against Rabbah's opinion from the following]: A CRAFTSMAN HAS NO HAZAKAH, from which we infer that other persons have hazakah [in such a case]. In what circumstances? If there are witnesses [who saw the article transferred], why have other persons hazakah?[4] We must suppose therefore [that the rule applies to the case] where there are no witnesses,[5] and yet it is laid down that a craftsman has no hazakah! This refutation of Rabbah is decisive.

Our Rabbis have taught: If a man receives another person's articles [of clothing] instead of his own from the workshop [where they have been sent for repair etc.], he may use them until the other comes and claims them.[6] If they have become exchanged in the house of a mourner or at a party he must not use them, [but must keep them on one side] until the other comes and claims them. Why should the ruling in these two cases be different?[7] — Rab said: I was sitting before my uncle[8] and he said to me, It is no unusual thing for a man to say to the workman, Sell my garment for me.[9]

R. Hiyya the son of R. Nahman said: This rule holds good only where the workman himself [gave him the coat], but not if it was given him by his wife or his sons.[10] And even so he must not use it[11] unless the workman says, Here is a garment,’ but if he says, ‘Here is your garment,’ he must not use it, because this is not his garment.

Abaye said to Raba: Come and I will show you a trick of the sharpers of Pumbeditha. A man will say [to his tailor], ‘Give me back my cloak [that I gave you to repair].’ The other will deny all knowledge of the matter.[12] ‘But,’ the owner will say, ‘I can bring witnesses [to declare] that they saw it in your possession’. ‘That was a different one,’ he will reply. The owner will then say to him, ‘Bring it out and let us see.’ To which he will reply. ‘To be sure! I don't bring it out.’[13] Raba said to him: That is very clever of him,[14] seeing that

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(1) Where the garment has not yet been returned.

(2) Even though it has been seen in his possession, as Rabbah ruled in the case above.

(3) And therefore no inference can be drawn from this case to the one above.

(4) Seeing that they cannot plead that they bought it, supposing that it is seen in their possession, for if it is not so seen, then the workman also has hazakah.

(5) So that they can plead that they bought it.

(6) Because we assume that the workman gave them to him purposely. V. infra.

(7) Lit., ‘Why this difference between the first and latter (clauses)?’

(8) R. Hiyya.

(9) Hence it is possible to suppose that the tailor by mistake sold another man's coat and then gave that other man one to go on with until he should recover it, and since the tailor acted knowingly he may use it.

(10) Because the presumption is that they made a mistake.

(11) Lit., ‘we do not say’.

(12) Lit., ‘there were no such matters’.

(13) As if to say, ‘I refuse to show you someone else's property.’ Herein lay the deceit.

(14) Viz., to say that he knows nothing about the matter, and not to plead that he has bought it, since then the fact that it or one like it has been seen In his possession would militate against him. V. Tosaf. s. v. שפיר

Talmud - Mas. Baba Bathra 46b

the rule laid down[1] is that the owner must see it [in the hands of the craftsman].[2] Said R. Ashi: If he [the owner] is clever, he will procure a sight of it by saying to the tailor, The reason why you are keeping back the coat is because I owe you money, is it not? Why not then bring it out and have it valued so that you can take what is yours and I can take what is mine?[3] R. Aha b. R. Awia said to R. Ashi: The tailor can say to him, I do not require your valuation, it has already been valued by the people before you.[4]

A METAYER HAS NO HAZAKAH. Why so, seeing that at first he took only half [the produce][5] and now [for three years] he has taken the whole?[6] — R. Johanan said: We are speaking here of hereditary metayers.[7]

R. Nahman said: A metayer who instals other metayers[8] in his place has hazakah, because a man will not usually allow metayers to be installed in his field and say nothing.

R. Johanan said: A metayer who assigns parts of his field to other metayers[9] has no hazakah. Why so? Because we may presume that permission was given him to do so.[10]

R. Nahman b. R. Hisda sent [an inquiry] to R. Nahman b. Isaac [saying]. Would our teacher [be so good as to] instruct us, whether a metayer can testify [to the title of his employer][11] or not. R. Joseph was sitting before him, and said to him: Samuel has definitely laid down that a metayer may so testify. But it has been taught that he may not testify? — There is no conflict of opinion. In the one case [we suppose] that there is produce on the land,in the other that there is no produce on the land.[12]

(Mnemonic ‘AMalek)[13]

Our Rabbis taught: A surety may testify on behalf of the borrower,[14] provided that the borrower has other land [besides that which is being claimed from him.][15] A lender may testify on behalf of a borrower,[14] provided that the borrower has other land [besides that which is being claimed from him].[16] A first purchaser may testify on behalf of a second purchaser,[17] provided that the latter has other land[18] [besides that which is being claimed from him].[19] [

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(1) Supra 45b.

(2) And since he has not seen it (and the witnesses are not sure that the one they saw was the same) he cannot invalidate the other's plea that he knows nothing about it.

(3) I.e., take the coat in payment of the debt and give me the surplus.

(4) And I know it is not worth any more than the sum you owe me.

(5) This being the condition on which the field is transferred to him.

(6) And therefore there is a presumption that he purchased the field.

(7) Who take the whole produce for three or more years and then give the whole to the owners for the same number of years.

(8) And does not himself work with them.

(9) And himself works with them.

(10) And therefore the owner saw no need to raise a protest. This is the rendering of Rashb. The Aruch renders, ‘The owner regards him simply as an overseer,’ and therefore saw no need to protest.

(11) Supposing that it is contested by a third party.

(12) If there is produce on the land, then if the land is assigned to the claimant the metayer will lose his share in it; hence he is an interested party and must not give evidence on behalf of his employer. If, however, there is no produce on the land, it is a matter of indifference to him to whom the land is assigned, as he will always be able to find employment.

(13) A =’Areb (surety); M = Malveh (lender); L = Loveh (borrower); K = Kablan (go-between).

(14) In regard to land claimed from him by a third party.

(15) Because in that case, even if the land is assigned to the claimant, the borrower will still have land on which the creditor can distrain if he fails to pay his debt, and the surety will not feel himself jeopardised; hence he is not an interested party.

(16) The same reason applies as to the surety.

(17) E.g., if A has sold land to B and then sold other land to C, and C's title is contested by a third party. then B may testify on behalf of C.

(18) I.e., which he has bought from A.

(19) The rule is that if a creditor has a lien upon land which his debtor has sold, he must seize first the land which the debtor has sold last. Hence in this case, if A's creditor is authorised to seize land which he has sold to others, he cannot seize the land sold to B until he has first seized the land sold to C. Hence if more land has been sold to C than that actually claimed from him, B is not an interested party and may give evidence on his behalf. Similarly B may give evidence on behalf of A himself if he possesses other land besides that which is being claimed from him, and the rule might have been stated in the form ‘the purchaser may testify on behalf of the seller’, etc.

Talmud - Mas. Baba Bathra 47a

In regard to a go-between,[1] some say that he may testify [on behalf of the borrower] and some say that he may not. Those who say that he may testify regard him as being on the same footing as a surety, whereas those who say that he may not [consider] that he prefers fields of both qualities[2] to be in the hands of the borrower, so that the creditor can have the choice of seizing from either.[3]

R. Johanan said: A craftsman has no hazakah, but the son of a craftsman has hazakah.[4] A metayer has no hazakah, but the son of a metayer has hazakah. Neither a robber nor the son of a robber has hazakah, but the grandson of a robber has hazakah. How are we to interpret this? If [we suppose that] they base their title [solely] on [the possession of] their father, then the son of a craftsman and the son of a metayer should also not have hazakah.[5] If again they do not base their title on [the possession of] their fathers [but on claims of their own].[6] then the son of a robber should also [have hazakah]? — [They do base their title on the possession of their fathers], and our rule applies to the case where witnesses declare: The claimant admitted to him [the father] in our presence [that he had sold the land to him].[7] In the case of the others [the son of the craftsman and the metayer and the grandson of the robber] the presumption is that they are telling the truth, but in the case of the son of the robber, even though he [the claimant] admits [he sold it to [the father] we do not believe him, on the ground put forward by R. Kahana, that if he did not admit this, the other would hand him and his ass over to the town prefect.[8]

Raba said: There are occasions when even the grandson of a robber also has no hazakah, as for instance when he bases his title on the possession of his grandfather. What sort of man is meant here by ‘robber’? — R. Johanan said: One, for instance, who is generally presumed to have obtained the field under consideration by robbery.[9] R. Hisda said: Those like the people of a certain family we know who do not shrink from committing murder to extort money.[10]

Our Rabbis taught: A craftsman has no hazakah, but if he abandons his trade he has hazakah.[11] A metayer has no hazakah, but if he ceases to be a metayer he has hazakah. A son who leaves [his father's roof][12] and a woman when divorced are on the same footing as strangers [in relation to the father or husband].[13] [Why mention this?] It is true that for specifying the rule about the son who leaves his father's roof I can find a reason, since I might think that [we presume the father] to have tacitly consented [to his occupying the land],[14] but now I know that this is not so. But that the divorced woman [becomes a stranger to her former husband][15] is surely self-evident? — No. The rule is required

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(1) קבלן lit., ‘receiver’: a man who receives money from a lender to convey to a borrower on condition that the lender may recover from either at his option. The ‘areb (surety), on the other hand becomes liable only if the borrower has failed to pay.

(2) I.e., both medium and inferior quality. The rule was that a creditor was entitled to recover from land of medium quality (v. B.K. 7b).

(3) If the borrower's medium-quality land is claimed and he loses his case, then the creditor will certainly come on to the go-between for his money, whereas if he keeps his land the creditor still has the choice of distraining either on him or on the go-between. Hence the go-between has an interest in the borrower keeping his land, and therefore must not testify on his behalf.

(4) If the father dies and he inherits him.

(5) Because their title is no better than their father's.

(6) E.g., if they plead. ‘I bought it from the claimant.’

(7) Tosaf. points out that in such a case there is no need of hazakah, and therefore reads, ‘where they (the various sons) declare: In our presence etc.

(8) The officer who imposed compulsory service or socage on the inhabitants.

(9) And therefore he can have no hazakah in this field, but he may have it in other fields.

(10) Hence people are afraid to protest against their occupation of their fields, and the occupation therefore confers no hazakah.

(11) I.e., in articles which were entrusted to him while he was still a craftsman, if he keeps them for an unusual length of time.

(12) E.g., to marry.

(13) V. Supra p. 281 where it is laid down that a father has no hazakah in the property of his son nor a husband in the property of his wife, and vice versa.

(14) And therefore he made no protest, but this does not constitute any hazakah for the son.

(15) Since they presumably are hostile to each other, and therefore are not likely to have allowed their land to be occupied by the other without protest.

Talmud - Mas. Baba Bathra 47b

to define the position of the woman who is both divorced and not divorced,[1] on account of the dictum of R. Zera, who said in the name of R. Jeremiah b. Abba, who had it from Samuel, that wherever a woman was described by the Sages as being divorced and yet not divorced, the husband is still responsible for her maintenance.[2]

R. Nahman said: Huna has informed me that if any one of the classes [mentioned above][3] brings a proof [that his title to the field is valid].[4] we accept the proof and confirm their title to the land.[5] If, however, a robber adduces proof.[6] we do not accept it and we do not confirm his title to the land. What has he [R. Huna] told us [in this latter clause]? We already know as much from the following Mishnah: ‘If a man buys a field from the sicaricon[7] and then buys it again[8] from the original owner, the purchase is void.’ — R. Huna meant to dispute the opinion of Rab, who said [in reference to this statement:] ‘This rule was only meant to apply in such a case where the original owner merely said to the purchaser. Go and occupy the field and become the owner; but if he gave him a written deed, then the purchaser acquires ownership.’[9] He [R. Huna] therefore tells us that the right opinion is that of Samuel, who said that even [if the original owner gives the purchaser] a written deed, [the latter does not acquire ownership: he] only [does so] if the original owner gives him a lien on the rest of his property.[10]

R. Bibi quoted R. Nahman as adding to the statement [which he had made in the name of R. Huna]: Though the robber has no title to the land [which he has forcibly taken], he has a title to the money [which he may have given in consideration of it].[11] And this is only the case if witnesses testify: We saw him counting out the money [to the original owner]. but if they merely testify: We heard the original owner admit to him [that he had received money], the robber cannot recover it, for the reason given by R. Kahana, that if he had not made this admission to him the other would have handed him and his ass over to the town prefect.[12]

R. Huna said: if a man consents to sell something through fear of physical violence[13] the sale is valid. Why so? Because whenever a man sells, it is under compulsion.[14] and even so his sale is valid. But should we not differentiate internal from external compulsion? — [We must] therefore [give another reason], as it has been taught:

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(1) E.g., one to whom the husband has thrown a get, and it is not certain whether it landed nearer to her or to him. v. Git. 74a.

(2) We might think, therefore, but for the ruling above, that she can have no hazakah in her husband's property, as any land she may occupy was assigned to her for her maintenance.

(3) Viz., a craftsman, a metayer, and all the others who are specified as having no hazakah.

(4) A deed of sale or witnesses to the sale.

(5) This is an obvious statement, only made to lead up to what follows.

(6) E.g.. witnesses who testify that he bought the land or that the original owner admitted as much, but not that he handed over the money.

(7) Commonly taken to be a corruption of sicarii, non-Jewish brigands who infested Palestine after the war of Bar Cochba; more probably. however (v. Jast., s.v. סיקריקון) a corruption of Gr. **, the Imperial fiscus established In Palestine at that time. The Rabbis ordained that purchases of land from that source were null and void. V. Git. 55.

(8) I.e., obtains from him a deed of transfer, without, however, paying him money. Git. 55b.

(9) Because this shows apparently that the original owner acquiesces in the transfer and is not acting merely out of fear of the sicarius. R. Huna, however, declares the sale void even if the robber produces a deed.

(10) Because only then can we be sure that he acquiesces in the transfer.

(11) I.e., if the robber has given the owner money in payment of the field, when the latter recovers the field he must refund the money.

(12) The admission therefore is presumably false.

(13) Lit., 'If they hang him and he sells.'

(14) By shortage of money.

Talmud - Mas. Baba Bathra 48a

[From the superfluous words], he shall offer it,[1] we learn that a man can be forced to bring an [offering which he has vowed]. Does this mean, even in his own despite? — [This cannot be] because it says. Of his own free will.[2] How then [are we to say]? Force is applied to him until he says, 'I consent.'[3] But perhaps there is a special reason in this case, viz. that he may be well satisfied [to do so retrospectively], so as to have atonement made for his sins?[4] — We must therefore [look for the reason in] the next passage [of the Baraitha quoted]: 'Similarly in the case of divorces, [where the Rabbis have said that the husband can be forced to give a divorce][5] we say [that what is meant is that] force is applied to him till he says, I consent.' But there too perhaps there is a special reason, viz. that it is a religious duty to listen to the word of the Sages?[6] — What we must say therefore is that it is reasonable to suppose that under the pressure he really made up his mind to sell.[7]

Rab Judah questioned this [on the ground of the following Mishnah]: 'A get [bill of divorce] extorted by pressure applied by an Israelite[8] is valid, but if the pressure is applied by a non-Jew[9] It is invalid. A non-Jew also, however, may be commissioned [by the Beth din] to flog the husband and say to him, Do what the Israelite[10] bids you.'[11] Now why [should the get be invalid if extorted by the non-Jew]? Cannot we say that in that case also the man makes up his mind under pressure to grant the divorce?[12] — This rule must be understood in the light of the statement made by R. Mesharsheya regarding it: According to the Torah itself, the get is valid even if extorted by a non-Jew, and the reason why the Rabbis [on their own authority] declared it invalid was so as not to give an opportunity to any Jewish woman to keep company with a non-Jew and so release herself from her husband.[13]

R. Hamnuna questioned [the rule on the ground of the following Mishnah]: 'If a man buys a field from a sicarius[14] and then buys it again from the original owner, the purchase is void.'[15] Why so? Cannot we say here too that under pressure the owner makes up his mind to sell [the field]? — We must understand this statement in the light of the gloss added by Rab: This rule was meant to apply only if the owner [merely] said to the purchaser, Go and take possession and acquire ownership, but if he gives him a written deed, he becomes the legal owner.[16] But if we take the view of Samuel, that even if he gives him a deed he does not become the owner, what are we to reply [to R. Hamnuna]? — Samuel admits [that the sale is valid] if the purchaser actually pays the owner. But if we take the view of R. Nahman as completed by the statement of R. Bibi, that though the robber has no title to the land he has a title to the payment he made,[17] what reply can be made [by R. Huna]? — R. Bibi adduced a mere statement,[18] and such an opinion R. Huna did not feel bound to accept.[19]

Raba said: The law is that if a man sells a thing under pressure of physical violence, the sale is valid. This is only the case, however,

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(1) Lev. 1,3: If his oblation be a burnt offering . . . he shall offer it a male without blemish; he shall offer it at the door etc.

(2) A possible rendering of the word lirzono (E.V. that he nay be accepted).

(3) This shows that if a man says ‘I consent’ under duress, the consent is valid.

(4) By bringing the offering. Hence we cannot reason from the offering to the sale.

(5) E.g., if he suffers from a loathsome disease.

(6) Viz., to their injunction to him to grant a divorce. Hence we cannot reason from divorce to sale.

(7) I.e., make a complete transfer, since we may well assume that he is now content as after all he loses nothing.

(8) I.e., a Jewish court.

(9) I.e., a non.Jewish court.

(10) I.e., the Rabbis who commission the non-Jew to flog the husband.

(11) Git. 88b.

(12) Because when all is said and done he may be glad to get rid of a wife who hates him.

(13) By inducing the non-Jew to go and extort a get from him.

(14) V. supra p. 199, n. 6.

(15) Git. 55b.

(16) V. supra p. 199, n. 8.

(17) Which shows that a proof brought by a robber is valid.

(18) I.e., the individual opinion of an Amora.

(19) Whereas if R. Bibi had been able to quote a Mishnah or a Baraitha, R. Huna would have felt constrained to bow to it.

Talmud - Mas. Baba Bathra 48b

if he is forced to sell ‘a’ field,[1] but if he is forced to sell ‘this’[2] field, it is not valid. And again even if he is forced to sell ‘this’ field, the sale is not valid only if he has not counted out the money [received in payment], but if he does count out the money, the sale is valid.[3] And again, [even in the case of ‘this’ field and even if he did not count out the money] the sale is not valid only if it was not possible for him to wriggle out of it,[4] but if he did have a chance to wriggle out of it [and did not do so], then it is valid. [In spite, however, of this statement of Raba,] the accepted ruling is that in all these cases the sale is valid, even in the case of ‘this’ field, for the betrothal of a woman is analogous to the buying of ‘this’ field,[5] and yet Amemar[6] has laid down that if a woman consents to betroth herself under pressure of physical violence, the betrothal is valid. Mar son of R. Ashi, however, said: In the case of the woman the betrothal is certainly not valid; he treated the woman cavalierly[7] and therefore the Rabbis treat him cavalierly and nullify his betrothal. Rabina said to R. Ashi: We can understand the Rabbis doing this if he betrothed her with money,[8] but if he betrothed her by means of intercourse, how can they nullify the act?[9] — He replied: The Rabbis declared his intercourse to be fornication.

One Taba[10] tied a certain Papi to a tree[11] [and kept him there] till he sold [his field to him]. Subsequently Rabbah b. Bar Hanah signed as a witness both to a moda'ah[12] [issued by Papi] and to a deed of sale [of the field]. R. Huna [on hearing of it] said: He who signed the moda'ah acted quite properly and he who signed the deed of sale acted quite properly. How can both be right?[13] If [it was right to sign] the moda'ah it was not [right to sign] the deed of sale, and if [it was right to sign] the deed of sale it was not [right to sign] the moda'ah? — What he [R. Huna] meant was this: Had it not been for the moda'ah, the one who signed the deed of sale would have acted rightly.[14] R. Huna is thus consistent with the opinion expressed by him [elsewhere]. For R. Huna said that a sale extorted by physical violence is valid. But this is not so,[15] seeing that R. Nahman has said: If the witnesses [to a bond[16]] say [subsequently], We only wrote [the bond under cover of] an amanah,[17] their word is not

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(1) I.e., if he is called upon merely to sell one of his fields, and is allowed to choose which, because in that case we can say that the sale is not unwelcome to him.

(2) I.e., one which his torturers specify, and which perhaps he particularly wished to keep for himself.

(3) Because by the act of counting out the money he shows that he is satisfied with the transaction.

(4) E.g., by saying to the other 'wait till tomorrow' or 'wait till my wife comes' (Rashb.).

(5) Because the woman may be regarded as selling herself to the betrother, who is intent on her alone.

(6) V.l. 'A master said'.

(7) Lit., 'not as it beseems'.

(8) Betrothal could be effected in three ways — by a money gift, by written deed, and by actual intercourse (Kid. ad init.).

(9) If he gave her money, they can declare the money common property, so that the gift was no gift, but they cannot say that the intercourse was no intercourse.

(10) A notorious ruffian.

(11) According to another rendering, 'Tied Papi up on account of an artichoke (to make him sell it).' V. Levy, s.v. כינרא

(12) Lit., 'notification': a declaration by a person about to make a sale that the sale is made under duress and that he intends to claim the thing sold as soon as possible. V. supra 40a.

(13) Lit., 'What is your desire'?

(14) But Rabbah b. Bar Hana, having signed the moda'ah, had no right to sign the bill of sale, since he had already in advance declared it to be invalid.

(15) I.e., the moda'ah could not really invalidate the bill of sale.

(16) Given by a borrower to a lender.

(17) Lit., 'our words were only an amanah' (lit., 'assurance'). An amanah was an assurance given to a debtor who signed a bond without receiving money that the creditor would not enforce it unless he actually lent him the money.

Talmud - Mas. Baba Bathra 49a

accepted. Also if the witnesses to a deed [of sale] say, We only wrote [under reservation of] a moda'ah[1] their word is not accepted![2] — This is the case where they make a verbal statement to this effect, because a verbal statement cannot invalidate a written deed, but if they write a deed,[3] then one deed can invalidate another.

The preceding text states that R. Nahman said: If the witnesses [to a bond] say, We only wrote it [under cover of] an amanah, their word is not accepted, and if the witnesses [to a deed] say, We wrote [it under the reservation of] a moda'ah, their word is not accepted. Mar son of R. Ashi, however, says that if they say, We only wrote [it] under cover of an amanah, their word is not accepted, but if they say, We wrote [under the reservation of] a moda'ah, their word is accepted. The reason is that it is proper to commit to writing a moda'ah, but it is not proper to commit to writing an amanah.[4]

THE HUSBAND HAS NO HAZAKAH IN THE PROPERTY OF HIS WIFE. Surely this is self-evident? Since he has a right to the produce [of the wife's field,[5] therefore, however long he occupies it we say that] he is merely taking the produce?[6] — The rule required to be stated for the case in which he has made a written declaration that he has no right or claim to her property.[7] But suppose he has done so, what difference does it make, seeing that it has been taught, If a man says to another, I have no right or claim to this field, I have no concern in it,I totally dissociate myself from it, his words are of no effect?[8] — In the school of R. Jannai the answer was given that the Mishnah here [is referring to the case] where the husband made this declaration to the wife while she was still only betrothed to him; [and such a declaration would be valid] in virtue of the dictum of R. Kahana

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(1) I.e., before signing the deed, we ascertained that the seller was selling under duress and intended to annul the sale.

(2) And the bond or deed of sale is still valid.

(3) As here, where the moda'ah was recorded in writing before the sale took place.

(4) An amanah was looked upon by the Rabbis as contrary to equity, and they therefore denounced anyone who kept a bond of this kind in his house for twenty-four hours. Hence if the witnesses say they wrote a bond of amanah, their word is not accepted, since a man is not allowed to condemn himself. To write a moda'ah, however, is perfectly legitimate, and therefore if they say they signed the deed of sale under reservation of a moda'ah, their word is accepted.

(5) Even though the wife remains legal owner of the field itself.

(6) And he cannot plead that she sold it to him.

(7) And therefore if we see him in occupation of a field that was hers, the presumption is that he bought it.

(8) V. Supra 43a.

Talmud - Mas. Baba Bathra 49b

that a man is at liberty to renounce beforehand[1] an inheritance which is likely to accrue to him from another place;[2] and this rule again is based on the dictum of Raba, that if anyone says, I do not desire to avail myself of a regulation of the Rabbis of this kind, we comply with his desire.[3] To what was Raba referring[4] when he said ‘of this kind’? — He was referring to the statement made by R. Huna in the name of Rab: A woman is at liberty to say to her husband, You need not keep me and I will not work for you.[5]

[Since the Mishnah says that a husband has no hazakah in the property of his wife, we infer that] if he has proof [that she sold it to him],[6] the sale is effective. [Yet why should this be?] Cannot she say [in this case also], I merely wished to oblige my husband?[7] Have we not learnt: If a man buys [a field] from the husband[8] and then buys it again from the wife, the purchase [from the wife] Is void?[9] This shows that she can say: I merely consented in order to oblige my husband, and cannot she say here also that she merely wished to oblige her husband? — The truth is that this [Mishnah] has been qualified by the gloss of Rabbah son of R. Huna: The rule really required to be stated in reference to those three fields [that are specially allotted to her][10] — one that the husband inserted In the kethubah,[11]

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(1) Lit., ‘to stipulate’.

(2) I.e., from a distant relative, to whom he becomes next-of-kin according to the regulations of the Rabbis. But inheritance from a next-of-kin mentioned in the Torah cannot be so renounced.

(3) The regulation that a man should become heir to a distant relative in certain cases was made for his own benefit, and therefore he is at liberty to reject it. The statement of R. Kahana is adduced to show that the formula ‘I have no right or claim to this property’ is effective when applied to property which will hereafter accrue to a person but is not yet in his hands, e.g., the produce of the field of the betrothed woman, which will only accrue to the husband after marriage.

(4) I.e., what subject was being discussed in the Beth Hamidrash.

(5) It was a regulation of the Rabbis that a husband should maintain his wife in return for her labour. As this regulation was made on behalf of the wife, she was not bound to accept it.

(6) E.g., a document or witnesses.

(7) By consenting to the sale, but I did not really wish to part with the field.

(8) In order to release himself from the lien which the wife has on all her husband's property for the recovery of her kethubah.

(9) Git. 55b.

(10) If she refuses to sell these, the husband cannot reasonably take offence, and therefore but for the rule just stated we might think that if she does give her consent the sale is valid. — The argument runs on, and the reply to the question comes at the end.

(11) As a special security for her kethubah, apart from the general security effected on the whole of his property.

Talmud - Mas. Baba Bathra 50a

a second, the one assigned to her as special surety for her kethubah,[1] and a third which she had brought him [as marriage] dowry, and for the money value of which he made himself responsible [to her].[2] Now what property does this exclude from the rule [that the purchase is void]? Shall we say it is to exclude the remainder of the husband's property?[3] [Hardly]; for in regard to this [she would] certainly [say that she did it to oblige her husband], since otherwise he might, fall out with her and say to her, ‘You have your eye on a divorce or on my death.’[4] The property excluded[5] must therefore be that of which the husband has the usufruct. But [how can this be], seeing that Amemar has said: If husband and wife sell the property of which he has the usufruct,[6] their action is null and void?[7] — Amemar was speaking of the case where the husband sold it and then died, in which case she can recover it,[8] or where she sold it and died,in which case he can come and recover it,[9] (according to the regulation of the Sages recorded by R. Jose b. Haninah, who said: It was enacted In Usha[10] that if a woman sold the property of which the husband had the usufruct and then died, the husband could recover it from the purchaser).[11] Where, however, they both sold it [together] to a third party or if the wife sold it to the husband, the sale is valid.[12] Alternatively, I may say that Amemar based his ruling[13] on the view expressed by R. Eliezer.[14] For it has been taught: ‘If a man sells his slave but stipulates [with the purchaser] that he shall continue to serve him for thirty days, R. Meir says that the rule of "one or two days"[15] applies to the first [the original owner] because the slave is still "under" him, and it does not apply to the second because the slave is not "under" him.’[16] He [R. Meir], holds that possession of the increment is on a par with possession of the principal.[17] ‘R. Judah says that the rule of ‘one or two days’ applies to the second [the purchaser], because the slave is "his money", but not to the first, because he is not "his money".’ His opinion is that the possession of the increment[17] is not on a par with possession of the principal. ‘R. Jose says

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(1) After the wedding. On this also she places special reliance, as it has been assigned to her with full formalities in the presence of witnesses.

(2) Inserting a stipulation to that effect in the kethubah. This is the so-called ‘property of the iron sheep’ (Tzon barzel), which the wife makes over to the husband from her dowry, on condition that the husband is responsible to her for its full money value, whether he makes a profit or a loss on the transaction. [The term tzon barzel has a parallel in Roman law, pecus ferreum, and is not limited to a specific property arrangement between husband and wife but applies to every form of conveyance of property on a basis of tenancy and possession, v. Epstein, M., The Jewish Marriage Contract, p. 91, n. 12.]

(3) Which is pledged to her as security for her kethubah.

(4) If the husband sells any part of his property which is not so particularly mortgaged to her, and she refuses to confirm the sale, he may accuse her of desiring this part to remain in his possession because she is looking forward to his death or a divorce from him and is loth to part with a security for her kethubah. Thus she has a motive for consenting, so as not to estrange her husband. Hence this is obviously not the kind of property excluded from the rule stated.

(5) I.e., the purchase of which is valid if it is bought first from the husband and then from the wife.

(6) The so-called ‘property of plucking’ (mulug), which belonged to the wife but of which the husband had the usufruct without responsibility for loss or deterioration. [The term mulug is derived from Aram. מלג to pluck, Aruch, or from Lat. mulgere, ‘to milk’. V. Epstein, M., op. cit, p. 92. n. 16.]

(7) The question then remains, in spite of Rabah R. son of Huna's gloss. what property is excluded from the rule?

(8) Because he had no right to sell it.

(9) We must therefore understand Amemar to mean, ‘If the husband or the wife sells it’.

(10) V. p. 139, n. 1. [On the enactments of Usha, Takkanath Usha, v. Epstein, op. cit., 110ff.]

(11) The husband being in the position of a ‘prior purchaser’. V. B.K. 88.

(12) Hence (to revert to the original question), if the wife sells to her husband the so-called ‘property of plucking’, the sale is valid, and she cannot plead, ‘I did it to oblige my husband’.

(13) That if the wife or the husband sold the ‘property of plucking’ the sale becomes void on the death of the wife or husband respectively. So R. Gersh. Rashb. refers it to the ruling that if both husband and wife sell, their action is void, but, as will be seen, R. Eliezer's dictum by no means bears this out. V. infra p. 208, n. 2.

(14) And not on the regulation of the Sages.

(15) Ex. XXI, 20, 21: If a man smite his servant with a rod and he die under his hand, he shall surely be punished. Nevertheless, if he continue a day or two he shall not be punished, for he is his money.

(16) If the original owner smites him during this time and he survives a day or two, he is not guilty of murder, but if the purchaser smites him, even if he survives a day or two, he is guilty of murder. B.K. 50a.

(17) The ‘increment’ here is the labour of the slave and the ‘principal’ is the slave himself. R. Meir holds that for the purposes of this law the one who disposes of the labour of the slave is in the position of owner.

Talmud - Mas. Baba Bathra 50b

that the rule of one or two days applies to both of them, to the original owner because the slave is still "under" him, and to the purchaser because he is "his money".’ R. Jose is uncertain whether possession of the increment is on a par with possession of the principal or not, and where there is a doubt whether capital punishment should be inflicted the more lenient view is always taken.[1] ‘R. Eliezer says that the rule of a day or two days applies to neither; it does not apply to the purchaser because the slave is not ‘under’ him, nor to the original owner, because he is not ‘his Money’.’[2] What, said Raba, is R. Eliezer's reason? Scripture says, He shall not be punished, for he is his money, which implies that he must be entirely his own.[3]

NOR HAS A HUSBAND HAZAKAH IN THE PROPERTY OF HIS WIFE. But has not Rab said: It is necessary for a married woman to protest?[4] Now, against whom [does he mean]? Shall I say against [occupation by] an outsider? Did not Rab lay down that one cannot obtain hazakah in the property of a married woman? It must therefore mean against [occupation by] the husband?[5] — Said Raba: It does indeed mean against [occupation by] the husband, but [Rab refers to the case where] for instance he dug in the field pits, ditches or caves.[6] But has not R. Nahman said in the name of Rabbah b. Abbuha: There is no hazakah where damage is inflicted? — This should be read The [ordinary] rule of hazakah does not apply[7] where damage is inflicted.[8] (Alternatively I may meet this objection by pointing out that R. Meri gave smoke as an instance of the damage referred to and R. Zebid a privy].[9] R. Joseph said: Rab in truth [meant his dictum[10] to apply] to [occupation by] outsiders,[11] and the case [he had in mind] was where a man had had the use of the property for a time in the lifetime of the husband and for three years after his death. [In that case,] seeing that he could put forward the plea, I bought it from you [the wife], if he merely pleads, You sold it to him and he sold it to me, his word is accepted.[12]

The text above states that Rab said that ‘one cannot obtain hazakah in the property of a married woman.’

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(1) E.g., where the question is whether the man who smote the slave shall be condemned to death.

(2) This can be taken by Amemar as a proof that the wife cannot sell without the husband. It could hardly, however, be taken by him as a proof that where both agree to sell, their action is still void. V. supra p. 207, n. 6.

(3) Raba stresses the word ‘his’.

(4) If she desires to prevent someone who has occupied her field from obtaining hazakah in it.

(5) This shows that Rab holds that a husband can claim has hazakah in the property of his wife.

(6) Thereby spoiling the field, which he was not entitled to do unless he was its legal owner. Hence if his wife does not protest against such action, it gives him hazakah.

(7) Lit., ‘There is no rule of hazakah’.

(8) The ordinary rule is that to confer hazakah three years’ possession is required, but if the occupier is allowed to damage the field without protest from the owner, this gives him hazakah at once.

(9) V. supra 23a. Other damage, however, such as digging pits, confers hazakah even in the case of a wife's property.

(10) That it is necessary for a married woman to protest.

(11) And therefore there is no contradiction between him and the Mishnah.

(12) Hence if she does not want him to obtain hazakah, she must protest in time.

Talmud - Mas. Baba Bathra 51a

The Judges of the Exile,[1] however, say that one can obtain hazakah. The halachah said Rab, is that of the Judges of the Exile.[2] Thereupon R. Kahana and R. Assi said to him: Does our Master retract his ruling? — He replied: You may suppose I refer to such a case[3] as that mentioned by R. Joseph.[4]

A WIFE HAS NO HAZAKAH IN THE PROPERTY OF HER HUSBAND. Surely this is self-evident; since the husband has to maintain her, [we suppose that when she occupies the field] she is merely deriving her maintenance from it? — The rule had to be stated [to cover the case] where he assigned her another field for her maintenance.[5]

[Since the Mishnah says only that the wife has no hazakah], we infer that if she brings proof[6] [that the field has been sold to her] the sale is valid. But cannot the husband plead against this that he merely desired to see if she had any money?[7] May we then not learn from this [Mishnah] that if a man sells a field to his wife, she becomes the legal owner and we do not say that he merely desired to see if she had any money? — No; we infer [rather] thus: but if she brings a proof it is effective in the case of a deed of gift [though not of a deed of sale].[8]

R. Nahman said to R. Huna: A pity your honour was not with us last night at the boundary,[9] when we drew up an exceptionally fine rule.[10] Said the other: What was this exceptionally fine rule which you drew up? He replied: If a man sells a field to his wife, she becomes the legal owner, and we do not say that he merely desired to see if she had money. Said R. Huna: This is obvious. Take away the money, and she still becomes legal owner by means of the deed.[11] For have we not learnt: [Ownership in] landed property is acquired by means of money payment, deed, or hazakah?[12] But, said R. Nahman, has not the following rider been attached to this [Mishnah]: Samuel said that this[13] was meant to apply only to a deed of gift, but if the deed is one of sale, legal ownership is not acquired until the money payment has been made? And, [rejoined R. Huna] did not R. Hamnuna refute this [by quoting the following]: ‘How is property acquired by a deed? Suppose he [the seller] writes on a [piece of] parchment or on a potsherd,[14] which in themselves may be worth nothing, My field is hereby sold to you, my field hereby becomes your property, it is effectively sold or given![15] — But did not R. Hamnuna counter his own objection[16] by adding: This holds good only where a man sells his field because it is practically worthless?[17] R. Ashi said: He [the seller referred to above][18] really meant to transfer his field to the other as a gift, and the reason why he made the transfer in the form of a sale was in order to make the recipient's title more secure.[19]

An objection[20] was raised [from the following]: If a man borrows money from his slave and then emancipates him, or from his wife and then divorces her, they have no claim against him [for the money so lent].[21] What is the reason for this? Is it not because we say that his object [in borrowing] was only to see if they had any money? These cases are different,[22] because [we presume that] a man would not readily place himself in the position of ‘a borrower who is a servant to the lender.’[23] R. Huna b. Abin sent [the following message:[24] ‘If a man sells a field to his wife, she becomes the legal owner,

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(1) Samuel and Karna. Thus Rashb.; v. however, San. 17b and note a.l., and cf. infra p. 279 no. 6.

(2) [V.L. The view of the Judges of the Exile appears reasonable.]

(3) [Another rendering: ‘I merely said that it appears reasonable (cf. n. 1) in such a case etc.’]

(4) Rab did not actually mention R. Joseph, who was several generations after him, but described a similar case to that given by R. Joseph.

(5) In which case, but for the rule of the Mishnah, I might suppose that three years’ occupation would give her hazakah.

(6) E.g., a deed of sale or witnesses.

(7) He suspected that she had money hidden away and wanted to entice her to produce it, but he had no genuine intention of selling her the field.

(8) I.e., if she produces a deed of gift, we say that he really has given her the field, for there is no question here of enticing her to produce money.

(9) A Beth Hamidrash placed two thousand cubits (the limit of a Sabbath walk) from the town, so as to be accessible to the country people (Rashb.).

(10) Lit., 'we said excellent things'.

(11) I.e., if he gives her a deed of sale (without taking money from her), it is obvious that he does not desire to see if she has any money, since she becomes legal owner even without handing over any money (although of course she becomes indebted to him).

(12) Kid. 26a; infra 86a. The word 'hazakah' here means occupation by means of some action which proclaims ownership, e.g. digging or fencing.

(13) That ownership is acquired by a transfer of the deed.

(14) [Blau, L. Ehescheidung, 63. renders 'on papyrus or on ostrakon'].

(15) Kid. 26a. This would show that the deed of sale itself confers ownership, even before the money payment is made.

(16) Lit., 'He raised the objection and he answered it.'

(17) And so the money is of minor consequence, but this is not the case with an ordinary field.

(18) In the Mishnah, 'Property . . . is acquired by money, deed, or hazakah.'

(19) R. Ashi gives an alternative answer to that given by R. Nahman to the objection raised from this Baraitha. The deed referred to, he says, may be in form one of sale, but even so the land is really given, and the donor by drawing up a deed of sale expresses his readiness to defend the title of the recipient if it should be challenged. In the case of a sale, however, the deed alone does not confer ownership; hence R. Nahman's rule that a man may sell a field to his wife was still necessary.

(20) Against the ruling that if a man sells a field to his wife she becomes the legal owner.

(21) Even if he gave them a bond on his property.

(22) I.e., in these cases it is legitimate to assume that he only wanted to see if they had any money, which he, as master or husband, was at liberty to appropriate.

(23) v. Prov. XXII, 7. Hence if we can find any other explanation of his action we adopt it.

(24) From Palestine to Babylonia.

Talmud - Mas. Baba Bathra 51b

but he still remains entitled to the produce. R. Abba, R. Abbahu, and all the chief authorities of that generation,[1] however, said that [in selling] his real intention was to make her a gift of it,[2] and he only made out a deed of sale to her in order to make her title more secure. An objection was raised [against this on the ground of the following]:[3] 'If a man borrows money from his slave and then emancipates him, or from his wife and then divorces her, they have no claim against him. What is the reason? Is it not because we say that he merely wished to see if they had any money?' — These cases are different, because we presume that a man would not readily place himself in the position of 'a borrower who is a servant to the lender.'

Rab said: If a man sells a field to his wife, She becomes the legal owner, but he is still entitled to the produce. If he makes her a gift of a field, she becomes the legal owner and he is no longer entitled to the produce.[4] R. Eleazar, however, said that in either case the wife becomes the legal owner and the husband is not entitled to the produce. In a case which actually occurred, R. Hisda followed the ruling of R. Eleazar. Rabban 'Ukba and Rabban Nehemiah,[5] the sons of the daughters of Rab, said to R. Hisda: Do you mean then, Sir, to abandon the greater authorities and follow the lesser?[6] He replied: I also am following a great authority, for when Rabin came[7] he said in the name of R. Johanan: In either case, the wife becomes the legal owner, and the husband is not entitled to the produce.

Raba said: The law is that if a man sells a field to his wife she does not become the legal owner and the husband is entitled to the produce, but if he gives it to her she becomes the legal owner and the husband is not entitled to the produce. [Do not the] two [halves of Raba's first statement contradict each other]?[8] — There is no contradiction. The one [half] refers to the case where the wife had money hidden away,[9] the other to the case where she had no money hidden away,[10] since Rab

Judah has laid down: [If the wife buys with] money hidden away, she does not acquire, if with money not hidden away, she does acquire.

Our Rabbis taught: Pledges should not be taken either from women or from slaves or from children.[11] If one has taken a pledge from a woman, he should return it to her;[12] if she dies, to her husband. If one has taken a pledge from a slave, he should return it to the slave, or, if he dies, to his master.

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(1) [The generation preceding that of R. Huna b. Abin.]

(2) And therefore he is not entitled to the produce.

(3) The question and answer just recorded are here repeated.

(4) Because it is assumed that a gift is given without reservation.

(5) (V. L. Mar ‘Ukba and Rab Nehemiah. Rabban was a title borne by exilarchs, v. Hul. 92a.)

(6) R. Eleazar was a pupil of R. Johanan, who himself deferred to Rab.

(7) From Palestine to Babylonia.

(8) First he says, ‘She does not acquire ownership,’ i.e., either of the soil or of the produce, and then he says, ‘and the husband is entitled to the produce,’ which implies that the wife acquires ownership of the soil.

(9) In this case we say that he merely wished to find out if the wife had any money, and she does not acquire ownership.

(10) And this motive cannot be ascribed to the husband.

(11) Because there is a probability that they have stolen the articles pledged or deposited.

(12) Because we do not assume that she has stolen it.

Talmud - Mas. Baba Bathra 52a

If one has taken a deposit from a child, he should invest it for him,[1] or, if he dies, restore it to his heirs. If any of them at the time of his death says, The article belongs to so-and-so, he should act according to their intimation. Otherwise he should act according to his discretion.[2] When the wife of Rabbah b. Bar Hana was on her deathbed, she said: Those [precious] stones belong to Martha[3] and his daughter's family. He consulted Rab about it, and the latter said to him: If you think she was telling the truth,act according to her instruction, and if not, use your own discretion.[4] According to another version, Rab said to him: If you think her a wealthy enough person,[5] act according to her instruction, and if not, use your own discretion.

‘If he has taken from a child, he should invest it for him.’ How invest it? — R. Hisda said: He should buy with it a scroll of the Law;[6] Rabbah son of R. Huna said: He should buy with it a date tree, of which the child can eat the fruit.

A FATHER HAS NO HAZAKAH IN THE PROPERTY OF HIS SON NOR A SON IN THE PROPERTY OF HIS FATHER. R. Joseph said: This applies even if they have parted.[7] Raba,[8] however, said that if they have parted the rule no longer applies. R. Jeremiah of Difti said: In a case which occurred, R. Papi decided according to the ruling of Raba. R. Nahman b. Isaac said: I have been told by R. Hiyya from Hormiz Ardeshir,[9] who was told by R. Aha b. Jacob in the name of R. Nahman b. Jacob, that if they [the father and son] have parted, the rule [of the Mishnah does] not apply.[10] The law is that where they have parted they have no hazakah against one another. It has also been taught to the same effect: A son who has left his father's roof and a wife who has been divorced are on the same footing as strangers [in regard to the father or husband].

It has been stated: [If a number of brothers live together and] one of them has the management of the house,[11] and if there are deeds[12] and bonds[13] current in his name and he asserts, ‘They are mine,[14] and I obtained them from the legacy of my maternal grandfather’,[15] Rab says that the onus probandi lies upon him, and Samuel says that the onus probandi lies upon the brothers.[16] Said Samuel: Abba[17] must at least admit that if he dies [and leaves children], the onus probandi lies on the brothers.[18] R. Papa strongly questioned this. Do we ever, he said, advance a plea on behalf of orphans which their father could not have advanced [on his own behalf]?[19] And further, did not Raba order some orphans to return a pair of shears for clipping wool[20] and a book of Aggadah which were claimed from them, though the claimants adduced no proof [that they had lent them],[21] these being articles which are commonly lent or hired,

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(1) Lit., 'make it a keepsake'. The expression is explained infra.

(2) Lit., 'he should make an explanation to their explanation.' Rashb. explains this to mean that if he thinks they say this merely to hide the fact that they have stolen the article, he should restore it to the husband or master.

(3) The brother of R. Hiyya.

(4) I.e., keep it for yourself.

(5) To have acquired these things.

(6) So that he may learn from it, and thus obtain a kind of interest on the investment while the principal is secure.

(7) Because we say that they are still not particular with one another, and therefore do not trouble to protest.

(8) [V.L. Rabbah.]

(9) Ardeshir was a town not far from Ctesiphon. 'Hormiz Ardeshir' may have been a village in the neighbourhood.

(10) I.e., they have hazakah against one another.

(11) I.e., the brothers leave all the affairs of the joint property in his hands after the father's death.

(12) Of sale, to the effect that he has bought property.

(13) To the effect that he has lent money.

(14) And the brothers have no share in them.

(15) I.e., he obtained the money for buying the property or for lending not from the estate of his father or his father's father, in which case the other brothers would be entitled to share with him, but from the estate of the father of his mother, he and his brothers having been born from different mothers.

(16) Rab lays stress upon the fact that he usually disposes of the joint property in his own name, Samuel on the fact that the documents are made out in his name.

(17) Rab's proper name was Abba Arika.

(18) Because his children cannot be expected to know so easily where to find proof.

(19) Viz., in this case, that his name on the documents gives him a presumptive right to them.

(20) Lit., 'Scissors of a woollen cloak'. [Var. lec. 'A pair of trousers'. V. Krauss, op. cit., I, 612.]

(21) The claimants asserted that the articles were lent, the orphans that they were bought, and Rab took the word of the former, as he would have done had the claim been made against the father. Hence a plea is not valid on behalf of an heir which is not valid on behalf of the testator.

Talmud - Mas. Baba Bathra 52b

[and Raba acting] according to the message sent by R. Huna b. Abin, 'If things that are usually lent or hired [are found in a man's possession] and he pleads that he has bought them, his word is not accepted?' — This is really a difficulty.[1]

R. Hisda said: The rule just laid down[2] applies only if the brothers share a common table,[3] but if they eat separately, the one [against whom the claim is brought] can say that he saved up [money] from his food allowance. What sort of proof is required [of the brother]? — Rabbah said: The testimony of witnesses; R. Shesheth said: The confirmation of the document.[4] Raba said to R. Nahman: Here we have the opinion of Rab and of Samuel, and again that of Rabbah and R. Shesheth: with whom do you agree? He replied: All I know is a Baraitha. For it has been taught: [If brothers live together and] one of them has the management of the house, and if deeds and bonds are current in his name and he asserts: I obtained them from the legacy of my maternal grandfather, the onus probandi lies upon him.[5] Similarly, if a woman has the management of a house, and deeds and bonds are current in her name, and she asserts: They are mine, as I obtained them from the legacy of my paternal or maternal grandfather, the onus probandi is upon her. Why 'similarly'?[6] — You might think that as it is a matter of pride for a woman for [people] to say that she has the charge of orphans she would not rob them.[7] Hence we are told [that we must not assume this].

THIS RULE OF THREE YEARS APPLIES ONLY TO OCCUPIERS, BUT ONE WHO IS PRESENTED WITH A PIECE OF LAND OR BROTHERS WHO DIVIDE AN INHERITANCE OR ONE WHO SEIZES THE PROPERTY OF A PROSELYTE etc. Are then the others mentioned[8] not occupiers? — There is a lacuna [in the Mishnah], and it should read as follows: This rule [of three years] applies only to occupation which requires to be supported by a plea, as for Instance if the seller says, I did not sell it,in which case the other has to plead, I did buy it.[9] But where the occupation needs no plea to support it, as for instance in the case of the recipient of a gift or brothers dividing [an inheritance] or one who seizes the property of a proselyte where nothing more is required than to establish ownership[10] — IF HE DOES ANYTHING AT ALL IN THE WAY OF SETTING UP A DOOR OR MAKING A FENCE OR AN OPENING, THIS CONSTITUTES A TITLE OF OWNERSHIP.

R. Hoshaia learned in the [Tractate] Kiddushin edited in the school of Levi:[11] If he [the buyer] does anything at all in the way of setting up a door or making a fence or an opening in his [the seller's] presence, this constitutes a title of ownership. Are we to suppose that this is only [the case if the act is done] in the seller's presence, and not otherwise? — Raba replied: The meaning is this. [If the act is done] in his presence, he has no need to say [to the buyer], Go, occupy and acquire ownership;[12]

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(1) And Samuel has no answer to it.

(2) By Rab, who said that the onus probandi is on the brother.

(3) Lit., ‘are not separated in their dough’.

(4) The so-called ‘honpak’ (lit., ‘it was produced’): the endorsement of the Beth din that they had examined the signatures and found them genuine. This would create a presumption in favour of the brother, but would not be so convincing as the testimony of witnesses.

(5) As laid down by Rab. V. supra 52a. As to the nature of the proof required, R. Nahman offers no opinion.

(6) This term should by rights introduce a statement which adds something material to the preceding statement, which does not seem to be the case here.

(7) And therefore the onus probandi is on the other party.

(8) The recipient of a gift and brothers who divide an inheritance and one who seizes the property of a proselyte.

(9) And without this plea his three years’ occupation is of no avail.

(10) I.e., there is no need to hand over money.

(11) Levi also drew up a Tosefta like R. Hiyya and R. Oshiah (Rashb.). [V. however, Halevy, Doroth II, 595.]

(12) I.e., the transaction is complete without this.

Talmud - Mas. Baba Bathra 53a

but [if the act is] not [done] in his presence, he must say, Go, occupy and acquire ownership. Rab inquired: What is the rule in the case of a gift? Said Samuel: What is Abba's[1] difficulty? Seeing that in the case of a sale where the purchaser gives money, if the seller says to him, ‘Go, occupy and acquire ownership,’ he does acquire ownership but otherwise not, how much more so in the case of a gift?[2] — Rab, however, was of opinion that a gift is usually made in a liberal spirit.[3]

How much is meant by ‘anything at all’’? — [The answer is given] in the dictum of Samuel: If a man raises a fence already existing to ten handbreadths[4] or widens an opening so that it allows of entry and exit, this constitutes effective occupation.[5] How are we to picture this fence? If we say that before [the man touched it] people could not climb it and now too they cannot climb it, what has he done?[6] If again we say that before people could climb it but now they cannot, he has done a great deal![7] — We must therefore say that before it could be climbed easily but now it can only be climbed with difficulty. How are we to picture the opening? If we say that before people could get through it and now too they can get through it, what has he done?[6] If again we say that before people could not get through it but now they can, he has done a great deal![7] We must therefore say that before people got through with difficulty, but now they get through easily.

R. Assi said in the name of R. Johanan: If [in the estate of a deceased proselyte] a man by placing a pebble or removing a pebble confers some advantage, this action gives him a title to the land. How are we to understand this placing and removing? If we say that by placing the pebble [there] he stops water from overflowing the field[8] or by removing the pebble he allows water to run off from the field,[9] he is merely in the position of ‘a man who chases a lion from his neighbour's field’![10] — We must say therefore that in placing the pebble he conserves the water[11] and in removing the pebble he makes a passage for the water.[12]

R. Assi further said in the name of R. Johanan: [If the estate of a deceased proselyte consists of] two [adjacent] fields with a boundary between them, then if a man takes possession[13] of one of them with the idea of becoming owner, he acquires ownership of that one;

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(1) Rab. v. supra p. 214, n. 9.

(2) I.e., a fortiori, if the recipient of the gift does not take possession in the donor's presence, the latter must use this formula to make the gift valid.

(3) V. infra 71a. And therefore he was doubtful whether the formula was necessary even in this case.

(4) This was reckoned the minimum height which would act as a barrier.

(5) Because something has been done to alter the character of the property and improve it.

(6) To improve the property.

(7) And we should not call it ‘anything at all’.

(8) And so damaging it.

(9) Which was waterlogged.

(10) I.e., he merely performs a neighbourly action which is incumbent on any man.

(11) Where it was required.

(12) Allowing it to enter and water the field.

(13) By means of some appropriate action.

Talmud - Mas. Baba Bathra 53b

if with the idea of becoming owner of both, he becomes owner of that one but not of the other;[1] if with the idea of becoming owner of the other, he does not acquire ownership even of that one.[2] R. Zera put the following question: Suppose he takes possession of one of them with the idea of becoming owner of that one and of the boundary and of the other one, how do we decide? Do we say that the boundary goes with this field and with that[3] and so he acquires the whole, or do we say that the boundary and the fields are separate?[4] This question must stand over. R. Eleazar put the question: Suppose he takes possession of the boundary with the idea of becoming owner of both fields, how do we decide? Do we say that the boundary is as it were the bridle of the land[5] and so he acquires ownership, or are boundary and field separate? — This question [also] must stand over.

R. Nahman said in the name of Rabbah b. Abbuha: If there are [in a house] two rooms, one of which can only be reached through the other,[6] then if a man takes possession of the outer room with the idea of becoming its owner, he acquires ownership of it; if with the idea of becoming owner of both rooms, he acquires ownership of the outer room but not of the inner one; if with the idea of becoming owner of the inner room, he does not acquire ownership even of the outer one. If he takes possession of the inner one with the idea of becoming its owner, he acquires ownership of that one; if with the idea of becoming owner of both, he does acquire ownership of both;[7] if with the idea of becoming owner of the outer one [only], he does not acquire ownership even of the inner one.[8]

R. Nahman further said in the name of Rabbah b. Abbuha: If a man builds a large villa on the estate of a [deceased] proselyte and another man comes and fixes the doors, the latter becomes owner. Why is this? Because the first one merely deposited bricks there.[9]

R. Dimi b. Joseph said in the name of R. Eleazar: If a man finds a villa already erected on the estate of a [deceased] proselyte, and he adds one coat of whitewash or mural decoration, he acquires ownership.[10] How much must he whitewash or decorate? R. Joseph says: A cubit. To which R. Hisda added: And it must be by the door.[11]

R. Amram said: The following dictum was enunciated to us by R. Shesheth, and he showed us the proof of it from a Baraitha:[12] If a man spreads mattresses on the floor of a proselyte's estate [and sleeps on it], he thereby acquires ownership.[13] How did he ‘show proof of this from a Baraitha’? — [By citing the following passage] which has been taught: How is ownership [of a slave] acquired by ‘taking possession’?[14] If the slave fastens or undoes his master's shoe, or carries his clothes behind him to the bath, or undresses him, washes him, anoints him, scrapes him, dresses him, puts his shoes on[15] or lifts him up, he becomes his owner.[16] R. Simeon said: possession of this kind cannot be more effective than lifting up, seeing that it confers ownership in all cases. What does this mean? — We must understand the passage thus: If the slave lifts his master up, the latter acquires possession, but if his master lifts him up, he does not. R. Simeon said: possession cannot be more effective than lifting, seeing that it confers ownership in all cases.[17]

R. Jeremiah Bira'ah said in the name of Rab Judah: If a man

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(1) Because the boundary makes them two distinct fields.

(2) Because he cannot acquire ownership without the deliberate intention of doing so.

(3) Lit., ‘the boundary of the land is one’. Rashb. reads: ‘The boundary belongs to this field and to that.’ The meaning is that if the boundary goes with the field, his intention to acquire the boundary secures him the boundary, and his acquisition of the boundary secures him the second field, with which it also goes.

(4) And he acquires only the first field, and not the boundary.

(5) If a man buys ten animals and takes hold of the bridle of one, he becomes the owner of all ten (Kid. 27b). If then we compare the boundary to a bridle, possession of it should confer ownership of both fields.

(6) Lit., ‘one within the other’.

(7) Because the right of way from the inner room through the outer makes the latter subsidiary to the former.

(8) V. supra p. 218, n. 5.

(9) I.e., so long as the building is not completed, it is regarded merely as a heap of bricks.

(10) Because he has done something to improve the building.

(11) Where it will have its maximum effect; otherwise more than a cubit would be necessary.

(12) Lit., ‘he enlightened our eyes from a Baraitha.’

(13) Because, although he does not improve the estate in any way, he derives some service from it.

(14) The rule is that ownership of a slave (as of land) is acquired by the handing over of money or of a deed, or by ‘taking possession’ (hazakah).

(15) This follows naturally on ‘dresses him’ though it has already been mentioned once.

(16) And R. Shesheth compares the ground to a slave in the matter of service.

(17) If a man buys an article and lifts it up, he immediately becomes owner, even if he is on ground belonging to the seller, whereas if he merely pulled it towards him (v. infra 76b), he would not in this case thereby become owner. Hence R. Simeon says that if the master lifts up the slave, this action also confers ownership.

Talmud - Mas. Baba Bathra 54a

throws vegetable seeds into the crevices of a proselyte's land, this act does not confer a title of ownership. The reason is that at the time of his throwing [the seeds] no improvement is effected, and the subsequent improvement[1] comes automatically.

Samuel said: If a man strips the branches from a date tree, if his purpose is [to improve] the tree.[2] he acquires ownership [by so doing],[3] but if his purpose is [to procure food] for his cattle, he does not acquire ownership. How can we tell [which is which]? If he takes the branches from all round, then [we know that] his purpose is [to improve] the tree, but if from one side only, then it is for the sake of his cattle.

Samuel further said: If a man clears a field [of sticks etc.], if his purpose is [to prepare] the soil [for ploughing], he thereby acquires ownership,[3] but if it is to obtain firewood, he does not. How can we tell [which is which]? — If he picks up [all the sticks,] both big and small, then [we know] his purpose is to prepare the soil, but if he takes the big ones and leaves the little ones, then [we know that] he merely wants firewood.

Samuel further said: If a man levels a field,[4] if his purpose is [to prepare] the soil [for ploughing] he thereby acquires ownership, but if he only wants to make threshing floors, he does not acquire ownership. How can we tell [which is which]? — If he has taken earth from the protuberances and thrown it into the depressions, then we know that his purpose is [to prepare] the soil,[5] but if he merely smoothes out the protuberances or levels up the hollows, we know that he intended to make threshing floors.[6]

Samuel further said: If a man turns water into a field [from a stream], if he does so to irrigate the ground, he thereby acquires ownership, but if only to bring fish in, he does not acquire ownership. How can we know which is which? — If he makes two sluices, one to let the water in and one to let it out, we [know that] he is after the fish, but if one sluice[7] then we know that his chief purpose is irrigate the field.

A certain woman had the usufruct of a date tree[8] to the extent of lopping its branches for thirteen years [to give food to her cattle]. A man then came and hoed under it a little [and claimed ownership]. He applied to Levi [or as some say to Mar ‘Ukba] who confirmed his title to the field. The woman came and complained bitterly to him, but he said: What can I do for you, seeing that you did not establish your title in the proper way?[9]

Rab said: If a man draws a figure [of an animal or bird][10] on the property of a [deceased] proselyte, he acquires ownership. [We ascribe this opinion to Rab] because Rab acquired the garden adjoining his Beth Hamidrash only by drawing a figure.[11]

It has been stated: If a field[12] has a boundary marked all round R. Huna says in the name of Rab that as soon as a man digs up one spadeful he becomes the legal owner. Samuel, however, said that he becomes the owner only of as much as he turns up.

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(1) When the vegetables grow.

(2) By removing superfluous branches.

(3) I.e., this is an act constituting hazakah.

(4) Lit., removes obstacles’.

(5) Because he levels the whole field.

(6) Because he still leaves different parts of the field at different levels.

(7) So that the water collects.

(8) Belonging to the estate of a deceased proselyte.

(9) I.e., you lopped off one side only, instead of all round.

(10) Not necessarily of the size of a cubit, as would be required in the case of any other ornamental figure. V. supra 53b.

(11) I.e., the garden adjoining his Beth Hamidrash belonged to a proselyte who died, and Rab acquired ownership by drawing the figure of an animal or bird on the wall of his house.

(12) The reference is to a field belonging to a deceased proselyte. In a case of sale, the digging of one spadeful is effective.

Talmud - Mas. Baba Bathra 54b

And if it is not bounded all round, how much does he acquire [by one stroke of the spade]?[1] R. Papa said: The length of a furrow made by a pair of oxen, there and back.[2]

Rab Judah said in the name of Samuel: The property of a heathen[3] is on the same footing as desert land; whoever first occupies it acquires ownership. The reason is that as soon as the heathen receives the money he ceases to be the owner, whereas the Jew does not become the owner till he obtains the deed of sale.[4] Hence [in the interval] the land is like desert land and the first occupier becomes the owner.[5] Said Abaye to R. Joseph: Did Samuel really say this? Has not Samuel laid down that the law of the Government is law,[6] and the king has ordained that land is not to be acquired save by means of a deed? R. Joseph replied: I know nothing of that.[7] [I only know that] a case arose in Dura di-ra'awatha[8] in which a Jew bought land from a heathen and another Jew came and dug up a little of it, and when the case came before Rab Judah he assigned the land to the latter. Abaye replied: You speak of Dura di-ra'awatha? There the fields belonged to people who hid themselves and did not pay the tax to the king, and the king had ordered that whoever paid the tax[9] should have the usufruct of the field.[10]

R. Huna bought a field from a heathen, and a Jew came and dug up some of it. He then presented himself before R. Nahman, who confirmed his title to it. R. Huna said to him: You decide thus [do you not], because Samuel said that the property of a heathen is on the same footing as desert land and the first occupier becomes owner?

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(1) This is the explanation of Tosaf. According to Rashb. the translation should be: ‘If it is not bounded all round, how much must he dig up?’ In either case we must supply the words ‘according to Rab’.

(2) According to Tosaf. this was a fixed measure of length.

(3) The reference, as appears from what follows, is to property sold by a heathen to an Israelite who has paid the money but not yet received the deed of sale.

(4) The rule was that if a Jew bought land from a Jew, it remained in the ownership of the seller until the purchaser had received the title-deed, and either could retract until that time. But if a heathen sold land to a Jew, neither could retract so soon as the money had been paid, though in this case too the Jew did not become owner till he had received the title-deed.

(5) He must, however, reimburse the purchaser (v. Rashb. and R. Gersh.).

(6) [On the scope of this dictum, v. Abrahams, I., Pharisaism and the Gospels, I, 62ff.]

(7) As much as to say that he did not believe the king had ordained this.

(8) The name of a village. According to others, ‘a village of shepherds’. [Obermeyer, op. cit., p. 142, identifies it with Dur on the Tigris, north of Bagdad.]

(9) In that case the Jew who came and did the digging.

(10) Hence we cannot infer from this that land bought from a heathen is not like desert land.

Talmud - Mas. Baba Bathra 55a

Then follow also the other ruling of Samuel, that the one who digs in it obtains only as much as he digs up. He replied: In that respect I follow our own teaching[1] as laid down by R. Huna in the name of Rab: As soon as he has dug up one spadeful he becomes legal owner of the whole.

R. Huna b. Abin sent[2] to say that if a Jew buys a field from a heathen and another Jew comes and occupies it [before he receives the deed], we do not dispossess him, and R. Abin and R. Elai and all our teachers were in agreement on this matter.

Rabbah said: These three rules were told me by ‘Ukba b. Nehemiah the Exilarch: [one,] that the law of the Government [in civil cases] is law; [a second,] that Persians acquire ownership by forty years’ occupation;[3] and [a third], that if property is bought from the rich landlords[4] who buy up land and pay the tax on it, the sale is valid. This applies, however, only to [land] which is transferred to the landlords on account of the land tax; if [it is sold to them] on account of the poll tax, then a purchase from them is not valid, because the poll tax is an impost on the person.[5] R. Huna the son of R. Joshua, however, said that even barley in the jar is liable to be seized for the poll tax.[6] R. Ashi said: Huna b. Nathan told me that Amemar found it difficult [to accept this view] because if this was so it would leave no room for the double portion to which a firstborn is entitled in an inheritance,[7] since all [bequeathed] property would in this way become ‘prospective’,[8] and a firstborn does not receive a double portion in ‘prospective’ as in ‘actual’ assets. He [R. Ashi] remarked: The same reasoning would apply to the land tax also.[9] But how then do you get over the difficulty [in the case of the land tax]? [By supposing that] the father pays the land tax of the year before he dies. Similarly with the poll tax; [we suppose that] the father pays it [for the year] before he dies.[10]

R. Ashi further said: I questioned the scribes of Raba [on this point], and they told me that the law is in accordance with the ruling of R. Huna the son of R. Joshua.[11] This, however, is not correct, and they only said so to put themselves in the right.[12]

R. Ashi further said: A man of leisure[13] must assist the community [to pay its levy].[14] This, however, is only if the community saved him from being taxed separately;[15] but if the tax collectors [exempted him],[16] then Providence Was kind to him.

R. Assi said in the name of R. Johanan: A boundary and a cistus[17] hedge serve as a partition in the estate of a proselyte;[18] not, however, for purposes of pe'ah[19] and uncleanness.[20] When Rabin came,[21] he said in the name of R. Johanan: For purposes of pe'ah and uncleanness also. How does a partition affect pe'ah? — As we have learnt: ‘These are the things which cut a field into two with respect to pe'ah:[22] a river, a rivulet,

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(1) I.e., that of Rab.

(2) V. supra p. 211, no. 10

(3) If a Persian has been in occupation of a piece of land for forty years, and a Jew then buys it from him, his title is impregnable, although according to Jewish law it would not be impregnable (v. supra 35b). The meaning, however, may also be that in Persia 40 years’ occupation is required to confer a title of ownership (even on an Israelite) and not three.

(4) Zaharuri (derivation uncertain) — men who paid to the Government the tax on land, the owners of which were in arrears, and so became owners of the land; or, according to others, the collectors of the land tax. As this transference of land was legal according to Persian law, Jews were allowed to buy the land from these people.

(5) I.e., it had to be collected from him personally and not from a distress on his property. Hence if the officials of the Government transferred his land to the zaharuri for payment of this tax they were exceeding their powers, and the Rabbis therefore refused to recognise the subsequent purchase of such land by a Jew. [On the terms כרגא (poll-tax) and טסקא (land tax), as well as on the Persian law recorded here, v. Obermeyer, op. cit. p. 221, n. 3.]

(6) Hence the Government officials would be justified in transferring the land, and the subsequent purchase by a Jew would be valid.

(7) Deut. XXI, 17.

(8) Since the whole of a man's property was liable to be seized by the Government on account of his poll tax, it was not actually his at the time of death, but was due to become his when he should have paid his tax. The Rabbinical rule was that the firstborn received a double portion only of the actual assets, not of those which were due to accrue later. V. infra 119a

(9) This also renders all assets ‘prospective’ instead of ‘actual’, and therefore there would seem to be no ground for the distinction between the land tax and the poll tax made above, which Amemar also accepts.

(10) And therefore the property he leaves is ‘actual’ and not ‘prospective’.

(11) That fields transferred for non-payment of poll tax could be bought by Jews.

(12) Because they had themselves made out deeds of such sales.

(13) Who does not engage in any kind of work, trade or commerce.

(14) The tax imposed on it by the Government.

(15) By interceding on his behalf with the officials. As by so doing the community would increase its own burden, since it would have to make up the deficiency, it had the right to demand assistance from him.

(16) And did not demand any equivalent for his tax from the rest of the community.

(17) חצב, a hard kind of date tree.

(18) So that a separate act is required for acquiring the fields on each side of the hedge or boundary.

(19) Lit., 'corner', v. Lev. XXIIII, 22.

(20) As explained in what follows.

(21) From Palestine to Babylon.

(22) So that pe'ah has to be given from the fields on each side.

Talmud - Mas. Baba Bathra 55b

a public carriage road[1] or a private carriage road,[2] a public field-path or a private field-path which is used both in the dry and the rainy season.'[3] How does the partition affect uncleanness? — As we have learnt:[4] 'If a man goes into a plain[5] in the rainy season where there is known to be uncleanness[6] in a certain field, and he says, I went to that place [i.e. plain] but I do not know if I went to that spot or not, R. Eliezer declares him clean and the Sages declare him unclean,'for R. Eliezer used to say that 'if there is a doubt whether a man entered a place of uncleanness he is clean, but if there is a doubt whether he touched an unclean thing, he is unclean.'[7]

In respect of Sabbath, however, these things do not form a partition.[8] Raba, however, says that they form a partition even in respect of Sabbath, as it has been taught: If a man takes out half a dry fig into a public place,[9] and puts it down and then takes out another half a dry fig, in one spell of unawareness that it was Sabbath, he is penalised [for breaking the Sabbath],[10] but if under two spells of unawareness, he is not penalised.[11] R. Jose said: If he

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(1) Of 16 cubits width.

(2) Of 4 cubits.

(3) I.e., even in the ploughing season when many paths are closed (Pe'ah II, 1).

(4) Toh. VI, 5.

(5) A stretch of cultivable land divided into fields.

(6) I.e., a grave.

(7) Ibid. VI, 4. We suppose that there is a boundary or hedge in the plain, and since this divides it Into separate fields, he is doubtful even if he entered the field where the grave was, and therefore according to R. Eliezer he is clean.

(8) In the matter of carrying on Sabbath from a private to a public place or vice versa.

(9) If anyone takes out from a private to a public place an article not smaller than a fig and sets it down there, he is liable to punishment for breaking the Sabbath.

(10) Because he has taken out one whole fig.

(11) Because he has only taken out half a fig twice.

Talmud - Mas. Baba Bathra 56a

[takes the two half-figs] in one state of unawareness into the same public place, he is penalised, but if into two different public places, he is not penalised.[1] This too, said Rabbah, is only the case if there is between the two public places a place the carrying into which [from either of them would] render him liable to a sin offering,[2] but not if there is only a karmelith[3] in between.[4] Abaye said: Even if there is a karmelith between [he is not penalised], but not if there is. only a block [of wood].[5] Raba said: Even if there is a block of wood between [he is not penalised]. Raba's view here [that such a block can form a partition] conforms with his other view that a ‘place’ in respect of Sabbath has the same meaning as a ‘place’ in respect of divorces.[6] If there is no boundary nor cistus hedge [in the plain], what is the ruling?[7] — R. Merinus explained in his [R. Eliezer's] name that ‘all to which his name is applied [is reckoned as one field].’ How are we to understand this? — R. Papa said: If for instance people call it, ‘The field of so-and-so's well.’

As R. ‘Aha b. Awia was once sitting in front of R. Assi, he laid down the following rule in the name of R. Assi b. Hanina: A cistus hedge forms a partition in the estate of a proselyte. What is a cistus hedge? — Rab Judah said in the name of Rab: The plant with which Joshua marked the boundaries of the land of Canaan for the Israelites.[8]

Rab Judah also said in the name of Rab: Joshua [in his book][9] enumerated only the towns on the borders.[10]

Rab Judah said in the name of Samuel: All the land which God showed Moses[11] is subject to [the obligation],of tithe. Which part of the land does this exclude?[12] — It excludes the Kenite, the Kenizite and the Kadmonite. It has been taught: R. Meir says that [these are] the Nabateans, the Arabians and the Salmoeans.[13] R. Eliezer says they are Mount Seir, Ammon and Moab. R. Simeon says they are Ardiskis, Asia and Aspamia.[14]

MISHNAH. IF TWO MEN TESTIFY THAT A CERTAIN MAN HAD THE USUFRUCT OF[15] A PIECE OF LAND FOR THREE YEARS AND THEY ARE FOUND TO BE ZOMEMIM,[16] THEY MUST PAY TO THE CLAIMANT ALL [THAT HE STOOD TO LOSE THROUGH THEIR FALSE EVIDENCE].[17] IF TWO [TESTIFY THAT THE OCCUPIER HAD THE USUFRUCT] FOR ONE YEAR, TWO FOR A SECOND YEAR, AND TWO FOR THE THIRD YEAR, [AND THEY ARE FOUND TO BE ZOMEMIM],[18]

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(1) Because here too the two actions are not combined.

(2) I.e., a private place, this being regarded as an effective division.

(3) As for instance, an unfenced plain, which is not an effective division. For the meaning of karmelith, v. Glos.

(4) Because the two public places are still regarded as one. Hence he is penalised.

(5) Less than 10 handbreadths high and 4 broad.

(6) If a man transfers his courtyard to his wife and then throws her a get into it and it lights on such a block, she is not divorced, because the block is not included in the courtyard transferred to the wife. Hence here he is not penalised.

(7) How far does the danger of uncleanness extend? [This is a quotation from Tosef., Toh. VII; v. Tosaf.]

(8) I.e., the boundaries between the tribes, families and individuals. According to tradition, this plant was chosen for the purpose because its roots go straight down and do not spread on either side; hence neither neighbour could complain that the other was encroaching.

(9) According to the Talmud, Joshua was the author of the book which bears his name. V. supra 8a.

(10) In Josh. XV-XIX.

(11) v. Deut. XXXIV, 1-3.

(12) I.e., which part of the land promised to Abram (Gen. XV, 18-21) was not shown to Moses on Mount Nebo?

(13) Tribes of North Arabia.

(14) Asia and Aspamia (Apamea) were names usually given to places in Asia Minor. But probably places nearer Palestine were meant. [V. Weinstein, Essaer, p. 18.]

(15) Lit., ‘ate’.

(16) V. Glos.

(17) I.e., not only does he recover the land from the occupier, but the witnesses have to pay him the amount of money he stood to lose.

(18) That is to say, if all are found to be false.

Talmud - Mas. Baba Bathra 56b

Talmud - Mas. Baba Bathra 56b

EACH SET PAYS THE CLAIMANT A THIRD. IF THREE BROTHERS TESTIFY [ONE TO EACH YEAR] EACH ALONG WITH THE SAME SECOND WITNESS, THEN THREE TESTIMONIES [OF TWO WITNESSES EACH] ARE OFFERED[1] [ONE FOR EACH YEAR], BUT THE THREE ARE RECKONED AS ONE FOR THE PURPOSE OF DECLARING THE WITNESSES ZOMEMIM.[2] GEMARA. Our Mishnah does not agree with R. Akiba, for it has been taught: Rabbi Jose said: When my father Halafta went to R. Johanan ben Nuri to study Torah with him (according to another report, when R. Johanan ben Nuri went to Abba Halafta to study Torah with him), he said to him: Suppose a man had the usufruct of a piece of land for one year to the knowledge of two people, and for a second year to the knowledge of two other people, and for a third year to the knowledge of two others, how do we decide? He replied: This constitutes a title. Said the other: That is my opinion also, but R. Akiba differs in this respect, for he used to say: [Scripture states:] A ‘matter’ [shall be established by two witnesses],[3] and not half a matter.[4] And how do the Rabbis apply the principle of a ‘matter’ and not half a matter?[5] Shall I say that It is to invalidate the evidence where one witness says that there was one hair on her back and the other says that there was one hair in front?[6] This is not only half a matter but also half a testimony! —[7] No; they would in virtue of it invalidate the evidence where two witnesses testify that there was one hair on her back and two that there was one in front.[8] Rab Judah said: If one witness says that the occupier took crops of wheat off the land and the other that he took crops of barley, this constitutes hazakah.[9] R. Nahman strongly dissented from this. On this ground, he said, if one witness said that he took crops in the first, third, and fifth years, and the other that he took crops in the second , fourth, and sixth, this would also constitute hazakah?[10] — Said Rab Judah to him: Where is the parallel? There [in your case] the year referred to by the one [witness] is not referred to by the other, but here [in my case] both testify regarding the same year. And why do we ignore their discrepancy? Because people easily make a mistake between wheat and barley.[11]

IF THREE BROTHERS TESTIFY EACH ALONG WITH THE SAME SECOND WITNESS, THEN THREE TESTIMONIES ARE OFFERED, BUT THE THREE ARE RECKONED AS ONE FOR THE PURPOSE OF DECLARING THE WITNESSES ZOMEMIM.

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(1) If two or three brothers testify to the same thing they are only counted as one witness, but here, as they testify to separate years, they are reckoned as separate witnesses, and each one forms a pair with the other witness.

(2) I.e., they cannot be declared zomemim till the evidence of all four has been proved to be false, and in that case each pays one-sixth.

(3) Deut. XIX, 15.

(4) And here no two witnesses testify to more than one year of occupation, which is only a third of the matter in hand.

(5) Who say that each set may testify to a different year.

(6) The reference is to the two hairs which are the sign of puberty in a girl, v. Nid. 52a.

(7) There being one witness where two are required.

(8) But not where different witnesses testify to different years, each year being a ‘whole matter’.

(9) In spite of the discrepancy between the witnesses.

(10) Here also there is a similar contradiction between the witnesses, since we suppose each of them to assert that in the intervening years the land was left fallow (Tosaf.).

(11) Lit., ‘What is there to be said? Between wheat and barley, people are not particular’.

Talmud - Mas. Baba Bathra 57a

A certain document [was brought into court] bearing the signatures of two witnesses, one of whom had died. The brother of the one who was still alive came with another witness to testify to the signature of the other [the deceased]. Rabina was disposed to decide that this case was covered by the Mishnah of three brothers each associated with the same witness.[1] Said R. Ashi to him: Surely the cases are not on all fours. In that case [if the evidence of the brothers was accepted] three-quarters of the money would not be assigned on the evidence of brothers, but in this case [if we allow this man to testify] three-quarters of the money will be assigned on the evidence of brothers.[2]

MISHNAH. CERTAIN USAGES CONSTITUTE HAZAKAH, WHILE CERTAIN OTHERS THOUGH SIMILAR DO NOT CONSTITUTE HAZAKAH.[3] IF A MAN WAS IN THE HABIT OF STATIONING HIS BEAST IN A COURTYARD OR OF FIXING THERE HIS OVEN, HANDMILL, PORTABLE STOVE OR HEN-COOP, OR OF THROWING HIS MANURE THERE, THIS DOES NOT CONSTITUTE HAZAKAH. BUT IF HE HAS BEEN ALLOWED TO PUT UP A PARTITION FOR HIS BEAST TEN HANDBREADTHS IN HEIGHT, OR FOR HIS OVEN OR HIS STOVE OR HIS HANDMILL, OR IF HE HAS BEEN ALLOWED TO BRING FOWLS INTO THE HOUSE OR TO MAKE A PIT FOR HIS MANURE THREE HANDBREADTHS DEEP OR A HEAP THREE HANDBREADTHS HIGH, THIS CONSTITUTES HAZAKAH.

GEMARA. Why is the rule in the second case different from that in the first?[4] — ‘Ulla said: Any act which confers legal ownership of the property of a deceased proselyte[5] confers legal ownership of that of a fellow Jew,[6] and any act which does not confer legal ownership of the property of a deceased proselyte does not confer legal ownership of property of a fellow Jew.[7] R. Shesheth raised strong objections against this. Is this, [he asked] a general principle?[8] What of ploughed land which confers ownership of the property of a deceased proselyte but not of that of a fellow Jew?[9] And what of the gathering of crops , which confers ownership of property of a fellow Jew but not of the property of a deceased proselyte?[10] No, said R. Nahman in the name of Rabbah b. Abbuha;

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(1) Here too one brother joins with one man as witness to a bond and the other with another man in testifying to the genuineness of a signatures and so the testimony of the two brothers could be regarded as relating to separate things, and they could count as independent witnesses.

(2) Each of the two original witnesses is regarded as warranting the assignment of half the money to the holder of the bond. Consequently, each of the witnesses to the dead man's signature is regarded as warranting the assignment of a quarter of the money. Hence three-quarters of the money is assigned on the warrant of two brothers who by rights ought not to count as more than a single witness.

(3) If they are allowed to go on without protest for three years, and the claim is supported by a plea of purchase or gift.

(4) Why should the making of a partition confer a hazakah and not the mere stationing?

(5) On the person who seizes it first. V. p. 181, n. 5.

(6) If the latter has said, ‘Go, occupy and acquire ownership,’ or if he occupied it for three years.

(7) According to ‘Ulla, therefore, the Mishnah is speaking of an outsider and defining the conditions under which he obtains hazakah in a courtyard.

(8) Even though it is correct in respect of this Mishnah.

(9) By means of three years’ occupation. V. supra 37b.

(10) For acquiring the property of a proselyte the essential thing is to perform some action which improves the property; for acquiring hazakah in property formerly belonging to a fellow Jew, the essential thing is to have the usufruct of the property.

Talmud - Mas. Baba Bathra 57b

we are dealing here with a courtyard belonging to several joint owners, who do not object to [any one of their number] merely stationing things there, but who do object to [his making] a partition there.[1] But do they not object to things being merely stationed [there]? Have we not learnt that joint owners of a courtyard who have vowed to have no benefit from one another are forbidden to enter the courtyard?[2] — The truth is, said R. Nahman in the name of Rabbah b. Abbuha, that we are dealing here with the open space behind the houses, where the owners do not mind things being stationed, but where they do mind a partition being made. R. papa said: In both cases [of the vow and of the beast etc.] we are dealing with a courtyard of joint owners, [and the reason why the rule is different is this:] Some owners are particular and some are not. Where the issue is a pecuniary one,[3] we take the more lenient view.[4] But where the issue is one of [breaking] a religious precept,[5] we take the more stringent view.[6] Rabina said: Indeed we assume in all cases that the joint owners are not particular,[7] and the rule [regarding vows] is based on the opinion of R. Eliezer, as it has been taught: R. Eliezer says, One who has vowed to receive no benefit from another is forbidden to take even a makeweight from him.[8]

R. Johanan said in the name of R. Bana'ah: Joint owners of a courtyard can stop one another from using the courtyard for any purpose save that of washing [clothes], since it is not fitting that the daughters of Israel should expose themselves to the public gaze while washing [clothes].[9] It is written: [The righteous one is] he that shutteth his eyes from looking upon evil,[10] and [commenting on this] R. Hiyya b. Abba said: This refers to a man who does not look at the women when they are washing [clothes]. How are we to understand this? If there is another road, then if [he does not take it] he is wicked.[11] If there is no other road, then how can he help himself? — We suppose that there is no other road, and even so it is incumbent on him to hide his eyes from them.[12]

R. Johanan asked R. Bana'ah[13] how [long] the under-garment[14] of a talmid hakam[15] [should be]. He replied: So long that his flesh should not be visible beneath[16] it. How [long should] the upper garment of a talmid hakam [be]? — So long that not more than a handbreadth of his under-garment should be visible underneath. How should the table of a talmid hakam be laid? — Two-thirds should be covered with a cloth and the other third should be uncovered for putting the dishes and vegetables on;[17] and the ring[18] should be outside.[19] But has it not been taught that the ring should be inside?[20] — There is no contradiction. In one case [we suppose] there is a child at the table,[21] and in the other that there is no child. Or if you like I can say [that in both cases [we suppose] there is no child, and still there is no contradiction: in one case [we suppose] there is a waiter at table[22] and in the other there is no waiter.[23] Or if you like I can say that in both cases [we suppose] there is a waiter, and still there is no contradiction; in the one case we refer to the day[24] and in the other to the night. The table of an ‘am ha'arez[25] is like

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(1) Hence if he makes a partition and they do not object, this constitutes hazakah, but so long as there is no partition his using the courtyard constitutes no hazakah, though it would in the case of an outsider.

(2) This shows that they are particular even about one another standing in the courtyard, for otherwise such standing could not be called a benefit derived from the other.

(3) I.e., in the case of using the courtyard.

(4) I.e., we assume that the other residents do not mind him putting his beasts etc. there, and since they do not mind, they do not formally object to his action, and therefore it does not constitute hazakah.

(5) In the case of a vow.

(6) We assume that the others do mind his standing in the courtyard. Hence if they allow him to do so, and he does, he would be deriving a benefit from them and so breaking his vow.

(7) And therefore by rights the vow would not be broken by the act of standing in the courtyard.

(8) If the man who has made the vow buys 100 nuts from the other, and he gives him one or two over, as to all customers, he may not accept them. Similarly, by standing in the courtyard the man who has made the vow receives a certain benefit from the other, even though the latter claims (as against him) no ownership in the courtyard.

(9) As they would if they have to go down to the river to do so.

(10) Isa. XXXIII, 15.

(11) Because it is a duty to keep away from temptation.

(12) Lit., ‘to constrain himself’.

(13) Having mentioned R. Bana'ah the text adduces a number of his sayings and doings.

(14) Or ‘shirt’.

(15) I.e., a scholar. v. Glos.

(16) I.e., it should come right down to his feet.

(17) So that they should not dirty the cloth. According to some, the bare space was to be in the middle.

(18) By which the table-top was hung up when not in use.
(19) I.e. , on the bare part.
(20) I.e., the part near the guests.
(21) And then it should be outside, because otherwise the child may play with it and upset the table.
(22) And it should be inside, because if it is outside, it may get in his way.
(23) And it should be outside, so as not to get in the way of the company.
(24) When the waiter can avoid it, and therefore the convenience of the company can be consulted by having it outside.
(25) V. Glos.

Talmud - Mas. Baba Bathra 58a

a hearth with pots all round.[1] What is the sign of the bed of a talmid hakam? — That nothing is kept under it save sandals in the summer season and shoes in the rainy season.[2] But the bed of an ‘am ha’ arez is like a packed storeroom.[3]

R. Bana'ah used to mark out caves [where there were dead bodies].[4] When he came to the cave of Abraham,[5] he found Eliezer the servant of Abraham standing at the entrance. He said to him: What is Abraham doing? He replied: He is sleeping in the arms of Sarah, and she is looking fondly at his head. He said: Go and tell him that Bana'ah is standing at the entrance. Said Abraham to him: Let him enter; it is well known that there is no passion in this world.[6] So he went in, surveyed the cave, and came out again. When he came to the cave of Adam,[7] a voice came forth from heaven[8] saying Thou hast beholden the likeness of my likeness,[9] . my likeness itself thou mayest not behold.[10] But, he said, I want to mark out the cave. The measurement of the inner one is the same as that of the outer one [came the answer]. (Those who hold that there was one chamber above another [say that the answer was], The measurement of the lower one is the same as that of the upper one.) R. Bana'ah said: I discerned his [Adam's] two heels, and they were like two orbs of the sun. Compared with Sarah, all other people are like a monkey to a human being, and compared with Eve Sarah was like a monkey to a human being, and compared with Adam Eve was like a monkey to a human being, and compared with the Shechinah Adam was like a monkey to a human being. The beauty of R. Kahana was a reflection of [the beauty of Rab; the beauty of Rab was a reflection of][11] the beauty of R. Abbahu; the beauty of R. Abbahu was a reflection of the beauty of our father Jacob, and the beauty of Jacob was a reflection of the beauty of Adam.

There was a certain magician who used to rummage among graves.[12] When he came to the grave of R.Tobi b. Mattenah (R.Tobi) took hold of his beard. Abaye[13] came and said to him: ‘pray, leave him.’ A year later he again came, and he [the dead man] took hold of his beard, and Abaye again came, but he [the dead man] did not leave him till he [Abaye] had to bring scissors and cut off his beard.

A certain man [when on his deathbed] said: I leave a barrel of dust to one of my sons, a barrel of bones to another, and a barrel of fluff to the third. They could not make out what he meant, so they consulted R. Bana'ah. He said to them: Have you any land? We have, they replied. Have you cattle? Yes. Have you cushions? Again the answer was in the affirmative. If so, said R. Bana'ah, that is what your father meant.

A certain man heard his wife say to her daughter, Why do you not observe more secrecy in your amours?[14] I have ten children, and only one is from your father. When [the man was] on his deathbed, he said, I leave all my property to one son. They had no idea which of them he meant, so they consulted R. Bana'ah. He said to them: Go and knock at the grave of your father, until he gets up and tells you which one of you [he has made his heir]. So they all went to do so. The one who was really his son, however, did not go. R. Bana'ah thereupon said: All the estate belongs to this one. They then went and slandered him before the king, saying: There is a man among the Jews who extorts money from people without witnesses or anything else. So they took him and threw him in prison. His wife came [to the Court] and said: I had a slave, and some men have cut off his head, skinned him, eaten the flesh and filled the skin with water and given students to drink from it, and they have not paid me either its price or its hire. They did not know what to make of her tale, so they said: Let us fetch the wise man of the Jews and he will tell us. So they called R. Bana'ah, and he said to them: She means a goat-skin bottle. They said: Since he is so wise, let him sit in the gate and act as judge. He saw that there was an inscription over the gateway, ‘Any judge who is sued in court is not worthy of the name of judge’. He said: If that is so, any man from the street can come and

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(1) Because he puts the cloth and the bread in the middle and the dishes all round.

(2) Sandals were worn in the winter and shoes in the summer, and each was put away under the bed when not in use.

(3) So many things are under it.

(4) He placed marks outside over the place of the graves, so that people should not walk over them and become unclean.

(5) Machpelah.

(6) And therefore there could be no objection to his seeing Abraham sleeping with Sarah.

(7) According to tradition, Adam and Eve were also buried in the cave of Machpelah, according to one version in an inner cave, and according to another in a lower one.

(8) Bath kol, lit., ‘daughter of a voice’.

(9) Abraham who was the likeness of Adam.

(10) Adam who was made in the likeness of God.

(11) According to another reading, this clause is omitted.

(12) [Persian fire worshippers considered it sinful to defile Mother Earth with dead bodies. They would accordingly rummage among Jewish graves, exhume the bodies and expose them to the birds. ‘Magician’ stands here for a Gueber, as in many other places in the Talmud, v. Perles, J., Die Leichenfeierlichkeiten im nachbiblischen Judentum, p. 8.]

(13) Who was apparently a friend of the magician.

(14) Lit., ‘forbidden acts’.

Talmud - Mas. Baba Bathra 58b

sue the judge and so disqualify him. What it should say is, ‘Any judge who is sued in court and against whom judgment is given is no true judge’.[1] They therefore wrote: But the elders of the Jews say, ‘Any judge who is sued in court and against whom judgment is given is no true judge’. He saw another inscription which ran, ‘At the head of all death am I, Blood: At the head of all life am I, Wine’. [How can that be? he said.] If a man falls from a roof or a date-tree and kills himself, does he die from excess of blood? And again, if a man is on the point of death, do they give him wine to drink? No. What should be written is this: ‘At the head of all sickness am I, Blood, At the head of all medicine am I, Wine’. They therefore wrote: ‘But the elders of the Jews say, At the head of all sickness am I, Blood, At the head of all medicine am I, Wine; only where there is no wine are drugs required’.

Over the gateway of Kaputkia[2] there was an inscription, Anpak,, anbag, antal.[3] And what is an ‘antal’?[4] It is the same as the ‘fourth part in Jewish ritual measurements.[5]

MISHNAH. THERE IS NO HAZAKAH[6] FOR A GUTTERPIPE,[7] BUT THERE IS FOR ITS PLACE.[8] THERE IS HAZAKAH FOR A ROOFGUTTER.[9] THERE IS NO HAZAKAH FOR AN EGYPTIAN LADDER BUT THERE IS FOR A TYRIAN. THERE IS NO HAZAKAH FOR AN EGYPTIAN WINDOW BUT THERE IS FOR A TYRIAN. WHAT IS AN EGYPTIAN WINDOW? ONE THROUGH WHICH A MAN CANNOT PUT HIS HEAD. R. JUDAH SAYS THAT IF IT HAS A FRAME, EVEN THOUGH A MAN CANNOT PUT HIS HEAD THROUGH IT, THERE IS HAZAKAH FOR IT.

GEMARA. What [is meant by Saying that] THERE IS NO HAZAKAH FOR A GUTTER-PIPE

BUT THERE IS FOR ITS PLACE? — Rab Judah said in the name of Samuel: It means this. There is no hazakah for the gutter-pipe at one particular end of the gutter,[10] but there is a hazakah for it to be placed either at one end or the other.[11] R. Hanina said: There is no hazakah for the gutterpipe[12] [to the extent] that if he [the owner of the courtyard] finds it too long he can have it shortened, but there is hazakah for its place [to the extent] that if he wants to remove it altogether he is not at liberty to do so. R. Jeremiah b. Abba said: There is no hazakah for a gutter [in so far] that if he [the owner of the courtyard] desires to build under it he may do so,[13] but there is hazakah for its place [to the extent] that if he wants to remove it altogether, he is not at liberty to do so.

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(1) Because this shows that he is capable of taking bribes.

(2) Cappadocia.

(3) According to Rashb., there were three alternative names for a certain measure of capacity. According to Tosaf. anpak. and anbag were the names of a certain medicine of which the proper draught was an antal.

(4) A fourth part of a log = an egg and a half, the standard measurement for a cup of wine on Passover eve and other ritual observances. v. Nazir, 38a.

(5) Lit., ‘of the Torah’.

(6) I.e., no title is conferred by uninterrupted use or possession.

(7) A movable pipe hanging down from a gutter on a roof.

(8) This is explained in the Gemara, infra.

(9) The whole of this Mishnah is explained in the Gemara.

(10) The fact that the owner of the courtyard has allowed the owner of the roof to keep his pipe overhanging the yard for three years without protest does not confer on him a permanent right to do so, because as it is not a fixture the owner of the courtyard is not particular about it, and therefore the fact of his not protesting is nothing to go by.

(11) Because a pipe at one end or the other is necessary for the roof and therefore it is to a certain extent a fixture.

(12) I.e., the owner of the roof has no title to it.

(13) Since ownership of the gutter confers no title to the space under it.

Talmud - Mas. Baba Bathra 59a

We learnt: THERE IS HAZAKAH FOR A ROOF-GUTTER.[1] This fits in with the first two of the views [just adduced][2] but on the view that [the Statement that ‘there is no hazakah for a gutterpipe’ means that] if the owner of the courtyard wants to build under it he may do so, what does it matter to him [the owner of the gutter]?[3] — We are dealing here with a gutter of stone, the owner of which can say, I do not want my stonework to be weakened [by building carried on underneath].[4]

Rab Judah said in the name of Samuel: If a man has a pipe [on his roof] from which water drips into his neighbour's courtyard and he wants to stop it up the owner of the courtyard can prevent him, saying, Just as you have property in the courtyard for pouring your water into It, so I have property in the water that comes from your roof.[5] It has been stated: R. Oshaia said that the owner of the courtyard may prevent him, but R. Hama[6] said he may not. They[7] went and asked R. Bisa,[8] who replied that he can prevent him. Rami b. Hama applied to him [R. Oshaia] the verse, A threefold cord is not easily broken.[9] This [he said], is exemplified in R. Oshaia the son of R. Hama who is the son of R. Bisa.[10]

THERE IS NO HAZAKAH FOR AN EGYPTIAN LADDER.[11] How is an Egyptian ladder to be defined? — The school of R Jannai defined it as one which has not four rungs.

THERE IS NO HAZAKAH FOR AN EGYPTIAN WINDOW.[12] Why should a definition be given [in the Mishnah] of an Egyptian window and not of an Egyptian ladder? — Because [in regard to the size of the window] the dissentient opinion of R. Judah was to be recorded in the next clause. R. Zera said: There is hazakah [for a Tyrian window] if it comes lower than four cubits [from the floor of the room],[13] and the owner of the courtyard can prevent [one from being made in the first instance];[14] but if it is more than four cubits from the floor, there is no hazakah for it[15] and the owner of the courtyard cannot prevent [it from being made]. R. Elai, however, said that even if it is more than four cubits from the floor there is no hazakah for it, and [yet] the owner of the courtyard can prevent it from being made.[16] May we say that the point at issue between them [R. Zera and R. Elai] is whether or not we force a man to abandon a dog-in-the manger attitude,[17] one [R. Zera] holding that we do and the other that we do not? — No. Both are agreed that we do, and here [R. Elai] makes a difference because the [owner of the courtyard] can say to the other, You might at times place a stool under yourself and stand on it and see [into my courtyard].[18]

A certain man appealed to R. Ammi. The latter sent him to R. Abba b. Memel, telling him, Decide according to the opinion of R. Elai.[19] Samuel said: If [a window is necessary] to let in light, however small it is there is hazakah for it.[20]

MISHNAH. FOR A SPAR[21] [WHICH PROJECTS NOT LESS THAN] A HAND BREADTH THERE IS HAZAKAH[22]

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(1) This being a fixture, if the owner of the courtyard does not protest against its overhanging his yard during three years, the owner of the gutter may claim a prescriptive right to keep it there.

(2) The views of Samuel and R. Hanina regarding a gutter-pipe.

(3) For why should the owner of the gutter have hazakah to the extent that he should be able to object to the owner of the courtyard building under it, and why in any case should he raise such an objection?

(4) But as a gutter-pipe is usually made of wood, there is no ground for a similar complaint if building is carried on under it.

(5) For providing water for his cattle.

(6) Father of R. Oshaia.

(7) So in some texts.

(8) Father of R. Hama.

(9) Eccl. IV, 12.

(10) Tosaf. points out that examples were not rare of three generations of scholars in the same family, but the peculiarity of this case was that all three were alive at the same time.

(11) I.e., the fact that it has been allowed to remain in the neighbour's courtyard three years confers no right to keep it there permanently.

(12) Because, as it is too small to see much out of, the owner of the courtyard does not trouble to protest.

(13) Because then the owner of the room can look through it and see what is going on in his neighbour's courtyard. Hence if the latter does not protest, the former acquires hazakah.

(14) To save himself from the danger of being overlooked.

(15) Because, as it does not enable him to be overlooked, the owner of the courtyard does not trouble to protest.

(16) For the reason given below, that the other may stand on a stool and look through.

(17) Lit., 'the characteristic of Sodom': doing something which vexes his neighbour without benefiting himself. V. supra 12b.

(18) Hence we cannot say that the owner of the courtyard derives no benefit from preventing the other from making his window four cubits above the floor, and therefore he is at liberty to prevent him.

(19) Which shows that this is the law (Rashb.).

(20) And if the owner of the courtyard does not protest in time, it may be kept there permanently.

(21) A spar projecting from the roof of a house over a neighbour's courtyard.

(22) So that the owner of the courtyard cannot remove it after a certain time.

Talmud - Mas. Baba Bathra 59b

AND THE OWNER OF THE COURTYARD CAN PREVENT IT BEING MADE [IN THE FIRST INSTANCE]. IF IT IS LESS THAN A HANDBREADTH THERE IS NO HAZAKAH FOR IT AND HE CANNOT PREVENT IT [FROM BEING MADE].

GEMARA. R. Assi said in the name of R. Mani (or, according to others, R. Jacob said in the name of R. Mani): If he obtains a right to a handbreadth he obtains a right to four. What is the meaning of this?[1] — Abaye said: It means that if he has obtained a right to a width of a handbreadth with a length of four, he ipso facto obtains a right to a width of four.[2]

IF IT IS LESS THAN A HANDBREADTH THERE IS NO HAZAKAH FOR IT AND HE CANNOT PREVENT IT [FROM BEING MADE]. R. Huna said: This only means that the owner of the roof cannot prevent the owner of the courtyard [from using it],[3] but the owner of the courtyard can prevent the owner of the roof.[4] Rab Judah, however, said that the owner of the courtyard cannot prevent the owner of the roof either. May we say that the point at issue between them is whether overlooking [constitutes a genuine damage], one holding that it does, and the other that it does not?[5] — No. Both consider overlooking to constitute a genuine damage but here[6] the case [according to Rab Judah] is different because the owner of the roof can say to the other: I cannot actually do anything on this spar. All I can do with it is to hang things on it. When I do that, I will turn my face away. And the other [R. Huna]?- [He can rejoin that] the other may say to him: You may become afraid [of falling, and not turn your face away].[7] MISHNAH. A MAN SHOULD NOT LET HIS WINDOWS OPEN ON TO A COURTYARD WHICH HE SHARES WITH OTHERS. IF HE TAKES A ROOM IN ANOTHER [ADJOINING] COURTYARD, HE SHOULD NOT MAKE AN ENTRANCE TO IT IN A COURTYARD WHICH HE SHARES WITH OTHERS. IF HE BUILDS AN UPPER CHAMBER OVER HIS HOUSE, HE SHOULD NOT MAKE THE ENTRANCE TO IT IN A COURTYARD WHICH HE SHARES WITH OTHERS. BUT HE MAY IF HE PLEASES MAKE AN INNER CHAMBER IN HIS HOUSE AND THEN BUILD AN UPPER CHAMBER OVER HIS HOUSE AND MAKE THE ENTRANCE FROM HIS HOUSE.[8]

GEMARA. [A MAN SHOULD NOT LET HIS WINDOWS OPEN etc.] Why only in a courtyard which he shares with others? Surely the prohibition should apply also to the courtyard of his neighbour? — The Mishnah takes an extreme case. On the courtyard of his neighbour he may certainly not let his windows open out.[9] But in the case of a courtyard which he shares with others he can say [to the other owner]: In any case you have to take steps to preserve your privacy from me in the courtyard.[10] We now learn therefore that the other can reply: Up to now I had to take steps to preserve my privacy only in the courtyard, but now [if you make this window] I shall have to do so in my house also.[11]

Our Rabbis taught : A certain man made windows opening on to a courtyard which he shared with others.[12] He was [eventually] summoned before R. Ishmael son of R. Jose, who said to him: You have established your right , my son.[13] He was then brought before R. Hiyya, who said: As you have taken the trouble to open them, so you must take the trouble to close them.[14]

R. Nahman said:

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(1) On the face of it the statement is absurd, since if the owner of the courtyard would allow a spar of a handbreadth, it does not follow that he would allow one of four.

(2) A space of four handbreadths by four is reckoned something considerable', and therefore a length of four handbreadths carries a width of four with it, though a length of ten handbreadths would not carry with it any greater width.

(3) Although it is his property, because the owner of the courtyard can at any time tell him to remove it.

(4) Either from using it or from making it in the first instance.

(5) The owner of the courtyard can be ‘overlooked’ from the spar by the owner of the roof, but not vice versa.

(6) In the case of a spar less than one handbreadth.

(7) And so overlook my courtyard.

(8) The reasons for all these rules are explained in the Gemara.

(9) Because he interferes with his neighbour's privacy.

(10) Because I share the courtyard. and therefore the addition of a window will make no difference.

(11) Alternatively we may translate: Till now I had to preserve my privacy when you were in the courtyard, now I shall have to do so when you are in your house also.

(12) Who made no objection at first.

(13) Because the others did not protest immediately. This accords with R. Ishmael's dictum recorded supra 41a: ‘an action done in the presence of the owner constitutes hazakah.’

(14) Because for establishing such a right three years are required.

Talmud - Mas. Baba Bathra 60a

For closing a window[1] a right is established immediately [if the action is unchallenged], because a man will not allow his light to be obstructed without protest.

IF A MAN TAKES A ROOM IN ANOTHER [ADJOINING] COURTYARD, HE SHOULD NOT MAKE AN ENTRANCE TO IT IN A COURTYARD WHICH HE SHARES WITH OTHERS. What is the reason? — Because he brings too many visitors [through the courtyard].[2] Look then at the following clause: HE MAY IF HE PLEASES BUILD AN INNER CHAMBER IN HIS HOUSE AND THEN BUILD AN UPPER CHAMBER OVER HIS HOUSE AND MAKE THE ENTRANCE FROM THE HOUSE. Will not this also bring more people through the courtyard? — R. Huna said: When it says here [that he builds] a room, It means that he divides one of his rooms into two, and when it says [that he builds] an upper chamber, it means that he makes a balcony.[3]

MISHNAH. IN A COURTYARD WHICH HE SHARES WITH OTHERS A MAN SHOULD NOT OPEN A DOOR FACING ANOTHER PERSON'S DOOR NOR A WINDOW FACING ANOTHER PERSON'S WINDOW. IF IT IS SMALL HE SHOULD NOT ENLARGE IT, AND HE SHOULD NOT TURN ONE INTO TWO. ON THE SIDE OF THE STREET, HOWEVER, HE MAY MAKE A DOOR FACING ANOTHER PERSON'S DOOR AND A WINDOW FACING ANOTHER PERSON'S WINDOW, AND IF IT IS SMALL HE MAY ENLARGE IT OR HE MAY MAKE TWO OUT OF ONE.

GEMARA. Whence are these rules derived? — R. Johanan said: From the verse of the Scripture, And Balaam lifted up his eyes and he saw Israel dwelling according to their tribes.[4] This indicates that he saw that the doors of their tents did not exactly face one another, whereupon he exclaimed: Worthy are these that the Divine presence should rest upon them!

IF IT IS SMALL HE SHOULD NOT ENLARGE IT. Rami b. Hama understood from this that if the door is of four cubits the owner should not make it eight because this would entitle him to eight cubits in the courtyard,[5] but if it is of two cubits he is quite in order in making it four.[6] Said Raba to him: [This is not so, because] the other can say to him, I can preserve my privacy if you have a small doorway but not if you have a large one.[7]

HE SHOULD NOT TURN ONE DOOR INTO TWO. Rami b. Hama understood from this that if the door is four cubits wide, he should not turn it into two doors of two cubits each, because this would entitle him to eight cubits in the courtyard,[8] hut he would be quite in order in turning a door of eight cubits into two of four cubits each.[9] Said Raba to him: [This is not so, because] the other can say to him, I can preserve my privacy from you if you have one door, but if you have two doors I cannot.[10]

ON THE SIDE OF THE STREET, HOWEVER, HE MAY MAKE A DOOR FACING ANOTHER PERSON'S DOOR. [The reason is] because he can say to him: In any case you have to preserve your privacy from the eyes of the passers-by[11] [and therefore you may as well do so from me also].

MISHNAH. A CAVITY MUST NOT BE MADE UNDER A PUBLIC PLACE, [TO WIT,] PITS, DITCHES AND CAVES. R. ELIEZER PERMITS THIS PROVIDED [THAT THE SURFACE IS STRONG ENOUGH TO BEAR THE PASSAGE OF A WAGON LOADED WITH STONES. SPARS OR BEAMS MUST NOT BE ALLOWED TO PROJECT [FROM THE WALL OF A HOUSE] OVER THE PUBLIC WAY. THE OWNER MAY, HOWEVER, IF HE DESIRES DRAW BACK HIS WALL FROM THE STREET AND THEN ALLOW THEM TO PROJECT. IF A MAN BUYS A COURTYARD IN WHICH ARE SPARS AND BEAMS [PROJECTING], HE HAS A PRESCRIPTIVE RIGHT TO KEEP THEM THERE.

GEMARA. [R. ELIEZER SAYS etc.] Why do the Rabbis forbid this? — Because the surface may wear thin without being noticed.[12]

SPARS AND BEAMS MUST NOT BE ALLOWED TO PROJECT etc. R. Ammi had a spar projecting over an alley-way,[13] and another man had a spar projecting over a public way. [Some passers-by objected][14] and he was summoned before R. Ammi. He said to him, Go and cut it down . But, said the man, you, Sir, also have a projecting spar? Mine, he replied, projects over an alley-way the residents of which have given me their consent. Yours projects over a street; who is there to surrender the [public's] rights?

R. Jannai had a tree which overhung the public way, and another man also had a tree overhanging the street. Some passers-by objected and he was summoned before R. Jannai. He said to him:

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(1) By building an obstruction in front of it.

(2) Presumably he builds the additional rooms for letting purposes.

(3) And though he thus obtains additional rooms for letting. he is perfectly within his rights.

(4) Num. XXIV, 2.

(5) V. supra 55a.

(6) Because even a door of two cubits entitles him to four cubits in the courtyard.

(7) According to Raba, the right to privacy overrides the right to yardspace.

(8) Four for each door.

(9) Since he would still only have eight cubits yard space.

(10) Because if one door is shut the other may still be open.

(11) Who can look through the door and the windows.

(12) Cf. supra 27b.

(13) Which is private property.

(14) These words occur in our texts, but in brackets.

Talmud - Mas. Baba Bathra 60b

Go away now and come again tomorrow. During the night he sent and had his own tree cut down. On the next day the man came back and he told him to go and cut the tree down. He said: But you, Sir, also have one? He replied: Go and see. If mine is cut down, cut yours down, and if mine is not cut down you need not cut yours down. What was R. Jannai's idea at first [when he kept his tree] and afterwards [when he had it cut down]? — At first he thought that passers-by were glad of it because they could sit in its shade, but when he saw that they objected to it he had it cut down. Why did he not say to the man, Go and cut yours down and then I will cut down mine? — In conformity with the maxim of Resh Lakish, who said: [It is written] , Hithkosheshu wakoshu:[1] trim yourselves and then trim others.

HE MAY, HOWEVER, IF HE DESIRES DRAW BACK HIS WALL FROM THE STREET AND

ALLOW THEM TO PROJECT. The question was asked: If a man draws back [his wall] and does not at once let any beams project, may he do so subsequently?[2] — R. Johanan said that though he has drawn back [the wall] he may still make projecting beams, while Resh Lakish said that once he has drawn back he cannot later make projecting beams. R. Jacob said to R. Jeremiah b. Tahlifa: I will explain this to you. On the question of projecting beams there is no difference of opinion [between the authorities], and both hold that they are permitted. Where they differ is on the question whether he may restore the walls to their former position, and the above statement should be reversed, [i.e.,] R. Johanan said that he may not go back to the original position and Resh Lakish said that he may. R. Johanan ruled that he may not, In accordance with the dictum of Rab Judah,[3] who said: A path [between two fields] over which the public has established a right of way must not be damaged. Resh Lakish, however, says that he may; we rule thus [in the case of the path] because there is no other space available, but here [in the case of the street] there is still plenty of space available.[4]

IF A MAN BUYS A COURTYARD IN WHICH ARE SPARS AND BEAMS PROJECTING, HE HAS A PRESCRIPTIVE RIGHT TO KEEP THEM. R. Huna said: If the wall falls down he may build it [as it was before] . An objection was raised [against this from the following]: ‘It is not proper to stucco or decorate or paint [our houses at the present time].[5] If a man buys a house which is stuccoed or decorated or painted, he is entitled to keep it so. If it falls down, he should not rebuild it [so]’?[6] — Where the prohibition is based on religious grounds , the case is different.[7]

Our Rabbis taught: A man should not stucco the front of his house with cement , but if he mixes sand or straw with it he may.[8] R. Judah Says: A mixture of sand makes the cement stony,[9] and therefore its use is forbidden, but straw is permitted.

Our Rabbis taught: When the Temple was destroyed for the second time,[10] large numbers in Israel became ascetics, binding themselves neither to eat meat nor to drink wine. R. Joshua got into conversation with them and said to them: My sons, why do you not eat meat nor drink wine? They replied: Shall we eat flesh which used to be brought as an offering on the altar, now that this altar is in abeyance? Shall we drink wine which used to be poured as a libation on the altar, but now no longer? He said to them: If that is so, we should not eat bread either, because the meal offerings have ceased. They said: [That is so, and] we can manage with fruit. We should not eat fruit either, [he said,] because there is no longer an offering of firstfruits. Then we can manage with other fruits [they said]. But, [he said,] we should not drink water, because there is no longer any ceremony of the pouring of water.[11] To this they could find no answer, so he said to them: My sons, come and listen to me. Not to mourn at all is impossible, because the blow has fallen. To mourn overmuch is also impossible, because we do not impose on the community a hardship which the majority cannot endure, as it is written, Ye are cursed with a curse,[12] yet ye rob me [of the tithe], even this whole nation.[13] The Sages therefore have ordained thus. A man may stucco his house, but he should leave a little bare. (How much should this be? R. Joseph says, A cubit square; to which R. Hisda adds that it must be by the door.)[14] A man can prepare a full-course banquet, but he should leave out an item or two. (What should this be? R. Papa says: The hors d'oeuvre of salted fish.) A woman can put on all her ornaments, but leave off one or two. (What should this be? Rab said: [Not to remove] the hair on the temple.)[15] For so it says, If I forget thee, O Jerusalem, let my right hand forget, let my tongue cleave to the roof of my mouth if I remember thee not, if I prefer not Jerusalem above my chief joy.[16] What is meant by ‘my chief joy’?[17] R. Isaac said: This is symbolised by the burnt ashes[18] which we place on the head of a bridegroom. R. Papa asked Abaye: Where should they be placed? [He replied]: Just where the phylactery is worn ,as it says, To appoint unto them that mourn in Zion, to give then a garland [pe'er] for ashes [epher].[19] Whoever mourns for Zion will be privileged to behold her joy, as it says, Rejoice ye with Jerusalem etc.[20] It has been taught: R. Ishmael ben Elisha said: Since the day of the destruction of the Temple we should by rights bind ourselves not to eat meat nor drink wine, only we do not lay a hardship on the community unless the majority can endure it. And from the day that a Government has come into power which issues cruel decrees against us and forbids to us the observance of the Torah and the precepts[21] and does not allow us to enter into the ‘week of the son’[22] (according to another version, ‘the salvation of the son’),[23] we ought by rights to bind ourselves not to marry and beget children, and the seed of Abraham our father would come to an end of itself. However, let Israel go their way: it is better that they should err in ignorance than presumptuously.[24] [

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(1) Zeph. II, 1. The English version translates, ‘Gather yourselves together, yea, gather together.’ Resh Lakish, however, derives it from the word kash, stubble, and translates, ‘Remove the stubble from between your own eyes, and afterwards remove it from others.’

(2) I.e., has he not tacitly abandoned his right to the intervening space?

(3) Whom the law follows in this matter, so that, as usually in a dispute between R. Johanan and Resh Lakish, the law follows the former.

(4) In the original width of the street.

(5) Since the destruction of the Temple.

(6) Which seems to show that where a right has been acquired by prescription, if it once lapses it cannot he resumed.

(7) From where, as here, the question is only one of causing damage.

(8) Because this makes the hue less bright.

(9) טרכסיד , which is a valuable preservative for the wall. [For the various suggestions as to the derivation of the word. V. Krauss. op. cit. I, 299.]

(10) In 70 C.E.

(11) On the Feast of Tabernacles. v. Suk. IV.

(12) This is taken to mean: ‘You have laid on yourselves an adjuration (to bring the tithe).’

(13) Malachi, III, 9. It is assumed that the adjuration would not have been effective unless the whole nation had taken part in it; which is taken to show that we do not impose a hardship unless we are sure that the majority can stand it.

(14) V. supra p. 219, no. 5.

(15) Which was usually removed as a mark of elegance.

(16) Ps. CXXXVII, 5.6.

(17) Lit., ‘Head of my joy’.

(18) Lit., ‘ashes from the hearth’.

(19) Isa. LXI, 3. The word pe'er is supposed to refer to the phylacteries on the basis of the verse, Bind thy headtire (pe'erka) upon thee. (Ezek. XXIV, 17.)

(20) Isa. LXI, 10.

(21) The reference is to the persecution instituted by the Emperor Hadrian after the revolt of Bar Kochba, 135 C.E.

(22) שבוע הבן I.e., the rite of circumcision. [So Rashb. and Rashi, Sanh. 32b. This term is said to have been adopted by the Jews as a disguise during the Hadrianic persecutions when the rite was prohibited in order to remove any suspicion that they were engaged in a religious observance. Others explain the term as denoting the seven days festivities that followed the birth of a child. V. Bergmann. J., M.G.W.J. 1932, 465ff;and cf. Krauss, op. cit. II, 438. The expression ‘the week of the daughter’, שבוע הבת also occurs in Nahmanides’ Torath Ha'adam, 35b. This is to he taken as a proof against the usual identification of ‘the week of the son’ with ‘the rite of circumcision’, v. Mann J. H.U.C. 1924, p. 325,n.3.]

(23) [ישוע הבן ‘The redemption of the son’ (Rashi): or, ‘The birth of a son’ (R. Tam); Tosaf. B.K.80a, s.v.לבי]

(24) And therefore we do not tell them this, since in any case they would go on marrying and begetting children.

Talmud - Mas. Baba Bathra 61a

CHAPTER IV

MISHNAH. IF A MAN SELLS A HOUSE[1] [WITHOUT FURTHER SPECIFICATION], THE YAZIA’[2] IS NOT INCLUDED WITH IT,[3] EVEN THOUGH IT OPENS INTO THE HOUSE, NOR IS AN INSIDE ROOM[4] [WHICH IS ENTERED FROM IT]. NOR THE ROOF, SO LONG AS IT HAS A PARAPET TEN HAND BREADTHS HIGH.[5] R. JUDAH SAYS THAT IF IT HAS [ANYTHING OF] THE SHAPE OF A DOOR, EVEN THOUGH THE PARAPET IS NOT TEN

HANDBREADTHS HIGH IT IS NOT SOLO [WITH THE HOUSE].[6]

GEMARA. What is meant by the word yazia'? — Here[7] it was translated as apsa.[8] R. Joseph said: It means a verandah with a semiopen side.[9] For one who holds that a closed-in verandah is not sold [with the room]. there is no question that an open one is not. But the one who says [that the verandah excluded here is] the open one would nevertheless include the closed-in one.

R. Joseph learned: Three names are found for this structure in the Scriptures[10] — yazia', zela', ta. Yazia[1] , as it is written, The nethermost storey [yazia'] was five cubits broad;[11] zela', as it is written, And the side chambers [zela'oth] were in three stories, one over another and thirty in order;[12] ta, as it is written, And every lodge [ta] was one reed[13] long and one reed broad, and the space between the lodges was five cubits.[14] Or if you like I can derive it [the fact that a verandah is called ta] from here: 'The wall of the Sanctuary was six cubits and the ta[15] was six and the wall of the ta was six.'[16]

Mar Zutra said: [A verandah is not sold with a room] only if it has an area of four [square] cubits.[17] Said Rabina to Mar Zutra: On your view that it must be four [square] cubits, what about the cistern, of which we have learnt, that the cistern and the well are not included [in the sale of the house] even if he [the seller] inserts in the deed of sale the words 'to the height and to the depth'?[18] [Are we to say that] there likewise [the rule] applies only if they have an area of four cubits, but otherwise not? — [He replied]: How can you compare the two? The cistern and the well are used for quite different purposes from the house,[19] but here both [the verandah and the house] are used for the same purposes. Hence if it is four cubits [square], it is reckoned as a separate structure, but if less not.

NOR AN INSIDE ROOM WHICH IS ENTERED FROM IT. If a verandah is not sold [along with the living room], do we need to be told that an inside room is not?[20]

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(1) Heb. bayith, which may mean either an apartment or a whole house.

(2) Explained in the Gemara.

(3) In spite of the fact that it is for practical purposes little more than an appendage of the room.

(4) Attached to the back of the house.

(5) Since this makes it into a separate structure.

(6) Since this also makes it a separate structure.

(7) In Babylon.

(8) A closed-in verandah; a small, low structure at the side or back of a house.

(9) E.g., with lattices, like our verandahs. This has a more independent value than the closed-in one.

(10) Viz., in the Scriptural account of the Temple of Solomon in I Kings, and of the Temple of the future in Ezekiel.

(11) I Kings VI, 6.

(12) Ezek. XLI, 6.

(13) =6 cubits. The reference here is to the lodges of the middle storey. V. Ezek. XLI, 7.

(14) Ezek. XL, 7.

(15) Of the middle storey.

(16) Mid. IV, 4. This shows that the ta was something attached to the wall.

(17) Because otherwise it is not reckoned a separate structure.

(18) V. infra 64a.

(19) And therefore it is reasonable that they should not be included in the house.

(20) Seeing that it is used for quite distinct purposes from the living room, e.g.. as a box room.

Talmud - Mas. Baba Bathra 61b

— It was necessary to state the rule to show that [this is the case] even if the seller drew the boundaries [in the deed of sale] outside [the inner room]. This is based on the ruling laid down by R.

Nahman in the name of Rabbah b. Abbuha. For R. Nahman said in the name of Rabbah b. Abbuha that if a man sells another an apartment[1] in a large tenement-house, even if he draws the boundaries outside [the whole tenement-house] we say that he only drew the boundaries wide.[2] How are we to understand this rule? If the apartment is called an apartment and the tenement a tenement, then it is self-evident:[3] he is selling him an apartment, not a tenement? If again the tenement also is called an apartment, then he sells the whole to him [does he not]? — The rule is required for the case where most people call the apartment an apartment and the tenement a tenement, but some call the tenement also an apartment. I might think that in this case [if he draws the boundaries wide] he sells him the whole. We are therefore told that since he might have inserted [in the deed of sale the words], 'And I have not reserved for myself anything from this transfer,'[4] and did not insert them, we assume that he did reserve something.[5]

R. Nahman also said in the name of Rabbah b. Abbuha: If a man sells to another a field in a big stretch of fields, even though he draw the outer boundaries [right round the whole stretch, he only sells the field, because] we say that he draws the boundaries wide. How are we to understand this? If the field is called a field and the stretch a stretch, the proposition is self-evident; he is selling him a field, not a stretch. If again the stretch is also called field, then the whole is sold to him [is it not]? — The rule is necessary for the case where some call the stretch a stretch and some call it a field. You might think that in this case he sells him the whole. Therefore we are told that since he might have inserted [in the deed of sale the words]. 'I have not reserved for myself anything from this transfer,' and did not insert them, we are to assume that he did reserve something.[6] And both these rulings [about the house and the field] required to be stated. For if had only the one about the house, I might say that the reason [why the tenement is not sold with the apartment] is because they are used for different purposes,[7] but in the case of the stretch of fields and the field where the whole [stretch] is used for the same purpose I might say that the whole is sold. And if l had only the rule about the stretch of fields, I might think that the reason [why it is not all sold] is because it is difficult to mark off one field [in the middle of a stretch], but in the case of the apartment, where he could easily have marked it off and did not do so, I might think that he has sold him the whole. Hence both are necessary.

What authority does R. Mari the son of the daughter of Samuel b. Shilath[8] follow in the statement he made in the name of Abaye: If a man sells property to another, he should insert in the deed of sale the words, 'I have not reserved from this transfer for myself anything.' The authority is the dictum enunciated by R. Nahman in the name of Rabbah b. Abbuha.[9]

A certain man said to another: I will sell you the land of Hiyya's. There were two pieces of land which were called Hiyya's. R. Ashi said: He sold him one piece of land, not two.[10] If, however, a man says to another, 'I will sell you some lands,'[11] the minimum that can be called 'lands' is two. If he says 'all the lands', [this includes] all his landed property except gardens and orchards. If he says 'fields',[12] this includes gardens and orchards also, but not houses and slaves.

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(1) V. p. 247. n. 1.

(2) And his intention is to sell only the apartment.

(3) And the rule need not have been stated.

(4) This being the regular formula of a deed of sale. V. infra.

(5) Viz., the tenement.

(6) Viz., the rest of the stretch.

(7) The word birah (tenement house) was applied specifically to the large hall in it into which the separate apartments opened, and which was used for sitting and walking about in and not for residence.

(8) [Delete 'b. Shilath', v. D.S. a.l. and cf. infra p. 357, n. 15.]

(9) That boundaries may be drawn wide; and it is to prevent the seller from entering such a place that the insertion of this formula in the deed of sale was prescribed by R. Mari.

(10) And the purchaser must take whichever one the seller chooses.
(11) [So Ms. M; V. D.S. a.l.]
(12) Zihara, a name which probably included all cultivable ground.

Talmud - Mas. Baba Bathra 62a

If he says ‘my property’,[1] this would include houses and slaves also.

If the seller draws one of two parallel boundaries shorter than the other, Rab says that the purchaser obtains only the width of the shorter line.[2] R. Kahana and R. Assi said to Rab: Should he not obtain as much as is bounded by the oblique line?[3] — Rab made no reply.’) Rab, however, had [previously] admitted that if [the field in question] is bounded by those of Reuben and Simeon on one side, and by those of Levi and Judah on the other, since [if he desired to transfer only half the field] he should have written either ‘[the boundaries are the field] of Reuben [on one side and] opposite [to it the field of] Levi’, or else ‘[the field] of Simeon [on one side and] opposite [to it the field of] Judah’, and he did not do so, he meant to transfer all within the oblique line [from the end of Simeon's field to the end of Levi's].[4]

If the field is bounded by fields of Reuben on the east and west and by fields of Simeon on the north and south, he must write, ‘the field is bounded by fields of Reuben on two sides and by fields of Simeon on two sides.’[5]

The question was raised: If he merely marks the corners,[6] how do we decide? If he draws the boundaries like a gam,[7] how do we decide?[8]

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(1) Or, ‘my belongings’.

(2) Rab assumes that the field sold is to be a parallelogram, v. fig. I.

(3) Lit., ‘head of an ox’: i.e., by a line drawn from the end of the shorter to the end of the longer boundary, v. fig. 2. (9) Signifying assent. v. Tosaf.

(4) The case dealt with here apparently is one in which the field is bounded on the north by those of Reuben (R) and Simeon (S), by each to half its length, and on the south by those of Levi (L) and Judah (J), by each to half its length, and the seller writes, ‘the field that is bounded by those of Reuben and Simeon on the north and by that of Levi on the south’, making no mention of Judah. (Fig. 3) The reading, however, is somewhat uncertain, and Tosaf. gives another explanation.

(5) And not simply, ‘it lies between the fields of Reuben and Simeon’, as in that case half the field would suffice, v. fig. 4:

(6) Suppose the field is bounded by a number of other owners’ fields, some abutting on the corners, does he sell the whole or only two diagonal strips from corner to corner, v. fig. 5.

(7) Marking a little of each side, in the shape of a Greek Gamma, thus: I’ [Gandz, S., Proceedings of the American Academy of Jewish Research, 1930-32, pp. 37ff., connects the Hebrew term Gam with the Gnomon with the carpenter's square.] v. fig. 6.

(8) Is this sufficient for the whole field, or does it convey only a diagonal strip?

Talmud - Mas. Baba Bathra 62b

If he mentions one and skips one,[1] how do we decide? — These questions must stand over.

If the seller defines the first, second and third boundaries, but not the fourth, Rab says that the purchaser acquires the whole of the field with the exception of the fourth boundary,[2] and Samuel said that he acquires the fourth boundary also. R. Assi, however, said that he acquires only one furrow alongside of the whole.[3] He [so far] agreed with Rab [as to hold] that he reserved something, but [he further held] that since he reserved the boundary he reserved the whole field,[4]

Raba said: The law is that he acquires the whole field with the exception of the fourth boundary.[5] And even this is the case only if the fourth boundary does not lie within the adjoining two,[6] but if it does so lie,[7] the purchaser acquires it. And even if it does not lie within the adjoining two, [he fails to acquire it] only if there is on it a clump of date trees, or it has an area of nine kabs,[8] but if there is no clump of date trees on it and it does not contain an area of nine kabs, he does acquire it.[9] From this it can be inferred that if it lies between the adjoining boundaries, then even if there is a clump of date trees on it and it has an area of nine kabs, the purchaser acquires it.[10]

According to another version, Raba said that the law is that the purchaser acquires the whole, including the fourth boundary. This is the case, however, only if it lies between the two adjoining boundaries, If, however, it does not so lie, he does not acquire it. And even where it does so lie, he acquires it only if there is not on it a clump of date trees, or it has not an area of nine kabs,[11] but if there is on It a clump of date trees, or it has an area of nine kabs, he does not acquire it . From this we infer that when it does not lie between the two adjoining boundaries, even though there is no clump of date trees on it and it has not an area of nine kabs, he does not acquire it.[12]

From either version of Raba's statement we learn that the seller does not reserve any part in the field itself.[13] We also learn that where the fourth boundary lies between the two adjoining ones and there is no clump of date trees on it, or it has not an area of nine kabs, the purchaser acquires it [even though it is not specified], and that if it does not so lie and there is on it a clump of date trees or it has an area of nine kabs, he does not acquire it.[14] If it lies between the adjoining boundaries and there is a [clump of date trees] on it [etc.],[15] or if it does not so lie and there is [no clump] on it [etc.],[15] according to one version the rule is one way and according to the other version the rule is the other way, and so we leave the judges to use their own discretion.[16]

Rabbah said: [If a man who owns half a field[17] says to another], I sell you the half which I have in the land, [he sells him] half [of the whole]. [If he says, I sell you] half of the land that I have,[18] [he sells him] a quarter [of the whole]. Said Abaye to him: What difference does it make whether he says one thing or the other? Rabbah made no reply. Abaye [subsequently] said: I thought that, because he made no reply, he accepted my view, but this was not so, for I saw [later] some documents that were issued from the master's court; where it was written, ‘the half that I have in the land’, [the transaction was for] half, and where it was written, ‘the half of the land that I have’, [the transaction was for] a quarter. Rabbah further said: [If the seller writes in the deed,] [The boundary of the land is] the land from which half has been cut off,[19] [he sells] half. If he writes, [The boundary of the land is] that from which a piece is cut off, [he only sells an area of] nine kabs.[20] Said Abaye to him: What difference does it make whether he says one way or the other? Rabbah made no reply. The conclusion was drawn that in either case [the proper rule was that he sold him] half,

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(1) If there are two separate fields on each side, and he mentions one and skips one, does he sell the whole or only the sections opposite the fields he specifies? v. fig. 7.

(2) I.e., one furrow alongside of it.

(3) Right round the other three boundaries.

(4) With the exception of the furrow round,

(5) As laid down by Rab.

(6) Lit., ‘is not swallowed’, v, fig. 8.

(7) v. fig. 9.

(8) I.e., sufficient for the sowing of nine kabs of seed. In these cases it counts as a separate field.

(9) Because it goes with the field.

(10) In other words, there must be two weaknesses in his claim to disqualify it, (a) that the fourth boundary lies outside the adjoining two, (b) that there is a clump etc.

(11) Because here also there is only one weakness in his claim, not two.

(12) In other words, there must be two things in his favour to make his claim good.

(13) Where he defines all the boundaries except one, the difference between the two versions being only in regard to the fourth boundary.

(14) Being in this case practically a separate field.

(15) [So Yad Ramah.]

(16) According to what they consider to have been the intention of the seller. In most analogous cases, the property in dispute either remains with the possessor or is to be divided.

(17) Being joint owner with someone else.

(18) I.e., half of his share.

(19) I.e., part of a field is sold and the boundary is formed by the rest of it.

(20) The minimum which constitutes a field.

Talmud - Mas. Baba Bathra 63a

This, however, is not so, because R. Yemar b. Shelemiah has said: Abaye has himself explained to me that whether he writes, ‘The boundary [of the field] is the field from which half has been cut off,’ or ‘The boundary [of the field] is the field from which a piece is cut off,’ if he adds the words, ‘these are its boundaries’ , [then he sells him] half,[1] and if he does not add the words ‘these are its boundaries’, [then he sells him] nine kabs.[2]

We take it for granted that if a man says, Let so-and-so share[3] my property, [he is to receive] a half. If he says, Give so-and-so a share in my property, what is to be done?[4] — Rabina b. Kisi said, Come and hear: it has been taught: If a man says, Give so-and-so a share in a cistern, Symmachus[5] says that he is to receive not less than a quarter.[6] [If the man says], Give him a share [in the cistern] for his pail,[7] he is to receive not less than an eighth. [If he says, Give him a share] for his pot,[8] he is to receive not less than a twelfth. [If he says, Give him a share] for his drinking cup,[9] he is to receive not less than a sixteenth.

Our Rabbis taught: If a Levite sells a field to any [ordinary] Israelite[10] with the stipulation that the first tithe[11] therefrom is to be given to him,[12] the first tithe from it must be given to him. If he stipulated that it was to be given to him and to his sons and he then died, it is to be given to his sons. If the stipulation is, ‘as long as this field is in your possession,’ and he [the purchaser] sells it and then buys it again, the Levite has no claim on him. How can [all] this be, seeing that a man cannot transfer to another possession of something that does not yet exist?[13] — Since the Levite stipulated that the first tithe should be given to him, he in effect reserved to himself the area of the tithe.[14] Resh Lakish said: This shows that if a man sells an apartment to another with the stipulation that the top layer[15] is still to belong to him, the top layer belongs to him.

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(1) The superfluous words being meant to place the purchaser in the most favourable position possible.

(2) The deed being interpreted in favour of the seller,

(3) Heb, yahalok, lit., ‘divide’.

(4) There being various possibilities, e.g., that he should receive half, or as much as the Beth din think fitting, or an equal portion with the sons of the donor.

(5) Who always went on the principle that ‘money of which the ownership is in doubt should be divided (between the claimants)’.

(6) The share may mean either a half or a mere fraction. Being in doubt, therefore, we strike the balance.

(7) I.e,, for watering his cattle and not his field, for which at the utmost only half the cistern is required. Hence the gift is at the utmost only half of a half, and we strike the balance between this and a fraction.

(8) For purposes of cooking, for which only a third of the cistern is required.

(9) For which only a quarter of the cistern is required.

(10) I.e., one who is neither priest nor Levite,

(11) According to the Rabbinical interpretation of Deut. XIV, 22-29, three tithes had to be taken from agricultural produce, the ‘first’ which had to be given to the Levite, the ‘second’ which had to be eaten in Jerusalem, and the ‘third’ which had to be given (once in three years) to the poor.

(12) In preference to any other Levite.

(13) Lit., ‘has not yet come into the world’. How then could the man who bought the field from the Levite make him the possessor of the tithe before even the seed was sown?

(14) Because otherwise the stipulation would be an idle one, and we must suppose that the Levite meant something with it.

(15) דיוטא * Gr. **; apparently this refers to the top layer of the parapet surrounding the roof, and the expression is therefore equivalent to ‘a roof with a parapet’, or ‘a roof chamber’. [So Rashb. R. Gersh. and Yad Ramah define it simply as a low-ceilinged upper storey. V. however Krauss, op. cit. I, 23, and Tosaf. 64a, s.v. ולאי].

Talmud - Mas. Baba Bathra 63b

For what purpose is the new rule laid down by Resh Lakish?[1] — [In order to tell us] that if the vendor desires to let out projecting spars from the roof, he is at liberty to do so.[2] R. Papa says: [In order to tell us] that if he desires to build an upper chamber over the apartment, he is at liberty to do so.[3] Accepting R. Zebid's view, we understand why Resh Lakish used the expression ‘this shows’.[4] But on the view of R. Papa, why should he have said, ‘this shows’?[5] — This is really a difficulty.

R. Dimi of Nehardea said: If a man sells an apartment to another,[6] even though he inserts in the deed of sale the words, ‘[I sell you] the depth and the height’,[7] he must further insert the words, ‘Acquire for thyself possession from the depth of the earth to the height of heaven,’ because the space below and above is not transferred automatically.[8] Hence the words ‘depth and height’ avail to transfer the space below and above, while the words ‘from the depth of the earth to the height of heaven’ avail to transfer a well, a cistern and cavities.

Shall we say [that the following Mishnah] supports R. Dimi: The vendor does not transfer the well and the cistern even though he inserts the words ‘depth and height’?[9] Now if you should assume that the space below and above is transferred automatically, then the insertion of the words ‘depth and height’ should avail to transfer well, cistern and cavities [should they not]? — [We suppose the Mishnah to refer to the case] where these words were not inserted.[10] But the Mishnah distinctly says, ‘although he inserts the words [depth and height’]? — We must explain the Mishnah thus: Even if these words are not actually inserted they are regarded as being inserted for the purpose of transferring the space below and above; and as regards a well and a cistern, if the words ‘depth and height’ are inserted, these are transferred, but otherwise not.[11]

Come and hear:[12] NOR THE ROOF SO LONG AS IT HAS A PARAPET TEN HANDBREADTHS HIGH.

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(1) We already know this from the Mishnah which says that if a man sells a house, he does not sell with it the roof. V. supra 61a.

(2) I.e., even if he parts with the courtyard, he still retains the right to make the same use of the roof as when the courtyard below belonged to him. This right, however, is retained by him only in virtue of his stipulation which otherwise would have been an idle one.

(3) This is explained by the commentators to mean that if the parapet (or the upper storey) falls in, he is at liberty to rebuild it. [R. Gershom's explanation that he may build an upper chamber over the diaita, accords, however, better with our text. cf. n. 4.]

(4) Because the act of the vendor here in reserving to himself, in virtue of his stipulation, a part of the space over the courtyard is analogous to the act of the Levite in reserving to himself a part of the field.

(5) Because there is no special analogy between reserving part of the field which has been sold and reserving the right to rebuild the roof which has not been included in the sale, and if Resh Lakish had meant the latter, he should have stated it independently and not derived it from the former.

(6) With the intention of transferring to him at the same time the well or cistern in the courtyard.

(7) I.e., all the space below and above.

(8) I.e., along with the house itself without specific mention. For the exact significance of ‘depth and height’ v. infra.

(9) Infra 64a.

(10) And if they are, they avail to effect the transfer of well and cistern.

(11) And we do not require the words, ‘from the depth of the earth to the height of heaven’.

(12) This is a further argument in support of R. Dimi's view,

Talmud - Mas. Baba Bathra 64a

Now if you assume that the space below and above is transferred automatically, what difference does it make if the parapet is ten handbreadths high?[1] — Since the parapet is ten handbreadths high the roof is reckoned as a separate structure.[2]

Rabina said to R. Ashi: Come and hear:[3] Resh Lakish said: This shows that if a man sells an apartment to another with the stipulation that the top layer still belongs to him, the top layer does still belong to him; and we asked what was the purpose of the new rule laid down by Resh Lakish, and R. Zebid said: [In order to tell us] that if the vendor desires to let out projecting spars from the roof he may do so, and R. Papa said: [In order to tell us] that if he desires to build an upper chamber over the apartment he may do so. Now if you assume that the top layer is not transferred automatically, what does he gain by his stipulation?[4] — What he gains by the stipulation is the right to rebuild it if it falls in.[5]

MISHNAH. [THE VENDOR OF A HOUSE DOES NOT SELL THEREWITH] A WELL OR A CISTERN,[6] EVEN THOUGH HE INSERTS [IN THE DEED THE WORDS] ‘INCLUDING THE DEPTH AND THE HEIGHT’.[7] HE MUST, HOWEVER, BUY HIMSELF, [IF REQUIRED], THE RIGHT OF WAY [TO THE WELL OR CISTERN]. THIS IS THE RULING OF R. AKIBA, THE SAGES, HOWEVER, SAY THAT HE NEED NOT BUY THE RIGHT OF WAY. R. AKIBA [ON HIS SIDE] AGREES THAT IF THE VENDOR INSERTS [THE WORDS] EXCEPT THESE’,[8] HE NEED NOT BUY HIMSELF A RIGHT OF WAY. IF THE OWNER OF THE HOUSE SELLS THESE TO ANOTHER R. AKIBA SAYS THAT THE PURCHASER NEED NOT BUY A RIGHT OF WAY TO THEM, BUT THE SAGES SAY THAT HE MUST BUY IT.

GEMARA. Rabina[9] as he sat [and studied this section] asked: Is not WELL[10] identical with CISTERN?[11] Said Raba Tosfa'ah to Rabina: Come and hear: It has been taught: Both ‘well’ and ‘cistern’ are excavations in the soil, only a ‘well’ is merely dug out,[12] whereas a ‘cistern’ is faced with stone.[13] R. Ashi [also] as he sat [and studied this section] asked: Is not WELL identical with CISTERN? Said Mar Kashisha the son of R. Hisda to R. Ashi: Come and hear: It was been taught: Both ‘well’ and ‘cistern’ are excavations in the soil, only a ‘well’ is merely dug out, whereas a ‘cistern’ is faced with stone.

HE MUST BUY HIMSELF THE RIGHT OF WAY. THIS IS THE RULING OF R. AKIBA. THE SAGES, HOWEVER, SAY THAT HE NEED NOT. [We may assume,] may we not, that the point at issue between them is this,

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(1) That is to say, why should a roof with a parapet be different from a roof without a parapet (which is sold with the house), unless for the fact that the purchaser does not acquire the height automatically with the house. So Rashi. V, however Tosaf., s.v. ואי’.

(2) And therefore is not sold automatically with the house.

(3) An argument against R. Dimi, from the ruling of R. Papa.

(4) Since even without this the vendor would still retain possession of the roof.

(5) This right not being conveyed by the bare transfer, which relates to ‘this’ layer only. Hence if he desires to transfer the roof completely, he must insert the words ‘depth and height’.

(6) The difference between these terms is explained in the Gemara.

(7) I.e., the space below and above.

(8) Which, strictly speaking, are superfluous, as the well and cistern are not automatically transferred with the house.

(9) [Rabina II b. Huna, nephew of Rabina I, v. Kaplan, J., Redaction of the Babylonian Talmud, 144.]

(10) בור.

(11) דות.

(12) Of hard soil which does not fall in.

(13) Because the soil is soft.

Talmud - Mas. Baba Bathra 64b

that in the view of R. Akiba the vendor interprets the terms of sale liberally[1] and in the view of the Rabbis[2] he interprets them strictly?[3] And further that, wherever we find it stated that ‘R. Akiba decides according to his usual maxim that the vendor interprets the terms of sale liberally,’[4] it is in the strength of this passage [that we assign this maxim to him]? — Is this assumption justified? perhaps [the reason for their dispute is this]; R. Akiba holds that a man does not like others to walk over ground which he has paid for, and the Rabbis hold that a man does not care to receive money on condition that he has to fly through the air [to get to where he wants].[5] Can we then [base this assumption] on the next clause: IF HE SELLS THESE TO ANOTHER, R. AKIBA SAYS THAT THE PURCHASER NEED NOT BUY A RIGHT OF WAY TO THEM, BUT THE SAGES SAY THAT HE MUST BUY IT?[6] — No, for perhaps the reason of their difference is this, that according to R. Akiba's view we have to consult the wishes of the purchaser, and according to the view of the Rabbis we have to consult the wishes of the vendor.[7]

Can we [base it] on this: ‘[The vendor does not sell with the field] either a pit or a wine-press or a dovecote, whether they are In use or not in use,[8] and he must buy a right of way [to them]. This is the ruling of R. Akiba, but the Sages say that he need not buy a right of way [to them]’ —[9] Now why[10] should it repeat here [the rulings of R. Akiba and the Sages]? Surely it must be to show us that [in general] R. Akiba holds that the vendor interprets the terms of sale liberally and the Rabbis that he interprets them strictly?[11] — No. Perhaps the Mishnah [desires to] tell us by this that [the difference between R. Akiba and the Sages is as stated above] both in regard to a house and a field, both being necessary. For if it had stated [the difference only] in the case of a house, [I might have thought that there R. Akiba says that the vendor has to buy a right of way] because the purchaser desires privacy,[12] but in the case of a field [where this reason does not apply] I might say he need not. And if the difference had been stated only in regard to a field, I might have thought that there [R. Akiba says that the vendor has to buy a right of way] because [the purchaser objects to his land being] trodden down,[13] but in the case of a house [where this reason does not apply I might say] he need not. May we then [base the assumption] on the succeeding clause: ‘If he sells them [the pit etc. in a field] to another, R. Akiba says that the purchaser does not need to buy a right of way, while the Sages say that he must.’ Now why is [their difference stated] again? It is exactly the same here as in the previous case.[14] We must therefore say that this shows that in the view of R. Akiba the vendor interprets the terms of sale liberally, and in the view of the Rabbis he interprets them strictly.[15]

It has been stated: R. Huna said in the name of Rab:

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(1) Lit., ‘sells with a bounteous eye’, and therefore reserves to himself nothing.

(2) I.e., the Sages.

(3) Lit., ‘sells with an evil eye’, and therefore reserves to himself a right of way.

(4) V. supra 37a; infra 71a.

(5) But in the case of trees and other things to which these reasons do not apply, we cannot assume that these are the reasons of R. Akiba and the Rabbis.

(6) Here the reasons given above do not apply.

(7) That is to say, we may suppose R. Akiba to hold that in this case the purchaser would not give his money if he had to fly through the air, and the Rabbis to hold that the seller would not take money if his ground is to be walked over; but we cannot infer anything about a ‘liberal’ or ‘illiberal’ spirit.

(8) Lit., ‘desolate or inhabited’.
(9)]infra 71a.
(10) If the reasons are as given above, because of the objections to treading or flying.
(11) As otherwise the repetition of the rule would be entirely superfluous.
(12) Hence his objection to treading.
(13) And so rendered less productive.
(14) Viz., where these things are bought and sold with a house.
(15) As otherwise the statement would be entirely superfluous.

Talmud - Mas. Baba Bathra 65a

The halachah follows the ruling of the Sages. R. Jeremiah b. Abba, however, said in the name of Samuel that the halachah follows the ruling of R. Akiba. Said R. Jeremiah b. Abba to R. Huna: Did I not frequently say in the presence of Rab that the halachah follows the ruling of R. Akiba, and he did not say a word to me? Said R. Huna to him: How did you report his ruling? — He said to him: I reported them [with the names] reversed.[1] It is for that reason [said R. Huna] that he did not say anything to you.

Rabina said to R. Ashi: May we say that they [Rab and Samuel here] are in accord with their respective views [as expressed in the following passage]: R. Nahman said in the name of Samuel, If brothers divide an inheritance, neither has a right of way against the other nor the right of ‘ladders’, nor the right of ‘windows’, nor the right of ‘watercourses’, and take good note of these rulings, since they are definite.[2] Rab, however, said that they have [these rights].[3] [R. Ashi answered:] Both statements are necessary.[4] For if I had only the latter, I would say that Rab's reason [for allowing the right of way] is because one brother can say to the other, I want to live on this land as my father lived: and in proof that this is a valid plea in the mouth of an heir, the Scripture says, In the place of thy fathers shall be thy sons.[5] In the other case, however, I might think that Rab agrees with Samuel. If again I had only the former statement, I might think that only in that case did Samuel say [that the vendor interprets the terms of sale liberally], but here he agrees with Rab. Hence both statements are necessary.

R. Nahman said to R. Huna: Does the law follow our[6] opinion or yours? — He replied: The law follows your view, since you have continual access to the gate of the Exilarch, where the judges are in session.[7]

It has been stated: If there are two apartments one within the other, and both are sold or given away [at the same time to two different persons], they have no right of way against one another.[8] Still less have they if the outer one is given and the inner one is sold.[9] If the outer one is sold and the inner one given, [the students] wanted to infer from this that there is no right of way from one to the other,[10] but this is not correct. For have we not learnt:[11] ‘This[12] applies only to a sale, but if the owner makes a gift, he includes all these things’? This shows that a donor is presumed to make a gift in a liberal spirit.[13] So here, the donor gives in a liberal spirit.

MISHNAH. IF A MAN SELLS A HOUSE, HE [IPSO FACTO] SELLS [WITH IT] THE DOOR, BUT NOT THE KEY;[14] HE SELLS [WITH IT] A MORTAR[15] FIXED [IN THE GROUND] BUT NOT A MOVABLE ONE; HE SELLS [WITH IT] THE CASING OF A HANDMILL BUT NOT THE SIEVE,[16] AND NOT A STOVE OR AN OVEN.[17] IF HE SAYS TO THE PURCHASER, [I SELL] THE HOUSE AND ALL ITS CONTENTS,

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(1) These, of course, were not the actual words of R. Jeremiah. Perhaps we should read, אמר ליה איפכא [so MS. M. v. D. S.], ‘he gave him the rulings in the reverse form’, making R. Akiba say that the vendor interprets the terms of sale strictly and the Sages that he interprets them liberally.

(2) V. supra 7a and notes.

(3) Here also we see that according to Rab the terms of the division are interpreted strictly by each party (i.e. to his own advantage), and according to Samuel liberally (i.e. to the other's advantage).

(4) Viz., the statements of the dispute between Rab and Samuel both in regard to the purchaser and vendor and in regard to the brothers, and we cannot say that in one case they are merely applying a principle underlying their decision in the other.

(5) Ps. XLV, 17.

(6) His own and that of Samuel, who was his teacher.

(7) R. Nahman was a son-in-law of the Exilarch.

(8) I.e., through the outer room to the inner, because both parties are on an exactly equal footing.

(9) Because we presume the gift to have been made in a more liberal spirit than the sale.

(10) Because presumably the owner does not favour one above the other to this extent.

(11) Infra 71a, in connection with the dispute between R. Akiba and the Sages about the right of way.

(12) That according to the Rabbis a right of way is not included.

(13) Even on the view of the Rabbis, and still more on that of R. Akiba. (10) Even at the expense of the purchaser, and therefore the recipient of the inner room has a right of way through the outer.

(14) Lit., ‘opener’: a bolt which would fit any door, but which usually was left in its socket.

(15) For pounding spices etc.

(16) Cf. supra p. 103.

(17) These too were movable, but the stove was somewhat larger and used for baking bread, V.l. ‘he sells (with it) a stove and oven,’ these being regarded as fixtures. The principle is therefore that the ‘house’ includes fixtures but not movable things.

Talmud - Mas. Baba Bathra 65b

ALL THESE THINGS ARE INCLUDED IN THE SALE.[1]

GEMARA. Are we to say that the Mishnah is not in agreement with R. Meir, for if it were according to R. Meir, surely he has laid down that ‘if a man sells a vineyard, he [automatically] sells with it the implements of the vineyard’?[2] — You may in fact say that it concurs with R. Meir, for there he was speaking of things which are part and parcel of the vineyard,[3] but here [the Mishnah speaks of] things which are not part and parcel of the house. But does not the Mishnah mention a key side by side with a door, [as much as to say], Just as a door is part and parcel of a house, so a key is part and parcel of the house[4] [and yet it is not sold with the house]?[5] — The more tenable opinion therefore is that the Mishnah does not agree with R. Meir.

Our Rabbis taught: If a man sells a house, he ipso facto sells the door, the cross-bar, and the lock, but not the key; the mortar that has been hollowed [out of stone], but not one that has been fixed; the casing of the handmill but not the sieve; and not the oven, the stove, or the handmill. R. Eliezer, however, says that everything attached to the ground[6] is in the same category as the ground. If the vendor uses the formula, ‘the house and all its contents’, all these things are sold with. In either case, however, he does not sell the well, the cistern, or the verandah.

Our Rabbis taught: ‘If a man hollows out a pipe and then fixes it, water from it makes a mikweh[7] unfit for use. If, however, he first fixes it and then hollows it, it does not render the mikweh unfit for use.’[8] To whom [are we to ascribe this dictum]? For it cannot be either R. Eliezer or the Rabbis! — Which [statement of] R. Eliezer [have you in mind]?[9] Shall I say, the one about the house?[10] possibly the reason [why he says there that fixtures are in the same category as the ground] is because he holds that the vendor interprets the terms of sale liberally, whereas the Rabbis hold that he interprets them strictly.[11] Is it then the statement about the beehive, as we have learnt: ‘R. Eliezer says that a beehive[12] is on the same footing as the soil; it may serve as a surety for a prosbul,[13]

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(1) Because although movable they more or less belong to the house and are not usually removed from it.

(2) E.g., the poles (infra 78b). Hence we should expect R. Meir to include in the house the movable mortar and the key.

(3) Lit,, ‘fixed’. I.e., things which though in themselves movable, are in practice never taken from the vineyard.

(4) The key spoken of by the Mishnah must be one which is usually left in the door, as otherwise it would have said, ‘The sale includes a key which is left in the door, but not one which is carried about’, and we should have understood a fortiori that a door is sold with the house.

(5) This shows that according to the Mishnah even things which are part and parcel of the house are not sold with it unless the formula ‘it and all its contents’ is used.

(6) Including, that is, the fixed mortar.

(7) A ritual bath. V. Glos.

(8) The rule is that water in the mikweh must not be ‘drawn’ there by artificial means, i.e., through the instrumentality of a ‘vessel’, but must flow there naturally. According to this dictum, the fixing of the pipe in the soil does not make it part of the soil, and it still remains a ‘vessel’. On the other hand, the hollowing of the wood or stone after it has been fixed does not make it a ‘vessel’, but it is regarded as being merely a trench in the ground.

(9) I.e., with which statement of his is the one just adduced in conflict?

(10) In the Baraitha quoted above: ‘R. Eliezer says that everything attached to the ground is in the same category as the ground.’

(11) Hence no conclusion is to be drawn from that Baraitha as to the opinions of R. Eliezer and the Rabbis with regard to the mikweh.

(12) Attached to the ground by mud or clay.

(13) V. infra p. 324, n. 7. Glos.

Talmud - Mas. Baba Bathra 66a

it is not liable to uncleanness where it is;[1] and if one takes honey from it on Sabbath, he becomes liable for a sin-offering.[2] The Sages, however, say that it is not on the same footing as the soil, that it cannot serve as a surety for a prosbul, that it can become unclean where it is, and that one who takes honey from it on Sabbath has not to bring a sin-offering’?[3] — [It is not this statement either], for there [R. Eliezer's reason is] as reported by R. Eleazar, that we find written in the Scripture, And he dipped it in the honeycomb;[4] [from which he reasoned that,] just as one who plucks anything from a wood on Sabbath becomes liable for a sin-offering, so one who takes honey from a comb on Sabbath becomes liable for a sin offering.[5] It must be then the statement of R. Eliezer about the shelf, as we have learnt: ‘If a baker's shelf[6] is fixed in the wall, R. Eliezer says that it is not capable of becoming unclean[7] and the Sages say that it is.’[8] [We now ask again], which authority [does the statement adduced above follow]? If it is R. Eliezer, then even if the pipe was first hollowed and then fixed [the water from it should not render the mikweh unfit]:[9] if it is the Rabbis,[10] then even if it was first fixed and then hollowed, [it should still spoil the mikweh]?[11] — It is in truth R. Eliezer, and he makes a difference in the case of flat wooden articles, because their uncleanness was decreed only by the Rabbis.[12] It would follow from this [would it not], that [the rule about] ‘drawn’ water derives from the Scripture?[13]

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(1) Not being a ‘vessel’.

(2) For having ‘detached’ something from the soil.

(3) ‘Uk. III, 10, v. infra 80b.

(4) I Sam. XIV, 27. The Hebrew word is יערת, lit. ‘wood of honey’.

(5) Even though the comb is not fixed in the soil. Hence we cannot say that this statement of R. Eliezer is incompatible with the one about the pipe.

(6) A flat board either for kneading on or for resting loaves on.

(7) As not being a ‘vessel’.

(8) Because the final provisions made after it is fixed in the wall to make it suitable for kneading or resting loaves, make it a vessel. Kel. XV, 2.

(9) Because it becomes part and parcel of the ground, as the shelf of the wall.

(10) I.e., the Sages.

(11) Because here too the hollowing out after it is fixed should make it a ‘vessel’.

(12) It is deemed a ‘vessel’ for purposes of uncleanness only by the Rabbis. Hence when the board is affixed to the wall it loses the character of a ‘vessel’ ‘ but not so the pipe which is a real vessel, retaining the character of a vessel even after being attached to the ground.

(13) Otherwise why is R. Eliezer more particular about it than about the board? [That is, provided ‘drawn water’ constitutes the larger quantity in the mikweh (Rashb.), v. however Tosaf. s.v. מכלל.]

Talmud - Mas. Baba Bathra 66b

But are not all agreed that it was decreed by the Rabbis [on their own authority]? And further, R. Jose son of R. Hanina has said that the dispute [between R. Eliezer and the Rabbis] concerned a board of metal![1] We must therefore say that in truth the above statement follows the Rabbis, and that they make a difference in the case of ‘drawn’ water[2] because its uncleanness was decreed [only] by the Rabbis. If that is the case,[3] then even if he first hollowed it and then fixed it [it should not spoil the mikweh]?[4] — There where it was hollowed and then fixed the case is different, because it was in the category of a vessel while still unfixed.[5]

R. Joseph raised the following question: If a man, seeing the rain descend on the casing of his handmill, decided to regard this as a washing, what is its effect upon seeds?[6] If we accept the opinion of R. Eliezer, that anything attached to the ground is in the same category as the ground, no question will arise.[7] Where the question arises is if we accept the view of the Rabbis who said that it is not in the same category as the ground?[8] — This question must stand over.

R. Nehemiah the son of R. Joseph sent to Rabbah the son of R. Huna Zuti at Nehardea the following instruction: When this woman presents herself to you,

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(1) Flat metal articles are susceptible to uncleanness biblically. V. Kel. XI, 1.

(2) I.e., they are less stringent in regard to it than in regard to the shelf of metal.

(3) That the Rabbis draw no distinction between whether it was first hollowed and then fixed or otherwise, and that their reason in the case of the mikweh is because, as it is only Rabbinical, there is no need to be so particular in regard to ‘drawn’ water.

(4) Being reckoned as part and parcel of the ground.

(5) And therefore the Rabbis were not willing to relax the rule to such an extent.

(6) According to Lev. XI, 38, seed on which water is ‘put’ becomes susceptible to uncleanness. According to the Rabbis, water is considered ‘put’ on seed only if there is a conscious desire on the part of someone to that effect. Falling rain would therefore not ordinarily be regarded as being ‘put’ on seed and would not make it susceptible to uncleanness. In this case, however, the owner consciously desires it to fall on the handmill, and the question therefore arises whether this desire on his part affects the seeds also.

(7) The rule is that water is not regarded as being ‘put’ on anything unless that thing is detached from the soil. If therefore the handmill is regarded as being in the same category as the soil, the rain is not technically ‘put’ on it, however much the owner may desire its falling, and therefore it can have no effect on the seeds.

(8) In the Baraithas quoted above, the Rabbis laid down that a mortar fixed to the ground is not sold with a house and a board fixed in a wall is capable of receiving uncleanness, the reason in both cases being that, though now fixed, since they were originally separate they are not counted as part of the ground. The question therefore arises whether we apply the same rule to a handmill which, though originally detached, is more of a fixture than the mortar, since according to the Rabbis of the Baraitha referred to, it is sold along with the house (Tosaf.).

Talmud - Mas. Baba Bathra 67a

collect for her a tenth part of her father's estate[1] even from the casing of a handmill.[2] R. Ashi said: When we were in the court of R. Kahana, we used to collect such dues from the rent of houses also.[3]

MISHNAH. IF A MAN SELLS A COURTYARD HE [AUTOMATICALLY] SELLS THE HOUSES, PITS, DITCHES AND CAVES [ATTACHED TO IT,] BUT NOT MOVABLES. IF, HOWEVER, HE SAYS TO THE PURCHASER, [I SELL] IT AND ALL ITS CONTENTS, ALL ARE INCLUDED IN THE SALE.[4] IN EITHER CASE, HOWEVER, HE DOES NOT SELL A BATH OR AN OLIVE PRESS THAT MAY BE IN IT. R. ELIEZER SAYS: IF A MAN SELLS A COURTYARD, HE ONLY SELLS WITH IT THE SPACE OF THE COURTYARD.[5]

GEMARA. Our Rabbis taught: If a man sells a courtyard he sells [with it] the outer and the inner apartments,[6] and the sand-field[7] in it. As to the shops, those that open on to it[8] are sold with it, those that do not open on to it[9] are not. Those that open on to both sides are sold with it. R. Eliezer says: If a man sells a court he sells only the air of the court.

The Master says [here] that shops opening on to both sides are sold with the courtyard. [How can this be,] Seeing that R. Hiyya has learned that they are not sold with it? — There is no contradiction. The former speaks of shops of which the main entrance is in the courtyard,[10] the latter of those of which the main entrance is in the street.

R. ELIEZER SAYS: IF A MAN SELLS A COURTYARD, HE SELLS ONLY THE SPACE OF THE COURTYARD. Raba said: If the vendor says [in Babylonia], I sell you a diretha,[11] no one disputes that he means the apartments. Where the authorities differ is when he says darta,[12] one [R. Eliezer] holding that in that case he means the open space only, the other [the Rabbis] that he means the apartments as well. According to another version: Raba said: If he said darta, all are agreed that he meant the apartments as well. Where they differ is in the case where he said ‘hazer’,[13] one holding that this means only the space of the courtyard and the other that it is analogous to the courtyard of the Tabernacle.[14]

Raba further said: If a man sells another the shore[15] of a river and its bed,[16] if the purchaser takes possession of the shore he does not thereby acquire ownership of the bed, and if he takes possession of the bed he does not thereby acquire ownership of the shore.[17] Is that so? Has not Samuel laid down that if a man sells another ten fields in ten different provinces, as soon as the purchaser has taken formal possession of one[18] he becomes owner of all? — The reason there is that the earth is all one stretch[19] and all [the properties] are utilised in the same way. Here, however, one thing is for one purpose and the other for another.

According to another version,

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(1) If a man died intestate, his daughter was entitled to a tenth part of his landed estate, but not of his movable property, v. Keth. 52b.

(2) This shows that R. Nehemiah regarded a handmill as part of a house.

(3) The rent being in the same category as the house, which is also an immovable.

(4) That is to say, things used in the house, but not things stored in it like wheat or barley. V. infra 150a.

(5) Lit., ‘the air of the courtyard’. And in the case of immovables we do not say that the price is an indication, as in the case of movables.

(6) I.e., those opening on the courtyard and those further back.

(7) A shaft from which sand is dug for making glass.

(8) And which are for the service of the residents of the courtyard.

(9) But on to the street.

(10) Lit., ‘of which most of the use is within’.

(11) Aramaic for ‘residence’.

(12) Aramaic for ‘courtyard’.

(13) Hebrew for ‘courtyard’.

(14) Of which it is written, The length of the court shall be an hundred cubits and the breadth fifty everywhere (Ex. XXVII, 18), which shows that the Tent of Assembly which was in the court was reckoned along with the court.

(15) For the sake of the sand. Lit., 'a sandy field'.

(16) For gold and silver washings, or, according to others, for the fish.

(17) Because they are used for different purposes and have different names.

(18) By digging a little or some similar action.

(19) Lit., 'the block of the land

Talmud - Mas. Baba Bathra 67b

Raba said in the name of R. Nahman: If the purchaser takes formal possession of the shore he becomes thereby owner of the bed. Surely this is self-evident, since Samuel has laid down that if a man sells the fields, etc.? — You might argue that in that case the reason is that all the earth is one stretch, but here one thing is used for one purpose and the other for another. Now I know [that we do not argue thus].

MISHNAH. IF A MAN SELLS AN OLIVE PRESS, HE [AUTOMATICALLY] SELLS THEREWITH THE SEA AND THE POUNDING STONE AND THE 'MAIDENS', BUT HE DOES NOT SELL THE THWARTS NOR THE WHEEL NOR THE BEAM.[1] IF, HOWEVER, HE SAYS TO THE PURCHASER, '[I SELL] IT AND ALL ITS CONTENTS', ALL THESE THINGS ARE INCLUDED IN THE SALE. R. ELIEZER SAYS THAT IF A MAN SELLS AN OLIVE PRESS HE INCLUDES THE BEAM.[2]

GEMARA. The SEA is [what is called in Aramaic] 'lentil'.[3] The POUNDING STONE, according to R. Abba bar Memel, is [what is called in Aramaic] 'crusher'.[4] The 'MAIDENS', according to R. Johanan, are cedar posts by which the beam is supported.[5] By THWARTS is meant planks.[6] The WHEEL is a winch.[7] The BEAM is actually a beam.

Our Rabbis taught: If a man sells an olive press, he sells therewith the planks[8] and the tanks and the crushers and the lower millstone but not the upper one.[9] If he uses the formula 'it and all its contents', all these are sold with it. In either case he does not sell the stirrers nor the sacks and leather bags.[10] R. Eliezer says that if a man sells an olive press he automatically includes the beam, since it is this which gives the olive press its name.

MISHNAH. IF A MAN SELLS A BATH HE DOES NOT [AUTOMATICALLY] INCLUDE EITHER THE PLANKS[11] OR THE BASINS[12] OR THE BATHING APPAREL.[13] IF HE SAYS TO THE PURCHASER, [I SELL YOU] 'IT AND ALL ITS CONTENTS', ALL THESE ARE INCLUDED. IN EITHER CASE HE DOES NOT SELL THE CISTERNS OF WATER NOR THE SHEDS FOR WOOD.[14]

GEMARA. Our Rabbis taught: If a man sells a bath, he [automatically] includes the cupboards for the boards and for the head towels[15] and for the basins and the curtains,[16] but not the boards nor the head towels nor the basins nor the curtains themselves. If he says to the purchaser, ['I sell you] it and all its contents', all these are included. In either case he does not include the pools which supply him with water whether

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(1) All these terms are explained in the Gemara. The first three things mentioned are apparently fixtures, the others, though part and parcel of the press, are not fixtures.

(2) Since this is the most essential part of an olive press.

(3) A trough for collecting the olive juice.

(4) Apparently a stone or piece of cement with a hollow for fixing the pounder in.

(5) Strictly speaking, the beam was attached to a cross-bar joining two posts. These were what were called in Old French the ‘gemelles’ (twins), and in L. ‘sorores’ (sisters).

(6) Which were lowered on the pulp after treading to distribute the pressure equally. According to another, more probable opinion, we should render ‘stirrers’, for stirring up the pulp.

(7) For raising the beam. [On all these terms v. Krauss, op. cit. II, 222ff.]

(8) Apparently boards around the olives to keep them in their place during the pressing.

(9) Before being placed in the tank the olives were partly crushed in a handmill, the lower stone of which was fixed in the ground.

(10) For carrying the olives.

(11) For standing on after the bath.

(12) Var. lec. ‘benches’.

(13) Var. lec. ‘hangings’.

(14) Because these are not necessarily adjuncts of a bathhouse, and can be used for other purposes.

(15) For covering the head after the bath.

(16) Al. ‘towels’.

Talmud - Mas. Baba Bathra 68a

in the summer season[1] or in the rainy season, nor the place where the wood is stored. If, however, he says, ‘I sell you the bath and all its accessories’, they are all included.[2]

A certain man said to another, ‘I herewith sell you this olive press and all its accessories. There were certain shops abutting on it on [the roofs of] which they used to spread sesame seeds.[3] [The question if these were included in the sale] came before R. Joseph. He said: [We can decide from what we have learnt:] If he says, ‘I sell you a bath and all its accessories,’ all are included in the sale.[4] Said Abaye to him: But has not R. Hiyya learnt that they are not all included?[5] R. Ashi therefore said: We have to distinguish. If the vendor says, [‘I sell you] the olive press and all its accessories, and these are its boundaries,’ the purchaser acquires them,[6] but otherwise not.

MISHNAH. IF A MAN SELLS A TOWN, HE [AUTOMATICALLY INCLUDES THE HOUSES,[7] THE PITS, DITCHES AND CAVES, THE BATHS, THE PIGEON COTES, AND THE IRRIGATED FIELDS [ATTACHED TO IT], BUT NOT MOVABLES. IF, HOWEVER, HE USED THE WORDS ‘IT AND ALL ITS CONTENTS’, EVEN IF THERE WERE CATTLE AND SLAVES IN IT THEY ARE ALL SOLD. R. SIMEON B. GAMALIEL SAYS THAT IF ONE SELLS A TOWN HE SELLS ALSO THE SANTER.[8]

GEMARA. R. Aha b. R. ‘Awia said to R. Ashi: From this [Mishnah] we may conclude that a slave comes under the head of movables,[9] since if he came under the head of fixed property, he would be sold along with the town. [You say] then that a slave comes under the head of movables. If so, why does our Mishnah say EVEN [SLAVES]?[10] We must say therefore [must we not], that there is a difference between animate and inanimate movables?[11] You may [thus] also hold that a slave comes under the head of land, but that there is a difference between mobile and immobile land.[12]

RABBAN SIMEON B. GAMALIEL SAYS THAT IF ONE SELLS A TOWN HE DOES NOT SELL THE SANTER. What [is meant by] SANTER? — Here[13] it was translated bar mahawanitha.[14] Simeon b. Abtolmus says that it means tilling fields.[15] According to the one who says that it means a ‘recorder’, there is no question that fields are sold with the town;[16] but according to the one who says that it means ‘fields’, the recorder is not sold with the town.[17] We learned: OLIVE PRESSES AND BETH HASHELAHIN [IRRIGATED FIELDS], and it was assumed that beth hashelahin meant tilling fields, as indicated by the Scriptural verse, and [God] sendeth [sholeah] waters upon the fields.[18] Now all is well and good if we adopt the opinion of the one who said the word santer means a ‘recorder’; the first Tanna [of the Mishnah] lays down that fields are sold with the town but not the recorder, and Rabban Simeon b. Gamaliel comes and tells us that the recorder also is sold. But if we take the word to mean ‘fields’, has not the first Tanna also said this?[19] — You think that shelahin means tilling fields? No; it means ‘orchards’, as indicated by the text, Thy shoots [shelahayik] are an orchard of pomegranates,[20] [and the first Tanna tells us that these are sold] but not tilling fields,[21] and R. Simeon comes and tells us that tilling fields also are sold.

According to another version, it was assumed that shelahin means orchards. Now it is all well and good if we take the word santer to mean ‘fields’; the first Tanna says that orchards are sold with the town but not fields, and Rabban Simeon b. Gamaliel comes and tells us that fields are also sold.

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(1) When the water supply is low, and therefore it might be thought that the pools go with the bath.

(2) Because they are to a certain extent adjuncts of the bath.

(3) To dry, in order that they might be crushed in the press and the oil sold afterwards in the shops.

(4) And these things are as closely connected with the olive press as the cisterns and wood-shed with the bath.

(5) Because they are not part and parcel of the olive press.

(6) Because by using this formula the vendor shows that he desires to include the shops.

(7) And a fortiori the courts, which form part of the town space.

(8) The meaning of this term is discussed in the Gemara.

(9) That is, in ordinary parlance when a man speaks of movables he includes slaves.

(10) Which implies that ordinarily slaves are not included with movables.

(11) Lit., ‘mobile and immobile movables’. In point of fact, slaves were acquired in the same way as land and not as movables.

(12) And therefore if the town is sold without further specifications it does not include the slaves.

(13) In Babylon.

(14) Lit., ‘one who shows’, a recorder; a slave appointed by the town to answer inquiries respecting the boundaries of fields. [Rashi, Sanh. 98b, reads bar mehuznaitha, ‘one of the district’, v. Krauss, op. cit. II, 570.]

(15) A stretch of fields adjoining the town.

(16) Being inanimate.

(17) Being animate.

(18) Job V, 10.

(19) And what does R. Simeon add to his ruling?

(20) Cant. IV, 13.

(21) Which are not actually part of a town like orchards.

Talmud - Mas. Baba Bathra 68b

But if we take the word to mean ‘recorder’, when the first Tanna says [that the man who sells the town sells also the] orchards, how can R. Simeon supplement him by saying that he sells the recorder?[1] — Do you think that shelahin means ‘orchards’? No; shelahin means ‘fields’, as indicated in the verse, and sendeth waters upon the fields. [The first Tanna says that these are sold] but not the recorder, and Rabban Simeon b. Gamaliel comes and says that the recorder also is sold.

[Which is right? —] Come and hear: ‘R. Judah says that the santer is not sold but the town clerk[2] is sold.’ Since the town clerk is a man, must not the santer also be a man? — This does not follow; the one can be one thing, the other another. But can you possibly maintain this[3] Seeing that the Baraitha in its next clause proceeds: ‘[But one who sells the town does not sell] its remnants nor its adjoining villages nor the woods that open on to it nor its preserves for animals, birds and fishes;’ and [in commenting on this] we said: What are remnants? Bizli. And what are bizli? R. Abba said: The fag-ends of fields;[4] which shows that [in R. Judah's opinion] only such fag-ends are not sold with the town but the fields themselves are? — We must reverse the statement quoted above to read: R. Judah says that the santer[5] is sold, but the town clerk is not sold. But how can you make R. Judah concur with Rabban Simeon b. Gamaliel[6] seeing that he concurs with the Rabbis, as the latter clause [in the passage quoted above] states: ‘Not its remnants nor its adjoining villages’, whereas Rabban

Simeon b. Gamaliel holds that if a man sells a town he does sell the adjoining villages, as it has been taught: ‘If a man sells a town, he does not sell its adjoining villages; Rabban Simeon b. Gamaliel, however, says that he does sell the adjoining villages?’ — R. Judah agreed with him in one thing[7] and differed from him in another.[8]

‘Nor preserves of animals, birds and fishes.’ A contradiction was pointed out [between this and the following]: ‘If the town has adjoining villages, they are not sold with it. If one part of it is on an island[9] and one part on the mainland, or if it has preserves of animals, birds or fishes, these are sold with it.’ — There is no contradiction. In the one case they open towards[10] the town, in the other away from the town. But did we not learn above that the woods adjoining it [are sold with it]? — We should read, ‘that are separated from it’.[11]

MISHNAH. IF A MAN SELLS A FIELD HE [AUTOMATICALLY] INCLUDES THE STONES WHICH ARE USED IN IT AND THE VINEYARD CANES WHICH ARE USED IN IT[12] AND THE PRODUCE WHICH IS STILL ATTACHED TO THE SOIL AND A CLUMP OF REEDS OCCUPYING LESS THAN A BETH ROBA’[13] AND A WATCHMAN'S HUT WHICH IS NOT CEMENTED[14] AND A YOUNG CAROB TREE[15] AND A YOUNG SYCAMORE TREE,[16] BUT HE DOES NOT INCLUDE STONES WHICH ARE NOT FOR USE IN THE FIELD NOR CANES WHICH ARE NOT FOR USE IN THE VINEYARD NOR PRODUCE WHICH HAS BEEN DETACHED FROM THE SOIL. IF HE USES THE WORDS ‘IT AND ALL ITS CONTENTS’, ALL THESE ARE SOLD WITH IT. IN EITHER CASE, HOWEVER, HE DOES NOT SELL A CLUMP OF REEDS COVERING A BETH ROBA’[17] [OR MORE] NOR A WATCHMAN'S HUT WHICH IS CEMENTED NOR A FULLGROWN CAROB[18] NOR A CROPPED SYCAMORE.[19]

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(1) What has one to do with the other? R. Simeon should have said: He sells the fields and the recorder.

(2) An official who kept a record of fields, houses, and inhabitants for purposes of taxation.

(3) That the santer in the opinion of R. Judah means ‘fields’.

(4) Strips at the far end of the stretch of fields separated from the rest by rocky ground or the like.

(5) In the sense of ‘fields’.

(6) In saying that the fields are sold with the town.

(7) In regard to the santer.

(8) In regard to the adjoining villages.

(9) But is still reckoned as belonging to the town and goes under the same name.

(10) Lit., ‘their aspect breaks through towards’.

(11) המוקצין הימנה instead of המוקצין לה Being separate they open away from it.

(12) This is explained in the Gemara.

(13) A quarter of a kab's space, about 200 square cubits. This is too small to be reckoned independently.

(14) I.e., put together of loose stones.

(15) Lit., ‘a carob tree which is not grafted’

(16) Lit., ‘the virgin of the sycamore’, i.e., one not yet pruned.

(17) These having an individuality of their own.

(18) Lit., ‘a carob which has been grafted’.

(19) Lit., ‘the block of a sycamore’. Sycamore trees are cropped to improve their growth.

Talmud - Mas. Baba Bathra 69a

GEMARA. What is meant by STONES WHICH ARE FOR USE IN IT? They translated it here[1] as ‘weight stones’.[2] ‘Ulla said that they are stones laid in order for making a fence. But has not R. Hiyya learned that they are stones piled up[1] for making a fence? — Read [instead of piled up] ‘laid in order’.

[You say,] ‘Here they translate "weight stones"’. According to R. Meir,[3] [this means] if they are ready for use even though they have not yet actually been used,[4] but according to the Rabbis only if they have been actually used.[5] If we take the view of ‘Ulla that they are stones laid in order for making a fence, then according to R. Meir [it would be sufficient] if they are ready even though they have not been laid in order,[6] while according to the Rabbis they must have been laid in order.

CANES[7] WHICH ARE FOR USE IN THE VINEYARD. What are these canes for? — In the school of R. Jannai it was explained to mean canes which are placed under the vines [to support them]. According to R. Meir [they would be sold with the field] if they are peeled even though they have not yet been fixed, according to the Rabbis only if they have been fixed.

PRODUCE STILL ATTACHED TO THE SOIL. Even though it is ripe for cutting down.[8]

A CLUMP OF REEDS LESS THAN A BETH ROBA’. Even though they are thick.[9]

A HUT THAT IS NOT CEMENTED. Even though it is not fixed in the soil.

A YOUNG CAROB AND A YOUNG SYCAMORE. Even though they are of good size.[10]

BUT HE DOES NOT SELL THE STONES WHICH ARE NOT FOR USE IN IT. According to R. Meir [this is only] if they are not ready for use, but according to the Rabbis even if they simply have not yet been used. If we take the view of ‘Ulla that they are stones laid in order for a fence, then according to R. Meir they are not sold only if they are not yet ready for use, but according to the Rabbis, even if they simply have not yet been laid in order.[11]

NOR THE CANES OF THE VINEYARD WHICH ARE NOT FOR USE IN IT. According to R. Meir this is if they are not peeled, but according to the Rabbis even if they simply are not yet fixed.

NOR PRODUCE DETACHED FROM THE SOIL. Although it still requires to be left in the field.[12]

NOR A CLUMP OF REEDS OCCUPYING A BETH ROBA’. Even though the reeds are small. R. Hiyya b. Abba said in the name of R. Johanan: This does not apply only to a clump of reeds; even a small perfume bed if it has a name of its own is not included in the sale of the field.[13] R. Papa said: What we mean by this is that it is known as ‘so-and-so's roses’.

NOR A WATCHMAN'S HUT WHICH IS CEMENTED. Even though it is fixed in the ground.[14]

R. Eleazar asked: What is the rule regarding the frames of doors? Where they are fixed to the wall with cement there is no question [that they are sold with], since they are firmly attached.[15] The question arises only where they are connected with hooks. This question must stand over.

R. Zera asked what was the rule regarding the frames of windows.[16] Do we say that they are purely for ornament,[17] or do we say that after all they are attached? This question must [also] stand over.

R. Jeremiah asked: What is the rule regarding the castors of the legs of a bed?[18] Where they are moved with the bed of course the question does not arise, because they go along with it. Where there is room for question is where they are not moved with it. — This [also] must stand over.

NOR THE FULL GROWN CAROB NOR THE CROPPED SYCAMORE.

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(1) In Babylon.

(2) Stones placed on the sheaves to keep them from being blown about by the wind. (12) Even this making them part and parcel of the field.

(3) R. Meir lays down (infra 78b) that the sale of a vineyard automatically includes the accessories of the vineyard, from which we infer that in all analogous cases R. Meir would include something that the Rabbis would exclude. Some of these things are now specified in connection with the Mishnah under discussion.

(4) Lit., 'placed'.

(5) Since only then do they become part and parcel of the field.

(6) R. Meir therefore is not in agreement with our Mishnah as interpreted by 'Ulla.

(7) The Hebrew word is kanim, which usually means 'canes' or 'reeds' still growing in the ground. Hence the question of the Gemara.

(8) And though normally such corn is counted as already cut.

(9) Lit., 'strong'.

(10) Lit., 'strong'.

(11) V. p. 274, n. 1.

(12) For drying.

(13) And so too with anything that is commonly known as something distinct from the field.

(14) This does not make it part of the ground, because now it is practically a house.

(15) And therefore are reckoned as part of the house.

(16) If attached to the wall with hooks.

(17) And therefore not sold with the house.

(18) Pieces of wood placed under them to keep them from contact with the earth.

Talmud - Mas. Baba Bathra 69b

Whence is this rule[1] derived? — Rab Judah said in the name of Rab: From the Scriptural verse, So the field of Efron which was in Machpelah . . . and all the trees that were in the field that were in the border thereof etc.[2] [This indicates that Abraham in buying the field acquired all the trees] that require a boundary round about,[3] and [that the purchase] did not include those that do not require a boundary round about.[4] R. Mesharsheya said: This proves that the inclusion of the border[5] in the [purchase of a field] is prescribed in Scripture.[6]

Rab Judah said: When a man sells a field, he should write in the deed, 'Acquire hereby the date trees, other large trees, small trees, and small date trees.'[7] It is true that even if he does not insert these words the transfer is valid,[8] but the deed is made more effective in this way.[9] If he says to him, 'I sell you land and date trees',[10] we have to consider. If he has any date trees, he has to give him two,[11] and if not he has to buy two for him, and if his date trees are mortgaged he has to redeem two for him. If he says, 'I sell you the land with the date trees', we have to consider; if there are date trees in it he has to give them to him, and if there are none, it is a sale made under a misapprehension.[12] If he says, I sell you a date tree field, the purchaser cannot claim date trees,[13] because what he means is simply 'a field suitable for date trees'. If he says, I sell you the field except such-and-such a date tree, then we have again to consider. If it is a good date tree,[14] we presume that he reserved that one for himself; if it is a poor tree,[15] then in fortiori he means to reserve the better ones. If he says, [I sell you the field] without the trees,[16] if there are trees in it, [the purchaser acquires all] except the trees; if there are date trees in it [but no others, he acquires the whole] without the date trees;[17] if there are vines, [he acquires the whole] without the vines;[18] if there are trees and date trees, [he acquires the whole] with the exception of the trees; if there are trees and vines, [he acquires the whole] with the exception of the trees; if there are date trees and vines, [he acquires the whole] with the exception of the vines.[19]

Rab said: [When a vendor reserves trees], all those which have to be climbed by a rope ladder [to pluck the fruit] are reserved, while those which do not need this are not reserved.[20]

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(1) That these trees are not to be reckoned as part and parcel of the field.
(2) Gen. XXIII, 17.
(3) I.e., small trees which have as it were no individuality but are only known as being included within such boundaries.
(4) Viz., large trees which have an individuality apart from the field in which they are.
(5) I.e., the trees planted on the border.
(6) And is not merely a regulation of the Rabbis.
(7) So Aruch. According to Rashb, all four were species of date trees.
(8) And the purchaser acquires both the field and the trees. V. the Mishnah supra.
(9) That is to say, all possibility of error is eliminated.
(10) This formula, implies two transfers, one of land and one of trees.
(11) Over and above any date trees there may be in the field, which are acquired with the field (v. Mishnah). The number two is taken as the minimum indicated by the word ‘trees’.
(12) And the transaction is null and void.
(13) Supposing there are none in the field.
(14) I.e., bearing a moderate amount of fruit.
(15) Bearing less than a kab of dates.
(16) ‘Trees’ was a generic term for all trees except date trees and vines.
(17) Because date trees can also be called trees where no others are under consideration.
(18) Because vines are similarly called trees.
(19) Because as between date trees and vines, the name ‘trees’ would be more readily applied to the latter.
(20) Being too small to count.

Talmud - Mas. Baba Bathra 70a

The judges of the Exile,[1] however, say that all which are bent back by the yoke[2] are not reserved, but all those which are not bent back by the yoke are reserved. There is really no conflict of opinion, because the former [speaks] of date trees[3] and the latter [speaks] of other trees.[4]

R. Aha b. Huna enquired of R. Huna: [If the vendor says, I sell you the whole field] with the exception of such-and-such a carob tree or such-and-such a sycamore, how do we decide? Is it that carob alone which the purchaser fails to acquire, while he acquires all the rest, or does he fail to acquire the rest also?[5] — He replied: He does not acquire them. R. Aha then raised an objection [from the following]: [If the vendor says], Except such-and-such a carob tree, except such-and-such a Sycamore, he does not obtain possession. Does this not mean that he fails to acquire possession of that carob, but he does acquire possession of the rest? — No, he replied; he fails to acquire possession of the other carobs also. The proof is this. Suppose [he was selling him a field and] said to him, ‘My field is sold to you with the exception of such-and-such a field’,[6] would this mean that the purchaser failed to acquire ownership of that field alone, but did acquire ownership of all the other fields [belonging to the vendor]? Of course he would not acquire ownership.[7] So here too he does not acquire ownership.

Some report this discussion as follows. R. Ahab. Huna inquired of R. Shesheth: [If the vendor said, ‘I sell you the field] with the exception of half of such-and-such a carob tree’, or ‘half of such and-such a sycamore’, how do we decide? Of course he does not acquire the other carobs.[8] The question is, does he acquire the half left over in the carob specified,[9] or does he fail to acquire even that? — He replied: He does not acquire it. R. Aha then raised an objection [from the following]: ‘[If the vendor says], "Except half of such-and-such a carob, half of such-and-such a sycamore", he does not acquire the remaining carobs’. Does not this mean that he only fails to acquire the remaining carobs, but he does acquire the remainder of that carob?-No, replied R. Shesheth; even the remainder of that carob he does not acquire. The proof is this. Suppose [he was selling him a field and] said to him, ‘My field is sold to you with the exception of half of such-and-such a field’, would he fail to acquire only that half and acquire the other half? Obviously he would not acquire it; so here too he does not acquire.[10] R. Amram inquired of R. Hisda: If a man deposits something with another and receives a written acknowledgment for it, and the other subsequently asserts, ‘I returned it to you’, how do we decide? Do we argue that since we should accept his word if he cared to say that he had lost it through circumstances over which he had no control,[11] now too we accept his word,[12] or [do we accept the plea of] the other if he says, ‘How comes your acknowledgment in my hand?’[13] — He replied: We accept the word [of the defendant]. But the claimant can plead, ‘How comes your acknowledgment in my hand?’ — Said he [R. Hisda]: On your own argument, if the defendant said, ‘I lost it through circumstances over which I had no control,’ could the claimant plead, ‘How comes your acknowledgment in my hand?’[14] He [R. Amram,] replied: When all

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(1) Samuel and Karna (Rashb.); v. p. 209, n. 5.

(2) When the ground under the tree is ploughed by oxen and the yoke knocks against it.

(3) Which being slender can be bent back even when well grown.

(4) The fruit of which can be plucked without the use of a ladder.

(5) If the vendor had said nothing, the purchaser would not have acquired any of the carob trees, since these are not sold with the field (v. Mishnah). Since therefore he goes out of his way to except this carob tree, do we presume that he desires to include the rest in the sale?

(6) Bordering on the other.

(7) Because obviously the vendor only meant to sell him one field, in spite of his foolish manner of expressing himself.

(8) Since it would be impossible to press so much into the word ‘except’ in this case.

(9) Does the ‘except’ avail for this?

(10) This passage is introduced at this place because it contains a ruling of the ‘judges of the Exile’ mentioned above.

(11) According to the rule laid down in Ex., XXII, 10,11, If a man deliver unto his neighbour an ass etc. to keep,’ and it die, or be hurt, or be driven away, the oath of the Lord shall be between them both . . . and the owner thereof shall accept it.

(12) Since he is putting forward a weaker plea.

(13) I.e., if, as you say, you returned it to me, why did you not take back the acknowledgment?

(14) This would not be any evidence, because the defendant could say that seeing he was pleading force majeure he thought it unnecessary to take back the acknowledgment.

Talmud - Mas. Baba Bathra 70b

is said and done, even if he pleads that it was taken from him by violence, is he not required to take an oath?[1] Here too, when I say that we accept his word, I mean that we accept it on his taking an oath.

May we say that the point at issue [between R. Hisda and R. Amram] is the same as that between the following Tannaim,[2] as it has been taught: ‘If a claim is made against orphans on the ground of a "purse bond",[3] the judges of the Exile[4] say that the claimant is entitled on taking an oath[5] to recover the whole, but the judges of Eretz Yisrael[6] say that he is entitled on taking an oath to recover only half.’[7] Now all authorities accept the view of the Nehardeans who say that this transaction is half a loan and half a deposit.[8] May we not say then that the point in which they differ is this, that the one authority [the judges of the Exile] holds that the claimant may plead effectively, ‘How comes your bond to be in my hand’,[9] and the other holds that he cannot? — No; all concur in the view of R. Hisda [that he cannot], and here the point of difference is this, that the one [the judges of the Exile] holds that if the borrower had paid [before his death] he would have told [his children],[10] while the other holds that we may presume death[11] to have prevented him.

R. Huna b. Abin sent a message[12] that if a man places a deposit with another and receives an acknowledgment and the latter subsequently asserts that he has returned it, his word is accepted;[13] and if a claim is made against orphans on the ground of a ‘purse bond’, the claimant is entitled on taking an oath to recover the whole.[14] Have we not here two [contradictory rulings]? — In the second case there is a special reason, that if he had paid he would have told his children. Raba said: The law is that the claimant is entitled to take an oath and recover half.[15] Mar Zutra said that the law follows the decision of the judges of the Exile.[16] Said Rabina to Mar Zutra: Has not Raba laid down that he is entitled to take an oath and recover [only] half?[17] — He replied: In our version the reverse opinion is ascribed to the judges of the Exile.[18]

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(1) According to the text quoted above.

(2) The authorities actually quoted in the passage which follows are usually regarded as Amoraim, not Tannaim, v. nn. 8 and 20. [Funk, S., Die Juden in Bobylonien, I, n. 2, iv, regards the authorities cited here as Babylonian and Palestinian Tannaim respectively, belonging to the pre-Amoraic age, v. infra 100a. On the other hand, the words ‘that between Tannaim as it has been taught’ do not occur in MSS. v. D.S.]

(3) A bond given by a borrower for money borrowed for business purposes, on condition that the profit shall be equally divided between him and the lender.

(4) Samuel and Karna. V. pag. 209, n. 5.

(5) That oath is the one that had to be taken by all persons recovering from orphans debts incurred by their father. V. supra 56b, 33a.

(6) R. Ammi and R. Assi, v. Sanh. 17a.

(7) The reason is given immediately.

(8) If money was borrowed in this way, the Rabbis regarded it as consisting of two parts, one half a loan, the profit of which went to the borrower (the lender being forbidden to take it, because it is counted as interest), and the other half a deposit, the profit of which went to the lender. Hence the law of loan applies to one half of it and the law of deposit to the other half. If therefore it was forcibly taken from the borrower, he has to pay back one half to the lender (since a borrower is responsible for a loan), but he can release himself from payment of the other half on taking an oath that it was forcibly taken from him, according to the law of deposit quoted above. In this case we suppose that the borrower died and the claim is made against his children under age. That half is to be paid back there is no question; the only doubt is whether the claimant can recover the half which is regarded as a deposit.

(9) And therefore we cannot plead on behalf of the orphans that the money had been returned, seeing that the father had he been alive could not have pleaded thus.

(10) Therefore we cannot plead on their behalf that the money had been returned, although if the father had been alive he could have effectively pleaded thus, as explained above.

(11) Lit., ‘Angel of death’.

(12) V. supra p. 211, n. 10.

(13) According to the decision of R. Hisda recorded above.

(14) This shows that if the orphans plead that the father had returned the money, their word is not accepted.

(15) Viz., the half that is regarded as a loan.

(16) That the claimant from the orphans can recover the whole.

(17) And how can you contradict Raba who is an older authority than you?

(18) I.e., we make them say that he recovers half.

Talmud - Mas. Baba Bathra 71a

MISHNAH. [IF A MAN SELLS A FIELD] HE DOES NOT INCLUDE[1] THE WELL NOR THE WINE PRESS NOR THE DOVECOTE, WHETHER IN USE OR NOT IN USE,[2] AND [IF HE REQUIRES] A RIGHT OF WAY TO THEM HE MUST BUY IF [FROM THE PURCHASER]. THIS IS THE OPINION OF R. AKIBA.[3] THE SAGES HOWEVER SAY THAT HE IS NOT REQUIRED TO DO SO.[4] R. AKIBA ADMITS THAT IF THE VENDOR SAYS TO HIM, [I SELL YOU ALL] EXCEPT THESE, HE NEED NOT BUY A RIGHT OF WAY.[5] IF HE SELLS THESE THINGS [WITHOUT THE FIELD] R. AKIBA SAYS THAT HE [THE PURCHASER] HAS NO NEED TO BUY A RIGHT OF WAY TO THEM, BUT THE SAGES SAY THAT HE HAS. THE ABOVE RULE[6] APPLIES ONLY TO A VENDOR, BUT A DONOR IS HELD TO MAKE ALL THESE PART OF THE GIFT.[7] IF BROTHERS DIVIDE AN INHERITANCE, ONE WHO TAKES POSSESSION OF A FIELD TAXES POSSESSION OF ALL THESE THINGS.[8] ONE WHO

SEIZES THE PROPERTY OF A PROSELYTE[9] IN TAKING POSSESSION OF A FIELD TAKES POSSESSION OF ALL THESE THINGS. IF A MAN SANCTIFIES[10] HIS FIELD HE SANCTIFIES ALL THESE THINGS.[11] R. SIMEON, HOWEVER, SAYS THAT IF A MAN SANCTIFies HIS FIELD HE SANCTIFIES ONLY[12] THE FULL-GROWN[13] CAROB AND THE CROPPED[14] SYCAMORE TREE.[15]

GEMARA. Why should the rule of a sale be different from that of a gift? — Judah b. Nakusa explained [the reason] in the presence of Rabbi [saying], The one [the vendor] specifies,[16] the other [the donor] does not specify. What do you mean by saying that the one specifies and the other does not specify, when the fact is that just as the one does not specify so the other does not specify? — What we should say is: The latter ought to have specified,[17] the former has no need to specify.

A man gave instructions [saying], ‘Give to so-and-so a room holding a hundred barrels.’ It was found that the room [in question] would hold a hundred and twenty barrels. Mar Zutra [on hearing the case] said, He gave him [the space of] a hundred barrels and not of a hundred and twenty.[18] Said R. Ashi to him: Have we not learnt, THIS RULE APPLIES ONLY TO A VENDOR, BUT A DONOR IS PRESUMED TO MAKE ALL THESE PART OF THE GIFT, from which we infer that a donor is presumed to give in a liberal spirit?[19] So here [we say that] the donor gives in a liberal spirit.[20]

IF A MAN SANCTifies A FIELD HE SANCTIFIES etc. R. Huna said: Although the Rabbis have laid down that when a man buys two trees in another man's field he does not acquire any of the soil with them,[21] yet if a man sells a field and reserves to himself two trees, he retains some of the soil with them.[22] [This rule is valid] even according to R. Akiba who says that the vendor sells in a liberal spirit;[23] [for] this applies only to a well and a cistern which do not exhaust the soil, but in the case of trees which do exhaust the soil,

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(1) Even though he inserts the words, ‘it and all its contents’.

(2) Lit., ‘desolate or inhabited’.

(3) Who said supra 64b that the vendor sells in a liberal spirit.

(4) Because, according to them, he interprets the terms of sale strictly.

(5) As otherwise the exception would be quite superfluous.

(6) That the well etc. are not included in the field.

(7) Because a donor is supposed to give in a liberal spirit.

(8) Because their object in dividing is to get entirely clear of one another.

(9) Who dies without Jewish issue, and whose property can be seized by the first comer. V. supra p. 181, n. 5.

(10) I.e., dedicates to the Sanctuary. V. Lev. XXVII, 26.

(11) Because sanctifying is a kind of gift.

(12) Of all these things excluded in case of a sale.

(13) Lit., ‘grafted’.

(14) Lit., ‘block of’.

(15) The meaning of this is discussed in the Gemara.

(16) The objects reserved.

(17) If the donor wishes to reserve things for himself, he should specify them, because he is supposed to give in a liberal spirit.

(18) And therefore he acquires only that portion of the room which will hold a hundred barrels.

(19) Lit., ‘with a bounteous eye’.

(20) And the whole room is given to the recipient.

(21) As he would if he bought three trees. V. infra 81a.

(22) I.e., the soil under the trunk.

(23) V. supra 64b.

Talmud - Mas. Baba Bathra 71b

Talmud - Mas. Baba Bathra 71b

if the vendor did not [tacitly] reserve some soil for himself, the purchaser could say to him [when the trees wither], pluck up your tree and be off with it.[1]

We have learnt:[2] R. SIMEON SAYS THAT IF A MAN SANCTIFIES HIS FIELD HE ONLY SANCTIFIES THE FULL-GROWN CAROB AND THE CROPPED SYCAMORE TREE; and in connection with this it was taught: R. Simeon said: What is the reason? Because they suck from a sanctified field.[3] Now if you assume that the sanctifier tacitly reserves something to himself, then when the trees suck they suck from his property [do they not]? [We must suppose therefore that] R. Simeon follows R. Akiba[4] and that R. Huna was following the Rabbis.[5] [But if R. Huna was stating his rule from the point of view of] the Rabbis, it is self-evident?[6] — Its practical bearing is that if the trees fall he can plant them again.[7]

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(1) Immediately (v. Tosaf.), and we assume that the vendor wished to keep a tree for himself in that place in perpetuity.

(2) Here comes an objection to the statement just made by the Gemara that R. Huna's rule holds good even on the view of R. Akiba.

(3) And the rule is that that which sucks from sanctified ground itself becomes sanctified.

(4) In holding that the vendor sells in a liberal spirit, and therefore when a man sanctifies a field he tacitly reserves nothing to himself.

(5) And that his ruling does not accord with the view of R. Akiba.

(6) I.e., it is obvious that the vendor reserves something.

(7) Though he could not tell him, ‘Pluck up your tree and be off with it immediately,’ it might be assumed that he could not plant them anew once they had fallen.

Talmud - Mas. Baba Bathra 72a

But [on the other hand] can you make R. Simeon concur with R. Akiba,[1] seeing that it has been taught, ‘If a man sanctifies three trees in a field where ten are planted to a beth se'ah,[2] then he [automatically] sanctifies in addition the soil and the [young] trees between them.[3] Therefore if he wants to redeem them he has to do so at the rate of fifty shekels of silver for the sowing ground of a homer of barley.[4] If they are planted more thickly or less thickly than this,[5] or if he sanctifies them one after another, he does not thereby sanctify the soil and the trees between them.[6] Therefore if he wants to redeem them, he redeems the trees according to their value. What is more, even if he first sanctifies the trees [one after another] and then sanctifies the ground, when he comes to redeem them he must redeem the trees at their actual value and then redeem [the ground] at the rate of fifty shekels for the sowing ground of a homer of barley.’[7] Who is the authority for these rules? If R. Akiba, surely he says that the vendor sells in a liberal spirit; all the more so then the sanctifier.[8] If the Rabbis, surely according to them it is the vendor who sells in an illiberal spirit, but the sanctifier sanctifies in a liberal spirit.[9] Obviously then it must be R. Simeon. Whom then does R. Simeon follow?[10] It cannot be R. Akiba, because he says that the vendor sells in a liberal spirit, all the more so then the sanctifier. Obviously then he follows the Rabbis,[11] and R. Simeon further held[12] that just as the vendor sells in an illiberal spirit so the sanctifier sanctifies in an illiberal spirit, and he [therefore] reserves the ground to himself.[13]

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(1) In saying that the sanctifier sanctifies in a liberal spirit.

(2) The regulation spacing. V. supra 26b.

(3) Because three such trees constitute a field, and therefore he in effect sanctifies a field and its contents.

(4) The standard rate for the redemption of land, as laid down in Lev. XXVII, 16.

(5) Lit., ‘less (openly) or more (openly)’; with more or less than ten to the beth se'ah. In the former case they constitute a wood, and in the latter they are not part and parcel of the field.

(6) That is to say, the trees do not carry with them the ground.

(7) Because the sanctification of the trees and the sanctifying of the ground are looked upon as two distinct actions.

(8) And therefore the trees even when sanctified one after another should carry at least some ground with them.

(9) Being compared not to a vendor but to a donor, as it says in the Mishnah, IF A MAN SANCTIFIES HIS FIELD, HE SANCTIFIES ALL THESE THINGS.

(10) R. Simeon was a disciple of R. Akiba.

(11) Those who in the discussion with R. Akiba said that the vendor sells in an illiberal spirit.

(12) In opposition to the Rabbis of the Mishnah who intimate that the sanctifier sanctifies in a liberal spirit.

(13) Which shows that R. Simeon could not concur with R. Akiba.

Talmud - Mas. Baba Bathra 72b

But then this would conflict [with what R. Simeon said above, that the carob and sycamore are sanctified] because they suck from the sanctified field?[1] — We must say therefore that R. Simeon was arguing from the premises of the Rabbis [of the Mishnah], thus: According to my view, just as the vendor sells in an illiberal spirit so the sanctifier sanctifies in an illiberal spirit, and he reserves some ground for himself.[2] But even from your own standpoint [that he sanctifies in a liberal spirit], grant me at least that he sanctifies no more than the carob and sycamore.[3] To which the Rabbis would answer that no distinction is to be made.[4]

To what authority then have you ascribed this clause [in the Baraitha quoted]? To R. Simeon. Look now at the next clause: ‘What is more, even if he first sanctifies the trees [one after another] and then sanctifies the ground, if he wants to redeem them he has to redeem the trees at their actual value and the ground at the rate of fifty shekels for the sowing place of a homer of barley.’ Now if [this Baraitha is following] R. Simeon, it should determine the valuation according to [the time of] the redemption,[5] so that the trees should be redeemed as part of the field.[6] For we know that R. Simeon decides according to the time of redemption from what has been taught: ‘How do we know that if a man buys a field from his father and then sanctifies it and his father subsequently dies,[7] it is reckoned as a "field of possession"?[8] Because Scripture says, And if he sanctifies . . . a field which he hath bought which is not of the field of his possession [he shall give thine estimation].[9] [This signifies] a field which is not capable of becoming a "field of possession",[10] [and we therefore] except [from this rule] such a one as this which is capable of becoming "a field of his possession".[11] This is the opinion of R. Judah and R. Simeon. R. Meir says: From where do we know that if a man buys a field from his father and his father dies and he then subsequently sanctifies the field, it is reckoned as a field of his possession? Because it says, If he sanctifies a field which he hath bought which is not of the field of his possession. [This signifies] a field which is not "a field of possession", [and we therefore except] from this rule such a one as this which is a field of his possession.’[12] In contrast to this, R. Judah and R. Simeon compare a field which he sanctifies ‘before his father dies to a field of his possession.[13] Whence do they derive this? If from the verse just quoted, I might rejoin that this justifies only the lesson drawn by R. Meir.[14] We must therefore say that [they rule thus] because they go according to the [time of] redemption?[15] — Said R. Nahman b. Isaac: As a general rule R. Judah and R. Simeon do not go according to the time of redemption, but in this case they do so because they found a verse which they interpreted [to this effect]. ‘If so’ [they said to R. Meir], ‘it should say, "If he sanctifies a field which he has bought which is not his possession," or even "the field of his possession — What is the force of the words, Which is not of the field of his possession? [It signifies] one that is not capable of becoming the field of his possession, [and we] except from the rule one that is capable of becoming the field of his possession.’[16]

R. Huna said that the full-grown carob and the cropped sycamore partly come under the law of trees and partly under the law of land. They rank as trees [to the extent] that if a man sanctifies or buys two trees and one of these, the soil in between is reckoned with.[17] They rank as land to the extent that they are not included in the transfer of land sold.[18]

R. Huna further said that a sheaf of two se'ahs partly comes under the law of a sheaf and partly under that of a shock. It ranks as a sheaf [to the extent] that while two sheaves can be regarded as ‘forgotten’,[19] while two with this one are not regarded as ‘forgotten’.[20] It ranks as a shock as we have learnt: [If a reaper forgets] a sheaf of two se'ahs, it is not regarded as forgotten.[21]

Rabbah b. Bar Hana said in the name of Resh Lakish: In regard to the full-grown carob and the cropped sycamore we find a difference of opinion between R. Menahem son of R. Jose and the Rabbis.[22]

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(1) Which shows that R. Simeon holds that the sanctifier sanctifies in a liberal spirit, whereas now it is maintained that he said in an illiberal spirit.

(2) And the carob is not sanctified because it neither sucks from the sanctified ground nor is it reckoned as part of the field.

(3) Which though not part of the field suck from sanctified ground, but not the well etc. which are neither part of the field nor do they stick from the ground.

(4) Between the carob and the well, etc., all being included in the sanctification.

(5) I.e., according to the character of the article to be redeemed at the time of the redemption and not at the time of the sanctifying.

(6) And not separately, at their own value, as they would be if we went by the time of sanctification.

(7) Before the Jubilee, ‘when the field would automatically revert to him.

(8) And not of purchase, and it is therefore liable to be redeemed at the rate of 50 shekels for the sowing ground of a homer of barley.

(9) Lev. XXVII, 22, 23. This means that such a field is to be redeemed at its actual value, not at a fixed rate.

(10) E.g., one which he bought from any other man and which would have to be restored to him or his heirs at the Jubilee.

(11) By inheritance.

(12) But not one which is only capable of becoming such subsequently.

(13) This is the reading of Tosaf. The ordinary texts read: ‘But in the case where he sanctifies the field before his father dies, R. Judah and R. Simeon do not require a verse; where they require a verse is for the case where he sanctifies it and his father dies subsequently.’ As Tosaf. points out, a text certainly was required by R. Judah and R. Simeon for the first statement. The ordinary reading seems to have come in by a copyist's error from Git. 48a.

(14) Which is closer to the literal meaning of the verse.

(15) And this being the case, they interpret the verse accordingly. This proves that R. Simeon decides according to the time of redemption.

(16) The word ‘of’ is taken to imply ‘which is not already a part of his possession, but will subsequently become such’, e.g., one which will one day come to him by inheritance.

(17) According to the rule that three trees carry with them the ground between.

(18) Like other trees, if the vendor inserts the words, ‘it and all its contents’.

(19) The reference is to the rule in Deut. XXIV, 19: When thou reapest thine harvest in thy field and has forgot a sheaf in the field, thou shalt not go again to fetch it. This rule, according to the Rabbis, applied to one or two sheaves, but not to three.

(20) That is to say, it is treated as a sheaf on a par with the other two sheaves, the three together forming one shock.

(21) Because it is considered as being no longer a sheaf but a shock.

(22) The former holding that they are not sanctified along with a field, the latter that they are.

Talmud - Mas. Baba Bathra 73a

Why does he not say: Between R. Simeon[1] and the Rabbis? — He intimates in this way that R. Menahem b. Jose was of the same opinion as R. Simeon.[2]

CHAPTER V

MISHNAH. HE WHO SELLS A SHIP SELLS [IMPLICITLY] ITS MAST, SAIL, ANCHOR AND ALL THE IMPLEMENTS NEEDED FOR DIRECTING IT, BUT HE DOES NOT SELL THE CREW,[3] NOR THE PACKING-BAGS,[4] NOR THE STORES. IF, HOWEVER, HE SAID TO HIM:[5] ‘IT[6] AND ALL THAT IT CONTAINS’, THEN ALL THESE ARE INCLUDED IN THE SALE.

GEMARA. TOREN[7] is the mast; for so it is written: They have taken cedars[8] from Lebanon to make masts[9] for thee.[10] NES[7] is the sail; for so it is written: Of fine linen with richly woven work from Egypt was thy sail, that it might be to thee for an ensign.[11] [As to] OGEN,[7] R. Hiyya taught: These are its anchors; for so it is written: Would ye tarry for them till they were grown? Would ye shut yourselves off[12] for them and have no husbands?[13]

AND ALL THE IMPLEMENTS NEEDED FOR DIRECTING IT — R. Abba said: This refers to the oars;[14] for so it is written: Of the oaks of Bashan have they made thine oars.[15] And if you desire, you may infer it[5] from the following text: And all that handle the oar shall come down from their ships.[16]

Our Rabbis taught: He who sells a ship sells [implicitly] its wooden implements[17] and its [sweet water] tank. R. Nathan says: He who sells a ship sells implicitly its buzith.[18] Symmachus says: He who sells a ship sells [implicitly] its dugith.[19] Raba said: Buzith and dugith are the same: R. Nathan, the Babylonian, called it Buzith, as they say [in Babylon]’ the Buziatha[20] of Maisan’;[21] while Symmachus. who was a Palestinian, called it Dugith, for so it is written: And your residue [shall be taken away] in fishing boats.[22]

Rabbah said: Seafarers told me:[23] The wave that sinks a ship appears with a white fringe of fire at its crest, and when stricken with clubs on which is engraven. ‘I am that I am,[24] Yah, the Lord of Hosts, Amen, Amen, Selah’, it subsides,

Rabbah said: Seafarers told me: There is a distance of three hundred parasangs[25] between one wave and the other, and the height of the wave is [also] three hundred parasangs. ‘Once,’ [they related], ‘we were on a voyage, and the wave lifted us up so high that we saw the resting place of the smallest star, and there was a flash as if one shot forty arrows of iron;[26] and if it had lifted us up still higher. We would have been burned by its heat. And one wave called to the other: "My friend, have you left anything in the world that you did not wash away? I will go and destroy it." The other replied: "Go and see the power of the master [by whose command] I must not pass the sand’[of the shore even as much as] the breadth of a thread"; as it is written: Fear ye not me? saith the Lord; will ye not tremble at my presence? who have placed the sand for the bound of the sea, an everlasting ordinance, which it cannot pass.[27]

Rabbah[28] said: I saw how Hormin[29] the son of Lilith[30] was running on the parapet[31] of the wall of Mahuza, and a rider, galloping below on horseback[32] could not overtake him. Once they saddled for him two mules which stood

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(1) Who also, according to the final conclusion arrived at, holds that they are not sanctified.

(2) Resh Lakish had this on tradition from his teacher.

(3) Lit., ‘the slaves’.

(4) מרצוף Cf. Gr. **.

(5) To the buyer.

(6) The ship.

(7) The Gemara now proceeds to explain תרן, נם and עוגין the Hebrew terms used in the Mishnah.

(8) Lit., ‘cedar’.

(9) תרן ‘mast’. The proof that toren means mast lies in the fact that masts are made from cedars or trees of similar height.

(10) Ezek. XXVII, 5.

(11) Ibid. v. 7. Ensign. Heb. נס The Gemara regards in Ezek. as parallel to מפרש hence sail.

(12) תעגנה from עגן same root as that of עוגין meaning in Niph. to be shut up, to be held fast. The anchor holds the ship fast in the water.

(13) Ruth I, 13.

(14) I.e., the oars are implicitly sold together with the ship.

(15) Ezek. XXVII, 6. The Scriptural text is describing a ship and gives details of its equipment. Since oars are included in the description they must be regarded as part of the ship's equipment and are, therefore, implicitly sold together with the ship.

(16) Ezek. XXVII, 29. This verse shows the close connection between the oars and the ship. Cf. previous note.

(17) Viz,, its oars, poles, ladders, etc. Heb. Iskela,איסכלא; Rashb. ladders (scalae).

(18) Heb. Buzith, בוצית from ביצה egg shaped, oval (or ביצע marsh), which is attached to the bigger ship, [and into which passengers disembark on nearing the (marshy) shallows (v. Obermeyer. op. cit. pag. 201)].

(19) Heb. Dugith,דוגית (from דוג to fish), which forms part of the equipment of the bigger ship.

(20) Pl. of Buzith

(21) [Maisan (Mesene) the marshland S.E, of Babylonia intersected with shallow streams (v. Obermeyer. ibid.)].

(22) Amos IV, 2. Fishing boats, סירותדוגה ’small boats like pots’ (Rashb.).

(23) The following apparent hyperboles are probably allegories on the political and social conditions of the time.

(24) Cf. Ex. III, 14.

(25) V. Glos.

(26) Cf. Kohut, Aruch. s. v. ,בזק. Current editions read, ‘And it was like one scattering forty measures of mustard seeds’, or ‘and it was of the size of a field needed for forty measures etc.

(27) Jer. V, 22.

(28) Munich MS and others read, Rabbah b. Bar Hana.

(29) Hamburg MS. and others read Hormiz (Ormuzd). Hormin is the name of a demon. Ormuzd, according to Zend Avesta, is the impersonation of the light or the good principle in nature. From the present context it appears that an evil demon is meant.

(30) Lilith, a female night demon.

(31) קופיא Rashb. reads אקופי, ‘on the pinnacles’.

(32) Lit., horse, סוסיא Current editions read היותא, animal.

Talmud - Mas. Baba Bathra 73b

on two bridges of the Rognag;[1] and he jumped from one to the other, backward and forward,[2] holding in his hands two cups of wine, pouring alternately[2] from one to the other, and not a drop fell to the ground. [Furthermore]. it was [a stormy] day [such as that on which] they [that go down to the sea in ships] mounted up to the heaven; they went down to the deeps.[3] When the government heard [of this] they put him to death.

Rabbah[4] said: I saw an antelope. one day old, that was as big as Mount Tabor. (How big is Mount Tabor? — Four parasangs.)[5] The length of its neck[6] was three parasangs.and the resting place of its head[7] was one parasang and a half. It cast a ball of excrement and blocked up the Jordan.

Rabbah b. Bar Hana further stated: I saw a frog the size[8] of the Fort of Hagronia. (What is the size of the Fort of Hagronia? — Sixty houses.) There came a snake and swallowed the frog. Then came a raven and swallowed the snake, and perched[9] on a tree. Imagine[10] how strong was the tree. R. Papa b. Samuel said: Had I not been there I would not have believed it.

Rabbah b. Bar Hana further stated: Once we were travelling on board a ship and saw a fish in whose nostrils a parasite[11] had entered.[12] Thereupon, the water cast up the fish and threw it upon the shore. Sixty towns were destroyed thereby, sixty towns ate therefrom, and sixty towns salted [the remnants] thereof, and from one of its eyeballs three hundred kegs of oil were filled. On returning after twelve calendar months[13] we saw that they were cutting rafters from its skeleton and proceeding to rebuild those towns.

Rabbah b. Bar Hana further stated: Once we were travelling on board a ship and saw a fish whose back was covered with sand out of which grew grass. Thinking it was dry land[14] we went up and baked, and cooked, upon its back. When, however, its back was heated it turned, and had not the ship been nearby we should have been drowned.

Rabbah b. Bar Hana further stated: We travelled once on board a ship. and the ship sailed between one fin of the fish and the other for three days and three nights; it [swimming] upwards[15] and we [floating] downwards.[16] And if you think the ship did not sail fast enough, R. Dimi, when he came, stated that it covered sixty parasangs in the time it takes to warm a kettle of water. When a horseman shot an arrow [the ship] outstripped it. And R. Ashi said: That was one of the small sea monsters[17] which have [only] two fins.

Rabbah b. Bar Hana further related: Once we travelled on board a ship and we saw a bird standing up to its ankles in the water while its head reached the sky. We thought the water was not deep[18] and wished to go down to cool ourselves, but a Bath Kol[19] called out: ‘Do not go down here for a carpenter's axe was dropped [into this water] seven years ago and it has not [yet] reached the bottom. And this, not [only] because the water is deep but [also] because it is rapid. R. Ashi said: That [bird] was Ziz-Sadai[20] for it is written: And Ziz-Sadai is with me.[21]

Rabbah b. Bar Hana further related: We were once travelling in the desert and saw geese whose feathers fell out on account of their fatness, and streams of fat flowed under them. I said to them: ‘Shall we have a share of your flesh[22] in the world to come?’[23] One lifted up [its] wing,[24] the other lifted up [its] leg.[25] When I came before R. Eleazar he said unto me: Israel will be called to account for [the sufferings[26] of] these [geese].

(Mnemonic: Like the sand of the purple blue scorpion stirred his basket.)[27]

Rabbah b. Bar Hana related: We were once travelling in a desert and there joined us an Arab merchant who, [by] taking up sand and smelling it [could] tell which was the way to one place and which was the way to another. We said unto him: ‘How far are we from water?’ He replied: ‘Give me [some] sand.’ We gave him, and he said unto us: ‘Eight parasangs.’ When we gave him again [later]. he told us that we were three parasangs off. I changed it;[28] but was unable [to nonplus] him.

He said unto me: ‘Come and I will show you the Dead of the Wilderness.’[29] I went [with him] and saw them; and they looked as if in a state of exhilaration.

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(1) Name of a river.

(2) Lit., ‘from this to that and from that to this’.

(3) Ps. CVII, 26.

(4) V. Glos.

(5) V. glos.

(6) Lit., ‘stretching’; i.e., ‘when stretched’.

(7) I.e., when resting on the ground.

(8) Lit., ‘which was’. (14a) [Outside Nehardea, Obermeyer. p. 265]

(9) Lit., ‘and went up (and) sat’.

(10) Lit., ‘come and see’.

(11) Lit., ‘mud-eater’, ‘a parasite living on fishes’.

(12) And killed the fish.

(13) Lit., ‘months of the year’.

(14) One of the sea islands.
(15) I.e., against the wind.
(16) I.e., sailing with the wind.
(17) Heb. gildana גילדנא a small sea-monster.
(18) Lit., ‘there was no water’.
(19) בת קול ‘heavenly echo’, ‘divine voice’; a lower grade of prophecy, v. Glos.
(20) זיז שדי is rendered by the Targum (Ps. L, 11). ‘the wild cock whose ankles rest on the ground and whose head reaches the sky’.
(21) Ps. L, 11. ‘With me’, i.e., ‘with God in heaven’ is assumed to be an allusion to the bird's head, which reaches the sky.
(22) Lit., ‘in you’.
(23) When a feast is to be provided for the righteous.
(24) Indicating that that would be his portion in the world to come.
(25) Lit., ‘flank’, ‘thigh’.
(26) The protracted suffering of the geese caused by their growing fatness is due to Israel's sins which delay the coming of the Messiah, or the era denoted by the expression, ‘the world to come’.
(27) The mnemonic is an aid to the memorisation of the following stories told by Rabbah b. bar Hana. Sand refers to the first story where the smelling of sand by the Arab is mentioned. Purple blue occurs in the second story. Scorpion recalls the scorpions round Mount Sinai in the third story, stirred refers to the story of Korah and his sons in Gehenna in the fourth story, and basket is mentioned in the fifth and last story.
(28) Substituted the sand of one place for that of another, in order to put him to the test.
(29) מתי מדבר those Israelites who died during the forty years wanderings in the wilderness, on their way to the Promised Land. Cf. Num. XIV, 32ff.

Talmud - Mas. Baba Bathra 74a

They slept on their backs; and the knee of one of them was raised, and the Arab merchant passed under the knee, riding on a camel with spear erect, and did not touch it. I cut off one corner of the purple-blue shawl[1] of one of them; and we could not move away. He said unto me: ‘[If] you have, peradventure, taken something from them, return it; for we have a tradition that he who takes anything from them cannot move away.’ I went and returned it; and then we were able to move away. When I came before the Rabbis they said unto me: Every Abba[2] is an ass and every Bar Bar Hana is a fool. For what purpose did you do that?[3] Was it in order to ascertain whether [the Law] is in accordance with the [decision of] Beth Shammai or Beth Hillel?[4] You should have counted the threads and counted the joints.[5]

He[6] said unto me: ‘Come and I will show you Mount Sinai.’ [When] I arrived I saw that scorpions[7] surrounded it and they stood like white asses. I heard a Bath Kol[8] saying: ‘Woe is me that I have made an oath[9] and now that I have made the oath, who will release me?’[10] When I came before the Rabbis, they said unto me: ‘Every Abba[11] is an ass and every Bar Bar Hana is a fool. You should have said, Mufar lak.’[12] He,[13] however, thought that perhaps it was the oath in connection with the Flood.[14] And the Rabbis?[15]

If so;[16] why, ‘woe is me’?

He said unto me: ‘Come, I will show you the men of Korah that were swallowed up.[17] I saw two cracks that emitted smoke. I took a piece of clipped wool, dipped it in water, attached it to the point of a spear and let it in there. And when I took it out it was singed. [Thereupon] he said unto me: ‘Listen attentively [to] what you [are about to] hear.’ And I heard them say: ‘Moses and his Torah are truth and we[18] are liars.’ He said unto me: ‘Every thirty days Gehenna[19] causes them to turn back here as [one turns] flesh in a pot,[20] and they say thus: "Moses and his law are truth and we[18] are liars".’

He said unto me: ‘Come, I will show you where heaven and earth touch one another.’[21] I took up my [bread] basket and placed it in a window of heaven. When I concluded my prayers I looked for it but did not find it. I said unto him: ‘Are there thieves here?’ He replied to me: ‘It is the heavenly wheel revolving. Wait here until tomorrow and you will find it.’

R. Johanan related: Once we were travelling on board a ship and we saw a fish that raised its head out of the sea. Its eyes were like two moons, and water streamed from its two nostrils as [from] the two rivers of Sura.[22]

R. Safra related: Once we travelled on board a ship and we saw a fish that raised its head out of the sea. It had horns on which was engraven: ‘I am a minor creature of the sea,I am three hundred parasangs [in length] and I am [now] going into the mouth of Leviathan.’[23] R. Ashi said: It was a sea-goat which searches [for its food] and [for that purpose] has horns.

R. Johanan related: Once we were travelling on board a ship and we saw a chest in which were set precious stones and pearls and it was surrounded by a species of fish called Karisa.[24] There went down

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(1) תכלתא, viz., the Tallith, טלית, which may signify any garment, cloak or covering, if the Tallith had four corners, a show fringe had to be made in every corner, each fringe containing a thread of purple-blue. Cf. Num. XV. 38; Deut. XXII, 12.

(2) Abba was the name of Rabbah b. Bar Hana; Rabbah equals Rab Abba.

(3) Cutting off the corner of the Tallith.

(4) For the dispute between the two schools on the question of the threads of the show fringes. v. Men. 41b.

(5) Each plaited fringe contains four joints or sections separated by double knots.

(6) I.e., the Arab merchant.

(7) The reading of the current editions, עקרבא וקיימא כי חמרי חיורתי, a mixture of singular and plural, is obviously erroneous. Read with Bomberg ed. עקרבי וקיימן etc.

(8) V. glos.

(9) To send Israel into exile.

(10) Lit., ‘who will break [nullify] it for me’.

(11) V. supra n. 2.

(12) מופר לך thy oath, or vow. is void, a formula used by an authorised person for remitting vows and oaths.

(13) Rabbah b. Bar Hana.

(14) That oath was in favour of mankind. Cf. Isa. LIV, 9: For as I have sworn that the waters of Noah shall no more go over the earth etc. Cf. also Gen. IX, 11ff.

(15) Why did they deride Rabbah b. Bar Hana?

(16) If the reference were to the oath of the Flood.

(17) Cf. Num. XVI, 32ff.

(18) Lit., ‘and they’.

(19) גיהנם place of punishment for the wicked after death. Originally the name of a glen near Jerusalem, גי הנם where children were burned in the worship of Moloch.

(20) They are stirred in Hell as meat is stirred round and round in a boiling pot.

(21) Lit., ‘kiss’.

(22) So Rashb. [Another rendering: ‘And water gushed forth from its nostrils at (a height) as (the length) of two Sura-canoes’. i.e., the ferry boats that sailed about in the canal of Sura, v. Obermeyer. op. cit. 292.]

(23) To supply his daily meal. Leviathan, cf. Ps. CIV, 26 and Job XL, 25. In the Talmud, a legendary monster fish reserved for the righteous in the world to come.

(24) Probably, shark.

Talmud - Mas. Baba Bathra 74b

a diver to bring [the chest], but [a fish] noticed [him] and was about to wrench his thigh. Thereupon he poured upon it a skin bottle of vinegar and it sank. A Bath Kol[1] came forth, saying unto us: ‘What have you to do with the chest of the wife[2] of R. Hanina b. Dosa who is to store in it purple-blue[3] for the righteous in the world to come.

Rab Judah, the Indian, related: Once we were travelling on board a ship when we saw a precious stone that was surrounded by a snake. A diver descended to bring it up. [Thereupon] the snake approached with the purpose of swallowing the ship, [when] a raven came and bit off its head and the waters were turned into blood. A second snake came, took [the head of the decapitated snake][4] and attached[5] it [to the body], and it revived. Again [the snake] approached intent on swallowing the ship. Again a bird came and severed its head. [Thereupon the diver] seized the precious stone and threw it into the ship. We had with us salted birds. [As soon as] we put [the stone] upon them, they took it up and flew away with it.

Our Rabbis taught: It happened that R. Eliezer and R. Joshua were travelling on board a ship. R. Eliezer was sleeping and R. Joshua was awake. R. Joshua shuddered and R. Eliezer awoke. He said unto him: ‘What is the matter, Joshua? What has caused you to tremble?’ He said unto him: ‘I have seen a great light in the sea.’ He said unto him: ‘You may have seen the eyes of Leviathan, for it is written: His eyes are like the eyelids of the morning.’[6]

R. Ashi said: R. Huna b. Nathan related to me [the following]: Once we were walking in the desert and we had with us a leg of meat.[7] We cut it open and picked out [the forbidden fat[8] and the nervus ischiadicus][9] and put it on the grass. While we were fetching wood, the leg regained its original form and we roasted it. When we returned after twelve calendar months[10] we saw those coals still glowing. When I came before Ammemar, he said unto me: ‘That grass was samtre[11] . Those glowing coals were of broom.[12]

[It is written]: And God created the great sea-monsters.[13] Here[14] they explained: The sea-gazelles. R. Johanan said: This refers to Leviathan the slant serpent,[15] and to Leviathan the tortuous serpent,[16] for it is written: In that day the Lord with his sore [and great and strong] sword will punish [Leviathan the slant serpent, and Leviathan the tortuous serpent].[17]

(Mnemonic: All time Jordan.)[18]

Rab Judah said in the name of Rab: All that the Holy One, blessed be He, created in his world he created male and female. Likewise, Leviathan the slant serpent and Leviathan the tortuous serpent he created male and female; and had they mated with one another they would have destroyed the whole world.[19] What [then] did the Holy One, blessed be He, do? He castrated the male and killed the female preserving it in salt for the righteous in the world to come; for it is written: And he will slay the dragon that is in the sea.[20] And also Behemoth[21] on a thousand hills were created male and female, and had they mated with one another they would have destroyed the whole world.[19] What did the Holy One, blessed be He, do? He castrated the male and cooled[22] the female and preserved it for the righteous for the world to come; for it is written: Lo now his strength is in his loins[23] — this refers to the male; and his force is in the stays of his body,[23] — this refers to the female. There also, [in the case of Leviathan], he should have castrated the male and cooled the female [why then did he kill the female]? — Fishes are dissolute.[24] Why did he not reverse the process?[25] — If you wish, say: [It is because a] female [fish] preserved in salt is tastier. If you prefer, say: Because it is written: There is Leviathan whom Thou hast formed to sport with,[26] and with a female this is not proper.[27] Then here also [in the case of Behemoth] he should have preserved the female in salt? — Salted fish is palatable, salted flesh is not.

Rab Judah in the name of Rab further said: At the time when the Holy One, blessed be He, desired to create the world, he said to the angel of the sea: ‘Open thy mouth and swallow all the waters of the world.’[28] He said unto him: ‘Lord of the Universe, it is enough that I remain with my own’. Thereupon, He struck him with His foot and killed him; for it is written: He stirreth up the sea with his power and by his understanding he smiteth through Rahab.[29] R. Isaac said: From this it may be inferred that the name of the angel of the sea was Rahab. And had not the waters covered him no creature could have stood his [foul] odour;[30] for it is written: They shall not hurt nor destroy in all My Holy mountain etc. as the waters cover the sea.[31] Do not read: They cover the sea, but [in the sense]: ‘They cover the angel of the sea.’[32]

Rab Judah further stated in the name of Rab: The Jordan issues from the cavern of Paneas.[33] It has been taught likewise:[34] The Jordan issues from the cavern of Paneas and passes through the Lake of Sibkay[35] and the Lake of Tiberias[36] and rolls down into the great sea from whence it rolls on until it rushes into the mouth of Leviathan; for it is said: He is confident because the Jordan rushes forth to his mouth.[37] Raba b. ‘Ulla objected: This [verse] is written of Behemoth on a thousand hills! — But, said R. Abba b. ‘Ulla: When is Behemoth on a thousand hills confident? — When the Jordan rushes into the mouth of Leviathan.[38]

(Mnemonic: Seas, Gabriel, Hungry.)[39]

When R. Dimi came[40] he stated in the name of R. Johanan: The verse, For he hath founded it upon the seas and established it upon the floods[41] speaks of the seven seas and four rivers which surround the land of Israel. And these are the seven seas: The sea of Tiberias,[42] the Sea of Sodom, the Sea of Helath,[43] the Sea of Hiltha,[44] the Sea of Sibkay,[45] the Sea of Aspamia and the Great Sea. The following are the four rivers: The Jordan, the Jarmuk, the Keramyon and Pigah.[46]

When R. Dimi came, he said in the name of R. Jonathan: Gabriel is to arrange in the future

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(1) V. Glos.

(2) A saintly woman who, though very poor, refused to benefit in any way from her portion in the world to come. V. Ta'an. 24b.

(3) V. p. 292, n. 9.

(4) This interpretation is in accordance with the reading of the Munich MS which reads, שקליה לרישיה דתנינא.

(5) Lit., ‘and hung’.

(6) Job XLI, 10.

(7) Lit., ‘flank’ or ‘thigh of flesh’.

(8) Cf. Lev. III, 17. VII. 25.

(9) The sinew of the thigh-vein is forbidden food. Cf. Gen. XXXII, 33.

(10) Cf. p. 291, n. 2.

(11) סמתרי a herb with the power of uniting severed parts.

(12) רתם or ריתמא A kind of shrub, growing in deserts. A fire of broom coal is supposed to continue to burn within, while on the surface it is extinguished. Gen. R. XCVIII.

(13) Gen. I, 22.

(14) In Babylonia.

(15) The male Leviathan.

(16) The female.

(17) Isa. XXVII, 2.

(18) The mnemonic aids in the recollection of the three stories told by Rab Judah in the name of Rab. All refers to the first story, beginning ‘All that the Holy One’. Time occurs in the second story, ‘At the time when’. Jordan begins the third story.

(19) With the multitudes of their progeny.

(20) Ibid. The Talmudic interpretation of the verse is as follows: ‘In that day the Lord with his sore and great and strong sword will punish Leviathan the slant serpent, in the world to come, as he punished Leviathan the tortuous serpent; for he slew the dragon that was in the sea, during the first six days of the creation’.
(21) בהמות, Cf. Ps. L, 10. In the Aggada. Behemoth signifies legendary animals, male and female, which, like Leviathan, are to provide part of the feast of the righteous in the world to come. Behemoth eat up daily the grass of a thousand hills.
(22) Others render ‘sterilised’.
(23) Job XL, 16. The previous verse speaks of Behemoth.
(24) Cooling would not be effective in preventing their fertility.
(25) Kill the male and preserve the female alive.
(26) Ps. CIV. 26.
(27) Lit., ‘way of the earth’, Heb. Derek Eretz. דרך ארץ proper manners’.
(28) That the dry land may be seen.
(29) Job XXVI, 12.
(30) That of his dead body.
(31) Isa. XI, 9.
(32) I.e., Sea is to be understood as the angel of the sea.
(33) Paneas written פמיים, פניים, and פניאס is the modern Banias, ancient Caesarea Philippi, in the north of Galilee.
(34) Bek. 55a.
(35) Sea of Samachonitis, North of Lake of Tiberias.
(36) Sea of Gennesareth.
(37) Job XL, 23.
(38) So long as Leviathan is alive, Behemoth also is safe.
(39) The mnemonic is an aid to the memorisation of the following three stories told by R. Dimi. Seas refers to the first story dealing with the seven seas. Gabriel is the subject of the second story. Hungry is a reference to the hungry Leviathan in the third story.
(40) From Palestine.
(41) Ps. XXIV. 2.
(42) V. p. 297, n. 14.
(43) Current editions read חילת Bomberg. שחלת, Munich, שחלית, [Probably the Elath Sea, the Gulf of Akaba. V. Press. J., MGWI., 1929. 53.]
(44) Hiltha, Current Editions, חילתא, Munich, חולתא; [Ulatha mentioned in Josephus. Ant. XV, 10, 13. North of the Samachonitis Sea. V. Pressf., ibid. 52].
(45) V. p. 297, n. 13.
(46) Prob, tributaries of the Jordan. [On the identification of these two streams v. Press J.’ ibid.].

Talmud - Mas. Baba Bathra 75a

a chase[1] of Leviathan; for it is said: Canst thou draw out Leviathan with a fish hook? Or press down his tongue with a cord?[2] And if the Holy One, blessed be He, will not help him, he will be unable to prevail over him; for it is said: He only that made him can make His sword to approach unto him.[3]

When R. Dimi came he said in the name of R. Johanan: When Leviathan is hungry he emits [fiery] breath from his mouth and causes all the waters of the deep to boil; for it is said: He maketh the deep to boil like a pot.[4] And if he were not to put his head into the Garden of Eden, no creature could stand his [foul] odour;[5] for it is said: He maketh the sea like a spiced[6] broth.[7] When he is thirsty he makes numerous furrows in the sea; for it is said: He maketh a path to shine after him.[8] R. Aha b. Jacob said; The deep does not return to its strength until [after] seventy years; for it is said: One thinks the deep to be hoary,[9] and hoary age is not [attained at] less than seventy [years].[10]

Rabbah said in the name of R. Johanan: The Holy One, blessed be He, will in time to come make a banquet for the righteous from the flesh of Leviathan; for it is said: Companions will make a banquet of it.[11] Kerah[12] must mean a banquet; for it is said: And he prepared for them a great banquet[13] and they ate and drank.[14] Companions must mean scholars[15] ; for it is said: Thou that dwellest in the gardens, the companions hearken for thy voice; cause me to hear it.[16] The rest [of Leviathan] will be distributed and sold out in the markets of Jerusalem; for it is said: They will part him among the Kena'anim,[17] and Kena'anim must mean merchants, for it is said: As for kena'an[18] the balances of deceit are in his hand, he loveth to oppress.[19] And if you wish you may infer it from the following: Whose merchants are princes, whose traffickers[20] are the honourable of the earth.[21]

Rabbah in the name of R. Johanan further stated: The Holy One, blessed be He, will in time to come make a tabernacle for the righteous from the skin of Leviathan; for it is said: Canst thou fill tabernacles with his skin.[12] If a man is worthy, a tabernacle is made for him; if he is not worthy [of this] a [mere] covering is made for him, for it is said: And his head with a fish covering.[22] If a man is [sufficiently] worthy a covering is made for him; if he is not worthy [even of this], a necklace is made for him, for it is said: And necklaces about thy neck.[23] If he is worthy [of it] a necklace is made for him; if he is not worthy [even of this] an amulet is made for him; as it is said: And thou wilt bind him for thy maidens.[24] The rest [of Leviathan] will be spread by the Holy One, blessed be He, upon the walls of Jerusalem, and its splendour will shine from one end of the world to the other; as it is said: And nations shall walk at thy light, and kings at the brightness of thy rising.[25]

[It is written]: And I will make thy pinnacles of kadkod[26] — R. Samuel b. Nahmani said: There is a dispute [as to the meaning of kadkod] between two angels in heaven, Gabriel and Michael. Others say: [The dispute is between] two Amoraim in the West.[27] And who are they? — Judah and Hezekiah the sons of R. Hiyya. One says: [Kadkod means] onyx; and the other says: Jasper. The Holy One, blessed be He, said unto them: Let it be as this one [says] and as that one.[28]

And thy gates of carbuncles[29] [is to be understood] as R. Johanan [explained] when he [once] sat and gave an exposition: The Holy One, blessed be He, will in time to come bring precious stones and pearls which are thirty [cubits] by thirty and will cut out from them [openings][30] ten [cubits] by twenty, and will set them up in the gates of Jerusalem. A certain student sneered at him: [Jewels] of the size of a dove's egg are not to be found; are [jewels] of such a size to be found? After a time, his ship sailed out to sea [where] he saw ministering angels engaged[31] in cutting precious stones and pearls which were thirty [cubits] by thirty and on which were engravings of ten [cubits] by twenty. He said unto them: ‘For whom are these?’ They replied that the Holy One, blessed be He, would in time to come set them up in the gates of Jerusalem. [When] he came [again] before R. Johanan he said unto him: ‘Expound, O my master; it is becoming for you to expound; as you said, so have I seen.’ He replied unto him: ‘Raca, had you not seen, would not you have believed? You are [then] sneering at the words of the Sages!’ He set his eyes on him and [the student] turned into a heap of bones.[32]

An objection was raised: And I will lead you komamiyuth,[33] R. Meir says: [it means] two hundred cubits; twice the height of Adam.[34] R. Judah says: A hundred cubits; corresponding to the [height of the] temple[35] and its walls. For it is said: We whose sons are as plants grown up in their youth; whose daughters are as corner-pillars carved after the fashion of the Temple.[36] R. Johanan speaks only of the ventilation windows.

Rabbah in the name of R. Johanan further stated: The Holy One, blessed be He, will make seven canopies for every righteous man; for it is said: And the Lord will create over the whole habitation of Mount Zion, and over her assemblies, a cloud of smoke by day, and the shining of a flaming fire by night; for over all the glory shall be a canopy.[37] This teaches that the Holy One, blessed be He, will make for everyone a canopy corresponding to his rank.[38] Why is smoke required in a canopy? — R. Hanina said: Because whosoever is niggardly towards the scholars in this world will have his eyes filled with smoke in the world to come. Why is fire required in a canopy? — R. Hanina said: This teaches that each one will be burned by reason of [his envy of the superior] canopy of his friend. Alas, for such shame! Alas, for such reproach!

In a similar category is the following: And thou shalt put of thy honour upon him,[39] but not all thy honour. The elders of that generation said: The countenance of Moses was like that of the sun; the countenance of Joshua was like that of the moon.[40] Alas, for such shame! Alas for such reproach![41]

R. Hama b. Hanina said: The Holy One, blessed be He, made ten canopies for Adam in the garden of Eden; for it is said: Thou wast in Eden the garden of God; every precious stone [was thy covering, the cornelian, the topaz and the emerald, the beryl, the onyx and the jasper, the sapphire, the carbuncle and the emerald and gold][42] etc. Mar Zutra says: Eleven; for it is said: Every precious stone.[43] R. Johanan said: The least of all [these] was gold, since it is mentioned last. What is [implied] by the work of thy timbrels and holes?[44] — Rab Judah said in the name of Rab: The Holy One, blessed be He, said to Hiram, the King of Tyre. '[At the creation] I looked upon thee, [observing thy future arrogance][45] and created [therefore] the excretory organs of man'.[46] Others say: Thus said [the Holy One, blessed be He].' I looked upon thee

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(1) קניגיא, 'hunt', 'chase'.
(2) Job XL. 25.
(3) Ibid. v. 19. The text speaking of Behemoth is also applicable to Leviathan.
(4) Job XLI, 23.
(5) That of the foul breath.
(6) The sweet odours of the Garden of Eden perfume the sea.
(7) Ibid. 'Spiced broth', כמרקחה, Cf. Ex. XXX, 25,רקח מרקחת 'perfume compounded'.
(8) Job XLI, 24.
(9) Ibid.
(10) Cf. Aboth V. 24.
(11) Job XL, 30.
(12) כירה denominative of כרה root of יכרו the word used in the verse quoted.
(13) כרה.
(14) II Kings VI, 23.
(15) Heb. Talmide Hakamim, תלמידי חכמים lit.. 'disciples of the wise men', applied to scholars, distinguished students. Here taken to be synonymous with the righteous men mentioned previously.
(16) Cant. VIII, 13. The 'companions' are the Talmide Hakamim. The entire Song of Songs is regarded in Talmudic literature as an allegorical poem on God, Israel and the Torah. The gardens are the Colleges. the companions are the scholars. 'Haberim' חבריפ companions in Cant. is taken to be equal יברים Habbarim in Job.
(17) Job XL. 30. Merchants כנענים
(18) So R.V. margin, reading Canaan. English versions render trafficker.
(19) Hos. XII. 8.
(20) כנעניה; absolute form, כנענים.
(21) Isa. XXIII, 8. (18) Job XL, 31.
(22) Ibid.
(23) Prov. I, 9.
(24) Job XL. 29. Bind, refers to a small object, such as an amulet, which one attaches (binds) to a string.
(25) Isa. LX, 3.
(26) Isa. LIV, 12. Kadkod, כדכד, E.V. 'Rubies.'
(27) Palestine, which is west of Babylon where the Babylonian Talmud was composed.
(28) כדין וכדין a play on the word כדכד.
(29) Ibid.
(30) To serve as entrances to the city.
(31) Lit., 'who sat and cut'.

(32) Cf. Ber. 58a, Shab. 34a, Sanh. 100a.
(33) Lev. XXVI, 13. Heb. קוממיות lit., upright. Here taken as the dual of קומה height.
(34) Heb. אדם הראשון ‘Adam the first’. That is, the people will gain in stature to twice the height of Adam. His height, originally from earth to heaven or from one end of the earth to the other, was, after his sin, reduced to a hundred cubits. V. Hag. 22a.
(35) V. supra 3a. cf. Sanh. (Sonc. ed.) 100a.
(36) Ps. CXLIV, 22. How then, in view of their increase to a hundred cubits in height, necessitating correspondingly high gates, can R. Johanan say that the gates were only twenty in height?
(37) Isa. IV, 5.
(38) Lit., ‘his honour, glory.’
(39) Num. XXVII, 20.
(40) Joshua's glory was inferior to that of Moses.
(41) That there should be so much deterioration in the course of one generation.
(42) Ezek, XXVIII, 13. The text speaks of Hiram, King of Tyre, who is tauntingly asked whether he could compare himself with Adam who had all these canopies. ‘Every precious stone is not included in the number.
(43) Mar Zutra obtains the number eleven by including ‘Every precious stone’ in the list of materials used for making Adam's canopies.
(44) Ibid.
(45) Cf. Ezek. XXVIII, 2ff, Because thy heart is lifted up, and thou hast said: I am a God, etc.
(46) Lit., ‘many holes’ or ‘orifices’, created to curb human pride.

Talmud - Mas. Baba Bathra 75b

and decreed the penalty of death over Adam’.[1] What is implied by, and over her assemblies?[2] — Rabbah said in the name of R. Johanan: Jerusalem of the world to come will not be like Jerusalem of the present world. [To] Jerusalem of the present world, anyone who wishes goes up, but to that of the world to come only those invited[3] will go.

Rabbah in the name of R. Johanan further stated: The righteous will in time to come be called by the name of the Holy One, blessed be He; for it is said: Every one that is called by My name, and whom I have created for My glory. I have formed him, yea, I have made him.[4]

R. Samuel b. Nahmani said in the name of R. Johanan: Three were called by the name of the Holy One; blessed be He, and they are the following: The righteous, the Messiah and Jerusalem. [This may be inferred as regards] the righteous [from] what has just been said. [As regards] the Messiah — it is written: And this is the name whereby he shall be called, The Lord is our righteousness.[5] [As regards] Jerusalem — it is written: It[6] shall be eighteen thousand reeds round about; and the name of the city from that day shall be ‘the Lord is there.’[7] Do not read, ‘there’ but ‘its name’.[8]

R. Eleazar said: There will come a time when ‘Holy’ will be said before the righteous as it is said before the Holy One, blessed be He;[9] for it is said: And it shall come to pass, that he that is left in Zion, and he that remaineth in Jerusalem, ‘shall be called Holy.[10]

Rabbah in the name of R. Johanan further stated: The Holy One, blessed be He, will in time to come lift up Jerusalem three parasangs high; for it is said: And she shall be lifted up, and be settled in her place.[11] ‘In her place’ means ‘like her place’.[12] Whence is it proved that the space it occupied was three parasangs in extent? — Rabbah said: A certain old man told me, ‘I saw ancient[13] Jerusalem and it occupied[14] [an area of] three parasangs’. And lest you should think the ascent will be painful, it is expressly stated: Who are these that fly as a cloud, and as the doves to their cotes.[15] R. Papa said: Hence it may be inferred that a cloud rises three parasangs. R. Hanina b. papa said: The Holy One, blessed be He, wished to give to Jerusalem a [definite] size; for it is said: Then said I ‘Whither goest thou?’ And he said unto me: ‘To measure Jerusalem. to see what is the breadth thereof and what is the length thereof'.[16] The ministering angels said before the Holy One, blessed be He, 'Lord of the Universe, many towns for the nations of the earth hast thou created in thy world, and thou didst not fix the measurement of their length or the measurement of their breadth, wilt thou fix a measurement for Jerusalem in the midst of which is Thy Name, Thy sanctuary and the righteous?' Thereupon, [an angel] said unto him: 'Run speak to this young man, saying: Jerusalem shall be inhabited without walls, for the multitude of men and cattle therein'.[17]

Resh Lakish said: The Holy One, blessed be He, will in time to come add to Jerusalem a thousand[18] gardens, a thousand[18] towers, a thousand[18] palaces and a thousand[18] mansions;[19] and each [of these] will be as big as Sepphoris in its prosperity. It has been taught: R. Jose said: I saw Sepphoris in its prosperity, and it contained a hundred and eighty thousand markets for pudding[20] dealers.

[It is written]: And the side chambers were one over another, three and thirty times.[21] What is meant by three and thirty times? — R. Levi in the name of R. Papi in the name of R. Joshua of Siknin[22] said: If [in time to come] there will be three Jerusalems,[23] each [building] will contain thirty dwellings one over the other; if there will be thirty Jerusalems, each [building] will contain three dwellings one over the other.

It has been stated: [In the case of a ship] — Rab said: [The buyer acquires legal ownership] as soon as he pulled [it],[24] however slightly; whereas Samuel said: He cannot become its legal owner until he has pulled its full length.[25]

Must it be said that [they[26] differ on the same principles] as the [following] Tannaim? [For we have learned:][27] How is [the acquisition] by mesirah?[28] If [the buyer][29] seizes [the animal] by its hoof, hair, the saddle or the saddle-bag upon it, the bit[30] in its mouth, or the bell on its neck, he acquires legal possession. How is [the acquisition] by meshikah?[31] If he calls it and it comes, or if he strikes it with a stick and it runs before him, he acquires legal ownership as soon as it has moved a foreleg and a hind leg.[32] R. Ahi, some say R. Aha, said: [Not] until it has moved the full length of its body.[33]

Must it be said that Rab follows[34] the first Tanna and Samuel follows R. Aha?[35] — Rab can tell you: What I have said [is valid] even according to R. Aha. For his statement ['until it moved etc.'] is applicable only to an animal,[36] which, though it has moved a foreleg and a hind leg, remains in the same place;[37] but [in the case of] a ship, when a small part of it moves the whole moves. And Samuel can say: What I have said [is valid] even according to the first Tanna. For his statement ['as soon as it has moved, etc.'] is applicable only to an animal;[36] for, since one foreleg and one hind leg have been moved, the other legs are on the point of being moved[38] but [in the case of a ship] if he pulls it all, he does [acquire possession]; otherwise, [he does] not.[39]

Must it be said that [they[40] differ on the same principles] as the following Tannaim? For it has been taught: A ship is legally acquired by meshikah. R. Nathan said: A ship and letters[41] are legally acquired by meshikah[42]

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(1) 'Timbrels and holes' are taken as an allusion to the grave.

(2) Isa. IV, 5.

(3) מקראיה (root קרא) may mean 'invited guests' as well as 'assemblies'.

(4) Ibid. XLIII, 7.

(5) Jer. XXIII, 6.

(6) Jerusalem.

(7) Ezek. XLVIII, 35.

(8) 'There', Heb. שמה (shemo) 'its name', Heb. שמה The consonants שמה are the same. The relevant text is accordingly to be rendered: And as to the name of the city, from that day, ‘The Lord’ shall ‘be its name.

(9) Cf. Isa. VI, 3. And one called unto another and said: Holy, holy, holy, is the Lord of Hosts,

(10) Isa. IV, 3.

(11) Zech. XIV, 10.

(12) Jerusalem will he lifted up to a height equal to the extent of the space it occupies.

(13) Lit., ‘first’.

(14) Lit., ‘it was’.

(15) Isa. LX, 8.

(16) Zech. II, 6.

(17) Ibid. 8.

(18) No satisfactory explanation of the peculiar words, טפף, קפל, ליצוי, שילה that occur in the text, seems to be available. Some regard them as numerical symbols: טפף= 169, קפל= 210, ליצוי = 146, שילה = 345. Others take them as corrupt Greek, or Persian terms, corresponding to those in Hebrew that follow them in the text.

(19) טוטפראות may be a corruption of טיטרפליות Gr. **, ‘buildings with four gates’, ‘superior mansions.

(20) ציקי קדרה a dish made of various ingredients such as minced meats and spices mixed with wine.

(21) Ezek. XLI. 6.

(22) [Sogane, modern Suchnin in Galilee, N. of the Battoff plain. Klein, NB. p. 20 ff.]

(23) I.e., if Jerusalem of the time to come will be three times the size of the Present Jerusalem.

(24) Pulling, Heb. meshikah, משיכה is one of the modes of acquiring legal possession. It is performed by drawing the object towards oneself.

(25) The entire ship must be moved from its position. by the buyer, until its farther end touches the spot on which the nearer end had rested.

(26) Rab and Samuel.

(27) Cf. Kid., 22b.

(28) מסירה delivery or harnessing, is, like meshikah (p. 304, n .8), one of the modes of acquiring right of ownership. The buyer takes possession of the animal by performing some act which resembles harnessing or, in the case of other objects, by obtaining full delivery.

(29) At the request of the seller.

(30) פרומביא. Cf. Gr.**.

(31) V. p. 304. n. 8. Small cattle are usually taken possession of by meshikah, larger cattle by mesirah.

(32) Even if the animal has not completely shifted its position.

(33) The four legs must be moved from their position.

(34) In principle.

(35) if so, must Rab's and Samuel's views be regarded as opposed respectively to those of R. Aha and the other Tanna?

(36) Lit., ‘living beings’.

(37) The body. resting on the other legs, does not move from its position.

(38) And, in law, are regarded as having already moved.

(39) Because the shifting of part of a ship does not lift the whole ship completely out of its place.

(40) Rab and Samuel.

(41) I.e., a bond, note of indebtedness.

(42) The buyer of the bond acquires legal right to the debt recorded thereon by the meshikah of the bond.

Talmud - Mas. Baba Bathra 76a

or by a bill of sale.[1] ‘Letters’! Who mentioned them?[2] — Something is missing [in the statement of the first Tanna], and the following is the correct reading: A ship is acquired by meshikah, and letters by mesirah.[3] R. Nathan said: A ship and letters are acquired by meshikah and by a bill of sale. [But] why should a bill of sale be required in [the case of] a ship? [Surely] it is a movable object![4] But no,[5] the following is the correct reading: A ship is acquired by meshikah and letters by mesirah. R. Nathan said: A ship [is acquired] by meshikah, and letters by a bill of sale.[6] [Is not the statement of R. Nathan], ‘a ship [is acquired] by meshikah’, identical with that of the first Tanna?[7] [May we not then conclude that] they differ on the same principles as Rab and Samuel?[8] — No; [the views of] both[9] are either like [those of] Rab or like [those of] Samuel; and in [the case of] a ship there is no dispute whatsoever between them. They differ only in [the case of] letters. And this is what R. Nathan said to the first Tanna: in [the case of] a ship I certainly agree with you;[10] but, as regards letters, if there is [also] a bill of sale he does [acquire the right to the debt]; otherwise, [he does] not.

And their dispute[11] is analogous to that of the following Tannaim.[12] For it has been taught: Letters may be acquired by mesirah,[13] these are the words of Rabbi. But the Sages say: Whether [the seller] has written [a bill of sale] but has not delivered [the bond],[14] or whether he has delivered [the bond] but has not written [a bill of sale], [the buyer] does not acquire possession until [the seller] has written [the bill of sale] and delivered [the bond].[15]

How has the matter been established? [That the first Tanna is] in agreement with Rabbi! Should not [then] a ship also be acquired by mesirah?[16] For it was taught: A ship is acquired by mesirah, these are the words of Rabbi. And the Sages say: It is not acquired

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(1) Mere delivery of the bond (mesirah) does not confer upon the buyer any right to the debt, but only to the scrap of paper (Tosef. Kid. I).

(2) The first Tanna only dealt with a ship; why then does R. Nathan introduce letters?

(3) Because meshikah is effective only in the case of an object of intrinsic value. The intrinsic value of a bond is only that of the paper which may be acquired by meshikah. The right to the debt, however, cannot be acquired except by ‘mesirah.

(4) And movable objects, are acquired by meshikah alone.

(5) The reading just suggested cannot be the correct one.

(6) In addition to the delivery of the bond. V. 307, n. 2.

(7) Why then should R. Nathan make his statement at all?

(8) The first Tanna, like Samuel, requires full meshikah, viz., pulling the entire ship into a new position. R. Nathan, on the other hand, who obviously disputes this requirement, maintains, like Rab, that a slight pull is sufficient.

(9) R. Nathan and the first Tanna.

(10) That the right of ownership is acquired by meshikah either complete (according to Samuel) or slight (according to Rab).

(11) That of R. Nathan and the first Tanna.

(12) R. Nathan agrees with the Sages, and the first Tanna with Rabbi.

(13) V. Glos. The buyer acquires the right to the debt as soon as the bond is delivered to him.

(14) Even though the bill of sale had been delivered.

(15) The delivery also of the bill of sale is assumed (Kid. 47b).

(16) Why then does the first Tanna require meshikah?

Talmud - Mas. Baba Bathra 76b

until [the buyer] has pulled it,[1] or until he has hired the place it occupies![2] — This is no difficulty. [Rabbi] here [where mesirah is sufficient] refers to the case of a ship in public territory;[3] [the Tanna] there [where meshikah is required] deals with the case of a ship in an alley [adjoining a public place].[4]

How have you explained the last [mentioned Baraitha? That it speaks of a ship] in reshuth harabbim! Read [then] the last clause: ‘And the sages say: It[5] is not acquired until [the buyer] has pulled it or until he has hired the place it occupies’. Now, if [the ship is] in reshuth harabbim, from whom could he hire [the place]? Furthermore, can legal ownership be acquired in reshuth harabbim by meshikah? Surely both Abaye and Raba stated:[6] Mesirah[7] confers legal ownership in reshuth harabbim[8] or in a court-yard which belongs to neither of them;[9] meshikah[10] confers ownership in an alley[11] or in a court-yard owned by both of them; and lifting[12] confers ownership everywhere![13] What is really the meaning of the expressions,[14] until [the buyer] has pulled it’ and ‘until he has hired the place it occupies'? — [They mean] 'Until [the buyer] has pulled it]' out from the reshuth harabbim into an alley; and, if the place is the property of the owner,[15] he does not acquire ownership[16] 'until he has hired the place it occupies'.

Must it [then] be said that Abaye and Raba[17] follow Rabbi[18] [and not the Rabbis[19] who are the majority]? — R. Ashi said: If the [seller] told him,[20] 'Go, take possession and acquire', even [the Rabbis would say] so.[21] Here, however, we deal with a case when [the seller] said to him, 'Go, pull and acquire' — The Rabbis hold the opinion that [by this expression he] intimated his objection[22] [to any other mode of taking possession] and the other[23] holds the opinion that [by this][24] he was merely indicating to him a [suitable] place.[25]

R. Papa said: He who sells a bond to his friend must also give him in writing [the following statement]: 'Acquire it and all rights[26] contained therein'. R. Ashi said: When I quoted this law[27] in the presence of R. Kahana I said unto him: '[possession of the debt is acquired accordingly] only because he has written for him in this manner, but had he not so written, no possession would be acquired, — does one then require [a bond] to use as a stopple for his bottle?'[28] He said unto me: 'Yes, just[29] to use it as a stopple.'[30]

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(1) into his own grounds or domain.

(2) The place thus becomes his own territory and, thereby, acquires for him title to the ship.

(3) רשות הרבים, reshuth harabbim, where it is impossible to perform meshikah which is effective only when the object is drawn into the buyer's own domain. Possession, therefore, is acquired by mesirah.

(4) Since the alley is not a reshuth harabbim, in the full sense, the public using it only occasionally. It may be regarded as the private domain of anyone who happens to be there, and, therefore, meshikah only can there be effected (v. p. 3. n. 3).

(5) The ship.

(6) Infra 84b.

(7) V. Glos. It is applicable in the case of a ship or large cattle.

(8) Reshuth harabbim where meshikah cannot be performed.

(9) Neither to the buyer nor to the seller.

(10) V. Glos.

(11) An alley is regarded as the territory of anyone who happens to be in it. The buyer and the seller are, accordingly, its common owners. Mesirah is effective only in reshuth harabbim, but not in an alley which is the common territory of both parties. and where meshikah, the better legal mode of acquisition can be resorted to (v. H.M. 297.8).

(12) הגבהה hagbahah. Lifting up the object, like meshikah and mesirah, is one of the forms of acquiring legal possession.

(13) Cf. Kid. 23b. How then could the latter Baraitha speak of reshuth harabbim, and yet provide for the acquisition by meshikah.

(14) In the last mentioned Baraitha.

(15) I.e., the vendor.

(16) Either by meshikah or by mesirah.

(17) Who hold that ownership may be acquired in reshuth harabbim by mesirah.

(18) In the last mentioned Baraitha.

(19) Who hold that mesirah is not effective in reshuth harabbim since they require that the boat be pulled out from the public domain into an alley.

(20) The buyer.

(21) I.e., even the Rabbis would agree that possession is acquired in reshuth harabbim by mesirah.

(22) I.e., he indicated his desire to be able to withdraw from the sale so long as the buyer had not pulled and removed the object away from the reshuth harabbim into his own territory. Mesirah is, therefore, not effective.

(23) Rabbi.

(24) I.e., by saying. 'Pull'.

(25) The buyer, having acquired the ship by mesirah, is told by the other: 'You may remove (pull) it at once into your own grounds'.

(26) שעבודדא lit., ‘obligation’, ‘pledge’.
(27) שמעתא lit., ‘something heard’; usually a traditional law or decision.
(28) Lit., ‘to tie, or to wrap, round the mouth of his bottle or flask.’ Surely a bond is bought for the sake of the rights it contains; not for the purpose of being used as a mere scrap of paper.
(29) Lit., ‘to wrap and to wrap’.
(30) Consequently, if the price given is higher (by a sixth or more) then the actual value of the piece of paper, the buyer may recover his money by returning the bond to the seller.

Talmud - Mas. Baba Bathra 77a

Amemar said: The law is [according to Rabbi] that letters are acquired by mesirah.[1] R. Ashi said to Amemar: ‘[Is this] a tradition or a logical deduction?’ He replied unto him: ‘[It is] a tradition.’ R. Ashi said: This[2] may also be deduced logically, because letters[3] are words, and words cannot be acquired by means of [other] words.[4] And [can they] not? Surely Raba b. Isaac said in the name of Rab: There are two [kinds] of deeds. [If a person says],[5] ‘take possession[6] of the field on behalf of X, and write for him the deed’,[7] he may withdraw the deed[8] but not the field.[9] [If, however, he says, ‘take possession of the field] on condition that you write for him the deed’, he may withdraw[10] both the deed and the field. But R. Hiyya b. Abin says in the name of R. Huna: There are three kinds of deeds. Two have just been described. [And the] third[11] is one which the seller writes before [the sale],[12]

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(1) And there is no need to write, in addition, a bill of sale (v. Glos.).

(2) That a bond is acquired by mesirah only. and not by a bill of sale.

(3) I.e., a bond.

(4) I.e., a deed of sale.

(5) I.e., to witnesses.

(6) Possession of the field on behalf of a donee is obtained by the handing over of an object (e.g. a scarf) by the donor to witnesses. The transfer of the object symbolises the transfer of the gift.

(7) Confirming the donation.

(8) If the donor, after having given the instructions to the witnesses, desires to have no written confirmation of the gift. he may recall the deed at any time before it reaches the donee.

(9) Because the field had already passed into the legal ownership of the donee, from the moment the donor had handed over the ‘symbolic’ object to the witnesses.

(10) Because in this case he intimated his desire that the field shall become the property of the donee only after he had received the deed; and since the deed has not been delivered, both the field and the deed may be withdrawn at the discretion of the donor.

(11) Lit., ‘another’.

(12) Being anxious to sell, and in order to expedite the transaction on obtaining the consent of the buyer, he requests a scribe to prepare the deed before he knows whether the person to whom he wishes to sell would consent to buy.

Talmud - Mas. Baba Bathra 77b

in accordance with the law we have learned [that] a deed may be written for the seller[1] though the buyer is not with him.[2] [In this case], as soon as [the buyer] takes possession of the ground he acquires [also] the deed, irrespective of the place in which it is kept.[3] And this accords with what we have learned, that movable property[4] may be acquired with landed property[5] by means of money,[6] deed[7] and possession![8] — [Acquiring a deed] on the basis [of land bought jointly with it] is different [from its independent acquisition]; for a coin which cannot be acquired by halifin[9] may [yet] be acquired by virtue of land [bought jointly with it]. As in the case of R. Papa.[10] He had a money claim of twelve thousand zuz at Be-Huzae.[11] He passed them over into the possession of R. Samuel b. Aha by virtue of his threshold.[12] When the latter came [back] he went out to meet him as far as Tauak.[13]

BUT HE DOES NOT SELL THE CREW, NOR THE PACKING BAGS, NOR THE STORES, ETC. What is the meaning of Enteke?[14] — R. Papa said: The merchandise which it contains.

MISHNAH. HE WHO SOLD A WAGGON HAS NOT SOLD THE MULES, HE WHO SOLD THE MULES HAS NOT SOLD THE WAGGON. HE WHO SOLD THE YOKE HAS NOT SOLD THE OXEN. HE WHO SOLD THE OXEN HAS NOT SOLD THE YOKE. R. JUDAH SAYS: THE PRICE INDICATES [WHAT IS TO BE INCLUDED IN THE SALE]. HOW? — [IF] HE SAID UNTO HIM: SELL ME YOUR YOKE FOR TWO HUNDRED ZUZ; IT IS OBVIOUS THAT A

YOKE [ALONE] IS NOT [SOLD] FOR TWO HUNDRED ZUZ. BUT THE SAGES SAY: THE PRICE IS NO PROOF.

GEMARA. R. Tahlifa the Palestinian[15] recited [a Baraitha] before R. Abbahu: He who sold the waggon has sold the mules. 'But surely', [the master said,] 'we learned: HE HAS NOT SOLD'! He said unto him: Shall I cancel it? He replied unto him: No; your teaching may be interpreted [as dealing with the case] when [the mules] were harnessed[16] to it.

HE WHO SOLD THE 'YOKE' HAS NOT SOLD THE OXEN, ETC. How is this to be understood? If it be said that [the Mishnah speaks of a place where] a yoke is called yoke and oxen [are called] oxen, [in this case] surely he sold him the yoke, but has not sold him the oxen[17] And if the oxen also are called 'yoke', all was [obviously] sold![18] — [The law in the Mishnah] is necessary [to be stated in order to provide] for a place where a yoke is called 'yoke' and oxen, oxen'; while there are also some who call the oxen [also] 'yoke'. [In such a case], R. Judah holds the opinion that the price indicates [what was the intention of the seller],[19] and the Rabbis [the Sages] hold the opinion [that] the price is no proof.[20]

But if the [excessive] price is no proof [that the oxen were included in the sale], the [return of the overcharge or the] cancellation of the [entire] purchase should follow![21]

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(1) Though the statement in the deed is seemingly untrue, since the buyer mentioned is only imaginary; yet, at the request of the seller, it may be written, because this involves no loss to anyone except possibly to the seller himself should he lose the deed and the person therein named should happen to find it.

(2) V. infra 167b.

(3) Since it was the intention of the seller to give the buyer possession of the deed the latter acquires it together with the land just as if he had performed meshikah with the deed itself.

(4) Lit., 'property which has no secure foundation', from which debtors cannot collect their debts.

(5) Lit., 'property which has a secure foundation, I.e., real estate which cannot be moved and is consequently always at the disposal of the creditor or anyone having a rightful claim to it.

(6) Paid for the land.

(7) Confirming the sale of the land.

(8) possession, by performing some kind of work on the estate, v. supra 42a. Now in view of the statement above that the deed is acquired irrespective of the place in which it is kept, how could Amemar and R. Ashi state that a deed can be acquired only by means of actual delivery?

(9) Lit., 'substitution'. One of the forms of possession consisting of a symbolical act: handing to the purchaser any object in substitution of the actual thing sold.

(10) [His home was at Naresh, S. of Sura.]

(11) [Modern Khuzistan, S. W. Persia, Obermeyer, p. 204 ff.]

(12) Thus the threshold and the debt were acquired by R. Samuel at the same time, empowering him (R. Samuel) to collect the debt as its legal owner, and freed the debtors of all responsibility from the moment they paid him over the money.

(13) [S. of Naresh, Obermeyer, p. 28.1 Showing his gratitude for the successful results of the mission. Cf. infra 150b.

(14) Gr.**, is the term used in the Mishnah, supra 731.

(15) Lit., 'son of the West'.

(16) To the waggon at the time the sale took place, while our Mishnah deals with the case when they were not attached to it.

(17) Why. then, does R. Judah say that the sale is dependent on the price?

(18) Why do the Sages say that the price is no proof?

(19) Since the seller has asked for a high price, he must be one of those who describe the oxen also as 'yoke'.

(20) There is doubt as to whether the seller intended to include the oxen in the sale of the yoke, and in such a case the possessor is entitled to the benefit of the doubt. The buyer, therefore, cannot lay claim to the oxen.

(21) I.e., if the difference between the actual cost and the price given is a sixth of the value, the overcharge should be returned; if more than a sixth, the whole transaction should be cancelled.

Talmud - Mas. Baba Bathra 78a

And should you reply that the Rabbis do not accept [the law of the return of overcharge or that of] the cancellation of the purchase,[1] surely.[2] have we not learnt: R. Judah says: ‘In the case of the sale of a scroll of the Law, a beast or a pearl, [the law of] overcharging does not apply.[3] But they[4] said unto him: Only [about] those [mentioned above][5] has [this][6] been said.’?[7] — What is the meaning of [the statement that] the price is no proof? That the [entire] sale is to be cancelled.[8] If you prefer, I would say: The Rabbis apply [the laws of] overcharging and cancellation of sale [only in cases] where one is likely[9] to be deceived,[10] but not when one is unlikely to be deceived,[11] [for in the latter case] it may be assumed that [the difference] was given as a gift. MISHNAH. HE WHO SELLS AN ASS HAS NOT SOLD ITS EQUIPMENT.[12] NAHUM THE MEDE SAYS: HE HAS SOLD ITS EQUIPMENT.[13] R. JUDAH SAYS: SOMETIMES IT IS SOLD, SOMETIMES IT IS NOT SOLD. HOW SO? IF THE ASS WITH ITS EQUIPMENT UPON IT STOOD BEFORE HIM AND HE [THE BUYER] SAID UNTO HIM: ‘SELL ME THIS ASS[13] OF YOURS, THEN ITS EQUIPMENT IS SOLD. [IF, HOWEVER, HE SAID]: ‘IS THE ASS YOURS? [SELL IT TO ME].’[14] ITS EQUIPMENT IS NOT SOLD.

GEMARA. ‘Ulla said: The dispute [between the first Tanna and Nahum the Mede is only] about the sack, the saddle-bag,[15] and pallet.[16] For the first Tanna is of the opinion that an ass is, as a rule, used for riding,[17] and Nahum the Mede is of the opinion that an’ ass is, as a rule, used for carrying burdens;[18] but [in the case of the] saddle, pack-saddle, cover[19] and saddle-belt both agree[20] that these are included in the sale.

An objection was raised: [It has been taught: If one says to another] ‘I sell you the ass and its equipment’, he has sold him the saddle, the pack.saddle. the cover and the saddle-belt, but he has not sold the sack, the saddle-bag and the pallet; if, however, he said unto him, ‘[I sell you] it [the ass] and all that is upon it’, then all these are included in the sale. [From this follows that] the reason why [the buyer] acquires possession of the saddle and the pack. saddle is that [the seller] said ‘[I sell] it and its equipment’, but if he had not said so, [the buyer would] not [have acquired these]?[21] No! The law that the saddle and the pack-saddle are included in the sale is applicable even though [the seller] did not say unto him ‘[I sell you the] ass and its equipment’; but [by the inclusion of the statement][22] he teaches us that although [the seller] said unto him: ‘[I sell you] the ass and its equipment's he [the buyer] does not acquire the sack, the saddle-bag and the pallet.[23]

What is kumni?[24] — R. Papa b. Samuel said: A [mattress] seat[25] for travelling women.

The students inquired: Is the dispute [between the first Tanna and Nahum the Mede] in the case when [the sack and saddle-bag] are upon it,[26] but when these are not upon it, Nahum the Mede agrees with the Rabbis,[27] or is the dispute in the case when these are not upon it, but when they are upon it, the Rabbis agree with Nahum?[28]

Come and hear: [It is stated in the above Baraitha:] But when he said unto him, ‘[I sell you] it and all that is upon it’, then all these are sold. Now, this would be correct if it were assumed that the dispute [related to the case] when they[29] are upon it;[30] [since] this [Baraitha] could be assigned to the Rabbis.[31] If, however, it is assumed that the dispute [relates to the case] when they[32] are not upon it,[33] but that [in case] they are upon it both agree that they are [implicitly] included in the sale, to whom [could] this [Baraitha be assigned]?[34] — It may still be said that the dispute relates to the case when they are not upon it, and the Baraitha may be assigned to the Rabbis, but read: If, however, he said unto him, ‘it and all that ought[35] to be on it’.

Come and hear: R. JUDAH SAYS: SOMETIMES IT IS SOLD, SOMETIMES IT IS NOT SOLD. Now, does not R. Judah presumably base his statement on what the first Tanna has said? [And since R. Judah specifically[36] deals with the case when the equipment is upon the ass, the first Tanna must also be speaking of a similar case!][37] — No; R. Judah

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(1) I.e., if it is assumed that the Rabbis do not require the return of the overcharge when it is a sixth of the value, and the cancellation of the entire transaction when the overcharge is more.

(2) Lit., 'and not? surely'.

(3) I.e., the buyer can claim no redress for being overcharged.

(4) The Rabbis.

(5) Those mentioned in the first part of the Mishnah in B.M. 56a.

(6) I.e:, the law of exemption from overcharging.

(7) B.M. 56b. But in all other cases, according to the Rabbis, either the overcharge must be returned or the entire transaction cancelled. Why then do the Rabbis say here that the price is no proof implying that the sale is valid and that no overcharge is to be returned?

(8) Where the overcharging was higher than a sixth of the price; where it was less, only the overcharge would have to be returned.

(9) When the overcharge is only small.

(10) Lit., 'when the mind might err'.

(11) As in our Mishnah, no one could be deceived into giving two hundred zuz for a yoke worth only a fraction of such a large sum.

(12) The Gemara explains the reason.

(13) As it is, i.e., with its equipment.

(14) In this case he offered to buy the ass only.

(15) דיסקיא, doubled pouched bag.

(16) כומני perhaps from Gr. pallet-bed. V. the Talmudic explanation, infra.

(17) I.e., by males; and since a sack, saddle-bag and pallet are not required by men-riders, these are not included in the sale of the ass.

(18) The sack, etc., which are required for an ass carrying burdens, are, therefore, also included in the sale.

(19) קילקלי, coarse cloth made of Cilician goats' hair, worn on the animal's back.

(20) Lit., 'the words of all', i.e., the first Tanna and Nahum the Mede.

(21) How, then, can 'Ulla say that both the first Tanna and Nahum the Mede agree that these parts of the equipment are always implicitly included in the sale of the ass?

(22) '(I sell you) it and its equipment'.

(23) In accordance with the opinion of the first Tanna in our Mishnah.

(24) V. p. 313. n. 5,

(25) מרכרתא usually chariot.

(26) I.e., upon the ass at the time of the sale.

(27) That these are not included in the sale.

(28) That these are included in the sale.

(29) I.e., the saddle and the saddle-bag.

(30) The ass.

(31) Who stated that unless 'it and all upon it' was expressly mentioned, the equipment is not included in the sale.

(32) V. n. 8.

(33) V. n. 9.

(34) Neither to the Rabbis nor to Nahum the Mede, since both have been assumed to agree that in the case when the saddle etc. were upon the ass they are implicitly included in the sale, while according to the Baraitha these are not included unless 'it and all upon it', had been explicitly stated at the time of the sale.

(35) The Baraitha accordingly relates to the case when the saddle etc. were not upon the ass.

(36) V. the last clause of the Mishnah.

(37) How then could it be said that the dispute in the Mishnah relates to the case when the equipment is not upon the ass?

Talmud - Mas. Baba Bathra 78b

speaks of a different case.[1]

Rabina said to R. Ashi: Come and hear! [We learnt:] He who sold a waggon has not sold the mules.[2] And R. Tahlifa the Palestinian recited in the presence of R. Abbahu: He who sold the waggon has sold the mules; and [the master] said unto him: Surely we have learned that he has not sold! And he replied. Shall I cancel it? And [the master] said to him: No; your teaching may be interpreted [as dealing with the case] where [the mules] were harnessed to it. From this it must be inferred that the Mishnah [speaks of the case] where [the mules] are not harnessed [to the waggon]; and since the first part[2] [is concerned with the case] when they are absent from it,[3] the latter part[4] also [must be dealing with the case] when they[5] are absent from it![6] — On the contrary, consider the [very] first part [which reads]: But he does not sell the crew nor the Enteke;[7] and it has been stated: What is the meaning of Enteke? R. Papa said: The merchandise which it contains.[8] Now, since the first part [deals with the case] when it [the merchandise] is in it [the ship], the latter part[9] also [must deal with a similar case, which is] when it [the equipment] is upon it [the ass]![10] But [the only way out of the difficulty is to conclude that] the Tanna dealt with different cases in the different parts of the Mishnah.[11]

(Mnemonic Zegem Nesen.)[12]

Abaye said: R. Eliezer and R. Simeon b. Gamaliel and R. Meir and R. Nathan and Symmachus and Nahum the Mede are all of the opinion that when a man sells an object he sells it and all its accessories. [As to] R. Eliezer, we learnt: R. Eliezer says: He who sells the building of an olive-press has also sold the beam. [As to] R. Simeon b. Gamaliel, we learnt:[13] R. Simeon b. Gamaliel says: He who sells a town has also sold the Santer.[14] [As to] R. Meir, it has been taught: R. Meir says: He who sells a vineyard has sold the vineyard tools. [As to] R. Nathan and Symmachus, [the case of] the small boat and the fishing boat.[15] Nahum the Mede, in the case just mentioned.[16]

R. JUDAH SAYS: SOMETIMES IT IS SOLD, etc. What is the difference between THIS ASS OF YOURS and IS THE ASS YOURS? — Raba said: [When the buyer used the expression,] THIS ASS OF YOURS, he was aware that the ass was his,[17] and the reason, therefore, why he said unto him, ‘THIS’,[18] [must have been] on account of its equipment. [But when he asked], ‘IS THE ASS YOURS?’ [he did so] because he was not aware that the ass was his, and this was [the implication of] his inquiry: ‘is the ass yours? Sell it to me.’[19]

MISHNAH. HE WHO SOLD AN ASS HAS [ALSO] SOLD[20] [ITS] FOAL. HE WHO SOLD A COW HAS NOT SOLD ITS CALF [ALSO]. HE WHO SOLD A DUNGHILL HAS [ALSO] SOLD THE MANURE IN IT. HE WHO SOLD A CISTERN HAS [ALSO] SOLD ITS WATER. HE WHO SOLD A BEE-HIVE HAS [ALSO] SOLD THE BEES. HE WHO SOLD A DOVE-COTE HAS [ALSO] SOLD THE DOVES.

GEMARA. Of what case [does the first part of the Mishnah speak]? If [it is] that the [seller] said unto him, ‘[I sell you] it and its young’, then even [in the case of the] cow and its young the same [law should apply].[21] If, [however], he did not specify, ‘it and its young’, [then] even [in the case of the] ass also [the foal should] not [be included in the sale]? — R. Papa answered: [The Mishnah speaks of a case] where [the seller] said unto him, ‘I sell you a milch-ass or a milch-cow’. [Consequently in the case of the] cow, it may properly be assumed [that the seller[22] thought the buyer] would require the cow for the sake of its milk, but [in the case of an] ass, what could he have meant [by mentioning ‘milch’]?[23] It must [therefore] be concluded that he [meant] to say, ‘[I sell you] it [the cow] and its calf’. Why is [the foal] called Sayyah?[24] Because it follows gentle talk.[25]

R. Samuel b. Nahman said in the name of R. Johanan.[26] What is the meaning of the verse: Wherefore hamoshelim [they that speak in parables] say, etc.?[27] — Hamoshelim,[28] [means] those who rule their evil inclinations. Come Heshbon,[29] [means,] come, let us consider the account of the world; the loss incurred by the fulfilment of a precept against the reward secured by its observance, and the gain gotten by a transgression against the loss it involves.[30] Thou shalt be built and thou shalt be established[31] — if thou dost so, thou shalt be built in this world and thou shalt be established in the world to come. ‘Ayyar Sihon:[32] if a man makes himself like a young ass that follows the gentle talk [of sin]; what comes next?[33] For a fire goes out Meheshbon[34] etc.: A fire will go out from those who calculate [the account of the world][35] and consume those who do not calculate.[36] And a flame from the city of Sihon[37] : From the city of the righteous who are called trees.[38] It has devoured ‘Ar Mo'ab[39] : This refers to one who follows his evil inclination like a young ass[40] that follows gentle talk.[41] The high places of Arnon,[42] refers to the arrogant; for it has been said: Whosoever is arrogant falls into Gehenna.[43] Wanniram[44] — the wicked says: There is no High One;[45] Heshbon is perished[45] — the account of the world is perished.[46] Unto Dibon — the Holy One, blessed be He, said: ‘Wait until judgment cometh’;[47] and we have laid waste

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(1) While the dispute between the first Tanna and Nahum the Mede may still relate to the case when the ass does not wear its equipment and both of them may be in agreement in the case when the ass does wear it, R. Judah may yet differ from them and hold that the equipment. even if worn by the ass, is sometimes not included in the sale.

(2) V. Mishnah, supra 77b.

(3) I.e., the mules are not attached to the waggon.

(4) The Mishnah, supra 78a, dealing with the case of an ass and its equipment.

(5) The saddle and packsaddle.

(6) The ass; which solves the query of the students.

(7) The Mishnah, supra 731.

(8) Supra 77b.

(9) The Mishnah, supra 78a.

(10) But this assumption is in direct contradiction to the previous assumption; which is impossible!

(11) מלי מלי, ‘words, words’.

(12) This mnemonic is an aid to the memorization of the names of the Rabbis mentioned in the following passage: Z =Eliezer, G = b. Gamaliel, M =Meir, N=Nathan, S =Symmachus, N = Nahum.

(13) Supra 67b.

(14) Supra p. 270.

(15) Supra 73a.

(16) In the Mishnah, supra 78a.

(17) The seller's.

(18) Heb. זו, implies the ass as it stands, viz., with all its equipment.

(19) Here, no emphasis was laid on ‘this ass’ (cf. previous note). The equipment therefore is excluded from the sale.

(20) Throughout this Mishnah ‘also sold’ means, ‘sold implicitly at the same time’.

(21) I.e., that the calf should he sold implicitly together with the cow.

(22) Who mentioned ‘milch’.

(23) Surely an ass is not required for milk.

(24) סיח, is the term used in the Mishnah for ‘foal’.

(25) From the root סיח = שיח, talk; i.e., the gentle (lit.. the beautiful), the persuasive words of its driver. An older ass must be driven by force.

(26) [Some texts read, R. Samuel b. Nahmani in the name of R. Jonathan.]

(27) Num. XXI, 27.

(28) The Heb. root משך, means ‘to speak in parables’ and also ‘to rule’, ‘to master’.

(29) Ibid. חשבון is rendered reckoning’ from חשה.

(30) Cf. Aboth, II, 2.

(31) Ibid. תבנה ותכונן, may be taken as second person singular masc. (as interpreted here) as well as third pers.

sing. fem. (as E.V.).

(32) Ibid. סיחון punctuated as in M.T. gives the meaning ‘city of Sihon’. But it may also be punctuated עיר סיחון(ayar sihon) in accordance with the interpretation here given.עיר ‘young ass’; סיחון of the same root as סיחה ‘talk’.

(33) Lit., ‘what is written after it’.

(34) Ibid. v. 28. Heb. מחשבון may mean ‘from the city of Heshbon’ (as E.V.). and may also be taken as coming from the root חשב, ‘to reckon’, ‘to consider’, V. p. 317, n. 9.

(35) Viz., The righteous, v. supra.

(36) The wicked.

(37) Ibid.

(38) סיחון is taken to mean trees, שיחין The righteous are compared to trees. Cf. Ps. XCII, 13; Zech. I, 8, 10, 11. and Sanh. 93a.

(39) Ibid.

(40) ער, taken to have the same meaning as עיר ‘young ass’, ‘foal’.

(41) Allows himself to be enticed by the attractions of sin.

(42) Ibid. Heb.בעלי במות, is rendered men of haughtiness.

(43) Supra 10b. A.Z. 18b.

(44) Ibid. v. 30. ונירם E.V. ‘we shot at them’. Here taken as an abbreviation of אין רם no High One’.

(45) Ibid.

(46) There will be no day of judgment.

(47) Heb. דיבון. (E.V. Dibon) is taken as an abbreviation of יבא דין.

Talmud - Mas. Baba Bathra 79a

even unto Nophah,[1] — until there comes a fire which requires no fanning;[2] unto Medebah[3] — until it will melt their souls.[4] Others interpret: Until He had accomplished what he desired[5] [to do to the wicked].

Rab Judah said in the name of Rab: Whosoever departs from the words of the Torah is consumed by fire; for it is said: And I will set my face against them; out of the fire[6] are they come forth[7] and the fire shall devour them.[8] When R. Dimi came[9] he said in the name of R. Jonathan: Whosoever departs from the words of the Torah falls into Gehenna, for it is said: The man that strayeth out of the way of understanding shall rest in the congregation of the shades;[10] and the shades must be synonymous with Gehenna for it is said: But he knoweth not that the shades are there, that her guests are in the depths of Sheol.[11]

HE WHO SOLD A DUNGHILL HAS [ALSO] SOLD THE MANURE IN IT, etc. We learnt elsewhere:[12] [In the case of] all [objects which are] suitable for the altar and not for the Temple repair,[13] [or] for Temple repair and not for the altar[14] [and also in the case of those which are suitable] neither for the altar nor for Temple repair.[15] they and their contents are subject to the law of Me'ilah.[16] How so? [If] one dedicated a cistern full of water, dunghills full of manure, a dove-cote full of doves, a field full of herbs [or] a tree bearing fruit, the law of Me'ilah is applicable both to them and to their contents. [If,] however, one dedicated a cistern which was subsequently[17] filled with water, a dunghill which was subsequently filled with manure, a dove-cote, which was subsequently filled with doves, a tree which subsequently began to bear fruit [or] a field which was subsequently filled with herbs, [in all these cases] the law of Me'ilah is applicable to the objects but not to their contents. These are the words of R. Judah. R. Jose says: If fields or trees are dedicated,[18] they and their products are subject to the law of Me'ilah, because [the latter] are the growths of consecrated property.

It has been taught: Rabbi said: The opinion of R. Judah is acceptable in [the case of] a cistern and a dove-cote,[19] and the opinion of R. Jose in [the case of] a field and a tree. How [do you understand] that?[20] It is quite correct [for Rabbi to say that] ‘the opinion of R. Judah is acceptable in [the case of] a cistern and a dove-cote’ and thus to imply that he disagrees with him in [the case of] a field and a tree;[21] but [as regards the expression], ‘the opinion of R. Jose is acceptable in [the case of] a field and a tree’, which implies that he[22] disagrees [with him in [the case of] a cistern and a dove-cote, surely R. Jose speaks [only] of a field and a tree![23] And if you would reply that [R. Jose] argues in accordance with the views of R. Judah[24] [and that he himself is in entire disagreement with them],[25] surely it has been taught: R. Jose said: I do not accept R. Judah's views on a field and a tree, because these[26] are the products of consecrated objects. [This clearly proves that] only in the case of field and tree he[27] does not accept,[28] but in [the case of] cistern and dove-cote he does accept![29] — This [is what Rabbi implied: The opinion of R. Judah is acceptable to R. Jose in [the case of] a cistern and a dove-cote, because even R. Jose disagreed with him only on field and tree, but on cistern and dovecote he agrees with him.

Our Rabbis taught: If one dedicated them[30] empty, and subsequently they were filled, the law of Me'ilah is applicable to them but not to their contents. R. Eleazar b. Simeon says: The law of Me'ilah is applicable to their contents also.

Said Rabbah: The dispute[31] has reference to field and tree, for the first Tanna holds the same opinion as R. Judah, and R. Eleazar b. Simeon is of the same opinion as R. Jose; but in [the case of] cistern and dove-cote, both[32] agree that the law of Me'ilah applies to them and not to their contents. Abaye said unto him: But surely it has been taught:[33] If one dedicated them when full, Me'ilah is applicable to them and to their contents, and R. Eleazar b. Simeon reverses [his previous view].[34]

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(1) Ibid.

(2) Nophah. root נפה, ‘blowing’.

(3) Ibid.

(4) I. e., the souls of the wicked. מידבא, is here derived from the root דאב, ‘to melt’.

(5) עד מידבא, is regarded as a contraction of ע ד [עבד] מ [א] י דבע [י] א ‘until he had done what he wanted’. [‘Aleph and ‘Ayin are interchangeable].

(6) Fire is symbolic of the Torah. Cf. Jer. XXIII. 29 and Deut. XXXIII, 2.

(7) They have departed from the words of the Torah which is compared to fire.

(8) Ezek. XV, 7.

(9) From Palestine to Babylonia.

(10) Prov. XXI, 16.

(11) Ibid. IX, 18. She'ol = Gehenna, is a parallelism of Refaim = Shades.

(12) Me'il. 13a.

(13) E.g., unblemished cattle, flour or wine.

(14) E.g.. gold, silver or precious stones.

(15) E.g., milk, cheese or herbs which can only be sold and their proceeds used for the Temple or altar purposes.

(16) מעילה, (from root מעל ‘to trespass’ or ‘to defraud’). The trespass offering prescribed for the inappropriate use of objects consecrated to the altar or Temple; v. Lev. v. 15ff,

(17) After the dedication.

(18) Lit., ‘he who dedicates the field or the tree’.

(19) Viz., the opinion that if these were filled subsequent to the dedication, their contents are not subject to the laws of Me'ilah.

(20) Rabbi's statement.

(21) Since R. Judah speaks not only of a cistern and a dove-cote but also of a field and a tree.

(22) Rabbi.

(23) But in the case of a cistern and a dove-cote R. Jose agrees with R. Judah! Rabbi's statement, therefore, should have read, either ‘the opinion of R. Jose is acceptable’ or ‘the law is according to R. Jose’.

(24) Demanding his agreement at least on field and tree.

(25) I.e., as far as R. Jose himself is concerned he not only disputes R. Judah's opinion in the case of field and tree hut also in that of cistern and dove-cote. And, consequently, Rabbi's expression regarding R. Jose would also be correct.

(26) I.e., the herbs and the fruit that grew after the dedication.

(27) R. Jose.

(28) The views of R. Judah.

(29) The views of R. Judah. How then, as previously asked, could Rabbi use the expression, ‘the opinion of R. Jose is acceptable etc?’.

(30) The Gemara will explain what objects the pronoun represents.

(31) In this last quoted Baraitha.

(32) Lit., ‘The words of all’.

(33) What follows is a continuation of the Baraitha just quoted and discussed.

(34) Though, if dedicated when empty. he subjects the contents (that were added later) to the law of Me'ilah; if dedicated when full, he exempts the contents from this law.

Talmud - Mas. Baba Bathra 79b

Now, if [the dispute has reference] to field and tree,[1] why does he reverse [his view]?[2] Consequently[3] Rabbah said: The dispute[4] [has reference] to cistern and dove-cote, but [in the case of] field and tree both agree that they and their contents are subject to the law of Me'ilah. On what principle do they[5] differ when the cistern and dove-cote are empty, and on what principle do they differ when the cistern and dove-cote are full? — When [the cistern and dove-cote are] empty, the dispute is analogous to that of R. Meir and the Rabbis. For the first Tanna is of the same opinion as the Rabbis who said no one can hand over possession of a thing that does not exist,[6] while R. Eleazar b. Simeon is of the same opinion as R. Meir who said[7] that one can hand over possession of a thing that does not exist.[8] [But] say! where has R. Meir been heard [to express his view? Only in the case], for example, as that of fruits of a palm-tree, because they generally come up, but [as to] these,[9] who can assert that they will come?[10] — Raba said: It is possible[11] when water runs through his [own] courtyard into the cistern and when doves come through his dove-cote into the [dedicated] dove-cote. And in what case do they differ when [the cistern and dove-cote are] full? — Raba said: For example. when he dedicated a cistern without mentioning its contents; and R. Eleazar b. Simeon holds the same opinion as his father who said: We may infer the law concerning sacred property from the ordinary law.[12] As [in the case of] ordinary[13] law one can Say: ‘I sold you a cistern, I did not sell you water so [in the case of] the law concerning sacred things [one can say]: ‘I dedicated the cistern, I did not dedicate the water’.[14] But [can it be said that in] the ordinary law [the water is] not [implicitly sold]? Surely we learnt: He who sold a cistern has also sold its water![15] Raba replied: This Mishnah represents an individual opinion;[16] for it has been taught: He who sold a cistern has not sold its water. R. Nathan said: He who sold a cistern has sold its water.

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(1) Since the first part of the Baraitha speaks of field and tree, the second part obviously speaks of the same objects.

(2) If he subjects to Me'ilah contents that were added after the dedication, how much more should he subject to Me'ilah the contents that were already there at the time of the dedication!

(3) Lit., ‘but’.

(4) Between R. Eleazar b. Simeon and the first Tanna.

(5) R. Eleazar and the first Tanna.

(6) Lit., ‘that has not come to the world’. Consequently the doves and the water, being non-existent at the time of the dedication, are not regarded as the property of the sanctuary, and the appropriation of them involves no trespass offering.

(7) Cf. infra 127b, 131a, 157b; Yeb. 39a; Kid. 62b, 78b; Git. 23b, 42b; B.M., 16b, 33b.

(8) V. supra n. 9.

(9) Water and doves.

(10) Unless he is himself to bring water to the cistern and doves to the cote. In such a case R. Meir will agree that one cannot hand over possession of a thing that does not exist and affords thus no support to R. Eleazar.

(11) To make such an assertion.

(12) V. supra 72a.

(13) As opposed to sacred or divine.

(14) And therefore he holds that where there was water in the cistern the water is not included in the dedication.

(15) Supra 78b.

(16) The opinion of R. Nathan who is in opposition to the accepted opinion expressed in the first clause of the following Baraitha.

Talmud - Mas. Baba Bathra 80a

MISHNAH. ONE WHO BUYS OF ANOTHER THE [ANNUAL] ISSUE OF A DOVE-COTE MUST ALLOW THE FIRST BROOD[1] TO FLY [WITH THEIR DAM].[2] [IF HE BUYS THE ANNUAL] ISSUE OF A BEEHIVE, HE TAKES [THE FIRST] THREE SWARMS; AND [THE SELLER MAY THEN] EMASCULATE [THOSE REMAINING].[3] [IF HE BUYS] HONEY-COMBS, HE MUST LEAVE TWO COMBS.[4] [IF HE BUYS] OLIVE-TREES FOR FELLING, HE MUST LEAVE TWO SHOOTS.[5]

GEMARA. Has it not been taught [that the buyer must leave the] first, and the second brood?[6] — R. Kahana replied: One for itself [the first brood]. one for the dam.[7] But if [it is assumed that the] mother dove will be attached to the daughter dove and to the mate left with it, [let it equally be assumed that] the daughter dove also will be attached to its mother dove and to the mate left with it![8] — A mother is [always] attached to a daughter, but not so a daughter to a mother.

[IF HE BUYS] THE [ANNUAL] ISSUE OF A BEEHIVE, HE TAKES [THE FIRST] THREE SWARMS; AND [THE SELLER MAY THEN] EMASCULATE [THOSE REMAINING]. Wherewith does he emasculate them? — Rab Judah said in the name of Samuel: With mustard. In Palestine it has been stated, in the name of R. Jose b. Hanina: It is not the mustard that emasculates them but the excessive quantities of honey, which the bitterness in their mouths [caused by the mustard], makes them consume.[9] R. Johanan said: [The buyer] takes the three swarms alternately.[10] In a Baraitha it has been taught: [The buyer] takes three swarms consecutively and after that he takes them alternately.[11]

[IF HE BUYS] HONEY-COMBS, HE MUST LEAVE TWO COMBS etc. R. Kahana said: Honey in a beehive never loses the designation of ‘food’.[12] This proves that he is of the opinion that no intention[13] is required. An objection was raised: [It has been taught]: Honey in a beehive is neither [regarded[14] as] ‘food’ nor [as] ‘drink’! — Abaye replied: This[15] referred only to those two combs.[16] Raba said: This[15] is [in accordance with] R. Eliezer

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(1) The first pair of young doves born after the sale.

(2) I.e., to remain in the cote; because sellers do not include in sales the first brood which is required to serve as an attraction for their dam which, in the absence of its young, might altogether quit the cote.

(3) To prevent them from any further breeding, and thus to enable them to give themselves up entirely to the production of honey.

(4) To provide nourishment for the remaining bees during their hibernation.

(5) To provide for the future propagation of the olives.

(6) Why then is it stated in our Mishnah that the first brood only is to be left?

(7) The first brood is left as company for the dam. The second brood, viz. the first pair of young doves bred by the first brood, must be left as company for the first brood. R. Kahana explains that the Baraitha speaks of the two broods, the Mishnah of the first only.

(8) Why then is it required to leave a pair of the second issue as company for the first?

(9) The surfeit deprives them of the power of propagation and consequently their entire energies are centred on the production of honey.

(10) The first, third and fifth. The others belong to the seller. The yearly swarms deteriorate as the year advances and by this arrangement the respective shares of buyer and seller are equitably distributed.

(11) Lit., ‘he takes one and leaves one’.

(12) As regards its subjection to the laws of Levitical defilement (v. Lev. XI, 34). The quantities equal to the contents of one and a half and one egg are Prescribed as minimums for ‘food’ and ‘drink’ respectively to transfer levitical impurity [v. Maim. Yad. Tum'ath Oklin, IV, 1-3].

(13) I.e., whether the owner intended the honey to be used as food or has not thought about it at all, it is always regarded as ‘food’.

(14) V. supra n. 2.

(15) The Baraitha.

(16) Which are left in the beehive to nourish the bees during the winter. They therefore are not considered human ‘food’.

Talmud - Mas. Baba Bathra 80b

. For we learnt: As to beehive, R. Eliezer said: It is regarded as landed property,[1] a prosbul[2] may be written on the basis of it,[3] and it is not subject to the laws of Levitical defilement, while in situ,[4] and he who takes [honey] out of it on the Sabbath is under the obligation of [bringing] a sin-offering. But the Sages say: A prosbul may not be written on the basis of it, it is not regarded as landed property, it is subject to the laws of Levitical defilement in situ, and he who takes [honey] out of it on the Sabbath is absolved.[5] R. Eleazar said: What is the reason of R. Eliezer? For it is written: And he dipped it in the honeycomb [Ya'rath][6] ; what is therein common between a forest and honey? But [the verse] tells you that, as [in the case of a] forest he who plucks from it on the Sabbath incurs the obligation of a sin-offering so, [in the case of] honey, he who takes some of it [from the beehive] on the Sabbath incurs the obligation of a sin offering.

An objection was raised:[7] [It has been taught:] Honey that flows from one's beehive is [as regards Levitical defilement] neither food nor drink. This is quite correct according to Abaye;[8] but according to Raba there is a difficulty![9] — R. Zebid replied: [The Baraitha may speak of a case such as] for instance, when the [honey] flowed into an objectionable vessel.[10] R. Aha b. Jacob said: [It may deal with such a case] as when [the honey] flowed upon chips.[11]

An objection was raised:[12] [It has been taught]: Honey in one's beehive is neither food nor drink.[13] [If, however, the owner] intended [to use] it as food, it is subject to [the laws of the Levitical] defilement of food; [if] as drink, it is subject to [the laws of Levitical] defilement of drink. This is quite correct according to Abaye.[14] but according to Raba there is a difficulty![15] — Raba can tell you: Explain thus: [If] he intended [to use it] as food it does not become subject to [the laws of Levitical] defilement of food [and if] as drink, it does not become subject to [the laws of Levitical] defilement of drink.[16] The following Baraitha is in agreement with R. Kahana's opinion: Honey in a beehive is subject to [the laws of Levitical] defilement [even if] there was no intention [to use it for human consumption].[17]

[IF HE BUYS] OLIVE TREES FOR FELLING, HE MUST LEAVE TWO SHOOTS. Our Rabbis have taught: He who buys a tree from his friend for felling, shall leave the height of a handbreadth from the ground,[18] and cut it. [If] a virgin[19] sycamore [the cut must be made at no less a height than] three handbreadths. If a sycamore trunk[20] , two handbreadths. In [the case of] reeds and vines, [the cut is to be made] from the knot and above it. In [the case of] palm trees and cedars he may dig and take them out with the roots, because their stumps do not grow afresh.[21]

Does a virgin sycamore require [as high a stump as] three handbreadths? What about the contradiction [from the following]: A virgin sycamore must not be cut in the Sabbatical year, because [cutting] is work.[22] R. Judah says: [To cut] in the usual manner is prohibited, but one may [either] leave a height of ten handbreadths and cut[23] or raze [the tree] at ground level.[24] [From this it follows that] only at ground level is [the cut] injurious, but at any other [point][25] it is beneficial![26] — Abaye replied: [At a height of] three handbreadths [the cut] is beneficial; at ground level it is certainly injurious; at any other point[27] it is neither [definitely] injurious nor [definitely] beneficial. [Consequently] in the case of the Sabbatical year. [the cut made] must be one that is unquestionably injurious;[28] in the case of commercial transactions [the cut made] must be one that is unquestionably beneficial.[29] [It has been said that] ‘in the case of] palm trees and cedars he may dig and take them out with the roots, because their stumps do not grow afresh again.’ Does not the stump of a cedar grow afresh? Surely R. Hiyya b. Lulyani gave the following exposition: It is written: The righteous shall flourish like a palm-tree; he shall grow like a cedar in Lebanon;[30] if palm-tree has been mentioned, why mention [also] the cedar, and if cedar has been mentioned, why mention [also] palm-tree? If cedar [only], had been mentioned and not palm-tree, it might have been implied that as the cedar produces no [edible] fruit, so will the righteous produce no fruit, therefore palm-tree has been mentioned. And if palm-tree had been mentioned but not cedar, it would have been implied that as the stump of the palm-tree does not grow afresh[31] so the shoot[32] of the righteous will not grow, therefore cedar is also mentioned![33] — The fact is that other kinds of cedar trees are spoken of; in accordance with [a statement made by] Rabah son of R. Huna who reported[34] that at the college of Rab it had been stated [as follows]: There are ten kinds of cedar trees; for it is said: I will plant in the wilderness the cedar, the acacia tree and the myrtle. and the oil tree,’ I will set etc.[35] Erez[36] means cedar, Shittah[36] means pine, Hadas[36] means myrtle, ‘Ez Shemen[36] means balsam tree, Berosh[36] means cypress, Tidhar[36] means teak, Uthe’ ashur[36] means shurbina.[37] Are not these [only] seven [kinds of cedar]? — When R. Dimi came[38] he said: The following were added to them: Alonim, Almonim, Almogim. Alonim are pistachio trees, Almonim are oaks, Almogim

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(1) Since beehives were attached to the ground, they were regarded as the ground itself and were subject to the same laws. Hence the honey, being part of the beehive, is treated as real estate and cannot, therefore, be designated ‘food’ or ‘drink’.

(2) Prosbul, פרוזבול or פרוסבול perhaps from Gr.** or Gr.** or an abbreviation of Gr. ** **. It is a form of declaration introduced by Hillel in connection with the Sabbatical year. A creditor making the declaration in writing before the judges in a court at the proper time and in the proper manner, becomes thereby exempt from the laws of release (cf. Deut. XV, 2) and retains his rights to the collection of his debts.

(3) A prosbul is granted by the court only when the borrower possesses some landed estate. Ownership of a beehive is regarded as ownership of landed, or immovable property.

(4) In accordance with the principle that whatever is attached to the ground מחובר (in opposition to תלוש detached’) is not susceptible to the laws of levitical uncleanliness.

(5) V. supra 656.

(6) I Sam. XIV, 27, יערת is midrashically compared to יער ‘forest’.

(7) To R. Kahana's statement.

(8) For the present Baraitha may also be said to speak of the two combs left for the bees in the winter. Cf. p. 324, n. 5.

(9) Even if honey in the beehive is, according to R. Eliezer, regarded as earth (neither food nor drink), honey that flowed out of the hive cannot surely be so regarded.

(10) Since the honey, through its contact with the loathsome vessel, becomes unsuitable for human consumption, it cannot, according to R. Eliezer, be designated food or drink, even though it flowed out of the hive.

(11) From which the honey cannot be easily gathered, and if gathered would not be suitable for human consumption. Cf. previous note.

(12) Cf. supra n. 2.

(13) Cf. p. 324. n. 2.

(14) Cf. supra n. 2.

(15) This Baraitha states that the owner's intention brings the honey into the category of food or drink; but according to R. Eliezer, how could the mere thought of the owner make food or drink ‘attached’ to the ground (cf. p. 295, n. 7) to be regarded as if it were ‘detached’?

(16) By this explanation, Raba does not alter the text of the Baraitha, but interprets it thus: Honey in a beehive is regarded neither as food nor as drink (with reference to the question whether) if intended to be used as food, it (should) be subject to the defilement of food (and whether), if intended for drink, it (should) be subject to the defilement of drink. (Cf. Tosaf. s.v. תריץ).

(17) Ta'an. 25b.
(18) So that there remains a stump from which a new tree can grow.
(19) I.e., uncut, untrimmed.
(20) I.e., if the sycamore has been cut before and grew up again.
(21) Bek. 7b.
(22) The cutting causes new growth which is forbidden. (Cf. Lev. XXV, 4.)
(23) Above a height of ten handbreadths the cut is injurious.
(24) Sheb. IV, 5.
(25) Between the ground and a height of three handbreadths from the ground.
(26) Why, then, must the buyer of a tree leave a stump of three handbreadths?
(27) Between the ground and a height of three handbreadths, and between the latter point and a height of ten handbreadths.
(28) Since the prohibitions of the Sabbatical year are Pentateuchal, the strictest restrictions must be adopted, so as to avoid doing any work tending to benefit the tree.
(29) The seller must have the benefit of the doubt so that the life of his tree may not in any way be endangered.
(30) Ps. XCII, 13.
(31) After the main portion of the tree had been cut.
(32) I.e., his seed, or if he falls he will not rise again (Rashb.).
(33) Does not this then prove that the stump of a cedar does grow afresh?
(34) Ta'an. 25b.
(35) Isa. XLI, 19.
(36) The Hebrew words in lsa. are translated here by the Gemara.
(37) Shurbina, one of the species of cedar.
(38) I.e., from Palestine.

Talmud - Mas. Baba Bathra 81a

are corals. Some say Aronim, ‘Armonim, Almogim. ‘Arinim are ore,[1] ‘Armonim are plane trees, Almogim are corals. MISHNAH. ONE WHO BUYS TWO TREES IN ANOTHER MAN'S FIELD DOES NOT ACQUIRE OWNERSHIP OF THE GROUND.[2] R. MEIR SAYS: HE DOES ACQUIRE OWNERSHIP OF THE GROUND. [IF THE TREES] GREW LARGE [THE LANDOWNER] MUST NOT CUT DOWN THEIR BRANCHES.[3] WHATEVER GROWS FROM THE STEM IS HIS [THE BUYER'S],[4] AND [WHATEVER GROWS] FROM THE ROOTS [BELONGS] TO THE LANDOWNER.[5] IF [THE TREES] DIED [THE BUYER] HAS NO [CLAIM TO THE] GROUND[6] . ONE WHO BOUGHT THREE [TREES] HAS [IMPLICITLY] ACQUIRED [OWNERSHIP OF THE] GROUND.[7] [IF] THEY GREW LARGE,[8] [THE LANDOWNER] MAY CUT DOWN THEIR BRANCHES.[9] WHATEVER GROWS FROM THE STEM AND FROM THE ROOTS [BELONGS] TO HIM [THE BUYER]. IF [THE TREES] DIED [THE BUYER] HAS [A RIGHT TO THE] POSSESSION OF THE GROUND.

GEMARA. We learnt elsewhere: He who buys two trees In another man's]field], has to bring [the bikkurim][10] but is not to recite [the declaration].[11] R. Meir Says: He has to bring and recite.[12]

Rab Judah said in the name of Samuel: R. Meir subjects to the obligation[13] even him who bought fruit in the market. Whence is this to be inferred? From [the fact that] a superfluous Mishnah[14] has been introduced. For, it should be observed that, [R. Meir] has already taught[15] that he [who bought two trees] has [also] acquired the ground. [Is it not, then,] obvious that he has to bring and to recite?![16] Hence it may be inferred from this [superfluous Mishnah] that R. Meir subjects to the obligation even him who buys fruit in the market.[17] But is it not written: Which thou shalt bring in from thy land?[18] — This is to exclude [the fruit grown] in Foreign Territory.[19] But is it not written: [The choicest first fruit of] thy land [thou shalt bring]?[20] — [This is] to exclude the land of a heathen.[21] But is it not written: The first fruits of [the land] which thou . . . hast given me? — [This means: The fruits] for which thou hast given me money with which to buy [them].

Raba raised an objection: [It has been taught]: He who buys a tree in another man's [field] brings [the first ripe fruit] but does not recite [the declaration], because he has not acquired ownership of the ground,[22] [these are] the words of R. Meir.[23] — This is, indeed, a refutation.

R. Simeon b. Eliakim said to R. Eleazar

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(1) A species of cedar. Others, ‘laurel trees’.

(2) Not even the ground under the trees. The purchase of a tree entitles the buyer only to its fruit, and to the tree itself for felling.

(3) Though their shadow may be injurious to the other plants in his field.

(4) Because they grow from his tree.

(5) Because the branches grew from under the ground which is his property.

(6) I.e., to plant another tree in place of the dead one.

(7) The Gemara explains to how much ground the buyer is entitled, and what, in this case, must be the disposition of the trees.

(8) And the branches protrude into the landowner's property.

(9) Having sold him the ground under and between the trees, he does not sell him any rights in the surrounding field. He has a right, therefore, to cut down any branches which may injuriously affect any of his other plants.

(10) V. Deut. XXVI, 2ff and glos.

(11) Given in Deut. XXVI, 5-10. The declaration contains the expression, the land which thou, O Lord, hast given me. Only those, therefore, who own land may recite it.

(12) Bik, I, 6; supra 27a; Git. 48a.

(13) To bring and recite.

(14) Of Bik. just quoted.

(15) In our Mishnah.

(16) For whosoever has land, can justly say in the declaration, the land which thou . . . hast given me.

(17) R. Meir thus said to the Rabbis: Even according to your opinion that the purchase of two trees does not give title to the ground, one must nevertheless bring and recite, for the possession of land is not indispensable for the bikkurim recital.

(18) Deut. XXVI, 2. Accordingly, if he has no land of his own, he is not subject to the law of bringing and reciting; how then can A. Meir subject such a case to this law?

(19) Heb. חוצה לארץ lit., ‘outside the land’, viz., all countries outside Palestine.

(20) Ex. XXIII, 19; XXXIV, 26.

(21) I.e., land in Palestine belonging to a non Jew farmed out to a Jew.

(22) V. p. 238, n. 10.

(23) This statement of R. Meir is in direct contradiction to that made in his name by Samuel as reported by Rab Judah.

Talmud - Mas. Baba Bathra 81b

: What reason is there for R. Meir's opinion in [the case of] one tree, and for that of the Rabbis in [the case of] two trees?[1] He replied: Do you interrogate me in the house of study on a matter about which the ancients gave no reason, in order to shame me? Rabbah said: What is the difficulty? It is possible that R. Meir was doubtful[2] about one tree, and the Rabbis about two trees![3] But was [R. Meir] in doubt? Surely it is stated [distinctly]: ‘Because he has not acquired ownership of the ground. [these are] the words of R. Meir! — This should read: ‘Perhaps he has not acquired ownership of the ground!’ But ought we not to apprehend lest these are not bikkurim[4] and [consequently] one would bring into the Temple court unconsecrated [fruit]?[5] — He consecrates them.[6] But must not [the priest] eat them [the bikkurim]?[7] — He redeems them.[8] But perhaps they are not bikkurim and he thus excludes them from the heave-offering and tithe?[9] — He does separate [the heave-offering and the tithes from] them. [In the case of] the terumah gedolah[10] this is correct,

[for] he gives it to the priest. The second tithe,[11] also, he gives to a priest.[12] The poor man's tithe,[13] also, he gives to a poor priest,[14] but to whom does he give the first tithe which belongs to the Levite? — He gives it to a priest in accordance with [the decision of] R. Eleazar b. Azariah. For it has been taught: terumah gedolah[15] [belongs] to the priest; the first tithe [belongs] to the Levite; these are the words of R. Akiba. R. Eleazar b. Azariah says: The first tithe also [belongs] to the priest.[16] But perhaps they are bikkurim and [consequently] require recital [of the declaration]?[17] The recital is not indispensable. [Is it] not [indispensable]? Surely R. Zera said:[18] Wherever [proper] mingling[19] is possible the mingling is not indispensable;[20] but where [proper] mingling is not possible[21] the mingling is indispensable![22] — He acts on the lines of [the teaching of] R. Jose b. Hanina who said:[23] He who cut [the first ripe fruit] and sent them [to Jerusalem] with a messenger; or [if the] messenger [cut them] and died on the way- [the owner] brings [the fruit] and does not recite [the declaration], for it is written: And thou shalt take[24] . . . ‘and thou shalt bring’,[25]

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(1) If on account of the Biblical expression, which thou shalt bring in from thy land, a person possessing no land cannot make the declaration, he should also be exempt from bringing at all.

(2) Whether the ground also is acquired in the case of the purchase of one tree (A. Meir) or two trees (the Rabbis).

(3) Hence, in the case of a sale, the seller, who is the legal possessor of the land, is given the benefit of the doubt, while in the case of the first fruit, the buyer of the tree must give the benefit of the doubt to the Temple, though he cannot recite.

(4) בכורים, ‘first ripe fruits’, which are subject to the precept of bringing them to the Temple. If the ground is not acquired by the purchase of a tree or two trees, according to R. Meir and the Rabbis respectively, this fruit cannot be regarded as bikkurim in the ritual sense.

(5) Unconsecrated fruit must not be offered in the Temple court. (v. Kid. 57b.) How then can it be suggested that the bringing of the firstfruits is to give the Temple the benefit of the doubt?

(6) I.e., he stipulates that if they are not already bikkurim they shall be consecrated for the purpose of purchasing with their proceeds Temple sacrifices.

(7) Bikkurim must be eaten by the Priest, but consecrated objects, which are usually devoted to Temple repair, must not be eaten!

(8) After redemption anyone may eat them, the sanctity having passed from the fruit to the purchase money.

(9) Bikkurim are exempt from heave-offerings of produce. the Terumah given to the priest, and tithes, but other land and garden produce is subject to them.

(10) רומה גדולה lit., ‘big or high heave offering’; the priestly portion of the produce.

(11) Given in the first, second, fourth, and fifth year of the septennial cycle.

(12) The owner must not eat the fruit lest they are bikkurim.

(13) Poor man's tithe is given in place of the second tithe (v. supra n. 8.) in the third, and sixth year of the septennial period.

(14) No other poor may eat them lest they are bikkurim. (Cf. supra n. 9).

(15) V. supra n. 7,

(16) Yeb. 86a; Keth. 26a; Hul. 131b.

(17) How then may anyone eat these fruit without such recital?

(18) Hul. 83b, Kid. 25a, Yeb. 104b, Nid. 66b. Men. 18b, Mak. 18b, Ned. 73a.

(19) I.e., of the flour with the oil of a meal-offering. One log of oil for sixty ‘esronim (‘issaron = tenth) is considered sufficient for proper mingling.

(20) And the offering is acceptable even before the mingling of the flour with oil.

(21) If, e.g.. the vessel for the meal offering contains more than sixty ‘esronim for the log of oil.

(22) And the offering is, therefore, not acceptable. Now, in the case of bikkurim also, on this analogy, since the doubt as to whether they are bikkurim makes the declaration impossible, the recital should be indispensable.

(23) Git. 47b.

(24) Deut. XXVI, 2.

(25) This is implied in the text, which thou shalt bring (Ibid.). Cf. Ibid. v. 10.

Talmud - Mas. Baba Bathra 82a

the taking and the bringing must be performed by the same man; and in the present case, this has not been done. R. Aha son of Awia said to R. Ashi: Behold, are not these really scriptural verses?[1] Let him recite them![2] He replied unto him: [One must not recite the verses] because it would appear [as telling] a lie. R. Mesharsheya the son of R. Hiyya said: [Because the fruit] might [mistakenly] be excluded from the heave-offering and from the tithe.[3]

[IF THE TREES] GREW LARGE [THE LANDOWNER] MUST NOT CUT DOWN THEIR BRANCHES etc. What is considered [to be] from the stem and what is considered [to be] from the roots? — R. Johanan said: Whatever is exposed[4] to the sun is of the stem, and whatever is not exposed[5] to the sun is of the roots. [How can it be said that all that grows from the stem belongs to the buyer?] Is there not cause to apprehend that the ground might produce alluvium [covering up the knots of the lowest shoots] and that [the buyer] would say [to the landowner]: 'You have sold me three [trees] and I have, [therefore, a share of the] ground'?[6] — But R. Nahman replied: [The buyer] must cut [them] off.[7] R. Johanan also said: He must cut [them] off.

R. Nahman said: We have it by tradition [that] a palm-tree has no stem.[8] R. Zebid was of the opinion that this means [that] the owner of the palm-tree has no [rights to that which grows from the] stem, because since [the tree] is destined [when it dries up] to be dug and taken out with the roots,[9] [the buyer] discards [the shoots] from his mind.[10] R. Papa, [however], raised [the following] difficulty: Surely, [the case of him who] BUYS TWO TREES [includes also such trees] as are destined to be dug up and taken out with the roots[11] and [yet] the [Mishnah] teaches that [THE BUYER] HAS [A TITLE TO] THE STEM![12] — But, said R. Papa, [the reason why] the owner of the palm-tree has no [title to the] stem [is][13] because the stem does not [usually] produce [any shoots].[14]

According to R. Zebid,[15] however, [there remains] the difficulty of our Mishnah![16] — [Our Mishnah deals with the case] where [the trees] were sold for five years.[17]

ONE WHO BOUGHT THREE [TREES] HAS [IMPLICITLY] ACQUIRED [OWNERSHIP OF THE] GROUND. And how much [ground]? — R. Hiyya b. Abba said in the name of R. Johanan: He has acquired [the ownership of the ground] beneath [the trees] and between them, and round about[18] them

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(1) The bikkurim declaration consists of vv 5-10 of Deut. XXVI (Cf. p. 328, n. 10).

(2) One may at any time read Scriptural verses. Why then should one be restricted to R. Jose's decision of bringing the fruit without reciting the declaration?

(3) Seeing that the declaration had been recited over the fruit, it would be assumed that they are genuine bikkurim which are exempt from the priestly and Levitical gifts.

(4) I.e., all that part of the tree which is above the ground.

(5) I.e., the part covered by the soil.

(6) The shoots, having been covered by the alluvium at their knots, would appear as separated trees, growing from the ground independently; and the possession of three trees entitles one to a share of the field.

(7) Our Mishnah gives the buyer the right over the shoots for the purpose of cutting them off. They must not, however, remain attached to the tree.

(8) This is explained in the Gemara.

(9) Unlike other trees, which can be made to grow afresh when their branches and upper sections dry up, by cutting them down to their stems, the palm tree, like the cedar (supra 80b). cannot be made to grow afresh out of its cut stems. They are, therefore, ultimately useful as wood only.

(10) He does not expect to have any benefit from the shoots that may never grow from the tree,which is likely, at any moment, to dry up beyond all possibility of growing afresh.

(11) Since no special trees are specified, all kinds of trees are obviously included.

(12) How, then, could R. Zebid assume that the buyer of a palm-tree has no title to the stem?

(13) Not that given by P. Zebid, but 'because etc.'

(14) And if, sometimes, it happens that shoots do grow, they must be regarded as the property of the owner of the land. Our Mishnah, which gives the buyer title to the stem, speaks of trees the stems of which do usually produce shoots.

(15) Who stated that stems of palm.trees produce shoots.

(16) Which speaks of all kinds of trees, the stems of which produce shoots, and gives the buyer title to the shoots of the stems.

(17) In the case of a sale for a specified number of years, during which a dried up tree is to be replaced by a sound one, the buyer does expect the benefit from any shoots that may grow out of the stem. Where, however, the sale is for no definite period, the buyer is aware that the tree will not be replaced though at any moment it might dry op beyond hope of recovery. He does not, therefore, expect to benefit from any shoots that may possibly grow before the tree terminated its growing existence.

(18) Lit., 'outside'.

Talmud - Mas. Baba Bathra 82b

as much as is required for a gatherer and his basket.

R. Eleazar raised a difficulty: Since he has no [right of] passage,[1] would he have [a right to the ground required by a] gatherer and his basket? [If] he has no [right of] passage because [the trees grow in] another field,[2] should he, then, have [a right to the ground required for a] gatherer and his basket?[3]

R. Zera said: From the words of our Master[4] we may infer that only [when the buyer has purchased] three [trees] does he have no [right of] passage,[5] but [if he has purchased] two [trees] he does have [the right of passage]; for he can say [to the landowner]: They stand in your [own] field, [and since you have sold me trees therein, you must also allow me access to them]. R. Nahman b. Isaac said to Raba: Does this imply that R. Eleazar[6] is in disagreement with Samuel his master? For Samuel said:[7] The law is in accordance with R. Akiba's opinion[8] that he who sells does so with a kindly feeling[9] [and one selling with a kindly feeling would surely include in the sale a right of passage]! He replied to him: [R. Eleazar may agree with Samuel,[10] but] our Mishnah cannot be attributed to R. Akiba.[11] How is this proved? — Because it states: IF THEY GREW LARGE, [THE LANDOWNER] MAY CUT DOWN THEIR BRANCHES: Now, were you minded [to attribute the Mishnah to] R. Akiba. why may [the landowner] cut down their branches? Surely [R. Akiba] said that he who sells does so with kindly feelings! — He said unto him: It is possible that R. Akiba said [so] in the case [only] of a cistern and a cellar[12] because these do not cause deterioration of the ground, [but] did you hear him [say the same thing] in the case of a tree [which does cause deterioration to the field]?[13] Does not R. Akiba [in fact] agree that in [the case of] a tree [whose boughs] hang over the field of one's neighbour, [the latter] may cut off [the overhanging branches to such a height as will allow the] full [passage of the] handle that protrudes over the plough![14]

It has been taught in agreement with R. Hiyya b. Abba: He [the buyer of three trees] has acquired ownership [of the ground] beneath them, and between them and round about[15] them as much as is required for a gatherer and his basket.

Abaye said to R. Joseph: Who sows on that [land reserved for] the gatherer and his basket?[16] He replied: You have learned it:[17] The external [field owner[18]] sows the pathway.[19] He said unto him: Are these two cases alike? There,[20] the buyer is not involved in any loss; but here,[21] the owner of the tree[22] is involved in a loss; for he can point out [to the seller] that the fruit [that would drop on the scattered seed] would be soiled. This case[18] rather resembles the final clause [of the Mishnah,[23] in accordance with which] neither the one nor the other may sow [on the allotted space].

It has been taught in agreement with the opinion of Abaye: He has acquired [the ground] beneath them, and between them, and round about[24] them as much as is required for the gatherer and his basket, and neither of them is allowed to sow it.

[If the buyer of three trees is to acquire possession of the ground]. how much [space] must there be between [the trees]?[25] — R. Joseph said in the name of Rab Judah in the name of Samuel: [A distance] of four to eight cubits [between any two trees]. Raba said in the name of R. Nahman in the name of Samuel: From eight to sixteen [cubits]. Abaye said to R. Joseph: Do not dispute with R. Nahman, for we learnt a Mishnah that is in agreement with him. For we learnt:[26] He who plants his vineyard [and leaves distances of] sixteen cubits [between the rows] may insert seed there.[27] R. Judah said: It occurred in Zalmon[28] that one planted his vineyard, [leaving distances of] sixteen cubits [between the rows], and turned the branches of [every] two [adjacent] rows towards one side,[29] and sowed the clearing. In the following year he turned the branches towards the spot sown [in the previous year], and sowed the uncultivated [spaces].[30] When the matter was reported to the Sages they allowed it.[31] He [R. Joseph] said unto him: I am not aware [of this]: but there was a case

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(1) Through the seller's field; unless he has made with him specific arrangements for the purpose, v. supra 64a.

(2) The three trees, through which the buyer has acquired a share in the field, are regarded as growing in a field of their own, independent of the rest of the field which belongs to the landowner.

(3) A pathway is more necessary than a space for the gatherer and his basket. If he has no title to the former, how much less to the latter!

(4) R. Eleazar; who gave his reason because the trees are in ‘another field’.

(5) Because three trees are sold together with a certain portion of the ground (cf. supra), and this portion is regarded as a small field by itself, distinct from the larger field of which it forms a part.

(6) Who denies right of passage to one who has bought three trees.

(7) Supra 65a.

(8) Supra 37a.

(9) Lit., ‘beautiful eye’.

(10) That right of passage is included in the sale of the trees.

(11) But to the Rabbis, who exclude right of passage from the sale of trees. R. Eleazar's objection, supra, will accordingly not be based on the opinion he himself holds, but on that of the Rabbis, and follow their line of reasoning.

(12) Supra 71a.

(13) As in the case of our Mishnah, v. supra p. 282.

(14) Ibid. 27b.

(15) V. p. 333, n. 4.

(16) The landowner or the buyer of the trees?

(17) Cf. infra 99b.

(18) Who sold an interior field, and retained for himself the exterior one.

(19) Infra 99b. Here, too, the landowner sows the space allotted to the gatherer and his basket.

(20) In the case of the sowing of the pathway.

(21) In the case of sowing on the space allotted to the gatherer and his basket.

(22) Cf. Bah, a.l.

(23) Mishnah, infra 99b, dealing with a pathway allowed by the court, to the owner of the inner field, with the consent of the two partners.

(24) V. p. 333, n. 4.

(25) If they are too close to each other they would be regarded as a forest whose trees are for uprooting; if too scattered, they could not he regarded as a combination of trees.

(26) Kil. IV, 9.

(27) Between the rows. Because the wide spaces between the rows are not regarded as part of the vineyard where, in accordance with Deut. XXII, 9, seed must not be sown.

(28) A locality near Shechem.

(29) Away from the space between them; thus leaving, between every alternate pair of rows, a clearing of sixteen cubits in width.

(30) Which in the previous year could not be sown on account of the branches which were encroaching on the required space of sixteen cubits.

(31) Because the branches were turned away from the sown spaces which were sixteen cubits in extent. A space of less than sixteen cubits would have been regarded as part of the vineyard. This proves the correctness of R. Nahman's report that a space of sixteen cubits is required for a piece of ground to be regarded as a separate unit.

Talmud - Mas. Baba Bathra 83a

in Dura di-ra'awatha[1] [where three trees, planted at distances of less than eight cubits between them, were sold], and, when [the disputants] came before Rab Judah, he said unto [the buyer]: Go [and] give him [his share in the ground, even though the spaces between the trees are just] enough for a pair of oxen and their [ploughing] outfit. I did not know [at the time] how large was the ‘space of a pair of oxen and their outfit’. When, however, I heard the following [Mishnah in] which we learnt: A man must not plant a tree near his neighbour's field[2] unless he has kept at a distance of four cubits:[3] and in connection with this it has been taught: ‘The four cubits mentioned are the dimensions of the space required for attending to the vineyard’: I concluded that the ‘space of a pair of oxen and their outfit’ is four cubits. But is there not also a Mishnah which agrees with [the report of] R. Joseph? Surely[4] we learnt:[5] R. Meir and R. Simeon say: He who plants his vineyard [leaving distances of] eight cubits [between the rows] may insert seed there![6] — A practical decision[7] is, nevertheless, preferable.[8]

[The statement] of R. Joseph who follows R. Simeon may be regarded as satisfactory. [since] we have heard [a definition of] scattered [trees] and we have [also] heard [a definition of] closely [planted trees]. [With regard to trees] scattered, [we have the Mishnah] just mentioned.[9] [As regards trees planted] closely, it has been taught:[10] A vineyard planted on [an area of] less than four cubits is not [regarded as] a vineyard — these are the words of R. Simeon. And the sages say: [It is regarded as a] vineyard, the intervening vines being treated as if they were not [in existence].[11] [The statement], however, of R. Nahman who follows the Rabbis [cannot very well be considered satisfactory; for] we have heard [a definition of] scattered [trees, but] have we heard [a definition of] closely [planted trees]? — This [latter definition is arrived at] logically: Since according to R. Simeon [the distances between closely planted trees are] half [of those of scattered trees], according to the Rabbis also, [the proportion of the distances is a] half.

Raba said: The law is [that a buyer of three trees acquires implicitly the ground also when the distances between the respective trees are] from four[12] to sixteen cubits.[13] In agreement with Raba's opinion it has been taught: How near [to each other] may [the trees] be? — [No nearer than] four cubits. And how far removed may they be? — [No more than][14] sixteen cubits. [He who buys three trees of these] has [implicitly] acquired the [necessary] ground and the intervening [young] trees. Consequently, [if] a tree dries up or is cut down [the buyer of the trees] retains [his rights in] the ground. [If the distances between the trees are] less, or more than [the figures] given, or if [the trees] were purchased one after the other, [the buyer] does not acquire either the ground or the intervening [young] trees. Consequently, [if] a tree dries up or is cut down, [the buyer] retains no [title to the] ground.[15]

R. Jeremiah inquired: Does one measure [the required distances between the trees] from the thin[16] or thick[17] parts [of the trees]? — R. Gebiha of Be-Kathil said to R. Ashi: Come and hear! We learnt:[18] [In the case of] a layer[19] of the vine, one is to measure from the second root,[20] only.

R. Jeremiah inquired: What is the law when one sold three branches of [one] tree, [four cubits distant from one another, and covered with alluvium at their knots so that they appear as three separate trees]?[21] — R. Gebiha of Be-Kathil said to R. Ashi: Come and hear! We learnt:[22] Where one bends three vines [covering the middle parts with earth so that the layers,[23] when detached from the original vines, may each form two vines] and their [new] roots are seen,[24] if there is a distance between them of four to eight cubits they combine, said R. Eleazar b. Zadok, to form a vineyard,[25] and if not, they do not combine.[26]

R. Papa inquired: What is the law when he sold two [trees] in his field and one on [its] border, [do they combine[27] or not]? [If it is replied that in this case they combine], what is the law [when he sold] two [trees] in his [own field] and one [tree which he owned together with its ground] in [the field] of his neighbour? — The matter stands undecided.[28]

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(1) V. p. 222, n. 8

(2) In order that, when ploughing round the tree, he should not have to draw the plough through his neighbour's field.

(3) Supra 18a; 26a.

(4) For this reading, cf. Bah, a.l.

(5) Kil. IV, 9.

(6) Between the rows, though the intervening spaces are only eight cubits in width. Why. then, did Abaye tell R. Joseph that he must not dispute the report of R. Nahman?

(7) Cf. Shab. 21a, and further references there.

(8) The Mishnah describing the occurrence in Zalmon, where the action of the planter received the definite approval of the Sages, is more to be relied upon than the other part of that Mishnah, which is a record of theoretical opinion only.

(9) Supra, quoted from Kil. IV, 9. This Mishnah defines ‘scattered trees’ as those planted at distances of no less than eight cubits from each other.

(10) Kil. V, 2; supra 37b; infra 102b.

(11) The Rabbis’ opinion is based on the assumption that the intervening vines are not to remain in the vineyard, but to be transplanted. Trees that are destined to be removed are regarded as already removed.

(12) In accordance with Rab Judah's decision (which has not been disputed by the Rabbis) in the case of the shepherds’ settlement.

(13) As the Sages ruled in the case of the Zalmon vineyard.

(14) Cf. Tosaf. s.v. כמה. According to Rashi. s.v. שש עשרה ‘just under sixteen cubits’.

(15) Is not entitled to replace the dead, or felled tree by another.

(16) I.e., the stem.

(17) I.e., near the roots.

(18) Kil. VII. 1.

(19) הרכובה, an undetached shoot of the vine laid in the ground for propagation.

(20) Which proves that the measurement is made from the thick part of the tree (Tosaf. s.v. הרכובה a.l.). Rashb. (s.v. פקק a.l.), giving הרכובה, the interpretation of ‘grafting’. concludes that the measurement is to be neither from the thick (first knot) nor from the thin (third knot) of the vine (or any other tree). R. Gersh. (a.l.) regards the second root as the thin part of the vine.

(21) Are they regarded as three separate trees, the buyer consequently acquiring possession of the necessary ground, or as one tree, since they grow from the same stem?

(22) Kil. VII, 2.

(23) Cf. n. 5.

(24) The layers have generated their own roots.

(25) A vineyard consists of no less than five vines. Since each of the three layers. now that their roots are generated. form two vines, the original three vines have become six.

(26) This Mishnah clearly proves that the junction of two vines at the same root does not prevent them from being regarded as separate vines. Likewise in the case of the purchase of three branches of one tree, so long as they are separated by the proper distances, they are regarded as three separate trees.

(27) To entitle the buyer to acquire ownership of the necessary ground.

(28) תיקו = תיקום ‘let it stand’. An expression used when no definite answer could be given to any question or inquiry. Others regard ת י ק ו as formed from the initials of תשבי יתרץ קושיקת ואבעיות (Elijah the Tishbite will solve all difficulties and enquiries).

Talmud - Mas. Baba Bathra 83b

R. Ashi inquired: [In the case of the sale of three trees] does a [water] cistern [situated between them] form a division?[1] [If not],[2] does a water canal[3] form a division? [If this also is not regarded a division], what [is the law if] a reshuth harabbim[4] [intercepts] or a nursery of young inoculated palm-trees? — The matter stands undecided.

Hillel inquired from Rabbi: What if a cedar sprang up between them?[5] [Is it regarded as a division between the trees]?[6] — [What a question! If it] sprang up [after the sale], it [obviously] grew in [the buyer's] own territory! But [no; this is the question: What if] there was a cedar between them [at the time of the sale]? — He replied unto him: He has certainly acquired[7] [its ownership].

What must be the disposition [of the three trees]?[8] — Rab said: As a straight line; and Samuel said: Like a tripod.[9] He who said, 'as a straight line' [agrees][10] so much the more [in the case when they are arranged] as a tripod.[11] But he who said, 'like a tripod' [holds the opinion that if the trees are arranged] as [in] a straight line [the ground is] not acquired, because one can sow between them.[12] R. Hamnuna raised a difficulty: Is not the reason given by him, who insists on a triangular disposition. that one cannot sow between them? If so, let the ground be acquired also by him to whom three Roman thorns[13] have been sold, since one cannot sow between them! — He replied to him: Those [thorns] are of no importance, [but] these [trees] are important.[14]

MISHNAH. HE WHO SELLS THE HEAD OF LARGE CATTLE HAS NOT SOLD THE FEET; HE WHO SOLD THE FEET HAS NOT SOLD THE HEAD. [IF] HE HAS SOLD THE LUNGS[15] HE HAS NOT SOLD THE LIVER, [IF] HE HAS SOLD THE LIVER HE HAS NOT SOLD THE LUNGS. BUT, IN [THE CASE OF] SMALL CATTLE, [IF] HE HAS SOLD THE HEAD HE HAS SOLD THE FEET, [IF] HE HAS SOLD THE FEET HE HAS NOT SOLD THE HEAD. [IF] HE HAS SOLD THE LUNGS HE HAS SOLD THE LIVER, [IF] HE HAS SOLD THE LIVER HE HAS NOT SOLD THE LUNGS.

FOUR[16] [DIFFERENT] LAWS [ARE APPLICABLE] TO SALES.[17] [IF] ONE HAS SOLD WHEAT AS GOOD, AND IT TURNS OUT TO BE BAD, THE BUYER MAY WITHDRAW [FROM THE SALE]. [IF SOLD AS] BAD, AND IT TURNS OUT TO BE GOOD, THE SELLER MAY WITHDRAW. [IF AS] BAD, AND IT WAS FOUND TO BE BAD; [OR AS] GOOD, AND IT WAS FOUND TO BE GOOD, NEITHER MAY WITHDRAW. [IF ONE HAS SOLD WHEAT AS] DARK[18] -COLOURED, AND IT TURNS OUT TO BE white, [OR AS] WHITE, AND IT TURNS OUT TO BE DARK;[18] [OR IF ONE HAS SOLD] WOOD [AS] OLIVE, AND IT TURNS OUT TO BE SYCAMORE, [OR AS] SYCAMORE, AND IT TURNS OUT TO BE OLIVE; [OR IF A LIQUID HAS BEEN SOLD AS] WINE, AND IT TURNS OUT TO BE VINEGAR, [OR AS] VINEGAR, AND IT TURNS OUT TO BE WINE, BOTH MAY WITHDRAW.

GEMARA. R. Hisda said: If one has sold to another what was worth five for six[19] and [subsequently][20] the price has risen to eight,[21] since the buyer has been imposed upon he may withdraw, but not so the seller,[22] because

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(1) To deprive the buyer from any title to the ground.

(2) Because the water is not exposed.

(3) Where the water is exposed.

(4) Reshuth harabbim (v. p. 307, n. 8), its normal width is sixteen cubits. Here, of course, (cf. Raba's statement, inter alia, supra 83a), it is assumed to be between four, and just under sixteen cubits in width.

(5) Between the three trees sold.

(6) V. n. 5.

(7) Lit. ‘he acquired and acquired’.

(8) About which it has been taught that, if the distances between them are from four to sixteen cubits, the necessary ground also is acquired.

(9) Planted in triangular shape.

(10) That the ground also is acquired.

(11) When the trees are arranged triangularly it is more difficult to plough the intervening ground. and the seller is, therefore, less likely to retain it for himself.

(12) The plough can easily pass between the trees.

(13) Prob. eryngo.

(14) Two conditions are required: 1. Importance of the trees, and 2. Inability to draw the plough, i.e., to sow between them.

(15) Lit., ‘windpipe’.

(16) 1. the buyer, 2. the seller, 3. neither, and 4. both may withdraw.

(17) Lit., ‘sellers’.

(18) Dark red.

(19) Thus overcharging the buyer a sixth of the selling price (fifth of the value of the object).

(20) After the sale, and before the period allowed to the buyer to consult a dealer or a friend, has elapsed; v. B.M. 49b.

(21) So that now the seller is losing much more than a sixth, and wishes, therefore, to withdraw.

(22) Although the period allowed for consulting a dealer or friend has not elapsed, and though, consequently, the buyer may still withdraw.

Talmud - Mas. Baba Bathra 84a

he [the buyer] can say unto him: If you had not imposed upon me, you would have had no right to withdraw; can you have the right to withdraw now that you have imposed upon me? And the Tanna [of our Mishnah, who taught that ‘if wheat was sold as] GOOD AND IT TURNED OUT TO BE BAD, THE BUYER MAY WITHDRAW,’ but not [inferentially] the seller,[1] confirms [what has just been said].

R. Hisda further stated: [If] one has sold to another what was worth six for five and the price fell[2] to three, the seller, since he has been imposed upon, may withdraw, but not [so] the buyer; because [the seller] can say unto him: If you had not imposed upon me you would have had no right to withdraw; can you have the right to withdraw now? And the Tanna [of our Mishnah, who taught that ‘if wheat was sold as] BAD AND IT TURNED OUT TO BE GOOD, THE SELLER MAY WITHDRAW,’ but not [inferentially] the buyer,[3] confirms [this statement].

What does he[4] come to teach us? [Surely] this [statement of his may be inferred from] our Mishnah! — If[5] [it had to be inferred] from our Mishnah, it could have been said that [in the cases dealt with in the statement] of R. Hisda, both[6] may perhaps withdraw; and [that the first clause of] our Mishnah comes to teach us that[7] the buyer may withdraw;[8] for [without this Mishnah] it might have been said that [he cannot], because it is written: ‘It is bad, it is bad’, saith the buyer.[9]

[IF ONE HAS SOLD WHEAT AS] DARK-COLOURED AND IT TURNED OUT TO BE WHITE, etc. R. Papa said: Since white is given [as the contrast of the other colour][10] it may be inferred that the sun is dark-red.[11] This can be proved [from the fact] that the sun is red at sunrise and at sunset. The reason why we do not see it [red] all day, is [because] our eyesight is not strong [enough].[12] An objection was raised: And the appearance thereof be deeper than the skin,[13] [that means], like the appearance of sunlight [which is] deeper than the shadow.[14] Surely there[15] [the appearance] was white,[16] [how, then, could the sun be said to be red]?[17] — Like the appearance of the sun [in one respect], and not like the appearance of the sun [in another respect]. Like the appearance of the sun, [in] that it is deeper than the shadow; and not like the appearance of the sun [in another respect], for there,[18] it is white and here[19] it is red. But according to our previous assumption,[20] is not the sun red at sunrise and at sunset?[21] — [It is red] at sunrise, because it passes by the roses of the Garden of Eden;[22] at sunset, because it passes the gate of Gehenna.[23] Others reverse [the answer].[24]

[IF LIQUID HAS BEEN SOLD AS] WINE, AND IT TURNED OUT TO BE VINEGAR . . . BOTH MAY WITHDRAW. Must it be said that our Mishnah is [in agreement with] Rabbi and not [with] the Rabbis?[25] For it has been taught:

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(1) Though the price may have risen.

(2) A long time after the sale; cf. B.M. 51a.

(3) Though the price has fallen.

(4) R. Hisda.

(5) The following three lines in the original are rather difficult, and different, hardly satisfactory, interpretations have been offered. Cf. Rashb., Tosaf., and R. Gersh., a.l.

(6) The buyer and the seller; since there was overreaching of one party at the time of the sale, and, subsequently. of the other, when the prices respectively rose or fell.

(7) When there is no overreaching, but a sale at the proper price.

(8) Because he can say that he bargained for good, not bad wheat.

(9) Prov. XX, 14. Since the buyer always cries ‘bad, bad’, he should not be entitled to withdraw even when wheat sold as good be found to be bad. Hence the necessity for the first clause of the Mishnah. Similarly, the second clause is required for the case where the seller is entitled to withdraw though. on the analogy of the seller, he always cries ‘good, good’.

(10) Wheat has only one of two colours, white or dark-red (cf. note on Mishnah).

(11) Its Heb. equivalent שחמתית is assumed to be derived from the same root as חמה sun’, hence sun-colour. Since לבנה means ‘white’, and dark-red is the only other possible colour of the wheat, שחמתית must signify ‘dark-red’. V. previous note.

(12) The powerful light of the sun dims our eyes during the day. At sunrise and at sunset, when the light of the sun diminishes, its redness becomes visible.

(13) Lev. XIII, 25, 30.

(14) Sheb. 6b; Bek. 41a; Hul. 63a.

(15) In the verse quoted.

(16) The verse speaks of a ‘white spot’.

(17) Since the appearance of the spot which is white is compared to the sun, the sun also must be white.

(18) The white spot spoken of in the Biblical verse.

(19) I.e., the sun.

(20) Assumed (by the objection to R. Papa's statement). that the sun was white.

(21) How, then, can it be assumed to be white?

(22) Eden is in the East (cf. Gen. II, 8). where the sun is seen in the morning.

(23) Gehenna is, opposite Eden, in the West.

(24) At sunrise, when the sun is in the East, it is red because of the reflection of the fire of Gehenna on the opposite side (West). At sunset, when the sun is in the West, the redness is the result of the reflection of the roses of the Garden of Eden thrown from the East.

(25) The representatives of the anonymous opinion in the Baraitha that follows.

Talmud - Mas. Baba Bathra 84b

Wine and vinegar are the same[1] in kind. Rabbi says: [They are regarded as] two [different] kinds.[2] — It may be said [to be in agreement] even [with] the Rabbis. They dispute with Rabbi only in the case of tithe and heave-offering [for they are of the same opinion as] R. Elai. For R. Elai said: Whence [is it inferred] that, if one separates a heave-offering from an inferior quality for the [redemption of] a superior quality, his offering is valid, for it is said: And ye shall bear no sin by reason of it, seeing that ye have set apart from it the best thereof,[3] [but, it is to be inferred, if you do not set apart from the best, but of the worst, you shall bear sin]; if, [however, the inferior quality] does not become consecrated, why [should there be any] bearing of sin?[4] Hence [it may be inferred] that if one separates a heave-offering from an inferior quality for [the redemption of] a superior quality, his offering is valid[5] . As regards commercial transactions, however, all [are of the opinion that wine and vinegar are not of the same kind] because some one may like wine and not vinegar while another may like vinegar and not wine.[6] MISHNAH. IF ONE HAS SOLD FRUIT TO ANOTHER[7] [AND THE BUYER] HAS PULLED[8] [THEM]. THOUGH THEY HAVE NOT [YET] BEEN MEASURED,[9] OWNERSHIP IS ACQUIRED. [IF HOWEVER] THEY HAVE BEEN MEASURED[10] BUT [THE BUYER] HAS NOT PULLED [THEM], OWNERSHIP IS NOT ACQUIRED. IF [THE BUYER] IS PRUDENT, HE HIRES THE PLACE WHERE THEY ARE KEPT.[11] IF ONE BUYS FLAX FROM ANOTHER, HE DOES NOT ACQUIRE OWNERSHIP UNTIL HE MOVES IT FROM PLACE TO PLACE. AND IF IT WAS ATTACHED TO THE GROUND AND HE PLUCKED [OF IT] ANY QUANTITY, HE ACQUIRES OWNERSHIP.

GEMARA. R. Assi said in the name of R. Johanan: [If the buyer] has measured [with the seller's instruments] and has put [them] in an alley, he acquires possession.[12] R. Zera said to R. Assi: Is it not possible that my master[13] has heard [this statement][14] only in [the case where the buyer] has measured into his [own] basket?[15] He replied unto him: This young Rabbi seems to think that people do not correctly memorise what they hear. [If the buyer had] measured it into his [own] basket, would there have been any need to tell [that ownership is acquired]?[16] Did he[17] accept it from him[18] or not? — Come and hear what R. Jannai said in the name of Rabbi: [In the case of] a courtyard in partnership, [the partners] may acquire possession [of objects they buy] from one another. Does not this [refer to the case where the objects bought lie] on the [bare] ground?[19] — No; [this refers to the case when they were put] into his basket. This can also be supported by argument. For R. Jacob said in the name of R. Johanan: [If the buyer] measures and puts [them] in an alley. he does not acquire possession. Are not these[20] contradictory? But surely it must be concluded [that] one[21] [case refers to one] who measures into his basket, the other[22] [case, to one] who measures upon the [bare] ground. This is conclusive.[23]

Come and hear: [IF HOWEVER] THEY HAVE BEEN MEASURED BUT [THE BUYER] HAS NOT PULLED [THEM]. OWNERSHIP IS NOT ACQUIRED. Does not this refer to an alley![24] — No; [this refers] to reshuth harabbim.[25] If so, explain the first clause, [IF HE] HAS PULLED [THEM] THOUGH THEY HAVE NOT [YET] BEEN MEASURED, OWNERSHIP IS ACQUIRED. Does ‘pulling’ acquire possession in a reshuth harabbim? — Surely both Abaye and Raba have stated:[26] Mesirah[27] confers legal ownership in reshuth harabbim[28] or in a yard which belongs to neither of them;[29] Meshikah[30] confers ownership in an alley[31] or in a yard owned by both of them; and ‘lifting’[32] confers ownership everywhere.[33] ‘Pulling’ mentioned [in our Mishnah] also means from the reshuth harabbim to an alley. If so, explain the next clause of our Mishnah, IF [THE BUYER] IS PRUDENT, HE HIRES THE PLACE WHERE THEY ARE KEPT. [Now], if [the object is] in reshuth harabbim, from whom could he hire? — This is what [the Mishnah] means: And if [the object] is in the domain of the owner,[34] IF [THE BUYER] IS PRUDENT, HE HIRES THE PLACE WHERE THEY ARE KEPT.

Both Rab and Samuel have stated:

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(1) With reference to Terumah, which must not be separated from one species to redeem another.

(2) Our Mishnah, since it allows both buyer and seller to withdraw, must obviously regard wine and vinegar as two different kinds, as Rabbi.

(3) Num. XVIII, 32.

(4) Surely no wrong has been done, since his action is null and void, and he has to give another heave-offering.

(5) Infra 143a; B. M. 56a.

(6) Hence, though wine and vinegar may be regarded as belonging to the same kind, the sale of one in lieu of the other is not valid, and both buyer and seller may, therefore, withdraw according to the opinion of all, including that of the Rabbis.

(7) And the price was agreed upon.

(8) V. p. 304, n. 8. By meshikah one acquires possession in an alley or in a courtyard which is the common property of both buyer and seller.

(9) Measuring is not an essential of the sale. It merely determines the quantity sold. The sale, therefore, becomes effective though no measuring has yet taken place.

(10) How and where, is explained in the Gemara.

(11) In the case when the fruit is kept in the domain of the seller, the buyer hires the place where they are kept, and thus acquires ownership of the fruit. A person's domain acquires possession for him.

(12) V. n. 1.

(13) R. Assi.

(14) That possession Is acquired in an alley.

(15) So that the basket, his property, acquired for him possession of the fruit; but if the fruit were put on the bare ground of the alley. no possession would have been acquired.

(16) The basket would have acquired possession for the buyer even if it had been in the seller's territory, how much more when it is in an alley.

(17) R. Zera.

(18) R. Assi.

(19) And since objects are acquired in a partner's courtyard, they are also acquired in an alley which is regarded as the property of those who happen to be there. This being the report of R. Jannai, the master of R. Johanan, and being also in agreement with that which R. Assi stated in the name of R. Johanan, it must have been accepted by R. Zera.

(20) The reports of R. Assi and R. Jannai, on the one hand, and that of R. Jacob on the other.

(21) That of R. Assi and R. Jannai.

(22) That of R. Jacob.

(23) That R. Jannai's report refers to a case where they were put into his (the buyer's) basket, but otherwise he could not have acquired ownership; so that R. Zera could not have accepted R. Assi's report.

(24) How, then, can R. Assi say that objects, if deposited in an alley, are acquired?

(25) V. Glos.

(26) Supra 76b.

(27) V. Glos.

(28) V. p. 307, n. 8.

(29) V. p. 308, n. 1.

(30) V. Glos.

(31) V. p. 308, n. 3.

(32) V. Glos.

(33) Cf. Kid. 23b. How then, in view of the joint statement of Abaye and Raba, can it be said that by pulling in the reshuth harabbim one acquires ownership?

(34) The seller.

Talmud - Mas. Baba Bathra 85a

A man's vessel acquires for him ownership[1] everywhere[2] except in reshuth harabbim. But both R. Johanan and R. Simeon b. Lakish have stated: Even in reshuth harabbim. R. Papa said: There is no dispute [at all] between them. The former[3] speak of reshuth harabbim; the latter,[4] of an alley. Then why do they call it public territory?[5] — Because it is not private territory.[6] This[7] may also be proved by logical deduction; for R. Abbahu said in the name of R. Johanan: A man's vessel acquires ownership for him wherever he is permitted to set it down. From this it is to be deduced that [only where] he is permitted [to set it down],[8] he does [acquire ownership]; [but where] he is not permitted,[9] [he does] not.

Come and hear: Four[10] [different] laws [are applicable] to sales.[11] Before the measure[12] is filled, [the contents remain in the possession] of the seller.[13] When the measure is filled, [the contents pass over into the possession] of the buyer.[14] These laws apply to a measure which belonged to neither of them,[15] but if the measure was [the property] of one of them, he [whose measure it is] acquires successive possession of every single unit of the quantity as soon as it is put in.[16] These laws, [furthermore], apply to a reshuth harabbim and to a courtyard which belongs to neither of them,[17] but [if the purchase was] on the premises of the seller, [the buyer] does not acquire possession[18] until he has lifted[19] it or has removed it from the seller's premises.[20] [If the purchase was] on the premises of the buyer, he acquires possession as soon as the seller has consented [to the terms of the sale].[21] [If the purchase was] on the premises of one with whom it had been deposited [by the seller]. possession cannot be acquired [by the buyer] until [the owner of the premises] has consented[22] [to allow to the buyer a portion of his premises on which to effect acquisition of ownership], or until [the buyer] had hired the place it occupies. At any rate, it is taught here [that possession by means of one's vessel may be acquired] in reshuth harabbim and in a courtyard which belongs to neither of them.

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(1) Of an object bought, if the price had been previously agreed upon.

(2) Even if the vessel is on the premises of the seller; provided the latter explicitly said; ‘let your vessel acquire possession for you’.

(3) Rab and Samuel.

(4) R. Johanan and Resh Lakish.

(5) Heb. reshuth harabbim. v. p. 307, n. 8.

(6) Heb. reshuth ha-yahid.

(7) R. Papa's reconciliation of the apparent differences.

(8) E.g., in an alley, a courtyard belonging to buyer and seller, or the premises of the seller if he granted permission. V. n. 3.

(9) E.g.. in reshuth harabbim.

(10) Four: (i) The case when the measure was borrowed; (ii) when it belonged to one of the parties to the sale. (Both these cases speak of reshuth harabbim, etc.) (iii) When the purchase was on the premises of the buyer and (iv) on the premises of the seller or, of him with whom it has been deposited.

(11) Lit., ‘sellers’.

(12) Which has been borrowed.

(13) The measure is assumed to have been lent to him (by the middleman. v. p. 355f.) for the purpose of measuring out his merchandise. It remains, therefore, in his possession until he completes the measuring.

(14) Not only the contents, but also the measure remains in the buyer's possession until he has emptied the purchase into his own vessel or transferred it to his premises. A measure is assumed to be lent to the buyer for this purpose, and to the seller for measuring only. (Cf. previous note.)

(15) V. n. 13.

(16) Lit., ‘he acquires first, first’.

(17) And no permission for the purpose was obtained from the owner of the yard.

(18) Even if the measure is his own.

(19) V. Glos. s.v. Hagbahah.

(20) Into his own, into an alley. or the like.

(21) Though no measuring of the commodity has yet taken place.

(22) At the request of the seller.

Talmud - Mas. Baba Bathra 85b

Does not this mean an actual reshuth harabbim?[1] — No; [it means] an alley. But has it not been treated as being in a similar category to that of a courtyard which belongs to neither of them?[2] — The [phrase], ‘courtyard which belongs to neither of them’, also signifies that [the court] is neither in the entire ownership of the one nor in the entire ownership of the other; but in the joint ownership of the two.

R. Shesheth inquired of R. Huna: [If] the buyer's vessel stands on the premises of the seller, does the buyer, [thereby] acquire possession [of a purchase placed in it] or not?[3] — He replied unto him: You have learned this [in the following]:[4] [If the husband] has thrown it [a get][5] into [his wife's] lap or into her work-basket,[6] she is divorced.[7] R. Nahman said unto him: Why do you bring an answer from this which has been refuted by a hundred arguments to one?[8] For Rab Judah said in the name of Samuel: This [law[9] applies only to the case] where the work-basket was hanging upon her.[10] And Resh Lakish said:[11] Fastened [to], though not hanging upon her.[12] R. Adda b. Ahaba said:[13] When the basket was standing between her thighs.[14] R. Mesharsheya, the son of R. Ammi, said:[15] When her husband was a seller of women's work-baskets.[16] R. Johanan said:[15] The place [occupied by] her lap, [as well as] the place [occupied by] her work-basket, is her property. Raba said:[15] R. Johanan's reason is because a man does not mind [conceding to his wife] either the place [occupied by] her lap[17] or the place [taken up by] her work-basket. But, [concluded R. Nahman], bring your answer from this: [It has been taught[18] that if the purchase was] on the premises of the seller, [the buyer] does not acquire possession until he has lifted it or has removed it from the seller's premises. Does not this [apply to the case when the purchase was] in the buyer's vessel?[17] — No; in the seller's vessel. But now, since the first clause [deals with a case where the purchase is] in the seller's vessel, the final clause also [must deal with a purchase] in the seller's vessel, [how then can you] explain [this] final clause? [It reads:] [If the purchase was] on the premises of the buyer, he acquires possession as soon as the seller has consented [to the terms of the sale].[19] Now, if [the purchase was, as you assert], in the seller's vessel, why does the buyer acquire possession? — The final clause deals with a case when the vessel belongs to the buyer. And how [do you arrive at such] a definite decision? — It is usual that at the seller's, the vessels of the seller are likely to be used; at the buyer's, the vessels of the buyer are likely to be used.

Raba said come and hear: [It has been taught:][20] [If] he has pulled his[21] ass drivers [who pulled with them their asses], or his[22] labourers and has [thus] brought them into his house [while the loads[23] remained on their backs], whether the price was fixed before the measuring, or the measuring took place before the price was fixed, both[24] may withdraw from the sale.[25]

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(1) How, then, could R. Samuel, and R. Abbahu in the name of R. Johanan, state that one's vessel cannot acquire ownership in reshuth harabbim?

(2) But to a third party; while an alley is regarded as the territory of any buyer and seller who happen to be there.

(3) Cf. B.M. 67b; A.Z. 71b.

(4) Git. 77a.

(5) ‘Bill of divorce’.

(6) קלת or קךתה, women's work-basket.

(7) As if it had been given into her own hand, though the basket may stand, (so it is assumed now), on the premises of the husband. Similarly, in the case of commercial transactions, when the buyer's vessel is on the premises of the seller, it acquires possession for him.

(8) Lit., ‘they beat it a hundred measures for one measure’. עוכלא ‘ukla, is one of the smaller measures of capacity and standards of weight.

(9) That the basket is the means whereby the woman acquires possession of the get.

(10) Git. 78a.

(11) Git. loc. cit.

(12) Even though the basket stands on the ground.

(13) Git. loc. cit.

(14) On the ground. In this case, the spot on which the basket rests is regarded as her property, allotted to her by her husband up to the moment of the consummation of the divorce.

(15) Git. loc. cit..

(16) The husband, therefore, does not object to her possession of the ground on which her basket stands.

(17) When her robe trails on the ground.

(18) Supra 85a. (13) Which proves that the question. whether the buyer's vessel on the premises of the seller can serve as a means of acquiring possession, is to be answered in the negative.
(19) Supra loc. cit.
(20) A.Z. 72a.,
(21) I.e., the seller's. Others change the pronominal suffix of המריו and of יפועליו into final Nun, ‘ass drivers and labourers’. (V. Tosaf. s.v. משך a.l.).
(22) V. n. 3.
(23) Loads of, e.g., produce.
(24) Buyer and seller.
(25) Two conditions are required: Fixing the price and measuring out into the buyer's vessels. Fixing the price alone while the produce is still on the men's or asses’ backs is of no avail, because this cannot take the place of meshikah nor that of the ‘buyer's territory’. The ‘pulling’ of the men who carry the produce does not take the place of the ‘pulling’ of the produce itself. Measuring out into the buyer's vessel or territory, or even actual meshikah, is of no avail before the price has been agreed upon, because, before that has been done, neither seller nor buyer agree definitely to the sale or purchase. V. n. 10.

Talmud - Mas. Baba Bathra 86a

If he has unloaded them[1] and brought them into his[2] house [and] fixed [the price] before measuring, neither of them may withdraw.[3] [If] measuring took place before the price has been fixed, both may withdraw.[4] Now, since the vessel of the seller, [if it is] on the premises of the buyer, does not serve as a means of retaining possession for him,[5] the vessel of the buyer also [if it is] on the premises of the seller does not serve as a means of acquiring possession for him![6] R. Nahman b. Isaac replied: [The law quoted[7] refers to the case] when [the goods] were emptied out [from the seller's sacks into the territory of the buyer]. Raba [remarked] indignantly: Does it state ‘he emptied them’? The statement reads, ‘he unloaded them’![8] But, said Mar son of R. Ashi: [The law here refers] to bundles of garlic.[9]

Huna the son of Mar Zutra said to Rabina: Observe that it has been said, ‘he unloaded them’;[10] what matters it, then, [whether the price had been] fixed or not? — He [Rabina] replied: [When the price] has been fixed, each [of the parties] acquiesces [in the sale, but when a price] has not been fixed, none [of them] acquiesces.[11]

Rabina said to R. Ashi: come and hear! [It has been stated:][12] Both Rab and Samuel hold that a man's vessel acquires for him ownership everywhere. Does not this [‘everywhere’] include the premises of the seller? — [In the case spoken of] there,[13] [the other replied, the seller] said to him ‘go and acquire ownership’.[14]

We have learnt elsewhere:[15] Ownership of landed property[16] is acquired by means of money. deed and possession;[17] and movable property[18] is acquired only by meshikah.[19] The following reported statement has been attributed in Sura to R. Hisda; at Pumbeditha, to R. Kahana or — according to others — to Raba: [The law of meshikah] has been taught,with reference only to [heavy] objects which are not usually lifted, but objects which are usually lifted can be acquired by hagbahahl[10] only; not by meshikah. Abaye sat lecturing on this law, [when] R. Adda b. Mattenah raised the following objection. [It has been taught]:[20] He who steals a purse on the Sabbath[21] is liable [to make restitution], because the obligation [to pay restitution], for the theft ‘has preceded[22] the offence against the prohibition of the Sabbath.[23] If he was dragging [it][24] as he was moving out, he is exempt [from the payment of restitution][25] because here the offences relating to the desecration of the Sabbath and to theft have been committed simultaneously.[26] Now, surely. a purse is an object which is usually lifted, and yet it is acquired by meshikah![27] He replied unto him: When [the purse has] a cord. ‘I also’, said R. Adda, ‘speak of one with a cord’ [and yet it is small enough to be lifted]! — [Abaye] replied: [I say that the law refers to] a thing[28] [so heavy] that it requires a cord.[29]

Come and hear: [It has been taught:[30] If the purchase was] on the premises of the seller, [the buyer] does not acquire possession until he lifts it or removes it from the seller's premises. This proves clearly that an object which can be lifted may be acquired in accordance with one's desire, either by ‘lifting’ or by meshikah![31] R. Nahman b. Isaac replied: What has been taught is to be taken — disjunctively; that which can be lifted [is acquired] by lifting, and that which has to be pulled [is acquired] by meshikah.

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(1) The goods bought.

(2) The buyer's.

(3) Although the goods are presumably still in the seller's sacks; because the buyer's premises acquired possession for him.

(4) Before the price is agreed upon. the sale cannot be regarded as completed; because neither buyer nor seller makes up his mind to sell or to buy before knowing whether the other party will accept his price or offer. Cf. n. 7.

(5) For it has been said that, if the price had been fixed, none may withdraw, though the goods are presumably still in the buyer's sacks. This shows that the buyer's premises acquire possession for him despite the fact that the goods remain in the seller's vessels.

(6) If premises (the buyer's) can serve as a means of depriving the seller from ownership of his goods though still in his vessels, how much more, in the case of goods in the buyer's vessels, should premises (the seller's) be capable of serving as a means of retaining ownership.

(7) That goods unloaded on the premises of the buyer are acquired by him.

(8) I.e., As delivered in their sacks.

(9) These are not delivered in sacks. When unloaded they come in direct contact with the buyer's territory.

(10) Into the territory of the buyer, which legally acquires ownership for him.

(11) V. p. 349. n. II.

(12) Supra 84b f.

(13) In the statement of Rab and Samuel.

(14) The seller thereby implied that he lent the buyer the spot on which his vessel stood.

(15) Kid. 26a supra 51a, infra 150b.

(16) V. p. 310, n. 7.

(17) V. l.c., n. 10.

(18) V. l.c. n. 6.

(19) V. Glos. (15) V. Glos.

(20) Tosef. B.K. IX.

(21) And carried it out into reshuth harabbim. It is forbidden to carry from private domain into public domain and vice versa on the Sabbath.

(22) The thief becomes liable to pay restitution as soon as he lifted the object.

(23) His liability to the penalty for desecrating the Sabbath does not commence simultaneously with his liability to make restitution. While the latter follows immediately upon his lifting of the stolen object (cf. previous note), the former is effected subsequently. when he takes the object out into reshuth harabbim. Since the two offences have not been committed simultaneously, the law that the lighter penalty (that for theft) is superseded by the heavier (that for desecration of the Sabbath) does not apply.

(24) So that there was no ‘lifting’ whereby to acquire possession of the theft.

(25) The heavier penalty for the desecration of the Sabbath supersedes the lighter penalty for theft.

(26) Since the object has not been lifted while on the premises of the owner, the thief acquires possession by meshikah, only when the stolen object has been taken out, but at that moment he also commits the offence against the laws of Sabbath, which prohibit the removal of things from one domain into another. (V. n. 2.)

(27) For it has been said that the offence relating to theft had been committed simultaneously with that of the desecration of the Sabbath, though at the time of the dragging out there was only meshikah and no lifting at all.

(28) A big purse.

(29) Whereby to drag it out; and since it is a heavy object it can justly be acquired by meshikah.

(30) Supra 85a.

(31) ‘Removing from the seller's premises’, without lifting is obviously meshikah.

Talmud - Mas. Baba Bathra 86b

Come and hear: IF ONE HAS SOLD FRUIT TO ANOTHER [AND THE BUYER] HAS PULLED [THEM]. THOUGH THEY HAVE NOT [YET] BEEN MEASURED, OWNERSHIP IS ACQUIRED. Surely fruit can be lifted up, and yet it is taught that ownership [of it] is acquired by meshikah?[1] Here[2] we are dealing with [fruit packed in] large bags.[3] If so,[4] [how can you] explain the last clause [which reads]. IF ONE BUYS FLAX FROM ANOTHER. HE DOES NOT ACQUIRE OWNERSHIP UNTIL HE MOVES IT FROM ONE PLACE TO ANOTHER. Is not flax [also] packed in large bags?[5] — Flax is different — [It has to be packed in small bags] because, [otherwise]. it slips out.[6]

Rabina said to R. Ashi, Come and hear: Large cattle are acquired by mesirah,[7] and small by lifting these are the words of R. Meir and R. Simeon b. Eleazar. But the Sages say: Small cattle [are acquired] by meshikah.[8] Surely, [it may be asked], small cattle can be lifted and yet it is taught[9] that ownership of them may be acquired by meshikah! — Cattle are different because they clutch the ground.[10]

Both Rab and Samuel said: [If the seller said], ‘I sell you a kor[11] for thirty’, he may withdraw even at the last[12] se'ah.[11] [If, however, he said]: ‘I sell you a kor for thirty, [each] se'ah for a sela’, [the buyer] acquires possession of every se'ah[13] as it is measured out for him.[14]

Come and hear: If the measure was the property of one of them, he [whose measure it is] acquires successive possession of every single unit of the quantity as soon as it is put in.[15] [Surely this law applies] even to [the case] where the measure had not been filled![16] — [This law refers only to such a case] as when [the seller] said to [the buyer], ‘[I sell you] a hin[17] for twelve sela'im, [every] log[13] for a sela’. And, as R. Kahana said,[18] ‘there were marks in the hin [of the Temple].[19] so, in this case also, there were marks on the measures.[20]

Come and hear! [It has been taught: In the case where a man] hired a labourer to work for him at the harvesting season for a denarius a day. [and paid him his wage in advance].

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(1) How then, can it be said that things that can be lifted cannot be acquired by meshikah?

(2) In the Mishnah quoted.

(3) Which cannot be lifted up.

(4) That the Mishnah deals with fruit in large bags.

(5) If the first clause, (fruit), deals with small bags, the final clause also (flax), would, consequently, deal with small bags. The reason for the difference between the modes of acquiring ownership, (‘pulling’ in the first, ‘lifting’ in the second case). could then be explained by the fact that flax is never dragged but always lifted. Thus, the purpose of our Mishnah would be the laying down of the following law: Things which are usually lifted may be acquired not only by ‘lifting’ but also by ‘pulling’ — (first clause); while things which are always lifted can be acquired by lifting only — (final clause). If, however, it be assumed that the reason why in the first clause ‘pulling’ is effective, is only that the fruit is packed in large bags it must consequently be assumed that the reason why the flax cannot be acquired thus, but only by ‘lifting’, is that it is packed in small bags. If so, it is asked, is not flax also packed in large bags? And if they are so packed, wherein lies the cause of the different modes of acquisition?

(6) Small bags are usually lifted, hence only ‘lifting’, and not ‘pulling’, is the mode of acquisition.

(7) V. Glos.

(8) Kid. 25b, B.K. 11b.

(9) By the Sages, who are in the majority in the dispute.

(10) And it is difficult to lift them. Therefore, ‘pulling’ has been made the mode of their legal acquisition.

(11) Kor and se'ah are measures of capacity, the former containing thirty of the latter.

(12) Because he implied in his offer that it was his desire to sell the entire kor. As long as the buyer has not legally acquired every fraction of it, the purchase is not consummated.

(13) The seller, by specifying the price per kor and se'ah, has intimated his desire to sell either the entire kor or any fraction of it.

(14) Lit., ‘he acquires first first’. (Cf. p. 347. n. 1).

(15) Supra 85a.

(16) How, then, could it be said that the seller ‘may withdraw even at the last se'ah’?

(17) Hin and log are liquid measures, the former containing twelve of the latter.

(18) Shab. 80b, Men. 87b.

(19) Marking off a quarter. a third, and a half of the hin, required respectively as a meal offering for the lamb, the ram, and the bullock.

(20) Every log was marked off, so that when the commodity measured reached any of the marks it might be regarded as having ‘filled the measure’, because each mark represented a complete unit.

Talmud - Mas. Baba Bathra 87a

but at that season [the labourer] was worth a sela’[1] [a day] he must not derive any benefit from it.[2] If, however, [a man] hires [a labourer to commence work] at once [and to continue through the harvesting season] for a denarius a day, [although] at the harvesting season he was worth a sela’, [he] is permitted [to pay in advance and to have the benefit of the difference].[3] Now, if you are of the opinion that [if the seller said]. ‘I sell you a kor for thirty, [each] se'ah for a sela’, ‘[the buyer] acquires possession of every se'ah as it is measured out, here also, [since mention was made of a ‘denarius a day’] every day that has passed[4] [should have been regarded as] cut off[5] [from the other days of the period that follow] and it should, [therefore], be forbidden to derive any benefit from it.[6] Why then [has it been said that if a man hires a labourer to commence work at once and to continue through the harvesting season] for a denarius a day, [although] at the harvesting season he was worth a sela’ [he] is permitted [to have the benefit]? Is not this [difference] a reward[7] for advancing the money?[8] Raba replied: What a logical argument! Has it ever been forbidden to reduce one's hire to the lowest level?[9] Wherein [then, lies the reason for] the difference between the first, and the last clause?[10] — [In] the first clause, since work does not begin[11] at once,[12] [the difference between the two rates of wage] appears as a reward for advancing the money;[13] [in] the last clause, where work begins at once, [the difference] does not appear as a reward for advancing the money. AND IT IF WAS ATTACHED TO THE GROUND AND HE PLUCKED [OF IT] ANY QUANTITY, HE HAS ACQUIRED OWNERSHIP. Does he acquire ownership [of all the flax] because he has plucked some of it?[14] — R. Shesheth replied: The case dealt with here [refers to a seller] who said [to the buyer], ‘Go improve[15] for yourself any piece of land, [acquire[16] possession of it, and thereby] acquire ownership of all that is upon it.’[17]

MISHNAH. [IF] ONE SELLS WINE OR OIL TO ANOTHER AND IT HAS BECOME DEARER[18] OR CHEAPER,[18] — IF THE MEASURE HAS NOT YET BEEN FILLED, [THE BENEFIT OR LOSS IS] THE SELLER'S. AFTER THE MEASURE HAS BEEN FILLED, [THE BENEFIT OR LOSS IS] THE BUYER'S. IF THERE WAS A MIDDLEMAN BETWEEN THEM [AND] THE CASK WAS BROKEN [BEFORE DELIVERY TO THE BUYER], THE LOSS[19] IS THE MIDDLEMAN'S. [A SELLER] MUST [IN FAVOUR OF THE BUYER] ALLOW THREE DROPS TO FALL [FROM THE SIDES OF HIS VESSEL INTO THAT OF THE BUYER AFTER THE LIQUID HAS BEEN POURED OUT]. IF HE INCLINED THE VESSEL [AFTER THE THREE DROPS HAVE BEEN ALLOWED TO FALL]. THE ACCUMULATION OF THE REMNANTS [FROM ITS SIDES] BELONGS TO THE SELLER.[20] A SHOPKEEPER[21] IS NOT OBLIGED TO ALLOW THE THREE DROPS TO FALL. R. JUDAH SAID: ON SABBATH EVE TOWARDS DUSK ONE IS EXEMPT.[22]

GEMARA. Whose measure was this?[23] If it is assumed to have been the measure of the buyer, [why should the benefit or loss be that] of the seller before the measure has been filled? [Surely] it is the buyer's measure![24] If, however, [it is assumed that it was] the seller's measure, [why should the benefit or loss be that] of the buyer after the measure has been filled? [Surely] it is the seller's measure! — R. Elai replied: The measure was the middleman's.[25] But since it is taught in the latter clause, IF THERE WAS A MIDDLEMAN BETWEEN THEM AND THE CASK WAS BROKEN THE LOSS IS THE MIDDLEMAN'S, is it not to be inferred that the first clause does not deal with the case of a middleman? — The first clause [speaks of] a measure in the absence of the middleman; the latter clause, of the middleman himself.[26]

[IF THE VESSEL . . .] HAS BEEN INCLINED, THE ACCUMULATION OF THE REMNANTS [FROM ITS SIDES] BELONGS TO THE SELLER. When R. Eleazar went up[27] he met Ze'iri to whom he said: Is there here a tanna[28] whom Rab has taught the Mishnah of measures? He showed him R. Isaac b. Abdimi. The latter said unto him: What is your difficulty? — For [the other replied,] we learnt: [IF THE VESSEL . . .] HAS BEEN INCLINED, THE ACCUMULATION OF THE REMNANTS [FROM ITS SIDES] BELONGS TO THE SELLER;

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(1) Sela’ = four denarii.

(2) Viz., the difference between the sum given and the price of labour at harvesting time; because this may be regarded as usury. since the labourer is paying a sela’ (in labour) for every denarius he has received in advance.

(3) Because the whole period of the hiring is considered as one long day; and, since on the first days of the period the labour was only worth a denarius per day. no higher price need be paid for the other days.

(4) Lit. ‘first first’.

(5) Mentioning the entire period and the denarius per day is similar to mentioning the entire kor and the individual units of the se'ah.

(6) Viz. the difference between the wages at the harvesting season and that at the earlier days.

(7) I.e., usury.

(8) Lit., ‘reward for waiting for me’.

(9) A labourer may. so far as the Biblical prohibition of usury is concerned, agree to take any wage, however low, even if his work is not to begin until the harvesting season, and his wages may be paid in advance. Lowering one's wage is not the same as paying usury for advancing money as a loan or on a purchase.

(10) Since one may lower his wage, why does the first clause state that one must have no benefit from the difference between the denarius and the sea’?

(11) Lit. ‘does not do with him’.

(12) As soon as the wage was agreed upon and paid.

(13) And prohibited as a mere Rabbinical restrictive measure. V. n. 6.

(14) How can the meshikah of a small part affect the entire purchase?

(15) Clearing any piece of land, by plucking the flax that grows upon it, prepares it for ploughing. and thus improves it.

(16) By improving the piece of land at the request of the owner, the buyer acquires possession of the entire field, though he did not buy it for the purpose of acquiring the flax.

(17) By acquiring possession of the land one acquires all that grows upon it.

(18) After the price had been agreed upon.

(19) Lit., ‘it was broken.

(20) So Rashb. Jastrow, on the basis of a variant reading. renders, ‘If he bent the vessel and drained it.’

(21) Who has to attend to his customers and is pressed for time.

(22) The Gemara explains this.

(23) The measure spoken of in our Mishnah.

(24) Whereby he should acquire ownership.

(25) And he lent it to the buyer and the seller.

(26) Since he buys from the seller to sell to the buyer, and the measure is his, and he himself is present, the purchase is his until delivery to the buyer.

(27) From Babylon to Palestine.

(28) I.e. one who memorizes Mishnayoth and Baraithoth for recital in the school; v. Glos.

Talmud - Mas. Baba Bathra 87b

but have we not [also] learnt: '[If the vessel][1] has been inclined, the accumulation from the remnants [on its sides] is terumah'?[2] — He replied unto him: Surely about this it has been said: R. Abbahu said [the accumulation belongs to the seller] because the law of the owner's resignation is applied to it.[3]

A SHOPKEEPER IS NOT OBLIGED TO ALLOW TO FALL etc. The question was raised: Does R. Judah refer to the [law in the] earlier clause[4] to relax it,[5] or perhaps [he refers] to the [law in the] latter clause[6] to restrict it?[7] Come and hear: It has been taught: R. Judah says. A shopkeeper, on Sabbath eve at dusk, is exempt, because a shopkeeper is [at that time] much occupied.[8]

MISHNAH. IF A PERSON SENDS HIS [LITTLE] SON TO A SHOPKEEPER [TO WHOM HE HAD PREVIOUSLY GIVEN A DUPONDIUM],[9] AND [THE SHOPKEEPER] MEASURED OUT FOR HIM OIL FOR ONE ISAR[5] AND GAVE HIM THE [OTHER] ISAR, [AND ON HIS WAY HOME THE CHILD] BROKE THE BOTTLE [WHICH HIS FATHER HAD SENT WITH HIM] AND LOST THE ISAR [GIVEN HIM AS CHANGE], THE SHOPKEEPER IS [LIABLE FOR ALL THE LOSSES.][10] R. JUDAH ABSOLVES [THE SHOPKEEPER], SINCE FOR THAT PURPOSE[11] [THE FATHER] HAD SENT HIM [THE CHILD]. BUT THE SAGES AGREE WITH R. JUDAH THAT IN THE CASE WHEN THE BOTTLE WAS IN THE HAND OF THE CHILD, AND THE SHOPKEEPER MEASURED OUT INTO IT, THE SHOPKEEPER IS ABSOLVED.

GEMARA. One can well understand that, in [the case of] the isar and the oil, the dispute [in our Mishnah between the Rabbis[12] and R. Judah] depends on the following [views]. The Rabbis maintain that [the father] has sent [the child merely] to inform [the shopkeeper of what he required],[13] and R. Judah[14] maintains that [the father] has sent [the child] in order that [the shopkeeper] should send him [back with the things]; but, [as regards the] breaking of the bottle, [why should the Rabbis lay the responsibility on the shopkeeper]? It is a loss, [surely], for which its owner[15] was well prepared![16] — R. Hoshaia replied: Here we deal with an owner [who is also] a seller of bottles, and in the case when the shopkeeper took [the bottle] for the purpose of examining it;[17] [in such a case the shopkeeper[18] assumes responsibility] in accordance with [a decision given by] Samuel. For Samuel said: He who takes a vessel from the artisan to examine it, and an accident happens [while it is] in his hand, is liable.[19] Does this mean that [the decision] of Samuel is [not generally accepted, but is a matter of dispute between] Tannaim?[20] [Surely this is not very likely]! — But, said both Rabbah and R. Joseph, [the Mishnah] here [deals] with [the case of] a shopkeeper who sells bottles.[21] And R. Judah follows his own reasoning,[22] and the Rabbis follow their own reasoning.[23] If so,[24] explain the last clause: THE SAGES AGREE WITH R. JUDAH THAT IN THE CASE WHEN THE BOTTLE WAS IN THE HAND OF THE CHILD, AND THE SHOPKEEPER MEASURED OUT INTO IT, THE SHOPKEEPER IS ABSOLVED. But surely you said [that the Rabbis maintained the view that the father] had sent [the child merely] to inform him?[25] — But, said both Abaye b. Abin and R. Hanina b. Abin, here we deal with a case

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(1) In which the Israelite measured out oil for the priestly portion.

(2) Ter. XI. 8. If in the former case the accumulation belongs to the seller not to the buyer, in this case it should belong to the owner, not to the priest.

(3) The buyer of the liquid, who becomes its owner, does not expect any more of it after the three drops from the sides had been drained. In the case of terumah, however, the principle of 'resignation' does not apply, as the remnants, however insignificant, are forbidden to a non-priest.

(4) Which requires the seller always to allow three drops to fall into the vessel of the buyer.

(5) That on Sabbath eve towards dusk, it is not to be applied.

(6) Which exempts a shopkeeper.

(7) That even a shopkeeper is not exempt, except on Sabbath eve towards dusk.
(8) R. Judah's is thus a restrictive measure.
(9) Dupondium and isar, Roman coins. The former is worth two of the latter.
(10) Of the bottle, the oil and the isar.
(11) I.e., of bringing home, from the shopkeeper, the oil and the isar as well as the bottle.
(12) I.e., the Sages who hold the shopkeeper responsible for the losses.
(13) It was the shopkeeper's duty to find a reliable person with whom to send the oil and the change. He had no authority to entrust these to the child.
(14) Who absolves the shopkeeper.
(15) I.e., the father of the child.
(16) By entrusting the bottle to the child, the father had shown that he was prepared to take the risk.
(17) Not merely for the purpose of putting the oil into it, but with the intention of buying it if found suitable.
(18) Who thus becomes a potential buyer.
(19) The Rabbis of our Mishnah also hold the same view. The shopkeeper, by taking the bottle, has undertaken a responsibility for its safety, of which he cannot be absolved until the bottle has been returned to its owner, not merely to the child.
(20) R. Judah, who absolves the shopkeeper, disagreeing with Samuel.
(21) And the child was given money by his father to pay for the bottle in which the oil was to be carried.
(22) He absolved the shopkeeper from responsibility for the oil and the isar, because he maintains that the child was sent to bring the things with him. For the same reason he absolves the shopkeeper from responsibility for the bottle.
(23) They maintain that the child was sent to give the order only, and not to bring either the oil and the isar or the bottle. The responsibility for these things, therefore, rests upon the shop. keeper.
(24) That the Rabbis lay the responsibility for the bottle upon the shopkeeper for the reason that the child was sent only to give the order for it.
(25) Not to bring the bottle. Why, then, do they in this case, absolve the shopkeeper?

Talmud - Mas. Baba Bathra 88a

such as where [the shopkeeper] took [the bottle][1] to measure with it, [and by this action,[2] he becomes responsible] In accordance with [a decision of] Rabbah.[3] For Rabbah said:[4] [If] he[5] struck [a lost animal], he assumed [thereby] the obligation of [returning] it [to its owner].[6] Might it not be suggested that Rabbah said [so, only] in [the case of] living beings, because he [who strikes them] assists[7] in their running away.[8] Would he, [however], have said [so in] such a case as this?[9] — But, said Raba, I and the lion of the college — who is R. Zera — have interpreted this [as follows]: We deal here with a case where [the shopkeeper] took [the bottle] to use it as a measure for others;[10] and the dispute [between the Rabbis and R. Judah] is [dependent] on [their respective opinions as to the legal status of] one who borrows without the knowledge [of the owner].[11] One[12] is of the opinion [that such a person] is [legally considered] a borrower,[13] and the others[14] are of the opinion [that] he is a robber.[15]

Reverting to the above text. Samuel said: ‘He who takes a vessel from the artisan to examine it, and an accident happened [while it was] in his hand, is liable’. This law[16] [applies only to the case] where the price had been fixed.[17]

Once a person entered a butcher's shop [and] lifted up a thigh of the meat.[18] A rider came while he was holding it up [and] snatched it away from him. He[19] came before R. Yemar [who] ordered him to pay its price. But this law[20] is [applicable only to the case] where the price has been fixed.

A person once brought pumpkins to Pum Nahara,[21] [when] a crowd[22] assembled [and] everyone took[23] a pumpkin.[24] He called out to them,[25] ‘Behold these are dedicated to God’.[26] [When] they [the buyers] came before R. Kahana he said unto them: No one may dedicate a thing which is not his. But this [applies only to the case] where the price is fixed, but [when] the price is not fixed, they remain in the possession of their owner who may rightly dedicate them.

Our Rabbis taught: A person, [who comes] to buy herbs in the market, and picks out and puts down, even all day long, does not acquire possession [of the herb] nor does he become liable to give [its] tithe. [If] he has made up his mind to buy it, he acquires possession and becomes liable to give the tithe. [If he desires to withdraw,] he cannot return it [to the seller], for it has become liable to the tithe;[27] and he cannot tithe it [before returning] because he would thereby reduce their value.[28] How then [is he to proceed]? — He gives the tithe and [returning the remainder] pays [to the seller] the price of the tithe. Does one, then, acquire possession and become liable to give tithe because he has made up his mind to buy? — R. Hoshaia replied: We deal here with [the case of] a God-fearing man like R. Safra,[29] for instance, who applied to himself, And speaketh truth in his heart.[30]

MISHNAH. A WHOLESALE DEALER[31] MUST CLEAN[32] HIS MEASURES ONCE IN THIRTY DAYS, AND A PRODUCER[33] ONCE IN TWELVE MONTHS.[34] R. SIMEON B. GAMALIEL SAYS: THE STATEMENT IS TO BE REVERSED.[35] A SHOPKEEPER MUST CLEAN HIS MEASURES TWICE A WEEK,[36] WIPE HIS WEIGHTS[37] ONCE A WEEK AND CLEANSE THE SCALES AFTER EVERY WEIGHING.[38] R. SIMEON B. GAMALIEL SAID: THESE LAWS APPLY ONLY TO MOIST[39] [COMMODITIES], BUT IN [THE CASE OF] DRY [ONES][40] THERE IS NO NEED [FOR THE CLEANING].[41]

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(1) Brought by the child. According to their explanation, neither of the parties sells bottles.

(2) By taking the bottle from the child, he becomes responsible for its safety, until it has been returned to its owner. Cf. 358, n. 5.

(3) But in the case where the shopkeeper did not take hold of the bottle, (as in the first clause of our Mishnah), the Rabbis rightly agree with R. Judah.

(4) B.M. 30b.

(5) Though an old, or eminent man, who is not obliged to take the trouble of returning a lost thing.

(6) By striking the animal and thus causing it to move, responsibility for its safe return is assumed until it is delivered to its owner; so, in the case of the bottle, the act of grasping it throws responsibility for its safe return to its owner, on the shopkeeper.

(7) Lit. ‘makes them take the track of the fields’ or ‘the external step’. By striking the animal, he causes it to run away still farther.

(8) Therefore he incurs the obligation of ensuring their safe return to their owners.

(9) I.e., the grasping of the bottle, where no possible loss to its owner is involved.

(10) I.e., other customers.

(11) Cf. B.M. 41a, 43b.

(12) R. Judah.

(13) The shopkeeper, therefore, is absolved from all responsibility as soon as he returns the bottle to the child from whom he has borrowed it.

(14) The Rabbis.

(15) Who remains responsible until the object (in this case, the bottle), is returned to the owner himself (Cf. B.K. 118a).

(16) Lit., ‘these words’.

(17) Since the price was known, it is assumed that the buyer had picked up the vessel with the intention of acquiring possession, if no defect should be detected.

(18) To examine its quality.

(19) The man.

(20) V. n. 1.

(21) Lit., ‘rivermouth’. Name of a town on the Tigris.

(22) Lit., ‘all the world’.

(23) With the intention of buying.

(24) ‘Everyone . . . pumpkin’. lit., ‘pumpkin, pumpkin’.

(25) Fearing that some might get away without paying.

(26) Lit., ‘heaven’.

(27) And no one who observes the law must allow any produce to leave him before duly separating the priestly and Levitical gifts.

(28) The separation of the tithe would reduce the quantity and, consequently, also the value.

(29) Mak. 241.

(30) Ps. XV, 2. Once he made up his mind to do something he did not withdraw from it though that involved him in a loss.

(31) Heb. Siton, cf. Gr. ‘wheat’, ‘corn’; gen. ‘food’, ‘victuals’. Gr., ‘a buyer of corn’, corn merchant’. Gen. ‘provision dealer’. From the Gemara, it will be seen that a dealer in sticky, and oily liquids, such as wine and oil, which cling to the sides of the measures, is here the subject of the discussion.

(32) To remove any wine or oil that clings to the measures and reduces their capacity. The cleansing is in the interest of the customers to enable them to receive full measure.

(33) Lit., ‘owner of the house’. One who sells his own products.

(34) The number of his customers being smaller than those of the wholesale dealer, he uses his measures less frequently, and, consequently, there is less stickiness, and less cleansing is required.

(35) Thus: The producer must cleanse once in thirty days and the wholesale dealer only once in twelve months. The measures of the latter, being in frequent use, do not allow of the accumulation of so much stickiness as do those of the producer who uses his less frequently.

(36) The measures of a shopkeeper who is not obliged to allow three drops to fall from his measures after every sale (supra 87a), accumulate much more of the oily and sticky substances than do those of a wholesaler or a producer.

(37) Wherewith meat and similar moist foodstuffs are weighed.

(38) The cavity of the scales is better ground for the accumulation of moist substances than the flat surfaces of the weights. Hence more frequent cleaning is required.

(39) E.g., wine, meat.

(40) Such as fruit.

(41) Since these do not stick to the measures or weights.

Talmud - Mas. Baba Bathra 88b

AND [A SHOPKEEPER] MUST ALLOW [THE PROVISION SCALE] TO SINK A HANDBREADTH [LOWER THAN THE SCALE OF THE WEIGHTS].[1] [IF] HE GAVE HIM THE EXACT WEIGHT[2] HE MUST ALLOW HIM THE [FOLLOWING] ADDITIONS,[3] A TENTH[4] IN [THE CASE OF] LIQUIDS AND A TWENTIETH IN [THE CASE OF] DRY [PROVISIONS]. WHERE THE USAGE IS TO MEASURE WITH A SMALL [UNIT], ONE MUST NOT USE A BIG MEASURE; [IF THE USAGE IS TO MEASURE] WITH A BIG [UNIT], ONE MUST NOT USE A SMALL MEASURE. [IF THE USAGE IS] TO STRIKE [THE MEASURE],[5] [ONE MUST] NOT HEAP [IT UP]. [IF THE USAGE IS] TO HEAP [IT UP], ONE MUST NOT STRIKE IT.

GEMARA. Whence [is] this law[6] [to be inferred]? — Resh Lakish said: Scripture Says: A perfect and just measure [shalt thou have].[7] [This means], make [your weight] just[8] by giving of your own. If so,[9] explain the next clause. [It reads]: [IF] HE GAVE HIM THE EXACT WEIGHT, HE MUST ALLOW HIM THE [FOLLOWING] ADDITIONS. Now, if giving overweight is a Pentateuchal injunction, how is [he allowed] to give him the exact weight [only]? — But, [came the reply], the earlier clause[10] [is not based on a Pentateuchal injunction, but speaks] of a place where there was the practice [of giving overweight],[11] and the statement of Resh Lakish has been made with reference to [what has been said, not in the earlier, but in] the latter clause, which reads, [IF] HE GAVE HIM THE EXACT WEIGHT, HE MUST ALLOW HIM THE [FOLLOWING] ADDITIONS [and with reference to this it has been asked], ‘Whence [is] this law’? — [And] Resh Lakish said: Scripture says: and just,[12] [which means], make [your weight] just, by giving him of your own. And how much must be added to the weight? — R. Abba b. Memel said in the name of Rab: In [the case of] liquids, a tenth of a pound[13] for [every] ten pounds.[14]

A TENTH IN [THE CASE OF] LIQUIDS, AND A TWENTIETH IN [THE CASE OF] DRY, etc. The question was raised: Does this mean, a tenth of the [unit of the] liquids for [every] ten [units] of the liquid, and a twentieth of [the unit of] dry [provisions] for [every] twenty [units] of dry; or [does it], perhaps, [mean] a tenth [of the unit] for [every] ten [units] of liquid and [a tenth of the unit] for [every] twenty [units] of dry [provisions]? — The matter stands undecided.[15]

R. Levi said:[16] The punishment for [false] measures is more rigorous than that for [marrying] forbidden relatives;[17] for in the latter case[18] it has been said: El,[19] but in the former[18] Eleh.[20] Whence can it be shown that El [implies] rigor[ous punishment]? — For it is written: And the mighty [Elei] of the land he took away.[21] Is not Eleh written also in the case of forbidden relatives?[22] — That [Eleh has been written] to exclude[23] [the sin of false] measures from the punishment of kareth.[24] [In] what [respect], then are [the punishments for giving false measures] greater[25] [than those for marrying forbidden relatives]? — There,[26] repentance is possible, but here,[27] repentance is impossible.[28]

R. Levi further stated: Ordinary[29] robbery is worse than the robbery of holy things,[30] for [in] the former[31] [case] 'sin' is placed before 'trespass'[32] while in the latter, 'trespass' is mentioned before 'sin'.[33]

R. Levi further stated: Come and see [how] divine[34] disposition differs from that of mortals.[35] The Holy One, blessed be He, blessed Israel with twenty-two [letters][36] and cursed them [only] with eight.[37] He blessed them with twenty-two, from If [ye walk] in My statutes[38] to [made you go] upright;[39] and He cursed them with eight, from And if ye shall reject My statutes[40] to And their soul abhorred My statutes.[41] But Moses our teacher blessed them with eight and cursed them with twenty-two. He blessed them with eight,

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(1) I.e., overweight must be allowed to the customer.

(2) Where it is not the usage to allow overweight.

(3) גירומין (from גרמ, 'to drag along'), surplus weight or measure which in certain localities shopkeepers allow to their customers.

(4) This is explained in the Gemara, infra.

(5) By removing what is above the level of its top.

(6) Lit., 'these words', the law that the scale must be allowed to sink a handbreadth.

(7) Deut. XXV, 15.

(8) There was no need for Scripture to say 'just', when 'perfect' had already been mentioned. But it teaches that 'perfection' alone is not enough. One must also be 'just' by adding to the 'perfect weight' and, similarly, to the measure.

(9) That the law of adding to weights is not merely Rabbinical, but pentateuchal.

(10) Requiring the giving of a certain amount of overweight by allowing the provision scale to sink a handbreadth etc.

(11) Wherever there exists such a practice, that clause teaches, the scale must be allowed to sink a handbreadth.

(12) Deut. ibid.

(13) Heb. litra, Gr., the Roman libra.

(14) V. infra.

(15) V. Glos. s. v. Teko.

(16) Cf. Yeb. 21a.

(17) Lev. XVIII, 6ff.

(18) Lit. 'this'.

(19) Lev. XVIII, 27. V. following note.

(20) Deut. XXV, 16. El and Eleh, אל [ה],אלה have the same meaning, viz. 'these', but the additional eh at the end of the word is taken to imply additional punishment.

(21) Ezek. XVII, 13.

(22) Lev. Ibid. 29.

(23) Since the expression of 'abomination' has been applied by the Pentateuchal text to both false measures and

forbidden relatives, it might have been thought that the sin of the former is subject to kareth as the latter. Hence the need for the excluding word.
(24) Kareth, כרת (root כרת, to cut off'); premature death, at fifty (kareth of years); or sudden death (kareth of days).
(25) Since it has been said that the punishment of kareth is inflicted only for the sin of marrying forbidden relatives and not for that of false measures.
(26) Forbidden relatives.
(27) False measures.
(28) One cannot remedy the sin of robbery, by mere repentance. The return of the things robbed must precede it. In the case of false measures, it is practically impossible to find out all the members of the public that have been defrauded.
(29) Lit., 'private' or 'individual'. One of the meanings of הדיוט, 'a person in private station', 'layman.' Opposite to one of rank or profession.
(30) Lit., '(Most) High'.
(31) Lit., 'this'.
(32) The Biblical text relating to ordinary robbery reads, If any one sin, and commit a trespass (Lev. V, 21), thus implying that the mere intention or commencement of the crime, even though the trespass had not yet been committed, is already called 'sin'.
(33) In speaking of the robbery of holy things the Bible reads, If any one commit a trespass and sin through error (Lev. V, 15). Thus implying that one is not guilty of 'sin' until after he has committed the 'trespass'.
(34) Lit., 'the Holy One, blessed be He'.
(35) Lit.. 'flesh and blood'.
(36) The passage of the blessings begins with the first, and finishes with the last letter of the alphabet. (Aleph (א) — Taw (ת).)
(37) The section of the curses begins with Waw (ו) and finishes with Mem (מ) (Sixth, to thirteenth letter of the alphabet =eight).
(38) Lev. XXVI, 3. It begins with אם בחקתי
(39) Ibid, v. 13, ends with קוממיות
(40) Ibid, v. 15. beginning with, ואם ובחקתי.
(41) Ibid. v. 43. ends with נפשם

Talmud - Mas. Baba Bathra 89a

from And it shall come to pass, if thou shalt hearken diligently,[1] to to serve them,'[2] and cursed them with twenty-two, from But it shall come to pass, if thou wilt not hearken,[3] to And no man shall buy you.[4]

WHERE THE USAGE IS TO MEASURE WITH A . . . BIG MEASURE, etc.

(Mnemonic: Neither exact weight nor heaped up with market officers and with a pound three and ten NEFESH, weights, a thick strike, you shall not do, he shall not do.)[5]

Our Rabbis taught: Whence [may it be inferred] that [the measure] must not be levelled[6] where the practice is to heap it up, and [that] it must not be heaped up[7] where the practice is to level it? — For it has been definitely stated, A perfect . . . measure.[8] And whence [may it be inferred] that we are not to listen to one who Says, 'I will level where the practice is to heap up, and reduce the price' or 'I will heap up where they level, and raise the price'? — For it has been definitely stated, A perfect and just measure thou shalt have.[8]

Our Rabbis taught: Whence [is it to be inferred] that the exact weight must not be given where the practice is to allow overweight, and that overweight must not be allowed where the practice is to give the exact weight? — For it has been definitely stated, A perfect weight.[9] And whence [may it be inferred] that we are not to listen to one who says, 'I will give the exact weight where the practice is to allow overweight, and reduce the price', or 'I will allow overweight where they give the exact weight, and raise the price'? — For it has been definitely stated, A perfect and just weight. Rab Judah of Sura said:[10] Thou shalt not have [anything][11] in thy house;[12] why? — Because of [thy] diverse measures.[7] Thou shalt not have[13] [anything] in thy bag;[14] why? — Because of [thy] diverse weights.[13] But [if thou keep] a perfect and just weight. thou shalt have[15] [possessions]; [if] a perfect and just measure, thou shalt have [wealth].

Our Rabbis taught: Thou shalt have,[15] teaches that market officers[16] are appointed to [superintend] measures, but no such officers are appointed for [superintending] prices.[17] Those of the Nasi's[18] House appointed market officers to [superintend] both measures and prices. [Thereupon] said Samuel to Karna: Go forth and teach them [the law that] market officers are appointed to [superintend] measures, but no such officers are appointed to [superintend] prices. [But Karna] went forth [and] gave them the [following] exposition: Market officers are appointed to [superintend] both measures and prices. He said unto him: Is your name Karna? Let a horn[19] grow out of your eye. A horn,[20] [consequently] grew out of his eye. But whose opinion did he follow? — That voiced by Rami b. Hama in the name of R. Isaac that market officers are appointed to [superintend] both measures and prices, on account of the impostors.

Our Rabbis taught: If one asked him for a pound,[21] a pound must be weighed. [If] half a pound, half a pound must be weighed. A quarter of a pound, a quarter of a pound must be weighed. What does this teach us? — That weights must be provided in these [three] denominations.[22]

Our Rabbis taught: If he ordered from him three quarters of a pound, he shall not tell him, 'Weigh out for me the three quarters of the pound one by one'.[23] But a pound weight is laid [on the scale] against a quarter of a pound weight with the meat [on the other scale].

Our Rabbis taught: If he ordered from him ten pounds, he shall not say, 'Weigh out for me each [pound] separately and allow overweight [for each].' But all are weighed together and one overweight is allowed for all of them.

Our Rabbis taught: The nefesh[24] of a balance[25] must be suspended in the air three handbreadths [removed from the roof from which the balance hangs].[26] And [the scales must be] three handbreadths above the ground.[27] The beam[28] and the ropes[29] [must contain a total length of] twelve[30] handbreadths.[31] [The balances] of wool-dealers and glass-ware dealers [must] be suspended in the air two handbreadths [from the ceiling] and two handbreadths above the ground. Their beams and ropes [must contain a total of] nine handbreadths [in length]. [The balance] of a shopkeeper and of a producer[32] [must] be suspended in the air one handbreadth [from above], and one handbreadth above the ground. The beam and ropes [must be of a total length of] six handbreadths. A gold balance [must] be suspended in the air three fingers from above, and three fingers above the ground. [The length of] its beam and cords I do not know. But what [kind of balance is] that [which has been mentioned] first?[33] —

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(1) Deut. XXVIII, 1, begins with Waw, (ו) והיה .

(2) Ibid. v. 14, ends with Mem, (מ) לעהדם (Waw — Mem, eight letters).

(3) Ibid. v. 15, begins with Waw. והיה v. following note.

(4) Ibid. v. 68. ends with He, קנה The section beginning with the sixth letter of the alphabet (Waw ו) and ending with the fifth (He, ה , includes, therefore, all the alphabet.

(5) The mnemonic consists of key words and phrases in the teachings of the Rabbis that follow.

(6) Even with the consent of the buyer.

(7) Even with the desire of the seller.

(8) Deut. XXV, 25. By deviating from the usual practice the buyer, or the seller, may be the means of defrauding, or misleading others.

(9) Ibid.

(10) Expounded the following verse.
(11) Anything of value; i.e., thou wilt be poor.
(12) Ibid. v. 14.
(13) Ibid. v. 13.
(14) I.e., purse.
(15) Ibid. v. 15.
(16) Heb. אגרדמין cf. Gr., ‘market commissioner.
(17) In order to allow for free and unfettered competition.
(18) נשיאה ‘Prince’. Here R. Judah II.
(19) קרנא.
(20) I.e., a sty (Aruch).
(21) V. Glos.
(22) These denominations are essential. Any other weights have to be computed from these.
(23) As it is impossible to give the exact weight, the seller would be losing the overweight three times, once with each quarter.
(24) נפש, the hollow handle in which the tongue of the balance rests.
(25) Big scales, for the weighing of heavy things such as iron and copper, which are suspended from the roof of the house.
(26) So that the beam may have sufficient space in which to move without knocking against the ceiling and impeding the free movement of the scales.
(27) To allow for the free movement of the scales and to prevent their knocking against the ground and their consequent re-bounding, which would interfere with proper weighing.
(28) To each end of which the ropes are fastened.
(29) To which the scales are attached.
(30) The beam's length must be four handbreadths and that of the two ropes four handbreadths each; total twelve.
(31) If the length of these were less, the scales would not easily move, and small variations in weights could not be detected.
(32) V. p. 361. n. 5.
(33) Since the balances of wool and glass-ware dealers, shopkeepers, producers, and goldsmiths have been specifically mentioned, what kind of balance, then, is the one mentioned first?

Talmud - Mas. Baba Bathra 89b

R. Papa said: [A balance used] for heavy pieces of metal.[1]

R. Mani b. Patish said: The same [restrictions] that have been said [to apply to balances] with reference to their disqualification [for commercial uses] have also been said [to apply to them] with reference to their [liability to] Levitical defilement.[2] What does he come to teach us? [Surely] this has [already] been taught [in the following]:[3] The [length of the] cords[4] of a shopkeeper's, and of producers’ balances [which may be subjected to the laws of Levitical defilement, must be] one handbreadth! [And, since this restriction[5] has specifically been applied to one kind of balance, are not the other kinds of balance to be implied?][6] — [The statement of R. Mani] is required [on account of the sizes of] the beam and the cords, which have not been mentioned [there].

Our Rabbis taught: Weights must not be made either of tin or of lead or of gasitron[7] or of any other kinds of metal,[8] but they must be made of stone or of glass.

Our Rabbis taught: The strike must not be made of a gourd because it is light,[9] nor of metal because it is heavy,[10] but it must be made of olive, nut, sycamore, or box wood.

Our Rabbis taught: The strike may not be made thick[11] on one side and thin on the other.[12] One may not strike with a single quick movement, for striking in this manner causes loss[13] to the seller and benefits[14] the buyer. Nor may one strike very slowly because [this] is disadvantageous[13] to the buyer and beneficial[14] for the seller. Concerning all these [sharp practices of traders], R. Johanan b. Zakkai said:[15] Woe to me if I should speak [of them]; woe to me if I should not speak. Should I speak [of them], knaves might learn [them]; and should I not speak, the knaves might say, ‘the scholars are unacquainted with our practices’ [and will deceive us still more]. The question was raised: Did he [R. Johanan] speak [of these sharp practices] or not? R. Samuel son of R. Isaac said: He did speak [of them]; and in so doing[16] [he based his decision] on[17] the following Scriptural text: For the ways of the Lord are right, and the just do walk in them; but transgressors do stumble therein.[18]

Our Rabbis taught:[19] [It is written], You shall do no unrighteousness in judgments in meteyard, in weight. or in measure.[20] In meteyard relates to the measuring of ground; one should not measure out for one person in the hot[21] season and for another in the rainy[22] season. In weight, [means] that one shall not keep his weights in salt.[23] In measure, that one shall not cause [liquids] to froth.[24] And by inference from minor to major, [the following may be deduced]. If the Torah cared [for proper measure in] a mesurah[25] which is one thirty-sixth of a log. how much more [should one be careful to give proper measure in the case] of a hin.[26] half a hin, a third of a hin, a quarter of a hin, a log,[27] half a log, a quarter [of a log], a toman,[28] half a toman and an ‘ukla![29]

Rab Judah said in the name of Rab: A person is forbidden to keep[30] in his house a measure [which is either] smaller or larger [than the nominal capacity] even if [it is used as a] urine tub. R. Papa said: This applies only in [the case of] a place where [measures] are not [officially] marked,[31] but where they are [officially] marked [they may be used; for] if [the buyer] sees no mark he does not accept [them] — And even where they are not marked, this has been said only in the case where they are not supervised,[32] but if they are supervised[32] it does not matter. But this is not [right]; for [the buyer] may sometimes happen [to call] at twilight[33] and accidentally accept [the faulty measure]. The same, indeed, has been taught [in the following]: A person must not keep in his house a measure [which is either] smaller or larger [than the nominal capacity], even if [it is used as a] urine tub. But a person may make a se'ah,[34] a tarkab,[35] half a tarkab, a kab,[36] half a kab, a quarter [of a kab], a toman,[37] half a toman

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(1) Broken pieces of iron, copper and the like, which sometimes weigh as much as a hundred pounds. The size of the beams, ropes etc. are determined by the weight of the articles for which they are used.

(2) I.e., scales which are prohibited for commercial use cannot be regarded as ‘vessels’ subject to the laws of Levitical defilement.

(3) Kel. XXIX, 5.

(4) The beam of a balance is suspended by a cord, corresponding to nefesh, supra.

(5) Requiring a distance of a handbreadth from above in the case of shopkeepers’ and producers’ balances.

(6) What, then, is the purpose of R. Mani's statement?

(7) A fusion of different metals. Others compare the word with Gr.**, tin; perhaps of a special kind.

(8) Because the friction caused by constant use reduces their weight.

(9) And does not strike well, causing loss to the seller.

(10) And penetrates too deeply, causing loss to the buyer.

(11) Because a thick one cannot penetrate so well as a thin one. Cf. the following note.

(12) Because one might use the thin side when selling, and the thick side when buying.

(13) Lit., ‘bad’.

(14) Lit., ‘good’.

(15) Kelim XVII, 16.

(16) Lit., ‘he said it’.

(17) Lit., ‘from’.

(18) Hos. XIV, 10.

(19) B.M. 61b.

(20) Lev. XIX, 35.
(21) When the measuring rope is dry and unyielding.
(22) When the rope is moist and capable of extension.
(23) Salt reduces the weight. According to others, salt increases weight and the warning is addressed to the buyer.
(24) By pouring rapidly from a certain height, foam is generated and, consequently, less liquid enters the measure.
(25) משורה the term used for ‘measure’ in the verse from Lev. XIX, 35 that is here discussed.
(26) Hin = twelve log.
(27) Log = volume of liquid that fills the space occupied by six eggs.
(28) Toman = half a log, or one eighth of a kab. V. Bah, a.l.
(29) Ukla is explained in the Gemara.
(30) Even if not intended to be used for measuring purposes; since others may use it as a measure, by mistake.
(31) By the seal of the recognised authority.
(32) By duly appointed officers, מהנדסי Others, ‘marked by means of incisions’.
(33) When everyone is in a hurry.
(34) Se'ah = two Tarkab or six Kab.
(35) Tarkab = three kab.
(36) Kab = four log.
(37) Toman, v. p. 369, n. 10.

Talmud - Mas. Baba Bathra 90a

and an ‘Ukla. — How much is an ‘ukla? — A fifth of a quarter [of a kab]. In the case of liquid measures one may make a hin,[1] half a hin, a third of a hin, a quarter of a hin, a log,[2] half a log, a quarter [of a log], an eighth [of a log], and an eighth of an eighth [of a log] which is a kortob.[3] [Why should] one [not be allowed] also to make a two-kab [measure]?[4] — It might be mistaken[5] for a tarkab.[6] This proves that people may err by a third;[7] [but] if so, one kab [measure] also should not be made, since it might be mistaken[5] for half a tarkab?[8] — But this is the reason why a two-kab [measure] must not be made; it might be mistaken[5] for half a tarkab. This proves that one may err by a quarter;[9] [but] if so, half a toman and an ukla [measures, also,] should not be made?[10] — R. Papa replied: People are familiar with small measures [and are not likely to mistake them for one another]. Should not one be forbidden to make a third of a hin [and] a quarter of a hin?[11] — Since these [measures] were [used] in the Temple, the Rabbis have not enacted any precautionary prohibitions against their use. Let precautionary prohibitions be adopted in the case of the Temple [itself]? — Priests are careful.[12]

Samuel said:[13] Measures must not be increased [even when all the townspeople have agreed to alter the standards of the measures] by more than a sixth, nor [even by general consent] may [the value of] a coin [be increased by] more than a sixth. And any profits on sales must not exceed one sixth. What is the reason why measures must not be increased by more than a sixth? If it is said, because market prices will rise [above due proportions],[14] [then for the same reason one should] not [be allowed to increase] even [by] a sixth! But if [it be said], because of the overcharge,[15] so that the entire purchase should not have to be cancelled;[16] surely, Raba said: One may withdraw [from any transaction in which] anything [had been sold] by measure, weight or number, even [if the overcharge was] less than [the legal limit of] overcharge![17] But [if it be said that the reason why no more than a sixth may be added to weights is] that the dealer may not incur any loss;[18] [has this law, then, been made, it may be retorted, on the assumption that a dealer] must incur no loss [but also] requires no profit? ‘Buy and sell [at no profit] and be called a merchant!’ — But, said R. Hisda: Samuel found a Scriptural text and expounded it. [It is written], And the shekel shall be twenty gerahs; twenty shekels, five and twenty shekels, ten and five shekels, shall be your maneh.[19]

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(1) Hin, (v. loc. cit., n. 8,) = a tarkab.
(2) Log, v. loc. cit. n. 9.

(3) Kortob = Sixty-fourth of a log.

(4) A third of a se'ah, as one is allowed to make a third of a hin.

(5) Lit., ‘changed’.

(6) Owing to the comparatively small difference between them. (3 — 2 = 1 kab.)

(7) The difference between a tarkab and a two kab, being one kab = a third of a tarkab.

(8) Half a tarkab, equals one and a half kab. The difference between one and a half, and one kab = half a kab = a third of half a tarkab.

(9) The difference between half a tarkab (= one and a half kab), and two kab, equals half a kab = a quarter of two kab.

(10) The difference between half a toman (=one sixteenth kab) and an ‘ukla (=one twentieth kab) is only one eightieth of a kab which is a fifth of the half toman, less than a quarter, so that these two measures could, accordingly, certainly be mistaken for one another.

(11) Since the difference between these two (a third — a quarter) is a twelfth of a hin, which is a quarter of the larger measure (1/3 hin).

(12) No precautions, therefore, are necessary in their case.

(13) Men. 77a.

(14) Traders arriving from other places, finding that the standard of the weights has risen, will raise prices in a still higher proportion.

(15) An overcharge of less than a sixth does not entitle any of the parties to cancel the sale. Only the overcharge is to be returned.

(16) If the increase in the weights will be more than a sixth, the seller, who did not know of this, and accepted the old price, would be losing more than a sixth and would, therefore, be entitled to cancel the entire sale.

(17) Since, in such cases, one may withdraw even when the overcharge was less than a sixth, nothing is gained by limiting the permitted increase in weights to a sixth.

(18) A dealer may, in accordance with what has been said before, make a profit of one sixth. When weights are increased by a sixth and a dealer sells at the old price, he does not lose thereby any of his principal, since what he loses by taking the old price and giving the increased weight, he makes up by the profit he gains on selling at a price which is higher by a sixth than his cost price.

(19) Ezek. XLV, 12.

Talmud - Mas. Baba Bathra 90b

Was the maneh two hundred and forty [denarii].[1] But three things are to be inferred from this. It is to be inferred that the holy maneh was doubled;[2] it is to be inferred that the [standard of] measures[3] may be increased,[4] though that increase must not be more than a sixth;[5] and it is to be inferred that the sixth is to be exclusive.[6]

R. Papa b. Samuel introduced a measure of three kefiza.[7] They said unto him: Did not Samuel say that measures must not be increased by more than a sixth?[8] — He said unto them: I have introduced a new measure.[9] He sent it to Pumbeditha, but they did not adopt it. He sent it to Papunia and they adopted it and named it Roz-Papa.[10]

(Mnemonic Sign: Hoarders of fruit must not hoard, carry out, profit, twice in eggs. Prayers are offered and not caused to go out.)[11]

Our Rabbis taught: Concerning those who hoard fruit,[12] lend money on usury, reduce the measures and raise prices, Scripture says, Saying: ‘When will the new moon be gone, that we may sell grain? And the Sabbath, that we may set forth corn? Making the ephah small, and the shekel great, and falsifying the balances of deceit.[13] And [concerning these] it is [further] written in Scripture, The Lord hath sworn by the pride of Jacob: Surely I will never forget any of their works.[14] Who, for instance, may be classed among fruit hoarders?[15] — R. Johanan said: [A person], for instance, like Shabbethai the fruit hoarder.[16] Samuel's father used to sell fruit during the [prevalence of the] early [market] price[s][17] at the early price.[18] Samuel his son retained the fruit and sold them, when the late [market] prices [were current], at the early [market] price.[19] Word was sent from there:[20] ‘The father's [action] is better than the son's.’ What is the reason? — Prices that have been eased remain so.[21]

Rab said: A person may store his own kab [of produce].[22] The same has also been taught [elsewhere]:[23] Fruit [and] things which are life's necessities as, for instance, wines, oils and the various kinds of flour, must not be hoarded; but spices, cumin and pepper may. The prohibitions mentioned apply [only] to one buying from the market, but [in the case of him] who brings in [for storage] of his own, [this is] permitted. In Palestine[24] one may store fruit for [the following] three years: The eve of the Sabbatical year,[25] the Sabbatical year, and the conclusion of the Sabbatical year.[26] In years of famine one must not hoard even a kab of carobs,[27] because thereby one brings a curse on the market prices. R. Jose b. Hanina said to his attendant Puga: Go, store away for me fruit for [the following] three years: The eve of the Sabbatical year,[28] and the Sabbatical year, and the conclusion of the Sabbatical year.[29]

Our Rabbis taught:[30] One must not carry out of Palestine[31] fruit [and] things which are life's necessities such as, for instance, wines, oils and the various kinds of flour. R. Judah b. Bathyra permits [it] in [the case of] wine, because [thereby] one diminishes levity. And as it is not permitted to carry away out of the land [of Palestine] into a foreign country, so it is not permitted to carry away out of Palestine[29] to Syria.[32] And Rabbi permits this

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(1) The maneh, according to Ezekiel, was twenty + twenty-five + ten + five shekels= sixty shekels =two hundred and forty denarii (one shekel =four denarii). But elsewhere it is stated that the maneh contains only twenty-five shekels or sela'im = only a hundred. (Cf. Keth. 10a).

(2) The ordinary maneh contained twenty-five shekels. Having added a sixth milbar, מלבר (from outside the quantity) = a fifth milgaw מלגאו (from inside), the value of the maneh rose to thirty shekels. The holy shekel, being doubled, is, therefore, worth sixty shekels or two hundred and forty denarii.

(3) I.e. measures and coins.

(4) As the maneh had been increased from twenty-five to thirty shekels, (in the case of the ordinary shekel) and from fifty to sixty shekels (in the case of the holy shekel).

(5) As the increase of the maneh was by no more than a sixth.

(6) Lit. ‘from the outside’. The quantity is divided into five parts and a sixth is added ‘from the outside’. A sixth milbar = a fifth milgaw. Cf. n. 1.

(7) קפיזא, Persian Kamij, a measure containing three log. Measure of three kefiza nine log. Others hold that the kefiza contained one log only. and R. Papa's new measure contained, accordingly. three log.

(8) A nine-log measure is bigger than half a tarkab (6 log) by a third milbar (a half milgaw). According to the second statement in the previous note, the comparison is between the half-kab (two log) and the kefiza (three 10a), the difference between which is also a third milbar.

(9) Not an enlargement of an old one. No mistaken charges would consequently take place.

(10) [רוז פפא or ריז Riz (Obermeyer. op. cit. p. 242. n. 2), a Persian measure, accordingly, Papa's measure.]

(11) The mnemonic consists of key-words or phrases in the teachings of the Rabbis that follow.

(12) To sell it later when prices have risen. ‘To corner’.

(13) Amos VIII, 5.

(14) Ibid, v. 7.

(15) Lit., ‘fruit hoarders like whom?’

(16) Who accumulated fruit and sold them to the poor when prices rose.

(17) The prices prevailing immediately after the harvest.

(18) I.e., cheap, so that others also might be induced to sell, and thus keep prices down throughout the year.

(19) Thus enabling the poor to purchase fruit cheaply when prices were high and beyond their means.

(20) I.e., Palestine.

(21) If prices are kept down from the very beginning (as Samuel's father helped to do) they remain at a low level throughout the year. If, however, they have once been forced up, some cheaper selling later (as Samuel did) will not easily bring them down.

(22) The prohibition is only against hoarding for trading purposes.

(23) Tosef. A.Z. V.

(24) Lit., ‘the land of Israel’.

(25) The sixth year of the Septennial period, when produce has to be stored away for the following (Sabbatical) year when no cultivation of the land is allowed, and for the year following it when there will be no yield of produce till its conclusion.

(26) I.e., the year beginning with the conclusion of the Sabbatical year. viz. the first year of the next Septennial period. V. previous note.

(27) I.e., even the cheapest fruit.

(28) V. p. 373, n. 13.

(29) V. loc. cit., n. 14.

(30) Tosef. A.Z. ibid.

(31) V. p. 373. n. 12.

(32) Though it had been included in the land of Israel in the time of David.

Talmud - Mas. Baba Bathra 91a

from one province [on the border of Palestine and Syria] to [an adjacent] province [in Syria].[1]

Our Rabbis taught:[2] In Palestine it is not permitted to make a profit [as middleman][3] in things which are life's necessaries, such as, for instance, wines, oils and the various kinds of flour. It has been said about R. Eleazar b. Azariah that he used to make a profit in wine and oil. In [the case of] wine he held the same opinion as R. Judah;[4] in [the case of] oil? — In the place of R. Eleazar b. Azariah oil was plentiful.[5]

Our Rabbis taught: It is not permitted to make a profit in eggs twice. [As to the meaning of ‘twice’,] Mari b. Mari said: Rab and Samuel are in dispute. One says: Two for one.[6] And the other says: [Selling] by a dealer to a dealer.[7]

Our Rabbis taught: Public prayers[8] are offered for goods [which have become dangerously[9] cheap], even on the Sabbath. R. Johanan said: For instance linen garments in Babylon and wine and oil in Palestine. R. Joseph said: This [is only so] when [these have become so] cheap that ten are sold at [the price of] six.[10]

Our Rabbis taught:[11] It is not permitted to go forth from Palestine[12] to a foreign country unless two se'ahs[13] are sold for one sela’. R. Simeon said: [This is permitted only] when one cannot find [anything] to buy, but when one is able [to find something] to buy. even if a se'ah[13] cost a sela’ one must not depart. And so said R. Simeon b. Yohai: Elimelech, Mahlon and Chilion were [of the] great men of their generation, and they were [also] leaders of their generation. Why, then, were they punished? Because they left Palestine for a foreign country; for it is written , And all the city was astir concerning them, and the women said: ‘Is this Naomi?’ What [is meant by] ‘Is this Naomi?’ — R. Isaac said: They said, ‘Did you see what befell Naomi who left Palestine for a foreign country?’

R. Isaac further stated: On the very day, when Ruth the Moabitess came to Palestine, died the wife of Boaz. This is why people say, ‘Before a person dies, the master of his house is appointed’.[14]

Rabbah, son of R. Huna, said in the name of Rab: Ibzan[15] is Boaz. What does he come to teach us [by this statement]? — The same[16] that Rabbah son of R. Huna [taught elsewhere]. For Rabbah, son of R. Huna, said in the name of Rab: Boaz made for his sons a hundred and twenty wedding feasts, for it is said, And he [Ibzan][17] had thirty sons, and thirty daughters he sent abroad, and thirty daughters he brought in from abroad for his sons; and he judged Israel seven years;[18] and in the case of everyone [of these] he made two wedding feasts, one in the house of the father and one in the house of the father-inlaw. To none of them did he invite Manoah,[19] [for] he said, 'Whereby will the barren mule repay me?'[20] All these died in his lifetime. It is [in relation to such a case as] this that people say: 'Of what use to you are sixty; the sixty that you beget for your lifetime?[21] [Marry] again[22] and beget [one] brighter[23] than sixty.'[24]

(Mnemonic sign: King Abraham, the ten years when he passed away he was exalted alone.)[25]

R. Hanan b. Raba said in the name of Rab: Elimelech and Salmon[26] and such a one[27] and the father of Naomi all were the sons of Nahshon, the son of Amminadab.[28] What does he come to teach us [by this statement]? — That even the merit of one's ancestors is of no avail[29] when one leaves the land [of Palestine] for a foreign country.[30]

R. Hanan b. Raba further stated in the name of Rab: [The name of] the mother of Abraham [was] Amathlai the daughter of Karnebo;[31] [the name of] the mother of Haman was Amathlai, the daughter of 'Orabti;[32] and your mnemonic [may be], 'unclean [to] unclean, clean [to] clean'.[33] The mother of David was named Nizbeth the daughter of Adael. The mother of Samson [was named] Zlelponith, and his sister, Nashyan. In what [respect] do [these names] matter?[34] — In respect of a reply to the heretics.[35]

R. Hanan b. Raba further stated in the name of Rab: Abraham our father was imprisoned for ten years. 'Three in Kutha,[36] and seven in Kardu. But R. Dimi of Nehardea taught [in the reverse [order]. R. Hisda said: The small side of Kutha[37] is Ur of the Chaldees.[38]

R. Hanan b. Raba further said in the name of Rab: On the day when Abraham our father passed away from the world all the great ones of the nations of the world, stood in a line[39] and said: Woe to the world that has lost

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(1) הפרכיא , 'provincial government', 'province'.

(2) Tosef. A.Z. ibid.

(3) The producer must sell direct to the consumer.

(4) R. Judah b. Bathyra who allowed profiting in wine because by raising its price, consumption and consequent levity are diminished.

(5) And there was no fear that prices would rise in consequence.

(6) Selling for two shekels, for instance, that which was bought for one.

(7) 'Twice' means 'selling to two dealers'. This is forbidden because a double profit is thus made, and prices are raised.

(8) Lit., 'to sound the alarm', by the institution of intercessory prayers with or without the blowing of the shofar.

(9) The falling prices endanger the existence of the trading section of the community.

(10) I.e., a drop of 40%.

(11) Tosef. ibid.

(12) Certain precepts can be performed in Palestine only. One should not, therefore, depart from it unless there is no other alternative.

(13) Se'ah of produce.

(14) Ruth married Boaz. V. Ruth IV, 13.

(15) One of the judges of Israel. Cf. Judg. XII, 8.

(16) V. p. 376, n. 5.

(17) I.e., Boaz.

(18) Ibid. 9.

(19) Cf. Ibid. XIII, 2ff.

(20) Manoah, before the birth of Samson, had no children to whose wedding feasts he could extend invitations. Cf. Ibid.

(21) I.e., children that do not survive you.

(22) As Boaz (Ibzan) married Ruth in his later life. Cf. p. 375, n. 6.

(23) David, King of Israel, who descended from Boaz and Ruth. Cf. Ruth IV, 21-22.
(24) This statement in the name of Rab, which can only be intelligible if it is assumed that Boaz and Ibzan are one and the same person, must be read in conjunction with the previous one, also made in the name of Rab.
(25) The mnemonic consists of key words in the following paragraphs.
(26) Cf. Ruth IV, 20.
(27) פלוני אלמוני Peloni Almoni (Ruth IV, 1), the unnamed kinsman of Naomi.
(28) Cf. Ex. VI, 23; Num. X, 14.
(29) As evidenced by the tragic end of Elimelech and his sons.
(30) חוצה לארץ 'outside the land'. V. p. 375, n. 4.
(31) From Kar, כר 'lamb', נבו ('Mount of) Nebo'.
(32) From Oreb עורב 'raven'.
(33) Haman's grandmother was named after an unclean animal (raven, cf. Lev. XI, 15. Deut. XIV, 14); but Abraham's grandmother bore the name of a clean animal. (V. n. 12, supra.)
(34) Lit. 'is the outcome'.
(35) Minim (sing. מין), applied especially to Jew-Christians. Should the minim ask why the names of the mothers of these important figures are not given in the Bible narrative, they can be answered that these had been handed down by oral tradition. [V. Herford, Christianity, p. 326.]
(36) V. II Kings, XVII, 24.
(37) [There were two Kuthas situated on a Euphrates' Canal — The great and the little Kutha. V. Obermeyer op. cit. 279.]
(38) Abraham's birthplace. Gen. Xl, 31.
(39) It was the custom for those who came to offer comfort to mourners to stand in a line.

Talmud - Mas. Baba Bathra 91b

its leader and woe to the ship that has lost its pilot.[1]

And thou art exalted as head above all,[2] R. Hanan b. Raba said in the name of Rab: Even a superintendent of a well[3] is appointed in heaven.[4]

R. Hiyya b. Abin said in the name of R. Joshua b. Korhah: God forbid [that Elimelech and his family should be condemned for leaving Palestine]; for had they found even only bran they would not have left [the country]. Why then was punishment inflicted upon them? — Because they should have begged mercy[5] for their generation, and they did not do so; for it is said, When thou criest, let them that thou hast gathered deliver thee.[6]

Rabbah b. Bar Hana said in the name of R. Johanan: [This][7] has only been taught [in the case when] money is cheap and fruit is dear, but [when] money is dear, even if four se'ah cost [only] a sela, it is permitted to leave [the country].

(Mnemonic Sign: Sela, Workman, carob, the lads say.)[8]

For[9] R. Johanan said:[10] I remember [the time] when four se'ah cost a sela and there were numerous deaths from starvation[11] in Tiberias, for want of an isar[12] [wherewith to buy bread].

R. Johanan further stated: I remember [the time] when workmen would not accept work on the east side of the town where workmen died from the odour of the bread.[13]

R. Johanan further stated: I remember [the time] when a child would break a carob pod and a line of honey would run down over both his arms. And R. Eleazar said: I remember [a time] when a raven would take [a piece of] flesh, and a line of oil would rundown from the top of the wall to the ground.

R. Johanan further stated: I remember [the time] when lads and lasses of sixteen and seventeen years of age took walks [together] in the open air and did not sin.

R. Johanan further stated: I remember [the time] when it has been said in the house of study: 'He that agrees with them[14] falls into their hands; [as to him] who trusts in them, [whatever is] his [becomes] theirs'.[15]

[Why] has it been written, Mahlon and Chilion[16] [in one place], and Joash and Saraph[17] in another?[18] — Rab and Samuel [explained]. One said: Their names were Mahlon and Chilion, but they were called Joash and Saraph [for this reason]: Joash,[19] because they lost hope in the [messianic] redemption [of Israel;] [and] Saraph,[20] because they were condemned by the Omnipresent to be burned. And the other says: Their names were Joash and Saraph, but they were called Mahlon and Chilion [for this reason]: Mahlon,[21] because they profaned their bodies; and Chilion,[22] because they were condemned by the Omnipresent to destruction.

There is [a Baraitha] taught in agreement with him who said that their names were Mahlon and Chilion. For it has been taught: What is [the interpretation] of the Biblical text, And Jokim, and the men of Cozeba, and Joash and Saraph, who had dominion in Moab, and Jashubilehem; and the things are ancient?[23] — And Jokim, is Joshua who kept[24] his oath to the men of Gibeon.[25] And the men of Cozeba, these are the men of Gibeon who lied to Joshua.[26] And Joash and Seraph, these are Mahlon and Chilion. And why were they called Joash and Saraph? — Joash, because they lost hope[27] in the [Messianic] redemption [of Israel]; Saraph, because they were condemned by the Omnipresent to be burned.[28] Who had dominion in Moab, [means], they who married wives of the women of Moab. And Jashubilehem, refers to Ruth the Moabitess who returned[29] and kept fast by Bethlehem[30] of Judah. And the things are ancient, [means] these things were said by the Ancient of days.[31]

These were the potters and those that dwelt among plantations and hedges; there they dwelt occupied in the king's work.[32] These were the potters, refers to the sons of Jonadab the son of Rechab who kept[33] the oath of their father.[34] Those that dwelt among the plantations, has reference to Solomon who in his kingdom was like a [constantly flourishing] plant. And hedges, refers to the Sanhedrin[35] who fenced in the breaches in Israel. There they dwelt occupied in the king's work, refers to Ruth the Moabitess who saw the kingdom of Solomon, the grandson of her grandson; for it is said: And [Solomon] caused a throne to be set up for the king's mother,'[36] and R. Eleazar said, 'to the mother of the dynasty'.[37]

Our Rabbis taught: [It is written], And ye shall eat of the produce. the old store;[38] [that is] without [the necessity for] a preservative.[39] What [is the meaning of] 'without salminton'? — R. Nahman said: Without the grain worm. And R. Shesheth said: Without blast. A Baraitha has been taught in agreement with [the interpretation] of R. Shesheth, [and] a Baraitha has been taught in agreement with that of R. Nahman. In agreement with that of R. Nahman it has been taught: [It is written], and ye shall eat . . . the old store; one might [think that] Israel will be looking out for the new [produce] because the old[40] had been destroyed [by the grain worm], therefore it is expressly said, until her produce came in, that is, until the produce will come [naturally] of itself.[41] In agreement with that of R. Shesheth, it has been taught: [It is written], And ye shall eat of the produce of the old store; one might [think that] Israel will be looking out for the new [produce] because the old was spoilt[42] [by the blast], therefore it is expressly said, until her produce come in, [that is] until the produce will come in the natural course.

Our Rabbis taught: [It is written], And ye shall eat old store long kept;[43] [this] teaches that the older [the produce] the better [it would be].[44] [From this] one infers only [concerning] things which are commonly stored away,[45] whence [may one also infer] concerning things which are not commonly stored away?[45] — It is explicitly stated: Old store long kept,[46] [which implies] ‘in all cases — [It is written]: And ye shall bring forth the old from before the new;[47] [this] teaches that the storehouses would be full of old [produce]. and the threshing-floors of new, and Israel would say: ‘How shall we take out one before the other!’[48] R. Papa said: All things are better [when] old, except dates, beer and small fishes.[49] [

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(1) Gr.**, ‘steersman’, pilot’.
(2) I Chron. XXIX, 11.
(3) I.e., a minor headship.
(4) This is inferred from the text which in Heb. reads, והמתנשא לכל לראש, and which may be rendered as in E.V., supra, as well as, ‘through thee is appointed he who is raised as chief over anything’.
(5) That the famine (cf. Ruth I, 1) should cease.
(6) Isa. LVII, 13. By praying for the delivery of others, one is himself delivered.
(7) That one must not leave Palestine.
(8) The mnemonic is an aid to the recollection of the statements of R. Johanan that follow.
(9) Reason for statement in previous para.
(10) Ta'an. 19b.
(11) Lit., ‘swollen from hunger’.
(12) Small coin, v. GIos.
(13) This probably means that people were so starved that the odour of the bread baked in the east, and presumably wealthier part of the town, had a fatal effect upon them.
(14) The heathens.
(15) At an unguarded moment they rob him of all he has.
(16) Ruth I, 2.
(17) I Chron. IV, 22.
(18) The assumption here is that they are the same two persons.
(19) יואש is taken to be derived from the root יאש, ‘to give up hope’.
(20) שרף from שרף, ‘to burn’.
(21) מחלון is derived from the root חלל ‘profane’.
(22) כילון from כלה ‘to destroy’; כליון ‘destruction’.
(23) I Chron. IV, 22.
(24) הקים same root as that of ויוקים ‘and Jokim’.
(25) Cf. Josh. IX. 15, 26.
(26) Cf. ibid. vv. 4ff. Lied, בכזבן from the same root as כזבא ‘Cozeba’.
(27) V. p. 378, n. 9.
(28) V. p. 378, n. 10.
(29) שבה from the same root as וישבי’and Jashubi’.
(30) בית לחם, the second word being the same as the second word in וישבי לחם ‘and Jashubilehem’.
(31) Cf. Dan. VII, 9, 22. The series of events and circumstances, which commenced with the departure of Naomi's family from Palestine and terminated with the birth of David, was pre-ordained by God.
(32) I Chron. IV, 23.
(33) נרצו taken to be from a root similar to that of היוצרים ‘the potters’.
(34) Cf. Jer. XXXV, 6ff.
(35) Sanhedrion, the supreme council and highest court of justice in Jewry in Talmudic times.
(36) I Kings II, 19.
(37) I.e., Ruth the mother of the dynasty of David. Cf. Ruth, IV, 10, 21-22.
(38) Lev. XXV, 22.
(39) Heb. Salminton, cf. salsamintum.
(40) Which had been promised to Israel in the previous section of the verse to last until, but not into, the new harvesting season.
(41) There will be no need to have recourse to an early and forced harvesting.

(42) ‘spoilt’ not ‘destroyed’. The grain worm destroys, the blast only spoils the crops.
(43) Lev. XXVI, 10.
(44) Lit., ‘whatever is older than the other, is better’.
(45) Lit., ‘made old’.
(46) ישן נושן ‘old, very old’. The repetition indicates that any old things. even though not usually stored away, are included.
(47) Ibid.
(48) ‘Ye shall bring forth’ implies'under compulsion’ . There will be so much new that no space for the old will remain.
(49) Others, ‘fish-hash’.

Talmud - Mas. Baba Bathra 92a

CHAPTER VI

MISHNAH. [IF] ANYONE HAS SOLD FRUIT TO ANOTHER [NOT SPECIFYING WHETHER AS FOOD OR SEED], AND [THE BUYER] SOWED THEM AND THEY DID NOT GROW, EVEN [IF THEY WERE] LINSEED,[1] HE IS NOT RESPONSIBLE.[2] R. SIMEON B. GAMALIEL SAID: FOR GARDEN SEEDS WHICH ARE NOT EATEN, HE[3] IS RESPONSIBLE.[4]

GEMARA. It has been stated:[5] [If] one has sold an ox to another, and it was found to have been wont to gore.[6] Rab said, the [sale] is under false pretences.[7] But Samuel said: [The seller] can say to him, 'I have sold it to you for [the purpose of] slaughtering'.[8] But [cannot the object of the sale] be seen [from the following]? If [he is] a man that buys for slaughtering [then this sale also must have been] for [the purpose of] slaughtering; [and] if for ploughing, [it must have been] for [the purpose of] ploughing. [why then, should there be a dispute between Rab and Samuel]? — [This dispute relates to the case] of a man who buys for both.[9] But why not see what price[10] was paid?[11] — The dispute is applicable [to the case] when the price of meat has risen and stands at [the same level as] the price of [an animal for] ploughing. If so, what difference is there [whether the animal was bought for ploughing or slaughtering]?[12] — [There is] a difference [in respect] of the trouble.[13] How is this[14] to be understood?

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(1) Which are usually sold as seed.

(2) The seller may claim to have sold them as food, not as seed.

(3) The seller.

(4) The entire transaction is invalid, since the purchase had been for seed, and it has proved to be useless for that purpose.

(5) B.K. 46a.

(6) Before the sale took place.

(7) Lit., 'mistaken deal', 'a purchase based on error'. An ox is usually purchased to plough or to perform similar service. The sale, therefore, took place under false pretences, and is consequently invalid, and the seller must return the purchase money.

(8) Samuel is of the opinion that, in money matters, general practice is no determining factor in the validity of the sale. The seller, therefore, can claim that, despite the general practice, he has sold him the ox, not for ploughing, but for slaughter.

(9) Lit., 'for this and for that'; for ploughing or for slaughtering.

(10) The cost of an animal for work is much higher than one for food only.

(11) Lit., 'how the monies are.

(12) In either case the animal is worth the price paid for it; why, then, should Rab differ from Samuel by declaring such a deal to be invalid?

(13) Of killing the animal and selling it. For this reason, Rab declares the sale invalid and requires the seller to return the purchase price.

(14) That the seller is required to return the money he received.

Talmud - Mas. Baba Bathra 92b

If there is no [capital] from which [the buyer] may be reimbursed, let the ox be retained for the money;[1] as people say.[2] 'from your debtor accept [even] bran in payment'! — [The dispute between Rab and Samuel] is required only [in the case] where there is [capital] from which [the buyer] may be reimbursed. [In such a case] Rab said: The deal was made under false pretences [because] one must be guided by the general practice[3] and most people buy [oxen] for ploughing. But Samuel said [in reply]: One is guided by the general practice in ritual, but not in monetary matters.

(Mnemonic:[4] A woman and a slave, an ox, oxen and fruit.) An objection was raised: [If] a woman has become a widow or has been divorced, and she claims, ‘I was married [as] a virgin’,[5] and he[6] says [to her]. ‘[It was] not so, but I married you [as] a widow’,[7] if there are witnesses that she left [her father's house for the wedding ceremony] in a curtained litter[8] , or with uncovered head,[9] she [is entitled to] a kethubah[10] of two hundred [zuz].[11] Now, the reason [why she receives two hundred zuz is] that there were witnesses but, [it may be inferred], had there been no witnesses, [she would] not [have been entitled to the higher settlement];[12] why should it not be said,[13] ‘Be guided by [what] most women [do]’, and most women marry [as] virgins? Rabina said: Because It may be assumed [on the one hand], that the majority of women marry [as] virgins and a minority [as] widows, and, [on the other hand, that] whenever [a woman] marries [as] a virgin [the fact] is known; [consequently] since in her case [the fact] is not known,[14] the majority principle, as applied to her, is impaired.[15] [But] if, [as you have said], all who marry [as] virgins are known [to have so married], what use are witnesses? [Surely], since [the fact that] she [married as a virgin] is not known, they [must] be [regarded as] false witnesses.[16] But, [this is the answer], the majority of those who marry [as] virgins are known [to have so married] and since this one is not known, the majority principle in her case is impaired. Come and hear! [It has been taught:][17] [If] one sold to another a slave who was found to have been a thief or a gambler,[18] the sale is valid.[19] [If the slave was found to have been] an armed robber or one prescribed by the government ‘[20] [the buyer may] say to him; ‘This is yours; take him’.[21] Now in the case of] the first clause,

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(1) Why, then, should the ox, according to Rab who considers the sale invalid, be returned to the seller?

(2) Cf. B.K. 46b; B.M. 118a.

(3) Lit., ‘majority’.

(4) The mnemonic aids in the recollection of the following quotations from which objections were raised to Rab's or Samuel's opinion.

(5) V. n. 23. infra.

(6) The husband.

(7) V. n. 13.

(8) Heb., henuma,Gr. **. Virgin brides were carried out of their father's home on the wedding day in a curtained litter.

(9) A virgin bride walked to her wedding canopy with ‘uncovered head’, ראשה פרוע which others render, ‘loosened hair’.

(10) The endowment or settlement which a wife is entitled to receive on being divorced or on the death of her husband. A woman who married as a virgin is entitled to two hundred zuz; if as a widow, to one hundred zuz only.

(11) Keth. 15b.

(12) V. p. 382. n. 13.

(13) As Rab said in the case of the sale of the ox.

(14) As evidenced by the fact that no witnesses are forthcoming.

(15) And she is assumed to belong to the minority.

(16) For if she had married as a virgin the marriage would have been known.

(17) Tosef. Kid. IV, Kid., 11a.

(18) קוביוסטום cf. Gr.** ‘gambler’, Gr.** ‘crafty person’.

(19) Lit., ‘he reached him’.

(20) I.e., ‘sentenced to death’.

(21) Lit., ‘Here is yours before you, and the seller must return the purchase money.

Talmud - Mas. Baba Bathra 93a

is not [the sale valid] because most [slaves] are [of] such [a character]? [And does not this prove that even in monetary matters,[1] one is to be guided by the majority rule?][2] — No; all of them are such.[3]

Come and hear! [We learnt]:[4] [If] an ox gored a cow, and its embryo was found [dead] at its side, and it is not known whether it gave birth before it was gored[5] or after it was gored,[6] [the owner of the ox] pays half [the cost of the] damage [in respect] of the cow,[7] and a quarter [in respect] of the young.[8] [Now. if, in monetary matters, one is guided, as Rab asserted, by the majority rule,] why [does the owner of the ox only pay a quarter of the loss]? Let it be said, ‘Be guided [by what] most cows [do]’, and most cows conceive and give birth [to live calves] and the miscarriage must, [consequently], have been due to the goring![9] — There, [the majority rule is inapplicable] because there is the uncertainty whether the [ox] approached from the front,[10] and the miscarriage was due to shock;[11] or from behind, and the miscarriage was due to goring;[12] [the indemnity] is, [therefore like] money of doubtful ownership, and all money the ownership of which is in doubt must be divided [between the parties concerned].

Must it be said [that they[13] differ on the same principles] as the [following] Tannaim? [It has been taught:] [If] an ox was grazing and a dead ox was found at its side, it must not be said, although the one is gored and the other is wont to gore, one bitten and the other wont to bite, ‘It is obvious that the one gored or bit the other’. R. Aha said: [In the case of] a camel which ‘covers’[14] among [other] camels, and a dead camel was found at its side, it is obvious that the one killed the other. Now, assuming that [the principles] of majority[15] and of confirmed legal status[16] have the same force, must it be said that Rab[17] is of the same opinion as R. Aha[18] and Samuel[19] is of the same opinion as the first Tanna?[20] — Rab can tell you: What I have said [is valid] even according to the first Tanna. For the first Tanna made his statement, there, [that the killing is not to be attributed to the butting ox], only because one is not to be guided by the principle of legal status, but one is to be guided by that of majority.[21] And Samuel can say: What I have said [is valid] even according to R. Aha. For R. Aha made his statement there, [that the ‘covering’ camel is assumed to be the killer], only because one must be guided by the principle of legal status, since it is the [camel] itself that has been confirmed in that status, [and is standing near by], but one Is not to be guided by the majority principle.[22]

Come and hear! [IF] ANYONE HAS SOLD FRUIT TO ANOTHER ...AND [THE BUYER] SOWED THEM AND THEY DID NOT GROW, EVEN [IF THEY WERE] LINSEED, HE IS NOT RESPONSIBLE. Does not ‘EVEN’ imply. ‘even linseed most of which is bought for sowing purposes’? And [does not this show that] even in such a case one is not guided by the majority principle![23] This[24] is [a subject of dispute between] Tannaim. For it has been taught: [In the case when] one has sold fruit to another and [the buyer] sowed them and they did not grow, [if they are] garden seeds which are not eaten, he is responsible;[25] [if they are] linseed, he is not responsible.[26] R. Jose said:

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(1) Such e.g.. as the purchase of slaves.

(2) How, then, could Samuel say that the majority rule is applicable to ritual matters only?

(3) Therefore the sale is valid as if the seller had explicitly stated that the slave was a thief or a gambler.

(4) B.K.462.

(5) In which case the owner of the ox is free from all liability.

(6) And, consequently, death was caused by the goring, and the owner of the ox is responsible.

(7) The owner of a butting ox, before due warning has been given him (cf. Ex. XXI, 28-36). makes good only half the damage.

(8) In respect of half the cost of the damage to the embryo it is not certain that he is liable, since it is not known whether or not the goring was the cause of the death. Hence the loss is shared by the two parties, the owner of the ox refunding a half of the half, i.e., a quarter of the full loss.

(9) And the owner of the ox should, therefore, have had to refund half the loss. But since the law is not so, how can Rab assert that in monetary matters the majority rule is followed?

(10) Frightening the cow by its approach and causing miscarriage. For loss caused by fright no liability is incurred (cf. B.K. 56a).

(11) Not to the goring.

(12) And since one of these contingencies is as likely as the other, the majority rule, though applied to other monetary cases, cannot be applied here.

(13) Rab and Samuel.

(14) A euphemism. Lit., ‘to be behind’. At the time of mating it is ferocious, and is likely to attack other males with fatal results.

(15) Most animals do not gore. therefore every animal must be regarded as innocuous until the contrary has been proved.

(16) The ox referred to was wont to gore’, therefore, legally, a confirmed butter.

(17) Who accepts the majority principle.

(18) Who attributes the killing to the ‘covering’ camel because of its legal status (legally regarded as ferocious and likely to kill).

(19) Who disregards the majority principle in monetary matters.

(20) Who does not attribute the killing to the animal though its legal status is that of a goring ox. Would Rab's and Samuel's views accordingly be regarded as opposed respectively to those of the first Tanna and R. Aha?

(21) And thus, in this case, it is to be assumed that the other oxen, who form the majority, have done the killing.

(22) A principle which seeks to attach to the animal a status that may not belong to it. Thus it seeks to assume that this ox has been bought for slaughtering, because the majority of other oxen are bought for that purpose.

(23) How, then, can Rab say that the majority principle is to be followed?

(24) Whether the majority principle is to be relied upon in monetary questions.

(25) Because everybody buys them as seed for sowing purposes only.

(26) Since some persons buy them for purposes other than sowing, the seller can claim to have sold them for any of these purposes.

Talmud - Mas. Baba Bathra 93b

he must refund to him the price of the seed.[1] They replied unto him: Many[2] buy it for other purposes.[3] Now who are the Tannaim [between whom the question of the majority principle, as has been said, is in dispute]? If it is assumed that they are R. Jose,[4] and ‘those who replied to him’;[5] [surely] both, [it may be retorted], follow the majority principle; one follows the majority of men,[6] the others, the majority of the seed,[7] [neither of these, then, can be said to agree with the opinion advanced by Samuel!] But [the dispute referred to is] either [that between] the first Tanna[8] and R. Jose, or [between] the first Tanna[8] and those ‘who replied to him’.

Our Rabbis taught: What does he, [who has sold garden seeds which are not eaten], refund [the buyer who sowed them without success]? — The cost of the seeds, but not expenses.[9] And others say: Expenses also [must be refunded]. Who are these others?[10] — R. Hisda said: It is R. Simeon b. Gamaliel.

Which [of the teachings of] R. Simeon b. Gamaliel [reflects such a view]? If it is suggested [that the teaching is that of] R. Simeon b. Gamaliel of our Mishnah, where we learnt: [IF] ANYONE HAS SOLD FRUIT TO ANOTHER ... AND [THE BUYER] SOWED THEM AND THEY DID NOT GROW, EVEN [IF THEY WERE] LINSEED, HE IS NOT RESPONSIBLE; [now] consider in view of this, the last clause [of our Mishnah]: R. SIMEON B. GAMALIEL SAID: FOR GARDEN SEEDS WHICH ARE NOT EATEN. HE IS RESPONSIBLE: Does not the first Tanna say the same thing? [For he said]. ‘for LINSEED only. HE IS NOT RESPONSIBLE’, which [implies that] FOR GARDEN SEEDS WHICH ARE NOT EATEN, HE IS RESPONSIBLE,[11] [and this is the very law of R. Simeon]. Does not this [force the conclusion that] the difference between them is the [question of] expenses? One[12] holds the opinion [that only] the cost of the seeds [is to be refunded], and the other[13] is of the opinion [that the] expenses also [must be refunded]! — How [can this be proved]? Is it not possible [that the opinions of the two Tannaim are to be] reversed?[14] This is no difficulty. Any Tanna [who is mentioned] last, enters [the discussion for the purpose of] adding some [restriction];[15] [the objection, however, is that] all [the Mishnah] may be [the teaching of] R. Simeon b. Gamaliel, and [that only a few words are] missing, and [that] this [is what the Mishnah really] teaches: [IF] ANYONE HAS SOLD FRUIT TO ANOTHER. AND [THE BUYER] SOWED THEM AND THEY

DID NOT GROW. EVEN [IF THEY WERE] LINSEED, HE IS NOT RESPONSIBLE — these are the words of R. Simeon b. Gamaliel, for R. SIMEON B. GAMALIEL SAID: FOR GARDEN SEEDS WHICH ARE NOT EATEN, HE IS RESPONSIBLE![16]

But [it is] this [teaching of] R. Simeon b. Gamaliel, [reflecting the view of those ‘others’] for it has been taught:[17] [If] one takes wheat to grind and [the miller] does not moisten it [prior to the grinding], and makes it into bran flour or coarse bran; [or, if one takes] flour to a baker who makes[18] of it bread which falls into pieces, [or, if one takes] a beast to a slaughterer who makes it unfit,[19] he[20] is liable [to pay compensation], since he is like one who takes payment [for his services].[21] R. Simeon b. Gamaliel says: He indemnifies him for the insult to him and to his guests.[22] [How much more, then, must he refund his expenses;] and so R. Simeon b. Gamaliel used to say:[23] There was a fine[24] custom in Jerusalem. If one entrusted [the preparations of] a banquet to another who spoilt it. [the latter] had to indemnify him for the insult to himself and to his guests. There was another fine custom in Jerusalem. [At the commencement of the meal] a cloth was spread over the door.[25] So long as the cloth was spread, guests entered. When the cloth was removed, no guests entered.

MISHNAH. [IF] ONE SELLS FRUIT TO ANOTHER, [THE LATTER] MUST ACCEPT A QUARTER [OF A KAB OF] REFUSE FOR EVERY SE’ AH. [IF HE SOLD HIM] FIGS, [THE BUYER] MUST ACCEPT TEN WORMY ONES FOR EVERY HUNDRED. [IF] A CELLAR OF WINE, HE MUST ACCEPT TEN [CASKS OF] PUNGENT [WINE] FOR EVERY HUNDRED. [IF] JUGS IN SHARON,[26] HE MUST ACCEPT TEN BAD JUGS FOR EVERY HUNDRED.

GEMARA R. Kattina learned: A quarter [of a kab] of pulse for each se'ah.[27] And [need he] not [accept] sandy matter? Surely Rabbah b. Hiyya of Kteshifon[28] said[29] in the name of Rabbah: [If a man] picks out a pebble[30] from his neighbour's threshing-floor [

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(1) Because most of the linseed is sold for sowing purposes.

(2) For every man who buys a large quantity of linseed for sowing, there are ten times as many people who buy it in smaller quantities for food, medicinal, or other purposes.

(3) And, therefore, no refund is necessary, despite the fact that a minority of big buyers use the linseed for sowing only.

(4) Since he orders the refund of the price of the seed, he is presumably of the same opinion as that held by Rab, viz. that the majority principle must be followed even in monetary matters.

(5) Since they maintain that no refund is necessary, they must uphold the opinion advanced by Samuel that in monetary matters the majority principle is no guide.

(6) I.e., most people buy linseed for purposes other than sowing.

(7) I.e., most linseed is sold for sowing, though to a minority of buyers.

(8) Who does not accept the majority principle. (Cf. supra notes 1 and 2).

(9) Of ploughing and any other services incidental to sowing.

(10) Lit., ‘who are the others who say?’.

(11) What, then, is the difference between these two Tannaim of our Mishnah?

(12) The first Tanna.

(13) R. Simeon b. Gamaliel_

(14) The first Tanna holding the seller responsible for the expenses whilst R. Simeon does not. Those ‘others’ will not therefore be R. Simeon but the first Tanna of our Mishnah.

(15) In this case, R. Simeon, who is last, must therefore be the one who adds the expenses to the seller's responsibility.

(16) Whence, then, is it proved that R. Simeon b. Gamaliel requires the refunding of the expenses? Our Mishnah, then, cannot be the teaching of R. Simeon b. Gamaliel referred to under the authority of those ‘others’.

(17) Tosef. B.K. X; B.K. 99b.

(18) Lit., ‘baked’.

(19) E.g.. by the unskilful use of the knife.

(20) He, the miller, baker, or slaughterer.

(21) V. B.K. 99b.

(22) If he invited guests and, in consequence of the neglect of the miller, baker, or slaughterer, he was unable to cater for them.

(23) Tosef. Ber. IV.

(24) Lit., 'great'.

(25) The cloth was a signal that a meal was in progress within the house.

(26) A place name, or 'in the plain'.

(27) R. Kattina is explaining the 'quarter of refuse' mentioned in our Mishnah.

(28) On the Eastern bank of Tigris.

(29) Bezah 38b.

(30) A pebble comes obviously under the category of sandy matter.

Talmud - Mas. Baba Bathra 94a

he must pay him [for it] the price[1] of wheat![2] — [Of] pulse. a quarter[3] [of a kab must be accepted; of] sandy matter less[4] than a quarter. And [need he] not [accept] a [full] quarter [of a kab of] sandy matter? Surely it has been taught: [If] one sells fruit to another, [the buyer] must accept, [in the case of] wheat, a quarter [of a Lab of] pulse[5] for [each] se'ah; [in the case of] barley, he must accept a quarter [of a kab of] chaff[6] for [each] se'ah; [in the case of] lentils, he must accept a quarter [of a kab of] sandy matter[7] for [each] se'ah. Now, may it not be assumed that the same law[8] [applies not only to lentils but also] to wheat and to barley?[9] Lentils are different [from wheat and barley], because they are usually plucked.[10] But [since] the reason why lentils [are allowed a full quarter of a kab of sandy matter is] because they are usually plucked while wheat and barley [are] not, infer [then] from this, [that in the case of] wheat and barley [the buyer need] not accept [a full quarter of a kab] of sandy matter![11] — [It may be retorted that a buyer], in fact, must accept [a full quarter of a kab of] sandy matter [in the case also of] wheat and barley[12] lentils, [however,] had to be [specifically mentioned].[13] Because it might have been thought that, since they are usually plucked, [the buyer] must accept even more than a quarter [of a kab], [the quantity], therefore, had to be [specifically] stated. R. Huna said: If [the buyer] wishes to sift[14] [and, on sifting, the quantity of the refuse is found to be more than what is permitted]. he may sift all of it [and the seller must compensate him for all the refuse, even for the permitted quantities]. Some say, [this is the] law; and others say, [this is a] penalty. Some say [this is the] law, [because] whoever pays money. pays it for good fruit,[15] but a person does not take the trouble [to sift,if the refuse only amounts to] a quarter [of a kab for every se'ah;[16] if] more than a quarter, a person does take the trouble; and, since he takes the trouble [to start sifting], he takes [a little more] trouble with all of it.[17] And others say, [this is a] penalty,[18] [because] it is usual [only for] a quarter [of a kab of refuse] to be found [in each se'ah];[19] more is not usual; he himself [therefore must have] mixed it. and since he has mixed [at least some of] it, the Rabbis have imposed upon him the penalty [of paying] for all.[20]

(Mnemonic: Every two bills of Rabin son of R. Nahman [are] overcharge and undertaking.)[21]

An objection was raised.[22] [It has been taught:][23] Every se'ah [of produce] which contains a quarter [of a kab] of another kind shall be reduced[24] [in order that it be permitted to be sown].[25] Now, it has been assumed that the quarter [in the case] of kilayim[26] is [in the same category] as [the quantity of] more than a quarter here,[27] and yet it has [only] been taught. 'it shall be reduced',[28] [while the rest may be sown. Why, then, in the case of a purchase,[29] must compensation be paid for all the refuse]? — No; a quarter [in the case] of kilayim is [in] the same [category] as a quarter here.[30] If so,[31] why should it be reduced? — On account of the restrictions of the law of kilayim.[32] If so,[33]

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(1) Because the seller is entitled to include a pebble in the weight of his wheat and to receive for it the price of the wheat; but is not permitted to put in a pebble.

(2) This shows that sandy matter, such as a pebble is, must also be accepted by the buyer. How, then, can it be said that sandy matter need not be accepted?

(3) As R. Kattina said.

(4) But a full quarter need not be accepted.

(5) Pulse usually grows among the wheat.

(6) Chaff cannot be entirely separated from the barley.

(7) Sandy matter is usually mixed up with lentils.

(8) That a quarter of a kab of sandy matter must be accepted by the buyer.

(9) It is assumed that sandy matter was mentioned in the case of lentils because it is usual to find it there just as pulse. e.g.. was mentioned with wheat with which it is usually mixed up; but that in reality the buyer must accept a quarter of a kab of sandy matter, or any refuse, in whatever kind of produce it is found.

(10) And more sandy matter must, therefore, be expected.

(11) Which would confirm the answer given above, in justification of R. Kattina, that of sandy matter, ‘less than a quarter’.

(12) The same quantity as that stated in the case of lentils.

(13) That only a quarter of a kab of sandy matter need be accepted.

(14) Suspecting that the refuse amounts to more than a quarter of a kab for each se'ah.

(15) He does not consent to take any refuse in the weight.

(16) Rather than have the trouble of sifting. he accepts the comparatively little refuse.

(17) Once the sifting commences, it is not much more trouble to complete the whole. Hence, the buyer exercises his right and demands compensation for all the refuse.

(18) The compensation is not based on the Biblical law, according to which a person is always assumed to consent to buy fruit together with a certain quantity of refuse.

(19) And the seller must not be penalised for this.

(20) Since he has mixed a portion he is suspected of having mixed the whole.

(21) The mnemonic aids in the recollection of the passages that follow in support of, or objection to R. Huna's law.

(22) To the statement that the buyer may sift the grain in accordance with the law which entitles him to compensation for all the refuse found.

(23) Kil.II. 1.

(24) To less than a quarter.

(25) Two different kinds must not be sown together, in accordance with the prohibition of ‘mingled seeds’. (Cf. Lev. XIX. 29.)

(26) כלאים ‘mingled seed’. V. n. 12.

(27) In the case of a purchase.

(28) The entire se'ah is not disqualified by reason of the excess, and as soon as the excess is reduced (from a ‘quarter’ to ‘less than a quarter’) the grain may be sown.

(29) In the case of a purchase also, it should suffice to reduce the ‘more than a quarter’ of the refuse to a ‘quarter’. by the seller's paying of compensation for the excess.

(30) In both eases such a small quantity as a quarter of a kab in a se'ah is disregarded. But if this quantity is exceeded, it might, indeed, have to be removed in its entirety even in the case of kilayim.

(31) That a quarter is disregarded, even in the case of kilayim.

(32) It is a restriction imposed by the Rabbis to prevent people from transgressing the laws of kilayim.

(33) That the restriction is only Rabbinical, and that in accordance with the Biblical law there is no need to reduce.

Talmud - Mas. Baba Bathra 94b

explain the last clause [of the Mishnah quoted, which reads]. R. Jose says: He shall pick out [all]. This would be correct if you assumed [that a quarter of a kab in kilayim is] like [a quantity of] more than a quarter [of a kab] of refuse. For their[1] dispute could [then be said to] depend on [the following principles]. The first Tanna might hold the opinion that a penalty is not imposed on a permitted thing for the sake of a prohibited one, and R. Jose might hold the opinion that a penalty may thus be imposed.[2] But if it is said that [a quarter of a kab of kilayim is] like a quarter [of refuse], why should he pick?[3] This is the reason of R. Jose. there: Because[4] it seems as if he was retaining[5] kilayim.

Come and hear! [It has been taught]:[6] If two [persons] deposited [money] with one [man], one of them[7] a maneh[8] and the other[7] two hundred zuz, and the one[7] says. 'the two hundred zuz are mine', and the other[7] [also] says, 'the two hundred zuz are mine one maneh is given to the one,[7] and one maneh to the other,[7] and the remainder must lie until [the prophet] Elijah comes.[9] [Does not this show that one is not penalised by being made to lose the whole[10] for the sake of a part?][11] — What a comparison![12] In that case,[13] one maneh certainly belongs to the one, and one maneh to the other,[14] [but in] this [case],[15] who can say that he has not [himself] put it all in?[16] Come and hear [a confirmation][17] from the last [clause of the quoted Baraitha which reads]: R. Jose said, 'If so,[18] what has the knave lost?[19] But all[20] must be kept over until Elijah comes. What a comparison![21] In that case[22] there is certainly [one] knave [at least].[23] but in this case,[24] who can say that he has put it in at all?[25]

Come and hear! [It has been taught]: [If] a bill [of debt] contains [an undertaking to pay] usury, a penalty is imposed [on the lender], and he receives neither the principal nor the interest; these are the words of R. Meir.[26] [Does not this prove that a penalty may be imposed on the whole for the sake of its part?] — What a comparison![27] In that case,[28] [the lender] had committed the transgression[29] from the moment of the writing.[30] but in this case,[31] who can say that he has put it in at all?![32]

Come and hear! [an objection] from the last [clause of the quoted Baraitha]: And the Sages say. '[the lender] receives the principal but not the interest'. [Does not this show that a penalty on the whole is not imposed on account of its part]?[33] — What a comparison![34] In that case,[35] the principal [at least] is certainly a permitted sum; but here, who can say that all has not been put in by him[36]

Come and hear what Rabin son of R. Nahman learned:[37] [In case of the sale of a piece of ground, under certain conditions, though it was found to be bigger than arranged. by an area equal to that of a quarter of a kab per se'ah, the sale is valid; if, however, the difference is greater. then] not only must the surplus[38] be returned but all the quarters[39] also must be returned. This shows clearly that whenever [a part] has to be returned, all must be returned![40] — What a comparison!

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(1) That of R. Jose and the first Tanna.

(2) Since the prohibition is Biblical.

(3) And thus add one Rabbinical restriction to another: first restriction, reduction to less than a quarter; second restriction, picking out all foreign matter. Even the law requiring reduction is not Biblical, but Rabbinical. Is one Rabbinical restriction not enough that R. Jose must add to it another?

(4) Though Biblically allowed.

(5) Since he began to remove some, he must remove all; otherwise, the remainder might be regarded as if it had been intentionally put in.

(6) B.M. 37a.

(7) Lit., 'this'.

(8) Maneh == 100 zuz.

(9) Elijah the prophet, the herald of the Messianic era who is to make the truth known. The phrase is a technical term meaning 'indefinitely'.

(10) Since only one maneh is retained while the other is returned.

(11) Why. then, has it been said above that 'the Rabbis have imposed . . . the penalty of paying for all'?

(12) Lit., 'How now!'

(13) Lit., 'there', in the dispute about the maneh and the two hundred zuz.

(14) Hence, the certain maneh must be returned.

(15) The refuse in the produce.

(16) Since the refuse is in a bigger proportion than the usual quantity, the seller may be suspected of having put in at least some, and one suspected of some may be suspected of all.

(17) Of the statement that a penalty may be imposed on the whole for the sake of the part.

(18) I.e., if one maneh is returned.

(19) Since the knave (lit.. ‘cheat’) who deposited only one maneh gets that maneh back, he loses nothing and, consequently, would never admit the truth.

(20) So here, as a penalty for mixing, compensation must be paid for all the refuse.

(21) V. supra n. 6.

(22) V. supra n.7.

(23) One of them must be a knave, since only one had deposited the larger sum.

(24) V. supra n. 9.

(25) The existence of the refuse in the produce may be due entirely to natural causes.

(26) B.K. 30b; B.M. 72a.

(27) V. p. 392. n. 6.

(28) Lit., ‘there’, in the case when usury was mentioned in the bill of debt.

(29) Lit., ‘the putting’. ‘the laying’; Neither shall ye lay upon him usury. Ex. XXII. 24.

(30) Hence, let him lose the interest as well as the principal.

(31) V. p. 392. n. 9.

(32) V. p. 392. n. 19. Hence he should not be required to pay. as a penalty, for all the refuse.

(33) V. p. 392. n. 5.

(34) V. p. 392. n. 6.

(35) V. n. 2 above.

(36) V. p. 392. n. 10.

(37) Infra 104b.

(38) I.e., the portion of land by which the area is greater than a quarter of a kab per se'ah, viz., the difference between the actual area on the one hand, and the agreed area and a quarter of a kab per se'ah on the other.

(39) I.e., the quarters of a kab per se'ah which, if not exceeded, were not to be returned.

(40) This confirms R. Huna's statement, supra. according to the first explanation, that the return of all the refuse is law, because one does not forego more than a quarter of a kab.

Talmud - Mas. Baba Bathra 95a

In that case[1] [the seller explicitly] said to him, ‘[I sell you an area of a kor][2] more or less’;[3] but a quarter [of a kab] is of no importance;[4] more than a quarter, is of importance, because, since [in the area of a kor, the quantity may be combined into nine kab,[5] they form an important independent field which must be returned. [But in the case of the refuse in produce,[6] even if it amounted to more than a quarter of a kab per se'ah, only the surplus might have to be returned but not the quarters[7]].

Come and hear! [We learned]: [If] the overcharge is less than a sixth, the purchase is valid;[8] [if it is] more than a sixth, the purchase is cancelled; [if it is] a sixth, the sale is valid but the overcharge must be refunded.[9] Now, should [not a part of the overcharge] be returned[10] [so as to reduce[11] it] to less than a sixth?[12] [But since the law is not so] it may be inferred [that] wherever [a part] is to be returned, all must be returned. [Is not this, then, a confirmation of R. Huna's statement?[13]] What a comparison! There,[14] one spoke to the other of equal values[15] from the very beginning; only. [since] less than a sixth is not noticeable, a person does not mind to forego it; a sixth, [however], [since it] is noticeable, one does not forego; [while] more than a sixth is a purchase based on error and is to be entirely cancelled.[16]

Come and hear! [It has been taught:] [If] one undertakes to plant another's field,[17] [the owner] must accept ten failures for every hundred trees.[18] [If the failures are] more than this [number],[19] [the re-planting of] all[20] is imposed upon him. [Is not this a confirmation of the statement of R. Huna?][21] — R. Huna, the son of R. Joshua. said: [The two cases cannot be compared. for] wherever [there are] more than this [number of trees][22] it is the same as if one began to plant [a new field].[23]

A CELLAR OF WINE, etc. How is this to be understood? If [it means that] the seller said to the buyer. '[I sell you] a cellar of wine', without specifying which cellar, there is a difficulty;[24] [and] if [it means that] he said to him, 'this cellar of wine', there is [also] a difficulty;[25] [and] if he said to him, 'this cellar', there is [again] a difficulty.[26] For it has been taught: [If one says]. 'I sell you a cellar of wine', he must give him wine all of which is good.[27] [If one said]. 'I sell you this cellar of wine', he may give him such wine as is sold In the shop.[28] [If one said]. 'I sell you this cellar', the sale is valid even if all of it is vinegar.[29] [How. then, is the Baraitha to be reconciled with our Mishnah?] [Our Mishnah], in fact, deals with the case where [the seller] said to him ['I sell you] a cellar of wine', without specifying which cellar, but[30] read in the first clause of the Baraitha [as follows]: ['He must give him wine all of which is good']. but [the buyer] must accept ten [casks of] pungent wine for [every] hundred. Must one, however, accept [ten casks of pungent wine] when the cellar was not specified? Surely R. Hiyya has taught: [If] a person has sold a jug of wine to another, he must give him wine all of which is good![31] A jug is different, because it contains [only] one [kind of] wine.[32] Did not, however, R. Zebid of the school of R. Oshaia recite: [If the seller says]. 'I sell you a cellar of wine', he must give him a wine all of which is good; [if he says], 'I sell you this cellar of wine', he must give him wine all of which is good and [the buyer must] accept ten casks of pungent wine for [every] hundred.

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(1) The sale of the land.

(2) Kor == thirty se'ah.

(3) V. infra 103b. Had he not said so, even a fraction more than the area agreed upon would have had to be returned.

(4) The seller, by his statement, has intimated that he does not mind conceding such a small area.

(5) The thirty quarters of a kab for the thirty se'ah of the kor amount to seven and a half kab. But since the difference is more than a quarter per se'ah by, say, a twentieth of a kab per se'ah, the total amounts to thirty times one twentieth one and a half kab, which, added to the seven and a half, total nine kab.

(6) Since a quarter of a kab per se'ah must always be accepted whether the expression 'more or less' had been used or not.

(7) Because it is usual to find such quantities of refuse in all produce.

(8) Lit., 'possession is acquired'. and nothing of the overcharge need be returned. Any buyer is assumed to be indifferent to the loss of such a small amount as a sixth.

(9) B.M. 50b.

(10) In the case when the overcharge was a sixth or more than a sixth.

(11) Instead of returning the full overcharge, in once case, and cancelling the sale in the other.

(12) To the loss of which a buyer. as it has been said, is indifferent.

(13) That if the refuse is more than the allowed quantity, the seller must compensate not only for the surplus but for all the refuse.

(14) In the case of the overcharge.

(15) The price. according to the original arrangement, had to be equal to the value of the produce. The buyer. therefore, had a right to claim the return of an overcharge, even if it were less than a sixth.

(16) In the case of refuse in produce, however, the buyer is always ready to accept a certain quantity of it, (a quarter of a kab of refuse per se'ah of produce). He may, therefore, also be assumed to accept this quantity even when more refuse has been found, provided the surplus has been refunded.

(17) Lit., 'receives a field from another to plant'.

(18) The owner must pay the workman for every hundred trees the full value of sound trees, though ten of them may turn out to be unproductive and useless.

(19) More than ten per hundred.

(20) All the unproductive trees must be replaced by sound ones.

(21) V. p. 394. n. 8.

(22) More than ten unproductive trees per hundred trees planted.

(23) The area occupied by a number of trees bigger than ten, say eleven, is considered to form a smaller self-contained field. This smaller field is thus treated as a new field in which the workman undertakes to plant eleven trees, where evidently he could not claim to have discharged his task by planting only one productive and ten unproductive trees. He must therefore replace them all. In the case of the refuse, however, dealt with in R. Huna's statement, this argument cannot, obviously, be applied, and the owner may be assumed to accept the loss of a quarter of a kab per se'ah, if the surplus is refunded to him.

(24) For according to our Mishnah, the buyer accepts ten casks of pungent wine for every hundred, while according to the following Baraitha (first case), all the wine must be good.

(25) According to the second case in the following Baraitha, contrary to the law in our Mishnah, the seller may give a wine all of which is pungent. (Cf. n. 12 infra).

(26) Since, according to the third case in the Baraitha, and contrary to our Mishnah, even if all the wine has become vinegar the sale is valid.

(27) The term ‘wine’ implies ‘good wine’; and, therefore, no spoilt wine need be accepted by the buyer.

(28) Where all the wine is pungent.

(29) Because no wine was mentioned when the sale was proposed.

(30) In reply to your difficulty, why does our Mishnah allow ten casks of pungent wine while the Baraitha requires all the wine to be good?

(31) If in the case of the sale of a cellar, ten casks of pungent wine may be included in every hundred, why must all the wine be good in the case of the jug?

(32) No quantity of pungent wine can, therefore, be included in such a sale.

Talmud - Mas. Baba Bathra 95b

and this is the cellar [about] which the Sages have taught in our Mishnah![1] — Well, then, our Mishnah also [speaks of the case] where [the seller] said to him ‘This’.[2] [But. if so] there is a contradiction between ‘This’[3] and ‘This’?[4] — There is no contradiction. The one [deals with the case] where [the buyer] said to him [that he required the wine] for a dish;[5] the other, where he did not say to him [that it was required] for a dish:[6] [The Baraitha] of R. Zebid [deals with the case] where [the buyer] said to him [that the wine was required] for a dish. The [other] Baraitha [deals with the case] where he did not say, ‘for a dish’. Consequently, [if[7] the expression used by the seller was], ‘a cellar of wine’ and [the buyer] had said to him, ‘for a dish’, [the former] must give him a wine all of which is good.[8] [If[7] the seller said.] ‘this cellar of wine’, and the buyer had said, ‘for a dish’, he must give him a wine all of which is good. and [the buyer must] accept ten casks of pungent wine for [every] hundred. [If, however,[9] the seller said], ‘this cellar of wine’, but [the buyer] did not say, ‘for a dish’, he may give him such wine as is sold in the shop.[10]

The question was raised [as to] what [was the law when the seller said], ‘a cellar of wine’,[11] and [the buyer] did not say, ‘for a dish’.[12] R. Aha and Rabina are in dispute [on the matter]. One says [the buyer must] accept [ten casks of pungent wine for every hundred], and the other says, he need not accept. He who said [that the buyer must] accept, deduces [the law] from the Baraitha of R. Zebid, which states, [that if the seller says], ‘I sell you a cellar of wine’, he must give him a wine all of which is good; and it has been settled [that this refers to the case] where [the buyer] said to him, ‘for a dish’. The reason,[13] [then, is] because he said to him ‘for a dish’, but had he not said, ‘for a dish’ [he would have had to] accept. And he who says that [the buyer] need not accept, deduces [the law] from the [other] Baraitha which states [that if the seller says. ‘I sell you a cellar of wine’, he must give him a wine all of which is good; and it has been settled [that this refers to the case] where [the buyer] did not say, ‘for a dish’. According to him who deduces [the law] from that [Baraitha] of R. Zebid, is there no contradiction from the other Baraitha? — [No]; something is missing. and this is the [additional] reading: This[14] only applies [to the case] when he said to him, ‘for a dish’, but if he did not say, ‘for a dish’, he [must] accept.[15] And [if he said], ‘this cellar of wine’ but did not say, ‘for a dish’, he may give him a wine which is sold in the shop. And according to him who deduces [the law] from the [other] Baraitha is there no contradiction from that of R. Zebid which has been explained [to refer to the case] where he said to him, ‘for a dish’, [from which it may be inferred that] if he did not say to him, ‘for a dish’, [he must] accept?[15] — [No;] the same law, [that he need] not accept, [applies] even [to a case] where he did not say to him, ‘for a dish’, and this [is the reason] why it[16] had to be explained [to refer to the case] where he said to him, ‘for a dish’, because there was a contradiction between 'this', [in the last clause of the Baraitha of R. Zebid,] and 'this', [in the second clause of the other Baraitha];[17] [but in the case of the first clauses,[18] there was no such contradiction].[19]

Rab Judah said: Over wine which is sold in a shop,[20] the benediction[21] of 'the[22] creator of the fruit of the vine'[23] is to be said.[24] And R. Hisda said: Of what use[25] is wine that is turning sour?[26]

An objection was raised: Over bread that has become mouldy. and over wine that has become sour, and over a dish that has lost its colour. — the benediction of '. . . by whose word everything was made' must be said.[27] [How, then, can Rab Judah say that over sour wine the benediction for proper wine is to be said]? — R. Zebid replied: Rab Judah admits[28] in [the case of] wine made of kernels,[29] which is sold at [street] corners.

Abaye said to R. Joseph: Here [is the opinion of] Rab Judah; here [that of] R. Hisda; whose does [my] master adopt? — He replied unto him: I know a Baraitha:[30]

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(1) How, then, has it been said before that our Mishnah deals with the case where the seller said. 'I sell you a cellar of wine'?

(2) I.e., 'I sell you this cellar'.

(3) In the Baraitha, quoted above, according to which the seller may offer wine all of which is pungent. (Cf. p. 395. n. 22.)

(4) In the Baraitha recited by R. Zebid. which states that all the wine must be good with the exception of ten casks which may contain pungent wine.

(5) For which good wine is required. because only a little at a time is used, and the wine has to last for a long period. Hence the expression. 'wine', in the offer, implied 'good wine which may keep for a long time'; and the expression, 'this', entitled the seller to include ten casks of pungent wine.

(6) Hence the seller may give him even pungent wine, such as is sold in the shop.

(7) In the Baraitha of R. Zebid.

(8) Since 'wine' and 'for a dish' were mentioned.

(9) In the other Baraitha.

(10) V. p. 396. n. 22.

(11) Which is in favour of the buyer, because 'this' was not used.

(12) Which is in favour of the seller.

(13) Why all the wine must be good.

(14) That if he said, 'I sell you a cellar of wine', he must give him a wine all of which is good.

(15) The ten casks of pungent wine for every hundred.

(16) The last clause of R. Zebid's Baraitha, 'I sell you this cellar of wine'.

(17) V. p. 396. n. 7-8.

(18) Where the seller says. 'I sell you a cellar of wine'.

(19) And both may, therefore, refer to either case, whether the buyer said, or did not say, 'for a dish'.

(20) I.e., any sour, or bad wine.

(21) Before partaking of any food, a certain benediction must be said beginning with, 'Blessed art thou, O Lord, our God, King of the Universe' and concluding in different forms corresponding to the particular kind and nature of the food consumed.

(22) Beginning with the usual formula (v. previous note.)

(23) This is the benediction enacted for wine in a sound condition.

(24) Though the wine is bad it is still considered wine, and requires the wine benediction.

(25) Lit., 'why to me.

(26) Since the wine is spoilt, one must not say over it the benediction enacted for good wine, but that of 'Blessed . . . by whose word everything was made'.

(27) Ber. 40b.

(28) That the wine benediction is not to be said.

(29) Such a wine is very sour and cannot possibly be regarded as wine. The Baraitha quoted should be assumed to speak of such a wine.

(30) From which may be inferred at what stage wine loses its name and assumes that of vinegar, and, consequently, requires a change in the form of the benediction.

Talmud - Mas. Baba Bathra 96a

where it has been taught: If one tested[1] a [wine] jug for the purpose of taking from it, periodically, heave-offering [for wine kept in other jugs];[2] and, subsequently,[3] it was found [to contain] vinegar,[4] all[5] three days It is certain, [and] after that it is doubtful.[6] What does this mean? — R. Johanan said, It means this: During the first three days [after the test, it is regarded as] certain wine;[7] after that, [as] doubtful.[8] What is the reason? — [Because] wine [begins to] deteriorate from above,[9] and this [man] had tasted it [and ascertained that] it had not deteriorated; [and] if it be assumed that it had deteriorated [immediately] after it had been tasted, [even then during the first three days], it had the odour of vinegar and the taste of wine, and whenever the odour is of vinegar and the taste is of wine, it is regarded as wine. And R. Joshua b. Levi said: [The meaning of the Baraitha is that] during the last three days[10] [it is regarded as] certainly vinegar;[11] prior to that, [as] doubtful.[12] What is the reason? — Wine [begins to] deteriorate from below, and it is possible [that it had already] deteriorated [during the test] but he did not know.[13] [Moreover, even] if it is assumed that deterioration [begins] from the top, [and it will be argued that it must have been wine] since [this man] had tasted it and [ascertained that] it had not [then] deteriorated, [it may be retorted that] it is possible that it deteriorated [immediately] after he tasted it, [and it had] the odour of vinegar and the taste of wine, and [the law is that wherever] the odour is vinegar and the taste. wine, [it is regarded as] vinegar.

The scholars of the South [of Palestine] taught in the name of R. Joshua b. Levi: [During the] first [three days it is regarded as] certainly wine.[14] [During the] last [three days, as] certainly vinegar. [During the] intervening [days as] doubtful. Is not this self-contradictory? [Since] you said that [during the] first [three days it is regarded as] certainly wine, it is obvious that [if the] odour is vinegar and the taste wine, [it is regarded as] wine;[15] and then you say [that during the] last [three days it is regarded as] certainly vinegar, [which] proves clearly [that if the] odour is vinegar and the taste, wine, [it is regarded as] vinegar?[16] — [The second clause deals with the case] when it was found [to be] very strong vinegar [in which case it is known] that had it not lost its taste three days [previously], it could not have been found [to be such] very strong vinegar.[17]

According to whom[18] did [R. Joseph] answer him?[19] — R. Mari and R. Zebid [are in dispute on this]. One says: According to R. Johanan. and the other says: According to R. Joshua b. Levi.

It has been stated: [In the case] when one sold a jug of wine to another and it became sour,[20] Rab said: During the first three days [of the sale] it is [regarded as still] in the possession of the seller;[21] after that, [it is regarded as] in the possession of the buyer.[22]

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(1) Either by tasting some of its contents, the heave-offering and tithe having been duly taken from it (Rashb.), or by smelling (Tosaf.)

(2) In order that he might be allowed to use the wine in the other jugs he keeps this one jug for the purpose of taking from it daily, or whenever required, the appropriate quantity of wine as heave-offering. etc., for the wine in the other jugs.

(3) E.g.. after a month or two.

(4) Vinegar. may not be used as a heave-offering for wine.

(5) The explanation of this follows.

(6) Tosef. Tem. IV.

(7) For in less than three days, wine cannot turn into vinegar. Even if it be assumed that it began to turn sour immediately after the test, it would not be called ‘vinegar’ until full three days had elapsed. The heave-offerings given during these three days must, therefore, inevitably have been wine and, consequently, have exempted the wine in the other jugs. (V. n. 7 above).

(8) Since it is possible that the wine began to deteriorate only three days before it was found to be vinegar, into which it may have turned just at that moment. Since the heave-offering is accordingly in doubt (V. n. 7 above). another must be given.

(9) Deteriorations of the wine on the surface takes place first, and then it gradually spreads downwards till all turns sour. During this process, though the contents have the odour of vinegar, the flavour is still that of wine.

(10) Prior to the discovery that it turned into vinegar.

(11) R. Joshua regards the contents as vinegar as soon as they begin to deteriorate in odour though the taste may still be that of wine. Since it is now proper vinegar, the deterioration must have commenced at least three days previously.

(12) Because it is possible that the deterioration, as regards odour, began immediately after the test, and this, according to R. Joshua who is guided by the odour, changes the character of the contents from wine into vinegar on the very first day.

(13) And, consequently, despite the test, the contents were already, at that very moment, vinegar.

(14) R. Joshua holds the same views as R. Johanan.

(15) Cf. R. Johanan's reason.

(16) For if it is regarded as wine, despite the odour of vinegar, the contents may still have been wine three days

(17) The deterioration must consequently have commenced six days previously. In the first three, of these six days, it was still regarded as wine; for his opinion, like that of R. Johanan, is that the odour alone does not deprive the wine of its name, During the last three, of these six days, both odour and taste were that of vinegar, hence his decision is, in such a case, that ‘during the last three days it is regarded as certainly vinegar.’

(18) I.e., R. Johanan or R. Joshua? This inquiry is, of course, on the assumption that the first version of R. Joshua's statement, and not that of the scholars of the South, is the correct one.

(19) Abaye, supra 95b.

(20) In the house of the buyer while the wine was still in the seller's jug.

(21) Since it takes three days from the time the wine changes its odour into that of vinegar until it changes its taste also, the deterioration must inevitably have commenced before the sale. The seller, therefore, must remain responsible.

(22) And the seller need not compensate for his loss.

Talmud - Mas. Baba Bathra 96b

and Samuel says: Wine leaps upon the shoulder of its owner.[1] R. Joseph decided a case In accordance [with the opinion] of Rab, in [respect of the sale of] beer;[2] and in accordance with that of Samuel in [respect of] wine. And the law is in agreement with [the opinion] of Samuel.

Our Rabbis taught: The benediction, ‘. . . by whose word everything was made’, is to be said over beer of dates, beer of barley and lees of wine. Others say [that] over lees which have the flavour of wine the benediction, ‘. . . the creator of the fruit of the wine’ is to be said. Both Rabbah and R. Joseph say: The law is not in accordance with [the view of] the others. Raba said: All agree [in the case where] three [jugs of water] had been poured [into the lees], and four came out, that [the liquid] is [regarded as] wine; [for] Raba [is guided] by his view that any wine which cannot stand [an admixture of] three [units of] water to one [of wine], is no wine.[3] [In the case also where] three [jugs of water] had been put [into the lees] and three came out, [all agree that it is] no wine. Their dispute[4] has reference only [to the case] where three were put in and three and a half came out. [For in such a case,] the Rabbis hold the opinion [that since for the] three [that] were put in three were taken out, [only] one half is over; and one half, in six halves of water is nothing. But the others hold the opinion [that for the] three put in, [only] two and a half[5] were taken out, [a complete] jug, [therefore] remains over, and one jug [of wine] in two and a half [of water] [is regarded as] good wine.

But how can it be said that there is a dispute [at all] in the case when more than the quantity put in [has been taken out]? Surely it has been taught:

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(1) I.e., the purchaser bears the responsibility for the wine. It is his misfortune that the wine turned sour.

(2) שיכרא a drink made of dates or barley.

(3) Shab. 77a. ‘Er. 29b.

(4) I.e., that of the Rabbis and the ‘others’.

(5) A sixth of the water put in is usually lost in the lees.

Talmud - Mas. Baba Bathra 97a

He who, in making Tamad,[1] poured water into lees by measure and obtained the same quantity [of Tamad] is exempt [from the tithe]. And R. Judah makes him liable.[2] [Does not this imply that] they are in disagreement only so far as [the case] where only the quantity put in [is extracted], but not where more[3] than that quantity [is obtained]? — [No]; they are in disagreement even where more than the quantity put in [has been obtained], and [the reason] why they are in dispute in [the case where only] the quantity put in [has been obtained] is to show you how far-reaching is the view[4] of R. Judah.[5]

R. Nahman b. Isaac inquired of R. Hiyya b. Abin: What [is the law[6] in regard to] lees which have the flavour of wine? — He replied unto him: Do you think this is wine? It is a mere acidiferous[7] liquor. Our Rabbis taught: [In the case of] lees of Terumah,[8] the first and the second [infusion] are forbidden [to laymen],[9] but the third is permitted.[10] R. Meir says: Even the third [infusion is forbidden], when [there is in it enough of the wine] to impart a flavour [to the water]. And [in the case] of [second] tithe, the first [infusion] is forbidden,[11] [but] the second is permitted. R. Meir says: The second [infusion is] also [forbidden] when [it contains enough of the wine] to impart a flavour [to the water]. And [in the case] of consecrated [lees], the third [infusion] is forbidden, but the fourth is permitted. R. Meir says: The fourth [infusion is] also [forbidden] when [it contains enough of the wine] to impart a flavour [to it].

A contradiction was pointed out [from a Baraitha which states that infusions] of consecrated [things] are forever[12] forbidden and [those] of [the second] tithe are always[13] permitted. [Surely this shows] a contradiction between [the respective laws relating to] consecrated things and also between those relating to tithe! — There is no contradiction between [the respective laws relating to] consecrated things, [for] here [the law relates] to objects which were themselves[14] consecrated, but there [it relates] to objects whose value[15] only was consecrated. There is [also] no contradiction between [the respective laws relating to] tithes, [for] here, [the law relates] to that which is certainly tithe, [but] there [it relates] to tithe of Demai.[16] R. Johanan said in the name of R. Simeon b. Jehozadak: The same [laws] that have been said [to apply] in respect of their prohibitions[17] have similarly been said [to apply] in respect of their making objects fit [for Levitical uncleanness].[18] What [kind] of making fit [is meant]? If [the infusion is regarded as consisting] of water, it certainly makes [objects] fit [for the Levitical uncleanness]; [and] if [it is regarded as consisting] of wine it [equally] makes the objects fit. [For what purpose. then, is R. Simeon's statement required?] — It is required in the case where the Tamad[19] was made of rain water.[20] But since he took up [the rain water] and poured it into the vessel [containing the lees], he [surely] intended them [for use, and consequently there is again no difference between an infusion of wine and one of water. Why, then, R. Simeon's statement]? — It is required [in the case] where the Tamad was made without the aid of human effort.[21] But since he draws out [the infusions] one after the other,[22] [does he not, thereby,] reveal his intention [of using them]? — R. papa replied: In [the case[23] of] a cow which drank the [infusions] one after the others [and, consequently, the owner's intention is not known].[24]

R. Zutra b. Tobiah said in the name of Rab: The Kiddush[25] of the day must be proclaimed on such wine only as is fit to be brought as a drink offering upon the altar. What does this exclude? If it is suggested that it excludes wine [that comes] from his vat,[26] [it may be retorted]: Did not R. Hiyya teach, ‘One must not bring wine from his vat [as a drink offering], but if already brought, it is permitted [to be used]’; and, since [in the case of offerings] it is permitted when brought, it [should be allowed for Kiddush] even at the start also.[27]

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(1) תמד an inferior wine, or a vinegar, made by steeping stalks and skins of pressed grapes in water or by pouring water into Iees.

(2) Ma'as. V. 6; Pes. 24b; Hul. 25b.

(3) In such a case. even the Rabbis (representing the first opinion quoted) would agree that the wine is liable to tithe and, for the same reason, subject to the benediction of proper wine.

(4) Lit., ‘the power’.

(5) I.e., In holding that even when only the quantity put in has been extracted. it is nevertheless subject to tithe.

(6) Regarding its benediction.

(7) Lit., ‘blunts the teeth’.

(8) V. Glos.

(9) Only priests are allowed to eat Terumah. The first and the second infusion are still regarded as Terumah because they contain a considerable admixture of the original wine.

(10) Even though it may still retain some flavour of wine.

(11) To be eaten outside Jerusalem.

(12) Even the fourth, etc.

(13) Even the first.

(14) E.g.. wine as a drink offering for the altar.

(15) If. e.g.. one has consecrated wine for the purpose that the proceeds from its sale might be used for Temple repairs, the wine must be sold and the proceeds only used. The sanctity of such an object is not as high as that which itself is to be offered on the altar.

(16) Heb.דמי(root דמי ‘suspect’). Wine or any produce about which there is doubt whether the tithe or any of the priestly, or Levitical gifts has been duly separated. (Produce, e.g.. purchased from an ignorant man, ‘am ha-arez.) The law relating to tithes that have been taken from such wine etc., is not as stringent as that relating to tithe taken from produce, wine, etc. about which it is definitely known that no tithe has ever before been taken.

(17) That in the case of terumah, e.g., the first and the second infusions but not the third, and in the case of the tithe, the first but not the second, are regarded as the original wine, and are subject to its restrictions.

(18) Certain objects such as grain, fruit, etc. are not subject to Levitical uncleanness unless they have been first brought in contact with certain liquids. V. Lev. XI.

(19) V. Glos.

(20) Which, like other waters, does not fit objects for uncleanness unless used with the owner's desire or consent. Wine, however, always effects fitness for uncleanness whether with, or without the intention or knowledge of the owner.

(21) The rainwater fell directly into the lees.

(22) Lit., ‘first, first’.

(23) And for this R. Simeon's statement is required.

(24) In such a case there is a difference whether the infusion is regarded as wine effecting fitness for uncleanness or as water and effecting no fitness. If the cow drank the first infusion only, the law will be applicable to the second infusion. If it drank the second, the law is required for the third.

(25) קדוש ‘sanctification’, applied here to the proclamation of the sanctity of the Sabbath or Festival, which is made on Sabbaths and Festivals over a cup of wine, to which other appropriate benedictions are added.

(26) I.e., too new.

(27) Kiddush is not as high in importance as Temple offerings.

Talmud - Mas. Baba Bathra 97b

[Moreover,] Raba said: A man may press out a cluster of grapes[1] and proclaim over it the Kiddush of the day![2] Or, again, [if it is suggested that the object of Rab's statement is] to exclude[3] [the wine] at the mouth[4] [of the jug] and at the bottom,[5] [it may be retorted]: Did not R. Hiyya teach, ‘One must not bring [wine as a drink offering] from [the jug's] mouth or bottom, but if already brought it is permitted [to be used].! And [if it is suggested that the statement] excludes black, white,[6] sweet,[7] cellar,[8] and raisin wine; surely it has been taught[9] [that] all these must not be brought, but if brought already they are permitted! And [if it is suggested that the statement] excludes wine [which is] pungent, mixed,[10] exposed,[11] made of lees, or having an offensive smell as it has been taught [that] in [the case of] all these, one must not bring [them] and even if brought [they remain] unfit, [it may still be retorted], 'to exclude which [of these was this statement made]'? If to exclude pungent wine, [this is surely a matter of] dispute[12] between R. Johanan and R. Joshua b. Levi. If to exclude mixed wine, surely [when wine is mixed with water] it is improved, for R. Jose b. Hanina said:[13] The Sages agree with R. Eleazar that in [respect of] the cup of grace after meals no benediction may be said over it until water has been poured into it.[14] If to exclude exposed [wine], surely it is dangerous.[15] If to exclude [wine made] of lees, [it may be asked], how is this to be understood? If three [jugs of water] were poured in and four [jugs of wine] came out, this [surely] is good wine. If three were poured in, and three and a half came out, this is a [matter of] dispute between the Rabbis and the others![16] But, [this is the object of the statement], viz., to exclude [wine] which has an offensive smell. If preferred, it may be said that [the statement] may even exclude exposed [wine] and, [as to the objection raised,[17] it may be replied that it excludes such wine] even though it was passed through a strainer[18] in accordance with [the teaching of] R. Nehemiah,[19] [it] nevertheless [may not be used for Kiddush, because] Present it[20] now unto thy governor; will he be pleased with thee? Or will he accept thy person?[21]

R.Kahana the father-in-law of R. Mesharshya inquired of Raba: May white[22] wine [be used as a drink-offering]? — He replied unto him: Look not thou upon the wine when it is red.[23]

JUGS IN SHARON etc.. It has been taught: [The bad jugs referred to in our Mishnah are those which are] thin[24] and lined with pitch.[25] MISHNAH. IF ONE SELLS WINE TO ANOTHER AND IT TURNS SOUR. HE IS NOT RESPONSIBLE.[26] BUT IF HIS WINE IS KNOWN TO TURN SOUR, THE PURCHASE IS ONE BASED ON ERROR.[27] IF HE SAID UNTO HIM. 'WINE

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(1) And this certainly is not better than wine from the vat.

(2) This clearly shows that wine from the vat may be used for Kiddush, even at the start.

(3) From eligibility for Kiddush.

(4) On account of the mould that usually gathers near the top.

(5) On account of the lees there, which gets mixed up with it.

(6) בורק 'shining'. effervescent. Others read בודק 'searching' (in the body), causing diarrhoea.

(7) Gr.** a very weak wine.

(8) Promiscuous wine, not tested.

(9) Men. 86a.

(10) With water.

(11) Wine that remained uncovered during the night must not be used, for fear lest a poisonous snake may have drunk from it.

(12) Whether it is considered wine or vinegar. V, supra 96a.

(13) Ber. 50b.

(14) Their wines were so strong that they could not be drunk without water; three parts of water to one of wine.

(15) And must not be used even for ordinary purposes.

(16) Supra 96b.

(17) Supra, that such wine is dangerous and must not be used even for ordinary drinking.

(18) Or 'filter', in which case there is no more danger in drinking it.

(19) Suk. 50b; B.K. 115b. The poison of the snake, he states, floats, and may be removed from the liquid with the aid of a strainer.

(20) I.e., the blind, the lame and the sick, mentioned by the prophet in the earlier part of the verse.

(21) Mal. I,8. As those objectionable offerings (v. previous note) were condemned by the prophet, so is the use of any objectionable thing in connection with divine service (such, e.g.. as Kiddush) also to be condemned.

(22) V. p.405, n.8.
(23) Prov. XXIII, 31. This implies that proper wine must be red. Hence, only red wine may be used for drink-offerings.
(24) נאות Ex. XII,9.)
(25) If, however, they were in a worse condition the buyer need not accept them at all.
(26) Since at the time of the sale the wine was in a good condition.
(27) Because the seller ought to have informed the buyer that his wine could not stand, V. p.408, n.2.

Talmud - Mas. Baba Bathra 98a

THAT IS SWEET[1] I AM SELLING YOU, HE IS RESPONSIBLE FOR ITS PRESERVATION UNTIL PENTECOST.[2] AND [IF HE SAID, ‘I SELL YOU] OLD [WINE.’ HE MUST SUPPLY WINE] OF THE PREVIOUS YEAR; [IF] VERY OLD [WINE.’ HE MUST SUPPLY WINE] OF THREE YEARS STANDING[3]

GEMARA. R. Jose, son of R. Hanina, said: [The law[4] in] our Mishnah is applicable only [to the case where the wine is] in the jugs of the buyer,[5] but [where it is] in the jugs of the seller [the former] can say to him, ‘Take your wine and take your jug’.[6] But what matters it [even] if the jugs are the seller's? Let him say to [the buyer]. ‘You should not have kept it so long’![7] — The law [mentioned] is applicable [to the case] where [the buyer] said to him [that he required the wine] for [flavouring] dish[es].[8] But what compels R. Jose, son of R. Hanina, to explain our Mishnah as treating of the case where the jugs belong to the buyer and that he [specially] says [to the seller that he requires the wine] for [flavouring] dish[es]? Let him rather explain[9] that it treats [even] of [the case where the] jugs belong to the seller and where [the buyer] does not say to him [that he requires the wine] for [flavouring] dish[es]? — Raba replied: Our Mishnah presented to him a difficulty, for it teaches: IF HIS WINE IS KNOWN TO TURN SOUR, THE PURCHASE IS ONE BASED ON ERROR, why. [R. Jose asked,] should that be so? Let [the seller] tell him, ‘You should not have kept it so long’ — From this,[10] then, it must be inferred that [the buyer specifically] said to him [that he required the wine] for [flavouring] dish[es].[11] This view[12] is in disagreement with that of R. Hiyya b. Joseph, for R. Hiyya b. Joseph said: The condition of] wine depends on its owner's luck[13] for it is said. Yea, moreover, wine is treacherous[14] if the man is haughty,[15] etc.[16] R.Mari said: One who is proud is not acceptable even to his own household, for it is said. A haughty man abideth not,[17] this means. he abideth not[18] in his own abode.

Rab Judah said in the name of Rab: Any one who is not a scholar, and parades in the scholar's cloak, is not admitted within the circle of the Holy One, blessed be He; [for] here it is written. And he abideth not[19] and there it is written. To thy holy abode.[20]

Raba said: If a man sold a jug of wine to a shopkeeper with the intention to retail it[21] and when [there still remained] a half or a third, it turned sour, the law is that he[22] must take it back from him.[23] This,[24] however, applies only to the case where [the shopkeeper] has not changed the bung-hole, but not [to the case] where he has changed the bung-hole.[25] [Furthermore,] this[24] applies only to the case where the market day has not [yet] arrived,[26] but not [to the case where] the market day has [already] arrived.

Raba further stated: If a man accepted wine[27] for the purpose of taking it to the markets of Wal-Shafat,[28] and, by the time he arrived there, the price fell, the law is that the owner must accept it.[29]

The question was raised, what is the law if it turned into vinegar?[30] — R. Hillel said to R. Ashi: When we were at R. Kahana's he said unto us: [In the case when it has turned into] vinegar, [the owner is] not [to bear all the loss], for [the law] is not in accordance with [the opinion of] R. Jose, son of R. Hanina.[31] Others Say: Even [when it has turned into] vinegar. [the seller] must also bear [all the loss] in accordance with [the opinion of] R. Jose, son of R. Hanina.

OLD [WINE, HE MUST SUPPLY WINE] OF THE PREVIOUS YEAR, ETC.

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(1) Implying that it will keep as long as other good wines,

(2) ha-’Azereth העצרת ‘the gathering’, ‘the festive gathering’. ‘The Feast of Weeks’, ‘Pentecost’.

(3) I.e., two years previous to the current year.

(4) That the seller is not responsible if the wine becomes sour.

(5) For, in this case, it may be assumed that the buyer's jugs have spoilt the wine.

(6) Since it was spoilt in the seller's jugs, the buyer has no responsibility whatsoever for its deterioration, and may cancel the purchase.

(7) Since most people buy wine for immediate consumption.

(8) Only small quantities at a time are used, and the wine has to be kept for a long time.

(9) And so there would be no need to restrict our Mishnah to the case where the jugs are the buyer's. Whether they belonged to the buyer or to the seller, the latter would be free from responsibility since the fact that it was to be used in small quantities for a long period was not mentioned at the time of the purchase.

(10) From the fact that the buyer is held responsible.

(11) And knowing that his wine turns sour, the seller had no right to sell him it for the purpose required. Now since the second clause of our Mishnah speaks of such a case, the first clause also must speak of such a case; and the reason for the seller's exemption from all responsibility must, therefore, be attributed to the fact that the wine was kept in the jugs of the buyer.

(12) That our Mishnah speaks of wine in the buyer's jugs and that, if it had remained in the seller's jugs. the latter would have been responsible.

(13) And not upon that of the jugs.

(14) I.e., turns sour.

(15) A haughty person, who boasts of that which he does not possess, is punished, ‘measure for measure’, by having that which looks like wine turned into that which in reality is vinegar.

(16) Hab. II, 5.

(17) Ibid.

(18) I.e., ‘is not tolerated’,

(19) Ibid.

(20) Ex. XV, 13 נוה ‘Habitation’, abode’, in Ex, is of the same root as ינוה ‘abideth’, in Hab.

(21) The shopkeeper is to pay for the wine after it has been sold out, deducting a certain percentage for his trouble.

(22) The seller, since he has retained the ownership of the wine, the shopkeeper merely acting as his agent.

(23) Must bear the entire loss.

(24) That the loss must be borne by the seller.

(25) Because it is possible that the change has caused the wine to ferment and to turn sour.

(26) So that the shopkeeper cannot be blamed for slackness in selling out.

(27) On a commission, undertaking to pay the owner, after it had been sold out, deducting a percentage for his trouble.

(28) And not to sell it elsewhere, Walshafat or Belshafat, a town in Susiana famous for its wine market; v. B.M.73b.

(29) I.e., he must bear the loss in value as compared with the price prevailing at the time the wine was accepted; since all the time the wine remained in his ownership.

(30) Before it arrived at its destination.

(31) Who said, supra, that whenever it was understood at the time of the purchase that the wine had to last for a long period, the seller must bear the loss, if the wine remained in his jugs.

Talmud - Mas. Baba Bathra 98b

A Tanna taught: [If wine was sold as ‘very old’], it must be capable of standing until the Feast of Tabernacles.[1]

MISHNAH. IF ONE SELLS A PLACE TO ANOTHER OR ACCEPTS ONE FROM ANOTHER

FOR THE PURPOSE OF BUILDING ON IT A WEDDING HOUSE FOR HIS SON,[2] OR A WIDOW HOUSE FOR HIS DAUGHTER,[3] IT IS TO BE BUILT [IN THE DIMENSIONS OF NO LESS THAN] FOUR CUBITS BY SIX;[4] THESE ARE THE WORDS OF R. AKIBA. R. ISHMAEL SAID: THIS IS AN OX STALL![5] HE WHO DESIRES TO ERECT AN OX STALL,[6] IS TO BUILD [IT IN THE DIMENSIONS OF NO LESS THAN] FOUR CUBITS BY SIX; A SMALL HOUSE, SIX BY EIGHT; A BIG [ONE]. EIGHT BY TEN; A HALL, TEN BY TEN. THE HEIGHT [OF ANY OF THESE, MUST BE] HALF ITS LENGTH AND HALF ITS WIDTH.[7] PROOF OF THIS? — RABBAN SIMEON B. GAMALIEL SAID: LIKE THE TEMPLE STRUCTURE.[8]

GEMARA. Why has it been stated, A WEDDING HOUSE FOR HIS SON OR A WIDOW HOUSE FOR HIS DAUGHTER, and not ‘a wedding house for his son or daughter, or a widow house for his son or daughter’? — [By this the Mishnah] has taught us incidentally that it is not the [proper] way for a son-in-law to live at the house of his father-in-law; as it is written in Bensira, ‘I have weighed all things in the scale of the balance and found nothing lighter than bran; lighter than bran is a son-in-law who lives in the house of his father-in-law; lighter than [such] a son-in-law is a guest [who] brings in [with him another] guest ; and lighter than such a guest [is he who] replies before he hears [the question],[9] for it is written, He that giveth answer before he heareth, it is folly and confusion unto him.’[10]

R.ISHMAEL SAID: THIS IS AN OX STALL. HE WHO DESIRES TO ERECT etc. Who is the author of [the statement on] the OX STALL? — Some say the author is R. Ishmael, and some say R. Akiba is the author. Those who say R. Akiba is the author explain it thus, ‘Although [the size] is [that of] an ox stall, one sometimes makes his dwelling [as small] as an ox stall’. And those who say R. Ishmael is the author, explain it thus, ‘Because he who desires to erect an ox stall makes [it] four cubits by six.’

A HALL, TEN BY TEN. What is the meaning of traklin?[11] — An arched hall adorned with roses. It was taught: A kinter [contains] twelve [cubits] by twelve. What is a kinter? — The fore-court[12] of mansions.

THE HEIGHT... HALF ITS LENGTH AND HALF ITS WIDTH. PROOF OF THIS? — RABBAN SIMEON B. GAMALIEL SAID: LIKE THE TEMPLE STRUCTURE. Who taught. ‘PROOF OF THIS. . .’? — Some say. R. Simeon b. Gamaliel taught it; and this is the purport of what has been said: Whence the PROOF OF THIS? — R. SIMEON B. GAMALIEL SAID: All [dimensions must be in proportion] LIKE [those of] THE TEMPLE STRUCTURE. And some say, the first Tanna has taught this, and R. Simeon b. Gamaliel is astonished [at it] and says to him [to the first Tanna] thus: Whence the proof? [Is it] from the Temple structure? Does everybody make [houses] LIKE THE TEMPLE STRUCTURE?[13]

It was taught: Others say [that] its height [must be] equal to [the length of] its beams.[14] Let it [then] be said [simply]. ‘The height [must be] equal to its width’![15] — If you wish, it can be said [that] a house is wider at the top;[16] and, if preferred, it can be said [the expression ‘equal to the length of its beams’ is necessary] because there are apertures [in the wall in which the beams are fixed].[17]

R.Hanina [once] went out to the country, [and] a contradiction between [the following] verses was pointed out to him. It is written, And the house which King Solomon built for the Lord, the length thereof was threescore cubits, and the breadth thereof twenty cubits, and the height thereof thirty cubits,[18] but it is [also] written, And before the Sanctuary which was twenty cubits in length, and twenty cubits in breadth, and twenty cubits in the height[19] thereof![20] He replied unto them: [The last mentioned verse] reckons from the edge of the Cherubim[21] upwards. What does [this kind of measurement][22] teach us?

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(1) From the Tabernacles (the vintage season) of the second year prior to the sale, until the Tabernacles of the year of the sale, making a total period of three complete years. If it did not keep, the seller must bear the loss.
(2) In which to live after the wedding.
(3) Whose husband dies, and who returns to her father's house.
(4) These are to be the dimensions (if none were specified) which one party can enforce upon the other.
(5) Not a human dwelling which requires longer dimensions.
(6) The Gemara explains, infra, who is the author of this statement.
(7) If, e.g., the dimensions are four cubits by six, the height must be, (4-6), five cubits; if ten by ten: the height must be, (10 + 10 / 2), ten cubits.
(8) Which was forty cubits long, twenty cubits wide and thirty cubits high, i.e, its height equalled half its length and breadth.
(9) [Cf. Sirach, Ecclus. XI, 8.]
(10) Prov. XVIII, 13.
(11) The Hebrew. equivalent of ‘hall’ in our Mishnah. Cf. Gr.** triclinium, ‘a dining room with three couches’.
(12) Or front garden.
(13) Other houses do not require heights in similar proportion.
(14) Laid across the width of the house.
(15) V. previous note.
(16) Since it was usual to make stone walls thinner on top than below, so as to give them a broader basis. The beams which span the house at the top would consequently be longer than the width of the house below.
(17) The ends of the beams, resting in the apertures, are included in the length of the beams. A beam, therefore, represents a greater length than the space between the inner side of the walls.
(18) I Kings VI, 2.
(19) This shows that the height was not thirty cubits, as stated in v.2, but twenty.
(20) Ibid. v.20.
(21) Whose height was ten cubits.
(22) Why is the height measured from the Cherubim and not, as might be expected, from the ground?

Talmud - Mas. Baba Bathra 99a

— It teaches us this: [The space] below[1] [was] as [that] above. As [the space] above[2] served no [material] purpose.[3] so [the space] below served no [material] purpose.[4] This supports R. Levi; for R. Levi — others say. R. Johanan — said:[5] We have this as a tradition from our fathers [that] the place of the Ark and the Cherubim is not included in the measured [space]. So, indeed, it has been taught:[6] The Ark which Moses made had a free space of ten cubits on every side.[7]

Rabina said in the name of Samuel: The Cherubim [made by Solomon] stood by a miracle; for it is said, And five cubits was the one wing of the Cherub,’ and five cubits the other wing of the Cherub,’ from the uttermost part of the one wing unto the uttermost part of the other were ten cubits,[8] where, [then] were their bodies standing?[9] Consequently it must be inferred that they stood by a miracle. Abaye demurred: They might have been standing [with their bodies] protruding [under the wings] like [those of] hens![10] Raba demurred: perhaps they did not stand opposite one another![11] R. Aha b. Jacob demurred: They might have been standing diagonally.[12] R. Huna the son of R. Joshua demurred: The house might have been wider from above![13] R. Papa demurred: Might not their wings have been bent?[14] R. Ashi demurred: Their wings might have been overlapping each other![15]

How did they[16] stand? — R. Johanan and R. Eleazar [are in dispute on the matter]. One Says: They faced each other; and the other says: Their faces were inward. But according to him who says that they faced each other, [it may be asked]: Is it not written, And their faces were inward?[17] — [This is] no difficulty: The former[18] [was] at a time when Israel obeyed the will of the Omnipresent; the latter[19] [was] at a time when Israel did not obey the will of the Omnipresent. According to him who says that their faces were inward [it may be asked]: Is it not written, With their faces one to another?[20] They were slightly turned sideways.[21] For [so] it was taught: Onkelos the proselyte said, ‘The Cherubim were of image[22] work[23] and their faces were turned sideways as a student who takes leave of his master.[24]

MISHNAH. HE WHO OWNS A CISTERN WITHIN ANOTHER MAN'S HOUSE, GOES IN WHEN IT IS USUAL FOR PEOPLE TO GO IN, AND GOES OUT WHEN IT IS USUAL FOR PEOPLE TO GO OUT. HE MUST NOT BRING IN HIS BEAST [THROUGH THE OTHER'S HOUSE] TO GIVE IT DRINK FROM HIS CISTERN. BUT MUST FILL [HIS VESSEL] AND GIVE [THE BEAST] TO DRINK OUTSIDE. ONE OF THEM MAY MAKE FOR HIMSELF A LOCK, AND THE OTHER MAY [ALSO] MAKE FOR HIMSELF A LOCK.

GEMARA. Where [is] the lock [to be attached]? — R. Johanan said: Both[25] to the cistern. This is right [in the case of] the owner of the cistern, [for] he has to protect the water of his cistern; but for what purpose does the owner of the house [require a lock]? — R. Eleazar said:

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(1) The ten cubits from the ground where the Cherubim and the Ark were standing.

(2) The space of twenty cubits from the Cherubim to the top.

(3) They were empty.

(4) The Ark and the Cherubim, as stated infra, miraculously occupied none of the space of the Sanctuary.

(5) Cf. Yoma 21a; Meg. 10b.

(6) Meg. l.c.

(7) Though the entire area of the Holy of Holies was only twenty cubits by twenty.

(8) I Kings VI,24.

(9) Since the two pairs of wings alone occupied twenty cubits, there was no room left for their bodies. (Cf. n. 12 supra.)

(10) Whose wings touch each other on their backs, the entire bodies being covered by the wings.

(11) Their wings overlapping sideways.

(12) The distance between the diagonally opposite corners of the Holy of Holies was, of course, greater than that between any two of its sides; consequently longer than twenty cubits. This would allow room both for the wings and the bodies of the Cherubim.

(13) And, therefore, there was a distance of more than twenty cubits between the walls, allowing room for the wings as well as for the bodies of the Cherubim.

(14) So that together with the bodies, no more than a length of twenty cubits was required.

(15) So that together with their bodies they did not occupy more than twenty cubits.

(16) The Cherubim in the Holy of Holies.

(17) II Chron. III, 13.

(18) Facing each other, a sign of affection. Symbolic of the relationship between God and His people.

(19) Turning inward, away from each other, symbolic of the unrequited love of God for Israel.

(20) Ex. XXV,20.

(21) Partly facing one another and partly turning inward.

(22) צעצעים Others render, ‘image of children’, comparing it with צאצאים ‘children’. The latter leads on naturally to the simile, ‘As a pupil who takes leave of his master’.

(23) II Chron. Ibid. v.10.

(24) A student, on taking leave of his master, turns sideways for some distance, before turning his back completely on him.

(25) The lock of the owner of the cistern and that of the owner of the house.

Talmud - Mas. Baba Bathra 99b

In order [to avert] suspicion from his wife.[1]

MISHNAH. HE WHO HAS A GARDEN WITHIN THE GARDEN OF AN OTHER MAN

ENTERS WHEN IT IS USUAL FOR PEOPLE TO ENTER AND GOES OUT WHEN IT IS USUAL FOR PEOPLE TO GO OUT. HE MUST NOT BRING [ANY] DEALERS INTO IT.[2] HE MUST NOT ENTER [IT FOR THE MERE PURPOSE OF PASSING] FROM IT INTO ANOTHER FIELD. THE EXTERNAL [FIELD OWNER MAY] SOW THE PATHWAY.[3] IF A SIDE PASSAGE WAS GIVEN[4] HIM[5] WITH THE CONSENT OF THE TWO, HE MAY ENTER WHENEVER HE DESIRES AND GO OUT WHENEVER HE DESIRES, AND MAY [ALSO] BRING DEALERS INTO IT.[6] HE MUST NOT, [HOWEVER,] ENTER [IT FOR THE MERE PURPOSE OF PASSING] FROM IT INTO ANOTHER FIELD. NEITHER THE ONE NOR THE OTHER MAY SOW IT[7]

GEMARA. Rab Judah said in the name of Samuel: [If one says to another]. 'I sell you [land for] an irrigation [canal of the width of one] cubit', he must, [in addition to the width of the canal]. allow him two cubits [of land] in [the field] itself,[8] one cubit on either side [of the canal] for its banks.[9] [If he said.] 'I sell you [ground] for a pond[10] [of the width of one] cubit', he must, [in addition to the pond], allow him one cubit [of ground] in [the courtyard] itself,[11] half a cubit on either side [of the pond] for its banks.[11] Who [has the right of] sowing these banks? — Rab Judah said in the name of Samuel: The owner of the field [is entitled] to sow them. R. Nahman said in the name of Samuel: The owner of the field [is entitled to] plant them. He who said, 'sow them', [agrees]. even more so, [that] he may plant them;[12] but he who said, 'plant them', [holds the opinion that] he must not, however, sow them, [because] they penetrate[13] [into the canal].[14]

Rab Judah further stated in the name of Samuel: A water canal[14] whose banks have been worn away, may be repaired [with the earth] of that field [through which it runs], for it is known that the banks could not have been washed away except into that very field.[15] R. Papa demurred: Let the field owner say, [to the owner of the canal]. 'Your water has lowered your ground'![16] — But, said R. Papa. [the reason why earth may be taken from the adjacent field is] because the owner of the field has consented[17] to this condition.[18]

MISHNAH. HE WHOSE FIELD IS TRAVERSED BY A PUBLIC PATH AND HE CLOSED IT, SUBSTITUTING [ANOTHER PATH] AT THE SIDE, FORFEITS THAT WHICH HE HAS GIVEN[19] AND [THAT WHICH HE APPROPRIATED AS] HIS DOES NOT PASS INTO HIS POSSESSION.[20] A PRIVATE PATH [HAS A WIDTH OF] FOUR CUBITS.[21] A PUBLIC ROAD [HAS A WIDTH OF] SIXTEEN CUBITS. THE KING'S HIGHWAY HAS NO LIMIT[S]. THE PATH OF A FUNERAL CORTEGE[22] HAS NO LIMIT[S].[23] THE HALTING [PLACE][24] HAD, SAID THE JUDGES OF SEPPHORIS, AN AREA OF FOUR KAB.[25]

GEMARA. Why should not [THAT PATH, WHICH HE APPROPRIATED AS] HIS, PASS INTO HIS POSSESSION?[26] Let him[27] take a whip and sit down [to guard his path]! Does this, then, imply that a man may not take the law in his own hands even where a loss is involved?[28] — R. Zebid replied in the name of Raba: It is a decree [that he is not allowed to substitute another path for the one already used by the public] lest he assign to them a crooked path.[29] R. Mesharsheya said in the name of Raba: [Our Mishnah deals only with the case where] he gives them a crooked path.[30]

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(1) By his affixing a lock to the cistern he prevents the other from using the water in his absence and, consequently, deprives him of the excuse of entering his house while his wife is alone.

(2) The produce of the garden must be carried out to the dealers so that they cause no damage to the outer garden by passing through it.

(3) Though he must allow the owner of the inner field the right of passage, the ground remains his own, and he may, therefore, use it for sowing.

(4) By a court of law.

(5) The owner of the inner field.

(6) Since the path is not in the middle, but at the side of the field, it may be confidently assumed that the owner, who had consented to have the path there, has set it aside to be used solely as a path to the inner field. No restrictions, therefore, are imposed on any of its uses so long as their object is the gaining of admission to the inner field.

(7) V. last clause of preceding note.

(8) According to another reading, two cubits width of land must also be allowed for the canal itself, though its nominal capacity is one cubit.

(9) So that the earth from the two strips of land might be used for repairing the sides of the canal whenever necessary.

(10) In a courtyard, used for watering cattle and washing clothes and utensils. It is smaller than a canal which is used for irrigation purposes and requires a greater capacity.

(11) V, supra n. 3.

(12) Plants do not damage the sides of the canal, their roots going deep down into the ground.

(13) And the consequent falling of earth causes damage to the structure or spoils the water.

(14) Which belongs to one party while the field, through which it runs, belongs to another.

(15) Hence, the earth for reconstruction also may be taken from that field.

(16) The water may have carried away the earth of the banks else where. Why should the field owner be expected to supply earth for repair from his field?

(17) When he sold the canal.

(18) That earth for repair shall be supplied from his field.

(19) I.e., the new path becomes public property.

(20) And the public may henceforth claim two paths through the field.

(21) If a ‘private path’ has been sold in one's field, a width of four cubits must be allowed for the path.

(22) Lit., ‘the grave’.

(23) Those following the bier may tread even upon cornfields if their number is so large that the public highway does not suffice. Cf, also n. 5.

(24) The place where, on returning from burial, the funeral escort halts to offer, with due ceremonial, consolation to the mourners. V, infra 100b.

(25) I.e., 50 cubits by 33 1/3, an area sufficient for sowing four kab of seed.

(26) Surely the path is in his own field and, since he has also substituted another for public use, the public loses nothing.

(27) If he cannot prosecute all trespassers.

(28) Surely it has been taught elsewhere that in such a case a man, in self protection, may take the law into his own hands.

(29) Hence the law was enacted that even if one substituted a straight path, no possession could be gained of the old path.

(30) If, however, he gives the public a straight path, he may take possession of the old one, and use force against any trespassers.

Talmud - Mas. Baba Bathra 100a

R. Ashi said: Any[1] path [that runs] along the side [of a field] is crooked, [for] it is near to one and far from another.[2] But let him say to them, ‘Take yours and give me back mine’?[3] — This [law of our Mishnah] is in accordance with [the view of] R. Eliezer; for it has been taught: R. Judah said in the name of R. Eliezer, [if] the public chose a path[4] for themselves, that which they have chosen is theirs.[5] [May, then], the public, according to R. Eliezer, act as robbers? — R. Giddal replied in the name of Rab: [R. Eliezer speaks of] a case where their path had been lost in that field.[6] If so,[7] why did Rabbah, son of R. Huna, state in the name of Rab [that] the halachah is not according to R. Eliezer?[8] The reporter of the one statement is not the reporter of the other.[9] What, then,[10] is the reason [for the law of our Mishnah]?[11] — [The reason is derived] from that of Rab Judah; for Rab Judah said: A path of which the public has taken possession[12] must not be destroyed.[13] Whereby does the public acquire possession [of the path, according to] R. Eliezer?[14] By walking; for it has been taught: If he walked in it[15] through the length of it and through the breadth of it, he has acquired the place where he walked — these are the words of R. Eliezer. And the Sages say: Walking is of no avail unless he has taken possession.[16] R. Eleazar said: What is the reason of R. Eliezer? — For it is written, Arise walk through the land in the length of it and in the breadth of it,’ for I will give it unto thee.[17] And the Rabbis?[18] — There, He said to him thus[19] only because of [His] love for Abraham, that his children may easily conquer [the land].[20]

R.Jose, son of R. Hanina, said: The Sages agree with R. Eleazar in [the case of] a path of vineyards. Since it was made [only] for walking it is acquired by walking.

When they came before R. Isaac b. Ammi [with the case of one who sold to another a path in vineyards], he said unto them: Give him [a path so wide] that he may carry [through it] a load of twigs and [be able to] turn round.[21] This, [however], has been said only [in the case] where [the path] is marked out by walls, but when it is not marked out by walls [the width of the path need be only] so much as [to allow him] to lift up one foot and put down the other.[22]

A PRIVATE PATH . . . FOUR CUBITS. A Tanna taught: Others say [that the path must be of such a width] as an ass with its load may be able to pass. R. Huna said: The halachah is according to the Others. The Judges of the Exile[23] say: [The width is to be] two cubits[24] and a half; and R. Huna said [that] the halachah is according to the Judges of the Exile. Did not R. Huna say [that] the halachah is according to the Others? — Both measurements are identical.[25]

A PUBLIC ROAD. .. SIXTEEN CUBITS. Our Rabbis taught: A private path[26] [is of the width of] four cubits; a path from one town to another[27] [is to have a width of] eight cubits;[28]

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(1) Our Mishnah does not refer to a particular case where a crooked path had been substituted (as R. Mesharsheya suggested), nor is the provision in our Mishnah a case of preventive measures (as R. Zebid maintained), but any path, however good, cannot be placed along the side of a field as a substitute for one which runs through the midst of it.

(2) Any one living on the farther side of the field. And since a number of people, to whom the substituted path will cause hardship, will object to the change, the abolition of the old path would constitute a robbery of the public, and is therefore prohibited.

(3) Why, then, does the Mishnah state that both the old path and the new become public property?

(4) Even if it runs through private property, and even if the landowner's permission has not been obtained.

(5) Lit., ‘chosen’ (‘Er. 94a); and the owner of the land cannot raise any objection to their use of the path.

(6) While an individual could not in a similar case make the choice without the consent of the landowner or without the authority of the court, the public have a right to choose the path they like.

(7) That, according to Rab, the case dealt with by R. Eliezer is that of recovering a lost path.

(8) Surely, the public are entitled to reclaim what they have lost. How, then, are the two statements made in the name of Rab to be reconciled?

(9) R. Giddal, who taught in the name of Rab that R. Eliezer deals with the case where a public path had been lost in the field, has not accepted the statement made in the name of Rab by Rabbah that the law is not in accordance with R. Eliezer. In the opinion of the former the law is in agreement with the view of R. Eliezer. Rabbah, on the other hand, who stated in the name of Rab that the law is not in agreement with R. Eliezer's view, has not accepted R. Giddal's statement. In the opinion of Rabbah, R. Eliezer speaks of all cases, even of that where no path had been lost in the field and, for this reason, the law is against him.

(10) Since our Mishnah is not according to R. Eliezer.

(11) Why should not the owner of the field be entitled to say to the public, ‘Take yours and give me back mine’?

(12) By levelling, and making it fit for walking. (Rashb.)

(13) B.K.28a; supra 12a; 26b; 60b. If the owner of the land had raised no objection at the time possession was taken by the public. How much less may the path be abolished when, as in our Mishnah, the public had taken possession with the owner's full consent

(14) Since R. Eliezer does not speak of taking possession’, but of ‘choosing’.

(15) Lit., ‘the field which he bought.’

(16) Of the land, by performing some act such as levelling, breaking. etc, cf. supra 52b ff.

(17) Gen. XIII, 17.

(18) Why, in the face of the Biblical verse, do they maintain that by walking alone possession cannot be acquired?

(19) I.e., to acquire possession by walking.
(20) That they may enter it as heirs and not as robbers.
(21) Without touching the fences of the path.
(22) Since there are no walls, one can carry a load conveniently, however narrow the path may be.
(23) Samuel and Karna.
(24) Gomed; V, however p.279, n.6. Others consider the gomed to be shorter than the cubit by a hand's length and to represent the distance between the elbow and the fingers.
(25) Lit., 'this and this are the same size.'
(26) For one person into his own field.
(27) Reserved for the sole use of the inhabitants of the two towns.
(28) To allow two wagons to pass each other.

Talmud - Mas. Baba Bathra 100b

a public road,[1] sixteen cubits; the road to the cities of refuge,[2] thirty two cubits. R. Huna said: From what Scriptural text [may this be inferred]? — From the text, Thou shalt prepare thee the way;[3] [instead of], 'a way' [it is written], 'the way'.[4]

THE KING'S HIGHWAY HAS NO LIMIT[s], because a king may break a wall to make a way for himself and no one may prevent him. THE PATH OF A FUNERAL CORTEGE HAS NO LIMIT[s], in deference to the dead.[5]

THE HALTING PLACE HAD, SAID THE JUDGES OF SEPPHORIS, AN AREA OF FOUR KAB etc. Our Rabbis taught: If a person has sold his [family] grave, the path to [this] grave, his halting place[6] or his house of mourning, the members of [his] family may come and bury him perforce,[7] in order [to avert] a slight upon the family.[8]

Our Rabbis taught: No less than seven halts and sittings[9] are to be arranged for the dead, corresponding to[10] Vanity of vanities. saith Koheleth; vanity of vanities, all is vanity.[11] R. Aha the son of Raba said to R. Ashi: What was their procedure? He replied unto him: As it has been taught; R. Judah said, At first they provided in Judea no less than seven halts and sittings for the dead in the [following] manner: [The leader called out after the escort had sat down on the ground]. 'Stand, dear [friends], stand up'; [and after they had walked for some distance he again called out]. 'Sit down, dear [friends], sit down'.[12] They[13] said unto him: If so[14] , such [procedure] should be permitted on the Sabbath[15] also!

The sister of Rami b. Papa was married to R. Iwya. [When] she died he arranged [in] her [honour][16] a 'halting and sitting'. R. Joseph said: He erred on two [points]. He erred [in] that [the ceremony of halting and sitting] is to be held with near [relatives][17] only, and he held it even with distant [ones]; and he [further] erred [in] that they were instituted only for the first day [of the burial], and he arranged [them] for the second day. Abaye said: He also erred on the following [point]. These[6] l [were instituted] to take place in the grave-yard only, and he arranged [them] within the town. Raba said: He also erred on the following [point]. These[18] may be arranged only where they are the local practice. but there, these were not the practice.

An objection was raised: [It has been stated that] they said unto him, 'If so, such [procedure] should be permitted on the Sabbath also'. Now, if it is said [that the ceremonial is to take place] in the graveyard and on the first day [only], [for] what [purpose] is the graveyard required on the Sabbath?[19] — In [the case of] a town which is near a graveyard [and the dead] was brought [to burial] at twilight.[20]

MISHNAH. IF ONE SELLS A PLOT [OF GROUND] TO ANOTHER AS A [FAMILY] GRAVE

AND, LIKEWISE, IF ONE ACCEPTS [AN ORDER] FROM ANOTHER TO CONSTRUCT FOR HIM A [FAMILY] GRAVE, THE CENTRAL SPACE[21] OF THE GROTTO MUST HAVE [AN AREA OF] FOUR CUBITS BY SIX.[22] AND EIGHT SEPULCHRAL CHAMBERS ARE TO OPEN OUT INTO IT; THREE FROM [THE WALL ON] ONE SIDE.[23] THREE FROM [THE WALL ON] THE OTHER,[23] AND TWO [FROM THE WALL] IN FRONT.[24] THE CHAMBERS MUST BE FOUR CUBITS IN LENGTH, SEVEN [HANDBREADTHs] IN HEIGHT,

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(1) Used by people of more than two towns.

(2) V. Num. XXXV, 6ff,; Deut. XIX, 2ff.

(3) Deut. XIX,3.

(4) הדרך ha-derek. The definite article implies a ‘special’ way, double the usual which is of sixteen cubits.

(5) In order that as many as possible may join his funeral escort to pay him their last honours.

(6) V. supra p.416, n.8, and n. 4 infra.

(7) They may force the buyer to take back the purchase price and cancel the sale.

(8) Keth. 84a. Bek. 52b.

(9) The funeral escort, on returning from a burial, halted on the way at a certain station, where seven times they stood up and sat down on the ground to offer comfort and consolation to the mourners or to weep and lament for the departed.

(10) The seven times ‘vanity’ mentioned in the following verse: Three times ‘vanity’ in the singular, and twice in the plural which equal four in the singular.

(11) Eccl. I, 2.

(12) This is the conclusion of the answer to R. Aha's enquiry.

(13) The Sages.

(14) That the entire ceremonial consisted only of the leader's directions and of sitting down and standing up.

(15) I.e., the Sabbath eve, if the burial took place near dusk. In such a ceremonial no desecration of the Sabbath could be involved.

(16) Lit., ‘for her’.

(17) Who are not so near as to be included among the mourners. (13) I.e., ‘halting and sitting’.

(18) V. p.420, n. 13.

(19) Surely burial on the Sabbath is forbidden

(20) Of the Sabbath eve. In such a case the ceremonial would be performed on the Sabbath (V. p.420, n.10). Though the night forms, for general purposes, the beginning of the following day, in respect of the mourning on the first day of the death an exception is made, and the night is held to follow the previous day. Sabbath eve can accordingly be regarded for the purpose as Friday. viz., the first day of the burial.

(21) Family graves were constructed in the form of a central grotto from which sepulchral chambers opened into the surrounding walls.

(22) The height of the grotto is to be, according to the Tosefta, four cubits.

(23) Of the two longer walls.

(24) The shorter wall that faces the entrance.

Talmud - Mas. Baba Bathra 101a

AND SIX[1] HANDBREADTHS IN WIDTH.[2] R. SIMEON SAYS: THE CENTRAL SPACE OF THE GROTTO MUST CONTAIN [AN AREA OF] SIX CUBITS BY EIGHT. AND THIRTEEN CHAMBERS ARE TO OPEN OUT INTO IT; FOUR ON ONE SIDE, FOUR ON THE OTHER. THREE IN FRONT [OF THE ENTRANCE]. ONE ON THE RIGHT OF THE ENTRANCE AND ONE ON THE LEFT.[3] OUTSIDE THE ENTRANCE TO THE GROTTO IS TO BE MADE A COURT OF SIX [CUBITS] BY SIX, [WHICH IS] THE SPACE THE BIER AND THOSE WHO BURY IT OCCUPY. TWO GROTTOS[4] ARE TO BE OPENED OUT INTO IT; ONE ON THE ONE SIDE AND ONE ON THE OTHER.[5] R. SIMEON SAYS: FOUR; [ONE] FOR [EACH OF] ITS FOUR SIDES.[6] R. SIMEON B. GAMALIEL SAYS: ALL DEPENDS ON [THE QUALITY OF] THE ROCK.[7]

GEMARA. Where are these two [chambers][8] to project? If outwards,[9] they would, surely, be trodden upon![10] Furthermore, we have learnt:[11] 'He who stands[12] in the court of a [family] grave is [Levitically] clean'.[13] — R. Jose b. Hanina replied: They are made in the shape of a door-bolt.[14] But, Surely. R. Johanan said:

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(1) Or one cubit.

(2) A space of one cubit was allowed for each of the walls intervening between the sepulchral chambers, and half a cubit space was left at the end of each wall. The two longer walls of the grotto, being respectively six cubits in length, could, therefore, contain three chambers each: The chambers, each of one cubit in width, occupying three cubits; the two walls between them, two cubits; and the two half cubit spaces at the corners, another cubit. The shorter wall facing the entrance, being four cubits long, could contain two chambers only: the chambers occupying two cubits; the intervening wall, one cubit; and the two half cubit spaces at the corners, another cubit.

(3) According to R. Simeon, the longer walls, being eight cubits in length. provide space for four one-cubit chambers each, allowing three cubits for the intervening one-cubit walls, and one cubit space for the two half cubit spaces at the corners. The wall opposite the entrance, being six cubits in length, can contain three one-cubit chambers, the space for the two one-cubit intervening walls and the two half-cubit spaces at the corners. This gives a total of, (4 + 4 + 3), eleven sepulchral chambers. The location of the last two is dealt with in the Gemara infra.

(4) The one mentioned, and another facing it.

(5) The following diagram represents the plan and the area of the entire cave, court, grottos and sepulchral chambers, in accordance with the regulations laid down by the Rabbis, (the representatives of the anonymous opinion cited first in the Mishnah).

(6) According to R. Simeon the plan and dimensions of the grave are as follows:

(7) If the rock is hard, more sepulchral chambers may be cut, since less space is required for the intervening walls. If, on the other hand, the ground is soft, more space would be required for the walls and, consequently, the number of chambers would have to be reduced.

(8) Which, according to R. Simeon, are to be cut on the right and on the left of the entrance.

(9) Under the floor of the court.

(10) By those who have to pass the court into the grottos; and treading upon a grave is an insult to the dead, which is forbidden.

(11) Oh. XV, 8.

(12) I.e., if he was carried into the court, not having trodden upon the surrounding graves.

(13) But if the graves were projecting into the court, as assumed, he would have become Levitically unclean on account of his treading on these graves.

(14) The chambers are dug vertically and the bodies are placed in an upright Position.

Talmud - Mas. Baba Bathra 101b

'This[1] is the burial of asses'? — According to R. Johanan they are made in the corner[s].[2] But, surely, the chambers would touch[3] each other? — R. Ashi replied: One can make them deeper.[4] For if you would not say so,[5] how can four grottos be constructed according to R. Simeon? Surely [some of] the chambers [of adjacent grottos] would be touching[6] each other! But [this. you would say, can be avoided] by digging [the overlapping chambers] deeper [than the others];[7] in this case also, [the touching of chambers may be avoided] by digging [the corner chambers] into the wall deeper [than the adjacent ones]. R. Huna the son of R. Joshua stated: The [affected chambers in the] four grottos, according to R. Simeon, were made in the shape of palm-wigs.[8] But this [statement of R. Huna b. R. Joshua is [to be] rejected.[9] For, it is to be observed, every cubit square has a diagonal of a cubit and two fifths [approximately]. [The diagonal of the square formed by the adjacent walls of any two grottos] measures eleven cubits and a fifth,[10] [approximately]. Is not the number of the chambers eight?[11] How, [then], is it possible [to make eight [chambers][12] in [a width of] eleven [cubits] and a fifth? But that [statement] of R. Huna b. R. Joshua must be rejected. If you like, it may be said: As R. Shisha son of R. Idi [referred the case, infra,] to miscarriages, [so] here also [the chambers in question are for the burial] of miscarriages.[13] We have learnt elsewhere [in a Mishnah]:[14] If a corpse is found[15] lying [in a grave] in the usual manner.[16] both the corpse and the earth surrounding it are to be removed.[17] [If] two [corpses, in similar conditions, are found], they and the earth surrounding them are to be removed.

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(1) I.e., burial in an upright position.

(2) The corners formed by the wall facing the entrance and the respective two walls adjacent to it, the chambers projecting into the corners in a slanting direction. .

(3) A width of one cubit is required for each chamber, while the entire space vacant in the corners is only half a cubit in either wall, thus leaving no intervening walls between the chambers in the corners and the adjacent chambers on either side.

(4) The deeper one digs into the corners in a slanting direction, the further becomes the distance between the corner chambers and those adjacent to them (Rash.) R. Gershom explains that he digs the corner ones deeper in the ground, that is lower than the adjacent ones, cf. Jerushalmi, a.l.

(5) That some of the chambers were dug deeper than the others.

(6) The chamber in the northwestern corner of the eastern grotto, for example. would coalesce with the south-eastern chamber of the northern grotto.

(7) Deeper in the ground and lower than the corresponding chambers in the other grotto.

(8) Fan shape; and this would avoid overlapping or coalescing and the necessity for deeper digging.

(9) ברותא var. lec. בדותא ‘imaginary’. V. B.M. 9a. n. 00.

(10) Each of the two walls being eight cubits in length, a square is formed whose diagonal is 8 + (8X2 / 5) = 11 1/5 cubits approximately.

(11) Four in the wall of each grotto.

(12) Each one of which is to be a cubit in width. Add to this the widths of the seven intervening walls, each also of one cubit, making a total of fifteen cubits.

(13) Or, newly-born infants. The corner chambers as well as those which, according to R. Simeon's plan, would overlap, are to be used for burial of small bodies which occupy little space. Small burial chambers would not coalesce with, or touch the others.

(14) Oh. XVI, 3.

(15) In an area which is not known to be a graveyard and, therefore, Levitically clean.

(16) Showing that Israelites had buried it and that death was due to natural causes; and the question, therefore, arises whether that area was not once used as a regular graveyard. In the case of a mutilated corpse or non-Jewish mode of burial, that question does not arise, since it is obvious that the corpse was buried in that spot by mere accident.

(17) If the area is to remain Levitically clean. The discovery of one corpse does not establish the area as a graveyard, and the removal of the corpse in the manner prescribed, renders the area again Levitically clean.

Talmud - Mas. Baba Bathra 102a

If three [corpses] were [similarly] found, [then], if [the distance] between them[1] is from four, to eight [cubits], the area] is [to be considered] a grave-yard;[2] and a search[3] must [also] be made [over a distance of] twenty cubits,[4] from that spot onwards. [If] at the end of twenty cubits a corpse is found, a search of [another] twenty cubits from that spot onwards must be made; for there is reasonable ground[5] for the assumption[6] [that even the single grave is an indication of the existence there of other graves]; although if [the single corpse] had been found first[7] it should have been removed together with the earth surrounding it.[8] The Master stated, ‘from four to eight cubits’.[9] According to whom [is this Mishnah]? If according to the Rabbis, surely they said [that the area of a grotto is to be] four cubits by six? If according to R. Simeon, surely he said [that the grotto must contain an area of] six [cubits] by eight? — [This Mishnah] is, in fact, [in agreement with] R. Simeon; but it is [in accordance with the version of R. Simeon's view as reported by] the following Tanna. For it has been taught: ‘If they[10] were found close to one another, and there was not a distance of four to eight cubits between them, the earth surrounding their bodies belongs to them but they do not constitute the ground as a graveyard. R. Simeon b. Judah said in the name of R. Simeon: The intervening ones are regarded as if they did not exist and the rest are combined,[11] [if the distance is] from four to eight cubits'.[12] Since this[13] has been assumed to be in accordance with R. Simeon, explain the final clause [which reads]: A search must [also] be made [over a distance of] twenty cubits from that spot onwards. According to whom [is this]? If according to R. Simeon, [the distance] should be twenty-two;[14] if according to the Rabbis,[15] it should be eighteen?[16] It may, in fact, be according to the Rabbis but there is a possibility that he made the search diagonally.[17] But since the one [grotto is assumed to be searched] diagonally, the other also [should be assumed to be searched] diagonally [and, consequently, the distance] should be twenty-two [cubits]?[18] — One diagonal [search] is expected; two diagonal [searches] are not.[19]

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(1) Between the first and the third.

(2) According to this Tanna, a grotto which forms part of a family grave contains an area of four by eight cubits. If the three corpses were found within four cubits, it is assumed that the wide side of such a grotto had been found. If within eight cubits, the long side of such a grotto is assumed to have been discovered. In either case, the discovery points to the existence of a family grave in that area which is, therefore, to be regarded as a grave. yard, the extent of which must be ascertained.

(3) To ascertain whether any other graves are to be found in the vicinity, and to determine the extent of the area that is henceforward to be regarded as Levitically unclean.

(4) I.e., the approximate length of the court (six cubits) and of the two grottos that open out from its opposite sides (eight cubits each, according to the Tanna.) The actual length is, of course, twenty two cubits and the discrepancy is discussed in the Gemara.

(5) Lit., 'feet' on which to stand.

(6) Since one group of graves had already been discovered within twenty cubits.

(7) Before the other three corpses, without any further search having had to be made.

(8) V, supra n.1.

(9) That a spot to be regarded as a graveyard must contain three corpses within four to eight cubits.

(10) I.e., the corpses.

(11) To constitute the ground as a graveyard.

(12) This author it is who is of the opinion that according to R. Simeon these are the dimensions.

(13) Tho Mishnah of Ohaloth mentioned.

(14) The length of the court is six cubits, and the length of each of the two grottos is eight cubits.

(15) Though the first clause will still be according to R. Simeon.

(16) The length of each grotto is six cubits and that of the court also six.

(17) Though the length of the grotto is only six cubits, the diagonal of the area of the graves (the sepulchral chambers) thus searched would be longer. The diagonal of four, (respective lengths of chambers), by six, (length of grotto wall), is more than seven cubits in length sq rt.42 + 62 = sq. rt 52, say roughly eight cubits. Add length of court (six cubits) and length of corresponding grotto (six cubits) and the total obtained is roughly twenty.

(18) Eight for the diagonal of each grotto and six for the court.

(19) Since no corpses were found in the first.

Talmud - Mas. Baba Bathra 102b

R.Shisha b. R. Idi said: It[1] may, in fact, be in accordance with the view of R. Simeon,[2] but here it dealt with the case of miscarriages.[3] But since the one [is] for miscarriages, the other also [should be] for miscarriages, [and the distance] should, [consequently], be eighteen [cubits]! — One [grotto] for miscarriages is assumed, two [grottos] for miscarriages are not.

Contradictions were pointed out between two statements of the Rabbis[4] and [also] between two statements of R. Simeon. For we learnt:[5] [If] a vineyard is planted on [an area of] less than four cubits, R. Simeon says it is not [regarded as] a vineyard, and the Sages say: [It is regarded as] a vineyard, the intervening vines being treated as if they were not in existence. [Is not the statement] of the Rabbis [there][6] contradictory to their statement [with reference to corpses];[7] and [the statement there] of R. Simeon[8] contradictory to his [statement here]?[9] — There is no contradiction between the two statements of R. Simeon; [for] there, people do not plant [vines] with the object of pulling[10] [them] out, [but] here, [a burial] may sometimes take place at twilight and [the corpse] is put down temporarily.[11] There is also no contradiction between the two statements of the Rabbis; [for] here, since [the body] is disgraced, [the spot] cannot be designated a grave,[12] [but] there, [the owner, when planting the vines,] may think whichever tree will be sound will remain,[13] and whichever is a failure will be [used] for firewood.[14]

CHAPTER VII

MISHNAH. IF ONE SAYS TO ANOTHER: ‘I SELL YOU A BETH KOR[15] OF ARABLE LAND’,[16] [AND] IT CONTAINED CLEFTS TEN HANDBREADTHS DEEP, OR ROCKS TEN HANDBREADTHS HIGH, THESE ARE NOT TO BE MEASURED WITH IT. [IF THEY ARE] LESS THAN THIS,[17] THEY ARE TO BE MEASURED WITH IT. IF, HOWEVER, HE SAID TO HIM, ‘ABOUT A BETH KOR OF ARABLE LAND, EVEN IF [THE LAND] CONTAINED CLEFTS DEEPER THAN TEN, OR ROCKS HIGHER THAN TEN HANDBREADTHS, THEY ARE TO MEASURED WITH IT.

GEMARA. We learnt elsewhere: He who consecrates his field[18] in the time [when the laws] of the jubilee year[19] [are in force], must pay for an area in which a homer[20] of barley may be sown, fifty shekels of silver.[20] If it contained clefts ten handbreadths deep, or rocks ten handbreadths high

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(1) The final clause of the Mishnah of Ohaloth requiring a search along a distance of twenty cubits.

(2) Who requires the area of a grotto for adults to be six by eight.

(3) Miscarriages occupy a grotto which is only six cubits in length. The total length, therefore, is six (grotto for miscarriages), plus eight (the grotto for adults, on the other side of the court), plus six(court), total twenty cubits.

(4) Lit., ‘that of the Rabbis upon the Rabbis’.

(5) Kil. V, 2; supra 37b, 83a.

(6) Where the intervening vines are disregarded.

(7) All of which are counted.

(8) Counting in all the vines.

(9) Where the intervening corpses are regarded as if they did not exist.

(10) Hence the vines are permanent and cannot be disregarded.

(11) With the intention of removing it later. Hence, if by accident the corpse had not been removed, it may be disregarded, and does not prevent the remaining corpses from combining to form a graveyard.

(12) No regular burial, however late the hour, would take place in such a manner. The spot, consequently, could not have been a graveyard.

(13) Lit., ‘sound’.

(14) And since a number of the vines have been planted temporarily and will at any moment be pulled out, they may rightly be treated as if they were not in existence.

(15) An area of 75,000 square cubits, in which a kor or homer (== 30 se'ah) of seed may be sown.

(16) Lit., ‘earth’.

(17) I.e., lower than, or not as deep as ten handbreadths.

(18) An ‘inherited’ field as distinct from a ‘purchased’ field. Cf. n. 7.

(19) V. Lev. XXV, 8ff.

(20) I.e., a kor. Cf. ibid. XXVII, 16.

Talmud - Mas. Baba Bathra 103a

these are not measured with it.[1] [If they are] less than this, they are to be measured with it.[2] Now, why [should they[3] not be measured with it]? Let them[4] [at least], be [treated as if they had been] consecrated separately![5] And if you will suggest [that] since they do not contain a [full] beth kor they cannot become consecrated,[6] surely it has been taught: Why is it expressly said, [the] field![7] —

Because, since it was said, the sowing of a homer of barley shall be valued at fifty shekels of silver,[8] one might infer only a similar consecration;[9] whence [however, may it be inferred that] a lethek,[10] half a lethek, a se'ah,[11] a tarkab[12] and half a tarkab are also included [in this law]? [For this reason] it has been expressly stated, [the] field, [which implies consecration in any manner.[13] [Why, then, could not the clefts or the rocks be consecrated separately?] R. Ukba b. Hama replied: Here is a case of clefts full of water in which no sowing is possible. This may also be proved by deduction, for [the clefts] were mentioned in an analogous position to that of rocks.[14] This proves it. If so,[15] even [if they are] less than [ten handbreadths they should] also [not be measured with the field]! These[16] are called small clefts of the earth [and] the spines of the earth.[17]

What [is the law] here?[18] — R. Papa said: Even though they are not full of water. What is the reason? — A person does not wish to invest his money in one plot which has the appearance of two or three plots.[19]

Rabina raised an objection: Surely, [the clefts] were mentioned in an analogous position to that of the rocks; as the rocks [are excluded] because they are unsuitable for sowing so these also [should be excluded only] when unsuitable for sowing? — The similarity to rocks refers to [the case where they are] less[20] than [ten handbreadths].

R. Isaac said: The rocks[21] which have been spoken of[22] [must not together cover more than an] area [requiring] four kab [of seed].[23] R. ‘Ukba b. Hama said: And this, only when they[24] are distributed over [an area which requires not less than] five kab [of seed].[25] R. Hiyya b. Abba said in the name of R. Johanan: This, only when they[24] are distributed over the greater part of the field.[26]

R. Hiyya b. Abba inquired: [What is the law if] the greater part of them[27] is [scattered] over its[28] smaller part, and the smaller part of them[27] over its[28] greater part? — The matter is undecided?[29]

R. Jeremiah inquired:

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(1) I.e., their redemption price is not the higher one given, according to Leviticus, for an ‘inherited’ field. Only their actual price has to be paid, as for a ‘purchased’ field. V. ibid. XXVII, 22.

(2) ‘Ar. 25a.

(3) The clefts and rocks deeper and higher respectively than ten handbreadths.

(4) If they are not regarded as part of the field.

(5) And be redeemed at the higher rate of an ‘inherited’ field.

(6) I.e., they cannot be treated like an ‘inherited’ field, with reference to which a homer is expressly mentioned.

(7) Lev. XXVII, 19. Cf. however Rashi, ‘Ar. 25a.

(8) Ibid. 26.

(9) I.e., a complete homer (beth kor).

(10) Half a kor.

(11) V. Glos.

(12) V. Glos.

(13) Even small areas.

(14) And sowing in rocks is impossible.

(15) That the reason why clefts and rocks are excluded is on account of their unsuitability for sowing.

(16) Those which are of less than ten handbreadths.

(17) Clefts and rocks which are respectively less than ten handbreadths in depth and height are treated as part of the field. A field cannot be expected to be absolutely level.

(18) In the case of a sale, dealt with in our Mishnah, are the clefts excluded only when they are full of water?

(19) The clefts and the rocks break up the unity of the field and this involves more labour in ploughing, sowing and harvesting.

(20) The Mishnah, in its second clause, teaches that in such a case they are included in the field even though they are full of water and are unsuitable for sowing as the rocks. The first clause, however, as R. Papa said, excludes clefts of ten handbreadths deep even though they are not full of water.

(21) Or clefts, of less than ten handbreadths.

(22) In our Mishnah which authorizes their inclusion in the measuring of the field.

(23) And in proportion, if the area sold is smaller or bigger.

(24) The four kab of rocks or clefts.

(25) But if their distribution is over a smaller area, they are regarded as one big ravine or rock, and are excluded from the measurements of the field.

(26) Contrary to the opinion of R. ‘Ukba, it is not enough for the clefts and rocks to be distributed over an area of five kab. If they are distributed over an area which does not represent the greater part of the field they are regarded as one big ravine or rock which is not to be included in the land sold.

(27) Of the four kab of clefts and rocks.

(28) The field's.

(29) v. Glos. s. v. Teko.

Talmud - Mas. Baba Bathra 103b

What is [the law if they[1] are arranged] like a ring,[2] like a straight line,[3] in the shape of a stadium[4] or in that of a crooked road?[5] The matter is undecided.

A Tanna taught: If a rock is isolated,[6] it is not measured[7] with the field, however small[8] [that rock might be]. And [even] if it was [in the field, but] near the boundary, it is not measured with the field, however small[8] [that rock might be].

R. Papa inquired: What [is the law if some] earth intervenes between [the rock and the boundary]? — The matter is undecided.

R. Ashi inquired: What [is the law if] there was earth beneath[9] and rock above, [or] earth[10] above and rock beneath?[11] — The matter is undecided.

MISHNAH. [IF A MAN SAYS TO ANOTHER.] ‘I SELL YOU A BETH KOR OF ARABLE LAND, MEASURED WITH THE ROPE’,[12] [AND] HE GAVE [HIM] LESS, [EVEN IF ONLY BY] A FRACTION, [AN EQUAL SUM] IS TO BE DEDUCTED [FROM THE PRICE]. [IF] HE GAVE MORE, [EVEN IF ONLY BY] A FRACTION, IT IS TO BE RETURNED [TO HIM]. IF, HOWEVER. HE SAID,[13] ‘MORE OR LESS,’[14] THE SALE IS VALID EVEN IF HE GAVE [AT THE RATE OF] A QUARTER OF A KAB PER SE'AH[15] LESS OR MORE. [IF THE DIFFERENCE IS] GREATER THAN THIS, CALCULATION IS TO BE MADE.[16] WHAT IS [THE BUYER] TO RETURN TO HIM? — THE MONEY.[17] IF, HOWEVER. [THE SELLER] PREFERS, [THE OTHER] RETURNS TO HIM THE LAND. WHEREFORE [THEN] DID THEY[18] ENACT THAT [THE BUYER] IS TO RETURN TO HIM MONEY? — TO SAFEGUARD THE INTERESTS OF THE SELLER.[19] IF, THEREFORE. THERE WAS A SURPLUS IN THE FIELD OF AN AREA OF NINE KAB;[20] AND IN A GARDEN, AN AREA OF HALF A KAB[21] AND, ACCORDING TO R. AKIBA, A QUARTER OF A KAB;[21] THE LAND [ITSELF] IS TO BE RETURNED. NOT ONLY THE QUARTER[22] IS TO BE RETURNED BUT ALL THE SURPLUS.

GEMARA. The question was raised: What [if the seller] only [said, ‘I sell you] a beth kor’?[23] — Come and hear! [IF A MAN SAYS TO ANOTHER.] ‘I SELL YOU A BETH KOR OF ARABLE LAND, MEASURED BY THE ROPE’,

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(1) V. n. 4.

(2) Into which the plough cannot very well enter.

(3) On both sides of which it is difficult to plough or to sow.

(4) Curved line, and it is difficult to plough and to sow there.
(5) In the bends of which the plough cannot easily enter.
(6) Outside the field and adjoining it.
(7) Only rocks within the field are included in the field if they are below the specified heights.
(8) Even if less than ten handbreadths in height.
(9) I.e., beneath the rock that lies near the border.
(10) Less than three handbreadths in depth, and insufficient for the depth required by the plough.
(11) Is the rock, in such cases as these, included in the measurements of the field or not?
(12) I.e., exact measurements.
(13) When the sale was being arranged.
(14) Instead of ‘measured by the rope’, thus implying the measurements of the beth kor are not exact.
(15) Or seven and a half kab in the kor, i.e. 1/24 th A kor == thirty se'ah; a se'ah == six kab.
(16) And the party that gained, pays for, or returns the difference.
(17) The value of the surplus.
(18) The Rabbis.
(19) So that he should not be left with a fraction of land of which no use could be made.
(20) Such an area is regarded as a field on its own.
(21) Which is regarded as a self-contained garden. v. supra 21a.
(22) Of a kab per se'ah.
(23) Without specifying, either ‘measured by the rope’ or ‘more or less’.

Talmud - Mas. Baba Bathra 104a

AND HE GAVE [HIM] LESS, [EVEN IF ONLY BY] A FRACTION, [AN EQUAL SUM] IS TO BE DEDUCTED [FROM THE PRICE]. [IF] HE GAVE MORE, [EVEN IF ONLY BY] A FRACTION, IT IS TO BE RETURNED [TO HIM]. Thus [it is to be inferred that] had not [the expression ‘measured by the rope’] been explicitly used [it would have been] just the same as if [the expression] ‘more or less’ [had been actually used]. Explain. [however], the concluding clause [which reads]: IF, HOWEVER, HE SAID, ‘MORE OR LESS’, THE SALE IS VALID EVEN IF HE GAVE [AT THE RATE OF] A QUARTER OF A KAB PER SE'AH LESS OR MORE. Thus [it is to be inferred that] had not [the expression, more or less’] been explicitly used [it would have been] just the same as if [the expression], ‘measured by the rope’ [had actually been used]! But, [one must conclude, that] nothing may be deduced from this [Mishnah].

Come and hear! [It has been taught: If a man says to another:] ‘I sell you a beth kor of arable land’, [or] ‘I sell you about a beth kor of arable land’ [or] ‘I sell you [etc] more or less’, the sale is valid even if he gave [at the rate of] a quarter [of a Rab] per se'ah less or more. This clearly proves that even when nothing[1] had been specified it is the same as [if the expression]. ‘more or less’ [had been used]! That [supplies no proof; for it] is an explanatory statement [implying] the following: In which case is [the expression] a beth kor’ regarded as [the expression] ‘about a beth kor’? When one said to the other, ‘more or less’.

R. Ashi demurred to this: If so,[2] for what purpose is the expression. ‘I sell you.’ [thrice] repeated? Consequently, the deduction may be made that even when nothing[1] had been specified it is the same as [if the expression], ‘more or less’,[had been used]. This proves it.

WHAT IS [THE BUYER] TO RETURN TO HIM?-THE MONEY etc. Does this [Mishnah] imply that we are to look after the interests of the seller and not after those of the buyer? Surely it has been taught: [If the land purchased was by] seven kab and a half per kor[3] less, or by seven kab and a half per kor[3] more [than the area agreed upon], the sale is valid. [If the surplus is] greater than this, the seller is compelled to sell and the buyer to buy![4] — There[5] we deal with the case where land was first[6] dear and is now[7] cheap. [In such a case,] the seller is told, ‘If you [wish to] give him the land,[8] give [it] to him at the present cheaper[9] rate'. But has it not been taught: When he gives it[10] to him, it must be at the rate at which he had bought of him? — That refers to the case where it was first cheap and is now dear.[11]

IF, THEREFORE. THERE WAS A SURPLUS IN THE FIELD OF AN AREA OF NINE KAB, etc. R. Huna said: The [law of] nine kab spoken of[12] [applies] even in [the case of] a large valley.[13] But R. Nahman said: Seven kab and a half must be allowed for every Kor,[14]

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(1) I.e., neither 'measured by the rope' nor 'more or less'.

(2) That, in the statement quoted, one part is explanatory to the other.

(3) I.e., 1/24 , v. Mishnah, n. 4.

(4) This shows that the seller has no advantage over the buyer.

(5) Where the seller is compelled to sell.

(6) When the sale was arranged.

(7) When the argument about the surplus is taking place.

(8) The surplus.

(9) While the seller may re-claim, or compel the buyer to purchase the surplus land, the seller, once he had decided to sell, may be compelled by the buyer to take the lower price prevailing at the time.

(10) I.e., the deficiency of land.

(11) In which case the buyer cannot be charged for the deficiency of land a higher price than the one prevailing at the time of the purchase.

(12) In our Mishnah, according to which such an area must be returned to the seller.

(13) Provided there was a surplus of nine kab, the area of the sold field does not matter. However large it may be, the surplus of nine kab or more must be returned, since such a surplus may be regarded as an independent field.

(14) Whether the surplus is returnable or not depends on its proportion to the area of the field sold. If the surplus is no more than seven and a half hab per kor == == kab per se'ah ==1/24 of the area of the field, it need not be returned, however large that surplus may be. The larger the field the larger the surplus allowed.

Talmud - Mas. Baba Bathra 104b

and if there is a surplus[1] amounting to nine kab it is to be returned. Raba raised [the following] objection against R. Nahman: IF, THEREFORE, THERE WAS A SURPLUS IN THE FIELD OF AN AREA OF NINE KAB. [Does] not [this refer even to the case] where two kor were[2] sold?[3] No; [only] when one kor[4] was sold. [But the Mishnah further stated:] AND IN A GARDEN, AN AREA OF HALF A KAB; [does] not [this refer even to the case] where two se'ah[5] were sold? — No; [only] where one se'ah was sold. [But the Mishnah also states]: AND, ACCORDING TO R. AKIBA, A QUARTER OF A KAB; [does] not this [refer even to the case] where a se'ah[6] was sold? — No; [only] when half a se'ah was sold.

R. Ashi inquired: What [is the proportion allowed in the case of] a field which was converted[7] into a garden, or a garden which was converted into a field?[8] — The matter is undecided.

It has been taught: If [the field sold] adjoined [another] field of his,[9] even if [the surplus[10] was] ever so little,[11] the land must be returned.[12] R. Ashi inquired:[13] Does a [water] cistern form a division?[14] [If not,][15] does a water canal[16] form a division? [If not,] does a public road[17] form a division? Does a nursery of young inoculated palm-trees form a division? — The matter is undecided.

NOT ONLY THE QUARTER IS TO BE RETURNED BUT ALL THE SURPLUS. Is not[18] the order reversed?[19] Rabin, son of R. Nahman, has taught:[20] [The Mishnah implies this]: Not only is the surplus[21] to be returned but [also] all the quarters.[22]

MISHNAH. [IF THE SELLER SAYS]. ‘I SELL YOU . . .[23] MEASURED BY THE ROPE MORE OR LESS’, THE [CONDITION OF] ‘MORE OR LESS’ CANCELS[24] [THAT OF] ‘MEASURED BY THE ROPE’. [IF HE SAYS]. ‘MORE OR LESS, MEASURED BY THE ROPE’,

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(1) Above a twenty-fourth of the area of the field.

(2) Since the extent of the area is not indicated.

(3) An area of nine kab in two kor is less than a twenty-fourth, and yet it is to be returned; how, then, can R. Nahman say that a twenty-fourth is allowed?

(4) There was no need to specify this area, since earlier in the Mishnah it was mentioned that an area of one kor was being dealt with.

(5) The proportion of a half a kab to two se'ah is a twenty-fourth, and yet it is to be returned, which is in contradiction to the law laid down by R. Nahman. Cf. supra note 2.

(6) A quarter of a kab is a twenty-fourth of a se'ah. V. previous note and supra note 2.

(7) By the buyer.

(8) Is it to be regarded a field or a garden in respect of the laws of surplus?

(9) I.e., the seller's.

(10) In excess of the surplus of a twenty-fourth of the area sold.

(11) I.e., although it does not amount to nine kab.

(12) To the seller, because he can make use of it by joining the surplus strip to his other field. The buyer, therefore, cannot be compelled to purchase that strip.

(13) Cf. supra 83b.

(14) Between the surplus of the field sold and the adjoining field of the seller.

(15) Because the water is not exposed.

(16) Where the water is exposed.

(17) Sixteen cubits in width.

(18) כלפי לייא or לייא The first word may be rendered ‘towards’ (כ and לאפי); the second, read לייא is rendered ‘whither’, Rashi.; or לייא layah ‘tail’ (cf. אליה), Jast. The literal meaning of the phrase is accordingly either ‘towards where?’ or ‘towards the tail?’

(19) The expression used in the Mishnah, ‘Not only the quarter etc.’, implies that the law previously given was that the quarter had to be returned and not the surplus above it, while, in fact, the Mishnah had stated the law to be that the quarter was not to be returned.

(20) Supra 94b.

(21) Over and above the one twenty-fourth of the area, which is otherwise allowed.

(22) Of a kab per se'ah, or one twenty-fourth of the area sold. Once the twenty-fourth which is allowed has been exceeded, all (the 1/24 and the surplus over and above it) must be returned.

(23) V. Mishnah supra 203b.

(24) The second condition is always regarded as the valid one. It cancels, therefore, the first.

Talmud - Mas. Baba Bathra 105a

THE [CONDITION] ‘MEASURED BY THE ROPE CANCELS [THAT OF] ‘MORE OR LESS; THESE ARE THE WORDS OF BEN NANNUS.

GEMARA. R. Abba b. Memel said in the name of Rab: His colleagues are in disagreement[1] with Ben Nannus. What does this teach us? Surely we have learnt:[2] It happened at Sepphoris that a person hired a bath house from another for twelve gold [denarii] per annum, one denar per month,[3] and the matter[4] was brought before R. Simeon b. Gamaliel and before R. Jose who said that [the rent for] the intercalary month must be divided.[5] [What, then, does Rab come to teach us?] — If [the inference[6] had come] from there, it might have been said that there[7] only [do the Rabbis hold the opinion that the rent for the month is to be divided], because it might be assumed that [the owner] had changed[8] his mind, and it might [also] be assumed that [with the second expression] he was merely explaining[9] [the first];[10] but here,[11] where [the seller] has clearly changed his mind,[12] it might have been thought [that the Rabbis do] not [disagree with Ben Nannus]; hence [it was necessary for Rab] to teach us.[13]

Rab Judah said in the name of Samuel: This[14] is the assertion of Ben Nannus, but the Sages say: The expression [which confers the] least[15] [advantage upon the buyer] is to be followed. ‘This’[16] [would imply that] he [Samuel himself] is not of the same opinion. but, surely, both Rab and Samuel said:[17] [If a seller said.] ‘I sell you a kor for thirty [selai'm]’. he may withdraw even at the last se'ah.[18] [If. however, he said]. ‘I sell you a kor for thirty, [each] se'ah for a sela’, [the buyer] acquires[19] possession of every se'ah as It is measured out for him.[20] [This, surely, shows that Samuel[21] is of the same opinion as Ben Nannus!][22] — But, [it may be replied that] ‘this’, [may denote that Samuel] is of the same opinion.[23] Does [Samuel, however,] hold the same opinion? Surely Samuel said: [The Mishnah which states that the rent of the bath house for the intercalary month is to be divided] speaks [only of the case] where [the owner] comes[24] in the middle[25] of the month, but where he comes at the beginning of the month all [the rent of the month] belongs to the owner,[26] [and if he comes] at the end of the month, all [the rent of the month] belongs to the tenant.[27] [Does not this prove that Samuel disagrees[28] with Ben Nannus?]

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(1) In their opinion it is doubtful which expression is to be regarded as valid, and the property or sum in dispute is, therefore, to be divided between the buyer and the seller.

(2) B.M. 102a.

(3) Both expressions were used at the time of hire, and the year was a leap-year, containing thirteen months.

(4) The dispute whether the intercalary month was to be included in the year, on account of the first expression, ‘twelve gold [denarii] per annum’, or whether it was not to be so included, on account of the second expression, ‘one denar per month’.

(5) Between the tenant and the owner of the house, i.e., the former pays only for half a month, since it is doubtful to whom the rent of the month belongs. Now, this clearly shows that the Rabbis do not agree with Ben Nannus, according to whom the second expression would have had to be considered as binding and a full month's hire would have had to be paid.

(6) That the Rabbis are in disagreement with Ben Nannus.

(7) The case of the bath house.

(8) He first thought of letting the bath house for twelve denarii per annum, irrespective of whether the year was of twelve or thirteen months, and then changed his mind and demanded a denar for each month.

(9) He had no intention of expecting thirteen denarii for the leap year. By the expression, ‘a denar per month’, he only meant that he wished to be paid monthly instead of yearly, and also that he might cancel the arrangements at the end of every month without having to wait till the end of the year.

(10) And since the matter is in doubt, the Rabbis are of the opinion, and Ben Nannus himself might agree with them, that the sum disputed should be divided.

(11) In our Mishnah.

(12) Since the second expression is in direct contradiction to the first.

(13) That even in this case the Rabbis disagree with Ben Nannus.

(14) The law in our Mishnah.

(15) If the land sold is more than the stipulated area, the expression, ‘measured by the rope’, is adopted and the buyer must return the surplus. If the sold land, however, is less than the stipulated area, the expression, ‘more or less’, is adopted and the seller need not make good the difference. The seller, being the original possessor of the land, has always the advantage.

(16) Viz., ‘this is the assertion of Ben Nannus’.

(17) B.M. 102b, supra 86b; infra 106b.

(18) Because the terms of the offer implied that his desire was to sell the entire kor. So long, therefore, as the buyer has not acquired every fraction of the kor, the purchase cannot be regarded as having been legally completed.

(19) By specifying the price per kor and per se'ah, the seller has intimated his consent to sell either the entire kor or any smaller quantity.

(20) Lit. ‘he acquires first first’.

(21) Who stated, in the second case, that the buyer acquired possession of every se'ah as it was measured out, on account of the expression, ‘each se'ah for a sela’, which the seller used after he said, ‘I sell you a kor for thirty’.

(22) Who stated that the second expression cancels the first.

(23) As Ben Nannus. ‘This etc’, only indicates that the Rabbis disagree.

(24) To the court.

(25) Since it is doubtful which expression cancels which, the money and the bath house are to remain in the possession of their respective owners. For the first half of the month, therefore, which has already passed, no rent can be claimed from the tenant who is in possession of his money. For the second half, however, the owner may claim the rent, since the property is his, and he has the power to prevent the other from using it.

(26) Because the property is in his possession.

(27) Because his money is to remain with him, who holds it in possession.

(28) Since he is doubtful as to whether the first, or second expression is to be regarded as binding. Cf. supra n. 6.

Talmud - Mas. Baba Bathra 105b

— But, [it may be replied.] ‘this’, in fact, [implies that Samuel] is not of the same opinion;[1] [as, however, his] reason there [for dividing[2] the monthly rent of the bath house is] because [each one of the parties] is in possession[3] [of a part of that concerning which they are in dispute], so here[4] also [the reason why the buyer acquires every se'ah as it is measured out to him is] because it is [then] in his possession.[5]

R. Huna said in the name of the school of Rab: [If one says that he would sell an object for] an istira,[6] a hundred ma'ah, [he is entitled to] a hundred ma'ah. [If he says], ‘a hundred ma'ah, an istira’.[he is entitled to] an istira. What does this teach us? That the second expression is to be preferred?[7] Surely Rab has said it once! For Rab said: Had I been there[8] I would have given all to the owner.[9] [Why, then, need Rab say it again?][10] — [Since] it might have been said that [the reason Rab would have assigned all to the owner of the bath house] was because [he held that the second expression][11] was merely explaining [the first],[12] therefore,[13] [it was necessary for Rab] to teach us [the case of the istira].[14]

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(1) That the second expression cancels the first.

(2) If the dispute is brought before the court in the middle of the month.

(3) The owner is in the possession of the wash house; the tenant, of his money.

(4) The sale of the kor.

(5) And not, as has been suggested before, because the second expression cancels the first.

(6) A silver coin equal in value to ninety-six copper ma'ah,

(7) Lit., ‘hold the last expression’. I.e., that the law is in agreement with the view of Ben Nannus.

(8) When the dispute about the bath house was brought before R. Simeon b. Gamaliel and R. Jose.

(9) Apparently because Rab is of the opinion that the second expression cancels the first.

(10) In the case of the istira.

(11) I.e., ‘one denar per month’.

(12) I.e., ‘twelve gold denarii per annum; indicating that per annum’ in the first expression referred to an ordinary year only, and not to a leap year of thirteen months, and not because Rab held that the second cancelled the first.

(13) In order that it should not be assumed that, whenever the second expression cannot be regarded as an explanation of the first, Rab holds the view of the Rabbis against that of Ben Nannus.

(14) In this case, the two expressions cannot be regarded as explanatory of one another, because the expression ‘ninety-six ma'ah’ can never be made to mean a hundred ma'ah, and vice versa. And since the two expressions must be contradictory, and Rab had said that the latter is to be followed, one may definitely conclude that Rab is of the same opinion as Ben Nannus who stated that the second expression cancels the first.

Talmud - Mas. Baba Bathra 106a

MISHNAH. [IF ONE SAYS, I SELL YOU THIS[1] BETH KOR] WITHIN ITS MARKS AND

BOUNDARIES', THE SALE IS VALID [IF THE DIFFERENCE[2] IS] LESS THAN A SIXTH;[3] [IF IT AMOUNTS] TO A SIXTH, DEDUCTION[4] MUST BE MADE.

GEMARA. It was stated: R. Huna said: [The law of] a sixth[5] is[6] like [that of] less than a sixth. Rab Judah said: [The law of] a sixth[5] is[6] like [that of] more than a sixth. According to R. Huna, [who] said [that the law of] a sixth is like [that of] less than a sixth, [the Tanna of our Mishnah] means to say thus: The sale is valid [in the case where the difference is] less than a sixth as well as [when it is exactly] a sixth.[7] [If it is] more than a sixth deduction is to be made. According to Rab Judah, [who] said [that the law of] a sixth is like [that of] more than a sixth, the Tanna means to say thus: The sale is valid [when the difference is] less than a sixth. [If it is] more than a sixth as well as [when it is exactly] a sixth,[4] deduction is to be made.[8]

An objection[9] was raised: [It has been taught:] [If one states, 'I sell you a field] within its marks and boundaries', [and it was found to contain] a sixth less, or more, [the case] is like [that of] judicial appraisement [and] the sale is valid. Now, surely, [in the case of] judicial appraisement[10] [the law of] a sixth [is the same] as [that of] more[11] than a sixth![12] — R. Huna can reply to you.[13] 'And according to your argument [is there here no difficulty]? Surely it is stated, [the sale is valid]!'[14] Hence, [this must be the explanation, the case is] like judicial appraisement [in one respect], and unlike judicial appraisement [in another]. [It is] like judicial appraisement [with respect] to the sixth,[15] and [it is] unlike judicial appraisement, for there[16] the purchase is cancelled, while here[17] it is valid.

R. Papa bought a field from a certain person

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(1) Pointing to a particular field.

(2) Between the actual area and that mentioned by the seller.

(3) Though the mention of beth kor is the same as the mention of 'more or less' (cf. supra 104a), in which case the sale is valid only when the difference is less than one twenty-fourth, or a quarter kab per se'ah, the pointing out of the field and the addition of the stipulation, 'within its marks and boundaries', modify the implication of beth kor, and a greater difference is, consequently, allowed before any deduction can be claimed. While the expression, 'within its marks and boundaries', implies the offer of a specified field whatever be its area, the expression beth kor, used with it, implies an area not too much different in size from that of a beth kor. Hence the law of our Mishnah which limits the allowed difference to a sixth.

(4) If less land was given, the difference in price is to be deducted. If more land was given, the surplus of land is to be returned.

(5) If the difference between the actual, and the specified area was exactly a sixth.

(6) The point of difference between R. Huna and Rab Judah lies in the interpretation of עד in the phrase, שתות . One considers עד as exclusive, the other as inclusive.

(7) Lit., 'a sixth being inclusive'.

(8) פחות משתות , in our Mishnah, is taken by R. Huna to mean that 'the sale is valid (if the actual area is) less than (a beth kor by) a sixth', and from this it follows that the sale is certainly valid if the difference is less than a sixth; whereas Rab Judah interpreted our Mishnah as follows: 'The sale is valid (if the difference between the actual area and that of a beth kor is) less than a sixth'. Hence it follows that if the difference is a sixth, and certainly if it is more, deduction is to be made.

(9) To the view of R. Huna.

(10) When the court appraised orphans' property and an error of a sixth was made.

(11) Since the entire transaction is cancelled even if the error was exactly one sixth.

(12) Now . . . sixth, how, then, can R. Huna maintain that the law of a sixth is the same as that of less than a sixth?

(13) Rab Judah.

(14) And if it is to be compared in all respects, as you suggest, to the case of judicial appraisement, the transaction should be invalidated.

(15) Viz., that the standard of error is the sixth, and not the twenty-fourth (quarters of a kab per se'ah).

(16) Where an error has been made by the court.

(17) In the case of a sale of a field within marks and boundaries that have been pointed out.

Talmud - Mas. Baba Bathra 106b

who stated[1] that it contained an area of twenty griva,[2] but it contained only fifteen. He[3] came before Abaye who said unto him, '[Surely] you realized [its size] and accepted.' But did we not learn: THE SALE IS VALID [IF THE DIFFERENCE IS] LESS THAN A SIXTH; [IF IT AMOUNTS] TO A SIXTH, DEDUCTION[4] MUST BE MADE? — This applies only where [the buyer] is not acquainted with the field, but where he is acquainted with it [it is assumed that] he understood [the conditions] and accepted. 'But,' [argued R. Papa.] 'he said to me, twenty!'[5] — He replied: '[The seller might say that he meant] that the field was as good[6] as [one of] twenty.

It was taught: R. Jose said: When brothers divide [an estate][7] all of them acquire[8] possession [of their respective shares] as soon as the lot for one of them is drawn.[9] On what ground [is possession acquired]? — R. Eleazar said: [Possession is acquired in the same way] as [at] the beginning of [the settlement of] the land of Israel. As [at that] beginning, [the acquisition was] by lot, so here [also it is] by lot. Since there, however, [the division was made] through the ballot box[10] and the Urim and Tummim,[11] [should not the division] here also [be made] through[12] the ballot box and the Urim and Tummim? — R. Ashi replied: [The lot alone suffices here] because [in return for] the benefit of mutual agreement[13] they determine to allow each other to acquire possession [by the lot[14] alone].

It has been stated: [In the case when] two brothers divided [an estate between them] and a [third] brother arrived from a country beyond the sea, Rab said the division is cancelled,[15] and Samuel said they relinquish[16] [thirds from their respective shares for the third brother].

Raba said to R. Nahman: According to Rab, who said that the division is cancelled, it is clear that [we act on the principle that even a definite] decision may be revised; but if so, the division should be cancelled[17] also in the case where [a partnership] of three was in existence and two of these divided[18] the property![19] — What a comparison! There,[20] they went [into the matter], from the very beginning, with the intention of [dividing the property between] three;[21] but here,[22] they did not enter '[into the matter], at first, with the intention of [dividing the estate between] three.[23]

R. Papa said to Abaye: According to Samuel, who said that they relinquish [thirds from their respective shares for the third brother], it appears that [where] a decision [has been arrived at, it] must be adhered to; but, surely, both Rab and Samuel have said:[24] [If the seller said.] 'I sell you a kor for thirty', he may withdraw even at the last se'ah;[25] [if, however, he said,] 'I sell you a kor for thirty. [each] se'ah for a sela' [the buyer] acquires[26] possession of every se'ah as it is measured out for him.[27] [This shows that even a decision arrived at,[28] may be upset!][29]

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(1) And also pointed out the marks and boundaries of the field.

(2) A griva equals one se'ah.

(3) R. Papa.

(4) And here, the difference was more than a sixth, 5/20 =1/4; why, then, was not R. Papa allowed to deduct the difference?

(5) Implying that if found to contain less, the difference would be made good from another field, or a deduction from the price would he allowed.

(6) I.e., the fifteen se'ah of that field will produce as much as twenty in an ordinary field.

(7) Into equal shares.

(8) And none may withdraw.

(9) If there are only two brothers, one acquires possession of one share as soon as the other brother has acquired by lot his share. If more than two brothers, they acquire possession collectively of the remaining shares when the lot has determined to whom the first share was to be allotted. The first brother then, stands out, and lots are cast between the others.

(10) V. infra 222a.

(11) Cf. Ex. XXVIII, 30, Lev. VIII, 8, Num. XXVII, 21. Cf. also I Sam. XXVIII, 6, Ezr. II, 63, Neh. VII, 65.

(12) How, then, are the shares acquired here, in the absence of the Urim and Tummim, by mere lot?

(13) Lit., ‘because they listen to one another,’ viz., to dissolve a partnership (Rashb.) [or to divide by lot (R. Gershom)].

(14) They are all so anxious to dissolve their partnership at the earliest possible moment, that they readily agree that through the lot alone every one of them shall acquire possession of his share.

(15) And a new division in three parts is to be made, lots being drawn again.

(16) I.e., the division is valid, but each of the two brothers ‘gives up a third of his share in favour of the new arrival. Thus, each of the three brothers retains or receives two thirds of half the estate, which form a third of the whole.

(17) If the third party raises an objection.

(18) In three parts, in the presence of a lay court of three, without consulting the third partner. (Cf. B.M. 32b.)

(19) But, as a matter of fact, such a division cannot be cancelled, however much the third partner or brother may object. (Cf. B.M. 31b.)

(20) The case just cited.

(21) Hence there was a proper and equitable division which the third party cannot upset.

(22) In the case of the arrival of an absent brother from beyond the sea.

(23) They divided the estate into two parts only, ignoring altogether the just claims of the absent brother. Such a division, therefore, may be justifiably cancelled.

(24) V. supra 105a.

(25) V. supra p. 437. n. 23.

(26) loc. cit. n. 14.

(27) V. p.438. n. 1.

(28) As in the first case of Rab's and Samuel's statement, where twenty-nine se'ah of the thirty in the kor had already been handed over to the buyer.

(29) Since all must be returned to the seller. If decisions are to be adhered to, why should the buyer be obliged to return that portion of the purchase which by mutual agreement had passed over into his possession?

Talmud - Mas. Baba Bathra 107a

— There,[1] the Rabbis have made a provision which is convenient for the seller[2] and [also] for the buyer.[3]

It was stated:[4] [In the case where two] brothers divided [an inherited estate between them], and a creditor [of their father] came and distrained the share of one of them, Rab said: The division is cancelled;[5] Samuel said: He[6] has forfeited his claim;[7] and

R. Assi said: He[8] takes a quarter[9] either in land or in money. Rab said that the division was to be cancelled, because he holds the opinion that brothers, even after having divided [their father's estate between them, remain] co-heirs.[10] Samuel said that he [whose share was seized] forfeited his claim, because he holds the opinion that brothers, after having divided [their father's estate between them], stand to each other in the relationship of vendees, each being in the position of a purchaser without a warranty [of indemnity].[11] R. Assi is in doubt whether they still remain co-heirs or stand in the relationship of vendees; he [whose share was seized] takes, therefore, a quarter[12] either in land or in money.[13]

R. Papa said: The law in all [the cases dealt with in] these traditions is that [a portion, or portions must be] relinquished.[14] Amemar said: The [original] division is cancelled. And the law [is that the original] division is cancelled.[15]

Our Rabbis taught: [In the case where] three [experts] went[16] down [to the estate of male orphans] to assess it,[17] [and] one values [the estate] at a maneh[11] and the two value [it] at two hundred zuz, [or if] one values it at two hundred zuz and the two value it at a maneh,[18] the one, being in the minority,is overruled.[19] [If] one values [the estate] at a maneh, one at twenty [sela'],[20] and one at thirty [sela'], it is to be adjudged at a maneh. R. Eliezer b. R. Zadok, said: It is to be adjudged at ninety [zuz]. Others said: [The difference][21] between them is calculated and divided by three.[22] He who said, 'It is to be adjudged at a maneh', [adopts the] middle course.[23] R. Eliezer b. R. Zadok, [who] said, 'It is to be adjudged at ninety', is of the opinion [that] the land

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(1) The case spoken of by Rab and Samuel.

(2) He prefers the transaction to be regarded as incomplete until the last se'ah is measured out, in order that he might withdraw from the sale at the last minute in case prices rise.

(3) He also prefers to be in a position to withdraw at the last se'ah, in the expectation that prices may fall. Consequently there was no decision nor any mutual agreement. Hence either party may withdraw even at the last se'ah.

(4) B.K. 9a.

(5) And a new division of the remainder of the estate is to be made.

(6) Whose share was seized.

(7) And the division, therefore, is valid, the other brother retaining his full original share.

(8) V. p. 443. n. 16.

(9) Of his brother's share, i.e., an eighth of the original estate.

(10) Hence they remain collectively responsible for the payment of their father's debts.

(11) None of them having undertaken to make good the loss of any of the others.

(12) Of his brother's share. Half the share certainly belongs to his brother, and the doubt is only in respect of the other half; hence it is divided between the two, each one receiving, or retaining a quarter of it.

(13) His brother cannot be compelled to give up a portion of his land. Since creditors must accept money, he has only himself to blame for having parted with his land, and can only expect to receive from his brother the kind of payment the latter would have made to the creditor.

(14) The one in possession must give up a portion to him who has been deprived of his share, so that all their respective shares in the estate be equalized. The original division, however, is not entirely upset no new lot taking place and every one retaining a portion of what was originally allotted to him.

(15) An entirely new division must be made, and lots cast again.
(16) Under instructions from a judicial court.
(17) With the object of selling it for the maintenance of the dead owner's widow or his orphan daughters.
(18) Maneh hundred zuz or twenty-five sela’. A sela’ four zuz.
(19) The opinion of the two who are in the majority is to be followed. (Cf. Ex, XXIII, 2.)
(20) I,e., five sela less than a maneh. (V. p. 444, n. 11).
(21) Between the lowest valuation and the highest, i.e., between the thirty. and the twenty, sela’, amounting to ten sela’.
(22) Ten sela’ equal 40 zuz. 40/3 == 13 1/3]. This quotient is added to the lowest valuation which is 20 sela’ or 80 zuz. Thus, 80 + 13 1/3 == 933 zuz.
(23) The average of 80 zuz (or twenty sela’ which is the lowest valuation) and 120 zuz (or 30 sela’, the highest valuation). 80+120/2 == 100 zuz or a maneh.

Talmud - Mas. Baba Bathra 107b

is worth ninety [zuz], and the reason why one valued it at twenty [sela][1] is because he had underestimated[2] it by ten [zuz], and he who valued it at a maneh overestimated[3] it by ten [zuz]. On the contrary! [Let it be assumed that] the land is worth a hundred and ten [zuz] and that he who valued it at a maneh underestimated[4] it, by ten [zuz], and he who said thirty[5] overestimated[6] it by ten [zuz]?[7] At all events one should adopt the first two, since both do not exceed the sum of one maneh.[8] The others [who] said: [The difference] between them is calculated and divided by three, hold the opinion [that] the land is worth ninety-three [zuz] and a third; [and] that he who valued it at twenty [sela’] underestimated[4] it by thirteen [zuz] and a third; he who valued it at a maneh overestimated[6] by thirteen [zuz] and a third. Logically [the latter] should have given a higher[9] estimate[10] but the reason why he did not do it[11] is because he thought. ‘It is enough that I have exceeded my colleague's [estimate] by so much’ — On the contrary! [Let it be said]: The land is worth a hundred and thirteen [zuz] and a third; he who valued it at a maneh underestimated[12] it by thirteen [zuz] and a third, and he who valued it at thirty [sela’] overestimated[13] it by thirteen [zuz] and a third; and logically he should have submitted a higher estimate[14] [but] he thinks, ‘It is enough that I have exceeded my colleague's by so much’? — At all events one should adopt the first two, since both do not exceed the sum of a maneh.[15]

R. Huna said: The halachah is in accordance with [the opinion of the] others. R. Ashi said: We do not know the reason[16] [for the opinion] of the others; shall we administer the law in accordance with their view?

The judges of the Exile[17] taught: [The difference] between them is calculated and divided by three. R. Huna said: The law is in accordance with [the teaching of] the Judges of the Exile. R. Ashi said: We do not know the reason[18] [for the opinion] of the judges of the Exile, shall we administer the law in accordance with their view?

MISHNAH. IF ONE SAYS TO ANOTHER, ‘I SELL YOU HALF[19] A FIELD’, A COMPROMISE IS MADE BETWEEN THEM AND HE TAKES THE HALF OF HIS FIELD.[20] [IF ONE SAYS.] ‘I SELL YOU HALF OF IT[21] ON THE SOUTHERN SIDE’, A COMPROMISE IS MADE BETWEEN THEM AND HE TAKES ITS SOUTHERN HALF.[20] HE[22] MUST UNDERTAKE [TO SUPPLY][23] SPACE FOR THE WALL[24] [AND] FOR THE BIGGER AND SMALLER TRENCH.[25] AND WHAT IS [THE WIDTH OF] THE BIGGER TRENCH? SIX HANDBREADTHS[26] ; AND [THAT OF] THE SMALLER ONE, THREE.[26]

GEMARA. R. Hiyya b. Abba said in the name of R. Johanan: The buyer takes the poorer [side] of it.[27] Said R. Hiyya b. Abba to R. Johanan: Surely we have learned that a compromise[28] was to be made between them? — He replied unto him: While you were [engaged in] eating date-berries in Babylon[29] , I expounded [this] with the aid of the concluding clause. For in the concluding clause it is taught: [IF ONE SAYS]. 'I SELL YOU HALF OF IT ON THE SOUTHERN SIDE', A COMPROMISE IS MADE BETWEEN THEM AND HE TAKES ITS SOUTHERN HALF. But why, [according to your reasoning,] should a compromise be made between them? Surely he [explicitly] said to him, 'Half of it on the southern side'![30] But [you must say that the expression there refers] to the price.[31] here also [it must be assumed that the expression used refers] to the price.[32]

HE MUST UNDERTAKE [TO SUPPLY] THE SPACE FOR THE WALL etc. It was taught: The bigger trench is without and the smaller one is within,[33] and both [are made] behind the wall [on its outer side]

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(1) 'I.e., eighty zuz,

(2) Lit., 'erred (by) ten backwards'.

(3) Lit., 'erred (by) ten forwards'.

(4) V. note 6.

(5) I.e., 120 zuz.

(6) V. note 7.

(7) Why. then, should the two lower valuations be taken into account and not the two higher ones?

(8) It is preferable to adopt the two valuations which have in common the point of not exceeding the sum of a maneh, and to ignore the third, rather than to adopt valuations which have nothing in common.

(9) I.e., 93 1/3 + 13 1/3 = 106 2/3, zuz.

(10) Lit., 'should have said more'.

(11) Lit., 'why he did not say'.

(12) V. p.445, n. 6.

(13) V. p. 445, n. 7.

(14) V. loc. cit. n. 14.

(15) V.loc.cit.n. 12.

(16) I.e., 'their reason does not appeal to us', 'we do not accept it'.

(17) Samuel and Karna, v. p. 279. n. 6.

(18) v. note 5.

(19) Not specifying which half.

(20) This is explained in the Gemara, infra, to refer to the value of, and not to the actual field.

(21) The field.

(22) The seller.

(23) Out of his portion of the field.

(24) Round half the field.

(25) Which is dug round the wall. A smaller trench is made between the wall and the bigger trench.

(26) Along the entire length of the field.

(27) Of the field. The seller, being the previous possessor, is entitled to choose the fertile, and better side.

(28) Which implies that the buyer is not to be at a disadvantage and is to have a share which is as good as that of the seller How, then, could R. Johanan state that the buyer must take the worst part?

(29) I.e., engaged in worldly pleasures and neglecting the study of the Torah. [Hiyya b. Abba was born at Kafri in Babylonia, whence he came to Palestine at a somewhat advanced age.]

(30) How, then, does a compromise come in? Since the seller specified the southern side, that side should go to the buyer!

(31) By saying, 'the southern side', not the actual spot was meant but the value of that spot in any part of the field.

(32) The compromise consists in this, that the buyer gets land equal to the full value of half the field, while the seller has the choice of giving of the land on any side, even on the worst, provided the value of it is not less than half the price of the entire field.

(33) Between the wall and the outer trench.

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in order that an animal may not jump [over the wall]. Let, then, the big trench be made[1] and not [also] the small one? — Since it is wide, [the animal] might stand in it and jump. Then let the smaller trench be made and not the bigger one? Since it is small, [the animal] might stand on the [outer] edge and jump. How much [space must there be] between the bigger, and the smaller trench? — One handbreadth.

CHAPTER VIII

MISHNAH. SOME [RELATIVES] INHERIT [FROM], AND TRANSMIT [TO EACH OTHER];[2] SOME INHERIT[3] BUT DO NOT TRANSMIT;[4] [SOME] TRANSMIT RUT DO NOT INHERIT, [AND SOME] NEITHER INHERIT NOR TRANSMIT. THE FOLLOWING INHERIT [FROM], AND TRANSMIT [TO EACH OTHER]: A FATHER [INHERITS FROM,[5] AND TRANSMITS TO HIS] SONS, AND SONS [INHERIT FROM, AND TRANSMIT TO THEIR] FATHER; AND BROTHERS FROM THE [SAME] FATHER[6] INHERIT [FROM], AND TRANSMIT [TO EACH OTHER].[7] A MAN [INHERITS FROM] HIS MOTHER AND [FROM] HIS WIFE [BUT DOES NOT TRANSMIT HIS ESTATE TO THEM[8] IF HE DIES FIRST]; AND SISTERS’ SONS INHERIT [FROM THEIR UNCLES] BUT DO NOT TRANSMIT [THEIR ESTATES TO THEM].[9] A WOMAN [TRANSMITS HER ESTATE TO] HER SONS AND A WIFE [TO] HER HUSBAND [BUT THEY DO NOT INHERIT FROM THEM]; AND MOTHER'S BROTHERS TRANSMIT [THEIR ESTATES TO THEIR NEPHEWS] BUT DO NOT INHERIT [FROM] THEM. AND BROTHERS FROM THE [SAME] MOTHER NEITHER INHERIT [FROM], NOR TRANSMIT [TO EACH OTHER].[10]

GEMARA. Why does the Mishnah teach first, THE FATHER [INHERITS FROM, AND TRANSMITS TO HIS] SONS, let it first teach, THE SONS [INHERIT FROM, AND TRANSMIT TO THEIR] FATHER, for, in the first place,[11] one should not commence with [something suggestive of] misfortune[12]

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[1] **(1)** The big trench alone should suffice to prevent the animal from jumping over the wall.

[2] **(2)** Whoever of these dies first transmits his estate to the other, and whoever survives inherits it.

[3] **(3)** From certain relatives who predecease them.

[4] **(4)** Their estates to these relatives if they die first.

[5] **(5)** From his sons, if they die without leaving any issue.

[6] **(6)** Though not from the same mother.

[7] **(7)** If they die without issue.

[8] **(8)** Because the relatives on his father's side are entitled to the inheritance of his estate.

[9] **(9)** V. Previous note.

[10] **(10)** Their relatives on their respective fathers’ sides inherit from them.

[11] **(11)** Lit, ‘one’.

[12] **(12)** The death of a son in his father's lifetime.

Talmud - Mas. Baba Bathra 108b

and, secondly,[1] [one should follow the order of the Torah,] as it is written, If a man die and have no son?[2] — The Tanna prefers[3] [to begin with the case of a father who is heir to his son] because this [law] has been arrived at through an exposition. What is the exposition? — It has been taught: His kinsman,[4] refers to the [dead man's] father. This teaches that a father takes precedence[5] over brothers. One might [assume] that he also takes precedence over a son, [therefore] it was expressly stated, that is next [to him],[6] [which implies] he who is nearest[7] takes precedence. What reason is there[8] for including the son[9] and excluding the brother? — The son is included because, as is known,[10] he is [entitled] to take his father's place in designating [the Hebrew handmaid of his father to be his wife],[11] and [also in the redeeming] of a field of [his father's] possession.[12] On the contrary! [Rather say:] ‘The brother is included because he also takes the place of his brother in the case of a levirate marriage.’[13] Surely levirate marriage only takes place where there is no son, but where there is a son there is no levirate marriage.[14]

[From what has been said it appears] that the [only] reason [for the precedence of a son is] that there is this reply,[15] but had it not [been] so, it would have been held [that] a brother takes precedence, [but cannot] this [law][16] be deduced

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(1) Lit., ‘and furthermore’.

(2) Num. XXVII, 8. This implies that if a father leaves a son, the latter inherits from him. Now, since the Scripture begins with the case of a son inheriting from his father the Tanna of our Mishnah should have done likewise!

(3) Lit., ‘beloved to him’.

(4) Num. XXVII, 11. Ye shall give his inheritance unto his kinsman.

(5) If the dead man is survived by a father and brothers, his estate is inherited by the former.

(6) Ibid.

(7) A son is a nearer relative than a father.

(8) Lit., ‘what have you seen?’

(9) I.e., regarding him as the nearest relative, taking precedence over father and brothers.

(10) Lit ‘for so’.

(11) The master of a Hebrew handmaid may designate her to be his wife, and there is no need for him to betroth her in the usual manner. His son also, ‘if she please not her user’, may designate her to be his wife, in the same way as his father. No brother or any other person has the same privileges. Cf. Ex. XXI, 7ff.

(12) If a man sanctifies onto the Lord a field of his possession, he or his son may redeem it. If a brother, however, or any other person has redeemed the field, it returns to the priests in the jubilee year. Cf. Lev. XXVII, 16ff.

(13) The law requiring a person to marry the widow of a brother who dies without issue. Cf. Deut. XXV, 5ff. A son, of course, cannot have this right or privilege.

(14) Consequently, even as regards levirate marriages, a son stands nearer, and is in a more privileged position than a brother.

(15) ‘Surely levirate etc.’

(16) That a son takes precedence over a brother.

Talmud - Mas. Baba Bathra 109a

[from the fact] that in one case[1] [there are] two [advantages][2] and in the other[3] [only] one?[4] — The very [law of a son's precedence in the case of the redemption of a] field of [his father's] possession was deduced by the Tanna from this very argument, viz., ‘Surely levirate marriages only take place where there is no son, but where there is a son there is no levirate marriage’![5]

[But why not] say [thus]: ‘His kinsman,[6] refers to the father. This teaches that a father takes precedence over a daughter.[7] One might [assume] that he [also] takes precedence over [a] son, it was therefore expressly stated that is next [to him],[6] [which implies,] he who is nearest takes the precedence’? — Since in respect of levirate marriages a son and a daughter have the same[8] standing, a son and a daughter must have the same standing in the case also of inheritance.[9] [Why again not] say [thus]: ‘His kinsman,[6] refers to the father. This teaches that a father takes precedence over the [dead man's] father's brothers. One might [assume] that he also takes precedence over brothers, it was therefore expressly stated, that is next,[10] [which implies], he who is nearest takes the precedence’? — The father's brothers do not require any Scriptural text;[11] [for] from whom[12] do the father's brothers derive their right? From the father; should [then] the brothers of the father inherit when the father [himself] is alive! But, surely, the Scriptural verses are not written in this [order], for it is written, And if his father have no brethren etc.![13] — The verses are not written in [the proper] order[14] [of succession].

The following Tanna derives it[15] from the following: For it was taught: R. Ishmael, son of R. Jose, gave the following exposition: [It is written,] If a man die, and have no son, [then ye shall cause his inheritance to pass unto his daughter].[16] [This implies that] where there is a daughter the inheritance is passed from the father,[17] but no inheritance is passed from the father, where there are [only] brothers.[18]

But [why not] say [thus]? Where there is a daughter the inheritance is passed from the brothers,[19]

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(1) Lit., 'here', i.e., the case of a son.

(2) The designation of a handmaid, and the redemption of a field of his (father's) possession.

(3) Lit. 'here', i.e., the case of a brother.

(4) That of the levirate marriage.

(5) It was this argument that had confirmed the Tanna in his opinion that a son takes his father's place in the redemption of a field of his father's possession (v. 'Ar, 25b). Without this argument it could not have been proved that a son has any greater claim to the redemption of the field than a brother or any other person. Since this law, then, depends entirely on the argument mentioned, there remains only one independent point in favour of a son's precedence. Hence it was necessary to have recourse to the reply mentioned.

(6) Num. XXVII, 22.

(7) Since she never takes the place of her father either as a son (for designation and redemption), or as brother (for Ievirate marriage).

(8) Whether the dead man has left a son or a daughter, his widow is in either case exempt from levirate marriage; but his being survived by a father does not make any difference.

(9) A daughter, therefore, takes precedence over a father,

(10) Num. XXVII, 11.

(11) To prove that a father takes precedence over them.

(12) Lit., 'on whose strength'.

(13) Ibid. According to this verse, since his kinsman refers to the father, the father's brothers should take precedence over him, for the verse reads, And if his father have no brethren, then ye shall give his inheritance unto his kinsman, which implies (cf. the preceding verse), that if he has brothers it is they who inherit, and not he.

(14) Though kinsman, i.e., 'a father', is mentioned after 'a father's brothers', he nevertheless takes precedence over them, by reason of the given argument.

(15) The law that a father takes precedence over the dead man's brothers.

(16) Num. XXVII, 8.

(17) Of the dead man. The phrase והעברתם' (we-ha'abartem) is taken to mean, 'ye shall cause (the inheritance) to pass (from his father) unto his daughter' that is, the father of the deceased is passed over in favour of the daughter.

(18) Of the dead man.

(19) Of the dead, unto his daughter; and accordingly. Num XXVII, 8 should be read and interpreted as follows: If a man die, and have no son, then ye shall cause his inheritance to pass (from his brothers) unto his daughter; and if he has no daughter, his brothers inherit from him.

Talmud - Mas. Baba Bathra 109b

but no inheritance is passed from the father even where there is a daughter'?[1] — If so[2] the Torah should not have written[3] [at all]. Then ye shall cause [his inheritance] to pass [unto his daughter].[4]

According to him who infers it[5] from, then ye shall cause [his inheritance] to pass,[6] what is [the phrase], his kinsman, to be applied to? — He applies[7] it, to [the following], as it was taught: His kinsman,[8] refers to his wife: [and this] teaches that the husband is heir to his wife.[9] And according to him who infers its from his kinsman, to what does he apply [the expression], then ye shall cause [his inheritance] to pass?[10] — He applies it to [the following]; as it was taught: Rabbi said: In [the case of] all [the relatives],[11] [the expression of] 'giving' is used, but here,[12] [the expression] used is that of ‘causing to pass’,[13] [in order to teach] you that no other but a daughter causes an inheritance to pass from one tribe to [another] tribe, since [in her case] her son or her husband are her heirs.[14]

What [reason] is there for deducing that she'ero[15] refers to the father? — Because it is written, She is thy father's near kinsman:[16] Why not [rather] say [that] she'ero refers to the mother since it is written, She is thy mother's near kinswoman?[17] — Raba replied: The Scriptural text says. that is next to him of his family, and he shall possess it;[18] the family of the father is regarded[19] [as the proper] family [but] the family of the mother is not regarded[19] [as the proper] family; for it is written, by their families, by their father's houses.[20] [But] is not the mother's family regarded[19] [as the proper] family? Surely it is written, And there was a young man out of Bethlehem in Judah — of the family of Judah — who was a Levite, and he sojourned there;[21] [now], this is self-contradictory, [for] it is said, ‘who was a Levite’, which clearly indicates that he descended from Levi, [and it is also said], ‘of the family of Judah,’ which clearly shows that he descended from Judah; must it not then be concluded that his father [was of the tribe] of Levi and his mother [of that] of Judah, and [yet the text] speaks [of him as] ‘of the family of Judah’! — Raba, son of R. Hanan, replied: No;[22] [he may have been] a man whose name was Levi.[23] If so, [is] this [the reason] why Micah said , ‘Now know I that the Lord will do me good, seeing I have a Levite as my priest’?[24] — Yes; [he was glad] that he happened to obtain a man whose name was Levi. But was Levi his name? Surely his name was Jonathan, for it is said, And Jonathan the son of Gershom, the son of Manasseh, he and his sons were priests to the tribe of the Danites?[25] — He said unto him: But [even] according to your argument, [it may be objected], ‘Was he the son of Manasseh? Surely he was the son of Moses, for it is written, the son of Moses: Gershom, and Eliezer’;[26] but [you must say that] because he acted [wickedly] as Manasseh,[27] the Scriptural text ascribed his[28] descent to Manasseh, [so] also here[29] [it may be said that], because he acted [wickedly] as Manasseh who descended from Judah, the Scriptural text ascribed his[28] descent to Judah.[30] R. Johanan said in the name of R. Simeon b. Yohai: From here [one may infer] that corruption is ascribed[28] to the corrupt.[31] R. Jose b. Hanina said: [This[32] may be inferred] from the following: [It is written,] And he[33] was also a very goodly man, and he was born after Absalom;[34] was not Adonijah the son of Haggith, and Absalom the son of Maacah? But because he[33] acted in the same manner as Absalom who rebelled against the king, the Scriptural text associated[35] him with Absalom.

R. Eleazar said: One should always associate[36] with good [people]; for behold, from Moses who married the daughter of Jethro,[37] there descended Jonathan[38] [while] from Aaron, who married the daughter of Amminadab, there descended Phinehas.[39] But did not Phinehas descend from Jethro? Surely it is written, And Eleazar[40] Aaron's son took him one of the daughters of Putiel to wife;[41] does not this mean that he descended from Jethro who crammed[42] calves for idol worship? — No; [it means] that he descended from Joseph who conquered[43] his passions.[44] Did not, however, the tribes sneer at him and say.[45] ‘Have you seen this Puti-son?[46] A youth whose mother's father crammed calves for idol-worship should kill the head[47] of a tribe in Israel!’

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(1) Since the text speaks only of brothers and not of a father, why should it not be assumed that a father takes precedence over a daughter, though not over brothers?

(2) That Num. XXVII, 8 is to be interpreted in the sense that only where there is a daughter does she takes precedence over the brother but where there is no daughter the inheritance is to go to the brothers.

(3) In Num. XXVII, 8.

(4) Since this law is specifically stated in the following verse (ibid 9).

(5) V. p. 451, n. 5.

(6) Ibid.

(7) Lit., ‘requires’.

(8) Num. XXVII, 11.

(9) Infra 111b.

(10) Ibid. 8.

(11) Enumerated in Num. XXVII, 9-11.
(12) In the case of a daughter.
(13) Ibid. 8.
(14) V. Infra 147a.
(15) שארו ‘Kinsman’ or ‘kinswoman’.
(16) שאר אביך Lev. XVIII, 12.
(17) שאר אמך Ibid. 13; and, consequently, let it be inferred from this text that a mother, like a father, is entitled to inherit from a daughter
(18) Num. XXVII, 11.
(19) Lit., ‘called’.
(20) Ibid. I, 22.
(21) Judg. XVII, 7.
(22) His father was not of the tribe of Levi, but of that of Judah.
(23) לוי may be rendered as both ‘Levite’ and ‘Levi’.
(24) If the young man were not of the tribe of Levi, would Micah have been so glad in having secured a mere layman as his priest?
(25) Judg. XVIII, 30. The Danites appropriated Micah's graven and molten images, his ephod and teraphim, and took also with them the young man who was his priest.
(26) I Chron. XXIII, 15.
(27) Manasseh the son of Hezekiah was one of the most wicked kings of Judah. Cf. II kings XXI, 1-17. [In the M.T the נ of מנשה is a litera suspensa: .]
(28) Lit., ‘hanged him on’.
(29) To harmonise Judg. XVII, 7, with the statement that the family of the mother is not regarded as the proper family.
(30) But, in reality, he may have belonged to the tribe of Levi. Hence, in either ease, Judg. XVII, 7, cannot be adduced as proof that the mother's family is regarded as the proper family.
(31) Micah's priest who ministered to idolatry is described as a descendant of the corrupt king Manasseh.
(32) That corruption is ascribed to the corrupt.
(33) Adonijah.
(34) I Kings I, 6.
(35) V. p. 453. n. 7.
(36) Lit., ‘cling to’.
(37) The priest of Midian, an idolater.
(38) An idolatrous priest.
(39) Cf. Num. XXV, 11ff.
(40) The father of Phinehas.
(41) Ex. VI, 25.
(42) פטם regarded as of the same root as Putiel.
(43) פטפט ‘conquer in argument’.
(44) Cf. Gen. XXXIX, 7ff.
(45) Cf. Sanh. 82b, Sotah, 43a.
(46) Abbreviation of Putiel.
(47) Zimri. v. Num. XXV, 6ff

Talmud - Mas. Baba Bathra 110a

But [this is really the explanation], if his mother's father [descended] from Joseph, his mother's mother[1] [descended] from Jethro; if his mother's father [descended] from Jethro, his mother's mother [descended] from Joseph.[2] [This may] also [be confirmed by] deduction, for it is written, of the daughters of Putiel, from which two[3] [lines of ancestry][4] are to be inferred.

Raba said: He who [wishes] to take a wife should inquire about [the character of] her brothers. For it is said, And Aaron took Elisheba, the daughter of Amminadab, the sister of Nahshon;[5] since it is stated the daughter of Amminadab, would it not he obvious that she is the sister of Nahshon? Then why should it be expressly stated, the sister of Nahshon? From here, [then], it is to be inferred that he who takes a wife should inquire about [the character of] her brothers. It was taught:[6] Most children resemble the brothers of the mother.

And they turned aside thither, and said unto him: ‘Who brought thee hither?[7] and what doest thou in this [place]?[8] and what hast thou here?[9] They[10] said unto him:[11] ‘Are you not a descendant of Moses of whom it is written, Draw not nigh hither?[12] Are you not a descendant of Moses of whom it is written, What is this[13] in thy hand?[14] Are you not a descendant of Moses of whom it is written, But as for thee, stand thou here[15] by me?[16] Would you be made a priest for idol-worship?’ — He said unto them: I have the following tradition from my grandfather's family: At all times shall one [rather] hire himself out to idol-worship than be in need [of the help] of [his fellow] creatures. He thought that ‘Abodah Zarah[17] [meant] actual [idol worship], but it is not so, [the meaning being,] ‘work which is strange to him’;[18] as Rab said[19] to R. Kahana: Flay[20] a carcass in the street and earn[21] a wage, and say not, ‘I am a great man and the work is degrading to me’. When David saw that he had an exceptional liking for money, he put him in charge over the treasuries, for it is said, Shebuel the son of Gershom, the son of Manasseh[22] was ruler over the treasuries.[23] But was his name Shebuel? Surely his name was Jonathan! — R. Johanan said: [He was called Shebuel][24] because he returned to God[24] with all his heart.

AND SONS [INHERIT FROM, AND TRANSMIT TO THEIR] FATHER. Whence is this[25] derived? — It is written, If a man die, [and have no son, then ye shall cause his inheritance to pass unto his daughter].[26] [From this it is to he inferred that] the reason[27] is because he have no son but if he have a son the son takes precedence.[28]

R. Papa said to Abaye: Might it not be inferred[29] that if there be a son, the son is to be the heir; [if] there be a daughter, the daughter is to be the heir; [and if] there be [both] a son and a daughter, neither the one is to he heir nor the other? — But

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(1) But not his own mother.

(2) In either ease, Phinehas was several generations removed from Jethro, while Jonathan, being the son of Gershom, was only two generations removed.

(3) The Yod in Putiel is regarded as a sign of the plural.

(4) Joseph and Jethro.

(5) Ex. VI, 23.

(6) Soph. XV, 20.

(7) חלום

(8) בזה

(9) פה Judg. XVIII, 3.

(10) The Danites.

(11) Micah's priest.

(12) Ex. III, 5.

(13) זה

(14) Ex. IV, 2.

(15) פה

(16) Deut. V, 28.

(17) עבודה זרה may mean both ‘idolatry’ and ‘strange work’.

(18) Uncongenial, below his dignity.

(19) Cf. Pes. 113a.

(20) Or ‘dress’.

(21) Lit., ‘take’.

(22) M.T. reads, Moses.

(23) I Chron. XXVI, 24.

(24) שבואל is composed of שב (returned), and אל (God).

(25) That sons take precedence over daughters.

(26) Num. XXVII, 8.

(27) For causing the inheritance to pass to a daughter.

(28) Over the daughter, who, however, according to a Rabbinical provision, is entitled, if unmarried to a tenth of the estate. Cf. Keth, 68a.

(29) From Num. XXVII, 8.

Talmud - Mas. Baba Bathra 110b

who then should he the heir? Should the town collector[1] he the heir! — It is this that I suggest: [If] there be a son and a daughter. neither the one nor the other should inherit all [the estate], but both together should inherit [it].[2] Abaye said to him: Is, then,[3] a Scriptural verse required to tell us that where there is a one and only son he inherits all the property?[4] — Is it not possible, however, that [Scripture] meant to teach this: That a daughter also has a right of inheritance?[5] — This[6] is deduced from, And every daughter, that possesseth an inheritance.[7] R. Aha b. Jacob said: [The law of a son's precedence over a daughter may he inferred] from here: Why should the name of our father be done away from among his family, because he had no son?[8] The reason,[9] then, is because he had no son, but had he had a son, the son would have taken precedence. But it is not possible that the daughters of Zelophehad [only] said so,[10] [and that] when the Torah was given[1] the law received a new interpretation?[11] — But the best [proof][12] is that given at first.[13]

Rabina said: [The law of a son's precedence may he inferred] from here: That is next to him,[14] i.e., he who is nearest in relationship takes precedence. And [in] what [respect is] the relationship of a son [nearer] than [that of] a daughter? [Is it] in that he is [entitled] to take his father's place in designating [the Hebrew handmaid of his father to be his wife][15] and [in the redeeming] of a field of [his father's] possession?[16] [Surely, as regards] designation, a daughter is not one to designate;[17] [and as regards] the redemption of a ‘field of possession’, [a daughter] also [may he entitled to the same privilege as a son, by logical deduction] from the selfsame objection, from which the Tanna had deduced [the law that a son is entitled to this privilege]: ‘Is there any levirate marriage except where there is no son?’[18] — But the best proof is that given at first.[19]

If you like, I can say, [the law of the son's precedence] may be inferred from here: And ye may make them an inheritance for your sons[20] after you,[21] meaning, your sons but not your daughters. But in that case[22] does, That your days may be multiplied, and the days of your sons,[23] also mean ‘your sons’ and not ‘your daughters’? — It is different [in the case of] a blessing.[24]

AND BROTHERS FROM THE [SAME] FATHER INHERIT [FROM]. AND TRANSMIT etc. Whence is this derived? — Rabbah said:[25] It may be deduced [from a comparison of this] ‘brotherhood’[26] with the ‘brotherhood’ of the sons of Jacob;[27] as there [the brotherhood was derived] from the father and not from the mother, so here [the brotherhood spoken of is that] from the father and not from the mother. What need is there[28] [for this inference]? Surely it is written, Of his family. and he shall possess it,[29] [and it has been deduced[30] that] the family of the father is regarded [as the] family [but] the family of the mother is not regarded [as the] family! — This is so indeed, but the statement of Rabbah was made with reference to [the law of] levirate marriage.[31]

A MAN [INHERITS FROM] HIS MOTHER etc. Whence are these laws[32] derived? — For our Rabbis taught:

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(1) Or ‘the elder of the town’, ‘town governor’.

(2) Both taking equal shares.

(3) Since a daughter, according to your opinion, is entitled to the same rights of inheritance as a son.

(4) The Scriptural text, then, which reads, If....(he) have no son, then shall ye cause his inheritance to pass unto his daughter, which is obvious (v. previous note), should have read, instead, If a man die and have no issue then ye shall give his inheritance unto his brethren etc. (v. Num. XXVII, 8.9). The rest of the text, then shall ye cause. . . have no daughter (ibid), would thus become superfluous.

(5) Without specific mention, the daughter might have been excluded from the term ‘issue’ which would have been taken to apply to males only, for, without such specific mention, the entire context dealing with the laws of inheritance (Num. XXVII, 8-11) would have been speaking of males only. Hence it was necessary to mention ‘daughter’ in vv. 8-9. Once however a daughter's right to succession is established, there is need of evidence to prove that a son call claim precedence over her.

(6) That a daughter may be heir.

(7) Num. XXXVI, 8.

(8) Ibid. XXVII, 4.

(9) For the request on the part of Zelophehad's daughters for a share in the land.

(10) Believing that to be the law. (12) The laws of inheritance were given subsequent to the representations of Zelophehad's daughters. V. Num. XXVII, 5-7ff.

(11) Giving sons and daughters equal rights of inheritance.

(12) That a son takes precedence.

(13) Supra 110a. ‘It is written, if a man lie etc.’

(14) Num. XXVII, 11.

(15) V. supra p. 449. n. 52.

(16) V. loc. 11. n. 13.

(17) And the law could not possibly have been applied to her.

(18) An argument that can likewise be applied in regard to a daughter. viz., ‘Is there any levirate marriage except where there is no daughter?’ In what respect, then, does a son stand nearer than a daughter in relationship to the father?

(19) V. n. 3.

(20) בניכם is rendered here ‘sons’. though it may also bear the meaning of ‘children’.

(21) Lev. XXV, 46.

(22) Lit., ‘from now’.

(23) Deut. XI. 21. Cf. n. 10 supra.

(24) A blessing would include both sexes, though elsewhere the term sons applies to males only.

(25) Cf. Yeb. 17b, 22a.

(26) The expression ‘brethren’, used in Num. XXVII. 9.

(27) Ice thy servants are twelve brethren (Gen. XLII, 13).

(28) In the case of the laws of inheritance.

(29) Num. XXVII, 11.

(30) Supra 109b.

(31) Where also the expression, ‘brethren’, is used: If brethren dwell together etc. (Deut. XXV, 5f). Only brothers of the same father are, accordingly, subject to the levirate law.

(32) Lit., ‘words’; the laws that a son is heir to his mother as he is to his father, and, moreover, that he takes precedence over a daughter in such an inheritance. The laws in Num. XXVII, 8-9. do not deal with an inheritance from a mother.

Talmud - Mas. Baba Bathra 111a

[It is written.] And every daughter that possesseth an inheritance in the tribes[1] of the children of Israel;[2] how can a daughter inherit [from] two tribes?[1] — [Obviously] only when her father is from one tribe and her mother from another tribe, and both died, and she inherited [from] them. [From this] one may only [derive the law in respect of] a daughter. whence [may the law respecting] a son [he derived]?[3] — One may derive it by an inference from minor to major: If a daughter, whose claims upon her father's property are impaired,[4] has strong legal claims upon the property of her mother, should a son, whose claims upon the property of his father are strong, not justly have strong legal claims[5] upon the property of his mother? And by the same argument:[6] As there,[7] a son takes precedence over a daughter, so here,[8] a son takes precedence over a daughter. R. Jose son of R. Judah and R. Eleazar son of R. Jose said in the name of R. Zechariah h. Hakkazzab:[9] Both a son and a daughter [have] equal [rights] in [the inheritance of] a mother's estate.[10] What is the reason? — It is sufficient for [a law that is] derived by argument to he like [the law] from which it is derived.[11] And does not the first Tanna[12] expound. 'It is sufficient [etc.]'? Surely, [the exposition of] Dayyo[13] is Pentateuchal! For it was taught:[14] 'An example[15] of an inference from minor to major [is]. And the Lord said to Moses: 'If her father had but spit in her face, should she not hide in shame seven days?'[16] [Would not one expect, by] inference from minor to major, [that in the case] of the divine presence, [she should hide in shame for] fourteen days?[17] — But [it is held that] it is sufficient for [a law that is] derived by argument. to he like [the law] from which it is derived'![18] — Elsewhere he does expound Dayyo,[19] hut here it is different, because Scripture says, in the tribes,[19] thus comparing the mother's tribe to the father's tribe: as [in the case of] the father's tribe a son takes precedence over a daughter, so [in the case of] the mother's tribe a son takes precedence over a daughter.

R. Nittai intended to decide a case in accordance with [the view of] R. Zechariah b. Hakkazzab, [but] Samuel said to him: 'In accordance with whom? In accordance with Zechariah? Zechariah faileth!'[20]

R. Tabla decided a case in accordance with [the view of] R. Zechariah h. Hakkazzab. R. Nahman said to him: 'What is this?' — He replied unto him: '[I rely upon] that which R. Hinena b. Shelemia said in the name of Rab [that] the halachah is in accordance with [the view of] R. Zechariah h. Hakkazzab.' He said to him: 'Withdraw, or I shall pull R. Hinena b. Shelemia from your ears!'[21]

R. Huna b. Hiyya intended to decide a case in accordance with [the view of] R. Zechariah h. Hakkazzab. R. Nahman said to him: 'What is this?' He replied: '[I rely upon] that which R. Huna said in the name of Rab [that] the halachah is in accordance with [the view of] Zechariah h. Hakkazzab. He said to him: 'I will send to him!'[22] He grew embarrassed.[23] He said to him: 'Now, had R. Huna been dead, you would have continued to oppose me.'[24] And whose opinion did he[25] adopt? — That of Rab and Samuel both of whom said: The halachah is not in agreement with [the view of] R. Zechariah h. Hakkazzab.

R. Jannai was [once] walking, leaning[26] upon the shoulder of R. Simlai his attendant,[27] and R. Judah the Prince[28] came to meet them. He[29] said to him: The man who comes towards us is distinguished[30] and his cloak is distinguished.[30] When he[31] came nigh him [R. Jannai] touched it [and] said to him: This [cloak] — its [legal minimum] size [as regards Levitical uncleanness is but] that of[32] sackcloth![33] He[31] inquired of him: Whence [is it derived] that a son takes precedence over a daughter in [the inheritance of] a mother's estate? — He replied to him: From[34] tribes;[35] [where the plural indicates that] the mother's tribe is to be compared to the father's tribe: as [in the case of] the father's tribe,[36] a son takes precedence over a daughter so [in the case of] the mother's tribe,[37] a son takes precedence over a daughter. He[38] said to him: If [so, let it be said that] as [in the case of] the father's tribe a firstborn takes a double portion, so [in the case of] the mother's tribe a firstborn shall take a double portion'!

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(1) E.V.: in any tribe. The plural 'in tribes',ממטות implies no less than two.

(2) Num. XXXVI, 8.

(3) That a son also inherits from his mother.

(4) Since a son takes precedence over her.

(5) To be heir.

(6) Lit., 'and from whence you came'.

(7) In the case of a father's inheritance.

(8) In the case of the inheritance of a mother.

(9) A proper noun, or ha-Kazzab ‘the butcher’.
(10) They take equal shares.
(11) Since the law that a son may be heir to his mother is derived from the law of a daughter's right to such an inheritance, it cannot be held to confer upon him, in such a case, any right of precedence over a daughter.
(12) Who maintains that a son takes precedence over a daughter even in the case of a mother's inheritance.
(13) דיו ‘it is sufficient’.
(14) B.K. 25a, Zeb. 69b.
(15) Lit., ‘how’.
(16) Num. XII, 14.
(17) If seven days is the period for a father (who is only a mortal), fourteen days, at least, (double), should be the period in the case of the divine presence.
(18) Hence the rule of Dayyo is proved to he Pentateuchal; how then, can the first Tanna uphold a law which is contrary to this rule of Dayyo?
(19) Num. XXXVI, 8.
(20) אפס (cf. Gen. XLVII, 16, 17). ‘The law is contrary to the view of R. Zechariah.’
(21) He would be placed under the ban so that he would think no more of R. Hinena; cf. Sanh. 8a.
(22) To R. Huna, to ascertain whether he really held such an opinion.
(23) Not being sure whether R. Huna still adhered to the same opinion.
(24) Now, however, that R. Huna is alive, this resistance must cease. R. Nahman, apparently, suspected R. Huna b. Hiyya of quoting R. Huna without due authorisation.
(25) R. Nahman
(26) R. Jannai suffered from defective eyesight due to old age.
(27) שמעיה The שמעא of many of the Rabbis was a disciple of the master and himself a scholar.
(28) Judah II.
(29) The attendant.
(30) Lit., ‘beautiful’.
(31) R. Judah.
(32) Lit., ‘like’.
(33) And therefore cannot be as distinguished as the attendant claimed it to be. Cheap, coarse material is not subject to the laws of Levitical uncleanness, unless its size is no less than four handbreadths by four, instead of three by three which is the legal minimum required in the case of finer materials.
(34) Lit., ‘for it is written’.
(35) Num. XXXVI, 8.
(36) I.e., inheritance from a father.
(37) I.e., the inheritance of a mother's estate.
(38) V. p. 460, n. 12.

Talmud - Mas. Baba Bathra 111b

— He[1] called to his attendant: Lead on! This [man] does not desire to learn.[2] What, then, is the reason?[3] — Abaye replied: Scripture says: Of all that he hath,[4] implying he[5] and not she.[6] Might it not be suggested that these words[7] [apply to the case where] a bachelor married a widow;[8] but [where] a bachelor married a virgin[9] he[10] takes [a double portion] also [in the estate of his mother]? — R. Nahman h. Isaac replied: Scripture said: For he[11] is the first-fruits of his strength.[12] [from which it is to be inferred that the law applies to the first fruits of] his[13] strength and not of her strength. [Surely] that [word][14] is required for [the law that though one was] born after a miscarriage[15] he is, [nevertheless, regarded as the] firstborn son [in respect] of inheritance, [the text implying that only] he for whom [a father's] heart grieves[16] [is included in the law, but that a miscarriage], for which it does not, is excluded![17] — If so,[18] the text should have read, ‘For he is the first-fruits of strength’;[19] why his strength?[20] Two [laws, therefore,] are to be deduced from it. But still, might it not be suggested that these words[21] [apply only to the case of] a widower[22] who married a virgin,[23] but [where] a bachelor married a virgin[24] the firstborn son takes [a double portion] also [in the estate of his mother]! — But, Raba said, [this is the proper reply]: Scripture states, The right of the firstborn is his[25] , [and this indicates that] the right of the firstborn [is applicable] to [the estate of] a man and not to [that of] a woman.

AND A MAN [INHERITS FROM] HIS WIFE etc. Whence is this derived?[26] — Our Rabbis taught:[27] His kinsman,[28] refers to his wife; [and this] teaches that the husband is heir to his wife. One might [say that] she also is heir to him, it is therefore expressly stated, And he shall inherit her,[29] meaning he is heir to her[30] but she is not heir to him. But, surely, the Scriptural verses are not written like that![31] — Abaye said: interpret thus, ‘Ye shall give his inheritance unto one that is next to him; [as to] his kinswoman, he shall inherit her’. Raba said: A sharp knife is dissecting the Biblical verses![32] But, said Raba, this is what the text implies: ‘Ye shall give the inheritance of his kinswoman into him’;[33] [Raba] holding the view [that prefixes and suffixes] may he detached from [words] and added to [others], and [a new] interpretation may [then] he given [to the Biblical text].[34]

The following[35] Tanna derives it[36] from the following[37] [text]: For it was taught: And he shall inherit her,[38] teaches that the husband is heir to his wife; these are the words of R. Akiba. R. Ishmael, [however], said: This is not necessary,[39] for it is said, And every daughter that possesseth an inheritance in any tribe of the children of Israel, [shall be wife] unto one of the family etc.[40] This text speaks of a transfer [from one tribe to another that may be occasioned] through the husband.[41] Furthermore, it is said. So shall no inheritance of the children of Israel remove from tribe to tribe.[42] Furthermore, it is said. So shall no inheritance remove from one tribe to another tribe.[43] Furthermore it is said, And Eleazar the son of Aaron died; and they buried him it, the Hill of Phinehas his son.[44] Whence could Phinehas possess [a hill] which did not belong to Eleazar?[45] But this[46] teaches that Phinehas took a wife who died, and he was her heir. Furthermore it is said, And Segub begat Jair, who had three and twenty cities in the land of Gilead.[47]

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(1) R. Jannai.

(2) He only wishes to argue.

(3) Why, indeed, does a firstborn son take a double share in his father's, and not in his mother's estate?

(4) Deut. XXI, 27. viz., the firstborn takes a double portion of all that he, (his father) hath.

(5) The father.

(6) The mother.

(7) That a firstborn son takes a double portion only in the estate of his father.

(8) Who had children from her first marriage. In such a case, the father's firstborn son is not that of the mother.

(9) In which case the firstborn son of the father is also the firstborn son of the mother.

(10) The firstborn son.

(11) The firstborn son.

(12) Deut. XXI. 17.

(13) The father's.

(14) אונו his strength.

(15) Though he did not ‘open the womb’, and is not regarded as a firstborn son in respect of ‘sanctification to the Lord’ and ‘redemption from the priest’ (v. Ex. XIII, 2).

(16) און may be rendered ‘grief’ as well as ‘strength’.

(17) How, then, could this deduction as well as the one previously mentioned, he made from the same text?

(18) That only the latter deduction is to be made.

(19) און without the suffix’ would have been sufficient.

(20) אונו

(21) ‘His strength, and not her strength’, excluding a firstborn from the right to a double portion in the mother's estate.

(22) Who had children from his first wife.

(23) Since the first son from the second marriage is only the wife's firstborn, not his.

(24) And the son is firstborn on both sides.

(25) Deut. XXI, 17. The whole clause being superfluous. לו ‘his’ is interpreted as referring to the father.

(26) Lit., ‘whence these words?’

(27) Supra 109b.

(28) Num. XXVII, 11.

(29) Lit. rendering of the clause translated in the versions, ‘and he shall possess it’ (ibid.). V. following note.

(30) The pronoun אותה is taken here to refer to ‘his kinsman’, denoting ‘wife’.

(31) The Pentateuchal text does not read, ‘ye shall give her inheritance to her husband’, but, ye shall ‘sire his inheritance unto his kinsman, and ‘kinsman’ has been interpreted as ‘wife’. This, therefore, implies that the wife is heir to her husband

(32) According to Abaye's exposition the text is broken up words are transposed. and a wholly, unnatural and arbitrary interpretation is the result.

(33) Reading, ונתתם את נחלת שארו לו instead of ונתתם את נחלתו לשארן

(34) A ו is detached from נחלתו and a ל from לשארו to form a new word, לו, thus obtaining the required reading and interpretation. V. previous note.

(35) Lit., ‘this’.

(36) The law that a husband is heir to his wife.

(37) Lit., ‘from here’.

(38) Num. XXVII, 11.

(39) There is no need to infer the law from Num. XXVII, 11, and thus to subject the Biblical text to forced interpretation.

(40) Num. XXXVI, 8.

(41) Scripture is warning a daughter, who has inherited an estate, that she must marry one of her own tribe, for, if she marry into another tribe, her estate, on her death, will be inherited by her husband and thus pass over from the estates of her own tribe to those of another. This clearly proves that a husband is heir to his wife; for, otherwise, a daughter inheriting an estate would be free to marry into any other tribe.

(42) Ibid. 7.

(43) Ibid. 9.

(44) Josh. XXIV, 33.

(45) Phinehas was the son of Eleazar from whom he would presumably inherit after his death. How, then, did Phinehas possess a hill at the very moment his father died?

(46) The mention of a hill that belonged to Phinehas.

(47) I Chron. II, 22.

Talmud - Mas. Baba Bathra 112a

Whence could Jair possess [cities] which did not belong to Segub?[1] [But] this[2] teaches that Jair took a wife who died, and he was her heir.

[For] what [purpose is] ‘furthermore it is said’ [required]?[3] — In case it be said[4] that Scripture is only concerned for a transfer [through] the son,[5] but that a husband was not heir [to his wife]. proof was brought from,[6] So shall no inheritance of the children of Israel remove front tribe to tribe.[7] And in case it be said,[8] its[9] purpose is [to teach that] one would transgress thereby [both] a negative[10] and a positive[11] [precept],[12] proof was brought from,[13] So shall no inheritance remove from one tribe to another tribe.[14] And in case it is said[15] that the purpose of this is [to teach that] one would transgress two negative [precepts] and [one] positive, proof was brought from,[13] And Eleazar the son of Aaron died etc.[16] And in case it be said[15] that it was Eleazar who took a wife who died, and [that it was] Phinehas [who] was her heir,[17] proof was brought from,[8] and Segub begat fair etc.[18] And in case it be said,[15] ‘There, also, the same thing may have happened’[19] [it may be replied]: If so, why two Scriptural verses?[20] R. Papa said to Abaye: Wherefrom?[21] Is it not indeed possible to maintain [that] a husband is not heir [to his wife]? As to the Scriptural verses, these may speak of a transfer through the son, as interpreted [above]; and that Jair may have bought [the cities]; and Phinehas, [also], may have bought [the hill]?[22] — He replied unto him: It cannot be said that Phinehas had bought [the land], for, if so, it would follow that the field must return in the jubilee year,[23] and the righteous man[24] would thus be buried in a grave which was not his own.[25] — But say that it may have fallen to him as a field devoted?[26] — Abaye replied: After all,[27] the inheritance[28] would be removed[29] from the tribe of the mother to the tribe of the father![30] But how![31] Is it not possible that that case[32] is different[33] because [the estate] had already been transferred?[34] — He said to him: [The argument]. ‘because it had already been transferred’ is rather weak.[35]

R. Yemar said to R. Ashi: If [the argument], ‘because it had already been transferred’ is to be used,[36] one can very well understand the verse[37] [as having reference] either to transfer through the son or to transfer through the husband;[38] if, however, it is said that [the argument] ‘because it had already been transferred’, is not to he used, [of] what benefit is [it] when she is married to a man of the family of her father's tribe? Surely the inheritance is removed from the tribe of her mother to that of her father! — She may he given in marriage to a person whose father is of the tribe of her father, and his mother of the tribe of her mother.

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(1) Cf. supra n. 11.

(2) The statement that fair had cities which were his own property independent of that of his father.

(3) Supra 111b. Why five Biblical quotations in addition to the first one from Num. XXXVI, 8?

(4) Lit., ‘and if you will say’.

(5) I.e that the prohibition against marrying into another tribe was solely due to the fact that the son who is heir to his mother would cause the transfer of the estate from his mother's tribe to that of his.

(6) Lit., ‘come and hear’.

(7) Num. XXXVI. 7. Since this verse is superfluous, being practically a repetition of the verse following it, it must be taken to refer to another case of transfer. If XXXVI. 8 has reference to the son, XXXVI. 7 must have reference to the husband.

(8) V. p. 463, n. 17.

(9) Of Num. XXXVI. 7.

(10) so shall no inheritance remove etc.

(11) Shall be wife etc (Num. XXXVI, 8).

(12) But a husband cannot be heir to his wife.

(13) V. n. 1.

(14) Num. XXXVI, 9.

(15) V. p. 463, n. 7.

(16) Josh. XXIV, 33.

(17) Heir to his mother in the lifetime of his father, Eleazar, who, though her husband, was not entitled to be her heir.

(18) I Chron. II, 22.

(19) I.e., fair may have been heir to his mother; not Segub to his wife.

(20) One verse is quite sufficient to teach that a son is heir to his mother. The other, then, must serve the purpose of teaching that a husband also is heir to his wife.

(21) I.e., what proof is there from the verses quoted that a husband is heir to his wife?’

(22) And it was his not by inheritance from a wife but by right of purchase. [The question, ‘Why two Scriptural verses?’ does not apply here as it is usual for the Bible to record and register acquisitions by individuals. (Rashb.)]

(23) To its original owner. V. Lev. XXV, 13. In this year of the jubilee ye shall return every man unto his possession.

(24) Eleazar.

(25) Hence it cannot be assumed that the field in which Phinehas had buried his father was a purchased one.

(26) שדה החרם a field devoted, always remains in the possession of the priest (Lev. XXVII, 21, and Num. XVIII, 14). Consequently, the land which Phinehas possessed in the lifetime of his father need not be assumed to have been an inheritance at all; what proof, then, is there for the assertion that a husband is heir to his wife?.

(27) If it he assumed that a husband is not heir to his wife.

(28) Of a daughter to whom it was bequeathed by her mother.

(29) On the marriage of the daughter unto one of the tribe of her father.

(30) What safeguard, then, against the transfer of property from one tribe to another would have been provided by Num. XXXVI, 8 (cf. supra 111b). which requires every daughter that possesseth an inheritance to be married to one of the family of the tribe of her father? While this provision prevents the transfer from the tribe of a father to that of another, it does not prevent the transfer from a mother's tribe! Consequently, if it he assumed that the transfer is effected through the husband, i.e., that the husband is heir to his wife, provision against the transfer may be made on the lines mentioned below; if, however, it be assumed that the husband is not heir, and that the transfer is effected through the son, what provision against this can be made? This, therefore, urges Abaye, is proof that Num. XXXVI, 8, teaches the law that a husband is heir to his wife.

(31) Lit. , 'from what' i.e., the proof is not conclusive.

(32) The transfer of a mother's inheritance to another tribe.

(33) From that of the transfer to another tribe of a father's inheritance.

(34) A mother's estate, as soon as the daughter inherits it, is removed from the mother's tribe to that of the daughter who belongs to her father's tribe. Consequently it does not matter whether the daughter subsequently marries one from her mother's tribe or not. What proof, then, is there from Num. XXXVI, 8, that a husband is heir to his wife?

(35) Lit., 'we do not say'. Though a partial transfer takes place when a daughter inherits an estate from her mother, it does not follow that this must have the way for a complete transfer to another tribe. The daughter belongs, at least partly, to the tribe of her mother but her son is an entire stranger to that tribe. Consequently there remains the question. What safeguard was provided against the transfer from the mother's tribe?

(36) With the result that we are not concerned with the transfer from the mother's tribe.

(37) Num, XXXVI, 8, And every daughter that possesseth etc.

(38) I.e., owing to one or other of these possibilities of transfer from the father's inheritance to another tribe, a daughter inheriting an estate must marry one of her father's tribe.

Talmud - Mas. Baba Bathra 112b

If so,[1] that [verse][2] should have [read], 'To one of the family of the tribe of her father and her mother'! — If it had been written thus, even the reverse[3] might have been assumed, hence[4] the need for the present reading.[5]

It was taught [that a daughter inheriting an estate must marry one of her father's tribe in order to prevent] transfer [from tribe to tribe] through the son; and it was [also] taught [that the object is to prevent] transfer through the husband. 'It was taught [that the object is to prevent] transfer through the son': [For it is written]. So shall no inheritance of the children of Israel remove from tribe to tribe.[6] Scripture speaks [here] of transfer through the son. Thou sayest [that it speaks] of a transfer through the son, perhaps [it speaks] only[7] of a transfer through the husband? — Since it was said, so shall no inheritance remove front one tribe to another tribe,[8] behold transfer through the husband has been spoken of, to what, then, shall one apply, so shall no inheritance of the children of Israel remove from tribe to tribe?[9] [It must be assumed, therefore, that] Scripture speaks [here] of transfer through the son.

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(1) That the man she marries must belong both to her mother's, as well as to her father's tribe.

(2) Num. XXXVI, 8.

(3) When his father belongs to the tribe of her mother, and his mother to the tribe of her father, involving the complete transference from her father's tribe to that of her mother's, the tribe of her husband's father,

(4) To teach that his father must be of the same tribe as her father.

(5) Lit., 'he teaches us'.

(6) Num. XXXVI, 7.

(7) Lit., 'or it is not, but'.

(8) Ibid. 9.

(9) Ibid, 7.

Talmud - Mas. Baba Bathra 113a

It was taught in another Baraitha: So shall no inheritance remove from tribe to tribe.[1] Scripture speaks [here] of a transfer through the husband. Thou sayest [that it speaks] of a transfer through the husband, perhaps [it speaks] only[2] of a transfer through the son? — Since it was said, so shall no inheritance of the children of Israel remove from tribe to tribe,[3] behold, transfer through the son has been spoken of, to what, then, shall one apply, so shall no inheritance remove from one tribe to another tribe?[1] [It must be assumed, therefore, that] Scripture speaks [here] of transfer through the husband.

Both,[4] at all events, [agree that] in, from one tribe to another tribe,[1] Scripture speaks of transfer through the husband; how [is this] to be inferred?[5] — Rabbah son of R. Shila said: Scripture states, Ish.[6] Is not Ish written in both?[7] — But, said R. Nahman b. Isaac, Scripture states, shall cleave.[8] Is not [the phrase], shall cleave, written in both?[9] But, said Raba; Scripture states. The tribes shall cleave.[10] R. Ashi said: Scripture states. from One tribe to another tribe,[11] but a son is not [of] another.[12]

R. Abbahu said in the name of R. Johanan. in the name of R. Jannai, in the name of Rabbi (and some trace it to[13] R. Joshua b. Korha): Whence [is it proved] that a husband does not receive [as heir] the prospective [estate of his wife][14] as [he does] that which was [already] in [her] possession? It is said, And Segub begat Jair, who had three and twenty cities in the land of Gilead;[15] whence could Jair possess [cities] which did not belong to Segub?[16] But this teaches that Segub took a wife and she died in the lifetime of those whose heiress she would have been;[17] and when these died, Jair inherited her [estate].[18] Furthermore it is said, And Eleazar the son of Aaron died; and they buried him etc.[19] Whence could Phinehas possess [a hill] which did not belong to Eleazar?[20] But this teaches that Eleazar took a wife, who died in the life-time of those whose heiress she would have been,[21] and when these died, Phinehas inherited her [estate].[22] [For] what [purpose is]'furthermore it is said' [required]?[23] — In case it be said that it was Jair who took a wife who died,[24] and that he inherited from her, it is, therefore, expressly stated, and Eleazar the son of Aaron died.[19] And in case it he said that it may have fallen to him[25] as a field devoted.[26] Scripture states, his son[20] [which implies that] the inheritance was due to him[27] but his son inherited it.[28]

AND THE SONS OF A SISTER. A Tanna taught:[29] The sons of a sister[30] but not the daughters of a sister.

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(1) Ibid. 9.

(2) V. p. 446, n. 10.

(3) Ibid. 7.

(4) Lit., 'all the world': the Tannaim in the two Baraithoth quoted.

(5) A mnemonic sign seems to have been omitted here from the text, the word Siman, 'sign', only remaining (v. Emden's note a.l.).

(6) איש may he rendered 'husband' as well as man'.

(7) Ibid. 7 and 9.

(8) The same expression, 'shall cleave', is used of a husband elsewhere, and shall cleave unto his wife (Gen. II, 24).

(9) V. note 8.

(10) Heb. ידבקו מטות (Num. XXXVI. 9), while in v. 7. these words are separated. The members of the tribe are united through their fathers, hence the verse mist be speaking of fathers, i.e., husbands.

(11) Ibid. 9.

(12) Hence, Num. XXXVI, 9, must have reference to the case where the husband is heir.

(13) Lit., 'and they arrived in it (so far as to quote it) in the name of'.

(14) An estate, e.g.. bequeathed by her father whom she predeceased. Had her father died first, she would have inherited from him, and her husband would have inherited from her.

(15) I Chron. II, 22.

(16) Cf. p. 463, n. 11.

(17) Lit., 'those who cause her to inherit'.

(18) Which she would have inherited had she been alive. This proves that prospective estates are not inherited by the

husband but by the son.
(19) Josh. XXIV, 33.
(20) v. p. 463. n. 11.
(21) V. supra n. 3.
(22) V. supra n. 4.
(23) Why is not the evidence from Segub and fair sufficient?
(24) V. supra 112a.
(25) Phinehas.
(26) V. p. 465. n. 4.
(27) To Eleazar; his wife had survived the relative from whom the hill was inherited.
(28) Because Eleazar's wife pre-deceased the relative to whom the hill belonged. This proves that a prospective estate is not inherited by the husband, but by the son.
(29) Infra 115a.
(30) Inherit from the brother of their mother.

Talmud - Mas. Baba Bathra 113b

. [In respect] to what Law?[1] — R. Shesheth said: In respect of precedence,[2] [as] R. Samuel b. R. Isaac recited before R. Huna: [Since it is said], and he shall possess it,[3] the inheritance [mentioned] second[4] is to be compared to the one [mentioned] first[5] ; as [in the case of] the inheritance [mentioned] first, a son takes precedence over a daughter so, [in the case of] inheritance [mentioned] second,[6] a son takes precedence over a daughter.[7]

Rabbah b. Hanina recited [a Baraitha] before R. Nahman:[8] [Since it is written], Then it shall be, in the day that he causeth his sons to inherit,[9] an inheritance[10] may be divided[11] in the daytime but not at night.

Abaye said unto him: ‘If that is the case,[12] would children be heirs only to him who died in the daytime, but not to him who died at night?[13] [You mean], perhaps, [the administration of] the law[s] of inheritance;[14] as it was taught: [With the Biblical announcement] And it shall be unto the children of Israel a statute of judgment,[15] the whole section[16] has been proclaimed to be [of a] judicial [character].[17] And [this, in fact is] in accordance with Rab Judah who said: Three [persons] who came to visit[18] a sick man may, if they wish, [either] write down [his instructions. with reference to the disposal of his estate[19] or], if they prefer it, give judgment.[20] Two [persons] may write down [the testator's instructions] but may not give judgment.[21] And R. Hisda commented: This applies only[22] to daytime;

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(1) Surely daughters inherit from their mother where there are no sons; and since their mother is heiress to her brothers (where there are no living brothers), they also, who are her heiresses, should, in such a case, be entitled to the inheritance of their uncles!
(2) Lit., ‘to precede’. i.e., where there are brothers and sisters, the former are to be the heirs of their uncles, not the latter.
(3) Num. XXVII, 11. אותה referring to ‘inheritance’ mentioned in verse 8.
(4) I.e., the second or any of those following in order of succession.
(5) The inheritance from a father.
(6) Or any of the cases of inheritance mentioned.
(7) The order of precedence is consequently as follows: Son, daughter, brother, sister, brother's son, brother's daughter. If, however, one brother of the deceased has a son and another brother has a daughter, the nephew and niece inherit equally the respective shares of their fathers, the brothers of the deceased.
(8) V Sanh. 34b.
(9) Deut. XXI, 16.
(10) Lit.. ‘inheritances
(11) Lit., ‘thou causest to fall’.

(12) Lit., ‘but from now’, Abaye assumed Rabbah to interpret the Baraitha in the sense that a distribution of shares of an inheritance takes place only when death occurred in the daytime.

(13) Surely, this is impossible.

(14) That lawsuits relating to matters of inheritance must be dealt with by the court in the daytime only; as is the case with other civil lawsuits. Cf. Jer. XXI, 12, Execute justice in the morning.

(15) Num. XXVII, 11.

(16) Num. XXVII, 1-11 dealing with the laws of inheritance.

(17) And not of a private nature which is the concern of individuals, judicial proceedings, therefore, with respect to an inheritance must conform to the procedure relating to other civil law cases.

(18) I.e., they did not come at the express bidding of the testator to act as witnesses. for in that case they would become unqualified to act as judges (Rashb.); p. 470 n. 4.

(19) And thus act as his witnesses.

(20) Lit., ‘execute judgment’. A quorum of three is the minimum required for a laycourt of law. By forming themselves into a court, they legally confirm the instructions of the testator, and by issuing their verdict prevent the heirs from any further litigation.

(21) Two, being less than the quorum required for the constitution of a court of law, can only act as witnesses.

(22) Lit., ‘they have not taught but’.

Talmud - Mas. Baba Bathra 114a

at night, however, even three [persons] may [only] write down [instructions] but are not [permitted] to constitute themselves into a court.[1] What is the reason? Because they have become witnesses,[2] and a witness may not act as a judge’.[3] — He said unto him: ‘Yes, I indeed mean the same’.[4]

It was stated: [With regard to symbolical] acquisition,[5] how long[6] may one withdraw?[7] — Rabbah said: So long as the session[8] is in progress. R. Joseph said: So long [only] as they are dealing with that subject.

R. Joseph said: Logical reasoning supports my view. For Rab Judah said:[9] Three [persons] who came to visit a sick man may, if they wish, [either] write down [his instructions with reference to the disposal of his estate, or], if they prefer it, give judgment.[10] Now, if it is assumed[11] [that the testator may withdraw] during the whole time the session is in progress, [how can they give judgment?[12] Surely it may he apprehended that he might withdraw![13] — R. Ashi said: Discussing this tradition in the presence of R. Kahana, [I argued:] Is this[14] right, then, according to R. Joseph? Surely [according to his view also], it may be apprehended that he[15] might withdraw![16] But what have you to say [in reply]?[17] That they[18] would he passing

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(1) Even on the following day.

(2) At night, when listening to the testator's instructions, they were unqualified to act as judges and have thus inevitably become witnesses. cf. 469, n. 14.

(3) Thus it has been proved that matters of inheritance, like other civil law cases, require a law court of three and may be heard in the day-time only.

(4) Lit., ‘I say so also’.

(5) Symbolical acquisition is one of the forms of binding a party or parties to an agreement or an arrangement it is effected by handing over a scarf or some similar object is the person whose word thus becomes legally confirmed. V. Halifin, v. glos. s. v.

(6) Lit., ‘until when’.

(7) And cancel or change the agreement.

(8) Of the court that dealt with the matter.

(9) Supra 113b.

(10) V. p. 469, n. 16 supra.

(11) Lit., ‘if it enters your mind’.

(12) Which has the power to make the testator's instructions legally and irrevocably binding at once.

(13) Before the session was over, the testator might change his mind, and thus annul all the work of the court.

(14) The statement of Rab Judah which R. Joseph quoted in support of his view.

(15) The testator.

(16) While the court was still dealing with the matter.

(17) According to R. Joseph.

(18) The members of the court.

Talmud - Mas. Baba Bathra 114b

from one subject to another![1] Here also[2] [it may he replied that they] stand up[3] and then sit down again.[4]

The law is in accordance with [the view] of R. Joseph in the case of Field,[5] Subject[6] and Half.[7]

A WOMAN [TRANSMITS HER ESTATE TO] HER SONS etc. For what [purpose is] this [statement] also required? Surely it has been taught [already] in an earlier clause [that] A MAN [INHERITS FROM] HIS MOTHER AND [FROM] HIS WIFE![8] — It teaches us[9] this: That [the transmission of the estate of] a woman [to] her son is [to be] in the same manner as [the transmission of the estate] of a woman [to] her husband. As [in the case of the transmission of the estate of a] wife [to] her husband, the husband is not heir to his wife in the grave,[10] so [in the case of the transmission of the estate of] a woman [to] her son, the son in the grave does not inherit from his mother to transmit [the inheritance] to [his] brothers on his father's side.[11]

R. Johanan said in the name of R. Judah son of R. Simeon: [It is] the word of the Torah [that] a father is heir to his son and [that] a woman is heir to her son, for it is said, tribes,[12] [which implies that] the tribe of the mother is compared to the tribe of the father; as [in the case of] the father's tribe a father is heir to his son, so [in the case of] the mother's tribe, a woman is heir to her son.

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(1) And thus prevent the testator from withdrawing his instructions, and thus nullifying their work.

(2) In adopting the view of Rabbah.

(3) After receiving instructions from the testator, thus breaking up the session, before proceeding to give judgment.

(4) To issue the verdict. The testator is thus prevented from withdrawing, since the session which had dealt with his case has terminated.

(5) When one of the heirs has a field adjoining the field that is to be divided (cf. supra 12b).

(6) ‘So long as they are dealing with the same subject’ (the case under discussion).

(7) The case where a testator expressed the wish that his estate be divided between his wife and his son. The widow, according to R. Joseph, is entitled to half the estate (cf. infra 143a).

(8) Since the earlier clause enunciated the laws that a son inherits from, and does not transmit to his mother, and that a husband also inherits from, and does not transmit to his wife, what need is there for the clause stating that ‘a woman transmits her estate to her son and to her husband, but does not inherit from them’, which, though in different words, is a mere repetition of the laws in the earlier clause?

(9) By the addition of the superfluous clause.

(10) A wife in the grave does not inherit from her father (whom she predeceased), to transmit the inheritance to her husband. Cf. supra 113a, ‘a husband does not receive as heir the prospective estate of his wife as he does that which was already in her possession.

(11) Brothers born not from the same mother, but from the same father only. As to the ‘mother's brothers’ in the same clause, this is repeated incidentally to the preceding two.

(12) Num. XXXVI, 9. Cf. ibid 8.

Talmud - Mas. Baba Bathra 115a

R. Johanan pointed out to R. Judah son of R. Simeon [the following objection: Have we not learnt]. A WOMAN [TRANSMITS HER ESTATE TO] HER SONS AND [TO] HER HUSBAND [BUT DOES NOT INHERIT FROM THEM]; AND MOTHER'S BROTHERS TRANSMIT [THEIR ESTATES TO THEIR NEPHEWS] BUT DO NOT INHERIT [FROM] THEM?[1] — He replied to him: As to our Mishnah, I do not know who is its author![2] But why did he not say[3] to him [that] it[4] [may represent the views of] R. Zechariah b. Hakkazzab who does not expound, tribes?[5] — Our Mishnah cannot be upheld as [representing the views of] R. Zechariah h. Hakkazzab, for it teaches, AND SISTERS'[6] SONS. And a Tanna taught[7] [that this implies] sisters'[6] sons [only], but not sisters'[6] daughters; and the question was asked,[8] 'In respect to what law?' And R. Shesheth answered, 'In respect of precedence'.[9] Now, if it were assumed that our Mishnah was [a representation of the views of] R. Zechariah b. Hakkazzab. [it could rightly have been objected]: Surely, he said, 'Both a son and a daughter [have] equal [rights] in [the inheritance of] a mother's estate'![10]

[As to] the Tanna of our [Mishnah], how are his views to be reconciled?[11] If he expounds, tribes, a woman also should he heir to her son;[12] if he does not, whence does he [deduce the law] that a son takes precedence over a daughter in [inheriting] his mother's property?[13] — He does, in fact,[14] expound, tribes,[15] but here,[16] [the case] is different, for Scripture says, And every daughter, that possesseth an inheritance[17] [from which it is to he inferred that] she may inherit from,[18] but not transmit[19] to [her mother].[20]

MISHNAH. THE ORDER OF SUCCESSION[21] IS AS FOLLOWS: IF A MAN DIE, AND HAVE NO SON, THEN YE SHALL CAUSE HIS INHERITANCE TO PASS UNTO HIS DAUGHTER.[22] A SON TAKES PRECEDENCE OVER A DAUGHTER. ALL LINEAL DESCENDANTS[23] OF A SON[24] TAKE PRECEDENCE OVER A DAUGHTER.[25] A DAUGHTER TAKES PRECEDENCE OVER THE BROTHERS.[26] LINEAL DESCENDANTS[27] OF A DAUGHTER [ALSO] TAKE PRECEDENCE OVER THE BROTHERS. BROTHERS TAKE PRECEDENCE OVER THE BROTHERS OF THE FATHER.[25] LINEAL DESCENDANTS[28] OF BROTHERS [ALSO] TAKE PRECEDENCE OVER THE BROTHERS OF THE FATHER.[27] THIS IS THE GENERAL RULE: THE LINEAL DESCENDANTS OF ANY ONE WITH A PRIORITY TO SUCCESSION[29] TAKE PRECEDENCE. A FATHER TAKES PRECEDENCE OVER ALL HIS DESCENDANTS.[30]

GEMARA. Our Rabbis taught: [It is written,] son,[31] [from which] one only learns that[32] a son [has a prior claim to heirship]; whence [may it he deduced that] a son of the son, or a daughter[33] of the son, or a son of the daughter of the son [has the same rights]? — It is expressly stated, En lo[34] [which is taken to imply], 'hold an enquiry[35] concerning him'.[36] [It is written] daughter,[37] [from which] one only learns that[32] a daughter [is next in succession to a son]; whence [may it he deduced that] a daughter of the daughter. and the son of a daughter and a daughter of the son of the daughter [have also the same rights]? — It is expressly stated, En lo[34] [which is taken to imply], 'hold an enquiry[35] concerning him'[36]

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(1) Which clearly shows that a woman cannot be heir to her son.

(2) It is unreliable.

(3) Lit., 'and let him say'.

(4) Our Mishnah,

(5) Supra 111a.

(6) Some read, 'a sister's'.

(7) Supra 113a.

(8) Supra 113b.

(9) If there are nephews and nieces, the former, not the latter, are the heirs of their uncles.

(10) Since the children of a sister become heirs to their uncles, through their mother's right of inheritance, nephews and nieces (i.e., the sons and daughters of the uncles' sister) should have equal rights in their uncles' estates just as they have them in the case of their mother's estate. Our Mishnah which gives nephews precedence over nieces cannot, therefore, represent the views of R. Zechariah.

(11) Lit., ‘from whatever (be) your opinion’. i.e., whatever view be adopted there is a difficulty.

(12) As has been deduced from tribes, supra 114b, end.

(13) This law also has been deduced, (supra 111a, end), from the expression tribes,

(14) Lit., ‘always’.

(15) Hence his view that a son takes precedence (V. n. 3, supra).

(16) The proposed deduction from the expression, tribes, that a mother is heir to her son,

(17) Num. XXXVI, 8, and this verse deals with a daughter who is heir to her mother, as explained, supra 111a.

(18) יורשת yoresheth, is the expression used in the Biblical verse.

(19) מורשת Moresheth,

(20) And as a daughter does not transmit her estate to her mother, so also a son; hence the law in our Mishnah that a mother is not heir to her son.

(21) Lit., ‘inheritances’.

(22) Num. XXVII, 8.

(23) Lit., ‘those who came out of his loins’.

(24) His sons, grandsons, or any male descendants of these, no matter how many generations removed from the deceased.

(25) Of the deceased.

(26) (V. previous note) and also over his father,

(27) Lit., ‘those who came out of her loins’.

(28) Cf. previous note and n. 13.

(29) If he predeceased them.

(30) I.e., the brothers and sisters of his deceased son, and their descendants. He has, however, no claim at all if his deceased son is survived by his own sons or daughters or any of their lineal descendants.

(31) Num. XXVII. 8.

(32) Lit., ‘I only have’.

(33) Where there is no son, a son of the son, or a son of the daughter of the son,’

(34) Ibid. אין לו.

(35) Ayayn examine’, ‘search’, ‘investigate’. ‘Aleph (א) and ‘Ayin (ע) are interchangeable.

(36) The deceased; i.e., inquire whether he has been survived by descendants or any descendants of his descendants who might claim to succeed to his estate.

(37) Ibid.

Talmud - Mas. Baba Bathra 115b

. In what manner [is] this [enquiry carried out]? — [In a manner that] the estate may ultimately find its way[1] to Reuben.[2] Let him say. ‘to Jacob’![3] — Abaye replied: We have it by tradition that no tribe would become extinct.

R. Huna said in the name of Rab: Anyone, even a prince in Israel, who says that a daughter is to inherit with the daughter of the son, must not he obeyed; for such [a ruling] is only the practice of the Sadducees. As it was taught: On the twenty-fourth of Tebeth we returned to our [own] law;[4] for the Sadducees having maintained [that] a daughter inherited with the daughter of the son, R. Johanan h. Zakkai joined issue with them. He said to them: ‘Fools, whence do you derive this?’ And there was no one who could reply a word, except one old man who prated at him and said: ‘If the daughter of his son, who succeeds[5] [to an inheritance] by virtue of his son's right, is heir to him, how much more so his daughter who derives her right from himself!’ He[6] read for him this verse, These are the sons of Seir the Horite, the inhabitants of the land: Lotan and Shobal and Zibeon and Anah,[7] and [lower down] it is written, And these are the children of Zibeon: Aiah and Anah![8] — [But this] teaches that Zibeon had intercourse with his mother and begat Anah.[9] Is it not possible that there were two [called] Anah? — Rabbah said: I would say something which King Shapur[10] [could] not have said;

— and who is he? — Samuel; others say [that it was] R. Papa [who] said: I would say something which King Shapur [could] not have said — and who is he? — Raba;[11] ‘Scripture says: This is Anah, [implying]: The same Anah that was [mentioned] before’ — He said unto him: O, master, do you dismiss me with such [a feeble reply]?[12] — He said to him: Fool,

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(1) Lit., ‘goes on groping’.

(2) The first ancestor of the tribe. As inquiries have to be made for descendants so, if no surviving descendants can be traced, similar inquiries have to be instituted for paternal ancestors and their rightful heirs. If, for example, the deceased has neither issue, nor a surviving father, brother, nephew (brother's son), niece, sister, nephew (sister's son); and none of the descendants of these is alive. And if inquiry has also established that there exists no surviving father's father, nor father's brother, father's nephew (father's brother's son), father's sister, nor nephew (father's sister's son), further inquiries must be carried on in descending order. Once it has been definitely established that none of the line survives, enquiries are instituted in an ascending order, on the paternal side, and are carried on from father (including their heirs, as in the case of the descending line), until the first ancestor of the tribe is reached. There is no need to go any higher since if any single member of the tribe survived his relationship to the deceased could be established.

(3) Why only as far as Reuben?

(4) The Sadducees recognised that the Rabbis were right, and the latter, therefore, were again to administer the law in accordance with their views.

(5) Lit., ‘comes’.

(6) R. Johanan.

(7) Gen. XXXVI, 20.

(8) Ibid. v. 24. How could Anah be a son and a brother to Zibeon?

(9) Anah was consequently his son and, being a son of his mother, also his brother. Anah, though a grandchild of Seir, is described as of the inhabitants of the land (Gen. XXXVI, 20) which proves that grandchildren have the same right of inheritance as children.

(10) Shapur I, a king of Persia, was known for his friendship with Samuel, and the title was sometimes used as a surname of the latter. Raba also was sometimes so surnamed on account of his friendship with Shapur II.

(11) [So Ms. M.; cur. edd., Rabbah!]

(12) My point is that a son'S daughter has no more rights than a daughter, and you bring an instance from the law of a son's son which the Sadducees do not dispute.

Talmud - Mas. Baba Bathra 116a

shall not our perfect Torah be as [convincing] as your idle talk![1] [Your deduction is fallacious for] the reason[2] why a son's daughter [has a right of inheritance is] because her claim is valid where there are brothers,[3] but can the same he said of the [deceased's] daughter whose right [of inheritance] is impaired where there are brothers?[4] Thus they were defeated. And that day was declared a festive day.[5]

And they said: ‘They that are escaped must be as an inheritance for Benjamin[2] , that a tribe be not blotted out from Israel’,[6] R. Isaac of the school of R. Ammi said: [This] teaches that a stipulation was made concerning the tribe of Benjamin that a son's daughter is not to be heir [together] with [his] brothers.[7] R. Johanan said in the name of R. Simeon b. Yohai: The Holy One, blessed be He, is filled with anger against any one who does not leave a son to he his heir. [For] here it is written, And you shall cause his inheritance to pass,[8] and there it is written, That day is a day of wrath.[9]

Such as have no changes, and fear not God;[10] R. Johanan and R. Joshua b. Levi [are in dispute as to the exposition of this text]. One says: Whosoever does not leave behind a son.[11] And the other says: Whosoever does not leave a disciple.[11] It may he proved [that it was] R. Johanan who said ‘a disciple’; for R. Johanan said:[12] This is the bone of my tenth son.[13] Thus it is proved that it was R. Johanan who said ‘a disciple’. But since R. Johanan said, ‘a disciple’, R. Joshua b. Levi [must have] said ‘a son’! [Is it not a fact,] however, that R. Joshua b. Levi did not go to a house of mourning unless it was the house of him who died without leaving any sons, for it is written, But weep sore for him that goeth away,[14] and Rab Judah said in the name of Rab [that this means], ‘he who goes [from the world] without [leaving] male children’?[15] — But [it must be] R. Joshua b. Levi who said, ‘a disciple’. Since, however, it is R. Joshua b. Levi who said ‘a disciple’, R. Johanan must have said, ‘a son’, a contradiction [then arises again[16] between one statement] of R. Johanan and another statement of his?[17] — There is no contradiction; one [statement] is his own;[18] the other, his teacher's.

(Mnemonic[19] Hadad, Poverty, Sage.)

R. Phinehas b. Hama gave the following exposition: With reference to the Scriptural text, And when Hadad heard in Egypt that David slept with his fathers, and that Joab the captain of the host was dead,[20] why was [the expression of] ‘sleeping’ used in the case of David, and [that of] ‘death’ in the case of Joab? ‘Sleeping’ was used in the case of David because he left a son; ‘Death’ was used in the case of Joab because he left no son. Did not Joab leave a son? Surely, it is written, Of the sons of Joab, Obadiah the son of Jehiel![21] — But, [this is the reply,] with David who left a son like himself [the expression of] ‘sleeping’ was used; with Joab who did not leave a son like himself, ‘death’ was used.

R. Phinehas b. Hama gave the following exposition: Poverty in one's home is worse than fifty plagues, for it is said, Have Pity upon me, have pity upon me, O ye my friends; for the hand[22] of God hath touched me,[23] and his friends answered him, Take heed, regard not inquiry; for this hast thou chosen rather than poverty.[24]

R. Phinehas h. Hama gave the following exposition: Whosoever has a sick person in his house should go to a Sage[25] who will invoke [heavenly] mercy for him; as it is said: The wrath of a king[26] is as messengers of death,’ but a wise man will pacify it.[27]

THIS IS THE GENERAL RULE: THE LINEAL DESCENDANTS OF ANY ONE WITH A PRIORITY TO SUCCESSION TAKE PRECEDENCE. A FATHER TAKES PRECEDENCE OVER ALL HIS DESCENDANTS. Rami b. Hama inquired: [With regard to the claims of] a father of the father[28] and a brother of the father,[28] as, for example, [the claims of] Abraham and Ishmael upon the possessions of Esau[29] , who takes precedence? — Raba said: Come and hear: A FATHER TAKES PRECEDENCE OVER ALL HIS DESCENDANTS.[30] And Rami b. Hama?[31] —

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(1) It was not intended, nor is there any need to dismiss you with what you call ‘a feeble reply’. The purpose of the argument was that Anah was not the name of a male but that of a female (cf. Gen, XXXVI, 14), who was a daughter of Zibeon and a grand-daughter of Seir (cf. ibid, vv. 24 and 20). Since she was reckoned among the inhabitants of the land, i,e., one of those who inherited from Seir, sons’ daughters must, consequently, have equal rights of succession in the estate of their grandfather. with his sons. Hence, ‘your deduction is fallacious for the reason etc’ (v. Tosaf. s.v. מלצד and Bah's glosses).

(2) Though the law is not Specifically enunciated in the Torah it may be inferred by logical deduction,

(3) Of her father.

(4) As she is not entitled to the inheritance where her brothers are alive, so she is not entitled to it when a brother is survived by a daughter.

(5) [In Megillath Ta'anith the date assigned for the celebration of this event is 24th Ab. For a full discussion of this discrepancy. v. Zeitlin, S., JQR 1919, 278ff. The attitude of the Sadducees in this controversy was prompted according to Geiger, אוצר נחמד III, I ff by their anxiety to defend against the attacks of the Pharisees the validity of Herodian succession to the Hashmonean throne through Mariamne, the daughter of Alexander and granddaughter of Hyrcanus; v. HUCA VII-VIII. 278ff.]

(6) Judges XXI, 17.

(7) In the estate of their father; but the surviving brothers are to inherit all the estate, including the share of their dead brother, though he is survived by a daughter. This provision had to be made at a time when only six hundred men of the tribe of Benjamin survived (Judges XX. 47) all of whom had married wives from other tribes (Ibid. vv. 14, 23). The entire possessions of the tribe having been divided and distributed between six hundred men only, the share of each individual was considerable, being a six hundredth part of all the property of the tribe. Should any daughter have inherited such a share, and then have married a member of another tribe, a large portion of the lands of the tribe would have passed over to those of another tribe. Hence the provision that a son's daughter is to have no share in the inheritance. The law enjoining a daughter to marry within the tribe of her father is held to have been only a temporary measure and not binding upon subsequent generations; v. infra 120a.

(8) Num. XXVII, 8, והעברתם we-ha'abartem.

(9) Zeph. I, 15. עברה ‘ebrah. The root of this word, עבר is identical with that of והעברתם

(10) Ps. LV, 20.

(11) Changes, חליפות is rendered ‘a son (or a pupil) who takes his father's (or teacher's) place’.

(12) Ber, 5b.

(13) He carried with him a ‘bone’, which commentators understand to be a tooth, of his tenth dead son when going to comfort those who mourned the loss of a child. Now, if R. Johanan were of the opinion that Ps. LV, 20, has reference to a son, he would not have carried about that which stigmatised him as one who is not God-fearing.

(14) Jer. XXII, 10.

(15) If, then, R. Joshua said that such a person was not God-fearing, would he have gone to visit his house of mourning?

(16) V. n. 6.

(17) Lit., ‘on that of R. Johanan’.

(18) His own opinion is in agreement with that of R. Joshua b. Levi.

(19) The mnemonic is an aid to the recollection of the three sayings of R. phinehas b. Hama that follow.

(20) I Kings XI, 21.

(21) Ezra VIII, 9.

(22) This implies fifty plagues Ten plagues were inflicted on the Egyptians with one finger (V., Ex. VIII, 15). Job who was touched with five fingers (hand) must have been inflicted with fifty plagues

(23) Job XIX, 21.

(24) Ibid. XXXVI, 21. This, in the text, is taken to refer to Job's infliction, implying that poverty is even worse than all his fifty plagues.

(25) Lit., ‘wise (man),’ a scholar and saint.

(26) God's visitation.

(27) Prov. XVI, 14.

(28) Of the deceased.

(29) Abraham was the father, and Ishmael the brother of Isaac the father of Esau.

(30) He takes, therefore, precedence over a brother of the father of the deceased who is his descendant.

(31) Did he not know the law of our Mishnah?

Talmud - Mas. Baba Bathra 116b

In[1] his ingenuity he did not consider it[2] carefully.[3]

Rami b. Hama inquired: [Regarding the claims of] the father of his[4] father and his[4] brother as, for example. [the claims of] Abraham and Jacob upon the possessions of Esau, who takes precedence? — Raba said: Come and hear! A FATHER TAKES PRECEDENCE OVER ALL HIS DESCENDANTS.[5] And Rami h. Hama?[6] — [A father might take precedence over] HIS DESCENDANTS but not [necessarily over] the descendants of his son.[7] Logical reasoning [leads to] the same [conclusion]; for it is stated, THIS IS THE GENERAL RULE: THE LINEAL DESCENDANTS OF ANY ONE WITH A PRIORITY TO SUCCESSION TAKE PRECEDENCE. If, [then,] Isaac[8] had been [alive], Isaac would have taken precedence.[9] now, also, that Isaac [himself] is not [alive], Jacob[10] [should] take precedence.

MISHNAH. THE DAUGHTERS OF ZELOPHEHAD[11] TOOK THREE SHARES IN THE INHERITANCE [OF CANAAN]:[12] THE SHARE OF THEIR FATHER WHO WAS OF THOSE

WHO CAME OUT OF EGYPT,[13] AND HIS SHARE AMONG HIS BROTHERS IN THE POSSESSIONS OF HEPHER,[14] [WHICH CONSISTED OF TWO], SINCE HE[15] WAS A Flrstborn SON [WHO] TAKES TWO SHARES.[16] [

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(1) Lit., ‘on account of’, ‘by way of’.

(2) His enquiry.

(3) He was thinking at the time of the next question.

(4) Of the deceased.

(5) Hence the deceased father's father takes precedence over the deceased brother who is also a descendant of his.

(6) V. supra n. 3.

(7) Hence Rami's inquiry.

(8) The father of the deceased.

(9) Being the nearest heir.

(10) The brother of the departed, being a lineal descendant of Isaac.

(11) V. Num. XXVII, 1\7.

(12) After Joshua's conquest.

(13) Canaan having been divided according to the number of those who came out of Egypt. V. infra.

(14) Zelophehad's father who also was among those who came out of Egypt.

(15) Zelophehad.

(16) Cf. Deut. XXI, 17.

Talmud - Mas. Baba Bathra 117a

GEMARA. Our Mishnah thus agrees[1] with [the opinion of] him who said [that] the land [of Canaan] was divided according ‘to those who came out of Egypt.[2] For it was taught: R. Josiah said: The land [of Canaan] was divided according to those who came out’ of Egypt,[2] for it is said, according to the names of the tribes of their fathers[3] they shall inherit.[4] To what, however, may [the verse], Unto these[5] the land shall be divided for an inheritance,[6] he applied? — Unto these, [means] ‘like these’,[7] excluding the minors.[8] R. Jonathan said: The land was divided according to those who entered the land,[9] for it is said. Unto these[5] the land shall be divided for an inheritance.[6] To what, however, may, according to the tales of the tribes of their fathers[3] they shall inherit, he applied? — [To the following:] This [manner of] inheritance is different from all [other modes of] inheritance[10] in the world; for, in [the case of] all [other] successions in the world, the living are heirs to the dead but, in this case, the dead were heirs to the living.[11] Rabbi said: I will give you an example to which this thing may be compared. To two brothers, priests, who were in one town. One had one son and the other had two sons, and these went to the threshing-floor.[12] He who has one son receives one portion, and the one who has two sons receives two portions. They[13] [then] return [with the three portions] to their father,[14] and re-divide [the total] in equal shares. R. Simeon b. Eleazar said:

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(1) Lit., ‘we learnt (in our Mishnah)’.

(2) According to the number of men that left Egypt and not according to the number that entered Canaan. If. e . g . . one of those who came out of Egypt had five sons, while another had only one son, and these six sons entered Canaan, each of the five received only a fifth of his father's share while the one received his father's full share.

(3) Those who came out of Egypt.

(4) Num, XXVI. 55.

(5) Implying, those who entered the land.

(6) Ibid. 53.

(7) Referring to those that were numbered (ibid. 51), who were twenty years of age and upward.

(8) Under twenty. Only those who were at least twenty years of age at the Exodus were included in the number of those to whom the land was divided. Any one under twenty, when leaving Egypt, could only take the share of his father in part or in full according to whether he had brothers or not.

(9) Not according to the number of those who came out of Egypt. If, e . g . . two men came out of Egypt, and five sons of the one and one son of the other entered Canaan, the former received five shares the latter only one.

(10) Lit 'inheritances'.

(11) Those who entered Canaan received shares according to their number, but the total of the shares was again divided in accordance with the number of their fathers who came out of Egypt. If two brothers, for example. came out of Egypt and died, and five sons of the one, and one son of the other entered Canaan, every son received a share, Six shares being allotted to the six sons. All these shares were then transferred to their fathers whose number was two (the dead being heirs to the living), and divided into two shares, each, of course, representing three of the original shares. The five sons thus received between them three of the original shares only, while the one son received for himself alone also three such shares.

(12) To collect their priestly dues.

(13) The two brothers.

(14) Whose estate has not yet been divided between them, in which case all acquisitions are pooled in the estate (cf. infra 137b). And since the three shares thus revert to their father, they inherit from him in equal shares.

Talmud - Mas. Baba Bathra 117b

The land was divided according to these[1] and according to those,[2] in order to carry out [the injunctions in] those two verses.[3] How [was] this effected? — He [who] was of those who came out of Egypt[4] received his share among those who came out of Egypt.[4] He [who] was of those who entered the land,[5] received his share among those who entered the land.[2] He who belonged to both categories,[6] received his share among both categories.[6]

The share of the spies[7] was taken by Joshua and Caleb. The murmurers[8] and the company of Korah[9] had no share in the land. Their sons,[10] [however.] received [shares] by virtue of the rights of the fathers of their fathers and the rights of the fathers[11] of their mothers.[12]

What proof is there that, according to the names of the tribes of their fathers[13] was written with [reference to] those who came out of Egypt. perhaps it[14] was said [with reference] to the tribes?[15] — Because it is written, And I will give it you for a heritage; I am the Lord,[16] [which means]: 'It is your inheritance from your fathers'; and this was addressed to those who [subsequently] came out of Egypt.

(Mnemonic:[17] To the more, Zelophehad, and Joseph, multiplied, Manasseh, shall be enumerated.)

R. Papa said to Abaye: According to him who said that the land was divided in accordance with [the number of] those who came Out of Egypt, it is correct for Scripture to say, To the more thou shalt give the more inheritance, and to the fewer thou shalt give the less inheritance,[18]

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(1) Those who came out of Egypt.

(2) Who entered Canaan.

(3) Num. XXVI, 53 and 55.

(4) But not among those who entered Canaan. If, e.g., he was twenty years of age when the Exodus took place, and he died before Canaan was reached, while his sons born on the way, in the wilderness, were still minors when Canaan was entered. In such a case the sons, as his heirs, divide between themselves the share to which he is entitled as one of those who were of age when the departure from Egypt took place.

(5) And not of those who came out of Egypt. In the case, e.g., when a father died in Egypt, and his sons, who were minors at the Exodus, were (twenty years) of age when Canaan was entered; or in the case when one left Egypt as a minor and died on the way, while his sons who were born in the wilderness were of age when Canaan was entered; in either of these cases every one of the sons, since he entered Canaan when of age, received a share in the inheritance of the land among all the others who received their shares by virtue of their entry into the promised land.

(6) Lit., 'from here and from here'. A case belonging to those who came out of Egypt as well as to those who entered Canaan. The case, e.g., of a father who was of age when the Exodus took place, dying in the wilderness, and his sons, who were born in the wilderness, entering Canaan when of age. In such a case, the sons take portions in the land by virtue of their own rights. since they were among those who entered Canaan, and also the portion to which their father is entitled as one who was among those who came out of Egypt.

(7) V. Num. XIII.

(8) V. ibid. XIV.

(9) V. ibid. XVI.

(10) I.e., of the spies, the murmurers and the company of Korah,

(11) Who had no sons hut daughters.

(12) Provided the grandfathers were twenty at the Exodus.

(13) Ibid. XXVI, 55.

(14) The expression, tribes of their fathers.

(15) That the land was to he divided into twelve portions corresponding to the number of tribes,

(16) Ex. VI, 8.

(17) An aid to the recollection of the questions or inquiries of R. Papa that follow; in which each of these constitutes a key-word.

(18) Num. XXVI, 54. Since the land was not to be divided in accordance with the number of those that entered, it was necessary to state that the tribe that had a larger number at the Exodus was to receive a larger portion, though at the time of the division its numbers were reduced; and, similarly, in the case of a smaller tribe whose numbers had increased.

Talmud - Mas. Baba Bathra 118a

but according to him who said [that the division was made] in accordance with [the number of] those that entered the land, what [purpose does the instruction] ‘To the more you shall give the more inheritance’ [serve]?[1] — This is a difficulty.

R. Papa further said to Abaye: According to him who said [that the land was divided] in accordance with [the number of] those who came out of Egypt, one can well understand why the daughters of Zelophehad’ complained,[2] but according to him who said [that the division was made] in accordance with [the number of] those that entered the land, why did they complain? Surely he was not there[3] that he should [he entitled to] receive [a share]![4] — But [their complaint was with reference] to the reversion[5] to, and [their right] of taking [a share] in the possessions of Hepher.[6]

According to him who said that [the land was divided] in accordance with [the number of] those that come out of Egypt, one can well understand why the sons of Joseph complained; as it is written, And the children of Joseph spoke;[7] but according to him who said [that the division was made] in accordance with [the number of] those that entered the land, why did they complain? Surely all of them had received [their respective shares]! — [They complained] on account of the many minors[8] they had [in their tribe].[9]

Abaye said: From this it is to be inferred [that there was not [even] one who did not receive [a share in the land]. For, should it enter your mind [to say that] there was one who did not receive [a share], would he not have complained?[10] And if it be said that Scripture recorded [the case of him only] who complained and benefited, but did not record [the case of anyone] who complained and did not benefit, [it may be retorted]: The children of Joseph, surely, complained and did not benefit, and [yet] Scripture recorded their case. There,[11] [it may be replied, Scripture desired] to impart to us good advice, [namely,] that a person should he on his guard against an evil eye. And this indeed is [the purpose] of what Joshua said unto them; as it is written, And Joshua said unto them: ‘If thou be a great people, get thee up to the forest’.[12] [It is this that] he said to them: ‘Go and hide yourselves in the forests so that an evil eye may have no power over you’.

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(1) If a share was to be given to each individual who entered the land, it clearly follows that the more the numbers the larger the inheritance of a tribe and vice versa!

(2) Zelophehad was among those who took part in the Exodus and they, therefore, claimed his share,

(3) Zelophehad was dead when Canaan was entered.

(4) Even if he had a son he would not necessarily have been entitled to his share as he might have been a minor at the time of the entry.

(5) Of the inheritance of Zelophehad's brothers to that of their father Hepher. (V. supra p. 480. n. II.)

(6) The inheritance having reverted to Hepher, all his sons, or (if dead) his grandsons would be entitled to have equal shares in it. If Zelophehad had a son he would have received an equal share with his father's brothers, plus the additional share of the firstborn. Since Zelophehad had no son, his daughters rightly claimed those shares.

(7) Josh. XVII, 14. They were at that time numerous and required large tracts of land, but what they actually received was too small for them, since it corresponded to the small number of their ancestors who lived at the time of the Exodus.

(8) Minors under twenty at the time of the entry into Canaan were not included in the number of those who received shares in the land.

(9) [Cf. Gen. XLIX, 22: Joseph is a fruitful vine (R. Gersh.)]

(10) And since Scripture does not record any such complaints, other than those of the daughters of Zelophehad and the children of Joseph, it must be concluded that, with these exceptions, all received their shares and had, therefore, no cause for complaint.

(11) The case of the children of Joseph.

(12) Josh.XVII, 15.

Talmud - Mas. Baba Bathra 118b

They said unto him, ‘We are of the seed of Joseph over whom the evil eye has no power’. as it is written, Joseph is a fruitful vine, a fruitful vine by a fountain,[1] and R. Abbahu said: Do not render,[2] ‘by the fountain,’[3] but ‘those who transcend the eye’.[3] R. Jose son of R. Hanina said, [this[4] is inferred] from the following [verse]: And let them grow like fishes into a multitude in the midst of the earth.[5] [This means that] as the fishes in the sea are covered by the waters and no eye has any power over them, so, in the case of the seed of Joseph. no [evil] eye has [any] power over them.

‘The share of the spies was taken by Joshua and Caleb’.[6] Whence is this[7] [derived]? — ‘Ulla replied: [From] the Scriptural verse which states, But Joshua the son of Nun and Caleb the son of Jephunneh remained alive of those men[8] . What, [it may be asked, is meant by the expression.] ‘remained alive’? If it means [that] they actually remained alive, surely another verse is already on record, [stating.] And there was not left a man of them, save Caleb the son of Jephunneh, and Joshua the son of Nun.[9] What, then [is meant by] ‘remained alive’? They[10] lived[11] on[12] their[13] portion.

‘The murmurers and the company of Korah had no share in the land’.[14] But has it not been taught [elsewhere]. ‘Joshua and Caleb took the shares of the spies, of the murmurers and of the company of Korah’? — [This is] no difficulty: [one] Master compares the murmurers to the spies[15] [while] the other] Master does not compare the murmurers to the spies. For it was taught: Our father died in the wilderness.[16] refers to Zelophehad; and he was not among the company of them,[16] refers to the company of the spies; that gathered themselves together against the Lord,[16] refers to the murmurers; in the company of Korah,[16] bears the obvious meaning. [Thus, one] Master compares the murmurers to the spies[17] and [the other] Master does not.[18]

R. Papa further said to Abaye: But according to him who compares the murmurers to the spies, have Joshua and Caleb had [their shares] multiplied so [many times] that they inherited all the land of Israel?[19] — He said to him: We mean the murmurers in the company of Korah.[20]

R. Papa further said to Abaye: According to him who said that the land was divided in accordance with [the number of] those who came out of Egypt, it is correct for Scripture to state, And there fell tell parts to Manasseh.[21] [because] the six [parts] for [the] six houses of their fathers[22] and the four [parts] of these[23] are ten; but according to him who said that [the land was divided] in accordance with [the number of] those who entered the land. [the number of the Parts] would only have been eight. [since] six [parts] for the six fathers’ houses and two[24] [parts] of theirs are [only] eight! — And according to your reasoning were there [not] nine[25] [parts only] even according to him who said [that the division was] in accordance with [the number of] those who came out of Egypt? All, however, you can say in reply[26] is [that] they had [also a share of] one brother of [their] father, here[27] [then] also, [it may be said that] they had [the shares of] two brothers of [their] father. For it was taught: Thou shalt surely give them a [possession of an inheritance],[28] refers to[29] the inheritance of their father; among their father's brethren,[28] refers to[29] the inheritance of their father's father; and thou shalt cause the inheritance of their father to pass unto them,[28] refers to[29] the portion of the birthright.[30] R. Eliezer b. Jacob said: They also took the share of their father's brother.[31] for it is said, Thou shalt surely give.[32] But according to him who said [that] they had two father's brothers?[33] — That[34] is deduced from, a possession of an inheritance.[35]

R. Papa further said to Abaye: Whom[36] does Scripture enumerate?[37] If children are enumerated, there were [surely] more [than ten];[38] if fathers’ houses are enumerated. [these] were [only] six![39]

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(1) Gen.XLIX, 22.

(2) Lit., ‘read’.

(3) עין signifies both ‘eye’ and ‘fountain’, and עלי עין may, therefore, be rendered, ‘by the fountain’ (as E.V.) or, ‘above the eye’. independent, or Immune from the power of the evil eye.

(4) That the descendants of Joseph are not to fear the evil eye.

(5) Gen. XLVIII, 16.

(6) Supra 117b.

(7) Lit., ‘these words’.

(8) Num. XIV, 38.

(9) lbid. XXVI, 25. Two verses should not be required for the recording of one and the same fact.

(10) Joshua and Caleb.

(11) חיו מן האנשים ההם may be rendered. ‘remained alive of those men’ as well as, ‘lived from among these men’.

(12) Lit., ‘with’.

(13) The spies’.

(14) Supra 117b.

(15) As the spies had a share in the land so had the murmurers.

(16) Num. XXVII, 3.

(17) Since they were both referred to in the same verse.

(18) Maintaining that the adjectival clause, that gathered themselves together against the Lord, qualifies the previous word and has no reference to the murmurers.

(19) The shares of the murmurers must have extended over all the land. Cf. Num. XIV, 2, And all the children of Israel murmured etc.

(20) Cf. Num. XVII, 6. By a comparison of assembled בהקהל, (ibid. v. 7) with assembled ויקהל in Num. XVI, 19, ‘And Korah assembled’. [The murmurers are also taken to belong to the company of Korah apart from the two hundred and fifty princes of the assembly (v. Strashun, S. Glosses. a.l.).]

(21) Josh. XVII, 5.

(22) Mentioned earlier in the text; v. Jos. XVII. 2.

(23) The daughters of Zelophehad who received four shares: two shares in the lands of Hepher, because their father Zelophehad (Hepher's son) was his firstborn; another share on behalf of Zelophehad himself who was one of those who left Egypt, and consequently among those to whom a share was allotted; and a fourth share which is to be explained in the Gemara, infra.

(24) The two portions to which their father Zelophehad was entitled as the firstborn son of Hepher. Not being one of those who entered the land of Canaan he could not be entitled to a share in the land on his own account.

(25) V. p. 485. n. 14.

(26) Lit., ‘what have you to say?’

(27) In the case of him who said that the division was in accordance with those who entered.’
(28) Num. XXVII, 7.
(29) Lit., ‘this is’.
(30) Zelophehad having been a firstborn son. The expression, and thou shalt cause to pass, והעברת that occurs here is also used in Ex. XIII, 12, with reference to firstlings.
(31) Who died without issue.
(32) Ibid. נתן תתן lit., ‘to give thou shalt give’, implying the giving of two shares: Their father's and their father's brother's.
(33) Whence does he infer two brother's shares?
(34) That they received the shares of two father's brothers.
(35) Ibid. Scripture could have omitted a possession of, by writing only, Thou shalt surely give then an inheritance etc.
(36) Lit., ‘what’.
(37) In stating that the tribe of Manasseh had ten parts.
(38) Not only had Zelophehad daughters but his brothers also must have had descendants.
(39) The daughters of Zelophehad should have been included in the father's house of Hepher as the sons or daughters of the brothers of Zelophehad were included in their fathers’ houses.

Talmud - Mas. Baba Bathra 119a

Fathers’ houses are, in fact, enumerated. but[1] [Scripture] had taught us that the daughters of Zelophehad had [also] taken the portion of the birthright. Consequently,[2] the land of Israel was [regarded even before the conquest, as if it had already been] in the possession of Israel.[3]

The Master stated: ‘Their sons received [shares] by virtue of the rights of the fathers of their fathers and the rights of the fathers of their mothers’.[4] Was it not taught [elsewhere], ‘by virtue of their own rights’? — [This is] no difficulty. That[5] is in agreement with him who said [that the division was] in accordance with [the number of] those who came out of Egypt; this[6] is in agreement with him who said [that the division was] in accordance with [the number of] those who entered the land. If you like you may say: Both statements[7] [are in agreement with the view that the division was] in accordance with [the number of] those who entered the land and [yet] there is no difficulty. The one[6] [deals with the case of him] who was twenty years of age;[8] the other,[5] with the case of him who was not [yet] twenty years of age.

SINCE HE WAS A FIRSTBORN SON [WHO] TAKES TWO SHARES. But why?[9] [Surely the estates of Hepher] were [only] prospective, and a firstborn son is not [entitled] to take [a double share] in the prospective [property of his father] as in that which is in [his father's] possession [at the time of death]! — Rab Judah said in the name of Samuel: [The double share was] in tent pins.[10]

Rabbah raised an objection: [It has been taught that] R. Judah said, ‘the daughters of Zelophehad took four portions, for it is said, and there fell ten parts to Manasseh!’[11] — But, said Rabbah, the land of Israel [was regarded even before the conquest as] in [actual] possession [of those who came out of Egypt].[12]

An objection was raised: R. Hidka said: ‘Simeon of Shikmona was my companion among the disciples of R. Akiba. And thus did R. Simeon of Shikmona say: Moses our Master knew that the daughters of Zelophehad were to he heiresses, but he did not know whether or not they were to take the portion of the birthright — And it was fitting that the [Scriptural] section of the laws of succession should have been written through Moses, but the daughters of Zelophehad merited it. and it was written through them.[13] Moses, furthermore, knew that the man who gathered sticks [on the Sabbath day][14] was to he put to death, for it is said, Everyone that profaneth it shall surely be put to death,[15] but he did not know by which [kind of] death he was to die. And it was fitting that the section of the man who gathered sticks should have been written through Moses, only the gatherer had brought guilt upon himself and it was written through him. This teaches you

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(1) By enumerating also the daughters of Zelophehad.

(2) Since they were given the double portion of the first-born.

(3) A firstborn son takes a double portion of that only which is in his father's actual possession at the time of his death, not from that to which he may become entitled after his death.

(4) Supra 117b.

(5) The Baraitha stating, ‘by virtue of their grandparents’.

(6) The other Baraitha stating ‘by virtue of their own rights.’

(7) Lit., ‘this and that’.

(8) When Israel entered Canaan.

(9) Why should he he entitled to two shares? (12) When he died the estates were only due to become his, but could not pass into his possession before Canaan was actually entered.

(10) I.e., in their grandfather's movable property, which, like the tent pins, was in his possession before he entered Canaan and while still in the wilderness. Of his landed property, how-ever, the daughters of Zelophehad did not take a double share, Our Mishnah which mentions three shares refers to the landed as well as the movable property.

(11) Josh. XVII, 5. V. supra 118b. These portions, according to the Scriptural context, were not in movable, but in landed property! How, then, could it be said that the double share was in movables only?

(12) Hence the right of the firstborn to take a double share.

(13) I.e., at their instance,

(14) Num. XV, 32ff.

(15) Ex. XXXI, 14.

Talmud - Mas. Baba Bathra 119b

that merit[1] is brought about by means of the meritorious[1] and punishment for guilt[2] by means of the guilty.[2] Now, if it be assumed [that] the land of Israel was [regarded as being even before the conquest] in the possession [of those who came out of Egypt]. why was he[3] in doubt?[4] — He was in doubt on this very [question]:[5] It is written, and I will give it you for a heritage,[6] I am the Lord,[7] [does this mean]. ‘it is for you an inheritance from your fathers’[8] or perhaps [it means] that they[9] would transmit [it] but would not [themselves] he heirs?[10] And it was made clear to him [that the text implies] both: ‘It is an inheritance for you from your fathers; yet you would [only] transmit, and not [yourselves] inherit [it].’ And this accounts for the Scriptural text, Thou bringest them in, and plantest them in the mountain of thine inheritance.[11] It is not written, ‘Thou bringest us in’, but ‘Thou bringest them in’; this teaches that they prophesied[12] and knew not what they prophesied.

And they stood before Moses and before Eleazar the priest and before the princes and all the congregation.[13] Is it possible that they stood before Moses etc. and they did not say anything to them [so that] they [had] to stand before the princes and all the congregation? But, the verse is to be turned about and expounded;[14] Is these are the words of R. Josiah. Abba Hanan said in the name of R. Eliezer: They[15] were sitting in the house of study and these came and stood before all of them.[16]

Wherein[17] lies their dispute?[18] — [One] master[19] is of the opinion [that] honour may he shown to a disciple in the presence of the master,[20] and the other[21] is of the opinion that it is not to he shown.[22] And the law is [that honour is] to be shown. And the law is [that honour is] not he shown. Surely this is a contradiction between one law and the other![23] — There is no contradiction: The one[24] [refers to the case] where his master shows him[25] respect; the other,[24] where his master does not.

It was taught: The daughters of Zelophehad were wise women, they were exegetes, they were virtuous.

They [must] have been wise, since they spoke at an opportune moment; for R. Samuel son of R. Isaac said: [Scripture] teaches that Moses our master was sitting and holding forth an exposition on the section of levirate marriages, as it is said, If brethren dwell together.[26] They said unto him:[27] 'If we are [to he as good] as son[s],[28] give us an inheritance as [to] a son; if not,[29] let our mother be subject to the law of levirate marriage!' And Moses, immediately. brought their cause before the Lord.[30]

They [must] have been exegetes, for they said: 'If he had a son we would not have spoken'.[31] But was it not taught: 'a daughter'?[32] — R. Jeremiah said: Delete, 'daughter', from here.[33] Abaye said: [The explanation is that they said]: 'Even if a son [of his] had a daughter. we would not have spoken'.[34]

They were virtuous, since they were married to such men only as were worthy of them.[35]

R. Eliezer b. Jacob taught: Even the youngest among them was not married under forty years of age.[36] But can this he so? Surely, R. Hisda said: [One who] marries under twenty years of age beget till sixty; [at] twenty, begins till forty. [at] forty, does not beget any more![37] — Since, however, they were virtuous, a miracle happened in their case[38] as [in that of] Jochebed.[39] As It is written, And there went a man of the house of Levi, and took to wife a daughter of Levi;[40]

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(1) Or privilege. The daughters of Zelophehad were righteous women and deserved, therefore, that a section of the Torah conferring rights and privileges on certain heirs should be written at their instance,

(2) The announcement of the severe penalty of stoning for gathering sticks on the Sabbath was brought about by means of the guilty man who was the first to commit such an offence; v. Sanh. 8a.

(3) Moses.

(4) Surely, Hepher, having been one of those who came out of Egypt, was by virtue of that fact in possession of his share even before the entry into Canaan, Zelophehad's daughters, therefore, through their father, were entitled to the double share due to the firstborn.

(5) Whether the land of Israel was to be regarded as being in possession of those who came out of Egypt. even before the entry into Canaan.

(6) מורשה morashah.

(7) Ibid. VI, 8.

(8) The fathers of those who left Egypt. מורשה like ירושה yerushah, signifying 'heritage' and implying that the fathers who came out of Egypt were to be regarded as the actual possessors of the land, having inherited it from their fathers, and hence, their firstborn sons would be entitled to double portions.

(9) Those that left Egypt.

(10) מורשה Hiph., having a causative signification, denoting that they would cause their descendants to inherit the land, without any hearing on the question of their own possession thereof, Firstborn sons would, consequently, have no claim to a double portion.

(11) Ibid. XV, 17.

(12) That their descendants, and not they themselves, would enter the land.

(13) Num. XXVII, 2.

(14) They first came to the congregation, then to the princes and Eleazar, and finally to Moses,

(15) Moses, Eleazar and all the rest.

(16) The daughters of Zelophehad submitted their claim when Moses and the others were sitting together.

(17) On what principle?

(18) That of R. Josiah and R. Eliezer.

(19) R. Josiah.

(20) Hence he maintains that they went first to the others (Moses' disciples) and then to the master himself.

(21) Abba Hanan.

(22) The case had, therefore to be submitted to Moses himself when presiding.

(23) Lit., 'law upon law'.

(24) Lit., ‘this’.
(25) The disciple.
(26) Deut. XXV, 5.
(27) While he was engaged in the exposition of this law.
(28) Since the existence of a daughter, like that of a son, obviates levirate marriage
(29) I.e., if, with reference to an inheritance, daughters are not to be given the same rights as sons.
(30) Cf. Num. XXVII, 5.
(31) This plea shows that they knew the exposition of Num. XXVII, 8, according to which a daughter has no claim where there is a son. Cf. supra 110a.
(32) Viz some versions read that they said, ‘If he had a daughter’.
(33) The word, ‘daughter’, in that Baraitha is an error.
(34) ‘Knowing that a son's daughter has preference over the daughter of the decreased’, v. supra 115b.
(35) V. infra p. 493, n. 2.
(36) Waiving for a worthy husband.
(37) Is it, then, possible that virtuous women like the daughters of Zelophehad would marry so late in life as to he unable to have any issue?
(38) Lit., ‘to them’.
(39) The mother of Moses.
(40) Ex II, I.

Talmud - Mas. Baba Bathra 120a

how could she be called ‘daughter’[1] when she was a hundred and thirty years old; for R. Hama b. Hanina said:[2] It was Jochebed who was conceived on the way[3] and born between the walls [of Egypt] for so it is written, Who was born[4] to Levi in Egypt,[5] [which implies that] her birth was in Egypt but her conception was not in Egypt.[6] Why, then, was she called, ‘daughter’? — R. Judah b. Zebida said: This teaches that marks of youth reappeared on her. The flesh [of her body] was again smooth, the wrinkles [of old age] were straightened out and [her] beauty returned.[7]

[Instead of]. and he took,[8] it should have read, ‘and he took again’![9] — R. Judah b. Zebida said: [This] teaches that he arranged for her a ceremonial of [a first] marriage; placing her in a [bridal] litter while Aaron and Miriam sang in her honour, and ministering angels recited: The joyful mother of the children.[10]

Further on,[11] Scripture enumerates them[12] according to their age[13] and here[14] according to their wisdom, — this [is evidence] in support of R. Ammi. For R. Ammi said: At a session,[15] priority is to be given to[16] wisdom; at a festive gathering.[17] age takes precedence.[18] R. Ashi said: This,[19] [only] when one is distinguished in wisdom; and that,[20] [only] when one is distinguished in old age.

The school of R. Ishmael taught: The daughters of Zelophehad were [all] alike,[21] for it is said, and they were[22] [implying], ‘all of them possessed the same status’.[23]

Rab Judah said in the name of R. Samuel: The daughters of Zelophehad were given permission to he married to any of the tribes,[24] for it is said, Let them be married to whom they think best.[25] How, then, may one explain [the text]. Only into the family of the tribe of their father shall they be married?[26] — Scripture gave them good advice,[27] [namely], that they should he married only to such as are worthy of them.[28]

Rabbah raised an objection: ‘Say unto them,[29] [means] to those who stood on Mount Sinai; throughout your generations,[29] [refers] to the coming generations. If fathers were mentioned, why were sons [also] mentioned; and if sons were mentioned, why should fathers be mentioned? — Because some [precepts] which apply to the fathers[30] are inapplicable to the sons,[31] and some which apply to the sons are inapplicable to the fathers. In [the case of] the fathers it is said: And every daughter that possesseth an inheritance;[32] while many precepts were given[33] to the sons[34] and not to the fathers.[35] Since, [therefore.] certain precepts apply to the fathers and not to the sons while others apply to the sons and not to the fathers, it was necessary to specify the fathers and it was [also] necessary to specify the sons.' At all events, it was taught, 'In the case of the fathers it is said: And every daughter that possesseth an inheritance'?[36] — He raised the objection and he [also] replied to it: 'With the exception' [he said] 'of the daughters of Zelophehad'.[37]

The Master said: 'In the case of the fathers it is said: And every daughter that possesseth an inheritance,[38] [etc.]' What evidence is there that this applied 'to the fathers and not to the sons'? — Raba said: Scripture states: This is the thing.[39] [which implies], 'this thing shall he applicable only to this generation'. Rabbah Zuti said to R. Ashi: If this is the case,[40] does This is the thing.[41] [said in connection] with [animals] slaughtered outside [the Temple], also [imply] that [that Jaw] was to apply to that generation only?[42] — There, [the case is] different, for it is written, throughout their generations.[43]

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(1) And not 'woman'.

(2) V. infra 123b.

(3) Which Jacob and his family made from Canaan to Egypt. Gen. XLVI, Iff.

(4) This is superfluous since the fact that Jochebed was Levi's daughter is already stated before in the same verse.

(5) Num. XXVI, 59.

(6) Since Jochebed was, accordingly, born just when Jacob entered Egypt she must have been a hundred and thirty years old when Moses was born. The whole period the Israelites spent in Egypt was two hundred and ten years. Moses was eighty years old at the Exodus. Deduct eighty from two hundred and ten and there is a remainder of one hundred and thirty.

(7) A similar rejuvenation has taken place in the case of Zelophehad's daughters

(8) Ex. II, I.

(9) Since this was Amram's second marriage, having married Jochebed once before and begat Aaron Miriam; when Pharaoh had issued his decree against the male children (Ex. I, 22) Amram had left his wife whom he did not remarry until he received a prophetic message through Miriam (cf. Sotah 12b).

(10) Ps. CXIII. 9.

(11) Where their marriages are reported.

(12) Zelophehad's daughters.

(13) V. Num. XXXVI, II.

(14) Ibid. XXVII, I, dealing with their right of inheritance.

(15) In connection with matters of law or study.

(16) Lit., 'go after'.

(17) Heb. mesibah מסיבה a banqueting party reclining on couches round the room or round the tables.

(18) Num. XXXVI, II, speaking of marriages, enumerates Zelophehad's daughters according to age, the elder ones being given priority of place as is done at festive assemblies. In Num. XXVII, I, however, where a question of law is discussed, the enumeration is according to their wisdom, those possessing more wisdom being given priority of place as is done at law, or similar sessions.

(19) That wisdom is the determining factor at sittings of law or study.

(20) That age takes precedence at festive gatherings.

(21) And, for this reason, some are enumerated before the others in Num. XXXVI, II, while in Num. XXVII, I the others are enumerated first. No support may consequently be found in these verses for R. Ammi's opinion.

(22) Num. XXXVI. II. Heb. ותהיינה

(23) הויה 'existence', 'status'. יה, is taken as the root of ותהיינה and of הויה.

(24) Lit., to all the tribes'. Other heiresses could marry only members of their own tribe.

(25) Num. XXXVI, 6.

(26) Ibid. Are not the two sections of the verse contradictory?

(27) Not an instruction.

(28) This advice they carried out in marrying their uncles' sons. Ibid. II.
(29) Lev. XXII, 3.
(30) Lit., 'which is in the fathers'.
(31) Lit., 'which is not in the sons'.
(32) Num. XXXVI, 8. This law applied only to the fathers, i.e., the men who came out of Egypt, and not to their sons, i.e., the coming generations.
(33) Lit 'commanded'.
(34) Such as are, e.g., applicable to Palestine only.
(35) Lit., 'which the fathers were not commanded', being, as they were, in the wilderness.
(36) V. n. 6, supra. This shows that the prohibition for all heiress to marry one of another tribe was given to the generation of the fathers, i.e., to that of the daughters of Zelophehad. how, then, could it be said that they were allowed to marry any one from any tribe.
(37) They were exempt from the prohibition, because in their Case, Scripture (Num. XXXVI, 6) distinctly stated, Let them be married to whom they think best.
(38) Num. XXXVI, 8.
(39) Ibid. 6.
(40) Lit., 'but from now'.
(41) Lev. XVII, 2.
(42) Surely this is impossible; for it is known that the law of prohibition of the slaughtering of consecrated animals outside the temple was in force so long as the Temple was in existence.
(43) Lev. XVII, 7: This shall be a statute for ever unto them throughout their generations. This text, consequently, modifies the implication of This, in v. 2 earlier; and this is the reason why the law remained in force for later generations.

Talmud - Mas. Baba Bathra 120b

Does This is the thing.[1] [said in connection] with the heads of the tribes[2] also [imply] that [that Jaw][3] was to apply to that generation only? — He said unto him: [In] that [case], this[4] is inferred from this [that is mentioned] there.[5] Let this, [in] the present [case].[6] also, be inferred from this [mentioned] there![7] — What a comparison![8] There[9] [one may] rightly [compare one this to the other this because these expressions are in any case] required for [another] comparison;[10] here,[11] [however], for what [other purpose] is it[12] needed? The text could [simply] have omitted it altogether[13] and one would have known that [the law applied][14] to [all] generations![15]

What is the [other] comparison[16] [just referred to]? — It was taught: This is the thing, has been said here,[17] and This is the thing, has [also] been said elsewhere:[18] just as there [it was spoken to] Aaron and his sons and all Israel,[19] so here[20] [it was spoken to] Aaron and his sons and all Israel; and just as here[20] [it was spoken to] the heads of the tribes.[21] so there[22] [it was spoken to] the heads of the tribes.

The Master has said: 'Just as there, [it was spoken to] Aaron and his sons and all Israel, so here, [it was spoken to] Aaron and his sons and all Israel'. In [respect of] what law [has this comparison been made]? — R. Aba b. Jacob said: To infer that the annulment of vows [may be effected] by three laymen.[23] But surely, 'the heads of the tribes' is written [in connection] with it?![24] — As R. Hisda said in the name of R. Johanan, 'By a qualified individual',[25] [so] here also [it may be said], 'By a qualified individual'.[26]

[It has been said: 'Just as here [it was spoken to] the heads of the tribes, so there [it was spoken to] the heads of the tribes'. In [respect of] what law [has this comparison been made]?[27] — R. Shesheth said: To infer [that] the law of absolution[28] [is applicable] to consecrated objects.[29] According to Beth Shammai, however, who maintains [that] the law of absolution[28] is not [applicable] to consecrated objects; as we learnt,[30] 'Beth Shammai maintains [that] mistaken consecration is [regarded as proper] consecration, and Beth Hillel maintains [that] it is not [regarded as proper] consecration,' — to what [other] purpose do they apply,[31] this and this?[32] [The expression], This is the thing, [used in connection] with [animals] slaughtered outside the Temple is required [for the inference that] one is guilty [only] for slaughtering[33] but not for 'pinching'.[34] [The express sion] This is the thing, [mentioned in connection] with the 'heads of the tribes', is required [for the inference that only] a Sage can dissolve [a vow], but a husband cannot dissolve[35] [a vow], [only] a husband can declare [a vow] void, but a Sage cannot declare [it] void.[36]

Whence does Beth Shammai, who does not use the inference from the similarity of expression,[37] derive the law [that] the annulment of vows [may be performed] by three laymen?[38] They derive it from what was taught [in the following Baraitha]: And Moses declared unto the children of Israel the appointed seasons of the Lord.[39] R. Jose the Galilean said:

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(1) Nuns. XXX, 2.

(2) Ibid.

(3) The law of the disallowance of vows. (ibid. 3-17).

(4) Mentioned at the law of the disallowance of vows.

(5) Used in connection with the law of animals slaughtered outside the Temple. As in the other Case the law is applicable to all generations (v. supra note 2), so also is the law in the former Case.

(6) The prohibition of the marriage of an heiress to a member of another tribe.

(7) V. n. 7.

(8) Lit., 'this, what'?

(9) The law of animals slaughtered outside the Temple and that of the disallowance of vows.

(10) A gezerah shawah, an inference by similarity of expressions (v. Glos). V. infra.

(11) The marriage of an heiress to one of another tribe.

(12) The expression, this.

(13) Lit., 'let the verse keep silence about (from) it'.

(14) As do most other laws.

(15) Since, therefore, the expression was used, it must have been meant to limit the law to that generation only.

(16) V. note. 12.

(17) At the laws of vows (Num. XXX, 2).

(18) Lev. XVII, 2, at the law of animals slaughtered outside the Temple.

(19) As stated specifically in Lev. XVII, 2.

(20) In connection with the laws relating to vows.

(21) As stated in Num. XXX, 2.

(22) V. p. 494, n. 20.

(23) From the Biblical association of Aaron and his sons and all Israel with the laws of vows it is to be inferred that a properly constituted Court is not required for the annulment of vows. Any member of the congregation of Israel is as good as Aaron and his sons for the purpose of acting as a member of such a lay court of three.

(24) With the laws of vows (Num. XXX, 2). Would not 'Heads of tribes' imply, 'qualified men', 'members of a proper court'?

(25) V. infra.

(26) I.e., vows may be annulled not only by a lay Court of three but also by one individual if he is qualified by his attainments (a Mumhe, v. Glos.) The expression, heads of tribes', is equivalent to 'qualified individuals', though acting singly.

(27) What connection could there be between the law of animals slaughtered outside the Temple and the heads of tribes.

(28) Heb. שאלה lit., 'question'.

(29) As a qualified scholar may annul a vow, so he may render absolution from the consecration of an object, if the person who consecrated it can produce sufficient grounds to justify the absolution.

(30) Naz. 30b.

(31) Lit., 'what do they do to it'.

(32) This, mentioned with the law of animals slaughtered outside the Temple and this of the laws of vows. Maintaining that ‘mistaken consecration is regarded as proper consecration’, Beth Shammai is obviously of the opinion that the low of absolution is never applicable to consecrated objects. Hence, the comparison made above between the similar expressions of ‘this’ (from which the law of absolution has been derived) is not required. What, then, is the purpose of the employment of this expression in the Biblical text.

(33) Outside the Temple.

(34) Heb. Melikah, מליקה ‘pinching off the head of a bird with the finger nails’ (cf. Lev. I, 15). The expression, this, implies that only what was mentioned in the text, viz., slaughtering, is prohibited.

(35) By using the formula, מותר לך The Sage has the right of disallowing, or dissolving a vow (התרה’unbinding’, ‘dissolving’), if a good reason for his action can be found. If, e.g., the man who vowed can show that his vow was made under a misapprehension.

(36) By using the formula, מופר לך a husband is entitled to declare as void,הפרה ‘breaking’ destroying’), any vow made by his wife, without the necessity for her finding any reason for its annulment. Unlike the sage who must first inquire whether grounds exist for dissolving it (v. previous note), the husband may, as soon as he hears of the vow, ‘destroy’ it at once retrospectively. This, implies that only the expressions of the Biblical text as interpreted in Ned. 77b may be used and that only the procedure they imply must be followed.

(37) Requiring the two expressions of this for other purposes, as just explained.

(38) Or by a Sage, who is regarded as of equal status to that if a lay court of three.

(39) Lev. XXIII, 44

Talmud - Mas. Baba Bathra 121a

The appointed seasons of the Lord, were said [but] the weekly Sabbath[1] was not said [unto them].[2] Ben Azzai said: The appointed Seasons of the Lord were said, [but] the annulment of vows was not said [unto them].[2]

R. Jose b. Nathan[3] studied this Baraitha and did not know [how] to explain it. Going after R. Shesheth to Nehardea and not finding him, he followed him to Mahuza [where] he found him. He said unto him: What [is meant by] ‘the appointed seasons of the Lord were said [but] the weekly Sabbath,[4] was not said [unto them]’? [The other] replied unto him: [This is the meaning:] The appointed seasons of the Lord[5] require a proclamation by a court[6] [but] the weekly Sabbath does not require proclamation by a court;[7] for, it might have been assumed, since it[8] was written[9] near the appointed seasons,[10] that it required a proclamation by the court as [do] the appointed seasons, [this,][11] therefore, had to be taught.

What [is meant by] ‘the appointed seasons of the Lord were said [but] the annulment of vows was not said [unto them]’? — The [proclamation of the] appointed seasons of the Lord requires [a court of three] qualified mem[12] [but] the annulment of vows does not require [three] qualified men.[13] But, surely, it is written the heads of the tribes![14] — R. Hisda replied in the name of R. Johanan: [The text implies that annulment of vows may be performed] by one qualified man.[15]

We learnt elsewhere:[16] R. Simeon b. Gamaliel said: Israel had no [other] festive days like the fifteenth of Ab and the Day of Atonement on which the daughters of Jerusalem went out in white garments, borrowed [for the occasion], so as not to shame those who possessed none [of their own].

One well understands why the Day of Atonement [should be such a festive occasion for it is] a day of pardon and forgiveness,[17] [and it is also] a day on which the second Tabies[18] were given, but what is [the importance of] the fifteenth of Ab? — Rab Judah said in the name of Samuel: [It was] the day on which the tribes were allowed to intermarry with one another.[19] What was their exposition?[20] — This is the thing[21] [implies] this thing shall only apply to this generation.[22] Rabbah b. Bar Hana said in the name of R. Johanan: [It was] the day on which the tribe of Benjamin was allowed to enter the congregation. [This was for a time prohibited], for it is written, Now the men of Israel had sworn in Mizpah saying: ‘There shall not any of us give his daughter unto Benjamin to wife.’[23] What was their exposition?[24] — ‘Of us,’[25] but not of our children.[26] R. Dimi b. Joseph said in the name of R. Nahman: [It was] the day on which the dying in[27] the wilderness had ceased;[28] for a Master said: Before the dying in the wilderness had ceased

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(1) Lit., ‘Sabbath of the beginning’, Heb. Shabbath Bereshith, שבת בראשית Saturday, the seventh day of the week, the weekly day of rest, is so called on account of its commemoration of the creation. Cf. Gen. II, 1-3.

(2) The explanation follows in the Gemara infra. V. also note 12.

(3) In Neda. 78a. The reading is R. Assi.

(4) V. p. 496, n. 8.

(5) I.e., the New Moons and Festivals.

(6) קדטש בית דין. Lit., ‘the sanctification of the house of law’. The calendar not having been fixed, the dates of the New Moons and Festivals were determined by the court in Jerusalem on the evidence of witnesses who saw the ‘birth’, מולד of the new moon. If the court was satisfied, after due investigation and cross-examining of witnesses, that the evidence was reliable, the New Moon, ראש חדש was proclaimed, thus determining also the date of the festival which happened to fall in that month, since the Festivals always occurred, in accordance with the Biblical injunction, on the same day of the respective month.

(7) Sabbath has been divinely ordained and sanctified at the Creation (Gen. II, 3), and is not subject to the proclamation of a human court.

(8) The Sabbath.

(9) Lev. XXIII, 3.

(10) Ibid. vv. 4ff.

(11) That Sabbath ‘was not said’ unto them, i.e., that it required no human proclamation or sanctification.

(12) A lay Court of three, or one qualified expert (Mumhe, v. Glos.), has not the right to proclaim the New Moon.

(13) But a lay Court of three may annul vows. Beth Shammai, also, derives this law in the same way.

(14) Implying qualified men. How, then, can it be said that a lay Court of three may also annul vows?

(15) One qualified man of the ‘heads of the tribes’ has the same right as a court of three laymen. ‘Heads of the tribes’ does not mean a court of qualified men but qualified men acting individually.

(16) Ta'an. 26b.

(17) Cf. Lev. XVI, 29ff.

(18) Cf. Deut. X, 1ff. [According to a tradition preserved in the Seder ‘Olam 6, Moses spent three periods of forty days and forty nights on the mount, beginning with the seventh Sivan, and ending on the tenth of Tishri when he came down on earth with the second Tables.]

(19) The prohibition on an heiress to marry into another tribe, in accordance with Num. XXXVI, 8, which requires an heiress to be ‘wife unto one of the family of the tribe of her father’, was removed. The prohibition was held to apply only to the generation of those who entered the land, and to lapse when the last of these had died.

(20) From what Scriptural text, and how, was it deduced that the prohibition was to lapse with the death of the first generation of those who entered the land?

(21) Num. XXXVI, 6.

(22) V. supra 120a.

(23) Judges XXI, 1.

(24) Whence was it derived that the tribe of Benjamin could again be permitted to enter the congregation?

(25) I.e., the prohibition, they maintained, applied to those only who had themselves taken the oath, since they specifically used the expression, ‘of us’.

(26) The children, therefore, i.e., the daughters of those who took the oath, could be married to the men of Benjamin.

(27) Lit., ‘the dead of’.

(28) Cf. Num. XIV, 35. The last of that generation had died prior to that day, and all the survivors were thus assured of entering the promised land.

Talmud - Mas. Baba Bathra 121b

there was no [divine] communication with Moses;[1] for it is said, So it came to pass, when all the mem of war were consumed and dead from among the people, that the Lord spoke unto me saying,[2] ‘[only then’, said Moses] ‘was there speaking[3] to me’.[4] ‘Ulla said: [It was] the day on which Hosea,[5] son of Elah, removed the guards whom Jeroboam[6] had placed on the roads to prevent Israel from making the pilgrimages to Jerusalem.[7] R. Mattena said: [It was] the day on which the slain of Bether[8] obtained [suitable] burial; for R. Mattena said [elsewhere]:[9] On the day when the slain of Bether obtained burial [the benediction] ‘who art kind and dealest kindly’[10] was instituted at Jabneh[11] ‘Who art kind’ [was instituted] because they[12] did not decompose;[13] ‘and dealest kindly’ [was instituted] because they obtained burial.

Both Rabbah and R. Joseph said: [It was] the day on which they ceased cutting wood for the altar.[14]

It was taught: R. Eliezer the Great said: As soon as the fifteenth of Ab arrived, the power of the sun weakened and they chopped no [more] wood for the altar.[15] R. Manasseh said: They called it,[16] ‘the day of the breaking of the axe.’[17]

From that [day][16] onwards, he who adds [from the night to the day][18] will [also] add [length of days and years for himself],[19] [and he] who does not add [from the night to the day], decreases [his years].[20] What [is meant by] ‘decreases’? R. Joseph learnt: His mother will bury him.[21]

Our Rabbis taught: Seven [men] spanned[22] [the life of] the whole world.[23] [For] Methuselah saw Adam; Shem saw Methuselah, Jacob saw Shem; Amram saw Jacob; Ahijah the Shilonite saw Amram; Elijah saw Ahijah the Shilonite, and he[24] is still alive.

And [did] Ahijah the Shilonite see Amram? Surely it is written, And there was not left a man of them, save Caleb the son of Jephunneh, and Joshua the son of Nun![25] — R. Hamnuna replied: The decree[26] was not directed[27] against the tribe of Levi;[28] for it is written, Your carcasses shall fall in this wilderness, and all that were numbered of you according to your whole number, from twenty years old and upward;[29] [this implies that a tribe] that was numbered from twenty years old and upward [came under the decree]; the tribe of Levi, [however], having been numbered[30] from thirty years old, was excluded.

Did none of the [members of the] other tribes[31] enter [the promised land]? Surely it was taught: Jair the son of Manasseh and Machir the son of Manasseh were ‘born in the days of Jacob and did not die before Israel entered the [promised] land; for it is said, And the men of the Ai smote of them about thirty and six men,[32] and it was taught[33] ‘actually thirty six men’ [these are] the words of R. Judah; R. Nehemiah, [however], said unto him: Was it said, ‘thirty and six’? Surely it was said, about[34] thirty and six! But this[35] [must refer to] Jair the son of Manasseh who was equal to the greater part of the Sanhedrin![36] — But, said R. Aha b. Jacob, the decree[37] was directed[38] neither against one [who was] under twenty years of age, nor against [one who was] over sixty years of age. [It was directed] neither against [one] under twenty years of age’ — for it is written, from twenty years old and upward;[31] ‘nor against [one] over sixty years of age’ — for ‘and upward’[39] is deduced from ‘and upward’[40] [in the section] of valuations,[41] as there, [one] over sixty years of age is like [one] under twenty years of age,[42] so here, one over sixty years of age is like one [who is] under twenty years of age.[43]

The question was raised: Was the land of Israel divided according to the [number of the] tribes,[44] or was it, perhaps divided according to the [number of the] head[s] of the men?[45]

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(1) In the direct manner as described in Num. XII, 8: ‘With him do I speak mouth to mouth, even manifestly, etc.’ (Rashb.).

(2) Deut. II, 16f.

(3) V. supra n. 3.

(4) An annual festive day was, therefore, declared, to commemorate the divine reconciliation with Israel's leader.

(5) The last of the kings of Israel.

(6) Son of Nebat, the first of the kings of the divided kingdom of Israel. Cf. II Kings XVII, 2, on which this tradition is based.

(7) Pilgrimages were made on the occasion of the three great annual festivals, Passover, Pentecost and Tabernacles.

(8) [The town where in the rebellion of Bar Cochba, the Jews made their last stand against the Romans in 135 C.E.]

(9) Ber. 48b, Ta'an. 31a.

(10) The fourth of the benedictions of Grace after Meals.

(11) The religious centre and seat of the Sanhedrin after the destruction of Jerusalem.

(12) The corpses.

(13) [During the long period in which the slain were left lying in the open field, owing to Hadrian's decree forbidding their interment.]

(14) מערכה lit., ‘arrangement’, i.e., the pile of wood arranged on the Temple altar.

(15) All wood for the altar had to be chopped during the period when the sun shone in full strength, i.e., from the month of Nisan to the fifteenth of Ab. Any wood chopped later than that period was considered unsuitable for the altar on account of the dampness in it which produced smoke and generated worms (v. Mid. 11, 5).

(16) The fifteenth of Ab.

(17) As there was no longer any immediate use for the tool.

(18) For the purpose of study. The days shorten and the hours of study would consequently diminish unless part of the night were also to be devoted to the same purpose.

(19) Cf. Prov. III, 2.

(20) The original contains a play upon the words ‘add’ and ‘decrease’ דומסיף יוסיף שאניו מוסיף יסיף

(21) I.e., he will die in the prime of life.

(22) Lit., ‘folded’.

(23) The total length of their respective lives covered the entire period of the life of the human species.

(24) Elijah.

(25) Num. XXVII, 65. since Ahijah saw Amram, whether in Egypt or in the wilderness, he must have been, according to this verse, among those who died in the wilderness. How then could he have been living (cf. I K. XI, 29) in the days of Jeroboam?

(26) That all must die in the wilderness.

(27) Lit., ‘decreed’.

(28) Ahijah was a Levite (cf. I Chron. XXVI, 20), hence he could enter the promised land.

(29) Num. XIV, 29.

(30) For the purpose of the Temple service. Cf. Num. IV, 23, 29, 35.

(31) Who came out of Egypt.

(32) Jos. VII, 5.

(33) San. 44a.

(34) Heb. Kisheloshim, כשלשים the כ may signify, ‘about’ and also ‘like’, ‘equal’.

(35) The expression ‘about thirty and six’. V. previous note.

(36) The Sanhedrin having consisted of seventy-one men, thirty-six formed a majority. Now, since Ahijah was among those who came out of Egypt and also among those who entered Canaan, how could it be said that, besides the tribe of Levi, none of the members of the other tribes had entered the land?

(37) V. p. 500, n. 12.

(38) V. loc. cit. n. 13.

(39) Num. XIV, 29.

(40) Lev. XXVII, 7.

(41) Ibid. vv. 2ff.

(42) In both cases (under twenty and over sixty) the valuation is lower than that for the ages of twenty to sixty.

(43) As those under twenty were not subject to the penalty of the decree so were not those over sixty. Ahijah, even though he did not belong to the tribe of Levi, having been over sixty at the Exodus, was not subjected to the decree, and could, therefore, enter the land.

(44) Each tribe taking a twelfth of the land and, then, subdividing it in accordance with the number of its men.

(45) The entire land being divided into as many shares as there were men.

Talmud - Mas. Baba Bathra 122a

— Come and hear: [According to the lot shall their inheritance be divided] whether many[1] or few.[2] Furthermore it was taught: The land of Israel will in time to come be divided between thirteen tribes; for at first[3] it was only divided among twelve tribes and was divided only according to monetary [values],[4] as is said, whether many or few.[5] R. Judah said: A se'ah in Judaea is worth five se'ah in Galilee.[6] And it was only divided by lot, for it is said, Not with standing [the land shall be divided] by lot.[7] And it was only divided by [the direction] of] the Urim and Tumim.[8] for it is said, According to the speaking[9] of the lot;[10] how [could] this [be done]?[11] — Eleazar was wearing the Urim and Tumim, while Joshua and all Israel stood before him. An urn [containing the names] of the [twelve] tribes, and an urn containing descriptions] of the boundaries were placed before him. Animated by the Holy Spirit, he gave directions, exclaiming: 'Zebulun' is coming up and the boundary lines of Acco are coming up with it. [Thereupon], he shook well the urn[12] of the tribes and Zebulun came up in his hand. [Likewise] he shook well the urn of the boundaries and the boundary lines of Acco came up in his hand. Animated again by the Holy Spirit, he gave directions, exclaiming: 'Naphtali' is coming up and the boundary lines of Gennesar[13] are coming up with it. [Thereupon] he shook well the urn of the tribes and Naphtali came up in his hand. He, [likewise], shook well the box of the boundaries, and the boundary lines of Gennesar came up in his hand. And [so was the procedure with] every [other] tribe. And the division in the world to come will not be like the division in this world. [In] this world, [should] a man possess a cornfield[14] he does not possess an orchard; [should he possess] an orchard he does not possess a cornfield, [but] in the world to come[15] there will he no single individual who will not possess [land] in mountain, lowland and valley; for it is said, The gate of Reuben one; the gate of Judah one; the gate of Levi one.[16] The Holy One, blessed be He, Himself, [will] divide it among them; for it is said, And these are their portions saith the Lord God'.[17] At all events, it was taught [here] that, at first, [the land] was only divided among twelve tribes, [from which it] may be inferred that the division was in accordance with [the number of] the tribes. This proves it.

The Master has said, 'The land of Israel will in time to come be divided among thirteen tribes'. For whom is that [extra portion]? — R. Hisda said: For the prince;[18] for it is written, And he that serves the city.[19] they out of all the tribes of Israel, shall serve him.[20] R. Papa said to Abaye: Might it[21] not be said [to refer] merely [to] public service?[22] — This cannot be assumed at all,[23] for it is written, And the residue shall be for the prince. On the one side and on the other, of the holy offering and of the possession of the city.[24]

'And it was divided only according to monetary [values], as it is said, Whether many or few'. In what [respect]?[25] If it be suggested [that compensation was to be given in respect of lands] of superior and inferior quality,[26] [it could he retorted,] 'Are we discussing fools'?[27] — But, [this is the explanation, in respect] of [an estate that was] near and [one that was distant.[28] [This[29] is] in accordance with [the opinion of one of the following] Tannaim: R. Eliezer said: Compensation[30] was given in money. R. Joshua said: Compensation was given in land.

And it was only divided by lot, for it is said, Notwithstanding [the land shall be divided] by lot'. A Tanna taught; 'Notwithstanding . . . by lot'; Joshua and Caleb being excluded. In what [respect]?[31] If it be suggested that they did not take [any portion] at all, [it might be retorted], 'if[32] they took [that] which was not theirs[33] could there be any question [as to whether they should take] what was theirs? — But [this means], that they did not receive [their shares] by lot but by the command of the Lord. 'Joshua'.[34] — for it is written, According to the commandment of the Lord they gave him the city which he asked, even Timnath-serah in the hill country of Ephraim.[35]

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(1) I.e., whether the tribe consists of many individuals.

(2) Num. XXVI, 56. Few, is taken to refer to a small tribe. Since scripture directs the distribution of equal shares to all

tribes, the land must have been divided ‘according to the number of tribes’, and not ‘according to the number of individuals’. It will be noted that the rendering of בין רב למעט adopted in the Gemara, slightly differs from that in E.V.
(3) When the promised land was entered.
(4) This is at present assumed to mean that the one who received a share in which the land was worth more than the land of equal size in another share, had to pay the difference so as to equalise their respective monetary values.
(5) Ibid. This implies that the shares must in all cases be equal in value.
(6) R. Judah illustrates by example the meaning of ‘according to monetary values.’ [Cf. Josephus, Antiquities, V, 1-21: . . . Joshua thought the land for the tribes should be divided by estimation of its goodness . . . it often happening that one acre of some sort of land was equivalent to a thousand other acres.]
(7) Ibid. v. 55.
(8) V. Glos.
(9) פי lit., ‘mouth’, i.e., ‘by the word of God’.
(10) Ibid. 56.
(11) If by lot, why the Urim and Tumim? If by the latter what was the use of the former?
(12) So Rashb. Rashi renders, ‘he hastily took up a (ballot).’
(13) Gennesareth, from the Heb. Kinnereth, כנרת a district in Galilee named after the lake of the same name.
(14) Lit., ‘a field of white.’ V. supra 28a.
(15) I.e., the Messianic era.
(16) Ezek. XLVIII, 31, implying that all will have shares equal in all respects, even in the city of Jerusalem itself.
(17) Ezek. XLVIII, 29. God himself will, thus, allot to each one his share.
(18) The King.
(19) I.e., the prince whose duty it is to serve the interests, and to provide for the wellbeing of his subjects.
(20) Ezek. XLVIII, 19. Serve him, is interpreted to mean ‘providing him with a share in the land’.
(21) The verse from Ezekiel quoted.
(22) Which subjects render to their chief. [Or, ‘as day-labourer’. Levy, s.v. רונגר, v. Fleischer's note, a.l.]. What proof, then, is there for the statement that the prince was given a special share in the land?
(23) Lit., ‘it does not enter your mind.
(24) Ezek. XLVIII, 21.
(25) Was it necessary to state that compensation was given.
(26) That the possessor of the better quality had to pay compensation to him who received the inferior quality.
(27) What man in his senses would consent to take a portion in an inferior soil without getting compensation from him who obtained a portion in a soil of better quality. What need, then is there to state such and obvious thing?
(28) Though equality in the distribution was obtained by giving larger portions of inferior soil against smaller portions of superior soil, further compensation was paid, by those who obtained land nearer to Jerusalem, to those whose lands were further away. The nearer an estate was to Jerusalem the higher was its value.
(29) The view that compensation for distance was paid with money.
(30) V. previous note. Lit., they brought it up’.
(31) Were they excluded.
(32) Lit., ‘now/.
(33) The portion of the spies etc. V. supra 118b.
(34) What evidence is there that Joshua received his share by the command of the Lord and not by lot?
(35) Josh. XIX, 50.

Talmud - Mas. Baba Bathra 122b

It is written, serah[1] and it is [also] written, heres![2] — R. Eleazar said: At first,[3] its fruits [were as dry] as a potsherd[4] and afterwards[5] its fruits emitted all offensive odour.[6] Others say: at first[3] they emitted an offensive odour[7] and afterwards[8] [they were as dry] as a potsherd.[9] ‘Caleb?[10] — for it is written. And they gave Hebron unto Caleb, as Moses had spoken; and he drove out thence the three sons of Anak.[11] Was [not] Hebron a city of refuge?[12] Abaye replied: Its suburbs [were given to Caleb], for it is written, But the fields of the city, and the villages thereof, gave they to Caleb the son of Jephunneh for his possession.[13]

MISHNAH. BOTH A SON AND A DAUGHTER HAVE EQUAL RIGHTS OF SUCCESSION. EXCEPT THAT A SON [WHEN FIRSTBORN] TAKES A DOUBLE PORTION IN THE ESTATE OF HIS FATHER BUT DOES NOT TAKE IT IN THE ESTATE OF HIS MOTHER. DAUGHTERS MUST BE MAINTAINED OUT OF THE ESTATE OF THEIR [DECEASED] FATHER[14] BUT NOT OUT OF THE ESTATE OF THEIR [DECEASED] MOTHER.[15]

GEMARA. What [is meant by] BOTH A SON AND A DAUGHTER HAVE EQUAL RIGHTS OF SUCCESSION? If it is suggested that [the meaning is that] they have equal status in heirship. Surely, [it may be retorted], we have learnt, ‘a son takes precedence over a daughter [and] all lineal descendants of a son take precedence over a daughter![16] — R. Nahman b. Isaac replied: It is this that was meant : Both a son and a daughter[17] [are equally entitled to] take [their shares] in a prospective [estate of the deceased] as in that which is in [his] possession [at the time of his death]. Surely, we have learnt[18] this also; ‘The daughters of Zelophehad took three shares in the inheritance [of Canaan]: The share of their father who was of those who came out of Egypt, and his share among his brothers in the possessions of Hepher’![19] Furthermore, what [is the force of] EXCEPT?[20] — BUt, said R. Papa, it is this that was meant: Both a son and a daughter[21] [are entitled to] take the [prospective] portion of the birthright [of their father]. Surely, we have learnt[22] this also: ‘Since he was a firstborn son [who] takes two shares’![23] Furthermore, what [is the force of] EXCEPT?[20] — But, said R. Ashi, it is this that was meant: [As regards] both, a son [of the deceased] among [his other] sons and a daughter[24] among [his other] daughters, if [the deceased] had said, ‘he [or she][25] shall inherit all my property’, his instruction is legally valid.[26] Whose view is here represented?[27] [Is it not that] of[28] R. Johanan b. Beroka? Surely that is [specifically] taught further on:[29] R.Johanan b. Beroka said: If [a person] said [it][30] concerning one who is entitled to be his heir. his instruction is legally valid; [if, however, he said it] concerning one who is not entitled to be his heir, his instruction is not valid![31] And if it is suggested [that] it was [desired] to state [the law] anonymously, [to show] agreement with [the view of] R. Johanan b. Beroka,[32] [surely, it may be pointed out, this is a case of] an anonymous statement followed by[33] a dispute,[34] and [wherever] an anonymous statement [is] followed by a dispute the law is not [decided] in accordance with the anonymous statement![35] Furthermore, what [is the force of] EXCEPT?[36] But, said Mar son of R. Ashi, it is this that was meant: Both a son and, [in the absence of a son], a daughter [have] equal [rights of succession] in the estate of a mother and in the estate of a father, except[37] that a son takes a double portion in the estate of his father[38] and he does not take a double portion in the estate of his mother.

Our Rabbis taught: Giving him[39] a double portion,[40] [implies] twice as much as [any] one [of the others receive].[41] You said ‘Twice as much as [any] one [of the others]’; is it not possible[42] [that our Mishnah] does not [mean this] but ‘a double portion in all the estate’?[43] — But this[44] may be deduced by logical reasoning:

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(1) Ibid.

(2) Judges I, 35. Why is the place called both serah and heres?

(3) Before it came into the possession of Joshua.

(4) Heb. חרס

(5) When the place passed over to Joshua.

(6) מסריחין (from root, רסח Hiph., ‘to produce an offensive odour’). The fruits were so juicy that decay set in early.

(7) And could not, therefore, be preserved. V. previous note.

(8) V. p. 504, n. 15.

(9) V. p. 504, n. 14. As they were not so juicy they could be preserved for a long time.

(10) Whence is it proved that Caleb did not receive his share by lot but at the command of the Lord?

(11) Judges I, 20.

(12) Which belonged to the priests (v. Josh. XXI, 13). How, then, could it be given to Caleb who was of the tribe of Judah?
(13) Josh. XXI, 12.
(14) V. infra 119b, under what conditions.
(15) It is not the duty of a mother to provide for her daughters.
(16) Supra 115a.
(17) In the absence of a son and any of his lineal descendants.
(18) Supra 116b.
(19) Since Hepher was not in possession of his share in the land at the time of his death and yet it was given to his son, Zelophehad, and through him to his daughters, it is obvious that both sons and daughters are entitled as much to the prospective property of their parents as to that which is already in their possession. Why, then, was it necessary to repeat this law in our Mishnah?
(20) What is the antithesis? The first part of the Mishnah speaks of the equality of a son and a daughter, and the second part speaks of the difference (not between a son and a daughter but) between the the estates of a mother and a father!
(21) In the absence of a son and any of his heirs.
(22) V. supra 116b.
(23) And not having left a son, this prospective double portion was given to his daughters. Why, then, should this law have to be stated again?
(24) V. supra n. 3.
(25) pointing out one of his heirs.
(26) Because a person has a right to transmit all his property to any one individual of his legal heirs. He cannot, however, transmit his estate to a daughter when a son or his heirs are alive. Since the latter have the first legal claim as heirs to his estate, and one has no right to dispose of his bequests (unless in the manner of a gift) except accordance with the laws of succession.
(27) Lit., ‘like whom’.
(28) Lit., ‘like’.
(29) Infra 130a.
(30) That all his estate shall be inherited by one person only.
(31) Why, then, should our Mishnah teach by implication what was specifically taught elsewhere?
(32) Since the law is always in agreement with the anonymous Mishnah, the Editor may have desired in this way, to indicate that the law is in agreement with the views of R. Johanan.
(33) Lit., ‘and after that’.
(34) Between R. Johanan and the Rabbis.
(35) What, then, is the object of our Mishnah?
(36) V. p. 506, n. 2.
(37) The force of ‘except’ is that while in the previous case there is equality in the loss’ between the estate of a father and that of a mother, in the following case there is a difference between these two kinds of estate.
(38) While a daughter is not entitled to a double portion even in the absence of a son.
(39) The firstborn.
(40) Deut. XXI, 17.
(41) The estate is divided according to the number of brothers plus one, and the firstborn takes two such shares.
(42) Lit. ‘or’.
(43) Two thirds of the estate for the firstborn, and one third for all the others.
(44) That the firstborn takes only twice as much as any one of the others.

Talmud - Mas. Baba Bathra 123a

his share, [when he is co-heir] with one [is to be compared with] his share [when he is co-heir] with five; as [in the case of inheriting] his share with one [brother, he receives] twice as much as the one[1] so [in the case when he inherits] his share with five [brothers he should also receive only] twice as much as one. Or perhaps argue this way:[2] [let] his share [when he is co-heir] with one [brother] be compared with his share [when co-heir] with five [brothers]; as his share [when co-heir] with one is a double portion in all the estate[3] so [is the case when he inherits] his share with five [he should also receive] a double portion in all the estate?[4] — It was expressly taught, Then it shall be in the day that he causeth his sons to inherit,[5] the Torah [thus] assigned the greater portion to the brothers.[6] Consequently, the deduction is not to be made according to the second proposition[7] but according to the first.[8] Furthermore it is said, And the sons of Reuben the firstborn of Israel; for he was the firstborn; but forasmuch as he defiled his father's couch, his birthright was given unto the sons of Joseph the son of Israel, yet not so that he was to be reckoned in the genealogy of firstborn.[9] Furthermore it is said, For Judah prevailed above his brethren and of him came he that is the prince; but the birthright was Joseph's.[10] 'Birthright' was said [in relation] to Joseph[10] and 'birthright' was said [in relation] to [coming] generations,[11] just as the birthright that was said [in relation] to Joseph [consisted in his receiving a portion] twice as much [as any] one [of the others][12] so the birthright that was said [in relation] to the [coming] generations[13] [is to consist in the receiving of a portion] twice as much as [any] one [of the others]. Furthermore it is said, Moreover I have given thee one portion above thy brethren, which I took out of the hand of the Amorite with my sword and with my bow.[13] Did he take [it] with his sword and with his bow'? Surely it has already been said, For I trust not in my bow, neither can my sword save me![14] But, my sword, means 'prayer' [and] my bow, means supplication'.[15]

What need was there for quoting the several Scriptural verses?[16] — In case you should suggest [that] that [verse[17] was required] for [the indication that the law is] in accordance with [the view of] R. Johanan b. Beroka,[18] — Come and hear [the verse], And the sons of Reuben, the firstborn of Israel. And in case you should suggest [that] birthright[19] from his birthright[20] may not be deduced, Come and hear [the verse], But the birthright was Joseph's.[21] And in case you should say whence [is it proved] that Joseph himself [received] twice as much as [any] one [of the others], — Come and hear [the verse], Moreover I have given thee one portion above thy brethren.

R. Papa said to Abaye: Might [it not] be suggested [that Joseph received] merely a palm tree?[22] — He replied unto him: For your sake[23] Scripture said, Ephraim and Manasseh, even as Reuben and Simeon shall be mine.[24]

R. Helbo enquired of R. Samuel b. Nahmani: What [reason] did Jacob see for taking away the birthright from Reuben and giving it to Joseph? — What did he see? [Surely] it is written, Forasmuch as he defiled his father's couch! But, [this is the question]: What [reason] did he see for giving it to Joseph? — Let me give you a parable. This thing may be compared[25] to a host[26] who brought up an orphan[27] at his house. After a time that orphan became rich[28] and declared: 'I would let the host have [some] benefit from my wealth',[29] He said unto him: But had not Reuben sinned, [Jacob] would not have bestowed upon Joseph any benefit at all?[30] But R. Jonathan your master did not say so.[31] The birthright, [he said], should have emanated from Rachel, as it is written, These are the generations of Jacob, Joseph,[32] but Leah anticipated [her with her prayers for] mercy. On account, [however], of the modesty, which was characteristic of Rachel, the Holy One, blessed he He, restored it to her. What [was it that caused] Leah to anticipate her with [her supplications for] mercy? — It is written And the eyes of Leah were weak.[33] What [is meant by] weak?[34] If it is suggested [that the meaning is that her eyes were] actually weak, [is this, it may be asked,] conceivable? [If] Scripture did not speak disparagingly of an unclean animal, for it is written, of the clean beasts, and of the beasts that are not clean,[35] [would] Scripture speak disparagingly of the righteous?[36] — But, said R. Eleazar, [the meaning of rakkoth[37] is] that her bounties were extensive.[38] Rab said: [Her eyes were] indeed actually weak, but that was no disgrace to her but a credit; for at the crossroads[39] she heard people saying: Rebecca has two sons, [and] Laban has two daughters; the elder [daughter should be married] to the elder [son] and the younger [daughter should be married] to the younger [son]. And she sat at the crossroads and inquired: 'How does the elder one conduct himself?'[40] [And the answer came that he was] a wicked man, a highway robber.[41] 'How does the younger man conduct himself?' — 'A quiet man dwelling in tents'.[42] And she wept until her eyelashes dropped.[43] And this accounts for the Scriptural text, And the Lord saw that Leah was hated.[44] What [could be the meaning of] ‘hated’? If it is suggested [that it means that she was] actually hated, [surely] it may be retorted, is this] conceivable? [If] Scripture did not speak disparagingly of an unclean animal, [would] it speak disparagingly of the righteous? But the [meaning is this]: The Holy One, blessed be He, saw that Esau's conduct was hateful to her, so he opened her womb.[45]

Wherein did Rachel's modesty lie? — It is written, And Jacob told Rachel that he was her father's brother and that he was Rebecca's son.[46] Was he not the son of her father's sister? But he said to her, ‘[Will] you marry me?’[47] [And] she replied to him, ‘Yes, but father is a sharper, and you will not he able [to hold your own against] him’. ‘’Wherein,’ he asked her, ‘does his sharp dealing lie?’ — ‘I have,’ she said, ‘a sister who is older than I, and he will not allow me to be married before her’ — ‘I am his brother’, he said to her, ‘in sharp dealing’. — ‘But,’ she said to him, ‘may the righteous indulge in sharp dealing?’ — ‘Yes,’ [he replied]. ‘With the pure, [Scripture says], Thou dost show thyself pure, and with the crooked Thou dost show thyself subtle.’[48] [Thereupon] he entrusted her [with certain identification] marks.[49] While Leah was being led into [the bridal chamber] she[50] thought, ‘my sister will now be disgraced’, [and so] she entrusted her [with] these very [marks]. And this accounts for the Scriptural text, And it came to pass in the morning that, behold, it was Leah,[51] which seems to imply that until then she was not Leah! But, [this is the explanation]: On account of the [identification] marks which Jacob had entrusted to Rachel who had entrusted them to Leah, he knew not [who] she [was] until that moment.

Abba Halifa of Keruya enquired of R. Hiyya b. Abba: [With regard to those who entered Egypt with Jacob], Why do you find [the number] seventy in their total[52] and [only] seventy minus one in their detailed enumeration?[53] — He said unto him: A twin [sister] was [born] with Dinah; for it is written, With [eth] his daughter Dinah.[54] But if so,[55] was there [also] a twin [sister] with Benjamin, for it is written

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(1) For in whatever way the double portion is arrived at, it would, in this case, inevitably consist of a shore which is double the size of that of the other brother.

(2) Lit., ‘or turn (finish and go) to this way’.

(3) I.e., two thirds of the estate. In whatever way the division is arrived at, the double portion will, in this case, always consist of two thirds of the entire estate.

(4) The firstborn should receive two thirds of the estate, and all the others together one third.

(5) Deut. XXI, 16.

(6) Since this verse is altogether superfluous, the law of the right of the firstborn being specifically mentioned in v. 17, it is assumed to imply that where there are three brothers or more they must get the larger share of the estate. Hence, the firstborn cannot receive two thirds of the estate.

(7) Cf. p. 507 n. 12.

(8) Cf. p. 507, n. 13.

(9) I Chron. V, 1. He was not to hove the designation of the ‘first-born’, which was the prerogative of Reuben, nad his birthright was only to entitle him to receive a double portion.

(10) Ibid. v. 2.

(11) The low of the birthright, Deut. XXI, 17.

(12) As will be shown infra.

(13) Gen. XLVIII, 22.

(14) Ps. XLlv, 7.

(15) [‘Sword’ or ‘bow’ are taken to denote spiritual weapons.]

(16) Lit., ‘why and he says’.

(17) Deut. XXI, 16, quoted first.

(18) V. 130a.

(19) בכורה ibid. V, 17.

(20) בכורתו I Chron. V, 1.
(21) In this verse, as in Deut. XXI, 17, the noun Bekorah, without a suffix, is used.
(22) I.e., some small gift. ‘A portion above thy brethren’, does not prove that he received a double portion.
(23) Lit., ‘upon’, or ‘for thee’.
(24) Gen. XLVIII, 5. Reuben and Simeon were two separate tribes, and Joseph was promised two shares as if he represented two distinct tribes.
(25) Lit., ‘to what is the thing like’.
(26) Joseph, who maintained his father. V., Gen. XLVII, 12.
(27) Jacob, whose livelihood during the famine, was entirely dependent on Joseph.
(28) The disposal of the birthright came into the hands of Jacob, through Reuben's offence.
(29) Jacob gave Joseph the birthright in recognition for the hospitality he afforded him and his family.
(30) Surely, his recognition of Joseph's services should not have depended on the remote chance of a birthright becoming available for disposal.
(31) Jacob gave to Joseph, in recognition of his benefaction, other gifts and blessings, while the change of the birthright was due to other causes.
(32) Gen. XXXVII, 2, implying that Joseph, the first-born son of Rachel, should also have been the firstborn of Jacob.
(33) Ibid. XXIX, 17.
(34) רכות
(35) Ibid. VII, 8. Instead of the brief, but disparaging expression טמאה (unclean), the longer, and more euphemistic expression to לא טהורה (not clean) is used.
(36) Lit., ‘of the disgrace of the righteous’.
(37) V. note 4.
(38) Rakkoth is taken to be an abbreviation of ארכות’long’, i.e., she had many privileges. Priests and Levites through Levi, and kings through Judah, descended from her.
(39) Where people of all classes and localities meet.
(40) Lit., ‘what are his deeds’.
(41) Lit., ‘robbing people’.
(42) Gen. XXV, 27.
(43) From their lids.
(44) Ibid. XXIX, 31.
(45) Ibid. v. 31.
(46) Ibid. v. 12.
(47) Lit., ‘be married to me’.
(48) II Sam. XXII, 27.
(49) By which he might know her in the dark.
(50) Rachel.
(51) Gen. XXIX, 25.
(52) Ibid. XLVI, 27.
(53) V. ibid. 8ff.
(54) Ibid. 15. The superfluous ‘with’, Heb. eth, את implies the birth of a twin sister.
(55) Lit., ‘from now’. If eth implies the birth of a twin.

Talmud - Mas. Baba Bathra 123b

With [eth] Benjamin, his brother, his mother's son?[1] — He said: I possessed a precious pearl[2] and you seek to deprive me of it.[3] Thus said[4] R. Hama b. Hanina, ‘It[5] was Jochebed who was conceived on the way[6] and born between the walls [of Egypt], for it is said, Who was born to Levi in Egypt,[7] [which implies that] her birth was in Egypt but her conception was not in Egypt’.

R. Helbo enquired of R. Samuel b. Nahmani: It is written, And it came to pass, when Rachel had born Joseph etc.;[8] why[9] just when Joseph was horn? He replied to him: Jacob our father saw that Esau's seed would be delivered only into the hands of Joseph's seed for it is said, And the house of

Jacob shall be a fire and the house of Joseph a flame, and the house of Esau for stubble etc.[10]

He pointed out to him the following objection: And David smote them from the twilight even unto the evening of the next day![11] — He replied to him: He who taught you the Prophets did not teach you the Writings,[12] for it is written, As he went to Zicklag, there fell to him of Manasseh, Adnah and Jozabad and Jediael and Michael and Jozabad and Elihu, and Zillethai, captains of thousands that were of Manasseh.[13]

R. Joseph raised an objection; And some of them, even of the sons of Simeon, five hundred men, went to Mount Seir, having for their captains Palatiah and Neariah, and Raphaiah and Uzziel, the sons of Ishi. And they smote the remnant of the Amalekites that escaped, and dwelt there unto this day![14] — Rabbah b. Shila replied; Ishi descended from the sons of Manasseh, for it is written, And the sons of Manasseh were Hepher and Ishi.[15]

Our Rabbis taught: The firstborn son [of a priest] takes a double portion in the shoulder, and the [two] cheeks, and the maw,[16] in consecrated objects and in the [natural] appreciation of an estate that accrued after the death of the father.[17] How [is this to be understood]? — [If] their father had bequeathed to them a cow [that was] rented out to others [for half profit], or given on hire [at a fixed rate], or feeding in the meadow, and it gave birth to a firstling, he[18] takes [in it] a double portion;[19] but if they[20] built houses or planted vineyards, the firstborn does not take [in them] a double portion.[21]

How is one to understand [the statement about] the shoulder, and the [two] cheeks, and the maw? If these were already in the possession[22] of their father, [it is] obvious [that the firstborn is to take a double portion]; and if they were not already in the possession of their father, [at the time of his death], this [is a case of] prospective [property][23] and, [surely], a firstborn does not take [a double portion] in prospective [property] as [he does] in that which [was] in the [actual] possession [of his father at the time of his death]! — [The law], here, relates to the case where [the givers[24] were] acquaintances of the priest,[25] and [the beast] was [ritually] killed in the lifetime of the father;[26] and [the Tanna] holds that the [priestly] gifts are regarded as [already] given,[27] [even though] they have not [actually] been given.[28]

‘Consecrated things’ [surely], are not his![29] — [The law here relates to] consecrated objects of a minor degree and [it is] in accordance with [the view of] R. Jose the Galilean who holds that they[30] are the property of the owner.[31] For it was taught: And commit a trespass against the Lord [and deal falsely with his neighbour etc.][32] includes consecrated things of a minor degree which are the property of the owner[33] — these are the words of R. Jose the Galilean. ‘If their father had bequeathed to them a cow that was rented out to others [for half profit], or given on hire [at a fixed rate], or feeding in the meadow, and it gave birth to a firstling, he takes [in it] a double portion.’ Since it was said that he takes [a double portion in the case of a cow that was] rented out or given on hire, though, [in both cases,] it is not standing in the domain of its owner, is there any need [to mention the case when] it feeds in the meadow?[34] It is this that was [intended to be] taught: That one rented out or given on hire [is subject to] the same [law as] one that feeds in the meadow. As [in the case of the] one that feeds in the meadow, the appreciation [is such] as comes naturally, and they[35] do not lose [the cost of its] food[36]

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(1) Ibid. XLIII, 29.

(2) R. Hama's exposition.

(3) I.e., to make it public. R. Hiyya's remarks were intended to raise the interest of the students in what he was going to tell them.

(4) Supra 120a, Sotah, 12a.

(5) The person whose name was omitted from the detailed enumeration.

(6) From Canaan to Egypt.
(7) Num. XXVI, 59.
(8) Gen. XXX, 25.
(9) Why did Jacob say to Laban, ‘send me away to my country’ (ibid).
(10) Obad. I, 18.
(11) I Sam. XXX, 17. This shows that a descendant of Judah (David) defeated the descendants of Esau (Amalek, cf. Gen. XXXVI, 12). How, then, could it be said that Esau's seed would fall into the hands of Joseph's seed only?
(12) The Hagiographa.
(13) I Chron. XII, 20. The victory of David was accordingly due to the help he received from the men of Manasseh who descended from Joseph.
(14) Ibid. IV, 42f. This proves that Esau's seed fell also into the hands of the descendants of Simeon. How, then, could it be said that only Joseph's descendants could overcome Esau's seed?
(15) This quotation does not occur in our Bible text. The nearest approach is I Chron. V, 24, ‘And these were the heads of their father's houses, Epher and Ishi’.
(16) The priests’ due from people who offer sacrifices. V., Deut. XVIII, 3.
(17) Of the heirs.
(18) The firstborn.
(19) Since the appreciation was natural, it is regarded as having formed part in the original estate in their father's lifetime.
(20) The heirs.
(21) Since the appreciation of the estate was due to human effort, it cannot be regarded as having formed part of the original estate. V. Tosef. Bek. VI.
(22) Lit., ‘they came into the hand’.
(23) The case of these priestly gifts is altogether different from that of the natural appreciation of an estate. In the latter case, the estate itself was in the possession of the deceased, and its natural appreciation may consequently be regarded as an integral part of the original estate. The priestly gifts , on the other hand, were never, directly or indirectly, in the possession of the deceased.
(24) Of the priestly gifts mentioned.
(25) מכירי כהונה, Makkire Kehunah. Lit., ‘acquaintances of priesthood’. Friends of the deceased who were in the habit of giving him all their priestly gifts, which, consequently, become his as soon as the beast had been killed. [Klein S., regards the phrase as terminus technicus for the ‘watches’ (משמרות) of priests in attendance at the Temple service for one week at a time. He connects it with ממכריו in Deut. XVIII, 8, which is thus understood by the Talmud, Suk. 46a. V., MGWJ. 77, 185ff.]
(26) Of the heirs.
(27) Lit., ‘lifted’ ‘separated’.
(28) Hence, the gifts are regarded as having been in the actual possession of the deceased, and the firstborn is, therefore, entitled to a double portion.
(29) Consecrated objects such, e.g., as sin, or guilt offerings, are devoted to the Lord, not to the priest; why’ then, should the firstborn be entitled to a double portion in that which did not belong personally to his father?
(30) Objects, such as live beasts consecrated as peace offerings.
(31) Having been, accordingly, the property of the father, the firstborn son is entitled to the double portion.
(32) Lev. V, 21.
(33) Since Scripture speaks of a trespass against the Lord and of dealing falsely with one's neighbour, it must refer to consecrated objects of a minor degree, such as live peace offerings, a share of which (the flesh and skin) belongs to the owner, and a share is either given to the priest or burnt on the altar.
(34) Where it is entirely in the possession of the heirs.
(35) The heirs.
(36) Feeding in the meadow is free.

Talmud - Mas. Baba Bathra 124a

so [in the case of] one rented out or given on hire, the appreciation [must be] such as comes naturally and they do not lose thereby [the cost of its] food.[1]

In accordance with [whose view is the law[2] quoted]? — It is [in accordance with that of] Rabbi. For it was taught: a firstborn son is not [entitled] to take a double portion in the appreciation of the estate, which accrued after the death of their father. Rabbi said: I say, A firstborn son does take a double portion in the [natural] appreciation of an estate which accrued after the death of their father,[3] but not in the appreciation which the orphans produced after the death of their father. If they inherited a bond of indebtedness the firstborn takes a double portion [in the collected debt].[4] If a bond of indebtedness [for a debt incurred by the father] was produced against them, the firstborn must pay a double portion [of the debt]. If, however, he said, ‘I neither give, nor take [the double portion]’,[5] he is allowed [to do so].[6] What is the reason [for the opinion] of the Rabbis?[7] Scripture says, Giving him a double portion,[8] the [All] merciful has, thus, called it a gift;[9] as a gift [does not become his][10] until it comes into his possession,[11] so the portion of the birthright [does not become his] until it comes into his [father's] possession.[12] But Rabbi maintains, [since] Scripture says, a double portion,[13] the portion of the birthright [is to be] compared to the ordinary portion; as the ordinary portion [is his] although it has not yet come into his [father's] possession,[14] so [is] the portion of the birthright although it has not yet come into his possession. But [as to] the Rabbis also, surely it is written, a double portion? — That [expression indicates that the two portions] to be given to him are to adjoin one another.[15] But [as to] Rabbi also, surely it is written, Giving him? — That [expression is to indicate] that if he said, ‘I neither take, nor give [the double portions],’[16] he is permitted to do so.

R. Papa said: [In the case where] a [young] palm-tree [was bequeathed] and it became stronger, [or a plot of] and and it produced alluvial soil, all[17] agree that [the firstborn] takes [a double portion].[18] The dispute only relates to [the case] where hafurah[19] turned into [well developed] ears of corn, [or where] undeveloped dates turned into [fully developed] dates. [One] Master[20] is of the opinion that this is regarded as natural appreciation,[21] and the [other] Master[s][22] hold the opinion [that this is a case of complete] transformation.[23]

Rabbah b. Hana said in the name of R. Hiyya, ‘He who acts[24] in accordance with the opinion of Rabbi is acting correctly,[25] [and] he who acts[24] in accordance with the opinion of the Sages[26] is acting correctly.’[25] —

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(1) I.e., when the renter or hirer provides the fodder, otherwise the firstborn would not take in the appreciation a double portion.

(2) That a firstborn son takes a double portion in the natural appreciation of a bequeathed estate.

(3) The law quoted is in agreement with this statement of Rabbi.

(4) Possession of the bond is regarded as possession of the debt itself; and the payment of the debt is natural appreciation.

(5) In any part of the estate, i.e., if he renounces his birthright.

(6) The lender cannot force him to pay a double share in the debt. V., Tosef. Bek. VI.

(7) Why do they deny the firstborn a double portion even in the case of natural appreciation?

(8) Deut. XXI, 17.

(9) Given by the father to the firstborn.

(10) The recipient's with the power to give it away.

(11) Lit., ‘to his hand’.

(12) I.e., the father cannot claim it as his, entitling him to transmit it to the firstborn, until it actually comes into his possession.

(13) Ibid. The portion of the birthright and the ordinary portion were included in one expression.

(14) I.e., prospective property. v. supra.

(15) Lit., ‘on one boundary’ — both portions being treated as one.

(16) V. supra 124a.

(17) Rabbi and the Rabbis.
(18) Since no radical change had taken place in the tree.
(19) Corn in its earliest stage, used as fodder for cattle.
(20) Rabbi.
(21) Hence, the firstborn receives a double portion.
(22) The Rabbis.
(23) In nature and name, the original bequest having practically ceased to exist. Hence, the firstborn is not entitled to a double portion.
(24) Decides a law case.
(25) His decision is legally valid.
(26) The Rabbis.

Talmud - Mas. Baba Bathra 124b

[For] he[1] was in doubt as to whether the halachah is in accordance [with the decision of] Rabbi [when it is in opposition to that] of his colleague,[2] but not [when it is opposed to that] of his colleagues,[3] or is the halachah in accordance [with] Rabbi [when in opposition to] his colleague and even [when he is opposed to] his colleagues.[4]

R. Nahman said in the name of Rab, ‘It is forbidden to act in accordance with the decision of Rabbi,[5] for he holds the opinion [that] the halachah is in accordance [with] Rabbi, [when in opposition to] his colleague, but not [when he is opposed to] his colleagues.’ R. Nahman in his own name,[6] however, said, ‘It is permitted to act in accordance with the decision of Rabbi’; for he holds the opinion [that] the halachah is in accordance [with] Rabbi [when in opposition to] his colleague and even [when opposed to] his colleagues.

Raba said, ‘It is forbidden to act in accordance with the decision of Rabbi, but if one did act [accordingly], his action is legally valid;’[7] for he is of the opinion [that at the college] it was said [that they were only] inclined[8] [in favour of the opinion of the Rabbis].

R. Nahman learned[9] in the ‘other books of the School of Rab’:[10] Of all that he hath,[11] excludes the appreciation [of an estate] which the heirs have produced after the death of their father; but [in] the [natural] appreciation of the estate [that accrued] after the death of their father he [does] take [a double portion]. And who is [the author of this statement]? — It is Rabbi.

Rami b. Hama learned in the ‘other books of the School of Rab’.[10] Of all that he hath,[11] excludes[12] the [natural] appreciation of an estate [that accrued] after the death of their father, and much less is he [entitled] to take [a double portion in] the appreciation which the heirs produced after the death of their father. And who is [the author of this statement]? — The Rabbis.

Rab Judah said in the name of Samuel: A firstborn son does not take a double portion in a loan.[13] [According] to whom [was this statement required]?[14] If it is suggested, [according] to the Rabbis, [it may be retorted] if the Rabbis maintain that an appreciation which accrues to his possession[15] [the firstborn] takes no [double portion], is there any need [to state that he takes no double portion in] a loan?[16] — But [the statement was required according] to Rabbi. Who, then, was the author of] what has been taught. ‘If they inherited a bond of indebtedness, the firstborn takes a double portion both in the loan and in the interest’? Neither Rabbi nor the Rabbis![17] This statement[18] may, indeed, be required [according] to [the view of] the Rabbis,[19] [for] it might have been assumed [that, in the matter of] a loan, since he is in possession[20] of the bond, [the debt] is regarded as collected, hence [the law] had to be stated.[21]

[A message] was sent from Palestine:[22] a firstborn takes a double portion in a loan, but not in [its] interest.[23] [According] to whom [is this law]?[24] If it is suggested [that it is according] to the Rabbis, [it may be retorted:] If the Rabbis maintain that [in] an appreciation which accrues to his possession [the firstborn is] not to take [a double portion], is there any question as to [whether he takes a double portion in] a loan?[25] — But [the statement is according] to Rabbi. [Does] not [the firstborn, however, according] to Rabbi [take a double portion] in the interest [also]? Surely it was taught: Rabbi said: A firstborn takes a double portion both in a loan and in [its] interest! — This is really [in accordance with] the Rabbis, but a loan [is regarded] as collected.[26] R. Aha b. Rab said to Rabina: Amemar [once] happened to come to our place, and gave the following exposition: A firstborn takes a double portion in a loan but not in [its] interest. He said to him: The [scholars] of Nehardea follow their [own] view;[27] for R. Nahman said:[28] [If] land was collected [for the debt, the firstborn] has no [double portion],[29] [if] money was collected he has [it],[30] but Rabbah said: [If] money was collected he has no [double portion],[31] [if] land was collected, he has.[32]

Abaye said to Rabbah: Following[33] you there is a difficulty; following[33] R. Nahman there is a difficulty. Following you there is [this] difficulty:

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(1) R. Hiyya.

(2) Cf. ‘Er. 46b; Pes. 27a; Keth. 21a and 51a.

(3) I.e., where the majority is against him. The law, here, since Rabbi is opposed by the Sages, must, consequently, be decided against him.

(4) Hence, the law must be decided according to Rabbi. As this point could not be determined, every judge is allowed to act either in accordance with the view of Rabbi or with that of the Sages.

(5) And here he is opposed by his colleagues, a majority.

(6) Lit., ‘If his’.

(7) Lit., ‘is done’.

(8) No definite decision on the view of the Rabbis has been arrived at at the college; only arguments in its favour were advanced.

(9) Or ‘taught’, v. next note.

(10) ספרי דבי רב Halachic expositions and comments on Numbers and Deuteronomy. Sifra debe Rab is another name for Torath Kohanim, תורת כהנים which is a similar work on Leviticus. [Friedmann, M., disputes there identifications as well as the authorship of Rab assigned to these Halachic Midrashim by Maimonides and others. Kaplan, J., The Redaction of the Talmud, 279, holds that Sifre debe Rab designates ‘the Standard Book of Records of Rab's Academy’ nad the ‘other books of the School of Rab,’ the smaller and more specialized collections containing among others contributions by R. Nahman and Rami b. Hama.]

(11) Deut. XXI, 17.

(12) The firstborn is not entitled to a double portion.

(13) Due to the father; even though the heirs hold a bond of indebtedness against the borrower.

(14) I.e., whose view has Samuel adopted?

(15) Such, e.g., as undeveloped dates, supra 124a, where the dates are in his possession. Rashb. preserves a better reading: ‘If the Rabbis maintain that a natural appreciation,’ likewise with reference to undeveloped dates.

(16) Where the money is not in his possession. Or, where the increase is not natural.

(17) Because, as has been assumed, even Rabbi agrees that the firstborns does not take a double portion in a loan.

(18) Of Samuel.

(19) While the statement about the inheritance of a bond of indebtedness agrees with the view of Rabbi.

(20) Lit., ‘holds’.

(21) Lit., ‘made us hear’.

(22) Lit., ‘from there’.

(23) Though the interest is mentioned in the note.

(24) I.e., in accordance with whose view was it possible to enunciate such a law?

(25) Surely, he does not. How, then, could it be said that he does take a double portion?

(26) Hence the right of the firstborn to take a double portion.

(27) Amemar, who was of Nehardea, holds the same view as R. Nahman, who was also of Nehardea, that a debt is regarded as being in the possession of the creditor.

(28) This is the order adopted by Rashb.

(29) Because the bequest was money and not land.

(30) V. u. 1, supra.

(31) Since a loan is made to be spent, the money that is collected for the debt is not the original that was lent, but other money which was never in the creditor's possession.

(32) Lands are regarded as pledged to the creditor and, consequently, as being in his possession.

(33) Lit., ‘according to’.

Talmud - Mas. Baba Bathra 125a

What is the reason[1] [why he] does not [take a double portion if] money [was collected]? [Is it not] because their father did not bequeath that particular money? [In the case of] land also, their father, [surely], did not bequeath that land! Furthermore, you, O Master, have said, [that] the reason of the Palestinians is logical, for if the grandmother had sold [her estate] before [her death], her sale would have been valid.[2] Following R. Nahman there is [this] difficulty: What is the reason[1] why he does not [take a double portion when] land [was collected]? [Is it not] because their father did not bequeath that land? [In the case of] money also, their father did not bequeath that money! Furthermore, surely, R. Nahman said in the name of Rabbah b. Abbuha: [If] orphans collected [a plot of] land for their father's debt[3] the creditor[4] may re-collect it from them![5] — He replied to him: There is no difficulty according to me, nor is there any difficulty according to R. Nahman. We were stating the reason of the Palestinians,[6] but we ourselves[7] do not hold [this] opinion.[8]

What [was the story of the] grandmother? [Once] a certain [person] said to them:[9]

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(1) Lit., ‘what is the difference?’

(2) V. infra 125b. This shows that land, though regarded as pledged, is not considered to be in possession of the creditor since the debtor can dispose of it and meet his liability in another manner; how, then, could Rabbah state that the firstborn if land was collected, receives a double portion?

(3) That was owing to him.

(4) To whom their father owed money.

(5) Although they received that land after the death of their father, it is regarded as having itself been ‘in the father's possession, since it had been obtained through the money (debt) bequeathed to them by their father. In the case of the birthright also, since the land was obtained through the debt that was bequeathed by their father, it should be regarded as having been in his possession, and the first-born should take a double portion; how, then, could R. Nahman say that if land was collected for a debt, the firstborn does not receive a double portion?

(6) Who hold that a firstborn takes a double portion in a loan, and this gave rise to the differences of opinion between Rabbah and R. Nahman.

(7) Lit., ‘and to us’.

(8) But share the opinion of Rab and Samuel that the right of primogeniture does not apply to a loan and the whole question, whether the payment was made in money or land, does not arise.

(9) His executors.

Talmud - Mas. Baba Bathra 125b

‘My estate [is bequeathed] to [my] grandmother, and after [her demise] to my heirs.’[1] He had a married daughter [who] died during the lifetime of her husband and the lifetime of her grandmother. After the grandmother died, the husband came to claim [the estate].[2] R. Huna said: ‘To my heirs’,[3] implies, ‘even to the heirs of my heirs’;[4] and R. Anan said: ‘To my heirs’, implies, ‘but not to the heirs of my heirs’.

[A message] was sent from Palestine:[5] The law is in accordance with [the statement] of R. Anan;

but not because of his reason. ‘The law is in accordance with [the statement] of R. Anan’ [in] that the husband is not to be the heir. ‘But not because of his reason’, for, whereas R. Anan holds the opinion [that] even though his daughter had a son he would not be heir,[6] [the law] is not [so]; for had his daughter had a son he would certainly have been heir.[7] The reason why the husband is not heir is this: Because [the estate] was[8] prospective [property],[9] and the husband is not [entitled] to receive of prospective [property] as of [property which is already] in the possession [of his wife at the time of her death].

Does this[10] imply that R. Huna[11] holds the opinion that a husband [is entitled] to receive of the prospective [property of his wife] as of that which is [already] in [her] possession [at the time of her death] — R. Eleazar said: This subject[12] began with the great and ended with the small.[13] [R. Huna's reason is this:] Whosoever says, ‘[Another person shall be my heir] after you,’[14] is [regarded] as one who said, ‘[That person shall be my heir] from now’.[15]

Rabbah said: The reason [given] by the Palestinians[16] is logical. For had the grandmother sold [the estate] prior [to her demise] the sale would have been legally valid.[17]

R. Papa said: The law is that a husband does not receive of the ‘prospective’[18] [estate] of his wife as of that which is in her possession’;[18] and the firstborn son does not receive of a prospective [estate of his father] as of that which is in [his father's] ‘possession’. The firstborn son, [furthermore,] does not receive a double portion in a loan [owing to his father], whether [the heirs] had collected [in payment] land or whether they had collected money;

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(1) I.e., on the denise of the grandmother, the estate shall revert back to his own heirs (his own sons, daughters, etc.) and shall not be inherited by the woman's heirs (her sons etc.).

(2) Since his wife, if she had been alive, would have inherited that estate, he, as her husband and heir, claimed his right to that estate.

(3) The expression used by the testator.

(4) Hence the husband is entitled to the inheritance of the estate.

(5) Lit., ‘from there’.

(6) Since he excludes the heirs of the heirs.

(7) The son of a daughter (in the absence of sons and their lineal descendants), is entitled to be heir to his grandfather and is, therefore, included in the expression ‘my heirs’.

(8) When his wife died.

(9) At that time it was still in the possession of the grandmother.

(10) The statement that the reason why the husband was not granted the right of heirship in the estate of his wife's grandmother is because he is not entitled to inherit any ‘prospective property’ or his wife.

(11) Who granted the husband's claim.

(12) R. Huna's decision.

(13) R. Eleazar classes R. Huna (who gave the verdict) among the great, and himself (who explained it) among the small.

(14) As here, where the granddaughter has nominated heir after the grandmother.

(15) The granddaughter, in the case cited, consequently came into the possession of the estate during her lifetime, the grandmother only enjoying the right of usufruct. Hence, it was not ‘prospective’ property’ that R. Huna had granted the husband.

(16) Who treated the estate as prospective property.

(17) This proves that the grandmother was nor only entitled to usufruct but also to the full possession of the estate. Had she sold it, the granddaughter would has e received nothing. Hence, as regards the granddaughter, the estate was only prospective, and her husband, therefore, was not entitled to claim it.

(18) The terms have been fully explained in the Gemara and notes supra.

Talmud - Mas. Baba Bathra 126a

and [in the case of] a loan that is with him[1] [the portion of the birthright] is to be divided [between him and the other heirs].[2]

R. Huna said in the name of R. Assi: [If] the firstborn son had protested [against the proposed improvements in the bequeathed estate][3] his protest is valid.[4]

Rabbah said: [The law] of R. Assi stands to reason in [the case] where grapes were cut[5] [or] where olives were plucked;[6] but where these were pressed[7] [the firstborn does] not [receive a double portion].[8] But R. Joseph said: Even if they were pressed. ‘If,’ [you said], ‘they were pressed’,[surely] at first [they were] grapes; now [they turned into] wine![9] — As R. ‘Ukba b. Hama said [elsewhere]. ‘Compensation is to be paid to him for any damaged grapes’,[10] [so] here, also, compensation is paid to him for any damaged grapes.

In what connection[11] was [the statement] of R. ‘Ukba b. Mama made?[12] [In connection] with what Rab Judah said in the name of Samuel: Where a father bequeathed to a firstborn, and to an ordinary son grapes which they cut[13] [or] olives which they plucked, the firstborn receives a double portion even if they pressed [the grapes]. ‘[If] they pressed [the grapes]’, it was asked, ‘[were these not] first grapes [and] now [they are turned into] wine?’[14] [To this] R. ‘Ukba b. Mama replied. ‘Compensation is paid to him for any damaged grapes.’[15]

R. Assi said: If a firstborn son accepted a share [of a field][16] equal [to that of] any other [brother], he has renounced [the claims of his birthright]. What [is meant by] ‘renounced’? — R. Papa said in the name of Raba: He renounced his claim upon that field only.[17] R. Papi in the name of Raba said: He renounced [thereby] his claims upon the entire estate. R. Papa had said in the name of Raba [that] he renounced his claim upon that field only, [for] he is of the opinion [that] the firstborn is not regarded as legal possessor of [his share] before the division [between the heirs takes place];[18] and R. Papi had said in the name of Raba that he renounced. [thereby]. his claim upon the entire estate, [because] he is of the opinion [that] the firstborn is considered [legal] possessor of [his share] before the division takes place, and [it is assumed that], since he has renounced his claim over that [one field] he has [also] renounced his claim upon all the others.

And the [statements reported by] R. Papi and R. Papa [in the name of Raba] were not made[19] explicitly [by him], but inferred [by them]. For there was a certain firstborn son who went [and] sold his own property[20] and [that] of his other [brother].[21] [When] the orphans, the sons of the other [brother], went to eat [of] the dates of the buyers, the latter beat then,. ‘Is it not enough’, said the [orphans’] relatives to them, ‘that you bought up their property. but you must also beat them?’ They came before Raba, [and] he said to them: ‘The sale is invalid’[22] .

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(1) With the firstborn. I.e., when he himself owes money to his father.

(2) He takes one half, and the others take the other half. The portion of the birthright is, in this case, of ‘doubtful ownership’. If the loan in question were to be regarded as an ordinary debt, the firstborn would have had no claim at all to the double portion of the birthright. Since, however, the loan is in his own possession, it might he argued that he is entitled to the full share of his birthright. Hence the compromise.

(3) Demanding the distribution of the property prior to the introduction of the improvements; and the other heirs effected them against his wish.

(4) Lit., ‘he protested’. He is entitled to a double portion even in the appreciation that was produced by their efforts.

(5) By the heirs.

(6) Since the appreciation in these cases has not produced any radical change in the fruit.

(7) Into wine or oil.

(8) Even though he protested; because, in this case, there was complete transformation of the original bequest. The wine or oil was never in the possession of the deceased.

(9) The wine has never been in the possession of the deceased, why then should the firstborn be entitled to a double portion in the wine?

(10) Lit., ‘to give him the value (money) of the damage of his grapes’. (12) The firstborn receives a double portion. not in the wine, but in value of the grapes that were lost or damaged in the process of the manufacturing of the wine. The heirs, who made the change in disregard of his protest, must hear the loss.

(11) Lit.,’where’.

(12) Lit., ‘said’.

(13) Despite the protest of the firstborn.

(14) Since this is a case of complete transformation. why should he receive a double portion? v. p. 522. n. 9. and n. 10.

(15) v. p. 522. n. 12.

(16) Bequeathed by his father.

(17) He may, however, still claim his rights in any of the other parts of the estate.

(18) Hence, he can only renounce his share in that field which has been divided, but not in those parts of the estate which have not yet been divided, since no man can renounce or confer possession of a thing which is not his. (Rashb.)

(19) Lit., ‘said’.

(20) His double portion in the bequeathed stare of his father.

(21) I.e he sold the entire estate, before It had been divided between him and his brother, without the consent of the latter.

(22) Lit., ‘he (the firstborn) has not done anything’.

Talmud - Mas. Baba Bathra 126b

[One] master[1] holds the opinion [that Raba's meaning was that the sale] of a part[2] [only of the estate was] invalid, and the [other] Master[3] holds the opinion [that Raba's meaning was that] the entire [sale was invalid].[4]

[A message] was sent from Palestine:[5] [If] a firstborn son had sold [his share] before the division [of the estate took place, that sale] is invalid.[6] This shows that the firstborn is not regarded as the [legal] possessor of his share[7] before distribution [had taken place]. And the law is that the firstborn is the possessor of his share[8] [even] before distribution [of the estate had taken place].

Mar Zutra of Darishba divided a basket[9] of pepper with [his] brothers in equal [shares].[10] [When] he came before R. Ashi, [the latter] said to him: ‘Since you have renounced [your rights in] a part [of the estate][11] you have [implicitly] renounced [them] in all of it’.[12]

MISHNAH. [IF] ANY ONE SAID,[13] ‘MY FIRSTBORN SON, SHALL NOT RECEIVE A DOUBLE PORTION,’ [OR] ‘X, MY SON, SHALL NOT BE HEIR WITH HIS BROTHERS’, HIS INSTRUCTIONS ARE DISREGARDED,[14] BECAUSE HE MADE A STIPULATION [WHICH IS] CONTRARY TO WHAT IS WRITTEN IN THE TORAH.[15] IF ONE[16] DISTRIBUTED HIS PROPERTY VERBALLY, [AND] GAVE TO ONE [SON] MORE, AND TO [ANOTHER] ONE LESS, OR [IF] HE ASSIGNED TO THE FIRST BORN A SHARE EQUAL TO THAT OF HIS BROTHERS,[17] HIS ARRANGEMENTS ARE VALID.[18] IF, [However]. HE SAID, AS AN INHERITANCE’,[19] HIS INSTRUCTIONS ARE DISREGARDED.[20] [IF] HE WROTE,[21] EITHER AT THE BEGINNING OR THE MIDDLE OR THE END, ‘AS A GIFT’,[22] HIS INSTRUCTIONS ARE VALID.[23]

GEMARA. [Must] it be said [that] our Mishnah[24] is not in accordance with R. Judah? For, if [it be suggested that it is in accordance with] R. Judah. surely he said, [it may be asked]. [that] in money matters one's stipulation is valid’.[25] For it was taught: If a man said to a woman, ‘Behold thou art consecrated unto me[26] on condition that thou shalt have no [claim] upon me [for] food, raiment and conjugal rights’ she is consecrated[27] but the stipulation is null[28] ; these are the words of R. Meir. R. Judah said: In respect of the money matters his stipulation is valid![29] [Our Mishnah] may be said [to be in agreement] even [with the view of] R. Judah; [only] there,[30] she knew [his conditions] and renounced her privilege[31] [but] here,[32] [the son] did not renounce [his privileges].[33]

R. Joseph said: [If] one said, ‘X is my firstborn son’, [the latter] is to receive a double portion.[34] [But if he said]. ‘X is a firstborn’ [the latter] is not to receive a double portion, for he may have meant,’ the firstborn son of his mother’.[35]

A certain [person once] came before Rabbah b. Bar Hana [and] said to him, ‘I am certain that this [man] is a firstborn’. He said to him: ‘Whence do you know [this]?’ ‘Because his father called him foolish[36] firstborn’ ‘He might have been the firstborn of his mother [only], because the firstborn of a mother is also called foolish firstborn.’[37]

A certain [Person once] came before R. Hanina [and] said to him, ‘I am certain that this [man] is firstborn’. He said to him, ‘Whence do you know [this]?’ — [The other] replied to him,: ‘Because when [people] came to his father,[38] he used to say to then,: Go to my son Shikhath, Who is firstborn and his spittle heals’. — Might he not have been the firstborn of his mother [only]? — There is a tradition that the spittle of the firstborn of a father is healing, but that of the firstborn of a mother is not healing.

R. Ammi said: A tumtum[39] [firstborn] who, having been operated upon, was found to be a male, does not receive a double portion [as heir], for Scripture says. And if the firstborn son be hers that was hated,[40] [which implies that he cannot be regarded as firstborn] unless[41] he was a son at the beginning[42] of [his] being.[43] R. Nahman b. Isaac said: Neither is he tried as a ‘stubborn and rebellious son’;[44] for Scripture says. If a man have a stubborn and rebellious son,[45] [which implies that] he must have been[46] a son at the beginning[47] of[his] being.[48]

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(1) R. Papi.

(2) Lit., ‘half’. That part which belonged to his brother. The sale of his own share, however, is valid since, according to R. Papi. the firstborn comes into the possession of his own share even before the distribution had taken place.

(3) R. Papa

(4) Because, according to R. Papa, the firstborn does not come into the possession of his share heir the distribution had taken place.

(5) Lit , ‘from there’.

(6) V. note 3.

(7) Lit ‘he has not’

(8) Lit ‘he has’.

(9) Lit., ‘in a basket’.

(10) Though he was the firstborn, he renounced his claim upon the double portion.

(11) The pepper.

(12) Lit., ‘in all the property’.

(13) Prior to his death.

(14) Lit., ‘he said nothing’.

(15) One has no right to give instructions which are contrary to the law of the Torah which has entitled every son to a portion, and the firstborn to a double portion, in the father's estate.

(16) A man on his death-bed.

(17) Lit , ‘he made the firstborn equal to them’.

(18) Because a person is entitled to dispose of his property, as a gift, in any manner that appeals to him.

(19) I.e., if he distributed the shares as portions of an inheritance and not as gifts.

(20) V. supra n. 2 and 1.

(21) Disposing of his property in a written will.

(22) Though he used the expression of ‘inheritance’ also.

(23) Lit, ‘his words stand’. So long as the expression. ‘as a gift’, was used, the other expression. ‘as an inheritance’. that may have been used with it, does not affect the validity of the testator's instructions.

(24) Which forbids any stipulation that is contrary to a law of the Torah.

(25) Even if it is contrary to a law of the Torah Since our Mishnah deals with money matters and yet it is stated that one's stipulation that is contrary to the Torah, is invalid, it obviously cannot agree with R. Judah's view.

(26) The formula of marriage used by the bridegroom is, ‘Behold, thou art consecrated onto me by this ring according to the law of Moses and Israel’.

(27) Becomes his legal wife.

(28) Because it is contrary to the law of the Torah. Cf. Ex. XXI, 10.

(29) I.e., her ‘food and raiment’. Now since the law is always decided in accordance with the view of R. Judah, in opposition to the rival view’ of R. Meir, is it likely that our Mishnah is contrary to the accepted law?

(30) In the stipulation about the food and clothing of one's wife.

(31) By the acceptance of his proposal. Hence the validity of the stipulation.

(32) The case in our Mishnah.

(33) Which the Torah had conferred upon him. Hence the law that the stipulation is null.

(34) His father's word is sufficient in this case to establish his right.

(35) Such a firstborn has to be redeemed from the priest in the same way as the firstborn of a father, but is not entitled to a double portion.

(36) The witness assumed that ‘foolish firstborn’ implied that he was ‘firstborn to his father’ and ‘weak in intellect’.

(37) ‘Foolish’, implying that he has the title ‘firstborn’ without the rights and privileges attached to it.

(38) Complaining of certain pains or eruptions on their bodies.

(39) טומטום one whose sexual organs are undeveloped or concealed. (11) Lit., ‘who was torn’.

(40) Deut. XXI, 15.

(41) Lit., ‘until’.

(42) Lit., ‘from the moment’.

(43) הויה being’, ‘existence’, comes from the same root as והיה ‘and if . . . be’, in the text cited.

(44) V\ Deut. XXI, 28-21.

(45) Ibid. v. 28.

(46) Lit., ‘until he shall be’.

(47) V. supra n. 3.

(48) Cf. I.e. n. 4. The Heb. for hare in the text cited, is יהיה of the same root as הויה

Talmud - Mas. Baba Bathra 127a

Amemar said: Nor does he reduce the portion of the birthright;[1] for it is said, And they have born him sons[2] [which implies that] he must have been[3] a son[4] at the time of [his] birth.[4] R. Shezbi said: Nor is he circumcised on the eighth [day[5] of his birth];[6] for Scripture said, If in woman be delivered, and bear a man-child. . . and in the eighth day [the flesh of his foreskin] shall be circumcised,[7] [which implies that] he must be[8] a male at[9] the time of [his] birth.[10] R. Sherabya said: Nor is his mother [levitically] unclean [on account] of [his] birth;[11] for Scripture said, If in woman be delivered, and bear a man-child, then she shall be unclean seven days [which implies that she is not unclean][12] unless he[13] was a male at[9] the time of [his] birth.[14]

An objection was raised: [It was taught]. ‘If a woman miscarried a tumtum[15] or an androginos,[16] she must continue [in her levitical uncleanness and cleanness, as] for both a male and a female’.[17] [Is not this] an objection [to the statement] of R. Sherabya?[18] — This is an objection.

May it be suggested [that] this is [also] all objection [against the statement] of R. Shezbi?[19] The Tanna[20] may have been in doubt[21] and, [consequently. he imposed a double] restriction.[22] If so,[23] it should have been [stated that] she should continue [in her uncleanness] for a male, and for a female, and for her menstruation![24] — This is a difficulty.

Raba said: It was taught in agreement with [the view] of R. Ammi:[25] [The expression.] a Son,[26] [Implies], but not a tumtum;[27] [the expression] a firstborn,[28] [implies] but not a doubtful case.[29] [The statement]. ‘in son, but not a tumtum’ [can well be explained] in accordance with [the view] of R. Ammi; but what does [the statement]. ‘a firstborn, but not a doubtful case’, exclude?[30] — It excludes[31] [the opinion arrived at] through Raba's exposition. For Raba gave the following exposition: [if] two women[32] gave birth [respectively] to two male children in a hiding place.[33] [these[34] may] write out an authorisation for one another.[35]

R. Papa said to Raba: Surely Rabin had sent [a message stating]: This question I have asked of all my teachers, but they told me nothing; the following, however, was reported in the name R. Jannai: [If] they[36] were identified,[37] and afterwards they were exchanged, they may give written authorisation to one another; [if] they were not identified,[37] they may not give written authorisation to one another.[38]

Subsequently Raba appointed an Amora[39] by his side, and made the following exposition: what have told you was in error; but this, indeed, has been reported in the name of R. Jannai. ‘If they[36] were identified[34] and afterwards they were exchanged, they may give written authorisation to one another, [if] they were not identified[37] they may not give written authorisation to one another.

The men of Akra di Agama[40] addressed[41] [the following enquiry] to Samuel: Will our master instruct us [as to] what [is the law in the case] where one was generally held-to be a firstborn son, but his father declared that another [son] was the firstborn?[42] — He sent to them [the following reply]: ‘They may write on an authorisation

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(1) If the tumtum had, e.g., two brothers, one of whom was firstborn, the inherited estate is to be divided into three portions only, (as if the tumtum did not exist). Of these, the firstborn who is entitled to a double Portion (one ordinary and one as his birthright) receives one portion (that for the birthright), while the remaining two are subdivided into three Portions, each of the three brothers receiving one. The firstborn's portion of the birthright is thus in no way diminished through the existence of the tumtum.

(2) Deut., XXI. 15.

(3) V. note 7.

(4) Emphasis is laid on born and sons, in the text cited.

(5) V. Gen. XVII, 12.

(6) If that day fell on a Sabbath.

(7) Lev. XII, 2-3, from which is derived the suspension of the Sabbath laws in favour of circumcision on the eighth day (v. Shab. 131b).

(8) V. note 7.

(9) Lit., ‘from’.

(10) Since Scripture states, man-child . . .’ shall be circumcised’.

(11) V. Lev. XII, 2 and 5.

(12) The period of seven days. V. ibid. v. 2.

(13) V. note 7, supra.

(14) The emphasis is on man-child, then she shall be unclean’.

(15) V. p. 526, n. 20.

(16) אנדרוגינוס Gr.** Hermaphrodite.

(17) She must observe fourteen unclean clays as for a female (Lev. XII. 5), and not seven only as for a male (ibid. v. 2); while her period of cleanness is not sixty-six days. as for a female (ibid. v. 5)’ but only thirty-three as for a male (ibid. v. 4) Prom these thirty-three days, however, the additional seven days (the difference between the unclean periods if male and female respectively) are to be deducted, so that her period if cleanness consists of twenty-six days only.

(18) Who said that the mother was not unclean at all.

(19) He does not regard a tumtum as male at all, while the cited Baraitha regards him as partly male.

(20) Of the cited Baraitha.

(21) As to whether a tumtum and an androginos are to be regarded as males or females.

(22) That if a female as regards the unclean period, and that of a male regarding the clean period. In the case of circumcision, the restrictions of Sabbath observance also have been imposed.

(23) That, on account of the doubt, additional restrictions were imposed.

(24) Since it is also possible that the law of ‘uncleanness of birth’ is not applicable in such a doubtful case, the woman should be subject must only to the restrictions connected with the birth of a male and a female, but also to those of menstruation. The unclean period due to birth (fourteen for a female which include the seven for a male should not, accordingly, be followed by the clean period of twenty-six days (v. note 1, supra) during which she is regarded as clean even if blood had appeared, but by that of menstruation, I.e., let her be treated as if nn birth at all had taken place and, consequently, if any blood appeared she should become menstrually unclean.

(25) That a tumtum, though found after an operation to be male, is not entitled to the birthright.

(26) Deut. XXI. is.

(27) I.e., a birth, though found later to be made.

(28) Ibid.

(29) That of one about whom it is uncertain whether he is firstborn.

(30) It being obvious that the doubtful first-boris has no claim to the double portion.

(31) Lit., ‘to exclude’.

(32) Wives of the same husband.

(33) So that it is not known is who was born first.

(34) When they came to claim a share in their father's bequeathed estate.

(35) Since one of the to is is certainly firstborn, he who receives the authorisation can claim from his brothers the double portion of the birthright, either on his own behalf or on behalf of his brother. The second clause of the cited Baraitha proves that Scripture did not permit of such a Procedure, and that in any doubtful case the double portion of the birthright cannot he claimed.

(36) The two sons of whom it is not known which is the firstborn.

(37) At their birth.

(38) How, then, could Raba state that is written authorisation may be given in all cases, presumably even when they were never identified.

(39) An interpreter. v. Glos.

(40) [‘The fort of Agama’ near Pumbeditha (v. Obermeyer. op. cit , P. 237. n. 3).]

(41) Lit., ‘Sent’.

(42) Which of the two is entitled to the birthrights

Talmud - Mas. Baba Bathra 127b

for one another.’ What [is really] your opinion [on the matter]? If [Samuel] holds the same view as the Rabbis,[1] he should have sent [word] to them, according to the Rabbis; if he holds the same view as R. Judah.[1] he should have sent [word] to them according to R. Judah! — He was in doubt as to whether [the law is] according to R. Judah or according to the Rabbis.[2]

What is that [dispute]?[3] — It was taught: He shall acknowledge[4] [implies]. ‘he shall [be entitled to] acknowledge him before others’.[5] From this R. Judah deduced that a person is believed when he declares, ‘This son of mine is firstborn’.[6] And as a person is believed when he declares ‘this son of mine is firstborn’, so one is believed when one declares, ‘this is the son of a divorced woman’, or ‘this is the son of a haluzah.’[7] But the Sages say he is not believed.[8]

R. Nahman b. Isaac said to Raba: According to R. Judah it is correct for Scripture to say, he shall acknowledge,’[9] according to the Rabbis, however, what need is there for[10] [the expression] he shall acknowledge? — When acknowledgment is required.[11] In what legal respect?[12] As regards giving him a double portion? Should he [even] be [regarded as] but a stranger, could he[13] not give [it][14] to him if he desired to make a gift of it? — This[15] is required only [in the case] where property has come into his possession[16] afterwards.[17] But according to R. Meir Who said, ‘a man may give possession of a thing that has not come into existence’,[18] what need is there for, he shall acknowledge?[19] — [It is needed for the case] where property came into his possession[20] while he was dying.[21]

Our Rabbis taught: [Where a son] was held to be a firstborn, and his father declared another [son] to be the firstborn, [the father] is believed. [Where, however, a son] was held not to be a first-born, and his father declared him to be a firstborn, [the father] is not believed. The first [clause harmonises with the view of] R. Judah,[22] and the last [clause harmonises with that of] the Rabbis.[23]

R. Johanan said: [If] a person declared, ‘this is my son’, and then retracted and declared, ‘He is my slave’, he is not believed. [If, however, he said], ‘He is my slave’, and then he retracted and declared, ‘He is my son’, he is believed, for he [may] mean,[24] ‘who attends upon me as a slave’. [This law,] however, is reversed [when the statements were made] at a custom house. If, when passing the custom house, he declared, ‘This is my son’, and then he retracted, and said, ‘He is my slave’, he is to be believed.[25] [If, however,] he declared, ‘He is my slave’, and then he retracted, and said,’He is my son’, he is not believed.[26]

An objection was raised: [It was taught:] If a man attended upon another as a son[27] and the latter came [before the court] and declared, ‘He is my son’ and, then, he retracted and stated, ‘He is my slave’, he is not believed. [If, however], he attended upon him as a slave, and [the latter] came [to the court] and declared, ‘he is my slave’, and then he retracted, and stated, ‘He is my son’, he is not believed![28] — R. Nahman b. Isaac replied: [The case] there[29] [refers to one] whom he called, ‘a slave of a rope of a hundred’.[30] What [is meant By] ‘a rope of a hundred’? — A rope of a slave [who is worth] a hundred zuz.[31]

R. Abba sent to R. Joseph b. Hama: If one says to another, ‘You stole my slave’, and the other says, ‘I did not steal [him]’. [And when the first inquires, ‘In] what capacity [is he] with you?’ [the latter replies]. ‘You sold him to me,

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(1) The dispute between the Rabbis (the Sages) and R. Judah follows, infra.

(2) Hence his original message.

(3) Between R. Judah and the Rabbis.

(4) ‘The firstborn’. Deut. XXI, 27.

(5) יכיר may be rendered, ‘he shall acknowledge’ and also, being a Hiphil. ‘he shall make known’, viz., ‘to others’.

(6) Though another son was hitherto reputed to be the first-born.

(7) חלוצה The term is applied to the wife of a deceased brother (who left no issue) after she had been released from levirate marriage. The ceremony of release, in the course of which the widow takes off the shoe of her dead husband's brother, is called halizah, חליתה from root חלץ ‘to take off’. Cf. Deut. XXV. 9f.

(8) If another son was reputed to be the firstborn.

(9) Since from this expression it has been inferred that the father's word is the determining factor in deciding the birthright, though another son was generally recognised as firstborn.

(10) Lit, ‘wherefore to me’.

(11) Where it is not known stall who is the firstborn.

(12) Lit., ‘to what law’; under what legal circumstances is it necessary, according to the Rabbis, for a father to declare which of his sons is his firstborn?

(13) ‘The father.

(14) The double portion.

(15) The law on the reliability of a father's declaration.

(16) Lit., ‘fell to him’.

(17) After he made the declaration on the birthright. A person can make a gift of that only which he already has in his possession, but not of that which he may acquire in the future. Consequently the necessity in such a case, for the father's declaration.

(18) Lit., ‘to the world’.

(19) Surely he could, according to R. Meir, make a gift to the firstborn, of the double portion. in any property that he might acquire in the future.

(20) Lit., ‘fell to him’.

(21) When he is physically unfit to make any gifts. The law of R. Meir which allows a person to give possession of what he might get in the future, applies only to one who is in a condition to make the gift when it reaches him. A dying man, though legally entitled to obtain possession, is not in a condition to make gifts and to give possession. Hence the necessity for a father's declaration on the birthright.

(22) Who places implicit confidence on the testimony of the father.

(23) Who rely upon repute more than on a father's word.

(24) When cising the term, ‘Slave’.

(25) By his first statement he may have desired to avoid the slave tax.

(26) For, if his latter statement were correct, he would not have declared his son upon whom there is no tax) to be his slave for whom a tax is payable.

(27) Performing for him light services.

(28) How, then, could R. Johanan say that a person is believed when he declares one to be his son though he first declared him to be his slave?

(29) In the Baraitha cited.

(30) Heb. mezar, מזר, ‘a rope’. A term of contempt for confirmed slaves (Jast.) [Kohut, Aruch, connects it with an Arabic word, denoting ‘bag’, and renders, ‘a slave if a bag of a hundred.’]

(31) [According to Kohut, ibid, a bag, or price of a slave is a hundred in.]

Talmud - Mas. Baba Bathra 128a

you gave him to me as a gift, [but] if you wish, take an oath[1] and you will get him back’;[2] and [the first] took the oath; [the latter] is not allowed to retract.[3] What does he teach us?[4] [The obvious principle underlying the law] has [surely] been taught [elsewhere]:[5] [If one of the litigants] said to the other,[6] ‘I have full confidence[7] in my father,[8] I have full confidence in your father, I have full confidence in three oxherds’,[9] R. Meir says, he may retract,[10] and the Sages say he may not![11] He[12] teaches us this: That the dispute[13] [relates also to the case] where [a litigant declared], ‘I will give it to you’[14] and [that] the halachah is in accordance with the words of the Sages.

R. Abba sent to R. Joseph b. Hama: the halachah is that slaves may be seized [from orphans, in payment of a debt incurred by the father].[15] R. Nahman. however, said they may not be seized.[16]

R. Abba sent to R. Joseph b. Hama: The halachah is that [a relative in the] third [degree] is qualified [to act as witness for or against a relative] in the second [degree].[17] Raba said: Also [for, or against a relative] in the first [degree][18] also. Mar, son of R. Ashi permitted [a grandson to act as witness] for his father's father. The law, [however], is not in accordance with [the view of] Mar, son of R. Ashi.

R. Abba sent to R. Joseph b. Hama: If a person possessed evidence[19] in one's favour [in the matter of a plot of] land, before he became blind, and [then] became blind, he is disqualified.[20] Samuel, however, said: He is permitted [to give evidence], [since] it is possible for him to gauge [the extent of] its boundaries; but [in the case of] a cloak [he is] not [to be admitted as witness].[21] R. Shesheth said: Even [in the case of] a cloak [his evidence is admissible, for] it is possible for him gauge the measurements of its length and of its breadth; but not [in the case of] a bar of metal. R. Papa said: Even [in the case of] a bar of metal, [for] it is possible for him to gauge its weight.

An objection was raised: ‘If a person possessed evidence[22] affecting another before he became his son-in-law, and, [subsequently,] he became his son-in-law, [or if that witness] had the faculty of hearing and became deaf, the faculty of seeing and became blind, sane and became insane, he is disqualified [from giving evidence]. If, however, he possessed evidence affecting him before he became his son-in-law, and when he became his son-in-law, his daughter died; [or if he] had the faculty of hearing, became deaf, and regained his hearing; [or if he] had the faculty of Seeing, became blind, and regained his eyesight; [or if] he was sane, became insane, and regained his sanity, [in all these cases] he is qualified [to act as witness]. This is the general rule: Whenever his beginning[23] or his end[24] was under a disqualification, he is disqualified, [but whenever] his beginning and his end [find him] in a suitable condition, he is permitted [to give evidence].[25]

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(1) That he was neither sold nor presented.

(2) Though, legally, the possessor cannot be compelled to accept the oath of the claimant.

(3) Since he once consented to return the slave if the other took an oath he cannot subsequently withdraw that consent, and re-assert his former rights.

(4) I.e., what new point or principle.

(5) Sanh. 24a.

(6) Lit., 'to him'.

(7) I.e., he accepts as judge or witness.

(8) A father, like any other relative, is disqualified from acting either as judge or as witness.

(9) I.e., ignorant men, unsuitable to act as judges.

(10) Since these are legally disqualified, and their authority for acting as judges or witnesses is derived solely from his verbal consent, he may retract and allow the matter to be settled in accordance with the accepted legal procedure.

(11) Which shows, like the message of R. Abba, that once a man has renounced his legal rights, he cannot retract. Why, then, the need for R. Abba's statement, seeing that the underlying principle has already been enunciated in a Mishnah?

(12) R. Abba.

(13) Between R. Meir and the Sages

(14) Against the view that the dispute has reference only to the case where a litigant declared, 'You may keep it.' R. Abba, by his statement that the defendant cannot retract but has to surrender the slave to the claimant, has taught us that the dispute between R. Meir and the Sages is not limited to the case where a claimant agrees to forfeit his claim in favour of the defendant on the ruling of relatives (or other disqualified persons), as in the view of one authority in Sanhedrin 24a, but applies also to that of a defendant who agrees to abide by the ruling of such disqualified persons and pay up; and that even in such a case the Sages hold the opinion that the defendant cannot retract.

(15) Slaves are compared to real estate which may be seized from orphans by their father's creditors.

(16) Like movable property which cannot be seized from orphans (v. B. K 11b).

(17) To his father's first cousin. Brothers are relatives in the first degree, their sons in the second, and their grandsons in the third degree.

(18) His grandfather's brother.

(19) Lit., 'he knew'.

(20) From acting as witness, A blind man cannot possibly indicate the exact position of the boundaries of a field, though he may have known them well before he lost his eyesight.

(21) Because many cloaks are equal in size.

(22) V. p. 533, n. 8.

(23) The time of his observation.

(24) When he appears for the purpose of giving evidence.

(25) 'Ar. 17b.

Talmud - Mas. Baba Bathra 128b

[This, surely, presents an] objection against all of them![1] — This is [indeed] an objection.

R. Abba sent to R. Joseph b. Hama: If one said [something] concerning a child among [his] sons, he is to be trusted.[2] And R. Johanan said: He is not to be trusted.[2] What does this mean? — Abaye replied: It is this that was meant: If one said concerning a child among [his] sons [that] he shall be heir to all his estate, he is to be trusted in accordance with [the view of] R. Johanan b. Beroka;[3] and R. Johanan said [that] he is not to be trusted, in accordance with [the view of] the Rabbis.[4]

Raba pointed out a difficulty. [If] that [is the meaning, why the expressions], 'trusted' and 'not trusted'? 'He shall be heir' and 'he shall not be heir' should have been [the expressions used]! But, said Raba, it is this that was meant: If one said concerning a child among [his] sons [that] he was the firstborn, he is to be trusted,[5] in accordance [with the view of] R. Judah;[6] and R. Johanan said that he was not to be trusted, in accordance with [the view of] the Rabbis.[6]

R. Abba sent to R. Joseph b. Hama: If one said, 'Let my wife receive [a share in my estate] as [any] one of [my] sons,'[7] she is to receive [a share] like [any] one of the sons. Raba said: But [only] in the property [which he had in his possession] at that time,[8] and among the sons who may appear subsequently.[9]

R. Abba sent to R. Joseph b. Hama: [In the case when] one produces a bond of indebtedness against another, and the lender states, 'I received no payment at all', and the borrower pleads, 'I have paid a half', while witnesses testify that all [the debt] was paid, that [borrower] must take an oath,[10] and the [lender] collects the [other] half from [the borrower's] free property but not from [that] which has been disposed of,[11] for [the buyers or the creditors] can say, 'We rely upon the witness.'[12] And even [according] to R. Akiba, who said [that he[13] is to be treated in the same way as] one who returns a lost object,[14] these words [apply only to the case] where there are no witnesses, but where there are witnesses [his admission may be due to the fact that] he is simply afraid.[15] Mar son of R, Ashi pointed out a difficulty: On the contrary, even [according] to R. Simeon b. Eleazar who said,[16] [in the case mentioned, that] he[17] is [to he treated as] one who admits part of the claim, these words, [it may be argued, are applicable only to the case] where there are no witnesses who support him, but where there are witnesses who support him, he [should] certainly [be treated as] one who returns a lost object![18]

Mar Zutra taught in the name of R. Shimi b. Ashi: The law in [the case of] all these reported statements [is] in accordance with [the messages] which R. Abba sent to R. Joseph b. Hama. Rabina said to R. Ashi: What [about the law] of R. Nahman?[19] He replied to him: We learnt that [message of R. Abba as], 'they may not be seized', and so said R. Nahman.[20] What, then, does [the declaration of] the law exclude?[21]

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(1) Samuel, R. Shesheth and R. Papa, all of whom admitted the evidence of a witness who lost his eyesight.

(2) This is explained infra.

(3) Who stated that a father has a right to assign all his property to one only among all his legal heirs.

(4) The first Tanna, with whom R. Johanan b. Beroka is in dispute.

(5) Though another son was the reputed firstborn.

(6) Supra 127b.

(7) In addition to her kethubah or marriage settlement; or (with her consent) in lieu of it.

(8) Lit., 'of now', i.e., at the time he gave his instructions. She receives no share in any property that he acquires afterwards.

(9) I.e., if the number of sons had increased, she is to receive a smaller share, the estate being divided in accordance with the number of heirs (all the sons and the widow) that are alive at the time of the distribution, not according to the number at the time the will was made.

(10) That he repaid half the debt, in accordance with the law that the admission of part of a money claim, carries an oath on the remaining sum; v. B.M. 4a.

(11) I.e., either sold or mortgaged.

(12) Who testified that all the debt was paid. The admission of the borrower, they may claim, is due to collusion with the creditor to deprive them of their land.

(13) Who admits part of the claim but more than can be proved against him.

(14) And need not, therefore, take an oath.

(15) That they might testify against him. Hence, in such a case, even R. Akiba agrees that the borrower must take an oath.

(16) In his dispute with R. Akiba.

(17) V. p. 535, n. 9.

(18) How, then, could R. Abba subject the borrower in our case to an oath.

(19) Regarding the seizure of slaves, supra. In civil matters the law is always in accordance with R. Nahman's views, while here it has been stated that the law is in accordance with R. Abba's message. How, then, is one to reconcile the laws of R. Nahman and R. Abba, which are mutually contradictory?

(20) The two views are not contradictory, but identical.

(21) The declaration cannot have for its object the mere statement of the law regarding the seizure of slaves. Since that is obvious from the fact that R. Nahman and R. Abba hold the same opinion, there was no need to state it.

Talmud - Mas. Baba Bathra 129a

If [its purpose is] to exclude Raba's [law[1] , surely] he [merely] adds [to that of R. Abba]![2] If [to exclude the law] of Mar son of R. Ashi, [surely, it has already been stated that] the law is not according to Mar son of R. Ashi![3] If to exclude [the laws] of Samuel and R. Shesheth and R. Papa, to these, surely, objections have already been raised![4] — But, [this is the object of the declaration:] To exclude [the law] of R. Johanan,[5] and [that which was to be implied by] the difficulty of Mar son of R. Ashi.[6]

IF ONE DISTRIBUTED HIS PROPERTY VERBALLY [AND] GAVE TO ONE [SON] MORE, AND TO [ANOTHER] ONE LESS, etc. How is one to understand [the giving of] A GIFT AT THE BEGINNING, IN THE MIDDLE, or AT THE END? — When R. Dimi came[7] he stated in the name of R. Johanan: [If one wrote,] ‘Let a certain field be given to X and he shall inherit it,’ this is [called] A GIFT AT THE BEGINNING. [If he wrote], ‘let him inherit it and it shall be given to him’, this is [called] A GIFT AT THE END. ‘Let him inherit it and let it be given to him so that he may inherit it’, this is A GIFT IN THE MIDDLE. [This law is] only [applicable to the case] of one person and one field,[8] but not to [the case of] one person and two fields,[9] [or] one field and two persons.[10] R. Eleazar said: [‘The same law applies] even [to the case of] one person and two fields [or] one field and two persons’. [The law,][11] however, [is] not [applicable] in [the case of] two fields and two persons.

When Rabin came[7] he said: [In the case where one wrote], ‘Let this field be given to X, and let Y inherit that [other] field’, R. Johanan said: He[12] acquires possession, [and] R. Eleazar said: He[13] does not acquire possession. Said Abaye to Rabin: You have given us satisfaction [in one [respect] and cause for demurring in another.[14] [For, as regards the apparent contradiction between the statement] of R. Eliezar[15] and the other statement of His[16] one can well explain [that there is] no [real] difficulty [since] one statement[17] [may be said to refer to the case] of one person and two fields;[18] and the other,[19] to two persons and two fields. [The contradiction], however, [between the first statement] of R. Johanan,[20] and his second one[21] [presents] a difficulty![22] — [We[23] are] Amoraim [in dispute] as to [which were the views] of R. Johanan.

Resh Lakish, however, said: No possession is [ever] acquired[24] unless [the testator] had said, ‘Let X and Y inherit this and that particular field, which I had assigned to them as a gift, so that they may inherit them’.[25]

[The following Amoraim are] in [the same] dispute [as that of those mentioned]. R. Hamnuna said: [The law that possession[26] is acquired], was only taught [in the case of] one person and one field, but not [in the case of] one person and two fields [or] one field and two persons.[27] And R. Nahman said: [The same law applies] even [to the case of] one person and two fields [or] one field and two persons, but not [to that of] two fields and two persons.[28] And R. Shesheth said: [Possession is acquired] even [in the case of] two fields and two persons.[29]

R. Shesheth said: I derive my decision from the following Baraitha.[30] If one[31] said, ‘Give my children[32] a shekel a week’,[33] and they require a sela’,[34] a sela’ is to be given to them.[35] If, however, he said,’Give them no more than a shekel’, only a shekel is to be given to them. But if he gave instructions [that] if these died

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(1) Regarding the evidence of certain relatives, supra 128a.

(2) Without disagreeing with R. Abba's law.

(3) Why, then, state the same thing again?

(4) And the law could not, in any case, be decided in accordance with their views.

(5) Regarding the assignment of one's entire estate to one child among all the heirs (supra 128b), which is contrary to that of R. Abba.

(6) Who, contrary to the law of R. Abba (supra 128b), sought to prove that the borrower need not take an oath.

(7) From Palestine.

(8) IN such a case, the expression of ‘inheritance’ is counteracted by that of ‘gift’.

(9) If, in connection with one field, the expression of ‘inheritance’ and with the other that of ‘gift’ was used, the latter field is acquired by the donee but not the former.

(10) If the testator said, e.g., that the half of the field shall be inherited by one person and the other half shall be taken as a gift by another, the latter acquires possession of his share, but the former does not,

(11) This is a Talmudic comment, nad does not belong to R. Eleazar's statement (Rashb.).

(12) The latter and certainly the former.

(13) The latter.

(14) Lit., ‘one’.

(15) In R. Dimi's report, supra, where it is stated that possession is acquired.

(16) In Rabin's report, according to which possession is not acquired.

(17) Lit., ‘here’; viz., the first statement.

(18) Both fields were given to him at the same time; and since he acquires possession of the one field, (given as a gift), he also acquires possession of the other.

(19) Lit., ‘here’, the second statement; that of Rabin,

(20) In R. Dimi's report.

(21) In the report of Rabin.

(22) According to the first statement no possession is acquired even in the case where the two fields were assigned as an inheritance to one person, much less where they were so assigned to two persons, while according to the second statement, possession is acquired even in the case of two fields and two persons.

(23) R. Dimi and I (Rabin).

(24) Where the expression of ‘inheritance’ was used together with that of ‘gift’, in the case of two persons and two fields.

(25) Both acquire possession of the respective fields, because the testator had used the expression, ‘I had assigned to them as a gift’, implying that the gift was made before it was assigned as ‘inheritance’ (R. Gersh.).

(26) Where the expression of ‘gift’ was used with that of ‘inheritance’.

(27) This is in agreement with the statement of R. Dimi in the name of R. Johanan, supra.

(28) Agreeing with the view of R. Eleazar, supra.

(29) As Rabin stated in the name of R. Johanan.

(30) Lit., ‘whence do I say it? For it was taught’.

(31) A dying person, or one setting out on a long journey.

(32) Out of the estate he leaves behind.

(33) For their maintenance.

(34) Sela’ = two shekels.

(35) By mentioning shekel, the father did not imply the exclusion of the bigger sum. He only meant to convey his wish that his sons were no to be given more than their weekly requirements.

Talmud - Mas. Baba Bathra 129b

others[1] shall be his heirs in their stead, only a shekel [a week] is to be given to them, whether he used the expression ‘give’ or ‘give no [more]’.[2] Now here, surely, it is [a case] similar to that of two fields[3] and two persons,[4] and yet it is taught that possession is acquired.[5] He raised this[6] as an objection [to the opinions of his colleagues][7] and he [himself] gave the reply: [The Baraitha[8] deals with such persons] as are entitled to be his heirs,[9] and this [law is in agreement with the law of] R. Johanan b. Beroka.[10]

R. Ashi said: Come and hear! [If a person said], ‘[I give[11]] my estate to you; and after you, X shall be [my] heir; and after X,[12] Y shall be heir’, [when the] first dies, the second acquires the ownership; when the second dies, the third acquires the ownership. And if the second died in the lifetime of the first, the estate reverts to the heirs of the first.[13] Now here, surely, [the case] resembles that of two fields and two persons[14] and yet it was taught that possession is acquired![15] And if it be suggested [that] here also [one deals with the case of one] who is entitled to be his heir and [that] it[16] is [in accordance with the view of] R. Johanan b. Beroka;[17] if so,[18] [the question arises, how can it be said that if] the second died, the third acquired possession? Surely, R. Aha the son of R. Iwya sent [the following message]: According to the view of R. Johanan b. Beroka,[19] [if one said],[20] ‘My estate [shall be] yours, and after you [it shall be given] to X’, and the first is [one who is] entitled to be his heir, the second has no [claim] whatsoever in face of the first,[21] for this[22] is not a [specific] expression of ‘gift’ but [rather] of ‘inheritance’[23] and an inheritance cannot be terminated.[24] [Is not this[25] then,] a refutation of [the views of] all of them?[26] — This is a refutation.

May this be regarded also as a refutation of [the view of] Resh Lakish?[27] — [How can] you think so! Did not Raba say,[28] ‘The law is in accordance with [the views] of Resh Lakish in these three [cases]’?[29] — [This is] no difficulty, [for] here,[30] [the expressions of ‘gift’ and ‘inheritance’ may have been uttered] one immediately after the other;[31] there,[32] [the two expressions] may not have been uttered one immediately after the other.[33]

And the law is that [expressions uttered] immediately after one another[31] [are] always [regarded] as having been uttered simultaneously, except, [in the case of] idolatry[34]

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(1) Whom he nominated.

(2) Since it is obvious that he desired to economise in the weekly maintenance of his children in order that as much as possible may remain for his appointed heirs.

(3) (a) The total sum of the shekels to be given to the children and (b) the sum to be given subsequently to his appointed beneficiaries.

(4) (a) The children, (b) the other heirs. In the case of the former he used the expression of ‘giving’; in that of the latter, ‘inheritance’.

(5) By the appointed heirs. Since it has been said that the children were not to be given more than a shekel a week in order to leave as much as possible for the appointed heirs, it is obvious that the latter acquire possession. Thus, the law of R. Shesheth is proved.

(6) The Baraitha cited.

(7) R. Hamnuna and R. Nahman, who stated that in such a case one cannot dispose of an ‘inheritance’ to strangers.

(8) Which allows one to bequeath his estate by the use of the term ‘inheritance’ .

(9) He did not bequeath the estate to strangers, but to one or more of his legal heirs. Hence the question of the use of the term ‘inheritance’ does not arise.

(10) Who allows the appointment to an estate of one of the heirs to the exclusion of all others, infra 130a.

(11) Using the expression of gift.

(12) Lit., ‘after after you’.

(13) The third can gain possession from the second only, and since the latter died before he himself gained possession, the entire estate must revert to the first.

(14) (a) The ‘gift’ of usufruct to the first, and (b) the transmission thereof as ‘inheritance’ to the second or the entire estate to the third.

(15) which shows that, even in such a case, the term ‘gift’, used with reference to one, makes effective the term ‘inheritance’ applied to the other.
(16) The statement declaring the term ‘inheritance’ effective.
(17) V. p. 539, n. 12.
(18) that the second was not a stranger, but an heir.
(19) Who holds that provided the beneficiaries are heirs, the testator can distribute his property among them in any manner he thinks fit.
(20) Without specifying whether as a ‘gift’ or an ‘inheritance’.
(21) Or his heirs.
(22) The vague expression, ‘shall be yours’.
(23) Since the person is a legal heir.
(24) An estate, once bequeathed by a father to one of his heirs, becomes the absolute property of that heir, from whom it is transmitted to his own heirs. The father has no right to interrupt his succession by appointing any other person as second heir.
(25) The Baraitha cited by R. Ashi.
(26) All the Amoraim who maintained, supra, that if one gave instructions for field to be given as an ‘inheritance’ to one person and as a ‘gift’ to another, his instructions are invalid. As has been proved, the Baraitha cited by R. Ashi does not, as has been suggested, deal with the case of one who is entitled to be heir, but with that of any stranger appointed by the testator; and, though the estate was given as a ‘gift’ to one, and as an ‘inheritance’ to another, possession is acquired, the instructions of the testator being obviously regarded as legally valid. How then, could the Amoraim mentioned maintain that the testator's instructions in such a case are invalid, and that the person appointed as heir does not acquire possession of the estate?
(27) Who holds the opinion that the expression of ‘gift’ used in connection with the one, does not make effective the term ‘inheritance’ applied to the other.
(28) Yeb. 36a, Hul. 76a.
(29) Of which the view he advanced here is one. Surely, it would not have been regarded as law if it were refuted by the Baraitha.
(30) In the Baraitha; according to which possession is acquired when the expression ‘gift’ was used in the case of one and that of ‘inheritance’ in the case of the other.
(31) תוך כדי דבור, lit., ‘within as much (time) as is required for an utterance’, i.e., the time needed to utter a short greeting such as, ‘Peace be upon thee my master’, represented by the three words, שלום עליך רבי
(32) In the statement of Resh Lakish.
(33) Lit., ‘after the time required for an utterance.
(34) I.e., if one set aside an object for idol worship, though he withdrew immediately, the object remains prohibited. [Or, according to Tosaf. if a man proclaims an idol as his god, his immediate retraction does not save him from the death penalty. (V. Ned. 87a.)]

Talmud - Mas. Baba Bathra 130a

and betrothal.[1]

MISHNAH. IF A PERSON SAID, ‘X[2] SHALL BE MY HEIR’, WHERE THERE IS A DAUGHTER, [OR] IF HE SAID, ‘MY DAUGHTER SHALL BE MY HEIR’, WHERE THERE IS A SON, HIS INSTRUCTIONS ARE TO BE DISREGARDED,[3] FOR HE MADE A STIPULATION AGAINST A [LAW] WHICH IS WRITTEN IN THE TORAH. R. JOHANAN B. BEROKAH SAID: IF [A PERSON] SAID [IT][4] CONCERNING ONE WHO IS ENTITLED TO BE HIS HEIR, HIS INSTRUCTIONS ARE VALID; [IF], HOWEVER, [HE SAID IT] CONCERNING ONE WHO IS NOT ENTITLED TO BE HIS HEIR, HIS INSTRUCTIONS ARE NOT VALID.

GEMARA. The reason [why the testator's instructions are invalid, is,] because [he appointed, as has been said], another [legal heir] where there was a daughter, or a daughter where there was a son,[5] [had he appointed,] however, a son among the [other] sons or a daughter among the [other] daughters, his instructions would, [accordingly], have been valid; tell [me, then, what you understand by] the latter clause [which reads], R. JOHANAN B. BEROKAH SAID: IF [A PERSON] SAID [IT] CONCERNING ONE WHO IS ENTITLED TO BE HIS HEIR, HIS INSTRUCTIONS ARE VALID, surely this [represents] the same [view as that of] the first Tanna![6] And if it be suggested [that] R. Johanan b. Beroka maintains [that] even another [legal heir may be appointed] where there is a daughter, and [that] a daughter [may be appointed as heir] where there is a son;[7] [it may be retorted], surely, it has been taught: R. Ishmael the son of R. Johanan b. Beroka said, ‘There was no dispute between father and the Sages concerning [the law] that one's instructions are invalid[8] when another [legal heir was appointed] where there was a daughter, or [where] a daughter [was appointed heir] where there was a son; their dispute related only[9] [to the case of an appointment as sole heir] of a son among the [other] sons or [of] a daughter among the [other] daughters, [in] which [case] father said, [the one appointed] inherits, and the Sages say [that] he does no inherit’![10] — If you wish, it may be replied: Since he[11] said that they[12] did not dispute, it may be inferred that the first Tanna[13] is of the opinion that they did dispute.[14] [And] if you prefer,[15] it may be replied that all [the Mishnah][16] represents[17] [the views of] R. Johanan b. Beroka, only some [words are] missing [from the text] which should read as follows:[18] IF A PERSON SAID, ‘X SHALL BE MY HEIR’, WHERE THERE IS A DAUGHTER, [OR IF HE SAID], ‘MY DAUGHTER SHALL BE MY HEIR’, WHERE THERE IS A SON, HIS INSTRUCTIONS ARE TO BE DISREGARDED, but [in the case of the appointment as heir of] a daughter among the [other] daughters or [of] a son among the [other] sons, if [the father] said, [that one of them][19] should inherit all his estate, his instruction is legally valid, for R. Johanan said: IF [A PERSON] SAID [IT][20] CONCERNING ONE WHO IS ENTITLED TO BE HIS [IMMEDIATE] HEIR, HIS INSTRUCTIONS ARE LEGALLY VALID.

R. Judah said in the name of Samuel: The halachah is in agreement with [the view of] R. Johanan b. Beroka. And so said Raba: The halachah is in agreement with [the view of] R. Johanan b. Beroka.

Raba said: What is the reason [for the opinion] of R. Johanan b. Beroka? — Scripture said: Then it shall be, in the day that he causeth his sons to inherit[21] [from which it is to be inferred that] the Torah gave authority to a father to cause anyone[22] whom he desires to inherit [his estate].

Abaye said to him: This [law,[23] surely, could be] deduced from, He may not make [the son of the beloved] the firstborn![24] — That [text] is required for [the purpose of another inference], as it was taught: Abba Hanan said in the name of R. Eliezer:

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(1) If a man betrothed a woman, though he changed his mind immediately, the betrothal remains valid. [In Ned. 87a the reading is fuller: ‘except (in the case) of blasphemy, idolatry, betrothal and divorce.]

(2) I.e., any relative other than a son.

(3) Lit., ‘he said nothing’.

(4) That one person shall he his sole heir.

(5) In both of which cases his instructions are contrary to the Torah.

(6) Wherein, then, lies the difference between them?

(7) And that it is on this point that he differs from the first Tanna.

(8) V, p. 541, n. 11.

(9) Lit., ‘what do they dispute on?’, or ‘on what are they divided?’

(10) From this statement it is obvious that R. Johanan b. Beroka cannot be assumed to maintain, as has been suggested, that another legal heir may he appointed where there is a daughter, or that a daughter may be made heir where there is son

(11) R. Ishmael.

(12) R. Johanan b. Beroka and the Sages.

(13) I.e., some other Tanna.

(14) Our Mishnah, then, may be explained to represent the view of the first Tanna. Hence it is possible to suggest that R. Johanan maintains, as has been suggested above, that another legal heir may be appointed even where there is a son etc.

(15) I.e., if there is an objection to the assumption that R. Ishmael was in dispute with another Tanna as to whether his own father was or was not in disagreement with the Sages.
(16) Lit., ‘all of it’.
(17) Lit., ‘is of’,
(18) Lit., ‘and thus it teaches’.
(19) Whom he named.
(20) Gave instructions as to whom he desired to be his heir.
(21) Deut. XXI, 16.
(22) Of his sons; or, according to the first interpretation (supra note 1), any one of his legal heirs.
(23) That a father may transmit all his estate to any one of his sons (or heirs).
(24) Ibid. Which shows that it is only the birthright that a father may not transfer to another son. The other shares of his estate, however, he may, consequently, assign to whomsoever he pleases.

Talmud - Mas. Baba Bathra 130b

What [need was there for Scripture] to say, He may not make [the son of the beloved] the firstborn?[1] — Since it was said, Then it should be, in the day that he causeth his sons to inherit,[2] one might argue that it is a matter of logical deduction, [thus:][3] If [in the case of’] an ordinary [son], who is privileged to receive [a share] in any prospective [property of his father] as in that which is actually in his possession, the Torah [nevertheless] gave authority to the father to transmit [his estate] to whomsoever he pleases, how much more [should he have this right in the case of] a firstborn, whose rights are impaired in that he does not receive [the portion of the birthright] in prospective property as in that which is actually in the possession [of his father]; hence it was expressly stated, He may not make [the son of the beloved] the firstborn. Then let Scripture say, He may not make [the son of the beloved] the firstborn,[4] why should it [also] state Then it shall be, in the day that he causeth his sons to inherit? — Because one might [argue], is not this a matter of logical deduction?[5] If [in the case of] a firstborn, whose rights are impaired in that he does not receive [the portion of his birthright] in prospective [property] as in that which is actually in [his father's] possession, the Torah, [nevertheless,] said, He[6] may not make [the son of the beloved] the firstborn, how much less [should he have this right in the case of] an ordinary [son] who is privileged to receive in prospective [property] as in that which is actually in [his father's] possession; hence it was expressly stated, Then it shall be, in the day that he causeth his son to inherit, [in order to make it clear that] the Torah gave a father authority to transmit his estate to whomsoever he pleases.

R. Zerika said in the name of R. Ammi in the name of R. Hanina in the name of R. Jannai[7] in the name of Rabbi: The halachah is in agreement with [the views of] R. Johanan b. Beroka. R. Abba said to him: The statement was that he [only] gave [such] a decision![8] Wherein lies the difference?[9] — [One] Master holds [that] an halachah is preferable[10] and the [other] Master holds that a practical decision is [of] greater [importance].[11]

Our Rabbis taught: The halachah[12] may not be derived either from theoretical [conclusion] or from a practical [decision] unless one has been told [that] the halachah [is to be taken as a rule] for practical decisions. [Once a person has] asked and was informed [that] an halachah [was to be taken as a guide] for practical decisions, he may continue to give practical decisions [accordingly],[13] provided he draws no comparisons.[14] What [could be meant by], ‘provided he draws no comparisons’? Surely, in the entire [domain of] the Torah comparisons are made! — R. Ashi said: It is this that was meant: Provided one draws no comparisons in [ritual questions relating to] trefoth.[15] For it was taught: In [the laws of] trefoth it must not be said this [one] is equal to that.[16] And do not be astonished [at this], for [an animal] may be cut on one side[17] and die, [yet when] it is cut on another side[17] it remains alive.[18]

R. Assi said to R. Johanan: ‘May we, when the Master tells us:[19] "The halachah is so and so," give a practical decision accordingly?’ He said: ‘Do not use it as a practical guide[20] unless I declare [it to be] an halachah in [connection with] a practical decision.’[21]

Raba said to R. Papa and to R. Huna the son of R. Joshua: ‘When a legal decision of mine comes before you [in a written form], and you see any objection to it, do not tear it up before you have seen me.[22] If I have a [valid] reason [for my decision] I will tell [it to] you; and if not, I will withdraw. After my death, you shall neither tear it up nor infer [any law] from it. "You shall neither tear it up" since, had I been there, it is possible that I might have told you the reason;

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(1) This law, surely, is specifically stated in Deut. XXI, 17, ‘but he shall acknowledge he firstborn etc.’!

(2) V. p. 543, n. 8.

(3) Lit., ‘for one might [say], is it not an argument.’

(4) And this will amply prove that the birthright cannot be transferred.

(5) V. note 3.

(6) The father.

(7) V. Bah., a.l.

(8) I.e., that he decided a particular case in agreement with R. Johanan's views; not that he laid it down as a general rule, or halachah.

(9) Between R. Zerika and R. Abba as regards practical considerations.

(10) Since a halachah may be regarded as a general rule; while one practical decision which happens to agree with R. Johanan's views would not show that the law is always to be administered in accordance with these views. Other factors and circumstances may have led to the decision in that particular case.

(11) Or, ‘is a teacher’, (Jast.) Since a practical case has been decided in agreement with R. Johanan, one may decide similar cases accordingly. A statement that the halachah is in agreement with R. Johanan would not enable one to act accordingly, unless, as stated infra, it was specifically added that it was to be taken as a guide for practical decisions.

(12) I.e., laws for practical guidance.

(13) He need not ask for a new ruling every time an exactly similar case is brought before him.

(14) Whereby to decide other cases which do not resemble it in all respects.

(15) טרפות diseased animals which, though ritually slaughtered, are forbidden to be eaten.

(16) And thus derive one law from another; the law relating, e.g., to a diseased liver from that of a diseased lung.

(17) Lit., ‘from here’.

(18) Which shows that the injury to one limb must in no way be compared, for ritual purposes, to the injury of another.

(19) In the course of our studies and discussions.

(20) Lit., ‘do not do’.

(21) In which case one is careful with one's statements. In the course of theoretical discussions, however, one may sometimes give an unconsidered decision which may be contrary to the accepted law,

(22) Lit., ‘until you come before me’.

Talmud - Mas. Baba Bathra 131a

"nor infer [any law] from it" — because a judge must be guided only by that[1] which his eyes see.

Raba inquired: What[2] [is the law in the case of] a person in good health?[3] Does R. Johanan b. Beroka[4] speak [only] of [the case of] a dying man, who has the right to appoint an heir [on the spot],[5] but not [of] one [who is] in good health; or [does he] perhaps [speak] also even of one in good health? — R. Mesharsheya said to Raba: Come and hear: R. Nathan said to Rabbi,[6] ‘You[7] have taught your Mishnah[8] in accordance with [the views of] R. Johanan b. Beroka; for we learnt:[8] [A husband who] did not give [his wife] in writing[9] [the following statement, viz.], "The male children that will be born from our marriage[10] shall inherit[11] the money of thy marriage settlement in addition to their shares with their brothers",[12] is [nevertheless] liable, because it is a condition[13] laid down by the court’.[14] And Rabbi replied [to him]:[15] "We learnt: they shall take".[16] [Later], however, Rabbi stated: "It was childishness on my part to be presumptuous in the presence of Nathan the Babylonian.

The fact is[17] that the law is well established [that] male children may not seize[18] any sold property [of their father in payment for their mother's kethubah]".[19] [Now], if it is assumed [that] we learnt, "they shall take", why may they not seize sold property?[20] Consequently it must be inferred that we learnt: "they shall inherit"'.[21] [Now], who has been heard to hold this view?[22] [Surely] R. Johanan b. Beroka! Thus it may be inferred [that the law[23] applies] even to [the case of] one who is in good health.[24]

R. Papa said to Abaye: Whether according to him who said, [that the reading[25] was] ‘they shall take’, or according to him who said [that the reading was], ‘they shall inherit’, [the question may be asked], surely one [has] not [the right] to give possession of something which is not yet in existence! And even R. Meir,[26] who maintains [that] one may give possession of that which is not yet in existence, applies this law[27] [only to the case where the possession was given] to one who is [already] in existence,[28] but not [to the case where possession is given] to one who does not exist.[29] [The reason], however,[30] [must be that] a condition [imposed] by a court is different [from an ordinary assignment],[31] here, likewise,[32] [it could have been explained[33] that] a condition [imposed] by a court is different![34] — He replied to him: Because he [first] used the expression, ‘they shall inherit’.[35]

Subsequently, Abaye said: What I said is nothing,[36] For we learnt:[37] [A husband who] did not give his wife in writing[38] [the following] undertaking, viz., ‘The female children that will be born from our marriage[39] shall live in my house and be maintained out of my estate until they shall be taken [in marriage] by men ,is [nevertheless] liable, because that [fatherly duty] is a condition [imposed] by the court. Consequently, this[40] is a case of giving to one as a ‘gift’[41] and to another as an ‘inheritance’,[42] and wherever [something is given] to one person as an inheritance and to another as a gift[43] even the Rabbis agree [that the assignments are valid].[44]

R. Nihumai (one said, it was R. Hananya b. Minyumai) asked Abaye:

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(1) Lit., ‘a judge has nothing but’.

(2) Lit., ‘how’.

(3) Who appointed one of his legal heirs to inherit all his estate.

(4) In our Mishnah, supra 130a.

(5) Without the necessity for a formal written document. The instructions of a dying man, though only verbal, are legally binding.

(6) R. Judah I, Editor of the Mishnah.

(7) I.e., Palestinians. R. Nathan (v. infra) was a Babylonian.

(8) Keth. 52b.

(9) As part of her kethubah, or marriage contract,

(10) Lit., ‘that you will have from me’.

(11) ירתין

(12) This provision is necessary, in the interests of the children, in case their mother predeceases their father who subsequently marries another wife who gives birth to new male children.

(13) That the marriage settlement of a wife who predeceased her husband is to be inherited by her sons on the death of the husband. [The reason of this enactment is given by R. Simeon b. Yohai (Keth. 52b) ‘in order that a man may be encouraged to give as liberal a dowry to his daughter as he would give to his son — for the fear lest the daughter's property should eventually go to another woman's children would make a father hesitate before dowering her as liberally as he would like on marriage.]

(14) This shows that the Mishnah is in accordance with the views of R. Johanan. Why, then, Rabbi was asked, did he adopt the view of an individual against the Rabbis who were in the majority?

(15) Keth. 55a.

(16) Not ‘inherit’, i.e., as a gift and not as an inheritance. That a father has the right to give his estate as a gift, to whomsoever he desires, is disputed by no one.

(17) Lit., ‘but’.
(18) Lit., ‘it (the kethubah) may not’ etc.
(19) Keth. 55a.
(20) Which was really mortgaged to them prior to the sale. The right to the gift was acquired at once, i.e., on the date of the marriage contract.
(21) Since an inheritance takes effect after the testator's death, the buyers of the property, purchase of which took place in the owner's lifetime, have the prior claim. R. Nathan's objection was, therefore, well founded.
(22) Enunciated in the cited Mishnah.
(23) Of R. Johanan in our Mishnah.
(24) Since here the appointment to heirship was made at the time of the marriage.
(25) In the Mishnah cited by R. Nathan.
(26) Lit, ‘according to R. Meir’.
(27) Lit., ‘these words’.
(28) At the time when possession was conferred.
(29) How, then, can the children, who were not in existence when the marriage contract between their father and mother was written, acquire possession of their mother's kethubah?
(30) Why the children do acquire possession.
(31) Though a private assignment is not valid unless the assignee was alive at the time when it was made, an assignment based on the decision of a court takes effect in all cases.
(32) In respect to the objection raised by R. Nathan.
(33) by Rabbi.
(34) And all (even the Rabbis who elsewhere maintain that the expression of ‘inherit’ does not confer possession), agree that, in such a case, the assignment is valid. What need, then, was there for Rabbi to suggest a change if reading from ‘inherit’ to ‘receive’?
(35) Instead of the generally more effective term ‘take’, denoting ‘gift’. This seemed to imply agreement with the view of R. Johanan b. Beroka, as against that of the Rabbis. Hence, Rabbi preferred to change the reading.
(36) There was really no need for Rabbi to suggest a change of reading, for in either case, whatever the reading, the Mishnah may be considered to be in agreement with both R. Johanan and the Rabbis.
(37) Keth. 52b.
(38) Together with her kethubah.
(39) Lit., ‘which you will have from me’.
(40) The husband's undertaking with reference to the male children on the one hand, and to that of the female children on the other.
(41) The maintenance of the daughters. There is legal obligation on a father to provide for the maintenance of his daughters.
(42) The sons are given their mother's kethubah as her legal heirs.
(43) And the expressions of ‘gift’ and ‘inheritance’ were used one immediately after the other.
(44) According to the Mishnah, supra 126b, which represents the opinion of the Rabbis, an assignment made by using the expression of inheritance is legally valid whenever the expression of ‘gift’ was used with it. This was explained in the Gemara, supra 129a, to apply even to the case of two separate fields given as an inheritance and a gift respectively to two different persons. Similarly, here, the kethubah for the sons and the maintenance for the daughters may be regarded as the assignment of an inheritance and a gift respecting two persons; and, since the two provisions were made by the same court and are to be entered in the same contract, the two clauses, one containing the term, ‘inherit’, and the other, ‘give’, may be assumed to follow in close proximity to one another; in which case the Rabbis also agree that both the inheritance and the gift are acquired. The question, therefore, remains why was Rabbi compelled to have recourse to a change of reading?

Talmud - Mas. Baba Bathra 131b

Whence [it is to be inferred] that [both provisions] were made by one court? Is it not possible [that] they were made by two [different] courts?[1] — This possibility[2] cannot be entertained,[3] for in the earlier part [of the Mishnah cited] it was stated: R. Eleazar b. Azariah gave the following exposition in the presence of the Sages in the Vineyard of Jabneh:[4] '[Since it was provided that] the sons shall be heirs [to their mother's kethubah], and the daughters shall be maintained [out of their father's estate, the two cases are to be compared]: As the sons cannot be heirs except after the death of their father, so the daughters cannot claim maintenance except after the death of their father'[5] . [Now], if it is granted [that both provisions][6] were enacted by one court, one can well understand why an analogy was drawn between one provision and the other. If, however, it is argued [that they] were enacted at two [different] courts, how could an analogy be drawn between one provision and the other?[7] — What proof![8] It is quite possible still to maintain [that the provisions][9] were enacted by two [different] courts;[10] but[11] the latter court had to frame its provisions on the lines analogous to those of the former court in order that there might be no discrepancy between the one provision and the other.

Rab Judah said in the name of Samuel: If a [dying] man gave all his property[12] to his wife, in writing, he [thereby] only appointed her administratrix.[13]

It is obvious [that if he assigned all his property to] his grown up son, he [thereby], merely appointed him administrator.[14] What [is the law, however, if he assigned it to] his young son? — It was stated [that] R. Hanilai b. Idi said in the name of Samuel: Even [If to] his youngest son who [still] lies in [his] cradle.[15]

It is obvious [that if a father assigned all his property to] his son or [to] a stranger, the stranger [is to receive it] as a gift,[16] while the son [is merely appointed] administrator.[17] [If he assigned it to] his betrothed or [to] his divorced wife, [either of them is to receive it] as a gift.[18] The question was [however], asked, What [is the law if the assignment was made to] a daughter where there are sons, [to] a wife where there are brothers,[19] or to a wife where there are sons of the husband?[20] — Rabina said in the name of Raba: None of these[21] acquires possession, except his betrothed, or divorced wife. R. 'Awira in the name of Raba said: All these acquire possession except a wife where there are brothers,[22] and a wife where there are sons of the husband.[23]

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(1) And, consequently, the two expressions, ('inheritance' for the sons, and 'gift' for the daughters), cannot be regarded as made one immediately after the other. And since in this case the Rabbis would regard the assignments as invalid, Rabbi had to revert to a change of reading, in order that the Mishnah may conform with the view of the Rabbis.

(2) That the provisions were made at two courts.

(3) Lit., 'it cannot enter your mind'.

(4) [The name of the School established in that town (Jamnia) by R. Johanan b. Zakkai, and so called because the members sat in rows like vines in a vineyard (J. Ber. IV, 1). Krauss Lewy's Festschrift, 22, maintains that they originally met in a vineyard.]

(5) He thus holds that there is no legal, as distinct from moral, obligation on the father to support his daughter after a certain age, v. Keth. 49a.

(6) Kethubah for the sons, and maintenance for the daughters.

(7) One court may have given the sons the right of heirship after the father's death, while the other court may have granted the daughters' maintenance even during the lifetime of their father. Hence it must be assumed that both provisions were made by the same court.

(8) Lit., 'whence your proof'?

(9) V. p. 549, n. 6.

(10) Hence the expressions of 'inheritance' and 'gift' cannot be regarded as having been made one immediately after the other. Rabbi was consequently compelled, in order that the Mishnah may conform with the view of the Rabbis, to change the reading from 'they shall inherit' to 'they shall take'.

(11) As to the argument, how could R. Eleazar draw an analogy between provisions made by different courts.

(12) As a gift.

(13) And his sons are entitled to receive their due shares in the estate. Since no father would give all his estate to his wife and leave his children penniless it is taken for granted that the testator's wish was not that all his property shall be given to his wife for her sole use, but that she shall only administer it in the interests of all the heirs. His use of the expression ‘gift’ is assumed to have been intended as a means of making his children dependent on her, so that she might enjoy the respect due to her.

(14) So that his brothers may pay him due respect.

(15) The estate is not to be given to him alone but to all the heirs. The father's wish is interpreted as a desire that all the other heirs shall pay respect to his youngest son.

(16) For, had the testator merely meant him to be administrator, he would have stated the fact explicitly.

(17) V. n. 8 and 9 supra.

(18) As he can hardly be so much concerned about safeguarding their respect as to make provision to that extent.

(19) Of the testator; and no other heirs.

(20) Born from another wife, in each of these cases the consideration of respect is likely to arise.

(21) Lit., ‘in all of them not’.

(22) V. note 2.

(23) V. note 3.

Talmud - Mas. Baba Bathra 132a

Raba inquired: What[1] [is the law] in [the case of] a person in good health?[2] [Should we say] that this[3] applies only to a dying person because [we assume] he is desirous [to make provision] for due respect to be paid to her,[4] but [not] to a person in good health, since he himself is alive;[5] or, is it the same with a man in good health, since there too he may desire [to make provision] that respect may be paid to her[4] already in his lifetime?[6] — Come and hear: [It was taught:] If a person gives the usufruct of his estate to his wife, in writing,[7] she may [nevertheless] collect her kethubah from [his] landed property.[8] [If he gave her] a half,[9] a third or a quarter, she may collect her kethubah from the rest.[10] If he gave all his property to his wife in writing, and a bond of indebtedness[11] was produced against him, R. Eliezer said: She may tear up [the deed of] her gift and claim the rights of[12] her kethubah.[13] But the Sages said: She tears up her kethubah,[14] remains with the claim of her gift,[15] and forfeits both.[16] And R. Judah the baker related: [Such] a case once happened with the daughter of my sister [who was] a bride,[17] and [when] the matter was brought before the Sages they decided [that] she must tear up her kethubah, remain with the claims of her gift and forfeit both. [Front this Baraitha it follows that] the reason [why the widow forfeits her claims is] that a bond of indebtedness bad been produced against [her husband] but had no such bond been produced she would have acquired possession [of the entire estate]. Now, with what [kind of testator is the Baraitha concerned]? If it be suggested [that it deals] with a dying man, surely, [it may be pointed out,] it has been said that [a person in such a condition] merely appointed her administratrix! [Must it] not, then, [be concluded that the Baraitha deals] with a person in good health?[18] — [No; the Baraitha cited may] really [be concerned] with a dying man but[19] R. ‘Awira establishes it as dealing with all cases[20] [while] Rabina establishes it as dealing with one's betrothed, or divorced wife.[21]

R. Joseph b. Manyumi said in the name of R. Nahman: The halachah is that she is to tear up her kethubah,[22] remain with the claim of her gift[23] and forfeit both.[24] Does this[25] imply that R. Nahman is not guided by an assumption?[26] Surely, it has been taught: in the case of [a person] whose son went to a distant country,[27] and having heard that the latter[28] had died, assigned all his property, in writing, to strangers; though his son subsequently appeared, his gift is [nevertheless, legally] valid.[29] R. Simeon b. Menasya said: His gift is not [legally] a gift, for had he known that his son was alive, he would not have given it away.[30] And R. Nahman said: The halachah is in accordance with R. Simeon b. Menasya![31] — There[32] it is different, for she is content [to renounce her claim to her kethubah] for the pleasure of having it known[33] that [her husband] had presented[34] her with that property.[35]

We learned elsewhere:[36] If [a person] assigns his property to his sons, in writing, and he [also] assigns to his wife [a piece of] land of any size whatsoever[37] she loses [the claims of] her kethubah.[38] [Does] she lose her kethubah because he assigned to her any [small] piece of land?[39] — Rab replied: [This applies to the case] where he[40] confers the ownership upon them[41] through her[42] agency.[43] Samuel replied: [This applies also to the case] where he[43] made the distribution in her presence and she remained silent.[44] R. Jose b. Hanina replied: [This may also apply to the case] where he said to her,[45] 'Take this [piece of] land in place of your kethubah'.[46]

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(1) Lit., 'how'.
(2) Who has assigned all his property as a gift to his wife.
(3) The ruling that the husband thereby appointed her only as administratix.
(4) His widow. Lit., 'that her word may be listened to.'
(5) And well able to safeguard her honour.
(6) Lit., 'from now.'
(7) Assigning it to her as a gift.
(8) Since all real estate of a husband is mortgaged for his wife's kethubah. The gift of usufruct is not regarded as an inducement for the wife to renounce her established rights.
(9) Of his estate.
(10) From the portion which was not assigned to her.
(11) Bearing a date later than that of the kethubah and earlier than that of the gift.
(12) Lit., 'and stand upon'.
(13) Since the gift was made later than the date of the bond of indebtedness, the creditor has the prior claim. The widow, therefore, renounces the gift, and claims her kethubah the date of which is earlier than that of the debt. She is entitled to do so according to R. Eliezer since he holds the view that she originally accepted the gift with the object of gaining any amount over and above her kethubah, but not to lose any of the rights to which that document entitled her.
(14) by accepting her husband's gift she is assumed, according to the Sages, to have renounced the rights of her kethubah as far as that property (which formed part of the gift) is concerned.
(15) Which, owing to the debt which antedated it, is invalid.
(16) Lit., 'and she becomes bald on both sides (from here and from here)'.
(17) The bridegroom gave her a kethubah on their betrothal, and, prior to his death, having incurred a debt, presented her with all his estate.
(18) Thus it has been proved that in the case of a person in good health the presentation by him of his entire estate to his wife confers upon her the full rights of possession and not merely those of an administratrix. Consequently (in answer to Raba's enquiry), Samuel's law must refer to the case of a dying man only.
(19) As to the objection that in such a case it has been said that the widow is merely appointed administratrix.
(20) Mentioned by him supra 131b, in all these, according to his report in the name of Raba, possession is acquired.
(21) In which two cases, according to Rabina's report also (supra 131b), possession is acquired. Hence, neither according to R. 'Awira nor according to Rabina can the law applying to the case of a person in good health be inferred.
(22) V. p. 552, n. 1 supra.
(23) V., l.c. n. 2.
(24) V., l.c., n. 3.
(25) R. Nahman's decision that the widow forfeits her claim to the kethubah.
(26) Since the assumption must he that no woman would renounce the rights to which her kethubah entitles her for the sake of such a gift made to her by her husband.
(27) Lit., 'country of (i.e., beyond) the sea'.
(28) Lit., 'his son'.
(29) Lit., 'a gift'. Since it was made unconditionally.
(30) Lit., 'written them'.
(31) As R. Nahman upholds it. Simeon's decision, according to which it is assumed that 'had the father known that his son was alive he would not have made the gift', he most also agree with the view that an assumption is to be taken into consideration. How, then, (v. supra note 5), could R. Nahman say that the widow forfeited the rights of her kethubah?
(32) In the case of a widow who forfeits her kethubah on account if a gift she received from her husband.
(33) Lit., 'that a voice may issue about her'.
(34) Lit., 'written'.

(35) The assumption, therefore, is that she willingly renounced her claims to the kethubah. R. Nahman, in his decision, consequently takes assumption into consideration here also.
(36) Pe'ah III, 7.
(37) Not specifying whether as a gift or in payment for her kethubah.
(38) I.e., the right to seize the land assigned to the sons; since, as will be explained, infra, she accepted the arrangement in return for the gift made to her.
(39) Surely, no woman would give up her kethubah in return for any small piece of land
(40) The husband.
(41) The sons.
(42) The wife's.
(43) Lit., 'through her hand.' I.e., she acquired it on their behalf by means of a 'scarf', Kinyan Sudar (v. Glos. and cf. p. 310, n. 11, supra). Since she assisted in the transfer of the estate, received also a small share for herself and raised no protest whatsoever, it is taken for granted that she agreed to lose the amount of her kethubah, should her husband possess no other lands at the time of his death.
(44) Even though she did not assist in the transfer. Her presence alone, since she raised no protest and received also some share, is sufficient proof that she agreed to give up her claims as far as the lands distributed are concerned. If she, however, receives no share whatsoever, her silence is interpreted not as acquiescence but as designed to gratify her husband.
(45) When he gave her in writing that piece of land.
(46) According to R. Jose, even if she was absent from the distribution, her silence, when the gift was made to her, is sufficient evidence that she renounced her claims, upon the lands distributed.

Talmud - Mas. Baba Bathra 132b

And [the laws] taught here [are among those in which the claims relating to] a kethubah [are] weaker [than those of creditors].[1]

We learned: R. Jose said: If she accepted, [explicitly][2] although the husband did not put her [gift] in writing, she loses her kethubah.[3] [Does not] this is[4] imply that the first Tanna holds the opinion that both writing and her [explicit] acceptance are required?[5] And if it be suggested that the whole [Mishnah] represents [the view of] R. Jose,[6] surely, [it may be retorted,] it was taught: 'R. Judah said:[7] When [is it said that she lost her kethubah]? [Only] when she was there[8] and accepted [explicitly][9] but if she was there and did not accept,[10] or accepted and was not there, she did not lose her kethubah.' [This, surely, is] a refutation[11] of [the views of] all [the previous explanations]![12] It is a refutation.

Raba said to R. Nahman: Here is [the explanation] of Rab, here [that of] Samuel, [and] here [that of] R. Jose the son of R. Hanina; what is the opinion of the Master? — He replied to him: It is my opinion that since he made her partner with the sons,[13] she lost her kethubah.[14] [The same] was also said [elsewhere]: R. Jose b. Manyumi said in the name of R. Nahman: Since he made her a partner with the sons she loses her kethubah.

Raba enquired: What[15] [is the law] in [the case of] a person in good health?[16] Shall we say that this[17] is only in [the case of] a dying man since she knows that he has no more property[18] and [therefore by her acceptance] renounces her claims, but in [the case of] a person in good health[16] [we do not assume that she renounces her claim since] she might expect that he would again acquire [property];[19] or, perhaps, [in the latter case also she is assumed to renounce her claims since] now, at least, he has none?[20] — Let it stand.[21]

[Once] a certain [dying] man said to [his executors]; — 'A half[22] [shall be given] to [one] daughter [of mine], a half to [the other] daughter, and a third of the fruit to [my] wife'. R. Nahman, [who] happened to be [at that time] at Sura was visited by R. Hisda [who] inquired of him [as to] what [was the legal position] in such a case.[23] — He replied to him: Thus said Samuel, ‘Even if he allotted to her one palm-tree for its usufruct[24] her kethubah is lost,’[25] [R. Hisda] asked him [again], ‘is it not possible[26] that Samuel held this view[27] [only] there, where he allotted to her [a share] in the land itself[28] [but not] here, [where] only fruit[29] [was allotted]? — [R. Nahman] replied to him: ‘ [Do] you speak of movable objects?[30] I certainly do not suggest [that the law quoted is to be applied to] moveables’.

[Once] a certain [dying] man said to [his executors], ‘a third [of my estate shall be given] to [one] daughter [of mine], a third to [the other] daughter, and a third to [my] wife’.[31] [Then] one of his daughters died.[32] R. Papi intended to give his decision [that the wife] receives only a third;[33]

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(1) A creditor cannot be deprived of his right to seize the debtor's lands even though he received from him a gift.

(2) The arrangement as to the distribution of her husband's property. This Mishnah is a continuation of that just cited and discussed.

(3) Pe'ah III, 7.

(4) R. Jose's expression, ‘if she accepted although . . . did not put . . . in writing’.

(5) For, had writing alone sufficed to deprive her of her claim according to the first Tanna, R. Jose should have said as follows: ‘Although he put it in writing, she does not lose her kethubah unless she explicitly accepted.’ Hence it must be concluded that the first Tanna holds that both, writing and her explicit acceptance, are required. How then could Rab, Samuel and R. Jose the son of Hanina explain the Mishnah as dealing with the case where the woman merely remained silent?

(6) And, accordingly, the first part would teach that writing alone, and the second part that acceptance alone is sufficient.

(7) In explanation of the Mishnah of Pe'ah cited supra 132a.

(8) When the distribution took place.

(9) For had she not acquiesced in the arrangements she would surely have protested at being deprived of her due share.

(10) But remained silent.

(11) Since from R. Judah's interpretation it follows that the first Tanna is not R. Jose, and that he requires both writing and explicit acceptance.

(12) Lit., ‘of all of them’. Those of Rab, Samuel and R. Jose the son of R. Hanina, according to whom the silence of the wife although there was no explicit acceptance on her part, is sufficient to deprive her of her kethubah.

(13) By giving her a piece of land, however small.

(14) If she accepted explicitly (R. Gersh.). Either writing or explicit acceptance is enough (Rashb.).

(15) Lit., ‘how’.

(16) Who assigned his property, in writing, to his sons and allotted some fraction of land to his wife.

(17) The law that she forfeits her kethubah.

(18) And a dying man is certainly not likely to acquire any new possessions. Hence, her silence may be interpreted as consent.

(19) Her silence in such a case might be due to her consideration for the feelings of her husband whom she did not wish to annoy unnecessarily at the moment, thinking that there would be time to protest later if he does not acquire any new property. Hence, her claim upon the lands assigned to the sons cannot be regarded as renounced, and her kethubah, therefore, is not lost.

(20) And, had she not been reconciled to the idea of losing her claims upon the lands allotted to the sons, she would have protested immediately.

(21) V. Glos. s.v. Teko.

(22) Of his landed property.

(23) Where the husband had assigned no land at all to his wife. The question is whether it is assumed that a woman renounces her claims only when she is given a share in the land itself but not when she only obtains a portion of fruit (as here), or whether there is no difference between land and fruit as regards the renouncement of her claims.

(24) I.e., only while it continues to be fruit-bearing.

(25) Her share of the fruit of the tree is regarded as a share in the land itself, since the tree draws its nourishment from the ground and is consequently regarded as real estate. The same law should apply to the case under consideration.

(26) Lit., ‘Say’.

(27) Lit., ‘said’.
(28) The tree was planted in the ground and is regarded as real estate.
(29) I.e., detached from the ground.
(30) R. Nahman first understood the question to refer to fruit that was still growing on the trees.
(31) In consequence of this gift his wife forfeited her right to seize the other two thirds in payment of her kethubah.
(32) And her third reverted to her father who (in the absence of sons of her own) is heir to his daughter.
(33) Viz., that third which her husband had allotted to her. She cannot claim her kethubah, according to R. Papi, from the third that reverted to her husband from his dead daughter, because once she renounced her claim upon it (when one of the thirds was allotted to her) she cannot any more regain it.

Talmud - Mas. Baba Bathra 133a

R. Kahana, [however], said to him: If [her husband] had [subsequently] bought other property would she not [have been entitled to] seize [it]?[1] Now, since if he had bought other property she would [have been entitled to] seize [it],[1] in this case too she [is] also [entitled to] seize [the dead daughter's third].[2]

[Once] a certain [dying] man divided his estate between his wife and his son, [and] left over one palm-tree.[3] Rabina intended to give his decision [that] she[4] can only have[5] [that] one palm-tree.[6] R. Yemar, [however], said to Rabina: If she had no [claim upon the son's share], she [should] have no [claim] even [upon] the one palmtree.[7] But since she may seize[8] the palm-tree she may also seize[8] all the estate.[9]

R. Huna said, [if] a dying man assigned all his estate, in writing, to another [person][10] the matter is to be investigated.[11] If he[12] is entitled to be his heir, he receives it as an inheritance; and if not, he receives it as a gift. R. Nahman said to him: Why should you indulge in circumlocution![13] If you hold [the same view] as R. Johanan b. Beroka,[14] say, ‘The halachah is according to R. Johanan b. Beroka’, for, indeed, your statement runs on [the same lines] as [those of] R. Johanan b. Beroka? [But], perhaps, you meant [your statement to apply to a case] like the following.[15] Once, while a person was in a dying condition he was asked to whom his estate shall be given. ‘[Shall it] perhaps [be given] to X?’ he was asked. And he replied to them, ‘To whom [else] then?’ And [is it] on [such a case as] this [that] you told us, ‘[If that person] is entitled to be his heir he receives it as an inheritance, and if not, he receives it as a gift?’ — He replied to him: ‘Yes, this [is exactly] what I meant’.

In respect of what legal practice?[16] — R. Adda b. Ahabah wished to explain[17] before Raba [that] if he[18] is entitled to be his heir his[19] widow is maintained out of his estate,[20] and if not, his[19] widow is not maintained out of his estate.[20] Raba, however, said to him: Should she be worse off [in the case of a gift]? If[21] in [the case of] an inheritance which is Biblical,[22] it has been said [that] his[19] widow is to be maintained out of his estate,[23] how much more [should that be so] in [the case of] a gift[24] which is only Rabbinical?[25] But, said Raba, [the difference[26] lies in a case] like [the following] which [was] sent [by] R. Aha son of R. ‘Awya: According to the view of R. Johanan b. Beroka, [if a dying man said], ‘My estate [shall be] yours, and after you [it shall be given] to X’, if the first was [one] entitled to be his heir, the second has no [claim] whatsoever beside the first, for this is not a [specific] expression of ‘gift’ but [rather] of ‘inheritance’, and an inheritance cannot be terminated.[27] Raba said to R. Nahman: Surely, he[28] has [already] intercepted it![29] — He thought [erroneously] that it could be intercepted but the All-Merciful said, ‘It cannot be terminated’.[30]

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(1) In payment of her kethubah. She only renounced her claim upon that property which her husband gave to his daughters at the time her share was assigned to her.
(2) Lit., ‘now’. The third that her husband inherited from his dead daughter is regarded as new property acquired by him after the assignments were made. (V. previous note).

(3) Which he assigned to no one.
(4) The widow.
(5) In payment of the balance of her kethubah.
(6) She has no claim, however, on the share which the son received. Since a wife is assumed to renounce her claims in the case where her husband assigned to others all his estate with the exception of any small fraction allotted to her, she must also be assumed to have renounced her claims in this case, where only one palm-tree was not disposed of, in consideration of the share allotted to her.
(7) Just as she renounced her claim upon the share of the son in consideration of the share allotted to her, so she must have renounced her claim upon the palm-tree. She well knew that besides her share, her husband had no property other than that palm-tree and the share assigned to the son. As she forfeits her rights in the case of the one, so she should forfeit them in the case of the other.
(8) Lit., 'go down'.
(9) Even the share that was given to the son. A wife is assumed to renounce the claims to which her kethubah entitles her only when her husband had disposed of all his estate, in which case she must have known that nothing was left for her kethubah and, since she did not protest, she must have acquiesced in its forfeiture. When, however, one palm-tree remains, she is assumed to rely on the proceeds of that tree for the payment of the kethubah. Consequently, she does not renounce her rights; and her silence is assumed to be due to a desire for postponing her protest until the value of the tree had been ascertained. When, therefore, it becomes known that the palm-tree does not cover the amount of her kethubah, she is entitled to seize any other part of the estate also.
(10) Not specifying whether as an 'inheritance' or as a 'gift'.
(11) Lit., 'we see'.
(12) The assignee.
(13) 'O thou cunning man, what is the use of thy going round about?' (Jast.).
(14) That one has a right to assign all his estate to one of his legal heirs, V. supra 130a.
(15) I.e., to a case when the testator had no sons or daughters, contrary to the opinion of R. Johanan b. Beroka who allows it even when there is a son or a daughter (R. Gersh.). According to Rashb., the suggestion of R. Nahman is that R. Huna wishes to state the case where the testator was vague in his instructions and did not declare whether the bequest was to be in the terms of a gift or those of an inheritance.
(16) Does it matter whether the estate was given as a gift or ass 'inheritance'?
(17) This difference.
(18) The person named.
(19) The testator's.
(20) Which he inherited from her husband.
(21) Lit., 'now'.
(22) The laws of inheritance are enumerated in Numbers and Deuteronomy.
(23) V. p. 558, n. 11.
(24) Made by a dying man without a properly binding agreement.
(25) According to Biblical law a gift made in such a manner is not legally binding and remains part of the estate.
(26) Between 'gift' and 'inheritance'.
(27) V. p. 540, n. 10 and 11, supra. Similarly, in the case under discussion, if the dying man said, in reply to the question whether his estate shall be given to a certain person, 'To whom else? But after him it shall be given to a certain other person,' the second is entitled to receive it only if the first was not a legal heir and received it as a gift.
(28) The testator.
(29) By making the assignment of the estate to the first conditional upon its being transferred later to the second.
(30) Since the divine word prohibits interception of the succession no one has the right to make arrangements which disagree with it.

Talmud - Mas. Baba Bathra 133b

Once a certain man said to his friend, 'My estate [shall be] yours and after you [it shall pass over] to X'. The first [was one] entitled to be his heir.[1] [When] the first died, the second came to claim [the estate]. R. 'Ilish proposed in the presence of Raba to give his decision[2] that the second also is entitled to receive the bequest.[3] [Raba, however], said to him, ‘Such decisions are given by arbitration judges,[4] [is] not [the case exactly] the same as [that] which [was] sent [by] R. Aha son of ‘Awya?’[5] As he[6] became embarrassed, [Raba] applied to him the Scriptural text. I, the Lord, will hasten it in its time.[7]

MISHNAH. IF A PERSON GIVES HIS ESTATE, IN WRITING, TO STRANGERS, AND LEAVES OUT HIS CHILDREN, HIS ARRANGEMENTS ARE LEGALLY VALID,[8] BUT THE SPIRIT OF THE SAGES FINDS NO DELIGHT IN HIM.[9] R. SIMEON B. GAMALIEL SAID: IF HIS CHILDREN DID NOT CONDUCT THEMSELVES IN A PROPER MANNER HE WILL BE REMEMBERED FOR GOOD.[10]

GEMARA. The question was raised whether the Rabbis[11] were in disagreement with [the view of] R. Simeon b. Gamaliel[12] or not. — Come and hear, Joseph b. Joezer,[13] had a son who did not conduct himself in a proper manner. He had a loft [full] of denarii[14] and he consecrated it [for the Temple]. He, [the son], went away and married the daughter of King Jannai's[15] wreath-maker. [On the occasion when] his wife gave birth to a son he bought for her a fish. Opening it he found therein a pearl. ‘Do not take it to the king’, she said to him, ‘for they will take it away from you for a small sum of money.[16] Go take it rather[17] to the Treasurers [of the Temple], but do not you suggest its price, since the making of an offer to the Most High[18] is [as binding] as [actual] delivery in ordinary transactions.[19] But let them fix the price’. On being brought [to the Temple][20] it was valued at thirteen lofts of denarii.[21] ‘Seven [of them]’, they said to him, ‘are available, [but the remaining] six are not available’.[22] He said to them, ‘Give me the seven; and the six[23] are, [hereby]. consecrated to the Temple’.[24] Thereupon it was recorded,[25] ‘Joseph b. Joezer brought in one, but his son brought to six others say, [the record read as follows]: ‘Joseph b. Joezer brought in one, but his son took away seven’. Now, since the expression used [in the record[26] was], ‘he[27] brought in’, it may be inferred that [in their opinion] he[28] acted rightly.[29] On the contrary! Since the expression used[30] was, ‘he took out’, it may be inferred that he did not act rightly.[31] But [the fact is that] from this [record] nothing may be inferred.

What, then, is the answer to the enquiry?[32] — Come and hear: Samuel said to Rab Judah. ‘Shinena’.[33] Keep away from[34] transfers[35] of inheritance even [if they be] from a bad son to a good son, much more [when they are] from a son to a daughter’.[36]

Our Rabbis taught: Once it happened with a certain person whose sons did not conduct themselves in a proper manner [that] he took the definite step of assigning his estate, in writing,[37] to Jonathan b. Uzziel. What did Jonathan b. Uzziel do? — He sold a third,[38] consecrated a third, and returned a third to his[39] sons. [Thereupon], Shammai came upon him with his staff and bag.[40] He[41] said to him, ‘Shammai! If you can take back what I have sold and what I have consecrated, you can [also] take back what I have returned;[42]

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(1) The testator's.

(2) Lit., ‘to say’.

(3) Since the rights over the estate were given to the first during his lifetime only, they cease with his death.

(4) I.e., judges whose knowledge of the law is not extensive enough to enable them to give legal decisions, and they consequently have recourse to arbitration (Rashi. and R. Gersh.). ‘Graveyard judges’ (R. Han.).

(5) Since the first was entitled to be legal heir, the succession cannot be terminated.

(6) R. ‘Ilish.

(7) Isa. LX, 22, i.e., he need not worry too much about the slip he had made, since he was saved in time from giving effect to a wrong decision.

(8) Lit., ‘what he has done is done’.

(9) Though his action is strictly legal, it is not human.

(10) His action will serve as a warning to wicked children.

(11) The authors of the first part of our Mishnah.
(12) I.e., do they object to the disinheritance of bad children?
(13) [Identified by Weiss, Dor, I, 107, with Jose, the first of the Pairs (v. Aboth I, 5) who had been put to death by the renegade High-Priest Alcimus. Buchler, The Hebrew University, Jerusalem Inauguration, Hebrew part, 79, shows the untenability of this view, and suggests Jose b. Joezer, the Priest (v. Hag. II, 7) who lived in the days of Agrippa II.]
(14) I.e., a large sum of money.
(15) [Identified variously either with Jonathan, son of Mattathias, or Agrippa who appears elsewhere in the Talmud under this name. (V. Buchler, ibid.)]
(16) Lit., ‘for light money’.
(17) Lit., ‘go bring it.’
(18) I.e., Temple of God.
(19) Lit., ‘to an ordinary person.’ Once the seller made an offer in a Temple transaction, the price can no more be raised, however much the object may have been undervalued.
(20) Lit., ‘he brought it’.
(21) Cf. p. 560, n. 8.
(22) I.e., the Treasury had no funds wherewith to pay the full amount of its value.
(23) The balance of the price.
(24) Lit., ‘heaven’.
(25) Lit., ‘they stood and wrote’.
(26) According to the first version.
(27) The son.
(28) The father.
(29) ‘Brought in’, is all expression of approval, and it implies that the father's act was meritorious and resulted in the moral improvement of the son. Since, also, the wording if the record met with general approval, as evidenced by the statement ‘they (1.e. all) stood and wrote’, the Rabbis are obviously of the same opinion as R. Simeon b. Gamaliel.
(30) According to the second version of the record.
(31) ‘Took out’, is an expression of disapproval of the act of the son which reflects also on the action of the father. The fatherly act was, accordingly, regarded by the Rabbis with disfavour. (Cf. n. 10). Hence they must be in disagreement with R. Simeon b. Gamaliel.
(32) Lit., ‘what is about it’.
(33) שיננא (root שנן, ‘sharp’); (i) ‘keen witted’, [(ii) ‘long-toothed’, denoting some facial characteristic; (iii) ‘man of iron endurance’ (Bacher).]
(34) Lit., ‘be not among.’
(35) I.e., from one who is legally entitled to be heir.
(36) Since Samuel's opinion (being that of an Amora) must be in agreement with one at least of the Tannaim, and since his opinion is clearly in direct contradiction to that of R. Simeon h. Gamaliel, it is obvious that Samuel must have had as his authority the view of the Rabbis (the authors of the first part of our Mishnah). Thus it follows that the Rabbis are in disagreement with R. Simeon b. Gamaliel in maintaining, like Samuel, that even a bad son must not he disinherited.
(37) Lit., ‘he stood and wrote his estate’.
(38) The proceeds of which he retained for himself.
(39) The testator's.
(40) I.e., he objected vehemently to his return of the one third to the sons, maintaining that, though he did not say it explicitly, the deceased gave his estate to Jonathan for the express purpose of depriving his sons from any share in it; and since it was the duty of Jonathan to carry out the dead man's wishes, his gift of one third to the sons is invalid, and must be taken from them.
(41) Jonathan.
(42) To the sons.

Talmud - Mas. Baba Bathra 134a

if not, neither can you take back what I have returned’.[1] He exclaimed: ‘The son of Uzziel has confounded[2] me, the son of Uzziel has confounded me!’[3]

Why did he first hold [a different opinion]? — On account of the incident at Beth Horon.[4] For we learnt: Once it happened at Beth Horon with a person whose father was forbidden, by a vow, to derive any benefit from him. Celebrating the marriage of his [own] son, he said to his friend, ‘The court and the banquet are presented to you as a gift, but they are at your disposal only with the object that [my] father comes and dines with us at the banquet’. [The other] said to him, ‘If they are mine, behold, they are consecrated to the Temple’.[5] The first said to him, ‘I did not give you my possessions that you shall consecrate them to the Temple!’ ‘You gave me yours’, said the other, ‘only [with the object] that you and your father might eat and drink and be reconciled to one an other while the sin[6] will fall upon my head![7] [Thereupon][8] , the Sages said: Any gift which is not [of such a character] as would [allow it to] become sacred when [the recipient] consecrated it, is not a [proper] gift.[9]

Our Rabbis taught:[10] Hillel the Elder had eighty disciples. Thirty of them deserved that the divine presence shall rest upon them as [upon] Moses our teacher. Thirty of them deserved that the sun shall stand [still] for them as [for] Joshua the son of Nun.[11] Twenty were of an average character. The greatest of them[12] was Jonathan b. Uzziel; the least of them was R. Johanan b. Zakkai.

It was said of R. Johanan b. Zakkai that his studies included[13] the Scriptures, the Mishnah, the Gemara,[14] the Halachoth[15] , the Aggadoth;[16] the subtle points of the Torah and the minutiae of the Scribes; the inferences from minor to major and the [verbal] analogies; astronomy and geometry;[17] washer's proverbs[18] and fox fables; the language of the demons, the whisper of the palms, the language of the ministering angels and the great matter and the small matter. The ‘great matter’ is the manifestation of the [divine] chariot[19] and the small matter is the arguments of Abaye and Raba.[20] Thereby is fulfilled the Scriptural text, That I may cause those that love me to inherit substance and that I may fill their treasuries.[21] Now, if the least among them [was] so, how great must have been the greatest among them! It was related of Jonathan b. Uzziel [that] when he sat and studied the Torah, every bird that flew over him was burned.

MISHNAH. IF A PERSON STATES, ‘THIS IS MY SON’, HE IS BELIEVED. [IF, HOWEVER, HE STATES], ‘THIS IS MY BROTHER’, HE IS NOT BELIEVED,[22] BUT HE[23] RECEIVES [A SHARE] WITH HIM IN HIS PORTION.[24] [IF] HE[23] DIES, THE PROPERTY[25] REVERTS TO ITS OWNER.[26] [IF, HOWEVER,] HE ACQUIRED PROPERTY FROM OTHER SOURCES,[27] HIS BROTHERS SHARE THE INHERITANCE WITH HIM.[28]

GEMARA. ‘THIS IS MY SON’, HE IS BELIEVED; in [respect of] what legal practice? — Rab Judah said in the name of Samuel: As regards the right of heirship[29] , and the exemption of his wife from levirate marriage[30] .

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(1) If the sale and the consecration are valid it follows that the estate has passed into the absolute ownership of Jonathan. Consequently he is entitled to dispose of it in any way he pleases. Hence his gift to the sons of the deceased is also legally valid.

(2) Lit., ‘cast mud’.

(3) Tacitly admitting defeat.

(4) Ned. 48a.

(5) Lit., ‘heaven’.

(6) For the breach of the vow; since the presentation of the court and banquet was mere sham.

(7) As one guilty of aiding and abetting.

(8) V. Bah., Ned. 48. a.l.

(9) From this it follows that a gift which is dependent on certain conditions is not legally valid. Shammai, drawing an analogy between this case and that of Jonathan, where the father was manifestly determined that his sons shall have no benefit from his estate, disputed the legality of the return of the third to the sons. Though the father's condition was not explicit it was sufficiently implicit, in the opinion of Shammai, to render the gift to Jonathan entirely dependent on its fulfilment. Jonathan by his reply pointed out to Shammai that the gift to him could not possibly he regarded as conditional, since it was generally conceded that he was fully entitled to sell it and to consecrate it and to dispose of it in any way he liked. [For a different version of the story, v. J. Nedarim, v. 6].

(10) Suk. 28a.

(11) V., Josh. X, 12-13.

(12) The average disciples (R. Gersh.).

(13) Lit., ‘he did not leave’.

(14) The interpretation and elucidation of the Mishnah.

(15) הלכות plur. of Halachah, הלכה

(16) אגדות plur. of Aggada, אגדה

(17) V. Aboth III, 23 and notes, a.l.

(18) [The washer is a well known figure in Roman comedy, v. Krauss, TA, I, 520, note 325.]

(19) מעשה מרכבה the esoteric lore concerning the divine chariot described in Ezek. I.

(20) Whose keen discussions and arguments occupy a considerable portion of the present Gemara. [For a discussion of the various branches of study mentioned in this passage, v. Blau, Sauberwesen, 46f.]

(21) Prov. VIII, 21.

(22) If the other brothers dispute his statement.

(23) The doubtful brother.

(24) In the case of two brothers, A and B, for example, one of whom (A) does not, and the other (B) does acknowledge a third person (C) as a brother, the estate is divided into three portions, and each one of the two brothers (A and B) receives one and a half of these portions (half the estate). The second (B), however, retains only one portion (a third of the estate) to which he is in any case entitled, giving to the doubtful brother (C) the half of the third portion. Should C ever be able to establish his brotherhood, he would also be entitled to receive from A the other half of the third portion.

(25) The half of the third portion which B (v. previous note) has given him.

(26) Lit., ‘their place’. I.e., to B from whom he received it. The other brother (A), who previously disowned, and denied C the second half of the third portion, is not entitled to claim any portion at all of that which was allowed him by B. Even if C were his real brother from whom he is entitled to inherit, A has no claim now, since he already received his share of C's estate by his retaining the half of the third portion.

(27) Lit., ‘property fell to him from another place’, either as an inheritance or as a gift or purchase.

(28) With B, since he had acknowledged them as brothers of C.

(29) Lit., ‘to inherit him’.

(30) V. Deut. XXV, 5.

Talmud - Mas. Baba Bathra 134b

As regards the right of heirship! Is it not obvious [that a father is believed]?[1] — [The statement] was required in respect of the exemption of his wife from levirate marriage. Surely, this also has been taught [elsewhere]:[2] ‘A person who declared at the time of his death, ‘I have sons’, is believed.[3] [If he declared], ‘I have a brother’, he is not believed’![4] — There, [the law refers to the case] where it was not known [that he had] a brother,[5] [but] here [it refers] even [to a case] where it is known[6] that he had a brother.[7]

R. Joseph said in the name of Rab Judah in the name of Samuel: Why has it been stated [that if a person said], ‘This is my son’, he is believed?[8] — Because a husband who said, ‘I divorced my wife’, is believed.[9] ‘God of Abraham’, exclaimed R. Joseph.[10] ‘could he[11] have proved[12] that which we have learnt from that which we have not learnt?[13] If, however, that statement was made, it must have been in the following terms;[14] Rab Judah said in the name of Samuel: Why has it been stated [that if a person said]. ‘This is my son’, he is believed? — Because it is in his power to divorce her’.[15] ‘Now that you have accepted the principle of[16] Because’,[17] continued[18] R. Joseph, ‘a husband is believed if he stated "I divorced my wife", because it is in his power to divorce her’.

When R. Isaac b. Joseph came,[19] he stated in the name of R. Johanan: A husband who said, ‘I divorced my wife’, is not believed. R. Shesheth blew upon his hand[20] [exclaiming]. ‘R. Joseph's "because’[21] has gone’.[22] [But] it is not [so]![23] For, surely, R. Hiyya b. Abin said in the name of R. Johanan: A husband who stated, ‘I divorced my wife’, is believed![24] There is no difficulty: One[25] [speaks] retrospectively;[26] the other,[27] of the future.[28]

The question was raised: [Is a husband who] testified retrospectively[29] believed as regards the future?[30] Do we divide [his] statement[31] or do we not divide it?[32] — R. Mari and R. Zebid [are in dispute on the matter]. One said, ‘we do divide’, and the other said, ‘we do not divide [it]’. Wherein [is this] different from [the law] of Raba? For Raba said: [If a husband testifies,] ‘X had intimate intercourse with my wife’, he and [one] other [witness] may combine to procure his death;[33] his death, but not her death![34] — In [the case of] two individuals[35] we [may] divide [a statement]; in [the case of] one individual[36] [it is possible that we may] not divide.

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(1) For, were he not his real son there was no need for the father falsely to declare him as an heir. He could have assigned the estate to him as a gift.

(2) Kid. 64a.

(3) And his wife is exempt from levirate marriage.

(4) V. infra n. 6. Why, then, should the same law be repeated in our Mishnah?

(5) Or sons; and the question of halizah (V., Glos.) could only arise through his own statement. Hence, he is believed only in so far as he does not impair the freedom of the widow.

(6) There is a general belief, but not reliable evidence.

(7) Our Mishnah teaches that, even in such a case, where owing to general belief the widow might be assumed to be subject to the laws of levirate marriage, the husband's statement that he has sons exempts her from the levirate marriage (V. infra). The second clause, according to which the statement, ‘This is my brother’ is not accepted, does not deal with the question of levirate, but with that of inheritance; v. Mishnah and notes a.l.

(8) And his widow is, accordingly, exempt from the Ievirate marriage.

(9) If his statement, then, were not true, and motivated only by a desire to liberate his wife from the levirate marriage, or halizah, he could have stated that he divorced her, and would thus have achieved the Same object.

(10) R. Joseph, as a result of serious illness, forgot his studies and many of his own statements (v. Ned. 41a). He was here wondering how he could possibly have made such a statement in the name of his masters.

(11) Rab Judah.

(12) Lit., ‘suspended’.

(13) The law of the reliability of a father's statement in respect of a son has been taught in the Mishnah, while that in respect of the divorce of a wife does not occur either in a Mishnah or a Baraitha.

(14) Lit., ‘but if it were said, it was said thus’.

(15) Since he could divorce her there and then and then liberate her from the levirate marriage, and halizah, he is also believed when he states, ‘this is my son’. (Cf. p. 565, n. 10).

(16) Lit., ‘that you said, we say’.

(17) ‘Because it is in his power etc., i.e., the principle that a person is believed regarding what he said, because it is in any case in his power to achieve his object.

(18) Lit., ‘said’.

(19) From Palestine to Babylon.

(20) As though blowing away some imaginary fluff.

(21) Cf. supra note 1.

(22) Since R. Johanan's view is definitely opposed to it’

(23) I.e., R. Johanan's view is not in disagreement with the principle adopted by R. Joseph.

(24) This confirms the view of R. Joseph. It reveals, however, a contradiction between the two statements if R. Johanan

(25) Lit., ‘here’, R. Isaac's report that the husband is not believed.

(26) I.e., if the husband states that his wife was divorced prior to the date of his statement, he is not believed since he cannot now divorce her retrospectively, and she is regarded as a married woman at least up to that date, v. infra.

(27) Lit., ‘here’, the report of R. Hiyya.

(28) If the husband states ‘I divorced my wife’, whether he specifies, ‘now’, or not, he is believed, since he can divorce her there and then; and the woman is regarded as divorced from that day onwards.
(29) Declaring that the divorce took place prior to the date of his statement.
(30) Is the woman regarded as divorced from that day onwards.
(31) I.e., though he is not believed as regards the time that had passed, is his word nevertheless relied upon as regards the future? (V. previous note).
(32) Since part of the statement (that relating to the past), is not relied upon, is the entire statement disregarded?
(33) Lit., ‘to kill him’.
(34) Because a husband is not qualified to act as witness against his wife. Thus it follows that the evidence is divided; the part relating to the wife being disqualified, that relating to her seducer being accepted as valid.
(35) Raba's case dealing with (1) the wife and (2) her seducer.
(36) Retrospectively and prospectively in the case of one woman.

Talmud - Mas. Baba Bathra 135a

[Once] a certain [man] was dying.[1] Being asked to whom his wife [was permitted to be married[2] and] he replied to them, ‘She is suitable for the High Priest’,[3] [in considering this case], Raba said: What is there to apprehend?[4] Surely R. Hiyya b. Abba said in the name of R. Johanan [that] a husband who said, ‘I divorced my wife’ is believed.[5] Abaye said to him: But, surely, when R. Isaac b. Joseph came, he said in the name of R. Johanan [that] a husband, who said, ‘I divorced my wife’, is not believed! — He said to him: Is he not? Surely it has been explained that one[6] [report speaks] retrospectively and the other[6] as to the future! Shall we then,[7] [came the reply], rely upon an explanation?![8] [Thereupon] said Raba to R. Nathan b. Ammi: Take this into consideration.[9]

A certain [person] was known[10] to have no brothers,[11] and at the time of his death he declared that he had no brothers, [in considering the case.] R. Joseph said: What is there here[12] to apprehend? In the first place[13] it is known that he has no brothers, and secondly[14] he [himself] has declared at the time of his death that he had none. Abaye said to him: But [people] say that in the countries beyond the sea[15] there are witnesses who know that he has brothers! — ‘Now, at any rate [replied the other, ‘they are not before us’.[16] [Is] not [this case] the same as that of R. Hanina? For R. Hanina said: Shall she[17] be forbidden [because there are] witnesses at the North Pole!’[18] Abaye said to him: Shall we relax [the law] in [the case of] a married woman[19] because[20] we relaxed [it] in [the case of] a captive woman?[21] [Thereupon] said Raba to R. Nathan b. Animi: Take this into consideration.[22]

THIS IS MY BROTHER’, HE IS NOT BELIEVED. And what do the other [brothers] say? If they say. ‘He is our brother’, why should he [only] take [a share] with him[23] in his portion and no more?[24] [If], however, they say, ‘He is not our brother’, [how will you] explain the latter [clause]: [IF, HOWEVER,] HE ACQUIRED PROPERTY FROM ANOTHER SOURCE, HIS BROTHERS SHARE THE INHERITANCE WITH HIM. [Why should they inherit?] Surely they had declared of him, ‘He is not our brother’! — [This law is] required [in the case] only where they say, ‘We do not know’.[25]

Raba said: This implies [that if a person claims from another], ‘You owe me a maneh’ and the other replies. ‘I do not know, he[26] is exempt.[27] Said Abaye:

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[1] Who had brothers but no sons.
[2] I.e., whether she was subject to the laws of levirate marriage.
[3] I.e., ‘she may marry anyone’ having been divorced by him. ‘High Priest’ is thus not to be taken literally, since even a priest is forbidden by law to marry a divorced woman (v. Rashb. and Tosaf.) [Yad Ramah, a.l., explains that the marriage had not been consummated and the husband claimed the annulment thereof because it had been contracted on a certain condition which was not fulfilled, in these circumstances the woman might be allowed to marry even a High Priest.]

(4) If she is exempted from the levirate marriage.

(5) For the reason stated supra. Similarly, here, since he said that she may marry anyone, i.e., that he had divorced her (or, owing to the non-fulfilment of the condition on which the marriage was contracted), he is believed.

(6) Lit., ‘here’.

(7) Lit., ‘shall we rise’.

(8) It is still possible, despite the explanation, that the matter is in dispute between Amoraim, and that according to one opinion the husband's evidence in such a case is not accepted at all.

(9) I.e., the widow must not marry without obtaining halizah (v. Glos.)

(10) But there was no legal evidence.

(11) It was certain, however, that he had no children.

(12) In allowing the widow to marry.

(13) Lit., ‘one’.

(14) Lit., ‘and again, surely’.

(15) Lit., ‘country of the sea’.

(16) And one need not go to the ends of the earth to discover witnesses in order to restrict the widows freedom.

(17) The incident related to the daughters of Samuel, who were in captivity; and when brought to Palestine, declared that their honour was not violated. R. Hanina allowed them to be married to priests, who are forbidden to marry a woman whose chastity had been violated.

(18) Goldschmidt. Heb., istan, אסתן ‘the north wind’. Cf. Assyr. is-ta-na-ni (= north), C. J. Gadd, Tablets from Kirkuk in Revue d'Assyriologie, vol. XXIII, no. 34, line 12, and il-ta-an (= north) op. cit., no. 2, line 6, and passim.

(19) Lit., ‘wife of a man’, where the assumption is that she is subject to the laws of the levirate marriage.

(20) Lit., ‘if’.

(21) In this case the captive is entitled to the benefit of the doubt, since there is the assumption that she as a woman protected her chastity and honour.

(22) I.e., do not allow her to marry before complying with the laws of halizah.

(23) With the brother who acknowledged him.

(24) He should receive all equal share with all the brothers.

(25) He cannot claim a share in their portions since he has no legal proof of the brotherhood. They, however, are entitled to be his heirs since both he and the brother who acknowledged him admitted that they were brothers.

(26) The defendant.

(27) He need not pay the claim. It is incumbent upon the claimant to produce the proof; v, B.K. 118a; B.M. 97b.

Talmud - Mas. Baba Bathra 135b

It may still be maintained [that he is] liable,[1] but here [the case is] different[2] , for it resembles [the case where one states]. ‘You owe a maneh to another [person]’.[3]

IF HE DIES THE PROPERTY REVERTS TO ITS OWNER [etc.][4] Raba inquired: What [is the law in respect of] the natural appreciation of the estate? As regards appreciation which reaches the carriers[5] there is no question at all,[6] since this resembles PROPERTY ACQUIRED FROM OTHER SOURCES.[7] The question, however, arises [as to] what [is the law] in [the case of] appreciation which does not reach the carriers as, for example, [where he[8] gave him] a palm-tree and it grew stronger [or a plot of] land and it yielded alluvial soil.[9] This remains undecided.

MISHNAH. IF A PERSON DIED AND A WILL[10] WAS FOUND TIED TO HIS THIGH,[11] IT IS OF NO LEGAL VALUE.[12] IF THEREBY[13] HE[14] MADE AN ASSIGNMENT[15] TO SOMEONE,[16] WHETHER [THIS PERSON IS ONE] OF THE HEIRS OR NOT, HIS[17] INSTRUCTIONS ARE LEGALLY VALID.[18]

GEMARA. Our Rabbis taught: What is a deyathiki?[19] — Any [deed] in which is written, ‘This is to stand and to be’.[20] And which is a [legal] gift?[21] — Any [deed] in which is written, ‘[Acquire the gift][22] from this day, and[23] after my death’. But, [accordingly], a gift would be [legal only when it is written] ‘from this day, and after my death’,[24] [if. however, it were written].’from now[25] the gift would not be [legal]?[26] — Abaye replied: [It is] this that was meant: ‘Which is the gift of a person in good health that is [regarded] as the gift of a dying man in that no possession [of its fruit] is acquired until[27] after death? — Any [deed] in which it is written, "from this day and after my death".’

Rabbah, son of R. Huna sat in the hall,[28] of the school-house,[29] and reported [the following statement] in the name of R. Johanan: [If] a dying man said, ‘Write [the deed] and deliver a maneh to X’, and he died,[30] they [must] neither write not deliver, since it is possible[31] that he has determined to give him the right of ownership by means of the deed only, and no deed [may be the means of acquiring possession] after [the testator's] death. R. Eleazar said to them, ‘Be careful about this’.[32] R. Shezbi said [that] R. Eleazar had reported it, and [that] R. Johanan said to them, ‘Be careful about this’. R. Nahman b. Isaac said: Logical reasoning favours the opinion of R. Shezbi. [For] if it be said that R. Eleazar had reported it, it was quite right [for] R. Johanan to corroborate his statement;[33] if, however, it be said [that] R. Johanan had said it, [was] it necessary [for] R. Eleazar to corroborate the view of R. Johanan his master? And, furthermore, come and hear [the following which proves] that R. Eleazar had recited it. For Rabin sent in the name of R. Abbahu: Be [it] known to you that R. Eleazar has sent [word] to [those in] the diaspora[34] in the name of our Master[35] [that] if a dying man said, ‘Write and deliver a maneh to X’, and he died, they must neither write nor deliver, since it is possible that he has determined to give him the right of ownership by means of the deed only, and no deed [may serve as a means of acquiring possession] after [the testator's] death. And R. Johanan said,[36] ‘[The matter][37] shall be investigated’. What is meant by, ‘it shall be investigated’? — When R. Dimi came he[38] said: [i]. [One] will annuls [another] will.[39] [ii], [If] a dying man said, ‘Write [a deed] and give a maneh to X’ and he died, [his motive] is inquired into.[40] If [it was] to strengthen his claim,[41] [the deed] is written; but if not,[42] it is not written.[43]

R. Abba b. Memel raised an objection: [It was taught,] ‘If a person in good health said, "Write [a deed] and deliver a maneh to X", and he died, they must neither write nor deliver.’ But, [it follows,[44] in the case of] a dying man, they may both write and deliver![45] — He raised the objection and he himself explained it: [This refers to the case] where [the testator desired] to strengthen his[46] claim. How is one to understand [whether a testator desired] to strengthen [the beneficiary's] claim?

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(1) Since the one party is certain of its claim while the other is doubtful.

(2) The doubtful brother does not himself advance a certain claim, but one of his brothers does that for him, so that as far as he is concerned his claim is as doubtful as that of the other brothers.

(3) One of the brothers claims that the others owe a share to the brother whose claim is disputed.

(4) Cf. Bah. a.l.

(5) I.e., fruit, which is carried in baskets. If the land given to him by the brother who acknowledged him was fallow and he improved it so that it produced quantities of fruit. Heb., כתפים ‘carriers’, with the Lamed of the dative. R. Tam reads ktayfayim ‘shoulders’, with the Lamed of the instrument; i.e., appreciation due to hard and strenuous work (v., supra 42b, Tosaf. s.v., שבח.) Cf. ‘putting the shoulder to the wheel’, a barren track was turned into a fruit-producing field.

(6) That all the brothers are entitled to have shares in it.

(7) Which, according to our Mishnah, is shared by all the brothers.

(8) The brother who acknowledged him.

(9) And similar cases where there is no appreciation that can be carried away, or that had been brought about by human effort, in such cases there might apply the law that ‘the property reverts to its owner,’ that is, the brother who had given it to him.

(10) Heb. deyathiki, דייתיקי ,Gr. ** .

(11) I,e., even on his thigh, in which case it is obvious that the deceased himself had written it,

(12) Lit., ‘this is nothing’. The person to whom a bequest was made in this will is not entitled to receive it; since possession is to be acquired by means of the receipt of the will, and since, at the time it reaches him, the owner, being dead, is not there to transfer to him the right of ownership.

(13) I,e., by the handing over of the will,
(14) The testator.
(15) While he was still alive.
(16) Lit., ‘to another’. I,e., if when handing over the will to the assignee he said that thereby he desired to confer upon him the ownership of the bequest mentioned in it.
(17) The testator's.
(18) Even if the assignee is not the testator's legal heir, and even though his name is not mentioned in the will, he receives all that is enumerated in it. The verbal instructions of a dying person are legally binding.
(19) V. note I. The question is, which kind of will entitles one to acquire ownership of an estate after the death of the testator, in the case where ‘immediate’ acquisition is not provided for?
(20) I.e., after death. Aram.’ Do T'hey lmaykam wlhiyot’ a play upon the word דייתיקי .
(21) Of a person in good health.
(22) I.e., the property itself,
(23) Its produce.
(24) I.e., where ‘after my death’ was explicitly added to ‘from this day’.
(25) Without the addition of ‘after my death’.
(26) How is this possible? Surely, the expression, ‘from now, without any additions, rather implies that both land and produce are given to the recipient at once.
(27) Lit., ‘but’.
(28) Gr. ** .
(29) Taking רב as meaning, ‘teacher’, v. supra 11b.
(30) Before his instructions were carried out.
(31) Lit., ‘perhaps’.
(32) I.e., this is the accepted law,
(33) It would be quite natural and necessary for the master (R. Johanan) to corroborate the view of his disciple (R. Eleazar).
(34) [Heb. גולה denoting generally Nehardea, the earliest and most important centre of Babylonian Judaism; after its destruction in 259 by Odenathus its place was taken by Pumbeditha, which then became also known as Golah (v. R.H. 23a and Lewin, Methiboth I).]
(35) Rab, or Abba Arika,
(36) in amplification of the previous statement.
(37) Whether the testator wished the beneficiary to acquire possession by means of the receipt of the deed only.
(38) From Palestine. (12) He made two statements, the second of which explains the method of the investigation.
(39) A dying man who bequeathed his estate in his will to one person can cancel this by making a second will in favour of another person.
(40) Lit., ‘(they) see’.
(41) That the beneficiary shall have documentary proof of the gift.
(42) If the object of the deed was to make acquisition of the gift dependent upon the receipt of the deed by the beneficiary.
(43) For it is possible that the testator had since changed his mind.
(44) Since a person ‘in good health’ had been mentioned.
(45) Because a dying man's instructions must be scrupulously adhered to. How, then, could it be said above that his motive must be inquired into first?
(46) The beneficiary's.

Talmud - Mas. Baba Bathra 136a

— As R. Hisda said:[1] [This is a case where the witnesses record,] ‘And we have acquired [legal possession] of him,[2] in addition to [the presentation of] this gift.[3] [so] here also [the testator's motive may be known] when he declared, ‘Also write, and sign, and deliver to him.’[4]

It was stated: Rab Judah said in the name of Samuel: The halachah is that [the deed of a gift] is written and delivered.[5] And Raba in the name of R. Nahman said likewise: The halachah is that [the deed] is written and delivered.[5]

MISHNAH. IF A PERSON [DESIRES] TO GIVE HIS ESTATE IN WRITING TO HIS SONS,[6] HE MUST WRITE, ‘[THIS ESTATE IS ASSIGNED][7] FROM THIS DAY AND[8] AFTER [MY] DEATH’;[9] THESE ARE THE WORDS OF R. JUDAH. R. JOSE SAID: THIS[10] IS NOT NECESSARY.[11] IF A PERSON ASSIGNED HIS ESTATE, IN WRITING, TO HIS SON[12] [TO BE HIS][13] AFTER HIS[14] DEATH, THE FATHER MAY NOT SELL [IT][15] BECAUSE IT IS ASSIGNED IN WRITING TO THE SON, AND THE SON MAY NOT SELL [IT] BECAUSE IT IS IN THE POSSESSION OF THE FATHER. IF THE FATHER SOLD [THE ESTATE]. THE SALE IS VALID UNTIL HIS DEATH.[16] IF THE SON SOLD [IT], THE BUYER HAS NO CLAIM WHATSOEVER UPON IT UNTIL THE FATHER'S DEATH.

GEMARA. [Of] what [avail] is it that he wrote, ‘FROM THIS DAY, AND AFTER [MY] DEATH’? Surely we learnt, [if one inserts in a divorce]. ‘from this day, and after [my] death’, the divorce is valid and invalid;[17] and if he dies she is subject to the law of halizah[18] but not to that of the levirate marriage![19] — There[20] it is doubtful whether it[21] is a condition[22] or a retraction.[23] Here, however, [it is obvious that] he meant to say this to him.[24] ‘Acquire the land itself[25] today; the fruit after [my] death’.[26]

R. JOSE SAID: THIS IS NOT NECESSARY. Rabbah b. Abbuha was indisposed [and] R. Huna and R. Nahman came in [to see him]. ‘Ask him’, said R. Huna to R. Nahman,[27] ‘[is] the halachah in accordance with [the view of] R. Jose or [is] the halachah not in accordance with [the view of] R. Jose?’ — ‘I do not [even] know R. Jose's reason, replied the other, ‘[shall] I ask him[28] [about] the halachah?’ ‘You inquire of him,’ said [R. Huna] ‘whether the halachah [is according to R. Jose] or not; and as to his reason I will tell you [it later].’ [Thereupon, R. Nahman] inquired of [Rabbah], who replied to him, ‘Thus said Rab: The halachah [is] in accordance with [the view of] R. Jose’. When[29] they came out, [R. Huna] said to him.[30] ‘This is R. Jose's reason: He is of the opinion that the date of the deed proves its import,’[31] Thus it was also taught [elsewhere]: R. Jose said, ‘This is not necessary, because the date of the deed proves its import.’

Raba inquired of R. Nahman: What [is the law] in [the case of a deed of transfer?[31] — He said to him: in [the case of] a deed of transfer this[32] is not required. R. Papi said: There are deeds of transfer where [this[32] is] required, and there are deeds of transfer where [this is] not required. [If the deed reads]. ‘He conferred upon him[33] possession’, [concluding with], ‘and we[34] acquired it from him’,[35] there is no need [for this].[36] [If, however, it reads], ‘We acquired it from him’ [concluding with], ‘he gave him possession’, this[37] is required.[38] R. Hanina of Sura demurred: Is there anything we do not know and the scribes would know?[39] The scribes of Abaye were asked and they knew;[40] the scribes of Raba, and they knew.[40]

R. Huna the son of R. Joshua said, whether [the order was]. ‘He conferred upon him possession . . . and we acquired it of him’, or, ‘We acquired it of him . . . and he conferred upon him possession the insertion of ‘from this day] is not required;[41] and their dispute[42] [has reference only to the case] where [the deed reads], ‘a memorandum of the transaction that took place in our presence’.[43]

R. Kahana said: I mentioned the reported statements in the presence of R. Zebid of Nehardea, and he told me: You read thus,[44] [but] we have the following version: Raba said[45] in the name of R. Nahman, ‘In [the case of] a deed of transfer this[46] is not required whether [the formula was], ‘He conferred upon him possession . . . and we acquired it of him’ or, ‘We acquired it of him . . . and he gave him possession’; their dispute [has reference only to the case] where [the formula is], ‘a memorandum of the transaction that took place in our presence’.

IF A PERSON ASSIGNED HIS ESTATE, IN WRITING TO HIS [TO BE HIS] AFTER HIS DEATH. It was stated: If the son sold [the estate][47] during the lifetime of his father, and died while his father was still alive,

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(1) Infra 152b.

(2) I.e., they had executed the legal formality of conveyance by means of a kinyan (v. Glos.) between the testator and the recipient.

(3) V. infra 152b.

(4) in which case the testator clearly indicated that the gift was independent of the written deed, the purpose of which was only to strengthen the beneficiary's claims.

(5) After the testator's death; if it was ascertained (as R. Johanan stated, supra) that the purpose of the deed was to strengthen the beneficiary's claim.

(6) I.e., a person in good health who desires, for example, to marry a second time, and wishes to protect the sons that were born from his first marriage from the possible seizure of his estate by his second wife, in payment of her kethubah.

(7) I.e., the land itself.

(8) The produce thereof also.

(9) If, ‘from this day’, is not specified, the gift is invalid, since a person cannot give possession after his death.

(10) The addition, ‘from this day’.

(11) The reason is given infra.

(12) Inserting the formula, ‘from this day and after my death’. The law that follows applies to a gift made to any other person.

(13) The son's.

(14) The testator's.

(15) The land and its produce.

(16) Lit., ‘sold until he dies’, Until then only, may the buyer have its usufruct.

(17) Lit., ‘a divorce and it is not a divorce’. It is not certain whether by the first part of the expression he meant the divorce to be effective at once, in which case it is valid; or whether by the second part of the expression he withdrew the first, and desired the divorce to become effective after his death, in which case (since one cannot divorce after death) it is invalid.

(18) V. Glos. Since it is possible that the divorce was invalid and she is therefore the widow of a husband who died without issue.

(19) Since it is also possible that the divorce was valid, and a divorced woman may not be married by the brother of her former husband. Similarly, in the case of the will, the same doubt exists, why, then was it said that possession was definitely acquired?

(20) In the case of the divorce.

(21) The addition, ‘and after death’.

(22) I.e., that when he dies the divorce shall be considered as having taken effect from now; and since the condition has been fulfilled, the divorce is valid.

(23) Asserting that the divorce was not to take effect from that day onwards, as the first part of the expression implied, but only after his death; and since one cannot give a divorce after death, the document is invalid.

(24) To the son.

(25) Lit., ‘the body’, i.e., the principal. capital, actual estate.

(26) In the case of a divorce, such a division in the meaning of the two parts of the expression is, of course, impossible.

(27) [R. Nahman was Rabbah b. Abbuha's son-in-law.]

(28) Rabbah.

(29) Lit., ‘after’.

(30) R. Nahman.

(31) That the presentation of the gift is to begin on that day (though the expression ‘from that day’ was not inserted). Had it been intended to postpone the presentation till after death, there would have been no point in recording the date of the deed. (12) הקנאה ‘giving’, or ‘transferring possession’ of the gift, i.e., when it is recorded in the deed that the legal formality of conveyance, the kinyan, had been executed as between the testator and the recipient, which virtually places the gift in the possession of the recipient. Does R. Judah in such a case also require the specific insertion, ‘from

this day'?
(32) The insertion, 'from this day'?
(33) The donee.
(34) The witnesses.
(35) From the testator, by symbolic acquisition.
(36) For the insertion of 'from this day'. Since two distinct kinds of transfer of possession have been mentioned, (1) he conferred possession and (2) we acquired etc., the claim of the donee is thereby strengthened and he acquires ownership of the gift even though, 'from this day' has not been recorded.
(37) The addition of 'from this day'.
(38) Since the second part of the expression may be taken as an interpretation of the first. Thus: 'We acquired possession etc.' because 'he gave him possession'. Consequently, the two parts imply only one transfer of possession which, unless 'from this day' is inserted, cannot be effective or valid. (Rashb.)
(39) If most scholars do not know the difference between the one and the other formula, would the scribes be able to tell what this one or the other implied?
(40) The difference in the meaning and purport of the two formulae.
(41) In agreement with R. Nahman.
(42) Of R. Judah and R. Jose as to whether the insertion, 'from this day', is required.
(43) I.e., when the deed is not one recording a transfer of possession through the witnesses; but a memorandum of the transactions at which the witnesses were present. R. Jose holding that even in such a case the date of the memorandum proves its import.
(44) in the form of an enquiry: 'Raba inquired of R. Nahman' etc., supra.
(45) I.e., a statement of fact, not an inquiry.
(46) V. p. 575, n. 6.
(47) Assigned to him by his father for possession after his death.

Talmud - Mas. Baba Bathra 136b

R. Johanan said: The buyer does not acquire ownership;[1] and Resh Lakish said: The buyer does acquire ownership.[2] R. Johanan said [that] the buyer did not acquire ownership, [because] possession of usufruct is like the possession of the capital;[3] and Resh Lakish said [that] the buyer did acquire ownership [because] possession of usufruct is not like the possession of the capital.[4]

But, surely, on this [principle][5] they have once disputed![6] For it was stated: If a person sells the usufruct of his field,[7] R. Johanan said, [the buyer] must bring [the bikkurim][8] and recite [the declaration];[9] and Resh Lakish said, he must bring but does not recite. R. Johanan said [that] he must bring and recite because he holds the opinion that possession of usufruct is like the possession of the capital.[10] and Resh Lakish said [that] he must bring but not recite [because in his opinion] the possession of usufruct is not like the possession of the capital![6] — R. Johanan [can] answer you: Although possession of usufruct is, generally, like the possession of the capital [itself], it was necessary [to re-state the principle] here; since it might have been supposed [that] a father would renounce his claims in favour of his son;[11] so he taught us [that this is not so]. And R. Simeon b. Lakish [can] answer you: Although possession of usufruct is, generally, not like the possession of the capital [itself], it was necessary [to re-state the principle] here; since it might have been supposed [that] whenever [it is a matter] of self-interest a man considers himself first even where there is a son;[12] so he taught us [that this is not so].

R. Johanan raised an objection against Resh Lakish: [If a person said]. 'I give my estate to you; and after you, X shall be [my] heir; and after X, Y shall be my heir', [when the] first dies, the second acquires the ownership; when the second dies the third acquires ownership. [If] the second dies in the lifetime of the first the estate reverts to the heirs of the first.[13] Now, if it were [so],[14] it should [revert] to the heirs of the [original] owner?[15] — He replied to him: Rab. Hoshaia in Babylon[16] has already explained this: It is different [when the expression], 'after you', [was used].[17] Rabbah son of

R. Huna pointed out the same incongruity in the presence of Rab, who [likewise] replied: It is different [when one used the expression] ‘after you’.

But, surely, it was taught.[18] [The estate] reverts to the heirs of the [original] owner![19]

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(1) Even after the father's death, since the estate has never come into the possession of the son.

(2) After the death of the father, as the representative of the son who, if alive, would have been entitled to the inheritance.

(3) Since the usufruct was in the ownership of the father, the capital, i.e., the soil also is regarded as being in his possession, and the son, therefore, is not entitled to transfer it to a buyer.

(4) The soil, therefore, was the undisputed property of the son who, consequently, was fully entitled to transfer it to a buyer.

(5) Whether possession of usufruct is like the possession of the capital.

(6) Why then dispute it again?

(7) Lit., ‘his field for fruit’.

(8) First ripe fruit. V. Deut. XXVI, 2.

(9) Ibid. 3-10.

(10) Hence he may recite the declaration which contains the sentence, ‘the land which thou hast given me’.

(11) And that, consequently, the soil is the son's despite the usufruct of the father.

(12) As the father retained for himself the usufruct so he also retained his rights in the soil.

(13) V. supra 129b.

(14) That possession of the usufruct is not like the possession of the capital itself.

(15) Lit., ‘giver’. Since the first recipient enjoyed only the usufruct, the capital must have remained in the possession of the original owner; and, consequently when the second dies, the estate should revert to the heirs of him to whom the soil belonged.

(16) [A pupil of R. Johanan who hailed from Babylon, in contradistinction to R. Hoshaiah, the teacher of R. Johanan. Some MSS delete ‘in Babylon’ and may thus refer to the latter.]

(17) By the use of ‘after you’, the owner has clearly intimated that the first, while alive, was to have possession of both capital and usufruct. Elsewhere, however, acquisition of usufruct alone is not the same as the acquisition of the capital itself.

(18) Even in the case where ‘after you’ was used.

(19) Which shows that even in such a case the possession of usufruct is not at all like the possession of the capital, how then can R. Johanan maintain the view, contradictory to the Baraitha, that possession of usufruct is always like the possession of the soil itself?

Talmud - Mas. Baba Bathra 137a

This [law is a matter of dispute between] Tannaim.[1] For it was taught: [If a person said.] My estate [shall be] yours, and after you [it shall be given] to X', and the first [recipient] went down [into the estate] and sold [it] and spent [the money],[2] the second may reclaim [the estate] from those who bought it;[3] [these are] the words of Rabbi. Rabban Simeon b. Gamaliel said: The second [may] receive only what the first had left.[4]

An incongruity was pointed out: [If a person said]. 'My estate [shall be] yours and after you [it shall be given] to X', the first [may] go down [into the estate], and sell [it] and spend [the money; these are] the words of Rabbi. Rabban Simeon b. Gamaliel said: The first has only [the right of] usufruct. [This, surely, presents] a contradiction [between one statement] of Rabbi and the other statement of his,[5] and [between one statement] of Rabban Simeon b. Gamaliel and the other statement of his![6] — There is no contradiction between the two statements of Rabbi,[7] [since] one[8] [may refer] to the capital;[9] and the other,[10] to the usufruct.[11] There is [also] no contradiction between the two statements of Rabban Simeon b. Gamaliel[12] [since] one[13] may speak of what is the proper thing;[14] the other, of the law ex post facto.[15]

Abaye said: Who is a cunning rogue? — He who counsels[16] to sell an estate,[17] in accordance with Rabban Simeon b. Gamaliel.[18]

R. Johanan said: The halachah is according to Rabban Simeon b. Gamaliel, who [however], admits that if [the estate] was assigned[19] as the gift of a dying person, the transaction is invalid.[20] What is the reason? — Abaye said, [because] the gift of a dying person is acquired only after death, and [by that time] 'after you'[21] had preceded him.[22] But did Abaye say so? Surely it was stated: When is possession of the gift of a dying man acquired? Abaye said, 'at death', and Raba said, 'after death'![23] Abaye withdrew from that opinion.[24] Whence [is it proved] that he withdrew from this view,[24] perhaps he withdrew from that?[25] — This cannot be entertained,[26] for we have learnt: [If a dying man[27] said to his wife] 'Here is thy divorce should I die'[28] [or] 'Here is thy divorce [after] my present illness'[29] [or] 'Here is thy divorce after [my] death', [the divorce in all these cases] is invalid.[30]

R. Zeira said in the name of R. Johanan: The halachah is according to Rabban Simeon b. Gamaliel and even if the estate contained slaves whom he liberated.[31] [Is this not] obvious? — It might have been presumed [that] he could be told that it was not given to him for the purpose of doing what was prohibited,[32] hence he taught us [that we do not say so].

R. Joseph said in the name of R. Johanan: The halachah is according to Rabban Simeon b. Gamaliel and even in the case where a dead man's shrouds were made of it.[33] [This is surely] obvious! It might have been presumed that it was not given to him[34] to turn[35] into [something of which it is] forbidden to have any benefit[36] so he taught us [that this is not so].

R. Nahman b. R. Hisda gave the following exposition. [If one said to another]. 'This ethrog[37] is given to you as a gift, and after you[38] [it shall be given] to X', [and] the first [recipient] took it and performed with it his duty,[39] — this will be a point of dispute[40] between Rabbi and Rabban Simeon b. Gamaliel.[41] R. Nahman b. Isaac demurred: The dispute between Rabbi and Rabban Simeon b. Gamaliel can only extend as far as [the case] there[42] because [one] Master is of the opinion [that] acquisition of usufruct is like the acquisition of the capital, and the other] Master is of the opinion [that] acquisition of the usufruct is not like the acquisition of the capital, but here,[43]

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(1) The view of one of whom is advanced by R. Johanan.

(2) Lit., 'ate'.

(3) After the death of the first, who was entitled to usufruct only and had no right to sell the estate itself.
(4) According to this view, the first, being in possession of the usufruct, is regarded as being also in the possession of the capital itself, R. Johanan follows Rabban Simeon b. Gamaliel.
(5) Lit., ‘on that of Rabbi’.
(6) Lit., ‘on that of Rabban Simeon b. Gamaliel’.
(7) Lit., ‘of Rabbi on that of Rabbi’.
(8) Allowing the second to reclaim what the first had sold.
(9) Which is not the possession of the first, and which he has, consequently, no right to sell. Hence it may rightly be reclaimed from the buyer.
(10) Which confers upon the first the right to sell.
(11) I.e., the fruit only, which certainly belongs to him and which he may certainly sell.
(12) Lit., ‘of Rabban Simeon b. Gamaliel on that of R. Simeon etc.!
(13) According to which the first has only the right of usufruct.
(14) לכתחלה ‘as at the commencement’, ‘for a start’. The proper thing is that the first shall respect the wishes of the testator (who obviously desired the second to have at least some of the estate), and dispose of the usufruct only, leaving the capital itself intact for the benefit of the second.
(15) דיעבד ‘having been done’, i.e., if the first had not come to inquire whether he is entitled to sell the land, but, acting on his own, has sold all, or part of it, the second can only receive what the first had left.
(16) [Rashb.; R. Gersh, renders, ‘who takes counsel with himself.’]
(17) Which was given to a person with the stipulation that after his death it shall be transferred to another person.
(18) Though the sale is morally wrong, since the original owner meant the second beneficiary to have the estate after the death of the first, it is legal in accordance with the view of Rabban Simeon b. Gamaliel. [According to the explanation of Rashb., it is only he who counsels, that is dubbed ‘cunning rogue’, since he derives no benefit therefrom.]
(19) By the first recipient.
(20) And the second beneficiary may reclaim it from the donee.
(21) I.e., the second beneficiary, with reference to whom the original owner and testator had said to the first beneficiary, ‘after you it shall be given’ etc.
(22) The second beneficiary acquires ownership of the estate, on the strength of the instructions of the original owner, at the very moment the first died. The owner, by his instruction, ‘after you to X’, has clearly intimated that the first was to have the estate only while alive. As soon, therefore, as he dies, X acquires possession. The person, however, to whom the first assignee has presented the estate, ‘as the gift of a dying man’, does not acquire possession until after the death of the donor. Hence, ‘after you’ had anticipated him,
(23) Since Abaye, here, holds the view that the gift of a dying man is acquired at death, how could it be said that according to him such a gift is acquired after death?
(24) That the gift is acquired at death.
(25) According to which ownership is acquired after death,
(26) Lit., ‘It (should) not enter your mind’,
(27) Desirous that his wife shall have the status of a divorced woman (to exempt her, e.g., from the levirate marriage), and not that of a widow.
(28) I.e., when he dies, the divorce shall become effective.
(29) I.e., after death will have brought it to an end.
(30) Lit., ‘he said nothing’. because he meant that the divorce shall not become effective except when he died, but after death one cannot give a divorce similarly, in the case of the gift of a dying man, possession was meant to be acquired after and not in death.
(31) The liberation is valid.
(32) It is prohibited to liberate a heathen slave. Cf. Lev. XXV, 46.
(33) Lit., , ‘he made them into a shroud for the dead’, i.e., the gift or any part of its proceeds was used for the purpose.
(34) Lit., ‘they (or we) did not give you’.
(35) Lit., ‘to make them’.
(36) Lit., ‘prohibitions of use’. A dead man's shroud may not be used for any other purpose, nor may any benefit be derived from it. (v. Sanh,. 47b).
(37) אתרוד a fruit of the citrus family used with the palm leaves, myrtle and willows on the Festival of Tabernacles.

Cf. Lev. XXIII, 40.

(38) I.e., after his death.

(39) Lit., 'and he went out (from his obligation) by it', i.e., he used it in the prescribed manner and recited the proper benediction.

(40) Lit., we have arrived at the dispute'.

(41) According to Rabbi he has not properly performed his duty; since the commandment relating to ethrog requires the the fruit itself to be the property of him who makes liturgical use of it, while the ethrog, in this case, does not itself belong to him, he having received it for use only. According to Rabban Simeon R. Gamaliel, however, who allows the first recipient to sell the estate as his own property, the ethrog also is regarded as his own property, and may therefore be used for the performance of the commandment.

(42) Where the gift consisted of an estate which produced fruit.

(43) The case of the ethrog.

Talmud - Mas. Baba Bathra 137b

if [the first recipient] is not able[1] properly to perform the precept[2] therewith, for what [other purpose] was the thing given to him![3] But [it is obvious] that no one [can][4] dispute [the view] that [the first recipient] may properly perform the commandment with it;[5] [as regards, however, the case where] he sold, or consumed it, this will be a point of[6] dispute between Rabbi and Rabban Simeon b. Gamaliel.[7]

Rabbah son of R. Huna said: When brothers acquired an ethrog[8] out of an [inherited] estate,[9] [and] one of them used for its ritual purpose,[10] if he is able to eat it,[11] he has [also] properly acquitted himself of his ritual duty;[12] but if not, he has not acquitted himself of his ritual duty.[13] This, however, only in the case where an ethrog is available for everyone [of the brothers].[14]

Raba said: [If one said to another,] 'This ethrog is given to you as a gift on the condition that you return it to me', [and the recipient] used it for its ritual purpose,[15] then if he [subsequently] returned it, he is exempt;[16] [if] he did not return it, be is not exempt. [Hereby] we are taught that a gift [presented] on the condition that it be returned is regarded as a [proper] gift.[17]

A certain woman owned a palm-tree on ground belonging to R. Bibi b. Abaye. Whenever she went to cut it he showed resentment, [so] she made it over to him for life.[18] He thereupon went and made it over to his little son.[19] R. Huna the son of R. Joshua said: 'Because you are [yourselves] frail [beings] you speak frail words.[20] Even Rabban Simeon b. Gamaliel gave his decision only [in the case where the original owner had assigned the estate] to another [person], but not when [it is to return] to [the owner] himself'.[21]

Raba said in the name of R. Nahman: [If one said to another], 'This ox is given to you as a gift on the condition that you return it to me', [and the recipient] consecrated, and returned it, both the consecration and the restitution are legally valid.[22] '[But] what', asked Raba of R. Nahman, 'has he returned to him?'[23] 'And what', replied the other, 'has he taken away from him?'[24] But, said R. Ashi, the matter is looked into: If he said to him, 'on condition that you return it' [he has no claim upon the donee, for] he had surely returned it, if, [however], he said to him, 'on condition that you return it to me', [he can claim compensation], since he implied [that the return must be of] a thing which he may use. Rab Judah said in the name of Samuel: [If a person] assigned his estate, in writing, to another, and the latter[25] said, 'I do not want it', he acquires possession [of it] even if he stands and protests.[26] R. Johanan, however, said: He does not acquire possession. R. Abba b. Memel said: There is [really] no difference of opinion between them;

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(1) According to Rabbi.

(2) Lit., 'if to go out, he cannot go out'.

(3) Not being allowed to consume the fruit, the only other purpose for which one can use an ethrog is for the performance of the commandment.
(4) Lit., ‘all the world do not’.
(5) Cf. n. 4, supra.
(6) V. p. 580, n. 12.
(7) according to Rabbi he does, nad according to Rabban Simeon he does not pay compensation to the second, the ethrog itself, through not productive of any usufruct, being treated as capital in relation to the ritual performed with it.
(8) Either as part of the estate or by purchase from its proceeds,
(9) Lit., ‘that which belongs to the house’; i.e., before the division of the property had taken place.
(10) Lit., ‘he took it and went out (from obligation) thereby’.
(11) I.e., if the brothers do not object to his consumption of the fruit.
(12) Lit., he went out’. Cf. n. 12, supra.
(13) Since an ethrog cannot be used for its ritual purpose unless it is in the exclusive possession of him who uses it, the ethrog of the inherited estate cannot be regarded as being in the undisputed possession of one of the brother unless it is known that the others do not object to his complete consumption of it.
(14) Some edd., ‘but not a quince or a pomegranate’.
(15) V. p. 581, n. 12.
(16) I.e., he has properly performed his ritual obligation.
(17) I.e., it is considered for the time being the property of the recipient.
(18) On the understanding that after R. Bebai's death it would revert to her or her heirs
(19) So that, according to the view of Rabban Simeon b. Gamaliel, the woman could not claim it after his death.
(20) ממולאי ממוליאתא ‘frail things’, applied to both people and words. דאתו = because you. Others, משום דאתיתו ממולאי ‘because you are descendants of short-lived people’. Abaye was a descendant of the house if Eli who were condemned to die young. V. I, Sam. II, 32. [Levias. HUC 1904, 155, connects the phrase with the Arabic ‘to be foolish’.]
(21) Here, the woman stipulated that the tree shall revert to her. Hence, R. Bibi's transfer to his son is legally invalid.
(22) Lit., it is consecrated and returned’.
(23) The consecrated animal can no longer be used by him.
(24) The ox he presented has been returned bodily intact.
(25) Lit., ‘that one’.
(26) Lit., ‘cries’.

Talmud - Mas. Baba Bathra 138a

one refers to the case[1] where he protested[2] and the outset;[3] the other,[1] where he kept silent at first and then[4] protested.[5]

R. Nahman b. Isaac said: [If a donor] transferred ownership to one through the medium of another and [the former] kept silent;[6] and ultimately[7] protested, we have arrived at a dispute[8] between Rabban Simeon b. Gamaliel and the Rabbis. For it was taught: [If a person] had assigned to another, in writing, an estate of his, part of which consisted of slaves; and the latter[9] said, ‘I do not want them’,[10] they[11] may, [nevertheless], if their second master[12] was a priest, eat of the heave-offering.[13] Rabban Simeon b. Gamaliel said: As soon as the donee[14] had said , ‘I do not want them’, the heirs [of the testator] become their legal owners.[15] And [when] we were discussing the subject [the question was raised, would] the first Tanna [consider the assignee legal owner] even if he stands and protests? — Raba, and some say R. Johanan, said: [in the case] where he protested from the outset, all agree[16] that he does not acquire ownership. [If he first] kept silent and finally he protested. all agree[16] that he does acquire ownership.’They are in disagreement only [in the case] where the [testator] transferred ownership to the donee through a third party,[17] and [he at first] kept silent and finally he protested. [In such a case], the first Tanna holds the opinion [that] since he kept silent [at first] he acquired ownership, and that [the reason] why he protests [now is because] he has simply changed his mind. Rabban Simeon b. Gamaliel, however, holds the opinion [that] his final [act] proves what [he had in his mind] at the beginning, and that [the reason] why he did not then[18] protest [is] because he thought. 'Why should I cry before they come into my possession!

Our Rabbis taught:[19] If a dying man[20] said, 'Give two hundred zuz to X, three hundred to Y, and four hundred to Z', it must not be assumed[21] [that] whoever is [mentioned] in the deed first gains possession [first]. Hence, [if] a note of indebtedness was produced against him,[22] [the debt] is to be collected from all of them.[23] [If], however, he[22] said, 'Give two hundred zuz to X, and after him [three hundred zuz] to Y, and after him [four hundred zuz] to Z', the law is[24] [that] whoever is [mentioned] first in the deed acquires possession [first].[25] Hence, [if] a note of indebtedness was produced against him,[22] [the debt] is collected from the last [mentioned]. [If] he has not [enough], collection [of the balance] is made from the one [mentioned] before him. If the share of this one also does not suffice,[26] collection [of the remaining balance] is made from the one mentioned first.[27]

Our Rabbis taught: If a dying man said,[28] 'Give two hundred zuz to X [who is] my firstborn son, in accordance with his due', he receives these as well as[29] [the portion of] his birthright.[30] If, [however], he said, 'As his birthright'.[31] he[32] is given the choice.[33] He may, if he wishes, receive these;[34] he may, if he prefers, receive the portion of his birthright. [If] a dying man said, 'Give two hundred zuz to X [who is] my wife, in accordance with her due', she receives these as well as[35] her kethubah. If, [however], he said 'as her kethubah'[36]

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(1) Lit., 'here'.

(2) Cf. n. 2, supra.

(3) When the deed of assignment was offered to him. Hence the opinion of R. Johanan that ownership is not acquired.

(4) Lit., 'at the end'.

(5) His first silence is interpreted as consent to his acquisition of the ownership. Hence the opinion of Rab Judah that, though he protested later, ownership is acquired by him.

(6) When the transfer took place.

(7) When the deed of assignment was offered him.

(8) As to whether ownership had been acquired by him who protested.

(9) Lit., 'that one'.

(10) He did not wish to have the responsibility of managing and maintaining slaves.

(11) The slaves.

(12) The donee who objects to have them.

(13) Terumah (v. Glos.) The slaves, having become his property, are allowed to eat of the heave-offering as any other member of a priest's household; v. Lev. XXII, 11.

(14) V, n. 1, supra.

(15) Ker. 24b; Hul. 39b.

(16) Lit., 'all the world do not dispute'.

(17) Lit., 'through another'.

(18) Lit., 'until now'.

(19) Git. 50b.

(20) Lit., 'a dying man who'.

(21) Lit. , 'we do not say'.

(22) The testator.

(23) All the three, being regarded as heirs who have acquired simultaneous right of possessions by his mere verbal instructions (supra 135b), must pay the debt in proportions equal to the shares they received.

(24) Lit.,m 'we say'.

(25) By definitely stating, after him he indicated the order of acquisition he desired.

(26) Lit., 'he has not'.

(27) Lit., 'from him who was before him'.

(28) V. n. 4, supra.

(29) Lit., 'and he receives'.

(30) It is assumed that this was the wish of the deceased. Had he wanted him to receive the specified two hundred zuz only, he would not have added, ‘in accordance with his due’.

(31) I.e., that the two hundred zuz shall be given to his firstborn son as the portion of his birthright.

(32) The firstborn.

(33) Lit., ‘his hand is upon the upper (part)’, i.e., he has the advantage.

(34) If the portion of his birthright is less than two hundred zuz.

(35) Lit., ‘and she receives’.

(36) I.e., that the two hundred zuz shall be given to her in payment of her kethubah.

Talmud - Mas. Baba Bathra 138b

she is to have the choice.[1] She may, if she wishes, receive these, she may, if she prefers, receive her kethubah. [If] a dying man said, ‘Give two hundred zuz to X [who is] my creditor, in accordance with his due’, he[2] receives these as well as his debt.’[3] If, [however], he said, ‘as his debt’,[4] he receives these in [payment of] his debt. Should he[5] then, because he[6] said, in accordance with his due’, receive these and receive [also] his debt, when it is possible that he meant, ‘in accordance with what is his due on account of the debt’? — R. Nahman replied: Huna has told me that this law represents the view of[7] R. Akiba who draws inferences [from] superfluous expression[s]. For we learnt:[8] [He[9] sold] neither the cistern nor the cellar, even though he has included in the contract[10] depth and height.[11] He[12] must, however, buy for himself a passage [to these];[13] these are the words of R. Akiba. But the Sages say: He[12] need not buy for himself a passage. R. Akiba, however, admits that where he[12] said to him, ‘except these’,[14] he need not buy a passage for himself.[15] From this it clearly follows [that] where [a person] mentioned [that] which was not necessary, his object was[16] to add something; [so] here also, since he mentioned [that][17] which was not necessary, his object was to add something.[18]

Our Rabbis taught: If a dying man said, ‘X owes me a maneh’, the witnesses may write [it down].[19] although they do not know [whether there is any truth in the statement].[20] Consequently, when [the debt] is collected, proof[21] has to be brought;[22] these are the words of R. Meir. But the Sages say: [The witnesses must] not write unless they know [the statement to be true].[23] Consequently, when [the debt] is collected, there is no need for proof to be produced.[24] R. Nahman said: Huna told me [that] a tanna reported [the following]: R. Meir said, ‘[The witnesses] must not write’, and the Sages say, ‘They may write’; and even R. Meir said this[25] only on account of[26] a court [that might] err.[27]

R. Dimi of Nehardea said: The law is[that] there is no need to provide against[28] all erring court.[29] And why [is this case] different from [that] of Raba? For Raba said[30] : Halizah must not be arranged unless [the court] know [the widow and her brother-in-law], nor may a declaration of refusal[31] be accepted unless [the court] know [the parties]. Consequently[32] [it is permissible for witnesses][33] to write out a certificate of halizah[34] as well as a certificate of refusal[34] even though they do not know [the parties].[35] [Has not this precaution[36] been taken] in order to provide against an erring court![37] No;[38] a court does not minutely examine [the decision of] another[39] court;[40] [that of][39] witnesses, [however], it does minutely examine.[41]

MISHNAH. A FATHER[42] MAY PLUCK [THE FRIT] AND GIVE IT TO ANY ONE HE WISHES FOR CONSUMPTION; AND ANY PLUCKED [FRUIT] WHICH HE LEAVES [AFTER HIS DEATH] BELONGS TO [ALL] THE HEIRS.[43]

GEMARA. PLUCKED [FRUIT] only belongs to all the heirs,[44] [but] not [fruit] that is still attached to the ground?[45]

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(1) Cf. n. 3, supra.

(2) The creditor.
(3) V. p. 584, n. 13.
(4) I.e., the two hundred zuz shall be given to the creditor in payment of his debt.
(5) The creditor.
(6) The testator.
(7) Lit., ‘who is this? It is , etc.’.
(8) Supra 63b, and 64a.
(9) Who sold a house.
(10) Lit., ‘he wrote for him’.
(11) Of the house. A cistern and a cellar are not regarded as its indispensable parts.
(12) The seller.
(13) The sale of the house includes the area surrounding it. Hence, the seller, though retaining the ownership of the cistern and the cellar, has no claim upon the path that leads to them.
(14) Cistern and cellar.
(15) It was not necessary for the seller to specify, ‘except these’, if he wished to retain the cistern and the cellar only, since these are implicitly excluded from the sale. The addition of, ‘except these’, is, therefore, taken to imply the exclusion from the sale of the path that leads to them.
(16) Lit., ‘he comes’.
(17) ‘In accordance with his due’.
(18) I.e., that the sum shall be in addition to his debt.
(19) As a memorandum of what they heard.
(20) V., R. Gersh. a.l. and cf. Rashb.
(21) Of the defendant's liability.
(22) By the heirs.
(23) Because a memorandum signed by witnesses may sometimes lead a court to a wrong decision through the assumption that the witnesses had verified the statement.
(24) The existence of a written document is sufficient evidence that the witnesses had satisfied themselves of the veracity of the statements it contains.
(25) That the witnesses may not put the statements on record.
(26) Not because that was the law.
(27) V. n. 8, supra.
(28) Lit., ‘to fear’, ‘apprehend’.
(29) Hence, witnesses may put on record the statements of a dying person (as R. Nahman above quoted in the name of the Rabbis), even though they had not satisfied themselves as to the veracity of the statements.
(30) Jeb. 106a.
(31) Heb. Mi'un, A minor who has been betrothed by her father may have the engagement annulled on declaring before a court that she refuses to live with the man.
(32) Since no court would allow halizah, or a declaration of refusal, unless the parties were known to it.
(33) Who were present during one or other of such ceremonies.
(34) Which would enable the woman to re-marry.
(35) Though they do not know, the court well knew.
(36) That a court must not arrange a halizah or accept a declaration of refusal unless the parties concerned are known to it.
(37) I.e., a second court that might be called upon to deal with the question of the remarriage of the parties, and that might wrongly assume that the previous court had satisfied itself as to their identity. Now, if here provision was made against an erring court, why is not such provision necessary in the case spoken of by R. Dimi?
(38) The case of a court is not to be compared with that of witnesses.
(39) Lit., ‘after’.
(40) Hence, no court must arrange halizah or annul a minor's betrothal unless the parties are known to it.
(41) Hence, every document that would be brought before them, though attested by witnesses, would always be carefully scrutinised. Witnesses, therefore, nay put on record the statements of a dying man (as R. Dimi stated supra) even though they had not satisfied themselves as to whether the debt he mentioned was really due to him.

(42) Who directed that after his death his estate shall be given to his son, so that the land itself is acquired by the son at once while the right of usufruct remains with the father.

(43) And not only to that son to whom the estate had been assigned.

(44) Lit., 'yes'.

(45) Lit., 'joined'. Since our Mishnah stated that detached fruit belongs to all the heirs it seems to imply that fruit attached to the ground is regarded as the ground itself and belongs to the son to whom the estate was assigned.

Talmud - Mas. Baba Bathra 139a

Surely it was taught:[1] the fruit attached [to the ground].[2] is valued[3] for the buyer![4] — 'Ulla replied: There is no difficulty Here[5] [the law deals] with one's [own] son;[6] there[7] [it deals] with a stranger.[8] [In the former case, attached fruit belongs to the son] because a person is favourably disposed towards his son.[9]

MISHNAH. [IF] ONE LEFT SONS[10] [WHO WERE] OF AGE, AS WELL AS MINORS, THOSE WHO ARE OF AGE ARE NOT TO BE SUPPORTED[11] AT THE EXPENSE OF[12] THE MINORS,[13] NOR ARE THE MINORS TO BE FED AT THE EXPENSE OF[14] THOSE WHO ARE OF AGE,[15] BUT ALL RECEIVE EQUAL SHARES] IN THE ENTIRE ESTATE].[16] [IF] THOSE WHO WERE OF AGE MARRIED[17] , THE MINORS [ALSO] MAY TAKE [A SIMILAR SUM TOWARDS THEIR MARRIAGE EXPENSES].[18] IF THE MINORS, HOWEVER, CLAIMED,[19] 'WE DESIRE TO TAKE AS MUCH AS YOU HAVE TAKEN',[20] THEIR REQUEST IS DISREGARDED[21] BUT WHAT THEIR FATHER HAD GIVEN THEM[22] IS REGARDED AS A GIFT.[23] [IF] ONE LEFT DAUGHTERS [WHO WERE] OF AGE, AS WELL AS MINORS THOSE WHO ARE OF AGE ARE NOT TO BE SUPPORTED[24] AT THE EXPENSE[25] OF THE MINORS,[26] NOR ARE THE MINORS TO BE FED AT THE EXPENSE[27] OF THOSE WHO ARE OF AGE.[28] BUT ALL RECEIVE EQUAL SHARES [IN THE DISTRIBUTION OF THE ESTATE]. [IF] THOSE [WHO WERE] OF AGE MARRIED,[29] THE MINORS [ALSO] MAY TAKE [A SIMILAR SUM TOWARDS THEIR MARRIAGE EXPENSES].[30] IF THE MINORS, HOWEVER, CLAIMED,[31] 'WE DESIRE TO TAKE AS MUCH AS YOU HAVE TAKEN',[32] THEIR REQUEST IS DISREGARDED.[33] IN THE FOLLOWING RESPECT[34] DAUGHTERS[35] ARE OF GRATER IMPORTANCE THAN SONS.[36] FOR DAUGHTERS ARE FED AT THE EXPENSE OF THE SONS[37] BUT NOT AT THE EXPENSE OF [OTHER] DAUGHTERS.[38]

GEMARA. Raba said: If[39] the eldest of the brothers[40] drew upon the general funds of the estate for his dress and outfit,[41] his action cannot be disputed.[42] But surely, we learnt, THOSE WHO ARE OF AGE ARE NOT TO BE SUPPORTED AT THE EXPENSE OF THE MINORS! — Our Mishnah [refers] to [those who are] without a calling.[43] [In the case of] one without a calling, [is this not] obvious![44] — [Since] it might have been assumed that [the brothers] desire that he should not be disgraced[45] it was necessary to teach us [that this is not so].

IF THOSE WHO WERE OF AGE MARRIED, THE MINORS ALSO MAY TAKE. What does this mean?[46] — Rab Judah replied, it is this that was meant: IF THOSE WHO WERE OF AGE HAD MARRIED after the death of their father, THE MINORS [ALSO] MAY TAKE[47] after the death of their father; if, however, those who were of age had married during the lifetime of their father, and the MINORS after the death of their father, CLAIMED, 'WE DESIRE TO TAKE AS MUCH AS YOU HAVE TAKEN', THEIR REQUEST IS DISREGARDED BUT WHAT THEIR FATHER HAD GIVEN THEM IS REGARDED AS A LEGAL GIFT.

[IF] ONE LEFT DAUGHTERS [WHO WERE] OF AGE, AS WELL AS MINORS. Abbuha b. Geniba sent to Raba: Will our Master teach us, [in the case of a woman who] took a loan and spent it, and thereupon[48] married,[49] [whether] the husband has [the legal] status of a buyer[50] or that of an heir? Is he [regarded as] a buyer [and consequently he need not repay her debt] since a verbal loan cannot be collected from a buyer; or is he, perhaps, regarded as an heir, [who must pay her debt], since a verbal loan may be collected from heirs? — He replied to him: We have learned this in our Mishnah, [IF] THOSE [WHO WERE] OF AGE MARRIED, THE MINORS [ALSO] MAY TAKE; does not [this mean that] IF THOSE WHO WERE OF AGE [WERE] MARRIED to husbands, THE MINORS MAY TAKE [towards their marriage expenses] from the husbands?[51] — No; [this may mean that] IF THOSE [WHO WERE] OF AGE [WERE] MARRIED to husbands, THE MINORS [ALSO] MAY TAKE[52] [a similar sum towards the expenses of their marriage] to husbands. [But] this is not [so];[53] for, surely, R. Hiyya taught: [If] those who were of age had married husbands,[54] the minors may take [their due] from [those] husbands![55] — It is possible that maintenance[56] is different,[57] since such [an obligation] is generally known.[58]

R. Papa said to Raba:[59] Is not this[60] the very [case] which Rabin had sent in his letter?[61] If a person died, [he wrote], and left a widow and a daughter, his widow is to receive her maintenance out of his estate.[62] [If] the daughter married,[63] his widow is [still] to receive her maintenance out of his estate. [If] the daughter died?[64] Rab Judah, the son of the sister of R. Jose b. Hanina, said: I had [such] a case, and it was decided[65] [that] his widow is to receive her maintenance out of his estate. [Now,] if it be granted[66] that he[67] is [regarded as] an heir,[68] it is quite correct that his widow should be maintained out of his[69] estate[70] ; if, however, it is held[66] that he[67] is [regarded as] a buyer, why should she be maintained out of his estate![71]

Abaye said: Would we not have known [this],[72] if Rabin had not sent [his letter]? Surely we learnt:[73] The following do not return in the Jubilee year:[74] The [portion of] the birthright,

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(1) Tosef. Keth. VIII.

(2) In a field that was sold by a son to whom his father had assigned it during his lifetime.

(3) After the death of the father.

(4) I.e., the buyer must pay the price, at which the fruit was valued, to the heirs. This proves that even attached fruit does not belong to him to whom the soil belongs but to the heirs. In the case, then, of our Mishnah also, attached fruit should belong to all the heirs.

(5) In our Mishnah.

(6) Where the estate was assigned by a father to a son, and the latter did not sell it to another person.

(7) Lit., ‘here’, i.e., the cited Tosefta of Kethuboth.

(8) When the son had sold the estate to a stranger, or the father had assigned it to a stranger as a gift, reserving the usufruct for himself during his lifetime.

(9) Hence he allows him not only the ground itself but also the fruit attached to it.

(10) And did not provide in a will for the disposal of his estate.

(11) I.e., provided with clothing and the like.

(12) Lit., ‘through the hands of’.

(13) I.e., out of the general proceeds of the estate before it had been divided between the heirs. Sons who are of age require a greater allowance for their clothing than minors; and this they must provide out of their own shares.

(14) Lit., ‘by’.

(15) Cf. n. 10, supra. Minors require less for clothing but more for food.

(16) I.e., before the estate has been divided, neither the minors, who require a greater allowance for food, nor those of age, who require more for their clothing, though less for their actual food, may draw for their extra requirements upon the common funds, which must be equally divided between all of them.

(17) After their father's death, defraying the marriage expenses out of the undivided estate.

(18) Out of the common funds of the estate.

(19) After their father's death.

(20) I.e., if the minors wish to spend on their marriages, out of the general funds of the estate, as much as the older brothers had spent on their marriages during their father's lifetime.

(21) Lit., ‘they do not listen to them’.

(22) To the older brothers during his lifetime.

(23) Lit., ‘given’.
(24) V. p. 588, n. 8.
(25) Loc. cit, n, 9.
(26) Loc. cit. n. 10.
(27) Loc. cit. n. 11.
(28) Loc. cit. n. 12.
(29) Loc. cit. n. 14.
(30) Loc. cit. n. 15.
(31) Loc. cit. n. 16.
(32) Loc. cit. n. 17.
(33) Loc. cit. n. 1.
(34) Lit., ‘this’.
(35) Who inherited their father's estate in the absence of sons.
(36) Where there are born sons and daughters.
(37) in the case where the sons inherited a large estate, v. infra 139b.
(38) I.e., if older and younger daughters, in the absence of sons, inherited the estate, the latter are not to be fed from the general funds of the estate.
(39) Lit., ‘This’.
(40) Who manages the estate.
(41) Lit., ‘dressed and covered himself out of the house’.
(42) Lit., what he has done is done’. Though it is not proper for him to make personal expenses out of the common funds, the brothers cannot, after the amount had been spent, claim its return; since it is important for him, as the manager of the estate, to dress well.
(43) שדכא (edd. שרכא), ‘a man at ease’; one who is not in any way engaged in the improvement of the estate or in the increase of its value.
(44) If he is of no use to the management or maintenance of the estate, what possible claim can he have upon the general funds in respect of his personal dress?
(45) Through the wearing of unbecoming clothes, and would thus agree to beat the expense.
(46) This, surely, seems to be in contradiction to the following clause, ‘If the minors, however, claimed "we desire to take as much as you have taken", their request is disregarded’.
(47) A similar sum towards their marriage expenses.
(48) Lit., ‘and ate it and stood up’.
(49) And thus transferred all her possessions to her husband.
(50) Of the property brought to him by his wife.
(51) Of the married sisters; which proves that the husbands are regarded as heirs, not as buyers. The claim of the minors is now assumed to have the same force as that of a verbal loan which cannot be collected from a buyer.
(52) Out of the residue of the estate; not from their sisters’ husbands who are regarded as buyers, not as heirs.
(53) I.e., the husbands cannot be regarded as buyers.
(54) V. p. 590. n. 5.
(55) Had these been regarded as buyers, the minors who have the status of a creditor of a verbal loan, could not have taken anything from them.
(56) The right of the minors to be maintained out of their father's estate.
(57) From a verbal loan.
(58) Lit., ‘it has a voice’, i.e., people well know the fact that the deceased had left minors who are entirely dependent on his estate for their maintenance. Hence the husbands of the elder daughters are assumed to have known the fact. Consequently, the claim of the minors is not to be compared to that of a verbal loan but to one given under a written note of indebtedness, in which case it may be collected even from a buyer of the estate, v. infra 175a.
(59) Who had attempted to prove above, from R. Hiyya's statement, that a husband is regarded as an heir.
(60) That a husband has the status of an heir.
(61) From Palestine to Babylon
(62) in accordance with his undertaking in the kethubah which is given to one's wife.
(63) And thus transferred the estate into her husband's possession.

(64) And her husband inherited her possessions.
(65) Lit., ‘they said’.
(66) Lit., ‘you said’.
(67) The husband of the daughter, and so every husband.
(68) Of the property that his wife had brought to him; even during her lifetime.
(69) Her dead husband's, even if it passed into the possession of her daughter's husband.
(70) Since the amount required for the maintenance of a widow, may be collected from her husband's heirs.
(71) Surely a widow's maintenance cannot be collected from the buyers of her husband's property (Cf. Git. 48b)
(72) That a husband is regarded as an heir.
(73) Bek. 52b.
(74) When all landed property that has been sold returns to its original owner. V., Lev. XXV, 28, 31.

Talmud - Mas. Baba Bathra 139b

and that [which a husband] inherits [from] his wife![1] Raba said to him: And now that he did send [his letter] do we know [this]?[2] Surely R. Jose b. Hanina stated:[3] At Usha[4] it was ordained [that if] a woman had sold during the lifetime of her husband, usufruct property,[5] and died, the husband may seize them from the buyers?[6] — But, said R. Ashi, the Rabbis have given a husband the status[7] of an heir and [also the status of] a buyer; and whichever was better for him they gave him.[8] In respect of the Jubilee year, the Rabbis gave him the status of an heir, in order [to prevent] loss to him.[9] In the case of [the statement of] R. Jose b. Hanina, the Rabbis gave him the status of a buyer [also] in order [to avert] loss to him.[10] In respect of [the statement of] Rabin, [however], in order [to avert] a loss to the widow, the Rabbis gave him the status of an heir.[11] But, surely, in the case of R. Jose b. Hanina, where the buyers suffer[12] loss, the Rabbis had yet given him the status of a buyer![13] — There,[14] they[15] caused the loss to themselves; for since [it was known that] a husband was involved,[16] they should not have bought from a woman who is subject to a husband's jurisdiction.[17]

CHAPTER IX

MISHNAH. [IN THE CASE OF] ONE WHO DIES AND LEAVES SONS AND DAUGHTERS, IF THE ESTATE IS LARGE,[18] THE SONS INHERIT [IT], AND THE DAUGHTERS ARE MAINTAINED [FROM IT].[19] [IF] THE ESTATE IS SMALL, THE DAUGHTERS ARE MAINTAINED [FROM IT], AND THE SONS SHALL GO BEGGING.[20] ADMON SAID, ‘AM I TO BE THE LOSER BECAUSE I AM A MALE!’ R. GAMALIEL SAID: ADMON'S VIEW HAS MY APPROVAL.[21]

GEMARA. What is considered a large estate?[22] — Rab Judah said in the name of Rab: Out of which both[23] may be maintained for twelve months. When I recited this before Samuel,[24] he said, ‘This is the view of R. Gamaliel b. Rabbi, but the Sages say that [the estate must be large enough] to provide for the maintenance of both[23] until they reach their majority’. [So] it was also stated [else. where]: When Rabin came,[25] he said in the name of R. Johanan, (others say [that it was] Rabbah b. Bar Hanah [who] said it in the name of R. Johanan): When [the estate is large enough] to provide for the maintenance of both until they have reached their majority, It is [considered] large; if less, it is regarded as small. And if [the estate] does not suffice for both until they have reached their majority,

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(1) This clearly proves that a husband is regarded as heir. For had he been regarded as a buyer of the property that was brought to him by his wife, he would have retained that status even after her death; and all her landed possessions, as all landed property bought, would have had to be returned in the Jubilee year to their original owner.
(2) V. note 2.
(3) Keth. 50a, 78b; B.K. 88b; B.M. 35a; 96b; supra 50a.
(4) V. p. 207, n. 3.
(5) Property which belongs to her, while the right of usufruct is enjoyed by the husband, v. p. 206, n. 7.

(6) Which proves that a husband has the status of a buyer. An heir could not seize property sold.
(7) Lit., ‘they made him’.
(8) Lit., ‘and they did as it was better for him’.
(9) That he shall not be compelled to return what he inherited from his wife to her family.
(10) So that he shall be entitled to seize the property from anyone who bought it.
(11) The husband's undertaking to provide for his wife's maintenance preceded the marriage. Hence her claim must receive priority.
(12) Lit., ‘there is’.
(13) Why were not the interests of the buyers taken into consideration as much as those of the widow?
(14) In the case of R. Jose.
(15) The buyers.
(16) Lit., ‘there is’.
(17) Lit., ‘who dwells under a man’, i.e., whose property is subject to the claims of a husband to whom it will finally pass over after her death. These buyers contrived to deprive him of his right by purchasing the property during her lifetime, hence they must stand the loss.
(18) Lit., ‘possessions are many’.
(19) Until they marry or become of age.
(20) Lit., ‘begging at the doors’.
(21) Lit., ‘I see the words of Admon’.
(22) Lit., ‘and how much (are) many’.
(23) Lit., ‘these and these’, the sons and the daughters.
(24) When, after the death of Rab, he joined for some time Samuel's academy.
(25) From Palestine to Babylon.

Talmud - Mas. Baba Bathra 140a

would the daughters receive all of it![1] — But, said Raba, [the amount, required for] the maintenance of the daughters until they reach their majority is drawn [from the estate] and the balance is given to the sons.

[It is] obvious [that, if the estate was] large[2] and it depreciated,[3] the heirs have already acquired ownership thereof.[4] What [is the law, however, if the estate was] small[5] and it appreciated;[6] does it remain in the possession of the heirs[7] and, consequently, has appreciated in their possession[8] or are the heirs,[7] perhaps, entirely disregarded here?[9] — Come and hear: R. Assi said in the name of R. Johanan [that] if orphans anticipated [the daughters] and sold the estate where it was small,[10] their sale is valid.[11]

R. Jeremiah sat before R. Abbahu, when he addressed to him [the following question].. Does one's widow[12] , reduce [the value of] an estate?[13] Do we assume [that] since she receives[14] maintenance she [thereby] reduces [its value]; or perhaps, since she would receive none[15] if she married [she is regarded as if] she has none even now?[16] If you would find [some reason] for saying [that] since she would receive none if she married [she is regarded as if] she has none even now, [the question arises] whether his wife's daughter[17] reduces [the value of] the estate?[18] Do we say [that] since she would receive [her maintenance] even if she married, she does reduce [the value of the estate]; or, perhaps, since she would receive none if she died,[19] she does not reduce [its value]? And if you would find [some ground] for saying that since she would receive nothing if she died, she does not reduce [its value], [the question arises] whether a creditor[20] reduces the [value of the] estate.[21] Do we say that he reduces [its value] since he[22] would receive [his debt] even If he died,[23] or perhaps, he does not reduce [it] since the debt still requires collecting?[24] (Others[25] [report that he] put the questions in the reverse order:[26] Does a creditor reduce [the value of] the estate?

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(1) Since such an estate is considered ‘small’, the sons, according to our Mishnah, would receive nothing. Should, then, the daughters get the surplus over and above the amount required for their maintenance

(2) At the time the father died.

(3) Lit. ‘became less’, i.e the estate had been damaged, or the cost of living had risen, so that the income does not suffice for the maintenance of the daughters.

(4) As soon as the death of their father took place, the estate passed over into their possession. Hence, the daughters acquired their share for maintenance and the sons the residue. Any loss, therefore is to be shared by both the sons and the daughters, in equal proportions.

(5) And was, consequently, reserved entirely for the maintenance of the daughters

(6) Lit., ‘became large’, i.e., the estate was bringing in a higher income, or the cost of maintenance fell.

(7) The sons.

(8) Hence the sons should receive any surplus above the amount required for the daughter's maintenance.

(9) Lit., ‘removed from here.’ And all the benefits of the appreciation goes to the daughters.

(10) Lit., ‘in possessions that were few.’ Before the court heard the claim of the daughters.

(11) And the sold property cannot be seized for the daughters maintenance. This proves that the estate remains in the possession of the sons. Hence, in case of appreciation, the surplus belongs to them.

(12) Who is entitled to receive maintenance from the estate during her widowhood.

(13) I.e., is the amount due to the widow for her maintenance deducted from the value of the estate which is thus reduced from a ‘larger’, to a ‘smaller’ estate, from which, if it just suffices for the maintenance of the daughters, the sons will receive nothing.

(14) Lit., ‘she has’.

(15) Lit,.’she has not’. As soon as a widow re-marries she loses the right of receiving her maintenance from her dead husband's estate.

(16) And the estate is to be given to the sons who would provide for the maintenance of the daughters and the widow until she re-marries.

(17) A step-daughter of the deceased who, at the time of his marriage to her mother, had undertaken to maintain her for a period of years. Now that he died before that period elapsed it is the duty of his sons to provide for her maintenance out of the estate of their father.

(18) Cf. p. 595. n. 3.

(19) I.e., neither she nor her heirs.

(20) of the deceased.

(21) If it suffices only for the payment of the debt and the maintenance of the daughters.

(22) I.e., his heirs.

(23) And consequently the sons of the deceased debtor would receive nothing, (v. note).

(24) And before collection the estate not only suffices for the maintenance the daughters but leaves also a surplus for the sons.

(25) Lit., ‘and there are’.

(26) Lit., ‘towards the other side’.

Talmud - Mas. Baba Bathra 140b

Does[1] his wife's daughter[2] reduce [its value]? Does[3] his widow[4] reduce [its value]?) [In the case of claims of] his widow and [her] daughter,[5] who is to have the preference? — He said to him: Go away to-day and come to-morrow. When he came, he said to him: Solve at least one [problem]. For R. Abba said in the name of R. Assi [that] the relationship between[6] a widow and [her] daughter, in the case of a small estate, has been put [on the same basis] as that of the relationship between[7] a daughter and brothers. As [in the case of] the relationship between a daughter and brothers, the daughter is maintained [out of the estate] while the brothers have to go begging at [people's] doors, so [in the case of] the relationship of a widow and [her] daughter, the widow is maintained, and the daughter may go begging at [people's] doors.[8]

ADMON SAID, ‘AM I TO BE THE LOSER BECAUSE I AM A MALE’ etc. What does he mean?[9] — Abaye replied: He means this: ‘AM I TO BE THE LOSER BECAUSE I AM A MALE and am capable of engaging in the study of the Torah?' Raba said to him: Now, then, would he who is engaged in the study of the Torah be entitled to heirship, [and he who is not engaged in the study of the Torah not be entitled to be heir?[10] — But, said Raba, he means this: 'AM I, BECAUSE I AM A MALE and am entitled to be heir in [the case of] a large, estate, TO BE THE LOSER [of my rights] in [the case of] a small estate?'

MISHNAH. [IF A MAN] LEFT SONS AND DAUGHTERS, AND ONE WHOSE SEX IS UNCERTAIN,[11] THE MALES MAY, WHERE THE ESTATE IS LARGE,[12] REFER[13] HIM TO THE FEMALES.[14] [IF] THE ESTATE, [HOWEVER], IS SMALL,[15] THE FEMALES MAY REFER HIM TO THE MALES.[16] IF A MAN SAID: SHOULD MY WIFE BEAR A MALE CHILD, HE SHALL RECEIVE A MANEH, [AND HIS WIFE] DID BEAR A MALE CHILD, HE RECEIVES A MANEH. [IF HE SAID: SHOULD MY WIFE BEAR] A FEMALE [SHE SHALL RECEIVE] TWO HUNDRED [ZUZ, AND] SHE BORE A FEMALE, SHE TAKES TWO HUNDRED [ZUZ]. [IF HE SAID]: SHOULD [SHE BARE] A MALE CHILD [HE SHALL RECEIVE] A MANEH [AND] IF A FEMALE SHE SHALL RECEIVE TWO HUNDRED [ZUZ], AND SHE GAVE BIRTH TO A MALE AND A FEMALE, THE MALE RECEIVES A MANEH [AND] THE FEMALE RECEIVES TWO HUNDRED ZUZ. [IF] SHE BORE A TUMTUM, HE[17] RECEIVES NOTHING. IF, [HOWEVER], HE SAID: WHATEVER MY WIFE SHALL BEAR, SHALL RECEIVE [A CERTAIN PORTION]. HE[17] RECEIVES [IT]. AND IF THERE IS NO [OTHER] HEIR BUT THIS ONE,[17] HE INHERITS ALL. [THE ESTATE].

GEMARA [How can it be said that the males] REFER HIM [to the females] and he [presumably] receives [maintenance] as a daughter. Seeing that in the latter clause it states: IF SHE BORE A TUMTUM, HE RECEIVES NOTHING! — Abaye replied: THEY REFER HIM [to the females] and he receives nothing. Raba, however, said: THEY REFER HIM and he does receive [maintenance]; and the latter clause [of our Mishnah][18] represents the view[19] of Rabban Simeon b. Gamaliel. For we learnt:[20] [If an animal][21] gave birth to a tumtum or an androginos,[22] Rabban Simeon b. Gamaliel said that the sanctity does not extend to [either of] them.[23]

An objection was raised: A tumtum inherits like a son and receives maintenance like a daughter. According to Raba[24] this statement may well be explained [as follows]: He inherits like a son in [the case of] a small estate,[25] and receives maintenance like a daughter [in the case of] a large estate;[26]

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(1) If the answer to the first question is that a creditor does reduce the value of the estate, it may he argued that only he does it, since his debt may be collected even after his death.

(2) Whose right to maintenance she cannot transmit to her heirs since it ceases with her death.

(3) If it is answered that his wife's daughter reduces the value of the estate. It may he argued that this is so only in her case since she retains her rights to maintenance even after her marriage.

(4) Who loses her right to maintenance as soon as she re-marries

(5) both of whom claim maintenance, while the estate suffices only for one.

(6) Lit., 'at', 'at the side of'.

(7) Lit., 'at', 'at the side of'.

(8) Keth. 43a.

(9) What reason is there to assume that, as regards maintenance, a male should have any preference at all over a female?

(10) Surely no son could be deprived of a share in his father's inheritance for the sole reason that he was not able to engage in the study of the Torah!

(11) Heb., tumtum v. Glos.

(12) In which case the sons are entitled to inherit it, while the daughters receive only their maintenance until they marry or become of age.

(13) Lit., 'push'.

(14) I.e., to receive maintenance only as a daughter.

(15) And is, consequently, allotted entirely to the maintenance of the daughters.

(16) And he would thus receive nothing.
(17) The tumtum
(18) According to which the tumtum receives nothing.
(19) Lit., ‘we arrive’.
(20) Ter. 24b; cf. Tosaf. Yeb. 83b. s.v., לא לכל
(21) Of which the male or female firstling was consecrated as a sacrifice before it was born.
(22) Gr. **, a hermaphrodite. having characteristics of both male and female.
(23) Thus it has been proved that in the opinion of Rabban Simeon b. Gamaliel a tumtum is regarded as a distinct species which is neither male nor female. This view is voiced by the author of the latter clause of our Mishnah, according to whom a tumtum receives neither a share like a son nor maintenance like a daughter.
(24) Who regards a tumtum not as a distinct species but as one of uncertain sex and that, accordingly, he is either male or female.
(25) I.e., nothing: since the daughters may refuse him maintenance on the ground that he has no proof that he is a female.
(26) He cannot claim the greater privilege of receiving a share like a son, because he has no proof that he is a male. He is entitled, however, to the lesser privilege of maintenance, since if he is not a male he is inevitably a female. Cf. p. 598. n. 8.

Talmud - Mas. Baba Bathra 141a

according to Abaye. however,[1] what [is meant by], ‘he receives maintenance like a daughter’? — Granted your argument is right [how will you explain], according to Raba, what [is the meaning of] ‘he inherits like a son’?[2] But, [you must explain it as meaning that] ‘he is entitled to inherit but [actually] receives nothing’, so here[3] [it may be explained as] ‘entitled to maintenance but [in fact] receives nothing’.

IF A MAN SAID: SHOULD MY WIFE BEAR A MALE CHILD etc. Does this imply that a daughter is dearer to him, than a son?[4] Surely R. Johanan said in the name of R. Simeon b. Yohai: The Holy One, blessed be He, is filled with wrath against anyone who does not leave a son to be his heir, for it is said, And you shall cause his inheritance to pass unto his daughter,[5] and by the expression of ‘causing to pass’[6] ‘wrath’[7] is implied, for it is said, That day is a day of wrath![8] — As regards succession, a son has preference;[9] as regards maintenance, a daughter is given preference.[10]

And Samuel said: We deal here[11] with [the case of a mother] who gave birth for the first time, and [this[12] is to be understand] in accordance with [a saying] of R. Hisda. For R. Hisda said: [If a] daughter [is born] first, it is a good sign for the children. Some say, because she rears her brothers; and others say. because the evil eye[13] has no influence over them.[14] R. Hisda said: To me, however, daughters are dearer than sons.[15]

If preferred it may be said that [the Tanna of our Mishnah] is in agreement[16] [with the view of] R. Judah. Which [view of] R. Judah? If it is suggested, [that relating to the exposition] of ‘in all’;[17] for it was taught.[18] And the Lord blessed Abraham with all.[17] R. Meir said, [the meaning is] that he had no daughter; [and] R. Judah said, [the meaning is] that he had a daughter whose name was ‘Inall’,[19] it may be objected[20] that [from this] one may only infer[21] that, according to R. Judah, the All Merciful did not deprive Abraham even of daughter; this is no proof, however,[22] that [a daughter] is better than a son! But [it is] this [saying of] R. Judah: It was taught:[23] ‘It is a meritorious act to feed one's daughters; and how much more so one's sons’ — since [the latter] are engaged in the study of the Torah, these are the words of R. Meir R. Judah said, ‘It is a meritorious act[24] to feed one's sons and how much more so one's daughters’ — in order that they be not degraded.[25]

But how is one to understand that Baraitha which teaches,[26] ‘[if] she gave birth to a male and a female, the male receives six [gold] denarii[27] and the female receives two [gold] denarii’?[28] — R. Ashi replied: I interpreted[29] this reported tradition,[30] before R. Kahana, [as dealing] with [the case of] one who inverted the order [of his first instruction] by making a statement like the following:[31] ‘[If] a male [be born] first, [he shall receive] two hundred zuz[32] , and the] female [born] after him [shall receive] nothing: [if a] female [be born] first, [she shall receive] a maneh, [and the] male [born] after her [shall receive] a maneh’ ;and she gave birth to [both] a male and a female, and it is not known which of them was born[33] first. The male does, [consequently]. receive a maneh [which is] in any case [due to him].][34] The other maneh [however] is money of doubtful ownership[35] and is to be divided.[36]

And how is one to understand the Baraitha which teaches[37] [that ‘if] she gave birth to a male and a female, he only receives one maneh[38] -Rabina replied: [This is possible] where [the promise of the sum of money was made by the father]. ‘to him who will bring me tidings’;[39]

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(1) Who asserted that a tumtum receives nothing.

(2) Since the estate is small, ‘inheriting like a son’ really signifies ‘receiving nothing’. How then, could the expression of inheriting8 be used?

(3) I.e according to Abaye.

(4) Since the bequest to her was two hundred zuz, while to a son it was a maneh only (i.e., one hundred zuz).

(5) Num. XXVII, 8.

(6) העברה

(7) עברה of the same root (עבר) as ha'abara, denominative of weha'abartem.

(8) Zeph. I, 15. Wrath, עברה

(9) Lit., ‘better to him’, since he perpetuates the name of the tribe.

(10) It is more difficult for a woman to earn her living, and a father would naturally desire to make provision for her maintenance rather than for that of a son.

(11) In our Mishnah, where preference is given to a daughter.

(12) The preference of the father for her first daughter.

(13) V. Glos.

(14) The birth of a male child first may cause the envy of other mothers

(15) His daughters married husbands who were among the greatest of their generation. viz., Raba, Rami b. Hama: and Mar ‘Ukba b. Hama (Tosaf.)

(16) Lit., ‘this according to whom’?

(17) Gen. XXIV, 1.

(18) Tosef. Kid. V.

(19) בכל ‘in all’; v. supra 16b.

(20) Lit., ‘say’.

(21) Lit., ‘you have heard him’.

(22) Lit., ‘did you hear him?’

(23) Tosef. Keth. IV.

(24) Though there is no legal obligation after a certain age.

(25) In their search for a livelihood. From this it follows that, according to R. Judah, a father would provide for a daughter more than for a son. Hence it may be concluded that our Mishnah represents this view.

(26) Lit., ‘but that which is taught . . . in what’.

(27) A gold denar = 25 zuz.

(28) Making a total of two hundred zuz. In an ordinary case, in view of the principle enunciated in our Mishnah, a daughter should receive the greater share [According to R. Gershom this Baraitha is not quoted as an argument, but for the purpose of obtaining information on its interpretation.]

(29) Lit., ‘I said’.

(30) The Baraitha cited.

(31) Lit., ‘when he said’.

(32) l.e., eight gold denarii.

(33) Lit., ‘came out’.

(34) If he was born first, the maneh is certainly due to him, since in such a case, his father had really allotted him two hundred zuz. But even if he was born second he is still entitled by virtue of of the definite instructions of his father, to the one maneh

(35) Because it is not known to whom that second maneh belongs. Had it been certain that the son was born first he would have been entitled to that maneh also. Had it been certain, on the other hand , that the daughter was born first she would have been entitled to that maneh ; hence it is of doubtful ownership.

(36) Between the son and the daughter. The first maneh being due to the son in any case, is given to him in full(four gold denarii), with the addition of a half(two gold denarii) of the second maneh. Hence he receives a total of one maneh and a half(six gold denarii). The daughter, being entitled to half a maneh, receives, therefore, two gold denarii.

(37) Lit., 'but that which was taught...how do you find it'.

(38) The expression 'he only receives one maneh', implies that though it might have been assumed that he receives more than that sum, he receives only one maneh. Under what circumstances is this possible?

(39) Whether the child born was male or female.

Talmud - Mas. Baba Bathra 141b

as it was taught: '[If a person said]:"He who will bring me tidings whereby the womb of my wife was opened, shall receive, if the child be a male, a maneh", [then]. if she gave birth to a male he receives a maneh. [If. however.] he said: "[He will receive] a maneh if [he brings 'me tidings that she gave birth to] a female", [then] if she gave birth to a female, he receives a maneh, [and if] she gave birth to a male and a female, he only receives a maneh'. But surely'. he did not speak of a 'male and a female'![1] — [This refers to the case] where he also said, 'He shall also receive a maneh if [he brings tidings that] a male and a female [were born]'. What. then. [did he mean] to exclude?[2] To exclude a miscarriage.[3]

[Once] a certain [man] said to his wife: 'My estate shall be his with whom you are pregnant — R. Huna said, 'This is [a case of] making an assignment to an embryo through the agency of a third party. and whenever such an assignment is made, [the embryo does] not acquire possession. R. Nahman raised an objection against R. Huna's ruling: IF A MAN SAID: SHOULD MY WIFE BEAR A MALE CHILD, HE SHALL RECEIVE A MANEH, [AND HIS WIFE] DID BEAR A MALE CHILD, HE RECEIVES A MANEH![4] -He replied to him: [As to] our Mishnah. I do not know' who is its author.[5] But should he not have replied to him [that] it[6] [represents the view' of] R. Meir who stated [that] a man may convey possession of a thing that has not [yet] come into the world![7] -[It is possible to] say that R. Meir holds this view[8] [only when possession is conveyed] to that which is [already'] in the world;[9] [but] has he been heard [to hold the same view when possession is conveyed] to that which is not [yet] in the world![10] But let him reply to him that it[11] [represents the view of] R. Jose who said [that] an embryo acquires [possession]! For we learnt:[12] 'An embryo disqualifies [his deceased father's slaves from eating the heave.offering[[13] but does not confer the right of eating it [on his mother];[14] these are the words of R. Jose'?[15] — An inheritance which came to one under the ordinary laws of succession,[16] is different .[17] But let him reply to him [that] it[18] [represents the view of] R. Johanan b. Beroka who said, that there was no difference between an inheritance and a gift! For we learnt:[19] R. Johanan b. Beroka said: If [a person] said [it][20] concerning one who is entitled to be his heir,[21] his instruction is legally valid[22] -[It is possible to] say that R. Johanan b. Beroka has been heard [to hold the view only where possession is given] to that which is [already] in the world;[23] [but] did he say [that the same law applies also] to that which is not in the world![24] And let him reply to him [that] it[25] [represents the view of] R. Johanan b. Beroka and [that] he holds the [same] opinion as R. Jose![26] Who can say that he[27] holds such an opinion![28] Let him then reply to him [that our Mishnah speaks of the case] where [the money was offered by a husband] 'to him who would bring me tidings'![29] - If so.[30] [explain] the last clause wherein it is stated. AND IF THERE IS NO [OTHER] HEIR BUT THIS ONE, HE INHERITS ALL [THE ESTATE]. If [the Mishnah speaks] of a reporter[31] what has he to do with heirship![32]

Then let him reply to him [that our Mishnah speaks of the case] where she has [already] given birth [to the child]![33] -If so,[34] the last clause is wherein it is stated. IF [HOWEVER] HE SAID: whatever MY WIFE SHALL BEAR, SHALL RECEIVE [A CERTAIN PORTION]. HE RECEIVES [IT] [instead of]. WHATEVER SHE SHALL BEAR, should have [read]. ‘whatever she has born’!

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(1) He only spoke of the birth of a male or a female; why then should he give the maneh when twins were born?

(2) If the maneh was promised to the reporter in the case of the birth of a male. a female or twins. i.e.. apparently in all possible cases. what need was there for the father to specify them, at all? It would have been sufficient for him, to say. that he would pay the maneh to him who would report'whereby the womb of my wife was opened’. Since the three apparently possible cases were specified the intention must have been to exclude’ some other possible case.

(3) By specifying male, female and twins,he implied that the maneh would be paid only when he received a report of a living child.

(4) This shows that though the assignment was made while the child was still in embryo. possession is acquired by him.

(5) Lit., ‘who taught it.’ i.e.,its authorship is obscure and consequently unreliable.

(6) Our Mishnah.

(7) Why. then. did he say that he did not know who the author of our Mishnah was?

(8) Lit., ‘that you heard.’

(9) I.e., though the object is not, the recipient is. in existence.

(10) The embryo, therefore, could not acquire possession even according to R. Meir. Hence, the authorship of our Mishnah remains unknown

(11) Our Mishnah.

(12) Yeb. 67a.

(13) The heave-offering. (terumah. v. Glos.). is forbidden to laymen (Israelites and Levites). but the wife and the non-Jewish slaves of a priest are allowed to eat of it. When the priest dies. his slaves, becoming the property of his sons who are themselves priests,are still allowed to eat terumah. If however the wife of the priest, who is the daughter of an Israelite, was pregnant when her husband died, the slaves are forbidden to eat of the terumah on account of the embryo who is not regarded as a priest and who is their partial owner. (The slaves of a layman are forbidden to eat terumah.

(14) If she is the daughter of an Israelite. Only a son that was born confers this right upon his mother: but not an embryo

(15) From this it clearly follows that the embryo is regarded as the owner of the slaves, which proves that according to R. Jose an embryo does acquire possession; why. then, could not our Mishnah be attributed to R. Jose's authorship?

(16) Lit., ‘of itself’.

(17) From a gift.Consequently. while R. Jose may hold the view that an embryo acquires the ownership of an inheritance, it does not follow that be would grant the embryo the right of acquiring possession of a gift,which forms the subject of our Mishnah

(18) Our Mishnah.

(19) Supra 130a.

(20) That a certain individual shall inherit all his estate.

(21) Presumably even an embryo.

(22) Which proves that, according to R. Johanan b. Beroka, an embryo acquires possession even of that to which he would not have been entitled under the ordinary laws of succession.

(23) I.e., one of the sons already born.

(24) E.g., an embryo. Hence the authorship of our Mishnah remains unknown.

(25) Our Mishnah.

(26) Supra; that an embryo may acquire possession.

(27) R. Johanan b. Beroka.

(28) That of R. Jose.

(29) i.e. that the sum of money spoken if in our Mishnah was not assigned to an embryo but promised by a husband to anyone who would report to him, on the confinement of his wife as to the sex of child (cf. supra). The question of an embryo's right of acquisition would consequently be outside the scope of our Mishnah: and R. Huna would accordingly be able to maintain, against R. Nahman's assumption, that an embryo does not acquire possession.

(30) That our Mishnah deals with a promise to a stranger, and not with an assignment to an heir.

(31) Lit ‘he who will report to me’.

(32) Lit., ‘an heir, what is his work’. A reporter on the birth of one's child could not possibly he described as heir

(33) At the time the father had assigned to him the sum of money. An embryo, however, as R. Huna stated, would not acquire possession.

(34) That the Mishnah speaks of a child already born.

Talmud - Mas. Baba Bathra 142a

But let him reply to him [that our Mishnah speaks of the case] where he said, ‘After she will have born [the child’![1] — R. Huna follows his own view. For R. Huna said: [A child] does not acquire ownership[2] even [where the father had said].[3] ‘after she[4] , will have born [him][5] ‘For. [it was stated.] R. Nahman said: If a person conveys possession. through the agency of a third party. to an embryo.[the latter] does not acquire ownership. [If however, he said].][3] ‘After she will have born’.[5] [the child] does acquire ownership. But R. Huna said: Even [where he said]. ‘After she will have born’. [the child] does not acquire ownership. R. Shesheth however said: Whether he used the one, or the other expression.[6] [the child] acquires ownership. Said R. Sheshet: Whence do I derive this? — From the following:[7] If a proselyte died[8] and Israelites plundered his estate; and [subsequently] they heard that he had a son or that his wife was pregnant. they must return [whatever they have appropriated].[9] [If]. having returned everything they subsequently heard that his son died or that his wife miscarried,he who took possession the second [time][10] has acquired ownership;[11] but [he who took possession] the first [time] has not acquired ownership. Now, if it could be assumed [that] an embryo does not acquire ownership why should they[12] need to take possession a second time? They have, surely. already taken possession once![13] Abaye [however] said: An inheritance which comes [to one] under the ordinary laws of succession[14] is different[15] Raba said: There[16] it is different,[17] because at first[18] they[19] were really uncertain of the legality of their acquisition.[20] What [practical difference is there] between them?[21] There is [a difference] between them [in the case] where a report was brought[22] that he[23] died, while [in fact] he was not dead. and after that he died.[24] Come and hear: ‘A babe [who is] one day old inherits and transmits[25] [From this it follows that only] one [who is] one day old [may inherit][26] but not an embryo![27] -Surely R. Shesheth had explained[28] [this as meaning]: He[29] inherits the estate of his mother to transmit [it][30] to his paternal brothers;[31] hence, only [then when he is] one day old but not [when] an embryo.What is the reason?

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(1) So that a born child, not an embryo, would acquire possession. Hence, no objection could be raised from our Mishnah against R. Huna's statement.

(2) Of a sum of money that his father had assigned to him before his birth, while still an embryo.

(3) That the child shall acquire possession.

(4) The mother.

(5) The child to whom the assignment was made.

(6) Lit., ‘whether this or this’.

(7) Lit., ‘for it was taught’.

(8) And, having left no children, his possessions become public property, and whosoever takes possession of them acquires ownership.

(9) Since the son or the embryo. as legal heir. acquired the ownership of the estate as soon as the proselyte died.

(10) After the death of the son or the miscarriage.

(11) Since at that time there were no legal heirs

(12) In the case where there was no born son, but an embryo.

(13) The existence of the embryo if it could not acquire possession, should not have made any difference to their right of ownership. Consequently it follows, as R. Shesheth had stated, that an embryo does acquire possession.

(14) Lit., ‘of itself’.

(15) Though an embryo may acquire ownership of an estate which is due to him as the legal heir, it does not follow that it can also acquire the ownership of a gift or any other assignment.

(16) n the case of the estate of a proselyte.

(17) From other cases of acquisition.

(18) Before it was known whether there were any legal heirs.

(19) Who seized the estate.

(20) Lit., ‘it was really loose in their hands at first’. While seizing the property, they were well aware that they might loose it at any moment should a legal heir appear. Hence, ownership cannot be acquired unless possession was taken after it had been ascertained that there were no legal heirs.

(21) In either case, whether the reason is that given by Abaye or that of Raba,the first acquisition is invalid.

(22) Lit., ‘they heard’.

(23) The legal heir.

(24) In such a case, the plunderers, since they thought that the heir was dead, have from the very beginning taken definite and certain possession of the estate which, according to Raba, would consequently become their legal property. even if they did not take possession of it a second time. According to Abaye. however. their first acquisition is of no avail since the embryo was at that time the legal owner of the estate.

(25) Nid. 44a. ‘Ar. 7a.

(26) Lit.. ‘yes’.

(27) Had an embryo been able to inherit, there would be no need to specify the limitation,’one day old’. Now, if an embryo cannot acquire possession of a legal inheritance how much less could it acquire possession of a gift! How, then, could R. Shesheth maintain that an embryo can acquire possession of a gift?

(28) v.. Nid. loc. cit.

(29) An infant who Is one day old.

(30) When he dies.

(31) Born from the same father and not the same mother.

Talmud - Mas. Baba Bathra 142b

— Because [the embryo] dies first[1] and no son in the grave[2] may inherit from his mother to transmit [the inheritance] to his paternal brothers ‘Do you mean to say that it[3] dies first, surely there was a case when it made three convulsive movements?[4] — Mar. son of R. Ashi, replied: Those were only [reflex movements] like those of the tail of the lizard which moves convulsively [even after it has been cut of].[5]

Mar the son of R. Joseph said in the name of Raba: This[6] teaches[7] that he[8] causes a diminution in the portion of the birthright.[9] [This] however [applies] only [to a child who is] one day old, but not to an embryo.[10] What is the reason?-The All Merciful said, And they have born to him.[11] For [so] said Mar, the Son of R. Joseph. in the name of Raba: ‘A son who was born after the death of his father does not cause a diminution In the portion of the birthright. What is the reason? The All Merciful said, And they shall have born to him[11] , which is not [the case here].[12] Thus[13] it was taught at Sura. At Pumbeditha. [however]. it was taught as follows:[14] Mar. the son of R. Joseph, said in the name of Raba: A firstborn son who was born after the death of his father[15] does not receive a double portion. What is the reason? The All Merciful said, He shall acknowledge,[16] and, surely. he is not [alive] to acknowledge [him]. And the law is in accordance with all those versions which Mar the son of R. Joseph quoted in the name of Raba. R. Isaac said in the name of R. Johanan: If possession was given to an embryo [through the agency of a third party]. it does not acquire ownership. And if objection should be raised from[17] our Mishnah,[18] [it may be replied that there it is different] because a person is favourably disposed towards his son.[19]

Samuel said to R. Hana of Bagdad: ‘Go. bring me a group of ten [people] and I will tell you in their presence[20] [that] if possession Is given to an embryo [through the agency of a third party]. it does acquire ownership’. But the law is that if possession is given to an embryo [through the agency of a third party]. it does not acquire ownership. Once a certain man said to his wife, ‘My estate [shall belong] to the children that I shall have from you’. His eldest son[21] came [and] said to him, ‘What shall become of me?’[22] He replied to him, ‘Go acquire possession as one of the [other] sons’ .[23] Those[24] [can] certainly acquire no ownership.[25] since they are not yet in existence; has [however]. this lad[26] an [additional] share beside[27] the [other] sons,[28] or has the lad no [additional] share beside[27] the [other] sons? — R. Abin and R. Measha and R. Jeremiah say: The lad receives an [additional] share beside the [other] sons. R. Abbahu and R. Hanina b. Papi and R, Isaac Nappaha say: The lad receives no [additional] share beside the [other] sons.

R. Abbahu said to R. Jeremiah. 'Is the law in accordance with our view[29] or in accordance with yours?' He replied to him, 'It is obvious that the law' is in accordance with our view because we are older than you. and [that] the law' [can] not be according to your view because you are [only] juniors.' The other retorted, 'Does the matter then depend on age? [Surely] the matter depends on reason!' 'And what is the reason?' [R. Jeremiah asked.] 'Go to R. Abin,' [replied R. Abbahu.] 'to whom I have explained the matter

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(1) Before the mother.

(2) I.e. after his death.

(3) An embryo.

(4) After the mother was dead.

(5) Such movements are no signs of life.

(6) The Mishnah of Niddah cited, wherein a child one day old is mentioned,implying the exclusion of an embryo.

(7) Lit.. 'to say'.

(8) A child who is one day old.

(9) I.e.,if there are, e.g.. two brothers exclusive of the child, the estate is divided not into three portions (two for the two ordinary portions of the two brothers and one for the birthright, but into four portions. Each brother, including the child, receives one such portion and the firstborn receives the additional fourth portion as his birthright. The firstborn thus receives, as the portion of his birthright, a quarter of the estate, and not, (as would have been the case if the child were excluded). a third.

(10) An embryo. though receiving a portion of the estate, does not reduce the portion of the birthright. In the case mentioned, e.g., in the previous note. the estate would first be divided into three portions (as if the embryo did not exist) and the firstborn would receive as his birthright, one of these, i.e., a third of the estate. The remaining two thirds would then he divided into three equal shares, each of the three brothers receiving one, i.e., two ninths of the estate. The full portion of the firstborn would accordingly amount to 1/3+2/9=3/5) five ninths of the estate, while where the child was one day old, the firstborn's full portion would amount to half the estate only. i.e.,(5/9-1/2=1/18),one eighteenth less.

(11) Deut.,XXI,15 This implies that, as regards the birthright, the children must have been actually born. An embryo cannot come under this category and is, therefore, regarded as non-existent in this respect.

(12) The son having been born after his father's death. Thus, according to Mar the son of R. Joseph, it is possible to concede that an embryo may die after its mother and that consequently. as R. Shesheth maintained, it inherits her estate which it then transmits to its paternal brothers.

(13) The version just given.

(14) Lit., 'thus'.

(15) I,e,, where his widow bore twins or where he left two widows and both bore sons one of whom was the firstborn,

(16) Deut. XXI, 17.

(17) Lit., 'and if you will say'.

(18) From which it might be inferred, as R. Nahman suggested supra that an embryo does acquire ownership.

(19) Hence he wholeheartedly transfers ownership to the embryo. In the case of a stranger however, this principle is inapplicable.

(20) To give the matter due publicity.

(21) From his first wife.

(22) Lit.,of that man ,i.e., himself.

(23) That were to be born from the second wife

(24) The future children who at the time of the assignment were not even in embryo. (

(25) Of the estate,merely by virtue of the father's assignment.

(26) The eldest son.

(27) Lit., 'in place'.

(28) When, in due course they inherit the estate by the right of succession would he, in addition to what is due to him as one of the sons, receive also a share by virtue of the special assignment made to him by his father?

(29) Lit., ‘ ‘us’.

Talmud - Mas. Baba Bathra 143a

at the College,and he expressed his approval’.[1] He went to him [when the other] explained[2] Would anyone acquire possession if he were told, ‘Acquire ownership as an ass’?[3] For it was stated: [If one was told]. ‘Acquire possession like an ass’. he does not acquire ownership. [If. however. one was told]. ‘You and an ass [shall acquire possession].’ R. Nahman said: He acquires the ownership of a half.[4] And R. Hamnuna said: The statement is invalid ‘[5] And R. Shesheth said: He acquires the ownership of all.

R. Shesheth said: Whence do I derive this?[6] -For it was taught: R. Jose said: In cucumbers, the inner portion only’ is bitter.[7] Consequently. when a person is giving [a cucumber] as a heave-offering[8] he [must]add[9] to the external part of it,[10] and [thus] gives the heave-offering. [But] why? [This is surely the same as the case of] ‘You and the ass’![11] — There it is different; for Biblically it[12] is perfect terumah,’ for R. Elai said, ‘Whence [is it inferred] that if one separates a heave-offering from an inferior quality for the [redemption of] a superior quality that his offering is valid? For it is said. And ye shall bear no sin by reason of it, seeing that ye have set apart from it the best thereof.[13] [From this it is to be inferred that if you do not set apart from the best,but of the worst, you shall bear sin]; if, [however, the inferior quality] does not become consecrated, why should there be any bearing of sin![14] Hence [it follows] that if one separates a heave-offering from an inferior quality for [the redemption of] a superior quality, his offering is valid.’[15] R. Mordecai said to R. Ashi: R. Iwya raised an objection [from the following Mishnah]: It once happened with five women, among whom there were two sisters. that a person gathered a basket of figs which were[16] theirs and[which] were’ [also of the fruit] of the Sabbatical year[17] and said, ‘Behold you are all betrothed[18] unto me by this basket’ ,[19] and one of them accepted on behalf of all. The Sages said: The sisters are not betrothed.[20] [From this it follows that] only the sisters were not consecrated. but the strangers were consecrated;[21] but why? This [is surely the same case as] ‘You and the ass’![22] — He said unto him: This is indeed [the reason] why I saw R. Huna b. Iwya in [my] dream: Because R. Iwya raised the objection. Have we not [however]. explained [the Mishnah[23] as referring only to the case] where he said, ‘She who is [legally] suitable among you for cohabitation shall be betrothed unto me’?[24]

A certain [person] said to his wife, ‘My estate shall belong to you and to your children’ — R. Joseph said: She acquires the ownership of half [of it]. R. Joseph. furthermore, said: Whence do I derive this?- For it was taught:[25] Rabbi said: And it shall be for Aaron and his sons,[26] half for Aaron [and] half for his sons.[27] Abaye said to him: This[28] is quite correct there;[29] [since] Aaron was [in any case] entitled to receive a share, the All Merciful [must have] mentioned him explicitly in order [to indicate] that he is to receive a [full] half, [in the case of] a woman, [however], [who] is not entitled to be heir [at all]. it should be sufficient for her to receive like one of the children,[30] [But] this is not [so] — For surely there was [such] a case at Nehardea where Samuel allowed her to receive a half; at Tiberias, and R. Johanan allowed her to receive a half. Furthermore, when R. Isaac b. Joseph came, he related [that] the Government[31] once imposed crown money[32] upon Bule[33] and Startege[33] [and] Rabbi said: Bule shall give a half and Startege a half![34] — What a comparison![35] There, when an order was issued[36] on previous occasions it was directed to[37] Bule, [yet] Startege contributed together with them, and the Government[38] knew that they were assisting. Why. then, did they now direct the order to both Bule and Startege? [Obviously] to indicate that these [as well as] those [shall each contribute] a half.

R. Zera raised an objection: If a person said; I undertake to bring a meal.offering [of] a hundred ‘isaron[39] in two vessels, he [must] bring sixty[40] in one vessel, and forty in the other vessel,

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(1) Lit., ‘and he bowed his head concerning it,’ i e.,’nodded assent’.

(2) Lit., said to him.’

(3) Surely not! the man would in such a case acquire as little possession as the ass: so in this case, just as the unborn brothers cannot acquire ownership of their shares, neither can the lad acquire the ownership of his share.

(4) The owner having implied by his statement that he wished the man and the ass to acquire equal shares.

(5) Lit., ‘he said nothing’. Since the animal and the man were given simultaneous possession. the owner has thereby intimated his desire that one shall not acquire ownership without the other; and since the animal cannot acquire ownership. the man also cannot.

(6) That though the ass and the man were given possession simultaneously. the man acquires ownership of the whole.

(7) Lit., ‘you have not bitter in a cucumber but the inner (portion) which is in it’.

(8) For another forty-nine cucumbers. The heave-offering (terumah, v. Glos.) must contain a fiftieth of the produce.

(9) The outer and sweet portion of another cucumber.

(10) Bitter produce cannot he consecrated as Terumah. Consequently without such an addition, the cucumber which he set aside as heave-offering might represent less than a fiftieth of the produce. should it happen to have a rather large bitter core.

(11) As here, though the sweet and the bitter portion of the cucumber are simultaneously included in the terumah, and though the latter is unfit for it,the former is, nevertheless, regarded as proper terumah, so in the case of possession given simultaneously to a man and an ass, though the latter cannot acquire possession. the former should well acquire it.

(12) The bitter portion of the cucumber.

(13) Num. XVIII, 32.

(14) Surely no wrong has been done, since his action is null and void, and he has to give another heave-offering.

(15) Supra 84b, B.M. 56a. Since, as has been proved, an inferior quality may be used as a heave-offering for the redemption of a superior quality,a bitter cucumber might well be used as a heave-offering. Hence this case cannot be compared to that of possession that was given to a man and an ass where the ass cannot possibly be regarded as qualified to acquire ownership.

(16) Lit ‘was’. treating the figs as one unit, ‘basket of figs’.

(17) Which are free to all.

(18) Lit,, ‘consecrated’, ‘Consecration’ in this formula implies ‘marriage bonds’,

(19) Betrothal is effected by the man's handing over to the woman a coin or an object of value,

(20) I.e., the betrothal is null and void.

(21) Kid. 50b.

(22) As here the betrothal of the strangers is valid though that of the sisters is not, so in the case of possession given to a man and an ass, the man should acquire ownership though the ass does not. The two cases are parallel, since in the one case the betrothal was simultaneous and in the other possession was given simultaneously. How, then, in view of the decision of the Sages in the case of the women. could it he held that in the case of the man and the ass the man does not acquire ownership?

(23) Declaring valid the betrothal in the case of the strangers.

(24) Since the sisters were accordingly excluded, the betrothal of the others could rightly he regarded as valid. In the case of the man and the ass both were included; as that of the ass must be invalid so may be that of the man.

(25) A.Z. 10b, San, 21a,Yomah 17b.

(26) Lev, XXIV, 9

(27) As the mention of Aaron at the side of his sons implies that his share shall be equal to the total of their shares, so the mention by the husband of his wife at the side of his sons implies that her share shall be equal to the total of theirs, i.e., half the estate for her and the other half for the sons,

(28) That an individual mentioned at the side of many receives a half of the whole.

(29) In the case of Aaron and his sons’

(30) Had not her husband specifically named her she would have received nothing, the mention of her can entitle her to one share only like any one of the other heirs.

(31) Lit.. ‘the royal house’.

(32) Aurum coronarium;v. supra 34,n.I,

(33) ‘Place names’ (Goldschmidt). ‘Men and governors’ (Rashi.). ‘Townsmen and villagers’ (R. Gershom). ‘City

council', 'senate', (Gr.**). and 'city magistrate' (Gr.**') (Jast.). [The Bule and Startege were the two sections of the wealthy citizens who were held responsible to the Roman government for the full amount of different public burdens. Buchler, A. , The 'Political and Social Leaders of Sepphoris etc., 39ff.; see also Krauss, Synagogale Altertumer, p. 183.]
(34) Though one of these may have been wealthier or more numerous than the other. This proves that the mention of two names implies that the bearers of these names, whether consisting of many or few, give. or receive, collectively, equal shares. Hence, in the case of the estate given to one's wife and sons, the former should receive a share equal to the total received by the sons, i. e. a half!
(35) Lit., 'thus, now".
(36) Lit., 'they were writing'.
(37) Lit., 'they were writing on'.
(38) Lit., 'king'.
(39) A tenth part of an ephah.
(40) The largest quantity allowed.

Talmud - Mas. Baba Bathra 143b

and if he brought fifty in one vessel and fifty in the other, he has [also] fulfilled his duty. [From this it follows that only] if he had [already] brought, has he fulfilled his duty;[1] but that this is not the proper thing to do.[2] Now, if it could be assumed that in any such case 'half and half' [is meant]. this[3] [should have been allowed] even at the outset! — What a comparison! There, we are in a position to testify[4] that this person first intended [to bring as] big [an] offering [as possible],and that [the reason] why' he said, 'In two vessels' [was] because he knew that it was impossible to bring [all] in one vessel.[5] [Hence] we order him to bring as much as it is possible.

And the law is in accordance with [the view] of R. Joseph[6] in the case of 'Field',[7] 'Subject'[8] and 'Half'.[9] A certain [man] once sent home pieces of silk. R. Ammi said: Those which are suitable for the sons [belong] to the sons; [those] suitable for the daughters. [belong] to the daughters. [This,] however, has only been said [in the case] where he has no daughter-in-law, but if he has a daughter-in-law. [it is assumed that] he sent it for his daughter.in.law. If,however, his daughters were not married, [the gift belongs to them because] one would not neglect one's daughters[10] and send to his daughter-in-law.

Once a certain [person] said. 'My estate [shall be given] to my sons' — He had a son and a daughter. [Do] people call a son. 'sons';[11] or perhaps,they do not call a son. 'sons', and his intention was[12] to include[13] his daughter in the gift?-Abaye said, Come and hear: And the sons of Dan: Hushim,[14] Raba said to him: Perhaps [this is to be explained]. in accordance with the Tanna of the School of Hezekiah, that they were as numerous as the leaves[15] of a reed! But, said Raba. And the sons of Paliu: Eliab.[16] R. Joseph said, And the sons of Ethan: Azariah.[17]

A certain [person] once said, 'My estate [shall be given] to my sons'. He had a son and a grandson. [Do] people call a grandson. son';[18] or not? — R. Habiba said: People call a grandson 'son'.[18] Mar son of R. Ashi said: People do not call a grandson. 'son'[19] [A Baraitha] was taught in agreement with the view of Mar son of R. Ashi: He who is forbidden by a vow [to have any benefit] from [his] sons is allowed [to derive benefits] from [his grandsons].[20]

MISHNAH. HAD ONE LEFT SONS [WHO WERE] OF AGE AND MINORS, [AND] THOSE [WHO WERE] OF AGE IMPROVED THE ESTATE,[21] THEY IMPROVED [IT] FOR THE COMMON GOOD.[22] IF, [HOWEVER]. THEY[23] SAID,[24] SEE WHAT [OUR] FATHER HAS LEFT; WE DESIRE TO CULTIVATE [OUR OWN SHARES] AND TO ENJOY THE PROFITS.[25] THE PROCEEDS[26] BELONG TO THEM.[27] LIKEWISE. [IN THE CASE WHERE] THE WIFE[28] HAD EFFECTED IMPROVEMENTS IN THE ESTATE,[29] SHE IMPROVED [IT] FOR THE COMMON GOOD.[30] IF, [HOWEVER].SHE SAID, 'SEE WHAT MY HUSBAND HAS LEFT ME;

I DESIRE TO CULTIVATE [MY SHARE] AND TO ENJOY[31] THE BENEFITS', THE PROCEEDS BELONG TO HER.[32]

GEMARA. R. Habiba son of R. Joseph son of Raba said in the name of Raba: [The law of our Mishnah][33] is 'applicable[34] only [to the case] where the improvement of the estate was effected out [of the funds] of the estate, but if it was improved at the expense of the elder brothers,[35] the profits belong to themselves.[36] [But] this is not [so]! For, surely. R. Hanina said,' Even if their father had left them[37] nothing but

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(1) Lit 'yes '.

(2) Lit.,'for the outset, not',

(3) The division of the meal-offering into two equal parts of fifty 'isaron each.

(4) Lit., 'witnesses'.

(5) The largest quantity that may be brought in one vessel as a meal.offering is sixty 'isaron., V. Men. 103b.

(6) Though throughout the Talmud the law is in agreement with the view of Rabbah whenever he disagrees with R. Joseph.

(7) When one of the heirs has a field near the field that is to be divided (supra 12b).

(8) V. supra 114a, 'so long as they are dealing with the same subject'.

(9) The case of a testator who expressed the wish that his estate be divided between his wife and his sons, supra 143a.

(10) Whom it is his duty to maintain.

(11) Hence all his estate was meant to be given to his son.

(12) Lit., 'he came'.

(13) Lit., 'to draw in'.

(14) Gen.XLVI. 23. The plural sons, is used. although the name of one son only is given.

(15) Or 'knots'. Hushim,חושים may also he rendered 'leaves' or 'knots'.

(16) Num. XXVI, 8. Cf. n. 5, supra.

(17) I Chron. II, 8.

(18) Hence the estate would he divided between the son and the grandson.

(19) And the whole estate would consequently be given to the son who, as mentioned above, might be called 'sons'.

(20) Which proves that grandsons are not regarded as sons.

(21) Before it was divided between the heirs.

(22) Lit., 'for the middle'. I.e, the profits are equally divided between all the heirs, adults and minors.

(23) The adults.

(24) To the minors, in the presence of a court or witnesses, or in public.

(25) Lit., 'eat'.

(26) If despite their wish the estate was not divided

(27) Lit., 'they have improved for themselves'.

(28) I.e., the widow.

(29) That was left by her husband.

(30) All the heirs receive equal shares in the profits.

(31) V.. supra note 5.

(32) Cf supra note 7.

(33) That the profits are to be equally divided between all the heirs.

(34) Lit., 'they taught'.

(35) Lit., 'through themselves'.

(36) V. supra note 7

(37) His children, adults and minors.

Talmud - Mas. Baba Bathra 144a

a covered cistern[1] the proceeds[2] are to be equally divided'; but [the proceeds of] a covered cistern [are surely] due to [the elder brothers] themselves![3] — A covered cistern is different, since It [only] requires watching[4] and even minors can keep a watch over it. THEY SAID, ‘SEE WHAT [OUR] FATHER HAS LEFT; WE DESIRE TO CULTIVATE [OUR OWN SHARES] AND TO ENJOY THE PROFITS’. THE PROCEEDS BELONG TO THEM. R. Safra's father left [some] money. He took it [and] carried on with it a business. [Then] came his brothers and sued him before Raba.[5] He said to them. ‘R. Safra is a great man; he [is] not [expected to] leave his studies in order to toil for others’.[6] [WHERE] THE WIFE HAD EFFECTED IMPROVEMENTS IN THE ESTATE. SHE IMPROVED IT FOR THE COMMON GOOD- What has a wife to do with the property of orphans?[7] -R. Jeremiah replied: [The Mishnah speaks] of a wife [who is] an heiress.[8] [Is this not] obvious?[9] , — It might have been assumed [that] since it is not usual for her to look after an orphan's estate[10] [she is entitled to all the profits],even where she did not [first] make a specific declaration.[11] . as if she had [actually] made [it], hence it [was necessary to] teach us [that this is not so].

IF [HOWEVER] SHE SAID,’ SEE WHAT MY HUSBAND HAS LEFT ME; I DESIRE TO CULTIVATE [MY SHARE] AND TO ENJOY THE BENEFITS.’ THE PROCEEDS BELONG TO HER. [Is not this] obvious? It might have been assumed [that] since it is creditable to her when people say that she works for the orphans. she might [consequently] forego her claims,[12] hence it [was necessary to] teach us [that this is not so]. R. Hanina said: If a person marries his adult son in a house [of his], he[13] acquires its ownership. But this only [in the case of] one [who is] of age, and only [where he married] a virgin, and only [when she is] his first wife, and only- where he is the first [son] whom he married.[14] It is obvious [that] where his father had set aside for him[15] a house and [there is] an upper story [thereon], [the latter] acquired the ownership of the house [but] not [of] the upper story. What [is, however, the law in the case of] a house and an exedra?[16] [Or in the case of] two houses one within the other?-This is undecided. An objection was raised: [If] his father had set aside for him a house and [it contains] furniture, he acquires possession of the furniture [but] not of the house! — R. Jeremiah replied: [This refers to a case] where, for instance, his father's store[s] were kept there.[17] The Nehardeans say’: Even [if only) a dove-cote.[18] R. Judah and R. Papi say: Even [if only] a pot of fish-hash.[19]

Mar Zutra married his son and hung up[20] for himself[21] a sandal.[22] R. Ashi married his son and hung up[20] for himself[21] a jug of oil.[23]

Mar Zutra said: The following three things have [been] enacted [by] the Rabbis as fixed law without [adducing any] reason. One [is] this.[24] The other [is that] which Rab Judah said in the name of Samuel, [namely that]. a [dying] man [who] gave all his property to his wife, in writing. [thereby] only appointed her adminstratrix.[25] [.And the] third[26] [is that] which Rab had stated: [If one said] ‘You owe me a maneh; give it to X’ ,in the presence of the three parties,[27] [X] acquires possession.[28]
MISHNAH

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(1) Heb. אודייני, ‘a cistern and its cover’ (Rashb. and R. Gersh.): a sprinkling business’ (Jast.): ‘a watchman's post’ (R. Tam in Tosaf.. [For a full discussion of the term, v. Krauss, T,A. l, 273f. and III, 361]

(2) Out of the sale of its water.

(3) Since no expenses for its upkeep and protection are drawn out of the funds of the estate. And yet it is stated that the proceeds are to be equally divided. How then, could Raba say that if the improvement was at the expense of the elder brothers all the profits belong to them only?

(4) Lit., ‘was made for watching’, i.e., no expenses are involved. and all the elder brothers have to do is to watch that no water is stolen from it.

(5) Demanding a share in the profits.

(6) When an elder brother is an important person, he is entitled to all the profits which are due to his efforts. even though he did not first make the proper declaration that he desired the estate to be divided and that he intended keeping to himself any profits he would make.

(7) She either receives the amount of her kethubah(v. Glos.) after which she has no more claim upon the estate: or she looks after the property of the orphans in return for her maintenance. How, then, could she claim any profits resulting from improvements in the estate.

(8) In the case, e.g.. where the deceased gave instructions that the widow shall be co-heir with his sons (Rashb.).

(9) Why was it necessary for our Mishnah to restate it in the case of a widow, seeing that the law had already been stated in regard to brothers.

(10) Lit., 'to take the trouble'.

(11) Lit., 'specified'; that she desired the estate to be divided and that she intended to make the improvements in her interests alone.

(12) Even though she first declared that she would work in her interests alone.

(13) The son.

(14) In such cases the father's joy is so great that he willingly and wholeheartedly gives away the house to his son.

(15) His son: on the occasion of his marriage.

(16) V.Glos.

(17) Since he requires it for his own purposes he would not transfer its ownership to his son.

(18) Of the father is kept in the house, the son does not acquire ownership of the house.

(19) Cf. n 6.

(20) In the house where the marriage took place.

(21) To indicate to his son that the house was not to become his property.

(22) The sandal, like any of the other objects mentioned above is regarded for this purpose as a store.

(23) Cf. n. 10

(24) The ruling just mentioned, that a son acquires the ownership of a house of his father in which his marriage took place, even if the father did not explicitly present it to him.

(25) V. .supra 131b.

(26) Lit.. 'other'.

(27) I..e., the debtor, the creditor, and X, the assignee.

(28) Though there were no proper witnesses and no legal form of acquisition, the transfer of the claim is valid. This rabbinic law, which is declared to be arbitrary and based on tradition alone, recognises the transfer of claims to a third party, though this is not provided for by Biblical Law.

Talmud - Mas. Baba Bathra 144b

IF ONE OF THE BROTHERS WHO ARE PARTNERS [IN THE INHERITED ESTATE][1] WAS APPOINTED[2] TO A GOVERNMENT POST[3] THE INCOME FROM THE APPOINTMENT IS TO BE EQUALLY DIVIDED BETWEEN ALL THE BROTHERS.[4] [IF ONE OF THEM] CONTRACTED A DISEASE AND HAD HIMSELF CURED, THE [EXPENSES OF THE] CURE [MUST BE DEFRAYED] OUT OF HIS OWN.

GEMARA. A Tanna taught: The appointment[5] [in our Mishnah means] a government appointment.[6]

Our Rabbis taught: [In the case where] one of the brothers was appointed [tax] collector or overseer,[7] if [the appointment was] due to the brothers[8] [the income[9] belongs] to the brothers; if [the appointment was] due to himself[10] [the income belongs] to himself. 'If [the appointment was] due to the brothers', [it was said). [the income belongs] to the brothers'; [is not this] obvious! — This is required only [in the case] where he is exceptionally' smart [since] it might have been said [that] his smartness had caused him [to receive the appointment].it was necessary to teach us [that this is not so]. Our Rabbis taught: [If] one of the brothers took [from an inherited estate][11] two hundred zuz to study Torah or to learn a trade. the brothers can tell him:[12] 'If you are with us you [can] have [your] maintenance; if you are not with us. you [can] have no maintenance'. But let them give [it] to him wherever he is? — This [is proof] in support of R. Huna. For R. Huna said, 'The blessing of a house [is proportionate] to its size'[13] Then let them give him according to the blessing of the house![14] -That is so[15] . [IF ONE OF THEM] CONTRACTED A DISEASE AND HAD HIMSELF CURED, THE [EXPENSES OF THE] CURE [MUST BE DEFRAYED] OUT OF HIS OWN. Rabin sent in the name of R. El'a: This applies only[16] [to the case] where he contracted the disease through [his own] negligence. but [if] by accident the [cost of the] cure is [defrayed] from the common funds. What is meant by negligence?-As R. Hanina [taught]. For R. Hanina said:[17] Every’ thing is in the power of heaven except [illness through] cold [or] heat; for it is said, Cold [and] heat[18] are in the way of the froward. he that keepeth his soul holdeth himself far from them.[19]

MISHNAH. IF SOME OF THE BROTHERS HAVE BESTOWED GIFTS AS GROOMSMEN[20] IN THE LIFETIME OF [THEIR] FATHER[21] [WHEN] THE WEDDING GIFTS ARE RECIPROCATED[22] THEY REVERT TO THE COMMON FUNDS OF THE ESTATE; FOR [THE RECIPROCATION OF] WEDDING GIFTS MAY BE CLAIMED THROUGH A COURT OF LAW[23] . IF, HOWEVER, ONE HAS SENT TO HIS FRIEND JARS OF WINE OR JARS OF OIL[24] ,HE CANNOT CLAIM THEM[25] THROUGH A COURT OF LAW, BECAUSE [THE PRESENTATIONS OF] SUCH [GIFTS] ARE [MERE ACTS OF] LOVINGKINDNESS.[26]

GEMARA A contradiction was raised: [If] his father had sent [through] him[27] a wedding gift. the reciprocated gift returns to him.[27] [If] a wedding gift was sent[28] to his father, the reciprocated gift[29] is to be returned[30] from the common funds![31] - R. Assi replied in the name of R — Johanan: Our Mishnah also speaks[32] [of the case where the gift] was sent to his father. But, surely it was stated, IF SOME OF THE BROTHERS ACTED AS GROOMSMEN!-Read, ‘TO SOME’.[33] But. Surely. it was taught. [WHEN] THE WEDDING GIFTS ARE RECIPROCATED! — It means this: [When] it has to be reciprocated, it is returned from the common funds. R. Assi said: There is no difficulty:[34] Here[35] [it is a case] where [the father] did not specify[36] ; here[37] [it refers to the case] where he did specify; as It was taught: If his father sent wedding gifts [through] him,[38] the reciprocated gift belongs to him.[39] If his father. [however.] sent wedding gifts without specifying [which son was to take them],the reciprocated gift reverts to the common estate.[40] And Samuel explained: Here[41] it is a case of a levir[42] who is not [entitled] to receive the prospective possessions[43] of his dead brother’ as those which he already possessed[44] . Does this then imply that the other[45] must repay;[46] [why could] he [not] say. ‘Give me my. shoshbin and I will rejoice with him’?[47] Has it not been taught. ‘Where it is the custom to return[48] the [token of] betrothal[49] it [must] be returned, [and] where the custom is not to return. it [need] not [be] returned’; and R. Joseph b. Abba said in the name of Mar ‘Ukba in the name of .Samuel,’This applies only to the case[50] where she died but [where] he died it [need] not [be] returned. What is the reason? Because she can say:

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(1) I.e., before the estate has been divided between them.

(2) Lit., ‘fell’.

(3) אומנות Lit., ‘handicraft’, ‘trade’ . ‘workmanship’ : a form of compulsory service exacted by the Roman government from different households in turn. Barth, J., Etym.Studies 60,connects the word with Assyrian umanate, ‘troop’. ‘army’.

(4) Lit., ‘he fell for the middle or common funds .Since his appointment is due to his membership of the family all its members are entitled to its benefits, (v. however n. 7 and 9 infra).

(5) V. note 3.

(6) In the case. however, of a private appointment,the earnings belong to himself.

(7) פולמוסטוס. Polemostus Thus Rashb. and R. Gersh. ‘soldier’(R. Han.). ‘Manager’ or ‘commissioner (Jast.) reading epimletes. אפימליטים Gr.**[The word is also explained as Politeuomenos=Decurio, and we have here a reference to the heavy expenses which were attached to the office of Boule under the Roman government,the question under consideration being in the case when a brother is called upon to represent his brothers, living with him on the common estate of their father, on the Boule, whether the expenses involved are to he borne by all or by the brother thus nominated alone. V. Buchler, op.cit., 40.]

(8) I.e., if such government appointments are made from every family in turn.

(9) Or expenses involved

(10) To his own merits or attainments.

(11) Before it had been divided.

(12) If he expects maintenance from them while he is away from home in pursuit of his studies or trade.

(13) Keth. 101a. The more the members of a household the cheaper the cost of living. The absent brother has consequently saved little by his departure while the amount he requires for his maintenance is incomparably higher than what would have been the case had he remained with the family.

(14) I.e.,if the full cost of his maintenance has not been saved by his departure. let that portion of it which is being saved be given to him.

(15) He does get that portion.

(16) Lit., ‘they did not teach but’.

(17) B.M. 107b; A.Z. 3b: Keth. 30a.

(18) Heb., Pahim. פחים (Cf. פחם,coal). Others render zinim pahim. צנים פחים, ‘blowing cold winds’. (Cf. צנן and פוח

(19) Prov. XXII,5 E.V., Thorns and snares are in the way etc.

(20) Groomsmen (shoshbinin). in addition to acting as best men or companions of the groom, also brought him presents (shoshbinuth). Their services and gifts were reciprocated on the occasion of their marriages. [On shoshebin, V. Krauss, TA. II, 458. He connects it with שבשא ‘twig’ and ‘branch’, alluding to the myrtles which formed a feature of marriage ceremonies. and which were entrusted to the shoshebin. Cf. Gr. **.]

(21) Who defrayed the cost of the presents.

(22) On the occasion of the marriage of one of the sons after their father's death.

(23) The gifts are consequently regarded as a loan and as part of the common estate.

(24) As an ordinary gift: not as that of a shoshbin.

(25) Lit.. ‘they cannot he collected’.

(26) The recipient does not incur any liability’.

(27) His son who was a shoshebin.

(28) By a shoshbin.

(29) That is sent after the father's death on the occasion of that groomsman's marriage.

(30) A reciprocated wedding gift being regarded as a loan. (V supra note 3), it is the duty of the orphans to repay it as any other of the debts of their father.

(31) From the first part of this Baraitha it follows that a reciprocated wedding gift belongs to the son through whom the father had sent the original gift; how, then, could it be stated in our Mishnah that a reciprocated gift reverts not to the son but to the common estate?

(32) Lit., ‘when we learnt’.

(33) I.e., when a gift sent in return for the one made by their father reached them.

(34) Even if the meaning of the Mishnah is taken as it is read.

(35) In our Mishnah.

(36) Which son was to act as shoshbin (R. Gersh.) Hence. the reciprocated gift reverts to the common estate.

(37) In the cited Baraitha.

(38) One of his sons.

(39) The son who acted as shoshbin.

(40) Though one of the sons had acted as the shoshbin and carried the presents.

(41) Our Mishnah according to which the reciprocated gift reverts to the common estate.

(42) The husband's brother, who, in accordance with Deut. XXV, 5, married the widow of his brother who died childless and who, had he been alive, would have been entitled as shoshbin to the reciprocated gift.

(43) The reciprocated gift is the prospective property of the dead brother, which the brother who married his widow cannot inherit, though he inherits all property that was in his brother's possession prior to his death.

(44) Hence the gift reverts to the common estate.

(45) The original recipient of the gifts from the dead brother.

(46) To the heirs of him who presented him with the gifts.

(47) He should only be expected to reciprocate, i.e., to act as best man for his friend as the latter had acted for him, but not to send presents to heirs who have no claims on him.

(48) In the case where the bride died before the marriage took place (as explained infra).

(49) The token of betrothal, consisting of money or any object of value, which the man gives to the woman at betrothal, whereby the union was legalised.

(50) Lit., 'they did not teach but'.

Talmud - Mas. Baba Bathra 145a

'Give me my husband I will rejoice with him';[1] here also he[2] could say. 'Give me my shoshbin and I will rejoice with him'![3] R. Joseph replied: We deal here with a case where[4] he[5] rejoiced with him[6] the seven days of the [wedding] feast[7] but had no opportunity of repaying him[6] before he died.[8] May it be suggested [that the question whether a betrothed woman may advance the plea] . 'Give me my husband and I will rejoice with him' [is a matter of dispute between] Tannaim? For it was taught: '[In the case where] a person betrothes a woman,[9] [if] a virgin she is entitled to two hundred [zuz] and [to] a maneh[10] [if] a widow, Where it is the custom to return the [token of] betrothal[11] it [must] be returned; where it is the custom not to return the [token of] betrothal [it is] not [to be] returned; [these are] the words of R. Nathan. R. Judah the Prince said, in truth [the Sages] said: Where it is the custom to return, it [must] be returned; where it is the custom not to return, it [need] not [be] returned'. [Does not] R. Judah the Prince [say exactly the same thing] as the first Tanna: [Must it] not then [be explained][12] that [the difference] between them lies in [the admissibility of the plea]. 'Give me my husband and I will rejoice with him,' and that there is a lacuna [in the text] which should read[13] thus: '[In the case where] a person betrothes a woman, [if] a virgin she is entitled to two hundred [zuz, and [to] a maneh [if] a widow. This applies only to the case where he has retracted but [if] she died, [the token of betrothal] is to be returned where it is the custom to return; where it is the custom not to return, it [need] not be returned — This, [furthermore.] applies only [to the case] where she died, but [where] he died.it [need] not [be] returned.' What is the reason? Because she can plead. 'Give me my husband and I will rejoice with him' And [with reference to this statement] R. Judah the Prince said[14] 'In truth [the Sages] stated [that] whether he died. or she died. it Is to be returned where it is the custom to return; where it is the custom not to return.it [need] not [be] returned';[15] and she cannot say, 'Give me my husband and l will rejoice with him'![16] -No; all[17] [may agree that] she may advance the plea. 'Give me my husband and I will rejoice with him'; and [in the case] where he died no one [in fact] disputes [this].[18] Their dispute has reference only[19] [to the case] where she died; their [point of) disagreement [centering] here on [the question whether a token of] betrothal is unreturnable.[20] R. Nathan holds the opinion that [a token of] betrothal is not unreturnable,[20] and R. Judah the Prince holds the opinion that [a token of] betrothal is unreturnable. But surely it was taught. 'Where it is the custom to return. it [must] be returned'![21] -He means this: And [as regards the] gifts.[22] they [must] certainly be returned where it is the custom to return [them]. These Tannaim [differ on the same principle][23] as the following Tannaim — For it was taught: If one betrothes a woman[24] with a talent,[25] [if] a virgin she is entitled to two hundred [zuz][26] and [to a] maneh [if] a widow; these are the words.of R. Meir. R. Judah said: A virgin is entitled to two hundred [zuz] and a widow [to] a maneh. and the remainder[27] she returns to him. R. Jose said: [If] he betrothed her with twenty [shekels].[28] he gives her, [in addition,] thirty halves; [if] he betrothed her with thirty [shekels]. he gives her, [in addition]. twenty halves. Now, of what case is it spoken here?[29] If it is suggested [of that] where she died; does she, [in such a case, it may be asked]. receive her kethubah.[30] But [in the case] where he died? Why, [it may be argued again.] does she[31] return to him the remainder? Let her advance the plea.'Give me my husband and I will rejoice with him'! If. however, [it be suggested that we deal] with [the case of] the wife of an Israelite who committed adultery,[32] 'then, it may be queried.in what [circumstances. did this happen]? If with [her] consent, does she [in such a case] receive [her]kethubah?[33] And if under duress, she is surely permitted to [continue to live with] him![34] Hence [the Baraitha] must [deal] with [the case of] the wife of a priest who [committed adultery] under duress[35] and the [point of] disagreement between them[36] is [the question of] whether [a token of] betrothal is unreturnable. R. Meir holds the opinion [that a token of] betrothal is unreturnable;[37] and R. Judah holds the opinion [that a token of betrothal is] not unreturnable,[38] while R. Jose is doubtful [as to] whether it is returnable or not, and, consequently. [if] he betrothed her with twenty [shekels][39] he gives her,[40] [in addition].thirty halves,[41] [and if] he betrothed her with thirty [shekels][42] he gives her twenty halves.[43] R. Joseph b. Manyumi said in the name of R. Nahman: Wherever It Is the custom to return.[44] it [must] be returned. And the explanation is Nehardea[45] What [is the practice in] the rest of Babylon? — Both Rabbah and R. Joseph stated: Presents[46] are returned;[47] [tokens of] betrothal are not returned. R. Papa said: The law [is that] whether he died or she died or he retracted., presents[46] are to be returned, [tokens of] betrothal are not to be returned . If she retracted, even [tokens of) betrothal [must] also be returned. Amemar said: [A token of] betrothal [must] not be returned. [This is] a preventive measure against the possibility' of assumption that betrothal would take effect in the case of her sister.[48] R. Ashi said: Her bill of divorce [would] prove her [status][49] But [the statement] of R. Ashi is to be rejected '[50] for there [may] be some who heard of the one[51] and did not hear of the other.[52] FOR [THE RECIPROCATION OF] WEDDING GIFTS MAY BE CLAIMED THROUGH A COURT OF LAw'. Our Rabbis taught: Five things were said in respect of [reciprocation of a] wedding gift: It may be claimed through a court of law; it is to be reciprocated at its proper time;[53] and it is not subject to [the restrictions of] usury;[54]

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(1) I.e., since it is not her fault that the marriage was not consummated she is entitled to retain, the money or the object that was given to her at the betrothal.

(2) The original recipient of the gifts.

(3) It is not his fault that his friend died and that he cannot, consequently. reciprocate his services and gifts. How, then, can it he assumed above that the heirs are entitled to the reciprocation of the gifts?

(4) Lit., 'here, in what case are we engaged?- As for instance'.

(5) The original recipient.

(6) His shoshebin, on the occasion of the latter's own marriage.

(7) And has thus become liable to present the gifts in reciprocation of those he had received.

(8) Hence he must return the gifts to the dead bridegroom's heirs.

(9) And he died or divorced her before the wedding took place.

(10) One hundred zuz.

(11) V. p. 620 n. 14, supra

(12) Lit., 'but not'.

(13) Lit., 'it teaches'.

(14) Lit., 'came to say'.

(15) V. B.M. 601.

(16) May it. consequently. be assumed that only the first Tanna does, but that R. Judah does not allow the plea 'Give me husband etc.'?

(17) Lit.. 'all the world', i.e.. even R. Judah.

(18) Cf. n. 4; even R. Judah agrees that the plea is eligible.

(19) Lit., 'when do they dispute'.

(20) Lit, 'given for sinking'. i.e., 'that it be not returned under any conditions whatsoever.

(21) And, as was stated above, even R. Judah agrees on this point

(22) The Sablonoth, dona sponsalitia (v. infra p. 628, n. 6). which the groom gives to the bride after betrothal, not forming part of the legal token of betrothal.

(23) Viz. the irrevocability of the token of betrothal.

(24) Lit., 'her'.

(25) Sixty maneh (cf. R. Gersh. a.I.).

(26) As her kethubah, in addition to the talent (the token of betrothal) which she received. This shows that R. Meir holds that a token of betrothal is unreturnable under any circumstances. (R.Gersh.).

(27) Of the talent, after the amount of the kethubah had been deducted. This shows that according to R. Judah a token of betrothal is returnable under certain conditions.

(28) Jose's statement is explained infra.

(29) Lit., 'in what are we engaged', in the Baraitha cited.

(30) Surely she does not.

(31) According to R. Judah.

(32) In consequence of which she has been divorced by her husband from whom she now claims her kethubah.

(33) A woman who played the harlot is certainly not entitled to it.
(34) So that the question of a kethubah could not arise. And if he were to insist on divorcing her, despite her misfortune, she would undoubtedly be entitled to her kethubah.
(35) And a priest. being forbidden to live with such a wife, must divorce her,
(36) The Tannaim of the Baraitha.
(37) Hence he stated that the amount of the kethubah must he given to her in addition to the talent which she received as the token of her betrothal.
(38) Consequently she must in such circumstances return the difference between the talent (given to her as token of betrothal) and the amount of her kethubah.
(39) Or eighty zuz (a shekel==four zuz).
(40) If she is a widow.
(41) Of a shekel, viz. , sixty zuz. The twenty shekels with which he betrothed her, being of a doubtful ownership (R. Jose not being certain whether a token of betrothal is unreturnable) is divided, and she accordingly retains ten shekels, viz., forty zuz. Since a widow is entitled to a kethubah of a maneh, or a hundred zuz he must give her in addition sixty zuz (thirty halves of a shekel).
(42) In which case she retains fifteen shekels or sixty zuz.
(43) Of a shekel viz., forty zuz, thus completing the total amount of the kethubah of a hundred zuz.
(44) The token of betrothal, and gifts.
(45) Nehardea was a place where it was customary to return both the token of betrothal and gifts.
(46) Such as jewels which the bridegroom sends the bride after betrothal.
(47) If she died or was divorced.
(48) Since it might be assumed that the return of the token of betrothal implied that the betrothal was invalid, the man might In consequence be allowed to marry his first wife's sister.
(49) That her betrothal was valid. Had It been invalid there would have been no need for a divorce. Hence a token of betrothal may be returned.
(50) ברותא,outside’, or בדתא. ‘invention’, ‘fiction;,v. B.M. 9a..
(51) Lit., ‘this’, i.e., of the return of the token.
(52) I.e, of he divorce.
(53) I.e., at the marriage of the shoshbin ,and not earlier.
(54) The reciprocated gift may be of a higher value than the original one.

Talmud - Mas. Baba Bathra 145b

and the Sabbatical year[1] does not cause Its cancellation;[2] and the firstborn does not receive of it a double portion.[3] ‘It may be claimed through a court of law’; what is the reason? — It is like a loan. ‘And it is not subject to [the restrictions of] usury’ — because he[4] did not give it to him with this intention[5] ‘And the Sabbatical year does not cause Its cancellation’ — because the Scriptural [injunction] . he shall not exact,[6] cannot be applied to it.[7] ‘And the firstborn does not receive a double portion’ — because it is prospective.[8] and a firstborn does not receive [a double portion] in prospective [property] as in that which was in [his father's] possession [at the time of his death]. R. Kahana said, [This is] the rule of groomsmanship: [If] he[9] was In town,[10] he should have come.[11] [If] he[12] [could] hear the sound of the [wedding] bells,[13] he should have come.[11] [If] he [could] not hear the sound of the bells,[14] the [other][15] should have informed him. He has , therefore, a grievance [against him] ,[16] but [must] nevertheless repay him. And up to how much?[17] -Abaye said: Wedding guests[18] are in the habit of putting in their stomachs up to the value of a zuz brought in their hands;[19] up to four [zuz].a half [of the value of the gifts] is paid;[20] in case of any higher values,[21] every man according to his importance.[22] Our Rabbis taught: If a person rendered service [to a bridegroom][23] at a public[24] [wedding] and he[25] [now] desires [the latter] to reciprocate his services[26] at [a] private [wedding] he[27] may tell him, ‘At a public [wedding] l will act for you as you have acted for me.[28] If he rendered service to one[29] [who married] a virgin. and he [now] desires [the latter] to reciprocate’’ [on the occasion of his marriage] with a widow he" can say to him, ‘[At your marriage] with a virgin I will act for you as you acted for me’[28] If he rendered service to one[29] on [the occasion of his] second [marriage] and he [now] desires [the latter] to reciprocate[30] on [the occasion of his own] first [marriage]. he[31] can say to him, ‘When you will marry a second wife l will reciprocate’[28] If he rendered service to one[29] [on the occasion of his marriage] with one [woman] and he [now] desires [the latter] to reciprocate’’ [on the occasion of his marriage] with two, [the latter] can say to him, ‘[On the occasion of your marriage] with one I will act for you as you acted for me.’[28] Our Rabbis taught: Rich in possessions[32] [and] rich in pomp[33] — that is a master of aggadoth.[34] Rich in money[35] [and] rich in oil[36] — that is a master in dialectics.[37] Rich in products[38] [and] rich in stores[39] — that is a master of traditions.[40] All. [however]. are dependent on[32] the master of wheat. [i.e.] Gemara.[41] R. Zera said in the name of Rab: What [character is meant] by the Scriptural text, All the days of the poor are evil?’[42] — A master of Gemara;[43] but he that is of a merry heart hath a continual feast’’ refers to[44] a master of the Mishnah[45] Raba reversed the order; and this is what R. Mesharsheya stated in the name of Raba: What [characters are referred to] in the Scriptural text, Whoso quarrieth stones shall be hurt therewith; and he that cleaveth wood is warmed up thereby?[46] is He that quarrieth stones shall be hurt therewith, has reference to[47] the masters of the Mishnah;[48] and he that cleaveth wood is warmed up thereby, has reference to[47] the masters of Gemara[49] R. Hanina said: All the days of the poor are evil.[42] refers [to him][44] who has a wicked wife; but he that is of a merry heart hath a continual feast,[42] refers’[44] [to him] who has a good wife. R. Jannai said: All the days of the poor are evil[42] refers to[44] one who is fastidious; but he that is of a merry heart hath a continual feast[50] refers to one of a robust constitution. R. Johanan said: All the days of the poor are evil,[50] refers to one who is compassionate; but he that is of a merry heart hath a continual feast,[50] refers to one who is cruel. And R. Joshua b. Levi said: All the days of the poor are evil,[50] refers to an impatient[51] man; but he that is of a merry heart hath a continual feast,[50] refers to a contented man.

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(1) If it occurred before the gift had been reciprocated.

(2) Though it causes the cancellation of debts (cf. Deut. XV,.2ff).

(3) Where the gift reverted to the common estate of the heirs.

(4) The shoshbin.

(5) That the reciprocated gift shall be of a higher value than the original one. It might just as well have been worth less.

(6) Deut. XV, 2.

(7) Since it cannot be exacted at the .Sabbatical year, reciprocation not being due until the groomsman celebrates his marriage. (Cf. Mak. 3b).

(8) The reciprocated gift was never in the possession of the first-born's father; and all he inherited was only a claim for the future.

(9) The man who has to reciprocate the wedding gift.

(10) When his shoshbin celebrated his own marriage.

(11) With the gift. And since he did not, it may be claimed through a court of law.

(12) Being out of town.

(13) Heb. tabla, טבלא , Gr, **, an instrument from which bells were suspended, used at bridal and other processions. [Others, ‘drum’, ‘tambourine’; v. Krauss, op cit 92ff.]

(14) (Either he was not within hearing distance (R. Gersh.): or, the custom had fallen into desuetude in the locality (Krauss. op. cit. II, 41).]

(15) The bridegroom.

(16) For failing to inform him.

(17) I.e., when the reciprocated gift is claimed through a court or when it is repaid in any other way, in the case where the giver of it did not participate in the wedding festivities, how much may he deduct from the value of the gift in lieu of the food and refreshments he would have consumed had he attended the festivities?

(18) Lit., ‘the children of the bridechamber’.

(19) l.e.,if they bring gifts not exceeding one zuz in value they consume refreshments and food, at the wedding festivities, to the full value of their gift. Consequently, if the present bridegroom (the former shoshbin) had brought a gift not exceeding one zuz in value, the first bridegroom (to whom it was brought and from whom the reciprocated gift is now claimed) need not now return anything; since be saved the claimant (the present bridegroom) the value of a zuz by absenting himself from his wedding.

(20) Guests who bring gifts worth more than a zuz but not exceeding four zuz receive greater attention, and their entertainment is worth half the value of their gifts. Hence, half the value of the reciprocated gifts may be deducted in lieu of the food and refreshments saved.
(21) Lit., ‘from here onwards’.
(22) The more important the man and the more costly his gifts, the more the expense of his entertainment. Such a person. if he could not attend the festivities, may’ consequently deduct a proportionate sum from the value of his reciprocated gift.
(23) Lit., ‘he did with him’, i.e., acted as shoshbin and brought the customary gifts.
(24) Gr. **,’ (Lat. pompa), ‘attended with pomp and a public procession’.
(25) The first mentioned.
(26) Lit., ‘to do with him’.
(27) The latter.
(28) I.e., a person need only reciprocate under conditions similar to those under which service was rendered to him. If, therefore, he is asked to act under different conditions he may refuse, and there is no obligation on his part either to reciprocate the gifts or to come to the wedding.
(29) V.supra n. 4,
(30) V. supra n. 7’
(31) V.. supra n.8,
(32) Such as fields and vineyards.
(33) E.g., cattle that wander about, and are exposed to public view.
(34) Who preaches to large audiences and is thus able to give public display to his knowledge.
(35) Lit., sela'im.
(36) Heb.. Tekoa’, תקוע, a Palestine town famous for its oils. Others, ‘rich in the ownership of houses.’
(37) [Who by his creative powers is continually able to establish new points and evolve new principles. thus making his knowledge as continually productive as the possession of money and choicest oils.]
(38) Lit., ‘(things that are) measured’,
(39) Lit., ‘cellar’, ‘store-room’.
(40) (Who keeps his store of traditional teachings in readiness for guidance whenever the occasion arises.]
(41) The discussions and interpretations of the Mishnah and Baraithoth, and the decisions arrived at, which are indispensable for right practice and conduct.
(42) Prov. XV.15.
(43) [Who is often in difficulty in finding his way through the maze of the involved and intricate argumentation.]
(44) Lit., ‘this’,
(45) Where the teachings are given clearly and precisely.
(46) Eccl. X,9, . Heb. yissaken, ‘is warmed up’. (E.V. ‘endangered’).
(47) Lit., ‘these’.
(48) [The study of the Mishnah alone, in the absence of the principles underlying the teaching thereof’, affords no competence for the giving of decisions, V. Sotah 22a.]
(49) The study of the Gemara affords a sensible appreciation of the principles of the teaching of the Mishnah and thus enables the student to make practical application of his learning.]
(50) Prov. XV. 15
(51) Others, ‘greedy.

Talmud - Mas. Baba Bathra 146a

R. Joshua b. Levi further stated: ‘All the days of the poor are evil? Surely there are Sabbaths and Festivals![1] — [The explanation, however, is] according to Samuel. For Samuel said: A change of diet is the beginning of sickness’[2] It is written in the Book of Ben Sira: All the days of the poor are evil; Ben Sira says : The nights also. Lower than [all] roofs is his roof, [and] the rain of other roofs [pours down] upon his roof; on the height of mountains is his vineyard. [and] the earth of his vineyard [is washed down] into the vineyards [of others] .[3]

MISHNAH. IF A PERSON HAD SENT WEDDING PRESENTS TO THE HOUSE OF HIS FATHER-IN-LAW,[4] EVEN IF HE SENT A HUNDRED MANEH AND ATE THERE A BRIDEGROOM'S MEAL, [EVEN IF IT WERE ONLY OF THE VALUE] OF ONE DENAR, THEY[5] [CANNOT [ANY MORE] BE RECLAIMED.[6] [IF. HOWEVER]. HE DID NOT EAT THERE A BRIDEGROOM'S MEAL THEY[5] MAY BE RECLAIMED. [IF] HE SENT MANY PRESENTS WHICH WERE TO RETURN WITH HER TO THE HOUSE OF HER HUSBAND.[7] THESE MAY BE RECLAIMED.[8] [IF. HOWEVER, HE SENT A] FEW PRESENTS WHICH SHE WAS TO USE AT THE HOUSE OF HER FATHER, [THESE MAY] NOT BE RECLAIMED.

GEMARA. Raba said: Only [when the meal[9] was worth] a denar,[10] but not [when it was worth] less than a denar. [Is not this] obvious? We have, [surely], learnt, ONE DENAR! — It might have been assumed that the same law [applies] even [to the case where it was worth] less than a denar, and that [the reason] why a denar was mentioned[11] [was because that] was the usual cost,[12] hence [it was necessary to] teach us [that we do not say so]. We learnt, HE ATE; what [is the law if] he drank? We learnt, HE; what [is the law in the case of] his representative?[13] We learnt, THERE; what [if] it[14] was sent to him?[15] -Come and hear what Rab Judah said in the name of Samuel: It once happened with a’ certain man who had sent to the house of his father-in-law a hundred wagons of jars of wine and jars of oil, and vessels of silver and of gold and silk garments while he [himself]. in his joy. came riding. and stopped at the door of the house of his father-in-law. They brought out a cup of something warm and he drank and died. This practical question[16] was brought up by R. Aha. the ‘Governor of the Castle’ ,[17] before the Sages at Usha , and they decided, ‘Gifts which were intended[18] to be used up[19] cannot be reclaimed; and such as are not intended to be used up[19] may be reclaimed. ‘ From this it may be inferred [that] even if he [only] drank; from this it may [also] be inferred [that] even [if the meal was worth less than a denar.[20] R. Ashi asked: ‘Who can tell us that they did not crush a pearl[21] for him which was worth a thousand zuz and gave him to drink! [May] it be inferred, [however that] even if [it] was sent to him?[22] — [No;] it is possible [that] anywhere [near] the door of the house of one's father-in-law is [the same] as the house [itself]. The question was raised: Has he[23] to pay[24] in proportion?[25] [Further:] Is he entitled to[26] the appreciation of the gifts?[27] [Do we say that] since if they[28] are available they are returned to him, the appreciation took place in his possession; or, perhaps. since if they were lost or stolen she[29] has to make compensation. the appreciation took place in her possession?-This is undecided. Raba inquired: What [is the law in the case of] gifts intended to be used up that were not used up?[30] -Come and hear: ‘And this practical question was brought up by R. Aha, the governor of the castle, before the Sages at Usha and they decided [that] gifts intended to be used up [can] not be reclaimed, and such as are not intended to be used up may be reclaimed’ — Does[31] not [this refer] even [to the case] where they were not used up! — No; where they were used up. Come and hear: [IF, HOWEVER, HE SENT A] FEW PRESENTS WHICH SHE WAS TO USE AT THE HOUSE OF HER FATHER, [THESE MAY] NOT BE RECLAIMED![32] — Raba interpreted [the Mishnah as referring to] a veil or a hair-net.[33] Rab Judah said in the name of Rab: It once happened that a certain person sent to the house of his father-in-law new wine and new oil and garments of new linen[34] at [the] Pentecost season. What does [this][35] teach us? — If you wish I would say: The praise of the land of Israel.[36] And if you prefer [it] I would say: That if he advances [such] a plea it is accepted.[37] Rab Judah said in the name of Rab: It once happened that a certain person was told [that] his wife was defective in the sense of smell[38] He followed her into a ruin to test her[39] He said unto her, ‘I sense the smell of radish[40] in Galilee.’[41]

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(1) During which days, at least, the poor were provided with wholesome and substantial meals.

(2) For a poor man, who is in the habit of consuming all the week nothing but dry bread, the meat and the other expensive foodstuffs, with which he is supplied on Sabbaths and Festivals, cause indigestion.

(3) [Not in our texts].

(4) On the morning after the betrothal it was customary for the bridegroom to send to the house of his father-in-law, in honour of the bride, jewels and various kinds of wine or oil. [These gifts were known as Sablonoth, סבלונות, dona sponsalitia, derived according to Kohut from Gr, ** and according to Maimonides from סבך ‘to carry’, as

משאת’gift’ from נשא.]

(5) The presents.

(6) Even in the case where he or she died, or where he desired to divorce her. It is assumed that the bridegroom, thanks to his joy and satisfaction with the company and the meal, however small the latter might have been. has definitely determined to present the gifts wholeheartedly and permanently.

(7) As the wife's property.

(8) Cf. p. 628, n. 8.

(9) Which the bridegroom had in the house of his father-in-law.

(10) Only then may the gifts be reclaimed.

(11) Lit., ‘taught’.

(12) Lit., ‘thing’.

(13) Who had a meal of the value of a denar at the house of his father-in-law.

(14) The meal.

(15) To his own house.

(16) Halachah.

(17) [Cf Neh. VII, 2. Here probably an hereditary title].

(18) Lit., ‘made’,

(19) Before the wedding.

(20) The drink he had could not have been worth a denar.

(21) For medicinal purposes (Rashb.). A pearl was regarded as a life.giving substance. Cf. M. A. Canney. JMEOS. XV, 43ff.

(22) Since the drink was brought to the door.

(23) A bridegroom who consumed a meal of less value than a denar.

(24) In a case where the gifts are reclaimed,

(25) According to Raba who stated that if the value of the meal was less than a denar the gifts may he reclaimed, has the bridegroom to pay at least for what he has consumed? (Cf. Tosaf. a.I., s,v., איבעיא).

(26) Lit., ‘what’,

(27) That took place during the time they were at the bride's house.

(28) The gifts themselves.

(29) The bride.

(30) Are they to be returned or not?

(31) Lit., ‘what’.

(32) Since here, unlike the wording of the previous citation, the expression. ‘intended to be used up’. does not occur, it is assumed to refer to all cases, even to those where they were not used up.

(33) I.e., articles of little value, the return of which one does not expect. Hence, even if they were not used up they need not be returned.

(34) Of flax that grew in that year.

(35) The mention of Pentecost.

(36) That its harvests are earlier than those of other countries.

(37) Lit. , ‘his plea is a plea’. i.e., if he reclaims such gifts. asserting that he had sent them at the Pentecost season, he is believed. Though that season is too early for the harvest in other countries it is not so in Palestine.

(38) תותרנית. ‘in the habit of sniffing’.

(39) A husband who finds his wife to be affected with a hidden defect is entitled, under certain conditions, to divorce her without a kethubah.

(40) He had with him a radish. According to others, a date.

(41) The incident occurred near that district; and the object of his test was to ascertain whether she could sense the smell of the radish. According to the other interpretation. he expected her to reply that she sensed the smell of a date and not that of a radish,

Talmud - Mas. Baba Bathra 146b

She said to him, ‘Would that one gave me of the dates of Jericho and l would eat with it.’[1]

[Thereupon] the ruin fell upon her and she died. The Sages decided:[2] Since he only followed her in order to test her,[3] he is not [entitled to be] her heir [if] she died [during the test][4] FEW PRESENTS WHICH SHE WAS TO USE AT THE HOUSE OF HER FATHER, ETC. Rabin the elder sat before R. Papa and stated [the following]: Whether she died, or he died, [or] he retracted,[5] the wedding gifts are to be returned, foodstuff[s] and drink[s][6] are not to be returned. If [however] she retracted, even a bundle of vegetables [must be returned]. R. Huna the son of R. Joshua said: And it is valued for them[7] at the cheap[er] price of meat,[8] Up to how much is [considered] cheap?-Up to a third.[9] MISHNAH. IF A DYING MAN GAVE ALL HIS PROPERTY IN WRITING, TO OTHERS, AND LEFT [FOR HIMSELF] SOME [PIECE OF] LAND[10] HIS GIFT[11] IS VALID[12] . [IF, HOWEVER,] HE DID NOT LEAVE [FOR HIMSELF] SOME [PIECE OF] LAND, HIS GIFT IS INVALID[13]

GEMARA. Who is the Tanna [that holds the view] that the assumed motive[14] is a determining factor?[15] -R. Nahman replied: It [is the view of] R. Simeon b. Menasya. For it was taught: In the case of [a person] whose son went to a distant country[16] and having heard that the latter had died. assigned all his property, in writing. to a stranger. though his son subsequently appeared. his gift is. [nevertheless]. legally] valid.[17] R. Simeon b. Menasya said: His gift is not [legally] valid; for had he known that his son was alive, he would not have given it away.[18] R. Shesheth said: It [is the view of] R. Simeon Shezuri.[19] For It was taught : At first it was held [that] when one who was led out in chains[20] ,said, ‘Write a bill of divorce for my wife’, It is to be written and delivered [to her];[21] later, however, It was held[22] [that the same law applies] also [to] one who goes out [to sea] or on a caravan [journey]. R. Simeon Shezuri said: [The same law] also [applies to one] who is dangerously [ill][23] For what reason, however, does not R. Nahman establish it[24] in accordance with [the view of] R. Simeon Shezuri?-There [the case is] different, since he said, ‘write’.[25] And why does not R. Shesheth establish it[24] in accordance with [the view of] R. Simeon b. Menasya?-A well grounded assumption[26] is different.[27] Who is the author of the following ruling[28] which was taught by our Rabbis? ‘If a person was lying ill in bed, and was asked, "To whom [shall] your estate [be given]? and he replied

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(1) Jericho was famous for its dates which were so sweet that radishes had to he eaten with them to mitigate their excessive sweetness.

(2) Where the husband claimed her possessions as her heir.

(3) And had he found her to he defective, as he suspected, he would have insisted on divorcing her, he forfeited thereby his rights to be her heir. As soon as one determines to divorce his wife, if she were found to be suffering from some defect, he loses the privileges of an heir unless a reconciliation between them subsequently took place.

(4) Since in that case there was no time for their reconciliation before death took place.

(5) And divorced her.

(6) Sent by the bridegroom to the bride.

(7) Where foodstuffs are returned,

(8) Or any other foodstuff.

(9) Below the current market price.

(10) The size is given in the Gemara infra.

(11) Even if he recovers from that illness.

(12) Since he left for himself some land it is assumed that he did not intend the gift to be conditional upon his death, and it is. therefore, regarded as having been given by a man in good health. It is, consequently. valid even if he recovered from his illness.

(13) If he recovered. Since he left nothing for himself it is obvious that at the time he made the gift he did not expect to live any longer. Had he hoped to recover from his illness he would not have given away all his landed property. leaving himself destitute.

(14) אומדנא, lit., assumption’. ‘estimation’.

(15) Lit., ‘that we go after assumption’, i.e., that the assumed motives and intentions of a testator are to be taken into consideration when deciding the legality of his ‘statements In our Mishnah, the assumed motive and intention are obviously the determining factors (V., notes 3 ,4) ;who is its author?

(16) Lit., ‘country of (i.e., beyond) the sea’.
(17) Since it was not specifically made conditional upon his son's death.
(18) Lit., ‘write them’. Thus it has been shown that R. Simeon b. Menasya takes the assumed motive and intention into consideration,
(19) Others, ‘of Shezar’, [Sedschut between Akko and Kefar ‘Anan, in Gallilee. v. Klein, NB. p’ 7.]
(20) קולר ‘collar’. the chain, or iron band round a prisoner's neck.
(21) Though he only authorized the writing of the divorce, and not its delivery, it is assumed that he had forgotten to mention the latter owing to the perturbed state of his mind
(22) Lit., ‘they returned to say’.
(23) Because it is assumed that his motive and intentions were to have his wife divorced so that she might be exempt from the levirate marriage and from halizah.. Since the same principles of motive and intention underlie the law of our Mishnah,, it may be taken to represent the view of R. Simeon Shezuri.
(24) Our Mishnah.
(25) By this instruction It was made clear that he wished his wife to be legally divorced; and since this cannot be done without the delivery of the bill of divorcement, his instruction must he taken to, extend to, the delivery also. For the case of our Mishnah, however,this argument cannot be applied.
(26) In the case of the father who gave all his property to a stranger. since he did not give it away so long as he believed his son to he alive, it is clear that the sole reason why he gave it away subsequently was the reported death of his son.
(27) From the case of our Mishnah Since most ailing persons recover, there is not necessarily any reason for the assumption that the gift was due to the testator's belief that he would not recover.
(28) Lit., ‘who taught that’.

Talmud - Mas. Baba Bathra 147a

‘I thought I had a son; now, [however] that I have no son, [let] my estate [be given] to X’; [or] if a person was lying ill in bed, and on being asked to whom his estate [shall be given]. he replied, ‘I thought my wife was with child; now’ [however] ‘that my wife is not with child, [let] my estate [be given] to X’; and it [subsequently] transpired that he had a son or that his wife was pregnant, his gift is invalid,’[1] Is it to be assumed that this [statement represents the view of] R Simeon b. Menasya and not [that of] the Rabbis?[2] — It may even be said [to represent the view of] the Rabbis, [but] ‘I thought’ is different.[3] And what did he that raised the question imagine?[4] — It might be suggested that he[5] was merely mentioning his grief,[6] hence [it was necessary] to teach us [that this is not so]. R. Zera said in the name of Rab: Whence [is it proved] that the gift of a dying man[7] [is considered valid] by the Torah?-For it is said, Then ye shall cause his inheritance to pass to his daughter[8] [which[9] implies that] there exists another transfer which is [the same] as this [one]. And which is it? It is the gift of a dying man.[10] R. Nahman in the name of Rabbah b. Abbuha said: [It may be derived] from the following.[11] Then shall ye give his inheritance unto his brethren,[12] [which[13] implies that] there exists another giving which is like this [one]. And which is it? It is the gift of a dying man.[14] Why does not R. Nahman derive it from , Then ye shall cause to pass?[14] — He requires that [expression] for [the following] ‘ according to Rabbi. For it was taught: Rabbi said, In [the case of] all [the relatives[15] the expression of] ‘giving’ is used but here[16] [the expression] used is that of ‘causing to pass’,[17] [in order to teach] you that no other but a daughter causes an inheritance to pass from one tribe to [another] tribe, since [in her case] her son and her husband are her heirs.[18] And why does not R. Zera derive it from, Then shall ye give?[19] — This is the usual [expression] of Scripture.[20] R. Menashya b. Jeremiah said: [It[21] may be derived] from the following:[22] In those days was Hezekiah sick unto death ; and Isaiah the prophet the son of Amoz came to him, and said unto him, ‘ Thus saith the Lord; Set thy house in order for thou shalt die, and not live’,[23] by mere verbal instruction.[24] Rami b. Ezekiel said: [It[21] may be derived] from the following: And when Ahitophel saw that his counsel was not followed. he saddled his ass and arose, and got him home into his city and set his house in order, and strangled himself.[25] by mere verbal instruction.[26]

Our Rabbis taught: Ahitophel advised his sons three things: Take no part[27] in strife, and do not rebel against the government of the House of David, and [if] the weather on the Festival of Pentecost is fine sow wheat[28] Mar Zutra stated: It was said, ‘cloudy’[29] The Nehardeans said in the name of R. Jacob: ‘Fine’ [does] not [mean] absolutely fine, nor does ‘cloudy’ mean completely overcast, but even [when it is] ‘cloudy’ and the north wind blows [the clouds], it is regarded as ‘fine’.[30] R. Abba said to R. Ashi: We rely upon [the weather information] of R. Isaac b. Abdimi. For R. Isaac b. Abdimi said: [At] the termination of[31] the last day of Tabernacles , all watched the smoke of the wood pile.[32] [If] it[33] inclined towards the north, the poor rejoiced and landowners[34] were distressed because [that[35] was an indication] that the yearly rains would be heavy[36] and the crops would decay.[37] [If] it inclined towards the south, the poor were distressed and landowners rejoiced because [that[38] was an indication] that the yearly rains would be scanty and the crops could be preserved[39] ‘ [If] it inclined towards the east,all were glad;[40] towards the west ,. all were distressed.[41] A contradiction was raised: The east [wind] is always beneficial; the west [wind] is always harmful; the north wind is beneficial for wheat that reached[42] [the stage of] a third [of its maturity].[43] and harmful for olives in blossom; and the south wind is injurious’ for wheat that reached[42] [the stage of] a third [of maturity] . and beneficial for olives in blossom. And R. Joseph. (others say Mar Zutra and others say. R. Nahman b. Isaac), said: Your mnemonic is , ‘Table in the north and candelabra in the south ;[44] the one[45] Increases Its own[46] and the other[47] increases Its own.[48] -There is no difficulty: This[49] for us,[50] and that[51] for them[52] It was taught: Abba Saul said: Fine [weather at] the Festival of Pentecost is a good sign[53] for all the year. R. Zebid said: If the first day of the New Year is warm, all's the year will be warm; if cold, all[54] the year will be cold. Of what [religious] significance is this[55] [weather information]?

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(1) Because it is assumed that if he had known the facts he would not have given his estate to X but to his son or his wife.

(2) Since the Rabbis, as has been shown above, do not admit the principle of assumed motive.

(3) In such a case as this, where the testator specifically said that he thought he had no son and that only because he was told that he had no son his estate was to be given to a stranger. even the Rabbis admit that motive which need no longer be merely assumed is the determining factor.

(4) Lit., ‘and he that threw (i.e.. argued) what did he throw?’ How could he even for one moment assume that the’ Rabbis would not in such a case hold the same view as R. Simeon h. Menasya, when the difference between the two cases is so self evident?

(5) The testator,

(6) The mention of the death of his son might not have been due at all to his desire to indicate the cause of his giving away his estate to strangers. It might have been a mere expression of sorrow at having no son to survive him, a fact which the disposal of his estate had brought to his mind.

(7) Even if made verbally, is as binding as if attended by a legal symbolic acquisition.

(8) Num. XXVIII, 8.

(9) The superfluity of the expression of את or, according to others, of והעברתם

(10) As the transfer of a father's estate to a daughter takes place without symbolic acquisition so does the transfer of the gift of a dying man.

(11) Lit, ‘from here’.

(12) Ibid, v.9.

(13) The superfluous, ונתתם or את

(14) Cf. supra, n. 8.

(15) That were enumerated in Num XXVII,9-11

(16) In the case of a daughter.

(17) Ibid. v. 8.

(18) V. supra 109b.

(19) Num.XXVII, 9

(20) The expression is not in any way superfluous.

(21) The validity of a verbal gift made’ by a dying man.

(22) Lit.,’from here’.

(23) II Kings,XX 1

(24) I.e., Hezekiah was to set his house in order (Heb..Zaw צו , lit., command) by nothing more than his verbal instruction,

(25) II Sam. XVII, 23 .

(26) Ahitophel set his house in order, (Heb., wa-yezav,ויצו., 'and he commanded') by his verbal instructions only.

(27) Lit., 'be not '

(28) Fine weather at that season is an indication of a good wheat harvest for that year.

(29) I.e. , cloudy weather at Pentecost is an indication of a good harvest for that year. Cloudy, Heb. balul, בלול,, is easily interchangeable with barrur, ברור, clear.

(30) And the wheat harvest of that year will be successful.

(31) Lit,'exit'.

(32) On the Temple altar.

(33) The column of smoke.

(34) Lit., masters of houses'.

(35) The prevalence of the South wind which caused the column of smoke to incline towards the North.

(36) Lit., 'many'.

(37) And as they could not be stored away for long. prices would fall.

(38) The north wind. Cf. p' 635 ,n.18 i

(39) Consequently prices would rise.

(40) The west wind by which it was driven would cause a moderate rainfall and plentiful crops.

(41) The east wind by which it was driven towards the north would cause a scanty rainfall and meagre crops; and prices would consequently rise.

(42) Lit.. 'when they brought'.

(43) When it requires no more rain.

(44) In the Temple.

(45) The north where stood the table on which was placed the shewbread.

(46) Crops of wheat which are required for the shewbread.

(47) The south where stood the candelabra, for the lighting of which olive oil was used. is beneficial to olives.

(48) At any rate, it has been stated in this Baraitha that 'the east wind is always beneficial and the west wind is always harmful', how, then, was the reverse stated in the previous Baraitha, reported by R. Isaac b. Abdimi? (V., notes 5 and 6).

(49) The latter Baraitha which states that the east wind is beneficial and the west wind harmful.

(50) Refers to Babylon which is situated in a valley and has an abundance of water. A heavy yearly rainfall, there, is harmful; a light one beneficial.

(51) The first Baraitha.

(52) Palestine, which is a dry highland country. There the west wind with its heavy rains is beneficial while the dry east wind is harmful.

(53) V. supra p. 635. n. 11

(54) I.e., 'most of it' (Rashb.).

(55) Lit., 'as to what comes out of it'.

Talmud - Mas. Baba Bathra 147b

— In respect of the prayer of the High Priest [on the Day of Atonement][1] Raba,[2] however, said in the name of R. Nahman: The [validity of a verbal] gift of a dying man is a mere [provision] of the Rabbis[3] lest his mind become affected.[4] ; But did R. Nahman say so?[5] Surely R. Nahman said: Although Samuel had stated that if a person sold a bond of indebtedness to another and subsequently[6] remitted [the debt] it is remitted,[7] and that even an heir may remit,[8] Samuel, [nevertheless]. admits that if he presented it to him as the gift of a dying man, he cannot [subsequently] remit it.[9] [Now]. if it is agreed'[10] that [this[11] is] Biblical, one can well understand the reason why one cannot remit [the debt]; if, however, It is maintained[10] that [this is merely] Rabbinical, why should he not be able to remit [it]? — It is not Biblical; but was given[12] [the same force] as [a law] of the Torah.[13] Raba said in the name of R. Nahman: If a dying man said, 'Let X live[14] in this house' , or,'Let X eat the fruit of this date-tree', his Instructions are to be disregarded[15] unless he used the following expression:[16] 'Give this house to X that he may live in it', or 'Give this date-tree to X that he may eat of its fruit'[17] Does this mean to imply[18] that R. Nahman holds the opinion that [only] the rights[19] that a man in good health may confer,[20] may also be conferred by[21] a dying man, [while those] which a man in good health cannot confer,[21] can neither be conferred by a dying man?[21] Surely Raba said in the name of R Nahman:

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(1) When he offered up a special prayer for rain. If the signs indicated heavy rains. his prayer had to be modified.

(2) At this point is resumed the discussion of the theme introduced by R. Zera (p. 634).

(3) Biblically the gift would not be valid unless attended by actual or symbolic acquisition.

(4) As a result of any resistance which might be offered to his instructions. Hence, legal force was given to his verbal and informal instructions as if legal acquisition had taken place.

(5) That the validity of the verbal gift of a dying man n only Rabbinical.

(6) Lit., 'and he returned'.

(7) And the buyer cannot claim the debt from the borrower. He only bought the rights of the creditor which now exist no more. He can, however, reclaim from the creditor (the seller) the sum he paid him for the bond.

(8) A debt he inherited.

(9) B.K. 92a; B.M. 201; Kid. ,38a.

(10) Lit., 'you said'.

(11) The validity of the verbal gift of a dying man.

(12) Lit., 'and they made it'.

(13) For the reason given supra, viz., lest his mind become affected.

(14) Lit., 'shall dwell'.

(15) Lit., 'he said nothing'. X cannot acquire the right of living in the house or that of eating the dates. since the former is abstract, while the dates are nol yet in existence. As such rights cannot be given away by one in good health, even by means of symbolic and legal transfer, the acquisition of the object itself (the house or the tree) being required, a dying man also cannot by his mere verbal instructions (though valid in the acquisition of concrete and existing objects), confer such rights.

(16) Lit., 'until he would say'.

(17) By transferring the possession of the concrete object. the abstract or the yet non-existing. may also simultaneously he transferred.

(18) Lit., 'to say'.

(19) Lit., 'thing'.

(20) Lit., 'there is'.

(21) Lit.. 'there is not', i.e.,that the only difference between the rights of a healthy, and those of a dying man consists in the privilege of the latter to transfer possession by a mere verbal instruction, while in the case of the former, actual or symbolic acquisition must take place.

Talmud - Mas. Baba Bathra 148a

If a dying man said, 'Give my loan to X' ,[1] his loan is [immediately] acquired by X;[2] although a man in good health has no[3] [such power]![4] -R. Papa replied: Since an heir inherits it.[5] R. Aha the son of R. Ika replied: A loan is also transferable[6] in [the case of] a man in good health; and [this is) in accordance with [the statement] of R Huna in the name of[7] Rab. For R. Huna said in the name of Rab: [If one said] . 'You owe me a maneh, give it to X', in the presence of the three persons.[8] ,X acquires possession. The question was raised: [If dying man gave instructions for his] date-tree [to be given] to one [person] and the fruit thereof to another, what [is the law.]? Has he [in such a case]. left [for himself] the place of the fruit[9] or did he not leave?[10] If [some reason] be found for the decision[11] [that if the fruit were given] to another [person, the dying man does] not reserve [their place, the question may be asked]: What [is the law if] he said,[12] except its fruit'?[13] ; Raba said in the name of R. Nahman: [Even] if [some reason] be found for the decision[14] [that in the case where the] date-tree [was given] to one [person] and the fruit thereof to another, the place of the fruit is not [regarded as] reserved, [if he specifically added,] ‘Except its fruit’, he [thereby] reserved the place of the fruit; and [this is] in accordance with [the view of] R, Zebid[15] who stated that if he wished to attach mouldings to it he may do [so]. From this it clearly follows that because he reserved the upper storey he also reserved the place of the mouldings. [so] here also, since he said, ‘Except its fruit’. he reserved the place of the fruit. R. Abba said to R. Ashi: We learnt it[16] in connection with [the following statement] of R. Simeon b. Lakish. For R. Simeon b. Lakish stated: When someone, in selling a house to another, told him, ‘On condition that the upper storey [remains] mine’, the upper storey [remains] his.[17]

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(1) I.e. — the verbal loan which someone owes him shall he paid by that person to X.

(2) Through the mere verbal instruction of the testator. Had he been in good health. he could not transfer in this way a verbal loan, which, since a person usually spends the money he borrows, is not In existence.

(3) Lit., ‘it is not’.

(4) He cannot transfer an abstract thing (cf. p. 637 n. 16). How’, then, could it be said that. apart from only one difference (v. note 6), there was no distinction between the power of a healthy, and those of a dying man?

(5) I.e.. the verbal loan; it is considered to be in the possession of the dying man who accordingly has the power to transfer it as gift to another person. since the gift of a dying man is treated as an inheritance, v. infra 149a. This, however, does not apply to a man in good health, since his gift is not regarded as an inheritance.

(6) Lit., ‘it is’.

(7) Lit., ‘said’,

(8) The creditor, borrower and X; v. 147b-148a .

(9) On the branches; and since the branches are attached to the tree they are regarded as ground. Consequently it is a case of one who left for himself some ground, and who, in accordance with our Mishnah, cannot withdraw his gift. even if he recovers.

(10) And when he gave the tree to the first, he gave him the branches also. Hence he left for himself no ground at all, and can withdraw the gift if he recovers.

(11) Lit., ‘to say’.

(12) The text and interpretation here adopted (cf. Rashb. second version; R. Gersh. first versionl; and Bah, a.I.) differ from the version in the current editions and from its rather difficult interpretation to which commentators had recourse. A translation of that version would run somewhat as follows: (If he left the fruit) for himself (giving away the tree) except its fruit, what (is the law)? (Is it assumed that for oneself one makes liberal reservation and, consequently. he left for himself the place of the fruit also, and the gift is. accordingly, valid; or is there no difference between reserving for oneself and for another)? Raba said in the name of R. Nahman: If (some reason) could be found for the decision (that where a person gave) a date-tree to one (man) and its fruit to another, the place of the fruit is not reserved; (if he gave) a date-tree to one and reserved the fruit for himself, he did reserve the place of the fruit. What is the reason?-Wherever it is a case of personal interests one makes liberal reservation.

(13) In addition to, ‘Give him the date tree’. Does the superfluous addition, ‘except etc.’, imply that he wished to reserve for himself the place of the fruit and, consequently, he cannot anymore withdraw? (V. note l).

(14) V. note 3’

(15) V. notes on R. Zebid's statement, infra 148b.

(16) The enquiry above, and R, Nahman's statement.

(17) Supra 63a, 64,a.

Talmud - Mas. Baba Bathra 148b

The question was [accordingly] raised: [If one sold] a house to one and [its] upper storey to another, what [is the law’]? Is it [assumed that he] reserved [some air space in the courtyard][1] or not? If [some reason] could be found [for the decision that if] a house [was sold] to one and [its] upper storey’ to another [the seller] reserved nothing [of the air space of the courtyard], what [is the law when he specifically added]. ‘Except its upper storey’? Raba said in the name of R, Nahman: If you can find [a reason] for the decision [that he who sold] a house to one and [its] upper storey to another has not reserved [anything from the air space of the courtyard, if he specifically added]. ‘Except [its] upper storey', he did reserve [a portion of the air space of the courtyard]. And [this is] in accordance with [the view] of R. Zebid who stated that if he[2] wished to attach[3] mouldings to it,[4] he may do so.[5] From this it clearly follows [that] because he [specifically] reserved [for himself] the upper storey. he has also reserved the place of the mouldings. R, Joseph b. Manyumi said in the name of R. Nahman: If a dying man gave all his property in writing. to strangers ,[6] [the following] should be noted: If he did it by way of distribution,[7] [then if] he died all of them acquire possession;[8] [if] he recovered he may withdraw in [the case of] all of them.[9] If, [however,] he did it after consideration,[10] [then if] he died, all of them acquire possession;[8] [if] he recovered, he may only withdraw in [the case of] the last,[11] But is it not possible that he merely considered the [matter][12] and then gave [the further gifts]? — It is usual for a dying man carefully' to consider [the whole matter] first and subsequently to distribute [the gifts].[13] R. Aba b. Manyumi said in the name of R. Nahman: If a dying man gave all his property. in writing, to strangers and [then] recovered, he may not withdraw [the gifts], since it may be suspected that he has possessions in another country[14] Under what circumstances, however, is [the case of] our Mishnah, where it is stated [that if] he did not leave some ground his gift was invalid,possible? — R. — Hama replied: [In the case] where he said, 'All my possessions'.[15] Mar son of R. Ashi replied: [In the case] where it is known to us that he has none.[16] The question was raised: Is partial withdrawal[17] [considered] complete withdrawal[18] or not?[19] — Come and hear: [If a dying man gave] all his possessions[20] to the first, and a part of them[21] to the second, the second acquires ownership [and] the first does not. Does not [this refer to the case] where [the testator] died?[22] - No; where he recovered.[23] Logical reasoning also supports this [view];[24] , since the final clause reads: [If he gave] a part of his possessions[25] to the first and all of them[26] to the second, the first acquires ownership [and] the second does not.[27] [Now,] if [the Baraitha] is said [to refer to the case] where he[28] recovered, one can well understand why the second does not acquire possession;[29] if, however, it is said [to refer to the case] where he[28] died, both should have acquired ownership![30] R. Yemar said to R. Ashi: Even if it[31] be explained[32] [as referring to the case] where he[33] recovered [the following objection may be raised].[34] If it is said [that] partial withdrawal is [considered] complete withdrawal, one can at least understand why the second acquires possession;[35] if, however, It is said [that] partial withdrawal is not [considered] complete withdrawal, [the testator] should be [regarded] as one who distributes [his possessions][36] and none of them should acquire ownership![37] And the law [is that] partial withdrawal is [considered] complete withdrawal. [Hence.] the first clause [of the Baraitha] may be applicable either [to the case] where he died or [to that] where he recovered:[38] the final clause can only be applicable [to the case] where he recovered.[39] The question was raised: [If a dying man] consecrated all his possessions and [subsequently] recovered, what [is the law]?[40] ; Is it assumed that whenever it is a case of consecrated objects the transfer of possession made is unqualified[41] or, perhaps. when it is a matter of personal interests one does not transfer unqualified possession? [If the answer is in the affirmative, the question arises] what [is the law in the case where] he renounced the ownership of all his property'?[42] Is it assumed that since [ownerless property may be seized] by the poor[43] as well as by the rich, he transfers [therefore] unqualified possession[41] or, perhaps, whenever it is a matter of personal interests one does not transfer unqualified possession? [If the answer is in the negative.][44] what, [it may be asked. is the law where] he distributed all his possessions among the poor? Is it assumed [that in a matter of] charity he has undoubtedly transferred unqualified possession or, perhaps, wherever it is a matter of personal interests one does not transfer unqualified possession? — This is undecided. R. Shesheth stated: 'He shall take', 'acquire', 'occupy' and own'[45] [used by a dying man][46] are all [legal] expressions denoting gift. In a Baraitha it was taught: [The expressions of] 'he,shall receive the bequest'[47] and 'he shall be heir' [are] also [legal] in [the case of] one who is entitled to be his heir; and this is [in accordance with the view of] R. Johanan b. Beroka.[48] The question was raised

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(1) For the projection of mouldings from the upper storey.

(2) The seller of the house.

(3) Lit., 'to bring out',

(4) The upper storey which he retained for himself by specifying when selling the house, 'except its upper storey'.

(5) L.it., ‘brings out’.

(6) In succession. one after the other.

(7) l.e., if his intention from the very beginning was to distribute all his estate among these.

(8) Even if no legal acquisition took place. since the verbal gift of a dying man is legally valid.

(9) Because he left nothing for himself, in which case, as stated in our Mishnah, he may withdraw the gifts he made in the expectation of death.

(10) I.e., if his intention at first was not to give away all his estate, and only after giving a portion to one he reconsidered the matter and made the gifts to the others.

(11) Because with the last gift, the dying man left nothing for himself. In the case of all the previous gifts there was always something over.

(12) When pausing to think, he may not have been considering whether to give or not but only what to give. In which case his mind was made up from the beginning to distribute all his estate and, consequently. he should he able to withdraw all the gifts he made.

(13) And since the man was pausing for reflection, after every gift he made. it is obvious that it was not his first intention to distribute all his estate.

(14) And consequently he was not left destitute.

(15) He did not present specified portions but all his possessions wherever they may be situated.

(16) No other possessions than those of which he had disposed.

(17) If a dying man presented all his estate to one person and then, in accordance with his rights (v. supra 135b). withdrew a part of the gift, and presented that part to another person.

(18) Of the entire gift made to the first. The question is whether it is assumed that by his withdrawal of that part, presenting it to the second person. he also indicated the complete withdrawal of the entire gift he made to the first and that, therefore, when he made the gift to the second he was in possession of the rest of his estate; and, consequently, if he recovered he cannot withdraw the gift from the second; while if he died. his heirs may claim from the first the return of bis gift.

(19) And the second acquires possession of whatever was given to him, while the first retains the ownership of the rest. If the testator subsequently recovers he may consequently withdraw both gifts (since when disposing of the estate he had left himself nothing), whereas if he dies the heirs would have no claim at all upon either of the donees.

(20) Lit., ‘all of them’,

(21) Which he withdrew from the first,

(22) And if so, it may be proved from here that the withdrawal of a part is the same as the withdrawal of the whole,

(23) And desires to withdraw the gifts. The first cannot retain possession because when the gift was made to him the testator was left with nothing. The right of ownership on the part of the second is discussed in the Gemara infra.

(24) That the Baraitha cited refers to a case of recovery.

(25) Lit., ‘of them’.

(26) [I.e., the remaining part of the estate (Alfasi).]

(27) Ned. 43b.

(28) The testator.

(29) Because when he received the gift the testator had left for himself nothing.

(30) Since in such a case possession is acquired by the recipients whether the testator had left anything for himself or not. Consequently it must he concluded that the final clause refers to the case where the testator recovered; and since the final clause refers to a case of recovery the first clause also must refer to such a case.

(31) The first clause of the Baraitha cited.

(32) Lit., ‘and let it be also’,

(33) V note 9

(34) To the argument that the Baraitha supplies no proof to the statement that the partial withdrawal is considered complete withdrawal,

(35) Because when the part was given to him, the rest of the estate having been withdrawn from the first, the testator was in possession of some property.

(36) Since the first is retaining the remainder of the estate while the second acquires possession of its part.

(37) Owing to the fact that the testator in distributing his estate had left nothing for himself.

(38) The second donee acquires ownership because when the gift was given to him the testator (having withdrawn the gift from the first) was in possession of property. The first does not acquire ownership because the gift has been withdrawn from him in favour of the testator (if he recovers) or his heirs (if he dies).

(39) The first acquires ownership because when he was given the gift the testator was still in possession of some of his estate. The second does not acquire ownership because when the gift was given to him the testator had left for himself nothing. Had the testator died both would have acquired ownership.

(40) May he withdraw his donation?

(41) Without any reservation in case of recovery.

(42) Placing them at the disposal of anyone who would take possession of them.

(43) So that it is possible for the property to fall into the hands of some poor man.

(44) Because the property may happen to fall into the hands of a rich man.

(45) These expressions, some of which are synonymous, cannot be exactly rendered into English.

(46) In making a gift to anyone.

(47) V. p. 643, n. 8.

(48) Who maintained supra 130) that a person may appoint one of his heirs to be the sole inheritor of all his estate.

Talmud - Mas. Baba Bathra 149a

What [if he[1] said]. ‘Let him[2] have the benefit of them’?[3] Does he, [thereby] imply that they all shall be [treated as] a gift[4] or, perhaps, he [only] meant that he[5] shall have some benefit from them? What [is the law where he[6] said]. ‘He[5] shall see them’, ‘Stand in them’, ‘Recline upon them’ ?[7] — This is undecided, The question was raised: What [is the law’ in a case where a dying man] has sold all his possessions?[8] - Rab Judah said in the name of Rab: If he recovered he may not withdraw; sometimes, however, Rab Judah said in the name of Rab [that] if he recovered he may withdraw. But there is no contradiction [between the two statements]. The one[9] [refers to the case] where the money is [still] available;[10] the other[9] [to the case] where he paid away for his debt.[11] The question was raised: What if a dying man [spontaneously] admitted [a debt]?[12] -Come and hear: The proselyte Issur[13] had twelve thousand zuz: [deposited] with Raba. The conception of his son R. Mari was not in holiness,[14] though his birth [was] in holiness, and he was [then] at school. Raba said: How could Mari gain possession of this money? If as an inheritance; [surely] he is not entitled to [it as] an heir.[15] If as a gift; the gift [surely] of a dying man has been given[16] by the Rabbis [the same legal force] as [that of] an inheritance, [and consequently]. whosoever is entitled[17] to an inheritance is [also] entitled to a gift [and] whosoever is not entitled to an inheritance is not entitled to a gift [either]. If by pulling;[18] they are [surely] not with him. If by exchange;[19] a coin [can] not be acquired by ‘exchange’.[20] If on the basis of land;[21] he has no land. If In the presence of the three of us;[22] if he [were to] send for me I would not go.[23]

R. Ika son of R. Ammi demurred: Why?[24] Let Issur acknowledge that that money belongs to R. Mari and [the latter] would acquire it by [virtue of this] admission! Meanwhile,[25] there issued [such] an acknowledgement from the house of Issur.[26] [Whereupon] Raba was annoyed [and] said,’They teach people what to say[27] and cause loss to me’.[28]

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(1) The testator.

(2) The person named.

(3) Of the possessions bequeathed.

(4) For the donee.

(5) The donee.

(6) V. note 3

(7) Do these expressions legally ratify a gift?

(8) May he, if he recovers, cancel the sale as he may withdraw a gift?

(9) Lit., ‘that’.

(10) In such a case it is obvious that he kept the purchase money in readiness for the purpose of returning it should he recover and decide to cancel the sale.

(11) In such a case he cannot, on recovery, cancel the sale.

(12) Or that the property he possessed belonged to another person. Is this spontaneous admission sufficient to entitle the person named to the ownership of the sum or objects mentioned?

(13) Issur, while still a heathen, had married Rachel, one of Mar Samuel's captive daughters. (Cf. Keth. 23a). While she was in her pregnancy and before she gave birth to the child (the future R. Mari). Issur embraced Judaism; and Mari was accordingly born from parents both of whom professed the Jewish faith, while his conception took place when one of them was still a heathen.

(14) l.e., while his father was still a heathen.V. n. 15. Hence he was not entitled to the heirship of his father's estate (v. Kid. 18a).

(15) V. p. 644, n. 16,

(16) Lit., ‘made’.

(17) Lit., ‘where he is’.

(18) Meshikah, v. Glos., supra.

(19) Heb., halifin (V. Glos.). whereby possession may be gained though the object to be acquired is kept elsewhere.

(20) Cf. B.M. 46a.

(21) That might be presented to him at the same time. (V. Kid. 26a). One may acquire a movable object (including money) by the acquisition of land that was sold or presented simultaneously with it though the former may not actually be delivered at that time.

(22) Issur, Mari and Raba. Lit., ‘three of them’, v. supra 144a. A person may instruct another from whom he claims anything to give it to a third party; and, if all the three are present at the time the instruction was given, the transfer is immediately binding even though the object itself was not with them.

(23) And thus the money would remain in Raba's possession. who held the view that he was entitled, as anyone else, to retain the sum of money which, on the death of Issur who was a proselyte, would become ownerless and free to anyone who would first gain possession of it.

(24) Surely there is a way by which R. Mari could obtain the twelve thousand zuz!

(25) The discussion at the academy having been reported to Issur.

(26) And R. Mari thus acquired ownership of the twelve thousand sins.

(27) Lit., ‘plea’, ‘argument’.

(28) It is possible that Raba had no intention whatsoever to appropriate Issur's money and that the whole discussion of the possible legal means whereby R. Mari could acquire possession of his father's money was only the master's method of impressing these subtle laws upon his students’ minds. No one at the academy suspected for one moment that the master would in all earnestness desire to retain the money he held as a deposit from one who obviously confided in him. Had Raba been in earnest he would not have spoken publicly about such a matter when he well knew that Issur was still alive and could easily find legal means whereby to transfer possession to his son, if not to reclaim the deposit himself. Raba's pretended annoyance and ironical exclamation, ‘They teach people what to say and cause me loss’, must have been just a mild chiding to the students or their friends who deprived him of the satisfaction of passing on the money to R. Mari as a generous gift rather than as something legally due to him. The mention of the fact that R. Mari was בי רב ‘at the master's house’, i e ‘school’, which according to the ordinary interpretations has not much point (cf. Strashun a.l.) receives a new significance. It was discussed by Raba publicly despite the fact that R. Mari was himself at the school (perhaps Raba's very own school) and would well be aware of the whole discussion and could, if he chose, report it himself to his father and give him the necessary legal advice. The mention of R. Mari's presence at the school is probably the key to the indication of Raba's integrity and honour.

Talmud - Mas. Baba Bathra 149b

AND LEFT FOR HIMSELF SOME [PIECE OF] LAND, HIS GIFT IS VALID. And how much is SOME?- Rab Judah said in the name of Rab: Land sufficient for his maintenance, while R. Jeremiah b. Abba said [even if only] movables [that are] sufficient for his maintenance.

R. Zera exclaimed: ‘How accurate are the reported traditions of the elders![1] What is the reason [in the case of the reservation of] land?[2] [Because] he depended on it [for his maintenance] if he should recover; [in the case of] movables also [it may be assumed that] he depended on them if he were to recover’. R. Joseph demurred: Where is the accuracy? [Against him] who said, ‘movables’,[3] [it may be objected that] we learned, land; [while against him] who said, ‘sufficient for his maintenance’, [it may be objected that] we learnt, ‘whatsoever’![4] — Abaye replied to him: [Do you suggest that] wherever ‘land’ is stated, land only [is meant]? Surely we learnt: If one gave all his property to his slave, in writing. [the latter] goes forth [as] a free man. [If] he left [for himself] any land whatsoever,[5] [the slave] does not go forth [as] a free man.[6] R. Simeon said: [The slave] is always[7] free[8] unless [the master] said, ‘All my possessions are given to my slave X, except a ten thousandth part of them’.[9]

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(1) Rab Judah and R. Jeremiah b. Abba.

(2) I.e , why is the gift of a dying man valid in such a case, even if he recovered?

(3) That even the reservation of some movables renders the gift valid.

(4) כל שהוא kol shehu, lit., ‘any so ever’. (5) Since the slave himself is part of the property the master gave him.

(5) Not specifying which.

(6) A slave is regarded as ‘land’, (real estate), and it is possible that by the reservation of ‘some land’ his master may have meant to exclude him. Hence, (since the property or a slave belongs to his master), the slave acquires nothing.

(7) Even if the master had reserved some land.

(8) Since people do not describe a slave as ‘land’.

(9) By which expression he may rightly have meant the exclusion of the slave. Git. 8b; Pe'ah III, 8.

Talmud - Mas. Baba Bathra 150a

And R. Dimi b. Joseph said in the name of R. Eleazar: Movables[1] in the case of a slave were regarded[2] as a reservation; but movables in the case of a kethubah[3] were not regarded as a reservation![4] — There,[5] [R. Joseph retorted,] it would have been proper that [the term] ‘land’, should not have been used [at all]; only because in the first part [of the Mishnah] it was stated, ‘R. Akiba said: Land of any size is liable to [have the ears at its] corner[s left for the poor], and to [the bringing of its] first ripe fruit [to Jerusalem]; a prosbul[6] may be written in connection with it;[7] and movable property[8] may be acquired in conjunction with it by means of money, deed[9] and possession’,[10] [the term] ‘land’ was in consequence used [in the second part of this Mishnah also].[11]

And [do you suggest. Abaye again asked R. Joseph,[12] that] wherever ‘whatsoever’[13] was taught no [minimum] size is required?[14] Surely we learnt: R. Dosa b. Horkinas said: Five ewes which supply[15] [fleeces of the weight of] a maneh and a half each,[16] are subject to [the law of] ‘the fist of the fleece’.[17] But the Sages said, ‘[Even] five ewes [which] supply any [quantity] whatsoever [of wool]’[18] . And to the question,[19] how much [was meant by] any [quantity] ‘whatsoever’,[13] Rab replied: A [total of a] ,maneh and a half, provided each supplies [no less than] a fifth [of the total quantity]![20] — There, [R. Joseph retorted], it would have been proper that [the expression] ‘any [quantity] whatsoever’ should not have been used [at all]; only because the first Tanna speaks[21] of a large quantity.[22] [the Sages] also speak[21] of a small quantity,[23] which is described [as] ‘any quantity whatsoever’.[24]

[It is] obvious [if a person] said, ‘My movables [shall be given] to X’, [the latter] acquires possession of all the things he used except wheat and barley. [If he said], ‘All my movables [shall be given] to X’.[the latter] acquires possession even of wheat and barley and even of the upper millstone,[25] except the lower millstone.[26] [If he said], ‘All that can be moved’,[the latter] acquires possession even of the lower millstone.[27] The question. [however]. was raised: Is a slave regarded as real estate or as movables![28] — R Aha son of R. Awia said to R. Ashi, Come and hear: He who sold a town has [also] sold [its] houses, ditches and caves, [its] bath houses, olive presses and irrigation works, but not the movables [that it contains]. In the case, however,[29] where he said, ‘It and all that it contains’, all its contents,[30] even if it consisted of[31] cattle or slaves, are sold.[32] [Now.] if it is granted [that slaves are] like movables, one can well understand why they are not included in the sale in the first [case];[33] if, however, it is assumed [that] they are like real estate, why are they not included in the sale? — What, then, [is it suggested, that] they are like movables? Why ‘even’?[34] All, however, that can be said in reply[35] [is that] movables which [can] move [of themselves][36] are different from movables that [can] not move;[37] so also it may be said[38] [that slaves] are like real estate [but that] real estate that moves is different from real estate that does not move.[39]

Rabina said to R. Ashi, Come and hear:[40] If one gave all his property to his slave, in writing, [the latter] goes forth [as] a free man. [If] he left [for himself] any land whatsoever [the slave] does not go forth [as] a free man. R. Simeon said: [The slave] is always free unless [the master] said, ‘All my possessions are given to my slave X, except a ten thousandth part of them’. And R. Dimi b. Joseph said in the name of R. Eleazar: Movables in the case of a slave are regarded as a reservation,[41] but movables in the case of a kethubah are not regarded as a reservation.[42] And Raba asked R. Nahman, ‘What is the reason?’ [To which the latter replied.] ‘A slave is [regarded as] movables, and [in the case of] movables,[43] movables[44] are regarded as a reservation; the kethubah of a woman, however, is [payable from] real estate,[45] and [in the case] of real estate, movables[44] [are] not [regarded as] a reservation.[46]

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(1) Though this Mishnah speaks only of ‘land’, ‘movables’ are included.

(2) Lit., ‘they made’.

(3) If a person allotted to his wife a share in his lands when he distributed them to his sons, she loses thereby the claims of her kethubah (v. supra 132a). If, however, he gave her a share in movables only. her rights are not impaired.

(4) From the fact that, in the case of a slave, ‘movables’ are regarded as ‘land’, though the latter term only is used, it follows that the expression ‘land’ may include movables; how, then, could R. Joseph urge that since our Mishnah spoke of ‘land’, movables could not have been included?!

(5) In the case of a slave.

(6) V. Glos.

(7) V. p. 324. n. 8.

(8) Lit., property which has no security , i.e., from which creditors cannot collect their debts.

(9) Confirming the sale of the land.

(10) By performing some kind of work on the estate. V. Supra 42a; 77b.

(11) In this case only, for the reason given, R. Joseph maintains, could the term ‘land’ include movables. Elsewhere, however, ‘land’ implies real estate only.

(12) Who objected (supra, 149b) to the interpretation that ‘some’ in our Mishnah meant, ‘sufficient for one's maintenance’. V. Rashb.

(13) כל שהוא

(14) Lit., ‘it has not’.

(15) Lit., ‘shear’.

(16) Lit., ‘maneh and a half’ (bis).

(17) Which has to be given to the priest. Deut. XVIII, 4.

(18) Hul. 137b.

(19) Lit., ‘and we said’.

(20) Which shows, contrary to R. Joseph's argument, that even where the expression, ‘any (quantity) whatsoever’ is used, a minimum is required

(21) Lit., ‘said’.

(22) A maneh and a half per ewe.

(23) A fifth of the first Tanna's quantity.

(24) Elsewhere, however, where ‘any quantity whatsoever’ (kol shehu), is mentioned no minimum is required. Hence R. Joseph's objection (supra 149b), against the interpretations of the elders is well founded.

(25) Since It is sometimes removed from its place, it is included in the movables.

(26) Which is always kept in its place on the ground.

(27) It can be removed from its place since it is not actually fixed to the ground.

(28) Though, as regards Biblical laws, slaves are regarded as ‘land’ or ‘real estate’ as, e.g., in the case of oaths and acquisition by means of money, deed and possession, the question here is whether in the course of ordinary conversation people describe a slave as ‘real estate’ or as ‘movables’.

(29) Lit., ‘and at the time’.

(30) Lit., ‘all of them’.

(31) Lit., ‘they were in it’

(32) Supra 88a.

(33) Where the town only was sold, and all movables were, consequently, excluded.

(34) ‘Even’, suggests that they are not in fact like ‘movables’.

(35) Lit., ‘but what have you to say’.

(36) I.c., ‘slaves’.

(37) And this is the reason why ‘even’ was used.

(38) Lit., ‘you may even say’. in relation to the first case.

(39) Hence slaves who can move about could not have been in the mind of the person who sold ‘a town’ that cannot move. In other cases, however. where no particular kind of real estate was mentioned, slaves also may have been included, while in the ease where only ‘movables’ were specified, slaves may have been excluded.

(40) V. supra 149b, for notes on the following citation.

(41) As the slave does not gain his freedom where his master has reserved some real estate so he does not gain his freedom when his master reserved some movables.

(42) v. p. 647. n. 8.

(43) I.e., when the master reserved for himself ‘any movables’ whatsoever.

(44) Slaves.

(45) A woman can collect her kethubah from real estate only (v. infra 150b) and not from movable objects.

(46) It has thus been proved from R. Nahman's statement that a slave is regarded as movables; and not as real estate.

Talmud - Mas. Baba Bathra 150b

He[1] replied to him:[2] We explain this[3] as being due to [the fact[4] that the freedom] certificate is not complete.[5]

Raba said in the name of R. Nahman: [In] five [cases] it is necessary[6] that all one's possessions shall be given away in writing;[7] and they are the following:[8] [The case of a] dying man; one's slave; one s wife, one's sons; [and] a woman who keeps her husband away from her estate.[9] ‘A dying man’ — for we learnt: IF A DYING MAN GAVE ALL HIS PROPERTY, IN WRITING, TO OTHERS, AND LEFT [FOR HIMSELF] SOME [PIECE OF] LAND, HIS GIFT IS VALID. [IF, HOWEVER], HE DID NOT LEAVE [FOR HIMSELF] SOME [PIECE OF] LAND, HIS GIFT IS INVALID.[10] ‘One's slave’ — for we learnt: If one gave all his property to his slave, in writing. [the latter] goes forth [as] a free man. [If] he left [for himself] some lands [the slave] does not go forth [as] a free man.[11] ‘One's wife’ — for Rab Judah said in the name of Samuel: If [a dying man] gave all his property to his wife, in writing. he [thereby] only appointed her administratrix.[12] ‘One's sons’ — for we learnt: If [a person] assigns all his property to his sons in writing, and he has assigned [also] to his wife [a piece of] land of any size whatsoever, she loses [the claims of] her kethubah.[13] ‘A woman who keeps her husband away from her estate’ — for a Master said: A woman who [desires to] keep [her husband] away [from her estate],[14] must give away all her estate, in writing.[15] In all these [cases][16] movables are [also regarded as] a reservation,[17] except [in that] of a kethubah since [in respect to it] the Rabbis have enacted [that a woman has a claim] upon lands, [but] have not provided [her with the right of collecting it][18] from movables.[19]

Amemar said: Movables that are entered in the kethubah and are [also] available, are [regarded as] a reservation.[20]

[If a person][21] said, ‘My property [shall be given] to X’, slave[s] are included,[22] for we learnt: If one gave all his property to his slave in writing, [the latter] goes forth [as] a free man.[23] Land is described [as] property; for we learnt: Property which has a security[24] may be acquired by means of money, deed and possession.[25] A cloak is called property, for we learnt:[26] And that which has no security[27] can only be acquired by means of pulling.[28] Money is called property; for we learnt: And that which has no security may be acquired in conjunction with property which has a security. [bought jointly with it,] by means of money, deed and possession;[29] as in the case of[30] R. Papa [who] had a [money claim of] twelve thousand zuz at Be-Huzae, [and] he passed them over into the possession of R. Samuel b. Aha by virtue of the threshold of his house, [and] when the latter came [back] he went out to meet him as far as Tauak.[31] A deed is called property; for Raba b. Isaac said: There are two [kinds] of deeds. [If a person says.] 'Take possession of the field on behalf of X, and write for him the deed', he may withdraw the deed but not the field. [If. however, he says. 'Take possession of the field] on condition that you write for him the deed', he may withdraw both the deed and the field. But R. Hiyya b. Abin said in the name of R. Huna: There are three [kinds of] deeds. Two have just been described. [And the] third is one which the seller writes before [the sale] in accordance with the law we have learnt that

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(1) R. Ashi.

(2) Rabina.

(3) The reason why the reservation of some movables deprives the slave of his freedom.

(4) And not to use reason given by R. Nahman.

(5) Lit., 'cut'. In order that the slave may procure his freedom it is essential that the master should present him, with a writ 'of emancipation which definitely severs (cuts off) all connections and all relationships between master and slave. Where, however, the master reserves for himself in the writ something, whether in land or in movables, the separation between them effected by it is not complete. Furthermore, it may also be assumed that by that reservation the slave himself may have been intended. In other cases, however, R. Ashi maintains, it is possible, contrary to R. Nahman (Rashb.), or even R. Nahman would agree (R. Tam), that a slave is spoken of as 'land' or 'real estate'.

(6) Lit., 'until'.

(7) Otherwise, the laws stated are inapplicable.

(8) Lit., 'these'.

(9) Lit., 'causes to flee'.

(10) Supra 146b; Pe'ah III,7.

(11) V. supra 149b.

(12) Supra 131b (q.v. for notes). 144a, Git. 14a.

(13) Supra 132a, q.v. for notes, Pe'ah, ibid.

(14) I. e., that it shall not pass over into his possession by virtue of his becoming her husband.

(15) To a stranger, if she did so she may, on the death of her husband, or if divorced, reclaim her estate. Since no sane person would give away all his possessions and leave for himself nothing, it is obvious that the sole purpose of her presentation of the whole of her estate must have been the prevention of her husband from acquiring ownership thereof. IF, however, she left some portion of the estate for herself, this law does not apply, the gift is valid and she is not entitled ever to reclaim it.

(16) Lit., 'and in all of them', i.e. the four out of the five cases.

(17) Though in every case the term, 'land' was used.

(18) The kethubah.

(19) That is in accordance with Talmudic Law. In virtue, however, of a Gaonic enactment ascribed to R. Hunai (8th century), a Kethubah is payable also out of movables; v. Eben ha-'Ezer, 100. 1.]

(20) Because from such movables a kethubah may be collected as from real estate, v. Keth. 55a. If the husband, therefore, reserved these for her, she loses her rights to the kethubah as if he had reserved for her real estate.

(21) Either a dying man, or one in good health where symbolic acquisition took place.

(22) Lit., 'is called property'.

(23) Supra 149b.

(24) I.e., land.

(25) Kid. 26a.

(26) The conclusion of the previous citation, loc. cit.

(27) Movables, such as garments.
(28) V. Glos., Meshikah.
(29) Kid., l.c.
(30) Lit., 'that'.
(31) Supra 77b, q.v. for notes. The case of R. Papa quoted as an example of 'property which has no security', clearly proves that money is also called 'property'.

Talmud - Mas. Baba Bathra 151a

a deed may be written for the seller though the buyer is not with him. [In this case,] as soon as [the buyer] takes possession of the ground he acquires [also] the deed, irrespective of the place in which it is kept. And this accords with what we have learnt [that] movable property may be acquired with landed property by means of money. deed and possession.[1] Cattle are called property; for we learnt: If a person consecrated his property[2] which contained cattle suitable [as sacrifices] for the altar; males are to be sold[3] for[4] burnt offerings, and females are to be sold for[5] peace offerings.[6] Birds are called property; for we learnt: If a person consecrated his property which contained things suitable [for sacrifices] for the altar, [such as] wines, oils and birds [etc.].[7] Phylacteries are called property; for we learnt: If a person consecrated his property, [his] phylacteries [also] are taken away[8] from him.[9]

The question was raised: What [is the law in the case of] a scroll of the Law; is [it] not [regarded as] property, since It is unsalable because it is prohibited to sell it, or, perhaps. since it may be sold in order to study Torah or to take a wife,[10] it is [regarded as] property? — This is undecided.

(Mnemonic:[11] Zutra, the mother of Amram of two sisters, R. Tobi and R. Dimi and R. Joseph.)

The mother of R. Zutra b. Tobia gave her property in writing. to R. Zutra b. Tobiah, because she intended to marry R. Zebid.[12] She [duly] married, but was [subsequently] divorced. She [thereupon] appeared before R. Bibi b. Abaye.[13] He said: [She made a gift of her property] because she desired to marry[14] and, behold she married.[15] R. Huna the son of R. Joshua said unto him, 'Because you are [yourselves] frail [beings] you speak frail words'.[16] Even according to him who said [that a gift given by] a woman who wished to keep it away from her future husband is acquired [by the recipient], this law is only applicable[17] [to a case] where [the woman] did not declare her reason. Here, however, she has [specifically] declared that [she made the gift] because she [wished] to marry. and, surely. [though] she married, she was [now] divorced.[18]

The mother[19] of Rami b. Hama gave her property in writing to Rami b. Hama, in the evening; [but] in the morning she gave them in writing to R. 'Ukba b. Hama. Rami b. Hama came before R. Shesheth who confirmed him in the possession of the property. R. 'Ukba b. Hama, [however]. went to R. Nahman who [similarly] confirmed him in the possession of the property. R. Shesheth [thereupon] appeared before R. Nahman [and] said unto him, 'what is the reason [that] the Master has confirmed R. 'Ukba b. Hama in possession? Is it because she retracted? Surely she died'![20] He[21] replied unto him: Thus said Samuel, 'Wherever a person may retract if he recovered,[22] he may [also] withdraw his gift'.[23] May it be suggested[24] that Samuel said [this[25] in the case only where the withdrawal was] for himself; did he, [however], say [this[25] in the case where the withdrawal was in favour] of another person?[26] He[27] replied unto him,: Samuel distinctly stated, 'whether for himself or for another'.

The mother of R. Amram the pious had a case[28] of notes [of indebtedness]. While she was dying she said, 'Let it be [given] to my son Amram'. His brothers appeared before R. Nahman [and] said to him, 'Surely he[29] did not pull[30] [the case of documents]'! He replied unto them: The instructions of a dying person [are regarded legally] as written and delivered.[31]

The sister of R. Tobi b. R. Mattenah gave her possessions, in writing. to R. Tobi b. R. Mattenah in the morning. In the evening, Ahadboi son of R. Mattenah came [and] wept before her, saying: Now [people will] say [that] one[32] is a scholar[33] and the other is no scholar. [So] she gave them in writing to him. He [subsequently] appeared before R. Nahman, [who] said unto him: Thus said Samuel, ‘Wherever a person may retract if he recovers, he may [also] withdraw his gift’.[34]

The sister of R. Dimi b. Joseph had a piece of an orchard. Whenever she fell ill she transferred the ownership of it to him,

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(1) Supra 77a, q.v., for notes.

(2) For the purposes of Temple repair.

(3) V. Shek. IV, 7: and cf. Bah a Rashb.

(4) Lit., ‘For the requirements’. i.e., to persons who require burnt-offerings.

(5) Cf. previous note.

(6) Shek. IV, 7, Zeb. 150a, Tem. 20a, 31b.

(7) Shek. IV, 8.

(8) So R. Gersh. According to Rashb., ‘they estimate for him’, put them up to auction so that he might redeem them.

(9) ‘Ar. 23b, B.K., 102b.

(10) Meg. 27a.

(11) The Following are key-words used as an aid in the recollection of the ensuing incidents.

(12) Who would, otherwise, have acquired the ownership of her property through their marriage. Cf. supra 150b.

(13) To claim the return of her property.

(14) When she presented the gift she specifically mentioned that it was made on account of her intended marriage.

(15) Since she carried out the intention upon which the gift depended, she can no longer reclaim the gift.

(16) Cf. supra 137b, q.v..for notes.

(17) Lit., ‘these words’.

(18) As the reason for the making of her gift has now disappeared, she is entitled to the return of her property.

(19) Who was on her death-bed.

(20) A dying person who gave away all his property to another may withdraw it only if he recovers. Since this woman, however, died, her gift to Rami should remain valid as the gift of a dying person which cannot be withdrawn.

(21) R. Nahman.

(22) I,e., in the case where he gave away all his possessions.

(23) Even if he did not recover. Hence, in this case, the dying mother was within her rights when she, withdrawing the gift from Rami, gave it to R ‘Ukba. The estate, therefore, rightly belonged to the latter.

(24) Lit ‘say’.

(25) That a dying person may withdraw a gift he made.

(26) As in this case where the mother did not withdraw the estate for herself but for R.’Ukba.

(27) R. Nahman.

(28) מלוגא , (root, מלג , pluck), ‘a bag made of hairless skins’, From which the hair was plucked.

(29) R. Amram.

(30) And since there was no ‘pulling’, (meshikah v. Glos.), there was no legal acquisition of the bequest.

(31) Hence, R. Amram acquired possession of the bequest even though it had not been actually delivered to him.

(32) Lit ‘master’.

(33) Since the estate was given to him.

(34) V., supra notes 3 and 4.

Talmud - Mas. Baba Bathra 151b

but as [soon as] she recovered she withdrew. On one occasion she fell ill and sent [word] to him, ‘Come [and] take possession’. He replied,[1] ‘I have no desire’. [Thereupon] she [again] sent [word] to him, ‘Come [and] take possession in whatever manner you desire’.[2] [Then] he went,left for her [some portion of the intended gift][3] and [symbolic] acquisition from her was [also] arranged.[4] As she [again] recovered she retracted [and] came before R. Nahman.[5] He sent for him.[6] He, [however,] did not come, saying, 'Why should I come? Surely, [some portion of the estate] was left to her and [symbolic] acquisition from her [also] took place.'[7] [Thereupon] he sent to him, [the following message]: 'If you do not come I will chastise you with a thorn that causes no blood to flow'.[8] He[9] asked the witnesses how the incident had occurred, [and] they told him [that when she sent for her brother] she exclaimed thus: 'Alas that I am dying'.[10] He said unto them: If so, the disposal[11] [of her estate was] due to [her expectation of] death, and he that gives instructions owing to [his expectation of] death, may retract.

It was stated: [In the case where] a dying man presented a part[12] [of his estate], Raba[13] said in the name of R. Nahman: It is like the gift of a man in good health and requires [symbolic] acquisition. The Rabbis reported the following,[14] in the presence of Raba, in the name of Mar Zutra,son of R. Nahman, who reported in the name of R. Nahman: It is like the gift of a man in good health; and it is like the gift of a man who is dying. 'It is like the gift of a man in good health', in that if he recovered he [can] not retract; and 'it is like the gift of a man who is dying', in that no [symbolic] acquisition is required.[15] Raba said unto them: Did I not tell you [that] you shall not hang empty jars on R. Nahman?[16] Thus said R. Nahman: It is like the gift of a man in good health and requires [symbolic] acquisition.

Raba raised an objection against R. Nahman: [IF] HE LEFT [FOR HIMSELF] ANY LAND WHATSOEVER, HIS GIFT IS VALID.[17] Does not [this refer to the case] where no [symbolic] acquisition from him took place?[18] — No; where symbolic acquisition did take place. If so.explain the second clause: [IF. HOWEVER] HE DID NOT LEAVE [FOR HIMSELF] ANY LAND WHATSOEVER, HIS GIFT IS INVALID![17] Now if, [as you assert, our Mishnah refers to the case] where symbolic acquisition took place.[18] why is his gift invalid? — He replied unto him: Thus said Samuel, 'If a dying man gave all his property, in writing, to strangers, although [symbolic] acquisition took place,[19] he may retract if he recovered, because it is known that he disposed[20] [of his estate] only on account of [his expectation of] death.

R. Mesharsheya raised an objection against Raba: The mother of the sons of Rokel once fell ill and she said, 'Let my brooch[21] be given to my daughter', and it was worth twelve maneh,' and when she died they fulfilled her words?[22] — There [it was a case] of an Instruction [clearly] given owing to [the expectation of] death.[23]

Rabina raised an objection against Raba: If a person said, 'Give this bill of divorce to my wife', or, '[Give] this writ of emancipation to my slave', and he died, it must not be delivered after [his] death.[24] [If. however, he said.] 'Give a maneh to X, and he died, it is to be given [to X] after [the testator's] death![25] — And what reason is there to assume that no symbolic acquisition took place?[26] — [Because it[27] is obviously] similar to a bill of divorce;[28] as a bill of divorce is not an object for [symbolic] acquisition.[29] so this[27] also [was not attended by] a symbolic acquisition![30] — There[31] also [it is a case] of one giving instructions [clearly] on account [of his expectation] of death. R. Huna the son of R. Joshua replied: Elsewhere, an Instruction [given] owing to [the expectation of] death requires [symbolic] acquisition. but the Mishnayoth mentioned refer [to the case][32] of one who distributed all his estate,[33] for in such a case it was given the same legal force as[34] the gift of a dying man.[35]

And the law is [that where] a dying man presented a part [of his estate].[36] [symbolic] acquisition is required although he [subsequently] died. [If. however] his instructions [concerning the gift] were due to [his expectation of] death, no [symbolic] acquisition is required. This, however, [only] when he died; [if] he recovered he [may] retract even though [symbolic] acquisition from him took place.[37]

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(1) Lit., ‘sent’.
(2) So that she shall not be able again to retract.
(3) In such a case the donor cannot withdraw, (Cf. our Mishnah, supra 146b.)
(4) Lit., ‘and they (i.e., witnesses) acquired from her’, by means of symbolic acquisition, on behalf of R. Dimi. Legal acquisition under such conditions prevents the testator from withdrawing the gift on recovery unless a specific declaration was made at the time making it evident that the presentation was due to the expectation of death.
(5) To reclaim her piece of orchard.
(6) Lit., ‘to him, come’.
(7) Cf. supra note 4.
(8) He would place him under the ban.
(9) R. Nahman.
(10) Lit., ‘that this woman is dying’.
(11) Lit., ‘she was instructing’.
(12) Lit., ‘a gift of. . .in part’.
(13) Cf.. Bah. a.l. Current texts read: ‘The Rabbis said it before Raba in the name of Mar Zutra the son of R. Nahman who said it in the name of R. Nahman: It is like the gift of a man in good health and it is like the gift of a dying man. It is like the gift etc.
(14) Lit., ‘they said it.’
(15) And if he died the recipient acquired its ownership .
(16) I.e. ‘do not attribute to him such absurd views’, v. supra p. 27. n. 2.
(17) Supra 146b.
(18) Lit., ‘where they (i.e.. a court of law or witnesses) did not acquire From him’, on behalf of the donee, by means of symbolic acquisition.
(19) Lit., ‘they took possession from his hand’. Cf. previous note but one.
(20) Lit., ‘instructed’, or (cf. Bah) ‘symbolic acquisition took place’, v. infra p. 660.
(21) כבינה , ‘brooch, ‘buckle’, or ‘a wrap that is pinned on’ (Jast.); [or ‘veil’, v. Krauss, op. cit. I, 188.]
(22) V. infra 156b. The brooch or wrap was certainly a gift of a portion only of the estate, and there was no symbolic acquisition! Had there been some legal form of acquisition, an expression other than ‘her words’ would have been used.
(23) I.e., she stated distinctly the reason of the gift she was making. An instruction given in such circumstances, if followed by the death of the testator, requires no symbolic acquisition whether a portion of, or all the estate was presented.
(24) Since a divorce or the liberation of a slave does not take effect until actual delivery of the respective documents has taken place, and by that time the husband or master is dead and be can neither divorce nor liberate.
(25) Git. 13a. Even though, apparently, there was no symbolic acquisition. How, then, can Raba maintain that such acquisition is required?
(26) Lit., ‘and from that that they did not acquire of him’. Cf. supra p. 656, n. 4.
(27) The disposal of the maneh.
(28) With which it was mentioned in the same context.
(29) Actual delivery of it being required.
(30) Cf. supra p. 656, n. 4.
(31) The case of the maneh.
(32) Lit., ‘and when those Mishnayoth were taught’.
(33) In which case no symbolic acquisition is required. [The words that follow do not occur in some MSS. and are best left out.]
(34) Lit., ‘they made it’.
(35) Which requires no symbolic acquisition.
(36) Lit., ‘a gift. . .in part’.
(37) Cf. supra p. 656, n. 4 and 5.

Talmud - Mas. Baba Bathra 152a

It was stated: [As to] the gift[1] of a dying man [in the deed of] which was recorded [symbolic] acquisition. the school of Rab in the name of Rab reported [that the testator] has [thereby] made him[2] ride on two harnessed horses;[3] but Samuel said: I do not know what decision to give on the matter. The school of Rab reported in the name of Rab, that he made him ride on two harnessed horses, for it is like the gift of a man in good health[4] [and] 'it is [also] like the gift of a dying man. 'It is like the gift of a man in good health', in that, if he recovered, he [can] not retract, [and] 'it is like the gift of a dying man' in that, if he said [that] his loan[5] [shall be given] to X, his loan [is to be given] to X.[6] Samuel, however, had said, 'I do not know what decision to give on the matter' since it is possible that[7] he decided not to transfer possession to him[8] except through the deed,[9] and no [possession by means of a] deed [may be acquired] after [the testator's] death.[10]

A contradiction was pointed out [between one statement] of Rab and another statement of his,[11] and [between one statement] of Samuel and another statement of his.[12] For Rabin sent in the name of R. Abbahu: Be [it] known to you that R. Eleazar had sent to the Diaspora in the name of our Master[13] [that] where a dying man said, 'Write[14] and deliver a maneh to X', and he died,[15] they must neither write [the deed] nor deliver [the maneh], because it is possible that [the testator][16] had decided not to transfer possession to him[17] except through the deed,[18] and no [possession by means of a] deed [may be acquired] after [the testator's] death.[19] And Rab Judah said in the name of Samuel [that] the law is that one may both write and deliver.[20] [Does not this present] a contradiction [between one statement] of Rab and another statement of his [and between one statement] of Samuel and another statement of his?[21] — There is no contradiction between the two statements of Rab.[22] One[23] [deals with the case] where symbolic acquisition took place;[24] the other[23] where no symbolic acquisition took place.[25] There is [also] no contradiction between the two statements of Samuel,[26] [because in the latter case the reference is to one] who [specifically] strengthened his[27] claims.[28]

R. Nahman b. Isaac sat behind Raba while Raba was sitting before R. Nahman when he addressed to him the [following] enquiry: Did Samuel say. 'since it is possible that he decided not to transfer possession to him except through the deed, and no [possession by means of a] deed [may be acquired] after [the testator's] death'? Surely Rab Judah said in the name of Samuel, 'If a dying man gave all his property, in writing, to strangers. although [symbolic] acquisition took place. he may retract if he recovered

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(1) That is where be distributed all his estate (Rashb.).

(2) The recipient.

(3) I.e., his claim has a double force. That of the gift of a dying man and that of legal acquisition.

(4) Owing to the symbolic acquisition that took place.

(5) Which someone owes him.

(6) Although the money was not, at the time, in his possession and the gift was not made in the presence of the three parties concerned (v. 144a).

(7) By the unnecessary mention of symbolic acquisition.

(8) The donee.

(9) And not merely by virtue of his instructions, being a dying man.

(10) Hence it was difficult for Samuel to give a decision on the matter. It may be added that the same difficulty would also arise even where no deed was written and symbolic possession was accompanied by verbal instructions only, or where a deed alone was written unattended by any symbolic acquisition. The mere Fact that the testator had recourse to the unnecessary symbolic form of acquisition raises the question whether his intention thereby was not to annul his first transfer (that of a dying man) and postpone until after his death the donee's acquisition of the gift. Had he wished him to acquire immediate possession there would have been no need For the additional symbolic acquisition. His mere word as a dying man would have done that. Once the possibility of postponement until after death is granted, the donee can no more acquire possession, because as soon as death had taken place the entire estate of the dead man had passed over into the ownership of his legal heirs. (So Rashb.; v. however Tosaf. s.v. מתנת .)

(11) Lit., ‘on that of Rab’.

(12) CF. previous note.

(13) Rab.

(14) I.e., the deed.

(15) Before the deed was written or the maneh delivered to X.

(16) By his demand that a deed also be written which, since his mere verbal instruction as a dying man would have been sufficient, was unnecessary.

(17) The donee.

(18) CF. supra p. 658, n.10.

(19) Supra 135b, q.v. notes a.l. The legal force given to the word of a dying man extends only to monetary gifts but not to the delivery of a deed.

(20) It is assumed that the testator's request for a written document was for the purpose of strengthening the donee's claim; not to weaken it.

(21) In the report above it was stated that any unnecessary addition of a deed to the verbal instructions of a dying man was according to Rab assumed to be in favor of the donee and according to Samuel against him, while here the reverse is reported!

(22) Lit , ‘that of Rab upon Rab, there is no difficulty’.

(23) Lit., ‘that’.

(24) Lit , ‘where they acquired of him’. In such a case the testator obviously wished to improve the donee's claims.

(25) CF. previous note. It is possible, therefore, that the testator desired acquisition of the gift effected by means of a deed and since he died the deed is no longer of any avail.

(26) Cf. supra n. 12.

(27) The donee's.

(28) Lit., ‘power’; by the inclusion of the formula given below.

Talmud - Mas. Baba Bathra 152b

because it is known that the [symbolic] acquisition took place[1] only on account of [his expectation of] death’![2] He answered him[3] by [a wave of] his hand and remained silent.[4] When he rose, R. Nahman b. Isaac asked Raba, ‘What did he indicate to you?’ [Raba] replied to him,’ That Rab Judah's report refers to the case] where [the testator] strengthened the donee's claims.’[5] In what manner [is it indicated that one wished to] strengthen the donee's claims? — R. Hisda replied: [By including in the deed the formula]. ‘And we[6] acquired from him[7] in addition to this [presentation of the] gift.’[8]

[It is] obvious [that where a dying man] gave [all his estate] in writing to one man[9] and [subsequently] to another[10] the [law is the] very same as [that which] R. Dimi enunciated when he came, [vis., one] will annuls [another] will.[11] [If. however.] he wrote [a deed of the gift] and handed[1] it[12] to one[13] and [subsequently] wrote [a deed of the gift] and handed[1] it[2] to another,[13] Rab said: The first acquires [its] ownership; while Samuel said: The second acquires [its] ownership. Rab said, ‘the first acquires [its] ownership’ for[14] it is like the gift of a person in good health;[15] while Samuel said, the second acquires [Its] ownership’, for it is like the gift of a dying man.[16]

But surely their[17] difference of opinion on the [principle] has [already] once been expressed in [the case of] the [deed of a] gift of a dying man, in which symbolic acquisition was entered![18] [Both are] required. For if [their dispute] had been stated [in connection] with the first case,[19] [it might have been assumed that] in that [case only] Rab adheres[20] to [his opinion], because symbolic acquisition took place;[21] but in this case,[19] where no symbolic acquisition took place, it might have been suggested [that] he agrees with Samuel.[22] And if [their dispute] had been stated [in connection] with the second case,[19] [it might have been assumed that] in that [case only] Samuel adheres[20] to [his opinion];[23] but in that [case]’[24] it might have been suggested [that] he agrees with Rab. [Hence both were] required.

At Sura they taught as above.[25] At Pumbeditha they taught as follows.[25] R. Jeremiah b. Abba said: [The following enquiry] was sent from the academy[26] to Samuel. ‘Will our Master instruct us [as to] what [is the law in the case where] a dying man gave all his estate to strangers, in writing; and symbolic acquisition [also] took place,[27] [but was not entered in the deed]?’[28] He replied[29] to them: ‘After [symbolic] acquisition no withdrawal is of any avail’.[30]

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(1) Cf. p. 656. n. 6.

(2) From this it follows that if the testator did die the donee acquires possession after the death of the testator though a deed was written. How, then, could it be said in the name of Samuel that where a deed was written there can be no acquisition after death?

(3) LIt., ‘showed.’ ‘told’.

(4) [Or ‘he (Raba) remained silent’, having understood what R. Nahman meant to signify by the wave of his hand.]

(5) Lit., ‘his power’. In such a case the donee acquires possession after death even where the testator ordered the writing of a deed.

(6) I.e., ‘witnesses’.

(7) I.e.,From the testator on behalf of the donee, by means of symbolic acquisition.

(8) Supra 136a.

(9) Lit., ‘this’.

(10) Lit., ‘and he wrote to this’.

(11) Supra 135b. Hence the second donee acquires the ownership of the gift.

(12) Lit., ‘caused him to merit’, i.e., to acquire the right of ‘ownership’, by means of delivering to him the deed.

(13) Lit., ‘this’, presenting to him all his estate.

(14) Owing to the delivering of the deed to the donee, which Rab holds has the same effect as symbolic acquisition.

(15) Which cannot be withdrawn.

(16) And since it can be withdrawn if the testator recovered, it may also be withdrawn while he is still on his deathbed. Hence it was within the rights of the testator to present it to the second who, consequently, acquires its ownership.

(17) Rab and Samuel.

(18) Supra 152a top. Why, then, should they express the same principles again?

(19) Lit., ‘in that’,

(20) Lit., ‘said’.

(21) Lit., ‘they acquired for him’. And since the donee's claim has a double force, that of the gift of a dying man and that of symbolic acquisition, the gift cannot be withdrawn.

(22) Hence the second case was necessary.

(23) Since there was no symbolic acquisition.

(24) Where symbolic acquisition did take place.

(25) Lit,, ‘thus’,

(26) [Or, ‘from the school of Rab’, after Rab's death in 247.]

(27) Cf. supra p.656,n.4 and 5.

(28) And subsequently the estate was presented to a second person. (Cf. R. Gersh.) The question is whether, under such circumstances, the first or the second acquires the ownership of the estate.

(29) Lit., ‘sent’.

(30) Lit., ‘there is nothing’; and the first donee acquires the legal ownership of the gift. Samuel's view, supra, that the existence of a deed in addition, to symbolic acquisition may imply a desire, on the part of the testator to postpone until after his death the donee's acquisition of the gift does not apply to this case, since here symbolic acquisition had not been entered in the deed itself. (CF. R. Gersh.). [V. however’ Rashb., who refers the question back to the case of זיכה where the deed was delivered to the first donee.]

Talmud - Mas. Baba Bathra 153a

They understood him to mean [that] this decision[1] [applied only to the case of withdrawal in favour] of a stranger but not for himself. R. Hisda, [however]. said unto them: When R. Huna came from Kafri[2] he explained it [to mean]. 'whether for himself or for others'.

There was a certain [man][3] from whom [symbolic] acquisition was taken, who came before R. Huna.[4] [The latter] said, 'What can I do for you [in such a case] where you did not transfer possession as [other] people do?'[5]

There was a certain [deed of] a gift[6] in which there was entered,[7] 'in life and in death'.[8] Rab said: Behold it is [to be treated] like the [usual] gift of a dying man;[9] and Samuel said: Behold it is [to be treated] like the gift of a man in good health.[10] Rab said, 'Behold, it is like the gift of a dying man — since it contains the entry. 'in death', [the testator] meant [thereby] the donee [to acquire possession] after death, while the insertion,[11] 'in life', was just for good luck;[12] and Samuel said, 'Behold, it is like the gift of a man in good health' — since it contained the entry, 'in life', [the testator thereby] meant [to transfer possession] while he was alive, while his entry[13] of, 'and in death', [is only] like one saying. 'from now and for evermore'.

The scholars of Nehardea stated: The law is in accordance with [the decision] of Rab.

Raba said: If, however, the deed contains the entry.[14] 'from life', [the donee] acquires [immediate] possession.[15] Amemar said: The law is not according [to the view] of Raba. Said R. Ashi to Amemar: [Is not this] obvious, seeing that the scholars of Nehardea distinctly said [that] the law was in accordance with [the decision] of Rab! — It might have been assumed [that where the entry was]. 'from life', Rab agrees,[16] hence it was necessary to teach us [otherwise].

There was a certain [person] who once came [with an enquiry][17] to Nehardea before R. Nahman, [but] he sent him to Shumtamya before R. Jeremiah b. Abba,[18] declaring.[19] 'This is Samuel's province;[20] how could we act in accordance with [a decision] of Rab!'[21]

There was a certain [woman] who once came before Raba [to ask for his ruling].[22] [As] Raba gave his decision[23] in accordance with his traditional [teaching][24] she worried him.[25] He [consequently][26] said to R. Papa. the son of R. Hanan, his scribe: Go, write for her [a statement [but add to it,'He may hire at their expense[27] or deceive them'.[28] She[29] called out, 'May your[30] ship sink! Are you trying to fool me?' Raba's clothes were soaked in water;[31] and yet he did not escape the drowning.

MISHNAH. IF HE HAS NOT ENTERED IN IT[32] [THAT] HE WAS LYING SICK, [AND] HE [NOW] PLEADS, 'I WAS LYING SICK',[33] AND THEY PLEAD, 'YOU WERE IN GOOD HEALTH,[34] HE MUST PRODUCE EVIDENCE THAT HE WAS A DYING MAN;[35] [THESE ARE] THE WORDS OF R. MEIR. THE SAGES, HOWEVER, SAY: HE WHO CLAIMS FROM THE OTHER[36] MUST PRODUCE THE PROOF.

GEMARA. Once a [deed of a] gift contained the entry, 'As he was lying sick in his bed', but not,[37] 'And as a result of his illness he departed from the world'.[38]

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(1) Lit 'these words'.

(2) [A place in Babylonia, south of Sura. R. Hisda held a school there before his appointment as Head of the Academy at Sura.] Current texts read, 'Kufri', perhaps 'Cyprus'.

(3) Who, while on his death-bed, had presented his estate to a stranger.

(4) Desiring, on recovery, the return of his estate.

(5) Lit., cause to acquire'. Had he presented his estate without allowing symbolic acquisition to take place be could retract on recovery. After symbolic acquisition one has no right to withdraw.

(6) Of a dying man who presented all, or part of his estate, and 'symbolic acquisition' was entered on the deed.

(7) Lit., 'written',

(8) ‘The gift is to belong to the donee’,

(9) Possession of which by the donee is not acquired until after the death of the testator who, if he recovers, may withdraw the gift.

(10) Possession of which is acquired immediately, and no withdrawal is possible even if the gift consisted of the testator's entire estate.

(11) Lit., ‘and that that he wrote’.

(12) Lit., ‘a mere omen of life’ (v. Rashb.)

(13) V. p. 662, n, 12.

(14) Lit., ‘it is written therein’.

(15) ‘From life’ (unlike, ‘in life’) is regarded as a definite indication that the testator desired to transfer possession while he was still alive, i.e., at once.

(16) That, unlike ‘in life’, possession is acquired at once as if the gift had been made by a man in good health.

(17) To ask For R. Nahman's ruling on the legality of withdrawing a gift in the deed of which was enacted ‘in life and in death’,

(18) A disciple of Rab.

(19) Lit., ‘he said’,

(20) Samuel was the head of the College at Nehardea and a native of that town,

(21) Though the Nehardean scholars themselves decided the law to be in accordance with Rab's view, R. Nahman did not consider it proper to give a ruling contrary to Samuel's view in the place where Samuel had enjoyed supremacy and preferred to send the case to a place under Rab's jurisdiction.

(22) On a deed of a gift in which she wrote ‘from life’, and now wished to withdraw the gift.

(23) Lit., ‘did’.

(24) Telling the woman that she was not entitled to withdraw the gift.

(25) She demanded a written statement that (in accordance with the view of Rab) she was entitled to withdraw the gift.

(26) To put an end to the disturbance she created.

(27) Lit., ‘upon them’.

(28) This is an extract from a Mishnah (B.M. 75b), dealing with workmen who broke the arrangements entered into with their employers. ‘Deceive them’, was expressly to be inserted in order to indicate that the statement dictated by Raba was to be of no value whatsoever to the woman, its only object being to make her believe that it contained a decision in her favour and that, consequently, the disturbance she created might come to an end.

(29) Perceiving the subterfuge.

(30) Lit., ‘his’.

(31) To ward off thereby the imprecation. IF the curse was to be fulfilled the soaking of the clothes might form a substitute For the drowning of their wearer or of any of his possessions.

(32) In the deed of a gift be made of his entire estate.

(33) At the time the gift was made and, consequently, be claims his right to retract.

(34) And that, consequently, he cannot retract.

(35) When he made the gift. If no such proof is forthcoming, the donee is entitled to the gift.

(36) The donee. The gift is regarded as being in the possession of its original owner until proof to the contrary is produced.

(37) As was customary to enter in a deed of a gift that was written after the death of the testator, to indicate that the gift was made by a dying man and that, having died from that same illness, he did not retract.

(38) Lit., ‘to the house of his world’, i,e., eternity.

Talmud - Mas. Baba Bathra 153b

Rabbah said: Behold, he is dead and his grave indeed proves this.[1] Abaye [however] said to him: [How] now! If [in the case of] a ship [that sank], where most of the passengers[2] are doomed to perish, [we] apply to the victims[3] the restrictions of living[4] men and the restrictions of dead[5] men, how much more [ought we to do] so[6] [in the case of] sick men, of whom most do recover.

R. Huna, the son of R. Joshua. said: In accordance with whose [view] may that reported statement of Rabbah be justified?[7] In accordance with [the view of] R. Nathan. For it was taught:[8] Who takes away from whom?[9] He[10] takes away of their[11] possession without proof, but they [can] not take away of his possession except by [the production of] proof; these are the words of R. Jacob. R Nathan, [however]. said: If he[10] was in good health,[12] he must produce proof that [at the time the gift was made] he was lying sick;[13] if he was lying sick,[12] they[11] must produce proof that [at the time the gift was made], he was in good health.

R. Eleazar said: As regards [Levitical] uncleanness also [they[14] differ in their views on the same principles][15] as in [this] dispute. For we learnt: A [walled] valley in the summer [is subject to the laws of] a private domain in respect of the Sabbath[16] and [to those of] a public domain[17] in respect of [Levitical] uncleanness.[18] In the rainy season[19] it is regarded as a private domain[20] in both respects.[21]

Raba said: This[22] has reference only[23] [to the case] where a winter has not passed over it,[24] but [where] a winter has passed over it, [it is regarded as] a private domain in all respects.[25]

THE SAGES, HOWEVER, SAY: HE WHO CLAIMS FROM THE OTHER HAS TO PRODUCE THE PROOF.

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(1) Lit., ‘upon him’. Since there is no evidence that the testator recovered from the illness during which be made the gift, the fact that be is dead is sufficient ground for the assumption that be died from that illness.

(2) Lit., ‘most of whom’.

(3) Lit., ‘upon them’.

(4) If among the victims there was, for example, an Israelite who had married the daughter of a priest, it is assumed that he remained alive, and his wife is, consequently. forbidden to eat of the heave-offering. Had it been assumed that her husband was dead she, as the daughter of a priest, would have regained her right to eat of the heave-offering (cf. Git. 28b).

(5) If a priest who had married the daughter of an Israelite (and who had, thereby. conferred upon her the right of eating of the heave-offering) was among the passengers, it is assumed that he is dead, and his wife is henceforth deprived of the privilege he had conferred upon her (cf. Git. ibid.).

(6) To assume that the testator recovered from the illness during which be made the gift.

(7) Lit , ‘goes’.

(8) In the case of a deed wherein the gift is recorded but in which there is no entry as to whether the donor was sick or in good health at the time the gift was made.

(9) The donor From the donee or vice versa,

(10) The donor.

(11) The donees.

(12) At the time the case is heard in court,

(13) So that the gift was made by a dying man.

(14) R. Jacob and R. Nathan.

(15) Whether a decision is to be formed on the basis of the conditions in which a person or an object is found at the time the decision had to be given or on the basis of the condition in which be or it was presumed to be.

(16) And nothing may be removed from the valley into a public domain and vice versa.

(17) Since in the summer the crops have been removed from it, and the public use it as a thoroughfare.

(18) Any doubtful case of uncleanness in a public domain, is treated as ‘clean’.

(19) When the valley is sown.

(20) Because the public abstain from using it on account of its growing crops.

(21) Lit ‘to here and to here’; as regards the Sabbath (v. supra p. 665, n.15), and as regards ‘doubtful Levitical uncleanness’ which in a private domain is regarded as unclean. Consequently. if a person entered the valley and is not certain whether he entered it in summer or in winter he should, according to R. Nathan, be regarded as clean if his case was dealt with by the court in the summer, and as unclean if dealt with in the winter. According to R. Jacob, who does not take into consideration the time the decision is given, the person would always be regarded as clean whatever the season in which his case is dealt with (since a person is presumed to be usually clean), unless witnesses testified that they saw him enter the valley in winter.

(22) That a walled valley in the summer season is subject to the laws of a public domain in respect of Levitical uncleanness.

(23) Lit., ‘they did not teach but’,

(24) Since the time when a wall was put round it.

(25) Even in the summer season. Once it has acquired the status of a private domain it retains that status permanently.

Talmud - Mas. Baba Bathra 154a

In what [manner is] proof [produced]?[1] — R, Huna said: Proof [is produced] by witnesses.[2] R. Hisda and Rabbah, son of R. Huna, said: Proof[3] [is produced] by the attestation of the deed.[4] R. Huna said, ‘Proof [is produced] by witnesses’ [for he holds that] they[5] differ on [the same] principles[6] [as those] of R. Jacob and R. Nathan;[7] (Mnemonic: Meniah)[8] R. Meir [is of the same opinion] as R. Nathan[9] and the Rabbis[10] [are of the same opinion] as R. Jacob.[11] R. Hisda and Rabbah, son of R. Huna, said, ‘Proof [is produced] by the attestation of the deed,’ [because] they differ [on the question whether, in the case] where a person admitted that he wrote a deed, [independent] attestation[12] is required;[13] for R. Meir is of the opinion [that] where one admitted that he wrote a deed,[14] no [independent] attestation is required[15] and the Rabbis[16] are of the opinion [that], where one admitted that he wrote a deed, [independent] attestation [also] is required.[17]

But [did] they[18] [not], however, once dispute on this [question]?[19] For it was taught [in a Baraitha]: They[20] are not believed [so far as] to invalidate it;[21] these are the words of R. Meir.[22] But the Sages say: They are believed![23] — [Both are] required. Because if [their] dispute] had been stated [in connection with] that [alone],[24] [it might have been assumed that] in that [case only] did the Rabbis say [that attestation of the witnesses was necessary] because the witnesses are all-powerful and they themselves impair [the validity of] the document,[25] but here,[26] where all [the force of the document] does not depend on him,[27] it might have been assumed [that he is] not [believed].[28] And if [their dispute] had been stated in [connection with] this [alone], [it might have been assumed that] in this [case only] did R. Meir say [that the donor is not believed], but in that [case] it might have been assumed [that] he agrees with the Rabbis. [Hence both were] required.

Rabbah likewise stated [that the] proof[29] is by witnesses. Abaye said unto him: What is the reason?[30] If it be said[31] ‘Because in all [deeds][32] it is entered,[33] "As he was [able] to walk about[34] in the street", and in this [deed] no such entry is made,[35] [therefore] it is to be concluded [that when the gift was made] he was a dying man’, [it may be retorted], ‘On the contrary! Since in all [deeds][36] it is entered,[33] "As he was lying sick in his bed,", and [in] this [deed] no such entry is made,[35] [therefore] it is to be concluded [that when he made the gift] he was in good health!’ — As one inference is just as reasonable as the other,[37] [replied Rabbah,] the money[38] is to remain in the possession of its [original] owner.[39]

And [the following are] in the [same] dispute.[40] For R. Johanan said: Proof [must be produced] by witnesses; and R. Simeon b. Lakish said: Proof [consists] in the attestation of the deed. R. Johanan pointed out [the following] objection against R. Simeon b. Lakish: It once happened at Bene-Berak that a person sold his father's estate, and died. The members of the family, thereupon,[41] protested [that] he was a minor at the time of [his] death.[42] They[43] came [to] R. Akiba and asked whether the body might be examined.[44] He replied to them: You are not permitted to dishonour him; and, furthermore, [the] signs [of maturity] usually undergo a change after death.[45]

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(1) This question may apply to the statements of both R. Meir and the Sages.

(2) Who testify as to the state of the health of the donor at the time the gift was made.

(3) Required by the Sages. (For the proof required by R. Meir, v, infra.)

(4) The signatures of the witnesses on the deed must be verified before a court, and only when the validity of the deed had been established, independently of the donor's admission, have the donees established their right to the ownership of the gift.

(5) R. Meir and the Sages in our Mishnah.

(6) Lit., ‘in dispute’.

(7) Supra 153b. V. p. 665, n. 14.

(8) As an aid to memory in pairing the Tannaitic authorities. M = Meir, N = Nathan, I (Y) = Jacob, H = Hakamim, the Sages, the Rabbis.

(9) That the condition of the person at the time the lawsuit is before the court is the determining factor. And since the donor is then in good health it is assumed that he was in a similar condition when the gift was made. Hence it is for him to bring witnesses who could testify that at that time he was lying sick.

(10) The Sages of our Mishnah.

(11) Who maintains that the gift cannot be taken out of the confirmed possession of its original owner (the donor), unless witnesses can be brought by the donee to testify that at the time the gift was made he was in good health.

(12) Before a court.

(13) So that the validity of the deed shall not in any way be dependent on the donor's own word.

(14) And he only disputes its present force, by pleading, for instance, in the case of a deed of a gift, that he was lying sick when he made the gift, or, in the case of a note indebtedness, that he repaid the debt.

(15) Hence, the deed spoken, of in our Mishnah is valid, and the donor must bring witnesses as proof that he was a sick man at the time the gift was made.

(16) V. n. 3, supra

(17) Hence it is incumbent upon the donee to procure the necessary attestation.

(18) R. Meir and the Sages.

(19) Whether a deed acknowledged by its writer as genuine, also requires attestation before a court.

(20) Witnesses who identified their signatures on a deed.

(21) By asserting that they signed under compulsion or when they were minors.

(22) Who requires no attestation of a document on the part of the witnesses in a case where the debtor himself admitted that he wrote it. The validity of the deed, which has been acknowledged by the debtor, cannot, therefore, be impaired by the statements of the witnesses.

(23) A document, though admitted by the debtor to be genuine, requires the attestation of the witnesses before a court; and since the witnesses are, accordingly, the sole authorities for its validity, they are also to be believed when they declare it to be disqualified. Now, since the dispute between R. Meir and the Sages in the Baraitha depends on the same principles as those underlying their dispute in our Mishnah, why should a repetition be necessary?

(24) The Baraitha.

(25) Hence the debtor's admission is disregarded.

(26) Our Mishnah.

(27) The donor.

(28) When, after admitting that he wrote the deed, he states that he was a sick man when he made the gift.

(29) Referred to in our Mishnah.

(30) Why do the Sages require the donee, and not the donor, to produce the proof?

(31) Lit., ‘we shall say’.

(32) Given by a man in good health.

(33) Lit., ‘in all of them it is written’.

(34) Lit., ‘walking on his feet’.

(35) Lit., ‘it is not written in it’,

(36) That are given by dying men.

(37) Lit., ‘it may be said thus and it may be said thus’.

(38) Or property.

(39) Hence the gift cannot be taken away from the donor unless reliable proof is produced by the donee.

(40) I.e.,they differ on the same points as R. Huna on the one hand, and R. Hisda and Rabbah, son of R. Huna, on the other, supra.

(41) Lit., ‘and stood up’ Cf Rashb.

(42) A minor, under twenty years of age, is not eligible to sell any of his father's estate. Hence, the property he sold should belong to the surviving members of the family. [The words ‘of his death’ do not occur in some MSS.; v.D.S].

(43) I.e., ‘the buyers’. This is the present assumption of R. Johanan. V. answer of R. Lakish, infra.

(44) Lit., ‘what is he to examine him’; to exhume him, so as to ascertain his age by a post-mortem.

(45) Cf. Semahoth IV, 12; infra 155a. Hence the examination could not produce any reliable evidence of his age.

Talmud - Mas. Baba Bathra 154b

[Now]. according to my interpretation[1] [of our Mishnah that] evidence [is produced] by [the testimony of] witnesses, one can well understand why, when he[2] asked the buyers [to] bring witnesses and they [could] not obtain [them]. they came to ask him whether the body might [not] be examined. But according to your interpretation[3] that evidence [consists] in the attestation of the deed, why should they [wish] to examine [the body]? Let them procure the attestation of their deeds and [thus] gain possession of the property![4] — Do you think, [replied R. Lakish], that the property was in the possession of the members of the family and that the buyers came to protest? [This was not the case.] The property was in the possession of the buyers, and the members of the family came and protested.[5] Logical reasoning also [supports] this [view]. Since when he[6] said to them, ‘You are not permitted to dishonour him’, they remained silent. If it is granted [that] the members of the family protested, one can well understand why they remained silent;[7] if, however, it be assumed [that] the buyers protested, why [it may be asked] did they remain silent? They should have replied to him, ‘We paid him money; let him be dishonoured!’[8] — If [only] because of this[9] [there would be] no argument. [for R. Akiba may] have said to them[10] thus: In the first place,[11] [a post mortem must not be held] because you are not permitted to dishonour him; and, furthermore, in case you might say. ‘He took [our] money. let him be dishonoured’, the signs [of maturity] usually undergo a change after death.

R. Simeon b. Lakish enquired of R. Johanan: With reference[12] to what has been taught in the Mishnah of Bar Kappara[13] [that], ‘If a person was enjoying[14] [the usufruct of] a field on the strength[15] of the current belief that it [was] his, and someone lodged[16] a protest against him claiming.[17] "It is mine"; and the first[18] produced his deed, stating,[17] "You sold it to me" or "You gave it to me as a gift",if [the latter] said, "I never saw this deed",[19] the deed is to be attested by those who signed it;[20] if, [however], he said, "It was a deed of trust[21] or a deed [given on] trust[22] [for something] which I sold you but [for which] you did not pay me the price", then if witnesses[23] are available, one must be guided by[24] witnesses, but if [they are] not [available] one is to be guided by[23] the deed.’[25] Are we to assume [asked Resh Lakish, that] this[26] is [in accordance with the opinion of] R. Meir, who stated that where one admits that he wrote the deed, attestation is not required, but not [in accordance with the view of] the Rabbis?[27] — He [R. Johanan] replied to him: No; because I maintain [that] all[28] agree[29] [that where] one admitted that he wrote a deed no attestation is required. But, surely, [Resh Lakish rejoined,] they[30] are actually in dispute [on this question]; as it was taught, ‘They are not believed [so far as] to invalidate it; these are the words of R. Meir. But the Sages say: They are believed’![31] — He replied to him: [Should] he, because[32] witnesses are all-powerful and [may] impair [the validity of] a deed,[33] [have the same power as if] all depended on him![34] But, Resh Lakish asked him again, in your [own] name it was reported that, ‘the members of the family have justly protested’![35] — He replied to him, ‘This [was] said [by] Eleazar;[36] I have never said such a thing.’

R. Zeira said: If R. Johanan could contradict his disciple R. Eleazar,[37] would he contradict his master R. Jannai? For R. Jannai said in the name of Rabbi: [Though] one admits that he wrote a deed, attestation is [nevertheless] required. And R. Johanan said to him: ‘Is not this, Master, [the law enunciated in] our Mishnah [where it is stated] AND THE SAGES SAY: HE WHO CLAIMS FROM THE OTHER HAS TO PRODUCE THE PROOF, [and] proof [can be produced] only through the attestation of the deed?’[38] Acceptable, however, are the words of our master Joseph. For our Master

Joseph, in the name of Rab Judah in the name of Samuel, said: ‘This[39] is the view of the Sages. but R. Meir said: [Though] one admits the writing of a deed, attestation is [nevertheless] required;[40] and [as to the expression] ‘all agree’,[41] [the words] of the Rabbis in relation to [those of] R. Meir [may be described as] the words of all. But, surely, we learnt the reverse: AND THE SAGES SAY: HE WHO CLAIMS FROM THE OTHER HAS TO PRODUCE THE PROOF?[42] — Reverse [the order].[43] But, surely. it was taught. ‘They are not believed [so far as] to invalidate it; these are the words of R. Meir. And the Sages say: They are believed’?[44] — Reverse [the order]. But, surely, R. Johanan said: Proof [must be produced] by witnesses?[45] — Reverse [the order].[46] Is it [then] to be assumed [that] the objection also is to be reversed?[47] — No;

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(1) Lit., ‘to me, that I said’.

(2) [Var. lec., ‘they’, i.e., the members of the family.]

(3) Lit., ‘to you, that you said’.

(4) Witnesses would not sign a deed of sale unless they were satisfied that the seller has attained the legal age. Their attested signatures would, consequently, supply sufficient evidence that the sale was legally valid.

(5) Since the members of the family did not, of course, possess the deed, the question of their procuring attestation of the deed cannot possibly arise,

(6) R. Akiba.

(7) They had consideration for the honour of their relative.

(8) Lit., ‘let him be . . .’ (bis). Would strangers consent to lose their purchase money out of consideration for the corpse of the men who appropriated their money?

(9) If this argument had been the only proof that it was the relatives who protested.

(10) The buyers.

(11) Lit., ‘one’.

(12) Lit., ‘this’.

(13) [Bar Kappara was known as the author of a Mishnah which has not been preserved. On its character, see Weiss, Dor ii, 219.Cf. however Halevy, Doroth ii, 123-125.]

(14) Lit., ‘eating’.

(15) Lit., ‘and he came’.

(16) Lit., ‘called’.

(17) Lit., ‘to say’.

(18) Lit., ‘this (one)’.

(19) I.e., it is a forged document.

(20) The witnesses.

(21) Heb., שטר פסים (cf., pistis, פיסטים Gr. **, trust), a deed of a feigned sale that the other had arranged with him for the purpose of making people believe that he is a landowner or a wealthier man than he actually is.

(22) He entrusted the buyer with the deed before he received payment.

(23) To testify that his statement, which invalidates the deed, is in accordance with the facts,

(24) Lit., ‘go after’.

(25) I.e., since the seller once admitted that the deed was written by him, his attempt to disqualify it is disregarded.

(26) The statement that one is to be guided by the deed (v. previous note).

(27) Is it likely that Bar Kappara's Mishnah represents the view of an individual only?

(28) Even the Sages. (This statement is modified infra.)

(29) Lit., ‘the words of all’.

(30) R. Meir and the Sages.

(31) Keth. 18b. Cf. supra 154a, q.v. for notes.

(32) Lit., ‘if’.

(33) Witnesses, according to the Sages. are justly entitled to invalidate a deed, despite the debtor's admission that he wrote it.

(34) Once he himself admitted that he wrote the deed, it is assumed that no witnesses would have signed it if it represented a purely fictitious transaction, and, consequently, even the Sages agree that he has no further power subsequently to invalidate it. Hence, no attestation is needed.

(35) Although they admitted the authenticity of the deed, (i.e.. that the seller had written it), and only disputed its validity (by asserting that he was a minor). How, then, could R. Johanan say that once a person admitted the authenticity of a deed, (i.e., that he wrote it,) he cannot any more dispute its validity?

(36) A disciple of R. Johanan.

(37) Who reported in his name.

(38) Which clearly proves that, according to R. Johanan, the Sages require attestation even when the authenticity of a deed had been admitted.

(39) That no attestation is needed when the giver of the deed had admitted writing it,

(40) Thus it is the Sages, and not R. Meir, who require no attestation, when the writing of a deed had been admitted.

(41) Lit,, 'and what (is meant by) "the words of all"? Surely, according to what has been said, R. Meir disagrees'.

(42) I.e., the donee; which shows that, according to the Sages. the admission by the donor that he wrote the deed does not remove from the donee the need of attestation, while according to R. Meir it does

(43) The view in the last clause of our Mishnah, which is attributed to the Sages. is really the view of R. Meir, while the view attributed to R. Meir is in reality that of the Sages.

(44) Supra, quoted from Keth, 18b. V. 154a for notes.

(45) Supra 154a. How, then, could he say here, 'proof (can be produced) only through attestation of the deed'?

(46) The view attributed, supra, to R. Johanan is really that of R. Lakish, and vice versa,

(47) Is the objection which R. Johanan raised against R. Lakish (supra 154a) to be reversed and read as if R. Lakish had raised it against R. Johanan?

Talmud - Mas. Baba Bathra 155a

thus said R. Johanan to R. Simeon b. Lakish: According to my interpretation that[1] proof [is produced] through the attestation of the deed, one can well understand how it was possible for the buyers to seize[2] the property.[3] according to you, however, since you maintain [that] proof [is to be produced] through [the evidence of] witnesses, how was it possible for the buyers to seize[4] the property?[5] — He replied to him: In the case of a protest on the part of members of the family I agree with you that it is no [legal] protest; [for] what do they plead? [That] he was a minor! [But] it is an established fact [that[witnesses do not sign a deed unless [they know that] he was of age.[6]

It was stated: At what age[7] [may] a minor sell his [deceased] father's estate? — Raba said in the name of R. Nahman: [When he is] eighteen years of age. And R. Huna b. Hinena said in the name of R. Nahman: [When] twenty years of age.

R. Zera raised an objection: It once happened at Bene-Berak that a person sold his father's estate, and died. The members of his family. thereupon.[8] protested. asserting [that] he was a minor at the time of [his] death. They came [to] R. Akiba and asked whether the body might be examined. He replied to them: You are not permitted to dishonour him; and, furthermore, [the] signs [of maturity] usually undergo a change after death.[9] [Now], according to him who said, 'Eighteen years of age'.

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(1) Lit., 'to me, that I said'.

(2) Lit., 'to go down into'.

(3) And why the relatives were driven to protest. The buyers may have been able to secure the attestation of their deeds.

(4) V. p. 672, n. 12.

(5) Surely there were no witnesses to testify that the seller was of age at the time of the sale!

(6) This is the reason why the property was allowed to be seized by the buyers. Elsewhere, however, witnesses must be procured.

(7) Lit., 'From when'.

(8) V. supra p. 669. n. 1.

(9) Supra 154a, q.v. for notes.

Talmud - Mas. Baba Bathra 155b

one can well understand the reason why they came and asked whether the corpse might be examined.[1] If, however, it is said, ‘At twenty’, what useful purpose could the examination serve?[2] Surely we learnt:[3] [If at the] age of twenty he[4] did not produce two hairs,[5] they[6] shall bring evidence that he is twenty years old and he [becomes] a saris;[7] he may neither perform halizah[8] nor the levirate marriage![9] — Has it not been stated in connection with this [Mishnah], ‘R. Samuel, son of R. Isaac, said in the name of Rab: That[10] only [applies to the case] where [other] symptoms of a saris[11] [also] appeared on his body!’[12] Raba said: [This; may] also [be arrived at by] deduction. For it was taught, ‘And he [becomes] a saris’, from which [this][13] may [well] be deduced.

And. [in the case] where no symptoms of a saris developed, how long [is one regarded a minor]?[14] — R. Hiyya taught: Until he has passed middle age.[15]

Whenever [such a case],[16] came before R. Hiyya[17] he used to tell them, if [the youth was] emaciated, ‘Let him [first] be fattened’; and if he was stout, he used to tell them, ‘Let him [first] be made to lose weight’; for these symptoms appear sometimes as a result of emaciation [and] sometimes they develop as a result of stoutness.

The question was raised: [Is] the intervening period[18] [regarded] as that of under, or over age?[19] — Raba said in the name of R. Nahman: The Intervening period is [regarded] as that of under age.[20] Raba son of R. Shila said in the name of R. Nahman: The intervening period is [regarded] as that of over age.[20] That [view] of Raba, however, was not stated[21] explicitly but was arrived at[21] inferentially. For there was a certain [youth], who during [his] ‘intervening period’ went and sold the estate [of his deceased father]. He came before Raba[22] [who] decided[23] that the action was illegal.[24] [The student] who saw [what had happened] thought [that Raba's reason was] because during the intervening period [one is regarded] as being under age;[25] but this is not [so]. In this [particular] case[26] [Raba] observed excessive foolishness, for [the youth] was [also] liberating his slaves [without any apparent cause].[27]

Giddal b. Menashya sent [the following enquiry] to Raba:[28] Will our Master Instruct us [as to] what [is the ruling in the case of] a girl [who is] fourteen years and one day old [and] understands how to carry on business.[29] He sent [word] to him [in reply]: If she understands how to carry on a business, her purchase is [legal] purchase and her sale is [legal] sale.[30] Why did he not enquire of him[31] [about the case of] a boy? — The incident happened to be such.[32] Why did he not address his enquiry[31] [with reference to] a girl [who is] twelve years and one day old?[33] — That case happened to be of such a nature.[32]

A certain [youth who was] under twenty [years of age] sold the estate [he inherited] from his father in accordance with [the decision sent to] Giddal b. Menashya. [When] he appeared before Raba[34] his relatives told him,[35] ‘Go [and] eat dates, and throw the stones at Raba’.[36] He did so; [and Raba] said to them, ‘His sale is not a [legal] sale’. When the verdict[37] had been written out for him, the buyers said to him, ‘Go tell Raba: The scroll of Esther[38] [may be obtained] at a zuz [and] the master's written verdict[39] [cannot be obtained] at [less than] a zuz!’ He went and told him [so]. [Thereupon. Raba] said to them, ‘His sale is a [legal] sale’.[40] [When] the relatives told him[41] [that] the buyers had taught him,[42] he[41] replied to them, ‘[But] he understands [that which] is explained; [and] since he understands when explained, he possesses intelligence,[43] and his [previous] action[44] was due to[45] his excessive impudence.

R. Huna son of R. Joshua said: As regards [the giving of] evidence, his[46] testimony [is legal] evidence. Mar Zutra said: This applies only[47] to [the case of] movables[48] but not to [that of] real estate. Said R. Ashi to Mar Zutra: Why only movables? [Is it] because his sale [of these] is a [legal] sale?[49] If so,[50] [would] the evidence of little children,[51] of whom[52] we learnt [that] their purchase [is a valid] purchase and their sale [is a legal] sale in [the case of] movables,[53] also [be regarded as legal] evidence?[54] — He replied to him: There[55] it is required [that] both the men shall stand[56] which is not [the case].[57]

Amemar said: His[58] gift [is a valid] gift. Said R. Ashi to Amemar: [How] now! If in the case of a sale, where he receives money, it has been said that it is not [valid] because it is possible [that] he might sell too cheaply, how much more so [in the case of] a gift where he receives nothing! He replied to him:

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(1) Because if the signs of maturity could not be found on the body of the youth he would rightly be regarded as a minor.

(2) Lit., 'when they examined him, what is it?'

(3) Nid. 47b; Yeb, 80a, 97a.

(4) Whose brother died childless and whose duty it is to marry his widow (V Deut. XXV, 5ff) or to perform halizah (V. Glos).

(5) The legal signs of maturity.

(6) The relatives of the widow, who desire to procure her freedom from the marriage or halizah.

(7) סרים wanting in procreative power.

(8) V. Glos.

(9) Cf. p, 673. n. 10. From this it follows that once the age of twenty had been reached, a person is considered to have attained legal majority though his body did not develop any signs of maturity. What, then, would be the use of the exhumation?

(10) The law that he is regarded as a saris. Described in Yeb. 80b.

(11) V. p. 673. n, 13.

(12) If these additional symptoms of a saris, however, did not appear. he is regarded as a minor provided the 'two hairs' have also not appeared. Hence an examination of the corpse could well reveal whether he was still a minor or not.

(13) That the additional symptoms of a saris apart from the absence of two hairs are required.

(14) If two hairs did not appear.

(15) Lit., 'most of his years', i.e., until he is thirty-six years of age. Man's span of life is assumed to be seventy years. (Cf. Ps. XC, 10).

(16) Of one who developed symptoms of a saris.

(17) For his decision as to whether it was a case of an established saris.

(18) The eighteenth year of a person's age. according to Raba, or his twentieth year, according to R. Huna b. Hinena, where he has grown the two hairs.

(19) Lit., 'as before time or as after time'.

(20) Cf. previous note.

(21) Lit., 'it was said'.

(22) To obtain a ruling on the legality of his action.

(23) Lit., 'told them'.

(24) Lit., 'be did not do anything'.

(25) Cf. p. 6740. 11.

(26) Lit., 'there'.

(27) And it was for this reason only that he treated him as one under age.

(28) Others, Rab.

(29) Lit., 'knows the nature of carrying and giving'.

(30) Though she is under twenty, her intelligence entitles her to the rights of one who is of age.

(31) Lit., 'and he should send to him'.

(32) Lit., 'the incident that was, was so'.

(33) At which age she becomes subject to the obligation of performing the commandments.

(34) Desiring to withdraw the sale on the plea that he did not understand the nature of buying and selling.

(35) The youth.

(36) That be might in consequence be regarded as irresponsible for his actions.

(37) שטרא , 'written document'.

(38) Which is a lengthy document.
(39) Which is a very short document. (CF. n. 16, supra.)
(40) By the argument he advanced the youth revealed that he was not lacking in intelligence. His sale must consequently be regarded as valid.
(41) Raba.
(42) That argument; but that the youth himself was incapable of any such reasoning.
(43) Lit., ‘to know he knows’.
(44) His throwing of the date stones.
(45) Lit., ‘and that is why he did so’.
(46) The evidence of a youth under twenty years of age but over thirteen, who produced the signs of maturity. though he is incapable of carrying on business transactions
(47) Lit., ‘he did not say them but’.
(48) Only when the evidence is given in connection with a dispute concerning movable objects is his evidence valid.
(49) The Mishnah which regards his sale as invalid speaks of real estate and not of movables.
(50) Lit., ‘but from now’.
(51) Of the ages of six or seven.
(52) Lit., ‘that’.
(53) Keth. 70a, Git. 59a, 65a.
(54) Surely a child can hardly be relied upon as a witness!
(55) In the case of the evidence of witnesses.
(56) Deut., XIX, 17, referring to witnesses. (Cf. Shebu. 30a).
(57) Where children of six or seven give evidence.
(58) That of a boy who is thirteen years and one day old, who is unable to carry on transactions and whose sale of real estate is invalid.

Talmud - Mas. Baba Bathra 156a

And according to your reasoning,[1] [if] he sold [something] worth five for six[2] would his sale indeed be [legally] valid?[3] But [this is the reason]: The Rabbis were well aware that a child is susceptible to the temptations of money; and if it would have been laid down[4] [that] a sale of his is legally valid, [people] might sometimes rattle money before him [and] he would be tempted[5] to sell all the possessions of his [dead father]. In the case of a gift, however, [it is known that] had he not had [some] benefit from him[6] he would not have presented him with a gift; the Rabbis, [therefore.] said [that] his gift shall be a [legal] gift in order that people might render him service.[7]

R. Nahman said in the name of Samuel: [A youth] must be examined [to ascertain whether he has the signs of maturity][8] in respect of betrothal,[9] divorce, halizah,[10] [declarations of] refusal.[11] But in regard to the sale of the estate of his father, he cannot do so until he becomes twenty years of age.[12] But since [the youth][13] was examined in respect of his betrothal what need is there[14] [for an examination] in respect of [his] divorce?[15] — This [law] is required only [in the case] of a youth who married his dead brother's widow.[16] For we learnt: [If] a boy of the age of nine years and a day had connexion with his sister-in-law,[17] he has acquired her [as wife] and may not divorce her until he had attained [legal] age.[18] ‘[In respect] of halizah’[19] — to exclude [the ruling] of R. Jose who said, ‘In the [Biblical] section [of halizah] it is written, Man;[20] but [in the case of] a woman there is no difference between a major and a minor’;[21] hence it was necessary to teach us that ‘woman’ is compared to ‘man’, contrary to [the view of] R. Jose.

‘And [in respect of declarations of] refusal’, [this had to be mentioned] in order to exclude [the ruling] of R. Judah who said: [A girl can exercise the right of refusal] until the black[22] predominates;[23] hence it was necessary to teach us that [the law is] not in accordance with [the view of] R. Judah.[24] ‘And [in respect of] the sale of the estate of his father, until he becomes twenty years of age’ [had to be taught] in order to exclude [the view] of him who said [the youth need only be] eighteen years of age.

The law [is that during the] ‘intervening period’[25] [one is regarded] as being under age.[26] The law [is] in accordance with Giddal b. Menashya.[27] The law [is] in accordance with Mar Zutra.[28] The law is according to Amemar.[29] And the law is in accordance with [what] R. Nahman said in the name of Samuel, in all [cases].[30] MISHNAH. IF [A PERSON] DISTRIBUTED HIS POSSESSIONS VERBALLY, R. ELEAZAR[31] SAID, WHETHER HE WAS IN GOOD HEALTH OR DANGEROUSLY ILL, [ALL] REAL ESTATE[32] IS ACQUIRED BY MEANS OF MONEY,[33] DEED[34] AND POSSESSION,[35] WHILE MOVABLE OBJECTS[36] ARE ONLY ACQUIRED BY MEANS OF PULLING.[37]

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(1) That a child is not entitled to sell on account of a possible loss he may incur through his inexperience.

(2) In which case he made a profit.

(3) The Mishnah, surely, draws no distinction between sales at a profit or at a loss!

(4) Lit., ‘You said’.

(5) Lit., ‘go’.

(6) The donee.

(7) Lit., ‘things’.

(8) Though he is thirteen years and one day old; or, in the case of a girl, twelve years and a day.

(9) Betrothal is not legal unless the examination had revealed signs of maturity.

(10) V. Glos.

(11) A woman's refusal to live with a person to whom she was married during her minority. She can do so only before the signs of maturity have appeared.

(12) Even if he has grown two hairs,

(13) The same applies, mutatis mutandis, to a young woman.

(14) Lit., ‘why to me’.

(15) Since he was allowed to betroth he must have been examined and found to have produced the necessary signs of maturity.

(16) In such a case no formal betrothal is necessary. A boy who is over nine years of age becomes the legal husband of his dead brother's wife by the mere act of coition. If he desires, subsequently, to divorce her he must undergo an examination for signs of maturity.

(17) Whose husband had died childless.

(18) Nid. 45a; Sanh. 55b.

(19) I.e., it was necessary to teach that an examination for signs of maturity is required before halizah could be allowed to be performed.

(20) Deut. XXV, 7. The specific mention of man implies that the male only must be of age.

(21) Nid. 52b; Yeb, 105b. And a girl under age may consequently participate in the ceremony of halizah.

(22) I.e., the hair.

(23) And not merely until one has grown two hairs. V. Nid. 52a.

(24) But in accordance with the first Tanna (Nid. 52a) that her right ceases with the growth of the two hairs.

(25) The twentieth year of age according to one authority; the eighteenth, according to another.

(26) Supra 155b, q.v. for notes.

(27) That a youth of the age of thirteen and one day, who is able to carry on business transactions, may sell the estate he inherited from his father, whether it consists of movables or of real estate.

(28) That the evidence of a youth who is unable to transact business and is of the age of thirteen and one day, is legal only in the case of a dispute on movable objects, but not in that of real estate.

(29) That the gift made by such a youth (of the age and character described in the previous note) is legal, though a sale be contracted is invalid.

(30) Mentioned above. In the case of betrothal, divorce, halizah and declarations of refusal, age alone is no guide unless signs of maturity also appeared. As regards the legality of the sale of an estate inherited from his Father, a youth, if be is not intelligent enough to carry on business transactions, must be twenty years of age, and must also produce signs of maturity. If at the age of twenty no signs of maturity had appeared. the youth remains legally a minor until he had obtained the age of thirty-six, unless marks of a saris had meanwhile made their appearance.

(31) Others, R. Eliezer.

(32) Lit., ‘possessions which have a secure foundation.

(33) Which the buyer pays for the land.

(34) Setting out and confirming the sale.

(35) The buyer performs some kind of work on the land purchased.

(36) Lit., ‘possessions which have no secure foundation’.

(37) Heb., meshikah, v. Glos, R. Eleazar is of the opinion that a dying man's verbal instruction has no more legal force than that of a person in good health. Hence, unless legal acquisition took place, the donee acquires no possession even if the donor died; and in case of recovery, the donor may retract even where only a part of his estate had been given away.

Talmud - Mas. Baba Bathra 156b

THEY[1] SAID UNTO HIM: THE MOTHER OF THE SONS OF ROKEL ONCE FELL ILL; AND SHE SAID, ‘LET MY BROOCH WHICH IS WORTH TWELVE MANEH BE GIVEN TO MY DAUGHTER’, AND WHEN SHE DIED, HER INSTRUCTIONS WERE CARRIED OUT![2] HE REPLIED TO THEM: [AS TO] THE SONS OF ROKEL, MAY THEIR MOTHER BURY THEM![3]

GEMARA. It was taught: R. Eliezer[4] said to the Sages, ‘Once there lived[5] a man of Meron[6] in Jerusalem and he possessed much movable property which he desired to give away as gift[s]. He was told, [however. that] there was no means [of carrying out his wish] unless he transferred possession [to the donees][7] by virtue of land [transferred to them at the same time]. He consequently[8] purchased a rocky[9] piece of land near Jerusalem and gave the following instructions:[10] "Its northern side [shall be given] to X, and [together] with it a hundred sheep and a hundred casks; and its southern side [shall be given] to Y, and together with it a hundred sheep and a hundred casks". And when he died the Sages carried out his instructions’.[11] They[12] replied to him, ‘[Is there any] proof from there? The Meronite was in good health’![13]

HE REPLIED TO THEM: [AS TO] THE SONS OF ROKEL, MAY THEIR MOTHER BURY THEM! Why did he curse them,? — Rab Judah said in the name of Samuel: They allowed thistles to grow in [their] vineyard; and R. Eliezer [is thereby consistent] with his view. For we learnt: If [a person] allows thistles to grow in a vineyard he [thereby], R. Eliezer says, causes [the fruit] to be forbidden;[14] and the Sages say: one does not cause [the fruit of a vineyard] to be forbidden unless [he grows] a plant the like of which [people] usually allow to grow.[15] Said[16] R. Hanina: What is R. Eliezer's reason? Because in Arabia they allow thistles to grow in their fields [as fodder] for their camels.[17]

R. Levi said: [Symbolic] acquisition may be acquired from a dying man[18] even on the Sabbath;[19] but [this is] not due to a consideration of the view of R. Eliezer,[20] but to the possibility that his[21] [peace of] mind might be disturbed.[22]

MISHNAH. R. ELIEZER[23] SAID: ON THE SABBATH, HIS [VERBAL] INSTRUCTIONS[24] ARE LEGALLY VALID, BECAUSE HE IS UNABLE TO WRITE,[25] BUT NOT ON A WEEK-DAY.[26] R. JOSHUA SAID: [IF] THEY SAID [THIS][27] IN [RESPECT OF] THE SABBATH[28] HOW MUCH MORE SO IN [THE CASE OF] A WEEK-DAY?[29] SIMILARLY: ONE MAY ACQUIRE OWNERSHIP ON BEHALF OF A MINOR[30] BUT NOT ON BEHALF OF [A PERSON WHO IS] OF AGE,[31] THESE ARE THE WORDS OF R. ELIEZER. R. JOSHUA SAID: [IF THEY ALLOWED POSSESSION[32] TO BE ACQUIRED] ON BEHALF OF A MINOR,[33] HOW MUCH MORE SO ON BEHALF OF [A PERSON WHO IS] OF AGE.[34]

GEMARA. Whose [version is represented in] our Mishnah? — It [is that of] R. Judah. For it was taught: R. Meir stated, ‘R. Eliezer said: On a week-day his [verbal] instructions[35] are legally valid because he is able to write,[36] but not on the Sabbath.[37] R. Joshua

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(1) The Sages.

(2) Cf. Supra, 151b, q.v. for notes. Since the verbal instructions of the mother were in this case carried out, how could R. Eleazar maintain that the word of a dying man has no more force than that of one in good health?

(3) They were wicked men and the instructions of their mother, who deprived them of a portion of her estate in favour of her daughter, were carried out, (though there was no legal acquisition on behalf of the daughter), as some sort of punishment for their wickedness. No inference, therefore, as regards the case of other testators, may be derived from this special one.

(4) Cf. supra, note 1,

(5) Lit., ‘was’.

(6) [In Galilee near Gush Halab, v. Neubauer, Geographie, 228ff.]

(7) Who were not themselves present to acquire possession.

(8) Lit., ‘he went

(9) Unsuitable for cultivation and, therefore, obtainable at a very low price.

(10) Lit., ‘and said’,

(11) R. Eliezer assumed that the Meronite was a dying man, when he disposed of his property. and since he was compelled to transfer possession by means of land, it is to be inferred that the mere verbal instructions of a dying man have no legal force. How, then, R. Eliezer argued, could the Sages maintain that the verbal disposition of his estate by a dying man is legally valid?

(12) The Sages.

(13) Had he been in a dying condition his verbal Instruction alone would have been sufficient.

(14) It is forbidden to grow in the same vineyard heterogeneous plants even though one is used for human, and the other only for animal consumption.

(15) I.e., plants for human consumption or use. Thistles are mere weeds and as a rule are not allowed to grow among the vines, V. Kil. v, 8.

(16) Current editions insert the following, ‘Saffron is well suitable, but of what use are thistles’. It is wanting in most MSS, and is unintelligible in this context.

(17) R. Eliezer, therefore, regards thistles as a proper plant that comes under the prohibition of the growing of heterogeneous kinds, The Sages, however, do not class them as a plant since in most parts of the world they are not grown.

(18) Whether he left some of his estate for himself or not.

(19) When it is forbidden to arrange legal transactions.

(20) Who requires legal acquisition even in the case of the gift of a dying man.

(21) The dying man's.

(22) Seeing that no legal acquisition is being arranged he will feel that he is already being regarded as a dying man. As this mental anguish might accelerate his death, the Sages have allowed legal acquisition to be performed even on the Sabbath in order to ensure the patient's peace of mind. Legally, however, the mere word of a dying man transfers possession to the donees.

(23) Others, ‘The Sages’. cf. supra p. 679. n. 1.

(24) Those of a dying man distributing his property.

(25) Writing is one of the manual labors that are forbidden on the Sabbath.

(26) Since a written document may be prepared, and symbolic acquisition may be arranged.

(27) That no written deed or symbolic acquisition is necessary.

(28) When these are forbidden, and the rule, ‘whenever something is suitable for fusion, actual fusion is not essential’, cannot be applied.

(29) When writing and acquisition are permissible and possible, and the rule, ‘Whenever something is suitable etc.’ (V. previous note) may be applied.

(30) Because he himself is not legally entitled to acquire possessions.

(31) Since he is himself able to acquire possession.

(32) In his absence.

(33) Who cannot himself acquire.

(34) Since he himself is entitled to acquire and be may also appoint an agent to act on his behalf, others also, much more than in the case of a minor, are entitled to acquire possession for him in his absence.

(35) V. supra p. 681, n. 7.

(36) And the rule, 'Whenever fusion is possible. actual fusion is not essential', can be applied. Since writing and acquisition are possible on a week-day, actual writing and acquisition are not indispensable.

(37) V. supra p. 681, n. 11.

Talmud - Mas. Baba Bathra 157a

said: They said [this][1] in [respect of] a week-day.[2] and how much more so in the case of the Sabbath.[3] Similarly: One may acquire ownership on behalf of [a person who is] of age,[4] but not on behalf of a minor;[5] these are the words of R. Eliezer. R. Joshua said: [If they allowed possession to be acquired] on [behalf of] one who is of age, how much more so on behalf of a minor'. R. Judah stated,[6] 'R. Eliezer said: On the Sabbath his [verbal] instructions are legally valid , because he is unable to write, but not on a week-day. R. Joshua said: [If] they said [this] in [respect of] the Sabbath, how much more so in [the case of] a week-day. Similarly: One may acquire ownership on behalf of a minor but not on behalf of [a person who is] of age; these are the words of R. Eliezer. R. Joshua said: [If they allowed possession to be acquired] on behalf of a minor, how much more so on behalf of[a person who is] of age.[7]

MISHNAH. [IN THE CASE WHERE] A HOUSE[8] COLLAPSED UPON A MAN[9] AND HIS FATHER OR UPON A MAN[9] AND THOSE WHOSE HEIR HE IS,[10] AND [THAT PERSON] HAD AGAINST HIM [THE CLAIM OF] A WOMAN'S KETHUBAH[11] OR [THAT OF] A CREDITOR;[12] [AND, IN THE FIRST CASE]. THE HEIRS OF THE FATHER PLEAD [THAT] THE SON DIED FIRST AND THE FATHER AFTERWARDS,[13] WHILE THE CREDITORS PLEAD [THAT] THE FATHER DIED FIRST AND THE SON AFTERWARDS,[14] BETH SHAMMAI HOLD[15] [THAT THE AMOUNT IN DISPUTE IS] TO BE DIVIDED,[16] AND BETH HILLEL HOLD[17] [THAT] THE ESTATE [IS TO REMAIN] IN ITS FORMER STATUS.[18]

GEMARA. We learnt elsewhere: He who lends [money] to another on a bond[19] [is entitled to] collect [his debt] from [the borrower's] lands [even though they were subsequently] mortgaged.[20] [If, however, the loan was made] in the presence[21] of witnesses[22] it may be collected from free[23] property [only].[24] Samuel inquired: What [is the law in the case where the borrower entered in the bond]. 'that I may acquire'.[25] and he acquired?[26] According to R. Meir who holds [the view that] a person may transfer possession of something that has not [yet] come into existence, there can be no question; for [the lender] has undoubtedly acquired possession.[27] The question arises according to [the view of] the Rabbis who maintain [that] a person may not transfer possession of something that has not [yet] come into existence.[28]

R. Joseph said, Come and hear: And the Sages Say: This [creditor] who sold him[29] the land[30] was prudent, because thereby[31] he was in a position to take from him a pledge.[32] Raba said to him: You mean,[33] 'from him'![34] From him[35] [surely], even the cloak that is upon his shoulders [may be seized]![36] Our question, however, is what [is the law in the case] where [the borrower entered in the bond]. 'That I may acquire'. [and] he [subsequently] bought and sold, [or where he entered] 'That I may acquire' [and] he [subsequently] bought or transmitted [his purchase] as an inheritance?[37]

R. Hana replied, Come and hear: [IN THE CASE WHERE] A HOUSE COLLAPSED UPON A MAN AND HIS FATHER [OR] UPON A MAN AND THOSE WHOSE HEIR HE IS, AND [THAT PERSON] HAD AGAINST HIM [THE CLAIM OF] A WOMAN'S KETHUBAH OR [THAT OF] A CREDITOR; [AND. IN THE FIRST CASE]. THE HEIRS OF THE FATHER PLEAD [THAT] THE SON DIED FIRST AND THE FATHER AFTERWARDS, WHILE THE CREDITORS PLEAD [THAT] THE FATHER DIED FIRST etc. Now, if it were to be assumed [that where a borrower entered in the bond]. ‘that I may acquire’. [and] he [subsequently] bought and sold, [or where he entered]. ‘that I may acquire’. and he [subsequently] bought or transferred [his purchase] as an inheritance, [the land] does not become mortgaged [to the creditor, what claim could the creditors advance?] Even if it were granted that the father had died first [and that the son, had consequently. inherited his estate]. this [is merely another form of the case where a bond contains the entry] ‘that I may acquire’![38] R. Nahman said to them: Our colleague Zera has explained this [as follows]: It is the moral duty of the orphans to repay the debt of their father.[39]

R. Ashi demurred: This [surely] is a verbal loan,[40] and both Rab and Samuel stated [that] a verbal loan cannot be collected either from the heirs or from the buyers![41]

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(1) V. loc. cit. n. 10.

(2) When writing and acquisition are permissible.

(3) When these are not permissible and some provision has to be made for giving legal force to the dying man's wishes.

(4) Cf. p. 681, n. 17.

(5) Cf. loc. cit. n. 16.

(6) For notes on R. Judah's version, v. our Mishnah supra 156b.

(7) R. Judah's version of the respective views of R. Eliezer and R. Joshua follows that recorded in the Mishnah.

(8) Lit., ‘the’.

(9) Lit., ‘upon him’.

(10) E.g., brothers or other relatives who had no other heirs but him.

(11) The marriage contract of his widow.

(12) But he left neither money nor possessions wherewith to meet his obligations.

(13) The son did not consequently inherit from his father whose estate would, therefore, be inherited by his living heirs.

(14) Hence, the son inherited his father's estate, and they, as the son's creditors, are entitled to seize it for their debts.

(15) Lit., ‘say’.

(16) The claim of the creditors is considered to be of equal force with that of the heirs.

(17) V. note 3.

(18) The claim of the heirs is regarded as certain, since they are entitled to the estate as the heirs either of the Father or of the son, while the claim of the creditors is doubtful, and no ‘doubt’ may supplant a ‘certainty’.

(19) Even though no security on the lender's real estate had been entered in it.

(20) Or sold. No one, it is assumed, would lend money without proper security, and the omission of the guarantee from the bond is regarded as a mere scribal oversight. Furthermore, any future buyer (or subsequent lender on the security) of the lands is assumed to have known of the existence of the loan (since the issue of a written note ensures for the matter due publicity), and must have consented to take the risk of having to surrender them to the creditor should the latter find no other property from which to collect his debt. (Cf. B.M. 14a).

(21) Lit., ‘by the hands’.

(22) Without a written note.

(23) Such as has not been sold or mortgaged.

(24) Infra 175a, supra 42a.

(25) I.e., not only what be already possesses but also that which he may purchase in the future shall be mortgaged for the debt.

(26) After the note had been issued. Is the creditor entitled to seize this property if it was sold?

(27) I.e.,the lender is entitled to seize any real estate bought and sold after the date of the note.

(28) Has a mortgage, according to the Rabbis, more force than a sale, and may the lender, therefore, seize the sold land or not?

(29) The borrower.

(30) After the date of the loan, and the latter points to this fact as evidence that the loan had already been repaid. Had he not repaid his debt, one authority (Admon) maintains (Keth. 110a), the lender would not have sold him the field but would have retained its purchase money as payment of the loan. The fact that he did sell it confirms, in Admon's opinion, the borrower's claim; and the lender consequently forfeits his right to seize it.

(31) By the sale of the land.

(32) Keth. 110a. The sale, then, according to the Sages, is no evidence that the loan had been repaid; and the creditor is, therefore, entitled to seize the land though it was bought after the date of the note of indebtedness. Thus it has been proved, in answer to Samuel's enquiry, that property purchased after the loan was made may be seized by the creditor.
(33) [Lit., 'say'. Following the reading of R. Gersh. and MSS.]
(34) The borrower.
(35) I.e., when the property is still in the borrower's own possession.
(36) And no question would arise in such a case.
(37) I.e., where the land is no more in the possession of the borrower.
(38) Since at the time the debt was incurred the son was not yet in possession of his inheritance; and after it came into his possession it was, as soon as he was killed, automatically transmitted to his heirs. As our Mishnah, however, regards the creditors' plea as tenable, it must be inferred that even an estate that was acquired and transmitted to others, after the date of a loan, is also mortgaged to the creditors.
(39) The claim of the creditors, in our Mishnah, is not based on the law of mortgage but on moral considerations. Hence no inference may be drawn from it on the law of the mortgage of property bought and sold after the date of a loan.
(40) Since, as has just been asserted, the creditors have no legal claim upon the dead man's estate, the bond of indebtedness is of no value, and the loan, as far as this estate is concerned, becomes merely a verbal one.
(41) Only in the case of a loan for which a bond of indebtedness had been given is it the moral duty of orphans to repay their father's debt. The creditors, in our Mishnah, could not, consequently, advance even a moral claim. What, then, is their plea?

Talmud - Mas. Baba Bathra 157b

— But [the fact is that] this [Mishnah] represents the view of[1] R. Meir who holds [that] a person may transfer possession of something that is not [yet] in existence.[2]

R. Jacob of Nehar Pekod[3] said in the name of Rabina, Come and hear: Ante-dated bonds of indebtedness are invalid[4] and post-dated [ones] are valid.[5] Now, if it could be assumed [that where the bond contained the entry]. 'That I may acquire'. [and] he [subsequently] bought and sold [or where it contained the entry] 'That I may acquire' [and] he [subsequently] bought and transmitted [the purchase] as an inheritance, [the land] is not mortgaged, [to the creditor], why [are] post-dated [bonds] valid?[6] This [is surely similar to the case of an entry] 'That I may acquire'! — [But] this [may] represent the view of[7] R. Meir who holds [that] a person may transfer possession of something that is not [yet] in existence.[8]

R. Mesharsheya in the name of Raba said, Come and hear! How [is one to understand the statement that] for improvement of lands [one may not seize any sold property]? If [a person] has sold a field to another who improved it,[9] and a creditor [of the seller] came and seized it,[10] when [the buyer] collects [from the seller].[11] he collects [the value of] the principal [even] from mortgaged property, but [that of the] improvement from free[12] property [only].[13] Now, if it is assumed, that where [a bond of indebtedness contained the entry]. 'That I may acquire'. [and] the debtor bought [land] and sold [it, or where the bond contained the entry]. 'That I may acquire'. [and] he bought [land] and transmitted [it] as an inheritance, [that land is] not mortgaged [to the creditor], why does the creditor seize the improvement[s]?[14] — This [may] represent the view of[15] R. Meir who holds [that] a person may transfer possession of something that is not [yet] in the world.

If [a good reason] could be found for the statement[16] [that where there was an entry in a bond of indebtedness], 'That I may acquire'.[17] [and the debtor subsequently] bought [land] and sold [it, or where the bond contained the entry]. 'That I may acquire',[17] [and the debtor subsequently] bought [land] and transmitted it as an inheritance, [that land is] not mortgaged [to the creditor, the question that follows does not arise], since [the land was] not [in any way] mortgaged. If, [however. a reason] could be found for the statement[16] [that such land][18] is mortgaged [to the creditor, the question arises as to] what [is the ruling in the case where the debtor] borrowed [from one person].[19] and [then] borrowed [from another],[20] and then purchased [some real estate which he subsequently sold].[21] [Is this land] mortgaged to the first [lender],[22] or is it mortgaged to the second?[23] — R. Nahman replied: We [also] have raised the same[24] question,[25] and [a reply] was sent from Palestine[26] [that] the first acquired [the right of seizing that land]. R. Huna said: They[27] divide [the land among themselves].[28] And Rabbah b. Abbuha also learned [that the land] is to be divided [between them].[27]

Rabina said: In the first version,[29] R. Ashi told us[30] [that] the first [creditor] acquired [the right over the land];[31] the second[32] version of R. Ashi [however], told us [that the land was] to be divided.[33] And the law is [that the land] is to be divided.[33]

An objection was raised: How [is one to understand the statement that] for improvement of lands [one may not seize any sold property]? If [a person] has sold a field to another who improved it, and a creditor [of the seller] came and seized it,[34] when [the buyer] collects [from the seller][35] he collects [the value of] the principal [even] from sold property but [that of the] improvement from free[36] property [only]. Now, if that were so,[37] he[38] should [only be able to claim] half [the cost of his] improvement![39] — [The expression]. ‘he collects’, which was used,[40] also implies half [the value of his] improvement.

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(1) Lit., ‘this according to whom? It is’.

(2) While Samuel's enquiry had reference to (v. supra 157a) the view of the Rabbis.

(3) [A town east of Nehardea, v. Obermeyer, op. cit., 270ff.]

(4) Since the creditor might unjustly seize the lands which the borrower sold between the date entered in the bond and the actual date of the loan. Only those sold after the actual date are legally mortgaged to the creditor.

(5) Sheb. X, 5, B.M. 17a, 72a, Sanh, 32a. The creditor, by allowing the entry of a later date, has thereby surrendered his right to seize those lands which the borrower sold between the actual date of the loan and the later date that was entered in the bond.

(6) Lands that the borrower bought (say in February) between the real date of the loan (say January) and the later one (say March) that was entered on the bond, though acquired after the date of the loan, and consequently not mortgaged to the creditor, could nevertheless be seized by him from purchasers who bought these (say in April) on the plea that they were bought by the borrower before the date and sold by him after the date of the loan entered on the bond. And since a post-dated bond is valid, despite this possibility, one must conclude that lands bought and sold after the date of a loan are also mortgaged to the creditor,

(7) V. supra. p. 685, n. 5.

(8) Hence no answer may be derived from it to Samuel's question which had reference to the view of the Rabbis.

(9) By manuring, ploughing and sowing.

(10) In its improved condition.

(11) Compensation for his loss.

(12) V. supra p. 683, n. 11.

(13) B.M. 14b.

(14) The improvements, surely, took place after the loan was made.

(15) V. supra p. 685. n. 5.

(16) Lit., ‘to say’.

(17) I.e., the debtor pledged for his loan not only the lands that he already possessed but also those that he may acquire in the future.

(18) Bought and sold under the conditions just described, (Cf. previous note).

(19) And pledged his present and future possessions. V. supra, n. 3.

(20) To whom he gave the same security as to the first.

(21) Or transmitted it as an inheritance.

(22) Since his security was obtained before the second loan was incurred, he is also entitled to the priority of his claim.

(23) Lit., ‘last’. As it might be maintained that the hold of the first creditor on the property which was non-existent at the time of the loan is not sufficiently strong to prevent the debtor from withdrawing it from him and assigning it as security to a second creditor.

(24) Lit., ‘that’.
(25) Lit., ‘thing’.
(26) Lit., ‘From there’. The statement was made in Babylonia where Palestine was often referred to as ‘there’.
(27) The two creditors.
(28) The land having been purchased after the second loan, when both creditors had equal security on the debtor's possessions, it must be equally divided between them in proportion to their respective claims.
(29) [Thus, Yad Ramah.]
(30) He is said to have lived sixty years, and to have concluded at the age of thirty the first version of his lectures, and at the age of sixty (i.e., during the second thirty years of his life), his second version. [V. Letter of Sherira Gaon, ed. Lewin, 93-94. The tradition connecting R. Ashi with the Editorship of the Talmud is based on this statement, v. Brill, N., Jahrbucher, II, 10. Halevy, Doroth, II, 263ff., however, disputes this.]
(31) V. supra p. 687, n. 4.
(32) Lit., ‘last’. Cf. p. 687, n. 14.
(33) V. supra p. 687, n. 14.
(34) V. supra p. 686, n. 5.
(35) V. ibid. n. 6.
(36) V. supra p. 683, n. 11.
(37) Lit., ‘and if there is’, i.e., if the law is that the second creditor has equal rights with the first, owing to the fact that the land in question was purchased after the second loan.
(38) The buyer.
(39) The buyer, who received no less security for his purchase than the creditor for his loan, should have the same rights as the creditor, just as, in the previous case, the second creditor has the same rights as the first. The improvement of the land, which obviously took place after the sale, may be regarded as land purchased by the debtor after the second loan and sold (since the improvement is claimed from him by both, first by the creditor and ultimately by the buyer. and, in either case, it was no more in his possession than the land sold). Accordingly, the creditor and the buyer (like the two creditors supra) are entitled to equal shares. The creditor could thus seize only half the value of the improvement, the other half remaining with the buyer. Why then should be collect from the seller its full value?
(40) Lit., ‘taught’.

Talmud - Mas. Baba Bathra 158a

MISHNAH. IF THE HOUSE COLLAPSED UPON A MAN[1] AND HIS WIFE[2] [AND] THE HEIRS OF THE HUSBAND[3] PLEAD [THAT] THE WIFE DIED FIRST[4] AND [THAT] THE HUSBAND DIED AFTERWARDS,[5] [WHILE] THE HEIRS OF THE WIFE[6] PLEAD [THAT] THE HUSBAND DIED FIRST [AND THAT] THE WIFE DIED AFTERWARDS, BETH SHAMMAI HOLD [THAT THE ESTATE] IS TO BE DIVIDED,[7] AND BETH HILLEL HOLD [THAT] POSSESSIONS[8] [ARE TO REMAIN WITH THOSE WHO ARE] IN THEIR ESTABLISHED RIGHT OF OWNERSHIP;[9] THE KETHUBAH[10] IN THE POSSESSION OF THE HEIRS OF THE HUSBAND; [AND] THE PROPERTY THAT COMES IN AND GOES OUT WITH HER[11] IN THE POSSESSION OF THE HEIRS OF THE FATHER.[12]

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(1) Lit., ‘upon him’.
(2) From whom he had no children.
(3) His sons, e.g., that were born from another wife or his father and brothers.
(4) And her estate was consequently inherited by her husband before he died.
(5) And, consequently, his heirs are entitled to his estate including all that he inherited From his wife.
(6) Her relatives who are not related to her husband.
(7) Since it is impossible to ascertain who in fact died first, the ownership of the estate is a matter of doubt, and any property the ownership of which is in doubt must be divided between the claiming parties.
(8) I.e., property which the wife brought to her husband on marriage, and the value of which was included in her marriage contract, the husband assuming full responsibility for loss or profit.
(9) The Gemara, infra, explains who these are,

(10) I.e.,the sum of a hundred, (in the case of the marriage of a widow), or of two hundred zuz (in the case of the marriage of a virgin), and the ‘additional sum’ which a husband undertakes to pay to his wife upon divorce or upon his death, and which forms the principal element in a marriage contract.

(11) Property, the principal of which is retained in the wife's possession while its usufruct is enjoyed by the husband. V. supra, p. 206, n. 7.

(12) Of the wife. Since she obtained the property from her father's house and since the property itself remained all the time in her possession, the heirs of her father's house are entitled to inherit it. (CF. Rashb. and R. Gersh. a.l.)

Talmud - Mas. Baba Bathra 158b

GEMARA. In whose established right of ownership?[1] — R. Johanan said: In the right of the ownership of the heirs of the husband.[2] R. Eleazar said: In the right of ownership of the heirs of the wife;[3] and R. Simeon b. Lakish in the name of Bar Kappara said: [The estate in dispute] is to be divided.[4] And so did Bar Kappara teach: Since these appear as heirs and those appear as heirs, [the estate] is to be divided [between them].

MISHNAH. IF THE HOUSE COLLAPSED UPON A MAN[5] AND HIS MOTHER,[6] BOTH[7] AGREE THAT [THE ESTATE IN DISPUTE] IS TO BE DIVIDED.[8] R. AKIBA SAID: I AGREE IN THIS [CASE] THAT THE ESTATE [IS TO REMAIN WITH THOSE WHO ARE] IN ITS ESTABLISHED RIGHT OF OWNERSHIP.[9] BEN AZZAI SAID TO HIM: [IS IT NOT ENOUGH THAT] WE ARE SUFFERING FROM THE EXISTING DIVISIONS OF OPINION[10] THAT YOU [MUST] COME TO CREATE DIFFERENCES FOR US WHERE UNANIMITY WAS DECLARED?[11]

GEMARA. In whose established right of ownership?[12] — R. Elai said: In the established right of the ownership of the heirs of the mother. R. Zera said: In the established right of the ownership of the heirs of the son. When R. Zera went up [to Palestine] he adopted[13] the principle of R. Elai.[14] R. Zera said: From this[15] one may deduce that the climate of the land of Israel makes one wise. And what is the reason?[16] — Abaye replied: Because the inheritance[17] has become the established possession of that tribe.[18]

BEN AZZAI SAID TO HIM: [IS IT NOT ENOUGH THAT] WE ARE SUFFERING FROM EXISTING DIVISIONS OF OPINIONS etc. R. Simlai said: This implies [that] Ben Azzai was disciple [and] colleague of R. Akiba [seeing] that he said to him, ‘That you come’.[19]

[The following statement] was sent from Palestine:[20] ‘[If] a son borrowed on [the security of] the estate of his father, during the lifetime of his father, and he died, his son may take away from the buyers; and this it is that presents a difficulty in civil law.’[21] [If] he borrowed, [it may be asked.] what [is he to] take away? And, furthermore, what has he to do with buyers?[22] — But, if that statement was made, thus

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(1) Do the possessions to which Beth Hillel referred in our Mishnah, remain?

(2) Since the husband is entirely responsible for loss or profit and is also entitled to sell it, it is regarded as his possession and, consequently, on his death, it passes over into that of his heirs,

(3) Since it was she who brought it to him from her father's house.

(4) Between the heirs of the husband and those of the wife.

(5) Lit., ‘upon him’.

(6) In her widowhood. Her heirs (e.g.. her brothers) plead that the son died first and that, consequently, his mother inherited his estate before she died, and they now inherit it from her, while his heirs (e.g., his paternal brothers) plead that the reverse had happened and that they, therefore, are entitled to the inheritance.

(7) Lit., ‘these and these’, Beth Shammai and Beth Hillel who are in disagreement on the cases in the Mishnah, supra 157a and 158a.

(8) Unlike the case of a father and son (Mishnah supra 157a), where one party claims possession as heirs and the other as creditors, or the case of a husband and wife (Mishnah. supra 158a), where certain kinds of property are in the legal ownership of the husband while others are in that of the wife, the case in our Mishnah deals with claims both of which are of equal strength, both being based on the right of inheritance, the widow being acknowledged as the undisputed possessor of the estate, the only point in doubt being whether the one party or the other is to be heir. As the equality of the claims leaves the question of ownership in equal doubt on either side, both schools are of the unanimous opinion that the estate in dispute must be divided.

(9) I.e., even in this case, the School of Hillel maintain the view they had advanced in the previous cases. 'I agree' may be paraphrased 'I agree to differ' (cf. Rashb.)

(10) Which are an obstacle to the formulation of the authoritative law.

(11) Since It was generally agreed that in the case spoken of in our Mishnah Beth Shammai and Beth Hillel are in agreement, why should R. Akiba introduce a note of discord by asserting that even here they are in dispute?

(12) Does the estate remain according to R. Akiba?

(13) Lit., 'stood'.

(14) 'Rabbah adopted the principle of R. Zera', which follows in current editions is to be deleted. (V. Bah, R. Gersh. and R. Han, a.l.) — [It is, however, well to remember that R. Elai was a Palestinian and that R. Zera must have become aware of R. Elai's view only after he came to Palestine when he was led to abandon his own opinion, whereas Rabbah, who still remained behind in Babylon, retained the view of his colleague, R. Zera. Considered in this light, the reading in our current editions is quite in order.]

(15) That in Palestine he was able to see the wisdom of R. Elai's decision.

(16) for R. Elai's decision that the heirs of the mother are entitled to the estate.

(17) The possessions of the widow from the moment her husband died.

(18) To which the mother belongs. Hence it must not be taken away from her heirs, who naturally belong to the same tribe, in favour of the son's heirs who may belong to another tribe and who would, consequently. alienate the property from the tribe the ownership of which had been established.

(19) And not, 'that our Master comes'.

(20) Lit., 'there'. v. supra p. 687, n. 12. The statement is unintelligible and is explained in the Gemara infra.

(21) Lit., 'laws of monies or money matters'.

(22) In the statement no sale but a loan was mentioned!

Talmud - Mas. Baba Bathra 159a

it [must] have been made: [If] a son sold the estate[1] of his father, during the lifetime of the father,[2] and he died, his son[3] may take [it] away from the buyers;[4] and this it is that presents a difficulty in civil law;[5] for they[6] could say to him, 'Your father has sold and you are taking away'![7]

What objection is this! Could he[8] not[9] reply. 'I succeed to the rights of the father of [my] father'?[10] You may know [that such a plea is justified] for it is written, Instead of thy fathers shall be thy sons, whom thou shalt make princes in all the land.[11] If, however, [a message was sent to which] objection [is to be raised, it may be] the following:[12] 'A firstborn son who sold the share of [his] birthright during the lifetime of his father, and he died during the lifetime of his father, his son may take [it] away from the buyers; and this it is that presents a difficulty in civil law',[for] his father sold [it] and he takes [it] away! And if it be suggested [that] in this case[13] also [he might plead]. 'I come as successor to the rights[14] of my father's father', [it may be retorted.] 'If he comes as successor to the rights of his father's father what claim has he upon the portion of the birthright?'[15]

But what difficulty [is this]? Could he not[16] reply, 'I succeed to the rights of [my] father's father[17] but take [also] the place of [my] father'?[18] If, however, [a message was sent to which] objection [is to be raised it might be] the following.[19] 'If a person was in a position to tender[20] evidence for one[21] [in respect of a transaction that was recorded] in a deed,[22] before he turned robber, and [then] he turned robber,[23] he is not [permitted] to attest his handwriting,[24] but others may attest it.'[25] Now, if he [himself] is not trusted[26] [shall] others be trusted![27] This, then, [it is] which [presents] a difficulty in civil law.

What difficulty [is this]? [It is] possible [that the Palestine message refers to] a case where his[28] handwriting was endorsed at a court of law![29] If, however, [a message was sent to which] objection [is to be raised, it might be] the following.[30] ‘If a person was in a position to tender[31] evidence for one[32] [in respect of a transaction that was recorded] in a deed,[33] before it[34] had fallen as an inheritance to him, he is not eligible to identify his handwriting[35] but others may identify his handwriting.’[36]

What difficulty, however, [is this]? [Is it not] possible [that] here also [the reference is to] a case where his handwriting was endorsed at a court of law?[37] If, however [a message was sent to which] objection [is to be raised, it might be] the following.[38] ‘If a person was in a position to tender evidence for one, before he became his son-in-law and he [subsequently] became his son-inlaw, he is not [permitted] to attest his handwriting,[39] but others may attest it. [Now. if] he is not trusted [shall] others be trusted![40] And if it be suggested [that] here also [the reference is to] a case where his handwriting was endorsed at a court of law, surely, [it may be retorted], R. Joseph b. Manyumi said in the name of R. Nahman, ‘Even though his handwriting was not endorsed at a court of law’![41]

What difficulty. however, [is this]? [It is] possible [that] it is a decree of the king[42] that he[43] shall not be trusted [as a witness] while others[44] shall be trusted; and [the reason is] not because he might lie![45] for should not [this explanation] be accepted,[46] [could it be imagined that] Moses and Aaron [are not permitted to act as witnesses] for their fathers-in-law because they are untrustworthy! [The] only [possible explanation] then [is that] it is a decree of the king that they[47] shall not act as witnesses for them,[48] [so] here also [the explanation may be that] it is the decree of the king that he[49] shall not attest his handwriting in favour of his father-in-law.[50]

Hence [the message sent from Palestine was in fact just the one that was mentioned at first;[51] and as to your objection [from the verse]. Instead of thy fathers shall be thy sons,[52] [it may be pointed out that] this was written in [connection with] a blessing.[53] But can it be said [that this verse] was written [only] in [connection with] a blessing

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(1) His share of the inheritance.

(2) I.e., while it was still in his father's possession.

(3) The son of the dead man who sold his share in his father's estate.

(4) That which his father had sold them. That sale was invalid because his father's father having been alive at the time, his father was not yet in possession of the land he sold; and, since he died before his father, the land has never come into his possession. Hence the son (the grandson of the owner) inherits that land from his grandfather and is entitled therefore, to take it away from the buyers, on his grandfather's death.

(5) V. p. 691, n. 9.

(6) The buyers.

(7) The son's title to the estate is solely due to the rights of his father, how then, could he lay any claim to that which his father himself had sold

(8) The son, the grandson of the original owner.

(9) Lit., ‘perhaps’.

(10) And not to those of his father. As the Torah conferred upon a son the right to inherit from his father so it has also conferred upon the son's son the right to inherit from his grandfather. Hence, the inheritance has passed directly from the grandfather to the grandson who should, therefore, be entitled to seize the estate which has never come into the possession of his father who, consequently, had no right to sell it.

(11) Ps. XLV, 17. This proves that a person's son takes the place of his father, i,e., the grandson succeeds his grandfather.

(12) Lit., ‘that (is) a difficulty’. But the message in the form given supra, as explained, presents no difficulty at all.

(13) Lit., ‘here’.

(14) Lit., 'from the power'.
(15) Were it not for the rights of his father who was a firstborn son, he should not have been entitled to the double portion!
(16) Lit., 'perhaps'.
(17) As regards the right to be heir,
(18) I.e., he inherits from his grandfather as if he himself had been the firstborn (Rashb.). V. Mishnah supra 116a.
(19) V. p. 692 n. 10.
(20) Lit., 'knew'.
(21) Lit., 'for him'.
(22) Which be signed as a witness.
(23) Who is ineligible to act as a witness. Cf. Ex, XXIII, 1.
(24) Cf. previous note.
(25) And the deed is valid.
(26) Presumably because the deed may have been forged.
(27) Granted that the signature is his, there is no proof that the deed itself is not a forgery!
(28) The robber's.
(29) Before he embarked on his lawless career. At that time his word could be relied upon; and the deed is, therefore, valid if the witnesses now testify that they signed the endorsement when he was still an upright man.
(30) V. supra, p. 692, n. 10.
(31) Lit., 'knew'.
(32) Lit., 'him'.
(33) E.g., a loan for which a bond of indebtedness has been given.
(34) The bond, i.e., the debt.
(35) He is now an interested party and is, consequently. disqualified from acting as witness.
(36) Since it has been said that he himself is not trusted, it is apparently assumed that he might have forged the document, why then should it be valid if others confirm his handwriting? Could not that very handwriting represent a record of an imaginary transaction? This then may have been the message sent from Palestine which presents a difficulty in civil law.
(37) CF. mutatis mutandis, supra, n. 13.
(38) V. supra p. 692, n. 10.
(39) I.e., his signature on any document in favour of his father-in-law.
(40) CF. supra p. 693, n. 20.
(41) This, then, may have been the Palestine message and the difficulty in civil law that it presented.
(42) A divine precept, a statute without a reason.
(43) A relative such as a son-in-law.
(44) Strangers, attesting his signature.
(45) Hence, the correctness of the statements in the deed never having been doubted, the deed is valid if strangers attest the signature.
(46) Lit,, 'for if you will not say so'.
(47) Moses and Aaron as any other relatives.
(48) Their fathers-in-law (or other relatives).
(49) A son-in-law.
(50) What, then, could have been meant by the 'difficulty' mentioned?
(51) The case of a son who sold his share in his father's estate during the latter's lifetime (supra).
(52) V. supra.
(53) From an expression used in reference to a blessing no law may be derived.

Talmud - Mas. Baba Bathra 159b

and that with respect to [a matter of] law,[it is] not [applicable]? Surely it was taught: [In the case where] a house collapsed upon a man and his father [or] upon a man and those whose heir he is, and [that man] had against him [the claim of] a woman's kethubah or [that of] a creditor, [and. in the first case]. the heirs of the father plead [that] the son died first and the father afterwards, while the creditor[s] plead [that] the father died first and the son afterwards;[1] [now,] ‘sons’[2] [denote] ‘the heirs of the father’,[3] do they not? and ‘brothers’[4] ‘those whose heir he is’? If then it could be assumed [that] one cannot plead. ‘I come by virtue of the rights of the father of [my] father’, because the verse,[5] Instead of thy fathers shall be thy sons, [was] written in [connection with] a blessing. what avails[6] it [for the heirs] that the son died [first] and the father died afterwards, the creditor [surely] could say to them,[7] ‘I collect [my debt from] the inheritance of their father’![8] — No; [by] ‘the heirs of the father’,’his brothers’[9] [are meant; and by] ‘those whose heir he is’ the ‘brothers of his father’[10] [are meant].

R. Shesheth was asked: May a son in the grave[11] be heir to his mother[12] to transmit [her estate] to his paternal brothers?[13] — R. Shesheth said to them, You have learnt it: If a father was taken captive [and died] and his son died in the [home] country, or if a son was carried into captivity [where he died] and his father died in the [home] country. [the estate] is to be divided between the heirs of the father and the heirs of the son. How is this to be understood? If it be suggested [that it is to be understood] as was taught,[14] who then are the heirs of the father and who are the heirs of the son?[15] [Must it] not then [be concluded that it is] this that was meant: If a father was taken into captivity [where he died] and the son of his daughter died in the [home] country, or if the son of one's daughter was taken into captivity [where he died], and the father of his mother died in the [home] country; and it is not known which of them died first, [the estate] is to be divided between the heirs of the father and the heirs of the son. Now, if it were so,[16] granted even that the son died first, he should in his grave inherit [the estate] of the father of his mother and transmit it to his paternal brothers! [Must it] not consequently be inferred that a son in the grave does not inherit [the estate of] his mother to transmit [it] to his paternal brothers?

R. Aha b. Manyumi said to Abaye. ‘We also were taught [to the same effect] : IF THE HOUSE COLLAPSED UPON ON A MAN AND HIS MOTHER, BOTH AGREE THAT [THE ESTATE IN DISPUTE] IS TO BE DIVIDED.[17] Now, if it were so,[16] granted even that the son had died first, he should in his grave inherit [the estate] of his mother and transmit it to his paternal brothers! [Must it] not then be concluded that a son in the grave does not inherit [the estate of] his mother to transmit [it] to his paternal brothers?’ This proves it.

And what is the reason? — Abaye replied: ‘Remove’ is mentioned in [the case of the inheritance of] a son,[18] and ‘remove’ is [also] mentioned in [the case of the inheritance of] a husband,[19] as [in the case of] removal [of an estate] mentioned in [respect of] the husband, a husband in the grave does not inherit [the estate of] his wife, so [also in the case of the] removal [of an estate] mentioned in [respect of] the son, a son in the grave does not inherit [the estate of] his mother to transmit [it] to his paternal brothers.

A man once said to his friend, ‘I am selling you the estate of Bar Sisin.’ [In it] there was [a plot of] land that bore the name of Bar Sisin, [but the seller] told him, ‘This does not belong to Bar Sisin, though it bears the name of Bar Sisin.’[20] [When the matter] was brought before R. Nahman he decided in favour of the buyer.[21] Said Raba to R. Nahman: ‘Is this the law? [Surely], he who claims from the other has to produce the proof!’

A contradiction was pointed out between two statements of Raba[22] and between two statements of R. Nahman.[23] For, once a person said to another, ‘What claim have you upon this house?’ [The other] replied to him, ‘I bought it from you and enjoyed [undisturbed] usufruct [during the three] years [required to establish the legal right] of possession.’ [The first] said to him, ‘I occupied [however], the inner rooms.’[24] [When the matter] was brought before R. Nahman he said [to the buyer]. ‘Go [and] bring proof of your [undisturbed] enjoyment of the usufruct.’ Said Raba to R. Nahman, ‘Is this the law? [Surely], he who claims from the other has to produce the proof!’ [Does not this present] a contradiction between the two statements of Raba and between the two statements of R. Nahman ![25] — There is no contradiction between Raba's statements, [because] here,[26] the seller is in possession of his property;[27] and there,[28] the buyer is in the possession of his property.[27] There is [also] no contradiction between the statements of R. Nahman,[because] since here[26] he spoke to him, of the estate of Bar Sisin and [that plot] bore the name of Bar Sisin, It is incumbent upon him[29] to prove that it does not belong to Bar Sisin; here,[28] [however.] [granted] that he has no [less a claim] than [one] who holds a deed, do we not [even in such a case] say [to the holder], ‘Attest your deed and you will retain possession of the estate’?[30] [

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(1) Supra 157a, q.v. for notes.

(2) Of the son who was killed.

(3) ‘The father of their father’, i.e., their grandfather. They claim that their inheritance does not come to them from their father, who was in debt, but from their grandfather; and that for this reason they (and not the creditors) are entitled to the estate.

(4) V. supra n. 2.

(5) Lit., ‘when it is written’.

(6) Lit., ‘what is’.

(7) The court.

(8) Since their inheritance, as has been assumed, cannot come direct from their grandfather but from their father. As, however. they are allowed to advance such a plea, it follows that even in legal matters (not only in a blessing) grandchildren succeed directly to the estate of their grandfather

(9) The brothers of the son that was killed, who are, of course, the sons of the father that was killed whose entire estate they inherit, in the case where their brother died first and afterwards their father.

(10) The uncles of the son that was killed. The Mishnah, in the second case, refers to an uncle and a nephew upon whom a house collapsed. If the nephew died first, the brothers of the uncle (the ‘heirs of the father’ who is one of the brothers of the uncle) are entitled to the entire estate. If, however, the uncle died first, the nephew is entitled as the heir of his father (one of the brothers) to share the estate with them.

(11) I.e., who predeceased his mother.

(12) And thus keep away her estate from, her other living heirs (e.g., her brothers).

(13) Who are complete strangers to his mother.

(14) That it is a case of a father and his own son,

(15) Both, surely. are represented by the very same heir or heirs. If the son has no issue the heirs of the father would also inherit the sons’ estate, and if he has issue, his sons would inherit the estate of their grandfather as well as that of their father.

(16) That a son in the grave inherits the estate of his mother.

(17) Supra 158b.

(18) V. Num. XXXVI, 7. So shall no inheritance . . . remove, which refers to the inheritance of a son from his mother. Cf. supra 112b.

(19) So shall no inheritance remove. Num. XXXVI, 9, which refers to a husband's inheritance from his wife. Cf. supra l.c.

(20) It is his in name only, not in fact.

(21) Lit., ‘he placed it firmly in the hand of the buyer’.

(22) Lit., ‘Raba on Raba’.

(23) Lit., ‘R. Nahman on R. Nahman’.

(24) Since the occupier of the inner rooms is making use of the outer ones, the enjoyment of the usufruct for three years in the latter does not establish the right of ownership.

(25) Cf. supra notes 5 and 6.

(26) The case of the land of Bar Sisin.

(27) Hence it belongs to him.

(28) In the dispute about the outer rooms.

(29) The seller.

(30) Hence, it is the buyer who has to produce the proof. On the whole passage, v. supra 29b, 30a.

Talmud - Mas. Baba Bathra 160a

CHAPTER X

MISHNAH. A PLAIN DEED[1] [MUST BEAR THE SIGNATURES OF] THE WITNESSES ON ITS INSIDE; A FOLDED ONE[2] [MUST BEAR THE SIGNATURES OF] THE WITNESSES ON THE REVERSE.[3] A PLAIN [ONE] THAT BEARS THE SIGNATURES OF THE WITNESSES ON THE REVERSE[4] [AND] A FOLDED [ONE] THAT BEARS THE SIGNATURES OF ITS WITNESSES ON THE INSIDE ARE BOTH INVALID.[5] R. HANINA B. GAMALIEL SAID: A FOLDED [DEED] THAT BEARS THE SIGNATURES OF THE WITNESSES ON ITS INSIDE IS VALID, BECAUSE IT CAN BE TURNED INTO A PLAIN [ONE].[6] R. SIMEON B. GAMALIEL SAID: ALL DEPENDS ON[7] THE USAGE OF THE COUNTRY. A PLAIN DEED REQUIRES TWO WITNESSES[8] AND A FOLDED [ONE] THREE.[9] A PLAIN [DEED] THAT BEARS THE SIGNATURE OF ONE WITNESS [ONLY]. AND A FOLDED [ONE] THAT BEARS THE SIGNATURES OF TWO WITNESSES [ONLY] ARE BOTH INVALID.

GEMARA. Whence these words?[10] — R. Hanina said: For Scripture says, Men shall buy fields for money and subscribe the deeds, and seal them, and procure the evidence of witnesses.[11] Men shall buy fields for money and subscribe the deeds,

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(1) גט פשוט, an ordinary deed or note, relating, e.g., to a debt or divorce, all the writing of which appears on one side of the document.

(2) מקשר or מקושר, lit., ‘knotted’, i.e., stitched. This was a special form of deed, written on alternate lines, blank lines and written lines alternating. Each written line was folded over the blank line adjacent to it, each successive two being stitched together.

(3) Each fold must bear on its external upper side the signature of a different witness, the number of folds not to exceed the number of witnesses.

(4) Lit., ‘whose witnesses wrote on its back’.

(5) If it is a bill of divorce, the woman cannot be divorced by it; and if it is a bond of indebtedness, the creditor is not entitled to seize any of the debtor's sold lands.

(6) By removing the stitches.

(7) Lit., ‘like’.

(8) Lit., ‘its witnesses by two’. [Meir Abulafia, in his Yad Ramah, explains ‘a folded deed’ differently. ‘We take,’ he writes, ‘a long scroll, and draw from it three to seven thongs below which there comes the written text of the deed. The deed is then folded, special care being taken that the bottom of the reverse of the deed should remain exposed for the signatures of the witnesses. The scroll being rolled together and fastened by the thongs which are knotted together, the witnesses sign between the knots.’ This, as Fischer, L. (ZAW. XXX, 139ff.) points out, is in accord with the ‘folded deeds’ discovered among the Greek papyri. V. also his article in Jahrb. de Jud. Lit., Gesel. IX. 51ff.]

(9) The folded deed contained two elements. The specific (date and amount), and the Formula which is common to all deeds. The first element usually occupied three lines which were folded on the intervening blank lines and stitched together. Hence no less than three witnesses were required. Cf. infra n. 14.

(10) That there are two kinds of deeds differing from each other in the number of witnesses and the mode of folding.

(11) Jer. XXXII, 44.

Talmud - Mas. Baba Bathra 160b

refers to[1] the plain [deed]; and seal[2] them, refers to[1] the folded [one]; and procure the evidence, [implies] two [witnesses][3] witnesses, [implies] three.[4] How [is] this[5] [possible]? Two for a folded [deed]; three for a plain [one]. Might not this be reversed?[6] — Since it has more folds,[7] it [must also] have more witnesses.

Rafram said: [It[8] may be derived] from the following.[9] So I took the deed of the purchase, both that which was sealed, containing the terms and conditions, and that which was open.[10] So I took the deed of the purchase, refers to[11] the plain [deed]; that which was sealed, refers to the folded [one]; and that which was open. refers to the plain [portion] in the folded [deed];[12] the terms and conditions, refers to[13] the laws which distinguish[14] the plain [deed] from[15] the folded [one]. viz.,[16] the one[17] [requires] two witnesses[18] and the other,[17] three witnesses;[18] the witnesses of the one [sign] on the obverse, while the witnesses of the other [sign] on the reverse side. Might not this be reversed?[19] Since it has more folds[20] it [must also] have more witnesses.

Rami b. Ezekiel said: [It[21] may be derived] from, the following text.[22] At the mouth of two witnesses, or at the month of three witnesses, shall a matter be established.[23] If their evidence may be established by two, why should three be specified? To tell you [that] two [are required] for a plain [deed]; three for a folded [one]. Might not this be reversed? — Since it has more folds,[20] it [must also] have more witnesses.

[Is it] for this [purpose,][24] that the verses[25] [mentioned] were intended?[26] [Surely] each one is required[27] for a separate purpose;[28] as it was taught: [By the statement], men shall buy fields for money, and subscribe the deeds, and seal them,[29] good advice was tendered;[30] so I took the deed of the purchase,[31] [is] just [a record of] what had happened; at the mouth of two witnesses, or at the mouth of three witnesses,[32] [has been specified], in order to compare three [witnesses] to two,[33] concerning which[34] R. Akiba and the Rabbis are in dispute![35] [The fact], however, [is that the law of] a folded [deed] is [only] Rabbinical, and the Scriptural verses [quoted] are a mere asmakta.[26]

What is the reason why the Rabbis instituted a folded [deed]? — They were [in] a place [inhabited] by priests, who were very hot-tempered and they divorced their wives.[36] Consequently the Rabbis made [this] provision,[37] so that in the meantime[38] they might cool down.[39] This satisfactorily explains bills of divorce; what [explanation, however], may be given[40] [in the case of other] documents? — In order that there may be no distinction between bills of divorce and [other] deeds.

Where, [in the case of a folded deed], do the witnesses sign? — R. Huna said: Between [one] fold and the other;[41] and R. Jeremiah b. Abba said: [On] the back of the writing and corresponding to [all] the written part, on the external [side of the deed]. Rami b. Hama said to R. Hisda: According to R. Huna who said [that the witnesses sign] 'between [one] fold and the other', assuming [that he meant], 'between [one] fold and the other on the external side'[42] [the following objection may be raised]: Surely, a folded [deed] was once brought before Rabbi who remarked, 'There is no date on this [deed]'. [Thereupon] R. Simeon son of Rabbi said to Rabbi, 'It might be hidden between the folds'. [On] ripping [the seams] open he saw it.[43] Now, if it were [so],[44] he should have [remarked].' There is neither date nor are there witnesses on this deed!' — He replied to him: Do you think [that according to R. Huna the witnesses sign] between the folds on the inside? No; [they sign] between the folds on the outside.[45] But [is there no reason] to apprehend that he might forge [the lower section of the folded deed][46] and enter whatever he wished [after] the witnesses had signed?[47] — 'Firm and established',is entered on it.[48] Is [there, however, no reason] to apprehend that he might enter whatever he wished and then write a second time, 'firm and established'? — [The formula], 'firm and established', is entered [only] once,[49] not twice.[50] Is [there no] apprehension that he might erase the [original] 'firm and established', and add[51] whatever he wished, and then write, 'firm and established'? — Surely, R. Johanan said: A suspended [word[52] that has been] confirmed[53] is admissible;[54]

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(1) Lit., 'this'.

(2) חתם, seal, close, tie up.

(3) The minimum number of witnesses. All evidence must be given by no less than two witnesses unless the contrary has been specifically indicated. (V. Sot. 2b).

(4) The minimum number above two that has already been mentioned.

(5) That two, as well as three witnesses are required.

(6) Two witnesses for a folded deed and three for a plain one.

(7) I.e., since Scripture surrounded the folded deed with more restrictions.

(8) V. supra n. 1.

(9) Lit., ‘from here’.

(10) Jer. XXXII. 11.

(11) Lit., ‘this’.

(12) The folded deed, beside the date and amount which were entered in the first lines which were folded and stitched, also contained the formula, common to all deeds, which was entered in the same manner as on a plain deed. This second element is, ‘the plain in the folded’. Cf. Supra p. 699, n. 9.

(13) Lit., ‘these’.

(14) Lit., ‘which between’.

(15) Lit., ‘to’.

(16) Lit., ‘how this’.

(17) Lit., ‘this’.

(18) Lit., ‘its witnesses’.

(19) V. p. 700, n. 8.

(20) V. l.c n. 9.

(21) V. l.c., n. 1.

(22) Lit., ‘from here’.

(23) Deut. XIX, 15.

(24) To indicate the differences between the two kinds of deeds.

(25) Lit., ‘and these’.

(26) Lit., that they came’.

(27) Lit., ‘that it came’.

(28) Lit., ‘For its thing’.

(29) Jer. XXXII, 44.

(30) Lit., ‘he taught us’. The text is a guide to purchasers how to proceed with such transactions. Cf. supra 28b.

(31) Jer. XXXII, 21.

(32) Deut. XIX, 15.

(33) That three witnesses have no more powers or privileges than two.

(34) Cf. Mak. 5b.

(35) How, then, could these same verses be said to refer to the laws of folded and plain deeds? (20) אסמכתא, ‘support’, i.e., the Scriptural text was used by the Rabbis as some slight support, or mnemotechnical aid to the laws of the plain and folded deeds which they themselves have enacted.

(36) For the slightest or imaginary provocation. A plain bill of divorce was easily obtainable, and once the divorce had taken place none could re-marry his wife, since a divorced woman is forbidden to a priest. Cf. Lev. XXI, 7.

(37) The folded bill of divorce.

(38) While the elaborate document was being prepared, written, folded, stitched and signed.

(39) And reconsider their hasty decisions.

(40) Lit., ‘is there to be said’.

(41) The assumption at present is that they sign on the blank spaces between the written lines on the obverse of the deed.

(42) Of the document.

(43) The date.

(44) That the witnesses sign between the written lines on the inside and that their signatures are consequently folded and stitched in the same way as the date.

(45) Hence the signatures may be seen without ripping open the stitched folds. [According to the description of the folded deed given by the Yad Ramah, the signatures would appear as in fig. 2, p. 704.]

(46) Which is left unfolded. (Cf. supra p. 700. n. 14.)

(47) On the external sides of the folds of the upper section. Since the signatures do not appear at the foot of the deed, there is no guarantee that the holder would not add anything he pleased.

(48) This formula appears at the foot of every deed, and anything added after it would be detected at once as a forgery.

(49) Lit., ‘one firm etc. we write.

(50) Lit., ‘two’. Cf. previous note. Hence the forgery would be detected by the double entry of the formula.

(51) Lit., ‘write’.

(52) Or words, inserted between the lines of a deed.

(53) At the foot of the deed.

(54) And the deed is valid.

Talmud - Mas. Baba Bathra 161a

an erasure [however] is inadmissible[1] although it had been confirmed.[2] [The law,] however, [that] an erasure invalid only applies[3] [to the case where it occurs] in the position [of the formula] ‘firm and established’[4] and [occupies the] same space as ‘firm and established’.[5]

According to R. Jeremiah b. Abba, however, who stated, ‘[On] the back of the writing and corresponding to [all] the written part, on the external [side of the deed]’,[6] is [there no cause] to apprehend that he might write on the inside[7] whatever he wished and induce additional witnesses to sign on the outside;[8] and might say, ‘I did it[9] in order to increase the number of witnesses’?[10] — He[11] replied to him:[12] Do you think [that] witnesses[13] sign in the [same] order [as the lines of the deed],[14] they sign [vertically] from bottom to top?[15] But is [there no reason] to apprehend [that some] unfavourable condition might occur in the last line [of the deed] and he would cut off that last line, and [though] with it he would [also] cut off [the name of the witness] ‘Reuben’,[16] [the deed] would [yet] remain valid through [the remaining part of the signature], ‘son of Jacob witness’;[17] as we learnt: [The signature]. ‘son of X, witness’, is valid?[18] — [The witness] writes, ‘Reuben son of’, across one line,[19] and, ‘Jacob. witness’, above it.[20] Is [there no reason, however,] to apprehend that [though] he might cut off, ‘Reuben son of’, [the deed] would [yet] remain valid through [the remaining portion of the signatures]. ‘Jacob, witness’;[21] as we learnt: [a signature], ‘X, witness’ is valid?[22] — [The word], ‘witness’ is not written.[23] And if you wish it may be said [that a witness], in fact, does write [after his signature], ‘witness’, [but this is a case] where it is known that the signature

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(1) Any writing on the spot erased is invalid.

(2) Because it is possible that the formula, ‘firm and established’, had been erased from its original position and re-written after the spurious matter that had been inserted in its place. Since an erasure of the formula would, thus, invalidate the added matter, there is no cause to apprehend any forgery, though the witnesses sign on the external side of the deed.

(3) Lit., ‘they only said’.

(4) At the end of the original text of the deed.

(5) Or more.

(6) And, since the signatures cover the entire extent of the writing, the end of the deed is clearly indicated; and the formula, ‘firm and established’, is not required at the foot of the deed.

(7) On the lower part of the deed which is left unfolded.

(8) On the back of the additional written matter.

(9) Added extra witnesses over and above the prescribed number of three.

(10) To give the matter greater publicity.

(11) R. Hisda.

(12) Rami b. Hama.

(13) According to R. Jeremiah.

(14) I.e., in horizontal lines on the reverse of the deed, corresponding to the lines on the obverse, the first signature corresponding to the first line of the deed, the second to the second, and so on. If that were the case, spurious matter could certainly be added.

(15) They begin their signatures at the bottom of the reverse, on the back of the last line of the obverse, and proceed vertically upwards, witness after witness, towards the top line. Since the first signature commences at the foot of the deed, any matter below it (not having a signature on the reverse) would be easily detected as spurious.

(16) Written on its back.

(17) The proper form of a signature was, ‘X son of Y, witness’. The algebraic symbols are represented in the Talmud by the Biblical characters, Jacob and his son Reuben.

(18) Git. 87b.

(19) So that by cutting off the last horizontal line of in the deed, ‘Reuben son of’ which is written vertically on the other side is cut off with it.

(20) Above the last line and across the back of the second line (from the bottom) of the text; and this, i.e., the name only of the father of the witness, would remain on the deed were the last line to be cut off. [(V. fig. 1, cf. Fischer loc. cit.)]. According to the description of the Yad Ramah, the signatures appear thus (v. fig. 2).

(21) The court mistaking the name of the father for the name of a witness, regarding ‘Jacob’ as the name of the witness.

(22) Git. l.c.

(23) In such a case, the name of a witness without the name of his father is invalid. Hence, should one line of the deed be cut off leaving the name of the witness's father only on the remaining portion of the deed,the signature would be invalid.

Talmud - Mas. Baba Bathra 161b

is not that of Jacob.[1] Is it not possible [that] be signed on behalf of his father?[2] — No one gives up his own name and uses as his signature the name of his father. Might he not have used it[3] as a mere mark?[4] For, surely, Rab drew a fish;[5] R. Hanina drew a palm-branch;[5] R. Hisda a Samek.[6] R. Hoshaia, an Ayin,[6] Rabbah[7] son of R. Huna, a mast![8] — No one would be so impertinent [as] to make of the name of his father a [mere] symbol. Mar Zutra said: What is the need for all this![9] Any folded [deed the signature of] whose witnesses[10] do not terminate[11] with the same line [on the deed],[12] is an invalid [document].[13] R. Isaac b. Joseph said in the name of R. Johanan: All erasures[14] require confirmation;[15] and the last line[16] must contain a repetition of the subject matter of the deed.[17] What is the reason?

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(1) Hence no court would assume Jacob himself to be the witness.

(2) Using the name of his father rather than his own, as a mark of respect.

(3) The name of his father.

(4) As an arbitrary combination of letters in lieu of his full name. Such a symbol or mark is as legitimate in deeds as one's proper signature.

(5) Instead of his and his father's full name. This symbol has this become his recognised and legally valid signature.

(6) One letter of his name.

(7) Current editions, ‘Raba’.

(8) Others, ‘ship’. Now, since these scholars used symbols in lieu of their proper signatures, is it not possible that a witness might use the letters forming the name of his father as a symbol for his signature?

(9) All this series of difficult and forced explanations.

(10) Written vertically across the back of the deed, whether from top to bottom or from bottom to top.

(11) On the upper and lower edge of the document.

(12) I.e., the first letters and last letters of all the signatures must begin and end respectively with the same top and bottom lines of the deed.

(13) Hence there is nothing to apprehend. Should one add any spurious matter, it would be detected by the fact that the back of it would protrude below the signatures. Should one cut off a line, the initial or final sections of all the signatures also would thereby be lopped off.

(14) In legal documents; other than the formula, ‘firm and established’, which must not be erased, cf. supra 161a.

(15) At the conclusion of the text of the deed before the formula, ‘firm etc.’, all erasures must be enumerated. Current edd.: He is required to write, ‘and this is their confirmation’. ‘And this’, is to be deleted. (Cf. Rashb.). V. however Tosaf, s.v. אמר for a justification of the text.

(16) Of the deed.

(17) I.e., no fact, condition or qualification that has not already appeared in the text of the deed may be contained in the last line. The approved formula for the last line is, ‘And we took symbolic possession from X son of Y in accordance with all that is written and specified above etc.’

Talmud - Mas. Baba Bathra 162a

— R. Amram said: Because the last line cannot be taken as a determining factor.[1] Said R. Nahman to R. Amram: Whence do[2] you [derive] this? [The other] replied to him: Because it was taught, If the [signatures of the] witnesses were removed two lines from the text, [the deed] is invalid; [if only] one line, [it is] valid. Why are two lines different [from one line]? Because one might commit forgery and add[3] [some unauthorised matter]! [In the case of] one line also [might not one] commit forgery and add[3] [some spurious matter]? Must we not then conclude [that] the last line cannot be taken as a determining factor’? This proves it.

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(1) Lit., ‘(people) do not learn from the last line’. Witnesses do not as a rule take care to write their signatures immediately below the text of the deed, and usually leave some space between their signatures and the text. As this space might be used by the unscrupulous for the insertion, in his own interests, of an unauthorised line, it has been provided that nothing essential that has not already appeared in the text of the deed may appear in its last line. Consequently, should this line ever contain a vital point not recorded in the text, it would immediately be detected as spurious.

(2) Lit., ‘to’.

(3) Lit., ‘write’.

Talmud - Mas. Baba Bathra 162b

The question was raised: What [is the ruling in the case of] a line and a half?[1] — Come and hear: ‘If the [signatures of the] witnesses were removed two lines from the text,[2] [the deed] is invalid’,[3] [from which it may be inferred that if they were removed] a line and a half only [the deed] is valid. Explain, [however], the first clause: ‘[If only] one line, [it is] valid’[3] [from which it follows] that only [if the interval was] one line is [the deed] valid but [if it was] a line and a half [the deed] is invalid! From this, then, no deduction can be made.[4] What about an answer to the question?[5] — Come and hear what has been taught: [If] the [signatures of the] witnesses were removed two lines from the text, [the deed] is invalid; [if] less than this[6] [it is] valid.[7]

[If] four or five witnesses have signed on a deed, and the first two were found to be relatives or [such as are in any other way] disqualified,[8] the evidence may be confirmed by the remaining witnesses.[9] [This] affords support to [the view of] Hezekiah; for Hezekiah said, ‘[If] it[10] was filled with [the signatures of] relatives, [the deed] is valid’,[11] And there is nothing strange[12] [in this law],[13] for [while] air [space][14] renders the festive tabernacle ritually unfit when [that space measures only] three [handbreadths],[15] unfit roofing[16] renders [it] ritually unfit [only] when [that roofing measures] four [handbreadths].[17]

The question was raised: [Do] the ‘two lines’ which were mentioned[18]

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(1) If a space sufficient for the writing of a line and a half was left between the text and the witnesses’ signatures.

(2) Cf. Bah, a.l.

(3) Supra 162a.

(4) Since the deduction from the first part is in contradiction to that of the second, the Baraitha can be used as a guide only for that which it actually teaches.

(5) Lit., ‘what becomes about it’.

(6) I.e., a line and a half.

(7) Tosef. Git. VII.

(8) Cf. Rashb. a.l. Current edd., ‘four and (or) five witnesses. . . and one of them was found to be a relative etc.’

(9) Though the signatures of the disqualified witnesses are entirely ignored, the space, nevertheless, on which their signatures are written, even if it extends to two lines between the text and the signatures of the qualified witnesses, is not regarded as a blank to disqualify the deed.

(10) The blank space of two lines between the text of a deed and the signatures of the witnesses.

(11) Git. 87b.

(12) Lit., ‘be not astonished’.

(13) That a blank of two lines renders the deed invalid, while disqualified signatures. though ignored, and though covering the space of two lines, do not.

(14) Corresponding to a blank in a deed.

(15) If the tabernacle has only three walls, and the air space of three handbreadths in the roof runs across the entire length or breadth of the tabernacle intercepting one or two of the walls, so that the tabernacle is, as it were, short of the prescribed minimum number of walls. (Cf. Tosaf. s.v. שהרי a.I.).

(16) The roof of the festive tabernacle must consist of twigs or any other suitable materials which grow from the ground and are not subject to Levitical defilement.

(17) Suk. 17a.

(18) In respect of the law that a blank space of two lines between the text of a deed and the signatures of the witnesses renders the deed invalid.

Talmud - Mas. Baba Bathra 163a

[include] themselves[1] and the space between them or, perhaps, themselves [only] and not the space between them? — R. Nahman b. Isaac replied: It stands to reason that they and the space between them [were meant];[2] for if it could be assumed [that only] they[3] [were meant] and not the space between them, of what use[4] [is such a narrow space]?![5] Consequently it follows [that] they and the space between them [were meant]. This proves it.

R. Sabbathai said in the name of Hezekiah: The ‘two lines’ that were mentioned[6] [are such as are] in the handwriting of the witnesses, not [in] the handwriting of the scribe.[7] What is the reason? Because whoever [desires to] commit forgery does not go to a scribe to get it done[8] . And how much [space]?[9] — R. Isaac b. Eleazar said: As [much] for instance [as is required for the writing of] Lak Lak[10] above one another. This shows that he is of the opinion [that the limit is] two [written] lines and four [intervening] spaces.[11] R. Hiyya b. Ammi in the name of ‘Ulla said: As [much] for instance [as is required for the writing of] a Lamed[12] in the upper.[13] and a [final] Kaph[14] in the lower [line].[15] [from this][16] it clearly follows that he is of the opinion [that the limit is] two [written] lines and three [intervening] spaces.[17] R. Abbahu said: As [much] for instance [as is necessary for the writing of] Baruk b. Levi[18] in one line; [for] he holds the opinion [that the limit is] one [written] line and two [intervening] spaces.

Rab said: What has been taught[19] is only applicable [to the space] between the [signatures of the] witnesses and the text; but between the [signatures of the] witnesses and the legal attestation,[20] even if [the blank space is] wider, [the deed] is valid. Why [is the limit] between the [signatures of the] witnesses and the text different [from the other]?[21] Because, the witnesses having signed, [the holder of the deed] might commit forgery by entering [on it] whatever he desires! [In the case of the blank space] between the [signatures of the] witnesses and the attestation too, [could not] forgery be committed by entering whatever one desired and attaching the signature of witnesses?[22] — [In the case][23] where [the blank space] is dotted with ink marks.[24] If so, one [could] also dot with ink marks [any blank space] between the [signatures of the] witnesses and the [text of the] deed![25] — It might be assumed [that] the witnesses had confirmed[26] the dotted [portion].[27] [In the case of dotted ink marks] between the [signatures of the] witnesses and the attestation, [would it not] also be assumed [that] the court had confirmed[28] the dotted portion? — A court does not confirm an ink dotted [space].[29] Is [there no reason] to apprehend[30] that the upper [portion of the deed], might be [entirely] cut off, the ink dots erased, any [terms] desired entered,[31] and the signatures of witnesses [also] might be attached[32] [and yet the deed would be regarded as valid], since Rab stated that a deed the text[33] and the [signatures of the] witnesses of which appear on an erasure[34] is legally valid?[35]

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(1) I.e., the space occupied by the written lines.

(2) And that if space enough for the written lines only was left, the deed is valid.

(3) V. p. 707. n. 26.

(4) Current edd., ‘one line without its space’, is to be deleted. (CF. Rashb. and Bah, a.I.).

(5) No forgery could in such a case be committed with impunity. Whether the two lines would be inserted without the proper space between them or whether intervening space would be obtained by the use of a smaller hand, the forgery would be easily detected. Why, then, should a deed containing such a narrow blank space be invalid?

(6) CF. p. 707, n. 15.

(7) The characters in the handwriting of ordinary witnesses ate larger than those of a skilled scribe, and naturally occupy more space.

(8) Lit., ‘and forge’. A forgery would be carried out in the secrecy of one's house and the unskilled writer would naturally draw big characters.

(9) Is implied by the limit of ‘two lines’.

(10) lach lach to thee, to thee, (or perhaps lech lecha get thee out, a clause from Gen. XII, 1). There must be sufficient space for allowing of the writing, in each of the two lines, of letters which extend upwards (ל) and downwards (ך) without their touching each other. These letters, furthermore, are to be in the larger kind of character as reported above in the name of Hezekiah. Cf. supra note 6.

(11) Two between the lines (for the ך of the upper, and the ל of the lower line), one above the upper line for the ל, and one space below the lower line for the ך.

(12) ל.

(13) Lit, ‘from above’.

(14) ך.

(15) Lit., from below’.

(16) Since mention is only made of a ל in the upper, and a ך in the lower line.

(17) One above the upper line for the letters which, like a ל, extend upwards; another below the second line for the letters which like ך, extend downwards; and a third between the two written lines for the letters that run both downwards and upwards. Should a ל happen to come below a ך, one could easily move the letter forward or backward to avoid coalescence.

(18) ברוך בן לוי contains two letters which extend downwards and one which runs upwards.

(19) Regarding the limit to two lines of the blank space allowed below the text of a deed.

(20) Confirmation by a court at the foot of a document.

(21) That between the signatures and the attestation of the court.

(22) And the attestation at the foot would be regarded as a confirmation of the entire deed inclusive of the spurious additions and signatures.

(23) I.e., more blank space than the ‘two lines’ maximum is allowed not in all cases but only in that particular case.

(24) So that nothing could be entered on that space. Aruk reads דמדיית (דיית to dot with ink); cur. edit.דמטייט(טייט to blot, smear).

(25) Why, then, was the blank space in this case restricted to the minimum of two lines?

(26) Lit., ‘signed’.

(27) Not the text; and this would invalidate the deed (cf. Git. 87a). Hence, no dotted ink marks are permissible between the text of a deed and the signatures of the witnesses.

(28) V. p. 709. n. 10.

(29) And it would, therefore, be obvious that the attestation referred to the text of the deed. In the case of witnesses, however, such an assumption is not warranted, since not every witness knows the law and it is possible to assume that the holder of the deed had found some witnesses who consented to confirm with their signatures that a blank space was dotted with ink marks.

(30) If an unlimited blank space be allowed between the signatures of the witnesses and the attestation of the court.

(31) On the spot erased.

(32) Without their knowledge.

(33) Lit., 'it'.
(34) V. infra 163b seq.
(35) If the signatures are known. In the case, therefore, where an attestation of a court appears at the foot of the deed, the authenticity of the signatures of the witnesses would be taken for granted; and since, according to Rab, the fact that the deed is written on an erasure is no disqualification of its legality, the forgery would never be detected. How, then, could Rab state that the two lines limit does not apply to the space between the signatures of the witnesses and the attestation of the court?

Talmud - Mas. Baba Bathra 163b

According to R. Kahana who reported it[1] in the name of Samuel, this is quite right;[2] according to R. Tabyumi. however, who reported it[1] in the name of Rab, what is there to be said?[3] — He[4] is of the opinion that in any such case[5] [a deed] is not confirmed by the attestation of the court that [may appear] on it but by the witnesses on it.[6]

R. Johanan, however, said: What has been taught[7] is only applicable [to the space] between the [signatures of the] witnesses and the text; but between the [signatures of the] witnesses and the legal attestation[8] even [if the blank space is limited to] one line[9] [the deed is] invalid. Why [is the limit] between the witnesses and the attestation different [from the other]?[10] Because the upper [portion of the deed] might be cut off and the text[11] [of a new deed] and its witnesses might be written on the one line, and he[12] is of the opinion that a deed the text and the witnesses of which appear on one line is valid! If so, [in the case of a space] between the witnesses and the text also, might not the upper [portion of the deed] be cut off and, the witnesses having signed, anything one desires might be entered? — He holds the opinion [that] a deed the text[11] of which appears on one line and its witnesses on another is invalid.[13] But is [there no reason] to apprehend that the text and the witnesses might be written in one line[14] and [the holder of the deed might] plead, 'I did this[15] in order to increase the number of witnesses'?[16] — He[12] holds the opinion [that] in any such case[17] a deed is not confirmed by[18] the witnesses that [appear] below but by[18] the witnesses who [appear] above.[19]

[Reverting to the above] text. 'Rab stated [that] a deed the text and [the signatures of the] witnesses of which appear on an erasure is valid.'[20]

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[1] The legality of a deed, the text and signatures on which are written on an erasure.
[2] No difficulty arises, since it may be claimed that, in the opinion of Rab, a deed on an erasure is invalid.
[3] In reply to the difficulty raised. Cf. supra note 8.
[4] Rab.
[5] Where the text of the deed and its witnesses are written on an erasure though an attestation of a court also appears on it.
[6] As the personal evidence of the witnesses, or that of those who knew their signatures, is thus required, a forgery on the lines suggested would, of course, be detected.
[7] V. supra p. 709. n. 3.
[8] V. l.c., n. 4.
[9] And even though that space is dotted with ink marks (Rashb.).
[10] That between the text and the witnesses.
[11] Lit., 'it'.
[12] R. Johanan.
[13] Because, as stated supra 162a, the last line cannot be taken as the determining factor.
[14] I.e., all the Original text of the deed would be cut away, leaving only the two lines' blank space above the signatures and, on one of these, a forged text and signatures would be written.
[15] Arranged for signatures of witnesses in more than one line.
[16] The genuine witnesses, though appearing in the second line, would not invalidate the deed, since the first line

contains the text and witnesses, while for confirmation of the deed, the holder would not make use of the signatures of the fictitious witnesses in the first line but of those of the genuine witnesses in the second line.

(17) Where the text of a deed and the signatures of its witnesses appear in one and the same line, and these are followed by other witnesses in the next line.

(18) Lit., ‘from’.

(19) Since the signatures of the witnesses in the first line, being fictitious, could not be attested, the forgery would be exposed.

(20) Supra 163a.

Talmud - Mas. Baba Bathra 164a

If, however, it is objected[1] [that, since the writing on the document had been] erased [once, it might] be erased again,[2] [it may be replied that anything which] has been erased once is not like [that which] has been erased twice.[3] But [is there no cause] to apprehend that ink might first be poured on the place of the witnesses,[4] and this[5] would be erased,[6] so that when the text[7] is subsequently erased[8] the lower and the upper sections would represent[9] a repeated erasure?[10] — Abaye replied: Rab is of the opinion [that] Witnesses [must] not sign on an erasure unless the erasure was made[11] in their presence.[12]

An objection was raised: [A deed] the text[13] [of which is written] on [clean] paper[14] and its witnesses on an erasure is valid. Is [there no cause] to apprehend that [the text] might be erased, and any [terms] one desires substituted,[15] and [thus] there would result [a deed] the text[13] and witnesses of which [appear] on an erasure?[16] — They[17] write as follows:[18] ‘We witnesses signed on an erasure and the text is written on paper’. Where, [however], do they write [this]? If below,[19] [surely] one [can] cut it off! If above,[19] one [can] erase it![20] They write [it][21] between the signatures.[22] If so, explain the second clause: [A deed] the text[23] [of which appears] on an erasure and its witnesses on [clean] paper is invalid.[24] Why, [it may be asked,] should it be invalid? Let them in this case[25] also write thus: ‘We witnesses signed on paper and the text [is written] on an erasure’. Would you now also reply [that as the writing] was [once] erased,[26] one might again erase it?[27] Surely, you said [that] what was erased once is not like that which was erased twice! — This[28] [has been said in the case only] where the witnesses are signed on an erasure.[29] Where, [however], the witnesses are not signed on an erasure but on [clean] paper [the difference[30] can] not be detected.[31] But let any[32] scroll be brought, [on which some writing could] be erased, and compared![33] — The erasure on one scroll is not [always] like the erasure on another scroll.[34] Let, then, the signatures of the witnesses be accepted by the court,[35] and be erased and compared![36] — R. Hoshaia replied: An erasure of one day's [standing] is not like an erasure of two days [standing]. Let it stand [for some time]![37] — R. Jeremiah replied: Precaution had to be taken [to provide] against an erring court.[38]

R. HANINA B. GAMALiel SAID: A FOLDED [DEED] ETC. Rabbi raised an objection against the statement[39] of R. Hanina b. Gamaliel:

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(1) Lit., ‘thou wilt say’.

(2) And, consequently, while leaving the signatures on the first erasure, the text above them could be erased again. and on this second erasure a forged text might be substituted for the original!

(3) The forgery would be discovered by comparing the signatures which appear on a first erasure with the text appearing on a repeated erasure.

(4) I.e., on the lower section (corresponding to the place of the witnesses) of a paper which has been once erased from top to bottom.

(5) The ink poured.

(6) And thus the witnesses, not suspecting that the section where they append their signatures had been erased twice, whereas the upper section only once, would be signing on a double erasure.

(7) Lit., ‘to that’.

(8) from the upper section, and a forged text substituted.
(9) Lit., 'this and this is'.
(10) Lit., 'erased twice'; and since both text and signatures would thus appear on the same kind of erasure, the court would not be able to detect the forgery.
(11) Lit., 'it was erased'.
(12) They would, consequently, be able to satisfy themselves that the upper and lower sections of the erasure were exactly alike.
(13) Lit., 'it'.
(14) I.e., on which nothing has ever before been written.
(15) Lit., 'write'.
(16) Which, as has been said, is valid! Since this would facilitate forgery, why were witnesses allowed to sign on an erasure?
(17) The witnesses.
(18) Lit., 'thus'.
(19) Their signatures.
(20) And the erasure would raise no suspicion since the witnesses also are signed on an erasure.
(21) The formula, 'We witnesses etc.'
(22) Lit., between witness and witness'. Consequently it cannot be cut off without cutting away with it one of the signatures; and should it be erased, it would leave a doubly erased spot which could be easily distinguished from that of the signatures which appear on what was erased only once.
(23) Lit., 'it'.
(24) Because it is possible that the original had been erased and a forged text had been substituted for it.
(25) Lit 'here'.
(26) The text being written on an erasure.
(27) And substitute a forged text for the original.
(28) Lit., 'these words', that it is possible to distinguish between the two kinds of erasure.
(29) Since the two kinds of erasure appear side by side, on the same document, the contrast between them would be noticed.
(30) Between a first, and second erasure.
(31) The contrast on the document being not that between two kinds of erasure but between an erasure and clean paper.
(32) Lit., 'another'.
(33) With the erasure on the deed. The comparison would determine whether the writing on the deed was erased once or twice.
(34) One of them may be thicker than the other and would not show up the erasure as well as the other.
(35) Provisionally, until it had been ascertained whether the text was, or was not a forgery.
(36) With the erasure on which the text of the deed is written. CF. supra note 11.
(37) When the difference between the old, and the new erasure would disappear and comparison could be made between the erasures on the two sections of the deed.
(38) Which might not think of comparing erasures and, relying on the clear signatures of the witnesses, could accept the validity of the deed. (R. Gersh.) Which might not be aware of the fact that an old erasure differs in appearance from a new one and would, consequently, accept a forged document as genuine (Rashb., cf. Bah, a.l.). Hence it was ordained that any deed the text of which appears on an erasure and the signatures of its witnesses on a clean section of the paper is invalid.
(39) That a folded deed may be turned into a plain one.

Talmud - Mas. Baba Bathra 164b

Surely. the date of the one[1] [deed] is not like that of the other;[1] [for in the case of] a Plain [deed,. the first completed year of a king's reign[2] is counted as his first,[3] [and] the second completed year[4] as his second;[4] [while in the case of] a folded [one], the first year of a king's reign[2] is counted as his second,[4] the second as his third;[5] and sometimes [it may happen] that [a person] might borrow money from another[6] on a folded [deed] and, in the meantime,[7] he might obtain funds and repay him, but [when] requesting the return of his deed,[8] [the creditor] might reply to him, ‘I lost it’, and would write out for him [instead], a receipt; and when the time of its payment[9] arrived, he[10] might convert it [into] a plain [deed] and say to him, ‘You borrowed from me now’![11] — He holds the view that a receipt is not written.[12]

Was Rabbi, however, familiar with [the dating of] a folded [deed]? Surely, once a certain folded [deed] was brought[13] before Rabbi who remarked, ‘This is post-dated’,[14] and Zonin said to him, ‘Such is the practice of this nation: [If a king] reigned a [full] year they count it as his second year;[15] [if] two [years], they count them as his third[16] [year]’![17] — After he heard it from Zonin he knew it.[18]

In a certain [plain] deed there occurred the [following] date:[19] ‘In the year[20] of the archon[21] X’. Said R. Hanina: Let enquiry be made when [that] archon assumed office.[22] Might he [not on that date] have been in office for some years?[23] — R. Hoshaia replied, ‘Such is the practice of this nation: [In the] first year they call him, "archon", [in the] second they call him, digon.’[24] Is it not possible that he was deposed and re-appointed?[25] — R. Jeremiah replied: [In] such [a case] he is designated, ‘archon-digon’.

Our Rabbis taught: [In the case where a person said.] ‘I am to be a nazarite’,[26] Symmachus said, [if he added], hena[27] [he must observe] one [term];[28] [if he added], digon [he must observe] two terms;[29] trigon,[30] three [terms];[29] tetragon,[31] four [terms]; pentagon,[32] five [terms].[33]

Our Rabbis taught: A circular, two cornered, three cornered, and five cornered[34] house is not subject to uncleanness from [house] plagues;[35] a four-cornered house is subject to uncleanness from [such] plagues. Whence is this inferred?[36] — for our Rabbis taught: Above it is said, [instead of] ‘wall’, walls,[37] [signifying] two;[38] below[39] [also]. [instead of] ‘wall’, it is said, walls,[39] [which similarly signifies] two, thus making a total of[40] four [walls].[41]

A folded [deed] was once brought before Rabbi who remarked, ‘There is no date on this [deed]’. [Thereupon], R. Simeon son of Rabbi said to Rabbi, ‘It might be hidden between its folds’. [On] ripping [the seams] open he saw it.[42] Rabbi turned round [and] looked at him with displeasure.[43] ‘I did not write it’, [said the other]. ‘R. Judah Hayyata[44] wrote it’. Keep away from talebearing’,[45] [Rabbi] called to him.

Once he[46] was sitting in his[47] presence when he finished a section of the Book of Psalms.[48] ‘How correct is this writing’? said Rabbi. ‘I did not write it’, replied the other, ‘Judah Hayyata wrote it’. ‘Keep away from tale-bearing’. [Rabbi] called to him. In the first case[49] one can well understand [Rabbi's exhortation, since] there was slander; what tale-bearing, however, was there here?[50] — Owing to [the teaching] of R. Dimi; for R. Dimi, brother of R. Safra, taught: A man should never speak in praise[51] of his friend, because by praise of him he brings about[52] his blame.[53]

R. Amram said in the name of Rab: [There are] three transgressions which no man escapes for a single[54] day: Sinful thought,[55] calculation on [the results of] prayer,[56] and slander.[57] ‘Slander’? [How] could one imagine [such a thing]![58]

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(1) Lit., ‘this’.

(2) Lit., ‘he reigned a year’.

(3) Lit., ‘a year’.

(4) Lit., ‘two’.

(5) Deeds were dated according to the year of the reigning sovereign, folded deeds were post-dated by adding one year to the reign of the ruling king. Hence the same date (e.g. ‘the fourth year of King X’) on a plain and a folded deed would represent a difference of a full year. [The extra year was probably obtained by reckoning the period elapsing between the

day of the king's accession to the throne and the end of the civil year as a full year. Cf. R.H. 2b: ‘If a king ascends the throne on the 29th Adar, as soon as1st Nisan comes, it is counted for him as one year.’ This practice in vogue among Persians and Babylonians was adopted by the Romans after the days of Trajan, when the years of emperors were counted from10th December. V. Fischer, L., Jahrb. d. Jud. Lit. Gesel. IX, 67ff; and Bornstein, Sokolow's Sefer hayovel 184 ff.]
(6) Lit., ‘from him’.
(7) Between the date on the folded deed and the corresponding date on a plain deed, i.e., during the one year's interval.
(8) Lit., ‘and say to him: give me my deed’.
(9) Lit., ‘its time’.
(10) The creditor.
(11) I.e., after the date of the receipt. By converting the folded, into a plain deed, its date is moved a full year forward, and the receipt is thus made to appear as having been given prior to the loan. The creditor is, consequently, in a position to assert that the receipt was given for a previous loan, and to claim payment for the loan recorded on the deed. How, then, in view of such possible fraud, could R. Hanina allow the conversion of a folded, into a plain deed?
(12) If the creditor cannot produce and return the deed he is not entitled to the re-payment of his debt.
(13) Lit., ‘that came’.
(14) A year later than the current year.
(15) Lit., ‘two’.
(16) Lit., ‘three’.
(17) This shows that Rabbi did not know that folded deeds were dated a year later than ordinary ones. How, then, could he raise the objection against R. Hanina, supra, which shows that he knew that the dating of one kind of deed was different from that of the other?
(18) And it was then that he, raised the objection.
(19) Lit., ‘written’.
(20) Not specifying which year.
(21) Cf. Gr.**.
(22) Lit., ‘when archon stood in his archonship’; and that year is to be regarded as the date of the document. If such a deed relates to a loan, the creditor is entitled to seize any of the creditor's lands that were sold or mortgaged after that date.
(23) Lit., ‘that his reign was long’.
(24) Gr. ** (born a second time), ‘second term in office’, iterum consul; the deed, since the title of ‘archon’ was used in it, must have been written in his first year of office.
(25) And thus assumed the title of ‘archon’, a second time. Since there may have been a difference of some years between the first and second archonship, and since the deed may have been written in the second, how could R. Hanina decide that the year of the first archonship was to be regarded as the date of the deed?
(26) If no period has been specified the term is thirty days.
(27) Gr. ** acc. of Gr.**, ‘one’.
(28) Of thirty days. Cf. previous note but one.
(29) Each of thirty days.
(30) Cf. Gr. **. ‘for the third time’.
(31) Cf.Gr. ** ‘for the fourth time .
(32) Cf. Gr.**. ‘for the fifth time’.
(33) Tosef. Nazir, I, Nazir 8b.
(34) Cf. p. 715. n. 12, and the previous three notes but one.
(35) Cf. Lev. XIV, 34ff.
(36) Lit., ‘whence these words’, that a four-cornered house only is subject to the laws mentioned.
(37) Lev. XIV, 37. The plur. is used where the sing. would have been more appropriate.
(38) The plural, walls, signifies a minimum of two.
(39) Ibid. v. 39.
(40) Lit., ‘behold here’.
(41) I.e., four cornered. Cf. supra, II. 11.
(42) Cf. supra 160b.
(43) Rabbi probably believed R. Simeon to have written the deed, well knowing that he opposed the issue of folded

deeds which were a constant source of errors.

(44) The tailor or a surname.

(45) He should not have given the name of the writer but should have been content with disclaiming his own responsibility for the writing.

(46) R. Simeon.

(47) Rabbi's.

(48) [Thus R. Gersh. The expression פסיק סידרא is, however, taken to denote (a) an exposition of a Biblical section (Rappaport, Erek millin s.v. אפטרתא,) or, (b) a reading of Biblical verses with due regard to the divisions between then, (Friedmann. Hakedem, I, 120)]

(49) Lit., ‘there’, in the case of the deed which incurred Rabbi's displeasure.

(50) In connection with the Book of Psalms which elicited Rabbi's praise.

(51) Lit., ‘good’.

(52) Lit., ‘he comes’.

(53) Lit., ‘evil’. By pointing to a person's good actions or qualities attention is inevitably directed to his bad actions and qualities also.

(54) Lit., ‘every’.

(55) Usually applied to unchaste or immoral thoughts.

(56) עיון תפלה ‘contemplation. Or speculation in prayer’. Hence either (a: as elsewhere). ‘devotion in prayer’ (cf. Pe'ah, I); Or (b: as here). ‘speculation on the result of prayer’, ‘expectation of the immediate grant of one's request’. The offence lies in the presumption of the claim that God must answer prayer of any kind whatsoever; v. Abrahams, I. , Pharisaism and Gospels. II, 78ff.

(57) לושן הרע, Lit., ‘evil speech’.

(58) Surely it is quite possible to avoid slandering one's fellows!

Talmud - Mas. Baba Bathra 165a

— But the fine shades[1] of slander [were meant].

Rab Judah said in the name of Rab: Most [people are guilty] of robbery,[2] a minority of lewdness, and all of slander. ‘Of slander’? [How] could one imagine [such a thing]! — But the fine shades of slander[1] [were meant].

RABBAN SIMEON B. GAMALIEL SAID: ALL DEPENDS ON THE USAGE OF THE COUNTRY. And does not the first Tanna hold [the principle of the] ‘usage of the country’?[3] — R. Ashi[4] replied: Where[5] it is the custom [to use] plain [deeds] and one said to [the scribe]. ‘Prepare for me a plain deed’, and [the latter] prepared for him a folded [one], the objection [is valid].[6] [Where it] is the custom [to use] folded [deeds] and one said to [the scribe]. ‘Prepare for me a folded deed’, and [the latter] prepared for him a plain [one, legal] objection [may be raised.[6] Their dispute relates to a place where [both] plain and folded [deeds] are in use, and he said to [the scribe], ‘Prepare for me a plain [deed],’ and [the latter] prepared for him a folded [one]. [In such a case],[7] [one] master[8] is of the opinion [that legal] objection [may be raised][9] and [the other] master[10] is of the opinion [that] it was merely an intimation.[11]

Abaye said: Rabban Simeon b. Gamaliel and R. Simeon and R. Eleazar are of the opinion [that, in such a case,[12] the instruction] is [regarded as] a mere intimation.[13] [As to] Rabban Simeon b. Gamaliel, [proof may be brought from] what has [just] been said. [As to] R. Simeon? — Because we learnt: R. Simeon said, If his mistake was in her favour, she is betrothed.[14] [As to] R. Eleazar? — Because we learnt: If a woman said [to an agent] ‘Receive a bill of divorce on my behalf at[15] such and such a place’, and he received it on her behalf at a different place [the divorce is] invalid; but R. Eleazar considers it valid.[16] [for one] master is of the opinion [that by her instruction[17] she expressed her] objection.[18] while [the other] master holds the opinion [that] it was merely an intimation to him of the place.[19]

A PLAIN [DEED] THAT BEARS THE SIGNATURE OF ONE WITNESS etc.[20] One can well understand why it was necessary [to state]. A FOLDED [ONE] THAT BEARS THE SIGNATURES OF TWO WITNESSES is invalid; [since] it might have been imagined [that] because elsewhere [such evidence is] valid, it is valid here also, it [was necessary] to teach us that it is invalid. [In the case] however, [of] A PLAIN [DEED] THAT BEARS THE SIGNATURE OF ONE WITNESS, [is not this] obvious?[21] Abaye replied: This was required[22] [for the following]. That even [where, in addition to] the signature of one witness,[23] there is also the oral evidence of another[24] [the deed is invalid].

Amemar [once] declared [a deed] valid on the signature of one witness[25] and the oral evidence of another.[24] Said R. Ashi to Amemar: And what [about] the [view] of Abaye?[26] [The other] replied to him: I did not hear [of it], that is to say[27] I do not share his view. But, [if so],[28] the difficulty

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(1) Lit., ‘dust’, i.e., not actual, but hinted, Or implied slander. (Cf. ‘Ar. 15b).

(2) In trade or industry one commits robbery directly or indirectly by withholding due profits. Full price of labour or full value for money.

(3) Surely he does. Wherein then, does R. Simeon b. Gamaliel differ from him?

(4) Or, ‘Abaye’ (Rashal).

(5) Lit., ‘in the place’.

(6) Since the instruction was for the preparation of a deed in accordance with the usage of the country, the scribe's deviation tenders the deed legally invalid.

(7) When the scribe did not carry out instructions but did not at the same time also deviate from the established local practice.

(8) The first Tanna.

(9) Since the scribe did not carry out instructions, the deed is invalid.

(10) Rabban Simeon b. Gamaliel.

(11) Lit., ‘he shows him a place’, i.e., the instruction was not meant to imply a request for a plain deed only. It was a mere intimation that a plain deed also would be acceptable; but no objection to a folded deed was ever intended. Hence, since it is the usage of the place to write either plain, or folded deeds, the document is legally valid.

(12) Where a person was instructed to perform a mission in a certain manner and he carried it out in a more acceptable manner.

(13) Cf. previous note but one.

(14) Kid. 48b. The case of a man who (through an agent) said to a woman, ‘Be thou betrothed to me by a silver denar’ and tendered instead a gold denar.

(15) Lit , ‘from’.

(16) Git. 65a.

(17) That the document be received at a certain place.

(18) To any other place. She objects to having her divorce discussed in any other place but the one she mentioned.

(19) Whither she would trouble him to go. Beyond that place he would not be expected to go, but she would, nevertheless, be grateful if he did.

(20) V. Rashal, a.l.

(21) Surely, the evidence of one witnesses is never sufficient to tender a document valid.

(22) Lit., ‘it was not required (but)’.

(23) Lit., ‘one witness in writing’.

(24) Lit., ‘and one witness by (word of) mouth’.

(25) Cf. n. 5.

(26) Who maintains that in such a case the deed is invalid.

(27) Lit., ‘as if to say’.

(28) That Abaye's view is not accepted.

in our Mishnah[1] [remains]! — It[2] teaches us this: That two [witnesses] on a folded [deed are] like one witness on a plain [one]; as in the latter[3] the defect is Biblical,[4] so also in the former[5] the defect is Biblical.[6] [This][7] can be proved.[8] for the members of the College[9] sent[10] [the following enquiry] to R. Jeremiah:[11] [In the case of witnesses] one of whom had signed[12] [the deed] and the other [confirmed the contents] orally,[13] are they combined?[14] According to the first Tanna of R. Joshua b. Korha,[15] the question does not arise because, [according to him, independent evidence[16] of two can] not be combined even [in the case where] the two [witnesses] signed the deed,[17] or the two [gave] oral [evidence]. The question, however, arises according to R. Joshua b. Korha.[18] Is the [independent evidence] combined only [in the case where] the two [witnesses] signed the deed[17] or where the two [gave] oral [evidence], but [in the case where] one witness signed[17] and one [testified] orally, [their evidence] is not combined, or [is there], perhaps, no difference? He sent to them [the following reply]: I am not worthy of having [this enquiry] addressed to me; but your disciple is inclined to the opinion[19] that [the witnesses] may be [regarded as] combined.

He[20] said unto him:[21] We learned it[22] thus:[23] for the members of the College sent [the following enquiry] to R. Jeremiah: [In the case of] two [witnesses] who gave evidence, one at one court[24] and the other[25] at another court,[24] may [one] court come to the other and [thus cause the evidence to be] combined? According to the first Tanna of R. Nathan[26] the question does not arise, since, [according to him, such evidence[27] can] not be combined even where [it was given before] one court. The question, however, arises according to R. Nathan.[28] Is [the evidence] combined only [where it was given] at one court, but [if] at two courts [it is] not combined, or [is there], perhaps, no difference? And he sent to them [his reply]; I am not worthy of having [this enquiry] addressed to me, but your disciple is inclined to the opinion[29] that [the witnesses may] be [regarded as] combined.

Mar b. Hiyya said: This was [the enquiry] addressed to him: [In the case where] two gave evidence at one[28] court, and then they gave evidence at another[30] court,[31] may one [member] of either court come [to the other court] and combine?[32] According to [the view] of R. Nathan,[33] the question does not arise, [for] since witnesses may be combined, is there [any] need [to say that] judges [may be combined]? The question, however, arises according to the first Tanna of R. Nathan.[34] [Is it] witnesses only that are not combined but judges are, or is there, perhaps, no difference? He sent to them [in reply]: I am not worthy of having [this enquiry] addressed to me; but your disciple is inclined to the view[35] that they may be combined. Rabina said; Such was [the enquiry] sent to him: [Where] three [judges] sat down to confirm a deed, and one of them died,[36] [is it] necessary to write; ‘We were in a session[37] of three[38] and one is [now] no more,[39] or not?[40] He sent to them [in reply]: I am not worthy of having [this enquiry] addressed to me; but your disciple is inclined to the view[41] that it is necessary to write, ‘We were in a session of three[38] and one is [now] no more’. And on account of this[42] R. Jeremiah was re-admitted to the College.[43] MISHNAH. [WHEN] IN [A BOND OF INDEBTEDNESS] IT IS WRITTEN. ‘A HUNDRED ZUZ WHICH ARE TWENTY[44] SELA’ [THE CREDITOR] RECEIVES ONLY[45] TWENTY [SELA’].[46] [IF THE ENTRY WAS]. ‘A HUNDRED [ZUZ] WHICH ARE THIRTY [SELA’]’ HE[47] RECEIVES ONLY[45] A MANEH.[48] [IF THE ENTRY READS], SILVER ZUZ IN WHICH ARE . . . AND [THE AMOUNT IS] BLOTTED OUT, [IT REPRESENTS] NO LESS THAN TWO. [IF THE ENTRY READS]. ‘SILVER SELA'S WHICH ARE. . . , AND [THE AMOUNT IS] BLOTTED OUT, [IT REPRESENTS] NO LESS THAN TWO. [IF], ‘DARICS[49] WHICH ARE. . . AND [THE AMOUNT IS] BLOTTED OUT, [IT IS] NO LESS THAN TWO. [IF] ABOVE[50] A MANEH[51] IS WRITTEN AND BELOW[52] TWO HUNDRED,[53] [OR IF] TWO HUNDRED[53] [ARE WRITTEN] ABOVE AND A MANEH[51] BELOW, ONE IS ALWAYS TO BE GUIDED BY THE LOWER ENTRY.[54] IF SO,[55] WHY SHOULD THE UPPER [PORTION AT ALL] BE WRITTEN? — IN CASE A LETTER IN THE LOWER [SECTION] BE RUBBED OFF IT MAY BE INFERRED[56] FROM THE UPPER [PORTION].

GEMARA. Our Rabbis taught:[57] 'Silver'[58] [signifies]no less than a silver denar. 'Silver denarii' or 'denarii silver' [signifies] no less than two silver denarii. 'Silver for denarii', [signifies] silver for no less than two gold denarii.[59]

The Master said: '"Silver" [signifies] no less than a silver denar.' Might it not signify[60] a bar [of silver]? — R. Eleazar replied: [This is a case] where coin was mentioned.[61] Might it not signify[60] small change? — R. Papa replied: In [the case of] a place where small silver coins are not current.[62]

Our Rabbis taught: 'Gold'[63] [signifies] no less than a golden denar. 'Gold denarii' or 'denarii gold' [signifies] no less than two gold denarii. 'Gold for denarii' [signifies] gold of the value of no less than two silver denarii.[64]

The Master said: "gold" [signifies] no less than a gold denar'. Might it not mean[60] a bar [of gold]? — R. Eleazar replied: [In the case] where coin was mentioned.[65]

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(1) Why should it be necessary to teach that a deed is invalid if it bears the signature of one witness only? Cf. supra note 3.

(2) Our Mishnah.

(3) Lit., 'there'.

(4) Cf. Deut. XIX, 15.

(5) Lit., 'here'.

(6) The Rabbis, that is to say, have imposed Biblical restrictions on the folded deed. Consequently, it is invalid if it contains the signatures of two witnesses only. Should such a document be a bond, the creditor would not be entitled to collect his debt from sold or mortgaged lands. Should it be a bill of divorce, the divorce would be illegal.

(7) That the written, and oral evidence respectively of two witnesses is combined.

(8) Lit., 'thou shalt know'.

(9) Lit., 'friends', 'colleagues'.

(10) Cut. edd. add. מתם, 'from there', i.e., Palestine. This is to be deleted with some MSS. as the entire incident occurred in Babylon. Cf. Weiss, Dot, III, 108.

(11) After he had been excluded from the College. V. supra 23b.

(12) Lit.. 'one witness in writing'.

(13) Lit., 'and one witness by (word of) mouth'.

(14) To form complete legal evidence as if they had both signed the deed.

(15) I.e., his opponent. v. supra 32a.

(16) As defined ibid.

(17) Lit., 'in writing'.

(18) Who, in opposition to the view of the first Tanna, regards such evidence as valid.

(19) Lit., 'thus the opinion of your disciple inclines'.

(20) R. Ashi.

(21) Amemar.

(22) The version of the enquiry sent to R. Jeremiah.

(23) And, consequently. no objection from It. Jeremiah's reply could be raised against Abaye's view that the written and oral evidence of two witnesses cannot be combined.

(24) Lit., this'.

(25) Lit., 'one'.

(26) I.e., his opponent. V. supra 32a, Sanh. 30a.

(27) Given by each of the two witnesses at a different time.

(28) Who allows the evidence even if each of the witnesses appeared before the court on a different day.

(29) Cf. supra, p. 720. n. 11.

(30) V. p. 720. n. 16.

(31) [MSS. 'And again they gave evidence at another court', v. R. Gersh.]

(32) To form a court where, owing to death or some other cause, neither of the two or three courts could obtain a

quorum.
(33) Cf. supra note 1.
(34) Cf., p. 720. n. 18.
(35) Cf., loc. cit. n. 11.
(36) After the witnesses had attested their signatures. A court before whom signatures arc attested must consist of three judges.
(37) Lit., ‘sitting’.
(38) Judges.
(39) In order that the signatures of two judges only shall not appear as a contradiction of the first sentence of the attestation, we were . . . three’.
(40) And, consequently, ‘and one is now no more’ may be omitted.
(41) Cf. supra. 720, n. 11.
(42) His modesty, and clear thinking and decision.
(43) Cf. loc. cit. n. 3.
(44) A sela’ containing four zuz, the amount of the sela's should have been not twenty but five and twenty.
(45) Lit., ‘he has not but’.
(46) I.e., eighty zuz. The holder of the deed being the claimant and the other being in the possession of the sum claimed, the former cannot obtain payment unless he produces satisfactory proof that the higher figure in the bond is the correct one. If he cannot do so, it is assumed that the zuzim borrowed were of an inferior quality five of which (instead of the usual four) amount to a sela.
(47) The creditor.
(48) A hundred zuz. Though, usually, thirty sela are a hundred and twenty zuz, it is assumed (cf. n. 3), that the sela's were of an inferior quality, each of which was worth only three and a third zuz.
(49) Cf.Gr. **, a Persian gold, or silver coin.
(50) In the upper section of the bond.
(51) Hundred zuz.
(52) Near the conclusion of the bond where the principal items are briefly repeated.
(53) Zuz.
(54) Lit., ‘all goes after the lowest’.
(55) That the entry in the lower section is always regarded as more reliable.
(56) Lit., ‘learned’.
(57) Cur. edd. ‘he said’, is to be deleted. V. Bah, a.l.
(58) I.e., if a bond contains an entry that ‘silver’ was lent and no amount is specified.
(59) ‘Silver for denarii’, implies that the loan consisted of silver which was worth two gold denarii. V. Gemara, infra.
(60) Lit., ‘say’.
(61) Lit., ‘written’.
(62) Lit., ‘men do not make’.
(63) Cf., p. 722. n. 25.
(64) Cf. supra. note 1.
(65) Lit., ‘do not pass’.

Talmud - Mas. Baba Bathra 166a

Might it not signify small change? — Small change is not made of gold.[1]

‘"Gold for denarii" [signifies] gold of the value of no less than two silver denarii.’ Might he[2] not have meant, broken gold [ware] of [the value of] two gold denarii.? — Abaye replied: The holder of the bond [must always be] at a disadvantage.[3] If[4] so,[5] [the same principles should be followed in] the former [cases] also![6] — R. Ashi replied: [In the] first [cases] denarii was written; [in the] last, dinrin was written.[7] And whence may it be deduced[8] that there is a difference between denarii and dinrin? — for we learnt[9] : A woman who had[10] five doubtful confinements[11] [or] five doubtful issues,[12] brings one offering[13] and may[14] [subsequently] eat of sacrificial meat. She is not obliged, [however, to bring] the rest.[15] [If] she had[16] five certain confinements [or] five issues, she brings one sacrifice and [may subsequently] eat of sacrificial meat but is [also] obliged to [bring] the rest.[15] It once happened that [the price of a pair of] birds[17] in Jerusalem had risen[18] to gold denarii.[19] [Thereupon] R. Simeon b. Gamaliel exclaimed, ‘[By] this Temple![20] I shall not go to rest this night before these [can] be [obtained] for silver denarii’.[21] He entered the Beth din and issued the following instruction:[22] ‘A woman who had[23] five certain [child] confinements, [or] five certain issues, brings one sacrifice and may [subsequently] eat of sacrificial meat, and there is no obligation upon her to bring the rest’.[24]

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(1) Lit., ‘small change of gold people do not make’.

(2) The writer of the bond.

(3) Lit., ‘the hand of the owner of the bond on the lowest’. And the borrower, being in possession of the sum claimed, has the right of interpreting the bond in terms advantageous to himself.

(4) for this reading. v. Rashal, a.l. The printed texts contain the following in round brackets: The first (part) where it was taught ‘silver for denarii’ (signifies) silver for no less that, two gold denarii, why? I might say (that) he meant a bar of silver for two silver denarii.

(5) That the bond is to be interpreted in terms advantageous to the borrower and disadvantageous to the creditor.

(6) In the case of (a) the entry. ‘silver denarii’; why should this be interpreted to mean ‘silver for no less than two gold denarii’ (which is in favour of the holder of the bond), and not, ‘small silver coins for two silver denarii’ (which would be in favour of the borrower)? And, again (b) in the entry. ‘gold denarii’ or ‘denarii gold’; why should that be given the interpretation, ‘no less than two gold denarii’ (which also is in favour of the creditor) rather than, ‘gold of the value of no less than two silver denarii’ (which would be in favour of the borrower)?

(7) The latter, being the usual plural form of denar, signifies silver denarii; the former, being the unusual plural of the noun, implies gold denarii. Cf. Rashb., R. Gersh. and Goldschmidt. For a further discussion of the denar v. Zuckermann's Tal. Munz., 19ff; and Smith's Dict. Gk. Rom. Ant., s.v. Denarius.

(8) Lit., ‘thou sayest’.

(9) Cut. edd.: ‘it was taught’.

(10) Lit., ‘there were upon her’.

(11) Lit., ‘births’, i.e., if she miscarried five times and, in each case, it was unknown whether the miscarriage was a human embryo or some other object. In the former case the woman would be liable to bring an offering after the termination of a period of Levitically unclean, and clean days (cf. supra p. 528, n. 1); in the latter case she would not.

(12) When it is uncertain whether the discharge occurred during the ordinary course of menstruation (cf. supra p. 528. n. 8). or during the ‘eleven days’ that intervene between the menstrual periods. In the latter case she is liable to bring an offering (cf. Lev. XV, 25ff); In the former she is exempt.

(13) At the conclusion of the ‘days of her purifying’.

(14) Having, thereby, completed the ceremonial of purification.

(15) The other four sacrifices.

(16) V. note 4.

(17) Lit., ‘nests’. Sacrifices after recovery from an issue, (cf. Lev. XV. 29). and, in cases of poverty, also after confinements, (ibid. XII, 8). consisted of birds (two turtles or two young pigeons).

(18) Lit., ‘stood’.

(19) The price had risen owing to the large demand on the part of women who brought separate sacrifices for each confinement.

(20) An oath.

(21) Dinrin, implying silver denarii, while gold denarii were previously described (v. supra n. 13), as denari. Thus it has been shewn that a distinction was made between the two names, denari and dinrin.

(22) Lit., ‘he taught’.

(23) Lit , ‘there were upon her’.

(24) The other four sacrifices.

Talmud - Mas. Baba Bathra 166b

On that day [the price of a pair of] birds fell[1] to a quarter [of a denar'].[2]

IF ABOVE IS WRITTEN etc. Our Rabbis taught: The lower [section] may be corrected[3] from the upper [one] where one letter [is missing], but not in [the case of] two letters; for example, Hanan from Hananis[4] or 'ANan from 'ANani.[4] What is the reason[5] why two letters [must] not [be replaced]? [Because] a name of four letters might occur and these[6] would represent half of the name! If so, [in the case of] one letter also, might [not] a name of two letters occur and this[7] would represent half of the name? — But this is the reason [for] two letters: A name of three letters might occur, and these would represent the greater part of the name.[8]

R. Papa said: It is obvious to me [that if] Sefel[9] [appears] in the upper [section].[10] and Kefel[11] in the lower [section], the latter is always to be taken as a guide.[12] R. Papa, [however], inquired what [is the ruling if] Kefel [appears] above and Sefel below? May this be attributed[13] to a fly,[14] or not? — This remains undecided.[15]

In a certain [deed] there was written, 'six hundred and a zuz'. R. Sherabya sent this [enquiry] to[16] Abaye: [Is the entry to be interpreted as], 'six hundred istira[17] and a zuz', or perhaps, [as] 'six hundred perutoth[18] and a zuz?' — He replied to him: 'Dismiss [the question of] perutoth which [could] not [have been] written in the deed, since they are counted up

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(1) Lit., 'stood'.

(2) Ker. I, 7.

(3) Lit., 'be learned', 'inferred'.

(4) Where only the letter Yod is wanting. Should two letters, however, be missing. e.g.. N and I, leaving in the lower section Han or AN, only, they must not be replaced from the upper section.

(5) Lit 'why different'.

(6) The two letters.

(7) The single letter.

(8) A scribe might omit half a name if that consisted of a single letter. He is not likely, however, to omit two letters which in some names represent the greater part of the name. If two letters or more are missing, the person whose name is represented by the remaining letters, not the bearer of the name in the upper section, is entitled to the repayment of the loan. [V. however Tosaf. s.v. אבל

(9) Heb., Sefel, 'bowl' or 'cup' Some read ם פל , i.e. ם פלגי 'sixty halves'.

(10) Of a deed.

(11) Heb., קפל(root. 'to fold'), an article of dress, which can be folded. Others, ק פל i.e., ק פלגי 'hundred halves'. Both sefel and kefel, however, may be arbitrary word combinations taken by R. Papa as an illustration of a slight variation by which one word may differ from another.

(12) Lit., 'all goes after the lowest.

(13) Lit., 'do we fear'.

(14) Which might have blotted out the lower stroke of the kof, and thus changed it into a samek. [In the third and fourth centuries the stem of the kof hung from the roof of the letter and the curve was drawn to it, thus: P.]

(15) Hence, if such a case should be brought before a court, the decision must be in favour of the person who is in possession of the money or article; in accordance with the rule, 'he who claims must produce the proof'.

(16) Lit., 'before'.

(17) The istira was a silver coin equal to a provincial sela or half a zuz.

(18) A perutah was a very small coin of the value of a hundred and ninety-second part of a zuz. Cf. Zuckermann, op. cit., 22f.

and converted into zuzim.[1] What, [then could the entry] mean?[2] [Either] "six hundred istira and a zuz" [or] "six hundred zuz and a zuz";[3] [but] the holder of the bond [must always be] at a disadvantage.'[4]

Abaye said: One who is required to present his signature at a court of law[5] shall not present it at the foot of the scroll [because] a stranger might find it and write [above the signature] that he [has a] claim [of] money upon him; and we learnt [that a person], who produced against another[6] [a bond in] the latter's[7] handwriting [showing] that he owes him [a debt], may collect [it] from his free[8] property.[9]

A collector of bridge tolls[10] once came before Abaye [and] said to him, 'Will the Master give[11] me his signature so that when the Rabbis come [and] present to me [an authorisation][12] I will allow them to pass without [payment of] the toll'.[13] He was writing it down[14] for him at the top of a scroll. As [the other] was pulling it,[15] he[16] said to him,'The Rabbis have long ago anticipated you'.[17]

Abaye said: [Numbers] from three to ten [should] not be written at the end of a line, [because] forgery might be committed by adding letters to them;[18] and if this occurred, the sentence should be repeated two [or] three times, [since] it [would then] be impossible that [the numbers] should not [once] occur in the middle of a line.[19]

In a certain [deed][20] it was entered,[21] 'a third of an orchard'.[22] [The buyer] subsequently[23] erased the top, and the base of the Beth[24] and converted[25] [the second word] into, 'and an orchard'.[26] [When] he appeared before Abaye [the latter] said to him, 'Why has the Waw so much space round about it?'[27] Having been placed under arrest[28] he confessed.

In a certain [deed] there was entered, 'the portion of Reuben and Simeon, brothers'.[29] They had a brother whose name was 'Brothers';[30] and [the buyer] added to[31] it[32] a Waw and converted [the word into], 'and Brothers'.[33] [When] he came before Abaye[34] [the latter] said to him. 'Why is there so little space round the Waw!.[35] He was placed under arrest[36] and he confessed.

A certain deed bore the signatures of Raba and R. Aha b. Adda. He[37] came before Raba [who] said to him, '[This] signature is mine; never, however, have I signed before R. Aha b. Adda!' He was placed under arrest[36] and he confessed.[38] Said [Raba] to him, 'I can well understand how you forged my [signature], but how [could] you manage [that] of R. Aba b. Adda whose hand trembles?' 'I put my hand',[39] the other replied, 'on a rope-bridge'.[40] Others say [that] he stood on a hose and wrote.[41]

MISHNAH. A LETTER OF DIVORCE [MAY] BE WRITTEN FOR A HUSBAND THOUGH HIS WIFE IS NOT PRESENT,[42] AND A RECEIPT[43] [MAY BE WRITTEN] FOR A WIFE THOUGH HER HUSBAND IS NOT PRESENT,[44] PROVIDED THEY ARE KNOWN.[45] THE FEE[46] IS PAID BY THE HUSBAND.

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(1) Any sum of a hundred and ninety-two perutoth, or any multiple of it, is entered respectively as a zuz or zuzim. Had the loan amounted to six hundred perutoth and a zuz, this would have been entered as 'four zuzim and twenty-four Perutoth.'

(2) Lit., 'thou saidst'.

(3) R. Han. deletes, 'six . . . zuz'.

(4) Cf. supra p. 723. n. 10. Hence, he may claim the smaller sum only.

(5) In certain circumstances it is necessary for one of the witnesses of a deed that he does not attest his signature in person but enables the court to see a signature of his on a separate scroll for the purpose of comparison with, and confirmation of his signature on the deed. Cf., Keth. 21a.

(6) Lit., ‘him’.

(7) Lit., ‘his’.

(8) Real estate which the borrower has neither sold nor mortgaged.

(9) Infra, 175b.

(10) Heb. Bazbina or Bazbana, Pers. bazwan, bazban.

(11) Lit., ‘show’.

(12) From Abaye.

(13) His possession of Abaye's signature, he contended, would enable him to check the signature on any authorisation that might be presented to him.

(14) Lit., ‘he showed’.

(15) The scroll; so that the signature might appear lower and a margin be left above it.

(16) Abaye.

(17) V. previous paragraph.

(18) Lit., and write’. The Hebrew units from three to ten can easily be increased by the addition of ין, three would thus become תלתין , thirty; ארבע, four. ארבעין, forty, and so on.

(19) Should forgery be committed on the number at the end of the line, this would be detected by the number that appeared in the middle of the lowest of these lines, which is always taken as the determining factor. V, our Mishnah, 165b.

(20) Of a sale.

(21) Lit., ‘written’.

(22) The deed read: ‘I sold to N.N. in my garden a third of (lit., ‘in’) my orchard,’ בפרדיסא.

(23) Lit., ‘he went’.

(24) In the word בפרדיסא, thus changing the ב into a ו.

(25) Lit., ‘made’.

(26) Heb., ufardisa, ופרדיסא ‘and an orchard’. The text was thus made to read, ‘in my garden a third and an (viz.. all the) orchard’; and on the strength of this altered text the buyer claimed not only a portion of the field but also the entire orchard.

(27) Lit., ‘What is the reason (why) the world was widened for this waw’.

(28) Lit. ‘he bound him’.

(29) אחי, brothers’. The deed stated that the buyer had acquired the portion of the two brothers only. that belonging to any other brother not being included in the sale.

(30) Ahi, אחי.

(31) Lit., ‘he went (and) wrote’.

(32) The word, ‘brothers’, אחי in the deed.

(33) ואחי, signifying, ‘and Ahi’. On the basis of this text the buyer claimed to have acquired the portion of the third brother Ahi also.

(34) To claim Ahi's share.

(35) Lit., ‘what is the reason (why) the world is so much compressed for this Waw’.

(36) V. p. 727. n. 25.

(37) The holder of the deed.

(38) That the signatures were forged.

(39) When forging his signature.

(40) Which vibrates at the least touch and causes the hand to shake.

(41) Standing on a hose causes all one's limbs to shake.

(42) Lit., with him’. Since the grant or refusal of a divorce is entirely dependent on the desire of the husband, he may be entrusted with the keeping of the document until such time as he may decide to hand it over to his wife.

(43) For the amount of a woman's kethubah.

(44) The receipt is of advantage to the husband and, since a privilege may be obtained on behalf of a person in his absence, may be written, at the request of the wife, though the husband is absent. The wife takes charge of the receipt and delivers it to him when she had received the payments due to her.

(45) The Gemara explains this, infra.

(46) For the writing of the letter of divorce and the receipt.

Talmud - Mas. Baba Bathra 167b

A BOND MAY BE WRITTEN FOR A BORROWER THOUGH THE LENDER IS NOT PRESENT.[1] IT [MUST] NOT, HOWEVER, BE WRITTEN FOR THE LENDER UNLESS THE BORROWER IS WITH HIM. THE FEE[2] IS PAID BY THE BORROWER. A DEED [OF SALE] MAY BE WRITTEN FOR THE SELLER IN THE ABSENCE OF THE BUYER.[3] IT [MUST] NOT BE WRITTEN, HOWEVER, FOR THE BUYER UNLESS THE SELLER IS PRESENT.[4] THE FEE[5] IS TO BE PAID BY THE BUYER. DEEDS OF BETROTHAL[6] AND MARRIAGE[7] ARE NOT TO BE WRITTEN EXCEPT WITH THE CONSENT OF BOTH PARTIES, AND THE FEE IS PAID BY THE BRIDE GROOM. A CONTRACT OF TENANCY ON SHARES[8] OR ON A FIXED RENTAL[9] IS NOT WRITTEN EXCEPT WITH THE APPROVAL OF BOTH PARTIES, AND THE FEE IS PAID BY THE TENANT.[10] DEEDS OF ARBITRATION[11] AND ALL [OTHER] JUDICIAL DOCUMENTS ARE NOT WRITTEN EXCEPT WITH THE APPROVAL OF BOTH PARTIES, AND BOTH PAY THE FEE.[12] RABBAN SIMEON B. GAMALIEL SAID; TWO [DEEDS] MAY BE WRITTEN[13] FOR THE TWO PARTIES, ONE FOR EACH.[14]

GEMARA. What [is meant by] PROVIDED THEY ARE KNOWN? — Rab Judah said in the name of Rab: Provided the name of the man is known[15] [in the case of] a letter of divorce,[16] and the name of the woman in [the case of] a receipt.[17]

R. Safra and R. Aha b. Huna and R. Huna b. Hinena sat [together] and Abaye [also] was sitting with then, and, while they were in session,[18] they raised [the following] question: [Why is] the name of the man required[19] [to be known] in [the case of] a letter of divorce, [and] not the name of the woman; [and] the name of the woman [and] not that of the man in [the case of] a receipt? [Surely] there is reason to fear that one might write[20] a letter of divorce and give[21] it to the wife of another person;[22] and sometimes a woman might procure the writing[23] of a receipt and give it to a strange[24] man![25] — Abaye said to them: Thus said Rab, 'The name of the man[26] in [the case of] a letter of divorce, and the same law [applies] to the name of the woman; the name of the woman[26] in [the case of] a receipt and the same law [applies] to the name of the man'.

But is [there no reason] to apprehend[27] [that there might be a case] of two [persons of the name of] Joseph b. Simeon[28] living in the same town [and that one of them] might write[29] a letter of divorce and deliver[30] it to the other's wife? — R. Aha b. Huna said to them: Thus said Rab: Two [persons of the name of] Joseph son of Simeon who live in one town, must not divorce their wives except in the presence of each other.[31]

Is [there no reason], however, to apprehend[32] that [a person] might go to another town and make his name [there] known as Joseph b. Simeon and [then] would write[29] a letter of divorce[33] and carry it to the wife of that person?[34] — R. Huna b. Hinena said to them,: Thus said Rab; Provided one's name was known in a town [for] thirty days, he need not be suspected.[35]

What [is the law where one's name] is not known?[36] Abaye said, Where they[37] call him[38] and he answers.[39] R. Zebid said, 'A deceiver is vigilant in his deceit'.[40]

A certain receipt [was produced] on which the signature of R. Jeremiah b. Abba appeared. The woman,[41] [however], came before him [and] said to him, 'It was not I',[42] 'I also said to them'.[43] [R. Jeremiah] replied, '[that] it was not she';[44] but they[43] told me, 'She has grown old and her voice has become rough'.[45] Said Abaye: Although the Rabbis said,

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(1) Lit., 'with him'.

(2) For the writing of the document.

(3) Lit , ‘though the buyer is not with him’.
(4) V. p. 728. n. 13.
(5) V. loc. cit. n. 14.
(6) Agreements between the parties on the amounts promised. Cf. Keth. 102b.
(7) Kethubah contracts.
(8) The tenant giving the landowner an agreed portion of the crops.
(9) A certain fixed amount irrespective of the yield of the land.
(10) Lit., ‘the receiver’, i.e ‘he who undertook the work’.
(11) Heb. Shetare berurin, שטרי בירורין. V. Gemara, infra.
(12) For the preparation of the shetare berurin.
(13) By the witnesses.
(14) Lit., ‘to this for himself and to . . . himself’.
(15) To the scribe and witnesses.
(16) So that a false name might not be given, and the document presented to the wife of the man bearing that name. The woman would then on producing the letter of divorce be able to collect the kethubah from her husband, even though she did not produce a written kethubah. Cf. Keth. 89b.
(17) She might give the name of a woman who has been divorced and has not received what was due to her as her kethubah, and present the document to the man who would use it as proof that he discharged his obligation to his divorced wife.
(18) Lit., ‘sat’ , i.e delivering, or listening to lectures and discussing them.
(19) Lit ‘yes’.
(20) I.e., obtain a scribe and witnesses to write it for him.
(21) Lit., ‘go and bring’.
(22) Whose name might be identical with his own.
(23) Lit., ‘go (and) write’.
(24) Lit., ‘who is not hers’.
(25) Whose wife might bear the same name as hers.
(26) Must be known.
(27) Even where the names of the parties are known.
(28) I.e., husbands and wives bearing respectively the same names.
(29) I.e., instruct a scribe and witnesses to write it for him.
(30) Lit., ‘and go (and) bring’.
(31) If one of them divorces his wife the other must be present.
(32) According to the Tanna of our Mishnah who requires the names of the parties to be known in order to guard against the possibility of the use of the document by the wrong party.
(33) In his adopted name.
(34) Whose real name is Joseph b. Simeon: and the woman would thus be able to prove that she had been divorced.
(35) That the name by which he is known is not his real name. No one, it is assumed, would venture to go under a false name for so long a period, for fear of being discovered.
(36) How are the scribe and witnesses to decide whether the name submitted to them is the genuine one?
(37) The persons preparing the letter of divorce.
(38) Suddenly, unexpectedly.
(39) One would not respond, it is assumed, to a name which is not really his.
(40) And would, therefore, respond when called by his false name. The genuineness of a name cannot consequently be determined unless a person was known by that name for a sufficiently long period.
(41) Lit., ‘that woman, on whose behalf the receipt was written.
(42) Who authorised the writing of the receipt.
(43) The other witnesses who signed the document with him.
(44) Judging by her voice which was different from that which he heard at the time he signed the receipt.
(45) With which opinion R. Jeremiah, after consideration, concurred.

Talmud - Mas. Baba Bathra 168a

‘Once a statement has been made it cannot be withdrawn’,[1] it is not the nature of a scholar to take particular note [of a woman's face].[2]

A certain receipt[3] on which the signature of R. Jeremiah b. Abba appeared [was produced, but the woman] said to him, ‘It was not I’.[4] ‘I am sure’,[5] he insisted,[6] ‘it was you’. Said Abaye: Although a scholar is not in the habit of taking note [of a woman's appearance], when [however] he does take notice he is relied upon.[7]

Abaye said: A scholar who desires[8] to betroth a woman should take with him a layman[9] [so that another woman] might [not] be substituted for her [who would be taken away] from him.[10] AND THE HUSBAND PAYS THE FEE etc. What is the reason? — Because Scripture says: And he shall write . . . and give.[11] And why is this not done[12] at the present time? — The Rabbis have imposed it[13] upon the woman to order that he might not cause her [undue] delay.[14]

A BOND MAY BE WRITTEN FOR A BORROWER THOUGH THE LENDER IS NOT PRESENT etc. [Is not this] obvious?[15] — [This[15] would] not [have been] required [except] in [the case of a loan for] merchandise on shares.[16]

A DEED [OF SALE] MAYBE WRITTEN FOR THE SELLER IN THE ABSENCE OF THE BUYER etc. [Is not this] obvious?[17] — [This would] not [have been] required [except in the case] where one sells his field on account of its inferiority.[18]

DEEDS OF BETROTHAL AND MARRIAGE ARE NOT WRITTEN etc. [Is this not] obvious?[19] — [This would] not [have been] required [except for the fact] that even a scholar [has to pay the fee] though it is a satisfaction to his father-in-law to bring him into his family.[20]

A CONTRACT OF TENANCY ON SHARES OR ON A FIXED RENTAL IS NOT WRITTEN etc. [Is not this] obvious? — [It would] not [have been] required [except for the case] where [the land is to lie] fallow.[21]

DEEDS OF ARBITRATION . . . . ARE NOT WRITTEN EXCEPT WITH THE APPROVAL OF BOTH PARTIES etc. What [is meant by] shetare berurin?[22] — Here[23] it was explained [as] ‘records of the pleas’.[24] R. Jeremiah b. Abba explained: One[25] [of the litigants] chooses one and the other chooses another.[26]

RABBAN SIMEON B. GAMALIEL SAID: TWO [DEEDS] MAY BE WRITTEN FOR THE TWO PARTIES, ONE FOR EACH. May it be suggested [that] they are in dispute on [the principle of] exercising force against a Sodomite character;[27] for [one] Master[28] is of the opinion [that] force is exercised[29] and the [other] Master[30] is of the opinion that force is not exercised![31] — No; both[32] [agree that] force is exercised, but the reason of Rabban Simeon b. Gamaliel here[33] is this: Because [one can] say to the other,[34] ‘I do not like your rights to be at the side of my rights, for you appear to me as a lurking lion’.[35]

MISHNAH. [IN THE CASE] WHERE [A PERSON] PAID A PART OF HIS DEBT AND THE BOND WAS DEPOSITED WITH A THIRD PARTY TO WHOM [THE BORROWER SAID]. ‘IF I WILL NOT PAY YOU [THE BALANCE] BETWEEN NOW AND[36] A CERTAIN DATE, GIVE HIM[37] HIS BOND’, [AND] THE DATE ARRIVED AND HE DID NOT PAY, R. JOSE SAID: HE[38] SHALL GIVE [IT];[39] R. JUDAH SAID, HE SHALL NOT GIVE [IT].

GEMARA. Wherein[40] [lies] the difference between them? — R. Jose holds [that] asmakta[41] conveys possession.[42] and R. Judah holds [that] an asmakta does not convey possession.[43] R.

Nahman in the name of Rabbah b. Abbuha in the name of Rab said: The halachah is according to R. Jose. When [such cases][44] came before R Ammi, he said: ‘Since R. Johanan has taught us again and again[45] [that] the halachah is according to R. Jose, what can I do?’ The halachah, however, is not according to R. Jose.

MISHNAH IF A MAN'S BOND OF INDEBTEDNESS WAS EFFACED, HE MUST SECURE[46] WITNESSES,[47] AND APPEAR BEFORE A COURT OF LAW WHERE HE IS SUPPLIED WITH [THE FOLLOWING] ATTESTATION: ‘THE BOND OF X SON OF Y WAS FADED ON SUCH AND SUCH A DATE,

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(1) Lit., ‘since he said, he cannot say again’. Ket. 18b, Sanh. 44b, Mak. 3a.

(2) Hence R. Jeremiah's first statement may be assumed to have been made under a misapprehension, while his second statement, made after due consideration, is accepted.

(3) For a kethubah.

(4) But another woman whose name happened to be the same as hers.

(5) Lit., ‘indeed’.

(6) Lit., ‘said to her’.

(7) Lit., ‘he took note’. Hence R. Jeremiah's statement is to be accepted.

(8) Lit., ‘goes’.

(9) Heb. Am-ha-arez, v. Glos.

(10) Since he does not observe and recognise women.

(11) Deut. XXIV, 3.

(12) Lit., ‘that we do not do so’, that the husband is made to pay the fee

(13) The payment of the fee.

(14) By refusing, or delaying the payment of the scribe's fee, as the scribe would hardly part with the deed before his fee had been paid, the husband is able to postpone also the paying of the kethubah which does not become due until after the divorce had taken place. (Cf. R. Gersh., a.l.). Furthermore, the husband, in order to avoid payment, might desert her altogether and she would thus remain separated from him and prevented from ever marrying again. (Rashb.).

(15) That the borrower, in whose interest the loan is made, must pay the fee of the scribe.

(16) עיסקא, a loan for trading purposes the profits of which are shared by the borrower and lender, (v. supra 70b). Though the latter also benefits from the profits, the fee, as in the case of any ordinary loan, must be paid by the borrower.

(17) That the buyer is to pay the scribe's fee.

(18) Though the seller may be more anxious to sell than the other to buy, the latter, as is the case with an ordinary buyer, must pay for the preparation of the deed.

(19) That the bridegroom is to pay the fee.

(20) It is a source of deep satisfaction for one to be able to secure a scholar for a son-in-law. This, however, is no reason why the bridegroom, though a scholar, should not pay the fees that are paid by other bridegrooms.

(21) Though the tenant would for a year or two, while the land is to lie fallow, derive no benefit from the purchase, he has nevertheless, like an ordinary buyer, to pay the fee

(22) V., supra p. 729. n. 8.

(23) In Babylon.

(24) Of the litigants. Those were recorded by the court scribes, and the decision of the judges was based on the pleas thus recorded.

(25) Lit., ‘this’.

(26) Lit., ‘One’. An agreement was then signed in which the names of the litigants and the respective arbitrators they have chosen were duly entered.

(27) V. supra p. 62, n. 3.

(28) The first Tanna.

(29) Hence if one of the litigants demands a separate copy of the document for himself for which he offers to pay, and expects the other to pay for another copy, he, acting in the ‘character of Sodom’, is forced by the court to content himself with one common document towards the cost of which both parties contribute in equal shares.

(30) R. Simeon b. Gamaliel.

(31) Consequently he maintains that a separate copy of the document may be prepared for each of the litigants if one of them so desires it. Now, since the principle of exercising force against a 'Sodomite character' has been disputed elsewhere, why should it be re-argued here again?

(32) Lit 'that all the world'.

(33) Against the use of force in this case.

(34) Lit., 'to him'.

(35) Since a common document might lead to new arguments and quarrels. R. Simeon b. Gamaliel's view is that, in such a case, it is better to allow separate copies for each of the litigants if one of them had expressed a desire to have a copy of his own.

(36) Lit., 'from here and until'.

(37) The creditor.

(38) The trustee.

(39) To the creditor, who can consequently claim the payment of the full debt.

(40) On what principle.

(41) אסמכתא, (lit.. 'reliance'), an undertaking to pay or to forfeit something without receiving for it sufficient consideration, which is dependent on the non-fulfilment of a certain condition given by a person in the hope (reliance) that he would be able to fulfil the condition and would not in consequence have to carry out the undertaking.

(42) Though the undertaking to pay the full debt was given in the hope and expectation that it would never have to be carried out, it is nevertheless legally binding, since the condition on which it was dependent was not in fact fulfilled.

(43) It is obvious that the borrower never intended to pay the full debt after he had already paid an instalment. His undertaking to pay the full debt if the balance were not paid by a certain date must have been in the nature of an expression of good faith, in his desire to show that it was his earnest hope and intention to pay the balance before that date arrived.

(44) Relating to the laws of asmakta.

(45) Lit., 'a first, and second time'.

(46) Lit., 'causes to stand concerning it'.

(47) Who remember the contents of the bond.

Talmud - Mas. Baba Bathra 168b

AND A AND B [WERE SIGNED ON IT AS] ITS WITNESSES GEMARA. Our Rabbis taught: What is the form of its[1] attestation? — 'We, X, Y and Z, being in a session of three, A son of B produced before us a faded bond on such and such a date, and C and D [were signed as] Its witnesses'. And if the attestation contains [the following]. 'We have dealt with the evidence of the witnesses and their evidence was found to agree', [the creditor] collects [his debt][2] and is not required to produce [any additional] proof; but if not,[3] he is required to produce proof.[4] [A bond] intentionally torn is invalid; if torn accidentally, it is valid. [In case] it was effaced or obliterated, if the tracing[5] [of the letters] is distinguishable it is valid. How is one to understand 'intentionally torn' and how, 'torn accidentally'? Rab Judah said: 'Intentionally torn' [means] a tear made by a court of law; 'torn accidentally', a tear which [was] not made by a court of law. How is 'a tear made by a court of law' to be understood? — Rab Judah said:[If it was made at] the place of the witnesses, the place of the date and the place of the amount.[6] Abaye said: [If it runs] lengthwise and crosswise.

Certain Arabs who came to Pumbeditha were seizing by force the lands of the inhabitants.[7] The owners[8] came to Abaye [and] said to him: 'Will the Master examine our deeds and write for us duplicates[9] so that, in case one is forcibly taken away. we shall [still] hold one in our possession'?[10] He said to them: 'What can I do for you. when R. Safra said: Two deeds [may] not be written in respect of the same field [since a person] might [thereby] seize and seize again'.[11] [As] they were troubling him,[12] be said to his scribe, 'Go [and] write for them the text[13] [of the deeds] on an erasure and [let] the[14] witnesses [sign] on [clean] paper, [and thus produce duplicate deeds], which [are] invalid.[15] Said R. Aha b. Manyumi to Abaye;[16] Might it not happen that the [original] tracing[17] would be distinguishable, and [concerning such a case, surely,] it was taught: [A deed that] was effaced or obliterated, if its tracing is distinguishable. [is] valid![18] — He replied to him: Did I say a proper deed [shall be written]?[19] What I said was mere [letters of the] alphabet.[20] Our Rabbis taught: Should [a creditor] come and say, 'I lost my bond of indebtedness'[21] , the bond [may not] be rewritten for him although witnesses stated, 'We wrote, signed and delivered [such a deed] to him'.[22] This, [however], applies only to the case[23] of bonds of indebtedness[24] but [in the case of] deeds of purchase and sale [a deed], with the omission[25] of [the clause] pledging [property may] be [re]written.

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(1) A Faded bond. Cf. our Mishnah.

(2) from the property which the borrower may possess or from that which he sold after the date of the original deed.

(3) If the formula, 'we have dealt with the evidence of the witness etc.. Is not entered.

(4) As to the contents of the bond such as date, sum, etc.

(5) Lit., 'its tracing'.

(6) תורף, The 'specific element' of a deed (opp. טופס 'formal element'). viz., date and amount. (Cf. supra p. 699. n. 9.) So called because by virtue of it the creditor may seize (טורף) even the sold lands of the creditor (R. Gersh.). [Krauss, op. cit. III, 352. Connects it with תורפה, 'exposed', 'blank', hence the blank part of the deed which has to be filled in.]

(7) [During the long drawn out Roman-Persian war (338-363). Shapur II invited certain warring Arab tribes to help him in this struggle against the Romans. V. Funk, S., Die Juden in Babylonian, II. 41.]

(8) Lit., 'their owners', of the seized lands, who were compelled by the Arabs to hand over also their deeds.

(9) Lit., another deed on it'.

(10) And use it as proof of ownership if they should succeed in recovering their lands from the Arabs. [V. Obermeyer. op. cit. 235.]

(11) Infra 169a. A buyer who purchased a field the sale of which has been secured by the seller's landed property might, if a creditor of the seller should ever seize that field for his debt, secure double compensation from the lands of subsequent buyers by the production in turn of one of the two deeds.

(12) Persisting in their demand.

(13) Lit., 'it'.

(14) Lit., 'its'.

(15) They. not knowing that the duplicates were of no legal value, would cease troubling the Master, while no loss to subsequent buyers. (v. supra n. 1,) could possibly be involved (v. supra 164a).

(16) R. Aha understood Abaye to have instructed his scribe (a) to copy the deeds on clean paper; (b) to erase the text, and (c), to copy the deeds again on these erasures.

(17) The first copy. v. previous note (a).

(18) Of what avail, then, was Abaye's device seeing that they could erase the second text whilst preserving the tracing of the first text?

(19) A copy of the original. v. n. 6 (a).

(20) These were (a) to be written; (b) erased; and on the erasure thus produced, a duplicate of the deed was to be written. Should, in such a case, the original letters re-appear they would signify nothing and the deed would remain invalid.

(21) And there are no witnesses to testify that the deed was really lost.

(22) Because this evidence merely proves that the creditor is entitled to the rights of one such bond. It does not prove, however, that he lost his bond. Hence no second one in lieu of the first may be written for him, since he might make use of the two and thus reimburse himself twice.

(23) Lit., 'in what (case) are the words said'.

(24) Because the creditor might thereby collect his debt twice. Even if no security on the borrower's lands were to be entered, it could still be collected from his 'free' property.

(25) As will be explained, infra 169b.

Talmud - Mas. Baba Bathra 169a

Rabban Simeon b. Gamaliel said: Deeds of purchase and sale also [must] not be re-written.[1] for thus said Rabban Simeon b. Gamaliel: Where a person made a gift to his friend and [the latter] returned the deed to him, his gift [also is, thereby] returned.[2] But the Sages say: His gift is valid. The Master had said, 'with the exception of its land security'; what is the reason?[3] — R. Safra replied: Because two deeds may not be written In respect of the same field in case a creditor[4] might go and seize [the field] of this [person][5] and [the latter][6] would go and produce one [deed][7] and seize [thereby the lands of subsequent] buyers.[8] He[9] would [then] say to the creditor.[10] 'Wait[11] until I am firmly established in the possession of this field[12] and then come and seize it[13] from me. He would [then][14] produce the other [deed][15] and [thereby] rob other buyers [also].[16]

Since, however, the creditor's bond was torn,[17] whereby would he again seize [any] land?[18] And if it be said [that this might refer to a case] where it was not torn; surely, [it may be pointed out,] R. Nahman stated: Any tirpa[19] which does not contain[20] [the declaration], 'we have torn up the creditor's bond of indebtedness', Is not a [legal] tirpa;[21] and any adrakta[22] which does contain [the entry][20] 'we have torn up the tirpa is not a [legal] adrakta;[21] I and any shuma[23] in which [the statement]. 'We have torn up the adrakta' is not entered[20] is not a [legal] shuma![24] — [The precaution was] necessary [in the case] only[25] where one asserts a claim by virtue of his paternal rights.[26] R. Aha of Difti said to Rabina: Why [should it be necessary][27] for him[28] to say to the creditor, 'Wait until I am firmly established in the possession of this land'?[29] This[30] [surely], could be derived [from the fact] that since he[31] holds two deeds he [can] seize [once] and [immediately] seize again![32] — If [he were to do] so [he would have had too] many litigants against him .[33]

And [why] should [not] a proper deed[34] be written for that [man],[35] while, for the seller,[36] [the following quittance might] be written out: 'All deeds that [may] be produced against this land are invalid except the one bearing[37] this date'?[38] The Rabbis recited this before R. Papa — and others say, before R. Ashi — [and suggested that] this proves [that] no quittance is [ever] to be written.[39]

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(1) Because it is possible that the original deed was returned by the buyer to the seller who has thereby (in accordance with the view of Rabban Simeon b. Gamaliel which follows) again acquired the land he sold.

(2) Similarly, in the case of a sale, it is possible that the deed of sale was returned, and the land was, thereby, re-transferred from the buyer to the seller. Cf. previous note.

(3) Why must the security be excluded from the duplicate.

(4) Of the seller of that field.

(5) The buyer for whom a duplicate deed was written.

(6) Lit., 'that', the buyer from whom the field has been taken by the creditor and for whom a duplicate deed was written. V. previous note.

(7) The duplicate.

(8) Who bought from the same seller after the date of the sale in question and whose purchased lands are consequently included in the security of the first sale.

(9) The buyer. Cf. supra note 7.

(10) With whom he would form a conspiracy to defraud subsequent buyers.

(11) Or 'allow me a period of peace'.

(12) Lit., 'in it', i.e., till the whole affair of the seizure be forgotten.

(13) For the debt for which the creditor was already reimbursed by his first seizure.

(14) After the creditor had staged a second seizure.

(15) I.e., the original one which was alleged to have been lost.

(16) He and the creditor sharing the spoils of the fraud between them. Hence the provision that no duplicates are to be written even in the case of deeds of sale and purchase.

(17) When he seized the property from the buyer the first time.

(18) Lit., 'it'.

(19) טירפא (rt. טרף, 'to seize'), a document issued by a court of law to a creditor (to whom the debtor is unable or unwilling to pay his debt), authorising him to trace the debtor's property (including any land sold after the date of his loan), for the purpose of eventually seizing it in payment of his debt.

(20) Lit., ‘in which it is not written’.

(21) Had it been made legal, one could have used both documents, each at a different court in a different town.

(22) אדרכתא, (rt. דרך ‘to tread’), an authorisation (following that of the tirpa) which a court issues to a creditor, after he had traced the debtor's property (cf. n. 1). to seize it (to ‘tread’ on) for the purpose of having it offered for public sale and his receiving the proceeds or the land itself at the price valued.

(23) שומא. (rt. שום to appraise’, ‘value’), a record of the valuation of the seized property, which is delivered by the court to the creditor as evidence of the value at which it was assessed for him. Since a debtor may at any time repay the amount at which the land had been assessed, such a record is necessary to enable the creditor to receive the sum due to him.

(24) Cf. n. 3. How then could it happen that a bond of indebtedness should not be torn up by the time the creditor had already taken possession of the property?

(25) Lit., ‘not necessary (but)’.

(26) Lit., ‘when he comes from the power of his fathers’, i.e., the reason why a duplicate of a deed of purchase and sale is not issued, is not, as has been assumed, because a creditor might conspire to obtain double payment; but to provide against an heir who might prove by witnesses that a buyer had purchased a field from a seller who had robbed it from his father and in consequence of this proof it would be returned to him, while the buyer would be given a certificate authorising him to seize the property which anyone may have purchased from the same seller after the date of his purchase. Such a buyer, were he allowed a duplicate of his deed of purchase, could form a conspiracy with the heir by asking him to wait for a certain period, until he had been firmly established in the ownership of the field which he seized by virtue of one of the two copies of the deed and, after the whole affair had been forgotten, to claim again that field so that the buyer could, with the aid of the second of his two copies of the deed, seize the lands of other subsequent buyers. Hence R. Safra's ruling that no two deeds may be written in respect of one field.

(27) In giving a reason why R. Safra forbids the issue of two deeds of purchase in respect of the same field.

(28) The buyer who, as has been stated above, might form a conspiracy with a creditor to defraud subsequent buyers by means of the duplicate of his deed of purchase.

(29) Lit., ‘in this land and I will be established in it’.

(30) R. Safra's law.

(31) The buyer.

(32) Why, then, the necessity for postponing the seizure of the second field to a later date.

(33) And his conspiracy might thereby be more likely to be discovered.

(34) One containing the clause pledging the seller's lands.

(35) Spoken of in the Baraitha (supra 168b, end), who pleads that he lost his deed and requests that a duplicate be given to him in its stead.

(36) In order to protect him against being called upon by the production of two deeds, to pay the buyer twice.

(37) Lit., ‘that will go out with’.

(38) That in the duplicate. Should the buyer ever present the first deed, the seller could prove its invalidity by the production of his quittance.

(39) I.e., a debtor cannot be compelled to repay a loan unless his bond is returned to him. He is not obliged to become the keeper of a quittance. Cf. Mishnah 170b, infra.

Talmud - Mas. Baba Bathra 169b

He, [however,] said to them: Elsewhere[1] a quittance is to be written,[2] and [the reason why it is not written] in this case[3] is because the creditor[4] might call upon, and take [the field] away from the buyer[5] and he[6] would call upon, and seize [the fields of subsequent] buyers, while [these] buyers [would] have no quittance [to show].[7] After all, however, [would] not the buyers [ultimately] return to the owner of the land?[8] — In the meantime he[9] [would be] plucking and eating the fruit, or else,[10] [he[9] might seize the land] from one who has purchased [it] without security.[11] If so,[12] [the same should apply to] bonds of indebtedness also![13] — In that case[14] where the claim is money they[15] assume [that] the debtor might have satisfied the claim[16] with money.[17] In this case[18] [however] where the claim is for land, they well know that one who claims land would not be satisfied with money.[19]

The Master had said, ‘With the omission of [the clause] pledging [property]’. How [is such a deed][20] to be written? — R. Nahman said: It is written as follows: ‘This deed is not for the purpose of collecting thereby either from sold, or from free property but for that of establishing the land in the possession of the buyer’.[21] Rafram said: This[22] proves [that the omission[23] of the clause] pledging property [is regarded as the] scribe's error,[24] [since] the reason [given[25] was] because such an entry[26] was actually included[27] but, [it follows], had it not been included[28] he[29] [could have] claimed [his compensation from the seller's lands].[30]

R. Ashi said: [The omission of the clause] pledging property [is] not [regarded as] the scribe's error; and the meaning of[30] ‘with the omission [of the clause] pledging property’ is that no such clause is entered in the deed.[31]

A certain woman once gave to a man money [wherewith] to buy for her [a plot of] land. He went [and] bought for her [the land] without [providing for the] security[32] of its tenure. She came before R. Nahman[33] [who] said to the agent.[34] ‘[The woman has the right to declare]. "I sent you to improve [my position]; not to make [it] worse".[35] Go [then], buy it [yourself] from him[36] without security and then sell it [to the woman] with due security of tenure’.[37]

‘Rabban Simeon b. Gamaliel said; Where a person made a gift to his friend and [the latter] returned the deed to him, his gift [also is, thereby] returned. But the Sages said: His gift is valid.’ What is Rabban Simeon b. Gamaliel's reason? — R. Assi said: [Because] it[38] is just as if [the donor] had said to the donee.[39] ‘This field is given to you for so long [a period] as the deed [remains] in your possession’.[40]

Rabbah demurred; If so,[41] [the same law should apply] also [to the case where] it[42] was stolen or lost! — But, said Rabbah, they differ on [the question whether] ‘letters’[42] [may] be acquired by delivery.[43] R. Simeon b. Gamaliel holds the opinion [that] ‘letters’ are acquired by delivery while the Rabbis[44] hold the opinion [that] ‘letters’ may not be acquired by delivery.

Our Rabbis taught: Where a person appears in court[45] with a deed[46] and with [evidence of] undisturbed possession[47] judgment is given [on the basis of] the deed; [these are] the words of Rabbi. R. Simeon b. Gamaliel said: [Judgment is given] on [the basis of his] undisturbed possession. On what [principle] do they differ? — When R. Dimi came[48] he said: They differ on [the question whether] ‘letters’ may be acquired by delivery.

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(1) In the case where a bond of indebtedness was lost by a creditor.

(2) for the debtor on paying his debt.

(3) And on the strength of it provide the buyer with a duplicate.

(4) Of the seller.

(5) Who bought his land from the debtor subsequent to the date of the loan.

(6) That buyer.

(7) The first buyer, wore he able to secure a duplicate deed on a plea of having lost the original, would, thereby, be placed in a position to form a conspiracy with the creditor to defraud subsequent buyers.

(8) I.e., the seller, to claim compensation for the lands seized; and he would, naturally, tell them about the quittance wherewith they could to — claim the lands of which they were robbed by the first buyer.

(9) The first buyer.

(10) Lit., ‘also’.

(11) Such a buyer could not advance any claim for compensation against the seller. Hence he would never learn of the existence of the quittance.

(12) That provision is made against the possibility of seizing lands from buyers who are unaware of the existence of a quittance.

(13) I.e why then is a quittance permitted, where a bond of indebtedness was lost? Surely it is possible that the buyers might not be aware of the existence of such a quittance.
(14) The case of a loan.
(15) The subsequent buyers whose lands the first buyer comes to seize.
(16) Lit., ‘him’.
(17) Hence they would not part with their fields before ascertaining the position from the seller, (i.e. the debtor) and so would learn of the existence of the quittance.
(18) That of a deed of sale and purchase.
(19) And would, therefore, allow the first buyer to take possession of their lands in the hope that, in due course, the seller might compensate him and arrange for the return to them of their property. They are not, therefore, in a hurry to go to the seller. When they ultimately learn of the existence of a quittance a considerable time has already elapsed and they lose the fruits which the first buyer had consumed in the meantime.
(20) Which enables the holder to establish his claim upon his land and yet prevents him from seizing that of others.
(21) That the previous owner (the seller) shall not be able to deprive him, of it by the assertion that he had never sold it to him.
(22) R. Nahman's requirement specifically to enter in the deed that it does not provide any security.
(23) from any deed.
(24) And is regarded as entered though the scribe had omitted it. V. B.M. 14a.
(25) Why the deed does not entitle the holder to claim compensation from the seller's lands.
(26) ‘This deed is not etc.’.
(27) Lit., ‘because he wrote for him thus’.
(28) Lit., ‘not written for him, thus’.
(29) The holder of the deed.
(30) Lit., and what’.
(31) Lit., ‘that pledging is not written in it’.
(32) He failed to arrange for the seller to pledge his landed property for the field he bought.
(33) To complain against the unsatisfactory terms of the purchase.
(34) Lit., to him’, the man who acted on behalf of the woman.
(35) By spending her money on unsecured property.
(36) The seller.
(37) So that in case the land is ever taken away from her by a creditor of the seller or by previous buyers she will he entitled to compensation from the agent.
(38) Since the gift is conveyed to the donee by means of a deed.
(39) Lit., ‘to him’.
(40) Hence it returns to the donor as soon as the deed is returned to him.
(41) That the donee can retain ownership of the gifts so long only as the deed remains with him.
(42) A deed.
(43) Heb., mesirah, v. supra 76a (q.v. for notes), and Glos.
(44) The Sages.
(45) Lit., ‘who comes to be judged’, i.e., to respond to a claim that a plot of land which he Occupies is not his.
(46) Of purchase, which X, the person who sold the land to him, received from Y, from whom he in turn bought it; pleading that, though his own name does not appear in it, he acquired ownership of the land by the act of delivery which X had performed when he handed the deed to him. [So Rashb. R. Gersh. and Rashi (Sanh. 23b) take it simply to refer to the deed of purchase which the buyer claims to have received from the seller.]
(47) Hazakah (v. Glos.). Witnesses testify that he occupied the land during the statutory period of three years required for establishing his title to it.
(48) From Palestine to Babylon.

Talmud - Mas. Baba Bathra 170a

R. Simeon b. Gamaliel holds [that] ‘letters’ are not acquired by delivery[1] and Rabbi holds [that] ‘letters’ are acquired by delivery.

Said Abaye to him: If so,[2] [this would present] a disagreement with the Master![3] [The other] replied to him, ‘Then let there be disagreement!’[4] ‘I mean to say to you this’, said [Abaye] to him, ‘[that] the Baraitha cannot be [well] explained except on the lines which the Master had laid down; and since [that is] so.,[there would emerge] a contradiction between one statement of R. Simeon b. Gamaliel and the other statement of his!’[5] But, said Abaye, here it is a case[6] where one of them[7] was found to be a relative[8] or [otherwise] disqualified; and they differ on the [same principle that underlies the] dispute of R. Meir and R. Eleazar. Rabbi holds the [same] View as R. Eleazar who maintains [that] the witnesses to the delivery[9] effect the legal separation;[10] while R. Simeon b. Gamaliel is of the [same] opinion as R. Meir who maintains [that] the witnesses who signed[11] [the letter of divorce] are the main factor in the legal separation.[12]

But, surely. R. Abba had said: R. Eleazar agrees that [a deed] is invalid if the irregularity is internal![13] — But, said Rabina, all agree[14] that [the deed] is invalid if it[15] contains the entry.[16] ‘we have dealt with the evidence of the witnesses and their evidence was found to be irregular’.[17] in accordance with [the law laid down by] R. Abba; they only differ in [the case of] a deed which bears no [signatures of] witnesses at all [in] which [case] Rabbi holds the [same] view as R. Eleazar who maintains [that] the witnesses to the delivery effect the legal separation;[18] while R. Simeon b. Gamaliel holds the [same] view as R. Meir who maintains [that] the witnesses who signed the deed[19] effect the final separation.[20] If you prefer, however, I might say, [that] they differ on [the question whether in the case] where a person[21] admitted that he wrote a deed,[22] [independent legal] attestation is required. For Rabbi holds [that where a person] admitted that he wrote a deed, no [independent] attestation is required;[23] while R. Simeon b. Gamaliel holds [that independent] attestation is required.[24]

[Did] we [not], however, hear [that] they hold contrary [views]? for it was taught:[25] Where two men[26] cling to a deed, the creditor pleading. ‘It is mine, I dropped it, and you found it’, and the borrower pleading. ‘It is[27] [indeed] yours but I have paid you’. the [validity of the] deed is established by those who signed it.[28] So[29] Rabbi. Rabban Simeon b. Gamaliel said: Let them[30] divide it.[31] And when this was discussed [the following] question was raised: Does not Rabbi accept[32] what we have learnt: Where two [men] hold a cloth, one pleading, ‘I found it’ and the other [also] pleading, ‘I found it’, the one must take an oath that he possesses in it no less than a half and the other must take an oath that he possesses in it no less than a half and they divide [it]?[33] And Raba in the name of R. Nahman replied: In [the case of] an attested[34] [deed] no one disputes [the law] that they[35] must divide;[36] they differ only in [the case of a deed] which has not been attested, [since] Rabbi holds the opinion [that where one] admitted that he wrote a deed [independent] attestation is required, and [consequently] if [the creditor is able to] secure its attestation he collects a half, and if not [the deed is regarded as] a mere potsherd; while Rabban Simeon b. Gamaliel holds the opinion [that where one] admits that he wrote [a deed] no [independent] attestation is required and they divide![37] — Reverse.[38]

If you prefer, however, it may be said [that] there is really no [need] to reverse [the reported opinions],[39] but the dispute here[40] is on [the question of] proving [all one's pleas];[41] such as [the case] of R. Isaac b. Joseph [who] claimed [a sum of] money from R. Abba. [When] he came before R. Isaac Nappaha. [R. Abba] pleaded. ‘I repaid to you in the presence of X and Y’. ‘Let X and Y come’, said R. Isaac to him, ‘and let them give [their] evidence’. ‘If they will not come’, said [R. Abba] to him, ‘am I not to be believed? Surely we have it as an established law [that] a loan made in the presence[42] of witnesses need not be repaid[43] in the presence of witnesses!’ ‘In this [case’, R. Isaac] replied to him, ‘I am of the same opinion as [that in] the reported statement of the Master.[44] for R. Abba in the name of R. Adda b. Ahabah in the name of Rab said: Where one said to another, ‘I paid you [your debt] in the presence of X and Y’, it is necessary that X and Y should come and give evidence. ‘But surely’, said [R. Abba] to him,[45] ‘R. Giddal said in the name of Rab: The halachah is in accordance with the statement of R. Simeon b. Gamaliel;[46] and even Rabbi

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(1) The production of the deed is, therefore, useless and the title to the land must rest entirely on the evidence of ‘undisturbed possession’.

(2) That according to R. Simeon b. Gamaliel ‘letters’ are not acquired by delivery.

(3) Rabbah, who said supra that according to R. Simeon b. Gamaliel ‘letters’ are acquired by delivery.

(4) I.e ‘I do not mind differing from Rabbah’.

(5) Lit., ‘R. Simeon etc’ on R. Simeon etc.’ V. supra notes 9 and 10.

(6) Lit., ‘in what are we engaged’.

(7) The witnesses who signed an ordinary deed.

(8) Of one of the litigants.

(9) Of the letter of divorce to the woman.

(10) Lit., ‘cut’, the matrimonial relationship between husband and wife (v. Git. 9b). The signatures of the witnesses on the document, which are required ‘for the sake of the social order’ (cf. ibid. 86a). do not in any way affect the legal and final separation between husband and wife, which is entirely dependent on the presence of suitable witnesses at the time of the delivery of the document. Similarly in the case of a deed of purchase and sale, Rabbi regards the document as valid irrespective of the signatures or the qualification of the witnesses. Hence he maintains that the tight of ownership may be established even where one of the witnesses is a relative or is in any other way disqualified.

(11) Lit., ‘witnesses of the signature’.

(12) Git. 21b. Cf. note 5. As in the case of a letter of divorce the validity of the document is entirely dependent on the witnesses whose signatures are appended to it so in the case of a deed of purchase or sale, unless the witnesses who signed it are eligible, the document is invalid. Hence R. Simeon b. Gamaliel maintains that, where one of the witnesses was found to be disqualified for any reason whatsoever, the entire deed is invalid, and right of ownership must be determined by the result of the evidence of witnesses on the statutory period of undisturbed possession of the land, on the part of the present holder.

(13) Git. 10b. Though a letter of divorce on which no signatures at all appear is valid (the witnesses to the delivery effecting the legal and final separations), where disqualified witnesses are signed on it, thereby causing an irregularity in the document itself, the deed is invalid. Similarly, in the case of the deed of purchase under discussion, how could R. Simeon b. Gamaliel regard it as valid when, owing to the disqualification of one of the witnesses, an internal irregularity arises in the deed itself!

(14) Rabbi and R. Simeon b. Gamaliel.

(15) The deed produced as evidence of the holder's tight of ownership. supra 169b, end.

(16) Lit., ‘written in it’. [Read with Ms. M., ‘IF they dealt with the evidence, etc.’]

(17) I.e., one of the witnesses was found to be disqualified.

(18) Cf. p. 743. n. 5.

(19) Cf. loc. cit. n. 6.

(20) V. loc. cit. n. 5.

(21) E.g. a seller.

(22) And he only disputes its validity. In the case under discussion, e.g., he might plead that he did not deliver the deed to the other party, as the sale never took place, but he lost the document and the other found it.

(23) Consequently, in the present case since the seller admits the writing of the deed and only disputes the buyer's claim, the latter's word is accepted and there is no need to hear witnesses on the question of undisturbed possession.

(24) Judgement, therefore, cannot be given in favour of the buyer on the strength of the deed alone; and his claim must be based on the evidence of undisturbed possession which is given by qualified witnesses. Cf. 154a; B.M. 7b; 72b.

(25) B.M. 7a.

(26) Creditor anti debtor.

(27) [Some texts: ‘It sits yours’; v D.S.B M. 7a.]

(28) Since the original validity of the deed is thus established, the creditor is entitled to judgment in his favour.

(29) Lit., ‘the words of’.

(30) Creditor and debtor.

(31) The amount of the debt, the debtor repaying only a half of the claim.

(32) Lit , ‘is there not’.

(33) B.M. 2a. As the cloth in that case is divided so here the amount of the debt should be divided. Why, then, did Rabbi say that the entire amount of the debt was to be repaid to the creditor?

(34) Legally endorsed by a court of law.

(35) Creditor and debtor.

(36) The amount of the debt; as the cloth is divided between the two who claim to have found it. The creditor is entitled to his half by virtue of the endorsed deed; the debtor also is entitled to his half by virtue of his holding on to the deed jointly with the creditor.

(37) Cf. previous note. Thus it follows that Rabbi does not, and Rabban Simeon b. Gamaliel does require independent attestation. How, then, could it have been assumed supra that their respective opinions were directly the opposite?

(38) One or other of the two reported statements, so that Rabbi and Rabban Simeon b. Gamaliel should hold respectively the same opinions in both cases.

(39) OF Rabbi and Rabban Simeon b. Gamaliel.

(40) The Baraitha. supra 169b.

(41) In the case where one of two pleas is essential, and the other superfluous. According to Rabbi both pleas must be proved since they were both advanced together. Hence it is necessary for the buyer (supra 169b) to prove the validity of the deed though, had he based his claim on the tight of undisturbed possession only, there would have been no need for him to produce any deed at all, no one being expected to preserve a deed after three years which is the statutory period of undisturbed possession. Rabban Simeon b. Gamaliel, however, holds that the superfluous plea is altogether disregarded. Hence it is sufficient for the buyer to prove undisturbed possession to secure judgement in his favour.

(42) Lit., ‘who lends to his friend with’.

(43) Lit., ‘to pay him’. V. Shebu.41b, Ket. 18a.

(44) Rab.

(45) Cf. Rashal, a.l.

(46) Who maintains that where a superfluous plea was advanced together with one which is essential, the former is altogether disregarded. Here, then, since it is not necessary to repay a loan in the presence of witnesses, why should it be necessary to bring the witnesses that were needlessly mentioned?

Talmud - Mas. Baba Bathra 170b

disagreed[1] only in respect of proving [one's statement]!’[2] ‘I also’, replied [R. Isaac] to him, ‘require[3] [the evidence of your witnesses] in order to prove [your plea]’.[4]

MISHNAH. IF A PERSON[5] REPAID PART (OF HIS DEBT, R. JUDAH SAID, HE SHALL EXCHANGE [HIS BOND FOR ANOTHER].[6] R. JOSE SAID: HE[7] SHALL WRITE A QUITTANCE.[8] R. JUDAH SAID: THUS, THIS [DEBTOR] WOULD HAVE TO GUARD HIS QUITTANCE FROM MICE![9] SAID R. JOSE TO HIM: SUCH [A COURSE][10] IS BETTER FOR THE CREDITOR[11] AND HIS[12] RIGHTS MUST NOT BE IMPAIRED.

GEMARA. R. Huna said in the name of Rab: The halachah is neither in accordance with R. Judah nor in accordance with R. Jose; but [only] a court of law [has the authority to] tear up the deed and to write for the creditor[13] another deed[14] entering the original date.[15]

Said R. Nahman to R. Huna, and others say [that] R. Jeremiah b. Abba said to R. Huna: Had Rab heard that Baraitha[16] wherein it was taught, ‘Witnesses may tear up a deed and write ‘for [the creditor]; another deed entering the original date’, he would have withdrawn.[17] He said unto him: He heard it and he did not withdraw.

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(1) Lit., ‘said’.

(2) Legally however, Rabbi admits, this is not necessary (R. Gersh.)

(3) Lit. , ‘say’.

(4) I.e., R. Isaac holds the same opinion as Rabbi. Had not R. Abba mentioned witnesses his word alone would have been accepted. Since, however, he did mention witnesses, he must prove his statement or lose his case. [R. Gersh. ‘I also require it merely to prove your plea, without however affecting the issue should you fail to bring the witnesses.']

(5) Lit 'who'.

(6) For one in which the balance if the debt is entered, while the original deed is to be destroyed.

(7) The creditor.

(8) For the sum received; and delivered to the debtor.

(9) Lit., 'keep his receipt from the mice'. It is more equitable for the creditor to exchange the bond than for the debtor to be encumbered with the necessity of taking care of a receipt the loss of which might involve him in a claim for the repayment of the full loan.

(10) The writing of a receipt instead of changing the original deed.

(11) Lit 'for him'.

(12) Lit., 'of this'.

(13) Lit., 'for him'.

(14) for the balance of the debt.

(15) Lit. , 'from the first time'.

(16) Cited infra 171a.

(17) His ruling; and would have admitted the halachah to be in accordance with the ruling of R. Judah in our Mishnah. Since the original date is entered in the new bond, the creditor is involved in no loss or disadvantage whatsoever, and there should, therefore, be no difference whether the court or witnesses change the deed.

Talmud - Mas. Baba Bathra 171a

[In the case of] a court of law, one can well understand,[1] because it has the power and authority to confiscate[2] money;[3] but [as regards] witnesses, who had once performed their mission,[4] [how could they] perform their mission again?[5] — But [can they] not? Surely Rab Judah said in the name of Rab: Witnesses may write even tell [successive][6] deeds in respect of one field! — R. Joseph replied: [This[7] is permitted only] in [the case of] a deed of gift.[8] And Rabbah replied: [Even] in [the case of] a deed [of sale] which does not contain [the clause] pledging [property].[8]

What [was that] Baraitha?[9] — It was taught: If [a creditor] was claiming from [a debtor] a thousand zuz and he repaid five hundred zuz of these, the witnesses [may] tear up the bond and write for him another deed bearing the original date;[10] so[11] R. Judah. R. Jose said: This deed must remain where it is. and a quittance is to be written.[12] And for two reasons has it been said [that] a receipt was to be written. Firstly[13] in order that he be compelled [thereby][14] to repay [the debt] and secondly[15] in order that [the debt] may be collected from [property sold] since the original date.

But R. Judah also said, 'bearing the original date'![16] — This[17] is what R. Jose said to R. Judah: If you mean, 'bearing the first date', I disagree with you for one [reason];[18] if you mean 'bearing the second date' 'I disagree with you for two [reasons].

Our Rabbis taught: A deed the date of which[19] is a Sabbath or the Tenth of Tishri[20] is [regarded as] a postdated deed[21] and is valid.[22] So R. Judah. R. Jose [declares it to be] invalid.[23] Said R. Judah to him: Was not [such[24] a deed] actually brought before you at Sepphoris and you declared [it] to be valid? [R. Jose] replied to him: When l declared [it] to be valid, I declared [it] in that [case only].[25] But, surely. R. Judah also speaks of such [a deed]![26] — R. Pedath replied: All[27] agree that if the date of the deed was calculated and it[28] was found to coincide exactly with a Sabbath day or the Tenth of Tishri, it is a postdated deed and is valid.[29]

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(1) Why it may tear up a deed and insert its date in the one given in exchange.

(2) Lit., 'to take Out'.

(3) A deed entitled its holder to seize any real estate which the debtor had sold to mortgaged after, but not before the date of the deed. Consequently. when a now deed is written for the balance of a debt in exchange for the original deed, the creditor should not be entitled to seize any property that was sold between the date of the original and that of the new deed. A court of law, however, having the right to confiscate any property. Is also empowered to enter in the second deed the date of the original and thus to subject to the creditor's seizure property to which he would not otherwise have been entitled.

(4) OF writing and signing the first deed.

(5) What authority have they for inserting the date of the original deed and to confer thereby upon the creditor privileges to which his new deed would not otherwise have entitled him?

(6) If the holder has lost the previous ones.

(7) The issue by witnesses of a second, or subsequent deed bearing the date of the original one.

(8) Such a deed does not entitle its holder to the seizure of any property, and the date is therefore, of no consequence.

(9) Referred to supra 170b.

(10) Lit ‘from the first time’.

(11) Lit. , ‘the words of’.

(12) for the five hundred zuz paid.

(13) Lit. , ‘one’ ‘

(14) Owing to the trouble he has to take in preserving the quittance.

(15) Lit., ‘one’.

(16) What point, then, is there in R. Jose's second reason?

(17) Lit., ‘thus’.

(18) The first reason, that the debtor may be compelled to repay the loan.

(19) Lit ‘the time of which is written’, i.e.. a certain date is given which, on calculation is Fund to be one of the following.

(20) Writing is forbidden on the Day of Atonement, as on the Sabbath.

(21) Since it is obvious that it was not written on the Day of Rest or the Day of Atonement, it is assumed15 have been written on a previous day. and post dated so as not to invalidate without any proof the deed (Rashb.)

(22) According to R. Judah, any postdated deed is valid even though the contents do not show that it was postdated; much more so in this case where it is obvious (of. p.748. n.16) that it was postdated.

(23) Cf. explanation in the Gemara, infra.

(24) I.e., postdated.

(25) When the date of the deed is a day on which writing is forbidden, from which it would be obvious to all (cf. loc. cit. n.16) that It was postdated. No one, therefore, could possibly be misled by the date, and no confusion or loss would arise. Any other postdated deed, however, the contents of which do not clearly show that it is postdated, (i.e.. where the date is an ordinary working day). and which might consequently be mistaken for one written on that very date, and thus cause confusion or loss, is regarded by R. Jose as invalid.

(26) Why. then, was it stated that It. Jose declares it to be invalid?

(27) It. Judah and R. Jose.

(28) Lit ‘its date’.

(29) V. p.748. n. 16, 4.

Talmud - Mas. Baba Bathra 171b

They are in disagreement only in [the case of] an ordinary Postdated deed,[1] [in] which [case] R. Judah follows his own view, according to which[2] no quittance is written,[3] and consequently no loss[4] would ensue,[5] while R. Jose follows his view according to which a quittance may be written and loss might consequently ensue.[6] R. Huna son of R. Joshua said: Even according to him who said [that] a quittance may be written, this may be done only[7] for a half,[8] but not for the whole [of the debt].[9]

And [the law is] not so, but[10] even for the full amount of a debt[11] [a quittance] may be written; as in the case of R. Isaac b. Joseph. He claimed [a sum of] money from R. Abba whom he sued[12] before R. Hanina b. Papi. [When] he[13] said to him,[14] ‘Give me my money’, [the other] replied to him, ‘Return to me my deed and you will receive your money’. ‘I lost your deed’, said [R. Isaac] to him, ‘[but] I will write for you a quittance’. ‘Surely’, the other replied to him, ‘It was both Rab and Samuel who said [that] no quittance was to be written’.’[Were] one [to] give us of the dust of Rab and Samuel', he[13] exclaimed, 'we should put it into our eyes;[15] but it was both R. Johanan and Resh Lakish who stated [that] a quittance is to be written'.[16]

Similarly, when Rabin came[17] he stated in the name of R. Elai [that] a quittance may be written. And it stands to reason that a quittance may be written; for should it be assumed [that] a quittance must not be written, [is it conceivable that where] the bond of this one[18] was lost, the other should eat[19] and enjoy himself!

Abaye demurred: What then; is a quittance to be written? Should this one,[20] [if] the quittance of the other was lost, eat and enjoy himself? 'Yes', replied Raba to him, 'the debtor[21] is the slave of the creditor'.[22]

Elsewhere We learnt: Antedated bonds of indebtedness are invalid[23] and postdated [ones] are valid.[24] Said R. Hamnuna: This law applies only to[25] bonds of indebtedness but [in the case of] deeds of purchase and sale even [those which are] postdated are invalid. What is the reason? [A person] might sometimes sell [a plot of] land to another in Nisan and write [the deed] for him in Tishri; and in the meantime he might obtain some money and repurchase it from him.[26] But when Tishri arrived he[27] would produce it[28] and say, 'I have [subsequently] bought it from you again'.[29] If so, [in the case of] bonds of indebtedness also, one might sometimes borrow [money] in Nisan and write the bond for the creditor[30] in Tishri, and in the meantime he would obtain some money and repay him. When [however the debtor] requested the return of his[31] bond, he would reply to him, 'I lost it', and would [instead] write out for him a quittance. When [later] the date of payment[32] arrived he would produce it[33] and plead 'You have borrowed from me just now!' — He[34] holds the opinion that no receipt is to be written.[35]

Said R. Yemar to R. Kahana, and others say [that] R. Jeremiah of Difti said to R. Kahana: But [what of] the present time, when postdated deeds are written though quittances also are written?[36] He replied to him[37] : [This is permissible] since the time when R. Abba said to his scribes: 'When you write a postdated deed, write as follows: This deed was not written on the date indicated[38] but was postdated.'[39]

Said R. Ashi to R. Kahana: And [what of] the present time when this is not done![40] — [This[41] is not necessary] since R. Safra instructed his scribes: When you write out quittances, enter the date of the deed[42] if you know it; if not, leave the quittance undated so that whenever [the deed] is produced [the receipt] will render it invalid.[43]

Said Rabina to R. Ashi, and others say [that] R. Ashi [said] to R. Kahana:

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(1) The date of which is that of a working day and dies not, consequently, prove that the deed was postdated.

(2) Lit., 'who said'.

(3) Where the debtor repaid a part of the loan or the whole of It and the creditor lost the deed.

(4) To the debtor.

(5) Since the deed would be returned to him on his repayment of the debt, or would be exchanged for a second deed should he pay a portion only of the debt.

(6) The creditor, after giving the debtor a quittance for his repayment of the loan, might produce the postdated deed (the date of which is later than the date of the quittance) and thereby claim his loan again. pleading that the quittance was given for an earlier loan. As the Fact that the deed is postdated could not be proved, the debtor would be the loser having to repay rise same loan twice. In the case, however, where the date coincides with a sacred day, on which no writing is permitted, the creditor's fraud would be detected. (Cf. p. 748. n. 16 and supra n. 4).

(7) Lit., 'these words'.

(8) I.e where the debtor repaid a part of the debt only and desires to have evidence of payment.

(9) It is the creditor's own fault if he lost the bond. He must either produce the bond or forfeit the loan.

(10) Cf. Bail, a.l.
(11) Lit., ‘on all of it’.
(12) Lit. , ‘he came’.
(13) R. Isaac.
(14) R. Abba.
(15) Out of respect and reverence for their memory.
(16) Despite the greatness of the departed Masters, the law is in accordance with the ruling of R. Johanan and R. Lakish.
(17) From Palestine to Babylon.
(18) The creditor.
(19) Consume other people's money.
(20) The creditor.
(21) Since he has the benefit of the transaction.
(22) Hence he must beat the burden of preserving the receipt.
(23) Since a creditor, who is justly entitled to seize any real estate sold by the debtor after the date of the loan, might fraudulently lay claim to lands which the borrower had sold between the date entered in the bond and the actual date of the loan, by pleading that the earlier date in the deed was the actual date of the loan.
(24) Though the creditor is thereby prevented from seizing any of the debtor's property that was sold between the actual date of the loan and the date in the deed. By allowing the entry of the later date he is assumed to have voluntarily surrendered his right upon such lands as were sold during the period intervening between the two dates, Sheb. X. 5.
(25) Lit., ‘they did not teach but’.
(26) Without having the deed of sale returned to him, the buyer having asserted that he lost it.
(27) The buyer.
(28) The postdated deed.
(29) Even the document which the buyer might have given to the seller as confirmation of his to.purchase would be of no avail, since its date is earlier than the one which appears on the postdated bill of sale, and the former could, therefore, plausibly claim that after the to purchase by the seller the land was sold to him again.
(30) Lit., ‘for him’.
(31) Lit., ‘and said to him, give me my’.
(32) Lit., ‘its time’.
(33) The postdated deed.
(34) R. Hamnuna.
(35) The creditor must return the bond itself before he can receive repayment of the debt.
(36) How, in view of what has been said above, could a postdated deed be permitted where a receipt also is allowed?
(37) for this reading. v. Rashb., R. Gersh. and Bah, a.l.
(38) Lit., ‘in its time’.
(39) Lit., ‘we delayed (or postponed) it and wrote it.’
(40) No formula such as that introduced by R. Abba is entered in a postdated deed, though the writing of a quittance is permitted!
(41) R. Abba's formula.
(42) I.e., the quittance must not only contain the names of the creditor and debtor as well as the amount of the loan, but also the date of the bond in lieu of which the quittance is given. Consequently should the creditor ever attempt to make use of the cancelled bond because it was postdated the debtor would be in a position to expose him by means of the quittance in which the date of that bond is entered.
(43) Since the receipt is undated and contains all the particulars (such as names of parties and amount) of the bond, it can be used by the borrower against the creditor whenever the latter should attempt to advance a claim by means of that bond. Whether the date of the bond is earlier, or later than that on which the quittance was written matters little, since the quittance, being undated, can always be presented as a document written after the date of the bond. The issue of such an undated quittance, however, would naturally preclude the creditor from ever lending the debtor a sum equal to that in the bond in question.

Talmud - Mas. Baba Bathra 172a

But this[1] is not done at the present time?[2] — He replied to him: The Rabbis have made the necessary provision. Whosoever acts [accordingly] reaps the benefit;[3] he who does not act [accordingly] has himself to blame, for any loss suffered.[4] Raba son of R. Shila said to those who were writing deeds of transfer:[5] When you write deeds of transfer enter[6] the date of transfer[7] if you know it; and if not, enter the date on which the deed is prepared,[8] so that it[9] might not have the appearance of a falsehood.

Rab said to his scribes, and R. Huna, similarly, said to his scribes: When you are at Shili write [in any deed] 'at Shili', although the information was given to you at Hini;[10] when you are at Hini, write, 'at Hini'[10] , although the information was given to you at Shili.[10]

Raba said: If a man [who] is in possession of a bond of a hundred zuz, said, 'Convert it into two bonds each of fifty zuz',[11] his request must not be granted.[12] What is the reason? — The Rabbis instituted a law[13] which is acceptable to the creditor and is [also] acceptable to the borrower. It is acceptable to the creditor in that [the debtor is thereby] compelled to repay him [the entire loan];[14] and it is [also] acceptable to the borrower in that [the legal force of] the bond is [thereby][15] impaired.[16]

Raba further stated: If a man, holding two bonds each of fifty [zuz:], requests that they be converted into one [bond] of a hundred [zuz], his request must not be granted,[17] [because] the Rabbis have ordained a law[18] which is agreeable to the creditor and is also agreeable to the borrower. It is agreeable to the creditor in that [the force of] his bond is not [thereby] impaired;[19] and it is [also] agreeable to the borrower in that he is not [thereby][15] under pressure to repay the debt.[20]

R. Ashi said: If a man holds a bond for a hundred zuz and requests that it be converted into[21] one of fifty [zuz],[22] his request must not be granted. What is the reason? — We assume [the debtor] had already repaid him that [loan] and [that when] he asked him for the return of his bond[23] he was told [that] he[24] had lost it and [so] he wrote out for him a quittance[25] but [that later] he would produce that [new bond] and claim,[26] 'This is [for] another [loan]'.[27]

MISHNAH. [IN THE CASE OF] TWO BROTHERS, THE ONE POOR AND THE OTHER[28] RICH, WHOM THEIR FATHER HAD LEFT A BATH-HOUSE OR AN OLIVE-PRESS, [IF] HE BUILT THESE [TO BE LET OUT] ON HIRE, THE RENT BELONGS TO THE COMMON ESTATE.[29] [IF,] HOWEVER, HE BUILT THEM FOR HIS OWN [USE][29] THE RICH [BROTHER] MAY[30] SAY TO THE POOR [BROTHER], BUY FOR YOURSELF SLAVES THAT THEY MAY BATHE IN THE BATH-HOUSE', [OR] 'BUY FOR YOURSELF OLIVES AND COME AND PREPARE [THEM] IN THE OLIVE-PRESS'.[31]

IF THERE WERE TWO [MEN] IN THE SAME TOWN [AND THE] NAME OF THE ONE [WAS] JOSEPH SON OF SIMEON AND THE NAME OF [THE] OTHER [WAS] JOSEPH SON OF SIMEON, NEITHER MAY PRODUCE A BOND OF INDEBTEDNESS AGAINST THE OTHER, NOR MAY ANOTHER [PERSON] PRODUCE A BOND OF INDEBTEDNESS AGAINST THEM.[32] [IF] A MAN FOUND AMONG HIS DEEDS [A QUITTANCE SHOWING THAT] THE BOND OF JOSEPH SON OF SIMEON [WAS] DISCHARGED, THE BONDS OF BOTH [ARE CONSIDERED TO BE] DISCHARGED. HOW SHOULD THEY PROCEED?[33] THEY SHOULD INDICATE THE THIRD [GENERATION].[34] AND IF [THEIR NAMES] ARE [ALIKE] TO THE THIRD [GENERATION], THEY ADD[35] [SOME PERSONAL] DESCRIPTION;[36] AND IF THEIR [PERSONAL] DESCRIPTIONS ARE ALIKE THEY WRITE, 'PRIEST'.[37]

GEMARA. In a certain bond that was presented at the court of R. Huna there was [the following] entry:[38] 'I.X, son of Y, borrowed from you[39] a maneh'.

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(1) The omission of the date it, a receipt.

(2) When deeds are written without R. Abba's formula, and dated quittances are issued.

(3) Lit., ‘he who does, does’.

(4) The provision was made by the Rabbis for the benefit of debtors who may wish to benefit by it. No man, however, is compelled to carry out a provision which was enacted solely in his own interests.

(5) אקניאתא , deeds of gifts, or deeds of sale in which land security is entered. (Cf. Rashb.). Jastrow's definition is. ‘An agreement by which one's landed estate is mortgaged in the form of a sale from date, independent of the loan to be consummated afterwards.’ [Since agreement was accompanied by a kinyan from which the deed subsequently drawn up obtains its name. V. Rappaport. J., Das Darlehen, p. 70 ff.]

(6) Lit., ‘write’.

(7) V. previous note. [In order to preclude the donor from presenting the gift to some one else.] In the case of a deed of sale, the buyer must be enabled, in addition, to seize such lands as wore sold during the period subsequent to the date of transfer. (Rashb.)

(8) Lit., ‘on which you stand’.

(9) The entry of a date of which they were not certain.

(10) The locale of a deed is the place where the deed is written, not where the transaction (gift, sale, or loan) which it records took place. The former, therefore, must be entered in the deed. According to Rashb. both places arc entered, thus: ‘We wrote at . . . what we saw at . . . ‘ [Hini and Shili were two places South of Sura and close to each other. The point in R. Huna's instructions to the scribes according to Obermeyer, op. cit. 320, is that they were not to regard the two localities as one and write ‘Hini-Shili’.]

(11) So that in case the debtor repays him half the debt he can return one of the two bonds.

(12) Lit., ‘we do not make them’.

(13) Lit., ‘thing’.

(14) Having repaid half of the debt and received in return a quittance, the debtor is anxious to repay the other half at the earliest possible moment, so that he might secure the destruction of the bond and thus be liberated from the necessity of guarding his receipt ‘from the mice’.

(15) By the repayment of half of the amount mentioned in the bond.

(16) The creditor will not be able to recover with it the balance, except on oath (cf. Keth. 87a. Shebu. 41a).

(17) V. p. 753, n.8.

(18) V. p. 753. n. 9.

(19) Instead of giving a receipt for half the amount repaid and thus impairing the force of the deed (cf. n. 1), one bond is destroyed while the other retains its full force.

(20) Since he secures the return and destruction of one of the deeds and need not take care of any quittance.

(21) Lit., ‘make the thing’.

(22) Even though he consents to enter on the new bond the date of the original bond.

(23) Lit., ‘and he said to him: Give me my bond’.

(24) Lit., ‘I’, the creditor.

(25) For the hundred zuz.

(26) Lit., ‘and say to him’.

(27) The bond being made out for a sum of fifty zuz, the creditor could plausibly claim that the receipt for the hundred zuz was given for a totally different loan which had no connection whatsoever with the fifty zuz bond produced. Hence no bond must be exchanged at the request of a creditor even though he request the issue of a bond for a smaller amount in lieu of one containing a larger amount.

(28) Lit., ‘one’.

(29) Lit., ‘to the middle’, i.e., it is divided between the two brothers in equal proportions.

(30) Lit., ‘behold’.

(31) None of the brothers has the right to use the bequeathed joint estate (except, of course, by mutual consent) for any purpose other than that for which their father had originally intended it (v. supra 13a).

(32) Since each can say that it was not he but the other who signed the bond.

(33) If they desire to borrow, or buy from one another or from a third party.

(34) They give their own names and the names of their fathers and grandfathers.

(35) Lit., ‘they shall write’.

(36) Such as Joseph etc. the tall, the short, black, brown.

(37) If one of these was a priest, or some similar patronymic. e.g.. Levite.

(38) Lit., ‘written’.

(39) The name of the creditor not being entered, and the holder of the bond claiming that the pronoun referred to him.

Talmud - Mas. Baba Bathra 172b

R. Huna decided [that], ‘from you’ [might] even [signify] ‘from the exilarch’, and even ‘from King Shapur’.[1] Said R. Hisda to Rabbah: Go and consider this matter,[2] for in the evening R. Huna will question you on the subject. He went out, carefully considered [the matter], and found [the following Baraitha] wherein it was taught: [In the case of] a letter of divorce which bears [the signatures of] witnesses but no date,[3] Abba Saul said: If there was written in it. ‘I divorced you[4] this day,’ it is valid. This[5] clearly proves that that day[6] [is taken] to mean that day on which it was produced,[7] [so] here also,[8] ‘from you’ must mean from that person who produced [the bond].[9]

Said Abaye to him: Is it not possible that Abba Saul holds the same view as R. Eleazar[10] who maintains that the witnesses to the delivery[11] affect the legal separation,[12] but here [surely, there is reason] to apprehend that it was lost![13] He replied unto him: [That a deed] was lost is not to be apprehended.[14] And whence is it deduced that the losing [of a deed] is not to be apprehended? — For we learned: IF THERE WERE TWO [MEN] IN THE SAME TOWN [AND THE] NAME OF THE ONE [WAS] JOSEPH SON OF SIMEON AND THE NAME OF [THE] OTHER [WAS] JOSEPH SON OF SIMEON, NEITHER MAY PRODUCE A BOND OF INDEBTEDNESS AGAINST THE OTHER, NOR MAY ANOTHER [PERSON] PRODUCE A BOND OF INDEBTEDNESS AGAINST THEM. Either of them,[15] however [it follows] may [produce a bond of indebtedness] against others. But why? Why not apprehend the loss [of the deed]?[16] from this[17] then[18] it may be deduced that we do not apprehend the loss. And Abaye?[19] We do not apprehend the loss [of a deed] by one [particular individual];[20] but we do apprehend loss [of deeds] generally by many.[21]

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(1) Since the pronoun might refer to anybody, the creditor is not in a position to establish his claim.

(2) Lit., ‘in it’.

(3) The omission of the date renders a divorce invalid.

(4) [So Ms. M. Cur. edd. ‘hot’.]

(5) The fact that it is valid if only the witnesses saw it in the hand of the husband on a certain date, that date being regarded as the legal date of the divorce.

(6) On which witnesses saw it in the husband's hand though it, the document that date is not entered.

(7) So long as the witnesses saw it on that day in his hand.

(8) The case of tho deed wherein the name of the creditor does not appear.

(9) Lit , ‘from under whose hand it goes out’. Since the bond is produced by a certain person in the presence of the court that person should be assumed to be the creditor.

(10) Cur. edd., ‘Eliezer’.

(11) Of a letter of divorce to the woman.

(12) But the signatures of the witnesses, or the date, do not affect the legality of the divorce, hence he stated that the divorce was valid, v. supra 170a.

(13) Lit., ‘to falling’. i.e.. the bond may have been lost by the real creditor and the present claimant may have found it.

(14) The person who presents a bond must be assumed to be the real creditor.

(15) Lit ‘they’.

(16) One Joseph, the creditor, might have lost the bond and the other Joseph who presents it might have found it.

(17) From the fact that either of them is entitled to establish a claim against a third patty by the production of his bond.

(18) Lit., ‘but not’.

(19) How, in view of the inference from our Mishnah, could he suggest that loss of the deed should be apprehended?

(20) It is most unlikely that a particular person of the very same name as the one who presents the bond should have lost

it.

(21) It is not unusual for people to lose their bonds and for others to find them. Hence, as regards the bond presented at R. Huna's court, Abaye was well justified in suggesting that loss of the deed should be suspected.

Talmud - Mas. Baba Bathra 173a

Since it was taught, however, 'As they cannot produce a bond of indebtedness against one another so they cannot produce [a bond] against others'[1] [the question arises][2] wherein [lies the principle of] their disagreement?[3] — They differ on [the question whether] 'letters'[4] [may] be acquired by means of delivery.[5] Our Tanna holds [that] 'letters' are acquired by means of delivery[6] and the external[7] Tanna holds [that] 'letters' are not acquired by means of delivery.[8]

And if you prefer I would say that all[9] [agree that] 'letters' may be acquired by delivery., but they differ here on [the question whether] it is necessary[10] to produce proof.[11] Our Tanna[12] 'holds that proof need not be produced[13] while the external Tanna[14] holds that proof must be produced,[15] for it was stated: 'Letters' are acquired by delivery; Abaye said: He[16] must, however, produce proof;[17] and Raba said: He need not produce proof.[18]

Said Abaye: Whence do I derive this?[19] — For it was taught: 'The brother[20] who presents[21] the bond of indebtedness[22] must[23] produce proof'.[24] Obviously, this applies also to the case[25] of others.[26] Raba, however, said: Brothers are different because they pilfer from one another.[27]

Others say, Raba said: Whence do I derive this?[28] — For it was taught: 'The brother who presents the bond of indebtedness must produce proof'.[29] [from which it is obvious that this applies to] brothers [only] since they pilfer from one another but not [to] others.[30] And Abaye[31] [explains that] it was necessary [to specify] brothers[32] [because] it might have been assumed [that], as they pilfer from one another, they are [all] particularly alert[33] and should not [therefore] require to produce proof;[34] hence [it was necessary] to teach us [that it is not so].[35]

As regards, however, the following wherein it was taught. 'As they[36] may present a bond of indebtedness against others so may they present [bonds] against each other', [the question arises] wherein lies [the principle of] their[37] disagreement?[38] They differ on [the question whether] a bond [may] be written for a borrower though the creditor be not with him. Our Tanna[39] holds [that] a bond may be written for a borrower although the creditor be not with him. [Consequently it may] sometimes [happen] that one[40] would go to a scribe and witnesses and tell them, 'Write for me a bond because I intend borrowing [money] from my friend Joseph son of Simeon'; and, after they had written and signed [it] for him, he would take hold of it and demand from him,[41] 'Give me the hundred [zuz] which you borrowed from me'.[42] The external Tanna,[43] holds that no bond may be written for a borrower unless the creditor be with him.[44] [IF] A MAN FOUND AMONG HIS DEEDS [A RECORD TO THE EFFECT THAT] THE BOND OF JOSEPH SON OF SIMEON [WAS] DISCHARGED, THE BONDS OF BOTH [ARE CONSIDERED TO BE] DISCHARGED etc. The reason[45] is thus because [a record] was found, but had there been found none, [a bond] could be presented [against one of them]? Surely we have learnt, NOR MAY ANOTHER [PERSON] PRODUCE A BOND OF INDEBTEDNESS AGAINST THEM! — R. Jeremiah replied: In [the case where the bonds record the names of] the third [generation].[46] Then let us see in whose name the discharge was made out![47] — R. Hoshaia replied: Where the third [generation] is indicated in the bond but not in the discharge.[48] Abaye said: This is the meaning[49] [of our Mishnah]; [IF[50] a borrower][51] FOUND AMONG HIS DEEDS [A QUITTANCE SHOWING] THAT THE BOND OF JOSEPH SON OF SIMEON [against him[52] WAS] DISCHARGED, THE BONDS OF BOTH [ARE CONSIDERED TO BE] DISCHARGED.[53]

HOW SHOULD THEY PROCEED? THEY SHOULD INDICATE THE THIRD

[GENERATION] etc. A Tanna taught: If both were priests[54] they enter [the names of previous] generations.[55]

MISHNAH. IF [A FATHER][56] SAID TO HIS SON,' ONE[57] AMONG MY BONDS IS DISCHARGED BUT I DO NOT KNOW WHICH', THE BONDS OF ALL HIS DEBTORS[58] ARE [CONSIDERED] DISCHARGED.[59] IF AMONG THEM[60] WERE FOUND TWO [BONDS, PERTAINING] TO ONE [DEBTOR], THE LARGER[61] [ONE IS DEEMED] DISCHARGED AND THE SMALLER UNDISCHARGED.[62]

GEMARA. Raba said: [If a person declared], 'The bond against you, [which l have] in my possession is discharged', the larger [one is deemed] discharged and the smaller undischarged. [If, however, he declared], 'The debt you owe me is paid', all[63] his bonds [are deemed] discharged.[63] Said Rabina to Raba: Consequently[64] [should one say to another],' My field is sold to you', his larger field [would be deemed to have been] sold to him, [but if he said,] 'The field that l have is sold to you', all his fields[65] [would then be deemed] sold! — There,[66] the holder of the deed is at a disadvantage.[67]

MISHNAH. IF A MAN LENDS MONEY TO ANOTHER ON A GUARANTOR's SECURITY,[68] HE MUST NOT EXACT PAYMENT FROM THE GUARANTOR.[69]

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(1) Because it is possible that one of them lost the bond and the other, who presents it at court, accidentally found it.

(2) Since, as has been said, loss of the bond is not suspected.

(3) That between the Baraitha and Our Mishnah, from the latter of which it was deduced, supra, that either of the Josephs may produce a bond against others, a deduction with which, since it referred to the case of a particular individual, even Abaye agreed.

(4) A bond.

(5) Mesirah, v. Glos.

(6) Since loss of the bond is not suspected, it can only be assumed that Joseph the creditor delivered the bond to the other Joseph. As 'letters' are acquired by delivery, the holder of the bond is legally entitled to the loan.

(7) The Tanna of the Baraitha.

(8) The debtor can consequently refuse payment of the bond, pleading that he does not owe the money to the holder of the bond but to the other Joseph; while to the other he can refuse payment on the ground that he has no bond to prove his claim.

(9) The authors of the Baraitha under discussion and of our Mishnah. (16) Mesirah, v. Glos. And no deed of sale is necessary (v. supra 77a).

(10) For the holder of the bond.

(11) That he received the bond as a gift or purchase and that he did not merely find it or receive it as a deposit.

(12) The author of our Mishnah.

(13) The possession of the bond is sufficient evidence that the debt is owing to its holder. Hence the inference from our Mishnah, that one of the Josephs may present a bond of indebtedness against a third person who cannot consequently refuse payment by demanding additional proof of the holder's title to ownership.

(14) The author of the Baraitha.

(15) Otherwise the debtor can plead that the holder has found the bond in the street or that it was only deposited with him. Hence the statement in the Baraitha that none of the Josephs may present a bond against a third person who could plead that the bond belongs to the other Joseph and that the one who presented it received it only as a deposit or found it.

(16) The holder of the deed.

(17) Cf. supra note 2.

(18) Cf. supra note 4.

(19) That proof is required apart from the production of the deed.

(20) Lit., 'one of the brothers'.

(21) Lit., 'that goes out from under his hand'.

(22) Which bears the name of his father as creditor or which has been acquired by the father from another creditor.
(23) If the other brothers claim that the bond was bequeathed to all of them, and that the holder has unlawfully appropriated it for himself.
(24) That the bond lawfully belongs to him only.
(25) Lit., ‘what not? The same law’.
(26) Strangers. who dispute his claim to the bond he holds.
(27) In the case of a bequeathed estate. All the brothers being heirs to it, every one considers himself entitled to appropriate as much of it as he possibly can. It is for this reason only that it was ordained that the brother who claims, against the statement of the other brothers, to be the sole owner of an inherited bond, must produce proof. As this unlawful appropriation could not apply to the case of a stranger, proof in that case is not required.
(28) That apart from the production of the bond no other proof is required.
(29) V. supra notes, 11, 15.
(30) Who could have no plausible excuse or justification for such an appropriation. Hence no proof is required in the case of a stranger.
(31) Who requires proof in the case of a stranger also.
(32) Though the law applies to strangers also.
(33) In watching one another.
(34) Apart from the presentation of the bond. The fact that one of them is actually holding it should be sufficient proof that it belongs to him.
(35) But that brothers as well as strangers must produce proof of lawful acquisition.
(36) Two Josephs living in the same town. Cf. our Mishnah.
(37) This Baraitha on the one hand and the Baraitha previously cited and our Mishnah on the other.
(38) According to this Baraitha the two Josephs may present bonds against one another while according to the previously cited Baraitha and our Mishnah, they may not.
(39) Of our Mishnah; and so the Tanna of the previously cited Baraitha.
(40) Of the two Josephs.
(41) His namesake whose name would appear in the bond as the debtor.
(42) In order to avoid such a fraud it had been instituted that, in the case of two Josephs, bonds may not be presented by one against the other.
(43) The author of the last-mentioned Baraitha.
(44) Consequently, the one Joseph would not be able to obtain a bond unless the other Joseph should be present. Hence there would be no possibility to practise the fraud described. The Josephs, therefore, may present bonds against one another.
(45) Why the bonds of both are considered as discharged and no claim may be advanced against either of them.
(46) Cf. our Mishnah. In such a case bonds may be presented against them.
(47) Lit., ‘written’. Why, then, should the bonds of both be considered discharged.
(48) Each Joseph is consequently in a position to claim that the name of his grandfather was omitted from the discharge though it was mentioned in the bond.
(49) Lit.,’ thus he said’.
(50) Bah inserts, ‘they may present (bonds) against others’.
(51) Not, as has been previously assumed, a creditor.
(52) Lit., ‘against me’.
(53) Since the debtor can produce the same quittance whenever either of the two Josephs should present his bond. On the question of mutual authorisation or the simultaneous presentation of the bonds of the two, v. Rashb. a l.
(54) And their names also were alike up to the third generation.
(55) Until the names of ancestors are reached whose names differ.
(56) Lying on his death-bed.
(57) Lit., ‘bond’.
(58) Lit., ‘all of them’.
(59) It is left to the conscience of those debtors who did not yet repay their loans to admit their liabilities.
(60) Lit., ‘there’.
(61) The one containing the bigger amount.

(62) The debtor is given the benefit of the doubt. He must, however, repay the smaller amount since the creditor declared that one bond only was discharged.

(63) ‘Debt’ implies all that the debtor owes irrespective of the number of the written bonds.

(64) Lit., ‘but from now’.

(65) ‘Field’, like ‘debt’, in Raba's statement, being regarded as a collective noun, implying all one's fields.

(66) The case of sale and purchase.

(67) Lit., ‘the hand of the owner of the deed is upon the lowest’. He seeks to deprive the owner of property in the possession of which he is confirmed. Hence he must produce convincing proof. In the case of a debt, however, the claimant is the creditor, while the debtor is the confirmed possessor of the sum claimed. Hence the advantage is on the side of the latter.

(68) Lit., ‘by the hands of a guarantor’.

(69) Before the debtor was sued and, the court having ordered him to pay, was found unable to meet his obligation.

Talmud - Mas. Baba Bathra 173b

IF, HOWEVER, HE SAID TO HIM,[1] ‘ON CONDITION THAT I MAY EXACT PAYMENT FROM WHOM I WILL’, PAYMENT MAY BE EXACTED FROM THE GUARANTOR. RABBAN SIMEON B. GAMALIEL SAID: IF THE BORROWER HAS PROPERTY, PAYMENT FROM THE GUARANTOR MAY IN NEITHER CASE[2] BE EXACTED.[3] AND SO SAID RABBAN SIMEON B. GAMALIEL: WHERE [A MAN] WAS GUARANTOR FOR A WOMAN IN [RESPECT OF] HER KETHUBAH, AND HER HUSBAND DIVORCED HER, [THE HUSBAND] MUST VOW TO DERIVE NO [FURTHER] BENEFIT FROM HER. [SINCE IT IS] POSSIBLE THAT THEY MIGHT FORM A CONSPIRACY AGAINST THE PROPERTY OF THE GUARANTOR[4] AND THEN [THE HUSBAND] WOULD TAKE HIS WIFE BACK AGAIN.[5]

GEMARA. What is the reason?[6] — Both Rabbah and R. Joseph explain: [Because the guarantor can say,] ‘You have entrusted me with a man;[7] and a man have I handed over to you’.[8] R. Nahman demurred: [Is not] this[9] the law of the Persians? — On the contrary; they [invariably] go after the guarantor![10] — [This,] however, [is the objection]: [Is not this ruling[9] like that of] a Persian court of law [the judges of] which do not give [any] reason for their decisions?[11] — But, said R. Nahman, the meaning of[12] HE [MUST] NOT EXACT PAYMENT FROM THE GUARANTOR [is that] he [may] not demand [payment from] the guarantor first.[13] Thus it was also taught [elsewhere]: If [a man] lends [money] to another on a guarantor's security, [payment] shall not be demanded [from the] guarantor [in the] first instance. If, however, [the creditor] said, ‘On condition that I may exact payment from whom I will’ the guarantor may be called upon first.[14]

Said R. Huna: Whence [may it be deduced] that a guarantor becomes responsible [for a debt he has guaranteed]?[15] — For it is written, I will be surety for him; of my hand shalt thou require him.[16] R. Hisda demurred: [This], surely was [an unconditional] assumption [of obligation],[17] for it is written, Deliver him into my hand,[18] and I will bring him back to thee![19] — But, said R. Isaac: [It[20] may be deduced] from the following: Take his garment that is surety,[21] for a stranger; and hold him in pledge that is surety for an alien woman.[22] Furthermore, it is said, My son, if thou art become surety for thy neighbour,[23] if thou hast struck thy hands for a stranger,[24] [if] thou art snared by the words of thy mouth,[24] thou art caught by the words of thy mouth, do this now, my son, and deliver thyself, seeing that thou art come into the hand of thy neighbour; go, humble thyself, and urge thy neighbour.[25] If he has [a claim of] money upon you,[26] open out[27] for him the palm of [your] hand;[28] and if not,[29] get at him through many friends.[30]

Amemar said: [The question] whether a guarantor is responsible[31] [for the payment of the debt he guaranteed, is a matter of] dispute [between] R. Judah and R. Jose. According to R. Jose. who said, ‘asmakta[32] conveys title,’[33] a guarantor is responsible. According to R. Judah, [however], who said ‘asmakta gives no title’, the guarantor Is not responsible.[34] Said R. Ashi to Amemar: Surely, it is the regular practice[35] [of the courts to rule] that asmakta gives no title,[36] and [yet that] a guarantor is held responsible! — But, said R. Ashi having regard to the pleasure of being trusted [by the creditor] he determines to undertake the responsibility.[37]

IF, HOWEVER, HE SAID, ‘ON THE CONDITION THAT[34] MAY EXACT PAYMENT FROM WHOM[34] WILL’ etc. Rabbah b. Bar Hana said in the name of R. Johanan: This applies only in the case[38] where the debtor has no property,[39] but where the debtor has property no payment may be exacted from the guarantor. Since, however, it is stated in the final clause: RABBAN SIMEON B. GAMALIEL SAID: IF THE BORROWER HAS PROPERTY, PAYMENT FROM THE GUARANTOR MAY IN NEITHER CASE BE EXACTED,[40] one might infer that in the opinion of the first Tanna there is no difference whether he had or had not[41] [any property]![42] — There is a lacuna [in our Mishnah].and the proper reading is as follows:[43] IF [A MAN] LENDS [MONEY] TO ANOTHER ON A GUARANTOR'S SECURITY HE [MUST] NOT EXACT PAYMENT FROM THE GUARANTOR. IF, HOWEVER, HE SAID ‘ON THE CONDITION THAT I MAY EXACT PAYMENT FROM WHOM I WILL’, PAYMENT MAY BE EXACTED FROM THE GUARANTOR. This law applies only to the case[44] where the debtor has no property, but where the debtor has property, payment from the guarantor may not be exacted. And [in the case of] a kabbelan,[45] even though the debtor has property, payment may be exacted from the kabbelan.

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(1) ‘To him’ is omitted in the Gemara; v. infra, where it is also shown that the Mishnah contains a lacuna.

(2) Lit., ‘whether so or so’.

(3) In the first instance.

(4) By staging a divorce, and the husband having no money, the woman would be enabled to exact the amount of her kethubah from the guarantor.

(5) And divide the spoil with her.

(6) Why payment may not be exacted from the guarantor. At present it is assumed that so long as the borrower is alive and did not abscond the guarantor cannot be called upon to pay.

(7) The debtor; i.e., the creditor has, so to speak, put the debtor in charge of the guarantor who has undertaken to present him when payment falls due.

(8) Since the debtor neither died nor absconded, the guarantor has carried out his obligation. As the debtor is present in person the claim is to be addressed to him and not to the guarantor.

(9) The exemption of the guarantor from payment where the debtor himself is available.

(10) Even where the debtor is in possession of property.

(11) Lit., ‘words’. As the decisions of a Persian court of law are arbitrary, so is the ruling which exempts a guarantor from payment where the debtor is available though destitute. Of what use is the guarantee if the guarantor cannot be called upon to pay where the debtor himself is unable to meet his obligation!

(12) Lit., ‘what’.

(13) In the first instance the debtor must be called upon to pay. If the obligation, however, has not been met owing to the debtor's poverty, refusal to appear in court, or death, the guarantor must discharge the debt.

(14) V. infra.

(15) By his mere verbal undertaking, though it was not attended by a kinyan.

(16) Gen. XLIII. 9. Thus spake Judah to Jacob in urging him to entrust Benjamin to him.

(17) קבלנות, ‘unconditional assumption of obligation’, acceptance’. V. p. 765. n. 10.

(18) ‘Into my hand’ implies unconditional responsibility.

(19) Ibid. XLII, 37. [Although this was said by Reuben, it is unlikely that Judah's guarantee involved less responsibility than that of Reuben's which Jacob had rejected (Maharsha).]

(20) V. supra, n. 3.

(21) By mere verbal undertaking, since no legal agreement15 mentioned.

(22) Prov. XX, 16.

(23) In money matters.

(24) By insulting or calumniating.

(25) Ibid. VI.1-3.

(26) Lit., ‘in thy hand’.
(27) Lit., ‘loosen’.
(28) I.e., pay him. התר לֿ פיסת יד, a play upon הת פם. (E.V. ‘go humble thyself’).
(29) When the claim or grievance15 not due to monetary matters.
(30) Who may plead with him and obtain his pardon. הרבה עליו רעים, a play upon רהב עיך, (E.V. ‘urge thy neighbour’).
(31) Lit., ‘subjects himself’.
(32) V. Glos.
(33) Supra 168a.
(34) His guarantee to repay the debt is regarded as a mere asmakta, it being assumed that what he meant to convey by it amounted to no more than an expression of his conviction that the debtor would meet his obligation. Had he known that the debtor would default, he would not have given his guarantee.
(35) Lit., ‘actions every day’.
(36) In accordance with the ruling of R. Judah.
(37) Though a similar undertaking would elsewhere be regarded as an asmakta which is not legally binding, the pleasure of being trusted transforms such an asmakta into a legal undertaking.
(38) Lit., ‘they did not teach but’.
(39) [I.e., it is not known whether the debtor has any property from which the creditor could recover his claim, in which case, having regard to the stipulation, the guarantor can immediately be called upon to pay the debt, whereas in the absence of such a stipulation, the creditor would still have first to sue the debtor (Yad Ramah).]
(40) V. Bah, a l.
(41) Lit., ‘no difference thus’.
(42) But in either case the guarantor may be called upon to pay. How, then, could Rabba b. Bar Hana assert that the first Tanna speaks only of the case where the debtor had no property?
(43) Lit., ‘and thus it teaches’.
(44) Lit., ‘in what (are the) words said’.
(45) ,קבלן, a guarantor who accepts unconditional responsibility. an ‘acceptor’.

Talmud - Mas. Baba Bathra 174a

RABBAN SIMEON B. GAMALIEL SAID: IF THE BORROWER HAS PROPERTY, PAYMENT MAY BE EXACTED neither from the one nor from the other.[1]

Rabbah b. Bar Hana said in the name of R. Johanan: Wherever Rabban Simeon b. Gamaliel taught in our Mishnah, the halachah is in agreement with his ruling[2] except [in the cases of] ‘guarantor’,[3] ‘zidon’[4] and the ‘latter proof’.[5]

R. Huna said: [Should one say], ‘Lend him [a sum of money] and I [shall be] guarantor’. ‘Lend him and I [shall] repay [you]’, ‘Lend him and I [shall be] liable [for the loan]’, [or] ‘Lend him and I [shall] give [it back to you]’ — all these are expressions of guarantee.[6] [If, however, one said], ‘Give him [a sum of money] and I [shall be] kabbelan’.[7] ‘Give him and I shall repay [you]’, ‘Give him and I [shall be] liable [for the loan]’, [or] ‘Give him and I [shall] give [it back to you]’ — all these are expressions of kabbelanuth.[8] The question was raised: What [is the law if one said], ‘Lend him[9] and I [shall be] kabbelan’[7] [or], ‘Give him and I [shall be] guarantor’?[10] — R. Isaac replied: The expression of guarantee [has the force of a] guarantee; the expression of kabbelanuth[11] I [has the force of] acceptance.[12] R. Hisda said: All of these are expressions of kabbelanuth, except [that] of ‘Lend him [a sum of money] and I [shall be] guarantor’.[13] Raba said: All of these are expressions of ‘guarantee’, except that of ‘Give him and I [shall] give [it back to you]’.[14]

Mar b. Amemar said to R. Ashi: Father said thus: [If one said,] ‘Give him [a sum of money] and I [shall] give [it back to you]’, the creditor has no claim whatsoever against the borrower. The law,[15] however, is not [so]; [for] a debtor cannot escape from the creditor unless [the guarantor] had taken [the money] with [his own] hand [from the creditor] and delivered [it to the borrower].

A certain judge once allowed a creditor to take possession[16] of the property of the debtor before [that] debtor had been sued. [The matter having been brought to his notice,] R. Hanin the son of R. Yeba removed him.[17] Said Raba: Who [would have been so] wise [as] to do such a thing if not R. Hanin the son of R. Yeba! He holds the opinion that a man's possessions are his surety, and we have learnt, IF [A MAN] LENDS [MONEY] TO ANOTHER ON A GUARANTOR'S SECURITY, HE MUST NOT EXACT PAYMENT FROM THE GUARANTOR, and this[18] has been established [to mean that] the guarantor may not be called upon first.[19]

A certain guarantor of orphans[20] once paid the creditor before the orphans were sued.[21] Said R. Papa: The repayment [of a verbal loan to] a creditor is a commandment, and orphans[22] are not subject to the performance of commandments.[23] But R. Huna son of R. Joshua said:[24] It may be assumed [that] he[25] deposited with him[26] [some] bundles [of valuables].[27]

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(1) Lit., ‘whether this or this, payment from them shall not be exacted’, neither from the guarantor not from the kabbelan.

(2) Lit., ‘like him’.

(3) The law just quoted from our Mishnah. Payment, contrary to the ruling of Rabban Simeon b. Gamaliel, may be exacted from a kabbelan, though the debtor has property.

(4) V. Git. 74a.

(5) V. Sanh. 31a

(6) ערבות, security. Since the expression of lending was used the guarantor has thereby intimated that the other shall be the borrower. He has consequently to pay only in the case where the debtor has no property of his own.

(7) V. supra note 2.

(8) קבלנות, ‘acceptance’. By using the expression give and not lend he thereby gave the order and thus he makes himself in form the principal debtor. Consequently, whether the debtor possesses property or not, payment may be exacted from the kabbelan.

(9) A sum of money.

(10) I.e., the expression of lending was used together with that of kabbelanuth and the expression of give with that of guarantee.

(11) V. note 10.

(12) The expressions of ‘lending’ and ‘giving’, are of no consequence where the term denoting ‘guarantee’ or ‘acceptance’ was specifically mentioned.

(13) Cf. p.765. notes 8 and 10 supra. Since both expressions wore used, lending and guarantee.

(14) Cf. loc. cit. note 10. Since the expression of ‘giving’ was used twice; much more so if the expressions of giving and kabbelanuth were used.

(15) Lit., ‘it’.

(16) Lit., ‘caused him to go down’.

(17) He re-transferred the property to the borrower.

(18) Lit., ‘for us’.

(19) Similarly, in the case of seizure of property (a person's surety), the debtor must be sued first before his possessions may be approached.

(20) I.e., guarantor to a loan incurred by their father.

(21) And after paying he desired compensation by the orphans. [So Rashb. Cur. edd. read ‘before he informed them’. Had he, that is to say, informed them first and paid on their instructions, he would have been able to recoup himself. V. Yad Ramah.]

(22) Minors under thirteen years of age.

(23) The guarantor who discharged their father's debt and has thus become, so to speak, the creditor, cannot exact payment from them.

(24) The reason why the orphans need not refund the guarantor is not that given by R. Papa, since orphans also are subject to the performance of such a commandment as that of paying their Father's debts (cf. ‘Ar. 22a).

(25) The father of the orphans.
(26) The creditor.
(27) As a security for his loan. The guarantor, consequently, should not have repaid the debt before obtaining the return of the valuables. Since he overlooked this, he has himself to blame, and there is no obligation on the part of the orphans to indemnify him. He may, however, sue them when they obtain their majority.

Talmud - Mas. Baba Bathra 174b

What [is the practical difference] between them?[1] — [The difference] between them is [the case] where the debtor admitted [liability],[2] or[3] where he was placed under the ban[4] and died [while still] under the ban.[5] [A message] was sent from Palestine:[6] [Where one] was placed under a ban[5] and died under the ban, the law is in accordance with [the view of] R. Huna the son of R. Joshua.[7]

An objection was raised: A guarantor who produced[8] a bond of indebtedness[9] cannot exact payment.[10] If, however, it contains the entry,[11] 'I[12] received[13] from you' he[14] may exact payment.[15] [Now], according to R. Huna the son of R. Joshua one can well understand [this law][16] to be applicable in the case where the debtor had admitted [liability].[17] According to R. Papa.[18] however, there is a difficulty![19] — There it is different; since[20] he[21] took the trouble to write[22] for him, 'I received,'[23] for this [very object].[24]

A certain guarantor to a gentile once paid the gentile before he sued the orphans.[25] Said R. Mordecai to R. Ashi:[26] Thus said Abimi of Hagronia[27] in the name of Raba: Even according to him who said [that the possibility that] bundles [of valuables were deposited with the creditor was] to be taken into consideration,[28] this is only applicable to[29] an Israelite,[30] but [in the case of] a Gentile, since he [invariably] goes [for payment] to the guarantor[31] [the possibility that] bundles [of valuables were deposited with the creditor] need not be taken into consideration.[32] [The other][33] said unto him: On the contrary; even according to him who said that [the possibility that] bundles [of valuables were deposited with the creditor] need not be taken into consideration, this is only applicable to[34] an Israelite, but [in the case of] gentiles, since their judges [invariably] go to the guarantor, [it may be taken for granted] that had not [the debtor] deposited with him[35] [some] bundles [of valuables] at the outset, he would not have accepted [any responsibility whatsoever].[36]

AND SO SAID R. SIMEON B. GAMALIEL: WHERE [A MAN] IS GUARANTOR FOR A WOMAN IN [RESPECT OF] HER KETHUBAH ETC. Moses b. Azri was guarantor for the kethubah of his daughter-in-law. Now his son, R. Huna, was a scholar but in poor circumstances.[37] Said Abaye: Is there no one who would go and advise R. Huna to divorce his wife, so that she might go and collect her kethubah from his father, and then re-marry her?[38] 'But,' said Raba to him, 'have we [not] learned that [the husband] MUST VOW TO DERIVE NO [FURTHER] BENEFIT FROM HER?' 'Does everyone who divorces [his wife]', said Abaye to him, 'do it[39] at a court of law?'[40] Finally, [however], it was discovered that he[41] was a priest.[42] 'This is just what people say', exclaimed Abaye, 'poverty follows the poor'.[43]

Could Abaye have said such a thing?[44] Surely Abaye had said, 'Who is a cunning rogue? He who counsels to sell an estate, in accordance with R. Simeon b. Gamaliel'![45] — [The case of] one's son is different, and [the case of] a scholar is [also] different. But, surely, he[46] [was only] a guarantor, and a guarantor for a kethubah, it has been definitely established,[47] is not responsible for payment? — He was a kabbelan.[48] This [reply] would be quite correct according to him who said that, though the husband had no property, a kabbelan for a kethubah is responsible for payment; what, however, can be replied according to him who said [that] he is responsible for payment [only] where the [husband][49] has [property], but is not responsible for payment where the husband has not?[50] — If you wish, I might say: [R. Huna] did have property[51] but it was struck with blast. And if you prefer, I might Say: A father in the case of his son always undertakes responsibility,[52] for it was stated: A guarantor for a kethubah is, in the opinion[53] of all, not responsible for payment;[54] a kabbelan for a creditor is, in the opinion of all, responsible for payment; [in the case, however, of] a kabbelan for a kethubah or a guarantor for a creditor, there is a dispute. [One] Master holds that he[55] is responsible only where the debtor has property, but if he has none, he is not responsible;[56] and the [other] Master holds that he[55] is responsible whether [the debtor] has, or has not any property. And the law [is that a guarantor] is responsible for payment in all[57] [cases],[58] with the exception of a guarantor for a kethubah who is not responsible for payment even though the husband possessed property. What is the reason? — He[59] was [merely] performing a religious act[60] and [the woman][61] had lost nothing.[62] R. Huna said: If a dying man consecrated all his property and then stated 'I owe[63] a maneh to X',he is believed, because it is known that no one would form a conspiracy against sacred property.[64] R. Nahman demurred: Would a person form a conspiracy against his children[65] and yet both Rab and Samuel stated that if a dying man said, 'I owe a maneh to X', if he [specifically] added, 'Give [it to him]', it is to be given, but if he did not [specifically] say, 'Give', it is not to be given,[66] from this it clearly follows [that] a person is wont to disclaim wealth for[67] his children;

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(1) R. Papa and R. Huna. Whatever the reason, the guarantor is not entitled to exact payment from the orphans!

(2) While dying he stated that he had not deposited any valuables with the creditor.

(3) Lit., 'or also'.

(4) for refusing to obey an order of the court for the payment of the debt.

(5) In both these cases it is obvious that the debtor had not entrusted the creditor with any valuables as a security for the loan. Hence, according to R. Huna, the orphans, whose duty it is to discharge their father's debts, must indemnify the guarantor. According to R. Papa. however, they are not obliged to pay even in such cases.

(6) Lit., 'from there'.

(7) That the guarantor who discharged the debt of such a debtor is entitled to exact payment from the orphans; since, in such a case, it is certain that no valuables were deposited by the debtor with the creditor.

(8) Lit., 'from under whose hand goes out'.

(9) Which ho received from the creditor on payment of the debt incurred by the father of the orphans.

(10) from the orphans, while they are still minors; since it is possible that he never repaid the loan, but accidentally found the bond which the creditor may have lost. When, however, the orphans obtain their majority they may be sued by the guarantor who, on taking the required oath, must be duly compensated.

(11) Lit., 'written in it'.

(12) The creditor.

(13) The amount of the debt.

(14) The guarantor.

(15) In this case it is certain that the bond was not found by him but that it was delivered to him by the creditor.

(16) That the guarantor may exact payment from the orphans where the receipt for the debt is entered on the bond.

(17) V. supra p. 767. n. 7.

(18) Who holds that orphans are not obliged to discharge the debts of their father.

(19) Why should the orphans be made to indemnify the guarantor?

(20) Cf. Bah, a.l.

(21) The creditor.

(22) Lit., 'and wrote'.

(23) I.e., he has given him a receipt for the amount received.

(24) In order that the guarantor may become the legal possessor of the bond. The amount now due to him can no longer be regarded as a verbal loan but as one secured by a written bond. R. Papa exempts orphans from the payment of a verbal loan only, but not from that which is secured by a bond. The payment of such a bond on the part of the orphans is obligatory.

(25) Whose father was the debtor.

(26) When the claim of the guarantor for compensation from the orphans was submitted to him for decision.

(27) [A suburb of Nehardea, v. Obermeyer, op. cit. 265 ff.]

(28) V. supra 174a (end), and notes.

(29) Lit., 'these words',

(30) Who knows the law that before calling upon the guarantor to pay, the creditor must first approach the debtor. Hence it is possible that valuables might have been deposited with him by the debtor.
(31) V. supra 173b.
(32) As the debtor well knows that the gentile would, in any case, exact payment from the guarantor, who would not entrust him with any valuables which would only enable the gentile to collect the debt twice.
(33) R. Ashi.
(34) V. p. 768, n. 15.
(35) The guarantor.
(36) Knowing full well that the creditor would exact payment from him. Hence, he cannot recoup himself from the orphans while they are still minors. Cf. p. 767. n. 15 end.
(37) Lit., ‘and the thing was pressing him’.
(38) And thus come into the possession of some money.
(39) Lit., ‘divorce’.
(40) The divorce could be arranged in the presence of witnesses out of court where no one would compel the husband to vow that he would derive no further benefit from his wife.
(41) R. Huna.
(42) Who is forbidden to marry a divorced woman.
(43) B.K. 92a, Hul. 105b.
(44) That R. Huna should be so advised.
(45) V. supra 137a. How then could he have contemplated giving such advice to R. Huna.
(46) R. Huna's father.
(47) Rashal. Lit., ‘established for us’, v. infra.
(48) V. Glos.
(49) Lit., ‘to him’.
(50) Since R. Huna was poor, he could not have been the possessor of any property. His father, consequently, though a kabbelan, could not have become liable for the payment of the kethubah.
(51) At the time his father undertook to be kabbelan.
(52) Even where the son is destitute.
(53) Lit., ‘words’.
(54) The reason is given infra.
(55) The guarantor.
(56) Since no one would guarantee a loan where it is known that the debtor has no means wherewith to meet his obligations. A guarantee in such a case must not, therefore, be taken seriously.
(57) V. Bah and Rashal, a.l.
(58) Whether the debtor, has or has no property.
(59) The guarantor.
(60) By his guarantee he was helping to bring about the marriage of the parties. A guarantee in a matrimonial affair is not to be taken seriously as pledging actual payment, but as a mere expression of confidence in the honesty and integrity of the party concerned.
(61) Who, it is assumed, always prefers married life to spinsterhood.
(62) It is certain that even if she had known that her kethubah would not be paid, she would still have consented to the marriage. In the case of a loan, however, it is clear that had it not been for the guarantee, given by the guarantor, the creditor would not have risked his money. In the latter case, therefore, the guarantor is liable.
(63) Lit., ‘in my hand’.
(64) Hence, his statement15 accepted, and the maneh he mentioned is to be paid to the creditor named.
(65) To deprive them of their due in favour of a stranger.
(66) Though ho clearly admitted liability.
(67) Lit., not to satisfy’. i.e., a person is in the habit of concealing the wealth of his children in order to ward off envy.

Talmud - Mas. Baba Bathra 175a

[could it not then be said] here[1] also [that] a person is wont to disclaim wealth for himself![2] — R.

Huna gave his ruling there[1] only when [the creditor] was in possession of a bond of indebtedness.[3] [Does this] imply that Rab and Samuel [deal with a case] where the [creditor] is not in possession of a bond?[4] [Why, then,] is [the maneh] to be given [where the dying man] said ‘Give’? [This, surely,] is [only] a verbal loan, and both Rab and Samuel stated [that] a verbal loan may be recovered neither from the heirs nor from the buyers![5] — But, said R. Nahman, both[6] [are cases] where [the creditor] is in possession of a bond, but[7] there is no contradiction. The one [is a case of a bond] that was authenticated;[8] the other where it was not authenticated. [Consequently,[9] if] he said, ‘Give,’ he [thereby] confirmed[10] the bond. [If, however], he did not say, ‘Give,’ he did not confirm[11] the bond.

Rabbah stated: If a dying man said, ‘I owe a maneh to X’, and the orphans stated, ‘We have paid it’< they are believed. [If, however, he said,] ‘Give a maneh to X’, and the orphans stated, ‘We have paid it’, they are not believed. Topsy-turvy![12] [Does not] the reverse stand to reason? If he[13] said, ‘Give a maneh’, since their father had given a definite order,[14] it might be [justly] assumed that they discharged [the debt]; [if, however, he said.] ‘I owe a maneh to X’, since their father did not give a definite order, it ought to be assumed that they did not discharge it![15] — If, however, [such a statement] was made, it was made[16] in the following terms: If a dying man said, ‘I owe a maneh to X’, and the orphans declared, ‘Our father subsequently told us that he paid’,[17] they are believed. What is the reason? He might have [subsequently] recalled it[18] to his mind. [If, however, he said,] ‘Give a maneh to X’, and his orphans declared, ‘Our father subsequently told us that he paid’,[17] they are not believed; for had it been the case that he paid it, he would not have used [the word], ‘Give’.[19]

Raba inquired: What [is the law where] a dying man admitted [a debt]? Is it necessary [for him] to say [also] ‘Be you my witnesses,[20] or is it not necessary to say, ‘Be you my witnesses’? [Is it assumed that] a man[21] might jest in the hour of his death or that a man does not jest in the hour of his death? Is it necessary [for him] to say. ‘Write’,[22] or is it not necessary to say, ‘Write’? — After having raised these questions, he answered them himself:[23] No one jests in the hour of [his] death, and the words of a dying man are regarded [legally] as written and delivered.[24]

MISHNAH. IF A MAN LENT [MONEY] TO AN OTHER ON [THE SECURITY OF] A BOND OF INDEBTEDNESS,[25] HE MAY COLLECT [THE DEBT] FROM MORTGAGED PROPERTY.[26] [IF, HOWEVER, THE LOAN WAS MADE] BEFORE[27] WITNESSES,[28] HE[29] MAY RECOVER [HIS DEBT] FROM FREE PROPERTY [ONLY].

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(1) In the case of consecrated property.

(2) Consequently, it might be rightly assumed that his admission of indebtedness to a creditor amounted to no more than a desire to conceal his wealth. How then could R. Huna state that the sum specified must be paid to the creditor?

(3) And the dying man only confirmed it. Had there been no bond, but a verbal admission only, R. Huna would not have authorised payment to the alleged creditor.

(4) And this is the reason why the creditor must not be paid if the dying man did not add, ‘Give’?

(5) Of the debtor.

(6) Lit., ‘these and those’. The statement of R. Huna, on the one hand, and that of Rab and Samuel on the other.

(7) As to the question why in the case dealt with by Rab and Samuel it was necessary for the instruction, ‘Give’, to be added.

(8) By the Court.

(9) In the latter case.

(10) And the sum is to be paid to the creditor though his bond had no authentication.

(11) Hence the possibility of his desire to conceal his children's wealth must be taken into consideration, and the sum must not be paid in the absence Of an authentication in court.

(12) V. supra p. 435. n. 27.

(13) The dying man.

(14) Lit., ‘cut off the thing’.

(15) Why, then, did Rabbah give a decision which is directly opposed to such logical reasoning5

(16) Lit , ‘it was said’.
(17) Lit., ‘I paid’.
(18) The fact that ho had already repaid that debt.
(19) His use of the definite order, ‘Give’, implies that he was absolutely certain that the debt had not been discharged.
(20) As is the case with a man in good health (cf. Sanh. 29a), otherwise he can subsequently deny all liability, pleading that his admission was a mere jest.
(21) For his order of the text, of. Bah and Rashal, a.l.
(22) I.e., a bond. In the case of a pots in in good health such an order is essential to the validity of the creditor's claim (cf. supra 40a).
(23) Lit., ‘after he enquired he returned and solved it’.
(24) Hence there is no need to add, ‘Be my witnesses’, or, ‘Write out a bond’.
(25) Even though the clause pledging security had not been entered (v. B.M. 15b, and cf. supra 157a).
(26) Which was mortgaged subsequent to the date of the loan, and certainly from property in possession of the debtor.
(27) Lit., ‘by the hands of’.
(28) And no bond was written.
(29) Cf. Bah, a.l.

Talmud - Mas. Baba Bathra 175b

[IF A PERSON] PRODUCED AGAINST ANOTHER HIS[1] NOTE-OF-HAND[2] [SHOWING] THAT [THE LATTER] OWES HIM [A SUM OF MONEY], HE MAY RECOVER [IT] FROst HIS FREE PROPERTY.[3] [IF THE GUARANTEE AND SIGNATURE OF] A GUARANTOR APPEAR[4] BELOW THE SIGNATURES TO BONDS OF INDEBTEDNESS, [THE CREDITOR] MAY RECOVER [HIS DEBT] FROM [THE GUARANTOR'S] FREE PROPERTY.[5] SUCH A CASE ONCE CAME BEFORE R. ISHMAEL, WHO DECIDED THAT [THE DEBT MAY] BE RECOVERED FROM [THE GUARANTOR'S] FREE PROPERTY. BEN NANNUS [HOWEVER] SAID TO HIM, ‘[THE DEBT MAY] BE REPLIED NEITHER FROM SOLD PROPERTY NOR FROM FREE PROPERTY.’ ‘WHY?’ THE OTHER ASKED HIM. BEHOLD’, HE REPLIED TO HIM, ‘THIS IS JUST AS IF A CREDITOR] WERE [IN THE ACT (IF] THROTTLING A DEBTOR[6] IN THE STREET,[7] AND HIS FRIEND FOUND HIM AND SAID, "LEAVE HIM ALONE AND[8] WILL PAY YOU", HE WOULD [CERTAINLY] BE EXEMPT [FROM LIABILITY], SINCE THE LOAN WAS NOT MADE THROUGH TRUST IN HIM.[8] BUT WHAT MANNER OF GUARANTOR, HOWEVER, IS LIABLE [TO REFUND A DEBT]? [IF THE GUARANTOR SAID], LEND HIM [A SUM OF MONEY] AND I WILL REPAY [IT] TO YOU", HE IS LIABLE, SINCE THE LOAN WAS MADE THROUGH TRUST IN HIM.

R. ISHMAEL FURTHER STATED: HE WHO WOULD BE WISE SHOULD ENGAGE IN THE STUDY OF CIVIL LAWS,[9] FOR THERE IS NO BRANCH IN THE TORAH MORE COMPREHENSIVE[10] THAN THEY, AND THEY ARE LIKE A WELLING FOUNTAIN. AND HE THAT WOULD ENGAGE IN THE STUDY OF CIVIL LAWS LET HIM WAIT[11] UPON SIMEON BEN NANNUS.

GEMARA. ‘Ullah said: [According to] the word of the Torah, either a loan [secured] by a bond or a verbal loan may be recovered from mortgaged property. What is the reason? — The hypothecary obligation [involved] is Biblical.[12] Why then has it been said [that] a verbal loan may be collected from free property only? — On account of [possible] loss to the buyers.[13] If so,[14] [the same law should apply] also [to] a loan [that is secured] by a bond![15] [In this case][16] they have brought the loss upon themselves.[17]

Rabbah, however, said: [According to] the word of the Torah either a loan [secured] by a bond or a verbal loan may be recovered from free property only. What is the reason? — The hypothecary obligation [involved] is not Biblical.[18] Why then has it been said that a loan [secured] by a bond may be recovered from sold property? — In order that doors may not be locked in the face of borrowers.[19] If so, [the same law should apply] also [to] a verbal loan! — In that case the loan is not [sufficiently] known.[20]

Did Rabbah, however, give such [a ruling]?[21] Surely, Rabbah said: If land was collected[22] he[23] receives [a double portion,[24] but] if money was collected, he does not, and R. Nahman said: If money was collected he has [a double portion]![25] And if it be suggested that [the statement] of Rabbah should be transposed to ‘Ulla and that of ‘Ulla to Rabbah,[26] surely [it may be pointed out] ‘Ulla said: [According to] the word of the Torah a creditor is to receive[27] of the worst![28] — Rabbah [only] stated the reason of the Palestinians,[29] but he himself does not share [their view].[30]

Both Rab and Samuel stated: A verbal loan may be recovered neither from the heirs[31] nor from the buyer.[32] What is the reason? — The hypothecary obligation [involved] is not Biblical. Both R. Johanan and R. Simeon b. Lakish stated: A verbal loan may be recovered either from the heirs[33] or from the buyers.[34] What is the reason? — The hypothecary obligation [involved] is Biblical. An objection was raised: If [a man] was digging a pit in a public domain and an ox falls upon him and kills him, [the owner of the ox] is exempt.[35] Moreover, if the ox dies,[36] [compensation for] its value must be paid to its owner by the heirs of the owner of the pit![37] — R. Elai replied in the name of Rab: [This law[38] is applicable to the case only] where he[39] appeared before [a court of] law.[40] But, surely, it was stated that it killed him![41] — R. Adda b. Ahabah replied: [This is a case] where he was fatally injured.[42] But R. Nahman, surely. said that a tanna[43] recited [the statement as follows]: It killed and buried him![44] — That [is a case] where judges sat at the mouth of the Pit and convicted him.[45]

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(1) The debtor's.

(2) And no other evidence.

(3) Mortgaged property may be seized only where the creditor can produce a bond duly signed by qualified witnesses. Y. Gemara, infra.

(4) Lit., ‘which goes out’.

(5) But not from property he sold. Since the signatures of the witnesses do not appear below the guarantee, the guarantor's undertaking can have no more force than a verbal promise, or a loan that has not been secured by a bond, in which case no mortgaged property is pledged to the creditor.

(6) Lit., ‘one’.

(7) I.e., using violence against him.

(8) Such a guarantee was offered for the sole purpose of rescuing the debtor from the creditor's violence. It cannot be regarded as a serious guarantee to discharge the debt, since the debt was incurred prior to the guarantee.

(9) Lit., ‘laws of monies’ or ‘property’.

(10) Cf. Bah, a.l.

(11) Lit., ‘serve’, as a disciple to his master.

(12) Cf. Deut. XXIV, 11. Every debt carries with it a pledge of the debtor's property in favour of the creditor.

(13) Who might not be aware of the existence of the loan and would thus purchase property which might at any time be taken away from them.

(14) That the interests of the buyers are to be safeguarded.

(15) Cf. n. 6.

(16) Lit., ‘there’, a loan secured by a bond.

(17) A loan that has been secured by a bond and made or acknowledged in the presence of witnesses receives due publicity, and intending buyers are well aware of its existence.

(18) V. B.M. 114b.

(19) No man would consent to lend any money if no land security were available.

(20) Lit., ‘it has no voice’.

(21) Lit., ‘say so’, that the hypothecary obligation involved by debts is not Biblical.

(22) By sons, in payment of a debt that was due to their deceased father.

(23) The firstborn son.

(24) Because Biblically land is deemed to have been in their father's virtual possession, and a firstborn son is entitled to a double share in all that his father possessed. Cf. Deut. XXI, 17.

(25) V. supra 124b; B.K. 43a. At any rate, in view of this statement of Rabbah's, the debtor's land is Biblically deemed to be in the creditor's virtual possession; how then could ho say here that the hypothecary obligation is not Biblical?

(26) And thus Rabbah's view here would be that the pledging of property is Biblical, in agreement with his statement, supra 124b, that a firstborn receive a double portion where land was collected, and 'Ulla's view would be that the hypothecary obligation is not Biblical.

(27) Lit., 'his right'.

(28) Of the lands of the debtor. And this is deduced from a Biblical text (v. B.K. 8a). which proves that, according to 'Ulla, the debtor's landed property is pledged to the creditor Biblically.

(29) Who, as reported supra 124b, stated that a firstborn son takes a double portion in a loan.

(30) But maintains that, consistent with his view here that the hypothecary obligation is not Biblical, a firstborn son does not receive a double portion in a loan that was due to his deceased father, whether money or land was collected.

(31) Of the debtor.

(32) Though the dates of their purchases were later than the date of the loan.

(33) V. p. 775, n. 24.

(34) Cf. p. 775, n. 15.

(35) Since it is the fault of the digger of the pit that the ox had fallen upon him.

(36) Through the fall.

(37) The liability to compensation is, surely, of no greater legal force than that of a verbal loan (since no bond can be produced in support of it), and yet it has been said that it may be recovered from heirs; how, then, could Rab and Samuel state that heirs are not liable to repay a verbal loan incurred by their father?

(38) That heirs are to pay compensation for their father's liability.

(39) Who was digging the pit.

(40) And was ordered to pay compensation. An order made by a court has the same legal force as that of a loan that is secured by a written bond.

(41) A dead man could not appear before a court!

(42) The infliction of injuries from which one dies may be described as 'killing'. A man injured, though fatally, may be able to appear before a court.

(43) 'Ar. 7a.

(44) In the pit. How could it be said that he appeared before a court.

(45) Just before he died.

Talmud - Mas. Baba Bathra 176a

R. Papa said: The law is [that] a verbal loan may be recovered from the heirs[1] but may not be recovered from the buyers.[2] It 'may be recovered from the heirs' in order that doors might not be locked in the face of borrowers;[3] 'but may not be recovered from the buyers', because it is not [sufficiently] known.[4] [IF A PERSON] PRODUCED AGAINST ANOTHER HIS NOTE-OF-HAND [SHOWING] THAT [THE LATTER] OWED HIM [A SUM OF MONEY]. HE MAY RECOVER [IT] FROM FREE PROPERTY ETC. Rabbah b. Nathan inquired of R. Johanan: What [is the law in the case where] his handwriting[5] was legally endorsed at a court of law?[6] [The other] replied to him: Although one's handwriting had been legally endorsed at a court of law [the debt] may be recovered from free property only.[7]

Rami b. Hama raised an objection: [There are] three [kinds of] letters of divorce [which are] invalid;[8] but, if [the woman did] remarry, her child is [deemed] legitimate.[9] And they are the following: [A letter of divorce] written in the husband's handwriting, which bears no [signatures of] witnesses; [one] bearing [the signatures of] witnesses but no date; [and one] bearing a date and [the signature of] one witness only. These are the three [kinds of] letters of divorce [which are] invalid; did [the woman] however, re-marry, the child is [deemed] legitimate. R. Eleazar said: [A letter of divorce,] although it bears no [signatures of] witnesses but was given[10] to the woman[11] in the presence of witnesses, is valid;[12] and [such a document entitles one to] collect from mortgaged property![13] — There[14] it is different, because he[15] pledged himself at the very time of writing.[16]

[IF THE GUARANTEE AND SIGNATURE OF] A GUARANTOR APPEAR BELOW THE SIGNATURES TO BONDS OF INDEBTEDNESS, etc. Rab said: [If the guarantee appears] before the signatures on the bond, [the debt] may be recovered from mortgaged property; if after the signatures on the bond, [it] may be recovered from free property [only]. At times, Rab said: Even [if the guarantee appears] before the signatures on the bond [the debt] may be recovered from free property only. [This, surely, presents] a contradiction [between one ruling] of Rab and the other ruling of his![17] — There is no contradiction. The one[18] [refers to the case] where it was entered,[19] ‘X is guarantor’; the other [speaks of a case] where it was entered, ‘and X is guarantor’.[20]

R. Johanan. however, said: Either with the one or with the other[21] [the debt] may be recovered from [the guarantor's] free property only; even though it was entered ‘and X is guarantor’, Raba raised an objection: A bill of divorce containing greetings, under which the witnesses have signed, is invalid,[22] [because we apprehend that they might have signed the greetings [only];[23] and R. Abbahu said: I had the [following] explanation of this law[24] from R. Johanan: [The entry.] ‘give greetings’ [renders the bill] invalid, [but with the entry,] ‘and give greetings’[25] it is valid’![26] — Here also[27] [it is a case] where the entry was,[28] ‘X is guarantor’.[29] If so, [this statement] is exactly the same [as that] of Rab![30] — Read,[31] ‘and so said R. Johanan’.[32]

SUCH A CASE ONCE CAME BEFORE R. ISHMAEL etc. Said Rabbah b. Bar Hana in the name of R. Johanan: Although R. Ishmael praised Ben Nannus,[33] the halachah is in accordance with his[34] [own view].

A question was raised: What is R. Ishmael's view[35] in [the case of] ‘throttling’?[36] — Come and hear that which R. Jacob said in the name of R. Johanan: R. Ishmael differed in [the case of] ‘throttling’ also. [Is the] halachah in accordance with his view or is the halachah [in this case] not in accordance with his view? — Come and hear: When Rabin came[37] he stated in the name of R. Johanan: R. Ishmael differed in [the case of] ‘throttling’ also; and the halachah is in accordance with his view in [the case of] ‘throttling’ also.

Rab Judah said in the name of Samuel; [A guarantor, even in a case of] ‘throttling’, who was made to enter into a legal obligation,[38] assumes responsibility [for the payment of the debt], [from this] it is to be inferred[39] that a guarantor generally[40] does not require a kinyan.[41] And [this is] in disagreement with [the statement] of R. Nahman. for R. Nahman said:

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(1) Of the debtor.

(2) V. p. 775, n. 15.

(3) No one would be able to obtain a loan if creditors could not be assured of recovering it from the debtor's heirs.

(4) V. p. 775, n. 3. Unlike a loan secured by a bond, it is neither made, nor acknowledged in the presence of witnesses nor in the presence of a scribe. Hence no one besides the lender and debtor may ever be aware of its existence. The buyers of the debtor's property must, therefore, be protected against loss not due to any Fault of theirs.

(5) I.e., the note-of-hand mentioned in our Mishnah.

(6) Does the endorsement confer upon the creditor the same rights as those of a bond signed by witnesses, and thus entitle him to seize the debtor's mortgaged lands as if the clause pledging security had actually been entered (omission of the clause being regarded as the scribe's error); or does it merely establish the authenticity of the debtor's signature, while the creditor's rights remain unaltered?

(7) As a note-of-hand that has not been endorsed. The endorsement of a document by a court serves only the purpose of safeguarding its current force so that debtor or witnesses should not subsequently be able to deny their signatures.

(8) They do not entitle the woman to re-marry.

(9) The invalidity of the divorce not being so definite as to affect the legitimacy of the child.
(10) Lit., ‘he (the husband) gave it’.
(11) Lit., ‘to her’.
(12) Because, in R. Eleazar's opinion, the legality of a document depends on the witnesses to its delivery, not on those who signed it.
(13) Git. 86a. Whether the document be a kethubah or (as has been explained in Git. 22b) a bond of indebtedness, from this it follows that, though no witnesses had signed the bond, the creditor is entitled to seize the debtor's mortgaged property if there were only witnesses testifying to the delivery to him of the bond; much more so when the bond had been endorsed in a court of law which has certainly more power than ordinary witnesses. How, then, could R. Johanan maintain that an endorsement by a court of a note-of hand does not entitle the creditor to the seizure of sold property?
(14) The Mishnah of Gittin.
(15) The husband (in case of a divorce), or a creditor (in the case of a bond).
(16) Of the document, i.e., it was originally written with the intention of delivering it in the presence of witnesses instead of having their signatures on the document. Since witnesses to the delivery confer upon a document the same force as witnesses who sign it, the document is valid. R. Johanan, however, speaks of a note-of-hand given to the creditor sometime after the loan was made as a token of indebtedness. Such a note, not being written in the form of a bond and bearing no signatures of witnesses, cannot transform a verbal loan into one secured by a bond.
(17) Lit., ‘on Rab’.
(18) Where the guarantor's mortgaged property may not be seized.
(19) Lit., ‘that he wrote in it’.
(20) In the latter case, ‘and’ indicates continuation, so that the guarantee forms a part of the bond the whole of which is attested by the witnesses whose signatures appear below. In the former case, the guarantee appears as a detached statement; and the witnesses may, consequently, be regarded as having attested the text of the bond only, exclusive of the guarantee.
(21) Lit., ‘one this and one this’, ‘whether one or the other’, i.e., whether the guarantee is entered above, or below the signatures of the witnesses.
(22) Lit., ‘witnesses who are signed on an enquiry of peace in a letter of divorce’.
(23) Not the text of the divorce. Tosef., Git. VII.
(24) Lit., ‘to me it was explained’.
(25) The conjunction, ‘and’, combining the greetings and the text into one unit.
(26) The signatures clearly bearing testimony to the entire bill (text of divorce and greetings). Now, since R. Johanan draws here a distinction between the insertion and the omission of the conjunction, how could he be said to hold that there is no such distinction in the case of a guarantee to a bond, and that whether ‘and’ was, or was not inserted, the debt may be recovered from Free property only?
(27) A guarantee on a bond, which does not entitle to the seizure of sold property.
(28) Lit., ‘when he wrote’.
(29) Had the conjunction ‘and’ been inserted, the guarantee would have assumed full force and the guarantor's sold property also could be seized.
(30) Rab also draws the same distinction between the insertion, and the omission of the conjunction.
(31) Lit., ‘say’.
(32) R. Johanan does not differ from, but agrees with Rab.
(33) Later in the Mishnah.
(34) R. Ishmael's; that free property may be seized.
(35) Lit., ‘what to me said etc.’.
(36) The case cited by Ben Nannus in our Mishnah where the guarantee was made after the loan was granted for the purpose of saving the debtor from the creditor's power.
(37) from Palestine to Babylon.
(38) Lit., ‘and they (witnesses) acquired from him’, by means of a kinyan (v. Glos.).
(39) Since a kinyan is specifically postulated in this case.
(40) Lit., ‘in the world’.
(41) He assumes responsibility though no kinyan had been effected.

Talmud - Mas. Baba Bathra 176b

only [in the case of] a guarantor appointed by a court of law is no kinyan required;[1] in all other cases, however, kinyan is required.

And the law is: [If one] guarantees [a loan] at the time the money is delivered,[2] no kinyan is required;[3] if, after the money is delivered, kinyan is required;[4] [and in the case of] a guarantor appointed by a court of law[5] no kinyan is required, for, having regard to the pleasure he has in the confidence reposed in him,[6] he [wholeheartedly] determines to shoulder the full responsibility.[7]

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(1) The reason is given infra.

(2) I.e., when the loan was made.

(3) Since the loan was obviously made through trust in the guarantor, he assumes full responsibility.

(4) To enable the creditor to recoup himself.

(5) Though after the loan has been made.

(6) Lit., ‘that he is trusted’ by the court.

(7) Lit., ‘and subjects himself to him’, i.e., to the creditor.

Talmud - Mas. Sanhedrin 2a

CHAPTER I

MISHNAH. MONETARY CASES [MUST BE ADJUDICATED] BY THREE JUDGES; CASES OF LARCENY AND MAYHEM,[1] BY THREE; CLAIMS FOR FULL OR HALF DAMAGES,[2] THE REPAYMENT OF THE DOUBLE[3] OR FOUR- OR FIVE-FOLD RESTITUTION [OF STOLEN GOODS],[4] BY THREE, AS MUST CASES OF RAPE[5] SEDUCTION[6] AND LIBEL[7] ; SO SAYS R. MEIR. BUT THE SAGES[8] HOLD THAT A CASE OF LIBEL REQUIRES A COURT OF TWENTY-THREE SINCE IT MAY INVOLVE A CAPITAL CHARGE.[9]

CASES INVOLVING FLOGGING,[10] BY THREE; IN THE NAME OF R. ISHMAEL IT IS SAID, BY TWENTY-THREE.

THE INTERCALATION OF THE MONTH IS EFFECTED BY A COURT OF THREE;[11] THE INTERCALATION OF THE YEAR,[12] BY THREE: SO R. MEIR. BUT R. SIMEON B. GAMALIEL SAYS THE MATTER IS INITIATED BY THREE, DISCUSSED BY FIVE AND DETERMINED BY SEVEN. IF HOWEVER, IT BE DETERMINED ONLY BY THREE, THE INTERCALATION HOLDS GOOD. THE LAYING OF THE ELDERS’ HANDS [ON THE HEAD OF A COMMUNAL SACRIFICE][13] AND THE BREAKING OF THE HEIFER'S NECK[14] REQUIRE THE PRESENCE OF THREE: SO SAYS R. SIMEON. ACCORDING TO R. JUDAH, FIVE. THE PERFORMANCE OF HALIZAH,[15] AND THE DECISION AS TO MI'UN[16] IS MADE BY THREE. THE FOURTH YEAR FRUIT[17] AND THE SECOND TITHE[18] OF UNKNOWN VALUE ARE ASSESSED BY THREE. THE ASSESSMENT OF CONSECRATED OBJECTS FOR REDEMPTION PURPOSES IS MADE BY THREE; VALUATIONS OF MOVABLE PROPERTY[19] BY THREE. ACCORDING TO R. JUDAH ONE OF THEM MUST BE A KOHEN;[20] IN THE CASE OF REAL ESTATE, BY TEN INCLUDING A KOHEN, IN THE CASE OF A PERSON, BY THE SAME NUMBER. CAPITAL CASES ARE ADJUDICATED BY TWENTY-THREE. THE PERSON OR BEAST CHARGED WITH UNNATURAL INTERCOURSE, BY TWENTY-THREE, AS IT is WRITTEN, THOU SHALT KILL THE WOMAN AND THE BEAST,[21] AND ALSO, AND YE SHALL SLAY THE BEAST.[22]

THE OX TO BE STONED[23] IS TRIED BY TWENTY-THREE, AS IT IS WRITTEN, THE OX SHALL BE STONED AND ITS OWNER SHALL BE PUT TO DEATH[24] — AS THE DEATH OF THE OWNER, SO THAT OF THE OX, CAN BE DECIDED ONLY BY TWENTY-THREE.

THE DEATH SENTENCE ON THE WOLF OR THE LION OR THE BEAR OR THE LEOPARD OR THE HYENA OR THE SERPENT[25] is TO BE PASSED BY TWENTY-THREE. R. ELIEZER SAYS: WHOEVER IS FIRST TO KILL THEM [WITHOUT TRIAL], ACQUIRES MERIT, R. AKIBA, HOWEVER, HOLDS THAT THEIR DEATH IS TO BE DECIDED BY TWENTY-THREE.

A TRIBE,[26] A FALSE PROPHET[27] AND A HIGH PRIEST CAN ONLY BE TRIED BY A COURT OF SEVENTY-ONE. WAR OF FREE CHOICE[27] CAN BE WAGED ONLY BY THE AUTHORITY OF A COURT OF SEVENTY-ONE. NO ADDITION TO THE CITY OF JERUSALEM OR THE TEMPLE COURT-YARDS CAN BE SANCTIONED SAVE BY A COURT OF SEVENTY-ONE.

SMALL SANHEDRINS FOR THE TRIBES CAN BE INSTITUTED ONLY BY A COURT OF SEVENTY-ONE.

NO CITY CAN BE DECLARED CONDEMNED[28] SAVE BY A DECREE OF A COURT OF

SEVENTY-ONE. A FRONTIER TOWN CANNOT BE CONDEMNED NOR THREE CITIES AT A TIME,[29] BUT ONLY ONE OR TWO.

THE GREAT SANHEDRIN CONSISTED OF SEVENTY-ONE MEMBERS; THE SMALL SANHEDRIN OF TWENTY-THREE. WHENCE DO WE DEDUCE THAT THE GREAT SANHEDRIN IS OF SEVENTY-ONE? — IT IS SAID, GATHER UNTO ME SEVENTY MEN;[30] WITH MOSES AT THEIR HEAD WE HAVE SEVENTY-ONE. R. JUDAH SAID IT CONSISTED ONLY OF SEVENTY. WHENCE DO WE KNOW THAT THE SMALL SANHEDRIN IS OF ONLY TWENTY-THREE? — IT IS SAID, AND THE ‘EDAH[31] SHALL JUDGE... AND THE ‘EDAH SHALL DELIVER.[32] ONE ‘EDAH JUDGES, [I.E. CONDEMNS] AND THE OTHER MAY DELIVER [I.E. ACQUIT], HENCE WE HAVE TWENTY. BUT HOW DO WE KNOW THAT A CONGREGATION CONSISTS OF NOT LESS THAN TEN? — IT IS WRITTEN, HOW LONG SHALL I BEAR WITH THIS EVIL ‘EDAH?[33] EXCLUDING JOSHUA AND CALEB, WE HAVE TEN. AND WHENCE DO WE DERIVE THE ADDITIONAL THREE? — BY THE IMPLICATIONS OF THE TEXT, THOU SHALT NOT FOLLOW A MAJORITY FOR EVIL,[34] I INFER THAT I MAY FOLLOW THEM FOR GOOD;[35] IF SO, WHY IS IT SAID, TO INCLINE AFTER THE MAJORITY[36] ? TO TEACH THAT THE MAJORITY TO ‘INCLINE AFTER’ FOR GOOD [I.E. FOR A FAVOURABLE DECISION] IS NOT THE ONE TO ‘INCLINE AFTER’ FOR EVIL [I.E. FOR AN ADVERSE DECISION] SINCE FOR GOOD, A MAJORITY OF ONE SUFFICES; WHEREAS FOR EVIL, A MAJORITY OF TWO IS REQUIRED. [

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(1) An assault on a person involving bodily injury, Lev. XXIV, 19.

(2) Done by a goring ox, Ex. XXI, 35.

(3) Ex. XXII, 3.

(4) Ex. XXI, 37.

(5) Deut. XXII, 28-29.

(6) Ex. XXII, 15-16.

(7) Deut. XXII, 14ff.

(8) Representing the opinion of teachers in general.

(9) For if the woman is proved guilty she is stoned.

(10) Deut.XXV, 2-3.

(11) V. p. 42.

(12) Making it 13 instead of 12 months.

(13) Lev. IV, 15. According to Maimonides, ‘The Ordination of Elders’.

(14) Deut. XXI,1- 9.

(15) Deut. XXV, 5-10. V. p. 91, lit., the ‘drawing off’ of the shoe.

(16) The annulment of a woman's marriage following her refusal to agree to the union contracted by her as a fatherless girl during her minority.

(17) V. Lev. XIX, 23-25. It could be exchanged into money and its equivalent consumed in Jerusalem.

(18) The tithe taken by the landowner to Jerusalem there to be consumed, as distinct from the ‘first tithe’ assigned to the Levites, according to Rabbinic interpretation of Deut. XIV, 22-26.

(19) The value of which had been vowed to the Sanctuary.

(20) Priest, v. Glos.

(21) Lev. XX, 16.

(22) Lev. XX, 15. The procedure at the trial of the beast and the person is thus made alike.

(23) If he gored a person. Ex. XXI, 28.

(24) Ex. XXI, 29.

(25) Which has killed a human being.

(26) That has gone astray after idolworship, v. p. 76.

(27) Deut. XVIII, 20. (12) I.e., all wars apart from the conquest of the seven nations inhabiting Canaan.

(28) Deut. XIII, 13.

(29) V. p. 82.

(30) Num. XI, 16.
(31) עדה Congregation.
(32) Ibid. XXXV, 24.
(33) Ibid. XIV, 27. Referring to the twelve spies. Ibid. XXXV, 24.
(34) I.e., for condemnation. Ex. XXIII, 2.
(35) For acquittal.
(36) Ibid.

Talmud - Mas. Sanhedrin 2b

AND AS A COURT CANNOT CONSIST OF AN EVEN NUMBER[1] ANOTHER ONE IS ADDED, MAKING A TOTAL OF TWENTY THREE.

WHAT MUST BE THE POPULATION OF A TOWN TO MAKE IT ELIGIBLE FOR A [SMALL] SANHEDRIN? — ONE HUNDRED AND TWENTY. R. NEHEMIA SAYS: TWO HUNDRED AND THIRTY, SO THAT EACH MEMBER SHOULD BE A RULER OF [AT LEAST] TEN.[2]

GEMARA. Do not LARCENY AND MAYHEM come under the category of MONETARY CASES? [Why then this specification?] R. Abbahu says: The Tanna adds here an explanatory clause, teaching that the MONETARY CASES of the Mishnah refer only to LARCENY AND MAYHEM, but not to admission and transaction of loans[3] [i. e. cases of indebtedness]. And both clauses are necessary. For had the Tanna mentioned only MONETARY CASES I might have said that they included also cases of indebtedness. Hence the necessity of the explanatory LARCENY AND MAYHEM; or again had the Tanna mentioned only LARCENY AND MAYHEM, I might have said that these included cases of indebtedness, and that the reason for specifying particularly LARCENY AND MAYHEM is that the regulation requiring three judges is laid down in Scripture In connection with larceny and mayhem (the verse, the master of the house shall come near unto the judges,[4] though primarily dealing with cases of larceny,[5] includes also those of mayhem, there being actually no difference in regard to an injury whether it is inflicted on one's person or on one's property). The Tanna had accordingly to supplement the MONETARY clause by that of LARCENY AND MAYHEM, to exclude thereby cases of indebtedness.

And what is the point in excluding cases of indebtedness? Shall l say it is to show that three judges are not required for them? But did not R. Abbahu [himself] say that all agree that no judgment given by two in monetary cases is valid? — It is to teach that cases of indebtedness require no Mumhin[6] of their adjudication. [This being the case, let us consider] what is the determining principle of the Tanna. Does he hold that we have here an instance of transposition of sections, [in which case all the provisions in this section[7] apply to cases of indebtedness]?[8] He should then demand Mumhin here also [since the term Elohim denoting Mumhin is mentioned in this place]. If on the other hand, he does not hold this view [and in this case the provisions in this section are limited to the cases of larceny as set forth], where is the authority for the necessity of three judges? — Indeed the Tanna accepts the principle of ‘transposition of sections’ — and consequently, in accordance with the strict application of the Law, in cases of indebtedness he would require [three] Mumhin — nevertheless they have become exempted from this regulation for the reason advanced by R. Hanina. For R. Hanina said:[9] In accordance with the Biblical law, the juridical procedure in regard to the investigation[10] and examination[11] of witnesses applies to monetary as well as to capital cases , for it is written,

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(1) For if their opinion were halved no verdict could be established.
(2) V. Ex. XVIII, 25.
(3) Claims supported by witnesses attesting the defendant's former admission of his liability, or who were actually

present at the time of the transaction.

(4) The term 'Elohim' denoting 'Judges' occurs three times in this section, Ex. XXII, 7.

(5) Arising from the denial of the bailment.

(6) Plural of Mumheh, specially ordained judges; v. Glos.

(7) Ex. XXII, 6-8

(8) Ex. XXII, 24. [On the principle 'transposition of sections' עירוב פרשיות V. Responsa Solomon Duran, 541, and B.K. (Sonc. ed.) 107a, n. a.l.]

(9) Infra 32a; Yeb. 122b.

(10) As to the day and hour.

(11) As to attendant circumstances.

Talmud - Mas. Sanhedrin 3a

One manner of judgment shall you have.[1] Why then did they [the Sages] declare that monetary cases are not subject to this exacting procedure? In order not to 'bolt the door' against borrowers.[2] But if non-Mumhin are competent to adjudicate in monetary cases, ought they not to be protected against any claim of compensation in case of their having given an erroneous decision? — All the more then would you be 'bolting the door' against borrowers.

If it be so, [that cases of indebtedness require three, why does R. Abbahu say that the Tanna adds an explanatory clause, and not simply that] the Mishnah teaches two separate laws; viz. MONETARY cases are tried by three laymen[3] whilst cases of LARCENY AND MAYHEM are tried by three Mumhin[3] . Moreover, if the two clauses merely explain each other, why mention 'three' in each? — indeed, said Raba,[4] the Tanna teaches two separate laws; and cases of indebtedness need no Mumhin for the reason given above by R. Hanina.

R. Aha the son of R. Ika says: According to Scriptural law, even a single person is competent to try cases of indebtedness as it is said: In righteousness shalt thou judge thy neighbor.[5] Three, however, are needed in case traffickers[6] presume to act as judges. But even with the provision of three might they not all be traffickers? — It is, however unlikely that none of them should have any knowledge of the law. If this be so, they should be exempt from liability in case they erred? — But how much more would traffickers presume in such circumstances to act as judges![7] Wherein then lies the difference between Raba and R. Aha the son of R. Ika [since both agree that mere laymen are competent]? Their difference centres round the opinion of Samuel who said: 'if two [laymen] have tried a monetary case, their decision holds good. but they are called a presumptuous Beth din.' Whereas Raba[8] does not agree with Samuel, R. Aha does agree with him.

CLAIMS FOR FULL OR HALF DAMAGES etc.

Do not FULL DAMAGES come under the category of MAYHEM[9] [why then this specification]? — Since the Tanna had to state HALF DAMAGES he mentions, also FULL DAMAGES. But is not HALF DAMAGES also included in the same category? — The Tanna speaks of two classes of payment — kenas[10] [fine] and indemnity . This opinion would be in accord with the Amora who considers HALF DAMAGES kenas, but how meet the difficulty according to the one who regards it as indemnity?[11] — Since the Tanna had to state DOUBLE AND FOUR- OR FIVE-FOLD RESTITUTION, which is an indemnity

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(1) Lev. XXIV, 22.

(2) Creditors would refuse to advance loans should difficulties confront them in collecting their debts; and the same consideration has led to the suspension of the law regarding the need of Mumhin.

(3) *******, an ordinary person.

(4) Differing from R. Abbahu.

(5) Lev. XIX, 15.

(6) Unversed in the law. [Heb. יושבי קרנות , lit., rendered sit (a) at street corners, (b) in waggons, (c) in markets, (d) a company (of musicians), connecting the word with the Latin corona, (e) a corruption of the abbreviations קרו״ת קרקסיות ותרטיות 'circuses and theatres', a reading supported by the J.T.]

(7) Since they would be protected against all claims of compensation.

(8) Since according to him three are biblically required.

(9) The term Nezek (damage), being the terminus technicus for all kinds of damages including those rising out of mayhem.

(10) I.e. a fine imposed upon the owner for not guarding his animal from causing damage, as distinct from damages in cases of mayhem, which are considered indemnity.

(11) V. B.K. 15a.

Talmud - Mas. Sanhedrin 3b

not corresponding with the exact amount of damage done, he mentions HALF DAMAGES which is likewise an indemnity that does not correspond with the exact amount of damage done. And as he has to state HALF DAMAGES, WHOLE DAMAGES is incidentally also stated.

Whence do we deduce that three are needed [for the composition of a court]? — From what our Rabbis taught: 'It is written: The master of the house shall come near unto the judge. here you have one; and again: the cause of both parties shall come before the judge, here you have two; and again: whom the judge shall condemn,[1] so you have three.' So says R. Josiah. R. Jonathan holds the initial reference to judges occurs In the first passage above, and cannot as such, be employed for exegetical purposes.[2] But [the deduction is as follows:] The cause of both . . . judge, here you have one; again whom the judge shall condemn, here you have two; and since a court must not be of an even number, another is added, making the total of three. Shall we say that R. Josiah and R. Jonathan have as point of dispute the question whether or not first citations can be used for exegetical purposes. R. Josiah being of the opinion that they can be used, and R. Jonathan that they cannot? — No! Both agree that first citations cannot be used. R. Josiah nevertheless employs one such in this case because were its purpose merely to indicate the need of a judge, the text should have stated The master. . . unto the Shofet [judge]. Why does it say 'Elohim'? — To enable us to infer that the first citation is to be used to derive from it the number of three judges. R. Jonathan, however, argues that the verse employed the popular term ['Elohim' for a recognised judge]. even as the current saying goes; 'Whoever has a trial let him go to the Dayyan.'[3] And is not R. Josiah of the opinion that a court must consist of an uneven number of judges?[4] Has it not been taught; R. Eliezer the son of R. Jose the Galilean says: 'What is the signification of the phrase to incline after many to arrest judgement?'[5] The Torah implies: Set up for thyself a court of an uneven number, the members of which may be able to incline to one side or the other? — R. Josiah is of the opinion of R. Judah that the Great Sanhedrin consisted of seventy. For we learnt: THE GREAT SANHEDRIN CONSISTED OF SEVENTY-ONE . . . R. JUDAH SAYS OF SEVENTY. It might, however, be objected that R. Judah has been known to express this view only regarding the Great Sanhedrin [and that on Biblical authority]; but have you heard him express it with regard to other courts? Should you presume to say that [R. Judah] makes no such distinction, how then explain what we learnt: THE LAYING OF HANDS BY THE ELDERS AND THE CEREMONY OF BREAKING THE HEIFER'S NECK [REQUIRE THE PRESENCE OF] THREE. SO HOLDS R. SIMEON. R. JUDAH SAYS FIVE. And it has been stated. 'What is R. Judah's reason? He finds it in the text, the elders shall lay.[6] the plural in each word indicating at least two, and so four in all, and since there cannot be a court of an even number, a fifth is added.'[7] R. Josiah's opinion goes further than that of R. Judah. Whilst the latter is of the opinion that only the Great Sanhedrin needs an uneven number, but not other courts, R. Josiah extends that requirement to all courts. But [on R. Josiah's opinion] how is 'to incline' explained?[8] — He applies it to capital but not to monetary cases. If so, what of the ruling which we learnt that in [monetary] cases: if two of the judges acquit the defendant and the third condemns him, he is acquitted; if two condemn him and one acquits, he is condemned.[9] Can it be said it does not accord with R. Josiah's view?[10] — No! you can correlate that Mishnah's ruling even with that of R. Josiah [for he will agree that the decision of the majority is valid even in civil cases] by virtue of a kal wahomer[11] from capital cases. If in capital cases that are so grave, the Divine Law[12] vested the authority in the majority, all the more so in monetary cases.

Our Rabbis taught: Monetary cases are tried by three. Rabbi says, by five, so that in case of a division there will be a majority verdict, i.e., of three. But surely even in the case of three there is possible a majority verdict [namely, of two]? — What Rabbi means is that an unanimous decision of three is required for the verdict. Hence he holds that the stage at which three judges are prescribed is the final decision. This opinion was ridiculed by R. Abbahu, for the Great Sanhedrin would accordingly have to consist of one hundred and forty one, in order that the final verdict might be given [in case of a division] by a majority of at least seventy-one; and the small Sanhedrin would have to consist of forty-five, in order that the final verdict might be given by twenty-three? This however cannot be maintained, since the text, Gather unto me seventy men of the elders of Israel[13] prescribes seventy at the time of gathering; and likewise, the verse, The congregation shall judge, and the congregation shall deliver[14] refers to the time when the congregation proceeds to judge. Similarly it may be concluded that the verse, The master of the house shall come near unto the judges[15] [from which the need of three judges in monetary cases is derived], is to be explained as referring to the time when the plaintiff appears before the Court, at which point three judges are required. [Whence then does Rabbi deduce that three are needed?] — Rabbi derives this from the plural form of the predicate ‘yarshi'un’ [they shall condemn], arguing that the subject ‘Elohim’ [judges] is here a plural, indicating at least two; and similarly the earlier ‘Elohim’[16] in the same context denotes two. So we have four. Adding another, since a court cannot consist of an even number, there are five;

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(1) Ex. XXII, 7-8. [The plural Elohim is treated as plural of ‘majesty’, cf. G. K. 124, g-i.]

(2) As it is required simply to indicate the need of a judge.

(3) An authoritative judge.

(4) Otherwise he would not have resorted to the first citation for deducing the number three.

(5) Ex. XXIII, 2.

(6) Lev. IV, 5. It might have sufficed to state, ‘The elders, having their hands on the head of the Sacrifice etc.’ v. infra 13b.

(7) All of which proves that R. Josiah cannot find in R. Judah any support for an even court.

(8) Which shows that the court must be uneven.

(9) V. infra 29a.

(10) Who requires the unanimous verdict of three since that number is specially prescribed for deciding a case.

(11) A conclusion a minori ad majus.

(12) Lit. ‘The All Merciful One’, i.e. God, whose word the Law (Scripture) reveals.

(13) Num. XI. 16.

(14) Num. XXXV, 24 from which the membership of a small Sanhedrin is derived, v. p. 3.

(15) Ex. XXII, 7.

(16) The cause of both parties shall come before the Judges, ibid, 8.

Talmud - Mas. Sanhedrin 4a

but the Rabbis [who hold that only three are needed] adopt the written form yarshi'un.[1]

R. Isaac b. Joseph[2] said in the name of R. Johanan: Rabbi and R. Judah b. Ro'ez, the Shammaites. R. Simeon and R. Akiba, all hold that Mikra[3] is determinant in Biblical exposition.

Rabbi's opinion is reflected in what has been said; that he reads yarshi'un.

The opinion of R. Judah b. Ro'ez is given in the following: For it has been taught: The disciples of R. Judah b. Ro'ez asked him: Why not read shibe'im [seventy] instead of shebu'ayim [two weeks][4] [extending the period of uncleanliness to seventy days]? He answered: The law has fixed the period of purity and impurity in the case of a male child and it has fixed the period of purity and impurity in case of a female child. Just as the period of purification after the birth of a female child is double that after the birth of a male child, so must the period of uncleanness after the birth of a female child be no more than double that after the birth of a male child [which is only seven days]. After they left him he sought them out again and said 'You have no need of that explanation since Mikra is determinant, and we read shebu'ayim [two weeks].

The opinion of the Shammaites is advanced in the following [Mishnah]: For we learned:[5] Beth Shammai said: If the blood of sacrifices that is to be sprinkled on the outer altar was applied only once,[6] the offering is valid, as it is said, the blood of thy sacrifice shall be poured out[7] [denoting one application]. In the case of a sin offering, however, they hold that two applications are required; but the Hillelites hold that in the case of a sin offering also a single sprinkling effects atonement. And R. Huna said: What is the Shammaites' reason for their opinion? — It is that the plural 'karnoth' [horns of the altar] occurs three times in this context[8] denoting six, and so implying that four sprinklings are prescribed in the first instance, but that two are indispensable. But the Hillelites argue that since 'karnoth'[9] is twice written defectively, and can be read 'karnath'[10] [singular], only four sprinklings are implied, three being prescribed in the first instance, and that only one is indispensable. But why not argue that all the four are merely prescribed without a single one being indispensable? — We do not find an act of expiation effected without an accompanying rite.

R. Simeon's opinion is expressed in the following [Baraitha]: It has been taught:[11] A Sukkah[12] needs at least two walls of the prescribed dimensions and a third of the width of at least a hand-breadth. R. Simeon says; Three complete walls and the fourth the width of a hand-breadth. What is really their point of dispute? — The Rabbis[13] hold that Masorah[14] is determinant in Biblical exegesis, while R. Simeon holds that Mikra is determinant. The Rabbis, taking the former view, argue that as the word 'bassukoth' which occurs three times[15] is written once plene [in the plural] and twice defectively[16] making in all four references. So, subtracting one as required for the command itself, there are three left. Next comes the Sinaitic Halachah[17] and diminishes the third and fixes it at a hand-breadth. But R. Simeon is of the opinion that Mikra is determinant and thus all the three bassukkoth are to be read in the plural, making a total of six. One of these is required for the command itself, leaving four, and the fourth is diminished in virtue of the Sinaitic Halachah, to a handbreadth.

As to R. Akiba's opinion — it has been taught:[18] R. Akiba said: Whence is it deduced that a fourth of a log[19] of blood which issues front two corpses carries uncleanness according to the law relating to the pollution of tents.[20] It is said: He shall not go in unto any dead body.[21] [The plural nafshoth translated 'body' indicates that] even from two bodies a single [vital] quantity suffices to carry uncleanness; but the Rabbis argue that it is written nafshath [singular], [denoting that a vital quantity can defile only if it issues from one corpse].

R. Aha b. Jacob questioned this statement of R. Isaac b. Joseph — Is there no one [apart from those above mentioned] who does not accept the Mikra as determinant? Has it not been taught: Thou shalt not seethe a kid in the milk of [bahaleb][22] its mother[23] in which verse you might read beheleb[24] [in the fat of]?

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(1) [The singular form, cf. the Arabic ending in an, and the subject Elohim is taken throughout as singular.]

(2) Var. lec.: R. Jose.

(3) [Lit. 'Mikra has a mother,' or' these is preference to Mikra (Halper. B., ZAW. XXX, p. 100), i.e. the reading of the sacred text according to the Kere קרי the established vocalization has an authentic origin, hence well-founded, as distinct from the ‘Masorah the Kethib, כתיב the traditional text of consonants without vowels.]

(4) In the verse: If she bear a female child, she shall be unclean etc. Lev. XII, 5.

(5) Zeb. 36b.

(6) Instead of two sprinklings constituting four at the two opposite angles of the altar.

(7) Deut. XII, 27.

(8) Lev. IV, 25, 30, 34.

(9) Following the Mikra.

(10) קרנת instead of קרנות, cf. the feminine ending at.

(11) Suk. 6b.

(12) A booth, erected for the Festival of Booths. v. Glos.

(13) The representatives of the anonymous opinion quoted first.

(14) V. p. 10, n. 4.

(15) In connection with the command of Festival of Booths.

(16) בסכות , and בסכת, Lev. XXIII, 42-43.

(17) The traditional interpretation of the Law traceable to Sinai, see Hoffmann, Die Erste Mischna, p. 3.

(18) Hul. 72a.

(19) A liquid measure, about two-thirds of a pint.

(20) Num. XIX, 14.

(21) Lev. XXI, 11; Lit., ‘souls of the dead’, the soul denoting blood, as the life-force, cf. Deut. XII, 23., and the loss of a quarter of a log is regarded as the loss of vital blood.

(22) בחלב

(23) Ex. XXIII, 19.

(24) בחלב

Talmud - Mas. Sanhedrin 4b

Say: this is unacceptable, as Mikra is determinant?[1] — Hence all agree that Mikra is determinant, but Rabbi and the Rabbis[2] differ in the following: Rabbi holds that the plural yarshi'un[3] refers to two judges [elohim] other than those prescribed in the previous verse;[4] while the Rabbis maintain that it refers to elohim here [its own subject] and to that in the previous clause.[5]

As to R. Judah b. Ro'ez, the Rabbis do not oppose him.[6]

As for the Hillelites, they derive their ruling[7] from the following: For it has been taught: wekipper[8] has to be repeated three times [in connection with the sin offering][9] to indicate that even one application is adequate, contrary to an analogy which might otherwise be advanced in favour of the need of four applications. But could we not have deduced this by [the following] analogy? The use of blood is mentioned [for application] above the line;[10] and the use of blood is mentioned [for application] below the line.[11] Just as in the case of the blood to be applied below the line, one application effects atonement,[12] so should it be with the blood to be applied above the line.

But you may argue this way: Sprinkling is prescribed for sacrifices offered on the outer altar[13] and also for those offered on the inner altar.[14] As in the case of those offered on the inner altar, expiation is not effected if one application has been omitted, so should it be with sacrifices offered on the outer altar!

Let us, however, see to which it is to be compared. Comparisons may be made between sacrifices offered on [the same] the outer altar, but not between sacrifices offered on the outer and inner altars.[15]

But may you not, on the other hand, argue in this way? We can compare sin offerings, the blood of which is applied on the four horns of the altar,[16] to other sin offerings, the blood of which is applied on the four horns,[17] but no proof can be deduced from such a sacrifice as is neither a sin offering nor has the blood sprinkled on the four horns of the altar![18] Hence on account of this latter analogy, Wekipper has to be repeated three times, to indicate that atonement is effected by means of three sprinklings, or even by means of two, or indeed even by means of one alone.

Now as to R. Simeon and the Rabbis, their real point of difference is the following: R. Simeon holds that a cover for a Sukkah needs no textual basis,[19] while the Rabbis maintain that a special textual basis is necessary for a cover.[20]

R. Akiba and the Rabbis again disagree on the following point: According to the former, nafshoth denotes two bodies,[21] while the Rabbis say that nafshoth is a general term for bodies.[22]

But do all, indeed, regard the Mikra as determinant? Has it not been taught: ‘letotafoth [frontlets] occurs thrice in the Torah, twice defective and once plene,[23] four in all, to indicate [that four sections are to be inserted in the phylacteries]. Such is the opinion of R. Ishmael. But R. Akiba maintains that there is no need of that interpretation, for the word totafoth itself implies four, [it being composed of] tot which means two in Katpi[24] and foth which means two in Afriki?[25] — Hence, in reality, it is disputable whether Mikra is always determinant in Biblical exegesis, but this is true only of cases where Mikra and Masorah differ in the spelling of a word.[26] But where-as for example, in the case of the milk — the reading behaleb involves no change in the spelling,[27] Mikra is determinant. But does not the text, Three times in the year all thy males shall appear [shall be seen] before the Lord[28] , occasion a dispute whether we shall follow the Mikra [yera'eh][29] or read yir'eh[30] according to Masorah?[31] For it has been taught: R. Johanan b. Dahabai said on behalf of R. Judah b. Tema: One who is blind in one eye is exempted from visiting the Temple, for we read YR'H[32] which according to Mikra means he shall be seen and according to Masorah, he shall see. That is to say, as He comes to see the worshipper, so should man come to be seen by Him; as He [the Lord] comes to see [so to speak] with both eyes.[33] so should he, who comes to be seen by Him, come with both eyes![34] Hence, says R. Aha, the son of R. Ika: The scriptural text says. Thou shalt not seethe a kid in its mother's milk. It is seething, as a method of cooking, that the law forbids.[35]

Our Rabbis taught: Monetary cases are decided by three;

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(1) And this is disputed by no one, as otherwise there would be no foundation for the prohibition.

(2) V. p. 9.

(3) Whom the judges shall condemn. Ex XXII, 8.

(4) Ex. XXII, 7, and that accounts for his view that five judges are required.

(5) Elohim in each case being taken as plural of majesty and so no additional judges are implied.

(6) V. p. 10.

(7) That one application of blood suffices in a sin offering.

(8) וכפר he shall make an atonement.

(9) Lev. IV, 26, 31, 35.

(10) I.e., the red line which marked the middle of the altar's height. The blood of sin offerings was applied above the line.

(11) I.e., the blood of burnt, trespass, and peace offerings, v. Zeb. 53a, Mid. III, 1.

(12) Deduced from Deut. XII, 27. The blood of thy sacrifices shall be poured out, v. Zeb. 37a.

(13) All sacrifices, except those of the Day of Atonement, the offering prescribed for the anointed Priest and the community's sacrifice on having erred (Lev. IV, 13) were offered on this, the brazen altar.

(14) V. n. 4.

(15) As for example between the sin offering of the anointed Priest and these sin offerings in connection with which wekipper is mentioned.

(16) The offerings in regard to which wekipper occurs.

(17) Such as that of the anointed Priest.
(18) Such as the burnt (v. Lev. III, 1-11), the trespass and peace offerings. V. p. II.
(19) The term sukkah (סכך ‘to cover’) itself denotes a cover, and all the references are thus employed for the walls of the sukkah to indicate that three complete walls and one diminished are needed.
(20) V. p. 11.
(21) So that one quantity of blood pollutes even if it issues from two corpses.
(22) And does not indicate any definite number.
(23) לטטפת (defective) (a) Deut. VI, 8. (b) ib. XI, 18; לטוטפת (plene) Ex. XIII, 16. (Rashi) v. Tosaf. Zeb. 25a; Men. 34b. In our versions, the defective form occurs only once: Deut. VI, 8.
(24) Coptic language? [V. Neubauer, p. 418]
(25) The language of N. Africa or Phrygia in Asia Minor.
(26) As, for example, in the following words: ‘totafoth’, ‘bassukkoth’, ‘karnoth’, in each case of which the Mikra implies an extra letter.
(27) חלב might be read חלב (fat) or חלב from חלב (milk).
(28) Ex. XXIII, 17.
(29) יראה’shall be seen.’
(30) יראה’he shall see.’
(31) Although the spelling in both readings is the same.
(32) יראה .
(33) Cf. Deut. XI, 12.
(34) Hence we see that the authority of Mikra is a moot point in every case, and if so, what is the definite basis for the prohibition relating to meat and milk?
(35) Seething is a term applicable only to a liquid, such as milk, and not to fat which would require such a word as roasting. Therefore we must read behaleb, (in the milk of) according to Mikra.

Talmud - Mas. Sanhedrin 5a

but one who is a recognised Mumheh[1] may judge alone.

R. Nahman said: One like myself may adjudicate monetary cases alone. And so said R. Hiyya.

The following problem was [consequently] propounded: Does the statement ‘one like myself’ mean that as I have learned traditions and am able to reason them out, and have also obtained authorisation[2] [so must he who wishes to render a legal decision alone]; but that if he has not obtained authorisation, his judgment is invalid; or is his judgment valid without such authorisation? Come and hear! Mar Zutra, the son of R. Nahman, judged a case alone and gave an erroneous decision. On appearing before R. Joseph, he was told: If both parties accepted you as their judge, you are not liable to make restitution. Otherwise, go and indemnify the injured party. Hence it can be inferred that the judgment of one, though not authorised, is valid.

Said Rab: Whosoever wishes to decide monetary cases by himself and be free from liability in case of an erroneous decision, should obtain sanction from the Resh Galutha,[3] And so said Samuel.

It is clear that an authorisation held from the Resh Galutha ‘here’ [in Babylonia] holds good ‘here’ — And one from the Palestinian authority ‘there’ [in Palestine] is valid ‘there’ — Likewise, the authorisation received ‘here’ is valid ‘there’, because the authority in Babylon is designated ‘sceptre’ — but that of Palestine, ‘lawgiver’ [denoting a lower rank] — as it has been taught: The sceptre shall not depart from Judah,[4] this refers to the Exilarchs of Babylon who rule over Israel with sceptres;[5] and a lawgiver . . . , this refers to the descendants of Hillel [in Palestine] who teach the Torah in public. Is, however, a permission given ‘there’ valid ‘here’? Come and hear! Rabbah b. Hana gave an erroneous judgment [in Babylonia]. He then came before R. Hiyya, who said to him: If both parties accepted you as their judge, you are not liable to make restitution; otherwise you must indemnify them. Now — Rabbah b. Hana did hold permission [but from the Palestinian authority]. Hence we infer that the Palestinian authorisation does not hold good for Babylon.[6]

But is it really not valid in Babylon? Did not Rabbah, son of R. Huna, when quarrelling with the members of the household of the Resh Galutha, maintain:, I do not hold my authorisation from you. I hold it from my father who had it from Rab, and he from R. Hiyya, who received it from Rabbi [in Palestine]'? — He was only trying to put them in their place with mere words.

Well, then, if such authorisation is invalid in Babylon, what good was it to Rabbah, son of R. Huna? — It held good for cities that were situated on the Babylonian border [which were under the jurisdiction of Palestine].[7]

Now, what is the content of an authorisation? — When Rabbah b. Hana was about to go to Babylon, R. Hiyya said to Rabbi: 'My brother's son is going[8] to Babylon. May he, decide in matters of ritual law?' Rabbi answered: 'He may. May he decide monetary cases?' — He may.' 'May he declare firstborn animals permissible [for slaughter]?'[9] — 'He may.' When Rab went there, R. Hiyya said to Rabbi: 'My sister's son is going to Babylon. May he decide on matters of ritual law?' — He may. 'May he decide [monetary] cases?' — 'He may.' 'May' he declare firstborn animals permissible for slaughter?' — 'He may not.' Why did R. Hiyya call the former 'brother's son' and the latter 'sister's son'? You cannot say that it was actually so, since a Master said that Aibu [Rab's father] and Hana [Rabbah's father], Shila and Martha and R. Hiyya were the sons of Abba b. Aha Karsela of Kafri?[10] — Rab was also R. Hiyya's sister's son [on his mother's side], while Rabbah was only his brother's son. Or, if you prefer, I might say he chose to call him sister's son'

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(1) V. Glos.

(2) V. n. 6.

(3) Lit. — 'head of the Golah', Exilarch. Title given to the chief of the Babylonian Jews who from the time of the exile were designated by the term Golah, v. Jer. XXVIII, 6.

(4) Gen. XLIX. 10.

(5) Sceptre, symbol of the authority of a ruler appointed by the Government, as was the Resh Galutha, 'Lawgiver' designates the heads of Palestinian schools who have no political authority.

(6) Otherwise he should not have been liable to indemnification.

(7) [V. Zuri, Toledoth Hamishpat Haziburi I, pp. 384 ff.]

(8) Lit., 'descending'.

(9) On finding, after careful examination, that they had permanent blemishes. After the destruction of the Temple, firstborn animals could be slaughtered only on having permanent defects.

(10) In Babylonia. Hence Rab was also the son of R. Hiyya's brother's.

Talmud - Mas. Sanhedrin 5b

on account of his eminent wisdom, as it is written: Say unto wisdom, thou art my sister.[1]

What was the reason that Rab was not authorised to permit the slaughter of firstborn animals? Was it that he was not learned[2] enough? But have we not just said that he was very learned? Was it because he was not an expert in judging defects? But did not Rab himself say: I spent eighteen months with a shepherd in order to learn which was a permanent and which a passing blemish ? — Rabbi withheld that authorisation from Rab, as a special mark of respect to Rabbah b. Hana.[3] Or, if you prefer, I might say that for the very reason that Rab was a special expert in judging blemishes, he might in consequence declare permissible, with a view to slaughter, [permanent] defects which to others might not be known as such. These latter might thus be led to maintain that Rab had passed cases of such a kind and so to declare permissible transitory blemishes.

We were told above that Rabbi authorised him, Rabbah, and Rab respectively, to] decide in matters of ritual law. Since he was learned in the law, what need had he to obtain permission? — Because of the following incident, for it has been taught: Once Rabbi went to a certain place and saw its inhabitants kneading the dough without the necessary precaution against levitical uncleanness.[4] Upon inquiry, they told him that a certain scholar on a visit taught them: Water of bize'im [ponds] does not render food liable to become unclean. In reality, he referred to bezim [eggs], but they thought he said bize'im [ponds].[5] They further erred in the application of the following Mishnah:[6] The waters of Keramyon and Pigah,[7] because they are ponds, are unfit for purification purposes.[8] They thought that since this water was unfit for purification, it likewise could not render food liable to become unclean. But this conclusion is unwarranted, for whereas there, that is in connection with the purification offering, running water is required, waters, from any source, can render food liable to uncleanness. There and then[9] it was decreed that a disciple must not give decisions unless he was granted permission by his teacher.

Tanhum son of R. Ammi happened to be at Hatar, and in expounding the law to its inhabitants, taught them that they might soak the grain before grinding for Passover.[10] But they said to him: Does not R. Mani of Tyre live here, and has it not been taught that a disciple should not give an halachic decision in the place where his teacher resides, unless there is a distance of three parasangs — the space occupied by the camp of Israel — between them? He answered: The point did not occur to me.

R. Hiyya saw a man standing in a cemetery and asked him: ‘Are you not the son of so and so who was a Priest?’[11] ‘Yes,’ he answered, ‘but my father being wilful, set his eyes upon a divorced woman, and by marrying her, profaned his priesthood.’[12]

It is obvious that a partial authorisation is valid,[13] as has already been said. But how is it with a conditional authorisation?[14] Come and hear! R. Johanan said to R. Shaman:[15] You have our authorisation until you return to us.

The text [above states]: ‘Samuel said, If two [commoners] try a case [instead of three] their decision holds good, but they are called a presumptuous Beth din.’

R. Nahman sat and reported this teaching, but Rabbah objected to it on the ground of the following [Mishnah]:[16] Even if two acquit or condemn, but the third is undecided[17] the number of the judges must be increased. Now if it were so, as Samuel maintains, why add; why not let the decision of these two be as valid as that of two who have tried a case? — There [in the Mishnah] the case is different, since from the outset they sat with the intention of constituting a court of three; whereas here they did not sit with that intention.

He raised a further objection:[18] ‘R. Simeon b. Gamaliel says: Legal judgment is by three; arbitration is valid if made by two. And the force of arbitration is greater than that of legal judgment, for if two judges decide a case, the litigants can repudiate their decision, whilst if two judges arbitrate, the parties cannot repudiate their decision.’[19]

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(1) Prov. VII, 4.

(2) Lit, ‘wise’.

(3) So as to establish him firmly in the respect of Babylonians, whilst Rab's standing was in any case high.

(4) V. Lev. XI, 38.

(5) That disciple must have been defective of speech, and the listener could easily fall into error owing to the similarity of pronunciation of בצעים ‘ponds’ — (cf. Job VIII, 11) — and ביצים ‘eggs’.

(6) Parah VIII. 10.

(7) In Palestine. V. B. B. (Sonc. ed.), p. 298, n. 10

(8) Num. XIX, 17.

(9) Lit., ‘in that hour’.
(10) Leavenness, the result of dampness, does not occur in this, as the grain is ground immediately after washing.
(11) According to Levitical law, the Priest is forbidden to have direct contact with a dead body or come within a roofed enclosure where such lies buried.
(12) The offspring of the marriage between a priest and a woman disqualified for him (v. Lev. XXI, 14) are profane and the laws pertaining to priestly status do not apply to them. [In J. Sheb. the incident is ascribed to Rabbi, which explains the mention of it in this connection, v. Hazofeh XIII, 346.]
(13) As in the case of Rab.
(14) For a definite time.
(15) [R. Shaman b. Abbe, on the occasion of his visit to Babylon. v. D. S. a. l.]
(16) Infra 29a.
(17) Lit., ‘he says. ‘I do not know’ (how to decide).’
(18) Tosef. Sanh. 1.
(19) Because the arbitrators were of their own choice. Hence we see clearly that the decision of two in a legal judgment is not valid.

Talmud - Mas. Sanhedrin 6a

And should you maintain that the Rabbis differ from R. Simeon b. Gamaliel,[1] it may be asked: Did not R. Abbahu say that all agree that a judgment given by two in monetary cases is not valid? — But why should you seek to show a disagreement between two persons?[2]

The text [above states]: ‘R. Abbahu says all agree that a judgment given by two in monetary cases is not valid.’ R. Abba objected and asked R. Abbahu [from the following]: If one has judged a case by himself and pronounced the guilty ‘guiltless’ and the guiltless ‘guilty’, or the clean ‘unclean’ and the unclean ‘clean’, his act cannot be undone, but he has to pay indemnity from his own pocket?[3] — Here we are dealing with a case where the parties accepted the judge. If so, why make him pay indemnity? — Because they had said to him: We agree to abide by your award on condition that you give a decision in accordance with the Torah.

R. Safra asked R. Abba: What did the judge overlook in giving this erroneous decision? Was it a law cited in the Mishnah? But did not R. Shesheth say in the name of R. Ashi: ‘If one overlooks a law cited in the Mishnah, he may revoke his decision’? — Hence it must be he erred in deciding against common practice. How can we conceive that? R. Papa said: If, for example, two Tannaim or Amoraim opposed each other's views in a certain matter and it was not clear with whom the true decision lay, but the general trend of practice followed the opinion of one of them, and yet he decided according to the opinion of the other, that is termed ‘an error of judgment against common practice’.

Is it true to say that the point of difference [between Samuel and R. Abbahu] had been anticipated by Tannaim in the following controversy? Arbitration is by three, so says R. Meir. The Sages say that one is sufficient. Now the Schoolmen presumed that all agree that the force of arbitration is equal to that of legal decision; their point of difference would accordingly resolve itself into one holding that three are required for legal decision and the other holding that two are enough.[4] — No, all [both R. Meir and the Sages] agree that legal decision is by three, and the point in which they differ is this: One [R. Meir] holds that the force of arbitration should be regarded as equal to that of legal decision, while the other disputes it.

May it be assumed then that there are three views held by the Tannaim with regard to arbitration, viz., one [R. Meir] holds that three are needed; another [R. Simeon b. Gamaliel] holds that two are sufficient[5] , while the Sages hold that one is enough? — R. Aha the son of R. Ika, or according to others R. Yemar b. Salomi, said: The Tanna who says two are necessary is really of the opinion that a single one is sufficient. And the reason he requires two is that they might act as witnesses in the case, if required.

R. Ashi said: We may infer from this that no Kinyan[6] is needed for arbitration, for if it be thought necessary, why does the Tanna in question require three? Surely two should suffice, the two parties being bound by Kinyan![7] The adopted law however, is that arbitration requires Kinyan [even when made by three].[8]

Our Rabbis taught: Just as for legal judgment three are required, so are three required for settlement by arbitration. After a case has been decided by legal judgment, thou must not attempt a settlement.

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(1) I.e. the majority opinion is that the decision of two is valid.

(2) Why should Samuel, unlike R. Abbahu, hold that the Rabbis differ from R. Simeon b. Gamaliel?

(3) B. K. 100a. It is thus seen that the decision of even one is valid.

(4) I.e. their point of difference is thus the same as that between R. Abbahu and Samuel.

(5) Supra 5b.

(6) A formal act of acquisition effected when two enter into mutual obligation.

(7) Pledging themselves to adhere to the award.

(8) Because, strictly speaking, the decision is not one of law, and unless the parties have bound themselves by Kinyan, they can retract.

Talmud - Mas. Sanhedrin 6b

(Mnemonic: Sarmash Bankash.)[1]

R. Eliezer the son of R. Jose the Galilean says: It is forbidden to arbitrate in a settlement, and he who arbitrates thus offends, and whoever praises such an arbitrator [bozea’] contemneth the Lord, for it is written, He that blesseth an arbiter [bozea’], contemneth the Lord.[2] But let the law cut through the mountain,[3] for it is written, For the judgment is God's.[4] And so Moses's motto was: Let the law cut through the mountain. Aaron, however, loved peace and pursued peace and made peace between man and man, as it is written, The law of truth was in his mouth, unrighteousness was not found in his lips, he walked with Me in peace and uprightness and did turn many away from iniquity.[5]

R. Eliezer says: If one stole a se'ah [a measure] of wheat, ground and baked it and set apart the Hallah,[6] what benediction can he pronounce? This man would not be blessing, but contemning, and of him it is written, The robber [bozea’] who blesseth, contemneth the Lord.[7]

R. Meir says: This text refers to none but Judah, for it is written, And Judah said to his brethren, What profit [beza’] is it if we slay our brother?[8] And whosoever praises Judah, blasphemes, as it is written, He who praiseth the man who is greedy of gain [bozea’] contemneth the Lord.[9] R. Judah b. Korha says: Settlement by arbitration is a meritorious act, for it is written, Execute the judgment of truth and peace in your gates.[10] Surely where there is strict justice there is no peace, and where there is peace, there is no strict justice! But what is that kind of justice with which peace abides? — We must say: Arbitration.[11] So it was in the case of David, as we read, And David executed justice and righteousness [charity] towards all his people.[12] Surely where there is strict justice there is no charity, and where there is charity, there is no justice! But what is the kind of justice with which abides charity? — We must say: Arbitration.

But the following interpretation of this verse will accord with the First Tanna [who holds arbitration to be prohibited]: In rendering legal judgment, David used to acquit the guiltless and condemn the guilty; but when he saw that the condemned man was poor, he helped him out of his own purse [to pay the required sum], thus executing judgment and charity, justice to the one by awarding him his dues, and charity to the other by assisting him out of his own pocket. And therefore Scripture says, David practised justice and charity towards all his people.[13]

Rabbi, however, objected to this interpretation, for in that case [he said], the text ought to have read ‘towards the poor’ instead towards all his people? Indeed, [he maintained,] even if he had not given assistance out of his own pocket, he would nevertheless have executed justice and charity; justice to the one by awarding him his dues, and charity to the other by freeing him from an ill-gotten thing in his possession.

R. Simeon b. Manasya says: When two come before you for judgment, before you have heard their case, or even afterwards, if you have not made up your mind whither[14] judgment is inclining,[15] you may suggest to them that they should go and settle the dispute amongst themselves. But if you have already heard their case and have made up your mind in whose favour the verdict inclines, you are not at liberty to suggest a settlement, for it is written: The beginning of strife is as one that letteth out water. Therefore, leave off contention before the quarrel break out.[16] Before the case has been laid bare, you may leave off [give up] the contention;[17] after the case has been laid bare, you cannot leave it off.

The view of Resh Lakish[18] is as follows: When two men bring a case before you, one weak [i.e. of small influence], the other strong [of great influence], before you have heard their case, or even after, so long as you are in doubt in whose favour judgment is inclining, you may tell them: ‘I am not bound to decide in your case’, lest the man of great influence should be found guilty, and use his influence to harass the judge. But, if you have heard their case and know in whose favour the judgment inclines, you cannot withdraw and say, I am not bound to decide in your case’, because it is written: Ye shall not be afraid of the face of any man.[19]

R. Joshua b. Korha says: Whence do we know that a disciple, who is present when his master judges a case and sees a point which would tell in favour of a poor man or against a rich man, should not keep silence?. From the words of the text: Ye shall not be afraid [lo taguru] of the face of any man.[20] R. Hanin explains this word to mean, ‘Ye shall not hold back your words because of anyone.[21] Further, witnesses should know against whom they are giving evidence, before whom they are giving evidence and who will call them to account [in the event of false evidence]. For it is written: Then both the men, between whom the controversy is, shall stand before the Lord.[22] Judges should also know whom it is they are judging, before whom they are judging, and who will call them to account [if they pervert justice], as it is written: God standeth in the Congregation of God [in the midst of judges doth He judge].[23] And thus it is said, concerning Jehoshaphat, He said to the judges, Consider what ye do, for ye judge not for man, but for the Lord.[24] And lest the judge should say: Why have all this trouble and responsibility? It is further said: He is with you in giving judgment.[24] The judge is to be concerned only with what he actually sees with his own eyes.

When is judgment to be regarded as rendered [i.e. at which point is arbitration forbidden]? — Rab Judah, in the name of Rab. says: On the pronouncement of the words: So and so, thou art guilty; or, so and so, thou art not guilty.

Rab says: the halachah is in agreement with R. Joshua b. Korha [who holds arbitration to be a meritorious act]. How can this be? Was not R. Huna a disciple of Rab, and yet, when a case was brought to him, he would ask the litigants whether they desired to resort to law or to a settlement?[25] As to the expression, ‘meritorious act which R. Joshua b. Korha uses, he means

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(1) Mnemonic device to recollect names of authorities that follow: Jose, Eliezer, Meir, Joshua, Rabbi, Simeon b.

Manasya, Judah b. Lakish. Joshua b. Karha. These letters have been chosen because they afford in addition aids to their respective statements, v. Hyman. Toledoth, I, p. 23]

(2) Ps. X. 3. The root-meaning of בוצע is ‘to cut’; hence the word translated, ‘covetous’, is taken in the sense of an arbiter in a compromise, when the difference between two claims is split.

(3) Take its course.

(4) Deut I, 17. And no court has the right to tamper with it.

(5) Mal. II, 6.

(6) Priest's share of the dough. Num XV, 20-21.

(7) Ps. X, 3. Lit. ‘he who is greedy of gain etc.’ Cf. Prov. I, 19.

(8) בצע , Gen. XXXVII, 26.

(9) Taking בוצע as object of the verb ‘who praiseth’.

(10) Zech. VIII, 16.

(11) Because the strict application of the law does not always set both parties at peace.

(12) II Sam. VIII, 15. It is noteworthy that ‘charity to the poor’, in the usage of Rabbinic speech, is described by Zedakah — a word denoting ‘righteousness’, ‘just doing’.

(13) Ibid.

(14) I.e., In whose favour.

(15) I.e., before the court becomes cognisant of the respective merits of the litigants.

(16) Prov. XVII, 14.

(17) I.e.. suggest a settlement.

(18) Other readings: (a) R. Judah b. Lakish. (b) R. Joshua b. Lakish. V. מסורת הש"ם a.l.

(19) Deut. I, 17.

(20) Ibid.

(21) תגורו from אגר ‘gather in’. According to the Tosef., and other versions, R. Joshua b. Korha is the author of this interpretation.

(22) Deut. XIX, 17. This refers to the witnesses (cf. Shebu. 30a).

(23) Ps. LXXXII, 1.

(24) II Chron. XIX, 6.

(25) Hence we see that Rab does not favour R. Joshua b. Korha's opinion, as it is unlikely that R. Huna the disciple would deviate from the ruling of his master.

Talmud - Mas. Sanhedrin 7a

that it is a meritorious act to ask the litigants whether they wish to resort to law or to a settlement. If so, this agrees with the opinion of the first Tanna?[1] There is this difference, however: R. Joshua b. Korha regards this as a moral obligation; the first Tanna merely as a permissible act. But this would make the first Tanna express the same opinion as R. Simeon b. Manasya? — The difference centres round the latter part of R. Simeon's statement: ‘If you have already heard the case and know in whose favour the verdict inclines, you are not at liberty to suggest a settlement’, [a distinction which the first Tanna does not admit].

A difference of opinion is expressed by R. Tanhum b. Hanilai, who says that the verse quoted[2] refers only to the story of the golden calf, as it is written: And when Aaron saw it, he built an altar before it.[3] What did he actually see? — R. Benjamin b. Japhet says, reporting R. Eleazar: He saw Hur lying slain before him and said [to himself]: If I do not obey them, they will now do unto me as they did unto Hur, and so will be fulfilled [the fear of] the prophet, Shall the Priest and the Prophet be slain in the Sanctuary of God?[4] and they will never find forgiveness. Better let them worship the golden calf, for which offence they may yet find forgiveness through repentance.[5]

And how do those other Tannaim, who allow a settlement even when a case has been heard, interpret the verse: The beginning of strife is as one that letteth out water?[6] They interpret it as does R. Hamnuna. For R. Hamnuna says: The first matter for which a man is called to give account in the

Hereafter is regarding the study of the Torah, as it is said: The beginning of judgment[7] concerns the letting out of water.[8]

R. Huna says [with reference to this verse]: Strife is compared to an opening made by a rush of water that widens as the water presses through it.

Abaye the Elder[9] says: Strife is like the planks of a wooden bridge; the longer they lie, the firmer they grow.

(‘Mnemonic: Hear, And Two, Seven, Songs, Another.)[10]

There was a man who used to say: Happy is he who hears abuse of himself and ignores it; for a hundred evils pass him by. Samuel said to Rab Judah: This is alluded to in the verse: He who letteth out water [of strife] causeth the beginning of madon[11] [the numerical value of which is a hundred].[12] that is, the beginning of a hundred strifes.

Again, there was a man who used to say: Do not be surprised if a thief goes unhanged for two or three thefts; he will be caught in the end. Samuel said to Rab Judah: This is alluded to in the verse: Thus saith the Lord: for three transgressions of Judah, but for four I will not reverse it[13] [i.e. My judgment].

Another used to say: Seven pits lie open for the good man [but he escapes]; for the evil-doer there is only one, into which he falls. This, said Samuel to Rab Judah, is alluded to in the verse: The righteous man falleth seven times and riseth up again.[14]

Yet another used to say: Let him who comes from a court that has taken from him his cloak sing his song and go his way.[15] Said Samuel to Rab Judah: This is alluded to in the verse, And all this people also [i.e. including the losers] shall come to their place in peace.[16]

There was yet another who used to say: When a woman slumbers the [working] basket drops off her head.[17] Said Samuel to Rab Judah: This is alluded to in the verse, By slothfulness the rafters sink in.[18]

Another man used to say: The man on whom I relied shook his fist at me.[19] Samuel said to Rab Judah: This is alluded to in the verse: Yea, mine own familiar friend, in whom I trusted and who did eat of my bread, hath lifted up his heel against me.[20]

Another used to say: When love[21] was strong, we could have made our bed on a sword-blade; now that our love has grown weak, a bed of sixty [cubits] is not large enough for us. Said R. Huna: This is alluded to in the verses: Of the former age [when Israel was loyal to God] it is said: And I will meet with thee and speak with three from above the ark-cover;[22] and further it is taught: The Ark measured nine hand-breadths high and the cover one hand-breadth, i.e. ten in all. Again it is written: As for the House which King Solomon built for the Lord, the length thereof was three score cubits, the breadth thereof twenty cubits, and the height thereof thirty cubits.[23] But of the latter age [when they had forsaken God] it is written: Thus saith the Lord, The Heaven is my throne and the earth my footstool. Where is the house that ye may build unto me?[24]

What evidence is there that the verb taguru [translated ‘be afraid’] can also be rendered ‘gather in’?[25] R. Nahman answered by quoting the verse: Thou shalt neither drink of the wine nor gather [te'egor] the grapes.[26] R. Aha b. Jacob says that it can be proved from the following verse: Provideth her bread in the summer and gathereth [agerah] her food in the harvest.[27] R. Aha the son of R. Ika says it can be derived from the following verse: A wise son gathereth [oger] in summer.[28]

(Mnemonic: Truth, Money, Shall See.)

R. Nahman said, reporting R. Jonathan: A judge who delivers a judgment in perfect truth[29] causes the Shechinah to dwell in Israel, for it is written: God standeth in the Congregation of God; in the midst of the judges He judgeth.[30] And he who does not deliver judgments in perfect truth causes the Shechinah to depart from the midst of Israel, for it is written: Because of the oppression of the poor, because of the sighing of the needy, now will I arise, saith the Lord.

Again. R. Samuel b. Nahmani, reporting R. Jonathan. said: A judge who unjustly takes the possessions[31] of one and gives then to another, the Holy One, blessed be He, takes from him his life, for it is written: Rob not the poor because he is poor; neither oppress the afflicted in the gate', for the Lord will plead their cause, and will despoil of life those that despoil them.[32]

R. Samuel b. Nahmani further said, reporting R. Jonathan: A judge should always think of[33] himself as if he had a sword hanging over his head[34] and Gehenna[35] gaping under him,

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(1) Who holds that arbitration may be suggested before the verdict is given.
(2) Ps. X, 3.
(3) Ex. XXXII, 5.
(4) Lam. II, 20.
(5) He thus made a compromise, and this compromise is denounced by the Psalmist.
(6) Prov. XVII, 14.
(7) מדון 'Strife' or 'judgment'.
(8) I.e. the Torah, which is compared by the Rabbis to water. V. Ex. Rab. II, 9.
(9) Abaye Kashisha, as distinct from the more famous Abaye. In fact, the latter quotes him in Keth. 94a.
(10) Or, 'Hear, Vashti, Seven, Songs, Another'; Vashti and 'And Two' being spelled alike in Hebrew, ושתי V. p. 21, n. 5.
(11) Prov. XVII, 14.
(12) מדון = 40,4,6,50 respectively — 100 in all.
(13) Amos II, 6. Taken as an elliptical verse, with the meaning: 'Though I may reverse or keep back My judgment for the first three offences, punishment shall not be withheld for the fourth.'
(14) Prov. XXIV, 16.
(15) He should be happy that he was relieved of an ill-gotten thing.
(16) Ex. XVIII, 23.
(17) Carelessness is the immediate cause of ruin.
(18) I.e. the house falleth to decay. Ecc. X, 18.
(19) Or, 'raised his club against me.'
(20) Ps. XLI, 10.
(21) Between my wife and myself.
(22) Ex. XXV, 22.
(23) I Kings VI, 2.
(24) Isa. LXVI, 1. Thus at first the Shechinah rested on an Ark of small dimensions, but when Israel sinned, even Solomon's Temple was too small.
(25) Referring back to p. 24.
(26) Deut. XXVIII, 39. תאגר.
(27) Prov VI, 8. אגרה
(28) Ibid. X, 5. אוגר
(29) Lit. 'true to its own truth', i.e. an absolutely true verdict which can be arrived at by the judge if he endeavours to find out the truth himself and does not rely on the evidence alone. V. Tosaf B.B. 8b; Meg. 15b.
(30) Ps.LXXXII, 1. (10) Ibid. XII, 6.
(31) Lit., 'money'.

(32) Prov. XXII, 22-23.
(33) Lit.,'see'.
(34) Lit. 'resting between his flanks'.
(35) V. Glos.

Talmud - Mas. Sanhedrin 7b

for it is written, Behold, it is the litter of Solomon [symbolically the Shechinah], and round about it three score of the mighty men of Israel [symbolising the scholars]; they all handle the sword and are expert in war [in debates] and every man has his sword upon his flank because of the dread in the night.[1] [the dread of Gehenna, which is likened unto night].

R. Josiah, or, according to others, R. Nahman b. Isaac, gave the following exposition: What is the meaning of the verse, O house of David, thus saith the Lord: Execute justice in the morning and deliver the spoiled out of the hand of the oppressor![2] Is it only in the morning that one acts as judge and not during the whole day? — No, it means: If the judgment you are about to give is clear to you as the morning [light], give it; but if not, do not give it.

R. Hiyya b. Abba says: R. Johanan derived this from the following verse: Say unto wisdom, Thou art my sister.[3] If the matter is as clear to you as is the prohibition of your sister [in marriage], give your decision, but not otherwise.

R. Joshua b. Levi says: If ten judge a case, the chain hangs on the neck of all.[4] Is not this self-evident? — This need not be stated except in reference to the case of a disciple who sits in the presence of his master, and allows to pass unchallenged an erroneous decision of his master.

When a case was submitted to R. Huna he used to summon and gather ten schoolmen, in order, as he put it, that each of them might carry a chip from the beam.[5]

R. Ashi, when a terefah[6] was submitted to him for inspection, sent and gathered all the slaughterers of Matha Mehasia, in order, as he put it, that each of them should carry a chip from the beam.

When R. Dimi came [from Palestine] he related that R. Nahman b. Kohen had given the following exposition of the verse, The King by justice establisheth the land, but he that loveth gifts overthroweth it.[7] If the judge is like a king, in that he needs no one's help, he establishes the land, but if he is like a priest who goes about threshing floors to collect his dues, he overthrows it.

The members of the Nasi's[8] household once appointed an incompetent teacher,[9] and the Rabbis said to Judah b. Nahmani, the interpreter[10] of Resh Lakish: Go and stand at his side as interpreter. Standing by him, he [Judah] bent down to hear what he wished to teach, but the teacher made no attempt to say anything. Thereupon R. Judah took as his opening text: Woe unto him who saith unto wood: Awake! — to the dumb stone: Arise! Can this teach? Behold, it is overlaid with gold and silver, and there is no breath at all in the midst of it;[11] but the Holy One, blessed be He, [he proceeded], will call to account those who set them up, as it is written: But the Lord is in His holy Temple; let all the earth, keep silence before Him.[12]

Resh Lakish said: He who appoints an incompetent judge over the Community is as though he had planted an Asherah[13] in Israel, for it is written: Judges and officers shalt thou appoint unto thee, and soon after it is said: Thou shalt not plant thee Asherah of any kind of tree.[14] R. Ashi said: And if such an appointment be made in a place where scholars are to be found, it is as though the Asherah were planted beside the Altar, for the verse concludes with the words: beside the altar of the Lord thy

God.[15]

Again, it is written: Ye shall not make with Me gods of silver or gods of gold.[16] Is it only gods of silver and gold that may not be made, while those of wood are permitted? — The verse, says R. Ashi, refers to judges appointed through the power of silver or gold.

Rab, whenever he was to sit in court used to say: Of his own free will he [the judge] goes to meet death. He makes no provision for the needs of his household, and empty does he return home. Would only that he returned [as clean of hand] as he came![17] When [at the entrance] he saw a crowd escorting him, he said: Though his excellency mount up to the heavens, and his head reach unto the clouds, yet he shall perish for ever like his own dung.[18]

Mar Zutra the Pious, as he was carried shoulder-high[19] on the Sabbaths preceding the Pilgrimage Festivals [when he preached on the Festival Laws], used to quote the verse: For riches are not for ever, and doth the crown endure unto all generations?[20]

Bar Kappara said in a lecture: Whence can we derive the dictum of our Rabbis: Be deliberate in judgment? From the words: Neither shalt thou go up by steps upon My altar.[21] For this is followed by: And these are the judgments . . .[22]

R.Eleazar said: Whence is it to be derived that a judge should not trample over the heads of the people?[23] It is written: Neither shalt thou go up by steps [i.e. force thy way] upon My altar; and this is followed by: And these are the judgments.

The same verse continues: which thou shalt set before them. It should have stated: which thou shalt teach them. R. Jeremiah, or according to some, R. Hiyya b. Aha, said: This refers to the insignia of the judges [which they have to set before the public].[24]

R. Huna, before entering the Court, used to say: Bring forth the implements of my office: the rod;[25] the lash;[26] the horn;[27] and the sandal.[28]

Again. it is written: And I charged your judges at that time.[29] R. Johanan said: This is a warning to them to use the rod and lash with caution.

Again: Hear [the causes] between your brethren and judge righteously.[30] This, said R. Hanina, is a warning to the court not to listen to the claims of a litigant in the absence of his opponent; and to the litigant not to explain his case to the judge before his adversary appears. Shamoa’[31] [hear], in the verse, can also be read, shammea’.[32]

R. Kahana, however, says: We can derive this rule from the verse: Thou shalt not take up [tissa] a false report[33] [referring to the judge], which may be read, tashshi.[34]

As for the text quoted above, You shall judge righteously.[35] Resh Lakish says that it means: Consider rightly all the aspects of the case before giving the decision.

As for the words, Between a man and his brother . . . R. Judah says that this refers to disputes between brothers about trifles such as, for instance, who should occupy the lower and who the upper part of a house. And the stranger that is with him . . . This, says R. Judah, refers even to so insignificant a dispute as one concerning a stove and an oven.[36]

You shall not respect persons [lo takkiru] in judgment.[37] R. Judah says this means: You shall not favour [lit. recognise] any one [even if he is your friend]; and R. Eleazar takes it to mean; You shall not estrange anyone [even if he is your enemy].[38]

A former host of Rab came before him with a law-suit, and said: ‘Were you not once my guest?’ ‘Yes,’ he answered, [and what is your wish?]’[39] ‘I have a case to be tried,’ he replied. ‘Then,’ said Rab,

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(1) Cant. III, 7-8.
(2) Jer. XXI, 12.
(3) Prov. VII, 4.
(4) I.e., all share the responsibility.
(5) I.e. share the responsibility with him.
(6) An animal afflicted with an organic disease.
(7) Prov. XXIX, 4.
(8) Judah II.
(9) Lit., ‘judge’.
(10) Whose function it was to expound aloud to the audience what the teacher had spoken concisely and in a low voice.
(11) Hab. II, 19.
(12) Ibid.
(13) A sacred tree or pole associated with the ancient Semitic cults.
(14) Deut. XVI. 18-19.
(15) The scholars are compared to the Altar, because they impress upon sinners that they should mend their ways. Cf. Rashi a.l.
(16) Ex. XX, 23.
(17) He gave expression to the thankless nature of the judge's task, full of responsibility and fraught with danger.
(18) Job XX, 6-7.
(19) Being advanced in age and unable to walk quickly, he was carried, so that the audience should not have to wait long for his arrival.
(20) Prov. XXVII, 24.
(21) Ex. XX, 26.
(22) The juxtaposition shows that for judgments, one should proceed slowly and avoid large paces, as one does on ascending the altar.
(23) Listeners usually sat on the floor, and by forcing his way through the crowd, it would appear as if he were trampling over their heads.
(24) V. passage below and Notes 1-4.
(25) For beating, according to the court's discretion.
(26) For the thirty-nine stripes. Deut. XXV, 3.
(27) Blown for excommunication.
(28) For Halizah, v. Glos.
(29) Deut. I, 16.
(30) Ibid.
(31) שמע
(32) שמע In the Pi'el, which has a causative sense, (make hear).
(33) Ex. XXIII, 1. תשא
(34) ת,יא , in the hiph'il from נשא ‘entice’, ‘induce’, ‘mislead’, with reference to the litigant that he should not attempt to win over the judge to his side by stating his case in the absence of his adversary.
(35) Deut. I, 16.
(36) גרו interpreted here as sojourner’, who sojourns in the same house. The nature of the disputes between them will be mostly over articles associated with the household — stoves and ovens.
(37) Deut. I, 16.
(38) R. Eleazar interprets takkiru as if it were tenakkru תנכרו .
(39) [So Rashi According to Rashal, Rab asked, on seeing the man: Are you not my former host?’ The man replied. Yes! Thereupon Rab asked him, ‘What is your wish’, the words in brackets being embodied in the text.]

‘I am disqualified from being your judge,’ and turning to R. Kahana, said: ‘Go you and judge the case’. R. Kahana noticed that the man presumed too much on his acquaintance with Rab, so he remarked: ‘If you will submit to my judgment, well and good; If not, I shall put Rab out of your mind [by showing you my authority].’[1]

Ye shall hear the small and the great alike.[2] Resh Lakish says: This verse indicates that a law-suit involving a mere perutah[3] must be regarded as of the same importance as one involving a hundred mina.[4] For what practical purpose is this laid down? If it is to urge the need of equal consideration and investigation, is it not self-evident! Rather, it is to give the case due priority, if it should be first in order.

For the judgment is God's.[5] R. Hamma, son of R. Hanina, comments: The Holy One, blessed be He, hath said: It is not enough for the wicked [judges] that they take away money from one and give it to another unjustly, but they put Me to the trouble of returning it to its owner.

And the cause that is too hard for you, bring unto me.[6] R. Hanina, [according to some, R. Josiah,] says: For this utterance Moses was punished,[7] as we can infer from this later passage: And Moses brought their cause before the Lord.[8]

R. Nahman objects to this comment, and asks: Did Moses say: ‘Bring it unto me and I will let you hear it’? No, he said: ‘I will hear it; if I am instructed, it is well! If not, I will get me instruction [how to deal with it]’. And the case of the daughters of Zelophehad is to be explained as was taught:[9] The section relating to the laws of inheritance was intended to have been written at the instance of Moses our Teacher. The daughters of Zelophehad, however, were found worthy to have the section recorded on their account. Similarly, the law concerning the gathering of sticks on the Sabbath[10] was to have been written at the instance of Moses our Teacher. The gatherer, however, was found culpable, and so it was recorded on his account. This is to teach us that evil is brought about through the agency of sinful men, and good through that of worthy men.

And I charged your judges at that time;[11] and again, I charged you at that time.[12] R. Eleazar, on the authority of R. Simlai, says: These passages are a warning to the Congregation to revere their judges, and to the judges to bear patiently with the Congregation. To what extent! — R. Hanan, [some say R. Shabatai,] says: As the nursing father carrieth the sucking child.[13]

One text reads: For thou [Joshua] must go with this people, etc.[14] And another text says: For thou shalt bring the Children of Israel.[15] R. Johanan said: Thou shalt be like the elders of the generation that are among them.[16] But the Holy One, blessed be He, said to Joshua: Take a stick and strike them upon their head;[17] there is only one leader to a generation not two.

A Tanna taught: A summons [Zimmun][18] requires three. What is meant by a summons? Shall I say it means a summons to say Grace after a common meal?[19] But has it not been already taught that a summons and a summons to Grace need three?[20] Again, you cannot maintain that they both mean the same thing, the latter phrase merely explaining the earlier [and both referring to a summons to Grace], since it has been taught: A summons needs three, and a summons to Grace needs three [i. e., Zimmun is here particularly specified afresh as requiring three persons] — ‘Summons’ here, consequently, must mean a summons to appear before Court. As Raba said: When three judges sit in judgment, and the Court messenger, on summoning to Court, conveys the summons in the name of one only, the summons is of no account until he has brought it in the names of all three. This procedure, however, is necessary only on an ordinary day; on a Court-day[21] it is not necessary.

R. Nahman, son of R. Hisda, sent to ask R. Nahman b. Jacob: Would our teacher inform us how many judges are required for the adjudication of cases of Kenas? But what did his question imply? Surely we learnt, THE REPAYMENT OF THE DOUBLE[22] . . . . . . BY THREE. What he meant to ask was whether or not cases of fine may be adjudicated by one Mumheh. R. Nahman b. Jacob said to him: We have learnt, THE REPAYMENT OF DOUBLE OR OF FOUR OR FIVE-FOLD RESTITUTION, BY THREE. Now what kind of persons are these three to be? Shall I say they are commoners? But did not your father's father say, in the name of Rab, that even ten commoners are incompetent to adjudicate cases of fine? Hence it must refer to Mumhin, and even of these, three are required.

BUT THE SAGES HOLD THAT A CASE OF LIBEL[23] REQUIRES A COURT OF TWENTY-THREE, etc. But, even though it may lead to capital punishment, what does it matter? [Since there are no witnesses yet known to be available, to corroborate the husband's suspicion, is it not merely a monetary case, involving only the Kethubah]?[24]

‘Ulla says that the point of dispute [in the Mishnah between R. Meir and the Sages] is whether we consider seriously the effect of the husband's allegation.[25] R. Meir does not consider seriously the effect of the allegation — while the Rabbis do.

Raba says that all agree that the effect of the allegation need not be seriously considered.[26] They differ, however, as to whether [in cases where the judges have been reduced in number][27] the honour of those who retired has to be considered or not. The actual case treated here is where the husband — [having had expectations of supporting his allegation with evidence,] appeared before a court of twenty-three[28] assembled to judge a capital case. Afterwards, [when he could not produce the required witnesses,] the Court began to disperse, and he then appealed to it that three should remain to decide his monetary claim.[29] [The Sages, in order to protect the dignity of those judges who would have left, require them to reassemble, while R. Meir does not hold this view.]

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(1) Lit., ‘I shall get Rab out of your ears’; i.e., by applying the sanctions of excommunication

(2) Deut. I, 17

(3) The smallest of coins.

(4) A weight in gold or silver, equal to one hundred shekels.

(5) Deut. I, 17.

(6) Ibid.

(7) Because he attached too much authority to himself.

(8) Num. XXVII, 5 i.e., the case of the daughters of Zelophehad which he knows not how to decide.

(9) B.B. 119a.

(10) Num. XV, 32.

(11) Deut. I, 16.

(12) Ibid. I, 18.

(13) Num. XI, 12.

(14) Deut. XXXI, 7. Where Moses thus places Joshua on an equality with the people.

(15) Ibid. 23. Where Joshua is declared their leader.

(16) [So Yad Ramah a.l.

(17) I.e., show your authority.

(18) זימון Invitation or summons.

(19) By inviting the guests to join in saying Grace.

(20) Which shows that Zimmun is not identical with Grace said by invitation.

(21) Usually Mondays and Thursdays.

(22) Which is also Kenas.

(23) An accusation made by a husband against his wife, that she was not a virgin at marriage. If adultery is not proved, the accused as a non-virgin, suffers the loss of half the amount payable to her under the Kethubah (see note 4). If the woman is found guilty of adultery during her betrothed state, she is stoned. Hence the dispute in the Mishnah between R. Meir and the Sages. In Talmudic days Betrothal bound the couple as husband and wife, save for cohabitation and minor details.

(24) The marriage contract containing, among other things, the settlement on the wife of a minimum of two hundred zuz if she was a virgin, and a hundred zuz if she was not a virgin at marriage. This amount, payable on her husband's death, or on her being divorced, the woman forfeits on a charge of infidelity committed during her betrothed state. (See Keth. 10b, and Rashi and Tosaf. a.l.).

(25) Lit., ‘gossip’. As soon as the charge is made before the Court, the report might be bruited, and witnesses, of whom the husband may be at the moment unaware, may come to support it, the charge thus becoming capital.

(26) And in the absence of witnesses three judges alone are sufficient.

(27) V. infra.

(28) As is required for a capital case.

(29) The husband's allegation of non-virginity is accepted by the rabbis even without evidence, in respect of the Kethubah. v. Keth. 10a.

Talmud - Mas. Sanhedrin 8b

The scholars, however, raised an objection from the following: The Sages say: If there is only a monetary claim, three are sufficient; if it involves capital punishment, twenty-three are needed.[1] This may be correct according to Raba,[2] [in which case the Baraitha should be understood thus:] If [the husband did not offer support of his allegation] his claim, being then only monetary, is decided by three. If however he proposed to bring evidence [on which basis a court of twenty-three was set up], as for a capital charge, but in the end, [owing to the failure to produce witnesses,] only makes a monetary claim, nevertheless the twentythree remain. But how would ‘Ulla[3] explain the Baraitha? Raba said: [In answer] I and the lion[4] of the group, namely R. Hiyya b. Abin, have elucidated it. The case in question is one in which the husband attested his wife's guilt by witnesses. Her father, however, brought witnesses refuting their evidence.[5] In that case the father's monetary claim from the husband[6] is decided by three.[7] But in a case [where witnesses have not yet been produced and consequently not refuted, and] which may yet turn out a capital charge, twenty-three are required.

Abaye says that all [even R. Meir] agree that the eventual effect of the allegation is to be taken into consideration, as well as the honour of the judges who had retired. And the reason that three are sufficient, according to R. Meir, is that the case treated here is that of a woman who, before committing adultery, was cautioned in general terms [as to the penalty of death to which she would make herself liable, but without the kind of death being defined]. And his opinion concurs with that of the following Tanna: For it has been taught:[8] All those under sentence of death according to the Torah are to be executed only by the decree of a court of twenty-three, after proper evidence and warning, and provided the warners have let them know that they are liable to a death sentence at the hand of the Court. According to R. Judah, the warners must also inform them of the kind of death they would suffer [and failing that, they are not to be executed].[9]

R. Papa[10] said: The case discussed here is that of a scholarly woman who received no warning at all; and they differ according to the difference of opinion between R. Jose b. Judah and the [other] Rabbis. For it has been taught: R. Jose b. Judah, [with whom the Rabbis who oppose R. Meir agree.] holds that a scholar[11] is held responsible for his crimes even without being formally warned, as warning is only a means of deciding whether one has committed the crime wilfully or not.[12]

R. Ashi says,

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(1) Tos. cf. Sanh. I.

(2) According to whom even the Rabbis agree that the husband's allegation alone can involve only a monetary claim.

(3) In whose opinion the rabbis consider the husband's suspicions alone as involving a capital charge.

(4) The distinguished one.

(5) By proving them to be Zomemim, ‘plotters’, ‘schemers’, as having been absent at the time of the alleged offence and so subject to the penalties under the law of retaliation. V. Deut. XIX, 18-19, and Mak. I, 2-4. V. Glos.

(6) The hundred pieces of silver, compensation for libel. V. Deut. XXII, 19.

(7) Even according to ‘Ulla, the rabbis no longer apprehend the appearance of witnesses, because the husband's evidence was in the beginning false; neither is his allegation of non-virginity considered in this case, even in connection with the Kethubah, since he has become discredited.

(8) Tosef. Sanh. X.

(9) Consequently, in this case the woman is not liable to death, nor can any capital punishment follow.

(10) Who is in agreement with Abaye.

(11) Haber, v. Glos.

(12) In this case, even without warning, capital punishment is involved, and hence twenty-three are required.

Talmud - Mas. Sanhedrin 9a

R. Meir and the Rabbis treat of a case where the woman was cautioned in regard to her liability to lashes[1] only and not to capital punishment; and they differ in accordance with the difference of opinion between R. Ishmael and the [other] Rabbis. For we learnt: CASES INVOLVING LASHES BY THREE JUDGES; IN THE NAME OF R. ISHMAEL IT IS SAID BY TWENTY-THREE.

Rabina said that [R. Meir and the Rabbis are dealing with a case] where one of the witnesses, [who testified to the woman's guilt,] was found afterwards to be a relative or otherwise disqualified. Their point of difference is the same as that in which R. Jose and Rabbi differ in applying the opinion of R. Akiba. For we learnt: R. Akiba says that the third witness[2] is mentioned in the Torah, [not for the purpose of making him less responsible], but, on the contrary, to increase his responsibility, by making his status equal to that of the other two, indicating, incidentally, that if Scripture punishes as sinners those who associate with sinners, much more will it reward those who associate with men who fulfil the commandments, as though they themselves had actually fulfilled them.[3] And just as in the case of two witnesses, if one is found to be a near kinsman or otherwise disqualified[4] person, the whole testimony is rendered void, so in the case of three witnesses, the disqualification of one invalidates the whole evidence. And whence do we infer that this law would apply even if the number of witnesses reached a hundred? — We infer it from the repetition of the word witnesses.[5] R. Jose says: These aforementioned limitations apply only to witnesses in capital charges, whereas, in monetary cases, the evidence offered can be established by those remaining. Rabbi says it is one and the same rule; whether in monetary or capital cases the evidence becomes equally void, that is, provided the disqualified witnesses took part in the prerequisite warning. But if they were not among those who gave the warning, why should the evidence be affected by disqualified witnesses?

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(1) Deut. XXV, 3.

(2) Deut. XIX, 15. Since the testimony of two suffices, the mention of the third seems superfluous. V. Mak. 5b.

(3) Lit., ‘as those who fulfil the commandments’.

(4) By reason of status, crime, evil repute and infamous bearing. V. infra, fol. 24b.

(5) Deut. XIX, 15. V. Mak. 5b.

Talmud - Mas. Sanhedrin 9b

And what would be the situation of three acting as witnesses in a murder case, of whom two were brothers?[1] Or if you wish, you may say that the case [of the Mishnah] is one where the woman was warned by others and not by the witnesses. The point of difference, again, is the same as that between R. Jose and the Rabbis, as we learnt.[2] R. Jose says: A criminal cannot be executed unless he was cautioned by two who witnessed the crime, for it says: At the mouth of two witnesses or three shall he be put to death.[3]

Or, if you prefer, you may say that [R. Meir and the Rabbis differ in a case] where the witnesses contradicted themselves during the Court cross-examination regarding accompanying circumstances[4] but corroborated each other during cross-examination [on such matters as date, time and place]. And their point of dispute is that of the principle on which the Rabbis and Ben Zakkai differ; for we learnt:[5] Ben Zakkai once examined the witnesses minutely, enquiring as to the size of the prickles on the fig-[tree under which a certain crime had been committed].[6]

R. Joseph said: If a husband has produced witnesses testifying to his wife's guilt, and her father has brought witnesses refuting their evidence,[7] the former are liable to death[8] but are exempted from paying [the value of the Kethubah].[9] If, however, the husband has again brought witnesses to refute the father's witnesses, the latter are then liable to death[10] and also to pay the fines[11] — the money fine for intended injury to one person, and the death penalty for intended death to another.

R. Joseph again said:If a man says that so and so committed sodomy with him against his will, he himself with another witness can combine to testify to the crime. If, however, he admits that he acceded to the act, he is a wicked man [and therefore disqualified from acting as witness] since the Torah says: Put not thy hand with the wicked to be an unrighteous witness.[12] Raba said: Every man is considered a relative to himself, and no one can incriminate himself.[13] Again Raba said:

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(1) In this case the disqualified brother must not have participated in the warning, or the whole evidence is void. If he did not participate in the warning, the evidence of the remaining two holds good. Hence, in such a case the Rabbis, holding with Rabbi that the evidence is not invalidated by the presence of one disqualified witness, consider this a capital charge requiring twenty-three.

(2) Mak. 6b.

(3) Deut. XVII, 6.

(4) V. p. 225.

(5) Infra 40a.

(6) Hence, according to R. Meir, who agrees with Ben Zakkai, the testimony is invalidated as a result of contradictions in the evidence regarding accompanying circumstances.

(7) I.e., they proved them Zomemim, v. Glos.

(8) For intending to bring about the death of the woman according to the law of retaliation. Deut. XIX, 16 ff. cf. Mak. I.

(9) Of which she would also have been deprived in the case of her condemnation, for he who has committed two offences simultaneously is held liable in law for the graver only. V. Keth. 36b.

(10) For intending to bring about the death of the husband's witnesses.

(11) A hundred pieces of silver, which the husband would have been fined in case his allegation was disproved.

(12) Ex. XXIII, 1.

(13) Consequently his evidence is valid only with regard to the criminal but not to himself, on the principle that we consider only half of his testimony as evidence.

Talmud - Mas. Sanhedrin 10a

[If one gives evidence, saying,] So and so has committed adultery with my wife, he and another witness can convict him [the adulterer] but not her [the wife]. What does he intend to teach us thereby? Does he mean to say that only half of a man's evidence is to be considered? Was this not understood from his previous teaching? — No, for you might have thought that whereas the principle was admitted that one is considered a relative of himself, we did not admit the principle that a man is considered a relative of his wife. Hence this rule.

Again Raba said: [If witnesses testify] that so and so committed adultery with a betrothed woman[1] and their evidence is refuted, they are liable to capital punishment, but not to the indemnification of the Kethubah.[2] If, however, they say, ‘with the [betrothed] daughter of so and so,’[3] they are liable to both capital punishment and the indemnification of the Kethubah. The money fine for intended injury to one person, and the death penalty for intended death to another.

Raba said further: [If witnesses testify] that so and so committed an unnatural crime with an ox, and the evidence is afterwards refuted, they are liable to capital punishment, but not to be mulcted in respect of the ox.[4] If, however, they say, ‘with the ox of so-and-so,’ they must pay the fine and are put to death; the fine because of the loss they intended to inflict on one person, and death because they sought to bring about the death of another person. Why is it necessary to state this latter law? Is not the underlying principle the same as in the previous case? — It had to be stressed because Raba propounded in connection with it a question as follows: If witnesses declare that ‘so-and-so has committed an unnatural crime with my ox,’ what would in this case be the law?[5] While adopting the principle, ‘one is considered a relative to himself’, do we admit the principle, ‘one is considered related to his property’, or do we not? After propounding the problem, he later solved it. We accept the principle as affecting his own person, but not as affecting his property.[6]

CASES OF FLOGGING BY THREE, etc. Whence do we infer this? — R. Huna said: Scripture says: They [the judges] judge them,[7] indicating [at least] two, and since no Beth din can consist of an even number, another judge is added, giving a total of three.

But now, according to our exegesis, the verb ‘vehizdiku’ — [and they shall justify] — should also denote two, and so likewise the verb ‘vehirshi'u’ [and they shall condemn][8] an additional two, [so making, together with, the above three], a total of seven in all? — These verbs are to be explained according to ‘Ulla. For ‘Ulla said: Where in the Torah do we find an allusion to the treatment of witnesses attested as Zomemim? Where is there found any allusion to Zomemim [witnesses]! Do we not read, Then shall ye do unto him as he had purposed to do to his brother?[9] What is required is some allusion supporting infliction of stripes upon Zomemim.[10] This we find where it is written: And they shall justify the righteous, and shall condemn the wicked.[11] Now [assuming that this refers to the judges], how, since the judges justify the righteous and condemn the wicked, does it follow that the wicked man deserves to be beaten?[12] — [The text cannot therefore refer to judges;] rather it must refer to witnesses who have incriminated a righteous man, after whom other witnesses came and justified the righteous, and rehabilitated his [the injured man's] character, and thus condemned the wicked, that is, established the wickedness of the witnesses, in which case, if the wicked man [the false witness] deserve to be beaten, the judge shall cause him to lie down and be beaten. But why, could not this be deduced from the commandment: Thou shalt not bear false witness against thy neighbour?[13] — No! Because that is a prohibition involving no material action, and the transgression of a prohibition involving no material action is not punishable by flogging.

IN THE NAME OF R. ISHMAEL IT IS SAID, BY TWENTY-THREE. Whence is this deduced? — Said Abaye: It is derived from the word rasha’, which occurs alike in connection with flogging and with capital punishment. In the one case it is written: If the wicked [guilty] man [ha-rasha’] deserve to be beaten,[14] and in the other, it is written, that is guilty, [rasha] of death.[15] Just as in the case of the extreme penalty twenty-three are needed, so in the case of flogging. Raba says: Flogging is considered a substitute for death.[16] R. Aha son of Raba said to R. Ashi: If so, why then the need of medical opinion as to the amount of lashes the condemned can stand? Let him be beaten, and, should he die, well, let him die![17] — R. Ashi answered: Scripture says: Then thy brother should be dishonoured before thine eyes,[18] to indicate that when the lashes are applied, they must be applied to the back of a living person. But in this case [how explain what] has been taught: If in their [the medical] opinion he can stand no more than, say, twenty lashes, he is to be given a number of lashes divisible by three; namely, eighteen?[19]

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(1) V. Deut. XXII, 25; v. p. 34, n. 3.
(2) Of which they intended to deprive her, because the woman was not named.
(3) To whom the amount of the Kethubah belongs before marriage.
(4) If they have not named the owner.
(5) Is the evidence of the owner valid with regard to the ox?
(6) The evidence is thus valid with regard to the ox.
(7) In the plural Deut. XXV, 1.
(8) Ibid.
(9) Deut. XIX, 19.
(10) In cases where the law of retaliation cannot be applied, v. Mak. 2b.
(11) Deut. XXV, 1.
(12) I.e., if so, why this reference to the justification of the righteous? Surely the application of the punishment does not depend on it! V. Rashi on same passage in Mak. 2b.
(13) Ex. XX, 16.
(14) Deut. XXV, 2. (ה)רשע
(15) Num. XXXV, 31. רשע
(16) The sinner in reality deserves the death penalty for trespassing the command of his Creator (Rashi), and a death penalty must be administered by twenty-three.
(17) Since death is his real desert, v. Mak. 22a.
(18) Deut. XXV, 3.
(19) Tosef. Mak. IV, 12.

Talmud - Mas. Sanhedrin 10b

Rather let him receive twenty-one. For even if he should die by reason of the twenty-first lash, he would still be alive when it [the twenty-first] begins to be applied? — R. Ashi replied: Scripture says, Then thy brother should be dishonoured before thine eyes.[1] that is to say, after the last lash has been administered, he must still be ‘thy [living] brother.’

THE INTERCALATION[2] OF THE MONTH BY THREE. [The Tanna of the Mishnah] mentions neither the ‘calculation’[3] nor the ‘sanctification’[4] , but the INTERCALATION of the month. [Why then the need of three for this?] Suppose it is not sanctified [on the thirtieth day] it will then be automatically intercalated! — Abaye therefore said: Read then, THE SANCTIFICATION OF THE MONTH. It is also taught to the same effect: The sanctification of the month and the intercalation of the year is to be determined by three. So R. Meir holds. But, asked Raba, does not the Mishnah say, the INTERCALATION? — Hence, said Raba, the Mishnah means that the sanctification made on INTERCALATION, that is on the intercalary day,[5] is determined by three; but on the day after it there is to be no sanctification. And this represents the opinion of R. Eliezer b. Zadok, as it has been taught: R. Eliezer b. Zadok says: If the new moon has not been visible in time, there is no need for the Sanctification next day, as it has already been sanctified in Heaven.[6]

R. Nahman said: [The Mishnah means] that Sanctification is held on the day after INTERCALATION [that is after the intercalary day] by three; but on the day itself, there is to be no Sanctification. And whose view is this? — Polemo's, as it was taught: Polemo says, [If the new moon has appeared] at its due time,[7] there is not to be Sanctification; but if it has not appeared at its due time, Sanctification is to be proclaimed.

R, Ashi said: In reality, the Mishnah refers to the ‘calculation’, and as for THE INTERCALATION, it means the calculation relating to THE INTERCALATION. But having to state [explicitly] THE INTERCALATION OF THE YEAR,[8] the Tanna also employs the phrase THE INTERCALATION OF THE MONTH.

The Mishnah thus holds that only ‘calculation’ is required in fixing the length of the month, but no formal ‘sanctification’. Whose view is this? — R. Eliezer's; as it has been taught: R. Eliezer says: Whether the moon appears at its due time or not, no sanctification is needed, for it is written, Ye shall sanctify the fiftieth year[9] [from which it is to be inferred that] thou art to sanctify years[10] but not months.

R. SIMEON B. GAMALIEL SAYS, BY THREE etc. It has been taught: How [are we to understand] R. Simeon b. Gamaliel when he says, THE MATTER IS INITIATED BY THREE, DISCUSSED BY FIVE AND DETERMINED BY SEVEN? — If, for example, one holds a meeting [for the purpose of considering the question of intercalation] to be necessary, but two hold that it is unwarranted, the opinion of the single one, being in the minority, is overruled. If, however, two are in favour of the meeting and one is not, two more are co-opted, and the matter is then discussed. Should then two [of the five] find intercalation necessary, and three not, the opinion of the two, being in the minority, is overruled. If, however, three favour intercalation and two not, an additional two are co-opted, as not less than seven form a quorum to determine an intercalation [where there is a division of opinion].

To what do these numbers, three, five and seven, correspond? — R. Isaac b. Nahmani, and an associate of his, namely, R. Simeon b. Pazi; or according to others [who invert the order], it was R. Simeon b. Pazi and an associate of his, namely. R. Isaac b. Nahmani, differ in the matter. One said [that the numbers, three, five and seven] correspond to [the respective number of Hebrew words] in [the three verses of] the Priestly Benediction;[11] the other said, they correspond to the three keepers of the threshold,[12] the five of them that saw the king's face,[13] and the seven . . . who saw the king's face.[14]

R. Joseph learned: [The numbers] three, five and seven, correspond [as follows]: Three, to the keepers of the threshold, five, to those of them that saw the king's face, and seven, to those who saw the king's face. Whereupon Abaye asked him: ‘Why has the Master not explained it to us hitherto?’ He answered: ‘l knew not that you needed it. Did you ever ask me to interpret anything and I refused to do it?’

(Mnemonic: Appointment, Nasi, Necessary, Kid.)

Our Rabbis taught: The year can be intercalated only by a Court

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(1) Ibid.

(2) The commencement of the month was dated from the time when the earliest visible appearance of the new moon was reported to the Sanhedrin. If this happened on the 30th day of the current month, that month was considered to have ended on the preceding 29th day, and was called deficient. But if no announcement was made on the 30th day, that day was reckoned to the current month, which was then called full, and the ensuing day was considered the first of the next month.

(3) The ‘calculation’ as to which and how many months were to be intercalated. It was an established rule that no year should consist of less than four nor more than eight full months.

(4) The proclamation by formal ‘sanctification’ of the new moon on the thirtieth day.

(5) The thirtieth day.

(6) I.e., it is patent to all that the next day is the new moon, as no month exceeds 30 days.

(7) I.e., on the thirtieth day.

(8) Where a special proclamation is necessary, failing which the year is not intercalated.

(9) Lev. XXV, 10.

(10) The court is to sanctify the Jubilee Year by a formal proclamation: ‘The year is hallowed’.

(11) Num. VI, 24-26.

(12) II Kings XXV, 18.

(13) II Kings XXV, 19.
(14) Est. I, 14.

Talmud - Mas. Sanhedrin 11a

whose members have been appointed for that purpose.[1]

It once happened that Rabban Gamaliel[2] said: ‘Send me up seven [scholars] early in the morning to the upper chamber[3] [for this purpose].’ When he came in the morning and found eight, he asked: ‘Who is he who has come up without permission? Let him go down.’ Thereupon, Samuel the Little arose and said: ‘It was I who came up without permission; my object was not to join in the intercalation, but because I felt the necessity of learning the practical application of the law.’ Rabban Gamaliel then answered: ‘Sit down, my son, sit down; you are worthy of intercalating all years [in need of such], but it is a decision of the Rabbis that it should be done only by those who have been specially appointed for the purpose.’ — But in reality it was not Samuel the Little [who was the uninvited member] but another;[4] he only wished to save the intruder from humiliation.

Similarly it once happened that while Rabbi was delivering a lecture, he noticed a smell of garlic. Thereupon he said: ‘Let him who has eaten garlic go out.’ R. Hiyya arose and left; then all the other disciples rose in turn and went out. In the morning R. Simeon, Rabbi's son, met and asked him: ‘Was it you who caused annoyance to my father yesterday?’ ‘Heaven forfend[5] that such a thing should happen in Israel,’ he answered.[6]

And from whom did R. Hiyya learn such conduct? — From R. Meir, for it is taught: A story is related of a woman who appeared at the Beth Hammidrash[7] of R. Meir and said to him, ‘Rabbi, one of you has taken me to wife by cohabitation.’ Thereupon he rose up and gave her a bill of divorce,[8] after which every one of his disciples stood up in turn and did likewise. And from whom did R. Meir learn this? — From Samuel the Little. And Samuel the Little? — From Shecaniah son of Jehiel, for it is written, And Shecaniah son of Jehiel, one of the sons of Elam answered and said unto Ezra: We[9] have broken faith with our God and have married foreign women of the peoples of the land: yet now there is hope in Israel concerning this thing.[10] And Shecaniah learnt it from [the story told of] Joshua. As it is written, The Lord said unto Joshua, Get thee up, wherefore, now, art thou fallen upon they face? Israel hath sinned . . .[4] ‘Master of the Universe,’ asked Joshua, ‘who are the sinners?’ ‘Am I an informer?’ replied God. ‘Go and cast lots [to find out].’[11] Or, if you like, I might say that he learnt it from [the incident with] Moses, as we read, And the Lord said unto Moses, How long refuse ye to keep My commandments and My laws?[12]

Our Rabbis taught: Since the death of the last prophets, Haggai, Zechariah and Malachai, the Holy Spirit [of prophetic inspiration] departed from Israel; yet they were still able to avail themselves of the Bath-kol.[13] Once when the Rabbis were met in the upper chamber of Gurya's[14] house at Jericho, a Bath-kol was heard from Heaven, saying: ‘There is one amongst you who is worthy that the Shechinah[15] should rest on him as it did on Moses, but his generation does not merit it.’ The Sages present set their eyes on Hillel the Elder. And when he died, they lamented and said: ‘Alas, the pious man, the humble man, the disciple of Ezra [is no more].’

Once again they were met in the upper chamber at Jabneh, and a Bath-kol was heard to say: ‘There is one amongst you who is worthy that the Shechinah should rest on him, but his generation does not merit it.’ The Sages present directed their gaze on Samuel the Little. And when he died, they lamented and said: ‘Alas! the pious man, alas! the humble man, the disciple of Hillel [is no more].’ Samuel the Little also said shortly before he passed away: ‘Simeon[16] and Ishmael[17] will meet their death by the sword, and his friends[18] will be executed; the rest of the people will be plundered, and many troubles will come upon the world.’ The Rabbis wished to use the same words of lamentation for R. Judah b. Baba;[19] the troublous conditions of the time, however, did not permit it, for no funeral orations were delivered over those who were martyred by the [Roman] Government.[20]

Our Rabbis taught: A year cannot be intercalated unless the Nasi sanctions it. It once happened that Rabban Gamaliel was away obtaining permission from the Governor in Syria[21] , and, as his return was delayed, the year was intercalated subject to Rabban Gamaliel's later approval. When Rabban Gamaliel returned he gave his approval with the result that the intercalation held good.

Our Rabbis taught: A year may not be intercalated except where it is necessary either for [the improvement of] roads[22] or for [the repair of] bridges, or for the [drying of the] ovens[23] [required for the roasting] of the paschal lambs, or for the sake of pilgrims[24] from distant lands who have left their homes and could not otherwise reach [Jerusalem] in time.[25] But no intercalation may take place because of [heavy] snows or cold weather[26] or for the sake of Jewish exiles [from a distance] who have not yet set out.

Our Rabbis taught: The year may not be intercalated on the ground that the kids[27] or the lambs or the doves are too young.[28] But we consider each of these circumstances as an auxiliary reason for intercalation.[29] How so? — R. Jannai [gave the following example of the law in operation], quoting from R. Simeon b. Gamaliel's [letter to the Communities]: ‘We beg to inform you that the doves are still tender and the lambs still young, and the grain has not yet ripened. I have considered the matter and thought it advisable to add thirty days to the year.

An objection was raised: How long a period was intercalated in the year? Thirty days. R. Simeon b. Gamaliel said: A month?[30] — R. Papa Said: [The matter is left to the judgment of the intercalary court:] if they wish, they may add a month; or if they wish thirty days.

Come now and see the difference between

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(1) By the Nasi on the previous evening (Rashi).

(2) The Second.

(3) The meeting place of the Rabbis. v. Keth. 50b; Shab. Ch. I, M. 4. [V. Krauss, Lewy-Festschrift, pp. 27, ff.].

(4) [Probably R. Eliezer b. Hyrcanus, v. Bacher; Agada der Tanaiten, vol. I, p. 84.]

(5) This is the reading in Rashi.

(6) I.e., he acted with the intention of saving the real offender from humiliation.

(7) ‘House of Learning,’ the school, or college. V. Glos.

(8) Attaching the blame to himself.

(9) Including himself, though no guilt was attached to him.

(10) Ezra X, 2. (1) Josh. VII, 10-11.

(11) So saving the real sinners from humiliation.

(12) Ex. XVI, 28. Though no blame was attached to Moses, he is included to spare the offenders from humiliation.

(13) Divine voice, of secondary rank to prophecy. v. Glos.

(14) [J. Sotah IX, reads ‘Gadia’.]

(15) Divine presence. v. Glos.

(16) R. Simeon b. Gamaliel the First, the father of Gamaliel of Jabneh. So Rashi. Cp. also Semahoth 8. But this statement lacks historical support, as Samuel the Little died nearly half a century after the destruction of the Temple, whereas Simeon died before that event. Halevy (Doroth, Ie, pp. 201 seq.) rightly assumes that Simeon here is the son of R. Hanina (the Segan of the Priests) known as Simeon b. ha-Segan (cf. Men. 100b) who witnessed the Destruction.

(17) R. Ishmael b. Elisha, the High Priest.

(18) R. Akiba and R. Hinina b. Teradyon.

(19) Who was martyred at the age of seventy under the Hadrianic persecution, v. infra 14a.

(20) Any words of praise spoken in public over the martyred would have been regarded by the Romans as an act of

provocation.
(21) [I.e., in order to secure confirmation of his appointment as Nasi (Derenbourg, Essai p. 311); or to obtain permission for intercalating the year (Yad Ramah).]
(22) Which are impassable by those coming from afar to celebrate the Passover at Jerusalem.
(23) These were erected in the open and, being exposed to the winter weather, became slimy and unfit for use, except after being allowed some time to dry.
(24) Lit. ‘Exiles of Israel’, Jews from distant parts of the Diaspora.
(25) For the Passover Feast.
(26) As this need not prevent pilgrims from proceeding to Jerusalem.
(27) Kids set aside for the Paschal Sacrifice.
(28) Doves were prescribed as offerings for women after confinement and for persons cured from gonorrhoea. These, as a rule, postponed their offerings until the Passover Pilgrimage. But the reason that doves were too young was inadequate for intercalation, since the law provided the alternative of young pigeons for such offerings. Cf. Lev. XII, 8.
(29) Two reasons were required to justify intercalation, v. infra.
(30) Twenty nine days; whereas R. Simeon b. Gamaliel fixed it at thirty days.

Talmud - Mas. Sanhedrin 11b

the proud leaders of former days and their modest successors of later times. For it has been taught: It once happened that Rabban Gamaliel[1] was sitting on a step on the Temple-hill and the well known[2] Scribe Johanan was standing before him while three cut sheets were lying before him. ‘Take one sheet’, he said, ‘and write an epistle to our brethren in Upper Galilee and to those in Lower Galilee, saying: "May your peace be great! We beg to inform you that the time of ‘removal’ has arrived for setting aside [the tithe][3] from the olive heaps." Take another sheet, and write to our brethren of the South, "May your peace be great! We beg to inform you that the time of ‘removal’ has arrived for setting aside the tithe from the corn sheaves."[4] And take the third and write to our brethren the Exiles in Babylon and to those in Media, and to all the other exiled [sons] of Israel, saying: "May your peace be great for ever! We beg to inform you that the doves are still tender and the lambs still too young and that the crops are not yet ripe. It seems advisable to me and to my colleagues[5] to add thirty days to this year."’ [Yet] it is possible [that the modesty shown by Rabban Gamaliel in this case belongs to the period] after he had been deposed [from the office of Nasi].[6]

Our Rabbis taught: A year may be intercalated on three grounds: on account of the premature state of the corn-crops;[7] or that of the fruit-trees;[8] or on account of the lateness of the Tekufah[9] Any two of these reasons can justify intercalation, but not one alone. All, however, are glad when the state of the spring-crop is one of them.[10] Rabban Simeon b. Gamaliel says: On account of [the lateness of] the Tekufah. The Schoolmen inquired: Did he mean to say that ‘on account of the [lateness of the] Tekufah’ [being one of the two reasons], they rejoiced,[11] or that the lateness of the Tekufah alone was adequate reason for intercalating the year? — The question remains undecided.

Our Rabbis taught: [The grain and fruit of the following] three regions [are taken as the standard] for deciding upon the declaration of a leap-year: Judea,[12] Trans-Jordania,[13] and Galilee.[14] The requirements of two of these regions might determine the intercalation, but not those of a single one. All, however, were glad when one of the two was Judea, because the barley for the Omer[15] was obtained [by preference] in Judea.[16]

Our Rabbis taught: The intercalation of a year can be effected [by the Beth din] only in Judea; but if for some reason [it had been decided upon by the Beth din] in Galilee, the decision holds good. Hanania of Oni, however, testified: ‘If the intercalation was decided upon in Galilee, it is not valid.’ R. Judah the son of R. Simeon b. Pazi asked: What is the reason for the view of Hanania of Oni? — Scripture states, Unto His habitation shall ye seek and thither thou shalt come:[17] whatever search[18] you have to make shall be only in the habitation of the Lord.[19]

Our Rabbis taught: A leap-year is to be declared only by day, and if it has been declared by night, the declaration is invalid. The sanctification of a month is to be performed by day, and if it has been performed by night it is not valid. R. Abba says: What passage [proves this]? — Blow the horn at the new moon, at the covering[20] of the moon our feast-day.[21] Now on which feast is the moon covered? — We must say on the New Year.[22] And it is thereupon written, For this is a statute for Israel, a judgment[23] of the God of Jacob: Just as judgment is executed by day,[24] so also must the sanctification of the month take place by day.

Our Rabbis taught: A year is not to be intercalated

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(1) The Second, called also ‘Gamaliel of Jabneh’, who was noted for his firmness, and the enforcement of his authority. Cf. R.H. 25a; Ber. 27b; Bek. 36a.

(2) Lit., ‘that.’

(3) Tithes were of four classes: (a) the Levitical or First tithe; (b) the Priestly tithe given by the Levites from their own tithe; (c) the Second tithe, and (d) the triennial or Poor tithe. The Second tithe was to be eaten in Jerusalem every year of the septennial cycle, except the third and sixth, when it was replaced by the Poor tithe. The whole series of tithes reached its completion close upon Passover in the fourth and seventh year, and all the tithes which ought to have been paid in the course of the three years, but which, whether through negligence or other circumstances, were not given, had to be removed (ביעור) on the eve of Passover, and a prayer of confession (וידוי) offered, in accordance with Deut. XXVI, 13. Cf. M. Sh. V, 6.

(4) The chief product of Galilee was olives, and that of the south, wheat.

(5) He thus associated his colleagues with the epistle, whereas his son did not refer to his colleagues, though he was noted for his modesty. Cf. B.M. 85a. ‘Rabbi says: There were three humble men, my father (R.S.b.G.) the children of Bathyra and Jonathan the son of Saul.’

(6) He was deprived of his position owing to the great displeasure he aroused in the Assembly by his harsh attack on R. Joshua b. Hanina, a famous pupil of R. Johanan b. Zakkai, but subsequently reinstated as joint-president with R. Eliezer b. Azaria. Cf. Ber. 27.

(7) This species must be ripe in the mouth of Nisan which is known in the Bible as the Abib (Ex. XIII,44) the month of ears (of corn), in reference to the ripeness of the corn in that month.

(8) Which should, as a rule, ripen close before ‘Azereth (Pentecost), the time when the Pilgrims bring the first fruits to Jerusalem (Num. XXVIII, 26). If it happens that the fruit is unripe, the year may be intercalated so as to prevent a special journey.

(9) Lit. ‘cycle’, ‘season’. The Jewish Calendar, while being lunar, takes cognisance of the solar system to which it is adjusted at the end of every cycle of nineteen years. For ritual purposes the four Tekufoth seasons, are calculated according to the solar system, each being equal to one fourth of 365 days, viz. 91 days, 71/2 hours. Tekufah of Nisan (Vernal equinox) begins March 21; Tekufah of Tammuz (Summer Solstice), June 21; Tekufah of Tishri (Autumnal equinox), September 23; Tekufah of Tebeth (Winter Solstice), December 22. Should the Tekufah of Tammuz extend till after the Succoth Festival, or the Tekufah of Tebeth till the sixteenth of Nisan, the year would be intercalated, so that the festivals might fall in their due seasons, viz., Passover in Spring, Succoth in Autumn.

(10) Because if the corn-crop is already ripe and the intercalation prompted by other reasons, the prohibition of new produce till after the Omer Offering (v. p. 50, n. 4) according to Lev. XXIII, 14, would be unduly prolonged for another month.

(11) Because if the Tekufah was in order, and the intercalation had been effected for other reasons, the pilgrims would be subject to wintry weather when returning from Jerusalem after the Succoth Festival.

(12) South of Palestine.

(13) East of Palestine.

(14) Northern Palestine.

(15) A measure of barley (1/10th of an ephah) taken from tender ears, was brought on the 16th day of Nisan to the Temple as a heave-offering. v. Lev. XXIII, 10-11.

(16) For two reasons, firstly, because the grain taken for the Omer offering had to be tender, and this could only be so if it was cut from a field in the proximity of Jerusalem, for if it were brought from a far-off distance, the stalks would

become hardened in transit, by the wind. Secondly, according to the Talmudic rule, that one must not forego the occasion of performing a commandment (cf. Yoma 33a), the ripe corn in the vicinity of Jerusalem offered the earliest opportunity of fulfilling the precept (v. Men. 64b). If the grain in Judea, however, gave no cause for intercalation, it would be overripe at the time of the Omer, and so unfit for the purpose.
(17) Deut. XII, 5.
(18) I.e., religious enquiry, or investigation.
(19) I.e., Jerusalem the Capital of Judea, which the Lord (Heb. Makom, lit., 'the Place', v. Glos.) has selected as habitation unto Himself.
(20) כסה (E.V. 'full moon') is taken from כסא 'to cover'.
(21) Ps. LXXXI, 4.
(22) Which alone of all festivals is fixed for the 1st of the month.
(23) E.V. 'ordinance'.
(24) V. infra 32a: 'Money cases are to be tried by day'.

Talmud - Mas. Sanhedrin 12a

in years of famine.[1] It has been taught: Rabbi says: A man came from Baal Shalisha and brought to the man of God bread of the first fruits; twenty loaves of barley, [bread of the newly ripened crop].[2] Now, there was no other place in Palestine where the fruit ripened earlier than in Baal Shalisha; yet, according to this account, only one species had ripened there [by that date]. If you suggest that it was wheat,[3] the text reads 'barley'. If again you suggest that it was ripened before the bringing of the Omer, the text reads further: Give unto the people that they may eat, which must have been after the bringing of the Omer.[4] We may conclude therefore that the year should have been intercalated.[5] But why did Elisha not do so? — For the reason that it was a year of famine[6] and all hastened to the threshing floor [to procure food].

Our Rabbis taught: The year may not be intercalated before the New Year,[7] and if it be intercalated, the intercalation is invalid. In case of necessity,[8] however, a year may be intercalated immediately after the New Year; yet even so, only a [second] Adar is added.[9] But is this really so? Was not a message once sent to Raba:[10] 'A couple [of scholars] have arrived from Rakkath[11] who had been captured by an eagle[12] whilst in possession of articles manufactured at Luz, such as purple,[13] yet through Divine mercy and their own merits they escaped safely. Further, the offspring of Nahshon[14] wished to establish a Nezib,[15] but yon Edomite[16] would not permit it.[17] The Members of the Assembly,[18] however, met and established a Nezib in the month in which Aaron the Priest died'?[19] Yes, the calculations were indeed made, but not published [until after the New Year].

How was it implied that the term Nezib [mentioned in the message] connoted 'month'? — Because is is written, Now Solomon had twelve Officers [Nezibim] over all Israel who provided victuals for the king and his household; each man his month in the year.[20] (But is it not written, And one officer [Nezib] that was in the land?[21] — Rab Judah and R. Nahman — one holds that one single officer was appointed over all [the other officers]: the other is of the opinion that this refers to the [special officer in charge of the provisions during] the intercalated month.)

Our Rabbis taught: We may not, in the current year, intercalate the following year,[22] nor intercalate three years in succession. R. Simeon said: It once happened that R. Akiba, when kept in prison,[23] intercalated three years in succession. The Rabbis, however, retorted: 'Is that your proof? The court sat and intercalated each year at its proper time.'[24]

Our Rabbis taught: We may not intercalate a Sabbatical year[25] nor the year following a Sabbatical year.[26]

But which year was it usual to intercalate? — That preceding the Sabbatical year.[27] Those of the

House of Rabban Gamaliel, however, used to intercalate the year following the Sabbatical year.[28] And this enters into the dispute of the following Tannaim. For it has been taught: Herbs may not be imported from outside the land [of Israel]. But our Rabbis permitted it.[29]

Wherein do they differ? — R. Jeremiah said: They differ as to whether we apprehend lest the earth attached to them [should also be imported].[30]

Our Rabbis taught: We may not intercalate a year because of uncleanness.[31] R. Judah said: We may intercalate. R. Judah observed: It once happened that Hezekiah king of Judah declared a leap year because of uncleanness, and then prayed for mercy, for it is written, For the multitude of the people, even many of Ephraim and Manasseh, Issachar and Zebulun had not cleansed themselves,

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(1) So as not to prolong the prohibition of using the new produce for another month, v. supra p. 49, n. 6.

(2) II Kings IV, 42.

(3) Which is late in ripening.

(4) When alone the new produce is permitted.

(5) Owing to the delay of most of the crops in ripening.

(6) Cf. II Kings IV, 38: And there was a dearth in the land.

(7) I.e., Beth din may not declare before Tishri that a second Adar shall be added six months later, because in the meantime it may be forgotten and so the prohibition of leaven on the Passover be infringed through misdating.

(8) When possibly no intercalatory Board will be available later on, or it is feared that the Roman authorities may forbid intercalation, v. p. 52 n. 9.

(9) But not, e. g., a second Tishri.

(10) From Palestine.

(11) Tiberias, v. Meg. 6a.

(12) נשר aquila, the eagle as the principal standard of the Roman legions; hence, Roman.

(13) I.e., the fringes for four-cornered garments, v. Num. XV, 38.

(14) The Nasi of Palestine, descendant of Nahshon, the first of the Princes of Judah. Cf. Ex. VI, 23.

(15) Nezib means month as well as officer; v. infra. Hence, they wished to intercalate one month.

(16) Primarily name given to Esau (Cf. Gen. XXV, 30; XXXVI, 1). אדום (Edom) is used by the Talmudists for the Roman Empire, as they applied to Rome every passage of the Bible referring to Edom or Esau. In the middle ages it came to be used symbolically of Christianity, and that accounts for the substitution of ארמי 'Aramean' in censored editions.

(17) The above messages were sent in this obscure form to prevent them from being stopped by the Government under the reign of Constantius II (337-361 C.E.) when the persecutions of the Jews reached such a height that, as in the days of Hadrian, all religious exercises, including the computation of the Calendar, were forbidden under pain of severe punishment. Cf. Graetz, Geschichte, IV, 332 seq. pp. 402 seq.

(18) The Sanhedrin.

(19) The month of Ab. It is thus seen that the decision to intercalate may, in case of emergency, be made before the New Year, i.e. before Tishri.

(20) I Kings IV, 7. Nezib (sing. of Nezibim) can thus be employed as metonymy of 'month'.

(21) Ibid. IV, 19.

(22) I.e., make the necessary calculations and arrive at the decision to intercalate. So Tosaf. Rashi: One may not intercalate one year instead of the following. Maim. (Yad, Kid. Hahodesh IV, 13) agrees with the former.

(23) Akiba was kept in prison several years before being finally martyred for practising and teaching the Jewish religion. V. Ber. 61b.

(24) R. Akiba only made the calculation of the next three leap years, since he was the accepted authority on the computation of the calendar and the Rabbis always employed his aid in this matter, but the leap years were not in three successive years.

(25) Cf. Lev. XXV, 1-7. So as not to prolong the prohibition against tilling the soil.

(26) For the reason that the prohibition of the use of the new produce would be prolonged.

(27) To give an additional month for working the soil.

(28) They did not apprehend a shortage of provisions during the Sabbatical year, since importation from outside Palestine, which they held permissible (cf. Ned. 53b, and below), would prevent it.
(29) V. n. 7.
(30) Foreign soil was declared unclean. V. Shab. 14b.
(31) Even if it should involve the risk of offering the Paschal lamb in uncleanness. E.g. if the Nasi were dangerously ill, and it was judged that he would die less than a week before Passover, in which case the community, by attending the obsequies in his honour, would become unclean. (Rashi). Cf. Pes. 66b.

Talmud - Mas. Sanhedrin 12b

yet did they eat the Passover otherwise than it is written,[1] for Hezekiah had prayed for them, saying: May the Lord in His goodness pardon everyone.[2] R. Simeon said: If the intercalation was actually on the ground of uncleanness, it holds good. Why then did Hezekiah implore Divine mercy? — Because only an Adar can be intercalated and he intercalated a Nisan in Nisan.[3] R. Simeon b. Judah said on behalf of R. Simeon, that it was because he had persuaded Israel to celebrate a Second Passover [unduly].[4]

The Master has said: ‘R. Judah said: We may intercalate [on the ground of uncleanness].’ Hence R. Judah holds that [the law of] uncleanness, in the case of an entire Community, is only suspended [and not abrogated].[5] But has it not been taught: The ziz,[6] whether it is on his [the Priest's] forehead or not, propitiates. So said R. Simeon. R. Judah said: Only when it is on his forehead does it propitiate, but not otherwise. R. Simeon thereupon said to him: The case of the High Priest on the Day of Atonement affords proof, seeing that it propitiates even when it is not worn on his forehead.[7] And R. Judah answered him: Leave the Day of Atonement aside[8] , for the [laws concerning] impurity are entirely abrogated in the case of a whole Community?[9] — But even according to this reasoning,[10] is there not a contradiction within the passage itself? [Thus:] R. Judah said: We may intercalate [on account of uncleanness]; and then he himself relates what happened in the case of Hezekiah, king of Judah, who intercalated a year because of uncleanness, but implored Divine mercy on himself [for his action]?[11] But the text is evidently defective, and should read as follows: ‘We may not intercalate a year on account of uncleanness, but if it has been intercalated, the decision holds good. R. Judah maintained that the intercalation is not valid,[12] and R. Judah observed: It once happened with Hezekiah etc.

But if so, [when] R. Simeon says: If the year is intercalated for the sake of [avoiding] uncleanness, the decision holds good, is [he not merely repeating] the opinion of the first Tanna? — Said Raba: They differ as to whether [it may be intercalated] at the outset.[13] It has been taught likewise: A year may not be intercalated at the outset because of uncleanness. R. Simeon said: It may be intercalated. Why then did he [Hezekiah] pray for mercy? — Because only an Adar can be intercalated, whereas he intercalated a Nisan in Nisan.

The Master has said: ‘Because only an Adar can be intercalated, whereas he intercalated a Nisan in Nisan.’ But did not Hezekiah agree [that the verse], This month shall be unto you the beginning of months,[14] [implies], only this month can be Nisan [once proclaimed], and no other?[15] — He erred on a ruling of Samuel, for Samuel said: The year is not to be intercalated on the thirtieth day of Adar, since it is eligible to be appointed [the first day of] Nisan.[16] He [Hezekiah] however thought that we do not consider its eligibility [to belong to Nisan].[17] It has been taught likewise: The year may not be intercalated on the thirtieth day of Adar, since it is eligible to be appointed [the first day] of Nisan.

[It was stated above:] ‘R. Simeon b. R. Judah said on behalf of R. Simeon that it was because he had [wrongfully] persuaded the people to celebrate a Second Passover [that Hezekiah prayed to be forgiven].’ How did it happen?[18] — R. Ashi said: E.g., half of Israel[19] were clean and half unclean, but the women[20] made up the number of the clean and turned it into a majority. Now, at first he held that women too are bound [to offer the lamb] on the first [Passover],[21] so that only a minority[22] was unclean; and a minority is relegated to the Second Passover.[23] But later he adopted the view [that the participation of] women in the First [Passover celebration] is only voluntary,[24] so that the unclean were in a majority, and a majority is not relegated to the Second Passover.[25]

The text [states]: ‘Samuel said, The year is not to be intercalated on the thirtieth day of Adar, since it is eligible to be appointed [the first day of] Nisan.’ But what if it were intercalated? — ‘Ulla said: The month must not be sanctified.[26] But what if it were sanctified? — Raba said: Then the intercalation is invalid. R Nahman said: Both the intercalation and the sanctification are valid.

Raba said to R. Nahman: Let us consider! Between Purim[27] and the Passover there are thirty days, and from Purim we begin to lecture on the laws of Passover, as has been taught: People must begin to inquire into the Passover laws thirty days before the Festival. R. Simeon b. Gamaliel said: A fortnight before. If, then, it [sc. Passover] is postponed at the beginning of the month [of Nisan],[28] people[29] will be liable to disregard[30] the law regarding leaven [on Passover].[31] — He [R. Nahman] answered him: It is well-known that the intercalation of a year depends on [minute] calculations, hence they would say that [the declaration was not made until the thirtieth day] because the Rabbis had not completed their calculation until then.

Rab Judah said in Samuel's name: A year is not to be intercalated[32] unless the [summer] Tekufah[33] is short of completion by the greater part of the month.[34] And how much is that? — Sixteen days: so holds R. Judah.

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(1) I.e., not at the prescribed time, the 14th day of Nisan. Cf. Ex. XII, 9.

(2) II Chron. XXX, 18.

(3) I.e., after it had already been sanctified as Nisan, he reconsidered it and sanctified the month as the second Adar.

(4) Instead of intercalating, to render this unnecessary.

(5) There is a dispute whether uncleanness, in the case of a community, is entirely permitted, as though there were no prohibition at all against it, or whether it is merely suspended on account of the communal need. On the latter view, it is disregarded only when unavoidable, but not here, where it may be avoided by intercalation.

(6) ציץ, The golden front-plate. V. Ex. XXVIII, 36-38. It atoned for sacrifices offered in a state of uncleanness, and rendered them acceptable.

(7) The High Priest did not officiate in the interior, i.e., the Holy of Holies, on the Day of Atonement, robed in garments that had gold interwoven, as that would recall the sin of the golden calf. Cf. Lev. XVI, 3-4; R.H. 26a.

(8) It is no proof in this case.

(9) As on the Day of Atonement, when offerings for the whole Community are made. Hence the above inference of R. Simeon is contradicted.

(10) That even in a case involving a whole Community, as that of the Passover Offering, the year should be intercalated so as to avoid the state of uncleanness.

(11) Surely, according to the said argument, his action was lawful!

(12) Since there was no need at all for intercalation, the laws of impurity being withdrawn for the sake of a whole Community. Hezekiah, in intercalating the year, therefore prayed for forgiveness.

(13) According to R. Simeon it may be intercalated even at the outset, but he speaks of the case as if the act were already performed, merely in contradistinction to R. Judah.

(14) Ex. XII, 2.

(15) I.e., once Nisan has been proclaimed, it cannot be re-proclaimed Adar, making the ensuing month Nisan.

(16) When Adar is deficient.

(17) Hence he intercalated the year on that day. But afterwards, coming to agree with the standpoint represented by Samuel, and so realising his mistake, he prayed for forgiveness.

(18) That in the first place he thought it right to intercalate the year, but subsequently repented of his earlier decision?

(19) I.e., the male population. From the context, it is seen that the clean were not actually half, but a minority.

(20) Who were clean.

(21) As is the opinion advanced by R. Judah and R. Jose. Cf. Pes. 91b.
(22) Sc., of males, for whom the offering is compulsory.
(23) Therefore he intercalated the year, to obviate the necessity of this.
(24) As R. Simeon holds (ibid.).
(25) Hence the intercalation was unnecessary.
(26) As the second Adar. The succeeding month, however, will he sanctified as Nisan, the current month remaining unnamed.
(27) Feast celebrated on the fourteenth of Adar in commemoration of the deliverance of the Jews from the plot of Haman, as recorded in the Book of Esther.
(28) Through the institution of a second Adar, the lecturing on Passover laws having already begun.
(29) Not believing the report of the messengers that an intercalation had been made. — Raba's assumption that the messengers might be disbelieved, would seem to show that there were enemies of the Jews who might seek to upset the Calendar. Cf. p. 52, n. 9 on the attitude of the Roman authorities to intercalation.
(30) Lit., ‘treat lightly’.
(31) Because they will not treat the Passover fixed by the Rabbis as such, having already celebrated it a month before.
(32) On account of the Tekufah. V. supra 11b.
(33) The solar year which consists of three hundred and sixty-five and a quarter days is divided into four equal parts, each period consisting of ninety-one days and seven and a half hours. These are called respectively the Nisan (vernal), Tammuz (summer), Tishri (autumnal), Tebeth (winter) Tekufoth. The lunar year which forms the basis of our calendar comprises altogether three hundred and fifty-four days. Though according to Biblical tradition our months are to be lunar (cf. Ex. XII, 2), yet our Festivals are to be observed at certain agricultural seasons; Passover and Pentecost in the Spring; Tabernacles, or Feast of Ingathering, in the autumn. In order to harmonise the lunar and solar years, a second Adar is intercalated once in two or three years. Our text lays down certain principles by which the Intercalators are to be guided.
(34) Tishri. I.e., the greater part of Tishri must be taken in to complete the Tekufah of Tammuz.

Talmud - Mas. Sanhedrin 13a

R. Jose said: Twenty-one days.[1] Now, both deduce it from the same verse, And the Feast of Ingathering at the Tekufah [season] of the year.[2] One Master[3] holds that the whole Feast [of ingathering][4] is required to be included [in the new Tishri Tekufah];[5] the other,[6] that only a part of the Festival [of ingathering] must [be included].[7]

Now, which view do they adopt?[8] If they hold that the Tekufah day[9] is the completion [of the previous season]: then, even if it were not so,[10] it will meet with the requirement neither of him who holds that the whole Festival [must be included,] nor of him who holds that only part of it [is necessary]! —[11] One must say therefore that they both hold that the Tekufah day begins [the new Tekufah].

An objection is raised: The Tekufah day concludes [the previous season]: this is R. Judah's view. R. Jose maintains that it commences [the new].[12] Further has it been taught: A year is not intercalated unless the [summer] Tekufah is short of completion by the greater part of the month [Tishri]. And how much is that? Sixteen days. R. Judah said: Two thirds[13] of the month. And how much is that? Twenty days.[14] R. Jose ruled: It is to be calculated thus: [If there are] sixteen [days short of completing the Tekufah] which precedes Passover,[15] the year is to be intercalated.[16] [If, however, there are] sixteen [short of completing the Tekufah] which precedes the Feast [of Tabernacles],[17] the year is not to be intercalated.[18] R. Simeon maintained: Even where there are sixteen [days short of completing the Tekufah] which precedes the Feast [of Tabernacles], the year is intercalated.[19] Others say [that the year is intercalated even if the Tekufah is short of completion] by the lesser part of the month. And how much is that? Fourteen days?[20] — The difficulty remained unsolved.

The Master has said: ‘R. Judah said: Two thirds of the month. And how much is that? Twenty days. R. Jose ruled: It is to be calculated [thus: if there are] sixteen [days short of completing the Tekufah] which precedes Passover, the year is to be intercalated.'[21] But is not this view identical with R. Judah's?[22] — They differ as to whether the Tekufah day completes [the previous] or begins [the new cycle].[23]

The Master has said: '[R. Jose holds that] if there are sixteen [days short of completing the Tekufah] which precedes the Feast [of Tabernacles], the year is not intercalated.' According to R. Jose, then, only if there are sixteen [days short of completing the Tekufah] preceding the Feast [of Tabernacles is intercalation] not [permitted]; but if there are seventeen or eighteen [days short], the year is intercalated. But has he not himself said: If there are sixteen [days short of completing the Tekufah] which precedes Passover, we may intercalate, but not if less?[24] — But no; in neither case[25] may we intercalate. But seeing that he spoke of the number sixteen [with regard to the Tekufah] preceding Passover,[26] he gives it also [in connection with the Tekufah] preceding the Feast [of Tabernacles].

[It was stated above]: 'R. Simeon maintained:[27] Even where there are sixteen [days short of completing the Tekufah] which precedes the Feast [of Tabernacles], the year is intercalated.' But is not this view the same as that of the first Tanna?

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(1) As seen from the context, the entire statement, including that of the views of R. Judah and R. Jose, is Samuel's.

(2) Ex. XXXIV, 22. I.e., it must fall within the Tishri Tekufah.

(3) R. Judah.

(4) I.e., beginning with the day when the work of ingathering is permitted — the 16th day of the month, the day after the Festival.

(5) Hence if the summer Tekufah is short of completion by sixteen days, the new autumnal Tekufah begins on the seventeenth, and will thus not include all the days when the work of ingathering is permitted.

(6) R. Jose.

(7) Hence its possible delay until the 21st of the month, but not later, because the 22nd of Tishri is a full Festival again, on which no gathering is permitted. Neither consider the possibility of including Ellul, a full month of thirty days, and so giving one day more, because if Ellul were extended, it would interfere with the calculations whereby the first day of New Year must not fall on Sunday, Wednesday or Friday, v. R.H. 19b; Suk. 43b.

(8) Viz., with reference to the day on which the sun enters into the new Tekufah.

(9) I.e., the day on which the new Tekufah begins.

(10) I.e., even if it were not much short of completion, as sixteen days according to R. Judah, and twenty-one days according to R. Jose, but fifteen or twenty days, respectively.

(11) For even if the Tekufah day begins on the sixteenth or twenty-first day, the new season will commence only on the following day.

(12) Thus, according to R. Judah, none of the Festival of Ingathering is included in the new season.

(13) Lit., 'two hands' interpreted as 'two portions'. Cf. Tosef. Men. IX,10.

(14) V. infra. This refutes Samuel on both points: (a) R. Judah holds here that part of the Feast is sufficient; and (b) in his view the Tekufah day commences the new season, and does not end the last.

(15) I.e., the winter Tekufah.

(16) For if not, the summer Tekufah would not end until the 21st of Tishri, the new Tekufah beginning on the 22nd. The two Tekufoth, the spring and summer, consist of hundred and eighty-two days, and the five lunar months between Nisan and Tishri consist of hundred and forty seven days which, when added to the fourteen days of Nisan and the twenty-one days of Tishri make a total of hundred and eighty-two days. The Tishri Tekufah beginning on the 22nd of the month will thus not include any part of the Festival of Ingathering.

(17) I.e., the summer Tekufah.

(18) Because at least part of the Feast of Ingathering will then fall in the new Tekufah.

(19) V. infra.

(20) Hence the contradiction of the two statements of R. Judah.

(21) In that the end of the cycle is delayed until the 21st of Tishri. V. n. 2.

(22) As it appears that both require the inclusion of only part of the Festival of Ingathering.

(23) According to R. Judah, that day completes the previous Tekufah, consequently, if twenty days have passed and the sun has reached its new cycle on the 21st, the new Tekufah begins on the 22nd, in which case not even part of the Feast of Ingathering is included; whilst according to R. Jose's calculation, even if the solstice occurs on the 21st day, that day is added to the new cycle.

(24) According to the above, in the case of fewer days, if these carry the Tekufah seventeen or eighteen days into Tishri, intercalation is permissible.

(25) I.e., in the case of a shortage neither of seventeen nor eighteen days. The number ‘sixteen’ therefore is not to be taken in its exact sense, for even if there is a shortage of more than that, intercalation is not justified.

(26) In which case, it is only a shortage of sixteen days which justifies intercalation.

(27) In contradistinction to R. Jose.

Talmud - Mas. Sanhedrin 13b

— They differ as to whether the Tekufah day completes [the previous] or begins [the new season].[1] But their views were not defined.[2]

[Again it was stated:] ‘Others say: [That the year is intercalated even where there is a shortage] by the lesser part of the month. And how much is that? Fourteen days.’ Now, which view do they adopt? Do they hold that the Tekufah day completes [the previous season], and that we require the whole Feast [of Ingathering to be included in the new Tekufah?] But surely in our case, it is so.[3] [Why then intercalate?] — The ‘Others’, says R. Samuel son of R. Isaac, speak of the Nisan Tekufah, for it is written, Observe the month of Abib [spring];[4] i.e., take heed that the beginning[5] of the vernal Tekufah shall occur on a day in Nisan [when the moon is still in the process of renewal].[6]

But why not intercalate a day in Adar?[7] — R. Aha b. Jacob said: The Tanna reckons from higher numbers downward, and says as follows: [If there is a deficiency] as far as [i.e., by more than] the lesser part of the month,[8] the year is intercalated.[9] And how much is that? Fourteen days.’

Rabina said: In reality, the ‘Others’ refer to the Tishri Tekufah, but they hold that the whole Feast [of Ingathering][10] must fall [in the new Tekufah] including also the first [day of the Feast].[11] ‘[Including] the first day’?[12] But is it not written, The Feast of Ingathering [shall be] at the Tekufah of the year; [meaning the day on which ingathering is permitted]? — [They interpret it as] ‘The Feast which occurs in the season of ingathering.’

THE LAYING ON [OF HANDS] BY THE ELDERS. Our Rabbis taught: [And the elders . . . shall lay, etc.:][13] it might be assumed that it means ordinary people advanced in age;[14] Scripture therefore adds, of the congregation.[15] Now, if [you emphasised] congregation, I might think, [it referred to] the minor members of the congregation:[16] therefore it is stated, ‘the congregation’,[17] [meaning] the distinguished of the congregation.[18] And how many are required? — The plural of ‘wesameku’[19] [‘and they shall lay’] implies two; similarly, ‘zikne’ [‘the elders’] implies two, and as there can be no court with an even number, another is added; hence five in all are required: this is R. Judah's view. R. Simeon said: ‘Zikne’ [‘elders’] indicates two, and as a court cannot consist of an even number, another is added, making three in all. But according to R. Simeon, is it not written ‘wesameku’ [‘and they shall lay’]? — That is needed for the text itself.][20] And R. Judah?[21] — That is not needed for the text itself, since if the word wesameku has no significance for deduction, the text could have read [without it]: The Elders, their hands [being] on the head of the bullock.[22] And R. Simeon?[23] — Had it been so written,[24] I might have translated ‘al[on], ‘in proximity’.[25] And R. Judah?[26] — He deduces this [actual contact] from the use of the word rosh [head] in this case and in connection with the burnt offering.[27] And R. Simeon? — He does not admit the deduction of head written here and in the case of the burnt offering.[28]

It is taught: The laying on [of hands], and the laying on [of hands] of the Elders is performed by three. What is meant by, ‘Laying on [of hands]’, and ‘Laying on [of hands] of the Elders’? — R. Johanan said: [The latter] refers to the ordination of Elders. Abaye asked R. Joseph: Whence do we deduce that three are required for the ordination of Elders? Shall we say, from the verse, And he [Moses] laid his hand upon him [Joshua][29] If so, one should be sufficient! And should you say, Moses stood in place of seventy-one,[30] then seventy-one should be the right number! — The difficulty remained unanswered.

R. Aha the son of Raba, asked R. Ashi: Is ordination effected by the literal laying on of hands? — [No,] he answered; it is by the conferring of the degree: He is designated by the title of Rabbi and granted the authority to adjudicate cases of kenas.[31]

Cannot one man alone ordain? Did not Rab Judah say in Rab's name: ‘May this man indeed be remembered for blessing — his name is R. Judah b. Baba; were it not for him, the laws of kenas would have been forgotten in Israel.’ Forgotten? Then they could have been learned. But

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(1) Though they both state the number sixteen, the one who holds that the day completes the previous Tekufah must count the new season as beginning on the seventeenth.

(2) I.e., it is not clear who is of the one and who of the other opinion.

(3) For the Tishri Tekufah then commences on the fifteenth, whereas the Feast of Ingathering, as defined in p. 58, n. 1, commences on the sixteenth.

(4) Deut. XVI, 1.

(5) Lit., ‘ripening’.

(6) That accounts for the limit of fourteen days, after which it is on the wane. This is implied in the word חודש which, derived from חדש ‘new’, means the ‘new month’.

(7) Which would bring in the new Tekufah on the thirteenth day, when the moon is still waxing, rather than cause the derangement of a whole month; and though the first day of Passover must not fall on Monday, Wednesday or Friday, and the addition of a day might cause that, it would not matter, because the limitation of the days on which Passover may commence is due to the desire to avoid New Year falling on Sunday, Wednesday or Friday, and that could be avoided by adding a day to one of the normally defective months between Nisan and Tishri.

(8) I.e., down to, but not including, the fourteenth day.

(9) But if there is actually a shortage of fourteen days, only the month Adar is intercalated.

(10) Even the first day.

(11) And being of the view that the Tekufah day completes, the season, if there is a shortage of fourteen days, in which case the new autumnal Tekufah will begin on the fifteenth day, the first day of the Feast will not be included in it, so that intercalation is justified.

(12) On which work is prohibited.

(13) וסמכו זקני, And the elders (of the Congregation) shall lay etc. Lev. IV, 15.

(14) Lit., ‘elders of the market’.

(15) עדה, lit., ‘Group’, or ‘Congregation.’ ‘Edah’ is frequently interpreted by the Rabbis as ‘Sanhedrin’. V. Num. Rab. 15, Ch. 16, and Rashi on Lev. IV, 13. The latter derives his statement from Sifra, which again derives it by analogy between ‘Edah in Num. XXXV, 24-25, cf. supra 2a.

(16) I.e., the minor Sanhedrin of twenty-three.

(17) With the definite article.

(18) I.e., the major Sanhedrin.

(19) It could have been written וסמך ‘we-samak’, denoting that any one of the elders should lay his hands. Cf. Malbim on Lev. IV, 15.

(20) Viz., that there must be laying on of hands,

(21) Does he not admit this?

(22) A kind of absolute clause.

(23) Does he not admit the superfluity of ‘and they shall lay’?

(24) As R. Judah suggests.

(25) I.e., that the hands need not actually be laid on the head but only brought near. The word wesameku makes it clear.
(26) Who employs wesameku for another interpretation.
(27) Lev. I, 4: And he shall lay his hand upon the head of the burnt offering, which obviously means actual contact.
(28) This type of exegesis, deducing identity of fact from identity of language, is called gezerah shawah, and it is a well-established principle that such deduction could not be made by a scholar without a direct tradition from his teacher that that particular identity of phraseology was intended to intimate identity of law. R. Simeon had no such tradition in respect of these two words.
(29) Num. XXVII, 23.
(30) I.e., having the same authority.
(31) V. Glos.

Talmud - Mas. Sanhedrin 14a

these laws might have been abolished; because once the wicked Government,[1] [as an act of religious persecution],[2] decreed that whoever performed an ordination should be put to death, and whoever received ordination should he put to death, the city in which the ordination took place demolished, and the boundaries[3] wherein it had been performed, uprooted. What did R. Judah b. Baba do? He went and sat between two great mountains, [that lay] between two large cities; between the Sabbath boundaries of the cities of Usha and Shefaram[4] and there ordained five elders:[5] viz., R. Meir, R. Judah, R. Simeon, R. Jose and R. Eliezer b. Shamua'. R. Awia adds also R. Nehemia in the list. As soon as their enemies discovered them he [R.J.b.B.] urged them: ‘My children, flee.’ They said to him, ‘What will become of thee, Rabbi?’ ‘I lie before them like a stone which none [is concerned to] overturn,’[6] he replied. It was said that the enemy did not stir from the spot until they had driven three hundred iron spear-heads into his body, making it like a sieve.[7] — With R. Judah b. Baba were in fact some others, but in honour to him, they were not mentioned.

Was R. Meir indeed ordained by R. Judah b. Baba? Did not Rabbah b. Bar Hannah say in R. Johanan's name: He who asserts that R. Meir was not ordained by R. Akiba is certainly in error? — R. Akiba had indeed ordained him, but the ordination was not acceptable;[8] while R. Judah b. Baba's later ordination, on the other hand, was accepted.

R. Joshua b. Levi said: There is no ordination outside Palestine. What is to be understood by, ‘There is no ordination’? Shall we assert that they[9] have no authority at all to adjudicate cases of Kenas[10] outside Palestine?[11] But have we not learnt: The Sanhedrin has competence both within and without Palestine! — This must therefore mean that ordination cannot be conferred outside Palestine.

It is obvious, that if the ordainers are outside Palestine and those to be ordained in Palestine, [then] surely as has been said, they cannot be ordained. But what if the ordainers are in Palestine, and those to be ordained outside? — Come and hear: [It is related] of R. Johanan that he was grieved when R. Shaman b. Abba was not with them [in Palestine] to receive his ordination. [Again it is related of] R. Simeon b. Zirud and another who was with him, viz., R. Jonathan b. Akmai, or according to others [who invert the order,] R. Jonathan b. Akmai and another who was with him, viz., R. Simeon, b. Zirud,[12] that the one who was with them was ordained, and the other, who was not, was not ordained.[13]

R. Johanan was very anxious to ordain R. Hanina and R. Oshaia, but his hope could not be realised,[14] and it grieved him very much. They said to him: Master, you need not grieve, for we are descendants of the house of Eli.[15] For R. Samuel b. Nahman, quoting R. Jonathan, said: Whence do we learn that none of the house of Eli are destined to be ordained? — From the verse, And there shall be no zaken[16] [old man] in thy house for ever.[17] What does the word ‘zaken’ mean [here]? Shall we say, literally, ‘an old man’, but it is written [immediately after], and all the increase of thy house shall die [young] men! — It must therefore refer to ordination.[18]

R. Zira used to hide himself to avoid ordination, because R. Eleazar had said: Remain always obscure,[19] and [so] live.[20] But later, having heard yet another saying of R. Eleazar, viz., One does not attain greatness unless all his sins are forgiven,[21] he himself strove [to obtain it]. When they ordained him, they[22] sang before him, ‘Neither paint nor rouge nor [hair-]dye, yet radiating charm.’[23]

When the Rabbis ordained R. Ammi and R. Assi, they sang thus of them: Only such men, only such men ordain ye for us, but ordain not for us any of the ‘sarmitin’ and ‘sarmisin’, or as some say, ‘hamisin’ or ‘termisin’.[24]

When R. Abbahu arrived at the Emperor's Court[25] from College, the ladies of the court went out to receive him and sang to him: Great man of thy people, leader of thy nation, lantern of light, thy coming be blessed with peace.

BREAKING THE HEIFER'S NECK IS BY THREE. Our Rabbis taught: And thy Elders and thy judges shall come forth.[26] ‘Elders’ [indicates] two; [similarly,] ‘judges’, two. And as a court must not be evenly-balanced, another is added; hence there are five: this is R. Judah's view. R. Simeon says: ‘Elders’ indicates two, and as a court cannot consist of an even member, another is added, making three in all. Now, according to R. Simeon, what purpose is served by the words ‘thy judges’? — It is needed, in his view, to indicate the necessity of choosing the most distinguished of ‘thy judges’.[27] And R. Judah?[28] — [He deduces it] from the pronominal suffix [appended] to Zaken.[29] And R. Simeon? — [He maintains:] Had ‘elders’ [alone] been written,[30] I might have said that it refers to [any] old men of the street.[31] Hence the Torah says: ‘thy elders’.[32] Yet had ‘thy elders’ [alone] been written, I might have said that it refers to [the members of] the minor Sanhedrin. Therefore Scripture wrote, ‘thy judges’, to indicate that the reference is to the most distinguished of ‘thy judges’.[33] And R. Judah?[34] — He derives this[35] from a comparison of the word elders [as used here][36] and in the verse, And the elders of the congregation shall lay their hands [on the head of the bullock].[37] Just as there, the most distinguished of the congregation[38] [are necessary],[39] so here, too, the most distinguished of thy elders [are required]. But if this deduction be made, let us infer everything from that passage![40] and what need then is there for ‘thy elders’ and ‘and thy judges’? — But [we should say: In R. Judah's opinion,] the [superfluous] waw [and] of, and thy judges, intimates the number.[41] And R. Simeon[42] — He does not employ the conjunction ‘waw’ for interpretative purposes.

But according to this line of argument, we might further deduce from the clauses, and they shall come forth, and, and they shall measure — each indicating two — that nine should be required, in R. Judah's opinion, and seven in R. Simeon's? — But these clauses are necessary, even as it has been taught: And they shall come forth, [meaning,] they, and not their deputies. And they shall measure; in all circumstances, even when the corpse is found

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(1) That of Hadrian, in the second century.

(2) [שמד given in some versions, v. D.S.]

(3) Heb. תחומין denotes the boundaries without the town, as far as which one may go on the Sabbath. That such was meant here is evident from the following passage, which states that Judah b. Baba chose a spot between two Sabbath boundary lines.

(4) Two Galilean cities prominent in the second century as places of refuge for the Sanhedrin. His purpose was that no city or region should suffer.

(5) Persons ordained bore the title of ‘zaken’.

(6) I.e., as something worthless: let them do their worst.

(7) Hence it is evident that even one person was authorised to bestow the degree of Rabbi.

(8) Lit., ‘they did not accept (him)’, because of R. Meir's youth at the time (Rashi). [Herford, R.T., Pirke Aboth, 108, suggests a probable explanation, viz. that R. Akiba had ordained him while on one of his journeys on which R. Meir accompanied him (v. Yeb. 121a). Such an ordination, having been performed outside the land, would not be recognised as valid. V. infra.]
(9) Who have been ordained in Palestine.
(10) V. Glos.
(11) That is, ordination, even if conferred in Palestine, is of no avail outside Palestine for such cases.
(12) The order is intended to show who was the principal ordainer and who was his assistant.
(13) Hence, a scholar outside Palestine cannot be ordained.
(14) Because when they were with him, he could not procure another two to assist him, ordination requiring a board of three.
(15) And therefore cannot receive that dignity. V. infra.
(16) זקן.
(17) I Sam, II, 32.
(18) I.e., there shall be no ordained person, etc. זקן, accordingly, is understood in its Rabbinical connotation, ‘one who has acquired wisdom’, viz., an ordained Rabbi,
(19) I.e., without office.
(20) V. infra 92a.
(21) I.e., office brings with it moral improvement.
(22) The schoolmen.
(23) A snatch of a song sung at weddings in honour of the bride (Rashi).
(24) Interpretations of these words are varied. Jastrow says that it was a jest at Talmudic scholars using foreign words, and translates: Do not ordain for us any of those using words like ‘sermis’ (semis), ‘sermit’, (prob. distortion of ‘tremis’) ‘hemis’ and ‘tremis’. Krupnik-Silberman translate, ‘superficial scholars’ (halbwisser). Dalman suggests, ‘half-wits’ and ‘third-wits’ (idiots and madmen?).
(25) At Caesarea where his academy was.
(26) Deut. XXI, 2.
(27) I.e., members of the Great Sanhedrin.
(28) Whence does he deduce this?
(29) ך [זקני], thy.
(30) Alone, without the suffix.
(31) I.e., any people advanced in age.
(32) ‘Thy’ intimates that the reference is to distinguished elders.
(33) I.e., members of the Great Sanhedrin.
(34) How does he know that neither old men in general nor the members of the minor Sanhedrin are meant?
(35) The law that they must be members of the Great Sanhedrin.
(36) Deut. XXI, 2.
(37) Lev. IV, 15.
(38) I.e., the Great Sanhedrin.
(39) Cf. supra 13b.
(40) I.e., the number of Elders also.
(41) In truth, he does not employ the analogy, but derives the necessity of the presence of the Great Sanhedrin from the pronominal suffix to shofet (‘thy judges’) and their number, again from the conjunction ‘waw’, for it could have been written, And they shall go forth, thy elders, thy judges.
(42) Who requires only three.

Talmud - Mas. Sanhedrin 14b

at the entrance of a town, measurement must be made.

Our Mishnah[1] is not in accord with the following Tanna. For it has been taught: R. Eliezer b. Jacob says, Thy elders and thy judges shall come forth.[2] ‘Thy elders’, refers to the Sanhedrin; ‘and thy judges', to the King and High Priest. [That it 'refers to] the King' is deduced from the verse, The King by justice establisheth the land.[3] 'The High Priest', as it is written, And thou shalt come unto the Priests, the Levites and unto the Judges.[4]

The schoolmen asked: Does R. Eliezer b. Jacob differ from the Mishnah in one thing, or in two? Does he differ only with respect to the King and High Priest,[5] but as to the [number of the members of the] Sanhedrin, [he agrees with] either R. Judah or R. Simeon; or does he differ on that point too, requiring the whole Sanhedrin to come forth? — Said R. Joseph: Come and hear! If he [sc. the rebellious elder][6] found them[7] at Beth Pagi,[8] and there rebelled against their decision, one might assume that his rebellion was punishable.[9] Scripture therefore declares, And then shalt thou arise and get thee up unto the place,[10] [thus teaching] that it is the place that conditions [the act].[11] Now, how many had gone out? If only part of the Sanhedrin [how could the elder be condemned?] Perhaps those remaining inside would have agreed with him? It is clear therefore that the whole of the Sanhedrin must have gone out, But if so, for what? Shall we say, for a secular purpose! Are they then permitted to go out? Is it not written, Thy navel is like a round goblet wherein no mingled wine is wanting?[12] Hence it was obviously for a religious purpose, and for what else, if not for measuring in connection with the heifer, the author of the passage being R. Eliezer b. Jacob, who holds that the attendance of the whole Sanhedrin is required?[13] Abaye retorted: No; they might have gone out for the purpose of enlarging the city[14] or the Temple court-yards, as we learnt: The city or the Temple court-yards may be enlarged only by [the sanction of] a court of seventy-one.[15]

The following Baraitha agrees with R. Joseph:[16] If he[17] met them[18] at Beth Pagi and rebelled against their decision, when, for example, they had gone out for the purpose of measuring in connection with the heifer, or for the enlargement of the city or the Temple Courtyards, you might assume that his rebellion is culpable;[19] but it is written, — And thou shalt arise and get thee up to the place,[20] to teach that it is the place that conditions [the act].

THE VALUATION OF THE FOURTH YEAR'S FRUIT, AND THE SECOND TITHE THE VALUE OF WHICH IS NOT KNOWN, IS BY THREE. Our Rabbis taught: What kind of second tithe has no established price? Decayed fruit, wine that has grown a skin,[21] and rusty coins.[22]

Our Rabbis taught: The second tithe that has no fixed price is to be redeemed [at the valuation of] three [experienced] dealers, but not by three who are inexperienced.[23] Even a Gentile or the owner may be amongst the assessors. R. Jeremiah propounded: What of three who are business partners,[24] [can they be appointed valuers]? — Come and hear! 'A man and his two wives may redeem the second tithe of unknown value.'[25] Perhaps in a case such as that of R. Papa and [his wife], the daughter of Abba from Sura.[26]

DEDICATION IS BY THREE. Our Mishnah is not in accordance with the following Tanna: For it has been taught: R. Eliezer b. Jacob said: Even a hook of the sanctuary requires ten persons [to assess it] for its redemption.[27]

R. Papa said to Abaye: As to R. Eliezer b. Jacob's opinion, it is well, its grounds being Samuel's dictum. For Samuel said: There are ten Biblical references to Priest in the Chapter.[28] But whence do the Rabbis learn that only three [are required]? And should you answer: Because it [sc. the word Priest] appears three times in relation thereto;[29] then since with reference to land [redemption] the word appears four times, let four be sufficient? And should you say that this is indeed so, have we not learnt: THE VALUATION OF LAND REQUIRES NINE PERSONS AND A PRIEST? But what [will you say]? — That this is because with these verses the ten references are completed? Then should not other consecrated objects,[30] with the section on which six such references are completed, require six assessors? The difficulty was not solved.

THE ASSESSMENT OF MOVABLE OBJECTS etc. What is meant by THE ASSESSMENT OF MOVABLE OBJECTS?[31] R. Giddal, reporting Rab, says: For example, one who says, ‘I undertake to give the value of this vessel’;[32] for, R. Giddal said, reporting Rab:

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(1) Which requires only members of the Sanhedrin to come forth.

(2) Ibid.

(3) Prov. XXIX, 4. The deduction is based on the cognate words ‘judges’ and ‘justice’, whence it follows that the same person is meant in both.

(4) Deut. XVII, 9.

(5) Viz., that they must come forth,

(6) Deut. XVII, 8.

(7) The Sanhedrin.

(8) ‘The house of figs’, a place within the walls of Jerusalem, which is treated as Jerusalem in all matters. The place cannot be exactly identified. V. Neubauer, Geographie, 147ff.

(9) Lit., ‘is a rebellion’, which is punishable by strangulation.

(10) Deut. XVII, 8.

(11) I.e., on the Temple Mount alone can a rebellious elder be judged. (V. infra 87a).

(12) Cant. VII, 3. I.e., if one wished to leave, it must be seen that twenty-three remain. Cf. infra 37b.

(13) Thus proving that he differs in both matters.

(14) Of Jerusalem.

(15) Shebu. 14a.

(16) Who assumes that their purpose was for measuring in connection with the heifer.

(17) The rebellious elder.

(18) The Sanhedrin.

(19) V. p. 67, n. 10.

(20) Deut. XVII, 8.

(21) Gone sour.

(22) I.e., if the second tithe was redeemed, and the redemption money became rusty, and lost its face value, the coins must be assessed and redeemed (i.e., exchanged) for others of current acceptance.

(23) Lit., ‘who are not dealers’.

(24) Lit., ‘Three who throw into one purse’.

(25) And those have a common purse.

(26) Who traded on her own, and he had therefore no share in her profits (cf. Keth. 39a).

(27) V. infra 88a.

(28) Relating to the laws of Redemption; thrice in reference to human beings, Lev. XXVII, 8; thrice in reference to beasts; ibid. 11-13, and four times in reference to land, ibid. 14, 18, 23, — from which he deduces the need of ten persons for valuation.

(29) I.e., in the section dealing with the redemption of animals, and presumably the same applies to the redemption of all forms of hekdesh.

(30) Such as unclean beasts.

(31) For the laws of assessment in Lev. XXVII comprise only men, beasts and land.

(32) To the Sanctuary.

Talmud - Mas. Sanhedrin 15a

If one declares, ‘I dedicate the value of this vessel [to the Sanctuary]’, its value must be handed over. Why so? Because it is well known[1] that there is no fixed assessment [in the Torah] for such objects:[2] he must therefore have spoken with reference to value;[3] consequently, he must pay its value. But if so, [the words in the Mishnah] VALUATIONS OF MOVABLE OBJECTS should have read VALUATION CAUSED BY MOVABLE OBJECTS?[4] — Read: VALUATIONS CAUSED BY MOVABLE OBJECTS.

R. Hisda, quoting Abimi [said]: It refers to one who pledges movable objects in payment of his own dedicated value.[5] But in that case the words VALUATIONS OF MOVABLE OBJECTS should have been written MOVABLE OBJECTS OF ASSESSMENT![6] Read: MOVABLE OBJECTS OF ASSESSMENT.

R. Abbahu said: This refers to one who declares, ‘I dedicate my value;’ when the Priest comes to collect it, [on his failure to pay],[7] movable property is assessed by three; immovable property by ten.[8]

R. Aha of Difti said to Rabina: The requirement of three assessors is correct in the case of one having to redeem anything out of the possession of the Sanctuary;[9] but why need three to bring them into its possession?[10] — It is common sense, he answered. What is the difference between appropriating a thing to, and expropriating a thing from [the possession of the Sanctuary]? In the case of expropriation, the reason [for three assessors] is the eventuality of error; but the same eventuality exists in the case of appropriation.[11]

R. JUDAH SAYS etc. R. Papa said to Abaye: On R. Judah's opinion this is right: for that reason ‘Priest’ is written. But according to the Rabbis,[12] [who hold that no priest is required] — what is the purpose of that reference? — The question remained unanswered.

LAND VALUATION NEEDS NINE AND A PRIEST. Said Samuel: Whence is this inferred? — [From the] ten Biblical references to ‘Priest’ in the chapter [relating to valuation],[13] One is needed for the actual law;[14] the others are merely exclusions [of non-priests], one following the other. And [according to Talmudic rule,][15] exclusion, following exclusion, implies, not limitation, but extension,[16] and so includes [as valid, a valuation made] even by nine non-priests,[17] and [only] one priest.

R. Huna, the son of R. Nathan, demurred: Why not say that the ten assessors must consist of five priests and five non-priests?[18] The difficulty remained unsolved.

THE VALUATION OF A MAN IS SIMILAR. But is a man an object that can be dedicated?[19] — The words refer, said R. Abbahu, to the case of one who says; ‘I dedicate my value’; as it has been taught ‘If one says, I dedicate my value [to the Sanctuary-]’, he is assessed exactly as a slave sold in the market; — and a slave is equated to immovable property.[20]

R. Abin asked: How many assessors are needed for the valuation of hair that is ready to be shorn? Is it regarded as already shorn, and thus assessed by three,[21] or as attached to the body, hence by ten?[22] — Come and hear! If one dedicates his slave, no liability to a trespass-offering is incurred in respect of him.[23] But R. Simeon b. Gamaliel says: Liability is incurred in respect of his hair. And we know that the point on which they differ is regarding the hair which is ready to be shorn. Infer, therefore, from this [that R. Abin's question is a point of difference among the Rabbis].

Shall we take it that these Tannaim[24] differ in the same respect as the Tannaim of the following Mishnah? For we learnt: R. Meir says: There are things that notwithstanding their attachment to the soil are considered as movable property.[25] But the Sages disagree with him. In what case? [If A says to B.] ‘I handed over to thee ten vines laden with fruit,’ and the latter replies, ‘They were only five,’ R. Meir imposes [an oath on the defendant],[26] while the Sages say that an object which is still attached to the soil is subject to the laws of immovable property.[27] And R. Jose b. Hanina said: The case in question is one of grapes ready to be gathered: according to the one master,[28] they are considered as gathered; according to the other.[29] they are not! — No, you might say it is so[30] even according to R. Meir. Only there, in the case of grapes, which after ripening deteriorate by remaining ungathered, does R. Meir hold that they are considered as gathered: whereas hair, the longer it is left, the better it is.

CAPITAL CASES, CASES OF CARNAL CONNEXION WITH BEASTS etc. The law is stated categorically, without any distinction whether the connection is between a beast and a man or a beast and a woman. It is right as regards the [requirement of twenty-three] in the case of a woman, as this follows from the verse, Thou shalt slay the woman and the beast.[31] But whence is it to be deduced in the case of a man? — It is written, Whosoever lieth with a beast shall surely be put to death.[32] If this has no bearing on a case where a man is the active participant,[33] we must refer it to one in which he is the passive offender. And it is expressed in the Divine Law as if the man were the active sinner, for the purpose of equating the passive sinner to him. Just as in the case where the man approaches the beast, both he and the beast are judged by [a court of] twenty-three; so also, where the man is approached by the beast, both he and the beast are judged by twenty-three.

THE CASE OF AN OX TO BE STONED IS BY TWENTY-THREE, AS IT IS WRITTEN: THE OX SHALL BE STONED AND ITS OWNER ALSO SHALL BE PUT TO DEATH.[34] AS THE DEATH OF THE OWNER [IS BY TWENTY-THREE], SO THE DEATH OF THE OX. Abaye said to Raba: Whence do we know that the verse, and its owner also shall be put to death, means to [teach that] the judgment of the ox is to be similar to that of the owner?

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(1) Lit., ‘a man knows’.

(2) In the Bible, the word ערך (‘erek) is used only in reference to men, and indicates a dedication of fixed sums varying according to the age and sex of the person who is the subject of such a dedication. Hence, strictly speaking, the word is meaningless when used in reference to utensils, and therefore a different meaning has to be given to it here.

(3) For, according to the Talmudic dictum, ‘No man makes a purposeless declaration.’ Cf. ‘Ar. 5a.

(4) The difficulty is a grammatical one. ערכין is the absolute form, and therefore ערכין המטלטלין really means, ‘valuations which are movable’ the article ה being here a relative pronoun. The Talmud answers that the genitive particle של is to be understood.

(5) Which, until their value is redeemed, are subject to the laws of sacred property, the assessment of which requires three. This interpretation is to justify the grammatical form used in the Mishnah, the meaning of the phrase being VALUATIONS (of human beings) which have been tendered in the form of MOVABLE OBJECTS.

(6) I.e., movable objects offered as the redemption price of human dedications.

(7) In case of non-payment his property is seized. V. ‘Ar. 21a.

(8) The Mishnah therefore is to be interpreted thus: As for הערכין (human dedications), if movable property be rendered in redemption thereof, it is assessed by three; if real estate, by ten.

(9) As in the cases quoted by R. Giddal and R. Hisda.

(10) As in the case advanced by R. Abbahu.

(11) Hence the need of assessors in either case.

(12) The representatives of the first opinion cited anonymously.

(13) Lev. XXVII v. p. 69, n. 6.

(14) I.e., to state that a priest must be the assessor.

(15) Which is based on the following inference: For excluding purposes, one reference to ‘priest’ would have been sufficient; hence its repetition is not intended to exclude non-priests, but to extend. V. R. Han. a.l.

(16) In this case the extension to non-priests of the authority to make assessments.

(17) Lit., ‘Israelites’. There were three classes in Israel, viz., ‘Priests’, ‘Levites’ and ‘Israelites’.

(18) Since the rule that ‘exclusion following exclusion implies extension’ is based on redundancy, where there are a whole series of such exclusions, they are not all redundant. Thus, the first ‘priest’ teaching the exclusion of an Israelite, the second is redundant, and therefore teaches his inclusion. Hence, when the word has been written twice, we know that one priest and one Israelite are necessary. But for that very reason, the third ‘priest’ is not redundant, but to intimate that a priest is again required; after which the fourth is redundant, and so on; thus the first, third, fifth, seventh and ninth are needed for the actual law of priests and the others are superfluous, which gives five priests and five Israelites.

(19) So that he may be classed with sacred property.

(20) V. Meg. 23b. This is derived from the verse, And ye may make them an inheritance to your children after you, to

hold for a possession. Lev. XXV, 46. Hence the need of ten assessors.
(21) Like movable property.
(22) Like immovable property.
(23) So, if one puts him to service, as is the case when one makes use of any other consecrated object; for the laws concerning the unlawful use of sacred property are not applicable to lands or things of similar status, as slaves. v. Me'i. 18b.
(24) R. Simeon b. Gamaliel and the first Tanna of the Baraitha.
(25) Lit., ‘there are things which are as real estate (being attached to the soil) yet are not as real estate (in a legal sense).’
(26) As in a case where there is partial admission of the claim (cf. B.K. 107a) and though an oath is not administered in cases of immovable property (v. Shebu, VI, 5). Here, however, since the vines no longer depend on the soil for ripening, they are considered as gathered.
(27) Hence no oath can be administered.
(28) R. Meir.
(29) The Rabbis.
(30) I.e., that hair, even though ready for cutting, is to be considered as immovable property, because the cases are not alike.
(31) Lev. XX,16, which indicates that the judgment on the ox is similar to that on the woman, and therefore the verdict must be pronounced by a similar body.
(32) Ex. XXII, 18.
(33) Since the reference in Lev. XX, 15, And if a man lie with a beast, he shall surely be put to death, suffices.
(34) Ex. XXI, 29.

Talmud - Mas. Sanhedrin 15b

Perhaps it is meant to [indicate] capital punishment [for the owner]? — In that case it should have been written, and the owner also, and no more. But [perhaps] had the Divine Law written so,[1] it could be argued that [the text implies death] by stoning?[2] — Could this view possibly be entertained! If a man himself is the murderer, his death is by the sword:[3] when his property [sc. an ox] slays, shall he [the owner] be stoned![4]

But might it not be argued[5] that the reason the Divine Law wrote ‘yumath’[6] is to [indicate] an easier death, i.e., to commute death by the sword to death by strangulation?[7] Now, on the view that strangulation is a severer death,[8] it is correct;[9] but according to the view that strangulation is an easier death [than decapitation],[10] what is there to be said [against it]?[11] — This cannot be entertained, because it is written, If there be laid on him a ransom;[12] and, should you maintain that he is liable to death, is it not written, You shall take no ransom for the life of a murderer?[13] On the contrary, that fact [proves that the text is literal, Thus:] in case of a man's own crime, money is no adequate punishment, only death; whereas, when his beast kills, he can ransom himself with money?[14] — But, said Hezekiah, and thus said a Tanna of the school of Hezekiah: Scripture state, He that smote him [a human being] shall surely be put to death, he is a murderer.[15] For a murder committed by himself, you may put him to death, but you may not put him to death for a murder committed by his ox.[16]

The schoolmen asked: How many were needed [to judge] the ox [that sinned in approaching] Mount Sinai?[17] [The question is] whether we can derive a temporary enactment from permanent practice or not? — Come and hear! Rammi b. Ezekiel taught, Whether it be beast or man, it shall not live;[18] just as a man is judged by twenty-three, so is a beast judged by twenty-three.

THE LION AND THE WOLF etc. . . . Resh Lakish said: Provided, however, that they killed [a human being], but not otherwise.[19] Thus he holds that they can be tamed and have owners.[20] R. Johanan says [that it is R. Eliezer's view] even when they have killed no one. Hence he holds that they cannot be tamed or have owners.[21]

We learnt: R. ELIEZER SAYS, WHOEVER IS FIRST TO KILL THEM [WITHOUT TRIAL], ACQUIRES. This is correct according to R. Johanan:[22] What does he acquire? — He acquires [the possession of] their skin. But according to Resh Lakish, what does he acquire? As soon as they killed someone, the Rabbis regarded them as sentenced [to death], in which case every benefit from them is prohibited![23] What then does he acquire? — He acquires [merit] in the sight of Heaven.

There is [a Baraitha] taught which is in agreement with Resh Lakish: It is all one whether it be an ox, or any other beast or animal that killed a man, [it is judged] by twenty-three. R. Eliezer says: Only an ox that killed [is tried] by twenty-three, but any other animal or beast who killed, whoever is first to kill them acquires merit in the sight of Heaven.[24]

R. AKIBA SAID etc. Is not R. Akiba's opinion identical with that of the first Tanna [of the Mishnah]?[25] — [No;] they differ in the case of a serpent.[26]

A WHOLE TRIBE MUST NOT BE JUDGED etc. What sin was committed by the tribe? Shall I say, that it is a case of a tribe that desecrated the Sabbath? But[27] if the Divine Law made a distinction between individual sinners and a multitude, it was only in cases of idolatry; did it then differentiate in cases [of the transgression] of other commandments? — It must therefore refer to a tribe that was beguiled [into idolatry]. Is it to imply that it must be tried like a multitude? [If so,] this coincides with the opinion of neither R. Josiah nor R. Jonathan. For it has been taught: How many inhabitants must a town have that it may be proclaimed condemned? Not less than ten and not more than a hundred:[28] this is the view of R. Josiah. R. Jonathan says: From a hundred to the majority of the tribe in question. And even R. Jonathan admits only the majority of a tribe, but not the whole of it.[29] The case in question, says R. Mathna, is one

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(1) Without the word yumath, יומת (‘he shall be put to death’).

(2) I.e., that the same death should be meted out to both man and ox.

(3) V. infra 52a.

(4) A severer death. Surely not!

(5) In support of the literal interpretation.

(6) Which is apparently superfluous.

(7) For by an unspecified death, strangulation is meant (infra 52b).

(8) As held by R. Simeon, cf. infra 49b.

(9) For it would appear illogical to punish the owner more severely than in the case of his own act.

(10) As held by the Rabbis, ibid.

(11) Sc. the argument in support of the literal interpretation of ‘yumath’.

(12) Ex. XXI, 30.

(13) Num. XXXV, 31; and surely, if he is to be executed, he is considered as such.

(14) And where there is no offer of a ransom he is to be put to death. And the question — ‘perhaps the verse means to indicate capital punishment for the owner’ — remains.

(15) Ibid.

(16) Deduced from the words, ‘he is a murderer’, which appear superfluous.

(17) Cf. Ex. XIX, 13. Approach was forbidden to man and beast on pain of death.

(18) Ibid.

(19) Only then does R. Eliezer maintain that the sooner they are killed the better.

(20) I.e., their owners acquire legal title to them. For otherwise, it would be natural to assume that R. Eliezer meant that they should always be slain as potential mankillers.

(21) And even if a person does breed them, he acquires no legal title thereto, and anyone is at liberty to kill them.

(22) In whose opinion there is no ownership. Moreover, since they are slain even before they have killed a human being, they are not treated as animals sentenced to death, all benefit from which is prohibited.

(23) V. B.K. 41b.

(24) Tosef. Sanh. III.
(25) Why then state his view as though he differed with the first Tanna?
(26) Which, according to R. Akiba, can be killed even without trial.
(27) Lit., 'Say'.
(28) Only a town, referred to as 'ir (v. Deut. XIII, 14) can be condemned. R. Josiah holds that a community of less than ten is a village (kefar) and one of more than a hundred is an entire community, of which the 'city' is only a part.
(29) For in the case of a whole tribe, the members are to be tried individually as when an entire community, as distinct from a town, practises idolatry (v. preceding note).

Talmud - Mas. Sanhedrin 16a

where the head of the tribe has sinned;[1] did not R. Adda b. Ahabah say: Every great matter they shall bring unto thee[2] means the delinquencies of the great man;[3] so this one [sc. the head of a tribe] too, is a great man.[4]

'Ulla, quoting R. Eleazar says: [This refers to the case of] a dispute over the division of land [where the procedure must be the same] as at the first [division] in Eretz Yisrael. As in the commencement,[5] [such a dispute was decided by a Court of] seventy-one, so does it stand for all time.[6] But if so, just as originally the division was made by means of the urn, the Urim and Tummim,[7] and in the presence of all Israel, so at all times there must be an urn, the Urim and Tummim, and the presence of all Israel! But clearly, the answer given by R. Mathna is the better one.

Rabina says: I still maintain that the case in question is that of a tribe led astray into idolatry, and if you object that such should be judged after the manner of a multitude [I say,] True! though they are executed as individuals;[8] yet their trial must indeed be by a court competent to try a multitude.[9] For did not R. Hama son of R. Jose say in the name of R. Oshaia [in reference to the Scriptural passage]: Then shalt thou bring forth that man and that woman,[10] that an individual man or woman may be brought unto [the court at] thy gates,[11] but not a whole town?[12] Similarly in this case, only an individual man or woman canst thou bring forth to thy gates, but thou canst not bring forth a whole tribe.

NOR THE FALSE PROPHET. Whence is this inferred? — R. Jose son of R. Hanina says: It is derived from [the analogy set up] by the word hazadah,[13] used both here,[14] and in reference to the rebellious elder.[15] Just as there, [the rebellious elder is to be put to death only if he has rebelled against a Sanhedrin of] seventy-one, so here too, [the false prophet is to be tried by a court of] seventy-one. But is not the expression 'hazadah' mentioned in reference to his execution,[16] which is determined by a court of twenty-three? —[17] Resh Lakish therefore said: It is derived from the use of dabar [word] employed here,[18] and in reference to his [the elder's] rebelliousness. But let us, in turn, deduce [that the execution of] the rebellious elder [is by seventy-one] by employing the analogy of hazadah written therein and in the case of the false prophet.[19] — He [the Tanna] had a tradition authorising the analogy of dabar, but not that of hazadah.[20]

NOR THE HIGH PRIEST.

Whence is this derived? — R. Adda b. Ahabah said: Scripture states, Every great matter they shall bring unto thee.[21] [This means:] The matters [viz., delinquencies] of the great [man].[22]

An objection is raised: A great matter [means] 'a difficult[23] case'. You say, 'a difficult case'; but perhaps it is not so, the meaning being 'the matters of the great man'? Since Scripture states further on, Hard causes [difficult cases] they brought unto Moses,[24] it is clear that difficult cases are meant. [Hence great matter means 'difficult case']? — His[25] view is that of the following Tanna. For it has been taught: Every great matter, means 'the matters of a great [man]'. You say so, but may it not mean, ‘every difficult case’? When Scripture further refers to ‘hard causes’ [difficult cases], these have already been mentioned.[26] How then, do I interpret, ‘great matter’? — ‘The matters of the great [man].’[27]

But according to that Tanna,[28] why the need of both verses? — The one states the law itself; the other, its practice.[29] But the other [Tanna]?[30] — If so,[31] either ‘great’ should be employed in both passages, or ‘difficult’ in both. Why ‘great’ in one passage and ‘difficult’ in the other? We may infer therefrom the two meanings.[32]

R. Eleazar asked: How many judges are needed to judge the [goring] ox of the High Priest? Is it assimilated to the execution of his owner,[33] or is it assimilated to that of owners in general?[34] — Abaye said: Since he raised the question with regard to his ox, it seems that in regard to his other monetary cases, he is certain.[35] But is not this obvious? — No, for you might have supposed from the verse, Every great matter . . . that every matter of the great man[36] [is to be brought before the great Sanhedrin]. He [Abaye] therefore informs us [otherwise].

WAR OF FREE CHOICE etc.

Whence do we deduce this? — Said R. Abbahu: Scripture states, And he shall stand before Eleazar the Priest [who shall inquire for him by the judgment of the Urim before the Lord. At his word shall they go out and at his word they shall come in, both he and all the children of Israel with him even all the Congregation].[37] ‘He’, refers to the King;[38] ‘And all the children of Israel with him,’ to the Priest anointed for the conduct of war;[39] and, ‘all the Congregation,’ means the Sanhedrin.[40] But perhaps it is the Sanhedrin whom the Divine Law instructs to inquire of the Urim and Tummim?[41] — But [it may be deduced] from the story related by R. Aha b. Bizna in the name of R. Simeon the Pious: A harp hung over David's bed, and as soon as midnight arrived, a northerly wind blew upon its strings and caused it to play of its own accord. Immediately David arose and studied the Torah until the break of dawn. At the coming of dawn, the Sages of Israel entered into his presence and said unto him: ‘Our Sovereign King, thy people Israel need sustenance.’ ‘Go and support yourselves by mutual trading,’[42] David replied, ‘But,’ said they, ‘a handful does not satisfy the lion, nor can a pit be filled with its own clods.’[43] Whereupon David said to them: ‘Go and stretch forth your hands with a troop [of soldiers].’[44] Immediately they held counsel with Ahitophel and took advice from the Sanhedrin[45] and inquired of the Urim and Tummim. R. Joseph said: What passage [states this]?

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(1) Irrespective of the manner of transgression, provided it carries with it the penalty of death.

(2) Ex. XVIII, 22.

(3) I.e., the High Priest (כהן גדול lit., ‘great priest’), v. infra, and 18b.

(4) Who, accordingly, is tried by seventy-one (v. preceding note).

(5) When Palestine was divided for the first time amongst the tribes.

(6) Lit., ‘here’.

(7) Objects used as a kind of Divine oracle which the High Priest wore on his breast, v. B.B. 122a.

(8) By stoning.

(9) Viz., of seventy-one.

(10) Deut. XVII, 5.

(11) The local court of twenty-three.

(12) But before a court of seventy-one.

(13) הזדה presumption.

(14) In reference to the false prophet, Deut. XVIII, 20.

(15) Ibid. XVII, 12. And the man that does presumptuously (bezadon).

(16) Ibid: that man shall die.

(17) The reference to the Sanhedrin in Deut. XVII, 12, is only with respect to his disregard of their decision.

(18) The false prophet: ibid. XVIII, 20, The prophet that shall speak a word. The elder: ibid. XVII, 10, And thou shalt do according the word. The need of seventy-one for the false prophet, therefore, is derived from the passage relating to the rebelliousness of the elder, which must be directed against the major Sanhedrin.
(19) I.e., just as the rule, that the judgment of the false prophet must be by seventy-one, is derived from an analogy of the two dabars, so, on the other hand, we may deduce that the execution of the elder must be by seventy-one, from an analogy of the two hazadahs.
(20) That analogy was not handed down to him by his teachers, and no man may set up an analogy of his own. Cf. Pes. 66a and other places.
(21) Moses. Ex. XVIII, 22.
(22) E.g., the High Priest. v. p. 76, n. 8.
(23) Lit., 'hard'.
(24) Ibid. XVIII, 26.
(25) R. Adda b. Ahabah.
(26) And therefore the previous verse is unnecessary on this assumption.
(27) I.e., the High Priest.
(28) The first Tanna, who interprets 'great matter' as 'difficult case'.
(29) Ex. XVIII, 22, states the law; ibid. 26 merely relates that this was carried out, but gives no new law.
(30) I.e., why interpret both verses (v. n. 11) as stating laws, when the second is obviously mere narrative?
(31) That the same thing is referred to in both verses.
(32) a) Matters of a great man, b) difficult case. For though the second verse is a narrative, it refers to a difficult case, and is not identical with the first verse.
(33) Which is by seventy-one.
(34) Which is by twenty-three, v. Mishnah, supra 2a.
(35) That they must be tried before a court of three.
(36) Even monetary cases.
(37) Num. XXVII, 21-22.
(38) Joshua, who had regal authority.
(39) And whose call to war must be heeded by all Israelites.
(40) V. p. 3, no. 4.
(41) I.e., that none but the Sanhedrin (also the King and the Priest anointed for war) may enquire of the Urim and Tummim: but not because of any need to obtain their permission for the proclamation of war.
(42) Lit., 'one from another'.
(43) A community cannot live on its own resources.
(44) Invade foreign territory.
(45) Hence the ruling in the Mishnah, that the permission of the Sanhedrin was required for the proclamation of war.

Talmud - Mas. Sanhedrin 16b

— And after Ahitophel was Benaiah the son of Jehoiada[1] and Abiathar; and the Captain of the king's host was Joab.[2] 'Ahitophel' is the adviser, even as it is written, And the counsel of Ahitophel which he counselled in those days, was as if a man inquired from the word of God.[3] 'Benaiah the son of Jehoiada', refers to the Sanhedrin, and 'Abiathar' to the Urim and Tummim. And so it is written, And Benaiah the son of Jehoiada was over[4] the Kerethites and Pelethites.[5] And why were they[6] termed Kerethites?[7] — Because they gave definite instructions,[8] And Pelethites?[9] — Because their acts were wonderful. Only after this [is it written]. And the captain of the king's host was Joab.[10] R. Isaac the son of R. Adda, — others state, R. Isaac b. Abudimi — said: What verse [tells us of the harp hanging over David's bed]? — Awake my glory, awake psaltery and harp; I will wake the dawn.[11]

THE ENLARGEMENT OF THE CITY, etc. Whence is this derived? R. Shimi b. Hiyya said: Scripture states, According to all that I show thee, the pattern of the Tabernacle [and the pattern of all the furniture thereof] even so shall ye make it[12] — [meaning,] in future generations[13] Raba objected: All vessels made by Moses were hallowed by their anointing: those made subsequently were consecrated by [their] service.[14] But why? Let us suppose [that] ‘even so shall you make’ applies to future generations [in this respect too]![15] — There it is different, for Scripture states, And he had anointed them and sanctified ‘otham’ [them];[16] [hence] only they [were sanctified] by anointing, but not those of later generations. But why not deduce this: those[17] [could be consecrated only] by anointing, whereas the vessels made afterwards might be consecrated either by service or by anointing? — R. Papa said: Scripture reads, . . . wherewith they shall minister in the Sanctuary.[18] . Thus, Scripture made them [i.e., their consecration] dependent on service.[19] Why then do we need ‘otham’?[20] — But for ‘otham’, I might have thought that the consecration of the vessels of the future required both anointing and service, since it is written, so shall you make it;[21] the Divine Law therefore emphasised, ‘otham’,[22] i.e., only they need anointing, but not those of future generations.

THE APPOINTMENT OF THE SANHEDRIN IS BY SEVENTY-ONE. Whence do we derive this law? — Since we find that Moses set up Sanhedrins,[23] and Moses had an authority equal to that of seventy-one.[24]

Our Rabbis taught: Whence do we know that judges are to be set up for Israel? — From the verse, Judges thou shalt made thee.[25] Whence do we deduce the appointment of officers[26] for Israel? — From the same verse, Officers shalt thou make thee. Whence the appointment of judges for each tribe? — From the words, Judges . . . for thy tribes.[27] And the appointment of officers for each tribe? — From the words, Officers . . . for thy tribes. Whence the appointment of judges for each town? From the words, Judges . . . in all thy gates. And the appointment of officers for each town? — From the words, Officers . . . in all thy gates.[28] R. Judah says: One [judicial body][29] is set over all the others, as it is written, . . . shalt thou make thee.[30] Rabban Simeon b. Gamaliel said: [The immediate connection] of ‘they shall judge’ and ‘for thy tribes’[31] indicates that the tribal court must judge only those of its own tribe.

THE CONDEMNATION OF A TOWN [etc.]. Whence is this derived? — R. Hiyya b. Joseph said in R. Oshaia's name: Scripture states, Then shalt thou bring forth that man or that woman,[32] [teaching,] an individual man or woman thou mayest bring to thy gates,[33] but not a whole town.[34]

A CITY ON THE BORDER MAY NOT BE CONDEMNED. Why? — Because the Torah says: From the midst of thee,[35] but not [a city] on the border.[36]

NOR CAN THREE CITIES BE CONDEMNED. For it is written, Concerning one of the cities.[37] Yet one or two may be condemned, as it is written, of thy cities.[38]

Our Rabbis taught: [Concerning] one [of the cities]: ‘one’, excludes three. You say that it excludes three; but why not assume that it excludes even two? — When it states, ‘thy cities’, two then are indicated;[39] hence, how do I explain ‘one’? — That one [or two] cities may be condemned, but not three. At times Rab said that a single court cannot condemn three cities, but that [that number] may be condemned by two or three courts; at others he maintained that [three cities] can never be condemned, even by two or three courts. What is Rab's reason? — Because of ‘baldness’.[40] Resh Lakish said: They [sc. the Rabbis] taught this [only if the cities are] in a single province,[41] but if they lie in two or three different provinces, they may be condemned. R. Johanan holds that they may not be condemned [even in that case], for fear of ‘baldness’. [A Baraitha] was taught which is in agreement with R. Johanan: We cannot condemn three cities in Eretz Yisrael; but we may condemn two [if situated in two provinces] e.g one in Judea and one in Galilee; but two in Judea or two in Galilee may not be condemned; and near the border, even a single city cannot be condemned. Why? Lest the Gentiles become aware of it and destroy the whole of Eretz Yisrael.[42] But may not this[43] be deduced from the fact that the Divine law wrote, From the midst of thee, [implying], but not from the border? — He [the author of the Baraitha] is R. Simeon, who always interprets the Biblical law on the basis of its meaning.[44]

THE GREAT SANHEDRIN etc. What is the reason for the Rabbis maintaining that MOSES WAS OVER THEM?[45] — Scripture says, That they may stand there

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(1) The Biblical version of the verse is Jehoiada the son of Benaiah. Tosaf. Hananel and Aruk (art. אחר a.) base their versions on this reading and comment accordingly. Rashi and this translation follow the text of the printed editions of the Talmud which agree with II Sam. XX, 23, and I Chron. XVIII, 17.

(2) I Chron. XXVII, 34.

(3) II Sam. XVI, 23.

(4) Of higher rank (Rashi).

(5) I Chron, XVIII, 17, and II Sam. XX, 23. Since Abiathar is mentioned in the previous verse after Benaiah, it follows that it is he who is referred to by Kerethites and Pelethites. [According to the text adopted by R. Tam (v. Tosaf.), the verse ‘Benaiah the son of Jehoiada etc.’ follows the word ‘Sanhedrin’. The explanation of Kerethites and Pelethites refers accordingly to the Sanhedrin.]

(6) The Urim and Tummim.

(7) כרתי fr. כרת ‘to cut’.

(8) Lit., ‘they cut their words.’

(9) פלתי fr.פלא ‘wonder’.

(10) I.e., only after the Sanhedrin had authorised a war was there any need for Joab, the chief general.

(11) Ps. LVII, 9. ‘I will wake the dawn’ implies that ‘I am up and stirring before the dawn’.

(12) Ex. XXV, 9.

(13) Just as the position and bounds of the Tabernacle were regulated by Moses, representing the Great Sanhedrin, so must the boundaries of the city and Temple Courts be decided upon by the Great Sanhedrin.

(14) I.e., by their very use itself. Shebu. 15a.

(15) I.e., in regard to the consecration of the vessels by the anointing.

(16) Num. VII, 1.

(17) Of the time of Moses.

(18) Num. IV, 12.

(19) And the use of the imperfect ישרתו (they shall minister) implies that the reference is to vessels of generations subsequent to Moses.

(20) אותם ‘them’, in Num. VII, 1, which appears to serve as an exclusion — which in face of the said verse is unnecessary.

(21) Interpreted to mean, ‘for later generations’, v. supra.

(22) ‘Them, to indicate a limitation.

(23) Ex. XVIII, where it is related how Moses followed the advice of Jethro, his father-in-law.

(24) V. supra 13b.

(25) Deut. XVI, 18.

(26) To execute the sentence of the court.

(27) Ibid.

(28) Ibid.

(29) I.e., the major Sanhedrin.

(30) Which indicates that the whole of Israel was to be treated as a corporate unit.

(31) The verse reads, Judges . . . shalt thou make thee . . . for (E.V. throughout) thy tribes, and they shall judge . . . thus; ‘for thy tribes’ is coupled with ‘and they shall judge’.

(32) Deut. XVII, 5.

(33) I.e., to the court at thy gates which consists of twenty-three.

(34) The latter before a court of seventy-one.

(35) Ibid. XIII, 14.

(36) V. p. 83, n. 4.

(37) Ibid. XIII, 13.

(38) ‘Undefined plurals mean at least two,’ is a Talmudic rule.

(39) V. n. 12.
(40) I.e., depopulation.
(41) Lit., ‘place’; e.g., Judea and Galilee.
(42) Tosef. Sanh. XIV.
(43) That a border city may not be condemned.
(44) V. 111.
(45) I.e., that the court consisted of seventy besides Moses.

with thee:[1] ‘With thee’ implies, ‘and thou with [i.e., in addition to] them.’ And R. Judah?[2] — ‘With thee’ was stated on account of the Shechinah.[3] And the Rabbis?[4] — Scripture saith, And they shall bear the burden of the people with thee:[5] ‘With thee’ implies, ‘and thou with them’. And R. Judah? — With thee’ intimates that [the elders must] be like thee,[6] [Moses]. And the Rabbis?[7] — Scripture saith, So shall they make it easier for thee and bear the burden with thee;[8] and the major Sanhedrin is deduced from the minor.

Our Rabbis taught: But there remained two men in the camp.[9] Some say: They [i.e., their names][10] remained in the urn.[11] For when the Holy One, blessed be He, said to Moses, Gather unto me seventy of the elders of Israel,[12] Moses said [to himself]: ‘How shall I do it? If I choose six out of each tribe, there will be two more [than the required number]; if I select five, ten will then be wanting. If, on the other hand, I choose six out of one and five out of another, I shall cause jealousy among the tribes.’ What did he do? — He selected six men [out of each tribe], and brought seventy-two slips, on seventy of which he wrote the word ‘Elder’, leaving the other two blank. He then mixed them all up, deposited them in an urn, and said to them, ‘Come and draw your slips.’ To each who drew a slip bearing the word ‘Elder’, he said, ‘Heaven has already consecrated thee.’ To him who drew a blank, he said: ‘Heaven has rejected thee, what can I do?’ Similarly, thou readest, Thou shalt take five shekels apiece by the poll.[13] Moses reasoned: How shall I act toward Israel? If I say to a man, ‘Give me [the shekels for] thy redemption,’ he may answer, ‘A Levite has already redeemed me.’ What did he do? He brought twenty-two thousand slips and wrote on each, ‘Levite’, and on another two hundred and seventy-three he wrote, ‘five shekels’. Then he mixed them up, put them into an urn and said to the people, ‘Draw your slips.’ To each who drew a slip bearing the word ‘Levite’, he said, ‘The Levite has redeemed thee.’ To each who drew a ticket with ‘five shekels’ on it, he said, ‘Pay thy redemption and go.’

R. Simeon said: They[14] remained in the Camp. For when the Holy One, blessed be He, ordered Moses: Gather unto me seventy of the elders of Israel, Eldad and Medad observed, ‘We are not worthy of that dignity.’ Thereupon the Holy One, blessed be He, said, ‘Because you have humbled yourselves, I will add to your greatness yet more greatness.’ And how did He add to their dignity? — In that all [the other prophets] prophesied and ceased, but their prophesying did not cease. And what did they prophesy? — They said, ‘Moses shall die and Joshua shall bring Israel into the land.’

Abba Hanin said on the authority of R. Eliezer: They prophesied concerning the matter of the quails,[15] [saying], ‘Arise, quail; arise, quail.’

R. Nahman said: They prophesied concerning Gog and Magog.[16] as it is said, Thus saith the Lord God: Art thou he of whom I spoke in old time by My servants the prophets of Israel, that prophesied in those days for many years[17] that I would bring thee against them? etc.[18] Read not ‘shanim’ [years] but ‘shenayim’ [two].[19] And which two prophets prophesied the same thing at the same time? — Say, they are Eldad and Medad.

The Master said: ‘All the other prophets prophesied and ceased, but they prophesied and did not cease.’ Whence do we infer that the others ceased? Shall we say, from the verse, They prophesied ‘velo yasafu’ [but they did so no more]?[20] If so, what of the passage. With a great voice, velo yasaf?[21] Does that too mean, it went on no more?[22] But that must be interpreted, It did not cease![23] — But here[24] it is written, And they prophesied,[25] whereas there[26] it is stated, [they] were prophesying[27] , i.e., they were still continuing to prophesy.

Now, according to the statement [that they prophesied] that Moses would die, [Joshua's request,] My Lord Moses, forbid them, is understandable; but on these two other views,[28] why [did he say], My Lord Moses, forbid them[29] — Because their behaviour was not seemly, for they were like a disciple who decides questions in the very presence of his teacher. Now, according to these two other opinions [the wish expressed by Moses,] Would that all the Lord's people were prophets[29] is reasonable; but on the view [that they prophesied] that Moses would die, was he then pleased therewith? — They did not complete their prophecy in his presence. How was Moses to ‘forbid them’ [as Joshua requested]? He [Joshua] said to him: Lay upon them public cares, and they will cease [prophesying] of themselves.[30]

WHENCE DO WE LEARN THAT WE MUST FIND ANOTHER THREE? But after all, a majority of two for an adverse verdict is impossible:[31] if eleven find the man not guilty and twelve find him guilty, there is still a majority of only one;[32] and if there are ten for not guilty and thirteen for guilty, there is a majority of three? — R. Abbahu said: [The majority of two] is possible only where [two] judges are added,[33] and then the Mishnah agrees with the opinion of all, whilst in the major Sanhedrin, it is possible in accordance with the view of R. Judah, who holds their number to be seventy.[34]

R. Abbahu also said: Where judges are added, an evenly-balanced court may be appointed from the very outset. But is this not obvious?[35] — You might have assumed that the one who says, ‘I do not know’ is regarded as an existing member, and that anything he says is to be taken into consideration. We are therefore informed that he who says, ‘I do not know,’ is regarded as nonexistent, and if he gives a reason [for a particular verdict] we do not listen to him.

R. Kahana said: If the Sanhedrin unanimously find [the accused] guilty, he is acquitted. Why? — Because we have learned by tradition that sentence must be postponed till the morrow in hope of finding new points in favour of the defence.[36] But this cannot be anticipated in this case.[37]

R. Johanan said: None are to be appointed members of the Sanhedrin, but men of stature, wisdom, good appearance, mature age, with a knowledge of sorcery,[38] and who are conversant with all the seventy languages of mankind,[39] in order that the court should have no need of an interpreter. Rab Judah said in Rab's name: None is to be given a seat on the Sanhedrin unless he is able to prove the cleanness of a reptile from Biblical texts.[40] Rab said: ‘I shall put forward an argument to prove its cleanness.

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(1) Num. XI, 16.

(2) How does he interpret ‘with thee’?

(3) I.e., in order to deserve that the Shechinah should rest upon them, as it is written, And I will take of the spirit which is upon thee etc. (Num. XI, 17). But it does not teach that Moses was to be counted in addition to them.

(4) How do they know that Moses was over them, seeing that ‘with thee’ has a different meaning?

(5) Num. XI, 17.

(6) E.g., in purity of family descent and bodily perfection.

(7) Whence do they deduce this?

(8) Ex. XVIII, 22, referring to the minor Sanhedrin.

(9) Num. XI, 26.

(10) Eldad and Medad.

(11) V. infra.

(12) Num. XI, 16.

(13) Num. III, 47. After the completion of the Tabernacle, the Levites were called to replace the firstborns of all Israelites in the service of the Sanctuary, (cf. Ex. XXIV, 5; XIX, 24.) In order to effect this transfer of office, both the firstborn and the Levites were numbered. And when it was found that of the former there were twenty-two thousand two hundred and seventy-three; and of the latter, twenty-two thousand, the two hundred and seventy-three firstborns who were in excess of the Levites were redeemed at the rate of five shekels per head. (Five shekels is the legal sum for the redemption of a firstborn. v. Num. XVIII, 16). To solve the difficulty of deciding who was to be redeemed and who exchanged, the above scheme was adopted.

(14) Eldad and Medad.

(15) The birds by which the Israelites were miraculously fed in the wilderness. Ex XVI, 11-13; Num. XI, 31.

(16) According to a widespread tradition, Gog and Magog represented the heathen nations or aggregate powers of evil, as opposed to Israel and the Kingdom of God, v. 'Eduy. II, 5. Ezekiel (XXXVIII, 2; XXXIX, 6) pictured the final destruction of the heathen world before the city of Jerusalem, as the defeat of Gog and Magog.

(17) שנים which may be read either 'shanim' years or 'shenayim' 'two'.

(18) Ezek. XXXVIII, 17.

(19) I.e., the two prophets who prophesied, etc.

(20) ולא יספו

(21) ולא יסף Deut. V, 19.

(22) But surely this cannot be said of the Shechinah.

(23) So in the first verse, יספו must bear the same connotation.

(24) Speaking of the elders, Num. XI, 25.

(25) ויתנבאו (imperfect with waw conversive = perfect).

(26) In the case of Eldad and Medad, Num. XI, 27.

(27) מתנבאים (participle).

(28) That they prophesied concerning the quails, or about Gog and Magog.

(29) Ibid. XI, 29.

(30) There is here a play on words, 'forbid them' being connected with 'ceasing'. Communal activities bring sorrow, and prophecy is possible only to the joyous spirit (Tosaf.).

(31) In a Sanhedrin of twenty-three.

(32) And for conviction, a majority of two is necessary; v. p. 3.

(33) As in the following case: If eleven found him guilty and eleven not guilty, while the twenty-third is dubious, the law provides for an addition of two members. In case these agree with the accusers, the majority for condemnation is then two, v. Mishnah infra 40a.

(34) It might happen that thirty-six condemn and thirty-four acquit.

(35) Surely this has already been stated in the Mishnah cited. For if two are added when the twenty-third is dubious, the court consists of an even number.

(36) V. infra 34a; 35a.

(37) Lit., 'But these will no more see for him (any merit).'

(38) So as to be able to detect those who seduce and pervert by means of witchcraft, cf. Rashi.

(39) This number is given frequently in Talmud and Midrash as the number of languages existing in the world. V. Pirke de R. Eliezer, ch. 24; Targum Jonathan on Gen. XI, 8, and Rashi on Deut. I, 5. As it is impossible for one man to know all these languages, he must have meant that amongst them all, all the languages were to be known. But cf. Rab's dictum below.

(40) I.e., he must be of subtle mind, so as to be able to prove the cleanness of reptiles that are definitely declared unclean in Scripture. V. Lev. XI, 29-39.

Talmud - Mas. Sanhedrin 17b

If a snake which causes so much uncleanness through killing is clean,[1] should not a reptile, which does not kill and spread uncleanness, be clean?' But it is not so, [as is proved] by comparison with an ordinary thorn.[2]

Rab Judah said in Rab's name: A Sanhedrin must not be established in a city which does not contain [at least] two who can speak [the seventy languages] and one who understands them. In the city of Bethar there were three and in Jabneh four [who knew how to speak them]: [viz.,] R. Eliezer, R. Joshua. R. Akiba, and Simeon the Temanite, who used to discuss before them sitting on the ground.[3]

An objection is raised: A Sanhedrin that has three[4] [able to speak the seventy languages] is wise [capable]; if four,[5] it is of the highest standard possible.[6] — He[7] holds the same view as the Tanna [of the following Baraitha]: It has been taught: With two, [the Sanhedrin is] wise [capable]; with three, it reaches the highest standard possible.

[The following rules apply throughout the Talmud: The statement,] 'It was argued before the Sages,' refers to Levi who argued before Rabbi. 'It was discussed before the Sages,' refers to Simeon b. Azzai, Simeon b. Zoma, Hanan the Egyptian, and Hanania b. Hakinai[8] . R. Nahman b. Isaac taught that there were five: the three Simeons,[9] Hanan [the Egyptian] and Hanania [b. Hakinai].

'Our Rabbis in Babylon' refers to Rab and Samuel.

'Our Rabbis in Eretz Yisrael', to R. Abba.

'The judges of the Exile', to Karna.[10]

'The judges of Eretz Yisrael', to R. Ammi and R. Assi.

'The judges of Pumbeditha', to R. Papa b. Samuel,

'The judges of Nehardea', to R. Adda bar Minyomi.

'The elders of Sura', to R. Huna and R. Hisda.

'The elders of Pumbeditha', to Rab Judah and R. 'Aina.

'The keen intellects of Pumbeditha', to 'Efa and Abimi, sons of Rehabah.

'The Amoraim of Pumbeditha', to Rabbah and R. Joseph.

'The Amoraim of Nehardea', to R. Hama. [Where we read,] 'Those of Neharbelai[11] taught,' it refers to Rammi b. Berabi.[12]

'They said in the School of Rab', refers to R. Huna. But did not R. Huna himself say, 'They said in the School of Rab'? — R. Hamnuna is therefore the one referred to.

'They said in the West',[13] refers to R. Jeremiah.

'A message was sent from Palestine,'[14] to R. Jose b. Hanina. 'They laughed at it in the West', to R. Eleazar. But do we not read: 'A message was sent from Palestine: according to R. Jose b. Hanina . . .'?[15] — Therefore reverse it: 'A message was sent from Palestine' refers to R. Eleazar; 'They laughed at it in the West', to R. Jose b. Hanina.

WHAT MUST THE POPULATION OF A CITY BE IN ORDER THAT IT MAY QUALIFY FOR A SANHEDRIN? A HUNDRED AND TWENTY, etc. What is the reason for that NUMBER?[16] — Twenty-three, corresponding to the number of the minor Sanhedrin, and three rows of twenty-three,[17] make ninety-two. Adding the ten 'batlanim'[18] of the Synagogue, we have a hundred and two. Then, a further two clerks,[19] two sheriffs,[20] two litigants, two witnesses, two zomemim,[21] and two to refute the zomemim,[22] gives a hundred and fourteen in all. Moreover, it has been taught: A scholar should not reside in a city where the following ten things are not found: A court of justice that imposes flagellation and decrees penalties; a charity fund[23] collected by two and distributed by three;[24] a Synagogue; public baths; a convenience; a circumciser; a surgeon, a notary;[25] a slaughterer[26] and a school-master.[27] R. Akiba is quoted [as including] also several kinds of fruit [in the list], because these are beneficial[28] to the eyesight.

R. NEHEMIA SAYS, [TWO HUNDRED AND THIRTY etc.]. It has been taught: Rabbi said:

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(1) As it is not included in the list of unclean creatures in Scripture; ibid.: and its dead carcase does not defile.

(2) For a thorn-prick also causes death, and so spreads uncleanness, yet it cannot be regarded by anyone as otherwise than clean.

(3) Because he was as yet unqualified owing to his immaturity, yet he was allowed to take part in the discussion.

(4) [Lit. 'of three', v. Yad. Ramah.]

(5) Cf. preceding note.

(6) Hence it appears that at least three such men are needed by a city, in order that it may qualify for a Sanhedrin.

(7) I.e., Rab, who says that only two are required.

(8) Though not ordained they were permitted to join the discussion in the presence of the ordained Rabbis; v. Bacher, AT. I, 409, 3.

(9) I.e., the two Simeons referred to above, and Simeon the Temanite.

(10) [Var. lec. Samuel and Karna, v. Rashbam, B.B. (Sonc. ed.) p. 279. n. 8; p. 419, n. 3.

(11) [Neharbel identified with Nehar Bil, east of Bagdad, Obermeyer, p. 269.]

(12) Beribi (v. Rashi, Bezah 8b); or 'Beroki' according to the Aruch.

(13) The Babylonians, when alluding to Palestine, called it the West, as Palestine was to the W. of Babylon. V. Ber. 2b.

(14) Lit., 'from there', which refers usually to Palestine, v. p. 15.

(15) How then could the sender himself be R. Jose b. Hanina?

(16) Lit., 'what has (the number) to do (with that)?'

(17) Usually seated behind the Sanhedrin for the purpose of completing courts. For full explanation, v. Mishnah, infra 37a.

(18) בטלנים fr. בטל 'to rest from labour', 'to be at ease or idle', hence men with leisure. Ten such men were appointed in every Community to attend religious services, in order to ensure the requisite quorum for public worship — the minyan. v. Meg. 3b.

(19) To take down notes for the prosecution and defence, v. infra 37a.

(20) The court beadles, who summoned the litigants and carried out the court sentences, such as flagellation.

(21) V. Glos. No testimony is valid if there is no possibility of its being refuted. Hence two are necessary for that.

(22) As a further precaution, lest false witnesses be hired to refute the first two.

(23) קופה, kupah, the communal fund from which distributions in money were made to the poor every Friday. B.B. 8b.

(24) V. B.B. 8b.

(25) For writing scrolls, etc.

(26) Rashal deletes this; in that case, the charity fund ranks as two institutions, viz., the collection and distribution.

(27) Rashi suggests the following persons as the six necessary to complete the hundred and twenty: viz., the two collectors and three distributors of charity, and one man capable of practising all the other professions.

(28) Lit., 'enlighten'.

Talmud - Mas. Sanhedrin 18a

[The population must be] two hundred and seventy-seven.[1] But has it not been taught: Rabbi said, [The population must be] two hundred and seventy-eight? — There is no difficulty: The one statement is according to R. Judah;[2] the other according to the Rabbis.[3]

Our Rabbis taught: And place such over them to be rulers of thousands, rulers of hundreds, rulers of fifties and rulers of tens:[4] The rulers of thousands amounted to six hundred;[5] those of hundreds, six thousand; those of fifties, twelve thousand; and those of tens, sixty thousand. Hence the total number of judges in Israel was seventy-eight thousand and six hundred.

CHAPTER II

MISHNAH. THE HIGH PRIEST MAY JUDGE AND BE JUDGED, TESTIFY AND BE TESTIFIED AGAINST. HE MAY PERFORM HALIZAH,[6] AND THE SAME MAY BE DONE TO HIS WIFE. THE DUTY OF YIBBUM[7] MAY BE PERFORMED TO HIS WIFE; HE HOWEVER, MAY NOT, PERFORM THAT DUTY, SINCE HE IS FORBIDDEN TO MARRY A WIDOW.[8]

IF A DEATH HAPPENS IN HIS FAMILY, HE MUST NOT WALK IMMEDIATELY BEHIND THE BIER,[9] BUT WHEN THEY[10] DISAPPEAR,[11] HE MAY SHOW HIMSELF;[12] WHEN THEY APPEAR [IN ONE STREET], HE MUST BE HIDDEN.[13] [IN THIS MANNER] HE MAY GO WITH THEM AS FAR AS THE ENTRANCE OF THE GATE OF THE CITY. SO HOLDS R. MEIR. R. JUDAH SAID: HE MUST NOT LEAVE THE SANCTUARY, BECAUSE IT IS WRITTEN, NEITHER SHALL HE GO OUT OF THE SANCTUARY'.[14] WHEN HE CONSOLES OTHERS, IT IS CUSTOMARY FOR THE PEOPLE TO PASS ALONG, ONE AFTER THE OTHER,[15] AND FOR THE 'MEMUNNEH'[16] TO PLACE HIM BETWEEN HIMSELF AND THE PEOPLE.[17] IF HE IS CONSOLED BY OTHERS, ALL THE PEOPLE SAY TO HIM, 'MAY WE BE THY ATONEMENT, AND HE ANSWERS THEM,' BE YE BLESSED OF HEAVEN. AND WHEN THE MOURNERS' MEAL[18] IS GIVEN TO HIM, ALL THE PEOPLE ARE SEATED ON THE FLOOR AND HE ON A STOOL.

THE KING MAY NEITHER JUDGE NOR BE JUDGED, TESTIFY NOR BE TESTIFIED AGAINST. HE MAY NOT PERFORM HALIZAH NOR MAY IT BE PERFORMED TO HIS WIFE. HE MAY NOT PERFORM YIBBUM, NOR MAY IT BE PERFORMED TO HIS WIFE. R. JUDAH SAID: IF HE WISHES TO PERFORM HALIZAH OR YIBBUM, HE SHALL BE REMEMBERED FOR GOOD. BUT THEY [THE RABBIS] SAID: [EVEN IF HE WISHES] HE IS NOT LISTENED TO; NOR MAY ANY ONE MARRY HIS WIDOW. R. JUDAH SAID: A KING MAY MARRY A KING'S WIDOW, FOR SO WE FIND IN THE CASE OF DAVID WHO MARRIED THE WIDOW OF SAUL, AS IT IS WRITTEN, AND I GAVE THEE THY MASTER'S HOUSE AND THY MASTER'S WIVES INTO THY BOSOM.[19]

GEMARA. THE HIGH PRIEST [MAY JUDGE]. But is this not obvious? — It is necessary to state, HE MAY BE JUDGED.[20] But that too is obvious, for if he cannot be judged, how can he judge? It is not written, hithkosheshu wa-koshshu,[21] which Resh Lakish interpreted: Adorn yourselves first, and then adorn others?[22] — But since he [the Tanna] wishes to state: A KING MAY NEITHER JUDGE NOR BE JUDGED, he also, teaches' THE HIGH PRIEST MAY JUDGE AND BE JUDGED. Alternatively, he [the Tanna] informs us of the following: Viz., of what has been taught: If a High priest killed anyone; if intentionally, he is executed, if unintentionally, he is exiled.[23] He transgresses positive and negative commandments, and ranks as a hedyot[24] in all respects.[25]

'If intentionally, he is executed.' Is this not obvious? — It is necessary to state, 'If unintentionally, he is exiled.'[26] But is not that, too, evident? It is necessary; for you might have thought that I could argue from the verse, And he shall dwell therein until the death of the High Priest[27] that only he whose return is provided for,[28] is exiled, but one whose return is not provided for, is not exiled. For we learnt:

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(1) Tosef. III. Two hundred and thirty in accordance with R. Nehemia, and forty-seven held in reserve for increasing the number of the court of twenty-three, where one is uncertain and the rest equally divided, adding two at a time, up to a maximum of seventy or seventy-one, v. infra 40a.

(2) Requiring only seventy to constitute the Sanhedrin.

(3) Requiring seventy-one.

(4) Ex. XVIII, 21.

(5) Since the population consisted of 600,000. Likewise for the other officials. (Ex. XII, 35.). [This is to teach that the judges were included in the number of each respective group (Tanh. Mishpatim].

(6) V. n. p. 1 and p. 31.

(7) יבום, The duty of a levirate marriage, i.e., the obligation of marrying one's brother's widow if she be childless. (V. Deut. XXV, 5.) Although marriage with a brother's widow was forbidden as a general rule (Lev. XVIII, 16; XX, 21), in the case of childlessness it was obligatory. This obligation could, however, be avoided by the ceremony of Halizah, which was recommended later in Talmudic times in preference to yibbum (v. Yeb. 39b; 109a).

(8) Lev. XXI, 14. A widow, or one divorced, or a profaned woman, or a harlot, these shall he not take.

(9) Though by following the bier, he would not come in actual contact with the dead: (v. p. 18, n. 7), precautions had to be taken so as to prevent any possibility of his becoming levitically impure.

(10) The other mourners.

(11) From one street, having entered a second.

(12) In the first.

(13) I.e., he most always be one street behind the concourse following the bier.

(14) Lev. XXI, 12.

(15) In ordinary cases, after the burial, friends of the mourner passed by in a line and offered him comfort. In later times this was reversed, the friends standing in two rows, and the mourner passing between them.

(16) Lit., ‘the appointed one’. An officer of high rank in the Temple, generally the superintendent of the Temple service. Here identical with the Segan; v. R. Papa's statement, p. 97 and n. 5. loc. cit.

(17) I.e., The High Priest was attended on the right by the Memunneh and on the left by the people.

(18) ‘se'udath habra'ah’, the first meal after the funeral which is prepared and given to the mourners by a neighbour. (v. II Sam. III. 35; M.K. 27b). This meal consists of bread and eggs. V.B.B. 16b.

(19) II Sam. XII, 8.

(20) And so the first is mentioned too, for completeness.

(21) התקוששו קושו Zeph. II, 1. E.V. Gather yourselves together, yea, gather together.

(22) By a play on the similarity of’ gather yourselves together’, fr. קושש and ‘adorn yourselves’, Heb. קשט

(23) V. Num. XXXV, 11.

(24) V. Glos.

(25) V. Sanh. Tosef. IV.

(26) V. p. 92, n. 4.

(27) Num. XXXV, 25.

(28) I.e., by the death of the High Priest.

Talmud - Mas. Sanhedrin 18b

One who killed the High Priest [unintentionally] or the High Priest who [so] killed a person, may never come forth from his place of exile.[1] Hence I would say that he should not be exiled. He therefore informs us [that he is]. But perhaps it is indeed so?[2] — Scripture states, Every man slayer may flee thither,[3] implying even the High Priest.

‘He transgresses positive and negative commandments.’ But is he bound[4] to transgress?[5] — What it means is: If he transgressed a positive or a negative commandment, he is in every respect [equal to] a hedyot.[6] But is this not obvious? — [No,] I might think, since we learnt: ‘A whole tribe, a false prophet or a high priest are not to be judged except by a court of seventy one’;[7] and R. Adda b. Ahabah said: [This is deduced from the verse,] Every great matter they shall bring unto thee,[8] meaning, ‘the matters of a great man’:[9] — therefore (I might think) all matters of a great man [involve trial by the Great Sanhedrin]; the Tanna therefore teaches us [otherwise].[10]

But perhaps it is so?[11] — Is it actually written, ‘matters of a great [man]’? What it states is: ‘The great matter’, i.e., the really important matter.[12]

HE MAY TESTIFY AND BE TESTIFIED AGAINST. He may testify? But has it not been taught: And hide thyself from them;[13] there are times when thou mayest hide thyself[14] and there are times when thou mayest not. How so?[15] — [E.g., when the finder is] a Kohen and it [sc. the object found] is in a grave-yard;[16] or an old man, and it is undignified for him;[17] or when his work is of greater value than his neighbour's [loss]: in such cases Scripture says, And hide thyself[18] . — said R. Joseph: He may be a witness for the king.[19] But have we not learnt: HE [THE KING] MAY NEITHER JUDGE NOR BE JUDGED; TESTIFY NOR BE TESTIFIED AGAINST? — But, said R. Zera: He may be a witness for the king's son. But the king's son is a commoner![20] — Rather [say thus]: He may testify in the presence of the king.[21] But surely the king may not be given a seat on the Sanhedrin! — For the sake of the High Priest's dignity, he comes and sits down until his evidence is received, after which he leaves and then we deliberate on his[22] case.

The text [states]: ‘The king may not be given a seat on the Sanhedrin;’ nor may the king or the High Priest be members of the board for the intercalation of the year.

‘The king [may not be given a seat] in the Sanhedrin,’ — because it is written, Thou shalt not speak ‘al rib [in a case].[23] [meaning], thou shalt not speak against the rab [chief of the judges].[24] Again. ‘nor may the king or the High Priest be members of the board for the intercalation of the year.’ The king, on account of ‘Afsanya’ [the upkeep of the army];[25] the High Priest, because of the [autumnal] cold.[26]

R.Papa said: This[27] proves that the seasons of the year fall in with the normal lunar months.[28] But is it so? Were there not three cowherds who were standing conversing, and who were overheard by some Rabbis. One of them said: If the early and late sowing[29] sprout together, the month is Adar; if not, it is not Adar.[30] The second said: If in the morning frost is severe enough to injure[31] an ox, and at mid-day the ox lies in the shade of the fig-tree and scratches its hide,[32] then it is Adar, if not, it is not Adar. And the third said: When a strong east wind is blowing and your breath can prevail against it, the month is Adar; if not, it is not Adar. Thereupon the Rabbis intercalated the year?[33] — Is it then logical for you to assume that the Rabbis intercalated the year by a simple reliance upon cowherds? But they relied on their own calculations, and the cowherds [merely] corroborated their proposed action.[34]

HE MAY PERFORM HALIZAH. The Tanna teaches this[35] categorically. irrespective of whether [his sister-in-law was widowed] after nesu'in or only after erusin.[36] Now, as for a widow after nesu'in, it is correct, since he is interdicted by a positive and a negative command;[37]

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(1) That is, if there was no High Priest at the time when he was exiled. V. Mak. 11b.

(2) That he should actually be exempt from exile.

(3) Deut. XIX,3.

(4) Lit., ‘Is there no way’, ‘is it impossible that he should not transgress’?

(5) ‘He transgresses etc.’ implies that he must transgress.

(6) V. Tosef. Sanh. IV.

(7) V. supra 2a.

(8) Ex. XVIII, 22.

(9) I.e., the High Priest, v supra 16b.

(10) That through transgression he becomes a mere hedyot and is tried by three.

(11) May not the interpretation of the matters of a great man apply to this also?

(12) I.e., one involving capital punishment.

(13) Deut. XXII, 4, in reference to the return of lost objects.

(14) I.e. refrain from carrying out the duty of returning the find.

(15) When is one permitted to retreat?

(16) V. p. 18, n.7.

(17) To pick up the object.

(18) Thus a man's dignity abrogates the injunction, Thou mayest not hide thyself’; in the same way, the duty of bearing testimony (v. Lev. V,1) should be abrogated in favor of a High Priest, since it is not in keeping with his exalted office.

(19) I.e. in a case where the king is one of the litigants.

(20) Hence even so it is still undignified for the High Priest to testify.

(21) I.e., when the king is a member of the Sanhedrin.

(22) The king's son's (Rashi).

(23) Ex. XXIII, 2. רב rib is here written defectively, i.e., without a yod, hence can be read rab, ‘master’ or ‘chief’.

(24) I.e. if the king were a member of the Sanhedrin, other members would be inclined to suppress their opinions in deference to him.

(25) Gr.** from ** wages. As it would be to his interest sometimes to intercalate and sometimes not to intercalate the year. according as the payment of the army is by the year or by the month.

(26) Since he might be biassed against intercalation which, by placing the Day of Atonement later in the autumn, would make the several ritual baths which he has to take on that day (five immersions in all) rather cold. V. Yoma 31b.

(27) The objection to the High Priest's taking part in the intercalation of the year.

(28) I.e., when the year is intercalated, the weather in Tishri is the equivalent of that of Marcheshvan in an ordinary year.

(29) I.e., the wheat sown earlier and the barley that was sown later (Rashi).

(30) But Shewat.

(31) Lit., ‘kill’.

(32) Through the heat.

(33) Thus we see that the purpose of intercalation is to readjust the seasons, and the second Adar then has the climate of the first Adar in normal years, therefore Tishri will have its usual degree of heat in an intercalated year.

(34) In case, therefore, intercalation has been prompted by a reason other than the readjusting of the seasons, the weather will vary according to the months.

(35) That the High Priest may not perform Yibbum.

(36) V. Glos. A widow after erusin is still a virgin.

(37) a) A virgin of his people he shall take to wife, Lev.XXI, 14; b) A widow he shall not take. ibid.

Talmud - Mas. Sanhedrin 19a

and a positive command[1] cannot abrogate a positive and a negative command. But in the case of a widow after erusin, why [is he not permitted to marry her]?[2] The positive command[3] should set aside the negative? — The first act of connubial intercourse was forbidden as a preventive measure against further acts.[4] It has been taught likewise: [Where the widow is forbidden in marriage to the brother-in-law by a negative or positive command] and he has connubial relations at all with her, he acquires [her in marriage] but may not retain her for further cohabitation.[5]

IF A DEATH HAPPENS IN HIS FAMILY. Our Rabbis taught: Neither shall he go out of the Sanctuary:[6] [this means,] he shall not go out with them, but he may go after them. How so? — When they [the other mourners] disappear, he may reveal himself [to the public]; and when they appear [in a street], he must be hidden [in another].[7]

AND HE MAY GO WITH THEM AS FAR AS THE ENTRANCE GATE OF THE CITY. [R. JUDAH SAID. . .BECAUSE IT IS WRITTEN . . .]. Surely R. Judah's argument is correct? — R. Meir will tell you: in that case,[8] he must not [leave the Temple] even for his house![9] Hence this must be the meaning of, Neither shall he go out of the Sanctuary: He must not depart from [i.e., profane] his holy status, and in this case, since he has something to remind him [of his status][10] he will not come into contact [with the dead]. And R. Judah? — Owing to his bitter grief, he might be tempted to overlook that, and thus come into contact [therewith].

WHEN HE GOES TO CONSOLE OTHERS. Our Rabbis taught: When he passes along the row to comfort others, the Segan[11] and the former High Priest[12] stand on his right; whilst the Rosh-Beth-Ab,[13] the mourners and all the people are on his left. And when he stands in the row to be comforted by others, the Segan is stationed on his right and the Rosh Beth Ab and all the public on his left. But the former High Priest is not present on this latter occasion. Why? — He [the High Priest] might feel depressed by the thought, ‘He rejoices at my misfortune.’[14]

From this Baraitha. says R. Papa, we can infer three things: [i] that the Segan [here] and the Memunneh [in the Mishnah] are identical;[15] [ii] that the mourners stand, while the people pass by; [iii] that the mourners are placed to the left of the comforters.

Other Rabbis taught: Formerly the mourners used to stand still while the people passed by. But there were two families in Jerusalem who contended with one another, each maintaining, ‘We shall pass first’. So the Rabbis established the rule that the public should remain standing and the mourners pass by.

Rammi bar Abba said: R. Jose restored the earlier custom in Sepphoris,[16] that the mourners should stand still and the public pass by. He also said: R. Jose enacted in the same town that a woman should not walk in the street followed by her child,[17] owing to an incident that once happened.[18] Further, Rammi B. Abba said: R. Jose also enacted in that town that women while in the closet should talk to one another for the sake of privacy. [from the intrusion of men].

R.Manashia b. ‘Awath said: I inquired of R. Josiah the Great, in the grave-yard of Huzal,[19] and he told me that a row [for condolence] must consist of not less than ten people, excluding the mourners, and that it was immaterial whether the mourners stood still and the public passed by, or the mourners passed by and the public remained standing.

WHEN HE IS COMFORTED BY OTHERS etc. The schoolmen asked: When he consoled others, what did he say to them? — Come and hear! ‘And he said [to them], Be comforted’. On what occasion [did he actually say this]? Shall we say, when others comforted him? But how could he say, ‘Be comforted’? He would suggest ill-omen to them! — it must therefore be taken that when he comforted others, he said: ‘Be comforted’. Draw your own conclusion!

THE KING MAY NEITHER JUDGE etc. R. Joseph said: This refers only to the Kings of Israel, but the Kings of the House of David may judge and be judged, as it is written, O House of David, thus saith the Lord, execute justice in the morning;[20] and if they may not be judged, how could they judge: is it not written, Hithkosheshu wakoshshu,[21] which Resh Lakish interpreted. ‘adorn yourself first and then adorn others’?[22] But why this prohibition of the kings of Israel? Because of an incident which happened with a slave of King Jannai.[23] who killed a man. Simeon b. Shetah[21] said to the Sages: ‘Set your eyes boldly upon him and let us judge him.’ So they sent the King word, saying: ‘Your slave has killed a man.’ Thereupon he sent him to them [to be tried]. But they again sent him a message ‘Thou too must come here, for the Torah says, If warning has been given to its owners,[24] [teaching], that the owner of the ox must come and stand by his ox.’[25] The king accordingly came and sat down. Then Simeon b. Shetah said: ‘Stand on thy feet, King Jannai, and let the witnesses testify against thee; yet it is not before us that thou standest, but before Him who spoke and the world came into being, as it is written, Then both the men between whom the controversy is, shall stand etc.’[26] ‘I shall not act in accordance with what thou sayest, but in accordance with what thy colleagues say,’ he answered.

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(1) Sc. Her husband's brother shall go in into her and take her to him to wife. Deut. XXV, 5.

(2) Since he is interdicted only by a negative command, viz., a widow he shall not take, Lev. XXI, 14.

(3) Of yibbum. — This is a general rule, where two precepts come into opposition.

(4) Which would be a transgression, the precept having been fulfilled by the first.

(5) V. Yeb. 20b. This proves that a second act of connubial relationship is forbidden.

(6) Lev. XXI, 12.

(7) V. notes on Mishnah.

(8) If the verse is meant literally.
(9) Which is absurd. He must go home sometimes.
(10) Viz., the unusual procedure.
(11) V. p. 91, n. 11. [The Segan generally rendered ‘deputy high priest’ Schurer, II, 421, identifies him with the ** mentioned in Josephus, the superintendent of the Temple service. V., however, Schwarz, A., in MGWJ., LXIV, 30ff.
(12) משוח שעבר lit., ‘the anointed who has passed (from his office)’. Provisional High Priest — a Priest who is appointed to act as a substitute for the High Priest when temporarily disqualified by uncleanness. When the first returns to office, this one is known as the ex-anointed.
(13) ראש בית אב . Priests were divided into eight divisions, each called Mishmar; and each Mishmar was again divided into six subdivisions, called Beth-Ab, for the service of each week-day. The chief of these sub-divisions was called Rosh-beth-ab. Cf. Maim, Yad, Kele Hamikdash, IV, 3-11.
(14) Probably because the Mashuah she-’abar would be reluctant to hand over the office, and so bear ill-feelings against the rightful occupant.
(15) This is deduced from the fact that the High Priest here also is placed between the mourners and the public.
(16) צפורי (lit. ‘bird’). Important city in Galilee, at one time its capital. Frequently identified in the Talmud (Meg. 6a) with Kitron (Judges I, 30). R. Jose was born in Sepphoris and knew it well. [V. Klein, S. מאמרים שונים להקירת ארץ ישראל ,54ff.]
(17) But that she should follow the child.
(18) Rashi says: Once immoral men kidnapped a child which was following its mother, and she was searching for it, lured her into a house and there assaulted her.
(19) [A place between Nehardea and Sura. Obermeyer op. cit. p. 299].
(20) Jer. XXI, 12.
(21) Zeph. II, 1.
(22) V. p. 92. n. 6.
(23) Alexander Jannaeus (Jonathan) lived 103-76 B.C.E. third son of John Hyrcanus, King of Judea but not of the House of David. (8) He was a brother of the queen (v. Ber. 48a), yet the relationship of the ruler with the Pharisees, of whom Simeon b. Shetah was the head, was one of bitter antagonism. History relates most cruel acts which Jannai committed against them (v. Graetz, Geschichte III, 146ff.) At times during his reign, the Sanhedrin consisted almost entirely of Sadducees, Simeon being the only Pharisee among them (v. Meg. Ta'anith 10). This fact might be traced also from this incident [V. Hyman, A., Toledoth, III, 124. A similar story is related by Josephus. (Ant. XIV, 9, 4) of Herod who, as ‘servant’ of Hyrcanus was charged with murder. The identification of the incident related here with that reported by Josephus, involving a confusion of names on the part of the Talmud, as suggested by Krauss, Sanhedrin-Makkot, 103, is quite unwarranted.]
(24) Ex. XXI, 29.
(25) So too in the case of a slave, who is regarded as one of the chattels of his master.
(26) Deut. XIX, 17.

Talmud - Mas. Sanhedrin 19b

[Simeon] then turned first to the right and then to the left, but they all, [for fear of the King], looked down at the ground.[1] Then said Simeon b. Shetah unto them: ‘Are ye wrapped in thoughts?[2] Let the Master of thoughts [God] come and call you to account!’ Instantly, Gabriel[3] came and smote them to the ground, and they died. It was there and then enacted: A King [not of the House of David] may neither judge nor be judged; testify, nor be testified against.

HE MAY NOT PERFORM HALIZAH NOR MAY IT BE PERFORMED etc. [R. JUDAH SAID etc.]

But is this really so?[4] Did not R. Ashi say, that even according to the view that if a Nasi foregoes his honour his renunciation is accepted, yet if a King foregoes his honour, it is not accepted; for it is written, Thou shalt not in any wise set him over thee[5] intimating, that his authority[6] should remain over you?[7] — A precept is a different matter.

NOR MAY ANYONE MARRY [HIS WIDOW. R. JUDAH SAID . . .] It has been taught: They [the Rabbis] said to R. Judah: He [David] married women of the house of the King who were permissible to him, namely, Merab and Michal.[8]

R.Jose was asked by his disciples: How could David marry two sisters while they were both living?[9] He answered: He married Michal after the death of Merab. R. Joshua b. Korha said: His marriage to Merab was contracted in error,[10] as it is said, Deliver me my wife Michal whom I betrothed unto me for a hundred foreskins of the Philistines.[11] How does this prove it? — R. Papa answered: Because he said, My wife Michal but not 'my wife Merab'. Now, what was the error in his marriage [with Merab]? [It was this:] It is written, And it shall be that the man who killeth him, the king will enrich him with great riches and will give him his daughter.[12] Now he [David] went and slew him, whereupon Saul said to him: I owe thee a debt, and if one betroths a woman by a debt,[13] she is not betrothed.[14] Accordingly he gave her to Adriel, as it is written, But it came to pass at the time when Merab, Saul's daughter should have been given to David, that she was given to Adriel the Meholathite to wife.[15] Then Saul said to David, 'If you still wish me to give you Michal to wife, go and bring me [another] hundred foreskins of the Philistines.' He went and brought them to him. Then he said: 'You have now two claims on me, [the repayment of] a loan[16] and a perutah.[17] Now, Saul held that when a loan and a perutah are offered [as kiddushin], he [the would-be husband] thinks mainly of the loan;[18] but in David's view, when there is a loan and a perutah, the mind is set on the perutah.[19] Or if you like, I will say, all agree that where a loan and a perutah [are offered], the mind is set on the perutah. Saul, however, thought that [the hundred foreskins] had no value, while David held that they had value at least as food for dogs and cats. How does R. Jose[20] interpret the verse, Deliver me my wife Michal? —[21] He explains it by another view of his. For it has been taught: R. Jose used to interpret the following confused passage thus: It is written, But the king took the two sons of Rizpah the daughter of Ayah whom she bore unto Saul, Armoni and Mephibosheth, and the five sons of Michal, the daughter of Saul, whom she bore to Adriel the son of Barzillai, the Meholathite etc.[22] But was Michal really given to Adriel; was she not given to Palti the son of Layish, as it is written, Now Saul had given Michal, David's wife, to Palti the son of Layish . . .?[23] But Scripture compares the marriage of Merab to Adriel to that of Michal to Palti, to teach that just as the marriage of Michal to Palti was unlawful.[24] so was that of Merab to Adriel.[25]

Now as to R. Joshua b. Korha,[26] surely it is written, And the five sons of Michal the daughter of Saul whom she bore to Adriel. — R. Joshua [b. Korha] answers thee: Was it then Michal who bore them? Surely it was rather Merab who bore them! But Merab bore and Michal brought them up; therefore they were called by her name. This teaches thee that whoever brings up an orphan in his home, Scripture ascribes it to him as though he had begotten him.

(Mnemonic: Hanina — he called,' Johanan — and his wife,' Eleazar — and Redemption; and Samuel among his Disciples.)[27]

R.Hanina says this is derived from the following: And the women her neighbours, gave it a name, saying, There is a son born to Naomi.[28] Was it then Naomi who bore him? Surely it was Ruth who bore him! But Ruth bore and Naomi brought him up; hence he was called after her [Naomi's] name.

R.Johanan says it is derived from the following: And his wife Ha-Jehudiah[29] bore Yered the father of Gedor [and Heber the father of Soco, and Jekuthiel the father of Zanoah][30] and these are the sons of Bithia the daughter of Pharaoh, whom Mered took.[31] Now, 'Mered' was Caleb; and why was he called Mered?[32] . — Because he opposed the counsel of the other spies.[33] But was he [Moses][34] indeed born of Bithia and not rather of Jochebed? — But Jochebed bore and Bithia reared him;[35] therefore he was called after her.

R.Eleazar says: It is inferred from the following: Thou hast with thine arm redeemed thy people, the sons of Jacob and Joseph, Selah.[36] Did then Joseph beget them; surely it was rather Jacob? — But Jacob begot and Joseph sustained them; therefore they are called by his name.

R.Samuel b. Nahmani said in R. Jonathan's name: He who teaches the son of his neighbour the Torah, Scripture ascribes it to him as if he had begotten him, as it says, Now, these are the generations of Aaron and Moses;[37] whilst further on it is written, These are the names of the sons of Aaron: thus teaching thee that Aaron begot and Moses taught them; hence they are called by his name.[38]

Therefore thus saith the Lord unto the house of Jacob, who redeemed Abraham.[39] But where do we find that Jacob redeemed Abraham? — Rab Judah answered; It means that he redeemed him from the pains of rearing children;[40] hence the passage, Jacob shall not now be ashamed, neither shall his face now wax pale.[41] He shall not now be ashamed — of his father, neither shall his face now become pale — because of his grandfather.

[The second husband of David's undivorced wife] is variously called Palti[42] and Paltiel![43] — R. Johanan said: His name was really Palti, but why was he called Paltiel? Because God saved him from transgression.[44] What did he do [to be delivered from sin]? He planted a sword between her [Michal] and himself, and said, Whoever [first] attempts this thing,[45] shall be pierced with this sword. But is it not stated: And her husband [Palti] went with her?[46] — This means that he was to her like a husband.[47] But is it not written, He went weeping? — This was for losing the good deed [of self-restraint]. Hence [he followed her] to Bahurim, implying that they both had remained like unmarried youths[48] and not tasted the pleasure of marital relations.

R.Johanan said: Joseph's strong [temptation][49] was but a petty trial to Boaz;[50] and that of Boaz was small in comparison with that of Palti son of Layish. ‘Joseph's strong temptation was but a petty trial to Boaz,’ as it is written, And it came to pass at mid-night and the man was startled, ‘wa — yillafeth’.[51] What is the meaning of wa — yillafeth? — Rab said: His flesh became [as hard] as turnip heads.[52]

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(1) Lit ‘they pressed their faces into the ground,’ fearing to express an opinion.

(2) Lit., ‘You are masters of (hesitating) thoughts.’ I.e., ‘Are you in doubt on the point as to whether the law applies to the king or not?’ Said sarcastically, of course.

(3) גבריאל (lit., ‘man of God’). Angel mentioned in Dan. VIII, 16 and IX, 21. Frequently cited in Talmud as God's messenger on various missions, particularly punishment.

(4) Referring to R. Judah's view.

(5) Deut. XVII, 15.

(6) Lit., ‘his fear’.

(7) I.e., fear of him should always be before your eyes. This follows from the emphasis of ‘set’, expressed in the Heb. as usual, by the double form of the word. — The ceremony of Halizah is an undignified one.

(8) The daughters of Saul, but not his widows whom he was not permitted by law to marry.

(9) V. Lev. XVIII, 18, Thou shalt not take a woman to her sister.

(10) And so was invalid.

(11) II Sam. III, 14.

(12) I Sam. XVII, 25, referring to the slaying of Goliath.

(13) I.e., by remitting the amount to her or, if she is a minor, to her father.

(14) For in returning a money loan, unlike a trust, the debtor is not obliged to return the actual coin lent, but its equivalent. Hence the woman receives actually nothing at the time of betrothal, by which it should be effected. V. Kidd. 6b; 47a.

(15) I Sam, XVIII, 19.

(16) The promise to enrich him which stands as a loan.

(17) A small coin representing the estimated value of the hundred foreskins. A perutah is sufficient to serve as token of betrothal (kiddushin).
(18) And consequently, as stated above, she would not be betrothed.
(19) Hence the betrothal is valid.
(20) Who holds that before his marriage to Michal, David was legally married to Merab.
(21) Which seems to exclude Merab as his wife.
(22) II Sam, XXI, 8.
(23) I Sam. XXV, 44.
(24) And so invalid, as she was already betrothed to David.
(25) Hence R. Jose interprets the words, ‘Michal my wife’, not as excluding Merab as wife, but rather as showing that just as Michal was legally his wife, so was Merab. Hence the marriages of Michal and Merab to Palti b. Layish and Adriel respectively, were transgressions.
(26) Who holds that Merab's marriage to Adriel was not lawful.
(27) V. p. 21, n. 5.
(28) Ruth IV, 17.
(29) Bithia, the daughter of Pharaoh, who is referred to at the conclusion of the verse.
(30) All these names are designations of Moses (v. Meg. 13a).
(31) I Chron. IV, 18.
(32) מרד, ‘to disobey’, ‘oppose’ or ‘rebel’.
(33) Num. XIII, 30.
(34) V. n. 4.
(35) Ex. II, 10.
(36) Ps. LXXVII, 16.
(37) Num. III, 1.
(38) Under the earliest system of education, children were taught at home by their fathers, until Joshua b. Gamala reorganised the system by setting up schools in every town (B.B. 21a). Although that system was completely in vogue in the days of R. Samuel b. Nahmani, his dictum here might indicate that some virtue was still ascribed to private teaching by the parent or his proxy. It is doubtful whether it would simply refer to an ordinary elementary school teacher.
(39) Isa. XXIX, 22. The E.V. translates differently.
(40) Abraham, who was actually promised multiplication, should have borne the burden of rearing the children, but it fell upon Jacob.
(41) Ibid.
(42) I Sam. XXV, 44.
(43) II Sam. III, 15.
(44) The word is composed of פלט — ‘to escape’ and אל — ‘God’. Bible onomatology has a large number of compound names which express distinct ideas. Many are compound with the name of God (El) preceding it, as El-Nathan, or succeeding it, as Amiel, or as in the instance in question. The chief reason for the later addition of ‘El’ to ‘Palti’ is taken to express, as it were, the ineffably holy name to which he dedicated himself.
(45) I.e forbidden indulgence.
(46) II Sam. III, 16.
(47) I.e., maintaining and loving her, but no more.
(48) בחוים pl. of בחור, a youth.
(49) V. Gen. XXXIX, 7-13.
(50) V. Ruth III, 8-15. I.e., the strong temptation to which Joseph was exposed, and which called forth his greatest powers of resistance, was but as a small thing, for which the mere exercise of a little self-restraint would suffice, in comparison to the temptation withstood by Boaz.
(51) וילפת, (E.V. ‘and turned himself’), Ruth III, 8.
(52) ראשי לפתות (ראש = head; לפת = turnip).

Talmud - Mas. Sanhedrin 20a

‘And that of Boaz was small in comparison with that of Palti son of Layish.’ as has been stated above.[1]

R.Johanan said: What is meant by the verse, Many daughters have done valiantly, but thou excellest them all?[2] — ‘Many daughters’, refers to Joseph and Boaz; ‘and thou excellest them all’, to Palti son of Layish.[3]

R.Samuel b. Nahmani said in R. Jonathan's name: What is meant by the verse, Grace is deceitful, and beauty is vain, but a woman that feareth the Lord, she shall be praised?[4] — ‘Grace is deceitful’ refers to [the trial of] Joseph; ‘and beauty is vain’, to Boaz; while ‘and a woman that feareth the Lord, she shall be praised’, to the case of Palti son of Layish. Another interpretation is: ‘Grace is deceitful’, refers to the generation of Moses;[5] ‘and beauty is vain’ to that of Joshua; ‘and she that feareth the Lord shall be praised’, to that of Hezekiah.[6] Others Say: ‘Grace is deceitful’, refers to the generations of Moses and Joshua; ‘and beauty is vain’, to the generation of Hezekiah; while ‘she that feareth the Lord shall be praised’. refers to the generation of R. Judah son of R. Ila'i, of whose time it was said that [though the poverty was so great that] six of his disciples had to cover themselves with one garment between them, yet they studied the Torah.[7] MISHNAH. IF A DEATH OCCURS IN HIS [THE KING'S] FAMILY, HE MUST NOT GO OUT OF THE DOOR OF HIS PALACE. R. JUDAH SAID: IF HE WISHES TO FOLLOW THE BIER, HE MAY, EVEN AS WE FIND IN THE CASE OF DAVID, WHO FOLLOWED THE BIER OF ABNER, AS IT IS WRITTEN, AND KING DAVID FOLLOWED THE BIER.[8] BUT THEY [THE RABBIS] ANSWERED: [THIS IS NO PROOF, FOR] THAT WAS BUT TO PACIFY THE PEOPLE.[9] AND WHEN THE MOURNERS’ MEAL[10] [AFTER THE FUNERAL] IS GIVEN TO HIM, ALL THE PEOPLE RECLINE ON THE GROUND, AND HE SITS ON THE DARGESH.[11]

GEMARA. Our Rabbis taught: Wherever it is customary for women to follow the bier, they may do so; to precede it, they may do so [likewise]. R. Judah said: Women must always precede the bier, for we find that David followed the coffin of Abner, as it is written, And King David followed the bier.[12] They [sc. the Rabbis] said to him: That was only to appease the people, and they were indeed appeased, for David went to and fro, from the men to the women and back from the women to the men, as it is written, So all the people and all Israel understood that day that it was not of the king to slay Abner.[13]

Raba expounded [in a lecture]: What is meant by the verse, And all the people came ‘lehabroth’ [to cause] David [to eat bread]?[14] The original text was, ‘lehakroth’[15] but we read, ‘lehabroth’. At first they intended to destroy him;[16] but afterwards, [being appeased,] they gave him to eat [the comforters’ meal].

Rab Judah said in Rab's name: Why was Abner punished? — Because he should have protested to Saul[17] but did not. R. Isaac, however, said: He did indeed do so, but was not heeded. Both derive their views from the same verse, viz., And the king lamented for Abner and said: Should Abner die as a churl dieth, thy hands were not bound nor thy feet put into fetters.[18] The one who says that he did not protest, interprets it thus: Thy hands were not bound nor thy feet put into fetters, why then didst thou not protest? [Therefore,] As a man falleth before the children of iniquity so didst thou fall. The other who maintains that Abner did protest but was not listened to, [holds that] he [David] expressed his astonishment: Should he have died as a churl dieth? Seeing that thou didst indeed protest to Saul, Why, then, didst thou fall as a man falleth before the children of iniquity? But on the view that he did protest, why was he punished? — R. Nahman b. Isaac says: Because he delayed the accession of David's dynasty by two and a half years.[19]

AND WHEN THE MOURNERS MEAL IS GIVEN TO HIM etc. What is a dargesh? — ‘Ulla said: The bed of the domestic genius.[20] The Rabbis asked ‘Ulla: How can it be that he should be made to sit on it now [as a mourner], when he had never sat on it before? Raba refuted their objection: What is the difficulty? Is this not similar to the eating and drinking, for hitherto we had not given him food and drink, while now, [after the funeral] we do![21] But if there is any objection, it is this: [It was taught] The dargesh need not be lowered[22] but must be stood up.[23] Thus, should you maintain that the daresh is the bed of the domestic genius, why is there no need to lower it? Surely it has been taught: The mourner in lowering the beds shall lower not only his own couch but all the others he has in the house! — But what is the difficulty? Perhaps it [the dargesh] is in the same category as a bed [sideboard] designed for holding utensils of which, the Tanna taught, that if it is designed for holding utensils, it need not be lowered. If indeed, there is any objection, it is this: [It has been taught:] Rabban Simeon b. Gamaliel said: As for the dargesh, its loops are undone, and it collapses of itself. Now if it be the bed of the domestic genius, has it any loops? — But when Rabin came [from Palestine][24] he said: One of the Rabbis named R. Tahlifa. who frequented the leatherworkers' market, told me that dargesh was the name of a bed of skins.[25] R. Jeremiah said in R. Johanan's name: A dargesh

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(1) For the former withstood temptation but once, while the latter, night after night, for many years.

(2) Prov. XXXI, 29.

(3) I.e., to the moral victories gained by these men on account of the seductiveness of women.

(4) Ibid. 30

(5) I.e., they eschewed the pleasures of women in their eagerness to study the Torah, and so the other two mentioned immediately after.

(6) In whose days the Law was studied even more assiduously than in the days of Moses and Joshua. V. infra 94b.

(7) [On the poverty of scholars in the days of R. Judah b. Ila'i as a result of the Hadrianic persecutions, v. Buchler, A., The Jewish Community of Sepphoris, 67ff.]

(8) II Sam. III, 31.

(9) I.e., to dispel the suspicion that Abner had been killed by him

(10) V. p. 92, n. 2.

(11) Explained in the Gemara.

(12) Ibid. From which it is inferred that the women preceeded it, for it is improbable that the King would have walked in their midst.

(13) II Sam. III, 37.

(14) להברות ibid. 35.

(15) להכרות 'to dig or pierce'. Though not found so in our Bibles, it must have been in theirs. In fact, such a version was known to Saruk and R. Joseph. Kimhi (father of David) and such a form is sighted from a number of MSS, v. Kennicott; cf. marginal note of Berlin I. infra 103a.

(16) Suspecting that he had a hand in Abner's death.

(17) For putting the Priests of Nob to death. V. I Sam. XXII, 18.

(18) II Sam. III, 33.

(19) By his act of appointing Ish-Bosheth (Saul's only surviving son) as king of Israel. Ish-Bosheth, being feeble, owed his crown entirely to Abner. He reigned two years. (II Sam II.) Six months having elapsed after be was slain, David was generally recognised as king of Israel. There is a controversy with regard to the chronology of his reign. Rashi and Tosaf. both agree that the throne of Israel remained vacant for five years, but they differ as to the time the vacancy occurred. The former maintains it took place before the reign of Ish-Bosheth.

(20) I.e., a small couch not used for rest, but placed in the home merely as an omen of good fortune.

(21) I.e., it was not necessary for him to eat and drink the food of others, whilst now it is.

(22) As is the rule with all other stools and beds in a house of mourning.

(23) V. M.K. 27a.

(24) V. p. 390, n. 1.

(25) Its strapping consisted of leather instead of ropes. Not being supported by long legs, it stood very low, and therefore, on practical grounds, the first Tanna maintains that it must not be undone and lowered, as the leather will be spoiled through the damp earth; whilst Rabban Simeon b. Gamaliel holds that there is no fear of this.

Talmud - Mas. Sanhedrin 20b

has the strapwork inside,[1] while an ordinary bed has the strapwork fixed over the frame.

An objection is raised: At what time do wooden utensils become susceptible to uncleanness?[2] A bed and a cradle when they are rubbed over with fish-skin.[3] Now if the ordinary bed has the strapwork over the frame, what need is there to rub over with fish-skin, [seeing that it is covered with the straps]? — Hence, both [a bed and a dargesh have the strappings] inside. But while the straps of a bed go in and out through slits, those of a dargesh go in and out through loops.

R.Jacob said in R. Joshua b. Levi's name: The halachah follows Rabban Simeon b. Gamaliel.

R.Jacob b. Ammi said: In the case of a bed whose poles[4] protrude [downward],[5] it is sufficient to set it up [on one side only].[6] MISHNAH. HE [THE KING] MAY LEAD FORTH [THE HOST] TO A VOLUNTARY WAR[7] ON THE DECISION OF A COURT OF SEVENTY-ONE. HE MAY FORCE A WAY THROUGH PRIVATE PROPERTY[8] AND NONE MAY OPPOSE HIM. THERE IS NO LIMITATION TO THE KING'S WAY.[9] THE PLUNDER TAKEN BY THE PEOPLE [IN WAR] MUST BE GIVEN TO HIM, AND HE RECEIVES THE FIRST CHOICE [WHEN IT IS DIVIDED].

GEMARA. But we have already once learnt it:[10] A voluntary war may be declared only by the permission of a court of seventy-one? — As the Tanna deals with all matters pertaining to the king, he also states [the law] concerning the declaration of a voluntary war.

Rab Judah said in Samuel's name: All that is set out in the chapter [dealing with the actions] of a king,[11] he is permitted to do. Rab said: That chapter was intended only to inspire them with awe,[12] for it is written, Thou shalt in anywise set him king over thee;[13] [i.e.,] his awe should be over thee.

[The same point of difference is found among the following] Tannaim; R. Jose said: All that is set out in the Chapter [relating to the king],[14] the king is permitted to do. R. Judah said: That section was stated only to inspire them with awe,[12] for it is written, Thou shalt in anywise set him king over thee,[13] [meaning], that his awe should be over thee. And thus R. Judah said: Three commandments were given to Israel when they entered the land: [i] to appoint a king,[15] [ii] to cut off the seed of Amalek,[16] and [iii] to build themselves the chosen house.[17] While R. Nehorai[18] said: This section[19] was spoken only in anticipation of their future murmurings,[20] as it is written, And shalt say, I will set a king over me etc.[21]

It has been taught: R. Eliezer[22] said: The elders of the generation made a fit request, as it is written, Give us a king to judge us.[23] But the am ha-arez[24] acted unworthily, at it is written, That we also may be like all the nations and that our king may judge us and go before us.[25]

It has been taught: R. Jose[26] said: Three commandments were given to Israel when they entered the land; [i] to appoint a king; [ii] to cut off the seed of Amalek; [iii] and to build themselves the chosen house [i.e. the Temple] and I do not know which of them has priority. But, when it is said: The hand upon the throne of the Lord, the Lord will have war with Amalek from generation to generation,[27] we must infer that they had first to set up a king, for ‘throne’ implies a king, as it is written, Then Solomon sat on the throne of the Lord as king.[28] Yet I still do not know which [of the other two] comes first, the building of the chosen Temple or the cutting off of the seed of Amalek. Hence, when it is written, And when He giveth you rest from all your enemies round about etc., and then [Scripture proceeds], Then it shall come to pass that the place which the Lord your God shall choose,[29] it is to be inferred that the extermination of Amalek is first. And so it is written of David, And it came to pass when the king dwelt in his house, and the Lord had given him rest from his enemies round about, and the passage continues; that the king said unto Nathan the Prophet: See now, I dwell in a house of cedars etc.[30]

Resh Lakish said: At first, Solomon reigned over the higher beings;[31] as it is written, Then Solomon sat on the throne of the Lord as king;[32] afterwards, [having sinned,] he reigned [only] over the lower,[33] as it is written, For he had dominion over all the region on this side the river, from Tifsah even to Gaza.[34]

Rab and Samuel [explain this verse in different ways]: One says, Tifsah was situated at one end of the world[35] and Gaza at the other. The other says: Tifsah and Gaza were beside each other,[36] and just as he reigned over these, so did he reign over the whole world. But eventually his reign was restricted to Israel, as it is written, I Koheleth have been king over Israel etc.[37] Later, his reign was confined to Jerusalem alone, even as it is written, The words of Koheleth, son of David, king in Jerusalem.[38] And still later he reigned only over his couch,[39] as it is written, Behold it is the litter of Solomon, three-score mighty men are about it etc.[40] And finally, he reigned only over his staff as it is written, This was my portion from all my labour.[41]

Rab and Samuel [explain this differently]: One says: His staff [was all that was left him]; the other: His Gunda.[42]

Did he regain his first power, or not? Rab and Samuel [differ]: One maintains that he did; the other, that he did not. The one who says that he did not, agrees with the view that Solomon was first a king and then a commoner;[43] the other, who says that he did, agrees with the view that he was first king, then commoner and finally king again.

HE MAY FORCE A WAY THROUGH PRIVATE PROPERTY etc.

Our Rabbis taught: Royal treasures[44] [must be given] to the king; but of all other spoil, half to the king and half to the people. Abaye said to R. Dimi or, according to others, to Rab Aha: We quite understand it is the natural thing to give royal treasures [wholly] to the king; but where do we learn that of all other spoil he is to receive half? — From the verse,

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(1) I.e., the straps are attached on the inside through slits in the frame.

(2) An article cannot become unclean until it is completely finished for use.

(3) To polish the surface. Kel. XVI, 1.

(4) The נקליטין were two poles, fixed at the head and foot of the bedstead, in the centre probably of the width. To these a cross piece was attached, the whole forming a frame over which a curtain was slung.

(5) I.e., below the level of the bedding, to the space underneath.

(6) Because if actually lowered, it may appear to be standing in its usual position, since then the poles protrude upwards.

(7) In contradistinction to the obligatory war, which was directed against the seven nations that inhabited Canaan. Obligatory war includes also the campaign against Amalek or against an enemy attacking Israel. Voluntary war is waged merely with the object of extending territory. It might therefore be defined as a war of aggression, as opposed to a defensive war. V. Sot. 44b; Maim. Yad, Melakim 5, 1.

(8) For strategical purposes. V. ibid. 5, 3. Rashi, however, explains: To make a path to his field and vineyards.

(9) From B.B. 99b and 100b it appears that this is connected with the preceding: HE MAY FORCE etc. because THERE IS NO etc. Further, whereas a public thoroughfare was to be 16 cubits in breadth, his road might be unlimited.

(10) Supra 2a.

(11) I Sam. VIII.

(12) By indicating the extent of his authority, but not implying that he is permitted to abuse his power.

(13) Deut. XVII, 15.

(14) I Sam. VIII.

(15) Ibid.

(16) Ibid. XXV, 19.

(17) Ibid. XII, 10. The three were to be in that order.
(18) [Ms. M. ‘R. Nehemiah.’]
(19) Ibid. XVII, 14.
(20) It was not a command to appoint a king, but a prophecy that Israel would demand one; then, a king having been appointed, he would be subject to the laws stated in the section.
(21) Ibid.
(22) [This is a continuation of the preceding passage in Tosef. Sanh. IV, where the reading is ‘R. Eliezer b. Jose’. The words, ‘It has been taught’ are omitted by Rashal.]
(23) I Sam. VIII, 6.
(24) Lit., ‘people of the land’, ‘rustics’, Talmudic term for illiterate or vulgar people.
(25) I Sam. VIII, 20. Thus the main purpose of the elders was to ensure law and order, whereas the ‘am ha-aretz thought chiefly of warlike expeditions.
(26) V.l. ‘R. Judah.’
(27) Ex. XVII, 16.
(28) I Chron. XXIX, 23.
(29) Deut. XII, 10.
(30) II Sam. VII, 1-2.
(31) I.e., his influence reached the highest spheres, the angels and the spirits.
(32) l Chron. XXIX, 23.
(33) I.e., his influence was on the wane.
(34) I Kings V, 4.
(35) [Tifsah would thus be identified (probably by Samuel, who was a Babylonian) with Thapsacus, the most important crossing-place of the middle Euphrates, above the mouth of the Belek.]
(36) [Tifsah would thus be identified (probably by Rab the Palestinian) with the town mentioned in II Kings XV, 16 near Mount Ephraim.]
(37) Eccl. I, 12.
(38) Ibid.
(39) Household.
(40) Cant. III, 7.
(41) Eccl. II, 10.
(42) a) A pitcher; b) an over-all, to protect clothes, c) a duster. V. Shab. 14b and ‘Er. 21b, where it is related that Solomon instituted ‘Erub (providing for the transportation of objects from one domain to another on the Sabbath day), and the washing of hands before touching holy food. Probably the ‘staff’ (measurestick) and ‘pitcher’ allude to these.
(43) Rashi in Git. 68b explains that his dominion was curtailed only as far as the higher beings (v. supra) were concerned.]
(44) Taken in war.

Talmud - Mas. Sanhedrin 21a

And anointed him [Solomon] unto the Lord to be prince, and Zadok to be priest.[1] Thus, the prince is compared with Zadok: just as in the case of Zadok [High Priest], half belonged to him, and half to his brethren, so also in the case of the ruler. And whence do we know it of Zadok himself? — As it has been taught, for Rabbi said: And it [the shewbread] shall be for Aaron and his sons;[2] this means, half belonged to Aaron and half to his sons.

MISHNAH. NEITHER SHALL HE MULTIPLY WIVES TO HIMSELF[3]. — ONLY EIGHTEEN. R. JUDAH SAID: HE MAY HAVE MORE, PROVIDED THEY DO NOT TURN AWAY HIS HEART. R. SIMEON SAID: HE MUST NOT MARRY EVEN ONE WHO MAY TURN AWAY HIS HEART. WHY THEN IS IT WRITTEN, NEITHER SHALL HE MULTIPLY WIVES TO HIMSELF?[4] — EVEN THOUGH THEY BE WOMEN LIKE ABIGAIL.[5]

GEMARA. Are we to assume that R. Judah interprets Biblical law on the basis of its reason,[6] and

R. Simeon does not?[7] But we find the reverse; for it has been taught: A pledge must not be taken from a widow, whether poor or rich, as it is written, Thou shalt not take the widow's raiment to pledge:[8] this is R. Judah's view. R. Simeon ruled: We may take a pledge of a rich widow but not of a poor one, for [in the latter case] thou art bound to return [the pledge] to her daily, and [thereby] cause her an evil name among her neighbours. Whereon we asked: What does he mean? [And the answer was:] Since thou hast taken a pledge of her, thou must return it to her [each evening][9] and so [by her frequent visits to thee] thou wouldst get her an evil name among her neighbours. Hence we see that R. Judah does not interpret the Biblical law according to its reason, while R. Simeon does![10] — Generally, indeed, R. Judah does not interpret Biblical law on the basis of its reason; here, however, it is different, for here he merely expounds the reason stated in the text. Thus: Why the command, he shall not multiply wives to himself? It is that his heart be not turned aside.[11]

And R. Simeon? — He could answer you: Let us see: Generally we interpret the law according to the reason implied;[12] then Scripture should have read, He shall not multiply wives to himself, and nothing further, and I would then have known that the reason was that his heart turn not away. Why then state: That his heart turn not away? — To imply that he must not marry even a single one who may turn away his heart. Then how am I to explain, he shall not multiply?[13] — [As meaning that he may not marry many] even though they be [women like Abigail.

Whence do we deduce the number eighteen? — From the verse, And unto David were sons born in Hebron; and his first-born was Ammon of Ahinoam the Jezreelitess; the second, Chileab of Abigail the wife of Nabal the Carmelite; the third Absalom the son of Maacah; and the fourth, Adonijah the son of Haggith; and the fifth, Shefatiah the son of Abital; and the sixth, Ithream of Eglah, David's wife. These were born to David in Hebron.[14] And of them the Prophet said: And if that were too little, then would I add unto thee the like of these, [Ka-hennah] and the like of these, [we-kahennah],[15] each ‘kahennah’ implying six, which, with the original six, makes eighteen in all. Rabina objected: Why not assume that ‘kahennah’ implies twelve,[16] and ‘we-kahennah’, twenty-four?[17] It has indeed been taught likewise: ‘He shall not multiply wives to himself beyond twenty-four.’ And according to him who interprets the redundant ‘waw’,[18] it ought to be forty-eight. And it has been taught even so: ‘He shall not multiply wives to himself, more than forty-eight.’ Then what is the reason of the Tanna of our Mishnah? — R. Kahana said: He parallels the second ‘kahennah’ with the first; thus, just as the first ‘kahennah’ indicates [an increase of] six, so does the second. But there was Michal too![19] — Rab said: Eglah is Michal. And why was she called Eglah? Because she was beloved by him, as an Eglah [calf] by its mother. And thus it is said, If ye had not ploughed with my heifer etc.[20] But did Michal have children? Is it not written, And Michal the daughter of Saul had no child unto the day of her death.?[21] — R. Hisda said: She had no child until the day of her death, but on the day of her death she did.[22]

Let us see then: His children are enumerated [as born] in Hebron, whereas the incident with Michal[23] occurred in Jerusalem,[24] as it is written, Michal the daughter of Saul looked out at the window, and saw king David leaping and dancing before the Lord, and she despised him in her heart.[25] And Rab Judah, or according to others, R. Joseph, said: Michal received her due punishment?[26] — But we might argue thus: Prior to that incident she did have [children], but after it she did not.

[Now as to the number eighteen:] Is it not stated, And David took him concubines and wives out of Jerusalem?[27] — To make up the eighteen. What are ‘wives’, and what are ‘concubines’? — Rab Judah said in Rab's name: Wives have ‘kethubah’[28] and ‘kiddushin’;[29] concubines have neither.

Rab Judah also said in Rab's name: David had four hundred children, and all born of yefoth to'ar;[30] they had long locks[31] and all drove[32] in golden carriages. They used to march at the head of the troops and were men of power in the household of David.

Rab Judah further said in Rab's name: Tamar was a daughter of a yefath to'ar, as it is written, Now therefore I pray thee,[33] speak unto the King, for he will not withhold me from thee.[34] Now, should you imagine that she was the offspring of a legitimate marriage, how could his sister have been granted him [in marriage]? We must infer therefore, that she was the daughter of a yefath-to'ar.

And Amnon had a friend, whose name was Jonadab the son of Shimeah, David's brother, and Jonadab was a very subtle man etc.[35] Rab Judah said in Rab's name: ‘Subtle’ to do evil. And he said unto him, Why, O son of the king, art thou thus becoming leaner . . . . And Jonadab said unto him, Lay thee down on thy bed and feign thyself sick . . . and she dress the food in my sight . . . And she took the pan and poured them [the cakes] out before him.[36] Rab Judah in the name of Rab said: She made for him some kind of pancakes.[37]

Then Amnon hated her with exceeding great hatred etc.[38] For what reason? — R. Isaac answered: A hair becoming entangled, mutilated him privily. If this happened of itself, what was her part in it? — But we might rather say that she entangled it and caused, mutilation. But is this so? Did not Raba expound: What is meant by the verse: And thy renown went forth among the nations for thy beauty.[39] It is that the daughters of Israel had neither under-arm nor pubic hair?[40] — It was otherwise with Tamar, for she was the daughter of a yefath to'ar.

And Tamar put ashes on her head and rent her garment of many colours.[41] It was taught in the name of R. Joshua b. Korha. In that hour Tamar set up a great fence [about chastity]. They[42] said: if this could happen to kings’ daughters, how much more to the daughters of ordinary men; if this could happen to the chaste, how much more to the wanton?

Rab Judah said in Rab's name: On that occasion, they made a decree

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(1) I Chron. XXIX, 22.

(2) Lev. XXIV, 9.

(3) Deut. XVII, 17.

(4) Ibid. From which it might be inferred that he may marry a lesser number even if they should corrupt him.

(5) I.e., even of the most virtuous, only eighteen are permitted, and not a single one who misleads is permitted. Abigail was the wife of Nabal the Carmelite. (I Sam. XXV, 3.) She is regarded in the Aggadah as one of the most remarkable women in Jewish history. V. Meg 15a.

(6) Lit., ‘he searches out the reason of the verse’.

(7) Therefore, notwithstanding the explicit statement that the king must not multiply wives, R. Judah permits it, where the feared consequences will not follow; whilst R. Simeon keeps to the letter of the law.

(8) Deut. XXIV, 17.

(9) Ibid. 13.

(10) By differentiating between poor and rich widows.

(11) Therefore in his opinion, Scripture itself restricts the law to these conditions.

(12) [Ms M. omits, ‘Generally . . . implied.’]

(13) From which it is inferred that a small number is permissible.

(14) II Sam. III, 2-5.

(15) Ibid. XII, 8.

(16) I.e., as many again, six and six.

(17) He increases the number in geometrical progression, i.e., 6: 12: 24.

(18) In ‘we-kahennah’. The prefix ‘waw’ between two words or sentences at the beginning of a chapter, which does not necessarily express their relations to one another, is used for interpretation by some Sages. v. infra 51b.

(19) Additional to the six wives enumerated.

(20) Of Delilah, Judges XIV, 18.

(21) II Sam. VI, 23.

(22) I.e., she died in child-birth.
(23) As a consequence of which she was punished with childlessness.
(24) That is, later.
(25) II Sam. VI, 16.
(26) Childlessness. מיטרפסא, lit., 'debt matured for collection by seizure' (Jast.).
(27) II Sam. V, 13. Hence it appears that he had many.
(28) V. p. 34, n. 4.
(29) Legal and legitimate marriage. V. Glos.
(30) Captive woman taken as concubines by the king because of their beauty. V. Deut. XXI, 10-13 .
(31) [Lit., 'they grew a belorith' (etym. obscure), a heathen fashion of growing locks from the crown of the head, hanging down in plaits at the back; v. Krauss, TA. I, 645].
(32) Lit., 'sat'.
(33) Amnon.
(34) II Sam. XIII, 13.
(35) Ibid. 3.
(36) Ibid. 4 et seq.
(37) ** frying-pan.
(38) II Sam. XIII, 15.
(39) Ezek. XVI, 14.
(40) Before they sinned. (Rashi.)
(41) II Sam. XIII, 19.
(42) All the other women.

Talmud - Mas. Sanhedrin 21b

against yihud[1] with [a married] or unmarried woman. But surely the prohibition of yihud with a married woman is a Biblical law! For R. Johanan said on the authority of R. Simeon b. Jehozadak: Where is [the prohibition of] yihud alluded to in the Biblical text? It is written: if thy brother, the son of thy mother entice thee.[2] Is it then only the son of a mother that can entice, and not the son of a father? But it is to teach that only a son may be alone with his mother; but no other man may be alone with women Biblically interdicted on account of incest![3] — Say rather that they enacted a decree against yihud with unmarried women.

And Adonijah the son of Haggith exalted himself, saying:' I will be king.[4] Said Rab Judah in the name of Rab: This teaches us that he attempted to fit [the crown on his head] but it would not fit him.[5]

And he prepared him chariots and horses and fifty men to run before him.[6] What is there remarkable in this?[7] — Rab Judah said in Rab's name: They all had their spleen[8] and also the flesh of the soles of their feet cut off.[9] MISHNAH. HE SHALL NOT MULTIPLY HORSES UNTO HIMSELF[10] — ONLY AS MANY AS SUFFICE FOR HIS CHARIOT. AND SILVER AND GOLD HE SHALL NOT GREATLY MULTIPLY UNTO HIMSELF[11] — ONLY AS MUCH AS IS REQUIRED FOR 'ASPANYA'.[12] AND HE SHALL WRITE IN HIS OWN NAME A SEFER TORAH.[13] WHEN HE GOES FORTH TO WAR HE MUST TAKE IT WITH HIM; ON RETURNING, HE BRINGS IT BACK WITH HIM; WHEN HE SITS IN JUDGMENT IT SHALL BE WITH HIM, AND WHEN HE SITS DOWN TO EAT, BEFORE HIM, AS IT IS WRITTEN: AND IT SHALL BE WITH HIM AND HE SHALL READ THEREIN ALL THE DAYS OF HIS LIFE.[14]

GEMARA. Our Rabbis taught: He shall not multiply horses to himself [lo]:[15] I might think, [this meant] not even such as are required for his horsemen and chariots. Scripture therefore states: 'lo' [to himself]: for himself[16] he may not multiply, but he may multiply as many as are required for his chariots and horsemen. How then am I to interpret the word horses?[17] — As [referring to] horses that stand idle.[18] And whence do we know that even a single idle horse comes under such a prohibition? — Scripture states: that he should multiply sus [a horse].[19] But if even a single idle horse involves [the prohibition,] He shall not multiply, why state horses [plural]? — To show us that with each single idle horse he transgresses anew the prohibitory command.

[Reverting to chariot horses:] Thus, it is only because Scripture wrote ‘lo’ [to him]: but otherwise, might we have thought that even those necessary for his chariots and horsemen are forbidden?[20] — It is necessary here to permit a large number.[21]

AND SILVER AND GOLD HE SHALL NOT MULTIPLY UNTO HIMSELF etc.

Our Rabbis taught: And silver and gold he shall not multiply ‘lo’ [unto himself]:[22] I might think [this meant] even for ‘aspanya’. Therefore Scripture writes, ‘lo’; only for himself [i.e., his own use] may he not multiply silver and gold, but he may do so for ‘aspanya’. Thus, it is only because Scripture wrote ‘lo’: but otherwise, might we have thought that the prohibition extended even to money for ‘aspanya’?[23] — [the word] is necessary here only to permit him a more generous provision.

Now that you say that ‘lo’ [to him] is for purpose of exegesis, how will you interpret, He shall not multiply wives ‘lo’ [to himself]?[24] — As excluding commoners.[25]

Rab Judah raised a point of contradiction [in the following passages:] It is written, And Solomon had forty thousand stalls of horses for his chariots.[26] But elsewhere we read, And Solomon had four thousand stalls for horses and chariots.[27] How are these [to be reconciled]? Thus: If he had forty thousand stables, each of them must have contained four thousand horsestalls; and if he had four thousand stables, each of them must have contained forty thousand stalls.

R. Isaac raised the following point of contradiction: It is written, Silver was nothing accounted for in the days of Solomon,[28] and further, And the king made silver to be in Jerusalem [as plentiful] as stones.[29] [Hence it had some value?] But these verses present no difficulty; the former refers to the period before he married Pharaoh's daughter; the latter, to the period after he married her.[30]

R. Isaac said: When Solomon married Pharaoh's daughter, Gabriel[31] descended and stuck a reed in the sea, which gathered a sand-bank around it, on which was built the great city of Rome.[32]

R. Isaac also said: Why were the reasons of [some] Biblical laws not revealed? — Because in two verses reasons were revealed, and they caused the greatest in the world [Solomon] to stumble. Thus it is written: He shall not multiply wives to himself,[33] whereon Solomon said, ‘I will multiply wives yet not let my heart be perverted.’ Yet we read, When Solomon was old, his wives turned away his heart.[34] Again it is written: He shall not multiply to himself horses;[35] concerning which Solomon said, ‘I will multiply them, but will not cause [Israel] to return [to Egypt].’ Yet we read: And a chariot came up and went out of Egypt for six [hundred shekels of silver].[36]

AND HE SHALL WRITE IN HIS OWN NAME A SEFER TORAH. A Tanna taught: And he must not take credit[37] for one belonging to his ancestors.

Rabbah said: Even if one's parents have left him a Sefer Torah, yet it is proper that he should write one of his own, as it is written: Now therefore write ye this song[38] for you.[39]

Abaye raised an objection: ‘He [the king] shall write a Sefer Torah for himself, for he should not seek credit[40] for one [written] by others:’ [Surely, this implies] only a king [is thus enjoined], but not a commoner? — No, it is necessary here to teach the need for two Scrolls of the Law [for the King], even as it has been taught: And he shall write him the repetition[41] of this law,[42] [i.e.,] he shall write for himself two copies, one which goes in and out with him and the other to be placed in his treasure-house. The former which is to go in and out with him, [he shall write in the form of an amulet[43] and fasten it to his arm, as it is written, I have set God always before me, surely He is at my right hand, I shall not be moved.][44] He may not, while wearing it, enter the bath house, or the closet, as it is written: And it shall be with him and he shall read therein[45] — in places appropriate for reading it.

Mar Zutra or, as some say, Mar ‘Ukba said: Originally the Torah was given to Israel in Hebrew characters and in the sacred [Hebrew] language; later, in the times of Ezra,[46] the Torah was given in Ashshurith script[47] and Aramaic language. [Finally], they selected for Israel[48] the Ashshurith script and Hebrew language, leaving the Hebrew characters and Aramaic language for the hedyototh. Who are meant by the ‘hedyototh’? — R. Hisda answers: The Cutheans.[49] And what is meant by Hebrew characters? — R. Hisda said: The libuna'ah script.[50]

It has been taught: R. Jose said: Had Moses not preceded him, Ezra would have been worthy of receiving the Torah for Israel. Of Moses it is written, And Moses went up unto God,[51] and of Ezra it is written, He, Ezra, went up from Babylon.[52] As the going up of the former refers to the [receiving of the] Law, so does the going up of the latter. Concerning Moses, it is stated: And the Lord commanded me at that time to teach you statutes and judgments;[53] and concerning Ezra, it is stated: For Ezra had prepared his heart to expound the law of the Lord [his God] to do it and to teach Israel statutes and judgments.[54] And even though the Torah was not given through him, its writing was changed through him, as it is written:

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(1) Private meetings of the sexes.

(2) Deut. XIII, 7.

(3) Incest includes adultery. Hence the prohibition of yihud with married women originates in the Bible.

(4) I Kings I, 5.

(5) An Aggadah quoted by Rashi runs as follows: A golden rod passed through the hollow of the crown, from one end to the other, which fitted into a cleft or indenture in the skull — a mark peculiar to some in the house of David. Only he whom the crown fitted was deemed worthy to be king.

(6) Ibid.

(7) Surely, fifty men for a prince is no exception.

(8) The spleen causes a feeling of heaviness (Rashi). [The old belief that the removal of the spleen facilitates fast running is also recorded by Plinius, v. Preuss, Biblischtalmudische Medizin, p. 249.]

(9) So that they might be fleet of foot and impervious to briars and thorns.

(10) Deut. XVII, 16.

(11) Ibid. 17.

(12) The Aruch and the TJ render it ‘Afsanya’ from **, soldiers’ pay, v. p. 95, n. 1.

(13) Book of the law.

(14) Deut. XVII, 19.

(15) לו Ibid, 16.

(16) I.e., for his own private use.

(17) Ibid. Which are generally harnessed to chariots, so implying a restriction of them even for that purpose, otherwise it should have read his horses.

(18) And which bring only personal grandeur.

(19) Deut. XVII, 16.

(20) Surely not — a king without these would be a nonentity.

(21) I.e., he may have many for that purpose.

(22) Deut. XVII, 17.

(23) Which latter surely is essential

(24) Ibid.
(25) Who are not so restricted in wives.
(26) I Kings V, 6.
(27) II Chron. IX, 25.
(28) I Kings X, 21.
(29) Ibid. XXVII, 3.
(30) In punishment for which the prosperity of the country waned; hence silver assumed some value.
(31) V. p. 99, n. 6.
(32) By this, his moral weakness, he laid the foundations of a hostile world symbolised by the Talmud as Rome, which overthrew Israel.
(33) ‘That his heart turn not away’, Deut. XVII, 17.
(34) I Kings XI, 4.
(35) So as not to cause the people to return to Egypt, the great horse market. Deut. XVII, 17.
(36) I Kings X, 29. Israelites went to and fro, trading with Egypt.
(37) Lit., ‘adorn himself with’.
(38) The Book of the Law which includes the Song (Deut. XXXII): Maim. Yad, Sefer Torah VII, 2. In Aggadah we meet frequent references to ‘Song’ as the symbol of the Torah. Cf. Hul. 133a.
(39) Deut. XXXI, 19.
(40) Lit., ‘adorn himself with’.
(41) משנה (E.V. ‘copy’).
(42) Deut. XVII, 18.
(43) In minuscule (Rashi).
(44) Ps. XVI, 8. Rashal deletes the whole of the bracketed passage.
(45) Deut. XVII, 19.
(46) Neh. VIII, 1ff.
(47) Assyrian; modern Hebrew square writing.
(48) [R. Han. reads, ‘Israel chose for themselves’.]
(49) ‘The Samaritans’, so called because they were brought by Sargon, king of Assyria, from Cuthea, to take the place of the exiled Israelites. (V. II Kings XVII, 24 ff.). The reason for the change from Hebrew to Assyrian characters, was to build a greater barrier between the Samaritans and the Jews. V. Weiss, Dor, v. I, 59.
(50) Rashi: Large characters as employed in amulets. R. Tam, in Tosaf. s. v. כתב recognises in ‘libuna'ah’ an adjective from the name of some locality. (Lebanon, or Libya?) Another opinion is that libuna'ah is derived from ‘lebenah’, brick; hence writing found on clay-tablets. V. J.E. I, p. 445.
(51) Ex. XIX, 3.
(52) Ezra VII, 6.
(53) Deut. IV, 14.
(54) Ezra VII, 10.

Talmud - Mas. Sanhedrin 22a

And the writing of the letter was written in the Aramaic character and interpreted into the Aramaic [tongue].[1] And again it is written, And they could not read the writing nor make known to the king the interpretation thereof.[2] Further, it is written: And he shall write the copy [mishneh] of this law,[3] — in writing which was destined to be changed.[4] Why is it called Ashshurith? — Because it came with them from Assyria.[5]

It has been taught: Rabbi said: The Torah was originally given to Israel in this [Ashshurith] writing. When they sinned, it was changed into Ro'az.[6] But when they repented,[7] the [Assyrian characters] were re-introduced, as it is written: Turn ye to the stronghold, ye prisoners of hope; even to-day do I declare that I will bring back the Mishneh unto thee.[8] Why [then] was it named Ashshurith?[9] — Because its script was upright [me'ushshar].

R. Simeon b. Eliezer said on the authority of R. Eliezer b. Parta, who spoke on the authority of R. Eleazar of Modin: This writing [of the law] was never changed, for it is written: The ‘waws’ [hooks] of the pillars.[10] As the word ‘pillars’ had not changed, neither had the word ‘wawim’ [hooks].[11] Again it is written, And unto the Jews, according to their writing and language[12] ; as their language had not changed, neither had their writing. Then how shall I interpret the words, and he shall write for himself Mishneh [a copy] of this law?[13] — As indicating the need of two written Torahs; the one to go in and out with him; the other to be deposited by him in his treasure-house. The one that is to go in and out with him, he is to write in the form of an amulet and attach to his arm, as it is written, I have set God always before me.[14] But how does the other [who maintains that the writing was changed][15] interpret, I have set [etc.]? — He employs it as R. Hanah b. Bizna, who said in the name of R. Simeon the Pious: He who prays should regard himself [i.e., behave] as if the Shechinah were before him, as it is written, I have set God always before me.[16]

But what can the phrase, they could not read the writing, mean [on the view of R. Simeon, who asserts that this writing was not changed]? — Rab said: The passage was written in Gematria:[17] Y-T-T. Y-T-T. ‘A-D-K. P-U-G-H-M-T.[18] How did he interpret it to them? — As M-N-A. M-N-A. T-K-L. U-F-R-S-Y-N.[19] — ‘Mene’, God has numbered thy kingdom and brought it to an end. ‘Tekel’, thou art weighed in the balances and art found wanting. ‘Peres’, thy kingdom is divided and given to the Medes and Persians.

Samuel said: [It was written thus:] M-M-T-U-S. N-N-K-F-Y. ‘A-’A-L-R-N.[20] R. Johanan said: [It was written:] A-N-M. A-N-M. L-K-T-N-Y-S-R-F-U;[21] while R. Ashi says: It was written: N-M-A. N-M-A.K-T-L. F-U-R-S-Y-N.[22]

MISHNAH. NO ONE MAY RIDE ON HIS [THE KING'S] HORSE, OR SIT ON HIS THRONE, OR MAKE USE OF HIS SCEPTRE, NO ONE MAY SEE HIM WHEN HIS HAIR IS BEING CUT, OR WHEN HE IS NAKED, OR WHEN IN HIS BATH, FOR IT IS WRITTEN: THOU SHALT SURELY SET OVER THEE A KING[23] — THAT HIS AWE MAY BE OVER THEE.

GEMARA. R. Jacob said in R. Johanan's name: Abishag was permitted to Solomon [in marriage][24] but not to Adonijah.[25] She was permitted to Solomon, for he was a king, and a king may make use of the king's sceptre;[26] but she was forbidden to Adonijah, for he was a commoner.

What are the facts regarding Abishag? — It is written: King David was old, stricken in years etc. His servants said unto him, Let there be sought etc. Further it is written, They sought for him a fair damsel etc.; and it is written, And the damsel [Abishag] was very fair, and she became a companion to the king and ministered unto him.[27] She said to him, ‘Let us marry,’ but he [David] said: ‘Thou art forbidden to me.’[28] ‘When courage fails the thief, he becomes virtuous,’[29] she gibed. Then he said to them [his servants], ‘Call me Bath-Sheba’. And we read: And Bath-Sheba went to the king into the chamber.[30] Rab Judah said in Rab's name: On that occasion Bath-Sheba dried herself thirteen times.[31]

R. Shaman b. Abba said: Come and see with what great reluctance is divorce granted; King David was permitted yihud [with Abishag], yet not divorce [of one of his wives].[32]

R. Eliezer[33] said: For him who divorces the first wife, the very altar sheds tears, as it is written: And this further ye do, ye cover the altar of the Lord with tears, with weeping and with sighing, in so much that he regardeth not the offering any more, neither receiveth it with good will at your hand.[34] Further it is written: Yet ye say, Wherefore? Because the Lord hath been witness between thee and the wife of thy youth, against whom thou hast dealt treacherously, though she is thy companion and the wife of thy covenant.[35]

R. Johanan or, as some say, R. Eleazar said: The death of a man's wife may only be ascribed to his failure to pay his debts,[36] as it is said: If thou hast not wherewith to pay, why should he take away the bed from under thee?[37] R. Johanan also said: He whose first wife has died, [is grieved as much] as if the destruction of the Temple had taken place in his days, as it is written: Son of man, behold I take away from thee the desire of thine eyes with a stroke; yet thou shalt not make lamentation nor weep; neither shall thy tears run down.[38] Again it is written, And I spoke unto the people in the morning, and at even my wife died. And further it is written, Behold I will profane my Sanctuary, the pride of your power, the desire of your eyes.[39]

R. Alexandri said: The world is darkened for him whose wife has died in his days [i.e., predeceased him], as it is written, The light shall be dark because of his tent[40] and his lamp over him shall be put out.[41] R. Jose b. Hanina said: His steps grow short,[42] as it is said: The steps of his strength shall be straightened.[43] R. Abbahu said: His wits collapse, as it is written, And his own counsel shall cast him down.[44]

Rabbah b. Bar Hannah said in R. Johanan's name: To effect a union between man and woman is as difficult as the dividing of the Red Sea,[45] as it is written: God maketh the solitary dwell in houses; He bringeth out the prisoners unto prosperity.[46] But is it really so? Did not Rab Judah say in Rab's name: Forty days before the embryo is formed, a heavenly voice goes forth and says: The daughter of so and so for so and so?[47] — There is no difficulty: this applies to the first marriage; the earlier statement, to the second.

R. Samuel b. Nahman said: All things can be replaced, except the wife of one's youth, as it is written, And a wife of [one's] youth, can she be rejected?[48]

Rab Judah taught his son R. Isaac: Only with one's first wife does one find pleasure,[49] as it is said: Let thy fountain be blessed and have joy of the wife of

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(1) Ezra IV, 7.

(2) Dan. V, 8; i.e., none except Daniel could read it, which shows that the Assyrian characters were not popularised until the days of Ezra.

(3) Deut. XVII, 18.

(4) The root שנה of the word משנה means ‘to repeat’ and also ‘to change’, indicating that the writing was destined to be changed. V. also Zeb. 62b.

(5) [Assyria stands here for Babylon, cf. Jer. II, 18: Ezra VI, 22]

(6) רועץ, akin to רציץ ‘to break, or dash into pieces’ (cf. Isa. XLII, 3), hence, ‘broken’, ‘rugged’ _ the form of the Samaritan script. [The variant דועץ receives support from the word deession given by Epiphanius in a passage reporting the tradition about the change of the script and which he translates insculptum, applicable to the ancient chiselled type, as distinguished from the flowing cursive of the Hebrew characters (Montgomery, The Samaritans, p. 281 ff.); v. Krauss, op. cit. III, 138 ff.]

(7) In the days of Ezra.

(8) Zech. IX, 12. Again, a play on ‘shanah’ ‘to change’, ‘to restore’, ‘to double or bring back’, the Mishneh, the earlier writing which was due to suffer change as above.

(9) Since on the view of Rabbi, they did not bring it from Assyria.

(10) Ex. XXVII, 10.

(11) Waw in Heb. means ‘hook’, and is also the sixth letter of the alphabet which resembles a hook, and according to the argument here, the very fact that the letter waw meant a hook in the days of Moses, shews that it must have borne that shape then as now, and is therefore unchanged.

(12) Esth. VIII, 9.

(13) Mishneh here =, ‘a double.’ V. n. 3.

(14) Ps. XVI, 8. V. supra p. 118, n. 12.

(15) By deduction from the word Mishneh, according to which the king had only one Sefer Torah, since there is now nothing to indicate two, and this was probably placed in his treasure house. V ‘Anaf-Yosef’ on En Jacob a.l.

(16) [The problem of the origin of the Hebrew Alphabet, as well as the question how and when the change of the script was effected, remains unsolved, despite the many attempts by distinguished scholars, mediaeval and modern. For the literature on the subject, v. Bergstrasser. G., Hebraische Grammatik, p. 29 ff., to which may be added Grunberg, S., Die ursprungliche Schrift des Pentateuchs (cf. Munk, M., Ezra Ha Sofer, p. 69 ff.); and Goldschimdt, V., Unser Alphabet, both of which are in support of the view of Rabbi.]

(17) Either (a) a cryptograph which gives, instead of the intended word, its numerical value, or (b) a cipher produced by the permutation of letters, as in this case (Levias, c., J. E., v. 589.) The etymology of Gematria is obscure. Generally derived from **, ‘notarius’, v. loc. cit.

(18) יות יטת אדך פוגחמט

(19) By interchanging the letters of the alphabet on the at bash את בש principle, the first with the last; the second with the one before the last etc. The Hebrew then reads: מנא מנא תקל ופרסין Mene, Mene, Tekel, Upharsin.

(20) [The original words here ** were written vertically, ** not horizontally, thus:] **

(21) אנם אנם לתק ניסרפן , the left-right direction being used instead of the right-left. [These systems of permutation were not artificial creations, but were well known methods of writing in secret code. V. Gandz, S., Proceedings of the American Academy for Jewish Research, IV, 89.]

(22) נמא נמא קתל פורסין i.e., Daniel shifted the second letter of each word to the beginning.

(23) Deut. XVII, 15.

(24) Had he so wished.

(25) Solomon's elder brother who wished to secure Abishag for his wife, as an inheritance from his father, as a public confirmation of his claim to the throne, in accordance with the archaic law of succession, [cf. II Sam. XII, 8 and Herodotus III, 68].

(26) I.e., all that belonged to the King, including his harem.

(27) I Kings I, 1-5 ff.

(28) Since he had already the allotted number of eighteen wives.

(29) So taunting him with impotence.

(30) I Kings I, 15.

(31) I.e., they had intercourse.

(32) Which would have rendered Abishag permissible to him for marriage.

(33) [Ms. M.: R. Eleazar (b. Pedath), v. Git. 90b.]

(34) Mal. II, 13.

(35) Mal. II, 14.

(36) The principle of ‘measure for measure’ (cf. Sotah 8b) is taken to be applicable here; as the man has deprived another of his possession, he is punished by the loss of his dearest possession.

(37) Prov. XXII, 27.

(38) Ezek. XXIV, 16-18.

(39) Likening the death of one's wife, whom the Rabbis regarded as the principal factor in guarding the sanctity of the home, to the destruction of the Sanctuary.

(40) באהלו (E.V. ‘in his tent’), used metaphorically for wife. Hence, The light shall be dark because of the loss of his wife.’ V. Deut. V, 30. M. K. 7b.

(41) Job XVIII, 6.

(42) His bodily strength diminishes.

(43) Ibid. 7.

(44) Ibid.

(45) For the passage of the Israelites.

(46) Ps. LXVIII, 7. This is derived from the juxtaposition of the two parts of the verse, thus comparing the difficulty of making the solitary unite and dwell in houses as man and wife to that of delivering the Israelites from Egypt, i.e., of bringing out the prisoners from bondage unto prosperity. Current texts continue: ‘Read not מוציא but כמוציא (as when He bringeth out). Again, read not בכושרות but בכי שירות (with wailing and song).’ I.e., just as the deliverance of Israel brought forth wailing from Egypt and rejoicing from the Israelites, so is it when there is no mutual satisfaction in married life (cf. Midrash Tanhuma ‘Thisa 5). This passage is, however, missing in most editions and Ms. M; v. D.S. a.l.

(47) I.e., since marriage is predestined, what is the difficulty in mating man and woman?
(48) Isa. LIV, 6.
(49) Lit., ‘quickening of spirit’.

Talmud - Mas. Sanhedrin 22b

thy youth.[1] ‘Of what kind of woman do you speak?’ he asked him. — ‘Of such as your mother’, was the reply. But is this true? Had not Rab Judah taught his son R. Isaac, the verse: And I find more bitter than death the woman whose heart is snares and nets,[2] and he [the son] asked him: ‘What kind of woman?’ He answered. ‘Such as your mother’? — True, she was a quick-tempered woman but nevertheless easily appeased with a word.

R. Samuel b. Unya said in the name of Rab: A woman [before marriage] is a shapeless lump,[3] and concludes a covenant only with him who transforms her [into] a [useful] vessel, as it is written: For thy maker is thy husband; the Lord of Hosts is his name.[4]

A Tanna taught: The death of a man is felt by none but his wife; and that of a woman, but her husband. Regarding the former, it is said: And Elimelech, Naomi's[5] husband, died.[6] And regarding the latter it is written: And as for me, when I came from Padan, Rachel died unto me.[7]

NOR MAY ONE SEE HIM etc. Our Rabbis taught: The king has his hair trimmed every day; the High Priest, every eve of the Sabbath, and a common Priest, once in thirty days.

‘The king has his hair trimmed every day.’ as it is written, Thine eyes shall see the king in his beauty.[8] ‘The High Priest, every eve of the Sabbath.’ R. Samuel b. Nahman said in R. Johanan's name: This is because of the [weekly] renewal of the priestly watches.[9]

‘The Common Priest, once in thirty days,’ because it is written: Neither shall they shave their heads nor suffer their locks [pera’] to grow: they shall only poll their heads.[10] Identity of law is deduced from [the use of] pera’ here and in the section on the Nazirite; here it is written, They shall not let their locks [pera’] grow; while there it is stated, He shall let the locks [pera’] of the hair of his head grow long;[11] Just as there, [a] thirty days’ [growth is meant], so here too.[12] And we also learnt:[13] The period for unspecified neziruth[14] is thirty days. Whence do we deduce this in the other passage?? — R. Mathna said: Scripture states, He shall be [yihyeh] holy;[15] the gematria[16] of yihyeh being thirty.[17]

R. Papa said to Abaye: But perhaps [it means] that they shall not [let their hair] grow so long — [i.e. for a full month]?[18] — He answered: Were it written, ‘They shall not let [their hair] grow to become ‘pera’’; it would have meant what you suggest. But since the text reads, And their locks [pera’] they shall not let grow, it implies that they may let it become ‘pera’’ but thereafter must not let it grow longer. If so [that the prohibition is based on that verse], it should [hold good] even nowadays, [when there is no Temple]! — This [restriction] is analogous to [that of] wine: just as wine was forbidden [them] only when they entered [the Temple],[19] but permitted at any other time, so is the growing of hair forbidden only when there is entry [into the Temple] and permitted at all other times. But is wine permitted them when there is no entering into the Temple? Has it not been taught: Rabbi said: In my opinion, Priests should by right be at all times forbidden to drink wine,[20] but what can I do, seeing that ‘their calamity [the destruction of the Temple] has been to their advantage in the matter?[21] Whereon Abaye said: In agreement with whom do priests drink wine nowadays? In agreement with Rabbi. It may therefore be inferred that the Rabbis forbid it![22] — In that case, the reason is this: the Temple might speedily be rebuilt and when a priest suitable for its service is required, he might not be found. Then here too [i.e., regarding the restriction of hair-growth] may not the same thing happen? — In the latter case, it is possible to trim the hair and [immediately] enter. But there too [sc. wine drinking], one can slumber a while [i.e., sleep it off] and then enter? For R. Aha said: A mil's walk or a little sleep counteracts [the effects of] wine. But surely it was stated of this: R. Nahman said in R. Abbahu's name: This applies only to one who has drunk not more than a rebi'ith;[23] but if he has drunk more, the walk will only cause more fatigue, and the sleep more drunkenness!

R. Ashi said: Since those drunk with wine defile the service [if they officiate], the Rabbis enacted that precautionary measure;[24] but seeing that those with long hair do not defile the service, they made no decree against them.

An objection is raised: The following [priests] are liable to death: those who let their hair grow and those who are drunk with wine.[25] Now, as for those drunk with wine, it is correct, because it is written, Drink no wine nor strong drink, thou nor thy sons with thee, that ye die not.[26] But whence do we know it of those with long hair? — Because the former is assimilated to the latter, for it is written, Neither shall they shave their heads nor suffer their locks to grow long, which is followed by, Neither shall they drink wine etc. Hence, just as drunkenness [during the service] is punishable by death, so is the growth of long hair. And it also follows, just as drunkenness defiles the Temple service, so does the growing of long hair![27] This is a difficulty.[28]

Rabina said to R. Ashi: Before Ezekiel came, and told us this [that those who let their hair grow and officiate thus are punishable by death], who stated it?[29] — But according to your view,[30] what of R. Hisda's statement, [viz.,] This law[31] was not learnt from the teaching of Moses our teacher, until Ezekiel came and taught, No alien, uncircumcised in heart and uncircumcised in flesh shall enter into my Sanctuary to serve me.[32] But before Ezekiel came, who stated it? Consequently, it must have been a tradition, and then Ezekiel came and found a support for it in Scripture [i.e., the Pentateuch]. Similarly, here too, [in the question of hair-growth] it was a traditional teaching, and Ezekiel merely upheld it in the passage quoted [further, the Halachah, as handed down, states only that they are liable to death, but not that they defile the Temple-service].[33]

What is the meaning of, They shall only poll their heads? — A Tanna taught: Hair cut in the Julian style.[34] What was that? — Rab Judah said in Samuel's name: A unique manner of hairdressing. Yet what was it like? R. Ashi said: The ends of one row [of hair] lay alongside the roots of the next.

Rabbi was asked: In what fashion was the hair of the High Priest cut? — He answered: Go and observe the haircut of Ben Eleasa.[35] It has been taught: Not for nothing did Ben Eleasa expend money so lavishly upon his hairdressing, but to display the High-Priestly fashion. [

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(1) Prov. V, 18.

(2) Eccl. VII, 26.

(3) I.e., of undetermined character.

(4) Isa. LIV, 5. As God formed the character of Israel so does a husband that of the wife.

(5) Showing that the loss was chiefly hers.

(6) Ruth I, 3.

(7) Gen. XLVIII, 7.

(8) Isa. XXXIII, 17.

(9) In charge of the Temple Service.

(10) Ezek. XLIV, 20.

(11) Num. VI, 5.

(12) I.e., they were not to let their hair grow untrimmed for thirty days.

(13) In support of the statement cited. Cf. Nazir 5a.

(14) V. Glos.

(15) Ibid.
(16) V. supra p. 121, n. 4.
(17) The numerical value of יהיה is 10+5+10+5=30.
(18) Thus Tosaf. s. v. ואימא. The text has כלל, according to which R. Papa asks: Perhaps it means that they should not let their hair grow long at all? Rashal, following the interpretation of Tosaf. deletes כלל. Epstein, B. (Torah Temimah on Num. VI, 5) makes the ingenious suggestion that the word כלל comprises the two words כל ל (the full thirty days).
(19) Ezek. XLIV, 21: Neither shall any priest drink wine when they enter into the inner court.
(20) As a precautionary measure against drunkenness lest the Temple be suddenly rebuilt and the Priests called upon to enter upon its service, [cf. Yad Ramah].
(21) The fact that the Temple is destroyed makes their speedy re-instatement remote.
(22) Even in the post-Temple age. Should not pera’ then also be forbidden, for no priest can know when he should be on duty and when not?
(23) A liquid measure, a quarter of a log (the contents of six eggs).
(24) That even at this day Priests may not drink lest the Temple be suddenly rebuilt and their services needed.
(25) Tosef. Ker. I.
(26) Lev. X, 9.
(27) Hence, on this premise, it should be forbidden even to-day?
(28) Cf. Ta'an. 17b and v. p. 128, n. 1.
(29) For, if there was no source, the offence could not be punishable thus.
(30) That a previous source was required.
(31) That an uncircumcised priest is incompetent to serve in the Temple.
(32) Ezek. XLIV, 9.
(33) S. Luria deletes the bracketed passage. [This is indeed the reply given in Ta'an 17b to the question which is here left unanswered supra 127, v. n. 5.]
(34) [The reference is not clear, v. Krauss, op. cit. I, 644]
(35) Rabbi's son-in-law.

Talmud - Mas. Sanhedrin 23a

CHAPTER III

MISHNAH. CIVIL ACTIONS [ARE TO BE TRIED] BY THREE. EACH [LITIGANT] CHOOSES ONE, AND THE TWO JOINTLY CHOOSE A THIRD: SO HOLDS R. MEIR. BUT THE SAGES RULE: THE TWO JUDGES NOMINATE THE THIRD. EACH PARTY MAY OBJECT TO THE JUDGE CHOSEN BY THE OTHER, SO HOLDS R. MEIR. BUT THE SAGES SAY: WHEN IS THIS SO? ONLY IF THE OBJECTOR ADDUCES PROOF THAT THEY ARE EITHER KINSMEN OR [OTHERWISE] INELIGIBLE; BUT IF FIT OR RECOGNISED BY THE BETH DIN AS MUMHIN,[1] THEY CANNOT BE DISQUALIFIED.

EACH PARTY MAY REJECT THE WITNESSES PRODUCED BY THE OTHER:[2] SO HOLDS R. MEIR. BUT THE SAGES SAY, WHEN IS THIS SO? ONLY WHEN PROOF IS BROUGHT THAT THEY ARE EITHER KINSMEN OR [OTHERWISE] INELIGIBLE; BUT IF THEY ARE [LEGALLY] ELIGIBLE, NO ONE CAN DISQUALIFY THEM.

GEMARA. Why should each of the parties choose one [Beth din]:[3] do not three [judges] suffice? — The Mishnah is meant thus: If each party chose a different Beth din, [so that one is not mutually accepted], they must jointly choose a third.[4] Can then the debtor too reject [the Beth din chosen by the creditor]? Did not R. Eleazar say:[5] This refers only to the creditor; but the debtor can be compelled to appear for trial in his [the creditor's] town? — It is as R. Johanan said [below]: we learnt this only in reference to Syrian lawcourts;[6] and so here too; but not Mumhin.[7] R. Papa said: It may even refer to Mumhin, e.g., the courts of R. Huna and R. Hisda,[8] for he [the debtor] can say:

Am I giving you any trouble?[9]

We learnt: THE SAGES RULE: THE TWO JUDGES NOMINATE THE THIRD. Now, should you think it means as we have said, viz., Beth din;[10] can a Beth din, after being rejected, go and choose them another?[11] Again, how interpret, EACH PARTY CHOOSES ONE?[12] — But it means thus: Each [litigant] having chosen a judge, these two [litigants] jointly select a third. Why should they do so? — They said in ‘the West’[13] in the name of R. Zera: Since each selects a judge, and together they [the litigants] select the third, a true judgment will be rendered.[14]

BUT THE SAGES RULE etc. Shall we say that they[15] differ in regard to the law cited by Rab Judah in the name of Rab? For Rab Judah said in the name of Rab: Witnesses may not sign a deed unless they are aware who is to sign with them:[16] R. Meir thus disagreeing with the dictum of Rab Judah given in the name of Rab,[17] while the Rabbis accept it?[18] — No, all agree with Rab Judah's statement in Rab's name and none dispute that the [third judge] must have the consent of his colleagues; they only differ as to whether the consent of the litigants is necessary. R. Meir maintains that the consent of the litigants is also required, while the Rabbis hold, only that of the judges is required, but not that of the litigants.

The [above] text [states]: Rab Judah said in Rab's name: Witnesses may not sign a deed etc. It has been taught likewise: The fair minded[19] of the people in Jerusalem used to act thus: They would not sign a deed without knowing who would sign with them; they would not sit in judgment unless they knew who was to sit with them; and they would not sit at table without knowing their fellow diners.

EACH PARTY MAY OBJECT TO THE JUDGE CHOSEN BY THE OTHER.

Has then anyone the right to reject judges? — R. Johanan said: This refers to the Syrian courts.[20] But [you say that] Mumhin cannot be rejected? Surely since the last clause states, BUT THE SAGES SAY: WHEN IS THIS SO? ONLY IF THE OBJECTOR ADDUCES PROOF THAT THEY ARE EITHER KINSMEN OR [OTHERWISE] INELIGIBLE; BUT IF FIT OR RECOGNISED BY THE BETH DIN AS MUMHIN, THEY CANNOT BE DISQUALIFIED: does it not follow that R. Meir refers even to Mumhin! — It is meant thus: But if they are fit, they rank as Mumhin appointed by the Beth din, and so cannot be disqualified.

Come and hear: ‘The Rabbis said to R. Meir: It does not rest with him to reject a judge who is a Mumheh for the public’?[21] — Say [thus]: It does not rest with him to reject a judge whom the public has accepted as a Mumheh. It has been taught likewise: One may[22] go on rejecting judges until he undertakes [that the action shall be tried] before a Beth din of Mumhin:[23] this is the view of R. Meir.[24]

But witnesses [when not disqualified] are as Mumhin;[25] yet R. Meir said: EACH PARTY MAY REJECT THE WITNESSES PRODUCED BY THE OTHER! — Surely it has been stated regarding this: Resh Lakish said: Imagine a holy mouth [sc. R. Meir] uttering such a thing![26] Read [therefore] ‘THE WITNESS’, [singular].[27] But for what purpose is a single witness [competent]? Shall we say, for the actual payment of money?[28] then his testimony is Biblically invalid! If for [the administration of] an oath, then his evidence is [legally] as trustworthy as that of two![29] — In fact, he refers to the payment of money, but it [sc. R. Meir's ruling] arises only where both parties have voluntarily accepted his testimony as equivalent to that of two witnesses. Then what does he thereby teach: that he may retract? But we have already learnt this once:[30] If one says, I accept my father or thy father as trustworthy,[31] or I have confidence in three herdsmen,[32] R. Meir says, He may [subsequently] retract; but the Sages rule, He cannot.

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(1) V. Glos.

(2) The Gemara discusses the conditions of such disqualification.

(3) Which consists of three judges. By ‘ONE’ in the Mishnah, the text understands a court, according to which interpretation nine judges are necessary. So Rashi. This, however, is a very strained interpretation, particularly in view of the opening statement of the Mishnah: CIVIL ACTIONS ARE TO BE TRIED BY THREE. Tosaf. therefore states that the question is based on the assumption that the meaning of the Mishnah is this: Each litigant chooses a complete Beth din; and then the two courts jointly nominate a third court, and it is the third court that tries the case. Hence the question: Why such a clumsy proceeding: cannot the two litigants jointly select one court which shall try the action?

(4) But it is not meant that the procedure must be so from the very outset.

(5) Infra 31b in regard to a dispute as to place of trial.

(6) [Tribunals set up by the Romans and in charge of Jewish judges whose decisions were based on precedent and common sense rather than Biblical or Rabbinic Law, cf. Buchler, Sepphoris, 21 ff.]

(7) These cannot be disqualified by the debtor.

(8) [R. Huna's court was at Sura, and R. Hisda had his school, according to Sherira, at Matha Mehasia on the outskirts of Sura.]

(9) For, while it is just that the debtor shall not have the power of putting the creditor to great trouble in choice of locale, seeing that the debtor is under an obligation to the creditor, this objection does not hold good when the two courts are so close to each other.

(10) I.e., each litigant chooses a Beth din.

(11) Surely not!

(12) Which implies that the actual procedure must be so from the beginning.

(13) R. Jeremiah, supra 17b.

(14) For both parties have confidence in the court.

(15) R. Meir and the Sages.

(16) I.e., who is the other witness. The reason is that the other witness may prove to be unfit, in which case both signatures are null, and the eligible signatory is thus put to shame.

(17) I.e., he does not require the witnesses to know beforehand who will join them; and in the same way, it is unnecessary for the two judges to know beforehand whether the third will be a fit and proper person; therefore the third is selected by the litigants.

(18) V. previous note; the reasoning is reversed.

(19) נקיי הדעת, [(a) ‘the cautious’ (Buchler); (b) ‘the pious’ (Muller); (c) ‘the nobility’ (Klein, S. מדעי היהדות I, 72 ff.)]

(20) v. supra p. 130, n. 2.

(21) From this it may be inferred that in R. Meir's opinion even Mumhin may be rejected.

(22) But not a competent body, in which case R. Meir may agree with the Rabbis.

(23) This translation follows an emended text. V. marginal gloss in curr. edd.

(24) Hence it is evident that even R. Meir agrees that Mumhin cannot be rejected.

(25) All are expert to attest what they have witnessed.

(26) Surely it is absurd to suggest that a litigant having produced witnesses in his favour, his opponent can simply reject them.

(27) I.e., each can reject only a single witness produced by the other: a single witness, of course, is not on a par with an expert Beth din.

(28) I.e., the debtor is to be ordered to pay on his evidence.

(29) If the plaintiff has one witness in his support, his testimony is so far admissible as to subject the defendant to an oath; and the defendant cannot reject his testimony, just as he could not reject the testimony of two witnesses.

(30) Viz., in the next Mishnah.

(31) To act as judges in a dispute, though normally relations of the litigants were ineligible. That the reference is to judges follows from the fact that three herdsmen are mentioned.

(32) In those days holding the lowest rank in society.

Talmud - Mas. Sanhedrin 23b

And thereon R. Dimi the son of R. Nahman the son of R. Joseph observed: This means, e.g., that he accepted him as one [of the three judges]![1] — Both are necessary. Had he stated only the law regarding the ‘fathers’ it might have been assumed that only there do the Rabbis[2] rule that he cannot retract, because ‘my father’ and ‘thy father’ are fit [to act as judges] in other cases; but where one witness is accepted as two, one might have thought that the Rabbis agreed with R. Meir, since he is unfit in general.[3] Whilst had the law been stated in this instance, I might have thought that only here does R. Meir rule thus; but in the other case, he agrees with the Rabbis.[4] Hence both are necessary. But since the first clause mentions, ‘JUDGE’ [singular], whilst the second reads, ‘WITNESSES’ [plural], it follows that it is to be taught literally?[5] — Said R. Eleazar: This is a case where he [the litigant] together with another come forward to disqualify them.[6] But is he empowered to do this, seeing that he is an interested party?[7] — R. Aha the son of R. Ika said: [Yes;] e.g., where he makes public the ground of his objection. What objection is meant? Shall we say, an objection based on a charge of robbery? But does that rest with him, seeing that he is an interested party? Hence it must be an objection on the grounds of family unfitness.[8] Now, R. Meir contends that they [sc. the litigant and his supporter] testify against the man's family,[9] whilst he is automatically disqualified; and the Rabbis hold that after all said and done, he is an interested party.

When R. Dimi came [from Palestine][10] he said in R. Johanan's name: The controversy arises only where [the plaintiff said that he could produce] two pairs of witnesses. Now, R. Meir holds that the litigant is obliged to verify [his statements regarding his second set of witnesses];[11] while the Rabbis say that he is not so obliged.[12] But if only one pair of witnesses [are offered], all agree that they cannot be disqualified.

R. Ammi and R. Assi said in R. Dimi's presence: What if there is only one pair [of witnesses]? [You ask, what if] there is only one set? Have you not just said, ‘but if only one pair of witnesses [are offered] all agree that they cannot be disqualified’? But the question is, what if the second pair is found to consist of kinsfolk or to be [otherwise] ineligible?[13] — He answered them: The first witnesses have already testified.[14]

Others say that R. Ashi gave the above answer.

Shall we say that their [sc. R. Meir and the Rabbis’] dispute is the same as that of Rabbi and R. Simeon b. Gamaliel? For it has been taught: If one comes to be judged on the strength of a deed and hazakah;[15] Rabbi said: The case must be determined by a deed.[16] Rabban Simeon b. Gamaliel ruled: It is determined by hazakah [alone]. But we raised this question thereon: By hazakah [only], and not by deed?[17] But rather say thus: Even by hazakah [alone]. And it is an established fact that their dispute is whether the defendant is obliged to verify [his statement]![18] — No, according to the view of Rabban Simeon b. Gamaliel, none [i.e. neither R. Meir nor the Rabbis] differ here;[19] they only differ on the basis of Rabbi's opinion. Thus, R. Meir agrees with Rabbi. But the Rabbis can tell thee: Rabbi gives this ruling there only in the case of hazakah, which is valid proof[20] only in virtue of there having been a deed.[21] But here, since the legal standing of one pair is independent of the other, even Rabbi agrees that the claimant need not verify [his statements in full].

When Rabin came [from Palestine][22] he said in R. Johanan's name: The first clause [of the Mishnah]

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(1) And since one of the three judges is ineligible by Biblical law, he may retract; so here, since one witness cannot impose payment by Biblical law, although he was accepted as trustworthy, he may retract. Consequently we were already informed of this. It may be asked, Why is R. Dimi's observation mentioned at all: does not the difficulty arise in any case? But without this dictum, it might be said that the litigant can retract in this case because there are two irregularities: (a) one only was permitted to try the suit; (b) even he was Biblically ineligible. But if there is only one irregularity, as in the case under discussion, where a single witness was accepted as the equivalent of two, it might be thought that the litigants cannot retract. Therefore R. Dimi's interpretation is adduced, to show that here too there was only one fault, that one of the judges was a relative (Tosaf.).

(2) The Sages.

(3) To count as two.

(4) By the preceding argument inverted.

(5) Which overthrows Resh Lakish's interpretation, hence the original difficulty remains.

(6) And two have authority to reject; but actually the reference is to two witnesses.

(7) Hence, only one witness is left, and one has no power to overthrow the evidence of two.

(8) E.g., that he was the descendant of an unliberated slave whose testimony is inadmissible.

(9) And in this matter, the litigant is not an interested party.

(10) V. p. 393, n. 1.

(11) Therefore, the defendant is not regarded as an interested party when he testifies to the family unfitness of one of the first pair, since the plaintiff is bound to adduce the second set in any case, who are themselves sufficient. Should the plaintiff be unable to adduce a second set, he is the cause of his own loss.

(12) Consequently, notwithstanding his first assertion, he can insist on basing his claims on the first pair of witnesses only, and so the defendant becomes an interested party in seeking to disqualify one of these witnesses. — Tosaf. and one interpretation of Rashi. Rashi, however, reverses the reading and gives another explanation.

(13) Can we say, since the second pair has thus been rendered ineligible, the defendant is retrospectively discovered to have been an interested party in his testimony disqualifying the first pair, since the second is no longer available, and therefore his evidence in respect to the first is now inadmissible? Or, on the other hand, it may be argued that when the defendant gave his evidence he was a disinterested party, and consequently it still holds good.

(14) I.e., the testimony of the defendant in respect to the first, having been accepted, stands good.

(15) A claim based on undisturbed possession during a legally fixed period — three years. This means, if one's ownership of land is challenged, and he asserts that he can prove it both by a deed of sale, which he has in his possession, and also by hazakah.

(16) And if he failed to produce it, hazakah would not determine ownership. Though hazakah is usually accepted as proof, it is not accepted here, since the defendant asserted that he had the deed of conveyance in his possession.

(17) Surely it cannot be maintained that if a deed of sale is produced, three years of undisturbed possession must also be proved!

(18) Thus: Rabbi maintains that the whole statement must be verified, and therefore the deed is necessary; whilst R. S. b. G. holds that it need not be verified, just as though he had never made it, and therefore hazakah alone is sufficient (v. B.B. 169b-170a). Rabbi will accordingly agree with R. Meir, and R. S. b. G. with the Rabbis.

(19) For it is obviously impossible to reconcile R. Meir with R. S. b. G.

(20) Lit., ‘which comes’.

(21) Three years undisturbed possession proves ownership only when the defendant pleads that he bought the land, was given a deed, but lost it. Therefore, since the defendant asserted in the first place that he could produce the deed, evidence of undisturbed possession is not enough.

(22) V. p. 390, n. 1 .

Talmud - Mas. Sanhedrin 24a

refers to invalid witnesses, but competent judges: hence, since[1] the witnesses are invalidated, the judges too are disqualified.[2] While the latter clause deals with invalid judges and competent witnesses; therefore, since the judges are disqualified, the witnesses too are rejected. Raba objected: As for arguing[2] that since the witnesses are [undisputably] disqualified, so are the judges too: that is correct, seeing that another bench of judges is available [to try the case]. But [can one argue], since the judges are disqualified, so are the witnesses too, seeing that no other witnesses may be available? — This holds good only when another set of witnesses is available. Then what if no other set of witnesses is available; [will you say that] here too [viz., according to Rabin] the witnesses cannot be disqualified? But his view is then identical with that of R. Dimi![3] — They differ in respect to Miggo;[4] one master [Rabin] accepts the reasoning of Miggo; while the other [R. Dimi] rejects it.[5]

The above text reads: ‘Resh Lakish said: "Imagine a holy mouth [sc. R. Meir] uttering such a thing!" Read therefore [in the Mishnah], "The witness" [singular].' Surely this is not so! For 'Ulla said: One who saw Resh Lakish in the Beth-Hamidrash [engaged in debate] would think that he was uprooting mountains and grinding them against each other![6] — Rabina said: But did not he who saw R. Meir in the Beth-Hamidrash feel that he was uprooting yet greater mountains and grinding them against each other?[7] — He means this:[8] Come and see how they [the Palestinians] esteem one another![9] Another instance; Rabbi sat and said: It is forbidden to store away the cold [water].[10] But R. Ishmael son of R. Jose remarked in his presence; My father permitted it. Then the Zaken[11] has already decided the matter,[12] replied Rabbi. [Thereupon] R. Papa said: Come and see how much they respected each other, for were R. Jose alive, he would have sat submissively before Rabbi, for as we have seen, R. Ishmael son of R. Jose, who was a worthy successor of his forefathers,[13] sat submissively before him,[14] yet he [Rabbi] said of him, 'The Zaken has already decided.'

R. Oshaia said: What is the meaning of the verse, And I took unto me the two staves; the one I called No'am [graciousness] and the other I called 'hoblim'[15] [binders]?[16] — 'No'am' refers to the scholars of Palestine, who treat each other graciously [man'imim] when engaged in halachic debates; 'hoblim', to the scholars of Babylon, who injure each other's feelings [mehablim] when discussing halachah.[17]

[It is written]: Then said he, These are the two anointed ones etc.[18] [This is preceded by:] And two olive trees by it.[19] R. Isaac said: 'yizhar' designates the scholars of Palestine, who are affable to each other when engaged in halachic debates, like olive oil [which is soothing]; [whilst] and two olive trees stand by it, symbolise the scholars of Babylon, who are as bitter to each other in halachic discussions as olive trees.[20]

Then lifted I up mine eyes and saw, and behold there came forth two women and the wind was in their wings; for they had wings like the wings of a stork. And they lifted up the measure between the earth and the heaven. Then said I to the angel that spoke with me, 'Whither do these bear the measure?' And he said unto me, 'To build her a house in the land of Shinar.'[21] R. Johanan said on the authority of R. Simeon b. Johai: These [the 'two women'] symbolise hypocrisy and arrogance, which made their home[22] in Babylon. But was Babylon really the home of haughtiness; did not the master say, Ten kabs[23] of arrogance came down into the world, of which EIam[24] took nine and the rest of the world one? — Yes, originally it descended to Babylon, but it travelled to Elam. This can also be inferred from the phrase, to build her[25] a house in the land of Shinar. This proves it.

But a Master said that the symptom of pride is poverty, and did not poverty descend upon Babylon? — By 'poverty',[26] the dearth of learning[27] is meant, for it is written, We have a little sister and she has no breasts;[28] whereon R. Johanan observed: This is a symbol of Elam, which was privileged to study, but not to teach.[29]

What does [the name] Babel connote?[30] — R. Johanan answered: [That the study of] Scripture, Mishnah and Talmud was intermingled [therein].[31]

He hath made me to dwell in dark places like those that have been long dead.[32] This, said R. Jeremiah, refers to the Babylonian Talmud.[33]

MISHNAH. IF ONE [OF THE CONTENDING PARTIES] SAYS TO THE OTHER: I ACCEPT MY FATHER OR THY FATHER AS TRUSTWORTHY,[34] OR, I HAVE CONFIDENCE IN THREE COWHERDS,[35] R. MEIR SAYS, HE MAY [SUBSEQUENTLY] RETRACT; BUT THE SAGES RULE, HE CANNOT. IF A MAN WAS UNDER THE OBLIGATION OF AN OATH TO HIS NEIGHBOUR, AND THE LATTER SAID TO HIM 'VOW TO ME BY THE LIFE OF THY HEAD,'[36] R. MEIR HOLDS, HE MAY RETRACT; BUT THE SAGES MAINTAIN, HE CANNOT.[37]

GEMARA. R. Dimi the son of R. Nahman the son of R. Joseph said: [The Mishnah refers to a case] e.g., where he [the litigant] accepted him [sc. one of those mentioned] as one [of the three judges required].[38]

Rab Judah said in Samuel's name: The controversy [of R. Meir and the Rabbis[39] over a case] is only [where the plaintiff says]: ‘My claim against thee be remitted’ [if the judges so decide]; but [if the defendant says], ‘I will pay thy claim’ [should it be so decided], all [even the Rabbis] agree that he may retract.[40] R. Johanan said: They differ over the latter case.

The scholars propounded [the following problem]: [Does R. Johanan mean that] they differ only over the latter case, but that in the former, all [even R. Meir] agree that he cannot retract; or does he hold that they differ with respect to both cases? — Come and hear! For Raba said: They differ [only] in respect of, ‘I will pay thee;’ but in the case of, ‘It be remitted to thee,’ all [even R. Meir] agree that he cannot retract. Now, if you say [that R. Johanan maintains], Their difference is only in the case of, ‘I will pay thee’; but in the case of, ‘It be remitted to thee,’ all agree that he cannot retract, it is correct: then Raba's opinion coincides with that of R. Johanan. But should you say, their dispute applies to both, with whom does Raba agree?[41] — Raba [on the latter hypotheses] states an independent view.[42]

R. Aha b. Tahlifa objected to Raba's view: IF ONE WAS UNDER THE OBLIGATION OF AN OATH TO HIS NEIGHBOUR, AND THE LATTER SAID TO HIM, ‘VOW TO ME BY THE LIFE OF THY HEAD;’ R. MEIR HOLDS HE MAY RETRACT; BUT THE SAGES MAINTAIN, HE CANNOT.

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(1) מגו, Miggo. A Talmudical rule by which an action is declared valid because part of it is indisputably legitimate. In this case, the rule is accepted by R. Meir but not by the Rabbis.

(2) I.e., the litigant proved his opponent's witnesses invalid, but was unable to do so likewise in the case of the proposed judges. Yet in virtue of the first, he can object to his opponent's choice of judges too.

(3) Who said above that where there is only one set of witnesses available, all agree that they cannot be rejected.

(4) V. p. 135, n. 7.

(5) The dispute is whether this reasoning is acceptable in general, though in the actual case under discussion there may possibly be no difference. Thus, Rabin holds that miggo is generally accepted, and here too, whilst R. Dimi rejects this reasoning here and elsewhere; therefore, it is only because R. Meir maintains that a litigant must substantiate his whole statement that his opponent is able to disqualify his witnesses, as explained above, and this is irrespective of whether the judges have been proved incompetent or not.

(6) So ingenious a mind did he have. How then could he be so modest as to refer to R. Meir as ‘a holy mouth’, thus implying that the latter's learning and skill was far above his own? — ‘Mountain’ is used figuratively for the problems overcome by dialectical ingenuity.

(7) Hence, notwithstanding Resh Lakish's dialectic skill, R. Meir was his superior.

(8) This is an answer to Rabina's observation. In fact, the previous remark was not an objection, but a comment.

(9) Able as he was, Resh Lakish did appreciate R. Meir, as the above quotation shows.

(10) In cool sand, to preserve its coolness for the Sabbath, though the measure in general is directed against the storing of food in such a way that it grows warmer. Cf. Shab. 51a.

(11) R. Jose; Zaken, lit., ‘elder’ = scholar, sage.

(12) I.e., the law must remain as he has ruled.

(13) I.e., he took his father's place.

(14) As a disciple.

(15) Also ‘injuries’.

(16) Zech. XI, 7

(17) Discussions were carried on far more energetically in the Babylonian academies than in the Palestinian, and in fact, there is considerably more controversy in the Babylonian than in the Jerusalem Talmud.

(18) Lit., ‘The sons of ‘yizhar’ (clear oil).’ Ibid. IV, 14.
(19) Ibid. 3.
(20) The wood of which is bitter to the taste.
(21) Zech. V, 9-11.
(22) Lit., ‘descended into’.
(23) A measure.
(24) The country named after the eldest son of Shem. (Gen. X, 22.) It lay along Shushan and the river Ulai. Cf. Dan. VIII, 2, and had Babylonia on the West.
(25) Only one of the vices, thus proving that the other did not settle there permanently.
(26) As a symptom of pride.
(27) Lit., ‘the Torah’.
(28) Cant. VIII, 8.
(29) I.e., its learning had remained stagnant. [On the all-pervading ignorance of the Law among the Jews of Elam (Hozea, Khuzistan), v. Pes. 50b-51a.]
(30) בבל; Babylonia. Based on the popular etymology of the word from בלל ‘to mix’, ‘confound’, cf. Gen. XI, 9.
(31) This may either mean that all three were studied; or preferably, as explained by R. Tam a.l., that the Babylonian Talmud itself is a compound of all three.
(32) Lam. III, 6.
(33) Which is profound and dark to the unversed. Cf. Hag. 10a. The word ‘Talmud’ refers to both the mode of study and the actual content of that study, and either or both may be referred to here.
(34) A father is disqualified to act as judge: v. infra 27b.
(35) Considered to be the lowest class in society.
(36) Such is not the formula of a judicial oath, which is sworn in the name of God. Here both the swearing, i.e., ‘I swear’, and the Divine name are absent.
(37) And demand a proper oath.
(38) Though there are two others eligible, R. Meir still holds that he may retract (Rashi). Tosaf. explains more plausibly: Only then do the Sages rule that he cannot retract. If, however, he had accepted one of these as the equivalent of a complete court, even the Sages admit that he can subsequently retract. V. supra p. 132, n. 11.
(39) The Sages.
(40) Less authority is required to rule that one retains what is already in his possession, since possession itself affords a presumption of ownership, than to transfer money from one to another. Hence, only in the former case do the Rabbis rule that an undertaking to abide by the decision of an unqualified judge is binding, but not in the latter.
(41) For it coincides neither with that of Samuel nor with that of R. Johanan.
(42) I.e., he is not bound to agree either with Samuel or R. Johanan. Hence the question remains unanswered.

Talmud - Mas. Sanhedrin 24b

Now surely, this refers to those who swear and do not pay,[1] and hence is analogous to, ‘It be remitted thee’?[2] — No; this refers to those who swear and receive their claim,[3] so that it is analogous to ‘I will pay thee’.

But if so, has this not already been taught in the first clause [of the Mishnah]?[4] — It [the Mishnah] teaches the case where he [sc. the defendant] makes the irregular procedure depend on the judgment of others,[5] and also where he makes it depend on his [sc. the plaintiff's] action. And both are necessary. For had it taught only the case where he [the defendant] makes it depend on the judgment of others, [we might have assumed that] in this case alone does R. Meir hold that he can retract since he might not definitely have decided to abide by their decision, but [inwardly] argued, ‘Who can say that they will give judgment in the other's favour?’ Whereas, if he makes it depend on his [sc. the plaintiff's] action, I might think that he [R. Meir] agrees with the Rabbis [that he cannot retract].[6] Again, had he [the Tanna] stated the latter case alone, we might have assumed, only there do the Rabbis rule thus; but in the former case, we might think[7] that they agree with R. Meir. Hence both are necessary.

Resh Lakish said: The dispute [between R. Meir and the Rabbis] is [over a case where the litigant retracts] before the rendering of the legal decision:[8] but once the decision has been given, all [even R. Meir] agree that he cannot retract. While R. Johanan said: They differ [where one retracts] after the decision is rendered.

The scholars propounded [the following problem:] [Does this mean that] the dispute is [only where the litigant retracts] after the promulgation of the decision; but before, all [even the Rabbis] agree that he can retract; or do they differ in both instances? — Come and hear! For Raba said: If one accepted a kinsman or a man [otherwise] ineligible [as judge or witness], he may retract before the promulgation of the decision; but not after. Now, if you understand [R. Johanan to mean] that the dispute refers only to the time after the decision; but that prior thereto, all agree that he may retract, it is correct: then Raba's statement agrees with R. Johanan's, and is based on the view of the Rabbis. But should you say, The controversy holds good in both cases, who is Raba's authority?[9] Hence it surely follows that the dispute arises only after the decision has been given. This proves it.

R. Nahman son of R. Hisda[10] sent a question to R. Nahman b. Jacob: Will our Master please inform us, Is the dispute before or after the verdict, and with whom does the halachah rest? — He sent back word: The dispute arises after the promulgation of the decision, and the halachah agrees with the Sages. R. Ashi said: This was the question he sent: — Do they differ in the case of ‘I will pay thee,’ or in respect to ‘It be remitted to thee’, and with whom does the halachah rest? To which he replied: The dispute refers to, ‘I will pay thee;’ and the halachah rests with the Sages. Thus they taught in Sura. But in Pumbeditha they taught as follows: R. Hanina b. Shelamiah said: A message was sent from the school of Rab[11] to Samuel, saying: Will our Master please inform us, [If one of the parties pledged himself] by Kinyan[12] [not to retract], what [if he seeks to retract] before the promulgation of the decision? — He returned word, saying: After Kinyan, nothing [can be done to repudiate the transaction].

MISHNAH. AND THESE ARE INELIGIBLE [TO BE WITNESSES OR JUDGES]: A GAMBLER WITH DICE,[13] A USURER, A PIGEON-TRAINER,[14] AND TRADERS [IN THE PRODUCE] OF THE SABBATICAL YEAR.[15] R. SIMEON SAID: AT FIRST THEY CALLED THEM ‘GATHERERS OF [THE PRODUCE OF] THE SABBATICAL YEAR.’ BUT WHEN THE OPPRESSORS[16] GREW IN NUMBER, THEY CHANGED THEIR NAME TO TRADERS IN THE SABBATICAL PRODUCE.’[17] R. JUDAH SAID: WHEN IS THIS SO? — IF THEY HAVE NO OTHER OCCUPATION BUT THIS. BUT IF THEY HAVE OTHER MEANS OF LIVELIHOOD, THEY ARE ELIGIBLE.

GEMARA. What [wrong] does the dice player do? — Rammi b. Hama said: [He is disqualified] because it [sc. gambling] is an Asmakta,[18] and Asmakta is not legally binding.[19]

R. Shesheth said: Such cases do not come under the category of Asmakta;[20] but the reason is that they [sc. dice players] are not concerned with the general welfare.[21] Wherein do they differ? — If he [the gambler] acquired another trade.[22] We learnt:[23] R. JUDAH SAID: WHEN IS THIS SO? — IF THEY HAVE NO OTHER OCCUPATION BUT THIS. BUT IF THEY HAVE OTHER MEANS OF LIVELIHOOD, THEY ARE ELIGIBLE. This proves that the ruling of the Mishnah is for the sake of the welfare, of humanity, which refutes Rami b. Hama.[24] And should you answer, The Rabbis dispute R. Judah's opinion:[25] did not R. Joshua b. Levi say, Wherever R. Judah observes,

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(1) I.e., who meet the claim against them simply by an oath, since Biblical oaths were imposed on the defendant. Cf Shebu. 44b.

(2) I.e., the plaintiff agrees to abandon his claim as the result of an irregular procedure, whether in the choice of judges or in the form of the oath. This shows that they differ also in respect of ‘It be remitted to thee’.

(3) E.g., where a labourer claims his wages when due, or where the defendant is legally incapable of taking an oath, e.g., if he is known to have committed perjury on a previous occasion. Cf. ibid.
(4) According to the explanation thereof by Raba.
(5) By accepting the judgment of people ineligible as judges.
(6) For he must have felt certain that the plaintiff would take up his challenge.
(7) By inverting the preceding argument.
(8) V. p. 24.
(9) In this case, it would only be R. Meir, in the opinion of Resh Lakish, who rules thus. But Raba could not abandon the majority ruling of the Rabbis and follow R. Meir. Nor can it be answered that Raba had an independent view of the circumstances in which they differ, as above, since his statement is not made regarding the Mishnah.
(10) Or R. Isaac, according to another version.
(11) Be Rab. For another possible meaning, v. p. 89.
(12) Kinyan, lit., ‘acquisition’, is a formal act whereby one definitely pledges himself. V. Glos.
(13) Heb. קוביא, Gr. K ** dice-playing, a popular game of antiquity. The term was applied by the Rabbis indiscriminately to any form of gambling. Cf. Shab. 149b.
(14) Lit., ‘pigeon flyers’. The exact meaning of ‘pigeon-flyer’ is discussed in the Gemara. The disqualification of these is based upon Ex. XXIII, 1: Put not thine hand with the wicked to be an unrighteous witness. In this case, though they cannot be considered actual robbers, since they do not appropriate their gain by violence, the Rabbis nevertheless held such gain a form of robbery.
(15) The Sages interpret Lev. XXV, 6: The Sabbath of the land shall be for food to you, to mean, ‘for food’ and not for ‘commerce’. Cf. Bek. 12b. The transgressors of this enactment, because they showed so passionate a greed for gain, were not regarded as trustworthy to judge or testify.
(16) Government officials who spared no means of extorting heavy taxation from the people. As a result, even the Sabbatical year produce had to be given in payment.
(17) The meaning of this is discussed in the Gemara.
(18) אסמכתא ‘speculation’, from סמך, ‘to rely,’ ‘to support’, is a term in civil law denoting a contract wherein each party promises to pay, on fulfilment of a certain condition which he expects will not be fulfilled. It is not binding according to some teachers, because the obligation has not been assumed with serious intent, since each hopes that his promise will be nullified by the non-realization of the condition. Gambling, as in this case, is an excellent example, for in it, A promises B to forfeit a certain object or amount on the realization of a condition which he hopes and expects will not occur.
(19) I.e., does not create an actual obligation. Hence, the receiver is regarded as having taken illegal possession, and so is akin to a robber.
(20) His definition of Asmakta is illustrated in B.B. 168a: If, for instance, A paid a fraction of his debt on a note to B, and told him to deposit the note with C, adding that if he did not pay the note by a certain date, C should return the note to B who would then collect the amount in full; and if on the due date A did not pay, R. Judah says that B may collect only the amount which was not paid, and not its full value, because A's promise is not valid, seeing that at the time he made it, he assumed that failure to pay would not occur. But in the case under consideration, where it is a game of chance, the odds in either case are equal, and A's intent to pay must be taken seriously. Consequently, the gain cannot be considered as a form of robbery.
(21) I.e., they do not contribute to the stability of civilised society.
(22) When, according to R. Shesheth, he should not be disqualified.
(23) [So Ms., M. introducing a refutation of Rami b. Hama. Cur. edd. read, ‘and we learnt’.]
(24) Since he holds that the reason for their disqualification is Asmakta, irrespective of whether they have another trade or not.
(25) In which case his argument agrees with that of the Rabbis, representing the anonymous opinion cited first in the Mishnah.

Talmud - Mas. Sanhedrin 25a

‘When is this so,’[1] or ‘In what case,’[2] he merely aims at explaining the words of the Sages? [Whilst] R. Johanan said: ‘When etc.’ is explanatory, but ‘In what case’ indicates disagreement. Thus all agree that 'When etc. indicates explanation.[3] — Do you oppose one amora[4] to another?[5] One Master [Rami b. Hama] holds that they [the Rabbis and R. Judah] differ; the other [R. Joshua b. Levi] holds that they do not.[6] But do they really not differ? Has it not been taught:[7] Whether he has another occupation or not, he is disqualified?[8] — That is the view of R. Judah, stated on the authority of R. Tarfon. For it has been taught: R. Judah said on the authority of R. Tarfon: In truth, neither of them is a nazir, because a vow of neziruth[9] must be free from doubt.[10]

A LENDER ON INTEREST . . . Raba said: A borrower on interest is unfit to act as witness. But have we not learnt: A LENDER [malweh] ON INTEREST [is disqualified]? — [It means] a loan [milweh][11] on interest [disqualifies the parties to the transaction].

Two witnesses testified against Bar Binithus. One said, 'He lent money on interest in my presence. ' The other said, 'He lent me money on interest.' [In consequence,] Raba disqualified Bar Binithus [from acting as witness etc.]. But did not Raba himself rule: A borrower on interest is unfit to act as witness? Consequently he[12] is a transgressor, and the Torah said: Do not accept the wicked as witness?[13] — Raba[14] here acted in accordance with another principle of his. For Raba said: Every man is a relative in respect to himself, and no man can incriminate himself.[15]

A certain slaughterer was found to have passed a terefah[16] [as fit for food], so R. Nahman disqualified[17] and dismissed him. Thereupon he went and let his hair and nails grow.[18] Then R. Nahman thought of reinstating him, but Raba said to him: Perhaps he is only pretending [repentance]. What then is his remedy? — The course suggested by R. Iddi b. Abin, who said: He who is suspected of passing terefoth cannot be rehabilitated unless he leaves for a place where he is unknown and finds an opportunity of returning a lost article of considerable value, or of condemning as terefah meat of considerable value, belonging to himself.[19]

AND PIGEON TRAINERS: What are PIGEON TRAINERS? — Here[20] it has been interpreted, [of one who says to another], 'If your pigeon passes mine [you win].'[21] R. Hama b. Oshaia said: It means an Ara.[22] On what ground does he who interprets [the phrase to mean] 'pigeon-racer' disagree with him who interprets it as Ara? — His answer is that the conduct of an Ara [is regarded as robbery] merely from the standpoint of neighbourliness.[23] And he who interprets it as 'Ara', why does he not accept this view [sc. 'if thy pigeon etc.]? — His answer is, in that case it is identical with a dice player. And the former?[24] — He [the Tanna of the Mishnah] deals with a case where he relies on his own capabilities. [i.e., dice-playing] and a case where he relies on the capabilities of his pigeon. And both are necessary. For had he dealt only with the case where a man relies upon himself, [I might have supposed that] only there was his promise without serious intent, since he thinks,

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(1) אימתי

(2) במה דברים אמורים

(3) So that R. Judah does not differ from the Rabbis. Hence they too hold that the reason for disqualification is not 'Asmakta', but for 'the sake of the welfare of humanity'.

(4) Lit., ' man' .

(5) R. Joshua b. Levi and Rami b. Hama, who have equal authority.

(6) And that R. Judah's statement is merely explanatory.

(7) 'Er. 82a.

(8) And presumably this is the view of the Rabbis, thus proving that they do differ from R. Judah.

(9) For nazir and neziruth, v. Glos.

(10) Lit., 'applies only to distinct utterance.' This refers to the following: A and B were sitting by the road-side, and a man passed them. Whereupon A said to B: If the man who has passed is a Nazir, as I maintain he is, then I too will take the vow of neziruth; and B said that he for his part would take the vow if he were not. R. Tarfon ruled that the vow is not binding even upon him whose view was subsequently found to be correct, for the vow was based on a doubtful matter, whereas neziruth requires a distinct and explicit pledge. (V. Nazir 34a). R. Judah himself may thus, notwithstanding his statement in the Mishnah, which is only explanatory of the view of the Rabbis, concur in R. Tarfon's view. With respect to the actual reasoning of the Talmud, Rashi states: This proves that in R. Tarfon's opinion, an undertaking dependent on an unknown circumstance is not binding, and therefore the same applies to gambling, each gambler undertaking to pay his opponents without knowing the latter's strength, and therefore the gambler is akin to a robber, as explained on p. 143, n. 2, whether gambling, is his sole occupation or not.

(11) מלוה may be read either מלוה (lender) or מלוה (loan).

(12) The witness who testified that he had borrowed money from Bar Binithus on interest.

(13) Ex. XXIII 1: this is not an exact quotation, but the general implication of the text. How, then, could the evidence of the latter be accepted?

(14) Its accepting the witness's evidence against Bar Binithus.

(15) Cf. supra 9b. Consequently, his evidence is valid only with regard to the accused but not with regard to himself.

(16) V. Glos.

(17) From acting as slaughterer. According to another version he excommunicated him. Cf. Alfasi a.l.; Kesef Mishneh on Maim. Yad, Talmud Torah, VI, 14.

(18) As a sign of penitence.

(19) So exhibiting his staunch observance of the law, even in the face of loss.

(20) In Babylon.

(21) A pigeon-racer.

(22) Or Ada, a fowler, one who puts up decoy-birds to attract other birds from another's dove-cote. [Ara is connected by Ginzberg, L., with the Assyrian aru, denoting by 'gin', 'snare'; v. Krauss, S., Sanhedrin-Makkot, p. 124.]

(23) Lit., 'ways of peace', but not its law, since birds may, and often do change their homes of their own will. According to strict law, these birds are considered as semi-wild, and therefore ownerless. Yet it is robbery on account of 'the ways of peace'.

(24) How does he answer this objection?

Talmud - Mas. Sanhedrin 25b

'I feel certain that I know more [than my opponent], [and so I am sure to win]; but where he relies on his pigeon's ability, I should say [that the gain is] not [illegal].[1] Again, had the Mishnah dealt only with a case where he relies on his pigeon's ability. [I might have assumed that only then was the gain illegal], as he might have thought: 'Surely winning the race depends on the use of the rattle,[2] and I am the more skilled in its use;' but where he depends on his own abilities, I might have said that [the gain is] not [illegal].[3] Hence both are necessary.

An objection is raised: Dice-players include the following: Those who play with checkers,[4] and not only with checkers, but even with nut-shells and pomegranate peel.[5] And when are they considered to have repented?[6] When they break up their checkers and undergo a complete reformation, so much so, that they will not play even as a pastime.[7] A usurer: this includes both lender and borrower.[8] And when are they judged to have repented? When they tear up their bills and undergo a complete reformation, that they will not lend [on interest] even to a Gentile. Pigeon trainers: that is those who race pigeons,[9] and not only pigeons, but even cattle, beasts, or other birds. When may they be reinstated? When they break up their pegmas[10] and undergo a complete reformation, so that they will not practise their vice even in the wilderness.[11] Sabbatical traders are those who trade in the produce of the Sabbatical year. They cannot be rehabilitated until another Sabbatical year comes round and they desist from trading.[12] Whereon R. Nehemia said: They [the Rabbis] did not mean a mere verbal repentance, but a reformation that involves monetary reparation. How so? He must declare, 'I, so and so, have amassed two hundred zuz by trading in Sabbatical produce, and behold, here they are made over to the poor as a gift.[13] At any rate, cattle too are mentioned.[14] Now, on the view that it means pigeon racing, it is correct, for racing of beasts, is also possible. But if it means 'an Ara', are cattle suited to this [viz. to decoy other beasts]? — Yes, in the case of the wild ox,[15] on the view that this is a species of cattle. For we have learnt:[16] A wild ox is a species of cattle; R. Jose said: It is a wild animal.[17]

A Tanna taught: [To those enumerated in the Mishnah] were added robbers and those who compel a sale.[18] But are not robbers [disqualified] by Biblical law?[19] — [Yes, but] it [the addition] was necessary in respect of one who appropriates the finds of a deaf-mute, an imbecile, or a minor.[20] At first it was thought that this was of infrequent occurrence,[21] or [that such appropriation was robbery only] judged by neighbourliness in general:[22] but when it was seen that after all it was someone else's property[23] that they seized,[24] the Rabbis disqualified them.

‘Those who compel a sale:’ At first they thought, They do, in fact, pay money, and their pressure is incidental.[25] But when they observed that they deliberately seized the goods,[26] they made this decree against them.

A Tanna taught: They further added to the list, herdsmen,[27] tax collectors and publicans.[28]

‘Herdsmen’: At first they thought that it was a question of mere chance,[29] but when it was observed that they drove them there intentionally, they made the decree against them.

‘Tax collectors and publicans:’ At first they thought that they collected no more than the legally imposed tax. But when it was seen that they overcharged, they were disqualified.

Raba said: The ‘herdsmen’ whom they [the Rabbis] refer to, include the herdsmen of both large and small cattle, [i.e both cowherds and shepherds]. But did Raba actually say so? Did he not say: Shepherds are disqualified only in Palestine, but elsewhere they are eligible; while cowherds are qualified even in Palestine?[30] — That applies to breeders.[31] Logic too supports this. For we learnt: [If one says,] I HAVE CONFIDENCE IN THREE COWHERDS etc. [they are acceptable].[32] Surely [that implies that they are normally ineligible] for witnesses? — No: for judges.[33] This is also evident from the expression: THREE COWHERDS; for if it means, qualified as witnesses, why three? What then: it refers to judges? Then why particularly cowherds; the same applies to any court of three men unversed in law?[34] — He [the Tanna] means this: Even such as these, who are rarely to be found in populous areas.[35]

Rab Judah said: A herdsman in general[36] is ineligible, while a tax collector in general is eligible.[37]

R. Zera's father acted as tax collector for thirteen years. When the Resh Nahara[38] used to come to a town, if he [R. Zera's father] saw the scholars [of the city] he would advise them, Come my people, enter thou into thy chambers.[39] And when he saw the other inhabitants of the town he would say to them: The Resh Nahara is coming to the city, and now he will slaughter the father in the presence of the son, and the son in the presence of the father;[40]

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(1) Since he made the promise notwithstanding the doubtfulness of the issue.

(2) By which the race is started and the pigeon spurred on.

(3) As the promise might have been made with serious intent.

(4) **פספסים** (** = pebble), polished blocks or stones.

(5) These latter were probably employed as a temporary means for gambling when proper dice were not obtainable.

(6) And thus become qualified again to be witnesses and judges.

(7) Lit., ‘for nothing’.

(8) V. p. 144, n. 9.

(9) So the Aruch. Rashi, however, translates: Those who train pigeons to fight with each other — probably a form of cock-fighting.

(10) A fixture made of boards; a wooden contrivance that opened and shut itself, [a trap (R. Han.), or a rattle to spur on the pigeons (Rashi).]

(11) Where there is no one to see or pay. According to the view that ‘pigeon trainer’ means an ara, the meaning would be: ‘Even in the place far from civilisation, they would not put up their pegmas’ (Rashi).
(12) E.g., leave their fields free to the poor.
(13) V. Tosef. Sanh. V.
(14) Parallel with pigeons, as being trained for racing.
(15) It would appear that these were caught, domesticated, and then used to decoy beasts, also semi-domesticated and possessing owners, on perhaps similar lines to elephant hunting and taming.
(16) Kil. VIII, 6.
(17) Cattle and wild animals must not be mated with one another.
(18) Against the desire of the owner, even though they pay fairly.
(19) On the basis of Ex. XXIII, 1.
(20) Under the age of thirteen for males, and twelve for females.
(21) Which did not call for a specific legal provision.
(22) But not by Biblical law, because these have no legal powers of acquisition or possession, and therefore, Biblically speaking, their finds do not belong to them. Nevertheless, it is obvious that to enforce this in practice would lead to strife and a feeling of grievance, and hence the Rabbis conferred upon them the power of effecting possession. Thus, since such appropriation was not robbery in the Biblical sense, it was thought unnecessary to impose disqualification on its account.
(23) Though only by Rabbinical law, still, the ruling of the Rabbis was fully binding.
(24) And that it was greed for money that tempted them to transgress the laws.
(25) Yet perhaps the owners were willing to sell all the same.
(26) Without the owners’ agreement to the sale.
(27) Because they allowed cattle to graze on other people's lands. This law applies only to graziers of their own cattle, but not to hired herdsmen, for it is taken for granted that a man does not trespass unless material benefit accrues to him. Cf. B.M. 5b.
(28) Government lessees who collected customs duties, market tolls and similar special imposts, thus helping the Romans to exact the heavy taxes imposed upon the Jews. Hence these men were classed with robbers.
(29) That their cattle grazed upon other people's land.
(30) V. B.K. 79b and discussion in Gemara.
(31) Who stable their cattle. Thus only shepherds are disqualified, since sheep cannot be kept tethered.
(32) Supra 24a. From which it follows that they are usually disqualified.
(33) Who must be persons learned in the law.
(34) Who are normally ineligible to act as judges.
(35) And so have little experience of ordinary human affairs; yet they are eligible by mutual agreement.
(36) I.e., of whom it is not known whether he trespasses or not. V. p. 148, n. 5.
(37) Unless it is definitely known that he is making exorbitant demands in taxation.
(38) ריש נהרא lit., ‘head of the river’ — chief of the district bordered by a river or canal.
(39) Isa. XXVI, 20; i.e., hide, so as to avoid giving the impression that the town was largely populated, lest it be heavily taxed.
(40) I.e., will collect heavy taxes.

Talmud - Mas. Sanhedrin 26a

whereupon they all hid themselves. When the officer arrived [and rebuked him for failing in his duty,] he would say: Of whom shall I make the demand?[1]

Before he died, he said: Take the thirteen ma'ahs[2] that are tied in my sheets and return them to so and so, for I took them from him [by way of tax] and have had no need for them.

R. SIMEON SAID, AT FIRST . . . GATHERERS OF THE PRODUCE OF THE SABBATICAL YEAR. What does he mean? — Rab Judah said: This; at first they [the Rabbis] ruled that gatherers of the Sabbatical produce[3] are eligible, but traders in it are not. But when they saw that large numbers offered money to the poor,[4] who then went, gathered the produce and brought it to them, they revised the law and enacted that both [gatherers and traders] are ineligible. The sons of Rehabah[5] objected to this: Does this mean, WHEN THE OPPRESSORS GREW IN NUMBER? It should then have been worded: When the traders grew in number! But we may explain it thus: At first they ruled that both [even gatherers] were ineligible. But when THE OPPRESSORS GREW IN NUMBER, viz., the [collectors of] Arnona[6] (judging by R. Jannai's proclamation, ‘Go and sow your seed [even] in the Sabbatical year, because of the [collectors of] Arnona,’)[7] they revised the law and enacted that only traders were disqualified but not gatherers.[8] R. Hiyya b. Zarnuki and R. Simeon b. Jehozadak once went to Assia[9] to intercalate the year.[10] They were met by Resh Lakish, who joined them, saying, ‘I will come and see their procedure.’[11] On the way, he saw a man ploughing, and remarked to them, ‘That man who is ploughing is a priest.’[12] But they replied, ‘Can he not say: I am an imperial servant[13] on the estate?’ Further on he saw a man pruning his vineyard, and again observed, ‘That pruner is a priest.’ ‘But’, they demurred, ‘he might say: I need [the twigs] to make a bale[14] [‘akkel] for the wine-press, [a legitimate purpose].’ ‘The heart knows whether it is for ‘akkel’ or ‘akalkaloth [perverseness]’, he retorted.[15] — Now, which remark did he make first? Shall we say, his first remark was the one first recorded: then for the other too they could have suggested [the same excuse], ‘I am an imperial servant on the estate.’ Hence the latter remark must have come first: and only subsequently did he make the other observation. Why was each assumed to be a priest? — Because they [the priests] are suspected of breaking the Sabbatical laws, as it has been taught; If a se'ah of Terumah[16] [accidentally] fall into a hundred se'ahs of Sabbatical produce, it [the Terumah] is neutralised.[17] In case of a lesser quantity [of Sabbatical produce], the whole must be left to rot.[18] Now, we raised the question, Why must it be left to rot? Why not let it be sold to a priest at a price of Terumah[19] less the value of the one se'ah![20] To which R. Hiyya replied on the authority of ‘Ulla: This fact[21] proves that the priests were suspected of violating the laws of the Sabbatical year.[22]

[To resume the narrative.] They said:[23] He is a troublesome person, and so, on reaching their destination, they ascended to the upper chamber,[24] and removed the ladder.[25] Thereupon he [Resh Lakish] went before R. Johanan and asked: Are people suspected of trespassing Sabbatical laws[26] qualified to intercalate the year? But on second thoughts he said: This presents no difficulty, for there is a similar case of three cowherds,[27] upon whose calculations the Rabbis relied. Subsequently, however, he said: There is no comparison between the two cases; there it was the Rabbis who eventually decided[28] and declared the year intercalated,[29] whereas here, it is a confederacy of wicked men,[30] such as may not be counted [on the intercalary board]. R. Johanan replied: That is a misfortune.[31]

When they[32] came before R. Johanan, they complained: He described us as cowherds, and you made no objection whatever.[33] R. Johanan answered: Even had he called you shepherds,[34] what could I have said?

What is [the reference to] ‘a confederacy of wicked men’? — [It is as follows:] Shebna[35] expounded [the law] before thirteen myriads,[36] whereas Hezekiah expounded it only before eleven. When Sennacherib[37] came and besieged Jerusalem, Shebna wrote a note, which he shot on an arrow [into the enemy's camp, declaring]: Shebna and his followers are willing to conclude peace; Hezekiah and his followers are not. Thus it is written, For lo, the wicked bend the bow, they make ready their arrow upon the string.[38] So Hezekiah was afraid, and said: Perhaps, Heaven forfend, the mind of the Holy One, blessed be He, is with the majority; and since they wish to surrender, we must do likewise! Thereupon the Prophet came and reassured him: Say ye not a confederacy, concerning all of whom this people do say, A confederacy;[39] it is a confederacy of the wicked, and as such cannot be counted [for the purpose of a decision].

[Later, when] Shebna went to hew out for himself a sepulchre among the sepulchres of the house of David, the Prophet came and said to him: What hast thou here and whom hast thou here that thou hast hewn here a sepulchre? Behold, the Lord will hurl thee down as a man is hurled.[40] Rab observed: Exile is a greater hardship for men than for women.[41]

Yea, He will surely cover thee[42] R. Jose son of R. Hanina said: This teaches that he was stricken with leprosy: here it is written, surely cover; and elsewhere [in reference to a leper] it is said, And he shall cover his upper lip.[43]

He will violently roll and toss thee like a ball into a large country.[44] It has been taught : He [Shebna] sought the shame of his master's house: therefore his own glory was turned to shame.[45] [For] when he went out [on his way to surrender to Sennacherib], Gabriel came and shut the city gate in the face of his servants

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(1) [The demand here was not for the regular poll-tax, but in respect of a special imposition, v. Obermeyer, op. cit. 237.]

(2) Small coins, one ma'ah = 1/2 a silver dinar.

(3) It was permissible to gather Sabbatical produce and keep it as long as the same kind was available for the beasts of the field too. But when that was consumed, private possession was forbidden, and the produce had to be removed from the house and deposited in the fields, where it would be free to all. Now, in the case under discussion, it might have been possible for the gatherers to consume all they had gathered before the ‘time of removal’, in which case they committed no transgression; therefore they were not disqualified. [Yad Ramah adds ‘even if they happened to sell any of the hoard’.]

(4) The poor could gather from all fields irrespective of the ‘time of removal’ (cf. Sheb. IX, 8; Nahmanides on Lev. XXV, 7), but only for their personal use. Thus, these wealthy men were disqualified because they virtually bribed the poor to trade therein. According to this, the Mishnah must be explained thus: At first, these were only regarded as gatherers (from the poor), and therefore eligible. But subsequently, when owing to the increase of oppressors (q.v. Mishnah), the practice of making gifts to the poor grew apace, the donors were classed as traders, not merely gatherers, and therefore disqualified (Rashi). [According to Yad Ramah it was the poor who were declared disqualified, as traffickers in Sabbatical produce.]

(5) [Efo and Abimi, v. supra 17b.]

(6) An adaptation of annona, the annual income of natural products. Hence taxes paid in kind.

(7) The observance of the Sabbatical year in post-Temple times was merely Rabbinical and therefore R. Jannai felt justified in abrogating it in the face of dire necessity (Rashi). [The privilege which the Jews enjoyed since the days of Caesar exempting them from taxes in the Sabbatical year (v. Josephus, Ant. XIV, 10, 5-6) was abrogated in the year 261 C.E. V. Graetz IV, 213, and Auerbach, M., Jahrb. d. jud. liter. Gesel. V, 155-188].

(8) Accordingly, the Mishnah is thus to be interpreted: AT FIRST . . . GATHERERS etc. i.e., even gatherers were classed amongst the ineligibles; BUT . . . . TRADERS, i.e., only the latter were so designated, but not the former.

(9) Tosaf. regards it as a district outside Palestine and, since it was thus not qualified as a place for the intercalation of a year (cf. supra 11b), suggests that they must have gone there only for the purpose of calculating. (V. Yeb. 164). It is, however, probably Essa, east of the lake Tiberias, Neub. p. 38. ‘Weinstein maintains that it is identical with Callirhoe and its surroundings on the east of the Jordan, near the Dead Sea (Jast.). [Halevy, Doroth, Ie, 787, suggests that Assia was specially chosen for the Intercalation as it was considered a safe place owing to its hot springs which attracted many visitors from far and wide, and the arrival of the Rabbis would not rouse the suspicion of the Romans.]

(10) From the context it appears that the incident must have happened in a Sabbatical year. But no intercalation could take place in such a year, (v. supra 12a) hence, as has been said, Tosaf. suggests that they must have gone there only for the purpose of making the necessary calculations. But even a Sabbatical year may be intercalated in an emergency. Cf. Yad, Kid. Hahodesh, 4, 16.

(11) V. supra 11a with reference to Samuel the Small.

(12) The reason for this statement is given below.

(13) Heb. אגיסטון or אגוסטאן (Augustanus, Augustanius), a servant in a colonia Augustana (Jast.); an imperial servant, and therefore engaged in permissible labour. [Krauss, Lehnworter, derives it from **, ‘a farmer-tenant.’]

(14) ‘A bale of loose texture containing the olive pulp to be pressed’ (Jast.).

(15) The root of both words being ‘bend’ or ‘twist’ — i.e. either woven, or crooked.

(16) V. Glos.

(17) So that the whole may be eaten by a non-priest. In the case of other forbidden objects, a quantity of permitted food in a ratio of 60-1, is necessary for neutralisation (v. Hul. 98a); but in the case of Terumah, a hundred fold is necessary. Cf. Ter. IV, 7.
(18) I.e., no one may make use of it. Tosef. Ter. VI.
(19) Which is lower than that of ordinary produce, owing to the small demand for it, as only priests may consume it.
(20) Which in any case belonged to the priest. Sabbatical produce may be sold on condition that both the produce itself, and the money paid for it, be consumed before the ‘time of removal’.
(21) That it may not be sold to a priest.
(22) By benefiting from the produce after the ‘time of removal’. This suspicion arose because they claimed that just as Terumah and other consecrated objects were permitted to them, though not to other Israelites, so should Sabbatical produce.
(23) R. Hiyya b. Zarnuki and R. Simeon b. Jehozadak, on observing that he was ready to find fault.
(24) Lit., ‘roof’. Cf. supra 11a, where it is stated that intercalators met in an upper chamber.
(25) So as to prevent him from following them.
(26) Basing this allegation on the ground of their having tried to justify the actions of those mentioned by him as trespassers.
(27) Who offered information to the Rabbis. V. supra 18b.
(28) Lit., ‘took a majority vote’.
(29) Notwithstanding the fact that they were aided by the observations of the cowherds, the decision was taken by the Rabbis themselves.
(30) I.e., the actual Board consists of such.
(31) I.e., your attack on them is distressing. He thus reproached him for his intolerance.
(32) R. Hiyya b. Zarnuki and R. Simeon b. Jehozadak.
(33) Probably they were not aware of his more serious slander.
(34) Which is a still lower rank: v supra 25b.
(35) Chamberlain of the Palace of King Hezekiah (Isa. XXII, 15).
(36) ‘Great men’, according to others.
(37) King of Assyria, 705-681 B.C.E. Invaded Judah in the fourteenth year of Hezekiah's reign).
(38) That they may shoot in darkness against the upright heart i.e., Hezekiah. Ps. XI, 2.
(39) Isa. VIII, 12.
(40) Isa. XXII, 16: i.e., will carry thee away with the captivity of a mighty man.
(41) Deducing this from the verse quoted, ‘hurl’ referring to exile. Through exile a man loses the sphere of his livelihood, but a woman can assure hers by marriage.
(42) E. V. ‘wind thee round and round’ Ibid.
(43) Lev. XIII, 45.
(44) Isa. XXII, 18.
(45) Cf. end of verse 18, Thou shame of thy Lord's house.

Talmud - Mas. Sanhedrin 26b

[who were following him].’ On being asked, ‘Where are your followers’ he answered, ‘They have deserted me.’ ‘Then you were merely ridiculing us’ they (the Assyrians) exclaimed. So they bored holes through his heels, tied him to the tails of their horses, and dragged him over thorns and thistles.

R. Eliezer said: Shebna was a Sybarite. Here it is written, Get thee unto ha-soken [the steward];[1] and elsewhere it is written, And she [the Shunamite] became a sokeneth [companion] unto him.[2]

When the foundations [ha-shathoth] are destroyed, what hath the righteous wrought?[3] Rab Judah and R. ‘Ena [both explained the verse]. One interpreted it thus: If Hezekiah and his followers had been destroyed [by the plot of Shebna], what would the Righteous [sc. God] have achieved?[4] The other: If the Temple had been destroyed, what would the Righteous have achieved?[5] ‘Ulla interpreted it: Had the designs of that wicked man [Shebna] not been frustrated, how would the righteous [Hezekiah] have been rewarded?[6]

Now, according to the [last] explanation, viz., Had the designs of the wicked man [etc.], it is well: hence it is written, When ha-shathoth are destroyed.[7] The explanation which refers it to the Temple is likewise [acceptable]. For we learnt:[8] A stone lay there [beneath the Ark] ever since the time of the Early Prophets and it was called ‘shethiyah’.[9] But as for its interpretation as referring to Hezekiah and his party: where do we find the righteous designated as ‘foundations’? — In the verse, For the pillars of the earth are the Lord's and He hath set [wa-yasheth] the world upon them.[10] Alternatively [it may be deduced] from the following, Wonderful is His counsel and great his Tushiyah [wisdom].[11]

R. Hanin said: Why is the Torah called Tushiyah? — Because it weakens the strength of man [through constant study].[12] Another interpretation: Tushiyah because it was given to Moses in secret, on account of Satan.[13] Or again, because it is composed of words, which are immaterial, upon which the world is [nevertheless] founded.[14]

‘Ulla said: Anxiety[15] [adversely] affects [one's] learning,[16] for it is written, He abolisheth the thoughts of the skilled [i.e., scholars], lest their hands perform nothing substantial.[17] Rabbah said: [But] if they study it [the Torah] for its own sake, it [anxiety] has no [adverse] effect, as it is written, There are many thoughts in man's heart, but the counsel of the Lord, that shall stand:[18] counsel in which there is the word of God [i.e., study of the Torah] will stand for ever [under all circumstances].

R. JUDAH SAID: WHEN etc. R. Abbahu said in R. Eleazar's name: The halachah rests with R. Judah. R. Abbahu also said in R. Eleazar's name: All [those] enumerated in the Mishnah as ineligible must be proclaimed at the Beth din [as such]. As for a shepherd, R. Aha and Rabina differ therein: one maintains that proclamation must be made; the other holds that it is unnecessary.[19]

Now, on the view that it is not required, it is correct: hence the dictum of Rab Judah in Rab's name, viz., a shepherd in general is incompetent.[20] But according to the view that a proclamation is necessary, what is meant by ‘a shepherd in general is incompetent’?[21] — That in general[22] he is proclaimed so.

A certain deed of gift was witnessed by two robbers. Now, R. Papa b. Samuel wished to declare it valid, since their [the robbers’] ineligibility as witnesses had not been publicly announced. But Raba said to him: Granted that proclamation is required in the case of persons declared only by the Rabbis as robbers;[23] must those defined as such by Biblical law also be proclaimed?[24]

(Mnemonic: Dabar, wa-Arayoth, Ganab).[25]

R. Nahman said: Those who accept charity from Gentiles[26] are incompetent as witnesses;[27] provided, however, that they accept it publicly, but not if they accept it in private. And even if publicly [accepted], the law is applicable only if, when it was possible for them to obtain it privately they yet degraded themselves by open acceptance. But where [private receipt] is impossible, it [public acceptance] is vitally necessary.[28]

R. Nahman said: One who is suspected of adultery is [nevertheless] eligible as a witness. Said R. Shesheth: Answer me,[29] Master; forty stripes on his shoulders,[30] and yet [you say] he is eligible![31] Raba observed: Even R. Nahman admits that he is incompetent to testify in matrimonial matters. Rabina — others state R. Papa — said: That is only where his evidence is to free her;[32] but if it is to bind her,[33] there is no objection [to him]. But is this not obvious?[34] — I might think that he would prefer this,[35] even as it is written, Stolen waters are sweet;[36] therefore he teaches us that as long as she is in her present [unmarried] state, she is even more within his reach.[37]

R. Nahman said further: One who steals [produce from the fields] in Nisan, and [fruit from the orchards] in Tishri[38] is not regarded as a thief[39] . But this is only in case of a metayer,[40] where the quantity is small and the produce is ripe[41] [and no longer needs tending].

One of R. Zebid's farm-labourers’ stole a kab of barley, and another a cluster of unripe dates. So he disqualified them [from acting as witnesses].

Certain grave diggers buried a corpse on the first day festival ‘Azereth’,[42] so R. Papa excommunicated them, and disqualified them as witnesses.[43] R. Huna the son of R. Joshua, however, removed their disqualification; whereupon R. Papa protested: ‘But surely, they are wicked men!’ — ‘They might have thought that they were doing a good deed!’ ‘But did I not excommunicate them?’[44] — They might have thought that the Rabbis thereby effected expiation for them.[45]

It has been stated:

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(1) Isa. XXII, 15.

(2) I Kings I, 4. A play on the different meanings of the verb סכן, to serve, to administer, to associate, or to be a companion of one (of the opposite sex).

(3) Ps. XI, 3.

(4) Where is the fulfilment of the promise to him?

(5) Where is God's miraculous power? people would ask.

(6) He translates: For the designs (of the wicked) shall be overthrown; (otherwise) what would the Righteous have achieved?

(7) From the verb שית ‘to set’ — set one's thoughts. Cf. Ex. VII, 23. In some editions there follows, ‘as it is written, And David laid (wa-yasheth) those words on his heart.’ This verse, however, appears nowhere in Scripture, and Rashi here quotes Ex. VII, 23, but not this phrase. Hence Maharsha a.l. deletes it as an erroneous interpolation.

(8) Yoma 53b.

(9) שתיה, i.e., foundation stone. ‘Ha-shathoth’ therefore, may refer to the foundations of the Temple.

(10) I Sam. II, 8. And the righteous are considered the foundations of the world. Cf. Prov. X, 25: But the righteous are the foundation of the universe. (This verse could not be quoted, as a different word is used there.)

(11) Isa. XXVIII, 29. Referring to the Torah, upon the teachings of which the world was established. תושיה is here connected with שתת.

(12) Connecting תושיה with מתשת, to weaken.

(13) Satan was purposely kept in ignorance of the giving of the law, since he had opposed its being delivered into Moses's hands, on the ground that forty days later the Israelites would violate it by worshipping the golden calf. Cf. Tosaf. Shab. 89a quoting Midrash.

(14) Tohu-shuthath, indicated by the syllables composing Tushiyah תו — תוהו void, שיה — שית foundation.

(15) Lit., ‘thought’ — about one's livelihood etc.

(16) Lit., ‘words of the Torah’.

(17) Job V, 12; i.e., he frees them from thoughtful anxiety (by providing them with food), for otherwise they could not progress in their studies. Both Rashi and Tosaf. offer additional interpretations.

(18) Prov. XIX, 21.

(19) For if he had trespassed in other persons’ fields, it would be known.

(20) Cf. B.M. 5b.

(21) Once a proclamation is made, he ceases to be ‘a shepherd in general’ and becomes an individualized person.

(22) Even if there are no witnesses that he has led his flocks into other people's fields.

(23) Such as those enumerated in the Mishnah.

(24) Surely not! hence the deed is invalid. A robber, according to Biblical law, is one who, without judicial sanction, has seized the movable property of another by force or intimidation. Cf. B.K. 79b.

(25) On mnemonics v. p. 21, n. 5. The phrase reads: A Thing, and Incest, Theft.

(26) Lit., ‘Those who eat of a thing unnamed (other).’ דבר אחר is the colloquial term for pork; the whole expression is metaphorical, and is meant as translated in the text. (V. Rashi and Tosaf.).
(27) For such an action is regarded as a profanation of ‘The Name’, and he who performs it is regarded as wicked.
(28) Lit., ‘it is a matter of life’. Cf. Yoma 82a, ‘Nothing stands in the way of saving life’.
(29) So Rashi. Jast.: ‘Be slow’, ‘beg pardon’.
(30) I.e., even though he is liable to flagellation.
(31) Surely not! Though by Biblical law punishment could not be imposed without evidence and warning, it was nevertheless meted out on the ground of strong suspicion. Cf. Kid. 81a where Rab said: We impose the punishment of lashes even on the ground of an evil report alone, as it is written, For it is no good report which I hear (I Sam. II, 24).
(32) E.g., when he testifies to the death of her husband or that she was divorced from him. His purpose is then quite obvious, and therefore his evidence is suspect.
(33) Lit., ‘to bring her into’ (the married state).
(34) Since no selfish interests can animate him.
(35) I.e., to keep her in a forbidden state to him, for then her occasional company would be more pleasurable.
(36) Prov. IX, 17.
(37) And that this factor is bound to outweigh the other; therefore his evidence is admissible.
(38) Its these months cereals and fruits ripen respectively.
(39) In respect of bearing witness.
(40) Who works for a certain share in the produce.
(41) Lit., ‘its work is completed.’
(42) עצרת solemn assembly. The Talmudic name for the Feast of Weeks. (Cf. Lev. XXIII, 9 ff). Burial is forbidden on the first day of a Festival. Cf. Bez. 6a top.
(43) Since they violated the law for the sake of gain. It should be observed that this is the main test of eligibility.
(44) That should have indicated to them that their action was not right; yet they repeated their action.
(45) For the desecration of the day, though their act in itself was meritorious.

Talmud - Mas. Sanhedrin 27a

A witness who was proved a Zomem:[1] Abaye ruled, His disqualification is retrospective;[2] Raba maintained, He is disqualified only for the future.[3] Abaye makes the disqualification retrospective: he was a wicked man from the time of testifying [falsely], and the Torah says: Do not accept the wicked as witness.[4] Raba holds that he is disqualified prospectively [only]: now, the entire law of a falsified witness is anomalous; for [it is two against two, then] why accept the evidence of one pair rather than that of the other? Therefore it can take effect only from the time that this anomalous procedure is employed. Some say that Raba really agrees with Abaye; yet why does he rule [that the incompetence is] prospective? — Because of the purchaser's loss.[5] Wherein do they [the two views on Raba's ruling] differ? — A difference arises where two have testified against one,[6] or where he was disqualified on the grounds of robbery.[7] And R. Jeremiah of Difti related that R. Papi ruled in a certain case in accordance with Raba's view; while Mar son of R. Ashi said: The law rests with Abaye. And, [concludes the Talmud], the law rests with Abaye in Y'AL KGM.[8]

As for a Muma[9] who eats nebelah[10] merely to satisfy his greed,[11] all agree that he is disqualified.[12] If his purpose is provocative;[13] Abaye said, He is ineligible; Raba ruled, He is eligible. Abaye said: He is ineligible, because he is classed with the wicked, and the Torah said: Do not accept the wicked as witness.[14] Raba ruled: He is eligible, because he must have been wicked for the sake of gain [hamas].[15]

An objection is raised: Do not accept the wicked as witness; [this means,] Do not accept a despoiler[16] as witness; e.g., robbers, and those who have trespassed by [false] oaths.[17] Surely this refers to both a vain oath[18] and an oath concerning money matters?[19] — No; in both cases,[20] oaths concerning money matters are alluded to; then why state ‘oaths’ [plural]? — [To indicate] oaths in general.[21]

An objection is raised: Do not accept the wicked as witness; [this means,] Do not accept a despoiler as witness, e.g., robbers and usurers.[22] This refutation of Abaye's view is unanswerable.

Shall we say that their difference is identical with that of Tannaim? [For it has been taught:][23] A witness proved a Zomem is unfit [to testify] in all Biblical matters: this is R. Meir's view. R. Jose said: That is only if he has been proved a Zomem in capital cases;[24] but if in monetary cases, his evidence is valid in capital charges. Shall we affirm, Abaye agrees with R. Meir, and Raba with R. Jose? ‘Abaye agrees with R. Meir,’ who maintains that we impose [disqualification] in respect of major cases as a result of a minor transgression.[25] ‘And Raba[26] with R. Jose,’ who says, We impose [disqualification] in respect of minor matters[27] as a result of a major transgression;[28] but not the reverse! — No! On R. Jose's opinion, there is no dispute at all.[29] They differ only on the basis of R. Meir's opinion. Abaye certainly agrees with R. Meir. But Raba [may argue]: So far R. Meir gives his ruling only in the case of a Zomem in a monetary case, who is evil in the sight of God and man. But in this case, since he is evil in the sight of God alone,[30] even R. Meir does not disqualify him. And the law rests with Abaye. But has he not been refuted? — That [Baraitha which refuted him] represents the opinion of R. Jose.[31] Granted; yet even so, [wherever] R. Meir and R. Jose [are in dispute], the halachah rests with R. Jose![32] — In the other case it is different, for the Tanna has taught R. Meir's view anonymously.[33] And where does this occur? — [As we find] in the case of Bar Hama, who committed murder. The Resh Galutha[34] said to R. Abba b. Jacob:[35] Go and investigate the matter, if he is definitely the murderer, dim his eyes.[36] Two witnesses thereafter appeared and testified to his definite guilt; but he [Bar Hama] produced two other witnesses, who gave evidence against one of the accusing witnesses. One deposed: In my presence this witness stole a kab of barley; the other testified: In my presence he stole

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(1) V. Glos. This refers to a case where a period elapsed between his giving of evidence and being proved a Zomem.

(2) I.e., from the time he began to give his evidence in court, and all the evidence he has given in the intervening period becomes invalidated.

(3) I.e., from the time when he is proved a Zomem.

(4) An interpretation of Ex. XXIII, 1.

(5) If purchasers have transacted business through documents signed by the Zomemim, having been unaware of their disqualification, they would become involved in considerable loss, should their evidence be declared invalid.

(6) Rashi: two pairs against one pair, each of the former refuting the testimony of a single member of the latter; in this case there is no anomaly, hence disqualification is retrospective. Tosaf.: there are two witnesses refuting one, leaving the other unaffected. The reason based on the injury to purchasers, on both interpretations, however, is still valid.

(7) Here again the argument that it is an anomalous procedure no longer holds good. It should be observed that, strictly speaking, the term Zomem is inapplicable in that case, but it is here used rather loosely in the sense of a witness proved to have been ineligible. Tosaf. however, gives this explanation: A and B attested a certain act, claiming that they had witnessed it together, whereupon C and D declared A a Zomem, but leaving the testimony of B unaffected. Now, in point of fact, since A and B jointly testified, they both (including B), deny the allegation of C and D, and therefore it is an anomaly that credence is given to the latter pair. Here, however, B too was proved to be incompetent, though on other grounds, viz., robbery; therefore it is no anomaly that the testimony of C and D against A should be accepted.

(8) יע״ל קג״ם. Six decisions scattered throughout the Babylonian Talmud in which Abaye differs from Raba, and where the law rests with the former. Y'AL KGM is composed of six initial letters of words which indicate various legal terms, YOD (י)יאוש, ‘abandonment of lost article,’ B.M. 21b. ‘AYIN (ע) עד זומם, referred to here. LAMED (ל) לחי העומד מאליו, ‘A pole put up accidentally,’ ‘Er. 15a. KOF (ק) קידושין שלא נמסרו לביאה, ‘Betrothal which cannot result in actual cohabitation,’ Kid. 51a. GIMEL (ג) גילוי דעת בגיטין ‘The act of revealing one's attitude indirectly in regard to a Get,’ Git. 34a. MEM (מ) מומר, A Pervert, in the following discussion.

(9) מומר (from מור convert, exchange), hence a pervert; an apostate; an open opponent of the Jewish law; a non-conformist. The word Mumar is also employed by the Talmud to designate one who transgresses a Biblical command in general.

(10) נבילה carrion, an animal that died a natural death or which was not slaughtered according to ritual law.
(11) I.e., his greed for money, because it is cheaper.
(12) Because he is classed with the wicked, who commit their misdeeds for gain.
(13) I.e., to defy, and show his contempt for, the law.
(14) Cf. Ex. XXIII, 1.
(15) חמס, ‘violence’, ‘plunder’. Cf. Ex. XXIII, 1, ‘to be a witness of violence’ (E.V. ‘unrighteous witness’). I.e., such as a robber; whereas in this case his action is prompted by other motives.
(16) One who violates another's rights to satisfy his own greed.
(17) I.e., perjurers.
(18) E.g., an oath that a pillar of stone is made of stone, which is a needless oath.
(19) As follows from the plural, oaths. Hence the motive for his evil act need not be lust for money, in contradistinction to Raba's opinion.
(20) Actually, only one case is mentioned, viz., oaths. But the phrase is used on the questioner's hypothesis (v. n. 6), and the answer proceeds to demolish that assumption.
(21) I.e., such as are made in litigation.
(22) Hence his wickedness must, to disqualify him, have been prompted by gain for money only, in contradistinction to the opinion of Abaye.
(23) Tosef. Mak. I.
(24) For, having been found dishonest in grave matters, his evidence is all the more suspect in matters less grave.
(25) And the case under discussion is similar: that of a provocative Mumar only; nevertheless, he is declared incompetent to testify in a civil suit, though false evidence in such a case is evil both in the sight of God and man, and hence constitutes a greater transgression.
(26) Who maintains that the evidence of a man who transgressed a ritual law (an evil in the sight of God alone) need not be doubted in a civil case.
(27) E.g., is the case of a Zomem in monetary cases.
(28) E.g., in the case of a Zomem in capital cases.
(29) Abaye can certainly not agree with R. Jose, for he can in no wise hold that a Zomem in civil cases is eligible in capital cases.
(30) Such as is involved in the open defiance of the ritual law by eating Nebelah.
(31) In accordance with the preceding argument (cf. n. 3). Abaye, however, rules as does R. Meir.
(32) Cf. ‘Er. 46b. This is a general rule.
(33) It is a general principle that if an individual view is stated anonymously, as though it were a general opinion, the halachah rests with it.
(34) Exilarch.
(35) [Read with Ms. M., R. Aha b. Jacob, v. D.S. a.l.]
(36) Perhaps, ‘blind him,’ ‘put out his eyes.’ Capital punishment was abolished four decades before the fall of Jerusalem (cf. infra 41a). Others, however, interpret it of Kenas, i.e., confiscation of property.

Talmud - Mas. Sanhedrin 27b

the handle of a burtya.[1] Then [R. Abba] said to the [defendant]: What is thy intention: [to disqualify this man] in accordance with the opinion of R. Meir?[2] But wherever R. Jose is at variance with R. Meir, the halachah rests with R. Jose; and R. Jose ruled: One [a witness] who was proved a Zomem in a civil suit is competent [to testify] in capital charges. Said R. Papi: That [the rule] is only where the Tanna has not stated R. Meir's view anonymously. Here, however, he has. Whence do we infer this?[3] Shall we say, from what we learnt? ‘Whoever is competent to try capital cases, is also competent to try civil suits’?[4] Now, whose opinion is this? Shall we say, R. Jose's? But what of a witness proved a Zomem in monetary cases, who, even though incompetent in civil suits, is nevertheless eligible in capital charges? Hence it must surely express the opinion of R. Meir.[5] But why so? Perhaps it [the Mishnah] refers to those who are disqualified on account of [defective] family descent?[6] For should you not agree, what of the latter clause of the Mishnah, viz., One may be competent to try monetary cases, but incompetent for capital cases? Now, why is he incompetent:

because he was proved a Zomem in a capital charge? Is he then competent to adjudicate a monetary case? But all agree that he is ineligible! Hence it must refer to disqualification through [some defect of] family descent.[7] Similarly, here too [the first clause of the Mishnah] it must refer to this type of disqualification![8] — But this is where the Tanna stated it anonymously, for we learnt:[9] These are ineligible [to be witnesses or judges]: a gambler with dice, usurers, pigeon trainers, traders in Sabbatical produce, and slaves. This is the general rule: For all testimony for which a woman is ineligible, they too are ineligible.[10] Now, whose opinion is this? Shall we assume, R. Jose's? But there is the case of testimony in capital charges, for which a woman is not eligible, whilst they are![11] Hence it must surely express the opinion of R. Meir.[12] Thereupon Bar Hama arose and kissed his [R. Papi's] feet, and undertook to pay his poll-tax for him for the rest of his life.[13]

MISHNAH. NOW, THE FOLLOWING ARE REGARDED AS RELATIONS;[14] A BROTHER,[15] FATHER'S BROTHER, MOTHER'S BROTHER, SISTER'S HUSBAND, THE HUSBAND OF ONE'S PATERNAL OR MATERNAL AUNT, A STEP-FATHER, FATHER-IN-LAW, AND BROTHER-IN-LAW [ON THE SIDE OF ONE'S WIFE]; ALL THESE WITH THEIR SONS AND SONS-IN-LAW; AND ONE'S STEPSON HIMSELF.[16]

R. JOSE SAID: THIS IS [THE TEXT OF] R. AKIBA'S MISHNAH;[17] BUT THE FIRST MISHNAH[18] [READS]: AN UNCLE AND HIS SON[19] , AND WHOEVER IS ELIGIBLE TO BE ONE'S HEIR.[20] AND ALL WHO WERE RELATED AT THAT MOMENT.[21] IF ONE HAD BEEN RELATED, BUT SUBSEQUENTLY CEASED TO BE SO,[22] HE IS ELIGIBLE. R. JUDAH HOLDS; EVEN IF ONE'S DAUGHTER HAS DIED, BUT HE [THE SON-IN-LAW] HAS HAD CHILDREN BY HER, HE STILL RANKS AS A KINSMAN.

FURTHER, A FRIEND OR AN ENEMY [IS INELIGIBLE]. BY ‘FRIEND’ ONE'S GROOMSMAN[23] IS MEANT; BY ‘ENEMY’, ANY MAN WHO, BY REASON OF ENMITY, HAS NOT SPOKEN TO ONE FOR THREE DAYS, IS UNDERSTOOD.TO THIS THE RABBIS REPLIED: ISRAELITES, AS A RULE, ARE NOT TO BE SUSPECTED ON SUCH GROUNDS.[24]

GEMARA. Whence is this law derived? — From what our Rabbis taught: The fathers shall not be put to death for [on account of] the children.[25] What does this teach? Is it that fathers shall not be executed for sins committed by their children and vice versa? But is it not already explicitly stated, Every man shall be put to death for his own sin?[26] Hence, Fathers shall not be put to death on account of children, must mean, fathers shall not be put to death on the testimony of their sons and similarly, and sons shall not be put to death on account of fathers, means, nor sons on the testimony of their fathers.

[To revert to the text.] Are not children then to be put to death for the sins committed by their parents? Is it not written, Visiting the iniquities of the fathers upon the children?[27] — There the reference is to children who follow their parents’ footsteps.[28] As it has been taught: And also in the iniquities of their parents shall they pine away with them,[29] [i.e.,] if they hold fast to the evil doings of their fathers. Thou sayest thus: Yet perhaps it is not so, but true even if they do not hold fast to their [evil] doings?[30] When Scripture states, Every man shall be put to death for his own sin,[31] [it must refer to those who do not hold fast to their fathers’ ways. Then how shall we interpret, And also in the iniquities of their fathers shall they pine away with them?][32] — As referring to those who continue in the ways of their fathers.[33] But do they [really] not [suffer for the sins committed by others]? Is it not written, And they shall stumble one upon another,[34] meaning, One [will stumble] through the sin of the other, which teaches that all are held responsible for one another?[35] — There the reference is to such as had the power to restrain [their fellowmen from evil] but did not.

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(1) בורטיא; a corruption of verutum — a spit; spear; javelin.

(2) That the evidence of a Zomem in monetary cases is also doubted in capital cases.

(3) For it is nowhere explicitly taught.
(4) Nid. 49b.
(5) According to whom the evidence of one proved a Zomem is monetary cases is also unacceptable in capital charges.
(6) The family tree of judges in capital cases must be without defect. V. infra 36b.
(7) In which instance they may be competent in monetary, through incompetent in capital, cases.
(8) And so, in reality, it may express the opinion of R. Jose.
(9) Supra 24b; R. H. 22a.
(10) ‘Ed. II, 7.
(11) In accordance with his ruling that one whose wickedness has been prompted by monetary gain is not disqualified from testifying in capital cases.
(12) This then is the anonymous Mishnah taught in accordance with R. Meir. Hence the evidence of evil-doers by reason of their monetary greed is invalid in capital charges; hence one of the witnesses against Bar Hama was disqualified.
(13) In recognition of his successful defence of his case.
(14) Of any of the parties, and so incompetent to act as judge or witness, according to an earlier Mishnah.
(15) The editio princeps of the Mishnah adds (and begins with) ONE'S FATHER.
(16) I.e., he alone, and not his children etc.
(17) V. n. 7.
(18) A collection of Halachoth the compilation of which began, according to Gaonic accounts, as early as Hillel and Shammai. When owing to political disorders many Halachoth of the Mishnah had been forgotten and their words had become a subject of controversy, the one Mishnah developed into many. This multiplication of Mishnahs occurred during the period of the later Beth Hillel and Beth Shammai. In order to avert the danger which threatened its uniformity a synod was convened in Jabneh to examine differences and to consider revision. But as the mass of material grew and with it the need for a methodical arrangement, R. Akiba undertook the task of sifting the material and editing it systematically in various sections (Sedarim) and treatises (Massekoth). J.E. vol. VIII, p. 610.
(19) דוד is the brother of one's father.
(20) Cf. B.B. 108a. These words belong, according to Rashi, to the First Mishnah; according to Maimonides and Bertinoro, to the Mishnah of R. Akiba.
(21) When the incident which they wished to attest occurred, though they are no longer so at the time they wish to testify in court.
(22) Lit., ‘became estranged’, e.g., a son-in-law whose wife, the litigant's daughter, had died, or had been divorced before the incident occurred.
(23) ‘Best man’ at marriage. Generally an intimate friend of one's youth, v. B.B. (Sonc. ed.) p. 618, n. 10.
(24) I.e., they are not suspected of giving false evidence through friendship or enmity; hence they are competent to testify. Nevertheless, they cannot act as judges, because it is difficult for them to be unbiassed and impartial.
(25) Deut. XXIV, 16. Fathers and sons are unnecessarily in the plural. The Rabbis deduce from this that the text refers to fathers who are brothers, whose relationship is next to that of father and son, so that not only the kinship between one another but also that between one and the son of the other debars from giving evidence. The following kinsmen are thus derived from the text: Father, son, brother and nephew. V. infra.
(26) Deut. XXIV, 16, cf. Lev. XXVI, 39.
(27) Ex. XXXIV, 7.
(28) Lit., ‘who hold in their hands the deeds of their parents’.
(29) Lev. XXVI, 39.
(30) I.e., that they are still held accountable for their fathers’ iniquities.
(31) Deut. XXIV, 16.
(32) Lev. XXVI, 39. The passage in brackets is a marginal addition to the text.
(33) Cf. Ber. 7a.
(34) Lev. XXVI, 37, lit., ‘upon his brother’. The prefix ב in באחיו is here taken in the sense of ‘because of’.
(35) Shewing that the iniquities of one may be borne by the other.

Talmud - Mas. Sanhedrin 28a

We have thus found that ‘fathers’[1] [cannot testify] for the sons [of each other], and vice versa; and all the more, ‘fathers’ [cannot testify] in respect of each other.[2] But whence is derived [the inadmissibility of] ‘sons’ [to give evidence] in respect of ‘sons’?[3] — If so [sc. that such evidence is admissible], the text should have read, The fathers shall not be put to death on account of [the evidence of] a son.[4] Why ‘sons’?[5] [To teach] that they too [are ineligible] in respect of each other. Thus we have found that ‘sons’ [are inadmissible] for each other. Whence do we know their inadmissibility [as joint witnesses] concerning others?[6] — Said Rami b. Hama: It is deduced by logic. For it has been taught: Witnesses cannot be declared Zomemim[7] until both are proved Zomemim.[8] Now, should you think that kinsmen[9] are eligible [to testify in cases] concerning strangers, a witness declared a Zomem[10] might suffer death because of his brother's evidence [which supported his own].[11] Raba demurred: But according to your argument, what of that which we learnt: If three brothers are [separately] supported by another witness,[12] they count as three separate sets of witnesses. But they count as one set in respect of being proved Zomemim.[13] It thus results that the perjured witness must pay money on account of the evidence given by his brother?[14] Hence [it must be assumed that the penalty for] false testimony is brought about through outsiders;[15] so here too, [the penalty for] false testimony comes about through strangers![16] — But if so,[17] the text should have read: and a son on account of fathers, or, and they on account of the fathers. Why and sons? — To show that ‘sons’[18] [are not eligible] in respect of strangers.

We have thus deduced [the exclusion of] paternal relations. Whence do we know [the same] of maternal relations? — Scripture says, ‘fathers’ twice.[19] Since [the repetition] is unnecessary in respect to paternal relations, we may refer it to maternal relations.[20] Now, we have thus learnt [the exclusion of relatives’ evidence] for condemnation.[21] Whence do we know [the same] of acquittal? — Scripture states, they shall be put to death, twice. Since that [the repetition] is unnecessary in respect of condemnation, refer it to acquittal. Again, we have learnt [the exclusion of relatives] in capital cases. Whence is the same known of civil suits? — Scripture says, Ye shall have one manner of law,[22] meaning that the law must be administered similarly in all cases.

Rab said:[23] My paternal uncle, his son and his son-in-law may not bear testimony for me;[24] nor may I, my son nor my son-in-law testify for him. But why so? Does not this involve relationships of the third and the first degrees?[25] whereas we learnt that a relative of the second degree[26] [may not testify] for a relative of the second degree; and also that one of the second degree cannot testify for one of the first;[27] but not that a relative of the third degree may not bear testimony for one of the first? — What is meant by HIS SON-IN-LAW, stated in the Mishnah, is the son-in-law of his [the uncle's] son.[28] But should he not include [instead] his [the uncle's] grandson?[29] — He [the Tanna] teaches us incidentally that the husband bears the same relationships as his wife.[30] But what of that which R. Hiyya taught: [The Mishnah enumerates] eight chief relations[31] who make up the number of twenty-four.[32] But these [on the assumption that a son-in-law of the uncle's son ranks as a relative of the third degree] amount to thirty-two![33] — But in fact, SON-IN-LAW is literally meant.[34] Why then does he [Rab] designate him the son-in-law of his [the uncle's] son?[35] — Because since his relationship comes from without,[36] he is regarded as one degree further removed.[37] If so, it is a case of the third degree vis a vis the second[38] [which is forbidden], whereas Rab allowed [the testimony of] the second degree to the third![39] — But Rab agrees with R. Eleazar.[40] For it has been taught: R. Eleazar said: Just as my paternal uncle, his son and son-in-law may not testify for me so the son of my paternal uncle, his son and son-in-law may not testify for me. But still, that includes relatives of the third and the second degrees,[41] whereas Rab permitted the testimony of such relatives![42] — Rab agrees with R. Eleazar in one point,[43] but differs from him in another.[44]

What is Rab's reason? — Scripture states, Fathers shall not be put to death for sons [‘al banim]; and sons . . . :[45] this [the ‘and’] teaches the inclusion of another generation [as ineligible to testify]. And R. Eleazar?[46] — Scripture states, ‘al banim,[47] implying that the fathers’ disqualification is carried over to the sons.[48]

R. Nahman said: My mother-in-law's brother, his son, and my mother-in-law's sister's son, may not testify for me. The Tanna [of the Mishnah] supports this: A SISTER'S HUSBAND; THE HUSBAND OF ONE'S PATERNAL OR MATERNAL AUNT, . . . ALL THESE WITH THEIR SONS AND SONS-IN-LAW [ARE INELIGIBLE AS WITNESSES].[49]

R. Ashi said: While we were with ‘Ulla,[50] the question was raised by us: What of one's father-in-law's brother, the father-in-law's brother's son, and the father-in-law's sister's son? — He answered us: We learnt this: A BROTHER, FATHER'S BROTHER, AND MOTHER'S BROTHER . . . ALL THESE WITH THEIR SONS AND SONS-IN-LAW [ARE INELIGIBLE].[51]

It once happened that Rab went to buy

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(1) I.e., who are brothers.

(2) As the exclusion of ‘sons’ is due only to the kinship of their fathers.

(3) I.e., first cousins. Cf. Mishnah, PATERNAL UNCLE'S SON.

(4) I.e., on the evidence of any brother's son.

(5) In the plural.

(6) I.e., that witnesses who are related to each other may not join in giving evidence in a case concerning strangers.

(7) In the sense that they are punished with the penalty they sought to impose, v. Deut. XIX, 19.

(8) Mak. 5b, cf. Tosef. VI. But otherwise, though their evidence may be dismissed, no penalty is imposed upon the false witness.

(9) Lit., ‘sons’.

(10) In a murder case.

(11) For had no one else supported him, he could not, according to the above ruling, have been declared a Zomem. Consequently he would incur the death penalty through his kinsman's testimony.

(12) E.g., in support of a claim to the title of land; v. next note.

(13) V. B.B. 56b. Proof of three years’ undisturbed possession of land is sufficient to establish a claim to it (cf. B.B. 28a). The case under consideration is one where each of three brothers testified to one year only, while the other witness who joined them attested possession for the three consecutive years. Thus the evidence of the three sets taken together was adequate proof for establishing the possessor's claim. When, however, collusion is discovered, the three pairs of witnesses are considered as one set, since the evidence of all was necessary before the claim could be established. Therefore no penalty is imposed unless they are all proved Zomemim.

(14) Who would have helped to establish the claim had it not been refuted.

(15) So that it is not the brothers who cause the infliction of punishment.

(16) Hence the difficulty remains; — whence do we know that two kinsmen are inadmissible as witnesses in cases of other persons?

(17) That such evidence is admissible.

(18) I.e., relatives.

(19) The verse might have been written, Fathers shall not be put to death for sons nor they for them.

(20) V. p. 368, n. 7, on this mode of exegesis.

(21) Of which the text explicitly speaks.

(22) Lev. XXIV, 22.

(23) To understand Rab's statement and the others that follow it is necessary to give some explanation of affinity and consanguinity in Talmudic law. Relationships between persons are divided into two categories: (a) relationships between persons governed by the ties of consanguinity, i.e., persons of the same blood either lineally or collaterally; (b) relationships through marriage, i.e., affinity. And on the principle that man and wife are considered as one, the relatives of the one are related to those of the other by affinity. Again, the rules by which kinsfolk are excluded from bearing testimony for or against each other affect only certain degrees of relationship, e.g., relatives in the first degree, such as father and son, or brothers may not testify for or against each other; relatives in the second degree may not testify for or against those of the first degree. e.g., a nephew for his uncle; relatives in the second degree may not testify for or against each other, e.g., first cousins. On the other hand, relatives in the third degree may testify for or against relatives in the first, e.g., a grand-nephew in respect of an uncle (according to Raba in B.B. 128a, in opposition to Rab's opinion here);

and relatives in the third degree may testify for or against relatives in the second degree, e.g., first cousins for second cousins (Rab agrees with this opinion, but not R. Eleazar.) It should be noted that the ineligibility is mutual.

(24) Cf Mishnah. In all these passages, ‘for someone’ means in a case where that person is a litigant, whether the evidence be in his favour or not.

(25) Rab's son is a grand-nephew’ of Rab's uncle; hence, Rab's son is a relative of the third degree to Rab's uncle, who is of the first degree in relation to Rab's father. (N.B. ‘First,’ ‘Second’, and ‘Third’ almost correspond to generations, but not quite, since a father vis a vis his son ranks as first to first.)

(26) I.e., a first cousin.

(27) E. g., his uncle.

(28) The Mishnah is therefore to be explained thus: ALL THESE (which includes an uncle) WITH THEIR SONS AND THEIR (sc. THE SONS’) SONS-IN-LAW. Hence this teaches the inadmissibility of relatives of the third degree.

(29) ‘Which is a more direct way of stating a third degree of relationship.

(30) Just as the daughter of his uncle's son is a relation of the third degree, so is her husband.

(31) There are actually nine chiefs enumerated, apart from the step-son who is counted by himself. This point will be raised later on; v. infra 28b.

(32) Since each is counted together with his son and son-in-law.

(33) Eight fathers, eight sons, eight grandsons, and eight sons-in-law of the sons.

(34) The uncle's, not the uncle's son's.

(35) [Thus Rashi, in accordance with the reading in our texts which seems to assume that the answer given above, ‘What is meant by HIS SON-IN-LAW is the son-in-law of his son still stands as representing the view of Rab. This assumption is however hardly justified. Yad Ramah's text did not seem to contain the words, ‘Why then . . . of his son’, which certainly makes the reading smoother.]

(36) I.e., through marriage.

(37) Hence, he ranks as a third degree relation, and thus justifies Rab's ruling.

(38) A man and his uncle's son-in-law are in the relationship of the second to the third degree. Thus: If A and B are brothers, then C, A's son, and B are second and first degrees; C and D, B's sons, are two seconds; therefore C and E, B's sons-in-law, rank as second and third (since a son-in-law, according to the last answer, is one degree further removed than a son).

(39) In that he said: I, my son and my son-in-law (a relative of the third degree) may not bear testimony against my uncle; from which it may be inferred that Rab's son (third degree) may bear testimony against the uncle's son (second degree).

(40) In truth, he does not regard the son-in-law as a relative of the third degree, and so the Mishnah does, in fact, contradict him, as explained above. His view, however, is based on R. Eleazar.

(41) C and F (B's grandson) are second and third degrees.

(42) As stated above, v. n. 1.

(43) In that he disqualifies the evidence of a relative of the third degree for a relative of the first.

(44) That of disqualifying a relative of the third degree for one of the second degree.

(45) ו-בנים Deut. XXIV, 16.

(46) Why does he rule that even second and third degrees are inadmissible?

(47) על בנים, ‘upon’, or ‘for sons’. על means upon or for

(48) I.e., all who are disqualified in respect of the fathers, are likewise disqualified is respect of the sons. Therefore, just as the first and third are ineligible (for R. Eleazar accepts Rab's exegesis of ‘and’), so are the second (i.e., the son of the first) and the third disqualified.

(49) To his sister's son-in-law he is his mother-in-law's brother, to his paternal aunt's son-in-law he is his mother-in-law's brother's son, and to his maternal aunt's son-in-law he is his mother-in-law's sister's son.

(50) [Read with Ms. M. Rab ‘Ulla.]

(51) To his brother's son-in-law he is his father-in-law's brother; to his father's brother's son-in-law he is his father-in-law's brother's son; and to his maternal uncle's son-in-law he is his father-in-law's sister's son.

Talmud - Mas. Sanhedrin 28b

parchment,[1] and they[2] asked him[3] whether a man may testify for his step-son's wife.[4] [Rab answered:] In Sura they say that a husband is as his wife;[5] in Pumbeditha, that the wife is as her husband,[6] For R. Huna said in Rab [Nahman]'s[7] name: Whence do we know that a woman is as her husband? — From the verse: The nakedness of thy father's brother thou shalt not uncover; thou shalt not approach to his wife, she is thine aunt.[8] But is she not actually thy uncle's wife?[9] Hence we infer that a woman is as her husband.[10]

AND A STEP-FATHER, HE, HIS SON AND SON-IN-LAW. HIS SON! But that is his brother![11] — R. Jeremiah said: This is only added to indicate [the exclusion of] a brother's brother.[12] R. Hisda declared a brother's brother eligible. Said the Rabbis to him: Are you unaware of R. Jeremiah's dictum? — 'I have not heard it,'he answered, that is to say, 'I do not accept it.'[13] If so, [the difficulty remains,] he [i.e., his step-father's son] is HIS BROTHER! — He [the Tanna] enumerates both a paternal and a maternal brother.

R. Hisda said: The fathers of the bride and bridegroom may testify for each other; their inter-relationship is no more than that of a lid to a barrel.[14]

Rabbah b. Bar Hana said: One may testify for his betrothed wife.[15] Rabina remarked: That is only where his evidence is to her disadvantage;[16] but if it is to her advantage, he is not to be believed.[17] But [in reality] that is not so: it makes no difference whether his evidence is to her advantage or disadvantage; in neither case is he to be believed. [For] on what [do you base] your opinion [that you do not regard him as a relative]? On R. Hiyya b. Ammi's dictum stated on the authority of 'Ulla, viz.: When the betrothed wife [of a Priest dies], he is not obliged to mourn as an Onen[18] nor may he defile himself.[19] Similarly, she is not bound to mourn as an Oneneth[20] [if he dies] nor to defile herself.[21] If she dies, he does not inherit from her;[22] but if he dies, she receives her Kethubah![23] But there, the Divine law has made it all[24] depend on the fact that she is 'she'ero' [his wife],[25] a designation which cannot be applied to a betrothed wife.[26] Whereas here [the evidence of a relative is inadmissible] because of mental affinity; and such mental affinity does exist here [in the case of a betrothed woman and her groom].[27]

ONE'S STEP-SON HIMSELF. Our Rabbis taught: A step-son himself. R. Jose said: A brother-in-law.[28] Another [Baraitha] has been taught: A brother-in-law himself. R. Judah said: A step-son. What does this mean? Shall we assume it to mean as follows: A step-son himself, and the same applies to a brother-in-law; whereas R. Jose reversed this: A brother-in-law himself, and the same applies to a step-son?[29] If so, when our Mishnah states: A BROTHER-IN-LAW, HIS SON AND SON-IN-LAW, whose view is this? It is neither R. Judah's nor R. Jose's![30] But [again] if this is its meaning: A step-son himself; while as for a brother-in-law, [the exclusion extends to] his son and son-in-law; whereas R. Jose reversed this: A brother-in-law himself; while as for a step-son, [the exclusion extends to] his son and son-in-law too: in that case, what R. Hiyya taught, viz., that the Mishnah enumerates eight chief relations which [together with the sons and sons-in-law] involve twenty-four in all,[31] is neither the opinion of R. Judah nor that of R. Jose! —[32] Hence this must be the meaning: A step-son himself; but as for a brother-in-law, his son and son-in-law too [are included]; whereas R. Jose ruled: A brother-in-law himself, and a fortiori his step-son. The Mishnah[33] therefore agrees with R. Judah; while [the view expressed in] the Baraitha[34] is R. Jose's.[35]

Rab Judah said in the name of Samuel; The halachah rests with R. Jose.[36]

A certain deed of gift had been attested by two brothers-in-law. Now, R. Joseph thought to declare it valid, since Rab Judah said in Samuel's name: The halachah rests with R. Jose. But Abaye said to him: How do we know that [he referred to] the ruling of R. Jose as stated in the Mishnah which permits the evidence of a brother-in-law: perhaps he meant the ruling of R. Jose in the Baraitha, which disqualifies a brother-in-law? — One cannot think so, for Samuel said:[37] 'E.g., I and Phinehas, who are brothers and brothers-in-law (are inadmissible);'[38] hence others who are only brothers-in-law are admissible.[39] But [Abaye retorted] may it not be that Samuel, in saying, ‘e.g., I and Phinehas,’ meant only to illustrate the term ‘brothers-in-law’?[40] Thereupon [R. Joseph] said to him:[41] Go and establish your title through those who witnessed the delivery,[42] in accordance with R. Eleazar.[43] But did not R. Abba say: Even R. Eleazar agrees that a deed bearing its own disqualification[44] is invalid? — Thereupon R. Joseph said to him: Go your way; they do not permit me to give you possession.

R. JUDAH SAID etc. R. Tanhum said in the name of R. Tabla in the name of R. Beruna in Rab's name: The halachah rests with R. Judah. Raba said in R. Nahman's name: The halachah is not in agreement with R. Judah. Rabbah b. Bar Hana said likewise in R. Johanan's name: The halachah does not rest with R. Judah. Some refer this dictum of Rabbah b. Bar Hana to the following: R. Jose the Galilean gave the following exposition: And thou shalt come unto the Priests, the Levites, and unto the judge that shall be in those days.[45] Is it then conceivable that, one could go to a judge who does not exist in his lifetime? But the text refers to a judge who was formerly a relative but who subsequently ceased to be one.[46] [Whereon] Rabba b. Bar Hana said: The halachah rests with R. Jose the Galilean.

The sons of Mar ‘Ukba's father-in-law who

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(1) Cf. J. Sanh. 17a, where it is related that Rab went to buy skins for R. Hiyya the Great, his uncle (cf. supra 5a) who needed them for parchment on which to write scrolls of the Torah. V. also Keth. 103b, how far R. Hiyya distinguished himself in the promotion of learning.

(2) Some scholars.

(3) In J. loc. cit. Rab heard R. Johanan raise the question.

(4) In a case where her personal estate is involved.

(5) This answer is here irrelevant; probably it was given in answer to the question whether one may testify for or against his step-daughter's husband. Cf. J. Sanh. ibid.

(6) Hence the evidence is inadmissible.

(7) Some versions rightly omit the word in brackets.

(8) Lev. XVIII, 14.

(9) The term aunt is usually applied to a father's sister.

(10) Which justifies her being referred to as an avuncular relative, dodah (the word translated ‘aunt’) being the feminine of dod (uncle).

(11) Who has already been mentioned.

(12) I.e., the son of his step-father by another wife; though he is not related to him at all, but only through his brother.

(13) I.e., he holds that one who is related neither by blood nor by marriage, but merely through an intermediary brother, is not excluded.

(14) Which is not fastened thereto, but merely lies upon it. I.e., they have a neighbourly but not an intimate relationship.

(15) V. p. 34 n. 3.

(16) Lit., ‘to draw away from her.’

(17) Though he is not a relation yet, nevertheless, he is not believed, since what is to her advantage will be to his too, when the marriage is completed.

(18) אונן. One deeply grieved. Designation given to a mourner during the time between death and burial, when he is not permitted to eat consecrated things. Cf. Deut. XXVI, 14.

(19) According to the exegesis of Lev. XXI, 2, a Priest is obliged to defile himself for his wife. Yeb. 22b. Here, however, there is no obligation, and hence he is forbidden too.

(20) אוננת fem. of אונן.

(21) This latter law is only incidentally stated since even a wife by marriage, or even the daughter of a Priest, has no restriction imposed upon her as regards contact with the dead. Cf. Sot. 23b.

(22) Whilst a husband inherits from the wife. Cf. B.B. 111b.

(23) Provided he has written her one. Hence, since he may not defile himself for her, it proves that there is no real relationship between them.

(24) The compulsory defilement and inheritance.

(25) שארו. E.V., ‘his kin that is near unto him,’ Lev. XXI, 2.

(26) The root meaning of שאר is ‘flesh relationship,’ and hence excludes a betrothed wife. Cf. Mek. on Ex. XXI, 10: שארה means marital duty

(27) Therefore his evidence might be biassed. ‘

(28) The husband of the wife's sister.

(29) Thus differing, not in the application of the law, but in expression. On this hypothesis, the difference lies in which is to be regarded as fundamental and which as derivative.

(30) Both agreeing that only a brother-in-law himself is excluded.

(31) V. supra 28a.

(32) For according to both of them there will be nine chief relations. According to R. Judah, the brother-in-law is included in the list; according to R. Jose there is to be added, the step-son.

(33) That the exclusion of one's brother-in-law is extended to his son and son-in-law.

(34) That there are eight chief relations, involving twenty-four in all.

(35) Who does not extend the exclusion of a brother-in-law to his son and son-in-law too. However, it must not be taken that R. Jose differs from the Mishnah to the extent of admitting a brother-in-law's son, since he has already been excluded by the ruling: ‘The husband of his mother's sister,’ which, in other words, means that one may not give evidence for or against his sister-in-law's son, with which ruling he is in agreement, since he supports the view in the Baraitha, that there are twenty-four relations in all, and the above-named is included in that number. He differs however from the Mishnah in that he admits the evidence of one's brother or sister-in-law's son-in-law, since the ruling in the Mishnah, ‘one's mother's sister's husband’, is not irreconcilable with this opinion. The Mishnah excludes only a mother's sister's husband, not a mother-in-law's sister's husband. V. Rashi and Tosaf. a.l.

(36) Here the reference is assumed to be to R. Jose, in the Mishnah, who excludes only such relations as are eligible to be heirs, which brothers-in-law are not.

(37) In illustration of a brother-in-law who is disqualified.

(38) They must have married two sisters.

(39) In accordance with R. Jose in the Mishnah.

(40) And so the fact that they were also brothers was immaterial. Hence brothers-in-law are ineligible as witnesses, so that the deed was invalid.

(41) The man who had produced the contract.

(42) Of the deed of gift to you,

(43) That it is the witnesses who saw the delivery of the document who establish its validity. In fact, according to R. Eleazar, a document unsigned by witnesses is also valid. Cf. Git. 3b.

(44) I.e., which is signed by incompetent witnesses.

(45) Deut. XVII, 9.

(46) I.e., at the time the litigation is brought before him. Such a judge is eligible.

Talmud - Mas. Sanhedrin 29a

had ceased to be relatives of his,[1] came before him [Mar ‘Ukba] for trial. But the latter said to them: I am ineligible to try your suit. They answered: What is your opinion; is it as R. Judah's [in the Mishnah]? We can produce a letter from ‘the West’[2] that the halachah does not rest with R. Judah! He retorted: Am I then stuck to you by a kab of wax?[3] I told you that I was disqualified from acting as your judge only because [I knew] that you do not accept court decisions.[4]

BY ‘FRIEND’ ONE'S GROOMSMAN IS MEANT. How long [is he regarded as such]? — R. Abba said in R. Jeremiah's name in Rab's name: The whole seven days of the [marriage] feast.[5] The Rabbis said on Raba's authority: After the very first day [he is no longer regarded as such].

BY ‘ENEMY’, ANY MAN etc. Our Rabbis taught; And he was not an enemy;[6] then he may give evidence. Again, neither sought his harm;[7] then he may be his judge.[8] Here we find [the exclusion of] an enemy. Whence is deduced [the exclusion of] a friend? — Read [these texts] thus: And he was not his enemy, nor his friend, — then he may give evidence, neither sought his harm, nor his good, — then he may be his judge. Is then 'his friend' actually stated?[9] — But it is a matter of logic. Why is an enemy [excluded]? Because of his disaffection.[10] Then a friend too [is ineligible] because of his friendly inclination.[11] Now, how do the Rabbis[12] interpret this text, And he was not his enemy, neither sought his harm?[13] — One [expression] intimates [his unfitness to be] a judge;[14] the other they interpret as has been taught: R. Jose son of R. Judah said, And he was not his enemy, neither sought his harm; from this we deduce that two scholars who hate each other may not sit together as judges.

MISHNAH. HOW ARE THE WITNESSES EXAMINED? — THEY ARE BROUGHT INTO A ROOM,[15] AND AWE IS INSTILLED INTO THEM.[16] THEN THEY ARE SENT OUT,[17] SAVE FOR THE OLDEST [WITNESS] TO WHOM THEY [THE JUDGES] SAY, TELL US, HOW DOST THOU KNOW THAT SO AND SO OWES [MONEY] TO SO AND SO? IF HE ANSWERS: HE PERSONALLY TOLD ME: 'I OWE HIM [THE MONEY],' OR, 'SO AND SO TOLD ME THAT HE OWES HIM,' HIS STATEMENT IS WORTHLESS,[18] UNLESS HE DECLARES, 'IN OUR PRESENCE,[19] HE ADMITTED TO HIM THAT HE OWES HIM TWO HUNDRED ZUZ.'[20] AFTER THAT THE SECOND WITNESS IS ADMITTED AND SIMILARLY EXAMINED. IF THEIR STATEMENTS TALLY, THEY [THE JUDGES] PROCEED TO DISCUSS THE CASE. SHOULD TWO FIND HIM NOT LIABLE AND ONE LIABLE, HE IS DECLARED NOT LIABLE; TWO LIABLE, AND ONE NOT LIABLE, HE IS DECLARED LIABLE; ONE LIABLE, AND ONE NOT LIABLE, OR TWO EITHER NOT LIABLE OR LIABLE, WHILE THE THIRD IS UNDECIDED,[21] THE NUMBER OF JUDGES IS INCREASED.

WHEN THE VERDICT IS ARRIVED AT,[22] THEY[23] ARE READMITTED, AND THE SENIOR JUDGE SAYS: SO AND SO, THOU ART NOT LIABLE; OR, SO AND SO, THOU ART LIABLE.

AND WHENCE DO WE KNOW THAT HE [ONE OF THE JUDGES] WHEN LEAVING, MUST NOT SAY, 'I WAS FOR ACQUITTAL WHILST MY COLLEAGUES WERE FOR CONVICTION, BUT WHAT COULD I DO, SEEING THAT THEY WERE IN THE MAJORITY?' — OF SUCH A ONE IS IT WRITTEN: THOU SHALT NOT GO ABOUT AS A TALEBEARER AMONG THY PEOPLE,[24] AND AGAIN, HE THAT GOETH ABOUT AS A TALEBEARER REVEALETH SECRETS.[25]

GEMARA. How are they[26] cautioned? Rab Judah said: We admonish them thus: As vapours and wind without rain, so is he that boasteth himself of a false gift.[27] Raba remarked: They might say [inwardly]: Though a famine last seven years it does not pass the artisan's gate.[28] But, said Raba, this is what is said to them: As a maul and a sword and a sharp arrow, so is a man that beareth false witness against his neighbour.[29] R. Ashi demurred: They might say: Though a plague last seven years, no one dies before his time! But, said R. Ashi, Nathan b. Mar Zutra told me, We warn them thus: False witnesses are despised [even] by their own employers, as it is written, And set two men, base fellows, before him, and let them bear witness against him, saying, Thou didst curse God and the King.[30]

IF HE ANSWERS, HE [PERSONALLY] TOLD ME: I OWE HIM [THE MONEY];' OR, 'SO AND SO TOLD ME THAT HE OWES HIM,' HIS STATEMENT IS WORTHLESS, UNLESS HE DECLARES, 'IN OUR PRESENCE HE ADMITTED THAT HE OWES HIM TWO HUNDRED ZUZ. This[31] supports Rab Judah. For Rab Judah said in Rab's name: One must definitely instruct them [those who witness a transaction]: Ye are my witnesses.[32] It has been stated, likewise: R. Hiyya b. Abba said in R. Johanan's name. [If A says to B,] 'You owe me a maneh',[33] and B admits it; and if he demands it from him the following day, and B answers, 'I was only jesting with you,'[34] he is not liable.[35] So also it has been taught: [If A says to B,] 'You owe me a maneh'; and B answers, 'Yes, it is so;' but on the following day, when the former demands it, the latter replies. 'I was but jesting with you,’ he is not liable. Moreover, if he hid witnesses behind a fence and said to him: ‘You owe me a maneh’, and B answered, ‘Yes;’ and A added, ‘Are you willing to make this admission in the presence of so and so?’ And he replied: ‘I am afraid to do so, lest you compel me to go to court;’ and if on the following day, on his [A's] demanding it from him, B retorts; ‘I was only jesting with you’, he is not liable. But we do not plead [thus] on behalf of a Mesith.[36] ‘ Mesith? Who mentioned him?[37] — The text is defective, and should read thus: If he himself did not plead [this],[38] we do not plead it for him. But in capital charges, even if he himself does not plead,[39] we plead on his behalf. Yet no such plea is made on behalf of a Mesith. Wherein does a Mesith differ? — R. Hama b. Hanina said: I heard it said in a lecture[40] by R. Hiyya b. Abba: A Mesith is different, because the Divine Law states, Neither shall thine eyes pity him; neither shalt thou conceal him.[41]

R. Samuel b. Nahman said in R. Jonathan's name: Whence do we know that we do not plead on behalf of a Mesith? — From the [story of] the ancient serpent.[42] For R. Simlai said: The serpent had many pleas to put forward but did not do so. Then why did not the Holy One, blessed be He, plead on its behalf? — Because it offered none itself. What could it have said [to justify itself?] — ‘When the words of the teacher and those of the pupil [are contradictory], whose words should be hearkened to; surely the teacher's!’[43]

Hezekiah said: Whence do we know that he who adds [to the word of God] subtracts [from it]? — From the verse, God hath said, Ye shall not eat of it neither shall ye touch it.[44]

R. Mesharshia said: [We derive it] from the following verse: Ammathayim [two cubits] and a half shall be his length.[45] R. Ashi said: From this: ‘Ashte-’esreh [eleven] curtains.[46]

Abaye said: The above ruling[47] holds good only if he says: ‘I was only joking with you’; but if he pleads:

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(1) Owing to the death of their sister, the wife of Mar ‘Ukba.

(2) Palestine.

(3) [Do you mean that my ties with you are indissoluble, and that this accounts for my refusal to act as your judge? (Yad Ramah.)]

(4) [Presuming too much on my relationship with you (Yad Ramah).] And not for the reason that I was unaware that the halachah does not rest with R. Judah.

(5) Cf. Rashi on Gen. XXIX, 27, Yalkut, LXX, on Judges XIV.

(6) Num. XXXV, 23. This verse is understood to refer to the witnesses in a case of murder, not to the accused. As regards the murderer it is written, That the man slayer that slayeth his neighbour and hated him not in the past may flee thither. Deut. IV, 42.

(7) Num. XXXV, 23.

(8) Because immediately after this it is written, And the Congregation shall judge.

(9) Surely it is inadmissible to deduce a law by adding to the text!

(10) Lit., ‘alienation of his mind.’

(11) Lit., ‘the proximity of his mind.’

(12) In the Mishnah who do not disqualify a man on such grounds.

(13) Ibid.

(14) In which case they agree with R. Judah

(15) Most edd. omit ‘a room’.

(16) Lit., ‘Frightened,’ — to tell the truth.

(17) That is the reading of Alfasi and Asheri. (also J.). and seems to be supported by the discussion in the Gemara (v. infra, p. 185., n 5). But our text reads: THEN ALL THE PEOPLE ARE . . .

(18) Lit., ‘He has said nothing.’

(19) I.e., in the presence of himself and another person.

(20) I.e., intending, by so doing, to recognise us officially as witnesses.

(21) Lit., ‘Says, I do not know.’
(22) Lit., ‘when the matter is finished.’
(23) The Talmud discusses to whom ‘THEY’ refers.
(24) Lev. XIX, 16. In other versions this verse is omitted. Cf. J. and Maim. Yad, Sanh. XXII.
(25) Prov. XI, 13.
(26) The witnesses.
(27) Prov. XXV, 14. I.e., just as abundant and seasonable rain is promised as a reward for faithfully keeping the commandments, so the iniquity of the people is the cause of the withholding of the rain, cf. Ta'an. 7b Thus the witnesses are warned that, by their false evidence, they may cause drought.
(28) I.e., the warning may prove ineffective, for hunger need not be feared by those who have learned a trade.
(29) Prov. XXV, 18, i.e., their misdemeanor might cause a plague to come upon the world.
(30) I Kings XXI, 10. regarding Naboth. The contention is proved from the fact that the witnesses are called base fellows by Jezebel, their own employer.
(31) The fact that they must declare, IN OUR PRESENCE, which implies that he explicitly appointed them for the purpose.
(32) Otherwise their testimony cannot be accepted.
(33) A hundred zuz.
(34) Because I knew you asked a thing which never happened.
(35) Alfasi and Asheri omit the bracketed passage, and substitute: And he must instruct (them), ‘Ye are my witnesses.’
(36) מסית, an inciter to idolatry; v. Glos.
(37) I.e., it has no bearing on the discussion.
(38) That he was only jesting with him.
(39) Circumstances that would help to prove his innocence.
(40) פרקא, the lecture held on the Sabbath before Festivals, Rashi, B.B. 22a. V. Zunz, GV 349, n.g.]
(41) Deut. XIII, 9; this refers to a Mesith.
(42) In the Garden of Eden. Cf. Gen. III.
(43) So Eve, evens though seduced by me, should have obeyed the command of God.
(44) Gen. III, 3. Eve added to God's words by telling the serpent that she was not even permitted to touch the tree. The serpent then pushed her into contact with the tree and told her: See, just as death did not ensue from the touch, so it will not follow from eating of it. V. Rashi a.l.
(45) Ex. XXV, 17. If אמתים be decapitated it will read מתים (מאתים) two hundred. Thus by adding the א the number will be reduced to two.
(46) Ex. XXVI, 7. By taking away the ע from עשתי עשרה (11), it reads שתי עשרה (12).
(47) That where witnesses were not present by special appointment he might plead that he was joking.

Talmud - Mas. Sanhedrin 29b

‘The whole thing never happened,’[1] he is adjudged a confirmed liar.[2] R. Papa the son of R. Aha b. Adda said to him: Thus we say on the authority of Rab; People do not remember aimless words.[3]

A man once hid witnesses against his neighbour behind the curtains of his bed, and said to him: ‘You owe me a maneh’. ‘Yes’, he replied. ‘May all present, whether awake or asleep be witnesses against you? he asked[4] ‘No’, was the reply. R. Kahanah [before whom the trial was brought] observed; Surely he answered, No![5]

A man hid witnesses against his neighbour in a grave, and then said to him: ‘you owe me a maneh. ‘Yes’ he answered. ‘Shall the living and the dead be witnesses against you?’ ‘No’, he retorted. Said R. Simeon [b. Lakish]: Surely he answered, No![6]

Rabina, or some say R. Papa, said: We may infer from the above, that the dictum of Rab Judah in Rab's name, viz., One must definitely instruct them: ‘You are my witnesses,’ holds good no matter whether the debtor says it, or the creditor says it while the debtor remains silent. For it[7] is only because the debtor said, ‘no’.[8] but had he kept silent, it would indeed have been so.[9]

A certain man was nicknamed, ‘A kab-ful of indebtedness.’ [On hearing the name,] he exclaimed: ‘To whom do I owe anything but to so and so and so and so?’ Thereupon they summoned him before R. Nahman. Said he: A man is wont to disclaim abundance [of wealth].[10]

A certain man was nicknamed, ‘The mouse lying on the denarii.’[11] Before he died, he declared: ‘I owe money to so and so and to so and so.’ After his death they summoned his heirs before R. Ishmael son of R. Jose. Said he to them:[12] The dictum, ‘A man is wont to disclaim abundance [of wealth],’ holds good only in life, but not in death.[13] They paid half, and were summoned for the other half, before R. Hiyya. Said he to them: Just as one is wont to disclaim his own abundance [of wealth], so he is likely to disclaim it for his children.[14] Thereupon they [the plaintiffs] asked: ‘Shall we return [the half we have already received]?’ R. Hiyya replied: The Zaken[15] has already given his ruling.[16]

If a man admitted [a claim] in the presence of two witnesses, and they confirmed this by Kinyan,[17] they may indite [a note],[18] if not, they may not do so.[19] [If he admitted] it in the presence of three, and they made no Kinyan: Rab [Ammi][20] said, They may write a note;[21] R. Assi ruled, They may not. There was a case once where Rab took into consideration R. Assi's ruling.

R. Adda b. Ahabah said: Sometimes a deed of acknowledgment[22] may be drawn up; sometimes it may not. If they [the witnesses] merely happened to be assembled [when he made the admission,] it may not be drawn up; but if he [the debtor] called them together, it is to be drawn up. Raba said: Even then it may not be indited, unless he definitely told them, ‘Be you my judges.’[23] Mar son of R. Ashi said: Even then, it may not be drawn up, unless the [necessary] meeting place is fixed and he [the debtor] is summoned to appear before the court.[24]

If a man admitted a claim of movable property, and they [the witnesses] secured a formal title from him, they may record it; but not otherwise. But what if it concerned real estate, and they secured no formal title? — Amemar said: They may not record it. Mar Zutra said: They may. The law is that a deed is to be drawn up.[25]

Rabina once happened to be at Damharia,[26] and R. Dimi son of R. Huna of that town asked him: What of movable property which is still intact [i.e., in the possession of the debtor]? — He answered: It ranks as real estate.[27] R. Ashi, however, ruled: Since it still needs collection, it is not so.

A certain deed of [debt] acknowledgment did not contain the phrase: ‘He said unto us, Write it, attest it and give it to him [the creditor].’[28] Abaye and Raba both said: This case comes under the ruling of Resh Lakish, who said: We may take it for granted that witnesses will not sign a document unless he [the vendor] has attained his majority.[29] R. Papi — others say, R. Huna the son of R. Joshua — objected: Can there be anything which we [the judges] do not know, and yet the clerks of the court know?[30] But in fact when the clerks of Abaye's court were questioned, they were found to know this law, and similarly the clerks of Raba's court.[31]

A certain deed of acknowledgment contained the phrase; ‘A memorial of judicial proceedings,’[32]

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(1) That he never admitted liability, notwithstanding that there are witnesses who testify to the contrary.

(2) So that not even an oath can free him.

(3) I.e., what one says in jest is not remembered. His total denial therefore does not weaken his case.

(4) Probably the plaintiff knew that the defendant would refuse to admit the debt in the presence of witnesses, but he thought that he might assent if he believed that all were asleep. (Rashi.)

(5) And so refused to admit his debt in the presence of witnesses. Hence he is not liable.

(6) Therefore he acquitted him.
(7) The ruling in the above-mentioned cases, where the debtor is acquitted.
(8) When requested to authorise those present to be witnesses.
(9) I.e., his admission in liability in the first place would be valid
(10) Therefore he probably spoke of non-existent debts so as to disclaim wealth. Consequently he is not liable.
(11) I.e., a miser. [Mice often drag away into their holes glittering object such as coins, rings, etc. V. Lewysohn, Zoologie, p. 106.]
(12) The heirs.
(13) Hence the claim against the heirs is established.
(14) So that his declaration before death might have been fictitious.
(15) The elder R. Ishmael, son of R. Jose. v. supra p. 137, n. 1.
(16) So that I cannot reverse the decision with regard to the amount already paid.
(17) V. p. 142, n. 2.
(18) Of the debt, even if not explicitly instructed by the debtor.
(19) Unless directly requested, for though the debtor expressly appointed them as witnesses, he may prefer an oral debt to a written bond, since the former can be collected only out of property in his possession, but not out of real estate sold subsequent to the incurring of the debt, whereas the latter can be so collected.
(20) Some versions correctly omit the name in brackets.
(21) Since in this case they are given the authority of a Beth din to convert an oral debt into a written one.
(22) אודיתא, Of debt, made before three witnesses and without Kinyan.
(23) I.e., he conferred upon them the powers of a court.
(24) I.e., this improvised court must observe the usual formalities of a court, sitting in a place previously determined, and summoning the debtor.
(25) In the case of immovable property, as soon as the admission is made, the debt is considered as collected; consequently there is no reason why the debtor should prefer an oral debt to a written one; which latter, however, might well be preferred in the case of movable property.
(26) [A town in the neighbourhood of Sura, v. Obermeyer, op. cit. p. 298.]
(27) The law of which is stated above.
(28) The question is whether the omission is proof that the contract was written without the debtor's request or not.
(29) I.e., the age of twenty, v. B.B. 156a; the sale of a legacy before that is invalid, and it is taken for granted that witnesses are aware of this law. So also in this case, where the admission was made before two witnesses, and without Kinyan, the latter would know that they could not write a deed without the debtor's instructions; hence they must have been so instructed.
(30) This law, that two witnesses must not record the admission without explicit instructions, is not even known to all judges. How then can it be assumed that they must have known it?
(31) It was therefore shewn that this rule was known to clerks of the court, charged with the drafting of legal documents, and before whom they were generally attested.
(32) Lit., ‘A memorial of the words of so and so,’ instead of, ‘A memorial of testimony by witnesses.’

Talmud - Mas. Sanhedrin 30a

and was entirely worded like a Court document,[1] but did not include [the usual phrase], ‘We were in a session of three judges one of whom [subsequently] absented himself.’[2] Rabina thought to rule: This is covered by Resh Lakish's dictum;[3] but R. Nathan b. Ammi observed: It has been said on the authority of Raba: In all such cases a mistaken Beth din is to be suspected.[4] R. Nahman b. Isaac said: If ‘Beth din’ is mentioned anywhere in the document, no such [fear] is necessary.[5] But suppose it was a presumptuous Beth din: for Samuel said: If two tried a case, their decision stands, but they are called, ‘A presumptuous Beth din!’[6] — No, for the document referred to[7] stated: ‘The Beth din of Rabbana Ashi.’[8] But perhaps the Rabbis of Rabbana Ashi's academy agreed with Samuel?[9] — There was written therein, ‘Rabbana Ashi told us [to write the document].[10] ‘

Our Rabbis taught: If a man says to them:[11] ‘I saw your father hiding money, [say,] in a strong box, a chest, or a store-room, and he told me that it belonged to so and so, or that it was [for the redemption] of the second tithe:'[12] if it [the hiding place] is in the house, his statement is valueless,[13] if in a field, his words stand. This is the general rule of the matter: Wherever he has access [to the hiding place] his statement stands;[14] but otherwise, it is of no value. If they [the heirs] saw their father hide money in a strong box, chest or store-room, saying, 'It belongs to so and so,' or 'It is for the payment of the second tithe': if it [his statement] was by way of giving directions, his words stand; but if it was in the nature of an evasion,[15] his statement is of no value. If one felt distressed over some money which his father had left him,[16] and the dispenser of dreams[17] appeared to him and named the sum, indicated the place, and specified its purpose, saying that it was [for the redemption] of the second tithe — such an incident once occurred, and they [the Rabbis on that occasion] said: Dreams have no importance for good or ill.[18]

IF TWO DECLARE HIM NOT LIABLE etc. How is it [the judgment] worded?[19] — R. Johanan said: [Thus; 'The defendant is] not liable.' Resh Lakish said: 'So and so [of the judges] acquit; so and so holds him liable.' R. Eleazar said: 'As a result of their [the judges'] discussion, [it is decided that] he is not liable.' Wherein do they [practically] differ? — As to whether he is to share in the payment of compensation, [in case of error,] together with the others.[20] On the view [that the verdict is to be worded]: 'He [the defendant] is not liable,'[21] he [the dissenting judge] must pay his share;[22] while on the view [that the wording should be]: 'So and so acquit, and so and so holds him liable,' he makes no restitution.[23] But even on the view [that the wording should be]: 'He is not liable,' he [the dissentient] might argue, 'Had you accepted my opinion, you too would not have to pay![24] — But the difference arises concerning their liability to pay his share in addition to their own. According to the view [that the verdict is framed thus]: 'He is not liable,' they bear [the whole] liability;[25] but on the view [that it is worded]: 'So and so [of the judges] acquit, and so and so holds him liable,' they do not pay [the dissentient's share].[26] But even according to the opinion [that the wording should be]: 'He [the defendant] is not liable,' why should they pay [the whole amount]? They might surely argue:[27] Hadst thou not been with us, the trial would have had no result at all! — The difference must arise therefore with reference to, Thou shalt not go up and down as a talebearer among thy people.[28] R. Johanan says: [The verdict is to be framed thus:] He is not liable,' because of this injunction against talebearing.[29] Resh Lakish holds [that the wording must be]: 'So and so acquit; so and so holds him liable,' since [otherwise] it [the verdict] would appear a falsehood,[30] while R. Eleazar agrees with both; therefore it [the verdict] must be framed thus: 'After a decision by the judges, he was found not liable.'

WHEN THE VERDICT IS ARRIVED AT, etc. Whom [do they admit]? Shall we say, the litigants: but they are there already?[31] But [if it refers to] the witnesses: whose view is this? Assuredly it does not agree with R. Nathan, for it has been taught: The evidence of witnesses cannot be combined,[32] unless they simultaneously saw what they state in evidence. R. Joshua b. Korha said: Evidence is valid even if they witnessed it consecutively. Again, their evidence is not admissible by the court unless they both testify together. R. Nathan said; The court may hear the evidence of one witness one day, and when the other appears the next day, they may hear his evidence![33] No. In reality, the litigants are meant, and this represents the view of R. Nehemiah. For it has been taught: R. Nehemiah said: This was the custom of the fair-minded[34] in Jerusalem; first the litigants were admitted and their statements heard; then the witnesses were admitted and their statements heard. Then they[35] were ordered out, and the matter was discussed. [And when the verdict was arrived at etc.][36] But has it not been explicitly taught: When the deliberations come to an end, the witnesses are readmitted?[37] That certainly does not agree with R. Nathan.

The above text [reads]: 'The evidence of witnesses cannot be combined unless they simultaneously saw what they state in evidence. R. Joshua b. Korha said: It is valid even if they saw it consecutively.' Wherein do they differ? — If you wish, I might say, in the interpretation of a Biblical verse; alternatively, in a matter of logic. On the latter assumption, [the first Tanna argues,] the [loan of the] maneh to which the one testifies, is not attested by the other, and vice versa.[38] Whereas the other [Tanna][39] [argues that, after all,] both testify to a mina in general.[40] Alternatively, they differ in respect to a Biblical verse. For it is written, And he is a witness whether he has seen or known of it.[41] Now, it has been taught:[42] From the implications of the verse, A witness shall not rise up etc.,[43] do I not know that one is meant? Why then state 'one'.? — That it may establish the principle that wherever it says A witness, it implies two, unless one is specified by the verse.[44] And the Divine Law expressed it in the singular to teach that they must witness [the act in question] both together as one man.[45] And the other?[46] — He is a witness whether he hath seen or known of it,[47] teaches that in all circumstances [the evidence is admissible].[48]

'Again, their evidence is not admissible by the court unless they both testify together. R. Nathan said: The court may hear the evidence of one witness one day, and when the other witness appears the next day, they may hear his evidence.' Wherein do they differ? — Either in a matter of logic or in [the interpretation of] a Biblical text.

'Either in a matter of logic.' One Master argues: A single witness comes to impose an oath, but not to prove liability.[49] The other[50] argues: Even if they appear simultaneously, do they testify with one mouth?[51] But [nevertheless], their evidence is combined. So here too [where they come separately] their evidence may be combined.

'Or [in interpretation of] a Biblical text.' [And he is a witness whether he has seen or known of it;] If he do not utter it, then he shall bear his iniquity.[52]

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(1) Though it was signed only by two.

(2) Cf. Keth. 22a: If one of the three judges necessary for the authentication of a document died before signing it, the document should be so worded.

(3) V. supra, where Resh Lakish said that it may be taken for granted that an attested document has been legally drawn up. Hence the presence of three originally may be assumed.

(4) In this case where the phrase 'In a session of three judges' was omitted they might have thought that two judges sufficed for purposes of authentication.

(5) That two thought that they constitute a Beth din, for all know that the term 'Beth din' applies to three.

(6) V. supra 3a.

(7) By R. Nahman b. Isaac.

(8) The signatories belonged to his school, and they, no doubt, were aware that two cannot compose a Beth din. R. Ashi, the Babylonian Amora, is given here merely as an illustration because his was the principal court at the time when this passage was incorporated in the Gemara (cf. Rashi). 'Rabbana is a higher title than Rabbi, and is the Aramaic equivalent of Rabban', Chief Teacher (cf. Graetz, Geschichte, IV, 350ff). [According to Funk, Die Juden in Babylonien II, 103, however, the title Rabbana (the Great One) in Persia was reserved for Exilarchs, yet it was bestowed on R. Ashi owing to his unique position and the power he wielded, v. also I, 33.]

(9) That two could form a Beth din, though they did not care about Samuel's uncomplimentary designation.

(10) The court must therefore have been legally constituted, since he would not have asked two to form a Beth din.

(11) To heirs.

(12) V. p. 48, n. 4.

(13) Unless there is another witness to support his statement.

(14) Since he is then not under suspicion of having been prompted in his statement by some ulterior motive, e.g., the desire to serve someone's interests; for had he wished, he himself could have handed over the amount to whomever he wished.

(15) I.e., as though he purposely told them this, so that they might not use it, or that they might not realise his wealth and indulge in extravagance.

(16) And which he suspected to be tithe-money, but was unable to trace the amount.

(17) Or, 'The Master of Dreams', which merely represents the personification of the dream.

(18) Lit., 'neither raise nor lower'. Hence the money might be used for secular purposes. Cf. Tosef., M. Sh. V.

(19) I.e., in a case of disagreement.
(20) C. supra 6a; and infra 33a with reference to the liability of judges to compensate in cases of misjudgment.
(21) Irrespective of whether there has been disagreement or not.
(22) For without him, the remaining two could not have issued such a decree.
(23) Since his opinion is explicitly stated in the verdict.
(24) So that he himself should certainly bear no liability.
(25) Since their view is finally adopted.
(26) The opinion of the two judges was specified to show that the final decision was given by only two (Rashi).
(27) With the third judge.
(28) Lev. XIX, 16.
(29) And stating the names of the dissenting judges is tantamount to talebearing
(30) I.e., the protection of truth is more urgent than the avoidance of talebearing.
(31) Nowhere in the Mishnah is it mentioned that they had to withdraw.
(32) As is necessary for it to be valid.
(33) Cf. Tosef. Sanh. V; B.B. 32a. Hence if it is the witnesses who are admitted after a decision has been arrived at, which implies the necessity of their joint appearance this interpretation of the law is not in accord with the view of R. Nathan as given.
(34) [נקיי הדעת v. supra p. 131, n. 3. Ms. M. אנשי ירושלים 'men of Jerusalem' whom Klein, S., loc. cit., regards as synonymous with נקיי הדעת]
(35) This is understood to refer to the witnesses.
(36) [This seems to be quoted from the Mishnah and hence rightly omitted by Rashal. Ms. M. however, reads. 'when the verdict is arrived at they readmit the litigants' etc.]
(37) Hence the necessity of their conjoint appearance.
(38) E.g., if A claims a mina from B, and C testifies that he saw B receive a maneh from A on the first day of the month, while D testifies that he saw B receive a maneh on the second of the month, notwithstanding that both testify that A gave B a maneh, it is evident that they do not refer to the same transaction, and therefore there is only one witness for each alleged loan, and therefore the evidence is invalid.
(39) I.e., R. Joshua b. Korha.
(40) Hence the fact of the loan is proved, though one witness must have mistaken the date.
(41) Lev. V, 1, referring to witnesses who were adjured by parties in a case to testify before the court in their favour.
(42) Sot. 2b; 31b.
(43) Deut. XIX, 15.
(44) Therefore in the text above, And he is a witness, two are implied. Also, because the guilt-offering for the transgression of the oath imposed on the witnesses (שבועת העדות), referred to in the Biblical text, applies only to two witnesses and not to one. V. J. Sanh. III, 9; and Shebu. 31b.
(45) Otherwise their testimony is invalid.
(46) R. Joshua b. Korha: how does he interpret the verse?
(47) Which appears superfluous, for a witness is supposed to see and know of things.
(48) Whether the act was witnessed or the evidence given at the same time or not.
(49) If the claimant produces one witness in his favour, an oath is imposed on the defendant, but he is not ordered to repay. (V. Shebu. 40a.) Hence, when witnesses testify separately, the evidence of neither proves liability, and therefore the two testimonies cannot be combined.
(50) R. Nathan.
(51) Surely not!
(52) Lev. V, 1.

Talmud - Mas. Sanhedrin 30b

Now, both agree with the Rabbis who disagree with R. Joshua b. Korha:[1] they differ as to whether the 'uttering' [of the testimony] is assimilated to the 'seeing' [of the fact attested]. One Master[2] maintains that 'uttering' is assimilated to 'seeing';[3] the other[4] holds that they are not assimilated.

R. Simeon b. Eliakim was anxious for R. Jose son of R. Hanina to be ordained, but an opportunity did not present itself.[5] One day, as he was sitting before R. Johanan, the latter asked them [the students]: ‘Does anyone know whether the halachah rests with R. Joshua b. Korha or not?’[6] R. Simeon b. Eliakim replied, ‘This man here [R. Jose son of R. Hanina] knows.’ ‘Let him then answer,’ said R. Johanan. Thereupon P. Simeon b. Eliakim said: ‘Let the Master first ordain him.’[7] So he ordained him and then asked: ‘My son, what tradition in the matter have you heard?’ — ‘I heard,’ replied R. Jose son of R. Hanina, ‘that R. Joshua b. Korha agreed with R. Nathan [that the evidence need not be given simultaneously].’[8] R. Johanan exclaimed: ‘Is that what I wanted? If R. Joshua b. Korha maintained that the essential witnessing [of the act need not have been simultaneous, is it necessary [to state this] in reference to the giving of evidence [in court]! However, he concluded, since you have ascended,[9] you need not descend.’[10] R. Zera said: We may infer from this that once a great man is ordained, he remains so.[11]

R. Hiyya b. Abin said in Rab's name: The halachah rests with R. Joshua b. Korha in respect to both immovable and movable property.[12] ‘Ulla said: The halachah rests with R. Joshua b. Korha only in respect to immovable,[13] but not movable property[14] . Said Abaye to him: [Your statement as to the] halachah, implies that they [the Rabbis] dispute [thereon]: but did not Raba say in R. Huna's name in Rab's name: The Sages agree with R. Joshua b. Korha in respect to testimony concerning real estate? Moreover, R. Idi b. Abin learned in Karna's compilation [of Halachoth] on Nezikin:[15] ‘The Sages agree with R. Joshua b. Korha in respect to [evidence regarding] firstborns,[16] real estate, Hazakah,[17] and [the symptoms of puberty] in males and females likewise’?[18] — Would you oppose man to man![19] One Master [‘Ulla] holds that they differ: the other [R. Abba or R. Idi] holds that they do not.

What is meant by, ‘And [the symptoms of puberty] in males and females likewise’? Does it mean that one [witness] testified to [the appearance of] one hair on the part below [the genitals] and another to one hair on the part above? But that is both half of the necessary fact, and also half of the requisite testimony![20] — But it means that one testified to two hairs on the part below, and the other to two hairs on the part above.

R. Joseph said: I state on the authority of ‘Ulla that the halachah is as R. Joshua b. Korha says, in respect to both movable and immovable property. Whilst the Rabbis who came from Mehuza state that R. Zera said in Rab's name: [This ruling holds good only] in the case of movable, but not immovable property. Rab[21] follows his own views. For he said: An admission after an admission,[22] or an admission after a loan,[23] may be combined.[24] But a loan after a loan,[25] or a loan after an admission cannot be combined.

R. Nahman b. Isaac, on meeting R. Huna the son of R. Joshua, asked him:Wherein does a loan after a loan differ, so that it [the testimony] is not [combined]: because the [loan of a] maneh witnessed by one is not the same as that witnessed by the other? Then the same applies to an admission after an admission: the [debt of a] maneh which he admitted in the presence of one witness may not be the same as that which he admitted before the other witness! — It means that he declared to the latter (witness): ‘Regarding the maneh which I have admitted in your presence, I have also made an admission in the presence of so and so.’ Yet even then, only the latter would know [this], but not the former? — He [subsequently] went again and said to the first witness: ‘The maneh which I admitted receiving in your presence, I also admitted receiving in the presence of so and so.’ Thereupon [R. Nahman] said to him [R. Huna the son of R. Joshua]: ‘May your mind be at ease as you have made mine.’ Said he, ‘Why at ease?’ Did not Raba — others say, R. Shesheth — hurl a hatchet at this [answer];[26] viz., surely it is then identical with the case of an admission after a loan.[27] Thereupon he [R. Nahman b. Isaac] said to him: ‘This proves what I heard about you folk, that you tear down palm trees and set them up again.’[28]

The Nehardeans said: [In all cases,] whether of admission after admission, admission after loan, loan after loan, or loan after admission, the testimonies are combined. With whom does this agree? — With R. Joshua b. Korha.

Rab Judah said: Testimony that is contradicted[29] under examination,[30] is valid in civil suits. Raba said: Logically, Rab Judah's ruling refers to such a case as where one witness says: '[I saw it paid] out of a black bag,' and the other says, 'Out of a white bag.' But if one declares, 'The money was old,'[31] and the other says, 'The money was new,'[32] their testimonies cannot be combined. But in criminal cases, are not testimonies combined where there are differences such as over the colour of a bag? Did not R. Hisda say: 'If one testifies that it [sc. the murder] was with a sword, and the other maintains, it was with a dagger, it is not valid[33] evidence; whereas if one affirms that the colour of his garments was black, and the other that it was white, their evidence is valid'?

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(1) I.e., they hold that the act must be witnessed by both witnesses simultaneously.

(2) The first Tanna.

(3) I.e., just as the act must be seen by both simultaneously, so also must it be attested simultaneously. He deduces this from the juxtaposition of the witnessing of the act and the giving evidence of it.

(4) R. Nathan.

(5) V. p. 65, n. 3.

(6) V. supra. R. Joshua b. Korha holds that the two witnesses need not observe the deed attested simultaneously.

(7) For only traditions reported by ordained scholars can be relied upon. Cf. Rashal a.l.

(8) From this answer, which has no bearing on the question, one might be led to conclude that R. Simeon b. Eliakim, though aware that R. Jose b. R. Hanina was incapable of providing the information desired by R. Johanan, nevertheless stated that he could give the information, in order to have him ordained. This cannot but appear as an unworthy ruse. A similar incident, however, is recorded in the Jerushalmi, though the names of the Sages figuring in the story are slightly different in order. There, the question is asked whether the halachah rests with R. Nathan, and the answer given there is more pertinent. This would seem to indicate that our text is in some confusion. [Cf. Weiss, Dor III, 90, n. 15]

(9) I.e., seeing that the degree of Rabbi has been conferred upon you.

(10) It will not be withdrawn. 'Ascended' and 'descended' are probably meant quite literally, the ordained scholars sitting on a higher bench than the unordained.

(11) So the text as emended in the marginal note. Our reading is: once a great man confers ordination, it stands.

(12) I.e., whether the alleged transaction referred to, e.g., the sale of land, or the granting of a monetary loan.

(13) Be-cause they must both be referring to the same transaction.

(14) Where each may be testifying with respect to a different object.

(15) A collection of Baraithoth compiled by Karna and his Beth din, of which only quotations are found here and there in Talmud. V. Weiss, Dor, vol iii, p. 164.

(16) Even after the destruction of the Temple a firstborn animal might not be employed for secular purposes unless it suffered from some physical blemish. To inflict such blemishes was strictly forbidden. In the case of animals belonging to Priests, two witnesses had to testify that their injuries were not man-inflicted, since Priests were under suspicion of exposing their firstborn animals to such defects in order that they might put them to domestic use. The testimony of one witness to one defect and of another to another defect on the same animal could be combined to declare the animal permissible for work. According to Tosaf., their difference concerns the testimony that one is a firstborn and so entitled to a double share of the patrimony.

(17) To prove a three years' undisturbed possession of an estate, where one witness testifies to the possession of the land for the first three years of the Sabbatical cycle, and another for the latter three years, their evidence is combined for the establishment of the possessor's claim, since each separately testifies in reference to the same estate.

(18) Where it is necessary to establish the majority of a person, from which point he or she is to be regarded as an adult and responsible for his actions to the laws of the Community. His or her majority begins from the time when two hairs appear in the region of the pubes. V. Nid. 52a. Hence from the reference given above it may be seen that the Rabbis agree with the view of R. Joshua b. Korha regarding the case of immovable property.

(19) R. Abba and R. Idi on the one hand, and 'Ulla on the other. They enjoyed equal status, so that the teaching of one cannot authoritatively refute that of the other. Nor does the fact that there are two against one make any difference.

(20) I.e., each witness does not individually testify to the complete fact necessary to establish puberty, but to half a fact. Moreover, that half fact (i.e., a single hair in a particular place) is attested by only half the necessary testimony — one witness instead of two. Whereas in the other cases under discussion each witness testifies to a whole fact, e.g., that A lent money to B.

(21) Who holds that successive evidence cannot be combined in the case of movable property.

(22) I.e., where one witness testifies that A admitted indebtedness to B on the first day of the month, and another testifies likewise, but refers it to the second day of the month.

(23) I.e., where one witness testifies to the transaction of a loan between A and B on the first day of the week, and another to A's admission of indebtedness to B on the second day.

(24) Since it is quite possible that both refer to the same loan

(25) I.e., where one witness testifies to the transaction of a loan between A and B on one day, and another testifies to the same on another day.

(26) I.e., disproved the opinion.

(27) For since it is necessary, according to this answer, that each witness shall know what the other has seen, it follows that an admission after a loan must be explained likewise, viz., he must have said to the latter witness: The maneh I have admitted receiving in your presence, I borrowed in the presence of so and so; and then he must have gone and said to the former witness: The maneh which I borrowed in your presence, I have admitted receiving before so and so. Why then did Rab need to state both laws?

(28) I.e., you remove difficulties merely to resurrect them!

(29) I.e., if the testimony of one witness contradicts that of the other.

(30) As to attendant circumstances, e.g., regarding the colour of the clothes worn etc., in which cases the agreement or disagreement is immaterial in reference to the law of declaring them Zomemim. V infra 40a.

(31) Lit., ‘black’ (with use).

(32) Lit., ‘white’.

(33) Lit., ‘certain’, cf. Deut. XIII, 15.

Talmud - Mas. Sanhedrin 31a

— Would you oppose man to man![1]

The Nehardeans said: Even if one testified that it was an old maneh, and the other declares that it was new, we combine [their testimony]. With whom does this agree: with R. Joshua b. Korha?[2] But tell me! when did you learn that R. Joshua b. Korha ruled thus? Only where they are not contradictory:[3] Yet did he rule so even where they contradict each other? — But they [i.e.,the Nehardeans] agree with the following Tanna: For it has been taught:[4] R. Simeon b. Eleazar said: Beth Shammai and Beth Hillel[5] do not differ with respect to two sets of witnesses, [of which] one attests a debt of two hundred [zuz] and the other of one hundred [a maneh]: since one hundred is included in two hundred.[6] They differ only where there is but one set.[7] Beth Shammai say, Their testimony is sundered,[8] but Beth Hillel maintain, Two hundred include one hundred.[9]

If one witness attests [the loan of] a barrel of wine, and the other, of a barrel of oil: — such a case happened, and it was brought before R. Ammi, who ordered him [the defendant] to repay a barrel of wine out of [the value of] the barrel of oil.[10] In accordance with whom? With R. Simeon b. Eleazar [as above]! But might it not be said that R. Simeon b. Eleazar ruled so only [of a case such as the former,] where a hundred zuz is certainly included in two hundred.[11] Did he however rule thus in such a case as this?[12] — This holds good only in respect to the value thereof.[13]

If one deposes, It [e.g., the loan] was given in the upper storey, and the other declares, In the lower storey, — R. Hanina said: It happened that such a case was brought before Rabbi and he combined their evidence.

AND WHENCE DO WE KNOW etc. Our Rabbis taught: Whence do we know that when he goes out he must not say: I was for acquittal, whilst my colleagues were for condemnation; but what could I do, seeing that they were in the majority? — Scripture states: Thou shalt not go up and down as a talebearer among thy people,[14] and further, He that goeth about talebearing revealeth secrets.[15]

It was rumoured of a certain disciple that he revealed a matter stated [as a secret] in the Beth ha-Midrash twenty-two years before. So R. Ammi expelled him from the Beth ha-Midrash saying: This man revealeth secrets. MISHNAH. WHENEVER HE[16] BRINGS PROOF, IT[17] CAN UPSET THE VERDICT. BUT IF THEY[18] HAVE TOLD HIM: 'ALL THE PROOFS WHICH YOU MAY HAVE YOU MUST PRODUCE WITHIN THIRTY DAYS:' IF HE DIES SO WITHIN THIRTY DAYS, IT UPSETS [THE DECISION]. AFTER THIRTY DAYS, IT DOES NOT. BUT RABBAN SIMEON B. GAMALIEL SAID: WHAT IS HE TO DO WHO DID NOT FIND [FAVOURABLE EVIDENCE] WITHIN THE THIRTY DAYS, BUT ONLY THEREAFTER?[19]

IF THEY[18] HAVE SAID TO HIM, 'BRING WITNESSES,' AND HE ANSWERED, 'I HAVE NONE,' OR, 'BRING PROOF,'[20] AND HE REPLIED, 'I HAVE NONE:' YET SUBSEQUENTLY HE PRODUCED PROOF, OR FOUND WITNESSES, IT IS OF NO VALUE.[21] SAID RABBAN SIMEON B. GAMALIEL: WHAT IS HE TO DO WHO DID NOT KNOW THAT WITNESSES WERE AVAILABLE, BUT FOUND THEM AFTERWARDS; OR THAT THERE WAS PROOF,YET DISCOVERED IT LATER?[22]

IF ON SEEING THAT HE WAS ABOUT TO BE CONDEMNED HE SAID: 'ADMIT SO AND SO TO TESTIFY IN MY FAVOUR,' OR PRODUCED [DOCUMENTARY] PROOF FROM HIS FUNDA,[23] IT IS VALUELESS.[24]

GEMARA. Rabbah son of R. Huna said: The halachah rests with Rabban Simeon b. Gamaliel.[25] Rabbah son of R. Huna also said: The halachah does not rest with the Sages. But is this not obvious; since he says that the halachah rests with Rabban Simeon b. Gamaliel it automatically follows that the halachah is not as the Sages? — I might have thought that his ruling[26] holds good only at the outset;[27] but once it [i.e., the reverse] has been done,[28] it is correct: therefore he informs us[29] that even then, it [the decision] is reversed.

IF THEY SAID TO HIM: 'BRING WITNESSES,' ETC. . . . SAID RABBAN SIMEON B. GAMALIEL etc. — Rabbah son of R. Huna said in R. Johanan's name: The halachah rests with the Sages. Rabbah son of R. Huna also said in R. Johanan's name: The halachah does not rest with Rabban Simeon b. Gamaliel. But is this not obvious; since he said that the halachah rests with the Sages it follows automatically that the halachah does not rest with Rabban Simeon b. Gamaliel? What he teaches us is this: Only in this case is the halachah not as Rabban Simeon b. Gamaliel holds; whereas in all other cases,[30] the halachah rests with him. Thus he opposes the dictum of Rabbah b. Bar Hana in the name of R. Johanan, viz., Wherever Rabban Simeon b. Gamaliel's view is taught in our Mishnah, the halachah rests with him, except in [the following three cases]: 'Areb,[31] Zidon[32] and 'the latter proof'.[33]

A lad[34] was once summoned for a [civil] suit before R. Nahman. The latter asked him: 'Have you any witnesses?' He answered: 'No.' 'Have you any [documentary] proof?' 'No,' was the reply. Consequently, R. Nahman ruled him to be liable. As he went along weeping, some people heard him and said to him, 'We know your father's affairs.'[35] Said R. Nahman: In such a case even the Rabbis[36] agree that the youth is not expected to know his father's affairs.[37] A certain woman[38] produced a note of a debt,[39] but said to him:[40] 'I know that this bill was discharged.' R. Nahman[41] believed her.[42] Said Raba to him: According to whose view [did you act]? According to Rabbi who said: [Ownership of] 'letters' is acquired through delivery?[43] This case is different, he replied, since she could have burnt it, had she desired.[44] Others say, R. Nahman did not believe her. Thereupon Raba objected: But had she desired,

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(1) V. p. 189, n. 2.

(2) V. p. 185. For here too, after all, both testify to the same fact, viz., the debt of a maneh.

(3) Differing only in the matter of date.

(4) B.B. 41b, Nazir 20a.

(5) Who are at variance in the following case, viz., where of two sets of witnesses one testifies that A took upon himself the vow of neziruth for two years, and the other, for five years. The Shammaites maintain that since they differ, their evidence is invalid; the Hillelites say that, as both sets of witnesses testify for a period of not less than two years, the lesser period is considered proved.

(6) So that the debt of a hundred zuz is witnessed to by both.

(7) One witness testifying to a hundred, and the other to two hundred.

(8) I.e., since one is obviously false, he is cut off from the other; hence there is no valid testimony at all.

(9) So that there are two witnesses for a debt of a hundred. Hence the Nehardeans are supported by this view.

(10) I.e., since the value of the latter is greater, he regarded the smaller debt as proved.

(11) I.e., a hundred is actually part of two hundred.

(12) Where they differ as to the substance.

(13) I.e., the witnesses did not attest the indebtedness of the defendant in actual wine or oil, but his indebtedness for their value. Accordingly they differed in respect to the amount.

(14) Lev. XIX, 16.

(15) Prov. XI, 13.

(16) The defendant (Rashi). According to the Codifiers, Tur and Caro, any of the litigants, v. H.M. XVI, 1.

(17) The court (Rashi).

(18) The judges. So Alfasi, Me'iri and others. The text reads אמר לו (He, the other litigant, said unto him). The version rendered seems the more acceptable.

(19) I.e., even if he produces it after the stipulated period, the decision may be reversed.

(20) Viz., documentary evidence.

(21) Since he might forge a document or engage false witnesses.

(22) I.e., both documentary proof and witnesses are valid.

(23) Gr. **. A moneybag or hollow belt for keeping money or documents.

(24) Even according to Rabban Simeon b. Gamaliel; since he knew of it, and yet did not produce it, we fear that it is false.

(25) In the first clause, where the litigant was asked to produce evidence within thirty days and did not say that he had none.

(26) That the halachah rests with Rabban Simeon b. Gamaliel.

(27) I.e., even if proof is brought after the prescribed time, it is to be accepted.

(28) I.e., the court had rejected this evidence and given a verdict accordingly.

(29) By his second statement that the halachah does not rest with the Sages.

(30) Where Rabban Simeon b. Gamaliel is at variance with other Sages.

(31) Surety. V. B.B. 173a.

(32) Git. 74a.

(33) I.e., the case, dealt with in our Mishnah, of evidence offered late, the case under discussion; thus Rabbah b. R. Huna maintains that the halachah does rest with Rabban Simeon b. Gamaliel in respect to ‘Areb and Zidon.

(34) I.e., minor.

(35) And can testify in your favour.

(36) Who oppose Rabban Simeon B. Gamaliel in the Mishnah.

(37) Hence the decision can be reversed.

(38) Who was a trustee, appointed by the creditor and debtor, of a bill of indebtedness.

(39) Lit., ‘A Shetar came forth from under her hand.’

(40) The creditor.

(41) Before whom the dispute was brought.

(42) Notwithstanding the creditor's denial; for as long as they kept her their trustee, they vouched thereby for her truthfulness.

(43) I.e., if a creditor wishes to make over a debt, he can do so merely by handing the note — referred to here as a compilation of (alphabetical) letters — to the assignee. Hence in our case, the woman could have claimed ownership of the note, on the plea that it had been handed to her not as a trustee, but in transference of the debt. Consequently her statement that the bill was paid may be regarded as true by reason of a Miggo, v. Glos. Raba was not in favour of the opinion of Rabbi, as it opposes the view of the majority of the Sages that a Shetar cannot be legally assigned by mere delivery. V. B.B. 76a.

(44) Hence, without accepting Rabbi's ruling, there are still grounds for believing her.

Talmud - Mas. Sanhedrin 31b

she could have burnt it! — Since it had been proved at Court,[1] we cannot say that she could have destroyed it had she desired.

Raba refuted R. Nahman: A witnessed receipt[2] must be authenticated by the signatories. If unwitnessed, but produced by a trustee, or if written on the note of indebtedness, under the signatures of the witnesses, it is also valid.[3] Hence we see that the trustee is believed! This refutation of R. Nahman remains unanswered.

When R. Dimi came [from Palestine] he said in R. Johanan's name: One may always adduce proof to upset [the decision unless he declares his arguments closed, and [immediately thereafter] says: Admit so and so to testify on my behalf.[4] But is not this selfcontradictory? First you say, ‘Unless he declares his arguments closed,’ — which agrees with the Rabbis[5] ; then you say, ‘and [immediately thereafter] says, Admit so and so to testify on my behalf’ — which agrees with Rabban Simeon b. Gamaliel![6] And should you answer, The whole agrees with Rabban Simeon b. Gamaliel, and that [the latter clause is] merely elucidatory [of the first] viz., What is meant by, ‘Unless he declares his arguments closed’? That means he says, Admit so and so that he may give evidence for me:’[7] but did not Rabbah b. Bar Hana say in R. Johanan's name: Wherever Rabban Simeon b. Gamaliel's view is taught in our Mishnah, the halachah rests with him, save in the cases of ‘Areb, Zidon, and the ‘latter proof’?[8] — But when R. Samuel b. Judah came [from Palestine], he said in R. Johanan's name: One may always produce evidence to upset [a decision], unless he declares his case closed and they say unto him, ‘Bring witnesses,’ and he answers, ‘I have no witnesses;’ ‘Bring proof,’ and he replies, ‘I have no proof.’[9] If, however, witnesses arrive from overseas, or if his father's despatch case[10] had been deposited with a stranger, he can produce the evidence and upset [the decision].

When R. Dimi came [from Palestine], he said in R. Johanan's name: If a man, known as a difficult adversary in court, [has a trial,][11] and one of them[12] says: Let us be tried here; while the other says: Let us go to the place of Assembly,[13] he is compelled to go to the place of Assembly. R. Eleazar, however, said in his presence: Rabbi, if a man claims a maneh from his fellow, must he spend another maneh[14] on top of the first? Nay, he is compelled to attend the local court.[15] It has been stated likewise: R. Safra said [in R. Johanan's name]:[16] If two litigants are in obstinate disagreement with respect to [the venue of] a lawsuit, and one says: Let us be tried here; and the other says: Let us go to the place of Assembly;[17] he [the defendant] must attend the court in his[18] home town. And if it is necessary to consult [the Assembly], the matter is written down and forwarded to them. And if the litigant[19] says ‘ Write down the grounds on which you made your decision and give them to me,[20] they must write them down and give him the document.

The Yebamah[21] is bound to follow the Yabam [to his own town] that he may release her.[22] How far? — R. Ammi answered: Even from Tiberias to Sepphoris.[23] R. Kahana said: What verse proves it? — Then the elders of his city shall call him;[24] but not the elders of her city.

Amemar said: The law is that he is compelled to go to the place of the Assembly.[25] R. Ashi said to him: Did not R. Eleazar say, He is compelled to attend court in his [opponent's] town? — That is only where the debtor demands it[26] of the creditor; but if the creditor [demands, it, the debtor must submit, for] The borrower is servant to the lender.[27]

A message was once sent[28] to Mar ‘Ukba:[29] ‘To him whose lustre is like that of the son of Bithia,[30] Peace be with thee. ‘Ukban the Babylonian has complained to us, saying: "My brother Jeremiah has obstructed my way."[31] Speak therefore to him, and see that he meets us in Tiberias.’ But is this not self-contradictory? First you say, ‘Speak to him,’i.e., judge him;[32] and then you add, ‘See that he meets us in Tiberias,’ shewing [that they told him], Send him hither! — What they meant was: Speak to him and judge him;[33] if he accepts your decision, well and good; if not, see to it that he appears before us in Tiberias.[34]

R. Ashi says: This was a case of Kenas, and in Babylonia they could not try cases of Kenas.[35] But as for their sending him a message in such terms,[36] that was only to shew respect to Mar ‘Ukba. [

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(1) Rashi: Its genuineness had been proved in Court. Tosaf. however points out that even then, it was still in her power to burn it. Therefore Tosaf. explains: It had been proved at court that she had it in her possession.

(2) סימפון; Gr. **, a kind of codicil, the precise significance of which is unknown.

(3) For the note is in the creditor's possession, and he would certainly not have permitted a false receipt to be written thereon.

(4) This implies, that, having stated that he has no more evidence in his favour, he then asks, (presumably because he sees the case going against him, as in the Mishnah,) that certain witnesses shall be heard on his behalf.

(5) Who hold that once he states that he has no more evidence, his case is closed, and new evidence cannot be offered even at a later date.

(6) For this implies that the evidence is not admissible only because he offered witnesses of whose existence he had known and who were available at the time. But if he subsequently produced new evidence, unknown to him when he made his declaration, it would be valid.

(7) I.e., only if he immediately thereafter offers fresh evidence is it not accepted, the court abiding by his previous statement that his case was closed.

(8) Thus proving that R. Johanan holds that once he has declared, ‘I have no further proof,’ he cannot produce any, much later.

(9) At which point his defence is regarded as closed.

(10) דיסקיא Gr. **; bisaccium, a bag with two pouches.

(11) [Thus Rashi. According to Yad Ramah render, ‘He who constrains his neighbour to stand with him for trial.’]

(12) The more influential man.

(13) The meeting place of scholars; the supreme Beth din in Jerusalem, according to Maim. Yad, San. XI, 6. For a full discussion of this and the following passage, v. Finkelstein, Jewish Self-Government in the Middle Ages, pp. 379 et seqq. (note C.). This was said with the hope that his opponent might be humbler out of respect for the Scholars (Rashi).

(14) In travelling expenses.

(15) The creditor's.

(16) Rashal deletes the bracketed passage. See, however, Finkelstein, loc. cit.

(17) Maintaining that he lacked confidence in the local court and feared an erroneous decision,

(18) The plaintiff's.

(19) Who declined to appear before the local court, v. Tosaf.

(20) So that he might ascertain the legality of their decision.

(21) יבמה fem. of יבם v. Glos.

(22) From the obligations of levirate marriage.

(23) Although the court in the former city was more eminent (Rashi). Actually, these two towns were near to each other.

(24) Deut. XXV, 8.

(25) Referring to a dispute between litigants regarding the place of trial.

(26) To go to the Assembly.

(27) Prov. XXII, 7.

(28) By the judicial court in Palestine.

(29) He held the office of Ab-Beth-din in Kafri near by Nehardea, and was a contemporary of Samuel Yarhinai. v. Sabb. 55a; Rashi, Kidd. 44b.
(30) Moses (Rashi). V. p. 102. [Or, ‘like the Son of the House’, an honorific title among the Persian nobility, Funk, op. cit., I, 33, n. 1.]
(31) I.e., he treated me injuriously.
(32) Hence, in Babylonia.
(33) I.e., Judge you the case first.
(34) Hence we see that even where the plaintiff desired the defendant to appear in another court, yet at the outset preference was given to the local court.
(35) V. B.K. 84a.
(36) Implying that they asked him to judge the case himself.

Talmud - Mas. Sanhedrin 32a

C H A P T E R I V

MISHNAH. BOTH CIVIL AND CAPITAL CASES DEMAND INQUIRY AND EXAMINATION.[1] AS IT IS WRITTEN: YE SHALL HAVE ONE MANNER OF LAW.[2] WHAT IS THE DIFFERENCE BETWEEN CIVIL AND CAPITAL CASES? — CIVIL SUITS [ARE TRIED] BY THREE; CAPITAL CASES BY TWENTY-THREE[3] CIVIL SUITS MAY BE OPENED EITHER FOR ACQUITTAL OR CONDEMNATION; CAPITAL CHARGES MUST BE OPENED FOR ACQUITTAL, BUT NOT FOR CONDEMNATION.[4] CIVIL SUITS MAY BE DECIDED BY A MAJORITY OF ONE, EITHER FOR ACQUITTAL OR CONDEMNATION; WHEREAS CAPITAL CHARGES ARE DECIDED BY A MAJORITY OF ONE FOR ACQUITTAL, BUT [AT LEAST] TWO FOR CONDEMNATION.[5] IN MONETARY CASES THE DECISION MAY BE REVERSED[6] BOTH FOR A ACQUITTAL AND FOR CONDEMNATION; WHILST IN CAPITAL CHARGES THE VERDICT MAY BE REVERSED FOR ACQUITTAL ONLY, BUT NOT FOR CONDEMNATION; WHILST IN CAPITAL CHARGES THE VERDICT MAY BE REVERSED FOR ACQUITTAL ONLY, BUT NOT FOR CONDEMNATION. IN MONETARY CASES, ALL[7] MAY ARGUE FOR OR AGAINST THE DEFENDANT; WHILST IN CAPITAL CHARGES, ANYONE MAY ARGUE IN HIS FAVOUR, BUT NOT AGAINST HIM. IN CIVIL SUITS, HE WHO HAS ARGUED FOR CONDEMNATION, MAY[8] THEN ARGUE FOR ACQUITTAL, AND VICE VERSA; WHEREAS IN CAPITAL CHARGES, ONE WHO HAS ARGUED FOR CONDEMNATION MAY SUBSEQUENTLY ARGUE FOR ACQUITTAL, BUT NOT VICE VERSA.[9]

CIVIL SUITS ARE TRIED BY DAY, AND CONCLUDED AT NIGHT.[10] BUT CAPITAL CHARGES MUST BE TRIED BY DAY AND CONCLUDED BY DAY. CIVIL SUITS CAN BE CONCLUDED ON THE SAME DAY, WHETHER FOR ACQUITTAL OR CONDEMNATION; CAPITAL CHARGES MAY BE CONCLUDED ON THE SAME DAY WITH A FAVOURABLE VERDICT, BUT ONLY ON THE MORROW WITH AN UNFAVOURABLE VERDICT.[11] THEREFORE TRIALS ARE NOT HELD ON THE EVE OF A SABBATH OR FESTIVAL.[12] IN CIVIL SUITS.[13] AND IN CASES OF CLEANNESS AND UNCLEANNESS, WE BEGIN WITH [THE OPINION OF] THE MOST EMINENT [OF THE JUDGES]; WHEREAS IN CAPITAL CHARGES, WE COMMENCE WITH [THE OPINION OF] THOSE ON THE SIDE [BENCHES].

ALL ARE ELIGIBLE TO TRY CIVIL SUITS, BUT NOT ALL ARE ELIGIBLE TO TRY CAPITAL CHARGES, ONLY PRIESTS, LEVITES, AND ISRAELITES [LAYMEN] WITH WHOM PRIESTS CAN ENTER INTO MARRIAGE RELATIONSHIP.[14]

GEMARA. Do civil suits really need inquiry and examination? The following opposes it: If a bond is dated the first of Nisan in the Shemittah,[15] and witnesses came and said: ‘How can ye testify to this bond: were ye not with us on that day in such and such a place?’ the bond is valid, and its signatories remain competent [witnesses], for we presume that they might merely have postponed writing it.[16] Now if you should think that inquiry and examination are necessary, how ‘presume that they might merely have postponed writing it?[17] — But on your reasoning, one should object rather to the [following] Mishnah:[18] Ante-dated bonds[19] of indebtedness are invalid;[20] if post-dated, they are valid.[21] Now, if you should think that examination and inquiry are necessary, why are post-dated notes valid?[22] — This[23] is no difficulty, for a more powerful objection is raised,[24] viz., that even in the case of a bond dated the first of Nisan in the Sabbatical year, when people, as a rule, do not transact loans, and when, consequently, we cannot [plausibly] say that the writing [of the bond] might have been postponed, since no one would intentionally weaken the validity of his document:[25] yet since the annulment of debts is effectuated only at the expiration of the Sabbatical year,we declare the bond valid.[26] At all events, however, the difficulty[27] remains.

(Mnemonic: Harpash.[28])

R. Hanina said: By Biblical law, both monetary and capital cases require inquiry and investigation, as it is written: One manner of judgment ye shall have.[29] Why then were civil suits exempted from this procedure? In order not to lock the door against borrowers.[30] But if so,

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(1) Heb. דרישה וחקירה, i.e, examination of witnesses on the main points, e.g., amount (loaned), date and place.

(2) Lev. XXIV, 22. I.e., both capital and monetary cases shall be alike. With regard to capital cases it is written; Then shalt thou inquire and make search (Deut. XIII, 15).

(3) V. supra 2a; 23a.

(4) The reference is to the judicial debate on the matter. In civil suits, the points in favour of condemnation may be put first; but in capital charges, the arguments for acquittal must be first marshalled, but v. Krauss, a.l. for another interpretation. But of course, it cannot refer to the actual opening of the case; the indictment and case for the prosecution must obviously be stated before there is a charge to answer.

(5) V. supra 2a and infra 36b.

(6) On errors being revealed.

(7) Even the pupils, those seated behind the judges for the purpose of filling up vacancies. Cf. infra 37a.

(8) On finding his arguments erroneous.

(9) According to Rashi, this is deduced from Num. XXXV, 25, The Congregation shall deliver the manslayer, meaning that all the endeavours of the court should be directed towards deliverance. According to Maim., Yad, Sanh., X, 2, it is deduced from Ex. XXIII, 2, Neither shalt thou speak in a quarrel to incline etc. Probably he based his deduction on the Mekilta comment on the verse, where reference is made to the judges' duty to lean towards acquittal.

(10) Where the deliberations have been protracted.

(11) In case points in the accused's favour are discovered during the night.

(12) Since should he be found guilty, the case cannot be concluded on the morrow, execution being forbidden on Sabbaths and Festivals. (From this it is seen that by 'concluding' the actual carrying out of the sentence is meant, not merely the promulgation of the verdict.) Moreover, it is against the law — except in the case of a rebellious Elder, v. infra 89a — to leave judgement in suspense. V. Maim., Yad, Sanh. XII, 4.

(13) CIVIL SUITS is omitted in most Mishnaic versions.

(14) I.e., of pure descent.

(15) שמיטה; Sabbatical year. Though the regulations of the Sabbatical year include also the annulment of all monetary obligations, 'when the creditor is legally debarred from collecting his debt (v. Deut. XV, 2), yet in various exceptional cases the law of Shemittah did not operate, e.g., if a Prosbul (פרוזבול) had been written. This was a legal instrument executed and attested in Court whereby the lender retained the right to collect the debt at any time he thought fit (cf. Sheb. X, 4). Further shemittah does not affect a loan advanced on a pledge, or where the claim for collection had been made before the expiration of the Sabbatical year, in which cases loans are not annulled. V. 'Ar. 28b.

(16) I.e., they might have witnessed the loan on an earlier date, but have postponed writing the bond until the first day of Nisan (Rashi). [According to Yad Ramah, render, 'they might have post-dated it.' We do not assume that it has been ante-dated (v. infra) as there is a presumption in favour of all duly attested documents, v. B.B. (Sonc. ed.) p. 748, n. 16.]

(17) If such an assumption is permissible, examination as to date and placed is purposeless.

(18) Rather than the Baraitha, since scholars are more conversant with the Mishnah than with Baraithoth.

(19) I.e., bearing on the evidence of witnesses, of an earlier date than the actual loan.

(20) As a rule the debtor's property is given as security for the loan, and in the case of default, the creditor may seize it if sold after the loan was incurred, but not before. Hence, if the note was ante-dated, sold property might be seized unlawfully. In order to prevent this, an ante-dated bond was declared altogether invalid, even from the date of transaction. Cf. B.M. 72a.

(21) It appears that the creditor must have renounced his security for the period between the date of the loan and that appearing on the note.

(22) Seeing that they might be mere forgeries? Hence, even if the loan itself is attested as having taken place, it should rank as only a verbal loan, which cannot be collected from property sold even after it was incurred.

(23) I.e., the fact that the objection is raised on the ground of a Baraitha rather than of a Mishnah.

(24) In the Baraitha quoted.

(25) By dating it some time in the Sabbatical year, when the debt is threatened with annulment, and so inevitably arousing the suspicion of forgery.

(26) By assuming its writing has been postponed to the Sabbatical year. Thus, this assumption, since it is possible, is made in spite of its improbability, a loan in the Sabbatical year still being rare. How much more so is the assumption to be made in normal cases. Why then should the witnesses be examined on the date, since even if it is disproved, their testimony holds good?

(27) I.e., the fact that the Baraitha is contradictory to our Mishnah; v. preceding note.

(28) V. p. 21, n. 5. Here it stands for R. Hanina, Raba, R. Papa, and R. ASHi. the four Rabbis whose views are given here.

(29) Lev. XXIV, 22.

(30) V. supra 2b. The view expressed in our Mishnah was taught before this enactment; and the Baraitha and Mishnah in Sheb., after this enactment.

Talmud - Mas. Sanhedrin 32b

when they [the judges] erred [in their verdict], they should not be liable! — Then thou wouldst most certainly lock the door against borrowers.[1]

Raba[2] said: Our Mishnah refers to a case of Kenas,[3] the other teachings[4] to the admission and transaction of loans.[5]

R. Papa said:[6] Both this and the other teachings deal with the admission and transaction of loans. In our Mishnah, however, the suit is [suspected of being] dishonest,[7] while in the other,[8] the claim is [i.e., appears] genuine. This agrees with Resh Lakish, for Resh Lakish opposed [two verses to each other]: It is written, In justice[9] shalt thou judge thy neighbour;[10] but elsewhere, Justice, justice shalt thou follow.[11] How so? — The latter refers to a suit suspected to be dishonest; the former, to an [apparently] genuine claim.

R. Ashi said: The [contradictory] teachings are reconciled as above;[12] but as for the [Scriptural] verses, one[13] refers to a decision based on strict law, the other to a compromise. As it has been taught: Justice, justice shalt thou follow; the first [mention of justice] refers to a decision based on strict law; the second, to a compromise. How so? — E.g., where two boats sailing on a river meet; If both attempt to pass simultaneously, both will sink,[14] whereas, if one makes way for the other, both can pass [without mishap]. Likewise, if two camels met each other while on the ascent to Beth-Horon;[15] if they both ascend [at the same time] both may tumble down [into the valley]; but if [they ascend] after each other, both can go up [safely]. How then should they act? If one is laden and the other unladen, the latter should give way to the former. If one is nearer [to its destination] than the other, the former should give way to the latter. If both are [equally] near or far [from their destination,] make a compromise between them, the one [which is to go forward] compensating the other [which has to give way].

Our Rabbis taught: Justice, justice shalt thou follow, means, Thou shalt follow an eminent Beth din, as for example, [follow] R. Eliezer [b. Hyrkanus] to Lydda.[16] or R. Johanan b. Zakkai to Beror Hail.[17] It has been taught: The noise of grindstones at Burni[18] [announced] a circumcision[19] [was being performed]; and the light of a candle [by day, and many candles by night] at Beror Hail, showed that a feast [was being celebrated] there.[20]

Our Rabbis taught: justice, justice shalt thou follow,’ this means, Follow the scholars to their academies. e.g.. R. Eliezer to Lydda, R. Johanan b. Zakkai to Beror Hail,[21] R. Joshua to Peki'in,[22] Rabban Gamaliel [II] to Jabneh,[23] R. Akiba to Benai Berak,[24] R. Mathia to Rome,[25] R. Hanania b. Teradion to Sikni,[26] R. Jose [b. Halafta] to Sepphoris. R. Judah b. Bathyra to Nisibis,[27] R. Joshua[28] to the Exile,[29] Rabbi to Beth She'arim,[30] or the Sages[31] to the chamber of hewn stones.[32]

CIVIL SUITS MAY BE OPENED EITHER FOR ACQUITTAL etc. What is said?[33] Rab Judah said: We speak thus to them:[34] Who can tell that it is as ye say?[35] ‘Ulla objected: But do we not thereby shut their lip?[36] — Then let them be shut! Has it not been taught: R. Simeon b. Eliezer said: The witnesses are moved from place to place,[37] that they[38] may become confused, and withdraw [their evidence].[39] What comparison is there! In that case, they are automatically repelled, whereas here, we repel them by our own act!

But, said ‘Ulla: We say thus: Have you [sc. the defendant] any witnesses to refute them?[40] Rabbah demurred: Can we then open the defence of one in a manner which involves the condemnation of another?[41] — But does this really involve his condemnation? Have we not learnt: Witnesses declared Zomemim are not executed unless the verdict has [already] been given![42] — I mean this: Should the defendant remain silent until the verdict is given, and then produce witnesses and refute the others, it involves their condemnation?[43] — Therefore Rabbah said: We say to him: Have you any witnesses to contradict them?[44]

R. Kahana said: [We open the defence by saying,] From your words it appears that so and so is not guilty.[45] Abaye and Raba both say: We say to him: If you did not commit the murder, have no fear. R. Ashi says: [We begin thus:] Whoever knows anything in his [sc. the accused's] favour, let him come forward and state it. It has been taught in agreement with Abaye and Raba: Rabbi said, If no man have lain with thee and if thou hast not gone aside to uncleanness, etc.[46] ;

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(1) For notes v. supra 3a.

(2) Who holds that there is no difference between the teachings, and that they were all taught after the enactment referred to.

(3) E.g., the payment of the double restitution (v. Glos.), where the fear locking the door against borrowers has no ground.

(4) The Baraitha and Mishnah in Sheb.

(5) And where refusal to lend might be a consequence of this enacting procedure.

(6) In reconciliation of the views of the two teachings.

(7) The judges find suspicious circumstances attending the claim; therefore full investigation is essential for the establishment of the truth.

(8) V. p. 202. n. 11.

(9) E.V. ‘righteousness’.

(10) Lev. XIX, 15.

(11) Deut. XVI, 20. The repetition of ‘justice’ indicates the necessity’ of stricter investigation than is implied by the single use of the word.

(12) As explained by R. Hanina, Raba and R. Papa.

(13) The Biblical emphasis on justice.

(14) Through collision.

(15) בית חורון (lit., ‘the house of the hollow’). There were two towns of this name, distinguished on account of their situation, as Beth Horon the Upper, and Beth Horon the Lower. They both lay on the southern border of Ephraim and close to the territory of Benjamin (cf. Josh. XVI, 3, 5; XVIII, 13, 14) Beth Horon the Upper stands on the summit of a conical hill, while a short distance west of this point, on a rocky eminence, stands Beth Horon the Lower. The deep valley between the two places may account for the name, "The house of the hollow.’ The road winds up the mountain in zig-zag line, and is in many places cut in the rock. It is rugged and difficult. (10) Lit., ‘if one is near and the other is not near.’

(16) A city in Palestine, twelve miles from Jaffa on the road to Jerusalem. Was famous as a seat of Jewish scholarship after the destruction of the Temple.

(17) Seat of R. Johanan b. Zakkai's College. near Jabneh (Jastr.) [Klein, S.. ידיעות המכון למדעי היהדות I, 46, identifies it with the village Burer, west of Beth Gubrin (Eleutheropolis.)]

(18) A place near Lydda. ‘The noise of grinding’ was an indication that some ingredients were being ground for the purpose of treating the circumcision wound.

(19) שבוע הבן lit., ‘the week of the son’ (bis), v. B.B. (Sonc. ed.) p. 246. n. 8.

(20) Bis: This was (a) during the time of Hadrian, the Emperor, who forbade the observance of the law and the rite of circumcision. Such were the signs by which Jews were invited to celebrate the solemn occasions [V. Graetz, Geschichte, IV, p. 158, who however regards these announcements as words of denunciation by the spies of the Roman Government on noticing these signs. Or (b) during the persecutions under Antiochus, Klein, op. cit., 40ff.]

(21) [Where he spent the last years of his life, v. Derenbourg, MGWJ. 1893, 304.]

(22) Or Beki'in, a small town in Palestine, between Jabneh and Lydda. A seat of a Talmudic School during the patriarchate of Gamaliel II.

(23) A small town on the N.W. borders of Judea, identified with Jabneel of Naftali (Josh. XIX, 33). Seat of the celebrated school after the destruction of Jerusalem, which locality is replaced as the seat of the Sanhedrin. Scholars (Weiss, Graetz, Halevy) disagree as to the exact authority it possessed.

(24) One of the cities of the tribe of Dan (Josh. XIX, 45) identified with the modern Benai Berak, a flourishing Jewish Colony.

(25) [He left Palestine at the same time as Judah b. Bathyra and R. Hananiah, the nephew of R. Joshua b. Hananiah (v. infra) shortly before the Bar Kochba war, and making his way to Rome he there established a school, v. Bacher, AT., I, 380.]

(26) סכנין or Sogana (v. Josephus, Vita 51). North of Jotapata in Galilee.

(27) Nisibis, city in North-eastern Mesopotamia, in the ancient province of Migdona.

(28) Read: Haninah (nephew of R. Joshua) about whose journey to Babylon. v. Ber. 63a. V. marginal note.

(29) [He established a school in Nehar Pekod, west of Nehardea, v. Bacher, op. cit. 389.]

(30) A city identified with El Shajerah, south of Sepphoris. (Neubauer, Geographie, p. 200.) One of the stations the Sanhedrin were destined to pass in its ten exiles during the period 30-170 C.E. V. R.H. 31b; Keth. 103b.

(31) The Great Sanhedrin (Rashi).

(32) לשכת הגזית, the chamber of hewn stones in the inner court of the Temple which was the home of the Great Sanhedrin. [On the refutation of Schurer's view that it was the chamber ‘close to the Xystus’ on the western border of the Temple Mount, v. Krauss, J.E., XII, 576.]

(33) In opening the case for the defence.

(34) Sc. the witnesses for prosecution.

(35) I.e., perhaps your evidence is false

(36) I.e., discourage them from giving further evidence.

(37) Rashi: When they came to give evidence, the Court would decline to hear it in that place, but appoint another and at the second place, they found some reason for moving to a third and so on.

(38) Lit., ‘their minds’.

(39) Tosef. Sanh. IX.

(40) The accusing witnesses, and prove them Zomemim..

(41) For in a capital charge, witnesses proved Zomemim are liable to death.

(42) And unless before it was carried out, they had been proved Zomemim. Consequently, if the accused is invited to produce witnesses to refute the other at this early stage of the proceedings, no question of condemnation arises.

(43) Hence at the very outset, he must not be invited to prove the accusing witnesses Zomemim.

(44) I.e., to prove the former evidence false, but not by means of shewing that the witnesses are Zomemim. (V. Glos. and p. 36, n. 3.)

(45) The judges start by pointing out the weak features of the prosecution, e.g., even if certain statements of the prosecution are proved true, they do not shew the guilt of the accused.

(46) Num. V, 19.

Talmud - Mas. Sanhedrin 33a

We infer from this that capital charges are opened for acquittal.[1]

IN MONETARY CASES THE DECISION MAY BE REVERSED etc. But the following contradicts this: ‘If a man judged a case [by himself] and pronounced him who was liable, "not liable", or vice versa; the clean, "unclean," or the reverse: his decision stands, but he must pay an indemnity[2] out of his own pocket’?[3] — R. Joseph answered: This presents no difficulty: here it [our Mishnah] refers to a Mumheh;[4] there, to one who is no Mumheh.[5] But in the case of a Mumheh, do we reverse [the decision]? Have we not learned: If he was recognised by the Beth din as a Mumheh, he is exempted from paying [compensation]! —[6] R. Nahman answered: Here [in our Mishnah] the circumstances are that there is a court superior to this one in learning and numbers;[7] whereas in the other Mishnah there is no court available superior to this in learning and numbers.[8] R. Shesheth said: Here it treats of a case where he [the judge] erred regarding a law cited in a Mishnah;[9] there, of a case where he erred in the weighing of [conflicting] opinions. For R. Shesheth said in R. Assi's name: If he erred in a law cited in the Mishnah, the decision is reversed; if he erred in the weighing of [conflicting] opinions, the decision may not be reversed.

Rabina asked R Ashi: Is this also the case if he erred regarding a teaching of R. Hiyya or R. Oshaia?[10] — Yes, said he, And even in a dictum of Rab and Samuel?[11] Yes, he answered. Even in a law stated by you and me? Are we then reed cutters in the bog?[12] he retorted.

How are we to understand the phrase: ‘The weighing of [conflicting] opinions’? — R. Papa answered: If, for example, two Tannaim or Amoraim are in opposition, and it has not been explicitly settled with whom the law rests, but he [the judge] happened to rule according to the opinion of one of them, whilst the general practice[13] ; follows the other, — this is a case of [an error] in the weighing of [conflicting] opinions.

R. Hamnunah refuted R. Shesheth: It once happened that R. Tarfon ordered a cow [belonging to Menahem],[14] whose womb had been removed, to be given to dogs.[15] When the matter was brought before the Sages in Jabneh, they permitted [her as human food], for Theodos[16] the Physician stated that no cow or sow was allowed to leave Alexandria in Egypt unless her womb had first been cut out, so as to prevent her from having issue.[17] Thereupon R. Tarfon exclaimed: Thy ass is gone, Tarfon![18] But R. Akiba said to him: You are not bound to make compensation, since he who is publicly recognised as a Mumheh is free from liability to pay.[19] Now if it [your dictum] is correct,[20] she should have said to him: You erred regarding a law cited in a Mishnah,[21] and he who errs in a law cited in the Mishnah, may revoke his decision! — He[22] meant two things:[23] Firstly, you have erred in a law cited in the Mishnah, and he who errs in a law cited in the Mishnah may reverse his decision. Secondly: even if you had erred in the weighing of [conflicting] opinions, you are a publicly recognised Mumheh, and such are free from liability to pay [compensation].

R. Nahman b. Isaac said to Raba: What objection did R. Hamnunah raise against R. Shesheth from the case of the cow? Surely, the cow had already been given as food to dogs, and was no longer available for return to its owner![24] — He meant this: Should you say, that he who errs regarding a law cited in the Mishnah may not reverse the decision, it is correct: seeing that his decision stands, R. Tarfon was apprehensive, whereupon [R. Akiba] said to him: You are recognised by the Court as a Mumheh, and free from liability to refund. But if you say that he who errs in a law stated in the Mishnah may revoke his decision, then [R. Akiba] should have said to him: Since if the cow were still in existence, your decision would have been invalid and you would have done nothing, so too now, [that the cow has been consumed] you have done nothing.[25]

R. Hisda said:[26] The one [Mishnah][27] treats of a case where he [the judge] took [from one] and gave [to the other] with his own hand;[28] the other [Mishnah],[29] where he did not take and give with his own hand.[30] Now, that is correct in regard to pronouncing him who is not liable, ‘liable’; when he might have taken [from the defendant] and given [to the plaintiff] with his own hand; but how is it conceivable in the reverse case [except] where he said to him: ‘Thou art not liable’? Then he did not take [from one] and give [to the other] with his own hand! — Since he declared, ‘Thou art not liable,’ it is really as though he had taken [from one] and given [to the other] with his own hand.[31] Then what of our Mishnah, which teaches: IN MONETARY CASES THE DECISION MAY BE REVERSED BOTH FOR ACQUITTAL, AND FOR CONDEMNATION? As for acquittal, it is correct: this is conceivable where he [the judge] originally said to him, ‘Thou art liable,’ but did not actually take [from him] and give [to the other] with his own hand.[32] But how is it possible [to make any reversal] for condemnation, [except in the case] where the judge has first said to him: ‘Thou art not liable’?[33] But you maintain that when he said to him: ‘Thou art not liable,’ it is as though he had taken and given with, his own hand![34] — The Mishnah really states [only] one ruling. Viz., IN MONETARY CASES A DECISION MAY BE REVERSED IN FAVOUR [OF THE ONE],[35] WHICH IS [TO THE OTHER'S (i.e.. THE PLAINTIFF'S)] DISADVANTAGE. Then by analogy, in regard to capital charges, [the statement,] THE VERDICT MAY BE REVERSED FOR ACQUITTAL ONLY

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(1) Since Scripture begins with the negative. Thus, Rabbi too understands by this that the ‘opening for acquittal’ is an assurance to the accused that he has nothing to fear if he is innocent.

(2) For any loss caused by his erroneous decision.

(3) Mishnah, Bek. 28b. Thus it is evident that in monetary cases the decision cannot be reversed.

(4) V. Glos. To such authority was given to retract his first decision.

(5) Who, though his decision stands, must pay compensation in case of error.

(6) For an erroneous judgment, whilst his decision holds good. Thus, even if the judge is a Mumheh, his decision is not reversed.

(7) Which can act, in a sense, as a court of appeal to reverse the lower court's decision.

(8) And hence the desire to reverse the decision may be opposed by one of the parties. But in reality, both instances, viz., that of the Mishnah here, and that of the latter part of the Mishnah there, treat of a case where the decision is given by a Mumheh.

(9) In which case his decision may be revoked.

(10) I.e., does the above ruling regarding an error in a law cited in Mishnah apply also to an error in a law cited in the Tosefta: a collection of Halachoth the redaction of which is attributed to R. Hiyya and R. Oshaia? The authority of the Tosefta is not equal to that of the Mishnah.

(11) Whose ruling is not so authoritative as the traditional law in the Tosefta.

(12) I.e., insignificant, of no importance.

(13) Adopted by a majority of judges. So the text as given in Rashi and elsewhere. Our reading is: and the general trend of the (Talmudic) discussion thereon, v. supra 6a.

(14) The bracketed phrase is absent in Bek. 28b, whence this Mishnah is quoted.

(15) I.e., he declared her unfit for human consumption

(16) Or, Theodoros.

(17) The Egyptian breed was unique in its quality, and so they took this measure in order to limit its breeding to that country. Such a mutilation did not, however, affect them.

(18) I.e., shall now have to sell my ass to compensate the owner of the cow for my erroneous decision!

(19) Bek. 28b and infra 93a.

(20) That an error in a law cited in Mishnah justifies rescinding.

(21) Cf. Hul. 54a. An animal whose womb has been removed may be used for food.

(22) R. Akiba

(23) Lit., He meant, ‘One thing and yet another.’

(24) What purpose, then, could the reversal of the decision serve?

(25) I.e., you personally did not throw it to the dogs: it was the owner's misfortune to follow your ruling. (V. B.K. 100a.) Seeing therefore that R. Akiba did not argue in the manner, it can be inferred that if one errs regarding a law cited in the Mishnah, the decision may not be reversed.

(26) In answering the contradiction.

(27) The Mishnah in Bek.

(28) Then the decision cannot be reversed.

(29) Our Mishnah.

(30) In that case, an erroneous judgment was reversed.
(31) For he is confirming the defendant in the possession of the money claimed from him by the plaintiff.
(32) Then he can subsequently revise his verdict.
(33) And now declares that he is.
(34) In which case judgment cannot be reversed according to R. Hisda, and yet it is taught that the verdict may be upset.
(35) Sc., the defendant, who had previously been pronounced liable.

Talmud - Mas. Sanhedrin 33b

BUT NOT FOR CONDEMNATION, must mean, it can be reversed for acquittal, provided this involves only acquittal.[1] BUT NOT FOR CONDEMNATION. i.e., [there must be no reversal] in favour [of one] which is detrimental [to the other]. But to whose detriment can it possibly be? — That is no difficulty: It means to the detriment of the avenger of blood.[2] Because it is detrimental to him, are we to execute a man![3] Moreover, how explain, BOTH . . . AND?[4] This remains a difficulty.

Rabina explained it[5] thus: E.g he [the plaintiff] had a pledge [from the defendant] and he [the judge] had taken it from him:[6] He declared the clean, 'unclean', means that he brought it into contact with a reptile;[7] he declared the unclean,'clean', by mixing it with his [the questioner's] own fruit.[8]

IN CAPITAL CHARGES etc. Our Rabbis taught: Whence [do we infer] that if the accused leaves the Beth din guilty, and someone says: 'I have a statement to make in his favour,' he is to be brought back?[9] — Scripture reads: The guiltless[10] slay thou not.[11] And whence [do we infer] that if he leaves the Beth din not guilty, and someone says: 'I have something to state against him,'he may not be brought back? — From the verse, And the righteous,[12] slay thou not.[13]

R. Shimi b. Ashi said: It is the reverse in the case of a Mesith, for it is written: Neither shalt thou spare, neither shalt thou conceal him.[14] R. Kahana derived it[15] from the words: But thou shalt surely kill him.[16]

R. Zera asked of R. Shesheth: What of those condemned to exile?[17] — Identical law is inferred from the use of rozeah in both cases.[18] What of those liable to flagellation? Identical law is derived from the use of rasha' [guilty] in both cases,[19] it has been taught likewise: Whence [do we infer the same procedure] for those liable to exile? — Identify of law is derived from the use of 'murderer' in both places. And in the case of those liable to flogging? — From the fact that 'guilty' is used in both places.[20]

BUT NOT FOR CONDEMNATION. R. Hiyya b. Abba said in R. Johanan's name: Proving that he erred in a matter which the Sadducees[21] do not admit.[22] But if he erred in a matter which even they admit,[23] let him go back to school and learn it.[24]

R. Hiyya b. Abba asked R. Johanan: What if he erred in a law regarding an adulterer or an adulteress?[25] — He answered: While thy fire is burning, go, cut thy pumpkin and roast it.[26] It has been stated likewise: R. Ammi said in R. Johanan's name: If he erred in the case of an adulterer, the decision must be reversed. Then in what cases are decisions not reversed?[27] — R. Abbahu said in R. Johanan's name: E.g., If he erred in respect to unnatural intercourse.[28]

IN MONETARY CASES, ALL etc. 'ALL' [implies] even the witnesses. Shall we say that our Mishnah represents the view of R. Jose son of R. Judah, and not that of our Rabbis? For it has been taught: 'But one witness shall not testify against any person[29] — both for acquittal and condemnation.[30] R. Jose son of R. Judah said: He may testify for acquittal, but not for condemnation'? — Said R. Papa: ['ALL'] refers to [even] a single one of the disciples, and thus it agrees with all.[31]

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(1) I.e., it does not cause damage to anyone else, e.g in the ease of the intentional desecration of the Sabbath, or of adultery.

(2) V. Num. XXXV, 19. It is a duty of the avenger of blood, the victim's nearest relative, to call the murderer to account (v. Mak. 12a; infra 45b; Mains. Yad, Rozeah I, 2), therefore in case the verdict were reversed for acquittal he would lose the opportunity of avenging his relative's blood.

(3) Surely it will not be argued that in order to soothe the kinsman's wrath we are to abide by the decision to execute the accused, even where there are reasons for reversing it.

(4) In the words of the Mishnah; BOTH FOR CONDEMNATION AND FOR ACQUITTAL; this proves that two statements are made, not one.

(5) R. Hisda's statement above, that where he found the guilty innocent, the decision cannot be reversed for condemnation, for that would mean actually a taking from the one and giving to the other.

(6) And had given it to the defendant on finding him not liable.

(7) In a case where there was a doubt as to the cleanness of a certain object, and the judge established his decision by actually making it unclean.

(8) As a demonstration of its cleanness. These are illustrations of the possibility of the judge himself causing loss through his verdict.

(9) For re-trial.

(10) נקי, not guilty of the crime so long as there are still arguments in his favour unheard.

(11) Ex. XXIII, 7.

(12) צדיק, found righteous in court, though not necessarily innocent, seeing that there is still evidence against him to be heard.

(13) Ex. XXIII, 7.

(14) Deut. XIII, 9.

(15) I.e., that it is the reserve in the case of a Mesith.

(16) Ibid. 10.

(17) For unintentional homicide. Cf. Num XXXV, 11ff. Is his trial similar in procedure to trials in capital, or monetary cases?

(18) רוצח; ‘murderer’, as used in connection with murder (Num. XXXV, 16), where he is punished by death, and as used in connection with unintentional homicide (ibid. 11) which shows that the procedure with regard to reversing decisions is the same in both cases.

(19) רשע. Flagellation: If the guilty is worthy to be beaten, Deut. XXV, 2; capital punishment: Who is guilty of death. Num. XXXV, 31.

(20) Tosef. Sanh. VII.

(21) צדוקים. A party holding views directly opposite to those of the Pharisees. They regarded only those observances obligatory which are contained in the written Word, and did not recognise those derived from Rabbinical interpretations; but v. p. 239, n. 9.

(22) E.g., the prohibition in marriage of a father-in-law's mother (Cf. infra 75a) which is transmitted by oral law.

(23) Such as a law found in the Biblical text.

(24) I.e., Since he erred in a Biblical law, his decision must be reversed.

(25) Whereas other criminal cases lend themselves to mistakes in judgment, owing to the investigation of the manifold details accompanying the act, in cases of illicit intercourse, once the act is done, there is no room for error (Rashi). According to R. Hananel, the question is, what if the judge erred by deciding that liability falls only on the male transgressor against whom alone Scripture provides, (cf. Lev. XVIII, 20), and not on the woman?

(26) I.e when engaged in your lesson pursue it further, it will save you from asking questions, for the law provides against an adulteress in Lev. XX, 10.

(27) Cf. Mishnah. Decisions in capital cases (including adultery) may not be reversed for condemnation.

(28) Which is derived from an interpretation of Lev. XVIII, 22, which the Saducees do not agree. V. infra 54a.

(29) Num. XXXV, 30.

(30) I.e., A witness who has testified in a case may not come again to bear other testimony in favour of, or against the accused, in the same case.

(31) I.e., with the Rabbis too.

Talmud - Mas. Sanhedrin 34a

What is R. Jose b. R. Judah's reason?[1] — Scripture says: But one witness shall not testify against any person [that he die]:[2] hence, only ‘so that he die’ may he not testify, but he may testify for acquittal. And the Rabbis?[3] — Resh Lakish answered: Their reason is that the witness seems personally concerned in his testimony.[4] But how do our Rabbis interpret, so that he die?[5] — They apply it to one of the disciples,[6] as it has been taught: Whence do we learn that if one of the witnesses says, I have a statement to make in his favour, that he is not listened to? — From the verse, But one witness shall not testify.[7] And whence do we know that if one of the disciples says, I can argue a point to his disadvantage, that he is not listened to? From the verse, One[8] shall not testify against any person that he die.[9]

IN CAPITAL CHARGES, ONE WHO ARGUED etc. Rab said: They taught this only of the period of the deliberations,[10] but at the time of pronouncement of the verdict,[11] one who has argued for acquittal may turn and argue for condemnation. An objection is raised:[12] On the following day, they rise early and assemble. He who was for acquittal declares, I was in favour of acquittal and I stand by my opinion. He who was for condemnation says, I was in favour of condemnation and I stand by my opinion. He who was in favour of condemnation may argue in favour of acquittal. But he who was in favour of acquittal may not retract and argue in favour of conviction. Now surely, on the ‘the following day’ the decision is to be promulgated![13] — But on thy view, are there no deliberations on the ‘the following day’? Therefore the reference of the Mishnah is merely to the period of the deliberations.

Come and hear! They debate the case amongst themselves, until one of those who are for conviction agrees with those who are for acquittal.[14] Now if that is so,[15] then he [the Tanna] should have taught the reverse too! — But the Tanna fosters the possibilities of acquittal, not those of condemnation.[16]

Come and hear! R. Jose b. Hanina said: If one of the disciples pronounced for acquittal and then died, he is regarded [when the vote is taken] as if he were alive and [standing] in his place.[17] But why not assume, had he been alive, he might have retracted?[18] — Because in fact he did not retract! But did they not send [a message] from ‘there’ [Palestine], that the words of R. Jose b. Hanina preclude the words of our Master?[19] The true version was, ‘Do not preclude [the words of our Master]’.

Come and hear! Two judges’ clerks stand before them [the judges], one on the right and one on the left, and indite the arguments of those who would acquit, and those who would convict.[20] Now, as for the arguments for conviction. It is well [that they be recorded], for on the following day another argument[21] may be discovered, which necessitates postponement of judgment over night.[22] But why [record] the grounds of the defenders; surely so that should they discover different arguments for conviction, they may not be heeded?[23] — No, it is lest two judges draw a single argument from two Scriptural verses, as R. Assi asked R. Johanan: What if two [judges] derive the same argument from two verses? — He answered: They are only counted as one.[24] Whence do we know this? — Abaye answered: For Scripture saith, God hath spoken once, twice have I heard this, that strength belongeth unto God.[25] One Biblical verse may convey several teachings, but a single teaching cannot be deduced from different Scriptural verses. In R. Ishmael's School it was taught: And like in hammer that breaketh the rock in pieces:[26] i.e., just as [the rock] is split into many splinters,[27] so also may one Biblical verse convey many teachings.

What is an example of: ‘One argument drawn from two Biblical verses’? — R. Zebid answered: As we learnt: The Altar sanctifies[28] all that is ‘fit’ for it.[29] R. Joshua said: [That means,] Anything ‘fit’ for the fire of the Altar’,[30] once it ascended [thereon], may not descend,[31] for it is written: The burnt offering, it is that which goeth up upon its fire-wood, upon the altar:[32] Just as the burnt offering which is ‘fit’ for the altar-fire, once it ascended, may not descend,[33] so everything which is ‘fit’ for the altar-fire, once it ascends, may not descend. R. Gamaliel said: Anything ‘fit’ for the altar,[34] once it has ascended, may not descend, for it is written: The burnt offering, it is that which goeth up upon its fire-wood upon the altar: Just as the burnt offering which is ‘fit’ for the altar, once it has ascended, may not descend, so everything else which is ‘fit’ for the altar, once it has ascended, may not descend. What do both include?[35] — Invalidated objects.[36] One Master [sc. R. Joshua] deduces the law from the word ‘fire-wood’, and the other from ‘altar’.[37] But there, they do actually differ! For the second clause [of that Mishnah] states: R. Gamaliel and R. Joshua differ only with reference to the Sacrificial blood and libations: according to R. Gamaliel. these may not descend; whereas in R. Joshua's view, they do descend.[38] But, said R. Papa, it [the required example] is illustrated in the following Baraitha: R. Jose the Galilean said: From the verse,

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(1) For the view that the witnesses may change their evidence only in favour of the accused.

(2) Num. XXXV, 30.

(3) Why do they forbid a change of his evidence in favour of the accused?

(4) Since he might have been induced to change his evidence in favour of the accused, lest he be proved a Zomem and so become subject to punishment by the law of retaliation.

(5)) Which seem to indicate that the testimony may not be changed only when it leads to death.

(6) That he may not put forward arguments in favour of condemnation.

(7) Num. XXXV, 30. I.e., change his testimony even in his favour.

(8) Who is not a witness, but a disciple.

(9) Ibid. But he may do so for acquittal.

(10) When all endeavours must be used to strengthen the case for acquittal.

(11) When all arguments in favour of acquittal have been exhausted.

(12) Cf. infra 40a.

(13) Then why not retract in favour of conviction.

(14) Infra 40a.

(15) Viz., that when the decision is about to be pronounced, an opinion can be reversed even for condemnation.

(16) Theoretically, however, the trend of the debate might be in the reverse direction.

(17) Infra 43a.

(18) In favour of conviction, when judgment is pronounced.

(19) Sc. Rab. Therefore his ruling not to consider an eventual change of opinion is due to the fact that he holds that at the promulgation of the decision one cannot retract.

(20) Infra 36b.

(21) For condemnation.

(22) Cf. supra 17a; i.e., so as to give the judges a chance to alter their opinion. Hence the necessity of recording their statements in order to shew that they have changed their grounds for conviction, so necessitating a further postponement.

(23) Unless they erred in a law accepted even by the Sadducees. Hence the necessity of recording their grounds for acquittal in order to be able to discover the nature of the error. This proves that an opinion for conviction may not be reversed even at the time of the promulgation of the decision.

(24) Since no two verses are intended to teach one and the same thing, one of the judges must have erred.

(25) Ps. LXII, 12.

(26) Jer. XXIII, 29.

(27) The test contains a grammatical difficulty. Literally translated, it is, Just as the hammer is split etc.; whereas for the present translation, the text must read מחלק instead of מתחלק, and some commentators emend the text accordingly. R. Tam, however, on the basis of Ekah R. IV, 7, retains the present text and its literal translation, as above, and explains, Just as the hammer, when it smites an extraordinary hard object, may itself be split, — so may the Biblical verse, when subjected to the scrutiny of a very keen intellect, split up into different meanings.

(28) I.e., that nothing that was laid upon it may be taken back.

(29) I.e., anything which has come into contact or relationship with the altar, after having been appointed for it. Even if it became subsequently invalid for its original purpose, for any reason, e.g., in the case of a sacrifice, if the officiating priest slaughtered it with a forbidden intention, it nevertheless retained its sanctity. Now, this statement lays down the general principle with which all are in agreement, the further definition and application of which form the subject of dispute amongst various teachers whose views the Mishnah proceeds to state.

(30) I.e., only that which could have served that purpose. e.g., the flesh of a burnt offering. If, however, the blood of a sacrifice became invalid, since that is not intended to feed the fires of the altar, it does not retain its sanctity.

(31) I.e., may not be taken back, for the altar has given it a sacred character.

(32) Lev. VI, 2.

(33) Derived from . . . upon the altar all night unto the morning. (ibid).

(34) I.e., not only fit for the fires of the altar, but used in any service of the altar. Hence, in his opinion, the law applied to blood and libations too, since these were respectively sprinkled and poured upon the altar.

(35) Among the things which may not be taken back when once laid upon the altar.

(36) As explained in note 2.

(37) Now, at this stage it is assumed that since both deduce the same general principle from two different verses, there is no real disagreement between them. Thus this affords an illustration of ‘one law drawn from two different verses.

(38) I.e.. they lose their sanctity. For the explanation of this, v. p. 215. n. 3. Hence, this is not a true example of one law devised from two texts. (Note: A single word is also referred to as a ‘verse’ or ‘text’.)

Talmud - Mas. Sanhedrin 34b

Whatsoever toucheth the altar shall be holy,[1] I might infer [that this holds good] whether it be fit for the altar or not.[2] Scripture therefore says,[3] [Now this is that which thou shalt offer upon the altar; two lambs . . .; just as lambs are fit [for the altar], so are all things that are fit [included in the previous statement].[4] R. Akiba said: [Scripture states,] burnt offering:[5] Just as the burnt offering is fit [for the altar], so with all things that are so. And what do both exclude? Invalid objects.[6] One Master deduces this from the word ‘lambs’; the other, from ‘burnt offering’.[7] But did not R. Adda b. Ahabah say: They differed with respect to a fowl burnt offering which had been disqualified: he who deduced it [the scope of the law] from ‘lambs’, holds that only lambs are included,[8] but not the burnt offering of a fowl; whereas he who deduced it from ‘burnt offering’ includes even a burnt offering of a fowl? — But, said R. Ashi, it is illustrated by the following Baraitha:[9] Blood shall be imputed unto that man, he hath shed blood;[10] this[11] is to include [him] who sprinkles:[12] that is R. Ishmael's view. R. Akiba said: [Scripture adds] Or a sacrifice:[13] this is to include him who sprinkles. Thus, What do both include? — Sprinkling; one Master deducing it from the words: Blood shall be imputed, the other from the words: Or a sacrifice.[14] But did not R. Abbahu say: They differ where a man both slaughtered and sprinkled [the blood of a sacrifice]:[15] for according to R. Ishmael,[16] he is liable only to one [sin offering]; whereas on R. Akiba's view,[17] he is liable to two? — But surely it was stated regarding this: Abaye said: Even according to R. Akiba he is liable only to one [sin offering], for Scripture writes, There thou shalt offer thy burnt offerings and there thou shalt do [all that I commanded thee]:[18] the Divine Law thus grouped all acts [of sacrifice in the same category]![19]

CIVIL SUITS ARE TRIED BY DAY etc. (Mnemonic: Judgment, Answering, Inclining.)

Whence is this derived? — R. Hiyya b. Papa said: From the verse, And let them judge the people at all times.[20] If so, even the beginning of the trial may [take place at night]! — It is as Raba explained. For Raba opposed [two verses]: It is written, And let them judge the people at all times;[21] but elsewhere it is said, And in the day that he causeth his sons to inherit.[22] How [can these be reconciled]? — The day is for the beginning of the trial, the night is for the conclusion of the trial.[23]

Our Mishnah[24] does not agree with R. Meir. For it has been taught. R. Meir used to say: What is meant by the verse, According to their word shall every controversy and every leprosy be?[25] Now, what connection have controversies with leprosies? — But controversies are assimilated to leprosies: just as leprosies [must be examined] by day, since it is written, And in the day when [raw flesh] appeareth in him,[26] so controversies [must be tried] by day; and just as leprosies cannot [be examined] by the blind,[27] for it is written, Wherever the priest looketh,[28] so controversies too may not be tried by the blind.[29] And leprosies are further compared to controversies: Just as the latter may not be tried by relatives, so the former may not be examined by relatives. Now, if so,[30] [one might argue,] that just as controversies must be tried by three, so must leprosies too [be examined] by three; moreover, it follows a minori,' [if questions affecting] one's wealth are [to be tried] by three, how much more so [when they concern] one's body! Therefore Scripture teaches, When he shall be brought unto Aaron the priest or unto one of his sons the priests,'[31] thus thou learnest that a single priest may examine leprosies.

A blind man in the neighbourhood of R. Johanan used to try suits, and R. Johanan raised no objection. But how could he do so?[32] Did not R. Johanan himself say, The halachah is as [every] anonymous Mishnah.[33] and we learnt: He who is qualified to judge is qualified to testify; some, however, are qualified to testify but not to judge. Whereon R. Johanan said: This is to admit [as witness] one who is blind of one eye?[34] — R. Johanan found another anonymous Mishnah,[35] viz., CIVIL SUITS ARE TRIED BY DAY AND CONCLUDED BY NIGHT.[36] But why is this anonymous Mishnah more authoritative[37] than the other? — Either because an anonymous Mishnah which expresses the opinion of the majority is preferable;[38] or alternatively, because this Mishnah is taught in the tractate relating to legal procedure.[39] But how does R. Meir[40] interpret the verse, And let them judge the people at all times? — Raba answered: As including even a cloudy day.[41] For we learnt:[42] Leprosies may not be examined in the morning, in twilight, in the house, or on a cloudy day, for [then] a dull [spot] might appear bright,[43] at mid-day,[44] for a bright [spot] might then appear dull.[45] Now [again], according to R. Meir, what is the purpose of, And in the day that he causeth his sons to inherit?[46] — He utilises it, even as Rabbah b. Hanina recited before R. Nahman: And in the day he causeth his sons to inherit: only by day mayest thou assign estates, but not by night. Whereupon the other retorted:[47] If so, if one dies by day, his sons inherit, but should he die at night, they do not inherit! Perhaps you refer to the legal procedure in bequests.[48] For it has been taught: And it shall be unto the children of Israel a statue of judgment:[49] that invests the whole chapter with the force of judicial proceedings.[50] Thus [your dictum] will agree with that which Rab Judah said in Rab's name, viz.: If three [persons] come to visit a sick man,[51] they may, according to their desire, either record [his bequest],[52] or render a judicial ruling.[53] In case of two, however, they may write it down,[54] but not render a judicial ruling.[55] Whereon R. Hisda said: This[56] holds good by day; at night, however, they may indite the bequest, but not render a judicial ruling, since they are witnesses, and a witness cannot act as judge.[57] — He [Rabbah b. Hanina] answered: Yes, I meant it so.

BUT CAPITAL CHARGES MUST BE TRIED BY DAY [AND CONCLUDED BY DAY]. Whence is this deduced? — R. Shimi b. Hiyya said: Scripture states, And hang [we — hoka'] them up unto the Lord in face of the sun.[58] Whence do we know that hoka'ah means hanging? — From the verse, And we will hang them up [we — hoka'anum] into the Lord in Gibeah of Saul, the chosen of the Lord.[59]

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(1) Ex. XXIX, 37. I.e., once it touches the altar, it retains its sanctity, as above.

(2) E.g., leaven and honey, (cf. Lev. II, 11) which are never permissible for the altar, or unconsecrated animals (i.e., hullin), which are not yet fit for the altar. — Animals had to be formally consecrated before they might be sanctified upon the altar.

(3) In the following verse. Ex. XXIX, 38.

(4) Even if now disqualified. Yet they must be things that are essentially fit for the altar, as explained in p. 215. n. 7; otherwise, the law does not apply to them.

(5) עולה Ibid. verse 42; This shall be a continued burnt offering (R. Hananel). According to Rashi, it occurs in the same verse 38 as above. Though the word does not appear in the Masoretic text, it occurs in the Samaritan Text. On such variants, v. Heller, Samaritan Pentateuch, an adaptation of the Masoretic Text.

(6) I.e., things that were never permissible upon the altar, e.g., leaven and honey; v. Lev. II, 11.

(7) Thus, this Baraitha illustrates one law drawn from two Biblical verses.’

(8) Amongst the objects which, though disqualified, may not be taken back when once laid upon the altar.

(9) Zeb. 107a.

(10) Lev. XVII, 4.

(11) Apparent redundance of the expression.

(12) The blood of a sacrifice outside the Temple courts, as being liable to excision (kareth).

(13) Ibid. verse 8.

(14) Thus it illustrates ‘one law drawn derived from two Scriptural verses.’

(15) Without the Temple precincts, i.e. Unwittingly, in a spell of forgetfulness, without being reminded between the two acts that they were of a forbidden character. Now, it is a principle that every forbidden act, which, if done wittingly, involves kareth, requires a sin offering if done wittingly. There is a further principle that all things whose forbidden nature is deduced from the same word, rank as a small transgression, and therefore involve only one sacrifice.

(16) Who deduces the penalty of kareth for sprinkling outside the court from the same verse which prohibits slaughter.

(17) That kareth for sprinkling without the Temple precincts is deduced from a different verse.

(18) Deut. XII, 14.

(19) Hence there is only this one verse which commands that all acts of sacrifice, which includes slaughtering and sprinkling, shall be done in the prescribed fashion. Therefore, transgression of both involves only one sacrifice

(20) Ex. XVIII, 22; i.e., even at night.

(21) Ibid.

(22) Deut. XXI, 16. From the fact that day is stressed, the Talmud deduces that all matters in connection therewith, which principle includes disputes over the inheritance, are to be settled by day. But such disputes are part of civil suits in general, and thus this verse contradicts the preceding.

(23) For, ‘and they shall judge . . . at all times’ implies the giving of the verdict, which is the essence of judgment.

(24) Which rules that the decision may be issued at night.

(25) Deut. XXI, 5.

(26) Lev. XIII, 14.

(27) [Even of one eye only. v. Neg. II, 3.]

(28) Ibid. verse 12.

(29) [Even by one who is blind of one eye only, since it is deduced from ‘leprosies’, Yad Ramah.]

(30) If they are similar in so many respects.

(31) Ibid. verse 2.

(32) I.e., permit him to judge.

(33) A Mishnah that is taught without mention of its author, or of any conflict of opinions that exists regarding it.

(34) But not as judge, so coinciding with R. Meir's opinion stated above, (v. p. 218 nn.5 and7).

(35) Which implied that a blind man is permitted to judge.

(36) For there are many whose eye-sight is as dim by night as that of a blind man by day.

(37) Lit., ‘stronger’.

(38) The Mishnah which, according to R. Johanan, treats of a blind man, expresses the view of R. Meir as expressed in the preceding Baraitha, but our Mishnah, that of the majority.

(39) Whereas the other anonymous Mishnah is cited only incidentally in a tractate relating to a different subject entirely, and it stands to reason that greater care would be taken in the former to teach what is actually the halachah.

(40) Who holds that disputes may only be tried by day.

(41) On which, unlike the cases of leprosies, civil suits may be tried.

(42) Neg. II, 2.

(43) So that it might wrongfully be declared unclean. Cf. Lev. XIII, 2ff.

(44) When the sun is brightest.

(45) So that it might wrongfully be declared clean, Neg. II, 2.

(46) Since R. Meir deduces the law that civil suits must be tried by day from the case of the examination of leprosies, the reference to ‘day’ here appears superfluous.

(47) In B.B. 113b, this question is attributed to Abaye.

(48) If made by day, a bequest has judicial authority, and does not need court authentication; by night, those who witnessed it are required to legalise it before court. (Rashi.) The Rashbam in B.B. 113b translates: ‘Perhaps you refer to lawsuits concerning legacies,’ i.e that these, like any other civil suits, must take place by day.

(49) Num. XXVII, 11, at the conclusion of the section dealing with laws of inheritance.

(50) I.e., when a bequest is made, those who are present become ipso facto a Beth din, even against the wish of the testator's natural heirs. This is the explanation given by Tosaf. in B.B. 113b, which adds that the reference is not particularly to a bequest made on one's deathbed, but even to one made in full health, save that it must be accompanied by a formal kinyan (q.v.). Rashi's interpretation here is on the same lines, but he appears to refer it to a sickbed bequest.

(51) And hear him assign his estate to his heirs.

(52) Merely as witnesses. That document is afterwards produced by the heirs in court and there given its necessary authority.

(53) Since they are three they can constitute themselves into a court and have legal authority to execute the Will.

(54) In the form of a witnessed document.

(55) Since two do not make a properly constituted Court.

(56) Ruling with reference to three.

(57) I.e., when they hear a bequest at night, they can obviously do so only as witnesses, since a court cannot function at night, consequently, they cannot subsequently constitute themselves a court, for they already have the status of witnesses.

(58) והוקע, Num. XXV, 4; i.e., in the day time.

(59) והוקענום II Sam. XXI, 6.

Talmud - Mas. Sanhedrin 35a

And it is written, And Rizpah the daughter of Aiah took sack-cloth, and spread it for her upon the rock, from the beginning of harvest.[1]

It is written, And the Lord said unto Moses, Take all the chiefs of the people.[2] If the people had sinned, wherein had the chiefs sinned?[3] — Rab Judah said in Rab's name: The Holy One, blessed be He, said unto Moses: Divide them into [many] courts.[4] Why? Shall we say, because two [men] may not be tried [and sentenced] on the same day?[5] But R. Hisda said: This was taught only with reference to [charges involving] two different modes of execution;[6] whereas [cases that involve only] one mode of execution[7] may be tried? — But it was so, that the fierce anger of the Lord may turn away from Israel.[8]

CIVIL SUITS MAY BE CONCLUDED ON THE SAME DAY etc. . . . Whence is this derived? — R. Hanina said: Scripture saith, She that was full of justice, righteousness lodged [yalin] in her,[9] but now, murderers.[10] Raba derived it from the following: Ashsheru hamoz[11] — i.e., bless[12] the judge who reserves[13] his verdict. And the other?[14] — [He interprets it thus:] Relieve the oppressed,[15] not the oppressor.[16] And the latter [Raba]: how does he utilize the verse: And she that was full of justice? — Even as R. Eleazar said in the name of R. Isaac. Viz.: If on a fast day, the distribution of alms[17] is postponed overnight, it is just as though blood were shed,[18] as it is written, She that was full of justice, charity[19] etc. This, however, applies only to bread and dates;[20] but in the case of money, wheat or barley, [postponement] does not matter.

THEREFORE TRIALS ARE NOT HELD [ON THE EVE OF A SABBATH OR FESTIVAL] etc. Why so? — Because it is impossible, for how could it be done? Should they try him [the accused] on the eve of the Sabbath and pronounce judgment on the same day; perhaps they may find cause for condemnation, and judgment will then have to be postponed overnight.[21] Or again, if they try him on the eve of the Sabbath, and pronounce judgment on the Sabbath, and execute him on that day,[22] but execution cannot supersede the Sabbath.[23] Again, should he be executed in the evening; execution must be carried out ‘in the face of the sun.’[24] One the other hand, if judgment is pronounced on the Sabbath whist he is executed on the first day of the week [Sunday], they might delay the course of justice.[25] If he be tried on the eve of the Sabbath, and the matter concluded on the first day of the week, they might have forgotten their reasons by then, for although two judges’ clerks stand before them and write down the arguments of those who would acquit and those who would convict, they can but record according to the mouth,[26] yet once the heart forgets, it remains forgotten.[27] Hence this is impossible.

Resh Rakish said to R. Johanan: Why should not the burial of a Meth-Mizwah[28] supersede [the laws of] the Sabbath, reasoning a minori: if the Temple service, which sets aside the Sabbath,[29] is itself suspended for the burial of a Meth-Mizwah (as is deduced from, And to his sister, even as it has been taught: To his father and to his mother and to his brother and to his sister:[30] What does this teach us?[31] [Even] if he [the Nazir] were on his way to sacrifice the Paschal lamb or to circumcise his son,[32]

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(1) Ibid. verse 10, as a protection from the birds of prey. They must have been hanged on trees.

(2) Num. XXV, 4.

(3) Only the people are mentioned as sinning (vv. 2,3), but not particularly the chiefs.

(4) To try the sinners. The verse is accordingly translated: Take the chiefs of the people (and appoint them as judges,) and hang up them (whom they shall condemn) etc.

(5) By one court; therefore many courts had to be set up, since the culprits were many'.

(6) Since the members of the court would find it difficult to find a plea in favour of the accused in each case.

(7) When the crime committed is the same, as in this case.

(8) When it was seen that all the chiefs were concerned in punishing the sinners.

(9) Isa. I, 21. I.e., judgment was held over lest points for acquittal might be found. ילין means, 'to stay over night'.

(10) I.e., but now they do not postpone the verdict until the next day, and thus are (judicial) murderers.

(11) Ibid, 17. אשרו חמוץ (E.V. 'relieve the oppressed').

(12) אשרו is rendered, 'declare happy'.

(13) Lit., 'makes sour,' (חמוץ from מחץ, 'sour') in the sense of preserving (e.g., pickle vegetables), and hence metaphorically 'to postpone', 'to keep in reserve.'

(14) R. Hanina, who derives it from the other verse. How does he interpret the verse?

(15) I.e., attend to the plaintiff.

(16) The defendant. He is hinting at the general rule in legal procedure that the plaintiff must be heard first. Cf. B K. 46b. The application of this law is particularly noticeable in the case of a counter claim, designed to nullify the original, when priority must be given to the first claim.

(17) It was customary to distribute the value of the food saved during the fast to the poor. Cf. Ber. 6b the merit of a fast consists in dispensing charity.

(18) For the needy who relied on it might have died of starvation.

(19) צדק means also 'charity', as in fact, in Hebrew there is only one word for 'righteousness' and 'charity': charity is righteousness. The verse is accordingly translated: She was full of justice; but now that charity is made to lodge therein, i.e., postponed overnight, they ate as murderers.

(20) I.e., only when these articles of food were distributed, on which the poor depend for breaking their fast.

(21) And pronounced on the Sabbath, which is not permissible, v. nn 6 and 7.

(22) Execution must be carried out on the same day as the pronouncement of the verdict.

(23) Killing is one of the labours forbidden on the Sabbath, even when it takes the form of judicial execution.

(24) I.e., in the day time. Num XXV, 4.

(25) Since execution must be carried out on the same day as the verdict. ענה 'to afflict', when used in connection with a court verdict, means to afflict the condemned man by postponing his execution, the wait being an additional mental torment. (10) Supra 34a.

(26) I.e., the actual words.

(27) I.e., the spirit of the argument may not be recalled through the written word.

(28) מת מצוה Lit., 'A corpse which it is a religious obligation (to bury). 'The burial of a dead person has no relatives to attend to him devolves upon anyone, even a High Priest. THis query is raised here only because of a subsequent question whether execution on a Sabbath day is permissible.

(29) E.g., by the offering of the Tamid or daily burnt offering. Cf. Num. XXVIII, 2; Pes 77a.

(30) Num. VI, 7. For these the Nazarite may not render himself unclean. A similar restriction is imposed on the High

Priest.

(31) I.e., why is it necessary to detail all these relations, seeing that it has already been stated in the previous verse: He shall not come near to a dead body, which includes all relations? The Sifre on the verse comments on the reason for each: He may not defile himself for his father, but he must for a Meth-Mizwah; nor for his mother, but he must for a Meth-Mizwah, even if he be a priest as well as a Nazarite, nor for his brother, but he must for a Meth-Mizwah even if he be a High Priest as well as a Nazarite; nor for his sister, but he must defile himself for a Meth-Mizwah, even if he be a High Priest as well as a Nazarite and engaged in such duties as are stated in the Gemara.

(32) Both of which acts must he performed at a prescribed time.

Talmud - Mas. Sanhedrin 35b

and he heard that one of his relatives had died, it might be thought that he should defile himself, but in fact the law[1] provides that he should not. Now, it might be thought that just as he may not defile himself for his sister, so may he not defile himself for a Meth-Mizwah: therefore Scripture states, And to his sister, i.e., [only] for his sister may he not defile himself, but he must do so for a Meth-Mizwah). Then the Sabbath, which is abrogated in favour of the Temple service, should surely be set aside for the burial of a Meth-Mizwah! — He answered: Execution[2] can prove it [sc. the contrary]: it supersedes the Temple service,[3] and yet does not set aside the Sabbath.[4] But let execution itself supersede the Sabbath, arguing [likewise] a minori: If the Temple service, which supersedes the Sabbath, is itself set aside for execution, as it is written, Thou shalt take him[5] from mine altar that he may die:[6] then the Sabbath, which the Temple service sets aside, should surely be set aside by execution! — Said Raba: A Tanna of R. Ishmael's School has already decided this, for a Tanna of the school of R. Ishmael taught: Ye shall not kindle a fire:[7] What does this teach?[8] 'What does this teach?' [askest thou]! According to R. Jose, [it is particularized] in order to constitute it merely a prohibitory command;[9] according to R. Nathan in order to teach separation,[10] as has been taught: The [singling out of] kindling is to shew that it is subject merely to a negative command: this is the view of R. Jose. R. Nathan said: It is to teach separation. But, said Raba, the Tanna's difficulty is [the word] 'habitations'.[11] Why is the word 'habitations'[12] stated? For consider: [the observance of the] Sabbath is a personal duty,[13] and a personal duty is obligatory both within and without the Land [sc. Palestine]; what then is the purpose of 'habitations', which the Divine Law wrote? — A disciple said on R. Ishmael's authority: Since it is written, And if a man have committed a sin worthy of death and he be put o death,[14] I [might] understand it to mean both on week-days and on the Sabbath.[15] How then should I interpret, He that profaneth it shall surely be put to death?[16] — As referring to other forms of work, but not judicial execution. Or perhaps that is not so, and it does indeed include execution by the Beth din; and how an I to interpret, And he be put to death? — as applying only to week-days, but not to the Sabbath![17] Or perhaps, on the contrary, even the Sabbath is meant?[18] — Therefore[19] Scripture states: Ye shall not kindle a fire throughout your habitations,[20] and elsewhere it says And these things shall be for a statute of judgment for you throughout your generations in all your habitations:[21] Just as the word 'habitations' found there,[22] refers to [matters concerning] a Beth din, so the word 'habitations' found here refers to [work entailed by a] Beth din.[23] And regarding it the Divine Law states: Ye shall not kindle a fire in all your habitations.[24]

Abaye said: Now that you have concluded that execution does not supersede the Sabbath, it [necessarily] follows that execution does not suspend the Temple service, a minori: If the Sabbath, which is abrogated in favour of the Temple service, is not set aside for execution; then the Temple service, which supersedes the Sabbath, is surely not suspended by execution! And as to the Scriptural verse, Thou shalt take him from mine altar that he may die?[25] — this refers only to a private sacrifice,[26] which does not suspend the Sabbath.[27] Raba said:[28] But execution should not suspend [attendance even upon] a private sacrifice, a minori:

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(1) In the verse under discussion; v. n. 6.

(2) Lit., 'Murder'.

(3) If a priest is convicted of murder; he must be executed, even if he wishes to perform the Temple service.
(4) As was stated above.
(5) The murderer.
(6) Ex. XXI, 14.
(7) Ex. XXXV, 3.
(8) I.e., why was the kindling of fire specially mentioned; surely it was already included in: Ye shall not do any work! (Ex. XX, 10.)
(9) I.e., its infringement is punishable only by lashes and not by stoning, as is the performance of other work on the Sabbath.
(10) I.e., to teach that each transgression of the Sabbath laws is to be atoned for separately. This interpretation is based on the eighth of the thirteen exegetical principles expounded by R. Ishmael, namely: If anything is included in a general proposition and is then made the subject of a special statement, that which is predicated of it is not to be understood as limited to itself alone, but applies to the whole of the general proposition.
(11) Ex. XXXV, 3.
(12) Which word, as a rule, indicates that the law is confined to Palestine alone.
(13) As opposed to laws dependent on the soil, such as those of the Sabbatical year, or the fruits of the soil, such as tithes etc.
(14) Deut. XXI, 22.
(15) Since, by reason of the a minori argument propounded above, execution might supersede the Sabbath.
(16) Ex. XXXI, 14.
(17) Since the argument a minori can be refuted by the fact that the burial of a Meth-Mizwah does not suspend the Sabbath laws even thought it sets aside the Temple service.
(18) I.e., execution might nevertheless supersede the Sabbath, a minori, as above. Nor is the refutation stated in the last note a valid one, since the same reasoning may be used to show that the burial of a Meth-Mizwah too should be permissible on the Sabbath.
(19) I.e., in order to clarify the position.
(20) Ex. XXXV, 3.
(21) Num. XXXV, 29.
(22) With reference to the manslayer and court executions.
(23) I.e., execution.
(24) Even such fire as is involved in execution by burning, ordered by a Beth din. This execution cannot suspend the Sabbath laws, in spite of the argument a minori. This fact too refutes the argument by which it was sought to prove that the burial of a Meth-Mizwah should abrogate the Sabbath.
(25) Ex. XXI, 14, which conflicts with this conclusion.
(26) I.e., when a priest accused of murder officiates at an offering brought by an individual.
(27) Execution therefore supersedes it. But if he is engaged in offering a public sacrifice, execution may not set it aside, by the preceding argument.
(28) Raba disagrees with Abaye, and proceeds to demonstrate the incorrectness of Abaye's view by an argument somewhat similar to a reductio ad absurdum.

Talmud - Mas. Sanhedrin 36a

If a festival, which is superseded by a private offering,[1] is not abrogated for an execution;[2] then a private offering, which supersedes the festival, is surely not to be suspended by an execution? Now, on the view that vows and free-will offerings [i.e., private offerings] may not be sacrificed on festival days, it is correct;[3] but on the view that vows and free will offerings may be sacrificed on Festivals, what can you say?[4] Therefore Raba said: [Abaye's reasoning is unacceptable] not only on the view that vows and free-will offerings can be sacrificed on a festival, — since in that case, [the verse] From mine altar etc. has no applicability at all,[5] — but even if it be held that vows and free-will offerings cannot be sacrificed on festivals.[6] For, is it not written: From mine altar, [implying,] my altar, viz., that which is peculiarly mine;[7] and which altar is that? the Tamid.[8] And thereon the Divine Law writes, Thou shalt take him from mine altar that he may die.[9]

IN CIVIL SUITS, AND IN CASES OF CLEANNESS AND UNCLEANNESS etc. Rab said: I was once one of the voters in the school of Rabbi, and it was with me that the voting began.[10] But did we not learn, WE COMMENCE WITH THE ELDEST? — Rabbah the son of Raba — others state, R. Hillel the son of R. Wallas — said: The voting in the school of Rabbi was different [from the usual form], because in all their voting they began with the side [benches].[11]

Rabbah the son of Raba — others state, R. Hillel the son of R. Wallas — also said: From Moses until Rabbi we do not find sacred learning and [secular] greatness combined in the one [person]. But do we not? Was it not so in the case of Joshua? — [No, for] there was Eleazar.[12] But what of Phinehas? — There were the Elders.[13] But was not Saul such? — No, [with him] was Samuel. But did not Samuel die [before him]? — We are referring to his whole life-time. But did not David [combine these possessions]? — There was Ira the Jairite.[14] But he died [before David]! — We are referring to his whole life-time. Was not Solomon [such a man]? — [No, for] there was Shimei son of Gera.[15] But he [Solomon] slew him! — We are referring to his whole life-time. Was there not Hezekiah? — [with him] was Shebnah.[16] But he was slain [during Hezekiah's life-time]! — We are referring to his entire life-time. But was this not true of Ezra? — No, for [with him] was Nehemia the son of Hachalia.

R.Adda b. Ahabah said: I similarly affirm that since the days of Rabbi until R. Ashi we do not find learning, and high office combined in the same person. But do we not: was there not Huna b. Nathan?[17] — Huna b. Nathan was certainly subordinate to R. Ashi.[18]

WHEREAS IN CAPITAL CHARGES, WE COMMENCE WITH [THE OPINION OF] THOSE ON THE SIDE BENCHES. Whence is this derived? R. Aha b. Papa said: Scripture states, Thou shalt not speak[19] ‘al rib [in a case][20] — [i.e.,] thou shalt not speak ‘al rab, against the chief [of the judges]. Rabbah b. Bar Hana deduced it in R. Johanan's name from the following verse, And David said unto his men, gird ye on every man his sword; and they girded on every man his sword, and David also girded on his sword.[21]

Rab said: In capital charges one may instruct his disciple,[22] and pronounce judgment with him.[23] An objection was raised: ‘In cases of cleanness and uncleanness, a father and his son, or a master and his disciple count as two;[24] but in monetary cases, capital cases of flagellation, the sanctification of the month and the intercalation of the year, a father and his son, or a master and his disciple count only as one’?[25]

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(1) I.e., a private offering may be brought on a Festival, though it entail labour unconnected with the preparation of food for human consumption, v. Ex. XII, 16.

(2) Since in regard to work there is no difference between Sabbaths and Festivals save as regards the preparation of food.

(3) Since the preceding argument is fallacious, being based on a false premise (v. Bezah, 19a). — This is still part of Raba's reasoning.

(4) The premise being correct, the deduction is likewise correct, viz., that an execution cannot supersede a private offering. How then can the verse, Thou shalt take him from mine altar, be reconciled with this conclusion?

(5) For, as shown above, if Abaye's reasoning be accepted, execution does not suspend even private offerings: to what then can from mine altar etc.’ refer?

(6) According to which view the Scriptural verse might refer to private offerings; yet even so, Abaye's deduction is unacceptable.

(7) I.e., public offerings in which the individual, as an individual, has no part.

(8) I.e., the altar on which the daily offering was made.

(9) Thus the Bible expressly negatives the deduction a minori proposed by Abaye.

(10) In connection with the Sikarikon (robber) law, a title to a piece of property held by such for twelve months. Cf. Git. 59a.

(11) Owing to Rabbi's humility.
(12) His colleague, equal to him in wisdom.
(13) Who shared his authority with him.
(14) Chief Minister to David. II Sam. XX, 26. Cf. M.K. 16b which speaks of his great learning.
(15) V. II Sam. XIX, 18, where his great influence is indicated.
(16) Whose college was larger than Hezekiah's. V. supra 26a.
(17) Cf. Zeb. 19a. which refers to his intimate friendship with the Persian King, Yezdegerd. [According to Sherira's Epistle, he was exilarch in the time of R. Ashi.]
(18) [He surrendered one by one his prerogatives to R. Ashi, v. Blank, REJ. XXX, 51.]
(19) Lit., ‘Answer’.
(20) Ex. XXIII, 2. V. p. 94. n. 2. He takes רב in the sense of רב. Therefore the opinion of the lessor judges is first ascertained.
(21) I Sam. XXV, 13. I.e., the question whether Nabal the Carmelite's act was to be treated as rebelliousness against the king was here discussed and a vote taken in the form of girding on the sword. David was the last to express his opinion.
(22) In the laws relating to such cases, and the pros and cons for conviction.
(23) The master and the disciple have each a separate vote.
(24) Since such cases could at the outset be decided by a single person, the need for voting arises only in the event of a controversy.
(25) Since these cases require at the very outset a fixed number of judges. Tosef. Sanh. IV.

Talmud - Mas. Sanhedrin 36b

— Rab referred to [disciples] such as R. Kahana and R. Assi who needed Rab's traditional teaching,[1] but not his reasoning.[2]

R. Abbahu said: In ten respects do civil suits differ from capital charges,[3] and none of those is practised in [the trial of] the ox that is stoned,[4] save that twenty-three [judges are necessary] — Whence is this derived? — R. Aha b. Papa said: Scripture states, Thou shalt not wrest[5] the judgment of thy poor in his cause;[6] — the judgment of thy poor thou mayest not wrest,[7] but thou mayest do so in the case of the ox that is stoned.[8]

Ten? But there are only nine! ([You say that there are only nine,] but indeed, ten are taught! — The laws that not all [persons] are eligible,[9] and that twenty-three judges are necessary, are but one.)[10] — There is yet another [difference]:[11] for it has been taught: ‘We do not appoint as members of the Sanhedrin, an aged man, a eunuch or one who is childless.[12] R. Judah includes also a cruel man. It is the reverse in the case of a Mesith,’ for the Divine Law states , Neither shalt thou spare, neither shalt thou conceal him.[13]

ALL ARE ELIGIBLE TO TRY CIVIL SUITS. What does ‘ALL’ include? — It includes a bastard. But have we not already learnt this once, viz.: Whoever is competent to try capital charges is also competent to try civil suits. But some are competent to try civil suits, yet not capital charges.[14] Now, when we discussed this question: What does that[15] include? Did not Rab Judah answer, It includes a bastard? — One includes a proselyte, the other, a bastard. And both are necessary. For had the rule been given concerning a proselyte only, [one might have assumed that the reason is] because he is eligible to come into the Congregation;[16] but a bastard,[17] we would say, is not [competent]. Again, had this been stated of a bastard only, [we should think that the reason was that] he issues from a proper origin,[18] but a proselyte, who does not issue from a proper origin, is not [competent]. Hence the statements are [both] necessary.

BUT NOT ALL ARE ELIGIBLE TO TRY CAPITAL CHARGES. Why?[19] — As R. Joseph learned: Just as the Beth din must be pure in righteousness, so they must be free[20] from every blemish.[21] Amemar said: What verse [proves this]? — Thou art all fair, my love, and there is no blemish in thee.[22] But perhaps a literal defect [blemish] is meant?[23] — R. Aha b. Jacob answered: Scripture states, That they may stand there with thee:[24] ‘with thee’ implies, like to thee.[25] But perhaps it was so stated there on account of the Shechinah?[26] — But, said R. Nahman b. Jacob: Scripture states, And they shall bear with thee:[27] ‘with thee’ implies that they must be like to thee.

MISHNAH. THE SANHEDRIN SAT IN THE FORM OF A SEMICIRCULAR THRESHING FLOOR,[28] SO THAT THEY MIGHT SEE ONE ANOTHER, AND TWO JUDGES CLERKS STOOD BEFORE THEM, ONE TO THE RIGHT, THE OTHER TO THE LEFT, AND WROTE DOWN THE ARGUMENTS OF THOSE WHO WOULD ACQUIT AND THOSE WHO WOULD CONDEMN.[29] R. JUDAH SAID: [THERE WERE] THREE: ONE TO RECORD THE ARGUMENTS FOR ACQUITTAL, A SECOND, THOSE FOR CONVICTION, AND A THIRD, TO RECORD THE ARGUMENTS FOR ACQUITTAL AND CONVICTION.

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(1) I.e., laws transmitted down from Master to pupil.

(2) In the application of these traditions. Therefore they rank as independent opinions, for with respect to the actual traditions, even the Masters had to receive them from their masters.

(3) As detailed in the Mishnah.

(4) Though its trial must be similar to that of its owner. Cf. supra 2a.

(5) Lit., ‘incline’, or ‘bend’.

(6) Ex. XXIII, 6. This is interpreted, judgment must not be inclined in favour of conviction by a majority of only one.

(7) By a majority of one, for condemnation.

(8) From this it may be inferred that the procedure in the trial of an ox to be stoned is other than that of capital cases, except in the number of judges; and that difference is extended to all the other peculiarities of capital procedure, since the object of particularly applying that procedure in capital cases was to achieve the acquittal of the accused. Not so with an ox.

(9) E.g., bastards may not try capital cases.

(10) So making the total of nine given in the Mishnah. People of illegitimate birth are ineligible as judges in capital cases because a court of twenty-three holds the status of a minor Sanhedrin, with whom pure descent is essential; hence they are counted as one.

(11) Which completes the number of ten.

(12) Because such are more or less devoid of paternal tenderness Cf. Tosef Sanh. VII and X.

(13) Deut. XIII, 9.

(14) V. supra 27b.

(15) The law that one may be competent to act as judge in one and not in another case.

(16) I.e., to intermarry with Israelites.

(17) Who may not come into the Assembly. Cf. Deut. XXIII, 3

(18) I.e., is of pure Israelitish blood.

(19) Since the Talmud does not ask, ‘whence is this derived,’ as before, but ‘why’, it may be assumed that this limitation is a Rabbinical one, and therefore the Talmud asks why it was imposed.

(20) Lit., ‘pure’.

(21) Of family descent.

(22) Cant. IV, 7. [This verse must refer to the Sanhedrin, as such a praise can hardly be sung of the whole people (Yad Ramah).]

(23) I.e., a bodily defect.

(24) Num. IV, 16.

(25) The Elders were required to be like Moses with regard to family descent.

(26) That passage explicitly states that the Shechinah was to rest upon them. Cf. Num. XI, 17. And I will take of the spirit which is upon thee and put it upon them; therefore, purity of descent was indispensable, but elsewhere, this may be unnecessary.

(27) Ex. XVIII, 22, with reference to the judges set up on the advice of Jethro, to bear with Moses the burden of the people. In that passage there is no indication of the bestowal of the divine spirit upon them.

(28) In Krauss, Sanhedrin-Makkot (1933) a.l. this is discussed at great length. In fact, most threshing floors were round, but their essential feature was that they were shaped like a trough. i.e., forming a depression in the soil. It is to this aspect of the threshing floor that they are compared. Hence the meaning of the passage is: They sat in semi-circular rising tiers, as in an amphitheatre.

(29) They were two, as a precautionary measure against error. Cf. supra 34a.

Talmud - Mas. Sanhedrin 37a

AND THREE ROWS OF SCHOLARS SAT[1] IN FRONT OF THEM; EACH KNOWING HIS OWN PLACE.[2] IN CASE IT WAS NECESSARY TO ORDAIN [ANOTHER JUDGE],[3] HE WAS APPOINTED FROM THE FIRST [ROW] IN WHICH CASE ONE OF THE SECOND [ROW] MOVED UP TO THE FIRST, ONE OF THE THIRD TO THE SECOND, AND A MEMBER OF THE ASSEMBLED [AUDIENCE][4] WAS SELECTED AND SEATED IN THE THIRD [ROW]. HE[5] DID NOT SIT IN THE PLACE VACATED BY THE FIRST[6] BUT IN THE PLACE SUITABLE FOR HIM.[7]

GEMARA. Whence is this derived? — R. Aha Haninah said: Scripture states, Thy navel is like a round goblet [‘aggan ha-Sahar] wherein no mingled wine is wanting.[8] ‘Thy navel’ — that is the Sanhedrin. Why was it called ‘navel’? — Because it sat at the navel-point[9] of the world. [Why] ‘aggan?[10] — Because it protects [meggin] the whole world. [Why] ha-Sahar? — Because it was moon-shaped.[11] [Why] in which no mingled wine is wanting? — I.e., if one of them had to leave, it had to be ascertained if twenty-three, corresponding to the number of the minor Sanhedrin, were left,[12] in which case he might go out; if not, he might not depart.

Thy belly is like a heap of wheat:[13] Just as all benefit from a heap of wheat, so do all benefit from the deliberations of the Sanhedrin.

Set about with lilies.[14] Even through a hedge of lilies they would make no breach.[15] In this connexion there is the story of a Min[16] who said to R. Kahana: Ye maintain that a menstruant woman is permitted yihud [privacy] with her husband: can fire be near tow without singeing it? He retorted: The Torah testifies this of us: Set about with lilies — even through a hedge of lilies they make no breach. Resh Lakish deduced [the same answer] from the following verse, Thy temples [rakkathek] are like a pomegranate split open![17] Even the emptiest [rekanin][18] among you are as full of meritorious deeds as a pomegranate [of seeds].[19] R. Zera deduced it from the following verse, And he smelt the smell of his raiment;[20] read not begadaw [his raiment] but bogedaw [his traitors].[21]

In the neighbourhood of R. Zera there lived some lawless men. He nevertheless showed them friendship in order to lead them to repent; but the Rabbis were annoyed [at his action]. When R. Zera's soul went to rest,[22] they said: Until now we had the burnt man with the dwarfed legs[23] to implore Divine mercy for us; who will do so now? Thereupon they felt remorse in their hearts and repented.

THREE ROWS Abaye said: We may infer from this[24] that when one moves they all move.[25] But can he[26] not object to them: Until now I used to sit at the head,[27] whilst now ye place me at the tail![28] Said Abaye: They can answer him thus: Better a tail to lions than a head to foxes.[29]

MISHNAH. HOW WERE THE WITNESSES INSPIRED WITH AWE? WITNESSES IN CAPITAL CHARGES[30] WERE BROUGHT IN AND INTIMIDATED [THUS]: PERHAPS WHAT YE SAY IS BASED ONLY ON CONJECTURE,[31] OR HEARSAY,[32] OR IS EVIDENCE FROM THE MOUTH OF ANOTHER WITNESS,[33] OR EVEN FROM THE MOUTH OF A TRUSTWORTHY PERSON:[34] PERHAPS YE ARE UNAWARE THAT ULTIMATELY WE SHALL SCRUTINIZE YOUR EVIDENCE BY CROSS EXAMINATION AND INQUIRY? KNOW THEN THAT CAPITAL CASES ARE NOT LIKE MONETARY CASES. IN CIVIL

SUITS, ONE CAN MAKE MONETARY RESTITUTION[35] AND THEREBY EFFECT HIS ATONEMENT; BUT IN CAPITAL CASES HE IS HELD RESPONSIBLE FOR HIS BLOOD [sc. THE ACCUSED'S] AND THE BLOOD OF HIS [POTENTIAL] DESCENDANTS UNTIL THE END OF TIME,[36] FOR THUS WE FIND IN THE CASE OF CAIN, WHO KILLED HIS BROTHER, THAT IT IS WRITTEN: THE BLOODS OF THY BROTHER CRY UNTO ME:[37] NOT THE BLOOD OF THY BROTHER, BUT THE BLOODS OF THY BROTHER, IS SAID — i.e., HIS BLOOD AND THE BLOOD OF HIS [POTENTIAL] DESCENDANTS. (ALTERNATIVELY, THE BLOODS OF THY BROTHER, TEACHES THAT HIS BLOOD WAS SPLASHED OVER TREES AND STONES.)[38] FOR THIS REASON WAS MAN CREATED ALONE, TO TEACH THEE THAT WHOSOEVER DESTROYS A SINGLE SOUL OF ISRAEL,[39] SCRIPTURE IMPUTES [GUILT] TO HIM AS THOUGH HE HAD DESTROYED A COMPLETE WORLD; AND WHOSOEVER PRESERVES A SINGLE SOUL OF ISRAEL, SCRIPTURE ASCRIBES [MERIT] TO HIM AS THOUGH HE HAD PRESERVED A COMPLETE WORLD.[40] FURTHERMORE, [HE WAS CREATED ALONE] FOR THE SAKE OF PEACE AMONG MEN, THAT ONE MIGHT NOT SAY TO HIS FELLOW, ‘MY FATHER WAS GREATER THAN THINE, AND THAT THE MINIM[41] MIGHT NOT SAY, THERE ARE MANY RULING POWERS IN HEAVEN; AGAIN, TO PROCLAIM THE GREATNESS OF THE HOLY ONE, BLESSED BE HE: FOR IF A MAN STRIKES MANY COINS FROM ONE MOULD, THEY ALL RESEMBLE ONE ANOTHER, BUT THE SUPREME KING OF KINGS,[42] THE HOLY ONE, BLESSED BE HE, FASHIONED EVERY MAN IN THE STAMP OP THE FIRST MAN, AND YET NOT ONE OF THEM RESEMBLES HIS FELLOW. THEREFORE EVERY SINGLE PERSON IS OBLIGED TO SAY: THE WORLD WAS CREATED FOR MY SAKE.[43]

PERHAPS YE WILL SAY:

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(1) Also in semi-circular form, but on the floor. Each row numbered twenty-three, making a total of sixty-nine. They were there for completion purposes in case there might be a majority of only one for condemnation. Although forty-eight would have sufficed for that purpose, since the completion goes on till the number of seventy-one is reached, some difficulty would have been experienced in arranging that number into rows. It would not have been proper to make two rows of twenty-four, since these would have been larger than that of the Sanhedrin, nor three rows of sixteen, which would have seemed too small, nor two rows of twenty-three and a third one only of two. Hence the sixty-nine (Rashi).

(2) The disciples were seated according to rank.

(3) If a member died, or for completion purposes.

(4) [Behind the rows of the members of the Courts there stood a large audience of scholars, v. Krauss op. cit.]

(5) Who was chosen from the assembly.

(6) Of the row.

(7) When the one at the head of the row was promoted, all moved one place up, leaving the last seat for the new member.

(8) Cant. VII, 3.

(9) I.e., the centre. According to Midrashic legend the Temple was situated in the centre of the world. Cf. Tanhuma, Wayikra. XVIII,23.

(10) אגן akin to מגן — ‘to enclose’. Hence,shield, protect.

(11) סהר=moon.I.e., they were seated in circular form like a moon.

(12) The actual number required for capital cases is twenty-three, roughly a third of seventy-one, the remaining two-thirds being for completion purposes. The Aggadists therefore compare the court to mingled wine, a mixture of one-third of wine and two-thirds of water. Cf. B M. 60a; Tanhuma. Bamidbar IV.

(13) Cant. VII ,3.

(14) Ibid.

(15) Metaphorically: the lightest barrier sufficed to keep them from sin.

(16) מין, a sectarian. v. Glos.

(17) Cant. VI, 7.

(18) ריקנין from ריק (empty, void: a play on רקתך). Even those who by comparison are emptiest of good deeds.

(19) So there is no fear of their infringing the prohibition.

(20) Gen. XXVII, 27.
(21) The consonants of both words are the same — בגדיו I.e., even those who are traitors to the teachings of Judaism diffuse the fragrance of good deeds. Maharsha: Isaac was able to trace in Jacob his original character even though he appeared before him in disguise, so even in his apparently unworthy descendants their good qualities are discernible.
(22) I.e., when he died.
(23) V. B M. 85a for the reason for this nick-name.
(24) The statement in the Mishnah that the member chosen from the assembled audience does not occupy the seat just vacated.
(25) V. p. 231, n. 7.
(26) The promoted member of the rows of scholars.
(27) E.g., of the second row.
(28) Of the first row.
(29) Aboth IV, 15.
(30) [Ms. M: How are witnesses in capital charges intimidated? They were brought in, etc.]
(31) I e.. from circumstantial evidence.
(32) [A general rumour (Yad Ramah).]
(33) [Each one of you has heard it from a separate witness (Yad Ramah).]
(34) [You both heard it from the same trustworthy person.]
(35) If he causes financial loss through giving false testimony.
(36) Lit., ‘the world’, i.e., not only for the death of the accused himself, but of his potential descendants for all time.
(37) Gen.IV,10;דמי is plural.
(38) This is obviously not part of the caution, but interpolated. V. Krauss, Sanhedrin-Makkot a.l.
(39) ‘OF ISRAEL’ is absent in some texts.
(40) Since all mankind originated from one man.
(41) V. p. 211, n. 8, and p. 239, n. 9; here, however, it is more probable that the allusion is to the Gnostics and their doctrine of the Demiurgus; v. Krauss, op. cit. a.l.
(42) Lit., ‘the King of the Kings of the Kings.’
(43) How grave the responsibility therefore of corrupting myself by giving false evidence, and thus bringing the moral guilt of murder upon a whole world.

Talmud - Mas. Sanhedrin 37b

WHY SHOULD WE INCUR THIS ANXIETY?[1] [KNOW THEN:] IS IT NOT ALREADY WRITTEN, AND HE BEING A WITNESS, WHETHER HE HATH SEEN OR KNOWN, IF HE DO NOT UTTER IT?[2] AND SHOULD YE SAY: WHY SHOULD WE BEAR GUILT FOR THE BLOOD OF THIS [MAN]:[3] — SURELY, HOWEVER, IT IS SAID, WHEN THE WICKED PERISH, THERE IS JOY![4]

GEMARA. Our Rabbis taught: What is meant by BASED ON CONJECTURE? — He [the judge] says to them: Perhaps ye saw him running after his fellow into a ruin, ye pursued him, and found him sword in hand with blood dripping from it, whilst the murdered man was writhing [in agony]: If this is what ye saw, ye saw nothing.[5]

It has been taught: R. Simeon b. Shatah said: May I never see comfort[6] if I did not see a man pursuing his fellow into a ruin, and when I ran after him and saw him, sword in hand with blood dripping from it, and the murdered man writhing, I exclaimed to him: Wicked man, who slew this man? It is either you or I![7] But what can I do, since thy blood [i.e., life] does not rest in my hands, for it is written in the Torah, At the mouth of two witnesses etc., shall he that is to die be put to death?[8] May he who knows one's thoughts exact vengeance from him who slew his fellow! It is related that before they moved from the place a serpent came and bit him [the murderer] so that he died.

But should this man [have died] through a serpent? Did not R. Joseph say, and so too it was taught in the school of Hezekiah: From the day the Temple was destroyed, although the Sanhedrin was abolished, the four modes of execution were not abolished? They were not abolished, [you say,] but surely they were! — But the law of the four modes of execution was not abolished:[9] He who is worthy of stoning either falls from the roof,[10] or is trampled to death by a wild beast; he who merits burning either falls into the fire or is bitten by a serpent;[11] he who is worthy of decapitation is either delivered to the [gentile] Government[12] or brigands attack him; he who is worthy of strangulation is either drowned in a river or dies of suffocation?[13] — I will tell you: that man was guilty of another crime,[14] for a Master said: One who incurs two death penalties imposed by Beth din is executed by the severer.[15]

BASED ON CONJECTURE. Thus, only in capital charges do we disallow conjecture, but permit it in civil suits.[16] Who [is the authority for this]? — R. Aha. For it has been taught: R. Aha said: If among camels there is a lustful one, and a camel is found killed by its side, it is certain that this one killed it.[17] Now, on your reasoning,[18] when he [the Tanna] regards EVIDENCE FROM THE MOUTH OF ANOTHER WITNESS [as invalid]: it is only in capital charges that we do not admit it; whilst we do in monetary cases? But did we not learn: If he [the witness] says: He [the defendant] said to me, ‘I owe him [the money],’ or, ‘So and so told me that he owes him,’ his statement is worthless,[19] unless he states, ‘In our presence[20] he admitted to him that he owed him two hundred zuz!’[21] This proves that although [such evidence] is inadmissible in monetary cases too, we caution them[22] only in capital cases. So in the present instance,[23] though it [sc. conjecture] is inadmissible in civil suits too, we nevertheless admonish them only in capital cases.

KNOW THAT etc. Rab Judah the son of R. Hiyya said: This teaches that Cain inflicted upon his brother many blows and wounds, because he knew not whence the soul departs,[24] until he reached his neck.[25] Rab Judah the son of R. Hiyya also said: Since the day the earth opened her mouth to receive the blood of Abel, she has never opened it again, for it is written, From the edge of the earth have we heard songs, glory to the righteous:[26] implying, from the ‘edge’ of the earth, but not from the mouth of the earth. Hezekiah his brother objected thereto: And the earth opened her mouth![27] — He answered: She opened if for evil,[28] but not for good.

Rab Judah the son of R. Hiyya also said: Exile atones for the half of men's sins. Earlier [in the Cain narrative] it is written, And I shall be a fugitive and a wanderer;[29] but later, And he dwelt in the land of Nod [wandering].[30]

Rab Judah said: Exile makes remission for three things, for it is written, Thus saith the Lord etc. He that abideth in this city shall die by the sword and by the famine and by the pestilence; but he that goeth out and falleth away to the Chaldeans who beseige you he shall live and his life shall be unto him for a prey.[31] R. Johanan said: Exile atones for everything, for it is written, Thus saith the Lord, write ye this man childless, a man that shall not prosper in his days, for no man of his seed shall prosper sitting upon the throne of David and ruling any more in Judah.[32] Whereas after he [the king] was exiled, it is written, And the sons of Jechoniah, — the same is Assir — Shealtiel his son etc.[33] [He was called] Assir,[34] because his mother conceived him in prison. Shealtiel,[35] because God did not plant him[36] in the way that others are planted. We know by tradition that a woman cannot conceive in a standing position. [

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(1) If the moral responsibility is so great, why should we give evidence at all? Quite unintentionally we may cause a perversion of justice.

(2) Then he shall bear his iniquity. Lev. V, 1.

(3) I.e., we prefer to transgress that law, rather than be responsible for the accused's death.

(4) Prov. XI, 10.

(5) For it is not an actual witnessing of the murder. But v. Mishnah on 81b, and Talmudic discussion thereon.

(6) A customary oath. This may either mean, May I (personally) always be afflicted; or, May l never see the comfort of Zion and of Jerusalem. If the latter be correct, the troublous times of the period, owing to the clash of the Pharisees and the Sadducees, might have given rise to such an oath.
(7) I.e., it must be you.
(8) Deut. XVII, 6.
(9) I.e. , the death which the Jewish courts could no longer decree was now brought about by Heavenly agencies.
(10) Before stoning one was thrown from a certain height. Cf. infra 45a.
(11) The action of the poison was likened to the inner fire of burning; v. p. 349.
(12) Whose mode of execution was then as a rule by the sword: ‘handed over’ does not mean, by the Jews, but rather, falls into their hands, through some misdeed which attracts their attention.
(13) Now, returning to the subject, the said murderer ought to have met his death by the sword: why then did he die of a bite?
(14) Punishable by burning, which is severer. Cf. infra 49b.
(15) Infra 81a.
(16) This follows from the fact that the Mishnah states this only in connection with the former.
(17) V. B.B. 93a. Hence in monetary cases circumstantial evidence is acceptable. The Mishnah thus follows the view of a single authority.
(18) That, because in monetary cases the attention of the witnesses is not actually called to the inadmissibility of circumstantial evidence, such is permissible.
(19) Lit., ‘He hath said nothing.’
(20) I.e., ‘In the presence of another witness and myself.’
(21) Supra 29a.
(22) Sc. the witnesses.
(23) With reference to circumstantial evidence.
(24) I.e., he did not know which blow would prove fatal.
(25) And severed the arteries.
(26) Isa. XXIV, 16.
(27) Num. XVI, 32.
(28) To swallow Korah and his associates; the opening to receive Abel's blood is however accounted for good. i.e., to hide Cain's guilt.
(29) נע ונד Gen. IV, 14.
(30) נוד, The other half of the curse, ‘to be a fugitive’ was remitted because of his wandering, i.e., exile,
(31) Jer. XXI, 8-9. He that remained at home was subject to these three evils; but wandering and its consequent hardships outweighed them all.
(32) Jer. XXII, 30.
(33) I Ch. III, 17. Notwithstanding the curse that he should be childless and not prosper, after being exiled he was forgiven.
(34) אסיר, imprisoned.
(35) According to this Haggadah they were one and the same person.
(36) אל שתלו, a play on שאלתיאל.

Talmud - Mas. Sanhedrin 38a

yet she[1] did conceive standing.[2] Another interpretation: Shealtiel, because God obtained[3] [of the Heavenly court] absolution from His oath.[4] Zerubbabel [was so called] because he was sown in Babylon.[5] But [his real name was] Nehemiah the son of Hachaliah.

Judah and Hezekiah, the sons[6] of R. Hiyya, once sat at table with Rabbi and uttered not a word. Whereupon he said: Give the young men plenty of strong wine,[7] so that they may say something. When the wine took effect, they began by saying: The son of David[8] cannot appear ere the two ruling houses in Israel shall have come to an end, viz., the Exilarchate, in Babylon and the Patriarchate in Palestine, for it is written, And he shall be for a Sanctuary, for a stone of stumbling and for a rock of offence to both houses of Israel.[9] Thereupon he [Rabbi] exclaimed: You throw thorns in my eyes, my children![10] At this, R. Hiyya [his disciple] remarked: Master, be not angered, for the numerical value of the letters of yayin[11] is seventy, and likewise the letters of sod:[12] When yayin [wine] goes in, sod [secrets] comes out.

R. Hisda said in Mar ‘Ukba's name — others state, R. Hisda quoted from a lecture of Mari b. Mar: What is meant by the verse, And so the Lord hath hastened[13] the evil and brought it upon us, for the Lord our God is righteous?[14] Because God is righteous He hastened with the evil and brought it upon us! — Even so: the Holy One, blessed be He, did a righteous [i.e., charitable] thing unto Israel in that he anticipated the exile of Zedekiah while the exile of Jechoniah was yet in being,[15] for it is written with reference to the latter, And the craftsmen [he-harash] and the smiths [masger], a thousand.[16] Harash,[17] implies, as soon as they opened a [learned] discussion, all [the others] became as though deaf.[18] Masger:[19] i.e., when they closed [the discussion of] a halachah, it was not reopened.[20] And how many were they? — A thousand.

‘Ulla said: He advanced [the exile by] two years as compared with the period indicated by we-noshantem.[21] R. Aha b. Jacob said: We infer from this that the ‘speediness’ of the Lord of the universe meant eight hundred and fifty-two years.[22]

THEREFORE etc.

Our Rabbis taught: Man was created alone.[23] And why so? — That the Sadducees[24] might not say: There are many ruling powers in Heaven. Another answer is: For the sake of the righteous and the wicked; that the righteous might not say: ‘Ours is a righteous heredity.’[25] and that the wicked might not say: ‘Ours is an evil heredity.’[26] Another answer is: For the sake of [the different] families, that they might not quarrel with each other.[27] Now, if at present, though but one was [originally] created,[28] they quarrel. how much more if two had been created![29] Another answer is: Because of robbers and plunderers: I.e., If at present, though but one was originally created, people rob and plunder, how much more had two been created.[30]

AND AGAIN, TO PROCLAIM THE GREATNESS OF etc. Our Rabbis taught: [The creation of the first man alone] was to show forth the greatness of the Supreme King of kings, the Holy One, blessed be He. For if a man mints many coins from one mould, they are all alike, but the Holy One, blessed be He, fashioned all men in the mould of the first man, and not one resembles the other, for it is written, It is changed as clay under the seal and they stand as a garment.[31] And why are men's faces not like one another? — Lest a man see a beautiful dwelling or a beautiful woman and say, ‘She is mine for it is written, But from the wicked their light is withholden and the high arm is broken.[32]

It has been taught: R. Meir used to say: In three things man differs from his fellow: In voice, appearance and mind [i.e., thoughts]. In voice and appearance’, to prevent unchastity;[33] ‘In mind’, because of thieves and robbers.[34]

Our Rabbis taught: Adam was created [last of all beings] on the eve of Sabbath. And why? — Lest the Sadducees say: The Holy One, blessed be He, had a partner [viz., Adam] in His work of creation. Another answer is: In order that, if a man's mind becomes [too] proud, he may be reminded that the gnats preceded him in the order of creation. Another answer is: That he might immediately enter upon the fulfilment of a precept.[35] Another answer is: That he might straightway go in to the banquet.[36] The matter may be compared to a king of flesh and blood who built palaces and furnished them, prepared a banquet, and thereafter brought in the the guests. For it is written: Wisdom hath builded her house, she hath hewn out her seven pillars. She hath prepared her meat, she hath mingled her wine, she hath also furnished her table. She hath sent forth her maidens, she calleth upon the highest places of the city.[37] Wisdom hath builded her house, — this is the attribute of the Holy One, blessed be He, who created the world by wisdom. She hath hewn out her seven pillars, — these are the seven days of creation. She hath prepared her meat, she hath mingled her wine, she hath also furnished her table, — these are the seas and the rivers and all the other requirements of the world. She hath sent forth her maidens, she calleth, — this refers to Adam and Eve. Upon the highest places of the city; Rabbah b. Bar Hana opposed [two verses]. It is written, Upon the top of the highest places.[38] But elsewhere it is written, On a seat on the high places.[39] — At first[40] he was seated upon the ‘top’ of the highest places, but subsequently upon a ‘seat’.

Whoso is thoughtless, let him turn in hither; as for him that lacketh understanding, she saith to him.[41] The Holy One, blessed be He, said: Who was it that enticed him? — A woman[42] hath spoken to him, for it is written, He that committeth adultery with a woman, lacketh understanding.[43]

It has been taught: R. Meir used to say: The dust of the first man was gathered from all parts of the earth, for it is written, Thine eyes did see mine unformed substance,[44] and further it is written, The eyes of the Lord run to and fro through the whole earth.[45] R. Oshaiah said in Rab's name: Adam's trunk came from Babylon,

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(1) His mother.

(2) For lack of room in prison, v. Lev. Rab. XIX.

(3) שאל אל ‘God asked’.

(4) Which He had made, to punish Jechoniah with childlessness.

(5) זרע לבב.

(6) They were twins. Cf. Yeb. 65b.

(7) Lit., ‘Make the wine strong for the young men.’

(8) I.e., the Messiah.

(9) Isa. VIII, 14.

(10) They were foretelling the abolition of the Nasi's office which he, Rabbi, occupied.

(11) יין 10 + 10 + 50 = 70. [Ms. M. omits אותיות letters. If retained it must be taken as a direct translation of the Gr. grammata derived from gramma ‘letter’, hence the equivalent of גימטריא, cf. Rashi. V. Gandz, S., op. cit. 90 and J.E. V, 589.]

(12) סוד 60 + 6 + 4 =70.

(13) For this meaning of וישקוד (E.V. ‘watched over’), cf. Jer. I, 12: שקד hasten.

(14) Dan. IX, 14.

(15) So that the great scholars who were exiled with Jechoniah were still alive to transmit their traditional teachings to their posterity (Rashi.)

(16) II Kings XXIV, 16.

(17) חרש, ‘craftsman’ or ‘deaf’ (with different pointing in each case).

(18) I.e., they overwhelmed them with the depth of their wisdom

(19) מסגר. (E.V. ‘smith’) from סגר ‘to close’.

(20) None would presume to cast the least doubt on their ruling.

(21) And ye shall have been long (lit., ‘grown old’). Deut. IV, 25. The numerical value of ונושנתם (6 + 50 + 6 + 300 + 50 + 400 + 40) is eight hundred and fifty-two. Subtracting two years according to this Haggadah, there are eight hundred and fifty years left, which is the length of time between Israel's entry into Palestine and the destruction of the Temple. The Temple was erected in the four hundred and eightieth year from the Exodus out of Egypt, and it stood for four hundred and ten years. Subtracting forty years for the period of their wanderings in the desert, we reach a total of eight hundred and fifty years that acceleration by two years is here regarded as a ‘righteous’ (i.e., charitable) act, since it averted the complete destruction threatened in Deut. IV, 26.

(22) For the following verse states, Ye shall speedily perish completely from off the land. Thus by ‘speedily’ God meant 852 years, alluded to by we-noshantem.

(23) I.e., only one man was created.

(24) Many early versions have Minim in this place and in several other instances further on. צדוקים must have been inserted by the censors, v. p. 234. n. 4.

(25) And therefore we have no need to avoid temptation.

(26) And therefore we have no power to resist temptation.

(27) On the superiority of their respective ancestry.

(28) I.e., when they all descend from one father.

(29) I.e., if they came from different stocks.

(30) In which case some might claim that the land originally belonged to their first ancestor.

(31) Job XXXVIII, 14.

(32) Ibid. 15, their light = ‘their visage’, i.e it is not like their neighbour's; the high arm = ‘the excuse for high-handed action’.

(33) In order that the sexes might not be confused either in the darkness or the light.

(34) Who cannot be trusted to know the secrets of others

(35) The hallowing of the Sabbath.

(36) I.e., that all nature should be ready for his use.

(37) Prov. IX, 1-3.

(38) Prov. IX, 3.

(39) Prov. IX 14, which denotes a lower station (Rashi). Tosaf. reverses their significance.

(40) Before his sin. Tosaf. At first, before Eve was created, he merely sat on the top etc., but afterwards, Eve's creation raised him to a higher pinnacle, so that he had a throne set for him.

(41) Ibid. 4.

(42) Who is referred to as enticing.

(43) Ibid. VI, 32.

(44) Ps. CXXXIX, 16.

(45) Zech. IV, 10. Adam's substance was seen by the look of the Lord which sweeps through the whole world. [This is perhaps another way of teaching the ‘equality of man’, all men having been formed from one and the same common clay, v. Bacher, AT, II, 65.]

Talmud - Mas. Sanhedrin 38b

his head from Erez Yisrael,[1] his limbs from other lands, and his private parts, according to R. Aha, from Akra di Agma.[2]

R. Johanan[3] b. Hanina said: The day consisted of twelve hours. In the first hour, his [Adam's] dust was gathered; in the second, it was kneaded into a shapeless mass. In the third, his limbs were shaped;[4] in the fourth, a soul was infused into him; in the fifth, he arose and stood on his feet; in the sixth, he gave [the animals] their names; in the seventh, Eve became his mate; in the eighth, they ascended to bed as two and descended as four;[5] in the ninth, he was commanded not to eat of the tree, in the tenth, he sinned; in the eleventh, he was tried, and in the twelfth he was expelled [from Eden] and departed, for it is written, Man abideth[6] not in honour.[7]

Rami b. Hama said: A wild beast has no dominion over man unless he appears to it as a brute,[8] for it is written. Men are overruled[9] when they appear as beasts.[10]

(Mnemonic: When;[11] The End; Aramaic.)

Rab Judah said in Rab's name: When the Holy One, blessed be He, wished to create man, He [first] created a company of ministering angels and said to them: Is it your desire that we make a man in our image? They answered: Sovereign of the Universe, what will be his deeds? Such and such will be his deeds, He replied. Thereupon they exclaimed: Sovereign of the Universe, What is man that thou art mindful of him, and the son of man that thou thinkest of him?[12] Thereupon He stretched out His little finger among them and consumed them with fire. The same thing happened with a second company. The third company said to Him: Sovereign of the Universe, what did it avail the former [angels] that they spoke to Thee [as they did]? the whole world is Thine, and whatsoever that Thou wishest to do therein, do it. When He came to the men of the Age of the flood and of the division [of tongues] whose deeds were corrupt, they said to Him: Lord of the Universe, did not the first [company of angels] speak aright? Even to old age I am the same, and even to hoar hairs will I carry,[13] He retorted.

Rab Judah said in Rab's name: The first man reached from one end of the world to the other, as it is written, Since the day that God created man upon the eath, even from the one end of Heaven unto the other.[14] But when he sinned, the Holy One, blessed be He, laid His hand upon him and diminished him, as it is written, Thou hast hemmed me in behind and before, and laid Thy hands upon me.[15] R. Eleazar said: The first man reached from earth to heaven, as it is written, Since the day that God created man upon the earth, and from one end of the Heaven [to the other].[16] But when he sinned, the Holy One, blessed be He, laid His hand upon him and diminished him, for it is written, Thou hast hemmed me in behind and before etc.[15] But these verses contradict each other! — Both measurements are identical.[17]

Rab Judah also said in Rab's name: The first man spoke Aramaic,[18] for it is written, How weighty are thy thoughts unto me, God.[19] And that is what Resh Lakish meant when he said: What is the meaning of the verse, ‘This is the book of the generations of Adam?[20] It is to intimate that the Holy One, blessed be He, showed him [Adam] every generation and its thinkers,[21] every generation and its sages. When he came to the generation of Rabbi Akiba, he [Adam] rejoiced at his learning but was grieved at his death,[22] and said: How weighty[23] are Thy friends[24] to me, O God.[19]

Rab Judah also said in Rab's name: Adam was a Min,[25] for it is written, And the Lord God called unto Adam and said unto him, Where art thou?[26] i.e., whither has thine heart turned? R. Isaac said: He practised episplasm:[27] For here it is written, But like man, [Adam] they have transgressed the covenant;[28] whilst elsewhere it is said, He hath broken my covenant,[29] R. Nahman said: He denied God.[30] Here it is written, THey have transgressed the covenant;[28] whilst elsewhere it is stated, [He hath broken my covenant,[31] and again,] Because they forsook the covenant of the Lord their God.[32]

We learnt elsewhere:[33] R. Eliezer said: Be diligent to learn the Torah and know how to answer an Epikoros.[34] R. Johanan commented: They taught this only with respect to a Gentile Epikoros; with a Jewish Epikoros, it would only make his heresy more pronounced.[35]

R. Johanan sad: In all the passages which the Minim have taken [as grounds] for their heresy,[36] their refutation is found near at hand. Thus: Let us make man in our image,[37] — And God created [sing.] man in His own image;[38] Come, let us go down and there confound their language,[39] — And the Lord came down [sing.] to see the city and the tower;[40] Because there were revealed [plur.] to him God,[41] — Unto God who answereth [sing.] me in the day of my distress;[42] For what great nation is there that hath God so nigh [plur.] unto it, as the Lord our God is [unto us] whensoever we call upon Him [sing.];[43] And what one nation in the earth is like thy people, [like] Israel, whom God went [plur.] to redeem for a people unto himself [sing.],[44] Till thrones were placed and one that was ancient did sit.[45]

Why were these[46] necessary? To teach R. Johanan's dictum; viz.: The Holy One, blessed be He, does nothing without consulting His Heavenly Court,[47] for it is written, The matter is by the decree of the watchers, and the sentence by the word of the Holy Ones.[48] Now, that is satisfactory for all [the other verses], but how explain Till thrones were placed? — One [throne] was for Himself and one for David.[49] Even as it has been taught: One was for Himself and one for David: this is R. Akiba's view. R. Jose protested to him: Akiba, how long will thou profane the Shechinah?[50] Rather, one [throne] for justice, and the other for mercy. Did he accept [this answer] from him or not? Come and hear! For it has been taught: One is for justice and the other for charity; this is R. Akiba's view.

Said R. Eleazar b. Azariah to him: Akiba, what hast thou to do with Aggada? Confine thyself to [the study of] Nega'im and Ohaloth.[51] But one was a throne, the other a footstool: a throne for a seat and a footstool in support of His feet.

R. Nahman said: He who is as skilled in refuting the Minim as is R. Idith,[52] let him do so; but not otherwise. Once a Min said to R. Idith: It is written, And unto Moses He said, Come up to the Lord.[53] But surely it should have stated, Come up unto me! — It was Metatron[54] [who said that], he replied, whose name is similar to that of his Master,[55] for it is written, For my name is in him.[56] But if so, [he retorted,] we should worship him! The same passage, however, — replied R. Idith says: Be not rebellious[57] against him, i.e., exchange Me not for him. But if so,[58] why is it stated: He will not pardon your transgression?[59] He answered: By our troth[60] we would not accept him even as a messenger,[61] for it is written, And he said unto him, If Thy [personal] presence go not etc.[62]

A Min once said to R. Ishmael b. Jose: It is written, Then the Lord caused to rain upon Sodom and Gomorrah brimstone and fire from the Lord:[63] but from him should have been written! A certain fuller[64] said, Leave him to me, I will answer him. [He then proceeded,' It is written, And Lamech said to his wives, Ada and Zillah, Hear my voice, ye wives of Lamech;[65] but he should have said, my wives! But such is the Scriptural idiom — so here too, it is the Scriptural idiom.

Whence do you know that? asked he [R. Ishmael]. — I heard it in a public discourse[66] of R. Meir, [he answered]. Even as R. Johanan said: When R. Meir used to deliver his public discourses, a third was Halacha, a third Haggadah, and a third consisted of parables. R Johanan also said: R. Meir had three hundred parables of foxes, and we have only three left,[67]

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(1) His head, the most exalted part of his body, comes from Eretz Yisrael the most exalted of all lands.

(2) [A town near Pumbeditha (Obermeyer, op. cit. 237, n. 3), notorious on account of the loose morals of its inhabitants, v. Ginzberg, Legends V, 15.]

(3) V. l.: R. Ahai.

(4) Lit., 'Extended'.

(5) I.e., Cain and his twin sister were born. V. Yeb. 62a. Abel and his other twin sister were born after they sinned. V. Tosaf. a.l.

(6) ילין, lit., 'tarrieth not over night'.

(7) Ps. XLIX, 13.

(8) Man's majesty keeps the wild beasts in check only as long as he does not descent to their level.

(9) נמשל, He is like the beasts that perish.

(10) Ps. XLIX, 13.

(11) Lit., 'hour'.

(12) Ps. VIII, 5.

(13) Isa. XLVI, 4. I.e., I shall suffer mankind under all conditions.

(14) Deut. IV, 32.

(15) Ps. CXXXIX, 5.

(16) Rashal rightly deletes the bracketed passage, because on this dictum the verse must be read: He created man upon the earth and reaching up to the end of Heaven, i.e., he reached from earth to Heaven.

(17) [The gigantic stature of Adam plays an important part in the system of many Gnostic sects, v. Ginzberg, op. cit. V, 79.]

(18) [This may have been said in justification of the abandonment by the Babylonian Jews of the Hebrew language in favour of Aramaic.]

(19) Ps. CXXXIX, 17. This Psalm deals with the creation of man. יקר 'weighty', and רעיך 'thoughts' are Aramaisms.

(20) Gen. V, 1.

(21) Lit., 'exponents'.

(22) R. Akiba was executed by Tineius Rufus after being most cruelly tortured. Cf. Ber. 61b.

(23) Perhaps to be understood here with a twofold meaning: weighty = honoured; and weighty = a source of heaviness and grief.

(24) רעיך is probably here taken in its usual Hebrew meaning, "Thy friends’,

(25) V. Glos. V. p. 234, n. 4; it is to be observed that Min is contrasted (in the next passage) with unbeliever.

(26) Gen. III, 9.

(27) I.e., he removed the mark of circumcision.

(28) Hos. VI, 7.

(29) Gen. XVII, 14. with reference to circumcision.

(30) Lit. ‘the fundamental (principle)’.

(31) Gen. XVII, 14. Ms. M. omits the bracketed passage; rightly so, for it is irrelevant.

(32) Jer. XXII, 9, referring to belief in God.

(33) Aboth II, 14.

(34) Who endeavours to draw support from the Torah for his beliefs. [אפיקורוס is derived from the personal name, Epicurus, and is adopted by the Talmud for the sake of the play upon the word פקר ‘to be free from restraint’. To denote one who denies God and his commandments, v. Herford, Christianity in Talmud p. 120.]

(35) Lit., ‘He is more lawless.’ With him, therefore, discussion is not advised since he is deliberate in his negation and not therefore easily dissuaded (Rashi).

(36) E.g., where God is spoken of in the plural.

(37) Gen. I, 26.

(38) Ibid. 27.

(39) Gen. XI, 7.

(40) Ibid. 5.

(41) Ibid. XXXV, 7.

(42) Ibid. 3.

(43) Deut. IV, 7.

(44) II Sam. VII, 23.

(45) Dan. VII, 9.

(46) Plural forms.

(47) פמליא, ‘family'v. p. 675.

(48) Dan. IV, 14.

(49) The Messiah.

(50) By asserting that a human being sit beside Him.

(51) Names of Treatises in the Seder Tohoroth, the most difficult in the whole of the Talmud. V. infra 67b. R. Akiba was a great authority on these laws, whereas his Haggadic interpretations were not always acceptable. [This interpretation involved the same danger as that of R. Akiba's first interpretation in that it tended to obscure the true monotheistic concept of God.]

(52) [Ms. M.: R. Idi.]

(53) Ex. XXIV, 1.

(54) Name of an Angel, probably derived from metator, guide. In Talmud and Midrash he is regarded notably as the defender of the rights of Israel (cf. Hag. 16a).

(55) Cf. Rashi on Ex. XXIII, 21. The numerical value of Metatron (מטטרון) is equal to that of שדי (the Almighty) viz. 314.

(56) Ex. XXIII, 21.

(57) תמר is here taken, in the sense of ‘exchange’, from מור.

(58) That he is not to be worshipped, but God alone.

(59) Ibid. Surely, he has no authority to do so.

(60) Lit., ‘we hold the belief.’

(61) Lit., ‘Postman’ — of forgiveness.

(62) Ex. XXXIII, 15. [The Min was a believer in the doctrine of two rulers and he sought support for this belief from Ex. XXIV, 1. R. Idith met his argument by showing that even Metatron was accepted by Jews only as guide, and in no sense a second god. For a full discussion of the passage, v. Herford, op. cit. p. 285ff.]

(63) Gen. XIX, 24

(64) A figure frequently mentioned in the Talmud as of a specific type. V. e.g., Ber. 28a, Ned. 41a. [In Roman literature, he is an object of ridicule; in rabbinic lore, he plays a more dignified role.]
(65) Gen. IV, 23.
(66) פירקא v. supra p. 178 n. 3.
(67) Probably of those collected by R. Meir, since many other fox fables are found scattered throughout the Talmud and Midrash. Cf. Ber. 61b; Eccl. Rab. V. 14.

Talmud - Mas. Sanhedrin 39a

[as illustrations to the verses]. [a] The fathers have eaten sour grapes and the children's teeth are set on edge;[1] [b] Just balances, just weights,[2] [c] The righteous is delivered out of trouble and the wicked comes in in his stead.[3]

The Emperor[4] once said to Rabban Gamaliel:[5] Your God is a thief, for it is written, And the Lord God caused a deep sleep to fall upon the man [Adam] and he slept [and He took one of his ribs etc.][6] Thereupon his [the Emperor's][7] daughter said to him: Leave him to me and I will answer him, and [turning to the Emperor] said: ‘Give me a commander.’[8] ‘Why do you need him?’ asked he. — ‘Thieves visited us last night and robbed us of a silver pitcher, leaving a golden one in its place.’ ‘Would that such visited us every day!’ he exclaimed. ‘Ah!’ she retorted, ‘was it not to Adam's gain that he was deprived of a rib and a wife[9] presented to him in its stead to serve him?’ He replied: ‘This is what I mean: he should have taken it from him openly.’[10] Said she to him: ‘Let me have a piece of raw meat.’ It was given to her. She placed it under her armpit,[11] then took it out and offered it to him to eat. ‘I find it loathsome,’ he exclaimed. ‘Even so would she [Eve] have been to Adam had she been taken from him openly,’ she retorted.[12]

The Emperor also said to Rabban Gamaliel: I know what your God is doing, and where He is seated. Rabban Gamaliel became, [as it were] overcome and sighed, and on being asked the reason, answered. ‘I have a son in one of the cities of the sea, and I yearn for him. Pray tell me about him.’[13] ‘Do I then know where he is,’ he replied. ‘You do not know what is on earth, and yet [claim to] know what is in heaven!’ he retorted.

Again the Emperor said to Rabban Gamaliel: ‘It is written, He counteth the number of the stars etc.[14] In what way is that remarkable; I too can count them!’ Rabban Gamaliel brought some quinces, put them into a sieve, whirled them around, and said: ‘Count them.’ ‘Keep them still,’ he requested. Thereupon Rabban Gamaliel observed, ‘But the Heavens revolve so.’ Some say that the Emperor spoke thus to him: ‘The number of the stars is known to me.’ Thereupon Rabban Gamaliel asked him, ‘How many molars and [other] teeth have you’ Putting his hand to his mouth, he began to count them. Said he to him, ‘You know not what is in your mouth and yet wouldst know what is in Heaven!’

Again the Emperor said to Rabban Gamaliel, ‘He who created the mountains did not create the wind, for it is written, For lo, there is a former of mountains and creator of wind.’[15] — According to this reasoning, when we find it written of Adam, And He created...[16] and, And he formed:[17] would you also say that He who created this [one limb] did not create that [another limb]? Further there is a part of the human body just a handbreadth square, which contains two holes,[18] and because it is written, He that planteth ear, shall he not hear; he that formeth the eye, shall he not see?[19] would you maintain there too that He who created the one did not create the other? ‘Even so,’ he answered. ‘Yet,’ he [Rabban Gamaliel] rejoined, ‘at death both[20] are brought to agree!

A magi[21] once said to Amemar: From the middle of thy [body] upwards thou belongest to Ormuzd;[22] from the middle downwards, to Ahriman.[23] The latter asked: Why then does Ahriman permit Ormuzd to send water[24] through his territory?

The Emperor proposed to R. Tanhum, ‘Come, let us all be one people.’ ‘Very Well,’ he answered, ‘but we who are circumcised cannot possibly become like you;[25] do ye become circumcised and like us.’ The Emperor replied: ‘You have spoken well; nevertheless, anyone who gets the better of the king [in debate] must be thrown into the vivarium,[26] So they threw him in, but he was not eaten. Thereupon a heretic remarked: ‘The reason they did not eat him is that they are not hungry.’ They threw him [the heretic] in, and he was eaten.[27]

The Emperor said to Rabban Gamaliel: ‘Ye maintain that upon every gathering of ten [Jews] the Shechinah rests:[28] how many Shechinahs are there then?’ Rabban Gamaliel called [Caesar's] servant, and tapped him on the neck, saying, ‘Why does the sun enter into Caesar's house?’[29] ‘But,’ he[30] exclaimed, ‘the sun shines[31] upon the whole world!’ ‘Then if the sun, which is but one of the countless myriads of the servants of the Holy One, blessed be He, shines on the whole world, how much more the Shechinah of the Holy One, blessed be He, Himself!’

A certain Min said to R. Abbahu: ‘Your God is a jester,[32] for He said to Ezekiel. Lie down on thy left side,[33] and it is also written, Lie on thy right side.’[34] [Just then] a disciple came and asked him: ‘What is the reason for the Sabbatical year?’ ‘Now,’ said R. Abbahu, ‘I shall give you an answer which will suit you both equally. The Holy One, blessed be He, said to Israel, Sow your seed six years but omit the seventh, that ye may know that the earth is mine[35] They, however, did not do so, but sinned and were exiled. Now, it is the universal practice that a king of flesh and blood against whom his subjects[36] have rebelled, if he be cruel, kills them all; if merciful, he slays half of them; but if he is exceptionally merciful,[37] he only chastises the great ones.[38] So also, the Holy One, blessed be He, afflicted Ezekiel in order to cleanse Israel from their iniquities.’

A certain Min said to R. Abbahu: Your God is a priest, since it is written, That they take for me Terumah [wave offering].[39] Now, when He had buried Moses,[40] wherein did He bathe [after contact with the corpse]?[41] Should you reply, ‘In water: is it not written, Who hath measured the waters in the hollow of His hand?[42] — ‘He bathed in fire,’ he answered, ‘for it is written, Behold the Lord will come in fire.’[43] ‘Is then purification by fire effective?’ ‘On the contrary,’ he replied, ‘bathing [for purposes of purification] should essentially be in fire, for it is written, And all that abideth not the fire ye shall make to go through the water.’[44]

A Min once said to R. Abina: It is written, And what one nation in the earth is like Thy people, [like] Israel.[45] Wherein lies their superiority: ye too are combined with us, for it is written, All the nations are as nothing before Him?[46] He answered: One of yourselves [Balaam] has already testified for us, as it is written,

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(1) Ezek. XVIII, 2.

(2) Lev. XIX, 36.

(3) Prov. XI, 8 Rashi gives the parables in question, as follows, combined in a single story. [Cf. however, Ms. M.: ‘We have only one’.] A fox once craftily induced a wolf to go and join the Jews in their Sabbath preparations and share in their festivities. On his appearing in their midst the Jews fell upon him with sticks and beat him. He therefore came back determined to kill the fox. But the latter pleaded: ‘It is no fault of mine that you were beaten, but they have a grudge against your father who once helped them in preparing their banquet and then consumed all the choice bits.’ ‘And was I beaten for the wrong done by my father?’ cried the indignant wolf. ‘Yes,’ replied the fox, ‘the fathers have eaten sour grapes and the children's teeth are set on edge. However,’ he continued, ‘come with me and I will supply you with abundant food. He led him to a well which had a beam across it from either end of which hung a rope with a bucket attached. The fox entered the upper bucket and descended into the well whilst the lower one was drawn up. ‘Where are you going?’ asked the wolf. The fox, pointing to the cheese-like reflection of the moon, replied: ‘Here is plenty of meat and cheese; get into the other bucket and come down at once.’ The wolf did so, and as he descended, the fox was drawn up. ‘And how am I to get out?’ demanded the wolf. ‘Ah’ said the fox ‘the righteous is delivered out of trouble and the wicked cometh in in his stead. Is it not written, Just balances, just weights'?

(4) קיסר So. Ms. M. Cur. edd. כופר 'an infidel'.

(5) Gamaliel II, also known as Gamaliel of Jabneh [He visited Rome twice — once during the reign of Domitian and again during that of Nerva, his successor, and the disputations that follow may have taken place on one of these occasions, probably the latter, v. Graetz, MGWJ I, 192ff]

(6) Gen. II, 21.

(7) [So Midrash ha-Gadol, p. 84].

(8) דוכום, guard in charge of a military company.

(9) Lit., 'a handmaid'.

(10) I.e., when he was awake.

(11) Rashi translates: She placed it under the hot ashes, and after roasting it, etc.

(12) One often takes an instinctive dislike to food or other objects if they are first seen in their raw state (Rashi). According to the rending adopted, the flesh was repulsive because it had come into contact with her body. Likewise, had Adam known that Eve was part of his body, he might have been repelled.

(13) Lit., 'show him to me.'

(14) Ps. CXLVII, 4.

(15) Amos IV, 13. That is how the Emperor must have translated the verse, drawing an inference from the two different words used to denote creation (E.V. = he that formeth the mountains and createth the wind.

(16) Gen I, 27.

(17) Ibid. II, 7.

(18) The part containing both eye and ear.

(19) Ps. XCIV, 9. Two different expressions are used for the creation of the eye and ear respectively.

(20) The one who planted and the one who created. I.e., assuming that there were two creators of man, he could not completely die unless both agreed; otherwise, the creator of the eye might insist that the eye goes on living, whilst the creator of the ear might wish it to die.

(21) A priest of the Zoroastrian Religion.

(22) Ormuzd, the principle of light, life and good, in the Zoroastrian system, constantly at war with Ahriman (q.v.).

(23) Angra Mainyus Lit., 'the Destroyer', the head of the forces of darkness, death and evil. Warfare must be waged between the two, Ormuzd and Ahriman, for twelve thousand years, at the end of which Abriman will be defeated by Ormuzd V. J.E. I, 294. s. v. Ahriman. Hence the upper part of the body, which contains the head and heart, and consequently what is good in man, belongs to the former; the lower half of the body, the seat of the sexual and excretory organs, to the latter.

(24) I.e., the excreta.

(25) Circumcision cannot be effaced entirely.

(26) An enclosure in which wild beast or fish are kept. Perhaps the arena.

(27) [Herford, op. cit. 253, suggests this Emperor to have been Julian the Apostate (361-363).

(28) Cf. Aboth III, 6. (11) So Rashi. Others translate: Struck him with his ladle.

(29) I.e., why doest thou permit it to enter?

(30) Rashi: the infidel.

(31) Lit., 'rests'.

(32) I.e., He makes His prophets ridiculous.

(33) Ezek. IV, 4.

(34) Ibid. verse 6.

(35) Cf. Lev. XXV, 3; 21.

(36) Lit., 'His country.'

(37) Lit., 'A merciful one full of mercy.'

(38) I.e the leaders.

(39) Ex. XXV. 2. Wave offering, as a rule, were given to Priests.

(40) Deut. XXXIV, 6.

(41) V. Lev. XXII, 4-6.

(42) Isa. XL, 12. I.e., He could not bathe in water, relatively so scanty compared with Himself.

(43) Ibid. LXVI, 15.

(44) Num. XXXI, 23. Essentially therefore, purification is by fire.
(45) II Sam. VII, 23.
(46) Isa. XL, 17.

Talmud - Mas. Sanhedrin 39b

And he [Israel] shall not be reckoned amongst the nations.[1]

R. Eleazar opposed [two verses]: It is written, The Lord is good to all,[2] but it is also written, The Lord is good unto them that wait for Him![3] — This may be compared to a man who has an orchard. When he irrigates it, he irrigates the whole; but when he prunes, he prunes only the best [trees].[4]

THEREFORE EVERY SINGLE PERSON etc. And there went out the song[5] throughout the host:[6] R. Aha b. Hanina said: [It is the song referred to in the verse.] When the wicked perish, there is song;[7] [thus] when Ahab b. Omri perished there was ‘song’. But does the Holy One, blessed be He, rejoice over the downfall of the wicked? Is it not written, [That they should praise] as they went out before the army, and say, Give thanks unto the Lord for His mercy endureth for ever;[8] concerning which R. Jonathan asked: Why are the words, He is good[9] omitted from this expression of thanks? Because the Holy One, blessed be He, does not rejoice in the downfall of the wicked.[10] For R. Samuel b. Nahman said in R. Jonathan's name: What is meant by, And one approached not the other all night?[11] In that hour the ministering angels wished to utter the song [of praise][12] before the Holy One, blessed be He, but He rebuked them, saying: My handiwork [the Egyptians] is drowning in the sea; would ye utter song before me![13] — Said R. Jose b. Hanina: He Himself does not rejoice, yet He causes others to rejoice. Scripture supports this too, for it is written, [And it shall come to pass, that as the Lord rejoiced over you to do good . . . so yasis will the Lord] cause rejoicing [over you by destroying you],[14] and not yasus [so will the Lord rejoice etc.][15] This prove it.

[And dogs licked his blood] and the harlots washed themselves:[16] R. Eleazar said: This was in clear fulfilment of two visions, one of Micaiah, the other of Elijah. In the case of Micaiah it is written, If thou returned at all in peace the Lord hath not spoken by me.[17] In the case of Elijah it is written, In the place where dogs licked the blood of Naboth.[18]

With reference to the harlots:] Raba said, they were real [pictures of] harlots. Ahab was frigid by nature [passionless], so Jezebel painted pictures of two harlots on his chariot, that he might look upon them and become heated.[19]

And a certain man drew his bow at a venture[20] and smote the king of Israel.[21] R. Eleazar said: The word means ‘without intention’. Raba said: In order to fulfil[22] the two visions, that of Micaiah and that of Elijah.

(Mnemonic: He called, merited, to Edom.)

It is written, And Ahab called Obadiah who was over the household — Now Obadiah feared the Lord exceedingly.[23] What did he[24] say to him? — R. Isaac answered: He spoke thus to him: Of Jacob it is written, I have observed the signs and the Lord hath blessed me [Laban] for thy sake;[25] and of Joseph it is written, The Lord blessed the Egyptian's house for Joseph's sake,[26] whilst my house[27] has not been blessed! Perhaps [it is because] you are not a God-fearing man? Thereupon a Heavenly voice issued and proclaimed, And Obadiah feared the Lord greatly, but the house of Ahab is not fit for a blessing.

R. Abba said: Greater [praise] was expressed of Obadiah than Abraham, since of Abraham the word ‘greatly’ is not used,[28] while of Obadiah it is.

R. Isaac said: Why did Obadiah attain[29] the gift of prophecy? — Because he hid a hundred prophets in caves, as it is written, For it was so when Jezebel cut off the prophets of the Lord that Obadiah took a hundred prophets and hid them, fifty in a cave.[30] Why just fifty? — R. Eleazar said: He learnt this lesson from Jacob,[31] as it is written, ‘Then the camp which is left shall escape.[32] R. Abbahu said: It was because the one cave could not hold more than fifty.

‘The vision of Obadiah. Thus said the Lord God concerning Edom.[33] Why particularly Obadiah against Edom? — R. Isaac said: The Holy One, blessed be He, said: Let Obadiah, Who has lived with two wicked persons[34] and yet has not taken example by their deeds, come and prophesy against the wicked Esau,[35] who lived with two righteous persons[36] and yet did not learn from their good deeds.

Ephraim Maksha'ah,[37] the disciple of R. Meir, said on the authority of R. Meir: Obadiah was an Edomite proselyte: and thus people say, From the very forest itself comes the [handle of the] axe [that fells it].[38]

And he [David] smote Moab, and measured them with a line, casting them down to the ground.[39] R. Johanan said on the authority of R. Simeon b. Yohai: Thus the proverb runs, From the very forest itself comes the [handle of the] axe [that fells it].[40] When R. Dimi came [from Palestine] he said [similarly]: The joint putrefies from within.

Then he took his eldest son that should have resigned in his stead and offered him for a burnt offering upon the wall.[41] Rab and Samuel [differ therein:] One said: [He offered him] to God; the other, To a heathen deity. Now, on the view that it was to God, it is correct: hence it is written, And there came great wrath upon Israel.[42] But if it be maintained that he was offered to a heathen deity, why, And there was great wrath etc.? — Even as R. Joshua b. Levi [taught]: For R. Joshua b. Levi opposed [two verses]: It is written, Neither have ye done according to the ordinances of the nations that were round about you;[43] yet it is [elsewhere] written, But ye have done according to the ordinances of the nations that were round about you?[44] [That means:] Ye did not act as the right minded,[45] but as the corrupt amongst them.[46]

And they departed from him and returned to the earth.[47] R. Hanina b. Papa said: In that hour the wicked of Israel descended to the lowest depths [of depravity].[48]

And the damsel was fair, until [she was] exceedingly [so].[49] R. Hanina b. Papa said: Yet she never attained to half of Sarah's beauty, for it is written, ‘until . . . exceedingly’, ‘exceedingly’ itself not being included.[50]

CHAPTER V

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(1) Num. XXIII, 9.

(2) Ps. CXLV, 9.

(3) Lam. III, 25.

(4) The world and all in it was given to all, but only the good are fully cared for.

(5) רנה, E.V. ‘cry’.

(6) I Kings XXII, 36, with reference to Ahab's death at Ramoth in Gilead.

(7) רנה Prov. XI, 10.

(8) II. Chron. XX, 21, with reference to Jehoshaphat king of Judah, when he went to engage in war with the Ammonites and Moabites.

(9) כי טוב, as in Ps. CVII, 1.

(10) כי טוב, can also be rendered ‘it is good’.

(11) Ex. XIV, 20.
(12) Cf. Isa. VI, 3. And one (angel) called unto another, and said, Holy, holy, holy, etc.
(13) The verse is thus taken to mean that one (angel) did not approach the other, calling upon him to join in the Song (Maharsha).
(14) Deut. XXVIII, 63. ישיש, in the Hiphil (causative).
(15) ישוש, in the Kal.
(16) I Kings XXII, 38. The verse ends, according to the word of the Lord which he spake and R. Eleazar's comment is based on that (Maharsha).
(17) I Kings XXII, 28.
(18) Ibid. XXI, 19.
(19) The harlots washed means, therefore, that their pictures were smeared with blood.
(20) Lit., ‘in his innocence.’
(21) Ibid. verse 34.
(22) Lit., ‘to make perfect.’
(23) I Kings XVIII, 3.
(24) So Ms. M. Cur. edd.: ‘What does the verse say?’ which Rashi explains: What connection have the two facts related in the verse?
(25) Gen. XXX, 27.
(26) Ibid. XXXIX, 5.
(27) Lit., ‘the house of that man’.
(28) Cf. Gen. XXII, 12.
(29) The Heb. זכה denotes to merit something, and to attain through merit.
(30) Kings XVIII, 4. If the one cave was discovered the others might escape.
(31) Who divided his followers into camps.
(32) Gen. XXXII, 9.
(33) Obad. I, 1.
(34) Ahab and Jezebel.
(35) I.e., Edom; Esau is the ‘father’ of Edom.
(36) I.e., Isaac and Rebecca.
(37) ‘The disputant’, or ‘seller of cucumbers.’
(38) I.e., the descendant of Edom was found to be the most suitable person to reprimand them. From this narrative it appears that the Rabbis of the Talmud identified Obadiah, the governor of Ahab's household with the Obadiah of the minor Prophets. [This view is shared also among moderns by Hoffmann and Keil.]
(39) II Sam. VIII, 2.
(40) David was descended from Ruth the Moabitess.
(41) II Kings III, 27.
(42) Ibid. Because of their failure to show loyalty to God in comparison with the devotion shown by the Moabite King.
(43) Ezek. V, 7.
(44) Ibid. XI, 12.
(45) As, for example, is related of Eglon, king of Moab who, when Ehud said to him: I have a message from God unto thee, (Judges III, 20) arose out of his seat as a sign of respect.
(46) E.g., in allowing human beings as sacrifices, as did the king of Moab.
(47) Lit., translation of II Kings III, 27; E.V. ‘to their land’.
(48) Interpreting ‘to the earth’ in the sense of (moral) degradation.
(49) Lit., rendering of I Kings I, 4, with reference to Abishag.
(50) ‘Until’ (עד) is taken in the sense of ‘up to’ but not including. I.e., she reached only the point of medium beauty. This Haggadic interpretation is quoted here in order to group together the two sayings of the one teacher.

Talmud - Mas. Sanhedrin 40a

MISHNAH. THEY [THE JUDGES] USED TO EXAMINE THEM[1] WITH SEVEN [HAKIROTH] SEARCHING QUERIES: IN WHAT SEPTENNATE?[2] IN WHAT YEAR? IN WHAT MONTH?

ON WHICH DAY OF THE MONTH? ON WHAT DAY?[3] AT WHAT HOUR [OF THE DAY]? AND, AT WHAT PLACE? R. JOSE SAID: [THEY WERE ONLY ASKED:] ON WHICH DAY [OF THE WEEK]? AT WHAT HOUR? AND, AT WHAT PLACE? [THEY WERE FURTHER ASKED:] DID YE KNOW HIM?[4] AND, DID YE WARN HIM?[5]

WHERE ONE COMMITS IDOLATRY, [THE WITNESSES ARE ALSO ASKED] WHAT[6] DID HE WORSHIP? AND, HOW[7] DID HE WORSHIP? THE MORE EXHAUSTIVE THE CROSS-EXAMINATION [BEDIKOTH] THE MORE PRAISEWORTHY THE JUDGE. IT ONCE HAPPENED THAT BEN ZAKKAI[8] CROSS-EXAMINED [THE WITNESSES] EVEN AS TO THE STALKS OF THE FIGS.[9]

WHAT IS THE DIFFERENCE BETWEEN HAKIROTH AND BEDIKOTH?[10] — IN HAKIROTH, IF ONE [OF THE WITNESSES] ANSWERS: 'I DO NOT KNOW,' THEIR[11] EVIDENCE IS VOID. WITH RESPECT TO BEDIKOTH, HOWEVER, IF ONE ANSWERS: I DO NOT KNOW,' OR EVEN IF BOTH SAY: 'WE DO NOT KNOW, THEIR EVIDENCE IS VALID. BUT IF THEY [THE WITNESSES] CONTRADICT EACH OTHER, WHETHER IN THE HAKIROTH OR THE BEDIKOTH, THEIR EVIDENCE IS VALID.

IF ONE [WITNESS] TESTIFIES, '[IT HAPPENED] ON THE SECOND OF THE MONTH,' AND THE OTHER, 'ON THE THIRD OF THE MONTH:' THEIR EVIDENCE IS VALID, FOR ONE MAY HAVE BEEN AWARE OF THE INTERCALATION OF THE MONTH AND THE OTHER MAY NOT HAVE BEEN AWARE OF IT.[12] IF, HOWEVER, ONE SAYS, 'ON THE THIRD,' AND THE OTHER, 'ON THE FIFTH, THEIR EVIDENCE IS INVALID. SIMILARLY, IF ONE TESTIFIES, 'DURING THE SECOND HOUR [OF THE DAY]'[13] AND THE OTHER 'DURING THE THIRD HOUR:' THEIR EVIDENCE IS VALID.[14] BUT IF ONE SAYS, AT THREE,' AND ANOTHER, 'AT FIVE,' THEIR EVIDENCE IS INVALID.[15] R. JUDAH SAID: [EVEN THEN, THEIR EVIDENCE IS] VALID. BUT IF ONE SAYS, 'AT FIVE,' AND THE OTHER, 'AT SEVEN,' THEIR EVIDENCE IS INVALID, FOR AT FIVE THE SUN IS TO THE EAST, WHILE AT SEVEN, THE SUN IS TO THE WEST.

AFTER THIS, THE SECOND [WITNESS] IS ADMITTED[16] AND [LIKEWISE] EXAMINED. IF THEIR EVIDENCE TALLIES, THEY [THE JUDGES] COMMENCE [THE PROCEEDINGS] IN FAVOUR [OF THE ACCUSED].[17]

SHOULD ONE OF THE WITNESSES DECLARE, 'I HAVE SOMETHING TO SAY IN HIS FAVOUR'; OR ONE OF THE DISCIPLES, 'I HAVE AN ARGUMENT IN HIS DISFAVOUR', HE IS SILENCED.[18] BUT IF A DISCIPLE SAYS, 'I HAVE SOMETHING TO PLEAD IN HIS FAVOUR', HE IS BROUGHT UP AND SEATED WITH THEM,[19] AND DOES NOT DESCEND FROM THERE ALL THAT DAY. IF THERE IS SUBSTANCE IN HIS STATEMENT HE IS HEARD. AND EVEN IF HE [THE ACCUSED] HIMSELF SAYS,' I AM IN A POSITION TO PLEAD IN MY OWN DEFENCE, HE IS HEARD, PROVIDED THERE IS SUBSTANCE IN HIS STATEMENT.

IF THEY FIND HIM NOT GUILTY, HE IS DISCHARGED, IF NOT, IT [THE TRIAL] IS ADJOURNED TILL THE FOLLOWING DAY,[20] WHILST THEY [THE JUDGES] GO ABOUT IN PAIRS,[21] PRACTISE MODERATION IN FOOD, DRINK NO WINE THE WHOLE DAY,[22] AND DISCUSS[23] THE CASE THROUGHOUT THE NIGHT. EARLY NEXT MORNING THEY REASSEMBLE IN COURT. HE WHO IS IN FAVOUR OF ACQUITTAL STATES, 'I DECLARED HIM INNOCENT AND STAND BY MY OPINION.' WHILE HE WHO IS IN FAVOUR OF CONDEMNATION SHALL SAY: 'I DECLARE HIM GUILTY AND STAND BY MY OPINION.' ONE WHO [PREVIOUSLY] ARGUED FOR CONVICTION MAY NOW ARGUE FOR ACQUITTAL, BUT NOT VICE VERSA. IF THEY HAVE MADE ANY MISTAKE, THE

TWO JUDGES' CLERKS[24] ARE TO REMIND THEM THEREOF.

IF THEY FIND HIM NOT GUILTY, THEY DISCHARGE HIM. IF NOT, THEY TAKE A VOTE.[25] IF TWELVE ACQUIT AND ELEVEN CONDEMN, HE IS ACQUITTED. IF TWELVE CONDEMN AND ELEVEN ACQUIT, OR IF ELEVEN CONDEMN AND ELEVEN ACQUIT AND ONE SAYS, 'I DO NOT KNOW,'[26] OR EVEN IF TWENTY-TWO ACQUIT OR CONDEMN AND A SINGLE ONE SAYS, 'I DO NOT KNOW,'[27] THEY ADD TO THE JUDGES. UP TO WHAT NUMBER IS THE COURT INCREASED? — BY TWOS UP TO THE LIMIT OF SEVENTY-ONE.[28]

IF THIRTY-SIX ACQUIT AND THIRTY-FIVE CONDEMN,[29] HE IS ACQUITTED. BUT IF THIRTY-SIX CONDEMN AND THIRTY-FIVE ACQUIT, THE TWO SIDES DEBATE THE CASE TOGETHER UNTIL ONE OF THOSE WHO CONDEMN AGREES WITH THE VIEW OF THOSE WHO ARE FOR ACQUITTAL.

GEMARA. 'Whence is this[30] inferred? — Rab Judah said: Scripture states, Then shalt thou inquire and make search and ask diligently;[31] and it says, And [if] it be told thee and thou hear it, then shalt thou inquire diligently;[32] again it says, And the judges shall inquire diligently.[33]

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(1) The witnesses, in a capital charge, after admonition. Other versions read 'him', i.e., the witness, since the witnesses were separately examined.

(2) Of the Jubilee, was the murder committed?

(3) Of the week. This latter inquiry is necessary because witnesses who might come to refute their evidence, might not remember the date while knowing on what day of the week it took place. (Rashi).

(4) Rashi, the murderer; Maim. and others: the accused: R. Hananel: the murderer and the accused.

(5) That murder is forbidden on pain of death? These two questions, according to Maimonides (Yad 'Eduth, I, 4-5) belong to the specific category of דרישות (inquiry) which is on the one hand treated like בדיקות (investigation) in that the evidence is invalid if one of the witnesses cannot answer them; and on the other like בדיקות, (cross-examination) in this respect that the witnesses are not amenable to the law of retaliation in case of refutation.

(6) I.e , which idol?

(7) Lit., 'with what?'

(8) Cf. infra 41a.

(9) Of the tree under which a murder was alleged to have been committed.

(10) HAKIROTH refers to the questions on date, hour and place: BEDIKOTH to cross examination on the accompanying circumstances.

(11) I.e., that of both witnesses.

(12) I.e., one knew that the previous month had consisted of thirty days whilst the other thought that it had consisted only of twenty-nine days provided they agree as to the day of the week. Cf. Kesef Mishneh, on Yad'Eduth II, 4, and Tosaf. 41b s.v. אחד.

(13) The length of the day was counted from sunrise to sunset, and having regard to the variation of that period, an hour lasted anywhere between 49 and 71 minutes.

(14) For people are liable to error in matters of the exact time in the hour.

(15) An error in two hours is improbable.

(16) Mishnah supra pp. 175-6.

(17) V. supra 32b.

(18) Cf. supra 34a. Witnesses after having given their testimony, are not allowed to make any further statements, even for acquittal, as they might do so with a view to avoiding any possible charge of collusion arising out of their first evidence.

(19) The judges. It follows that the judges sat on raised seats faced by the disciples. V. supra p. 230, n. 10.

(20) Cf. supra 32a, and note.

(21) During the adjournment, to discuss the matter.

(22) Another precautionary measure in capital cases

(23) [V. Yad Ramah.]
(24) Cf. supra 36b.
(25) Lit., 'they stand to vote.'
(26) So that there is no majority of two for conviction. cf. supra 2a.
(27) The member who is doubtful is regarded as non-existent (cf. supra 17a), whilst capital cases may not be tried by less than twenty-three.
(28) If there is a division of opinion amongst the newly co-opted members.
(29) When the court has been increased to the extreme limit.
(30) The seven questions of time and place.
(31) Deut. XIII, 15. In reference to a condemned city. The three expressions for investigation indicate three questions. It should be observed, however, that the Talmud does not regard the word 'ask' by itself as teaching that a formal question must be put to the witnesses but that here it is coupled with 'diligently'.
(32) Ibid. XVII, 4, in connection with the trial of an idolater. The words thou shalt inquire denote one question, and the emphasis, diligently, a second.
(33) Ibid. XIX, 18, with reference to witnesses proved Zomemim (v. Glos). Here also two questions are implied. Hence seven questions in all are necessary.

Talmud - Mas. Sanhedrin 40b

But perhaps we should say that each case is as written,[1] for if it be so,[2] the Divine Law should have stated them in a single case?[3] — Since all [seven] are severally prescribed,[4] [the requirements of] each is inferred from the other,[5] and that being so, it is as though all [seven] were written with reference to each. But surely they [the cases in question] are not similar to each other![6] (Mnemonic: Spared, Sword, Warning.) Thus: The condemned city is unlike the other two,[7] for their possessions [the condemned's, in the latter two charges,] are spared.[8] Again, idolatry differs from the other two cases, for in them [execution is] by the sword.[9] Again, witnesses proved Zomemim are unlike the other two cases, since they require a formal warning?[10] — We infer it[11] from the identical use of 'diligently'[12] and the gezerah-shawah[13] is free,[14] for otherwise, it [the deduction] could be refuted.[15] And it is truly free: since Scripture could have read,[16] And they shall inquire and they shall search,[17] and yet changes its expression [by employing the word] 'diligently',[18] it follows that the purpose thereof was to leave it free.[19] But it [the analogy] is free only on one side![20] [For] granted that it is free in these two cases,[21] since [another expression] could have been used:[22] in the case of the condemned city,[23] what else could have been written:[24] for are not all [three][25] employed?[26] — There too it [sc. 'diligently'] is truly free, for Scripture could have read, Inquiring thou shalt inquire,[27] or searching thou shalt search;[28] and varies the idiom by the use of 'diligently'; it may therefore be inferred that this was in order to leave it free.[29]

Now,[30] we infer [the same requirement for charges punishable by] strangulation a minori from cases punishable by stoning or decapitation.[31] Again, the same is deduced for cases of burning a minori from those of stoning.[32] This [however] is right on the view of the Rabbis that stoning is severer [than burning]. But what is to be said on the view of R. Simeon that burning is the severer?[33] — Rab Judah therefore said: [Scripture states,] Behold if it be truth and the thing certain,[34] [and again] Behold if it be truth and the thing certain:[35] this gives eleven [expressions implying inquiry].[36] Seven [are employed] to indicate the seven queries: then subtracting the three needed for the gezerah shawah,[37] one still remains, whose purpose according to R. Simeon, is to include the cases of burning,[38] whereas according to the Rabbis,[39] [the necessary explanation is that] Scripture [sometimes] takes the trouble of stating a fact which can be deduced a minori. R. Abbahu ridiculed this [explanation]: Perhaps it [the eleventh expression] indicates an eighth query![40] But are eight queries [hakiroth] conceivable?[41] Why not? Surely, What part of the hour, may be added [as the eighth question]! And indeed, it has been taught even so: 'They examined him with eight queries.' Now, that is correct[42] according to Abaye on R. Meir's ruling, viz., A man is [to be treated as] not liable to make even the slightest error.[43] And even according to the version which states, A man is liable to make a slight error: it is also right.[44] But according to Abaye on R. Judah's ruling, viz., A man is liable to err to the extent of half an hour, and according to Raba, who said, People are liable to err to even a greater extent, what can you say? — Well then, [the eleventh expression] may be intended to add, ‘Which year of the Jubilee’ as a query. But that is identical with: ‘In what septennate?’! — Rather this is the additional question: ‘In what Jubilee? And the other Tanna? —[45] Since he [the witness] tells us in which septennate, it is necessary to ask: ‘In which Jubilee?’[46] R. JOSE SAID etc. it has been taught: R. Jose said to the Sages: According to your view, one who comes and testifies, ‘He killed him last night,’ must be asked: ‘In which septennate? In what year? In what month? On what day of the month?’ They retorted: And according to your view, one who comes and declares, ‘He killed him just now,’ is to be asked: ‘On what day? At what hour? And where?’ But [you too must answer that] even though the questions may be unnecessary, they are put to them [the witnesses], in accordance with the view of R. Simeon b. Eleazar;[47] so here too,[48] even if they are unnecessary, they are put to them [the witnesses], in accordance with R. Simeon b. Eleazar's view. And R. Jose?[49] — ‘He killed him last night,’ is a frequent testimony; whereas, ‘He has killed him just now,’ is rare.[50]

DID YE KNOW HIM? Our Rabbis taught: [The following questions are asked]: Do ye know him? Did he kill a heathen? Did he kill an Israelite? Did ye warn him? Did he accept your warning?[51] Did he admit his liability to death?[52] Did he commit the murder within the time needed for an utterance?[53] Where he committed idolatry, [the witness is asked:] Which [idol] did he worship? Did he worship Peor?[54] Did he worship Merkolis?[55] How did he worship? By sacrifice, offering incense, libations, or prostration? ‘Ulla said: Where is the need of warning intimated in the Torah? — In the verse, And if a man shall take his sister, his father's daughter, or his mother's daughter, and see her nakedness.[56] Does guilt then depend upon [mere] seeing? Hence it must mean [that he is liable to punishment] only if he ‘sees’ the reasonableness thereof.[57] And since this is inapplicable to Kareth,[58]

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(1) I.e., three questions are to be put to the case of the condemned city; two in a charge of idolatry, and two for Zomemim.

(2) That seven are necessary in each individual charge.

(3) Whence the procedure for all other capital charges would follow.

(4) I.e., in the three charges taken together. [Our text is difficult. Yad Ramah reads וכולהו לחקירה קאתו ‘Since all have been prescribed for the purpose of enquiry’].

(5) I.e., since close examination is stated in the case of each, the three charges are assimilated to each other, and therefore the questions that are to be put in one case are to be put in the others too (Rashi)

(6) How then assimilate the three charges to each other?

(7) That of the idolater and the Zomemim.

(8) This act of leniency may indicate a greater degree of leniency in general, therefore a more rigid inquiry might be necessary, this too being in favour of the accused; but in the case of the condemned city, where the possessions of the condemned are destroyed, the inquiries might be less exacting, since the general tendency there is to greater severity. Hence only the number explicitly stated, as above, may be necessary.

(9) Deut. XIII, 16, with regard to the condemned city. V. also Deut. XIX, 21, where a false charge of murder seems to be referred to, which is punished by decapitation, which is therefore also the punishment of the Zomemim. This is a milder form of death than stoning, the penalty for idolatry. Cf. infra 49b.

(10) I.e., before conviction is possible but in the case of Zomemim, no previous warning is required. V. Keth. 33a and Rashi's interpretation a.l., which is based on the verse. Ye shall do unto him as he had purposed to do unto his brother. Since then the cases are dissimilar, how could the procedure in all capital cases be learnt from one?

(11) That the requirements of each case are transferred to the others

(12) Which is common to all the three verses cited.

(13) V. Glos.

(14) I.e., the words of the text which form the basis of the analogy are pleonastic and not legally essential.

(15) As shown above. It is a principle of exegesis that if the two terms of the analogy are not altogether similar the deduction of the gezerah shawah is not valid. V. also p. 363, n. 3.

(16) With reference to the Zomemim.

(17) Which is the expression used in respect of a condemned city.

(18) I.e., instead of ‘they shall search’, the second question was expressed by ‘diligently’.

(19) I.e., though the main purpose of the verse is to indicate the number of questions to be put, this alteration of expression serves the subsidiary purpose too of intimating that the verse is free, so as to permit an analogy to be drawn.

(20) I.e., the word ‘diligently’ which forms the basis of the analogy is pleonastic only in one of the two terms that are compared, regarding idolatry and Zomemim as one term, and a condemned city as the other. Hence the analogy can be rejected. (This is a matter of dispute on the part of various teachers; v. p. 363, n. 3.)

(21) Sc. idolatry and Zomemim.

(22) E.g., make a search. The modification of the expression therefore denotes a basis for the analogy.

(23) Where there is the expression search.

(24) Instead of ‘diligently’.

(25) I. e., (i) thou shalt inquire; (ii) and make search, (iii) and ask diligently, ‘ask’ by itself being disregarded, as stated on p. 258. n. 4.

(26) Hence ‘diligently’ cannot be regarded as pleonastic and consequently the analogy can be refuted.

(27) דרוש תדרוש.

(28) חקור תחקור The connection of the infinitive with the verb to convey emphasis is a common feature in the Bible. Cf. Ex. XXII, 3: Deut. XV, 10, 14.

(29) Hence it is free on both sides, and so cannot be rejected.

(30) Since the need of the seven questions has been established in cases punishable by stoning or decapitation, viz., idolatry and witnesses proved Zomemim.

(31) Strangulation is regarded as a milder form of death than the former two, hence the seven questions are certainly necessary there. (V. p. 259, n. 2).

(32) Stoning is severer than burning, and decapitation milder.

(33) I.e., how then can we deduce a seven-fold inquiry from cases involving a milder to those involving a severer punishment?

(34) Deut XIII, 15, with reference to the condemned city.

(35) Ibid. XVII, 4, with reference to the idolater.

(36) For ‘if it be truth’ implies that a question is put to ascertain it;likewise,’and (if) the thing (be) certain’ implies another question; hence the two sentences imply another four questions, in addition to the seven.

(37) Sc. concerning the word ‘diligently’ in the cases of idolatry, Zomemim, and the condemned city.

(38) That there too the witnesses must be examined with the seven queries of time and place.

(39) For, as stated above, they declared the need of seven queries in the cases of charges punishable by burning a minori from stoning. What need then of the eleventh expression, which likewise indicates the case of burning? Hence this assumption must be made.

(40) How can it be taken for certain that its purpose is to extend the law of seven queries to charges of burning?

(41) I.e., can one ask a further question through which false witnesses may be declared Zomemim?

(42) I.e., that eight queries are conceivable, each of which may serve the purpose of refuting the witnesses.

(43) In regard to the exact time (Pes. 11b). So that, should the witnesses be refuted over a matter of half an hour, e.g., if they stated that they witnessed a murder at 4:30, and other witnesses testify that they were elsewhere, we do not assume that they might have witnessed the murder at 4 or 5, and erred in half an hour, but declare them Zomemim. Hence a purpose is served by questioning them on the precise part of the hour.

(44) To add another query as regards the precise part of the hour.

(45) Who does not favour an eight-fold inquiry, — what view does he hold?

(46) Since it is highly improbable that evidence would be postponed from one Jubilee to another (Rashi) (Or. one includes the other, v. Yad Ramah]. — It may be observed that owing to the discussion on the possibility or need of eight questions, R. Abbahu's objection remains unanswered, unless it be assumed that R. Simeon who maintains that burning is severer than stoning also agrees with the Tanna of the Mishnah that only seven questions are put.

(47) Cf. supra. 32b. ‘They shall take the witnesses from one place to another in order to confuse them.’

(48) I.e., to defend our view.

(49) How does he maintain his objection, seeing that it may rightly be raised against his own view too?

(50) Therefore R. Jose maintains that the latter possibility may be disregarded.

(51) By saying, e.g., ‘I know that I am warned not to do so.’

(52) By answering you, e.g., ‘Even though I shall be punished by such and such a death, yet I will commit this crime.’

(53) Such as a greeting from a disciple to teacher, e.g., ‘Peace be unto thee, my Master and Teacher’. V. B.K. 73b; Mak. 6a. If the murder was delayed longer, the plea that he forgot the warning might be accepted. (Rashi)

(54) Num. XXV, 1-9. Worshipped by obscene rites. V. infra 60a, and Rashi, on Num. loc. cit., also p. 410, n. 1.

(55) מרקולים, Roman, Mercurius, Greek, Hermes, the patron deity of wayfarers. V. p. 410, n. 2.

(56) Lev. XX, 17.

(57) I.e., if the witnesses previously warn him that his proposed action is forbidden on pain of kareth.

(58) כרת; excision — punishment by Heaven, where no warning is needed, since God knows whether the culprit was aware of the forbidden nature of his action or not.

Talmud - Mas. Sanhedrin 41a

we must refer it to flogging.[1]

The school of Hezekiah taught: And if a man come presumptuously upon his neighbour to slay him with guile;[2] — this implies that they warned him, yet he remained with wilful intent.[3] The school of R. Ishmael taught: And they that found him gathering sticks:[4] that implies that they warned him, yet he continued gathering. The school of Rabbi taught: Because [lit., ‘for the word that’] he hath humbled [his neighbour's wife’][5] , teaching, [it is] by reason of ‘the word’ [that he is stoned].[6] And [these verses] are all necessary: for had the DIvine Law stated [this provision] only in reference to a man's sister, one might have said that it applied only to those liable to flogging, but not to those liable to death,[7] therefore the Divine Law wrote, If a man come presumptuously etc.[8] Again, had this verse only been written, I might have thought that it [sc. a warning) is necessary only for decapitation, which is a milder form of death; but for stoning, which is severer, one might hold that it is not [required]: thus all are necessary. But why need two [intimations][9] in respect of stoning? — According to R. Simeon,[10] to extend [the law of warning] to cases of burning;[11] whilst the Rabbis[12] [answer]: (Scripture [sometimes] takes the trouble of stating a law[13] which can be deduced a minori. But Scripture should have intimated it for stoning [only], and then these other cases[14] could have been inferred from it! — Here too [the same answer must be given]: Scripture [sometimes] takes the trouble of stating a law which can be deduced a miniori.

‘Did he admit his liability to death?’ Whence do we infer this? Raba — others state, Hezekiah — said: Scripture states, Shall he that is to die[15] be put to death;[16] [He is not put to death] unless he [previously] admitted his liability to death.[17]

R. Hanan said: Witnesses against a betrothed damsel[18] who were proved Zomemim, are not executed,[19] since they may plead, We came forward [to testify] only to render her ineligible for her [intended] husband.[20] But they must surely have warned her![21] — This treats of a case where they did not warn her. But if so, how could she be put to death at all?[22] This refers to an educated woman, and is based on the view of R. Jose son of R. Judah. For it has been taught: R. Jose son of R. Judah said: A scholar needs no warning, for warning was instituted only in order to distinguish between wilfulness and unwilfulness.[23] But since they are not executed, how could she be? For this becomes evidence to which the law of Zomem cannot be applied,[24] and such is not admissible![25] — He [R. Hanan] actually meant it thus: Since they are not executed, for they can plead, ‘We came only to make her ineligible for her [intended] husband,’ she too cannot be executed, because it is evidence to which the law of Zomem cannot be applied. Then in the case of an educated woman, who, as we know, is to be executed on the view of R. Jose son of R. Judah, how, is that possible?[26] — If she misconducted herself twice.[27] But they [the witnesses] can still plead, We came only to render her forbidden to her second paramour![28] — [The case in question is one] where the misconduct was repeated with the first adulterer,[29] or one of misconduct with one of her relations.[30]

But why state this only of a ‘betrothed damsel’: surely the same applies to a married woman too! — True: but [the purpose here is to teach that] even in such a case, though she has not yet lived with her husband, they can plead, We came forward only to make her ineligible for her [intended] husband.

R. Hisda said: If one testified that he [the accused] slew him with a sword, and another, that he slew him with a dagger, it [the evidence] is inadmissible.[31] If one says, His clothes were black, and the other, His clothes were white; the evidence is admissible.[32]

An objection is raised: ‘Certain’[33] implies that the evidence must be certain; if one witness says, He slew him with a sword, and the other says, With a dagger; or if one says, His clothes were black, and the other, They were white, the evidence is not ‘certain’?[34] — R. Hisda interpreted this as referring to the [colour of] the cloth with which he strangled him, which comes under the same category as sword or dagger.

Come and hear! If the one says that his sandals were black, and the other, that they were white, the evidence is not certain’![35] — There too the meaning is, that he kicked him with his sandal and killed him.[36]

Come and hear! IT ONCE HAPPENED THAT BEN ZAKKAI CROSS-EXAMINED [THE WITNESSES] AS TO THE STALKS OF THE FIGS. — Rami b. Hama replied: The meaning is, that a man cut off a fig on the Sabbath, for which he was to be put to death.[37] But has it not been taught: They said to him, ‘He killed him beneath a fig-tree’? — But, said Rami b. Hama: It was a case where he [the accused] pierced his victim with the sharp end of a fig branch.

Come and hear! He questioned [the witnesses]: Were the stalks of this fig tree thin or thick? And were the figs [themselves] black or white?[38] But, answered R. Joseph: Would one raise an objection from Ben Zakkai! Ben Zakkai had a different view, since he assimilated bedikoth to hakiroth.[39] Now, who was this Ben Zakkai? Shall we say, R. Johanan b. Zakkai? Was he then [a member] of the Sanhedrin?[40] Has it not been taught:[41] The whole lifetime of R. Johanan b. Zakkai was a hundred and twenty years. Forty years he engaged in business; forty years he studied, and forty years he taught. And it has also been taught: Forty years before the destruction of the Temple, the Sanhedrin were exiled[42] and took up residence in Hanuth.[43] Whereon R. Isaac b. Abudimi said: This is to teach that they did not try cases of Kenas.[44] ‘Cases of Kenas!’ Can you really think so![45] Say rather, They did not try capitol charges.[46] Again we learnt:[47] When the Temple was destroyed, R. Johanan enacted [so and so].[48] But the reference is to some other Ben Zakkai. Reason too supports this: for were R. Johanan b. Zakkai meant, would Rabbi[49] have called him merely Ben Zakkai![50] Yet has it not been taught: It once happened that R. Johanan b. Zakkai examined [witnesses] as to the stalks on the figs?[51] — He must therefore have been a disciple sitting before his Master,[52] when he made this statement the reasoning of which was so acceptable to them [the Rabbis]

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(1) I.e., a warning must be given that he is liable to flagellation.

(2) Ex. XXI, 14.

(3) From the use of the imperfect יזיד, which connotes a continuous present. Murder is punishable by decapitation.

(4) Num. XV, 33; here too, the deduction follows from the use of the present part. (מקושש), i.e ‘he went on gathering sticks after he was found (and warned). This shows the need for warning in the case of stoning

(5) Deut. XXII, 24.

(6) על דבר ‘By reason of the word’ — sc. of warning.

(7) For one might think that owing to the severity of the crime people would themselves realise the consequences and so not need warning.

(8) So indicating the need of warning in a case punishable by death.

(9) One in connection with the ‘gatherer of sticks’, and the other regarding the ‘betrothed damsel’.

(10) Who holds that burning is a severer death; consequently, the warning here cannot be deduced from the reference to stoning, since it might be thought that in the case of a severer punishment, warning is not required.

(11) R. Simeon bases this on the hermeneutical אם אינו ענין i.e if it has no hearing on cases of stoning, it must refer to cases of burning.

(12) Who hold that stoning is a severer death, so that warning for burning follows therefrom a fortiori.

(13) Here, not explicitly, but by the same principle of אם אינו ענין.

(14) Sc. lashes and decapitation.

(15) Lit., 'the dead.'

(16) Deut. XVII, 6.

(17) This is deduced from the expression, המת, the dead, instead of 'murderer'. In accepting the warning then, he is regarded as dead de jure, even before appearing in court, since the warning involves the consequences of the evil deed.

(18) Who have testified to her infidelity. Had the charge been proved, she would have been executed.

(19) Despite the fact that collusive witnesses are punished according to the law of retaliation.

(20) For if the charge were proved,even if for some reason she were not executed, she would be forbidden to her husband!

(21) That the consequence of her act was death. How then could this argument for the defence be raised

(22) And in that case the witnesses too are not liable, since it is written, And ye shall do unto him as he thought (plotted) to do unto his brother (Deut. XIX, 19), i.e., they are punished only as the accused would have been punished.

(23) If the murderer was not warned he could plead ignorance of the death penalty. A scholar could not raise such a point in his defence. Hence this woman would have been liable to death, and in consequence, the false witnesses too, but for the plea stated above.

(24) I.e., even if their evidence is proved to be false, the law of retaliation cannot operate, because of their possible defence that they intended only to make her ineligible for her intended husband, and not to bring the death penalty upon her.

(25) Lit., 'is not called testimony.' For unless there is this deterrent to false testimony, it is suspect ab initio.

(26) Since the witnesses themselves, if proved Zomemim, are not executed.

(27) And so the witnesses in the second charge can no longer plead that their intention was only to prohibit her to her husband, since she is already forbidden.

(28) An unfaithful woman is forbidden not only to her husband, but also to the adulterer, if he afterwards wishes to marry her. V. Sotah 26b.

(29) To whom she is already prohibited in consequence of their earlier relations.

(30) Whom she is absolutely forbidden to marry at all.

(31) Lit., 'not certain', quoted from: Behold if it be truth and the thing certain (Deut. XIII, 15. XVII, 4.), v. supra 30b.

(32) Contradictory statements made during cross examination are of sufficient importance to be invalidated only when they refer to the act itself.

(33) Deut. XIII, 15: XVII, 4. V p. 265, n. 9.

(34) Hence inadmissible. I.e the evidence must tally, even in respect of matters which have no direct bearing on the act.

(35) Although there is here no actual contradiction in matters directly involving the act.

(36) The sandals being the actual weapons, the question of colour is on a par with the question of sword or dagger.

(37) Hence the species of fig is of direct importance for the veracity of the witnesses.

(38) I.e., ripe or unripe. Now surely, he could not have killed anyone with the figs. This proves that the meaning is that the witnesses deposed that the accused had killed his victim under or near a fig-tree, and thus this again refutes R. Hisda.

(39) And maintained that just as contradictions on the latter invalidated the evidence, so on the former. The general view, however, disagrees with this, and R. Hisda's dictum was likewise in accordance with the general view.

(40) At the time when they still had power to try capital cases.

(41) Cf. R. H. 31b.

(42) From the Hall of Hewn Stones. V. infra p. 205, n. 5.

(43) חנות A place on the Temple Mount outside the hewn chamber where they had temporary residence. (Derenbourg, Essai, p. 467, and Krauss, REJ, LXIII, 66f., identify it with the 'Chamber of the sons of Hanan' (a powerful priestly family, cf. Jer. XXXV, 4) mentioned in J. Pe'ah I, 5.]

(44) V. Glos.

(45) That these, like capital charges, could be tried only in the chief seat of the Sanhedrin — the Hall of Hewn Stones!

These cases could, in fact, be tried anywhere in Palestine.

(46) V. A.Z. 8b on Deut. XVII, 10: And thou shalt do according to the tenor of the sentence which they shall declare unto thee, from that place; this implies that it is the place that conditions the authority of the Sanhedrin in respect of the death sentence. [J. Sanh. I, 1 has, ‘the right to try capital cases was taken away from them, i.e., by the Romans. For a full discussion of the subject v. Juster. op. cit, II, 138ff.]

(47) R. H. 29b.

(48) Hence the last period of R. Johanan's career was after the destruction of the Temple, when the Sanhedrin no longer tried capital cases.

(49) In the Mishnah.

(50) Depriving him of the title given at ordination.

(51) I.e., it must be the same person.

(52) At a time when capital cases were yet tried.

Talmud - Mas. Sanhedrin 41b

that they established it in his name. Thus while he was yet a student he was called Ben Zakkai, as is customary for a disciple sitting before his master, and when later he was a teacher,[1] he was called Rabban Johanan b. Zakkai. Hence, when he is referred to as Ben Zakkai,[2] it is in accordance with his earlier status;[3] while when he is called R. Johanan b. Zakkai, it is in accordance with his status at the time [that the Baraitha was taught].

IT ONCE HAPPENED THAT ETC. . . WHAT IS THE DIFFERENCE BETWEEN HAKIROTH AND BEDIKOTH.? etc. What does ‘EVEN[4] IF BOTH SAY etc. mean? It is surely obvious that if when one of the two witnesses says, ‘I do not know,’ their evidence is valid, if two say so, their testimony is likewise valid?[5] — R. Shesheth said: This refers to the first clause [of the Mishnah][6] and its meaning is as follows: In hakiroth, even if two say, ‘We know,’ and one is in doubt, their evidence is invalid. With whom does this agree? — With R. Akiba, who treated three [witnesses] as equal to two.[7] Raba demurred: Surely the Mishnah states: THEIR EVIDENCE IS VALID![8] — But, said Raba, it means this: Even in hakiroth, if two say, ‘We know,’ and the third says, ‘I do not know,’ their evidence is valid. With whom does this agree? — Not with R. Akiba.

R. Kahana and R. Safra were studying [the Tractate] Sanhedrin in the school of Rabbah. When Rami b. Hama met them, he asked them: What have ye to say on the Tractate Sanhedrin as taught in the school of Rabbah?[9] They retorted: And what in particular are we to say of the Tractate itself?[10] What is your special difficulty? — He answered: [The difficulty arises] from what is stated: WHAT IS THE DIFFERENCE BETWEEN HAKIROTH AND BEDIKOTH? IN HAKIROTH, IF ONE [OF THE WITNESSES] ANSWERS, ‘I DO NOT KNOW,’ THEIR EVIDENCE IS VOID. WITH RESPECT TO BEDIKOTH, HOWEVER, IF ONE ANSWERS, I DO NOT KNOW,’ OR EVEN IF BOTH SAY, ‘WE DO NOT KNOW THEIR EVIDENCE IS VALID. Now consider: both are Biblically [required]:[11] why then should hakiroth differ from bedikoth? — They said to him: How compare them?[12] As for hakiroth, if one of the witnesses says, , ‘I do not know’, the evidence is invalid because it cannot be refuted;[13] but with respect to bedikoth, if one of them answers, ‘I do not know’, the evidence remains valid, since it is still subject to refutation. Thereupon he said to them: If that is what you have to say, you have much to say thereon. But they replied: only because of your great forbearance have we said so much; had you criticized us, we should not have said anything.[14]

IF ONE TESTIFIES . . . [FOR ONE MAY HAVE BEEN AWARE OF THE INTERCALATION OF THE MONTH etc.] Till what date?[15] — R. Aha b.Hanina said in the name of R. Assi in the name of R. Johanan: Until the greater part of the month [has passed].[16] Raba said: We too learnt likewise’ IF HOWEVER, ONE SAID, ‘ON THE THIRD , AND THE OTHER, ‘ON THE FIFTH, THEIR EVIDENCE IS INVALID. But why so? Why not assume that the one may have known of two intercalations,[17] whilst the other was ignorant of both! Hence it must surely be so because, when the greater part of the month has passed, one knows thereof [sc. intercalation]! — [No.] In truth I might argue that even after the passing of the greater part of the month, one does not necessarily know [of the intercalation],[18] yet he must have known of the Shofar-signal:[19] , we may then say that he may have erred regarding one signal,[20] but not regarding two.[21]

R. Hanina also said in the name of R. Assi in R. Johanan's name: Until what day of the month may the benediction over the new moon be recited?[22] — Until its concavity is filled up. And how long is that? — R. Jacob b. Idi said In Rab Judah's name: Seven days. The Nehardeans said: Sixteen [days].

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(1) I.e., after ordination.

(2) In the Mishnah.

(3) Which is chronologically correct.

(4) The word ‘even’ gives the impression that when both witnesses are dubious, the evidence is less likely to be valid than when only one is in doubt.

(5) For if one is ignorant on a certain point, the other's knowledge thereof is valueless. Hence whatever evidence is valid when one is ignorant, is also valid when both are ignorant.

(6) Which deals with HAKIROTH.

(7) Just as when there are only two witnesses, if one of them is disqualified, the whole evidence falls to the ground, so when there are three. V. Tosaf. and cf. Mak. 5b.

(8) How then interpret it of a case where the evidence is invalid?

(9) Seeing that you have studied under such a great man, you must surely have discovered many new points.

(10) I.e., even if we had not studied with Rabbah, was there really any difficulty to be found there? (Rashi). [Yad Ramah adds: ‘as generally taught’ (lit., ‘as all the world teaches’)?

(11) V. supra 40b, 41a.

(12) Lit., ‘How so, now!’

(13) Be proving that the witnesses were elsewhere at the said time. Hence, if one is in doubt regarding the place or time, such refutation is impossible. — It should be observed that only refutation of time and place is meant in the whole discussion, since that is the only form of refutation which renders the witnesses liable to the law of retaliation.

(14) I.e., had you criticized our arguments we should not have been able to resist yours!

(15) I.e., until what day of the month may ignorance of the defectiveness or fullness of the last month be assumed in explanation of the discrepancy between two witnesses?

(16) After that, contradiction as to date invalidates the evidence. The greater part of the month means one day beyond half way.

(17) Either consecutively or alternately.

(18) And so the question from the Mishnah is not corroborative.

(19) Blown at the proclamation of the new moon, be the month full or defective.

(20) I.e., though knowing that the Shofar had been sounded, he may have erred once as to the day on which it was sounded.

(21) Hence the invalidity of the evidence where there is a difference of two days.

(22) A benediction is recited at each re-appearance of the new moon just as on the re-appearance of everything that is beneficial to mankind. V. J. Ber. IX, 2. ‘He who sees the moon in her stage of renovation, utters: Blessed etc.’

Talmud - Mas. Sanhedrin 42a

Now, both agree with R. Johanan,[1] but the one [explains it as meaning]: Until it is like a strung bow;[2] the other: Until it is like a sieve.[3]

R. Aha of Difti[4] said to Rabina:[5] Yet should not one utter the benediction,[6] ‘Blessed . . . who art good and dispensest good’![7] — He replied: But when it is waning, do we say, ‘Blessed be the true judge.’ ‘[8] that we should say: ‘Blessed . . . who art good and dispensest good?’[9] But why should not both be recited?[10] Since it is a regular phenomenon, no benediction at all is required.[11]

R. Aha b. Hanina also said in the name of R. Assi in R. Johanan's name: Whoever pronounces the benediction over the new moon in its due time welcomes, as it were, the presence of the Shechinah: for one passage states, This month;[12] whilst elsewhere it is said, This is my God, and I will giorify Him.[13]

In the school of Rabbi Ishmael it was taught: Had Israel inherited no other privilege[14] than to greet the presence of their Heavenly Father once a month,[15] it were sufficient. Abaye said: Therefore[16] we must recite it standing. But Meremar and Mar Zutra allowed themselves to be carried on the shoulders[17] when they pronounced the blessing.

R. Aha said to R. Ashi: In 'the West,' they pronounce the following benediction: 'Blessed be He who reneweth the moons.' Whereupon he retorted: Such a blessing even our women folk pronounce![18] But [one should rather use the following], in accordance with Rab Judah, who gives it thus: Praised etc.[19] who created the Heavens with His word, and all their hosts with the breath of His mouth. He appointed unto them fixed laws and times, that they should not change their ordinance. They rejoice and are glad to do the will of their Creator. They work[20] truthfully, for their action is truth. The moon He ordered that she should renew herself as a crown of beauty for those whom He sustains from the womb,[21] and who will, like it, be renewed in the future, and magnify their Maker in the name of the glory of His kingdom. Blessed art Thou, O Lord, who renewest the moons.

For with wise advice[22] thou shalt make thy war.[23] R. Aha b. Hanina [further] said in the name of R. Assi in R. Johanan's name: In whom do you find [skill to conquer in] the battle of the Torah?[24] — Only in him who possesses bundles of Mishnah [teaching].[25]

R. Joseph applied to himself [the verse]: Much increase [of grain] is by the strength of the ox.[26]

SIMILARLY, IF ONE TESTIFIED, 'DURING THE SECOND HOUR' etc. R. Shimi b. Ash said: They taught this only of hours.[27] But if one testifies, 'It was before sunrise,' and the other says, 'After sunrise, their evidence is invalid.[28] This is obvious[29] — But [put it thus:] if one testifies, 'Before sunrise,' and the other, 'During sunrise.'[30] But this too is obvious! I might, however, think that he [the witness] was standing in the glow [before sunrise] and what he saw was but a gleam:[31] He therefore informs us otherwise.

AFTER THIS, THE SECOND WITNESS IS ADMITTED etc. [AND HE DOES NOT DESCEND FROM THERE ALL THAT DAY.] Only THAT DAY,[32] and no longer? But has it not been taught: 'If there is substance in his statement, he does not go down from there at all;[33] but if there is no substance therein, he does not descend thence all that day, that his rise be not his fall'?[34] — Abaye said: Interpret it [sc. the Mishnah] as applying [to a case] where no substance was found in his statement.

IF THEY FIND HIM NOT GUILTY etc. [AND DRINK NO WINE]. Why drink no wine? — R. Aha b. Hanina said: Scripture states, It is not for princes[35] to say, Where is strong drink?[36] [i.e.,] those who are engaged in [unravelling] the secrets of the world[37] must not become drunk.

THE TWO SIDES DEBATE THE CASE TOGETHER UNTIL ONE OF THOSE WHO CONDEMN AGREES WITH etc. But what if they do not agree? R. Aha ruled: He is discharged. R. Johanan said likewise: He is discharged. R. Papa said to Abaye: Then he should be set free in the first place![38] He answered: Thus did R. Johanan say: It is in order that they may not leave the Court in confusion.[39] Some say that R. Papa said to Abaye: Why add, Let him be discharged by the first court?[40] To which he replied: R. Jose is in agreement with you. For it has been taught: R. Jose said: Just as a court of seventy-one is not increased, so may a court of twenty-three not be increased.

Our Rabbis taught: In civil suits, a declaration is made, The judgement nizdakan;[41] but not in capital charges.[42] What does nizdakan mean? Shall we say, The case is difficult:[43] surely, the reverse should have been taught![44] R. Huna b. Manoah said in the name of R. Aha the son of R. Ika: We should reverse (the instances). R. Ashi said: In truth, you need not reverse it: what is meant by ‘The judgment nizdakan’? — The case is wisely [established].[45]

An objection is raised: The presiding judge declares, ‘The judgment nizdakan.’ Now, should you agree that it means, ‘The case is wisely established,’ it is correct, hence the presiding judge makes the declaration. But if you maintain that it means, The case is difficult;’ is it not better that the presiding judge should not say it? Surely in doing so he actually disgraces himself! — There is no comparison between declaring one's own disgrace and having another declare it.[46] Others state: Should you agree that it means, The case is difficult,’ it is correct, for there is no comparison between declaring ones own disgrace and having another declare it. But if you maintain that it means, ‘The case is wisely established:’ does not the president [of the court] thereby praise himself? Whereas it is written, Let another praise thee and not thine own mouth?[47] — It is different in judicial matters, since the president is charged with the duty,[48] as we learnt: When a decision has been arrived at, they are admitted, and the presiding judge declares, ‘So and so, thou art not liable,’ or, ‘So and so, thou art liable.’[49] [

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(1) That the recital of the benediction is conditioned by the filling up of the moon's concavity.

(2) I.e., semicircular, which shape it assumes after seven days.

(3) I.e., round, at full moon.

(4) [Dibtha on the Tigris. (Obermeyer op. cit. p. 197)].

(5) With reference to Rab Judah's view.

(6) After seven days and until full moon.

(7) This benediction is made on the attainment of a thing over which its due blessing has already been pronounced, but which has now either been improved or been replaced by a thing of the same kind but of a better quality (v. Ber. 59b). And so R. Aba maintained that even if in Rab Judah's opinion the usual benediction for the new moon is not to be uttered after seven days because it is then no longer new, yet since it is still in its growing stage, becoming more luminous as the days pass until full moon is reached, this latter blessing should be uttered.

(8) A benediction recited on hearing bad tidings. Cf. Ber. 54a.

(9) When it is waxing. I.e., since its waning is not regarded as a loss, entailing this benediction, its waxing is not a gain, necessitating the other.

(10) On the respective occasions.

(11) For its waxing is no particular boon from God, nor its waning an infliction, which are the fundamental reasons of these benedictions.

(12) Ex. XII, 2, concerning the New Moon.

(13) Ex. XV, 2, in the Song of Moses. ‘This’ is taken as connoting something that could, as it were, be pointed at with the finger (v. Mekilta. Ex. XV, 2), and the use of this word in the two verses suggests that he, who praises God at the periodical renewal of the moon, gives witness to the revelation of Divine Glory as manifested in natural phenomena.

(14) זכות; v. p. 153. n. 2.

(15) I.e., if they practised no other observance but this — the benediction over the new moon.

(16) Because it is a greeting of God's Presence.

(17) Probably because of their infirmity through age. Cf. supra 7b, and Rashi's comment

(18) As if to say, ‘There is nothing in that.’ Such a short benediction is fit only for the uneducated. e.g., women (Maharsha).

(19) The ‘etc.’ (curr. edd. in brackets) stands for ‘art thou, O Lord our God. . .’

(20) Tosaf.’s reading:’ ‘He works’, referring to God.

(21) I.e., from childhood, viz., Israel, cf. Isa. XLVI, 3.

(22) תחבולות.

(23) Prov. XXIV, 6.

(24) I.e., who is qualified to meet the difficulties of the Torah, and give a true interpretation?

(25) I.e., he who is fully conversant with the law; according to Rashi, the point is that mere dialectic skill and ingenuity are no substitutes for a sound knowledge of the sources. חבילה, bundle, is a word play on חבולות.
(26) Prov. XIV, 4. V. Deut. XXXIII, 17, where Joseph is symbolically compared to a bullock; also Hor. 14a: R. Joseph was renowned for his erudition, being known as Sinai. Hence his application of the above verse to himself.
(27) I.e., if the witnesses state a definite time, e.g., three hours, four hours. etc. Only then is there a dispute in the Mishnah as to the margin of possible error.
(28) Even according to R. Judah.
(29) As there could be no error in such a matter.
(30) Their evidence is null.
(31) Mistaking it for the rays of sunrise; thus their statements tally.
(32) Does the disciple remain seated with the Judges.
(33) I.e., he becomes a member of the Court. V. Yad, Sanh. X, 8, although according to Tosafoth Yom Tob on Sanh. V, 4, he is not given a (for note 9 see p. 274) vote. Me'iri, however, maintains that he is seated with them only as long as the trial lasts.
(34) If he had to resume his seat in the presence of the Assembly, he would be disgraced.
(35) רוזנים, here connected with רז, secret. V. Dan. II, 18, 29.
(36) Prov. XXXI, 4.
(37) I.e., seeking to bring to light the secrets hidden in men's hearts, and so endeavouring to establish the truth — in a capital charge.
(38) I.e., after the court was increased to seventy-one and there was yet no clear majority. Why then delay by debating, surely the court as a whole must not seek to convict?
(39) I.e., without a definite decision. It reflects discredit on a court that it should rise in a state of controversy, having been unable to bring the matter to a definite conclusion (Rashi).
(40) Of twenty-three. If there was then no clear majority, both sides should have endeavoured to win one more vote over to their opinion, and in the case of failure, he should have been set free there and then.
(41) נזדקן, from the root זקן, may have a twofold meaning; a) old, in that the case has become old in discussion and could not be solved; or b) wise, in that the case has become clear, or wisely established, and is no longer in need of discussion. The following discussion is based on these two alternative meanings.
(42) Cf. Tosef. Sanh. VII.
(43) Lit., ‘old’, I.e., the case is become old and stale through prolonged discussion, and cannot be solved.
(44) I.e., in capital cases one should all the more say, ‘The judgment nizdakan,’ so as to acquit the accused.
(45) זקן according to the Rabbis, denotes ‘wise’ Cf. Kid. 32b.
(46) Which would be the position if the words were pronounced by another member of the court.
(47) Prov. XXVII, 2.
(48) Of declaring the verdict.
(49) Supra 29a.

Talmud - Mas. Sanhedrin 42b

CHAPTER VI

MISHNAH. WHEN THE TRIAL IS ENDED,[1] HE [THE CONDEMNED] IS LED FORTH TO BE STONED.[2] THE PLACE OF STONING WAS WITHOUT THE COURT, EVEN AS IT IS WRITTEN, BRING FORTH HIM THAT HATH CURSED.[3]

A MAN WAS STATIONED AT THE DOOR OF THE COURT WITH THE SIGNALLING FLAG[4] IN HIS HAND, AND A HORSE-MAN WAS STATIONED AT THE DISTANCE YET WITHIN SIGHT OF HIM,[5] AND THEN IF ONE[6] SAYS, ‘I HAVE SOMETHING [FURTHER] TO STATE IN HIS FAVOUR’, HE [THE SIGNALLER] WAVES THE FLAG, AND THE HORSE-MAN RUNS AND STOPS THEM.[7] AND EVEN IF HE HIMSELF SAYS, ‘I HAVE SOMETHING TO PLEAD IN MY OWN FAVOUR’, HE IS BROUGHT BACK, EVEN FOUR OR FIVE TIMES, PROVIDING, HOWEVER, THAT THERE IS SUBSTANCE IN HIS ASSERTION.

GEMARA. And was the place of stoning only just outside the court and no further? Has it not been taught: The place of stoning was outside the three encampments?[8] — True, it is even as you say, yet he teaches it thus, so that one may infer from it that if the Beth din went forth[9] and stationed itself outside the three encampments,[10] even so the place of stoning had to be without the court, in order that it [the court] should not appear murderously inclined, or that there might be a possibility of deliverance.[11]

Whence is this inferred?[12] From what our Rabbis taught: Bring forth him that hath cursed without the camp:[13] i.e., without the three camps. You say, 'without the three camps:' but may it not mean simply outside one camp? — It is here stated, Without the camp; and in reference to the bulls that were [wholly] burned,[14] it is also said, without the camp:[15] Just as there, [it means] without the three camps, so here too. And whence is that derived there? — From what our Rabbis taught: The whole bullock shall he carry away without the camp[16] — i.e., without the three camps. You say, 'without the three camps;' but perhaps it simply means 'without one camp'?[17] — But when Scripture states further, with reference to the bull offered for the Community,[18] without the camp, which is unnecessary, for it has already been stated, And he shall burn it as he hath burned the first bullock,[19] its purpose is to add a second camp.[20] And when Scripture states further, with reference to the ashes,[21] without the camp,[22] which is also superfluous, since it has already been said, Where the ashes are poured out shall it be burned,[23] its purpose must be to add a third camp.[24]

But why not derive it[25] from the sacrifices slaughtered without [the legitimate precincts]?[26] Just as there, [the meaning is] without one camp,[27] so here too, without one camp is meant! — It is logical to make the deduction from the bullocks that were [wholly] burned, since they have the following points in common: [i] Bring forth... without the camp; [ii] [the bringing forth] is a necessary preliminary [to the act]; [iii] atonement.[28] On the contrary, it should rather be deduced from the sacrifices slaughtered without, since they have the following in common; [i] human being; [ii] sinners; [iii] life is taken; and [iv] piggul?[29] — It is preferable to deduce one necessary preliminary from another. R. Papa said:[30] Where did Moses reside? In the camp of the Levites.[31] And God said to him: Bring forth him that hath cursed without the camp[32] — which therefore means, without the camp of the Levites. Hence, when it states, And they brought forth him that had cursed outside the camp, the camp of the Israelites [must be meant].[33] But surely, that is necessary to intimate the fulfilment [of the command]? — This fulfilment is expressly stated:

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(1) And the accused is found guilty.

(2) If he be so sentenced. Stoning is given here as an example, it being enumerated first in the list of the four modes of execution in Jewish law. Cf. infra 49b.

(3) 'Bring forth' implies 'without,' as is also shewn by the end of the sentence: without the camp. Lev. XXIV, 14.

(4) Sudarium, a cloth or kerchief.

(5) The signal man.

(6) Of the judges (Rashi).

(7) From carrying out the sentence until the court has gone into the details to see whether there is any substance in the new statement offered.

(8) That of the Divine Presence and the Priests, that of the Levites, and that of the rest of the Israelites. In Jerusalem they were situated as follows: The first was confined to the space of the Temple court, the second to the Temple Mount and the third occupied the rest of the city.

(9) From its usual locale, as stated in the previous note.

(10) I.e., one of the minor Sanhedrins.

(11) Between sentence and execution. The further the place of execution was from the court, therefore, the better for the condemned.

(12) That the execution must take place outside the three camps.

(13) Lev. XXIV, 14, with reference to the blasphemer.

(14) I.e., the sin offering of the anointed priest (Lev. IV, 3, seq.), and of the whole community (ibid. 13 seq.).
(15) Ibid. 12, 21.
(16) Ibid. 12.
(17) I.e., only outside the precincts of the Temple.
(18) In case the whole community committed an unwitting transgression.
(19) Ibid. i.e., the sin offering of the anointed priest, ibid. 3 seq.
(20) Beyond, which the burning is to take place.
(21) Which were heaped up and had to be removed.
(22) Lev. VI, 4.
(23) Lev. IV, 12; this explicitly states that the place for burning the ashes was without the camp. Hence the same statement in the verse first quoted is redundant.
(24) V. n. 12.
(25) Sc. the meaning of ‘without the camp’, Lev. XXIV, 14.
(26) Cf. Lev. XVII, 3ff. What ever man etc. . . . that offereth a burnt offering or sacrifice and bringeth it not unto the entrance of the appointed tent . . . that man shall be cut off from among his people.
(27) As is deduced from the words, bringeth it not unto the entrance of the appointed tent, i.e., the priestly camp, but outside it.
(28) In both these cases there is a positive command, Bring forth, etc. Whereas with references to sacrifices slaughtered outside the forecourt it is only stated, He that slaugthtered it outside the camp. Again, the bringing forth without the camp is a prerequisite for the fitting performance of the act; whereas in the case of sacrifices slaughtered outside the Temple court it is a transgression. Moreover, the burning of the bullock is an atonement for the High Priest and the whole Congregation (cf. Lev. IV, 20), and stoning likewise is an atonement for the malefactor; but that feature is absent in the case of sacrifices slaughtered without.
(29) ‘Without the camp’ in both these places refers to a human being; the blasphemer was to be taken ‘without the camp’, whilst it was a human being who slaughtered ‘without the camp’; whereas, in connection with the burnt bullocks, this phrase relates to animals; they were to be taken ‘without the camp’. Again, the blasphemer and the slaughterer without the camp are both sinners, whereas the bullock, in direct relation to which the phrase is stated, is not a sinner. Further, in both these cases, the leading ‘without the camp’ was in order to take life — that of the blasphemer and the sacrifice yet to be slaughtered; but the burnt bullocks were already slaughtered; and ‘without the camp’ is mentioned in connection with burning their carcases. And finally, the law of piggul is inapplicable to these two. פיגול, unfitness caused by an intention in the mind of the officiating priest to dispose of a sacrifice outside the legal limits of space or time. In both these cases the performance of the act outside does not involve this sin. In stoning it is, of course, not applicable, and sacrificing outside the prescribed area is not piggul, which implies instead a sacrificing outside the precincts but unlawful intentions about the sacrifice's subsequent disposal. Nor is piggul possible in the case of sacrifices slaughtered without. In the case of the bullocks to be wholly burned, an intention to burn them beyond their proper place makes the sacrifice in a sense piggul (v. Rashi). (5) V. n. 3.
(30) In proof that the third camp is meant.
(31) Since he was a Levite.
(32) Lev. XXIV, 14.
(33) It was not necessary to repeat the words, out of the camp; therefore the words here mean something different from their use earlier.

Talmud - Mas. Sanhedrin 43a

And the children of Israel did as the Eternal had commanded Moses.[1] If so,[2] what is the purpose of the sentence, And they stoned him with a stone?[3] — This is needed for what was taught: And they stoned him with a stone,[4] — him,[5] but not his garments. With a stone,[6] — [to teach] that if he was killed by a single stone the commandment is fulfilled.[7] And it was necessary to write [in this instance], ‘stone’, and [in another], ‘stones’.[8] For had the Divine Law written [only] ‘a stone’, I might have said: In case he does not die through one stone, no more are to be brought to kill him. The Divine Law therefore states, ‘stones’. Again, had the Divine Law written ‘stones’ [only], I might have said that at the outset two must be fetched. The Divine Law therefore states, ‘a stone’.[9]

But this Tanna states, ‘Here it is written [etc.],’[10] — He meant, If it were not written, i.e., even if this verse[11] were not found,[12] I could have adduced a gezerah shawah; seeing, however, that this verse is written, a gezerah shawah is not necessary. R. Ashi said; Where did Moses reside? In the camp of the Levites And God said to him: Bring forth him that hath cursed, — i.e., without the camp of the Levites; without the camp, — i.e., outside the camp of the Israelites.[13] And they brought forth him that had cursed,[14] — this stands for the actual fulfilment [of the command]. But the fulfilment is expressly stated: And the children of Israel did as the Eternal had commanded Moses! — That is necessary to indicate that hands were laid [on the culprit][15] and that he was hurled down.[16] Whereupon the Rabbis asked R. Ashi: How, according to you, do you interpret all the expressions; ‘briny forth’, in connection with the bullocks that are [wholly] burned?[17] This is a difficulty.

A MAN WAS STATIONED. R. Huna said: It is obvious to me that the stone with which one is stoned, the gallows on which one is hanged, the sword with which one is decapitated, and the cloth with which one is strangled, are all provided by the Community. And why so? Because we could not tell a man to go and fetch his own property to kill himself. But, asked R. Huna, who provides the flag for signalling and the horse on which one rides to stop them?[18] Seeing that they are for his protection, must they be provided by him, or rather, since the court is bound to endeavour to save him, by them? Again, what of R. Hiyya b. Ashi's dictum in R. Hisda's name; When one is led out to execution, he is given a goblet of wine containing a grain of frankincense, in order to benumb his senses, for it is written, Give strong drink unto him that is ready to perish, and wine unto the bitter in soul.[19] And it has also been taught; The noble women in Jerusalem used to donate and bring it. If these did not donate it, who provided it? As for that, it is certainly logical that it should be provided out of the public [funds]: Since it is written. ‘Give’, [the implication is] of what is theirs.

R. Aha son of R. Huna inquired of R. Shesheth: What if one of the disciples said, ‘I have a statement to make in his favour,’ and there and then becomes speechless?[20] R. Shesheth blew into his hand,[21] and said; [You ask, what] if one becomes speechless! Why there may also be some one in the farthest part of the earth [who could make such a statement]![22] — In the latter case, however, no one has actually said so, but in the former case, such a declaration has been made! [Hence the problem,] What then? — Come and hear! For R. Jose b. Hanina said: If one of the disciples who argued for acquittal died, he is regarded as though alive and in his place.[23] Thus, it is so only if he had actually spoken in favour of acquittal,[24] but not otherwise.[25] [That does not solve it:] where one has actually argued for acquittal, I have no doubts; but the problem arises if he only declared [that he could do so].[26]

AND EVEN IF HE HIMSELF etc. Even the first and second time?[27] But it has been taught: ‘The first and second time, whether his statement has substance or not, he is brought back; thereafter, if there is substance in his statement, he is brought back, but not otherwise’? — Said R. Papa: Interpret it, from the second time[28] onwards. How do they [the judges] know?[29] — Abaye said: Two Rabbis are sent with him; if his statement has substance, he is [brought back]; if not, he is not [brought back]. But why not do so in the first place?[30] — Because being terrified, he cannot say all he wishes.[31]

MISHNAH. IF THEN THEY FIND HIM INNOCENT, THEY DISCHARGE HIM; BUT IF NOT, HE GOES FORTH TO BE STONED, AND A HERALD PRECEDES HIM [CRYING]: SO AND SO, THE SON OF SO AND SO, IS GOING FORTH TO BE STONED BECAUSE HE COMMITTED SUCH AND SUCH AN OFFENCE, AND SO AND SO ARE HIS WITNESSES. WHOEVER KNOWS ANYTHING IN HIS FAVOUR, LET HIM COME AND STATE IT.

GEMARA. Abaye said; It must also be announced: On such and such a day, at such and such and hour, and in such and such a place [the crime was committed], in case there are some who know [to the contrary], so that they can come forward and prove the witnesses Zomemim.[32]

AND A HERALD PRECEDES HIM etc. This implies, only immediately before [the execution], but not previous thereto.[33] [In contradiction to this] it was taught: On the eve of the Passover Yeshu[34] was hanged. For forty days before the execution took place, a herald went forth and cried, ‘He is going forth to be stoned because he has practised sorcery and enticed Israel to apostacy. Any one who can say anything in his favour, let him come forward and plead on his behalf.’ But since nothing was brought forward in his favour he was hanged on the eve of the Passover![35] — ‘Ulla retorted: Do you suppose that he was one for whom a defence could be made? Was he not a Mesith [enticer], concerning whom Scripture says, Neither shalt thou spare, neither shalt thou conceal him?[36] With Yeshu however it was different, for he was connected with the government [or royalty, i.e., influential].

Our Rabbis taught: Yeshu had five disciples, Matthai, Nakai, Nezer, Buni and Todah. When Matthai was brought [before the court] he said to them [the judges], Shall Matthai be executed? Is it not written, Matthai [when] shall I come and appear before God?[37] Thereupon they retorted; Yes, Matthai shall be executed, since it is written, When Matthai [when] shall [he] die and his name perish.[38] When Nakai was brought in he said to them; Shall Nakai be executed? It is not written, Naki [the innocent] and the righteous slay thou not?[39] Yes, was the answer, Nakai shall be executed, since it is written, in secret places does Naki,[40] [the innocent] slay.[41] When Nezer was brought in, he said; Shall Nezer be executed? Is it not written, And Nezer [a twig] shall grow forth out of his roots.[42] Yes, they said, Nezer shall be executed, since it is written, But thou art cast forth away from thy grave like Nezer [an abhorred offshoot].[43] When Buni was brought in, he said: Shall Buni be executed? Is it not written, Beni [my son], my first born?[44] Yes, they said, Buni shall be executed, since it is written, Behold I will slay Bine-ka [thy son] thy first born.[45] And when Todah was brought in, he said to them; Shall Todah be executed? Is it not written, A psalm for Todah [thanksgiving]?[46] Yes, they answered, Todah shall be executed, since it is written, Whoso offereth the sacrifice of Todah [thanksgiving] honoured me.[47]

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(1) Ibid. 23.

(2) That the words, And they brought forth him etc., must be separately interpreted.

(3) Ibid. It is not needed to show how the execution was carried out, as that was already stated in the words quoted above; hence, by analogy, this too needs a distinctive interpretation.

(4) That is the literal translation, the sing. (stone) being used here.

(5) I.e., his bare body.

(6) Sing., as here.

(7) And more stones are not to be thrown at his corpse, to add to his disgrace.

(8) In the case of the gatherer of sticks, it is written, with stones (plural), Num. XV, 36.

(9) To teach that if he died by a single stone, it was satisfactory.

(10) I.e., he deduces the fact that the third camp is meant from a gezerah shawah. How then could R. Papa, an Amora, make the deduction from the verse itself?

(11) Quoted by R. Papa.

(12) Which itself indicates that the third camp is meant.

(13) For ‘bring forth’ itself implies beyond the camp (v. p. 578, n. 4), therefore the additional phrase denotes another camp.

(14) Lev. XXIV, 23.

(15) Cf. Lev. XXIV, 14. Let all that heard him lay their hands upon him.

(16) From a height, before stoning. V. infra 45a. The phrase quoted above cannot be taken as giving information regarding the carrying out of the stoning, as that has already been stated in the first portion of the verse. It indicates therefore the observance of all other regulations in connection with that penalty. e.g., the laying on of hands etc.

(17) Since he maintained that ‘bring forth’ has a meaning apart from ‘without the camp. What separate meaning does he then give to these expressions when found in connection with the burnt bullocks?

(18) From carrying out the sentence, in case one of the judges raises a new point for the defence.
(19) Prov. XXXI, 6.
(20) I.e., should it be assumed that his arguments would have been weighty, and so now that he is unable to give them, the case should be retried by other judges?
(21) As a sign of ridicule at the question. [The figure of speech is probably taken from the method of blowing at the chaff when sifting ears of corn from one hand to the other, v. Ma'as. IV, 5.]
(22) Justice is impossible if such assumptions are permitted.
(23) I.e., when the vote is taken (supra 34a).
(24) I.e., gave his grounds for doing so.
(25) Hence if one said he could speak for the defence and there and then became dumb, his declaration is disregarded.
(26) I.e., when R. Jose states, ‘argued for acquittal,’ did he mean that he must have given reasons for his statement, or that he merely said he could do so, even if he was subsequently prevented from giving his reasons.
(27) I.e., must there be substance in his statement even the first and second time?
(28) Exclusive, not inclusive, i.e., from the end of the second time, viz., from the third time.
(29) Whether his statement has substance.
(30) I.e., as soon as he starts out for the place of execution, so as to avoid an unnecessary return even the first time.
(31) Therefore the first two times he receives the benefit of the doubt.
(32) V. Glos.
(33) E.g., not forty days before. The two passages that follow have been expunged in all censored editions. [As to the historical value to be attached to them, v. Klausner, Jesus. p. 27ff.]
(34) [Ms. M. adds the Nasarean’.]
(35) [A Florentine Ms. adds: and the eve of Sabbath.]
(36) Deut. XIII, 9.
(37) Ps. XLII, 3.
(38) Ibid. XLI, 6.
(39) Ex. XXIII, 7.
(40) Naki is employed here as subject.
(41) Ps. X, 8.
(42) Isa. XI, 1.
(43) Ibid. XIV, 19.
(44) Ex. IV, 22.
(45) Ibid. IV, 23.
(46) Ps. C, 1.
(47) Ibid. L, 23. [‘We can only regard this fencing with texts as a jeu d'esprit occasioned no doubt by some ‘actual event’, Herford, op. cit. p. 93. Cf. also Klausner, op. cit. p. 28ff]

Talmud - Mas. Sanhedrin 43b

R. Joshua b. Levi said; He who sacrifices[1] his [evil] inclination and[2] confesses [his sin] over it,[3] Scripture imputes it to him as though he had honoured the Holy One, blessed be He, in both worlds, this world and the next; for it is written, Whoso offereth the sacrifice of confession honoureth me.[4]

R. Joshua b. Levi also said: When the Temple was in existence, if a man brought a burnt offering, he received credit for a burnt offering; if a meal offering, he received credit for a meal offering; but he who was humble in spirit, Scripture regarded him as though he had brought all the offerings, for it is said, The sacrifices of God are a broken spirit.[5] And furthermore, his prayers are not despised, for it is written, A broken and contrite heart, O God, Thou wilt not despise.[6]

MISHNAH. WHEN HE IS ABOUT TEN CUBITS AWAY FROM THE PLACE OF STONING, THEY SAY TO HIM, ‘CONFESS’,[7] FOR SUCH IS THE PRACTICE OF ALL WHO ARE EXECUTED, THAT THEY [FIRST] CONFESS, FOR HE WHO CONFESSES HAS A PORTION IN THE WORLD TO COME. EVEN SO WE FIND IN THE CASE OF ACHAN, THAT JOSHUA

SAID UNTO HIM, MY SON, GIVE, I PRAY THEE, GLORY TO THE LORD, THE GOD OF ISRAEL, AND MAKE CONFESSION UNTO HIM.[8] AND ACHAN ANSWERED JOSHUA AND SAID, OF A TRUTH, I HAVE SINNED AGAINST THE LORD THE GOD OF ISRAEL, AND THUS AND THUS HAVE I DONE.[9] AND WHENCE DO WE KNOW THAT HIS CONFESSIONS MADE ATONEMENT FOR HIM? — FROM THE WORDS, AND JOSHUA SAID: WHY HAST THOU TROUBLED US? THE LORD SHALL TROUBLE THEE THIS DAY,[10] I.E., THIS DAY ART THOU TO BE TROUBLED, BUT THOU SHALT NOT BE TROUBLED IN THE NEXT WORLD.

AND IF HE KNOWS NOT WHAT TO CONFESS,[11] THEY INSTRUCT HIM, ‘SAY, MAY MY DEATH BE AN EXPIATION FOR ALL MY SINS.’ R. JUDAH SAID: IF HE KNOWS THAT HE IS A VICTIM OF FALSE EVIDENCE, HE CAN SAY: MAY MY DEATH BE AN EXPIATION FOR ALL MY SINS BUT THIS. THEY [THE SAGES] SAID TO HIM: IF SO, EVERYONE WILL SPEAK LIKEWISE IN ORDER TO CLEAR HIMSELF.[12]

GEMARA. Our Rabbis taught: The word na[13] is none other than a form of supplication. When the Holy One, blessed be He, said to Joshua, Israel hath sinned,[14] he asked Him, ‘Sovereign of the Universe, who hath sinned?’ ‘Am I an informer?’ He answered, ‘Go and cast lots.’ Thereupon he went and cast lots, and the lot fell upon Achan. Said he to him; ‘Joshua, dost thou convict me by a mere lot?[15] Thou and Eleazar the Priest are the two greatest men of the generation, yet were I to cast lots upon you, the lot might fall on one of you.[16] I beg thee,’[17] he replied, ‘cast no aspersions on [the efficacy of] lots, for Eretz Yisrael is yet to be divided by means of lots, as it is written, The land shall be divided by lot.[18] [Therefore,] make confession.’ Rabina said: He bribed him with words, saying, Do we seek aught from thee but a confession? confess unto Him and be free. Straightway, Achan answered Joshua and said: Of a truth, I have sinned against the Lord, the God of Israel, and thus have I done.[19] R. Assi said in R. Hanina's name: This teaches that Achan had thrice violated the ban, twice in the days of Moses,[20] and once in the days of Joshua, for it is written, I have sinned,[21] and thus and thus have I done.[22]

R. Johanan said on the authority of R. Eleazar b. Simeon: He did so five times, four times in the days of Moses,[23] and once in the days of Joshua, for it is written, I have sinned and thus and thus have I done.[24] And why were they [the Israelites] not punished until this occasion? R. Johanan answered on the authority of R. Eleazar b. Simeon: Because [God] did not punish for secret transgressions until the Israelites had crossed the Jordan.

This point is disputed by Tannaim: The secret things belong unto the Lord our God, but the things that are revealed belong unto us and to our children for ever.[25] Why are the words: Lanu u-lebanenu, [unto us and to our children] and the ‘ayin of the word ‘ad, [for ever] dotted?[26] — To teach that God did not punish for transgression committed in secret, until the Israelites had crossed the Jordan:[27] this is the view of R. Judah. Said R. Nehemia to him; Did God ever[28] punish [all Israel] for crimes committed in secret; does not Scripture say for ever?[29] But just as God did not punish [all Israel] for secret transgressions [at any time], so too did He not punish them [corporately] for open transgressions until they had crossed the Jordan.[30] Then

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(1) I.e., resists, or conquers.

(2) After having been induced to sin.

(3) Cf. e.g. Lev. XVI, 21. Ms. M. omits ‘over it’.]

(4) יכבדנני Ps. L, 23. This is probably deduced from the nun energicum inserted between the suffix and the verbal stem for the sake of emphasis.

(5) Ps. LI, 19.

(6) Ibid.

(7) This and any other sins you may have committed.

(8) Josh. VII, 19.
(9) Ibid. 20.
(10) Ibid. 25.
(11) I.e., he cannot remember his other sins.
(12) Everyone would say this in order to clear himself in the eyes of men, and the court would acquire a bad reputation.
(13) נא (I pray thee) in Josh. VII, 19. quoted in the Mishnah.
(14) Josh. VII, 11.
(15) Without the testimony of witnesses.
(16) Surely, a lot is a thing of chance and can in no way be taken as decisive evidence; it might fall on the least likely people.
(17) Expressed in the word נא (I pray thee) in the verse. Hence its meaning of ‘supplication’.
(18) Num. XXVI, 55.
(19) Josh. VII, 20.
(20) Once in the war with the king of Arad, where it is written, And Israel vowed a vow unto the Lord and said . . . then I will utterly destroy their cities (Num. XXI, 2); and a second time in the war between Israel and Sihon, though a ban in that connection is not specifically mentioned, v. J. Sanh. VI, 3.
(21) I.e., this time.
(22) I.e., earlier, ‘thus’ and ‘thus’ implying twice apart from this instance.
(23) In the wars with Arad, Sihon, Og and Midian, (Maharsha and Me'iri).
(24) This view is based on the number of words in the Hebrew text, five in all.
(25) Deut. XXIX, 28.
(26) לנו ולבנינו דע Fifteen passages in the Bible contain dotted words. Many meanings have been attached to such dots, but the most probable is that they were a device to indicate homiletical explanations which the Rabbis had connected with the words. Cf. C. D. Ginsburg, Introduction to the Massoretic Critical Edition of the Hebrew Bible, p. 331.
(27) The dots on the words, To us and to our children, denote that corporate responsibility holds good only for revealed or open transgressions, whilst secret offenders have responsibility individually to God alone. But as one might then have inferred that it was so for all time , the ע of the word עד (until) is therefore dotted, indicating that it was so only until, i.e., up to the crossing of the Jordan, but not after it, when corporate responsibility was involved also in secret transgressions.
(28) I.e., even after they crossed the Jordan.
(29) Translating, To us and our children belong only the revealed or open things; but the secret offender will ‘for ever’ be alone responsible to God, and will not implicate the whole people.
(30) According to R. Nehemia the absence of corporate responsibility for secret sins, irrespective of peril, is expressly stated in the words for ever. The dot on the ע in עד however, indicates a change of responsibility for revealed transgressions in the time they crossed the Jordan.

Talmud - Mas. Sanhedrin 44a

in the case of Achan, why were they punished? — Because his wife and children knew thereof.[1]

Israel hath sinned. R. Abba b. Zabda said: Even though [the people] have sinned, they are still [called] ‘Israel’.[2] R. Abba said: Thus people say, A myrtle, though it stands among reeds, is still a myrtle, and it is so called.

Yea, they have even transgressed my covenant which I have commanded them, yea, they have even taken of the devoted thing and have also stolen [it], and dissembled also, and they have even put it amongst their own stuff.[3] R. Ile'a said on behalf of R. Judah b. Masparta: This teaches that Achan transgressed the five books of the Torah, [for the word ‘gam’[4] is written there five times].

R. Ile'a also said on behalf of R. Judah b. Masparta; Achan was an epispastic:[5] Here it is written, They have even transgressed my covenant;[6] and elsewhere[7] it is said, He hath broken my covenant.[8]

But is this not obvious?[9] — I might have thought that he would not practise a licence in respect of a precept which concerned his own body; therefore he (R. Ile'a) informs us otherwise.

And because he hath wrought a wanton deed in Israel.[10] R. Abba b. Zabda said; This teaches that Achan committed adultery with a betrothed damsel: Here it is written, And because he hath wrought a wanton deed in Israel, and elsewhere, it is said, For she hath wrought a wanton deed in Israel.[11] But is this not obvious?[12] — I might have thought that Achan was not so extremely licentious;[13] therefore he gives us this information.[14] Rabina said: He was punished as is a betrothed damsel [who commits adultery], viz., by stoning.[15]

The Resh Galutha once said to R. Huna; It is written, And Joshua took Achan the son of Zerah and the silver and the mantle and the wedge of gold and his sons and his daughters, and his oxen and his asses, and sheep, and his tent and all that he had.[16] If he sinned, wherein did his sons and daughters sin? — He retorted: On your view, [one might ask:] If he sinned, how did all Israel sin, that it is written, And all Israel with him?[17] But it was to overawe[18] them. So here too, it was to overawe them.[19]

And they burned them with fire and they stoned them with stones.[20] By both [forms of death]?[21] — Rabina answered: Those suitable for burning[22] were burned, and those suitable for stoning[23] were stoned.

And I saw among the spoil a goodly mantle of Shinar,[24] and two hundred shekels of silver.[25] Rab said: It was a silk mantle;[26] Samuel maintained: It was a cloak dyed with alum.

And they laid them down[27] before the Lord.[28] R. Nahman said: He [Joshua] came and cast them down before God, exclaiming, ‘Sovereign of the Universe! for these shall a [number equal to a] majority of the Sanhedrin he killed?’[29] For it is written, And the men of Ai smote of them about thirty-six men;[30] regarding which it was taught, i.e., literally thirty-six: this is R. Judah's view. R. Nehemia said to him; Were there actually thirty-six? Surely, only about thirty-six men is written. But this refers to Jair the son of Manasseh[31] who was equal [in importance] to the majority of the Sanhedrin.[32] R. Nahman said in Rab's name: What is meant by, The poor useth entreaties, but the rich answereth insolently.?[33] — The poor useth entreaties — that refers to Moses;[34] the rich answereth insolently, — to Joshua. Why so? Shall we say, because it is written. And they laid them down before the Lord,[35] which R. Nahman interpreted, He came and cast them down before God;[36] But did not Phinehas do the same? For it is written, Then stood up Phinehas and wrought judgment [wa-yefallel] and so the plague was stayed:[37] whereon R. Eleazar said: Not wayithpallel,[38] but wa-yefallel is written;[39] thus teaching that he had contentions with his Creator: he came and cast them[40] before God and cried out, ‘Sovereign of the Universe! because of these, shall twenty-four thousand of Israel fall?’ As it is written, And those that died by the plague, were twenty and four thousand?[41] — Nay it is inferred[42] from the following: [And Joshua said, Alas! O Lord,] wherefore hast Thou brought this people over the Jordan.[43] Yet Moses too spake thus: Wherefore hast thou dealt ill with this people.?[44] — Nay but it is derived from the following: Would that we had been content and dwelt beyond the Jordan.[45]

And the Lord said unto Joshua, Get thee up.[46] R. Shila expounded this: The Holy One blessed be He, said to him: Thy [transgression] is greater[47] than theirs,[48] for I commanded, And it shall be when ye are passed over the Jordan that ye shall set up [these stones];[49] ye advanced sixty mils however, [into the country before setting them up].[50] But when he [R. Shila] had gone out, Rab[51] set up his interpreter to speak for him, who expounded; As the Lord commanded Moses His servant, so did Moses command Joshua, and so did Joshua; he left nothing undone of all that the Lord commanded Moses.[52] What then do the words, Get thee up,[53] teach us? — The Lord said to him, Thou hast brought [guilt] upon them:[54] and for that reason He said to him with reference to Ai: And thou shalt do to Ai and her king as thou didst to Jericho and her king, [only the spoil thereof and the cattle thereof shall ye take for a prey.][55]

And it came to pass when Joshua was by Jericho that he lifted up his eyes and looked . . . And he said, Nay, but I am captain of the host of the Lord, I am now come. And Joshua fell on his face to the earth and bowed down.[56] But how could he do so?[57] Did not R. Johanan say: One may not greet his fellow at night for fear that he may be a demon?[58] There it was different, for he said; I am captain of the host of the Lord, I am now come, etc. But perhaps he lied? — We have a tradition that such do not utter the name of God in vain.

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(1) It was therefore no longer secret.

(2) Israel is the name of honour for the people when faithful to God. Cf. Isa. XLIX, 3.

(3) Josh. VII, 11.

(4) Also, or even. [Ms. M. omits bracketed words. The inference that he transgressed the five books will then be deduced from the verse itself: my covenant, referring in Genesis (XVIII); taken of the devoted thing, to Leviticus (XXVIII, 28); stolen, to Exodus (XX, 15); dissembled, to Numbers (V, 5-10); put it amongst their own stuff, to Deuteronomy (XXIII, 25), v. Yad Ramah.]

(5) I.e., he effaced the sign of the Abrahamic covenant in circumcision.

(6) Josh. VII, 11.

(7) With reference to circumcision.

(8) Gen. XVII, 14. Hence covenant' is assumed to have the same meaning in both verses.

(9) Seeing that R. Ile'a himself said earlier that he had transgressed the five books of the Torah; that includes epispasm.

(10) Josh. VII, 19.

(11) Deut. XXII, 21; this refers to a betrothed maiden who committed adultery.

(12) V. n. 8.

(13) As to make himself despised by men also, for having brought shame (in her family, and having made her ineligible to marry her intended husband.

(14) This was probably intended to teach that there is no limit to licentiousness once a man breaks loose from restraint.

(15) He should legally have been burned for taking of the things under the ban. cf. Josh. VII, 15: He that is taken with the devoted things shall be burned with fire.

(16) Ibid. 24.

(17) Ibid.

(18) Lit., ‘chastise’. I.e., all Israel were taken to the place of execution to be overawed by his punishment.

(19) Thus, his family was brought there merely to witness the execution.

(20) Ibid. 25.

(21) Surely they were not executed twice!

(22) The inanimate property.

(23) The livestock.

(24) Babylon. Cf. Gen X, 10; XI, 2.

(25) Josh. VII, 21.

(26) Rashi: Woollen.

(27) Lit., ‘poured out’.

(28) Ibid. 23.

(29) I.e., of the great Sanhedrin of seventy one.

(30) Ibid. verse 5.

(31) A contemporary of Moses and a descendant of Manasseh by his grandmother and of Judah by his grandfather. His grandmother was probably an heiress and therefore he is reckoned by the tribe of Manasseh (I Ch. II, 5, 22, 23)

(32) The Heb. is כשלשים, and the כ is translated as a kaf similitatis, ‘like,’ i.e., one man who was like thirty-six

(33) Prov. XVIII, 23.

(34) Who, when imploring God's mercy for the people, spake humbly. The term ‘poor’ which is used of Moses in this instance is attributed to the fact that in comparison with Joshua, he was poor in the conquest of the land (Maharsha).

(35) Josh. VII, 23.

(36) Meaning that Joshua threw them down in a challenging or insolent way.
(37) Ps. CVI, 30.
(38) ויתפלל, ‘he interceded’, ‘prayed’.
(39) ויפלל, ‘he judged’.
(40) Zimri and Cozbi. Cf. Num. XXV, 7ff.
(41) Num. XXV, 9.
(42) That Joshua spoke insolently.
(43) Josh. VII, 7.
(44) Ex. V, 22.
(45) Josh. VII, 7.
(46) Ibid. 10.
(47) Lit., ‘harder’.
(48) Deduced from the redundant לך ‘thee’, i.e., it is on thy account too that this disaster has happened. ‘Theirs’ probably refers to Achan's sin.
(49) Deut. XXVII, 4.
(50) The distance between the Jordan and the mountains of Gerizim and Ebal, where the stones were set up, is sixty mils. V. Sotah. 36a.
(51) [Rab was then still in Nehardea, the place of R. Shila.]
(52) Josh. XI, 15. I.e., Joshua did not sin as suggested above.
(53) V. p. 288, n. 16.
(54) By forbidding them the spoil of Jericho.
(55) Josh. VIII, 2, thus expressly ordering him not to proclaim a ban.
(56) Josh. V, 13-14. The fact that, as his question implies, he could not distinguish who the other was, shows that it was night time.
(57) I.e., bow to an unknown man.
(58) The customary greeting of Shalom (peace) is held in equal esteem with the name of God (v. Shab. 10b), and therefore may not be extended to a demon; whilst bowing to a demon is most certainly forbidden.

Talmud - Mas. Sanhedrin 44b

He [this stranger] said to him: ‘Yesterday evening, ye omitted the evening Tamid,[1] and to-day[2] ye have neglected the study of the Torah.’[3] ‘For which of these [offences] hast thou come?’ ‘I have now come,’[4] he replied. Straightway [we read], And Joshua lodged that night in the midst of the vale’.[5] Whereon R. Johanan observed: It teaches that he spent the night in the profundities[6] of the law.

R. Samuel b. Unia said in the name of Rab: The study of the Torah is more important than the offering of the Tamid, since it is written, I have now come.[7]

Abaye asked R. Dimi:[8] To what do ye in ‘the West’ relate the following verse: Go not forth hastily to strife, for what wilt thou do in the end thereof when thy neighbour hath put thee to shame. Debate thy cause with thy neighbour, but reveal not the secrets of another?[9] — [He answered]: When the Holy One, blessed be He, said to Ezekiel, Go and say unto Israel, An Amorite was thy father, and thy mother was a Hittite,[10] the intercessory[11] spirit said before the Holy One, blessed be He, ‘Sovereign of the Universe! if Abraham and Sarah came and stood before Thee, wouldst Thou say [this] to them and put them to shame?’ Debate thy cause with thy neighbour,[12] but reveal not the secret of another![13] But has he so much license?[14] — Yes, For R. Jose son of R. Hanina said: He has three names: Pisakon, Itamon, and Sigaron.[15] Pisakon, because he argues against the Most High;[16] Itamon, because he hides the sins of Israel, Sigaron, because when he concludes[17] a matter, none can reopen it.[18] Hadst thou prepared thy prayer before thy trouble came?[19] R. Eleazar said: One should always offer up prayer before misfortune comes; for had not Abraham anticipated trouble by prayer between Beth-el and Ai,[20] there would not have remained of Israel's sinners a remnant or a survivor.[21] Resh Lakish said: He who devotes his strength to prayer[22] below,[23] has no enemies [to overcome] above.[24] R. Johanan said: One should ever implore mercy that all [sc. Heavenly beings] may support his effort [in prayer] so that he may have no enemies on high.[25]

AND WHENCE DO WE KNOW THAT HIS CONFESSIONS MADE ATONEMENT FOR HIM etc. Our Rabbis taught: Whence do we know that his confessions made atonement for him? — From the verse, And Joshua said unto him, Why hast thou troubled us, the Lord shall trouble thee this day: [implying] this day art thou troubled, but thou shalt not be troubled in the next world. And again it is written, And the sons of Zerah: Zimri,[26] and Ethan and Heman and Calcol and Darda,[27] five of them in all.[28] Why the phrase: five of them in all?[29] — Because all five were equally destined for the world to come. Here he is called Zimri, but elsewhere, Achan.[30] Rab and Samuel [differ thereon]: One maintains his real name was Achan; and why was he called Zimri? — Because he acted like Zimri.[31] The other maintains, His real name was Zimri; and why was he called Achan? — Because he wound the sins of Israel about them like a serpent.[32]

AND IF HE KNOWS NOT WHAT TO CONFESS . . . R. JUDAH SAID . . . TO CLEAR HIMSELF. Why not let them clear themselves? — In order that they may not bring discredit upon the Court and the witnesses.

Our Rabbis taught: It happened once that a man who was being taken to be executed said: ‘If I am guilty of this sin, may my death not atone for any of my sins; but if I am innocent thereof, may my death expiate all my sins. The court and all Israel are guiltless, but may the witnesses never be forgiven.’ Now, when the Sages heard of the matter they said: It is impossible to reverse the decision, since the sentence has been promulgated. He must therefore be executed, and may the chain [of responsibility] ever hang on the neck of the witnesses. But is he to be relied on?[33] — This holds good only where the witnesses have retracted.[34] But even so, of what consequence is it? Once a witness testified — he cannot testify again![35] It is necessary [to state this] even where they [the witnesses] give a reason for their action,[36] as happened in the case of Ba'ya[37] the tax-collector. MISHNAH. WHEN HE IS ABOUT FOUR CUBITS DISTANT FROM THE PLACE OF STONING, HE IS STRIPPED OF HIS GARMENTS.[38] A MAN IS COVERED IN FRONT AND A WOMAN BOTH IN FRONT AND BEHIND: THIS IS R. JUDAH'S VIEW. BUT THE SAGES SAY: A MAN IS TO BE STONED NAKED BUT A WOMAN IS NOT TO BE STONED NAKED.

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(1) The daily burnt offerings, one of which was sacrificed every morning, and one towards evening. Cf. Num. XXVIII, 3.

(2) Lit., ‘now’.

(3) The conversation took place during the night when fighting was at a standstill and they should have been studying the land.

(4) I.e., I have come to you for the present offence.

(5) The ordinary text reads: among the people instead of: in the midst of the vale. Again, verse 13 of the same chapter in which we do find, in the midst of the vale, begins with, And Joshua went, instead of, And Joshua lodged. It is probable that the Rabbis combined the two verses for the purpose of their exegesis, which is not unusual with them. Cf. Tosaf. Meg. 3a. s.v. וילן; Shabb. 128a s.v. ונתן. In a parallel passage in ‘Er. 63b, the verse quoted conforms to the Biblical text: And Joshua went, and the text further reads: He went into the depths of the study of the law. Bah mentions another version which reads as follows: And Joshua lodged that night amongst the people; further it is written, into the midst of the vale, — this teaches that he went and spent that night in the depths of the study of the law. V.D.S. a.l.

(6) עמק means ‘valley’, as well as ‘deep’ or ‘depth’.

(7) I.e., to reprimand you, not on account of the Tamid, but for the present offence, neglecting the study of the law.

(8) R. Dimi often carried Palestine exegesis to the Babylonian schools.

(9) Prov. XXV, 8-9.

(10) Ezek. XVI, 3.

(11) פסקונית lit., ‘an arguing spirit, — an additional name of the Angel Gabriel, who always interceded on behalf of Israel. V. however p. 99, n. 6.

(12) I.e, reproach him alone.

(13) Do not take up anothers' shame.

(14) To reproach God so freely!

(15) פיסקון from פסק 'to split;' איטמון from אטם 'to lock'; and סיגרון from סגר 'to close'. So at least according to the Talmudic interpretation which follows.

(16) Lit., 'he splits words upwards.

(17) I.e., when his words are of no effect.

(18) No others can successfully intercede. Kohut suggests that they are of Arabic origin. Pisakon denoting shame; Itamon, sin, and Sigaron, pain, an angel being in charge of each of these three things. Hence in his opinion, פסקנית does not denote Gabriel but the Spirit of Shame. V. 'Aruch Completum, vol. I, p. 63.

(19) היערוך שועך לא בצר Job XXXVI, 19 (E.V.: Will thy riches avail that are without stint.) ערך means 'to prepare', as well as 'to estimate;' שוע means 'prayer,' or 'wealth'.

(20) Cf. Gen. XII, 8: He pitched his tent, having Beth-el on his west, and Ai on the east, and he builded an altar to the Lord and called upon the name of the Lord.

(21) At the Battle of Ai in the days of Joshua.

(22) Lit., 'who strengthens himself in prayer.'

(23) I.e., on earth.

(24) Translating: 'Hadst thou put forth thy prayer (with strength), thou wouldst have had no adversary (above)'.

(25) Translating somewhat similarly: 'When thou canst prepare thy prayer, see that thou hast no enemies (on high, to urge its rejection)'.

(26) According to the Rabbis, he is identical with Achan. Although the latter was a great grandson of Zerah, he is called the son of Zerah in Josh. VII, 24. The four other sons are referred to in I Kings (V, 11) as great men, and the fact that Achan (Zimri) is associated with them is taken as an indication that his confession helped him to enter the world to come in common with the others.

(27) Dara, in I Chron II, 6.

(28) I Chron. II, 6.

(29) Surely the number is obvious and needs no special mention! Therefore it has some other meaning.

(30) Cf. Josh. VII, 24.

(31) I.e., he was licentious. Cf. Num. XXV, 14, and supra 44a.

(32) Cf. Gr. **.

(33) I.e., is his statement so trustworthy that responsibility may be thrust upon the witnesses? — Such would seem to have been the text before Rashi, v. D.S. a.l. Our reading is: But that is obvious, (for) is he then the sole authority! I.e., why state that the Rabbis did not reverse the sentence! Is he then to have his own way entirely so that we should disbelieve the witnesses.

(34) After the sentence had been promulgated.

(35) Witnesses are not permitted to retract their first statement and make another, since they may have been prompted thereto out of pity for the accused.

(36) In withdrawing their previous statement. E.g., when they say that they have previously testified against him out of hatred. In this case, though the execution is carried out, the witnesses bear responsibility.

(37) According to Kohut 'Aruch Completum, vol II, p. 140, Ba'ya is derived from the Arabic, meaning an informer. In the case in question he had denounced the tax defaulters in the Government, an act which, of course, aroused the enmity of the people. According in Rashi, the subject matter of the text is connected with this name as follows: The funeral of the said collector coincided with that of a very pious man, but accidentally the coffins were exchanged, so that the honour intended for the Rabbi was paid to the other, and vice versa. An explanation of the happening was given by the Rabbi in a dream to one of his pupils who was disturbed at the occurrence, and he also informed him that severe punishment was in store for Simeon b. Shetah in the world to come for the neglect of his duty in tolerating eighty women in Ashkelon guilty of sorcery. Simeon, on being informed about it, took a serious view of the matter and had them executed. The relatives of these women, however, inflamed with a passion for revenge, plotted against his son, charging him with a capital crime, as a result of which he was sentenced to death. On his way to the place of execution the condemned man protested his innocence so vehemently that even the witnesses were moved to admit the falsity of their evidence, giving as ground for their former act their feelings of enmity against Simeon b. Shetah. Yet their latter statement was not accepted, according to the law expounded in the text, that a witness is not to be believed when be withdraws a former statement. The source for Rashi's story is found in J. Sanh. VI, 3; 6, and in J. Hag. II, 2, with slight variations.

(38) In order to hasten his death and lessen the pain (Maim.). The Talmud, however, bases it on Scripture.

Talmud - Mas. Sanhedrin 45a

GEMARA. Our Rabbis taught: One part of a man was covered, [viz.,] in front and two parts of a woman, [viz.,] in front and behind, because she is wholly shameful [when naked]: this is R. Judah's opinion. The Sages said: A man is stoned naked, but not a woman, What is the Rabbis' reason? — Scripture states, And they shall stone otho [him]. Why state 'otho'?[1] Shall we say, 'otho' but not 'othah,' [her]? but it is written, Then shalt thou bring forth that man or that woman![2] What then is the significance of 'otho'. — That only he[3] [is stoned] without his garments, but she[4] is stoned in her clothes.

R. Judah[5] said: 'Otho' implies without clothes, and there is no distinction of sex.[6] Are we to assume that the Rabbis are apprehensive of unchaste thoughts, and that R. Judah is not? But we know in fact that they both hold the reverse, for we learnt:[7] The Priest seizes her garments,[8] it does not matter if they are rent or torn open, until he uncovers her bosom and unloosens her hair. R. Judah said: If her bosom was beautiful, he did not expose it, and if her hair was comely, he did not loosen it,[9] Rabbah said: In the other case, this was the reason: lest she should come forth from the Beth din innocent and the young priests conceive a passion for her; but here, she is about to be executed! And should you object, But through her their passions might be inflamed for others, Rabbah said: We have it on tradition that evil inclination moves a man only towards what his eyes see.

Raba said: Is there only an inconsistency between R. Judah's two statements and not between those of the Rabbis?[10] — But, said Raba, R. Judah's two statements are not contradictory, even as we have solved the difficulty. And the Rabbis' views are also not opposed: Scripture says, That all women may be warned and not to do after your lewdness:[11] but here, no greater warning is possible than this [sc. the execution].[12] And should you say, Let us wreak both[13] upon her, behold R. Nahman said in Rabbah b. Abbahu's name: Scripture says Love thy neighbour as thyself:[14] choose an easy death for him.[15]

Shall we say that R. Nahman's statement is the subject of a conflict between Tannaim?[16] — No: all agree with R. Nahman, but they differ on the following point: One Master[17] holds that [the avoidance of] personal humiliation is far preferable to lack of bodily pain,[18] and the other holds the reverse.

MISHNAH. THE PLACE OF STONING WAS TWICE A MAN'S HEIGHT.[19] ONE OF THE WITNESSES PUSHED HIM BY THE HIPS, [SO THAT] HE WAS OVERTURNED ON HIS HEART. HE WAS THEN TURNED ON HIS BACK.[20] IF THAT CAUSED HIS DEATH, HE HAD FULFILLED [HIS DUTY];[21] BUT IF NOT, THE SECOND WITNESS[22] TOOK THE STONE[23] AND THREW[24] IT ON HIS CHEST. IF HE DIED THEREBY, HE[25] HAD DONE [HIS DUTY]; BUT IF NOT, HE [THE CRIMINAL] WAS STONED BY ALL ISRAEL,[26] FOR IT IS WRITTEN: THE HAND OF THE WITNESSES SHALL BE FIRST UPON HIM TO PUT HIM TO DEATH, AND AFTERWARDS THE HAND OF ALL THE PEOPLE.[27]

GEMARA. A Tanna taught: And with his own height,[28] there were three [men's heights] in all. Yet do we really require so much height?[29] For the following contradicts it: 'Just as a pit to be reckoned as causing death must be ten handbreadths [deep],[30] so must all other [excavations] be sufficient to cause death, viz., ten handbreadths'?[31] — R. Nahman said in Rabbah b. Abbahu's name: Scripture states, Love thy neighbour as thyself;[32] i.e., choose an easy[33] death for him. But if so, it [sc. the place of stoning] should be still higher! — [That, however, is not so] to prevent disfiguration.[34]

ONE OF THE WITNESSES PUSHED HIM: Our Rabbis taught: Whence do we know that it [the execution][35] was accomplished by hurling down?[36] — Scripture states, And he shall be cast down.[37] And whence the necessity of stoning? — Scripture states, He shall be stoned.[38] And whence do we know that both stoning and hurling down [were employed]?[39] — From the verse, he shall surely be stoned or thrown down.[40] And whence do we know that if he died through being hurled down, it is enough? — Scripture states, or cast down.[41] Whence do we know the same procedure is to be followed for [all subsequent] generations?

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(1) In a separate pronoun, instead of using the pronominal suffix.

(2) Deut. XVII, 5, with reference to idolatry which is punishable by sinning.

(3) I.e., a man.

(4) I.e., a woman.

(5) Who requires only partial covering of a woman.

(6) Since ‘Otho’ serves for one exclusion, that of clothes — it cannot serve as excluding women from that requirement, v. supra 43a.

(7) Sotah 8a.

(8) In connection with the procedure for a woman suspected of infidelity (sotah). Cf. Num.V, 11ff.

(9) Hence it is R. Judah and not the Rabbis who are apprehensive that the sight of her may incite to unchaste thought.

(10) For Rabbah's distinction only reconciled R. Judah's two views, but left the difficulty of the Rabbis’ views untouched.

(11) Ezek. XXIII, 48. The procedure with the Sotah therefore was only instituted as a deterrent.

(12) Hence there is on need to add humiliation.

(13) Humiliation and stoning.

(14) Lev. XIX, 18.

(15) One entailing as little humiliation as possible.

(16) R. Judah and the Sages, inasmuch as the former, by requiring only partial covering of the woman and so enhancing her humiliation, does not seem to be of that opinion.

(17) I.e., the Sages.

(18) Lit., ‘bodily ease’. Though being clothed delays death and increases pain, yet the humiliation of nakedness is harder to beat.

(19) I.e., six cubits, the normal height of man to the shoulders being three cubits,

(20) To see whether the drop brought his death forthwith. [So Abraham de Boton on Maim. Yad, Sanh. XV, 1. Rashi explains: Because it is degrading (for the dead) to be on the face, v. Tosaf. Yom. Tob. The rendering could accordingly be: One of the witnesses pushed him down on the hips. If (however) he overturned (i.e., fell) on his heart, he was turned on his back, v. Hoffmann.]

(21) I.e., the witness, the obligation of execution lying primarily upon him.

(22) According to the Naples ed. he himself takes etc. and only if that failed to cause death did the second witness take part.

(23) ‘The’ stone, because it was prepared beforehand. This was a very heavy stone, which it required two men to lift.

(24) Lit., ‘placed’.

(25) Sc., the second witness.

(26) I.e., all the bystanders.

(27) Deut. XVII, 7.

(28) He was pushed down from a standing position.

(29) To cause instant death.

(30) Cf. M. B.K. 50b.

(31) Why is the height of three men required in this case?

(32) Lev. XIX, 18.

(33) I.e., a quick death.

(34) A fall from a greater height would unnecessarily disfigure the body.

(35) Of those who approached Mt. Sinai, Ex. XIX, 12ff.
(36) In Scripture stoning is first mentioned, as that was the means of bringing about the actual death. Here hurling down is dealt with first as that is preliminary to the other.
(37) Ex. XIX, 13.
(38) Ibid; cf. Deut. XXII, 24, where stones are expressly mentioned in connection with 'stoning',
(39) In case death did not result from the hurling down alone.
(40) Ibid.
(41) Because if stoning were always necessary in addition to the hurling down, even when the latter alone had caused death, why state or cast down?

Talmud - Mas. Sanhedrin 45b

— Because Scripture states, He shall surely be stoned.[1]

BUT IF NOT, THE SECOND WITNESS TOOK THE STONE. HE TOOK'?[2] But has it not been taught: R. Simeon b. Eleazar says: 'A stone was there which it took two men to lift, — he lifted that and dropped it on his [the victim's] chest; if it killed him, his duty was fulfilled'?[3] But on your reasoning, that itself is inconsistent! That 'which it took two men to lift' — 'he lifted that and dropped it on his chest!' But it must mean that he lifts it up together with his fellow witness, but drops it [down] by himself in order that it may come down with force.[4] BUT IF NOT, HE WAS STONED BY ALL ISRAEL, etc. But has it not been taught: It [the stoning] was never actually repeated?[5] — Do I then say that it was done? I merely state what might be necessary!

The Master said: 'A stone was there etc.'[6] But has it not been taught: 'The stone with which he [the condemned] was stoned, the gallows on which he was hanged, the sword with which he was beheaded, or the cloth with which he was strangled, are all buried with him'?[7] — It merely means that others were prepared and brought in their place.[8] 'They are all buried with him.' Surely it has been taught: They are not buried with him![9] — R. Papa explained: What is meant by 'with him?' In the earth surrounding his corpse.[10]

Samuel said: If the hand[s] of the witnesses were cut off,[11] he [the condemned] goes free. Why so? — Because it is necessary that The hand of the witnesses shall be first upon him,[12] which is here impossible. But according to this, if they were without hands from the outset,[13] are they also ineligible?[14] — There[15] it is different, for Scripture states, The hand of the witnesses, implying, the hand which they had previously possessed.[16]

An objection is raised; 'Wherever two witnesses testify, saying, We testify against so and so[17] that he was sentenced by such and such a court, and so and so are his witnesses, he is to be executed'.[18] — Samuel explained this as referring to a case where the same were also the original witnesses.[19] But must [every] verse be [carried out] as written? Has it not been taught: 'He that smote him shall surely be put to death, he is a murderer?[20] I only know that he may be executed with the death that is decreed for him.[21] But where it is not possible to execute him in the manner prescribed,[22] whence do I know that one may execute him by any means possible? From the verse: He that smote him shall surely be put to death, — in all cases'?[23] — There it is different, for Scripture says, He shall surely be put to death.[24] Then let us draw an inference from it.[25] — Because the references to a murderer, and the 'avenger of blood' are two verses written with the same object, and the teaching of two such verses does not extend to anything else.[26] 'A murderer', as has just been stated. And what is the reference to the 'avenger of blood'? — It has been taught: The avenger of blood shall himself put the murderer to death;[27] it is [primarily] the duty of the avenger of blood [to slay the murderer]. And whence do we know that, if he [the murdered man] has no avenger of blood,[28] the Beth din must appoint one?[29] — From the verse, When he meeteth him,[30] i.e., in all cases.[31]

Mar Kashisha, the son of R. Hisda, said to R. Ashi: But are we really not to interpret the verse literally? Have we not learnt: If either of them[32] has a hand or fingers cut off, or is dumb, lame, blind, or deaf, he does not become a 'stubborn and rebellious son';[33] because it is written, And they shall lay hold on him,[34] — this excludes those with hands or fingers cut off; and they shall bring him out, so excluding lame [parents]; and they shall say, excluding the dumb; this our son,[35] excluding the blind; he will not obey our voice, excluding the deaf.[36] Why so? Surely because a verse must be literally interpreted! — No. There it is different, because the entire verse is superfluous.[37]

Come and hear! If it [the city] has no 'public square',[38] it cannot become a condemned city: this is R. Ishmael's view. R. Akiba said: If it has no public square, one is made for it.[39] Now, they differ only in that one holds that 'the public square thereof'[40] implies, that it must have been there from the outset [i.e., before sentence]; and the other holds that 'the public square thereof', even if it has only now [sc. after sentence] become one, is to be regarded as though it had been one originally. Yet both agree that the verse must be interpreted literally! — It is a point of difference between Tannaim, for we learnt:[41] If he has no thumb or great toe or right ear, he can never obtain cleansing. R. Eliezer said: He [the priest] applies it [the blood] on the corresponding place, and his duty is discharged. R. Simeon said: He applies it on the left side and his duty is discharged.[42]

MISHNAH. ALL WHO ARE STONED ARE [AFTERWARDS] HANGED: THIS IS R. ELIEZER'S VIEW, THE SAGES SAY: ONLY THE BLASPHEMER AND THE IDOLATER ARE HANGED. A MAN IS HANGED WITH HIS FACE TOWARDS THE SPECTATORS, BUT A WOMAN WITH HER FACE TOWARDS THE GALLOWS: THIS IS THE VIEW OF R. ELIEZER. BUT THE SAGES SAY: A MAN IS HANGED, BUT NOT A WOMAN. WHEREUPON R. ELIEZER SAID TO THEM: BUT DID NOT SIMEON B. SHETAH HANG WOMEN AT ASHKELON?[43] THEY RETORTED: [ON THAT OCCASION] HE HANGED EIGHTY WOMEN, NOTWITHSTANDING THAT TWO [MALEFACTORS] MUST NOT BE TRIED ON THE SAME DAY.[44]

GEMARA. Our Rabbis taught: [Scripture states,] And if he be put to death, then thou shalt hang him on a tree:[45] I might think that all who are put to death are to be hanged: therefore Scripture states, For he is hanged [because of] a curse against God.[46] Just as the blasphemer in question is executed by stoning, so all who are stoned [must be subsequently hanged]: this is R. Eliezer's view. But the Sages say: Just as the blasphemer in question denied the fundamental principle [of faith].[47] So all who deny the fundamental principle [of faith].[48] Wherein do they differ?[49] — The Rabbis[50] employ [the rule of] the general and the particular; whilst R. Eliezer employs [the rule of] extension and limitation.[51] 'The Rabbis employ [the rule of] the general and the particular.' [Thus:] And if he be put to death then thou shalt hang him, is a general proposition; for he is hanged [because of] a curse against God is the particular. Now, had these two clauses been placed beside each other,[52] we should have said, the general includes nothing [but] the particular, i.e., only this man[53] and no one else.

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(1) In the future tense. [Ms. M. adds 'or he shall surely be thrown down.']

(2) Was it done by one man alone?

(3) Obviously two people were required to handle it.

(4) Because if two threw it they might not both follow exactly the same direction with a consequent loss of force.

(5) Death having always resulted from the first operation.

(6) Implying that the same stone was regularly employed for stoning.

(7) A.Z. 62b.

(8) I.e., that a stone was lying there in readiness, and not brought just at the moment when it was needed.

(9) Tosef. Sanh. IX.

(10) Which comes to be regarded as part of the body and must be carried with it when moved. Cf. Nazir 64b.

(11) After they testified.

(12) Deut. XVII, 7.
(13) Before they testified.
(14) Seeing that the injunction in Deut. XVII, 7 cannot in their case be applicable.
(15) In the case dealt with by Samuel.
(16) But if they lack hands at the outset they are eligible to testify.
(17) If the condemned person escaped and was recaptured (Mak. 7a).
(18) Even in the absence of the original witnesses. This proves that the injunction in Deut. XVII, 7 is not indispensably essential, but only desirable when possible.
(19) Hence the injunction can be carried out.
(20) Num. XXXV, 21,
(21) I.e., decapitation by the sword.
(22) E.g., if he fled, but could be reached by an arrow (Rashi on 72b).
(23) Infra 53a; 72b. Hence it is not necessary to understand the verse literally.
(24) מות יומת. The infinitive strengthens the idea of the verb and denotes an inclusion of other modes of execution if necessary.
(25) That just as there, where he should be decapitated, he is nevertheless executed by any means possible, so here too, where he should be hurled down by the hands of the witnesses, he is still to be executed even if their hands have been cut off.
(26) V. p. 458, n. 9.
(27) Num. XXXV, 19, referring to wilful murder. Rashi's interpretation that it refers to accidental homicide where the murderer was found outside the city of refuge is difficult. V. Mishneh Lemelek on Yad, Rozeah I, 2.
(28) A near kinsman, upon whom devolves the duty of hunting down a murderer to death.
(29) I.e., the Court is always responsible for prosecuting the murderer, whether there is a relative or not.
(30) Ibid.
(31) Thus this verse too shows that the provisions of an avenging kinsman are not limited to the precise statement of the Bible,
(32) The parents of a ‘stubborn and rebellious son’; Deut, XXI, 18ff.
(33) So the law concerning such is not operative.
(34) Ibid, 19.
(35) Showing that they must point him out.
(36) Who are unable to bear his reply to their orders. V. infra 71a.
(37) It could have been written thus: ‘And they shall bring him unto the elders of his city, and all the men shall stone him with stones,’ as is usual with other cases punishable by stoning, without repeating the indictment. Therefore that verse must certainly be understood literally; but it does not prove that all verses are to be understood exactly as they are written.
(38) Cf. Deut, XIII, 17: And thou shalt gather all the spoil of it into the midst of the public square thereof.
(39) Infra 112a,
(40) Cf. n. 5.
(41) Nazir 46b, with reference to the purification of a leper. Cf. Lev, XIV, 14:
(42) I.e., the leper becomes clean, This proves that in the opinion of R. Eliezer and R. Simeon a verse need not be understood literally, whilst the first Tanna maintains that it must be so interpreted. Hence Samuel agrees with the latter.
(43) Though this southern coastal city was never for any length of time populated by Jews, a fact which makes such an execution most unusual, it was twice surrendered to Jonathan the Maccabee (cf. Mace. X, 36; XI, 60) and later to Alexander Jannaeus (Simeon's brother-in-law). It is therefore not improbable that Jews made their home there, despite the view of Schurer. [V. Klausner, היסטוריה ישראלית II, 134. Derenbourg, however, op. cit., p. 69, n. 1, maintains that Simeon Maccabeus has been here confused with Simeon b. Shetah, as it was only in the days of the former that Ashkelon had a large Jewish population, and it is also known from other sources that he visited Ashkelon several times.]
(44) Hence this occurrence cannot be brought forward as a valid precedent, owing to its extraordinary nature. Witchcraft amongst Jewish women prevailed at that time to an alarming extent, and in order to prevent a combined effort on the part of their relations to rescue the culprits, he had to execute all of them at once. He hanged them, then, to prevent such practices and to avoid rescue, but his action is no precedent, and in itself was actually illegal, as the Sages pointed out.

(45) Deut. XXI, 22.
(46) קללת אלהים (E.V. For he that is hanged is a reproach unto God,) is so interpreted by the Mishnah, i.e., he was a blasphemer.
(47) I.e., the unity of God.
(48) Are to be hanged. ‘All’ can only mean an idolater.
(49) On what principle of exegesis — the practical difference, of course, being obvious,
(50) The Sages.
(51) These two hermeneutical rules form one of R. Ishmael's thirteen principles by which the law is expounded. The former rule כלל ופרט means that when a general term (which may denote an indefinite number of things) is followed by a particular (specifying a definite thing), the law is restricted to the specified thing alone. A particular is then regarded, not as an illustrative example of the preceding general, but as its explanation, so indicating that the content of the general is restricted solely to that of the particular. According to the other theory רבוי ומיעוט, the general retains its significance as applying to many things, but the particular limits the scope of the preceding general so as to include in it only things which are similar and to exclude such as are not similar thereto. The application of these exegetical principles, however, is dependent on the two terms following each other in the same passage. If they are found in two different passages, the rule is somewhat varied, as explained here in the Talmudic discussion.
(52) I.e., in the same verse.
(53) The blasphemer.

Talmud - Mas. Sanhedrin 46a

Since, however, they are separated from each other, it has the effect of including an idolater,[1] who is like him, [the blasphemer] in every respect. ‘Whilst R. Eliezer employs [the rule of] extension and limitation.’ [Thus:] And if he be put to death then thou shalt hang him is an [indefinite] extension; for he is hanged because of a curse . . . is a limitation. Now, had these two clauses been placed beside each other, we should have extended the law only to an idolater, who is similar to him in every respect. Since, however, they are separated from each other, it has the effect of extending [the law] to all who are stoned.[2]

A MAN IS HANGED etc. What is the Rabbis’ reason? — Scripture states, then the shalt hang him — ‘him’,[3] but not her.[4] And R. Eliezer?[5] — ‘Him’ implies without his clothes. And the Rabbis?[6] — [They admit that] that indeed is so; but Scripture says, And if a man have committed a sin,[7] implying, a man, but not a woman. And R. Eliezer, — how does he interpret the words, And if a man have committed? — Resh Lakish answered: As excluding a stubborn and rebellious son[8] [from that mode of execution]. But has it not been taught: A stubborn and rebellious son is stoned and [afterwards] hanged: so says R. Eliezer? — But, said R. Nahman b. Isaac: [He interprets it] as including a stubborn and rebellious son. How so?[9] — Scripture says, As if a man has committed a sin — ‘a man,’ but not a son; ‘a sin’ implies one who is executed for his [present] sin, thus excluding a stubborn and rebellious son, who is executed on account of his ultimate destiny.[10] So we have one exclusion following another, and such always indicates inclusion.[11]

WHEREUPON R. ELIEZER SAID TO THEM: BUT DID NOT SIMEON B. SHETAH HANG etc. R. Hisda said: They taught this[12] only of two different death penalties,[13] but if a single mode of execution is involved, they [two charges] may be tried [on the same day]. But in the instance of Simeon b. Shetah, only one mode of execution was involved, and yet [the Sages] said to him[14] that the cases should not [legally] have been tried! — But if a statement was made, it was made thus: They taught this only of a single death penalty appearing as two. And how can that be? E.g., [when one is accused of] two different transgressions.[15] But cases dealing with the same transgression and the same mode of execution may be tried.[16]

R. Adda b. Ahabah raised an objection: ‘Two [capital] cases may not be tried in one day; not even that of an adulterer and his paramour’?[17] R. Hisda explained this as referring to the daughter of a priest and her paramour;[18] or to the daughter of a priest and the refuters of the refuting witnesses.[19]

It has been taught: R. Eliezer b. Jacob said: I have heard[20] that the Beth din may, [when necessary,] impose flagellation and pronounce [capital] sentences even where not [warranted] by the Torah; yet not with the intention of disregarding the Torah but [on the contrary] in order to safeguard it.[21] It once happened that a man rode a horse on the Sabbath in the Greek period and he was brought before the Court and stoned, not because he was liable thereto,[22] but because it was [practically] required by the times.[23] Again it happened that a man once had intercourse with his wife under a fig tree.[24] He was brought before the Beth din and flogged, not because he merited it,[25] but because the times required it.[24] MISHNAH. HOW IS HE HANGED?[26] — THE POST IS SUNK INTO THE GROUND WITH A [CROSS-] PIECE BRANCHING OFF [AT THE TOP].[27] AND HE[28] BRINGS HIS HANDS TOGETHER[29] ONE OVER THE OTHER AND HANGS HIM UP [THEREBY]. R. JOSE SAID: THE POST IS LEANED AGAINST THE WALL,[30] AND HE HANGS HIM UP AFTER THE FASHION OF BUTCHERS. HE IS IMMEDIATELY AFTERWARDS LET DOWN. IF HE IS LEFT [HANGING] OVER NIGHT, A NEGATIVE COMMAND IS THEREBY TRANSGRESSED, FOR IT IS WRITTEN, HIS BODY SHALL NOT REMAIN ALL NIGHT UPON THE TREE, BUT THOU SHALT SURELY BURY HIM THE SAME DAY FOR HE IS HANGED [BECAUSE OF] A CURSE AGAINST GOD,[31] — AS IF TO SAY WHY WAS HE HANGED? — BECAUSE HE CURSED THE NAME [OF GOD]; AND SO[32] THE NAME OF HEAVEN [GOD] IS PROFANED.[33]

R. MEIR SAID:[34] WHEN MAN SUFFERS,[35] WHAT EXPRESSION DOES THE SHECHINAH[36] USE? — MY HEAD IS TOO HEAVY FOR ME, MY ARM IS TOO HEAVY FOR ME.[37] AND IF GOD IS SO GRIEVED OVER THE BLOOD OF THE WICKED THAT IS SHED, HOW MUCH MORE SO OVER THE BLOOD OF THE RIGHTEOUS! AND NOT ONLY OF THIS ONE [A CRIMINAL,] DID THEY [SC. THE SAGES] SAY IT,[38] BUT WHOSOEVER LETS HIS DEAD LIE OVER NIGHT TRANSGRESSES A NEGATIVE COMMAND.[39] IF HE KEPT HIM OVER NIGHT FOR THE SAKE OF HIS[40] HONOUR, TO PROCURE FOR HIM A COFFIN OR A SHROUD, HE DOES NOT TRANSGRESS THEREBY.

AND THEY DID NOT BURY HIM [THE EXECUTED PERSON] IN HIS ANCESTRAL TOMB, BUT TWO BURIAL PLACES WERE PREPARED BY THE BETH DIN, ONE FOR THOSE WHO WERE DECAPITATED OR STRANGLED, AND THE OTHER FOR THOSE WHO WERE STONED OR BURNED.

WHEN THE FLESH WAS COMPLETELY DECOMPOSED, THE BONES WERE GATHERED AND BURIED IN THEIR PROPER PLACE.[41] THE RELATIVES THEN[42] CAME AND GREETED THE JUDGES AND WITNESSES, AS IF TO SAY, WE HAVE NO [ILL FEELINGS] AGAINST YOU IN OUR HEARTS, FOR YE GAVE A TRUE JUDGMENT.

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(1) The separation indicates that the rule of the general and particular is not to be applied in the usual way to limit the law solely to the thing specified, but to extend it to some similar thing.

(2) Whatever their offence.

(3) A man.

(4) A woman.

(5) How does he interpret the verse?

(6) Do they not agree with the interpretation given by R. Eliezer; whence then do they deduce the exemption of a woman from hanging?

(7) Deut. XXI, 22, which is the introduction to the passage under discussion,

(8) The term ‘man’ is used of one who has reached the age of thirteen, and one cannot be declared rebellious once he has reached that age. V. infra 68b.

(9) Surely ‘man’ implies the reverse, if anything.

(10) V. infra 72a, top.

(11) V. p. 71, n. 7. Hence this includes a rebellious son.

(12) That two capital cases may not be tried on one day by the same court.

(13) Because where the crimes committed are different, the mitigating circumstances cannot be carefully brought forward to a hasty discussion.

(14) R. Eliezer, in answer to his remark.

(15) E.g., the desecration of the Sabbath and idolatry, although both are punishable by the same penalty — stoning. Two such cases may not be tried on the same day. All the more so cases involving two different modes of execution may certainly not be tried on the same day.

(16) But in the instance of Simeon the son of Shetah the women were convicted for what Scripture regards as two different branches of witchcraft, viz., necromancy and charming. Cf. Lev. XX, 27; hence the Rabbis remarked that his action was illegal, but that it was done in an emergency.

(17) Tosef, Sanh. VII. Although it is one transgression involving the same penalty; moreover, the crime of both consisted in the single identical act.

(18) Whose executions are not simiiar. The woman is punished by burning (Lev. XXI, 9) and the man by strangulation if she be a nesu'ah, or by stoning, if she be an arusah (v. Glos.).

(19) E.g., if A and B, who gave evidence against the daughter of a priest, were refuted by C and D, and the latter were afterwards themselves refuted by E and F, the woman undergoes her due death penalty — burning — since her refuting witnesses C and D were proved to be collusive, and the false witnesses are punished by the same penalty as the male adulterer (strangulation or burning, according to the status of the woman). V. infra 90a.

(20) From my teachers.

(21) Lit., ‘to make a fence round it. ‘

(22) The prohibition against riding on the Sabbath is only a ‘shebuth’, l.e., a Rabbinical injunction. Cf. Bezah. 37a M.

(23) During the time that Palestine was under Greek rule there was great laxity in the Jews’ adherence to their religion, and stringent measures had to be adopted to enforce observance (Rashi). [Cf. Derenbourg, Essai, p. 107.]

(24) I.e., in public.

(25) The law does not prescribe this punishment for such improper conduct. (11) I.e., loose morals prevailed at the time.

(26) After being stoned.

(27) This bears no resemblance at all to crucifixion. Cf. Rabbinowicz, Legislation criminelle du Talmud, p. 111: What a difference between this hanging after death, where the executed man had both his hands tied and did not remain one minute upon the gallows, and the Supplicium, which the Romans inflicted upon Jesus, who was nailed to the cross whilst alive, with his hands on the cross, and left hanging on the gallows all day.

(28) The first witness, Krauss, loc. cit.

(29) [מקיף, Me'iri reads סומך]

(30) And not fixed into the ground.

(31) Deut. XXI, 23. קללת אלהים is interpreted by the Mishnah as an objective genitive — ‘a curse against God’.

(32) If his body be left hanging a considerable time, thus reminding men of his blasphemy.

(33) Man's sin reflecting, in a manner of speaking, on God.

(34) In interpretation of the words קללת אלהים.

(35) In consequence of sin, as those are who are executed in this instance.

(36) The word שכינה is omitted in most editions of the Mishnah. Where it is omitted, the definite article is added to the word לושן, and the phrase is translated, ‘When man suffers, what does the tongue say?’ [The tongue stands for the Divine, and some texts accordingly add here, "if it could be said’, כביכול.]

(37) V. Gemara. The phrase is intended to express how painful it is to God when His children suffer, even though they may deserve punishment for their iniquities, as a father would deplore the pain of his sinful son.

(38) I.e., that the corpse must not be left hanging over night.

(39) Mentioned above.

(40) ‘HIS’ is ambiguous, and the Talmud on 47a discussed to whom it refers.

(41) I.e., the family vault.

(42) Soon after the execution.

Talmud - Mas. Sanhedrin 46b

AND THEY OBSERVED NO MOURNING RITES[1] BUT GRIEVED [FOR HIM],[2] FOR GRIEF IS BORNE IN THE HEART ALONE.

GEMARA. Our Rabbis taught: Had it been written, ‘If he has sinned, then thou shalt hang him,’ I should have said that he is hanged and then put to death, as the State does.[3] Therefore Scripture says, And he be put to death, then thou shalt hang him — he is first put to death and afterwards hanged. And how is this done? — It [the verdict] is delayed until just before sunset. Then they pronounce judgment and put him [immediately] to death, after which they hang him; One ties him up and another unties [him],[4] in order to full the precept of hanging.

Our Rabbis taught: [Then thou shalt hang him on] a tree:[5] this I might understand as meaning either a cut or a growing tree; therefore Scripture states, Thou shalt surely bury him:[6] [thus, it must be] one that needs only burial,[7] so excluding that which needs both felling and burial.[8] R. Jose said; [It must be] one that needs only burial, thus excluding that which requires both detaching and burial.[9] And the Rabbis?[10] — Detaching is of no consequence.[11]

AS IF TO SAY WHY WAS HE HANGED? — BECAUSE HE CURSED etc. It has been taught: R. Meir said: A parable was stated, To what is this matter comparable? To two twin brothers [who lived] in one city; one was appointed king, and the other took to highway robbery. At the king's command they hanged him. But all who saw him exclaimed, ‘The king is hanged!’[12] whereupon the king issued a command and he was taken down.

R. MEIR SAID etc. How is that implied?[13] — Abaye answered: It is as though one said: It is not light.[14] Raba objected: If so, he [the Tanna] should have said: My head is heavy upon me, my arm is heavy upon me![15] Raba therefore explained it thus: It is as though one said: Everything is light[16] to me. But this [the word Kilelath] is needed for its own purpose![17] — If so, Scripture should have stated ‘mekallel:’[18] why ‘kilelath’![19] Then perhaps the entire verse was written for that purpose?[20] — If so, it should have stated, ‘killath:’[21] why ‘kilelath’.[22] Hence both [meanings] are inferred from it.

AND NOT ONLY OF THIS ONE etc. R. Johanan said on the authority of R. Simeon b. Yohai: Whence is it inferred that whoever keeps his dead [unburied] over night transgresses thereby a negative conmmand?[23] — From the verse, Thou shalt surely bury him;[24] whence we learn that he who keeps his dead [unburied] over night transgresses a prohibitory command. Others state: R. Johanan said on the authority of R. Simeon b. Yohai: Where is burial [as a means of disposing of the dead] alluded to in the Torah? — In the verse, Thou shalt surely bury him: here we find an allusion to burial in the Torah.

King Shapor[25] asked R. Hama: From what passage in the Torah is the law of burial derived? The latter remained silent, and made no answer. Thereupon R. Aba b. Jacob exclaimed: The world has been given over into the hands of fools, for he should have quoted, For thou shalt bury![26] — [That is no proof, since] it might merely have meant, that he should he placed in a coffin![27] But it is also written, Bury, thou shalt bury him.[28] — He [King Shapor] would not have understood it thus.[29] Then he should have proved it from the fact that the righteous were buried![30] — [He might object.] That was merely a general custom.[31] Well then, from the fact that the Holy One, blessed be He, buried Moses![32] — But, [he might answer,] that was so as not to depart from the general custom. But come and hear! And all Israel shall make lamentation for him and they shall bury him.[33] — That [too] might have been done so as not to depart from the general custom. [But again it is written,] They shall not be lamented, neither shall they be buried; they shall be as dung upon the face of the ground?[34] — The purpose of that, however, might have been to depart from the established custom.[35]

The scholars propounded : Is burial [intended to avert disgrace.[36] or a means of atonement?[37] What is the practical difference? If a man said, ‘I do not wish myself[38] to be buried.’ If you say that it is to prevent disgrace, then it does not depend entirely upon him;[39] but if it is for atonement, then in effect he has declared, ‘I do not desire atonement.’[40] What [then is its purpose]? Come and hear! ‘From the fact that the righteous were buried.’ If then you say that it is for atonement — are the righteous in need thereof? Even so, for it is written, For there is not a righteous man upon earth who doeth good and sinneth not.[41]

Come and hear! [It is written,] And all Israel shall make lamentations for him, and they shall bury him, for only he of Jeroboam shall come to the grave.[42] Now should you assert [that burial] is for the attainment of forgiveness, then the others too should have been buried, that there might be atonement for them? — This one [sc. Abijah], who was righteous, deserved to find forgiveness, but the others were not [worthy] to attain it.

Come and hear! They shall not be lamented neither shall they be buried.[43] — [It may be precisely] in order that there might be no atonement for them.

The scholars asked: Is the funeral oration in honour of the living or of the dead? What is the practical difference? If the deceased had said, Pronounce no funeral oration over me;[44] or again in respect of collecting [the cost] from the heirs![45] — Come and hear! And Abraham came[46] to mourn for Sarah and to weep for her.[47] Now, should you maintain that it is no honour of the living: in that case for Abraham's honour he delayed Sarah's [burial]! — [There] Sarah herself was pleased that Abraham should attain honour through her.

Come and hear! And all Israel shall make lamentation for him and they shall bury him:[48] If you say that it is in honour of the living, were these [Abijah's relatives] worthy of honour?[49] — It is pleasing to the righteous that people[50] should be honoured through them.

Come and hear! They shall not be lamented neither shall they be buried![51] — The righteous do not wish to be honoured through evil-doers.

Come and hear! They shall die in peace, and with the burnings of thy fathers, the former kings that were before thee, so shall they make a burning for thee, and they shall lament thee, saying Ah! Lord.[52] Now if you maintain that it is in honour of the living, of what consequence was this to him?[53] — He spoke this to him: Israel will be honoured through thee, as they were honoured through thy parents.[54]

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(1) E.g., the seven and thirty days and the twelve months, v. M. K. 20a.

(2) As, in ordinary cases, before the burial.

(3) V. supra p. 304, n. 2.

(4) I.e., no sooner is he hung up, than he is untied and taken down.

(5) Deut. XXI, 22.

(6) The need of burial for the post is deduced from the strengthening of the idea of the verb by the infinitive, קבר תקברנו, v. supra 45b.

(7) Such as a detached post.

(8) E.g., a growing tree.

(9) I.e., excluding a post which is driven into the earth, because it must be detached thence before it can be buried. Therefore he maintains that it must not be fixed in the ground, but merely leaned against the wall.

(10) Do they not admit the justice of R. Jose's arguments, and if so, why do they assert that the post is driven into the earth?

(11) I.e., it is not a weighty action which constitutes a real delay of burial.

(12) Being twins their appearance was similar. So man has some resemblance to God, having been created in His image. Cf. Gen. V, 1.

(13) R. Meir's explanation of the word קללת.

(14) קל לית.

(15) Using the positive adjective כבד instead of the negative, ‘not light’.

(16) Euphemistically for heavy, as no one is inclined to speak evil in connection with his own person. (Rashi). Kohut explains it as meaning that when one is in trouble he cannot pull himself together, and is in a state of light headedness or giddiness. V. ‘Aruch. vol. VII, p. 90, n. 4.

(17) As indicating that the law refers to a ‘blasphemer’, v. supra p. 300, n. 4.

(18) Which is the exact Hebrew for ‘blasphemer’; (cf. Lev. XXIV, 14: Bring forth him that hath cursed, i.e., the blasphemer — Heb. מקלל).

(19) Which, though it may mean ‘a curse (against God),’ (v. p. 304, n. 6), is not as unambiguous as mekallel. Hence it must have been chosen because both meanings can be understood in it.

(20) Which R. Meir deduces from it, according to Raba; how then do I know that it refers to a blasphemer at all? It may refer to any criminal.

(21) קלת; ‘the lightness of’.

(22) Which also implies blasphemy.

(23) His body shall not remain all night: Deut. XXI, 23, which in the first place was stated in reference to those executed by the Court.

(24) The infinitive indicates that the command concerns all dead, not only those executed by the Court.

(25) [Shapor II, King of Persia, 359-380, transferred the royal residence to Csetifon, and there came in contact with Jewish sages, v. Obermeyer, op. city., p. 175.]

(26) Ibid. 23.

(27) LIt., ‘that a coffin should be made for him.’ The verse does not necessarily imply that the corpse must be placed in the ground — so, at least, it might be urged.

(28) קבור תקברנו, and the emphatic infinitive must imply burying in the earth.

(29) I.e., a Gentile would not have understood the principle underlying the deduction.

(30) Thus it is related in Scripture that the Patriarchs were buried.

(31) Prior to the giving of the law, and so has no basis in the Torah.

(32) Cf. Deut. XXXIV, 6.

(33) I Kings XIV 13, with reference to Abijah the son of Jeroboam I, King of Israel, who was seriously ill. The fact that he would come to his grave in peace and be mourned by all Israel was foretold to his mother by the Prophet Ahijah, whom she consulted respecting his recovery. Hence it is evident that burial was an established practice after the giving of the law also.

(34) Jer. XVI, 4. Hence non-burial was regarded as a punishment for the wicked.

(35) Which would thus be a great disgrace. Kohut accounts for this discussion being raised on the part of the Persian King Shapor by the fact that the ancient Persians regarded burial as a desecration of the soil, which they looked upon as sacred. V. ‘Aruch. Vol. I, p. 271 s.v. ארגז.

(36) Decomposition and putrefaction make the dead loathsome: burial may be intended to spare them and their relatives the disgrace.

(37) For the sins committed during life-time Cf. infra 47a, where it is stated that the process of decay in the earth is a means of expiation.

(38) Lit., ‘that man’.

(39) Because his relatives are humiliated along with him.

(40) And so, even if he is buried, he does not attain forgiveness.

(41) Eccl. VII, 20

(42) I Kings XIV, 13, referring to Abijah, the son of Jeroboam.

(43) Jer. XVI, 4, i.e., if burial is a means of expiation, why should they too not attain it?

(44) If it is in honour of the living, he has no power to object; on the other hand, the heirs can then dispense with it.

(45) If it is in honour of the dead, they are obliged to pay for a funeral oration, even against their desire,

(46) From Mt. Moriah, the scene of the binding of Isaac.

(47) Gen XXIII, 2.

(48) I Kings XIV, 13.
(49) Seeing that the whole family of Jeroboam, with the exception of Abijah, were wicked.
(50) I.e., the people as a whole even outside the immediate family circle.
(51) Jer. XVI, 14. If lamentation is in honour of the living, why were the righteous who survived them deprived of that honour?
(52) Jer. XXXIV, 5; a prophecy to Zedekiah, the last king of Judah.
(53) Zedekiah, that Israel would be honoured.
(54) It may be observed, both here and in the following passage, that if the deceased is a king, the honour of the living, if that is the purpose of the funeral eulogy, extends beyond his immediate family circle and embraces the people as a whole.

Come and hear! In whose eyes a vile person is despised[1] — this refers to Hezekiah, king of Judah, who had his father's remains dragged upon a pallet made of ropes.[2] But if it [the respect paid to the dead] is in honour of the living, why [did he do so]?[3] — It was in order that his father might obtain forgiveness. And for the sake of his father's atonement he disregarded[4] the honour of Israel! — Israel itself was pleased to have its honour violated for his sake.

Come and hear! He[5] said to them:[6] Do not hold funeral orations over me in the [small] towns.[7] Now, should you maintain that it is in honour of the living, what did it matter to him? — He wished that Israel might be honoured through him, in greater measure.

Come and hear! IF HE KEPT HIM OVER NIGHT FOR THE SAKE OF HIS HONOUR, TO PROCURE FOR HIM A COFFIN OR A SHROUD HE DOES NOT TRANSGRESS THEREBY. Now surely that [sc. FOR THE SAKE OF HIS HONOUR] means, for the honour of the dead?[8] — No: for the honour of the living. And for the sake of the honour of the living the dead is to be kept overnight! — Yes When did the Merciful One say, His body shall not remain all night upon the tree,[9] only in a case similar to be hanged, where it [the keeping of the corpse] involves disgrace;[10] but here, where there is no disgrace[11] it does not apply.

Come and hear! If he [the relative] kept him overnight for his own honour, so as to inform the [neighbouring] towns of his death, or to bring professional women mourners for him,[12] or to procure for him a coffin or a shroud, he does not transgress thereby, for all that he does is only for the honour of the deceased![13] — What he [the Tanna] means is this: Nothing that is done for the honour of the living involves dishonour to the dead.

Come and hear! R. Nathan said: It is of good omen for the dead when he is punished [in this world] after death. E.g., if one dies and is not mourned, or [properly] buried, or if a wild beast drags him along, or if rain drips down on his bier, it is a good omen for him.[14] We may infer therefore from this that the funeral rites are in honour of the dead.[15] This proves it.

AND THEY DID NOT BURY HIM etc. And why such severity?[16] — Because a wicked man may not be buried beside a righteous one. For R. Aha b. Hanina said: Whence is it inferred that a wicked man may not be buried beside a righteous one? — From the verse, And it came to pass as they were burying a man that behold they spied a band and they cast the man into the sepulchre of Elishah, and as soon as the man touched the bones of Elishah, he revived and stood up on his feet.[17] Said R. Papa to him, Perhaps that was only to fulfil [the request], Let a double portion of thy spirit be upon me?[18] — Thereupon he retorted: If so, what of that which was taught: [He only] arose on his feet, but did not return home?[19] Then what of, Let a double portion of thy spirit etc. where is it found that he resurrected [two people]? — As R. Johanan said: He healed the leprosy of Naaman,[20] which is the equivalent of death, as it is written, Let her not, I pray Thee, be as one dead.[21]

And just as a wicked person is not buried beside a righteous one, so is a grossly wicked person not to be buried beside one moderately wicked. Then should there not have been four graveyards?[22] — It is a tradition that there should be but two.

‘Ulla said in R. Johanan's name: If one ate forbidden fat[23] and thereupon dedicated a sacrifice,[24] abjured his faith, but subsequently returned, since it [the offering] has [once] been invalidated,[25] it remains so. It has been stated likewise: R. Jeremiah said in the name of R. Abbahu in R. Johanan's name; If one ate forbidden fat and thereupon dedicated a sacrifice, became insane, but later recovered, since it [the sacrifice] has once been invalidated.[26] it remains so. And both rulings are necessary. For had he taught us the first one only, [one might have assumed that] it is because he had rendered himself unfit [to offer a sacrifice] by his own action;[27] but as for the latter case [insanity], where he was automatically unfitted, I might say that he is [merely] as a person who has slept [in the meantime].[28] Again, had he taught us only the latter, [one might have thought that] it was because it was not in his power to recover; but there [in the case of apostasy], since it was in his power to return, one might say that it does not [remain invalidated]. Both rulings are therefore necessary.

R. Joseph said: We too have learnt similarly: If there are holy objects therein,[29] that which is dedicated to the altar [i.e.. sacrifices] must die;[30] to the Temple repair, must be redeemed.[31] Now we pondered thereon, Why should they die? Since they [the inhabitants of the condemned city] are executed, they obtain forgiveness: should they [the sacrifices] not then be offered to Heaven![32] Surely then is it not so because we hold that once invalidated, they remain so? Abaye retorted; Do you then think that he who dies in his wickedness obtains forgiveness [by his death]? Nay, he who dies in his wickedness does not obtain forgiveness, for R. Shemaiah learnt: One might have thought that even if his [the priest's] parents had dissociated themselves from the practices of the congregation,[33] he [the priest] may defile himself:[34] but Scripture states, among his people[35] teaching, that it is so provided he [the parent] has followed the practices of his people.[36] Said Raba to him: Dost thou compare one who was executed in his wickedness to one who died in his wickedness? In the latter case, since he dies a natural death, he attains no forgiveness;[37] but in the former, since he does not die a natural death, he obtains forgiveness [by the mere execution]. In proof thereof, it is written, A Psalm of Asaph, O God, the heathen are come into Thine inheritance; they have defiled Thy Holy Temple... They have given the dead bodies of Thy servants to be food unto the fowls of the heaven; the flesh of Thy saints onto the beasts of the earth.[38] Who are meant by ‘Thy servants,’ and who by ‘Thy saints’? Surely ‘thy saints’ means literally, saints, whereas, ‘thy servants’ means those who were at first liable to sentence [of death], but having been slain, are designated ‘servants’.[39] Abaye retorted: Would you compare

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(1) Ps. XV, 4. in answer to the question in verse 1: Who shall sojourn in Thy Tabernacle?

(2) A rude bed made out of ropes so depriving him of a kingly burial, his object being to show that the deceased deserved contempt because of his wickedness in spreading heathendom in Israel. The act could not be viewed as transgression of the fifth commandment, as the latter does not apply to a father who is wicked. — V. Yeb. 22b on the verse, Nor curse a prince among thy people (Ex. XXII, 27). — Again, he did not consider his own honour, as is deduced from the verse quoted above.

(3) Surely he had no right to deprive the living of their due.

(4) Lit., ‘delayed’.

(5) R. Judah, the Prince (135-220 C.E.), who died in Sepphoris and was carried to Beth She'arim for burial. V. Keth. 103a.

(6) His sons. So Rashi. From the context in Keth. it appears that the request among other testamentary wishes, was made to the Sages.

(7) But only in the more important towns where there would be larger audience.

(8) Hence it follows that anything done in connection with the dead is for the honour of the dead.

(9) Deut. XXI, 22, in connection with the criminal from whom this procedure has been deduced for all other dead.

(10) I.e., the longer the body remains exposed, the greater the disgrace; and even in the case of an ordinary person, if the funeral is delayed without cause, but simply out of neglect, it is likewise accounted a disgrace to the dead, therefore it is forbidden.

(11) The delay not being due to neglect (v. preceding note), but to the needs of the living.

(12) V. Jer. IX, 16, and cf. M. K. III, 9.

(13) Hence it follows that funeral orations are for the deceased's honour.

(14) That his sins will be forgiven.

(15) For otherwise why should any such disgrace have an atoning effect?

(16) As to have two burial grounds.

(17) II Kings XIII, 21. According to tradition, the man buried was the old prophet of Beth-El (I Kings XIII, 1; v. infra p. 312, and note a.l.). Hence it is seen that it is not the Divine Will to have a wicked man buried with a righteous.

(18) II Kings II, 9. This was Elishah's request of Elijah. Hence, since the latter had restored one person from death (cf. I Kings XVII, 22), Elishah should have restored two, whereas he had as yet restored but one — the son of the Shunamite (II Kings IV) Thus this incident does not prove that a wicked man may not be buried beside a good man.
(19) I.e he did not live for more than a few minutes: surely that is not a fulfilment! Hence the reason of the man's momentary resurrection must have been because the wicked must not be buried beside the righteous.
(20) V. II Kings V.
(21) Num XII, 12, with reference to Miriam, who was stricken with leprosy.
(22) One for each mode of execution since these varied in severity.
(23) V. Lev. III, 17.
(24) To atone for his sin. Cf. Lev. IV, 27-28.
(25) Lit., ‘repelled’. Sacrifices are not accepted from apostates Cf. Hul. 5b.
(26) Because he lacked the intelligence to be cognisant of his doing. v. ‘Ar. 21a.
(27) In becoming a apostate.
(28) Where no suspension is caused by the normal intermediary gap in one's intelligent consciousness.
(29) The condemned city, all the property of which save holy things, have to be destroyed. Deut XIII, 16.
(30) Even though not destroyed, they cannot he offered, v. infra 112b.
(31) Just as all other objects intended for the repair-fund.
(32) Lit., ‘the (most) High’. Since after death their offerings cannot be classed as offerings of the wicked
(33) E.g., if they (the parents) had been apostates.
(34) Through their dead bodies, attending in their funerals, etc.
(35) The whole passage reads: ‘Speak unto the priests the sons of Aaron, and say unto them, There shall none be defiled for the dead among his people. But for his kin, that is near unto him, that is, for his mother, and for his father etc. Lev. XXI, 1-2. By linking ‘among his people’ (as interpreted here) with the following verse, ‘But for his kin, etc.’ it is deduced that only then may a priest defile himself, but not if his parents were, e.g., apostates.
(36) Hence death does not bring forgiveness if one had died in his wickedness.
(37) By mere death without repentance.
(38) Ps. LXXIX, 1-2.
(39) Having attained expiation through execution.

Talmud - Mas. Sanhedrin 47b

those who are slain by a [Gentile] Government,[1] to those who are executed by the Beth din? The former, since their death is not in accordance with [Jewish] law, obtain forgiveness; but the latter, whose death is justly merited, are not [thereby] forgiven. This can also he proved from what we learnt: THEY DID NOT BURY HIM IN HIS ANCESTRAL TOMB. And if you should imagine that having been executed, he attains forgiveness: he should be buried [with his fathers]! — Both death and [shameful] burial[2] are necessary [for forgiveness].[3]

R. Adda b. Ahabah objected: THEY OBSERVED NO MOURNING RITES, BUT GRIEVED FOR HIM FOR GRIEF IS BORNE ONLY IN THE HEART. But should you think that having been [shamefully] buried, he attains forgiveness, they should observe mourning rites! — The decay of the flesh too is necessary.[4] This also follows from what he [the Tanna] teaches: WHEN THE FLESH WAS COMPLETELY DECOMPOSED, THE BONES WERE GATHERED AND BURIED IN THEIR PROPER PLACE.[5] This proves it.

R. Ashi said: When do the mourning rites commence? From the closing of the grave with the grave stone.[6] When is atonement effected? After the bodies have experienced a little of the pains of the grave.[7] Therefore, since they [the mourning rites] have once been suspended,[8] they remain so. If so, why must the flesh be consumed?[9] — Because it is impossible [otherwise].[10]

It was the practice of people to take earth from Rab's grave and apply it [as a remedy] on the first day of an attack of fever. When Samuel was told of it,[11] he said: They do well; it is natural[12] soil, and natural soil does not become forbidden, for it is written, And he cast the dust thereof[13] upon the graves of the common people:[14] thus he compares the graves of the common people to idols. Just as [the use of] idols is not forbidden when they are ‘attached,’[15] for it is written, [Ye shall utterly destroy all the places, wherein the nations] that ye are to dispossess served their gods, upon the high mountains,[16] their gods which are upon the high mountains [are forbidden for use], but not the mountains which themselves are their gods;[17] so here too, what is ‘attached’ [i.e., what belongs to the dead] is not forbidden.

An objection is raised: ‘If one hews a grave for his [dead] father and then goes and buries him elsewhere, he himself may never he buried therein’?[18] — The reference here is to a built grave.[19] Come and hear! ‘A fresh grave[20] may be used. But if an abortion had been laid therein, it is forbidden for use’?[21] — Here too, the reference is to a built grave.

Come and hear! ‘Thus we see[22] that there are three kinds of graves:[23] A grave that has been found;[24] a known grave;[25] and one which injures the public.[26] A grave that has been found may be cleared;[27] when cleared, the place thereof is [levitically] clean and permitted for use.[28] A known grave may not be cleared; if it has been, the spot is unclean and forbidden for use.[29] A grave which injures the public may be cleared; if it has been, the place thereof is clean but may not be used’?[30] — Here too, the reference is to a built grave. But may a grave that was found be evacuated? Perhaps a meth-mizwah was buried therein; and a meth-mezwah takes possession of his place of burial![31] A meth-mizwah is quite different, since its existence is generally known.[32]

It has been stated: If one wove a shroud for a dead person: Abaye rules, it is forbidden;[33] Raba says, It is permitted. ‘Abaye rules, It is forbidden;’ [he holds,] designation is a material act.[34] ‘Raba says, It is permitted;’ designation is not a material act. What is Abaye's reason? — He deduces [identity of law] from the use of ‘sham’ [there] both here [with reference to the dead] and in connection with the broken-necked heifer.[35] Just as the broken-necked heifer becomes forbidden through designation,[36] so this too[37] becomes prohibited through designation. But Raba makes his deduction from the use of sham both here and in connection with idol-worship.[38] Just as in idol-worship mere designation imposes no prohibition,[39] so here too, it does not become forbidden through designation. But why does Raba not make his deduction from the broken-necked heifer? — He answers you:

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(1) Such as that referred to in the Psalm.

(2) I.e in the criminals’ graveyard.

(3) The inhabitants of the condemned city, therefore, having undergone both punishments, obtained forgiveness on this view, and their offerings could have been accepted, but for the reason that, having been once invalidated, they remained so.

(4) For forgiveness.

(5) Proving that only then is the crime fully expiated

(6) גולל from גלל ‘to roll,’ so called because it can be rolled away. This is not to be confused with the modern tombstone, but was a stone placed on top of the grave immediately it was filled in.

(7) The process of decay in the earth was believed to be painful to the body. Cf. Ber. 18b, ‘The worm is as painful to the flesh of the dead, as the needle to the flesh of the living.

(8) In the interval between the covering of the grave and the experiencing of pains in the grave. Since forgiveness had not yet been obtained, the dead are yet accounted wicked, and therefore no mourning rites are necessary.

(9) Before they can bury him in the family vault.

(10) I.e., owing to the decomposition of the body, it is impossible to remove the remains before the flesh is completely destroyed.

(11) Thus calling his attention to their use of an object belonging to the dead, which is forbidden. Cf. A.Z. 29b.

(12) Lit., ‘world’.

(13) Of the Ashera.

(14) II Kings XXIII, 6.
(15) The technical term for soil, mountains, etc., and things growing therein.
(16) Deut. XII, 2.
(17) I.e., only detached idols are forbidden for use, but if natural earth (which includes mountains) is worshipped, it is not thereby forbidden for use.
(18) Because having been prepared for a particular corpse, it may not be used for anyone else. Now, it is assumed that this holds good even if it was dug for any corpse, ‘father’ being mentioned merely because that is the usual thing. Thus we see that even natural soil is under the same prohibition.
(19) [A grave erected within the excavation (Yad Ramah).] Such a grave is not regarded as part of the soil, and, had it been prepared for any other person, would not have been forbidden. The prohibition here, however, is on account of filial respect.
(20) One just dug and not yet assigned to any dead body.
(21) The argument is that even natural soil must be forbidden.
(22) Lit., ‘it is found that thou sayest.
(23) I.e., which are separate and distinct in the laws pertaining to them.
(24) One in which a dead body had been buried by stealth, and without the consent of the owner of the ground, i.e., it has only now been found to be a grave.
(25) In which a body was buried with the consent of the owner.
(26) E.g., which lies in a thoroughfare.
(27) I.e., the bones may be transferred elsewhere.
(28) Since the burial took place without the knowledge of the owner of the ground, the dead man does not ‘take possession of the place’ (v. infra for the meaning of that phrase).
(29) This is a precautionary measure against the unwarranted transference of bones.
(30) This proves that natural soil can also be prohibited.
(31) I.e., it becomes his, whether it had a right to the soil in the first place or not. This is one of the ten enactments of Joshua on entering the land. Cf B.K. 81a.
(32) Lit., ‘he has a voice’. I.e., the discovery of such was broadcast, and his burial was not really a secret unknown to the owner.
(33) To be used for any other purpose.
(34) I.e., mere designation for the dead subjects it to the same law as though it has been employed for the purpose.
(35) In connection with the dead: And Miriam died there and was buried there (שם) (Num. XX, 1); with reference to the heifer, And shall break the heifer's neck there (Deut. XXI, 4).
(36) Even the mere bringing it down to the valley renders it forbidden for any other purpose (Rashi: cf. Kid. 57a)
(37) Sc. a shroud woven for the dead.
(38) Ye shall surely destroy all the places there (שם) where the nations which ye are to dispossess serve their gods. (Deut. XII, 2).
(39) I.e., if one dedicates an object for idol-worship, it does not become forbidden, unless actually used so, because ‘The laws of dedication do not operate in connection with idol worship.’ A.Z. 44b.

Talmud - Mas. Sanhedrin 48a

Objects of service are deduced from objects of service,[1] thus excluding the broken-necked heifer, which is in itself taboo. And why does Abaye not deduce [his ruling] from idol-worship? — He answers you: Normal practices are deduced from normal practices so excluding idol-worship which is not normal.[2]

(Mnemonic: Veil; Tomb; Hewn. The craftsman's bag.)[3]

An objection is raised: ‘If a veil, which is unclean[4] through Midras,[5] is designated [as a cover] for the Book [of the law], it is purified from [the uncleanness of] Midras,[6] yet may become unclean by direct contact [with the dead]’?[7] — Say thus: If it was designated for and wrapped round [the Book].[8] But why are both ‘designation’ and ‘wrapping’ necessary?[9] — This is in accordance with R.

Hisda, who said: If a cloth was assigned for wrapping Tefillin therein, and was so used, one may not tie up coins in it. If it was assigned, but not used so, or vice versa,[10] one may tie up coins in it.[11] But on Abaye;s view, viz., that [mere] designation is a material act; if one had assigned the cloth [for the purpose of wrapping up his Tefillin], even though he did not do so, or if he wrapped them in it, and also assigned it [for that purpose], it is so [i.e., the prohibition holds good]; but if he had not assigned it, it is not [forbidden].

Come and hear! ‘A tomb[12] built for a man still alive, may be used.[13] If, however, one added a single row of stones for a dead person,[14] no [other] use may be made thereof’?[15] — This deals with a case where the corpse had actually been buried there. If so why [teach] particularly ‘if one added [etc.]’; even if not, the law would have been the same! — This is only necessary [to teach that the prohibition remains] even if the body has [subsequently] been removed.[16]

Rafram R. Papa said In R. Hisda's name: If he recognizes that [additional row] he may remove it and the tomb becomes again permissible.

Come and hear! ‘If one hews a grave for his [dead] father and then goes and buries him elsewhere, he [himself] may never be buried therein’?[17] — Here it is on account of his father's honour.[18] That too stands to reason. For the second clause teaches: R. Simeon b. Gamaliel said; Even if one hews stones[19] [for a tomb] for his father, but goes and buries him elsewhere, he [himself] may never employ them for his own grave.[20] Now, if you agree that it is out of respect for his father, it is correct. But if you say that it is because of designation, does any one maintain that yarn spun for weaving [a shroud is forbidden]?[21]

Come and hear! A fresh grave may be used. But if an abortion has been laid therein, it is forbidden for use,[22] Thus, it is so only if it has actually been laid therein, but not otherwise![23] — The same law holds good even if it [the abortion] was not laid therein;[24] and it [the statement, ‘if it has been laid therein’] is [only] intended to exclude the view of R. Simeon b. Gamaliel, who maintains: Abortions take no possession of their graves.[25] He therefore teaches us [otherwise].[26]

Come and hear! ‘The surplus [of a collection] for the dead must be used for [other] dead,[27] but the surplus [of a collection] for a [particular] deceased person belongs to his heirs’?[28] — This refers to a case [where the money was] collected during [the deceased's] lifetime. But [the Tanna] did not teach thus? For we learnt: The surplus [of a collection] for the dead must be used for [other] dead, but the surplus [of a collection] for a [particular] deceased person belongs to his heirs. Now, it was taught thereon: How so? If it was collected for the dead in general that is where we rule; The surplus [of a collection] for the dead must be used for [other] dead, but if it was collected for a particular dead person, that is where we rule, The surplus [of a collection] for a deceased belongs to his heirs! — But according to your view,[29] consider the second section: R. Meir said: It must remain intact until Elijah comes;[30] R. Nathan ruled: It is to be expended for a monument on his grave, or sprinkling [aromatic wine] before his bier.[31] But Abaye reconciles them[32] in accordance with his view, and Raba in accordance with his view.[33] ‘Abaye reconciles them in accordance with his view;’ [thus;] all agree that designation is a material act. Now, the first Tanna holds that he [the dead] takes possession[34] only of as much as he needs, and not of the surplus;[35] R. Meir, however, is doubtful whether he takes possession [of the surplus] or not: consequently it must remain intact until Elijah comes; whereas R. Nathan holds that he certainly takes possession [even of the surplus]; hence it is to be employed for a monument on his grave. ‘And Raba in accordance with his view;’ [thus:] all agree that assignment is not a material act.[36] Now, the first Tanna maintains: Though they humiliated him,[37] he forgives his humiliation for his heirs’ sake,[38] R. Meir, however, is doubtful whether he forgives it or not; therefore it must remain intact etc.; whilst R. Nathan takes the definite view that he does not forgive it, therefore the surplus must be expended on a monument for his grave or for sprinkling [aromatic wine] before his bier.

Come and hear! If his father and mother are throwing garments upon him,[39] it is the duty of others to save them.[40]

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(1) I.e., the shroud for the dead and the animal devoted to be sacrificed to an idol are not in themselves taboo, but merely so because they are used in the service of something that is forbidden. In A.Z. 51b the verse referring to idolatry (quoted in n. 4) is interpreted as bearing upon objects used in the service of idols.

(2) 'Normal' is used in the sense of 'sanctioned by law.' I.e., it is a normal (permitted) practice to make a shroud for the dead, likewise to break the neck of a heifer under prescribed conditions. But under no circumstances can idolatry be 'normal' (i.e. — permitted). Therefore, mere designation in connection with idolatry does not impose a prohibition, because, since it is abnormal (forbidden), one may repent and never use it for the purpose. But in the case of the other two, if permitted (or even obligatory), once they are designated for that purpose they will certainly be used, unless unforeseen circumstances intervene. Therefore the mere designation suffices to give them the same status as though they had actually been used.

(3) [On this mnemonic v. Brull. I., Mnemotechnick p. 44.]

(4) Rashi here, and the commentary of R. Samson of Sens on the Mishnah, Kel. XXVIII, 5, understand it literally, i.e., it had actually become unclean. Maim. and Asheri, however, translate (loc. cit.), which is liable to become unclean, but had not, in fact, become so.

(5) מדרס, a technical term in the laws of purity, from דרס 'to tread', denoting the uncleanness of an object through being used either for sitting on or lying on, i.e., being made to bear the weight of a person with issue. If it is so defiled, it becomes a primary source of uncleanness to men and utensils. A veil is thus liable, since it may be folded up and sat upon, or, when it is being worn on the head, the wearer may lean back on her seat or the wall, and thus cause it to bear her weight.

(6) So according to Rashi and R. Samson. M. and Asheri: it ceases to be liable to the uncleanness of Midras. The reason, according to all interpretations, is that it can no longer be used in such a way.

(7) As all other finished articles which have a definite use (technically, 'utensils'). Rashi translates (with a different reading): yet it retains the uncleanness of touch, i.e., if when the person with issue bore down on it, he also touched it, the uncleanness of Midras disappears, but it retains to the uncleanness of having been touched by him — which is a different degree of impurity', (Kelim XXVIII, 5). This proves that mere designation is a material act which suffices to change the status of an object, and thus contradicts Raba's ruling.

(8) Hence there was not merely designation, but also use; the combination can certainly effect a change.

(9) The use itself should have sufficed for the change.

(10) I.e., Tefillin were wrapped therein, but it had not been previously assigned for that purpose.

(11) I.e., assignment by itself is not a material act. Again, wrapping something in it without having made the assignment is assumed to be merely incidental. The same applies to the veil, and therefore both are required. — Of course, that is only on Raba's view; Abaye will interpret the Mishnah cited quite literally.

(12) נפש. The word actually means a structure built over a tomb, to be used as a grave.

(13) For other purposes.

(14) I.e., the addition was made when the person was actually dead.

(15) Thus proving that mere designation is a material act.

(16) When the prohibition of its use depends on whether a special row of stones was added for the corpse. If not it loses its forbidden character, for it is then like the cloth in which Tefillin were wrapped without its having been previously designated for that purpose.

(17) V. p. 315, n. 12.

(18) That the grave is prohibited to serve as the son's burial place.

(19) From a quarry for the purpose of building a vault.

(20) Lit., 'may never be buried in them.'

(21) None, not even Abaye. For Abaye only maintains that if a shroud is actually woven, and so fit for its purpose, it is forbidden through mere designation. But when yarn is spun, though its ultimate destiny is to be woven into a shroud, it is not forbidden, since as yarn it is useless for its purpose. Similarly, when stones are prepared for building a tomb, they should not become forbidden. Hence the prohibition must be on account of filial respect, not designation.

(22) V. p 316, n. 2.

(23) I.e., if it was merely assigned for an abortion, it is not forbidden, proving that mere assignment is not a material act.
(24) On account of the assignment of the abortion.
(25) I.e., they do not impose a lasting prohibition thereon, to operate even after the graves are cleared.
(26) Therefore the Tanna is particular to mention ‘an abortion,’ but is not exact in his statement as to what is done for the abortion. But actually, even if the grave is merely designated for an abortion, it is forbidden for use.
(27) If a collection was made for burying the poor, the actual person, however, being unspecified, and at any particular moment there is a balance in hand, it must be kept for other dead. This is so even if, when the collection was made, it was known that it was for certain dead, but they were not specified.
(28) To be used for any purpose, thus proving that designation is not a material act (Mishnah Shek. II. 5).
(29) That assignment is not material.
(30) I.e., Elijah the prophet glorified in the Haggadah as a messenger charged with various tasks, one of which is to be the precursor of the Messiah, when he will solve all questions in doubt. (Cf. B.M. 29b; Pes. 15a).
(31) From this it would seem that since it was designated for the dead,it must be so used, proving that designation is a material act. [The words, ‘Or sprinkling . . . his bier’, do not occur in the cited Mishnah, but in Tosef, Shek. I.]
(32) The differences of opinion in the Mishnah.
(33) In such a way that the differing Tannaim may he seen to agree with their (Abaye's and Raba's) views respectively.
(34) I.e., it becomes his peculiar property, in the sense that it may not be used for any other purpose.
(35) Lit., ‘of what he does not need.’
(36) And the reasons given by R. Meir and R. Nathan for prohibiting the balance for general use is not that it is actually forbidden, but because the deceased was put to shame when a public collection was made for his funeral.
(37) V. preceding note.
(38) I.e., that they may have the benefit of the surplus.
(39) Their dead son. It was an expression of extreme grief, and a symbol that they were ready to renounce everything left behind, that belonged to him (Rashi).
(40) By removing them from the corpse, as though returning lost property. Now, had assignment been a material act, how could they be saved after being dedicated to the dead?

Talmud - Mas. Sanhedrin 48b

— There [it is done] solely out of grief.[1] If so, how explain what was taught regarding this: R. Simeon b. Gamaliel said: When is this so? Only if they [the garments] have not [actually] touched the bier, but if they have, they are forbidden [for use]?[2] — ‘Ulla interpreted this as referring to a bier which is buried with him,[3] [the garments being forbidden] because they might be confused with the vestments of the dead.[4]

Come and hear! ‘One may not put money in a bag which was made to hold Tefillin.[5] But if one [incidentally] put Tefillin in a bag, he may afterwards put money therein’?[6] — Let us put it thus: If a man made it [for Tefillin] and placed Tefillin therein, it is forbidden to put money in it: and this is in accordance with R. Hisda.[7]

Come and hear! ‘If one says to a craftsman, Make me a sheath for a Scroll [of the Law], or a receptacle for Tefillin,’ before they are actually used for their sacred purposes, they may be employed for secular requirements; but once used for their sacred purposes they may not be put to secular use!’[8] — There is here a dispute among Tannaim for it has been taught: If one overlaid them [the Tefillin] with gold or covered them with the hide of an unclean beast, they are unfit.[9] If with the hide of a clean beast, they are permissible, even though it was not dressed for the purpose. R. Simeon b. Gamaliel said: Even if covered with the hide of a clean beast, they are unfit, unless it was not specially dressed for the purpose.[10] Rabina said to Raba: Is there any place where the dead lie while the shroud is being woven?[11] Yes, he answered; e.g., it is so with the dead of Harpania.[12] Meremar said in a lecture: The law rests with Abaye. But the Rabbis say: The law rests with Raba. In fact the law is as Raba says.

Our Rabbis taught: The property of those executed by the State[13] belongs to the King: the property of those executed by the Beth din belongs to their heirs. R. Judah said: Even the property of those executed by the State goes to their heirs. Said they to R. Judah: But it is not written, Behold he [Ahab] is in the vineyard of Naboth whither he is gone down to take possession of it?[14] — He answered: He [Naboth] was his [the King's] cousin,[15] and therefore he [Ahab] was his legitimate heir.[16] But he [Naboth] had many sons! — He [the King] slew both him and his sons, he replied, as it is written, Surely I have seen yesterday the blood of Naboth and the blood of his sons.[17] And the Rabbis?[18] — They refer to his potential sons.[19] Now, on the view that their property belongs to the King, it is correct: hence it is said, Naboth did curse God and the King.[20] But on the view that their estate belongs to their heirs,[21] why mention and the King?[22] — But even according to your reasoning,[23] why state, 'God'?[24] Hence [it must have been added] in order to increase the anger [of the judges].[25] So here too,[26] it [the mention of the King] was made in order to increase the anger [of the judges].[27] Now, on the view that the estate belongs to the King, it is correct: hence it is written, And Joab fled unto the tent of the Lord and caught hold of the horns of the Altar;[28] and it is further written, And he said Nay, but I will die here.[29] But on the view that their estate belongs to their heirs, what difference did it make to him? — [It would serve] to prolong his life for a while.[30]

And Benaiah brought back word unto the King saying, thus said Joab and thus he answered me:[31] He [Joab] had said to him: Go and tell him [the King]: Thou canst not inflict a twofold punishment upon me:[32] if thou slayest me, thou must submit to the curses which thy father uttered against me;[33] but it thou art unwilling [to submit thereto], thou must let me live and suffer from thy father's curses against me. And the King said unto him, Do as he hath said,[34] and fall upon him and bury him.[35]

Rab Judah said in Rab's name; All the curses wherewith David cursed Joab were fulfilled in David's own descendants. [It is written:] Let there not fail from the house of Joab one that hath an issue, or that is a leper, or that leaneth on a staff, or that falleth by the sword, or that lacketh bread.[36] 'He that hath an issue' [was fulfilled] in Rehoboam,[37] for it is written, And king Rehoboam made speed[38] to get him up to his chariot to flee to Jerusalem;[39] whilst it is elsewhere written, And what saddle soever he that hath the issue rideth upon shall be unclean.[40] 'A leper' — Uzziah,[41] for it is written, But when he was strong his heart was lifted up so that he did corruptly, and he trespassed against the Lord his God, for he went unto the Temple of the Lord to burn the incense upon the altar of incense;[42] and it is further written, And the leprosy broke forth on his forehead.[43] 'He that leaneth on a staff' — Asa,[44] for it is written, Only in the time of his age he was diseased in his feet:[45] concerning which Rab Judah said in Rab's name: He was afflicted with gout.[46] Mar Zutra the son of R. Nahman asked R. Nahman; What is it [this complaint] like? — He answered: Like a needle in the raw flesh. But how did he [R. Nahman] know that? — Either because he himself suffered with it; alternatively, he had a tradition from his teacher; or again [he knew it] because, The secret[47] of the Lord is with them that fear Him, and His covenant to make them know it.[48] 'He that falleth by the sword,' — Josiah,[49] for it is written, And the archers shot at king Josiah:[50] concerning which Rab Judah said in Rab's name: They riddled his body like a sieve. 'That lacketh bread' — Jechoniah,[51] for it is written, And for his allowance, there was a continual allowance given him [by the king].[52] Rab Judah said in Rab's name: Thus people say,

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(1) But without seriously intending to devote the garments to the dead. Therefore it is not regarded as designation at all.

(2) But seeing that the act is done only out of grief and there is no assignment to the dead at all, why should they be forbidden?

(3) Such was the custom in those days.

(4) I.e., the permission given to use the garments might be taken as applying also to the vestments, seeing that they come in contact with one another. Otherwise they might have been permitted for use, not because assignment is not material, but because in this case it was only an expression of grief.

(5) Although it had not actually been used for that purpose.

(6) Hence assignment is material.

(7) Who holds that both designation and actual use are needed for prohibition. Cf. supra 48a.
(8) V. Tosef Meg. II. This definitely proves that use and not designation is material, and contradicts Abaye.
(9) Cf. Shab. 108a on the verse in Ex. XIII, 9, That the law of the Eternal may be in thy mouth, — they (the Tefillin) should be made out of objects permissible for food.
(10) Men. 42b. Git. 45b. thus, the first Tanna considers designation as immaterial, whereas R. Simeon B. Gamaliel holds it to be a material act. Hence Raba agrees with the first Tanna; Abaye is with R. Simeon b. Gamaliel.
(11) I.e., surely one does not wait for a person to die and delay the funeral while a shroud is being woven. In that case, the dispute of Abaye and Raba, whether a shroud woven for the dead (which means when the person is actually dead) may be used for other purposes, is entirely an imaginary one, such circumstances being inconceivable.
(12) [Or Neharpania (v. D.S. a.l.), a town in Babylon in the Mesene district, v. Obermeyer, op. cit., p. 197.] According to Rashi, its inhabitants were so poor that they could not afford to prepare the shrouds beforehand,and only after a death occurred was a public collection made, and a shroud hastily woven. [According to Obermeyer, op. cit., p. 201, the corpse in the meantime was lying naked in accordance with the Zoroastrian practice which the Jews of that town seemed to have adopted which forbade the covering or dressing of a corpse with any cloth but one that had been specially woven and prepared for the purpose.]
(13) The reference is to the Jewish State, e.g., those executed for treason against the King.
(14) So God said to Elijah. I Kings XXI, 18. The expression ‘take possession’ (from the verb ‘to inherit’) indicates that he took legitimate possession, as an heir.
(15) Lit., ‘the son of his father's brother.’
(16) This statement has no Biblical source.
(17) II Kings IX, 26.
(18) How could they urge the fact that he had sons in face of the definite statement that they were slain?
(19) Lit., ‘to the sons that should have issued from him.’ — A murderer is held guilty not only of his victim's death, but also for the frustration of the lives of his potential descendants for all time. (Cf. Mishnah. supra 37a). But in their view, Ahab did not slay his actual sons.
(20) I Kings XXI, 13, pointing to his culpability for treason to the King in addition to blasphemy, which is punished by the Beth din; hence his estate would fall to the crown.
(21) So that Ahab took possession of the vineyard as heir.
(22) Since blasphemy itself was sufficient for conviction, why needlessly add a false indictment?
(23) That treason was punished by death and royal confiscation.
(24) The charge of blasphemy being in itself superfluous.
(25) I.e., they might have been inclined to think that a charge of treason alone was trumped up, but when blasphemy was added, they assumed it to be genuine. So Rashi. Kimhi maintains that the judges knew the testimony to be false, but that the accusation was made stronger in order to keep the people from revolting against the execution.
(26) I.e., even if he held that their estate did not belong to the King.
(27) I.e. to make the crime appear more heinous.
(28) I KIngs II, 28.
(29) Ibid. 30. I.e., he declined to be tried by the King so that his estate might not be confiscated.
(30) He wished to gain the time which it would require to take his message to the King and bring back an answer.
(31) Ibid. This gives the impression that Benaiah had had a long conversation with Joab.
(32) Lit., ‘that man.’
(33) For the murder of Abner. V. II Sam. Ill, 29: The curse is quoted in the text. — That curse then was to be Joab's punishment. But if Solomon executed him, the curse would be transferred to Solomon himself.
(34) And kill him where he is.
(35) I Kings II, 31. Thus Solomon accepted the curses.
(36) II Sam. III, 29.
(37) Solomon's only son. V. I Kings XIV, 21.
(38) Lit., ‘used effort’.
(39) I Kings XII, 18.
(40) Lev. XV, 9. The deduction is made from a comparison of the uses of the expression ‘to ride’ in both verses. According to Kimhi, however, it is deduced from the fact that he had to use an effort to mount his chariot.
(41) Son of Amaziah, called also Azariah, Cf. II Kings XV, 1.

(42) II Chron. XXVI, 16.
(43) Ibid. 19.
(44) Son of Abijah, King of Judah. II Kings XV, 8.
(45) I Kings XV, 23.
(46) Podagra, gout in the feet, in consequence of which he had to lean on a staff.
(47) E.V. 'The counsel.'
(48) Ps. XXV, 14, — i.e., as a Divine revelation.
(49) Son of Amon, II Kings XXII, 1.
(50) II Chron. XXXV, 23.
(51) Grandson of Josiah.
(52) Of Babylon, II Kings XXV, 30.

Talmud - Mas. Sanhedrin 49a

Let thyself be cursed rather than curse [another].[1]

Then Joab was brought before the Court,[2] and he [Solomon] judged and questioned him, 'Why didst thou kill Abner?'[3] He answered, 'I was Asahel's[4] avenger of blood.'[5] 'But Asahel was a pursuer!'[6] 'Even so,' answered he; 'but he [Abner] should have saved himself at the cost of one of his [Asahel's] limbs.'[7] 'Yet perhaps he could not do so, remonstrated [Solomon]. 'If he could aim exactly at the fifth rib,' he retorted, ('even as it is written, Abner with the hinder end of the spear smote him at the waist;[8] concerning which R. Johanan said: It was at the fifth rib, where the gall-bladder and liver are suspended.) — could he not have aimed at one of his limbs?' Thereupon [Solomon] said: 'Let us drop [the incident of] Abner; why didst thou kill Amasa?'[9] He answered: 'Amasa disobeyed the royal order,[10] for it is written, Then said the King to Amasa, Call me the men of Judah together within three days etc. So Amasa went to call the men of Judah together; but he tarried etc.' 'But,' said he [Solomon], 'Amasa interpreted [the particles] 'Ak and Rak.'[11] [Thus:] he found them[12] just as they had begun [the study of] a tractate; whereupon he said: It is written, Whosoever he be that shall rebel against thy [the King's] commandments and shall not hearken unto thy words in all that thou commandest him, he shall be put to death.[13] Now, one might have thought that this holds good even [when the transgression is committed] for the sake of the study of the law: it is therefore written, only [Rak] be strong and of good courage.[14] But thou thyself[15] didst disobey the royal order, for it is written, And the tidings[16] come to Joab, for Joab had turned after Adonijah, though he had turned not after Absalom.[17] What is the purpose of 'though he had turned not.'[18] — Rab Judah said: He wished to turn [after him], but did not. And why did he not? — R. Eleazar said: David still possessed his vitality.[19] R. Jose the son of R. Hanina said: David's star[20] was still in the ascendant, for Rab Judah said in Rab's name:[21] Four hundred children had David, all the issue of yefoth to'ar; they had long locks, and used to march at the head of the troops; it was they who were the men of power in David's household.

This [view of Joab] is in contradiction to the view held by R. Abba b. Kahana, who said: But for David,[22] Joab would not have succeeded in[23] war; and but for Joab, David could not have devoted himself to [the study of] the Torah, for it is written, And David executed justice and righteousness for all his people, and Joab the son of Zeruiah was over the host:[24] — i.e., why was David able to execute 'justice and righteousness for all his people'? — Because 'Joab was over the host.' And why was 'Joab over the host'?[25] — Because 'David executed justice and righteousness for all his people.'

And when Joab was come out from David he sent messengers after Abner and they brought him back from Bor-Sira.[26] What meaning has [the name] Bor-Sira? — R. Abba b. Kahana said: Bor[27] and Sira[28] caused Abner to be killed.[29]

And Joab took him aside into the midst of the gate to speak with him quietly.[30] R. Johanan said:

He judged him according to the law of the Sanhedrin.[31] Thus he asked him: ‘Why didst thou kill Asahel?’ — ‘Because Asahel was my pursuer.’ ‘Then thou shouldst have saved thyself[32] at the cost of one of his limbs!’ ‘I could not do that,’ [he answered]. ‘If thou couldst aim exactly at his fifth rib, couldst thou not have prevailed against him by [wounding] one of his limbs?’

‘To speak with him ba-sheli [quietly]:’ Rab Judah said in Rab's name: [He spoke to him] concerning the putting off [of the shoe].[33] ‘And smote him there at the waist:’ R. Johanan said: At the fifth rib, where the gall-bladder and liver are suspended.[34]

And the Lord will return his [Joab's] blood upon his own head because he fell upon two men more righteous and better than he.[35] ‘Better,’ because they interpreted aright [the particles] ‘ak and rak,[36] whilst he did not;[37] ‘More righteous,’ because they were instructed verbally,[38] yet did not obey, whereas he was instructed in a letter,[39] and nevertheless carried it out.

But Amasa did not beware of the sword that was in Joab's hand.[40] Rab said: That was because he did not suspect him. And he was buried in his own house in the wilderness.[41] But was his house a wilderness?[42] — Rab Judah said in Rab's name: It was like a wilderness, just as a wilderness is free to all, so was Joab's house free to all.[43] Alternatively: ‘Like a wilderness’ means, just as a wilderness is free from robbery and licentiousness,[44] so was Joab's house free from robbery and licentiousness.

And Joab kept alive[45] the rest of the city:[46] R. Judah said: Even fish broth and hashed fish he would merely taste and then distribute to the poor.[47]

CHAPTER VII

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(1) For, as in this case, the curses always recoil on oneself or on one's descendants.

(2) This is a continuation of the narrative commenced on 48b, which was interrupted to shew that all David's curses were fulfilled upon his descendants.

(3) Cf. II Sam. III, 27.

(4) Joab's brother, who pursued Abner when he fled for his life, after having been defeated by Joab at Gibeon whilst fighting for Ishbosheth, Saul's surviving son, v. II Sam. II, 23.

(5) Cf. Num. XXXV, 19.

(6) I.e., Abner, seeing his life in danger, killed him in self-defence. Cf. II Sam. II, 8-32.

(7) And so incapacitate him, instead of inflicting a mortal wound. V. infra 74a: If one can injure his adversary in self-defence, but kills him instead, he is guilty of murder.

(8) II Sam. II, 23 חומש ‘loins’, ‘waist’, means also ‘fifth’. Hence R. Johanan's interpretation.

(9) Son of Abigail, King David's sister, who commanded the rebel army of Absalom. Subsequently he was pardoned by David and given the command of the army when the rebellion of Shebah broke out (II Sam. XX). On that account Joab saw a dangerous rival in him. II Sam. XVII, 25; XIX, 14.

(10) Lit., ‘he rebelled against the throne.’ This was punishable by death.

(11) אך, ‘but’; רק, ‘only’, both denoting limitation.

(12) The men of Judah.

(13) Josh. I, 18.

(14) Rak intimating a limitation. Hence the duty to fulfil the King's command does not apply where one is engaged in the study of the Law, According to the view held by Amasa, God's Law seemed more important to him than the will of the King, and no transgression was involved in waiting until they had finished their study.

(15) Lit., ‘that man.’

(16) Of Solomon's ascent to the throne.

(17) I Kings II, 28.

(18) For the information that he did not turn after Absalom seems superfluous at this point.

(19) Lit., ‘moisture’. But as soon as David became feeble he inclined after Adonijah.

(20) איצטגניני (astrological power), symbol of his mighty men upon whom he placed reliance in war, and who led

him to victories.
(21) V. nn. 4-5, supra p. 114.
(22) Who studied the Torah continuously.
(23) Lit., ‘waged’.
(24) II Sam, VIII, 15-16.
(25) I.e., why was he successful in war?
(26) Ibid. III,26.
(27) בור ‘well’,hence container of water, a pitcher.
(28) סירה a thorn-bush.
(29) The explanation of this statement is found in J. Sotah I, where one of the reasons given for Abner's death was his indifference to the effecting of a reconciliation between Saul and David, instead of seeking which, he rather endeavoured to increase their hatred. He did not take advantage of the following two occasions when he might have brought about the reconciliation: One, when Saul entered the cave of En-Gedi where David and his band were hidden, and the latter, though he could have destroyed his pursuer, contented himself with merely cutting off the skirt of his robe (I Sam. XXIV, 4). The second time, in the wilderness of Ziph, when David found Saul sleeping and took the spear and jug of water from beside his head (ibid. XXIV, 12ff), subsequently reproaching Abner for not watching better over the King. Abner, however, made nought of this generous treatment of Saul by David, contending that the jug of water might have been given to David by one of the servants, whilst the skirt of the robe might have been torn away by a thorn-bush, and left hanging. These two incidents are hinted at in the words Bor (well, i.e., a jug of water), and Sira (a thorn-bush).
(30) II Sam. III, 27.
(31) This is inferred from the word ‘gate’, frequently denoting ‘court’; cf. Deut. XXI, 19.
(32) Lit., ‘him’, i.e., save the pursuer from committing a crime, v. supra p. 326, n 8.
(33) The word בשלי is here derived from נשל to draw or pull off. Joab is supposed to have inquired from Abner in what way a one-armed woman would loosen the shoe in the ceremony of halizah (v. Deut. XXV, 9). On his replying that she would do it with her teeth (cf. Yeb 105a), he asked him to demonstrate it, and as he stooped low to do so, he smote him. This incident is hinted at in David's words of farewell to Solomon: He (sc. Joab) shed the blood of war in peace, — and put the blood of war in the shoes that were on his feet (I Kings II, 5).
(34) V. p. 326, n. 9.
(35) And slew them with the sword. I Kings II, 32.
(36) Signifying limitation. v. p. 326, n. 12. According to this, the king's orders were not to be obeyed where they involved serious transgressions; v. p. 327 n. 2, with reference to Amasa, Abner's attitude is intimated in a reference to the murder of the Priests of Nob (v. I Sam. XXII, 17). And the King said unto the guard that stood about him, turn and slay the Priests of the Lord, but the servants of the king would not put forth their hand to fall upon the Priests of the Lord. Cf. also supra 20a, where, according to R. Isaac, Abner tried to restrain the king from committing a murder, but without avail.
(37) When the king directed him to expose Uriah the Hittite to the enemy in such a manner as to ensure his destruction. V. II Sam. XI, 14ff.
(38) To kill the priests of Nob.
(39) Ibid. XI, 14. And a verbal command by the king is stronger than a mere written order.
(40) II Sam. XX, 10.
(41) I Kings II, 34.
(42) Regarding ‘in’ as indicating apposition: i.e.,’in his own house,’ viz. ‘the wilderness.’
(43) I.e., Everyone was sure to find hospitality there.
(44) Because it it not inhabited by men.
(45) יחיה lit., ‘made alive,’ (E V,: repaired) i.e., fed.
(46) I Chron. XI, 8.
(47) I.e., even his smallest meal he would share with the poor.

Talmud - Mas. Sanhedrin 49b

MISHNAH. FOUR DEATHS HAVE BEEN ENTRUSTED TO BETH DIN: STONING, BURNING, SLAYING [BY THE SWORD] AND STRANGULATION.[1] R. SIMEON

ENUMERATED THEM THUS: BURNING, STONING, STRANGULATION AND SLAYING.[2] THAT IS THE MANNER OF STONING.[3]

GEMARA. Raba said in the name of R. Sehora in the name of Rab: Whatever the Sages taught by number is in no particular order, excepting the [Mishnah of] the seven substances. For we learnt: Seven substances are applied to the stain, viz., tasteless saliva,[4] the liquid exuded by crushed beans, urine, natron,[5] lye,[6] Cimolian earth[7] and ashleg.[8] Now, the latter clause [of that Mishnah] states: If they were not applied in this order, or if they were all applied simultaneously,[9] the test is inconclusive. R. Papa the Elder said in Rab's name: The same [exception] applies to ‘FOUR DEATHS etc’; for, since R. Simeon disputes the order, it is to be inferred that it is exact. But the other?[10] — He does not refer to cases [where the order] is disputed. R. Papa said: The order of Service on the Day of Atonement is also exactly taught, for we learnt: All the rites of the Day of Atonement which are prescribed in a particular order, if one was performed out of its turn, it is invalid. But the other?[11] — That law is merely one of added stringency.[12] R. Huna, the son of R. Joshua said: The order of the Tamid[13] is also exact, for in connection therewith we have learnt: This is the order of the Tamid.[14] But the other?[15] — That [Mishnah] merely teaches that the precept of the Tamid is best carried out in this order.[16]

[Now reverting to Raba's statement] this [‘whatever etc.’] is intended to exclude the precept of halizah[17] [from the need of a particular order in its procedure], for we have learnt: the precept of halizah is thus carried out: — He [the deceased man's brother] and his sister-in-law come before Beth din, who counsel him in a manner fitting for him,[18] as it is written. Then the elders of his city shall call him, and speak unto him.[19] Then she declares: My husband's brother refuseth etc.,[20] whilst he states: I like not to take her.[21] The members of Beth din thereupon announce in Hebrew:[22] Then shall his brother's wife come unto him in the presence of the elders, and remove his shoe from off his foot, and spit in his sight[23] — the spittle was to be visible to the judges — Then shall she answer and say, So shall it be done unto that man etc. . . . And his name shall be called in Israel etc. Now Rab Judah said: The precept of halizah is carried out thus: [First] she declares [My husband's brother refuseth etc.]; then he declares [I like not to take her]; then she removes his shoe and spits in his presence, and then she again declares [So shall it be done etc.]. But we pondered thereon: What does Rab Judah teach us? Is this not stated in the Mishnah? — Rab Judah teaches us this: The precept is best carried out thus; but if the order was changed, it does not matter. It has been taught likewise: Whether the halizah was performed before the spitting or the reverse, the ceremony is efficacious.

Raba's statement above is also intended to exclude that which we learnt: The High Priest officiates [in the Temple] wearing eight garments, but the ordinary priest wears only four, viz., tunic, breeches, mitre and girdle; to which the High Priest adds the breast plate, ephod, robe[24] and head plate. Now it has been taught: Whence do we know that nothing must be donned before the breeches? From the verse: [He shall put on the holy linen tunic,] and the linen breeches shall [already] be upon his flesh.[25] But why does the Tanna give precedence [in this enumeration] to the tunic? — Because it is given precedence in Scripture;[26] and why does Scripture do this? — Because it prefers to state first that which covers the whole body.[27]

STONING, BURNING, etc.

Stoning is severer than burning, since thus the blasphemer[28] and the idol-worshipper are executed.[29] Wherein lies the particular enormity of these offences? — Because they constitute an attack upon the fundamental belief of Judaism.[30] On the contrary, is not burning more severe, since that is the punishment of a priest's adulterous daughter; and wherein lies the greater enormity of her offence: in that she profanes her father?[31]

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(1) The enumeration is in descending order of severity.

(2) The Gemara discusses the consequences of this dispute.
(3) This refers to the directions given in the Mishnah on 45a.
(4) I.e., the saliva of one who had not eaten that day. Nid. 62a.
(5) Nether (******) is correctly translated ‘nitre’ in Jer. II, 22, where it signifies carbonate of soda, a cleansing agent. But by a transference of terms ‘natron’ has been adopted to denote carbonate of soda; whilst ‘nitre’ now denotes saltpetre, which has no washing properties.
(6) A sort of soap.
(7) A clay used in cleaning clothes.
(8) A kind of alkali, or mineral used as soap. These materials were applied to a red stain on a woman s garments, to ascertain whether it is blood or a dye. If the stain disappears, it is blood; otherwise it is a dye.
(9) And the suspicion of blood is attached to the stain.
(10) Raba, why did he not cite our Mishnah as an exception?
(11) R. Papa the Elder, why does he not include this latter Mishnah among the exceptions?
(12) I.e., Scripture, in insisting on a certain order of ceremonial on the Day of Atonement, did not thereby ascribe greater sanctity to any particular rite, but decreed the order merely as a matter of greater stringency. having regard to the solemnity of the Day. But in those cases cited as exceptions, the order is intimately bound up with the effectiveness or importance of the things mentioned. E.g.,in our Mishnah the order of deaths is in descending severity; in the Mishnah treating of the test applied to a stain, these materials, if applied in a different order, are actually ineffective.
(13) The daily burnt offering.
(14) Tamid VII, 3; the preceding Mishnah enumerated its rites: this Mishnah states that they must be performed in the order taught.
(15) R. Papa, why does he not cite this too as an exception?
(16) Yet if the order was not adhered to, the service is valid.
(17) Lit. ‘drawing off’, sc. ‘the shoe’. The ceremony is referred to in the text. By this act the widow is freed from the obligation of Levirate marriage.
(18) If, e.g., he is an old man, whilst his widowed sister-in-law is a young woman, or vice versa, they advise him to repudiate the marriage.
(19) Deut. XXV, 8. ‘Speak unto him’ is interpreted as meaning to advise him.
(20) Ibid. 7.
(21) Ibid. 8.
(22) Lit., ‘The Holy Language’. By this is meant the actual Biblical text; v. M. H. Segal, Mishnaic Hebrew Grammar, p. 2.
(23) Ibid. 9.
(24) Worn over the tunic.
(25) Lev. XVI, the inserted ‘already’ is implied in the use of the verb ‘to be’, יהיו .
(26) Ibid.
(27) Thus we see that the enumeration of the Tanna is not according to the order in which the garments are donned.
(28) Lev. XXIV. 14-16.
(29) Deut. XVII, 2-5, i.e., a Jew who committed idol worship. In this discussion on the relative severity of the different modes of execution the painfulness of the deaths is not taken into account, but merely the gravity of the offences for which they are imposed.
(30) Since both are virtually a denial of the existence of the true God. This is undoubtedly an assertion that the confession of God is the cardinal tenet of Judaism — a dogma, in fact. Notwithstanding the controversies that have arisen on the questions whether Judaism contains any dogmas, there can be no doubt that the rejection of idolatry is a sine qua non of Judaism. V. Schechter, Studies in Judaism: The Dogmas of Judaism. Cf. also Y. D. 268, 2, on the admission of proselytes, of whom is demanded the profession of belief in God and the rejection of idolatry.
(31) V. infra 52b. This discussion, though refuted at a later stage, is interesting as shewing the eminently practical character of Judaism. Though adultery does not undermine the essential basis of Judaism, it is nevertheless suggested that it is to be regarded as a greater offence than idolatry, particularly where its results extend beyond the person of the offender.

Talmud - Mas. Sanhedrin 50a

— The Rabbis[1] maintain that a priest's daughter, only if a nesu'ah, is excepted [from the usual punishment by strangulation meted out for adultery] and is executed by burning; but an arusah, [who, if an Israelite's daughter, is stoned] as [if a priest's daughter] not excepted [from the usual punishment, i.e., she is stoned likewise].[2] Now since [in a case of a priest's daughter] an arusah is singled out by the Divine Law [and punished] by stoning [instead of burning], we may conclude that stoning is more severe than burning.[3] Stoning is severer than slaying by the sword, since it is the punishment of a blasphemer and an idol worshipper, the greater enormity of whose offence has already been stated.[4] On the contrary, is not death by the sword more severe, since that is the penalty for the inhabitants of a seduced city,[5] the graver character of whose sin is proved by the fact that their property is destroyed? — Now, let us consider: whose crime is greater; that of the seducer or of the seduced? Surely that of the seducer.[6] And it has been taught: The seducers of a seduced city are executed by stoning.[7]

Stoning is severer than strangulation, since it is the penalty of the blasphemer and the idol worshipper, the enormity of whose offence has already been stated. On the contrary, is not strangulation severer, since it is the punishment of one who smites his father or mother, the greater seriousness of whose offence lies in the fact that their honour is assimilated to that of the Omnipresent?[8] — Since the Divine Law excluded an arusah, the daughter of an Israelite, from the general penalty of a nesu'ah, the daughter of an Israelite, altering her punishment from strangulation to stoning, it follows that stoning is severer.[9]

Burning is severer than slaying by the sword, since it is the penalty of a priest's adulterous daughter, the greater enormity of whose offence lies in the fact that she thereby profanes her father. On the contrary, is not the sword severer, since this is the penalty of the inhabitants of a seduced city, the enormity of whose crime is shewn by the fact that their property is destroyed? — ‘Her father’ is mentioned in connection with stoning;[10] ‘her father’ is also mentioned in reference to burning:[11] just as when ‘her father’ is mentioned in connection with stoning, stoning is severer than the sword; so ‘her father’, when mentioned in connection with burning, shews that burning is severer than slaying by the sword.[12]

Burning is severer than strangulation, since it is the punishment of a priest's adulterous daughter, the enormity of whose offence has already been stated. On the contrary, is not strangulation severer, since it is the punishment of one who smites his father or mother, the greater enormity of whose offence lies in the fact that their honour is assimilated to that of the Omnipresent? — Since the Divine Law varied the penalty of a nesu'ah, if a priest's daughter, from that of a nesu'ah, if an Israelite's daughter, from strangling to burning, we may conclude that burning is severer.[13]

Slaying is severer than strangling, since thereby the inhabitants of a seduced city are punished, the severity of whose punishment is attested by the fact that their property is destroyed. On the contrary, is not strangulation severer, being the punishment of one who smites his father or mother, the greater enormity of whose offence lies in the fact that their honour is assimilated to that of the Almighty? — Even so the offence against the fundamental tenet of Judaism [which is the crime of the seduced city] is greater.

R. SIMEON ENUMERATED THEM THUS etc.

[In his view] burning is severer than stoning, since it is the punishment of a priest's adulterous daughter, the enormity of whose offence lies in the fact that she profanes her father. On the contrary, is not stoning severer, being the punishment of a blasphemer and idol-worshipper, the gravity of whose offence lies in that they reject the fundamental tenet of Judaism? — R. Simeon's view here is in accordance with his other opinion, viz., that a priest's adulterous daughter, whether an arusah or a nesu'ah, is excepted [from the punishment meted out to an Israelites' daughter], in that her penalty is burning. Now since the Divine Law varied the punishment of an arusah, if a priest's daughter, from that of an Israelite's daughter, from stoning to burning, it follows that burning is a severer penalty.

Burning is severer than strangulation, since it is the punishment of a priest's adulterous daughter, the gravity of whose offence has already been stated. On the contrary, is not strangulation severer than burning, being the punishment of one who strikes his father or mother,the enormity of whose offense is constituted by the fact that their honour is compared to that of the Omnipresent?-Since the Divine Law excluded a nesu'ah, the daughter of a priest, from the penalty of a nesu'ah, if an Israelite's daughter, by changing her death from strangling to burning, it follows that burning is severer.

Burning is severer than slaying, since it is the punishment of a priest's adulterous daughter, the enormity of whose offence has already been stated. On the contrary, is not the sword more severe, since it is the penalty of the inhabitants of a seduced city, the gravity of whose offence is shewn by the fact that their property is destroyed? Now consider, whose offence is greater: that of the seducer or of the seduced?

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(1) The anonymous opinion cited first in the Mishnah.

(2) Marriage consists of two stages: kiddushin or erusin, whereby the matrimonial bond is made, not to be broken without divorce; and huppah, or home taking, without which cohabitation is forbidden. A woman who has undergone the first ceremony is called an arusah (betrothed); after the second she is called a nesu'ah (married). Nowadays both ceremonies are united, the canopy (huppah) being symbolic of the home to which the husband takes his newly-married wife; but in ancient days there was generally an interval between them.

(3) For obviously the offence of an arusah, who is still in her father's house and thereby profanes him, is greater than that of a nesu'ah; and therefore we may assume that her punishment is correspondingly greater. This conclusion is further supported by the fact that a nesu'ah, if an Israelite's daughter, is punished by strangulation, the most lenient of all death penalties, whilst an arusah is punished by stoning, the most severe. Rashi, however, points out that Scripture does not state that a priest's daughter, only if a nesu'ah, is excepted from the punishment of an Israelite's daughter: but not if an arusah. It is only because the Rabbis hold stoning to be more severe than burning that they assume that an arusah, if a priest's daughter, cannot be more leniently treated than if a Israelite's daughter, for her penalty to be commuted from stoning to burning. This vitiates the whole argument. Hence we must fall back upon the first line of reasoning, that stoning is severer, since it is the punishment of an idol worshipper and blasphemer, because their offence, constituting a rejection of the fundamental basis of Judaism is greater than that of the harlot, in spite of the fact that she profanes her father. That being so, the passage 'the Rabbis maintain etc.' will not be part of the proof, but an answer to an unexpressed difficulty. For this difficulty arises: If stoning is severer than burning , how is it that a priest's daughter is punished by the latter instead of the former, which is the punishment of an Israelite's daughter(if an arusah)?To this the answer is given that only a nesu'ah is thus punished by burning , whilst an Israelite's daughter is only strangled — an easier death than burning. But if an arusah, her death is by stoning, just as in the case of an Israelite's daughter. Consequently, the next passage now, since an arusah, etc.' is entirely superfluous, being neither part of the argument nor an answer to the unexpressed difficulty: Rashi therefore deletes it from the text.

(4) Supra. 49b.

(5) Deut. XIII, 13-19.

(6) The Rabbis always regarded the offence of the tempter as greater than that of the sinner himself. Cf. Ab. V, 23: 'He who causes the multitudes to sin, shall not have the means to repent.... Jeroboam, the son of Nebat, sinned and caused the multitude to sin; the sin of the multitude was laid upon him.' This is in conformity with the general rabbinic dictum: 'All Israel are sureties for one another'.

(7) Thus proving stoning to be the greater penalty.

(8) Cf. Honour thy father and thy mother (Ex. XX, 12) with Honour the Lord with thy substance (Prov. III, 9).

(9) An arusah's sin is greater, because she destroys her virginity in addition to disgracing her family.

(10) In the case of a betrothed damsel who committed whoredom: Then shall they bring out the damsel to the door of her father's house, and the men of her city shall stone her with stones that she die; because she hath wrought folly in Israel, to play the whore in her father's house. Deut. XXII, 21.

(11) In the case of a priest's daughter: And the daughter of any priest, if she profane herself by playing the whore, she profaneth her father: she shall be burnt with fire. Lev. XXI, 9.

(12) A Gezerah Shawah, v. Glos.

(13) The sin of a priest's daughter is greater than that of an Israelite's daughter, since the former profanes her father in addition to disgracing herself.

Talmud - Mas. Sanhedrin 50b

Surely that of the seducer! This affords an argument from a major to a minor premise. If burning is severer than strangulation [as has already been shewn], though[1] the latter is severer than the sword,[2] it [burning] is surely severer than slaying, which is a lesser penalty.

Stoning is severer than strangulation, being the penalty of a blasphemer and idol worshipper, the extreme gravity of whose offence has already been stated. On the contrary, is not strangulation severer, since it is the penalty of one who smites his father or mother, the gravity of whose offence lies in the fact that their honour is likened etc.? — Since the Divine Law excluded an arusah, the daughter of an Israelite, from the penalty of a nesu'ah, the daughter of an Israelite, changing it from strangling to stoning,[3] it follows that stoning is severer.

Stoning is severer than slaying, being the penalty of a blasphemer, etc. On the contrary, is not slaying severer than stoning, since it is the penalty of the inhabitants of a seduced city, the gravity of whose offence is proved by the fact that their property is destroyed? — Now consider, whose offence is greater: the seducer's or the seduced? Surely that of the seducer! Hence you may argue from a major to a minor premise. If stoning is severer than strangulation, though the latter be severer than slaying,[4] surely it is severer than slaying itself.

Strangulation is severer than slaying, since it is the penalty of one who smites his father or mother, the gravity of whose offence has already been stated — On the contrary, is not slaying severer, since it is the penalty of the inhabitants of a seduced city, the enormity of whose crime is attested by the fact that their property is destroyed? — Now consider: whose offence is greater, the seducer's or the seduced? Surely the seducer's! And it has been taught: The seducers of a seduced city are punished by stoning. R. Simeon maintained: By strangulation.

R. Johanan used to teach:[5] If a betrothed [i.e.,an arusah] maiden[6] committed adultery, her punishment is stoning. R. Simeon said: It is burning. If she committed incestuous adultery with her father, her punishment is stoning. R. Simeon said: It is burning.[7] What does this shew? — That according to the Rabbis, only a nesu'ah, [if a priest's daughter] was excluded from the penalty of an Israelite's daughter by being burnt [instead of strangled], but not so an arusah — But according to R. Simeon, both an arusah and a nesu'ah, [if a priest's daughter] were thus excepted, by being burnt [instead of strangled]. Why so? — Because the Rabbis consider stoning to be severer, but R. Simeon holds burning to be severer; and from this is inferred that if a person incurred two death penalties, he is punished by the more severe.[8]

What statement of R. Simeon [shows that he holds that the priest's daughter, whether an arusah or nesu'ah, is punished by burning]? — It has been taught: R. Simeon said: Two general principles have been stated in respect of a priest's daughter.[9] Do these principles apply only to a priest's daughter, and not to an Israelite's daughter [surely not]?[10] — Say thus: In respect of a priest's daughter too. But then Scripture excluded a priest's daughter, a nesu'ah, from the penalty of an Israelite's daughter, a nesu'ah,' and an arusah, from the penalty of an Israelite's daughter, an arusah.[11] Now, just as when the scripture excluded the priest's daughter, a nesu'ah, from the penalty of an Israelite's daughter, a nesu'ah, it was in order to decree a severer punishment;[12] so also, when excluding the priest's daughter, an arusah, from the penalty of an Israelite's daughter, an arusah, it must have been in order to impose a greater punishment.[13] But false witnesses in respect of a nesu'ah, the daughter of a priest, are treated as though they had testified against an Israelite's daughter; likewise, if in respect of an arusah, who is a priest's daughter, they are punished just as though they had testified against an Israelite's daughter.[14]

Our Rabbis taught: And the daughter of any priest, if she profane herself:[15] I might think that this applies even to the profanation of the Sabbath,[16] — but the Writ states by playing the whore: thus Scripture speaks only of profanation through whoredom. I might think that this applies even to an unmarried woman. But her father is mentioned in this passage,[17] and her father is also mentioned elsewhere:[18] just as elsewhere the reference is to whoredom by one who is bound to a husband, so here too. But perhaps ‘her father’ is stated in order to exclude others?[19] — When Scripture states, She profaneth her father, it must apply to whoredom with others.[20] Hence, to what purpose do I put the phrase ‘her father’ [which, strictly speaking, is superfluous]? ‘Her father’ is mentioned in this passage, and ‘her father’ is also mentioned elsewhere; just as elsewhere the reference is to whoredom by one who is bound to a husband, so here too.[21] If so, just as the reference there is to a maiden[22] who is an arusah, so here too the reference is to a maiden who is an arusah: but if she is a maiden and a nesu'ah, or if she is a full-grown damsel[23] and an arusah, or a full-grown damsel and a nesu'ah, or even if she is aged, whence do we know [that the same law applies]? — The Writ states: ‘And the daughter of any priest’,[24] implying that the law holds good in all cases.[25]

‘The daughter of any priest’:

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(1) no note.

(2) B. Simeon holding that the seducer, whose offence is greater, was punished by strangulation, v. infra 89b.

(3) The offence of an arusah being greater, v. p. 335. n. 1.

(4) As will he proved in the next passage.

(5) Lit., ‘It was fluent in his mouth’, i.e., he received it orally from his teachers as at traditional law not actually taught in a Mishnah or a Baraitha (Rashi).

(6) ‘The Hebrew נערה na'arah denotes a damsel between twelve years and a day and twelve and a half years of age. Before that she is a minor (קטנה), after that an adult, ‘entering maturity’, bogereth (בוגרת).

(7) All this is R. Johanan's saying.

(8) Since R. Johanan maintains that the Rabbis rule that a priest's daughter , an arusah, is stoned, because stoning is the severer death, whilst R. Simeon holds that she is burnt, because he regards burning severer, deducing all this from the Scripture, it follows that if one incurs a double death penalty, the severer must be imposed. For here too, a choice of two deaths lies before us, and we chose the severer penalty because of the greater gravity of the offence.

(9) One referring to an arusah, and one to a nesu'ah; i.e., when the Torah states, the man that committeth adultery with another man's wife, even he that committeth adultery with his neighbour's wife, the adulterer and the adulteress shall surely be put to death, (Lev. XX, 10) this is a general law regarding a nesu'ah, in which a priest's daughter should be included. Likewise the law in Deut. XXII, 23f: If a damsel that is a virgin be betrothed unto a husband, and a man find her in the city and lie with her, then shall ye bring them both out unto the gate of the city, and ye shall stone them with stones that they die, is a general principle for an adulterous arusah, which should embrace the priest's daughter too.

(10) This is an interjection.

(11) And the daughter of any priest, if she profane herself by playing the whore, she profaneth her father; she shall be burnt with fire. (Lev. XXI, 9). ‘The daughter of any priest’, being unspecified, must refer both to an arusah and to a nesu'ah,’ whilst Lev. XX, 10 (quoted in preceding note) refers to a nesu'ah, and the death penalty mentioned there is interpreted as strangulation. Thus a priest's daughter, whether an arusah or a nesu'ah, is excepted from the penalty of an Israelite's daughter in a like case.

(12) Burning instead of strangulation, all admitting that the former is more severe.

(13) Burning instead of stoning, making Lev. XXI,9 (quoted on p. 335, n. 3) refer both to a nesu'ah and an arusah. This Baraitha then will be the authority for R. Johanan,’s statement that R. Simeon maintained that both an arusah and a nesu'ah, if priests’ daughters, were excepted from the penalty of an Israelite's daughter.

(14) Deut. XIX, 16-19. If a false witness rise up against any man, to testify against him that which is wrong . . . . then shall ye do unto him as he had thought to do unto his brother. Thus a false witness incurred the penalty he had sought to impose. But if he testified against a priest's daughter, whether an arusah or a nesu'ah, his punishment was that of an Israelite's daughter in like circumstances.
(15) Lev. XXI, 9.
(16) The Hebrew תחל tehel, used in the text, is not necessarily reflexive, as translated in the A.V.
(17) She profaneth her father.
(18) But if this thing be true, and the tokens for virginity be not found for the damsel: Then they . . . shall stone her with stones that she die: because she hath wrought folly in Israel, to play the whore in her father's house. Deut. XXII,21f.
(19) I.e., only if she committed incest with her father is she punished by burning, but not for playing the harlot with others. The Talmud explains further on why one should wish to interpret the passage thus.
(20) For if she commits incest with her father, he profanes her too.
(21) I.e., that her profanation is in respect of this tie.
(22) V. p. 337, n. 5.
(23) Heb. bogereth, v. p. 337, n. 5.
(24) Lev. XXI, 9.
(25) This is deduced by interpreting the copulative waw (and) as an extending particle.

Talmud - Mas. Sanhedrin 51a

from, this phrase I know the law only if she was married to a priest;[1] but if she was married to a Levite, Israelite, heathen,[2] a profaned person,[3] bastard,[4] or a Nathin,[5] whence do we know that the same applies? From the verse: And the daughter of a man who is a priest, which teaches that even if she is married to one who is not a priest the same applies.[6] Further: she [profaneth her father; she shall be burnt in fire] teaches that only she is punished by fire, but not her paramour, nor those who testify falsely against her. R. Eliezer said: If with her father, she is burnt; if with her father-in-law, she is stoned.[7]

The Master said: ‘I might think that this applies even to the Profanation of the Sabbath.’ But if she profaned the Sabbath, must she not be stoned?[8] — Raba replied: This is taught according to R. Simeon, who regards burning a severer penalty.I might think that since the Divine Law has in general been stricter with the priests [than with the Israelites], giving them an additional number of precepts, therefore the priest's daughter [if she profaned the Sabbath] should be burnt; hence we are taught that this verse applies only to profanation by whoredom. But why should she differ from a priest himself?[9] — I would think that a priest is punished more leniently, because he is permitted to work on the Sabbath in the sacrificial service;[10] but since a priest's daughter is not so permitted, her punishment should be stoning. We are therefore taught otherwise.

‘I might think that this applies even to an unmarried woman. But does not the Writ state: ‘by playing the whore’? — This is taught on the view of R. Eliezer, who maintained: If an unmarried man cohabits with an unmarried woman without conjugal intent, he renders her a harlot.[11] ‘But perhaps "her father" is stated in order to exclude others?’ — How then would you explain the verse? That she committed adulterous incest with her father! If so, why only a priest's daughter: does not the same apply to an Israelite's daughter? For [did not] Raba say: R. Isaac b. Abudimi said unto me: ‘We learn identity of law from the fact that hennah [they] occurs in two related passages, and likewise zimmah [wickedness] in two’?[12] — The verse [she profaneth] is necessary. For I would think that this whole passage treats of incest with one's father, and the penalty of burning is prescribed here intentionally to obviate Raba's deduction.[13] Hence the deduction [from she profaneth].

‘The daughter of any priest: from this phrase I know the law only if she was married to a priest; if she was married to a Levite, Israelite, heathen, a profaned person, bastard, or a Nathin, whence do I know that the same applies? From the verse: And the daughter of a man who is a priest, which teaches that even if she is married to one who is not a priest the same applies.’ But because she is married to one of these, is she no longer considered a priest's daughter? Moreover, does Scripture state . . . a priest's daughter married to a priest?[14] — I might think that since Scripture states, if she profane herself by playing the whore, the law deals only with one who now profanes herself for the first time;[15] but in these other cases where she was already profaned before [this law should not apply]. For, a Master stated : [The verse,] If the priest's daughter also be married unto a stranger, [she may not eat of an offering of the holy things][16] teaches that if she cohabits with one who is unfit for her,[17] he disqualifies her [to eat of the holy food] — And [similarly] if she was married to a Levite or an Israelite, since Scripture also states, [But if a priest's daughter be a widow or divorced, and have no child] and is returned unto her father's her house, as in her youth, [she shall eat of father's meat, i.e. , of the holy food],[18] it shows that as long as her husband [a Levite or Israelite] is alive, she must not eat of the holy food.[19] Hence l would think that she should not be burnt; therefore the verse teaches otherwise.

Now this ruling [that even if married to a bastard, etc., she is burnt] does not agree with R. Meir's view. For it has been taught: If a priest's daughter, married to an Israelite, ate of terumah,[20] she must repay the principals but not the additional fifth.[21] [If she committed adultery] her penalty is burning. But if she was married to one unfit for her [e.g.,a bastard, etc.] she must repay the principal and the added fifth, and her penalty is strangulation: this is the ruling of R. Meir. But the Sages hold that in both cases she must pay the principal but not the fifth, and her penalty is burning.

‘R. Eliezer said: If with her father, she is burnt; if with her father-in-law, she is stoned.’ What is meant by ‘her father’ and ‘her father-in-law’? If we say ‘her father’ means [that she committed whoredom] with her father, and ‘her father-in-law’ [that she did so] with her father-in-law: why speak particularly of a priest's daughter; an Israelite's daughter too is thus punished — a daughter [for incest with her father] by burning, and a daughter-in-law by stoning?-But ‘her father’ means ‘under her father's authority’,[22] and ‘her father-in-law’ indicates ‘under her father-in-law's authority’.[23] Whose view is this? If the Rabbis? Do they not maintain that a nesu'ah is excluded [from strangulation and punished] by burning, but not so an arusah [who is stoned]? If R. Simeon's? Does he not maintain that both an arusah and a nesu'ah are burnt? And if R. Ishmael's?[24] Does he not maintain that only an arusah is burnt, but not a nesu'ah, and accordingly, [when under the authority of] her father-in-law, she is strangled?[25] — Rabin sent a message in the name of R. Jose son of R. Hanina:[26] This is the explanation of the teaching.[27] Indeed it is in accordance with the Rabbis’ views and this is its meaning: Where an adulterous woman's death is more lenient than that of her father for incest [with his daughter], that is in the case of an Israelite's daughter, who is a arusah, her punishment being strangulation;[28] then in the case of a priest's daughter, her punishment is the same as her father's, viz.,burning; but where an adulterous woman's penalty is greater than her father's, that is in the case of an Israelite's daughter, who is an arusah, her punishment being stoning,[29] then in the case of a priest's daughter, her punishment is as that of her father-in-law for incest with her, viz.,by stoning.[30] R. Jeremiah objected to this explanation: does then the Baraitha state ‘greater’ or ‘lesser’? But R. Jeremiah explained it thus:

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(1) The Talmud explains further on why such an assumption should be made.

(2) (Read with MSS ‘Cuthean’, v. Yad Ramah].

(3) The issue of a marriage forbidden by priestly law’; cf. Lev. XXI, 7, 14.

(4) The issue of adultery or incest forbidden on pain of death or Kareth: e.g.,the offspring of a father and his daughter, cp. Yeb. 49a.

(5) The Nethinim (Nathin, pl. Nethinim) are regarded in the Talmud as descendants of the Gibeonites, who, having obtained immunity during the Conquest of Canaan by a ruse, were degraded by Joshua to the position of ‘hewers of wood and drawers of water’ (Yeb. 78b; Josh. IX, 19-23). Actually they are first heard of as returning to Palestine after the Babylonian Exile (Ezra II, 58, VII, 20; Nehem. III, 26, 31). They served under the Levites in the Temple (Ezra VII, 24). Though first mentioned only after the return from the exile, it is stated that they were appointed by David to serve the Levites; hence they must have been well known in Israel long before the Babylonian Exile, in spite of their late mention. In Talmudic times they were placed on a very low level, being forbidden to intermarry with freeborn Israelites.

(6) Because ‘man’ (E.V. ‘any’) is superfluous; hence it teaches that only her father need be a priest for this law to apply.

(7) This is explained further on.

(8) Stoning is the penalty for desecrating the Sabbath, and it is surely not commuted to burning for a priest's daughter.

(9) If this be taught according to R. Simeon, why should I think that though a priest is stoned for desecrating the Sabbath — since nowhere does the Scripture differentiate between a priest and an Israelite in this respect, — his daughter is punished more severely by being burnt?

(10) All Sabbath laws were suspended in favour of the Temple service, for which male priests only were eligible.

(11) Whom a priest may not marry (Lev. XXI, 7); hence in his view whoredom includes pre-marriage unchastity.

(12) In Lev. XVIII,10 it is stated: The nakedness of thy son's daughter, or of thy daughter's daughter, even their nakedness thou shalt not uncover: for they (הנה hennah) are thine own nakedness. Further it is written (ibid. XVIII, 17): Thou shalt not uncover the nakedness of a woman and her daughter, neither shalt thou take her son's daughter, or her daughter's daughter, to uncover her nakedness; for they (הנה hennah) are her near kinswomen: it is wickedness (זמה zimmah). Just as in the latter verse, intercourse with one's wife's daughter is treated as with her granddaughter, so in the former case, incest with one's daughter is the same offence as with one's granddaughter. Though this is not explicitly stated, it is deduced from the fact that hennah occurs in both cases. Further, in Lev. XX, 14 it is stated: And If a man take a wife and her mother, it is wickedness (זמה zimmah): they shall be burnt with fire. The use of zimmah in Lev. XX, 14 and in Lev. XVIII, 17 show that burning by fire is the penalty in both cases; and the use of hennah in Lev. XVIII, 17 and Lev. XVIII, 10 shews that in Lev. XVIII, 10 too the penalty is burning (cf. the Euclidean axiom: the equals of equals are equal). Thus we see that incest between a man, even an Israelite, and his daughter is punished by burning. How then could we assume that the verse under discussion, which decrees burning as a penalty for whoredom by a priest's daughter (implying the exclusion of an Israelite's daughter), refers to incest with one's father, and consequently what need is there for the deduction from she profaneth?

(13) I.e., to shew that only a priest's daughter committing incest is burnt, but not an Israelite's daughter, who is differently punished. In that case, the identical phrasing of the verses cited by Raba would have to be otherwise interpreted.

(14) I.e., on what grounds could we assume at all that the law is applicable only if she married a priest?

(15) I.e., through her whoredom.

(16) Lev. XXII, 12.

(17) E.g., a Nathin or bastard; that is the meaning attached to a stranger.

(18) Ibid. 13.

(19) This too is regarded as a measure of profanation.

(20) Lit., ‘that which is separated’: the portion of the corn produce due to the priest.

(21) Which a non-priest had to pay for eating terumah, ibid. 14.

(22) I.e., when one is under the parental roof, viz., an arusah, v. p. 333, n. 3.

(23) I.e., when she is to longer under the parental roof, viz., a nesu'ah.

(24) His view is explained later.

(25) Not stoned; for since he maintains that a nesu'ah, if a priest's daughter, does not differ from an Israelite's daughter, her penalty is strangulation, as in the case of the latter.

(26) Here we have an example of a Talmudic responsum. Rabin migrated from Babylonia to Palestine, and wrote many letters from Babylonia to Palestine with the results of his researches. Cf. Keth. 49b; B.M. 114a; B.B. 139a,. ‘Rabin sent’ then will mean from Palestine to Babylonia.

(27) I.e., the Baraitha containing the statement of R. Eliezer.

(28) Whilst her father's penalty is death by burning.

(29) Which, according to the Rabbis, in severer than burning, the father's punishment.

(30) Rashi points out that it is unnecessary to liken her punishment to her father-in-law's, since the penalty of every arusah is stoning. But in any case the Talmud refutes this explanation.

Talmud - Mas. Sanhedrin 51b

In truth, this is in accordance with R. Ishmael's views, and this is its meaning: ‘with her father’, i.e. whilst under her parental roof [i.e., an arusah], her punishment is burning; ‘with her father-in-law’, i.e., for incest with her father-in-law, she is stoned; but if she committed adultery with any other person, she is strangled. Raba objected to this: Why this difference [in the meaning attached to the two phrases]? Either each is to be understood literally,[1] or to refer to the authority under which she is?[2] Hence Raba explained it thus: This is in agreement with R. Simeon [who holds burning to be the severest penalty]. R. Eliezer [who taught this] maintaining that a nesu'ah is as an arusah: just as with an arusah, [the penalty of a priest's daughter] is raised in stringency by one degree more [than that of an Israelite's daughter], viz. , from stoning to burning, so also with a nesu'ah the penalty is raised in stringency by one degree, viz., from strangulation to stoning.[3] R. Hanina objected: But R. Simeon maintains that in both cases the penalty is burning! Hence Rabina explained it thus: This is really according to the Rabbis, but you must reverse the text, thus: If ‘with her father’ [i.e. an arusah], she is stoned; if ‘with her father-in-law’, [i.e., a nesu'ah], she is burned. And as to the phrase ‘with her father’?[4] He [R. Eliezer] is influenced by the general phraseology.[5]

R. Nahman said in the name of Rabbah b. Abbuha in the name of Rab: The halachah is in accordance with the message sent by Rabin in the name of R. Jose b. Hanina. R. Joseph queried: [Do we need] to fix a halachah for [the days of] the Messiah?[6] — Abaye answered: If so, we should not study the laws of sacrifices, as they are also only for the Messianic era. But we say: Study and receive reward;[7] so in this case too, study and receive reward: [He replied:] This is what I mean: Why state a halachah? In the course of the discussion, was there given a ruling at all?[8]

Now, what statement of R. Ishmael was referred to?[9] — It has been taught: And the daughter of any priest, If she profanes herself by playing the whore:[10] Scripture here speaks of a maiden [na'arah] who is an arusah. You say so, but perhaps it also refers to a nesu'ah? — The Writ sayeth: And the man that committeth adultery with another man's wife, even he that committeth adultery with his neighbour's wife, the adulterer and the adulteress shall be put to death.[11] Now all are included in the terms ‘adulterer’ and ‘adulteress’, but the Writ excluded the daughter of an Israelite, teaching that she is stoned,[12] and the daughter of a priest, teaching that she is burnt. Just as the exception made for an Israelite's daughter refers to an arusah, but not a nesu'ah;[13] so also, when a priest's daughter was excepted, an arusah was so excepted, but not a nesu'ah. Further, false witnesses [in respect of the charge of adultery] and the paramour [of an adulterous woman] were [originally] included in the verse: [If a false witness rise up against any man to testify against him that which is wrong . . .] then ye shall do unto him, as he had thought to hove done unto his brother.[14] — Now, how can the words, as he had thought apply to a Paramour![15] — But say thus: The punishment of her false witnesses Is included in the text referring to the death of her paramour,[16] because Scripture states: then ye shall do unto him, as he had thought to have done unto his brother; implying, but not unto his sister.[17] This is R. Ishmael's opinion. R. Akiba said: [A priest's daughter]. whether an arusah or a nesu'ah,is excepted [from the punishment of strangulation,] but is punished with fire. I might think that this applies even to an unmarried woman: but her father is mentioned in this passage, and her father is also mentioned elsewhere:[18] just as elsewhere the reference is to whoredom by one who is bound to a husband, so here too. Thereupon R. Ishmael said unto him: If so, just as the second passage refers to a maiden [na'arah] who is an arusah, so this verse [treating of a priest's daughter] should be taken to refer to a maiden who is an arusah; [but if a nesu'ah, her punishment should be different]. R. Akiba replied: My brother, I interpret the and the daughter etc., when it would have been sufficient to say the daughter etc., as teaching the inclusion of a nesu'ah.[19] R. Ishmael said to him: Shall we except this woman [i.e.,a nesu'ah from the punishment of strangulation] and impose [the severer penalty of] death by fire, because you interpret the superfluous ‘waw’ [‘and’]; if this superfluous wow indicates the inclusion of a nesu'ah, then include an unmarried woman too;[20] whilst if it implies the exclusion of an unmarried woman [since the Deuteronomic passage explicitly relates to a married woman], then exclude a nesu'ah too. And R. Akiba?[21] — [He holds that] the gezerah shawah serves the purpose to exclude an unmarried woman, whilst the superfluous ‘waw’ serves to indicate the inclusion of a nesu'ah. And R. Ishmael? — In raising the foregoing [objection] he thought that since R. Akiba had replied. ‘I interpret the superfluous waw’, it proved that he had withdrawn his deduction front the gezerah shawah.[22] Now, how does R. Ishmael interpret this superfluous waw? — As shewing that which was taught by the father of Samuel b. Abin: Since we find Scripture differentiating in male [priests] between the [physically] unblemished and the blemished,[23] I would think that a distinction must also be drawn in their daughters:[24] therefore Scripture writes a pleonastic ‘waw’ [to teach the inclusion of the daughter of a physically blemished priest].[25] And R. Akiba?[26] — He deduces this from the verse: [for the offerings of the Lord made by fire, and the bread of their God,] they [i.e. the priests] do offer: therefore they shall be holy.[27] And R. Ishmael? — He maintains that that verse could apply only to priests themselves,[28] but not to their daughters. Hence the necessity of the pleonastic ‘waw’.

Now how does R. Ishmael interpret

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(1) I.e., incest with her father, or with her father-in-law.

(2) I.e., under her father's authority, viz., an arusah; under her father-in-law's authority, viz., a nesu'ah.

(3) And ‘with her father’, ‘with her father-in-law’, refer to status, under whose authority she is.

(4) Why is such a roundabout expression used instead of simply ‘arusah’ and ‘nesu'ah’?

(5) This is in accordance with the printed text. Rashi, apparently on the basis of a slightly different reading, renders ‘He is influenced by the phraseology of the first Tanna’, who quotes from Lev. XXI, 9, in which ‘her father’ is mentioned. Tosaf., however, points out, that in many versions the text reads: why does he say, (if with) her father she is burnt? According to this, the question is: how did such an error arise in the text? To which the answer is: he is influenced by the Biblical phraseology: And the daughter of any priest . . . she shall be burnt with fire. Lev. XXI, 9.

(6) Since the Sanhedrin no longer had jurisdiction in capital offences, there is no practical utility in this ruling, which can become effective only in the days of the Messiah.

(7) [Learning has its own merit, quite apart from any practical utility that may be derived therefrom].

(8) Surely not! Since Rabin and Rabina agree on the point of law, and differ only on the interpretation of R. Eliezer's statement.

(9) This reverts to the former discussion, when it was said, this is according to R. Ishmael.

(10) Ibid.

(11) Ibid. XX, 10. Wherever the manner of death is unspecified, strangulation is meant.

(12) Deut. XXII, 23f. referring to adultery by an arusah.

(13) Ibid. This explicitly treats of an arusah: if it be applied to a nesu'ah too, there is none to which Lev. XX, 10 can refer.

(14) Deut. XIX, 16,19.

(15) This is an interjection.

(16) That is, they are punished by the same death which they intended to have brought about on the paramour.

(17) Where the penalties differ; e.g.. when a priest's daughter commits adultery, she is burned, but her paramour is stoned; hence, if witnesses testified falsely on such a charge, they are to be stoned, not burned.

(18) Ibid. XXII, 21f.

(19) I.e., the deduction from the verbal identity (Gezerah Shawah, v. Glos.) of ‘her father’ does in fact apply only to an arusah: but the superfluous copulative wow (ו) extends the law to embrace a nesu'ah too.

(20) So the commentary of Hananel; Rashi interprets: if the gezerah shawah (identical use of ‘her father’ in both passages) indicates the inclusion of a nesu'ah, etc. This interpretation is rather difficult, as R. Akiba did not include nesu'ah through the gezerah shawah.

(21) How would he meet this objection?

(22) For mere identity of phraseology is insufficient to deduce similarity of law. There must be a tradition from one's teacher, and supposedly handed down from scholar to scholar, going right back to Moses. (Pes. 66a: so Rashi's interpretation of the rule: No one may draw conclusions from identical phraseology on his own authority). Thus R. Ishmael thought that R. Akiba had abandoned this gezerah shawah, being doubtful of the authenticity of its tradition.

(23) Lev. XXI, 17, forbidding priests with a physical blemish to perform the sacrificial service.

(24) With respect to adultery. viz., that only the daughter of a physically perfect priest is burnt.

(25) Weiss, Dor, Vol. II, p. 105, quotes R. Ishmael's remark in this connection ‘shall we exclude a nesu'ah because thou interpretest a superfluous ‘waw’ as being a protest against R. Akiba's method of interpretation? From the whole passage, however, we see that R. Ishmael was not fundamentally opposed to this at all, but merely disagreed on the actual application of the extension and apparent inconsistency in R. Akiba's distinction between a nesu'ah and an unmarried woman.

(26) Whence does he derive this latter deduction?

(27) Ibid. XXI, 6. Therefore they shall be holy is an emphatic assertion of their holiness, implying that they do not lose it even if blemished.

(28) Teaching that they retain their holiness even if blemished, e.g that they may not be defiled by the dead.

Talmud - Mas. Sanhedrin 52a

the verse, she profaneth her father?[1] — He employs it in accordance with R. Meir's dictum, as it has been taught : R. Meir used to say: What is meant by the verse, she profaneth her father’? If he [the father] was regarded as holy, he is now regarded as profane;[2] if he was treated with respect, he is now treated with contempt; and men say, ‘Cursed be he who begot her, cursed be he who brought her up, cursed be he from whose loins she sprung. R. Ashi said: in accordance with whose view is a wicked man called ‘the son of a wicked man’, even if he is actually the son of a righteous man? — It is in accordance with this Tanna's dictum.[3]

THAT IS THE MANNER OF STONING.

To what does this refer?[4] — To the statement [in a preceding Mishnah]: When the verdict [of guilty] was finally announced, he [the accused] was led out to be stoned . . .[5] Now, the scaffolding [for stoning] was twice a man's height etc.[6] And because the Tanna is about to teach the manner of death by fire, he sums up the foregoing with the words: THAT IS THE MANNER OF STONING etc.

MISHNAH. THE MANNER IN WHICH BURNING IS EXECUTED IS AS FOLLOWS: HE WHO HAD BEEN THUS CONDEMNED WAS LOWERED INTO DUNG UP TO HIS ARMPITS, THEN A HARD CLOTH WAS PLACED WITHIN A SOFT ONE,[7] WOUND ROUND HIS NECK, AND THE TWO LOOSE ENDS PULLED IN OPPOSITE DIRECTIONS, FORCING HIM TO OPEN HIS MOUTH. A WICK WAS THEN LIT, AND THROWN INTO HIS MOUTH, SO THAT IT DESCENDED INTO HIS BODY AND BURNT HIS BOWELS. R. JUDAH SAID: SHOULD HE HOWEVER HAVE DIED AT THEIR HANDS [BEING STRANGLED BY THE BANDAGE BEFORE THE WICK WAS THROWN INTO HIS MOUTH, OR BEFORE IT COULD ACT], HE WOULD NOT HAVE BEEN EXECUTED BY FIRE AS PRESCRIBED. HENCE IT WAS DONE THUS: HIS MONTH WAS FORCED OPEN WITH PINCERS AGAINST HIS WISH, THE WICK LIT AND THROWN INTO HIS MOUTH, SO THAT IT DESCENDED INTO HIS BODY AND BURNT HIS BOWELS. R. ELEAZAR B. ZADOK SAID: IT ONCE HAPPENED THAT A PRIEST'S DAUGHTER COMMITTED ADULTERY, WHEREUPON BUNDLES OF FAGGOTS WERE PLACED ROUND ABOUT HER AND SHE WAS BURNT. THE SAGES REPLIED, THAT WAS BECAUSE THE BETH DIN AT THAT TIME WAS NOT WELL LEARNED IN LAW.

GEMARA. What is meant by a WICK? — R. Mathna said: A lead bar.[8]

Whence do we know this?[9] — It is inferred from the fact that burning is decreed here;[10] and was also the fate of the assembly of Korah,[11] just as there the reference is to the burning of the soul, the body remaining intact, so here too. R. Eleazar said: It is deduced from the employment of the word ‘burning’ here and in the case of Aaron's sons;[12] just as there the burning of the soul is meant, while the body remained intact, so here too.

Now, he who deduces it from the assembly of Korah, whence does he know [that they were thus burnt]? — Because it is written: [Speak unto Eleazar . . . that he take up the censers out of the burning . . . The censers of these sinners against their own souls,[13] implying that their souls were burned, but their bodies were unharmed. And the other?[14] He maintains that they were literally burnt [i.e., their bodies], and what is the meaning of against their own souls? — That they incurred the punishment of fire because of [the pollution of] their souls; as Resh Lakish [taught]. For R. Simeon b. Lakish said: What is the meaning of the verse, with hypocritical mockers in feasts, they gnashed upon me with their teeth?[15] Because they hypocritically [i.e., polluting their own sincerity] flattered Korah in return for the feast he set before them, the Prince of Gehenna[16] gnashed his teeth against them [for their destruction]. Now he [R. Eleazar] who infers it from the sons of Aaron, whence does he know [that their bodies were not burnt]? — Because it is written, And they died before the Lord,[17] teaching that it was like normal death [from within]. And the other? — He maintains that they were actually burnt, whilst the verse, And they died before the Lord, shews that the fire commenced from within, as in normal death. For it has been taught: Abba Jose b. Dosethai said: Two streams of fire issued from the Holy of Holies, branching off into four, and two entered into each of their nostrils and burned them.[18] But it is written, And the fire devoured them?[19] — This implies them but not their garments.

But why should we not learn [the manner of death by fire] from the bullocks that were burnt,[20] just as there they were actually burnt, so here too? — It is logical to learn this from man, because these have the following points in common: — [i] man, [ii] sin, [iii] soul, and [iv] piggul.[21] On the contrÖry, should we not compare it rather to the burnt bullocks, since they have in common [i] the carrying out of God's command , and [ii] permanency?[22] — Even so, the others have more in common.

Now, he who deduces it from the assembly of Korah, why did he not learn it from Aaron's sons? — Because they were actually burnt [this being his opinion]. Then why not deduce from them [that this shall be the method of burning]? — R. Nahman answered in the name of Rabbah b. Abbuha: The verse saith, But thou shalt love thy neighbour as thyself,[23] [which implies:] choose an easy death for him.[24] Now, since we have R. Nahman's dictum, what need is there of the gezerah shawah? — But for the gezerah shawah — I would think that burning of the soul, the body remaining intact, is not deemed burning at all; whilst as for [the implication of the verse], Thou shalt love thy neighbour as thyself, this can be fulfilled by piling up an abundance of faggots to cause a speedy death. Hence the teaching of the gezerah shawah.

Moses and Aaron once walked along, with Nadab and Abihu behind them, and all Israel following in the rear. Then Nadab said to Abihu, ‘Oh that these old men might die, so that you and I should be the leaders of our generation.’ But the Holy One, blessed be He, said unto them: ‘We shall see who will bury whom.’ R. Papa said: Thus men say: Many an old camel is laden with the hides of younger ones.’[25]

R. Eleazar said:

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(1) Ibid. XXI, 9. Since R. Ishmael maintains that an arusah is burnt, but not a nesu'ah, deducing this by analogy, and not admitting the gezerah shawah based upon the phrase ‘her father’, what do these words teach?

(2) In the sense of not holy.

(3) That the father is cursed and reviled for his offspring's misdemeanours.

(4) [This is Rashi's reading, found also in MS.M.; cur edd.: What does be teach that he states?]

(5) Supra 42b.

(6) Supra 45a.

(7) The soft one alone could not exert sufficient pressure to open his mouth; whilst a hard one alone would bruise the skin and unnecessarily disfigure him (Rashi).

(8) 'Lit' in the Mishnah will therefore mean 'melted'.

(9) That death by fire was thus carried out, instead of burning the body.

(10) Lev. XXI, 9. She shall be burnt with fire.

(11) Num. XVII, 4. And Eliezer the priest look the brazen censers, wherewith they that were burnt had offered.

(12) Lev. X, 6. Let your brethren . . . bewail the burning which the Lord hath kindled.

(13) Num. XVII, 2f(E. V. XVI, 37f).

(14) R. Eleazar.

(15) Ps. XXXV, 16.

(16) In the valley to the south of Jerusalem, known as the valley of the son of Hinnom, children were at one time sacrificed to Moloch (II Kings XXIII, 10; Jer. II, 23; VII, 31f). For this reason the valley was deemed accursed, and Gehenna thus became a synonym for hell. It is assumed to be in charge of a demon prince, who voraciously demands multitudes of victims (Shab. 104a).

(17) Lev. X, 12.

(18) So that the fire commenced, within and spread without.

(19) Ibid. This implies limitation: 'them', but not something else; now, if they were entirely burnt, what does this word exclude?

(20) As sacrifices, where, of course, the carcasses were burnt. Lev.IV, 12 et passim.

(21) I.e., both refer to (i) man, (ii) punishment for sin, (iii) destruction of the soul, and (iv) in both there is no law of piggul. Piggul, lit., 'abomination,' a sacrifice slaughtered with the unlawful intention of eating it beyond the prescribed limits of time; for the flesh of sacrifices had to be eaten within prescribed times (v. Zeb. V, 2. 53a). But the burnt bullocks differed from man on all these points

(22) I.e., they have the following in common: (i) each is performed by man in obedience to God's command, but Aaron's sons and the assembly of Korah were destroyed by God himself; (ii) the law of execution by fire, as that of sacrifices, was of permanent validity, whereas in the other two cases their deaths were unique, the result of miracles confined to particular times.

(23) Lev. XIX, 18.

(24) But the burning of the body is a most painful death.

(25) I.e., many an old man surprises the young.

Talmud - Mas. Sanhedrin 52b

How is the scholar regarded by the ignorant? — At first, like a golden ladle; if he converses with him, like a silver ladle; if he [the scholar] derives benefit from him, like an earthen ladle, which once broken cannot be mended.[1]

Imarta the daughter of Tali, a priest, committed adultery. Thereupon R. Hama b. Tobiah had her surrounded by faggots and burnt. R. Joseph[2] said: He [R. Hama] was ignorant of two laws. He was ignorant of R. Mathna's dictum[3] and of the following Baraitha: And thou shalt come unto the priests, the Levites, and unto the judge that shall be in those days:[4] This teaches that when the priesthood is functioning [in the Temple], the judge functions [in respect of capital punishment]; but when the priesthood is not functioning, the judge may not function.[5]

R. ELEAZAR B. ZADOK SAID, IT ONCE HAPPENED THAT A PRIEST'S DAUGHTER COMMITTED ADULTERY, etc.

R. Joseph said: It was a Sadducee[6] Beth din that did this. Now, is this what R. Eleazar b. Zadok said, and did the sages answer him so? Has it not been taught: R. Eleazar b. Zadok said, 'I remember when I was a child riding on my father's shoulder that a priest's adulterous daughter was brought [to the place of execution], surrounded by faggots, and burnt.' The Sages answered him: 'You were then a minor, whose testimony is inadmissible'?[7] — There were two such incidents.[8] Now which incident did he first relate to them? Shall we say that he first told them of the incident first mentioned here [which happened in his majority]: but if he told them what happened in his majority, and they paid no attention to him, surely he would not proceed to tell them what occurred in his minority? — But he must have related this one [of the Baraitha] first, to which they replied: 'You were a minor.' Then he told them of the case that occurred in his majority, and they replied, 'That was done because the Beth din at that time was not learned in the law.'

MISHNAH. EXECUTION BY THE SWORD WAS PERFORMED THUS: THE CONDEMNED MAN WAS DECAPITATED BY THE SWORD, AS IS DONE BY THE CIVIL AUTHORITIES.[9] R. JUDAH SAID: THIS IS A HIDEOUS DISFIGUREMENT; BUT HIS HEAD WAS LAID ON A BLOCK AND SEVERED WITH AN AXE.[10] THEY REPLIED, NO DEATH IS MORE DISFIGURING THAN THIS.

GEMARA. It had been taught: R. Judah said to the Sages: I too know that this is a death of repulsive disfigurement, but what can I do, seeing that the Torah hath said, neither shall ye walk in their ordinances?[11] But the Rabbis maintain: Since Scripture decreed the sword, we do not imitate them [when using their method]. For if you will not agree to this, then how about that which was taught: Pyres may be lit in honour of deceased kings,[12] and this is not forbidden as being of the 'ways of the Amorites': but why so? Is it not written, neither shall ye walk in their ordinances? But because this burning is referred to in the Bible, as it is written, [But thou shalt die in peace:] and with the burnings of thy fathers . . .[so shall they burn for thee],[13] it is not from them [the heathens] that we derive the practice. So here too, since the Torah decreed the sword,[14] it is not from them [the Romans] that we derive the practice. Now we have learnt in another chapter, 'The following are decapitated: A murderer, and the inhabitants of a seduced city.'[15] We know this to be true of the inhabitants of a seduced city, because it is written, ['Thou shalt surely smite the inhabitants of that city] with the edge of the sword.[16] But whence do we know it of a murderer? — It has been taught: [And if a man smite his servant . . . and he die under his hand,'] he shall surely be avenged.[17] Now I do not know what form this vengeance is to take; but when the Writ saith, And I will bring a sword upon you, that shall execute the vengeance of the covenant,[18] I learn that vengeance is by the sword. But perhaps it means that he must be pierced through? — The Writ saith, with the edge of the sword. Then perhaps it means that he must be cut in two [lengthwise]? — R. Nahman said in the name of Rabbah b. Abbuha: Scripture teaches, But thou shalt love thy neighbour as thyself'[19] choose an easy death for him. Now we find this law [of execution by the sword] when one murdered a slave; whence do we know that this law holds good if he murdered a free man? — Surely this can be deduced by reasoning from the minor to the major: if the murderer of a slave is decapitated, shall he who slays a free man be only strangled! Now, this answer agrees with the view that strangulation is an easier death; but what of the view that strangulation is more severe? It is then deduced from the following: It has been taught: [The verse], So shalt thou put away the guilt of the innocent blood from among you,[20] serves to denote that all that shed blood are likened [in treatment] to the atoning heifer:[21] just as there, it is done with a sword and at the neck, so here too, execution is with the sword and at the neck [i.e., the throat]. If so, just as there it was done with an axe, and on the nape of the neck, so here too? — R. Nahman answered in the name of Rabbah b. Abbuha: Scripture saith: But thou shalt love thy neighbour as thyself:[22] choose an easy death for him.

MISHNAH. STRANGULATION WAS THUS PERFORMED: — THE CONDEMNED MAN WAS LOWERED INTO DUNG UP TO HIS ARMPITS, THEN A HARD CLOTH WAS PLACED WITHIN A SOFT ONE, WOUND ROUND HIS NECK, AND THE TWO ENDS PULLED IN OPPOSITE DIRECTIONS UNTIL HE WAS DEAD.

GEMARA. Our Rabbis taught: [And the man that committeth adultery with another man's wife, even he that committeth adultery with his neighbour's wife the adulterer and the adulteress shall surely be put to death].[23] ' The man 'excludes a minor; ' that committeth adultery with another man's wife' excludes the wife of a minor; 'even he that committeth adultery with his neighbour's wife' excludes the wife of a heathen; ‘shall surely be put to death’, by strangulation. You say, by strangulation; but perhaps one of the other deaths decreed by the Torah is meant here? — I will answer you: Whenever the Torah decrees an unspecified death penalty, you may not interpret it stringently but leniently:[24] this is R. Josiah's view. R. Jonathan said: Not because strangulation is the most lenient death, but because by every unspecified death in the Torah strangulation is meant. Rabbi [proceeding to demonstrate this] said: Death by God is mentioned in Scripture;[25] and death by man is also decreed. Just as the death by God[26] leaves no mark [of violence on the body], so also death by man must leave no mark [of violence], a condition which only strangling fulfils. But may it not apply to burning?[27] Since the Divine Law explicitly decreed burning for a priest's adulterous daughter, it follows that the adulterous married [Israelite] woman is not put to death by burning.

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(1) This passage in inserted here because the assembly of Korah has just been mentioned, who were scholars ‘the elect men, of the assembly’ (Num. XVI, 2). These, becoming over familiar with Korah and accepting gifts from him, lost his esteem, until ultimately he incited them to support him in his revolt against Moses.

(2) (First of the Saboraim, v. Funk, Die Juden in Babylonien. II, 123.]

(3) That burning was carried out by pouring molten lead down the condemned man's throat.

(4) Deut. XVII, 9.

(5) Thus R. Hama, an Amora living long after the destruction of the Temple, had no jurisdiction for capital punishment. [According to Funk, loc. cit., R. Hama's rigorous sentence was prompted by his desire to combat the Mazdakian doctrine of the community of wives that had found many adherents in his day.]

(6) The party opposed to the Pharisees, and drawing their support mainly from the aristocratic classes. As they represented the nobility and wealth of the country, their interests were centred chiefly in the political, not the religious life, of the people. Their origin is wrapped in obscurity (Weiss, Dor, 1, 100); but Halevy, Doroth Voi. III: ‘The Sadducees and Boethusians’, regards them as the children of the Hellenizing Jews in the days of the Maccabeans; he denies that they were a religious party at all. The passage from Josephus (Ant. XIII, 10, 6) upon which this assertion is commonly based is explained by him as referring to the rejection of distinctive Rabbinic ordinances as apart from laws derived through interpretation of Scripture. In regard to criminal jurisdiction, they were very rigorous and, as seen in this passage, carried out the penalty of death by fire in a literal manner. Halevy (op. cit. Vol. III, p. 412f) observes that the reply of the Sages to R. Eleazar b. Zadok, — Because the Beth din at that time (amplified by R. Joseph as meaning a Beth din of the Sadducees) were not well learned in the law’, shews that their ruling was in the first instance not based on the principle of literal interpretation, but the result of ignorance, it was only subsequently that such ruling crystallized into definite principles. J. Derenbourg (Essai, p. 251, n. 2) suggests that the burning of the priest's adulterous daughter, as described by R. Eleazar b. Zadok, took place during the short interval between the death of Festus, the Roman Procurator, (in 62 C.E.) and the coming of Albinus (63 C.E.). during the High-Priesthood of Hanan b. Hanan (a Boethusian mentioned in Tosef. Yoma i). Cp. also ibid p. 262.

(7) This refutation differs from that of the Mishnah.

(8) One taking place during R. Eleazar's minority, the other during his majority. The answer in the Mishnah was in respect of the other.

(9) Under the Empire the Romans practised various forms of execution. Execution by the axe after flogging, previously confined to slaves, was revised in the early Empire and applied to citizens too. (Tac. An. II, 32; Suet. Nero, 49). Beheading by the sword (‘decollatio’) was also common, Sandys: A Companion to Latin Studies, p.339. With the introduction of the later, the former was prohibited (Hast. Dict. IV, 299), and therefore R. Judah stigmatises beheading by the sword as a Roman practice, and prefers the axe instead, though that too was formerly employed by the Romans.

(10) **

(11) Lev. XVIII, 3. Hence the method of the civil authorities — i.e., the Romans — must not be used.

(12) Cp. ‘And with the burnings of thy fathers, the former kings which were before, so shall they make a burning for thee (Jer. XXXIV, 5). This does not refer to the cremation of the body, but to the funeral pyre lit in honour of kings. The pyre consisted of the royal bed and his general utensils. The same honour was paid to Patriarchs, and the greater the value of the things burnt, the greater the honour. A.Z. 11a. (The A. V. of Jer. XXXIV, 5, ‘so shall they burn odours for thee’, is not warranted by the text.)

(13) Jer. XXXIV, 5.

(14) V. Infra.

(15) Infra 76b.
(16) Deut. XIII, 18.
(17) Ex. XXI, 20.
(18) Lev. XXVI, 25.
(19) Ibid. XIX, 18.
(20) Deut. XXI, 9.
(21) Lit., ‘the heifer, the neck of which is broken.’
(22) Lev. XIX, 18.
(23) Ibid. XX, 10.
(24) Lit., ‘attract it to stringency etc’. Hence strangulation, the easiest of deaths, must be meant.
(25) E.g., God's slaying of Onan, Gen. XXXVIII, 10.
(26) I.e., a normal death, which leaves the body intact.
(27) Since, as explained above, an inner fire was applied, leaving the body intact.

Talmud - Mas. Sanhedrin 53a

Now, R. Jonathan's view raises no difficulty, its reason being explained by Rabbi. But on R. Josiah's view, how do we know that there is death by strangulation at all; perhaps the sword is meant?[1] — Raba replied: It is a tradition that there are four deaths. Why does R. Jonathan say, ‘not because strangulation is the most lenient death’? — Because his dispute with R. Josiah is on the same lines as that of R. Simeon and the Rabbis.[2]

R. Zera asked of Abaye; Those who are stoned, but in whose case Scripture does not explicitly decree stoning,[3] so that we derive the penalty by analogy of a necromancer, or a wizard,[4] from which phrase do we deduce it: from ‘they shall surely be put to death’, or from ‘their blood shall be upon them’?[5] — He replied: It is deduced from the phrase ‘their blood shall be upon them,; for if it is inferred from the passage ‘they shall surely be put to death’, what need is there of the words ‘their blood shall be upon them’? But do you say that it is deduced from ‘their blood shall be upon them’; what need is there then of the phrase ‘they shall surely be put to death’? — Even as it has been taught: He that smote him shall surely be put to death; for he is a murderer.[6] I only know that he may be executed with the death that is decreed for him: Whence do I know that if you cannot execute him with that death, you may execute him with any other death? — From the verse: He that smote him shall surely be put to death, implying in any manner possible.[7]

R. Aha of Difti questioned Rabina: Now, had the deduction been from the phrase, they shall surely be put to death — what would be R. Zera's difficulty?[8] Shall we say that his difficulty would be in respect of [adultery with] a married woman,[9] namely, that we ought to learn the manner of death from the law of a necromancer or a wizard; just as there it is stoning, so here too?[10] But since the Divine Law ordained stoning for an arusah,[11] it follows that a nesu'ah is not stoned![12] If, again, the difficulty would arise in respect of one who smites his father or mother;[13] namely, that we ought to learn [by analogy of a necromancer or a wizard [that he is stoned]?[14] But instead of deducing it from the necromancer, etc., deduce it rather from adultery with a married woman [who is strangled], since you may not make a deduction in favour of a stringent penalty in preference to a lenient one.[15] — He replied: His difficulty would be in respect of all others who are stoned, for if it [the punishment of them by stoning] is deduced from the phrase, they shall surely be put to death, why deduce it from a necromancer and a wizard; deduce it rather from the adultery of a married woman?[16]

MISHNAH. THE FOLLOWING ARE STONED: HE WHO COMMITS INCEST WITH HIS MOTHER, HIS FATHER'S WIFE, OR HIS DAUGHTER-IN-LAW; HE WHO SEXUALLY ABUSES A MALE OR BEAST; A WOMAN WHO COMMITS BESTIALITY WITH A BEAST; A BLASPHEMER; AN IDOLATER; HE WHO GIVES OF HIS SEED TO MOLECH; A NECROMANCER OR A WIZARD; ONE WHO DESECRATES THE SABBATH; HE WHO

CURSES HIS FATHER OR MOTHER; HE WHO COMMITS ADULTERY WITH A BETROTHED MAIDEN; HE WHO INCITES [INDIVIDUALS TO IDOLATRY]; HE WHO SEDUCES [A WHOLE TOWN TO IDOLATRY];[17] A SORCERER; AND A WAYWARD AND REBELLIOUS SON.

ONE WHO [UNWITTINGLY] COMMITS INCEST WITH HIS MOTHER INCURS A PENALTY IN RESPECT OF HER BOTH AS HIS MOTHER AND AS HIS FATHER'S WIFE.[18] R. JUDAH SAID: HE IS LIABLE IN RESPECT OF HER AS HIS MOTHER ONLY. ONE WHO COMMITS INCEST WITH HIS FATHER'S WIFE INCURS A PENALTY IN RESPECT OF HER BOTH AS HIS FATHER'S WIFE, AND AS A MARRIED WOMAN. [HE IS GUILTY IN RESPECT OF THE FORMER] BOTH DURING HIS FATHER'S LIFETIME AND AFTER HIS DEATH, WHETHER SHE WAS WIDOWED FROM ERUSIN[19] OR FROM NESU'IN.[18] HE WHO COMMITS INCEST WITH HIS DAUGHTER-IN-LAW INCURS A PENALTY IN RESPECT OF HER BOTH AS HIS DAUGHTER-IN-LAW AND AS A MARRIED WOMAN. [HE IS GUILTY IN RESPECT OF THE FORMER] BOTH DURING HIS SON'S LIFETIME AND AFTER HIS DEATH, WHETHER SHE WAS WIDOWED FROM ERUSIN OR FROM NESU'IN. GEMARA. It has been taught: R. Judah said: If his mother was unfit for his father, he is guilty only in respect of her maternal relationship to him. What is meant by unfit for him? Shall we say, forbidden to him on pain of extermination[20] or death inflicted by the Beth din? This would prove that the Rabbis[21] hold that even for such he incurs a twofold penalty. But how so, seeing that his father cannot be legally married to her at all?[22] — Hence it must refer to a woman who is forbidden to him in virtue of a negative precept,[23] R. Judah agreeing with R. Akiba, who holds that Kiddushin is not valid between those who are interdicted to each other by a negative command.

R. Oshaia objected: [We have learnt:] A woman who is forbidden [to her deceased husband's brother] by a positive precept, or on the score of sanctity, must perform the halizah ceremony,[24] but may not marry her brother-in-law.

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(1) Since the only ground for his assertion is the leniency of strangulation, perhaps there are only three death penalties, and when unspecified death is decreed in the Torah, it means the sword, the most lenient of the three.

(2) As to which is the easiest death (v. supra 50b). R. Jonathan maintaining that strangulation is not the easiest.

(3) For a number of offences such as idolatry, adultery by a betrothed maiden, desecration of the Sabbath, etc., Scripture explicitly ordains stoning. But in the case of others, e.g., witchcraft, incest, incitement to idolatry, etc., Scripture merely decrees death, and by a gezerah shawah we learn that stoning is meant.

(4) Cf. infra 54a.

(5) Lev. XX, 27 A man also or a woman that hath a familiar spirit (necromancer), or that is a wizard, they shall surely be put to death: they shall stone them with stones: their blood shall be upon them. In the case of all other malefactors who are stoned, though stoning is not explicitly stated, the two phrases ‘they’ shall surely be put to death’ and ‘their blood shall be upon their head’ occur.

(6) Num. XXXV, 21.

(7) This is learnt from the emphatic ‘surely’, expressed in Hebrew’ as usual, by the insertion of the infinitive before the finite form of the verb. מות יומת V. supra 45b.

(8) For since he asked from which phrase the deduction is made, it is obvious that if from one particular phrase, a difficulty would arise.

(9) For which it was said above, that the death penalty being unspecified, it is strangulation.

(10) I.e. , instead of regarding it as an unspecified death penalty, why not treat it as explicit, in virtue of the phrase they shall surely be put to death, written also in the case of adultery with a married woman.

(11) Deut. XXII, 23f.

(12) So that this difficulty falls to the ground.

(13) Who is strangled, infra 84b.

(14) Since the phrase he shall surely be put to death (Ex. XXI, 15) is written of him too.

(15) For as the same phrase (v. p. 375. n.7) occurs in the three places. viz., (i) necromancer etc. (stoning), (ii) married woman (strangulation), and (iii) he that smites his father or mother, the last to be deduced from one of the first two, it follows, that one must incline to leniency. So that even if the deduction were made from the phrase, they shall surely be put to death, it would be still correct to say that one who smites his father or mother is strangled.

(16) Since the deduction must be in favour of the more lenient death.

(17) The former is called mesith: the latter maddiah.

(18) Hence if unwittingly, he is bound to bring two sin-offerings.

(19) V. p. 333, n. 3.

(20) Divine punishment (Kareth) through sudden or premature death, opposed to capital punishment at the hand of man, v. Glos.

(21) Represented by the anonymous opinion in the Mishnah.

(22) Lit., ‘he has no claim of kiddushin in her regard’. Kiddushin (marriage betrothal) is invalid when contracted between parties forbidden to each other under such severe penalties. Consequently, she is not his wife, and her son, in committing incest, does not transgress the interdict attaching to one's father's wife.

(23) Which carries with it the penalty of flogging, but not of death or extermination; e.g. a bastard or a nathin or a divorcee in respect of a priest. The Sages maintain that in such cases kiddushin, though forbidden, is valid if contracted.

(24) V. p. 331, n. 7.

Talmud - Mas. Sanhedrin 53b

Now ‘forbidden by a positive precept’ means the prohibitions in the second degree,[1] imposed by the Soferim,[2] and why is it thus designated? Because it is a ‘positive precept’ to obey the Sages. ‘Forbidden on the score of sanctity’ refers to the prohibition of a widow to [marry] a High Priest, and of a divorcee or a haluzah[3] to marry an ordinary priest; and why is it so called? Because it is written, they [sc. the priests] shall be holy unto their God.[4] And it has been taught thereon: R. Judah reversed the definition. Now, though reversing the definition, he agreed on the fundamental law, that these required halizah [before being free to marry others]. But if you maintain that R. Judah agreed with R. Akiba [on the invalidity of kiddushin between those who are forbidden by a negative command], then consider: R. Akiba places those who are forbidden by a negative command in the same category as those who are forbidden on pain of extermination; but are not the latter exempt from both halizah and Levirate marriage?[5] — R. Judah reverses the definition according to the ruling of the first Tanna, with which, however, he disagrees.[6]

When R. Isaac came,[7] he taught as we have learnt [in our Mishnah]: R. Judah said, he incurs guilt only on account of her maternal relationship to him.[8] Now why is this? — Abaye said: Scripture saith, The nakedness of thy father, or the nakedness of thy mother, shalt thou not uncover, she is thy mother.[9] [This teaches:] You must punish him for maternal incest, but not for incest with his father's wife. If so, what of the verse, The nakedness of thy father's wife shalt thou not uncover: It is thy father's nakedness?[10] Does it not imply, you may penalise him for incest with his father's wife, but not for maternal incest? In that case, if she is both his mother and his father's wife, one verse implies the exclusion of maternal incest [as the incriminating offence] — and the other excludes incest with his father's wife [as punishable].[11] Now if he is punished for incest with his mother, even when not his father's wife, and with his father's wife, though not his mother-shall we say that when she is both his mother and his father's wife, he incurs no penalty at all? A further difficulty is this: Do not the Rabbis admit the existence of this verse, ‘she is thy mother’?[12] But they interpret it as teaching the law deduced by R. Shisha, the son of R. Iddi;[13] in that case, R. Judah must also utilise it for the same purpose.[14] But R. Aha the son of Ika said thus: The Writ sayeth: [she is thy mother: thou shalt not uncover] her nakedness.[15] This teaches: You may penalise him for one degree of ‘nakedness’, but not for two degrees,[16] If so, what of the verse: Thou shalt not uncover the nakedness of thy daughter-in-law: She is thy son's wife: thou shalt not u.cover her nakedness?[17] Does this too teach: You may penalise him for one degree of ‘nakedness’, but not for two? But we have learnt: HE WHO COMMITS INCEST WITH HIS DAUGHTER-IN-LAW INCURS A PENALTY IN RESPECT OF HER BOTH AS HIS DAUGHTER-IN-LAW AND AS A MARRIED WOMAN. (HE IS GUILTY

IN RESPECT OF HER BOTH DURING HIS SON'S LIFETIME AND AFTER HIS DEATH); and R. Judah does not dispute this! But since she is but one person, though forbidden in a double capacity, the Writ saith, ‘her nakedness’ [singular]: here too then, [in the case of one's mother who is also the father's wife] since she is one person, even if she were doubly forbidden, the Writ saith: ‘her nakedness’.[18] — But Raba answered thus: R. Judah maintains that the nakedness of thy father [thou shalt not uncover], means thy father's wife, deducing this by a gezerah shawah,[19] and it applies to her whether she is his mother or not; whence do we know then that one's mother who is not his father's wife is likewise forbidden? — From the verse, the nakedness of thy mother shalt thou not uncover. [Hence the phrase,] ‘she is thy mother’ teaches that he is guilty only on account of her maternal relationship, but not because she is his father's wife.[20]

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(1) This refers to a Rabbinical ordinance extending the prohibition of incest to one degree beyond the Biblical interdict, e.g., the Bible forbids one's mother: the Rabbis added one's maternal grandmother. The Bible forbids the father's wife: the Rabbis extended this to the grandfather's wife. The full list is given in Yeb. 21a. V. supra 27b seqq.

(2) Soferim, lit., ‘scribes.’ Originally it meant people skilled in writing (cf. II Sam. VIII, 17; II Kings XIX. 2). Later, in the time of Ezra, it referred to the body of teachers who interpreted the Law to the people, and then it came to mean teachers generally. Usually, when employed in the Talmud, it applies to teachers up to and including Simon the Just. Consequently, when an ordinance is described as a measure of the Soferim, it must have been of great antiquity. But occasionally the designation is applied to later teachers too; e.g., in J. Ber. I, 7, and R.H. 19a.

(3) A woman freed from Levirate marriage, by the ceremony of halizah.

(4) Lev. XXI, 6. This relates to these forbidden marriages.

(5) I.e. ‘a woman standing in such relationship to her brother-in-law is automatically free, without the halizah ceremony.

(6) I.e., R.. Judah maintains that in such cases there is neither halizah nor levirate marriage; but granted the view of the first teacher that halizah is obligatory, he holds that the definition must be reversed.

(7) From Palestine to Babylon. With the decay of the Palestinian academies in the fourth century, many scholars emigrated from Palestine. These brought with them traditional teachings of the Tannaim.

(8) In all cases, not, as stated in the Baraitha, only when she is forbidden to his father.

(9) Lev. XVIII, 7.

(10) Ibid. 8.

(11) Thus leaving no grounds for punishment at all. Or, as Rashi prefers, though admitting that this is undoubtedly punishable, the two verses contradict each other as to the grounds of punishment. On this interpretation, Rashi omits the following passage, ‘Now . . . at all’.

(12) I.e. , of course they do, yet they do not agree with R. Judah's view.

(13) This is given further on.

(14) Thus the question remains, what is R. Judah's reason?

(15) Ibid.

(16) Where a woman stands in a dual relationship of consanguinity, a penalty is incurred only in respect of one.

(17) Ibid. XVIII, 15.

(18) I.e., the use of the singular cannot teach that a penalty can be imposed only for one degree of consanguinity.

(19) As shewn further on.

(20) Thus, Raba agrees with Abaye that R. Judah's reason is the limitation implied in the phrase ‘she is thy mother’. But he disposes of the consequent difficulty. viz., that of the verse, it is thy father's nakedness in the following way: The dictum, The nakedness of thy father shalt thou not uncover, refers to his father's wife, whether his mother or not; and so far, (without an additional limiting phrase) it is implied that in both cases the interdict is on account of paternal, not maternal consanguinity. Hence, when the following verse states, (The nakedness of thy father's wife thou shalt not uncover:) it is thy father's nakedness, it cannot mean that guilt is incurred only on account of paternal, but not maternal relationship, since that has already been implied in the preceding verse, the nakedness of thy father . . . shalt thou not uncover. Therefore the limitation undoubtedly intended by the latter verse must be otherwise interpreted. (This is done further on.) Now, since the nakedness of thy father should imply that whether she is his mother or not he is penalised on account of paternal consanguinity, it follows that when the same verse inserts a limiting clause, ‘she is thy mother’, the limitation must apply to that which has already been expressed, viz. , that the father's wife, if also one's mother, is forbidden on account of maternal, not paternal, consanguinity. This is more fully explained in the next passage.

Talmud - Mas. Sanhedrin 54a

It has been taught in support of Raba; [And the man that lieth with his father's wife hath uncovered his father's nakedness: both of them shall surely be put to death,’ their blood shall be upon them.][1] The man excludes a minor; that lieth with his father's wife, implies whether she is his mother or not. Whence do I know that his mother who is not his father's wife [is also thus forbidden]? — From the verse, [he] hath uncovered his father's nakedness. For this is redundant,[2] in order that an analogy may be drawn therefrom and identity of meaning based on a gezerah shawah deduced.[3] [They] shall surely be put to death, by stoning. You say, by stoning; but perhaps it means by one of the other deaths decreed in the Torah? — The Writ saith here, their blood shall be upon them; and in the case of a necromancer or a wizard, the Writ saith likewise, their blood shall be upon them;[4] just as there, stoning is meant, so here too. Now, in this verse, we are informed of the penalty: whence do we know the formal prohibition?[5] — From the verse, The nakedness of thy father . . . shalt thou not uncover:[6] the nakedness of thy father means thy father's wife. You say so: but perhaps it has its literal meaning?[7] — It is here said, The nakedness of thy father . . . shalt thou not uncover; and elsewhere[8] it is said, [he] hath uncovered his father's nakedness: just as there the reference is to the opposite sex, so here too; and it implies his father's wife, whether his mother or not. Whence do we know [that this law applies to] his mother, even if she is not his father's wife? — From the verse, The nakedness of thy mother thou shalt not uncover. From this I learn only the formal prohibition, viz., that the Scripture interdicts his mother, though not his father's wife, just as his father's wife. Whence do I derive the punishment?[9] — It is here stated , the nakedness of thy father . . . thou shalt not uncover,’ and It is said elsewhere, [he] hath uncovered his father's nakedness: just as the Writ assimilated his mother, when not his father's wife, to his mother who was also his father's wife, in respect of formal prohibition, so it assimilated her in respect of punishment. She is thy mother; this teaches, you must punish him in respect of her as a mother, but not as his father's wife.[10] But the Rabbis contend: the nakedness of thy father is literally meant. But is this not taught by the verse: Thou shalt not lie with mankind as with womankind?[11] — This teaches that a double penalty is incurred; and as Rah Judah said: If a heathen committed pederasty with his father or with his paternal uncle he incurs a double penalty. Raba said: This dictum of Rab Judah presumably refers to a Jew, the offence having been committed unwittingly, and the penalty mentioned being a sacrifice; whilst the designation ‘heathen’ is a euphemism.[12] For if you will say that he meant a heathen literally, what is his penalty? Death! Will you slay him twice? It has been taught likewise: He who commits pederasty with his father or with his paternal uncle incurs a twofold penalty. Some say that this does not agree with R. Judah [of the Mishnah].[13] But others maintain that this may agree even with R. Judah, and he deduces a twofold penalty by reasoning from the minor to the major, basing his argument upon the law pertaining to a paternal uncle, [thus:] If for a paternal uncle, who is but a relation of one's father, a twofold penalty is incurred,[14] how much more so is a double penalty incurred for pederasty with one's father. These two conflicting views are involved in the dispute of Raba and Abaye,[15] one maintaining that punishment is imposed as a result of a minor to a major conclusion, the other maintaining that It is not.[16]

Now, whence do the Rabbis derive a formal prohibition against a father's wife?[17] — From the verse, The nakedness of thy father's wife thou shalt not uncover.[18] And R. Judah? — He maintains that this verse interdicts her after his father's death. And the Rabbis?They maintain that this is derived from it is thy father's nakedness.[19] And R. Judah? — He utilises it to teach that he is punished in respect of her as his father's wife, but not as a married woman.[20] But we have learnt, ONE WHO COMMITS INCEST WITH HIS FATHER's WIFE INCURS A PENALTY IN RESPECT OF HER BOTH AS HIS FATHER'S WIFE AND AS A MARRIED WOMAN. [HE IS GUILTY IN RESPECT OF THE FORMER] BOTH DURING HIS FATHER'S LIFETIME AND AFTER HIS DEATH; and R. Judah does not dispute it? — Abaye answered: He does dispute it in the Baraitha.

Now, whence do the Rabbis derive punishment for incest with one's father's wife after the former's death? It is all well according to R. Judah, for he derives it by means of the gezerah shawah; but whence do the Rabbis derive it? They answer thus: [he] hath uncovered his father's nakedness,[21] which R. Judah utilises for a gezerah shawah, is rather to be employed as teaching punishment for incest with one's father's wife after his death.

Now, whence do the Rabbis derive punishment for incest with one's mother who is not his father's wife?[22] — R. Shisha the son of R. Iddi said: The Writ saith, she is thy mother,[23] thereby teaching that one's mother, even if not his father's wife, is exactly as his father's wife.[24]

HE WHO COMMITS INCEST WITH HIS DAUGHTER-IN-LAW, etc. Why is he not also guilty in respect of her as his son's wife?[25] — Abaye answered: The Writ commences with his daughter-in-law, and concludes with his son's wife,[26] teaching that they are identical.[27] MISHNAH. HE WHO COMMITS SODOMY WITH A MALE OR A BEAST, AND A WOMAN THAT COMMITS BESTIALITY ARE STONED. IF THE MAN HAS SINNED, WHEREIN HAS THE ANIMAL OFFENDED? BUT BECAUSE MAN WAS ENTICED TO SIN THEREBY,[28] SCRIPTURE ORDERED THAT IT SHOULD BE STONED. ANOTHER REASON IS THAT THE ANIMAL SHOULD NOT PASS THROUGH THE STREETS, WHILST PEOPLE SAY, THIS IS THE ANIMAL ON ACCOUNT OF WHICH SO AND SO WAS STONED.

GEMARA. Whence do I know that pederasty is punished by stoning? — Our Rabbis taught : [If a man lieth also with mankind, as the lyings of a woman,[29] both of them have committed on abomination: they shall surely be put to death; their blood shall be upon them,][30] A man — excludes a minor; [that] lieth also with mankind — denotes whether an adult or a minor; as the lyings of a woman — this teaches that there are two modes of intimacy,[31] both of which are punished when committed incestuously. R. Ishmael said: This verse comes to throw light [upon pederasty] but receives illumination itself.[32] They shall surely be put to death: by stoning. You say, by stoning: but perhaps some other death decreed in the Torah is meant? — Their blood shall be upon them is stated here, and also in the case of one who has a familiar spirit or is a wizard:[33] just as there the reference is to stoning, so it is here too.

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(1) Lev. XX, 11.

(2) In a gezerah shawah, the word used as a basis of deduction must be otherwise redundant (מופנה), being required for no other purpose. This is the opinion of R. Ishmael and R. Eliezer; the former deeming it sufficient if the redundancy is in one of the passages only, the latter insisting that the word must be superfluous in both. R. Akiba, however, maintained that such redundancy, even in one passage, is unnecessary.

(3) The gezerah shawah, whereby this phrase is made to include one's mother, is given further on.

(4) Lev. XX, 27. A man also or a woman that hath a familiar spirit (i.e., a necromancer), or that is a wizard, shall surely be put to death: they shall stone them with stones, their blood shall be upon them.

(5) It is an axiom that before punishment can be imposed for any act, it must be explicitly prohibited. Now the whole of this verse merely decrees the punishment to be inflicted: hence the Talmud asks, where in the formal prohibition?

(6) Ibid. XVIII, 7.

(7) In which case it should be part of the wider injunction of Lev. XVIII, 22: Thou shalt not lie with mankind as with womankind.

(8) Ibid. XX, 11.

(9) I.e., that it is a punishable offence too; for no punishment is mentioned in this verse.

(10) Thus the whole Baraitha supports Raba's statement.

(11) Lev. XVIII, 22.

(12) Not wishing to ascribe such a gross offence to a Jew.

(13) Since he does not interpret the verse, the nakedness of thy father, literally, there is only one prohibition against pederasty, viz., that of Lev. XVIII, 22; hence in his view there is only one penalty, no matter with whom the offence is committed.

(14) This is deduced from the verse (Lev. XVIII, 14), thou shalt not uncover the nakedness of thy father's brother, thou shalt not approach to his wife. Since his wife is specifically prohibited, the first half of the verse must be understood literally. Consequently, it is twice prohibited. (for it is also included in the prohibition of Lev. XVII, 22) and hence a double penalty is incurred.

(15) Infra 76a.

(16) On the first view R. Judah may hold that a double penalty is incurred for pederasty with one's father. But on the second, this cannot be so. For he does not interpret the nakedness of thy father literally. Hence there is only one injunction (Lev. XVIII, 22) against this, and consequently only one penalty, the ad majus conclusion being insufficient to impose one.

(17) Since they interpret the nakedness of thy father literally.

(18) Ibid. XVIII, 8.

(19) Which being redundant, extends the prohibition to after his father's death.

(20) As she stands in a double relationship to him, being his father's wife and at the same time a married woman, which is separately forbidden in Lev. XVIII, 20, the emphatic ‘she is thy father's nakedness’ shews that the latter relationship is not considered in this matter.

(21) Ibid. XX, 11.

(22) This being nowhere stated.

(23) Ibid XVIII, 7.

(24) I.e., the emphasis of the clause teaches that.

(25) Since there are two prohibitions, viz. Thou shall not uncover the nakedness of thy daughter-in-law; and, she is thy son's wife, thou shalt not uncover her nakedness (ibid. XVIII, 15).

(26) She is thy son's wife refers back to the word daughter-in-law.

(27) I.e., that it is to be regarded as one prohibition, not two, but that it applies even after the son's death.

(28) Lit., ‘a stumbling block has come to the man through it.’

(29) Lit. rendering of משכבי זכר translated ‘as he lieth with a woman’.

(30) Ibid. XX, 13.

(31) Natural and unnatural.

(32) For the phrase, the lyings of a woman, is redundant in so far as it teaches that even unnatural pederasty is punishable, since all pederasty is such. Hence its teaching is thrown back upon itself, viz., that unnatural cohabitation is punishable when committed incestuously.

(33) Ibid. XX, 27.

Talmud - Mas. Sanhedrin 54b

This teaches the punishment: whence do we derive the formal prohibition? — From the verse, Thou shalt not lie with mankind, as with womankind: it is an abomination.[1] From this we learn the formal prohibition for him who lies [with a male]: whence do we know a formal prohibition for the person who permits himself thus to be abused? — Scripture saith: There shall be no sodomite of the sons of Israel:[2] and it is further said, And there were also sodomites in the land: and they did according to the abominations of the nations which the Lord had cast out before the children of Israel:[3] this is R. Ishmael's view. R. Akiba said: This is unnecessary, the Writ saith, thou shalt not lie with mankind as with womankind: read, ‘thou shalt not be lain with.’[4] Whence do we learn a formal prohibition against bestiality? — Our Rabbis taught : [and if a man lie with a beast, he shall surely be put to death: and ye shall slay the beast].[5] A man excludes a minor; [that] lieth with a beast — whether it be young or old; he shall surely be put to death — by stoning. You, by stoning; but perhaps one of the other deaths decreed in the Torah is meant? — It is here said, [and] ye shall kill [the beast]; and it is stated elsewhere, But thou shalt surely kill him. [. . . And thou shalt stone in him with stones]:[6] just as there, stoning is meant, so here too.

We have learnt from this the punishment for him who commits bestiality; whence do we derive punishment for him who allows himself to be thus abused? — The Writ saith: Whosoever lieth with a beast shall surely be put to death.[7] Since this is redundant in respect of the person committing bestiality,[8] you must regard it as applying to the person permitting himself to be thus abused.[9] From the Writ we know that there is punishment both for him who commits bestiality and for him who permits himself to be thus abused; whence do we know the formal prohibition? — Scripture saith, neither shalt thou lie with any beast to defile thyself therewith.[10] From this verse we learn the formal prohibition for him who commits bestiality, whence do we derive the formal prohibition for him who allows himself to be thus abused? Scripture saith: There shall be no Sodomite of the sons of Israel; and it is elsewhere said, And there were also sodomites in the land, etc.[11] R. Akiba said: This is unnecessary. The Writ saith, Thou shalt not lie [with any beast], which means, thou shalt not permit thy lying [with any beast, whether actively or passively].

Now, he who [actively] commits pederasty, and also [passively] permits himself to be thus abused — R. Abbahu said: On R. Ishmael's view, he is liable to two penalties, one [for the injunction] derived from thou shalt not lie with mankind, and the other for [violating the prohibition,] There shall not be a Sodomite of the sons of Israel. But on R. Akiba's view, he incurs only one penalty, since thou shalt not lie and thou shalt not be lain with is but one statement.[12]

He who commits bestiality, and also causes himself to be thus abused — R. Abbahu said: On R. Ishmael's view, he incurs two penalties, one for the injunction, thou shalt not lie with any beast, and one for the prohibition, there shall be no sodomite of the sons of Israel. But on R. Akiba's view, he incurs but one penalty, since thy lying [actively] and thy lying [passively] is but one injunction. Abaye said: Even on R. Ishmael's view he incurs one penalty only, for there shall be no Sodomite applies to sodomy with mankind.[13] If so, whence does R. Ishmael derive a formal prohibition against permitting oneself to be bestially abused? — From the verse, Whosoever lieth with a beast shall surely be put to death.[14] Now, this being redundant in respect of him who [actively] lies with a beast,[15] apply it to him who [passively] permits himself to be abused this; and the Divine Law designates the passive offender as the active offender:[16] this teaches that the punishment for, and the formal prohibition against, active bestiality[17] apply to passive submission too.[18]

He who submits both to pederasty and to bestiality — R. Abbahu said: On R. Akiba's view, he incurs two penalties; one for thou shalt not lie [with mankind], and the other for thou shalt not lie [with any beast]. But on R. Ishmael's view, he incurs only one punishment, both offences being derived from the single verse, There shall be no Sodomite.[19] Abaye said: Even on R. Ishmael's view, he incurs two penalties, because it is written, Whosoever lieth with a beast shall surely be put to death.[20] This being redundant in respect of active bestiality, it must be applied to passive submission, and the Divine Law thus designated passive submission as an active offence: just as for the active offence there is punishment and prohibitions so for the passive offence too.[21] But he who commits pederasty and causes himself to be abused thus; and also commits bestiality and causes himself to be abused too — both R. Abbahu and Abaye maintain that on R. Ishmael's view he is trebly guilty, and on R. Akiba's view he is doubly guilty.[22]

Our Rabbis taught: In the case of a male child, a young one is not regarded as on a par with an old one; but a young beast is treated as an old one.[23] What is meant by this? — Rab said: Pederasty with a child below nine years of age is not deemed as pederasty with a child above that. Samuel said: Pederasty with a child below three years is not treated as with a child above that.[24] What is the basis of their dispute? — Rab maintains that only he who is able to engage in sexual intercourse, may, as the passive subject of pederasty throw guilt [upon the active offender]; whilst he who is unable to engage in sexual intercourse cannot be a passive subject of pederasty [in that respect].[25] But Samuel maintains: Scripture writes, [And thou shalt not lie with mankind] as with the lyings of a woman.[26]

It has been taught in accordance with Rab: Pederasty at the age of nine years and a day;

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(1) Ibid. XVIII, 22.

(2) Deut. XXIII, 18.

(3) I Kings XIV, 24. Just as abomination applies to sodomy in the latter verse, so it applies to it in the former too: thus it is as though the former verse read, There shall be no Sodomite of the sons of Israel: it is an abomination. And just as the abomination implicit here applies to both parties, so the abomination explicitly stated in Lev. XIII, 22 refers to both.

(4) I. e., the niph'al, the letters being the same, תשכב and תשכב.

(5) Ibid. XX, 15.

(6) Deut. XIII, 10, referring to a mesith, one who incites to idolatry.

(7) Ex. XXII, 18.

(8) As it is taught elsewhere, viz., in Lev. XX, 15.

(9) One of the methods of Talmudic hermenueutics is to apply a Biblical statement, superfluous in respect of its own law, to some other subject.

(10) Lev. XVIII, 23.

(11) Ibid. v. p. 368. n. 1: the same reasoning applying to bestiality as to pederasty.

(12) I.e., though differently vocalized in order to deduce two injunctions, it is nevertheless one statement only, so that a person transgressing these two injunctions violates one Biblical prohibition only.

(13) Not to bestiality at all, in spite of the fact that this was cited above in this connection.

(14) Ex. XXII, 18.

(15) Since it is stated in Lev. XVIII.

(16) I.e., though as shewn, this verse applies to a passive offender, yet its grammatical construction speaks of active bestiality.

(17) The reference having been given above.

(18) So that all is deduced from one verse, involving only one penalty.

(19) Since R. Akiba maintains that the prohibition of passive sodomy is included in active sodomy, it follows that passive pederasty and bestiality are two distinct offences, for there are two distinct injunctions. But as R. Ishmael maintains that the injunction against active sodomy does not include passive submission, and that the latter, whether in pederasty or bestiality, is derived from the single injunction, There shall be no sodomite, the double offence incurs one penalty only.

(20) Ex. XXII, 18.

(21) Thus, this applies to passive bestiality, whilst there shall be no sodomite applies to passive pederasty. Hence, there being two separate injunctions for the two offences, a double punishment is incurred.

(22) Thus: R. Abbahu maintains that on R. Ishmael's view: (i) active pederasty is forbidden by Thou shalt not lie with mankind; (ii) active bestiality by Thou shalt not lie with any beast; (iii) passive pederasty and bestiality by There shall be no sodomite. Whilst Abaye maintains that on R. Ishmael's view, (i) active pederasty is derived from Thou shalt not lie with mankind; (ii) submission thereto from There shall be no sodomite; and (iii) active and passive bestiality from Neither shalt thou lie with any beast to defile thyself therewith. (Lev. XVIII, 23) Hence, according to R. Abbabu and Abaye there are three injunctions for the four offences. Further, R. Abbahu and Abaye both teach R. Akiba's view to be that (i) active and passive bestiality are derived from Thou shalt not lie with mankind as with womankind; and (ii) active and passive bestiality from Neither shalt thou lie with any beast. Hence there are two injunctions for the four offences.

(23) The reference is to the passive subject of sodomy. As stated supra 54a, guilt is incurred by the active participant even if the former be a minor, i.e., less than thirteen years old. Now, however, it is stated that within this age a distinction is drawn.

(24) I.e., Rab makes nine years the minimum; but if one committed sodomy with a child of lesser age, no guilt is incurred. Samuel makes three the minimum.

(25) At nine years a male attains sexual matureness.

(26) Lev. XVIII, 22. Thus the point of comparison is the sexual matureness of woman, which is reached at the age of three.

Talmud - Mas. Sanhedrin 55a

[he] who commits bestiality, whether naturally or unnaturally; or a woman who causes herself to be bestially abused, whether naturally or unnaturally, is liable to punishment .[1]

R. Nahman, son of R. Hisda stated in an exposition: In the case of a woman, there are two modes of intimacy, but in the case of a beast, only one.[2] R. Papa objected: On the contrary, since sexual intercourse with a woman is a natural thing, guilt should be incurred only for a natural connection, but for nothing else, whilst, since a connection with a beast is an unnatural thing, one should be punished for every such act, however it be done.[3]

It has been taught: Pederasty at the age of nine years and a day; she who commits bestiality, whether naturally or unnaturally, and a woman who causes herself to be bestially abused, whether naturally or unnaturally, are liable to punishment.[4]

Rabina asked Raba: What if one commits the first stage of pederasty? [He replied: Dost thou ask] what if one commits the first stage of pederasty! Is it not written, Thou shalt not lie with mankind as with womankind?[5] But [the question to be asked is] what if one commits the first stage of bestiality? — He replied: Since the culpability of the first stage of incest, which is explicitly stated with reference to one's paternal or maternal aunt, is redundant there, for it is likened to the first stage of intercourse with a niddah,[6] apply its teaching to the first stage of bestiality [as being punishable].[7] Now consider: bestiality is a capital offence, punishable by Beth din. Why then does the Scripture teach the capability of its first stage in a law relating to a sin punishable by extinction:[8] should it not rather have been indicated in a verse dealing with sexual intercourse as a capital offence too;[9] so that one capital offence might be deduced from another? Since this entire verse[10] is written for the sake of new interpretations [whereby additional laws are deduced] — another statement for the same purpose is inserted.[11]

R. Ahdaboi b. Ammi propounded a problem to R. Shesheth: What if one excited himself to the first stage [of masturbation]? — He replied: You annoy us![12] R. Ashi said: What is your problem? This is impossible in self-stimulation; but it is possible in the case of coition with a membrum mortuum. On the view that such, in incest, is not punishable, in masturbation too it is not punishable. But on the view that it is punishable, a twofold penalty is incurred here, since he is simultaneously the active and passive partner of the deed.

It was asked of R. Shesheth: What if a heathen committed bestiality [is the animal killed or not]? Must it have been both a stumbling block and a cause of degradation [in order for it to be stoned], but here it was only a stumbling block, but not a cause of degradation;[13] or perhaps, even if it was only a stumbling block, without having led to degradation, [it is still stoned]?[14] — R. Shesheth replied, We have learnt it: If in the case of trees, which neither eat nor drink nor smell, the Torah decreed that they should be burnt and destroyed,[15] because they had proved a stumbling block: how much more so [must thou destroy him] who seduces his neighbour from the path of life to that of death.[16] If so, where a heathen worships his cow, should it not be forbidden and killed?[17] — Is there anything which is not forbidden to an Israelite, yet forbidden to a heathen?[18] But why should it not be forbidden if an Israelite worshipped it: is it not analogous to bestiality? — Abaye answered: In the latter case [bestiality] the degradation is great; whilst in the former [animal worship] the disgrace is little.[19] But in the case of trees, the degradation is not great, yet did not the Torah order them to be burnt, destroyed, and annihilated? — We are speaking of living creatures, for which the All-Merciful One shewed pity.[20] Raba said: The Torah ordered that the animal should be destroyed, because it too derived pleasure from sin.[21] But trees derive no pleasure, yet the Torah commanded that they should be destroyed, burnt, and annihilated! We are speaking of living creatures, for which the All-Merciful One shewed pity. Come and hear![22] ANOTHER REASON IS, THAT THE ANIMAL SHOULD NOT PASS THROUGH THE STREETS, WHILST PEOPLE SAY, THIS IS THE ANIMAL ON ACCOUNT OF WHICH SO AND SO WAS STONED.Now surely,

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(1) (Rashi reads זכור instead of the זכר in our printed texts. A male, aged nine years and a day who commits etc.]

There are thus three distinct clauses in this Baraitha. The first — a male aged nine years and a day-refers to the passive subject of pederasty, the punishment being incurred by the adult offender. This must be its meaning — because firstly, the active offender is never explicitly designated as a male, it being understood, just as the Bible states, Thou shalt not lie with mankind, where only the sex of the passive participant is mentioned; and secondly, if the age reference is to the active party, the guilt being incurred by the passive adult party, why single out pederasty: in all crimes of incest, the passive adult does not incur guilt unless the other party is at least nine years and a day? Hence the Baraitha supports Rab's contention that nine years (and a day) is the minimum age of the passive partner for the adult to be liable.

(2) The reference is to bestiality. If a woman allows herself to be made the subject thereof, whether naturally or not, she is guilty. But if a man commits bestiality, he is liable only for a connection in a natural manner, but not otherwise.Thus Rashi. Tosaf., more plausibly, explains it thus: If one commits incest or adultery with a woman, whether naturally or not, guilt is incurred; but bestiality is punishable only for a connection in a natural manner, but not otherwise.

(3) The meaning according to the interpretation of Tosafoth is clear. Yet R. Papa's objection is not made in order to prove that unnatural incest is not liable (which, in fact, it is), but that if a distinction is to be drawn, unnatural bestiality is far more likely to be liable than unnatural incest. On Rashi's interpretation, R. Papa's objection is explained thus: Since a woman is naturally the passive object of sexual intercourse, it follows that she should be punished for bestiality only when the connection is carried out in a natural way. But as man is the active offender in an unnatural crime he should be punished even for unnatural connection. It must be confessed that this is not without difficulty, and hence Tosaf. rejects Rashi's explanation, which is based on a slightly different reading.

(4) V. supra p. 371. n. 5. This refutes the former view; and the latter too, on Rashi's interpretation.

(5) Ibid. XVIII, 20. Hence, why ask? Obviously, just as the first stage of incest or adultery is punishable, so also the first stage of pederasty.

(6) Niddah, a woman during her menstruation.

(7) In respect of one's paternal or maternal aunt, Scripture states: And thou shalt not uncover the nakedness of thy mother's sister, nor of thy father's sister: for he uncovereth his near kin. (Lev. XX, 19). The word for ‘he uncovereth’ (Heb. he'erah הערה) is understood as meaning the first stage of sexual intercourse, and this verse teaches that this is a culpable offence. But this teaching is superfluous, for in the preceding verse the same is taught of a niddah, which serves as a model for all forbidden human sexual intercourse. Hence the teaching, being redundant here, is applied to the first stage of bestiality. V. p. 368, n. 7.

(8) Incest with a paternal or a maternal aunt is so punishable.

(9) E. g., incest with one's mother, father's wife, or daughter-in-law is punished by stoning; v. supra 53a.

(10) Lev. XX, 19, referring to incest with a paternal or material aunt.

(11) In Yeb. 54b it is shewn that the whole verse is superfluous, its provisions being stated in Lev. XVIII, 12f. Hence it is written in XX, 19 in order that additional laws might be deduced.

(12) By a reprehensible sophistry, the thing being an impossibility. Other translations: ‘You disgust us; insolent man that you are!’

(13) Because bestiality was not unusual among the heathens, therefore he would not feel himself disgraced. This Talmudic judgment on heathen morals may appear very harsh and prejudiced, yet it is not a malicious slander. In the Gilgamesh epic Ebani, the primitive man, lives a wild life with the animals and satisfies his lust with them. Bestiality seems to have been prevalent among the Greeks and Romans of a later period, as is proved by an extremely unsavoury adventure described in the Metamorphoses of Apuleius. Cf. ‘A. Z. 22a, which forbids the stabling of cows with heathens, for fear of bestiality. (Hast. Dict. s.v. Bestiality.)

(14) The point of the problem is this: The Mishnah states two reasons for the stoning of the animal. The first, that it had been a stumbling block; the second, that it was a constant reminder that someone had been executed through it, i.e., that man had degraded himself thereby. Hence the question whether both are necessary before the animal must be stoned, or only one.

(15) Deut. XII, 3: And ye shall burn their groves with fire.

(16) I.e., to idolatry. That proves that that which caused sin, even without degradation, (the worship of trees by heathens not being accounted a disgrace to them) must be destroyed.

(17) Since a heathen is liable to death for animal worship, though it is not accounted a disgrace to him.

(18) Surely not. If a Jew worships his cow, it is not forbidden to benefit therefrom (Tem. 29a). Hence we cannot impose a prohibition if a heathen worships it. This is a general principle in the Talmud. It is very instructive as showing quite clearly the temper in which the Rabbis regarded the idea of election of Israel. So far from conferring special privileged dispensations, it could be taken as axiomatic that nothing permitted to the Jew was forbidden to the heathen. Cf. Joseph, M., Judaism as Creed and Life, pp. 153-4. ‘In styling ourselves God's people we do not claim to possess any worldly advantage, or even any special share of the Divine love ... The pledge of God's affection for his people lies in his gift to them of a special opportunity of service, with its additional joys but also with its additional obligations. Nay, by taking upon himself the Yoke of the Law, Israel has been self-doomed to a life of trial.’

(19) Thus Tosaf. and R. Han. and one interpretation of Rashi. Another explanation by Rashi (adopted by Jast., s. v. קלון) is: In this case (of a Jew being the criminal) his disgrace is great, but in the latter (that of a Gentile) his disgrace is little. The first explanation seems to be more suited to the context.

(20) Hence, only where there is much degradation, as in bestiality, is the animal destroyed; but trees are destroyed even when the disgrace is not great.

(21) This is another point of difference between bestiality and animal worship. In the former, the animal too derives pleasure, but not in the latter.

(22) In answer to the problem, R. Shesheth's proof not being considered conclusive.

Talmud - Mas. Sanhedrin 55b

since the latter reason embraces both the reason of a stumbling block and of human degradation[1] , the former reason is that of stumbling block alone,

e.g. when a heathen commits bestiality![2] — No. The second reason is that of stumbling block and of degradation,but the first teaches that even if there is degradation without a stumbling block, the animal is stoned, e.g., if a Jew committed bestiality in ignorance [of the fact that it is forbidden].[3] Even as R. Hamnuna propounded: What if a Jew committed bestiality in ignorance; must there have been both a stumbling block and degradation [for the animal to be stoned] and in this case there is only degradation, but no sin; or perhaps for degradation alone without there having been a stumbling block [the animal is stoned]?[4] — R. Joseph said: Come and hear! A maiden aged three years and a day may be acquired in marriage by coition, and if her deceased husband's brother cohabits with her, she becomes his. The penalty of adultery may be incurred through her; [if a niddah] she defiles him who has connection with her, so that he in turn defiles that upon which he lies, as a garment which has lain upon [a person afflicted with gonorrhoea].[5] If she married a priest, she may eat of terumah;[6] If any unfit person[7] has a connection with her, he disqualifies her from the priesthood —[8] If any of the forbidden degrees had intercourse with her, they are executed on her account,[9] but she is exempt.[10] Now, ‘any of the forbidden degrees’ implies even a beast: in this case, there is degradation but no stumbling-block, yet it is taught that they [including a beast] are slain on her account.[11] [No, this is not conclusive, as it can be argued that] since she deliberately offended there is a stumbling-block] [though she is a minor] but the All-Merciful One had mercy upon her; now, He shewed mercy to her, but not to the animal.

Raba said: Come and hear! A male aged nine years and a day who cohabits with his deceased brother's wife [the former having left no issue] acquires her [as wife]. But he cannot divorce her until he attains his majority.[12] He is defiled through coition with a niddah,[13] so that he in turn defiles that upon which he lies, as a garment which has lain upon [a person afflicted with gonorrhoea] — He disqualifies [a woman from the priesthood],[14] but cannot enable a woman to eat [of terumah].[15] He renders an animal unfit for the altar,[16] and it is stoned on his account,[17] and if he had intercourse with one of the degrees forbidden in the Torah, the latter is executed. Now here there is degradation, but no stumbling-block, yet it is taught: ‘It is stoned on his account.’ Since it was a deliberate offence, there is a stumbling-block, but the All-Merciful One had mercy upon him; now, He showed mercy to him, but not to the animal.

Come and hear! ANOTHER REASON IS THAT THE ANIMAL SHOULD NOT PASS THROUGH THE STREETS WHILST PEOPLE SAY, ‘THIS IS THE ANIMAL ON ACCOUNT OF WHICH SO AND SO WAS STONED.’ Now surely, since the latter reason embraces both stumbling-block and degradation, the former reason refers to degradation only, that is, when a Jew committed bestiality in ignorance.[18] No! The second reason is one of stumbling-block and degradation; but the first teaches that even if there is a stumbling block without degradation, the animal is stoned,[18] e.g., if a heathen committed bestiality, even as it was asked of R. Shesheth.[19]

MISHNAH. THE BLASPHEMER IS PUNISHED ONLY IF HE UTTERS [THE DIVINE] NAME.[20] R. JOSHUA B. KARHA SAID:

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(1) When people remark that so and so was stoned through this animal, its own part in enticing to sin and the degradation of the offender are brought to mind.
(2) The reasoning is as follows: Since the second reason refers to both sin and disgrace, the first is superfluous; hence it must have been given in order to shew that even where sin alone is incurred, without degradation, the animal is stoned.
(3) According to this, the 'stumbling block' refers to the degradation involved, and not to the sin. When bestiality is committed in ignorance, one has not sinned, yet he has greatly degraded himself. The superiority of this explanation lies in the fact that both reasons now refer to a Jew, instead of one referring to a Jew and one to a heathen, which is not very plausible.
(4) According to the latter explanation of the Mishnah, this problem is solved, whilst the first remains unanswered; but according to the first explanation, the first problem is solved, but not the second. As we cannot be certain which is correct, both so far are unsolved.
(5) A man who had sexual connection with a niddah, defiles that upon which he lies even if he does not actually touch it. But the degree of uncleanliness it thereby acquires is not the same as that of bedding upon which a niddah herself, or a person afflicted with gonorrhoea, lies. For in the latter case, the defilement is so great that the bedding in turn renders any person or utensil with which it comes into contact unclean; whilst in the former, it can only defile foodstuffs and liquids. This is the same degree of uncleanliness possessed by a garment which has lain upon, or been borne by a zab (i.e., one afflicted with issue).
(6) As the law of an Israelite's (adult) daughter who married a priest. But if she was less than three years old, although the Kiddushin accepted on her behalf by her father is valid, yet since she is sexually immature, the marriage cannot be consummated, and hence she is not thereby enabled to eat of terumah. On terumah, the priest's portion of an Israelite's produce, v. Glos.
(7) E.g., a heathen, hallal, nathin, or bastard.
(8) I.e., if a priest's daughter, or if the daughter of a Levite or Israelite married to a priest, she may not eat of terumah.
(9) If they are of those forbidden on pain of death, v. supra 53a.
(10) As she is a minor.
(11) This solves R. Hamuna's problem.
(12) For, being a minor, he has no power to release her from a bond laid upon her, in the first place, by an adult (his brother).
(13) This rendering follows the more correct text of the Mishnah, Niddah 45a, of which this is a quotation, which has umittamma beniddah (through or by a niddah), instead of the reading here: umittamma keniddah, as a niddah.
(14) V. p. 343, n. 6.
(15) If he is a priest, and has sexual connection with an Israelite's daughter with marital intent, this does not authorise her to eat of terumah, because he has no legal powers of acquisition in marriage, excepting over his levirate sister-in-law, who is already bound to him.
(16) If he committed bestiality therewith, only one witness attesting the offence, the animal is not killed, nor does it become unfit for secular use, but it may no longer be offered as a sacrifice.
(17) If his bestiality was attested by two witnesses.
(18) Which solves the problem propounded by R. Hamnunah.
(19) V. p. 373, supra.
(20) I.e., the Tetragrammaton.

Talmud - Mas. Sanhedrin 56a

THE WHOLE DAY [OF THE TRIAL] THE WITNESSES ARE EXAMINED BY MEANS OF A

SUBSTITUTE FOR THE DIVINE NAME, THUS, ‘MAY JOSE SMITE JOSE.’[1] WHEN THE TRIAL WAS FINISHED, THE ACCUSED WAS NOT EXECUTED ON THIS EVIDENCE, BUT ALL PERSONS WERE REMOVED [FROM COURT], AND THE CHIEF WITNESS WAS TOLD, ‘STATE LITERALLY WHAT YOU HEARD. THEREUPON HE DID SO, [USING THE DIVINE NAME]. THE JUDGES THEN AROSE AND RENT THEIR GARMENTS, WHICH RENT WAS NOT TO BE RESEWN. THE SECOND WITNESS STATED; I TOO HAVE HEARD THUS’ [BUT NOT UTTERING THE DIVINE NAME], AND THE THIRD SAYS: ‘I TOO HEARD THUS’.

GEMARA. It has been taught: [The blasphemer is not punished] unless he ‘blesses’ the Name, by the Name[2] . Whence do we know this? — Samuel said: The Writ sayeth, And he that blasphemeth [nokeb] the name of the Lord . . . when he blasphemeth the name of the Lord, shall be put to death.[3] How do you know that the word nokeb[4] [used in the Hebrew] means a ‘blessing’? — From the verse, How shall I curse [Ekkob][5] whom God hath not cursed;[6] whilst the formal prohibition is contained in the verse, thou shalt not revile God.[7] But perhaps it means ‘to pierce,’[8] as it is written, [So Jehoiada the priest took a chest,] and bored [wa-yikkob][9] a hole in the lid of it,[10] the formal injunction against this being the verses, Ye shall destroy the names of them [idols] out of that place. Ye shall not do so unto the Lord your God?[11] — The Name must be ‘blessed’ by the Name, which is absent here. But perhaps the text refers to the putting of two slips of parchment, each bearing the Divine Name, together, and piercing them both? — In that case one Name is pierced after the other.[12] But perhaps it prohibits the engraving of the Divine Name on the Point of a knife and piercing therewith [the Divine Name written on a slip of parchment]? — In that case, the point of the knife pierces, not the Divine Name. But perhaps it refers to the pronunciation of the ineffable Name, as it is written, And Moses and Aaron took these men which are expressed [nikkebu][13] by their names;[14] the formal prohibition being contained in the verse, Thou shalt fear the Lord thy God?[15] — Firstly, the Name must be ‘blessed’ by the Name, which is absent here; and secondly, it is a prohibition in the form of a positive command, which is not deemed to be a prohibition at all.[16] An alternative answer is this: The Writ saith, [And the Israelitish woman's son] blasphemed wa-yikkob[17] [and cursed],[18] proving that blasphemy [nokeb] denotes cursing. But perhaps it teaches that both offences must be perpetrated?[19] You cannot think so, because it is written, Bring forth him that hath cursed,[20] and not ‘him that hath blasphemed and cursed’, proving that one offence only is alluded to.

Our Rabbis taught: [Any man that curseth his God, shall bear his sin.[21] It would have been sufficient to say], ‘A man, etc:’ What is taught by the expression any man?[22] The inclusion of heathens, to whom blasphemy is prohibited just as to Israelites, and they are executed by decapitation; for every death penalty decreed for the sons of Noah is only by decapitation.[23]

Now, is [the prohibition of blasphemy to heathens] deduced from this verse? But it is deduced from another, viz., The Lord, referring to the ‘blessing’ of the Divine Name.[24] — R. Isaac the smith[25] replied; This phrase [‘any man’] is necessary only as teaching the inclusion of substitutes of God's name[26] , and the Baraitha is taught in accordance with R. Meir's views For it has been taught: Any man that curseth his God shall bear his sin.[27] Why is this written? Has it not already been stated, And he that blasphemeth the name of the Lord, he shall surely be put to death?[28] Because it is stated, And he that blasphemeth the name of the Lord shall surely be put to death, I might think that death is meted out only when the ineffable Name is employed. Whence do I know that all substitutes [of the ineffable Name] are included [in this law]? From the verse, Any man that curseth his God-shewing culpability for any manner of blasphemy [even without uttering the Name, since the Name is not mentioned in this sentence]: this is the view of R. Meir. But the Sages maintain: [Blasphemy] with use of the ineffable Name, is punishable by death: with the employment of substitutes, it is the object of an injunction. [but not punishable by death].

This view [of R. Isaac the smith] conflicts with that of R. Miyasha; for R. Miyasha said: If a heathen [son of Noah] blasphemed, employing substitutes of the ineffable Name, he is in the opinion of the Sages punishable by death. Why so? — Because it is written, as well the stranger, as he that is born in the land [when he blasphemeth the name of the Lord, shall be put to death].[29] This teaches that only the stranger [i.e.. a proselyte], and the native [i.e., a natural born Israelite] must utter the ineffable Name; but the heathen is punishable even for a substitute only. But how does R. Meir interpret the verse, ‘as well the stranger, as he that is born in the land’? — It teaches that the stranger and citizen are stoned, but a heathen is decapitated. For I would think, since they are included [in the prohibition], they are included [in the manner of execution too]: hence we are taught otherwise. Now how does R. Isaac the smith interpret the verse, ‘as well the stranger, as he that is born in the land’, on the view of the Rabbis?[30] — It teaches that only a stranger and a native must revile the Name by the Name, but for a heathen this is unnecessary. Why does the Torah state any man?[31] — The Torah employed normal human speech.[32]

Our Rabbis taught: seven precepts were the sons of Noah commanded: social laws;[33] to refrain from blasphemy, idolatry; adultery; bloodshed; robbery; and eating flesh cut from a living animal.[34]

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(1) The witnesses, in giving testimony, do not state that they heard the accused say, ‘May He slay himself’, uttering the actual divine name, but use the word ‘Jose’ as a substitute for the divine name. ‘Jose’ is chosen as a substitute, because it contains four letters, like the actual Tetragrammaton, which must have been used by the blasphemer for him to be punished. Moreover, the numerical value of ‘Jose’ is the same as of Elohim (81). According to Levy, s.v. כינוי, the first Jose יוסי stands for Jesus (**, son), and the second is an abbreviation of יוסף, Joseph, the Father, by which, however, God was to be understood. The witnesses were accordingly asked whether the accused in his blasphemy had set Jesus above God. (R. Joshua b. Karha, the author of this saying, lived at a time when Judeo-Christians ascribed more power to Jesus than to God.)

(2) As in the Mishnah, ‘Jose strike Jose’. ‘Bless’ is here a euphemism for curse, and is so in the whole of the ensuing discussion.

(3) Lev. XXIV, 16. The repetition shows that the Divine Name must be cursed by the Divine Name.

(4) נקב

(5) אקב

(6) Num. XXIII, 8.

(7) Ex. XXII, 27.

(8) I.e., it is a capital offence to pierce the Divine Name, written on a slip of parchment, and thus destroy it.

(9) ויקב

(10) II Kings XII, 10.

(11) Deut. XII, 3f. The interpretation is based on the juxtaposition of the two verses; v. Mak. 22a.

(12) The knife passes successively from one slip to the other, but one Name does not pierce the other.

(13) נקבו

(14) Num. 1, 17.

(15) Deut. VI, 13, which is interpreted as a prohibition against the unnecessary utterance of His Name.

(16) The statement, Thou shalt fear the Lord thy God, though implying abstention from something, is nevertheless given as a positive command, but punishment is imposed for the violation only of a direct negative precept.

(17) ויקב

(18) Lev. XXIV, 11.

(19) I.e., only he who both blasphemes, that is, utters the ineffable Name, and curses it, is executed.

(20) Ibid. XXIV, 14.

(21) Ibid. XXIV, 15.

(22) Lit., ‘A man, a man’, heb.ish ish, איש איש

(23) The only place where death is explicitly decreed for non-Israelites is in Gen. IX, 6: Whoso sheddeth man's blood, by man shall his blood be shed. It is a general law, applicable to all, having been given in the pre-Abrahamic era; his blood shall be shed must refer to the sword, the only death whereby blood is shed.

(24) V. infra 56b. And the Lord God commanded the man, saying, of every tree of the garden, thou mayest freely eat. Gen. II, 16. Every word or phrase in this verse is separately interpreted, the Lord teaching the prohibition of blasphemy to a Noachide.

(25) In the Talmudic period the Rabbi was an honorary official; consequently, he had to have a private occupation e.g., R. Joshua, who came into conflict with R. Gamaliel, was a blacksmith, (Ber. 28a.) others translate, charcoal-burner.

(26) I.e., even if only a substitute was employed in blasphemy, the death penalty is incurred.

(27) Lev. XXIV, 15

(28) Ibid. 16.

(29) Ibid.

(30) That a heathen too must use the ineffable Name for incurring punishment.

(31) This is a difficulty For R. Isaac and R. Miyasha, as they explain the opinions of the Sages. They both maintain that the culpability of a heathen is deduced from And the Lord (God commanded etc.) When employing substitutes, his culpability, in the view of R. Miyasha is deduced from as well the stranger etc.; Whilst R. Isaac denies that it is punishable at all. Hence the difficulty, why the repetition ish ish, a man, a man?

(32) I.e., no particular significance attaches to the repetition, it being the usual idiom.

(33) I.e., to establish courts of justice, or, perhaps, to observe social justice (Nahmanides on Gen. XXXIV, 13): Hast. Dict. (s.v. Noachian precepts) translates ‘obedience to authority’.

(34) These commandments may be regarded as the foundations of all human and moral progress. Judaism has both a national and a universal outlook in life. In the former sense it is particularistic, setting up a people distinct and separate from others by its peculiar religious law. But in the latter, it recognises that moral progress and its concomitant Divine love and approval are the privilege and obligation of all mankind. And hence the Talmud lays down the seven Noachian precepts, by the observance of which all mankind may attain spiritual perfection, and without which moral death must inevitably ensue. That perhaps is the idea underlying the assertion (passim) that a heathen is liable to death for the neglect of any of these. The last mentioned is particularly instructive as showing the great importance attached to the humane treatment of animals; so much so, that it is declared to be fundamental to human righteousness.

Talmud - Mas. Sanhedrin 56b

R. Hanania b. Gamaliel said: Also not to partake of the blood drawn from a living animal. R. Hidka added emasculation. R. Simeon added sorcery. R. Jose said: The heathens were prohibited everything that is mentioned in the section on sorcery. viz., There shall not be found among you any one, that maketh his son or daughter to pass through the fire, or that useth divination, or an observer of times, or an enchanter, or a witch, or a charmer, or a consulter with familiar spirits, or a wizard, or a necromancer. For all that do these things are an abomination unto the Lord: and because of these abominations the Lord thy God doth drive them [sc. the heathens in Canaan] out from before thee.[1] Now, [the Almighty] does not punish without first prohibiting.[2] R. Eleazar added the forbidden mixture [in plants and animals]: now, they are permitted to wear garments of mixed fabrics [of wool and linen] and sow diverse seeds together; they are forbidden only to hybridize heterogeneous animals and graft trees of different kinds.

Whence do we know this? — R. Johanan answered: The Writ saith: And the Lord God commanded the man saying, of every tree of the garden thou mayest freely eat.[3] And [He] commanded, refers to [the observance of] social laws, and thus it is written, For I know him, that he will command his children and his household after him, and they shall keep the way of the Lord, to do justice and judgment.[4] The Lord-is [a prohibition against] blasphemy, and thus it is written, and he that blasphemeth the name of the Lord, he shall surely be put to death.[5] God-is [an injunction against] idolatry, and thus it is written, Thou shalt have no other gods before Me.[6] The man-refers to bloodshed [murder], and thus it is written, Whoso sheddeth man's blood, by man shall his blood be shed.[7] Saying-refers to adultery, and thus it is written, They say, If a man put away his wife, and she go from him, and became another man's.[8] Of every tree of the garden-but not of robbery.[9] Thou mayest freely eat-but not flesh cut from a living animal.[10]

When R. Isaac came,[11] he taught a reversed interpretation. And He commanded-refers to idolatry; God [Heb. elohim] to social law. Now ‘God’ may rightly refer to social laws, as it is written, And the master of the house shall be brought unto elohim [i.e., the judges].[12] But how can ‘and He commanded’ connote a prohibition of idolatry? — R. Hisda and R. Isaac b. Abdimi-one cited the verse, They have turned aside quickly out of the way which I commanded them: they have made them a molten calf, etc.[13] And the other cited, Ephraim is oppressed and broken in judgment, because he willingly walked after the commandment.[14] Wherein do they differ? — In respect of a heathen who made an idol but did not worship it: On the view [that the prohibition of idolatry is derived from] they have made them a molten calf, guilt is incurred as soon as the idol is made [even before it is worshipped]; but according to the opinion that it is from, because he willingly walked after the commandment, there is no liability until the heathen actually follows and worships it. Raba objected: Does any scholar maintain that a heathen is liable to punishment for making an idol even if he did not worship it? Surely it has been taught: With respect to idolatry, such acts for which a Jewish Court decrees sentence of death [on Jewish delinquents] are forbidden to the heathen; but those for which a Jewish Court inflicts no capital penalty on Jewish delinquents are not forbidden to him.[15] Now what does this exclude? Presumably the case of a heathen who made an idol without worshipping it?[16] R. Papa answered: No. It excludes the embracing and kissing of idols.[17] Of which idols do you say this? Is it of those whose normal worship is in this manner; but in that case he is surely liable to death? — Hence it excludes the embracing and kissing of idols which are not usually worshipped thus.

‘Social laws.’ Were then the children of Noah bidden to observe these? Surely it has been taught: The Israelites were given ten precepts at Marah, seven of which had already been accepted by the children of Noah, to which were added at Marah social laws ,the Sabbath, and honouring one's parents; ‘Social laws,’ for it is written, There [sc. at Marah] he made for them a statute and an ordinance;[18] ‘the Sabbath and honouring one's parents’. for it is written, As the Lord thy God commanded thee![19] — R. Nahman replied in the name of Rabbah b. Abbuha: The addition at Marah was only in respect of an assembly, witnesses, and formal admonition.[20] If so, why say ‘to which were added social laws’?[21] — But Raba replied thus: The addition was only in respect of the laws of fines.[22] But even so, should it not have been said, ‘additions were made in the social laws’? — But R. Aha b. Jacob answered thus: The Baraitha informs us that they were commanded to set up law courts in every district and town. But were not the sons of Noah likewise commanded to do this? Surely it has been taught: Just as the Israelites were ordered to set up law courts in every district and town, so were the sons of Noah likewise enjoined to set up law courts in every district and town! — But Raba answered thus: The author of this Baraitha [which states that social laws were added at Marah] is a Tanna of the School of Manasseh, who omitted social laws and blasphemy[23] [from the list of Noachian precepts] and substituted emasculation and the forbidden mixture [in plants, ploughing. etc.].[23] For a Tanna of the School of Manasseh taught: The sons of Noah were given seven precepts. viz., [prohibition of] idolatry, adultery, murder, robbery, flesh cut from a living animal, emasculation and forbidden mixtures. R. Judah said: Adam was prohibited idolatry only, for it is written, And the Lord God commanded Adam.[24] R. Judah b. Bathyra maintained: He was forbidden blasphemy too. Some add social laws. With whom does the following statement of Rab Judah in the name of Rab agree: viz., [God said to Adam,] I am God, do not curse Me; l am God, do not exchange Me for another; I am God, let My fear be upon you?[25] — This agrees with the last mentioned [who adds social laws to the list].

Now, what is the standpoint of the Tanna of the School of Manasseh? If he interprets the verse, And the Lord God commanded etc. [as interpreted above], he should include these two [social laws and blasphemy] also, and if he does not, whence does he derive the prohibition of the rest? — In truth, he does not accept the interpretation of the verse, ‘And the Lord God commanded etc., but maintains that each of these [which he includes] is separately stated: Idolatry and adultery.

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(1) Deut. XVIII, 10ff.

(2) Therefore, since it is stated that they are being expelled as a punishment for these sins, they must first have been warned (i.e., prohibited) against them.

(3) Gen. II, 16.
(4) Gen. XVIII, 19. Thus ‘command’ relates to justice and judgment.
(5) Lev. XXIV, 16-’The Lord’ being used in connection with blasphemy.
(6) Ex. XX, 3.
(7) Gen. IX, 6.
(8) Jer. III, 1. Thus ‘saying’ is used in connection with adultery.
(9) Since it was necessary to authorize Adam to eat of the trees of the garden, it follows that without such authorisation-i.e., when something belongs to another-it is forbidden.
(10) By interpreting thus: Thou mayest eat that which is now ready for eating, but not whilst the animal is alive. It is perhaps remarkable that a verse, the literal meaning of which is obviously permission to enjoy, should be interpreted as a series of prohibitions. Yet it is quite in keeping with the character of the Talmud: freedom to enjoy must be limited by moral and social considerations, and indeed only attains its highest value when so limited. Cf. Ab. VI, 2: No man is free but he who labours in the Torah.
(11) V. p. 361, n. 5.
(12) Ex. XXII, 7. The root idea of ‘elohim’ is power, majesty.
(13) Ex. XXXII, 8.
(14) Hos. V, 11, referring to idolatry; thus in both cases ‘command’ is used in connection with idolatry.
(15) V. Mishnah 60b.
(16) For which a Jew is not punished by death.
(17) Teaching that these are not punishable.
(18) Ex. XV, 25. Ordinance (Heb. mishpat) refers to social law.
(19) Deut. V, 16. This occurs in the fifth commandment of the second Decalogue. Similar words are used in the fourth commandment: therefore the Lord thy God commanded thee to keep the sabbath day. In both cases then there is a reference to some previous event, shewn by the use of the past tense: commanded thee. Now the second Decalogue, though spoken by Moses towards the end of his life in the plains of Moab many years after the first at Sinai, was nevertheless a repetition thereof. Therefore this reference back must have been made in the first promulgation also, and can only relate to Marah, where, as stated above, ‘he made for them a statute and an ordinance’, i.e., gave certain laws to the the Israelites.
(20) I.e., that Justice should be meted out by an ‘assembly’. viz., a Sanhedrin; that an accusation was to be attested by at least two witnesses, and that a formal warning or admonition was to be given to the accused before he committed his offence, as otherwise he was not liable to the prescribed penalty. But the sons of Noah, though bidden to observe civil laws, were not bound by these regulations.
(21) Since the addition was only in the method of procedure, but not in actual content.
(22) E.g., Deut. XXII, 19, 29, where a slanderer of a woman's honour is ordered to pay 100 silver shekels to her father, and a seducer of a virgin 50 silver shekels. These payments are not regarded as equitable indemnifications against loss sustained, but as fines for reprehensible acts. These laws were wanting in the civil code of the sons of Noah, and only these commands added at Marah.
(23) The text employs abbreviations for these commands.
(24) Which means that He commanded him to remember His Godhead, and not to reject it for a different deity.
(25) ‘Let my fear be upon you’ is an exhortation to dispense justice uprightly, without fear of man.

Talmud - Mas. Sanhedrin 57a

for it is written, The earth also was corrupt before God;[1] and a Tanna of the School of R. Ishmael taught: Wherever corruption is mentioned, it must refer to immorality and idolatry.[2] ‘Immorality.’ as it is written, for all flesh had corrupted his way upon the earth.[3] ‘Idolatry,’ for it is written, Lest ye corrupt yourselves and make you a graven image, etc.[4] And the other teacher [who deduces this from the verse, and the Lord God commanded etc.]?[5] He maintains that this verse [sc. the earth also etc.] merely describes their way of living.[6] ‘Bloodshed’, as it is written, Whoso sheddeth man's blood, etc.[7] And the other?[8] — This verse [he will maintain] merely teaches the manner of execution.[9] Robbery, for it is written, As the wild herbs have I given you all things;[10] upon which R. Levi commented: as the wild herbs, but not as the cultivated herbs.[11] And the other?[12] — He will hold that this verse is written to permit animal flesh,[13] [but not to prohibit robbery]. Flesh cut from the living animal, as it is written, But flesh with the life thereof, which is the blood thereof, shall ye not eat.[14] And the other?[15] — He may hold that this verse teaches that flesh cut from live reptiles is permitted.[16] Emasculation, for it is written, Bring forth abundantly in the earth, and multiply therein.[17] And the other?[18] — He may regard this merely as a blessing.[19] Forbidden mixture, as it is said, Of fowls after their kind.[20] And the other?[21] — He will maintain that this was merely for the sake of mating.[22]

R. Joseph said, The scholars[23] stated: A heathen is executed for the violation of three precepts-Mnemonic G Sh R-[24] viz., adultery, bloodshed, and blasphemy. R. Shesheth objected: Now bloodshed is rightly included, since it is written, Whoso sheddeth the blood of man, by man shall his blood be shed;[25] but whence do we know the others? If they are derived from bloodshed,[26] the other four should also be included; whilst if their inclusion is taught by the extending phrase any man,[27] should not idolatry too be included?[28] But R. Shesheth said thus: The scholars stated, A heathen is executed for the violation of four precepts [including idolatry]. But is a heathen executed for idolatry? Surely it has been taught: With respect to idolatry, such acts for which a Jewish court decrees sentence of death [on Jewish delinquents] are forbidden to the heathen. This implies that they are merely forbidden, but their violation is not punished by death! — R. Nahman b. Isaac answered: Their prohibition is their death sentence.[29]

R. Huna, Rab Judah, and all the disciples of Rab maintained: A heathen is executed for the violation of the seven Noachian laws; the Divine Law having revealed this of one [murder], it applies to all. Now is a heathen executed for robbery? Has it not been taught: ‘With respect to robbery — if one stole or robbed[30] or [seized] a beautiful woman,[31] or [committed] similar offences,[32] if [these were perpetrated] by one Cuthean[33] against another, [the theft, etc.] must not be kept, and likewise [the theft] of an Israelite by a Cuthean, but that of a Cuthean by an Israelite may be retained’?[34] But if robbery is a capital offence, should not the Tanna have taught: He incurs a penalty? — Because the second clause wishes to state, ‘but that of a Cuthean by an Israelite may be retained,’ therefore the former clause reads, ‘[theft of an Israelite by a Cuthean] must not be kept.’[35] But where a penalty is incurred, it is explicitly stated, for the commencing clause teaches: ‘For murder, whether of a Cuthean by a Cuthean, or of an Israelite by a Cuthean, punishment is incurred; but of a Cuthean by an Israelite, there is no death penalty’?[36] — How else could that clause have been taught? Could he state, ‘forbidden’ . . . ‘permitted’? Surely it has been taught; A Cuthean and a [Jewish] shepherd of small cattle [sheep, goats, etc.][37] need neither be rescued [from a pit] nor may they be thrown [therein]![38]

‘And similar acts.’ To what can this apply in the case of robbery? — R. Aha b. Jacob answered: To a worker in a vineyard [who eats of the grapes]. When so? If his is the finishing work, it is permitted?[39] If it is not the finishing work, is it not actual robbery?[40] — But R. Papa said: This applies to [the theft of] an article worth less than a perutah.[41] But if so, why say that such robbery of a Jew by a Cuthean must not be kept: does he not forgive him?[42] — Though he later forgives him, he is grieved when it occurs [therefore it is prohibited] — But how can you say that such robbery by one Cuthean from another is but a ‘similar act’ [i.e., bordering on robbery]: since a Cuthean does not forgive,[43] is it not actual theft? — But R. Aha, the son of R. Ika answered; It applies to the withholding of a labourer's wage.[44] One Cuthean from another, or a Cuthean from an Israelite is forbidden, but an Israelite from a Cuthean is permitted.[45] To what can ‘a similar act’ apply in the case of a beautiful woman? — When R. Dimi came,[46] he said in the name of R. Eleazar in the name of R. Hanina: To a heathen who allotted a bondwoman to his slave [for concubinage] and then took her for himself, for this he is executed.[47]

‘A similar act’, however, is not taught with reference to murder.[48] Abaye said: If it should be, however, that it is so taught, it would be in accordance with R. Jonathan b. Saul. For it has been taught; If one was pursuing his neighbour to slay him, and the latter could have saved himself by maiming a limb [of the pursuer, e.g., his foot], and did not thus save himself [but killed him instead],

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(1) Gen. VI, II

(2) And once they were punished for these offences, they must first have been admonished against them.

(3) Ibid. ‘Corrupted his way’ connotes immorality; cf. the way of a man with a maid. Prov. XXX, 19.

(4) Deut. IV, 16.

(5) How does he utilize this latter verse?

(6) But is not intended to imply a prohibition.

(7) Gen. IX, 6.

(8) I.e., who deduces it from the verse, all the Lord commanded.

(9) I.e., by the sword, v. p. 380 n. 5; but the fact of execution is taught elsewhere.

(10) Ibid. 3.

(11) I.e., only as that which grows wild, without any owners; but not as that which is cultivated, hence owned by someone. This proves that robbery was forbidden them.

(12) V. n. 8.

(13) Which was prohibited to Adam, v. infra 59b.

(14) Ibid. 4. ‘Flesh with the blood thereof’ means flesh cut from the living animal.

(15) V.n.8.

(16) V. infra 59a, b.

(17) Ibid. This, of course, is a direct negation of emasculation.

(18) V. p. 386, n.8,

(19) But it is not intended to convey any prohibition.

(20) Ibid. VI, 20; hence different species are not to be crossed.

(21) V. p. 386, n.8.

(22) It being easier to mate with the same species than with another; but no prohibition is implied thereby.

(23) The term be Rab does not necessarily mean the school presided over by Rab, though it may have that meaning occasionally. In one sense, it connotes the school founded by him, but lasting many generations after his lifetime. In another, it denotes schools in general. In this very instance, the views attributed to be Rab conflict with the teaching of Rab, Rab Judah, and all his disciples (Weiss. Dor II, p. 206.)

(24) גש״ר: a mnemonic is given to facilitate the remembering of the subjects of a discussion. Here it stands for Gilluy ‘Arayoth — adultery; Shefikuth damin — murder; and birkath ha-shem — blasphemy.

(25) Gen. IX, 6.

(26) That as bloodshed was forbidden on pain of death, so were the others too.

(27) Heb. איש איש ish ish. Lev. XXIV, 15: Any man (ish ish) that curseth his God shall bear his sin. Ibid. XVIII, 6: No man (ish ish) shall approach to any that is near of kin to him, to uncover their nakedness. In both cases one referring to blasphemy, and the other to incest, the repetition of ish extends the law to embrace heathens too.

(28) Lev. XX, 2: Whosoever he be (ish ish) of the children of Israel, or of the strangers that sojourn in Israel, that giveth any of his seed to Moloch (i.e., engages in idol worship); he shall surely be put to death. The repetition then, here too, should extend the death penalty for idolatry to heathens.

(29) I.e., in speaking of heathens, when the Tanna teaches that they are forbidden to do something, he ipso facto teaches that it is punishable by death; for only in speaking of Jews is it necessary to distinguish between prohibition and punishment.

(30) Stole (ganab) refers to secret stealing, robbed (gazal), to stealing by open violence.

(31) In war, v. Deut. XXI, 10-14 — a species of robbery. [This is the only possible and correct rendering of the text, contra Goldschmidt. Cf. Tosef A.Z.]

(32) Acts which are not actual robbery, but partake of its nature.

(33) ‘Cuthean’ (Samaritan) was here substituted by the censor for the original goy (heathen).

(34) [I.e., though it is forbidden to rob the heathen (v. Yad, Genebah I, 2; VI, 8), the offence was non-actionable. For reason, v. B. K. (Sonc. ed.) note on Mishnah 37b.]

(35) But actually it is punishable too. [This is merely a survival of old Semitic tribal law that regarded theft and robbery as a crime against the state, and consequently punishable by death. V. Muller, D. H., Hammurabi, 88]

(36) Thus the Tanna does refer to punishment; since then he omits a reference to punishment in the clause under discussion, it shows that the heathen is not executed for robbery. In the whole of this discussion the punishment referred to is death.
(37) Both are regarded as robbers the latter because they permit their charges to graze in other people's fields.
(38) One need neither exert oneself to save them from death, nor may one encompass it. This, of course, is theoretical only, v. p. 388, n. 6. Not a few of these harsh utterances (where they do not reflect the old Semitic tribal law, v. p. 388. n. 7) were the natural result of Jewish persecution by the Romans, and must be understood in that light. In actual practice, these dicta were certainly never acted upon, and it is significant that a commission of Roman officers, after investigating Jewish law in its relation to Gentiles, took exception only to two laws, one relating to the damage done by a goring ox, and the other permitting a Jew the use of property stolen from a Gentile. R. Gamaliel repealed this latter law. (B.K. 38a: Sifre Deut. 344.) Hence, reverting to the discussion, the Tanna could not have stated that the murder of a Cuthean by a Jew is permissible, therefore he is forced to speak of punishment.
(39) E.g., the gathering in of the grapes. Deut. XXIII, 25 is interpreted by the Rabbis as referring to work in connection with the finishing touch given to the produce.
(40) Not merely bordering thereon.
(41) A small coin, one-eighth of the Roman as.
(42) One does not mind such a trifle, and readily forgives it.
(43) Even such a trifle, v. infra 59a.
(44) This only borders on a robbery, for actual robbery means depriving a person of what he already possesses
(45) I.e., non-actionable.
(46) R. Dimi was a Palestinian Amora of the fourth century, who travelled to and fro between, Babylon and Palestine, and was very zealous in transmitting the teachings of Palestine Scholars to his colleagues in Babylon (v. J. E. IV, 603; cf. p. 361, n. 5, supra.
(47) This, though not actual robbery, is similar to it.
(48) A deed is either actual murder or not. Even unwitting murder is murder, though the Almighty shewed mercy by sparing the murderer.

Talmud - Mas. Sanhedrin 57b

he is executed for his death.[1]

R. Jacob b. Aha found it written in the scholars’[2] Book of Aggada:[3] A heathen is executed on the ruling of one judge, on the testimony of one witness, without a formal warning, on the evidence of a man, but not of a woman, even if he [the witness] be a relation. On the authority of R. Ishmael it was said: [He is executed] even for the murder of an embryo. Whence do we know all this? — Rab Judah answered: The Bible saith, And surely your blood of your lives will I require;[4] this shows that even one judge [may try a heathen].[5] At the hand of every living thing will I require it: even without an admonition having been given;[6] And at the hand of man: even on the testimony of one witness;[7] at the hand of man:[8] but not at the hand [i.e., on the testimony] of a woman; his brother: teaching that even a relation may testify. On the authority of R. Ishmael it was said: [He is executed] even for the murder of an embryo. What is R. Ishmael's reason? Because it is written, Whoso sheddeth the blood of man within [another] man, shall his blood be shed.[9] What is a man within another man? — An embryo in his mother's womb.[10] But the first Tanna [who excludes the murder of an embryo from capital punishment] is a Tanna of the school of Manasseh, who maintains that every death penalty decreed for the heathens is by strangulation. He connects the [second] ‘man’ with the latter half of the sentence, and interprets thus: Whoso sheddeth man's blood, within man [i.e., within him], shall his blood be shed. Now, how can man's blood be shed, and yet be retained within him? By strangulation.

R. Hamnuna objected: Now, is not a [heathen] woman commanded [to keep the social laws]? Surely it is written, For I know him, that he will command his sons and his household [which includes the womenfolk] after him, and they shall keep the way of the Lord to exercise charity,and judgment?[11] — He raised the objection, and he answered it himself: he would command 'his sons' to exercise judgment; 'his daughters' to perform charity.

R. Awia the elder said to R. Papa: Let us say that a heathen woman who committed murder must not be executed, since it is written, at the hand of every man [who committed murder] etc. implying,[12] 'but not at the hand of woman'?- He replied: Thus did Rab Judah say: Whoso sheddeth man's blood implies whosoever it be [even a woman]. Let us say that a heathen woman who committed adultery is not executed, since it is written, therefore shall a man forsake [his father and mother, and cleave to his wife], implying[12] that a man [must cleave], but not a woman? — He replied: Thus did Rab Judah say: The verse, And they shall be as one flesh, reassimilated them to each other [making the law of fidelity applicable to both].

Our Rabbis taught: [A man, a man shall not approach to any that is near of kin to him, to uncover their nakedness.[13] It would have been sufficient to state,] A man shall not approach etc. What is taught by the repetition, A man, a man? — The extension of the law to heathens, that they too are forbidden incest [including adultery]. Now is this deduced from this verse; is it rather not deduced from a different text, viz., [And the lord God commanded...] saying, which refers to adultery?[14] — The latter text refers to adultery with a woman of their own [i.e., with a heathen married woman]; the former to adultery with one of ours [i.e., a Jewish married woman], for the second clause teaches: If he committed incest with a Jewess, he is judged according to Jewish law. With regard to what is this?[15] — R. Nahman said in the name of Rabbah b. Abbuha: With regard to an assembly, witnesses and formal admonition.[16] Is a Jewess then of less account?[17] But R. Johanan answered thus: It is with regard to a betrothed Jewish maiden,[18] whose violation by heathen law is not a capital offence;[19] hence they are judged by Jewish law.

But if their offence was against a fully married woman, are they judged according to their law? Surely it has been taught: 'If a heathen committed adultery with a [Jewish] betrothed maiden, he is stoned; with a fully married woman, he is strangled.' Now if we judged them according to the law pertaining to them, should he not be decapitated? — R. Nahman b. Isaac answered: By a 'married woman' this Baraitha means one whose huppah ceremony[20] has been performed, but without the marriage being consummated. Since by their law her violation is not a capital offence, they are judged by ours. For R. Hanina taught: They recognise the inviolability of a woman whose union has been consummated, but not if she merely entered the huppah without the union having been consummated. It has been taught in agreement with R. Johanan: All prohibited [sexual] relationships for which a Jewish Beth din imposes capital punishment are forbidden to heathens, but those for which a Jewish Beth din does not impose death are permitted to heathens; this is R. Meir's view. But the Sages maintain: There are many relationships[21] for which a Jewish Beth din does not impose death, which are nevertheless forbidden to a Gentile. If a heathen committed incest with a Jewess, he is judged according to Jewish law; if with a heathen woman, he is judged according to heathen law. The only difference that this makes is with respect to a betrothed maiden.[22] But should not the Tanna include a woman whose huppah ceremony has been performed without the marriage being consummated? — The teacher of this Baraitha is the Tanna of the college of Manasseh, who maintains that every death penalty decreed for the heathens is by strangulation, and by both codes [Jewish and heathen] this last-mentioned offence is punished by strangulation.

Now, is R. Meir of the opinion that all relationships for which a Jewish Beth din imposes capital punishment are forbidden to heathens? Surely it has been taught: A proselyte,

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(1) Yet this cannot be regarded as real murder, and hence may be called 'a similar act'. But the sages dispute this, and maintain that he is not executed at all.

(2) V. p. 387, n, 7. It may also mean the School of Rab (Bacher. Agad. Bab. Amor. p. 2).

(3) Aggadah (or Haggadah, from nagad, to declare), means the whole non-legal portion of Jewish learning. Here however, an actual law is cited from the Book of Aggadah. In the T. J. and Midrashim, many statements cited in the T. B. as being from the Book of Aggadah of the schools, are those cited under the name of Noachian precepts. Hence it is possible that the reference is to a collection of laws relating to Gentiles, and in order to distinguish it from specifically Jewish laws, it was called the Book of Aggadah (Weiss, Dor, III, p. 158).

(4) Gen. IX, 5.

(5) The interpretation is based on the use of the singular, ‘I’ will require.

(6) This is based on the extending word ‘every’.

(7) This is based on the singular.

(8) Not the same phrase in Heb. as the preceding one.

(9) Lit. rendering of Gen. IX, 6.

(10) This law was directed against the Roman practice of prenatal murder. Weiss, Dor, II, 22.

(11) Ibid. XVIII, 19. Why then should a woman's testimony be inadmissible?

(12) According to Rab Judah's exegesis.

(13) Lit. rendering of Lev. XVIII, 6.

(14) V. p. 383.

(15) Since by the Noachian Law also he is liable to death.

(16) He must be tried by a full Sanhedrin; he cannot be convicted on the testimony of less than two witnesses, and he must have been formally admonished before committing the offence.

(17) I.e., is he dealt with more leniently because his offence was against a Jewess? For when his offence is against a heathen, these are unnecessary.

(18) V. p. 333, n. 3; p. 337, n. 5.

(19) As they do not regard her as married until the actual consumation of the nuptials.

(20) V. p. 333, n. 3.

(21) The Gaon of Wilna deletes ‘many’: Maimonides likewise does not include it in his text. Actually, the dispute of the Sages and R. Meir is only in reference to a half sister by one's mother.

(22) Tosef. ‘A.Z. IX. Since heathen law does not recognise this as a capital offence, he is judged by our law. This statement supports R. Johanan's contention.

Talmud - Mas. Sanhedrin 58a

born, but not conceived in sanctity,[1] possesses kin on his mother's side but not on his father's side. E.g., if he married his sister by his mother, [born before his mother's conversion, and who subsequently became converted too,] he must divorce her; by his father, he may keep her; his father's sister by his father's mother, he must divorce her; by his father's father, he may keep her; his mother's sister by her mother, he must renounce her; by her father — R. Meir ruled that he must divorce her, but the Sages maintained that he may keep her; for R. Meir held that all forbidden degrees of consanguinity on the mother's side must be divorced; on the father's side may be kept.[2] He may marry his brother's wife,[3] his paternal uncle's wife, and all other relations by marriage are permitted to him, this including his father's wife. If he married a woman and her daughter[4] he retains one and must divorce the other. But in the first place, he must not marry them.[5] If his wife died, he may marry his mother-in-law; others say that he may not![6] — Rab Judah said, There is no difficulty: one dictum is by R. Meir according to R. Eliezer, and one is by R. Meir according to R. Akiba.[7] For it has been taught: Therefore shall a man leave his father and his mother;[8] R. Eliezer said: His father means ‘his father's sister’; his mother, ‘his mother's sister’.[9] R. Akiba said: His father means ‘his father's wife’; his mother is literally meant. And he shall cleave, but not to a male;[10] to his wife, but not to his neighbour's wife;[11] and they shall be as one flesh, applying to those that can become one flesh, thus excluding cattle and beasts, which cannot become one flesh with man.[12]

The Master stated: ‘R. Eliezer said: His father means ‘his father's sister’. But may it not mean his father literally?[13] — This is forbidden by and he shall cleave, but not to a male. But perhaps it means ‘his father's wife’? — That is taught by to his wife, but not to his neighbour's wife [which includes his father's]. But perhaps it forbids her even after his father's death? — It must be similar to his mother: just as his mother is not his relation by marriage, so his father must refer to a non-marriage relationship.

‘His mother means, his mother's sister’. But may it not be literally meant? — That is taught by to his wife, but not to his neighbour's wife. But perhaps it forbids her even after his father's death? — It must be similar to his father: just as his father is not literally meant, so his mother is not literally meant.

‘R. Akiba said: His father, means, his father's wife’. But perhaps it is literally meant? — That is taught by and he shall cleave, but not to a male. If so, is not his father's wife taught by to his wife, but not to his neighbour's wife? — That teaches that she is forbidden even after his father's death.

‘His mother is literally meant’. But is this not taught by to his wife, but not to his neighbour's wife’? — This refers to his mother who was violated by his father.[14]

What are the grounds of their dispute? — R. Eliezer is of the opinion

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(1) I.e., whose mother was a heathen at his conception, but became a Jewess before his birth.

(2) The guiding principal in all this is: ‘a proselyte is as a new born babe’, who stands absolutely in no relationship to any pre-conversion relation. Consequently, his brothers and sisters, father, mother, etc. from before his conversion lose his relationship on his conversion. Should they too subsequently become converted, they are regarded as strangers to him, and he might marry, e.g., his mother or sister. This is the Biblical law. But since heathens themselves recognised the law of incest in respect of maternal relations, the Rabbis decreed that this should hold good for a proselyte too, i.e., that he is forbidden to marry his maternal relations who were forbidden to him before his conversion, so that it should not be said that he abandoned a faith with a higher degree of sanctity than the one he has embraced (since he cannot be expected to understand the principle of complete annulment of relationships). In this case, since he was born in sanctity, he is really not a proselyte at all. He is so styled because he too is legally a stranger to all his father's and mother's pre-conversion relations. As for his mother's paternal sister, R. Meir held that since she is partly maternally related, she is forbidden, as otherwise it would be thought that a proselyte is permitted to marry his maternal relations. But the Rabbis held that there was no fear of this, and since the relationship is in its source paternal, it is not forbidden.

(3) By ‘his brother's wife’ is meant even his brother by his mother. For the heathens do not recognise consanguinity in relations by marriage, and consequently these are permitted to a proselyte.

(4) I.e., who stood in that relationship before they were converted.

(5) This is explained in Yeb. 98b as referring to those relations whom, as stated above, he may retain

(6) Now in this Baraitha a number of relations forbidden to Jews on pain of death e.g., his father's wife and his mother-in-law, are permitted to the proselyte, and hence to heathens in general; whilst a number of relations not forbidden on pain of death, e.g., his sister, his paternal and maternal aunts, are prohibited to him: This, taught in R. Meir's name, contradicts his other ruling that all forbidden degrees of consanguinity punishable by death are forbidden to heathens.

(7) Rashi states that both were his teachers, and cites Bezah 3b as proof. The J.E. (v. Meir) and Weiss, Dor II, 132, do not give R. Eliezer as one of his teachers. Nevertheless he may well have transmitted some of his rulings.

(8) Gen. II, 24.

(9) I.e., that union with these relations are forbidden.

(10) I.e., a prohibition against pederasty. This is deduced from the fact that it is natural only for the opposite sexes to cleave to each other.

(11) This is a prohibition of adultery.

(12) Hence R. Meir's dictum that heathens are forbidden those relations which are prohibited to Jews on pain of death, e.g., the father's wife, reflects R. Akiba's teaching, whilst his ruling in the Baraitha that a proselyte may marry his father's wife is R. Eliezer's view, who does not interpret ‘his father’ as his father's wife.

(13) Thus prohibiting pederasty.

(14) But not made his wife.

Talmud - Mas. Sanhedrin 58b

that only by referring to collateral relations[1] can his father and his mother bear similar interpretations.[2] But R. Akiba prefers to interpret his father as his father's wife, who is designated as the nakedness of his father, rather than his father's sister, who, is designated as his father's kin, not his father's nakedness.[3]

Come and hear: And Amram took him Jochebed his father's sister to wife.[4] Does it not [presumably] mean his father's sister on her mother's side [too]?[5] — No. It means his father's paternal sister.[6]

Come and hear: And yet indeed she is my sister; she is the daughter of my father, but not of my mother.[7] Does not this prove that his mother's daughter is forbidden?[8] — Now, is this logical: was she then his sister? She was his brother's daughter, and therefore, whether by his father or mother,[9] permitted to him. But Abram declared to him [i.e., Abimelech] thus: I am fraternally related to her, [i.e.,she is my brother's daughter] on my father's side [i.e., my brother by my father] but not on my mother's side.[10]

Come and hear! Why did not Adam marry his daughter?[11] So that Cain should marry his sister, as it is written, For I said, the world shall be built up by grace.[12] But otherwise, she would have been forbidden [to Cain]?[13] — Once however that it was permitted, it remained so.

R. Huna said: A heathen may marry his daughter. But should you ask, If so, why did not Adam marry his daughter? — In order that Cain might marry his sister, that the world might be built up by grace. Others give this version: R. Huna said: A heathen may not marry his daughter; the proof being that Adam did not marry his daughter. But that proof is fallacious: The reason was that Cain should marry his sister, so that the world should be built up by [Adam's] grace.

R. Hisda said: A heathen slave [owned by a Jew] may marry his daughter and his mother, for he has lost the status of a heathen, but has not yet attained that of a Jew.[14] When R. Dimi came,[15] he said in the name of R. Eleazar in the name of R. Hanina: A heathen who allotted a bondwoman to his slave [for concubinage] and then took her for himself is executed on her account. From when [is she regarded as the particular concubine of that slave]? — R. Nahman said: When she is referred to as so and so's mistress.[16] When is she free again [to others]? — R. Huna said: From the time that she goes bareheaded in the streets.[17]

R. Eleazar said in R. Hanina's name: If a heathen had an unnatural connection with his wife, he incurs guilt; for it is written, and he shall cleave, which excludes unnatural intercourse.[18] Raba objected: is there anything for which a Jew is not punishable and a heathen is?[19] But Raba said thus: A heathen who violates his neighbour's wife unnaturally is free from punishment — Why so? — [Scripture saith:] To his wife, but not to his neighbour's; And he shall cleave, which excludes unnatural intercourse.[20]

R. Hanina said: If a heathen smites a Jew, he is worthy of death[21] for it is written, And he looked this way and that way, and when he saw that there was no man, he slew the Egyptian.[22] R. Hanina also said: He who smites an Israelite on the jaw, is as though he had thus assaulted the Divine Presence; for it is written, one who smiteth[23] man [i.e. an Israelite] attacketh[24] the Holy One.[25]

(Mnemonic: lifts, his servant, Sabbath.)[26] Resh Lakish said: He who lifts his hand against his neighbour, even if he did not smite him, is called a wicked man as it is written, And he said unto the wicked man, Wherefore wouldst thou smite thy fellow?[27] ‘Wherefore hast thou smiteth is not said, but wherefore wouldst thou smite, shewing that though he had not smitten him yet, he was termed a wicked man. Ze'iri said in R. Hanina's name: He is called a sinner, for it is written, But if not, I will take it by force;[28] and it is further written, Wherefore the sin of the young men was very great before the Lord.[29] R. Huna said: His hand should be cut off, as it is written, Let the uplifted arm be broken.[30] R. Huna had the hand cut off [of one who was accustomed to strike other people].[31] R. Eleazar said: The only thing to be done with him is to bury him, as it is written, And a man of [uplifted] arm, for him is the earth.[32] R. Eleazar also said: The earth was given only to the strong.[33] as it is said, But as for the mighty man, for him is the earth.[34] Resh Lakish said also: What is the meaning of the verse, He that serveth his land shall be satisfied with bread?[35] If one enslaves himself to his land [continually toiling thereon] he shall be satisfied with bread: if not, he shall not be satisfied with bread. Resh Lakish also said: A heathen who keeps a day of rest, deserves death, for it is written, And a day and a night they shall not rest,[36] and a master has said: Their prohibition is their death sentence.[37] Rabina said: Even if he rested on a Monday. Now why is this not included in the seven Noachian laws? — Only negative injunctions are enumerated, not positive ones.[38]

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(1) I.e., to the father's sister or mother's sister.

(2) For they cannot both be literal, since his father is prohibited by ‘and he shall cleave’; nor can they both refer to relationship by marriage, since his mother is a blood relation.

(3) Lev. XVIII, 8: The nakedness of thy father's wife thou shalt not uncover it is thy father's nakedness; Lev. XVIII, 12: Thou shalt not uncover the nakedness of my father's sister: she is thy father's near kinswoman. Since his father's wife is designated his father's nakedness she forms part and parcel of himself, as it were, in contradistinction to his father's sister, who by being described as his father's kin, is recognised as a separate entity. Consequently, in the interests of literalness ‘his father's wife’ is a more preferable interpretation.

(4) Ex. VI, 20.

(5) This refutes R. Eliezer's ruling. [Belonging to the pre-Sinaitic era, the Patriarchs were accounted Noachians.]

(6) Only this relation was permitted in the pre-Sinaitic era. But his father's maternal sister would have been forbidden.

(7) Gen. XX, 12. Spoken by Abraham about Sarah.

(8) This contradicts R. Akiba's ruling. For since he interprets the verse as referring us his father's wife and his mother, who are forbidden on pain of death, he evidently regards those who are forbidden under penalty of extinction as permissible, and his mother's daughter is only thus forbidden, but not on pain of death.

(9) This refers to his brother.

(10) Not that she would have been forbidden in that case, but this was stated merely for the sake of exactness.

(11) [Or why could not Adam have married his daughter? Eve's offence should have been followed by her death, and as to Adam, he could have found a help-meet in his daughter (Tosaf.)]

(12) Ps. LXXXIX, 2. It was an act of grace on Adam's part to deny himself his sister; or, as Rashi states, God commanded Adam to deal graciously with Cain, so that Cain, by marrying her, should build up the world.

(13) This proves that one's paternal sister was forbidden to the sons of Noah.

(14) Heathen slaves owned by Jews occupied an intermediate position in respect to Judaism. The males were circumcised, and permitted to eat of the Passover sacrifice. Like women, they were bound to observe all negative commandments and all positive ones not limited to certain times. We see here that this applied to marriage too. Their status was neither that of a heathen nor of an Israelite proper. As they were no longer heathens, they stood in no relationship to their former relations. But as they were not Jews either, there was no need to forbid them their former maternal relations through fear that it would be said that they had left a higher sanctity for a lower one.

(15) V. supra p. 390, n. 1.

(16) Lit., ‘girl’.

(17) Even non-Jewish married women did not walk bareheaded in the streets, and this bondwoman, though not legally married, would do likewise. If she appeared bareheaded, it was a sign that her connection with the slave to whom she had been allotted was now broken.

(18) His wife derives no pleasure from this, and hence there is no cleaving.

(19) A variant reading of this passage is: Is there anything permitted to a Jew which is forbidden to a heathen. Unnatural connection is permitted to a Jew.

(20) By taking the two in conjunction, the latter as illustrating the former, we learn that the guilt of violating the injunction ‘to his wife but not to his neighbour's wife’ is incurred only for natural, but not unnatural intercourse.

(21) [By the Hand of God, V. Yad, Melakim. I, 6].

(22) Ex. II, 12. Thus Moses slew the Egyptian for striking an Israelite, proving that he had merited it.

(23) Deriving mokesh from, nakosh.

(24) Yala' ילע is here derived from loa' לוע the jaw: lit., 'smiteth the jaw.

(25) Prov. XX, 25.

(26) V. 387 n. 8.

(27) Ex. II, 13.

(28) I Sam,. II, 16. This refers to the sons of Eli, who demanded their portion of the sacrifices before it was due, threatening physical violence if their demands were not satisfied.

(29) Ibid. 16.

(30) Job XXXVIII, 15. The editions give the reference as Job XXXI, but this is an error caused by a slightly similar passage in XXXI, 22.

(31) This is not actually permitted in the Torah. Weiss (Dor, II. 14) holds that R. Huna was influenced by Persian practice in this.

(32) I.e., he is to be buried, homiletical rendering of Job XXII, 8.

(33) I.e only a strong man should wish to possess land, as there are always quarrels in connection therewith.

(34) Ibid.

(35) Prov. XII, 11

(36) Gen. VIII, 22. 'They' is here made to apply to men, and 'shall not' is taken to mean 'may not'.

(37) Eisenstein, J. E., V. p. 623. suggests that this may have been directed against the Christian Jews, who disregarded the Mosaic law yet observed the Sabbath, and quotes Maimonides who advances the following reason: 'The principle is, one is not permitted to make innovations in religion or to create new commandments. He has the privilege to become a true proselyte by accepting the whole law.' (Yad. Melakim, X, 9.) He also points out that 'Deserves death' expresses strong indignation, and is not to be taken literally; [cf. the recurring phrase. 'He who transgresses the words of the Sages deserves death.' Ber. 6b.]

(38) The seven Noachian laws deal with things which a heathen must abstain from doing. But when we say that a heathen must not observe a day of rest, we bid him to do a positive action, viz., work.

Talmud - Mas. Sanhedrin 59a

But the precept of observing social laws is a positive one, yet it is reckoned? — It is both positive and negative.[1]

R. Johanan said: A heathen who studies the Torah deserves death, for it is written, Moses commanded us a law for an inheritance;[2] it is our inheritance, not theirs.[3] Then why is this not included in the Noachian laws? — On the reading morasha [an inheritance] he steals it; on the reading me'orasah [betrothed], he is guilty as one who violates a betrothed maiden, who is stoned.[4] An objection is raised: R. Meir used to say. Whence do we know that even a heathen who studies the Torah is as a High Priest? From the verse, [Ye shall therefore keep my statutes, and my judgments:] which, if man do, he shall live in them.[5] Priests, Levites, and Israelites are not mentioned, but men: hence thou mayest learn that even a heathen who studies[6] the Torah is as a High Priest! — That refers to their own seven laws.[7]

'R Hanania b. Gamaliel said: [They were also commanded] not to partake of the blood drawn from a living animal.'

Our Rabbis taught: But flesh with the life thereof, which is the blood thereof, shall ye not eat,[8] this prohibits flesh cut from the living animal. R. Hanina b. Gamaliel said: It also prohibits blood drawn from a living animal. What is his reason? — He reads the verse thus: flesh with the life thereof [shall ye not eat]: blood with the life thereof shall ye not eat. But the Rabbis maintain that this reading teaches that flesh cut from live reptiles is permitted.[9] Similarly it is said, Only be sure that thou eat not the blood: for the blood is the life,' and thou mayest not eat the life with the flesh.[10] But the

Rabbis maintain that the verse teaches that the blood of arteries, with which life goes out, [is also forbidden as blood].[11]

Why was it first enjoined upon the sons of Noah, and then repeated at Sinai? — As the dictum, of R. Jose b. Hanina. For R. Jose b. Hanina said: Every precept which was given to the sons of Noah and repeated at Sinai was meant for both [heathens and Israelites]; that which was given to the sons of Noah but not repeated at Sinai was meant for the Israelites, but not for the heathens. Now, the only law thus commanded to the children of Noah and not repeated at Sinai was the prohibition of the sinew that shrank [nervous ischiadicus], and in accordance with R. Judah's view.[12]

The Master said: ‘Every precept which was given to the sons of Noah and repeated at Sinai was meant for both [Noachides and Israelites]’. On the contrary, since it was repeated at Sinai, should we not assume it to be meant for Israel only?[13] — Since idolatry was repeated as Sinai, and we find that the Noachides were punished for practising it,[14] we must conclude that it was meant for both.

‘That which was given to the sons of Noah but not repeated at Sinai was meant for the Israelites, but not for the heathens.’ On the contrary, since it was not repeated at Sinai, should we not assume that it was meant for the Noachides and not for Israel?[15] — There is nothing permitted to an Israelite yet forbidden to a heathen. Is there not? But what of a beautiful woman?[16] — There it is because the heathens were not authorised to conquer.[17] But what of a thing worth less than a Perutah?[18] — There it is because the heathens do not forgive.[19]

‘Every precept which was given to the sons of Noah and repeated at Sinai was meant for both [Noachides and Israelites]’.

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(1) Positive: In dispense justice; negative: to refrain from injustice. But the Sabbath is entirely positive.

(2) Deut. XXXIII. 4.

(3) This seems a very strong expression. In the J. E. (loc. cit.) it is suggested that R. Johanan feared the knowledge of Gentiles in matters of Jurisprudence, as they would use it against the Jews in their opponents’ courts. In support of this it may be observed that the Talmud places R. Johanan's dictum (which, of course, is not to be taken literally) immediately after the passage dealing with the setting up of law courts by Gentiles. It is also possible that R. Johanan's objection was to the studying of Oral Law by Jewish Christians, as the possession of the Oral Law was held to be the distinguishing mark of the Jews. It is significant that it was R. Johanan who also said that God's covenant with Israel was only for the sake of the Oral Law. (Cf. Ex. Rab. 47.)

(4) In Pes. 49b two opinions on the reading of this verse are recorded. One view is that it should be read, Moses commanded us a law for an inheritance (morasha מורשה), in accordance with the Scriptural text. Another version is Moses commanded us a law for a betrothal (reading me'orasah מורשה =מארסה i.e., as something betrothed, consecrated to us, from ארש= ארם). On the first view, this prohibition is included in that of robbery; on the second, in that of adultery.

(5) Lev. XVIII. 5.

(6) Which includes observing.

(7) It is meritorious for them to study these; but not laws which do not pertain to them.

(8) Gen. IX, 4.

(9) V. infra 59b.

(10) Deut. XII, 23. Thus, the blood being equated with the life, it may not be eaten whilst ‘the life’ is with the ‘flesh’, i.e., whilst the animal is alive.

(11) The prohibition of blood is mentioned in the same chapter in connection with the slaughtering of the animal: 15 seq., Notwithstanding thou mayest kill and eat flesh in all thy gates . . . Only ye shall not eat the blood. Now, owing to this juxtaposition, I might think that only the blood that gushes forth from the throat when the animal is slaughtered is forbidden. Therefore the second injunction in v. 23 equates the prohibition of blood with that of flesh cut from the living animal. Just as the latter is forbidden in itself, so the former is forbidden irrespective of any connection with slaughtering. In Ker. 22a R. Johanan and Resh Lakish dispute as to what is meant by ‘the blood with which life goes out’.

(12) R. Judah maintains that this was forbidden to the children of Jacob, who, living before the giving of the Law, are accounted Noachians. But the Rabbis maintain that this was given at Sinai, but that Moses when writing the whole Pentateuch, was commanded to insert it in Gen. XXXII, 33, so as to elucidate its reason.

(13) For if it were not so repeated, it would be natural to suppose that its application was a universal one. Hence its repetition would seem to limit it to Israel.

(14) V. p. 382. n. 3.

(15) The stand point of this objection is that the code promulgated at Sinai to the Israelites should cancel any previous code not given specifically to them.

(16) V. supra 57a.

(17) I.e., Palestine. For even the Israelites were permitted this only in the course of their conquest of Palestine, but not otherwise.

(18) The theft of which is regarded as an offence by heathens but not by Jews. V. supra 57a.

(19) Actually, it would be theft in the case of a Jew too, but that Jews are not particular about such a trifle, and readily forgive. Heathens, however, do not forgive, and therefore it is theft in their case.

Talmud - Mas. Sanhedrin 59b

But circumcision, which was given to the Sons of Noah, for it is written, Thou shalt keep my covenant,[1] and repeated at Sinai, And in the eighth day the flesh of his foreskin shall be circumcised,[2] yet was meant for Israel, and not for the Noachides? — That repetition was inserted to permit circumcision on the Sabbath, by interpreting, on the day [whichever it is], and even on the Sabbath.[3]

But procreation, which was enjoined upon the Noachides, for it is written, And you be ye fruitful and multiply.[4] and repeated at Sinai, as it is written, Go say to them, get you in to your tents again,[5] was nevertheless commanded to Israel but not to the heathens? — That repetition was to teach that whatever has been constitutionally forbidden by a majority vote requires another majority vote to abrogate it.[6] If so, may we not say of each [of the Noachian laws] that it was repeated for a definite purpose?[7] — He means this: why should the prohibition be repeated?[8]

‘Now the only law [thus commanded to the children of Israel and not repeated at Sinai] was the prohibition of the sinew that shrank [nervus ischiadicus], and in accordance with R. Judah's view.’ But these[9] too were not repeated.[10] — These two were repeated, though for a purpose, but this was not repeated at all.

An alternative answer is this:[11] Circumcision was from the very first commanded to Abraham only [and not to the Noachides in general]: Thou shalt,keep my covenant, therefore, thou and thy seed after thee in their generations, [12] meaning, thou and thy seed are to keep it, but no others. If so, should it not be incumbent upon the children of Ishmael [Abraham's son]? — For in Isaac shall thy seed be called.[13] Then should not the children of Esau be bound to practise it?-In Isaac,[14] but not all Isaac. R. Oshaia objected: If so, the children of Keturah should have been exempt![15] — Did not R. Jose b. Abin, or as others say, R. Jose b. Hanina, state: [And the uncircumcised man child whose flesh of his foreskin is not circumcised,that soul shall be cut off from his people;] he hath broken my covenant[16] — this extends the precept [of circumcision] to the children of Keturah?[17]

Rab Judah said in Rab's name: Adam was not permitted to eat flesh, for it is written, [Behold I have given you all the herbs, etc.] to you it shall be for food, and to all the beasts of the earth, [18] implying, but the beasts of the earth shall not be for you.[19] But with the advent of the sons of Noah, it was permitted, for it is said, [Every moving thing that liveth shall be meat for you;] even as the green herb have I given you all things.[20] Now one might think that the prohibition of flesh cut from the living animal does not apply to them [sc. the Noachides]: therefore the Writ teacheth, But flesh with the life thereof, which is the blood thereof, shall ye not eat.[21]

One might think that this prohibition applies even to reptiles; therefore it is stated — but.[22] How is this implied? — R. Huna said [But flesh with the life thereof, which is] the blood thereof: this shews that the prohibition applies only to those creatures whose flesh is distinct from their blood [in its prohibition]; excluding reptiles, whose flesh is not distinct from their blood.[23] An objection is raised: And rule over the fish of the sea;[24] surely that means that they should serve as food?[25] — No. It refers to toil.[26] But can fish be made to work? — Yes, even as Rahabah propounded: What if one drove [a waggon] with a goat and a shibbuta?[27] Come and hear: and over the foul of the heaven.[28] Surely this is in respect of food? — No. It refers to toil. But can fowl be made to work? — Yes, even as Rabbah, son of R. Huna propounded: According to the ruling of R. Jose b. R. Judah, what if one threshed [corn] with geese or cocks?[29]

Come and hear: And over every living creature that moveth upon the earth![30] — That refers to the serpent. For it has been taught: — R. Simeon b. Manassia said: Woe for the loss of a great servant. For had not the serpent been cursed, every Israelite would have had two valuable serpents, sending one to the north and one to the south to bring him costly gems, precious stones and pearls.[31] Moreover, one would have fastened a thong under its tail, with which it would bring forth earth for his garden and waste land.[32]

A [further] objection is raised: R. Judah b. Tema said: Adam reclined in the Garden of Eden, whilst the ministering angels roasted flesh and strained wine for him. Thereupon the serpent looked in, saw his glory, and became envious of him?[33] — The reference there is to flesh that descended from heaven. But does flesh descend from heaven? — Yes; as in the story of R. Simeon b. Halafta, who was walking on the road, when lions met him and roared at him. Thereupon he quoted: The young lions roar after their prey;[34] and two lumps of flesh descended [from heaven]. They ate one and left the other. This he brought to the schoolhouse and propounded: Is this clean [fit for food] or not? — They [sc. the scholars] answered: Nothing unclean descends from heaven. R. Zera asked R. Abbahu: What if something in the shape of an ass were to descend? — He replied: Thou howling yorod:[35] did they not answer him that no unclean thing descends from heaven?[36]

‘R. Simeon said, They were also forbidden to practice sorcery.’ What is R. Simeon's reason? — Because it is written,

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(1) Gen. XVII, 9. Abraham and his descendants until Sinai are also accounted sons of Noah.

(2) Lev. XII, 3.

(3) Hence, being repeated for a purpose, the above principle does not apply to it.

(4) Gen. IX, 7.

(5) Deut. V, 27. This is interpreted as a command to resume their marital obligations, which were suspended for three days before the Revelation, v. Ex. XIX, 15.

(6) Although the prohibition in Ex. XIX, 15 was explicitly limited to three days, yet after that it did not cease automatically, but was formally abrogated. This proves that any prohibition constitutionally imposed, as by a majority of the Sanhedrin, even for a limited period, must be constitutionally repealed thereafter. Hence the repetition being necessary, it is not subject to the general principle. — So Rashi. Tosaf however, (here and in Bezah 5a) maintains that a temporary prohibition automatically ceases at the end of its period. Accordingly, Ex. XIX, 15 is to be translated: Be ready against the third day (for God's Revelation); approach not your wives (for an unspecified period). Tosaf. therefore substitutes this explanation: A prohibitory measure, constitutionally passed, does not automatically cease when its reason no longer exists. Thus in this case the prohibition was obviously on account of the approaching Revelation, yet after the Revelation, when there was no longer any reason for its continuance, it had to be formally revoked.

(7) E.g., idolatry, to shew which acts of devotion are forbidden; incest, to teach its punishment.

(8) I.e., if some additional detail had to be taught, that alone could have been stated without repeating the basic law. Such repetition must have been to enlarge its scope, as embracing both Israelites and heathens.

(9) I.e., circumcision and procreation.

(10) For, as explained above, their repetition being for a definite purpose, is not a repetition at all.

(11) This is in answer to the first difficulty of circumcision having been given to the Noachides and repeated at Sinai.

(12) Gen. XVII, 9.

(13) Ibid. XXI, 12.

(14) Heb. ביצחק the ב (in) being taken as partitive preposition.

(15) Keturah was Abraham's wife after Sarah's death, by whom he had six sons. Gen. XXV, 1f. According to the verse

For in Isaac etc. these should not have been included in the precept.
(16) Gen. XVII, 14.
(17) This is the reply. The verse teaches the inclusion of the immediate sons of Keturah, but not of their descendants.
(18) Gen. I, 29f.
(19) I.e., the herbs, etc. have been given to you and to the beasts of the earth, but the beasts of the earth have not been given to you for food.
(20) Ibid. IX, 3.
(21) Ibid. 4.
(22) Heb. אך akh. It is a principle of Talmudic hermeneutics that the particles akh (but) and rak (save) always indicate a limitation or exclusion. Here akh is interpreted as teaching the exclusion of reptiles from the law under discussion.
(23) The mention of blood is redundant, for the verse should have read, but flesh with the life thereof shall ye not eat, meaning, whilst life is in it thou must not eat its flesh; it being self evident that the life force lies in the blood. The redundancy teaches that this applies only to those creatures that have a separate prohibition for its flesh (cut from, the living animal), and a separate one for its blood. But the blood of reptiles is not separate from its flesh and is forbidden by the same injunction, there being no separate law. Hence they are excluded from the present verse.
(24) Ibid. I, 28.
(25) This was said to Adam.
(26) Adam was given dominion over the lower creatures, to make them work for him.
(27) Name of a fish, conjectured by Jastrow to be the mullet (Cephalus, v. Payne Smith, Thesaurus Syriacus 4029). The problem raised is whether this would involve the transgression of the prohibition, Thou shalt not plow an ox and ass together, Deut. XXII, 10.
(28) Continuing the verse.
(29) V. B.M. 91b. The problems raised in connection with the prohibition, Thou shalt not muzzle the ox when he treadeth out the corn. Deut. XXV, 4 shows that birds may be utilized for service.
(30) The Heb. חיה translated ‘living creature’, denotes literally a wild animal, which cannot be put to service, but can only be caught and eaten.
(31) Heb. סנדלבונים from ** (Levy) or ** (Krauss).
(32) Thus the Serpent was intended to be put to service before it was cursed.
(33) This proves that flesh was permitted to Adam.
(34) Ps. CIV, 21.
(35) Yarod is a bird of solitary habits, or a jackal (Rashi). The meaning is: what a foolish question to ask!
(36) Hence thy supposition is an impossible one; and if it did happen, it would be fit for food.

Talmud - Mas. Sanhedrin 60a

Thou shalt not suffer a witch to live;[1] and this is followed by, Whosoever lieth with a beast shall surely be put to death:[2] thus, all who are included in the second prohibition are included in the first.[3]

‘R. Eleazar said; They were also enjoined against the forbidden mixtures.’ Whence do we derive this? — Samuel replied: Because Scripture saith, My statutes ye shall keep,[4] implying the statutes which I have already decreed:[5] viz., Thou shalt not let thy cattle gender with a diverse kind: Thou shalt not sow thy field with mingled seed.[6] This teaches: just as in the case of animal life, the prohibition is against hybridization, so in plant life, the injunction is against grafting;[7] and just as the former holds good both within the land [sc. Palestine] and without,[8] so the latter holds good both within and without Palestine. But if so, does the verse, Ye shall therefore keep my statutes[9] also imply the statutes which I imposed long ago?[10] — There the verse reads, Ye shall therefore keep my statutes which I [now] command you: but here it reads, My statutes ye shall keep, implying the statutes decreed from of old shall ye keep.[11]

R. JOSHUA B. KARHA SAID etc. R. Aha b. Jacob said: He is not guilty unless he cursed the Tetragrammaton, excluding a biliteral Name,[12] the blaspheming of which is not punishable. Is this not obvious, the Mishnah stating, May Jose smite Jose?[13] — I might think that the name is used as a mere illustration;[14] he therefore teaches otherwise.

Others give this version: — R. Aha b. Jacob said: This proves that the Tetragrammaton is also a Divine Name.[15] But is it not obvious, since the Mishnah states: JOSE SMITE JOSE [using a four-lettered name]? — I might think that the great[16] Name must be employed, whilst Jose is merely an illustration [of the mode of testifying]; therefore he teaches otherwise.

WHEN THE TRIAL WAS FINISHED, etc. Whence do we know that they arose? — R. Isaac b. Ami said, because the Writ saith — And Ehud came unto him: and he was sitting in a summer parlour, which he had for himself alone. And Ehud said, I have a message from God unto thee. And he arose out of his seat.[17] Now, does this not afford an ad majus conclusion: If Eglon king of Moab, who was only a heathen and knew but an attribute of God's name, nevertheless arose, how much more so must an Israelite arise when he hears the Shem Hameforash.[18]

Whence do we know that they rent their garments? — From the verse, Then came Eliakim the son of Hilkiah, which was over the household, and Shebna the scribe, and Joah the son of Asaph the recorder, to Hezekiah with their clothes rent, and told him the words of Rab-Shakeh.[19]

WHICH RENT WAS NOT TO BE RESEWN. Whence do we derive this? — R. Abbahu said: A gezerah shawah is deduced from the word ‘rent’.[20] This verse states, with their clothes rent; whilst elsewhere is written, And Elisha saw it [sc. Elijah's ascension] and he cried, My father, my father, the chariot of Israel and the horsemen thereof. And he saw him no more; and he took hold of his own clothes and rent them in two rents.[21] Now, do we not understand from, ‘and he rent them in two’ that the cognate object is ‘rents’; why then does the Writ expressly state ‘rents’? — To teach that they were always to remain thus.[22]

Our Rabbis taught: He who hears [the Name blasphemed], and he who hears it from the person who first heard it [i.e., from the witness who testifies], are both bound to rend their garments. But the witnesses are not obliged to rend their clothes [when they hear themselves repeating the blasphemy in the course of their testimony], because they had already done so on first hearing it. But what does this matter: do they not hear it now too?[23] — You cannot think so, because it is written, And it came to pass, when king Hezekiah heard it [sc. the report of Rab-Shakeh's blasphemy] that he rent his clothes. Thus, Hezekiah rent his clothes, but they did not. Rab Judah said in Samuel's name: He who hears the Divine Name blasphemed by a gentile need not rend his clothes. But if you will object, what of Rab-Shakeh?[24] — He was an apostate Israelite.

Rab Judah also said in Samuel's name: One must rend his clothes only on hearing the Shem hameyuhad[25] blasphemed, but not for an attribute of the Divine Name. Now both of these statements conflict with R. Hiyya's views. For R. Hiyya said: He who hears the Divine Name blasphemed nowadays need not rend his garments, for otherwise one's garments would be reduced to tatters.[26] From whom does he hear it? If from an Israelite — are they so unbridled [as to sin thus so frequently]? But it is obvious that he refers to a gentile. Now, if the Shem hameyuhad is meant, are the gentiles so well acquainted with it [as to make such frequency possible]? Hence it must refer to an attribute, and concerning that he says that only nowadays is one exempt, but formerly one had to rend his clothes. This proof is conclusive.

THE SECOND WITNESS STATED, I TOO HAVE HEARD THUS. Resh Lakish said: This proves that ‘I too have heard thus’ is valid evidence in civil and capital cases,[27] but that the Rabbis imposed a greater degree of stringency [insisting that each witness should explicitly testify]. Here, however, since this is impossible [on account of the desire to avoid unnecessary blasphemy], they reverted to Biblical law. For should you maintain that such testimony is [Biblically] invalid, can we execute a person when it is impossible for the evidence to be validly given?[28]

AND THE THIRD DID LIKEWISE. This anonymous statement agrees with R. Akiba, who likens three witnesses to two.[29] [

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(1) Ex. XXII, 17.

(2) Ibid. 18.

(3) Therefore, since the Noachides were forbidden bestiality, they were also forbidden sorcery.

(4) Lev. XIX, 19.

(5) Since other precepts are not introduced by this formula, we interpret it thus.

(6) Hence these were pre-Sinaitic, i.e., given to the sons of Noah.

(7) For the first is a law against crossing two actual animals to produce a hybrid. So the second must refer to the grafting of one tree upon another of a different kind, but not to the sowing of different seeds together, which are trees in posse but not in esse.

(8) It is a general principle that any obligation imposed upon man and not dependent upon the soil is binding outside Palestine too.

(9) Ibid. XVIII, 26.

(10) That verse refers to God's statutes in general, and if Samuel's interpretation is correct, it follows that all the statutes of the Torah were given to the Noachides.

(11) The answer is based on the fact that in Lev. XIX, 19 ‘statutes’ comes first in the verse, implying that they were already in existence, whilst in XVIII, 26 ‘ Ye shall keep’ is first, teaching that the statutes which follow were only then imposed.

(12) EL or YH.

(13) Thus, as a substitute a four lettered name is used, shewing that the Tetragrammaton must have been employed.

(14) Of how the witnesses gave their testimony. But the choice of a four lettered name — Jose — might be quite fortuitous.

(15) In addition to the Tetragrammaton, there were twelve-lettered, forty-two-lettered, and seventy-two-lettered Names. (Kid. 71a; Lev. Rab. XXIII; Gen. Rab. XLIV) R. Aha b. Jacob states that since ‘Jose’ is used as a substitute, it proves that even if the longer Names are not employed, but merely the Tetragrammaton, the guilt of blasphemy is incurred.

(16) I.e., of forty-two letters.

(17) Judg. III, 20.

(18) Lit., ‘the distinguished Name’, synonymous with the Shem hameyuhad, the unique Name. Both words designate something which is distinguished from other objects of its kind. (V. J. E., XI, 262) The term also means ‘preeminent’. From Rashi here and in ‘Er. 18b it appears that he does not regard the Shem hameforash as the Tetragrammaton. But Maimonides (Yad, Yesode Hatorah, VI, 2; Tefilah, XIV, 10) declares that they are identical. In general it was regarded as sinful to utter this Name (Sanh. 90a; ‘A.Z. 17b; Kid. 71a), nor was it widely known, being an object of esoteric knowledge (Kid. Ibid; Yer. Yoma 40), though there were exceptions

(19) II Kings XVIII, 37. Their clothes were rent on account of Rab-Shakeh's blaspheming of God. Cf. Ibid. XIX, 4.

(20) Ibid. II, 11.

(21) Ibid. 12.

(22) I.e., never to be resewn; and by analogy, the same interpretation is placed upon II Kings XVIII, 37.

(23) Hence they should be obliged to rend their clothes again.

(24) Who was a gentile, and yet his hearers rent their clothes: in fact, that incident is the basis of the law.

(25) V. p. 408, n. 1.

(26) Blasphemy being of such frequent occurrence.

(27) I.e., in these cases, when the first witness has testified, it is sufficient, by Biblical law, for the second to say, ‘I too heard (or saw) thus’, without explicitly stating what he had heard or seen.

(28) If the testimony must be given in particular form, but cannot, it is obvious that the malefactor should not be executed.

(29) This is in reference to Deut. XIX, 15: at the mouth of two witnesses, or at the mouth of three witnesses shall the matter be established. The difficulty arises, if two witnesses are sufficient, surely three are: then why state it? R. Akiba answers, To teach that just as in the case of two, if one is proved invalid, the whole testimony loses its validity (since only one witness is left), so also, even if there are three or more, and one was proved invalid, the testimony of all is valueless, though there are still two or more valid witnesses left. Now, when the Mishnah states that the third also must testify ‘I too heard thus’, it is in conformity with R. Akiba's ruling, so that should he be contradicted as having been absent, the entire testimony is null. Otherwise, it would be unnecessary for the third witness to be examined at all.

Talmud - Mas. Sanhedrin 60b

MISHNAH. HE WHO ENGAGES IN IDOL-WORSHIP [IS EXECUTED]. IT IS ALL ONE WHETHER HE SERVE IT, SACRIFICE, OFFER INCENSE, MAKE LIBATIONS, PROSTRATE HIMSELF, ACCEPT IT AS A GOD, OR SAY TO IT, ‘THOU ART MY GOD.’ BUT HE WHO EMBRACES, KISSES IT, SWEEPS OR SPRINKLES THE GROUND BEFORE IT, WASHES IT, ANOINTS IT, CLOTHES IT, OR PUTS ON ITS SHOES, HE TRANSGRESSES A NEGATIVE PRECEPT [BUT IS NOT EXECUTED]. HE WHO VOWS OR SWEARS [LIT. CONFIRMS A THING] BY ITS NAME, VIOLATES A NEGATIVE PRECEPT. HE WHO UNCOVERS HIMSELF BEFORE BAAL-PEOR[1] [IS GUILTY, FOR] THIS IS THE MODE OF WORSHIPPING HIM. HE WHO CASTS A STONE ON MERCULIS[2] THEREBY WORSHIPS IT.

GEMARA. What is meant by ‘WHETHER HE SERVE IT’?[3] — R. Jeremiah said: This is what is meant: Whether he serve it in its normal way, or sacrifice, make libations, offer incense, or prostrate himself, even if these acts are not the normal mode of worshipping that particular deity. Why is blood sprinkling not included? — Abaye said: Because sprinkling is the same as offering LIBATIONS,[4] as it is written, their drink libations of blood will I not offer.[5]

Whence do we derive all these?[6] — Our Rabbis taught: Had Scripture written, He that sacrificeth shall be utterly destroyed.[7] I would have thought that the Writ refers to sacrificing without the Temple precincts;[8] therefore Scripture adds: to any God, shewing that it refers to sacrificing to idols.[9] From this I know only that sacrificing [as an abnormal act or worship] is punishable: Whence do I learn the same of offering incense and making libations? — From the additional words, save unto the Lord alone, whereby the Writ restricted all these services to the worship of the Divine[10] name. Now, since sacrificing was singled out from the general statement,[11] teaching that the latter applies to all services performed within the Temple precincts,[12] whence can it be extended to include prostration? — From the verse, And he hath gone and served other gods, and prostrated himself before them,[13] which is followed by, Thou shalt bring forth that man or that woman . . . and shalt stone them with stones.[14] From this we learn the punishment: whence do we derive the formal prohibition?From the verse, For thou shalt prostrate thyself to no other god.[15] I might think that I may also include embracing, kissing, and putting on its shoes [as punishable by death]:[16] but the Writ saith, He hath sacrificeth.[17] Now, sacrificing was included in the general statement;[18] wherefore was it singled out? — That a comparison therewith might be drawn, and to teach you: just as sacrificing is distinguished, in that it is a service within the Temple precincts, and the death penalty is incurred through it, so for all services performed in the Temple precincts [in lawful worship] one is liable to death [when performing them idolatrously]. Hence prostration was singled out to illumine itself alone, whilst sacrificing was singled out to throw light upon the general proposition.[19]

The Master stated: ‘I would have thought that the Writ refers to sacrificing without the Temple precincts’. But is that not punishable by extinction?[20] — I might have thought: if he was warned, he is executed; if not, he is punished by extinction. It is therefore taught otherwise.

Raba, son of R. Hanan asked Abaye: Let us say that prostration was singled out in order to throw light upon the general law; and if you answer, in that case, why was sacrificing singled out too?[21] To throw light upon itself, viz., that the intention to perform one act in the service of idolatry, even if made during the performance of another [non-idolatrous] act, renders one liable to punishment. For it has been taught: If one slaughtered a cow with the intention of sprinkling its blood and burning its fat idolatrously, — R. Johanan said,

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(1) A Moabite deity. ‘That the statements of the Rabbis (on the repulsive mode of worship) are not wholly imaginative and do not take their colouring from the rites of some heathen or antinomian-Gnostic sects is shewn by the fact that the worship of Peor is ridiculed, but nowhere stigmatised as moral depravity, by the Rabbis, which latter might have been expected, had the assertion of the Rabbis been based on the Gnostic cults mentioned.’ J. E. s.v. Baal-Peor.

(2) Mercurius, a Roman divinity, identified with the Greek Hermes; also a statue or a way-mark dedicated to Hermes, the patron deity of the wayfarer.

(3) Are not all the actions mentioned modes of worship?

(4) And already included in the Mishnah.

(5) Ps. XVI, 4.

(6) I.e., that guilt is incurred for all these acts of worship.

(7) Omitting the words, to any God, Ex. XXII, 19.

(8) Since this is forbidden elsewhere; Lev. XVIII, 3f; 8f.

(9) Now the reference must be to sacrificing as an abnormal mode of worship, for the normal act of worship is designated in Heb. by עבד (to serve), and the verse should have read, He who serves any other god by sacrificing to it. Every normal act of service is derived from Deut. XVII, 3.

(10) Heb. Shem Hameyuhad, v. p. 408, n. 1.

(11) In Deut. XVII, 2-5; v. next note.

(12) The penalty of death for idolatry is stated in Deut. XVII, 2-5; If there be found among you . . . a man or woman that hath wrought wickedness . . . And hath gone and served other gods and prostrated himself before them . . . thou shalt stone them with stones, till they die. ‘And hath gone and served other gods’ is a general statement, not particularizing any mode of service. Consequently, the verse in Ex. XXII, 19, which ordains the death penalty for sacrificing, is a singling out of a particular service from the general proposition of Deut. XVI, 3. Now it is one of the principles of exegesis that in such a case the particularized statement is intended to illumine and define the general proposition as a whole: thus just as sacrificing is a form of service performed within the Temple precincts (in lawful worship), so the general statement, ‘and hath . . . served other gods’ refers to such services, e.g., sprinkling of the blood, offering incense, and making libations. But prostration was not a mode of worship within the Temple precincts.

(13) Ibid. 3.

(14) Ibid. 4.

(15) Ex. XXXIV, 14.

(16) Since prostration is specially stated, I might think that it teaches that for any act of adoration, even if it is not the normal mode of worship, and not performed within the Temple precincts, just as prostration, guilt is incurred.

(17) Ibid. XXII, 19.

(18) Of Deut. XVIII, 3.

(19) For if prostration was singled out in order to throw light upon the general law, viz., that for paying honour to an idol in any shape one is liable to death, why should sacrificing have been singled out too, since thereby one certainly honours the deity?

(20) Kareth, v. Glos. cf. Lev. XVIII, 3f; 8f; whilst here the penalty of death is decreed.

(21) V. p. 411, n. 9.

Talmud - Mas. Sanhedrin 61a

the animal is forbidden for any use;[1] but Resh Lakish ruled that it is permitted.[2] Now this difficulty is disposed of on R. Johanan's view;[3] but on the view of Resh Lakish,[4] [why not say that] the verse is required [for this purpose]?

R. Papa demurred: Would the verse singling out sacrificing be superfluous on R. Johanan's view? Surely he merely rules that the animal is forbidden [as a result of the analogy from piggul], but the person may not be liable to death. Hence the verse teaches [by singling out sacrificing] that he is so liable!

R. Aha the son of R. Ika demurred: Would the verse singling out sacrificing not be superfluous on the view of Resh Lakish? Surely he merely rules that the animal is permitted, yet the person may be punishable by death, just as in the case of one who prostrates himself before a mountain, the mountain remaining free for use though the person thereby renders himself liable to decapitation![5]

R. Aha of Difti said to Rabina: According to Raba son of R. Hanan's question to Abaye, vi., ‘let us say that prostration was singled out in order to throw light upon the general law,’ what is excluded by the verse, [Take heed to thyself . . . that thou enquire not after their gods, saying,] How did these nations serve their gods[3] even so will I do likewise]?[6] Should you say, it excludes the act of uncovering oneself before deities whose normal mode of worship is sacrifice — but that is derived from prostration: just as prostration is an act of honour, so every act [to be punishable] must be one of honour! — But it excludes the act of uncovering oneself before merculis: for I would think, since its normal mode of worship is a contemptuous act [viz. — casting stones thereon], therefore any other degrading action [incurs guilt]; hence the verse excludes it. But what of R. Eleazar's dictum: Whence do we know that, if one sacrificed an animal to merculis, he is liable to punishment? — From the verse, And they shall no more offer their sacrifices unto demons.[7] Since this is redundant in respect of normal worship, being derived from, How did these nations serve their gods,[8] apply it to abnormal worship [as being punishable].[9] Now, [on Raba son of R. Hanan's hypothesis that prostration throws light on the general statement] is not abnormal worship derived from prostration? — That verse teaches that even if he sacrificed to merculis merely as an act of provocation[10] [but without thereby accepting it as a divinity], he is punished.

R. Hamnuna lost his oxen. [On going to seek them] he was met by Rabbah, Who showed a contradiction in two Mishnahs. We have learnt: He WHO ENGAGES IN IDOL-WORSHIP [IS EXECUTED]; implying, only if he actually worshipped it, but Ð0 he merely said that he would serve it, he is not punished. But we have learnt: If he [the seduced person] says — ‘I will worship.’ or ‘I will go and worship’. or we will go and worship’ [the seducer is executed].[11] — He replied, The first Mishnah refers to one who said, ‘I will not accept it as a god before I serve it.’ R. Joseph said: You have chosen Tannaim at random![12] This is a conflict of Tannaim. For it has been taught: If a man said, ‘Come and worship me,’ R. Meir declared him liable to death [as any other seducer], but R. Judah ruled that he is not. Now if they [his listeners] did actually worship him, all agree that he is executed, for it is written, Thou shalt not make unto thee any idol.[13] Their dispute is only if they merely affirmed that they would worship him: R. Meir maintaining that a mere affirmation is of consequence[14] , whilst R. Judah holds that a mere affirmation is of no consequence.[15] Subsequently R. Joseph said: My answer is groundless for even R. Judah maintains that guilt is inc{rred for a mere assertion, as it has been taught: R. Judah said: He [the seducer] is nt liable to execution unless the seduced person declares, ‘I will worship it,’ or ‘I will go and worship,’ or ‘Let us go and worship.’[16] But the dispute of R. Meir and R. Judah applies to a case where he incited others to worship him, and they replied. ‘Yes!’, R. Meir maintaining that when a man incites others to worship him, he is paid heed to, and the ‘yes’ was said in earnest; whilstóR. Judah holds that no heed is paid to him, for they say,

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(1) Although it was not slaughtered with idolatrous intent, and even if subsequently the blûod was not sprinkled idolatrously, the unlawful intention at the time of slaughtering, though in respect of a different service, renders the animal unfit for use. R. Johanan deduces this by drawing an analogy from piggul (v. Glos.).

(2) Resh Lakish does not accept the analogy of piggul.

(3) Since R. Johanan draws an analogy in respect of the animal itself, he can apply the same analogy to the offender-viz., that an idolatrous intention in respect of one service is punishable, even though made in another act. Consequently, if prostration was singled out in order to illumine the entire law, the special statement of sacrificing is superfluous. Hence we are forced to the conclusion that prostration was singled out only for itself.

(4) For since he does not accept the analogy, we can argue thus. Prostration was singled out to illumine the whole, and sacrificing was singled out to teach that though an unlawful intention in respect of one act of service made in the course of another does not affect the animal's fitness for use, it is nevertheless punishable.

(5) I.e., though Resh Lakish rejects the analogy of piggul, he might accept that of mountain worship. For he rejects the former because piggul is in the course of service within the Temple, whilst ordinary slaughter is without. But mountain service, being also without, may provide the basis of an analogy.

(6) Deut. XII, 30. This implies that only the normal mode of serving the deities is forbidden. But, as shewn above, the light thrown upon the general statement of Deut. XVII,3, whether by prostration or by sacrificing, is in respect of abnormal acts of worship. Now, if prostration teaches that even extra-Temple acts are punished, what is excluded by this verse?

(7) Lev. XVII, 7.

(8) Deut. XII, 30.

(9) Hence sacrificing to merculis, though not its normal mode of worship, incurs guilt.

(10) I.e., to God.

(11) Infra 67a.

(12) I.e.. there is no warrant for assuming both Mishnahs to be of the same Tanna.

(13) Ex. XX, 4. Hence, since they worshipped him, he is guilty as a seducer.

(14) And renders the seducer liable.

(15) Hence the first Mishnah is taught in accordance with R. Judah; the second agrees with R. Meir.

(16) Thus though he did not actually worship it, even R. Judah maintains that he is executed.

Talmud - Mas. Sanhedrin 61b

‘Wherein does he differ from us’? and in saying ‘yes’ they were but mocking him.[1] The two Mishnahs however are to be reconciled thus: The first Mishnah refers to a multitude who were seduced; the second to an individual. For an individual will not reconsider his resolve, hence he will surely go astray after the seducer; but a multitude do reconsider [because they discuss it with each other],and will therefore not go astray after the seducer.[2]

R. Joseph said: Whence do I know it [that the seducer is liable in the case of an individual]? — From the verse, [If thy brother . . . entice thee . . .] Thou shalt not consent unto him, nor hearken unto him.[3] Hence, if he consented and hearkened unto him [declaring that he would do as the seducer urged], guilt is incurred. Abaye demurred to this: Is there any difference whether the one or the many are seduced? Surely it has been taught: If thy brother, the son of thy mother, entice thee;[4] it is all one whether the one or the many are seduced. Scripture however excludes an individual from the law pertaining to a multitude, and a multitude from the provisions of an individual; [viz..] an individual is excluded from the law pertaining to a multitude, in that his person is punished with greater severity, whilst his property is treated with greater leniency, whilst a multitude are excluded from the law of an individual, being personally punished with greater leniency, but their property is treated with greater severity.[5] Hence the distinction is only in this respect, but in all other matters they are alike[6] . Abaye therefore answered thus:[7] The first Mishnah refers to one who is self-persuaded, the second to enticement by others; if he is self-persuaded, he may reconsider the matter [therefore he is punished only if he actually engages in worship]; but if he is enticed by others, he will be dragged after them [therefore for his mere assertion the penalty is merited]. Abaye said: Whence do I know this? From the verse, Thou shalt not consent unto him, nor hearken unto him: hence if he consented and hearkened [unto the seducer by affirmation] he is liable.

Raba said: Both Mishnahs deal with one who was seduced by others; the second Mishnah refers to a seducer who [described the idol's might] saying. ‘it eats thus,’ ‘it drinks thus,’ ‘it does so much good and so much harm;’ but the first Mishnah treats of a seducer who did not thus descant upon the idol's greatness.[8] Raba said, Whence do I learn this? — From the verse, [If thy brother... entice thee . . . saying let us go and serve other gods . . . ;] Namely, of the gods of the people which are round about you, nigh unto thee or far from thee.[9] Now, what does it matter whether they are far or near? — But the Writ means this: from the character of the near idols you can learn the nature of the distant ones.[10] Surely then it means that the seducer had said to the seduced; ‘It eats thus, it drinks thus, it does so much good and so much harm.’ This proof is conclusive.

R. Ashi said; The second Mishnah refers to a non-conforming Israelite.[11] Rabina said: The two Mishnahs teach ‘not-only-this. but-even-that.’[12]

It has been taught; If one engages in idolatry through love or fear [of man, but does not actually accept the divinity of the idol], Abaye said, he is liable to punishment; but Raba said, he is free from a penalty. Abaye ruled that he is liable, since he worshipped it; but Raba said that he is free: only if he accepts it as a god is he liable, but not otherwise.

Mnemonic; ‘ebed yishtahaveh lemoshiah.’)[13] Abaye said, how do I know it? Because we have learnt, HE WHO ENGAGES IN IDOL WORSHIP, IT IS ALL ONE WHETHER HE SERVE IT etc. Surely it means: whether he serve it through love or fear, [or whether he sacrifice to it as a god].[14] But Raba answers you: That is not so, but as R. Jeremiah resolved the difficulty.[15]

Abaye [further] said, Whence do I know it? For it has been taught: Thou shalt not bow down thyself to them:[16] thou mayest not bow down to them, but thou mayest bow down to a human being like thyself. I might think that this applies even to one who is worshipped, like Haman; but the Writ adds, not serve them.[17] But Haman was thus served through fear.[18] Raba, however, explains it thus: ‘like Haman, but not altogether so. [To bow down to one] ‘like Haman’ [is forbidden], since he set himself up as a divinity; ‘but not altogether so,’ for Haman was worshipped through fear, whilst the prohibition of this verse applies only to a voluntary action.

Abaye said: Whence do I know it? — For it has been taught: [As for an anointed High priest's[19] [liability to a sacrifice] for [unwitting] idol-worship — Rabbi said: It holds good even if his inadvertency was in respect of the action only. But the Sages say, There must have been forgetfulness of the [principal] law itself.[20] They agree, however, that his sacrifice is a she-goat, as that of a private individual [who committed idolatry inadvertently].[21] They also agree that he is not bound to bring the guilt offering of doubt.[22] Now, how can the act of idol-worship be committed unwittingly? If he [saw an idolatrous shrine,] thought it to be a synagogue, and bowed down to it. — surely his heart was to heaven![23] But it must mean that he saw a royal statue and bowed down to it;[24] now, if he accepted it as a god, he is a deliberate sinner;

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(1) And therefore he is not treated as a seducer, the likelihood of his obtaining a hearing being so remote

(2) Therefore in their case guilt is incurred only for actual worship; but in the case of a single individual the mere declaration is punishable.

(3) Deut XIII, 9, referring to an individual.

(4) Ibid. 7.

(5) Deut. XIII, 13-17 treats of a multitude that are seduced; they are to be decapitated (an easier death than stoning), and their properly destroyed. Deut. XVII, 2-5 deals with an individual (or individuals) who engage in idol worship; he is to be stoned, but nothing is said about his property, whence it may be concluded that it is left intact. Thus the individual is excluded from the law pertaining to the multitude, and vice versa, there being an aspect of greater severity and leniency in each.

(6) This refutes R. Joseph's distinction between an individual and a multitude.

(7) The difficulty presented by the two Mishnahs.

(8) Consequently his listener is likely to reconsider his resolve, and therefore punishment is not imposed until actual worship.

(9) Ibid. 8.

(10) A seducer generally seeks to entice one to worship distant idols by describing their great power, but avoids mention of the near ones, which his victims would themselves know to be powerless; therefore Scripture warns one against such enticement, by pointing out that the near (and known) idols are an object lesson for the distant ones. Scripture thus assumes that such blandishments were used.

(11) Therefore his mere assertion is sufficient to condemn him, as it is certain that he will keep it. But an observant Israelite may reconsider his desire.

(12) The first Mishnah states that the death penalty is imposed for engaging in idol worship, the second adds that this is so not only for actually worshipping idols but also for the mere statement of intention. Both Mishnahs will then refer to the same kind of Jew.

(13) ישתחוה עבד למשיח Lit. 'The servant shall bow down to the anointed one.' Three passages are adducced, whose catchwords are respectively Service, Prostration, The Anointed One. S. Funk (Die Juden in Babylonien, P. 94. n. 2) sees in this mnemonic an allusion to the Christians' acceptance of Jesus, 'the servant' being the title claimed by those who worship him as the Messiah.

(14) For, as in supra 60b the difficulty arises, what is meant by 'whether he serve it', Seeing that all other actions mentioned are forms of service. Abaye therefore proposes this solution.

(15) Supra 60b.

(16) Ex, XX, 5.

(17) Ibid. This phrase is superfluous, and is therefore so interpreted.

(18) This proves that idolatry (which includes worshipping a human as a divinity) is forbidden even when done through fear.

(19) Until the destruction of the First Temple, High Priests were consecrated by anointing (Ex. XXVIII, 41; XXX, 30; Lev, VII, 36. X, 7); and one thus consecrated was called Kohen ha-mashiah (the anointed priest). But during the second Temple, when no anointing took place (Sifra Zaw, Par. 3 ch, v.). they were consecrated by investiture in the official garments of the High Priesthood. Such a high priest was called merubeh begadim, i.e distinguished by a larger number of garments (eight as against the ordinary priest's four).

(20) Lit., 'the thing (in itself)'. This is in reference to Lev. IV, 2f: If soul shall sin through ignorance ... If the priest that is anointed do sin . . .then let him bring for his sin . . .etc. In Hor. 7b it is deduced that by ignorance in the case of the anointed priest is meant an inadvertence; viz., the action involving a complete forgetfulness of the prohibition on his part, as against an ordinary individual who has to bring an offering even if his inadvertency was only in regard to the action, but not to the prohibition itself. Now the Sages maintain that this applies to all sins, including idolatry. But Rabbi rules that if idolatry be committed inadvertently by the anointed Priest, though without forgetting that it is forbidden, he is still obliged to offer a sacrifice like an ordinary individual.

(21) I.e., though in Lev. IV, 3, a young bullock is prescribed as the sacrifice for an anointed Priest's inadvertent sin, yet in the ease of idolatry, even the Sages agree that he is treated as an ordinary individual, who offers a she-goat: Num. XV, 27. And if any soul sin through ignorance, then he shall bring a she-goat of the first year for a sin offering. By 'any soul' one understands even a High Priest; and 'sin' is interpreted as referring to idol-worship.

(22) If one is in doubt whether he has committed a sin, for the certain (unwitting) transgression of which a sin-offering must be brought, he is bound to bring a guilt offering of doubt (Lev. V, 17-19). This, however, does not apply to a High Priest. Now, even if the doubt is in respect of idolatry, though Rabbi assimilates the High Priest in this case to the common people as to the measure of inadvertency required, he nevertheless concurs with the Sages that the High Priest differs from others, in that he need not bring a guilt-offering of doubt. All this is deduced from Scripture in Hor. 7b.

(23) Hence, he has not even inadvertently committed idolatry.

(24) It was customary to set up royal statutes to which homage was paid. This was quite permissible. But occasionally a royal statue was actually worshipped; thereafter it was forbidden to make obeisance to it.

whilst if not, his action was not idolatrous at all. Hence, it surely must mean that he worshipped it idolatrously, through love or fear.[1] But Raba answers you thus: His inadvertency arose through his declaring that idolatry is permissible. But if he declares it permissible, is it not forgetfulness of the law? It refers to a declaration that it is entirely permissible; whilst forgetfulness consists of partial confirmation and partial annulment.[2]

R. Zakkai recited to R. Johanan: If one sacrificed, offered incense, made libations, and prostrated himself [before an idol] in one state of unawareness,[3] he is bound to bring only one sacrifice. Thereupon R. Johanan retorted: ‘Go, teach this outside’.[4]

[But] R. Abba said, This teaching of R. Zakkai is the subject of a dispute between R. Jose and R. Nathan. For it has been taught: The prohibition of kindling [on the Sabbath] was singled out [from the general prohibition of work] to teach that it is merely the object of a negative precept — This is R. Jose's view. R. Nathan maintained, it was particularly specified to indicate ‘separation’.[5] Now, on the view that kindling was specified to teach that it is merely the object of a negative precept, prostration too was singled out for that purpose. Whilst if kindling was singled out to indicate ‘separation’, prostration was likewise singled out for the same reason.[6] R. Joseph objected: Perhaps R. Jose maintains that kindling was singled out to teach that it is the object of a negative precept, only because he derives ‘separation’ of different acts of labour from the phrase ‘of one of them’.[7] For it has been taught: R. Jose said, [If a soul shall sin through ignorance against any of the commandments of the Lord, concerning things which ought not to be done,] and shall do of one of them:[8] this teaches that sometimes one sacrifice is incurred for ‘all of them’ [transgressions], whilst at others for each one [of the transgressions] a separate sacrifice must be brought. Whereon, R. Jonathan remarked, What is the reason of R. Jose [i.e., how does he deduce this from the verse]? — Because It is written, and shall do of one of them.[9] This teaches that liability is incurred for one complete act of violation [i.e., ‘one’]; and for one which is but a part of one [i.e., ‘of one’]; and for transgressing actions forbidden in themselves [i.e., ‘them’], and for actions [the prohibited nature of which is derived] from others [i.e., ‘of them’]; further, that one transgression may involve liability for a number of sacrifices [i.e. ‘one’ = ‘them’]. whilst many offences may involve but one sacrifice [i.e., ‘them’ = ‘one’]. Thus: ‘one complete act of violation,’ — the writing [on the Sabbath] of Simeon; ‘one which is but a part of one,’ — the writing of Shem as part of Simeon;[10] ‘actions forbidden in themselves’ [i.e., ‘them’] — the principal acts of labour forbidden on the Sabbath; ‘actions [the prohibited nature of which is derived] from others [i.e., "of them"]’ — the derivatives;[11] ‘One transgression may involve liability for a number of sacrifices [i.e., "one" = "them"]’ — e.g., if one knew that it was the Sabbath [and that some work is forbidden on the Sabbath] — but was unaware that these particular acts are forbidden;[12] ‘many offences may involve but one sacrifice [i.e., "them" = "one"]’ — e.g., if he was unaware that it was the Sabbath, but knew that his actions are forbidden on the Sabbath.[13] But here [in idol worship]. since separation of actions is not derived from elsewhere, may we not say that all agree [even R. Jose] that prostration was singled out to indicate ‘separation’?[14] [But is this so?] May not ‘separation’ of acts in the case of idolatry too be deduced from ‘of one of them’?[15] Thus, ‘one complete act of idolatry’ — sacrificing [to idols]; a part of one [i.e., ‘of one’] — the cutting of one organ.[16] ‘Actions forbidden in themselves’ [i.e., ‘them’] — principal acts; i.e., sacrificing, burning incense, making libations, and prostration; ‘actions derived from others’ [i.e., ‘of them’] the derivatives of these — e.g.,if he broke a stick before it;[17] ‘one transgression may involve liability for a number of sacrifices,’ [i.e., ‘one’=’them’]. e.g., when one knows that it is an idol [and that idolatry is forbidden], but is unaware that the particular acts in question constitute idol-worship;[18] many offences may involve but one sacrifice, [i.e., ‘them’ = ‘one’]; if he is unaware that it is an idol, but knows that these acts are forbidden in idol worship?[19] — Now, how is the unawareness of the idolatrous nature of a thing possible?[20] If one [saw an idolatrous shrine,] thought it to be a synagogue, and bowed down to it? Surely his heart was to heaven! But it must mean that he saw a royal statue and bowed down to it. Now, if he accepted it as a god, he is a deliberate sinner; whilst if not, he has committed no idolatry at all. Hence it must surely mean that he worshipped it idolatrously through love or fear. Now, this interpretation [of the phrase ‘of one of them’] is possible on Abaye's view that a penalty is incurred for this. But on Raba's view that there is no liability, what can you say? Hence you will have to explain it that his inadvertency arose through his declaring that idolatry is permissible.[21] But on that assumption you may solve the problem which Raba propounded to R. Nahman, viz., ‘What if one forgot both?[22] [Now on that assumption] you may deduce that he is liable only for one sacrifice?[23] — That causes no difficulty: then solve it![24]

But canst thou apply this verse to idolatry? In this chapter,[25] for the sin of an anointed High priest a bullock is prescribed;[26] of a chief, a he-goat[27] ; and of a private individual, a she-goat or a lamb;[28] whilst with respect to idolatry we have learnt: They agree that his sacrifice is a she-goat, as that of a private individual. There is nothing more to be said about the matter.[29]

When R. Samuel b. Judah came,[30] he said:

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(1) Without knowing that this is idol worship. This constitutes inadvertency in respect of the action, but not forgetfulness (or ignorance) of the law, since he knows that idolatry per se is forbidden. Hence this Baraitha supports Abaye's ruling.

(2) E.g if the priest declares: Sacrificing and offering incense to idols are forbidden, but prostration is permitted, that is called ignorance of the law; if he declares that idolatry is not prohibited at all, it is, in Raba's opinion, regarded as inadvertency of action.

(3) I.e., he was not apprised between these actions of their forbidden character, subsequently forgetting it, but was unconscious thereof throughout.

(4) I.e., it is incorrect, and not to be admitted to the school as authentic teaching.

(5) In Ex. XX, 10, it is stated: But the seventh day is the Sabbath of the Lord thy God: in it thou shalt not do any work. This is repeated in XXV, 2, with a special prohibition against kindling a fire, v. 3: Six days shall work be done, but on the seventh day there shall be to you an holy day, a Sabbath of rest to the Lord: whosoever doeth work therein shall be put to death. Ye shall kindle no fire throughout your habitations on the Sabbath day. Now kindling is prohibited by the general law of Ex. XX, 10: why is it singled out? R. Jose answers, to teach that whereas other modes of work are punishable by death, this is merely punishable like any other negative precept (viz., by flagellation). But R. Nathan maintained that it was in order to shew that if one did a number of separate acts on the Sabbath (in one state of forgetfulness) e.g., seething, reaping, and threshing, they are accounted as separate offenses, just as kindling was given as a separate offence, and a sacrifice must be brought on account of each.

(6) On 63a (infra) it is stated that prostration is specifically forbidden three times: (i) Ex. XX, 5: Thou shalt not bow down thyself to them, nor serve them, (ii) Ibid. XXIII, 24: Thou shalt not bow down to their Gods, nor serve them; and (iii) Ibid. XXXIV, 14: For thou shalt not bow down to any other god. (The injunctions against prostration in Deut. are not included, since Deut. is a repetition of the preceding books). One prohibition teaches that prostration even as an abnormal mode of worship is forbidden; the second that as a normal mode of worship it is forbidden (v. 63a); and the third intimates ‘separation’, viz., that if a number of idolatrous acts were unwittingly committed (in one state of ignorance), separate atonement must be made for each. Now, R. Abba holds that interpretation to agree only with the view that kindling was specified in order to teach separation. But on the other view, prostration was singled out to indicate not ‘separation’ but that its deliberate transgression is the subject of a negative precept and not punished by extinction as other idolatrous acts, involving consequently no sin offering for its unwitting transgression, albeit here the punishment is greater, viz., death instead of extinction (v. Deut. XVII, 3, 5). Consequently, R. Zakkai's statement is not incorrect; it is in accord with the view of R. Jose.

(7) Lev. IV, 2.

(8) Ibid.

(9) מאחת הנה. This is a peculiar construction. The Scripture should have written, ‘and shall do one (not of) of them’, or, ‘and do of them’ (one being understood), or, ‘and shall do one’ (of them being understood). Instead (of which, a partitive preposition is used before each. Hence each part of the pronoun is to be interpreted separately, teaching that he is liable for the transgression of ‘one’ precept; and for part of one (i.e.. for ‘of one’); for ‘them’ (explained as referring to the principal acts); and for the derivatives ‘of them’ (acts forbidden because they partake of the same nature as the fundamentally prohibited acts); also, each pronoun reacts upon the other, as explained in the discussion.

(10) A sin offering for the unwitting violation of the Sabbath is not due unless a complete action is performed. The writing of a complete word — Simeon — is given as an example. Now, if one commenced writing the word Simeon שמעון SHime'on in Hebrew, and only wrote the first two letters thereof, viz., Shem, שם, SHem, he is also liable, though his intention was only partly fulfilled, because Shem is a complete name in itself; similarly, if he commenced writing Daniel and only wrote Dan. This the Talmud calls one action which is part of another (i.e. — ‘of one’). If, however, the part he wrote is not complete in itself, e.g., the first two letters of Reuben, in Hebrew, there is no liability.

(11) Labour forbidden on the Sabbath is divided into two categories: (1) fundamental or principal acts, forbidden in themselves and named in the Talmud ‘fathers’ — 39 are enumerated in Shab. 73a; and (ii) derivative or secondary acts, regarded as species of the former, and called ‘toledoth’, lit., ‘offsprings’. E.g., Sowing, ploughing, and reaping belong to the first category; planting, digging, and vintaging are their respective derivatives.

(12) Hence, though he violated only one injunction, viz., the sacredness of the Sabbath, yet since he was ignorant of each of these acts, he is regarded as having committed a number of separate inadvertent transgressions, for each of which a sacrifice is due.

(13) Therefore, since all his actions were the result of being unaware of one single fact, viz., that it was the Sabbath, only one sacrifice is due. In this discussion ‘them’ is taken to indicate more than one. We see from this Baraitha that R. Jose derives ‘separation’ of labour on the Sabbath from this verse, therefore he is bound to interpret the singling out of kindling as teaching something else, viz., that kindling is only subject to a negative precept.

(14) This difficulty is left unanswered, and a further one is raised.

(15) Since that verse refers to sin in general, not particularly to the Sabbath, its deductions apply to idolatry too.

(16) The ritual slaughtering and the sacrificing of an animal consists of cutting through two organs, the windpipe and the gullet. Now, if one cuts only one organ (in idol worship) he commits ‘part of one’ forbidden action. Nevertheless, he incurs the penalty of idolatry, because this partial action is a complete action elsewhere, for a fowl sin-offering needs only the severing of one organ.

(17) I.e., in honour of the idol. As an idolatrous act, this being similar to slaughter, whereby the neck is broken, is hence a derivative. A penalty is incurred only if this is the normal mode of worship of that particular deity. ‘A.Z. 51a.

(18) E.g., knowing that sacrifice is forbidden, but thinking that burning incense and offering libations are permitted.

(19) The reasoning is the same as in the case of the Sabbath.

(20) This is the answer.

(21) Though this does not constitute unawareness that a particular thing is an idol and consciousness that these particular acts are forbidden in idol worship, yet it is a case where many transgressions involve but one sacrifice.

(22) This refers to the Sabbath. If one did a number of forbidden acts on the Sabbath, unaware that it was the Sabbath and also ignorant that these particular acts are forbidden on the Sabbath.

(23) For if one declared that idolatry is permissible, it is as though he were unaware that a particular thing was an idol, as explained at the beginning of 62a. Hence if we deduce from the verse that in idolatry only one sacrifice is needed for such inadvertence, the same must apply to the Sabbath. At this stage of the discussion it is assumed, however, that this deduction is impossible, as otherwise Raba would not have propounded his problem. Consequently the verse cannot be applied to idolatry, and R. Abba is justified in regarding kindling and prostration as interdependent both in interpretation and in the resultant laws and R. Zakkai's statement is admissible as correct — according to R. Jose.

(24) I.e., the fact that this interpretation solves Raba's problem does not militate against its correctness. Consequently, the verse can be applied to idolatry, and R. Abba's views are again refuted.

(25) Introduced by the passage under discussion, viz., If a soul shall sin through ignorance against any of the commandments of the Lord . . . and shall do of one of them.

(26) Lev. IV, 3.

(27) Ibid. 22f.

(28) Ibid. 27f, 32.

(29) I.e., to this no answer is possible. Consequently this verse cannot teach separation of idolatrous actions. In R. Joseph's view, as expressed by his objection, it is deduced from the singling out of prostration.

(30) From Palestine to Babylon.

Talmud - Mas. Sanhedrin 62b

This is the teaching which he [R. Zakkai] recited to him [R. Johanan]: [In one respect] the Sabbath is more stringent than other precepts; [in another,] it is the reverse. Now the Sabbath is more stringent than other precepts — in that if one did two acts of work in one state of unawareness, he must make atonement for each separately; this is not so in the case of other precepts. Other precepts are more stringent than the Sabbath, for in their case, if an injunction was unwittingly and unintentionally violated, atonement must be made: this is not so with respect to the Sabbath.[1]

The `aster said: 'The Sabbath is more stringent than other precepts, in that if one did two acts of work etc.' How so? Shall we say that he reaped and ground [corn]? Then an analagous violation of other precepts would be the partaking of forbidden fat and blood — but in both cases, two penalties are incurred! But how is it possible in the case of other precepts that only one liability is incurred? E.g., if one ate forbidden fat twice;[2] then by analogy, the Sabbath was desecrated by reaping twice — but in each case, only one liability is incurred! Therefore R. Johanan said to him? 'Go, teach it outside!'

But what is the difficulty? Perhaps it can be explained after all as referring to reaping and grinding. whilst 'this is not so in the case of other precepts' refers to idolatry, and in accordance with the dictum of R. Ammi, who said: If one sacrificed, burnt incense, and made libations [to an idol] in one state of unawareness, only one penalty is incurred [though a number of services were performed]! — This cannot be explained as referring to idolatry, because the second clause states: 'Other precepts are more stringent than the Sabbath, for in their case, if an injunction was unwittingly and unintentionally violated, atonement must be made.' Now, how is an unwitting and unintentional transgression of idolatry possible? If one thought it [sc. an idolatrous shrine] to be a synagogue, and bowed down to it — but his heart was to heaven! But it must mean that he saw a royal statue, and bowed down to it; now, if he accepted it as a god, he is a deliberate sinner; whilst if he did not accept it as a god, he has not committed idolatry at all. Hence it must mean that he worshipped it idolatrously through love or fear. Now this agrees with Abaye's view that a penalty is incurred; but on Raba's view that there is no liability, what can you say? You will therefore explain that his inadvertency arose through his declaring that idolatry is permissible.[3] Then 'this is not so in the case of the Sabbath' will mean that there is no liability at all.[4] But this cannot be so, for when Raba propounded to R. Nahman, 'What if one is unaware of both [i.e. that it is the Sabbath, and that labour on the Sabbath is forbidden],' his problem was whether one sacrifice is incurred or two [one for each act of work]; but none maintain that he is entirely exempt? What difficulty is this! Perhaps after all, it ought be said, the first clause [dealing with the greater severity of the Sabbath] refers to idolatry, whilst the second treats of other precepts; the unwitting and unintentional transgression of which consisted of thinking that [melted forbidden fat] was spittle, which he swallowed. [For this, liability is incurred,] which is not so with regard to the Sabbath, there being no liability [in an analogous case, e.g] if one intended lifting something detached from the soil, but accidently tore out a plant from the earth, he is exempt from a penalty.[5] Now, this is in accordance with R. Nahman's dictum in Samuel's name, viz., He who violates the injunction of forbidden fat or consanguineous relationship whilst intending to do something else[6] is liable to a penalty, since he derived pleasure thereby. But he who mistakenly did a forbidden act on the Sabbath whilst intending to do another[7] is free from penalty — because the Torah prohibited only a calculated action.[8] But R. Johanan [who said, 'Go, teach it outside'.] was consistent with his attitude [elsewhere], that two clauses of a Mishnah must not be interpreted as referring each to different circumstances — for R. Johanan said: He who will explain to me the Mishnah of 'a barrel' to agree with one Tanna entirely, I shall carry his clothes for him to the baths.[9] To revert to the main text:

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(1) The Talmud discusses further on what is meant by unwittingly and unintentionally.

(2) In one state of unawareness, not being reminded in between that this fat is forbidden,

(3) And since he has never known of any prohibition, it is not only regarded as unwitting, but as unintentional too. Cf.

62a top.

(4) If one worked on the Sabbath, not knowing that there is any prohibition against it.

(5) Cutting or tearing out anything growing in the earth is a forbidden labour on the Sabbath. His offence was both unwitting and unintentional for (i) he had no intention of tearing out anything and (ii) he did not know that this was growing in the soil, Now, had he known that it was growing in the soil and deliberately uprooted it in ignorance of the forbidden nature of that action, his offence would have been unwitting but intentional. By analogy, had be intended to eat the melted fat, thinking that it was permitted, his offence would be regarded as unwitting but intentional. Since, however, he did not intend eating it at all, but accidentally swallowed it, thinking at the same time that it was spittle, his offence was both unwitting and unintentional.

(6) E.g., if he reached out for a permitted piece, and accidentally took the forbidden fat, or mistook his sister for his wife.

(7) Whether the other itself was forbidden or permitted. So Tosaf. Rashi, however, in Shebu. 19a explains it that he intended doing a permitted act, but mistakenly did a forbidden one, in accordance with the example given here.

(8) Hence the distinction drawn in the second clause between the Sabbath and other precepts is quite feasible.

(9) I.e., I would be his servant, The reference is to a Mishnah on B.M. 40b:If a barrel was entrusted to a man's keeping, a particular place being assigned to it, and this man moved it from the place where it was first set down, and it was broken. — Now, where it was broken whilst he was handling it, then if he was moving it for his own purposes (e.g., to stand on it), he must pay for it; if for its sake (e.g., if it was exposed to harm in the first place), he is not liable. But if it was broken after he had set it down, then in both cases he is not liable. If the owner, however, had assigned a place to it, and this man moved it, and it was broken, whether whilst in his hand or after he had set it down: if he moved it for his sake, he is liable; if for its own, he is not. The Talmud then proceeds to explain that the first clause is in accordance with R. Ishmael, who maintained that if one stole an article and returned it without informing its owner, he is free from all further liability in respect of it. Consequently, if he moved the barrel for his own purpose (which is like stealing), and set it down elsewhere, no particular place being assigned to it, his liabilities have ceased. But the second clause agrees with R. Akiba's ruling that if an article is stolen and returned, the liability remains until the owner is informed of its return. Consequently, if he moved it for his own purpose, he remains liable even after it is set down. But R. Johanan was dissatisfied with this explanation, holding that both clauses should agree with one Tanna. Now, the Talmud does actually explain that it can agree with one Tanna, viz., by assuming that in the first clause the barrel was subsequently returned to its original place, but that in the second clause it was not. Consequently, it concurs entirely with R. Ishmael, but his liability continues in the second instance because he did not return it to its first place. But R. Johanan rejects this explanation, not deeming it plausible to conceive of such different circumstances in the two clauses of the Mishnah. For the same reason, when R. Zakkai taught that sometimes the Sabbath is more stringent than other precepts, and sometimes it is the reverse, R. Johanan would not accept an interpretation whereby ‘other precepts’ in the first clause means idolatry, whilst in the second it referred to forbidden fat.

Talmud - Mas. Sanhedrin 63a

‘R. Ammi said: If one sacrificed burnt incense and made libations [to an idol] in one state of unawareness, Only one penalty is incurred.’ Abaye said: What is R. Ammi's reason?[1] — Scripture saith, [Thou shalt not bow down thyself to them] nor serve them . . .[2] thereby the Writ declares that all idolatrous deeds constitute one act of service. But did Abaye say thus? Did he not say: ‘Why is prostration forbidden three times?[3] Once to prohibit it when it is the normal mode of service, the second even if abnormal; and the third teaches separation’? — He explains R. Ammi's ruling, but disagrees with it himself.

To revert to the main text: Abaye said: Why is prostration forbidden three times? Once to prohibit it when it is the normal mode of service, the second even if abnormal, and the third teaches separation’ — But is not the normal mode of worship derived from [Take heed . . . that thou enquire not after their gods saying,] How did these nations serve their gods? [Even so will I do likewise]?[4] — But [amend thus:] one teaches that prostration is forbidden when it is the appropriate but unusual mode of worshipping that deity;[5] the second forbids it even if it is not the normal mode of service;[6] and the third teaches separation.

[WHETHER HE] ACCEPTS IT AS A GOD OR SAYS TO IT, THOU ART MY GOD.

R. Nahman said in the name of Rabbah b. Abbuha in Rab's name: As soon as he said, ‘Thou art my God’, he is liable, [Liable] to what? If to execution, this is stated [already] in the Mishnah? — Hence it means liable to a sacrifice. Now, is this so even in the view of the Rabbis? But it has been taught: He [the idolator] is liable [to a sacrifice] only for that which entails an action, e.g., sacrificing, burning incense, making libations, and prostration. Whereon Resh Lakish observed: Which Tanna maintains that a sacrifice is due for prostration? R. Akiba, who rules that a deed entailing [much] action is unnecessary.[7] Does this not prove that the Rabbis maintain that [much] action is necessary? [Consequently, in their opinion, the declaration ‘Thou art my god’ made unwittingly, does not involve a sacrifice]? — Rab's dictum is only in accordance with R. Akiba. But if so, is it not obvious; for it is just like blasphemy?[8] — I might think that only for blasphemy does R. Akiba rule that a sacrifice is incurred, since extinction is prescribed for it [if committed deliberately]; but not in this case, since extinction is not prescribed. Therefore Rab teaches that a sacrifice is due, because they [sc. the sacrificing to an idol and the declaring ‘thou art my god’] are equalized for it is written, [They have made them a molten calf,] and have worshipped it, and have sacrificed thereunto, and have said, these be thy gods, O Israel [which have brought thee up out of the land of Egypt].[9]

R. Johanan said: But for the waw in ‘who have brought thee up’, the wicked of Israel would have deserved extermination.[10] This is disputed by Tannaim: [It has been taught]: ‘Others’[11] say, but for the wow in ‘who have brought thee up’, the wicked of Israel would have deserved extermination. Thereupon R. Simeon b. Yohai remarked; But whoever associates the Heavenly Name with anything else [as co-deities] is utterly destroyed [lit., ‘eradicated from the world’], for it is written, He that sacrificeth unto any god, save unto the Lord alone, he shall be utterly destroyed.[12] What then is intimated by [the plural in] ‘who have brought thee up’? — That they lusted after many deities.[13]

BUT HE WHO EMBRACES, KISSES IT, SWEEPS OR SPRINKLES THE GROUND BEFORE IT, etc.[14]

When R. Dimi came,[15] he said in R. Eleazar's name: For all these offences he is flagellated, except for vowing or swearing by its name. Now, why for ‘Vowing or Swearing by its name’; because it is a negative precept the transgression of which involves no action? But those others too are only forbidden by a negative precept stated in general terms,[16] and for such one is not flagellated? For it has been taught: Whence do we know that the eating of the flesh of an animal before it has expired[17] is forbidden by a negative precept? From the verse, Ye shall not eat anything with the blood.[18] Another meaning of Ye shall not eat anything with the blood is, Ye shall not eat the flesh [of sacrifices] whilst the blood is in the sprinkling bowl.[19] R. Dosa said: Whence do we know that the meal of comfort is not eaten for criminals executed by Beth din?[20] From the verse Ye shall not eat [i.e., observe the funeral meal] for one whose blood has been shed. R. Akiba said: Whence do we know that a Sanhedrin which executed a person must not eat anything on the day of the execution? From the verse, Ye shall not eat anything with the [shedding of] blood. R. Jonathan said: Whence do we derive a formal prohibition against a wayward and rebellious son? From the verse, Ye shall not do anything to cause bloodshed.[21] Now, R. Abin b. Hiyya, or, as others state, R. Abin b. Kahana said: For none of these offences is the offender flagellated, because it is a negative precept in general terms.[22] But when Rabin came, he said in R. Eleazar's name: For none of these [embracing, kissing, etc.] is the offender flagellated, excepting for vowing and swearing by its name. Now, why are these not punished by flagellation: because it is a negative command in general terms? But these too [should be exempt, since they] are forbidden by a negative precept involving no action? That is in accordance with R. Judah, who said: One is flagellated for a negative precept involving no action. For it has been taught: And ye shall let nothing of it remain until the morning; and that which remaineth of it until the morning ye shall burn with fire.[23] Now, the Scripture follows up a negative precept with a positive one,

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(1) Why does he not agree that prostration is singled out to teach ‘separation’?

(2) Ex. XX, 5.

(3) V. p. 420. n. 4.

(4) Deut. XII, 30.

(5) If the deity is worshipped by an act of honour, but not prostration. Since the latter too is an act of honour, it is an appropriate mode of service, yet not the usual mode.

(6) And also an inappropriate form, e.g prostration before Baal Peor. Not only is it unusual, but inappropriate too, since the normal mode of worship is by an act of contempt.

(7) Even if little action is involved, as in, e.g., prostration, a sacrifice must be brought. The same will apply to a formal declaration of belief, in which the action is very slight. This excludes a mere mental affirmation.

(8) I.e., since blasphemy consists only of speech, and yet R. Akiba rules that a sacrifice is due, it is obvious that for such a declaration, though also consisting only of speech, a sacrifice is likewise due.

(9) Ex. XXXII, 8.

(10) The verb העלוך lit., ‘they have brought thee up’, is in the plural, the sign of which is a waw (ו). By using the plural, they shewed that they did not recognise the molten calf as the sole god, but admitted the divinity of the Almighty too. This circumstance in their favour saved them from complete annihilation.

(11) [Heb. Aherim represents frequently R. Meir, v. Hor. 13b.]

(12) Ex. XXII, 19. [To associate another deity with God is, according to R. Simeon, a graver offence than the total denial of God's existence.] Hence in his view, had they acknowledged other gods in addition to the Lord, they would the sooner have merited extermination.

(13) Without associating them with God.

(14) The negative precept for embracing etc. is: Turn ye not unto idols (Lev. XIX, 4); for vowing and swearing by its name: and make no mention of the name of other gods (Ex. XXIII, 13).

(15) V. supra p. 390, n. 1.

(16) I.e., a negative precept which does not explicitly forbid a particular action, but a class, as is the case of Turn ye not unto idols.

(17) After it has been ritually slaughtered, but before it is actually dead.

(18) Lev. XIX, 26, ‘blood’ being understood as a synonym of life.

(19) I.e., before the sprinkling of the blood.

(20) The first meal taken by mourners after the funeral is called the se'udath habra'ah, the meal of comfort, lit., ‘the meal of refreshment or restoration’(from habra'ah, recovery to health). It is prepared by neighbours, and usually consists of bread with eggs or lentils, these being a symbol of death. B.B. 16a.

(21) V. infra 70a; since a rebellious son is executed for gluttony, as stated there, the verse is translated, Do not eat (gluttonously), that ye may not be executed (as rebellious sons).

(22) I.e., the commandment, Ye shall not eat with the blood involves many things; and if so, why is there a flogging attached to these other offences?

(23) Ex. XII, 10.

Talmud - Mas. Sanhedrin 63b

thereby teaching that one is not flagellated for it. This is R. Judah's view.[1] R. Jacob said: This is not the real reason,[2] but because it is a negative precept involving no action, for which one is not flagellated. From this we infer that in R. Judah's opinion one is flagellated for such transgressions.

HE WHO VOWS OR SWEARS BY ITS NAME VIOLATES A NEGATIVE PRECEPT. Whence do we know this? — It has been taught: and make no mention of the name of other gods.[3] This means, one must not say to his neighbour ‘Wait for me at the side of that idol’; neither let it be heard out of thy mouth:[4] one should not vow or swear by its name nor cause others [sc. heathens] to swear by the name. Another interpretation: and neither let it be heard out of thy mouth, — this is a formal prohibition against a mesith and maddiah. But a mesith is explicitly forbidden: and all Israel shall hear and fear, and shall do no more any such wickedness as this is among you?[5] — But it is a formal prohibition against a maddiah.[6]

'Nor cause others [sc. heathens] to vow or swear by its name.' This supports the dictum of Samuel's father. For the father of Samuel said: One may not enter into a business partnership with a heathen, lest the latter be obliged to take an oath [in connection with a business dispute], and he swear by his idol, whilst the Torah hath said, Neither let it be heard out through thy mouth.[7]

When 'Ulla came [to Babylonia] he lodged in Kalnebo.[8] Subsequently Raba asked him, 'Where did you stay the night?' He replied, 'In Kalnebo'. 'But,' said he, 'is it not written, And make no mention of the name of other gods.?' — He answered: Thus did R. Johanan say: The name of every idol written in the Torah may be mentioned. Now, where is this name written? — Bel boweth down, Nebo stoopeth.[9] But if the name is not written, may it then not be mentioned? To this R. Mesharshia objected: [We have learnt:] If one had a protracted issue of matter from his body, lasting as long as three normal issues, which is equivalent to the time of walking from Gadyawan to Shiloh, namely, as long as it takes to perform two ritual immersions, and dry oneself twice, he is a zab in all respects.[10] — Rabina answered: Also Gad is written in the Bible viz., That prepare a table for Gad.[11]

R. Nahman said: All scoffing is forbidden, excepting scoffing at idols, which is permitted, as it is written, Bel boweth down, Nebo stoopeth . . . they stoop, they bow down together; they could not deliver the burden.[12] And it is also written, They have spoken: The inhabitants of Samaria shall fear because of tho calves of Beth Aven: for the people thereof shall mourn over it, and the priests thereof that rejoiced on it for the glory thereof, which is departed from it.[13] Read not Kebodo [its glory], but Kebedo [his weight].[14]

R. Isaac said, What is meant by, And now they sin more and more, and have made them molten images of their silver, and idols in their image?[15] — This teaches that each made a [small] image of his idol, put it in his pocket, and whenever he thought of it withdrew it from his bosom, and embraced and kissed it. What is meant by, Let the men that sacrifice kiss the calves?[16] — R. Isaac, of the school of R. Ammi said: Whenever the idols' priests became envious of any wealthy men, they starved the calves [which were worshipped], made images of these men, and placed them at the side of the cribs. Then they loosed the calves, who recognising these men [from the images set before them] ran after them and pawed them. Thereupon the priests said, 'The idol desires thee; come and sacrifice thyself to them.[17] Raba said, If so, the verse should not be, They sacrifice men and kiss the calves, but, 'The calves kiss them [i.e., paw, and fawn upon them] that they should sacrifice themselves'. But Raba explained it thus: If one sacrificed his son to the idol, the priest said to him: You have offered a most precious gift to it; come and kiss it.

Rab Judah said in rab's name: And the men of Babylon made Succoth-benoth.[18] What is this? A fowl.[19] And the men of Cuth made Nergal:[20] What is it? — A cock. And the men of Hamath made Ashima:[21] What is that? — A bald buck. And the Avites made Nibhaz and Tartak:[22] What are these? — A dog and an ass. And the Sepharvites burnt their children in fire to Adrammelech and Anammelech, the gods of Sepharvaim:[23] What are these? — The mule and the horse: Adrammelech meaning that it [the mule] honours its master[24] [lit., 'king'] with its load;[25] Anammellech meaning that the horse responds to its master in battle.[26] The father of Hezekiah King of judah wished to do likewise to him [i.e burn him in fire], but that his mother anointed him [with the blood of the] salamander.[27]

Rab Judah said in Rab's name: The Israelites knew that the idols were nonentities, but they engaged in idolatry only that they might openly satisfy their incestuous lusts. R. Mesharshia objected: As those who remember their children, so they longed for their altars, and their graves by the green trees etc;[28] which R. Eleazar interpreted. As one who yearns for his son [so they yearned]?[29] — That was after they became addicted thereto.[30] Come and hear: And I will cast your carcases upon the carcases of your idols.[31] It was related of Elijah the Righteous, that whilst searching for those who were languishing with hunger in Jerusalem, he once found a child faint with hunger lying upon a dungheap. On questioning him as to the family to which he belonged, he replied, 'I belong to such and such a family.' He asked: 'Are any of that family left,' and he answered, 'None, excepting myself.' Thereupon he asked: 'If I teach thee something by which thou wilt live, wilt thou learn?' He replied, 'Yes.' 'Then,' said he, 'recite every day, Hear O Israel, the Lord is our God, the Lord is one.' But the child retorted,

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(1) This is a general principle, for when a positive precept follows a negative one, it is implied that If the latter is violated, tho remedy lies in the former.

(2) Lit., 'this is not of the same denomination'.

(3) Ex. XXIII, 13.

(4) Ibid.

(5) Deut. XIII, 12. This refers to the punishment of a mesith.

(6) On mesith and maddiah v. infra 67a.

(7) [I.e., at thy word, instance, instrumentality, ** translated out of thy mouth is taken in an instrumental sense. Cf. Gen. XLI, 40, **

(8) [Kar-nebo, 'the city of Nebo,' prob. Borsippa, Funk, Monumenta, I, p. 299.]

(9) Isa. XLVI, 1. The conjunction of the first letter of boweth down (**), the second of Bel, and the word Neho, gives the name Kalnebo, the letters r and l interchanging.

(10) One is not considered a zab, with all the laws pertaining thereto, unless he has three separate issues of matter. The minimum overall period for the three combined is the time taken for the issues themselves, (if very short) plus the time necessary to perform two ritual immersions and dry oneself twice, i.e., between the first and second issue, and between the second and third. This is equivalent to the walking time from Gadyasvan to Shiloh. This Mishnah is quoted from Zabin i. 5. where, however, the reading is Gad Yawan (two separate words, lit , 'Greek Fortune') to Siloah. Gad Yawan is probably the name of a pool connected with the Siloah, perhaps Fount of the Virgin. Gad was the name of the god of fortune, but as such it is only mentioned in Isa. LXV, 2, though occurring in the compounds Ba'al Gad and Migdal Gad Dillman (on Isaiah a.l.) suggests that Gad and Meni may have been mere Hebrew appellatives of Babylonian idols otherwise named there. We See from the present passage that Gad was the name of a Deity in Talmudic times. During the Second Temple, Palestine became thickly populated with Greeks (Halevy, Dorah iii, P. 9), and many places bore Greek names; Gad Yawan is an example of such, R. Mesharshia's objection is based on the use of the word Gad, though the name of a deity, by the Tanna of this Mishnah. The Pool of Siloam (the same as Siloah and Shiloah of the Bible, Isa. VIII, 6, Neh. III, 15) is located at the south eastern extremity of the European valley, at the southern part of Ophel. Its source is the Fountain of the Virgin, with which it is connected by a subterranean channel or conduit. Probably to this conduit Isaiah alluded when he spoke of the waters of Shiloah that go softly. Though the direct distance is only 1,100 feet, the passage from one to the other, owing to its winding and Zigzagging nature, measures 1750 feet.

(11) Isa. LXV, 2.

(12) Isa. XLVI, 1.

(13) Hos. X, 5. The same passage in Meg. 25b omits 'They have spoken', which belongs to the previous verse.

(14) ** instead of ** i.e., its weight is reduced (Jast.). Rashi explains that the reference is to its excrements.

(15) E.V., according to their own understanding: Hos. XII, 2.

(16) Ibid.

(17) Thus the verse is translated: They sacrifice (so. themselves) in their homage to the calves.

(18) II Kings XVII, 30. This and the following verses refer to the idols set up by the heathens with whom Sannecherib repopulated Samaria after its inhabitants were deported.

(19) They worshipped the image of a fowl, called in their language Succoth-benoth.

(20) Ibid.

(21) lbid.

(22) Ibid. 3. (Our printed Talmud texts read Nibhan. ** = 'to bark' (instead of Nibhaz), hence taken to be a dog.]

(23) Ibid.

(24) Adar, Heb. hadar ** = 'to honour', and melech (melek) = king, master.

(25) [I.e., the mule honours its master by carrying his load.]
(26) ‘Ana, Heb. ** = ‘to respond.’
(27) A reptile believed to be engendered in fire. One who smeared himself with its blood was thought to be fire-proof. Hag. 27a.
(28) Jer. XVII, 2.
(29) This shows that they really believed in idols.
(30) I.e., at first, it was only a pretext to satisfy their lust. But having engaged in idolatry, they were ensnared by its allurements and really believed in it.
(31) Lev. XXVI, 30.

Talmud - Mas. Sanhedrin 64a

‘Be silent, for one must not make mention of the name of the Lord.’[1] [He said this] because his father and mother had not taught him [to serve the Lord], and straightway he brought forth an idol from his bosom, embracing and kissing it, until his stomach burst, his idol fell to the earth, and he upon it, thus fulfilling the verse, And I shall cast your carcases upon the carcases of your idols.[2] — That too was after they became addicted thereto.

Come and hear: And they cried with a loud voice unto the Lord their God.[3] Now what did they say? — Rab Judah, or as others maintain R. Jonathan said: [They cried this:] ‘Woe, woe, it is that [sc. idolatry] which destroyed the Sanctuary, burnt the Temple, slew the righteous, and exiled Israel from their land; and still it sports amongst us! Hast Thou not set it before us that we might be rewarded [for withstanding its allurements]? But we desire neither temptation nor reward!’[4] — That too was after they were seduced by it. [Continuing Rab Judah's statement:] They fasted for three days, entreating for mercy; thereafter their sentence fell from Heaven, the word emeth [truth] written upon it. (R. Hanina said: This proves that the seal of the Holy One, blessed be He, is emeth.) The shape of a fiery lion's whelp issued from the Holy of Holies, and the Prophet said to Israel, That is the Tempter of Idolatry. Whilst they held it fast, a hair [of its body] fell out, and his roar of pain was heard for four hundred parasangs. [In perplexity] they cried: ‘What shall we do? Maybe Heaven will pity him !’ The prophet answered: Cast him into a lead cauldron, and cover it with lead to absorb his voice, as it is written, And he said, This is wickedness; and he cast it into the midst of the ephah: and he cast the weight of lead upon the mouth thereof.[5] Then they said, ‘Since the time is propitious, let us pray that the Tempter of Sin [may likewise be delivered into our hands].’ So they prayed and it was delivered into their hands. They imprisoned it for three days; after that they sought a new laid egg for an invalid in the whole of Palestine and could not find one.[6] Then they said, ‘What shall we do? Shall we pray that his power be but partially destroyed?[7] Heaven will not grant it.’ So they blinded it with rouge. This was so far effective that one does not lust for his forbidden relations.

Rab Judah said in Rab's name: A gentile woman once fell sick. She vowed, ‘If I recover, I will go and serve every idol in the world.’ She recovered, and proceeded to serve all idols. On reaching Peor, she asked its priests, ‘How is this worshipped’? They replied, ‘People eat beets, drink strong drink, and then uncover themselves before it.’ She replied, ‘I would rather fall sick again than serve an idol in such a manner.’ But ye, O House of Israel,[8] were not so [as it is written, Slay ye every one his men) that were joined unto Baal Peor:[9] ye were attached to it like an air-tight lid.[10] Whereas, Whilst ye that did cleave unto the Lord your God,[11] implies merely like two dates sticking to each other.[12] In a Baraitha it has been taught: that were joined unto Baal Peor: [loosely] like a bracelet on the hands of a woman;[13] whereas Whilst ye that did cleave unto the Lord your God indicates that they were firmly attached.[14]

Our Rabbis taught: Sabta, a townsman of Avlas,[15] once hired an ass to a gentile woman. When she came to Peor, she said to him, ‘Wait till I enter and come out again.’ On her issuing, he said to her, ‘Now do you wait for me too until I go in and come out again.’ ‘But,’ said she, ‘are you not a Jew?’

He replied, ‘What does it concern thee?’ He then entered, uncovered himself before it, and wiped himself on the idol's nose, whilst the acolytes praised him, saying, ‘No man has ever served this idol thus.’

He that uncovers himself before Baal Peor thereby serves it, even if his intention was to degrade it. He who casts a stone at Merculis thereby serves it, even if his intention was to bruise it.

R. Manasseh was going to Be Toratha.[16] On the way he was told, ‘An idol stands here.’ He took up a stone and threw it at the idol's statue. Thereupon they said to him: ‘It is Merculis’. He said to them, ‘But we have learned, HE WHO CASTS A STONE FOR MERCULIS[17] THEREBY SERVES IT.’ So he went and inquired at the Beth Hamidrash [whether he had done wrong, since his action was a gesture of contempt]. They informed him, We have learned, HE WHO CASTS A STONE AT MERCULIS[18] [thereby serves it] — that is to say even if it is merely to bruise it. He said to them, ‘Then I will go and remove it.’ But they replied, ‘Whether one casts a stone or removes it, he incurs guilt, because every stone thus removed leaves room for another.’

MISHNAH. HE WHO GIVES OF HIS SEED TO MOLECH INCURS NO PUNISHMENT UNLESS HE DELIVERS IT TO MOLECH AND CAUSES IT TO PASS THROUGH THE FIRE. IF HE GAVE IT TO MOLECH BUT DID NOT CAUSE IT TO PASS THROUGH THE FIRE, OR THE REVERSE, HE INCURS NO PENALTY, UNLESS HE DOES BOTH.

GEMARA. The Mishnah[19] teaches idolatry and giving to Molech.[20] R. Abin said: Our Mishnah is in accordance with the view that Molech worship is not idolatry. For it has been taught, [if one causes his seed to pass through the fire,] whether to Molech or to any other idol he is liable [to death]. R. Eleazar son of R. Simeon said: If to Molech, he is liable; if to another idol, he is not.

Abaye said: R. Eleazar son of R. Simeon and R. Hanina b. Antigonus said the one and same thing. R. Eleazar son of R. Simeon, that which has just been stated. R. Hanina b. Antigonus — as it has been taught: R. Hanina b. Antigonus said: Why did the Torah employ the word Molech? To teach that the same law applies to whatever they proclaimed as their king, even a pebble or a splinter.[21] Rabina[22] said: The difference between them is in respect of a temporary Molech.[23]

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(1) Amos VI, 10.

(2) Now this too shows that the child had really been taught to believe in it.

(3) Nehem. IX, 4. This was on the fast-day held by the newly established community in Palestine.

(4) This also proves that it had a strong hold upon them. (5) A parasang is 8000 cubits.

(5) Zech. V. 8.

(6) Through the imprisonment of the Tempter sexual lust was dormant throughout creation.

(7) Lit.. ‘half and half’. That it may arouse only legitimate sexual desire.

(8) This is Rab's comment.

(9) Num. XXV, 5.

(10) This connects the Heb. הנצמדים hanizmadim, who cleaved, with zamid, an exactly fitting lid.

(11) Deut. IV, 4.

(12) הדבקים, דבק, dabak, used in this verse, does not imply so strong an attachment as zamad; thus they clung more fervently to Peor than to the Lord.

(13) Deriving hanizmadim from zamid, a bracelet.

(14) This reverses Rab's interpretation.

(15) In Cilicia, mentioned as one of the northern border places of the Land of Israel; Targum Jerus. Num. XXIV, 8; Targum Jonathan b. Uzziel a. I. (Jast.).

(16) A town in Babylonia, on the road to Pumbaditha, ‘A.Z. 26a. It may perhaps be identified with Bithra, on the south of the royal canal, on the Seleucian road (A. Neubauer, Geographie du Talmud, p. 363).

(17) למרקולים i.e., as act of worship.

(18) [He was told that the reading in the Mishnah is במרקולים AT MERCULIS, implying even as a gesture of contempt.]

(19) On 53a.

(20) As two separate offences, proving that giving one's seed to Molech is not idolatry. The differences is, that if one sacrificed to Molech, or caused his son to pass through the fire to some other deity, he is not punished.

(21) Molech is connected with the idea of kingship. This shews that he too regards any fetish as a Moloch.

(22) In his view they did not say the one and the same thing.

(23) I.e., anything which was only temporarily worshipped as Molech, such as a pebble which would obviously not be a permanent idol.] According to R. Hanina b. Antigonus, he is executed even then. But R. Eleazar son of R. Simeon holds that the law applies only to a permanent idol worshipped as Molech.

Talmud - Mas. Sanhedrin 64b

R. Jannai said: Punishment is not incurred unless one delivers his seed to the acolytes of Molech,[1] for it is said, And thou shalt not give of thy seed to pass through the fire to Molech.[2] It has been taught likewise: I might think, that if one caused his seed to pass through the fire to Molech, without first delivering it to the priests, he is liable: therefore the Writ teaches, Thou shalt not give. If he gave it to the priests, but did not cause it to pass through the fire, I might think that he is liable: therefore the Writ states, to pass through. If one delivered it [to the priests of Molech], but caused it to pass through to some other deity, I might think that he is punished: therefore the Writ teaches, to Molech. Now, if he delivered it to the priests and caused it to pass to Molech, but not through the fire, I might think that he is liable: but, as here is written, to pass through; and elsewhere it is stated, There shall not he found among you any one that maketh his son or his daughter to pass through the fire:[3] just as there, the reference is to fire, so here too; and just as here the reference is to Molech, so there too.

R. Aha the son of Raba said: If one caused all his seed to pass through [the fire] to Molech, he is exempt from punishment, because it is written, of thy seed implying, but not all thy seed.[4]

R. Ashi propounded: What if one caused his blind or sleeping son to pass through,[5] or if he caused his grandson by his son or daughter to pass through? — One at least of these you may solve. For it has been taught: [Any men . . . that giveth any of his seed unto Molech; he shall he put to death . . . And I will set my face against that man, and will cut him off from among his people;] because he hath given of his seed unto Molech.[6] Why is this stated?[7] — Because it is said, there shall not be found among you any one that maketh his son or his daughter to pass through the fire.[8] From this I know it only of his son or daughter. Whence do I know that it applies to his son's son or daughter's son too? From the verse, [And if the people of the land do any ways hide their eyes from the man] when he giveth of his seed unto Molech [and kill him not: Then I will . . . cut him off.][9]

Now the Tanna commences with the verse, ‘because he hath given of his seed’, but concludes with ‘when he giveth of his seed’? — This is to intimate another deduction.[10] Thus: [because he hath given] of his seed: From this I know only that the law applies to legitimate seed [that being the normal meaning of the word]; whence do I know that it also applies to illegitimate seed?[11] — From the verse, when he giveth of his seed.[12]

Rab Judah said: He is only liable to punishment if he causes his seed to pass through in the normal way. How is that? — Abaye said: There was a loose pile of bricks in the middle, and fire on either side of it.[13] Raba said: It was like the children's leaping about on Purim.[14] It has been taught in support of Raba. Punishment is incurred only for causing one's seed to pass in the normal fashion; if he caused him to pass through on foot, he is exempt.[15] He is liable only for his own issue; e.g., for his son and daughter, he is punished; but for his father or mother, brother or sister, he is not. If he passed through himself, he is free from punishment.[16] R. Eleazar son of R. Simeon ruled that he is liable. Further, whether to Molech or to any other idol, he is liable. R. Eleazar son of R. Simeon said: If to Molech, he is liable; if to another idol, he is not.

‘Ulla said: What is R. Eleazar son of R. Simeon s reason? — Scripture saith, There shall not be found among thee . . .[17] ‘among thee’ means in thyself.[18] And the Rabbis? Do they not interpret ‘among thee’ thus? Surely we have learnt: If one must search for a lost article of his own and of his father's, priority is given to his own. And we observed thereon: Why so? — To which Rab Judah replied: Scripture saith, Save that there shall be no poor among thee,[19] teaching that one's own loss has priority over that of any other man?[20] There the deduction follows from ‘save that’.[21]

R. Jose, son of R. Hanina said: Why is extinction thrice threatened for idolatry?[22] — One teaches extinction for the normal worship of idols; one for abnormal; and one for the service of Molech.[23] But on the view that Molech worship is included in general idolatry, why is extinction mentioned in its case? — To amply to one who causes his son to pass through to an idol [not Molech], where such is not the normal mode of worship. Now, on the view that a megaddef[24] is a worshipper of idols,[22] why is extinction stated for it?[25] — Even as it has been taught[26] : That soul shall surely be cut off from among his people;[27] he shall be cut off in this world and in the next: this is R. Akiba's view.[28] R. Ishmael said: But the verse has previously stated ‘that soul shall be cut off’:[29] are there then three worlds?[30] But [interpret this:] ‘and [that soul] shall be cut off’ — in this world: ‘he is to he cut off’ — [of the following verse, and denoted by the infinitive][31] in the next; whilst as for the repetition [the finite form of the verb],[32] that is because the Torah employs human phraseology.[33]

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(1) He explains this to be the meaning of the Mishnah UNLESS HE GIVES IT TO MOLECH.

(2) Lee. XVIII, 21. This proves that the offence consists of two parts; (i) formal delivery to the priests, and (ii) causing the seed to pass through the fire.

(3) Deut. XVIII, 10.

(4) Probably because this would not be accounted a normal mode of Molech worship: cp. pp. 438, 440.

(5) Is ‘thou shalt not cause to pass’ applicable only to a son who can naturally pass through himself, but not to a blind or sleeping son, who must be led or carried, or does it apply to all?

(6) Lev. XX, 2f.

(7) Since the passage commences by explicitly referring to this offence, why is it repeated?

(8) Deut. XVIII, 10.

(9) Lev. XX, 4. Hence the law applies also to grandsons.

(10) I.e., from the first verse, because etc. we learn that the law applies to one's grandsons too; when he giveth is stated in order that another law may be deduced.

(11) Not in the modern sense, but seed from a woman forbidden to him.

(12) This is superfluous, since it has already been stated twice in that passage that the reference is to this effect. Hence it indicates the application of the law to illegitimate seed.

(13) The victim walked along that pile to Moloch, but was not burnt. The statement that Hezekiah was smeared with the blood of the salamander to render him fireproof (63b), shewing that the victim was actually burnt, does not refer to Moloch, but to the divinities of Sepharvaim (Rashi).

(14) Probably referring to a game played on Purim when children jump over a fire lit in a pit. According to this, a pit was dug and a fire lit therein, and the victim leaped over it (So Rashi). Jast. translates: ‘like the stirrup (a ring suspended from a frame) thrust over a bonfire on Purim;’ cp. Aruch.

(15) This proves that the victim did not walk, but leaped to it.

(16) This too proves that the victim was not burnt in passing through the fire to Molech.

(17) Deut. XVIII, 10.

(18) Hence his view that one is liable if he passes through himself.

(19) Deut. XV, 4.

(20) The questioner understood this to be deduced from ‘among thee’ — in thyself. Since this is not taught in the name of any particular Tanna, it should agree with the Rabbis too.

(21) Heb. אפס efes, implying an admonition to avoid any action which may lead to poverty. Naturally, this is not to be interpreted as permitting dishonesty, but merely insists that poverty must not be courted.

(22) Twice in Lev. XX, 2-5: Whosoever be he . . . that giveth of his seeds to Molech . . . I will cut him off from among his people . . . And if the people of the land . . . kill him not: Then I will set my face against that man . . . and will cut him off. Once in Num. XV, 30f. But the soul that doeth aught presumptuously . . . the same reproacheth the Lord; and that soul shall be cut from among his people. Because he hath despised the word of the Lord. This refers to idolatry.

(23) Which is not included in general idolatry, as stated above.

(24) In Num. XV, 30, the Heb. for 'he reproacheth' is megaddef.

(25) The meaning of megaddef is disputed in Ker. 7b. By a 'worshipper of idols' is meant, e.g., one who sings hymns in a heathen Temple.

(26) Since, being a normal part of idolatry, it is understood.

(27) Num. XV, 31. Continuing the verses quoted in note 3. In the Heb, as usual, this emphasis is denoted by the repetition of the verb, הכרת תכרת

(28) He interprets the doubling of the verb as referring to two worlds.

(29) Ibid. 30.

(30) Rashi explains that this question is not put to R. Akiba, because he interprets megaddef in that previous verse as referring to blasphemy, not idolatry. But this question is rhetorically stated by R. Ishmael on his own assumption that megaddef means an idol worshipper.

(31) הכרת

(32) תכרת

(33) In ordinary human speech, such repetition is quite common.

Talmud - Mas. Sanhedrin 65a

MISHNAH. A BA'AL OB[1] IS THE PITHOM[2] WHO SPEAKS FROM HIS ARMPIT. THE YIDDE'ONI ['A WIZARD'] IS ONE WHO SPEAKS FROM HIS MOUTH.[3] THESE TWO ARE STONED; WHILST HE WHO ENQUIRES OF THEM TRANSGRESSES A FORMAL PROHIBITION.[4]

GEMARA. Why are both a Ba'al ob and Yidde'oni mentioned here [as being executed], whilst in the list of those who are punished by extinction only Ba'al ob is included, but Yidde'oni is omitted?[5] — R. Johanan said: Because both are stated in one negative precept.[6] Resh Lakish said: Yidde'oni is omitted [in Kerithoth], because it involves no action.[7] Now, according to R. Johanan, why is a Ba'al ob mentioned [rather than a Yidde'oni]? — Because it is written first in the Scripture. Now why does Resh Lakish reject R. Johanan's answer? — R. Papa said: They are stated separately in the verse decreeing death.[8] But R. Johanan maintains: Offences which are distinct in their injunctions [there being a different one for each], are held to be separate [in their atonement]; but if only in the decree of death, they are not regarded as separate.

Now, why does R. Johanan reject Resh Lakish's answer? — He can tell you: The Mishnah of Kerithoth is taught in accordance with R. Akiba's views, that action is unnecessary [for a sin offering to be incurred]. But Resh Lakish maintains: Granted that R. Akiba does not require a great action, but he requires at least a small one. But what action is there in blasphemy [which is included in the enumeration]? — The movement of the lips. But what action is done by a Ba'al ob? — The knocking of his arms.[9] Now, is this so even in the view of the Rabbis? But it has been taught: [The idolater] is liable [to a sacrifice] only for that which entails an action, e.g., sacrificing, burning incense, making libations and prostration. Whereon Resh Lakish observed: Which Tanna maintains that a sacrifice is due for prostration? R. Akiba, who rules that a deed entailing [much] action is unnecessary. But R. Johanan said: It even agrees with the Rabbis, for in bending his body, he performs an action. Now, since Resh Lakish maintains that in the view of the Rabbis bending one's body is not regarded as an action, surely the knocking of the arms is not one? — Well then Resh Lakish's statement [that the Ba'al ob performs an action] is made on the view only of R. Akiba, but not of the Rabbis. If so, should not the Mishnah there state, [But the Rabbis maintain that] the blasphemer and Ba'al ob are excluded?[10] — But ‘Ulla answered: The Mishnah there refers to a Ba'al oh who burnt incense to a demon.[11] Raba asked him: But is not burning incense to a demon idolatry?[12] — But Raba said: It [i.e., the Ba'al ob in Kerithoth] refers to one who burns incense as a charm.[13] Abaye said to him: But burning incense as a charm is to act as a charmer, which is merely prohibited by a negative precept? — That is so, but the Torah decreed that such a charmer is stoned.[14]

Our Rabbis taught: [There shall not be found among you any one that maketh his son or daughter pass through to the fire . . .] Or a charmer.[15] This applies to one who charms large objects, and to one who charms small ones,[16] even snakes and scorpions. Abaye said: Therefore even to imprison wasps or scorpions [by charms], though the intention is to prevent them from doing harm, is forbidden.

Now, as for R. Johanan, why does he maintain that in the view of the Rabbis the bending of one's body [in prostration] is an action, whilst the movement of the lips is not? — Raba said: Blasphemy is different, since the offence lies in the intention.[17]

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(1) Lev. XIX, 31. ‘He that hath a familiar spirit’.

(2) ** ventriloquist, necromancer.

(3) Both refer to making the dead speak thus.

(4) Lev. XIX, 31, lit., ‘a warning’, carrying with it no penalty.

(5) Ker. 2a.

(6) Lev. XIX, 31. Regard not them that have familiar spirits, and wizards. Now in Ker. 2a, where the Mishnah teaches that thirty six offences are punished by extinction, the Gemara explains that the number — 36 — intimates that if one committed them all in one state of unawareness, he is bound to offer 36 separate sacrifices. Since however, those two are forbidden by one injunction, only one atonement must be made for both. Consequently, the two cannot be taught there.

(7) The Mishnah there refers to transgressions, the deliberate committal of which is punished by extinction, whilst if unwitting, a sin offering is due; but this is brought only for an offence involving action.

(8) Ibid. XX, 27. A man also that hath a familiar spirit, or (not and) that is a wizard, shall surely be put to death. ‘Or’, או is a disjunctive particle. Since they are thus sharply distinguished, one would have to make two separate atonements for the unwitting transgression, if the offence of wizardry incurred a sin offering at all.

(9) By flapping his arms about the Ba'al ob made it appear that the dead was speaking from his armpits

(10) In Ker. 2a the Rabbis state that a blasphemer is exempted from a sin offering, since his offence involves no action. But according to Resh Lakish, that they regard a Ba'al ob as doing no action too, they should have stated that he also is exempted.

(11) I.e., to the spirit of necromancy. That of course is an action even in the view of the Rabbis. This answer is given on the basis of Resh Lakish's statement.

(12) And does not come under the heading of Ba'al ob at all. Idolatry is taught there separately.

(13) To exorcise the demons (Jast.). Rashi reverses the interpretation: to call up the demons, that they may assist him in his sorcery. This is not idolatry, for the demons are not thereby worshipped as divinities, but it comes under the heading of Ba'al ‘ob.

(14) Consequently, for unwitting transgression a sin offering is due. But the charmer who is punished by lashes is one who charms animals by bringing them together.

(15) Deut. XVIII, 10f.

(16) Large objects, viz., cattle, and beasts; small objects, creeping things, insects, etc.

(17) For blasphemy is an indictable offence only if it is mentally directed against God. If however, one reviles the Divine Name, whilst mentally employing it to denote some other object, he is not punished. Consequently, since the essence of the offence is mental, the slight action is disregarded.

Talmud - Mas. Sanhedrin 65b

R. Zera objected: False witnesses[1] are excluded [from the necessity of a sin offering if they unwittingly offended], since their offence entails no action.[2] But why so; their offence does not depend on intention? — Raba answered: False witnesses are different, because their offence is caused by sound.[3] But does not R. Johanan regard sound as a [concrete] action? Has it not been stated: If one frightened [lit. ‘muzzled’] off an animal by his voice, or drove animals by his voice,[4] R. Johanan ruled that he is liable to punishment, because the movement of his lips is an action; Resh Lakish ruled that he is not, because this is not an action?[5] — But Raba answered thus: False witnesses are different, because their offence is caused through vision.[6]

Our Rabbis taught: A Ba'al ob is one who speaks from between the joints of his body and his elbow joints. A yidde'oni is one who places the bone of a yidoa’[7] in his mouth and it speaks of itself. An objection is raised: And thy voice shall be, as of one that hath a familiar spirit, out of the ground:[8] surely that means that it speaks naturally?[9] — No. It ascends and seats itself between his joints and speaks. Come and hear: And the woman said unto Saul, I saw a god-like form ascending out of the earth: [And Samuel said to Saul . . .][10] surely that means that it spoke naturally? — No. It settled itself between her joints and spoke.

Our Rabbis taught: Ba'al ob denotes both him who conjures up the dead by means of soothsaying[11] and one who consults a skull. What is the difference between them? — The dead conjured up by soothsaying does not ascend naturally [but feet first], nor on the Sabbath; whilst if consulted by its skull it ascends naturally and on the Sabbath too. [You say,] it ascends: but whither — does not the skull lie before him? — But say thus: It answers naturally,[12] and on the Sabbath too. And this question was asked by Turnusrufus[13] of R. Akiba: ‘Wherein does this day [the Sabbath] differ from any other?’ — He replied: Wherein does one man differ from another?’[14] — ‘Because my Lord [the Emperor] wishes it.’ ‘The Sabbath too,’ R. Akiba rejoined, ‘then, is distinguished because the Lord wishes so.’ He replied: ‘I ask this: Who tells you that this day is the Sabbath?’ — He answered: ‘Let the river Sabbation[15] prove it; let the Ba'al ob prove it;[16] let thy father's grave, whence no smoke ascends on the Sabbath,[17] prove it.’ He said to him: ‘You have shamed, disgraced, and reviled him [by this proof].’

He who enquireth of an ob — is that not the same as one that consulteth the dead?[18] — As has been taught: Or that consulteth the dead: this means one who starves himself and spends the night in a cemetery, so that an unclean spirit [of a demon] may rest upon him [to enable him to foretell the future]. And when R. Akiba reached this verse, he wept: If one who starves himself that an unclean spirit may rest upon him has his wish granted, he who fasts that the pure spirit [the Divine Presence] may rest upon him — how much more should his desire be fulfilled! But alas![19] our sins have driven it away[20] from us, as it is written, But your iniquities have separated between you and your God.[21]

Raba said: If the righteous desired it, they could [by living a life of absolute purity] be creators, for it is written, But your iniquities have distinguished between etc. [22] Rabbah created a man,[23] and sent him to R. Zera. R. Zera spoke to him, but received no answer. Thereupon he said unto him: ‘Thou art a creature of the magicians. Return to thy dust.’

R. Hanina and R. Oshaia spent every Sabbath eve in studying the ‘Book of Creation’,[24] by means of which they created a third-grown calf[25] and ate it.

Our Rabbis taught: Me'onen[26] — R. Simeon said: That is one who applies the semen of seven male species to his eyes [in order to perform witchcraft]. The Sages say: It is one who holds people's eyes.[27] R. Akiba said: It is one who calculates the times and hours, saying, To-day is propitious for setting forth; tomorrow for making purchases; the wheat ripening on the eve of the seventh year[28] is generally sound; let the beans be pulled up [instead of being harvested in the usual manner] to save them from becoming worthy.

Our Rabbis taught: A Menahesh[29] is one who says: So and so's bread has fallen out of his hand; his staff has fallen out of his hand; his son called after him; a raven screamed after him, a deer has crossed his path; a serpent came at his right hand or a fox at his left;[30]

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(1) Lit., ‘witnesses proved zomemim’, v. Glos.

(2) Ker. 4a.

(3) Causing certain sounds, i.e., words, to be heard at Beth din. Since sound too is not concrete, false testimony is comjarable to blasphemy, and the essence of the transgression lies in intention.

(4) The first refers to Deut. XXV, 4: Thou shalt not muzzle the ox when he treadeth out the corn; the second to Deut. XXII, 10, Thou shalt not plough with an ox and an ass together.

(5) Hence we see that R. Johanan considers voice an action?

(6) I.e., they offend byösaying that they saw something: and sight does not entail work or action.

(7) Rashi, the name of a beast; Maim., the name of a bird.

(8) Isa. XXIX, 4.

(9) I.e., the dead actually speaking out of the ground.

(10) I Sam. XXVIII, 13.

(11) [זכורו from Syriac זכר ‘to divine’. Rashi connects it with זכרות, membrum’.]

(12) I.e., not from between the necromancer's joints.

(13) Tineius Rufus, a Roman Governor of Judea.

(14) ‘Why is one a noble and one a commoner?’ — referring to the high office which Rufus held.

(15) A legendary river, said to flow with such a strong current on week days, carrying (for note 10 see p. 447) along stones and rubble with tremendous force, as to be quite unnavigable, but resting on the Sabbath. (Cf. Plinius, Hist. Nat. XXI, 2, and Josephus, Wars, VII, 5, ¤ 1].

(16) Who cannot conjure up the dead on that day.

(17) The whole week smoke ascended from his grave, as he was being burnt in the fires of purgatory: but even the wicked in Gehenna have rest from their torments on the Sabbath.

(18) Deut. XVIII, 11.

(19) Lit., ‘What am I to do’.

(20) Lit., ‘have brought (this) upon us’.

(21) Isa. LIX, 2.

(22) Ibid. Raba understands mabadilim in the sense of ‘draw a distinction’. But for their iniquities, their power would equal God's, and they could create a world.

(23) By means of the Sefer Yeziroh, Book of Creation. V. next note.

(24) The Book of Creation, Heb. Sefer Yeziroh, is the title of two esoteric books. The older, referred to here, was a thaumaturgical work popular in the Talmudic period. It was also known as Hilkoth Yezirah (Laws of Creation), and is so called in the same story quoted on 67b. Rashi there states that the creation was performed by means of mystic combinations of the Divine Name, which does not come under the ban of witchcraft. Its basic idea is that the Creation was accomplished by means of the power inherent in those letters (Cf. Rab's saying: ‘Bezalel knew how to combine the letters by which heaven and earth were created’. Ber. 55a. Cf. also Enoch LXI, 3 et seq.; Prayer of Manasseh: Ecc. R. III, 11 on the magic power of the letters of the Divine Name), and that this same power could be utilised in further creation. The work was ascribed to Abraham, which fact indicates an old tradition, and the possible antiquity of the book itself. It has affinities with Babylonian, Egyptian, and Hellenic mysticism and its origin has been placed in the second century B.C.E., when such a combination of influences might be expected. It is noteworthy that Raba's statement above, though not mentioning the Sefer Yezirah, insists on freedom from sin as a prerequisite of creation by man, v. J.E., XII, 602.

(25) (I.e., a calf that has reached one third of its full growth; others interpret: (i) in its third year; (ii) third born, fat].

(26) Observer of times, Deut. XVIII, 10.

(27) Producing hallucinations in people by opening and shutting their eyes (Rashi).

(28) Time was calculated by seven-year cycles. The seventh year was called the year of release, and the land was not to be ploughed or sown therein. Lev. XXV, 1-7.

(29) An enchanter, Deut. XVIII, 10.

(30) All these omens were regarded by the superstitious as generally bad.

Talmud - Mas. Sanhedrin 66a

do not commence with me;[1] it is morning; it is new moon; it is the conclusion of the Sabbath.[2]

Our Rabbis taught: Ye shall not use enchantments nor observe times.[3] This refers to those who practise enchantment by means of weasels, birds, and fish.[4]

MISHNAH. HE WHO DESECRATES THE SABBATH [IS STONED], PROVIDING THAT IT IS AN OFFENCE PUNISHED BY EXTINCTION IF DELIBERATE, AND BY A SIN-OFFERING IF UNWITTING.

GEMARA. This proves that there is a manner of desecrating the Sabbath for the deliberate committal of which there is no extinction, nor is a sin offering to be brought for its unwitting transgression. What is it? — The law of boundaries, according to R. Akiba,[5] and kindling a fire, according to R. Jose.[6]

MISHNAH. ONE WHO CURSES HIS FATHER OR HIS MOTHER IS NOT PUNISHED UNLESS HE CURSES THEM BY THE DIVINE NAME. IF HE CURSED THEM BY AN ATTRIBUTE,[7] R. MEIR HELD HIM LIABLE, BUT THE SAGES RULED THAT HE IS EXEMPT.

GEMARA. Who is meant here by the Sages?[8] — R. Menahem, son of R. Jose. For it has been taught: R. Menahem, son of R. Jose said, When he blasphemeth the name of the Lord, he shall be put to death.[9] Why is ‘the name’ mentioned?[10] To teach that he who curses his father or his mother does not incur a penalty unless he employs the Divine Name.[11]

Our Rabbis taught: [For any man[12] that curseth his father or his mother shall surely be put to death: his father and his mother he hath cursed; his blood shall be upon him.[13] Now, the Scripture could have said,] A man [ish]; what is taught by any man [ish ish]? — The inclusion of a daughter, a tumtum,[14] and a hermaphrodite [as being subject to this law]. That curseth his father and his mother.’ from this I know only [that he is punished for cursing] his father and his mother; whence do I know [the same] if he cursed his father without his mother or his mother without his father? — From the passage his father and his mother he hath cursed: his blood shall be upon him,[15] implying, a man that cursed his father; a man that cursed his mother. This is R. Joshiah's opinion. R. Jonathan said: The [beginning of the] verse alone implies either the two together or each separately unless the verse had explicitly stated ‘together’.[16] He shall surely be put to death — by stoning. You say: By stoning. But perhaps it means by one of the other deaths decreed in the Torah? — Here it is written, his blood shall be upon him; and elsewhere it is written, [A man also or a woman that hath a familiar spirit, or that is a wizard, shall surely be put to death; they shall stone them with stones:] their blood shall be upon them:[17] just as there stoning is meant, so here too. From this we learn punishment: whence do we derive the prohibition? — From the verse, Thou shalt not revile the judges, nor curse the ruler of thy people.[18] Now, if his father is a judge, he is included in the Thou shalt not revile the judges; if a nasi,[19] in nor curse the ruler of they people. If neither a judge nor a ruler, whence do we know it? — You may construct a syllogism with these two as premises; the case of a nasi is not analogous to that of a judge, nor of a judge to that of a nasi. Now, the case of a judge is not analogous to that of a nasi, for you art commanded to obey the ruling of a judge, but not of a nasi; whilst the case of a nasi is not analogous to that of judge, for you are enjoined not to rebel against the decree of a nasi, but not of a judge.[20] Now, what is common to both, is that they are of ‘thy people’[21] and you are forbidden to curse them: so I extend the law to thy father, who is of ‘thy people’, that thou art forbidden to curse him. No; their common characteristic is their greatness, which is the decisive factor. Hence Scripture writes, Thou shalt not curse the deaf;[22] thus applying the injunction even to the humblest of thy people. No; in the case of the deaf, his very deafness may be the cause [of the prohibition].[23] Then let the nasi and the judge prove otherwise. But in their case their greatness may be the cause: then let the deaf prove the reverse. And thus the argument proceeds in a circle: the particular characteristic of one is lacking in the other, and vice versa.[24] What is common to all is that they are of ‘thy people’, and you are forbidden to curse them: so I include thy father who is of thy people, and you are forbidden to curse him. No! What they have in common is that they are distinguished [from the average person].[25] But if so, Scripture should have written either the judge and the deaf or the nasi and the deaf.[26] Why then is the judge mentioned? — Since this is superfluous for itself, apply it to one's father. Now, this agrees with the view that elohim is profane; but on the view that it is holy, what canst thou say?[27] For it has been taught: Elohim is profane:[28] that is R. Ishmael's opinion. R. Akiba said: It is sacred.[29] And it has been taught thereon: R. Eliezer b. Jacob said: Whence do we derive a formal prohibition against cursing God's name? From the verse, Thou shalt not revile god?[30] — On the view that elohim is profane, the sacred is derived from the profane,[31] hence, contrariwise, on the view that elohim is sacred, thou mayest derive the profane from the sacred.[32] Now, it is quite correct to say that on the view that elohim is profane, the sacred is derived from it. But on the view that elohim is holy, how canst thou derive the profane from it: perhaps the prohibition is only in respect of the sacred [i.e.. God], but not of the profane at all? — If so, Scripture should have written, elohim lo takel [Thou shalt not revile God],

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(1) I.e., if a tax-collector comes to him, he asks him to collect first from someone else, as it is a bad omen to be the first to pay taxes.

(2) He declines to pay his debts on these occasions, regarding it as a bad omen to start the week or day or month by paying debts. — All these superstitions are forbidden under the term menahesh.

(3) Lev. XIX, 26.

(4) Var. lec.: ‘and stars’.

(5) According to Biblical law, as deduced by the Rabbis, one was not to go more than 12 mil (a mil = 1,000 cubits) beyond the town boundaries on the Sabbath (the Rabbis reduced this to 2,000 cubits). R. Akiba maintained that if this law was violated the offender was liable neither to extinction nor to a sin offering.

(6) V. supra 62a.

(7) E.g., The Merciful, the Gracious, the Almighty.

(8) This anonymous term did not necessarily represent the view of many Sages; it frequently connoted a single scholar.

(9) Lev. XXIV, 16.

(10) Since the beginning of the same verse explicitly states that the reference is to the Name: And he that blasphemeth the Name of the Lord shall surely be put to death.

(11) For ‘the name’ being unnecessary here, is applied to a different law. V. supra p. 365, n. 7.

(12) Lit. ‘a man, a man’, איש איש

(13) Lev. XX, 9.

(14) A person whose genitals are hidden or undeveloped, and hence of unknown sex.

(15) At the beginning of the sentence that curseth is in immediate proximity to his father; at the end, cursing is mentioned nearest to his mother, shewing that each is separate.

(16) I.e., the conjunctive waw implies both conjunction and separation. Hence, the first half of the sentence is sufficient to shew that the law applies to each separately. The second half is employed for a different purpose. V. infra 85b.

(17) Lev. XX, 27.

(18) Ex. XXII, 27.

(19) The Patriarch or chief of the great sanhedrin in Jerusalem and of its successors in Palestinian places. In earlier times, the princes of the tribes; v. Num. VII, 12-89.

(20) I.e., each has a measure of authority which the other lacks: the judge to give his verdict in disputes, the nasi make decrees. Now, considered separately, it might be argued that one is forbidden to curse either the nasi or the judge on account of the particular authority he enjoys. But when they are examined in conjunction, it is seen that the particular authority of each is not the decisive factor, since the other lacks it. Hence they must base something in common as the final factor, and the same law will apply to whomever shares it with them.

(21) This is taken to mean that they conform to the laws of Judaism (Yeb. 22b; B.B. 4a).

(22) Lev. XIX, 14.

(23) I.e., one may not take advantage of his infirmity.

(24) At this stage, the judge and the nasi are one proposition, the deaf another.

(25) The judge and the nasi by their greatness; the deaf by his infirmity.

(26) Had the Torah forbidden the cursing of the deaf and either a judge or a nasi, the other could have been deduced. For their common feature is that they are distinguished from other people; consequently, by analogy, the same law applies to either a judge or a nasi.

(27) Ex. XXII, 27: Thou shall not revile elohim (translated above ‘the judges’); but that itself is the subject of a dispute.

(28) I.e., its meaning is ‘judge’, the root idea of elohim being power, authority.

(29) I.e., it means literally ‘God’.

(30) Soferim IV, 5. On this latter view, elohim is not superfluous, to be applied to one's father, and the question remains, whence is derived the prohibition of cursing a father?

(31) Though elohim means judge, nevertheless the same law applies to God, by deriving the latter from the former. Such derivation is warranted, since Scripture expresses ‘judge’ by a word normally meaning God (Tosaf.).

(32) Thus, even if elohim means ‘God’, yet the same applies to a judge, by analogy. Now, since a nasi could have been deduced from a judge and the deaf, it is superfluous, and consequently must be applied to one's father. Hence, the general argument is as before, but the nasi, and not the judge, is now, regarded as unnecessary.

Talmud - Mas. Sanhedrin 66b

why [write] lo tekallel?[1] — That both [God and judge] may be understood therefrom.

MISHNAH. HE WHO HAS INTIMATE CONNECTION WITH A BETROTHED MAIDEN IS NOT PUNISHED UNTIL SHE IS A NA’ ARAH,[2] A VIRGIN, BETROTHED, AND IN HER FATHER'S HOUSE.[3] IF TWO MEN VIOLATED HER,[4] THE FIRST IS STONED, BUT THE SECOND IS STRANGLED.

GEMARA. Our Rabbis taught: If a na'arah [damsel] that is a virgin be betrothed unto an husband;[5] na'arah excludes a bogereth;[6] ‘virgin’ excludes one who is no longer a virgin; ‘betrothed’ excludes a nasu'ah; [because she hath wrought folly in Israel, to play the whore] in her father's house[7] — this excludes one whom her father has given over to her husband's messengers [to take to her new home].

Rab Judah said in Rab's name: This [our Mishnah] is R. Meir's view, but the Sages maintain that by a betrothed damsel even a minor[8] is understood.[9] R. Aha of Difti said to Rabina: Whence do we know that the Mishnah is as R. Meir only, the term na'arah excluding a minor too; perhaps it agrees even with the Rabbis, whilst na'arah is intended to exclude a bogereth, but none else? — He replied: If so, instead of saying: HE IS NOT PUNISHED UNTIL SHE IS A NA'ARAH, A VIRGIN, AND BETROTHED, the Mishnah should have said: He is punished only for a na'arah, a virgin, and a betrothed.[10] No further argument is possible!

R. Jacob b. Ada asked of Rab: What if one has intimate connexion with a betrothed minor, according to R. Meir's view? Does he exclude a minor entirely,[11] or only from stoning?[12] — He replied: It is reasonable to assume that he excludes him only from stoning. But is it not written. [If a man be found lying with a woman married to a husband,] then they shall both of them die,[13] implying that they must both be equal?[14] Rab remained silent.[15] Samuel said: Why was Rab silent? He should have answered him: [It is written, But if a man find a betrothed damsel in the field . . .] then the man only that lay with her shall die.[16]

This question is disputed by Tannaim: Then they shall both of them die: this teaches that they must both be equal. That is R. Joshiah's view. R. Jonathan said: Then the man only that lay with her shall die.[17] And the other [R. Jonathan] — what does he deduce from ‘then they shall both die’? — Raba answered: It excludes the mere whetting of one's lust.[18] But the other?[19] — He regards such excitation as of no consequence.[20] And the other [R. Joshiah] — how does he interpret ‘alone’? — Even as it has been taught: If ten men cohabited with her, yet leaving her a virgin,[21] they are all stoned. Rabbi said: The first is stoned, but the others are strangled.[22]

Our Rabbis taught: And the daughter of any priest, if she profane herself [tehel][23] by playing the whore.[24] — Rabbi said: It implies the first,[25] and thus it is also written, Then the man only that lieth with her shall die. What does this mean? — R. Huna the son of R. Joshua said: Rabbi agrees with R. Ishmael,[26] viz., that only in arusah, the daughter of a priest, is singled out for burning; but not a nesu'ah [who is strangled, just as an Israelite's daughter]. And this is what he says: If her first coition is adulterous [i.e., if she is an arusah at the time] she is burnt; otherwise she is stoned.[27] What is meant by ‘and thus etc.’? — It is as there; just as there, Scripture refers to her first coition, so here too.[28]

R. Bibi b. Abaye said to him: The Master has not said thus (Who is it?[29] — R. Joseph), but that Rabbi agreed with R. Meir who held that if a priest's daughter married one who was unfit for her [and then committed adultery], she is strangled [instead of burnt],[30] and this is what Rabbi says: If her first profanation is through adultery, she is burnt; otherwise she is stoned.[31] Then what is meant by ‘and thus etc.’?[32] —

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(1) תקלל tekallel, though having the same meaning as תקל takel, is a heavier form, being more emphatic, and hence of wider application.

(2) V. Glos.

(3) This excludes a maiden who had been given over to the messengers of her husband to be taken to her new home (Rashi).

(4) The first unnaturally, so that she was still as virgin.

(5) Deut. XXII, 23.

(6) V. Glos.

(7) Ibid. 21 . This is quoted from a previous section dealing with slander. The subject being the same — a betrothed maiden — it is linked up with the present passage

(8) קטנה before the age of twelve.

(9) V. Keth. 29a.

(10) He is not punished until she is (Heb. עד שתהא the imperfect of the verb ‘to be’) definitely implies that she must reach the state of a na'arah.

(11) I.e., that the whole law of Deut XXII, 23f. decreeing death for intimate connexion with a betrothed maiden, does not apply if she is a minor.

(12) I.e., the seducer is not stoned, as he would be for a na'arah, but executed in another way.

(13) Ibid. 22.

(14) Both must be of a responsible age: but if one is not, as in this case, both are exempt.

(15) I.e., he could not answer this objection.

(16) Ibid. 25. Now, only is superfluous, for the next verse distinctly states, But unto the damsel thou shalt do nothing. Hence it teaches that sometimes the man alone is punished, even when the betrothed consented, viz., if she was a minor.

(17) V. n. 3.

(18) On a woman's body, without coming into contact with her sexual organ. This is deduced from ‘both’: both must enjoy sexual gratification. (Aruch reads מעשה הורדום i.e., ‘the doing of Herod’ with reference to B.B. 3b. V. Derenbourg, J. Essai 152, n. 1.]

(19) R. Joshiah — why does be reject that interpretation?

(20) It is not an offence at all in the sense that it should be necessary to teach that no punishment follows.

(21) The connections having been unnatural.

(22) That is deduced from ‘alone’: though all of them committed adultery with a virgin, ‘alone’ shows that only the first is stoned, stoning being ordained in that passage.

(23) תחל

(24) Lev. XXI, 9.

(25) He derives tehel from tehilah, ‘the beginning’, and thus renders the verse, If she begin by playing the whore.

(26) Supra 51b.

(27) And in each case, her paramour's punishment is the same.

(28) I.e., just as a betrothed maiden is excepted from the punishment of a nesu'ah, viz., strangulation, being stoned instead, which exception applies to her seducer too, and that only for the first coition (the word ‘only’ showing that her second paramour is strangled, even if she was still a virgin), so also, in the case of the priest's daughter, the exception is made only for her first coition, viz., if she is an arusah, but not if a nesu'ah.

(29) The Master referred to.

(30) V. supra 51b.

(31) I.e., if she was married to one who was fit for her, so that only though her adultery does she profane herself, the law of Lev. XXI 9, applies viz., that she is burnt. But if she first profaned herself not through adultery, but through marrying a person forbidden to her and then committed adultery, she is strangled.

(32) For the explanation given above will not fit in with this interpretation.

Talmud - Mas. Sanhedrin 67a

. That is merely a mnemonical sign.[1]

MISHNAH. A MESITH IS A [SEDUCING] LAYMAN;[2] AND HE WHO SEDUCES AN INDIVIDUAL[3] SAYING, ‘THERE IS AN IDOL IN SUCH AND SUCH A PLACE; IT EATS THUS, IT DRINKS THUS, IT DOES SO MUCH GOOD AND SO MUCH HARM. FOR ALL WHOM THE TORAH CONDEMNS TO DEATH NO WITNESSES ARE HIDDEN TO ENTRAP THEM, EXCEPTING FOR THIS ONE. IF HE INCITED TWO [TO IDOLATRY], THEY THEMSELVES ARE WITNESSES AGAINST HIM, AND HE IS BROUGHT TO BETH DIN AND STONED. BUT IF HE ENTICED ONE, HE MUST REPLY, I HAVE FRIENDS WHO WISH TO DO SO LIKEWISE [COME AND PROPOSE IT TO THEM TOO].’ BUT IF HE WAS CUNNING AND DECLINED TO SPEAK BEFORE THEM, WITNESSES ARE HIDDEN BEHIND A PARTITION, WHILST HE WHO WAS INCITED SAYS TO HIM, MAKE YOUR PROPOSAL TO ME NOW IN PRIVATE. WHEN THE MESITH DOES SO, THE OTHER REPLIES, HOW SHALL WE FORSAKE OUR GOD IN HEAVEN TO GO AND SERVE WOOD AND STONES?’ SHOULD HE RETRACT, IT IS WELL. BUT IF HE ANSWERS, ‘IT IS OUR DUTY [TO WORSHIP IDOLS], AND IS SEEMLY FOR US, THEN THE WITNESSES STATIONED BEHIND THE PARTITION TAKE HIM TO BETH DIN, AND HAVE HIM STONED. IF HE SAYS, ‘I WILL WORSHIP IT’, OR, ‘I WILL GO AND WORSHIP’, OR, ‘LET US GO AND WORSHIP’; OR, ‘I WILL SACRIFICE [TO IT]’, ‘I WILL GO AND SACRIFICE’, ‘LET US GO AND SACRIFICE’; ‘I WILL BURN INCENSE, ‘I WILL GO AND BURN INCENSE’. ‘LET US GO AND BURN INCENSE’; ‘I WILL MAKE LIBATIONS TO IT’, ‘I WILL GO AND MAKE LIBATIONS TO IT , LET US GO AND MAKE LIBATIONS, ‘I WILL PROSTRATE MYSELF BEFORE IT’, ‘I WILL GO AND PROSTRATE MYSELF’. ‘LET US GO AND PROSTRATE OURSELVES’. (GUILT IS INCURRED).[4]

GEMARA. A MESITH IS A LAYMAN. Thus, only because he is a layman [is he stoned]; but if a prophet, he is strangled. WHO SEDUCES AN INDIVIDUAL: thus, only if he seduces an individual; but if a community, he is strangled. Hence, who is [the Tanna of] the Mishnah? — R. Simeon. For it has been taught: A prophet who entices [people to idolatry] is stoned; R. Simeon said: He is strangled.[5] Then consider the second clause.[6] A maddiah[7] is one who says: ‘Let us go and serve idols’: whereon Rab Judah observed in Rab's name: This Mishnah teaches of those who lead astray a seduced city. Thus it agrees with the Rabbis [who maintain that these too are stoned, not strangled]. Hence, the first clause is taught according to R. Simeon; the second according to the Rabbis! — Rabina said: Both clauses are based on the Rabbis’ ruling, but proceed from the universally admitted to the disputed.[8] R. Papa said: When the Mishnah states A MESITH IS A HEDYOT,[9] it is only in respect of hiding witnesses.[10] For it has been taught: And for all others for whom the Torah decrees death, witnesses are not hidden, excepting for this one. How is it done? — A light is lit in an inner chamber, the witnesses are hidden in an outer one [which is in darkness], so that they can see and hear him,[11] but he cannot see them. Then the person he wished to seduce says to him, ‘Tell me privately what thou hast proposed to me’; and he does so. Then he remonstrates; ‘But how shall we forsake our God in Heaven, and serve idols’? If he retracts, it is well. But if he answers: ‘It is our duty and seemly for us’, the witnesses who were listening outside bring him to the Beth din, and have him stoned.[12] MISHNAH. A MADDIAH IS ONE WHO SAYS, ‘LET US GO AND SERVE IDOLS’. A SORCERER, IF HE ACTUALLY PERFORMS MAGIC, IS LIABLE [TO DEATH]. BUT NOT IF HE MERELY CREATES ILLUSIONS.[13] R. AKIBA SAID IN R. JOSHUA'S NAME: OF TWO WHO GATHER CUCUMBERS [BY MAGIC] ONE MAY BE PUNISHED AND THE OTHER EXEMPT: HE WHO REALLY GATHERS THEM IS PUNISHED: WHILST HE WHO PRODUCES AN ILLUSION IS EXEMPT.

GEMARA. Rab Judah said in Rab's name: This Mishnah teaches of those who lead astray a seduced city.[14]

A SORCERER, IF HE ACTUALLY PERFORMS MAGIC etc. Our Rabbis taught: [Thou shalt not suffer] a witch [to live]:[15] this applies to both man and woman. If so, why is a [female] witch stated? — Because mostly women engage in witchcraft. How are they executed? — R. Jose the Galilean said: Here it is written, Thou shalt not suffer a witch to live; whilst elsewhere is written, Thou shalt not suffer anything that breatheth to live.[16] Just as there, the sword is meant, so here is the sword meant too. R. Akiba said: It is here stated, Thou shalt not suffer a witch to live; whilst elsewhere it is said, [There shall not a hand touch it, but he shall surely be stoned, or shot through;] whether it be beast or man, it shall not live.[17] Just as there, death by stoning is meant, so here too. R. Jose said to him, I have drawn an analogy between ‘Thou shalt not suffer to live’ written in two verses, whilst you have made a comparison between ‘Thou shalt not suffer to live’, and ‘It shall not live’. R. Akiba replied: I have drawn an analogy between two verses referring to Israelites, for whom the Writ hath decreed many modes of execution,[18] whilst you have compared Israelites to heathens, in whose case only

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(1) I.e., in both the reference is to something done for the first time: there to coition; here to profanation. But the similarity ceases at this point.

(2) Heb. hedyot. As opposed to a prophet.

(3) Heb. hedyot. But not a whole community. On the Heb. term hedyot, v. p 456, nn. 2 and 3.

(4) The seducer by using any one of those@expressions incurs guilt and is executed; v.„Rashi (supra,661a) who efers it to the s4duced person.

(5) V. infra 84a.

(6) I.e., the next Mishnah, which is really p»rt of›this.

(7) Who is stoneæ, as stated in the Mishnah on 53a,“of which all the subsequent Mishnahs ,n this c"apter arü explanations.

(8) Lit., ‘norGonly this, buî that also).’ When the Mishnah sÝateo, [HE] WHO SEDUCES AN INDIVIDUAL, iÄ is not intended to exclude a multitde, but merely to commence with the–universally agreed law. Then the next Mishnah adds that t?e same applies ts the seduction of a multitude, thouh this is not admitted by all.

(9) הדיוט , ** rendered in Mishnah, ‘LAYZAN’, also means ignorant, ignoble.

(10) I.e., hedyot i not used in Ëhe sense of a layman as opposed to a prophet, but in the sense of ignoble; so dastardly in hisèaction, that he isjnot shewn the same consideration as otherGmalefactors, but hidden witnessls are set to entrap him. T#ere is no dispute between Rabina and R. Papa, both •eaching that the two clauses agree with the Rabbis; but Rabina explains the phrase, ‘HE WHO SEDUCES AN INDIVIDUAL’, whilst R. Papa deals with ‘A M³SITH IS A HEDYÜT’.

(11) Otherwise, txey could not testify.

(12) In the uncensored editions of the Talmud there¨follows this important passage (supplied from D.S. o the authority of the Munich and Oxford Mss.and the older editions) ‘And this they did to BeŠ Stada iÛ Lydda (לוד), and they hung him on the eve of Passover. Ben Stada was Ben Padira. R. Hisda said: ‘The husband was Stada~ the paremour Pa2dira. But was nor thZ husband Pappos b. Judah? — His mother's name was Stada. But his mother was Miriam, a dresser of

woman's hair? (סגדלא נשיא megaddela neshayia): — As they say in Pumbaditha, T¥is woman has Yurned away (satth da) from her husband, (s.e., committed adu‡€
r×).' T. Herford, in 'Christianity in the Talmud', p. 37 seqq, 344 seqq, identifies this Ben Stada with Jesus f Nazareth. As to the meaning of the name, he connects it with ** 'seditious', and suggests (p. 345 n.1) that it riginally denoted 'that Egyptian' (Acts XXI 38, Josephus, Ant. XX, 8, 6) who claimed to be a prophet and led his followers to the Mount of Olives, where he was routed by the Procurator Felix, and that in later times he might have been confused with Jeshua ha-Notzri. This hypothesis, however, involves the disregard of the Talmudic data, for Pappos b. Judah lived a century after Jesus (Cit. 90a), though the mother's name, Miriam (Mary), would raise no difficulty, as מגדלא נשיא megaddla neshayia may be the result of a confusion with Mary Magdalene (v. also Box, The Virgin Birth of Jesus, pp. 201f, for other possible meanings of Ben Stada and Ben Pandira) Derenbourg (Essai note 9, pp. 465-471) rightly denies the identity of Ben Stada with Jesus, and regards him simäly as a false prophet executed during the second century at Lydda.

(13) I.e., the illusion of doing something, whereas in fact he does nothing.

(14) Cf. supra 53a.

(15) Ex. XXII, 17.

(16) Deut. XX, 17. This refers to the war of extermination against the seven races inhabiting Canaan before the Conquest by Joshua. They would naturally be killed by the sword.

(17) Ex. XIX, 13. This refers to the taboo placed upon Mount Sinai before the Theophany.

(18) And yet at Sinai stoning was chosen.

Talmud - Mas. Sanhedrin 67b

one death penalty is decreed.[1] Ben 'Azzai said:[2] It is here written, Thou shalt not suffer a witch to live, whilst [immediately after] it is said, Whosoever lieth with a beast shall surely be put to death.[3] Now, this is placed in proximity, teaching that just as the latter is stoned, so is the former. Thereupon R. Judah said to him: Shall we, because of this proximity, exclude the former [from the easier death implied by an unspecified death sentence] changing it to stoning?[4] But [reason this:] The ob and yidde'oni were included among other sorcerers.[5] Why were they singled out?[6] That other sorcerers may be assimilated to them, and to teach thee, just as the ob and yidde'oni are stoned, so are all other sorcerers stoned. But even according to R. Judah, are not ob and yidde'oni two statements teaching the same thing, and two statements teaching the same thing cannot throw light upon anything else?[7] — R. Zechariah answered: For this very reason R. Judah is generally said to maintain that even two statements singled out for the same purpose illumine the proposition as a whole.[8]

R. Johanan said: Why are they [sorcerers] called Kashshafim?[9] — Because they lessen the power of the Divine agencies.[10]

There is none else besides Him:[11] R. Hanina said: Even by sorcery.[12] A woman once attempted to take earth from under R. Hanina's feet.[13] He said to her, 'If you succeed in your attempts, go and practise it [sc. sorcery]: it is written, however, There is none else beside him'. But that is not so, for did not R. Johanan say: Why are they called mekashshefim?[14] Because they lessen the power of the Divine agencies? — R. Hanina was in a different category, owing to his abundant merit.[15]

R. Abaye b. Nagri said in the name of R. Hiyya b. Abba: Belatehem refers to magic through the agency of demons, belahatehem to sorcery [without outside help].[16] And thus it is also said, And the flame [Heb. lahat] of the sword that turns of itself.[17]

Abaye said: The sorcerer who insists on exact paraphernalia[18] works through demons; he who does not works by pure enchantment.

Abaye said: The laws of sorcerers are like those of the Sabbath: certain actions are punished by stoning, some are exempt from punishment, yet forbidden, whilst others are entirely permitted. Thus:

if one actually performs magic, he is stoned; if he merely creates an illusion, he is exempt, yet it is forbidden; whilst what is entirely permitted? — Such as was performed by R. Hanina and R. Oshaia, who spent every Sabbath eve in studying the Laws of Creation, by means of which they created a third-grown calf and ate it.[19]

R. Ashi said: I saw Karna's father[20] blow his nose violently and streamers of silk issued from his nostrils.

Then the magicians said unto Pharoah, This is the finger of God:[21] R. Eleazar, said: This proves that a magician cannot produce a creature less than a barley corn in size. R. Papa said: By God! he cannot produce even something as large as a camel; but these [larger than a barley corn] he can [magically] collect [and so produce the illusion that he has magically created them], the others he cannot.

Rab said to R. Hiyya: ‘I myself saw an Arabian traveller take a sword and cut up a camel; then he rang a bell, at which the camel arose.’ He replied, ‘After that, was there any blood or dung? But that was merely an illusion.’

Ze'iri happened to go to Alexandria in Egypt and bought an ass. When he was about to water it, it dissolved, and there stood before him a landing board.[22] The vendors then said to him; ‘Were you not Ze'iri, we would net return you [your money]: does anyone buy anything here without first testing it by water?’[23]

Jannai[24] came to an inn. He said to them, ‘Give me a drink of water,’ and they offered him shattitha.[25] Seeing the lips of the woman [who brought him this] moving,[26] he [covertly] spilled a little thereof, which turned to snakes. Then he said, ‘As I have drunk of yours, now do you come and drink of mine.’ So he gave her to drink, and she was turned into an ass he then rode upon her into the market. But her friend came and broke the charm [changing her back into a human being], and so he was seen riding upon a woman in public.

And the frog came up, and covered the land of Egypt.[27] R. Eleazar said: It was one frog, which bred prolifically and filled the land. This is a matter disputed by Tannaim. R. Akiba said: There was one frog which filled the whole of Egypt [by breeding]. But R. Eleazar b. Azariah said to him, ‘Akiba, What hast thou to do with Haggadah?[28] Cease thy words and devote thyself to ‘Leprosies’ and ‘Tents.’[29] One frog croaked for the others, and they came’.

R. AKIBA SAID, etc.

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(1) Viz., decapitation. Consequently, no true analogy is possible.

(2) His full name was Simeon b. ‘Azzai. There were four companions each named Simeon, so for short they were referred to by their patronym (Rashi in Ab. IV, 1).

(3) Ex. XXII, 19.

(4) R. Judah does not regard the proximity of two subjects, סמוכין as a method of exegesis.

(5) I.e., in the verse, Thou shalt not suffer a sorcerer to live.

(6) In Lev. XX, 27.

(7) This is in accordance with the exegetical principle that if a general proposition is stated, and then one part thereof is singled out for special mention, the latter illumines the former; but not if two are singled out. For if they were intended to convey a teaching with respect to the proposition as a whole, only one should have been singled out, from which the second (together with the rest of the general statement) would be derived.

(8) R. Judah does not agree with the limitation expressed above, and it is precisely from this verse that he deduces that even two statements may be singled out to convoy a teaching for the whole; v. Kid. 35a.

(9) כשפים

(10) I.e., making incantations of death against those for whom Heaven has decreed life (Rashi); and in general seeking to interfere with the course of events as decreed from above. The word is treated as an abbreviation, thus Keshafim, Kahash, Famalia, Ma'alah. (Lessens [the] Family on High).

(11) Deut. IV, 35.

(12) I.e., not even sorcerers have power to oppose His decree.

(13) To perform magic against him.

(14) מכשפים Hebrew form of Kashshafim.

(15) Therefore God should certainly not permit any sorcerer to harm him.

(16) In the references to Pharoah's magicians, two words are employed to denote their art: belatehem, (בלטיהם) e.g., Ex. VII, 22 (with their enchantments); and belahatehem (בלהטיהם v. להט) Ex. VII, 11.

(17) Gen. III, 24, thus lahat is referred to an action taking place of itself; similarly, belahatehem connotes sorcery performed without extraneous aid.

(18) Demanding particular properties for different kinds of magic.

(19) V. p 446, nn. 9, 10. It thus all depends as to whose help is invoked in performing the miraculous.

(20) He was a magician.

(21) Ex. VIII, 19; this refers to the plague of lice, which they could not imitate.

(22) The ass had been a product of sorcery, created out of a landing board. Things thus created reverted to their original form when brought into contact with water.

(23) The scholars of the first century referred frequently to Egypt as the original home of magic arts (Blau, Das aljudische Zauberwesen, pp. 37-49). Sorcery was very rife in Alexandria, and was practised by Jews too, who were more influenced by pagan ideas in this city than in any other place of their dispersion. Among the less intelligent, Jewish and pagan, witchcraft were freely indulged in (Schurer, Geschichte, 3rd ed., III, 294-304). It is not clear in this passage whether Ze'iri had bought the ass from a Jew or Gentile, but the fact that such particular respect was shewn to him would seem to indicate that the vendor was a Jew.

(24) Rashi observes that this is the reading, not R. Jannai; for a scholar would not practise witchcraft.

(25) A drink prepared of flour and water. Cf. Lat. ptisanarium, a decoction of barley groats

(26) By this he recognised her to be a witch, probably muttering a charm.

(27) Ex. VIII, 6.

(28) Haggadah, also aggadah, from Nagad, to narrate, denotes the narrative, and homiletical portions of the Talmud.

(29) [Nega'im and Ohaloth, two subjects in the Talmud and name of two tractates dealing respectively with uncleanliness of a corpse and leprosy, subjects of extreme difficulty and thus suited to R. Akiba's keen dialetics.]

Talmud - Mas. Sanhedrin 68a

But did R. Akiba learn this from R. Joshua? Surely it has been taught: When R. Eliezer fell sick, R. Akiba and his companions went to visit him. He was seated in his canopied four-poster, whilst they sat in his salon.[1] That day was Sabbath eve, and his son Hyrcanus went in to him to remove his phylacteries.[2] But his father rebuked him, and he retreated crestfallen. ‘It seems to me,’ said he to them, ‘that my father's mind is deranged’.[3] But R. Akiba said to them, ‘his mind is clear, but his mother's [sc. of Hyrcanus] is deranged:[4] how can one neglect a prohibition which is punished by death, and turn his attention to something which is merely forbidden as a shebuth?’[5] The Sages, seeing that his mind was clear, entered his chamber and sat down at a distance of four cubits.[6] ‘Why have ye come?’ said he to them. ‘To study the Torah’, they replied; ‘And why did ye not come before now’, he asked? They answered, ‘We had no time’. He then said, ‘I will be surprised if these die a natural death’. R. Akiba asked him, ‘And what will my death be?’ and he answered, ‘Yours will be more cruel than theirs’. He then put his two arms over his heart, and bewailed them, saying, ‘Woe to you, two arms of mine, that have been like two Scrolls of the Law that are wrapped up.[7] Much Torah have I studied, and much have I taught.[8] Much Torah have I learnt, yet have I but skimmed from the knowledge of my teachers as much as a dog lapping from the sea. Much Torah have I taught, yet my disciples have only drawn from me as much as a painting stick from its tube. Moreover, I have studied three hundred laws on the subject of a deep bright spot,[9] yet no man has ever asked me about them. Moreover, I have studied three hundred, (or, as others state, three thousand laws) about the planting of cucumbers [by magic] and no man, excepting Akiba b. Joseph, ever questioned me thereon. For it once happened that he and I were walking together on a road, when he said to me, "My master, teach me about the planting of cucumbers". I made one statement, and the whole field [about us] was filled with cucumbers. Then he said, "Master, you have taught me how to plant them, now teach me how to pluck them up". I said something and all the cucumbers gathered in one place'. His visitors then asked him, 'What is the law of a ball, a shoemaker's last , an amulet, a leather bag containing pearls, and a small weight?'[10] He replied, 'They can become unclean, and if unclean, they are restored to their uncleanliness just as they are.'[11] Then they asked him, 'What of a shoe that is on the last?'[12] He replied, 'It is clean;' and in pronouncing this word his soul departed. Then R. Joshua arose and exclaimed, 'The vow is annulled, the vow is annulled!'[13] On the conclusion of the Sabbath R. Akiba met his bier being carried from Caesarea to Lydda. [In his grief] he beat his flesh until the blood flowed down upon the earth — Then R. Akiba commenced his funeral address, the mourners being lined up about the coffin, and said: 'My father, my father, the chariot of Israel and the horsemen thereof;[14] I have many coins, but no money changer to accept them.'[15] Thus from this story we see that he learned this [sc. the producing of cucumbers by magic] from R. Eliezer? — He learned it from R. Eliezer, but did not grasp it, then he learned it from R. Joshua, who made it clear to him.

But how might R. Eliezer do so?[16] Did we not learn, IF HE ACTUALly PERFORMS MAGIC, HE IS LIABLE? — If it is only to teach, it is different. For it has been said, Thou shalt not learn to do after the abominations of these nations:[17] thou mayest not learn in order to practise, but thou mayest learn in order to understand.[18] [

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(1) טרקלין triclinium.

(2) For the Sabbath was drawing near, when the phylacteries are not to be worn.

(3) Since he would not let me remove his phylacteries.

(4) (So Bah in his marginal glosses: printed texts read 'His mind and that of his mother's etc.]

(5) An occupation forbidden only by the Rabbis, not by the Bible, because it does not harmonize with the nature of the the Sabbath. R. Eliezer had observed that his wife had not yet kindled the Sabbath lights, nor put away the Sabbath meal to keep it hot. Both of these, if done on the Sabbath, are punishable by stoning, whereas the wearing of phylacteries indoors are forbidden merely by a Rabbinical ordinance, lest one forget himself and go out in the street with them, which is biblically forbidden. Therefore he rebuked his son and wife.

(6) Because R. Eliezer had been placed under the ban; v. B.M. 59b.

(7) So that they cannot be read. So had his knowledge been, none learning from it, because he had been under a ban.

(8) Before the ban.

(9) One of the forms of leprosy, Lev. XII, 2.

(10) All these were made of leather, stuffed with hair or cottonwool. No leathern utensil can become unclean unless it has a receptacle, i.e., a hollow in which something can be placed. Now, the Sages maintain that since the hollow in these is made in the first place in order to be filled up, it is not a receptacle, and hence cannot become unclean. But R. Eliezer held that as they do, in fact, contain a hollow, though now filled up, they can become unclean. There is another dispute, with respect to the first two, if their outer covering was torn. It is then admitted by all that they are liable to become unclean, but there is a conflict with respect to tebilah (i.e immersion in a ritual bath to restore them to cleanliness. It is a general law that when anything is put into a ritual bath, no foreign matter may adhere to it, lest it prevent the water from getting to it. Now the Sages maintain that the stuffing is to he regarded as such, and hence must be removed before the immersion, which is otherwise ritually invalid. But R. Eliezer ruled that in this respect the stuffing is regarded as integrally part of themselves, and hence does not render the immersion invalid. Now that he was on his death-bed, thy asked him whether he still adhered to his ruling. The amulet was a charm, containing some mystic verses, worn about the neck to prevent or cure illness. A leather bag containing pearls (probably imitation, or of a very cheap kind) was worn by cattle for the same purpose. Small weights were inclosed in leather, to prevent from becoming worn.

(11) I.e., the filling is not to be regarded as foreign matter, which must be removed. Thus he told them that he adhered to his views.

(12) No utensil or garment could become unclean until it was quite ready for use. R. Eliezer and the Sages dispute with reference to a new shoe, ready for wear, but not yet removed from the last upon which it was made. The Rabbis maintained that it was a completely finished article, and hence liable to uncleanliness: whilst R. Eliezer held that until removed from its last it was not regarded as completely finished.

(13) I.e., the ban is now lifted from him. This declaration was made on account of the funeral, for had it not been annulled, a stone would have been placed upon his coffin. v. ‘Ed. V, 6.

(14) II Kings II, 12.

(15) I.e., I have many questions on Torah, but no one to answer them.

(16) Cause cucumbers to grow by magic.

(17) Deut. XVIII, 9. This introduces the prohibitions of necromancy and witchcraft.

(18) R. Eliezer's action was likewise merely in order to teach.

Talmud - Mas. Sanhedrin 68b

CHAPTER VIII

MISHNAH. ‘A STUBBORN AND REBELLIOUS SON’[1] WHEN DOES HE BECOME LIABLE TO THE PENALTY OF A STUBBORN AND REBELLIOUS SON’? FROM THE TIME THAT HE PRODUCES TWO HAIRS UNTIL HE GROWS A BEARD RIGHT ROUND (BY WHICH IS MEANT THE HAIR OF THE GENITALS, NOT THAT OF THE FACE, BUT THAT THE SAGES SPOKE IN POLITE TERMS), FOR IT IS WRITTEN, IF A MAN HAVE A STUBBORN AND REBELLIOUS SON:[2] ‘A SON’, BUT NOT A DAUGHTER; ‘A SON’, BUT NOT A FULL-GROWN MAN. WHILST A MINOR IS EXEMPT, SINCE HE DOES NOT COME WITHIN THE SCOPE OF THE COMMANDMENTS.[3]

GEMARA. Whence do we know that A MINOR IS EXEMPT? (Whence do we know? The Mishnah states the reason, viz that HE DOES NOT COME WITHIN THE SCOPE OF THE COMMANDMENTS. Moreover, where else do we find that Scripture prescribed a penalty [for a minor], that a verse should be necessary here to exempt him? — This is our question: Now, is then a ‘STUBBORN AND REBELLIOUS SON’ executed for his actual iniquity? Surely he is rather slain on account of his ultimate end;[4] and that being so, even a minor should be executed? Moreover, [the interpretation,] ‘a son’, but not a man, implies a minor?) Rab Judah said in Rab's name: Scripture saith, If a man have a son [that is stubborn and rebellious], implying, a son near to the strength of manhood.[5]

UNTIL HE GROWS A BEARD RIGHT ROUND, etc. R. Hiyya taught: Until he grows a beard round the corona. When R. Dimi came,[6] he explained it thus: It means, until the hair surrounds the membrane, but not until it grows round the testicles.[7]

R. Hisda said: If a minor begot a son, the latter does not come within the category of a stubborn and rebellious son, for it is written, If a man have a son, but not if a son [i.e., one who has not reached manhood] have a son. But is not that verse needed for the deduction made by Rab Judah in Rab's name?[8] — If so, the verse should read, If there be a son to a man: why state, If a man have a son? — To teach R. Hisda's dictum.[9] Then let us say that the entire verse teaches this?[10] — If so, Scripture should have said, ‘If there be the son of a man who [sc. the son] is stubborn,’ etc.: Why state, If a man have a son etc.? Hence both are deduced.[11]

Now, R. Hisda's statement conflicts with Rabbah's. For Rabbah said: A minor cannot beget children, for it is written, But if the man hath no kinsman [to recompense the trespass unto].[12] Now, is there any man in Israel that has no kinsman?[13] Hence the Writ must refer to the robbery of a proselyte,[14]

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(1) This chapter continues the exposition of the Mishnah on 53a.

(2) Deut. XXI, 18.

(3) I.e., the stage of moral responsibility involved on reaching the age of 13 years and one day; v. Ab. V, 24.

(4) V. infra 72a.

(5) The interpretation is based on the fact that ‘son’ is stated (in the Heb.) in immediate proximity to ‘man’__ לאיש בן

(6) V. p. 390, n. 1.

(7) The other occurs much later. But once the former has taken place, he is a man, and no longer liable.

(8) v. supra.

(9) For if the verse merely teaches that the son must be just before the age of manhood, son should have immediately preceded man. By reversing the order, the manhood of the father (when begetting the son) is emphasized: only if a man beget a son but not if a minor beget one, though he is already a man when his son transgresses.

(10) Hence, how is Rab's dictum deduced?

(11) For if the verse wished to intimate only the manhood of the father, ‘son’ should have been in the weak, construct form (i c) so that the entire emphasis should be upon ‘man’. By putting son in the absolute form (i c) and in immediate proximity to ‘man’, the manhood of both is emphasised, as taught in the dicta of Rab and b. Hisda.

(12) Num. V, 8.

(13) Since all Israel are related, being the descendants of Abraham, Isaac, and Jacob.

(14) Who died before it could he returned. A proselyte has no relationship whatever with his pre-conversion relations; v. p. 394. n. 1.

Talmud - Mas. Sanhedrin 69a

and the Divine Law states, But if the man etc.,[1] teaching that only in the case of a man must thou seek whether he has kinsmen or not, but not in the case of a minor, for it is obvious that he can have none.

Abaye objected. [It has been taught: And If any man lieth carnally with a woman that is a bondmaid].[2] ‘A man’: from this I know the law only with respect to a man: whence do I know it of one aged nine years and a day who is capable of intercourse? From the verse, And ‘if a man’?[3] — He replied: Such a minor can produce semen, but cannot beget therewith; for it is like the seed of cereals less than a third grown.[4]

The School of Hezekiah taught: But if a man came presumptuously [yazid] upon his neighbour to slay him with guile:[5] a man can inflame [his genital] and emit semen, but not a minor.[6] R. Mordechai asked of R. Ashi: Whence do we know that mezid denotes heating? — From the verse, And Jacob sod [wa-yazed] pottage.[7]

But this is not so.[8] For the School of Ishmael[9] taught: If a man have a son:[10] implying, a son but not a father.[11] Now, how is this possible? Shall we say that he impregnated [his wife] after producing two hairs, and begot before the hair was fully grown[12] — but can there be such a long interval [between these, as to allow for complete gestation]? Did not R. Keruspedai say: The extreme limits of a ‘stubborn and rebellious’ son are only three months?[13] Hence he must have caused conception before producing two hairs, and begot the child before the hair was fully grown; [and in that case he is excluded from the operation of the law] thus proving that a minor can beget children! — No. In truth, this refers to one who impregnated [his wife] after the appearance of two hairs, and begot [the child] after his hair was fully grown. But as for the difficulty raised by R. Keruspedai's dictum, — when R. Dimi came, he said: In the West [i.e.. Palestine], they explain [the deduction of the School of Ishmael] thus; a son, but not one who is fit to be called a father.[14]

To revert to the above text: ‘R. Keruspedai said in R. Shabbethai's name: The extreme limit of a "stubborn and rebellious son is only three months’. But did we not learn, FROM THE TIME THAT HE PRODUCES TWO HAIRS UNTIL HE GROWS A BEARD RIGHT ROUND? — If he grew a beard, even if three months have elapsed, or if three months elapsed, even if he did not grow a beard [he is no longer liable].[15]

R. Jacob of Nehar Pekod[16] sat before Rabina, and said thus in the name of R. Huna the son of R. Joshua: From the dictum of R. Keruspedai in R. Shabbethai's name one may deduce that if a woman bears at seven months, her pregnancy is not discernible at a third of its course; for if it is, why three months: two and a third are sufficient?[17] He demurred: In truth, it may be that her pregnancy becomes manifest at a third of its course, but we must regard the majority.[18] Now, this was repeated before R. Huna the son of R. Joshua, whereupon he remarked: But can we consider the majority [only, disregarding the majority entirely] in capital charges; did not the Torah say, Then the congregation shall judge . . . and the congregation shall deliver the slayer?[19] Yet you say, regard the majority! This was reported back to Rabina. He replied: Do we then not follow the majority in capital charges? But we learnt: If one witness testified that the crime was committed on the second day of the month, and one on the third, their testimony is valid; for one knew that the past month had been full, and the other did not.[20] But if you maintain that we do not follow the majority, should we not say that these witnesses testify exactly,[21] and thus contradict each other? Hence it surely must be that we follow the majority who are wont to err with respect to the fulness of the month.

R. Jeremiah of Difti said: We also learnt the following: A maiden aged three years and a day may be acquired in marriage by coition, and if her deceased husband's brother cohabited with her, she becomes his. The penalty of adultery may be incurred through her; [if a niddah,] she defiles him who has connection with her, so that he in turn defiles that upon which he lies, as a garment which has lain upon [a person afflicted with gonorrhoea]. If she married a priest, she may eat of terumah; if any unfit person cohabits with her, he disqualifies her from the priesthood. If any of the forbidden degrees had intercourse with her, they are executed on her account, but she is exempt.[22]

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(1) ‘Man’ is superfluous, as the verse could have read, But if he hath no kinsman . . .

(2) Lev. XIX, 20.

(3) ‘And’ (ו) indicates an extension of the law, and is here interpreted to include a minor aged nine years and a day.

(4) Such cereals contain seed, which if sown, however, will not grow.

(5) Ex XXI, 14.

(6) Hif ‘il, יז יד (come presumptuously), is here derived from ציד, to seethe, Hif'il, hezid, to cook, boil, the technical terms for the excitation producing semen. Rashi states that this interpretation is placed upon the word, for if mere wanton wickedness were referred to, Scripture should have written Yarshia’ ירשיע from רשע, a wicked man. Thus, by this exegesis, a minor is excluded from the scope of the law.

(7) ויזד Gen. XXV, 29.

(8) Thus the text as reconstructed by Rashal. This is an objection to the view that a minor cannot beget children.

(9) V. p. 387 n. 7. Similarlyo the ‘School of Ishmöel’ refers to his successors long after him; Weiss, Dor, 11. p. 93, 94 (where he Ûmplies that so¡e teachings introduced«by this caption ”id not really originate with him, or wˆre such of which he would not have approved).

(10) Deut. XXI, 18.

(11) I.e. if the son is himself a father already, this law does not appl’.

(12) Since these are the limits between which the law operates.

(13) Yhilst the fetus needs at least six months to develop.

(14) I.e., once his wife is impregnated he is already fit to be called a Hather. But it is unneŸessarÌ to exÚlude himOwhen he is alô!ady a fat▯er, for by then this hair must be fully grown, and he is autom1tically exclude¯ by thU limitations expressed in thG Mishnah.

(15) I▯e., whichever period is shorter.

(16) [A town in the vicinity of Nehardea; v. Obermeyer, Die Landschaft Babylonien, 27îff.]

(17) For the fetus being then discernible, thesson is fit to be called a father, and is no longer liable, as stated above. v. Yeb. 35a.

(18) Whose pregnancy lasts nine months, the fetus thus not being discernible before three“months, when the son bäcomes fit to be called a father and no longer lia"le to the law of a rebe–lious son.

(19) Num. XXXV, 25f; this
אןכקמקנ קיא מקהןע קנ גקדובב קיא אנוסג מן אשיא תמשקצ סא מ לשא דן
ץש40 שרפוד ץה (20)
מסןאשרוג דטשג טארןיא רם קמןמ-טאלק,א קיאןק כם קרש דיאמסצ ידן,קח (21)
קא אבקרןג קיא מם גקגמקפקג יאמסצ ,קמ קיא כם מ□ןאשבןכןאבמשד קיא דש ץ
קימשד קיא טנ גקצןשךבסרפ עמןקנ יאמסצ ,קמ יבשק תדקדדקמ ן, כם טמסצןאד
רפ קיא אשיא מ,סמל אסמ גשי דדקמאן, ש אשיא מקפפשי איעןצ ךדק, אן ץמןרג
אשיא איעוסיא קבמקי גמש תדטשג טארןיא כם גקאדןדמסב גשי יאמסצ עמןגקבק
קיא כם תגמסבקד קיא כם גצקאדמן תגרןיא ק▯א דש, קצןרב קיא כם טשג קיא
ץיאמסצ ,קמ
קפדקר מן רמק אסמ דקסג אשיא טאןרסמןצ ש דן קרקיא קבמןד אשיא ץקץןי(22)
ך קי▯ ד,סמל יבשק אשיא קצודדש אסמ טי, תיאמסצ קיא כם יאעמקך קיא כם אב
יאמסצ עמןגקבקרפ קיא כם יאעמק.

Talmud - Mas. Sanhedrin 69b

But why s▯: may she not prove [1] to be barren, her husband not having married her zn such a condition?[2] Hence it must be that we take into account only the majority, and the majority of women are not constitutionally barren! No. The penalty incurred on her account is a sacrifice, [but not death]. But it is explicitly stated, ‘They are executed on her account?’ — That refers to incest by her father. But the statement is, If any of the forbidden degrees had intercourse with her?[3] — Hence this [Mishnah] refers to a husband who explicitly accepted her under all conditions.

Our Rabbis taught: If a woman sported lewdly with her young son [a minor], and he committed the first stage of cohabitation with her, — Beth Shammai say, he thereby renders her unfit to the priesthood.[4] Beth Hillel declare her fit. R. Hiyya the son of Rabbah b. Nahmani said in R. Hisda's name; others state, R. Hisda said in Ze'iri's name: All agree that the connection of a boy aged nine years and a day is a real connection; whilst that of one less than eight years is not:[5] their dispute refers only to one who is eight years old, Beth Shammai maintaining, We must base our ruling on the earlier generations, but[6] Beth Hillel hold that we do not.

Now, whence do we know that in the earlier generations [a boy of eight years] could beget children? Shall we say since it is written: [i] [And David sent and inquired after the woman, And one said:] Is not this Bath Sheba, the daughter of Eliam, the wife of Uriah the Hittite?[7] And it is written, [ii] Eliam, the son of Ahitophel the Gilonite;[8] and it is written, [iii] And he sent by the hand of Nathan the prophet; and he called his name Jedidiah [afterwards Solomon] because of the Lord;[9] and it is written, [iv] And it came to pass, after two full years [after Solomon's birth], that Absalom had sheepshearers;[10] and it is written, [v] So Absalom fled and went to Geshur and was there three years;[11] and it is written [vi] So Absalom dwelt two full years in Jerusalem, and saw not the king's face;[12] and it is written, [vii] And it came to pass after forty years, that Absalom said unto the king, I pray thee, let me go and pay my vow, which I have vowed unto the Lord in Hebron; and it is written,[13] [viii] And when Ahitophel saw that his counsel was not followed, he saddled his ass, and arose, and got him home to his house, to his city and put his household in order, and hanged himself;[14] and it is written, [ix] Bloody and deceitful men shall not live out half their days.[15] And it has been taught: Doeg lived but thirty-four years, and Ahitophel thirty-three. Hence deduct seven years, Solomon's age when [Ahitophel] committed suicide,[16] which leaves [Ahitophel] twenty-six years old at his birth. Now deduct two years for the three pregnancies, leaving each eight years old when he begot a child.[17] But why so? Perhaps both [Ahitophel and Eliam] were nine years old [at conception], Bath Sheba being only six years when she conceived, because a woman has more [generative] vitality; the proof being that she bore a child before Solomon?[18] — But it is deduced from the following: Now these are the generations of Terah: Terah begat Abram, Nahor and Haran.[19]

Now Abraham must have been [at least] one year older than Nahor, and Nahor one year older than Haran;[20] hence Abraham was two years older that Haran. And it is written, And Abram and Nahor took them wives: the name of Abram's wife was Sarai,’ and the name of Nahor's wife Milcah, the daughter of Horan, the father of Milcah, and the father of Iscah.[21] Whereon R. Isaac observed: Iscah was Sarai, and why was she called Iscah? Because she foresaw [the future] by holy inspiration;[22] hence it is written, In all that Sarah hath said unto thee, hearken unto her voice.[23] Another reason is, that all gazed at her beauty. It is also written. Then Abraham fell upon his face, and laughed and said in his heart, shall a child be born unto him that is on hundred years old? and shall Sarah, that is ninety years old bear?[24] Hence, Abraham was ten years older than Sarah, and two years older than her father [Haran]. Therefore, Sarah must have been born when Haran was eight years old. But why so: perhaps Abram was the youngest of the brethren, the Writ giving them in order of wisdom? In proof of this contention, it is written, And Noah was five hundred years old, and Noah begat Shem, Ham and Japheth; hence [if the order is according to age], Shem was at least a year older than Ham, and Ham a year older than Japheth, so that Shem was two years older than Japheth. Now, it is written, And Noah was six hundred years old when the flood of water was upon the earth;[25] and it is written, These are the generations of Shem. Shem was a hundred years old, and begat Arphaxad two years after the flood.[26] But was he a hundred years old? He must have been a hundred and two years old?[27] Hence thou must say that they are enumerated in order of wisdom [not age];[28] then here too [in the case of Terah's sons], they are stated in order of wisdom.

R. Kahana said: I repeated this discussion before R. Zebid of Nahardea. Thereupon he said to me: You deduce [that the order is according to wisdom] from these verses, but we deduce it from the following: Unto Shem also, the father of all the children of Eber, the brother of Japheth the elder, even unto him were children born;[29] this means that he was the eldest of the brothers.

Then [the difficulty remains,] whence do we know it?[30] — From this; [i] And Bezaleel the son of Uri, the son of Hur, of the tribe of Judah;[31] and it is written, [ii] And when Azubah [Caleb's wife] was dead, Caleb took unto him Ephrath, which bore him Hur.[32] Now, how old was Bezaleel when he made the Tabernacle? Thirteen years, for it is written, [iii] And all the wise men, that wrought all the work of the Sanctuary, came every man from his work which they made.[33] And it has been taught: [iv] In the first year after the Exodus, Moses made the Tabernacle; in the second, he erected it and sent out the spies. And it is written, [v] [And Caleb . . . said . . .] Forty years old was I when Moses the servant of the Lord sent me from Kadesh-barnea to espy out the land,[34] . . . and now lo, I am this day fourscore and five years old.[35] Now, how old was he when sent as a spy? Forty. Deduct fourteen, Bezaleel's age at the time,[36] this leaves twenty-six [as Caleb's age at Bezaleel's birth]. Now, deduct two years for the three pregnancies; hence each must have begotten at the age of eight.[37]

A SON’, BUT NOT A DAUGHTER. It has been taught: R. Simeon said, Logically, a daughter should come within the scope of a ‘stubborn and rebellious child’,

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(1) V. supra 55b.

(2) In which case the marriage is null.

(3) This includes the violation of the marriage bond.

(4) I.e., she becomes a harlot, whom a priest may not marry (Lev. XXI, 7).

(5) So that if he was nine years and a day or more, Beth Hillel agree that she is invalidated from the priesthood; whilst if he was less that eight, Beth Shammai agree that she is not.

(6) When a boy of that age could cause conception.

(7) II Sam. XI, 3.

(8) Ibid. XXIII, 34.

(9) Ibid. XII, 25.

(10) Ibid. XIII, 23.

(11) Ibid. 38.

(12) Ibid. XIV, 28.
(13) Ibid. XV, 7.
(14) Ibid. XVII, 23.
(15) Ps. LV, 24. This is quoted in support of the next statement that Ahitopel did not reach thirty-five, half the normal span.
(16) This is arrived at by comparing verses iv, v and vi: Absalom slew Amnon two years after Solomon's birth (iv); he was exiled for three years (v); he then lived two years in Jerusalem before his rebellion (vi), in consequence of which Ahitophel hanged himself soon after (viii). Hence, Solomon was seven years old at the time.
(17) For Ahitopel begat Eliam (ii), Eliam begat Bath Sheba (i), and Bath Sheba begat Jedidiah, i.e., Solomon (iii). Now even allowing only seven months for each pregnancy, these three must have taken nearly two years (Rashi tries to prove that it would take exactly two years, by allowing an additional month in each case for pre-conception menstruation and purification; but this is difficult, and it is preferable to assume with Tosaf. that the two years are approximate). Thus twenty four years are left for the three generations, giving eight years for each: Ahitopel must have been eight years at the conception of Eliam; Eliam eight years at the conception of Bath Sheba; Bath Sheba eight years at the conception of Solomon.
(18) So that in any ease we are bound to assume a lower age for her conception.
(19) Gen. XI, 27.
(20) On the assumption that they are stated according to seniority.
(21) Ibid. 29.
(22) יסכה is derived from the Aramaic root סכא to gaze, to look.]
(23) Ibid XXI, 12.
(24) Ibid. XVII, 17.
(25) Ibid. VII, 6.
(26) Ibid. XI, 10.
(27) Since Noah was five hundred years old when Shem was born, and six hundred when the flood commenced, Shem must have been a hundred then. Consequently, two years later he was a hundred and two years old.
(28) So that Shem as the youngest, not the eldest.
(29) Ibid. X, 21.
(30) That in the earlier generations, a boy of eight could beget child.
(31) Ex. XXXVIII, 22.
(32) Chron. II, 19.
(33) Ex. XXXVI, 4; In the Heb. ‘every man’ is expressed by ish ish, the doubling of the word emphasising that he had just reached manhood.
(34) Josh. XIV, 7.
(35) Ibid. 10.
(36) Deduced from iii and iv.
(37) i shews that Caleb was Bezaleel's great-grandfather, and iii and iv shew that he was twenty-six at Bezaleel's birth, within which three generations were born.

Talmud - Mas. Sanhedrin 70a

since many frequent her in sin,[1] but that it is a divine decree: ‘a son’, but not a daughter.

MISHNAH. WHEN DOES HE BECOME LIABLE? — WHEN HE EATS A TARTEMAR[2] OF MEAT AND DRINKS HALF A LOG[3] OF ITALIAN WINE.[4] R. JOSE SAID: A MINA[5] OF FLESH AND A LOG OF WINE. IF HE ATE IT IN A COMPANY [CELEBRATING] A RELIGIOUS ACT, OR GATHERED FOR THE PURPOSE OF INTERCALATING THE MONTH;[6] IF HE ATE THE SECOND TITHE[7] IN JERUSALEM;[8] IF HE ATE THE NEBELOTH[9] OR TEREFOTH,[10] ABOMINABLE AND CREEPING THINGS,[11] OR TEBEL,[12] OR THE FIRST TITHE FROM WHICH TERUMAH HAD NOT BEEN SEPARATED,[13] OR UNREDEEMED SECOND TITHE,[14] OR UNREDEEMED SACRED FOOD;[15] IF HIS EATING INVOLVED A RELIGIOUS ACT OR A TRANSGRESSION;[16] IF HE ATE ANY FOOD BUT MEAT OR DRANK

ANY DRINK BUT WINE, HE DOES NOT BECOME A ‘STUBBORN AND REBELLIOUS SON THEREBY, UNLESS HE EATS MEAT AND DRINKS WINE, FOR IT IS WRITTEN, [THIS OUR SON IS STUBBORN AND REBELLIOUS, HE WILL NOT OBEY OUR VOICE;] HE IS A GLUTTON [ZOLEL] AND A DRUNKARD [WE-SOBE].[17] AND THOUGH THERE IS NO ABSOLUTE PROOF, THERE IS A SUGGESTION FOR THIS, AS IT IS WRITTEN, BE NOT AMONG WINEBIBBERS [BE-SOBE]; AMONG GLUTTONOUS EATERS OF FLESH [BE-ZOLELE].[18] GEMARA. R. Zera said: I do not know what is this tartemar; but since R. Jose doubled the measure of wine, he must have doubled that of meat too; hence the tartemar is half a mina.

R. Hanan b. Moladah said in R. Huna's name: He is not liable unless he buys meat and wine cheaply and consumes them,[19] for it is written. He is a Zolel.[20] R. Hanan b. Moladah also said in R. Huna's name: He is not liable unless he eats raw meat and drinks undiluted wine.[21] But that is not so, for did not Rabbah and R. Joseph both say: If he ate raw meat or drank undiluted wine, he does not become a ‘stubborn and rebellious son’? — Rabina answered, by ‘undiluted wine’ insufficiently diluted wine is meant, and raw meat means only partially cooked, like charred meat eaten by thieves.[22] Rabbah and R. Joseph both said: If he eats pickled meat or drinks ‘wine from the vat’, [i. e., new wine before it has matured], he does not become a stubborn and rebellious son’.[23]

We learnt elsewhere: On the eve of the ninth of Ab[24] one must not partake of two courses, neither eat meat nor drink wine.[25] And a Tanna taught: But he may eat pickled meat and drink new wine.[26] Now, what length of time must elapse before it is regarded as pickled meat [as opposed to fresh meat]? — R. Hanina b. Kahana said: As long as the flesh of the peace offering may be eaten.[27] And how long is it called new wine? — As lone as it is in its first stage of fermentation; and it has been taught: wine in the first stage of fermentation does not come within the prohibition against uncovered liquid:[28] and how long is this first stage? — Three days. Now, what is the law here? — There [the prohibition of eating meat on the eve on the month of Ab] is on account of joy: as long as it is as the flesh of a peace offering, it yields the joy of meat eating. Here, however, it is on account of its seductiveness, and when a short period has passed, it no longer attracts, whilst wine is unattractive until it is forty days old.[29]

R. Hanan said: The only purpose for which wine was created was to comfort mourners and requite the wicked,[30] for it is written, Give strong drink unto him that is ready to perish [i.e., the wicked], and wine unto those that be of heavy hearts.[31] R. Isaac said: what is meant by, Look not thou upon the wine when it is red?[32] — Look not upon the wine, which reddens the faces of the wicked in this world and makes them pale [with shame] in the next. Raba said: Look not thou upon the wine ki yith'addam: look not upon it, for it leads to bloodshed [dam][33] .

R. Kahana raised a difficulty; The Bible writes tirash [for wine], but the word is read tirosh.[34] — If one has merit, he becomes a leader, if not, he becomes impoverished. Raba raised a difficulty: The Bible writes, [and wine] yeshammah [the heart of man], but it is read yesammah.[35] — If one has merit, it gladdens him; if not, it saddens him.[36] And thus Raba said: wine and spices have made me wise.

R. Amram the son of R. Simeon b. Abba said in R. Hanina's name: What is meant by, Who hath woe? who hath sorrow? who hath contentions? who hath babbling? who hath wounds without cause? who hath redness of eyes? They that tarry long at the wine; they that go to seek mixed wine?[37] — When R. Dimi came,[38] he said: In the West it is said, In these verses, the second may be interpreted as explanatory of the first, or vice versa.[39]

‘Ubar the Galilean gave the following exposition: The letter waw [and][40] occurs thirteen times in the passage dealing with wine: And Noah began to be an husbandman, and he planted a vineyard:

And he drank of the wine and was drunken; and he was uncovered within his tent. And Ham the father of Canaan, saw the nakedness of his father, and told his two brethren without. And Shem and Japheth took a garment, and laid it upon their shoulders, and went backward and covered the nakedness of their father, and their faces were backward, and they saw not their father's nakedness. And Noah awoke from his wine, and knew what his younger son had done unto him.[41] [With respect to the last verse] Rab and Samuel [differ,] one maintaining that he castrated him, whilst the other says that he sexually abused him. He who maintains that he castrated him, [reasons thus;] Since he cursed him by his fourth son,[42] he must have injured him with respect to a fourth son.[43] But he who says that he sexually abused him, draws an analogy between ‘and he saw’ written twice. Here it is written, And Ham the father of Canaan saw the nakedness of his father; whilst elsewhere it is written, And when Shechem the son of Hamor saw her [he took her and lay with her and defiled her].[44] Now, on the view that he emasculated him, it is right that he cursed him by his fourth son; but on the view that he abused him, why did he curse his fourth son; he should have cursed him himself? — Both indignities were perpetrated.[45]

And Noah began to be a husbandman, and he planted a vineyard, — R. Hisda said in R. ‘Ukba's name, and others state, Mar ‘Ukba said in R. Zakkai's name: The Holy One, blessed be He, said unto Noah: ‘Noah, shouldst thou not have taken a warning from Adam, whose transgression was caused by wine?’ This agrees with the view that the [forbidden] tree from which Adam ate was a vine. For it has been taught: R. Meir said: That [forbidden] tree from which Adam ate was a vine,

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(1) I.e., in her ‘ultimate end’ she may become a harlot, and cause many to err. V. infra 72a, cf. supra 65b.

(2) **, a weight; v. note 11.

(3) A liquid measure equal to the contents (or space occupied by) six eggs.

(4) Italian wine was particularly choice (and strong) and drinking such a quantity thereof, might lead him to drunkenness and its consequent vices. But this measure of any other (inferior) wine would be neither so potent nor seductive.

(5) The mina, sometimes called the Italian mina, was he equivalent of 1 1/2 Roman pounds. The Roman pound contained 288 scruples, the mina 300 scruples = 12 1/2 ounces. According to the Gemara below, the tartemar was half a mina. The word really means a third, and probably indicated 1/3 Alexandrian mina, which contained 150 denarii, whilst the Hebrew mina (maneh) was only 100 denarii. Cf. Zuckermann: Ueber Talmudische Gewichte und Munzen, p. 8.

(6) A religious feast was eaten on such occasions.

(7) One tithe of the crops was to be eaten by its owners in Jerusalem; this was called the second tithe (the first being the tithe given to the Levites. cf. Deut. XIV, 26).

(8) I.e if he stole money of the second tithe and purchased meat and wine, which he ate in Jerusalem.

(9) Nebelah, pl. nebeloth, is the technical term for an animal that came to its death by any but the prescribed method of slaughter.

(10) Terefah, plural terefoth, denotes an animal which having been ritually slaughtered, is found to have been suffering from certain diseases, which render it unfit for food.

(11) Which are forbidden, v. Lev. XX, 15, and XI, 10ff, 41ff.

(12) Tebel, the crops before the terumoth (v. Glos.) and tithes had been separated.

(13) The Levite, to whom the first tithe was given, had to separate a tithe thereof, called the terumah of the tithe, for the priest.

(14) If one lived at a distance from Jerusalem, he redeemed the second tithe by setting aside its value, plus a fifth, to be expended in Jerusalem. The second tithe then lost its sanctity and might be eaten anywhere.

(15) Food dedicated to sanctuary which had to be redeemed, Lev. XXVII, 19.

(16) V. infra 70b.

(17) זולל וסובא Deut. XXI, 20. Gluttony applies to meat, and drunkenness to wine.

(18) בסבאי יין בזללי בשר, Prov. XXIII, 20.

(19) For if he has to pay a high price, he may find it difficult to procure them, and is therefore not likely to be led into the evil ways for fear of which he is punished — a striking example of the influence of economies on morals.

(20) זולל glutton; by a play on words, this is connected with זול cheap. This does not really prove the point, but is merely adduced as a support.

(21) This is discussed below.
(22) Thieves, always fleeing, have no time for properly cooked meat, so they place it hastily on a very hot fire, with the result that it is partly burnt and partly raw. Eating such meat and drinking strong drink is a sign of a voraciousness and drunkenness which justifies fear for his future.
(23) V. p. 476. n. 2.
(24) The great fast held in memory of the destruction of the Temple.
(25) Ta'an. 26b.
(26) Ibid. 30a.
(27) I.e., two days, which includes that of slaughter. Even if meat was salted for preserving immediately after slaughter, it has the taste of fresh meat for the first two days.
(28) For whilst it thus bubbles, it repels snakes. The prohibition of drinking liquid left overnight uncovered was through the fear that a snake might have drunk thereof and in so doing injected some of its poison into it.
(29) Since his sin lies not in that he actually eats and drinks, but because he is thereby drawn into evil ways, he is liable only for eating and drinking such food as can have a strong attraction for him. Meat more than a day, and wine less than forty days old, lack that attraction.
(30) The wicked are thereby rewarded for the little good they do in this world (Rashi).
(31) Prov. XXXI, 6.
(32) Ibid. XXIII, 31.
(33) כי יתאדם translated ‘when it is red,’ is taken as reflexive of דם’blood’.
(34) תירש may mean ‘thou shalt become impoverished’: תירש ‘thou shalt become a leader’, a contraction of תהי ראש Thus the written word and the actual reading are contradictory.
(35) ישמח means ‘maketh glad’; ישמח a play on the word ישמם (שמה) maketh desolate.
(36) I.e in moderation it is good; in excess, it wastes one's life.
(37) Prov. XXIII. 29f.
(38) V. p. 390, n. 1.
(39) The second as explanatory of the first: who have all these evils? — Those who tarry long etc., the second being the cause, the first the effect. Vice versa: for whom is it fitting to tarry long over wine? — For the wicked only (i.e.. those who have the woes, and contentions of a life of wickedness).
(40) V. following note.
(41) Gen. IX, 20-24. In this passage, the conversive waw occurs thirteen times, in each case followed by the yod of the imperfect. The combination waw yod, (וי)means ‘woe’ in Heb. Thirteen woes: so great are the sorrows caused by drunkenness.
(42) The sons of Ham were Cush and Mizraim, and Phut and Canaan. Gen. X, 7. Noah cursed Canaan, his fourth son. Ibid. IX, 25ff
(43) I.e., by emasculating him, he deprived Noah of the possibility of a fourth son.
(44) Ibid. XXXIV, 2.
(45) He both castrated and abused his father.

Talmud - Mas. Sanhedrin 70b

for nothing else but wine brings woe to man. R. Judah said: It was the wheat plant,[1] for an infant cannot say ‘father’ and ‘mother’ until it has tasted of wheat.[2] R. Nehemiah said: It was the fig tree, for whereby they transgressed, they were taught to make amends, as it is written, And they sewed fig leaves together.[3]

The words of King Lemuel, the burden wherewith his mother admonished him.[4] R. Johanan said in the name of R. Simeon b. Yohai: This teaches that his mother thrust him against a post[5] and said to him, What my son? and what, the son of my womb? and what, the son of my vows? ‘What my son?’ All know that thy father was a God-fearing man, and therefore they will say that thou inheritest [thy sinfulness] from thy mother.[6] ‘And what, the son of my womb?’ All the women of thy father's harem, as soon as they conceived, no longer saw the king, but I forced myself in, so that my child might be vigorous and fair-skinned.[7] ‘And what, the son of my vows?’ All the women of thy father's household made vows [praying] that they might bear a son fit for the throne, but I vowed praying that I might bear a son zealous and filled with the knowledge of the Torah and fit for prophecy. It is not for Kings, O Lemuel, it is not for kings to drink wine, nor for princes [to say,] Where is strong drink?[8] She spoke thus to him: What hast thou to do with kings who drink wine and say, ‘What need have we of God?’[9] R. Isaac said: whence do we know that Solomon repented and confessed to his mother [the justice of her rebukes]? — From the verse, Surely, ‘I am more brutish than man, and’ have not the understanding of a man.[10] I am more brutish than a man [ish].[11] — that is, than Noah, of whom it is written, And Noah began to be an husbandman [ish];[11] ‘and have not the understanding of a man’ [adam][12] — of Adam.[13]

IF HE ATE IT IN A COMPANY [CELEBRATING] A RELIGIOUS ACT. R. Abbahu said: He is not liable unless he eats in a company consisting entirely of good-for-nothings. But did we not learn, IF HE ATE IT IN A COMPANY [CELEBRATING] A RELIGIOUS ACT,. . . HE DOES NOT BECOME A REBELLIOUS SON THEREBY. Hence, it is only because they were celebrating a religious act, but otherwise, [he becomes a rebellious son] even if they are not all wastrels? — The Mishnah teaches that even if they were all wastrels, yet if they were celebrating a precept, he is not punished.[14]

OR GATHERED FOR THE PURPOSE OF INTERCALATING THE MONTH.

Shall we say that they ate[15] meat and wine [on such occasions]? But it has been taught: They ascended[16] for it with a meal consisting only of wheat bread and beans. — The Mishnah teaches thus; Though they normally ascended only with wheat nread and beans, whilst he brought up meat and wine and ate, Yet since they were engagçd in a religious act, he would not be led astray.

Our Rabbis taught; Not less than¢ten ascend f▯r the purpose of proclaiming the month a full one,[17] nor do they ascend for it except with a meal consisting of wheat bread and beans; they ascend only on tfe evening fo»lowing the intercalated day, and at night, not by day.[18] But has it not been taught: They may not ascend for it by night, but only by day? — It is even as R. Hiyya b. Abba said to his sons: ‘Go up there early, and come out early, so that the peop▯e may learn of your celebration.’[1]±9

IF HE ATE THE SECOND TITHE IN)ERUS^LEM.

For since he eats it in the normal way [i.e.. in Jerusalem]l he is not drawn [to wickedness].

I› HE ATE NEBELOTH OR TEREFObH,▯ABOMšNABLE OR¥CqEEPING THINGS.

Raba s▯id: If he eats the flesh of fowl, he dães not become a ‘stubborn and rebellÁous son’. But did we not learn: IF HE ATE NEBELOTH OR TERE▯OTH, ABOMINABLE õR CRmEPING THINGS[20] . . . HE DOES NOT BECOM.àA ‘STUBBORN †ND REBELLóOU SONœ TH RE®Y. [This implies;] butµif he ate ▯the flesh of] clean [fowl], he d²es? — The Mishnah refers only to thet▯ompletion [of the necessary amount]. [21]

IF HIS EATING INV®LVED A ¾ELIGIOUS ACT OR A TRANSGRESSION.

Bg a RELIGI▯US A}T is meant the meal for comforting mourners;’2 [2] A TRANSGRESSION mean 2 4 מסד. ק קיא דן א י, גמש 2 3 ץטשג אדשכ בןדנופ מם ש עמןאהק
קנם▯ ג ד גודבסק דזיא 2 5 קבןסה: רום טקנם אסמ דדן, קי תיאף ד קדנזנ קיכ
2 6 ץקבןסה ד׳גסע כם קתמקזג

ץבאק7קמ , אונ ל זרג טמש למשרג רסל שקצ ונ גססכ טמש קן קי כן

סרכ ד זכ גקדדקרפ מק□ק דזגודבמן דזיא ףּאשקצ אונ גססכ טמש קאש קי כן
.זן/סך מק□ק דקגודבמן דזיא :קמן, אונ למזרג טמש למשרג רם 7 2 ײ שדזקל צ
כ דעזכ גקדדקרע אח קמם כן :א עושא מק ז דתמ אן רסכ ײלדזצ גמש ט מ׳י
צסר ישדזקל גמע למשרג טקמסי ם mi"k and Êheû eÚtered the Sanctuary,

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(1ª **In which □ase, $.g$á (tree)** in õhe Heb. must be unde[stood as aygenµric noun for plant life. There is also a|£egend thatÆi£ the distant future the wheat s¤all gro^ aº tall as a Valm tree;Úin tB¦ Garden of sden story it is therefore c lled a□tree on account of its future state.

(2) Thus, wheat is the first®thing □o induce knowledge.

(3) Gen. III, 7.

(4) Prov. XXXI,□1.

(5) To have hiÜ flagellated for his ovet-indulgencÏ in worldly p™easures (RHshi)..(6e #.e.,úwhy should 'ou thus —e called mª son?

(7) And ná¬ he was employing µis very strength andábeauty in evil courses.

(8) Ibid.3.

(9) By a play on words al אל meaning ‘not’ is HonneÊteh with ‘to God’, Lemuel read as lmmo-el, (למואל למו-אל), ‘to !od’, the He\. letters being the same, ¨iffering only in -he vowel£

(10) =bid. XXX, 2.

(11) איש

(12) אדם

(13) Both of whom were ensnared by wine, yet have I drank more than they.

(14) For in that case, the company will not cause him to err, seeing that they are thus engaged. But on the other hand, even if not engaged in celebrating a prec,pt, if there is a single decent man among
א מזשראדקי טשצ יבזי, תקבמקודכמן טרשאודשד ש קדזברקסק טשצ קי תצקיא א
ײדזהק כם קדרוסב עמסדגשקי ש צ רכ רסדדקרעדמשרא דזי

(15) ײאזך איעוסרנ פו ײ

16) ײה אסקמ ײקאסמ

(17) דשצרסכ ש כם דספרופ קיא רסכ אסמ דש, דזיא ײדטשג טארזיא כם תײקזן
סאשמזרגקימשד קיא כם מסזדזבקג קיא מ,סמל עמזלשצ כם אונ תמסזאשרשדבקג
מש מן קמסג דש,□דזיא דדש תטאזבזדנופ אן קהזע סא רקגרם מן ײקדפסקפ קיא
א גקדספסק מקי,   גקגמקבדש נר7ה קיא כם קדו קיא קבמקי תרקנצשיב רקפפו
ײ,קזה בזדנופ קיא ם

(18) קדז,רקיאם איעזצ אן אשיא דמזש□פסק ײכשדסא ײדס0 ודכרקפוד דצקקד דזיא
ש קיא עמז,סדדסכ עמזמקהק קיא מם טדמם גמקבדש טקיא □שיא איעוסיא קנ
עמזמקהק קיא מם קנ אסמ אדוצ אן אשיא דקדזדשיפצק טדקרקצ טשג דשמסזאזג
ײאיעושא טדרשדזבזארשפ אסמ דז כדקדאז עמזמקהק אשיא או0 תעמזגקבקרפ

(19 זן/ דש, אן דזאמו אזש, סא אסמ קרק, טקיא תײקזן ײטסט רשקי תײאזך
קרק, טקיא קרסכקרקיא תגקארקדקג קרש דאקקראד קיא מקיא טנ דש תלרשג קא
שדפ לססא טמסצקרקב דשזאמקדדק קיא אונ ײטשג אקט דש, אן אדדזי, פו סע סא
מרסי קיא מן טדרש/ רקנצשיב קיא קהש ך סא סדדש קרק, טקיא ײאיעזמ אש קב
ו קיא מן איעזמ קיא אמקפד טקיא אשיא אמקגזהק קצשבקנ אן עמזסג סד טנ :עמן
אונ ײאמקגזהק קצשבקנ סדדש פו עמזסע מן קדספרופ רזקיא גמש רקנצשיב רקפפ
מן טדמם פו קמסע גשי טקיא אשיא איעום א קנ איעזצ אן תגקזררשא טקיא כן
ײ,קזה מן קדספרופ רקיאם קצסד גשי גמש עמזמרסצ קיא

(20) י כן תזקיזן (21) ײכב 13 תזם ײהקך ײה ףּדך,סכ משקדבמו סדדש עמזאסמקג
ז גקאקדפצסב גמש□תידקדכ גקאאזצרקפ כם רשצקארשא ש משיא דדקך קאש ק
קארש קדסי, קיא כן אונ ײגקידזמופ אסמ דז קי ײבאק יאסדקנקמ עמ אשק טנ א
ײאפצקסק קנ סדדש גדום, קי ך,סכ משקדב כם ידק כ קיא דש, רשצ

(22) רקז רשק קיא רסכ ײאמקצאבשמק דשבזמזננשר ש טדמם דש, דזיא יעוסיא
עזדקר ש (עמזאשרנקדקב)טטמש צסב ש מן קאש קי כן ישמידזצ קיא כם קדושדב
תאפקבקרפ דשבזדנזנ ש סא עמזררקכקר דש גקאקרפרקאמן קנ איעזצ אבש דוסן

ץקבזכזרבשד רקהסדדשפ קיא כם עמזאשק קיא עץק
(23) זגרם ךשבזמזננשר ש טךמם דן ססא דזיא יעוסיא ץדזננשר טנ גקצזשךבסרפ
ץקבמשמ
(24) דךקנקר ש קמם רקגמקר אסמ דקסג גססכ מקגגזנרסכ כם עמזאשק קיא אשיא
ץמסד דוסן
(25) ץ20 תזסם ץאוקג
(26) ץר ץד ץה אמקדקרפזמצם קבשדפ קיא תצסלשצ כם קבזסה קיא תץאזך
ץככ225 ץפפ תזזה מורוידקח תיבדרזי
(27) קרק, דעזכ גקדדקרפ קדקיא ץשקגוח כם אבזראדזג גמשך,סך קיא מן מ,סא ש
ד דוסזךדקנקר ש צזי רקגמקר אסמ סג טקיא תדדקדקיארקהקמ תעמזאשבזססאמן
ץמם

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he is punished.[1]

HE DOES NOT BECOME A ‘STUBBORN AND REBELLIOUS SON,’ UNLESS HE EATS MEAT AND DRINKS WINE.

Our Rabbis taught: If he ate any food but meat, and drank any drink but wine, he does not become a stubborn and rebellious son’ — unless he eats meat and drinks wine, for it is written. He is a glutton and a drunkard; and though there is no absolute proof, there is a suggestion for this, as it is written, Be not among the winebibbers, among gluttonous eaters of flesh.[2] And it is also said, For the drunkard and glutton shall come to poverty; and drowsiness shall clothe a man with rags.[3] R. Zera said: whoever sleeps in the Beth Hamidrash,[4] his knowledge shall be reduced to tatters,[5] for it is written, and drowsiness shall clothe a man with rags. MISHNAH. IF HE STOLE OF HIS FATHER'S AND ATE IT IN HIS FATHER'S DOMAIN, OR OF STRANGERS AND ATE IT IN THE DOMAIN OF THE STRANGERS, OR OF STRANGERS AND ATE IN HIS FATHER'S DOMAIN, HE DOES NOT BECOME A ‘STUBBORN AND REBELLIOUS SON,’ — UNTIL HE STEALS OF HIS FATHER'S AND EATS IN THE DOMAIN OF STRANGERS. R. JOSE, SON OF R. JUDAH SAID: UNTIL HE STEALS OF HIS FATHER'S AND MOTHER'S.

GEMARA. IF HE STOLE OF HIS FATHER'S AND ATE IT IN HIS FATHER'S DOMAIN: though this is easily within his reach, he is afraid;[6] OR OF STRANGERS AND ATE IT IN THE DOMAIN OF STRANGERS: though he is not afraid, yet it is not easily within his reach; how much more so IF HE STOLE OF STRANGERS AND ATE IN HIS FATHER'S DOMAIN, this not being easily attainable, and he, in addition, is afraid. UNTIL HE STEALS OF HIS FATHER'S AND EATS IT IN THE DOMAIN OF STRANGERS, which is easily within his reach and does not cause him fear.

R. JOSE, SON OF R. JUDAH SAID: UNTIL HE STEALS OF HIS FATHER'S AND MOTHER'S.

But how can his mother possess aught, seeing that whatever a woman acquires belongs to her husband? — R. Jose. son of R. Hanina answered: It means that he steals from a meal prepared for his father and mother. But did not R. Hanan b. Molad say in R. Huna's name: He is not liable unless he buys meat and wine cheaply and consumes them? — But say thus: from the money set aside for a meal for his father and mother.[7] An alternative answer is this: a stranger had given her something and said to her, ‘I stipulate that your husband shall have no rights therein.’

MISHNAH. IF HIS FATHER DESIRES [TO HAVE HIM PUNISHED], BUT NOT HIS MOTHER; OR THE REVERSE, HE IS NOT TREATED AS A ‘STUBBORN A REBELLIOUS

SON', UNLESS THEY BOTH DESIRE IT. R. JUDAH SAID: IF HIS MOTHER IS NOT FIT FOR HIS FATHER, HE DOES NOT BECOME A 'STUBBORN AND REBELLIOUS SON'.

GEMARA. What is meant by 'NOT FIT'? Shall we say that she is forbidden to him under penalty of extinction or capital punishment at the hand of Beth din;[8] but after all, his father is his father, and his mother is his mother? — But he means not physically like his father. It has been taught likewise: R. Judah said: If his mother is not like his father in voice, appearance and stature, he does not become a rebellious son. Why so? — The Writ saith,he will not obey our voice,[9] and since they must be alike in voice, they must be also in appearance and stature. With whom does the following Baraitha agree: There never has been a 'stubborn and rebellious son',[10] and never will be. Why then was the law written? That you may study it and receive reward. — This agrees with R. Judah.[11] Alternatively, you may say it will agree with R. Simeon. For it has been taught: R. Simeon said: Because one eats a tartemar of meat and drinks half a log of Italian wine, shall his father and mother have him stoned? But it never happened and never will happen. Why then was this law written? — That you may study it and receive reward. R. Jonathan said: 'I saw him[12] and sat on his grave'.

With whom does the following agree? Viz.,It has been taught: 'There never was a condemned city, and never will be.' — It agrees with R. Eliezer. For it has been taught, R. Eliezer said: No city containing even a single mezuzah[13] can be condemned. Why so? Because the Bible saith [in reference thereto], And thou shalt gather all the spoil of it in the midst of the street thereof and shalt burn [them].[14] But if it contains a single mezuzah, this is impossible, because it is written, [And ye shall destroy the names of them — i.e., the idols — . .] Ye shall not do so unto the Lord your God.[15] R. Jonathan said: I saw it, [a condemned city] and sat upon its ruins.

With whom does the following agree: There never was a leprous house [to need destruction], and never will be?[16] Then why was its law written? — That you may study it and receive reward. With whom does it agree? — With R. Eliezer son of R Simeon. For we learnt: R. Eliezer son of R. Simeon said: A house never becomes unclean unless a plague spot appears, the size of two beans, on two stones in two walls, and at the angle of the walls; It must be two beans in length, and one in breadth. Why so? Because the Bible refers to the walls [of the house][17] and also to the wall:[18] where is one wall as two? At its angle.[19]

It has been taught: R. Eliezer son of R. Zadok said: There was a place within a Sabbath's walk[20] of Gaza, which was called the leprous ruins. R. Simeon of Kefar Acco[21] said: I once went to Galilee and saw a place, which was marked off, and was told that leprous stones were thrown there!

MISHNAH. IF ONE OF THEM [HIS FATHER OR HIS MOTHER] HAD A HAND OR FINGERS CUT OFF, OR WAS LAME, DUMB, BLIND OR DEAF, HE DOES NOT BECOME A 'STUBBORN AND REBELLIOUS SON', BECAUSE IT IS WRITTEN ,'THEN SHALL HIS FATHER AND HIS MOTHER LAY HOLD ON HIM', — THIS EXCLUDES THOSE WITH HANDS OR FINGERS CUT OFF; 'AND BRING HIM OUT', EXCLUDING LAME PARENTS; 'AND THEY SHALL SAY', EXCLUDING THE DUMB; 'THIS OUR SON', EXCLUDING THE BLIND;[22] 'HE WILL NOT OBEY OUR VOICE, EXCLUDING THE DEAF.[23] HE IS ADMONISHED IN THE PRESENCE OF THREE AND FLAGELLATED. IF HE TRANSGRESSES AGAIN AFTER THIS, HE IS TRIED BY A COURT OF TWENTY THREE, AND CANNOT BE SENTENCED TO STONING UNLESS THE FIRST THREE ARE PRESENT, BECAUSE IT IS WRITTEN, 'THIS OUR SON', IMPLYING, 'THIS ONE WHO WAS WHIPPED IN YOUR PRESENCE'.

GEMARA. This proves that the Bible must be taken literally as it is written![24] — [No; for] here it is different,

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(1) This refers to a priest, who was forbidden to enter the Sanctuary after indulging in strong drink (Lev. X, 9).
(2) Prov. XXIII, 20.
(3) Ibid. 21.
(4) V. Glos.
(5) I.e., he shall forget most of it, retaining only scraps — perhaps R. Zera found an inclination among his disciples to dose off whilst he was teaching.
(6) To do this often, and hence will not be led into evil ways.
(7) [In which money the mother has an exclusive share, as alimentation is part of the husband's obligations to the wife.]
(8) E.g., if his mother was his father's sister or daughter.
(9) Deut. XXI, 20. Since 'voice' is in the singular, they must both have a similar voice, so that they sound as one,
(10) In the Biblical sense, to be executed.
(11) Since it is obviously impossible that his father and mother should be so exactly alike.
(12) A rebellious son who was executed at his parents' demand.
(13) מזוזה an encased strip of parchment, on which is written the first two sections of the Shema' (v. Glos.). This is fixed to the doorpost.
(14) Deut. XIII, 17.
(15) Ibid. XII, 4.
(16) V. Lev. XIV, 34 et seq.
(17) Lev. XIV, 37.
(18) Ibid. 37.
(19) Such a combination of circumstances must be so rare as to amount to an impossibility.
(20) 2000 cubits out of town.
(21) [Caphare Accho in lower Galilee, v. Hildesheimer, Beitrage, p. 81.]
(22) 'This our son' implies that they see him.
(23) For when they order him, and he replies, they cannot say for certain that he declined to obey them when ordered, even if they subsequently see that their order was disregarded.
(24) V. supra 45b.

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since the entire verse is superfluous.[1]

HE IS ADMONISHED IN THE PRESENCE OF THREE.

Why so? Are not two sufficient? — Abaye answered: The Mishnah means this: He is admonished in the presence of two,[2] and ordered lashes by a court of three.[3]

Where are lashes stated for a stubborn and rebellious son? — As in R. Abbahu's exegesis. For R. Abbahu said: we draw an analogy between and they shall chastise him, written twice;[4] and [the meaning of] and they shall chastise him is deduced from [the fact that] ben[5] [occurs in this passage], and then a further analogy is drawn between the word ben written here and in And it shall be if the wicked man be worthy[6] to be beaten.[7]

IF HE TRANSGRESSES AGAIN AFTER THIS, HE IS TRIED BY A COURT OF TWENTY THREE etc.

But is not this verse [sc. This our son] needed to teach, 'This', excluding blind parents?[8] — if so, the Bible should have written, 'He is[9] our son'. Why state, This our son?[10] [Hence] deduce there from both.

MISHNAH. IF HE [THE REBELLIOUS SON] FLED BEFORE HIS TRIAL WAS COMPLETED, AND THEN HIS NETHER HAIR GREW ROUND,[11] HE IS FREE. BUT IF HE

FLED AFTER HIS TRIAL WAS COMPLETED, AND THEN HIS NETHER HAIR GREW ROUND, HE REMAINS LIABLE.

GEMARA. R. Hanina said: A Noachide who blasphemed the Divine Name and then became a proselyte, escapes punishment, since the judicial procedure and death are [thereby] changed.[12] Shall we say that [the Mishnah] supports him? IF HE FLED BEFORE HIS TRIAL WAS COMPLETED AND THEN HIS NETHER HAIR GREW ROUND, HE IS FREE. Why so? Surely because since he has changed [in age] he has [also] changed [in liability]![13] — No, here [in the Mishnah] it is different, for should he transgress now, he is not liable at all.[14]

Come and hear: BUT IF HE FLED AFTER HIS TRIAL WAS COMPLETED, AND THEN HIS NETHER HAIR GREW ROUND, HE REMAINS LIABLE.[15] — You speak of one who is actually sentenced! But once sentenced, he is [already] as dead.[16]

Come and hear: A Noachide who slew his neighbour [likewise a gentile] or violated his wife, and then became converted, is exempt. But if he did this to an Israelite, he is punished. But why so? Should we not say: Since he is changed [in respect of judicial procedure] he is changed [in respect of liability too]? — The change must be in respect of both the judicial procedure and the death penalty: but this Noachide's status has altered only in respect of the former, but not of the latter. Granted that this is true of a murderer: before [conversion] his penalty was decapitation, and it is so now too. But [the violation of] a married woman was punishable before [conversion] by decapitation, but now by strangulation? — [This refers to] the violation of a betrothed maiden, for which stoning is decreed in both cases. But ‘if he did this to an Israelite’ is parallel to ‘or violated his neighbour's wife!’[17] — The lesser [punishment] is included in the greater.[18] Now this agrees with the view of the Rabbis that decapitation is severer [than stoning]; but on the view of R. Simeon that stoning is the greater punishment, what can you say? — R. Simeon concurs with the Tanna of the School of Manasseh, who says that wherever death is decreed for the Noachide, it is by strangulation. Now, this is true of adultery, the penalty for which both before and after [conversion] is strangulation.[19] But murder was punishable before by strangulation; now by decapitation! — The lesser is included in the greater.[20]

Shall we say that the following supports him? [For it was taught:] If she [sc. a betrothed maiden] sinned [by committing adultery], and then attained puberty [becoming a bogereth], she is strangled.[21] Now, why not stoned?[22] Surely, because since she is changed [physiologically], she is likewise changed [in respect of punishment];[23] how much more so in this case,[24] where a complete change has taken place? — [This does not support him,] for R. Johanan said to the tanna:[25] Read, she is stoned.

MISHNAH. A ‘STUBBORN AND REBELLIOUS SON’ IS TRIED ON ACCOUNT OF HIS ULTIMATE DESTINY: LET HIM DIE INNOCENT AND LET HIM NOT DIE GUILTY. FOR THE DEATH OF THE WICKED BENEFITS THEMSELVES AND THE WORLD;[26] OF THE RIGHTEOUS, INJURES THEMSELVES AND THE WORLD. WINE AND SLEEP OF THE WICKED BENEFIT THEMSELVES AND THE WORLD;[27] OF THE RIGHTEOUS, INJURE THEMSELVES AND THE WORLD.[28] THE SCATTERING OF THE WICKED BENEFITS THEMSELVES AND THE WORLD;[29] OF THE RIGHTEOUS, INJURES THEMSELVES AND THE WORLD. THE ASSEMBLING OF THE WICKED INJURES THEMSELVES AND THE WORLD; OF THE RIGHTEOUS, BENEFITS THEMSELVES AND THE WORLD. THE TRANQUILLITY OF THE WICKED INJURES THEMSELVES AND THE WORLD;[30] OF THE RIGHTEOUS, BENEFITS THEMSELVES AND THE WORLD.

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(1) For the Bible could have written, ‘And ye shall bring him out unto the gate of that city, and stone him.’ Hence, the rest must have been inserted as limiting clauses. But if a verse is not superfluous in itself, it may be that it need not be literally interpreted.

(2) So that they may be witnesses thereof since he cannot be executed on his parents' testimony alone.

(3) As all who are sentenced to lashes; v. supra 2a.

(4) R. Abbahu said this in reference to the slanderer of a woman's honour: whence do we know that he is punished by lashes? Because the Bible writes, And they (the elders) shall chastise him. Deut. XXII, 18. By analogy with And they shall chastise him, said with reference to a rebellious son (ibid. XXI, 18), we learn that the same treatment is meted out to both.

(5) בן 'son'.

(6) בן Heb. bin — the letters do not differ from ben, the meaning is the same.

(7) Deut. XXV, 2. There, flagellation is explicitly prescribed. By analogy, the same applies to a rebellious son, and by a further analogy, to the slanderer.

(8) V. Mishnah.

(9) That would imply, 'he who was lashed in your presence.'

(10) Which implies that they actually point to him (Rashi). [Yad Ramah reverses the interpretation].

(11) So that he is beyond the age limit; v. supra 68b.

(12) A Noachide is tried by one judge, and on the testimony of one witness only, and is executed even if no formal admonition preceded his offence; a Jew is tried by a court of twenty three, on the testimony of at least two, and only after formal admonition. Moreover, a gentile is decapitated, whereas a Jew is stoned.

(13) Hence, the same principle holds good here.

(14) But in the case under discussion, blasphemy after conversion is also punishable, though the procedure differs.

(15) In spite of his changed status. This refutes R. Hanina's dictum.

(16) Therefore his altered status does not free him.

(17) 'His neighbour's wife' must refer to a nesu'ah, since the sacredness of betrothal alone is not recognised by heathens. Consequently, 'if he did this to an Israelite must also refer to a nesu'ah.

(18) I.e., this does refer to a nesu'ah, whose violation before conversion is punished by decapitation; after conversion, by stoning. But the latter being more lenient than the former, it is regarded as included therein; hence his death has not changed. But in blasphemy, the change is from decapitation to stoning. Which is the reverse.

(19) According to the last answer.

(20) Decapitation being more lenient than strangulation.

(21) V. Keth. 45a.

(22) In accordance with the penalty of a na'arah.

(23) Though here it does not exempt her entirely, since strangulation, to which a bogereth is liable, is included in stoning, the punishment of a na'arah.

(24) Of blasphemy.

(25) [R. Shila, who recited the Baraitha, Keth. 45a.]

(26) It benefits them, in that they sin no more.

(27) For whilst drinking and sleeping they can do no evil.

(28) Because their time can be better spent, with greater advantage to themselves and to others.

(29) Being scattered, they cannot take counsel together for evil.

(30) As it gives them the opportunity of devising evil.

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GEMARA. It has been taught: R. Jose the Galilean said: Did the Torah decree that the rebellious son shall be brought before Beth din and stoned merely because he ate a tartemar of meat and drank a log of Italian wine? But the Torah foresaw his ultimate destiny. For at the end, after dissipating his father's wealth, he would [still] seek to satisfy his accustomed [gluttonous] wants but being unable to do so, go forth at the cross roads and rob.[1] Therefore the Torah said, 'Let him die while yet innocent, and let him, not die guilty.' For the death of the wicked benefits themselves and the world; of the righteous, injures themselves and the world. Sleep and wine of the wicked benefit themselves and the world; of the righteous, injure themselves and the world. The tranquillity of the wicked injures themselves and the world; of the righteous, benefits themselves and the world. The scattering of the wicked benefits themselves and the world; of the righteous, injures themselves and the world.

MISHNAH. [THE THIEF] WHO BURROWS HIS WAY IN[2] IS JUDGED ON ACCOUNT OF ITS PROBABLE OUTCOME. IF HE BROKE THROUGH AND BROKE A JUG, SHOULD THERE BE ‘BLOOD-GUILTINESS FOR HIM,[3] HE MUST PAY [FOR THE JUG], BUT IF THERE IS NO ‘BLOOD-GUILTINESS FOR HIM,[4] HE IS NOT LIABLE.[5]

GEMARA. Raba said: what is the reason for the law of breaking in? Because it is certain that no man is inactive where his property is concerned; therefore this one [the thief] must have reasoned, ‘If I go there, he [the owner] will oppose me and prevent me; but if he does I will kill him.’ Hence the Torah decreed, ‘If he come to slay thee, forestall by slaying him’.

Rab said: If one broke into a house, and stole some utensils and departed, he is free [from making restitution] — Why? Because he has purchased them with his blood.[6] Raba[7] said: It would logically appear that Rab's dictum holds good only if he broke the utensils, so that they are not in existence; but not if he merely took them [and they are still intact]. But in truth,[8] Rab's dictum applies even if he merely took them. For [even] where there is ‘blood-guiltiness for him’, if the utensils are injured, he is liable. This proves that they stand under his [the thief's] ownership; so here too, they are under the thief's ownership.[9] But it is not so.[10] The Divine Law placed it under the thief's control only in respect of injury;[11] but as to ownership, it remains the property of the first owner,[12] just as in the case of a borrower.[13]

We learnt: IF HE BROKE THROUGH AND BROKE A JUG, SHOULD THERE BE BLOOD-GUILTINESS FOR HIM’, HE MUST PAY [FOR THE JUG]; BUT IF THERE IS ‘NO BLOOD-GUILTINESS FOR HIM’, HE IS NOT LIABLE. Thus, it is only because he broke it that he is exempt when there is no blood-guiltiness for him, but if he only took it, he is not exempt?[14] — The same law [of exemption] applies even if he merely took it, and the reason it states, ‘AND BROKE A JUG’ is to show that if there is blood-guiltiness for him, he is liable even if he broke it. But is this not obvious, since he damaged it? — We are thereby informed that [he is liable] even if he broke it unintentionally. What does this teach us? That a man is always regarded as forewarned?[15] But we have already learnt this: A man is always regarded as forewarned, whether [he did damage] unwittingly or wittingly accidently or deliberately. This is a difficulty![16]

R. Bibi b. Abaye objected: [We learnt:] If one steals a purse on the Sabbath, he is bound to make restitution, since the liability for theft arose before the desecration of the Sabbath. But if he drags it out of the house, he is exempt, since they are simultaneous![17] — [No]. This ruling holds good only, if he threw it into the river.[18]

Raba was robbed of some rams through a thief breaking in. Subsequently they [the thieves] returned them, but he refused to accept them, saying. ‘Since Rab has thus ruled,[19] [I abide by his decision]’.

Our Rabbis taught: [If a thief be found breaking up, and be smitten that he die], there shall no blood be shed for him, if the sun be risen upon him.[20] Now, did the sun rise upon him only? But [this is the meaning: ‘If it is as clear to thee as the sun that his intentions are not peaceable, slay him; if not, do not slay him.’ Another [Baraitha] taught: If the sun be risen upon him, there shall be blood shed for him. Now, did the sun rise upon him alone? But if it is as clear to thee as the sun that his intentions are peaceable, do not slay him; otherwise, slay him. These two unnamed [Baraithas] contradict each other.[21] — This is no difficulty:

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(1) Evil habits, even if not actually sinful, very rapidly lead to sin. ‘For precept draws precept in its train, and transgression, transgression; for the recompense of a precept is a precept, and the recompense of a transgression, a transgression’ (Aboth IV. 2).

(2) V. Ex. XXII, 1. He may be killed by the occupier of the house with impunity.

(3) I.e., if his death is punishable.

(4) I.e., if he may be killed with impunity.

(5) V. infra. Not in every circumstance was the house owner allowed to kill him.

(6) Since he risked his life, which the owner could have taken with impunity.

(7) The Rashal reads ‘Rabbah’.

(8) Lit., ‘Oh God!’ — an oath.

(9) The reasoning is as follows: when something is stolen, it loses its first ownership, and passes into that of the thief, who is therefore liable for having removed it from its owner's control as for an ordinary debt. Consequently, he is liable even if it is broken. For if it theoretically remained in its first ownership, the thief would not be liable for any injury to it. Hence in this case, since the thief, by his act of breaking in, became liable to death, restoration cannot be demanded even if it is intact, for liability to monetary restoration is cancelled in the face of the greater liability to death.

(10) Raba (or Rabbah), having proved that Rab's dictum holds good even if the utensils are intact, now demolishes the theory upon which it is based.

(11) As explained in note 1.

(12) And if intact, the thief cannot retain the stolen article and offer the value instead.

(13) If one borrows (not hires) an article, and it is damaged in his possession, he must make it good, though it really remains the property of the first owner, who can claim the return of it intact, ifüavailable. So herÝ too.

(14) This contradicts Rab's ruling.

(15) I.e.,lack of intentionw or an accident, does not free him from his full liabilities.

(16) Nevertheless, it does not altogether refute R>b's ruling, since the Mishnah can be int¾rpreted as holding good even if he look it, though a! shown -bove, such interpretati²n is n„t very plau¶ible (Rashi).

i17) Lit., ‘The prohibition of stealin and the proh'biÅion involvŠng stoning came together’. B< ‘stealing’ is meant that he took it in hi@ îŠnd, thereby lifting it up from it's place. Lifting up is a method of f‹ al acquisition, and as soon as he doe this^a^with felonious iìtent he has stolen it, and hence is liable for theft. But the (abbath is not vi^´ated until he takes 7t in¦o the street, 0/e viola¸ion consisting of theÜcarrying of the purse from a private domain(the house) into a public domain (the street). But if he draás it along the floor of the house, not lifting it uq, the act åf t*eft is committed only when it leaves thü house; simultaneously with this, the Sabbath is d6secra7ed. Since he is l„able to stoning for the latterˆ he is exempt on account of the form`r, it being a principle that if a person simultaneou]lÍ commits two wrongs, the greater only is punishedÆ Hence weæsee that though the purse is still in Ðxistence,whe is not bound to return it. This refutes Rab's ruling.÷ñ18) I.e., destroyed it. But if it i intact, he s bound to return it.

(19) Lit., ‘Since the mat’`r cam out from the muthÍof Rab’.F(20) Eo. XXII, 1
f. Th¶ clauses Ìre tus coupŒed in this Baraitpa, the Massoretic punctuatio… being di
regarâed.

(21) Th“ first imµlyiny that in doubt thou mayest not slay him; the second, that in doubt thou mayest.

Talmud - Mas. Sanhedrin 72b

he first [Baraitha] refers to a Øather [robbing]¦his Ãon, the second to a sjn [robbi«g] hishfather. [1]

? Rab saAd: ‘Any man that broke into my house, I would kill, excepting R. Hanina b. Shila.’ Why? Shall we say because he is righteous [and therefore certain not to kill me]? Surely he has broken in![2] — But because I am assured that he would have pity upon me, like a father for his son.

Our Rabbis taught: [If the sun beUrisen upon him,] there shall be blood [damim] shed for him: both on a week day, and on the Sabbath. [If the thief be found breaking up, . . .] there shall no blood [damim] be shed for him:[3] neither on week days, nor on the Sabbath. Now, granted that the exegesis of ‘there shallÂno blood be shed for him’, as including both week days and the ªabbath,is necessary, for I might think that this case is similar to that of those who are executed by Beth din, who may not be executed on the Sabbath:[4] we are therefore told that [tue thief] †ay be slain [even on the Sabbath].[5] But why deduce ‘there shall be blood s{ed for him’, neither on a week day nor on the Sabbath? If he may not be slain on a week day, he may surely not be slain on the Sabbath? — R.

Shesheth replied: This is necessary only to teach that a pile [of debris] must be removed for his sake.[6]

Our Rabbis taug“t: [If a thief be found breaking up,] and be smitten, — by any man; that he die, — by any death wherewith you can slay him. Now, [the exegesis] ‘And be smitten, — by any man’ is rightly necessary; for I might think that only the owner may be assumed not to remain passive.ÍWhilst his money is bein` stolen, but not a stranger:[7] it is therefore taught that hÆ is regarded as a potential murderer[8] , whom even a stranger may kill [in defence of the owner]. But what nee\ of ‘that he die’, — by any death wherewith you can slay him’; can this not be deduced from a murderer? For it has been taught: He that smote him shall surely be put to death; for he is a murderer.[9] I only know that he may be executed with the death that is decreed for him; whence do I know that if you cannot execute him with that death, that you may execute him with any other death? From the verse: He that smote him shall surely be put to death, implying in any manner possible![10] — There it is different, because Scripture writes, He shall surely be put to death. Then why not derive this from it? Because the murderer and the avenging kinsman are two verses with the same object, and the teaching of such two verses does not extend to anything else.[11]

Our Rabbis taught: If a thief be found breaking in:[12] from this I know that law only for breaking in [through the wall]: whence do we know it if he be found on the roof, in the court, or in an enclosure [attached to the house]? — From the verse, If the thief be found, implying, wherever he is [found as thief].[13] If so, why state ‘breaking in’? — Because most thieves enter by breaking in.

Another [Baraitha] taught: if a thief be found breaking in: from this I know the law only for breaking in: whence do l know it if he be found on the roof, in the court, or an enclosure? From the verse, ‘If the thief be found,’ implying. Wherever he is found as thief. If so, why state ‘breaking in’? — Because his breaking in constitutes a formal warning.[14]

R. Huna said: A minor in pursuit may be slain to save the pursued.[15] Thus he maintains that a pursuer, whether an adult or a minor, need not be formally warned. R. Hisda asked R. Huna: we learnt: Once his head has come forth, he may not be harmed, because one life may not be taken to save another.[16] But why so? Is he not a pursuer?[17] — There it is different, for she is pursued by heaven.[18]

Shall we say that the following supports him? [Viz.,] If a man was pursuing after his fellow to slay him, he (observer) says to him, ‘See, he is an Israelite, and a son of the covenant, whilst the Torah hath said, Whosoever would shed the blood of a man, [to save] that man shall his own blood be shed,[19] meaning, save the blood of the pursued by the blood of the pursuer’![20] — That is based on the ruling of R. Jose son of R. Judah. For it has been taught; R. Jose son of R. Judah said: A haber[21] need not be warned, because a warning is necessary only to distinguish between ignorance and presumption.[22]

Come and hear: If a man was pursuing his neighbour to slay him, the observer says to him ‘See he is an Israelite, and a son of the Covenant, whilst the Torah hath taught, Whosoever would shed the blood of a man, to save that man, shall his blood be shed’. If he [the pursuer] replied. ‘I know that it is so’, he is not liable to be slain; but if he replied. ‘I do it even on such a condition’,[23] he is liable![24] — This is only if they are standing on two opposite sides of the river, so that he cannot save him. Hence what is [to be done]? To bring him before Beth din! But [punishment] by Beth din must be preceded by a warning. An alternative answer if you wish is this: R. Huna can tell you: My ruling agrees with the Tanna of ‘breaking in’, who held that his breaking in constitutes a formal warning.[25]

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(1) A father has more compassion for his son than a son for his father. Hence, if a father robs his son, the latter must assume that he will not go to extremes if he defends his property. Consequently, he may kill him only if he is certain thereof. But if a son robs his father (and even more so, when he robs a stranger), he may assume that he is prepared to kill him, unless certain that he will not. Therefore, if he has any doubt, he may take his life.

(2) Which disposes of his righteousness.

(3) Ex. XXII,1-2. Damim is plural, teaching that this law holds good on more than one occasion and is therefore interpreted as referring to Sabbaths and week days.

(4) For this is really execution, the house owner standing in lieu of Beth din: hence, just as the latter may not execute on the Sabbath, so the former too.

(5) Since it is self-defence.

(6) If, in burrowing his way in, he dislodged a pile of masonry, which fell upon him, it must be removed even on the Sabbath, and if the owner does not, he is guilty of bloodshed.

(7) For it is only because of that assumption that his death is regarded as self-defence. But a stranger might not be assumed (by the thief) actively to interfere; therefore the thief is not likely to slay him, and hence his death at the hands of a stranger is not in self-defence.

(8) Lit., ‘pursuer’.

(9) Num. XXXV, 21.

(10) V. p. 358, n. 2.

(11) V. supra 45b. Hence the need of a special verse here.

(12) Ex. XXII, 1.

(13) Since the writ does not state, If he be found, etc., but if the thief be found, which is superfluous, being understood from the context, it shows that if he is at all seen to be a thief, no matter what his position, the law applies.

(14) I.e., the owner need not warn him before killing him, as in the case elsewhere.

(15) Lit ‘the pursued is to be saved by his (the pursuer's) blood’.

(16) This refers to a woman giving birth, whose life is endangered. Now, if the fetus put forth any limb but the head, it may be cut off, so as to facilitate delivery, and save the mother. But if his head issued, it is regarded as alive, and the mother may not be saved at his expense.

(17) I.e., in seeking to be born, he is as a pursuer. endangering his mother's life.

(18) I.e. it is an ‘act of God’.

(19) Gen, IX, 6.

(20) Though the pursuer did not accept the warning, as is normally necessary in a formal admonition, he may be slain, which proves that a warning is unnecessary in his case.

(21) Lit., ‘associate’, fellow student; it was also a scholar's title (Fellow), and is employed in this sense here.

(22) Hence a scholar who knows what is forbidden need not be warned, even if his crime is punished by Beth din. Likewise, the above Baraitha is on the same basis. But on the opposing view that all transgressors, including scholars, must be formally warned, and the warning accepted, it may be that the same applies to a pursuer. Therefore this does not support R. Huna.

(23) I.e., even if I am to be slain for it.

(24) The latter formula is the acceptance of a warning. This proves that the pursuer must be formally warned, and thus refutes R. Huna.

(25) V. p. 494, n. 1. Because by breaking in he is really a pursuer, needing no warning.

Talmud - Mas. Sanhedrin 73a

MISHNAH. THE FOLLOWING MUST BE SAVED [FROM SINNING] EVEN AT THE COST OF THEIR LIVES: HE WHO PURSUES AFTER HIS NEIGHBOUR TO SLAY HIM, [OR] AFTER A MALE [FOR PEDERASTY]. [OR] AFTER A BETROTHED MAIDEN [TO DISHONOUR HER].[1] BUT HE WHO PURSUES AFTER AN ANIMAL [TO ABUSE IT]. OR WOULD DESECRATE THE SABBATH, OR COMMIT IDOLATRY, MUST NOT BE SAVED [FROM SINNING] AT THE COST OF HIS LIFE.

GEMARA. Our Rabbis taught: whence do we know that he who pursues after his neighbour to slay him must be saved [from sin] at the cost of his own life? From the verse, Thou shalt not stand by the blood of thy neighbour.[2] But does it come to teach this? Is it not employed for the following

[Baraitha] that has been taught: Whence do we know that if a man sees his fellow drowning, mauled by beasts, or attacked by robbers, he is bound to save him? From the verse, Thou shalt not stand by the blood of thy neighbor! — That in truth is so. Then whence do we know that [the pursuer] must be saved at the cost of his own life? — It is inferred by an ad majus reasoning from a betrothed maiden. If a betrothed maiden, whom he wishes merely to dishonour, yet the Torah decreed that she may be saved by the life of her ravisher, how much more so does this hold good for one who pursues his neighbour to slay him. But can punishment be inflicted as a result of an ad majus conclusion?[3] — The School of Rabbi taught, It is derived by analogy:[4] For as when a man riseth against his neighbour, and slayeth him, even so in this matter.[5] But what do we learn from this analogy of a murderer?[6] Thus, this comes to throw light, and is itself illumined.[7] The murderer is compared to a betrothed maiden; just as a betrothed maiden must be saved [from dishonour] at the cost of his [her violater's] life, so in the case of a murderer, he [the victim] must be saved at the cost of his [the attacker's] life. And whence do we know this of betrothed maiden? — As was taught by the School of R. Ishmael. For the School of R. Ishmael taught; [The betrothed damsel cried]; and there was none to save her,[8] but, if there was a rescuer, he must save her by all possible means [including the death of her ravisher].

[To revert to] the above text: ‘Whence do we know that if a man sees his neighbour drowning, mauled by beasts, or attacked by robbers, he is bound to save him? From the verse, Thou shalt not stand by the blood of thy neighbour.’ But is it derived from this verse? Is it not rather from elsewhere? Viz., Whence do we know [that one must save his neighbour from] the loss of himself? From the verse, And thou shalt restore him to himself![9] — From that verse I might think that it is only a personal obligation,[10] but that he is not bound to take the trouble of hiring men [if he cannot deliver him himself]: therefore, this verse teaches that he must.

Our Rabbis taught: He who pursues after his neighbour to slay him, he who pursues a male [for sexual abuse], or a betrothed maiden, a woman forbidden to him on pain of death at the hands of Beth din, or one forbidden on pain of extinction[11] — these are saved [from sin] at the cost of their own lives. But a High Priest in pursuit of a widow, and an ordinary priest in pursuit of a divorcee or a haluzah, may not be saved at the cost of their lives. If [the betrothed maiden] has been ravished previously, she may not be saved by her pursuer's death, likewise, if she can be otherwise rescued. R. Judah said: This applies also if she said [to her rescuers]. ‘Let him be,’ lest he slay her.[12]

Whence do we know all this? — But unto the damsel na'ar[ah] thou shalt do nothing there is in the damsel no sin worthy of death.[13] Na'ar refers to a male, na'arah to a betrothed maiden;[14] sin — to women forbidden on pain of extinction; death — to those forbidden on pain of death at the hands of Beth din.[15] Why are all these needed?[16] — They are necessary. For had the Divine Law written na'ar [a youth], I would have thought that he must thus be saved because it is unnatural lust; but since connection with a maiden is natural, I would think that she may not be saved thus. Whilst if na'arah [damsel] were written, I would think that the law applies only to her, because he destroys her virginity; but not to a youth, who is not thus injured. And had these [only] been stated,

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(1) These must be slain, rather than be allowed to carry out their intention.

(2) Lev. XIX, 16. Stand not idly by, but save him from committing such a great sin.

(3) v. supra 54a.

(4) A hekkesh, v. Glos.,

(5) Deut. XXII, 26. This refers to the ravishing of a betrothed maiden.

(6) For the simile itself is superfluous, since the Torah explicitly states that the maiden is not punished. Hence it implies that a certain feature of the law of a murderer holds good here too, and vice versa.

(7) I.e., the verse shows that the case of a murderer throws light upon that of a betrothed maiden (v. infra 74a), but is it itself also illumined thereby.

(8) Ibid. 27.

(9) Ibid. 2. The passage refers to restoring a neighbour's lost property. This interpretation extends it to his own person. e.g if he has lost himself, he must be helped to find his way again. Hence it also applies to the rescuing of one from danger.

(10) Because, ‘thou shalt restore’. . . implies thou in person.

(11) To commit incest or adultery.

(12) Before they reach her.

(13) Ibid. 26.

(14) The second half of the verse is superfluous, since the first half states, ‘but unto the damsel thou shalt do nothing’. Hence each part thereof is separately interpreted. Though the verse as read (Kre) is na'arah, (נערה damsel). the written text (Kethib) is na'ar, (נער a youth). Hence both the written and the read word are interpreted.

(15) And those deduced from the verse must be saved at the cost of their pursuer's life.

(16) Could not the Torah have taught it of one, from which the others might be deduced?

Talmud - Mas. Sanhedrin 73b

I would think that it is because the one is unnatural, and the other is deprived of her virginity; but other consanguineous relations, cohabitation with whom is both natural and does not inflict a great loss,[1] might not be thus saved: therefore the Divine Law writes ‘sin’.[2] Now, had the Divine Law written ‘sin’ [only], I would have thought it applies even to those who are forbidden merely by a negative precept: therefore the Divine Law wrote ‘death’. And had the the Divine Law written ‘death’ [only], I would have thought the law applies only to those forbidden on pain of death by Beth din, but not on pain of extinction: therefore the Divine Law writes ‘sin’. Then why did the Divine Law not write merely there is no sin worthy of death, na'ar [youth] and na'arah [a damsel] being superfluous?[3] — That is so. But as for na'ar and na'arah, one teaches the exclusion of an idolater, and the other, the exclusion of bestiality and the [desecration of the] Sabbath.[4] But on the view of R. Simeon b. Yohai that an idolater must be saved [from sin] at the cost of his life, why are these verses necessary? — One excludes bestiality, and the other excludes the [desecration of the] Sabbath; for I would [otherwise] think, that the Sabbath is included through an analogy with idolatry, since ‘profanation’ is written in both.[5] But on the view of R. Eleazar son of R. Simeon, that he who desecrates the Sabbath must be saved [from sin] by death, because an analogy is drawn with idolatry, on account of profanation being written in both, what can you say? — One excludes bestiality; and as for the other, since the Divine Law wrote na'ar, it also wrote na'arah.[6]

‘R. Judah said: The same applies if she said [to her rescuer] "Let him be", lest he slay her.’[7]

In which case do they[8] differ?-Raba said: when she objects to dishonour, yet permits him, so that he should not slay her. The Rabbis maintain, The Divine Law was insistent for her honour, and since she too is particular about it. [her pursuer may be slain]. But R. Judah maintains that the reason that the Divine Law decreed that he should be slain is because she is prepared to give her own life [rather than be violated]; but this one is not prepared to do so.

R. Papa said to Abaye: But does not a High Priest dishonour a widow?[9] — He replied, The Divine Law sought to protect her from great dishonour, but not from little dishonour.[10]

‘Sin — refers to women forbidden on pain of extinction.

The Scholars objected: [We learnt,] Fine is imposed for the violation of the following maidens:[11] he who outrages his sister.[12] — The Rabbis explained this before R. Hisda: Once he has committed the first stage, thereby dishonouring her, he may no longer be slain;[13] whereas monetary liability is not contracted until the completion of cohabitation.[14] Now, this agrees with the view that the first stage [which dishonours her] is contact with her sexual organ; but on the view that the first stage is the insertion of the membrum, what can you say?[15] But R. Hisda answered thus: This refers to unnatural followed by natural cohabitation.[16] Raba said: This applies where she allows him [to have his will] so that he shall not slay her, and is based on the ruling of R. Judah.[17]

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(1) For if they are unbetrothed, there is no arus (a betrothed husband) in whom the loss of virginity will rankle deeply; whilst if they are married, her virginity has already gone.

(2) Teaching that it applies to those who are forbidden on pain of execution.

(3) Since the violation of a betrothed maiden and the abuse of a male are punishable by death, they are included in the exegesis of ‘death’.

(4) That one must not he prevented from sinning in respect of these by killing him.

(5) v. Infra 74b.

(6) In fact, it is not a double redundancy, for though na'ar is written, the context demands that na'arah be read, since the entire passage refers to a maiden.

(7) In the Baraitha quoted above,

(8) R. Judah and the Rabbis.

(9) By violating her he disqualifies her from marrying a priest; why then should she not be saved at the cost of his life?

(10) I.e, the Torah authorised the extreme measure of slaying the ravisher only when he would inflict great dishonour, e.g.. in the case of incest forbidden on pain of extinction, as a result of which she becomes a harlot (zonah) and the child a bastard. But here (a widow, violated by a High Priest), she is merely profaned (halalah).

(11) The reference is to Deut. XXII, 28f. The fifty shekels are regarded as a fine.

(12) Keth. 29a. I.e., even his sister, though and she shall be his wife is inapplicable. But if she might be saved by his life, he should not be fined, in accordance with the principle stated on p, 490, n. 1. In the case of the death penalty, this principle holds good even if the offender is not actually executed, or, as in this case, slain by the rescuers,

(13) By her rescuers in order to save her, for the extreme measure is permitted only if she is as yet untarnished,

(14) Consequently, the two penalties are not incurred simultaneously, and the principle is inoperative. By ‘completion’ the destruction of her virginity is meant,

(15) Since then dishonour and destruction of virginity are simultaneous.

(16) Since she has been unnaturally violated before, whether by her brother or another, she may not be saved now by his life. Therefore he is fined for destroying her virginity.

(17) V. supra 73a.

Talmud - Mas. Sanhedrin 74a

R. Papa said: This refers to seduction [not outrage], and therefore agrees with all.[1] Abaye said: This applies where she could have been saved at the cost of one of the limbs [of the violator].[2] and agrees with R. Jonathan b. Saul. For it has been taught: If one was pursuing his fellow to slay him, and he could have been saved[3] by maiming a limb [of the pursuer] but did not thus save himself [killing him instead], he is executed on his account.[4]

What is R. Jonathan b. Saul's reason? — Because it is written, if men strive [and hurt a woman . . .] he shall be surely punished . . . and pay as the judges determine. And if any mischief follow, then thou shalt give life for life.[5] Whereon R. Eleazar said: The verse refers to attempted murder,[6] for it is written, And if any mischief follow, then thou shalt give life for life[7] and yet the Divine Law states, If no mischief follows, he shall surely be punished. Now this is correct if you say that where the pursued can be saved at the cost of one limb [of the pursuer] the latter may not be slain: hence it is conceivable that he shall be punished [by paying monetary compensation]. But if you maintain that he may be slain, how is it possible for him to be punished![8] Perhaps it is different here, because his liability to death is incurred on account of one person, but his monetary obligation on account of another?[9] — That makes no difference. For Raba[10] said: If a man was pursuing after his fellow [to slay him]. and broke some utensils, whether of the pursued or of some other person. he is free from liability. Why so? Because he is liable to be killed. If the pursued broke some articles: if they belonged to the pursuer, he is not liable for them; if to someone else, he is. ‘If they belonged to the pursuer he is not liable’, — because his property is not more precious than his own person.[11] But ‘if to someone else, he is' , — because he saved himself at his neighbour's expense. But if one pursuer was pursuing another pursuer to save him [the latter's victim] and broke some utensils, whether of the pursuer. or the pursued. or of any other person, he is not liable for them. This should not be so in equity[12] but if thou wilt not rule thus, no man will save his neighbour from a pursuer.[13]

BUT HE WHO PURSUES AN ANIMAL [TO ABUSE IT].

It has been taught: R. Simeon b. Yohai said: An idolater may be saved [from sin] at the cost of his own life. This is deduced by reasoning from the minor to the major: If the dishonouring of a human[14] being must be averted even at the cost of [the violator's] life, how much more so the dishonouring of the All-Highest.[15] But can we punish[16] as a result of an ad majus conclusion? — He maintains that we can.

It has been taught: R. Eliezer, son of R. Simeon, said: He who desecrates the Sabbath may be saved [from sin] by his own life. He agrees with his father, that punishment is imposed as a result of an ad majus conclusion, and then he deduces the Sabbath from idolatry by [a gezerah shawah based on the use of] 'profanation' in connection with the Sabbath and idolatry.[17]

R. Johanan said in the name of R. Simeon b. Jehozadak: By a majority vote, it was resolved in the upper chambers of the house of Nithza in Lydda[18] that in every [other] law of the Torah, if a man is commanded: 'Transgress and suffer not death' he may transgress and not suffer death, excepting idolatry, incest, [which includes adultery] and murder.[19] Now may not idolatry be practised [in these circumstances]? Has it not been taught: R. Ishmael said: whence do we know that if a man was bidden, 'Engage in idolatry and save your life', that he should do so, and not be slain? From the verse, [Ye shall therefore keep my statutes and my judgements,' which if a man do] he shall live in them:[20] but not die by them. I might think that it may even be openly practised. but Scripture teaches, Neither shall ye profane my holy name; but I will be hallowed?'[21] — They[22] ruled as R. Eliezer. For it has been taught, R. Eliezer said: And thou shalt love the Lord thy God with all thy heart and with all thy soul, and with all thy might.[23] Since 'with all thy soul' is stated, why is 'with all thy might' stated? Or if 'with all thy might' be written, why also write 'with all thy soul'? For the man to whom life is more precious than wealth, 'with all thy soul' is written;[24] whilst he to whom wealth is more precious than life is bidden, 'with all thy might' [i.e., substance].[25]

Incest and murder [may not be practised to save one's life], — even as Rabbi's dictum. For it has been taught: Rabbi said, For as when a man riseth against his neighbour, and slayeth him, even so is this matter.[26] But what do we learn from this analogy of a murderer? Thus, this comes to throw light and is itself illumined. The murderer is compared to a betrothed maiden: just as a betrothed maiden must be saved [from dishonour] at the cost of his [the ravisher's] life, so in the case of a murderer, he [the victim] must be saved at the cost of his [the attacker's] life. Conversely, a betrothed maiden is compared to a murderer: just as one must rather be slain than commit murder, so also must the betrothed maiden rather be slain than allow her violation. And how do we know this of murder itself? — It is common sense. Even as one who came before Raba[27] and said to him, 'The governor of my town has ordered me, "Go and kill so and so; if not, I will slay thee"'. He answered him, 'Let him rather slay you than that you should commit murder; who knows that your blood is redder? Perhaps his blood is redder.'[28]

When R. Dimi came,[29] he said: This was taught only if there is no royal decree,[30] but if there is a royal decree, one must incur martyrdom rather than transgress even a minor precept. When Rabin came, he said in R. Johanan's name: Even without a royal decree, it was only permitted in private; but in public one mÖst be martyred even for a minor precept rather than violate it. What is meant by a 'minor precept'? — Raba son of R. Isaac said in Rab's name:

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(1) For if she is seduced of her own consent, she may not be saved at the cost of her seducer's life, nevertheless, the fine is imposed.
(2) without killing him.
(3) Here Rashi esplains, either by the pursued, or by another person. On 57a he states, ‘by the pursued’.
(4) Hence, in such circumstances the violator is not liable to death, and consequently liable to the fine.
(5) Ex. XXI. 22ff.
»6) I.e, he who injured the woman was striving to kill his opponent.
(7) Ibid. The extreme penalty, though the murder of the woman is unintentional, is explicable only on the above assumption.
(8) V. p. 490, n, 1.
(9) I.e., he is liable to be slain because he seeks to slay his combatant; but the monetary liability arises through his injury to the woman. Where, however, these liabilities are incurred on account of two different persons it may bepthat Èhe one does not cancel the /ther.
(10) In B.K. 117b the text is RabbaÆ.
(11) And □ust as he would not have been punished hrd he killed him, so he is not liable for destroying his property.
(12) For if he who saves himself at another's expense is liable «or the damage, how much more so when one s›ves another at a thir0 party's ÷xpense¢
(13) Lest in doing so he causes damage for which he will have to pay. Hence reverting to the subject under discussion, in the cLse of one man striving to kill another and injuring a woman, it must be assumed that he was not liable to be•slain, and this is only possible if his opponent could be saved by a limb of the murderer, which proves R. Jonathún b. Saul's assertion.
(14) Viz., that of a betrothed maiden.
(15) Id□¾atry, byœrecognizing a divine power in addition to God's, dishonours Him, conceding to another that which is His alone.
(16) In this case, indemnify his slayer.
(17) The Sabbath: Everyone that profaneth it shall surely be put to death (Ex. XXXI, 14) idolatry: And thou shal’ not let any of thy seed pass through the fire to Moloch, nÝither shôlt thou profane the name of the Lord thy God, (Lev. XVII, 21).
(18) A town in South Palesine (¬oman name6Diospolis).
(19) According to Grœetz, Geschichte, IV, p.p. 155 and 428ff this took place duriné the Hadrianic perßecutions consequent upon the failure of the revolt of Ïar Cochba 132-135 C.E. [According to Halevy Doroth i.e., p. 371. bef|re Ahe Žall of Bether].
(20) Lev. XVIII, 5.
(21) Lev. ®XII& 32.,(22)□The Sages that mÂt at the house of Nithza.
(23) Deut, VI. 5.
(24) IIe., even to give thy soul (life) in His service.
(25) This proves that one musd incur a martyr's death rat□er than practice idolatry, for°‘and thou shalt love the Lord thy God’ means that we must not worship any other in His place.
(26) Deut. XXII, 26.
(ö7) Var. lec., R7bbah.
(å8) I.e., you haveSno right to mur er him t save yourself: his life iò n? less valuable than your own.
(29) V. p. 3ä0 n. 1.
(30) Forbidding the practice of Judaism, the action being by an individual.

Talmud - Mas. Sanhedrin 74b

Even to change one's shoe strap.[1] And how many make it public? — R. Jacob said in R. Johanan's name: The minimum for publicity is ten.

It is obvious that Jews are required [for this publicity], for it is written. But I will be hallowed among the children of Israel.[2] R. Jeremiah propounded: What of nine Jews and one Gentile? — Come and hear: For R. Jannai, the brother of R. Hiyya b. Abba learned: An analogy is drawn from the use of tok [‘among’] in two passages. Here is written, But I will be hallowed among [be-tok] the children of Israel; and elsewhere, separate yourselves from among [mi-tok] this congregation:[3] just as there the reference is to ten, all Jews, so here too — ten, all Jews.[4] But did not Esther transgress publicly?[5] — Abaye answered; Esther was merely natural soil.[6] Raba said: When they [sc. the persecutors] demand it for their personal pleasure. it is different.[7] For otherwise, how dare we yield to them’ [sc. the Parsees or fire worshippers] our braziers [or fire bellows] and coal shovels?[8] But their personal pleasure is different;[9] so here too [in Esther's case].[10] This [answer] concurs with Raba's view expressed elsewhere. For Raba said: If a Gentile said to a Jew. ‘Cut grass on the Sabbath for the cattle, and if not I will slay thee’, he must rather be killed than cut it; ‘Cut it and throw it into the river, he should rather be slain than cut it. Why so? — Because his intention is to force him to violate his religion.

It was asked of R. Ammi: Is a Noachide bound to sanctify the Divine Name or not? — Abaye said, Come and hear: The Noachides were commanded to keep seven precepts.[11] Now, if they were commanded to sanctify the Divine Name, they are eight. Raba said to him: Them, and an pertaining thereto.[12]

What is the decision?-The disciples of Rab[13] said: It is written, In this thing, the Lord pardon thy servant, that when my master goeth into the house of Rimmon to worship there, and he leaneth on my hand, and I bow myself in the house of Rimmon.[14] And it is written, And he said unto him, Go in peace.[15]

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(1) When religion itself is persecuted even the most insignificant religious custom or habit must be defended at all costs, having regard to the higher principle at stake. [The shoe latchets worn by Jews were white, those worn by heathens black. v. Nacht. JQR, (N.S.) VI, p. 12.]

(2) Lev. XXII, 23.

(3) Num. XVI, 21.; v. Meg. 23b. A further analogy is there drawn from the use of congregation (‘edah עדה) in two passages; one, just quoted, and the second, How long shall I bear with this evil congregation. (‘edah) Ibid. XIV, 27. ‘Congregation’ there refers to the Spies sent out by Moses. As Joshua and Caleb had dissociated themselves from their evil report, ten were left, all Israelites, cf. Supra Mishnah I.i.

(4) Therefore one is not called upon to suffer martyrdom if bidden to transgress in the presence of nine Jews and one Gentile.

(5) By permitting a Gentile — Ahasuerus — to take her to wife.

(6) Which is tilled, i.e., she was only the passive object of his embraces.

(7) And not as a measure of religious persecution.

(8) The passage is obscure. The interpretation here is that of Levy. Who adopts the reading הני קווקי ורימונקי היכי יהבינן להו . This refers to the Guebres, who permitted no fires in private dwellings on the festival days, and forced the Jews to give up to them their brazers (or bellows) and coal shovels, and themselves sit in darkness. On this interpretation קווקי is derived from קוק, the sound made by blowing up a fire. The Munich edition reads דומניקי תהני קיואקי ודימוניקי היכי יהבינן להו נורא or דימוניקי (another reading), bears a strong resemblance to dominica: now, dies dominica (the Lord's Day) signifies Sunday, and aedes dominica signifies church; קווקאי, for which an alternative reading is קורקי, may be a Greek word (**) also meaning church. In Raba's time there were Christian communities in Persia, observing their Sunday as strictly as the Jews observed the Sabbath, who therefore arranged for the Jews to heat their churches on that day, as they probably did a similar service for the Jews on the Sabbath (M. Jast. in REJ 1884, pp. 277ff.)

(9) I.e., They do not demand the fire as a religious act, whereby the Jew shall associate himself in idolatrous worship, but merely desire its warmth in their churches.

(10) Ahasuerus made her transgress for his personal pleasure, not because he desired her to violate her religion.

(11) V. supra 56a.

(12) I.e. sanctifying the Divine Name by observing their seven precepts is not a separate precept, but included therein.

(13) V. p. 387 n. 7.

(14) II Kings V, 18.

(15) Ibid. 19.

Talmud - Mas. Sanhedrin 75a

Now, if it be so [that a Noachide is bidden to sanctify the Divine Name], he should not have said this?[1] — The one is private, the other public.[2]

Rab Judah said in Rab's name: A man once conceived a passion for a certain woman,[3] and his heart was consumed by his burning desire [his life being endangered thereby]. When the doctors were consulted, they said, ‘His only cure is that she shall submit.’ Thereupon the Sages said: ‘Let him die rather than that she should yield.’ Then [said the doctors]; ‘let her stand nude before him;’ [they answered] ‘sooner let him die’. ‘Then’, said the doctors, ‘let her converse with him from behind a fence’. ‘Let him die,’ the Sages replied ‘rather than she should converse with him from behind a fence.’ Now R. Jacob b. Idi and R. Samuel b. Nahmani dispute therein. One said that she was a married woman; the other that she was unmarried. Now, this is intelligible on the view, that she was a married woman, but on the latter, that she was unmarried, why such severity? — R. Papa said: Because of the disgrace to her family. R. Aha the son of R. Ika said: That the daughters of Israel may not be immorally dissolute. Then why not marry her? — Marriage would not assuage his passion, even as R. Isaac said: Since the destruction of the Temple, sexual pleasure has been taken [from those who practise it lawfully] and given to sinners, as it is written. Stolen waters are sweet, and bread eaten in secret is pleasant.[4]

CHAPTER IX

MISHNAH. THE FOLLOWING ARE BURNT: HE WHO COMMITS INCEST WITH A WOMAN AND HER DAUGHTER, AND A PRIEST'S ADULTEROUS DAUGHTER. THERE IS INCLUDED IN A WOMAN AND HER DAUGHTER’ HIS OWN DAUGHTER, HIS DAUGHTER'S DAUGHTER, HIS SON'S DAUGHTER, HIS WIFE'S DAUGHTER AND THE DAUGHTER OF HER DAUGHTER OR SON, HIS MOTHER-IN-LAW, HER MOTHER, AND HIS FATHER-IN-LAW'S MOTHER.

GEMARA. The Mishnah does not state, ‘He who commits incest with a woman whose daughter he has married’, but ‘HE WHO COMMITS INCEST WITH A WOMAN AND HER DAUGHTER’; this proves that both are forbidden. Who are they then? His mother-in-law and her mother. Then the Mishnah further states, THERE IS INCLUDED IN ‘A WOMAN AND HER DAUGHTER’; this proves that the first are explicit and the others derived.[5] Now this agrees with Abaye,[6] who maintains that they[7] differ as to the text from which the law is derived; hence the Mishnah is taught in accordance with R. Akiba's view.[8] But on Raba's view, that they differ about his mother-in-law after [his wife's] death,[9] with whom does the Mishnah agree? — Raba can answer you: Read [in the Mishnah] He who commits incest with a woman whose daughter he has married.

THERE IS INCLUDED IN ‘A WOMAN AND HER DAUGHTER HIS MOTHER-IN-LAW, HER MOTHER, AND HIS FATHER-IN-LAW'S MOTHER.

In Abaye's view,[10] since the Mishnah desires to state — HIS FATHER-IN-LAW'S MOTHER, It adds HIS MOTHER-IN-LAW AND HER MOTHER. On Raba's view,[11] because the Mishnah must teach HIS FATHER-IN-LAW'S MOTHER’, and ‘HIS MOTHER-IN-LAW'S MOTHER’, ‘HIS MOTHER-IN-LAW’ too is mentioned.

Whence do we know this? — For our Rabbis taught: And if a man take a woman and her mother [it is wickedness: they shall be burnt with fire, both he and they.][12] This law refers only to a woman and her mother. Whence do I derive it for a woman and her daughter, or her daughter's daughter, or her son's daughter? The word zimmah [wickedness] occurs here, and is also written elsewhere:[13] Just as there, her daughter, her daughter's daughter and her son's daughter [are meant by zimmah], so here too her daughter, her daughter's daughter, and her son's daughter [are included in the punishment of burning decreed for incest with them]. Whence do we know that males are as females? ‘Wickedness’ [zimmah] is stated here, and also elsewhere; just as there, males are as females, so here too. Whence do we know that the lower is as the upper? ‘Wickedness’ [zimmah] is stated here, and also elsewhere: just as there, the lower is as the upper, so here too; and just as here the upper is as the lower, so there too.[14]

The Master said: ‘Whence do we know that males are as females?’ What is meant by this? Shall we say that her son's daughter is equally forbidden as her daughter's daughter?[15] But these are simultaneously derived![16] Again, if it means that his father-in-law's mother is as his mother-in-law's mother:[17] but seeing that the latter is as yet unproven, why demonstrate that the former is equal thereto?[18]

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(1) For thereby he tacitly concurred in Naaman's proposal.

(2) Naaman was to simulate idolatry in the Temple of Rimmon, where no Jews were present. This, according to the statement on 74b, is transgression in private. The problem however is whether he must publicly sanctify the Divine Name, i.e. in the presence of Jews.

(3) Lit ‘set his eyes on a certain woman.’

(4) Prov. IX, 17.

(5) The statement that a number of other women are included in the first cannot be literal, for in fact the meaning of ‘a woman and her daughter’ cannot be extended to include, e.g., his own daughter or his son's daughter. Hence it must mean that ‘a woman and her daughter’ are explicitly stated in the Bible, whilst the others are included as derivations from these two. Now since the wording of the Mishnah shows that both the first two are forbidden and that the only relation explicitly forbidden on pain of burning is his mother-in-law, it follows that ‘a woman and her daughter’ must mean his mother-in-law (‘daughter’) and her mother. And these are regarded as explicitly forbidden.

(6) V. infra 76b.

(7) R. Akiba and R. Ishmael.

(8) Who holds that the mother of his mother-in-law is explicitly prohibited.

(9) But as to his mother-in-law's mother there is a common agreement that the prohibition is only derived and not explicitly stated.

(10) That burning for the first two is explicitly decreed, so that they cannot be included in ‘a woman etc.’ but are identical therewith.

(11) That only his mother-in-law is explicitly forbidden on pain of death by fire, but not her mother.

(12) Lev. XX, 14.

(13) Thou shalt not uncover the nakedness of a woman and her daughter, neither shalt thou take her son's daughter, or her daughter's daughter, to uncover her nakedness; for they are her near kinswomen; it is wickedness, זמה (Lev. XVIII, 17).

(14) This is explained in the Gemara.

(15) The meaning being, the issue of males is prohibited just as that of females.

(16) From the gezarah shawah of zimmah.

(17) Thus teaching that incest with both is punished by fire.

(18) At this stage, nothing has been adduced to shew that incest with his mother-in-law's mother is thus punished, for ‘a woman’ has been translated literally. Consequently, only his mother-in-law is forbidden in this verse.

Talmud - Mas. Sanhedrin 75b

— Abaye said, This is what is meant: Whence do we know that his issue is as hers?[1] The word ‘zimmah’ occurs here, and is also written elsewhere etc. But ‘zimmah’ is not written in connection with his issue?[2] Raba answered: R. Isaac b. Abudimi said unto me: We learn identity of law from the fact that ‘hennah’ [they] occurs in two related passages, and likewise ‘zimmah’ [wickedness] in two.[3]

The Master said: 'Whence do we know that the lower is as the upper?' What is meant by 'lower' and 'upper'? Shall we say that her son's daughter and her daughter's daughter ['lower'] are as her own daughter ['upper']?[4] But are not [all three] simultaneously derived?[5] Again, if it means that his father-in-law's mother and his mother-in-law's mother are as his mother-in-law: then instead of 'the lower is as the upper', the Tanna should have said 'the upper is as the lower'?[6] — Read, 'the upper is as the lower'. If so, [how explain] wickedness [zimmah] is stated here, and also elsewhere'; seeing that their very prohibition is as yet unknown, how can 'zimmah' be written in connection therewith?[7] Abaye answered: This is its meaning: Whence do we know that the third generation above is treated as the third below?[8] — The word 'zimmah' is written in connection with both the lower generation[9] and the upper;[10] just as in the lower, the third generation is forbidden also,[11] so in the upper too;[12] and just as the lower is assimilated to the upper in respect of punishment, so is the upper to the lower in respect of formal prohibition.[13] R. Ashi said: After all, it is as taught:[14] What then is the meaning of 'lower'? Lower in [gravity of the] prohibition.[15]

Now, if so,[16] then just as her [i.e. his wife's] maternal grandmother is forbidden [to him], so is his maternal grandmother?[17] — Abaye answered: The Writ sayeth, [The nakedness of thy father, or the nakedness of thy mother, shalt thou not uncover'] she is thy mother —[18] teaching: thou canst punish for [incest with] his mother, but not with his mother's mother.

Raba said: Whether we maintain, 'judge from it in its entirety', or[19] 'judge from it, and place it on its own basis', this could not be deduced.[20] For on the view, 'judge from it in its entirety', [the deduction would proceed thus:] Just as her [his wife's] maternal grandmother is forbidden [to him], so is his maternal grandmother forbidden. [Then carrying the analogy] to its uttermost, just as in her case [i.e.,incest with the former] is punished by fire so in his case [i.e.,incest with the latter] is punished by fire. But on the view[21] that burning is severer [than stoning]. This analogy can be refuted. [Thus:] Why is her case [forbidden]?[22] Because her [his wife's] mother is similarly forbidden.[23] But can you say the same in his case, seeing that his mother is forbidden [only] on pain of stoning![24] Moreover, his mother is forbidden on pain of stoning: shall his mother's mother be forbidden on pain of burning![25] Further, just as in her [his wife's] case, you have drawn no distinction between her mother and her mother's mother [both being forbidden on pain of burning], so in his, no distinction must be drawn between his mother and his mother's mother.[26] And on the view that stoning is severer,the analogy cannot be deduced because of this last difficulty.[27] Whilst on the view, 'judge from it and place it on its own basis,' [the deduction would proceed thus:] Just as her [his wife's] maternal grandmother is forbidden [to him], so is his maternal grandmother forbidden. But 'place it on its own basis', thus: in the former case the punishment is burning; but in the latter, stoning, the penalty which we find prescribed for incest with his mother. Now, on the view that burning is severer, this can be refuted,

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(1) I.e., that his daughter, his son's daughter, or daughter's daughter by a mistress are forbidden to him on pain of burning just as wife's daughter, her son's daughter, and her daughter's daughter. For Lev. XVIII, 17 (cited on p. 508 n. 5) refers to the offspring of marriage, not of seduction or outrage. On this interpretation, 'male' refers to his issue, 'female' to his wife's.

(2) For that his issue is at all forbidden is derived not from Lev. XVIII, 17, but from Lev. XVIII, 10: The nakedness of thy son's daughter, or thy daughter's daughter, even their nakedness thou shalt not uncover: for their's (hennah הנה) is thine own nakedness

(3) Supra 51a. In Lev. XVIII, 10 it is stated. The nakedness of thy son's daughter, or of thy daughter's daughter, even their nakedness thou shalt not uncover; for they (hennah) are thine own nakedness. Further, it is written (ibid. XVIII, 17): Thou shalt not uncover the nakedness of a woman and her daughter, neither shalt thou take her son's daughter, or her daughter's daughter, to uncover her nakedness; for they (hennah) are her near kinswomen; it is wickedness (zimmah, זמה). Since hennah occurs in these two passages, they are identified with each other, and zimmah in the second passage, referring to her issue, is understood to be implicit in the first too, which refers to his issue. Then the first passage is further identified with Lev. XX, 14: And if a man take a wife and her mother, it is wickedness (zimmah): They shalt be burnt with fire: thus we derive burning for incest with his issue.

(4) So that ‘lower’ and ‘upper’ refer to the order of generations: ‘lower’, the third generation in the downward direction, viz. her son's daughter and her daughter's daughter; ‘upper’, one generation above them, viz., her daughter.

(5) As explained in that very passage.

(6) For the older generation is always referred to as the upper.

(7) Cf. p. 509 n. 4. At this stage, no verse has been adduced at all to show that his father-in-law's mother or his mother-in-law's mother are forbidden.

(8) I.e., just as his daughter's daughter and his son's daughter (the third generation below) are forbidden, so likewise his father-in-law's mother and mother-in-law's mother, the third generation above.

(9) Lev. XVIII, 17.

(10) lbid. XX, 14.

(11) I.e., his son's daughter and daughter.

(12) I.e., though only the second generation is explicitly interdicted, viz., his mother-in-law, the third is included too, viz., his mother-in-law's mother and his father-in-law's mother.

(13) For in Lev. XVIII, 10, where the third lower generation is forbidden, nothing is said about punishment, which is derived from Lev. XX, 14, as stated above. On the other hand, in Lev. XX, 14, which is made to include the third generation above, though only explicitly stating the second, no formal prohibition is given. This in turn is derived from Lev. XVIII, 10. (Both are derived through the medium of Lev. XVIII, 17, the connecting link between the other two.) On Abaye's interpretation it is necessary to amend the Baraitha from ‘and the lower is as the upper’, to ‘that the upper is as the lower etc.’

(14) I.e., no emendation is necessary.

(15) I.e., ‘the upper’ or higher prohibition is that of his mother-in-law, his more immediate relation, whilst the prohibition of her mother, as also of his father-in-law's mother, is regarded as ‘lower’, i.e., weaker, as they are a generation further removed. Hence this is its meaning: Whence do we know that his mother-in-law's mother and his father-in-law's mother, whose relationships are lower (i.e., further removed, and consequently weaker) than his mother-in-law's, are treated as his mother-in-law? — It is derived from his wife's daughter: just as in the latter case, the ‘lower’ relation is as the ‘upper’ (stronger), i.e., his wife's daughter's daughter is as his wife's daughter, though more distant; so here too, his mother-in-law's mother is as she herself. This deduction is in respect of equal punishment. The second clause is explained by R. Ashi as Abaye, as referring to the prohibition.

(16) This reverts to the explanation of ‘whence do we know that males are regarded as females’, as meaning, ‘whence do we know that his relations are regarded as hers?’

(17) Whereas in Yeb. 21a the prohibition of the latter is regarded as Rabbinical only, whilst the former is Biblical.

(18) Lev. XVIII, 7.

(19) Lit., ‘whether according to the one (Tanna) who says . . . or whether according to the one who says etc.’

(20) A verse is unnecessary, because his maternal grandmother could not be deduced from the gezerah shawah based on zimmah, whatever view be held on the scope of a gezerah shawah. There are two views on this. One is that the identity of law taught by a gezerah shawah must hold good in all respects, so that the case deduced is equal to the premise in all points; this is called ‘judge from it and from (all) of it’. An opposing view is that the analogy holds good only in respect of the main question at issue, but that thereafter, the case deduced may diverge from its premise. This is called, ‘judge from it, but place it on its own basis’, i.e., confine the analogy to the main question, not to the subsidiary points.

(21) Lit., ‘but according to the one Tanna who says that, etc.’

(22) I.e., the reason that his wife's maternal grandmother is forbidden on pain of burning.

(23) Hence, since the prohibition of his wife's mother is so severe, it is natural that it should extend to her maternal grandmother too.

(24) Surely not! Since the prohibition is weaker, its punishment being more lenient, its extent too may be more limited, and not include his maternal grandmother.

(25) Surely there cannot be a severer punishment for the latter, a more distant relative, than for the former. Yet if the latter be derived at all by this gezerah shawah, the punishment must be burning, on this view that the analogy must be carried through on all points.

(26) Just as incest with his mother is punished by stoning, so with his mother's mother. But making the analogy from

another angle, the latter should be punished by burning, as has already been shewn. Hence, by a reductio ad absurdum, we are forced to dismiss the entire analogy.
(27) Though the former two do not arise.

Talmud - Mas. Sanhedrin 76a

[Thus]: Why is her case [i.e., his wife's maternal grandmother forbidden]? Because her mother is [forbidden] on pain of death by fire. But can you say the same in his case, seeing that his mother is forbidden on pain of stoning [only]? Further, his maternal grandmother is like her's: just as in the latter case no distinction is drawn between his wife's maternal grandmother and her [his wife's] daughter,[1] so in the former, no distinction should be allowed between his own maternal grandmother and his daughter.[2] Whilst on the view that stoning is severer, the analogy cannot be made on account of this last difficulty.[3]

But if so,[4] just as his daughter-in-law is forbidden him, so is his wife's daughter-in-law forbidden him?[5] Abaye answered: The Writ saith, [Thou shalt not uncover the nakedness of thy daughter-in-law:] she is thy son's wife;[6] teaching, you can punish only for incest with his son's wife, but not with her [his wife's] son's wife. Raba said: Whether it be maintained, ‘judge from it in its entirety,’ or ‘judge from it and place it on its own basis’, this could not be deduced. For on the first view, [the deduction would proceed thus:] just as his daughter-in-law is forbidden him, so is her's forbidden him. [Then carrying through the analogy] ‘in its entirety,’just as in his case [the penalty] is stoning,[7] so in her case is the penalty stoning. But if we regard stoning severer, this analogy can be refuted. [Thus]: Why is his [daughter-in-law forbidden]? Because his mother is forbidden him on pain of stoning: Can you then say the same of her daughter-in-law, seeing that incest with her mother incurs only death by fire?[8] Moreover, her daughter is forbidden on pain of burning: shall her daughter-in-law be forbidden on pain of stoning?[9] [This is no difficulty, for] let his own case prove it: his own daughter is forbidden by fire, yet his daughter-in-law by stoning. But [refute the analogy thus:] just as in his case, thou drawest no distinction between his mother and his daughter-in-law, so in her's [his wife's], you can draw no distinction between her mother and her daughter-in-law.[10] And on the view that burning is considered more severe, the analogy cannot be made because of this last difficulty.[11] Whilst on the view, ‘judge from it and place it on its own basis,’ [the deduction would proceed thus:] just as his daughter-in-law is forbidden him, so is her daughter-in-law forbidden; and place it on its own basis, thus: in the former case, [his daughter-in-law] the punishment is stoning; but in the latter, burning, the punishment we find for incest with her mother. But if stoning is severer, this can be refuted. [Thus]: Why is his daughter-in-law forbidden? Because his mother is forbidden him on pain of stoning. But can you say the same of her daughter-in-law, seeing that her mother is forbidden only on pain of burning! Moreover, just as in his case, you draw a distinction between his daughter [punished by burning] and his daughter-in-law [by stoning], so in her case, you should draw a distinction between her daughter and her daughter-in-law.[12] And even on the view that burning is severer, the analogy cannot be made on account of this last difficulty.

Whence do we know that his daughter by a seduced woman [not his wife] is forbidden him?[13] — Abaye said:[14] This may be proved by arguing from the minor to the major; if he is punished for incest with his daughtzr's daughter, surely he is punished for his own daughter![15] But can punishment be imposed as the result of an ad majus conclusion? — The argument merely illumines the prohibition.[16] Raba answered: R. Isaac b. Abudimi said unto me; we learn identity of law from the fact that ‘hennah’ [they] occurs in two related passages, and likewise ‘zimmah’ in two.[17]

The father of R. Abin learned: Because we have no express sanction [from Scripture that incest] with an illegitimate daughter [is punished by burning], therefore the Writ must say, And the daughter of a man [and] a priest, if she profane herself through her father, she profaneth him; she shall burnt with fire.[18] If so, just a| in the case of a priest's [adulterous] daughter, only she is burnt, but not her paramour, so for incest with an illegitimate daughter, only she should be burnt, but not her paramour?[19] — Abaye answered: The Writ sayeth, she profaneth her father, teaching that this applies only to a case where she profaneth her father, excluded thus is this case,[20] since her father profanes her,[21] Raba answered, In the former case[22] you rightly exclude him from the penalty of a priest's daughter, and assimilate him to an Israelite's daughter.[23] But in this case,[24] to whom will you assimilate him? to an unmarried woman?[25]

Now, whence do we derive a formal prohibithon of incest with an illegitimate daughter? This is in order according to Abaye and Raba: from the verse from which they deduce punishment, they also learn the prohibition.[26] But what of the deduction made by R. Abin's father?[27] — R. Elai answered: The Writ sayeth, Do not profane thy daughter to cause her to be whore.[28] R. Jacob, the brother of R. Aha b. Jacob objected: Is this verse, Do not profane thy daughter to cause her to be a whore, employed for this purpose? But it is needed for that which has been taught: ‘Do not profane thy daughter, to cause her to be a whore’ I might think that this prohibits[29] a priest from marrying his daughter to a Levite or an Israelite:[30] therefore Scripture states, ‘to cause her to be a whore’, shewing that the reference is only to profanation by harlotry, thus prohibiting the giving over of one's daughter for sex purposes without marriage intention’? If so, Scripture should have said al tahel; why al tehallel? — That both may be deduced from it.[31]

Now, how do Abaye and Raba utilize the verse, Do not profane thy daughter to cause her to be a whore? — R. Mani said: [According to them] this refers to one who marries his [young] daughter to an old man.[32] As it has been taught: Do not profane thy daughter to cause her to be a whore; R. Eliezer said: This refers to marrying one's [young] daughter to an old man. R. Akiba said: This refers to the delay in marrying off a daughter who is already a bogereth.[33]

R. Kahana said on R. Akiba's authority: The only poor in Israel is the subtly wicked and he who delays in marrying off his daughter, a bogereth.[34] But is not one who thus delays himself subtly wicked?[35] Abaye answered:

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(1) Incest with both being punishable by fire.

(2) So that incest with the former should be punished by burning, as with the latter. This however is impossible, for incest with one's grandmother cannot be more severely punished than with his mother, the penalty for which is only stoning, which on the present hypothesis is more lenient than burning.

(3) Since according to this comparison incest with his maternal grandmother is punished by burning. But his maternal grandmother should also be compared to his mother, the punishment for which is stoning; hence the entire analogy falls to the ground.

(4) This raises a new difficulty, reverting to the statement (75b) that his relatives are compared to hers.

(5) I.e., the wife of her son by a previous husband. But this is not so.

(6) Lev. XVIII, 15.

(7) v. supra 53a.

(8) Hence, since the prohibition of his relative, viz., his mother, is so severe, it is natural that it should extend in a downward direction too, whereas the prohibition of her relation, viz., her mother, being punished only by burning and consequently weaker, its extent may be more limited, and not embrace her daughter-in-law.

(9) Surely not!

(10) Hence, incest with the latter should he punished by burning. But as has already been proved, stoning is the proper punishment; therefore the entire analogy is impossible.

(11) Though the former two do not arise.

(12) I.e., Just as the punishment for his daughter-in-law is severer than for his daughter, viz., stoning instead of burning, so her daughter-in-law should be more stringently interdicted than her daughter, viz., by stoning, instead of burning. But if we compare her daughter-in-law to her mother, the punishment is burning. Hence the entire deduction is impossible.

(13) As explained by Abaye supra 75b. q.v. The difficulty arises because in Lev. XVIII, 10 q.v., which has been interpreted as referring to his illegitimate offspring, no mention is made of his own daughter.

(14) V. next note.

(15) [Thus Tosaf.; var lec., Did not Abaye say etc. i.e ‘what is the question’-surely Abaye has solved it.’]

(16) I.e., does not add the prohibition of another person, but shews that when Scripture (in Lev. XVIII, 10) interdicted his daughter's daughter, it meant that the daughter relationship in general is forbidden.

(17) V. p. 342, n. 1; just as in Lev. XVIII, 17 the daughter is forbidden equally with the daughter's daughter, so in XVIII, 10. The punishment of burning is then deduced from Lev. XX, 14.

(18) Lev. XXI, 9. ‘A man’ Is superfluous, and therefore teaches that even if she is only his daughter, not his wife's, this law holds good. By translating the rest of the verse as in the text, we deduce that an illegitimate daughter is burnt for incest with her father; and by regarding ‘a man’ as distinct from "priest’ (the latter being attached to the former with the copula ‘and’), the deduction is made to refer to any illegitimate daughter, not only a priest's (v. Tosef. Sanh. XII).

(19) Seeing that the former is deduced from ‘she shall be burnt with fire’, whilst the verse is made to refer to incest too.

(20) Incest with one's illegitimate daughter.

(21) Her case is excluded from the limitation implied in, she (and not her paramour) ‘shall be burnt with fire’: hence her paramour is likewise punished.

(22) The seducer of a priest's adulterous daughter.

(23) I.e., punishing him by stoning instead of burning. For the limitation of ‘she’, though teaching that the special law of a priest's daughter does not apply to him, yet leaves him to be punished as the seducer of a married woman in general.

(24) Incest with an illegitimate daughter.

(25) For if an incestuous paramour be excluded from the punishment of an adulterous woman, whether the daughter of a priest or an Israelite (since relationship is independent of these), his law can only be assimilated to that of an unmarried woman, whose unchastity is not punished at all. But surely it cannot be maintained that an illegitimate daughter is burnt for incest with her father, though her offence is a passive one, and less than the man's (v. supra 74b), whilst he goes scot free! Hence the limitation of ‘she’ cannot apply to this.

(26) Both being stated in the verses they employ for this purpose.

(27) Lev. XXI, 9 speaks only of punishment, but contains no prohibition.

(28) Lev. XIX, 29. This includes incest, and since ‘daughter’ in general is mentioned, it applies to an illegitimate one too.

(29) Lit., ‘the Writ speaks of a priest etc.’

(30) Since he thereby ‘profanes her’, in that she is not permitted to eat of terumah (v. GIos) thereafter.

(31) The latter אל תחלל is a heavier form, yet with the same meaning אל תחל the former. Being heavier, it has a wider application.

(32) Since she cannot willingly accept him, she may be led to adultery.

(33) Having attained puberty, she may become unchaste if not married. Marriage, of course, was then at a far earlier age than now.

(34) This is explained further on.

(35) Why ‘and he who delays etc.’: the two are identical. His wickedness consists in that he keeps her unmarried, that he may profit by her labour whilst endangering her chastity.

Talmud - Mas. Sanhedrin 76b

This is its meaning: Which poor man is subtly wicked? He who delays marrying off his daughter, a bogereth.[1]

R. Kahana also said on R. Akiba's authority: Beware of one who counsels thee for his own benefit.[2]

Rab Judah said in Rab's name: One who marries his daughter to an old man or takes a wife for his infant son, or returns a lost article to a Cuthean,[3] — concerning him Scripture sayeth, [that he bless himself in his heart saying, I shall have peace, though I walk in the imagination of mine heart] to add drunkedness to thirst: The Lord will not spare him.[4]

An objection was raised: He who loves his wife as himself and honours her more than himself,[5] and leads his children in the right path, and marries them just before they attain puberty — of him Scripture saith, And thou shalt know that thy tabernacle shall be in peace and thou shalt visit thy habitation, and shalt not sin.[6] — If just before puberty, it is different.

Our Rabbis taught: He who loves his neighbour, displays friendly intimacy towards his relatives, and marries his sister's daughter and lends a sela' to the poor man in time of his need — of him Scripture saith, Then shalt thou call, and the Lord shall answer.[7]

Our Rabbis taught: [And if a man take a wife and her mother, it is wickedness: they shall be burnt with fire,] both he and they [ethe'en].[8] [This means], he and one of them. That is R. Ishmael's opinion. R. Akiba said: [It means], he and both of them. Wherein do they differ?[9] — Abaye said: They differ as to the text from which the law is derived: R. Ishmael maintains that 'he and ethe'en' means 'he and one of them', for in Greek 'one' is hello.[10] Hence [incest with] his mother-in-law's mother [as a punishable offence] is arrived at [only] by [Biblical] interpretation. But R. Akiba maintained, 'he and ethe'en' means 'he and both of them', hence his mother-in-law's mother is explicitly interdicted in this verse.[11] Raba said: They differ about his mother-in-law after [his wife's] death: R. Ishmael holds that [incest with] his mother-in-law after [his wife's] death is punished by burning; whilst R. Akiba's view is that it is merely forbidden.[12]

MISHNAH. THE FOLLOWING ARE DECAPITATED: A MURDERER, AND THE INHABITANTS OF A SEDUCED CITY. A MURDERER WHO SLEW HIS FELLOW WITH A STONE OR AN IRON, OR KEPT HIM DOWN UNDER WATER OR IN FIRE, SO THAT HE COULD NOT ASCEND THENCE, IS EXECUTED. IF HE PUSHED HIM INTO WATER OR FIRE, BUT SO THAT HE COULD ASCEND, YET HE DIED, HE IS FREE [FROM DEATH]. IF HE SET ON A DOG OR A SNAKE AGAINST HIM [AND THEY KILLED HIM], HE IS FREE FROM DEATH. BUT IF HE CAUSED A SNAKE TO BITE HIM [BY PUTTING HIS JAWS AGAINST HIM] — R. JUDAH RULED THAT HE IS EXECUTED; THE SAGES, THAT HE IS NOT.

GEMARA. Samuel said: why is 'hand' not mentioned in connection with iron?[13] — Because iron can kill no matter what its size. It has been taught likewise: Rabbi said; It was well known to Him who spake and the world came into being that iron, no matter how small, can kill; therefore the Torah prescribed no size for it. This however, is only if one pierced therewith:[14]

OR KEPT HIM DOWN UNDER WATER. The first clause teaches the extreme limit of the law, and so does the last. Thus, the first clause teaches the extreme limit of the law, that though he himself did not push him [into the water], yet since he could not ascend, [through being held down], and so died, he is executed. The last clause likewise teaches the extreme limit, that though he actually pushed him into the water, yet since he could have ascended, but died, he is free from death.

Whence do we know that [he is liable to death] for keeping him down?-Samuel answered: The Writ sayeth, Or if with enmity he smote him with his hand:[15] this extends the law to one who keeps his neighbour fast [e.g., in water, thus causing his death].

A certain man confined his neighbour's animal in a place exposed to the sun, so that it died [of sunstroke]. Rabina held him liable: R. Aha b. Rab ruled that he was not. Rabina held him liable by an ad majus argument from a murderer. If a murderer, in whose case unwitting murder is not treated as deliberate, nor an accident as intention, is nevertheless executed for confining [his neighbour in a place where he must die];

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(1) Through his poverty he delays her marriage, that he may profit from her labour, The poor man has no other opportunity of cunning wickedness

(2) Lit., ‘in his own way’.

(3) v. p. 388, nn. 5-6.

(4) Deut. XXIX, 18ff. i.e., the associations involved in these practices are displeasing in the eyes of the Lord. [How bitter must have been the persecution of the Jews under Ardeshir (v. Funk, op. cit 1, pp 66 ff.) to have provoked gentle Rab to this harsh utterance.]

(5) By providing her with fine ornaments (Rashi).

(6) Job. V. 24. This proves that it is meritorious to marry off one's children whilst minors.

(7) Isa. LVIII, 9.

(8) אתהן, Lev. XX, 14.

(9) For obviously R. Akiba cannot mean that a man's wife must be burnt because her husband committed incest with his daughter.

(10) ***, acc. of ***.

(11) Since R. Ishmael maintains that only ‘one of them’ is denoted by אתהן, It must mean his mother-in-law. Consequently, her mother is not directly referred to, and has to be deduced. But R. Akiba, translating אתהן ‘both of them’ (which cannot possibly include his wife), regards the verse as referring to his mother-in-law and her mother; hence death by fire for the latter is explicitly taught in this verse.

(12) R. Ishmael interprets the verse, ‘he and one of them’ i.e., even if only one of them is alive (viz., his mother-in-law), the penalty for incest is burning, whilst R. Akiba maintains, ‘he and both of them’ i.e., only during the lifetime of both is incest with his mother-in-law punished by fire. Otherwise, there is no penalty, though it is forbidden.

(13) In Num. XXXV, 16-18, dealing with murder, iron, stone, and wooden weapons are enumerated: ‘hand’ is used in connection with the latter two, implying that they must be large enough to afford a hold to the hand, but not in connection with the first.

(14) But if used to strike therewith, it must be of a certain minimum size before the murderer is executed.

(15) Num. XXXV, 21.

Talmud - Mas. Sanhedrin 77a

then with respect to damages, wherein unwitting damage is treated as deliberate, and an accident as intention,[1] surely he is liable for confining [the animal].

'R. Aha b. Rab ruled that he is not liable.' Said R. Mesharshia: Why does my grandfather[2] rule him not liable? — Because of the verse, [Or in enmity he smite him with his hand, that he die:] He that smote him shall surely be put to death: for he is a murderer:[3] only a murderer has the law made liable for confining, but not one who causes damage thereby.

Raba said: If one bound his neighbour and he died of starvation, he is not liable to execution. Raba also said: If he bound him in the sun, and he died, or in a place of intense cold and he died, he is liable; but if the sun was yet to appear, or the cold to make itself felt, he is not.[4] Raba also said: If he bound him before a lion, he is not liable:[5] before mosquitoes, [who stung him to death] he is. R. Ashi said: Even before mosquitoes, he is not liable, because these go and others come.[6]

It has been stated: If one overturned a vat upon a man [who then died of suffocation], or broke open a ceiling above him,[7] — Raba and R. Zera [differ]: One ruled that he is liable, the other that he is not. It can be proved that it was Raba who ruled that he is not liable, for he said: If one bound his neighbour and he dies of starvation, he is not liable.[8] On the contrary. it can be shewn that R. Zera ruled that he is not liable. For R. Zera said: If one led his neighbour in to an alabaster chamber[9] and lit a candle therein, so that he died [of the fumes]. he is liable. Now, the reason is only that he lit a candle that he is liable;[10] but had he not lit a candle [and the prisoner died of the natural heat and lack of air], he would be exempt![11] — I will tell you: In that case, without a candle, the heat would not have commenced [its effects]

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(1) It being a general principle that a man is liable for any damage he does, no matter how, B.K. 26b.

(2) R. Aba b. Rab was a Babylonian amora of the fourth century, and the grandfather of R. Mesharshia.

(3) Ibid. The first half of the verse extends the law to confining one's neighbour in a place of death, (p. 519).

(4) I.e., he is liable only if the place was already exposed to heat or cold. But if it was merely destined to become hot, the sun not yet having risen, he is not liable. In the first case, he is regarded as a direct murderer, in the second, as an indirect cause. That is the general reason for the exemptions taught in this passage.

(5) Because he could not have saved himself in any case. [Raba probably refers to a prisoner thrown into an arena to be torn by lions.]

(6) I.e., the mosquitoes before which the prisoner was bound do not kill him entirely. as there is a continuous coming and going, Hence it is similar to binding one in a place where the sun will appear, but has not yet done so.

(7) So that the cold entering therein, killed him.

(8) This is similar: he did not kill him but indirectly caused his death.

(9) Which was then hermetically sealed, so that no fumes could escape.

(10) This being considered active murder under the circumstances.

(11) Thus R. Zera maintains that no penalty is incurred for indirectly causing one's death.

Talmud - Mas. Sanhedrin 77b

immediately [he placed him therein];[1] but in this case [of placing the upturned vat over him] the heat commences immediately.

(Mnemonic: Ladder, shield, balsam, in a wall.)

Raba said: If one thrust his neighbour into a pit, in which there was a ladder [so that he could have climbed out], and then another came and removed it, or even if himself hastened to remove it, he is not liable [for the victim's death], because when he threw him in he could have climbed out. Raba also said: If one shot an arrow at his neighbour, who was holding a shield, but another came and snatched it away, or even if he himself [the thrower] hastened to do so, he is not liable, because when he shot the arrow its force was spent.[2]

Raba also said: If one shot an arrow at his neighbour. who had balsam in his hand [wherewith he could have healed the wound], but another dashed it out of his hand, or even if he himself [the thrower] did so, he is not liable, because when he did it he could have been healed. R. Ashi said: Therefore this holds good even if there was balsam in the market.[3] R. Aha the son of Raba asked R. Ashi: What if he came across the balsam by chance?[4] — He replied: Behold, he has left Beth din a free man.[5]

Raba also said: If one threw a stone at a wall, which rebounded and killed his neighbour,[6] he is liable. And a Tanna teaches [in support of this]: If murder is committed by a man playing, for example. with a ball,[7] if intentional, the thrower is executed; if unintentional, he is sentenced to the refuge cities.[8] 'If unintentional, he is sentenced to the refuge cities:' but is that not obvious? — It is necessary to teach that if intentional, he is executed, [the second half being added to complete it]; for I might say, this is a case of 'a doubtful warning', for who knows that it will rebound?[9] We are therefore taught otherwise.

R. Tahlifa of the West[10] recited before R. Abbahu [the following]: If [unintentional] murder is committed by a man playing, for example, with a ball, if [the victim] was within four cubits [of the wall]. the thrower is exempt; if beyond four cubits, he is liable [to exile]. Rabina objected to R. Ashi: How is this? If he desired it [to rebound], he should be liable even for a short distance;[11] whilst if not, he should be liable even for a greater distance? — He replied: The greater the rebound, the more is the average player pleased.[12]

Are we to say that [a murder] so committed is regarded as by his direct action?[13] But the following contradicts it: If one was sanctifying [the water], and the ashes[14] fell upon his hand or upon the side of the utensil, whence it fell into the trough, it is unfit?[15] — The reference here is to a dripping down.[16]

Come and hear! If an [unclean] needle was lying upon a shard, and the [purifying] water was sprinkled thereon, but it is doubtful whether upon the needle or upon the shard, and then it spurted [miza] upon the needle, the sprinkling is invalid.[17] — R. Hinena b. R. Judah said in Rab's name: We have learnt, It was found [maza].[18]

R. Papa said: If one bound his neighbour and then caused a column of water to inundate him, it is as his arrows, and he is liable [for his death]. But that is only if [he was drowned] by his direct agency; but if through his indirect agency,[19] he is merely regarded as a subsidiary cause.[20]

R. Papa also said: If one threw a stone upwards, and it returned in a slanting direction and killed a man, he is liable. Mar son of R. Ashi asked R. Papa. Why so? Because it is by his agency! But if so it should go upwards;[21]

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(1) [By consuming the oxygen, the fire immediately produces effects of asphyxiation, but without fire such effects are not immediately felt.]

(2) Lit., 'broken', as at the time it was released there was a shield to prevent its killing.

(3) I. e., if when the arrow was thrown, a healing ointment could have been procured sufficiently quickly to prevent death, the attacker is not liable, even if for some reason the ointment became subsequently unavailable.

(4) When smitten, he neither possessed nor could procure it. But by some happy chance, he subsequently obtained it, and though he could have healed himself therewith, did not. Do we say, since when the attack was made, murder was its probable outcome, he is liable; or since he could have healed himself, he is not.

(5) I.e., he is not liable: in spite of the fact that the balsam was unavailable when he threw the arrow.
(6) And this was his intention.
(7) Children play by throwing a ball at a wall and catching or striking it on the rebound, thus here, one threw something at a wall, which, rebounding, struck his neighbour and killed him.
(8) V. Num. XXXV, 15.
(9) V. supra 72b. In this case, however, it might be thought that no true warning can be given, since the murder is doubtful.
(10) I.e., a Palestinian amora.
(11) I.e., even if it did not rebound so far, and struck a man standing within four cubits
(12) Therefore it may be presumed that he intended it to rebound at least four cubits; hence if less, he is not liable.
(13) Lit., ‘force’.
(14) Lit., ‘the sanctifier’.
(15) The reference is to the law of the red heifer: Num. XIX. The ashes thereof, when mixed with running water, are said to sanctify, the ashes themselves being denominated ‘the sanctifier’. These had to be placed by a person into the water, not merely fall therein. Now, if one was engaged in sanctifying the water, and instead of pouring the ashes straight in, permitted them to fall upon his hand or on the side of a utensil, whence they fell into the trough containing the sanctified water, the water is unfit for its purpose, because the mixing had not been done directly by the person. This proves that a rebound is not regarded as a person's direct action, and this contradicts the law of murder.
(16) The ashes did not fall with force from the side of the utensil into the trough, but merely dripped down; therefore it is not regarded as man's direct agency. Had they fallen with force, however, the fall would be regarded as part of the man's action in dropping them on to the utensil, and the water would accordingly be fit. In the case of murder, the rebound is with force, and directly caused by the strength of the throw.
(17) Because the sprinkling, as the mixing. must be done by man. Thus we see that the rebound is not regarded as direct action.
(18) I.e., the text is corrupt, and instead of miza מיצא, miza מצא is to be read. Thus, the water was found upon the needle, but how it came there is not known, whether sprinkled direct thereon, or it had rebounded from the shard, which, on the present hypothesis would also be valid, or flowed of itself from the shard on to the needle, in which case it was not due at all to man's action.
(19) If the victim was lying immediately in front of the burst, where the strength of the water's flow is still due to the man's action, the drowning is by his direct agency. But if he was lying at some distance, he is held to be an indirect or secondary cause.
(20) Not the actual murderer.
(21) For he had exerted himself to cause it to go up, not down.

Talmud - Mas. Sanhedrin 78a

whilst if it is not by his agency, it should fall [vertically] down?[1] — But it is through his agency, though weakened.[2]

Our Rabbis taught: If ten men smote a man with ten staves, whether simultaneously or successively, and he died, they are exempt. R. Judah b. Bathyra said: If successively, the last is liable, because he struck the actual death blow.[3] R. Johanan said: Both derive [their rulings] from the same verse, And he that killeth kol nefesh[4] [lit., ‘all life’] of man shall surely be put to death.[5] The Rabbis maintain that kol nefesh implies the whole life;[6] but R. Judah b. Bathyra holds that kol nefesh implies whatever there is of life.[7]

Raba said: Both agree that if he killed a terefah,[8] he is exempt; if he slew one who was dying through an act of God,[9] he is liable; their dispute refers only to one who was dying through man's act:[10] the one likens him to a terefah,[11] the other to a person dying naturally. Now, he who likens him to a terefah, why does he not liken him to a person dying naturally? — Because no injury has been done to the latter; but an injury has been done to this one. Whilst he who likens him to a person dying naturally, why does he not liken him to a terefah? — A terefah has his vital organs affected[12] , but this one has not.[13]

A tanna recited before R. Shesheth: And he that k®lleth all life of man: this includes one who smote his fellow, but there was not in his blow enough [force] to kill, and then a second came and killed him, [teaching] the latter is executed — But if the first man's blow was insufficient to kill, is it not o¸vious [that the second is liable]? — But [say thus: the first smote him] with sufficient force to kill, [but before he expired] a second came and slew him,; then the second is liable. This anonymous Baraitha agrees with R. Judah b. Bathyra.[14]

Raba said: If one kills a terefah, he is exempt; whilst if a terefah committed murder: if in the presence of a Beth din, he is liable; otherwise he is exempt. Why is he liable if in the presence of a Beth din? — Because it is written, so shalt thou put away the evil from the midst of thee.[15] But if not, he is exempt, because the law of confuted testimony is inapplicable, and testimony which cannot be so confuted is inadmissible.[16]

Raba also said: He who commits pederasty with a terefah is liable to punishment; but if a terefah committed it, if in the presence of a Beth din, he is liable; otherwise he is not. ‘If in the presence of a Beth din, he is liable’, because it is written, So shalt thou put the evil away from the midst of thee. ‘Otherwise he is not’, because the law of confuted testimony is inapplicable. Why state this second [law]; is it not identical with the first? — It is necessary to teach concerning one who commits pederasty with a terefah: for I might think that he is as one who abuses a dead person, and hence exempt. Therefore he teaches that [punishment is generally imposed] because of the [forbidden] pleasure derived, and in this case too pleasure is derived.[17]

Raba also said: if witnesses testified [to murder] against a terefah and were then confuted,[18] they are not executed.[19] But if witnesses, themselves terefah, were confuted, they are executed. R. Ashi said : Even these are not slain , because those who disprove their evidence are not liable if their own is subsequently confuted.[20]

Raba also said: If an ox, a terefah, killed [a man], it is liable [to be stoned]; but if an ox belonging to a terefah [person] killed, it is exempt. Why so? — Because the Writ saith, The ox shall be stoned, and his owner shall also be put to death;[21] wherever it is possible to read, ‘and his owner shall also be put to death,’ we also read, ‘the ox shall be stoned;’but where we cannot apply, ‘and his owner shall also be put to death,’[22] we do not read, ‘the ox shall be stoned.’ R. Ashi said: Even an ox, a terefah is exempt. Why so? — Since the owner in a similar condition would be exempt, the ox too is exempt.[23]

IF HE SET ON A DOG OR A SNAKE AGAINST HIM, etc.

R. Aha b. Jacob said: If you will investigate [the grounds of the dispute, you will learn that] in R. Judah's opinion the snake's poison is lodged in its fangs, therefore, one who causes it to bite [by placing its fangs against the victim's flesh] is decapitated, whilst the snake itself is exempt. But in the view of the Sages the snake emits the poison of its own accord; therefore the snake is stoned, whilst he who caused it to bite is exempt.[24] MISHNAH. IF A MAN SMOTE HIS FELLOW, WHETHER WITH A STONE OR WITH HIS FIST, AND THEY [THE EXPERTS] DECLARED THAT DEATH WOULD ENSUE; BUT THEN ITS EFFECT LESSENED [SO THAT IT WAS THOUGHT THAT HE WOULD LIVE], ONLY TO INCREASE SUBSEQUENTLY, SO THAT HE DIED. — HE IS LIABLE. R. NEHEMIAH SAID THAT HE IS EXEMPT, SINCE THERE IS EVIDENCE[25] [THAT HE DID NOT DIE AS A RESULT OF HIS INJURIES, AS HE HAD ALREADY BEEN ON THE MEND.]

GEMARA. Our Rabbis taught: R. Nehemiah gave the following exposition: If he rise again, and walk abroad

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(1) Not in a slanting direction.

(2) I.e., most of the force with which he threw it was already expended, but sufficient was left to impel it in the direction in which it fell.

(3) Lit., 'brought his death near'; v. B.K. 26b.

(4) כל נפש

(5) Lev. XXIV, 17.

(6) Hence, if ten men assailed him successively, he was already nearly dead when the last smote him: therefore the last too is exempt.

(7) I.e., however little life the man has, even if he is nearly dead, the man who actually kills him is liable.

(8) V. Glos. When used of a person, it means that he was suffering from some fatal organic disease, recovery from which is impossible.

(9) I.e., naturally, through age or weakness, but without an organic disease or wound.

(10) As here: nine men had smitten him, and though not actually a trefah, he was already at the point of death.

(11) Hence his slayer is exempt.

(12) Lit., 'cut'.

(13) Although suffering very much from the successive blows, and on the point of death, no vital organ, e.g., the heart or lungs, is injured, as in the case of a trefah.

(14) That the last of the ten is liable for hastening his death, though the cumulative effect of the preceding nine would have caused his death in any case, if not so soon.

(15) Deut. XIII, 6.

(16) Ibid. XIX, 16-19. Since the murder was not committed in the presence of a Beth din, witnesses must testify thereto. But should they subsequently be proved false (Zomemim, v. Glos.) they could not be executed in accordance with Deut. XIX, 16-19, because they had sought the execution of one who is already regarded as dead, a terefah being thus considered, and testimony to which this law is inapplicable is not valid. But if the murder was committed in the presence of a Beth din, so that no testimony at all is required, the ordinary law of a murderer applies.

(17) Whereas there is no sexual gratification in abusing the dead.

(18) It being proved they they were absent from the scene of the alleged murder.

(19) V. p. 523, n. 3.

(20) If A and B's testimony is disproved by C and D, who testify that they were with them elsewhere than at the scene of the alleged crime, and then the latter themselves are similarly refuted, the law of Deut. XIX, 16-19 is applicable to C and D, since they had sought to impose punishment upon the first two. But if A and B were terefah, this law would not apply to C and D; consequently, the entire law does not apply, and hence they are not executed.

(21) Ex. XXI, 29.

(22) As here, since the owner, being a terefah, is regarded as already dead.

(23) For this verse puts the two on an equal basis. It should be observed that in practice the owner was never killed, but ransomed, in accordance with Ex. XXI, 30 (v. supra 2a).

(24) On R. Judah's view, the fangs themselves are poisonous. Consequently, the snake does nothing, the murder being committed by the person. But the Sages maintain that even when its fangs are embedded in the flesh, they are not poisonous, unless it voluntarily emits poison. Consequently the murder is committed by the snake, not the man. The law of Ex. XXI, 30 applies to all animals and reptiles.

(25) Lit., 'there are feet', 'there is a basis, a reason for it'.

Talmud - Mas. Sanhedrin 78b

upon his staff, then shall he that smote him be quit.[1] Now, could you have thought that whilst he walks in the market place his assailant is executed! But it must refer to one who, it was judged, would die [of his injuries], but then their effect lessened, only to increase subsequently so that he died, [the Torah thus teaching that his assailant] is quit. But how do the Rabbis[2] explain 'then shall he that smote him be quit'? — This teaches that he is incarcerated [until the result is known]. Whence does R. Nehemiah know this? — From the 'gatherer [of sticks]'.[3] Then let the Rabbis also deduce it thence? — The ‘gatherer’ was certainly liable to death, Moses merely not knowing by which death;[4] that excludes our case, where we do not know whether he is liable to death at all.[5] But R. Nehemiah maintains that it can be deduced from the ‘blasphemer’: though not knowing whether he was liable to death, they imprisoned him.[6] But the Rabbis say that in case of the blasphemer, [his incarceration] was an ad hoc decision.[7]

[The preceding discussion agrees with what] has been taught: Moses knew that the ‘gatherer’ was to be executed, for it is written, Every one that defileth it shall surely be put to death;[8] but he did not know by which death, as it is written, [And they put him in ward,] because it was not declared what should be done to him.[9] But in the case of the blasphemer, it is only said, [And they put him in ward,] that the mind of the Lord might be shewed them;[10] implying that Moses did not know whether he was at all liable to death or not.

Now, on R. Nehemiah's view, it is right that two phrases bearing on judicial assessment are written;[11] one teaching that if his injury was declared to be fatal, but yet he survived; the other, that if it was judged that he would die, and then the effect of the blow was lightened, [yet he subsequently died — that in both cases he is quit]. But according to the Rabbis [who maintain that in the latter case he is executed], why are two such clauses necessary? — One teaches that if his injuries were declared fatal, yet he survived, and the other, that if they were declared non-fatal, yet he died, — [that in both cases the assailant is free]. But R. Nehemiah maintains that no verse is necessary for the latter case, since he left Beth din a free man.[12]

Our Rabbis taught: If a man smite his neighbour and the blow was assessed to be fatal, yet he survived, he is dismissed.[13] If the injury was declared fatal, but subsequently lightened, a second assessment of the financial damage is made.[14] If thereafter he grew worse and died, the second assessment is followed.[15] This is R. Nehemiah's view. The Sages maintain: There can be no second assessment after the first.[16]

Another [Baraitha] taught: If his injuries were declared fatal, they may subsequently be declared non-fatal.[17] But once his injuries are declared non-fatal, they cannot subsequently be declared fatal.[18] If the blow was assessed to be fatal, but then he became better, a second assessment of the financial damage is made, and if he subsequently died, he must make compensation for the damage, pain [etc.][19] to the heirs. From when must compensation be made? — From when he smote him.[20] And thus this anonymous [Baraitha] agrees with R. Nehemiah.[21]

MISHNAH. IF HE INTENDED KILLING AN ANIMAL BUT SLEW A MAN, OR A HEATHEN AND HE KILLED AN ISRAELITE, OR A PREMATURELY BORN AND HE KILLED A VIABLE CHILD, HE IS NOT LIABLE.[22] IF HE INTENDED TO STRIKE HIM ON HIS LOINS, WHERE THE BLOW WAS INSUFFICIENT TO KILL, BUT SMOTE THE HEART INSTEAD, WHERE IT WAS SUFFICIENT TO KILL, AND HE DIED; OR IF HE INTENDED SMITING HIM ON THE HEART,

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(1) Ex. XXI, 19.

(2) The representatives of the anonymous opinion in the Mishnah.

(3) V. Num. XV, 32-36. Pending a decision, ‘they put him in ward’.

(4) Hence it is obvious that he had to be incarcerated. On this view, Moses knew that he had to be executed. This is discussed below.

(5) I.e., this case could not be deduced from the other.

(6) Lev. XXIV, 10-14.

(7) Lit., ‘a decision for the moment’. For, death not having been previously prescribed for blasphemy, there was no reason for his incarceration, but that it seemed expedient. But a special ad hoc decision cannot be taken as precedent for normal procedure.

(8) Ex. XXXI, 14.
(9) Num. XV, 34.
(10) Lev. XXIV, 12. This implies that the entire law was unknown, whilst ‘what should be done to him’ indicates that only the details, i.e. mode of death, were unknown.
(11) V. Ex. XXI, 18f: And if men strive together, and one smite another with a stone, or with his fist, and he die not, but keepeth his bed: If he rise again, and walk abroad upon his staff, then shall he that smote him be quit: only he shall pay for the loss of his time, and shall cause him to be thoroughly healed. Two phrases are superfluous, viz., ‘and he die not’, and ‘If he rise again and walk abroad upon his staff’, for it is self-evident that the assailant cannot be executed under such circumstances: hence they must refer to a judicial calculation that he would not die, which was, however, subsequently falsified.
(12) A favourable verdict cannot be reversed (v. supra 33b). Therefore in the latter case it is obvious that ‘he is quit’.
(13) [I.e., exempt from death, but liable to pay damages.]
(14) I.e., the probable period that he would be incapacitated and the cost of medical assistance, for both of which he is liable.
(15) I.e., he is liable for the financial damage, as it was computed, but not to death.
(16) I.e., since on the first computation the injuries were declared fatal, when he subsequently grew better, and financial damages were awarded, we do not regard him as having left Beth din a free man (in respect of the capital penalty), but judge him according to the ultimate issue, and hence he is executed.
(17) If he grew better, and the assailant is thus freed from death.
(18) If he grew worse and died, the culprit is not executed.
(19) [On the payments for injuries, v. B.K. VIII, 1.]
(20) In assessing the victim's worth, his value before being smitten is taken. But we do not say, since his injuries were first declared fatal, and then not fatal, subsequent to which he died, his value should be assessed on the basis of his health at the time of the second computation.
(21) That financial compensation must be made, but there is no liability to death.
(22) [A prematurely born child for the first thirty days is not considered viable.]

Talmud - Mas. Sanhedrin 79a

WHERE IT WAS ENOUGH TO KILL, BUT STRUCK HIM ON THE LOINS, WHERE IT WAS NOT, AND YET HE DIED, HE IS NOT LIABLE. IF HE AIMED A BLOW AT AN ADULT, WHOM IT WAS INSUFFICIENT TO KILL, BUT CAUGHT A CHILD,[1] WHOM IT WAS ENOUGH TO KILL, AND HE DIED, HE IS NOT LIABLE. IF HE STRUCK AT A CHILD WITH SUFFICIENT FORCE TO KILL HIM, BUT IT CAUGHT AN ADULT, FOR WHOM IT WAS INSUFFICIENT, AND YET HE DIED, HE IS NOT LIABLE. BUT IF HE INTENDED TO STRIKE HIS LOINS WITH SUFFICIENT FORCE TO KILL, BUT CAUGHT THE HEART INSTEAD, HE IS LIABLE. IF HE AIMED A BLOW AT AN ADULT HARD ENOUGH TO KILL, BUT STRUCK A CHILD INSTEAD, AND HE DIED, HE IS LIABLE.R. SIMEON SAID: EVEN IF HE INTENDED KILLING ONE BUT KILLED ANOTHER, HE IS NOT LIABLE.

GEMARA. To which clause does R. Simeon refer? Shall we say to the last? In that case, the Mishnah should state, R. Simeon declares him not liable.[2] But he refers to the first clause: IF HE INTENDED KILLING AN ANIMAL, BUT SLEW A MAN, OR A HEATHEN AND HE SLEW AN ISRAELITE, OR A PREMATURELY BORN AND HE SLEW A VIABLE CHILD, HE IS NOT LIABLE. This implies, that if he intended killing one [Israelite] and killed another, he is liable. [Thereupon] R. SIMEON SAID: EVEN IF HE INTENDED KILLING ONE BUT KILLED ANOTHER, HE IS NOT LIABLE.

Now, it is obvious that if Reuben and Simeon were standing, and the murderer said, ‘I intended killing Reuben, not Simeon [whom he did actually kill] — that is the case wherein they differ. But what if he said, ‘I intended killing any of then,’;[3] or [again], if he thought that this victim was Reuben, but then found him to be Simeon? — Come and hear! For it has been taught: R. Simeon said: [He is not liable] unless he declares, ‘My intention was to kill so and so’ [whom he did kill].[4]

What is R. Simeon's reason? — The Writ saith, [But if any man hate his neighbour,] and lie in wait for him, and rise up against him:[5] teaching that his intention must be against him. But the Rabbis?[6] — The disciples of R. Jannai said: This excludes the case of one who threw a stone into the midst of a company [of Israelites and heathens]. How is this? Shall we say that the company consisted of nine heathens and one Israelite? Then his non-liability can be inferred from the fact that the majority were heathens. And even if half and half, when there is a doubt in a capital charge, a lenient attitude must be taken![7] — The verse is necessary only if there were nine Jews and one heathen, so that the heathen [though in a minority] is ‘settled’ there, and every ‘settled’ [minority] is as half and half.[8]

All is well according to the Rabbis, who maintain that if he intended killing one man and killed another, he is liable. For it is written, If men strive, and hurt a woman with child;[9] whereupon R. Eleazar observed: The verse refers to attempted murder,[10] because It is written, And if any mischief follow, then thou shalt give life for life.[11] But how does R. Simeon interpret, ‘thou shalt give life for life’ ?[12] — It refers to monetary compensation, in harmony with Rabbi's [interpretation]. For it has been taught: Rabbi said: Then thou shalt give life for life: this refers to monetary compensation.[13] You say, monetary compensation: but perhaps this is not so, life being literally meant? ‘Giving’ is stated below;[14] and ‘giving’ is also stated

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(1) Lit., ‘a minor’.

(2) Why repeat, Even if he intended etc.? Since it bears upon the clause immediately preceding, the circumstances having been stated, it is sufficient just to give R. Simeon's ruling.

(3) Does R. Simeon regard this as intentional, or not, since he would have been equally satisfied had the other been killed.

(4) This proves that in both cases propounded, he is not liable according to R. Simeon.

(5) Deut. XIX, 11

(6) How do they interpret ‘for him’ and ‘against him’?

(7) Since they were equally divided, we do not know whether he aimed at a Israelite or a heathen, and hence even without a verse we know that he is not liable.

(8) This is a general rule in the Talmud. Although the majority is always followed, that is only when the minority is not קבוע Kabua’, fixed, settled in a certain place; but otherwise, it is equal to the majority. The following example from the Talmud will make it clearer. If there are ten butcher shops in a street, nine of which sell only kosher meat, the tenth selling terefah meat, and a piece of meat is found in the street, it may be assumed to be kosher, as the majority is followed. But if meat was bought in one of the shops, and it is not known from which, this assumption may not be made, because the doubt arises not in the street but in the shop, and the minority is in a settled place. Thus here too, since the company is all together, the place of the heathen is known and fixed, as it were. The verse under discussion teaches that the murderer in this case is not liable: hence it becomes the source of the principle that a ‘settled’ minority is regarded as equal to the majority.

(9) Ex. XXI, 22.

(10) Lit , ‘the verse speaks of a strife with murderous intent’.

(11) Ibid. 23; v. supra, 74a.

(12) Since the murder of the woman was unintentional, according to R. Simeon there is no death penalty.

(13) I.e., the value of the woman's life must be paid to her husband.

(14) Viz., in the verse under discussion.

Talmud - Mas. Sanhedrin 79b

above:[1] just as the latter refers to money, so the former too.

Raba said: The following Tanna of the School of Hezekiah differs from both Rabbi and the Rabbis

— For a Tanna of the School of Hezekiah taught: And he that killeth a beast [shall pay for it:] and he that killeth a man, [he shall be put to death].[2] Just as in the case of one who kills an animal, you draw no distinction between an unwitting or a deliberate act, an intentional or unintentional blow, a downward blow or an upward one,[3] not acquitting him thereof, but imposing monetary liability; so in the case of killing a man,[4] you must draw no distinction between an unwitting or a deliberate act, an intentional or unintentional blow, a downward or an upward thrust, not imposing a monetary liability. but acquitting him thereof.[5] Now, what is meant 'unintentional'? Shall we say, entirely unintentional? But then it is identical with 'unwitting'. Hence it obviously means not intending to slay this one, but another: and for such a case it is taught, 'not imposing monetary liability', but acquitting him thereof'. But if he is liable to death, it is surely unnecessary to teach that he is not liable to make compensation?[6] Hence it follows that he is liable neither to execution nor to make compensation.[7] MISHNAH. IF A MURDERER BECAME MIXED UP WITH OTHERS, THEY ARE ALL EXEMPTED [FROM THE PENALTY]. R. JUDAH SAID: THEY ARE PLACED IN A CELL.[8] IF A NUMBER OF CONDEMNED PERSONS DIFFERING IN THEIR DEATH SENTENCES BECAME MIXED WITH WITH ONE ANOTHER, THEY ARE EXECUTED BY THE MOST LENIENT [DEATH]. IF CRIMINALS CONDEMNED TO STONING [BECAME MIXED UP] WITH OTHERS CONDEMNED TO BURNING, — R. SIMEON SAID: THEY ARE STONED, BECAUSE BURNING IS SEVERER; BUT THE SAGES SAY THEY ARE BURNED, BECAUSE STONING IS MORE SEVERE. R. SIMEON SAID TO THEM: WERE NOT BURNING SEVERER, IT WOULD NOT BE DECREED FOR A PRIEST'S ADULTEROUS DAUGHTER. THEY REPLIED: WERE NOT STONING MORE SEVERE, IT WOULD NOT BE THE PENALTY OF A BLASPHEMER AND AN IDOLATER. IF MEN CONDEMNED TO DECAPITATION BECAME MIXED UP WITH OTHERS CONDEMNED TO STRANGLING, — R. SIMEON SAID: THEY ARE [ALL] DECAPITATED; THE SAGES SAY: THEY ARE STRANGLED.

GEMARA. Who are meant by 'others'?[9] Shall we say, other innocent men: is it not obvious?[10] Moreover, could R. Judah say in such a case that 'they are placed in a cell'? (Mnemonic Besh rak)[11] — R. Abbahu said in Samuel's name: The Mishnah treats of an unsentenced murderer who became mixed up with other murderers already sentenced, the Rabbis holding that no man can be condemned save[12] in his presence; therefore they are all freed;[13] while R. Judah maintains that they cannot all be exempted, since they are murderers: therefore they are placed in a cell.

Resh Lakish said: If this happened to human beings, all agree that they are exempt. But here the reference is to an ox [that had gored] but was as yet uncondemned, which was mixed up with other oxen already condemned. The Rabbis maintain: As the death penalty of its owner, so is that of the ox; therefore an ox [too] can be sentenced only in its presence, hence they are all exempt. But R. Judah rules that they are placed in a cell.[14] Raba demurred:

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(1) Viz., If . . . no mischief follow . . . he shall pay (Heb. ונתן give) as the judges determine.

(2) Lev. XXIV, 21. This verse, by coupling the two, likens them to each other; It also implies that where monetary compensation was to be made for an animal, it is not so for a man, since 'shall pay for it' is only prescribed for the former.

(3) This is irrelevant here, but is mentioned because in the case of homicide this distinction is drawn (v. Mak. 7a).

(4) Where, as observed in n. 4, there is no monetary compensation.

(5) [The greater penalty of death attached to the offence acquits the offender of all monetary liability even in cases where the death penalty is not applied.]

(6) V. p, 490 n. 1.

(7) Thus this teacher differs from Rabbi, who holds him liable to compensation, and from the Rabbis, who rule that he is even executed.

(8) V. infra 81b.

(9) In the first clause.

(10) That they must all be freed.

(11) בשר״ך. B (c) ABBAHU; SH (a) = SAMUEL; R (r) = RABA; K (e) = RESH LAKISH; the names of the Amoraim that follow.

(12) Even if they are all assembled, it is still regarded as in his absence, since he is unknown.

(13) Lit., ‘they complete not the trial of a man’.

(14) The reasoning being as before.

Talmud - Mas. Sanhedrin 80a

If so, how could R. Jose observe thereon: Even if Abba Halafta were amongst them?[1] — But Raba explained it thus: If two were standing, and an arrow was shot by one of them[2] [unknown] and killed, they are both exempt. Whereon R. Jose remarked: Even if Abba Halafta was one.[3] But if an ox [a gorer] which had been sentenced was mixed up with innocent[4] oxen, they are all stoned.[5] R. Judah said: They are placed in a cell.[6] And thus has it been taught likewise: If a cow killed [a man] and then calved: if before sentence, the calf is permitted [for any use]; if after the sentence, the calf is forbidden.[7] If the cow became mixed up with others, and these with others again, they are placed in a cell. R. Eleazar, son of R. Simeon, said: They are [all] brought to Beth din and stoned.

The Master said: ‘If [it calved] before sentence, the calf is permitted’; implying, even if it was with calf when it gored. But did not Raba say: The calf of a cow that gored is forbidden, because the mother and the calf gored; the calf of a cow subjected to bestiality is [likewise] forbidden because the mother and the calf were thus subjected![8] — Say thus: If the calf was conceived and born before its mother was condemned,it is permitted [for use]; but if conceived and born after sentence, it is forbidden.[9] Now, this agrees with the view that the product of two things [one being forbidden] is itself forbidden;

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(1) Abba Halafta was a pious scholar. Raba objects to both explanations: whether ‘others’ mean murderers or goring oxen. R. Jose's remark is entirely irrelevant.

(2) Lit., ‘came forth from between them’.

(3) Though unthinkable that he should have shot the arrow, the other cannot be executed on this ground.

(4) Lit., ‘good’.

(5) Since, in any case one could not benefit at all from them (v. Zeb. 70b), the owners suffer no loss.

(6) On this interpretation the text of the Mishnah is assumed to be defective, since R. Judah's ruling cannot refer to the first case.

(7) Because whilst within its mother, it is regarded as a part thereof. Therefore, when its mother became forbidden for use, as is the case of an animal condemned to stoning (v. Ex. XXI, 28). the prohibition extended to the unborn calf, which remains in force even after its birth.

(8) The reference is to sacrifice; these animals are not fit to be sacrificed. The act of goring or bestiality was in this case attested by one witness only, so that the cow is not stoned, and is permitted for secular, but not for sacred use, otherwise both mother and calf would be stoned. Thus

(9) In the first case, the mother itself was permitted at the time of calving, hence the calf too is likewise permitted; in the second, the cow having being condemned, the calf was the product of a forbidden animal, and hence itself forbidden too; but in both cases, the calf was not yet conceived at the time of goring, whereas Raba's statement applies only if it had already been conceived.

Talmud - Mas. Sanhedrin 80b

but on the view that such is permitted, what can you say?[1] — But Rabina said: Read thus: If the calf was conceived and born before its mother was condemned, it is permitted: but if conceived before sentence and born after sentence, it is forbidden, because the embryo is a thigh [i.e., part] of its mother.[2]

IF A NUMBER OF CONDEMNED PERSONS DIFFERING IN THEIR DEATH SENTENCES ETC.. — [THEY ARE EXECUTED BY THE MOST LENIENT DEATH]. This proves that a warning of a greater penalty is ipso facto a warning for a smaller one too![3] — R. Jeremiah said: [This is no proof, for] the Mishnah treats of a case where he was warned in general terms ,[4] and it agrees with the following Tanna. For it has been taught: But others liable to any death penalty decreed in the Torah[5] are executed only on the testimony of [at least two] witnesses, by a ‘congregation’ [i.e., a full Beth din of twenty three], and after a warning, which warning must have

we see that if the cow was with calf when it gored, the calf is regarded as identical with its mother. stated that he ‘was liable to death at the hands of Beth din. R. Judah said: They [the witnesses] must have informed him by which death he would be executed.[6] The first Tanna deduces his ruling from ‘the gatherer [of sticks’, who had not been warned how he would be executed, but was nevertheless stoned]. Whereas R. Judah maintains that ‘the gatherer’ [was executed] on an ad hoc decision.[7]

IF CRIMINALS CONDEMNED TO STONING [BECAME MIXED UP] WITH OTHERS CONDEMNED TO BURNING. R. Ezekiel taught his son Ram: If criminals condemned to burning [became mixed up] with others condemned to stoning — R. Simeon said, they are stoned, because burning is severer. Thereupon Rab Judah said to him, ‘Father, teach it not thus: Why state the reason because burning is severer? This follows from the fact that the majority are for stoning.’[8] How then should l teach it’? The son replied, ‘Thus: IF CRIMINALS CONDEMNED TO STONING [BECAME MIXED UP] WITH OTHERS CONDEMNED TO BURNING, — R. SIMEON SAID, THEY ARE STONED, BECAUSE BURNING IS SEVERER.’ If so, consider the second clause, BUT THE SAGES SAY, THEY ARE BURNED, BECAUSE STONING IS MORE SEVERE. But does it not follow from the fact that the majority are to be burnt? — There the Rabbis oppose R. Simeon: You say, burning is severer; but that is not so, for stoning is severer.[9]

Samuel said to Rab Judah: You keen scholar,[10]

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(1) The calf is the product of a cow and an ox, but the ox is permitted; therefore, on the latter view, even if conceived after sentence, it should still be permitted.

(2) In this case it is forbidden, not because it is the product of its mother, but because before birth it is part and parcel of its mother, and the prohibition of the latter applies to the embryo too.

(3) For each culprit must have been warned, and presumably, the warning had stated to which manner of death he would be liable. Since the Mishnah rules that they are all executed by the most lenient death, it follows that the warning in respect of a particular death is regarded as a warning in respect of an easier death too. Otherwise, they could not be executed.

(4) I.e., the culprit had been warned that he was liable to death, but not of the manner of execution.

(5) I.e., excluding a mesith, who requires no warning.

(6) Tosef. Sanh. XI.

(7) V. p. 527, n. 8.

(8) For ‘if criminals condemned to burning became mixed up with others condemned to stoning’ implies that the latter were in the majority, as the smaller number is lost (i.e., ‘mixed up’) in the larger.

(9) But their ruling could be deduced from the fact that the majority are to be burnt.

(10) Others translate: ‘man of long teeth’.

Talmud - Mas. Sanhedrin 81a

speak not thus to your father;[1] for it has been taught: If one was [unwittingly] transgressing a precept of the Torah, his son must not say ‘Father, you transgress a Biblical precept’, but say, ‘The Torah writes thus.’[2] But after all, does it not amount to the same thing? — But he must say this, ‘Father, the following verse is written in the Torah.’[3] MISHNAH. HE WHO INCURS TWO DEATH PENALTIES IMPOSED BY BETH DIN IS EXECUTED BY THE SEVERER. IF HE

COMMITTED ONE SIN FOR WHICH A TWOFOLD DEATH PENALTY IS INCURRED, HE IS EXECUTED BY THE SEVERER. R. JOSE SAID: HE IS JUDGED ACCORDING TO THE FIRST INTERDICT WHICH LAY UPON HIM.[4]

GEMÊRA. Is it not obvious [that he is executed by the severer]: shall he then profit [by his additional crime]? Raba answered: The circumstances are these: First he committed the lighter offence, for which he was sentenced; then the more serious one. I might think, since he was already under sentence for the lighter offence, he is as a dead man _and cannot be further sentenced] — We are therefore taught otherwise.

The father[5] of R. Joseph b. Hama inquired of Rabbah b. Nathan: Whence do we know this law stated by the Rabbis viz., ONE WHO INCURS TWO DEATH PENALTIES PASSED BY BETH DIN IS EXECUTED BY THE SEVERER? — [He answered:] From the verse, If he [sc. the righteous man] beget a son that is a robber, a shedder of blood, . . . [who] hath eaten upon the mountains, and defiled his neighbour's wife.[6] Now, 'If he beget a son that is a robber, a shedder of blood, — this [murder] is punished by decapitation; 'and defiled his neighbour's wife', — this is adultery, punished by strangulation; 'and hath lifted up his eyes to the idols',[7] refers to idolatry, for which stoning is incurred. And it is written, He shall surely die, his blood shall be upon him,[8] which indicates stoning.[9] R. Nahman b. Isaac objected: May it not refer to a series of offences all punishable by stoning? Thus: 'If he beget a sort a robber, a shedder of blood', refers to a wayward and rebellious son,[10] who is stoned; 'and defiled his neighbour's wife', to a betrothed maiden, whose ravisher too is stoned; 'and hath lifted up his eyes to the idols', to idolatry, for which stoning is likewise incurred? — If so, what does Ezekiel teach us?[11] But perhaps he was merely revising the Torah?[12] — Then he should have revised it [all] just as Moses had revised it.[13]

R. Aha b. Hanina gave the following exposition: What is meant by, [But if a man be just and do that which is lawful and right, etc.] and hath not eaten upon the mountains?[14] I.e., he did not eat through his forbears' merit;[15] neither hath he lifted up his eyes to the idols of the house of Israel, that he did not walk with haughty mien; neither hath defiled his neighbor's wife, indicating that he did not [competitively] enter his neighbour's profession; neither hath come near to a menstruous woman, meaning that he did not benefit from the charity fund.[16] And it is written, He is just, he shall surely live.[17] When R. Gamaliel read this verse he wept, saying, 'Only he who does all these things shall live, but not merely one of them!' Thereupon R. Akiba said to him, 'If so, Defile not yourselves in all these things.[18] is the prohibition against all [combined] only, but not against one?' [Surely not!] But it means, in one of these things; so here too, for doing one of these things [shall he live].

IF HE COMMITTED ONE SIN FOR WHICH A TWOFOLD DEATH PENALTY IS INCURRED, etc.

It has been taught: When did R. Jose rule, HE IS JUDGED ACCORDING TO THE FIRST INTERDICT WHICH LAY UPON HIM? E.g., if a woman was first interdicted as a mother-in-law[19] and then became a married women, he is judged [for incest with her] as for his mother-in-law only. If she was first forbidden to him as a married woman and then became his mother-in-law, he is punished for a married woman.[20] R. Adda b. Ahaba said to Raba: 'If she was first his mother-in-law and then became a married woman, he is judged as for his mother-in-law only'; but should he also not be punished for the interdict attaching to her as a married woman? For R. Abbahu said: R. Jose agrees in regard to a more extensive prohibition [that it becomes operative where a prohibition already exists].[21]

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(1) I.e., explicitly telling him that he was wrong.

(2) I.e., he states the Biblical law.

(3) But not directly state the law, leaving it for his father to draw the inference. This does not shame him.

(4) This is explained below.
(5) Var. lec., ‘brother’.
(6) Ezek. XVIII, 10f.
(7) Ibid 12.
(8) Ibid. 13.
(9) ‘His blood shall be upon him’ always means stoning, v. p. 357 n.7. Thus we see that the severest penalty is imposed; and it must be under the circumstances posited by Raba, for otherwise the verse is unnecessary.
(10) So called, because he ultimately becomes a murderer, v. supra 72a.
(11) For then it is obvious.
(12) His coreligionists having forgotten it; but not intending to teach any new law.
(13) [In Deuteronomy.]
(14) Ibid. 6.
(15) His own merit being sufficient that God should sustain him. ‘Mountains’ is interpreted as metaphorically referring to one's ancestors; cf. Micah VI, 2, which may be so translated.
(16) It being wrong to do so unless one is absolutely compelled.
(17) Ibid. 9.
(18) Lev. XVIII, 24.
(19) I.e.,if one marries a widow's daughter, so that the widow is forbidden to him only as a mother-in-law.
(20) Because R. Jose maintains that a second prohibition cannot become operative where one is already in existence. Adultery with a married woman is punished by strangling; incest with one's mother-in-law by burning.
(21) As his mother-in-law she was forbidden to him only; on remarriage, the prohibition was extended to all men. Since the second prohibition is thus wider in scope than the first, it is operative even where the first already exists.

Talmud - Mas. Sanhedrin 81b

— He replied: ‘Adda, my son, will you execute him twice!"[1]

MISHNAH. HE WHO WAS TWICE FLAGELLATED [FOR TWO TRANSGRESSIONS, AND THEN SINNED AGAIN,] IS PLACED BY BETH DIN IN A CELL AND FED WITH BARLEY BREAD, UNTIL HIS STOMACH BURSTS.

GEMARA. Because he has been twice flagellated Beth din places him in a cell?[2] — R. Jeremiah answered in the name of Resh Lakish: The reference is to flagellation for an offence punishable by extinction,[3] so that he is already liable to death [at the hand of God], but the time of his death has not yet come: since, however, he abandoned himself [to sin, by transgressing a third time], we hasten his death. R. Jacob said to R. Jeremiah b. Tahlifa: ‘Come, I will interpret it to you. This treats of flagellation for one sin involving extinction [which was twice repeated]: but [if he committed]two or three different sins each involving extinction, It may merely be his desire to experience sin, and not a complete abandonment thereto.’[4]

ONE WHO WAS TWICE FLAGELLATED.

Twice, though not thrice; shall we say that the Mishnah does not agree with R. Simeon b. Gamaliel? For if it did, does he not maintain, There is no presumption until a thing has happened three times?[5] — Rabina said: It may agree even with R. Simeon b. Gamaliel: The Mishnah is of the opinion that transgressions afford a basis for presumption.[6]

An objection was raised: If one committed an offence involving flagellation, the first and second time he is flagellated; on the third occasion he is placed in a cell. Abba Saul said: Even on the third occasion he is flagellated; but on the fourth, he is placed in a cell.[7] Now presumably, both agree that flagellation affords a basis for presumption, and they differ on the lines of Rabbi and R. Simeon b. Gamaliel?[8] — No. Both agree with R. Simeon b. Gamaliel, but they differ on this question: One

Master[9] holds that transgression affords a basis for presumption, the other Master,[10] that only flagellation affords it. But what of the following that has been taught, viz:, If he [the transgressor] was warned [of his liability to flagellation], but remained silent, or warned and nodded his head, — the first and second time he is to be warned, but on the third occasion he is placed in a cell. Abba Saul said: The third time too he is warned, but on the fourth, he is placed in a cell.[11] Now there he is not flagellated:[12] wherein then do they differ? — Rabina said: They differ as to whether one must be warned of the cell.[13]

And what was the form of the cell? — Rab Judah said: A chamber of his [the transgressor's] full height. And where is it alluded to?[14] — Resh Lakish quoted: Evil shall slay the wicked.[15] Resh Lakish also said: What is meant by, For man also knoweth not his time, as the fishes that are taken in an evil trap;[16] what is 'an evil trap'? — Resh Lakish said: A hook.[17]

MISHNAH. ONE WHO COMMITS MURDER WITHOUT WITNESSES IS PLACED IN A CELL AND [FORCIBLY] FED WITH BREAD OF ADVERSITY AND WATER OF AFFLICTION'.[18]

GEMARA. How do we know [that he committed murder]? — Rab said: On a 'disjoined' evidence.[19] Samuel said: Without a warning.[20] R. Hisda said in Abimi's name: Through witnesses who were disproved as to the minor circumstances [of the crime], but not on the vital points.[21] As we learned: It once happened that Ben Zakkai examined [the witnesses] as to the stalks of the figs.[22]

AND FED 'BREAD OF ADVERSITY AND WATER OF AFFLICTION'. Why does this Mishnah teach, AND FED WITH BREAD OF ADVERSITY AND WATER OF AFFLICTION', whilst the former teaches, HE IS PLACED BY BETH DIN IN A CELL AND FED WITH BARLEY BREAD UNTIL HIS STOMACH BURSTS? — R. Shesheth answered: In both cases he is fed with 'bread of adversity and water of affliction' for his intestines to shrink [thus blocking the passage], and then he is fed with barley bread until his stomach bursts.

MISHNAH. IF ONE STEALS THE KISWAH,[23] OR CURSES BY ENCHANTMENT, OR COHABITS WITH A HEATHEN [LIT. SYRIAN] WOMAN, HE IS PUNISHED BY ZEALOTS.[24] IF A PRIEST PERFORMED THE TEMPLE SERVICE WHILST UNCLEAN, HIS BROTHER PRIESTS DO NOT CHARGE HIM THEREWITH AT BETH DIN, BUT THE YOUNG PRIESTS TAKE HIM OUT OF THE TEMPLE COURT AND SPLIT HIS SKULL WITH CLUBS. A LAYMAN WHO PERFORMED THE SERVICE IN THE TEMPLE, R. AKIBA SAID: HE IS STRANGLED; THE SAGES SAY: [HIS DEATH IS] AT THE HANDS OF HEAVEN.

GEMARA. What is kiswah? — Rab Judah answered: The service vessels [of the Temple]; and thus it is said, And the vessels [Kesoth][25] of libation.[26] And where is this alluded to?[27] That they come not to see how the holy things are stolen,[28] lest they [the purloiners] die.[29]

OR CURSES BY ENCHANTMENT. R. Joseph learned, [He curses thus:] May the charm [the idol] slay its enchanter.[30] The Rabbis, others say, Rabbah b. Mari, say: [He curses:] May the charm slay him [his enemy], his Master and his Provider, etc.[31]

OR COHABITS WITH A HEATHEN WOMAN.

R. Kahana propounded a problem to Rab:

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(1) Obviously not! Therefore under no circumstances can one prohibition take legal hold where another exists, if death is the penalty. R. Jose's admission refers only to unwitting transgression, and is in connection with sacrifices.

(2) Surely that is inequitable!

(3) But the witnesses had warned him that he would be flagellated, — a lesser penalty.
(4) So that there is hope for his reformation; consequently we do not hasten his death.
(5) This is in connection with widowhood: only if a woman has been thrice widowed is there a presumption that it is her destiny to cause her husbands' death, and hence she may not remarry. Rabbi maintains that this presumption may be made even if she has only been twice widowed.
(6) Not flagellation. Therefore, if he transgressed thrice, though only twice flagellated, there is a presumption that he is incorrigible.
(7) Tosef. Sanh. XII.
(8) The first Tanna agreeing with Rabbi that twice affords presumption, Abba Saul with R. Simeon b. Gamaliel. But since the first Tanna is identical with the Tanna of our Mishnah, it follows that it cannot agree with R. Simeon b. Gamaliel. This refutes Rabina.
(9) The first Tanna.
(10) Abba Saul.
(11) Tosef. XII. When a warning is given, the offender must explicitly accept it, (cf. supra pp. 494-5), otherwise he cannot be punished. Nevertheless, since he was warned, and shewed by his silence or his nodding that he accepted the warning, there is a presumption that he is a confirmed sinner, and hence the law of Mishnah applies to him.
(12) So that there is no flagellation to afford a basis for presumption.
(13) Both agree that he becomes a confirmed sinner when he has thrice transgressed. The first Tanna maintains that once we regard him as such, he is placed in a cell without further ado; but Abba Saul is of the opinion that this too must be preceded by a formal warning. Hence, after sinning three times, it is necessary that he shall sin a fourth time, that he may be warned of the consequences.
(14) It is assumed that the law is traditional, going back to Moses; nevertheless, an allusion is sought in the Bible.
(15) Ps. XXXIV, 22.
(16) Ecc. IX, 12.
(17) This, though small, captures even large fish; thus it is more subtile and dangerous than a net. Presumably also it is more painful.
(18) Isa. XXX, 20.
(19) I.e., the murder was witnessed by two persons who were not standing together. In that case, he cannot be executed; hence he is imprisoned. cf. Mak. 6b.
(20) I.e.,there were two witnesses, but invalid to impose the usual death sentence, because they did not warn him.
(21) By 'vital points' (hakiroth חקירות.) time and place of the crime are meant; by 'minor circumstances' (bedikoth בדיקות) the weapon, clothes worn by the victim or the murderer, etc. Since the vital evidence has not been disproved, the accused is adjudged a murderer; as, however, the witnesses were disproved on minor details, he cannot be executed, and is therefore placed in a cell.
(22) The witnesses having deposed that the murder took place under a fig tree. Ben Zakkai examined them on the nature of the stalks, Whether thick or thin, etc. v. supra 40a ff.
(23) V. Gemara.
(24) I.e., pious men, jealous for the honour of Judaism, may punish him if they apprehend him in the act; but if they did not, they cannot subsequently charge him therewith at Beth din (Rashi).
(25) קשות
(26) Num. IV, 7.
(27) That a zealot who sees the theft must punish, i.e., slay him.
(28) כבלע lit., 'swallowed up'.
(29) Ibid. 20. Nevertheless, this not being the true meaning of the verse, q.v., it is regarded merely as a hint, the actual law being traditional. [The allusion is probably to the vessel employed for water libation, a rite opposed by the Sadducees. The purloiner would accordingly be a member of that sect, v. Krauss, Sanh.-Mak. p. 260.]
(30) Referring to God. The meaning of the passage is uncertain. H. Danby, Tractate Sanhedrin, a.l., suggests that קסם may be an abbreviation of some transliterated unorthodox divine name, e.g., **********, or a disguised form of the Tetragrammaton. The offence then will consist in blaspheming the Divine Name under a pseudonym (Sanh. VII, 5). Levy, s.v. קסם translates: May the charmer (= idol) slay its charmer (= God). But the Munich MS. reads את קוסו = what is like him (cf. יכה יוסי את יוסי supra 56a). Jastrow renders: 'May the carver (i.e., God, invoked as 'carver' instead of creator ex nihilo) strike his carving!'

(31) The last two refer to God. This is translated by Levy (loc. cit.): The charmer smite him, his possessor, and Him who gives him possession. The J. a. l. reads: כגון אילין נפתאי דמקללין לקנייך קיינך קנווך e.g., as the Nabateans curse, viz., Cursed be thou, thy possessor, and Him who gives thee possession.

Talmud - Mas. Sanhedrin 82a

What if zealots did not punish him? Now Rab had completely forgotten [what he had learnt about this];[1] So R. Kahana was made to read in his dream, Judah hath dealt treacherously, and an abomination is committed in Israel and in Jerusalem; for Judah hath profaned the holiness of the Lord which he loved, and hath been intimate with the daughter of a strange god.[2] He then went and related to Rab,'This was I made to read'. Thereupon he reminded Rab of it all: Judah hath dealt treacherously, — this refers to idolatry, even as it is said, [Surely as a wife departeth treacherously from her husband], so have ye dealt treacherously with me, O house of Israel, saith the Lord;[3] and an abomination is committed in Israel and in Jerusalem, refers to pederasty, and thus it is written, Thou shalt not lie with mankind as with womankind; it is an abomination;[4] for Judah hath profaned the holiness [kodesh][5] of the Lord, — this refers to harlotry, and thus it is said, There shall be no consecrated harlot [kedeshah][6] of the daughters of Israel;[7] and hath been intimate with the daughter of a strange god, — this refers to intimacy with a heathen woman. Now, this verse is followed by, The Lord will cut off the men that doeth this, the master and the scholar, out of the tabernacles of Jacob, and him that offereth an offering unto the Lord of Hosts.[8] This means: If he is a scholar, he shall have none awakening [i.e., teaching] among the sages and none responding among the disciples; if a priest, he shall have no son to offer an offering unto the Lord of hosts.[9]

R. Hiyya b. Abuiah said: He who is intimate with a heathen woman is as though he had entered into marriage relationship with an idol, for it is written, and hath been intimate with the daughter of a strange god:[10] hath then a strange god a daughter — But it refers to one who cohabits with a heathen woman.

R. Hiyya b. Abuiah also said: 'This and yet another' is written upon Jehoiakim's skull.[11] R. Perida's grandfather found a skull thrown down at the gates of Jerusalem, upon which 'this and yet another' was written. So he buried it, but it re-emerged; again he buried it, and again it re-emerged. Thereupon he said, This must be Jehoiakim's skull, of whom it is written, He shall be buried with the burial of an ass, drawn and cast forth beyond the gates of Jerusalem.[12] Yet, he reflected, he was a king, and it is not mannerly to disgrace him. So he took it, wrapped it up in silk, and placed it in a chest. When his wife came home and saw it, she went and told her neighbours about it. 'It must be the skull of his first wife', said they to her, 'whom he cannot forget'. So she fired the oven and burnt it. When he came, he said to her, 'That was meant by its inscription, "This and yet another"'.[13]

When R. Dimi came,[14] he said: The Beth din of the Hasmoneans[15] decreed that one who cohabits with a heathen woman is liable. to punishment on account of Nashga.[16] When Rabin came,[17] he said: On account of Nashgaz, i.e., niddah, shifhah, goyyah and zonah;[18] but not on account of a married woman, because they themselves [sc. the heathens] do not recognize the marriage bond.[19] But the other?[20] — They certainly gave no license to their wives.[21]

R. Hisda said: If the zealot comes to take counsel [whether to punish the transgressors enumerated in the Mishnah], we do not instruct him to do so. It has been stated likewise: Rabbah b. Bar Hana said in R. Johanan's name: If he comes to take counsel, we do not instruct him to do so. What is more, had Zimri forsaken his mistress and Phinehas slain him, Phinehas would have been executed on his account;[22] and had Zimri turned upon Phinehas and slain him, he would not have been executed, since Phinehas was a pursuer [seeking to take his life].

And Moses said unto the judges of Israel, Slay ye every one of his men that were joined unto Baal

Peor.[23] Thereupon the tribe of Simeon went unto Zimri ben Salu and said unto him, ‘Behold, capital punishment is being meted out, yet you sit silent [i.e., inactive].’ What did he do? He arose and assembled twenty-four thousand Israelites and went unto Cozbi, and said unto her, ‘Surrender thyself unto me.’ She replied, ‘I am a king's daughter, and thus hath my father instructed me, "Thou shalt yield only to their greatest man". ‘I too,’ he replied, ‘am the prince of a tribe; moreover, my tribe is greater than his [Moses], for mine is second in birth, whilst his is third.’[24] He then seized her by her coiffure and brought her before Moses. ‘Son of Amram,’ exclaimed he, ‘is this woman forbidden or permitted? And should you say. "She is forbidden", who permitted thee Jethro's daughter’? At that moment Moses forgot the halachah [concerning intimacy with a heathen woman], and all the people burst into tears; hence it is written, and they were weeping before the door of the tabernacle of the congregation.[25] And it is also written, And Phineas, the son of Eleazar, the son of Aaron the priest, saw it.[26] Now, what did he see? — Rab said: He saw what was happening and remembered the halachah, and said to him, ‘O great-uncle! did you not teach us this on thy descent from Mount Sinai: He who cohabits with a heathen woman is punished by zealots?’ He replied. ‘He who reads the letter, let him be the agent [to carry out its instructions]’. Samuel said: He saw that ‘There is no wisdom nor understanding nor counsel against the Lord’:[27] whenever the Divine Name is being profaned, honour must not be paid to one's teacher.[28] R. Isaac said in R. Eleazar's name: He saw the angel wreaking destruction amongst the people. And he rose up out of the midst of the congregation, and took a spear in his hand;[29] hence one may not enter the house of learning with weapons.[30] He removed its point and placed it in his undergarment, and went along

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(1) He did not know what to reply.

(2) Mal. II, 11.

(3) Jer. III, 20. The simile shews that the reference is to idolatry.

(4) Lev. XVIII, 22.

(5) קדש

(6) קדשה

(7) Deut. XXIII, 18.

(8) Mal. II, 12.

(9) This is his punishment and the answer to R. Kahana's question.

(10) Ibid. 11.

(11) The meaning of this is given in the following story.

(12) Jer. XXII, 19.

(13) I.e., it would be exposed to this disgrace, of being cast away in the streets, and yet another, viz., burning.

(14) From Palestine; v. p. 390, n. 1.

(15) J. Derenbourg, Essai p. 84 places this Beth din during the rule of Simeon the Hasmonean (143-135 B.C.E.), or the first years of his son John. The troublous times of the Maccabees would seem to have led to licentiousness and a lowering of moral standards, and consequent liaisons with heathens. When the country became more settled, the religious authorities naturally attempted to stem this, and hence the decree. (V. ‘A.Z. (Sonc. ed.) p. 177, n. 7.)

(16) This is a mnemonic: N = niddah, a menstruous woman; SH = Shifhah, a non-Jewish maidservant; G = goyyah, a heathen woman; and A = esheth, ish, a married woman. He is regarded as having transgressed in respect of all four, and as such will be punished by heaven.

(17) V. p. 544, n. 7.

(18) Zonah = harlot; for the first three v. preceding note.

(19) They are very lax, and their women, even married, indulge in promiscuity; v. Weiss, Dor. Vol.II, pp. 19 ff,

(20) R. Dimi, who includes this.

(21) I.e., they expect their wives to observe the marriage bond.

(22) For the zealot may slay only when he is engaged in the commission of the offence.

(23) Num. XXV, 5.

(24) Simeon was Jacob's second son; Levi, to which Moses belonged, the third.

(25) Ibid 6.

(26) Ibid 7.

(27) Prov. XXI, 30.
(28) I.e., seeing the profanation of the Divine Name, he did not wait for Moses' ruling.
(29) Num. XXV, 7.
(30) Since he rose up out of the congregation, i.e., the Sanhedrin, implying that he went out.

Talmud - Mas. Sanhedrin 82b

leaning upon the stock [of the spear, into which the pointed blade is inserted], and as soon as he reached the tribe of Simeon, he exclaimed, 'Where do we find that the tribe of Levi is greater[1] than that of Simeon? [i.e., I too wish to indulge]. Thereupon they said, 'Let him pass too. He enters to satisfy his lust. These abstainers have now declared the matter permissible.' R. Johanan said: Six miracles were wrought for Phinehas: — [i] Zimri should have withdrawn [from the woman] but did not;[2] [ii] he should have cried out [for help], but did not; [iii] he [Phinheas] succeeded [in driving his spear] exactly through the sexual organs of the man and woman;[3] [iv] they did not slip off the spear; [v] an angel came and lifted up the lintel;[4] [vi] an angel came and wrought destruction amongst the people.[5] Then he [Phinehas] came and struck them down before the Almighty, saying. 'Sovereign of the Universe! shall twenty-four thousand perish because of these.' even as it is written, And those that died in the plague were twenty and four thousand.[6] Hence it is written, then stood up Phinehas, and executed judgement [wa-yefallel][7] R. Eleazar said: [wa-yispallel] [he prayed] is not written, but wa-yefallel,[8] as though he argued with his maker [on the justice of punishing so many]. Thereupon the ministering angels wished to repulse him, but He said to them, 'Let him be, for he is a zealot and the descendant of a zealot; a turner away of wrath and the son of a turner away of wrath.'[9] The tribes now began abusing him: 'See ye this son of Puti [= Putiel] whose maternal grandfather fattened [pittem] cattle for idols,[10] and who has now slain the prince of a tribe of Israel!' Therefore Scripture detailed his ancestry: Phinehas, the son of Eleazar, the son of Aaron the Priest.[11] [Moreover,] the Holy One, blessed be He said to Moses, 'Be the first to extend a greeting of peace to him', as it is written, Wherefore say, Behold, I give unto him my covenant of peace;[12] and this atonement, [that Phinehas has made] is worthy of being an everlasting atonement.[13] R. Nahman said in Rab's name: What is meant by, A greyhound [zarzir mathnaim, lit, 'energetic of loins']: an he goat also [tayish]; and a king, against whom there is no rising up?[14] — That wicked man, [sc. Zimri] cïhabited four hundred and twenty-four times[14] , that day, and Phinehas waited for his strength to weaken,[15] not knowing that [God is] a King, against whom there is no rising up.[16] In the Baraitha we learnt: Sixty [time], until he became like an addled egg, whilst she became like a furrow filled with water. R. Kahana said: And her seat was a beth s'eah.[17] R. Joseph learned: Her womb opening was a cubit.

R. Sheshet said: Her name was not Cozbi, but Shewilanai the daughter of Zur. Why then was she called Cozbi? Because she falsified[18] her father's teachings.[19] Another interpretation is: She said to her father, 'Devour me [kosbi][20] this people,' And thus it is a po9ular proverb, 'What business hath Shewilanai[21] by the reeds of the lake? What hath Shewilanai to do amongst the peeling rushes?[22] She prostitutes her mother.'[23]

R. Johanan said: [Zimri] had five names: Zimri, the son of Salu, Saul, the son of the Canaanitish woman, and Shelumiel, the son of Zurishaddai. Zimri, because he became like an addled egg [beza hamuzereth]; the son of Salu, because he outweighed [hisli][24] the sins of his family;[25] Saul, because he lent himself [hish'il fr. sha'al] to sin; the son of the Canaanitish woman, because he acted in a Canaanitish fashion, [i.e., depravedly]; whilst his real name was Shelumiel the son of Zurishaddaiƒ

IF A PRIEST PERFORMED THE TEMPLE SERVICE WHILST UNCLEAN

R. Abba b. Huna propounded a problem to R. Shesheth: Does a priest who performed the Temple service whilst unclean merit death at the hands of Heaven or not? — He replied: We learntit: IF A PRIEST PERFORiED THE TEMPLE SEõVICE WHILST UNCLEAN, HIS BROTHER PRIESTS

DO NOT CHARGE HIM AT BETH DIN, BUT THE YOUNG PRIESTS TAKE HIM OUT OF THE TEMPLE COURT AND BREAK HIS SKULL WITH CLUBS. But should you thing that he merits death at the hands of Heaven, should he not be left to be slain by Him? Will you say then that he is not so liable? Is there anything for which the Merciful One did not impose a penalty, for which we may kill? — And is there not? But we learnt, ONE WHO WAS TWICE FLAGELLATED IS PLACED BY BETH DIN IN A CELL: thus, the Merciful One exempted him, yet we slay him! — [That is no difficulty;] for did not R. Jeremiah say in the name of Resh Lakish: The reference is to flagellation for an offence punishable by extinction?[26] hence he is liable to death. But what of one who steals a Kiswah? — [That too causes no difficulty], for did not Rab Judah say: This refers to service vessels, [death for the theft of which] being alluded to in the verse, That they come not to see how the holy things are stolen, lest they [the purloiners] die.[27] But what of one who CURSES BY ENCHANTMENT?[28] — [There too,] did not R. Joseph learn, [He curses thus:] May the charm slay the enchanter? So that it is somewhat analagous to blasphemy.[29] But what of ONE WHO COHABITS WITH A HEATHEN WOMAN? — There too, R. Kahana was made to read [a verse] in his dream, which [on being told to Rab], entirely reminded him of the law.[30] He objected: He who pours [the oil on the meal-offering], mingles [it with the flour], breaks up [the meal-offering cakes], salts [the meal-offering], waves it, presents it [opposite the south west corner of the altar], sets the table [with the shew bread], trims the lamps, takes off the handful [of flour from the meal-offering] or receives the blood. — [if he did any of these] outside [the Temple Court], he is not liable [to extinction]. Nor is punishment incurred for any of these acts

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(1) I.e., more sanctimonious.

(2) Had he withdrawn, Phinehas could not have punished him.

(3) Thus showing that he was punishing immorality, and not satisfying a private hate.

(4) So that it should not interfere with the spear as he was carrying them out aloft.

(5) Thereby distracting their attention: otherwise Zimri's partisans would have slain him.

(6) Ibid. 9.

(7) Ps. CVI, 30.

(8) Fr. פלל, to argue.

(9) Levi, the first ancestor of his tribe, had shewn zeal for his sister's honour (Gen. XXXIV, 25f.); Aaron, Phinehas’ grandfather, had turned away God's wrath on the occasion of Korah's revolt. Num. XVII, 13.

(10) V. Ex. VI. 25: And Eleazar, Aaron's son, took him one of the daughters of Putiel to wife. According to the legend, Putiel was Jethro, so called because as a priest of Midian he had fattened (פיטם pittem, with which Putiel is here connected) cattle for idolatrous sacrifices.

(11) Num. XXV, 11.

(12) Ibid. 12.

(13) Cf. ibid. 13.

(14) Prov. XXX, 31. (12) The numerical value of zarzir זרזיר, whilst cohabitation is understood from ‘loins’.

(15) Heb. תשש (weakened) is connected here with תיש.

(16) I.e. he need not have waited, for Zimri was already doomed.

(17) I.e., she became very bloated. Beth se'ah is a field requiring one se'ah of seed.

(18) From כזב falsehood.

(19) V. 82a; he had instructed her to surrender only to the greatest man in Israel.

(20) כם-בי

(21) A common name for a dissolute woman. [The word is connected with the Arabic denoting ‘womb opening’, v. MGWJ. LXXIII, p. 398].

(22) I.e., surely she goes to these secluded spots only for immoral purposes.

(23) I.e., she transfers her own harlotry to her mother — an unchaste woman being generally called a harlot, the daughter of a harlot (Rashi). Jast. renders, ‘Did she embrace her mother?’

(24) From שאל.

(25) From סלא. Others: he caused the sins of the family to rise, i.e., became notorious. (Jast.); Rashi (one version) caused his sins to be searched out, probed.

(26) V. supra 81b.
(27) Num. IV, 20.
(28) The reading here in our printed texts differs slightly from that of the Mishnah on 81b; the latter has been followed; cp. DS. a.l.
(29) V. supra 56a. May Jose Smite Jose: blasphemy was punished by death.
(30) That verse hints at death.

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on account of zaruth,[1] uncleanliness, lack of [priestly] garments[2] or the [non-] washing of hands and feet.[3] [This implies,] but if he burned incense,[4] he is liable, and presumably [his liability is] to death[5] — [No;] merely in respect of a prohibition.[6] But if so, the Zaruth mentioned is likewise merely in respect of a prohibition: surely, it is written, And the stranger [zar] that cometh nigh shall be put to death[7] — Each has its own ruling.[8] Now it follows that not even a negative precept is transgressed for pouring and mingling [under the conditions enumerated]; but it has been taught: Whence do we derive a negative precept for the pouring and mingling [of the oil by an unclean priest]? — From the verse, They shall be holy unto their God, and not profane [the name of their God]?[9] — The prohibition is Rabbinical only, the verse being a mere support. An objection was raised: The following are liable to death [at the hands of Heaven ...an unclean [priest] who performed the [Temple] service, (etc.).] This definitely refutes his [R. Shesheth's] ruling.

To turn to the main [Baraitha]: The following are liable to death [at the hands of Heaven]: One who ate tebel,[10] an unclean priest who ate undefiled terumah, a zar or an unclean [priest] who performed [the Temple service], or one who performed it on the day of his ritual bath,[11] or lacking the proper [priestly] garments, or lacking the [sacrificial] atonement,[12] one who did not wash his hands and feet, or drank wine, or a priest with over-grown locks.[13] But the performance of the service by an uncircumcised [priest], an onen.[14] or by one who officiated whilst sitting is not liable to death, but merely prohibited. If a priest with a blemish [officiated], Rabbi said: He is liable to death; the Sages maintain: He is merely prohibited. If he deliberately transgressed in respect of a trespass offering,[15] Rabbi said: He is liable to death. and the Sages say: He transgressed a mere prohibition.

Now, whence do we know it of one who eats tebel? — As Samuel said on the authority of R. Eliezer: Whence do we know that one who eats tebel is liable to death? From the verse, And they shall not profane the holy things of the children of Israel, which they shall offer to the Lord.[16] Now, the verse refers to that which is yet to be offered;[17] and then identity of law is learnt from the use of ‘profanation’ here and in the case of terumah:[18] just as there the penalty is death, so here too. But let us rather learn [the penalty] from the use of profanation here and in the case of nothar:[19] just as there, the penalty is extinction. so here too? — It is logical to make the deduction from terumah, because they are equal in the following points: — [i] terumah, [ii] extra-territoriality, [iii] annulment, [iv] plural form, [v] land produce. [vi] piggul, and [vii] nothar.[20] On the contrary, should not the deduction rather be made from nothar, since they are alike in the following points: [i] unfitness of food and [ii] no annulment of prohibition by a mikweh?[21] — Even so, those [tebel and terumah] have more points in common. Rabina answered: The use of the plural form is certainly a stronger link.[22] And whence do we know that an unclean priest who ate undefiled terumah [is liable to death]? — As Samuel said: Whence do we know that an unclean priest who ate undefiled terumah is punished by death at the hands of Heaven? From the verse, Therefore they shall keep mine ordinance, lest they bear sin for it, and die therefore, if they profane it.[23] This [however] applies only to undefiled, but not to polluted terumah: for Samuel said in R. Eliezer's name: Whence do we know that an unclean priest who ate unclean is not liable to death? — From the verse, and die therefore, if they profane it:

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(1) I.e., the prohibition of a zar (a non-priest) to officiate in the Temple: a zar who performs any of these services is not punished, as none of these functions form the concluding part of a service.
(2) The priest had to officiate in the special garments prescribed in Ex. XXVIII; if he did not wear them all whilst engaged in any of these, he incurs no liability.
(3) (Zeb. 112b), V. Ex. XXI, 17f.
(4) A function completing a service.
(5) But since uncleanliness is mentioned, it follows that a ritually unclean priest who offered incense is liable to death. This contradicts R. Shesheth's ruling.
(6) He is merely regarded as having transgressed an ordinary prohibition.
(7) Num. XVIII, 7.
(8) I.e., for uncleanliness there is a mere prohibition: for zaruth, death.
(9) Lev. XXI, 6. This is referred to the performance of one of these services whilst unclean.
(10) V. Glos.
(11) Tebbul Yom. Lit., ‘one who immersed during the day’. An unclean priest purified himself by taking a ritual bath: yet even then he could not officiate until after sunset.
(12) A priest who became unclean through the dead was sprinkled with the ashes of the red heifer mixed with water; then he took a ritual bath; and on the eighth day of his uncleanliness, he offered a sacrifice, which made atonement for him. Before this, he is regarded as one ‘lacking atonement’, and may not officiate.
(13) I.e., who has not trimmed his hair for thirty days or more.
(14) A mourner before the burial of a near relative, e.g.. father.
(15) I.e., be benefited from a holy thing. for the secular (unwitting) use of which one is bound to bring a trespass offering; cf. Lev. V, 14ff.
(16) Lev. XXII, 15.
(17) The verb ירימו is imperfect (‘which they shall offer’) and hence refers to ‘holy things’ — i.e., terumah — which is yet to be separated from the produce, so that it is all tebel.
(18) Ibid. 9: They shall therefore keep mine ordinance, lest they bear sin for it, and die therefore, if they profane it. This refers to the eating of terumah by an unclean priest.
(19) That which is left over of the sacrifice after the time appointed for eating. Ibid. XIX, 6, 8: And if ought remain until the third day, it shall be burnt in fire . . . Therefore every one that catch it shall bear his iniquity, because he hath profaned the hallowed thing of the Lord: and that soul shall be cut off from among his people.
(20) Both deal with terumah, as tebel too is forbidden on account of the unseparated terumah which it contains. Neither terumah nor tebel operated outside Palestine, but nothar was forbidden in the wilderness too. Further, both of these prohibitions can be annulled: that of the unclean priest by a ritual bath; tebel, by separating its terumah: but under no circumstances can the prohibition of nothar be annulled. Profanation in both cases is stated in plural form: tebel: And they shall not profane etc. terumah:...if they profane it; but nothar has its use in the singular...because he hath profaned. Tebel and terumah apply to land produce (cereals and fruits); nothar to animals. Finally, the law of piggul (v. Glos) and nothar is inapplicable to tebel and terumah.
(21) In the case of tebel and nothar the substance itself is forbidden; but the terumah is not forbidden, only that the priest is unclean. Also the prohibition of tebel and nothar cannot be annulled through a mikweh (ritual bath); but that of terumah ceases when the priest takes a ritual bath.
(22) I.e., the fourth point which tebel and terumah have in common is itself sufficient to justify the preference for terumah, as the basis for deduction, rather than nothar.
(23) Lev. XXII, 9.

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excluding this [unclean terumah], which already stands profaned.

A zar who ate terumah: Rab said: A zar who ate terumah is flagellated. R. Kahana and R. Assi said to him: Why does not the master say — is liable to death, since it is written, there shall no stranger eat of the holy thing?[1] — I the Lord do sanctify them breaks across the subject.[2] An objection is raised: The following are liable to death: ...a zar who ate terumah? — Do you oppose a

Baraitha to Rab's ruling? Rab is a Tanna, and may dispute [the ruling of Baraitha.[3]

‘A zar who performed the [Temple] service’: for it is written, And the stranger that cometh nigh shall be put to death.[4]

‘Or an unclean [priest] who performed the [Temple] service:’ even as R. Hiyya b. Abin inquired of R. Joseph: Whence do we know that an unclean priest who performed the [Temple] service is punished by death? Because it is written, Speak unto Aaron, and to his sons, that they separate themselves from the holy things of the children of Israel, and that they profane not my holy name.[5] And identity of law is derived from the use of ‘profanation’ here and in the case of terumah; just as there the penalty is death, so here too. But should not the deduction rather be made from nothar: just as there the penalty is extinction, so here too? — It is reasonable to make the deduction from terumah, because they have the following in common: — [i] bodily [unfitness], [ii] uncleanliness, [iii] mikweh, [iv] plural form.[6] On the contrary, should not the deduction rather be made from nothar, since they share the following in common: [i] sanctity, [ii] within [the Temple court], [iii] piggul and [iv] nothar?[7] — Even so, the fact that in both cases [viz. terumah and the sacrificial service] profanation is spoken of as an act of many [unlike nothar], outweighs [the points which sacrificial service and nothar have in common].

‘Or one who performed it on the day of his ritual bath’. Whence do we know this? — Even as has been taught: R. Simai said: Where is the allusion that one who officiated in the Temple on the day of his ritual bath has committed an act of profanation? From the verse, They shall be holy unto their God, and not profane [the name of their God].[8] Since this cannot refer to the ministration of an unclean priest, [the prohibition of which] is derived from that they separate themselves,[9] apply it to a priest's officiating on the day of his ritual bath. Then an analogy is drawn from the use of ‘profanation’ both here and in the case of terumah: just as there, the penalty is death, so here too.

‘Or lacking the proper priestly garments’. Whence do we know it? — R. Abbahu said in R. Johanan's name, and [the teaching] is ultimately derived from R. Eleazar son of R. Simeon: [The Writ saith, And thou shalt...put coats upon them...] and thou shalt gird them with girdles. [Aaron and his sons, and put the bonnets on them’: and the priest's office shall be theirs for a perpetual state]:[10] when wearing the appointed garments, they are invested in their priesthood; when not, they lack their priesthood and are considered zarim,[11] and a Master hath said, A zar who performs the [Temple] service is liable to death.

‘Or one lacking the sacrificial atonement — Whence do we know this? — R. Huna said: The Writ saith, And the priest shall make an atonement for her, and she shall be clean.[12] ‘And she shall be clean’ implies that hitherto she was unclean: and a Master hath said, An unclean priest who officiated is liable to death.

‘One who did not wash his hands or feet.’ Whence do we know this? — From the verse, When they go into the tabernacle of the congregation, they shall wash with water, that they die not.[13]

‘Or drank wine’. Because it is written, Do not drink wine or strong drink, [thou, nor thy sons with thee, when ye go into the tabernacle of the congregation, lest ye die].[14]

‘Or a priest with overgrown locks’. As it is written, Neither shall they shave their heads, nor suffer their locks to remain unshorn;[15] and this is followed by, Neither shall they drink wine:[16] hence the former is likened to the latter: just as the latter is liable to death, so the former too.

‘But the performance of the service by an uncircumcised [priest], an onen, or [by one who officiated whilst sitting is not liable to death, but merely prohibited.’ Whence do we know it of the uncircumcised? — R. Hisda said: We did not learn this from the Torah of Moses our Teacher, until Ezekiel the son of Buzi came and taught it to us: No stranger, uncircumcised in heart,

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(1) Ibid. 10. This immediately follows the verse stating...and die therefore, if they profane it.

(2) Vv. 9 and 10 read: ...and die therefore, if they profane it: I the Lord do sanctify them. There shall be no stranger eat of the holy thing. 'I the Lord do sanctify them' clearly marks a break: consequently the penalty of death stated in v. 9. does not apply to the prohibition of v. 10.

(3) Whilst it is axiomatic that an Amora cannot disagree with a Tanna, unless he finds a support in another Tanna, Rab, as a younger contemporary of Rabbi, stood midway between the last generation of the Tannaim and the first of Amoraim; and although generally assigned to the latter, he is occasionally, as here, conceded to be a Tanna, owing to his personal greatness and vast erudition.

(4) Num. XVIII, 7.

(5) Lev. XXII, 2: the reference is to abstention from sacrificial service during their uncleanliness, as is stated in v. 3.

(6) Both the eating of terumah and the sacrificial service are prohibited to the priest through his bodily unfitness. Also, this bodily unfitness in both cases is uncleanliness (this is counted as a second point, since bodily unfitness may be for some other cause, viz., a blemish). Further, in both cases, the unfitness can be remedied by a ritual bath. And finally, profanation in both cases is ascribed to many (v. p. 551, n. 8). Nothar differs on all these points.

(7) Both the eating of nothar and the sacrificial service by an unclean priest are offences in respect of the extreme sanctity of sacrifices. Terumah, however, is of a lower degree of sanctity. Also, they are done within the Temple precincts. Again, piggul is possible in both cases, for the unclean priest too whilst engaged in sacrificing might have intended eating the flesh beyond its appointed time, as nothar in fact has so been left. And finally, he might actually have eaten it thus. (The last two are counted as two distinct points, since the mere expressed intention of eating the flesh beyond its appointed time is an offence, even if not done subsequently. The actual eating again, is another and separate offence.) None of these, however, is applicable to the eating of terumah by an unclean priest.

(8) Lev. XXI, 6.

(9) Lev. XXII. 2ff.

(10) Ex. XXIX. 9.

(11) Zarim, pl. of Zar.

(12) Lev. XII, 8. This refers to a woman after confinement, but its implications extend to all forms of uncleanliness which must be followed by a sacrifice.

(13) Ex. XXX, 20. The preceding verse states that they are to wash their hands and feet.

(14) Lev. X, 9.

(15) Ezek. XLIV, 20.

(16) Ibid. 21.

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nor uncircumcised in flesh, shall enter into my sanctuary.[1] Whence do we know it of an onen? — Because it is written, Neither shall he [sc. the onen High Priest] go out of the sanctuary, yet shall he not profane the sanctuary of his God:[2] hence, if any other [priest] does not go out, he profanes [the sanctuary]. R. Adda said to Raba: Then let us derive [identity of law] from the use of 'profanation' here and in the case of terumah: just as there the punishment is death, so here too? — Is then the [prohibition] of an onen explicitly stated in that verse? It is only inferred [from the High Priest]. Hence it is a law derived from a general proposition, and such cannot be further subjected to deduction by a gezerah shawah.

Whence do we know it of one who officiates whilst sitting? — Raba said in R. Nahman's name: The Writ saith, For the Lord thy God hath chosen him out of all thy tribes, to stand to minister:[3] implying, I have chosen him for standing, but not for sitting.

If a priest with a blemish [officiated], Rabbi said: He is liable to death [at the hands of Heaven]; the Sages maintain: He is merely prohibited. What is Rabbi's reason? — Because it is written, Only he shall not go in unto the vail, [nor come nigh unto the altar, because he hath a blemish]; that he profane not my sanctuaries.[4] Then the law is derived from the use of ‘profanation’ here and in the case of terumah; just as there the penalty is death, so here too. But let it rather be derived from nothar; just as there the penalty is extinction, so here too? — It is more reasonable to make the deduction from terumah, for thus bodily unfitness is derived from bodily unfitness.[5] On the contrary, is it not preferable to base the analogy on nothar, since they share the following in common: [i] sanctity, [ii] within the Temple precincts, [iii] piggul and [iv] nothar?’[6] — But the analogy is drawn from an unclean priest who officiated; thus bodily unfitness is derived from bodily unfitness, and a case distinguished by sanctity, the inner precincts of the Temple, piggul and nothar derived from another so distinguished. But the Rabbis?[7] — The Writ saith, and die therefore:[8] implying but not for the sin of being blemished.[9]

‘If he deliberately transgressed in respect of a trespass offering, Rabbi said: He is liable to death; and the Sages maintain: He is merely prohibited.’ What is Rabbi's reason? — R. Abbahu said: He derives identity of law from the fact that ‘sin’ is used here and in the case of terumah:[10] just as there, the penalty is death, so here too. But the Rabbis?[11] They maintain, the Writ saith, and die therefore:[12] implying, but not for trespass.

A ZAR WHO OFFICIATED IN THE TEMPLE. It has been taught: R. Ishmael said: It is here written, And the stranger that cometh nigh shall be put to death;[13] whilst it is elsewhere said, Whosoever cometh anything near unto the tabernacle of the Lord shall die:[14] just as there death was at the hands of Heaven, so here too. R. Akiba said: It is here written, And the stranger that cometh nigh shall be put to death; whilst it is elsewhere said, And that prophet, or that dreamer of dreams, shall be put to death:[15] just as there, it is by stoning, so here too. R. Johanan b. Nuri said: Just as there, it is by strangling, so here too. Wherein do R. Ishmael and R. Akiba differ? — R. Akiba maintains, ‘shall be put to death’ must be compared with ‘shall be put to death’ but not with ‘shall die’.[16] Whilst R. Ishmael maintains, a layman must be compared to a layman, but not to a prophet. But R. Akiba avers, Since he seduced, no man is more of a layman than he.[17] Wherein, do R. Akiba and R. Johanan b. Nuri differ? — In the dispute of R. Simeon and the Rabbis. For it has been taught: If a prophet seduced, he is stoned; R. Simeon said: he is strangled. But we learnt, R. AKIBA SAID, HE [THE ZAR] IS STRANGLED?[18] — Two Tannaim differ as to R. Akiba's ruling: our Mishnah is taught on R. Simeon's view[19] as to R. Akiba's ruling; whilst the Baraitha [stating that the zar is stoned, and that this is derived from the false prophet] gives the Rabbis’ view as to R. Akiba's ruling.[20] [

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(1) Ibid. 9; v. 7 shews that the reference is to entering for the purpose of ministration.

(2) Lev. XXI, 12. By ‘not going out’ continuance of the service is meant.

(3) Deut. XVIII, 5.

(4) Lev. XXI, 23.

(5) V. p. 552, n. 1.

(6) V. p. 553, n. 4. The same applies to a blemished priest.

(7) In view of this deduction, why do they maintain that he is merely prohibited?

(8) בו (because of it) Ibid. XXII, 9. This refers to an unclean priest eating terumah.

(9) I.e., there is no death penalty for transgressing the prohibition particularly applying to a blemished priest, viz., performing the Temple service.

(10) Trespass: If a soul commit a trespass, and sin through ignorance, in the holy things of the Lord. (Lev. V, 15); Terumah: Lest they bear sin for it, and die therefore (Ibid. XXII, 9).

(11) Do they not admit this deduction?

(12) Ibid.

(13) Num. XVIII, 7.

(14) Ibid. XVII, 28. This refers to the plague which followed Korah's rebellion.

(15) Deut. XIII, 6.

(16) V. verses quoted.
(17) I.e., he has lost all claims to the prophetic title.
(18) Which contradicts the passage quoted where R. Akiba says that he is stoned.
(19) That the false prophet is strangled, and from this he derives the law of a zar.
(20) Both the Rabbis here mentioned and R. Simeon being R. Akiba's disciples.

Talmud - Mas. Sanhedrin 84b

C H A P T E R X

MISHNAH. THE FOLLOWING ARE STRANGLED:. HE WHO STRIKES HIS FATHER OR MOTHER; OR KIDNAPS A JEW [TO SELL AS A SLAVE]; AN ELDER REBELLING AGAINST THE RULING OF BETH DIN; A FALSE PROPHET; ONE WHO PROPHESIES IN THE NAME OF AN IDOL; ONE WHO COMMITS ADULTERY; WITNESSES WHO TESTIFIED FALSELY [TO THE ADULTERY OF] A PRIEST'S DAUGHTER, AND HER PARAMOUR.[1]

GEMARA. Whence do we know it of him who strikes his father or mother? — From the verse, And he that smiteth his father or mother shall surely be put to death:[2] and by every unspecified death sentence decreed in the Torah strangulation is meant. But say! perhaps it is only if he kills [not merely strikes] them? — You surely cannot think so: for killing any other person he is decapitated, whilst for his father's murder he is [only] strangled! Now, this [answer] is correct on the view that strangulation is more lenient: but on the view that the sword is more lenient, what canst thou say? — But since it is written, He that smiteth a man, so that he dies, shall surely be put to death:[3] and also, or in enmity smite him with his hand, that he die,[4] it follows that whenever an unqualified smiting is mentioned, it does not mean slaying.

Now, it is necessary that both ‘He that smiteth a man’ and ‘whoso killeth any soul etc.’[5] be written. For had the Divine Law written only, ‘He that smiteth a man, that he die’, I should have thought that it applies to the slaying of an adult [ish][6] only, since such is himself bound by law, but not [to the slaying of] a minor; therefore the Divine Law writes, ‘Whoso killeth any soul.’ Whilst had the Divine Law written only. ‘Who killeth any soul,’ I should have thought that it applies even to a nefel[7] or an ‘eight months’ child:[8] therefore the former verse is necessary too [to exclude these].

[Now, reverting to the main question:] Let us say that even if he [smote his father] without wounding him [he is executed]: Why have we learnt, He who strikes his father or his mother is liable only if he wounds them? — The Writ saith, And he that killeth a beast, he shall restore it; and he that killeth a man, he shall be put to death:[9] just as for smiting an animal [there is no liability] unless it is wounded, since nefesh [‘soul’] is written in connection therewith;[10] so also, no liability is incurred for smiting a man [i.e., one's parent] unless there is a wound. R. Jeremiah objected: If so, if one [permanently] impaired its [sc. the animal's] strength by [loading] stones upon it, [yet not wounding it], is he then not liable [for its loss in value]? — But [say thus]: Since nefesh, written in connection with an animal, is irrelevant there, for even if one impaired its strength by loading stones upon it he is liable, transfer Its teachings to man.[11] Then what need is there of the analogy?[12] For that which was taught in the school of Hezekiah.[13] Now, this is well according to the view which accepts this teaching: but on the view that rejects it, why is the analogy required? [To teach:] just as one who smites an animal to heal it is not liable for any damage, so if one wounds a man [sc. his parent] to heal him he is not liable [for any damage that may ensue]. For the scholars propounded: May a son let blood for his father?[14] — R. Mathna ruled: But thou shalt love thy neighbour as thyself.[15] R. Dimi b. Hinena said: [The Writ saith,] And he that killeth a beast, he shall restore it: and he that killeth a man, he shall be put to death:[16] just as one who strikes an animal to heal it is not liable for damage, so if one wounds a man [sc. his parent] to heal him he is not liable. Rab would not permit his son to extract a thorn [from his flesh, since in drawing it out he would make a slight wound].

Mar, the son of Rabina, would not permit his son to lance a fester for him, lest he wound him, thereby unintentionally transgressing a prohibition. If so, even a stranger should be forbidden?[17] — In the case of a stranger, the unintentional transgression is in respect of a mere negative precept: but hi' son's involves strangulation. But what of that which we learnt: A small needle [lit. 'hand-needle'] may be moved [on the Sabbath] for the purpose of extracting a thorn?[18] But should we then not fear that a wound might be made [in extracting it], and thus a prohibition involving stoning be unintentionally transgressed? — There by so doing he effects damage.[19] Now, this agrees with the view that one who does damage on the Sabbath is not liable [to punishment]: but on the view that he is, what can you say? — Whom have you heard maintaining that one who inflicts damage by means of a wound is liable [for the desecration of the Sabbath]? R. Simeon;

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(1) If she was nesu'ah, cf. supra 51b.

(2) Ex. XXI, 15.

(3) Ibid. 12.

(4) Num. XXXV, 21.

(5) Ibid. 30.

(6) איש a man, an adult.

(7) Lit., 'born of miscarriage', a term applied to all non-viable births.

(8) I.e., one born after eight months of pregnancy. The Talmud regards such as nonviable, though a seven months' child is.

(9) Lev. XXIV, 21.

(10) And he that smiteth the nefesh of a beast shall make it good. Ibid. 18. Nefesh is elsewhere associated with the blood (e.g. Gen. IX, 4) and therefore denotes here that the blood of the animal is affected by the wounding stroke.

(11) Nefesh, which indicates tha the blow must wound, is irrelevant in respect of an animal: therefore its teaching must be transferred to the smiting of man, sc. one's parent. On this method of interpretation, v. p. 368 n. 7.

(12) In view of this latter suggested interpretation.

(13) Supra 79b.

(14) Since he thereby inflicts a wound on him.

(15) Lev. XIX, 18; i.e., since he would desire it to be done to himself, if necessary, he may do it to another, even his father.

(16) Lev. XXIV, 21.

(17) Since no man may wound another.

(18) Some utensils may not be handled at all on the Sabbath, notably, those whose purpose is a manner of work forbidden on the Sabbath: others may be handled. This Mishnah enumerates various articles which may be handled, and for what purpose.

(19) There is no punishment for committing an act of damage on the Sabbath, even deliberately.

Talmud - Mas. Sanhedrin 85a

but R. Simeon also maintains that any mode of work not required for itself is not punishable.[1]

A problem was propounded to R. Shesheth. May one be appointed an agent [by Beth din] to flagellate and curse his father?[2] — He replied, Who then permitted even a stranger to do this, but that the Divine honour overrides [other prohibitions]: so here too, the Divine honour overrides [the prohibition against smiting and cursing one's parents].[3] An objection was raised: If one, whom it is a positive command to smite, may nevertheless not be smitten; how much more so, may one, whom it is not a positive command to smite, not be smitten. Now, do not both clauses relate to smiting as a precept, but that one treats of a son, the other of a stranger?[4] — No. In both clauses no distinction is drawn between a son and a stranger, yet there is no difficulty. The one treats of smiting as a precept, the other when not. And it is thus to be interpreted: If when a precept is involved, i.e., when it is a positive command to smite [sc. a person under sentence of flagellation], it is nevertheless a command not to smite [unnecessarily, i.e., with more than the prescribed number of lashes, viz., forty]; then when no positive command is involved, viz., when one is not to be flagellated, one is surely commanded not to smite unnecessarily.[5] Come and hear: If one was going forth to execution, and his son came and smote him and cursed him, he is liable; if a stranger did this, he is exempt. Now we pondered thereon, What is the difference between a son and a stranger? And R. Hisda answered: This refers to one who is being impelled forth, but holds back?[6] — R. Shesheth maintains that it refers to one who is not urged to go forth. If so, a stranger too [should be punished for beating him]? — As far as a stranger is concerned, he is already a dead man.[7] But did not R. Shesheth say: If one insulted a sleeping person, and he died [in his sleep], he is nevertheless liable [to punishment for same]?[8] — The reference here is to a blow which inflicted an injury less than a perutah in value. But did not R. Ammi say in R. Johanan's name: [Even] if one smote his neighbour with a blow inflicting less than a perutah's worth of damage, he is punished with lashes? — By ‘exempt’, non-liability to monetary compensation is meant. It follows then that a son is liable to monetary compensation![9] But it must therefore mean, [he is liable] according to the law pertaining to him.[10] If so [a stranger too is exempt from] the law pertaining to him [for smiting his neighbour, viz., lashes].[11] But this is the reason why a stranger is exempt, because the Writ saith, Thou shalt not curse a prince among thy people:[12] meaning, [only] when he acts as is fitting for thy people.[13] This is well as far as cursing is concerned: but whence do we know the same of smiting? — Because we compare smiting with cursing. If so, should not the same apply to his son? — Even as R. Phineas said [elsewhere]: This refers to one who had repented. If so, even a stranger [should be liable]? — R. Mari answered, ‘among thy people’ implies ‘abiding among thy people’.[14] If so, should not the same apply to his son?

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(1) E.g., the carrying out of a dead body on its bier from a private to a public domain. Now, this is not done because the dead body is wanted there, but because it is not wanted in the private domain. So here too, when a thorn is extracted and a wound made, even intentionally, no punishment is involved, because the purpose of the work is extraction, not wounding.

(2) I.e., if his father had to be thus punished or banned, when a curse was pronounced (for the latter).

(3) It is an offence to curse or smite any Jew; nevertheless, it is permitted in God's honour, i.e., as a punishment for transgressing the Divine law: hence it is likewise permitted to a son.

(4) The meaning then will be as follows: If one, whom it is a positive command to smite — i.e., who is under sentence of flagellation — may nevertheless not be smitten by his son as the agent appointed to execute the sentence, how much more so may one, whom it is not a positive command to smite — i.e., who is not under sentence of flagellation — not be smitten by his son. Thus, by an ad majus reasoning, a formal prohibition is deduced against a son's striking his father. For Ex. XXI, 15 merely prescribes the punishment; but it is either stated or deduced from elsewhere. On this interpretation, of course, R. Shesheth's ruling is contradicted.

(5) Hence this teaches a prohibition against smiting anyone unless sentenced by Beth din.

(6) Hence this teaches that his son, as an agent of Beth din, may not smite him to drive him forward, and is punished for so doing, which is in contradiction to R. Shesheth.

(7) But this reasoning obviously cannot apply to his son, who is bound to honour him even after death, the verse excluding a transgressor from this filial duty being at this stage of the discussion unknown.

(8) Though he was not even aware of it. Surely then smiting a condemned man comes under the same category.

(9) But that is impossible, since the injury is less than a perutah's worth.

(10) I.e., the law pertaining to the smiting of a father by his son, viz., death.

(11) Thus the question remains, what is the difference between his son and a stranger?

(12) Ex. XXII, 27.

(13) But to transgress is not ‘fitting for thy people’: hence the prohibition does not apply to such a case.

(14) But when one is sentenced to death, he is no longer so.

Talmud - Mas. Sanhedrin 85b

— It is the same as after death.[1] What is our final decision? — Rabbah son of R. Huna said, and a Tanna of the school R. Ishmael [taught] likewise; For no offence may a son be appointed an agent to smite or curse his father, excepting if he be a mesith, since it is written, neither shalt thou spare nor conceal him.[2]

MISHNAH. HE WHO STRIKES HIS FATHER OR HIS MOTHER IS LIABLE ONLY IF HE WOUNDS THEM. IN THIS RESPECT, CURSING IS MORE STRINGENT THAN SMITING, FOR, HE WHO CURSES [HIS PARENTS] AFTER DEATH IS LIABLE, WHILST HE WHO SMITES THEM AFTER DEATH IS NOT.

GEMARA. Our Rabbis taught: His father or his mother he hath cursed:[3] [his blood shall be upon him]. This means, even after death.[4] For I would think, since he is liable for smiting and for cursing; so also for cursing. Moreover, an ad majus reasoning [would seem to prove the contrary]: If for smiting, where [a parent] ‘not of thy people’ is assimilated to one ‘of thy people’,[5] there is nevertheless no punishment for doing so after his death; then cursing, where one ‘not of thy people’ is assimilated to ‘of thy people’, is surely not punishable if done after death! Therefore the Writ saith, He hath cursed his father or his mother. Now this accords with R. Jonathan, to whom the verse, His father or his mother, he hath cursed, is superfluous; but on R. Joshiah's view, what can be said? For it has been taught: For [ish ish] any man[6] [that curseth his father or his mother shall surely be put to death].[7] Now, Scripture could have said, A man [ish]; what is taught by ‘any man’ [‘ish ish’]? The inclusion of a daughter, a tumtum, and a hermaphrodite [as being subject to this law]. ‘That curseth his father and his mother’: from this I know only [that he is punished for cursing] his father and his mother: whence do I know [the same] if he cursed his father without his mother or his mother without his father? — From the passage, His father and his mother he hath cursed, implying, a man that cursed his father, a man that cursed his mother. This is R. Joshiah's opinion. R. Jonathan said: The [beginning of the] verse alone implies either the two together or each separately, unless the verse had explicitly stated ‘together’.[8] Whence then does he [R. Joshiah] learn [the law under discussion]?[9] — He derives it from the verse, And he that curseth his father or his mother shall surely put to death.[10] And the other?[11] — He utilises it to include a daughter, a tumtum, and a hermaphrodite. But why not derive this from ‘any man’ [ish ish]? — The Torah employed human speech.[12] [Now, reverting to the Mishnah:] Should it not [also] teach: smiting is a graver offence than cursing, since with respect to the smiting ‘not of thy people’ is as ‘of thy people’, which is not the case with respect to cursing?[13] — The [Tanna of the Mishnah] maintains that smiting is assimilated to cursing.[14]

Shall we say that these Tannaim[15] differ on the same lines as the following? Viz., One Baraitha was taught: As for a Cuthean, you are enjoined against smiting him, but not against cursing him. But another [Baraitha] taught: You are enjoined neither against smiting nor cursing him. Now, the hypothesis is that all agree that the Cutheans were true proselytes:[16] hence presumably the grounds of their dispute are these. One Master holds that smiting is likened to cursing, and the other Master that it is not![17] — No! All agree that smiting is not likened to cursing, but this is the cause of their dispute: — The one Master maintains, Cutheans are true proselytes;[18] the other Master holds that they are [sham] proselytes [driven to conversion through fear of] lions.[19] If so, how can the [Baraitha] further state, But his ox is as one belonging to an Israelite?[20] Hence this proves that the dispute is in respect of the analogy.[21] This proves it.

MISHNAH. ‘HE WHO KIDNAPS A JEW’[22] INCURS NO LIABILITY UNLESS HE BRINGS HIM INTO HIS OWN DOMAIN. R. JUDAH SAID: UNLESS HE BRINGS HIM INTO HIS OWN DOMAIN AND PUTS HIM TO SERVICE. FOR IT IS WRITTEN, [IF A MAN BE FOUND STEALING ANY OF HIS BRETHREN OF THE CHILDREN OF ISRAEL,] AND PUT HIM TO SERVICE, AND SELL HIM.[23] IF HE ABDUCTS HIS OWN SON. — R. ISHMAEL THE SON OF R. JOHANAN B. BEROKA DECLARED HIM LIABLE, BUT THE SAGES EXEMPTED HIM. IF HE KIDNAPPED A SEMI-SLAVE AND SEMI-FREEMAN,[24] — R. JUDAH DECLARES HIM LIABLE, BUT THE SAGES ACQUIT [HIM].

GEMARA. But does not the first Tanna require putting to service [as a condition of punishment]?[25] — R. Abba the son of Raba said: They differ in respect of service worth less than a perutah.[26] R. Jeremiah propounded: What if one kidnapped and sold a person asleep? What if one sold a [pregnant] woman for the expected child?[27] Is this a sort of service or not? But, [surely,] can this not be solved from the fact that there is no service at all? — It is necessary [to propound this] only if he [the kidnapper] leaned upon the sleeper, or, in the case of a [pregnant] woman, if she was placed in front of a wind:[28] now, does this constitute service or not? This problem remains unsolved.

Our Rabbis taught: If a man be found stealing any of his brethren of the children of Israel. From this I know [the law] only if a man abducted: whence do I know it of a woman? From the verse And one that stealeth a man.[29] From [these verses] I know [the law] only if a man kidnapped a man or a woman,[30] and of a woman who abducted a man.[31] Whence do I know it if a woman abducted a woman? From the verse, Then that thief shall die:[32] implying, in all cases [of theft].[33]

Another [Baraitha] taught: If a man be found stealing any of his brethren: whether a man, woman, proselyte, manumitted slave or minor be abducted, he is liable. If he stole him, but did not sell him, or if he sold him, but he is still in his [sc. the victim's] own house, he is exempt. If he sold him to his [sc. the victim's] father, brother, or to one of his relations, he is liable. He who steals slaves is exempt.

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(1) For if one curses his father even after death he is liable. So here too (v. Rashi).

(2) Deut. XIII, 9.

(3) Lev. XX, 9.

(4) It is so interpreted because it is superfluous, since the beginning of the verse states, For everyone that curseth his father or his mother shall surely be put to death.

(5) V. supra. Because in Ex. XXI, 15, dealing with this, no mention is made that the parents must be ‘of thy people’.

(6) איש איש Lit., ‘A man, a man’,

(7) Lev. XX, 9.

(8) V. supra 66a for notes.

(9) Since on his view it is not superfluous.

(10) Ex. XXI, 17, which is superfluous in view of Lev. XX, 9.

(11) R. Jonathan: how does he interpret this verse?

(12) In which this repetition is common. Hence it has no special significance.

(13) The difficulty is this: since the Mishnah teaches an aspect of the greater severity of cursing, it should also state the reverse.

(14) So that they are alike in this respect.

(15) Viz., those of the Mishnah and of the Baraitha.

(16) Originally, though in the course of time they had deteriorated.

(17) Hence, on the former view, one is not forbidden to smite him, since he is not ‘of thy people’ as taught in the second Baraitha, but on the latter, no distinction is drawn between him and an Israelite — as taught in the first Baraitha.

(18) Therefore they are as Jews.

(19) V. II Kings XVII, 24-29. Therefore they are not Jews at all.

(20) I.e., if his ox gored or was gored, the same law applies to it as to one of Jewish ownership, whereas an ox of non-Jewish ownership is differently treated, v. B.K. 38a. This proves that the Cuthean is regarded as a real Jew.

(21) Whether ‘smiting’ is assimilated to ‘cursing’.

(22) Lit., ‘a soul of Israel’.

(23) Deut. XXIV, 7.

(24) E.g., if he had belonged to two masters, one of whom had manumitted him.

(25) Surely he must, since Scripture explicitly states it.

(26) The first Tanna maintains that even the smallest service renders the kidnapper liable, and therefore does not mention it, whilst R. Judah holds that the service most be worth at least a perutah.

(27) I.e., only the child, when born, but not the woman.
(28) To act as a shield; since the stouter she is, the more effectively is this done, the fetus is actually put to use.
(29) Ex. XXI, 16. The subject being unspecified, it applies to both sexes, although the verb is masculine.
(30) Since the object of 'steal' in Deut. XXIV, 7, where the kidnapper is a man, is nefesh, a soul, applicable to both man and woman.
(31) For Ex. XXI, 16 speaks of 'one' stealing a man.
(32) Deut. Ibid.
(33) Since thief is superfluous, being understood from the context.

Talmud - Mas. Sanhedrin 86a

Now, a tanna recited [this Baraitha] before R. Shesheth. whereupon he observed: I learned. 'R. Simeon said, [if a man be found stealing a person] from his brethren, [implies that he is not liable unless he] withdraws him from the control of his brethren, [i.e., relations].' yet you say that he is liable![1] Read [instead], 'He is exempt.' But what difficulty is this: perhaps the latter is R. Simeon's view [only]. and the former the Rabbis'? — You cannot think so, for R. Johanan said: [The author of] an anonymous Mishnah is R. Meir; of an anonymous Tosefta, N. Nehemiah; of an anonymous [dictum in the] Sifra, R. Judah; in the Sifre, R. Simeon;[2] and all are taught according to the views of R. Akiba.[3]

IF HE ABDUCTS HIS OWN SON, etc. What is the reason of the Rabbis? — Abaye answered, The Writ saith, If a man be found [stealing any of his brethren etc.] thus excluding one [sc. the victim] who is [ever] to be found [with him].[4] R. Papa said to Abaye: If so, [when Scripture saith,] If a man be found lying with a woman married to a husband,[5] will you also interpret, 'If [a man] be found, as excluding [a woman] who is immediately accessible [i.e., 'found with him']: e.g., in the house of so and so,[6] where [the women] are within easy reach,[7] are they [their lovers] exempt? — He replied: I deduce it from [And he that stealeth a man, and selleth him,] and he be found in his hand.[8] Raba said: Therefore, the instructors of children and teachers of students are [regarded] as having their charges ready to hand, and hence are not punished [for abducting them].

IF HE KIDNAPPED A SEMI-SLAVE AND SEMI-FREEMAN, etc. We learnt elsewhere: R. Judah said: Slaves have no claim for shame.[9] What is R. Judah's reason? — The Writ saith, When men strive together, a man with his brother,[10] teaching that this applies only to] one who has fraternal relationship, thus excluding a slave, who has no fraternal relationship.[11] But the Rabbis maintain: He [the slave] is his brother in [obligation to fulfil] the [Divine] precepts. Now, in this case [abduction], how is the verse interpreted? — R. Judah maintains, [If a man be found stealing any of his brethren of the children of Israel:] of his brethren excludes slaves; the children of Israel excludes a semi-slave, and a semi-freeman; of the children of Israel[12] likewise excludes one who is a semi-slave and semi-freeman.[13] Thus, one limitation follows another, which always indicates extension.[14] But the Rabbis do not agree that of his brethren excludes slaves, since they are his brethren [in obligation to fulfil] the [Divine] precepts; [whilst as for the double limitation implied in] 'the children of Israel, and of the children of Israel, one excludes a slave, and the other excludes a semi-slave and semi-freeman.[15]

Whence do we learn a formal prohibition[16] against abduction?[17]

R. Josiah said: From Thou shalt not steal.[18] R. Johanan said: From They shall not be sold as bondsmen.[19] Now, there is no dispute: one Master states the prohibition for stealing [i.e., abduction], the other Master for selling [the kidnapped person].

Our Rabbis taught: Thou shalt not steal. —[20] Scripture refers to the stealing of human beings. You say, Scripture refers to the stealing of human beings; but perhaps it is not so, the theft of property [lit., ‘money’] being meant? — I will tell you: Go forth and learn from the thirteen principles whereby the Torah is interpreted. [one of which is that] a law is interpreted by its general context: of what does the text speak? of [crimes involving] capital punishment: hence this too refers [to a crime involving] capital punishment.[21]

Another [Baraitha] taught: Ye shall not steal:[22] The Writ refers to theft of property. You say thus, but perhaps it is not so, Scripture referring to the theft of human beings? — I will tell you: Go forth and learn from the thirteen principles whereby the Torah is interpreted,[one of which is that] a law is interpreted by its general context. Of what does the text speak? of money matters;[23] therefore this too refuse to a money [theft].

It has been stated: If the witnesses of the abduction or those of the sale of human being were proved zomemim,[24] — Hezekiah said: They are not executed; R. Johanan maintained that they are. Now Hezekiah's ruling agrees with the view of R. Akiba, viz., [At the the mouth of two witnesses, or at the mouth of three witnesses, shall] the matter [be established]:[25] the whole matter, but not half of the matter;[26] whilst R. Johanan's view agrees with that of the Rabbis, viz., the matter implies even half the matter.[27] Yet Hezekiah admits in the case of a ‘stubborn and rebellious’ son, that if the last witnesses were contradicted, they are executed, since the first could say,

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(1) For selling him to his father, etc.

(2) Rabbi (R. Judah ha-Nassi), in compiling the Mishnah, drew upon earlier collections, of which each Tanna possessed one. An anonymous Mishnah is based upon R. Meir's collection, though not necessarily reflecting R. Meir's views. For this interpretation. v. Weiss, Dor. Vol. II, pp. 51f; Strack, Introduction to Talmud and Midrash, p. 21, The Tosefta, as its name implies (‘addition’) is a further elaboration and development of Tannaitic teaching, closely allied to the Mishnah. The relation of the Mishnah to the Tosefta is a problem which has so far remained unsolved; v. Strack, op. cit., pp. 74ff. The Sifra (also called תורת כהנים) is the traditional interpretation of Leviticus, to which is prefaced an exposition of the Thirteen Principles of Hermeneutics of the School of R. Ishmael. Though ascribed here to R. Judah b. Ila'i, our version contains many additions by later teachers, and its final compilation is generally assigned to R. Hiyya. It is also occasionally referred to as the Sifra debe Rab (of the College of Rab). Whether this is to indicate Rab's authorship is one of the literary problems, among others, which the Sifra presents. (V. Weiss, op. cit pp. 193 seqq.) The Sifre contains the commentary on Num. V to the end of Deut. This too contains additions later than R. Simeon, to whom it is here ascribed, and is a composite work shaped by the School of Rab (v. Weiss, op. cit.), but in any case the Sifre now extant is not identical with the Talmudic Sifre.

(3) Hence, since both are anonymous passages in the Sifre, R. Simeon is the author of both.

(4) ‘(Shall) be found’ ימצא implies that the abducter goes out of his way and is thus ‘found’ where he should not be; but he does not go out of his way in abducting his child, who is always to be found with him.

(5) Ibid. XXII, 22.

(6) R. Papa alluded to a definite house, but suppressed the name.

(7) Lit., ‘to be found with them.’ A number of families lived there together, so that it would have been comparatively easy for a man to seduce his neighbour's wife.

(8) ונמצא Ex. XXI, 16. This is redundant and therefore shows that the law applies only to a person who ‘is found’ in his (captor's) hand as a result of abduction, and not to one who was ‘to be found’ in his hand before too.

(9) B.K. 87a. If one shamed a slave, there is no monetary liability.

(10) Deut. XXV, 11. This treats of indecent assault in the course of a quarrel, and the compensation that must be made (v. 12 q.v.) is interpreted as meaning monetary damages for the humiliation sustained.

(11) Rashi in B.K. 88a, explains: he has no fraternal relationship with a Jew, viz., he cannot marry into the Jewish fold. A marginal explanation given there is: he has no forbidden fraternal relationship, i.e., he may marry his fraternal sister and his brother's wife. Rashi's interpretation here is different, but Tosaf. refutes it.

(12) ‘Of’ (Heb מ) being partitive, implies limitation.

(13) There being nothing else which it can exclude.

(14) Just as in English a double negative denotes a positive, so it is one of the principles of Talmudic exegesis that the double exclusion of the same thing intimates that it is to be included.

(15) Therefore, the double limitation applies to two different persons, not to one and the same person, and hence remains a limitation.
(16) v. p. 364. n. 2, cf. also supra p. 382.
(17) Since Deut. XXII,7 and Ex. XXI, 16 merely state the punishment.
(18) Ex. XX, 15. The object of the theft being unspecified, it applies to a human being too. So in general.But in the next passage it is shown that it refers particularly to abduction.
(19) Lev. XXV, 42.
(20) Ex. XX, 15.
(21) The Decalogue, of which this is part, deals in general with capital offences, e.g., idolatry, the desecration of the Sabbath, murder. Hence this too must be similar, and abduction is the only theft so punished.
(22) Lev. XIX, 11.
(23) Cf. ibid, 10-15.
(24) V. Glos.
(25) Deut. XIX, 15.
(26) I.e, the two witnesses must testify to the entire matter. If two, however, testify to one part, and two
(27) I.e., if two witnesses attested a portion of an act or an offence, and another two witnesses the rest, their evidence is combined and the accused punished. Consequently, if they are proved zomemim, they receive themselves the punishment they sought to impose.

Talmud - Mas. Sanhedrin 86b

‘We came [merely] to have him flogged’, and therefore these last witnesses attest the whole offence [involving execution].[1] R. Papa objected: If so, the witnesses of the sale [of the abducted person] should likewise be executed, since those of abduction can say, ‘We came [merely] to have him flogged’:[2] nor could you answer[3] that Hezekiah is of the opinion that [the abductor] is not flogged,[2] — since it has been stated: If the witnesses of abduction were proved zomemim — R. Johanan, and Hezekiah [differ]: one maintains that they are flagellated, the other that they are not. Whereon we observed, It may be shewn that it was Hezekiah who ruled that they are flagellated, since he said that they are not executed.[4] For were it R. Johanan, since however he maintains that they are executed, their injunction[5] is one for which a warning of death at the hands of Beth din may be given,[6] and for such there is no flagellation.[7] But if he [the accused] is not

to another, their testimony is invalid. Here also, the abduction is only half an offence, likewise the sale in itself proves nothing, as the vendor might have sold his own slave. Therefore their testimony cannot convict the accused, and consequently they themselves, if proved zomemim, are not executed. flagellated, how can they [the false witnesses] be?[8] But R. Papa said thus: All agree that the witnesses of the sale [who were proved zomemim] are slain; they differ only with respect to the witnesses of abduction: Hezekiah maintains that they are not executed, abduction being one offence, and selling another;[9] whilst R. Johanan holds that they are executed, abduction being the first step towards selling.[10] But R. Johanan admits that if the first witnesses of a ‘stubborn and rebellious’ son are proved zomemim, they are not executed, since they can say, ‘We came to have him flogged’. Abaye said: All agree in [one matter relating to] a ‘stubborn and rebellious son’; and all agree in [a second relating to] a ‘stubborn and rebellious son’; and there is a dispute [in the case of] a ‘stubborn and rebellious’ son. [Thus:] ‘All agree in [one matter relating to] a "stubborn and rebellious son, viz., with respect to the first witnesses [proved zomemim], that they are not slain, since they can plead, ‘We came to have him flagellated.’ ‘And all agree in a second matter relating to a "stubborn and rebellious" son,’ viz., with respect to the last witnesses, that they are executed, for since the first witnesses could plead. ‘We came to have him flogged,’ these attest the entire offence [involving death]. And there is a dispute in [the case of] a ‘stubborn and rebellious son,’ viz., when two testify that he stole, and two that he ate.[11]

R. Assi said: If the witnesses of the sale of an [abducted] person are proved zomemim, they are not executed, since the [vendor] could plead, ‘l sold my slave.’[12] R. Joseph said: With whom does this dictum of R. Assi agree? — With R. Akiba, who ruled ‘the whole matter, but not half the matter.’ Abaye said to him, For on the view of the Rabbis they would be executed? But he gives his reason, ‘since etc.’[13] Hence it may agree even with the Rabbis, providing there were no witnesses of abduction. If so, why state it?[14] — It is necessary [to state this] only if witnesses [of abduction] subsequently appeared.[15] But even so, why state it? — This is necessary only when they made signs [to each other:][16] I might think that signalling is of consequence; therefore he [R. Assi] informs us that it is of no consequence.

MISHNAH. ‘AN ELDER REBELLING AGAINST THE RULING OF BETH DIN’ [IS STRANGLED],[17] FOR IT IS WRITTEN IF THERE ARISE A MATTER TOO HARD FOR THEE FOR JUDGEMENT [etc.].[18] THREE COURTS OF LAW WERE THERE,[19] ONE SITUATE AT THE ENTRANCE TO THE TEMPLE MOUNT,[20] ANOTHER AT THE DOOR OF THE [TEMPLE] COURT,[21] AND THE THIRD IN THE HALL OF HEWN STONES.[22] THEY[23] [FIRST] WENT TO THE BETH DIN WHICH IS AT THE ENTRANCE TO THE TEMPLE MOUNT, AND HE [THE REBELLIOUS ELDER] STATED, THUS HAVE I EXPOUNDED AND THUS HAVE MY COLLEAGUES EXPOUNDED; THUS HAVE I TAUGHT, AND THUS HAVE MY COLLEAGUES TAUGHT. IF [THIS FIRST BETH DIN] HAD HEARD [A RULING ON THE MATTER], THEY STATE IT. IF NOT, THEY GO TO THE [SECOND BETH DIN] WHICH IS AT THE ENTRANCE OF THE TEMPLE COURT, AND HE DECLARES, THUS HAVE I EXPOUNDED AND THUS HAVE MY COLLEAGUES EXPOUNDED; THUS HAVE I TAUGHT AND THUS HAVE MY COLLEAGUES TAUGHT. IF [THIS SECOND BETH DIN] HAD HEARD [A RULING ON THE MATTER]. THEY STATE IT; IF NOT, THEY ALL PROCEED TO THE GREAT BETH DIN OF THE HALL OF HEWN STONES WHENCE INSTRUCTION ISSUED TO ALL ISRAEL, FOR IT IS WRITTEN, [WHICH THEY] OF THAT PLACE WHICH THE LORD SHALL CHOOSE [SHALL SHEW THEE].[24] IF HE RETURNED TO HIS TOWN AND TAUGHT AGAIN AS HERETOFORE, HE IS NOT LIABLE. BUT IF HE GAVE A PRACTICAL DECISION, HE IS GUILTY, FOR IT IS WRITTEN, AND THE MAN THAT WILL DO PRESUMPTUOUSLY,[25] [SHEWING] THAT HE IS LIABle ONLY FOR A PRACTICAL RULING. BUT IF A DISCIPLE[26] GAVE A PRACTICAL DECISION [OPPOSED TO THE BETH DIN], HE IS EXEMPT:[27] THUS THE VERY STRINGENCY OF HIS [ORDINATION] IS [A SOURCE OF] LENIENCY FOR HIM.[28]

GEMARA. Our Rabbis taught: If a thing be outstandingly difficult [yippale] for thee[29]

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(1) V. supra 71a. It is there stated that he was first warned in the presence of three, and then flogged (on the testimony of two witnesses), and only if he offended again is he executed. The second offence too, of course, must be attested by two witnesses. Now, if these last two were proved zomemim, Hezekiah admits that they are executed, for their testimony is complete in itself, in so far as it imposes an additional punishment, as explained here.

(2) For the mere ‘stealing’.

(3) Lit., ‘and shouldst thou answer’.

(4) I.e., if another two witnesses testified to the sale, and then the first two were proved false, they are not executed. The argument is concluded in the next passage.

(5) Viz., Thou shalt not bear false witness against thy neighbor, Ex. XX, 16.

(6) I.e., they could formally be warned against falsely testifying on the grounds that should they be proved Zomemim after another two witnesses had attested the sale, they would be executed.

(7) Even if the death sentence is not imposed.

(8) This concludes the proof that Hezekiah must hold that abduction alone is punished by lashes. For since it has been shown that in his opinion witnesses who testify falsely thereto are flogged, it follows that abduction itself is so punished, as it is a general role, stated in Deut. XIX, 19, that the witnesses receive only the punishment they sought to impose.

(9) And only the two together incur capital punishment: therefore the witnesses of abduction have not testified to a capital offence.

(10) For, as above, abduction itself is not punished by flagellation; therefore it is part of a capital offence.

(11) V. supra 71a. Thus each attested half an offence. Hence according to Hezekiah, who agrees with R. Akiba's dictum, ‘the whole matter, but not half the matter’, they are exempt; but in R. Johanan's view, based on that of the Rabbis, ‘the matter, and even half the matter,’ they are liable.

(12) Hence he was not liable to death on their evidence, and therefore they in turn are also exempt.

(13) I.e., that the purchaser can plead not guilty altogether, so that their testimony is not even ‘half the matter’.

(14) For it is obvious.

(15) And on the combined testimonies the accused was convicted. Yet, if the first witnesses of the sale were falsified, they are not punished, since they can plead: ‘we did not know that others would testify to the kidnapping.’

(16) Either the intending witnesses of abduction to those of the sale that they were going to give evidence, or the witnesses of the sale to two others in court, urging them to testify to the abduction.

(17) I.e., in a matter not explicitly stated in the Torah but for which Beth din must give a ruling, either by Biblical interpretation or their own reasoning. This interpretation is borne out by the general context of the Mishnah. Cf. also R. Judah and R. Simeon's views on same (87a), and the while of the discussion in the Talmud as to the type of rulings in virtue of which one is adjudged a rebellious elder. Krauss, Sanhedrin-Makkot a.l. however points out that the verb מרה is constructed with את or ב of the accusative of person, not עַל פי. Consequently he translates: The elder (who is declared) rebellious on account of a ruling of the (upper) Beth din. Cp. Rashi, on Mishnah, 84b.

(18) Deut. XVII, 8. This proves that the reference is to a question not explicitly dealt with in the Torah, since it is ‘too hard’ for judgement.

(19) In Jerusalem; cf. Then thou shalt arise, and get thee up into the place which the Lord thy God shall choose (ibid.).

(20) (In the east gate of the Women's Court (Rashi).

(21) Is the Court of the Israelites.

(22) This was partly within and partly without the Temple (Yoma 25a).

(23) The elder and the other members of the local Beth din, with whom he was in dispute.

(24) Ibid.10.

(25) Ibid12

(26) I.e., one who is not ordained, and hence has no authority to give a ruling at all.

(27) Because his ruling is not likely to be accepted.

(28) It was exceedingly difficult to obtain ordination, none under the age of forty receiving it. This very difficulty protected him, since without being ordained he was not liable to the penalty of a rebellious elder.

(29) יפלא Ibid. 8.

Talmud - Mas. Sanhedrin 87a

— the Writ refers to an ‘outstanding’ member, [mufla] of Beth din;[1] ‘thee’ refers to [a matter needing] a counsellor,[2] and thus it is said, There is one come out from thee, that imagineth evil against the Lord, a wicked counsellor;[3] a thing refers to a [traditional] halachah,’ ‘in judgement,’ this means [a law deduced by] a din;[4] between blood and blood, the blood of a niddah, childbirth, and gonorrhoea; ‘between ruling and ruling,’ whether capital or civil cases, or cases involving flagellation; ‘between [leprous] plague spots, and plague spots’ — embracing leprosy in man, houses and garments; ‘matters’ refers to haramim,[5] valuations,[6] and sanctifications;[7] ‘contentions’ refers to the water ordeal of a sotah,[8] the beheading of the heifer[9] and the purification of a leper;[10] ‘within thy gates’ — this refers to the gleanings, forgotten [sheaves] and the corner [of the field;] ‘then thou shalt arise’, [that is,] from the sitting of Beth din,[11] ‘and ascend’ — this teaches that the Temple was higher than [the rest of] Palestine, and Palestine is [geographically] higher than all other countries’ ‘into the place’, — this teaches that the place is the cause.[12]

Now, it is correct to say that the Temple was higher than [the rest of] Palestine, since it is written, and thou shalt ascend;[13] but whence does he[14] learn that Palestine is more elevated than all other countries?[15] — From the passage, Therefore, behold the days come, saith the Lord, that they shall no more say, The Lord liveth, which brought up the children of Israel out of the land of Egypt,’ But the Lord liveth, which brought up and which led the seed of the house of Israel out of the north country, and from all the countries whither I have driven them;[13] and they shall dwell in their own land.[16]

Our Rabbis taught: A rebellious elder is liable only for a matter the deliberate transgression of which is punished by extinction, whilst the unwitting offence involves a sin offering:[17] this is R. Meir's view. R. Judah said: For a matter of which the fundamental principle is Biblical, whilst its interpretation is by the Scribes.[18] R. Simeon said: Even for a single detail arising out of the subtle interpretations of the Rabbis.[19]

What is R. Meir's reason? — He draws an analogy from the use of dabar [matter] in two places: Here it is written, If there arise a dabar [matter] too hard for thee in judgement; and elsewhere it is written, [And if the whole congregation of Israel sin through ignorance,] the matter [dabar] being hidden from the eyes of the assembly:[20] just as there [the reference is to] a provision which if deliberately transgressed is punished by extinction, whilst if unwittingly, involves a sin offering, so here too. And R. Judah?[21] — [Scripture states:] According to the Torah which they shall teach thee,[22] intimating that both the Torah [i.e., the basic law] and their [sc. the Scribes,] teaching [i.e., the interpretation thereof] must be involved. Whilst R. Simeon's reason is: [And thou shalt do according to the sentence,] which they of that place shall shew thee,[23] indicating even the smallest nicety.

R. Huna b. Hinena said to Raba, Explain me the above Baraitha[24] according to R. Meir.[25] Thereupon Raba said to R. Papa. Go forth and explain it to him. [Thus:] If a matter be outstandingly difficult [yippale]: the Writ refers to an outstanding member, [mufla] of Beth din; ‘thee’, to a [question needing a] counsellor, who knows how to determine the intercalation of years and fixation of months.[26] [Now, the rebelliousness of the elder may be in respect of] what we learnt: They testified[27] that a leap year may be proclaimed during the whole month of Adar. [This testimony was necessary,] because they [i.e., the other Sages] maintained: Only until Purim. [Hence, if the elder flouted the ruling of the great Beth din] in either direction, he permitted leaven to be eaten on the Passover.[28]

‘"A thing" refers to a [traditional] halachah.’ By this is meant the [traditional] halachahs[29] of the eleventh [day].[30] For it has been stated: As for the tenth day. R. Johanan maintained that it is as the ninth, whilst R. Simeon b. Lakish ruled that it is as the eleventh. R. Johanan maintained that it is as the ninth: Just as [a blood discharge on] the ninth necessitates observation,[31] so for an issue on the tenth too observation is required.[32] But Resh Lakish ruled that the tenth day is as the eleventh: just as [a blood discharge on] the eleventh does not necessitate observation,[33] so on the tenth too no observation is required.[34] ‘"In judgment", — this means [a law deduced by] a din.’

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(1) מופלא Mufla generally means the instructing judge, ‘a special expert assessor to whom questions of law are referred. (Jast.). Tosaf. supra 16b s.v. אחד states that the mufla was supernumary to the actual Beth din. In this case, however, mufla means ‘ordained’ (mumhe), in contradiction to talmid, an unordained disciple (Rashi and Tosaf. 16b, ibid.) Cf. Mishnah 86b.

(2) This is explained below.

(3) Nah. I, 11.

(4) Argument based on verbal similarity, and thus the equivalent of gezerah shawah. Rashi points out that din cannot bear its usual meaning here, viz., ‘a legal ruling’, since that is expressly stated in the verse.

(5) Herem, pl. haramim, anything devoted to the Lord (Lev. XXVII, 28).

(6) V. Lev. XXVII, 2 et seqq.

(7) Of animals, all these are the result of vows expressed by words and hence included in ‘words’ etc.

(8) A woman suspected of infidelity (Num. V, 12ff.).

(9) In expiation of a murder committed by a person unknown (Deut. XXI, 1-9).

(10) These three are deduced from ‘contentions’, being the result of such. Sotah and murder obviously so, whilst leprosy, according to the Rabbis, is a punishment for slander, which generally gives rise to strife. — ‘Ar. 15b. (11) All of which belonged to the poor, of whom it is written, If there be among you a poor man of one of thy brethren within any of thy gates (Deut. XV, 7; cf. also ibid. XIV, 29; XVI, 12). Thus the Baraitha teaches that the dispute between the rebellious elder and the Beth din was in respect of any of these laws enumerated. These are discussed below in detail. In nearly all cases cited these matters were disputed by the Rabbis themselves, but of course the minority had to submit to the majority. The crime of the rebellious elder, for which he was executed, consisted of his giving a practical decision opposed in the final ruling of one of the Botte din (plural of Beth din) in Jerusalem. (On the general question of the minority submitting to the majority. v. Halevy., Doroth ha-Rishonim I, 5 205 seq.)

(11) Thou shalt arise implies that there was first a formal sitting, where these difficulties arose, viz., at the local Beth din.

(12) Of the supreme authority of the Great Sanhedrin. The fact that it was situated in the Temple, the religious hub of the nation, imparted to its decisions and powers a weightiness which it would otherwise have lacked.

(13) Implying that wherever one was in Palestine, he had to ascend, in order to reach the Temple.

(14) The Tanna.

(15) Since the passage refers to Palestine only.

(16) Jer. XXIII, 7f. Thus the journey from all countries to Palestine is termed an ascent.

(17) I.e., if he gave a practical ruling on a matter in which these are involved.

(18) V. p. 572. n. 5.

(19) Lit., ‘Scribes’.

(20) Lev. IV, 13.

(21) What is his reason?

(22) Deut. Ibid. 11.

(23) Ibid. 10.

(24) Which enumerates all the matters of dispute between the rebellious elder and his Beth din, and includes such things as valuations and haramim.

(25) I.e., how do all these matters involve extinction and sin offerings?

(26) V. supra 2a.

(27) R. Joshua and R. Pappias. (‘Ed. VII, 7.) Owing to the development of the Mishnah, of which each Tannah had his own version, a great uncertainty arose as to the exact law. R. Gamaliel in consequence undertook a sifting of the various traditions with the purpose of declaring them authentic or otherwise. The scholars assembled at Jabneh, and attested their various teachings. The collection of these testimonies forms the tractate ‘Eduyyoth (J.E. VII, 611).

(28) Thus: If the Beth din ruled after Purim that the year was to he prolonged by a month (called the second Adar), Passover would commence six weeks after the end of the first Adar. If he disregarded this and gave a practical decision that such intercalation was invalid, Passover would commence four weeks earlier and end three weeks before it even began according to the ruling of the Beth din. Hence those who followed his views would be eating leaven during the Passover fixed by the latter. The same would result if they ruled that a month was not to be intercalated, and he ruled that it was. The deliberate eating of leaven on Passover is punished by extinction, as are all the offences enumerated in the following passage.

(29) V. note 6 for the explanation of the plural here.

(30) According to Biblical law, a niddah can cleanse herself when seven days have passed from the beginning of her menstrual flow, provided it ceased on the seventh day before sunset (בין השמשות) During the following eleven days, which are called the beginning days between the menses, she cannot become a niddah again, it being axiomatic that a discharge of blood in that period is not a sign of niddah, but may be symptomatic of gonorrhoea. A discharge on one or two day's within the eleven days renders her unclean, and she is forbidden cohabitation until the evening of the following day (the full details of her position vis a vis her husband, and her uncleanliness in general, are discussed in Nid. 71b ff.), and must wait for the third to see whether another discharge will follow, rendering her a zabah, or not. Should another discharge follow the third day, she becomes unclean as a zabah, and cannot become clean until seven days have passed without any issue at all. Should she, however, discharge on the tenth, eleventh, and twelfth days she is not a zabah, for the twelfth day commences a new period wherein the issue of blood may make her a niddah. (The foregoing is, as mentioned, on the basis of the ancient law, but already in the period of the Talmud itself the law was adopted whereby a single blood issue at any time imposes all the restrictions necessitating for cleanness a period of seven clean days.)

(31) On the tenth and eleventh days. Since discharges on those days following that of the ninth renders her a zabah.

(32) Though unable to become a zabah, she is subject to the law of a woman under observation.

(33) Both R. Johanan said Resh Lakish agree to this, on the basis of Beth Hillel's ruling in the Mishnah Nid. 72a.

(34) Thus, in R. Johanan's opinion, there is only one traditional halachah with respect to the eleventh day, viz., that a blood discharge thereon does not necessitate observation, and this is the only thing in which it differs from the preceding ten days. But if there was a discharge on the tenth, observation is necessary on the eleventh just as on the other days. But according to Resh Lakish it differs in two respects: (i) that a discharge thereon necessitate further observation, and (ii) that it does not become an observation day on account of the tenth day's discharge. Hence there were two halachoth for that day. This explains the use of the plural in this passage. Now to revert to the main subject, in the opinion of R. Johanan, if a woman had a discharge on the tenth, cohabitation on the eleventh is Biblically forbidden on pain of extinction, whilst according to Resh Lakish it is prohibited only by a Rabbinical ordinance, not by Biblical law; thus this too conforms to R. Meir's requirements.

Talmud - Mas. Sanhedrin 87b

Viz., [incest with] one's daughter by an outraged woman. For Raba said, R. Isaac b. Abudimi said unto me: We learn identity of law from the fact that hennah [‘they’] occurs in two related passages, and likewise zimmah [‘wickedness’].[1]

"’Between blood and blood" — the blood of a niddah, childbirth, and gonorrhoea’. ‘The blood of a niddah’, — this enters into the dispute of Akabia b. Mahalalel and the Rabbis. For we learnt: A greenish [discharge of] blood: Akabia b. Mahalalel declares it unclean, and the Sages declare it clean.[2]

‘The blood of childbirth,’ — this depends on the dispute between Rab and Levi. For it has been stated: Rab said, It [all] issues from one and the same source,[3] the Torah declaring it unclean [during the first fourteen days], and clean [the following sixty six days]. Levi said, It proceeds from two different sources: [at the end of fourteen days] the unclean [source] is closed and the clean one opened: [at the end of eighty days] the source of clean [blood] is closed and that of unclean [blood] opened.[4]

‘And the blood of gonorrhoea [zibah]’. — This enters into the dispute of R. Eliezer and R. Joshua. For we learnt: If a woman was in labour for three days within the eleven,[5] then ceased for twenty four hours [lit., ‘from time to time’ — from an hour on one day to the same on the next]. and then gave birth, she is regarded as a woman bearing with a gonorrhoeic discharge: this is R. Eliezer's opinion. R. Joshua said, [The cessation must be] a night and a day, as the night and day of the Sabbath. The cessation referred to is cessation from labour, not from blood[-discharge].[6]

‘"Between ruling and ruling" — whether they be capital or civil cases, or cases involving flagellation.’ Civil cases depend on the dispute between Samuel and R. Abbahu. For Samuel said, If two [judges] gave a [civil] ruling, their action is valid, but that they are dubbed ‘an impudent court’, whilst R. Abbahu maintained: All agree that their decision is invalid.[7]

‘Capital cases’ — in this the dispute of Rabbi and the Rabbis is involved. For it has been taught: Rabbi said, Then thou shalt give life for life[8] — this refers to monetary compensation. You say, monetary compensation: but perhaps this is not so, life being literally meant? — ‘Giving’ is stated below:[9] It is also stated above:[10] just as the latter refers to money, so the former too.[11]

‘Cases involving flagellation. — This is dependent on the dispute of R. Ishmael and the Rabbis. For we learnt: Flagellation [is imposed by [a court of] three. On the authority of R. Ishmael it was said, by twenty-three.[12]

‘"Between [leprous] plague spots and plague spots", including leprosy in man, houses, and garments. Leprosy in man depends on the dispute of R. Joshua and the Rabbis. For we learnt: If the bright spot preceded the white hair, he is unclean, If the reverse, he is clean.[13] [If the order is] in doubt, he is unclean; R. Joshua said, It is as though darkened.[14] What does this mean? — Raba[15] said, [When the spot is] darkened, he is clean.[16]

'Leprosy in houses.' — This enters into the dispute of R. Eleazar, son of R. Simeon and the Rabbis. For we learnt: R. Eleazar, son of R. Simeon said: A house never becomes unclean unless a plague spot appears the size of two beans on two stones in two walls, and at the angle of the walls; it must be two beans in length and one in breadth.[17] Why so? Because the Bible refers to the 'walls' [of the house][18] and also to the 'wall':[19] where is one wall as two? At its angle.[20]

'Leprosy in garments.' — This depends on the dispute of R. Nathan b. Abtolemos and the Rabbis. For it has been taught: R. Nathan b. Abtolemos said: Whence do we know

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(1) V. supra 51b. From that gezerah shawah we learn that such incest is punishable by extinction, where capital punishment cannot be imposed. Since there is no dispute in this at all, it must be assumed that the rebellious elder denies the validity of this particular gezerah shawah (Tosaf.).

(2) Nid. 19a. Now, if the rebellious elder rules as the former, he involves her in an offence of niddah, which is punished by extinction. E.g., if after two days of this greenish discharge there was a one-day normal red-blooded flow. Now a niddah had to wait a minimum of seven days from the beginning of her menstruous flow of blood (v. p. 577, n. 2). On the view of Akabiah b. Mahalalel, but not of the Rabbis, the greenish discharge is regarded as blood and the two days of greenish discharge are counted as part of the seven. Hence by following the former she becomes clean, and cohabits two days earlier than warranted by the latter, according to which she is still a niddah.

(3) I.e., the blood discharge within eighty days after childbirth. V. Lev. XII, 1-5.

(4) In Nid. 35b it is explained that they differ practically if there is a continuous issue from the end of the fourteenth into the beginning of the fifteenth, or from the eightieth into the eighty-first day. According to Rab, notwithstanding this, the blood of the fifteenth is clean, and that of the eighty first unclean. Since Levi however maintains that normally there are two different sources, there should be a definite break between the two, in the absence of which the blood of the fifteenth is unclean, whilst that of the eighty first is clean. Thus a rebellious elder, by flouting the ruling of the Beth din either way causes the injunction of niddah to be violated.

(5) V. p. 577, n. 2.

(6) Nid. 36b. As was stated on p. 577 n. 2, if a woman has blood discharges on three days within the eleven between the menses, she becomes a zabah. If however, this is caused by labour pangs, she is not a zabah, providing however, that her travail continues until giving birth. But if three days of labour and discharge are succeeded by one day free from pain, and then she gives birth, the interruption proves that the issue of the first three days was not the result of labour, but of gonorrhoea, and hence she is a zabah, and subject to the laws thereof, which supersede those of childbirth, the issue during the sixty-six days (v. p. 578) being considered unclean. Now, R. Eliezer and R. Joshua differ as to the meaning, of 'one day'. R. Eliezer maintains that it means a day of 24 hours; but R. Joshua holds that it is a calendar day. i.e., a night and a day. E.g., if she was free from pain from 12 noon on one day to 12 noon on the next, according to R. Eliezer she is a zabah. But on the view of R. Joshua, since she had suffered on the same day. viz., until 12 noon it is not a complete day of cessation, and hence she is not a zabah. As a zabah, cohabitation may be forbidden her on pain of extinction when for mere confinement it would be permitted.

(7) Extinction may be involved therein in the following way: — If as a result of their decision money was withdrawn from A to B, on Samuel's view, it rightfully belongs to B: on R. Abbahu's, it does not. Now if B married a woman with this money as kiddushin, according to Samuel the marriag" is valid, and cohabitation with another man is punishable by death or extinction in the absence of witnesses; but according to R. Abbahu, the kiddushin is invalid, for if one marries a woman with money or goods not belonging to him, his act is null. Hence, if the Beth din accepted Samuel's view, whilst the rebellious elder accepted R. Abbah)'s, he declares a married woman free to others. Now further, if another man C also married the same woman, in Samuel's opinion the second marriage is invalid, and if B subsequently died, she is a free woman. But on R. Abbahu's view, this second marriage is valid, since the first was null. Hence, if the Beth din ruled as R. Abbahu, and the rebellious elder as Samuel, he declares her free from C, when in reality she is married to him.

(8) Ex. XXI, 23.

(9) Viz., in the verse under discussion.

(10) Viz., If . . . no mischief follow . . . he shall pay (lit., ‘give’) as the judges determine, Ibid, 22.

(11) V. supra 79a. If one intended killing one person but killed another instead, Rabbi maintains that he must make monetary compensation to the heirs, whilst the Rabbis rule that he is financially exempt. Hence, if the heirs seized the money, according to Rabbi, it belongs to them, according to the Sages it does not. — Extinction is then involved as explained p. 579. n. 3.

(12) V. supra 2a. Hence, in his view, if a court of three had him flagellated, they acted ultra vires, and must compensate him. If he seized this compensation money, on R. Ishmael's view, it belongs to him, on the Rabbis’, it does not. Extinction is then involved as in p. 579, n. 3.

(13) V. Lev. XIII, 2ff.

(14) Neg. IV, 11.

(15) Var. lec. Rabbah.

(16) Thus R. Joshua maintains that if the order is doubtful, he is clean, and consequently permitted to enter the Sanctuary, whilst on the view of the Rabbis, he is forbidden on pain of extinction.

(17) Neg. XII, 3.

(18) Lev. XIV, 37, 39.

(19) Ibid. 37.

(20) But according to the Rabbis it is unclean even if the leprous outbreak is not at the angle, and renders anyone who enters unclean too. V. supra note 3.

Talmud - Mas. Sanhedrin 88a

that a spreading outbreak [of leprosy] in garments [covering the whole] is clean? Baldness [of the back of the head — karahath] and baldness [of the front — gabahath] are mentioned in connection with human leprosy; and also in connection with leprosy of garments:[1] just as in the former, if [the plague] spread over the whole [skin], he is clean, so here too, if it spread over the whole [garment] it is clean.[2]

‘"Matters", — this refers to valuations, haramim and sanctifications’. ‘Valuations’ is dependent on the dispute of R. Meir and the Rabbis. For we learnt: If one dedicates the value of [an infant] less than a month old, R. Meir rules, he must render its value;[3] The Sages maintain, his declaration is null.[4]

‘Haramim’ is involved in the dispute of R. Judah b. Bathyra and the Rabbis. For we learnt: R. Judah b. Bathyra said, Unspecified haramim are for the Temple use, as it is written, Every herem [‘devoted thing’] is most holy unto the Lord.[5] But the Sages say, Unspecified haramim belong to the priests, as it is written, [but the field, when it goeth out in Jubilee, shall be holy unto the Lord] as a field of herem, the possession thereof shall be the priests.[6] If so, what is taught by, Every herem is most holy unto the Lord? That it [sc. the vow of herem] is legally binding in respect of objects of the highest or of ordinary sanctity.[7]

‘Sanctifications’ — this depends on the dispute of R. Eliezer b. Jacob and the Rabbis. For it has been taught: R. Eliezer b. Jacob said: Even a hook[8] of hekdesh requires ten men for its redemption.[9]

‘Contentions," refers to the water ordeal of a sotah, the beheading of the heifer, and the ‘purification of a leper’. ‘The water ordeal of a sotah, is involved in the dispute of R. Eliezer and R. Joshua. For we learnt: He who warns his wife [against infidelity] — R. Eliezer said: He must warn her in the presence of two witnesses,[10] and can subject her to the water ordeal on the testimony of one witness, or on his own.[11] R. Joshua said: He must warn her in the presence of two, and cause her to drink on the testimony of two.[12]

‘The beheading of the heifer’ — this is dependent on the dispute of R. Eliezer and R. Akiba. For we learnt: Whence was the measurement taken?[13] R. Eliezer said: From his [sc. the victim's] navel.

R. Akiba said: From his nose. R. Eliezer b. Jacob said: From the place where he becomes a murdered corpse. Viz., the neck.[14]

‘And the purification of a leper’ — this depends on the dispute of R. Simeon and the Rabbis. For we learnt: If he [the leper] lacks the thumb of the right hand, the big toe of his right foot, and the right ear, he can never become clean.[15] R. Eliezer said: It [sc. the blood and oil] is put upon the place thereof,[16] and he thus fulfils the requirements of purification. R. Simeon said: It is placed upon his [corresponding] left [limbs] and he is acquitted [of his obligations].[17]

"’Within thy gates" — this refers to the gleanings, forgotten [sheaves] and the corner of the field’. ‘The gleanings,’ even as we learnt: Two ears [that fell down] are gleanings [to be left for the poor], three are not. As to forgotten sheaves — two [forgotten] sheaves are [treated as] ‘forgotten’ [i.e., must be left for the poor]; three are not. And concerning all these Beth Shammai ruled: Three belong to the poor, four to the landowner.[18]

‘The corner of the field’ — this is dependent on the dispute of R. Ishmael and the Rabbis. For it has been taught: The precept of pe'ah [‘the corner’] applies [in the first instance] to the standing corn.[19] If this was not done, a portion of the [harvested] sheaves should be given; if this was omitted, a part of the stack should be separated, providing it has not yet been evened. But once evened, it must [first] be tithed, and then [the poor man's portion] given to him.[20] On the authority of R. Ishmael it was said: It must be separated even from the dough.[21]

THREE COURTS OF LAW etc. R. Kahana said: If he says, ‘[I base my ruling] on tradition,’ and they say likewise, he is not executed; if he says. ‘Thus it appears to use,’ and they say, ‘Thus it appears to us,’ he is not executed; how much more so, if he says, ‘[I base it] on tradition,’ and they say, ‘Thus it appears to us’!

He is executed only when he says, ‘Thus it appears to me,’ whilst they say, ‘We base [our ruling] on tradition’, the proof being that Akabia b. Mahalalel was not executed.[22] R. Eleazar said: Even if he says. ‘[I base my ruling] on tradition’, and they say, ‘Thus it appears to us,’ he is executed, that strife may not spread in Israel; and if thou arguest, Why was Akabia b. Mahalalel not executed? Because he did not give a rule for practical guidance.

We learnt : HE STATED, THUS HAVE I EXPOUNDED, AND THUS HAVE MY COLLEAGUES EXPOUNDED, THUS HAVE I TAUGHT, AND THUS HAVE MY COLLEAGUES TAUGHT. Does it not [mean that] he said, ‘[I base it] on tradition’, and they said, ‘Thus it appears to us’? — No! He said, ‘Thus it appears to me,’ and they said, ‘[We base it] on tradition.’

Come and hear! R. Josiah said: Three things did Ze'ira, an inhabitant of Jerusalem, tell me: [i] If the husband renounced his warnings, they are null;[23]

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(1) Leprosy in man: Lev. XIII, 42f; in garments: Ibid 55. In connection with garments, karahath denotes leprosy on the inside (right) of the cloth; gabahath on the front or outside (reverse) thereof.

(2) The Rabbis dispute this. Hence one who touches such a garment is clean according to R. Nathan R. Abtolemos, but unclean according to the Rabbis, v. note 3.

(3) Based on its selling price as a slave. This is not provided for in Lev. XXVII, a month being the lowest age dealt with there. R. Meir maintains that he knew that his dedication was invalid as such, and therefore meant it as an ordinary vow.

(4) Ar. 5a. Since there is no law of dedication for such an age. Now, extinction may result in the following two ways: — (i) If the Temple overseer took a pledge for the infant's value, in R. Meir's opinion this becomes hekdesh (consecrated), in the Rabbis’, it does not. Hence according to the latter, if this pledge was used as kiddushin, it is valid; according to R. Meir, it is valid only if so used with the full knowledge that it was hekdesh, but not otherwise, as stated in Kid. 22b — v.

p. 579 n .3 (ii) Since according to R. Meir it is hekdesh, if unwittingly used, a trespass offering must be brought, which if eaten by an unclean person, involves the offender in extinction. But in the view of the Rabbis it is not hekdesh, and the use thereof does not necessitate an offering, and if one erroneously, believing himself to have incurred a liability thereto, brings a trespass offering, the sacrifice is invalid, and consequently the eating thereof by an unclean person does not entail extinction.

(5) Lev. XXVII, 28.

(6) Ibid. 21; Consequently the secular use thereof entails no offering; v. p. 581, n. 11 (ii)

(7) I.e., if one declared an animal herem, which was already dedicated as a sacrifice, whether of the highest degree of sanctity, e.g., a burnt offering, or of the lighter degree of sanctity, e.g.. a peace offering, the declaration is valid, and the value thereof must be given for the Temple.

(8) Used for weaving gold (Rashi); v, supra 14b.

(9) Nine Israelites and one priest must assess it for redemption. If less, the redemption is invalid and it remains hekdesh. The Rabbis hold that only three are necessary for the assessment, and after redemption it loses its sacred character; v. p. 551. n. 11 (ii).

(10) Sotah 2a. The form of the warning was ‘Thou shalt not closet thyself with so and so’. If she disregarded the warning, she became forbidden to her husband, unless tried by the water ordeal. But if the warning was not given in the presence of two witnesses, and was disregarded, she remained permitted to him, and he could not compel her to be tried by the ‘bitter waters’.

(11) I.e., if one witness or the husband himself testified that she had flouted the warning duly administered in the presence of two witnesses, she had to be tried by the water ordeal.

(12) Now, instead of submitting to the water ordeal, she could demand a divorce, but without the kethubah (marriage settlement). Hence, if there are no witnesses or only one witness and she demands her divorce, in the opinion of R. Eliezer, she is not entitled to the kethubah, whilst in that of R. Joshua she is. Consequently, if she sold the rights in her kethubah to another man, and the latter seizes the amount involved from the husband, it does not belong to the purchaser, according to R. Eliezer, but does according to R. Joshua; v. p. 579, n. 3.

(13) In fulfilment of Deut. XXI, 2.

(14) Sotah 45b. The easiest form of murder is by slitting the throat. Now, if one gives this heifer as kiddushin, it is invalid. Consequently, if of two towns one is nearest the victim's navel, and the other to his nose, and each assigned a heifer (one of which of course is invalid), one is fit for kiddushin, and the other is not; v. p. 579. n. 3.

(15) Since the Torah directs that these shall be anointed Lev. XIV, 14.

(16) I.e., where these limbs would be.

(17) In Neg. IV, 9 the reading is: If it is placed upon his left limbs etc. Hence what renders him clean according to one leaves him unclean according to another Tanna: v. p. 581, n. 3.

(18) Hence, if three fell down, and embroiled the rebellious elder and the Beth Din in a dispute, the question of ownership involves the validity of kiddushin, as explained on p. 579, n. 3.

(19) 3 I.e., a corner of the field should be left unreaped.

(20) But if not given even then, and the wheat was milled, the poor lose their rights.

(21) V. Mak. 16b. Therefore the question of ownership is involved here too, which has a further bearing on kiddushin.

(22) Akabia maintained his view, which he based on the traditions of his teachers, against the Rabbis in the chamber of Hewn Stones (‘Ed. V.6).

(23) V. p. 583. n. 1. If after giving his wife a formal warning he withdrew it, it is null, and hence if she did closet herself with her suspected lover, she is not forbidden to her husband.

Talmud - Mas. Sanhedrin 88b

[ii] if the father and mother wished to pardon a ‘stubborn and rebellious son’,[1] they may do so, and [iii] the [local] Beth din may pardon a rebellious elder, if they desire it. But when I went to my colleagues of the South,[2] they agreed to the [first] two but not to the rebellious elder, that contention might not increase in Israel.[3] This is all [unanswerable] refutation.

It has been taught; R. Jose said; Originally there were not many disputes in Israel, but one Beth din of seventy-one members sat in the Hall of Hewn Stones, and two courts of twenty-three sat, one at the entrance of the Temple Mount and one at the door of the [Temple] Court, and other courts of twenty-three sat in all Jewish cities. If a matter of inquiry arose, the local Beth din was consulted. If they had a tradition [thereon] they stated it; if not, they went to the nearest Beth din. If they had a tradition thereon, they stated it, if not, they went to the Beth din situated at the entrance to the Temple Mount; if they had a tradition, they stated it; if not, they went to the one situated at the entrance of the Court, and he [who differed from his colleagues] declared, ‘Thus have I expounded, and thus have my colleagues expounded; thus have I taught, and thus have they taught.’ If they had a tradition thereon, they stated it, and if not, they all proceeded to the Hall of Hewn Stones, where they [i.e., the Great Sanhedrin] sat from the morning tamid[4] until the evening talmid; on Sabbaths and festivals they sat within the hel.[5] The question was then put before them: if they had a tradition thereon, they stated it; if not, they took a vote: if the majority voted ‘unclean’ they declared it so; if ‘clean’ they ruled even so. But when the disciples of Shammai and Hillel, who [sc. the disciples] had insufficiently studied, increased [in number], disputes multiplied in Israel, and the Torah became as two Toroth.[6] From there [the Hall of Hewn Stones] documents were written and sent to all Israel, appointing men of wisdom and humility[7] and who were esteemed by their fellowmen as local judges. From there [sc. the local Beth din] they were promoted to [the Beth din of] the Temple Mount,[8] thence to the Court, and thence to the Hall of Hewn Stones.

They sent word from there,[9] Who is destined for the world to come? He who is meek, humble, stooping on entering and on going out, and a constant student of the Torah without claiming merit therefor. [Thereupon] the Rabbis cast their eyes upon R. ‘Ulla b. Abba [as endowed with all these qualities].

IF HE RETURNED TO HIS TOWN AND TAUGHT AGAIN etc. Our Rabbis taught: He is not liable unless he [himself] acts upon his ruling, or states his ruling to others, who act thereon. Now, as for stating his ruling to others, who act upon it, it is well: before [receiving the decision of the Great Beth din] he was not liable to death, [since he personally committed no wrong] whilst now he is [for flouting its authority]. But [as for the proviso that] he himself must act upon his ruling — even before [the decision was rendered in the Hall of Hewn Stones] he was liable to death! Now, there is no difficulty if his ruling referred to forbidden fat and blood, since before he was not liable to whilst now he is. But if he ruled on a matter involving the death penalty at the hands of Beth din, he would have been liable to death even before! — Before, he needed a formal warning;[10] now he does not.[11] But what of a mesith, for whom no warning is required?[12] — Before, had he stated a reason [excusing or justifying his action], it might have been accepted; but now, even if he stated a reason, it would not be accepted.

MISHNAH. THERE IS GREATER STRINGENCY IN RESPECT TO THE TEACHINGS OF THE SCRIBES THAN IN RESPECT TO THE TORAH. [THUS,] IF ONE [A REBELLIOUS ELDER] SAYS, THERE IS NO PRECEPT OF TEFILLIN, SO THAT A BIBLICAL LAW MAY BE TRANSGRESSED, HE IS EXEMPT.[13] [BUT IF HE RULES THAT THE TEFILLIN MUST CONTAIN] FIVE COMPARTMENTS, THUS ADDING TO THE WORDS OF THE SCRIBES,[14] HE IS LIABle.

GEMARA. R. Eleazar said in R. Oshaia's name: He is liable only for a matter of which the fundamental law is Biblical, whilst its interpretation is of the Scribes, and in which there is room for addition, which addition, however, is the equivalent of subtraction. Now, the only precept [fulfilling these conditions] is that of tefillin.[15] Now, this statement was made according to R. Judah.[16] But is there not the lulab,[17] the fundamental law of which is Biblical.[18] the interpretation Rabbinical,[19] there being room for addition,[20] which addition amounts to subtraction?[21] — Now, what is our opinion? If we hold that the lulab need not be bound [with the other two species],[22] each stands apart.[23] Whilst if we maintain that the lulab needs binding, it is defective from the very outset.[24] But is there not the law of fringes, the basic precept of which is Biblical,[25] the interpretation Rabbinical, there is room for addition,[26] whilst such addition amounts to subtraction?[27] — What is our opinion? If we maintain that the upper knot is not required by Biblical law, they are separate from each other;[28] whilst if we hold

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(1) Even after all the necessary warnings had been given.

(2) [I.e., R. Meir, R. Judah and R. Jose among others, v. Halevy, op. cit., II, p. 180].

(3) Since this is the reason, it proves that he is executed even if he based his ruling on tradition and they on reason.

(4) The daily continual burnt offering.

(5) A place within the fortification of the Temple (Jast.). They changed their locale, lest they should appear to be giving judgments, which is forbidden on these days.

(6) Pl. of Torah. There being many conflicting rulings.

(7) Lit., 'of lowly knee.'

(8) When a vacancy occurred through death.

(9) Palestine. This expression always refers to R. Eleazar b. Pedath (supra 17b). (7) An offence in connection with these does not involve capital punishment.

(10) Cf. supra pp. 494-5.

(11) Since he is punished not for actually committing the offence, but for flouting Beth din.

(12) If he acted as an inciter to idolatry, but maintained that his words did not purport thus, and the Great Beth din ruled that they did, it is shewn that he was liable to death even before and without a warning, which is unnecessary for a mesith.

(13) Since all know that the Bible commands the wearing of tefillin, the words of the elder will be ineffective.

(14) Who required only four in the head-tefillin.

(15) The fundamental law of wearing tefillin is Biblical. By Rabbinic interpretation, the head-tefillin must contain four compartments, with inscriptions in each. Hence it is possible to rule that it should consist of a greater number. But if this is done, the tefillin is unfit, so that the addition amounts to subtraction of its fitness.

(16) V. supra 87a. where R. Meir, R. Judah, and R. Simeon are in dispute.

(17) The palm branch, which was to be taken with other species of plant life on the Festival of Tabernacles.

(18) Lev. XXIII, 40.

(19) I.e., that it must be taken together with three other species, viz., the citron, myrtle, and willow.

(20) I.e., more than three species can be added.

(21) For if there are more than three species in all, the combination is invalid for the fulfilment of the precept.

(22) The citron, though taken together with the other species, is not bound with them.

(23) So that the combination is quite valid.

(24) I.e., as soon as more than the three species are bound together, the combination is invalid. But in the case of phylacteries, when four compartments are made, the head-tefillin is valid; when a fifth is added, it becomes invalid.

(25) Num. XV, 38f.

(26) By placing more than the requisite number of threads.

(27) Since the fringes become invalid thereby.

(28) The fringes are inserted through a hole and knotted near the edge of the garment. It is disputed whether this is really necessary by Biblical law. If not, then even when made the fringes are regarded as hanging apart and distinct. Consequently, if five instead of four were inserted and knotted, four fulfil the precept, whilst the fifth may be disregarded entirely, without rendering the rest invalid.

Talmud - Mas. Sanhedrin 89a

it necessary, it is defective from the very outset. If so, in the case of tefillin too, if one [first] made four compartments [for the four inscriptions], and then a fifth was placed at their side, each stands separately. Whilst if one made five compartments.[1] it is defective from the very outset, for R. Zera said: If one compartment is open to the next, it is unfit.[2] — This must be taught only in the case of one who made a frontlet of four compartments, and then added a fifth thereto and joined it. [By this addition the original is impaired.] Even as Raba said: If the outer compartment does not look upon space, it is invalid.[3] MISHNAH. HE [THE REBELLIOUS ELDER] WAS EXECUTED NEITHER

BY HIS LOCAL BETH DIN NOR BY THE BETH DIN AT JABNEH,[4] BUT WAS TAKEN TO THE GREAT BETH DIN IN JERUSALEM AND KEPT THERE UNTIL THE [NEXT] FESTIVAL[5] AND EXECUTED THEREON, FOR IT IS WRITTEN, ‘AND ALL THE PEOPLE SHALL HEAR AND FEAR, AND DO NO MORE PRESUMPTUOUSLY:’[6] THIS IS R. AKIBA'S OPINION. R. JUDAH SAID: HIS JUDGMENT MUST NOT BE DELAYED, BUT HE IS EXECUTED IMMEDIATELY, WHILST PROCLAMATIONS ARE INDITED AND SENT BY MESSENGERS TO ALL PLACE, ‘SO AND SO HAS BEEN SENTENCED TO DEATH AT BETH DIN.

GEMARA. Our Rabbis taught: He was executed neither by his local Beth din nor by the Beth din at Jabneh, but taken to the great Beth din in Jerusalem and kept there until the [next] Festival and executed thereon, for it is written, And all the people shall hear and fear: this is R. Akiba's opinion. But R. Judah said to him: Is it then stated, ‘shall see and fear’? Only ‘shall hear and fear’ is stated, why then delay his sentence? But he is executed immediately, and a proclamation is written and sent to all places: ‘So and so has been sentenced to death at Beth din.’

Our Rabbis taught: Public announcements must be made for four [malefactors]: a mesith, a ‘stubborn and rebellious’ son, a rebellious elder, and witnesses who were proved zomemim.[7] In the case of all [others][8] it is written, And all the people, or, and all Israel; but in the case of witnesses proved zomemim it is written, And those which remain [shall hear and fear],[9] since not all are eligible to be witnesses.[10]

MISHNAH. ‘A FALSE PROPHET’; HE WHO PROPHESIES WHAT HE HAS NOT HEARD, OR WHAT WAS NOT TOLD TO HIM,[11] IS EXECUTED BY MAN. BUT HE WHO SUPPRESSES HIS PROPHECY, OR DISREGARDS THE WORDS OF A PROPHET, OR A PROPHET WHO TRANSGRESSES HIS OWN WORD[11] , — HIS DEATH IS AT THE HANDS OF HEAVEN. FOR IT IS WRITTEN, [AND IT SHALL COME TO PASS, THAT WHOSOEVER WILL NOT HEARKEN UNTO MY WORDS WHICH THE PROPHET SHALL SPEAK IN MY NAME.] I WILL REQUIRE IT OF HIM.[12] HE WHO PROPHESIES IN THE NAME OF AN IDOL, SAYING, ‘THUS HATH THE IDOL DECLARED. EVEN IF HE CHANCED UPON THE RIGHT HALACHAH, DECLARING THE UNCLEAN, UNCLEAN, OR THE CLEAN, CLEAN; OR HE WHO WAS INTIMATE WITH A MARRIED WOMAN AFTER HER ENTRY INTO HER HUSBAND'S HOME FOR NESU'IN,[13] THOUGH THE MARRIAGE WAS NOT CONSUMMATED — HE IS STRANGLED; LIKEWISE [WITNESSES PROVED ZOMEMIM [IN A CHARGE OF ADULTERY AGAINST] A PRIEST'S DAUGHTER, AND HER PARAMOUR [ARE STRANGLED]. FOR ALL ZOMEMIM ARE LED FORTH TO MEET THE SELF-SAME DEATH [WHICH THEY SOUGHT TO IMPOSE,] SAVE ZOMEMIM IN A CHARGE AGAINST A PRIEST'S DAUGHTER — AND HER PARAMOUR.[14] GEMARA. Our Rabbis taught; Three are slain by man, and three by heaven; He who prophesies what he has not heard or what has not been told him, and he who prophesies in the name of an idol are slain by man. But he who suppresses his prophecy, or disregards the words of a prophet, and a prophet who transgresses his own words are slain by Heaven.

Whence do we know all this? — Rab Judah said in Rab's name: From the verse, But the prophet, which shall presume to speak a word in my name:[15] this applies to one who prophesies what he has not heard;[16] which I have not commanded him to speak,[17] implying but which I did command his neighbour, hence means one who prophesies what was not told to him personally; or that shall speak in the name of other gods,[18] this connotes prophesying in the name of idols. And then it is written, Even that prophet shall die,’ and by every unspecified death sentence decreed in the Torah strangulation is meant. But he who suppresses his prophecy, or disregards the words of a prophet, or a prophet who transgresses his own words is slain by Heaven, for it is written, All it shall come to pass, that whosoever will not hearken [yishma’]:[19] now this may be understood[20] [as implying] to proclaim'[21] and 'hearkening himself'[22] unto my words;[23] and the verse concludes, I will require it of him, i.e., [he shall be slain] by Heaven.

HE WHO PROPHESIES WHAT HE HAS NOT HEARD. E.g., Zedekiah the son of Chenaanah, as it is written, And Zedekiah the son of Chenaanah had made him horns of iron.[24] But what [else] could he have done, seeing that the spirit of Naboth had deceived him, it is written, And the Lord said, Who shall persuade Ahab, that he may go up and fall at Ramoth-gilead? . . . And there came forth a spirit and stood before the Lord, and said, I will persuade him . . .And he [the Lord] said, Thou shalt persuade him and prevail also; go forth and do so?[25] Rab Judah said: What is meant by 'Go forth'? 'Go forth' from My precincts.[26] What 'spirit' is meant? — R. Johanan said: The spirit of Naboth the Jezreelite)?[27] — He should have scrutinised [the forecasts of the assembled prophets]. even as R. Isaac said; viz.: The same communication[28] is revealed to many prophets, yet no two prophets prophecy in the identical phraseology. [Thus,] Obadiah said, The pride of thine heart hath deceived thee;[29] whilst Jeremiah said, Thy terribleness hath deceived thee, and the pride of thine heart.[30] But since all these prophets[31] employed [exactly] the same expression,[32] it proved that they had nothing [really divinely inspired]. But perhaps he did not know of this [criterion laid down by] R. Isaac? — Jehoshopat was there and warned them thereof, as it is written , And Jehoshopat said, Is there not here a prophet of the Lord besides, that we may enquire of him?[33] Thereupon he [Ahab] exclaimed, 'But behold all these!' 'I have a tradition from my grandfather's house that the same communication is revealed to many prophets, but no two prophesy in the identical phraseology,' replied Jehosophat.

HE WHO PROPHESIES WHAT WAS NOT TOLD HIM. E.g., Hananiah the son of Azur. Now Jeremiah stood in the upper market place, and said, Thus saith the Lord of Hosts, Behold, I will break the bow of Elam.[34] Thereupon, Hananiah the son of Azur drew an a minori conclusion; If Elam, which only came to assist Babylon, yet the Holy one, blessed be He, said, Behold, I will break the law of Elam; then how much more so the Chaldeans [i.e., Babylonians] themselves! So he went to the lower market place and proclaimed, Thus speaketh the Lord of hosts, the God of Israel saying, I have broken the yoke of the kingdom of Babylon.[35] R. Papa asked Abaye; But this was not told even to his colleagues [viz., Jeremiah]? He answered: Since the a minori reasoning has been given for [Biblical] exegesis, it is as though it had been told to him [Jeremiah]; hence only to Hananiah was it not revealed.[36]

HE WHO PROPHESIES IN THE NAME OF AN IDOL. E.g., the prophets of Baal.

HE WHO SUPPRESSES HIS PROPHECY. E.g., Jonah the son of Amittai.[37]

OR WHO DISREGARDS THE WORDS OF A PROPHET. E.g., the colleague of Micah

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(1) One of which opened out to the other.

(2) I.e., not having been made according to rule, which requires that each compartment shall be entirely shut off from the next, it is not a case of tefillin having been rendered unfit, but of something that was never tefillin.

(3) [Hence the tefillin were fit in the first place, and rendered unfit through addition, but for a reason which cannot apply to the lulab or zizith. This rendering follows the reading in the MS. M.v.D.S a.l., which is that of R. Hananel and the Aruch.

(4) The great Sanhedrin was removed from the Hall of Hewn Stones and set up at Jabneh. If this took place between the sentence and the time fixed for the execution, the sentence was remitted (Rashi). Weiss, Dor. ii p. 37, assumes that the Great Sanhedrin at Jabneh was instituted by R. Johanan b. Zakkai shortly after the fall of Jerusalem in 70 C.E., although he made it into a seat of learning even before. Derenbourg, Essai, p. 288, however, quotes the present passage to prove that it existed, for some time at least, side by side with the Great Sanhedrin at Jerusalem.

(5) רגל regel, denotes one of the three pilgrimage festivals, Passover, Weeks, or Tabernacles.

(6) Deut. XVII, 13. Hence they had to wait till then, when all Israel assembled in Jerusalem, that the publicity of his death should serve as a deterrent.

(7) V. Glos.

(8) I.e., the first three.

(9) Deut. XIX, 20.

(10) Thieves, usurers, etc. being ineligible; hence the warning is not to all Israel.

(11) Even though it had been revealed to another.

(12) Deut. XVIII, 19.

(13) V. Glos.

(14) I.e., he also affords an exception. Whereas all men who commit incest (including adultery) are executed with the same death as the women, the paramour of a priest's daughter is strangled, whilst she is burnt (Rashi). [Now, if the accusation was against both the priest's daughter and her paramour, and they were proved false, they are strangled, in accordance with the death they sought to impose upon the paramour. But if they brought an accusation merely against the priest's daughter, but not against her paramour, e.g., declaring that they did not know who he was, and subsequently proved zomemim, they are burnt, since that was the death they sought to impose. That is the meaning of the Mishnah save witnesses proved zomemim, in a charge against both a priest's daughter and her paramour, that is, both having been accused (so Tosaf. Yom Tob a.l.). Others take the words and her paramour as a mere incidental repetition of the phrase as it occurs earlier.]

(15) Deut. XVI, 20.

(16) That is the connotation of ‘presume’.

(17) Ibid.

(18) Ibid.

(19) Ibid. 19.

(20) Lit., ‘read’.

(21) Yashmia, ישמיע.

(22) Yishamea’ ישמע the Nif'al, as reflexive.

(23) Hence all three are included in the verse, [which, in addition to the usual translation, will accordingly be rendered thus: and the man (i.e., the prophet) who will nor hearken unto my words which he has to speak in my name (namely he refuses to proclaim it.) For he (himself) will not hearken unto my words which he shall speak in my name (v. Meklenburg, a.l.).]

(24) I Kings XXII, 11; II Chron. XVIII, 10.

(25) I Kings XXII, 20ff.

(26) V. Shabb. 149b. Two possible reasons are suggested there for the spirit's expulsion from the sacred precincts, viz., either because one who is the means whereby another is punished must not come into the immediate neighbourhood of God, or because God cannot abide falsehood. Though in this case God himself sought to lure Ahab to his doom, He desired that this should nevertheless be done by arguments drawn from true facts (Maharsha).

(27) This is deduced from the use of the def. art. in the Heb. ‘And the spirit came forth’, implying a particular one, viz., that of Naboth the Jezreelite, whom Ahab had turned from a living human being into a spirit — by judicial murder; v. ibid. ch. XXI. Now, returning to the main point: what else could Zedekiah have done: how was he to know that a false spirit was leading all those prophets astray?

(28) Lit., ‘watchword’, ‘signal’.

(29) Obad. I, 3.

(30) Jer. XLIX, 16. Thus, though the thought is the same in both (both referred to Edom), the wording differs.

(31) The four hundred prophets of Ahab, v. I Kings XXII, 6.

(32) V. ibid. 12

(33) I Kings XXII, 7.

(34) Jer. XLIX, 35.

(35) Ibid. XXVIII, 2.

(36) To the logical implications of the prophecy as deduced by the a minori reasoning, and which was true, viz., that the power of Babylon should be broken, Hananiah added on his own authority that this would take place within two years (ibid. 3). This was entirely false (Maharsha). In any case, only Jeremiah was permitted to draw an a minori conclusion from the prophecy revealed to him alone.

(37) Jonah I, 1-3.

Talmud - Mas. Sanhedrin 89b

[i.e., Micaiah, the son of Imlah] as it is written, And a certain man of the son of the prophets said unto his neighbour in the word of the Lord, Smite me I pray thee. And the man refused to smite him.[1] . And it is further written, And he said unto him, Because thou has not obeyed [the voice of the Lord, behold as soon as thou art departed from me, a lion shall slay thee etc.][2]

OR A PROPHET WHO TRANSGRESSES HIS OWN WORDS. E.g., Iddo the prophet, as instanced by the following verses, [i] For so it was charged me by the word of the Lord [saying, Eat no bread, nor drink water, nor turn again by the same way that thou camest].[3] [ii] And he [the self-styled prophet] said unto him, I am a prophet also as thou art [and an angel spake unto me by the word of the Lord, saying, Bring him back with thee into thine house that he may eat bread, and drink water].'[4] [iii] So he went back with him; [iv] And when he was gone, a lion met him [by the way, and slew him].[5]

A tanna recited before R. Hisda; He who suppresses his prophecy is flogged. To which he retorted, 'One who eats dates out of a sieve is flogged!'[6] Who then warned him?[7] Abaye answered; His fellow prophets, Whence do they know? — Said Abaye; For it is written, Surely the Lord will do nothing but that he revealeth his secret [unto his servants the prophets].[8] But perhaps they [sc. the Heavenly Court] repented thereof?[9] — Had they repented, all prophets would have been informed. But in the case of Jonah they did repent, yet Jonah himself was not informed! — Jonah was originally told that Nineveh would be turned, but did not know whether for good or for evil.[10]

HE WHO DISREGARDS THE WORDS OF A PROPHET. But how does he know [that he is a true prophet], that he should be punished? — If he gives him a sign. But Micah did not give a sign, yet he [i.e., his colleague] was punished![11] — If he was well established [as a prophet], it is different. For should you not admit this, how could Isaac listen to Abraham at Mount Moriah,[12] or the people hearken to Elijah at Mount Carmel and sacrifice without [the Temple]?[13] Hence the case, where the prophet is well established is different.

And it came to pass after these words, that God did tempt Abraham.[14] What is meant by 'after'? — R. Johanan said on the authority of R. Jose b. Zimra: After 'the words of Satan, as it is written, And the child grew, and was weaned: [and Abraham made a great feast the same day that Isaac was weaned].[15] Thereupon Satan said to the Almighty; 'Sovereign of the Universe! To this old man Thou didst graciously vouchsafe the fruit of the womb at the age of a hundred, yet of all that banquet which he prepared, he did not have one turtle-dove or pigeon to sacrifice before thee! Hath he done aught but in honour of his son!' Replied He, 'Yet were I to say to him, "Sacrifice thy son before Me", he would do so without hesitation.' Straightway, God did tempt Abraham . . . And he said, Take, I pray thee [na][16] thy son.[17] R. Simeon b. Abba said; 'na' can only denote entreaty. This may be compared to a king of flesh and blood who was confronted by many wars, which he won by the aid of a great warrior. Subsequently he was faced with a severe battle. Thereupon he said to him, 'I pray thee, assist me in battle, that people may not say, there was no reality in the earlier ones.' So also did the Holy One, blessed be He, say unto Abraham, 'I have tested thee with many trials and thou didst withstand all. Now, be firm, for My sake in this trial, that men may not say, there was no reality in the earlier ones.

Thy son.

[But] I have two sons!

Thine only one.

Each is the only one of his mother!

Whom thou lovest.

I love them both!

Isaac!

And why all this [circumlocution]?[18] — That his mind should not reel [under the sudden shock]. on the way Satan came towards him and said to him. 'If we assay to commune with thee, wilt thou be grieved? . . . Behold, thou hast instructed many, and thou hast strengthened the weak hands. Thy words have upholden him that was falling, and thou hast strengthened the feeble knees. But now it is come upon thee, and thou faintest.'[19] He replied, 'I will walk in mine integrity.'[20] 'But', said [Satan] to him, 'should not thy fear be thy confidence?[21] 'Remember', he retorted, 'I pray thee, whoever perished, being innocent?'[22] Seeing that he would not listen to him, he said to him , 'Now' a thing was secretly brought to me:[23] thus have I heard from behind the Curtain.[24] "the lamb, for a burnt-offering[25] but not Isaac for a burnt-offering."[25] He replied, 'It is the penalty of a liar, that should he even tell the truth, he is not listened to.'

R. Levi said [in explanation of 'after these words']; After Ishmael's words to Isaac. Ishmael said to Isaac: 'I am more virtuous[26] than thee in good deeds, for thou wast circumcised at eight days, [and so couldst not prevent it], but I at thirteen years'. 'On account of one limb wouldst thou incense me!' he replied: 'Were the Holy One, blessed be He, to say unto me, Sacrifice thyself before Me, I would obey', Straightway, God did tempt Abraham.

Our Rabbis taught; A prophet who seduced [people to idolatry] is stoned; R. Simeon said; He is strangled. The seducers of a seduced city are stoned; R. Simeon said: They are strangled. 'A prophet who seduced is stoned'. What is the reason of the Rabbis? — Similarity of law is learnt from the employment of 'seduction' here and in the case of a mesith:[27] just as there execution is by stoning, so here too. But R. Simeon maintained: [Simple] death is provided for in this case,[28] and by every unspecified death sentence in the Torah strangulation is meant.

'The seducers of a seduced city are executed by stoning'. What is the reason of the Rabbis? — Similarity of law is learnt from the employment of 'seduction' here and in the case of either a mesith or a prophet who seduced.[29] But R. Simeon maintained: similarity of law is learned from the employment of 'seduction' here and in the case of a prophet who seduced.[30] But let us rather deduce it from mesith?[31] — An analogy is drawn between two who incite a multitude, and not between one who incites a multitude and another who seduces an individual.[32] On the contrary, should not an analogy be drawn between two laymen, rather than between a layman and a prophet? — R Simeon maintains, since he seduced, no man is more of a layman than he.[33]

R. Hisda said;

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(1) I Kings XX, 35.

(2) Ibid. 36. According to the Rabbis, the prophet here referred to was Micaiah the son of Imlah (v. ibid. XXII, 9 et seq.).

(3) Ibid. XIII, 9.

(4) Ibid. 18.

(5) Ibid. 24. It is nowhere stated that this was Iddo; possibly the Talmud had a tradition to that effect (Maharsha). Kimhi (Ibid. 1) however observes that Iddo was a contemporary of Jeroboam and prophesied against him, as is mentioned in II Chron. IX, 29.

(6) I.e., just as that would be absurd, so is the statement.

(7) For how can anyone know that he suppressed a prophecy?
(8) Amos III, 7.
(9) When a prophecy of doom was revealed to a prophet, as in the case of Jonah, it might subsequently have been withdrawn and therefore the prophecy was suppressed. How then can that prophet be flogged?
(10) I.e., whether ‘turned’ meant ‘overturned’, or ‘turned to repentance’.
(11) V. p. 593.
(12) To permit himself to be sacrificed.
(13) This being normally forbidden.
(14) Gen. XXII, 1. The sacrifice of Isaac having been mentioned, the Talmud proceeds to discuss it.
(15) Ibid. XXI, 8.
(16) נא.
(17) Ibid. 2.
(18) Why not say, ‘Take Isaac’?
(19) Job. IV, 2-5; he taunted him upon being unable to withstand his great trail, or perhaps suggested it to him. Rashi explains and translates: Should One (sc. God) have so assayed to speak to thee (putting thee to such severe trial) that thou shouldst faint, i.e., lose thy seed.
(20) Ps XXVI, 2.
(21) Job. IV, 6, i.e., through fearing God, you should be entirely safe, instead of which you are about to sacrifice your son! So Tosaf. in B.M. 58b, s.v. הלא.
(22) Ibid. 6. Thus he reasserted his faith in God.
(23) Ibid. 12.
(24) I.e., from the most intimate secrets of God.
(25) Cp. ibid. 7.
(26) Lit., ‘greater’.
(27) Prophet: Because he hath spoken . . .to seduce thee from the way which thy Lord thy God commanded thee to walk in (Deut. XIII, 6); mesith: because he hath sought to seduce thee from the Lord thy God (Ibid. 11).
(28) Ibid. 6: And that prophet . . . shall be put to death.
(29) Here: and have seduced the inhabitants of their city. Ibid. 13, the other two: ibid. 6 and 11. V. p. 596. n. 9 for quotations.
(30) And as the latter is strangled, in his opinion so are the former too.
(31) Where stoning is distinctly stated (ibid. 11).
(32) The maddiah and the false prophet seduce a community, the mesith an individual (or individuals).
(33) V. p. 557, n. 5.

Talmud - Mas. Sanhedrin 90a

They[1] differ only in respect of one who uproots the fundamental [prohibition] of idolatry,[2] or who partially confirms and partially annuls [the prohibition] of idolatry,[3] since the Divine Law said, [. . . to seduce thee] from [min] the way [which the Lord thy God commanded thee to walk in],[4] implying even part of the way.[5] But if one [a false prophet] fundamentally uproots any other precept,[6] all agree that he is strangled;[7] whilst if he partially annuls and partially confirms any other precept, all agree that he is exempt. R. Hamnuna objected; [It has been taught] [Because he hath spoken ...to seduce thee from the way which the Lord thy God commanded thee] to walk; this refers to positive commands;[8] therein [bah]: to negative commands.[9] But should you say that this refers to idolatry, — how is a positive command conceivable in respect of idolatry? — R. Hisda explained it [as referring to], And ye shall overthrow their altars.[10]

R. Hamnuna said; They[11] differ in respect of one who uproots the fundamental injunction, whether of idolatry or other precepts, or who partially annuls and partially confirms [the prohibition of] idolatry, since the Torah said, from the way, implying even part of the way;[12] but if he partly confirms and partly annuls any other precept, all agree that he is exempt.

Our Rabbis taught: If one prophesies so as to eradicate a law of the Torah, he is liable [to death]; partially to confirm and partially to annul it. — R. Simeon exempts him. But as for idolatry, even if he said, ‘Serve it to-day and destroy it to-morrow,’[13] all declare him liable. Now, Abaye agrees with R. Hisda,[14] and reconciles this with him; Raba holds with R. Hamnuna, and explains it according to his views. ‘Abaye, agrees with R. Hisda, and reconciles it with him.’ [Thus:] If one prophesies so as to uproot a law of the Torah, all agree that he is strangled; partially to confirm and partially to annul it, — R. Simeon exempts him, and the Rabbis likewise.[15] But as for idolatry, even if he said, ‘Serve it to-day and destroy it to-morrow’, he is liable — each according to his views.[16] ‘Raba holds with R. Hamnuna, and explains it according to his opinion’; If one prophesies to uproot an injunction of the Torah, whether idolatry or any other precept, he is liable, — each according to his views. Partially to confirm and partially to annul it. R. Simeon declares him exempt, and also the Rabbis.[17] But as for idolatry, even if he said, ‘Serve it to-day and destroy it to-morrow,’ he is liable — each according to his views.

R. Abbahu said in R. Johanan's name; In every matter, if a prophet tells you to transgress the commands of the Torah, obey him,[18] with the exception of idolatry; should he even cause the sun to stand still in the middle of the heavens for you [as proof of Divine inspiration], do not hearken to him.

It has been taught; R. Jose the Galilean said: The Torah understood the extreme depths [of depravity inherent in] idolatry,[19] therefore the Torah gave him [the false prophet] power therein, that should he even cause the sun to stand still in the middle of the heavens, thou must not hearken to him.[20] R. Akiba said; God forbid that the Almighty should cause the sun to stand still at the behest of those who transgressed His will, but [the Torah refers to one] as Hananiah the son of Azur, who was originally a true prophet and [only] subsequently became a false prophet.[21]

LIKEWISE [WITNESSES, PROVED] ZOMEMIM, [IN AN ACCUSATION OF ADULTERY AGAINST] A PRIEST'S DAUGHTER, — AND HER PARAMOUR. Whence do we know this? — R. Abba the son of R. Ika said; For it has been taught: R. Jose said; Why does Scripture state, THen shall ye do unto him, as he had thought to have done unto his brother?[22] For all falsified witnesses[23] [spoken of] in the Torah, — the zomemim and the paramours are assimilated to them;[24] but in the case of a priest's daughter. ‘She [profaneth]’ teaches, ‘She’ is executed by burning, but not her paramour. Hence, I do not know whether the zomemim are likened to him or to her:[25] but when the Writ saith . . . ‘to have done unto his brother’, it teaches, to his ‘brother,’ but not to his sister.[26]

CHAPTER XI[27]

MISHNAH. ALL ISRAEL[28] HAVE A PORTION IN THE WORLD TO COME,[29] FOR IT IS WRITTEN, THY PEOPLE ARE ALL RIGHTEOUS; THEY SHALL INHERIT THE LAND FOR EVER, THE BRANCH OF MY PLANTING, THE WORK OF MY HANDS, THAT I MAY BE GLORIFIED.’[30] BUT THE FOLLOWING HAVE NO PORTION THEREIN: HE WHO MAINTAINS THAT RESURRECTION IS NOT A BIBLICAL DOCTRINE,[31] THE TORAH WAS NOT DIVINELY REVEALED, AND AN EPIKOROS.[32] R. AKIBA ADDED: ONE WHO READS UNCANONICAL BOOKS.[33] ALSO ONE WHO WHISPERS [A CHARM] OVER A WOUND AND SAYS, I WILL BRING NONE OF THESE DISEASES UPON THEE WHICH I BROUGHT UPON THE EGYPTIANS: FOR I AM THE LORD THAT HEALETH THEE.’[34] ABBA SAUL SAYS: ALSO ONE WHO PRONOUNCES THE DIVINE NAME AS IT IS SPELT.[35]

THREE KINGS AND FOUR COMMONERS HAVE NO PORTION IN THE WORLD TO COME: THE THREE KINGS ARE JEROBOAM, AHAB, AND MANASSEH.[36] R. JUDAH SAID: MANASSEH HATH A PORTION THEREIN, FOR IT IS WRITTEN, ‘AND HE PRAYED UNTO HIM, AND WAS INTREATED OF HIM, AND HE HEARKENED TO HIS SUPPLICATION AND

THEY RESTORED HIM TO JERUSALEM, TO HIS KINGDOM.[37] THEY [THE SAGES] ANSWERED HIM: THEY RESTORED HIM TO HIS KINGDOM, BUT NOT TO [HIS PORTION IN] THE WORLD TO COME. FOUR COMMONERS, VIZ., BALAAM, DOEG, AHITOPHEL, AND GEHAZI.[38]

GEMARA. And why such [severity]? — A Tanna taught: Since he denied the resurrection of the dead, therefore he shall not share in that resurrection, for in all the measures [of punishment or reward] taken by the Holy One, blessed be He, the Divine act befits the [human] deed.[39] As it is written, Then Elisha said, Hear ye the word of the Lord; Thus saith the Lord, To-morrow about this time shall a measure of fine flour be sold for a shekel, and two measures of barley for a shekel, in the gates of Samaria.[40] And it is written, Then a lord on whose hand the king leaned answered the man of God, and said, Behold, if the Lord made windows in heaven, might this thing be? And he said, Behold, thou shalt see it with thine eyes, but shalt not eat thereof.[41]

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(1) R. Simeon and the Rabbis, whether the seducing prophet is stoned or strangled.

(2) Stating in the name of God that idolatry is permissible, or even meritorious, as it is written . . . saying, let us go after other gods. Deut. XIII, 3.

(3) V. infra.

(4) Ibid. 6.

(5) Since min (מן), is partitive and denotes limitation. The verses adduced by the Rabbis and R. Simeon refer to these cases.

(6) E.g., stating as a Divine communication that the Sabbath was no longer to be kept holy.

(7) Because this is prohibited in Deut. XVIII, 20: But the prophet, which shall presume to speak a word in my name, which I have not commanded him to speak . . . shall die. Unspecified death means strangulation.

(8) ‘To walk’ implies to do, not to abstain from doing.

(9) This is deduced in the Sifre by gezerah shawah.

(10) Ibid. XII, 3.

(11) V. p. 597, n. 7.

(12) He regards the deduction of ‘to walk’, which refers to positive commands, as applying to all precepts.

(13) That is partial annulment.

(14) Missing footnote.

(15) R. Simeon is mentioned for this reason; According to him, the death from which he is exempt is obviously strangulation. Consequently the first clause, teaching that he is liable, must mean to strangulation, and R. Simeon not being mentioned there, that is the general opinion. Had the second clause simply stated that he is exempt, it would imply from stoning or strangulation, according to either the Rabbis or R. Simeon, and hence the liability of the first clause would be the same.

(16) I.e., In the opinion of the Rabbis, to stoning; of R. Simeon, to strangulation.

(17) In R. Hamnuna's view, R. Simeon is particularly mentioned to shew that he is exempt even from strangulation, a more lenient death than stoning; hence certainly from stoning.

(18) E.g., as in the case of Elijah, who ordered sacrifices to be offered on Mount Carmel.

(19) Or, the wiles by which idolatry attracts.

(20) Since Scripture says, and giveth thee a sign or a wonder, it follows that the false prophet must have been endowed with such powers.

(21) The ‘sign’ being given during his first phase, and he supported himself thereon in his second.

(22) Deut. XIX, 19: ‘unto his brother’ is redundant.

(23) [In cases of incest including adultery Lec. var. who are sentenced to death.]

(24) [I.e., the zomemim, to the death they sought to impose on the women, and the paramours, to that of the women the had dishonoured.]

(25) V. p. 347. n. 2.

(26) I.e., he is executed by her paramour's death, not her own.

(27) In the Jerusalem Talmud this is the tenth chapter, whilst ‘These are strangled’, which in the Babylonian version is the tenth, is there the eleventh. H. Danby, Sanhedrin, Introduction VIII, 2, defends the order of the Bab. Tal. as correct.

Rashi likewise states: ‘Having first dealt with those who are executed by Beth din by one of the four modes of execution, the Mishnah proceeds to enumerate those who have no portion in the world to come.’ Maimonides in his commentary places this as the tenth chapter (v. also his Introduction to Seder Zera'im), and Asheri does likewise. This order is adopted in the printed editions of the Mishnah and in the Jerusalem Talmud (cp. also Mak. 2a).

(28) This is not a dogmatic assertion that only Israel has a portion in the world to come, but is closely connected with the preceding chapters, and asserts that even those who were executed by Beth din are not shut out from the future world, as is stated in VI, 2.

(29) The conception of what is to be understood by the future world is rather vague in the Talmud. In general, it is the opposite of עֹולם הזה, this world. In Ber. I, 5, ‘this world’ is opposed to the days of the Messiah. Whether the Messianic era is thus identical with the future world, and these again with the period of resurrection, is a moot point (v. infra, 91b). The following quotation from G. Moore, ‘Judaism’ (Vol. 2, p. 389) is apposite: ‘Any attempt to systematize the Jewish notions of the hereafter imposes upon them an order and consistency which does not exist in them.’

(30) Isa. LX, 22.

(31) Lit., ‘that resurrection is not intimated in the Torah.’ The doctrine of resurrection was denied by the Sadducees and the Samaritans. It was to oppose these that the doctrine was emphatically asserted in the second of the Eighteen Benedictions (v. W.O. Oesterley. The Jewish Background of Christian Liturgy, Oxford, 1925, 60ff.). According to the present text, however, the reference is not to one who denies the fact of resurrection, but that it is intimated in the Torah. (On the importance of conceding the Biblical origin of this tenet, v. p. 604, n. 12.) But D.S. omits the phrase as interpolated, and he is supported by the Tosef. XIII, 5.

(32) In the first place, the word denotes an adherent of the Epicurean philosophy, and then, one who lives a licentious and dissolute life. The word has also been derived from פקר (cf. הפקר) to be unbridled, and it is frequently used as a synonym of min (q.v. p. 604, n. 12), heretic. The Gemara defines it as one who speaks disparagingly of the Bible and its disciples.

(33) Lit., ‘the external books’. Graetz, Gesch. IV, p. 99, regards this as referring to un-Jewish, particularly Gnostic literature. Weiss takes a similar view. The pernicious influence of Gnosticism, particularly as it impaired the pure monotheism of Judaism, made the Rabbis very anxious to stem its spread, and hence R. Akiba's dictum. (Weiss maintains that Elisha b. Abuia's revolt against the Rabbis was in some measure occasioned by the influence of Gnosticism.) On this view, ordinary reading is referred to. There are indications, however, that something more is meant. The J. Tal. a.l. adds: ‘E.g.. the books of Ben Sira and Ben La'anah. But the reading of Homer and all subsequent books is as the reading of a letter.’ In spite of the fact that the Bab. Tal. forbids the books of Ben Sira, it is evident from the discussion that all its contents were well-known, and Sira's wisdom is frequently quoted by the Talmudists. It is also difficult to see why greater exception should be taken to Sira than to Homer. To obviate these difficulties the theory has been put forward that the prohibition is against reading these uncanonical works publicly, treating them as the Scripture and expounding them to the community. Private reading, however, would on this theory not come within the ban. (V. Krochmal More Nebuche ha-Zeman, XI, 5.)

(34) Ex. XV, 26.

(35) Lit., ‘according to its letters’.

(36) Jeroboam, the son of Nebat, who is frequently stigmatised in the Bible as having ‘sinned and caused Israel to sin’. Ahab, the son of Omri, a later King; v. I Kings. XXI, 21. Manasseh, the son of Hezekiah, King of Judah; v. II Kings. XXI.

(37) II Chron. XXXIII, 13.

(38) Balaam: v. Num. XXXI. 8, 16; Doeg the Edomite: v. I Sam. XXI, 22; Ahitophel: v. II Sam. XV; Gehazi: v. II Kings V, 20.

(39) Lit., ‘Measure for measure’.

(40) II Kings VII, 1.

(41) Ibid. 2.

Talmud - Mas. Sanhedrin 90b

And it is [further] written, And so it fell unto him: for the people trod upon him in the gate, and he died.[1] But perhaps this was the result of Elisha's curse, for Rab Judah said in Rab's name: The curse of a Sage, even if unmerited, is fulfilled? — If so, Scripture should have written, they trod upon him and he died. Why, trod upon him in the gate? — [To show that it was] on account of matters pertaining to the gate.[2]

How is resurrection derived from the Torah? — As it is written, And ye shall give thereof the Lord's heave offering to Aaron the priest.[3] But would Aaron live for ever; he did not even enter Palestine, that terumah[4] should be given him?[5] But it teaches that he would be resurrected, and Israel give him terumah. Thus resurrection is derived from the Torah. The school of R. Ishmael taught: To Aaron [means to one] like Aaron: just as Aaron was a haber,[6] so his sons must be haberim.[7] R. Samuel b. Nahmani said in R. Jonathan's name: Whence do we know that terumah must not be given to a priest and ‘am ha-arez?[8] From the verse, Moreover he commanded the people that dwelt in Jerusalem to give the portion of the Levites, that they might hold fast to the law of the Lord:[9] [thus,] whoever holds fast to the law of the Lord, has a portion; whoever does not, has no portion. R. Aha b. Adda said in Rab Judah's name: One who gives terumah to an ignorant priest is as though he had placed it before a lion: just as a lion may possibly tear his prey and eat it and possibly not,[10] so is an ignorant priest — he may possibly eat it undefiled and possibly defiled. R. Johanan said: He even causes his [sc. the ignorant priest's] death, for it is written, and die therefore, if they profane it.[11] The School of R. Eliezer b. Jacob taught: He also embroils him in a sin of general trespass,[12] for it is written, Or suffer them to bear the iniquity of trespass when they eat their holy things.[13]

It has been taught: R. Simai said: Whence do we learn resurrection from the Torah? — From the verse, And I also have established my covenant with them, [sc. the Patriarchs] to give them the land of Canaan:[14] ‘[to give] you’ is not said, but ‘to give them’ [personally]; thus resurrection is proved from the Torah.[15]

(Mnemonic: Zedek, Gam, Geshem, Kam.)[16] Sectarians [minim][17] asked Rabban Gamaliel: Whence do we know that the Holy One, blessed be He, will resurrect the dead? He answered them from the Torah, the Prophets, and the Hagiographa, yet they did not accept it [as conclusive proof]. ‘From the Torah’: for it is written, And the Lord said unto Moses, Behold, thou shalt sleep with thy fathers and rise up [again].[18] ‘But perhaps,’ said they to him, ‘[the verse reads], and the people will rise up?’ ‘From the prophets’: as it is written, Thy dead men shall live, together with my dead body shall they arise. Awake and sing, ye that dwell in the dust: for thy dew is as the dew of herbs, and the earth shall cast out its dead.[19] But perhaps this refers to the dead whom Ezekiel resurrected?[20] ‘From the Hagiographa’: as it is written, And the roof of thy mouth, like the best wine of my beloved, that goeth down sweetly, causing the lips of those that are asleep to speak.[21] But perhaps it means merely that their lips will move, even as R. Johanan said: If a halachah is said in any person's name in this world, his lips speak in the grave, as it is written, causing the lips of those that are asleep to speak? [Thus he did not satisfy them] until he quoted this verse, which the Lord sware unto your fathers to give to them;[22] not to you, but to them is said; hence resurrection is derived from the Torah. Others say that he proved it from this verse, But ye that did cleave unto the Lord your God are alive every one of you this day;[23] just as you are all alive to-day, so shall you all live again in the world to come.[24]

The Romans asked R. Joshua b. Hananiah: Whence do we know that the the Holy One, blessed he He, will resurrect the dead and knows the future? — He replied: Both are deduced from this verse, And the Lord said unto Moses, Behold thou shalt sleep with thy fathers, and rise up again; and this people shall go a whoring etc.[25] But perhaps ‘will rise up, and go a whoring’? — He replied: Then at least you have the answer to half, viz., that He knows the future. It has been stated likewise: R. Johanan said on the authority of R. Simeon b. Yohai: Whence do we know that the Holy One, blessed be He, will resurrect the dead and knoweth the future? From, Behold, Thou shalt sleep with thy fathers, and . . . rise again etc.

It has been taught: R. Eliezer, son of R. Jose, said: In this matter I refuted the books of the sectarians,[26] who maintained that resurrection is not deducible from the Torah. I said to them: You have falsified your Torah,[27] yet it has availed you nothing. For ye maintain that resurrection is not a Biblical doctrine, but it is written, [Because he hath despised the word of the Lord, and hath broken his commandment], that soul shall utterly be cut off[28] [Heb. hikkareth tikkareth]; his iniquity shall be upon him.[29] Now, [seeing that] he shall utterly be cut off in this world, when shall his iniquity be upon him? surely in the next world.[30] R. Papa said to Abaye: Could he not have deduced both [this world, and the next] from he shall be utterly cut off?[31] — They would have replied: The Torah employed human phraseology.

This is disputed by Tannaim: That soul shall utterly be cut off [hikkareth] he shall be cut off in this world and [tikkareth] in the next: this is R. Akiba's view. R. Ishmael said: But the verse has previously stated, he reproacheth the Lord, and that soul shall be cut off are there then three worlds? But [interpret thus]: and [that soul] shall be cut off — in this world: hikkareth, he is to be cut off — in the next; whilst as for [the repetition] tikkareth, that is because the Torah employs human phraseology.[32] How do both R. Ishmael and R. Akiba utilize his iniquity shall be upon him? — For that which has been taught: I might think that [this is so] even if he repented: therefore Scripture saith, his iniquity is upon him: I decreed [that he shall be cut off] only if his iniquity is still in him. Queen Cleopatra[33] asked R. Meir, ‘I know that the dead will revive, for it is written, And they [sc. the righteous] shall [in the distant future] blossom forth out of the city [Jerusalem] like the grass of the earth.[34] But when they arise, shall they arise nude or in their garments?’ — He replied, ‘Thou mayest deduce by an a fortiori argument [the answer] from a wheat grain: if a grain of wheat, which is buried naked, sprouteth forth in many robes, how much more so the righteous, who are buried in their raiment!’

An emperor said to Rabban Gamaliel: ‘Ye maintain that the dead will revive; but they turn to dust, and can dust come to life?’

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(1) Ibid. 20.

(2) I.e., Elisha had prophesied that wheat and barley would be sold cheaply at the gate of Samaria, and he denied it.

(3) Num. XVIII, 28.

(4) V. Glos.

(5) The priestly dues were rendered only in Palestine.

(6) V. Glos.

(7) Hence this verse is to teach that the priestly dues are not to be rendered to an ignoramus, and affords no basis for resurrection.

(8) Lit., ‘people of the earth,’ peasants, and then denoting the ignorant and irreligious in general.

(9) II Chron. XXXI, 4.

(10) I.e., when a lion steals an animal and mauls it, we do not know whether it was to appease his hunger, or merely to satisfy his blood lust.

(11) Lev. XXII, 9.

(12) I.e., a sin which leads to guilt in a number of ways.

(13) Ibid. 16.

(14) Ex. VI, 4.

(15) The promise could be literally fulfilled only by the Patriarchs’ resurrection.

(16) An apt mnemonic, meaning lit., ‘As to the Righteous, also the Body Riseth.’

(17) Term used generally as a designation for Judeo-Christians. Herford, Christianity in the Talmud, pp. 232-4, conjectures that this discussion took place in Rome, whither R. Gamaliel journeyed in 95 C.E., since this is followed by ‘The Romans asked R. Joshua.’ He maintains that both sides accepted the fact of resurrection of the dead, the dispute being whether it is intimated in the Torah. The importance of the debate lay in the fact that the Christians maintained that the resurrection of the dead was consequent upon the resurrection of Christ this doctrine of course would be weakened if it could be shewn that resurrection was already taught in the Torah.

(18) Deut. XXXI, 16.

(19) Isa. XXVI, 19.
(20) V. Ezek. XXVII.
(21) Cant. VII, 9. As the entire Song is interpreted by the Rabbis as a dialogue between God and Israel, the last phrase is understood to refer to the dead, whom God will cause to speak again.
(22) Deut. XI, 21.
(23) Ibid. IV, 4.
(24) This is deduced from 'this day', which is superfluous.
(25) Deut. XXXI, 16.
(26) Herford, op. cit. states that מינים is an error for כותים Cutheans, Samaritans, as is proved by parallel passages in the Sif.; cf. 87a, and D.S.
(27) [The words 'to them', from which R. Gamaliel (p. 605) deduced the resurrection are left out in the Samaritan text.]
(28) הכרת תכרת.
(29) Num. XV, 31.
(30) I.e., at the resurrection.
(31) V. next passage in text.
(32) V. supra 64b.
(33) [Not of 'Anthony and Cleopatra' fame. Bacher, Agada der Tanaiten, I, 68, n. 2, regards קליאופטרא מלכתא (Cleopatra, the Queen) as a corruption of פטרוקי דכותאי the Patriarch of the Samaritans (v. Gen. Rab. XCIV, 6). Cp. Koh. Rab. V, 12, where the disputant of the belief of the resurrection of the dead with R. Meir is a Samaritan, כותי.]
(34) Ps. LXXII, 16: the bracketed addition gives the sense according to Rabbinic interpretation; v. Keth. 111a.

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Thereupon his [the emperor's] daughter said to him [the Rabbi]: 'Let me answer him: In our town there are two potters; one fashions [his products] from water, and the other from clay: who is the more praiseworthy?' 'He who fashions them from water, he replied.[1] 'If he can fashion [man] from water,[2] surely he can do so from clay!'[3]

The School of R. Ishmael taught: It can be deduced from glassware: if glassware, which, though made by the breath of human beings,[4] can yet be repaired when broken;[5] then how much more so man, created by the breath of the Holy One, blessed be He.

A sectarian [min][6] said to R. Ammi: 'Ye maintain that the dead will revive; but they turn to dust, and can dust come to life?' — He replied: I will tell thee a parable. This may be compared to a human king who commanded his servants to build him a great palace in a place where there was no water or earth [for making bricks]. So they went and built it. But after some time it collapsed, so he commanded them to rebuild it in a place where water and earth was to be found; but they replied, 'We cannot'. Thereupon he became angry with them and said, 'If ye could build in a place containing no water or earth, surely ye can where there is!'[7] 'Yet,' [continued R. Ammi], 'If thou dost not believe, go forth in to the field and see a mouse, which to-day is but part flesh and part dust,[8] and yet by to-morrow has developed and become all flesh. And shouldst thou say, 'That takes a long time,'[9] go up to the mountains, where thou wilt see but one snail, whilst by to-morrow the rain has descended and it is covered with snails.'[10]

A sectarian [min] said to Gebiha b. Pesisa, 'Woe to you, ye wicked, who maintain that the dead will revive; if even the living die, shall the dead live!' He replied, 'Woe to you, ye wicked, who maintain that the dead will not revive: if what was not,[now] lives, — surely what has lived, will live again!' 'Thou hast called me wicked,' said he, 'If I stood up I could kick thee and strip thee of thy hump![11] 'If thou couldst do that,' he retorted, 'thou wouldst be called a great doctor, and command large fees.'

Our Rabbis taught: On the twenty-fourth of Nisan[12] the revenue farmers[13] were removed from Judah and Jerusalem. For when the Africans[14] came to plead against the Jews before Alexander of Macedon, they said, ‘Canaan belongs to us, as it is written, The land of Canaan with the coasts thereof;[15] and Canaan was the ancestor of these people [i.e., ourselves].’ Thereupon Gebiha b. Pesisa[16] said to the Sages, ‘Authorise me to go and plead against them before Alexander of Macedon: should they defeat me, then say, "ye have defeated but an ignorant man of us;" whilst if I defeat them, then say to them thus: "The Law of Moses has defeated you." ‘So they authorised him, and he went and pleaded against them. ‘Whence do ye adduce your proof?’ asked he. ‘From the Torah,’ they replied. ‘I too,’ said he, ‘will bring you proof only from the Torah, for it is written, And he said, Cursed be Canaan; a servant of servants shall he be unto his brethren.[17] Now if a slave acquires property, to whom does he belong, and whose is the property?[18] Moreover, it is now many years that ye have not served us.’[19] Then Alexander said to them, ‘Answer him!’ ‘Give us three days’ time,’ they pleaded. So he gave them a respite; they sought but found no answer. Immediately thereon they fled, leaving behind their sown fields and their planted vineyards. And that year was a Sabbatical year.

On another occasion the Egyptians came in a lawsuit against the Jews before Alexander of Macedon. They pleaded thus: ‘Is it not written, And the Lord gave the people favour in the sight of the Egyptians, and they lent them [gold and precious stones, etc.][20] Then return us the gold and silver which ye took!’ Thereupon Gebiha b. Pesisa said to the Sages, ‘Give me permission to go and plead against them before Alexander of Macedon: should they defeat me, then say, "Ye have merely defeated an ignorant man amongst us;" whilst if I defeat them then say, "The Law of Moses has defeated you."’ So they gave him permission, and he went and pleaded against them. ‘Whence do ye adduce your proof?’ asked he, ‘From the Torah,’ they replied. ‘Then I too,’ said he, ‘will bring you proof only from the Torah, for it is written, Now the sojourning of the children of Israel, who dwelt in Egypt, was four hundred and thirty years.[21] Pay us for the toil of six hundred thousand men whom ye enslaved for four hundred thirty years.’ Then King Alexander said to them, ‘Answer him!’ ‘Give us three days’ time,’ they begged. So he gave them a respite; they sought but found no answer. Straightway they fled, leaving behind their sown fields and planted vineyards. And that year was a Sabbatical year.[22]

On another occasion the Ishmaelites and the Ketureans[23] came for a lawsuit against the Jews before Alexander of Macedon. They pleaded thus: ‘Canaan belongs jointly to all of us, for it is written,, Now these are the generations of Ishmael, Abraham's son;[24] and it is [further] written, And these are the generations of Isaac,’ Abraham's son.’[25] Thereupon Gebiha b. Pesisa said to the Sages: ‘Give me permission to go and plead against them before Alexander of Macedon. Should they defeat me then say, "Ye have defeated one of our ignorant men; whilst if I defeat them, say, "The Law of Moses has defeated you."’ So they gave him permission, and he went and pleaded against them. ‘Whence do ye adduce your proof?’ asked he. ‘From the Torah,’ they replied. ‘Then I too,’ said he, ‘will bring you proof only from the Torah, for it is written, And Abraham gave all that he had unto Isaac. But unto the sons of the concubines which Abraham had, Abraham gave gifts:[26] if a father made a bequest to his children in his lifetime and sent them away from each other, has one any claim upon the other? [Obviously not.]’

What gifts [did he give them]? — R. Jeremiah b. Abba said: This teaches that he imparted to them [the secrets of] the unhallowed arts.[27]

Antoninus[28] said to Rabbi: ‘The body and the soul can both free themselves from judgment. Thus, the body can plead: The soul has sinned, [the proof being] that from the day it left me I lie like a dumb stone in the grave [powerless to do aught]. Whilst the soul can say: The body has sinned, [the proof being] that from the day I departed from it I fly about in the air like a bird [and commit no sin].’ He replied, ‘I will tell thee a parable. To what may this be compared? To a human king who owned a beautiful orchard which contained

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(1) This being far more difficult.

(2) Vis:., the sperm.

(3) I.e., the dust into which the dead are turned.

(4) A reference to the blowing of glass.

(5) By being melted down again.

(6) V. Herford, op. cit. p. 281. In R. Ammi's time (end of the third and beginning of the fourth centuries) there was no class of heretic which denied resurrection. The Sadducees no longer existed, whilst the Gnostics did not deny it. Herford therefore suggests that R. Ammi's opponent was really a heathen.

(7) Thus if God can make man without these, surely He will be able to resuscitate their dust.

(8) l.e., only partly formed, it being believed that there is a species of mice developing from the earth. Maim. on Hullin IX, 6 states that many people have claimed to have seen a mouse, part earth and part clay.

(9) Whereas resurrection must happen in a moment.

(10) Thus proving that God can create life with great speed.

(11) He was hunchbacked.

(12) The first month of the Jewish calendar.

(13) [דימוסנאי ** = publican; Graetz, Geschichte, III, 2, pp. 573-4. connects this celebration with the defeat and retreat of Florus from Jerusalem, when the people ceased to pay tribute to Caesar (v. Josephus, Wars, II, 16, 5). For other views, v. HUCA, VII-VIII, 302ff.]

(14) The Phoenicians, the descendants of Ham through Canaan (v. Gen. X, 15) and who ruled over a large part of N. Africa (Carthage).

(15) Num. XXXIV, 2.

(16) [A legendary character traditionally contemporary with Alexander the Great.]

(17) Gen. IX, 25.

(18) Obviously to his owner. Therefore, even if the land was given to the Canaanites, it belongs to their masters, the Jews, descendants of Shem.

(19) So that you owe us your toil too for all that time.

(20) Ex. XII, 36.

(21) Ibid. 40.

(22) [On the dispute between the Egyptians and Jews, v. Levi, REJ. LXIII, 211ff.l

(23) V. Gen. XXV, 1-4.

(24) Ibid. 12.

(25) Ibid. 19. Hence, both being sons of Abraham, they had equal claims upon the land. For the same reason the Ketureans too made a claim.

(26) Ibid. 5f.

(27) I.e., the knowledge of sorcery, demons, etc.

(28) Antoninus has been variously identified: with Marcus Aurelius (Rapport); Severus (Graetz, who, however, assumes that it was the second R. Judah the Prince who was the friend of Antoninus); Caracalla (Jast. and N. Krochmal), and others; v. ‘A. Z. 10a, and J. E. I, 656.

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splendid figs. Now, he appointed two watchmen therein, one lame and the other blind. [One day] the lame man said to the blind, "I see beautiful figs in the orchard. Come and take me upon thy shoulder, that we may procure and eat them." So the lame bestrode the blind, procured and ate them. Some time after, the owner of the orchard came and inquired of them, "Where are those beautiful figs?" The lame man replied, "Have I then feet to walk with?" The blind man replied, "Have I then eyes to see with?" What did he do? He placed the lame upon the blind and judged them together. So will the Holy One, blessed be He, bring the soul, [re]place it in the body, and judge them together, as it is written, He shall call to the heavens from above, and to the earth, that he may judge his people:[1] He shall call to the heavens from above-this refers to the soul; and to the earth, that he may judge his people-to the body.'

Antoninus said to Rabbi, 'Why does the sun rise in the east and set in the west?' He replied, 'Were it reversed, thou wouldst ask the same question.' 'This is my question,' said he, 'why set in the west?'[2] He answered, 'In order to salute its Maker, as it is written, And the host of the heavens make obeisance to thee.'[3] 'Then,' said he to him, 'it should go only as far as mid-heaven, pay homage, and then re-ascend?'[4] — 'On account of the workers and wayfarers.'[5]

Antoninus also said to Rabbi, 'When is the soul placed in man; as soon as it is decreed [that the sperm shall be male or female, etc.], or when [the embryo] is actually formed?' He replied, 'From the moment of formation.' He objected: 'Can a piece of meat be unsalted for three days without becoming putrid?[6] But it must be from the moment that [God] decrees [its destiny].' Rabbi said: This thing Antoninus taught me, and Scripture supports him, for it is written, And thy decree hath preserved my spirit [i.e., my soul].[7]

Antoninus also enquired of Rabbi, 'From what time does the Evil Tempter hold sway over man; from the formation [of the embryo], or from [its] issuing forth [into the light of the world]?! — 'From the formation,' he replied. 'If so,' he objected, 'it would rebel in its mother's womb and go forth. But it is from when it issues.' Rabbi said: This thing Antoninus taught me, and Scripture supports him, for it is said, At the door [i.e.,where the babe emerges] sin lieth in wait.[8]

Resh Lakish opposed [two verses to each other]. It is written, [I will gather them . . .] with the blind and the lame, the woman with child and her that travaileth with child together;[9] whilst it is also written, Then shall the lame man leap as an hart, and the tongue of the dumb sing, for in the wilderness shall waters break out, and streams in the desert.[10] How so?[11] — They shall rise with their defects and then be healed.

'Ulla opposed [two verses]. It is written, He will destroy death for ever, and the Lord God will wipe away tears from all faces;[12] whilst elsewhere it is written, For the child shall die an hundred years old . . . there shall be no more thence an infant of days![13] — It is no difficulty: the one refers to Jews, the other to heathens. But what business have heathens there?[14] — [The reference is to] those of whom it is written, and strangers shall stand and feed your flocks, and the sons of the alien shall be your plowmen and your vinedressers.[15]

R. Hisda opposed [two verses]. It is written, Then the moon shall be confounded, and the sun ashamed, when the Lord of Hosts shall reign;[16] whilst [elsewhere] it is written, Moreover the light of the moon shall be as the light of the sun, and the light of the sun shall be sevenfold, as the light of seven days.[17] — It is no difficulty: the latter refers to the Messianic era, the former to the world to come.[18] And according to Samuel, who maintained, This world differs from the Messianic era only in respect of the servitude of the Diaspora, it is still no difficulty: the latter refers to the camp of the righteous, the former to the camp of the Divine Presence.[19]

Raba opposed [two verses]: It is written, I kill, and I make alive;[20] whilst it is also written, I wound, and I heal![21] — The Holy One, blessed be He, said, What I slay, I resurrect [i.e.,in the same state], and then, what I wound, I heal [after their revival].

Our Rabbis taught: I kill, and I make alive. I might interpret, I kill one person and give life to another, as the world goes on:[22] therefore the Writ states, I wound, and I heal. Just as the wounding and healing [obviously] refer to the same person, so putting to death and bringing to life refer to the same person. This refutes those who maintain that resurrection Is not intimated in the Torah.

It has been taught: R. Meir said, Whence do we know resurrection from the Torah? From the verse, Then shall Moses and the children of Israel sing this song unto the Lord:[23] not sang but shall sing[24] is written: thus resurrection is taught in the Torah.[25] Likewise thou readest, Then shall Joshua build an altar unto the Lord God of Israel:[26] not ‘built’, but shall build is written: thus resurrection is intimated in the Torah. If so, Then did Solomon build an high place for Chemosh, the abomination of Moab:[27] does that too mean that he shall build?[28] But [there] the Writ regards him as though he had built.[29]

R. Joshua b. Levi said: Whence is resurrection derived from the Torah? From the verse, Blessed are they that dwell in thy house: they shall ever praise thee. Selah.[30] Not ‘praised thee,’ but they shall praise thee is stated: thus resurrection is taught in the Torah.

R. Joshua b. Levi also said: Whoever uttereth song [of praise to God] in this world shall be privileged to do so in the next world too, as it is written, Blessed are they that dwell in thy house: they shall ever praise thee. Selah.

R. Hiyya b. Abba said in R. Johanan's name: Whence do we learn resurrection from the Torah? — From the verse, Thy watchmen shall lift up the voice; with the voice together shall they sing.[31] Not ‘sang,’ but shall sing is written: thus resurrection is derived from the Torah.

Rab Judah said in Rab's name: Whoever witholdeth a halachah from his disciple is as though he had robbed him of his ancestral heritage, as it is written, Moses commanded us a law, even the inheritance of the congregation of Jacob:[32] it is an inheritance destined for all Israel from the six days of Creation. R. Hanah b. Bizna said in the name of R. Simeon the Pious: Whoever withholds a halachah from a disciple, even the embryo in its mother's womb curses him, as it is written, He that withholdeth bar [corn] yikkebuhu le'om

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(1) Ps. L, 4.

(2) I.e., rising in any quarter, it should return to the same for setting-a question possible, of course, since the earth was assumed to be flat.

(3) Neh. IX. 6. Thus, the sun having reached the west, where the Divine Presence is, sinks down in homage, and therefore does not return to the east to set.

(4) Because it is not etiquette to go right up to one in saluting him.

(5) Were the sun to set suddenly in mid-heaven, i.e., at midday, they would have no sign when to cease work or halt.

(6) Likewise, if the sperm-cell is not immediately endowed with a soul, it would become putrid, and then could not fertilize the ovum.

(7) Job X, 12.

(8) Gen. IV, 7.

(9) Jer. XXXI, 8; implying that they shall retain their defects at the resurrection.

(10) Isa. XXXV, 6.

(11) I.e., how reconcile these verses?

(12) Ibid. XXV, 9.

(13) Isa. LXV, 20. The order of the phrases has been reversed here.

(14) I.e., in the re-established state after the resurrection.

(15) Ibid. LXI, 5.

(16) Ibid. XXIV, 23.

(17) Ibid. XXX, 26.

(18) Then the sun and the moon shall be ashamed, i.e., fade into insignificance — because of the light radiating from the righteous (Rashi).

(19) Both verses referring to the world to come.

(20) Deut. XXXII, 39. This implies, I resurrect him just as he was at death: if one died with a blemish, he is resurrected with it too.

(21) Ibid. This implies that at the resurrection all wounds, i.e., blemishes, are healed.

(22) People dying and others being born.
(23) Ex. XV, I.
(24) Lit. rendering of ישיר yashir.
(25) For the verse implies that they shall sing in the future. As they did not sing a second time in this life, it must mean after their resurrection.
(26) Josh. VIII, 30.
(27) I Kings XI, 7.
(28) In the three quotations the imperfect tense is used, which generally, though not always, connotes the future in Heb.
(29) The imperfect there denotes that he merely wished to build, but so heinous is even the mere intention, that he is stigmatised as having actually done so. But in the first two verses the imperfect cannot bear that meaning, since Moses did sing, and Joshua did build. Therefore the future meaning must be complementary to the past, and the imperfect implies that as they sang once, so will they again.
(30) Ps. LXXXIV, 5.
(31) Isa. LII, 8.
(32) Deut. XXXIII, 4.

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:[1] ‘le'om’ can only mean ‘embryo,’ as it is written, And one le'om shall be stronger than the other people;[2] and ‘yikkebuhu’ can only denote cursing, as it is written, how shall I curse [ekkob][3] whom God hath not cursed?[4] and ‘bar’ can refer to nothing but the Torah, as it is written, Nourish yourselves bar[5] [on the Torah] lest he be angry.[6] ‘Ulla b. Ishmael said: He is riddled with holes like a sieve:[7] here is written, ‘the people yikkebuhu;’ whilst elsewhere is written, wa-yikkob [and he bored] a hole in the lid of it.’[8] Abaye said: Like a fuller's trough.[9] But if he teaches him, what is his reward? — Raba said in the name of R. Shesheth: He will receive blessings like Joseph's, as it is written, but blessing shall be upon the head of mashbir [him who selleth it]:[10] ‘mashbir’ can only refer to Joseph, as it is said, And Joseph was the Governor over the land, and it was he ha-mashbir [that sold] to all the people of the land.[11]

R. Shesheth said: Whoever teaches the Torah in this world will be privileged to teach it in the next, as it is written, And he that watereth shall water again too.[12]

Raba said: Whence is resurrection derived from the Torah? From the verse, Let Reuben live, and not die:[13] meaning, let Reuben live, in this world, and not die, in the next.[14] Rabina said, [it is derived] from this verse, And many of them that sleep in the dust of the earth shall awake, some to everlasting life, and some to shame and everlasting contempt.[15] R. Ashi said: From this verse, But go thou thy way till the end be; for thou shalt rest and stand in thy lot at the end of the days.[16]

R. Eleazar said: Every leader who leads the community with mildness will be privileged to lead them in the next world [too], as it is written, for he that hath mercy on them shall lead them; even by the springs of water shall he guide them.[17]

R. Eleazar also said: Great is knowledge,[18] since it was placed between two Letters,[19] as it is written, For a God of knowledge is the Lord.[20] R. Eleazar also said: Great is the Sanctuary, since it was placed between two Letters, as it is written, Thou hast made for thee, O Lord, a Sanctuary: O Lord, thy hands have established it.[21] R. Adda Karhina demurred: If so, then great is vengeance, since it was placed between two Letters, as it is written, O God of vengeance, O Lord: O God of vengeance, manifest thyself![22] — He replied: For its purposes it is so indeed. Even as ‘Ulla said: Why these two manifestations?[23] One as a measure of reward [for the righteous] and the other as a measure of punishment [for the wicked].

R. Eleazar also said: Whenever one has knowledge, it is as though the Temple was built in his days, since each [sc. knowledge and the Temple] was placed between two letters.

R. Eleazar also said: Whoever has knowledge will eventually be wealthy, as it is written, And by knowledge shall the chambers be filled with all precious and pleasant riches.[24] R. Eleazar also said: Whosoever lacks knowledge, one may have no mercy upon him, as it is written, For it is a people of no understanding: therefore he that made them will not have mercy upon them, and he that formed them will show them no favour.[25]

R. Eleazar also said: Whoever gives of his bread to one who lacks knowledge will be assailed by suffering, as it is written, They that eat thy bread have laid mazor [a wound][26] under thee: there is no understanding in him;[27] ‘mazor’ can refer only to suffering, as it is written, When Ephraim saw his sickness, and Judah his mezoro [suffering].[28]

R. Eleazar also said: Whoever lacks knowledge will ultimately be exiled, for it is written, Therefore my people are gone into exile, because they have no knowledge.[29]

R. Eleazar also said: The house in which the words of the Torah are not heard at night shall be consumed by fire, as it is written, All darkness is hid in his secret places: a fire not blown shall consume him; he grudgeth [sarid][30] him that is left in his tabernacle:[31] now, ‘sarid’ can refer only to the scholar, as it is written, And in those left [u-base-ridim][32] whom the Lord shall call.[33]

R. Eleazar also said: Whoever does not benefit a scholar with his goods will never see a sign of blessing, as it is written, There be none [‘sarid’] that remaineth to eat it; therefore shall he not hope for prosperity.[34] now ‘sarid’ refers to none but the scholar, as it is written, And in those left whom the Lord shall call.[35]

R. Eleazar also said: He who leaves no bread on the table [at the end of his meal] will never see a sign of blessing, as it is written, There be none of his meat left; therefore shall he not hope for his prosperity.[36] But did not R. Eleazar say: He who leaves crumbs on his table is as though he engaged in idol worship, for it is written, That prepare a table for Gad, and that furnish the drink offering unto Meni?[37] — It is no difficulty: in the latter case a whole loaf is left therewith [i.e., with the pieces],[38] but in the former there is no whole loaf left therewith.[39]

R. Eleazar also said: Whoever dissembles in his speech is as though he had engaged in idolatry: here it is written, And I shall seem to him as a deceiver,[40] and elsewhere it is said, They are vanity, and the work of deceivers.[41]

R. Eleazar also said: Whoever gazes upon one's shame,[42] his virility shall be emptied,[43] for it is written, Shame shall empty thy bow [i.e., strength].[44]

R. Eleazar also said: Be always humble:[45] so shalt thou endure. R. Zera said: We have learned likewise. The windows of a dark house may not be opened to examine its leprosy.[46] This proves it.

R. Tabi said in R. Josia's name: What is meant by, The grave; and the barren womb; and the earth that is not filled by water:[47] now, what connection has the grave with the womb? But it is to teach thee: just as the womb receives and brings forth,[48] so does the grave too receive and bring forth.[49] Now, does this not furnish us with an a fortiori argument? If the womb, which receives in silence, yet brings forth amid great cries [of jubilation]; then the grave, which receives the dead amid cries [of grief], will much more so bring them forth amid great cries [of joy]! This refutes those who maintain that resurrection is not intimated in the Torah. [The] Tanna debe Eliyyahu [states]: The righteous, whom the Holy One, blessed be He, will resurrect, will not revert to dust,[50] for it is said, And it shall come to pass. that he that is left in Zion and he that remaineth in Jerusalem, shall be called holy, even every one that is written among the living in Jerusalem:[51] just as the Holy One endures for ever, so shall they endure for ever.

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(1) יקבהו לאום translated in the versions, the people shall curse him. Prov. XI, 26.

(2) Gen. XXV, 23: as Jacob and Esau were not yet born, it must refer to them in their embryonic state.

(3) אקב.

(4) Num. XXIII, 8.

(5) נשקו nashku, translated,’do homage’(A.J.V.) or ‘kiss’(A.V.)is here connected with ישק and by thy command shall my people be provided for (Gen. XLI, 40).

(6) Ps. II, 12.

(7) I.e., with ridicule and curses. According to Maharsha it denotes that all his knowledge will escape him as corn through a sieve, or water through a fuller's trough.

(8) II Kings XII, 10.

(9) Upon which the washing is placed for the water to drain off; hence it is perforated.

(10) משביר Prov. Xl, 26.

(11) Gen. XLII, 6.

(12) Prov. XI, 25. Having watered i.e., taught, in this world, he will do so in the next too.
(13) Deut. XXXIII, 6.
(14) But rise at the resurrection: it is so interpreted on account of its redundancy.
(15) Dan. XII, 2.
(16) Ibid. 13.
(17) Isa. XLIX, 10.
(18) Knowledge in the sense of moral discernment.
(19) I.e., two Divine Names.
(20) 1 Sam. II, 3.
(21) Ex. XV, 17.
(22) Ps. XCIV, 1.
(23) The verse being divided into two stichs, 'manifest thyself' is applied to each separately.
(24) Prov. XXIV, 4.
(25) Isa. XXVII, 11
(26) מזור
(27) Obad. I,7.
(28) מזורו Hos.V,I3.
(29) Isa.V, 13.
(30) שריד
(31) Job XX, 26.
(32) בשרידים
(33) Joel III, 5: the first part of the verse, all darkness is hid etc., is interpreted as, 'his secret places are not illumined by the study of the law;' the last part, he grudgeth etc., as 'he looks with disfavour upon any student who enters his house for a meal.'
(34) Job XX, 21.
(35) Joel III, 5.
(36) Job XX, 21.
(37) Isa. LXV, 11. Gad and Meni are the names of two idols; v. p. 432, n. 4.
(38) Then it appears to have been set specially for these deities.
(39) So that the pieces appear to have been left for the poor.
(40) Gen. XXVII, 12.
(41) Jer. X, 15. The reference is to idols.
(42) Either the pudenda, or metaphorically, whoever lusts after a married woman.
(43) I.e., he will lose the power to beget children.
(44) Hab. III, 9.
(45) Lit., 'obscure'.
(46) If leprosy breaks out in the walls of a house and the priest, coming to examine it, (v. Lev. XIV, 36) finds the house too dark for a proper survey, the windows must not be opened to allow the light to enter, as it must be examined by its usual light. Thus its darkness protects it, since in the absence of a proper examination it cannot be pronounced unclean. Similarly, the darkness in which a man wraps himself, i.e., obscurity and humility, protects his life.
(47) Prov. XXX, 16.
(48) The child.
(49) The dead are laid there, and will be taken out at the resurrection.
(50) In the interval between the Messianic era and the time of the world to come; but their flesh will remain intact upon them until they live again in the future.
(51) Isa. IV, 3.

Talmud - Mas. Sanhedrin 92b

And should you ask, in those years during which the Almighty will renew his world, as it is written, And the Lord alone shall be exalted in that day,[1] what will the righteous do?[2] — The Lord will make them wings like eagles', and they will fly above the water, as it is written, Therefore we will not fear when the earth be removed and the mountains be carried into the midst of the sea.[3] And should you imagine that they will suffer pain — therefore Scripture saith, But they that wait upon the Lord shall renew their strength; they shall mount up with wings as eagles; they shall run and not be weary; and they shall walk and not faint.[4] But should we not deduce [the reverse] from the dead whom Ezekiel resurrected?[5] — He accepts the view that in the truth [the story of the resurrection of the dry bones] was [but] a parable.[6] For it was taught: R. Eliezer said: The dead whom Ezekiel resurrected stood up, uttered song, and [immediately] died. What song did they utter? — The Lord slayeth in righteousness and reviveth in mercy.[7] R. Joshua said: They sang thus, The Lord killeth and maketh alive: he bringeth down to the grave, and bringeth up.[8] R. Judah said: It was truth; it was a parable. R. Nehemiah said to him: If truth, why a parable; and if a parable, why truth? — But [say thus]: In the truth there was but a parable.[9]

R. Eliezer the son of R. Jose the Galilean said: The dead whom Ezekiel revived went up to Palestine, married wives and begat sons and daughters. R. Judah b. Bathyra rose up and said: I am one of their descendants, and these are the tefillin[10] which my grandfather left me [as an heirloom] from them.

Now, who were they whom Ezekiel revived? — Rab said: They were the Ephraimites, who counted [the years] to the end [of the Egyptian bondage], but erred therein,[11] as it is written, And the sons of Ephraim; Shuthelah, and Bared his son, and Tahath his son, and Eladah his son, and Tahath his son. And Zabad his son, and Shuthelah his son, and Ezzer, and Elead, whom the men of Gath that were born in that land slew.[12] And it is written, And Ephraim their father mourned many days, and his brethren came to comfort him.[13]

Samuel said: They were those who denied resurrection, as it is written, Then he said unto me, Son of man, these bones are the whole house of Israel; behold, they say, Our bones are dried, and our hope is lost: we are cut off for our parts.[14]

R. Jeremiah b. Abba said: They were the men who lacked the [vitalizing] sap of good deeds, as it is written, O ye dry bones, head the word of the Lord.[15]

R. Isaac Nappaha said: They were the men who covered the whole Temple with abominations and creeping things, as it is written, So I went in and saw; and behold every form of creeping things, and abominable beasts, and all the idols of the house of Israel, portrayed upon the wall round about:[16] whilst there [in the case of the dry bones] it is written, And caused me to pass by them round about.[17]

R. Johanan said: They were the dead of the plain of Dura.[18] R. Johanan also said: The plain of Dura extends from the river Eshel to Rabbath. Amongst the Israelites whom Nebuchadnezzar drove into exile there were young men who shamed the sun by their beauty. The Chaldean women, looking upon them, were inflamed with passion. Their husbands, being informed thereof, reported it to the king, who ordered the execution of these exiles; yet they still burned with desire:[19] so by royal command they were trampled [out of recognition].

Our Rabbis taught: When the wicked Nebuchadnezzar threw Hananiah, Mishael and Azariah into the fiery furnace, the Holy One, blessed be He, said to Ezekiel: ‘Go and resurrect the dead in the plain of Dura.’ This being done, the bones came and smote the wicked man upon his face. ‘What kind of bones are these!’ he exclaimed. They [his courtiers] answered him, ‘Their companion[20] is resurrecting the dead in the plain of Dura.’ Thereupon he broke into utterance, How great are His signs, and how mighty are His wonders! His kingdom is an everlasting kingdom, and His dominion is from generation to generation![21] R. Isaac said: May molten gold be poured into the mouth of that wicked man [sc. Nebuchadnezzar]! Had not an angel come and struck him upon his mouth he would have eclipsed[22] all the songs and praises uttered by David in the Book of Psalms.[23]

Our Rabbis taught: Six miracles were wrought on that day, viz.: [i] The furnace floated upward;[24] [ii] its walls [partly] fell in;[25] [iii] its foundations crumbled [with the heat];[25] [iv] the image [which Nebuchadnezzar had set up to be worshipped] was overthrown upon its face; [v] four royal suites were burned;[26] [vi] Ezekiel resurrected the dead in the valley of Dura. All these are [known by] tradition, but [that pertaining to] the four royal suites is Scriptural, for it is written, Then Nebuchadnezzar the king sent to gather together the princes, the governors, and the captains, the judges, the treasurers, the counsellors, the sheriffs, and all the rulers of the provinces, [to come to the dedication of the image etc.];[27] and it is further written, There are certain Jews [. . . serve not thy god etc.];[28] also, And the princes, governors and captains, and the king's counsellors, being gathered together, saw these men, upon whom the fire had no power.[29]

The School of R. Eliezer b. Jacob taught: Even in times of danger one should not lay aside his insignia of office, for it is written, Then these men were bound in their coats, their hosen, and their hats, and their other garments etc.[30]

R. Johanan said:

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(1) Isa. II, 11, i.e., during this era of change the universe will be totally destroyed.

(2) [Where will they be in this period of complete desolation?]

(3) Ps. XLIV, 3.

(4) Isa. XL, 31. [For parallel passages in the book as we have it, v. Friedmann's edition, Introduction, p. 46.]

(5) Just as they died again, so will the righteous whom God will resurrect also return to dust.

(6) I.e., a symbol of the revival of the Jewish State.

(7) Cp. I Sam. II, 6.

(8) Ibid.

(9) I.e., their resurrection did in fact take place, and that was a foreshadowing of the renaissance of the Jewish people.

(10) Phylacteries, v. Glos.

(11) They counted the four hundred years foretold by God to Abraham (Gen. XV, 13) as commencing there and then, whereas in reality they dated from Isaac's birth, which according to tradition took place thirty years later. As a result, they left Egypt thirty years before the rest of Israel.

(12) I Chron. VII, 20f.

(13) Ibid. 22.

(14) Ezek. XXXVII, 11. Though they personally were not entitled to resurrection, since they denied it (v. supra 90a), yet the miracle was wrought for them that the belief might become established for Israel.

(15) Ibid. 4. Though lacking good deeds to their credit, they were resurrected to shew that the wicked, provided they deny not resurrection, after undergoing their punishment, will participate therein (Maharsha).

(16) lbid. VIII, 10. The identification is based on the use of ‘round about’ in both narratives. In his view even those who in their despair surrender themselves to abominable worship are not excluded from the bliss of resurrection. (Adapted from Maharsha.)

(17) Ibid. XXXVII, 2.

(18) [Dan. III, 1. The plain of Dura has not yet been identified. Obermeyer, op. cit. 310, suggests a locality near Nahr Dura, a small river which flows into the Euphrates, some six miles south of Babylon.]

(19) Lit., ‘discharged issue’.

(20) Lit., ‘The companion of these’, (viz., of Hananiah, Mishael and Azariah).

(21) Dan. III, 23.

(22) Lit., ‘shamed’.

(23) On seeing the great miracle performed for Hananiah, Mishael and Azariah. This being praiseworthy, R. Isaac expressed his curse euphemistically.

(24) It was originally built in the earth, but floated upwards, that all might see the miracle.

(25) For the same reason.

(26) Other versions, based on different readings: his (Nebuchadnezzar's) pride crumbled, (he confessed his wrong); the lime in it melted and burned those who cast them in (v. Rashi).
(27) Ie., four kings and their retinues, who had assisted Nebuchadnezzar in casting them into the furnace.
(28) Ibid. 2.
(29) Ibid. 27. Those who are omitted in this verse from the enumeration of v. 2 were burned.
(30) Ibid. 21. These were garments specially worn by men in their exalted position, and they did not doff them, though cast into the furnace.

Talmud - Mas. Sanhedrin 93a

The righteous are greater than the ministering angels, for it is said, He answered and said, Lo, I see four men loose, walking in the midst of the fire, and they have no hurt; and the form of the fourth is like the son of God.[1]

R. Tanhum b. Hanilai said: When Hananiah, Mishael and Azariah emerged unscathed from the fiery furnace, all the nations of the world came and smote the enemies of Israel[2] upon their faces, saying to them, ‘Ye have such a God, yet ye worship an image!’ Immediately they [the apostate Jews] opened their mouths and confessed, O Lord, righteousness belongeth unto thee, but unto us shamefacedness, as at this day.[3]

R. Samuel b. Nahmani said in R. Jonathan's name: What is meant by, I said, I will go up to the palm tree, I will take hold of the boughs thereof?[4] ‘I said, I will go up to the palm tree, [etc.]’ this refers to Israel;[5] but now I grasped but the one bough of Hananiah, Mishael and Azariah.

R. Johanan said: What is meant by, I saw by night, and behold a man riding upon a red horse, and he stood among the myrtle trees that were in the bottom, etc.?[6] What means, ‘I saw by night’? — The Holy One, blessed be He, wished to turn the whole world into night,[7] ‘but behold, A man riding’. ‘Man’ can refer to none but the Holy One, blessed be He, as it is written, The Lord is a man of war: the Lord is his name;[8] ‘upon a red horse’ — the Holy One, blessed be He, wished to turn the whole world to blood;[9] but as soon as he looked upon Hananiah, Mishael and Azariah his anger was appeased, for it is written, and he stood among [hadasim][10] the myrtle trees that were in the deep. Now ‘hadasim’ refers but to the righteous, as it is written, And he brought up Hadassah;[11] and ‘deep’ refers to Babylon, as it is said, that sayeth to the deep, Be dry, and I will dry up thy rivers.[12] Straightway He who was filled with wrath was partially calmed, and then completely pacified.[13] R. Papa said: This shows that a white horse is a favourable omen in a dream.[14] Whither did the Rabbis go?[15] — Rab said: They died through an evil eye;[16] Samuel said: They drowned in the spittle;[17] R. Johanan said: They went up to Palestine, married and begat sons and daughters. [This is] as [the dispute] of Tannaim. R. Eliezer said: They died through an evil eye. R. Joshua said: They drowned in the spittle. The Sages said: They went up to Palestine, married and begat sons and daughters, as it is written, Hear now, O Joshua the High Priest and thy fellows that sit before thee: for they are men wondered at.[18] Now for which men was a wonder wrought? — Hananiah, Mishael and Azariah.

Whither had Daniel gone?[19] — Rab said: To dig a great spring at Tiberias;[20] Samuel said: To procure animal fodder; R. Johanan said: To obtain pigs from Alexandria of Egypt.[21] But that is not so. For we learnt that Theodos the doctor said: No cow or pig leaves Alexandria of Egypt without its uterus being cut out, to prevent reproduction.[22] — She procured small ones, to which they paid no attention.[23]

Our Rabbis taught: Three were involved in that conspiracy [to keep Daniel out of the furnace]: The Holy One, blessed be He, Daniel and Nebuchadnezzar. The Holy One, blessed be He, said: ‘Let Daniel depart hence, lest it be said that they were delivered through his merit.’[24] Daniel said: ‘Let me go from here, that I be not a fulfilment of, the graven images of their gods shall ye burn with fire.'[25] Whilst Nebuchadnezzar said: 'Let Daniel depart, lest people say he has burnt his god in fire.' And whence do we know that he worshipped him? — From the verse, Then the king Nebuchadnezzar fell upon his face, and worshipped Daniel etc.[26]

Thus saith the Lord of hosts, the God of Israel, of Ahab the son of Kolaiah, and of Zedekiah the son of Maaseiah, which prophecy a lie unto you in my name etc.[27] And it is written, And of them shall be taken up a curse by all the captivity of Judah which are in Babylon, saying, the Lord make thee like Zedekiah, and like Ahab, whom the King of Babylon roasted in the fire.[28] Not 'whom he burnt', but 'whom he roasted,' is written. R. Johanan said on the authority of R. Simeon b. Yohai: This teaches that he made them like parched sheaves of corn.[29]

Because they have committed villainy in Israel, and have committed adultery with their neighbours' wives etc.[30] What did they do? They went to Nebuchadnezzar's daughter: Ahab said to her, 'Thus saith God, "Give thyself unto Zedekiah;"' whilst Zedekiah said to her, 'Thus saith God, "Surrender to Ahab."' So she went and told her father, who said to her, 'The God of these hates unchastity: when they [again] approach thee, send them to me.' So when they came to her, she referred them to him. 'Who told this to you?' asked he of them. 'The Holy One, blessed be He,' replied they. But I have enquired of Hananiah, Mishael, and Azariah, who informed me that it is forbidden.' They answered, 'We too are prophets, just as he: to him He did not say it, but to us.' 'Then I desire that ye be tested, just as Hananiah, Mishael and Azariah were,' he retorted. 'But they are three, whilst we are only two,' they protested.[31] 'Then choose whom ye wish to accompany you,' said he. 'Joshua the High Priest,' they answered, thinking, 'Let Joshua be brought, for his merit is great, that he may protect us.' So he was brought, and they were all thrown [into the furnace]. They were burned, but as to Joshua the High Priest, only his garments were singed, for it is said, And he shewed me Joshua the High Priest standing before the angel of the Lord;[32] and it is written, And the Lord said unto Satan, the Lord rebuke thee, O Satan etc.[33] [Thus] said he to him, 'I know that thou art righteous, but why should the fire have affected thee even slightly; Hananiah, Mishael and Azariah were not affected at all.' 'They were three,' said he, 'but I am only one.'[34] 'But,' he remonstrated, 'Abraham [too] was only one.' 'No wicked were with him, so the fire was not empowered [to do any harm]; but here, I had wicked men with me, so the fire was enabled [to do its work],' he rejoined. Thus people say, 'If there are two dry billets and one wet one, the former burn the latter.' Now why was he [thus] punished? — R. Papa said: Because his sons married wives unfit for the priesthood; and he did not protest, as it is said, Now Joshua was clothed with filthy garments.[35] Now, surely it was not his wont to wear filthy garments! But this intimates that his sons married women unfit for the priesthood and he did not forbid them.

R. Tanhum said: Bar Kappara expounded in Sepphoris:[36] What is meant by, These six of barley gave he to me?[37] What are 'six of barley'? Shall we say it is meant literally?[38] But was it Boaz's practice to give [only] six barley grains?

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(1) Ibid. 25. Thus the angel is mentioned last, as being least esteemed.

(2) A euphemism for the Jews who had worshipped the image set up by the king.

(3) Ibid. IX, 7.

(4) Cant. VII, 9.

(5) Who should have been as full of righteousness as a palm tree of dates.

(6) Zech. l, 8.

(7) Because the people had bowed down to the image set up by Nebuchadnezzar.

(8) Ex. XV, 3.

(9) This may be based upon either the similarity in Hebrew of blood (dam, דם) and red (adom, אדום) or the natural association of blood with redness.

(10) הדסים

(11) הדסה Esth. II, 7; the reference is to Esther.

(12) Isa. XLIV, 27, i.e., to Babylon, situated in a hollow.

(13) I.e., metaphorically, the redness of his anger gave way to more subdued tints, denoting partial calm, and then became white, a sign of complete appeasement.

(14) Since the white horse signifies complete appeasement.

(15) I.e., Hananiah, Mishael and Azariah; after emerging from the furnace, they are never mentioned again.

(16) The belief that the eye has power to effect harm, whether through excessive admiration or astonishment, as here, or by actual malignant intent, was and is widespread among many peoples. Rab's statement here is in accordance with his dictum in B.M. 107b that ninety-nine people out of a hundred die through an evil eye.

(17) V. supra; when the nations expressed their scorn of the apostates, they spat at them, and so much spittle collected, that the three heroes were drowned in it. It is hard to believe that this is meant to be taken seriously; it is more probably said in a humorous vein; v. Lazarus, Ethics of Judaism, ¤ 48a, p. 62, and Appendix 9, pp. 256ff on ‘Humour in the Talmud.’ Maharsha explains that this is metaphorical. The heroes, having by their action caused Israel to be spat upon, died to save them from further disgrace.

(18) Zech. III, 8.

(19) Not being mentioned in connection with this story.

(20) Another meaning (based probably on a different reading), ‘laboriously to dig a canal in the mountain side.’

(21) Which were of a distinguished breed. Perhaps this is a tilt at certain Alexandrians.

(22) The Alexandrians being anxious for the monopoly of that breed (Bek. 28b; v. supra, 33a). How then could Daniel have obtained them?

(23) Not thinking that these would be required for breeding purposes.

(24) Whereas they were delivered through their own.

(25) Deut. VII, 25. Nebuchadnezzar had exalted him to a deity.

(26) Dan. II, 46.

(27) Jer. XXIX, 21.

(28) Ibid. 22.

(29) I.e., he burnt them to a cinder.

(30) Ibid. 23.

(31) The combined merit of three may be sufficient for a miracle, but not of two.

(32) Zech. III, 1.

(33) Ibid. 2.

(34) V. p. 624, n. 8.

(35) Ibid. 3.

(36) Sepphoris, Heb. צפורי, derived its name from the fact that it was perched, bird-like, on a mountain. It is identified with the modern Saffusiah, a village north-west of Nazareth.

(37) Literal rendering of Ruth III, 17.

(38) I.e., six grains of barley.

Talmud - Mas. Sanhedrin 93b

But [if it means] six se'ahs,[1] can a woman take six se'ahs?[2] — But he symbolically intimated to her [by giving her six barley grains] that six sons were destined to come forth from her, who should each be blessed with six blessings. Viz, David, Messiah, Daniel, Hananiah, Mishael and Azariah. David, for it is written, Then answered one of the servants, and said, Behold, I have seen a son of Jesse, the Bethlemite, that is cunning in playing, and a mighty valiant man, and a man of war, and understanding in matters, and a comely person, and the Lord is with him.[3] And Rab Judah said in Rab's name: This whole verse was said by Doeg with nothing but evil intent.[4] Thus: ‘that is cunning in playing’ — skillful in asking questions [of law]; ‘a mighty valiant man’ — an adept in answering them; ‘a man of war’ — well versed in the battle of the Torah;[5] ‘understanding in matters’ — understanding [how to deduce] one thing from another; ‘and a comely person’ — who sustains his ruling by weighty reasons;[6] ‘and the Lord is with him’ — everywhere the halachah is determined in accordance with his views.[7] With respect to all he replied, My son Jonathan is equally so. But when he said, ‘And the Lord is with him’ — a privilege which even he himself did not enjoy,[8] — he felt humiliated and envied him. For in the case of Saul it is written, And whithersoever he turned about, he vexed them,[9] whereas of David it is said,’ And whithersoever he turned about, he prospered.[10]

Whence do we know that this was Doeg? — Here is written, Then answered one of the servants, implying one distinguished from the other young men; whilst elsewhere it is written, Now a man of the servants of Saul was there that day, detained before the Lord; and his name was Doeg, an Edomite, the chiefest of the herdmen that belonged to Saul.[11]

The Messiah-as it is written, And the spirit of the Lord shall rest upon him, the spirit of wisdom and understanding, the spirit of counsel and might, the spirit of knowledge of the fear of the Lord. And shall make him of quick understanding [wa-hariho] in the fear of the Lord.[12] R. Alexandri said: This teaches that he loaded him with good deeds and suffering as a mill[is laden].[13] Raba said: He smells [a man] and judges,[14] as it is written, and he shall not judge after the sight of his eyes, neither reprove after the hearing of his ears, yet with righteousness shall he judge the poor.[15]

(Bar Koziba[16] reigned two and a half years, and then said to the Rabbis, ‘I am the Messiah.’ They answered, ‘Of Messiah it is written that he smells and judges: let us see whether he [Bar Koziba] can do so.’ When they saw that he was unable to judge by the scent, they slew him.)

Daniel, Hananiah, Mishael and Azariah, as it is written of them, In whom was no blemish, but well favoured, and skillful in all wisdom, and cunning in knowledge, and understanding science, and such as had ability in them to stand in the king's palace, and whom they might teach the learning and the tongue of the Chaldeans.[17] What is meant by in whom there was no blemish? — R. Hama b. Hanina said: They did not even bear the scar made by bleeding. What is the meaning of and such as had ability in them to stand in the king's palace? — R. Hama b. Hanina said: This teaches that they restrained themselves from levity, conversation, and sleep, and suppressed the call of Nature out of royal respect.

Now among these were of the children of Judah, Daniel, Hananiah, Mishael and Azariah.[18] — R. Eleazar said: They were all of the children of Judah; but R. Samuel b. Nahmani said: Daniel was of the tribe of Judah, whilst Hananiah, Mishael and Azariah were of the other tribes.[19]

And of thy sons which shall issue from thee, which thou shalt beget, shall they take away: and they shall be eunuchs in the palace of the King of Babylon.[20] What is meant by ‘eunuchs’? — Rab said: Literally eunuchs. R. Hanina said: In their days the idols were sterilized.[21] Now, according to the opinion that the idols were sterilized in their days, it is well to state, And there is no hurt in them.[22] But on the view that ‘eunuchs’ is literally meant, what is meant by, And there is no hurt in them?[23] — No hurt of fire. But is it not written, nor the smell of fire had passed on them?[24] They were neither hurt [by the fire] nor even smelled thereof. Now according to the opinion that the idols were sterilized in their days, it is well to write, For thus saith the Lord unto the eunuchs that keep my Sabbaths.[25] But on the view that ‘eunuchs’ is literally meant, would Scripture recount the shame of the righteous? — There were both among them.[26]

Now, the literal rendering is in conformity with the verse, [Even unto them will I give] in mine house, and within my walls a place, and a name better than of sons and of daughters.[27] But on the view that the idols were sterilized in their days, why state ‘better than of sons and of daughters’?[28] — R. Nahman b. Isaac answered: [Better] than the children whom they had formerly possessed, but had died.

What is meant by, I shall give them an everlasting name, that shall not be cut off?[29] — R. Tanhum said: Bar Kappara expounded in Sepphoris: This alludes to the Book of Daniel, which was named after him.

Now let us consider. The whole subject matter of [the book of] Ezra was narrated by Nehemiah the son of Hachalia; why then was the book not called by his name?[30] — R. Jeremiah b. Abba said: Because he claimed merit for himself, as it is written, Think upon me, my God, for good.[31] But did not David say likewise, Remember me, O Lord, with the favour that thou bearest unto thy people; O visit me with thy salvation?[32] — David [merely] supplicated in prayer.[33] R. Joseph said:[34] Because he spoke disparagingly of his predecessors, as it is written, But the former governors that had been before me were chargeable unto the people, and had taken of them bread, and wine, beside forty shekels of silver etc.[35] Moreover, he spoke thus even of Daniel, who was greater than he. And whence do we know that Daniel was greater than he? From the verse, And I Daniel alone saw the vision: for the men that were with me saw not the vision; but a great quaking fell upon them, so that they fled to hide themselves.[36] ‘For the men that were with me saw not the vision:’ now who were these men? — R. Jeremiah — others say R. Hiyya b. Abba-said: Haggai, Zecharia and Malachi.[37]

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(1) For if it refers to a measure, se'ah must be understood, it being the measure generally used on the field and in the threshing floor. (Rashi).

(2) She cannot carry such a heavy weight.

(3) I Sam. XVI, 18. The six epithets viz., cunning in playing, a mighty, valiant man, etc., are regarded as blessings applicable to each of the six persons mentioned.

(4) That these praises should excite Saul's jealousy.

(5) I.e., in Biblical dialectics.

(6) Lit., ‘shows a face in halachah’.

(7) To the Rabbis there were no higher virtues than those pertaining to study, thus they homiletically interpreted a series of military and other virtues as referring to the Torah.

(8) That his ruling should be accepted as the halachah.

(9) Ibid. XIV, 47.

(10) There is no such verse in the Bible. Possibly it is a misquotation or a copyist's error of and David behaved himself wisely in all his ways (ibid. XVIII, 14). Thus David was ‘wise, i.e., his view always became halachah, whereas Saul merely ‘vexed them,’ i.e., he was a redoubtable opponent in halachah, yet was not successful in having his views adopted.

(11) Ibid. XXI, 8. Thus ‘a man,’ i.e., ‘one distinguished,’ is the epithet applied to Doeg.

(12) Isa. XI, 2f.

(13) This is a play of words on והריחו (wa-hariho) and ריחיים (rehayyim).

(14) Thereby definitely knowing whether he is guilty or innocent. והריחו is thus derived from ריח reah, smell.

(15) Ibid. 3f. Since he uses neither his eyes nor his ears, he must judge through his sense of smell.

(16) Bar Koziba was the leader of the third war against Rome in the reign of Hadrian, which terminated disastrously at Bethar (132-135 C.E.). Many scholars believe that this name was derived from Chezib (Gen. XXXVIII, 5) or Chozeba (I Chron. IV, 22). Others believe that it means ‘Son of Lies,’ bestowed upon him after the tremendous defeat which he sustained, and on account of his alleged claims to be the Messiah. Probably, however, Kozeba was an actual patronym, which was thus disparagingly applied to him (Lam. R. II, 2). He is also referred to as Bar Cochba, but this was certainly merely because R. Akiba applied to him the verse, There shall come a star (kokab) out of Jacob (Num. XXIV, 17). The revolt met with initial success, and Bar Koziba maintained his independence for some time. [Our sources do not agree as to the length of his reign, varying between two and a half years as in our text, and three and a half (so Seder ‘Olam according to reading of Dei Rossi). Derenbourg, Essai (v. pp. 413 and 431) gives preference to the period given in the Talmud. Graetz, Geschichte iv, 418, accepts three and a half years as the total duration of the war, but gives only one year to the actual siege of Bethar. It is nevertheless possible that the last year, marking the disastrous siege of Bethar, was omitted in the Talmudic statement on the length of his ‘reign.’]

(17) Dan. I, 4.

(18) Ibid 6.

(19) In Heb. the verb ויהי (rendered ‘they were’) is singular. Thus be does not accept the homiletical interpretation of ‘six barley grains’ as stated above.

(20) II Kings XX, 18; Isa, XLIX, 7.

(21) I.e., their impotency was demonstrated.

(22) Dan. III, 25; v. next note.

(23) Since castration itself, which eunuchs underwent, is a hurt.

(24) Ibid. 27, which renders the former verse on this interpretation superfluous.

(25) Isa. LVI, 4.

(26) Among those who were exiled to Babylon, some were actually castrated for eunuchs, and others lived to see the ‘sterilization of the idols’, and Isa. LVI, 4 refers to the latter.

(27) Ibid. 5.

(28) Seeing that they had children. Here it cannot be answered that there were both among them, as above, for in that case there is no conflict at all between Rab and R. Hanina (Rashi).

(29) Ibid.

(30) The reference is to the Book of Nehemiah, as it is, in fact, called in our canon. It is evident from this query that according to the Talmudic canon it was called Ezra. In some canons it bears the title Esdras II or Esdras III.

(31) Nehem. V, 19.

(32) Ps. CVI, 4.

(33) Whereas Nehemiah was boasting.

(34) Reverting to the question why the Book does not bear his name.

(35) Nehem. V, 15.

(36) Dan. X, 7.

(37) Since he was vouchsafed the vision, whilst they were not, he was greater than they, though they were prophets; hence he was certainly greater than Nehemiah, who was not a prophet.

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They were greater than he [in one respect], and he was superior to them [in another]. [Thus:] They were greater than he, since they were prophets, whilst he was not. He [on the other hand] was superior to them, since he saw [the vision] which they did not. But since they did not see it, why were they terrified? — Though they themselves saw nothing, their guardian angel did see it.[1] Rabina said: This proves that when one is terrified [and knows not why], though he has not seen anything, his guardian angel has.[2] What shall he do [to dissipate his fears]? — Let him leap four cubits from his place; alternatively, let him read the shema’.[3] But if he is standing in an unclean place [where the shema’ may not be recited], let him say thus: ‘the butcher's goat is fatter than I.’[4]

Of the increase[5] of his government and peace there shall be no end.[6] R. Tanhum said: Bar Kappara expounded in Sepphoris, Why is every mem in the middle of a word open, whilst this is closed?[7] — The Holy One, blessed be He, wished to appoint Hezekiah as the Messiah, and Sennacherib as Gog and Magog;[8] whereupon the Attribute of Justice[9] said before the Holy One, blessed be He: ‘Sovereign of the Universe! If Thou didst not make David the Messiah, who uttered so many hymns and psalms before Thee, wilt Thou appoint Hezekiah as such, who did not hymn Thee in spite of all these miracles which Thou wroughtest for him?’ Therefore it [sc. the mem] was closed.[10] Straightway the earth exclaimed: ‘Sovereign of the Universe! Let me utter song before Thee instead of this righteous man [Hezekiah], and make him the Messiah.’ So it broke into song before Him, as it is written, From the uttermost part of the earth have we heard songs, even glory to the righteous.[11] Then the Prince of the Universe[12] said to Him: ‘Sovereign of the Universe! It [the earth] hath fulfilled Thy desire [for songs of praise] on behalf of this righteous man.’[13] But a heavenly Voice cried out, ‘It is my secret, it is my secret.’[14] To which the prophet rejoined, ‘Woe is me, woe is me:[15] how long [must we wait]?’ The heavenly Voice [again] cried out, ‘The treacherous dealers have dealt treacherously; yea, the treacherous dealers have dealt very treacherously:[16] which Raba — others say, R. Isaac — interpreted: until there come spoilers, and spoilers of the spoilers.[17]

The burden of Dumah. He calleth to me out of Seir, Watchman, what of the night? Watchman, what of the night?[18] R. Johanan said: The angel in charge of the souls is named Dumah. All the souls assembled before Dumah and said to him, What [sayeth] the Watchman [sc. God] of the night, What [sayeth] the Watchman of the night?[19] The watchman said, The morning cometh, and also the night: if ye will enquire, enquire ye: return, come.[20] A Tanna reported in the name of R. Pappias: It was a reproach to Hezekiah and his company[21] that they uttered no song [to God] until the earth broke into song, as it is written, From the uttermost part of the earth have we heard songs, even glory to the righteous. Similarly we read, And Jethro said, Blessed be the Lord who hath delivered you;[22] whereon a Tanna taught in the name of R. Pappias: It was a reproach to Moses and the six hundred thousand [Israelites] that they did not bless [the Lord] until Jethro came and did so.

And Jethro rejoiced [wa-yihad].[23] Rab and Samuel [dispute its meaning]. Rab said: He caused a sharp knife to pass over his flesh;[24] Samuel said: His flesh crept [with horror at the destruction of the Egyptians].[25] Rab[26] observed: Thus people say, Before a proselyte, even unto the tenth generation, insult not an Aramean.[27]

Therefore shall the Lord, the Lord of hosts, send among his fat ones leanness.[28] What is meant by, among his fat ones [bemishmanav][29] leanness? — The Holy One, blessed be He, said: Let Hezekiah, who hath eight [shemoneh] names, come and mete out punishment to Sennacherib, who hath [likewise] eight.[30] Hezekiah, as it is written, For unto us a child is born, unto us a son is given; and the government shall be upon his shoulder: and his name shall be called [i] Wonderful, [ii] Counsellor, [iii] Mighty, [iv] Judge,[31] [v] Everlasting, [vi] Father, [vii] Prince, and [viii] Peace.[32] But is there not Hezekiah too?[33] — That means, 'whom God hath strengthened;' alternatively, Hezekiah denotes 'Who strengthened' Israel [in their devotion] to their father in Heaven.[34] Sennacherib, of whom it is written, [i] Tiglath-pileser,[35] [ii] [Tilgath-] pilneser,[36] [iii] Shalmaneser,[37] [iv] Pul,[38] [V] Sargon,[39] [vi] Asnapper,[40] [vii] Rabba,[41] and [viii] Yakkira.[42] But is there not Sennacherib too? — [That means,] that his very conversation was strife; alternatively, that he prated with inflammatory speech against the Most High.[43]

R. Johanan said: Why did that evil man merit the titles of the great and noble Asnapper? — Because he did not speak slightingly of the Land of Israel, as it is written, Until I come and take you away to a land like your own land.[44] Rab and Samuel [dispute the matter]: one maintained that he was a wise king; the other that he was foolish. The view that he was a wise king is because had he said, 'a land that is better than your own,' they would have replied, 'Thou liest;' whilst the opinion that he was foolish is because if so [i.e., that the land of exile would be no better than their own], what inducement [did he offer]?

Whither did he deport them? — Mar Zutra said: To Africa,[45] R. Hanina maintained: To the mountains of Salug.[46]

But Israel spoke with contempt about Palestine, for when they came to Shush,[47] they said: This is as good as our land;[48] to 'Almin,[49] they said: This is like the House of Eternities [i.e., Jerusalem, or the Temple];[50] on arriving at Shush Tere,[51] they said: This is twice as good [as our land].[52]

And beneath his glory shall he kindle a burning like the burning of a fire.[53] R. Johanan said: That which was beneath his glory [would be burnt], but 'glory' is not literal;[54] even as R. Johanan called his garments 'my honourers.' R. Eleazar said: 'Beneath his glory' is literal, as the burning of the sons of Aaron: just as there the burning of the soul [is meant], the body remaining intact, so here too.[55]

A Tanna taught in the name of R. Joshua b. Karha: Pharaoh, who personally blasphemed, was punished by the Holy One, blessed be He, in Person; Sennacherib, who blasphemed

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(1) According to the Talmud, every man has a special guardian angel, who accompanies him: Hag. 16a; cf. Targ. Jer. on

Gen. XXXIII, 10: I have seen thy face, as though I had seen the face of thy angel. In the present passage, the word מזל Mazzal is used, which really implies the angel or spirit of one's destiny; as far as individuals are concerned, it is not clear whether the guardian angel is identical with the angel of destiny or not. In the German mysticism of the thirteenth century the two were most probably identified, the term מלאך מזל ‘angel of destiny’ being used in the ‘Book of Angels’ by Eliezer of Worms, a disciple of R. Judah Hasid; v. J.E. I. p. 588.

(2) May there be a connection between this ‘guardian spirit’ and the modern idea of the ‘subconscious mind’?

(3) V. Glos.

(4) Go to them for a victim.

(5) לםרבה.

(6) Isa. IX, 6.

(7) There are two forms of mem: medial, which is open (מ) and final, which is closed (ם). In this sentence, however, the closed form occurs in the middle of a word (לםרבה).

(8) Gog and Magog are, in Jewish eschatology, the tribes who shall lead all nations in a tremendous attack upon Israel; their final defeat ushers in the halcyon days of the Messiah, (Ezek. XXXVIII, XXXIX). It is not clear whom the prophet had in mind, the whole passage having the mystic form of apocalyptic prediction. The present passage is remarkable in that it shews that in the opinion of its author no particular nation was intended, but any great heathen power whose destruction, by the will of God, is to precede the millenium.

(9) [The attributes of Justice and Mercy are often hypostasized and represented as interceding with the Almighty.]

(10) Shewing that God's original intention was ‘closed’, i.e., revoked. Other interpretations: God wished to ‘close’ i.e., end the troubles of Israel by making Hezekiah the Messiah; or Hezekiah's mouth was closed, i.e., he sang no psalms to the Almighty.’

(11) Ibid. XXIV, 16.

(12) This is a special angel set over the world, distinct from the guardian angels of the separate nations. He has been identified with Metatron; Tosaf. Yeb. 16b however rejects this identification.

(13) So translated by Maharsha. The passage might also mean: Fulfil the desire of this righteous man, i.e., appoint him the Messiah.

(14) Ibid., i.e., the delay of Messiah's advent is God's secret.

(15) Ibid.

(16) Ibid.

(17) I.e., until Israel's enemies and their enemies’ enemies are destroyed.

(18) Ibid. XXI, 11.

(19) The verse is thus interpreted: The burden of the angel Dumah. One (i.e., the souls) calleth out to me concerning Seir, which, as a synonym of Edom, is symbolic of Rome, the power responsible for Israel's exile.

(20) Ibid. 12. Rashi gives a number of versions: (i) The watchman said, ‘Has then the morning come? Surely not!’ i.e., it is not yet time for redemption; (ii) ‘The morning cometh,’ i.e., redemption will surely come, ‘but also the night’ — a long exile will precede it; (iii) ‘The morning cometh,’ i.e., the Babylonian exile will end and a second Temple be built, but ‘also the night’ — only to be succeeded by another exile; (iv) ‘The morning cometh,’ i.e., redemption cometh for the righteous, ‘but also the night,’ i.e., punishment for the wicked, a rendering which is borne out by the Targum.

(21) A band of scholars who assisted him in his literary labours, v. B.B. 15a.

(22) Ex. XVIII, 10.

(23) ויחד, Ibid. 9.

(24) I.e., he circumcised himself, ויחד thus being derived from had חד, sharp.

(25) Lit., ‘his flesh became full of sharp edges,’ ‘Prickles,’ deriving it likewise from had, the goosiness of the flesh caused by fear or horror.

(26) Yalk.: R. Papa.

(27) General term for a non-Jew. Jethro, though according to tradition a proselyte, was nevertheless horror-stricken at the fate of the Egyptians.

(28) Isa. X, 16.

(29) במשמניו

(30) במשמניו is here derived from שמונה.

(31) For this meaning of el, cf. Ex. XXI, 6; XXII, 8.

(32) Isa. IX, 5. It is assumed that the verse refers to Hezekiah.

(33) A ninth name.
(34) According to both these answers, Hezekiah, as a combination of חזק (hazak) and יה (Jah) — to be strong and God-is not a proper name, but an epithet.
(35) II Kings XV, 29.
(36) I Chron. V, 26.
(37) II Kings XVII, 3.
(38) Ibid. XV, 29.
(39) Isa. XX, 1.
(40) Ezra IV, 20.
(41) Ibid.
(42) Ibid. The E.V. of the last three is ‘the great and noble Asnapper,’ but here the phrase is regarded as consisting of three proper nouns (Rashi). But the Wilna Gaon gives a different reading, which renders this unnecessary.
(43) Sennacherib is treated as a combination of a verb or verbs סיח and נחר with a noun, rib, ‘strife;’ cp. n. 1.
(44) II Kings XVIII, 32.
(45) [Obermeyer, Die Landschaft Babylonien, 11ff., identifies it with Abrik, 150 Km. N. W. of Diarbekir.]
(46) [Identified by Obermeyer, ibid., with the mountains of Salak in the district of Adiabene.]
(47) The modern Susa. Shushan.
(48) [‘Shush’ in Persian meaning’ beautiful,’ ‘good,’ op. cit. 212.]
(49) Elymais (Elam).
(50) Heb. עלמין, which may denote also ‘Almin.
(51) [Sushtar, 18 parasangs East of Susa (op. cit. 213).]
(52) [Lit., ‘double shush’ (good), here used as a proper noun.]
(53) Isa. X, 16.
(54) For the literal meaning of ‘glory’ in reference to a man is his body, the outer flesh which gives him his beauty; hence ‘beneath his glory’ would have to mean his soul, which R. Johanan regards as unsuited to the context. Therefore ‘glory’ cannot be literal, but refers to the garments, which lend dignity to a person; whilst ‘beneath his glory’ denotes the body.
(55) V. supra 52a; cp. Shab. 113b.

Talmud - Mas. Sanhedrin 94b

through an agent,[1] was punished by the Holy One, blessed be He, through an agent.[2] [Thus:] Pharaoh, of whom it is written, [And Pharaoh said,] Who is the Lord, that I should obey his voice?[3] was punished by the Holy One, blessed be He, in Person, as it is written, And[4] the Lord overthrew the Egyptians in the midst of the sea;[5] and it is also written, Thou didst walk through the sea with thine horses.[6] But Sennacherib, of whom it is written, By thy messengers hast thou reproached the Lord,[7] was punished by the Holy One, blessed be He, through an angel, as it is said, And the angel of the Lord went out, and smote in the camp of the Assyrians an hundred fourscore and five thousand.[8]

R. Hanina b. Papa opposed [two verses]: It is written, [I will enter the height of his border;[9] but elsewhere it is written, [I will enter into] the lodgings of his borders![3] — That wicked man said: First will I destroy [His] nether abode [sc. the Temple on earth], and then the upper.[10]

R. Joshua b. Levi said: What is meant by Am I now come up without the Lord against this place to destroy it? The Lord said to me, Go up against this land, and destroy it.[11] How so?[12] He had heard the prophet declare, Forasmuch as this people refuseth the waters of Shiloah that go softly, and rejoice in Rezin and Ramaliah's son.[13] R. Joseph said: But for the Targum[14] of this verse, I would not know its meaning: Because this people have wearied of the Davidic dynasty, which rules them with gentleness like the waters of Shiloah which flow tranquilly, and have set their desire upon Rezin and the son of Ramaliah.

R. Johanan said: What is meant by, The curse of the Lord is in the house of the wicked: but he blesseth the habitation of the just?[15] 'The curse of the Lord is in the house of the wicked' refers to Pekah the son of Ramaliah, who ate forty se'ahs of young birds as a [mere] dessert;[16] 'but he blesseth the habitation of the just' applies to Hezekiah, king of Judah, who ate [but] a litra of vegetables for his [entire] meal.)[17]

Now therefore, behold, the Lord bringeth up upon them the waters of the river, strong and many, even the king of Assyria: and all his glory.[18] And it is further written, And he shall pass through Judah; he shall overflow and go over, he shall reach even to the neck.[19] Then if so, why was he [Sennacherib] punished? — The prophet prophesied with respect to the Ten Tribes, whereas he set his face against the whole of Jerusalem. [Thereupon] the prophet came and said to him, For the wearied is not for the oppressor.[20] R. Eleazar b. Berechiah said: [This means], the people that is tired out by [intensive study of] the Torah will not be delivered into the hands of her oppressor.

What is meant by, When aforetime the land of Zebulun and the land of Naphtali did lighten [its burden], but in later times it was made heavy by the way of the sea, beyond Jordan, in Galilea of the nations?[21] — It is not as the early generations,[22] who rejected[23] the yoke of the Torah; but as for the latter generations[24] who strengthened[25] the yoke of the Torah upon themselves and are therefore worthy of having a miracle wrought for them, like those who passed over the [Red] Sea and the Jordan — should he [Sennacherib] repent [of his attack upon Jerusalem], 'tis well; but if not, I will render him the butt of the nations' scorn.[26]

After these things, and the truth thereof, Sennacherib, king of Assyria, came and entered into Judah, and encamped against the fenced cities, and thought to win them for himself.[27] Is such a reward meet for such a gift?[28] But what is meant by, 'After these things and the truth thereof'? — Rabina said: After the Holy One, blessed be He, had anticipated [events] by an oath.[29] For he reasoned thus: If I say to Hezekiah, 'I will bring Sennacherib and deliver him into thy hands', he will reply, 'I require neither [the ultimate victory over] him nor the [preceding] terror'; therefore the Holy One, blessed be He, forestalled him by swearing that he would bring him, as it is written, the Lord of Hosts hath sworn, saying, Surely as I have thought, so shall it come to pass, and as I have purposed, so shall it stand: That I will break the Assyrian in my land, and upon my mountains tread him under foot: then shall his yoke depart from off them, and his burden depart front off their shoulders.[30] R. Johanan said: The Holy one, blessed be he, said thus: 'Let Sennacherib and his army[31] come and be a crib for Hezekiah and his army.'[32]

And it shall come to pass in that day, that his burden shall be taken away from off thy shoulders, and his yoke from off thy neck, and the yoke shall be destroyed because of the oil.[33] R. Isaac, the Smith, said: [This means,] the yoke of Sennacherib shall be destroyed on account of the oil of Hezekiah, which burnt in the synagogues and schools. What did he do? — He planted a sword by the door of the schoolhouse and proclaimed, 'He who will not study the Torah will be pierced with the sword.' Search was made from Dan unto Beer Sheba, and no ignoramus was found; from Gabbath[34] unto Antipris,[35] and no boy or girl, man or woman was found who was not thoroughly versed in the laws of cleanliness and uncleanliness.[36] And concerning that generation it is said, And it shall come to pass in that day, that a man shall nourish a young cow, and two sheep;[37] and it is further said, And it shall come to pass on that day, that every place shall be, where there were a thousand vines at a thousand silverlings, it shall even be for briers and thorns:[38] though a thousand vines be worth a thousand silverlings, yet shall it be for briers and thorns.[39]

And your spoil shall be gathered like the gathering of a caterpillar.[40] The prophet said unto Israel: 'Gather your spoil.' Thereupon they questioned him, 'To take it as our own booty, or to divide it?'[41] 'Like the gathering of a caterpillar', replied he: just as caterpillars gather, each one for itself, so take your spoil, each one for himself. 'But', objected they, 'the wealth of the Ten tribes is mixed up therein.' He answered, 'As the watering of pools doth he water it:'[42] just as pools purify the unclean,[43] so are the possessions of Israel, which having fallen into the hands of heathens,[44] become clean [i.e., legitimate].[45]

R. Huna said: That wicked man[46] made ten marches on that day, as it is written, [i] He is come to Aiath; [ii] he is passed at Migron; [iii] at Michmash he hath laid up his carriages; [iv] they are gone over the passage; [v] they have taken up their lodgings at Geba; [vi] Ramah is afraid; [vii] Gibeah of Saul is fled. [viii] Lift up thy voice, O daughter of Gallim, [ix] cause it to be heard unto Laish, [x] O poor Anathoth. [xi] Madmenah is removed; [xii] the inhabitants of Gebim gather themselves to flee.[47] But these are more [than ten]! Lift up thy voice, O daughter of Gallim was said by the prophet to the people of Israel: Lift up thy voice, O daughter of Gallim, thou daughter of Abraham, Isaac and Jacob, who performed good deeds as the waves[48] of the sea [in multitude]. Cause it to be heard unto Laish: Fear not this man, but be in dread of the wicked Nebuchadnezzar, who is likened to a lion, as it is written, The Lion [sc. Nebuchadnezzar] is come up from his thicket.[49] What is meant by

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(1) Which is a greater insult.

(2) Which is a more humiliating punishment.

(3) Ex. V, 2.

(4) Ibid. XIV, 27.

(5) Hab. III, 15.

(6) II Kings XIX, 23.

(7) Ibid. 35.

(8) Isa. XXXVII, 24.

(9) II Kings XIX, 23. Both refer to the same. 'The height of his border' would seem to apply to the Temple, cf. Jer. XVII,12: a glorious high throne from the beginning is the place of our sanctuary. 'The lodging' etc. on the other hand is applicable to God's heavenly dwelling.

(10) The Heavenly Temple.

(11) II Kings XVIII, 25.

(12) I.e., how could Sennacherib claim that he had God's orders to destroy Jerusalem?

(13) Isa. VIII, 6. this concludes: Now therefore, behold the Lord bringeth up upon them the waters of the river, strong and many, even the king of Assyria, and all his glory: and he shall come up over all his channels, and go over all his banks. This was understood by Sennacherib as an order to possess Jerusalem.

(14) The Aramaic version of the Prophets was written, according to a Tannaitic tradition, by Jonathan b. Uzziel, 'from the mouths of Haggai, Zechariah and Malachi' (Meg. 3a). The present passage shews clearly that by R. Joseph's time (beginning of the fourth century) it was recognized as authoritative, hence ancient.

(15) Prov. III, 33.

(16) Lit., 'wiping away the meal', i.e., he could never satisfy his hunger.

(17) And was nevertheless satisfied therewith.

(18) Isa. VIII, 7. This resumes the thread of the previous discussion, viz., 'How could Sennacherib claim to have been ordered by God to destroy Jerusalem?' which was interrupted by the digression on Pekah and Hezekiah.

(19) Ibid. 8.

(20) Ibid. 23, this makes מוצק, though in reality a passive, into an active.

(21) Ibid.

(22) I.e., the Ten Tribes, who, having been destroyed in 722 B. C. E. could be thus referred to by Isaiah.

(23) Lit., 'lightened from themselves'.

(24) Hezekiah and his contemporaries.

(25) Lit., 'who made heavy'.

(26) Lit., 'I will make him wallow in the scorn of the nations'; another version: 'I will make him as dung (gelalim) among the nations.' These are renderings of גליל הגוים (Gelil ha-goyim), 'the Galilee of the Nations', גליל (gelil) being connected with גלל (galal), to roll.

(27) II Chron. XXXII, 1.

(28) The previous verse relates that Hezekiah turned earnestly to the service of God. Was then this — Sennacherib's invasion-his just reward?

(29) This oath is referred to as ‘the truth’, (E.V. establishment) since ‘God's seal is truth’ (Rashi).
(30) Isa. XIV, 24f.
(31) Lit., ‘retinue’.
(32) R. Johanan connects אבוסנו (E.V. ‘tread him under foot’) with אבוס, the trough or crib from which an animal feeds (cf. Isa. I, 3). Hezekiah's cattle would forage for food among the dead bones of Sennacherib's army as in a crib.
(33) Ibid. X, 27.
(34) Later name for Biblical Gibbethon, in the territory of Dan (Josh. XIX, 44); this was later given to the Levites (ibid. XXI, 23). In the reign of Nadab it belonged to the Philistines (I Kings XV, 27).
(35) Also called Antipatris, a town northwest of Jerusalem, founded by Herod the Great and named after his father. (Jast.). The mention here of the locality by this name is an anachronism.
(36) These are probably mentioned on account of their difficulty. The reference to girls and women is interesting as shewing that in the ideal Jewish state they too must be educated.
(37) lsa. VII, 21; i.e., one shall possess a minimum of cattle, so that very little time be required for its tending.
(38) Ibid. 23.
(39) I.e., in spite of the high price, people shall neglect the cultivation of the vines for the study of the law.
(40) Ibid. XXXIII, 4.
(41) Shall the booty belong to us, or must we divide it amongst other peoples, since it contains the spoil taken from the ten tribes, which is forbidden to us as theft? (Rashi.)
(42) Ibid.
(43) Lit., ‘raise man from uncleanness to cleanness’.
(44) [I.e., Sennacherib and his armies plundered Israel of their possessions.]
(45) When the latter abandoned all hope of the return thereof; hence other Jews may take it. Here follows in the text a bracketed passage, which is rightly deleted as having no bearing upon the subject.
(46) Sennacherib.
(47) Isa. X, 28-31.
(48) Heb. galle, constr. of gallim.
(49) Jer. IV, 7: laish (layyish) too is a ‘lion’. ‘Cause it to be heard unto laish’ therefore means, ‘thy cries should be on account of Nebuchadnezzar, the lion, not Sennacherib’.

Talmud - Mas. Sanhedrin 95a

O poor Anathoth? — Jeremiah the son of Hilkiah, from Anathoth, is destined to prophesy thereon, [sc. concerning Jerusalem],[1] as it is written, The words of Jeremiah the son of Hilkiah, of the priests that were in Anathoth in the land of Benjamin.[2] But what comparison is it? there[3] [Nebuchadnezzar is called] ‘ari,’ whilst here ‘laish’ [is written]? — R. Johanan answered: The lion has six names, viz. ari,[4] kefir,[5] labi,[6] laish,[7] shahal,[8] and shahaz.[9] But if so, there were less [than ten]? — [i] They are gone over, [ii] the passage, implies two.

What is meant by, As yet shall he halt at Nob that day?[10] — R. Huna said: [Only] that day was left for [the punishment of] the crime [committed] in Nob.[11] So his soothsayers said to him, ‘If thou proceedest now [to attack], thou wilt conquer it; if not, thou wilt not conquer it.’ Therefore the journey that should have taken ten days to make he completed in one day.[12] When Jerusalem was reached, mattresses were piled up for him until, by ascending and sitting on the uppermost, he saw the whole of Jerusalem. On beholding it, it appeared small in his eyes. ‘Is this the city of Jerusalem,’ he exclaimed, ‘for which I set all my troops in motion, and conquered the whole country? Why, it is smaller and weaker than all the cities of the nations which I have subdued by my might!’[13] Then he arose and shook his head and waved his hand to and fro contemptuously toward the Temple in Zion, against the [Temple] Court in Jerusalem.[14] They [the astrologers] urged, ‘Let us attack immediately.’[15] ‘Ye are too worn out,’ he replied, ‘but to-morrow let each of you bring me a stone, and we shall stone it.’[16] Straightway, And it came to pass that night that the angel of the Lord went out, and smote in the camp of the Assyrians an hundred fourscore and five thousand: and when they arose early in the morning, behold, they were all dead corpses.[17] R. Papa said: Thus men say: If the verdict is postponed overnight, it comes to nought.[18]

And Ishbi-benob, which was of the sons of the giant, the weight of whose spear weighed three hundred shekels of brass in weight, he being girded with a new sword, thought to have slain David.[19] What is meant by ‘And Ishbi-be-nob’? — Rab Judah said in Rab's name: A man who came on account of Nob.[20] [For] the Holy One, blessed be He had said to David, ‘How long will this crime be hidden in thy hand. [i.e.. unpunished]. Through thee Nob, the city of Priests, was massacred; through thee Doeg the Edomite was banished; and through thee Saul and his three sons were slain:[21] wouldst thou rather thy line to end, or be delivered unto the enemy's hand? He replied: ‘Sovereign of the Universe! I would rather be delivered into the enemy's hand than that my line should end.’[22] One day, when he [David] ventured forth to Sekhor Bizzae,[23] Satan appeared before him in the guise of a deer. He shot arrows at him, but did not reach him, and was thus led on until inveigled into the land of the Philistines. When Ishbi-benob espied him, he exclaimed, ‘It is he who slew my brother Goliath.’ So he bound him, doubled him up and cast him under an olive press; but a miracle was wrought, and the ground softened under him. Hence it is written, Thou hast enlarged my steps under me, that my feet did not slip.[24] Now that day was Sabbath Eve, and Abishai the son of Zeruiah,[25] washing his head in four gribahs[26] of water, remarked some blood-stains [therein]. Others say a dove came and beat [its wings] before him. Thereupon he reasoned: Israel[27] is likened to a dove, as it is written, ye are as the wings of a dove covered with silver;[28] this must be an intimation that David is in trouble. So he went to his house, but did not find him. Now, said he, we learnt, One may not ride upon his [sc. a king's] horse, nor sit upon his seat, nor use his sceptre:[29] but how is it in a time of danger? So he went and propounded the question in the schoolhouse, and was answered, ‘In time of danger, it is permitted.’ He then mounted his [sc. David's] mule and rode off,[30] and the earth contracted under him.[31] Whilst riding, he saw Orpah his [sc. Ishbi-benob's] mother spinning. On descrying him, she broke off [the thread of] the spindle and threw it [the spindle] at him, intending to kill him. Then she said, ‘Young man, bring me the spindle.’[32] but he threw it on the top of her head instead, and killed her. When Ishbi-benob beheld him, he said [to himself], Now that there are two they will slay me. So he threw David up [in the air] and stuck his spear [into the earth], Saying. ‘Let him fall upon it, and perish;’ but Abishai pronounced the Divine Name, by means of which David was held suspended between heaven and earth. (Why did not David pronounce it himself? — Because ‘a prisoner cannot free himself from prison.’) [Abishai] then enquired of him, ‘What dost thou here?’ — ‘Thus did God speak unto me,[33] and thus did I answer Him,’ replied he. ‘Reverse thy prayer.’ said he: ‘let thy grandson sell wax rather than that thou shouldst suffer.’[34] ‘If so,’ said he, ‘do thou aid me [to reverse it].’ Hence it is written, But Abishai the son of Zeruiah succoured him,[35] upon which Rab Judah commented in Rab's name: He succoured him in prayer. Abishai then [again] pronounced the Divine Name and brought him down[36] [from midair, where he was still suspended]. Now Ishbi-benob was pursuing them. When they reached Kubi[37] they said to [each other], ‘Let us stand [and fight] against him.’ [But they were still afraid, and proceeded further.] When they reached Bethre[38] they said, ‘Can two whelps kill a lion?’[39] So they taunted him, ‘Go and find thy mother Orpah in the grave.’ On their mentioning his mother's name to him[40] his strength failed, and they slew him. Hence it is written, Then the men of David sware unto him, saying, Thou shalt no more go out with us unto battle, that thou quench not the light of Israel.[41]

Our Rabbis taught: For three did the earth shrink: Eliezer, Abraham's servant, our father Jacob, and Abishai the son of Zeruiah. Abishai the son of Zeruiah, as has just been narrated. Eliezer, Abraham's servant, as it is written, And I came this day unto the well,[42] implying that he had set out on that day.[43] Our father Jacob,

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(1) ‘O poor’ עניה, is thus derived from ענה, to answer, and thence to prophesy.

(2) Jer. I, 1. Thus viii, ix, and x must be deducted. The Talmud objects further that in that case there are less than ten, but it first questions the identification of laish with Nebuchadnezzar.

(3) In Jer. IV, 7.

(4) Gen. XLIX, 9.
(5) Judges XIV, 5.
(6) Gen. ibid.
(7) Isa. XXX, 6.
(8) Ps. XCI, 13.
(9) Job XXVIII, 8.
(10) Isa. X, 32.
(11) When the priests of Nob were massacred (I Sam. XXII, 17-19). God set a term for punishment, of which that day was the last. The verse is thus interpreted: ‘That day yet remained (of the fixed term) on which(Sennacherib) might stand (against Jerusalem) on account of Nob.’
(12) These are the ten marches referred to above.
(13) Lit., ‘the might of my hand.’
(14) Zion was one of the hills-which is a matter of dispute-upon which Jerusalem was built. By a synecdoche, it is often, though not here, used for Jerusalem itself.
(15) Lit., ‘stretch forth a hand against it.’
(16) So Jast., whose reading differs slightly from our text. Rashi: Bring you each a portion of the wall, i.e., any weak stone you may find which can easily be dislodged. [Another rendering: Bring me as much mortar as is necessary to seal a letter (v. Levy, s. v. גולמהרג)].
(17) II Kings XIX, 35.
(18) I.e., what is not done immediately may never be done.
(19) II Sam. XXI, 16.
(20) As an avenger, Ish = a man.
(21) When David, on his flight from Saul, received succour in Nob, (I Sam. XXI.) he was seen there by Doeg the Edomite. On the latter's reporting this to Saul, he slew all the priests of Nob for treason (Ibid. XXII, 17-19), Doeg being his instrument. For this Doeg was banished from his portion in the future world (the phrase may also mean lost his life — נטרד מן העולם; v. II Sam. I, 2; Pesik. ed. Buber III, 28b) and the defeat and death of Saul and his three sons at Mount Gilboa (I Sam. XXX, 1, 6) was a punishment for the same. Thus all this was indirectly caused by David.
(22) Lit., ‘thy seed to cease’.
(23) The name of a place (Rashi). Other interpretations: ‘to fill up breaches’; [‘to limit’, the word being a composite: ‘net and falcon’ (Levy)].
(24) Ps. XVIII, 37.
(25) David's sister's son, and brother of Joab, and one of the captains of David's army.
(26) A gribah = one se'ah.
(27) Lit., ‘The Assembly of Israel.’
(28) Ibid. LXVIII, 14; v. Ber. 53b.
(29) V. supra 22a.
(30) Hoping that the animal's instinct would lead it to its master.
(31) That he might cover the distance quickly.
(32) Pretending that it had merely fallen out of her hand.
(33) The alternative mentioned above.
(34) [Juvenal, Saturnalia, 6,542. alludes to the Jews selling wax-candles in Rome. V. Ginzberg, Legends. VI, 264, n. 87.]
(35) II Sam. XXI, 17.
(36) At some distance from where Ishbi stood (Rashi).
(37) A town near the border. [Horowitz, Palestine, p. 158 identifies it with El-Kabbu S.W. of Bethar.]
(38) Bethar, where the last stand in the Bar Cochba revolt was made (Neubauer, op. cit. 103).
(39) Surely not; i.e., ‘we are too weak, even combined, to slay him.’ The remark was suggested by the place name Bethre, which means ‘by two’, as previously ‘let us arise’ — קום בי — was suggested by קובי.
(40) I.e., that she was dead.
(41) Ibid.
(42) Gen. XXIV, 42.
(43) Since the journey could not be normally done in a day, the earth must have shrunk for him.

Talmud - Mas. Sanhedrin 95b

as it is written, And Jacob went out from Beer-sheba, and went to Haran;[1] which is followed by and he lighted upon a certain place, and tarried there all night, because the sun was set.[2] For when he reached Haran, he said [to himself], ‘Shall I have passed through a place in which my fathers prayed, without doing so likewise!’ He wished therefore to return, but no sooner had he thought of this than the earth contracted, and immediately he lighted upon a place [the objective of his journey]. An alternative exegesis is this: Pegi'ah[3] can only mean prayer, as it is written, Therefore pray thou not for this people, neither lift up cry nor prayer for them, neither make intercession[4] to me.[5]

And tarried there all night, because the sun was set. Having prayed, he wished to proceed: thereupon the Holy One, blessed be He, said: This righteous man has come to my habitation:[6] shall he depart without a night's rest? Immediately the sun set [before its time].[7] Hence it is written, [And as he passed over Penuel,] the sun rose for him.[8] Now, had the sun risen for him alone: surely it had risen for the whole world! But, said R. Isaac, the sun which had [prematurely] set on his account, now rose [prematurely] on his account too.

Now, whence do we know that David's seed ceased?[9] — From the verse, And when Athaliah the mother of Ahaziah saw that her son was dead, she arose and destroyed all the seed royal.[10] But was not Joash left? — There too Abiathar was left, as it is written, And one of the sons of Ahimelech the son of Ahitub, named Abiathar, escaped.[11] Rab Judah said in Rab's name: Had not Abiathar been left of Ahimelech the son of Ahitub, not the slightest remnant[12] would have remained of David's seed.

Rab Judah said in Rab's name: The wicked Sennacherib advanced against them.[13] with a force consisting of forty-five thousand princes, each enthroned in a golden chariot and accompanied by his ladies and harlots, eighty thousand warriors in coat-of-mail, and sixty thousand swordsmen of the front line, the rest cavalrymen. A similar host attacked Abraham ,[14] and a like force will accompany Gog and Magog.[15] In the Baraitha it was taught: The length of his army was four hundred parasangs, the horses standing neck to neck formed a line forty parasangs long, and the grand total of his army two million, six hundred thousand less one. Abaye inquired: Less one ribbo [ten thousand], one thousand, one hundred, or one? The question stands over.

A Tanna taught: The first company swam across, as it is written, he shall overflow and go over;[16] the second walked across,[17] as it is written, he shall reach even to the neck; the third cast up the dust [of the river bed] with their feet and found no water in the river to drink, until it was brought from elsewhere and they drank, as it is written, I have digged, and drunk water.[18]

But is it not written, Then the angel of the Lord went forth, and smote in the camp of the Assyrians an hundred and fourscore and five thousand: and when they arose early in the mornings behold, they were all dead corpses?[19] — R. Abbahu replied: These were the army captains. R. Ashi said: This may be deduced too, for it is written, [Therefore shall the Lord . . . send] among his fat ones leanness,[20] meaning, amongst the cream [i.e., the leaders] of them. Rabina said: This may be also deduced, for it is written, And the Lord sent an angel, which cut off all the men of valour, and the leaders and the princes in the camp of the king of Assyria. So he returned with shamefacedness to his own land. And when he entered into the house of his god, they that came forth of his own bowels slew him there with the sword.[21] This proves it.

Wherewith did he [the angel] smite them? — R. Eliezer said: He smote them with his hand, as it is written, And Israel saw the great hand,[22] implying the hand that was destined to exact vengeance of Sennacherib.[23] R. Joshua said: He smote them with his finger, as it is written, Then the magicians said unto Pharaoh, This is the finger of God,[24] implying this is the finger destined to punish Sennacherib. R. Eliezer, the son of R. Jose, said: The Holy One, blessed be He, said to Gabriel, ‘Is thy sickle sharpened [to mow down the Assyrians]?' He replied: 'Sovereign of the Universe! It has been sharpened since the Six days of Creation', as it is written, For they fled from the swords, from the sharpened sword etc.[25] R. Simeon b. Yohai said: It was the time for the ripening of fruits, so the Holy One, blessed be He, said to Gabriel, 'When thou goest forth to ripen the fruits,[26] attack them, as it is written, As he passeth[27] he shall take you:' for morning by morning shall he pass by, by day and by night, and it shall be a sheer terror to understand the report.'[28] R. Papa said: Thus people say, 'In passing, reveal thyself to thine enemy.'[29]

Others say: He [Gabriel] breathed into their nostrils, and they died, as it is written, and he shall also blow upon them, and they shall wither.[30] R. Jeremiah b. Abba said: He smote his hands at them, and they died, as it is written, I will also smite mine hands together, and I will cause my fury to rest.[31] R. Isaac the Smith said: He unsealed their ears for them, so that they heard the Hayyoth[32] sing [praises to God] and they died, as it is written, at thine exaltation the people were scattered.[33]

Now how many were left of them. [sc. the Assyrians host]? — Rab said: Ten, as it is written, And the rest of the trees of his forest shall be few, that a child may write them:[34] What figure can a child write? — Ten.[35] Samuel said: Nine [were left], as it is written, yet gleaning grapes shall be left in it, as the shaking of an olive tree, two and three berries in the top of the uppermost bough, four and five in the utmost fruitful branches thereof.[36] R. Joshua b. Levi said: Fourteen, as it is written, two, three . . . four five.[37] R. Johanan said: Five, viz., Sennacherib and his two sons, Nebuchadnezzar and Nebuzaradan. [That] Nebuzaradan [survived] is a tradition. Nebuchadnezzar, as it is written, And the form of the fourth is like an angel of God:[38] Had he not seen [an angel], how did he know [his appearance]?[39] Sennacherib and his two sons, as it is written, And it came to pass, as he was worshipping in the house of Nisroch his god, that Adrammelech and Sharezer his sons smote him with the sword.[40]

R. Abbahu said: Were not the [following] verse written, it would have been impossible to conceive of it: viz., In the same day shall the Lord shave with a razor that is hired, namely, by the riverside, by the king of Assyria, the head, and the hair of the feet: and it shall consume the beard.[41] The Holy one, blessed be He, went and appeared before him [Sennacherib] as an old man, and said to him, 'When thou goest to the kings of the east and the west, whose sons thou didst lead [to battle][42] and cause their death, what wilt thou say to them?' He replied, 'I[43] too entertain that fear. What then shall I do?' asked he. 'Go,' He replied,

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(1) Ibid. XXVIII, 10.

(2) Ibid. 11. The first verse implies that he had reached Haran, the second that he had not. The Talmud therefore proceeds to reconcile the discrepancy.

(3) פגיעה, the root idea of ויפגע 'he lighted upon'.

(4) תפגע.

(5) Jer. VII, 16. Rashi, in his teacher's name, and the Wilna Gaon both delete the passage 'an alternative . . . me' as being out of place here.

(6) According to tradition, he was on the future site of the Temple.

(7) This exegesis is based on the use of the plus perfect בא, instead of the continuous imperfect ויבא, which is interpreted as implying that its setting was premature.

(8) Ibid. XXXII, 32.

(9) Since David reversed his prayer; v. supra 95a.

(10) II Kings XI, 1.

(11) I Sam. XXII, 20. Since the cessation of David's seed was in expiation of the crime against the city of Nob, it was but just that as one had escaped on that occasion, so should one now too be saved.

(12) Lit., 'one that escaped or remained.'

(13) The Israelites in the days of Hezekiah.

(14) On the occasion of his pursuit of the four kings. (Gen. XIV).

(15) V. p. 630, n. 6.

(16) Isa. VIII, 8.

(17) Lit., ‘passed over in an upright position.’

(18) Ibid. XXXVII, 25. The passage of the first company, effected by swimming, so diminished the water of the river that the second had to walk across, while the second thoroughly emptied it, leaving it quite dry.

(19) Ibid. 36, proving that this was the size of the army.

(20) Ibid. X, 16.

(21) II Chron. XXXII, 21. This is another proof that the reference is only to the leaders.

(22) Ex. XIV, 31.

(23) This is deduced from the def. art.

(24) Ibid. VIII, 14.

(25) Isa. XXI, 15.

(26) Gabriel being the angel in charge of this.

(27) On his mission of ripening the fruits.

(28) Ibid. XXVIII, 19.

(29) Lit., ‘on the way make thyself heard by the enemy,’ i.e., take revenge when the opportunity is afforded.

(30) Ibid. XL, 24.

(31) Ezek. XXI, 22.

(32) [The celestial ‘living creatures’ mentioned in Ezekiel's mystic vision; v. Ezek. I and X.]

(33) Isa. XXXIII, 3. The first half of the verse reads, At the noise of the tumult the people fled. ‘Tumult’ is taken to refer to the song of the Hayyoth in their ‘exaltation’ of the Lord.

(34) Ibid. X, 19.

(35) [A yod(י), being formed by a mere stroke of the pen, is the easiest letter for a child to write.]

(36) Ibid. XVII, 6. This is rendered: ‘just as after the shaking of an olive tree there may remain two olives here and three there, so shall there be left of the army four here and five there-nine in all.’

(37) Interpreting, ‘two here, three there, four here, five there- fourteen in all.’

(38) Dan. III, 25.

(39) Hence he must have been present when Gabriel destroyed the army. — The speaker is Nebuchadnezzar.

(40) II Kings XIX, 37. It is assumed that they all must have been in the army before Jerusalem.

(41) Isa. VII, 20.

(42) V. supra.

(43) Lit., ‘that man’, frequently employed euphemistically for I’.

Talmud - Mas. Sanhedrin 96a

‘and disguise thyself’. ‘How shall I disguise myself?’ ‘Bring me a razor, and I myself will shave thee’. He answered. ‘Whence shall I procure it?’ ‘Enter that house and take it’, He rejoined. So he went and found it there. But the Ministering angels appeared to him in the shape of men grinding palm kernels. ‘Give me the razor,’ said he. ‘Grind a griwah[1] of palm kernels,’ they replied, ‘and we will give it thee’. So he ground a griwah of palm kernels, and they gave him the razor. By the time he returned, it had become dark. ‘Go and bring some fire’, He ordered. So he went and brought fire. Whilst he was blowing it [into a blaze], it caught hold of his beard, whereupon He shaved off the hair of his head together with his beard.[2] They [sc.’ the scholars] said: That is what is meant by the phrase, and it shall also consume the beard.[3] R. Papa said: Thus men say, If thou art singeing [the hair of] an Aramean, and he is pleased therewith, set light to his beard; so wilt thou not suffer his mockery.[4] He then went away and found a plank of Noah's ark. ‘This’, said he, ‘must be the great God who saved Noah from the flood. If I[5] go [to battle] and am successful, I will sacrifice my two sons to thee’, he vowed. But his sons heard this, so they killed him, as it is written, And it came to pass, as he was worshipping in the house of Nisroch his god, that Adrammelech and Sharezer his sons smote him with the sword etc.[6]

And he fought against them, he and his servants, by night [lailah][7] and smote them.[8] R. Johanan said: The angel who was appointed to [aid] Abraham was named lailah [Night]. as it is written, [Let the day perish wherein I was born], and the Lailah which said, There is a man child conceived.[9] R. Isaac, the smith, said: He [the angel] set into motion the activities of the night [viz.. the stars] on his behalf, as it is written, They fought from heaven; the stars in their courses fought against Sisera.[10] Resh Lakish said: The smith's interpretation is better than the son of the smith's.[11] And he pursued them unto Dan.[12] R. Johanan said: As soon as that righteous man came unto Dan, his strength failed him, for he [prophetically] saw his descendants who would practise idolatry in Dan, as it is written, And he set the one in Beth-el, and the other put he in Dan.[13] That wicked man [Nebuchadnezzar] too did not prevail until he reached Dan, as it is written, The snorting of his horses was heard from Dan.[14]

R. Zera said: Though R. Judah b. Bathyra[15] sent a message from Nisibis,[16] [saying]. Observe [the respect due to] a scholar[17] who has forgotten his learning through a misfortune [e.g., illness]; and be careful [to cut] the jugular veins, in accordance with R. Judah's ruling;[18] and be heedful of the honour due to the children of the ignorant, for from them proceedeth the Torah:[19] yet such a thing as this is made known to them.[20] [Viz..] Righteous art thou, O Lord, when I plead with thee: Yet let me talk to thee of thy judgments: wherefore doth the way of the wicked prosper? Wherefore are all they happy that deal very treacherously? Thou hast planted them, yea, they have taken root: they grow, yea, they bring forth fruit.[21] What was he answered? — If thou hast run with the footmen, and they have wearied thee, then how canst thou contend with the horses? And if in the land of peace, wherein thou trustedst, they wearied thee, then how wilt thou do in the swelling of the Jordan?[22] This may be compared to a man who boasted, ‘I can run three parasangs in front of horses on marshy land.’ But happening to meet a pedestrian, he ran three mils[23] before him on dry land, and was exhausted. Thereupon he said to him: ‘If thou art thus before a pedestrian, how much more so before horses: and if three mils have so [tired thee], how much more so three parasangs; and if on dry land it is thus, how much more so on marshy swamps!’ It is even so with thee: if thou art thus astonished at the reward wherewith[18] requited that wicked man for the four steps which he ran in my honour,[24] how much more when I give their due reward to Abraham, Isaac, and Jacob, who ran before me like horses [i.e., eagerly and swiftly]! Hence it is written, My heart within me is broken because of the prophets;[25] all my bones shake; I am like a drunken man, and like a man whom wine hath overcome; because of the Lord, and because of the words of his holiness.[26]

To what does the ‘four steps’ refer? — As it is written, At that time, Merodach-baladan, the son of Baladan, king of Babylon, sent letters and a present to Hezekiah: [for he had heard that he had been sick, and was recovered].[27] But just because Hezekiah had fallen sick and was recovered, he sent him letters and a present![28] Indeed ‘to enquire of the wonder that was done in the land.’[29] For R. Johanan said: The day on which Ahaz died consisted of but two hours;[30] and when Hezekiah sickened and recovered, the Holy One, blessed be He, restored those ten hours, as it is written, Behold, I will bring again the shadow of the degrees, which is gone down in the sun dial of Ahaz, ten degrees backward. So the sun returned ten degrees, by which degrees it was gone down.[31] Thereupon he [Merodach-baladan] inquired of them [his courtiers], ‘What is this?’ They replied, ‘Hezekiah has sickened and recovered.’ ‘There is such a [great] man,’ exclaimed he, ‘and shall I not send him a greeting! Write thus to him: "Peace to King Hezekiah, peace to the city of Jerusalem, and peace to the great God!"’ Now Nebuchadnezzar was Baladan's scribe, but just then he was not present. When he came, he asked them, ‘How did ye write?’ And they told him, ‘We wrote thus and thus.’ ‘Ye called him the great God,’ said he, ‘yet ye mentioned him last! Thus,’ said he, ‘should ye have written: "peace to the great God, peace to the city of Jerusalem, and peace to King Hezekiah."’ ‘Let the reader of the letter,’ said they to him, ‘become the messenger.’[32] So he ran after him;[33] but when he had taken four steps, Gabriel came and made him halt. R. Johanan observed: Had not Gabriel come and stopped him, nothing could have saved[34] the enemies of Israel.[35]

Why was he called [Merodach-]Baladan the son of Baladan?[36] It is told: Baladan was a king whose face turned into that of a dog,[37] so that his son sat upon his throne instead. In his documents he wrote his own name, and the name of his father, King Baladan, [i.e., Merodach-baladan]. This is the meaning of the verse, A son honoureth his father, and a servant his master.[38]

Now, ‘a son honoureth his father’ refers to what has just been said. ‘And a servant his master’ — as it is written, Now in the fifth month, in the tenth day of the month, which was the nineteenth year of Nebuchadnezzar, king of Babylon, came Nebuzaradan, captain of the guard, and stood before the king of Babylon in Jerusalem, And burned the house of the Lord, and the king's house.[39]

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(1) A dry measure: the quantity put in one time into a handmill.

(2) Thus he was shaved with a razor hired by his own work, a work which is done ‘by the riverside’, viz., grinding, the water providing power for the mill.

(3) ‘Consume’ not being applicable to the action of a razor, something else must be intended, viz., the fire.

(4) I.e., even when he is pleased with a Jew, he is still a potential source of danger.

(5) V. p. 646, n. 6.

(6) II Kings XIX, 37.

(7) לילה

(8) Gen. XIV, 15.

(9) Job III, 3 the verse is translated: And Lailah fought on their behalf;he(Abraham) and his etc.

(10) Judges V, 20; thus, just as there, so here too.

(11) So Rashi, assuming that R. Johanan was the son of a smith. But Bar Nappaha may simply mean a smith (Jast.); R. Johanan was so occasionally dubbed; e.g., B.M. 85b. Rashi also suggests that the name may allude to his beauty. In that case נפה may be understood, the sense being, inflaming one's desires.

(12) Gen. XIV, 14.

(13) I Kings XII, 29. The reference is to the golden calves set up by Jeroboam.

(14) Jer. VIII, 16.

(15) Var. lec., R. Joshua b. Levi; but v. next note.

(16) Nisibis was on the frontier of Armenia, not far from Mesopotamia. There R. Judah b. Bathyra had his school. (V. supra, 32b — this fact supports the reading of our text.)

(17) Lit., ‘elder,’ but generally used of a mature scholar.

(18) When a fowl is slaughtered, the jugular vein, which contains much blood, must be cut too; otherwise the fowl may not be roasted whole. This is R. Judah's opinion.

(19) Though the fathers may be unlearned, the children, if scholars, must be duly respected, for they may be the forebears of great scholars, as is evidenced by Shemaiah and Abtalion who were the descendants of Sennacherib (Rashi); v. infra 96b.

(20) The reference is not quite clear. Rashi gives two alternatives: (i) They are honoured on account of the slight merit which their father possessed; or (ii) they are honoured solely on account of their learning, not their ancestry, lest they forget their ignoble origin.

(21) Jer. XII, 1f. The question refers to Nebuchadnezzar's military successes, particularly in Palestine.

(22) Ibid, 5.

(23) Mil=1/4 parasang.

(24) The allusion is explained further on.

(25) I.e., Abraham, Isaac and Jacob: I am filled with wonderment at the magnitude of their reward. Maharsha explains this more naturally: My heart is broken because of the false prophets, who assure Israel that Nebuchadnezzar will not meet with success in Palestine, being a greater sinner than the Jews. But that is a false hope: he shall be rewarded with victory on account of the four steps which he ran in God's honour.

(26) Ibid. XXIII, 9.

(27) Isa. XXXIX, 1.

(28) Surely not!

(29) II Chron. XXXII, 31.

(30) I.e., it set ten hours too soon, to allow of no time for the funeral obsequies and eulogies. This was in order to make atonement for his sins, for the disgrace of being deprived of the usual funeral honours expiates ones misdeeds, as stated supra 46b and 47a.

(31) Isa. XXXVIII, 8. The return of the ten degrees is assumed to mean a prolongation of the day by ten hours, light having healing powers.

(32) I.e., let him who gave the advice carry it out.

(33) I.e., the messenger, who was already on his way, to recall him and rewrite it.

(34) Lit., ‘there would have been no remedy for . . .

(35) A euphemism for the Jews themselves. Had he run further and actually carried out his desire, his title to reward would have been so great as to enable him to wipe out Israel. The scholarly children of the ignorant — a synonym here for the wicked — should thus be informed that the honour paid to them is due to the slight merit of their fathers, as in this case.

(36) It being unusual for father and son to bear the same name.

(37) [In Assyrian-Babylonian Monuments there are to be seen dogs in the company of Merodach, and this is very likely an explanation of this conception of Baladan's dog-face; v. Ginzberg, Legends, VI, 368, 82.]

(38) Mal. I, 6.

(39) Jer. LII, 12f.

Talmud - Mas. Sanhedrin 96b

But had Nebuchadnezzar gone up to Jerusalem? Surely it is written, They carried him up unto the King of Babylon to Riblah,’[1] and R. Abbahu said that this was Antioch? — R. Hisda and R. Isaac b. Abudimi [replied as follows] — One answered: His [Nebuchadnezzar's] portrait was engraved on his [Nebuzaradan's] chariot; and the other explained: He stood in such awe before him that it is as though he were in his presence.[2]

Raba said: Nebuchadnezzar sent Nebuzaradan three hundred mules laden with iron axes that could break iron,[3] but they were all shattered[4] on a single gate of Jerusalem, for it is written, And now they attack its gate [lit., ‘door’] together: with axes and hammers they smite.[5] He desired to return, but said, ‘I am afraid lest I meet the same fate which befell Sennacherib.’[6] Thereupon a voice cried out, ‘Thou leaper, son of a leaper, leap, Nebuzaradan, for the time has come for the Sanctuary to be destroyed and the Temple burnt.’ He had but one axe left, so he went and smote [the gate] with the head thereof, and it opened, as it is written, A man was famous according as he had lifted up axes upon the thick trees.[7] He hewed down [the Jews] as he proceeded, until he reached the Temple. Upon his setting fire thereto, it sought to rise up, but was trodden down[8] from Heaven, as it is written, The Lord hath trodden down the virgin daughter of Judah [the Temple] as in a winepress.[9] His mind was now elated [with his triumph], when a voice came forth from Heaven saying to him, ‘Thou hast slain a dead people, thou hast burned a Temple already burned, thou hast ground flour already ground, as it is written, Take the millstones, and grind meal: uncover thy locks, make bare the leg, uncover the thigh, pass over the rivers:’[10] not ‘wheat’ but meal is said.[11]

[After that] he saw the blood of Zechariah[12] seething. ‘What is this?’ cried he. ‘It is the blood of sacrifices, which has been spilled,’ they answered. ‘Then,’ said he, ‘bring [some animal blood] and I will compare them, to see whether they are alike.’ So he slaughtered animals and compared them, but they were dissimilar. ‘Disclose [the secret] to me, or if not, I will tear your flesh with iron combs,’ he threatened. They replied: ‘This is [the blood of] a priest and a prophet, who foretold the destruction of Jerusalem to the Israelites, and they killed him.’ ‘I,’ said he, ‘will appease him.’ So he brought the scholars and slew them over him,[13] yet it did not cease [to boil]. He brought schoolchildren and slew them over him, still it did not rest; he brought the young priests and slew them over him, and still it did not rest, until he had slain ninety four thousand, and still it did not rest. Whereupon he approached him and cried out, ‘Zechariah, Zechariah, I have destroyed the flower of them: dost thou desire me to massacre them all?’ Straightway it rested. Thoughts of repentance came into his mind: if they, who killed one person only, have been so [severely punished], what will be my fate? So he fled, sent his testament to his house, and became a proselyte.

Our Rabbis taught: Naaman was a resident alien,[14] Nebuzaradan was a righteous proselyte,[15] the descendants of Sisera studied Torah in Jerusalem; the descendants of Sennacherib taught Torah to the multitude: Who were these? — Shemaiah and Abtalion.[16] The descendants of Haman studied Torah in Benai Berak. The Holy One, blessed be He, purposed to lead the descendants of that wicked man[17] too under the Wings of the Shechinah,[18] but the ministering Angels protested before Him, ‘Sovereign of the Universe! Shalt Thou bring him under the wings of the Shechinah who laid Thy House in ruins, and burnt Thy Temple?’ That is meant by the verse, We would have healed Babylon, but she is not healed.[19] ‘Ulla said: This refers to Nebuchadnezzar;[20] R. Samuel b. Nahmani said: By this are meant the rivers of Babylon[21] which run along the palm-trees of Babylonia.[22] ‘Ulla said: Ammon and Moab were evil neighbours of Jerusalem. As soon as they heard the prophets predicting the destruction of Jerusalem, they sent to Nebuchadnezzar, ‘Leave [thy country] and come hither.’ He replied, ‘I am afraid lest I be treated as my predecessors. Thereupon they sent word, ‘For the man is not at home;[23] and ‘man’ refers only to the Holy One, blessed be He, as it is written, The Lord is a man of war.[24] He sent answer, ‘But he may be near, to which they returned, ‘He hath gone a long journey.’[25] He again sent word: ‘They have among them righteous men who may pray to Him and bring Him back.’ They answered, ‘He hath taken a bag of money with him;’[26] and ‘money’ refers to none but the righteous, as it is written, So I bought her to me for fifteen pieces of silver, and for an homer of barley, and an half homer of barley.[27] He sent back: ‘The wicked may repent, pray for mercy, and bring Him back.’ They answered, ‘He hath already fixed a time for them,’[28] as it is written, And will come home at the day appointed [ha-kese][29] and ‘kese’ can only refer to time, as it is written, in the time appointed [ba-kese] on our solemn feast day.[30] He then sent word, ‘It is winter, and I cannot come on account of the approaching snows and rains.’ They replied, ‘Come by way of the mountains, [which will protect you];’[31] as it is written, Send ye a messenger to the ruler of the earth [i.e., Nebuchadnezzar] [that he may come] by way of the rocks [i.e., mountains] to the wilderness, [unto the mount of the daughter of Zion].[32] He sent back, ‘If I come, I have no place for encamping.’[33] They replied, ‘Their graveyards are better than thy palaces’; as it is written, At that time, saith the Lord, they shall bring out the bones of the King of Judah, and the bones of his princes, and the bones of the priests, and the bones of the prophets, and the bones of the inhabitants of Jerusalem, out of their graves: And they shall spread them before the sun, and the moon, and all the host of heaven, whom they have loved, and whom they have served, and after whom they have walked.[34]

R. Nahman said to R. Isaac: ‘Have you heard when Bar Nafle[35] will come?’ ‘Who is Bar Nafle?’ he asked. ‘Messiah,’ he answered, ‘Do you call Messiah Bar Nafle?’ — ‘Even so,’ he rejoined, ‘as it is written, in that day I will raise up

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(1) Ibid. 9.

(2) According to both answers the verse shews the singular honour which he paid him.

(3) Lit., ‘that has power over iron;’ to hew down the gate of Jerusalem.

(4) Lit., ‘swallowed up.’

(5) Ps. LXXIV, 6.

(6) Who was assassinated on his return from Jerusalem, II Kings XIX, 37.

(7) Ps. LXXIV, 5.

(8) I.e., forced down.

(9) Lam. I, 15.

(10) Isa. XLVII, 2.

(11) I.e., he had no cause for pride, for the destruction of Israel having been decreed, they were already as destroyed.

(12) Zechariah, the son of Jehoiada, was a priest who flourished during the reign of Joash, king of Judah. On account of his stern denunciation of idolaters a conspiracy was formed against him, and he was stoned in the Temple Court at the king's command — II Chron. XXIV, 20-22. In his dying words he called for vengeance. [V. however, Baeck, MGWJ, pp. 313ff.]

(13) I.e., his blood.
(14) One who renounces idolatry for the sake of certain rights of citizenship in Palestine.
(15) One who accepts all the laws of Judaism with no ulterior motive.
(16) The teachers of Hillel.
(17) Nebuchadnezzar.
(18) I.e., make them proselytes.
(19) Jer. 21, 9.
(20) That God desired his descendants to become proselytes.
(21) Which are unfit for drinking purposes (v. Obermeyer, op. cit. 195). [The reference is to Ps. CXXXVII, 1; v. Strashun, a.l.]
(22) [Which stand by the river's edge and bear no fruit. Thus Rashi on the basis of a slightly different reading. According to Obermeyer, op. cit. 295, following our text, it may be rendered thus: ‘By this are meant the rivers of Babylonia which, as is explained, run along the palm trees of Babylon.’ The water, that is to say, is rendered unfit for drinking purposes by reason of the salt it absorbs from the soil, as palm trees need salty ground for their cultivation.]
(23) Prov. VII, 19.
(24) Ex. XV, 3.
(25) Prov. Ibid.
(26) Ibid. 20.
(27) Hos. III, 2: This is figuratively interpreted: I redeemed the Israelites from Egypt on the fifteenth of Nisan, in the merit of the forty five righteous men (a homer and a half is forty five se'ahs) by whose virtue the world exists (Hul. 92a). Thus ‘silver’, the price of redemption, is an allegorical reference to the righteous.
(28) That He will not return to them until seventy years of exile have passed.
(29) הכסא Prov. Ibid.
(30) Ps. LXXXI, 1, 3.
(31) So Rashi. Jast. renders: ‘Come, even if it be necessary to march over the cliffs and mountains.’
(32) Isa. XVI, 1.
(33) ‘There is no sheltered place outside Jerusalem where I may encamp with my whole army.’
(34) Jer. VIII, 1f. I.e., the great burial vaults will be cleaned to give shelter to Nebuchadnezzar's army.
(35) [Lit., ‘son of the fallen.’ Bar Nafle is generally assumed to represent the Greek **, the ‘son of the clouds;’ cf. Dan. VII, 13, there came with the clouds of heaven one like a son of man, which R. Nahman gave a Hebrew connotation.]

Talmud - Mas. Sanhedrin 97a

the tabernacle of David ha-nofeleth [that is fallen].’[1] He replied, ‘Thus hath R. Johanan said: in the generation when the son of David [i.e., Messiah] will come, scholars will be few in number, and as for the rest, their eyes will fail through sorrow and grief. Multitudes of trouble and evil decrees will be promulgated anew, each new evil coming with haste before the other has ended.’

Our Rabbis taught: in the seven year cycle at the end of which the son of David will come-in the first year, this verse will be fulfilled: And I will cause it to rain upon one city and cause it not to rain upon another city;[2] in the second, the arrows of hunger will be sent forth;[3] in the third, a great famine, in the course of which men, women, and children, pious men and saints[4] will die, and the Torah will be forgotten by its students; in the fourth, partial plenty;[5] in the fifth, great plenty, when men will eat, drink and rejoice, and the Torah will return to its disciples; in the sixth, [Heavenly] sounds;[6] in the seventh, wars; and at the conclusion of the septennate the son of David will come. R. Joseph demurred: But so many septennates have passed, yet has he not come! — Abaye retorted: Were there then [Heavenly] sounds in the sixth and wars in the seventh! Moreover, have they [sc. the troubles] been in this order[7] !

[Wherewith thine enemies have reproached, O Lord,’ wherewith they have reproached the footsteps of thine anointed.][8] it has been taught, R. Judah said: in the generation when the son of David comes, the house of assembly[9] will be for harlots, Galilee in ruins, Gablan lie desolate,[10] the border inhabitants[11] wander about from city to city, receiving no hospitality, the wisdom of scribes in disfavour, God-fearing men despised, people[12] be dog-faced,[13] and truth entirely lacking, as it is written, Yea, truth faileth, and he that departeth from evil maketh himself a prey.[14] What is meant by 'yea, truth faileth [ne'edereth[15]]'? — The Scholars of the School of Rab[16] said: This teaches that it will split up into separate groups[17] and depart.[18] What is the meaning of 'and he that departeth from evil maketh himself a prey [mishtollel[19]]'? — The School of R. Shila said: He who departs from evil will be dubbed a fool by his fellow-men.[20]

Raba said: I used to think at first that there is no truth in the world.[21] Whereupon one of the Rabbis, by name of R. Tabuth — others say, by name of R. Tabyomi — who, even if he were given all the treasures of the world, would not lie, told me that he once came to a place called Kushta,[22] in which no one ever told lies, and where no man ever died before his time. Now, he married one of their women, by whom he had two sons. One day his wife was sitting and washing her hair, when a neighbour came and knocked at the door. Thinking to himself that it would not be etiquette [to tell her that his wife was washing herself], he called out, 'She is not here.' [As a punishment for this] his two sons died. Then people of that town came to him and questioned him, 'What is the cause of this?' So he related to them what had happened. 'We pray thee,' they answered, 'quit this town, and do not incite Death against us.'[23]

It has been taught: R. Nehorai said: in the generation when Messiah comes, young men will insult the old, and old men will stand before the young [to give them honour]; daughters will rise up against their mothers, and daughters-in-law against their mothers-in-law. The people shall be dog-faced, and a son will not be abashed in his father's presence.

It has been taught, R. Nehemiah said: in the generation of Messiah's coming impudence will increase, esteem be perverted,[24] the vine yield its fruit, yet shall wine be dear,[25] and the Kingdom will be converted to heresy[26] with none to rebuke them. This supports R. Isaac, who said: The son of David will not come until the whole world is converted to the belief of the heretics. Raba said: What verse [proves this]? it is all turned white: he is clean.[27]

Our Rabbis taught: For the Lord shall judge his people, and repent himself of his servants, when he seeth that their power is gone, and there is none shut up, or left:[28] the son of David will not come until denunciators are in abundance.[29] Another interpretation [of their power is gone]: until scholars are few. Another interpretation: until the [last] perutah has gone from the purse. Yet another interpretation: until the redemption is despaired of, for it is written, there is none shut up or left, as — were it possible [to say so] — Israel had neither Supporter nor Helper. Even as R. Zera, who, whenever he chanced upon scholars engaged thereon [I.e., in calculating the time of the Messiah's coming], would say to them: I beg of you, do not postpone it, for it has been taught: Three come unawares:[30] Messiah, a found article and a scorpion.[31]

R. Kattina said: Six thousand years shall the world exist, and one [thousand, the seventh], it shall be desolate, as it is written, And the Lord alone shall be exalted in that day.[32] Abaye said: it will be desolate two [thousand], as it is said, After two days will he revive us: in the third day, he will raise us up, and we shall live in his sight.[33]

It has been taught in accordance with R. Kattina: Just as the seventh year is one year of release in seven, so is the world: one thousand years out of seven shall be fallow, as it is written, And the Lord alone shall be exalted in that day,' and it is further said, A Psalm and song for the Sabbath day,[34] meaning the day that is altogether Sabbath —[35] and it is also said, For a thousand years in thy sight are but as yesterday when it is past.[36]

The Tanna debe Eliyyahu teaches: The world is to exist six thousand years. In the first two thousand there was desolation;[37] two thousand years the Torah flourished;[38] and the next two thousand years is the Messianic era,[39]

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(1) Amos, IX, 11.

(2) ibid. IV, 7.

(3) I.e., not actual famine, but the first signs thereof, no one being completely satisfied.

(4) Lit., ‘men on whose behalf miracles occur.’ — Jast.

(5) Lit., ‘plenty and no plenty’.

(6) Either Heavenly voices announcing the advent of Messiah, or the blasts of the great Shofar; cf. Isa. XXVII, 13.

(7) Though troubles and evil decrees have come in abundance, they were not in the order prescribed.

(8) Ps. LXXXIX, 52.

(9) Where scholars assemble.

(10) [Gaulan, E. of the Sea of Galilee and the upper Jordan].

(11) The Jews living by the borders of Palestine. אנשי גזית the men of (the Hall of) Hewn Stones, I.e., the Sanhedrin.

(12) Lit., ‘the face of the generation.’

(13) I.e., brazen, without shame of each other.

(14) Isa. LIX, 15.

(15) נעדרת

(16) V. p. 387, n. 7.

(17) עדרים עדרים ‘Adarim, ‘adarim. נעדרת is connected with עדר, meaning ‘drove,’ ‘group.’

(18) Probably meaning that there will be so many conflicting opinions as to what is the truth as to render it, for all practical purposes, inaccessible.

(19) משתולל

(20) Cf. Job XII, 17: He leadeth counsellors away spoiled (שולל) and maketh the judges fools. Sholal being parallel to ‘fools’, it bears the same connotation.

(21) I.e., no person always speaks the truth.

(22) Lit., ‘truth’.

(23) Lit., ‘against these men.’

(24) I.e., none shall esteem another. Another opinion: even the most esteemed shall be perverted and deceitful.

(25) Everyone will be drunk, so that in spite of the abundant yield, there will be a scarcity.

(26) [Heb. Minuth. By ‘the Kingdom’ is meant the Roman Empire, and the statement is a remarkable forecast by R. Nehemia (150 C.E.) of the conversion of Rome to Christianity under Constantine the Great in 313; v. however, Herford, Christianity in the Talmud, 207ff.]

(27) Lev. XIII, 13. This refers to leprosy: a white swelling is a symptom of uncleanliness; nevertheless, if the whole skin is so affected, it is declared clean. So here too; when all are heretics, it is a sign that the world is about to be purified by the advent of Messiah.

(28) Deut. XXXII, 36.

(29) ‘When he seeth that their power is gone’ is interpreted as meaning that they will be at the mercy of informers; then God will judge his people — redeem them through the Messiah.

(30) Lit., ‘when the mind is diverted.’

(31) Hence by thinking of him they were postponing his coming.

(32) Isa. II, 11.

(33) Hosea VI, 2: the ‘two days’ meaning two thousand years. Cf. Ps. XC, 4. quoted below.

(34) Ps. XCII, 1.

(35) I.e., the period of complete desolation.

(36) Ps. XC, 4; thus ‘day’ in the preceding verses means a thousand years.

(37) I.e., no Torah. It is a tradition that Abraham was fifty-two years old when he began to convert men to the worship of the true God; from Adam until then, two thousand years elapsed.

(38) I.e., from Abraham's fifty-second year until one hundred and seventy-two years after the destruction of the second Temple. This does not mean that the Torah should cease thereafter, but is mentioned merely to distinguish it from the next era.

(39) I.e., Messiah will come within that period.

Talmud - Mas. Sanhedrin 97b

but through our many iniquities all these years have been lost.[1]

Elijah said to Rab Judah, the brother of R. Salia the pious: ‘The world shall exist not less than eighty five jubilees,[2] and in the last jubilee the son of David will come.’[3] He asked him, ‘At the beginning or at the end?’[4] — He replied, ‘I do not know.’ ‘Shall [this period] be completed or not?’[5] - ‘I do not know,’ he answered. R. Ashi said: He spoke thus to him, ‘Before that, do not expect him; afterwards thou mayest await him.’[6]

R. Hanan b. Tahlifa sent [word] to R. Joseph: I once met a man who possessed a scroll written in Hebrew in Assyrian characters.[7] I said to him: ‘Whence has this come to thee?’ He replied, ‘I hired myself as a mercenary in the Roman army, and found it amongst the Roman archives. In it is stated that four thousand, two hundred and thirty[8] -one years after the creation the world will be orphaned.[9] [As to the years following,] some of them will be spent in the war of the great sea monsters,[10] and some in the war of Gog and Magog, and the remaining [period] will be the Messianic era, whilst the Holy One, blessed be He, will renew his world only after seven thousand years.’ R. Abba the son of Raba said: The statement was after five thousand years.

It has been taught; R. Nathan said: This verse pierces and descends to the very abyss:[11] For the vision is yet for an appointed time, but at the end it shall speak, and not lie: though he tarry, wait for him; because it will surely come, it will not tarry.[12] Not as our Masters, who interpreted the verse, until a time and times and the dividing of time;[13] nor as R. Simlai who expounded, Thou feedest them with the bread of tears; and givest them tears to drink a third time;[14] nor as R. Akiba who expounded, Yet once, it is a little while, and I will shake the heavens, and the earth:[15] but the first dynasty [sc. the Hasmonean] shall last seventy years, the second [the Herodian], fifty two, and the reign of Bar Koziba[16] two and a half years.[17]

What is meant by ‘but at the end it shall speak [we-yafeah] and not lie?’ — R. Samuel b. Nahmani said in the name of R. Jonathan: Blasted be[18] the bones of those who calculate the end.[19] For they would say, since the predetermined time has arrived, and yet he has not come, he will never come. But [even so], wait for him, as it is written, Though he tarry, wait for him. Should you say, We look forward [to his coming] but He does not: therefore Scripture saith, And therefore will the Lord wait, that he may be gracious unto you, and therefore will he be exalted, that he may have mercy upon you.[20] But since we look forward to it, and He does likewise, what delays [his coming]? — The Attribute of Justice delays it.[21] But since the Attribute of Justice delays it, why do we await it? — To be rewarded [for hoping], as it is written, blessed are all they that wait for him.[22]

Abaye said: The world must contain not less than thirty-six righteous men in each generation who are vouchsafed [the sight of] the Shechinah's countenance, for it is written, Blessed are all they that wait lo[23] [for him]; the numerical value of ‘lo’ is thirty-six. But that is not so, for did not Raba say: The row [of righteous men immediately] before the Holy One, blessed be He, consists of eighteen thousand,[24] for it is written, it shall be eighteen thousand round about?[24] — That is no difficulty: the former number [thirty-six] refers to those who see Him through a bright speculum, the latter to those who contemplate him through a dim one.[25] But are there as many? Did not Hezekiah say in the name of R. Jeremiah on the authority of R. Simeon b. Yohai: I have seen the sons of heaven,[26] and they are but few; if there are a thousand, I and my son are included; if a hundred, I and my son are included; and if only two, they are myself and my son? — There is no difficulty: the former number [thirty-six] refers to those who enter [within the barrier to contemplate the Shechinah] with permission; the latter [uncertain number] to those who may enter without permission.

Rab said: All the predestined dates [for redemption] have passed, and the matter [now] depends only on repentance and good deeds. But Samuel maintained: it is sufficient for a mourner to keep his [period of] mourning.[27] This matter is disputed by Tannaim: R. Eliezer said: if Israel repent, they will be redeemed; if not, they will not be redeemed. R. Joshua said to him, if they do not repent, will they not be redeemed! But the Holy One, blessed be He, will set up a king over them, whose decrees shall be as cruel as Haman's, whereby Israel shall engage in repentance, and he will thus bring them back to the right path.[28] Another [Baraitha] taught: R. Eliezer said: if Israel repent, they will be redeemed, as it is written, Return, ye backsliding children, and I will heal your backslidings.[29] R. Joshua said to him, But is it not written, ye have sold yourselves for naught; and ye shall be redeemed without money?[30] Ye have sold yourselves for naught, for idolatry; and ye shall be redeemed without money — without repentance and good deeds. R. Eliezer retorted to R. Joshua, But is it not written, Return unto me, and I will return unto you?[31] R. Joshua rejoined — But is it not written, For I am master over you: and I will take you one of a city, and two of a family, and I will bring you to Zion?[32] R. Eliezer replied, But it is written, in returning and rest shall ye be saved.[33] R. Joshua replied, But is it not written, Thus saith the Lord, The Redeemer of Israel, and his Holy One, to him whom man despiseth, to him whom the nations abhorreth, to a servant of rulers,

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(1) He should have come at the beginning of the last two thousand years; the delay is due to our sins.

(2) Of fifty years.

(3) [Messiah. The belief in his Davidic descent is already mentioned in the Psalms of Solomon XVII, 21.]

(4) Of the last fifty years.

(5) I.e., if at the end of the jubilee, shall it be at the beginning of the fiftieth year or at the end thereof?

(6) He will certainly not come before then, but may delay a long time afterwards.

(7) The square character of Hebrew letters is so called on account of the great resemblance it bears to Aramaic writing, the name Assyria being here used in the widest sense to include the countries on the Mediterranean inhabited by the Arameans; v. supra, 22b and 22a and notes.

(8) So the Wilna Gaon; v. A.Z. 9b; our editions have ninety.

(9) In great distress, as an orphan who has none to take care of him.

(10) Maharsha explains this as a figurative reference to the great nations.

(11) Just as the bottom of an abyss cannot be reached, so is it impossible to grasp the full purport of this verse (Rashi).

(12) Hab. II, 3.

(13) Dan. VII, 25.

(14) Ps. LXXX, 6.

(15) Hag. II, 6.

(16) V. p. 627, n. 4.

(17) The verses cited from Daniel, the Psalms, and Haggai were interpreted so as to give a definite date for the advent of the Messiah. R. Nathan however, on the authority of Hab. II, 3, asserts that all such calculations are false. The three verses refer to the Hasmonean, Herodian, and Bar Koziba's reign, but the advent of Messiah is unknowable, Rashi.

(18) ויפח The verse is rendered, ‘he will blast him who calculated the end.’

(19) I.e., Messiah's advent.

(20) Isa. XXX, 18.

(21) I.e., because we are not yet worthy of it.

(22) Ibid.

(23) לו

(24) Maharsha deletes פרסא, parasang. (12) Ezek. XLVIII, 35.

(25) Only thirty-six see Him with absolute clarity. The others receive a clouded vision of Him.

(26) I.e., those who enjoy the sight of the Shechinah in the hereafter.

(27) Israel's sufferings in the Galuth in themselves sufficiently warrant their redemption, regardless of repentance.

(28) [in the Jerushalmi, the last sentence, ‘But the Holy . . . right path’ is given as R. Eliezer's reply to R. Joshua.]

(29) Jer. III, 22.

(30) Isa. LII, 3.

(31) Mal. III, 7.

(32) Jer. III, 14: 'master over you' implies even against your wishes — i.e., without repentance of the whole nation (Rashi).

(33) Isa. XXX, 15.

Talmud - Mas. Sanhedrin 98a

Kings shall see and arise, princes also shall worship?[1] R. Eliezer countered, But is it not written, if thou wilt return,[2] O Israel, saith the Lord, return unto me?[3] R. Joshua answered, But it is elsewhere written, And I heard the man clothed in linen, which was upon the waters of the river, when he held up his right hand and his left hand unto heaven, and swore by him that liveth for ever that it shall be for a time, times and a half' and when he shall have accomplished to scatter the power of the holy people, all these things shall be finished.[4] At this R. Eliezer remained silent.

R. Abba also said: There can be no more manifest [sign of] redemption than this: viz., what is said, But ye, O mountains of Israel, ye shall shoot forth your branches, and yield your fruit to my people of Israel, for they are at hand to come.[5] R. Eleazar said: Than this too, as it is written, For before these days there was no hire for man, nor any hire for beast; neither was there any peace to him that went out or came in because of the affliction.[6] What is meant by, 'neither was there any peace to him that went out or came in because of the affliction?' — Rab said: Even for scholars, who are promised peace,[7] as it is written, Great peace have they which love thy law,[8] 'There [shall] be no peace on account of the affliction.' Samuel said, 'Until all prices are equal.'[9]

R. Hanina said: The Son of David will not come until a fish is sought for an invalid and cannot be procured, as it is written, Then will I make their waters deep, and cause their rivers to run like oil;[10] whilst it is written,[11] in that day will I cause the horn of the house of Israel to bud forth.[12]

R. Hama b. Hanina said: The son of David will not come until even the pettiest kingdom ceases [to have power] over Israel,[13] as it is written, He shall both cut off the sprigs[14] with pruning hooks, and take away and cut down the branches;[15] and this is followed by, in that time shall the present be brought unto the Lord of hosts of a people that is scattered and peeled.[16]

Ze'iri said in R. Hanina's name: The son of David will not come until there are no conceited men in Israel, as it is written, For then I will take away out of the midst of thee them that rejoice in thy pride:[17] which is followed by, I will also leave in the midst of thee an afflicted and poor people, and they shall take refuge in the name of the Lord.[18]

R. Simlai said in the name of R. Eleazar, son of R. Simeon: The son of David will not come until all judges and officers are gone from Israel, as it is written, And I will turn my hand upon thee, and purely purge away thy dross and take away all thy tin: And I will restore thy judges as at first.[19]

'Ulla said: Jerusalem shall be redeemed only by righteousness,[20] as it is written, Zion shall be redeemed with judgment, and her converts with righteousness.[21]

R. Papa said: When the haughty cease to exist [in Israel] the magi[22] shall cease [among the Persians]; when the judges cease to exist [in Israel], the chiliarchi[23] shall cease likewise. Now, 'when the haughty cease to exist, the magi shall also cease,' as it is written, And I will purely purge away thy haughty ones[24] and take away all thy tin.[25] 'When the judges cease to exist, the chiliarchi shall cease likewise, as it is written, The Lord hath taken away thy judgments, he hath cast out thine enemy.[26]

R. Johanan said: When you see a generation ever dwindling, hope for him [the Messiah], as it is written, And the afflicted people thou wilt save.[27] R. Johanan said: When thou seest a generation overwhelmed by many troubles as by a river, await him, as it is written, when the enemy shall come in like a flood, the Spirit of the Lord shall lift up a standard against him;[28] which is followed by, And the Redeemer shall come to Zion.[29]

R. Johanan also said: The son of David will come only in a generation that is either altogether righteous or altogether wicked. ‘in a generation that is altogether righteous,’ — as it is written, Thy people also shall be all righteous: they shall inherit the land for ever.[30] ‘Or altogether wicked,’ — as it is written, And he saw that there was no man, and wondered that there was no intercessor;[31] and it is [elsewhere] written, For mine own sake, even for mine own sake, will I do it.[32]

R. Alexandri said: R. Joshua b. Levi pointed out a contradiction. it is written, in its time [will the Messiah come], whilst it is also written, I [the Lord] will hasten it![33] — if they are worthy, I will hasten it: if not, [he will come] at the due time. R. Alexandri said: R. Joshua opposed two verses: it is written, And behold, one like the son of man came with the clouds of heaven[34] whilst [elsewhere] it is written, [behold, thy king cometh unto thee . . .] lowly, and riding upon an ass![35] — if they are meritorious, [he will come] with the clouds of heaven;[36] if not, lowly and riding upon an ass. King Shapur [I] said to Samuel, ‘Ye maintain that the Messiah will come upon an ass: I will rather send him a white horse of mine.’[37] He replied, ‘Have you a hundred-hued steed?’[38]

R. Joshua b. Levi met Elijah standing by the entrance of R. Simeon b. Yohai's tomb. He asked him: ‘Have I a portion in the world to come?’ He replied, ‘if this Master desires it.’[39] R. Joshua b. Levi said, ‘I saw two, but heard the voice of a third.’[40] He then asked him, ‘When will the Messiah come?’ — ‘Go and ask him himself,’ was his reply. ‘Where is he sitting?’ — ‘At the entrance.’[41] And by what sign may I recognise him?’ — ‘He is sitting among the poor lepers: all of them untie [them][42] all at once, and rebandage them together,[43] whereas he unties and rebandages each separately, [before treating the next], thinking, should I be wanted, [it being time for my appearance as the Messiah] I must not be delayed [through having to bandage a number of sores].’ So he went to him and greeted him, saying, ‘peace upon thee, Master and Teacher.’ ‘peace upon thee, O son of Levi,’ he replied. ‘When wilt thou come Master?’ asked he, ‘To-day’, was his answer. On his returning to Elijah, the latter enquired, ‘What did he say to thee?’ — ‘peace Upon thee, O son of Levi,’ he answered. Thereupon he [Elijah] observed, ‘He thereby assured thee and thy father of [a portion in] the world to come.’ ‘He spoke falsely to me,’ he rejoined, ‘stating that he would come to-day, but has not.’ He [Elijah] answered him, ‘This is what he said to thee, To-day, if ye will hear his voice.’[44]

The disciples of R. Jose b. Kisma asked him, ‘When will the Messiah come?’ — He answered, ‘I fear lest ye demand a sign of me [that my answer is correct].’ They assured him, ‘We will demand no sign of you.’ So he answered them, ‘When this gate[45] falls down, is rebuilt, falls again, and is again rebuilt, and then falls a third time, before it can be rebuilt the son of David will come.’ They said to him, ‘Master, give us a sign.’ He protested, ‘Did ye not assure me that ye would not demand a sign?’ They replied, ‘Even so, [we desire one].’ He said to them. ‘if so, let the waters of the grotto of Paneas turn into blood;’ and they turned into blood. When he lay dying he said to them, ‘place my coffin deep [in the earth],

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(1) ibid. XLIX, 7: ‘to him whom man despiseth etc.’ implies that he is still an unrepentant sinner (Rashi), or that their prostration in itself will bring about the redemption (Yad Ramah).

(2) I.e., to thy land.

(3) Jer. IV, 1.

(4) Dan. XII, 7, thus proving that Messiah's coming is dependant only upon the utter prostration of Israel, not his repentance.

(5) Ezek. XXXVI, 8. When Palestine becomes so very fertile, Messiah's advent is near, and there can be no clearer sign than this (Rashi).

(6) Zech. VIII, 10; I.e., when there is no money left, and troubles abound everywhere. Cf. supra ‘until the perutah ceases from the purse.’

(7) Lit., ‘concerning whom peace is written.’

(8) Ps. CXIX, 165.

(9) This is a difficult passage. Rashi explains it as meaning either that the prices of all commodities, e.g., wheat, wine, oil etc. shall be alike, or that all commodities shall be equally dear. But it is difficult to see how this explains’ neither was there any peace etc. Maharsha therefore connects this verse ‘to him that went out or came in’ with Ezek. XLVI, 9: But when the people of the land shall come before the Lord in the solemn feasts, he that entereth in by the way of the north gate to worship shall go out by the way of the south gate; and he that entereth by the way of the south gate shall go forth by the way of the north gate . . . Accordingly he interprets: until all gates are alike, i.e., all people, whether entering or leaving the Temple-an idiom denoting ‘without exception’ — will suffer.

(10) Ezek. XXXII, 14. When an oily film covers the water, fish cannot be caught-an anticipation of the havoc to sea life wrought in modern times by oil-burning vessels?

(11) [in the same connection, dealing with the destruction of Egypt (Maharsha).]

(12) Ibid. XXIX, 21.

(13) [So Maharsha. Rashi renders: ‘until even the pettiest rule ceases among Israel’ — i.e., Israel will be deprived of all semblance of power.]

(14) Metaphorical for ‘petty kingdoms.’

(15) Isa. XVIII, 5.

(16) Ibid. 7.

(17) Zeph. III, 11.

(18) Ibid. 12: i.e., for them shall the redeemer come.

(19) Isa. I, 25f: this proves that they must first have been removed.

(20) I.e., through the exercise of charity.

(21) Ibid. 27.

(22) [The Guebres who were responsible for much of the suffering of the Jews under the Sassanians, v. supra p. 504, n. 6.]

(23) גזירפטי [Pers. Wezirpat, a ruler, Funk, Schwarz Festschrift, p. 432;] the name of a class of oppressive Persian officers.

(24) סיגיך from סגי, ‘great’, ‘haughty’.

(25) Metaphorically applied to the magi, as being ‘a cheap metal.’

(26) Zeph. III, 15.

(27) II Sam. XXII, 28.

(28) Isa. LIX, 19.

(29) Ibid. 20.

(30) Ibid. LX, 21.

(31) Ibid. LIX, 16.

(32) Ibid. XLVIII, 11.

(33) Ibid. LX, 22: The verse reads, I the Lord will hasten it in its time. The two phrases are contradictory, since ‘hasten it’ implies before its proper time.

(34) Dan. VII, 13.

(35) Zech. IX, 7.

(36) ‘Swiftly’ (Rashi).

(37) This is more fitting.

(38) [This jest is explained by Krochmal, (Hechalutz, I, p. 83) as an overt invitation to the Jews to help Shapur in his struggle with the Romans.]

(39) He referred to the Shechinah, which was with them (Rashi). Maharsha renders: when thou art worthy thereof.

(40) I.e., he saw only himself and Elijah there, but heard a third voice — that of the Shechinah.

(41) Cur. edd. read ‘ . . . of the town:’ The Wilna Gaon deletes this and substitutes ‘of Rome.’

(42) The bandages of their sores for dressing.

(43) I.e., if they have many leprous sores, they first take off all the bandages, and treat each sore, then replace them

together.
(44) Ps. XCV, 7, thus he made his coming conditional-the condition was unfulfilled.
(45) [The gate of Caesarea Philippi, the home of R. Jose. Its fall would be a symbol of the destruction of the Roman power by the Parthians. Bacher, AT, I, p. 402.]

Talmud - Mas. Sanhedrin 98b

for there is not one palm-tree in Babylon to which a Persian horse will not be tethered, nor one coffin in Palestine out of which a Median horse will not eat straw.'[1]

Rab said: The son of David will not come until the [Roman] power enfolds Israel[2] for nine months, as it is written, Therefore will he give them up, until the time that she which travaileth hath brought forth: then the remnant of his brethren shall return unto the children of Israel.[3]

'Ulla said; Let him [The Messiah] come, but let me not see him.[4] Rabbah said likewise: Let him come, but let me not see him. R. Joseph said: Let him come, and may I be worthy of sitting in the shadow of his ass's saddle.[5] Abaye enquired of Rabbah: 'What is your reason [for not wishing to see him]? Shall we say, because of the birth pangs [preceding the advent] of the Messiah?[6] But it has been taught, R. Eleazar's disciples asked him: 'What must a man do to be spared the pangs of the Messiah?' [He answered,] 'Let him engage in study and benevolence; and you Master do both.' He replied: '[I fear] lest sin cause it,[7] in accordance with [the teaching of] R. Jacob b. Idi, who opposed [two verses] [viz.,] it is written, And, Behold, I am with thee, and 'will guard thee in all places whither thou goest:[8] but it is written, Then Jacob was greatly afraid and distressed'[9] — He was afraid that sin might cause [the nullification of God's promise]. Even as it was taught, Till thy people pass over, O Lord.'[10] this refers to the first entry [into Palestine]; till thy people pass over, which thou hast purchased:[11] this refers to their second entry. Hence you may reason: The Israelites were as worthy of a miracle being wrought for them at the second entry as at the first, but that sin caused it [not to happen].

R. Johanan said likewise: Let him come, and let me not see him. Resh Lakish said to him: Why so? Shall we say, because it is written, As if a man did flee from a lion, and a bear met him,' or went into the house, and leaned his hand on the wall, and a serpent bit him?[12] But come, and I will shew you its like even in this world. When one goes out into the field and meets a bailiff,[13] it is as though he had met a lion. When he enters the town, and is accosted by a tax-collector, it is as though he had met a bear. On entering his house and finding his sons and daughters in the throes of hunger, it is as though he were bitten by a serpent![14] — But [his unwillingness to see the Messiah] is because it is written, Ask ye now, and see whether a man doth travail with child? Wherefore do I see every man [geber][15] with his hands on his loins, as a woman in travail, and all faces are turned into paleness?[16] What is meant by 'wherefore do I see every geber?' — Raba b. Isaac said in Rab's name: it refers to Him to whom all geburah[17] [strength] belongs.[18] And what is the meaning of 'and all faces are turned into paleness?' — R. Johanan said: [This refers to God's] heavenly family [I.e., the angels] and his earthly family [I.e., Israel,] when God says, These [the Gentiles] are my handiwork, and so are these [the Jews]; how shall I destroy the former on account of the latter?[19] R. Papa said: Thus men say, 'When the ox runs and falls, the horse is put into his stall.'[20]

R. Giddal said in Rab's name: The Jews are destined to eat [their fill] in the days of the Messiah.[21] R. Joseph demurred: is this not obvious; who else then should eat — Hilek and Bilek?[22] — This was said in opposition to R. Hillel, who maintained that there will be no Messiah for Israel, since they have already enjoyed him during the reign of Hezekiah.[23]

Rab said: The world was created only on David's account .[24] Samuel said: On Moses account;[25] R. Johanan said: For the sake of the Messiah. What is his [the Messiah's] name? — The School of R.

Shila said: His name is Shiloh, for it is written, until Shiloh come.[26] The School of R. Yannai said: His name is Yinnon, for it is written, His name shall endure for ever:[27] e'er the sun was, his name is Yinnon.[28] The School of R. Haninah maintained: His name is Haninah, as it is written, Where I will not give you Haninah.[29] Others say: His name is Menahem the son of Hezekiah,for it is written, Because Menahem [‘the comforter’], that would relieve my soul, is far.[30] The Rabbis said: His name is ‘the leper scholar,’ as it is written, Surely he hath borne our griefs, and carried our sorrows: yet we did esteem him a leper, smitten of God, and afflicted.[31]

R. Nahman said: if he [the Messiah] is of those living [to day], it might be one like myself, as it is written, And their nobles shall be of themselves, and their governors shall proceed from the midst of them.[32] Rab said: if he is of the living, it would be our holy Master;[33] if of the dead, it would have been Daniel the most desirable man.[34] Rab Judah said in Rab's name: The Holy One, blessed be He, will raise up another David for us,[35] as it is written, But they shall serve the Lord their God, and David their king, whom I will raise up unto them:[36] not ‘I raised up’, but ‘I will raise up’ is said. R. Papa said to Abaye: But it is written, And my servant David shall be their prince [nasi] for ever?[37] — E.g., an emperor and a viceroy.[38]

R. Simlai expounded: What is meant by, Woe unto you, that desire the day of the Lord! to what end is it for you? the day of the Lord is darkness, and not light.?[39] This may be compared to a cock and a bat who were hopefully waiting for the light [i.e., dawn]. The cock said to the bat, ‘I look forward to the light, because I have sight; but of what use is the light to thee?’[40]

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(1) This was a forecast of the future. Babylon and Palestine would be overrun with Persians, Medes and Parthians and their horses would dig up the dead, whose coffins would serve as cribs.

(2) I.e., the whole world in which Israel is scattered.

(3) Micah V, 2: ‘therefore will he give them up’ is interpreted as meaning to a foreign — viz., the Roman — power, and the duration of their servitude is fixed by ‘until the time etc.’ i.e., nine months, the period of pregnancy.

(4) V. n. 7.

(5) [Following the reading in Yalkut (v. Levy,) בשולא. Our texts read: דכופיתא, ‘dung’.]

(6) These troubles are generally referred to as birth pangs, being the travail which precedes the birth of a new era.

(7) That sin may neutralise the other two, and so I will suffer after all.

(8) Gen. XXVIII, 15; spoken by God to Jacob.

(9) Ibid. XXXII, 8: in view of God's promise, why did he fear?

(10) Ex. XV, 16.

(11) Ibid.

(12) Amos V, 19.

(13) Who contests his title to the field-(Jast.). Rashi translates: an official surveyor, who fixes the boundary lines of the different owners, and thus may increase or: limit one's property.

(14) I.e., we experience the same successive troubles even now, without the Messiah coming: why then should you be afraid of it?

(15) גבר.

(16) Jer. XXX, 6.

(17) גבורה.

(18) I.e., the Almighty himself bewails Israel in the power of the Gentile.

(19) To avenge the wrongs suffered by the Jews. Because the suffering would be so great that even the Almighty would lament it, R. Johanan desired to be spared the Messiah's coming.

(20) The horse is made to replace it, but when the ox recovers, it is difficult to remove the horse. So the Israelites, having fallen, were replaced in power by the Gentiles: but on their recovery, it will be difficult to remove the Gentiles from their position without inflicting much suffering.

(21) I.e., the years of plenty which the Messiah will usher in will be enjoyed by the Israelites.’

(22) Two fictitious names — ‘any Tom, Dick and Harry’ — shall these years be enjoyed indiscriminately by anyone?

(23) Therefore R. Giddal puts it in the future.

(24) That he might sing hymns and psalms to God.
(25) That he might receive the Torah.
(26) Gen. XLIX, 10.
(27) E.V. ‘shall be continued’.
(28) Ps. LXXII, 17.
(29) Jer. XVI, 13. Thus each School evinced intense admiration of its teacher in naming the Messiah after him by a play on words.
(30) Lam. I, 16.
(31) Isa. LIII, 4.
(32) Jer. XXX, 21: this description fitted R. Nahman, who, as the son-in-law of the Resh Galutha, enjoyed great power and prestige.
(33) I.e., R. Judah the Nasi, generally called Rabbi par excellence.
(34) [Preferably, if of the living, our holy Master (would be the type) of the Messiah; if of the dead, Daniel.]
(35) Lit., ‘for them’.
(36) Ibid. XXX, 9.
(37) Ezek. XXXVII, 25: prince (nasi) is a lower title than king.
(38) The second David shall be the king, and the former David shall be his viceroy.
(39) Amos V, 18.
(40) Thus Israel should hope for the redemption, because it will be a day of light to them: but why should the Gentiles, seeing that for them it will be a day of darkness?

Talmud - Mas. Sanhedrin 99a

And thus a Min[1] said to R. Abbahu: ‘When will the Messiah come?’ He replied, ‘When darkness covers those people.’[2] ‘You curse me, he exclaimed. He retorted, ‘it is but a verse: For, behold, the darkness shall cover the earth, and gross darkness the people: but the Lord shall shine upon thee, and his glory shall be seen upon thee.’[3]

It has been taught: R. Eliezer said: The days of the Messiah will last forty years, as it is written, Forty years long shall I take hold of the generation.[4] R. Eleazar b. Azariah said: Seventy years, as it is written, And it shall come to pass in that day, that Tyre shall be forgotten seventy years, according to the days of one king.[5] Now, who is the one [uniquely distinguished] king? The Messiah, of course. Rabbi said: Three generations; for it is written, They shall fear thee with the sun, and before the moon [they shall fear thee], a generation and generations.[6]

R. Hillel[7] said: There shall be no Messiah for Israel,[8] because they have already enjoyed him in the days of Hezekiah. R. Joseph said: May God forgive him [for saying so]. Now, when did Hezekiah flourish? During the first Temple. Yet Zechariah, prophesying in the days of the second, proclaimed, Rejoice greatly, O daughter of Zion, shout, O daughter of Jerusalem, behold, thy king cometh unto thee! he is just, and having salvation, lowly, and riding upon an ass, and upon a colt the foal of an ass.[9]

Another [Baraitha] taught: R. Eliezer said: The days of the Messiah will be forty years. Here it is written, And he afflicted thee, and suffered thee to hunger, and fed thee with manna;[10] whilst elsewhere it is written, Make us glad, according to the days wherein thou hast afflicted us.[11] R. Dosa said: Four hundred years. It is here written, And they shall serve them,’ and they shall afflict them four hundred years;[12] whilst elsewhere it is written, Make us glad, according to the days wherein thou hast afflicted us. Rabbi said: Three hundred and sixtyfive years, even as the days of the solar year, as it is written, For the day of vengeance is in mine heart, and the year of my redemption is come.[13] What is meant by ‘the day of vengeance is in mine heart’? — R. Johanan said: I have [so to speak] revealed it to my heart, but not to my [outer] limbs.[14] Abimi the son of R. Abbahu learned: The days of Israel's Messiah shall be seven thousand years, as it is written, And as the bridegroom rejoiceth over the bride, so shall thy God rejoice over thee.[15] Rab Judah said in Samuel's name: The days of the Messiah shall endure as long as from the Creation until now, as it is written, [That your days may be multiplied, and the days of your children, in the land which the Lord sware unto your fathers to give to them,] as the days of heaven upon the earth.[16] R. Nahman b. Isaac said: As long as from Noah's days until our own, as it is written, For this is as the waters of Noah, which are mine, so I have sworn etc.[17]

R. Hiyya b. Abba said in R. Johanan's name: All the prophets prophesied [all the good things] only in respect of the Messianic era; but as for the world to come 'the eye hath not seen, O Lord, beside thee, what he hath prepared for him that waiteth for him.'[18] Now, he disagrees with Samuel, who said: This world differs from [that of] the days of the Messiah only in respect of servitude to [foreign] powers.

R. Hiyya b. Abba also said in R. Johanan's name: All the prophets prophesied only for repentant sinners; but as for the perfectly righteous [who had never sinned at all], 'the eye hath not seen, O God, beside thee, what he hath prepared for him that waiteth for him.' Now he differs from R. Abbahu, who said: The place occupied by repentant sinners cannot be attained even by the completely righteous, for it is written, Peace, peace, to him that is far off and to him that is near:[19] thus, first he that is 'far off', then he that is 'near'. Now what is meant by 'far off'? — originally far off;[20] and what is meant by 'near'? — originally near [and still so].[21] But R. Johanan interprets: 'him that is far off' — that is [and has been] far from sin; 'him that is near' — that was near to sin, but is now far off.

R. Hiyya b. Abba also said in R. Johanan's name: All the prophets prophesied only in respect of him who marries his daughter to a scholar, or engages in business on behalf of a scholar,[22] or benefits a scholar with his possessions; but as for scholars themselves, — 'the eye hath not seen, O God, beside thee etc.' What does 'the eye hath not seen' refer to? — R. Joshua b. Levi said: To the wine that has been kept [maturing] with its grapes since the six days of Creation. Resh Lakish said: To Eden, which no eye has ever seen; and should you demur, Where then did Adam live? in the Garden. And should you object, The Garden and Eden are one: therefore Scripture teaches, And a river issued from Eden to water the garden.[23]

AND HE WHO MAINTAINS THAT THE TORAH WAS NOT DIVINELY REVEALED. Our Rabbis taught: Because he hath despised the word of the Lord, and hath broken his commandment, that soul shall utterly be cut off:[24] this refers to him who maintains that the Torah is not from Heaven. Another rendering: Because he hath despised the word of the Lord, refers to an epikoros. Another rendering: Because he hath despised the word of the Lord, refers to one who gives an interpretation of the Torah[25] [not according to the halachah]. And hath broken his commandment: this means one who abolishes the covenant of flesh.[26] That soul shall utterly be cut off [hikkareth tikkareth]: 'hikkareth' [to be cut off] implies in this world; 'tikkareth' [it shall be cut off], in the next.[27] Hence R. Eliezer of Modi'im taught: He who defiles the sacred food, despises the festivals,[28] abolishes the covenant of our father Abraham,[29] gives an interpretation of the Torah not according to the halachah, and publicly shames his neighbour, even if he hath learning and good deeds to his credit, hath no portion in the future world.[30]

Another [Baraitha] taught: Because he hath despised the word of the Lord — this refers to him who maintains that the Torah is not from Heaven. And even if he asserts that the whole Torah is from Heaven, excepting a particular verse, which [he maintains] was not uttered by God but by Moses himself, he is included in 'because he hath despised the word of the Lord.' And even if he admits that the whole Torah is from Heaven, excepting a single point, a particular ad majus deduction or a certain gezerah shawah, — he is still included in 'because he hath despised the word of the Lord'.

It has been taught: R. Meir used to say: He who studies the Torah but does not teach it is alluded to in ‘he hath despised the word of the Lord’. R. Nathan said: [it refers to] whoever pays no heed to the Mishnah.[31] R. Nehorai said: Whosoever can engage in the study of the Torah but fails to do so. R. Ishmael said: This refers to heathens. How is this implied? — Even as the school of Ishmael taught: Because he hath despised the word of the Lord — this applies to one who despises the words spoken to Moses at Sinai, viz., I am the Lord thy God . . . Thou shalt have no other gods before me.[32]

R. Joshua b. Karha said: Whosoever studies the Torah and does not revise it is likened unto one who sows without reaping. R. Joshua said: He who studies the Torah and then forgets it is like a woman who bears [a child] and buries [it.] R. Akiba said:

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(1) V. p. 604, n. 12.

(2) Alluding to the questioner and his companions.

(3) Isa. LX, 2.

(4) Ps. XCV, 10: I.e., rule over them through the Messiah (rendered, ‘I wearied’) is connected with root ‘to hold’.

(5) Isa. XXIII, 15.

(6) Ps. LXXII, 5. The verse is thus interpreted: They shall fear thee when Messiah comes, who is referred to as a sun (cf. 17), and they shall fear thee on account of the reign of the house of David, which is likened to the moon (cf. LXXXIX, 39: He shall be established for ever as the moon) for a generation (one) and generations (two).

(7) [A brother of Judah II.]

(8) But the Almighty will himself redeem israel and reign over them (Rashi). [‘He may have been prompted to this declaration by Origen's professed discovery in the Old Testament of Messianic passages referring to the founder of Christianity’ (J.E. VI, 401).]

(9) Zech. IX, 9.

(10) Deut. VIII, 3.

(11) Ps. XC, 15: hence, just as they were afflicted forty years in the wilderness, so shall they rejoice forty years under the kingship of the Messiah.

(12) Gen. XV, 13.

(13) Isa. LXIII, 4. This is interpreted: For it is in mine heart (I.e., intention) that the year (365 days) of redemption shall come, of which each day shall be as long as the day of my vengeance. God's day of vengeance is a year, as in the case of the Spies, on account of whom the Israelites were condemned to wander forty years in the wilderness, — a year for each day of their mission. Cf. Num. XIV, 34 (Rashi). Maharsha explains it in a simpler fashion: For each day of the year that they afflicted Israel, I will take vengeance a full year; as there was a year of days, so will my vengeance last 365 years.

(14) I.e., I have kept my intentions sealed in my heart, not giving expression to them with my tongue, that all my limbs should know thereof.

(15) Isa. LXII, 5. The bridegroom's rejoicing is seven days, and God's day is a thousand years. Cf. Ps. XC, 4: For a thousand years in thy sight are but as yesterday when it is past.

(16) Deut. XI, 21: I.e., as long as the world has already existed. Since they were not settled so long in their land, it will be completed in the Messianic era.

(17) Isa. LIV, 9. The time that had elapsed since the days of Noah until the moment when this promise was made is regarded as God's, and he swears that for an equal period he will not be wroth with Israel, I.e., when Messiah reigns over them.

(18) Ibid. LXIV, 3.

(19) Ibid. LVII, 19.

(20) I.e., a sinner who is far from God.

(21) One who has never sinned. Thus he assigns a higher rank to the repentant sinner than to the completely righteous.

(22) [I.e., assigns him a share in his business as sleeping partner.]

(23) Gen. II, 10.

(24) Num. XV, 31.

(25) [Or, ‘who acts insolently against the Torah’, the phrase מגלה פנים being similar to the English ‘bare-faced’. This, and epikoros, are discussed further on.]

(26) I.e., who neglects the precept of circumcision. Weiss, Dor. II. p. 8 states that the Rabbinic teachings in praise of circumcision and their emphasis on the penalty of its neglect were directed against the Christians, who substituted baptism for it; v. also n. 5 for another interpretation.

(27) V. supra 90b.

(28) The reference is to the intermediate days of Passover and Tabernacles, called חולו של מועד, the week-days of the festival.

(29) Graetz. Gesch., IV, p. 73, n. 1. suggests that this refers to epiplasm, I.e., drawing a skin over the circumcision so as to hide it. This was resorted to by the Judeo-Christians in order to evade the Fiscus Judaicus, I.e., the Temple Tax which Vespasian converted into a per capita tax for the upkeep of Jupiter's Temple. The galling nature of such conversion, added to the fact that it singled out the Jews as definitely not being full citizens of the Roman Empire with all the privileges and exemptions appertaining thereto, and the severity with which Domitian, a later emperor, applied it, combined to induce a number of these semi-Jews to deny their Judaism altogether and to hide the marks of their circumcision.

(30) V. Aboth III, 15.

(31) Rabbi's compilation was held in such high esteem that to disregard it was considered a sin.

(32) Ex. XX, 2f.

Talmud - Mas. Sanhedrin 99b

‘Chant it every day, chant it every day.’[1] Said R. Isaac b. Abudimi: What verse [supports this]? — He that laboureth laboureth for himself for his mouth craveth it of him:[2] he toils in one place, the Torah toils for him in another.[3]

R. Eleazar said: Every man is born for toil, as it is written, Yet man is born for toil.[4] Now, I do not know whether for toil by mouth or by hand, but when it is said, for his mouth craveth it of him, I may deduce that toil by mouth is meant.[5] Yet I still do not know whether for toil in the Torah or in [secular] conversation, but when it is said, This book of the Torah shall not depart out of thy mouth,[6] I conclude that one was created to labour in the Torah. And this coincides with Raba's dictum, viz., All human bodies are carriers; happy are they who are worthy of being receptacles of the Torah.

Whoso committeth adultery with a woman lacketh understanding.[7] Resh Lakish said: This alludes to one who studies the Torah at [irregular] intervals,[8] as it is written, For it is a pleasant thing if thou keep them within thee; they shall withal be fitted in thy lips.[9]

Our Rabbis taught: But the soul that doeth aught presumptuously:[10] this refers to Manasseh the Son of Hezekiah, who examined [Biblical] narratives to prove them worthless. Thus, he jeered, had Moses nothing to write but, And Lotan's sister was Timna,[11] And Timna was concubine to Eliphaz,[12] And Reuben went in the days of the wheat harvest, and found mandrakes in the field.[13] Thereupon a Heavenly Voice cried out: Thou sittest and speakest against thy brother; thou slanderest thine own mother's son. These things hast thou done, and I kept silence, thou thoughtest that I was altogether such an one as thyself’ but I will reprove thee, and set them in order before thine eyes.[14] And of him it is explicitly stated in the post-Mosaic Scriptures,[15] Woe unto them that draw iniquity with cords of vanity, and sin as it were with a cart rope.[16] What is meant by ‘and sin as it were with a cart rope’? — R. Assi said: Temptation at first is like a spider's thread, but eventually like a cart rope.

A propos, what is the purpose of [writing], And Lotan's sister was Timna? — Timna was a royal princess, as it is written, alluf [duke] Lotan,[17] alluf [duke] Timna;[18] and by ‘alluf’ an uncrowned ruler is meant. Desiring to become a proselyte, she went to Abraham, Isaac and Jacob, but they did not accept her. So she went and became a concubine to Eliphaz the son of Esau, saying, ‘I had rather be a servant to this people than a mistress of another nation.’ From her Amalek was descended who afflicted Israel. Why so? — Because they should not have repulsed her.

And Reuben went in the days of the wheat harvest [and found mandrakes in the field]. Raba b. Isaac said in Rab's name: This shews that righteous men do not take what is not theirs.[19] And found dudaim[20] [mandrakes] in the field. What are dudaim? — Rab said: mandrakes;[21] Levi said: violets; R. Jonathan said: mandrake flowers.

R. Alexandri said: He who studies the Torah for its own sake[22] makes peace in the Upper Family[23] and the Lower Family [men], as it is written, Or let him take hold of my strength [i.e., the Torah], that he may make peace with me; and he shall make peace with me.[24] Rab said: it is as though he built the heavenly and the earthly Temples, as it is written, And I have put my words in thy mouth, and I have covered thee in the shadow of mine hand, that I may plant the heavens, and lay the foundations of the earth, and say unto Zion, Thou art my people.[25] R. Johanan said: He also shields the whole world [from the consequences of its sins], for it is written, and I have covered [i.e.,protected] thee in the shadow of mine hand. Levi said: He also hastens[26] the redemption, as it is written, and say unto Zion, Thou art my people.

Resh Lakish said: He who teaches Torah to his neighbour's son is regarded by Scripture as though he had fashioned him, as it is written, and the souls which they had made in Haran.[27] R. Eleazar said: As though he himself had created the words of the Torah, as it is written, Keep therefore the words of this covenant, and make them.[28] Raba said: As though he had made himself, for it is written, ‘and make them’: render not them but yourselves.[29]

R. Abbahu said: He who causes his neighbour to fulfil a precept is regarded by Scripture as though he had done it himself, for it is written, [The Lord said unto Moses . . . take . . .] thy rod, wherewith thou smotest the river:[30] did Moses then smite it? Aaron smote it! But, he who causes his neighbour to fulfil a precept, is regarded by Scripture as though he had done it himself.

AN EPIKOROS. Rab and R. Hanina both taught that this means one who insults a scholar. R. Johanan and R. Joshua b. Levi maintained that it is one who insults his neighbour in the presence of a scholar. Now on the view that he who insults his neighbour in the presence of a scholar is an epikoros, it is well; for then he who insults a scholar himself will be included in the expression, ‘he who acts impudently against the Torah.’[31] But on the view that he who insults a scholar himself is an epikoros, who is meant by ‘she who acts impudently against the Torah’? — E.g., Manasseh b. Hezekiah.[32] Others taught this [dispute] with reference to the second clause: ‘he who acts impudently against the Torah.’ Rab and R. Hanina both maintained that this means one who insults a scholar himself, whilst R. Johanan and R. Joshua b. Levi held that it is one who insults his neighbour in the presence of a scholar. Now, on the view that he who insults a scholar himself is denoted by the expression ‘he who acts impudently against the Torah,’ it is well, for then he who insults his neighbour in a scholar's presence is dubbed an epikoros; but on the view that he who insults his neighbour in the presence of a scholar ‘is considered to have acted impudently against the Torah, who then is meant by epikoros? — R. Joseph said: E.g., Those who give, ‘Of what use are the Rabbis to us? For their own benefit they read [the Scripture], and for their own benefit they study [post-Scriptural learning, particularly the Mishnah]’. Abaye said to him: But this too denotes acting impudently against the Torah, as it is written, Thus saith the Lord, But for my covenant [studied] day and night, I had not appointed the ordinances of heaven and earth.[33] R. Nahman b. Isaac said: it is also deduced from the verse, Then I will spare all the place for their sakes.[34] But it means one, e.g., who was sitting before his teacher, when the discussion turned to some other subject, and the disciple remarked, ‘We said so and so on that matter,’ instead of ‘Thou Master hast said.’[35] Raba said: E.g., The family of Benjamin the doctor who say, ‘Of what use are the Rabbis to us? They have never

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(1) Revise thy learning with a chant. To aid the memory, a system of chanting was in use for study and revision.

(2) Prov. XVI, 26.

(3) I.e., as a reward for repeated revision, the Torah ensures him a complete remembrance and understanding thereof.
(4) Job. V, 7.
(5) I.e., study.
(6) Josh. I, 8.
(7) Prov. VI, 32.
(8) As adultery is naturally committed.
(9) Ibid. XXII, 18-one can keep the Torah only if its words are fitted — always — on his lips, not at rare intervals only.
(10) Num. XV, 30.
(11) Gen. XXXVI, 22.
(12) Ibid. 12.
(13) Ibid. XXX, 14.
(14) Ps. L, 20 f.
(15) קבלה kabbalah is used in contradistinction to Torah, the Pentateuch.
(16) Isa. V, 18.
(17) אלוף Gen. XXXVI, 28.
(18) Ibid. 40.
(19) Lit., stretch forth their hands to theft.’ Since Reuben went when the fields had already been reaped, after which it is permissible for all to enter (Rashi). Maharsha explains: The wheat had not yet been harvested, but Reuben was careful to take only mandrakes, to which the owner of the field would not object.
(20) דודאים.
(21) יברוחי ‘the chaser’, perhaps on account of its use to expel demons ; v. Ginzberg, Legends, V, 298, n. 189.]
(22) For the love of learning, without ulterior motives.
(23) I.e., the angels.
(24) Isa. XXVII, 5; the repetition shews that peace amongst two groups is meant.
(25) Ibid. LI, 16. The eschatology of the apocalyptic writers and many Rabbis looked forward to the creation of a Heavenly Temple in the Messianic era-Enoch XC, 29 et seq.; cf. Hag. 12b.
(26) Lit., ‘brings nearer’.
(27) Gen. XII, 5. Since no human being can make (create) life, this is interpreted as meaning whom Abraham taught; v. supra 19b.
(28) Deut. XXIX, 9.
(29) Not אותם but אתם [instruction, like the quality of mercy, ‘blesseth him that gives and him that takes’; cf. Mak. 10a; ‘Much have I learned from my Masters, more from my fellow-students, but from my disciples most of all.’]
(30) Ex. XVII, 5.
(31) So Rashi; v. supra p. 672, n. 1.
(32) V. supra.
(33) Jer. XXXIII, 25, i.e., the world endures only because the Torah (‘my covenant’) is studied. To deny the utility of scholars therefore is ‘to act bare-faced’, I.e., express disbelief of what is asserted in the Torah.
(34) Gen. XVIII, 26. To the Rabbis of the Talmud, scholarship and righteousness are synonymous.
(35) I.e., taking partial credit for the dictum, when in reality it belonged entirely to the teacher.

Talmud - Mas. Sanhedrin 100a

permitted us the raven, nor forbidden us the dove.’[1] Whenever a [suspected] trefa[2] of the family Benjamin was brought before Raba, if he saw a reason for permitting it, he would remark to them, ‘See, I permit you the raven:’ if there were grounds for forbidding it, he would observe, ‘See, I forbid you the dove’.[3] R. Papa forgot himself and exclaimed, ‘O these Rabbis.’[4] Thereupon he kept a fast.

Levi b. Samuel and R. Huna b. Hiyya were repairing the mantles of the Scrolls of R. Judah's college. On coming to the Scroll of Esther, they remarked, ‘O, this Scroll of Esther does not require a mantle.’[5] Thereupon he reproved them, ‘This too savours of irreverence.’[6] R. Nahman said: [An epikoros is] one who calls his teacher by name,[7] for R. Johanan said: Why was Gehazi punished?

Because he called his master by name, as it is written, And Gehazi said, My lord, O King, this is the woman, and this is her son, whom Elisha restored to life.[8]

R. Jeremiah sat before R. Zera and declared: The Holy One, blessed be He, will bring forth a stream from the Holy of Holies, at the side of which shall be all kinds of delicious fruits, as it is written, And by the river upon that bank thereof on this side and on that side, shall grow all trees for meat, whose leaf shall not fade, neither shall the fruit thereof be consumed: it shall bring forth new fruit, according to his months, because their waters they issued out of the sanctuary: and the fruit thereof shall be for meat, and the leaf thereof for medicine.[9] Whereupon a certain[10] old man said to him, ‘Well spoken! and R. Johanan taught likewise.’ R. Jeremiah said to R. Zera: Such an attitude savours of irreverence.[11] He replied: But he merely supported you! But if you have heard of something [which may be dubbed irreverent] it is this: R. Johanan was sitting and teaching: The Holy One, blessed be He, will bring jewels and precious stones, each thirty cubits long, and thirty cubits high, and make an engraving in them, ten by twenty cubits, and set them up as the gates of Jerusalem, for it is written, And I will make thy windows of agates, and thy gates of carbuncles.[12] A certain disciple derided him saying, ‘We do not find a jewel even as large as a dove's egg, yet such huge ones are to exist!’ Some time later he took a sea journey and saw the ministering angels cutting precious stones and pearls. He said unto them: ‘For what are these?’ They replied: ‘The Holy One, blessed be He, will set them up as the gates of Jerusalem.’ On his return, he found R. Johanan sitting and teaching. He said to him: ‘Expound, O Master, and it is indeed fitting for you to expound, for even as you did say, so did I myself see.’ ‘Wretch!’ he exclaimed, ‘had you not seen, you would not have believed! You deride the words of the Sages!’ He set his eyes upon him, and he turned in to a heap of bones.[13]

An objection was raised: And I will make you go Komamiyuth [upright].[14] R. Meir said: it means [with a height of] two hundred cubits, twice the height of Adam.[15] R. Judah said: A hundred cubits, corresponding to the [length of the Temple] and its walls, as it is written, That our sons may be as plants grown up in their youth; that our daughters may be as corner stones, fashioned after the similitude of the Temple![16] — R. Johanan referred only to the ventilation windows.[17]

What is meant by and the leaf thereof li-terufah[18] [for medicine]?[19] R. Isaac b. Abudimi and R. Hisda differ therein: One maintained, to unlock the upper mouth;[20] the other, to unseal the lower mouth.[21] it has been said likewise.[22] Hezekiah said: To free the mouth of the dumb; Bar Kappara said: To open the mouth[23] of barren women. R. Johanan said: Literally for a medicine. What does this mean? — R. Samuel b. Nahmani said: To give a comely countenance to scholars.[24]

R. Judah, son of R. Simeon, expounded: He who emaciates[25] his face for the sake of the study of the Torah in this world,[26] the Holy One, blessed be He, will make his lustre shine in the next, as it is written,: His countenance shall be as the Lebanon, excellent as the cedars.[27] R. Tanhum b. R. Hanilai said: He who starves himself for the sake of the study of the Torah in this world, the Holy One, blessed be He, will fully satisfy him in the next, as it is written, They shall be abundantly satisfied with the fatness of thy house; and thou shalt make them drink of the river of thy pleasures.[28] When R. Dimi came,[29] he said: The Holy One, blessed be He, will give every righteous man His full Hand[30] [of reward], for it is written, Blessed be the Lord, who daily loadeth us with benefits, even the God of our salvation. Selah.[31] Abaye demurred: But is it possible to say thus: is it not written, Who hath measured the waters in the hollow of his hand, and meted out heaven with the span?[32] — He replied, Why are you not found familiar with the aggadah?[33] For it was said in the West, [i.e., Palestine] in the name of Raba b. Mari: The Holy One, blessed be He, will give to every righteous man three hundred ten worlds, as it is written, That I may cause those that love me to inherit substance [yesh][34] and I will fill their treasures:[35] now the numerical value of yesh is three hundred ten.[36]

It has been taught, R. Meir said: in the measure which one measures, so will there be [measured out] to him, as it is written, in measure, when it shooteth forth, thou wilt contend with it.[37] R. Judah said: But can we say thus: if one gives a handful [of charity] to a poor man in this world, shall the Holy One, blessed be He, give him His hand full in the next? Surely it is written, and meted out heaven with the span? — [He replied:] Do you not admit this? [Now consider:] Which measure is greater? That of goodness [i.e., reward] or of punishment?

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(1) in spite of all their discussions, they cannot go beyond what is written in the Torah.

(2) V. Glos.

(3) To shew them that in practice the Rabbis did decide whether a thing was permitted or not.

(4) Contemptuously.

(5) Being of the opinion that its sanctity was of a lower grade, so that it would not defile one's hands through contact with it. The defilement of the hands by Holy Scriptures was one of the Eighteen Decrees adopted in the year 65. V. Shab. 14a.

(6) Rashi explains, because they took it upon themselves, without consulting him. Maharsha says because they spoke slightingly of its sanctity.

(7) Which was regarded as irreverent.

(8) II Kings VIII, 5.

(9) Ezek. XLVII, 12.

(10) [Wherever the Talmud speaks of ‘a certain old man’, Elijah is thought by some to be meant. V. Tosaf. Hul. 6a.]

(11) Perhaps he thought it an insinuation of plagiarism. Rashi renders it as a question: ‘Would such an attitude savour of irreverence?’

(12) Isa. LIV, 12.

(13) V. B. B. 75a.

(14) Lev. XXVI, 13.

(15) Deriving קוממיות from קומה, one's stature. That is, the people will gain in stature to twice the height of Adam. According to tradition, Adam's height was one hundred cubits (Hag. 12a).

(16) Psalms CXLIV, 12. The complete length of the Temple, including the porch, the chamber behind the main Hall, and the thickness of the intervening walls, was 100 cubits (Rashi); cf. B.B. (Sonc. ed.) p. 301. How then could such tall people pass through an aperture only 20 cubits high?

(17) These would be ten by twenty: but the gates themselves would be much taller.

(18) לתרופה.

(19) V. supra.

(20) I.e., to make the dumb speak, a play on the word להתיר פה לתרופה

(21) I.e., to make the barren womb bear child; cf. n. 3.

(22) ‘Likewise’ is absent from the version in Men. 98a, where this is repeated. The context justifies its retention.

(23) A euphemism for ‘womb’.

(24) Lit., ‘to the possessors of mouths’, those who toil with their mouths; v. supra 99b.

(25) Lit., ‘blackens’.

(26) I.e., who undergoes privation and want.

(27) Cant. V, 15.

(28) Ps. XXXVI, 9.

(29) V. p. 390, n. 1.

(30) Lit., ‘pack, ‘load’

(31) Ps. LXVIII, 20.

(32) Isa. XL, 12. How then can man receive such a great reward?

(33) V. Glos.

(34) יש.

(35) Prov. VIII, 21.

(36) Thus man's receptive capacity will be enormously increased — that too is the probable meaning of this statement.

(37) Isa. XXVII, 8, I.e., in the same measure that sin spreads, so it is punished, and conversely, the same holds good of righteousness — the conception of ‘measure for measure’.

Talmud - Mas. Sanhedrin 100b

Surely the measure of reward is greater than that of punishment, for with respect to the measure of goodness it is written, And he commanded the clouds from above, and opened the doors of heaven, And rained down manna upon them to eat;[1] whilst of the measure of punishment it is written, And the windows of heaven were opened.[2] Yet, in respect of the measure even of punishment it is written, And they shall go forth, and look upon the carcases of the men that have transgressed against me, for their worm shall not die, neither shall their fire be quenched: and they shall be an abhorring unto all flesh.[3] But if one puts his fingers into the fire in this world, it is immediately burnt![4] — But just as the Holy One, blessed be He, gives the wicked the strength to receive punishment, so does he give the righteous the capacity to receive reward.[5]

R. AKIBA SAID: ALSO HE WHO READS UNCANONICAL BOOKS etc. A Tanna taught: [This means], the books of the Sadducees.[6] R. Joseph said: it is also forbidden to read the book of Ben Sira. Abaye said to him: Why so? Shall we say because there is written therein, ‘Do not strip the skin [of a fish] even from its ear, lest thou spoil it, but roast it [all, the fish with the skin] in the fire, and eat therewith two [twisted] loaves’?[7] Now, if [you object to it in] its literal sense, the Torah too states, Thou shalt not destroy the trees thereof.[8] Whilst in a metaphorical sense, this teaches good taste,[9] that one should not cohabit unnaturally. But if you take exception to the passage:[10] A daughter is a vain treasure to her father: through anxiety on her account, he cannot sleep at night. As a minor, lest she be seduced; in her majority, lest she play the harlot; as an adult, lest she be not married;[11] if she marries, lest she bear no children; if she grows old, lest she engage in witchcraft!’ But the Rabbis have said the same: The world cannot exist without males and females; happy is he whose children are males, and woe to him whose children are females. Again if because of the following: ‘Let not anxiety enter thy heart, for it has slain many a person!’ But Solomon said likewise, Anxiety in the heart of man yashhenna [maketh it stoop].[12] R. Ammi and R. Assi [differ in its interpretation]: one rendered it, ‘let him banish it from his mind,’ the other, ‘let him relate it to others.’[13] And if because it contains, ‘Withhold the multitude from thy house, and bring not every one into thy house!’ But Rabbi said the same, for it has been taught, Rabbi said: One should never have a multitude of friends in his house, for it is written, A man that hath many friends bringeth evil upon himself.[14] But because there is written therein, ‘A thin-bearded man is very wise: a thick-bearded one is a fool: he who blows away [the froth] from off his glass [of liquor] is not thirsty; he who says, with what shall I eat my bread? — take the bread away from him;[15] he whose beard is parted will be defeated by none.’[16]

R. Joseph said: [Yet] we may expound to them[17] the good things it contains.[18] E.g., ‘a good woman is a precious gift, who shall be given to the God-fearing man. An evil woman is a plague to her husband: how shall he mend matters? Let him banish [i.e., divorce] her from his house: so shall he be healed of his plague. Happy the man whose wife is beautiful; the number of his days is doubled. Avert thine eyes from a charming woman, lest thou be caught in her snare. Turn not in to her husband to drink[19] wine with him, for many have been slain by the countenance of a beautiful woman, and numerous are those slain by her, and many are the blows sustained by itinerant peddlers.[20] Those who seduce to adultery are as the spark that kindles the ember. As a cage is full of birds, so are their houses full of deceit.[21] Restrain the multitude from entering into thine house, and bring not everyone thereinto. Let there be many to inquire after thy well-being, yet reveal thy secret to but one in a thousand. Guard the openings of thy mouth from her who lieth in thy bosom. Fret not over to-morrow's trouble, for thou knowest not what a day may bring forth,[22] and peradventure to-morrow he is no more: thus he shall be found grieving over a world that is not his.’[23]

All the days of the poor[24] are evil.[25] Ben Sira said: His nights too. The lowest roof is his roof, and on the highest mountain is his vineyard. The rain of [other] roofs [drip] on to his, whilst the earth of his vineyard is [borne] on [to other] vineyards.[26]

(Mnemonic: Zera, Raba, Mesharsheya, Hanina, Tobiah, Jannai, Easily suited, Johanan, Merahem, Joshua Mekazer.)[27]

R. Zera said in Rab's name: What is meant by, All the days of the afflicted are evil? This refers to the students[28] of the Talmud; But he that is of a merry heart hath a continuous feast: this refers to students of the Mishnah.[29] Raba reversed the interpretation.[30] And this is what R. Mesharsheya said in Raba's name: What is meant by, whoso removeth stones shall be hurt therewith?[31] This refers to the students of the Mishnah; But he that cleaveth wood shall be warmed thereby,[32] — this refers to students of the Talmud. R. Hanina said: All the days of the afflicted are evil alludes to one who has a bad wife; whilst but he that is of a merry heart hath a continuous feast, — to him who possesses a good wife. R. Jannai said: All the days of the afflicted are evil refers to one who is over-fastidious;[33] but he that is of a merry heart hath a continuous feast, — to a person who is easily suited. R. Johanan said: All the days of the afflicted are evil refers to the compassionate; but he that is of a merry heart hath a continuous feast, to the cruel. R. Joshua b. Levi said: All the days of the afflicted are evil refers to him

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(1) Ps. LXXVIII, 23f.

(2) Gen. VII, 11; ‘doors’ implies a greater opening than ‘windows’: I.e., God metes out reward more fully than punishment.

(3) Isa. LXVI, 24.

(4) How then can the bodies of the dead go on burning for ever in the next?

(5) I.e., in both cases they are endowed with abnormal receptiveness.

(6) This probably refers to the works of the Judeo-Christians, i.e., the New Testament. There were no Sadducees after the destruction of the Temple, and so ‘Sadducees’ is probably a censor's emendation for sectarians or Gentiles (Herford, Christianity in the Talmud, p. 333.) [MS. M. reads, Minim.]

(7) I.e., fish is fit for consumption even if baked or roasted with its skin, and therefore it is wasteful to remove it.

(8) Deut. XX, 19, i.e., one must not wantonly destroy what is fit for use.

(9) Lit., ‘way of the earth.’

(10) Ben Sira XLIII, 9-10.

(11) V. p. 517 top. The reference is to the three stages: קטנה תנערה תבוגרת, minority, majority, and ripeness.

(12) ישחנה; Prov. XII, 25.

(13) One connects it with היסח (הדעת), to discard from one's mind, the other with שיח, to converse: but on either interpretation, the sentiment is the same as Ben Sira's.

(14) Prov. XVIII, 24.

(15) Because he is certainly not hungry — otherwise he would not waste time in considering with what to eat it.

(16) I.e., he is extremely cunning, the parting of his beard being due to incessant stroking whilst brooding over his schemes. — All this is nonsense, and hence R. Joseph's objection to reading it.

(17) I.e., to the masses, in the public lectures.

(18) [Yad Ramah records a reading confirmed by many MSS. אי לאו דגנזוה רבנן להאי ספרא הוי דרשינין להו וכו ‘Had not the Rabbis hidden this book, we should have expounded them etc.’, implying that Ben Sira was hitherto included in the canon; v. J.Q.R., 1891, 686 and 700.]

(19) Lit., ‘to dilute’.

(20) These, trading on a petty scale, generally transacted their business with the women-folk, which led to jealousy on the part of their husbands and assaults on the peddlers.

(21) A quotation from Jer. V, 27

(22) Prov. XXVII, 1.

(23) [Ben Sira XXX, 21; XXVI, 1-4; IX, 8-9; XI, 29-34; VI, 6.]

(24) E.V. ‘afflicted’.

(25) Prov. XV, 15.
(26) Being poor, he cannot afford a tall building. At the same time, when purchasing a vineyard, he must take one at the top of a mountain, where land is cheaper than in the valley; so that in a storm the earth of his field is carried away to enrich the low-lying lands — thus, whatever happens, he is the loser.
(27) V. p. 387, n. 8.
(28) Lit., ‘masters’.
(29) The Talmud, owing to its complexity and difficulty, due to its intricate discussions, is a source of distress to its students; whereas the Mishnah, which is plain and straightforward, brings pleasure to those who study it.
(30) A student of the Talmud may give a definite decision, but not a student of the Mishnah, which is regarded as incomplete without the Talmud. Hence the former sees the fruit of his labours, whereas the latter derives no practical benefit from his studies.
(31) Eccl. X, 9.
(32) Ibid. E.V. translates ‘shall be endangered’; for the present rendering of יסכן cf. סוכנת in 1 Kings I, 4.
(33) So that he is worried by the smallest thing which is not exactly to his liking.

Talmud - Mas. Sanhedrin 101a

who is of a petty nature; but he that is of a merry heart hath a continuous feast, to a contented mind.

R. Joshua b. Levi also said: All the days of the poor are evil: but are there not the Sabbaths and festivals? — it is as Samuel said, viz., Change of diet is the first step to indigestion.[1]

Our Rabbis taught: He who recites a verse of the Song of Songs and treats it as a [secular] air,[2] and one who recites a verse at the banqueting table[3] unseasonably,[4] brings evil upon the world. Because the Torah girds itself in sackcloth, and stands before the Holy One, blessed be He, and laments before Him, ‘Sovereign of the Universe! Thy children have made me as a harp upon which they frivolously play.’ He replies, ‘My daughter, when they are eating and drinking, wherewith shall they occupy themselves?’ To which she rejoins, ‘Sovereign of the Universe! if they possess Scriptural knowledge, let them occupy themselves with the Torah, the Prophets, and the Writings; if they are students of the Mishnah, with Mishnah, halachoth, and haggadoth;[5] if students of the Talmud, let them engage in the laws of Passover, Pentecost and Tabernacles on the respective Festivals. R. Simeon b. Eleazar testified on the authority of R. Simeon b. Hanina: He who reads a verse in season [as just defined] brings good to the world, as it is written, and a word spoken in season, how good is it.[6]

ALSO ONE WHO WHISPERS OVER A WOUND etc. R. Johanan said: But only if he expectorates in doing so because the Divine Name may not be expressed in conjunction with expectoration.[7]

It has been said, Rab declared: Even [the verse], When the plague of leprosy [etc.];[8] R. Hanina said: Even, And he called unto Moses.[9]

Our Rabbis taught: One may oil and massage the bowels [of an invalid] on the Sabbath,[10] and snakes and serpents may be charmed [to render them tame and harmless] on the Sabbath, and an article may be placed over the eye on the Sabbath [to protect it]. R. Simeon b. Gamaliel said: This applies only to articles which may be handled;[11] but those which may not be handled[12] are forbidden; nor may demons be consulted on the Sabbath. R. Jose said: This is forbidden even on week-days. R. Huna said: The halachah is not[13] as R. Jose, and even he said it only on account of its danger, as in the case of R. Isaac b. Joseph, who was swallowed up in a cedar tree, but a miracle was wrought for him, the cedar splitting and casting him forth.[14]

Our Rabbis taught: The bowels may be oiled and massaged on the Sabbath, providing this is not done as on week-days.[15] How then shall it be done? — R. Hama son of R. Hanina said: They must first be oiled, and then massaged.[16] R. Johanan said: The oiling and massaging must be done simultaneously.

Our Rabbis taught: it is permitted to consult by a charm the spirits of oil or eggs,[17] but that they give false answers. Incantations are made over oil contained in a vessel, but not in the hand;[18] therefore one may anoint with the latter, but not with the former.[19]

R. Isaac b. Samuel b. Martha chanced upon a certain inn. Some oil was brought to him in a vessel, with which he rubbed himself, whereupon blisters broke out on his face. He then went out to the market place, and was seen by a woman who observed: ‘I see here the blast of Hamath.’[20]

R. Abba said to Rabbah b. Mari: it is written, I will put none of these diseases upon thee, which I have brought upon the Egyptians, for I am the Lord that healeth thee.[21] But since He hath brought no [disease], what need is there of a cure?-He replied: Thus hath R. Johanan said: This verse is self-explanatory, because the whole reads, And he said, if thou wilt diligently hearken to the voice of the Lord thy God: thus, if thou wilt hearken, I will not bring [disease upon thee], but if thou wilt not, I will; yet even so, I am the Lord that healeth thee.

Rabbah b. Bar Hana said: When R. Eliezer fell sick, his disciples entered [his house] to visit him. He said to them, ‘There is a fierce wrath in the world.’[22] They broke into tears, but R. Akiba laughed. ‘Why dost thou laugh?’ they enquired of him ‘Why do ye weep?’ he retorted. They answered, ‘Shall the Scroll of the Torah[23] lie in pain, and we not weep?’ — He replied, ‘For that very reason I rejoice. As long as I saw that my master's wine did not turn sour, nor was his flax smitten, nor his oil putrefied, nor his honey become rancid,[24] I thought, God forbid, that he may have received all his reward in this world [leaving nothing for the next]; but now that I see him lying in pain, I rejoice [knowing that his reward has been treasured up for him in the next].’ He [R. Eliezer] said to him, ‘Akiba, have I neglected anything of the whole Torah?’[25] — He replied, ‘Thou, O Master, hast taught us, For there is not a just man upon earth, that doeth good and sinneth not.’[26]

Our Rabbis taught: When R. Eliezer fell sick, four elders went to visit him, viz., R. Tarfon, R. Joshua, R. Eleazar b. Azariah, and R. Akiba. R. Tarfon observed, ‘Thou art more valuable to Israel than rain; for rain is [precious] in this world, whereas thou art [so] for this world and the next.’[27] R. Joshua observed, ‘Thou art more valuable to Israel than the sun's disc: the sun's disc is but for this world, whilst my master is for this world and the next.’ R. Eleazar b. Azariah observed, ‘Thou art better to Israel than a father and a mother: these are for this world, whereas my master is for this world and the next. But R. Akiba observed, ‘Suffering is precious.’ Thereupon he [the sick man] said to them, ‘Support me, that I may hear the words of Akiba, my disciple, who said, "Suffering is precious.’[28] Akiba,’ queried he, ‘whence dost thou know this?’ — He replied, ‘I interpret a verse: Mannasseh was twelve years old when he began to reign, and he reigned fifty and five years in Jerusalem etc. and he did that which was evil in the sight of the Lord.[29] Now it is [elsewhere] written,

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(1) Lit., ‘disease of the bowels’. So that the poor man does not enjoy even the lordly fare of these days.

(2) I.e., not with its traditional cantillation (Rashi).

(3) Lit., ‘in the house of banquet.’

(4) Making it the subject of a jest or secular amusement.

(5) V. Glos.

(6) Prov. XV, 23.

(7) In uttering a charm one generally expectorated, the charm itself being usually a Biblical verse containing the Name of God. Thus the actual enchantment was done by means of the Biblical verse; a similar kind of enchantment was practised by the Essenes. In the opinion of some scholars, expectoration was the essential part of the charm, and L. Blau maintains that ורוקק (expectorates) belongs to the original text of the Mishnah (Krauss, Sanh.-Mak. p. 220).

(8) Lev: XIII, 9: though not containing the Divine Name its use as a magical formula is forbidden.

(9) Lev. I, 1. Though this contains no mention of illness or disease, and is whispered only that one may be saved from illness through the merit of reading the Torah, it is still forbidden.

(10) Though a medicine is forbidden on that day.

(11) E.g., a key, food-knife, and a ring.

(12) E.g., every tool used in work which is forbidden on the Sabbath.

(13) The Wilna Gaon deletes ‘not’.

(14) He consulted a demon, which turned itself into a tree and swallowed him; it was only through a miracle that he escaped.

(15) To maintain a distinction between the Sabbath and the rest of the week.

(16) On week-days massage preceded oiling (Rashi).

(17) Every plant in the vegetable kingdom was believed to have its own presiding genius, which could be provoked by incantations; v. Gen. Rab. X, 6. Both eggs and oil were used for purposes of magic and in folk-medicine; cf. A. Marmorstein in MGWJLXXII, p. 395. It is noteworthy from the present passage that the Talmud had no faith in these charms.

(18) This states the practice, not a ruling.

(19) Since it may have been used as a charm.

(20) The name of a demon.

(21) Ex. XV, 26.

(22) He referred to himself-God must be very angry with him so to have afflicted him. So Rashi. Graetz Geschichte IV. p. 47 conjectures that his death took place shortly before Trajan's attack upon the Jews of many countries (c. 116-117 C.E.), to which he was alluding in this remark, as the storm was already brewing.

(23) I.e., R. Eliezer.

(24) He was prosperous in everything.

(25) That thou sayest that I now suffer for my sins, so that I may have nothing but reward in the world to come.

(26) Ecc. VII, 20.

(27) For as a result of his teaching Israel would enjoy a reward in the next world too.

(28) Because they make atonement for the sufferer.

(29) II Kings XXI, 1f.

Talmud - Mas. Sanhedrin 101b

These are also the proverbs of Solomon, which the men of Hezekiah king of Judah copied out.[1] Now, would Hezekiah king of Judah have taught the Torah to the whole world, yet not to his own son Manasseh? But all the pains he spent upon him, and all the labours he lavished upon him did not bring him back to the right path, save suffering alone, as it is written, And the Lord spoke to Manasseh and to his people: but they would not hearken unto him. Wherefore the Lord brought upon them the captains of the host of the king of Assyria, which took Manasseh among the thorns, and bound him with fetters, and carried him to Babylon.[2] And it is further written, And when he was in affliction, he besought the Lord his God, and humbled himself greatly before the God of his fathers. And prayed unto him, and he was entreated of him, and heard his supplication, and brought him again to Jerusalem unto his kingdom, and Manasseh knew that the Lord he was God.[3] Thus thou learnest how precious is suffering.’

Our Rabbis taught: Three came with a circuitous plea.[4] viz., Cain, Esau and Manasseh. Cain — for it is written, [And Cain said unto the Lord.] is my sin too great to be forgiven?[5] He pleaded thus before Him: ‘Sovereign of the Universe! Is my sin greater than that of the six hundred thousand [Israelites] who are destined to sin before Thee, yet wilt Thou pardon them!’ Esau — for it is written, [And Esau said unto his father,] Hast thou but one blessing, my father?[6] Manasseh — he first called upon many deities, and [only] eventually called upon the God of his fathers.[7]

ABBA SAUL SAID: ALSO HE WHO PRONOUNCES THE DIVINE NAME AS IT IS SPELT etc. It has been taught: [This holds good] only in the country,[8] and in the sense of [the Samaritan] aga [blaspheming].[9]

THREE KINGS AND FOUR COMMONERS etc. Our Rabbis taught: [The name] Jeroboam [denotes] that 'he debased the nation.'[10] Another meaning is that 'he fomented strife amongst the nation.'[11] Another explanation, that 'he caused strife between Israel and their Father in Heaven.'[12] The son of Nebat denotes that 'he beheld, but did not see.'[13]

A Tanna taught: Nebat, Micah, and Sheba the son of Bichri are one and the same.[14] [He was called] Nebat, because 'he beheld but did not see'; Micah, because 'he was crushed[15] in the building';[16] and what was his real name? — Sheba the son of Bichri.

Our Rabbis taught: Three beheld but did not see, viz., Nebat, Ahitophel, and Pharaoh's astrologers. Nebat — he saw fire issuing from him. He interpreted it [as signifying] that he would reign,[17] yet that was not so, but that Jeroboam would issue from him. Ahitophel, — he beheld leprosy breaking out in him. He thought that it meant that he would reign,[18] but it was not so, but referred to Bath Sheba, his daughter,[19] from whom issued Solomon. Pharaoh's astrologers, — even as R. Hama son of R. Hanina said: What is meant by This is the water of Meribah?[20] 'This is' what Pharaoh's astrologers saw, but erred [in its interpretation]. They saw that Israel's Saviour would be smitten through water: therefore he [Pharaoh] ordered, Every son that is born ye shall cast into the river;[21] but they did not know that he was to be smitten [i.e., punished] on account of the water of Meribah.

Now whence do we know that he [Jeroboam] will not enter the future world? — Because it is written, And this thing became sin unto the house of Jeroboam even to cut it off and to destroy it from off the face of the earth:[22] 'to cut it off' [implies] in this world; 'and to destroy it,' in the next.

R. Johanan said: Why did Jeroboam merit sovereignty? Because he reproved Solomon. And why was he punished? Because he reproved him publicly. As it is written, And this was the cause that he lifted up his hand against the king: Solomon built Millo, and repaired the breaches of the city of David his father.[23] He said thus to him: Thy father David made breaches in the wall, that Israel might come up [to Jerusalem] on the Festivals; whilst thou hast closed them, in order to exact toll for the benefit of Pharaoh's daughter.[24] What is meant by And this was the cause that he lifted up his hand against the king?[25] — R. Nahman said: He took off his phylacteries in front of him.[26]

R. Nahman said: The conceit which possessed Jeroboam drove him out of the world,[27] as it is written, Now Jeroboam said in his heart, Now shall the kingdom return to the house of David: if this people go up to do sacrifice in the house of the Lord at Jerusalem, then shall the heart of this people turn unto their Lord, even unto Rehoboam king of Judah, and they shall kill me, and go again to Rehoboam king of Judah.[28] He reasoned thus: it is a tradition that none but the kings of the house of Judah may sit in the Temple Court.[29] Now, when they [the people] see Rehoboam sitting and me standing, they will say, The former is the king and the latter his subject; whilst if I sit too, I am guilty of treason,[30] and they will slay me, and follow him. Straightway, Wherefore the king took counsel, and made two calves of gold, and said unto them, it is too much for you to go up to Jerusalem: behold thy gods, O Israel, which brought thee up out of the land of Egypt.[31] How did he 'take counsel'? — R Judah said: He set a wicked man by the side of the righteous [in the council chamber] and said to him, 'Will ye sign [your approval] of all that I may do?' They replied, 'Yes.' 'I wish to be king,' he went on; and they again said, 'Yes.' 'Will ye execute all my commands?' he asked. Again they replied 'Yes.' 'Even for the worship of idols?' Whereupon the righteous man rejoined, 'God forbid!' 'But,' urged the wicked upon the righteous, 'dost thou really think that a man like Jeroboam would serve idols? He only wishes to test us, to see whether we will give full acceptance to his orders?'[32]

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(1) Prov. XXV, 1. This implies than they copied it out for general instruction. Cf. also supra 94a, that Hezekiah had the whole nation taught.

(2) II Chron. XXXIII, 10f.

(3) Ibid. 12f.

(4) Preferring their request as a right, not a favour.

(5) Gen. IV, 13.

(6) Ibid. XXVII, 38: thus he justified his demand for a blessing.

(7) This is deduced from, And when he was in affliction, he besought the Lord his God-implying that he had prayed to other deities before. ‘If thou wilt not hearken to my prayer, he pleaded, ‘of what profit was my turning to thee?’

(8) As opposed to the Temple.

(9) [So Levy, who quotes J. Sanh. X, 28b כגון אילין כותאי דמשתבעין in a way as those Samaritans swear: ויקב ‘he blasphemed’, Lev. XXIV, 11, is rendered by the Samaritan Targum ואגא. S. Krauss, Sanh-Mak. p. 271, translates: ‘in a corrupt, barbarous language,’ debasing thereby the Holy Name; cf. Rashi.]

(10) ריבע מעם

(11) By his introduction of calf worship.

(12) The latter two connect Jeroboam with ריב rib, strife.

(13) He beheld a vision, but did not understand (see) its true significance. The vision is stated below. — Nebat is here connected with root נבט, nabat, to see.

(14) Micah was a resident of Mount Ephraim who established a private idolatrous shrine and engaged a Levite to minister therein. — Judges XVII, 1-5. This image was subsequently stolen and set up in Dan; Ibid. XVIII. Sheba the son of Bichri was an Ephraimite who revolted against David immediately after the collapse of Absalom's insurrection; II Sam. XX, 1 et seqq.

(15) נתמכמך with which מיכה is connected.

(16) According to legend, when the Israelites in Egypt did not complete their tale of bricks, their children were built into the walls instead. On Moses’ complaining thereof to God, He answered him that he was thus weeding out the destined wicked. As proof, he was empowered to save Micah, who had already been built in, but only to become an idolater on his reaching manhood. Rashi also gives an alternative rendering: he became impoverished (Cf. Lev. XXV, 25; XXVII, 8) through building — presumably his idolatrous shrine.

(17) And hence he raised the standard of revolt.

(18) According to legend (infra 107a), David was smitten with leprosy for six months on account of his sin with Bath Sheba. Ahitophel therefore interpreted the outbreak on his own person as shewing that David's leprosy would bring him to the throne.

(19) I.e., his granddaughter. Her father Eliam (II Sam. XI, 3) being identified with the son of Ahitophel (II Sam. XXIII, 34).

(20) Num. XX, 13.

(21) Ex. I, 22.

(22) I Kings. XIII, 34.

(23) Ibid. XI, 27.

(24) Very few openings were left, so that visitors to Jerusalem could be checked and taxed for the privilege.

(25) I.e., what did he actually do?

(26) This was regarded as a mark of disrespect. Another version: he removed his phylacteries, so as to be unconstrained in his abuse of Solomon, which he would not wish to do with these religious symbols upon him.

(27) I.e., led him into destruction.

(28) I Kings XII, 26f.

(29) This was a special prerogative of Davidic kings. V. Kid. 78a, and cf. Josephus Ant. VIII, 4, 2.

(30) Lit., ‘a rebel against royal authority.’

(31) Ibid. 28.

(32) Thus he received the signature of the righteous under false pretences, and it could not be subsequently withdrawn.

Talmud - Mas. Sanhedrin 102a

And even Ahijah the Shilonite erred and signed. For Jehu was a very righteous man, as it is written, And the Lord said unto Jehu, Because thou hast done well in executing that which is right in mine eyes, and hast done unto the house of Ahab according to all that was in mine heart, thy children of the fourth generation shall sit upon the throne of Israel.[1] Yet it is written, But Jehu took no heed to walk in the law of the Lord God of Israel with all his heart; for he departed not from the sins of Jeroboam which made Israel to sin.[2] Now what caused this? — Abaye said: A covenant is made for the lips,[3] as it is written, [And Jehu gathered all the people together, and said unto them,] Ahab served Baal a little; but Jehu shall serve him much.[4] Raba said: He saw the signature of Ahijah the Shilonite, and was thus led into error.

It is written, And the revolters are profound to make slaughter, though I have been a rebuke of them all.[5] R. Johanan explained this: The Holy One, blessed be He, said, ‘They have gone deeper [i.e., are more stringent] than I. I said, "Whoever does not go up [to Jerusalem] for the Festival violates a positive injunction" whereas they proclaimed, "Whoever does go up for the Festival will be pierced with the sword."’[6]

And it came to pass at that time when Jeroboam went out of Jerusalem, that the prophet Ahijah the Shilonite found him in the way, and he had clad himself with a new garment:[7] a Tanna taught in the name of R. Jose: [That time was] a time predestined for punishment.[8] In the time of their visitation they shall perish:[9] a Tanna taught in the name of R. Jose: [In] a time predestined for punishment. In an acceptable time have I heard thee:[10] a Tanna taught in R. Jose's name: [In] a time predestined for good. Nevertheless in the day when I visit, I will visit their sin upon them:[11] a Tanna taught in R. Jose's name: [In] a time Predestined for punishment.[12] And it came to pass at that time, that Judah went down from his brethren:[13] a Tanna taught in R. Jose's name: [In] a time predestined for punishment.[14] And Rehoboam went to Shechem: for all Israel were come to Shechem to make him king:[15] a Tanna taught in R. Jose's name: [It was] a place predestined for evil; in Shechem Dinah was ravished;[16] in Shechem his brethren sold Joseph;[17] and in Shechem the kingdom of the House of David was divided.

[Now it came to pass at that time] that Jeroboam went out of Jerusalem:[18] R. Hanina b. Papa said: He went out of the destiny of Jerusalem.[19] And the prophet Ahijah the Shilonite found him in the way, and he clad himself with a new garment, and they two were alone in the field.[20] What is meant by ‘with a new garment’? — R. Nahman said: As a new garment: just as a new garment has no defect, so was Jeroboam's scholarship without defect. Another explanation: A new garment intimates that they expounded new teachings, such as no ear had ever heard before. What is taught by, ‘and they two were alone in the field’? — Rab Judah said in Rab's name: All other scholars were as the herbs of the field before them.[21] Others say that all the reasons of the Torah were as manifest to them as a field.[22]

Therefore shalt thou give parting gifts to Moresheth-gath: the houses of Achzib shall be a lie to the kings of Israel.[23] R. Hanina b. Papa said: A heavenly voice cried out and said, ‘He who slew the Philistine and thereby gave you possession of Gath,[24] shall ye give parting gifts to his sons!’[25] [Therefore] the houses of Achzib shall be a lie to the kings of Israel.[26]

R. Hanina b. Papa said: He who enjoys aught of this world without uttering a blessing is as though he robbed the Holy One, blessed be He, and the Kenesseth Yisrael,[27] for it is written, Whoso robbeth his father or his mother, and saith, It is no transgression the same is the companion of a destroyer.[28] Now ‘his father’ can refer only to the Holy One, blessed be He, as it is written. Is not he [sc. God] thy father that hath bought thee?[29] whilst ‘his mother’ can mean nothing but Kenesseth Yisrael, as it is written, My son, hear the instruction of thy father, and forsake not the law of thy mother.[30] What is meant by ‘the same is the companion of a destroyer’? — He is the companion of Jeroboam the son of Nebat, who destroyed [the allegiance of] Israel to their Father in Heaven.

And Jeroboam drove Israel from following the Lord, and made them sin a great sin.[31] R. Johanan said: As two sticks which cause each other to rebound.[32]

[These be the words which Moses spake unto all Israel. . . in the wilderness, . .] and Di Zahab.[33] The School of R. Jannai expounded: Moses said before the Holy One, blessed be He: Sovereign of the Universe! It was because of the silver and gold [zahab] which Thou didst lavish upon them, until they said, Enough! [dai] that they were led to make a god of gold. A parable: The lion does not tear and roar out of a basket of straw, but out of a basket of meat.[34]

R. Oshaia said: Until Jeroboam, Israel imbibed [a sinful disposition] from one calf; but from him onwards, from two or three calves.[35] R. Isaac said: No retribution whatsoever comes upon the world which does not contain a slight fraction[36] of the first calf [i.e.. the molten calf in the wilderness], as it is written, nevertheless in the day when I visit, I will visit their sin upon them.[37] R. Hanina said: After twenty-four generations [the doom foretold in] this verse was exacted,[38] as it is written, He cried also in mine ears with a loud voice, saying, cause the visitations of the city to draw near, even every man with his destroying weapon in his hand.[39]

After this thing Jeroboam turned not from his evil way.[40] What is meant by, after this thing? — R. Abba said: After the Holy One, blessed be He, had seized Jeroboam by his garment and urged him, ‘Repent, then I, thou, and the son of Jesse [i.e.. David] will walk in the Garden of Eden.’ ‘And who shall be at the head?’ inquired he. ‘The son of Jesse shall be at the head.’ ‘If so,’ [he replied] ‘I do not desire [it].’

R. Abbahu used to make a practice of lecturing on the Three Kings.[41] Falling sick, he undertook not to lecture [thereon any more];[42] yet no sooner

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(1) II Kings X, 30.

(2) Ibid. 31.

(3) I.e., the spoken word, even if unintentional, becomes fulfilled.

(4) Ibid. 18. These words, though spoken guilefully, had to be fulfilled.

(5) Hosea V, 2.

(6) Thus they forbade more severely than I had commanded it.

(7) I Kings XI, 29.

(8) On that occasion Ahijah prophesied the division of the kingdom as a punishment for Solomon's backsliding.

(9) Jer. LI, 18.

(10) Isa. XLIX, 8.

(11) Ex. XXXII, 34.

(12) The "day’ referred to is the ninth of Ab. The spies returned from their ill-fated mission on that day; God's fiat that the whole of that generation should perish in the wilderness was promulgated on that day; and the destruction of the Temple took place likewise on the ninth of Ab.

(13) Gen. XXXVIII, 1.

(14) For as a result of that expedition it was fated that Judah should beget two sons, who should die, and his daughter-in-law Tamar be condemned to death.

(15) I Kings XII, 1.

(16) V. Gen. XXXIV.

(17) Dothan, where Joseph was sold (Gen. XXXVII, 17), being in the vicinity of Shechem.

(18) I Kings XI, 29.

(19) I.e., he would have no share in the welfare of Jerusalem.

(20) Ibid.

(21) I.e., were of no account at all in comparison with them.

(22) Even of laws of which the reason is generally unknown.

(23) Micah I, 14.
(24) Sc. David, who slew Goliath and thereby gained Possession of Gath for Israel, Moresheth gath means the possession of Gath.
(25) I.e., shall ye revolt against and forsake them!
(26) This is thus interpreted: since ye deal treacherously (i.e., lyingly. the root-idea of achzib) with the house of David, preferring the rule of the kings of Israel, therefore ye shall be delivered into the hands of the heathens. whose religion is ‘a lie’ — I.e., It is false.
(27) Lit., ‘Community of Israel.’
(28) Prov. XXVIII, 24.
(29) Deut. XXXII, 6.
(30) Prov. I, 8.
(31) II Kings XVII, 21.
(32) When two pieces of wood are struck together, each rebounds from the other. So Jeroboam forced the Israelites to forsake God.
(33) Deut. I, 1.
(34) I.e., when a lion is fully satisfied he shews his high spirits by killing and roaring; when hungry, he is too dejected to do so. Thus in the case of Israel too, it was not poverty but the self-indulgence of wealth which ensnared them into idolatry.
(35) Until Jeroboam, only the one calf which Israel had made in the wilderness was responsible for their sinning. But he added the calves of Beth-El and Dan, thus furnishing more incentives to sin.
(36) Lit., ‘a twenty-fourth part of the overweight of a litra.’ By the overweight of a litra (v. Glos.) is meant the slight addition which is made to tip the scales in the direction of the weights. The general idea is that some small portion of all punishment is due to the sin of the golden calf.
(37) Ex. XXXII, 34.
(38) [Yad Ramah reads פתיק זה ‘this decree’.]
(39) Ezek. IX, 1, The use of ‘visitations’ suggests that this was the fulfilment of the doom threatened in Ex. XXXII, 34. There were twenty-four generations from that of the wilderness, when the Calf was made, to that of Zedekiah, in whose reign the State was overthrown and Judah deported to Babylon.
(40) I Kings XIII, 33.
(41) Mentioned in our Mishnah as having no ‘portion in the future world.
(42) He viewed his illness as a punishment for dwelling upon the sins of others.

Talmud - Mas. Sanhedrin 102b

had he recovered, than he lectured [upon this] again. They [his disciples] remonstrated with him, ‘Did you not undertake not to lecture on them?’ — He replied, ‘Did they abandon [their evil course], that I should abandon [my habit of lecturing upon them]?’

In the college of R. Ashi the lecture [one day] terminated at ‘Three Kings.’[1] ‘To-morrow, said he, ‘we will commence with our colleagues.’[2] [That night] Manasseh came and appeared to him in a dream. ‘Thou hast called us thy colleagues and the colleagues of thy father; now, from what part [of the bread] is [the piece for reciting] the ha-mozi[3] to be taken?’ ‘I do not know,’ he answered. ‘Thou hast not learned this,’ he jibed, ‘yet thou callest us thy colleagues!’[4] ‘Teach it me,’ he begged, ‘and to-morrow I will teach it in thy name at the session.’ He answered, ‘From the part that is baked into a crust.’[5] He then questioned him, ‘Since thou art so wise, why didst thou worship idols?’ He replied, ‘Wert thou there, thou wouldst have caught up the skirt of thy garment and sped after me.’ The next day he observed to the students: We will commence with our teachers [so referring to the Three Kings]. Ahab denotes that he was an ah [a brother][6] to Heaven, and an ab [a father] to idolatry. An ah to Heaven, as it is written, a brother [ah] is born for trouble,’[7] and ab [father] to idolatry, as it is written, As a father loveth his children.[8]

And it came to pass, that it were a light thing for him to walk in the sins of Jeroboam the son of

Nebat.[9] R. Johanan said: The light [minor] transgressions which Ahab committed were equal to the gravest committed by Jeroboam. Why then does Scripture make Jeroboam the exemplar[10] of sin? Because he was the first to corrupt.

Yea, their altars are as heaps in the furrows of the fields.[11] R. Johanan said: [This teaches that] there is no furrow in Palestine upon which Ahab did not plant an idol and worship it.

Whence do we know that he will not enter the future world? — From the verse, And I will cut off from Ahab him that pisseth against the wall, him that is shut up and forsaken in Israel,'[12] shut up [implies] in this world; forsaken, in the next.

R. Johanan said: Why did Omri merit sovereignty? Because he added a region to Palestine, as it is written, And he bought the hill Samaria of Shemer for two talents of silver, and built on the hill, and called the name of the city which he built, after the name of Shemer, owner of the hill Samaria,[13] R. Johanan said: Why did Ahab merit royalty for twenty-two years? — Because he honoured the Torah, which was given in twenty-two letters,[14] as it is written, And he sent messengers to Ahab king of Israel into the city, and said unto him, Thus saith Ben-hadad, Thy silver and thy gold is mine; thy wives also and thy children, even the goodliest, are mine . . . Yet will I send my servants unto thee tomorrow at this time, and they shall search thine house, and the houses of thy servants; and it shall be, that whatsoever is pleasant in thine eyes, they shall put in their hand, and take it away . . . Wherefore he said unto the messengers of Ben-hadad, Tell my lord the king, all that thou didst send for to thy servant at the first I will do; but this thing I may not do.[15] Now what is meant by 'whatsoever is pleasant in thine eyes'? Surely the Scroll of the Torah![16] But perhaps [this refers to] an idol? — You cannot think so, because it is written, And all the leaders and all the people said unto him, Hearken not unto him, nor consent.[17] But perhaps they were evil elders?[18] Is it not written. And the saying pleased Absalom well, and all the elders of Israel?[19] Whereon R. Joseph commented: They were evil elders? — There 'and all the people' is not stated, whilst here it is written,' and all the people', and it is impossible that there were no righteous among them, for it is written, Yet I have left one seven thousand in Israel, all the knees which have not bowed unto Baal, and every mouth which hath not kissed him.[20]

R. Nahman said: Ahab was equally balanced,[21] since it is written, And the Lord said, Who shall persuade Ahab, that he may go up and fall at the Ramoth-gilead? And one said in this manner, and one said in that manner.[22] R. Joseph objected: He of whom it is written, But there was none like unto Ahab, which did sell himself to work wickedness in the sight of the Lord, whom Jezebel his wife stirred up:[23] whereon it was taught: Every day she used to weigh out gold shekels for idols — yet thou sayest that he was equally balanced! But Ahab was generous with his money, and because he used to benefit scholars with his wealth, half [his sins] were forgiven.

And there came forth the spirit, and stood before the Lord, and said, I will persuade him. And the Lord said unto him, Wherewith? And he said, I will go forth, and I will be a lying spirit in the mouth of his prophets. And he said, Thou shalt persuade him, and prevail also: go forth, and do so.[24] Which spirit [is meant]? — R. Johanan said: The spirit of Naboth the Jezreelite. What is meant by 'go forth'? — Rabina said: Go forth from within my barrier, as it is written, He that telleth lies shall not tarry in my sight.[25] R. Papa observed, Thus men say, 'He who takes his vengeance destroys his own house.'[26]

And Ahab made a grove; and Ahab did more to provoke the Lord God of Israel to anger than all the kings of Israel that were before him.[27] R. Johanan said: [This means] that he wrote upon the gates of Samaria, 'Ahab denies the God of Israel.' Therefore he has no portion in the God of Israel.

And he sought Ahaziah: and they caught him, for he was hid in Samaria.[28] R. Levi said: He was engaged in erasing the Divine Names [from the Torah] and substituting [the names of] idols in their stead.[29]

Manasseh [denotes] that he forgot God.[30] Another explanation: Manasseh [denotes] that he caused Israel to forget their Father in Heaven. And how do we know that he will not enter the future world? — Because it is written, Manasseh was twelve years old when he began to reign, and he reigned fifty and five years in Jerusalem . . . and he made a grove, as did Ahab king of Israel.[31] Just as Ahab has no portion in the world to come, so has Manasseh neither.

R. JUDAH SAID: MANASSEH HATH A PORTION THEREIN, FOR IT IS WRITTEN, AND HE PRAYED UNTO HIM AND WAS INTREATED OF HIM etc. R. Johanan said: Both of them [in support of their views] expounded the same verse. For it is written, And I will cause to be removed unto all kingdoms of the earth, because of Manasseh the son of Hezekiah, king of Judah.[32] One Master[33] maintains, ‘Because of Manasseh’ who repented, whilst they did not;[34] whilst the other Master[35] maintains,

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(1) I.e., the lecture on a particular day ended when ‘Three Kings’ of supra XI,1, was reached.

(2) This was a playful reference to the three kings, who were scholars.

(3) The blessing for bread, on account of its ending ‘who bringest forth (ha-mozi) bread from the earth.’

(4) He was jeering at R. Ashi as not worthy of being called his colleague.

(5) I.e., a piece of the outer surface must be taken for the purpose, not the inner dough.

(6) In an evil sense, as the Talmud proceeds to quote.

(7) Prov. XVII, 17.

(8) Ps. CIII, 13; so translated here (Rashi). Cf. ibid. XVIII, 2: ארחמך ה חזקי I will love thee, O Lord, my strength.

(9) I Kings XVI, 31. The reference is to Ahab,

(10) Lit., ‘fasten on to Jeroboam.’

(11) Hosea XII, 12.

(12) I Kings XXI, 21.

(13) Ibid. XVI, 24.

(14) I.e., the number of letters in the Hebrew alphabet.

(15) Ibid. XX, 3, 6, 9.

(16) Thus shewing that he honoured it and it was in respect of this that he defied him (Rashi).

(17) Ibid, 8. ‘Elders’, by which is meant scholars, would not have counselled him to hold fast to his idols.

(18) Lit., ‘elders of shame’.

(19) II Sam. XVII, 4.

(20) I Kings XIX, 18.

(21) Between sin and merit, having performed as many good deeds as evil ones.

(22) Ibid. XXII, 20: this shews that it was a difficult matter to lure him to his fate, and that must have been because his righteousness equalled his guilt.

(23) Ibid. XXI, 25.

(24) Ibid. XXII, 21f.

(25) Ps. CI. 7: v. supra, p. 592, nn. 3 and 4 for commentary.

(26) [Some MSS. read ‘nest’, a play on קנאיה (his vengeance) and קיניה (his nest).] Naboth, through avenging himself on Ahab, was expelled from God's presence.

(27) I Kings XVI, 33.

(28) II Chron. XXII, 9.

(29) [This was the sacrilege which he carried on in his hiding place.]

(30) [Manasseh is connected with the root nashah נשה ‘to forget’.]

(31) II Kings XXI, 2,3.

(32) Jer. XV, 4.

(33) The author of the anonymous opinion.

(34) This aggravated their sin.
(35) R. Judah.

Talmud - Mas. Sanhedrin 103a

‘because of Manasseh’ — who did not repent.

R. Johanan said: He who asserts that Manasseh has no portion in the world to come weakens the hands of penitent sinners. For a tanna recited before R. Johanan: Manasseh was penitent for thirty-three years, as it is written, Manasseh was twelve years old when he began to reign, and reigned fifty and five years in Jerusalem, and he made a grove, as did Ahab king of Israel. How long did Ahab reign? Twenty-two years. How long did Manasseh reign? Fifty-five years. Subtract therefrom twenty-two, which leaves thirty-three.[1] R. Johanan said on the authority of R. Simeon b. Yohai: What is meant by, And he prayed unto him, and an opening was made for him.[2] Should not ‘and was entreated of him’ rather have been written?[3] — This teaches that the Holy One, blessed be He, made him a kind of opening in the Heavens, in order to accept him with his repentance, on account of the Attribute of Justice.[4]

R. Johanan also said on the authority of R. Simeon b. Yohai: Why is it written, In the beginning of the reign of Jehoiakim the son of Josiah;[5] and in the beginning of the reign of Zedekiah king of Judah:[6] were there then no kings until then? But [it teaches that] the Holy One, blessed be He, wished to hurl the world back into chaos[7] on account of Jehoiakim, but that He gazed at [the rest of] his generation, and His mind was appeased.[8] The Holy One, blessed be He, [also] desired to hurl the world back into chaos because of Zedekiah's generation, but that He gazed at Zedekiah [himself] and his mind was appeased. But in the case of Zedekiah too it is written, And he did that which was evil in the sight of God?[9] — [That denotes] that he could have stemmed [the evil of others], and did not.

R. Johanan also said on the authority of R. Simeon b. Yohai: What is meant by, If a wise man contend with a foolish man, whether he rage or laugh, there is no rest?[10] — The Holy One, blessed be He, said, ‘I was wrath with Ahaz, and delivered him into the hands of the kings of Damascus, whereupon he sacrificed burnt incense to their gods, as it is written, For he sacrificed unto the gods of Damascus, which smote him: and he said, Because the gods of the kings of Syria help them, therefore will I sacrifice to them that they may help me. But they were the ruin of him, and of all Israel.[11] I smiled upon Amaziah and delivered the kings of Edom into his hand, so he brought their gods, and prostrated himself before them, as it is written, Now it came to pass, that after Amaziah was come from the slaughter of the Edomites, that he brought the gods of the children of Seir, and set them up to be his gods, and bowed down himself before them, and burned incense unto them.[12] R. Papa commented: Thus men say, ‘Weep for him who knows not his fortune, laugh for him who knows not his fortune. Woe to him who knows not the difference between good and bad.’

And all the princes of the king of Babylon came in, and sat in the middle gate.[13] R. Johanan said on the authority of R. Simeon b. Yohai: It was the place where halachot are decided upon.[14] R. Papa observed: Thus men say, ‘Where the master hangs up his weapons, there the mean shepherd hangs up his pitcher.’[15]

[Mnemonic: By the field, houses, nought shall befall.]

R. Hisda said in the name of R. Jeremiah's b. Abba: What is meant by the verse, I went by the field of the slothful, and by the vineyard of the man void of understanding,’ And lo, it was all grown over with thorns, and nettles had covered the face thereof, and the stone wall thereof was broken down?[16] — I went by the field of the slothful — this refers to Ahaz;[17] and by the vineyard of the man void of understanding — this denotes Manasseh;[18] And lo, it was all grown over with thorns, —

to Amon;[19] and nettles had covered the face thereof — to Jehoiakim;[20] and the stone wall thereof was broken down, — this alludes to Zedekiah, in whose days the Temple was destroyed.

R. Hisda also said in the name of R. Jeremiah b. Abba: Four classes will not appear[21] before the presence of the Shechinah, — the class of scoffers, the class of liars, the class of hypocrites, and the class of slanderers. ‘The class of scoffers’ — as it is written, He withdrew His hand from the scoffers.[22] ‘The class of liars’ — as it is written, He that telleth lies, shall not tarry in my sight.[23] ‘The class of hypocrites’ — as it is written, For an hypocrite shall not come before him.[24] ‘The class of slanderers — as it is written, For thou art not a God that hath pleasure in wickedness: neither shall evil dwell with thee,’[25] [which means] Thou art righteous, and hence there will not be evil[26] in thy abode.

R. Hisda also said in the name of R. Jeremiah b. Abba: What is meant by the verse, There shall no evil befall thee, neither shall any plague come nigh thy dwelling?[27] ‘There shall no evil befall thee,’ the Evil Impulse[28] shall have no power over thee; ‘neither shall any plague come nigh thy dwelling’ — thou wilt not find thy wife a doubtful niddah[29] when thou returnest from a journey. Another interpretation: ‘There shall no evil befall thee’ — thou wilt not be affrighted by nightmares and dread thoughts; ‘neither shall any plague come nigh thy dwelling’ — thou wilt not have a son or a disciple who publicly burns his food.[30] Thus far his father blessed him: beyond this, his mother blessed him:[31] For he shall give his angels charge over thee, to keep thee in all thy ways. They shall bear thee in their hands etc. . . .Thou shalt tread upon the lion and the adder.[32] Thus far his mother blessed him, beyond this, Heaven blessed him:

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(1) It is assumed that the verse implies that their sinning and their punishment was equal.

(2) II Chron. XXXIII, 13, reading ויחתר לו.

(3) ויעתר לו wa-ye'tar. In our text this is indeed the reading, and was so cited supra, 90a and 101b; perhaps R. Simeon b. Yohai's text differed; v. Tosaf. Shab. 55b. s.v. מעבירם who draws attention to the fact that the Talmudic text of the Bible does not always correspond to ours. [Yad Ramah preserves a variant: What is the meaning of ויעתר seeing that it is written, and he heard his supplication? This teaches that the Holy One, blessed be He, made him a kind of opening: thus taking ויעתר as equivalent to ויחתר the ע and ח being interchanging letters.]

(4) The Attribute of Justice urged that his repentance should not be accepted.

(5) Jer. XXVI, 1.

(6) Ibid. XXVIII, 1: his difficulty is, why is the word בראשית bereshith used here to denote the beginning instead of simply ‘In the first year’.

(7) Lit., ‘formlessness and emptiness’.

(8) Hence the use of בראשית which, being the same word with which the Creation story is introduced — ‘in the beginning (בראשית) God created’ — intimates that He wished to plunge the world into chaos, as it was at the beginning. — Though Jehoiakim was wicked, the rest of his generation was righteous.

(9) II Kings XXIV, 19.

(10) Prov. XXIX, 9.

(11) II Chron. XXVIII, 23.

(12) Ibid. XXV, 14.

(13) שער התוך Sha'ar hatok. Jer. XXXIX, 3.

(14) מחתכין (‘cut’, ‘decide’) with which, by a play upon words, חתוך is connected.

(15) I.e., where the Jews decided upon their laws, there Nebuchadnezzar issued his decrees.

(16) Prov. XXIV, 30f.

(17) [Who forbade the study of the Law, v. infra.]

(18) [Who destroyed the altar, v. infra.]

(19) [Who allowed the altar to he covered with spiderwebs. v. infra.]

(20) [Who declared that he could dispense with the light of God, v. infra.]

(21) Lit., ‘receive the presence of.’

(22) Hosea VII, 5.

(23) Ps. CI, 7.
(24) Job XIII, 15.
(25) Ps. V, 5.
(26) I.e., slander, as defined by the context, cf. verses 7, 10.
(27) Ps. XCI, 10.
(28) Heb. Yezer Hara’. יצר הרע
(29) V. Glos. If a woman observed a reddish stain upon her garments and does not know whether it is blood or not, she is a doubtful niddah, and is forbidden cohabitation.
(30) [By the addition of too much salt; A metaphor for the open acceptance of heretical teachings. v. Hereford, op. cit., pp. 60f.]
(31) These blessings, ‘there shall no evil befall thee etc.’ were David's blessings to Solomon. Those that follow ‘For he shall give his angels etc.’ are a mother's blessings.
(32) Ibid. 10f.

Talmud - Mas. Sanhedrin 103b

Because he hath set his love upon me, therefore will I deliver him: will set him on high, because he hath known my name. He shall call upon me, and I will answer him: I will be with him in trouble; I will deliver him, and honour him. With long life will I satisfy him, and shew him my salvation.[1]

R. Simeon b. Lakish said: What is meant by the verse And from the wicked their light is withholden, and the high arm shall be broken:[2] now why is the ‘ayin of resha'im [wicked] suspended?[3] Once a man becomes poor [in friends] below [on earth], he becomes poor above [in heaven]" Then let the ‘ayin not be written at all? — R. Johanan and R. Eleazar [differ in their answer]: One said, because of David's honour; the other said, because of the honour of Nehemiah, the son of Hachaliah.[4]

Our Rabbis taught: Manasseh interpreted Leviticus[5] in fifty-five different ways, corresponding to the years of his reign. Ahab [in] eighty-five, and Jeroboam [in] one hundred and three [ways].

It has been taught: R. Meir said: Absalom has no portion in the world to come, for it is written, And they smote Absalom, and slew him:[6] ‘they smote him’ — in this world, ‘and slew him’ — in the next. It has been taught: R. Simeon b. Eleazar said on the authority of R. Meir: Ahaz, Ahaziah, and all the kings of Israel of whom it is written, And he did that which was evil in the sight of the Lord will neither live [in the future world] nor be judged [there].[7]

Moreover, Manasseh shed innocent blood very much, till he had filled Jerusalem from one end to another; beside his sin wherewith he made Judah to sin, in doing that which was evil in the sight of the Lord.[8] Here, [in Babylon] it is interpreted as meaning that he slew Isaiah; in the West [Palestine] they said: [It means] that he made an image as heavy as a thousand men, and every day it slew all of them.[9] With whom does this dictum of Rabbah b. Bar Hana agree? Viz., The soul of one righteous man is equal to the whole world: with whom does it agree? With the author of the view that he killed Isaiah.[10] [Scripture writes, And he set] the graven image,’[11] but it is also stated, [And the groves and the] graven images, [which he had set up].[12] R. Johanan said: At first he made it with one face, but subsequently he made it with four faces,[13] that the Shechinah might see it, and be wroth. Ahaz set it[14] in an upper chamber, as it is written, And the altars that were on the top of the upper chamber of Ahaz etc.[15] Manasseh placed it in the Temple, as it is written, And he set up a graven image of the grove that he had made in the house, of which the Lord said to David, and to Solomon his son, In this house, and in Jerusalem which I have chosen out of all tribes of Israel will I put my name for ever.[16] Amon introduced it into the Holy of Holies, as it is said, For the bed is shorter than that a man can stretch himself on it: and the covering narrower than that he can wrap himself in it.[17] Now, what is meant by ‘For the bed is shorter than that one can stretch himself on it’? — R. Samuel b.

Nahmani said in the name of R. Jonathan: For this bed is too short that two neighbours may rule therein together.[18] What is the meaning of ‘and the covering narrower etc.’? — R. Samuel b. Nahmani said: When R. Jonathan reached this verse, he wept. He of whom it is written, He gathereth the waters of the sea together as an heap[19] — should a molten image be made a rival to it![20]

Ahaz caused the [sacrificial] service to cease, and sealed the Torah, as it is written, Bind up the testimony, seal the law among my disciples.[21] Manasseh cut out the Divine Name [from the Torah], and broke down the altar. Amon burnt the Torah, and allowed spider webs to cover the altar [through complete disuse]. Ahaz permitted consanguineous relations; Manasseh violated his sister; Amon, his mother, as it is written, For he Amon sinned very much.[22] R. Johanan and R. Eleazar [dispute therein]: One maintained, He burnt the Torah; the other, he dishonoured his mother. His mother remonstrated with him: ‘Hast thou then any pleasure in the place whence thou didst issue?’ He replied: ‘Do I do this for any other purpose than to provoke my Creator!’ When Jehoiakim came, he said, ‘My predecessors knew not how to anger him: do we need [Him] for aught but his light?[23] But we have Parvaim[24] gold, which we use [for light]; let him take His light!’ Said they [his courtiers] to him, ‘But silver and gold are His too, as it is written, The silver is mine, and the gold is mine, saith the Lord of Hosts.’[25] ‘He has long since given them to us,’ he replied, ‘as it is written, The heaven, even the heavens, are the Lord's: but the earth hath he given to the children of men.’[26]

Raba said to Rabbah b. Mari: Why did they not count Jehoiakim[27] [amongst those who have no portion in the world to come], seeing that it is written of him, And the remaining words of Jehoiakim, and the abomination which he wrought, and that which was found upon him etc.?[28] (What is meant by that which was found upon him? — R. Johanan and R. Eliezer differ: one maintained that he engraved the name of an idol upon his person, and the other held that he engraved the name of Heaven thereon [as a gesture of contempt])? — He answered: I have heard no explanation concerning the kings [why Jehoiakim was not included]: but I have heard one concerning the commoners. [Thus:] Why did they not include Micah?[29] — Because his bread was available to travellers, as it is written, Every traveller [turned] to the Levites.[30]

And he shall pass through the sea with affliction, and shall smite the waves in the sea.[31] R. Johanan observed: This refers to Micah's graven image.

It has been taught: R. Nathan said: From Gareb[32] to Shiloah is a distance of three mils, and the smoke of the altar[33] and that of Micah's image intermingled. The ministering angels wished to thrust Micah away, but the Holy One, blessed be He, said to them, ‘Let him alone, because his bread is available for wayfarers.’ And it was on this account[34] that the people involved in the matter of the concubine at Gibeah[35] were punished.[36] For the Holy One, blessed be He, said to them, ‘Ye did not protest for My honour, yet ye protest for the honour of a woman.’[37]

R. Johanan said on the authority of R. Jose b. Kisma: Of great [importance] is the mouthful [of food given to wayfarers], since it alienated two families from Israel, as it is written, [An Ammonite or Moabite shall not enter into the congregation of the Lord] . . . Because they met you not with bread and water in the way, when ye come forth out of Egypt.[38] R. Johanan, stating his own views, said: It alienates those who are near, and draws near those who are distant; it causes [God's] eyes to be averted from the wicked, and made the Shechinah to rest even on the prophets of Baal; and an unwitting offence in connection therewith is accounted as deliberate. ‘It alienates those who are near,

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(1) Ibid. 14ff.

(2) Job XXXVIII, 15.

(3) In the text it is written רשעים, the ע being written above the level of the line, making it read רשים plur. of רש ‘poor’. (11) I.e., where one earns the disapproval of man, it is proof that he has earned the disapproval of God too. Cf. Aboth. III 13.

(4) Both had many enemies, yet were truly righteous men.
(5) Lit., ‘the Priestly Law’.
(6) II Sam. XVIII, 15.
(7) I.e., they lead in the Hereafter an indifferent existence.
(8) II Kings XXI, 16.
(9) I.e., its enormous weight crushed such a number every day (Rashi); [or, he (Manasseh) slew them every day (at the end of the day's work); V. Ginzberg, Legends, IV, 278.]
(10) Since, in his opinion, that is meant by the statement that Manasseh filled Jerusalem with innocent blood from end to end.
(11) II Chron. XXXIII, 7.
(12) Ibid. 19. The Talmud discusses the discrepancy in number.
(13) [Copying the pattern of the four figures on the throne of God; v. Ezek. 1.]
(14) An idol — not the one just mentioned.
(15) II Kings XXIII, 13.
(16) Ibid.XXI, 7.
(17) Isa. XXVIII, 20.
(18) A play on the word מהשתרע I.e., the Holy of Holies is too small that God and the idol should rule together.
(19) Ps. XXXIII, 7.
(20) The verse is accordingly translated: ‘And the molten image is a rival to him who gathered (the waters) as an heap.’
(21) Isa. VIII, 16.
(22) II Chron. XXXIII, 23.
(23) I.e., the sun.
(24) A place famed for its gold, [cf. II Chron. III, 6.]
(25) Hag. II, 8.
(26) Ps. CXV, 16.
(27) V. infra p. 706.,
(28) II Chron. XXXVI, 8. [V. Yad Ramah, whose interpretation is here adopted.]
(29) Amongst the commoners who are excluded in the Mishnah from the future world: Micah was an Ephraimite, who had a private idolatrous shrine; Judges XVII.
(30) For refreshment. This verse is not found in our Bible, v. p. 698, n. 8. ‘The Levite’ stands for Micah, since he had a Levite ministering at his shrine. [This gloss is however suspect, as it does not occur in many MSS. v. D.S.]
(31) Zech. X, 11. It is not clear how this applies to Micah. Rashi gives two explanations: (i) When Moses cast the Divine Name into the sea in order to bring up Joseph's coffin, Micah stole and hid it; subsequently, he crossed the Red Sea together with the Israelites, bearing this Divine Name with him, by means of which he was able magically to make the Golden Calf (v. p. 446, nn. 9, 10); the verse is accordingly translated: And he passed over the sea with that which was to be a source of distress; (ii) Micah made his graven image (which he subsequently set up in his private sanctuary) whilst yet in Egypt, and took it with him when Israel crossed the Red Sea. The translation will be similar to the first.
(32) A town supposed to be the seat of Micah's image in Shiloh. [Gareb has been identified with Kirbat Gharaba, Horowitz, op. cit. p. 144.]
(33) Lit., ‘wood pile (on the altar).’
(34) Sc. Micah's image, which his neighbours permitted.
(35) V. Judges XIX.
(36) Forty thousand of those who went to war against Benjamin being slain.
(37) Lit. ‘flesh and blood’.
(38) Deut. XXIII, 4f.

Talmud - Mas. Sanhedrin 104a

— [this is deduced] from Ammon and Moab. ‘And brings near those who are distant,’ from Jethro. For R. Johanan said: As a reward for [Jethro's saying] Call him, that he may eat bread,[1] his descendants were privileged to sit in the Hall of Hewn Stones[2] [as scribes], as it is written, And the family of the scribes which dwell at Jabez; the Tirahites, the Shimeathites, and Suchathites. These are the Kenites that came of Hemath, the father of the house of Rechab;[3] whilst elsewhere it is written, And the children of the Kenite, Moses' father-in-law, went up out of the city of palm trees with the children of Judah into the wilderness of Judah, which lieth in the south of Arad; and they went and dwelt among the people.[4] 'It causes [God's] eyes to be averted from the wicked' — [this is learnt] from Micah.[5] 'And made the Shechinah to rest upon the prophets of Baal', — from the companion of Iddo the prophet. For it is written, And it came to pass, as they sat at the table, that the word of the Lord came unto the prophet that brought him back.[6] 'And an unwitting offence in connection therewith is accounted as deliberate' — for Rab Judah said in Rab's name: Had but Jonathan given David two loaves of bread for his travels, Nob, the city of priests would not have been massacred, Doeg the Edomite would not have been destroyed,[7] and Saul and his three sons would not have been slain.[8]

Now, why did they not include Ahaz?[9] — R. Jeremiah b. Abba said: Because he was placed between two righteous men, Jotham and Hezekiah. R. Joseph said: Because he was abashed before Isaiah, as it is written, Then said the Lord unto Isaiah, Go forth now to meet Ahaz, thou and Shear-jashub thy son, at the end of the conduit of the upper pool in the highway of the field of the kobes.[10] What is the meaning of kobes? — Some say, he hid his face [in shame] and fled.[11] Others say, he dragged a fuller's trough[12] upon his head [reversed, to hide his face in shame] and fled.

And why was Amon not included? — Because of Josiah's honour.[13] Then Manasseh [Hezekiah's son] too should not be included, because of Hezekiah's honour? — A son confers privileges on his father, but a father confers no privilege on a son. For it is written, Neither is there any one that can deliver out of my hand:[14] Abraham cannot deliver Ishmael, [and] Isaac cannot deliver Esau. Now, having arrived at this answer, Ahaz too was omitted because of Hezekiah's honour. And why was Jehoiakim omitted? — On account of what R. Hiyya, son of R. Abuiah said. For R. Hiyya, son of R. Abuiah, said: Upon Jehoiakim's skull was written, 'This and yet another.' Now, R. Perida's grandfather found a skull lying about at the gates of Jerusalem, and upon it was written, 'This and yet another.' So he buried it, but it refused to be buried [i.e., it re-emerged]; again he buried it, and again it would not remain buried. Thereupon he said, 'This must be Jehoiakim's skull, of whom it is written, He shall be buried with the burial of an ass, drawn and cast forth beyond the gates of Jerusalem.'[15] 'Yet,' reflected he, 'he was a king, and it is not meet to disgrace him'. So he wrapped it up in silk and placed it in a chest. On his wife's seeing it, she thought that it must be the skull of his first wife, whom he could not forget. So she fired the oven and burnt it. This is the meaning of the inscription: 'This and yet another.'[16]

It has been taught: R. Simeon b. Eleazar said: On account of [Hezekiah's boasting] And I have done that which was good in thy sight,[17] [he was led to inquire] What shall be the sign [that the Lord will heal me]?[18] On account of 'What shall be the sign', heathens ate at his table;[19] and on account of heathens eating at his table, he caused his children to go into exile.[20] This supports Hezekiah's dictum: He who invites a heathen into his house and attends to him, causes his children to go into exile, as it is written, And of thy sons that shall issue from thee, which thou shalt beget, shall they take away; and they shall be eunuchs in the palace of the king of Babylon.[21]

And Hezekiah was glad of them, and shewed them the house of his precious things, the silver, and the gold, and the spices, and the precious ointment etc.[22] Rab said: What is meant by 'the house of his precious things'? — His wife, who mixed the drinks for them.[23] Samuel said: He shewed them his treasury. R. Johanan said: He shewed them weapons which could destroy other weapons. How [ekah] doth the city sit solitary![24] Rabbah said in R. Johanan's name: Why was Israel smitten with 'ekah'?[25] Because they transgressed the thirty-six injunctions[26] of the Torah which are punished by extinction.[27] R. Johanan said: Why were they smitten with an alphabetical dirge?[28] Because they violated the Torah, which was given by means of the alphabet.[29]

‘Sit [badad][30] Solitary’: Rabbah said in R. Johanan's name: The Holy One, blessed be He, exclaimed, ‘I said, "Israel then shall dwell in safety alone [badad].’ the fountain of Jacob shall be upon a land of corn and wine; also his heavens shall drop down dew,"[31] but now they shall sit solitary.’[32]

The city that was full of people. Rabbah said in R. Johanan's name: They used to marry off a young girl to an adult, and a minor to a full-grown woman, that they might bear many children.[33]

She is become as a widow. Rab Judah said in Rab's name: As a widow, yet not a widow in fact: as a woman whose husband had gone overseas, but intends returning to her.

She that was great among the nations, and princess among the provinces: Rabbah said in R. Johanan's name: Wherever they went, they became princes of their masters.[34]

Our Rabbis taught: It once happened that two men [Jews] were taken captive on Mount Carmel, and their captor was walking behind them.

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(1) Ex. II, 20.

(2) V. supra, p. 573, n. 1.

(3) I Chron. II, 55.

(4) Judges I, 16. This shews that the Kenites were descended from Jethro, and they sat in the Hall of Hewn Stones as scribes and Sanhedrin.

(5) V. supra 103b.

(6) I Kings XIII, 20: he was a prophet of Baal, yet God's word came to him, as a reward for his hospitality.

(7) V. p. 640, n. 5.

(8) For had he provided him with food, he would not have taken any from Ahimelech. Thus, all this happened, though Jonathan's initial offence was due to an oversight.

(9) V. supra, 103b.

(10) כובם Isa. VII, 3.

(11) Connecting it with כבש ‘to suppress’, ‘to bend down’.

(12) Giving kobes its usual meaning.

(13) Josiah was his son, and a righteous man. To safeguard his honour and spare him from disgrace, Amon is permitted to enjoy the world to come.

(14) Deut. XXXII, 39.

(15) Jer. XXII, 19.

(16) This story is also related on 82a, with some slight variations. — These indignities made sufficient atonement for him that he should share in the future world.

(17) II Kings XX, 3.

(18) Ibid. 9: ‘Sin draws sin in its train’. The sin of boastfulness led him to that of disbelief, requiring a visible sign. The whole dictum is in this spirit

(19) Those whom Merodach-baladan had sent to congratulate him on his recovery. — Ibid. 22.

(20) Cf. Ibid. 17f.

(21) Ibid. 18.

(22) Isa. XXXIX, 2; cf. II Kings XX, 13.

(23) He permitted his wife (‘his treasure’) openly to wait upon them, disregarding the modesty which should have kept her within her own quarters (Maharsha).

(24) Lam. I, 1. Having mentioned exile, the Talmud proceeds to discuss Lamentations.

(25) I.e., brought to such a dirge.

(26) V. Ker. I, 1.

(27) The numerical value of איכה is 36.

(28) Lamentations is written in the form of an alphabetical acrostic.

(29) I.e., its words are formed from the alphabet. Possibly this alludes to the belief that the letters themselves are endowed with certain powers; v. p. 446, n. 9.

(30) בדד.

(31) Deut. XXXIII, 28. Thus ‘solitariness’ was promised as a blessing, viz., freedom from outside entanglements which might threaten their safety.

(32) I.e., desolate.

(33) This is meant to exclude marriage where both are minors.

(34) Even in the Diaspora they forged to the front ranks.

Talmud - Mas. Sanhedrin 104b

One of them said to the other, ‘The camel walking in front of us is blind in one eye, and is laden with two barrels, one of wine, and the other of oil, and of the two men leading it, one is a Jew, and the other a heathen.’ Their captor said to them, ‘Ye stiff-necked people, whence do ye know this?’ They replied, ‘Because the camel is eating of the herbs before it only on the side where it can see, but not on the other, where it cannot see.[1] It is laden with two barrels, one of wine and the other of oil: because wine drips and is absorbed [into the earth], whilst oil drips and rests[2] [on the surface].[3] And of the two men leading it, one is a Jew, and the other a heathen: because a heathen obeys the call of Nature in the roadway, whilst a Jew turns aside.’ He hastened after them, and found that it was as they had said.[4] So he went and kissed them on the head,[5] brought them into his house, and prepared a great feast for them. He danced [with joy] before them and exclaimed ‘Blessed be He who made choice of Abraham's seed and imparted to them of His wisdom, and wherever they go they become princes to their masters!’ Then he liberated them, and they went home in peace.

She weepeth, yea, She weepeth, in the night.[6] Why this double weeping? — Rabbah said in R. Johanan's name: Once for the first Temple, and once for the second. ‘In the night’ — on account of what happened at night. For it is written, And all the congregation lifted up their voice, and cried, and the people wept that night.[7] Rabbah observed in R. Johanan's name: It was the night of the ninth of Ab, and the Almighty said to Israel, ‘Ye have wept without cause: therefore will I appoint a weeping to you for future generations. Another interpretation of ‘in the night’: whoever weeps at night, his voice is heard.[8] Another meaning: whoever weeps at night, the stars and constellations weep with him. Another meaning: whoever weeps at night, he who hears him, weeps [in sympathy]. It happened that the child of a neighbour of R. Gamaliel died, and she was weeping for him at night. R. Gamaliel, on hearing her, wept in sympathy with her, until his eyelashes fell out. On the morrow, his disciples discerned this, and removed her from his neighbourhood.

And her tears are on her cheeks.[9] Rabbah said in R. Johanan's name: As a woman who weeps for the husband of her youth, as it is written, Lament like a virgin girded with sackcloth for the husband of her youth.[10]

Her adversaries are the chief.[11] Rabbah said in R. Johanan's name: Whoever distresses Israel becomes a chief, as it is written,[12] Nevertheless, there shall be no weariness for her that oppressed her.[13] In the former time he brought into contempt the land of Zebulun and the land of Naphtali, but in the latter time hath he made it glorious, by way of the sea, beyond Jordan, the circuit of the nations.[14] Whereupon Rabbah said in R. Johanan's name: Whoever oppresses Israel does not weary.

Not to you, all ye that pass by.[15] Rabbah said in R. Johanan's name: This gives Biblical support to the custom of saying ‘not to you’.[16] ‘All ye that pass by.’ R. Amram said in Rab's name: They have made me as those who transgress the law;[17] for in the case of Sodom it is written, And the Lord rained upon Sodom [and upon Gomorrah brimstone and fire],[18] whilst in the case of Jerusalem it is written, From above hath he sent fire into my bones, and it prevaileth against them.[19]

For the iniquity of the daughter of my people is greater than the sin of Sodom:[20] is there then favouritism in the matter?[21] — Rabbah answered in R. Johanan's name: There was an extra measure [of punishment] in Jerusalem, which Sodom was spared. For in the case of Sodom, it is written, Behold, this was the iniquity of thy sister Sodom, pride, fulness of bread, and abundance of idleness was in her and in her daughters, neither did she strengthen the hand of the poor and the needy.[22] Whereas in the case of Jerusalem it is written, The hands of the pitiful women have sodden their children.[23]

The Lord hath trodden under foot all my mighty men in the midst of me:[24] as one says to his neighbour, This coin has lost its currency.[25]

All thine enemies have opened their mouths against thee.[26] Rabbah said in R. Johanan's name: Why did he place the pe before the ‘ayin?[27] Because of the Spies who spoke with their mouths what they had not seen with their eyes.[28]

They eat my people as they eat bread, and call not upon the Lord.[29] Rabbah said in R. Johanan's name: Whoever eats the bread of Israel enjoys the taste of bread; whoever does not eat the bread of Israel does not enjoy the taste of bread.[30]

They call not upon the Lord. Rab said: This refers to the judges;[31] Samuel said: To teachers of children.[32]

Now, who enumerated them?[33] — R. Ashi said: The men of the Great Assembly[34] enumerated them.

Rab Judah said in Rab's name: They wished to include another [sc. Solomon], but an apparition of his father's likeness came and prostrated itself [in supplication] before them, which, however, they disregarded. A heavenly fire descended and its flames licked their seats, yet they still disregarded it. Whereupon a Heavenly Voice cried out to them, ‘Seest thou a man diligent in his business? he shall stand before kings; he shall not stand before mean men.[35] He who gave precedence to My house over his, and, moreover, built My house in seven years, but his own in thirteen, he shall stand before kings;[36] he shall not stand before mean men.’[37] Yet they paid no attention even to this. Whereupon the Heavenly Voice cried out, ‘Should it be according to thy mind? he will recompense it, whether thou refuse, ‘or whether thou choose; and not I etc.’[38]

The Doreshe Reshumoth[39] maintained: All of them will enter the world to come, as it is written, Gilead is mine, Manasseh is mine;[40] Ephraim also is the strength of mine head; Judah is my lawgiver,’ Moab is my washpot; over Edom will I cast out my shoe: Philistia, triumph thou because of me.[41] [Thus:] ‘Gilead is mine’ this refers to Ahab, who fell at Ramoth-gilead; ‘Manasseh’ is literally meant;[42] ‘Ephraim also is the strength of mine head’ — this alludes to Jeroboam, a descendant of Ephraim; ‘Judah is my lawgiver’ — this refers to Ahitophel,

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(1) An animal eats from the herbs on both sides of it. This camel however, was eating of one side only, proving that it was blind in one eye.

(2) Lit., ‘floats’.

(3) And they had observed two lines of such drops — one absorbed into the earth, and the other remaining on the surface.

(4) In our editions this story is considerably abbreviated. The Munich edition (referred to and partly quoted in the Aruch) proceeds from here: ‘It appears to us,’ said they, ‘that our master is the son of the king's dancer’ (So translated in the REJ. XI, 15, on the basis of the general context. Jast: the king's fool, which is probably the same. Aruch: the son of the king's executioner (quaestionarius), but that is quite unsuited to the context). Then he brought them into his house, prepared a great feast, and danced before them. Seeing this, the Jews exclaimed, ‘Did we not say that our master is the son of the king's dancer?’ On hearing these words, the man sped to his mother and threatened her, ‘If thou dost not confess the truth to me, I will kill thee.’ Thereupon she disclosed to him that on her wedding day, her husband having quitted the nuptial chamber, the king's dancer entered and ravished her. He then returned to his captives and served them with some meat. Having smelt it, they cried out, ‘This meat smells of dog!’ Again he threatened his mother with death if she would not tell him the truth. She answered: ‘This is the meat of a ewe suckled by a bitch, its own mother having died’. He then offered them wine. ‘It smells of the dead’, said they. A third time he challenged his mother to reveal the truth, on pain of death. She told him that the wine had been manufactured from a vine whose branches had trailed over his father's tomb. He returned, kissed them, and exclaimed, ‘Blessed be the God who made choice of Abraham's posterity.’ Then he dismissed them in peace to their homes. Cf. REJ. loc. cit. et seqq., where the parallel story is quoted from the Yalkut on Ekah (1000), and the probable date, place, and purpose of its composition discussed.

(5) Kissing, in ancient days as well as in our own, was often a mark of respect and admiration, not necessarily of affection.

(6) Literal rendering of Lam. I, 2.

(7) Num. XIV, 1 — this was after the discouraging report of the Spies.

(8) Israel's weeping did not arouse any pity.

(9) Lam. I, 2.

(10) Joel I, 8.

(11) Lam. I, 5.

(12) Wilna Gaon deletes this.

(13) V. supra p. 636.

(14) Isa. VIII, 23.

(15) Lam. I, 12.

(16) קובלנא (kublana) is a formula for warding off danger from one's neighbour when reciting woes to him by saying, ‘May this not befall you’. Another meaning: ‘crying out’; I.e., a man in trouble should cry out to his neighbours and obtain their sympathy (Jast). On this rendering the E.V. can be retained: ‘Is it nothing to you?’

(17) Translating עוברי דרך ‘Transgressors of the way of the Lord’.

(18) Gen. XIX, 24.

(19) Lam. I, 13: thus Jerusalem was treated as Sodom and Gomorrah.

(20) Ibid. IV, 6. In the editions this is preceded by ‘And it is written’, thus making it a continuation of the previous passage. But the Wilna Gaon deletes it.

(21) Since Sodom was completely destroyed, whilst Jerusalem in spite of its greater iniquity was left standing.

(22) Ezek. XVI, 49.

(23) Lam. IV, 10, thus Jerusalem suffered extreme hunger, which Sodom never did, and this fact counterbalanced her being spared total destruction (Rashi).

(24) Ibid. I, 15.

(25) Lit., ‘disqualified’, ‘rejected’; and so may be trodden under foot. So did God treat Israel's heroes as being of no value (Rashi).

(26) Ibid. II, 16.

(27) As remarked before, Lamentations is written in the form of an alphabetical acrostic. But in this chapter, and also in Chs. III and IV, the verse beginning with פ precedes that of the ע; pe פ means mouth and ‘ayin ע means eye.

(28) Thus putting the one before the other.

(29) Ps. XIV, 4.

(30) The Heathens enjoy their bread only if it is stolen from the Jews.

(31) Who do not mete out fair justice.

(32) Who do not carry out their task honestly.

(33) Who originally enumerated these kings and commoners as having no portion in the coming world, seeing that ordinary persons cannot know such things?

(34) The men of the Great Synagogue or Great Assembly are regarded as the connecting link in the chain of tradition from Moses down to the Rabbis, and many institutions are traced to them; v. Aboth I, 1.

(35) Prov. XXII, 29.

(36) In Paradise (Rashi).

(37) I.e., he must not be included among those who have no portion in the future world.

(38) Job XXXIV, 33. It would appear from this passage that the men of the Great Synagogue were regarded as the actual arbiters of the matter, save in the case of Solomon.

(39) [דורש רשומות lit., 'interpreters of signs,' i.e., those who interpret the law symbolically, for the sake of edification and instruction, a school of exegetes belonging to a period anterior to that of Hillel and Shammai and of Palestinian origin. For a full discussion of the term, v. Lauterbach, J.Q.R. (N.S.) I, pp. 291ff. and 503ff.]

(40) I.e., it is for me to bear their iniquities, that they may enter into the coming world.

(41) Ps. LX, 9f.

(42) Viz., the son of Hezekiah.

Talmud - Mas. Sanhedrin 105a

who is descended from Judah; 'Moab is my washpot,' to Gehazi, who was smitten on account of matters connected with bathing; 'over Edom will I cast out my shoe'[1] — to Doeg the Edomite;[2] 'Philistia, triumph thou because of me,' The ministering Angels exclaimed before the Holy One, blessed be He, 'Sovereign of the Universe! If David comes, who slew the Philistine and gave possession of Gath to thy children. [and complains at Thy giving a share in the world to come to Doeg and Ahitophel], what wilt thou do with him?' He replied, 'It is My duty to make them friends with each other.'[3]

Why is this people of Jerusalem slidden back by a perpetual backsliding?[4] Rab said: The Kenesseth Yisrael[5] gave the prophet a victorious answer.[6] [For] the prophet said to Israel. 'Return and repent: your fathers who sinned — where are they?' They replied, 'And your prophets who did not sin — where are they? As it is written. Your fathers, where are they? — and the prophets, do they live for ever!'[7] He answered them, 'Yet [your fathers] repented and admitted [the justice of their punishment],[8] as it is written, But my words and my statutes, which I commanded my servants the prophets, did they not take hold of your fathers? and they returned and said, Like as the Lord of Hosts thought to do unto us, according to our ways, and according to our doings, so hath he dealt with us.'[9]

Samuel said: Ten men came and sat down before him [sc. the prophet]. Said he to them, 'Return and repent.' They answered, 'If a master sells his slave, or a husband divorces his wife, — has one a claim upon the other?'[10] Thereupon the Holy One, blessed be He, said to the prophet, 'Go and say to them, Thus saith the Lord, Where is the bill of your mother's divorcement, whom I have put away? or which of my creditors is it to whom I have sold you? Behold, for your iniquities have ye sold yourselves, and for your transgressions is your mother put away.'[11] This agrees with Resh Lakish, who said: Why does Scripture write, David my servant, Nebuchadnezzar my servant?[12] Because it was revealed and known to Him who spoke, and the world was created[13] that Israel would argue thus: therefore the Holy One, blessed be He, forestalled [them] by calling him His servant, and when a servant acquires property — to whom does the servant belong, and to whom the property?[14]

And that which cometh into your mind shall not be at all, that ye say, We will be as the heathen, as the families of the countries, to serve wood and stone. As I live, saith the Lord God, surely with a mighty hand, and with a stretched out arm, and with fury poured out, will I rule over you.[15] R. Nahman said: Even with such fury let the Merciful rage against us, but that He redeem us.

For he doth chastise him to discretion, and his God doth teach him.[16] Rabbah b. Bar Hana said: The prophet urged Israel, 'Return and repent.' They replied, 'We cannot: the Tempter[17] rules over us. He said to them, 'Curb your [evil] desires.' They replied, 'Let His God teach us.'[18]

FOUR COMMONERS, VIZ., BALAAM, DOEG, AHITOPHEL, AND GEHAZI. Belo'-am [denotes without the people].[19] Another explanation: Balaam denotes that he corrupted a people.[20] The son of Beor [denotes] that he committed bestiality.[21] A Tanna taught: Beor, Cushan-rishathaim and Laban the Syrian are identical; Beor denotes that he committed bestiality; Cushan-rishathaim, that he perpetrated two evils upon Israel: one in the days of Jacob,[22] and the other in the days of the Judges.[23] But what was his real name? Laban the Syrian.

Scripture writes, the son of Beor;[24] [but also] his son [was] Beor.[25] R. Johanan said: His father [Beor] was as his son in the matter of prophecy.[26]

Now only Balaam will not enter [the future world], but other [heathens] will enter.[27] On whose authority is the Mishnah [taught]? — On R. Joshua's. For it has been taught: R. Eliezer said, The wicked shall be turned into hell, and all the nations that forget God:[28] The wicked shall be turned into hell — this refers to transgressors among Israel; and all the nations that forget God — to transgressors among the heathen.[29] This is R. Eliezer's view. But R. Joshua said to him: Is it stated, and [those] among all the nations?[30] Surely all the nations that forget God is written! But [interpret thus:] The wicked shall be turned into hell, and who are they? — all the nations that forget God.[31] Now, that wicked man [Balaam] too gave a sign for himself [that he would not enter the future world by saying, Let me die the death of the righteous[32] — meaning, If I die the death of the righteous [i.e., a natural death], my last end will be like his;[33] but if not [i.e., if I die a violent death], then behold I go unto my people.[34]

And the elders of Moab and the elders of Midian departed.[35] A Tanna taught: There was never peace between Midian and Moab. The matter may be compared to two dogs in one kernel which were always enraged at each other. Then a wolf attacked one, whereupon the other said, If I do not help him, he will kill him to-day, and attack me to-morrow; so they both went and killed the wolf. R. Papa observed: Thus people say, ‘The weasel and cat [when at peace with each other] had a feast on the fat of the luckless.’ And the princes of Moab abode with Balaam.[36] But whither had the princes of Midian gone? — As soon as he said to them, Lodge here this night, and I will bring you word again, [as the Lord shall speak unto me],[37] they reasoned, Does any father hate his son![38] R. Nahman said: Impudence, even against Heaven, is of avail: at first it is written, Thou shalt not go with them,’[39] yet subsequently it is said, Rise up and go with them.[40] R. Shesheth said: Impudence is sovereignty without a crown,[41] for it is written, And I am this day weak, though anointed king, and these men the sons of Zeruiah be too hard for me.[42]

R. Johanan said: Balaam limped on one foot, as it is written, And he walked haltingly.[43] Samson was lame in both feet, as it is written, [Dan shall be a serpent by the way,] an adder in the path that biteth the horse's heels.[44] Balaam was blind in one eye, as it is said, [and the man] whose eye is open . . .[45] He practised enchantment by means of his membrum. For here it is written, falling, but having his eyes open; whilst elsewhere is written, And Haman was fallen on the bed whereon Esther was.[46]

It was stated, Mar Zutra said: He practised enchantment by means of his membrum. Mar the son of Rabina said: He committed bestiality with his ass. The view that he practised enchantment by means of his membrum is as was stated. The view that he committed bestiality with his ass [is because] here it is written, He bowed,[47] he lay down as a lion and as a great lion;[48] whilst elsewhere it is written, At her feet

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(1) נעלי (E.V. ‘my shoe’) is connected with root meaning ‘to lock’ and the phrase is taken to denote, ‘I will lock him up in Paradise.’

(2) V. p., 640. n. 5.

(3) התרועעי hithro'a'i (E.V. ‘triumph thou’) is thus derived from רע, and translated ‘make thyself a friend’. It may be observed that it is not taught here that they actually have a portion in the world to come as a right, but that they will nevertheless enter therein, God bearing their iniquities to make this possible (v. n. 1). This is in accordance with the general attitude of Judaism that punishment is not everlasting. Cf. M. Joseph. Judaism as Creed and Life, pp. 146-147.

(4) Heb. meshubah nizzahath, משובה נצחת Jer. VIII, 5.

(5) The Community of Israel.

(6) תשובה נצחת teshubah nizzahath, with which משובה נצחת is connected.
(7) Zech. I, 5. The verse is treated as a dialogue between the prophets and the people.
(8) [The passage is difficult. It is best to adopt the reading of several editions of MSS. deleting ‘He answered them,’ viz., ‘Yet they (i.e., the people) repented and admitted.’ The people, that is to say, despite their victorious rejoinder, did not press this advantage home but moved by the words of Jeremiah, why is this people etc., repented and confessed their guilt.]
(9) Ibid. 6.
(10) ‘God having sold us to Nebuchadnezzar, He has no further claim upon us, and we have no cause to repent.’ This, in Samuel's view, was the victorious answer.
(11) Isa. L, 1. This vitiated the premises of their argument.
(12) The latter in Jer. XLIII, 20: why was Nebuchadnezzar honoured with such an exalted title, whereby he was made equal to David?
(13) This phrase has become liturgical; v. p. 519.
(14) I.e., even if God had sold them to Nebuchadnezzar, they were still God's.
(15) Ezek. XX, 32f.
(16) Isa. XXVIII, 26. (E.V. For his God doth instruct him to discretion and doth teach him.)
(17) The Evil inclination, the yezer hara’.
(18) I.e., ‘Let God, who is master even over the Tempter, teach us to curb our desires.’ This was in Rabbah b. Bar Hana's view’ the ‘victorious answer’ (Rashi).
(19) בלא עם Belo'am, i,e., he has no portion in the future world together with other people.
(20) בלה עם balah'am, [or בלע םע bala’-’am, ‘he devoured the people,’ Aruch]. Both meanings are a play of words on his name. The reference is to Israel, as explained further on.
(21) Lit., ‘had connection with an animal’. Heb. be'ir בעיר.
(22) When he pursued him, wishing to destroy him (Gen. XXVI, 23 et seqq.).
(23) Judges III, 8; Therefore the anger of the Lord was hot against Israel, and he sold them into the hand of Cushon-rishathaim, king of Mesopotamia. Rish'athaim is taken as dual of Rish'ah, רשעה ‘evil’.
(24) Num. XXII, 5.
(25) Ibid. XXIV, 3: so בנו בעור may be translated.
(26) I.e., he was a greater prophet than his father.
(27) This follows as a corollary to the Mishnah.
(28) Ps. IX, 17.
(29) [Heathens, however, who do nor forget God will share the bliss of eternal life.]
(30) Which would denote only some of them.
(31) [Yad Ramah preserves a more preferable reading: ‘this refers to the heathen. This is R. Eliezer's view. But R. Joshua said to him: Is it stated, and all nations, surely all nations etc. i.e., without a waw copulative, and hence in apposition to the first clause.]
(32) Num. XXIII, 20.
(33) I.e., ‘I will enter the world to come.’
(34) Ibid. XXIV, 14; i.e., into the Gehenna.
(35) Ibid. XXII, 7.
(36) Ibid. 8.
(37) Ibid.
(38) They knew that it was useless to wait.
(39) Ibid. 12.
(40) Ibid. 20. [His insistence wrested from God His consent for him to go.]
(41) I.e., it wields great power, and lacks nothing but a crown.
(42) II Sam. III, 39. Thus their boldness and impudence outweighed sovereignty.
(43) Num. XXIII, 3.
(44) Gen. XLIX, 17. According to tradition, this was a prophecy of Samson; ‘An adder in the path’ is taken to mean that he would have to slither along like an adder, being lame in both feet.
(45) Num. XXIV, 3. Since ‘eye’ is in the singular, it follows that only one eye was open, the other being sightless.
(46) Est. VII, 8.

(47) E.V. ‘he couched’.
(48) Num. XXIV, 9.

Talmud - Mas. Sanhedrin 105b

he bowed, he fell.[1]

And knoweth the mind[2] of the most High.[3] Now, seeing that he did not even know the mind of his ass, could he know the mind of the most High! What [is this about] the mind of his ass? — For they [the elders] said to him, ‘Why didst thou not ride upon thy horse?’ He replied. ‘I have put it [to graze] in the dewy pastures. But the ass said to him, ‘Am I not thine ass?’[4] — ‘Merely for carrying loads’, [he replied]. ‘Upon which thou hast ridden.’ — ‘That was only by chance.’ ‘Ever since I was thine until this day,’ [she added]. ‘Moreover, I serve thee as a companion by night.’ Here is written, Was I ever wont to do so unto thee;[5] whilst elsewhere it is written, And let her be his companion.[6] What then is meant by knowing the mind of the most High? — He knew how to gauge the exact moment when the Holy One, blessed be He, is angry; and that was what the prophet said to Israel: O thy people, remember now what Balak king of Moab consulted, and what Balaam the son of Beor answered him from Shittim unto Gilgal, that ye may know the righteousness of the Lord.[7] What is meant by that ye may know the righteousness of the Lord? — The Holy One, blessed be He, said to Israel: Know now how many acts of charity I performed for you in that I did not become angry all that time, in the days of Balaam the Wicked; for had I waxed angry during that time none would have remained or been spared of Israel's enemies.[8] And thus Balaam said to Balak, How shall I curse, whom God hath not cursed? or how shall I rage, when the Lord hath not raged?[9] This teaches that for the whole of that time the Lord had not been wroth.[10] [But normally] God is angry every day.[11] And how long does His anger last? — A moment, as it is written, For his anger endureth but a moment; in his favour is life etc.[12] Or, if you like, deduce it from this verse, Come, my people, enter into thy chambers, and shut thy doors about thee: hide thyself as it were for a little moment, until the indignation be overpast.[13] Now, when is He angry? — In the first three hours [of the day], when the comb of the cock is white. But at all times it is white! — At all other times it has red streaks, but at that moment [of God's anger] there are no red streaks in it.

A sectarian[14] lived in the neighbourhood of R. Joshua b. Levi, who used to vex him. One day he took a fowl, tied it to the foot [of his bed][15] and sat down, saying, When that moment comes,[16] I will curse him. But when that moment came, he dozed off. This proves, said he, that it is not fitting [to do this], for it is written, Also to punish, is not meet [‘good’] for the righteous:[17] even of a sectarian, one should not speak thus.[18]

A Tanna taught in the name of R. Meir: When the sun shines and kings place their crowns upon their heads and adore the sun, immediately [the Almighty] becomes wroth.

And Balaam rose up in the morning, and saddled his ass.[19] A Tanna taught on the authority of R. Simeon b. Eleazar: Love disregards the rule of dignified conduct. [This is deduced] from Abraham, for it is written, And Abraham rose up early in the morning, and saddled his ass.[20] Hate likewise disregards the rule of dignified conduct: [this is deduced] from Balaam, for it is written, And Balaam rose up in the morning, and saddled his ass.

Rab Judah said in Rab's name: One should always occupy himself with Torah and good deeds, though it be not for their own sake,[21] for out of good work misapplied in purpose there comes [the desire to do it] for its own sake. For as a reward for the forty-two sacrifices offered up by Balak, he was privileged that Ruth should be his descendant;[22] [as][23] R. Jose b. Huna said: Ruth was the daughter of Eglon, the grandson of Balak, king of Moab.

Raba said to Rabbah b. Mari: It is written, [And moreover the king's servants came to bless our lord king David, saying] God make the name of Solomon better than thy name, and make his throne greater than thy throne:[24] is it mannerly to speak thus to a king? — He replied: They meant, according to the nature of [thy throne etc.].[25] For should you not say thus, [consider:] Blessed above women shall Jael the wife of Heber the Kenite be, blessed shall she be above women in the tent.[26] Now who are the ‘women in the tent’? — Sarah, Rebecca, Rachel and Leah. Is it then meet to say thus? — But it means according to the nature of [their blessedness].[27] So here too,it bears the same meaning. Now, this conflicts with R. Jose b. Honi. For R. Jose b. Honi said: Of everyone a man is jealous, except his son and disciple. ‘His son’ — this is deduced from Solomon.[28] ‘His disciple — [is deduced] if you like, say, from Let a double quantity of thy spirit be upon me;[29] or if you like, say, from And he laid his hands upon him, and gave him a charge.[30]

And the Lord put a thing in the mouth of Balaam.[31] R. Eleazar said, An angel;[32] R. Jonathan said: a hook.

R. Johanan said: From the blessings of that wicked man you may learn his intentions:[33] Thus he wished to curse them that they [the Israelites] should possess no synagogues or school — houses — [this is deduced from] How goodly are thy tents, O Jacob;[34] that the Shechinah should not rest upon them — and thy tabernacles, O Israel;[35] that their kingdom should not endure — As the valleys are they spread forth;[36] that they might have no olive trees and vineyards — as gardens by the river's side; that their odour might not be fragrant — as the trees of lign aloes which the Lord hath planted; that their kings might not be tall — and as cedar trees beside the waters; that they might not have a king the son of a king —[37] He shall pour the water out of his buckets;[38] that their kingdom might not rule over other nations — and his seed shall be in many waters; that their kingdom might not be strong — and his king shall be higher than Agag; that their kingdom might not be awe-inspiring — and his kingdom shall be exalted. R. Abba b. Kahana said: All of them reverted to a curse,[39] excepting the synagogues and schoolhouses, for it is written, But the Lord thy God turned the curse into a blessing for thee, because the Lord thy God loved thee;[40] the curse, but not the curses.[41]

R. Samuel b. Nahmani said in R. Jonathan's name: What is meant by the verse, Faithful are the wounds of a friend; but the kisses of an enemy are deceitful?[42] Better is the curse wherewith Ahijah the Shilonite cursed Israel than the blessing wherewith the wicked Balaam blessed them. Ahijah the Shilonite cursed Israel by a reed, as it is said, For the Lord shall smite Israel, as a reed is shaken in the water:[43] just as a reed grows in well watered soil and its stem

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(1) Judges V, 27. This is taken to refer to sexual intercourse, and hence the first verse quoted is interpreted as referring to this likewise. That is the explanation according to our reading. But the verse he couched, he lay down as a lion, etc. refers not to Balaam but to Israel; this, of course, destroys the whole argument. In consequence the Wilna Gaon deletes this verse. The passage then reads: The view that he had sexual intercourse is deduced from, At her feet he bowed, he fell: just as ‘falling’ in this verse denotes cohabitation, so also in ‘falling, but having his eyes open’. V.D.S. a.l.

(2) E.V. ‘knowledge’.

(3) Num. XXIV, 16.

(4) Ibid. XXII, 30; thus affirming that it was his usual wont to ride upon her, not upon a horse.

(5) Ibid. XXII, 30.

(6) I Kings I, 2. In both cases a word from root סכן is used. Thus we see that he did not even know his beast's mind, not being able to anticipate her answers. How then could he claim to know the mind of God?

(7) Micah VI, 5.

(8) A euphemism for Israel; v. p. 622, n. 1, For Balaam's curse pronounced at the very moment of My anger, would have been effective.

(9) Num. XXIII, 8.

(10) I.e., He was never angry during that period.

(11) Ps. VII, 12.

(12) Ibid. XXX, 5.
(13) Isa. XXVI, 20.
(14) Heb. Min, v. Glos.
(15) ‘Of his bed’ is supplied from Ber. 7a. where this story is repeated. Magical properties were ascribed to the feet of a bed. V. A. Marmorstein in MGWJ. 1927, p. 44 and 1928. p. 391. et seqq., where a number of instances are given both from Talmudic and non-Talmudic literature of the feet of a bed being used in magic. For variants in the whole passage. cf. A.Z. 4a.
(16) When its comb is entirely white.
(17) Prov. XVII, 26.
(18) I.e., one must not curse even a sectarian.
(19) Num. XXII, 21.
(20) Gen. XXII, 3. Though the saddling of an ass is not work becoming for a great man, yet in his love to God and eagerness to carry out his commands, Abraham did it.
(21) V. next note.
(22) Though Balak offered up these sacrifices for a most unworthy purpose — viz. that Balaam might thereby be enabled to curse Israel — he was nevertheless rewarded for it, shewing that it has some merit.
(23) V. Hor. 10b.
(24) I Kings I, 47.
(25) I.e.. God make the name of Solomon illustrions (lit., ‘good’) even as the nature of thine own, and make his throne great, according to the character of thy throne. [The מ in משמך is taken as partitive.]
(26) Judges V, 24.
(27) I.e., ‘Blessed shall she be, with the blessedness of women in the tent.’ [The מ in מנשים is likewise treated as partitive.]
(28) I.e., from the passage under discussion; David's servants were not afraid to wish Solomon a greater name than his own, knowing that he would not be jealous of his own son. He thus translates the verse literally.
(29) II Kings II, 9. Elisha asked this of his master Elijah.
(30) Num. XXVII, 23. This alludes to Moses’ giving of his spirit to Joshua.
(31) Ibid. XXIII, 5.
(32) I.e., put an angel at his mouth, to curb his speech.
(33) Every blessing is the reverse of the curse he wished to utter.
(34) Ibid. XXIV, 5.’Tents’ is interpreted ‘synagogues’. etc.
(35) Ibid. The tabernacle symbolising the Divine Presence.
(36) Ibid. 6; the spreading forth of the valleys symbolising length of time.
(37) I.e., that no king should found a dynasty — a sign of unrest and civil war.
(38) I.e., one king shall be descended from another.
(39) His intention in every case was eventually fulfilled.
(40) Deut. XXIII, 6.
(41) I.e., only one intentioned curse was permanently turned into a blessing, viz.. that concerning synagogues etc:, as these were destined never to disappear from Israel.
(42) Prov. XXVII, 6.
(43) I Kings XIV, 15.

Talmud - Mas. Sanhedrin 106a

is renewed[1] and its roots are numerous, and even if all the winds of the world come and blow upon it they cannot dislodge it from its place, but it sways in unison with them, and as soon as the winds subside, the reed still stands in its place, [so may Israel be]. But the wicked Balaam blessed them by the cedar:[2] just as the cedar does not stand in a watery place, and its roots are few and its stock is not renewed, and even if all the winds of the world come and blow upon it they cannot stir it from its place, but immediately the South wind blows upon it it uproots and overturns it on its face, [so may Israel be]. Nay, more, it was the reed's privilege that a quill thereof should be taken for the writing of the Scroll of the Torah, Prophets and Hagiographa. And he looked on the Kenite, and took up his parable.[3] Balaam said to Jethro, ‘Thou Kenite, wast thou not with us in that scheme?[4] Who then placed thee among the strong ones of the world!’[5] And that is what R. Hiyya b. Abba said in R. Simai's name: Three were involved in that scheme,[6] viz., Balaam, Job, and Jethro. Balaam, who advised it, was slain; Job, who was silent,[7] was punished through suffering; and Jethro, who fled — his descendants were privileged to sit in the Hall of Hewn Stones, as it is written, And the families of the scribes which dwell at Jabez, the Tirathites, the Shemeathites, and Suchathites. These are the Kenites that came of Hemath, the father of the house of Rechab;[8] whilst elsewhere it is written, And the children of the Kenite, Moses’ father in law, went up out of the city of palm trees.[9]

And he took up his parable, and said, Alas, who shall live when God doeth this![10] R. Simeon b. Lakish said: Woe unto him who maketh himself alive by the name of God,[11] R. Johanan said: Woe to the nation that may be found [attempting to hinder], when the Holy One, blessed be He, accomplishes the redemption of his children: who would throw his garment between a lion and a lioness when these are copulating![12]

And ships shall come from the coast of Chittim.[13] Rab said: This refers to the White Legion.[14] And shall afflict Asshur, and shall afflict Eber:[15] Until Asshur, they shall slay; after that, they shall throw into subjection.[16]

And now, behold I go unto my people; come, therefore, and I will advertise thee what this people shall do to thy people in the latter days.[17] But he should have said, What thy people shall do to this people?[18] — R. Abba b. Kahana said: It is as one who, cursing himself, refers his malediction to others.[19] He [Balaam] said thus to him [Balak]. ‘The God of these hates lewdness, and they are very partial to linen.[20] Come, and I will advise thee. Erect for them tents enclosed by hangings, in which place harlots, old women without, young women within, to sell them linen garments.’ So he erected curtained tents from the snowy mountain [Hermon] as far as Beth ha-Yeshimoth [i.e., right from north to south], and placed harlots in them — old women without, young women within. And when an Israelite ate, drank, and was merry, and issued forth for a stroll in the market place, the old woman would say to him, ‘Dost thou not desire linen garments?’ The old woman offered it at its current value, but the young one for less. This happened two or three times. After that she would say to him, ‘Thou art now like one of the family; sit down and choose for thyself.’ Gourds of Ammonite wine lay near her, and at that time Ammonite[21] and heathen wine had not yet been forbidden. Said she to him, ‘Wouldst thou like to drink a glass of wine?’ Having drunk, [his passion] was inflamed, and he exclaimed to her, ‘Yield to me!’ Thereupon she brought forth an idol from her bosom and said to him, ‘Worship this’! ‘But I am a Jew’, he protested. ‘What does that concern thee?’ she rejoined, ‘nothing is required but that thou should uncover thyself’ — whilst he did not know that such was its worship. ‘Nay’, [said she,] ‘I will not leave thee ere thou hast denied the Torah of Moses thy teacher,’ as it is written, They went into Baal-peor, and separated themselves unto that shame, and their abominations were according as they loved.[22]

And Israel abode in Shittim.[23] R. Eliezer said: Its name was Shittim. R. Joshua said: They engaged in ways of folly [shetuth],[24] And they called the people unto the sacrifices of their gods:[25] R. Eliezer said: They met them naked;[26] R. Joshua said: They were all excited to pollution.[27]

What is the meaning of Rephidim?[28] — R. Eliezer said: Rephidim was its name. R. Joshua said: [It was so called] because there they slackened in [their loyalty to] the Torah, as it is written, The fathers shall not look back to their children for feebleness of hands.[29]

R. Johanan said: Wherever [Scripture] writes ‘And he abode [or dwelt]’, it denotes trouble, Thus: And Israel abode in Shittim — and the people began to commit whoredom with the daughters of Moab;[30] And Jacob dwelt in the laid where his father was a stranger, in the land of Canaan —[31] and Joseph brought unto his father their evil report;[32] And Israel dwelt in the land of Egypt, in the country of Goshen —[33] And the time drew near that Israel must die;[34] And Judah and Israel dwelt safely, every man under his vine and under his fig tree —[35] And the Lord stirred up an adversary unto Solomon, Hadad the Edomite; he was the king's seed in Edom.[36]

And they slew the kings of Midian, beside the rest of them that were slain . . . Balaam also the son of Beor they slew with the sword.[37] What business had Balaam there? — R. Jonathan said: He went to receive his reward for the twenty-four thousand Israelites whose destruction he had encompassed.[38] Mar Zutra b. Tobiah remarked in Rab's name: This is what men say, ‘When the camel went to demand horns, they cut off the ears he had.’[39]

Balaam also the son of Beor, the soothsayer, [did the children of Israel slay with the sword].[40] A soothsayer? But he was a prophet! — R. Johanan said: At first he was a prophet, but subsequently a soothsayer.[41] R. Papa observed: This is what men say, ‘She who was the descendant of princes and governors, played the harlot with carpenters.’[42]

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(1) It grows again after it is cut down,

(2) Deut. XXIV, 6, quoted above.

(3) Num. XXIV, 21.

(4) To destroy Israel through Pharoah's decree: Every son that is born ye shall cast into the river — Ex. I, 22 — Of course thou wast!

(5) A metaphor for the Sanhedrin situated in the Hall of Hewn Stones, which counted amongst its members Jethro's descendants. That is the meaning of Strong is thy dwelling place.

(6) V. n. 2.

(7) Not voicing his disapproval.

(8) I Chron. II, 55.

(9) Judges I, 16.

(10) Num, XXIV, 23.

(11) משמו אל is read משמו אל [Herford, op. cit. 74ff. sees in this a covert allusion to Jesus.]

(12) So also, woe to the nation that would come between God and Israel when He is redeeming them to bring them to Himself

(13) Ibid. 24.

(14) [ליכון אספיר. So Levy, adopting the reading ליכון (**) אספר (**). Funk, Schwarz Festschrift, p. 248, takes אספר as the Persian aswar, ‘knight’, and renders ‘a legion of knights’, (cf. Lat. ferreus equitatus). The verse is accordingly interpreted: ‘Legions will come from the Coast of Chittim, etc.’ the Chittim being taken to denote Rome, (cf. Targ. Yerushalmi a.l.]. Jastrow regards the whole passage as an interpolation of the eighth or ninth century, and as referring to Leo the Isaurian, the Byzantine Emperor, leader of the iconoclastic movement which caused a long war between the East and the West of the Empire.

(15) Ibid.

(16) The nations which shall conquer each other — referred to in the words ‘and ships’ shall, up to Asshur, completely destroy the defeated. But after that a victorious nation shall merely enthral its victim, but not destroy it.

(17) Ibid. 14.

(18) According to Rabbinic tradition, he advised the Moabites to ensnare Israel through unchastity. Thus, he was referring to an action by the former to the latter, whilst Scripture suggests the reverse.

(19) I.e., makes others the object thereof, though meaning himself, so Scripture, alluding to Israel's disgrace, makes it appear that the allusion is really to Moab.

(20) Linen garments were worn by the wealthy and noble; cf. Gen. XLI, 42; Ex. XXVIII, 39.

(21) This is omitted in the Yalkut and Tanhuma.

(22) Hosea IX, 10; i.e., they separated themselves from Moses’ teaching.

(23) Num. XXV, 1.

(24) שטות.

(25) Ibid. 2.

(26) They called — i.e., they attracted them by their naked bodies.

(27) Deriving ותקראן from קרי the usual euphemism for semen.
(28) Having discussed the meaning of one place name, the Talmud proceeds to discuss another: Then came Amalek and fought with Israel in Rephidim — Ex. XVII, 8.
(29) Jer. XLVII, 3. This is quoted to shew that רפה which he assumes to be the root of Rephidim, connotes weakness.
(30) Ibid.
(31) Gen. XXXVII, 1.
(32) Ibid. 3.
(33) Ibid. XLVII, 27.
(34) Ibid. 29.
(35) I Kings V, 5.
(36) Ibid. XI, 14.
(37) Num, XXXI, 8.
(38) V. ibid, XXV, 1-9: since Israel was thus seduced and punished through his advice, as stated above, he demanded payment.
(39) So Balaam, demanding a reward, lost his life.
(40) Joshua XIII, 22.
(41) As a punishment for wishing to curse Israel he was degraded from a prophet to a soothsayer.
(42) ‘Shipdraggers,’ (v. Rashi). Herford, Christianity in the Talmud, p. 48, suggests that Balaam is frequently used in the Talmud as a type for Jesus (v. also pp. 64-70). Though no name is mentioned to shew which woman is meant, the mother of Jesus may be alluded to, which theory is strengthened by the statement that she mated with a carpenter. (The Munich MS. has גבר in the margin instead of גברי, i.e., singular instead of plural.)

Talmud - Mas. Sanhedrin 106b

Did the children of Israel slay with the sword among them that were slain by them.[1] Rab said: They subjected him to four deaths, stoning, burning, decapitation and strangulation.[2]

A certain min[3] said to R. Hanina: Hast thou heard how old Balaam was? — He replied: It is not actually stated, but since it is written, Bloody and deceitful men shall not live out half their days,[4] [it follows that] he was thirty-three or thirty-four years old.[5] He rejoined: Thou hast said correctly; I personally have seen Balaam's Chronicle, in which it is stated, ‘Balaam the lame was thirty years old when Phinehas the Robber killed him.’[6] Mar, the son of Rabina, said to his sons: In the case of all [those mentioned as having no portion in the future world] you should not take [the Biblical passages dealing with them] to expound them [to their discredit], excepting in the case of the wicked Balaam: whatever you find [written] about him, lecture upon it [to his disadvantage].

Scripture writes Doeg[7] and Doeeg:[8] R. Johanan said: At first the Holy One, blessed be He, sits and is anxious lest one go out on an evil course. But when he has done so, He exclaims, ‘Woe, that he has entered [on an evil path]!’

(Mnemonic: The Mighty, Wicked, Righteous, Riches, Scribe.)

R. Isaac said: What is meant by the verse, Why boastest thou thyself in mischief, O mighty man? The goodness of God endureth continually?[9] — The Holy One, blessed be He, said to Doeg,[10] ‘Art thou not a mighty man in Torah? Why then boastest thou thyself in mischief?[11] Is not the love of God continually spread over thee?’ R. Isaac also said: What is meant by the verse; But unto the wicked God sayeth, What hast thou to do to declare my statutes?[12] The Holy One, blessed be He, said to the wicked Doeg, ‘What hast thou to do to declare [i.e., study] my statutes: when thou comest to the sections dealing with murderers and slanderers, how dost thou expound them?’[13] Or that thou shouldst take my covenant in thy mouth?[14] R. Ammi said: Doeg's learning was only from the lips without.[15] R. Isaac also said: What is meant by the verse, The righteous also shall see, and fear, and shall laugh at him?[16] — At first they shall fear [the wicked person], but subsequently laugh at him.

R. Isaac also said: What is meant by the verse, He hath swallowed down riches, and he shall vomit them up again: God shall cast them out of his belly?[17] David pleaded before the Holy One, blessed be He, ‘Sovereign of the Universe! Let Doeg die!’ He replied, ‘He hath swallowed down riches, and he shall vomit them up again.’[18] He rejoined, ‘Let God cast them out of his belly!’[19]

R. Isaac also said: What is meant by God shall likewise destroy thee for ever?[20] — The Holy One, blessed be He, said to David, ‘Let us bring Doeg to the future world.’ He replied to Him, ‘God shall likewise destroy thee for ever.’ What is meant by the verse, He shall take thee away, and pluck thee out of the tent, and root thee out of the land of the living. Selah!?[21] The Holy One, blessed be He, urged, ‘Let a law be stated in his name in the schoolhouse,’ but he [David] replied to Him, ‘He shall take thee away and pluck thee out of the tent. ‘Then let his children be Rabbis!’ — ‘And thy root [shall be torn out] of the land of the living. Selah!’ R. Isaac also said: What is meant by the verse, Where is the enumerator, where is the weigher! Where is he that counted the towers![22] — Where is he who enumerated all the letters of the Torah?[23] Where is he who weighed all the light [comparatively unimportant] and heavy [important] [precepts] of the Torah?[24] Where is he that counted the towers — who counted three hundred fixed laws on a ‘tower flying in the air.’[25]

R. Ammi said: Doeg and Ahitophel propounded four hundred problems with respect to a tower flying in the air, and not one was solved. Raba observed: Is there any greatness in propounding problems? In the years of Rab Judah the whole study was confined to Nezikin,[26] whilst we study a great deal even of ‘Ukzin;[27] and when Rab Judah came to the law, ‘If a woman preserves vegetables in a pot’ — or as others say, ‘olives which were preserved with their leaves are clean,’[28] — he observed, ‘I see here the discussion of Rab and Samuel;’[29] whilst we, on the other hand, have studied Ukzin at thirteen sessions, yet Rab Judah merely took off his shoes, and the rain came down,[30] whilst we cry out [in supplication] but there is none to heed us. But it is because the Holy One, blessed be He, requires the heart, as it is written, But the Lord looketh on the heart.[31] R. Mesharsheya said: Doeg and Ahitophel did not comprehend legal discussions. Mar Zutra objected: Those of whom it is written, Where is the enumerator, where is the weigher? Where is he that counted the towers?[32] yet you say that they did not comprehend legal discussions! — But their views were not in accordance with the halachah [final ruling], as it is written, The secret of the Lord is with them that fear him.[33]

R. Ammi said: Doeg did not die until he forgot his learning,[34] as it is written, He shall die without instruction, and in the greatness of his folly he shall go astray.[35] R. Ashi said: He was smitten with leprosy, for it is said, Thou hast destroyed all them that go a whoring from thee;[36] whilst elsewhere it is written, [And if it be not redeemed within the space of a full year, then the house . . . shall be established] la-zemithuth[37] [to him that hath bought it],[38] which we translate la-halutin[39] [i.e., ‘absolutely and definitely the purchasers’]. And we learnt: The only difference between him who is a mezora’ muhlat [definitely a leper] and one who is locked up [for observation] is in respect of letting the hair grow wild and tearing the garments.[40]

(Mnemonic: Three, Saw, and Half; and Called.)

R. Johanan said: Three destroying angels appeared before Doeg: one caused him to forget his learning, one burnt his soul, and the third scattered his ashes in the synagogues and schoolhouses. R. Johanan also said: Doeg and Ahitophel did not see each other [i.e., were not contemporaries], Doeg living in Saul's reign, Ahitophel in David's. R. Johanan also said: Doeg and Ahitophel did not live out half their days. It has been taught likewise: Bloody and deceitful men shall not live out half their days:[41] Doeg's entire lifetime amounted only to thirty four years, and Ahitophel's to thirty three.

R. Johanan also said: At first David called Ahitophel his teacher, then his companion [colleague], and finally his disciple. At first he called him his teacher, as it is written, But it was thou, a man mine equal, my guide, and mine acquaintance.[42] Then his companions [as it is written] We took sweet counsel together, and walked into the house of God in company.[43] Finally his disciple — Yea, mine own familiar friend, in whom I trusted,

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(1) Ibid.

(2) This is suggested by the use of the plural ‘among them that were slain by them,’ intimating that the various deaths inflicted upon others were all suffered by Balaam. Thus he was hung (strangulation), a fire was lit under him (burning), his head was struck off (decapitation), and then he was allowed to fall to earth (stoning); v. supra 45a.

(3) Heretic, v. Glos.

(4) Ps. LV, 24.

(5) cf. p.471. n. 1.

(6) [According to the view that all the Balaam passages are anti-Christian in tendency, Balaam being used as an alias for Jesus, Phinehas the Robber is thus taken to represent Pontius Pilatus, and the Chronicle of Balaam probably to denote a Gospel (v. Herford op. cit. 72ff.). This view is however disputed by Bacher and others: cf. Ginzberg, Journal of Biblical Literature, XLI, 121.]

(7) I Sam, XXI, 8. דואג denoting ‘anxious’.

(8) Ibid. XXII, 18. דוייג with letters ‘woe’ being inserted,

(9) Ps. LII, 3.

(10) The psalm deals with Doeg; v. superscription in v. 2.

(11) I.e., to slander David and Abimelech for succouring him.

(12) Ibid. L, 16.

(13) Seeing that thou art both.

(14) Ibid.

(15) I.e., it did not penetrate into his heart and mould his character.

(16) Ibid, LII, 8.

(17) Job XX, 15.

(18) He has studied the Torah; wait till he forgets it.

(19) Do not wait for him to forget it naturally, but speed his forgetfulness.

(20) Ps. LII, 7.

(21) Ibid.

(22) Isa. XXXIII, 18.

(23) V. J.E. s.v. Masorah VIII, 366. It is there suggested that the Numerical Masorah, which counted and grouped the various elements of the Biblical text, developed on account of the copyists, who were paid according to the amount. The Talmud regards this as a work of piety and devotion, undertaken with the object of guarding the Bible from the introduction of spurious matter.

(24) I.e., who can draw conclusions by means of ad majus arguments.

(25) Rashi offers a number of interpretations: (i) who deduced three hundred laws from the upper stroke of the ל; (ii) who stated three hundred laws in respect of the defilement of one who enters the land of heathens in a tower-shaped conveyance; (iii) three hundred laws relating to the suspension of a tower in the air by means of enchantment. Another reading is, ‘on a tower standing in the air,’ i.e., not immediately situated upon the grounds but supported by pillars. The laws will refer to the cleanliness or otherwise of its contents (v. Ohal. IV, 1).

(26) ‘Damages’, the fourth Order (סדר) of the Talmud. When Rab Judah was head of the academy of Pumbeditha, only the fourth Order was studied, but not the other Orders. This would appear to be the meaning of the passage. But Weiss, Dor III, 196ff, having regard to the abundance of contributions in Rab's name by Rab Judah on the other orders, explains the passage to mean; ‘only as far as Nezikin.’ i.e,, the first four Orders. These being of practical utility, were intensively studied, and new laws stated. But as for the last two Orders dealing with sacrifices and ritual purity, though taught in the academy, no effort was made to formulate new laws, since the subjects were of no practical interest to Babylon, and Rab Judah contented himself with teaching only what had been transmitted to him.

(27) Name of a treatise of the Mishnah and the Tosefta, belonging to the sixth Order; lec. var. ‘we study intensively the six Orders.’

(28) I.e., if their stalks came into contact with anything unclean, the vegetables or the olives themselves are unaffected.

(29) Rashi interprets: He did not know why they should be clean — i.e., he regarded these subjects as extremely difficult. Weiss a.l. explains: It is sufficient to deal with these matters on the basis of the discussions of Rab and Samuel, without endeavouring to formulate new reasons or laws in connection with them.

(30) When special intercessory prayers for rain had to be offered, at which the shoes were removed, Rab Judah merely had to make resort to this self-humiliation in preparation for prayer, and they were immediately answered.

(31) I Sam. XVI, 7.

(32) V. p. 727.

(33) Ps. XXV, 14.

(34) V. supra.

(35) Prov. V, 23.

(36) Ps. LXXIII, 27.

(37) צמיתות.

(38) Lev. XXV, 30.

(39) [לחלוטין, v. Targum Onkelos and Jonathan.]

(40) Which shows that the term חלוט is employed to denote a leper. Hence, the first verse is to be rendered, Thou hast smitten with definite (leprosy) all them that go a whoring from thee.

(41) Ps. LV, 24.

(42) Ibid. 14.

(43) Ibid. 15.

which did eat of my bread, hath lifted up his heel against me.[1]

Rab Judah said in Rab's name: One should never [intentionally] bring himself to the test, since David king of Israel did so, and fell. He said unto Him, ‘Sovereign of the Universe! Why do we say [in prayer] "The God of Abraham, the God of Isaac, and the God of Jacob," but not the God of David?’ He replied, ‘They were tried by me, but thou wast not.’ Then, replied he, ‘Sovereign of the Universe, examine and try me’ — as it is written, Examine me, O Lord, and try me.[2] He answered ‘I will test thee, and yet grant thee a special privilege;[3] for I did not inform them [of the nature of their trial beforehand], yet, I inform thee that I will try thee in a matter of adultery.’ Straightway, And it came to pass in an eveningtide, that David arose from off his bed etc.[4] R. Johanan said: He changed his night couch to a day couch,[5] but he forgot the halachah: there is a small organ in man which satisfies him in his hunger but makes him hunger when satisfied.[6] And he walked upon the roof of the king's house: and from the roof he saw a woman washing herself; and the woman was very beautiful to look upon.[7] Now Bath Sheba was cleansing her hair behind a screen,[8] when Satan came to him, appearing in the shape of a bird. He shot an arrow at him, which broke the screen, thus she stood revealed, and he saw her. Immediately, And David sent and enquired after the woman. And one said, Is not this Bath Sheba, the daughter of Eliam, the wife of Uriah the Hittite? And David sent messengers, and took her, and she came unto him, and he lay with her; for she was purified from her uncleanliness: and she returned unto her house.[9] Thus it is written, Thou host proved mine heart; thou hast visited me in the night; thou host tried me, and shalt find nothing; I am purposed that my mouth shall not transgress.[10] He said thus: ‘Would that a bridle had fallen into the mouth of mine enemy [i.e., himself], that I had not spoken thus.’[11]

Raba expounded: What is meant by the verse, To the Chief Musician, A Psalm of David. In the Lord put I my trust: how say ye to my soul, Flee as a bird to your mountain?[12] David pleaded before the Holy One, blessed be He: ‘Sovereign of the Universe! Forgive me that sin, that men may not say, "Your mountain [sc. the king] has been put to flight by a bird."’[13]

Raba expounded: What is meant by the verse, Against thee, thee only, have I sinned, and done this evil in thy sight: that thou mightest be justified when thou speakest, and be clear when thou judgest?[14] David pleaded before the Holy One, blessed be He: ‘Thou knowest full well that had I wished to suppress my lust, I could have done so, but, thought I, let them [the people] not say, "The servant triumphed against his Master."’[15]

Raba expounded: What is meant by the verse, For I am ready to halt, and my sorrow is continually before me?[16] Bath Sheba, the daughter of Eliam, was predestined for David from the six days of Creation, but that she came to him with sorrow.[17] And the school of R. Ishmael taught likewise: She was worthy [i.e., predestined] for David from the six days of Creation, but that he enjoyed her before she was ripe.[18]

Raba expounded: What is meant by the verse, But in mine adversity they rejoiced, and ‘gathered themselves together: yea, the abjects gathered themselves together against me, and I knew it not; they did tear me, and ceased not?[19] David exclaimed before the Holy One, blessed ‘be He, ‘Sovereign of the Universe! Thou knowest full well, that had they torn my flesh, my blood would not have flown.[20] Moreover, when they are engaged in studying the four deaths inflicted by Beth din they interrupt their studies and taunt me [saying], "David, what is the death penalty of him who seduces a married woman?" I reply to them, "He who commits adultery with a married woman is executed by strangulation, yet has he a portion in the world to come. But he who publicly puts his neighbour to shame has no portion in the world to come."’

Rab Judah said in Rab's name: Even during David's illness he fulfilled the conjugal rights[21] [of his eighteen wives], as it is written, I am weary with my groaning: all the night make I my bed to swim; I water my couch with my tears.[22] Rab Judah also said in Rab's name: David wished to worship idols, as it is written, And it came to pass, that when David was come to the head, where he worshipped God.[23] Now rosh [‘head’] can only refer to idols, as it is written, This image's head was of fine gold.[24] [But] Behold, Hushai the Archite came to meet him with his coat rent, and earth upon his head.[25] He demonstrated with David, ‘Shall people say, A king like thee has worshipped idols!’ He replied, ‘And shall a king like myself be slain by his son! Let me worship idols rather than that the Divine Name be publicly profaned!’[26] He retorted, ‘Why then didst thou marry a beautiful woman [captured in battle]?’[27] He replied, ‘The Merciful One permitted a beautiful woman. He rejoined, ‘Dost thou not interpret the proximity of verses? For in proximity thereto[28] is written, If a man have a stubborn and rebellious son,[29] [this teaches:] Whoever marries a beautiful woman [taken in battle] will have a stubborn and rebellious son.’

R. Dosetai of Beri[30] expounded: Unto whom may David be likened? Unto a heathen merchant.[31] David said before the Holy One, blessed be He, ‘Sovereign of the Universe! [Who can understand his errors?’[32] He replied, ‘They are forgiven thee.’ ‘Cleanse thou me from secret faults,’ [he pursued]. ‘I grant it thee.’ ‘Keep back thy servant also from presumptuous sins!’ — ‘Tis granted.’ ‘Let them not have dominion over me: then shall I be upright: so that scholars may not discuss me.’[33] ‘Granted.’ ‘And I shall be innocent from the great transgression: so my sins may not be recorded.’ He replied, ‘That is impossible. If the [single] yod which I removed from Sarai[34] continuously cried out [in protest] for many years until Joshua came and I added it to his name, as it is written, And Moses called Oshea the son of Nun Jehoshua:[35] how much more so a complete section!’

And I shall be innocent from great transgression. He pleaded before Him, ‘Sovereign of the Universe! Pardon me that sin completely [as though it had never been committed].’ He replied, ‘It is already ordained that thy son Solomon should say in his wisdom, Can a man take fire in his bosom, and his clothes not be burned? Can one go upon hot coals, and his feet not be burned? So he that goeth in to his neighbour's wife; whosoever toucheth her shall not be innocent.’[36] He lamented, ‘Must I[37] suffer so much!’ He replied, ‘Accept thy chastisement,’ and he accepted it.

Rab Judah said in Rab's name: Six months was David smitten with leprosy, the Shechinah deserted him, and the Sanhedrin held aloof from him. ‘He was smitten with leprosy’ — as it is written, Purge me with hyssop, and I shall be clean; wash me, and I shall be whiter than snow.[38] ‘The Shechinah deserted him’ — as it is written, Restore unto me the joy of thy salvation,’ and uphold me with thy free spirit.[39] ‘And the Sanhedrin kept aloof from him’ — as it is written, Let those that fear thee turn unto me, and those that have known thy testimonies.[40] How do we know that it was for six months? — Because it is written, And the days that David reigned over Israel were forty years:

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(1) Ibid. XLI, 10. This is understood to refer to Ahitophel, and ‘which did eat my bread’, as a metaphor for ‘who learnt of my teaching’.

(2) Ibid. XXVI, 1.

(3) Lit., ‘I will do something for thee.’

(4) II Sam. XI, 2.

(5) I.e., he cohabited by day instead of night, that he might be free from desire by day.

(6) With regard to human passion, ‘the appetite grows by what it feeds on’.

(7) Ibid.

(8) Or ‘beehive’ (Rashi).

(9) Ibid, 2f.

(10) Ps. XVII, 3.

(11) I.e., ‘would that I had not asked God to try me’. By a play on words, ‘on (E.V. ‘I am purposed’) is connected with זממא ‘a bridle’, and the second half of the verse is explanatory of the first: ‘Would that my mouth had been bridled, so that I would not have to admit now, "Thou hast proved etc."’
(12) Ibid. XI, 1.
(13) V. supra.
(14) Ibid. LI, 6.
(15) V. supra. Had David not yielded, his plea for the inclusion of ‘the God of David’ would have been justified.
(16) Ibid. XXXVIII, 18.
(17) Translating לצלע (E.V. ‘to halt’), ‘a rib’: ‘For I am ready for my rib,’ i.e., Bath Sheba, David's rib.
(18) I.e., before she was his legitimate wife.
(19) Ibid. XXXV, 15.
(20) [By reason of the shame to which he had been put. Cf. B.M. 58b: The red color of the face departs, and the white takes its place.]
(21) Lit., ‘eighteen marital duties.’
(22) Ibid. VI, 7.
(23) II Sam. XV, 32.
(24) Dan. II, 32.
(25) II Sam. Ibid.
(26) For then it would be said that Absalom had slain him because of his idolatry, which would justify him and his supporters.
(27) Absalom's mother, Maachah the daughter of Talmai, king of Geshur, was, according to tradition, a war captive.
(28) I.e., the section permitting a beautiful woman captured in battle.
(29) Deut. XXI, 18.
(30) [Near Safed, v. Horowitz, I.S., Palestine and the Adjacent Countries. s.v. בירי]
(31) Who begins by offering small wares; emboldened by his success, he presses more and more upon the purchaser. So David made a small request of God: it being granted, he proceeded to ask for more and more.
(32) Ps. XIX, 13; i.e., he asked pardon for sins committed in error.
(33) Holding me up as an example and warning — ימשלו ‘have dominion’ is connected with משל.
(34) שרי, when her name was changed to Sarah, שרה.
(35) Num. XIII, 16; thus turning הושע into יהושע.
(36) Prov. VI, 27ff.
(37) Lit., ‘that man.
(38) Ps. LI, 9. Hyssop was required for the purification of a leper; v. Lev. IV, 4.
(39) Ibid. 14.
(40) Ps. CXIX, 79.

Talmud - Mas. Sanhedrin 107b

Seven years reigned he in Hebron, and thirty and three years reigned he in Jerusalem;[1] whilst [elsewhere] it is written, In Hebron reigned he over Judah seven years, and six months.[2] Thus, these six months are not counted [in the first passage quoted], proving that he was smitten with leprosy.[3] He prayed to Him, ‘Sovereign of the Universe! Forgive me that sin!’ ‘It is forgiven thee.’ ‘[Then] shew me a token for good,’ that they which hate me may see it, and be ashamed; because thou, Lord, hast helped me, and comforted me.’[4] He replied, ‘In thy lifetime I will not make it known [that I have forgiven thee] but in the lifetime of thy son Solomon.’ [Thus:] When Solomon built the Temple, he wished to take the ark into the Holy of Holies, but the gates [thereof] cleaved to each other [and would not open]. He uttered twenty-four psalms,[5] but was not answered. He then further supplicated, Lift up your head, O ye gates; and be ye lifted up, ye everlasting doors; and the King of glory shall come in. Who is this King of glory? The Lord strong and mighty, the Lord mighty in battle. And it is further said, Lift up your heads, O ye gates, even lift them up, ye everlasting doors.[6] Still he was not answered. But on praying, O Lord God, turn not away the face of thine anointed: remember the mercies of David thy servant,[7] he was immediately answered. In that hour the faces of

David's enemies turned [black] as the bottom of a pot [in their discomfiture], and all Israel knew that the Holy One, blessed be He, had forgiven him that sin.

GEHAZI,[8] as it is written, And Elisha came to Damascus:[9] whither did he go? — R. Johanan said: He went to bring Gehazi back to repentance, but he would not repent. ‘Repent thee,’ he urged. He replied, ‘I have thus learnt from thee: He who sins and causes the multitude to sin is not afforded the means of repentance.’ What had he done? — Some say: He hung a loadstone above Jeroboam's sin [i.e., the Golden Calf], and thus suspended it between heaven and earth [by its magnetism]. Others maintain: He engraved the Divine Name in its [sc. the calf's] mouth, whereupon it [continually] proclaimed, ‘I [am the Lord thy God],’ and ‘Thou shalt have no [other] gods before me.’[10] Others say: He drove the Rabbis away from him [sc. Elisha], as it is written. And the sons of the prophets said unto Elisha, Behold now, the place where we dwell with thee is too strait for us;[11] proving that till then it was not too narrow.[12]

Our Rabbis taught: Let the left hand repulse but the right hand always invite back: not as Elisha, who thrust Gehazi away with both hands,[13] as it is written, And Naaman said, Be content, take two talents. And he urged him, and bound [two talents of silver in two bags. . .] And Elisha said unto him, Whence comest thou, Gehazi? And he said, Thy servant went no whither. And he said unto him, Went not my heart with thee, when the man turned again from his chariot to meet thee? Is it a time to receive money, and to receive garments, and oliveyards, and vineyards, and sheep and oxen, and menservants and maidservants?[14] But had he taken so much? He had only taken silver and garments! — R. Isaac said: Just then Elisha was sitting and lecturing on the eight [unclean] reptiles.[15] Now Naaman, the chief captain of the king of Syria, was a leper. A maiden, who had been captured from the land of Israel, said to him, ‘If thou wilt go to Elisha, he will heal thee.’ When he came there he said to him, ‘Go and dip thyself in the Jordan.’ ‘Thou dost but ridicule me!’ he exclaimed. But his companions urged him, ‘What does it matter to thee? Go and test it.’ So he went, dipped himself in the Jordan and was healed. He returned and offered him all he had, but he [Elisha] refused to accept it. Thereupon Gehazi left Elisha's presence, went and took whatever he did, and put it away. When he returned, Elisha saw a leprous eruption on his head. ‘Thou wicked man,’ he cried, ‘the time has come for thee to receive thy reward [for studying the laws] of the eight reptiles!’[16] [So] ‘The leprosy therefore of Naaman shall cleave unto thee, and unto thy seed for ever.’ And he went out from his presence a leper as white as snow.[17]

And there were four leprous men at the entering in of the gate.[18] R. Johanan said: They were Gehazi and his three sons. It was taught, R. Simeon b. Eleazar said: Human nature,[19] a child and a woman — the left hand should repulse them, but the right hand bring them back.[20]

Our Rabbis taught: Elisha was ill on three occasions: once when he incited the bears against the children, once when he repulsed Gehazi with both hands, and the third [was the illness] of which he died; as it is written, Now Elisha was fallen sick of his sickness where of he died.[21] Until Abraham there was no old age:[22] whoever saw Abraham said, ‘This is Isaac;’ and whoever saw Isaac said, ‘This is Abraham.’ Therefore Abraham prayed that there should be old age, as it is written, And Abraham was old, and well stricken in age.[23] Until Jacob there was no illness,[24] so he prayed and illness came into existence, as it is written, And one told Joseph, Behold, thy father is sick.[25] Until Elisha no sick man ever recovered, but Elisha came and prayed, and he recovered, as it is written, Now Elisha was fallen sick of sickness whereof he died.[26]

MISHNAH. THE GENERATION OF THE FLOOD HAS NO PORTION IN THE FUTURE WORLD, NOR WILL THEY STAND AT THE [LAST] JUDGMENT, AS IT IS WRITTEN, [AND THE LORD SAID,] MY SPIRIT WILL NOT ALWAYS ENTER INTO JUDGMENT WITH MAN:[27] THERE WILL BE NEITHER JUDGMENT NOR [MY] SPIRIT FOR THEM.[28] THE GENERATION OF THE DISPERSION HAVE NO PORTION IN THE FUTURE WORLD, AS IT

IS WRITTEN, SO THE LORD SCATTERED THEM ABROAD FROM THENCE UPON THE FACE OF ALL THE EARTH:[29] ‘SO THE LORD SCATTERED THEM ABROAD’, REFERS TO THIS WORLD, ‘AND FROM THENCE DID THE LORD SCATTER THEM ABROAD’,[30] TO THE WORLD TO COME. THE MEN OF SODOM HAVE NO PORTION IN THE FUTURE WORLD, AS IT IS WRITTEN, BUT THE MEN OF SODOM WERE WICKED AND SINNERS BEFORE THE LORD EXCEEDINGLY:[31] ‘WICKED IN THIS WORLD, AND ‘SINNERS’ IN THE WORLD TO COME;[32] YET WILL THEY STAND AT JUDGMENT. R. NEHEMIAH SAID: NEITHER [THE GENERATION OF THE FLOOD NOR THE MEN OF SODOM] WILL STAND AT JUDGMENT, AS IT IS WRITTEN, THEREFORE

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(1) I Kings II, 11.

(2) II Sam, V, 5.

(3) A leper being accounted as dead.

(4) Ps. LXXXVI, 17.

(5) In II Chron. VI, words for prayer, supplication and hymn, occur twenty-four times (Rashi and Maharsha).

(6) Ibid. XXIV, 7ff.

(7) II Chron. VI, 42.

(8) The Talmud now proceeds to show that he has no portion in the coming world,

(9) II Kings VIII, 7. The text of the Talmud reads, ‘And Elisha went to Damascus,’ Actually there is no such verse, and so the one quoted must be substituted. And the Talmud asks ‘whither did he go?’ since the text ‘And Elisha came to Damascus’ implies that his objective was not Damascus, but, happening to come there (on his way to a certain destination, unspecified), he was consulted about Ben-hadad's illness as related in the chapter. Therefore the Talmud asks, what then was the original purpose of his journey? (Maharsha).

(10) Magical powers were ascribed to the Divine Name; v. p. 446, n. 9.

(11) II Kings VI, 1.

(12) Because they were not given access to him at all. This was said after Gehazi left Elisha; v. 27.

(13) In the uncensored editions there follows here, ‘and not like R. Joshua b. Perahjah, who repulsed Jesus (the Nazarene) with both hands. Gehazi, as it etc.’

(14) II Kings V, 23-26.

(15) [Name of the Chapter in Mishnah Shabbath XIV, 1. Cf. Lev. XI, 29.]

(16) That is the meaning of ‘Is it a time to receive money, and ... garments, and oliveyards etc.’ — Eight objects are enumerated, corresponding to the eight reptiles, the former being referred to by Elisha as a fit reward for studying the latter.

(17) II Kings V, 27. The uncensored edition continues: What of R. Joshua b. Perahjah? — When King Jannai slew our Rabbis, R. Joshua b. Perahjah (and Jesus) fled to Alexandria of Egypt. On the resumption of peace, Simeon b. Shetach sent to him: ‘From me, (Jerusalem) the holy city, to thee, Alexandria of Egypt (my sister). My husband dwelleth within thee and I am desolate.’ He arose, went, and found himself in a certain inn, where great honour was shewn him. ‘How beautiful is this Acsania!’ (The word denotes both inn and innkeeper. R. Joshua used it in the first sense; the answer assumes the second to be meant.) Thereupon (Jesus) observed, ‘Rabbi, her eyes are narrow.’ ‘Wretch,’ he rebuked him, ‘dost thou thus engage thyself.’ He sounded four hundred trumpets and excommunicated him. He (Jesus) came before him many times pleading, ‘Receive me!’ But he would pay no heed to him. One day he (R. Joshua) was reciting the Shema’, when Jesus came before him. He intended to receive him and made a sign to him. He (Jesus) thinking that it was to repel him, went, put up a brick, and worshipped it. ‘Repent,’ said he (R. Joshua) to him. He replied, ‘I have thus learned from thee: He who sins and causes others to sin is not afforded the means of repentance.’ And a Master has said, ‘Jesus the Nazarene practised magic and led Israel astray.’ For a full discussion of this passage and attempted explanation of this anachronism making Jesus a contemporary of King Jannai (104-78 B.C.E.). v. Herford, op. cit. 51ff. [The tradition of an early Jesus was also known to Epiphanius. Whether he derived this tradition from the Talmud or from an independent source is a moot point hotly contested by Klausner and Guttmann; v. MGWJ. 1931, 250ff. and 1933, 38. In any case there does not appear to be sufficient data available to account for this tradition.]

(18) Ibid. VII, 3.

(19) [Heb. yezer, יצר, v. Lazarus, Ethics, II, 106ff.]

(20) One must not attempt to subdue his desires altogether, which is unnatural, but to regulate them. In chiding a child and a woman, one must not be too severe, lest they be so disheartened as to be driven away far from repentance altogether.

(21) II Kings XIII, 14. ‘Was fallen sick’ denotes one illness; ‘of his sickness’ another, and ‘whereof he died’ a third (Rashi).

(22) I.e., old age did not mark a person.

(23) Gen. XXIV, 1. He is the first of whom this is said.

(24) One lived his allotted years in full health and then died suddenly.

(25) Ibid. XLVIII, 1. V. preceding note.

(26) This shews that he had been sick on previous occasions too’ but recovered.

(27) Gen. VI, 3.

(28) I.e., they will neither be judged, nor be granted of my spirit to enable them to share in the world to come.

(29) Ibid. XI, 8.

(30) Ibid. 9.

(31) Ibid. XIII, 13.

(32) I.e., their claim to a portion therein will not be admitted.

Talmud - Mas. Sanhedrin 108a

THE UNGODLY SHALL NOT STAND IN THE JUDGMENT, NOR SINNERS IN THE CONGREGATION OF THE RIGHTEOUS:[1] THEREFORE ‘THE UNGODLY SHALL NOT STAND IN THE JUDGMENT’, REFERS TO THE GENERATION OF THE FLOOD; NOR SINNERS IN THE CONGREGATION OF THE RIGHTEOUS’, TO THE MEN OF SODOM. THEY [THE SAGES] ANSWERED HIM: THEY WILL NOT STAND IN THE CONGREGATION OF THE RIGHTEOUS, BUT THEY WILL STAND IN THE CONGREGATION OF THE WICKED.[2] THE SPIES HAVE NO PORTION IN THE WORLD TO COME, AS IT IS WRITTEN, EVEN THOSE MEN THAT DID BRING UP THE EVIL REPORT UPON THE LAND, DIED BY THE PLAGUE BEFORE THE LORD.[3] ‘[THEY] DIED’ — IN THIS WORLD, ‘BY THE PLAGUE’ — IN THE WORLD TO COME.[4] THE GENERATION OF THE WILDERNESS HAVE NO SHARE IN THE FUTURE WORLD AND WILL NOT STAND AT THE [LAST] JUDGMENT, AS IT IS WRITTEN, IN THIS WILDERNESS THEY SHALL BE CONSUMED, AND THERE THEY SHALL DIE:[5] THIS IS R. AKIBA'S VIEW. R. ELIEZER SAID: CONCERNING THEM IT IS SAID, GATHER MY SAINTS TOGETHER UNTO ME; THOSE THAT HAVE MADE A COVENANT WITH ME BY SACRIFICE.[6] THE CONGREGATION OF KORAH IS NOT DESTINED TO ASCEND [FROM THE EARTH], AS IT IS WRITTEN, AND THE EARTH CLOSED UPON THEM’ — IN THIS WORLD, ‘AND THEY PERISHED FROM AMONG THE CONGREGATION’ — IN THE NEXT:[7] THIS IS R. AKIBA'S OPINION. R. ELIEZER SAID: OF THEM IT IS WRITTEN, THE LORD KILLETH, AND MAKETH ALIVE: HE BRINGETH DOWN TO THE GRAVE, AND BRINGETH UP.[8]

GEMARA. Our Rabbis taught: The generation of the flood have no portion in the world to come, as it is written, And every living substance was destroyed which was upon the face of the ground[9] and every living substance was destroyed refers to this world; which was upon the face of the ground — to the next: this is R. Akiba's view. R. Judah b. Bathyra maintained: They will neither revive nor be judged, as it is written, My spirit will not always enter into judgment with man:[10] teaching, neither judgment nor spirit.[11] Another meaning of ‘My Spirit will not enter etc.’: their soul shall not return to its sheath.[12] R. Menahem son of R. Jose said: Even when the Holy One, blessed be He, restores the souls to the dead bodies,[13] their soul shall grieve them in the Gehenna, as it is written, Ye shall conceive chaff ye shall bring forth stubble: your soul, as fire, shall devour you.[14]

Our Rabbis taught: The generation of the flood waxed haughty only because of the good which the Holy One, blessed be He, lavished upon them. Behold, what is written of them? Their houses are safe from fear, ‘neither is the rod of God upon them,[15] it is also written, Their bull gendereth, and faileth not,' their cow calveth, and casteth not her calf;[16] further, They send forth their little ones like a flock, and their children dance;[17] further, They take the timbrel and the harp, and rejoice at the sound of the organ;[18] and it is also written, They spend their days in prosperity, and their years in pleasures;[19] and it is also written, and in a moment go down to the grave.[20] And 'tis that which caused them to say to God, Depart from us; for we desire not the knowledge of thy ways. What is the Almighty, that we should serve him? and what profit should we have, if we pray unto him?[21] They said thus: Do we need Him for aught but the drop of rain? We have rivers and wells to supply our wants. Thereupon the Holy One, blessed be He, said: By that very good which I lavished upon them they provoke Me, and by that I will punish[22] them, as it is written, And behold, I, even I, do bring a flood of waters upon the earth.[23]

R. Jose said: They waxed haughty only on account of the covetousness of the eye-ball, which is like water, as it is written, And they took them wives from all which they chose.[24] Therefore He punished them by water, which is like the eye-ball,[25] as it is written, All the fountains of the great deep were broken up, and the windows of heaven were opened.[26]

R. Johanan said: The corruption of the generation of the Flood is characterised as great, and their punishment is characterised as great. Their corruption is characterised as great, as it is written, And God saw that the wickedness of man, was great in the earth;[27] and their punishment is characterised as great, as it is written, All the fountains of the great deep. R. Johanan said: Three of those [hot fountains] were left,[28] the gulf of Gaddor, the hot-springs of Tiberias, and the great well of Biram.[29]

For all flesh had corrupted his way upon the earth.[30] R. Johanan said: This teaches that they caused beasts and animals, animals and beasts, to copulate; and all of these were brought in connection with man, and man with them all. R. Abba b. Kahana said, All of them returned [to their own kind], excepting the tushlami.[31]

And God said unto Noah, the end of all flesh is come before me.[32] R. Johanan said: Come and see how great is the power of robbery. for lo, though the generation of the flood transgressed all laws, their decree of punishment was sealed only because they stretched out their hands to rob, as it is written, for the earth is filled with violence through them, and, behold, I will destroy them with the earth.[33] And it is 'also written, Violence [i.e., robbery] is risen up into a rod of wickedness: none of them shall remain, nor of their multitude, nor any of theirs: neither shall there be wailing for them.[34] R. Eleazar said: This teaches that it [violence personified] erected itself like a staff, stood before the Holy One, blessed be He, and said: 'Sovereign of the Universe! [There is no good in aught] of them, or aught of their multitude, or of theirs; neither shall there be wailing for them.' The School of R. Ishmael taught: The doom [of destruction] was decreed against Noah too, but that he found favour in the eyes of God, as it is written, It repenteth me that I have made them. But Noah found grace in the eyes of the Lord.[35]

And the Lord was comforted that he had made man in the earth.[36] When R. Dimi came[37] he said: The Holy One, blessed be He, exclaimed, 'I did well in preparing graves for them in the earth.'[38] How is this signified [by the verse]? — Here is written, And the Lord was comforted;[39] whilst elsewhere it is stated, And he comforted them, and spake kindly to them.[40] Others say, [He exclaimed,] 'I did not do well in establishing graves for them in the earth;'[41] here it is written, And it repented the Lord; whilst elsewhere it is written, And the Lord repented of the evil which he had thought to do unto his people.[42]

These are the generations of Noah: Noah was a just man, and perfect in his generations.[43] R. Johanan said: In his generations, but not in other generations. Resh Lakish maintained: [Even] in his generations — how much more so in other generations. R. Hanina said: As an illustration of R. Johanan's view, to what may this be compared? To a barrel of wine lying in a vault of acid: in its place, its odour is fragrant [by comparison with the acid]; elsewhere, its odour will not be fragrant.[44] R. Oshaia said: As an illustration of Resh Lakish's view, to what may this be compared? To a phial of spikenard oil lying amidst refuse: [if] it is fragrant where it is, how much more so amidst spices![45]

And every living substance was destroyed which was upon the face of the ground, [both man and cattle].[46] If man sinned, how did the beasts sin? — A Tanna taught on the authority of R. Joshua b. Karha: This may be compared to a man who set up a bridal canopy for his son, and prepared a banquet with every variety [of food]. Subsequently his son died, whereupon he arose and broke up the feast,[47] saying, ‘Have I prepared all this for any but my son? Now that he is dead, what need have I of the banquet?’ Thus the Holy One, blessed be He, said too, ‘Did I create the animals and beasts for aught but man: now that man has sinned, what need have I of the animals and beasts?’

All that was in the dry land died;[48] but not the fish in the sea.

R. Jose of Caesarea taught: What is meant by the verse, He is swift as the waters; their portion is cursed in the earth: [he beholdeth not the way of the vineyards]?[49] This teaches that the righteous Noah rebuked them, urging, ‘Repent; for if not, the Holy One, blessed be He, will bring a deluge upon you.and cause your bodies to float upon the water like gourds, as it is written, He is light [i.e., floats] upon the waters. Moreover, ye shall be taken as a curse for all future generations,[50] as it is written, their portion is cursed’ in the earth. He beholdeth not the way of the vineyards:’ this teaches that they looked by the way of the vineyards.[51] They said to him, ‘Who then prevents him?’[52] — He replied.[53] ‘I have one dear one[54] to draw out from you.’[55]

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(1) Ps. I, 5.

(2) I.e., they shall stand at the last judgment like all other evildoers.

(3) Num. XIV, 37.

(4) This passage ‘the spies . . . next’ is omitted in the Yerushalmi.

(5) Ibid. 35.

(6) Ps. L, 5.

(7) Num. XVI, 33.

(8) I Sam. II, 6.

(9) Gen. VII, 23.

(10) Gen. VI, 3.

(11) V. supra.

(12) I.e., their bodies; connecting Yadon, ידון with nadan נדן ‘sheath’, ‘case’.

(13) This phrase has become liturgical.

(14) Isa. XXXIII, 11.

(15) Job XXI, 9.

(16) Ibid. 10.

(17) Ibid. 11.

(18) Ibid. 12.

(19) Ibid. XXXVI, 11.

(20) Ibid. XXI, 13 — they do not suffer before death.

(21) Ibid. 14.

(22) Lit., ‘judge’.

(23) Gen. VI, 17.

(24) Ibid. VI, 2.

(25) Just as tears gush forth from the eye-ball, which is a small place, so water streams forth from a well.

(26) Ibid. VII, 11.

(27) Ibid. VI, 5.

(28) It is stated further on that hot water gushed forth from these fountains. Only three such fountains remained after the flood.

(29) גדר (Gadara) was famous for its thermal springs; Eusebius, Jerome, and other authors of antiquity speak of its thermal waters, and it is identified with Gum Kreis — Neubauer, Geographie, p. 35. Biram, identified with Baaras near the thermal spring of Callirhoe, east of the Dead Sea. V. Neubauer, op. cit. 36.
(30) Ibid. VI, 12.
(31) The name of a bird (Tartarian lark, v. Jast.), which, according to R. Abba b. Kahana, copulates indiscriminately.
(32) Ibid. 13.
(33) Ibid.
(34) Ezek. VII, 11.
(35) Gen. VI, 7f. The first verse indicates that God's regret in the first instance extended to all, Noah included, but that a special exception was made in his favour.
(36) Ibid. VI, 6. V. below for this translation:
(37) V. p. 390, n. 1.
(38) Since the wicked are thereby destroyed.
(39) E.V. ‘repented’.
(40) Ibid. L, 21. By comparing וינחם in both places, he translates it ‘comforted’ in the first as in the second, the comfort being that since man was evil, it was fortunate that God had instituted graves, i.e., death.
(41) [Since having regard to their evil they do not deserve an honourable grave but to perish ignominiously by the flood (Yad Ramah).]
(42) Ex. XXXII, 14.
(43) Gen. VI, 9.
(44) So Noah: by comparison with the rest of his generation, who were exceptionally wicked, he stood out as a righteous man; in other generations he would not have been superior to the average person.
(45) Thus, if Noah was righteous even when his entire surroundings were evil, how much more so had he lived amongst righteous men!
(46) Ibid. VII, 23.
(47) Lit., ‘broke up the canopy.
(48) Gen. VII, 22.
(49) Job XXIV, 18.
(50) Lit., ‘all that come into the world.’
(51) V. p. 743, n. 5. The passage is out of place here and the Wilna Gaon deletes it.
(52) If He has such power, what prevents him from using it?
(53) The speaker now is God.
(54) Lit., ‘pigeon’. [A better reading: ‘He (God) has one dear one, (the speaker being Noah).]
(55) One righteous man who must first die, so that he may not suffer your punishment, viz., Methuselah.

Talmud - Mas. Sanhedrin 108b

‘If so, [they retorted,] we will not turn aside from the way of the vineyards.’[1]

Raba taught: What is meant by the verse, He that is ready to slip with his feet is as a stone despised in the thought of him that is at ease?[2] — This teaches that when Noah rebuked them and spoke words to them that were as hard as fiery flints, they derided him. Said they to him, ‘Old man, what is this ark for?’ — He replied, ‘The Holy One, blessed be He, will bring a flood upon you.’ ‘A flood of what,’ they jeered? ‘If a flood of fire, we have a substance called ‘alitha;[3] whilst should He bring a flood of water: if He brings it up from the earth, we have iron plates with which we can cover the earth [to prevent the water from coming up]; if from heaven, we have a substance called ‘akob (others say, ‘akosh)[4] [which can ward it off].’ — He replied. ‘He will bring it from between the heels of your feet, as it is written, He is ready for the steps of your feet.’[5] It has been taught: The waters of the flood were as severe as semen,[6] as it is written, It is ready for the steps of the feet.[7]

R. Hisda said: With hot passion they sinned, and by hot water they were punished. [For] here it is written, And the water cooled;[8] whilst elsewhere it is said, Then the king's wrath cooled down.[9]

And it came to pass, after seven days, that the waters of the flood were upon the earth.[10] What was the nature of these seven days?[11] — Rab said: These were the days of mourning for Methuselah, thus teaching that the lamenting for the righteous postpones retribution. Another meaning is: After the seven days during which the Holy One, blessed be He, reversed the order of nature,[12] the sun rising in the west and setting in the east.[13] Another meaning: the Holy One, blessed be He, [first] appointed a long time for them, and then a short time.[14] Another meaning: After the seven days during which He gave a foretaste of the future world, that they might know what good they had withheld from themselves.

Of every clean beast thou shalt take to thee by sevens, man and wife.[15] Have then beasts marital relationship? — R. Samuel b. Nahman said in R. Jonathan's name: It means of those with which no sin had been committed.[16] Whence did he [Noah] know? — R. Hisda said: He led them past the ark; those which the ark accepted had certainly not been the object of sin; whilst those which it rejected had certainly been the object of sin. R. Abbahu said: [He took only] those which came of their own accord.[17]

Make thee an ark of gopher wood:[18] what is ‘gopher’? — R. Adda said: The scholars of R. Shila said, It is mabliga;[19] others maintain, golamish.[20]

A window[21] shalt thou make to the ark.[22] R. Johanan said: The Holy One, blessed be He, instructed Noah, ‘Set therein precious stones and jewels, so that they may give thee light, bright as the noon.’[23] And in a cubit shalt thou finish it above:[24] for thus would it stand firm.[25] With lower, second, and third stories shalt thou make it.[26] A Tanna taught: The bottom storey was for the dung; the middle for the animals; and the top for man.

And he sent forth a raven.[27] Resh Lakish said: The raven gave Noah a triumphant retort. It said to him, ‘Thy Master hateth me, and thou hatest me. Thy Master hateth me — [since He commanded] seven [pairs to be taken] of the clean [creatures], but only two of the unclean.[28] Thou hatest me — seeing that thou leavest the species of which there are seven, and sendest one of which there are only two. Should the angel of heat or of cold smite me, would not the world be short of one kind? Or perhaps thou desirest my mate!’ — ‘Thou evil one!’ he exclaimed; ‘even that which is [usually] permitted me[29] has [now] been forbidden: how much more so that which is [always] forbidden me!’ And whence do we know that they[30] were forbidden? — From the verse, And thou shalt enter into the ark, thou, and thy sons, and thy wife, and the wives of thy sons with thee;[31] whilst further on it is written, Go forth from the ark, thou, and thy wife, and thy sons, and thy sons’ wives with thee.[32] Whereon R. Johanan observed: From this we deduce that cohabitation had been forbidden.[33]

Our Rabbis taught: Three copulated in the ark, and they were all punished — the dog, the raven, and Ham. The dog was doomed to be tied, the raven expectorates [his seed into his mate's mouth]. and Ham was smitten in his skin.[34]

Also he sent forth a dove from him, to see if the waters were abated.[35] R. Jeremiah said: This proves that the clean fowl dwelt with the righteous.[36] And lo, in her mouth was an olive leaf taraf [as food].[37] R. Eleazar said: The dove prayed to the Holy One, blessed be He, ‘Sovereign of the Universe! Let my sustenance be as bitter as the olive, but in Thy charge, rather than sweet as honey and in the charge of flesh and blood.’ Whence do we know that taraf connotes food? — From the verse, Feed me[38] with food convenient for me.[39]

After their kinds they went forth from the ark.[40] R. Johanan said: After their kinds, but not they [alone].[41] R. Hana b. Bizna said: Eliezer [Abraham's servant] remarked to Shem [Noah's] eldest son,[42] ‘It is written, After their kinds they went forth from the ark. Now, how were you situated?’[43]

— He replied. ‘[In truth], we had much trouble in the ark. The animals which are usually fed by day we fed by day; and those normally fed by night we fed by night. But my father did not know what was the food of the chameleon. One day he was sitting and cutting up a pomegranate, when a worm dropped out of it, which it [the chameleon] consumed. From then onward he mashed up bran for it, and when it became wormy, it devoured it. The lion was nourished by a fever, for Rab said, "Fever sustains for not less than six (days) nor more than thirteen."[44] As for the phoenix,[45] my father discovered it lying ‘in the hold of the ark. "Dost thou require no food?" he asked it. "I saw that thou wast busy," it replied, "so I said to myself, I will give thee no trouble." "May it be (God's) will that thou shouldst not perish," he exclaimed; as it is written, Then I said, I shall die in the nest, but I shall multiply my days as the phoenix.’[46]

R. Hana b. Liwai said: Shem, [Noah's] eldest son,[47] said to Eliezer [Abraham's servant]. ‘When the kings of the east and the west attacked you, what did you do?’ — He replied. ‘The Holy One, blessed be He, took Abraham and placed him at His right hand, and they [God and Abraham] threw dust which turned to swords, and chaff which turned to arrows, as it is written, A Psalm of David. The Lord said unto my master, Sit thou at my right hand, until I make thine enemies thy footstool[48] and it is also written, Who raised up the righteous man [Sc. Abraham] from the east, called him to his foot; gave the nations before him, and made him rule over kings? he made his sword as the dust, and his bow as driven stubble.[49]

Nahum of Gimso[50] was accustomed, whatever befell him, to say, ‘This too is for good.’ It once happened that the Jews wished to send a gift to the Emperor. Said they. ‘By

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(1) The meaning is somewhat obscure. Rashi interprets: we will insist in going through the crooked paths which cross the vineyards, instead of going on the straight high-way — a metaphor for pervasion. Maharsha explains: the vineyards are symbols of wine and licentiousness. The metaphor then is quite obvious.

(2) Job XII, 5.

(3) [A fire-extinguishing demon, the Pyralis. V, Lewysohn, Zoologie, 351.]

(4) [A legendary fungus which when donned on the head protects against rain. Lewysohn, op, cit., p. 343. identifies in with the Alcyonium cydonium.]

(5) Ibid. The idea seems to be that He would bring it in such a way as to render all protectives useless, just as though the deluge were to well up from between their very feet; v. also next passage in text.

(6) I.e., thick and hot.

(7) Here understood as a euphemism for sperm.

(8) (E.V. ‘abated’.) Gen. VIII, 1.

(9) Est. VII, 10. In both cases the root שכך is used, giving them the same meaning, and proving that the water was hot when it descended.

(10) Gen. VII, 10.

(11) That God should have postponed the flood on their account.

(12) Lit., ‘beginning’.

(13) That the wicked might be arrested by the phenomenon and led to repentance.

(14) He first gave them 120 years in which to repent (this being the homiletical interpretation of Gen. VI, 3); this ended, he gave them a further seven days’ grace.

(15) Ibid. VII, 2. This is the literal translation.

(16) V. supra 108a; i.e., those which had mated only with their kind.

(17) Only such coming as fulfilled the above condition.

(18) Ibid. VI, 14.

(19) A resinous tree, a species of cedar. (Jast.)

(20) Also a species of cedar, and very hard and stone-like. (Jast.)

(21) Heb. zohar, צהר.

(22) Ibid. 16.

(23) Heb. zoharayim, צהרים.

(24) Ibid.
(25) The sides being sloping, the rain would fall off it.
(26) Ibid. [Some MSS, have the following addition: and the door of the ark shalt thou set in the side thereof (ibid.) in order to enable the nozila (a huge animal of the antelope species that could not be accommodated in the ark on account of its size) to put its head therein (it having been tied to the ark behind which it ran); v. Gen. R. XXXI, 13.]
(27) Ibid. VIII, 7.
(28) The raven is unclean(Lev. XI, 15).
(29) I.e., his own wife.
(30) The wives.
(31) Gen. VI. 18.
(32) Ibid. VIII, 26.
(33) Since it is obvious that Noah's wife etc., were to leave the ark with him, the verse must be explained as granting permission for the resumption of marital ties. Hence these were interdicted in the ark.
(34) I.e., from him descended Cush (the negro) who is black-skinned.
(35) Ibid. VIII, 8.
(36) This is deduced from ‘from him’, which is not mentioned in connection with the raven.
(37) טרף (E.V. ‘plucked off’.) Ibid. 11.
(38) הטריפני haterifeni, derived from טרף.
(39) Prov. XXX, 8.
(40) Gen. VIII, 19.
(41) The meaning is obscure. Maharsha explains it thus: — As stated above, whilst in the ark, copulation was forbidden. On their exit, it was permitted. That is the significance of ‘after their kind’, which denotes that mating was resumed, and they ceased to be a group of single entities.
(42) [Or ‘great son’, i.e, the most important of his sons, v. supra 69b. (Yad. Ramah.)]
(43) ‘After their kind’ implies that they kept to the habits of their kind throughout the flood. ‘How then were you able to take care of them, and give them individual attention, since animals’ habits are so divergent?’
(44) Those that suffer from fever can do without food.
(45) [Heb. אורישנה reading doubtful, ‘urishna’ or ‘urshana’. V. Lewysohn Zoologie, 353, and Gudemann, M., Religionsgeschichtliche Studien, 55].
(46) Job XXIX, 18: v. A.J.V., a legendary immortal bird.
(47) V. p. 746, n. 7.
(48) Ps. CX, 1: supposed to be said by Eliezer, ‘my master’ referring to Abraham.
(49) Isa. XLI, 2.
(50) A town in Judea. [V. II Chron. XXVIII, 18.] It is always written in two words: גם זו which, taken by themselves, mean ‘this too’, and this connotation was attached thereto on account of his habit of saying, ‘This too is for good.’

Talmud - Mas. Sanhedrin 109a

whom shall we send it? We will send it by Nahum of Gimso, who is well versed in miracles.’ On arriving at a certain inn, he wished to lodge there. ‘What hast thou with thee,’ they asked him? He replied. ‘I am bearing tribute to the Emperor.’ So they arose at night, untied his box, removed all its contents, and refilled it with earth. When he arrived there[1] it was found to be earth. ‘The Jews mock me!’ he exclaimed. So they led him out to execution. ‘This too is for good.’ said he. Then Elijah came, disguised as one of theirs [the Romans], and suggested to them, ‘Perhaps this is the earth of Abraham, the patriarch, who threw earth which turned to swords, and chaff which became arrows!’ So they examined it, and found it to be even so: and a district which they had been unable to conquer, they threw this earth at it and conquered it. Thereupon they led him to the treasury and said to him, ‘Take what thou pleasest!’ So he filled his box with gold. On his return, the inmates [of the inn where he had previously been robbed] asked him, ‘What didst thou take to the king?’ ‘What I took away from here I carried there,’ was his reply. So they took [the same] and brought it there, [as a result of which] these folk were executed.

THE GENERATION OF THE DISPERSION HAVE NO PORTION IN THE WORLD TO COME etc. What did they do? — The scholars of R. Shila taught: They said, ‘Let us build a tower, ascend to heaven, and cleave it with axes, that its waters might gush forth.’ In the West [sc. Palestine academies][2] they laughed at this: If so, they should have built it on a mountain![3]

R. Jeremiah b. Eleazar said: They split up into three parties. One said, ‘Let us ascend and dwell there;’ the second, ‘Let us ascend and serve idols;’ and the third said, ‘Let us ascend and wage war [with God].’ The party which proposed, ‘Let us ascend, and dwell there’ — the Lord scattered them: the one that said, ‘Let us ascend and wage war’ were turned to apes, spirits, devils, and night-demons; whilst as for the party which said, ‘Let us ascend and serve idols’ — ‘for there the Lord did confound the language of all the earth.’[4]

It has been taught. R. Nathan said: They were all bent on idolatry. [For] here it is written, let us make us a name;[5] whilst elsewhere it is written, and make no mention of the name of other gods:[6] just as there idolatry is meant, so here too. R. Jonathan said: A third of the tower was burnt, a third sunk [into the earth], and a third is still standing.[7] Rab said: The atmosphere of the tower causes forgetfulness. R. Joseph said: Babylon and Borsif[8] are evil omens for the Torah.[9] What is the meaning of Borsif? — R. Assi said: An empty [shafi] pit [bor].[10] THE MEN OF SODOM HAVE NO PORTION IN THE WORLD TO COME etc. Our Rabbis taught: The men of Sodom have no portion in the future world, as it is written, But the men of Sodom were wicked and sinners before the Lord exceedingly:[11] wicked — in this world, and sinners — in respect of the world to come.[12] Rab Judah said: [They were] wicked — with their bodies [i.e., immoral] and sinners — with their money [i.e.. uncharitable]. ‘Wicked — with their bodies,’ as it is written, How then can I do this great wickedness, and sin against God?[13] ‘And sinners — with their money,’ as it is written, and it be sin unto thee.[14] ‘Before the Lord’ refers to blasphemy; ‘exceedingly’ — that they intentionally sinned. A Tanna taught: Wicked — with their money; and sinners — with their bodies ‘Wicked — with their. money,’ as it is written, And thine eye be wicked against thy poor brother;[15] ‘and sinners — with their bodies,’ as it is written, and I will sin against God.[16] Before the Lord — this refers to blasphemy. Exceedingly — this refers to bloodshed, as it is written, Moreover, Manasseh shed innocent blood exceedingly.[17]

Our Rabbis taught: The men of Sodom waxed haughty only on account of the good which the Holy One, blessed be He, had lavished upon them. What is written concerning them? — As for the earth, out of it cometh bread: and under it it is burned up as it were with fire. The stones of it are the place of sapphires: and it hath dust of gold. There is a path which no fowl knoweth, and which the vulture's eye hath not seen: The lion's whelps have not trodden it, nor the fierce lions passed by it.[18] They said: Since there cometh forth bread out of [our] earth, and it hath the dust of gold, why should we suffer wayfarers, who come to us only to deplete our wealth. Come, let us abolish[19] the practice of travelling[20] in our land, as it is written, The flood breaketh out from the inhabitants,’ they are forgotten of the foot; they are dried up, they are gone away from men.[21]

Raba gave the following exposition: What is meant by the verse, How long will ye imagine mischief against a man? ye shall be slain all of you: ye are all as a bowing wall, and as a tottering fence?[22] This teaches that they used to cast [envious] eyes at wealthy men, place them by a leaning wall, thrust it upon them, then go and take their wealth. Raba expounded: What is meant by the verse, In the dark they dig through houses, which they had marked for themselves in the daytime: they know not the light?[23] This teaches that they used to cast [envious] eyes at wealthy men, and entrust balsamum into their keeping, which they placed in their storerooms. In the evening they would come and smell it out like dogs, as it is written, They return at evening: they make a noise like a dog, and go round about the city.[24] Then they would go, burrow in, and steal the money, [and as for their victim —] They cause him to go naked without clothing,[25] that they have no covering in the cold.[26] They lead away the ass of the fatherless, they take the widow's ox for a pledge.[27] They remove the landmarks; they violently take away flocks, and feed them.[28] And he [the victim] shall be brought to the grave, and shall remain in the tomb.[29] R. Jose taught this in Sepphoris. That night [after his lecture] three hundred [houses] were broken into in Sepphoris. So they came and harassed him. Said they to him, 'Thou hast shown[30] a way to thieves!' He replied, 'Could I have known that thieves would come?'[31] When R. Jose died, the gutters of Sepphoris ran with blood.[32]

[Reverting to the misdeeds of the Sodomites] they ruled: He who has [only] one ox must tend [all the oxen of the town] for one day; but he who has none must tend [them] two days.[33] Now a certain orphan, the son of a widow, was given oxen to tend. He went and killed then' and [then] said to them [the Sodomites],

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(1) In the Emperor's presence.
(2) V, supra 17b.
(3) And not in a valley.
(4) Gen. XI, 9.
(5) Ibid. 4.
(6) Ex. XXIII, 13.
(7) [Identified by Obermeyer. op. cit. 314, as the Borsippa Tower, near Babylon. V. next note]
(8) ** A city frequently identified with Babel. Neubauer, op. cit., pp. 327, 346, observes that Borsif was not far from Borsippon. A sect of Chaldean astrologers had their locale there, for which reason the Talmud says that the place is unfavourable for study.
(9) Because one's learning is soon forgotten there.
(10) I.e., a pit emptied of its waters — a place where all knowledge is forgotten.
(11) Gen. XIII, 13.
(12) I.e., they are excluded therefrom on account of sin.
(13) Ibid. XXXIX, 9 — the reference is to adultery.
(14) Deut. XV, 9 — the reference is to the withholding of financial assistance from the poor.
(15) Ibid. V. previous note.
(16) V, supra n. 3.
(17) II Kings XXI, 16.
(18) Job XXVIII, 5-8.
(19) Lit., 'cause to be forgotten.'
(20) Lit., 'the law of the foot.'
(21) Ibid. 4.
(22) Ps. LXII, 4.
(23) Job XXIV, 16.
(24) Ps. LIX, 7.
(25) Job XXIV, 10.
(26) Ibid. 7.
(27) Ibid. 3.
(28) Ibid. 2.
(29) Ibid. XXI, 32.
(30) Lit., 'given'.
(31) Or, 'Did I then know that ye are thieves' — i.e, that there are so many thieves amongst you (Rashi)
(32) An expression denoting the great loss that was felt. — This is really irrelevant here, but that R. Jose has just been mentioned (Rashi).
(33) This was a measure of oppression against the poor.

Talmud - Mas. Sanhedrin 109b

'He who has an ox, let him take one hide; he who has none, let him take two hides.' 'What is the meaning of this?' they exclaimed. Said he, 'The final usage [i.e., the disposal of the ox when dead] must be as the initial one; just as the initial usage is that he who possesses one ox must tend for one day, and he who has none must tend two days; so should be the final usage: he who has one ox should take one hide, and he who has none should take two.’ [Likewise, they ruled,] He who crosses with the ferry must pay one zuz [for the privilege], but he who does not, [entering by another way] must give two. If one had rows of bricks every person came and took one, saying, ‘I have taken only one.’ If one spread out garlic or onions [to dry them], every person came and took one, saying, ‘I have taken only one.’

There were four judges in Sodom, [named] Shakrai, Shakurai, Zayyafi, and Mazle Dina.[1] Now, if a man assaulted his neighbour's wife and bruised her, they would say [to the husband], ‘Give her to him, that she may become pregnant for thee.’ If one cut off the ear of his neighbour's ass, they would order, ‘Give it to him until it grows again.’ If one wounded his neighbour they would say to him [the victim], ‘Give him a fee for bleeding thee.’ He who crossed over with the ferry had to pay four zuzim, whilst he who crossed through the water had to pay eight. On one occasion, a certain fuller happened to come there. Said they to him, ‘Give us four zuzim [for the use of the ferry].’ But, protested he, ‘I crossed through the water!’ ‘If so,’ said they, ‘thou must give eight zuzim for passing through the water.’ He refused to give it, so they assaulted him. He went before the judge, who ordered, ‘Give them a fee for bleeding and eight zuzim for crossing through the water. Now Eliezer, Abraham's servant, happened to be there, and was attacked. When he went before the judge, he said, ‘Give them a fee for bleeding thee.’ Thereupon he took a stone and smote the judge. ‘What is this!’ he exclaimed. He replied, ‘The fee that thou owest me give to this man [who attacked me], whilst my money will remain in statu quo.’ Now, they had beds upon which travellers slept. If he [the guest] was too long, they shortened him [by lopping off his feet]; if too short, they stretched him out. Eliezer, Abraham's servant, happened to go there. Said they to him, ‘Arise and sleep on this bed!’ He replied, ‘I have vowed since the day of my mother's death not to sleep in a bed.’ If a poor man happened to come there, every resident gave him a denar, upon which he wrote his name, but no bread was given him. When he died, each came and took back his. They made this agreement amongst themselves: whoever invites a man [a stranger] to a feast shall be stripped of his garment. Now, a banquet was in progress, when Eliezer chanced there, but they gave him no bread. Wishing to dine, he went and sat down at the end of them all. Said they to him, ‘Who invited thee here?’ He replied to the one sitting near him, ‘Thou didst invite me.’ The latter said to himself, ‘Peradventure they will hear that I invited him, and strip me of my garments!’ So he took up his raiment and fled without. Thus he [Eliezer] did to all, until they had all gone; whereupon he consumed the entire repast. A certain maiden gave some bread to a poor man, [hiding it] in a pitcher. On the matter becoming known, they daubed her with honey and placed her on the parapet of the wall, and the bees came and consumed her. Thus it is written, And the Lord said, The cry of Sodom and Gomorrah, because it is great:[2] whereon Rab Judah commented in Rab's name: On account of the maiden [ribah].[3]

THE SPIES HAVE NO PORTION IN THE WORLD TO COME, AS IT IS SAID, EVEN THOSE MEN THAT DID BRING UP THE EVIL REPORT UPON THE LAND, DIED BY THE PLAGUE BEFORE THE LORD:[4] DIED [IMPLIES] IN THIS WORLD; BY THE PLAGUE — IN THE NEXT.[5] THE ASSEMBLY OF KORAH HAVE NO PORTION IN THE WORLD TO COME, AS IT IS WRITTEN, AND THE EARTH CLOSED UPON THEM, [IMPLYING] IN THIS WORLD, AND THEY PERISHED FROM AMONG THE CONGREGATION — IN THE NEXT — THIS IS R. AKIBA'S VIEW. R. ELIEZER SAID: OF THEM THE WRIT SAITH, THE LORD KILLETH AND MAKETH ALIVE: HE BRINGETH DOWN TO THE GRAVE, AND BRINGETH UP.[6]

Our Rabbis taught: THE ASSEMBLY OF KORAH HAVE NO PORTION IN THE WORLD TO COME, for it is said, And the earth closed upon them; and they perished from among the congregation: this is R. Akiba's view. R. Judah b. Bathyra said: They are as a lost article, which is sought, for it is said, I have gone astray like a lost sheep: seek thy servant; for I do not forget thy commandments.[7]

Now Korah took . . .[8] Resh Lakish said: He took a bad bargain for himself, being plucked out[9] of Israel. The son of Izhar: a son who incensed[10] the whole world with himself as the [heat of] noon.[11] The son of Kohath,[12] a son who set the teeth of his progenitors on edge.[13] The son of Levi: a son who became an inmate[14] of Gehenna. Then why not state too ‘the son of Jacob’, [implying] a son who marched[15] himself into Gehenna? — R. Samuel b. R. Isaac answered: Jacob supplicated for himself [not to be enumerated amongst Korah's ancestors], as it is written, O my son, come not into their secret: unto their assembly, mine honour, be not thou united:[16] ‘O my soul, come not unto their secret’ — this refers to the spies;[17] ‘unto their assembly, mine honour, be not thou united’ — to the Assembly of Korah.

Dathan[18] [denotes] that he violated God's law;[19] Abiram[20] — that he stoutly refused to repent;[21] On[22] — that he sat in lamentations;[23] Peleth[24] — that wonders were wrought for him;[25] the son of Reuben — a son who saw and understood.[26]

Rab said: On, the son of Peleth, was saved by his wife. Said she to him, ‘What matters it to thee? Whether the one [Moses] remains master or the other [Korah] becomes master, thou art but a disciple.’ He replied, ‘But what can I do? I have taken part in their counsel, and they have sworn me [to be] with them.’ She said, ‘I know that they are all a holy community, as it is written, seeing all the congregation are holy, everyone of them.[27] [So,]’ she proceeded, ‘Sit here, and I will save thee.’ She gave him wine to drink, intoxicated him and laid him down within [the tent]. Then she sat down at the entrance thereto

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(1) These are fictitious names meaning, Liar, Awful Liar, Forger, and Perverter of Justice.

(2) Heb, rabbah, רבה, Gen. XVIII, 20.

(3) ריבה, a play on רבה.

(4) Num. XIV, 37.

(5) Wilna Gaon deletes this whole passage, from ‘THE SPIES... THE NEXT,’ v. p. 738, n. 6.

(6) I Sam. II, 6. The Wilna Gaon deletes this whole passage.

(7) Ps. CXIX, 176: though gone astray, they will be found and restored to their share in the future world.

(8) Num. XVI, 1.

(9) A play on קרח and קרחה ‘baldness’.

(10) Lit., ‘heated’.

(11) יצהר is connected with צהרים noon.

(12) הקהה with which קהת is related.

(13) I.e., who disgraced his parents.

(14) Lit., ‘company’, ‘escort’, לויה a play of words on לוי.

(15) Connecting יעקב with עקב ‘to trace’, ‘follow’.

(16) Gen. XLIX, 6.

(17) In no case is the genealogy of the spies traced to Jacob (Rashi).

(18) Korah's confederate. Num. XVI, 1.

(19) דת, a play on דתן.

(20) V, note 12.

(21) איבר, a play on אבירם.

(22) V. n. 12. On means also ‘lamentation’.

(23) I.e., he repented for having joined them.

(24) On's father.

(25) Connecting the name with the root פלא, ‘wonder’. He abandoned the conspiracy, and was miraculously saved from its fate.

(26) ראו-בן ‘He saw and perceived’ that the conspiracy was unjust, and therefore kept aloof from it.

(27) Ibid. 3.

and loosened her hair. Whoever came [to summon him] saw her and retreated.[1] Meanwhile, Korah's wife joined them [the rebels] and said to him [Korah], 'See what Moses has done. He himself has become king; his brother he appointed High Priest; his brother's sons he hath made the vice High Priests. If terumah is brought, he decrees, Let it be for the priest; if the tithe is brought, which belongs to you [i.e., to the Levite], he orders, Give a tenth part thereof to the priest. Moreover, he has had your hair cut off,[2] and makes sport of you as though ye were dirt; for he was jealous[3] of your hair.' Said he to her, 'But he has done likewise!' She replied, 'Since all the greatness was his, he said also, Let me die with the Philistines.[4] Moreover, he has commanded you, Set [fringes] of blue wool [in the corners of your garments];[5] but if there is virtue in blue wool, then bring forth blue wool, and clothe thine entire academy therewith.'[6] Thus it is written, Every wise woman buildeth her house[7] — this refers to the wife of On, the son of Peleth; but the foolish plucketh it down with her hands — to Korah's wife.

And they rose up before Moses, with certain of the children of Israel, two hundred and fifty:[8] they were the most distinguished men of the community; chosen for the appointed times:[9] meaning, they were skilled in intercalating the year[10] and fixing new moons; men of renown, famous throughout the whole world.

And when Moses heard it, he fell upon his face.[11] What news did he hear? — R. Samuel b. Nahmani said in R. Jonathan's name: That he was suspected of [adultery with] a married women, as it is written, They were jealous of Moses in the camp,[12] which teaches that every person warned his wife[13] on Moses' account, as it is written, And Moses took the tabernacle, and pitched it without the camp.[14]

And Moses rose up and went in to Dathan and Abiram.[15] Resh Lakish said: This teaches that one must not be obdurate in a quarrel;[16] for Rab said: He who is unyielding in a dispute violates a negative command, as it is written, And let him not be as Korah, and as his company.[17] R. Ashi said: He deserves to be smitten with leprosy: here it is written, [as the Lord said] to him by the hand of Moses,'[18] whilst elsewhere, it is said, And the Lord said furthermore unto him, Put now thine hand into thy bosom. [. . . and when he took it out, behold, his hand was leprous as snow].[19]

R. Joseph said: Whoever contends against the sovereignty of the House of David deserves to be bitten by a snake. Here it is written, And Adonijah slew sheep and oxen and fat cattle by the stone of Zoheleth;[20] whilst elsewhere it is written, with the poison of serpents [zohale][21] of the dust.[22] R. Hisda said: Whoever contends against [the ruling of] his teacher is as though he contended against the Shechinah, as it says, when they strove against the Lord.[23] R. Hama son of R. Hanina said: Whoever quarrels[24] with his teacher is as though he quarrelled with the Shechinah, as it is said, This is the water of Meribah; because the children of Israel strove with the Lord.[25] R. Hanina b. Papa said: Whoever expresses resentment against his teacher, is as though he expressed it against the Shechinah, as it is said, Your murmurings are not against us, but against the Lord.[26] R. Abbahu said: He who imputes [evil] to his teacher is as though he imputed [it] to the Shechinah, as it says, And the people spake against God, and against Moses.[27]

Riches kept for the owners thereof to their hurt:[28] Resh Lakish said: This refers to Korah's wealth. And all the substance that was at their feet:[29] R. Eleazar said: This refers to a man's wealth, which puts him on his feet. R. Levi said: The keys of Korah's treasure house were a load for three hundred white mules,[30] though all the keys and locks were of leather.[31]

R. Hama son of R. Hanina said: Three treasures did Joseph hide in Egypt: one was revealed to

Korah; one to Antoninus the son of Severus,[32] and the third is stored up for the righteous for the future time.

R. Johanan also said: Korah was neither of those who were swallowed up nor of those who were burnt. 'Neither of those who were swallowed up' — as it is written, [And the earth . . . swallowed them up. . .] and all the men that appertained unto Korah,[33] [implying], but not Korah himself. 'Nor of those who were burnt' — for it is written, What time the fire devoured two hundred and fifty men,[34] — but not Korah.[35] A Tanna taught in a Baraitha: Korah was one of those who were swallowed up and burnt.[36] 'Of those who were swallowed up' — as it is written, . . . and swallowed them up together with Korah.[37] 'Of those who were burnt' — since it is written, And there came out a fire from the Lord, and consumed the two hundred and fifty men [that offered incense],[38] which includes Korah.[39]

Raba said: What is meant by the verse, The sun and the moon stood still in their zebul, at the light of thine arrows they went?[40] — This teaches that the sun and the moon ascended from the rakia' to the zebul, and exclaimed before the Holy One, blessed be He, 'Sovereign of the Universe! If thou wilt execute justice for Amram's son [by punishing Korah and his assembly], we will go forth [to give light]; if not, we will not go forth.' Thereupon he shot arrows at them, saying, 'For My honour ye did not protest, yet ye protest for the honour of flesh and blood!'[41] So now they do not go forth until they are driven to it.[42]

Raba gave the following exposition: What is meant by the verse, But if the Lord make a new thing, and the earth open her mouth?[43] — Moses said to the Holy One, blessed be He, 'If the Gehenna has already been created, 'tis well; if not, let the Lord create it.' Now, in respect of what? If actually to create it, but there is no new thing under the sun![44] But [he prayed] that its mouth might be brought up [to the spot where they were standing].

Notwithstanding the children of Korah died not.[45] A Tanna taught: It has been said on the authority of Moses our Master: A place was set apart for them in the Gehenna, where they sat and sang praises [to God].

Rabbah b. Bar Hana said: I was proceeding on my travels, when an Arab said to me, 'Come, and I will shew thee where the men of Korah were swallowed up.' I went and saw two cracks whence issued smoke. Thereupon he took a piece of clipped wool, soaked it in water, attached it to the point of his spear, and passed it over there, and it was singed. Said I to him, 'Listen to what you are about to hear.' And I heard them saying thus: 'Moses and his Torah are true, but they [Korah's company] are liars.'

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(1) It being immodest to look upon a married woman's loosened hair.

(2) In accordance with the purification rites of the Levites; and let them share all their flesh (Num. VIII, 7).

(3) Lit., 'cast his eyes' — with envy.

(4) Judges XVI, 30. This was used proverbially to denote readiness to suffer, so that others might suffer too. — Moses, retaining all the greatness himself, did not mind shaving his own hair off, seeing that he had caused all the rest to do so, thus depriving them of their beauty.

(5) Num. XV, 38.

(6) Why limit it to a thread in the corner of the garment? Every scholar ought to be completely garbed therewith.

(7) Prov. XIV, 1.

(8) Num. XVI, 2.

(9) So translated here. E.V. 'famous in the congregation'.

(10) V, supra 2a.

(11) Ibid. 4.

(12) Ps. CVI, 16.

(13) V. p. 583, n. 1.
(14) Ex. XXXIII, 7 — to avoid all ground of suspicion.
(15) Num. XVI, 25.
(16) Moses disregarded his own dignity, going forth to the rebels in an attempt to end the quarrel.
(17) Ibid. XVII, 5.
(18) Ibid.
(19) Ex. IV, 6; to which ‘the hand of Moses’ is taken to allude.
(20) I Kings I, 9.
(21) וזחלי.
(22) Deut. XXXII, 24.
(23) Num. XXVI, 9. The reference is to Korah's rebellion; though against Moses only, it is stigmatised as being against God.
(24) I.e., in general.
(25) Ibid. XX, 13. V. n. 14.
(26) Ex. XVI, 8.
(27) Num. XXI, 5.
(28) Eccl. V, 12.
(29) Deut. XI, 6.
(30) This of course is not to be taken literally.
(31) Instead of metal, so as to be light in weight, yet they amounted to such a load.
(32) V. p. 610, n. 7.
(33) Num. XVI, 32.
(34) Ibid. XXVI, 10.
(35) Since there were two hundred and fifty besides Korah; v. XVI, 17, where Korah is mentioned apart from the two hundred and fifty.
(36) First his soul was burnt, the body remaining intact, and this in turn was swallowed up (Rashi).
(37) Ibid. 10.
(38) Ibid. XVI, 35.
(39) He includes Korah among the two hundred and fifty men who offered incense, as stated in v. 17.
(40) Hab. III, 11; according to tradition, there are seven heavens, of which zebul is one. What were they doing in zebul, seeing that they are set in the rakia’ — a lower heaven, translated in Gen. I, 4, ‘firmament’?
(41) Men worship you, whereby they dishonour Me, yet ye do not protest.
(42) [As they do not wish to give light to sinful man.]
(43) Num. XVI, 30.
(44) Eccl. I, 9.
(45) Num. XXVI, 11.

Talmud - Mas. Sanhedrin 110b

The Arabian then said to me, ‘Every thirty days Gehenna causes them to turn back [here] like meat in a pot, and they say thus: "Moses and his Torah are true, but they are liars."’[1] THE GENERATION OF THE WILDERNESS HATH NO PORTION IN THE WORLD TO COME etc. Our Rabbis taught: The generation of the wilderness hath no portion in the world to come, as it is written, in this wilderness they shall be consumed, and there they shall die.’[2] ‘they shall be consumed’, refers to this world; ‘and there they shall die’ — to the world to come. And it is also said, Forty years long was I grieved with his generation [sc. of the wilderness — . . .] Unto whom I sware in my wrath that they should not enter into my rest:[3] this is R. Akiba's view. R. Eliezer maintained: They will enter into the future world, for it is written, Gather my saints together unto me; those that have made a covenant with me by sacrifice.[4] How then do I interpret[5] Unto whom I sware in my wrath etc? — [Only] in my wrath I sware, but repented thereof. R. Joshua b. Karha said: This verse was spoken only in reference to future generations. [Thus:] Gather my saints together unto me — this refers to the righteous of every generation; that have made a covenant with me — to Hananiah, Mishael, and

Azariah, who submitted to the fiery furnace; by sacrifice — to R. Akiba and his companions, who gave themselves up to immolation for the sake of the Torah.[6] R. Simeon b. Manasya said: They will enter the future world, as it is said, And the ransomed of the Lord shall return, and come to Zion with songs.[7] Rabbah b. Bar Hana said in R. Johanan's name: [Here] R. Akiba abandoned his love.[8] For it is written, Go and cry in the ears of Jerusalem, saying, Thus saith the Lord: I remember thee, the kindness of thy youth, the love of thine espousals, when thou wentest after me in the wilderness, in a land that was not sown;[9] if others will enter [the future world] in their merit, surely they themselves most certainly will!

MISHNAH. THE TEN TRIBES WILL NOT RETURN [TO PALESTINE], FOR IT IS SAID, AND CAST THEM INTO ANOTHER LAND, AS IS THIS DAY:[10] JUST AS THE DAY GOES AND DOES NOT RETURN, SO THEY TOO WENT AND WILL NOT RETURN: THIS IS R. AKIBA'S VIEW. R. ELIEZER SAID: AS THIS DAY — JUST AS THE DAY DARKENS AND THEN BECOMES LIGHT AGAIN,[11] SO THE TEN TRIBES — EVEN AS IT WENT DARK FOR THEM, SO WILL IT BECOME LIGHT FOR THEM.

GEMARA. Our Rabbis taught: The ten tribes have no portion in the world to come,[12] as it says, And the Lord rooted them out of their land in anger, and in wrath, and in great indignation:[13] And the Lord rooted them out of their land, refers to this world; and cast them into another land — to the world to come:[14] this is R. Akiba's view. R. Simeon b. Judah, of the Kefar of Acco,[15] said on R. Simeon's authority: If their deeds are as this day's,[16] they will not return; otherwise they shall. Rabbi said: They will enter the future world, as it is said, [And it shall come to pass] in that day, that the great trumpet shall be blown, [and they shall come which were ready to perish in the land of Assyria, and the outcasts in the land of Egypt, and shall worship the Lord in the holy mount of Jerusalem].[17]

Rabbah b. Bar Hana said in R. Johanan's name: [Here] R. Akiba abandoned his love,[18] for it is written, Go and proclaim these words toward the north, and say, Return, thou backsliding Israel, saith the Lord; and I will not cause mine anger to fall upon you; for I am merciful, saith the Lord, and I will not keep mine anger for ever.[19]

Now, to what does ‘his love’ refer? — Even as it has been taught: The children of the wicked of Israel, [who died] in their minority, will not enter the future world, as it is written, For, behold, the day cometh that shall burn as an oven; and all the proud, yea, and all that do wickedly, shall be stubble: and the day that cometh shall burn them up, saith the Lord of hosts, that it shall leave them neither root or branch:[20] ‘root’, refers to this world; ‘branch’ — to the world to come:[21] This is Rabban Gamaliel's view. R. Akiba said: They will enter the world to come, as it is written, The Lord preserveth petha'im,[22] and in the island cities, a child is called pattia;[23] and it is said also, Hew the tree down, and destroy it: yet leave the stump of the roots thereof in the earth.[24] How then do I interpret[25] ‘that it shall leave them neither root nor branch’? — That He shall not leave them [unpunished the violation of] a single precept or the remnant thereof [i.e., even the most insignificant precept]. Another interpretation: ‘root’ refers to the soul, and ‘branch’ to the body.[26] But as for young children of the wicked heathens, all agree that they will not enter the future world. And R. Gamaliel[27] deduces it from And thou hast made all their memory perish.[28]

It has been said: An infant — from when may he enter the future world? — R. Hiyya and R. Simeon b. Rabbi [disagree]: one maintained, from birth; the other, from when it spoke. The one who says that it is from birth derives it from the verse, They shall come, and shall declare his righteousness unto a people that shall be born, that he hath done this.[29] The one who holds, from when it spoke, [deduces it] from the verse, A seed shall serve him; it shall be related of the Lord for a generation.[30]

It has been stated: Rabina maintained: From conception,[31] as it is written, A seed shall serve him.

R. Nahman b. Isaac said: From its circumcision, for it is written, I am afflicted and ready to die from my youth up; while I suffer thy terrors I am distracted.[32]

It was taught on R. Meir's authority: From when he said Amen, as it is written, Open ye the gates, that the righteous nation which keepeth the truth may enter in:[33] render not which keepeth the truth[34] but which sayeth Amen.[35]

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(1) [V. B.B. 74a, with slight variations.]

(2) Num. XIV, 35.

(3) Ps. XCV, 10f.

(4) Ibid. L, 5. This description fits the generation of the wilderness. Cf. And he sent young men of the children of Israel, which offered burnt offerings, and sacrificed peace offerings of oxen unto the Lord . . . And Moses took the blood (thereof), and sprinkled it on the people, and said, Behold the blood of the covenant, which the Lord hath made with you concerning all these words. (Ex. XXIV, 5, 8).

(5) Lit., 'fulfil.'

(6) R. Akiba disobeyed the Roman edict forbidding the practice and teaching of religion, and was martyred in consequence. — Ber. 61b. He was executed after several years of imprisonment (supra 12a) about the year 132 C.E.

(7) Isa. XXXV, 10: he regards 'the ransomed of the Lord' as alluding to those who left Egypt, whom the Lord 'ransomed'.

(8) In his love for Israel he generally sought the happiest destinies for them. Here, however, he taught that the generation of the wilderness had no portion in the world to come, though, as the speaker proceeds to demonstrate, he could so have interpreted a verse as to grant them a share therein.

(9) Jer. II, 2: thus the merit of this act of faith on the part of the generation of the wilderness stood their descendants in good stead and conferred the privilege upon them of a share in the future world.

(10) Deut. XXIX, 27.

(11) Becoming dark in the evening and light in the morning.

(12) [I.e., not in the hereafter but in the Messianic days.]

(13) Ibid.

(14) I.e., into a place other than the future world.

(15) V. p. 484, n. 7.

(16) I.e., if they do not repent, 'this day' referring to the time of their being exiled.

(17) Isa. XXVII, 13: 'the holy mount of Jerusalem' is understood here to mean the future world.

(18) V, p.758, n. 7.

(19) Jer. III, 12.

(20) Mal. III, 19.

(21) And both are assumed to refer to the young children of the wicked.

(22) פתאים. (E.V. 'the simple'.)

(23) פתיא.

(24) Dan. IV, 20; i.e.,the family stock remains, the children of the wicked entering the future world.

(25) Lit., 'fulfil'.

(26) But of the wicked themselves, not their children. Thus we see R. Akiba, in his love for Israel, interpreting the verse as leniently as possible.

(27) The name is deleted by the Wilna Gaon and this appears so too from Rashi.

(28) Isa. XXVI, 14.

(29) Ps. XXII, 32.

(30) Ibid. 31. It shall be related shews that when God's glory can be related by a person, i.e., when he can speak, he earns his right to a portion of the world to come.

(31) Lit., 'its being sown'.

(32) Ibid. LXXXVIII, 16, translated: I am poor and ready to die (like the wicked, i.e., without entering the future world) from my being cast forth (from the womb); but once I have borne thy dread i.e., circumcision, which one always bears on his body, I am whirled round — in the whirl of life (the future world).

(33) Isa. XXVI, 2.

(34) שומר אמונים.
(35) שאומר אמן.

Talmud - Mas. Sanhedrin 111a

What is the meaning of Amen?[1] — R. Hanina said: God, faithful, King.[2]

Therefore hell hath enlarged herself, and opened her mouth without measure:[3] Resh Lakish said: [It means] for him who leaves undone even a single statute.[4] R. Johanan said to him: It is not pleasing to their Master[5] that you say thus to them. But [say], who has not studied even a single statute.[6]

And it shall come to pass, that in all the land, saith the Lord, two parts therein shall be cut off and die,' but the third shall be left therein.[7] Resh Lakish said: [This means] a third of the descendants of Shem.[8] Said R. Johanan to him: Their Master is not pleased that you say so of them. But [say thus:] a third even of all the descendants of Noah.

For I am married unto you: and I will take you one of a city, and two of a family.[9] Resh Lakish said: This is meant literally.[10] Said R. Johanan unto him: Their Master is not pleased that you say so of them.[11] But [say thus:] 'one of a city' [means that his virtues] shall benefit an entire city;[12] and 'two of a family' will benefit the entire family.[13] R. Kahana sat before Rab and stated: This is meant literally. Rab said to him: Their Master is not pleased that you say so of them. But [say thus:] 'one of a city' — shall benefit an entire city, and 'two of a family' — will benefit the entire family. He [Rab] then observed him dress his hair [instead of paying attention to his studies] and come and sit before Rab. Said he to him, And it shall not be found in the land of the living.[14] He exclaimed, 'You curse me!'[15] He replied, 'I but cite a verse, [which teaches,] The Torah shall not be found in one who attends to his own wants whilst studying it.'[16] It has been taught: R. Simai said: It says, And I will take you to me for a people,'[17] and it is also said, And I will bring you in [unto the land etc.].[18] Their exodus from Egypt is thus likened to their entry into the [promised] land: just as at their entry into the [promised] land there were but two out of six hundred thousand,[19] so at their exodus from Egypt there were but two out of six hundred thousand.[20] Raba said: It shall be even so in the days of the Messiah, for it is said, And she shall sing there, as in the days of her youth, and as in the days when she came up out of the land of Egypt.[21]

It has been taught: R. Eleazar son of R. Jose said: I once visited Alexandria of Egypt and found an old man there, who said to me, 'Come, and I will shew thee what my ancestors did to thine: some of them they drowned in the sea, some they slew by the sword, and some they crushed in the buildings.'[22] And for this Moses was punished,[23] as it is said, For since I came to Pharaoh to speak in thy name, he hath done evil to this people,' neither hast thou delivered thy people at all.[24] Thereupon the Holy One, blessed be He, said to him, 'Alas for those who are gone and no more to be found! For how many times did I reveal Myself to Abraham, Isaac, and Jacob by the name of El Shaddai,[25] and they did not question my character,[26] nor say to Me, What is Thy name? I said to Abraham, Arise, walk through the land in the length of it, and in the breadth of it,' for I will give it unto thee:[27] yet when he sought a place to bury Sarah, he did not find one, but had to purchase it for four hundred silver shekels; and still he did not question My character. I said to Isaac, Sojourn in this land, and I will be with thee, and will bless thee:[28] yet his servants sought water to drink, and did not find it without its being disputed, as it is said, And the herdmen of Gerar did strive with Isaac's herdmen saying, The water is our's;[29] still he did not question My character. I said to Jacob, The land whereon thou liest, to thee will I give it, and to thy seed:[30] yet he sought a place to pitch his tent and did not find one until he purchased it for an hundred kesitah;[31] nevertheless he did not question My character; nor did they say to me, What is Thy name?[32] And now thou sayest to Me, Neither hast thou delivered thy people at all. [Therefore] Now shalt thou see what I will do to Pharaoh:[33] thou shalt behold the war against Pharaoh, but not the war against the thirty one kings.’[34] And Moses made haste, and bowed his head toward the earth, and worshipped.[35] What did Moses see?[36] — R. Hanina b. Gamala[37] said: He saw long-suffering [as one of His attributes].[38] The Rabbis say: He saw [His attribute of] truth.[38] It has been taught in agreement with the one who holds that ‘he saw long-suffering,’ viz.,[39] When Moses ascended on high, he found the Holy One, blessed be He, sitting and writing ‘long-suffering’. Said he to Him, ‘Sovereign of the Universe! Long-suffering to the righteous?’ He replied, ‘Even’ to the wicked.’ He urged, ‘Let the wicked perish!’ ‘See now what thou desirest,’ was His answer.[40] ‘When Israel sinned,’ He said to him, ‘didst thou not urge Me, [Let Thy] long-suffering be for the righteous [only]?’

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(1) When one responds ‘Amen’ after a benediction, how does it suggest ascent thereto and the acceptance of God's yoke?

(2) אמן is an abbreviation of אל מלך נאמן.

(3) Isa. V, 15.

(4) Giving חק, translated ‘measure’, its usual meaning. Maharsha softens the severity of this statement by referring it to one whose evil deeds would be exactly counterbalanced by good deeds — in which case he would be saved from Gehenna — had he but fulfilled one more precept. But R. Johanan observed that even this is too harsh.

(5) Israel's.

(6) But the study of a single statute saves one from Gehenna.

(7) Zech. XIII, 8.

(8) Mankind is descended from Noah and his three sons, Shem, Ham and Japheth. By a ‘third’ Resh Lakish understands the original number divided and again divided by three. Therefore a third of the first three gives Shem (since he was the ancestor of Israel, and it is assumed that Israel must be included amongst those saved) and then a further third of Shem.

(9) Jer. III, 14.

(10) Lit., ‘the words are as they are written.’

(11) For that is too pessimistic.

(12) For the sake of a single righteous man in a city I will bring the whole to Zion.

(13) V. preceding note.

(14) Job XXVIII, 13.

(15) For the Hebrew לא תמצא may also mean, ‘thou shalt not’, and he understood it in this sense.

(16) Lit., ‘over it’.

(17) Ex. VI, 7.

(18) Ibid.

(19) Only Caleb and Joshua, out of the 600,000 who left Egypt, entered Palestine.

(20) The rest perished in Egypt (as stated anon), yet that small fraction amounted to 600,000.

(21) Hos. II, 17.

(22) V. p. 688, n, 11.

(23) I.e., for losing faith in God through this.

(24) Ex. V, 23.

(25) God Almighty.

(26) Lit., ‘my attributes’, ‘my dealings’ with man. Whether my promises were reliable.

(27) Gen. XIII, 17.

(28) Ibid. XXVI, 3.

(29) Ibid. 20.

(30) Ibid. XXVIII, 13.

(31) Ibid. XXXIII, 19. R.V.; ‘piece of money’.

(32) The emphasis laid here upon the name of God, the virtue ascribed to the Patriarchs for refraining to ask it, and the reproach that Moses had wished to know it, are due to the fact that God's name was regarded as more than a mere title of distinction. It represented His character, His Attributes, and the relationship in which He stood to His people. Consequently, to refrain from asking after God's name was the equivalent of displaying complete confidence in Him, without examining his character closely to see whether His promises were reliable; whilst to ask it was to betray a lack of confidence.

(33) Ibid. VI, 1.
(34) I.e., the conquest of Palestine. V. Josh. XII, 24.
(35) Ex. XXXIV, 8.
(36) This verse follows the enumeration of God's thirteen Attributes. Which of these did he see, that he hastened to bow and worship?
(37) Var. lec. ‘Gamaliel.’
(38) Ibid. 7.
(39) Lit., ‘For it has been taught.’
(40) It is an ill-advised request, which thou wilt revoke at a future occasion, viz., at the sin of the Golden Calf.

Talmud - Mas. Sanhedrin 111b

‘Sovereign of the Universe!’ said he, ‘but didst Thou not assure me, Even to the wicked!’ Hence it is written, And now, I beseech thee, let the power of my Lord be great, according as thou hast spoken, saying.[1]

R. Hagga was walking up the steps of Rabbah b. Shila's college, when he heard a child recite, Thy testimonies are very sure: holiness becometh thy house; O Lord, [thou art] for the length of days.[2] And in proximity thereto is stated, A prayer of Moses etc.[3] This proves,said he, that he saw [that God is] long-suffering.[4]

R. Eleazar said in R. Hanina's name: The Lord shall be a crown upon the head of every righteous man, as it is written, In that day shall the Lord of hosts be for a crown of glory [zebi], and for a diadem of beauty, unto the residue of his people etc.[5] What is meant by for a crown of glory, and for a diadem of beauty? — To those who obey His will and hope for His salvation.[6] I might think, this applies to all; therefore Scripture states, unto the residue of his people, [meaning] unto those who make themselves as a remnant.[7] And for a spirit of judgment to him that sitteth in judgment, and for strength to them that turn the battle to the gate.[8] ‘And for a spirit of judgment’ — this means, to him who rules over his inclinations;[9] ‘and to him that sitteth in judgment’: i.e., to him that renders an honest judgment according to the truth thereof;[10] ‘and for strength’ — viz., to him that prevails against his evil inclinations;[11] ‘that turn the battle’ — to those who engage in the battle of the Torah;[12] ‘to the gate’ — to those who repair morning and evening to the synagogue and house of study. But the Attribute of Judgment protested before the Holy One, blessed be He:[13] ‘Sovereign of the Universe! Wherein do these differ from those?’[14] — He replied, ‘But they also have erred through wine, and through strong drink are out of the way . . . paku peliliyah they stumble in judgement.’[15] Now pukah [the root idea of paku] can only mean the Gehenna, as it is said, That this shall be no grief unto thee;[16] and peliliyah can only refer to the judges, as it is said, and he shall pay as the judges determine.[17]

MISHNAH. THE INHABITANTS OF A SEDUCED CITY HAVE NO PORTION IN THE WORLD TO COME, AS IT IS WRITTEN, CERTAIN MEN, THE CHILDREN OF BELIAL, ARE GONE OUT FROM AMONG YOU, AND HAVE WITHDRAWN THE INHABITANTS OF THEIR CITY.[18] THEY ARE NOT EXECUTED UNLESS THE SEDUCERS ARE OF THAT CITY AND THAT TRIBE, AND THE MAJORITY THEREOF ARE SEDUCED, AND THE SEDUCERS ARE MEN. IF WOMEN OR MINORS SEDUCED IT, IF A MINORITY WERE SEDUCED, OR IF THE SEDUCERS WERE FROM WITHOUT THE CITY, THEY[19] ARE TREATED AS INDIVIDUALS, AND TWO WITNESSES AND A FORMAL WARNING ARE NECESSARY FOR EACH [OFFENDER]. IN THIS [THE PENALTY OF] INDIVIDUALS IS SEVERER THAN [THAT OF] A MULTITUDE, FOR INDIVIDUALS ARE STONED, THEREFORE THEIR PROPERTY IS SAVED; BUT MULTITUDES ARE DECAPITATED; HENCE THEIR POSSESSIONS ARE DESTROYED.

THOU SHALT SURELY SMITE THE INHABITANTS OF THAT CITY WITH THE EDGE OF THE SWORD.[20] A COMPANY OF ASS-DRIVERS OR CAMEL-DRIVERS PASSING FROM PLACE TO PLACE SAVES IT.[21] DESTROYING IT UTTERLY, AND ALL THAT IS THEREIN, AND THE CATTLE THEREOF: FROM THIS IT WAS DEDUCED THAT THE PROPERTY OF THE RIGHTEOUS, WHICH IS WITHIN [THE CITY] IS DESTROYED, BUT THAT WHICH IS WITHOUT IS SAVED, WHILST THAT OF THE WICKED, WHETHER WITHIN OR WITHOUT, IS DESTROYED.[22] AND THOU SHALT GATHER ALL THE SPOIL THEREOF IN TO THE MIDST OF THE PUBLIC SQUARE THEREOF ETC.[23] IF IT HAD NO PUBLIC SQUARE, ONE IS MADE FOR IT; IF IT WAS [SITUATED] WITHOUT [THE TOWN], IT IS BROUGHT WITHIN IT,[24] AS IT IS SAID, AND THOU SHALT BURN WITH FIRE THE CITY, AND ALL THE SPOIL THEREOF EVERY WHIT, FOR THE LORD THY GOD.[25]

THE SPOIL THEREOF' IMPLIES, BUT NOT THE SPOIL OF HEAVEN. HENCE IT WAS RULED, THE HOLY OBJECTS THEREIN[26] MUST BE REDEEMED; THE TERUMOTH[27] ALLOWED TO ROT; AND THE SECOND TITHE[28] AND THE SACRED WRITINGS HIDDEN.[29] A WHOLE-OFFERING FOR THE LORD THY GOD:[30] R. SIMEON SAID: THE HOLY ONE, BLESSED BE HE, DECLARED, IF YE EXECUTE JUDGMENT UPON THE SEDUCED CITY, I WILL ASCRIBE MERIT TO YOU AS THOUGH YE HAD SACRIFICED TO ME A WHOLE OFFERING. AND IT SHALL BE A HEAP FOR EVER:,[31] [HENCE] IT MAY NOT BE CONVERTED INTO GARDENS AND ORCHARDS: THIS IS THE VIEW OF R. JOSE THE GALILEAN. R. AKIBA MAINTAINED: IT SHALL NOT BE BUILT AGAIN [IMPLIES] THAT IT MAY NOT BE REBUILT AS IT WAS, BUT MAY BE CONVERTED INTO GARDENS AND ORCHARDS. AND THERE SHALL CLEAVE NOUGHT OF THE CURSED THING TO THINE HAND: [THAT THE LORD MAY TURN FROM THE FIERCENESS OF HIS WRATH, AND SHEW THEE MERCY]:[32] AS LONG AS THE WICKED EXIST IN THE WORLD, THERE IS FIERCE ANGER IN THE WORLD; WHEN THE WICKED PERISH FROM THE WORLD, FIERCE ANGER DISAPPEARS FROM THE WORLD.

GEMARA. Our Rabbis taught: [If thou shalt hear say in one of thy cities ... saying,] they have gone out: [this implies,] they, but not their agents.[33] Men: the plural cannot mean less than two.[34] Another explanation: men, [implies] but not women; men, but not minors. The children of Belial denotes children who have thrown off the Yoke of Heaven from their necks.[35] From among you, but not from a border town.[36] The inhabitants of their city — but not the inhabitants of a different city. Saying, [teaches that] witnesses and a formal warning are necessary for each offender.

It has been stated: R. Johanan maintained: One city might be divided among two tribes.[37] Resh Lakish said: One city might not be divided among two tribes.[38] R. Johanan asked Resh Lakish: UNLESS THE SEDUCERS ARE OF THAT CITY AND OF THAT TRIBE — surely it means, though the seducers be of that city, yet only if they belong to that tribe too does the law apply, but not otherwise; which proves that a city might be divided among two tribes? — No: such a case is possible if it [a portion of the town] came to them [the seducers] through inheritance,[39] or was gifted to them. He [further] objected: nine cities, out of these two tribes.[40] Surely it means four and a half from each, thus proving that a city might be divided among two tribes. — No: four from one and five from the other. If so, these should be specified.[41]

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(1) Num. XIV, 17; thus the Baraitha shews that what called forth Moses' worship of God when Israel sinned through the Golden Calf was his vision of the Almighty as long-suffering.

(2) Ps. XCIII, 5; i.e., 'thou art long-suffering.'

(3) Ibid. XC, 1.

(4) Regarding the former verse as part of Moses' prayer.

(5) Isa. XXVIII, 5.

(6) Thus translating צבי (zebi, E.V. glory",) 'will,' 'desire' — a common meaning in the Talmud and Targumim, and deriving צפירה zefirah (E.V. ‘beauty’) from צפה ‘to look forward’, ‘to hope’. The whole reads: In that day shall the Lord of hosts be for a crown of desire and for a diadem of hope etc.

(7) I.e., of no value; hence, to the humble.

(8) Ibid. 6.

(9) Translating: and to a spirit, i.e., evil inclination, that is judged, i.e., subdued.

(10) V, supra 7a.

(11) Reversing them to noble desires — this is higher than ruling over them, which is merely a non-surrender to them.

(12) In discussions and disputes thereon.

(13) V, p. 630, n. 7.

(14) Those who have these qualities, how are they differentiated from those who lack them?

(15) פקו פלילה Ibid. 7.

(16) לפוקה I Sam. XXV, 31.

(17) בפלילים Ex. XXI, 22. I.e., judges that go astray and render unfair judgments are consigned to the Gehenna.

(18) Deut. XIII, 14. The deduction is from, are gone out from among you, implying that they have lost their share in the future world (Rashi and the Yad Ramah). Bertinoro deduces it from the word Belial בליעל, which he reads בלי יעל ‘without ascending’, i.e., who will never ascend from the grave to the future world.

(19) The inhabitants.

(20) Ibid. 26.

(21) If a travelling caravan made a thirty days’ halt in the town, its members are regarded as inhabitants. Consequently, if they resist seduction, and their abstention turns the remainder who abstain from idolatry too, and would otherwise be in a minority, into a majority, the town is saved from the fate of a condemned city. — This is followed in the text by ‘as it is said etc.’ But as the deduction is from ‘inhabitants’, not from the verse next quoted, the Wilna Gaon deletes ‘as it is said’. [Yad Ramah preserves another reading: ‘they are saved’, that is, if the caravan passing through the city becomes involved in the seduction, they do not share the fate of the inhabitants, but are treated as individual idolators, provided they did not halt for thirty days.]

(22) This is deduced from all. This too is followed by ‘as it is said’, which is also deleted by the Wilna Gaon (and in both cases Rashi's version seems to lack it too), and for the same reason.

(23) Ibid. 17.

(24) [By building a city wall outside it.]

(25) Ibid. Hence everything, including the market place, must be within the city.

(26) I.e., such objects which, though consecrated, (e.g., for general Temple use as distinct from sacrifices) should be redeemed.

(27) V. Glos.

(28) This is discussed in the Gemara.

(29) I.e., buried, which is the meaning of גנז when used in connection with sacred objects no longer fit for use; v. Meg. 26b on the hiding of a Scroll of the Torah which has mouldered away. It is insufficient merely to put away these objects, viz., the sacred writings and the second tithe, and let them rot (as in the case of terumah), because being available to all, they would probably, in a moment of forgetfulness, be put to some use; whereas terumah was eaten only by the priests, who were very observant. (Tosefoth Yomtob a.l.) S. Krauss in Sanh.-Mak. a.l. remarks that גנז is a general term for withdrawing a Scroll from its public use in the synagogue, and presumably he understands it in the same light here. This meaning, however, is quite unsuited to the context (which deals with the method of destruction to be applied to holy things, which, though not to be burnt, are nevertheless to be disposed of, as is seen in the case of terumah and holy objects), particularly as the word is here applied to both the sacred Writings and the second tithe, and in the case of the latter this interpretation is obviously impossible.

(30) Ibid. [כליל (E.V. ‘in its entirety’) denotes also whole-offering.]

(31) Ibid.

(32) Ibid.

(33) I.e., only if the seducers of the same city personally enticed the majority of the city to idolatry. But if a number were enticed by their agents, the law of a condemned city does not apply, the enticed ones being punished as individuals.

(34) If only one person seduced a city, it is not treated as such.

(35) [בליעל is explained בלי-עול ‘without a yoke’.]

(36) Only a town that is among you can become a condemned city. But a border town, in close proximity to Gentile cities, is not treated as such (v, supra 16b).

(37) I.e., when Canaan was parcelled out among the tribes, and the boundary line of a tribal portion cut across a town, that town would legally belong to the two tribes.

(38) The whole legally belonging to the tribe the greater part of which fell within its borders. Jerusalem, which belonged partly to Benjamin and partly to Judah, was an exception on this view (Early Tosafoth, Yoma 12a).

(39) Rashi explains: if the seducers, though not of the tribe to which the city belonged, inherited part thereof through a daughter who became heiress of an estate after having married out of her tribe.

(40) Judah and Simeon. Josh. XXI, 16.

(41) Which tribe gave four and which five?

Talmud - Mas. Sanhedrin 112a

This is a difficulty.[1] The scholars propounded: What if they were self-seduced? Since Scripture writes [Certain men . . .] have seduced the inhabitants etc. It implies, but not if they were self-seduced; or perhaps, [the law holds good] even if they were self-seduced?[2] — Come and hear: IF WOMEN OR MINORS SEDUCED IT [... THEY ARE TREATED AS INDIVIDUALS]: but why so? Should it not be [at least] as though they were self-seduced?[3] — [No.] The latter are enticed through their own desires, whilst the former are influenced by women and minors.[4] UNLESS THE MAJORITY THEREOF ARE SEDUCED. How is this encompassed?[5] R. Judah said: We judge and imprison, judge and imprison.[6] Said ‘Ulla to him: Then thou delayest the judgment of these.[7] But ‘Ulla said thus: We judge and stone them, and judge and stone.[8] It has been stated: R. Johanan maintained: We judge and stone them, judge and stone them. Resh Lakish ruled: Many courts of law are set up.[9] But that is not so, For did not R. Hama, son of R. Jose, say in R. Oshaia's name: Then thou shalt bring forth that man or that woman ... unto thy gates:[10] [this teaches,] a man or a woman thou mayest bring forth to thy gates, but not a whole city?[11] — But many lawcourts are set up and the indictments examined [but no verdicts pronounced]; then the accused are taken to the great Beth din, their trials completed, and they are executed.

THOU SHALT SURELY SMITE THE INHABITANTS OF THAT CITY etc. Our Rabbis taught: If a company of ass-drivers or camel-drivers passing from place to place lodges therein and were seduced together with it: if they had stayed there thirty days, they are decapitated and their possessions destroyed;[12] if less, they are stoned, but their possessions unharmed.[13]

An objection was raised: ‘How long must [a stranger] stay in a town, that he may be as its citizen?[14] Twelve months’? — Raba answered: There is no difficulty. The latter [period is necessary] for one to be a full citizen; the former, to be regarded a town resident.[15] And it has been taught likewise: He who forswears benefit from the citizens of a town is forbidden to benefit from any one who has tarried twelve months therein, but if less he is permitted. [If he forswears benefit from] the residents of a town, he may not benefit from any one who has tarried there thirty days, but if less, he is permitted.

DESTROYING IT UTTERLY, AND ALL THAT IS THEREIN etc.[16] Our Rabbis taught: Destroying it utterly, and all that is therein:[17] this excludes the property of righteous men without the city. ‘And all that is therein:’ this includes the property of righteous men within it. ‘The spoil of it’ [teaches], but not the spoil of Heaven.[18] ‘And all the spoil of it’, teaches that the property of the wicked without the city is included.

R. Simeon said: Why did the Torah ordain that the property of the righteous within the city shall be destroyed? What caused them to dwell therein? Their wealth.[19] Therefore their wealth is destroyed.

The Master said: And all the spoil of it thou shalt gather includes the property of the wicked without it. R. Hisda observed: But only if it can be gathered thereinto.[20]

R. Hisda said: Entrusted objects of the inhabitants of a doomed city are permitted. How so? Shall we say, Those belonging to another city and now within it?[21] Is it then not obvious that they are permitted, not being ‘the spoil thereof’? If, again, the reference is to their own objects placed in another city: in this case, if they can be gathered thereinto,[22] why are they permitted? Whilst if they cannot be gathered, then surely he has already stated this once! — No. After all, it refers to objects of another city placed in this one. But the circumstances are that [the person to whom they were entrusted] accepted responsibility for them.[23] I might think, since he accepted responsibility, they are as his;[24] therefore, he teaches [otherwise].

R. Hisda said: An animal, the property partly of a condemned city and partly of another, is forbidden [entirely]; dough, belonging partly to a condemned city and partly to another, is permitted. Why so? Because an animal is as undivided,[25] whilst dough is as though [already] divided.

R. Hisda propounded: An animal of a condemned city — does shechita[26] avail to purify it from [the uncleanliness of] nebelah:[27] the Divine Law said, [Thou shalt surely smite . . . the cattle thereof] with the edge of the sword: hence it is all alike, whether slaughtered [ritually] or killed;[28] or perhaps, having been ritually slaughtered, the shechita is efficacious [to permit it]. What is the law? [This problem is] to stand over.

R. Joseph[29] propounded: What of the hair of the righteous. women [within the condemned city]?[30] Raba asked: This implies that the hair of the wicked women is forbidden![31] [Surely] Scripture writes, Thou shalt gather . . . and thou shalt burn, denoting, that which only lacks gathering and burning [is forbidden for general use, yet must be thus destroyed;] excluding this, which needs cutting off, gathering and burning?[32] — But, said Raba, the problem refers to a wig. How so? If it is fastened to herself it is as herself?[33] — It is necessary [to propound this] only if it is hanging on a nail [i.e., not being worn]: is it as other property of the righteous within the town, and destroyed; or perhaps, since it is donned and doffed, it is as her garments? [The problem is] to stand over.

AND THOU SHALT GATHER ALL THE SPOIL OF IT INTO THE MIDST OF THE PUBLIC SQUARE THEREOF etc. Our Rabbis taught: If it has no public square, it cannot become a condemned city: this is R. Ishmael's view. R. Akiba said: If it has no public square, a public square is made for it. Wherein do they differ? — The one maintains that ‘the public square thereof’ implies, that which was originally [before sentence] so; whilst the other holds that ‘the public square thereof’ implies even if it has [only] now become one. [

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(1) Though not actually refuting Resh Lakish, the Biblical expression ‘nine out of the two’ is difficult.

(2) The Bible merely stating a general truth, that people are usually enticed to idolatry by others, but not making this an integral condition of the law.

(3) Thus proving that self-seduction is insufficient.

(4) When they are drawn to idolatry by their own wish, their desire for it must be very strong; consequently, the place is treated as a seduced city. But if enticed by women or minors, their adherence thereto is weaker, and hence the law does not apply. — This distinction is merely stated as a possibility, not a certainty.

(5) Since each individual's offence must be attested by two witnesses and preceded by a formal warning, how is it possible for a whole town to be treated so simultaneously?

(6) If a few are observed practising idolatry, they are tried and sentenced; but instead of being executed, they are imprisoned. Then others are similarly treated, and the process is repeated until a majority have thus been sentenced. Then they are all tried together, and the place declared a condemned city.

(7) Which is forbidden.

(8) I.e., every few caught practising idolatry are stoned, as idolaters. But when half of a town have thus been executed, and there are still more, the place is declared a condemned city, and the rest are decapitated.

(9) That all may be judged simultaneously, and the provisions of a condemned city applied.
(10) Deut. XVII, 5.
(11) I.e., only individuals are tried by the local Beth din, but a community can be tried only by the great Sanhedrin of 71; how then can many courts of law be set up?
(12) As the inhabitants of the condemned city, wherein they are included after a stay of thirty days.
(13) As is the case of individuals.
(14) To share in their general liabilities in respect of town maintenance; v. B.B. 7b.
(15) And since in the case of a seduced city the condemnation extends to ‘the inhabitants’, a period of thirty days suffices.
(16) Ibid.
(17) The Wilna Gaon deletes ‘and all that is therein’.
(18) V. Mishnah on 111b.
(19) Only for the sake of wealth would the righteous live in such a wicked town.
(20) Only if it is so near that it can be brought into the doomed city on the same day that everything else is carried into the public square, but not if it is more than a day's journey distant (Rashi).
(21) I.e., the doomed city, the articles having been entrusted to its inhabitants.
(22) V. n. 3.
(23) For damage etc.
(24) Cf. p. 773, n. 5.
(25) For to obtain even the smallest part of it, the whole must be slaughtered.
(26) Ritual slaughtering according to the Jewish law.
(27) V. Glos: the problem is, if slaughtered ritually, is it ‘purified.’ i.e., permitted?
(28) I.e., however it comes to its death the animal is forbidden, being regarded as though slain by the edge of the sword!
(29) This passage is cited in ‘Ar. 7b with the reading R. Jose son of R. Hanina.
(30) Is it permitted or forbidden for use?
(31) If cut off before execution.
(32) I.e., it is not ready for immediate burning, but must first be cut off. Such is not forbidden.
(33) And regarded as personal wear, which are not destroyed in the case of the righteous.

Talmud - Mas. Sanhedrin 112b

THE HOLY OBJECTS THEREIN MUST BE REDEEMED etc. Our Rabbis taught: If there were holy objects therein, that which is dedicated to the altar [i.e.,for sacrifices] must die; to the Temple repair, must be redeemed; terumoth must be allowed to rot, and the second tithe and sacred Writings hidden. R. Simeon said: ‘The cattle thereof,’ — but not firstlings or tithes.[1] ‘The spoil thereof,’ excludes sacred money and tithe money.[2]

The Master said: ‘If there were holy objects therein, that which is dedicated to the altar must die.’ But why should they die? Let them graze until unfit [for sacrifice], then be sold,[3] and the money utilised for a free-will offering! — R. Johanan answered, The sacrifice of the wicked is an abomination.[4] Resh Lakish said: It is the property of its owner, the reference here being to dedicated animals for which the owner is responsible [if lost or injured], and [the ruling] according to R. Simeon, who maintained that such is the owner's property.[5] But since the second clause is R. Simeon's, it follows that the first is not? — [Say, then,] the reference is to sacrifices of lower sanctity, and it agrees with R. Jose the Galilean, who maintained that such are the property of their owners. But what of sacrifices of the highest sanctity? Are they to be redeemed! [If so,] the second clause, instead of teaching that that which is dedicated to the Temple repair must be redeemed, should have drawn and taught a distinction in that very matter [viz., animals dedicated to the altar]. [Thus:] This law [that the animals must die] holds good only of sacrifices of lower sanctity, but sacrifices of the highest sanctity are to be redeemed? — Since there is the sin-offering [among the latter], which, if its owner die, must perish, this cannot be stated as a general rule.[6]

Now it is intelligible that R. Johanan did not answer as Resh Lakish, since it is written, ‘The sacrifice of the wicked is an abomination’[7] but why did Resh Lakish not answer as R. Johanan? — He can reply to you: When do we say, ‘The sacrifice of the wicked is an abomination’? When they are in their original state; but these, since their state is changed [if the animal is redeemed], are changed.[8]

‘R. Simeon said: The cattle thereof implies, but not the firstlings or tithes.’ To what does this refer? Shall we say, to unblemished animals? Then they are the ‘spoil of Heaven’![9] But if blemished, they are ‘the spoil of it’?[10] — Rabina answered: In truth, the reference is to blemished animals. But [only] that which is eaten as ‘the cattle thereof’ [is destroyed], excluding these, which are eaten not as ‘the cattle thereof’ but as firstlings and tithes,[11] and are thus considered ‘spoil of Heaven’.[12]

Now this [Rabina's answer] conflicts with Samuel's. For Samuel said [in explanation of the same difficulty]: Everything can be sacrificed, and everything can be redeemed. Now, what does this mean? — It means this: That which is sacrificed if unblemished, and redeemed when blemished,[13] is excluded by ‘the spoil of it’;[14] but that which is offered up if unblemished, but not redeemed when blemished, e.g., the firstling and the tithe, is excluded by ‘and the cattle thereof’.[15]

THE TERUMOTH MUST BE ALLOWED TO ROT. R. Hisda said: This applies only to terumah in the hands of an Israelite;[16] but if in the hands of the priest, being his property, it must be burnt. R. Joseph objected: THE SECOND TITHE AND THE SACRED WRITINGS MUST BE HIDDEN. Now, the second tithe in the hands of an Israelite is as terumah in the hand of the priest,[17] yet it teaches, THEY MUST BE HIDDEN, [but not burnt]. But if it [R. Hisda's dictum] was stated, it was thus stated: R. Hisda said: This applies only to terumah in the hand of the priest;[18] but terumah in the hand of an Israelite must be given to a priest of another city.

We learnt[19] elsewhere: ‘Dough of the second tithe is exempt from hallah:[20] this is R. Meir's view. But the Sages hold it liable.’ R. Hisda said: This refers only to the second tithe in Jerusalem, R. Meir maintaining that the second tithe is sacred property,[21] whilst the Rabbis regard the second tithe as secular property. But in the provinces,[22] all agree that it is exempt.[23]

R. Joseph objected: THE SECOND TITHE AND SACRED WRITINGS MUST BE HIDDEN. To what does this refer? Shall we say to Jerusalem?[24] But can it become a condemned city? Has it not been taught, ‘Ten things were said concerning Jerusalem, and this is one of them, [viz.,] it cannot become a condemned city.’[25] But if it [the second tithe] was of another city, and was brought up thither [to Jerusalem],[26] surely its barriers have received it.[27] Hence it must surely refer to the provinces, yet it is stated, THEY MUST BE HIDDEN?[28] — No. In truth, it is of another city and brought thither [to Jerusalem]; but we deal with a case where it became defiled.[29] Then should it not be redeemed? For R. Eleazar said: Whence do we know that if the second tithe became defiled it can be redeemed even in Jerusalem? From the verse, When thou art not able to bear it [then thou shalt turn it into money].[30] Now se'eth[31] can only refer to eating, as . . . And he took and sent mase'oth[32] [messes] unto them from before him?[33] — We deal with purchased [commodities].[34]

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(1) Which were of a sacred character, the flesh being eaten by the owners, and the blood and fat offered on the altar.

(2) I.e., the money for which sacred objects and tithes were redeemed.

(3) Because an animal dedicated to the altar may not be redeemed as long as it is fit to be sacrificed.

(4) Prov. XXI, 27; and even the money received for its redemption is abhorrent for sacrifice.

(5) When a person vows, dedicating a particular animal for a sacrifice, which is subsequently lost or destroyed, he is not bound to replace it, it being regarded from the moment of the dedication as sacred property, not his own, and he has no further obligation in respect of it. But if he vows to bring a sacrifice, and then dedicates an animal for the purpose, he is bound to replace it if subsequently lost or destroyed, since his vow did not specify that particular animal. R. Simeon maintains that since he must bear the responsibility for it, it is regarded as his own property. Consequently, if in a condemned city, it must be destroyed, like all other secular possessions therein.

(6) If the owner of any sacrifice of the highest sanctity, excepting the sin-offering, dies, the animal is put to pasture until it receives a blemish, when it is redeemed. But if a sin-offering, it is slain (not as a sacrifice). In the case under discussion, the owners are executed: consequently, it cannot be stated as a general rule that sacrifices of the highest sanctity must be redeemed, and therefore the second clause speaks of animals dedicated to the Temple repair instead.

(7) Which is quite a sufficient answer.

(8) And the verse is inapplicable; hence another answer must be sought.

(9) Since the blood and fat must be offered on the altar; hence their exclusion is deduced from 'and the spoil of it', as stated above.

(10) Being blemished, their blood and fat are not offered upon the altar. Consequently they belong entirely to their owners, and should be destroyed, being included in 'the spoil of it'.

(11) Notwithstanding that their blood and fat are not offered upon the altar, when their owners eat them they do not regard them as ordinary animals, such as could be denominated 'the cattle thereof', but as firstlings and tithes.

(12) [MSS, delete 'and . . . Heaven'.]

(13) Viz., all sacrifices of lower sanctity, excepting firstlings and tithes.

(14) Thus in his opinion, he disagrees with the view of the first Tanna, who maintains that such sacrifices are destroyed, as they are their owners 'property.

(15) [Even if unblemished, they are not considered as 'spoil of Heaven', which is not in agreement with Rabina.]

(16) I.e., before it was given to the priest. Since it does not belong to the Israelite, and he might have given it to the priest of some other town, it is regarded as property merely entrusted to an inhabitant of this town, and therefore not destroyed. On the other hand, since he may have intended to give it to a priest of the same town, it may not be eaten. Hence it is left to rot.

(17) Since both belong to their possessor.

(18) Which, being his own property must be destroyed, though not burnt, on account of its sanctity.

(19) This is the formula introducing a Mishnah. But the passage cited is a Baraitha, and תנן 'we learnt', is probably an error for תניא 'it has been taught'.

(20) חלה, the first portion of the dough. V. Num. XV, 20.

(21) Whereas only secular food is liable to hallah. Cf. Ye shall offer up a cake of the first of your dough for an heave offering. (Num. XV, 20), thus excluding sacred dough, which belongs to Heaven.

(22) A technical term for the whole of Palestine as opposed to Jerusalem.

(23) Since the owner may not eat it there, it is certainly sacred property.

(24) Which became a condemned city.

(25) V. B.M. 82b.

(26) [Before the city was seduced.]

(27) I.e., once within Jerusalem, the law of that town applies to it, and therefore, since it cannot become a condemned city, it should be permitted even for food.

(28) Thus proving that the second tithe in the provinces is treated as secular property.

(29) In which case it may not be eaten; consequently it must be hidden.

(30) Deut. XIV, 25.

(31) שאת (E.V. 'to bear').

(32) משאת.

(33) Gen. XLIII, 34. Thus he translates the first verse: If thou art not able to eat it — being defiled — then thou shalt turn it into money — i.e., redeem it.

(34) The original second tithe having been redeemed, the money was expended upon commodities, which in turn became defiled. At this stage it assumed that only the original second tithe can be redeemed if defiled, but not that purchased with the redemption money.

Talmud - Mas. Sanhedrin 113a

But let them be redeemed, for we learnt: If that which was purchased with the [redemption-] money of the second tithe became defiled, it is redeemed.[1] — This agrees with R. Judah, who ruled: It must be buried. If so, why particularly [the second tithe] of a condemned city; the same applies to any place in general?[2] — But in reality, it refers to undefiled [second tithe], the circumstances being that the barriers of Jerusalem had fallen. And this is in accordance with Raba's dictum. For Raba said: The law of the walls [of Jerusalem], in that it [the second tithe] must be eaten within them, is Biblical; but that they have retaining power,[3] is merely Rabbinical. Now, when did the Rabbis decree this? Only as long as the walls exist; but if the walls are gone [having fallen], the decree does not hold good.[4]

SACRED WRITINGS MUST BE HIDDEN. Our Mishnah does not agree with R. Eliezer. For it was taught, R. Eliezer said: No city containing even a single mezuzah[5] can be condemned.[6] Why so? Because it says [in reference thereto], and thou shalt burn with fire the city and all the spoil thereof every whit.[7] But if it contains a single mezuzah, this is impossible, because it is written, Ye shall not so do unto the Lord your God.[8]

R. SIMEON SAID: THE HOLY ONE BLESSED BE HE, DECLARED etc. Shall we say that they[9] disagree in respect of the dictum of R. Abin in R. Elai's name: For R. Abin said in the name of R. Elai: Wherever you find a general proposition in the form of a positive command and a particular specification in the form of a negative injunction, they are not interpreted as a general proposition followed by a particular specification:[10] one Master[11] agreeing with Abin's dictum,[12] while the other Master[13] rejects R. Abin's dictum.[14] — No! All accept R. Abin's rule. But here the ground of their dispute is this: the one Master[11] maintains that [it shall not be built] ‘od [again] implies ‘not at all’;[15] whilst the latter[13] holds that ‘od implies ‘as it was formerly’.[16]

IT MAY NOT BE REBUILT, BUT MAY BE CONVERTED INTO GARDENS AND ORCHARDS. Our Rabbis taught: If it contained trees already cut down [before the city was condemned], they are forbidden; but if still growing [in the soil], they are permitted.[17] But the trees of a different city, whether cut down or growing in the soil, are forbidden. What is alluded to by ‘a different city’? — R. Hisda said: Jericho; for it is written, And the city shall be accursed [...] to the Lord.[18]

And Joshua adjured them at that time, saying: Cursed be the man before the Lord, that riseth up and buildeth this city Jericho: he shall lay the foundation thereof in his firstborn, and in his youngest son shall he set up the gates of it.[19] It has been taught: Neither Jericho with the name of a different town, nor a different town under the name of Jericho. It is written, in his days did Hiel the Bethelite build Jericho: he laid the foundations thereof in Abiram his firstborn, and set up the gates thereof in his youngest son Segub, according to the word of the Lord, which he spoke by Joshua the son of Nun.[20] It has been taught: In Abiram his firstborn: he was wicked, and so he could not have learnt from his death; but in his youngest son Segub he should have taken a lesson. What then did Abiram and Segub do?[21] — This is its meaning: From Abiram his firstborn that wicked man [Hiel] should have learnt [that its doors would be set up only with the death of] Segub his youngest son. Now, since it is written, in Abiram his firstborn, I know that Segub was his youngest:[22] why then state Segub his youngest son? — This teaches that he buried [his children] in succession from Abiram to Segub.[23] Now Ahab was his close friend.[24] He and Elijah went to enquire after his welfare in the house of mourning.[25] He [Ahab] sat and remarked, ‘Perhaps when Joshua pronounced his curse, it was thus: Neither Jericho under a different name, nor a different city by the name of Jericho?’ Elijah replied, ‘That is so.’ Said he, ‘If Moses’ curse was not fulfilled, for it is written, And ye turn aside, and serve other gods, and worship them,’ which is followed by, and he shut up the heaven that there be no rain, etc.:[26] yet though that man set up idols upon every single furrow, the rain did not permit him to go and worship them;[27] shall the curse of Joshua, his disciple, have been fulfilled?’ Straightway, And Elisha the Tishbite, who was of the inhabitants of Gilead, said unto Ahab, As the Lord God of Israel liveth, before whom I stand, there shall not be dew or rain these years, but according to my word.[28] He prayed, and the key of rain was given him, upon which he arose and departed. And the word of the Lord came unto him, saying, Get thee hence, and turn thee eastward, and hide thyself by the brook Cherith, that is before Jordan . . . And the ravens brought him bread and flesh in the morning etc.[29] Whence [did they bring it]? — Rab Judah said in Rab's name: From Ahab's slaughterers.

And it came to pass after a while, that the brook dried up, because there had been no rain in the land.[30] Now, when [God] saw that the world was distressed [because of the drought], it is written, And the word of the Lord came unto him, saying, Arise, get thee to Zarephath.[31] And it is further written, And it came to pass after these things, that the son of the woman, the mistress of the house, fell sick.[32] Elijah prayed that the keys of resurrection might be given him, but was answered, Three keys have not been entrusted to an agent:[33] of birth,[34] rain, and resurrection. Shall it be said, Two are in the hands of the disciple[35] and [only] one in the hand of the Master? Bring [Me] the other and take this one, as it is written, Go, shew thyself unto Ahab; and I will send rain upon the earth.[36]

A certain Galilean expounded before R. Hisda: If one should make an analogy in respect of Elijah, what does this matter resemble? A man who locked his gate and lost the key.[37] R. Jose taught in Sepphoris: Father Elijah[38]

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(1) Ma'as. Sh. III, 10.

(2) This difficulty really arose when it was first answered that the reference is to the defiled second tithe, but it was postponed whilst other objections were put forward.

(3) I.e., that once within the precincts of Jerusalem, the second tithe is retained by the walls and cannot be redeemed and taken out.

(4) Hence, in this case, since it actually belongs to the condemned city, and Jerusalem cannot assimilate it to itself, because its walls had fallen, it must be destroyed; but being sacred, it is hidden instead of burnt.

(5) V. Glos.

(6) V. supra 71a.

(7) Deut. XIII, 17.

(8) Ibid. XII, 4, referring back to the preceding verse, And ye shall destroy the name of them, i.e., the idols; hence in his view the whole law of a condemned city does not apply if it contains sacred writings.

(9) R. Jose the Galilean and R. Akiba.

(10) The rule in such a case is: the general proposition includes only what is enumerated in the particular specification. But when one is thrown into the form of a positive command and the other stated as a negative injunction this does not apply. Now, in the passage under discussion, And it shall be an heap forever is a general proposition, implying that it may not be turned even into parks or orchards; whilst it shall not be built again is a particular specification, denoting a prohibition against the erection of houses, etc., which require building, but not against parks, etc. Now had they both been expressed in the form of a positive or negative command, the rule of exegesis would be as stated, the particularized expression defining the general proposition. Thus: It shall be an heap for ever, and that only in respect of rebuilding, but not in respect of parks, etc. Since, however, they are not both expressed in the same form, this method of exegesis is not followed, but the two clauses are regarded as distinct, a different exegetical rule being followed; viz., ‘That which was included in the general proposition and was then separately stated is intended to illumine the former’ (for it shall not be built again, which refers to houses, etc., was really included in the general proposition). Thus: And it shall be an heap for ever implies a prohibition of parks and orchards. Now, how is this implication understood? Because Scripture continues, it shall not be built again, from which we deduce, just as a building is anything erected in a human settlement, so it shall be an heap for ever prohibits everything that finds a place in civilization, and therefore includes gardens, etc.

(11) R. Jose, the Galilean.

(12) Consequently he forbids the laying out of parks.

(13) R. Akiba.

(14) Hence forbids only building.

(15) Hence gardens are forbidden.

(16) Consequently עוד limits the meaning of the former passage, as it would be understood by R. Abin's rule.

(17) Thou shalt gather . . . and thou shalt burn excludes that which cannot immediately be gathered into the public square, but must first be cut down.

(18) Josh. VI, 17; hence there everything was forbidden.

(19) Ibid. 26.

(20) I Kings XVI, 34; he did not actually build Jericho but a different town which he called Jericho, and was punished in accordance with Joshua's oath, proving that this too was forbidden. Rashi, however, points out that there is nothing to shew that a different town is referred to.

(21) It is now assumed that the meaning is: Hiel could not have deduced from Abiram's death that Joshua's curse was being fulfilled, because Abiram was wicked, to which fact Hiel might have attributed his death. But Segub was not evil, and therefore he should have known that his death was the result of his curse. Therefore the Talmud asks: what did Abiram and Segub do, i.e., how do we know that one was wicked and the other not (Maharsha).

(22) For, as the verse informs us that Joshua's curse was fulfilled, it follows that Segub must have been his youngest.

(23) Rashi regards this passage ‘now, since it . . . to Segub’ as distinct from the preceding. Maharsha treats it as a continuation thereof. Hiel's wickedness was evinced by the fact that the death of his children one after the other failed to make him desist from his impious work.

(24) Heb. שושבין shushbin, particularly denotes the bridegroom's best man (v, supra 27b).

(25) I.e., when he was in mourning for the death of his children.

(26) Deut. XI, 16f.

(27) In spite of his idolatry, there were such heavy rains as to render the roads impassable.

(28) I Kings XVII, 1. This verse immediately follows the one treating of Hiel's building of Jericho.

(29) Ibid. 2f, 6.

(30) Ibid. 7.

(31) Ibid. 8f.

(32) Ibid. 17.

(33) God entrusted the keys of His treasures to various angels, God's agents. But three had never been entrusted to them.

(34) Lit., ‘a woman in confinement.

(35) Since the key of rain was already in Elijah's possession, and now he was asking for the key of resurrection too.

(36) Ibid. XVIII, 1; I but not thou. The whole passage is adduced to shew how God, having given the key of rain to Elijah, obtained its return, and that the illness of the widow's son was for that purpose.

(37) So Elijah, having obtained the key of rain, locked it up, but could not unlock it when necessary.

(38) A term of reverence and endearment.

Talmud - Mas. Sanhedrin 113b

was a hot tempered man. Now, he [Elijah] used to visit him, but [after this] he absented himself three days and did not come. When he came on the fourth day, he [R. Jose] said to him, Why didst thou not come before?’ He replied, ‘[Because] thou didst call me hot tempered.’ He retorted, ‘But before us [thou] Master hast displayed [thy] temper!’[1] AND THERE SHALL CLEAVE NOUGHT OF THE CURSED THING TO THINE HAND: FOR AS LONG AS THE WICKED EXIST IN THE WORLD, THERE IS FIERCE ANGER IN THE WORLD, etc. Who are the wicked? — R. Joseph said: Thieves.[2]

Our Rabbis taught: When the wicked enter the world, wrath enters therein, for it is written, When the wicked cometh, then cometh also contempt, and with ignominy, reproach.[3] When the wicked perish from the world, good comes to the world, as it is written, And when the wicked perish, there is exultation.[4] When the righteous departeth from the world, evil entereth therein, as it is written, The righteous perisheth, and no man layeth it to heart: and merciful men are taken away, none considering that the righteous is taken away from the evil to come.[5] When the righteous cometh into the world, good cometh into the world as it is written, This same shall comfort us in our work and in the toil of our hands.[6]

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(1) By staying away for three days for such a trivial reason.

(2) [With particular reference to those who appropriate property of a condemned city. Cf. Sem. II, 9, where such an offence is made equivalent to the most cardinal sins (v. Yad Ramah and Glosses of Zebi Chajes).]

(3) Prov. XVIII, 3.
(4) Ibid. XI, 10.
(5) Isa. LVII, 1.
(6) Gen. V, 29.

Talmud - Mas. Makkoth 2a

CHAPTER I

MISHNAH. HOW DO WITNESSES BECOME LIABLE [TO PUNISHMENT] AS ZOMEMIM?[1] [IF THEY SAY:] ‘WE TESTIFY THAT N. N. [A PRIEST] IS A SON OF A WOMAN WHO HAD [FORMERLY] BEEN DIVORCED[2] OR A HALUZAH,’[3] IT IS NOT SAID [IN THIS CASE] THAT EACH [MENDACIOUS] WITNESS BE HIMSELF STIGMATIZED AS BORN OF A DIVORCEE OR HALUZAH; HE ONLY RECEIVES FORTY[4] [LASHES].

[IF THEY SAY]: ‘WE TESTIFY THAT N.N. IS GUILTY OF [A CHARGE ENTAILING] BANISHMENT,’[5] IT IS NOT SAID [IN THIS CASE] THAT EACH [MENDACIOUS] WITNESS SHOULD HIMSELF SUFFER BANISHMENT; HE ONLY RECEIVES FORTY [LASHES].

GEMARA. Should not the opening words of the Mishnah have been rather, ‘How do witnesses not become liable [to punishment] as zomemim?’ Moreover, since we read in a subsequent Mishnah: But if they [i.e. counter-witnesses] said to them, ‘How can you testify at all, since on that very day you were with us at such and such a place?’ these are condemned as zomemim,’[6] does not ‘these’ imply that those in the foregoing instances are not treated as zomemim? — The Tanna had just been dealing with the last Mishnah in the preceding tractate [of Sanhedrin][7] to which this Mishnah is but a sequel, namely: ‘All zomemim are led forth to meet a talionic death save zomemim in an accusation of adultery[8] against the [married] daughter of a priest, and her paramour, who are led forth to meet not the same death [as she], but another [manner of] death.’ Accordingly in our Mishnah we are provided with other instances of zomemim where the main law of retaliation is not enforced, but ‘a flogging of forty’ [lashes] is inflicted instead: [IF THEY SAY:] ‘WE TESTIFY THAT N. N. [A PRIEST] IS A SON OF A WOMAN WHO HAD [FORMERLY] BEEN DIVORCED OR A HALUZAH,’ IT IS NOT SAID THAT EACH [MENDACIOUS] WITNESS BE HIMSELF STIGMATIZED AS BORN OF A DIVORCEE OR HALUZAH; HE ONLY RECEIVES FORTY [LASHES].

What is the sanction for this [substitutive] penalty? — Said R. Joshua b. Levi: R. Simeon b. Lakish[9] said that it is based on the text: then shall ye do unto him as he purposed to do;[10] that is to say, punish him [the culprit] and not his [innocent] offspring.[11] But why should not he alone be stigmatised, and not his offspring? — We must needs fulfil ‘as he had purposed to do’ and in such a case we should have failed to do so.[12]

Bar Pada[13] says that the sanction [here, for the substitutive penalty of a flogging] may be obtained by an argument a fortiori.[14] What do we find in the case of the ‘desecrator’?[15] The ‘desecrator’ himself does not become ‘desecrated’ [by his forbidden association]. Is it not then logical [to argue from this] that a zomem who only came to [try and] ‘desecrate’ a person,[16] but did not [in fact] desecrate him, should not become ‘desecrated’ himself?

Rabina demurred to this argument, saying that if you admit this [kind of] deduction, you nullify [in effect] the law of retaliation for zomemim.

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(1) Zomem-im, the plural of zomem, lit., ‘intriguer’ or ‘schemer’ is the technical term for a type of false witnesses (v. pp. 19 ff.) and their punishment is by the law of retaliation (Deut. XIX, 16ff.).

(2) The child of a union of a priest and a divorcee is considered a Halal, i.e., vulgarized, desecrated, and disqualified from priestly office. (Lev. XXI, 6-8, 14-15; Ezek. XLIV, 22.)

(3) The widow of a man (absolutely) childless, who had been discharged by performing the halizah (lit., ‘the drawing off’, sc., the shoe. Deut. XXV, 5-10) is designated Haluzah-widow, and is (Rabbinically) considered tantamount to a divorcee and consequently may not be married to a priest. Haluzah may be taken to mean either ‘discharged’, ‘withdrawn’ (cf. Hosea, V. 6); or, ‘drawer of the shoe’, v. M. Segal, Mishnaic Hebrew Grammar, 235.

(4) According to Rabbinic interpretation of Deut. XXV, 2-3, the maximum number of lashes was ‘forty save one’, v. p. 155.

(5) v. Num. XXXV, 10ff. and Deut. XIX, 4-5.

(6) V. infra 5a.

(7) Mishnah Sanh., XI, 6, the final clause in that tractate, both in our editions of the Mishnah and the Palestinian recensions. The order is, however, different in our editions of the Babylonian Talmud, where it is not the last chapter, but the last but one (Chap. X, fol. 89a).

(8) The specific penalty for a priest's daughter caught in adultery was Burning (Lev. XXI, 9.; Gen. XXXVIII, 24; cf. Sanh. 50a seq.). The seducer of any married woman was to be strangled, v. 84b. On the traditional methods of execution, v. Sanh. VII.

(9) The words ‘R. Simeon b. Lakish said’ are omitted in some texts and questioned on the ground that R. Joshua b. Levi was the older of the two and could not have been the former's disciple; but this form of reporting does not invariably imply discipleship, v. Yad Malaki, sect. 74.

(10) Deut. XIX, 29.

(11) I.e., if the zomemim are priests, their innocent children would, on the application of the law of retaliation thenceforth, also become stigmatized as ‘desecrated’, cf. p. 1, n. 2.

(12) Hence ‘lashes’ are inflicted instead.

(13) I.e., R. Judah b. Pedayah, one of R. Joshua b. Levi's teachers.

(14) Hebrew, Kal wahomer, lit., ‘the light and the grave’ set in contrast; an argument by analogy, either from the lesser to the more important or from the more important to the lesser, V. Glos. Note that we have here an instance of two tendencies in attempting to trace accepted principles back to their origins. Some seek their origin in the Bible, others again delight also in giving them a logical basis by deduction.

(15) A priest who enters into a forbidden union ‘desecrates’ the woman and all her future offspring. V. p. 1, notes 2 and 3.

(16) Impugning by false evidence the past status of a priest's mother. For a historical illustration v. Kid. 66a, and Josephus, Ant., XIII, 10, 5 — 6.

Talmud - Mas. Makkoth 2b

For, [you might argue,] what do we find in the case of one who [as witness][1] had stoned a person? He himself is not stoned. Is it not then logical [to argue from this] that one who had only purposed to stone another [by his evidence] but did not succeed in stoning him, should not be stoned himself? Hence the derivation as taught from the text in the first instance, is the best.

[IF THEY SAY:] ‘WE TESTIFY THAT N.N. IS GUILTY OF A CHARGE [ENTAILING THE PENALTY OF] BANISHMENT...... What is the sanction for this (substitutive) penalty? — Said Resh Lakish,[2] It is based on the text which reads: He, he-shall-flee[3] unto one of the cities of refuge, which emphatically asserts that he alone shall flee, but not the zomemim.

R. Johanan said that the sanction for this (substitutive penalty of a flogging) may be obtained by argument a fortiori, thus: Now, what do we find in the case of one who had effected his intended act [of murder]? He is not banished.[4] Is it not then logical [to argue from this] that zomemim who had not [actually] effected their intended act should not be banished?

But does not this [very] argument point to a reverse conclusion? For is it not logical [to argue] that he who had effected the intended act [of murder] is not to go into banishment, so as not to obtain the possibility of atonement; whereas the zomemim who have not effected their intended act, should be allowed to go into banishment, so as to obtain the possibility of atonement? Hence the derivation as from the text, given by Resh Lakish, is the best.

‘Ulla said: Where is there found an allusion in the Torah to the treatment of zomemim-witnesses?

Where is there found an allusion in the Torah to zomemim-witnesses! Is it not prescribed, then shall ye do unto him as he had purposed to do unto his brother?[5] What is meant is some allusion in the Torah for inflicting on Zomemim-witnesses a flogging [in lieu of retaliation]! — It is written: And they shall justify the righteous and condemn the wicked: and it shall be if the wicked man deserve to be beaten [flogged], that the judge shall cause him to lie down and be beaten . . . forty [lashes].[6] Now, is it because the judges justify the righteous and condemn the wicked', that 'the wicked man deserve to be beaten'?[7] But, if you refer the text to a case where witnesses had incriminated a righteous man; then came other witnesses who justified the righteous', [that is, indicated his innocence as heretofore], and 'condemned the wicked', [that is, proved the former witnesses wicked men] then [you can say that] 'if the wicked man' [the zomem] 'deserve to be beaten,[8] the judge shall cause him to lie down and be beaten.' Cannot the sanction for the flogging be derived from the eighth Commandment: Thou shalt not bear false witness against thy neighbour?[9] No, it cannot be, as that is a prohibition applying to no [tangible] action, and 'wherever a prohibition is contravened without [involving tangible] action, no flogging is inflicted'.[10]

Our Rabbis taught: Four observations were made in reference to zomemim-witnesses, they [a] are not stigmatized as born of [a priest and] a woman who had been a divorcee or a haluzah;[11] [b] do not go into banishment to the cities of refuge; [c] are not made to pay ransom;[12] and [d] are not sold as slaves.[13] In the name of R. Akiba it was stated that they are also not made to pay [compensation] on their own admission.[14]

'They are not stigmatized as born of [a priest and] a divorcee or a haluzah' — as we have already explained [above]. 'They do not go into banishment to the cities of refuge' — as we have already explained [above]. 'They are not made to pay ransom' — because ransom is held to be [a form of] atonement and these fellows stand in no need of that.[15] Who could be the Tanna who considers ransom as [a form of] atonement? — Said R. Hisda: It is R. Ishmael, son of R. Johanan b. Berokah, as it has been taught: It is written, then he shall give for the redemption of his life [whatever is laid upon him],[16] that is, compensation for the [life of] the person injured [dead]. R. Ishmael, son of R. Johanan b. Berokah, says: It is compensation for [his own life], the one responsible for the injury.

Is it not right to assume that [ultimately] they differ in the interpretation of the import of kofer [ransom]; one Master considering the ransom merely as pecuniary satisfaction, whilst the other Master interprets it as [a form of] expiation [of guilt]? Said R. Papa: Not [necessarily] so! Both[17] may be taken to consider ransom as a form of expiation [of guilt], only here they differ on this, that one Master considers the assessment should be based on the value of the injured [dead] person, while the other Master considers that it should be based on the value of the person responsible for the injury.

What is the reason underlying the view held by our Rabbis?[18] — They argue that as the same expression for assessment is used in two proximate instances in the same chapter,[19] therefore just as in the former instance the assessment is based on the injured [dead child], the assessment in the second instance[20] is likewise to be based on the [dead] person [injured by the ox]. And what is R. Ishmael's [reason]? — He argues that the text states [explicitly the compensation to be] for the redemption of his life [soul].

And [what is the reply of] the Rabbis [to this interpretation]? — Yes indeed, the text has it for the redemption of his life [soul]; nevertheless, in regard to the amount to be paid assessed according to the value of the injured.[21]

'And they are not sold as slaves' — R. Hamnuna[22] was inclined to argue that this exemption would be granted only where the [innocently] accused had the means to pay his threatened fine; for, inasmuch as he would then not have been sold, they [the zomemim] should likewise not be sold; but where he himself had no means, the zomemim, even though they have the means, should be sold. [Said Raba to him:] Let the zomemim say to him, ‘If you had the means, would you have been sold? Therefore, we likewise should not be sold.’ But what R. Hamnuna did propose to argue was that this exemption should be granted only where either he or they have the means; but where neither he nor they have means they should be sold.[23] Said Raba to him: The Divine Law[24] prescribes, If he has nothing, then he shall be sold for his theft,[25] which directs that he be sold for theft, but not for insidious scheming.

‘In the name of R. Akiba it was stated that they do not pay on their own admission.’ What is R. Akiba's reason [for this exemption]? — He considers this compensation as kenas[26] and kenas is not payable on one's own admission. Rabbah [commenting on this] said: You may recognise it as such, because, you see, these [schemers] have actually done nothing [tangible], yet they are put to death or made to pay damages. R. Nahman [commenting] said: You may recognise it as kenas, as the money remains [undisturbed] in the possession of the owner, yet those fellows are made to pay.

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(1) ‘The hand of the witness shall be upon him first to put him to death’ (Deut. XVII, 7). If the intrigue was not discovered till after the execution had taken place, the zomemim were not punished by retaliation, v. p. 25.

(2) Resh Lakish's view is given by Bar Pedayah in J. Mak, i. 1.

(3) הוא ינום Deut. XIX, 5. The verb ינום alone, means he shall flee; the addition of the pronoun הוא = he, adds emphasis to the subject of the verb.

(4) Deliberate murder is not punished by banishment, but by death. Yet, if on technical grounds the criminal escapes the extreme penalty, he is not relegated into banishment (either for atonement, or protection from the ‘avenger’).

(5) Deut. XIX, 19.

(6) Deut. XXV, 1ff. Notice, there is no mention of zomemim or any indication in the text or context. What ‘Ulla reads into it is therefore only claimed as a suggestion, a mere allusion and no more,

(7) V. next note.

(8) I.e., where retaliation is inapplicable or cannot be justly imposed. This is not altogether so strained an interpretation as it may seem at first. The main difficulty here is the word ריב, ‘a contention’, ‘controversy’, between two parties; the penalty of flogging is not determined by the relative righteousness of the one and the wickedness of the other, but is inflicted for religious, ritual, or moral transgressions. Hence, the reference is to the attempts of contentious fellows to degrade an enemy by a false imputation; v, the comments of Nahmanides, Malbim and J.Z. Meklenburg, Ha-ketab we-ha-Kabbalah, a,I.

(9) Ex. XX, 13.

(10) V, infra, 16a. Mere speaking is generally (with the exception of some specific instances), not considered ‘action’.

(11) V. Glos.

(12) Pecuniary compensation chargeable on a fatal accident caused by a vicious animal, due to the owner's negligence; v. Ex. XXI, 28ff. If the charge was made on fictitious evidence, and the witnesses were found zomemim, they do not pay the amount that the court might have imposed on the one accused innocently.

(13) If they had accused one of having stolen, and the accused had not the means to pay, v. Ex. XXI, 37; XXII, 1-3.

(14) When witnesses are proved zomemim and they make a timely confession of their guilt, they are not made to pay the statutory fines.

(15) As their beast has not actually killed a human being.

(16) Ex. XXI, 30. If there be laid on him (כפר, atonement) a sum of money, then he shall give for the (פדיון, redemption) ransom of his life (Heb., soul) whatsoever is laid upon him. In view of the last part of verse 29, the ox shall be stoned and his owner also shall be put to death, it is difficult to say which of the two is demanded, atonement for the negligence which resulted in the death of a human being, or the pecuniary compensation, redemption, for the loss to the capacity of the family. V. Nahmanides and Ibn Ezra on Exodus.

(17) Lit., ‘all the world.’

(18) I.e. the representatives of the anonymous opinion.

(19) I.e., Ex. XXI, 22, (where one hurt a woman with child, so that her fruit depart from her); and verse 30, (where one's ox killed a man).

(20) Ibid. 30.

(21) I.e., by the method indicated in verse 22 (in the case of the child).

(22) There were several Babylonian scholars of that name; this contemporary of Raba is the fourth on the list in Hyman's Toledoth I, p. 378.

(23) The words, ‘said Raba to him’ are to be omitted, according to a marginal note; but on closer examination the whole passage down to the next ‘said Raba to him,’ will be found to be a later insertion, out of harmony. It is not in the Munich text, v. D.S, p. 2.

(24) V. Glos.

(25) Ex. XXII, 2.

(26) A monetary imposition (more than is due), by way of penalty. The rule is obtained from Ex. XXII, 8, ‘whom the judges shall condemn, he shall pay double . . . , but not on his own admission. (Rashi); v. Glos.

Talmud - Mas. Makkoth 3a

How has this money remained undisturbed? [Obviously] because they had done nothing [tangible]! [But] that is just what Rabbah said! — Then it should be reported thus: And so had also said R. Nahman.

Said Rab Judah: Rab said that a zomem-witness pays his quota. What is meant by ‘pays his quota’? If it means that this one pays half and that one half, we learn this already expressly: Monetary impositions are divided proportionately, but [the number of] lashes is not divided proportionately![1] This dictum is applicable where only one of the witnesses was found a zomem, in which case he would be made to pay his half [of the fine]. But does he in such a case pay at all? Is it not taught: ‘No zomem-witness pays money [damages] until the two of them have been found zomemim’? — Said Raba: It has a possible application where one of the zomemim admits, ‘I gave false evidence’. But would we accept such statement coming from him?[2] What about [the rule]: A witness, once he has made his depositions [before the Court], cannot retract and testify again? — Hence this dictum can only be applied where one says: ‘We gave evidence and were found zomemim by such and such a Court’.[3]

Now, with whose view will this explanation accord? — Not with R. Akiba's; for how could this accord with what he said: ‘They also do not pay on their own admission’! Hence Rab's dictum is applicable only when one of the witnesses says, ‘We gave evidence, were found zomemim by such and such a Court and were condemned to pay a sum of money’.[4] Now [in such a case] you might presumably expect me to argue that since this fellow cannot [by his sole statement] commit his confederate, he could not commit himself either; therefore Rab teaches us that in this instance a zomem pays his quota.

MISHNAH. [IF THEY SAY:] ‘WE TESTIFY THAT N.N. DIVORCED HIS WIFE AND HAS NOT PAID HER KETHUBAH’[5] SEEING THAT HER KETHUBAH WILL ULTIMATELY HAVE TO BE PAID, SOONER OR LATER[6] THE ASSESSMENT SHOULD BE MADE ON THE BASIS OF HOW MUCH ONE MIGHT BE WILLING TO OFFER THE WOMAN FOR HER KETHUBAH IN THE EVENT OF HER BEING WIDOWED OR DIVORCED OR, ALTERNATIVELY, HER HUSBAND INHERITING HER AFTER HER DEATH.

GEMARA. How is it appraised? — Said R. Hisda: The appraisement is made on the basis of the husband's claims.[7] R. Nathan b. Oshaia says: On the basis of the woman's claims;[8] R. Papa says: On the basis of the woman's claims and strictly on her kethubah.[9]

MISHNAH. [IF THEY SAY]: ‘WE TESTIFY THAT N.N. OWES HIS FRIEND ONE THOUSAND ZUZ[10] WITH AN UNDERTAKING THAT HE WILL RETURN THE SAME TO HIM THIRTY DAYS HENCE’, WHILE THE DEBTOR SAYS ‘TEN YEARS HENCE’, THE ASSESSMENT [OF THE FINE] IS MADE ON THE BASIS OF HOW MUCH ONE MIGHT BE

WILLING TO OFFER FOR [THE DIFFERENCE BETWEEN] HOLDING THE SUM OF ONE THOUSAND ZUZ TO BE REPAID IN THIRTY DAYS OR IN TEN YEARS HENCE.

GEMARA. Said Rab Judah: Samuel said that if one lent his friend a sum of money for ten years, the [end of the] Sabbatical year will cancel that debt;[11]

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(1) Infra 5a.

(2) And reverse the judgment claim?

(3) Whereas the other witness does not admit.

(4) As a judgment debt which can be proved, it is no longer a voluntary admission to be waived on technical grounds.

(5) The ‘document, containing among other undertakings a settlement on the wife payable at her husband's death, or on her being divorced by him. V. Glos. The husband presumably contests this statement, and ultimately the witnesses are proved intriguers and have to pay damages as zomemim.

(6) Lit., ‘to-day or to-morrow’. The husband having lost practically nothing by the evidence of these witnesses cannot expect an award equal to the full amount of the kethubah.

(7) E.g., the value of a speculative loan obtainable by the husband on the kethubah, in the event of his wife's death, and some compensation for their attempt to deprive him forthwith of his enjoyment of the usufruct of his wife's property, on which he might likewise have a favourable offer by way of a loan.

(8) E.g, the advance she might have obtained on her kethubah. As the woman's rights, however, had not been assailed by these witnesses, the estimated ‘advance’ is to be deducted from the actual amount due to her on the kethubah-settlement and the balance is the husband's award, apart from the threatened immediate loss of the usufruct.

(9) R. Papa does not allow the claim of the threatened loss of usufruct, of which these witnesses may plead they had no cognizance, and therefore, not having assailed this item, they are not liable on that account (Rashi).

(10) The zuz is a small silver coin corresponding to the Attic drachm and Roman denarius, worth about 9d.

(11) V.Deut. XV, 1ff.

Talmud - Mas. Makkoth 3b

even though [it might be argued that] at the time of its incidence the injunction: he shall not exact it of his neighbour[1] is inapplicable,[2] it does nevertheless become applicable, ultimately.[3] R. Kahana[4] referred him back [to the Mishnah]: THE ASSESSMENT IS MADE ON THE BASIS OF HOW MUCH ONE MIGHT BE WILLING TO GIVE FOR [THE DIFFERENCE BETWEEN] HOLDING THE SUM OF ONE THOUSAND ZUZ TO BE REPAID IN THIRTY DAYS OR IN TEN YEARS HENCE. Now, if it were as you say that the Sabbatical year cancels the debt, then the zomemim ought to be made to pay even the whole capital? — Said Raba: The Mishnah might be dealing with the case of a loan against a pledge, or where the creditor deposited his bills at the Court, as we learnt: ‘A loan against a pledge or one where the creditor had delivered the bill thereof to the court, is not cancelled[5] [by the Sabbatical year].’

Some report this discussion thus: Rab Judah said that Samuel said that if one lends to his friend a sum of money for ten years, the Sabbatical year does not cancel the debt, and even though ultimately it becomes subject to the injunction, he shall not exact it of his neighbour, yet that injunction is inapplicable at the time of the incidence of the Sabbatical year. Said R. Kahana: We have learnt likewise: THE ASSESSMENT IS MADE ON THE BASIS OF HOW MUCH ONE MIGHT BE WILLING TO GIVE FOR HOLDING THE SUM OF ONE THOUSAND ZUZ TO BE REPAID IN THIRTY DAYS OR IN TEN YEARS HENCE. Now, if you would say that the Sabbatical year cancels the debt, then the zomemim should be made to pay even the whole capital? — Said Raba: [This argument is not conclusive, as] the Mishnah might deal with the case of a loan against a pledge, or, where the creditor deposited his bills at the Court.

This also Rab Judah said: Samuel said that if one says to his friend ‘[I lend you this money] on condition that the Sabbatical year shall not cancel the debt for me,’ the Sabbatical year does cancel

it.

Is it to say that Samuel considers this a stipulation that is in conflict with what is prescribed in the Torah, and [the rule is]: ‘If one makes a stipulation which is in conflict with what is prescribed in the Torah,[6] his stipulation is void’? But has it not been stated: If one said to his friend, ‘[I sell you this thing] on condition that you have no plaint of an unfair deal[7] against me,’ Rab says he has a plaint; and Samuel says he has no plaint of an unfair deal against him? — Yes, but behold on this very point R. ‘Anan is stated to have said: I had it explained to me by [Mar][8] Samuel himself, that [if a person stipulate] ‘on condition that you have no plaint of an unfair deal against me,’ he has no plaint; but if he stipulate that no plaint of an unfair deal shall obtain in the deal, it does obtain. Exactly the same [distinction holds good in regard to the Sabbatical year; if he stipulate] ‘on condition that you do not cancel the debt for me in the Sabbatical year’, the Sabbatical year does not cancel it, but, ‘on condition that the Sabbatical year does not cancel it,’ the Sabbatical year does cancel it.

A Tanna taught: If a person lends his friend some money without specifying a date [for repayment] he may not demand it of him for thirty days at least.[9] Rabbah b. Bar Hanah put forward a reasoned argument before Rab that this restraint could only be intended for a loan against a Shetar,[10] because nobody would take trouble to execute a written instrument for less than thirty days; but in the case of a loan parol, the restriction did not apply. Said Rab to him: ‘[No!] thus said my Beloved [Uncle]:[11] It is the same whether one lends against a Shetar or parol’. It has likewise been taught: If one lends money to his friend without specifying a time [for repaying], he may not demand repayment for at least thirty days, no difference being made whether it be a loan against a Shetar or parol.

Samuel [once] said to R. Mattena: Don't squat down[12] before you give me an explanation of the origin of the oft-repeated dictum of our Teachers: If one lends money to his friend without specification [of date], he may not demand repayment for thirty days, at least, no difference being made whether it be parol or against a Shetar. He replied: It is written, [Beware that there be not a base thought in thy heart saying,] the seventh year, the year of release is at hand, [and thy eye be evil against thy poor brother].[13] Now, from the import of the words ‘the seventh year . . . is at hand’, is it not obvious that it is the same as ‘the year of release’? What instruction is then the year of release intended to convey? It is to tell you that there is yet another, a kindred form of release; which is it? — It is when one lends his friend some money without specifying a date [for repayment], in which case he may not demand repayment of him for thirty days, at least. [Why thirty days?] Because the Master has enunciated [in other matters] that thirty days prior to the incidence of the Sabbatical year, count as a year.[14]

Rab Judah also said the following: Rab said that if one forcibly enlarges the opening for the neck in a new garment on the Sabbath day, he is liable in a sin-offering. R. Kahana demurred to this view, asking what is the difference between this process [of enlarging the neck] and broaching a cask [which is admittedly permitted]? — [Rab Judah] said in reply that there is a rending of integral parts of the woven material in the case of the garment; whereas the stopper is not an integral part of the cask [but merely inserted]. Rab Judah also said: Rab said that if a kortob[15] of wine fell into three logs[15] of water, imparting a wine colour, and this [mixture] again fell into a mikweh,[16] the mikweh is not thereby rendered ineffectual. R. Kahana demurred to this, asking: What is the difference between a mixture of wine and water and the dye-water about which we learnt: R. Jose says that dye-water renders the mikweh ineffectual?[17] Said Raba to him: [There is a difference], as there, people call it ‘dye-water’, whereas here, they call it ‘diluted wine’.

But yet, did not R. Hiyya teach: These spoilt the efficacy of the mikweh?[18] — Said Raba to him: There is no difficulty, as one [Rab] presents R. Johanan b. Nuri's view, while the other [R. Hiyya] presents the view of the Rabbis; as we learnt:[19] If a kortob of wine fell into three logs of water

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(1) Ibid. 2.

(2) Because the agreed period of the loan (ten years) extends beyond the ‘year of release’ and the creditor could not ask for its repayment then, but only at the end of the ten years, when the cancelling power of the Sabbatical year will be past.

(3) I.e., retrospectively.

(4) Probably a disciple of Raba.

(5) Sheb. X, 2. This formal exemption was a social and economic measure called Prosbul instituted by Hillel. If a creditor deposited formally his claim to the Court, he was no longer an individual creditor against his brother (v. Deut. XV, 3). Similarly a pledge (against a debt) acted as a sort of anchorage keeping the debt fast, as a pledge cannot be wiped out like negotiable money that had actually been used. V. Git. 37a.

(6) V. Deut. XV, 2. This rule is enunciated by Rabban Simeon b. Gamaliel in Keth. IX, 1.

(7) Ona'ah overreaching, a stipulation in conflict with Lev. XXV, 14, oppress being taken to mean to overreach, to deal unfairly. Cf. B.M. IV, 3 ff. and Talm, fol. 51a seq.

(8) An honorific title, Master, a reading well attested D.S, p. 3.

(9) Tosef. B.M. X, 1.

(10) A written document. ‘Starr’ is an adopted word in mediaeval Anglo-Jewish history. Tovey, Anglia Judaica, p. 32.

(11) R. Hiyya the Great. Rab and Rabbah b. Bar Hanah were cousins and fellow-students under their paternal uncle Hiyya in Palestine.

(12) A familiar phrase for ‘before settling down;’ students usually sat low, on the floor. V. Ab. I, 4.

(13) Deut. XV, 9.

(14) V.R.H. 9bff, where it is suggested as a sort of minor year of release.

(15) Kortob: the smallest liquid measure, 1/64 of a log, which was a small domestic measure, about 2/3 of a pint; 24 logs went to one se'ah.

(16) Mikweh: a well, pool or reservoir used for ritual purification. Lev. XXII, 3-7. The water must not be contained in a vessel or filled by means of a vessel, but be naturally-gathered and in contact with the ground, Lev. XI, 36. The minimum requisite quantity for a mikweh is 40 se'ahs (or 960 logs), the amount considered necessary to allow the complete immersion of a person of average size. Once the mikweh has naturally attained the standard quantity of 40 se'ahs nothing, save reduction or discolouration, can then affect its efficacy. When under the required standard, the mikweh is ineffectual and the addition of three logs of ‘vessel-drawn’ water vitiates the whole entirely. The addition, however, of milk, wine, or other pure undiluted fruit-juice neither disqualifies the mikweh nor helps to bring it up to standard.

(17) Mik. VII, 3.

(18) That is, this quantity of wine and water fallen into a defective mikweh rendered the same totally useless; how could Rab, Hiyya's disciple, contradict his master?

(19) Mik. VII, 5, where, however, it should be noted, the reading in the first clause is ‘three logs full’, not as quoted in our Talmud texts, here, and Hul. 26a.

Talmud - Mas. Makkoth 4a

short of a kortob, imparting a wine colour, and then the whole fell into a [deficient] mikweh, the mikweh is not thereby rendered ineffectual. Likewise, if a kortob of milk fell into three logs of water short of a kortob, and then the whole fell into a [deficient] mikweh, the colour remaining that of water, the mikweh is not thereby rendered ineffectual. R. Johanan b. Nuri says that it all depends on the colour.[1] But, that is just the point on which R. Papa sought a solution.[2] For R. Papa asked whether Rab read in the first clause of the Mishnah ‘three logs short of a kortob’, and if so, then [a] the Tanna[3] of that first clause [presumably] holds that [a kortob of wine which has fallen into full] ‘three logs’ of water would render the mikweh ineffectual, and consequently, [b] R. Johanan b. Nuri expressed his dissent, [namely] that it all depends on the colour[4] [rather than on the measure of the liquid]. In that case, Rab [as reported above] adopted the view of R. Johanan b. Nuri. Or, alternatively, Rab did not read in the first clause of the Mishnah ‘three logs short of a kortob’, [but whole three logs][5] and consequently [a] R. Johanan b. Nuri's dissenting comment referred only to the last [milk] clause[6] and therefore, [b] Rab [as reported] expressed a unanimous view?[7] — This was doubtful only to R. Papa, whereas Raba was certain about it.[8]

R. Joseph remarked: [Though a disciple of Rab Judah,] I never heard from him that ‘reported topic’.[9] Said Abaye to him: You told us about this very theme yourself and this is how you told it to us, that Rab did not read in the first clause of the Mishnah ‘short of a kortob’; that R. Johanan dissented only from the latter clause, and that Rab's statement expresses a unanimous view.

Rab Judah also said: Rab said that if a cask-full of water had fallen into the Great Sea [the Mediterranean] and someone immersed himself [ritually] on that spot, his immersion is of no avail to him, as we have some misgiving lest three logs are left in one spot [undistributed]. Now this applies particularly to the Great Sea where the water remains stationary, which is not the case generally in stream water. The same has been also taught: If a cask-full of wine had fallen into the Great Sea and someone immersed himself on that spot, his immersion is of no avail to him, as we have some misgiving lest [three logs of] the wine[10] was left in one spot [undistributed]. And likewise if a terumah[11] — loaf fell there, it is defiled.

What is the purport of the clause ‘And likewise . . . ‘? — You might argue that, as in the former instance, [when in doubt] you consider the person in status quo [i.e, defiled], you would do the same in the second instance and consider the terumah also in status quo [as holy]; the second clause, therefore, is essential, to inform you that the loaf is defiled.

MISHNAH. [IF WITNESSES DECLARE]: ‘WE TESTIFY THAT N. N. OWES HIS FRIEND TWO HUNDRED ZUZ’, AND THEY ARE FOUND ZOMEMIM, THEY ARE FLOGGED AND ORDERED TO PAY [CORRESPONDING DAMAGES], BECAUSE THE TITLE[12] WHICH SANCTIONS THE FLOGGING[13] IS OTHER THAN THE TITLE THAT SANCTIONS THE COMPENSATION.[14] THESE ARE THE WORDS OF R. MEIR; BUT THE SAGES SAY THAT ONE WHO IS ORDERED TO PAY DAMAGES IS NOT FLOGGED.

[IF WITNESSES DECLARE:] ‘WE TESTIFY THAT N. N. IS LIABLE TO A FLOGGING[15] OF FORTY LASHES, AND THEY ARE FOUND ZOMEMIM, THEY RECEIVE EIGHTY, FORTY ON THE COUNT OF ‘THOU SHALT NOT BEAR FALSE WITNESS AGAINST THY NEIGHBOUR,’[16] AND FORTY ON THE COUNT OF THEN SHALL YE DO UNTO HIM AS HE PURPOSED TO DO UNTO HIS BROTHER’.[17] THESE ARE THE WORDS OF R. MEIR; BUT THE SAGES SAY THAT THEY RECEIVE ONLY FORTY LASHES.

GEMARA..

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(1) That means, if the colour of the mixture (that has fallen in) was that of wine or milk, it is to be taken as wine or milk, without adverse effect on the mikweh even if it fell in to whole three logs of water; and Rab thus follows the principle of R. Johanan b. Nuri (v. supra note 2, end). Whether R. Johanan's observation refers to the last clause alone, or also to the first, is discussed immediately.

(2) As Rab, in his dictum, states that if a kortob of wine fell into three logs of water, imparting a wine colour, there is no adverse effect on a defective mikweh, the discussion arises as to what reading he followed, in his interpretative dictum.

(3) I.e., the authority, though unnamed, yet representing the consensus of the Sages, v. Glos.

(4) I.e., if wine-coloured, it is as if wine had been added, without adverse effects.

(5) As in the Mishnah texts.

(6) I.e., where the colour remained that of water.

(7) For all agree that if the colour of the mixture is that of wine or milk, it is without effect on the efficacy of the mikweh, good or ill, even where the milk or wine was added to three logs.

(8) I.e, that Rab adopted the view of R. Johanan b. Nuri.

(9) שמעתא Shema'ta is something ‘heard’ from the lips of an eminent person, v. Glos. R. Joseph lost his memory after a severe illness, and Abaye often recalled to his beloved Master his own teachings.

(10) The reason is that wine is not suitable for ritual immersion, v. Rashi on Shab., 144b. The reading ‘three logs of vessel-drawn’ is certainly incorrect in reference to wine. Cf. Hananel, Nahmanides and Strashun, a.l.

(11) I.e., the priestly due given in kind, corn, wine and oil (also fruits), which could be consumed only by one in a state of ritual purity, cf. Num, XVIII, 11-13. V. Glos.

(12) Literally, ‘name’ ‘denomination’ or ‘category’, meaning the Biblical text; v. next clause of the Mishnah.

(13) The breach of the ninth Commandment, Ex. XX, 13.

(14) The specific law of retaliation for ‘intriguers’, v. Deut. XIX, 19.

(15) Either in connection with an offence that he had committed in their presence, or they testify that he had been sentenced to a flogging by another tribunal, but ran away.

(16) V. p. 15, n. 4.

(17) V. p. 15, n. 5.

Talmud - Mas. Makkoth 4b

The Rabbis’ view here is perfectly in order since, as it is written there, according to his misdeed,[1] can penalize him [once only], for a [single] ‘misdeed,’ but not [twice as] for two misdeeds. But as to R. Meir, what is his reason [for imposing two penalties for a single offence]? — ‘Ulla said that R. Meir inferred the principle [by analogy] from the case of the ‘Defaming husband’.[2] What do we find in the law of the ‘Defaming husband’? He is flogged and also made to pay compensation; the same should obtain in every case where the offender made himself liable to a flogging and compensation. [No!] This is no analogy, because what is that law of the ‘Defaming husband’? It is [essentially] a case of kenas![3] — [Admitted;] but R. Meir is of the same opinion as R. Akiba, that is that the punishment of zomemim is [likewise] one of kenas.[4]

Some introduce this Mishnah-comment of ‘Ulla in connection with that which has been taught: And ye shall let nothing of it remain until the morning; and that which remaineth of it until the morning ye shall burn with fire.[5] Now Scripture came and provided here a [remedial] act to follow a [disregarded] prohibition;[6] this [provision] is to convey that no flogging is inflicted for the transgression. These are the words of R. Judah. R. Jacob[7] says: [No!] this interpretation is not relevant,[8] as it is rather an instance of a prohibition contravened without action, and any prohibition contravened without action entails no flogging.[9] Now, the general import of the above statement seems to imply that R. Judah is of [the] opinion that a prohibition contravened without Action does entail a flogging: whence does he obtain this principle? — ‘Ulla submitted that R. Judah derived it from the [law of the] Defaming husband. What do we find in [the case of] the Defaming husband? It is a prohibition[10] contravened without action,[11] and yet the offender receives a flogging! [No, your conclusion falls short, as] what do we find in the law of the Defaming husband? He is flogged and also pays [one hundred shekels of silver], But, said Resh Lakish, R. Judah derived it from the [case of] zomemim. Now what do we find [in the case of] zomemim? — It is a prohibition contravened without action, and yet the offenders are flogged; the same obtains wherever there is a prohibition contravened without action. [But, can you argue that from the zomemim, as] what do we find in [the case of] zomemim? They need not be cautioned![12] Then [I say] let the case of the Defaming husband[13] enforce my argument. And thus the argument turns to and fro, the characteristics of one case not being quite those of the other; but they are alike in this, that they are cases of a Prohibition contravened without action, and [in each case] the offender is flogged; the same [I submit] obtains in all cases of a Prohibition contravened [even] without action — that the offender is flogged. [But yet, note] what is their common characteristic? They are both [cases of] kenas![14] — This presents no difficulty, as R. Judah does not take the same view as R.Akiba.[15] But yet [the argument might be carried on], what they both have in common is that they have each some singular trait of severity.[16] — R. Judah does not raise this point.[17]

[BUT THE SAGES SAY THAT THEY RECEIVE ONLY FORTY LASHES.] And what lesson do the Rabbis derive from the text, ‘Thou shalt not bear false witness against thy neighbour’? —

They must needs utilize it as the [statutory] admonition[18] to zomemim. And where does R. Meir find that [requisite Scriptural] admonition? — Said R. Jeremiah that R. Meir found the same in the context, And those that remain shall hear and fear and shall henceforth commit no more such evil in the midst of thee.[19] And why do not the Rabbis also adopt the same? — They apply it to another principle,

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(1) Deut. XXV, 2, as applied to zomemim. V, supra p. 4, text and notes.

(2) V, Deut. XXII, 13-19, where it is directed to chastise him and 'amerce him 100 shekels of silver'.

(3) I.e., a punitive treatment which cannot be taken as a standard, and from which no deductions can be drawn.

(4) I.e. they are both of a punitive type, and the argument from them by analogy is therefore in order; v. supra p. 7, n. 4.

(5) I.e., of the roasted flesh of the paschal lamb, Ex. XII, 10.

(6) Lit., a prohibition translated into a positive action', לאו הניתק לעשה

(7) Akiba is a corrupt reading.

(8) Lit., 'is not of the proper denomination or category,' i.e, not correctly assigned, or conceived,

(9) I.e, the offence was passive, without any bodily exertion, and therefore not punishable.

(10) Derived from thou shalt not go up and down as a tale-bearer among thy people (Lev. XIX, 16); according to another suggestion, from keep thee free from every wicked thing (Deut. XXIII, 10), v, Keth. 46a.

(11) I.e., slander is not the same as actual assault. Speech was deemed intangible, as mere breath without direct bodily contact. Some, however, consider that the movement of the lips in speech constitutes action, cf. infra 16a.

(12) Whereas in all cases entailing a flogging previous caution is absolutely essential, in this case it is not even possible; for, zomemim caught in fictitious evidence could not possibly have been so warned, and yet they are flogged, which shows that their treatment is exceptional and cannot, therefore, be used for fixing a standard rule.

(13) Who is entitled to be cautioned and yet receives a flogging for an offence of intangible action.

(14) V, supra, p. 16 note 6.

(15) All agree that (the secondary instance) the Defaming husband, is a case of kenas (penal), as the fixed heavy fine of 200 shekels shows. But in regard to the primary instance of zomemim, the Sages, including R. Judah, differ from R. Akiba in considering the compensation pecuniary (mamon), not penal (kenas), as the amount is not a fixed sum, but assessed according to the damage threatened by their perfidy. V. B.K. 5a (Rashi, top), kenas = poena and mamon = multa.

(16) I.e., zomemim are to be flogged, even though they had not been previously cautioned; the Defaming husband is not only flogged, but also has to pay a fine (100 shekels) and may not send away his wife (Deut. XXII, 19).

(17) On logical grounds, as you cannot argue from dissimilarities. Cf. Tosaf. Keth. 32b s.v. שכן.

(18) I.e., as an explicit primary statement that such an action is a sin, as 'no punishment (ענש) can be inflicted without admonition (אזהרה)'. Cf. Mek. on Ex. XX, 13.

(19) Deut. XIX, 20.

Talmud - Mas. Makkoth 5a

namely that of proclamation.[1]

And whence does R. Meir derive that principle? — He obtains the principle of proclamation from the phrase [in the same passage], And those that remain shall hear and fear. MISHNAH. MONETARY IMPOSITIONS ARE SHARED AMONG THE OFFENDERS, BUT THE LASHES OF A FLOGGING ARE NOT SHARED AMONG THE OFFENDERS. HOW FOR INSTANCE? IF THEY GAVE EVIDENCE AGAINST A PERSON THAT HE OWED HIS FRIEND ONE HUNDRED ZUZ, AND THEY WERE FOUND ZOMEMIM, THEY DIVIDE THE CORRESPONDING DAMAGES PROPORTIONATELY BETWEEN THEM; BUT IF THEY GAVE EVIDENCE AGAINST HIM THAT HE WAS LIABLE TO A FLOGGING OF FORTY LASHES AND WERE FOUND ZOMEMIM, EACH ONE RECEIVES HIS FORTY LASHES.

GEMARA. [EACH ONE RECEIVES HIS FORTY LASHES.] What is the [Scriptural] warrant for this? — Said Abaye: The term rasha'[2] occurs in the text prescribing a flogging,[3] and also in the text prescribing the death penalty by order of the Court:[4] just as the death-penalty cannot be effected in half-measure, so a flogging likewise, may not be effected in half-measure.[5]

Raba said: We require to fulfil the words, Then shall ye do unto him as he purposed to do unto his brother,[6] and this would not be done [unless each zomem-witness receives his full due]. Then, if that be so, why should not the same obtain in regard to monetary imposition? Money can be unified into one total, whereas lashes cannot be so unified.

MISHNAH. WITNESSES ARE NOT CONDEMNED AS ZOMEMIM UNTIL THEY THEMSELVES ARE [DIRECTLY] INCRIMINATED[7] ; HOW, FOR INSTANCE? IF THEY HAD DECLARED: 'WE TESTIFY THAT N.N. KILLED THAT PERSON'; AND OTHER WITNESSES SAID TO THEM: HOW COULD YOU TESTIFY TO THAT, AS THAT MURDERED PERSON OR THAT [ALLEGED] MURDERER WAS WITH US ON THAT VERY DAY, AT SUCH AND SUCH A PLACE?' [THEN] THE WITNESSES ARE NOT THEREON CONDEMNED AS ZOMEMIM. BUT, IF THESE [OTHER] WITNESSES SAID: HOW COULD YOU TESTIFY TO THAT, AS ON THAT VERY DAY, YOU WERE WITH US AT SUCH AND SUCH A [DISTANT] PLACE?' [THEN] THE FORMER ARE CONDEMNED AS ZOMEMIM. IF OTHER WITNESSES CAME, AND THEY CHARGED THEM [WITH PERFIDY]: THEN [AGAIN] OTHERS CAME, AND THEY [AGAIN] CHARGED THEM[8] [WITH PERFIDY], EVEN TO A HUNDRED, THEY ARE ALL TO BE EXECUTED. R. JUDAH SAYS THAT THIS IS [SEEMINGLY] A CONSPIRACY[9] AND THE FIRST SET ALONE IS [TO BE] EXECUTED.

GEMARA. What is the [Scriptural] warrant for this? — Said R. Adda.[10] The text says, and behold, if the witness be a witness-of-falsehood etc.[11] [which conveys that he is not a zomem] until the lie is given to the body of the evidence.[12] In the School of R. Ishmael it was taught: to testify against him[13] a wanton perversion [sarah],[14] conveys [that he is] not [a zomem] until the body of the evidence is controversed. Raba[15] stated that if two came and declared that N.N, had killed that person on the eastward side of the citadel, and two others came and said [to the former witnesses]: 'But were you not [then] with us at the westward side of the citadel?' we have to consider. If while standing on the westward side of the citadel, it is possible to see that [indicated] spot on the eastward side of the citadel, they are not condemned[16] as zomemim; otherwise, they are [condemned] as zomemim. But that is quite obvious! — No; you might say that we [should not convict but] consider the possibility of [the first witnesses having] a stronger eye-sight. Therefore Raba informs us that we do not give such special consideration [to zomemim].

Raba also stated that if two came and declared that N.N, had killed so-and-so early on Sunday morning at Sura, and two other witnesses came and said, 'You were with us at sunset on Sunday evening at Nehardea', we have to consider. If one can get from Sura to Nehardea between the early morning and sunset,[17] the first witnesses are not condemned as zomemim; otherwise, they are zomemim. But that is quite obvious! — No; you might say that we should consider the possibility of the 'Flying Camel'.[18] Therefore Raba informs us that we do not give such special consideration [to zomemim].

Raba further stated that if two witnesses came and declared that N.N, had killed so-and-so on Sunday and two others came and said, 'But were you not with us on Sunday [elsewhere]? It was [in fact] on Monday that N.N, killed him;' or, furthermore, even if the latter witnesses declared that N.N, had [actually] killed the person on the [previous] Friday, the former witnesses are still executed as zomemim, inasmuch as Sunday, the time stated in their evidence [was disproved, and] the murderer had then not yet been [found guilty and sentenced to the death-penalty.[19] What new information does he proffer here? — [That the murderer as well as the perfidious witnesses are ultimately executed!][20] We have learnt [that] already: Consequently, if one of these [two sets of witnesses][21] has been found zomemim, both the criminal and the zomemim are executed, while the other set is let go?[22] — Yes, but one must needs wait to hear the latter part of Raba's statement, in reference to evidence bearing on the time of the verdict, namely, if two came and declared that N. N, had been convicted [of murder] on Sunday, and two others then came and said to the first; ‘You were with us [elsewhere] on Sunday, but N. N. was [in fact] convicted on Friday,’ or furthermore, even if the latter said N. N. was [not] convicted [till] Monday, the former are not executed as zomemim, because by the time when the first witnesses gave their [fictitious] evidence,[23] the man charged had already been sentenced to death.

The same principle obtains in cases of kenas [fine].[24] If two came and said that N.N. had stolen and killed or sold [an animal] on Sunday, and two others came and said to the first, ‘You were with us [elsewhere] on Sunday but, it was [in fact] on Monday that N.N. had stolen and killed or sold the animal,’ [the first witnesses have to pay the fine];[25] nay, furthermore, even if the second witnesses said that N.N. had stolen and killed or sold [the animal] on the [previous] Friday, still the first witnesses have to pay, because at the time when they gave their evidence, N.N. had not yet been made liable[26] to pay [the fine that these perfidious fellows tried to fix on him].

If two came and declared that N.N. had stolen and killed or sold [an animal] and been convicted on Sunday, and then, two others came and said [to the witness], ‘You were with us [elsewhere] on Sunday, but [in fact], N.N. had stolen and killed or sold [the animal] on Friday, when he was convicted;’ nay, even if the second witnesses said that N.N. had [actually] stolen and killed or sold [the animal] on Sunday [or even on Monday],[27] but that he was not convicted [and fined] till Monday, the former witnesses have not to pay [the exactions], because, at the time when they were giving [their perfidious] evidence,[28] N.N. had already been made liable [to pay the fine] by a tribunal.

R. JUDAH SAYS THAT THIS IS [SEEMINGLY] A CONSPIRACY AND THE FIRST SET ALONE IS [TO BE] EXECUTED.

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(1) On textual grounds, four criminal convictions had to be published abroad as a deterrent measure, among them that of zomemim, Sanh. 89a.

(2) רשע i.e, wicked, guilty.

(3) If the (guilty) wicked man be worthy to be beaten, that the judge shall cause him to lie down and to be beaten . . . forty stripes. Deut. XXV, 2-3.

(4) ‘Ye shall take no satisfaction for the life of a murderer, which is guilty of death; but he shall surely be put to death.’ Num. XXXV, 31.

(5) This exegetical method is called Gezerah Shawah, v. Glos.

(6) Deut. XIX, 19.

(7) Read יזומו את עצמן or יזומו (v. D.S, a.l) that is, not their evidence, but their personal presence at the alleged offence, is being challenged (Rashi).

(8) I.e., successive witnesses came to charge the accused, and the witnesses who came to his defence challenged them in turn as conspirators: so Rashi, Alfasi, and Maim.; on the other hand, Nahmanides defends another interpretation, that successive sets of witnesses came and contradicted each other, these for and the next against the accused, in which he is supported by the wording in the Tosefta. The alternative translation would then be: — If other witnesses came and charged them, then (again) other witnesses came and charged them (the last) even to a hundred . . .

(9) Estattis. The traditional derivation is incorrect; it is a popular contracted (or corrupt) form of the Greek stasiastes or stasiodes meaning a member of a faction or factious party.

(10) V.l. Raba (D.S); Rabbah (Han.).

(11) Deut. XIX, 18.

(12) I.e., the villany of the witness, as bearer of the evidence, is established rather than flaws in the evidence. (In Roman law, testibus non testimoniis.)

(13) I.e, the perfidious witness as against himself (Ritba; v. J. Z. Meklenburg's long commentary on Deut. XIX, 16.

(14) סרה — usually derived from סור — a turning or falling away (from the law of God), cf. Deut. XIII, 6; but it is more probably from the secondary Po'el form, סורר to be pervert and rebellious, cf. Deut. XXI, 18, 29 and especially. Isa. I, 23.

(15) Var. lec. Rabbah (Han.).

(16) As both impressions may be truly received.

(17) Nehardea lay over 20 parasangs (about 70 miles) north of Sura; both were on the Euphrates: the journey would ordinarily take two days of steady travelling. V. J. Obermeyer. Die Landschaft Babylonien, p. 293.

(18) Probably the popular name for a special fast camel service. 'The fleeter camels will carry their rider and a bag of water for fifty miles a day without a drink'. Enc. Brit. s.v. Camel. 'The speed of the imperial post averaged five miles an hour: the distance between Antioch and Byzantium (747 miles) was accomplished in little under six days: hired vehicles would take longer.' Caroline A. J. Skeel, Travel in the First Century, p. 70.

(19) It was at the time a plot against a still innocent man by insidious witnesses, v. Tosaf, a.l., Han. and Maim. Yad, Eduth, XVIII, 2.

(20) The culprit for his crime, and they for their proved perfidy.

(21) I.e., who do not see each other, and are therefore unaware of their common perfidy.

(22) V. Mishnah 6b.

(23) Probably Tuesday, cf. Sifrei on Num. XXXV, 31.

(24) V. Glos.

(25) If caught with the object, the thief had to pay twofold (Ex. XXII, 3); if he killed or sold a beast, he had to pay five oxen for an ox and four sheep for a sheep (ibid. XXI, 37).

(26) I.e., by a tribunal, after a due trial. If the thief voluntarily admitted his offence, he returned either the object (if available), or its value. It is the witnesses, therefore, who force the fines upon the thief.

(27) So Maharsha, but see Maim. Yad, Eduth, XIX, 2 and comment. Kesef Mishneh.

(28) I.e., after Monday (as may be gathered from the evidence of the second witnesses).

Talmud - Mas. Makkoth 5b

If it seems a conspiracy, even the first witnesses should not be executed? — Said R. Abbahu: [The plot was discovered only] after execution had already taken place. 'After execution had already taken place'! Then the thing is done [and there is nothing more to be said]?[1] But, said Raba, he [R. Judah] means this: if there was only one set, the witnesses are executed;[2] but if there be more than one set, they are not executed.[3] But does not R. Judah say, THE FIRST SET ALONE IS EXECUTED, [implying that there are more]? This is rather a difficult point. There was a certain woman who brought [her] witnesses and they were discredited; she brought others, and they [too] were discredited;[4] she went and brought further witnesses [who were not discredited]. Said Resh Lakish: This woman is suspect.[5] Said R. Eleazar to him: 'Assuming she is suspect, are all Israel to be held as suspects?' Once as they were both present at the sessions of R. Johanan, there came such a suit before them and Resh Lakish observed: 'This woman is suspect.' Thereupon R. Johanan replied to him: 'If she is suspect, are all Israel to be held as suspects?' Resh Lakish then turned round and looked askance at R. Eleazar, saying: 'So you had heard this from [Johanan] bar-Nappaha and did not tell it to me in his name!'[6]

Is it to be suggested that Resh Lakish sides here with R. Judah [in the Mishnah], while R. Johanan sides with the Rabbis — [Not necessarily, as] Resh Lakish might say: I do hold the view of the Sages,[7] but they allow such latitude only because there we have no one running about for his witnesses, whereas here we have this one woman running about and fetching them along.[8] And R. Johanan, likewise, might say: My view [in this instance] is in accord even with that of R. Judah, and the reason of his reservation there is only because people ask [in surprise], 'Was the whole world standing there with them?'[9] Whereas in this case [of the woman, obviously], those who came last happened to have knowledge of the [facts in] question, and the former had not. MISHNAH. WITNESSES ARE NOT TO BE PUT TO DEATH AS ATTESTED ZOMEMIM UNTIL [AFTER] THE TERMINATION OF THE TRIAL;[10] BECAUSE THE SADDUCEES CONTENDED THAT ZOMEMIM WERE PUT TO DEATH ONLY AFTER THE ACCUSED HAD [ACTUALLY] BEEN

EXECUTED, PURSUANT TO THE SCRIPTURAL TEXT, ‘LIFE FOR LIFE’.[11] SAID THE [PHARISEE] SAGES TO THEM: BUT DOES NOT THE CONTEXT READ: THEN SHALL YE DO UNTO HIM AS HE PURPOSED TO DO UNTO HIS BROTHER,[12] WHICH CLEARLY IMPLIES WHEN HIS BROTHER IS STILL ALIVE? IF SO, WHAT IS THE PURPORT OF LIFE FOR LIFE’? YOU MIGHT ARGUE THAT ZOMEMIM ARE LIABLE TO BE PUT TO DEATH FROM THE MOMENT THEIR [PERFIDIOUS] EVIDENCE HAD BEEN TAKEN, THEREFORE THE WORDS ‘LIFE FOR LIFE’ ARE A POINTED INSTRUCTION THAT ZOMEMIM ARE NOT TO BE PUT TO DEATH UNTIL [AFTER] THE TERMINATION OF THE TRIAL.

GEMARA. It is taught: An eminent disciple[13] put the principle of [the Mishnah] in this [paradoxical] form: If they have not slain, they are slain; and if they have slain, they are not slain.[14] My son, said the father [or Principal],[15] is there not an argument a fortiori[16] against your rule? Our Master [replied the disciple], have you not taught us: No Penalty is inflicted on the strength of a logical inference?[17] For it has been taught: And if a man shall take his sister, his father's daughter or his mother's daughter . . . it is a shameful thing, and they shall be cut off[18] . . . Here we have it specified, his father's daughter [who is] not his mother's, and, his mother's daughter [who is] not his father's. On what [Scriptural] authority is the same penalty extended to one who is both, his father's as well as his mother's daughter? It is indicated explicitly in the additional instructive words, He hath uncovered his sister's nakedness,’ he shall bear his iniquity.[18] Now, even without [having recourse to] this textual addition I could have inferred it, since, if punishment is decreed in the case of [a half-sister] ‘his father's daughter’ not his mother's, or ‘his mother's daughter’ not his father's, is it not all the more evident in the case of [a full sister] the daughter of both his father and his mother? Here, therefore, you learn the rule: No penalty is inflicted on the strength of a logical inference.[19]

We have established the principle relative to a penalty; where do we find it in reference to admonition?[20] — In the instructive text, The nakedness of thy sister, the daughter of thy father, or the daughter of thy mother thou shalt not uncover.[21] Here we have specified, ‘his father's daughter’, not his mother's, and ‘his mother's daughter’, not his father's. On what [Scriptural] authority is the same prohibition extended to one who is both, his father's as well as his mother's daughter? It is indicated explicitly in the additional instructive words, the nakedness of thy father's wife's daughter begotten of thy father, she is thy sister.[22] Now even without this textual addition I could have inferred it, since, if a man is admonished about [his half-sister] ‘his mother's daughter’, not his father's, and ‘his father's daughter’, not his mother's, is it not all the more applicable to [his full sister] the daughter of both of his father and mother? Here, therefore, we learn the rule: An admonition inferred by argument is not warranted.[23]

And what is the [corresponding] Scriptural reference relating to a [retaliatory] flogging of zomemim?[24] — It is obtained [by the linking of the law of flogging[25] with the law of murder][26] by the term rasha’ [guilty] which they both have in common.[27] And what is the reference for such as are liable to banishment? — It is [likewise] obtained [by the linking of the law of banishment[28] with the law of murder,][26] by the term rozeah [murderer] which they both have in common.[27]

It has been taught: R. Judah b. Tabbai said: ‘May I [never] see consolation [of Israel] if I did not have one zomemim-witness done to death to disabuse the mind of the Sadducees, who used to say that zomemim [found guilty] were put to death only after the [falsely] accused person had [actually] been executed.’ Said Simeon b. Shetah to him: ‘May I [never] see consolation [of Israel] if you have not shed innocent blood because the Sages declared that witnesses found to be zomemim are not put to death until both have been proved as such, and are not [juridically] flogged until both have been proved as such.’ Forthwith did Judah b. Tabbai take upon himself a resolve never to deliver a decision save in the presence of Simeon b. Shetah.[29] And all through his [remaining] days, Judah b. Tabbai used to go and prostrate himself on the grave of that [slain] witness, and his voice would be heard and people thought that it was the voice of the slain man; but he would tell them, ‘It is my voice! You will be convinced when on the morrow of this man's [his own] death his voice will be heard no more'.

Said R. Aha, the son of Raba, to R. Ashi: He might perhaps have answered the summons of the deceased, or else he might have obtained his forgiveness.[30]

MISHNAH. [IT IS PRESCRIBED:] AT THE MOUTH OF TWO WITNESSES OR THREE WITNESSES SHALL HE THAT IS TO DIE BE PUT TO DEATH.[31] IF THE FACT IS SUFFICIENTLY ESTABLISHED BY TWO WITNESSES, WHEREFORE DOES HOLY WRIT [FURTHER] SPECIFY THREE? — THIS IS ONLY TO SHOW THEIR COMPARATIVE COMPETENCY, THAT JUST AS THREE ARE COMPETENT TO INCRIMINATE TWO AS ZOMEMIM, SO ARE TWO COMPETENT TO INCRIMINATE THREE. HOW DO WE KNOW THAT [TWO OR THREE] CAN EVEN INCRIMINATE A HUNDRED? FROM THE INSTRUCTIVE CONTEXT WHICH HAS [TWICE] 'WITNESSES'.[32] R. SIMEON SAYS THAT JUST AS TWO WITNESSES ARE NOT PUT TO DEATH AS ZOMEMIM UNTIL BOTH HAVE BEEN INCRIMINATED, SO THREE ARE NOT PUT TO DEATH UNTIL ALL THREE HAVE BEEN INCRIMINATED AS ZOMEMIM. HOW DO WE KNOW THAT THIS ALSO APPLIES EVEN IN THE CASE OF A HUNDRED? — FROM THE INSTRUCTIVE CONTEXT WHICH HAS [THRICE] 'WITNESSES'[33] . R. AKIBA OBSERVES THAT THE THIRD WITNESS WAS SUPERADDED HERE [NOT TO MAKE HIS RESPONSIBILITY THE LIGHTER],[34] BUT TO RENDER IT AS SERIOUS FOR HIM AND MAKE HIS LEGAL LIABILITY EQUAL TO THAT OF THE OTHERS.[35] NOW, IF HOLY WRIT THUS PENALISES ONE WHO CONSORTS WITH MALEFACTORS, AS ONE OF THE MALEFACTORS, HOW MUCH MORE SHALL HE WHO CONSORTS WITH BENEFACTORS RECEIVE A REWARD AS ONE OF THE BENEFACTORS! [AGAIN,] AS IN THE CASE OF TWO WITNESSES, IF ONE OF THEM WAS FOUND TO BE A NEAR KINSMAN[36] OR [OTHERWISE] DISQUALIFIED,[37] THE WHOLE EVIDENCE IS RENDERED VOID, SO IS IT WITH THREE: IF ONE OF THEM WAS FOUND TO BE A NEAR KINSMAN OR [OTHERWISE] DISQUALIFIED, THE WHOLE EVIDENCE IS VOID.HOW DO WE KNOW THAT THIS IS THE CASE EVEN WITH A HUNDRED? FROM THE INSTRUCTIVE CONTEXT WHICH HAS [THRICE] 'WITNESSES'.

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(1) I.e., what point is there in R. Judah's statement?

(2) An exemplary punishment for zomemim.

(3) Because they are regarded as victims of a plot.

(4) The bracketed words are missing in many good texts, v. D.S.

(5) I.e. to bring false witnesses.

(6) This was laid to Eleazar's charge on several occasions. V. Yeb. 96b; Keth, 26b. Cf. J. Ber, ii, 1, where an explanation is offered that it was not customary in Babylon always to mention the master's name, v, Hyman Toledoth, I, p. 195.

(7) To take evidence were there 'even a hundred' sets of discrediting or discredited witnesses.

(8) And thereby creating suspicion.

(9) Explanation: — According to Rashi, Alfasi and Maimonides (v, p. 20, note 1) A and A1 charge M (Murderer) — B and B1 charge A and A1 with alibi. C „ C1 „ „ „ „ „ „ C „ C1 „ „ D „ D1 „ „ „ „ „ „ D „ D1 „ „ Was the whole world on the day of the murder with B and B1? According to Nahmanides and others A and A1 charge M — B and B1 charge A and A1 with alibi. C „ C1 „ „ D „ D1 „ C „ C1 „ „ E „ E1 „ „ F „ F1 „ E „ E1 „ „ etc. How was everybody conveniently present to be able to assist his own side? We have obviously a factious feud here. Cf. Han.

(10) I.e., only after a sentence had been obtained by the plotters against the innocent victim. If their perfidy is detected before sentence is given or after their victim had been executed, they escape retaliative punishment, according to the traditional (Pharisaic) interpretation; v. Maim. Yad, Eduth, XX, 2.

(11) And thine eye shall not pity; life for life . . . Deut. XIX, 21.

(12) Ibid. 19. It appears that the words stressed here are 'to do (or, to be done) unto his brother', i.e. as when yet to be done. Rashi (in Deut, a, l. and Mak, 2b, top) stresses 'as he purposed to do,' but has not yet done it. Cf. Chajes notes on 5b and Meklenburg (longer commentary) on Deut, a. l. The fact that the judges were themselves involved with the zomemim in the unfortunate miscarriage of justice may be the reason for letting them off post eventum, since the zomemim, as the witnesses, were compelled by the judges' decision to lay hands on their victim, Cf. also Friedmann's instructive note Sifre, Num, XXXV. ** 160 n. 6 (p. 61a), and Hoffmann's מלמד להועיל, III, 142.

(13) b'Rabbi or b'Ribbi denotes either 'a prominent scholar of an eminent College' or, 'a rabbi-graduate, acting as tutor to senior students under his own Principal, while still at College,' v. Rashi Hul. 11b s.v. והתניא and Dictionaries, v. however Ginzberg, L., J.E.II, p. 52.

(14) I.e., the zomemim, who as witnesses had to strike the first fatal blow, Deut. XVII, 6.

(15) By way of test,

(16) If zomemim are put to death when their plot failed, it is surely all the more necessary that they should be where their plot had succeeded!

(17) That is, the 'principle' that 'a reprehensible action is not a punishable offence, unless it has been plainly forbidden and the form of punishment stated'.

(18) Lev. XX, 17.

(19) Sifra, Kedoshim, a.l.

(20) V. p. 18, n. 5.

(21) Lev. XVIII, 9,

(22) Ibid, 11.

(23) V. Sifra, Kedoshim on Lev. XX, 17. Mishnah 12; cf. infra 14a, 17a.

(24) The zomem-penalties as prescribed in Deut. XIX, 21, and thine eye shall not pity (the zomem); life (shall go) for life, eye for eye, tooth for tooth, hand for hand, foot for foot, apply only in cases of the death penalty and (penal compensation) for imputed bodily injuries. Scriptural authority is now sought for the remaining forms of retaliatory punishments, namely, flogging and banishment, (cf, the first Mishnah, 2a), which, like the death penalty, are incurred only after a court sentence (on fictitious evidence) had been enforced.

(25) Deut. XXV, 2-3. If the guilty רשע (wicked) man be worthy to be beaten . . .

(26) Num, XXXV, 31, take no satisfaction for the life of a murderer, guilty רשע of death. On the principle of Gezerah Shawah, v. Glos.

(27) Cf, supra, p. 19.

(28) Num. XXXV, 11, that the murderer רצח may flee thither, which killed a person unawares.

(29) The names are reversed in Mek. Ex. XXIII, 7. This aggadic report fixes the time of the controversy referred to in the Mishnah: Simeon B. Shetah was the brother of Queen Salome (= Shelom-Zion, Alexandra), wife of Alexander Jannaeus; v. Aboth, i. 8-9. Note the phrase, 'May I (never) see consolation' (Luke II, 25) which points to troublous times. Political reprisals were rife then. On the cause of the controversy and the treatment of Zomemim, v. Graetz, Hist, (Eng, ed.) ii, chap. 2, and J. Klausner, היסטוריה ישראלית ii, 145.

(30) R. Aha argues that the fact that no voice would be heard after Judah's death would be no proof that it was not the slain man calling, as it is likely that Judah would, on death, have appeared before the Heavenly Tribunal with the deceased or obtained pardon from the wronged man, and this silenced his voice calling from the grave.

(31) Deut. XVII, 6.

(32) V, next note.

(33) 'Two witnesses or three witnesses', indicating that these are mentioned as the first in a series even to a hundred.

(34) Omitted in many texts. D.S. Cf. San. 9a.

(35) I.e. he cannot plead that, as two witnesses were enough to establish the evidence, his was superfluous and negligible and therefore he might be let off; but the context demands that all witnesses form one inseparable group and must suffer alike, if found zomemim.

(36) The exclusion is based on a traditional interpretation of Deut. XXIV, 16, thus: The fathers shall not be put to death on account of (the evidence of) the children, and vice versa. Sanh. 27b and Maim.

(37) By reason of status or crime and infamous bearing, v. Sanh. 24b.

Talmud - Mas. Makkoth 6a

SAID R. JOSE: THESE AFOREMENTIONED LIMITATIONS APPLY ONLY TO WITNESSES IN CAPITAL CHARGES;[1] BUT IN MONETARY SUITS, THE EVIDENCE MAY BE ESTABLISHED BY THE REST.[2] RABBI[3] SAYS: IT IS ONE AND THE SAME RULE, BE IT IN

MONETARY SUITS OR CAPITAL CHARGES; THAT IS, PROVIDED THE DISQUALIFIED WITNESSES TOOK PART IN THE PRE-ADMONITION.[4] BUT WHERE THEY WERE NOT OF THOSE WHO GAVE THE PRE-ADMONITION [TO THE OFFENDERS], WHAT COULD TWO BROTHERS DO THAT SAW[5] SOMEONE SLAYING A PERSON?

GEMARA. [EVEN TWO OR THREE CAN INCRIMINATE A HUNDRED.] Said Raba: And such[an incrimination by two against a hundred witnesses] could be sustained only where they all had given their evidence in ‘un-intermittent utterance’. R. Aha of Difti remarked to Rabina: Seeing that ‘un-intermittent utterance’ is generally defined as the brief interval which a disciple would take in uttering the salutation, Peace Upon Thee, my Master and Guide! — the evidence of a hundred witnesses will take a great deal more time than that! Said Rabina: [What is meant is that] each one follows the other un-intermittently [which renders the whole as one undivided group].

R. AKIBA OBSERVES THAT THE THIRD WITNESS WAS SUPERADDED... SO IT IS WITH THREE; IF ONE OF THEM WAS FOUND TO BE A KINSMAN . . . THEIR EVIDENCE IS DISQUALIFIED. R. Papa observed to Abaye: But, then, [admitting such extreme pretexts against capital punishment] let the very presence of the murdered man himself[6] [at the murder] save [the delinquent from the ‘death penalty]?[7] — [Said Abaye: The penalty can be inflicted in case] he was attacked from behind.[8] Let the presence of the victim in a case of sodomy save the delinquent from the death penalty? — [The penalty can be inflicted where] the assault was from behind. Then why not let the presence of the criminal[9] [in each of these cases] be made a pretext for disqualifying the evidence? Abaye remained silent. When R. Papa came [with these questions] before Raba, the latter replied: The Holy Writ prescribes, at the mouth of two witnesses, or at the mouth of three witnesses shall the matter be established;[10] the text[11] thus refers only to those who have to establish the matter.[12]

SAID R. JOSE: THESE LIMITATIONS APPLY ONLY. .. IN CAPITAL CHARGES ... RABBI SAYS. .. BE IT IN MONETARY SUITS OR CAPITAL CHARGES, PROVIDED THE WITNESSES DISQUALIFIED WITNESSES TOOK PART IN THE PRE-ADMONITION How do we [the Judges] put it to the witnesses? — Said Raba: [We ask them] whether they had come[13] as mere onlookers, or to give evidence. If they say to give evidence, and one is found to be a near kinsman, or disqualified person, the entire evidence is disqualified, but if they say they had come as mere onlookers [the evidence is allowed to stand].

WHAT COULD TWO BROTHERS DO THAT SAW SOMEONE SLAYING A PERSON? It is stated: Rab Judah reported [his Master] Samuel to have said that the halachah[14] was to follow the view of R. Jose[15] while R. Nahman said that the halachah was to follow the view of Rabbi.[16]

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(1) Where every effort should be made to avoid execution, pursuant to the words, And the congregation (of judges) shall deliver the slayer . . . and the congregation shall restore him . . . Num. XXXV, 25.

(2) For even in the case of two witnesses, if the evidence of one proves inadmissible, that of the other is not entirely invalidated as it serves to enforce an oath (Tosaf.). Cf. Shebu. 40a.

(3) I.e. the Patriarch, R. Judah the Prince.

(4) It was the duty of eye-witnesses to admonish and warn any person about to commit an offence of its wrong and its consequences.

(5) I.e. casually witnessed the crime together with another stranger. Cf. variant Sanh. 9b (and Rashi).

(6) Since he is an interested party in the case, and a witness of the crime, while being his own nearest kinsman! All this is sheer casuistry; yet these conundrums lead to the examination of the legal principles involved.

(7) This, however, would make the death penalty impossible of practical application.

(8) I.e. where he could not identify his assailant if the attempt failed, and could not be an ‘eye-witness’.

(9) Who is deeply concerned in the issue and mixed up with the witnesses.

(10) Deut. XIX, 15.

(11) Invalidating the whole evidence through the presence of a disqualified person.

(12) I.e., to substantiate the matter; not the litigants or the principals in a criminal charge, but solely the witnesses.

(13) On the scene of the assault; on the scene of a money-transaction; or, whether they came now to Court. V. Tosaf. and Han.

(14) I.e., the rule in practice.

(15) That the association of disqualified witnesses does not vitiate the whole evidence in monetary suits.

(16) I.e., that even in monetary suits if they came to give evidence, ab initio, they disqualify the whole evidence, i.e. in verbal evidence; it is not so strictly enforced in some documentary evidence. Cf. Han. and Alfasi.

Talmud - Mas. Makkoth 6b

MISHNAH. IF TWO PERSONS SEE THE MALEFACTOR FROM ONE WINDOW AND TWO OTHER PERSONS SEE HIM FROM ANOTHER WINDOW AND ONE STANDING MIDWAY UTTERS THE PRE-ADMONITION TO HIM, THEN, IF SOME ON ONE SIDE AND SOME ON THE OTHER SIDE CAN SEE ONE ANOTHER,[1] THEY CONSTITUTE TOGETHER ONE BODY OF EVIDENCE, BUT IF THEY CANNOT [PARTLY SEE ONE ANOTHER], THEY ARE TWO BODIES OF EVIDENCE. CONSEQUENTLY, IF ONE OF THESE [BODIES] IS FOUND ZOMEMIM, BOTH HE AND THEY[2] ARE PUT TO DEATH, WHILE THE PARTY THAT CAME SECOND IS DISCHARGED. R. JOSE OBSERVES THAT A MALEFACTOR IS NEVER PUT TO DEATH UNLESS TWO WITNESSES HAD DULY PRE-ADMONISHED HIM, AS HOLY WRIT PRESCRIBES, AT THE MOUTH OF TWO WITNESSES OR THREE WITNESSES SHALL HE THAT IS WORTHY OF DEATH BE PUT TO DEATH; BUT AT THE MOUTH OF ONE WITNESS HE SHALL NOT BE PUT TO DEATH.[3] ANOTHER INTERPRETATION OF THE WORDS, AT THE MOUTH OF TWO WITNESSES . . . IS THAT THE SANHEDRIN SHALL NOT HEAR THE EVIDENCE FROM THE MOUTH OF AN INTERPRETER.

GEMARA. R. Zutra b. Tobiah reported that Rab said: How can it be shown that ‘disjoined’ testimony[4] is disqualified? Because, Holy Writ prescribes that at the mouth of one witness he shall not be put to death.[3] Now, what is [the import of this special admonition here against] one witness? If it be taken literally as one sole witness, is not this already implied in the earlier context, at the mouth of two witnesses or three witnesses shall he that is worthy of death be put to death? What, then, is the meaning of one witness? One by one.[5] The same is also taught, thus: Holy Writ prescribes [especially], at the mouth of one witness he shall not be put to death to cover instances where two persons see the malefactor, one from a window here and the other from a window there, without, however, seeing each other, [in which case] such evidence cannot be conjoined. Nay, furthermore, even if they both witnessed the offence from the same window, first one and then the other, their testimony cannot be conjoined.

R. Papa remarked to Abaye: Now, if, [in the first instance above,] where one saw the offence from one window and another from another window [simultaneously], one having witnessed the whole act and the other having witnessed the whole act, you say that such testimony cannot be conjoined; is there any occasion at all to give [the second instance], where two witnesses saw the act [albeit from the same window], only consecutively, and where consequently this one only saw but half the act, and the other but half the act? — Abaye replied: The second might seem unnecessary, but for such an instance as incest.[6]

Raba said: If they both saw the admonitor, or he saw them both, they can be conjoined in the testimony as a whole, Raba further said in reference to the requisite admonition, that if it was uttered even by the victim himself, or even if it came from some [invisible] demon[7] [it was sufficient].

R. Nahman[8] stated that in monetary suits ‘disjoined’ testimony is admissible, since Holy Writ prescribes, ‘by the mouth of one witness he shall not be put to death’. It is only in a capital charge that ‘disjoined’ testimony is inadmissible; but in monetary suits it is admissible. R. Zutra[9] demurred to this [and argued,] if so, why not put this forward as a plea for ‘deliverance’[10] [in a capital charge]? Why, then, does the Mishnah state that BOTH HE [THE ACCUSED] AND THEY [THE ZOMEMIM] ARE PUT TO DEATH?[11] — This is a difficult point.

R. JOSE[12] OBSERVES THAT A MALEFACTOR IS NEVER PUT TO DEATH UNLESS TWO WITNESSES HAD DULY PRE-ADMONISHED HIM . . . Said R. Papa to Abaye: Is this really R. Jose's view? Do we not learn: R. Jose says, An [avowed] enemy is executed, because he is, as it were, attested and already pre-admonished?[13] — To this Abaye replied that the authority of that cited Mishnah was R. Jose b. Judah, as it is taught [explicitly elsewhere]: R. Jose b. Judah says, a scholar[14] needs no pre-admonition, because pre-admonition was introduced only as a means for discriminating between the inadvertent and deliberate offender.

ANOTHER INTERPRETATION OF THE WORDS, AT THE MOUTH OF TWO WITNESSES.....IS THAT THE SANHEDRIN SHALL NOT HEAR THE EVIDENCE FROM THE MOUTH OF AN INTERPRETER. Certain foreigners came [with a suit] before Raba and he appointed an interpreter. How could he do that? Do we not learn that THE SANHEDRIN SHALL NOT HEAR THE EVIDENCE FROM THE MOUTH OF AN INTERPRETER? — Raba understood well enough what they said, only he did not know how to reply.

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(1) V. Tosaf, s.v. היו.

(2) I.e., the malefactor, against whom the charge has been proved and who consequently has to pay the penalty; and the intriguers who, out of enmity to him, supported the charge against him, although by an attested alibi, they could not possibly have been eye-witnesses. ‘This is a unique instance in the jurisdiction of Sanhedrin.’ J. Makk. I, 14.

(3) Deut. XVII, 6.

(4) I.e. where each of the witnesses was unaware of the other's presence at the time of the alleged offence.

(5) And the purport of the admonition is to bar ‘disjoined’ testimony.

(6) Where the merest superficial penetration technically constitutes the carnal offence. Yet even here, ‘disjoined’ testimony is not admissible.

(7) V. K. Kohler, Demonology, J.E. IV, 514ff.

(8) Var. lec. Judah, D.S.

(9) Var. lec. Hisda, D.S.

(10) Seeing that it is the duty of ‘the Congregation’ (the Judges of the High Court) to deliver, that is, to avoid capital punishment on any and every pretext, then why not advance this argument: just as you stressed the verse, by . . . one witness he shall not be put to death, to mean, not a fit witness to effect a capital sentence, yet fit enough among others in a monetary suit; you might just as well stress it to mean, not fit to effect a capital sentence, yet fit enough to effect a deliverance (discharge) on the ground that, as a witness of ‘disjoined’ evidence (disqualified in a capital charge), he disqualifies by his presence all the other witnesses.

(11) V. supra p. 32, n. 2.

(12) Usually = R.Jose b. Halafta, but J. Mak. has here R. Jose b. Judah (see discussion).

(13) V. infra 9b.

(14) Haber חבר lit., ‘associate’, ‘fellow-student’, sometimes a colleague of prominent scholars, Talmid-haber, v. Glos.

Talmud - Mas. Makkoth 7a

Elai and Tobiah were near kinsmen to a surety, and R. Papa maintained that [their evidence was admissible, as] they were strangers to the debtor and the creditor; but R. Huna, the son of R. Joshua, pointed out to R. Papa that if the debtor were unavailable,[1] would not the creditor come down on the surety?[2] MISHNAH. IF ONE FLED AFTER HAVING BEEN CONVICTED AT A COURT AND AGAIN COMES UP BEFORE THE SAME COURT, THE [FIRST] JUDGMENT IS NOT SET ASIDE.[3] WHEREVER TWO WITNESSES STAND UP AND DECLARE, ‘WE TESTIFY THAT N. N. WAS TRIED AND CONVICTED AT THE COURT OF X[4] AND THAT Y AND Z WERE

THE WITNESSES IN THE CASE,' THE ACCUSED IS EXECUTED. A SANHEDRIN[5] HAS JURISDICTION WITHIN THE LAND [OF PALESTINE] AND OUTSIDE IT. A SANHEDRIN THAT EFFECTS AN EXECUTION ONCE IN SEVEN YEARS, IS BRANDED A DESTRUCTIVE TRIBUNAL; R. ELIEZER B. AZARIAH SAYS: ONCE IN SEVENTY YEARS. R. TARFON AND R. AKIBA SAY: WERE WE MEMBERS OF A SANHEDRIN, NO PERSON WOULD EVER BE PUT TO DEATH. [THEREUPON] RABBAN SIMEON B. GAMALIEL REMARKED, [YEA] AND THEY WOULD ALSO MULTIPLY SHEDDERS OF BLOOD IN ISRAEL!

GEMARA. [IF ONE FLED . . . AND AGAIN COMES UP BEFORE THE SAME COURT . . .] This wording implies [that the first judgment] is not to be set aside in the same Court, but may be set aside In another Court, whereas in the next clause we read: WHEREVER TWO WITNESSES STAND UP AND DECLARE, 'WE TESTIFY THAT THIS MAN WAS TRIED AND CONVICTED AT THE COURT OF X AND THAT Y AND Z WERE THE WITNESSES IN THE CASE' THE ACCUSED IS EXECUTED [which conveys a contrary impression]! — Said Abaye: That presents no difficulty; [there are two domains in regard to Court decisions], one has reference to a Palestinian Court, the other to an extra-Palestinian Court, as it is taught: R. Judah b. Dosithai says [in the name of R. Simeon b. Shetah] that if a fugitive from Palestine went abroad, his sentence is not set aside; from abroad to Palestine, his sentence is set aside, on account of Palestine's prerogative.[6]

A SANHEDRIN HAS JURISDICTION WITHIN THE LAND . . . AND OUTSIDE IT.

What [Scriptural] authority is there for this? — Our Rabbis taught: [From the text,] And these things shall be for a statute of judgment unto you throughout your generations in all your dwellings,[7] we learn that a Sanhedrin has jurisdiction both in and outside Palestine. If that be so, what is the import of [the limitation in] the text, Judges and officers shalt thou make thee in all thy gates which the Lord thy God giveth thee tribe by tribe?[8] — [It means that] in your [own] gates you set up tribunals in every district as well as in every city, whereas outside the Land [of Palestine], you set up tribunals only in every district but not in every city.[9]

A SANHEDRIN THAT EFFECTS AN EXECUTION ONCE IN SEVEN YEARS IS BRANDED A DESTRUCTIVE TRIBUNAL; R. ELIEZER B. AZARIAH SAYS, ONCE IN SEVENTY YEARS. The question was raised whether the comment [of R. Eliezer b. Azariah was a censure, namely] that even one death-sentence in seventy years branded the Sanhedrin as a destructive tribunal, or [a mere observation] that it ordinarily happened but once in seventy years? — It stands [undecided].

R. TARFON AND R. AKIBA SAY, WERE WE MEMBERS OF A SANHEDRIN, NO PERSON WOULD EVER BE PUT TO DEATH. How could they [being judges] give effect to that [policy]? Both R. Johanan and R. Eleazar suggested that the witnesses might be plied with [intimate] questions such as, 'Did you take note whether the victim was [perchance] suffering from some fatal affection or was he perfectly healthy?' R. Ashi [enlarging on this] said: And should the reply be, 'Perfectly healthy', they might further be embarrassed by asking, 'Maybe the sword only severed an internal lesion?'[10]

And what would be asked, say, in a charge of incest? — Both Abaye and Raba suggested asking the witnesses whether they had seen the offenders as intimate as 'kohl-flask and probe'?[11]

Now [with regard to] the Rabbis,[12] what kind of evidence [in such a charge] would they deem sufficient to convict? — According to Samuel's maxim; for Samuel said that being caught in the attitude of the unchaste is sufficient evidence.

CHAPTER II

MISHNAH. THE FOLLOWING GO INTO BANISHMENT: HE WHO SLAYS IN ERROR.[13] IF [FOR INSTANCE] WHILE HE WAS PUSHING A ROLLER[14] [ON THE ROOF] IT [SLIPPED OVER]. FELL DOWN AND KILLED SOMEBODY, OR WHILE HE WAS LOWERING A CASK IT FELL DOWN AND KILLED SOMEBODY, OR, WHILE COMING DOWN A LADDER HE FELL ON SOMEBODY AND KILLED HIM, HE GOES INTO BANISHMENT. BUT, IF WHILE HE WAS PULLING UP THE ROLLER IT FELL BACK ON SOMEONE KILLING HIM, OR WHILE HE WAS RAISING A BUCKET THE ROPE SNAPPED AND THE BUCKET KILLED SOMEBODY IN ITS FALL,

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(1) The readings vary here, v. D.S, but the translation meets either.

(2) I.e., if the debt has been repaid, the surety is quit of his liability; if not, he has to meet it. This will have to be determined on the evidence of his near kinsmen, who are inadmissible.

(3) In order to have a new hearing, in the prisoner's favour.

(4) I.e., either at such-and-such a place, or under the presiding judge X.

(5) Provided the members were ordained in Palestine, v. Maim. Yad. Sanh. IV. 6.

(6) Cf. Tosef. Sanh III, 11, ‘R. Dosithai b. Judah (J. Mak. I has ‘R.D.b. Jannai) says that fugitives who had been convicted to death, having fled from Palestine abroad, are put to death forthwith; and those who fled to Palestine from abroad are not put to death (forthwith), but are sent to trial as in the first instance.’ ‘Dos, b. Judah’ seems the better reading; also the bracketed part is missing in many good MSS.

(7) Num. XXXV, 29 (in reference to manslaying). The wording makes the provision operative everywhere and always.

(8) Deut. XVI, 18, i.e. in Palestine only, after the distribution and occupation of the land by all the tribes.

(9) No city was entitled to a Sanhedrin of twenty-three judges unless it had at least 120 residents (another view 230), cf. Sanh. 17b.

(10) The juridical point involved in asking such intimate questions is this: that if the witnesses could not be absolutely certain on any material point in the evidence, they could not be expected to take a lead in the actual execution of the offender, as required by law. (Deut. XVII, 6-7.) Thus capital punishment fails.

(11) A euphemism for carnal intimacy.

(12) I.e., those others who do not share the views of R. Tarfon and R. Akiba in regard to capital punishment.

(13) I.e., accidentally, without premeditation.

(14) Eastern roofs are flat; they are plastered to make them water-tight and give them the necessary slope. The levelling is done by a log (or smooth flat stone) to which a long handle attached, by which it is pushed backwards and forwards. Cf. M. K. 11a and Vergil, Georgics, I, 178, area cum primis ingenti aequanda cylindro.

Talmud - Mas. Makkoth 7b

OR WHILE GOING UP A LADDER HE FELL DOWN AND KILLED SOMEBODY, HE DOES NOT GO INTO BANISHMENT. THIS IS THE GENERAL PRINCIPLE: WHENEVER THE DEATH WAS CAUSED IN THE COURSE OF A DOWNWARD MOVEMENT, HE GOES INTO BANISHMENT, BUT IF IT IS CAUSED NOT IN THE COURSE OF A DOWNWARD MOVEMENT, HE DOES NOT GO INTO BANISHMENT.

GEMARA. What is the [Scriptural] authority for these [distinctions]? — Said Samuel: It is prescribed, or . . . he let it fall upon him so that he died,[1] [meaning that one has not to go into banishment] until something fell in a downward movement.

Our Rabbis taught: [That killeth any person] by error,[2] precludes anyone that killed with full knowledge; [whoso killeth . . .] unawares,[3] precludes anyone that killed with intent. ‘By error...precludes anyone that killed with full knowledge’. — Is that not obvious [without ‘stressing the text]? Such a one is ‘the son of Death’! — Said Rabbah: I would suggest that it is to preclude a case where one pleads that he thought he was permitted to kill [that person]. Said Abaye to Rabbah: If [as you suggest], he thought that he had a right to kill, then [surely], he is a victim of mischance!

— [No], replied Rabbah, because I consider anyone pleading that he thought it permissible [to kill] closely akin to a wilful [murderer]. 'Whoso killeth . . . unawares . . . precludes anyone that killed with intent' — Is not that obvious? Such a one is 'the son of Death'! — Said Rabbah: I would suggest that it is to meet such cases as when he intended to kill an animal, but killed a man;[4] to kill a heathen,[5] but killed an Israelite; to kill a premature-born,[6] but killed a fully-developed infant.

Our Rabbis taught: if . . . suddenly,[7] precludes [from refuge] anyone [killing through rushing precipitately] round a corner;[8] without enmity, precludes an adversary; he thrusts him, means with his body;[9] or have cast upon him, includes [an accident resulting from] a downward motion as a prerequisite of an upward swing; without laying of wait,[10] precludes an intended throw in one direction which swerved to another. And if a man lie not in wait,[11] precludes anyone who intended to throw an object a distance of two ells, but made it go four ells. And as a man goeth into the wood with his neighbour,[12] [provides here a standard. For] what is the nature of this forest? It is a domain affording [free] access to the injured as well as to the injurer.[13] In like manner every place [of injury] must be a domain of free access to the injured as to the injurer [to involve liability for injury].

R. Abbahu asked R. Johanan: If while a person is going up a ladder, a rung giving way under him comes down and kills somebody, how would this be taken? Was the death to be considered [a result] of an upward or a downward movement?[14] — He replied: You have indeed laid your finger on [an accident resulting from] a downward motion as a prerequisite of an upward movement. To this R. Abbahu objected [from the Mishnah]: THIS IS THE GENERAL PRINCIPLE: WHENEVER THE DEATH WAS CAUSED IN THE COURSE OF A DOWNWARD MOVEMENT, HE GOES INTO BANISHMENT, BUT IF [CAUSED] NOT IN THE COURSE OF A DOWNWARD MOVEMENT, HE DOES NOT GO INTO BANISHMENT. Now, [what kind of case would be included in the general] terms of the latter principle — BUT IF [CAUSED] NOT IN THE COURSE OF A DOWNWARD MOVEMENT . . . if not an instance of this kind? — [R. Johanan replied:] Following your opinion, what instance would you include in the general terms of the first principle — WHENEVER. . . IN THE COURSE OF A DOWNWARD MOVEMENT . . . ? [You could give] but one, namely, that of a butcher; and that instance is also within the terms of the latter principle, as it is taught: If a butcher whilst chopping meat killed somebody [there are four different versions of the case]. Version A[15] has it: If he killed a person in front of him, he is liable to go into banishment; if behind, he is exempt. Version B: If behind him, he is to go into banishment; if in front, he is exempt. Version C: Whether in front of him or behind, he is to go into banishment. Version D: Whether in front of him or behind, he is exempt. And [continued R. Johanan], it is really not difficult [to explain these diversities], thus: In Version A: If he killed in front by a downward stroke [he goes into banishment]; if behind him by an upward swing [of the chopper], he is exempt.[16] In Version B: If he killed in front of him by the upward swing [he is exempt]; if behind him, by the downward [back] movement [he goes into banishment].[17] In Version C: If he killed either in front or behind him by the downward movement [he goes into banishment]; and in Version D.' If he killed either in front or behind him by the upward swing [he is exempt].[18]

May we say that this question has already been disputed by Tannaim: If while a person is going up a ladder and a rung gave way under him . . . Version A has it that he is liable, and Version B that he is exempt? Is not the point at issue between them this, that one Master considers it a downward movement, and the other an upward movement? — Not necessarily; it may be that all agree in considering it an upward movement, and yet it is not difficult [to explain the discrepancy]: Version A refers to his liability in damages,[19] Version B, to his liability of banishment. And, if you prefer, I might even suggest that both versions refer to banishment,[20] and it is not difficult [to find an explanation]: Version A refers to a case where the rung was worm-eaten,[21] while Version B to where it was not worm-eaten. Nay, if you prefer, I might even suggest that it was not worm-eaten, and still it is not difficult [to explain]: Version B refers to a case where the rung was fixed tightly, while Version A refers to where it was not fixed tightly.[21] MISHNAH. IF THE IRON SLIPPED FROM

ITS HELVE[22] AND KILLED [SOMEBODY], RABBI SAYS HE DOES NOT GO INTO BANISHMENT AND THE SAGES SAY HE GOES INTO BANISHMENT; IF FROM THE SPLIT LOG,[23] RABBI SAYS HE GOES INTO BANISHMENT, AND THE SAGES SAY HE DOES NOT GO INTO BANISHMENT.

GEMARA. It is taught: Rabbi said to the Sages: Does the text read, and the iron slippeth from its tree [wood]?[24] It reads only, from the tree. Moreover,[25] the tree occurs twice in the same text, and just as in the first instance[26] the reference is to the tree that is being hewn, so is the reference in the second instance[27] to the tree that is being hewn.

R. Hiyya b. Ashi[28] observed that Rab had said that both sides based their views on a different interpretation of the same text, namely, and the iron slippeth from the tree;[24] Rabbi maintains that the Masorah [the traditional text unvocalized],[29] is determinant [in Biblical exposition] and we may as well read the word as ve-nishshal [and . . . was hurled away],[30] and the Rabbis, on the other hand, maintain that Mikra [the text as habitually read] is determinant[31] [in exposition] and here we have but ve-nashal[32] [and . . . slipped].

But does Rabbi actually maintain that the Masorah is determinant [in exposition]?

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(1) But if he thrust him suddenly without enmity, or have cast upon him anything . . . or with any stone . . . seeing him not and let it fall upon him, that he die . . . Num. XXXV, 22ff.

(2) To be cities of refuge for you; that the slayer may flee thither, that killeth any person by error. Num. XXXV, 11 and 15.

(3) The slayer, which shall flee thither that he may live, whoso killeth his neighbour ignorantly. AV. Deut. XIX, 4.

(4) I.e., he misdirected his blow.

(5) [The death of a heathen is as little condoned as that of a premature-born child, but is not subject to the relevant Scriptural law of refuge, v. B.K. (Sonc. ed.) p. 253, n. 6.]

(6) [Within 30 days of his birth. In each of these cases, the offence is treated as culpable, for which banishment is inadequate as affording neither atonement nor protection against the avenger.]

(7) An interpretation of, But if he thrust him suddenly without enmity, or have cast upon him any thing without laying of wait, Num. XXXV, 22.

(8) While carrying a dangerous object.

(9) I.e., unintentionally.

(10) The root צדה is taken as cognate with צדד, side-tracking.

(11) Ex. XXI, 13. Cf. I Sam. XXIV, 11.

(12) Deut. XIX, 5.

(13) Both have an equal right to go into the wood to cut down trees.

(14) The man moves upward, the rung moves downward; which is the determining factor here as regards the law of banishment, the man's movement or that of the rung?

(15) Lit., ‘One Tanna teaches ‘ . . . and another Tanna teaches . . . ‘

(16) Although the upward swing behind is the beginning of the downward stroke in front.

(17) Although the downward back movement is but a continuation of the upward swing in front.

(18) See Rashi. Cf, however, R. Han and Kesef Mishneh on Maim. Yad, Rozeah, VI, 13, for other readings.

(19) Man is ‘constantly forewarned’ and liable to pay damages in all circumstances, whether the injury or damage was caused by him through inadvertence or culpable negligence; man is held ‘constantly forewarned’ — v. B.K. 26a.

(20) Maim. seems to have read here ‘damages’. Cf. Maggid Mishneh on Yad, Hobel, VI, 4.

(21) Easily giving way under the tread until it breaks and falls, which is a downward motion all the time, and therefore entailing banishment.

(22) According to Rabbi, it slipped before it struck the log; having neglected to examine his tool before using it, he does not go into banishment, i.e., he is not to be given the benefit of asylum (but must evade the avenger as best he can; V. Maim. Yad Rozeah, VI, 4).

(23) I.e., if the axe rebounded from the log and killed, or if a chip from the log flew out and killed, he needs, according to the Rabbis, no atonement in exile (v. Maim, ibid. VI, 3), as it is a secondary force (v. Gemara) with no element of neglect in this strange unforeseen accident (Han. Cf. Rashi and Jer. Targum Deut., a.l.).

(24) Deut. XIX, 5. (As when a man goeth into the wood with his neighbour to hew trees and his hand fetcheth a stroke with the axe) to cut down the tree and the iron slippeth from the tree . . . he shall flee . . . From its tree (lit., 'wood') might mean from its helve, but from the tree is open to another interpretation, namely, a rebound from the tree.

(25) He seeks support in the text for his contention that the term 'the tree' cannot refer to two different objects, when mentioned in the same context.

(26) . To hew trees,' lit., 'the tree.'

(27) 'Slippeth from the tree.'

(28) Ashi the elder, Rab's disciple.

(29) The vocalization of the Hebrew text is of very late date. The Pentateuch is still strictly retained unvocalized in the Synagogue; thus the same consonants might be read in several ways, often giving rise to different meanings, e.g. הלב and הלב and similarly ונשל and ונשל as suggested here in the discussion.

(30) ונשל probably meant as the Nifal form, cf. נגש Gen. XXXIII, 7; Ex. XX, 21, and נתן Lev. XIX, 20; Num. XXVI, 62. The root is found to have both a transitive meaning (Deut. VII, 22, cast away the nations; also, cast off thy shoe, Ex. III, 5), and an intransitive meaning (Deut. XXVIII, 40, thine olive shall cast its fruit). Cf. J. Mak. II, 2 (31c) and Nahmanides' Notes on Mak. Rashi suggests the Pi'el form, 'and the iron hurled away part of the tree;' on his second explanation by vocalizing it like ונאשל or ונהשל v. Rashi, Keth. 69b, top, s.v. ינחם

(31) [Lit., 'Mikra has a mother,' or 'there is preference to Mikra' (Halper, B., ZAW. XXX, p. 100), i.e., the reading of the sacred text according to Kere (קרי) the established vocalization has an authentic origin, hence well-founded, as distinct from the Masorah, the Kethib (כתיב) the traditional text of consonants without vowels.]

(32) ונשל, the Kal.

Talmud - Mas. Makkoth 8a

Did not R. Isaac b. Joseph report R. Johanan to have said that Rabbi, R. Judah b. Ro'ez, the School of Shammai, R. Simeon and R. Akiba all maintained that the Mikra is determinant [in exposition]?[1] — [Just so;] but that is why he also enforces his contention with his [additional argument], 'Moreover...'

R. Papa observed that if one flung a clod at a palm, thereby knocking off some palm-fruit, which in falling killed somebody,[2] then we have an instance which will aptly illustrate the controversy between Rabbi and the Rabbis.[3]

[What is the point of this observation?] Is it not obvious? — [Not quite so obvious, as] you might argue that the falling fruit that killed was [according to Rabbi] but a secondary force[4] [entailing no banishment]; therefore R. Papa's statement makes it clear that it is not so [according to Rabbi].

But, what would be a secondary force according to Rabbi's interpretation? — For instance, if he flung a clod and struck a stem which precipitated a cluster of fruit, and the fruit then dropped and killed somebody.

MISHNAH. IF A MAN THREW A STONE INTO THE PUBLIC DOMAIN AND KILLED A PERSON, HE GOES INTO BANISHMENT; R. ELIEZER B. JACOB SAYS THAT IF AFTER THE STONE HAD LEFT HIS HAND ANOTHER PERSON PUT OUT HIS HEAD AND CAUGHT IT,[5] THE THROWER IS EXEMPT [FROM BANISHMENT]. IF A MAN THREW A STONE INTO HIS [OWN] COURT AND KILLED A PERSON, THEN, IF THE VICTIM HAD A RIGHT OF ENTRY THERE, THE THROWER GOES INTO BANISHMENT,[6] AND IF NOT, HE DOES NOT GO INTO BANISHMENT, BECAUSE IT IS WRITTEN: AS WHEN A MAN GOETH INTO THE WOOD WITH HIS NEIGHBOUR TO HEW WOOD . . .[7] WHAT IS [THE NATURE OF] THE WOOD [REFERRED TO]? IT IS A DOMAIN ACCESSIBLE TO THE VICTIM AS TO THE SLAYER;[8] EVEN THE SAME [LAW] OBTAINS IN EVERY DOMAIN WHICH IS

[EQUALLY] ACCESSIBLE TO THE VICTIM AND TO THE SLAYER; OUTSIDE [THIS LAW] IS THE COURT OF THE HOUSEHOLDER WHERE THE VICTIM HAS NO RIGHT OF ENTRY. ABBA SAUL SAYS: WHAT IS [THE NATURE OF] THIS HEWING OF WOOD [REFERRED TO]? IT IS AN OPTIONAL ACT; [EVEN THE SAME OBTAINS IN ALL VOLUNTARY ACTS];[9] OUTSIDE [THIS LAW] IS THE FATHER BEATING HIS SON, OR THE MASTER STRIKING HIS PUPIL, OR THE COMMISSIONER OF THE COURT[10] [ADMINISTERING THE LASH]. GEMARA . . . A STONE INTO THE PUBLIC DOMAIN — he is a deliberate offender?[11] — Said R. Samuel b. Isaac: It happened while he was demolishing a [defective] wall.[12] Even then, he should be circumspect? — He was demolishing it at night. At night, too, ought he not to be circumspect? — He was clearing the debris on to a rubbish-heap. On to a rubbish-heap! Under what circumstances? If the public pass there often, he is guilty of negligence; and if the public do not pass there often, he is the victim of mischance![13] — Said R. Papa: No! We must explain the Mishnah by an instance where the debris is thrown on to a rubbish-heap to which people resort for convenience at night-time, but not during the day; yet occasionally, someone comes and squats there. In such a case, the thrower is not guilty of negligence, because the place is not resorted to for convenience during daytime; nor is he [merely] a victim of mischance, because, occasionally, someone comes and squats there.[14]

R. ELIEZER B. JACOB SAYS THAT IF AFTER THE STONE HAD LEFT HIS HAND etc. Our Rabbis taught: The text, and if he [or it] found[15] [his neighbour. . . he shall flee], precludes a case where the victim put himself in the way. On this text it was that R. Eliezer b. Jacob based his statement: IF AFTER THE STONE HAD LEFT HIS HAND ANOTHER PERSON PUT OUT HIS HEAD AND CAUGHT IT, THE THROWER IS EXEMPT [FROM BANISHMENT].

Is that to say that u-maza means, finding something there already ab initio?[16] If so, contrast therewith that other exposition of the same form of the word in the text. [It is taught:] and he found [sufficiency to redeem it],[17] which excludes other means [that were] available heretofore, that is, that he is not allowed to sell a remote property to redeem therewith one more proximate, or to sell an inferior property to redeem a fair property? — Said Raba: The expressions must each be taken in its context. There, the expression, ‘and he found sufficiency [to redeem it]’ must be taken with its context, ‘and his own hand attained [and found sufficiency to redeem it]’. Now, what is the meaning of [the phrase] ‘and his own hand attained’? [It means], what he has attained but now,’ so must [its concomitant], ‘and found [sufficiency]’ be taken in the same sense- ‘but now.’ Here, too, the expression must be taken in its proper context: ‘and if he [or it] found’ must be understood in the same sense as its concomitant, ‘the wood’; what is the case of ‘the wood’? — it was there ab initio,’ so must we take ‘and if he [or it] found’ to imply that he found his victim who was there ab initio [and not suddenly coming forward later].

ABBA SAUL SAYS, WHAT IS THE NATURE OF THIS HEWING OF WOOD etc.?[18] One of the [senior] scholars said to Raba: What ground is there for Abba Saul's assumption that the hewing of wood referred to was [essentially] an optional task; it might as well be a hewing of wood [as a religious act] for building a Sukkah,[19] or cutting faggots for the altar,[20] and accordingly, one might infer that the Divine Law ordained that the slayer shall nevertheless go into banishment? — Said Raba to him: Supposing he found some hewn wood [he would not have to hew any] and hewing would not then be any part of the prescribed command; nor can it, for the same reason, even in the first instance, be taken as part of the prescribed command.[21] Rabina, thereupon, referred him back [to the Mishnah], OUTSIDE [THIS LAW] IS THE FATHER BEATING HIS SON, OR THE MASTER STRIKING HIS PUPIL OR THE COMMISSIONER OF THE COURT ADMINISTERING THE LASH. Here, also [he argued], where the son [or pupil] is already learned, it is no longer obligatory [on the father or master] to [teach and] strike? It should therefore not be considered even in the first instance part of a prescribed command?[22] — Although the son is already taught [replied Raba], it is still obligatory on the father to chasten, because it is written, Correct thy son and he will give thee rest, yea he will give delight to thy soul.[23] Reconsidering it, however, Raba said: What I told you was not a correct reply; because, re-examining the text, when[24] ‘a man goeth into the wood with his neighbour,’I say its import is [clearly] that of an optional act; that is, if he wishes to go there he goes, and if he does not wish, he does not go there. Now, therefore, if [as you suggested] the context ‘to hew wood’ is to be applicable [also] to an obligatory act of hewing, could he sufficiently meet his obligation without going into the forest?

R. Adda b. Ahaba then asked of Raba: Does then the [conditional] particle asher-when-always imply an optional action? If so, considering the text, but when[25] a man be unclean and shall not purify himself[26] [that soul shall be cut off from among Israel][27] — will you likewise explain it as referring only to [a case] where if he wishes he defiles himself [by touching a corpse], and if he does not care to defile himself, he need not; but in the case of an obligatory corpse[28] where the finder could not but defile himself [but must needs give it burial], would he indeed [on entering the Temple during defilement] be exempt [from the penalty?]That is quite different [replied Raba], because there, the text distinctly emphasises

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(1) V. Sanh. 4a and 4b where the several statements of the above-mentioned authorities are cited, all turning on the legitimate deduction, or otherwise, from the possibility of an alternative vocalization of a word, e.g. שבעים fortnight, as שבעים seventy (days); קרנת horns of, as קרנת horn of;יראה shall be seen (appear) as יראה shall see, etc.

(2) The palm is sometimes 60 to 80 feet high. There are many varieties of fruit varying in form, size, and character, e.g, dates, areca, sago and cocoa-nut. The fruits usually cluster closely together, and when precipitated from a great height can easily kill a person.

(3) In the Mishnah, the falling fruit being compared to the flying chip.

(4) As the clod, the first force, had left his hand before it struck off the palm-fruit. This is not a correct assumption; he takes the clod as the axe, and the falling fruit as the flying chip which kills, entailing banishment.

(5) And was killed, the thrower is not blamable in the least for such an unforeseen event, and needs no atonement or protection by exile.

(6) He should have been more circumspect: the guiding rule is derived from the example of the wood afforded by Scripture.

(7) Deut. XIX, 5.

(8) Lit., ‘the injured as to the injurer.’

(9) This bracketed clause is absent in most texts.

(10) These are instances of accidents arising in the course of performing an act of duty, v. discussion.

(11) And is not entitled to protective banishment, as directed in the Mishnah.

(12) Removing such possible danger to the public is commendable. Cf. M. K. 7a.

(13) And as he could not have foreseen the victim's arrival on the scene of the accident, he should be exempt from banishment, and the ruling of the Mishnah as it stands is surprising.

(14) There was therefore an element of neglect, and the thrower goes into banishment.

(15) Deut. XIX, 5, that is, either the iron (axe) slipping from the helve, found, met or caught; or, he, the hewer (on the iron slipping) caught his neighbour.

(16) מצא is grammatically in the past tense (Perfect); the addition of ו imports the possibility of a future sense, ‘and he (it) shall have found’.

(17) Lev. XXV, 26. If a man sold a field out of necessity, he or his kinsman had the right to buy it back at any time before the next Jubilee, by paying a price proportionate to the number of years the stranger might have enjoyed it up to the Jubilee, when the property would automatically revert to the owner. This anticipatory redemption could not be enforced by using moneys that were available at the time of sale, or borrowed money, or by part-redemption, or the proceeds of the sale of inferior or remote-lying property. Such means would show that the vendor did not sell out of poverty, and the purchaser's rights must not be disturbed. V. Commentaries on Mish. ‘Ar. IX, 2; Talm. ‘Ar. 30b.

(18) This is the correct heading; the one in the texts is misplaced and belongs to the beginning of the Gemara.

(19) Lev. XXIII, 42, v. Glos.

(20) Ibid. VI, 5; Nehem. X, 35, and Ta'an. 28a.

(21) I.e, the obligation lies mainly in making and using the tabernacle, or donating the faggots for the altar, not in hewing, as the wood might be purchased ready cut. Acting in the discharge of a religious obligation (mizwah) is considered, in case of a resulting accident, an extenuating circumstance: the desire to do a religious act counterbalances the element of slight negligence. Cf. B.K. 30a; 32a.

(22) And according to above argument, father or teacher should go into banishment.

(23) Prov. XXIX, 17, v, ibid. XIII. 24.

(24) As when (asher, אשר) a man goeth into the wood = as if a man . . .

(25) Lit., rendering of ואיש אשר יטמא

(26) Before entering the Temple.

(27) Num. XIX, 13.

(28) Of an unknown stranger found dead on the road, it was the duty of the finder, even if he were the High Priest himself, to attend to the burial, unless another was there to act for him.

Talmud - Mas. Makkoth 8b

‘he shall be unclean’ — meaning under any circumstances.[1] But has not that phrase been claimed for another deduction, namely, as it is taught: ‘He shall be unclean’ means, to include [defiled] persons who had taken their rite of ablution during daytime;[2] ‘uncleanness is yet upon him’ means, to include [purified] persons still short of the atonement rite?[3] — [Yes,] replied Raba, but I mean to derive my point by stressing the [redundant particle] ‘yet’.[4]

Some introduce the discussion in connection with the following: [Six days thou shalt work, but on the seventh day thou shalt rest;][5] in ploughing time and in harvest thou shalt rest.[6] Says R. Akiba: This [second part of the] text is not needed as a provision against ploughing or harvesting in the Sabbatical year itself, for that is explicitly dealt with elsewhere: Neither shalt thou sow thy field nor prune thy vineyard etc.;[7] but it is a provision to restrict ploughing even in the pre-Sabbatical year, where its effect extends into the Sabbatical period;[8] and [similarly] to restrict the harvesting of the [produce partly grown in the] Sabbatical period, which is reaped in the post-Sabbatical year.[9] Says R. Ishmael: What is the characteristic of ploughing? It is an optional act;[10] so too is the harvesting debarred[11] only when it is an optional act. Outside [this restriction], therefore, is the harvesting [of the first barley] for the ‘omer which is prescribed.[12]

One of the [senior] scholars then asked Raba: What ground has R. Ishmael for assuming that the ploughing [referred to in the text] is an optional act; might it not as well be the ploughing for the omer — barley which is prescribed? And accordingly one might infer that the Divine Law even in such a case enjoins the Sabbath rest! — Said Raba to him: [No,] because if he found the plot already ploughed he would not be required to plough again. The [act of] ploughing cannot therefore be considered obligatory. Rabina thereupon referred him to the Mishnah: OUTSIDE [THIS LAW] IS THE FATHER BEATING HIS SON, OR THE MASTER STRIKING HIS PUPIL, OR THE COMMISSIONER OF THE COURT [ADMINISTERING THE LASH]. Now, might we not argue [similarly] that, since where the son [or pupil] is an accomplished scholar it is no longer obligatory [on the father or master] to punish him, it should therefore not be considered even in the first instance as obligatory?[13] — There [he replied], even though the son is accomplished, it is still a duty, because it is written, Correct thy son and he will give thee rest.[14] Reconsidering it, however, Raba said: That first argument [I used] was not correct, because [continuing the analogy] I argue: What is the characteristic of ploughing? If he found the plot ploughed he need not plough [again]; so too is the characteristic of reaping; [if he found the corn cut, he need not cut again]. But if you assume that the reaping [mentioned in the text] constitutes an obligatory act, then, employing the analogy, you will conclude that if he found the sheaves cut, he need not cut again. How can this be maintained? Is not the bringing as well as the reaping prescribed?[15] MISHNAH. THE FATHER GOES INTO BANISHMENT FOR [THE DEATH OF] HIS SON, AND THE SON GOES INTO BANISHMENT FOR [THAT OF] HIS FATHER. ALL GO INTO BANISHMENT FOR [THE DEATH OF] AN

ISRAELITE, AND ISRAELITES GO INTO BANISHMENT ON THEIR ACCOUNT, SAVE FOR A SOJOURNING-STRANGER,[16] AND A SOJOURNING-STRANGER GOES INTO BANISHMENT[17] FOR [ANOTHER] SOJOURNING-STRANGER.

GEMARA. THE FATHER GOES INTO BANISHMENT FOR HIS SON. Did you not say [before], OUTSIDE [THIS LAW] IS THE FATHER BEATING HIS SON?[18] — [Here it is a case of] a son who has already learnt enough.[19] But did you not [also] say that even if the son has learnt enough, the father is still obliged to teach [his son]? — He was teaching him [only] as a carpenter's apprentice. [Even so] he was teaching him [the means of] a livelihood![20] — He was already accomplished in another craft.

AND THE SON GOES INTO BANISHMENT FOR THE DEATH OF HIS FATHER. This statement was contrasted with that which is taught elsewhere: That killeth a person,[21] means, to exclude [from banishment] one that killeth his father [or mother]![22] — Said R. Kahana: It is not difficult [to explain the discrepancy]: the passage cited reflects the view of R. Simeon, while the Mishnah reflects that of the Rabbis. According to R. Simeon, execution by strangulation is a severer penalty than by the sword.[23] Therefore, in [the ordinary] case of death by error, the [incurred] penalty, of [execution by] the sword, has its appropriate form of remission [when commuted into banishment]; whereas in the case of parricide in error, the [severer] penalty by strangulation has not its appropriate form of remission [when commuted into banishment]. On the other hand, according to the Rabbis, execution by the sword is a severer penalty than by strangulation. Therefore, in the case of a parent-slayer [who committed the deed] in error, the penalty due is [the severer], that of the sword; and the penalty of the sword has its appropriate form of remission [when commuted into banishment].

Raba explained [the Baraitha] thus: ‘That killeth a person [through error may flee there]’, means, to exclude [from banishment] one that woundeth[24] his father [or mother] in error. For you might possibly think that, since by deliberately wounding his parent he would incur the death penalty,[25] therefore, in the case of error, he also should go into banishment. The deduction, however, drawn from the text points ‘to exclude one that woundeth his father [or mother] in error’.

ALL GO INTO BANISHMENT FOR [THE DEATH OF] AN ISRAELITE, AND AN ISRAELITE GOES INTO BANISHMENT ON THEIR ACCOUNT. — ALL GO INTO BANISHMENT’ — What is this ‘all’ intended to include? — It is to include slaves[26] or Cutheans.[27] We [thus] learn [here] what our Rabbis taught [in the following]: A slave or Cuthean goes into banishment or receives a flogging on account of an Israelite, and an Israelite goes into banishment or receives a flogging on account of a Cuthean or slave. Now, [the statement] ‘a slave or Cuthean goes into banishment or receives a flogging on account of an Israelite’ is perfectly clear, meaning that if he [inadvertently] kills an Israelite, he goes into banishment, or that if he utters [the Divine Name in] an imprecation against an Israelite, he receives a flogging.[28] [But as regards the second statement] ‘and an Israelite goes into banishment or receives a flogging, on account of a Cuthean or slave,’ while there is a clear case for the Israelite going into banishment, namely if he kills a slave or Cuthean [inadvertently], how explain his receiving a flogging? [You will perhaps explain,] in case he cursed him. This cannot be, since the text ‘nor curse a ruler of thy people’ limits the offence to a curse uttered against one who acts according to the usages ‘of thy people’? — Said R. Aha b. Jacob: But it might be a case where he [the Cuthean] had given evidence against him [the Israelite as liable to a flogging] and on being found a zomem — witness [is flogged himself].[29] And similarly does the slave's liability [to a flogging] likewise arise where he had given evidence against [an Israelite] and was then found to be a zomem — witness? Is a slave [legally] competent to give such evidence? — But no, said R. Aha son of R. Ika, [the flogging] could be explained in a case where an Israelite had struck a [wounding] blow

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(1) Even in a defilement by an obligatory corpse.

(2) Even after ablution, defilement ceased only with sunset. Lev. XXII, 6-7.

(3) Four persons, on emerging from their state of impurity, had to complete their purification on the day after ablution, with offerings, Lev. XII, 6ff; XIV, 9ff; XV, 13ff and 28ff. q.v.

(4) His uncleanness is yet (עוד) upon him.

(5) Lit. ‘keep Sabbath’ or ‘desist (from work)’.

(6) Ex. XXXIV, 21; meaning that, however urgently the season may demand it, ploughing or reaping may not be done on the Sabbath day. The special mention here of ploughing and reaping suggests the association of the weekly Sabbath-day with the septennial Sabbath-year (cf. ibid. XXIII, 10-12). In the exposition that follows, R. Akiba stresses the latter; R. Ishmael the former; v, commentaries of Rashi and Maim, on Sheb. I, 1.

(7) That which groweth of itself. . . thou shalt not reap and the grapes . . . thou shalt not gather. Lev. XXV, 4-5.

(8) Lit. ‘enters into the Sabbatical year,’ i.e, produces the fruit in the seventh year.

(9) I.e, produce grown of itself that has reached a third of its maturity in the seventh year is subject to the restrictions of the seventh year when it matures in the eighth year.

(10) There being nowhere in the Law a command prescribing ploughing.

(11) On the Sabbath day.

(12) And therefore may be cut even on the Sabbath day; Lev. XXIII, 10ff, ordains: When ye come into the land . . . and reap the harvest thereof, then ye shall bring the sheaf (‘omer) of the first-fruits of your harvest unto the priest. ‘Omer means ‘sheaf’; it is also the name of a measure, one-tenth part of an epha (Ex. XVI, 36).

(13) And the father (or master) should go into banishment.

(14) Prov. XXIX, 17.

(15) Ye shall reap the harvest thereof, then shall ye bring the first-fruits of your harvest unto the priest. Lev. XXIII, 10.

(16) A gentile resident in the midst of the Jewish community who abstains from idolatry (immorality and rapacity), v. A.Z. 64b; also Nahmanides, on Ex. XX, 10.

(17) This reading of the J.T. is authenticated by our Gemara 9a. In our Mishnah texts the word ‘only’ occurs.

(18) I.e, does not go into banishment, and here it is ruled that he does.

(19) And the chastisement was not strictly an act of duty.

(20) One of the duties of the father to his son, next to teaching him Torah and seeing him suitably married, v. Rashi a.l, and Kid. 30b; more fully Mekil. on Ex. XIII, 13.

(21) . . . appoint you cities . . . of refuge . . . that the manslayer that killeth a person through error may flee there. Num. XXXV, 11.

(22) So in Sifre text. A parent-killer is excluded and denied protection in refuge because, by wounding alone, even without fatal consequences, the smiter has already incurred the death penalty by strangulation; v. Sanh. 84b. The general manslayer is punished by the sword; if he slays in error, the punishment is commuted into banishment to one of the Cities of Refuge.

(23) Sanh. 49b. Whenever two penalties have been incurred, the severer of the two is inflicted. V. Sanh. 81a.

(24) The Hebrew for killeth a person is מכה נפש which means literally, ‘smiling a soul’, that is, do to death. The word מכה by itself means ‘beating’, ‘wounding’ or ‘killing’, hence the interpretation of Raba. Cf. Ex. XXI, 15 (the penalty for wounding parents); ibid. 18 (wounding without killing), and Deut. XXV, 1-3 (beating or lashing).

(25) By strangulation, v. Sanh. 84b.

(26) I.e., a non — Israelite, or ‘Canaanite’ slave (cf. Gen. IX, 25, 26; Lev. XXV, 44ff.) who had to be circumcised (Gen. XVII, 12ff), to discard idolatry and abstain from work (for his master) on Sabbath (Ex. XX, 10; XXIII, 12) and who was a member of the household (cf. Lev. XXII, 11; Deut. XVI, 11).

(27) Samaritans (cf. II Kings XVII, 24 ff), sometimes called ‘Lion (‘terrorized) Proselytes’ (cf, ibid. 25-26). They professed adherence to the Mosaic Law, but remained outside by their laws and practices, and do so to this day,

(28) Ex. XXII, 27, Thou shalt not revile God (or judges) nor curse a ruler of thy people. By combining the import of this text with that of Lev. XIX, 14, Thou shalt not curse the deaf the prohibition is taken to have a general application, involving a flogging if the imprecation is accompanied by the mention of God's name. The words ‘of thy people’ however limit the offence, as punishable only when committed against law-abiding Jews, v. Sanh. 66a.

(29) R. Aha's explanation refers to the first clause which, however, at the same time is also explanatory of the second.

Talmud - Mas. Makkoth 9a

which is estimated [in damages] at less than a perutah, as R. Ammi, reporting R. Johanan, said that if one struck a [wounding] blow worth [in damages] less than a perutah, the assailant receives a flogging[1] [and that no analogy between battery and imprecation is admitted].[2]

SAVE NOT FOR A SOJOURNING — STRANGER, etc. This implies that the sojourning-stranger is treated as a heathen [in regard to the law of refuge];[3] but then read the latter clause: A SOJOURNING-STRANGER GOES INTO BANISHMENT FOR [ANOTHER] SOJOURNING-STRANGER [in accordance with the law of refuge]?[4] — Said R. Kahana: It is not difficult [to explain the seeming discrepancy]; the last clause provides for a sojourning-stranger who had slain [inadvertently] another sojourning — stranger, whereas the previous clause provides for a sojourning-stranger who had slain an Israelite. Some throw into contrast one [Scriptural] text against another. It is written: For the children of Israel and for the stranger and for the sojourner among them, shall these six cities be for refuge . . .[5] And again it is written: [Speak unto the children of Israel . . .] and the cities shall be unto you [for refuge from the avenger][6] — which implies for ‘you’ [exclusively] but not for strangers? — Said R. Kahana: It is not difficult [to explain], as one text [verse twelve] provides for a sojourning — stranger who killed an Israelite,[7] while the other text [verse fifteen] provides for a sojourning-stranger who killed another sojourning-stranger.[8] [As against this interpretation,] some cited [in contrast] the following: ‘Therefore, stranger and heathen who killed [a person][9] are killed.’ In this quotation ‘stranger’ and ‘heathen’ are taken together as of the same category,[10] that is to say, that just as in the case of a ‘heathen’ [killing someone] it made no difference whether he killed a person of his own status or not of his own status, he was slain: so in the case of a ‘stranger’, it likewise made no difference whether he killed a person of his own status or not of his own status, he would be slain? — Said R. Hisda: It is not difficult to explain [the seeming discrepancy in the texts],[11] as one[12] provides for a case where death results from a downward movement, whereas the other[13] [provides for a case] where it results from an upward movement.[14] In the case of a downward motion, where an Israelite would go into banishment, it is enough if the ‘stranger’ too is allowed to go into banishment, whereas in the case of an upward motion, where an Israelite is acquitted, the [sojourning] ‘stranger’ dies for it.[15]

Said Raba: But does not an argument a fortiori demand a contrary conclusion? Why, if in a death by a downward motion, where an Israelite would go into banishment, it is considered enough for a ‘stranger’ also to go into banishment, would you,in the case of death by an upward motion, where an Israelite is acquitted, insist on a ‘stranger’ being killed? — But, said Raba, [the severity is explicable] where the ‘stranger’ thought he had a right to kill. Said Abaye to him: If he thought that he had a right to kill, he is himself a victim of misadventure. Answered Raba: [Indeed, he is] for I consider anyone doing wrong thinking that it is permissible as next to a deliberate offender. And they both maintain that view [consistently] as both follow their own respective principles as expressed elsewhere. For it has been stated: Supposing one thought it was a beast and it happened to be a human being; a heathen and it happened to be a sojourning-stranger, Raba says he is liable [and R. Hisda says he is acquitted. Raba says he is liable][16] for one who thought he had a right to kill is next to a deliberate offender[17] and R. Hisda says he is acquitted because one who thought he had a right to kill was [himself] a victim of a misadventure. Thereupon Raba referred R. Hisda to the [Scriptural] text, Behold, thou shalt die, because of the woman whom thou hast taken; for she is a man's wife.[18] What else does it imply but liability to human execution [for his error]? — No, liability to Heaven's displeasure, and note carefully the context, And I also withheld thee from sinning against Me.[19]

Accepting your interpretation, how then would you explain this text, How then can I do this great wickedness and sin against God?[20] Does it mean only [a sin] against God and not [an offence] against man?[21] It can only mean that his trial is left to human authority, and the same is implied in the former text, viz., that the trial is left to human authority. Abaye then referred Raba to

[Abimelech's plea], Lord, wilt Thou slay even a righteous nation?[22] — But you have there the answer to that plea [of innocence], Now therefore restore the man's wife, for he is a prophet.[23]

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(1) Injury must be compensated. Cf. Lev. XXIV, 19ff., where ‘breach for breach, eye for eye’ is taken to mean monetary compensation for injuries. If the injury is too paltry for monetary compensation, the assailant is flogged. Cf. Keth. 32b.

(2) This is merely the concluding part of R. Johanan's dictum. The question of analogy between battery and imprecation is raised (in Sanh. 85a) in this way. If a son curses his condemned father who is on his way to execution, he is technically exempt although cursing a parent is a capital offence, (v. Ex. XXI, 17), as only cursing a man who did not act according to the usages ‘of thy people’. Is he also exempt (by analogy with imprecation) if be struck his condemned father a wounding blow? V. Ex. XXI, 15. The analogy between the two might be suggested by the close juxtaposition of verses 15 and 17 (yet divided by verse 16). R. Johanan is reported to have decided against the analogy, and similarly, though the imprecation of a Cuthean is not punishable, battery is.

(3) The Jewish slayer does not go into banishment as he would for inadvertently slaying a Jew and the heathen likewise is afforded no refuge.

(4) That is, the sojourning — stranger slayer and slain are subject to the law of banishment. See, however, the discussion which follows.

(5) Num. XXXV, 15, granting equal enjoyment of the right of refuge.

(6) Num. XXXV, verse 12.

(7) And the slayer is not to go into banishment (for his protection), but is slain.

(8) As provided in the text.

(9) Jew or non-Jew.

(10) Whereas, in Num. XXXV, 15, (as above), equal enjoyment of the right of refuge is granted to the stranger and sojourner. The problem arises from the ambiguous use of the terms גר ‘stranger’ and תושב ‘sojourner’. ‘Stranger’ means (a) an idolatrous newcomer, or (b) one who, after a while, discontinues idolatry, and leads a moral and honourable life; he is sometimes called ‘a son of Noah’. After prolonged residence he may become (c) a quasi, unavowed convert: he is then a ‘sojourning-stranger, and finally, (d) the avowed and formally accepted convert, the ‘righteous stranger’ גר צדק who is an Israelite in the eyes of the law. An Israelite offender is naturally treated according to his native (Biblical) code; but if an Israelite is the victim, how is the non — Israelite offender to be legally treated, according to Biblical law or his own? There are fundamental differences, e.g., in a criminal case of incest or murder, the Israelite law demands two Jewish witnesses, at least; their forewarning to the offender; twenty-three judges, etc., which are not requisite in the non-Jewish code where one witness or even (it is surmised) the judges’ personal knowledge (without other witnesses) is enough to condemn, etc.; v. Sanh. 57 ff. Maim. Yad Melakim VIII, 10 ff. IX, 14 ff.

(11) Num. XXXV, 12, and 15, as pointed out above.

(12) Verse 15.

(13) Verse 12,

(14) Cf. beginning of this chapter.

(15) I.e., by the avenger if he so choose (without consequences to himself). V. Maim. ibid. X, 1,.

(16) So in Yalkut. Gen. 88 and D.S, a, l., cf. p. 39.

(17) Because the attack was intentional, with intent to hurt ab initio, and he should have been more careful.

(18) Gen. XX, 3, Abimelech took Sarah under the belief that she was Abraham's unmarried sister, yet he was threatened with death.

(19) Ibid. 6, i.e., only against God but not an offence punishable by human law.

(20) Gen. XXXIX, 9. Joseph repulsing Potiphar's wife.

(21) Joseph knew she was his master's wife, and that he would have to pay the penalty as seducer. Tosaf. cites another explanation (and reading) that trial is left to God because there were no witnesses to prove his guilt, otherwise it would be dealt with by human authority.

(22) Gen. XX, 4, which proves that the belief that an offence was permissible exonerates the offender.

(23) Ibid. 7.

Talmud - Mas. Makkoth 9b

‘Restore the prophet's wife’, and were she not a prophet's wife, need she not have been restored? —

But this can only be taken as R. Samuel b. Nahmani had explained it; for R. Samuel b. Nahmani, citing R. Jonathan, said that the Divine reply was as follows: Now therefore restore the man's wife in any case, and, as regards your plea, Wilt Thou slay even a righteous nation? Said he not himself to me: She is my sister, and she, even she herself said, He is my brother? . . .[1] [Abimelech was told,] ‘for he [Abraham] is a prophet’ and he conjectured, from the questions put to him, the reply he was to give. A stranger coming to a city is [generally] asked about his food and drink . . .; do they ask: Is this your wife? Is this your sister? From the above data it has been deduced that ‘a son of Noah’[2] suffers death [even for a crime committed under misapprehension], as he should have taken pains to ascertain the facts and did not.

MISHNAH. A BLIND MANSLAYER DOES NOT GO INTO BANISHMENT; THESE ARE THE WORDS OF R. JUDAH. R. MEIR SAYS HE GOES INTO BANISHMENT. AN ENEMY DOES NOT GO INTO BANISHMENT; R. JOSE[3] SAYS, AN ENEMY IS SLAIN, AS HE IS QUASI-ATTESTED.[4] R. SIMEON SAYS THERE IS AN ENEMY THAT GOES INTO BANISHMENT AND THERE IS AN ENEMY THAT GOES NOT INTO BANISHMENT, [THE CRITERION BEING THAT][5] WHEREVER IT CAN BE SUGGESTED THAT HE HAD SLAIN [HIS VICTIM] WITTINGLY, HE GOES NOT INTO BANISHMENT,[6] AND WHERE HE HAD SLAIN UNWITTINGLY, HE GOES INTO BANISHMENT.

GEMARA. [A BLIND MANSLAYER DOES NOT GO . . . R. MEIR SAYS HE GOES etc.]

Our Rabbis taught: [The words] seeing him not[7] imply the exemption of a blind manslayer[8] [from banishment]. These are the words of R. Judah; but R. Meir says that these words seeing him not do imply the inclusion of a blind manslayer.[9] On what [textual] ground does R. Judah adopt his interpretation? — The wording, as when (a man) goeth into the wood with his neighbour . . .[10] [he argues] implies [anybody], even a blind person; but then comes [elsewhere] the qualification seeing him not[11] and thereby reduces the wider application.[12] And R. Meir? — Since seeing him not [he argues] is a limiting expression, and [whoso killeth his neighbour] unawares[11] is another, the effect of limitation after limitation [logically] only amounts to amplification.[12] And R. Judah?[13] — He takes unawares to exclude intentional injury.[14]

R. JOSE SAYS, AN ENEMY IS SLAIN, AS HE IS QUASI-ATTESTED. But how? They have not duly forewarned him! — This Mishnah expresses the opinion of R. Jose b. Judah, as it is taught: R. Jose b. Judah says a Haber[15] needs no forewarning, as forewarning was only introduced as a means for differentiating between one acting in error or with presumption.[16]

R. SIMEON SAYS, THERE IS AN ENEMY THAT GOES INTO BANISHMENT AND AN ENEMY THAT GOES NOT INTO BANISHMENT. It is taught: ‘How [illustrate] R. Simeon's statement that THERE IS AN ENEMY THAT GOES INTO BANISHMENT AND AN ENEMY THAT GOES NOT INTO BANISHMENT? [In this way:] if something snapped[17] [and the severed object dropped and killed], he goes into banishment;[18] if it slipped,[19] he goes not into banishment.

But is it not also taught, ‘R. Simeon says, One never goes into banishment until the rammer-block had [all][20] slipped from his hand.’ — which conflicts with the above statements both in regard to something snapping and slipping?[21] [The seeming conflict] in regard to slipping is not difficult to explain, as version A deals with a person who was ill-disposed [towards the dead man], while version B deals with one who was well-disposed;[22] nor is it difficult to explain the seeming conflict in the case of snapping, as version A is in accordance with Rabbi's view, while version B agrees with the view of the Rabbis.[23] MISHNAH. WHITHER ARE THEY BANISHED? TO THE THREE CITIES SITUATE ON THE YONDER SIDE OF THE JORDAN AND THREE CITIES SITUATE IN THE LAND OF CANAAN, AS ORDAINED, YE SHALL GIVE THREE CITIES BEYOND THE JORDAN AND THREE CITIES IN THE LAND OF CANAAN; THEY SHALL BE CITIES

OF REFUGE.[24] NOT UNTIL THREE CITIES WERE SELECTED IN THE LAND OF ISRAEL DID THE [FIRST] THREE CITIES BEYOND THE JORDAN RECEIVE FUGITIVES, AS ORDAINED, [AND OF THESE CITIES WHICH YE SHALL GIVE] SIX CITIES FOR REFUGE SHALL THEY BE UNTO YOU[25] WHICH MEANS THAT [THEY DID] NOT [FUNCTION] UNTIL ALL SIX COULD SIMULTANEOUSLY AFFORD ASYLUM. AND DIRECT ROADS WERE MADE LEADING FROM ONE TO THE OTHER, AS ORDAINED, THOU SHALT PREPARE THEE A WAY AND DIVIDE THE BORDERS OF THY LAND INTO THREE PARTS.[26] AND TWO [ORDAINED] SCHOLAR — DISCIPLES WERE DELEGATED TO ESCORT THE MANSLAYER IN CASE ANYONE ATTEMPTED TO SLAY HIM ON THE WAY, AND THAT THEY MIGHT SPEAK TO HIM.[27] R. MEIR SAYS: HE MAY [EVEN][28] PLEAD HIS CAUSE HIMSELF, AS IT IS ORDAINED, AND THIS IS THE WORD OF THE SLAYER.[29] R. JOSE B. JUDAH SAYS: TO BEGIN WITH, A SLAYER WAS SENT IN ADVANCE TO [ONE OF] THE CITIES OF REFUGE, WHETHER HE HAD SLAIN IN ERROR OR WITH INTENT. THEN THE COURT SENT AND BROUGHT HIM THENCE. WHOEVER WAS FOUND GUILTY OF A CAPITAL CRIME THE COURT HAD EXECUTED, AND WHOEVER WAS FOUND NOT GUILTY OF A CAPITAL CRIME THEY ACQUITTED. WHOEVER WAS FOUND LIABLE TO BANISHMENT THEY RESTORED TO HIS PLACE [OF REFUGE] AS IT IS ORDAINED, AND THE CONGREGATION SHALL RESTORE HIM TO THE CITY OF REFUGE WHITHER HE WAS FLED.[30]

GEMARA. Our Rabbis taught: Moses had set apart three cities on the other side of the Jordan, and corresponding to them Joshua set apart [others] in the land of Canaan. And they were made to correspond on opposite sides like a double row [of trees] in a vineyard; Hebron in Judah,[31] corresponding to Bezer in the wilderness;[32] Shechem in mount Ephraim,[31] corresponding to Ramoth in Gilead;[32] Kedesh in mount Naphtali,[31] corresponding to Golan in Bashan.[32] And thou shalt divide the border of thy land into three parts[33] means that they shall form triads,[34] [namely], that the distance from the Darom [southern] boundary to Hebron be similar to that from Hebron to Shechem; and that from Hebron to Shechem similar to that from Shechem to Kedesh; and that from Shechem to Kedesh similar to that from Kedesh to the North [boundary].

Were[35] three cities [necessary] in Trans-Jordania [the same as] three cities for the [whole] land of Israel? — Said Abaye: By reason that manslaying was rife in Gilead,

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(1) Ibid. 5.

(2) V, p. 54, n. 3. Thinking he had a right to kill is culpable negligence, as the attack was deliberate and there being no way of testing the slayer's intention, he has to pay the penalty of a homicide: in other words, he is judged by the non-Jewish criminal code that does not admit the plea of ignorance. In Israelite law the forewarning by the two witnesses and relegation to the ‘cities of refuge’ were mitigations of the death penalty.

(3) Mishnah and other texts read ‘R. Jose b. Judah’; see discussion below.

(4) As hostile, virtually standing before the world as already forewarned against injuring the man he hates, and in case of wilful murder requires no formal forewarning (התראה). See Z. Tosef., p. 440. Cf. Sanh. 29a.

(5) The bracketed part is omitted in some texts, D.S.

(6) I.e., he is afforded no protection and has to evade the avenger as best he can.

(7) But if he thrust him suddenly without enmity . . . seeing him not . . . and the Congregation (of Judges) shall judge . . . and restore him to the city of refuge . . . Num. XXXV, 22-25.

(8) Unable to see at all, he need not go into banishment but is protected at home.

(9) Within the terms of the law of banishment.

(10) Deut. XIX, 5.

(11) Deut. XIX, 4

(12) In this instance, seeing him not suggests a person capable of seeing, but who on this unfortunate occasion did not see his victim; whereas unawares is applicable to the blind as to the seeing. Cf. Ned. 87-88. On this exegetical rule, see Malbim's introduction to Leviticus, * 237.

(13) How does he interpret the term unawares?

(14) Cf. supra, p. 39, and B.K. 86b.

(15) A scholar, v. Glos.

(16) V, p. 34, n. 4.

(17) E.g, a rope in lowering a bucket or barrel, see Mishnah 7a, and cf. Z. Tosef., Mak. II, 10, p. 440.

(18) As that could hardly have been contrived deliberately.

(19) E.g, the rope slipped from his hand, or the hatchet fell out of his hand. In these instances, as foul play is possible, he does not go into (protective) banishment, but has to evade the avenger as best he may. He cannot be treated as guilty, for lack of due warning and proof.

(20) So in Z. Tosef., II,3, p. 439, and Nahmanides.

(21) According to the first version, A, if it snapped — he goes into banishment; if it slipped — he does not. According to the second version, B, by implication, if it snapped — he goes not into banishment; if it slipped — he goes into banishment.

(22) This is the order of the text as proposed by Rashi, following an ancient reading (supported by Zerahiah Halevi and Nahmanides): If the whole thing slipped, an enemy goes not into banishment (A) as there is a suspicion of foul play; while a friend, in whose case no such suspicion can arise, goes into banishment (B).

(23) ‘If the iron slipped from the helve and killed, Rabbi says that he goes not into banishment and the Sages say he goes into banishment’. (V, p. 42): If snapped, where foul play is unlikely, according to the Rabbis (the Sages) even an enemy goes into banishment (A); whereas according to Rabbi, even a friend (by implication in B), goes not into banishment; that is, if we take the case of the iron head slipping from the helve as similar to the snapping of a rope, or as part-snapping of the rammer-block.

(24) Num. XXXV, 14.

(25) Ibid. 13; Cf. Josh. XX, 1 ff.

(26) Deut. XIX, 3.

(27) To the Avenger, appealing for the refugee.

(28) Omitted in some MSS.. v. D.S.

(29) Deut. XIX, 4.

(30) Num. XXXV, 25.

(31) Josh. XX, 7-8.

(32) Deut. IV, 43.

(33) Deut. XIX, 3.

(34) I.e., two parallel groups of three cities on either side of the Jordan, between the northern and eastern boundaries, thus: Hebron Shechem Kedesh S N Bezer Ramoth Golan

(35) This discussion here interrupts the quotation.

Talmud - Mas. Makkoth 10a

as it is written: Gilead is a city of them that work iniquity and is covered with footprints of blood.[1] What is meant by [covered with footprints] ‘akubbah[2] ? — Said R. Eleazar: It suggests that they tracked down[3] victims to slay them.

Why are some further apart at one end and closer together at the other?[4] — Said Abaye: Because manslaying was equally rife at Shechem, as it is written, and as troops of robbers wait for a man, so doth the company of priests; they murder in the way toward Shechem.[5] What is meant by ‘the company of priests?’ — Said R. Eleazar: They formed themselves into gangs to commit murder as when priests go in groups to the barns at the distribution of priestly [prime] dues.

But were there no more [than six cities of refuge]? Is it not written, and to them ye shall add forty and two cities . . . so all the cities shall be forty and eight cities?[6] — Said Abaye: The main six cities afforded asylum with or without cognizance,[7] while the additional cities only afforded asylum knowingly, but not without cognizance. And was Hebron a city of refuge? Is it not recorded, and they gave Hebron to Caleb as Moses had said?[8] — Said Abaye: It was the environs he was given, as it is written, but the fields of the city and the villages thereof gave they to Caleb the son of Jephunneh for his possession.[9] And was Kedesh a city of refuge? Is it not recorded, and the fortified cities were Ziddim, Zer, Hammath, Rakkath and Chinnereth . . . and Kedesh,[10] and is it not taught: Now these cities [of refuge] are to be made neither into small forts nor large walled cities, but medium — sized boroughs? — Said R. Joseph: There were two places called Kedesh. R. Ashi observed: Such as Seleucia [Ctesifon] and the Fort of Seleucia.[11]

[To turn to] the main text: ‘These cities [of refuge] are to be made neither into small forts nor large walled cities,[12] but medium-sized boroughs; they are to be established only in the vicinity of a water supply and where there is no water at hand it is to be brought thither; they are to be established only in marketing districts; they are to be established only in populous districts,[13] and if the population has fallen off others are to be brought into the neighbourhood, and if the residents [of any one place] have fallen off, others are brought thither, priests, Levites and Israelites.[14] There should be traffic neither in arms nor in trap- gear there:[15] these are the words of R. Nehemiah; but the Sages permit. They, however, agree that no traps may be set there nor may ropes be left dangling about in the place so that the blood avenger may have no occasion to come visiting there.’

R. Isaac asked: What is the Scriptural authority [for all these provisions]? — The verse, and that fleeing unto one of these cities he might live[16] which means — provide him with whatever he needs so that he may live.

A Tanna taught: A disciple who goes into banishment is joined in exile by his master, in accordance with the text, and that fleeing unto one of these cities he might live,[16] which means — provide him with whatever he needs to live.[17] R. Ze'ira remarked that this is the basis of the dictum, ‘Let no one teach Mishnah to a disciple that is unworthy.’[18] R. Johanan said: A master who goes into banishment is joined in exile by his College. But that cannot be correct, seeing that R. Johanan said: Whence can it be shown [Scripturally] that the study of the Torah affords asylum?[19] From the verse, [Then Moses separated three cities . . .] Bezer in the wilderness . . . Ramoth... and Golan . . ., which is followed by, and this-the law which Moses set before the children of Israel?[20] — This [discrepancy] is not difficult [to explain]. One [of his sayings] is applicable to the scholar who maintains his learning in practice, while the other saying is applicable to him who does not maintain it in practice. Or, if you will, I might say that ‘asylum’ means refuge from the Angel of Death, as told of R. Hisda who was sitting and rehearsing his studies in the school-house and the Angel of Death could not approach him, as his mouth would not cease rehearsing. He [thereupon] perched upon a cedar of the school-house and, as the cedar cracked under him, R. Hisda paused and the Angel overpowered him.[21]

R. Tanhum b. Hanilai observed: Why was Reuben given precedence to be named first in the appointment of [the cities of] deliverance?[22] Because it was he who spoke first in delivering [Joseph from death], as it is said, And Reuben heard it and he delivered him out of their hand [and said, Let us not take his life].[23]

R. Simlai gave the following exposition: What is the meaning of the text, Then Moses separated three cities beyond the Jordan, toward the sun — rising?[24] It means that the Holy One, blessed be He, said to Moses: ‘Make the sun rise[25] for [innocent] manslayers!’ Some say [he explained it so]: The Holy One, blessed be He, said to Moses [approvingly], ‘You did make the sun rise for [innocent][26] manslayers!’

R. Simlai [also] gave the following exposition: What is the meaning of the verse, He that loveth silver shall not be satisfied with silver, and who delighteth in multitude, not with increase; [this also is vanity].[27] ‘He that loveth silver shall not be satisfied with silver’, might be applied to our Master Moses, who, while knowing that the three cities beyond the Jordan would not harbour refugees so long as the [other] three in the land of Canaan had not been selected, nevertheless said: The charge having come within my reach, I shall give [partial] effect to it, now![28] [The second part,] ‘ And who delighteth in multitude, not with increase’ [means]: Who is fit to teach ‘a multitude’? — He who has all increase[29] of his own.[30] This is similar to the interpretation given by R. Eleazar [b. Pedath] of, ‘Who can utter the mighty acts of the Lord: [who can] show forth all His praise’?[31] as, Who is fit to utter the mighty acts of the Lord? He [only] who is able to show forth all His praise! But the Rabbis, or some say Rabbah b. Mari, interpreted the same, ‘who delighteth in multitude has increase’, as, Whoever delighteth in the multitude [of scholars] has increase [of scholars], and the eyes of the schoolmen turned on Rabbah the son of Raba.[32] R. Ashi said it meant that whoever loves studying amidst a multitudes of [fellow] students has increase, which is to the same effect as what R. Jose b. Hanina said: What is the import, [he asked], of the words, a sword upon [the boasters] ha-baddim and they shall become fools?[33] May a sword fall upon the neck of the foes[34] of scholar-disciples, that sit and engage in the study of the Torah, solitary [bad] and apart [b'bad]![35] Nay, furthermore, such wax foolish! Holy Writ has here, and they shall become fools[33] — and elsewhere it says, wherein we have done foolishly;[36] nay, furthermore, they also become sinners, as it is added there, and wherein we have sinned’ If you prefer, [it is derived] from this verse, The princes of Zoan have become fools.[37] Rabina explained [that former passage] thus, Whoever delighteth in teaching a multitude [of scholars] has increase, which is to the same effect as what Rabbi said: Much Torah have I learnt from my Masters, more from my fellow — students and from my disciples most of all!

R. Joshua b. Levi said: What is the meaning of the [Psalmist's] words, Our feet stood within thy gates, O Jerusalem?[38] [It is this.] What helped us to maintain our firm foothold in war? The gates of Jerusalem[39] — the place where students engaged in the study of Torah! R. Joshua b. Levi said also the following: What is the meaning of the [Psalmist's] words, A song of Ascents unto David. I was rejoiced when they said unto me: ‘Let us go unto the house of the Lord’?[40] David, addressing himself to the Holy One, blessed be He, said: Lord of the Universe! I heard men saying, ‘When will this old man die and let his son Solomon come and build us the Chosen Shrine and we shall go up there [as pilgrims]?’ and I rejoiced at that. Said the Holy One, blessed be He, to him, A day in thy courts is better than a thousand![41] Better to Me one day spent by you in study of Torah than a thousand sacrifices that your son Solomon will [some day] offer before Me, on the altar![42]

AND DIRECT ROADS WERE MADE LEADING FROM ONE TO THE OTHER. It is taught: R. Eliezer b. Jacob says

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(1) Hos. VI, 8.

(2) עקבה

(3) עקב means ‘to follow on the heel of a person,’ cf. Gen. XXV, 26 and XXVII, 36.

(4) The text is in disorder. The reading adopted is that of the Yalkut. See D.S. On the western side Hebron and Shechem lie nearer each other than the other cities on the line, and on the eastern side of the Jordan, Ramoth and Golan are closer together.

(5) Hos. VI, 9.

(6) Num. XXXV, 6-7. Cf. 1 Chron. VI, 39-66.

(7) I.e., without the refugee being aware of his safety there (v. Rashi), or, without the knowledge and assent of the city authorities (L. Ginzberg, J.E, ii, 258a, s.v. Asylum).

(8) Judg. I, 20.

(9) Josh. XXI, 12.

(10) Josh. XIX, 35-37.

(11) I.e., an open place with a fortress near by, both bearing the same name (Rashi). Kirkuk di'Sluq. Cf. Obermeyer, Die Landschaft Babylonien p. 141.

(12) The former, because they are liable to run short of necessities; the latter, because the avenger may escape notice in large crowds of strangers.

(13) To prevent a coup to carry off the slayer.

(14) Although they were Levitical cities.

(15) Tosef. III, 9, and J. Mak. II, 6, read here instead ‘set up no olive-press nor wine-press there: these are the words of R. Nehemiah, but the Sages permit.’

(16) Deut. IV, 42.

(17) I.e., also the spiritual life.

(18) As he may ultimately dishonour his master. This is cited as a dictum of Rab's in Hul. 133a and of R. Simeon b. Eleazar, Tosef. A.Z. VII, end.

(19) Refuge from evil and wrong-doing. Cf. Sot. 21a.

(20) Deut. IV, 41-45.

(21) Cf. Shab. 30b, a similar incident about King David, and B.M. 86a, about Rabbah b. Nahmani.

(22) Deut. IV, 43 and Josh. XX, 8.

(23) Gen. XXXVII, 21 ff.

(24) Deut. IV, 41. Cf. Num. XXXV, 14, where beyond the Jordan is not further described by toward the sunrising as here.

(25) Taking יבדיל as ‘let him separate,’ in an exhortative sense, make now, immediate provision for the innocent manslayers’ protection. Cf. Gen. XIX, 22-23; Ex. XXII, 2; Ps. CVII, 14; and Deut. Rab. II, 30.

(26) By way of testimony, then began he already, while still on the east of the Jordan, to separate three of them. On this use of the imperfect with אז see Driver's Hebrew Tenses, III * 27 (inceptive).

(27) Eccles. V, 9.

(28) I.e., although the selection then was (as yet) to no purpose, it was not vanity, but pious devotion to the cause that prompted him: half a duty early begun, was better than none. It would seem that R. Simlai read it interrogatively, He that loveth silver, shall he not be satisfied with (ready) silver (to be spent in a good cause)? (the same as the second half of the verse). The implication seems to be as follows: A miser gets no joy from his hoard, as a pompous fellow will soon deplete his income on his retinue: both are victims of their vanity; but not so one who has nobler desires, e.g., Moses, who was satisfied with attaining even half an achievement in giving early effect to the law of asylum, or, say, the erudite scholar who delights in distributing his great learning to large gatherings of hearers. These suffer neither pain nor loss, as their pursuit is not after vanity.

(29) I.e., stores of knowledge Scripture, Mishnah and traditional lore.

(30) I.e., interpreting it as if לא לו תבואה cf. Gen. XXXVIII, 9, and Sot. 27b and 31a. The transition from the negative לא to the positive לו is by logical process and not due to variant MSS, reading (for which there is no evidence). The reasoning process is as follows: (a) Some spenders are not happy; (b) Some spenders (you say) are not happy? (c) Some spenders (I say) are happy; (a) and (c)-in formal logic — are technically in Sub- contrary Opposition (O and I), and are compatible. See B. Bosanquet, Essentials of Logic, Lect. VIII, and Adamson's Teacher's Logic, Ch. XX.

(31) Ps. CVI, 2. The interpretation is that one should not be profuse in praising God as this might savour of adulation, bordering on blasphemy. Cf. Ber. 33b and Meg. 18a; and thus it is only he who is possessed of the best store of knowledge who may presume to expound and teach the Law of God.

(32) Whose family was distinguished by many scholars. (5) R. Ashi and Rabina (see below) were the leading heads at Matha Mehasia, the former as the Principal of the Academy and the latter as his most valuable co-adjutor, at the half — yearly so-called kallah gatherings, held for the critical discussion and redaction of the Talmud.

(33) Jer. L, 36.

(34) An intended euphemism, so as to avoid the appearance of cursing scholars.

(35) A play on the word הבדים ha-baddim, translated above by boasters (deluded dupes). The root בד, בבד also means to be alone, separate, solitary, e.g., Gen. XLIII, 32; Ex. XVIII, 14, 18, and Lam, I, 1.

(36) Num. XII, 11, wherein we have done foolishly and wherein we have sinned.

(37) Isa. XIX, 13. Cf. supra 2 and 11 ff, which show that there will be no consultation or co-operation between the wise men of Egypt, with disastrous consequences. Discussion sharpens the wits of scholars and leads to the elucidation of the true bearings of the subject under consideration. V. Ta'an. 74.

(38) Ps. CXXII, 2.

(39) I.e., he renders בשעריך ‘by (virtue of) thy gates’, not ‘within thy gates’, and by ‘gates’ again, he means the seat of the elders, the courts of law and learning. Cf. Deut. XVI, 18-20; XVII, 8-11; and Ber. 8a. King David is often represented rather as ardent scholar than as warrior. Wars were waged only to secure conditions of peace for study and devotion. (Cf. Ps. XIX, LXIII and CXIX.) In Ab. VI, 3, David is said (probably by the same R. Joshua b. Levi) to have shown great deference to a scholar in return for the least information.

(40) Ps. CXXII, 1.

(41) Ibid. LXXXIV, 11.

(42) Cf. Micah VI, 6-8.

Talmud - Mas. Makkoth 10b

that the word miklat [asylum] was inscribed at the parting of the ways so that the [fugitive] manslayer might notice and turn in that direction.

Said R. Kahana:[1] What is the Scriptural authority for that? Thou shalt prepare thee the way,[2] meaning, make you preparation for the road.

R. Hama b. Hanina opened his discourse on the theme with this text: Good and upright is the Lord, therefore doth He instruct sinners in the way.[3] Now, if He instructs sinners[4] how much more so the righteous!

R. Simeon b. Lakish opened his discourse [on this theme] with these [two] texts: And if a man lie not in wait, but God cause it to come to hand; then I will appoint thee a place whither he may flee,[5] and As saith the proverb of the ancients: Out of the wicked cometh forth wickedness; but my hand shall not be upon thee.[6] Of whom does the [former] text speak? Of two persons who had slain, one in error and another with intent, there being witnesses in neither case. The Holy One, blessed be He, appoints them both [to meet] at the same inn; he who had slain with intent sits under the step-ladder and he who had slain in error comes down the step-ladder, falls and kills him. Thus, he who had slain with intent is [duly] slain, while he who had slain in error [duly] goes into banishment.[7]

Rabbah son of R. Huna reporting Rab Huna[8] [some say,

R. Huna reporting R. Eleazar][9] said: From the Pentateuch, the Prophets and the Hagiographa it may be shown that one is allowed to follow the road he wishes to pursue.[10] From the Pentateuch, as it is written, And God said to Balaam, Thou shalt not go with them[11] and then it is written, [If the men came to call thee] rise up and go with them.[12] From the Prophets, as it is written, l am the Lord thy God who teacheth thee for thy profit, who leadeth thee by the way that thou shouldest go.[13] From the Hagiographa, as it is written, If he is of the scorners, he will [be allowed to] speak scorn and [if] of the meek, he will show forth grace.[14]

R. Huna said that if a manslayer, on his way into banishment, was met and killed by the avenger, he is acquitted, because, he holds, the clause, and he — not deserving of death,[15] refers to the blood-avenger. Thereupon an objection was raised: [It is taught]: The verse, ‘and he — not deserving of death’, is said of the manslayer.[16] You say of the manslayer; maybe it refers to the blood-avenger?[17] When, however, the text adds also, ‘inasmuch as he hated him not in time past’, you have to take it as referring to the manslayer![18] R. Huna follows another Tanna, as it is taught [in the following]: The clause ‘and he — not deserving of death’ is said of the blood-avenger. You say of the blood-avenger; maybe it refers to the manslayer? When, however, the text adds ‘inasmuch as he hated him not in time past’, the manslayer is already disposed of;[19] what then can I make of the clause ‘and he — not deserving of death’ save that it refers to the blood avenger? [Now,] we learn, AND TWO [ORDAINED] SCHOLAR-DISCIPLES WERE DELEGATED TO ESCORT THE MANSLAYER IN CASE ANYONE ATTEMPTED TO SLAY HIM ON THE WAY THAT THEY MIGHT SPEAK TO HIM. What did they say to him? Did they not warn the avenger that if he killed the manslayer he would himself be deserving of death? — No, [not that!] as it is taught, That they might speak unto him appropriate words: they would say: ‘Do not treat him after the manner of shedders of blood; it was but in error that he had a hand in it.' R. Meir says: He may even himself plead his cause, as it is said, And this is the word [plea] of the slayer.[20] They say to the avenger, Much is effected [for Providence] by agents![21] The Master said: 'It was but in error that he had a hand in it'. Is that not too obvious a plea, because, if he had committed it wilfully, would he be a refugee? — Yes, he would be, as it is taught: R. Jose b. Judah says, that to begin with, every slayer, be it in error or with intent, was first sent forward to [one of] the cities of refuge. The Court then sent and had him brought thence. Whoever was found guilty of a capital crime, they had put to death, as it is written, Then the elders of his city shall send and fetch him thence and deliver him into the hand of the avenger of blood, that he may die.[22] Whoever was found not guilty [of murder] they acquitted, as it is said, And the congregation [of judges] shall deliver the slayer out of the hands of the avenger of blood.[23] Whoever had incurred banishment, they sent him back to his place [of refuge], as it is said, And the congregation [of judges] shall restore him to the city of his refuge, whither he was fled.[23] Rabbi says [they were not sent in the first instance], they went [there] into banishment of their own accord, thinking that every slayer, whether in error or with intent, was afforded shelter, and they knew not that those cities [only] afforded shelter to those who had slain in error, but to those who had slain with intent, they afforded no shelter.

R. Eleazar said[24] that a city, the majority of whose denizens were [quondam] slayers, could not [by right] admit fugitives, because [in the ordinance] it is said, And he shall declare his words [cause] in the ears of the elders of that city,[25] that is, [declare] his cause, but not a cause like their own.

R. Eleazar also said that a city which has no [body of] elders could not [by right] admit fugitives, as the elders of that city[25] are required [by the ordinance] and these were not there.

It has been stated: The [legal status of the] city which has no elders was discussed by R. Ammi and R. Assi, the one holding It could admit fugitives, the other that it could not. The one who denied it the right of admitting fugitives argued that 'the elders of the city' were [an essential] requisite [in the ordinance][25] and these were not there; the other, who accorded it the right of admitting fugitives, argued that it was merely [a statement of] what was requisite generally. The city which has no elders was again discussed by R. Ammi and R. Assi, one holding that a person could [legally] be charged there as 'a stubborn and rebellious son', while the other held he could not be. He who denied it the [legal] capacity of receiving the charge of 'a stubborn and rebellious son' argued that the elders of his city[26] were [an essential] requisite [in the ordinance] and these were not there; while the other, who accorded it the right of receiving the charge of 'a stubborn and rebellious son', argued that it was merely [a statement of] what was requisite generally. Further, the city which has no elders was likewise, discussed by R. Ammi and R. Assi, one holding that it had to bring a murder-atoning heifer,[27] and the other holding that it had not to bring a murder-atoning heifer. He who said that it had not to bring the murder-atoning heifer, argued that the elders of that city[28] were [an essential] requisite [in the ordinance] and these were not there; while the other who maintained that it had to bring a murder-atoning heifer argued that it was merely [a statement of] what was requisite generally.

R. Hama b. Hanina remarked: Why was the section of the law of murder

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(1) Var. lec. R. Huna.

(2) Deut. XIX, 3.

(3) Ps. XXV, 8 ff.

(4) In providing for signposts to direct them in their flight to the Cities of Refuge.

(5) Ex. XXI, 13.

(6) I Sam. XXIV, 13-14.

(7) Cf. Mekilta, Ex. XXI, 13.

(8) Not his father. D.S, reads here Rabbah b. Bar Hana reporting R. Huna.
(9) Yalkut (in all three places) has simply, ‘R. Eleazar said’.
(10) In accordance with the doctrine of Free Will.
(11) Num. XXII, 12.
(12) Ibid. 20.
(13) Isa. XLVIII, 17.
(14) Prov. III, 34.
(15) Deut. XIX, 6. (He shall flee unto one of these cities and live) lest the avenger of blood pursue the manslayer while his heart is hot and overtake him, because the way is long, and smite him mortally, and he (the manslayer, was (the avenger, is) not deserving of death; inasmuch as he hated him not in time past. The Hebrew and he — not deserving of death may refer to either the manslayer in the first instance, or to the avenger, in the second; hence arise the two opposite interpretations in the following discussion.
(16) I.e., taking it as he was not deserving of death, and the avenger, killing him, committed real murder.
(17) I.e., taking it as he is not deserving of death.
(18) Which is a refutation of R. Huna.
(19) By being allowed to go into banishment.
(20) Deut. XIX, 4.
(21) Cf. Ta'an. 18b, ‘Providence has many bears and lions in the world to attack and slay us.’
(22) Deut. XIX, 12.
(23) Num. XXXV, 25.
(24) These discussions are merely theoretical, as the law on these points had been long in abeyance.
(25) Josh. XX, 4.
(26) Deut. XXI, 19, 20.
(27) Lit., ‘the heifer, whose neck was broken’ in case of an untraced murderer. Deut. XXI, 1 ff.
(28) Ibid. 3, 4, 6.

Talmud - Mas. Makkoth 11a

introduced by a strong [emphatic] term,[1] as it is written, And the Lord spake [directed] unto Joshua saying, Speak [direct] unto the children of Israel saying, Appoint for you cities of refuge, whereof I spake to you by the hand of Moses?[2] Because it was a direction to give effect to what had been ordained in the Torah. Does it mean to say that the use of the term dabber always denotes strong [emphatic] utterance? — Yes indeed, as it is written [explicitly], and he [Joseph] spake hard words to them.[3] But, is it not taught [elsewhere] that in the passage, Then they that feared the Lord spake together one with another[4] means none other than gentle discourse, and thus the verse says, He shall subdue [yadber] the peoples under us?[5] — Yes; but Dabber[6] is a form different from Yadber[7] [with consequent different shades of meaning].[8]

R. Judah and our [other] Rabbis differ [as to the reason for the introduction of the strong term]: one thinking it is because Joshua must have somewhat delayed the appointment of those [cities of refuge]; whereas the other thinks it was simply because of its importance as being an ordinance in the Torah.

And Joshua wrote these words in the book of the Law of God.[9] R. Judah and R. Nehemiah are divided on the interpretation thereof, one taking them as referring to the final eight verses of the Pentateuch,[10] while the other takes them to be the section on the cities of refuge.[11] Now, according to the one who holds that they were the final eight verses of the Pentateuch, it is quite correct to say, [and Joshua wrote these words] in the book of the Law of God.[12] But, if they are taken to refer to the section on the cities of refuge,[13] how do you explain the wording, wrote these words in the book of the Law of God? — We take them in this way: ‘And Joshua wrote’, in his own book, ‘these words’[14] [that are prescribed] ‘in the book of the Law of God’.

[The fitness of] a Sefer[-Torah] whose parchment skins are sewn together with flaxen thread was a point of issue between R. Judah and R. Meir,[15] one declaring that it is fit [for public use] while the other holds it to be unfit. The one who declares it unfit appeals to the verse, And it shall be for a sign unto thee upon thine hand and for a memorial between thine eyes that the Lord's law may be in thy mouth.[16] The whole Torah is set thus side by side with Tefillin.[17] [Accordingly we draw an analogy:] As in the case of Tefillin there is a statute [a rule in practice] received by Moses at Sinai in regard to the use of gut-string for sewing them, the same is to obtain in the sewing of Torah scrolls. And the other?[18] — He applies the analogy only to the requirement that the parchment [for Torah scrolls] has to be made of skins of animals permitted as food [for Jews];[19] but the argument from analogy is not carried so far as to extend to [subsidiary] ‘rules in practice’.[20] Rab remarked: We saw the phylacteries in the household of my Beloved [uncle R. Hiyya], and they were sewn with flaxen thread. But, the halachah[21] is not in accordance with his practice.

MISHNAH. IT IS ALL ONE WHETHER A HIGH PRIEST [WHO DIED] HAD BEEN ANOINTED WITH THE [HOLY] ANOINTINGOIL;[22] OR HAD BEEN CONSECRATED BY THE MANY VESTMENTS,[23] OR HAD RETIRED FROM HIS OFFICE[24] — ALL MAKE POSSIBLE THE RETURN OF THE MANSLAYER; R. JUDAH SAYS ALSO THE [DEATH OF THE] PRIEST WHO HAD BEEN ANOINTED FOR WAR[25] PERMITS THE RETURN OF THE MANSLAYER. THEREFORE, MOTHERS OF HIGH PRIESTS WERE WONT TO PROVIDE FOOD AND RAIMENT FOR THEM THAT THEY MIGHT NOT PRAY FOR THEIR SON'S DEATH.

GEMARA. What are the data [for the above statement]? — Said R. Kahana: They are [severally] indicated in the texts [the high priest being mentioned three times], And he shall abide in it unto the death of the high priest which was anointed with the holy oil;[26] again it is written, Because he should have remained in the city of refuge until the death of the high priest;[27] and once more, But after the death of the high priest the slayer shall return into the land of his possession.[27] And whence R. Judah's view? — It is written once again, [And ye shall take no satisfaction for him that is fled to the city of his refuge] that he should come again to dwell in the land, until the death of the priest.[28] And the other?[29] — Since the description ‘high’ is omitted therein, the last quoted passage is taken [by him] as [but a secondary reference to] one of the aforementioned.

THEREFORE MOTHERS OF HIGH PRIESTS [WERE WONT TO PROVIDE FOOD AND RAIMENT FOR THEM THAT THEY MIGHT NOT PRAY FOR THEIR SON'S DEATH]. The reason [given] is that the banished might not pray [for the high priest's death]; but what if they should pray, [think you] he would die? [Surely the saying is,] As the flitting bird as the flying swallow, so the curse that is causeless shall [not] follow![30] Said a venerable old scholar: I heard an explanation at one of the sessional lectures of Raba, that [the high priests were not without blame, as] they should have implored Divine grace for [averting the sorrows of] their generation, which they failed to do. Others read in the Mishnah thus: THAT THEY MIGHT PRAY FOR THEIR SONS THAT THEY DIE NOT. The reason [given then] is that the banished should pray [for the high priest]; but, what if they did not pray [for him; think you] he would die? What should he have done [to avert it]? — As they say here [in Babylon]: ‘Toby did the [bad] jobbing and Ziggad[31] got the [hard] slogging,’ or as they say there [in Palestine]: ‘Shechem got him a wife[32] and Mabgai[33] caught the knife.’ Said a venerable old scholar: I heard an explanation at one of the sessional lectures of Raba that [the high priests were not without blame, as] they should have implored Divine grace for [averting the sorrows of] their generation, which they failed to do. Just as in the case of that poor fellow who was devoured by a lion some three parasangs from the town where R. Joshua b. Levi lived, when [the prophet] Elijah would not commune with the Rabbi,[34] on that account, for three days! Rab Judah reported Rab to have said that the curse of a Sage, though uttered without cause, takes effect. Whence is this obtained? From [the fate of] Ahithophel; because, when David was digging out the [Temple's] foundations, the Deep came surging up threatening to flood the world.[35]

He [David] asked, ‘What [is the law][36] about writing the Divine Name on a shard and throwing it into the Deep to [make it] keep to its own region?’ As no one made reply, he said, ‘Whoever knoweth aught on this topic and would not tell, may he be suffocated!’[37] Thereupon, Ahithophel reasoned thus in his own mind: If in the cause of restoring harmony between husband and wife[38] the Torah said: ‘Let My Name,[39] solemnly inscribed [in a scroll, rather] be blotted out in water’,[40] may that not the more readily be done for the [safety of] the whole world? ‘Yes, It is allowed!’ [exclaimed Ahithophel]. The Divine Name was thereupon inscribed on a shard and thrown in the Deep; It subsided and abode in its own region. Nevertheless it is recorded, And when Ahithophel saw that his counsel was not followed, he saddled his ass and arose and gat him home to his house, to his city and put his household in order, and hanged himself and died.[41]

R. Abbahu said that the curse of a Sage, though uttered without cause, takes effect — Whence is this derived? From the fate of Eli; because, Eli said to Samuel, God do so to thee, and more also, if thou hide anything from me of all the things He said to thee.[42] Now, although it is recorded, And Samuel told him every whit and hid nothing from him,[43] nevertheless it is recorded, And his [Samuel's] sons walked not in his ways.[44]

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(1) Dabber, דבר direct, drive forward (cf. ‘drive home’), see Dictionaries.

(2) Josh. XX, 1-2. Cf, however, XVII, 15, 17, and XVIII, 3.

(3) Gen. XLII, 7. Cf. Sifra on Lev. X, 19, where Num. XXI, 5 is quoted in support.

(4) nidberu נדברו — Mal. III, 16.

(5) Ps. XLVII, 4. Yadber ידבר — in the Hif'il (causative) form, is taken in its Aramaic sense to mean, Let Him lead, that is, induce peoples to come and submit.

(6) דבר — is in the Pi'el, emphatic, assertive form.

(7) In the Hif'il.

(8) And similarly from the Nif'al, נדברו, the passive or reflexive form, ‘spake together one with another.’

(9) Josh. XXIV, 26.

(10) Deut. XXXIV. 5-12.

(11) Josh. XX, 1-9.

(12) Josh. XXIV, 26.

(13) Ibid. XX, 1-9.

(14) Concerning the cities of refuge.

(15) R. Meir was reputed to be a remarkably skillful scribe.

(16) Ex. XIII, 9.

(17) Phylacteries, v. Glos.

(18) Who declares a scroll of the Law whose parchment skins are sewn with flaxen thread to be fit — how will he employ the analogy?

(19) I.e., that the word of God may be written only on parchment skins of animals that may be eaten, i.e, animals that have cloven hoofs and chew the cud. The words ‘in thy mouth’ occurring in the ordinance Tefillin are interpreted: What can be put in thy mouth, thus excluding skins of animals forbidden as food, and this restriction in the preparation of parchments is carried over by analogy from Tefillin to Torah scrolls.

(20) Such as sewing. Biblical texts alone are admitted for analogical comparisons, but not Rabbinical or traditional practices. Each case is considered on its own merits.

(21) V.Glos.

(22) With which Aaron and every high-priest were anointed (cf. Ex. XXX, 23ff) down to the time of Josiah. (Rashi quoting Hor. 11b.)

(23) After the cessation of the anointing oil which, according to tradition, was hidden by King Josiah (v. Yoma 52b), what distinguished the high priest from the ordinary priest was the number of vestments, the high priest having eight, the ordinary priests having only four.

(24) Lit., ‘from his anointment’ — his office of anointed priest.

(25) Cf. Num. XXXI, 6; Deut. XX, 2 ff; I Sam. IV, 4 ff.

(26) Num. XXXV, 25.

(27) Ibid. 28.
(28) Ibid. 32.
(29) Why does the former Tanna not use the latter verse likewise?
(30) Prov. XXVI, 2, where both readings, the positive לו and the negative לא are admitted as alternatives, meaning that (a) a causeless curse will not follow (the innocent), or (b) that it will follow (the person who curses without cause).
(31) Toby and Ziggad or Zingad (i.e, a Numidian slave of Zinga, Numidia, N. Africa), are popular names of slaves. (Cf, our Tommy Atkins and Jack Tar for ‘soldier’ and ‘sailor’.). There is also probably a play here on the name Zingad in the Aramaic, Zingad (— who is hoisted) minnegad (— gets a flogging).
(32) Referring to Dinah's abduction by Shechem and subsequent circumcision of all the Shechemites. Gen. XXXIV.
(33) Another popular name for Shechemite, cf. ‘Er. 64b, Josephus, Wars, IV, 8,1, mentions that Neapolis (or Sichem) was called by the people of that country Mabartha, maybe a corruption of Mabg(a)itha.
(34) Because he failed to shield a fellow man from sin, the cause of sorrow and misfortune. There are many anecdotes of Elijah's appearance as friend, guide, monitor or rescuer. See J. E. V, 122 ff. and M. Friedmann's exhaustive study in his introduction to the Seder Elijahu Rabbah (Wien, 1904). Chap. IV, p. 27 ff.
(35) Cf. Gen. VII, 11; VIII, 2; Ps. XXIV, 1-2, and CIV, 6-9, and Suk. 53a.
(36) V, l., Is there someone who knows whether it is permitted to write . . . On the incident cf. J. Sanh. X, 29a, and Friedm. op. cit., p. 157.
(37) By way of retribution, for not speaking out when flooding waters threatened the world.
(38) I.e, in the case of a wife suspected of faithlessness; cf. Num. V, 12-36.
(39) The Torah is here identified with the Lord, whose word it reveals.
(40) Num. V, 23. which is otherwise forbidden, v. Deut. XII, 3-4.
(41) This was in connection with Absalom's rebellion. II Sam. XVII, 23.
(42) I Sam. III, 17.
(43) Ibid. 18. .
(44) I Sam. VIII, 3. Thus was fulfilled the threatened curse of Eli when he uttered the words, God do so to thee, i.e., to Samuel if he would not reveal God's word in regard to Eli's wicked sons.

Talmud - Mas. Makkoth 11b

Rab Judah reported Rab to have said that a conditional exclusion [even if self-imposed][1] requires [formal] absolution. Whence is this derived? — From [the fate of] Judah, for it is written, And Judah said to Israel his father. ‘Send the lad [Benjamin] with me . . . if I bring him not unto thee . . then let me bear the blame[2] for ever.’[3] And [on this theme]. R. Samuel b. Nahmani repeated how [his Master] R. Jonathan said: What are [the allusions in] the text, Let Reuben live and not die; and let not his men be few. And this [is] unto Judah, and he [Moses] said, Lord, hear the voice of Judah and bring him unto his people; let his hands be sufficient for him and be Thou an help to him from his enemies?[4] All through the forty years that israel remained in the wilderness, Judah's bones were jolted about in their coffin until [in the end] Moses stood up and supplicated for mercy on his behalf: Lord of the Universe! [said he.] Who influenced Reuben to make free confession [of his guilt]?[5] Was it not Judah?[6] ‘and this [was due] to Judah! And he [Moses] said, Lord, hear the voice [appeal] of Judah.’ Thereupon, joint slipped Into socket. Judah, not having yet been ushered in to the Celestial College.[7] [Moses again prayed] — ‘and bring him unto his people’! Judah, being unable to parry in debate [through prolonged absence, Moses prayed] — ‘let his hands [capacity] be sufficient for him’; being unable to disentangle [analyse or explain] intricate points raised in discussion, Moses prayed — ‘and be Thou an help unto him from his adversaries’.

[ALL PERMIT OF THE RETURN OF THE MANSLAYER.] The question was raised: Does the text mean that a manslayer returns home at the death of all the [contemporary] high priests. or at the death of any one of them?[8] — Come and hear: If his trial was concluded while there was no high priest [in office] . . . the manslayer can never come home thence.[9] Now if it were as you suggest [alternatively], he would get home at the death of any one of the high priests![10] — [No! The next Mishnah means when] there is none [in office at the time].

MISHNAH. IF THE HIGH PRIEST DIED AT THE CONCLUSION OF THE TRIAL, THE SLAYER GOES NOT INTO BANISHMENT. IF HE DIED BEFORE THE TRIAL WAS CONCLUDED AND ANOTHER HIGH PRIEST WAS APPOINTED IN HIS STEAD AND THE TRIAL WAS THEN CONCLUDED, THE SLAYER RETURNS [HOME] AFTER THE LATTER'S DEATH. IF THE TRIAL WAS CONCLUDED WHEN THERE WAS NO HIGH PRIEST [IN OFFICE], OR WHERE THE HIGH PRIEST WAS THE VICTIM, OR WHERE THE HIGH PRIEST WAS THE MANSLAYER, THE SLAYER CAN NEVER COME AWAY FROM THAT PLACE [OF REFUGE].

HE [THE SLAYER] MAY NOT GO OUT THENCE TO BEAR WITNESS IN RESPECT OF SOME RELIGIOUS OBSERVANCE;[11] NOR AS WITNESS IN A MONETARY SUIT; NOR AS WITNESS IN A CAPITAL CHARGE; NOR EVEN SHOULD [ALL] ISRAEL HAVE NEED OF HIM, NOT EVEN IF HE BE ‘CAPTAIN OF THE HOST LIKE JOAB B. ZERUIAH.[12] HE MAY NEVER GO OUT THENCE, AS IT IS SAID, ‘HE FLED THERE’[13] [TO INDICATE THAT] ‘THERE’ MUST BE HIS ABODE, ‘THERE’ HIS DEATH, ‘THERE’ HIS BURIAL. JUST AS THE CITY AFFORDS ASYLUM SO DOES ITS BOUNDARY AFFORD ASYLUM. IF A SLAYER WENT BEYOND THE BOUNDS AND THE BLOOD — AVENGER FELL IN WITH HIM, R. JOSE THE GALILEAN SAYS THAT FOR THE AVENGER IT IS A MATTER OF OBLIGATION [TO STRIKE]; FOR EVERYONE ELSE, A MATTER OF OPTION. R. AKIBA SAYS THAT FOR THE AVENGER IT IS A MATTER OF OPTION AND ANYONE [ELSE] IS [NOT][14] RESPONSIBLE FOR HIM.

GEMARA. [IF THE HIGH PRIEST DIED AT THE CONCLUSION OF THE TRIAL, THE SLAYER GOES NOT INTO BANISHMENT.] What is the reason for this [remission]? — Said Abaye: We infer it a fortiori. For what happens to a slayer who had already gone into banishment? He comes out [free] now [on the death of the high priest]. Is it not a [logical] argument to say that he who had not gone into banishment should not have to go at all[15] on the intervention of the death of the high priest? But perhaps [there is this to be said, that] while he who had gone into banishment had [suffered for] his atonement, this one who has not [yet] gone into banishment has not [yet] been granted it? [No,] do you think it is banishment that procures atonement [remission of exile]? It is the death of the [high] priest that procures the atonement.[16] IF HE DIED BEFORE THE TRIAL WAS CONCLUDED . . . THE SLAYER RETURNS [HOME] AFTER THE LATTER'S DEATH. Whence is this derived? — R. Kahana said: The text[17] says, and he shall abide in it [the city of refuge] unto the death of the high priest whom he[18] hath anointed with the holy oil. Was it he [the slayer] that anointed the high priest? But the implication is, that high priest who was anointed in his [the slayer's] days.[19] What should the high — priest [the latter] have done [to avert the unhappy event]?[20] He should have implored Divine mercy for the slayer's acquittal, which he [seemingly] failed to do.

Abaye observed: We have it [on good authority][21] that if the slayer died on the conclusion of the trial, his bones [body] would be conveyed thither, as it is written, that he should come back to dwell in the land[22] [until the death of the priest].[23] Now, what dwelling is it that is in the land [in the soil]? You are bound to say, the burial place. A Tanna taught: If the slayer died [in banishment] before the high priest, they convey [on the death of the latter] the bones [body] of the slayer to the sepulchre of his forebears, as it is written, [And after the death of the high priest] the slayer shall return to the land of his possession;[24] now, what return[25] is it that is to the ‘land of his possession’? — You are bound to say, it is burial [in the ancestral soil].

exile could not depend on the amount of suffering involved (in exile), as one may have to spend a day, and another a whole lifetime in exile. Cf, also Tosaf. s.v. מידי Where the trial had been concluded and the [high] priest was then found [to be] the son of a divorcee or haluzah,[26] this case was discussed by R. Ammi and R. Isaac Nappaha; one said that [in effect] the priestly Office dies,[27] and the other said that the priestly Office has become void.[28]

Could it be suggested that they were differing on the same point as that on which R. Eliezer and R. Joshua differed? For we learnt: If while engaged in offering on the altar, a priest is discovered to be the son of a divorcee or haluzah, R. Eliezer says that all offerings [hitherto] laid by him on the altar are become vitiated; R. Joshua declares them appropriate.[29] [Accordingly,] he who [in the former instance] held that the discovery meant [in effect] the death [of the priestly Office][30] takes the view of R. Joshua; and the other who said that it has become void,[31] takes the view of R. Eliezer!

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(1) So in many texts, see marginal notes and D.S, a.I. Exclusion = Nidduy נידוי a form of excommunication usually extended for thirty days.

(2) I.e., to be a sinner, under a ban.

(3) Gen. XLIII, 8-9.

(4) Deut. XXXIII, 6-7.

(5) Gen. XXXV, 22; XLIX, 4.

(6) Ibid. XXXVIII, 26.

(7) Cf. Ber. 18b, where it is told how R. Levi had been excluded from the Celestial College for as many years as he had absented himself from the College Sessions of R. Efes (of Sepphoris).

(8) I.e., ‘anointed’, or ‘many-robed’ (i.e., unanointed acting high priest), or retired, or the one consecrated for war.

(9) V, next Mishnah.

(10) Therefore it seems he can return only at the death of all the (contemporary) high priests.

(11) Such as to report to the Sanhedrin at Jerusalem the first appearance of the new moon, cf. R.H. II, 5-6; Tosef., Mak, a.l. (a Nazirite cannot go to the Temple, cf. Num. VI).

(12) Cf. I Kings II, 5 and 28ff.

(13) Num. XXXV, 25. In the Sifre, Midr. Tannaim (Hoffmann), Lek. Tob, and Yalkut, this lesson is appended to Deut. XIX, 4 — Flee there and live, ‘what is the lesson from the recurring there, there, there, three times? — (To indicate that) there must be his abode,’ etc. (cf. Tosef.). The phrase flee there occurs only twice in Deut. XIX, in verses 3 and 4, while in Num. XXXV, it occurs four times, namely, in verses 11, 15, 25, 26. On closer examination it will be found that only three of those passages, where the phrase flee there occurs, enlarge on the safety, rights or comforts of the refugee, namely, Num. XXXV, 15 (safety for all classes), verse 25 (to be escorted after trial and his right of residence there, unmolested, till the death of the High Priest, when he may return home), and Deut. XIX, 4 (that he flee there and live) which has been explained above as directing that he be provided with all amenities of life.

(14) See D.S. The negative is the authentic reading. Both forms, the negative and positive, mean practically the same thing, namely, that besides the avenger, it is nobody's affair to avenge the death of the slain; or (taken positively), everybody else, besides the avenger, will be held responsible for killing the slayer, i.e., it will be considered as murder, if deliberate, and as a case for banishment for the slayer, if by accident. See discussion on this text later. On R. Akiba's opposition to capital punishment, cf. supra 7a.

(15) V. Tosaf s.v.אמר אביי

(16) I.e., on Scriptural grounds, Num. XXXV, 25, 28. ‘R. Meir says: A manslayer shortens a man's life while the high priest prolongs a man's life; is it not logical (to say) that he who shortens a man's life should remain in the presence of him (the priest) who prolongs a man's life? Rabbi says: A slayer defiles the earth (cf. Num. XXXV, 33-34) and causes the Divine Presence to withdraw, while the high priest causes the Divine Presence to abide with man on earth; is it not logical (to say) that he who defiles the earth should remain in the presence of him who causes the Divine Presence to abide with man on earth?’ (Sifre and Yalkut on Num. XXXV, 28). Atonement, by

(17) Num. XXXV, 25.

(18) The impersonal use of the verb, משח one has anointed, a use often preferred to the passive (who has been anointed).

(19) I.e., that he, in the status of manslayer, and the high priest, were contemporaneously together. If, therefore, the high priest died before the conclusion of the trial, that is, before the sentence of banishment was passed on the manslayer, his death has no connection with the subsequent decision of the Court.

(20) V. pp. 72-73.

(21) V. Rashi, ‘Er. 5a (bottom). Abaye uses this expression (נקטינן we hold) frequently, usually quoting some text in support of his words. (R. Ez. Michelson in the notes of R. Herschel of Berlin on Makkoth, 11b.)

(22) That the slayer should not be permitted, on the payment of a ransom, to return home before the death of the high priest, to live or be buried at home. The word ba-arez בארץ in the land, is taken to mean to be buried in the soil.

(23) Num. XXXV, 32.

(24) Ibid. 28.

(25) Reading here שיבה (not as before ישיבה — dwelling). Here, too, the word land is stressed. Cf. Lev. XXV, 41 and infra, the discussion, 13a.

(26) V. Glos.

(27) Now, at the discovery of the disqualification, and with the termination of his office refugees are liberated from their banishment.

(28) Retrospectively, ab initio; and the case is treated as if THE TRIAL WAS CONCLUDED WITH NO HIGH PRIEST IN OFFICE, and there is no release.

(29) Ter. VIII, 1.

(30) Now, and with its termination refugees are liberated from their banishment.

(31) The whole past is undone with disastrous effect on the worshippers and here likewise on the refugees.

Talmud - Mas. Makkoth 12a

— [No;] accepting R. Eliezer's point of view, there can be no divergence;[1] whereas from R. Joshua's point of view, it may be argued that he who says that the priestly Office died, follows R. Joshua's view; and the other, who says that the priestly Office has become void might explain that R. Joshua considered all the [past] offerings as appropriate [for some special reason] because it is written, Bless, Lord, helo [his substance][2] and accept the work of his hands,[3] which [if read as hillo][4] means to include [the work of] even the profane [vulgarized] in his midst; whereas here [in regard to the liberation of refugees] even R. Joshua might admit [that the priestly office is rendered void]. IF HIS TRIAL WAS CONCLUDED . . . [HE MAY NOT GO OUT THENCE... NOT EVEN IF HE BE CAPTAIN OF THE HOST LIKE JOAB B. ZERUIAH . . .] Rab Judah reporting Rab said: At that hour Joab fell into two errors, as it is written, And Joab fled unto the Tent of the Lord and caught hold of the horns of the altar.[5] He erred [once], as only the roof of the altar[6] affords asylum and he caught hold on its horns; he erred [again], as only the altar of the permanent Temple[7] afforded asylum and he caught hold on the altar at Shiloh.[8] Abaye observed that he also erred in this respect, that the altar affords asylum only to a priest while engaged in actual service,[6] whereas Joab was a lay person.

Resh Lakish said that the Prince [Guardian Angel] of Edom [Rome] is destined to fall into three errors, as it is written, Who is this that cometh from Edom with dyed garments from Bozrah?[9] He will err [first], as only Bezer affords asylum, but he will betake himself to Bozrah [Bostra];[10] he will err [again], as asylum is afforded only to slayers in error, but he slays with intent; and he will err [yet again], as asylum is afforded only to man, but he is an angel!

R. Abbahu said that the ‘cities of refuge’[11] were not assigned for burial, as it is written, [And the cities shall they have to dwell in] and the suburbs of them shall be for their cattle and for their goods and for all their living,[12] meaning, assigned [only] for ‘living’ but not for burial.[13] An objection was raised: THERE MUST BE HIS ABODE, THERE HIS DEATH, THERE HIS BURIAL. — The case of the slayer is different, because the Divine Law has [distinctly] indicated his [special] treatment.

JUST AS THE CITY AFFORDS ASYLUM SO DOES ITS BOUNDARY AFFORD ASYLUM. Against this some cited the following: [It is written,] And he shall abide in it,[14] that means, In the city [of refuge] but not in its [outer] bounds?[15] — Said Abaye: This is no difficulty; here [in our Mishnah], the point under consideration is [its domain] as an asylum, whereas there, [in the cited passage] it is [its limitation] as a domicile. But is not that [last] point to be derived from the fact that a ‘Field is not turned into suburb, nor suburb into field; nor suburb into city, nor city into suburb’?[16]

— Said R. Shesheth: [Yes,] but we still need that other statement if only to debar subterranean retreats.[17]

IF A SLAYER WENT BEYOND THE BOUNDS AND THE BLOOD-AVENGER FELL IN WITH HIM etc. Our Rabbis taught: And the avenger of blood shall slay the manslayer, [there shall be no blood guiltiness for him];[18] this means that it is an obligation for the blood-avenger [to slay the vagrant murderer]; if there be no blood-avenger, it is permissible for anyone[19] [to do so]: these are the words of R. Jose the Galilean. R. Akiba says [it means] that it is permissible for the blood-avenger, and everyone [else] is [not] responsible for him.[20] What is the reason [for the view] of R. Jose the Galilean? — Is it written, if he shall slay him?[21] And what is R. Akiba's reason? — Does it say, he shall slay him [yirzah]?[22]

Mar Zutra b. Tobiah citing Rab said: If a slayer [who) had gone beyond the bounds [of the city of refuge] was met and slain by the avenger of the blood, the latter is slain on that account.[23] Whose view does Rab follow? It is in accord with neither R. Jose the Galilean nor with R. Akiba![24] — It is in accord with the view of the following Tanna, as is taught: R. Eliezer says: [that the manslayer die not] until he stand before the Congregation [of judges] for judgment.[25] What does this teach? Since it is said, and the avenger of blood shall slay the manslayer,[26] one might presume that he [the avenger] may do so forthwith, therefore does the earlier text provide that the manslayer die not until he stand before the Congregation [of judges][27] for judgment.[25] And what deductions do R. Jose and R. Akiba obtain from, until he stand before the Congregation? — They require that text for [another ruling], as it is taught: R. Akiba says: Whence may it be shown that, if a Sanhedrin had been eye-witnesses to an act of murder, they cannot themselves have him put to death until he stand for trial before another tribunal? From the instructive text, the manslayer die not until he stand before, the Congregation [of judges] for judgment, [which means, not] until he stood [for trial] before another tribunal.[28]

Our Rabbis taught: But if the slayer do [verily] come out[29] beyond the border of his city of refuge . . . there shall be no blood guiltiness;[30] from this I learn, only a case of deliberate egress; whence do I derive that the same law applies for an unintentional strayer? From the instructive double-verb, which implies a coming-out anyway.[31] But then, is it not taught [elsewhere], If [the slayer comes out beyond the bounds] deliberately, he[32] is slain; if in error, he[33] goes into banishment? — This is no difficulty. One [Baraitha][34] is in accordance with the view that the Torah uses [occasionally] popular idiom;[35] while the other [Baraitha][36] follows the view that the Torah does not use popular idiom.[37] Abaye remarked: It seems logical to take the view that the Torah does [occasionally] use popular idiom, as you could not treat his later act [of accidental straying] more severely than his first act [of accidental killing], arguing: What is the law in his first act? If [the killing was] deliberate, he is slain; if in error [accidental], he goes into banishment. Similarly in his later act [of vagrancy], if the vagrancy was deliberate, he is slain [by the avenger with impunity]; if in error [accidentally], his slayer goes into banishment.

It is taught in one [Baraitha]: ‘If a father killed [a son], his [other] son becomes the avenger of blood.’ Again it is taught in another [Baraitha], ‘One's [own] son cannot become the avenger of blood.’ Now, could it be suggested that the first reflects the view of R. Jose the Galilean,[38] while the second reflects that of R. Akiba?[39] Can this be maintained? For whichever view you take of the avenger's role, whether that of the one who regards it as obligatory, or of him who says it is optional, is it admissible? Did not Rabbah son of R. Huna say, and the same is taught by one of the School of R. Ishmael: Never is a son [to be] commissioned [by the Court] to punish his father, whether it be to inflict a flogging or pronounce a [formal] execration on him, save only in the case of one who entices [another] to idol worship, because there the Torah says neither shall thine eye pity him, neither shalt thou spare, neither shalt thou conceal him . . . [but thou shalt surely kill him,] thine hand shall be first upon him![40] But this [seeming] incongruity is not difficult [to explain]. One [Baraitha][41] treats of a son [against a father], the other[42] of a grandson against his grandfather.

MISHNAH. IF A TREE STANDING WITHIN THE BOUNDARY HAS ITS BOUGHS EXTENDING BEYOND [THE BOUNDARY][43] OR STANDING WITHOUT THE BOUNDARY HAS ITS BOUGHS EXTENDING WITHIN, IT WHOLLY FOLLOWS[44] [THE POSITION OF] THE BOUGHS.[45]

GEMARA. A point [of difficulty] was raised [from the following]:[46] If a tree standing within [the wall of Jerusalem] overhangs outside or standing without overhangs inside — the part which bends over the wall from the wall inwards is considered as within [the wall], and that part which bends over the wall from the wall outwards is considered as without [the wall]?[47]

You cannot raise a point from [the law of second] tithes as against the [law of the] cities of refuge! [There is no comparison]. Tithes are associated by the Divine Law with the wall [of the Holy City][48] whereas the cities of refuge are governed [in the Divine law] by [the principle of] domicile.[49] Now, it is the boughs that afford shelter of domicile, not the root of a tree.

Then the [same] point might be raised from another Baraitha[50] regarding [the law of] tithes, where it is taught: In regard to Jerusalem,[51] follow the bough: In regard to the cities of refuge, follow the bough![52] — Said R. Kahana: There is no difficulty; one [this latter] citation presents the view of R. Judah, while the other [the former], adopts the view of the Rabbis, as is taught:

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(1) I.e., his clear, emphatic disqualification leaves no room for any other suggestion.

(2) חילו the traditional reading, meaning his substance or power.

(3) Deut. XXXIII, 11, Moses, blessing the Levite tribe for their loyalty at the time of the sin of the golden calf invokes the blessing of God upon the work of their hands, i.e., his service at the altar, v. Ex. XXXII, 26ff.

(4) חילו (as the traditional text is unpointed) = חלו from the root חלל meaning profane, ordinary, vulgar, common, v, p. 1, nn. 2-3. In Kid. 66b, the explanation given here is ascribed to Abba, Samuel's father.

(5) I Kings II, 28.

(6) Thou shalt take him (the wilful murderer) from mine altar to die (Ex. XXI, 14) Is explained as, 'take him away from next to (מעם) mine altar, but not from upon (מעל) mine altar (where priests stood while placing the offerings).' V. Yoma 85a.

(7) This too is derived from the same text 'from next to mine altar to die,' i.e., from such an altar as has a constituted Sanhedrin sitting with the power to impose capital punishment by due trial, that is to say, a National Altar, not a local one, as prescribed in Deut. XVII, 8-11. Cf. Nahmanides on Num. XXXV, 29. Shiloh was rejected and abandoned at the death of Eli and his sons (cf. I Sam. II, 30-35; Ps. LXXVIII, 60-61); Nob was destroyed by Saul, and the altar at Gibeon was only temporary and local. I Chron. XV, 1, and XVI, 1. V. Zeb, 118b.

(8) D.S, has 'at a bamah (High place),' v. Rashi and marginal note. Shiloh, however, is the reading supported by the observations of R. Johanan, J. Mak. II, 6, and stands for all temporary sanctuaries.

(9) Isa. LXIII, 1, taken as referring to the time when Edom's (Rome's) cruelty and the murder of many innocent people will be punished.

(10) Suggested to Resh-Lakish by his own mistake on this point in which R. Johanan put him right. V.A.Z. 58b.

(11) Assigned to the Levites, Num. XXXV, 3.

(12) Ibid. חיתם translated 'living beasts', may also mean 'living persons'.

(13) That is, the dead had to be buried outside the bounds of the city.

(14) Num. XXV, 25.

(15) V. Z. Tosef, Mak. III, 6, p. 441.

(16) Cf. 'Ar. 33b. The migrash (suburb) was an open common of 1000 cubits on each side of the city and another 1000 cubits beyond that, available for cultivation, and constituted the bounds of the cities of refuge. V. Num. XXXV, 4-5.

(17) Which do not encroach upon the actual bounds of the cities.

(18) Num. XXXV, 27. R. Jose — it should be noted — takes the last part of the verse as the consequence (apodosis) of the condition set out in verses 26-27, i.e., If the manslayer ventures abroad beyond the bounds of his place of refuge and is caught outside by the avenger, the avenger is to do his duty and kill him. R. Akiba carries the conditional part a little further, namely, If the manslayer ventures abroad . . . and is found outside, and if the avenger (perchance) killed, then no guilt shall attach to the avenger, as the manslayer had run the risk to his own cost.

(19) This is seemingly derived from the wording in vv. 19-21, where it is first ruled, the avenger of blood shall slay the murderer; when he meeteth him, he shall slay him (19), and then again, the avenger of blood shall slay the murderer when he meeteth him (21), that is, anyone. Cf. Sifre on those texts.

(20) V. note on the Mishnah above.

(21) I.e., the word if-אם- should have been repeated before the latter clause of verse 27, to make clear that it is part of the condition stated in vv. 26-27.

(22) He shall slay, or let him slay, ירצח instead of ורצח= and '(shall) have slain', This argument (on the syntactical forms of the conditional sentence, if one do so-and-so, then such-and-such is to happen) finds ample illustration in this section, verses 16, 17, 18, 20-21, (yumath) — he shall die. R. Jose's way of reading finds illustration in vv. 22, 23, followed by another form (Perfect) in the apodosis 24, 25. Cf. Lev. XXV, 51 and 52, where the two forms appear side by side, and I Kings I, 52, where both forms are given side by side in the same verse.

(23) Cf. Deut. XIX, 6, Lest the avenger of the blood pursue the slayer while his heart is hot.

(24) Note that this indirectly supports the negative reading in the last part of the Mishnah, taken however to mean that it is not permissible for a stranger to kill the murderer, and yet he is not guilty of murder if he did.

(25) Num. XXXV, 12.

(26) Ibid. 27.

(27) Consequently should the blood avenger kill him before he appeared before the court, he himself is slain, and similarly if he slays him on coming out beyond the border of the city of refuge.

(28) The reason being that it is as much the duty of judges to save as to condemn (Num. XXXV, 24-25), and, judges having witnessed the act themselves, their minds are already made up before the trial commences; therefore, there is really no trial. V. R.H. 26a (top).

(29) Lit. 'if he cometh out a-coming'.

(30) Num. XXXV, 26-27.

(31) Intentionally (defiantly), or unintentionally.

(32) With impunity.

(33) The avenger or anyone else. V. Maim. Yad, Rozeah, v. 11.

(34) The latter.

(35) That is, the ordinary style without stressing the use of the double verb (v, n. 7 and 9 above): here it means simply, he came out and deliberately exposed himself to danger.

(36) The former.

(37) I.e., each word or particle has its precise significance, and the use of a double verb here is deliberate and indicates two kinds of coming out, intentionally and unintentionally. Cf. B.M. 31a ff; and Malbim, Introduction to Leviticus, No. 38.

(38) That it is the stern duty of the avenger to avenge the blood.

(39) That it is merely optional.

(40) Deut. XIII, 9-10.

(41) The second.

(42) The first Baraitha.

(43) I.e., beyond the 2000 cubits about the cities of refuge on each side. Cf. Num. XXXV, 4-5.

(44) As a sheltering zone.

(45) That is, the root follows the branch, thus: If the refugee sat at the root within the bounds and the bough extends beyond the bounds, he is considered as outside the bounds. Again, if he sits at the root outside the bounds and the bough extends within, he is considered as within the bounds and is protected.

(46) Ma'as. Sh, III, 7. The subject here is not the law of asylum, but that of the 'second tithe'. After the first dues to the priest and the Levite (cf. Num. XVIII, 24ff.) had been given (of 'corn, wine and oil' and other fruits), a further second — tithe was set apart by the owner for himself to be taken to Jerusalem and enjoyed there, or it might be 'redeemed', that is, commuted into money which was to be spent there on victuals. (Deut. XIV, 22-26.) Fruits of the second tithe may not be eaten outside Jerusalem without first being redeemed; and when once in Jerusalem they could not be redeemed and taken out again but had to be eaten there as holy food. Cf. infra 19b.

(47) But not the root itself; whereas in our Mishnah it is ruled that the root follows the branch. Cf. p. 84, n. 8.

(48) Deut. XII, 17 and XIV, 26, and thou shalt eat there before (in the presence of) the Lord thy God, i.e, within the walls of the Holy City.

(49) And he shall dwell therein . . .Num. XXXV, 25, 28.

(50) תניא is more authentic than תנן as can be seen from the several references in Rashi, Tosaf., Nahmanides (and others) and probably alludes to Tosef. ‘Ar. V, 7, rather than to Ma'as., III, 10.

(51) The order is reversed in the Mishnah; but the Tosefta has all three mentioned together; Jerusalem, the cities of refuge and the second-tithe as following the same rule. In all cases the tree and its branches follow the root from which they spring and draw their nourishment. In the three specific instances mentioned here also the branch is a deciding factor.

(52) In reference to eating under it or redeeming fruits of the second-tithe, or partaking of certain sacrificial meats, that are likewise permitted only within the sacred area of the Holy City. Cf. Deut. XII, 7, 12-15; 20ff.

Talmud - Mas. Makkoth 12b

R. Judah says: In the case of a cavern, follow its opening;[1] in the case of a tree, follow the bough.[2]

Let us grant [that we may legitimately suppose] R. Judah to apply this principle[3] to the [second] tithes, where it would lead to a more strict observance, thus: If the root is outside [the wall] and the bough overhangs inward, [he maintains that] just as the owner may not redeem the fruits [of the second tithe] under the bough[4] so he may not redeem those at the root. And again, if the root is inside the wall and the bough overhangs outside, [he maintains that] just as he may not eat the fruits [of the second tithe] under the bough without first redeeming them, so he may not eat even those at the root without first redeeming them. But, take now the case of a city of refuge; the application [of the same principle] goes perfectly well where the root lies beyond the boundary and the bough overhangs inside: just as the avenger may not slay the manslayer at the bough, so he may not slay him at the root. But where the root is within and the bough extends beyond, are we to say that just as the avenger may slay him at the bough he may also slay him at the root?[5] Surely he [the manslayer] stands within? — Said Raba: [It might be;] nobody would dispute, where he [the manslayer] stands at the root [within the boundary], that the avenger dare not slay him; nor [would anybody dispute], where he stands at the bough [outside] and the avenger can attack him by means of arrows or stones, that he may kill him.[6] But difference of opinion may arise as to whether the root may be regarded as [some sort of] ladder for [getting on to the][7] bough. In this case, one master[8] considers that [part of the] root as a [mere] ladder for the bough,[9] while the other master[10] holds that the root cannot be considered a ladder for the bough.[11] R. Ashi says: What is the meaning of [the expression] ‘it entirely follows the bough’?[12] It means, [follow] also the bough.[13]

MISHNAH. IF [WHILE A REFUGEE] HE SLEW [SOMEONE] IN THAT CITY [OF REFUGE] HE IS BANISHED FROM ONE QUARTER [THEREOF] TO ANOTHER;[14] AND A LEVITE IS BANISHED FROM ONE CITY TO ANOTHER.

GEMARA. Our Rabbis taught: [It is written:] Then I will appoint unto thee a place whither he may flee;[15] [the words,] ‘then I will appoint unto thee’ imply, during thy life-time;[16] ‘unto thee a place’ means, in your place;[17] ‘whither he shall flee’ indicates that the Israelites sent slayers into banishment while yet in the wilderness. Whither did they send them into banishment? To the Levitical camp. From this text, they ruled that if a Levite slew someone he was banished from one province to another; and that if he went into banishment to his own [native] province[18] it does afford him asylum. Said R. Aha the son of R. Ika: What is the Scriptural warrant [for this rule]? Because he shall abide in the city of his refuge.[19] [which implies,] the city which has already afforded him shelter before.

MISHNAH. SIMILARLY[20] A MANSLAYER, IF ON HIS ARRIVAL AT THE CITY OF HIS REFUGE THE MEN OF THAT CITY WISH TO DO HIM HONOUR, SHOULD SAY TO THEM, ‘I AM A MANSLAYER!’ AND IF THEY[21] SAY TO HIM, ‘NEVERTHELESS [WE WISH IT],’ HE SHOULD ACCEPT FROM THEM [THE PROFFERED HONOUR], AS IT IS SAID: ‘AND THIS IS THE WORD[22] OF THE MANSLAYER.’[23]

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(1) I.e., if the opening is within the city, it is intra-mural, even though the whole subterranean cavity lies outside; and vice versa, if it opens outside the city walls It is considered extra-mural, even though the whole subterranean cavity lies under the city within.

(2) So that both our Mishnah and the second Baraitha (‘In regard to Jerusalem . . .’) are expressing R. Judah's view, that the root follows the branches. (Cf, nn. 3 and 8.) The Mishnah of Ma'as. Sh., on the other hand, gives the view of the Rabbis.

(3) Viz., that the whole tree including the root follows the branches.

(4) Because it overhangs within, and second tithes may not be redeemed in Jerusalem, but must be eaten there as such. Cf, p. 85, n.1.

(5) This cannot be maintained and the analogy (between Jerusalem and the city of refuge) breaks down, and consequently R. Kahana's suggestion that the Baraitha (second citation, like the main Mishnah) is R. Judah's view (in contrast to that of the Rabbis in the first citation) does not remove the difficulty felt at first, as it leaves us with a new difficulty.

(6) Since the branch does not follow the root.

(7) By which the avenger might climb up (from within bounds) to grapple with the manslayer perched on the bough (beyond bounds).

(8) R. Judah.

(9) And he may climb up the root, though it is within, in order to get at him at the bough, just as he may slay him at the bough. The analogy consequently can be maintained.

(10) I.e., the Rabbis.

(11) And must not be used by the nearest of kin to get to the bough without.

(12) In our Mishnah, q.v.: and in the other Mishnah and Baraitha cited.

(13) In the case of the second tithe and city of refuge, we follow in addition as a stringent measure also the bough, so that where the root is without and the branch within, the manslayer finds protection even at the root. And the same applies to the second tithe. In other words we always adopt the stricter measure.

(14) As he may not leave it without risking his life. Num. XXXV, 25-28.

(15) Ex. XXI, 13.

(16) Cf. supra 10a, R. Simlai's exposition of Deut. IV, 41ff.

(17) So some texts (v. D.S.), i.e, the Levite camp in the centre. Cf. Num. I, 50ff; II,17; X, 17.

(18) I.e., on slaying someone abroad he ran home for refuge. Maim. Yad, Rozeah, VII, 5. Or, if he slew someone in one quarter and he took refuge in another quarter of the same province.

(19) Num. XXXV, 18, stressing his, that is, his own home town becoming his retreat for safety.

(20) Some consider this word out of place here (and it is indeed absent in good texts), as being an unconscious repetition of an earlier Mishnah, Sheb. X, 8, where it effects a comparison. Others take it as connecting this Mishnah with the preceding, where it was indicated that a manslayer needs atonement by suffering, for instance, to be sent away from his town or district to another, and similarly he should abase himself when people wish to show him deference: he should tell them (sorrowfully), ‘I am a manslayer’. V. D.S.

(21) For this reading, v. D.S.

(22) Or (single) statement.

(23) Deut. XIX, 4.

Talmud - Mas. Makkoth 13a

THEY USED TO PAY[1] RENT TO THE LEVITES: THESE ARE THE WORDS OF R. JUDAH; R. MEIR SAYS THAT THEY DID NOT PAY THEM ANY RENT. AND [ON HIS RETURN HOME] HE RETURNS TO THE OFFICE HE FORMERLY HELD, THESE ARE THE WORDS OF R. MEIR; R. JUDAH SAYS THAT HE DOES NOT RETURN TO THE OFFICE HE FORMERLY HELD.

GEMARA. Said R. Kahana: The difference of opinion [on the question of rent] is only in regard to the [main] six cities [of refuge], as one Master takes the words, and the cities shall be unto you for refuge[2] [to mean,] for the purpose of refuge [and no more], while the other Master takes 'unto you' [to mean,] yours for all your needs; but, as regards the other forty-two [additional] cities[3] they are agreed that they did pay them rent. Said Raba to him: The expression 'unto you' certainly implies here 'for all your requirements'! But, said Raba, the difference of opinion is rather about [the claim of] the other forty-two [additional] cities, one Master taking the words, and to them ye shall add forty and two cities[4] to mean that these [additional] cities shall be for refuge [mainly, like the six], while the other master takes the words, and to them ye shall add forty and two cities to mean that just as the other six are for all your requirements, so are these [additional] cities [to be] for all your requirements; but as regards the [main] six they are fully in agreement that no rent was paid to them.

AND HE RETURNS TO THE OFFICE HE FORMERLY HELD etc. Our Rabbis taught: [It is written], And he shall return to his family, and unto the possession of his fathers shall he return;[5] this means that he returns [strictly] to his 'family' [possessions] but he does not return to the station occupied by his fathers;[6] these are the words of R. Judah;[7] R. Meir says that he even returns to the station occupied by his fathers,[since it says] 'to the possession of his fathers', [that is, exactly] like his fathers. Similarly in the case of the exile, as the text says, he shall return, it is meant to apply the same rule to the manslayer [by way of allusion]. What is meant [exactly] by saying, 'Similarly in the case of the exile'? — It refers to what is taught [on the following text]: [And after the death of the high priest] the slayer shall return to the land of his possession,[8] which means that he returns only to 'the land of his possession' but not to the station occupied by his fathers;[6] these are the words of R. Judah;[9] but R. Meir says that he returns also to the station occupied by his fathers, [and] he derives [this interpretation] from the use of the same expression yashub ['he shall return'], both here[10] and there.[11]

CHAPTER III

MISHNAH.[12] AND THESE INCUR A [JUDICIAL] FLOGGING:[13] ONE WHO CAME [CARNALLY] TO HIS SISTER.[14] TO HIS FATHER'S SISTER, TO HIS MOTHER'S SISTER,[15] TO HIS WIFE'S SISTER;[16] TO HIS BROTHER'S WIFE,[17] TO HIS FATHER'S BROTHER'S WIFE[18] OR TO A NIDDAH;[19] A HIGH PRIEST ON TAKING TO WIFE A WIDOW,[20] OR AN ORDINARY PRIEST ON TAKING A DIVORCEE[21] OR HALUZAH;[22] ANY ISRAELITE ON TAKING TO WIFE A MAMZERETH[23] OR NATHINITE[24] WOMAN, OR ANY ISRAELITESS BECOMING THE WIFE OF A MAMZER[25] OR NATHINITE.[26] IN THE CASE OF A DIVORCEE-WIDOW [A HIGH PRIEST] IS LIABLE ON TWO COUNTS,[27] BUT [AN ORDINARY PRIEST,] IN THE CASE OF A DIVORCEE-HALUZAH,IS LIABLE ONLY ON ONE COUNT.[28] ONE WHO WHILE UNCLEAN,[29] ATE HOLY MEAT[30] OR ENTERED THE SANCTUARY; ONE WHO ATE HELEB,[31] BLOOD,[32] OR 'LEAVINGS' [OF SACRIFICIAL MEATS],[33] OR PIGGUL;[34] OR [AN OFFERING] THAT HAS BECAME UNCLEAN;[35] , ONE WHO SLAUGHTERS,[36] OR OFFERS UP[37] A SACRIFICE, OUT-OF-PRECINCTS;[38] ONE WHO ATE 'LEAVENED [BREAD] DURING THE PASSOVER;[39] ONE WHO PARTAKES OF FOOD [OR DRINK][40] OR DOES WORK ON THE DAY OF ATONEMENT;[41] ONE WHO COMPOUNDS INGREDIENTS [AS] FOR THE [ANOINTING] OIL,[42] OR THE INGREDIENTS [AS] FOR THE INCENSE,[43] OR ANOINTS[44] WITH THE [HOLY] OIL FOR ANOINTING:

ONE WHO EATS OF NEBELAH[45] OR TREFA,[46] OR ANY OF THE [CREATURES DEEMED] 'ABOMINABLE' AND 'TEEMING'.[47] WHO EATS OF TEBEL[48] OR 'FIRST-TITHE STILL COMPRISING[49] ITS 'PRIME-DUE', OR 'SECOND-TITHE UNREDEEMED,[50] OR OF 'SANCTUARY- GIFTS' UNREDEEMED.[51] HOW MUCH OF TEBEL[52] IS ONE TO EAT TO BECOME LIABLE?[53] R. SIMEON SAYS THE MEREST MORSEL; THE SAGES SAY AN

OLIVE'S SIZE.[54] SAID R. SIMEON: DO YOU NOT ADMIT THAT IF ONE ATE THE MINUTEST ANT HE WOULD BE LIABLE?[53] — SAID THEY TO HIM: [ONLY] BECAUSE IT IS A SEPARATE CREATURE;[55] SAID HE TO THEM: EVEN SO A [GRAIN OF] WHEAT IS A SEPARATE ENTITY: GEMARA. [AND THESE INCUR A FLOGGING etc.] This Mishnah [it should be noted] mentions instances of [a flogging for] such as incurred the penalty of kareth but not any of such as have incurred the penalty of death by sentence of the Court.[56] Whose is the view presented in this Mishnah? — It is R. Akiba's, as may be gathered from what is taught [in the following]: Both offenders who are liable to kareth, and offenders who are liable to death by sentence of the Court

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(1) The refugees, or according to some texts, the cities.

(2) Num. XXXV, 12.

(3) Num. XXXV, 6.

(4) V, p. 88, n. 9.

(5) Lev. XXV, 41, referring to the Hebrew slave.

(6) Here, the honours of some high office, conferred by others.

(7) It seems that R. Judah limits this text by the terms of an earlier assertion, verse 10, where the fathers are not mentioned, but only the possessions and the family. V. Malbim, Sifra on Lev. XXV, 10.

(8) Num. XXXV, 28.

(9) He seems to stress here the word land, he returns ‘to the land of his possession.’

(10) Num. XXXV, 28.

(11) Lev. XXV, 41: a Gezerah Shawah, v. Glos.

(12) In this chapter the Biblical basis for a judicial flogging is considered somewhat at length. The main principle to be remembered is that, (a) every prohibited act must be clearly specified in Holy Writ and (b) the threatened punishment plainly stated. This Mishnah enumerates various types of offences that entail a judicial flogging at least.

(13) The list is incomplete (cf. Ker. I, 1), and mostly those that require comment are enumerated here. V. Rashi and Tosaf. As the Biblical references of each prohibition and its threatened punishment (if any) are to be indicated, it will be necessary to make use of the following notation: — B denotes — ‘let him (her, them) bear his (her, their) iniquity,’ i.e. bear the punishment for their sin, kareth, usually. q.v.; C denotes — threatened with the death of childlessness; D denotes — threatened with death by Divine dispensation; K denotes — kareth — כרת — ‘cut off’; extirpation of the soul, v. Glos. It will be noticed that B, C, D and K amount more or less to the same thing, namely, Divine retribution; N denotes — No punishment prescribed in Holy Writ for the particular offence, though distinctly prohibited.

(14) Lev. VIII, 9, 29 K; XX, 17 BK.

(15) Ibid. VIII, 12-13, 29 K; XX, 19 B.

(16) Only during his wife's lifetime, Ibid. VIII, 18, 29 K.

(17) Ibid. VIII, 16, 29 K; XX, 21 C. Not even his brother's divorcee or widow, except in levirate marriage. i.e., if this brother died absolutely childless. Cf. Deut. XXV, 5ff.

(18) Lev. XVIII, 14, 29 K; XX, 20 BC.

(19) I.e., not even to his own during her menses, ibid. XVIII, 19, 29 K; XX, 18 K.

(20) Ibid.XXI, 13-14 N.

(21) Lev.XXI,7,14 N.

(22) V. Glos. A haluzah is treated as a divorcee and is forbidden to a priest.

(23) Mamzer, fem. mamzereth, is a child born in incest or adultery (with the wife of another man); such a child is debarred from regular marriage within the community: the stigma is perpetual. V. Deut. XXIII, 3 N.

(24) The Nathinites were descendants of the old Gibeonites, Hivites in origin, who became allies of the invading Israelites by a ruse, and were reduced to communal serfs in the time of Joshua. V. Josh. IX, 3, 15, 18, 23. A Hivite intermarriage with Israelites was forbidden, Deut. VII, 1ff. Their vindictiveness in the time of David (II Sam. XXI, 1ff.) and their continued identity as Hivites in their status as serfs (v. Ezra, II, 13, 58; VIII, 20, and Nehem. X, 29) contributed to their unenviable distinction as pariahs. Cf. Yeb. 78b.

(25) V. p, 90, n. 12.

(26) V. p. 90. n. 13.

(27) One on each status distinctly forbidden in Lev. XXI, 14 N.

(28) As haluzah is not explicitly mentioned in Lev. XXI, 7, but is derived from the wording by implication ‘a woman divorced by her man’ being taken to mean, ‘any woman rejected by her man’ (i.e. on whom she had some claim to be his lawful wife).
(29) I.e., being in a state of impurity, unfit to participate in religious ceremonial. For instances v. Lev. XI, 24-25, 31. 39-40; XII, 2ff; Num. XIX, 11-13.
(30) E.g., sacrificial meat, Lev. VII, 20-21 K.
(31) Mainly fat which was burnt on the altar, Lev. VII, 23-25 K.
(32) Lev. VII, 26-27 K; XVII, 10ff, K.
(33) Sacrificial meats were restricted (for their consumption), some to one day and the following night, others to two days and the night; after that, the leavings had to be burnt, Lev. VII, 15-18 B. Cf. Ex. XXIX, 34 and XII, 10; P.B. pp. 12-13, sections 5-8.
(34) Lit., ‘loathsome’. The intention to disregard the time-limit ab initio vitiates and renders the sacrifice (like) putrid flesh, and is not to be eaten, Lev. VII, 18 B; XIX, 7-8 K.
(35) Lev. VII, 19.
(36) Lev. XVII, 3-4 K; Deut. XII, 13 ff.
(37) Lev. XVII, 8-9 K; Deut. XII, 13ff. Killing and offering sacrifice are two separate acts. V. Zeb. 106a-b.
(38) I.e., away from the Temple.
(39) Ex. XII, 15, 19 K; XIII, 3.
(40) Lev. XXIII, 27. 29 K. Cf. Yoma, 81a.
(41) Lev. XXIII, 28, 39 K (‘cause to perish’, ‘destroy’).
(42) Ex. XXX, 32-33 K.
(43) Ibid. 37-38 K.
(44) V. p. 91, n. 18.
(45) Any animal that died of itself from disease or exhaustion, carrion (Lev. XI, 39; XVII, 15; XXII, 8) Deut. XIV, 21 N. Traditionally, any beast or fowl not killed in accordance with the Jewish laws of shechitah, is nebelah.
(46) Lit., ‘torn’, mortally lacerated; it also signifies afflicted with an organic disease. Ex. XXII, 30 N; Lev. XVII, 15. Cf. also Ezek. IV, 14.
(47) All animals, fowl or fish Scripturally forbidden as food are termed ‘abominate’ as contaminating the very soul of the eater. V. Lev. XI, 4-8 (animals); 10-13 (fishes); 13-20 (fowl); 29ff(reptiles) and generally 41ff. Deut. XIV, 7-21, N.
(48) טבל Produce or fruits from which any of the ‘dues’ has not yet been taken, such as terumah or the ‘Prime-due’ (to the priest) of corn, wine and oil (Num. XVIII, 11-12) and hallah of dough or bread (ibid. XV, 19-21); ‘first-tithe’ (to Levite or priest); ‘second-tithe’ (to be eaten at Jerusalem) and poor-tithe’.
(49) ‘First-tithe’ was to be given to the Levite, who again had to give ‘Prime-due’ of it to the priest, which was also called ‘tithe-of-the-tithe’, and was strictly forbidden to the Levite, Num. XVIII, 26-32, BD.
(50) ‘Second-tithe’ had to be separated and designated as such and being holy due had to be consumed by the owner at Jerusalem. It could not be sold or bartered, but could be redeemed by the owner (outside Jerusalem) at the market price enhanced by a fifth of its value with good silver coin. Deut. XIV, 22-29; Lev. XXVII, 16, 19. Cf. M. Sh. I, 1; IV, 2, 7.
(51) Anything donated to the Sanctuary fell under a lien and its enjoyment or use by the owner was a ‘trespass’ which required atonement. It was, however, redeemable at its value enhanced by a fifth. Lev. V, 15-16; XXVII, 9ff. (16, 19, 30-31).
(52) V. supra n. 6.
(53) To a (judicial) lashing.
(54) The traditional requisite quantity for constituting eating (technically).
(55) As a complete organism or ‘creature’.
(56) If the offenders had been warned by witnesses before the offence; also in respect of the penalty of flogging.

Talmud - Mas. Makkoth 13b

are alike subject to the sanction of ‘forty lashes’; these are the words of R. Ishmael.[1] R. Akiba says that only those who are liable to kareth are subject to the sanction of ‘forty lashes’, because, if the offenders should betake themselves to repentance [before God], the Heavenly Tribunal would grant them remission;[2] whereas those who have become liable to death by sentence of the [human] Court are not subject to the punishment of ‘forty lashes’ because, [even] if they should do penance, the Earthly Tribunal would not grant them remission.[3] R. Isaac says: Seeing that Holy Writ had [already] comprehensively declared all the offenders [in unlawful relations to be] liable to kareth,[4] what object was there in reiterating that penalty [solely] in the case of [the brother with] his sister?[5] To show that kareth is their penalty, not a flogging.[6]

What is R. Ishmael's reason? — It is written: If thou wilt not observe to do all the words of this law . . . and it is further written, then the Lord will make thy strokes pronounced.[7] I should not have known what is [really] meant by this ‘pronouncement’ but when it states elsewhere: [If the wicked man deserve to be beaten] the judge shall cause him to lie down and to be beaten [before his face according to the measure of his misdeed by number . . . forty stripes][8] then I say that the expression, this ‘pronouncement’ has some bearing on the [judicial] flogging; and that passage is introduced by, if thou wilt not observe to do all the words of this law.[9] But if so, why not impose a [judicial] flogging also for [the neglect of] a positive precept?[10] — It says, if thou wilt not observe to do, and this is the sense given by R. Abin as reporting R. Elai; for R. Abin reported R. Elai to have said that wherever the expression ‘observe’,[11] ‘lest’,[12] or ‘do not’[13] occur [in Holy Writ], it is an indication of a prohibited action.[14]

Then why not [give a flogging] for the contravention of a prohibition attended by no action?[15] — It is written, ‘If thou wilt not observe to do.’ [Then again, why not give a flogging] also for [offending against] a prohibition which can be remedied by a [subsequent] action?[16] — [An act entailing a flogging] must conform with the prohibition of ‘Muzzling’.[17]

And what is R. Akiba's reason?[18] — [It says,] ‘according to the measure of his misdeed’[19] [which means that] you make him liable to punishment for one misdeed, but you cannot hold him liable [in two ways as] for two misdeeds.[20] And R. Ishmael?[21] — This objection applies only to such [diverse punishments] as a death-sentence and pecuniary compensation, or a flogging and pecuniary compensation; but death and a flogging [are cognate] as [flogging] is but a protracted death.[22] But why should not R. Akiba, if [he] so [interprets the wording], exclude [from a flogging] also even those liable in kareth?[23] And if you argue: Suppose the offenders should betake themselves to repentance [before God], then [I retort], Now, after all, they have not yet done so?[24] — Said R. Abbahu: The Torah distinctly includes those who have incurred kareth among those who may receive a flogging; for we derive ‘before the eyes’[25] from ‘before thine eyes’.[26] To this R. Abba b. Memel demurred strongly: If so, why not include as well those liable to death by sentence of the Court among those who may receive a flogging, by deriving ‘from the eyes’[27] from ‘before thine eyes’?[26] — It is admissible to interpret ‘before the eyes’[25] in the light of ‘before thine eyes’,[26] but hardly to interpret ‘from the eyes’ in the light of ‘before thine eyes’. But what matters [such a slight variation in form]? Was it not taught in the school of R. Ishmael that the [variant expressions] and the priest shall come again,[28] and, and he shall go in [and see],[29] have the same import there [for the purpose of deduction]?[30] Nay, furthermore, one ought to be able to interpret, ‘from the eyes of’[27] in the light of, ‘before the eyes of their people,’[25] after having already been allowed to interpret, ‘before the eyes,’[25] in the light of, ‘before thine eyes’?[26] The explanation that R. Samuel son of R. Isaac [later] personally received from him[31] on [the difficulty arising from R. Akiba's interpretation of] the text ‘according to the measure of his misdeed’ as meaning ‘that you make him liable to punishment for one misdeed, but you cannot hold him liable [in two ways as] for two misdeeds’, was that the verse refers only to penalties that are entrusted to Beth din.[32]

Raba said:[33] Where the forewarning [to the would-be offender] was in respect of a death penalty, opinion would be unanimous that the offender should not be both flogged, and put to death.[34] The difference, however, arises where the forewarning was only in respect of a flogging. [In that case] R. Ishmael[35] holds that ‘a prohibition which [has been stated to] serve as a forewarning to a capital sentence’[36] is [sufficient] warrant for the infliction of a flogging; while R. Akiba[37] holds that ‘a prohibition which [has been stated to] serve as a forewarning to a capital sentence' is no warrant for a flogging.[38] But if so then even those liable to kareth should also be excluded [by him from the liability to flogging], since the prohibition [in regard to such transgressions has in each case been stated to] serve as a forewarning to kareth? — Said R. Mordecai to R. Ashi: Thus said Abimi of Agrunia[39] in the name of Raba, that [would-be] offenders in a case of kareth do not require forewarning; the proof is that kareth is imposed for neglecting the rite of the Paschal lamb[40] and the rite of circumcision,[41] although there is no [other] warning [in Holy Writ].[42]

Maybe the forewarning is [inscribed in the Torah in case of kareth] for the purpose of a sacrifice,[43] as [might be proved from the fact that] the neglect of the Paschal lamb or circumcision, for which no forewarning is inscribed in the Torah, does not entail an atoning sacrifice? — [No,] this is not a correct reason [for the absence of sacrificial-atonement] in those two instances, but [there is another reason altogether]. It is because we find the sin of idolatry set in the balance against the entire [body of commandments in the] Torah,[44] and [from this we argue]: Just as the precept relating to idolatry is of the type 'Sit still and don't do it,' so any precept which is of the type 'Sit still and don't do it' [entails a sin-offering for its unintentional transgression], and we exclude these which are of the type 'Get up and do it'.[45]

Rabina said: After all [the various explanations offered] we must come back

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(1) [It is assumed at present that the warning was both in respect of lashes as well as of a death penalty or kareth.]

(2) As the earthly Tribunal could not allow a serious offence to go unnoticed, the flogging is the least they can impose, leaving the rest between Heaven and the offender's conscience.

(3) And there would thus be inflicted two penalties — flogging and execution — for one offence. V. discussion later.

(4) Lev. XVIII, 29. For whosoever shall do any of these abominations (mentioned in detail in verses 6-23), even the souls that do them shall be cut off from among their people.

(5) Lev. XX, 17, imposing only BK and not death penalty as in the other instances.

(6) The end of the quotation. R. Isaac disagrees with both preceding views. The case of 'brother and sister' — he contends — shows clearly that each offence has its appropriate punishment (B C D K or Execution by Court) as indicated in detail in the parallel passage. Lev. XX. Flogging, in his view, is not warranted by the written law where another penalty is definitely prescribed.

(7) Deut. XXVIII, 58-59. 'Will make pronounced' has here a double import, (a) to make striking, extraordinary, surprising, and (b) pronounce, speak out clearly. Cf. Lev. XXVII, 2 and Num. VI, 2.

(8) Deut. XXV, 2-3. The strokes (lashes) had to be clearly counted out aloud 'pronounced' before each stroke fell, by one of the judges present at the flogging. Cf. infra 22b.

(9) I.e., a flogging is made incidental to any and every breach of the Written Law.

(10) E.g.,for neglecting the rite of circumcision (Gen. XVII, 10ff. 14 K), or for neglecting to offer the Paschal lamb (Num. IX, 13 KB).

(11) השמר, be mindful, beware. Cf. Ex. XIX, 12 and Nahmanides on Ex. XX, 8.

(12) פן Cf. Ex. XIX, 21.

(13) אל a parallel word to לא; cf. Ex. XII, 9.

(14) 'Don't do it!' — לא תעשה in contrast to 'Do it!'- עשה, a positive command.

(15) V. supra p. 17, n. 3.

(16) V. supra p. 16, n. 9.

(17) Deut. XXV, 4, which is immediately subjoined to the ordinance of the flogging and is taken as the illustration, as a type of offence, namely as one involving action, and which cannot be remedied by a subsequent action.

(18) For excluding those liable to a death-penalty by human tribunal from a judicial flogging.

(19) With reference to flogging. Deut. XXV, 2.

(20) I.e., death and lashes. V. supra p. 16.

(21) What is his answer to this?

(22) Lit., 'a prolonged death.'

(23) [Seeing that there too two penalties are involved — kareth and lashes.]

(24) Who can judge another's conscience, whether the repentance was sincere and acceptable to Heaven or not? [By flogging them they may thus have inflicted a twofold penalty!]
(25) With reference to kareth. Lev. XX, 17, KB for incest.
(26) Deut. XXV, 3, with reference to flogging. Thus equating the two passages by a Gezerah Shawah.
(27) Num. XV, 24.
(28) Lev. XIV, 39, when a house affected with signs of leprosy was under observation by the priest at intervals of seven days.
(29) Ibid. 44.
(30) That the treatment prescribed in the former instance (v. 39) be fully repeated in the second instance (v. 44).
(31) From R. Abbahu or R. Abba b. Memel.
(32) [As we have no cognizance as to the punishment or remission by the Celestial Tribunal. So that those liable to kareth, if warned in respect of lashes, are flogged.]
(33) [Raba rejects the assumption on which the discussion was hitherto based, v. p. 93, n. 2.]
(34) As the major (capital) penalty already covers the minor.
(35) Who on textual grounds considers all offenders, even those liable to a death penalty, subject to flogging.
(36) [It is a recognised principle that no transgression carries with it a penalty unless the relevant prohibition, ‘thou shalt not’, is explicitly stated in the Bible., v. p. 18, n. 5.
(37) Who excludes from a flogging all those liable to a capital penalty.
(38) [Where the warning of the witnesses was only in respect of lashes.]
(39) Or Hagronia, near Nehardea. Cf. Sot. 46b.
(40) Num. IX. 13.
(41) Gen. XVII, 13-14.
(42) [Hence any explicit prohibition stated in the Law in cases of kareth is designed to serve as a forewarning to the penalty of flogging.]
(43) [I.e., that the offender is to bring a sacrifice as atonement, but not in order to make him liable to flogging.]
(44) Num. XV, 22-23: And when ye shall err and not observe all these commandments that the Lord hath commanded you by the hand of Moses, from the day that the Lord gave commandment, and onward throughout your generations . . . [This verse is explained in Hor. 8a, as referring to idolatry.]
(45) The rites of the Paschal lamb and circumcision are Positive Commands, of the type, Get up and do it! [This then is the reason why no sin-offering is entailed by neglect of these precepts, and not because there is no explicit prohibition stated in regard to them, as the obligation of bringing an offering for a transgression is not determined by a forewarning being stated in the Bible.]

Talmud - Mas. Makkoth 14a

to the original statement [of R. Akiba], namely, ‘that if those [liable to kareth] should resort to repentance the Heavenly Tribunal would grant them remission.’ And in regard to the objection, ‘Now, after all, they have not yet done so [i.e. repented]?’[1] [I retort.] The penalty of kareth is not [yet] decided[2] [either].

R. Isaac says:[3] Seeing that Holy Writ had [already] comprehensively declared all the offenders in unlawful relations to be liable to kareth, what object was there in reiterating that penalty in the instance of [the brother with] his sister? To show that kareth is their penalty, not a flogging. And the Rabbis,[4] how do they explain [the reiteration of the penalty of] kareth in the case of [the brother with] his sister? — It is to indicate the principle of Distributive Incidence, as instanced in R. Johanan's statement; for R. Johanan said: The Mishnah[5] means to teach us that should one happen to commit all these offences in one spell of unawareness he would [on discovering his error] become liable [to a sin-offering][6] on each act, separately. And R. Isaac, whence does he obtain that distributive principle? — He derives it from [the text]: And thou shalt not approach unto a woman[7] [one being] in the separation of her uncleanness,[8] [which he takes] to indicate liability for any and every woman approached [while being in that state]. And why do not the Rabbis derive the principle from this [text]? — They do, indeed so. But [if so], what would be the purpose of the reiteration of kareth in the instance of [the brother with] his sister? — To indicate separate liability for the several offences[9] — with his sister,[10] his father's sister[11] and his mother's sister.[12]

[But] is not that obvious? Are they not diverse persons and of different denominations? — No; [I mean] a separate liability for [an unlawful association with] his sister, who is also his father's sister and his mother's sister.[13] And [if you say], how is this possible? — It is possible in the case of a sinner the son of a sinner.[14] And this last point, whence does R. Isaac derive it? — He obtains it by an [argument] a fortiori,[15] as taught in the following: R. Akiba said: I [once] asked Rabban Gamaliel and R. Joshua at the fair held at Emmaus[16] whither they had gone to buy an animal for the [forthcoming marriage] feast of Rabban Gamaliel's son: If one came [carnally] to his sister who is his father's sister and his mother's sister, what is the extent of his offence? Would he be liable once only for the several categories of the offence, or on each count severally? — Said they to me, This problem we have not heard, but we have heard the following: If one had come [carnally] to five [different] women during their term of niddah,[17] in one spell of unawareness, [on discovering his error] he is liable [a sin-offering] for each one severally. And the point [you raise,] it seems, may be solved by an [argument] a fortiori [thus]: What say we in the problem of the niddah? That although each error is [a sin] of the same denomination, he is nevertheless liable [a sin-offering] on each act, severally; should he not all the more be held liable on each count where the sinful act falls under three different denominations? And the Rabbis [what say they]? — The [argument] a fortiori is not sound, for how can you argue from the niddah where several distinct persons are involved [to this where there is only one person]?[18] And the other [R. Isaac] likewise accepts the refutation of that a fortiori; but he derives the principle of Distributive Incidence from the [redundant] expression of ‘his sister’ in the latter part of the same verse.[19] And the other [Rabbis], what [say they] is the purport of repeating the expression — ‘his sister’ in the latter part of that verse? — They say, It lays down specifically the penalty of [a brother with any sister], his sister who is both his father's and mother's daughter, to indicate the [legal principle] that penalties inferred by argument are not sanctioned.[20]

And the other [R. Isaac, whence does he derive this[21] legal principle]? — If I may, I would say that he derives the penalty from the prohibition.[22] Or, if I may, I should say that he derives it

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(1) V. supra, p. 95, n. 5.

(2) It may never be inflicted, as the sinner may repent in his last hour (cf. Ezek. XXXIII, 11ff and the last Mishnah, infra 23a); the flogging therefore is the sole penalty to be imposed by the human authority.

(3) This is the third view cited in the Baraitha (at the beginning of the discussion on the Mishnah).

(4) R. Akiba and R. Ishmael.

(5) [In Ker. 2a in enumerating and giving the number of the offences liable to kareth.]

(6) The statutory offering for a sin punishable by kareth.

(7) A euphemism for intimacy.

(8) Lev. XVIII, 19 K. The text should have ‘And thou shalt not approach a niddah (menstruate). The superfluous word ‘woman’ thus denotes every individual woman.

(9) [Committed in one spell of unawareness.]

(10) Ibid. XVIII, 9, 11, 29 K; XX, 17 KB.

(11) Ibid. XVIII, 12, 29 K; XX, 19 B.

(12) Ibid. XVIII, 13, 29 K; XX, 19B.

(13) [There being a separate prohibition stated in respect of each one.]

(14) Rake I came (carnally) to his Mother who bore him two daughters, A and B. Rake I then came to A, who bore him a son Rake II, and Rake II then came to B. B was thus to Rake II his own sister, his father's sister, and his mother's sister.

(15) I.e., not directly from a Scriptural source.

(16) A military colony not far from Jerusalem, which Vespasian had given to 800 of his war veterans (Josephus, Wars, VII, 6, 6). It is identified with Mozah, mentioned in Josh. XVIII, 26, and Suk. 45a; the Jewish colony Mozah (founded 1894) preserves the name anew, and the Arabic name of Kulonieh retains the old name. V. J. Klausner, הסטוריה ישראלית IV, 236. The puzzling term איטליז may be here the Greek word telos, ‘a military station’, or company. [For a full discussion of the term v. Cohn, J., Festschrift d. jud. theolog. Seminars, Breslau, 1929, II, pp. 11 ff.]

(17) Even his own wives, during menses, v. Glos.

(18) Whereas in the complex sister-problem there is involved in one act but one sole (physical) person, albeit of treble designation.

(19) He hath uncovered the nakedness of his sister, (meaning a sister of any and every category). Lev. XX, 17.

(20) Cf. supra 5b.

(21) Having used that text (Lev. XX, 17) for another deduction, namely, as showing that the prescribed penalty in kareth-offences is kareth and not flogging, he cannot use the same again to teach that he is liable for his sister who is both his father's and mother's daughter.

(22) Ibid. XVII, 9 and 11. It is from verse 11 that he derives the principle, from the repetition of the words, she is his sister — i.e. be she half-sister or even sister-german. Just as in the verse laying down the prohibition all kinds of sisters are included, so likewise in regard to the penalty no distinction is made.

Talmud - Mas. Makkoth 14b

from the [redundant] expression of ‘his sister’ in the former part of the text.[1] And the other [Rabbis]?[2] — They require it to teach the principle of distributive incidence in the case of one who both compounds [the prescribed ingredients for the holy anointing-oil] and anoints therewith.[3] And the other [R. Isaac]?[4] — He shares the view of R. Eleazar quoting R. Hoshaia; for R. Eleazar in the name of R. Hoshaia said that wherever you find two prohibitions with the sanction of kareth mentioned only once, each lapse occasions a sin-offering on its own account.[5] Or, if you wish, I should say that R. Isaac does not adopt the view of R. Eleazar[6] as citing R. Hoshaia, but he derives [the principle of distributive incidence][6] from the following text: And if a man shall lie with a woman [one] having her sickness.[7] And the other [Rabbis]?[8] — That text is required for another point, as reported by R. Johanan; for R. Johanan said in the name of R. Simeon b. Yohai: How can it be shown that a woman is not [ritually] ‘unclean’ [as parturient][9] until the flux emerges through the normal passage? From the wording of the text: And if a man . . . uncovered the fountain of her flux[7] which teaches that a woman is not ‘unclean’ [as parturient] until it emerges through its normal passage.

ONE WHO WHILE UNCLEAN ATE HOLY MEAT OR ENTERED THE SANCTUARY [incurs kareth and consequently a flogging]. This is quite in order where one while [ritually] unclean entered the sanctuary, because both the penalty and the [requisite] forewarning are written [explicitly]. ‘The penalty,’ — as it is written: he hath defiled the tabernacle of the Lord [that soul shall be cut off from Israel];[10] ‘the forewarning,’ — as it is written: That they [the unclean] defile not their [holy part of the] camp.[11] But as regards the unclean who ate holy meat, the penalty, I grant, is written: But the soul that eateth of the flesh of the sacrifice of peace offerings that pertain unto the Lord, having his uncleanness on him, that soul shall be cut off from his people.[12] But where is found the [requisite] forewarning for this? — Resh Lakish said [that it is found in the text:] She shall touch no hallowed thing.[13] R. Johanan said that Bardela taught it [as derived] from the recurring expression of ‘his uncleanness’ [in two relevant passages].[14] Here it is written: ‘having his uncleanness on him shall be cut off,[15] and in the other [context] it is written: He shall be unclean:[16] his uncleanness is yet upon him. Just as in this latter passage [there is given] the warning and the penalty [if he does], so in the former [passage][17] we associate with it a warning and penalty. Now, we understand why Resh Lakish does not give the same explanation as R. Johanan, namely, that he had not received it on tradition from his master.[18] But why should R. Johanan not accept the explanation of Resh Lakish? — He will tell you that the text, [She shall touch no hallowed thing][13] serves as admonition in respect of terumah.[19] And whence does Resh Lakish derive the [requisite] admonition in regard to terumah? — He derives it from the wording: What man [person] soever of the seed of Aaron[20] is a leper or hath an issue [he shall not eat of the holy things until he be clean].[21] Now, what [holy] things are permitted [as food] to the seed of Aaron alike? You are bound to say, terumah. And the other [R. Johanan]? — That passage[21] refers to ‘eating’ of [terumah in uncleanness] while this text[22] forbids touching terumah. But, how can Resh Lakish take the text, She shall touch no hallowed thing for that [stated] purpose.[23] Does he not require it to serve as forewarning against [the unclean person] ‘touching’ holy things as was stated: If a [ritually] unclean person touches hallowed [meat], Resh Lakish says: he incurs a flogging; whereas R. Johanan says: he does not incur a flogging. ‘Resh Lakish says he incurs a flogging.’ — as it is written: She shall touch no hallowed thing; ‘R. Johanan says he incurs no flogging,’ as that text is the forewarning against terumah![24] — Resh Lakish can answer that the unclean who touches hallowed meat [is liable to a flogging], because the All-Merciful has expressed the prohibition of eating [hallowed meat] in terms of touching; while the warning against the eating thereof is deduced from the fact that ‘hallowed thing’ and the ‘sanctuary’ are placed in juxtaposition.[25] But yet [again, I ask,] did Resh Lakish base that view on this text? Does he not require it in reference to the question of one who eats holy flesh prior to the sprinkling of the blood [of the sacrifice] on the altar? For it has been stated: If an unclean person ate holy flesh prior to the sprinkling of the blood on the altar, Resh Lakish says he incurs a flogging; R. Johanan says he incurs not a flogging. ‘Resh Lakish says he incurs a flogging.’ — because of the warning, she shall touch[26] no holy thing, it being immaterial whether he ate of it before the sprinkling or after the sprinkling. ‘R. Johanan says he incurs no flogging,’ — he [R. Johanan] adheres to his own [line of] interpretation [after Bardela, namely linking as analogous] the two passages having [the expression of] ‘his uncleanness’ in common, and, [argues R. Johanan, the expression] ‘uncleanness’[27] is written in respect of the passage [sacrificial flesh] after the sprinkling![28] — That [Resh Lakish] derives from [the comprehensive negative], [She shall touch] no hallowed thing.[29]

It is taught in accordance with [the view of] Resh Lakish: ‘She shall touch no hallowed thing’ is the admonition to one [while ritually unclean] not to eat [of hallowed flesh]. You say it is an admonition against eating? Or may it perhaps but be an admonition against touching only? The text reads: She shall touch no hallowed thing nor come into the sanctuary, thus equating [by juxtaposition] ‘hallowed thing’ with [entering] the sanctuary. Now that which is [incurred by entering] the sanctuary [while unclean] namely — the loss of a soul [kareth],[30] so likewise all [the prohibitions in regard to ‘hallowed things’] involve as penalty the loss of a soul. But [if you take it literally, as an admonition against] touching, is there any instance where [mere] touching [holy meat] entails the loss of a soul?[31] It cannot therefore mean but [contact by] eating.[32]

[OR WHILE UNCLEAN ENTERED THE SANCTUARY.] Rabbah b. Bar Hanah reporting R. Johanan said: The contravention of any negative command which is preceded by a positive command, entails a flogging.[33]

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(1) Lev. XX, 17. The verse could merely have read: And if a man shall take his father's daughter or his mother's daughter, omitting his sister. R. Isaac thus derives three points from this one verse: (a) that kareth without a flogging is the prescribed penalty; (b) Distributive incidence of guilt, which he derives from the added description his sister, i.e., sister of any category (v. p. 99 n. 4); and also (c) liability for a sister who is both the father's and mother's daughter, this being derived from the redundant ‘his sister’ in the first part of the verse.

(2) How do they expound this redundant expression of his sister, in the first part of the verse?

(3) Ex. XXX, 32-33. Verse 32 forbids distinctly, either anointing (with holy oil), or compounding (the prescribed ingredients for it); verse 33 states the penalty of kareth for both jointly. Does it mean kareth (or a sin offering, if done in error) for doing both, or severally, for either act? As there is nothing here to show whether compounding and anointing (in one occasion) are (or are not) to be taken as two offences, the principle of distributive guilt deduced above from the redundant expression of his sister (in Lev. XX, 17) is made to apply here. [This is deduced on the principle of אם אינו ענין, if an expression has no significance for the context in which it occurs it is employed for the exposition of another suitable passage.]

(4) Whence does he derive the principle of distributive incidence in the case first mentioned?

(5) And so likewise here, since there is a distinct prohibition both for compounding and anointing with the holy oil the penalty of kareth is attached to each separately.

(6) In cases outside those that come under the category of forbidden relationships.

(7) Lev. XX. 18, where דוה = niddah is used. Cf. p. 98, n. 5. And since it is superfluous here, the principle as applying to a menstruous woman having been already derived from Lev. XVIII, 19, as supra, it is employed for general purposes.

(8) How do they expound this latter verse seeing that they derived this general principle from ‘his sister’.

(9) Ibid. XII, 2-7. She would not be ritually ‘unclean’ if parturition was effected by a Caesarean operation.

(10) With reference to the unclean who enters the sanctuary. Num. XIX, 13 and 20, where ‘sanctuary’ is used instead of ‘tabernacle’, on the significance of which see Shebu. 16b.

(11) Num. V, 3.

(12) Lev. VII, 20.

(13) Ibid. XII, 4, referring to a woman after childbirth who after a certain period has to purify herself and bring certain offerings.

(14) By the method of Gezerah shawah, v. Glos.

(15) V. p. 101, n. 8.

(16) For seven days, if he had touched the dead, and may not enter the sanctuary so long as he has not been ritually purified with the sprinkling water and ashes as prescribed in Num. XIX, 11-13. If he enters unpurified he shall be cut off from Israel. Ibid. 13.

(17) Lev. VII, 20 (cited above), where only the penalty of being cut off for eating the flesh of the sacrifice of peace offering during uncleanness is stated but not the warning.

(18) The rule being that the method of Gezerah shawah cannot be employed on one's own suggestion. Pes. 66a.

(19) Cf. note on the Mishnah. Terumah was eaten by the priest and the members of his household, his wife, sons, single daughters or even childless daughter, the widow of a non-priest and his slaves; but not while ritually unclean, Num. XVIII, 11-13. and cf. Lev. XXII, 11-13. Sacrificial flesh, however, (with some very few exceptions) was restricted only to the male priests, within the Temple area. Cf. Num. VIII, 9.

(20) ‘Seed of Aaron’ means both sons and daughters.

(21) Lev. XXII, 4-6 in reference to eating terumah. Verses 3-6 refer to officiant priests at making sacrifice.

(22) Lev. XII, 4.

(23) To act as forewarning in respect of eating holy things in an unclean state.

(24) Thus we see that Resh Lakish requires the verse, ‘she shall touch no holy thing, with reference to touching and not as warning against eating.

(25) The Talmud text here is in slight disorder (v. D.S.); but the meaning is clear. The twofold injunction, She shall touch no hallowed thing nor come into the sanctuary, shows clearly how both are considered as equally grave offences. This point is more fully developed later.

(26) Taking ‘touch’ eat, as shown lower down in the discussion.

(27) With reference to the eating of sacrificial flesh in an unclean state, v. Lev. VII, 20.

(28) Lev. VII, 20-21. Cf. Deut. XII, 27, where from the wording it is clear that the flesh may be eaten only after the sprinkling on the altar, v. Men. 25a. [Thus we see that Resh Lakish requires the verse, she shall touch no hallowed thing, to extend the penalty of flogging to the eating in an unclean state prior to the sprinkling.]

(29) בכל קדש לא תגע, i.e., not any kind whatsoever. [This extends the prohibition and penalty to the eating of sacrificial flesh prior to the sprinkling, while the text itself is employed by Resh Lakish to serve as a warning in respect of eating whether before or after the sprinkling.]

(30) V. Glos.

(31) Lev. VII, 21 shows clearly that only eating after touching is punishable by kareth, ibid. XXII, 6, 16, and Hag. II, 11-13. ‘Said R. Eleazar, is there any case where by mere touching one incurs kareth?’ Sifra on Lev. VII, 20, and Zeb. 45b.

(32) Which supports Resh Lakish.

(33) [Even on the view that a negative command that is attended by a positive command with remedial effect does not carry a flogging (v. supra 4b), that is, provided the positive command can be fulfilled only after the contravention of the negative command, as in the case of nothar discussed loc. cit. But where the positive command could have been fulfilled before the contravention of the negative command, as in the illustrations that follow, there is no exemption from the penalty of flogging.]

Talmud - Mas. Makkoth 15a

When he[1] was [subsequently] asked whether he had said that, he denied it.[2] Said Rabbah:[3] God! he did say it; and furthermore, this is found in Scripture and we learn it [in the Mishnah, too]. ‘This is written : [Command the children of Israel] that they put out of the camp[4] . . . and that they defile not their camp[5] [in the midst whereof I dwell].[6] Again, [bearing on this] we learnt: WHO WHILE UNCLEAN ENTERED THE SANCTUARY INCURS A FLOGGING.[7] Why then did he[8] retract [his statement]? — Because he found it difficult [to explain the case of] the Ravisher,[9] as taught [in the following]: A Ravisher who put away his wife [by divorce], if he be a [lay] Israelite, he can take her back without receiving a flogging,[10] but if he be a priest[11] he receives a flogging but does not take her back. Now, ‘if he be a [lay] Israelite he takes her back without receiving a flogging’, why,[12] seeing that this is an instance where a negative command is preceded by a positive command — why should he receive no flogging?[13] — ‘Ulla said’[14] [that the words], She shall be his wife[15] could have been left out in the case of the Ravisher and have been inferred from the [somewhat analogous] case of the Defaming husband,[16] thus: Since in the case of the Defaming husband, although he did no [tangible] act,[17] the All-Merciful ordained that ‘she shall be his wife,’[18] is not this injunction even more appropriate in the case of the Ravisher?[19] What then, is the purport of those words[20] [in the case of the Ravisher]? [Consequently] if they are not [strictly] needed at the first stage,[21] make use of them for the latter stage, to indicate that if the Ravisher did put her away [unlawfully], he must take her back.[22]

But yet, no inference can be drawn from the case of the Defaming husband to that of the Ravisher because there is a refutation, namely, What is the [penalty of the] Defaming husband? He is flogged as well as amerced [one hundred shekels], [which is not the case with the Ravisher]! — Rather therefore argue thus: The injunction ‘she shall be his wife’ might have been omitted in the case of the Defaming husband, and inferred from the case of the Ravisher, thus: What is the [penalty of the] Ravisher? That although he is not flogged in addition to the amercement [of fifty shekels] the All-Merciful [nevertheless] ordained that, ‘she shall be his wife’;[23] how much more then should this be so in the case of the Defaming husband.[24] Why then were these words inserted? If they are unnecessary in the case of the Defaming husband,[25] utilise them in connection with the Ravisher; [and again], if they are not necessary for the first stage,[26] utilise them in connection with the latter stage [after the Ravisher had put her away].[27]

[Yet again, I say] the case of the Defaming husband could not be inferred from that of the Ravisher, because there is a counter argument, namely, that the Ravisher has done a [tangible] act,[28] [which cannot be said of the Defaming husband]![29] — Let us then rather [argue thus]: [The words] ‘she shall be his wife’ might have been omitted in the case of the Defaming husband, as she is his wife [already]. Why then, was it inserted there? If it is not essential in the case of the Defaming husband, transfer its application to that of the Ravisher;(*) and if it be not applicable there at first,[30] then it is to be applied to the latter stage [after he unlawfully put her away].[31]

But why not argue thus: As this order is not essential at the first stage of the Defaming husband,[32] let it be referred to himself in the latter stage, so that he [the Defaming husband] receives [therefore] no flogging?[33] — Indeed, you might argue thus, and then apply the same conclusion to the Ravisher[31] [You say, ‘Indeed’? Let us see,] by what [process of argument] is this derived? Whether by an a fortiori[34] or by analogy;[35] there is the counter argument already mentioned; [viz.:] What is the case of the Defaming husband? He has done no [tangible] action, which is not the case with[36] the Ravisher!

But [no], said Raba;[37] [the explanation must be sought in] the expression ‘all his days,’[38] , [which means that] ‘all his days’ he has the Scriptural demand upon him to ‘Get up and take her back.’[39] Likewise, when Rabin came [from Palestine], he reported R. Johanan to have said that during ‘all his days’ there is the demand upon him to get up and take her back. Said R. Papa to Raba: But [in fact] the prohibition [contained in this combination of a negative command preceded by a positive] does not conform to the [standard] negative [command] against Muzzling [the ox]![40] — Replied Raba: Why should the additional [charge of a] Do![41] by the All-Merciful, minimize [the force of the prohibition]?[42] [Said R. Papa:] If that is your view, then why not say likewise, in the case of a prohibition translated into [remedial] action,[43] why should the additional charge of a Do! by the All-Merciful minimize [the force of] the prohibition? — Replied Raba: There, the positive command comes to remove[44] [the effects of the contravention of] the prohibition.[45]

That [explanation][46] harmonizes with the view of those who say that [the flogging depends on] whether the transgressor has nullified,[47] or not nullified [his chance of making redress]; but according to those who say that [the flogging depends on] whether he had carried out, or not carried out[48] [the act of redress],what explanation does it afford?[49]

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(1) Rabbah b. Bar Hanah.

(2) As he retracted from the ruling he reported in the name of his teacher R. Johanan.

(3) Var. lec.: Raba.

(4) The positive (part of the) command, here.

(5) The negative (part of the) command, here, enforcing the positive ordinance above. The ‘camp’ is here defined by ‘in the midst whereof I dwell’ and means the Tabernacle (cf. Ex. XXV, 8, and XXIX, 42-46). which was situated in the centre, there having been three camps: the priests’ in the centre, then the Levites’ and around these the Israelitish camp. V. Num. I, 50 ff; II, 17.

(6) Num. V, 2-3.

(7) [Although this is a case where a positive command (v. n. 1) attends a negative command (v. n. 2) there is nevertheless a flogging, because the former command, to put out of the camp, could be carried out even before the contravention of the negative prohibition, that they defile not the camp, by the unclean man who entered the sanctuary, i.e., by preventing his entry therein — which supports the principle formulated by R. Johanan as reported by Rabbah b. Bar Hanah.]

(8) Rabbah b. Bar Hanah.

(9) Deut. XXII, 29. A similar case of a negative preceding a positive command.

(10) Having made amends.

(11) As he is forbidden to marry a divorcee. Lev. XXI, 7, 14.

(12) Assuming that the principle enunciated by R. Johanan stands.

(13) For having unlawfully put her away. Holy Writ ordains: And she shall be his wife because he humbled her; he may not put her away all his days. Deut. XXII, 29. And it was this difficulty that constrained Rabbah b. Bar Hanah to retract.

(14) ‘Ulla attempts to explain this Baraitha on the view of R. Johanan.

(15) Deut. XXII, 29.

(16) Deut. XXII, 13-19, a similar case.

(17) Defamation is not considered a bodily injury. v. p. 17, n. 5.

(18) Deut. XXII, 19.

(19) Who committed a bodily assault.

(20) The words, ‘she shall be his wife’.

(21) As he is expected to marry her, and generally, the ravisher does.

(22) Therefore, this is really a case of the type of a prohibition translated into (remedial) action, for which there is no flogging.

(23) Deut. XXII, 18-19. An exceptionally severe penalty, whereas the Ravisher is not flogged at all and only pays half the amount! The case can hardly be taken as analogous. [Consequently, the words ‘she shall be his wife’ may still refer to the first stage, affording thus no indication that by remarrying her after the divorce he remedies the offence he committed by putting her away.]

(24) Who is much more severely punished, being flogged and amerced a hundred shekels of silver.

(25) As it can be deduced from Ravisher.

(26) As he is expected to marry her.

(27) Therefore, this is really a case of the type of a prohibition translated into (remedial) action, for which there is no flogging. V. supra p. 105. n. 11.

(28) A bodily injury, unlike the Defamer.

(29) Cf. p. 106, n. 106 (end).

(30) V. p. 106, n. 9.

(31) V. p. 106, n. 10.

(32) As she is his wife already.

(33) [But there is still no scriptural warrant exempting a Ravisher from a flogging, unless R. Johanan's principle is rejected.]

(34) If the Defamer who was flogged (in the first instance) as well as amerced a hundred shekels can take back his wife and is not flogged for divorcing his wife if he remarries her, should not the Ravisher, who receives no flogging (in the first instance) and is amerced only half, fifty shekels be exempted from a flogging for divorcing his wife if he remarries her.

(35) מה מצינו

(36) V. supra p. 106 (end).

(37) As the attempted explanations so far have not been satisfactory, and the ruling of the cited Baraitha, namely, that a (lay) Israelite Ravisher is not flogged if he takes back his wife (for having flouted the prohibition to put her away) is still unexplained according to R. Johanan's principle, Raba offers one.

(38) He may not put her away all his days, Deut. XXII, 29 (cf. verse 19), on the reading adopted. v. D.S.

(39) I.e., he can at all times by remarrying her remedy the offence he committed in divorcing her and for this reason he is not flogged.

(40) Deut. XXV, 4, which is taken as the typical instance of an action that involves the penalty of a flogging (ordained in verses 2-3, there): (cf. the exposition on this above, 13b) and which is not preceded by a positive command.

(41) I.e., the addition of the positive command.

(42) No longer to entail a flogging, like any ordinary prohibition, i.e., like a pure negative.

(43) E.g., Ex. XII, ‘And ye shall let nothing of it (the roast meat of the Paschal lamb) remain until the morning; but that which remaineth of it until the morning ye shall burn with fire.’ Cf. supra 4b.

(44) לנתוקי (Rashi). Nahmanides and others read לתקוני ‘to amend’.

(45) As some sort of amends allowed by the Law for some omissions. Cf. supra 13b.

(46) Of Raba (supported by Rabin) namely, that the expression ‘all his days’ indicates that he can at all times remedy the offence by remarriage.

(47) Supposing he made remarriage absolutely impossible, e.g. by killing her, or getting her married (by ruse) to another man. (These instances create serious difficulties in other directions, raised later.) But, so long as he has not nullified the chance of remedying the offence, he might defer (the act of) redress to some later time.

(48) Forthwith, without delay.

(49) Because he should be flogged immediately when bidden by the court to remarry the wife and does not do so.

Talmud - Mas. Makkoth 15b

— Has not this [explanation been given] as reason for R. Johanan's view?[1] But surely it was R. Johanan [himself] who told a tanna:[2] If he has nullified [his chance of making redress], he is liable; and if he has not nullified it, he is exempt! Because [once] a tanna recited[3] in the presence of R. Johanan: Whenever a negative precept involves the fulfilment of a positive action,[4] then, if the offender has carried out the positive action he is exempt; if he has nullified [his chance of carrying out] the positive action he is liable. [Thereupon] R. Johanan [corrected him] saying: What did you say? ‘That if he carried out the positive act he is exempt’, [which implies that] if he did not carry it out he is liable [and that] ‘if he has nullified [his chance of carrying out] the positive act he is liable’, which implies that if he has not nullified [his chance of carrying out] the positive act he is exempt?[5] [Not so]. Teach thus: ‘If he has nullified it [he is liable], and if he has not nullified it [he is exempt].’[6] And Resh Lakish, [on the other hand,] says that [the flogging depends on] whether he [the transgressor] has carried out, or has not carried out [the requisite act of redress]. What is the point at issue between them? — The question of a dubious warning,[7] one Master taking the view that a dubious warning may be called [in law] a warning,[8] while the other Master takes the view that a dubious [warning] is not called [in law] a warning.[9] And they follow each his point of view [in several discussions], for it has been stated: [If one said, ‘I take] an oath that I shall eat this loaf to-day,’ and the day passed and he ate it not, both R. Johanan and Resh Lakish concur that he is not [to be] flogged. R. Johanan says he is not flogged

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(1) [It was R. Johanan's view imposing a flogging for the contravention of a negative command preceded by a positive command that gave rise to the question from a Ravisher and it was in reply to this question that Raba gave the explanation. Var. lec. reverse the reading: ‘That is in order according to the view (that flogging is determined by whether) he has or has not carried out (the act of redress) but what is there to say on the view (that it depends on whether) he has or has not nullified (his chance of making redress)?’ The question will accordingly refer to the last statement of Raba that the positive command comes to remove (the effects of the contravention of) the prohibition. Now this answer of Raba to R. Papa's question will be in accord with the former view, but on the latter view that although he has actually carried out the act of redress, but provided he has not cut off all chance of doing so, there is no flogging, the reason being that the prohibition does not conform to that of muzzling, the question of R. Papa remains unanswered. According to this variant preserved by R. Han., among others the statement of R. Johanan to the tanna which follows on should run: ‘Teach, If he has carried it out he is liable, if he has not carried it out he is exempt.’]

(2) V. Glos.

(3) A Baraitha, cf. Tosef, Mak. IV, 6.

(4) Lit., ‘Rise and do’, v. infra, p. 113. A combination of a negative and positive precept, v. pp. 112f.

(5) That is, showing him that such a wording involves directly contradictory conclusions. The first part yields an inference that if he carried it out immediately, he is exempt, while delay means a flogging; while the second yields the opposite conclusion, that as long as the prescribed course of redress is possible, he is exempt from a flogging.

(6) On variant, v. supra n. 1.

(7) A warning, to entail a judicial flogging, must be definite and direct to prevent an immediate breach of law; a merely pious remonstrance against some breach which may happen sometime, sooner or later, is dubious, indefinite and ineffective legally.

(8) [I.e., R. Johanan, who holds that it all depends whether or not he has nullified his chance, considers a dubious warning to be a warning, and consequently although at the time of the transgression it is not known whether he will cut off his chance of remedying the offence, he is nevertheless flogged when the circumstance arises.]

(9) [Resh Lakish holds that a dubious warning is not considered a warning and so he becomes liable to a flogging only when he is confronted by the order of the court to carry out the act of redress and refuses to do so. According to variant given p. 109. n. 1, interpret thus: R. Johanan holds that a dubious warning is considered a warning, and the transgressor can accordingly be warned at the time of the transgression, making him liable to the penalty on his failure to carry out the act of redress; whereas Resh Lakish holds that a dubious warning is considered no warning, consequently it is only when he is warned as he is about to nullify his chance of making redress that the warning is effective in making him liable to flogging.]

Talmud - Mas. Makkoth 16a

because this was [transgressing] a prohibition without [tangible] action [on his part],[1] and a prohibition [contravened] without [tangible] action does not involve a flogging. Resh Lakish [on the other hand] says he is not flogged, because the warning in this case is dubious [in character][2] and a dubious warning is not [legally] regarded as a warning. And both base their views on statements of R. Judah's,[3] as it is taught: And ye shall let nothing of it remain until the morning; but that which remaineth of it till the morning ye shall burn with fire.[4] Scripture comes here providing a [positive] act to follow [in the wake of] a prohibition,[5] thereby indicating that here no flogging is to be inflicted: these are the words of R. Judah; [etc.].[6] Now R. Johanan argues thus: The reason [why no flogging is given here] is [only] because Scripture comes [with the direction of a positive act after the contravened prohibition]; but if Scripture had not come [and made here] this special provision, he [the offender] would have been given a flogging;[7] this implies that a dubious warning is [legally] a warning.[8] Resh Lakish [on the other hand] argues thus: The reason [that no flogging is given here] is because Scripture comes [with the direction of a positive act as following the contravened prohibition]; but if Scripture had not come [and made such provision here], he would receive a flogging; this implies that a prohibition [contravened] without [tangible] action entails a flogging.[9] But according to R. Simeon b. Lakish, surely this too also is a [good] instance of dubious warning?[10] — He bases his view [on this point] on another statement of R. Judah's, as it is taught: If one [maliciously] wounded first one husband [of his mother's] and then the other husband [of hers],[11] or invoked a Divine imprecation,[12] first on the one and then on the other, or wounded them both simultaneously, or cursed them both simultaneously, he is liable.[13] R. Judah says, of [he did so] to both simultaneously,[14] he is liable; if to one after the other, he is not liable.[15]

And according to R. Johanan surely this too is a [good] instance of a prohibition [contravened] without [tangible] action?[16] — On this [particular] point, his [R. Johanan's] view is in accordance with what R. Idi b. Abin stated, in the name of R. Amram who reported R. Isaac as reporting R. Johanan to have said that R. Judah, citing the name of R. Jose the Galilean, said: ‘In all prohibitions of the Torah, a prohibition involving [tangible] action entails a flogging; a prohibition not involving [tangible] action, does not entail a flogging, save in the case of one who takes an oath [and does not fulfil it];[17] one who commutes [one gift promised to the Sanctuary with another][18] or invokes a Divine imprecation on his fellow.’[19] Then, is not one statement of R. Judah contradicting another![20] — [The divergence in the statements] of R. Judah's according to R. Simeon b. Lakish [on the question of a dubious warning] may be taken as two [different] versions[21] of R. Judah's [original] statement; again, [the divergence in R. Judah's statements] according to R. Johanan is not difficult to explain, as one may be taken as his own [R. Judah's] view and the other as that of his Master [R. Jose the Galilean].

We learnt elsewhere:[22] ‘If one takes the dam with the young, R. Judah says he is flogged,[23] and he does not send the dam free; but the Sages say that he lets the dam go,[24] and receives no flogging. This is the general principle, Whenever a negative command involves the fulfilment of a positive action[25] there is no flogging for contravention.’ R. Johanan observed: We have only this instance and one other.[26] R. Eleazar asked him: Where? — When you find it [you will know], was the reply. He left him, made careful search and found [the following], as it is taught: A Ravisher who put away his wife [by divorce], if he be a [lay] Israelite, takes her back without receiving a flogging; if he be a priest, he receives flogging[27] but does not take her back. Now this accords well on the view that teaches [the flogging depends on] whether the transgressor had carried out,[28] or not carried out [the act of redress];[29] but what about the view that teaches that [it depends on] whether he has nullified, or not nullified [his chance of making redress]?[30] [True,] this [principle] applies well enough to the case of sending away the dam;[31] but in the case of the Ravisher, how is the principle ‘whether he had nullified, or had not nullified [his chance of making redress]’ applicable? If [for instance], he killed his wife, he is liable to the severer penalty [of death]![32] — R. Shimi of Mahuza suggested that, for instance, he accepted on her behalf a betrothal token[33] from another man. Said Rab: [Let us see:] If she had made him[34] her attorney, it is the woman who nullified [the chance of] redress; and if she had not made him her attorney — can he do anything of the kind? It would be futile [on his part]! — But said R. Shimi of Nehardea: [Let us say,] for instance, that he took a solemn vow publicly [that he would never again live with her]. That [suggestion] is compatible with the opinion held that a vow made publicly is not subject to [formal] rescission; but, according to the opinion that a vow made publicly is subject to [formal] rescission,[35] what can you then say? — That he made it dependent on the consensus of the public, as Amemar stated: The law is that a vow made in public is subject to [formal] rescission, but if made dependent on the consensus of the public, it is not subject to [formal] rescission.[36]

And are there not other instances? (Mnemonic: Larceny, Pledge, Corner.) There is the case of Larceny, where the All-Merciful ordained, Thou shalt not oppress [withhold from] thy neighbour nor rob him,[37] and then [elsewhere] directs, That he shall restore that which he took by robbery![38] Then again, there is the case of the Pledge, where the All-Merciful ordained, Thou shalt not go into his house to fetch his pledge, and then [follows], Thou shalt stand without . . . thou shalt surely restore to him the pledge when the sun goeth down![39] And do not these instances fit equally well [if we say that the flogging depends on] whether the transgressor has carried out, or not carried out [the act of redress], or whether he had nullified or not nullified [his chance of making redress]?[40] — [True,] but[41] as [amends can be made] here by a monetary compensation [if he destroyed the pledge], he is not liable to both a flogging and compensation.[42] To this R. Zera demurred: What if the pledge[43] belonged to a proselyte,[44] who has since died?

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(1) Sheer dilatoriness, by omitting to do what he intended.

(2) Merely a friendly reminder not to forget, which the vower might in all sincerity have intended to fulfil, had he not inadvertently forgotten or been prevented till the time had gone by.

(3) Lit., 'according to the heart (intention) of R. Judah.'

(4) Ex. XII, 10. The meat left over is termed 'nothar'.

(5) To burn the remaining meat.

(6) V. supra p. 17.

(7) That is R. Judah's interpretation.

(8) I.e., by saying that were it not for the special dispensatory action provided, he would receive a flogging, and notwithstanding the fact that from the nature of the case the warning must be dubious and indefinite as to the exact time of its application, it is yet sufficient (judicially) for a flogging.

(9) But it affords no proof that a dubious warning should be considered a warning.

(10) Thus proving that it is a warning.

(11) The woman, divorced from her first husband, was married to another man rather soon and gave birth to this son prematurely. It was doubtful whether this child was a premature child of the second husband, or a mature child of the first, either man thus being a possible father. The warning that wounding a parent was a capital offence (Lev. XXI, 15), was here a dubious warning, in regard to whom it actually applied, maybe this one or the other.

(12) Thus cursing a parent with the Divine Name pronounced, was also a capital offence, cf. ibid. verse 17. Shebu. 36a, and supra p. 52, n. 1.

(13) To the death penalty.

(14) If the warning given to the son was concerning both men, and he with one deliberate aim and stroke wounded both men simultaneously, one of them was certainly his father whom he injured.

(15) Which implies that a dubious warning is regarded as no adequate (legal) warning, according to R. Judah.

(16) [The reference is to the 'leavings' nothar, (v. p. 111), from which R. Johanan infers that R. Judah holds that a dubious warning is considered a warning, why does he not also deduce that a prohibition involving no tangible action entails a flogging seeing that nothar too involves no action?]

(17) For fuller discussion on this point. v. Shebu. 21a; Tem. 3a.

(18) V. Lev. XXVII, 9-10. and Tem. 3a ff.

(19) V. p. 52. n. 1.

(20) On both issues, as regards a flogging in the case of an offence without action and the dubious warning, according to the respective implications in the statements of R. Judah which R. Johanan and Resh Lakish interpret each in his own way.

(21) Lit., 'two Tannaim'.

(22) Hul. 141a. cf. also supra 17a, where in the course of the discussion it is shown that R. Judah took that ordinance as a positive preceding a negative. viz., If you chance on a bird's nest, first, 'send away the mother bird and take the young' (positive); next, 'Thou shalt not take the dam with the young' (negative).

(23) For having contravened the above prohibition; and as the dam had been taken and the offender was punished for the offence, the matter is at an end.

(24) As an act of redress, v. next note.

(25) I.e., wherever the positive provides the (way of making) amends, and escaping the flogging.

(26) Although it is stated in the Mishnah as a 'general principle' where the exemption from flogging depends on the fulfilment of the positive command.

(27) Because as a priest, by divorcing her, he nullified his chance of making redress.

(28) V. p. 109, n. 1.

(29) E.g., the lay-Israelite, who remarries her and escapes the flogging.

(30) R. Johanan's view as reported above, that he is flogged only when he has made amends impossible.

(31) If he killed her or broke her wings, he is flogged.

(32) And there is no question of flogging.

(33) Kiddushin — a ring or coin accepted at the hand of the groom (or his attorney) by the woman as a marriage token renders her legally bound as his wife-designate: she can be released only by formal bill of divorce, but even then he could not remarry her (after having become the wife of another man). V. Deut. XXIV, 1-4.

(34) Her late husband, the Ravisher, authorised by her to accept the marriage-token on her behalf.

(35) By a recognized authority who may, under certain genuine, unforeseen, extenuating circumstances, rescind a vow by declaring him absolved. Cf. Rashi on Num. XXX, 2 (end) and Ned. 77b.

(36) And by making such a vow, the Ravisher nullifies all chance of making redress.

(37) Lev. XIX, 13, the negative command.

(38) Lev. V, 23, the positive command, providing the amends for the negative.

(39) Deut. XXIV, 10-13 and 19-21.

(40) [As on either view there is a possibility of a flogging being inflicted in the case where the article stolen or given on deposit was lost or destroyed intentionally by the thief or bailee so that he can no longer fulfil either the positive commands involved.] Why did R. Johanan say there were only two?

(41) These cases are of a different category, he can pay the penalty in money and will not be flogged.

(42) ‘The Sages say, Whoever is ordered to pay damages is not flogged.’ Cf. supra 4a [Tosaf. however shows that everywhere in such cases the offender is flogged and does not pay, the money penalty being merged in the graver penalty; they accordingly omit ‘he is not . . . compensation.’]

(43) Seized unlawfully by the creditor and destroyed by him, thereby having already made himself liable to a flogging.

(44) A proselyte, who died without a Jewish issue to whom the Hebrew law could be applicable. As on the proselyte's death the creditor is left without a claimant for damages, the offender should be flogged, as he cannot make amends by compensation. In that case, it would be a third instance.

Talmud - Mas. Makkoth 16b

— Here too the man is [in fact] liable to [pay] compensation; only the title of the proselyte has lapsed [with his death].

And is there not the instance of the ‘Corner of the Field’, where the All-Merciful ordained, Thou shalt not wholly reap the corner of thy field, neither shalt thou gather the gleaning of thy harvest, [and then continues,] Thou shalt leave them for the poor and for the stranger?[1] And, this too, fits equally well [if we say that the flogging depends on] whether the transgressor has carried out, or has not carried out [the act of redress], or on whether he had nullified, or not nullified [his chance of making redress],[2] as [is to be gathered from what] we learnt: The ordinance of the ‘Corner [of the field]’ is [in the first instance] to leave apart some of the standing corn [for the poor]; if he neglected to leave some of the corn standing, he sets apart some of the sheaves; if he failed to set apart some of the sheaves, he leaves apart some of the grain in the heap before winnowing; having winnowed, he should tithe the grain [first][3] and then give to the poor [his due]![4] — [No. R. Johanan holds] according to R. Ishmael, who said: He can also give it in part of the dough.[5] But even according to R. Ishmael, there is still the case where the transgressor has already consumed the bread![6] — Hence this [indeed] is the only other instance that R. Johanan had in mind when he said, ‘We have only this instance [of the Bird's Nest] and one other’ — But it is not that of the Ravisher [who pledged himself publicly not to live with her], because it is only in an optional matter that we say that a vow made dependent on the consensus of the public is not subject to [formal] rescission; but where the matter involved is one in the nature of religious obligation[7] it is subject to [formal] rescission, as for instance in the case of a certain elementary teacher treating the children harshly so that R. Aha made him pledge himself [on the consensus of the public[8] not to teach]; but Rabina reinstated him, because no other teacher could be found who was equally reliable.[9]

ONE WHO EATS OF NEBELAH, OR TREFA, OR ANY CREATURE ABOMINABLE AND TEEMING [INCURS A FLOGGING]. Said Rab Judah: If one eats [knowingly] a worm in a cabbage[10] he incurs a flogging. A certain fellow [once deliberately] ate a worm in a cabbage and Rab Judah had him chastised.[11] Abaye observed that if one eats an eel[12] he [technically] incurs a flogging on four[13] counts; if an ant, on five counts, [the extra count being] for Any swarming [crawling] thing that swarmeth upon the earth [ye shall not eat them];[14] if a hornet, on six counts [the extra count being] for [And all] winged swarming things [are unclean] to you; [they shall not be eaten].[15] Raba[16] observed that anyone confining his faeces sins against And ye shall not make your souls detestable.[17] R. Bibi son of Abaye observed that anyone drinking out of a cupping-horn sins against Ye shall not make your souls detestable [by . . . what I have set apart for you to hold unclean].[17] Rabbah the son of R. Huna said that if one crushed nine ants [into a mash] adding thereto another live one, thus bringing up the quantity to [the requisite] an olive's size [and ate them], he renders himself liable on six counts; five for the [live ant as a] separate creature,[18] and one for [the mass as amounting to] an olive's size of nebelah.[19] Rabbah reporting R. Johanan said [it would be the same], even with only two [mashes] and one other whole.

R. Joseph [reporting R. Johanan][20] said even only one [mashed] and one alive. And there is no disagreement between them [in principle], for one is thinking of larger and the other of smaller sized [insects].

ONE WHO EATS OF TEBEL, OR A FIRST TITHE FROM WHICH ITS TERUMAH HAS NOT BEEN TAKEN, OR OF SECOND TITHE WHICH HAS NOT BEEN REDEEMED. Rab said that one who eats of tebel-produce from which its poor tithe[21] has not been taken is flogged.[22] Whose view is followed [in this statement of Rab's]? — That of the Tanna [in the following passage,] where it is taught: R. Jose says:[23] It might be supposed that one is liable [to a flogging] only on eating tebel-produce from which no due whatsoever has yet been set apart; but where [for instance] terumah gedolah[24] has been separated, but not yet the first tithe, or the first tithe, but not yet the second tithe, or [say] even the poor tithe [has not yet been separated] — whence [is derived the prohibition of] eating such produce? From the following instructive texts: Thou mayest not eat within thy gates[25] the tithe of thy corn, or of thy wine, or of thine oil;[26] and later it says, that they may eat within thy gates and be satisfied.[27] What is the reference in the latter [text]? To the poor tithe. So likewise in the former [text] reference is to the poor tithe, and the All-Merciful enjoins ‘Thou mayest not eat of ...’[28]

Joseph said: [Rab's point has been debated already] by Tannaim: R. Eliezer says that in the case of demai[29] there is no need even to designate [and assign][30] the poor tithe; but the Sages say

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(1) Lev. XXIII, 22, cf. ibid. XIX, 9-10.

(2) Cf. p. 109, n. 1.

(3) So as not to deprive the poor of part of his gift, namely the proportion of the tithe, as the ‘Corner’ is not subject at all to tithes, provided it was assigned to the poor before the winnowing when tithes become due.

(4) [So that there is a possibility for the owner to nullify the precept in the case where he ground the grain into flour after which he can no longer fulfil the command of the corner, and is consequently flogged.]

(5) [So that he can still fulfil the command even after having ground the grain.]

(6) Cf. p. 114, n. 7.

(7) As here, where it is Scripturally demanded that she shall remain his wife (unless she herself does not wish it).

(8) [According to reading in Git. 36a].

(9) in any case, the original instance which gave rise to the whole discussion (of the theory of the positive preceding negative ordinance, namely, not to defile the holy Camp — the Sanctuary), is different in nature from the others, as the positive command can be fulfilled before the actual violation of the negative command; his coming away is thus not considered (an act of) redress, and the flogging is incurred.

(10) Forbidden in Lev. XI, 43, as a ‘swarming thing’ (although not actually found crawling abroad) bred in the cabbage.

R. Tam (Tosaf.) suggested (instead of a cabbage-grub) a small fish found alive on the field (such as a tadpole or young eel; v. next note). Being found on dry land (not in the water, its usual habitat,) it comes under the category of a ‘swarming thing’ — שרץ השרץ — forbidden in Lev. XI, 43.

(11) Probably only a disciplinary castigation, not the judicial (39) stripes, being outside Palestine. V. אוצר ישראל (Eisenstein) s.v.מלקות. Vol. VI, p. 229b.

(12) פוטיתא, according to Gaonic interpretation, the young eel (Arabic garri. v. Kohut, Aruch, s.v. פטתא and B.M. Lewin, Otzar ha-Gaonim III (Pes.) No. 42). Young eels — glass eels — are often found in thousands (2 to 2 1/2 inches in size) travelling at night overland to get to the sea.

(13) Lev. XI. 10-11 (forbidden on several grounds: (a) as water-insect; (b) as finless; (c) as scaleless) and twice again, ibid. 43. Cf. Rashi ‘Er. 28a.

(14) Lev. XI, 41-44: Forbidden as insect crawling on the ground (41); as many-footed (42); twice forbidden as food (43); once more forbidden as an insect crawling on the ground (44).

(15) Deut. XIV, 10, in addition to those in the preceding note.

(16) D.S. האי מאן of which the reading in the printed texts is a distortion; v. Friedmann, M. Tractate Makkoth a.l.

(17) Lev. XX, 25.

(18) As supra note 2 and cf. n. 13 on Mishnah.

(19) V. p. 93, n. 12.

(20) Cf.D.S.

(21) The tithe levied in the third and sixth years of the Septennial or Sabbatical cycle.

(22) A novel point, as there is no direct explicit prohibition against eating of fruits from which the poor tithe had not been set apart. It is implied in Deut. XXVI, 13 (cf. Sifre a.l.); but not openly prohibited. No judicial flogging (of ‘forty’ lashes) is inflicted except the offence is explicitly prohibited in Holy Writ. No punishment is warranted on logical inference, hence the search for the basis of Rab's assertion.

(23) ר יוסי אומר is the correct reading, cf. Yeb. 86a and Sifre, on Deut. XII, 17.

(24) V. Glos.

(25) בשעריך This phrase serves as a Gezerah shawah.

(26) Deut. XII, 17. In verse 18 it is ordered that the various offerings and hallowed dues were to be shared ‘with the Levites in thy gates’.

(27) With reference to the poor tithe; Deut. XXVI, 12 (also v, 13).

(28) Not to eat of the various offerings and dues without giving the Levite and other poor their share.

(29) דמאי ‘Suspect Produce’ — produce regarding which it is not known whether the prescribed tithes have been duly set apart by the vendor before selling. An ancient tradition has it that Johanan the High Priest (the Maccabean John Hyrcanus I), discovered (after investigation) that while the priests’ terumah (v. Glos.) was being given regularly, the ‘amme ha-arez (v. Glos.) throughout the land were none too observant about the several other tithes. To meet the scruples of the pious (and to preserve the laws regulating the tithes from extinction), he promulgated that the several tithes should be set apart by the purchaser from an ‘am ha-arez. But, as this practice would evidently fall heavily on the purchasers, it was agreed that after setting the prescribed dues apart, the buyer might retain them for his own consumption, as, firstly these tithes were not forbidden to a lay-Israelite, and secondly the claim of any particular priest (or Levite) to the first tithe, or of any particular poor man to the poor tithe was uncertain.

(30) If one had need to partake of his produce before he had set apart any of the several dues, he could provisionally ‘designate’ and ‘assign’ them by saying: ‘Let the terumah of this bin be located in the east; the first tithe in the west; the second tithe in the north, or (in the 3rd and 6th year) the poor tithe in this or that particular spot,’ and then take his temporary supply from any other part. Later he would attend to these dues.

that one should ‘designate’ it, but need not set it apart.[1] Is not here the point at issue this — that one authority [the Sages] holds that the known presence [of unseparated poor tithe in produce] makes it tebel,[2] while the other authority [R. Eliezer] holds that it does not make it tebel! — Said Abaye: If that were the issue, why raise it in connection with demai? It should have been raised in connection with produce which is known to be untithed! Hence, [it must be said,] all are agreed that the known presence [of unseparated poor tithe] does render the produce tebel,[2] and the issue involved here is rather this, that one authority [R. Eliezer] takes the view that the ‘amme ha-arez[3] are not suspected of withholding the poor tithe of demai, as, being merely a money matter, they do [not fail to] set it apart;[4] while the Rabbis[5] take the view that ‘amme ha-arez are mistrusted about it, because it involves trouble,[6] and as the separation of the due means some trouble to them,[7] they will not set it apart.

HOW MUCH OF TEBEL IS ONE TO EAT TO BECOME LIABLE? R. SIMEON SAYS THE MEREST MORSEL AND THE SAGES SAY AN OLIVE'S SIZE. R. Bibi reporting R. Simeon b. Lakish said that this difference of opinion referred only to the [grain of] wheat, but as to the [requisite amount of] flour all were agreed that it is an olive's size. But R. Jeremiah reporting R. Simeon b. Lakish said that there was a difference of opinion on both the [amount of] flour as well as the [grain of] wheat.

We learn [in the Mishnah]: SAID R. SIMEON, DO YOU NOT ADMIT THAT IF ONE ATE THE MINUTEST ANT HE WOULD BE LIABLE? SAID THEY TO HIM: [ONLY] BECAUSE IT IS A SEPARATE CREATURE. SAID HE TO THEM: EVEN SO A [GRAIN OF] WHEAT IS A SEPARATE ENTITY. [Does not this text show that] there was a dispute only about the [grain of] wheat, but nothing about flour! — [Not so.] R. Simeon only argues [with the Rabbis] on their own contention: My own opinion [he argues] is that even the same quantity of [tebel] flour is enough [for entailing a flogging]; but even according to your contention, you should admit to me that one [grain of] wheat is a separate entity. And the Rabbis’ [reply]? — An animate thing is of sufficient importance [as to be considered a separate entity], but a [grain of] wheat is not of such importance. [In a Baraitha] it is taught as R. Jeremiah had reported: R. Simeon says that any minute quantity[8] is sufficient to entail a flogging; the ‘olive's size’ mentioned [by the Rabbis] is required only to entail a [sin-]offering.’

MISHNAH. ONE WHO EATS[9] OF FIRST FRUITS PREVIOUS TO THE RECITAL OVER THEM;[10] [WHO EATS] OF MOST HOLY [MEATS][11] OUTSIDE THE HANGINGS; OF LESSER HOLY [MEATS][12] OR OF SECOND TITHE, OUTSIDE THE CITY WALL.[13] ONE WHO BREAKS A BONE OF A PASCHAL LAMB[14] THAT IS CLEAN[15] RECEIVES FORTY [LASHES]; BUT ONE WHO LEAVES OF THE FLESH OF A CLEAN PASCHAL LAMB,[16] OR BREAKS A BONE OF AN UNCLEAN [PASCHAL LAMB],[17] IS NOT GIVEN FORTY [LASHES]. IF ONE TAKES THE DAM WITH THE YOUNG,[18] R. JUDAH SAYS HE IS FLOGGED AND NEED NOT [THEN] SEND THE DAM FREE; BUT THE SAGES SAY THAT HE LETS THE DAM GO AND RECEIVES NO FLOGGING. THIS IS THE GENERAL PRINCIPLE; WHENEVER A NEGATIVE PRECEPT INVOLVES THE FULFILMENT OF SOME POSITIVE ACT,[19] THERE IS NO FLOGGING FOR ITS CONTRAVENTION.

GEMARA. Rabbah b. Bar Hanah citing R. Johanan said that this[20] is only the view of R. Akiba who is reported anonymously,[21] but the Sages say regarding [the ceremonies of] the first fruits that only placing them [before the altar][22] is a bar [to their consumption],[23] but the [omission of the] recital is no bar [to their consumption]. Then why not say that the above is the view of R. Simeon who is reported anonymously?[24] — This is what he meant to tell us that R. Akiba [also] held that same view as expressed by [his disciple] R. Simeon. Which statement of R. Simeon [have you in mind]? — As it is taught:[25] ‘And the raising of thy hand’ — that is the first fruits.[26] Said R. Simeon: What is the lesson intended by this text?[27] If it is merely [to forbid] eating them [first fruits] outside the wall [of Jerusalem, there is no need]; it follows a fortiori from the less restricted second tithe [in this way]: Seeing that he who eats of the less restricted[28] second tithe outside the wall, is flogged,[29] is not that [flogging] more deserved for eating first fruits [outside the wall]? The text therefore can only mean to convey that he who eats them when the [prescribed] recital has not yet taken place, is flogged.[30] ‘Nor of thy freewill offerings’[31] — that means [not eating outside Jerusalem] of thank-offerings or peace-offerings. Said R. Simeon: What is the lesson intended by this verse? If [only to forbid] eating of these [meats] outside the wall, this follows, a fortiori, from the second tithe [as before].[32] The text therefore can only mean to convey that he who eats of the meat of thank-offerings and peace-offerings before the blood had been sprinkled [on the altar][33] is flogged.[34] ‘And the firstlings.’ — that means the firstborn [male animals].[35] Said R. Simeon: What lesson is intended here? If [only to forbid] eating of these [holy meats] outside the wall, this [too] is [inferred already] a fortiori, from the second tithe [as before].[36] If [to forbid eating of the flesh] before the blood had been sprinkled, this follows, a fortiori, from the thank-offering and peace-offering.[37] The text therefore can only mean to convey that [a layman] who eats of the firstling even after the ritual blood-sprinkling, receives a flogging.[38] ‘of thy herd or thy flock’ — that alludes to sin-offerings and guilt-offerings.[39] Said R. Simeon: What is the implied injunction here? If only against eating of these outside the wall, this follows a fortiori, from the second tithe [as before];[36] if against partaking of these before the blood-sprinkling [on the altar], this already follows a fortiori, from the thank-offering and peace-offering [as before];[37] if against [any layman] eating of sin-offerings or guilt-offering [even] after the ritual blood-sprinkling [on the altar], this already follows, a fortiori, from the [law of the] firstling.[40] The text therefore can only mean to convey that if a priest eats of sin and guilt-offerings even after the ritual blood-sprinkling outside the ‘hangings’, he [transgresses and] receives a flogging.[38] ‘Nor any of thy vows’ — that refers to burnt-offerings.[41] Said R. Simeon: What is the implied injunction here? If only against eating of these outside the wall, this already follows, a fortiori, from the second tithe [as before]; if against eating of these before the blood-sprinkling, it already follows, a fortiori, from the thank-offering and peace-offering [as before]; if against [any layman] eating of these same after the ritual blood-sprinkling, it already follows, a fortiori, from the [law] of the firstling [as before]; if against [priests] eating of these outside the ‘hangings’, it follows, a fortiori, from the sin and guilt-offerings.[42] The text therefore means to convey

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(1) For the sake of preserving the principle, the particular due, poor tithe, should be mentioned (as possibly present), but need not be actually located nor separated; v. Dem. IV, 3.

(2) Debarred as tebel, until the due portion is taken away.

(3) V. Glos.

(4) [There is no prohibition for a lay Israelite to eat of the poor tithe and by setting it aside the owner need not necessarily give it to the poor, but can still retain it for himself. This is however not the case with the first and second tithe, since the former will remain prohibited on account of the terumah (v. Glos.) which it contains and the latter until it is taken up to Jerusalem.]

(5) The Sages.

(6) So D.S.

(7) Would not be bothered with the formal niceties of the ordinance.

(8) Forbidden to be eaten. Cf. e.g. Lev. VII. 26-27.

(9) This is in continuation of the list of offences that entail a flogging.

(10) Cf. Deut. XXVI, 1-10. First fruits were to be eaten only by priests, and their families, in religious purity. Num. XVIII, 13.

(11) Such as meat of sin-offerings, guilt-offerings and their accompanying meal-oblations: these were to be eaten by male priests only, in the inner precincts of the Temple (corresponding to the Court of the Tabernacle, ‘within the hangings.’ Cf. Num. XVIII, 9-10; Lev. VI, 7-11 (meal-oblation); 17-19, 22 (sin-offering); VII, 5-10 (guilt-offering); Ex. XXIX, 26 ff; Lev. VI, 9, 19 (inner holy precincts). Cf. also P.B. p. 12, sections 4-5.

(12) Such as Peace-offerings (private), thanksgiving, Nazirite's ram, firstlings, tithe lambkins and calves and the Paschal lamb. Cf. P.B. pp. 12 and 13, section 6-8. Of these the altar, the priests and the worshippers had each their share. Cf. Lev. VII, 11 ff. 18; 28-34; Num. VI, 19-20. and XVIII, 11-19.

(13) Of Jerusalem, the chosen place, as before the Lord. Cf. Deut. XII, 6-7; 11, 17-18.

(14) Forbidden in Ex. XII, 46; Num. IX, 12.

(15) Undefiled; cf. Lev. VII, 19.

(16) An offence by inaction, for which a remedial act is prescribed (Ex. XII, 10). v. supra p. 111.

(17) No longer in the category of a proper Paschal offering.

(18) Forbidden in Deut. XXII, 6-7. There too, a remedial action is prescribed, v. supra p. 111.

(19) Lit., ‘(the command to) rise and do.’

(20) The ruling in the Mishnah referring to the First fruits.

(21) [Cf. Sanh. (Sonc. ed.) pp. 565 f. and notes and Rashi Meg. 2a.]

(22) Cf. Deut. XXVI, 4: ‘And set it down before the altar.’

(23) I.e., the ceremony is indispensable for their release to be eaten by the priests.

(24) [In the Baraitha cited anon and quoted from the Sifre (v. n. 13) which generally represents the opinion of R. Simeon, cf. n. 9.]

(25) Treated more fully in Sifre, on Deut. XII, 17. Here is the prohibiting text (Deut. XII, 17) employed: Thou mayest not eat within thy gates the tithe of thy corn, or of thy wine, or of thine oil (i.e. the second tithe of these); or of thy firstlings of thy herd or of thy flock; nor of any vows that thou vowest; nor of thy freewill offerings; nor of the raising (fruits) of thy hand. (Verse 18 continues positively: But thou shalt eat them before the Lord thy God in the place the Lord thy God shall choose (i.e. Jerusalem). Cf. ibid. 6-7: 11-14; 26-27.) To appreciate the subtlety of R. Simeon's ingenious arguments on this text, it is necessary carefully to note (a), that no flogging is due for not doing something recommended or even commanded, but for doing an action that is distinctly forbidden; and (b), that R. Simeon tries to prove (among many other things) from Deut. XII, 17, that the prescribed ‘recital’ over the First fruits is an indispensable ceremony, and if omitted, eating of the First fruits is forbidden on the pain of a flogging (of forty); (c), that to prove his theses he does not expound the verse in the order it is written, but in such a manner as will best fit in with his views, as will be seen as the argument proceeds.

(26) And the priest shall take the basket (of first fruits) out of thy hand and set it down before the altar of the Lord thy God. Deut. XXVI, 4 ff. Cf. p. 120, n. 3.

(27) What is the particular point forbidden, as regards first fruits?

(28) As explained infra,

(29) Deut. XII, 17: Thou mayest not eat within thy gates the (second) tithe of thy corn . . . wine . . . oil! There were no such restrictions on the first tithe that was given to the priest-Levites; it could be eaten anywhere ‘even at the graveside’. Cf. Num. XVIII, 31.

(30) [On the principle that where a superfluous phrase cannot be applied to one subject it is applied to another, v. supra p. 100, n. 6.]

(31) On these peace-offerings cf. p. 120, n. 5.

(32) Second tithe is less restricted in that, unlike thank and peace-offerings, its enjoyment is not restricted by any time-limit; nor debarred (technically) as ‘stale remains’ or ‘piggul’; (v. Glos.) nor debarred to the (ritually) impure (as in the case of thank and peace-offerings), v. Lev. VII, 15-21 and XXII, 29-30. (Sifre).

(33) Commanded (positively), Deut. XII, 26-27 (first the rites of the altar, then eat!), and here argued as negatively forbidden (in verse 27) on pain of a flogging.

(34) V. p. 122, n. 5.

(35) Deut. XV, 19-20 (the positive command). Num. XVIII, 15-19, grants firstlings to the priests (and their families) after the altar rites. Cf. Zeb. V, 8. and P.B. p. 13.

(36) Cf. p. 122, n. 7.

(37) As explained infra.

(38) V. supra p. 122, n. 5.

(39) These (and their meal-oblations) are Most Holy, permitted to male priests only, eaten only in the inner precincts of the temple — ‘within the hanging’. (Cf. p. 120, n. 4.) Num. XVIII, 9-10, give the positive command about these, and R. Simeon now seeks to argue on the prohibition as entailing a flogging.

(40) As explained anon.

(41) Cf. Lev. I, 2 ff. V. P. B. p. 12.
(42) As explained anon.

Talmud - Mas. Makkoth 17b

that he who eats of the burnt-offering after the blood-sprinkling [on the altar], even within [the ‘hangings’], is flogged.[1]

Said Raba: [This is ingenious;] may every bearing mother bear a child like R. Simeon! And if not [quite like him], should she not bear any at all[2] — though his a fortiori arguments may be refuted! For instance, in what respect [is it assumed] that first fruits are of graver importance[3] [than second tithe]? In that first fruits are forbidden to lay people [non-priests]! But is not the second tithe rather of graver importance, because second tithe is forbidden to the onen[4] [and the argument is thus unsound]? Again, in what respect [is it assumed] that thank and peace-offerings are of graver importance than second tithe? In that these have [also] the offering of blood and the certain ‘prescribed’ portions[5] [of fat etc.] on the altar! But is not the second tithe rather of graver importance, because second tithe may be redeemed only with coined silver[6] money [and no other]? Again, in what respect [do you assume] is the firstling of graver importance than thank and peace-offerings? In that it is sanctified from the womb[7] [unlike those sacrificial animals]! But are not rather the thank and peace-offerings, of graver importance because thank and peace-offerings require the ‘laying [of the hand]’;[8] ‘drink-offerings’ [of wine][9] and the waving of breast and thigh?[10] Again, in what respect are the sin and guilt-offerings of graver importance than the firstling? In that they are in the category of most-holy![11] But is not the firstling rather of graver importance, because the firstling is sanctified from the womb?[12] Again, in what respect is the burnt-offering of graver importance than the sin and guilt-offering? In that the burnt-offering is wholly burnt![13] But are not the sin and guilt-offerings rather of graver importance, because they afford atonement;[14] nay, all [other] sacrifices are of graver importance than the burnt-offering, because those others are consumed in two ways?[15] But if so, what [made Raba exclaim]: ‘May every bearing mother give birth to such as R. Simeon’? — It is because of his method of recasting[16] and expounding the text to suit his own theory. But is a prohibition based on logical deduction[17] warranted? For, even those who accept[18] [in principle] a penalty derived by logical deduction as warranted do not recognise a prohibition based on logical deduction? — [No, R. Simeon desired] to demonstrate mere prohibition[19] [in each case]. But did not Raba say that, according to R. Simeon, any lay person eating of the flesh of burnt-offering before the sprinkling of the blood and outside the wall [of Jerusalem] is flogged on five counts?[20] — [He only meant to say] five mere prohibitions were involved [in this one act of eating]. But then, have we not learnt: These incur [judicial] flogging, etc?[21]

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(1) The positive command to burn it wholly is given in Lev. I, 9, 13, 17; and this furnishes the negative command, cf. supra p. 122, n. 5.

(2) [‘And if not . . . at all’ is best omitted with MS.M.]

(3) The criterion of importance being the number of restrictions, which shows the amount of concern and interest devoted by the Torah to the matter.

(4) אונן, a person in deep sorrow on the day of bereavement, when the dead is still unburied. Part of a prescribed declaration to be made in the Temple (after the 3rd and 6th years in the Septennial Cycle) was: ‘I have not eaten thereof (i.e. of second tithe) in my mourning . . . nor given thereof for the dead.’ Deut. XXVI, 14. (The same condition attaches to first fruits, but R. Simeon does not share that view in the case of the latter. v. Yeb. 73b.)

(5) Emurin — אימורין — ‘bidden’, or ‘prescribed’ rites. Cf. Lev. I, 5, 8, 9; II, 2, 13, 15-16; III, 3-5, 9, etc. Also Num. XV, 4 ff. Cf. the term אמור, as ‘prescribed’ (not, ‘as it is said’) in the Prayer Book, when citing the sacrifices ordained for the occasion. E.g., P.B. p. 162. [Jastrow connects it with root denoting ‘to devote’, ‘to consecrate’, cf. Deut. XXVI, 17.]

(6) V. B.M. 47b. Cf. supra p. 92, n. 8.

(7) Cf. Ex. XIII, 12-13; Num. XVIII, 15-18; Deut. XV, 19-20. A firstling is sacred and dedicated from birth. Other sacrificial animals have to be selected and dedicated as offerings.

(8) Lev. III, 2, 8, 13. The worshipper laid his hand on the head of the animal.

(9) Num. XV, 5 ff.

(10) Lev. VII, 28-32. These were not required in the case of a firstling. Num. XVIII, 17-18.

(11) Lev. VI, 18; VII, 1.

(12) V. supra note 8.

(13) Lev. I, 9, 13, 17.

(14) Cf. Lev. IV, 20, 26, 31, 35 (Sin-offering); V, 6, 10, 16, 18, 26.

(15) Parts are burnt on the altar, other parts are eaten by the priests, and in sacrifices of minor sanctity parts are enjoyed by the owners or worshippers. It should be remembered that eating of sacrificial meat was part of the ritual, hence the importance attached to it.

(16) Lit., 'castrating'. [V. supra p. 121, n. 13. Had he, for instance, made the firstling the starting point of his arguments, he could not, in the absence of the a fortiori reasoning from thank and peace-offerings with reference to the eating of them before the blood sprinkling (as this would still remain to be proved), substantiate his thesis in regard to the eating of them after the sprinkling of the blood. The same applies to all the other arguments advanced by R. Simeon.]

(17) To sanction the penalty of flogging such as R. Simeon attempted here by his arguments. Cf. supra 5b and 14a (end).

(18) R. Isaac, v. 14a, (end).

(19) Without the infliction of a flogging.

(20) On the basis of his deductions: (i) No holy meat may be eaten outside the wall (not even second tithe, the simplest). (ii) Sacrificial meat may not he eaten before the ritual sprinkling (on the altar). (iii) A layman (non-priest) may not eat of sacrifice-most-sacred (to which class burnt-offering belongs). (iv) Not even a priest may eat of such outside the 'hangings' (the inner precincts). (v) Burnt-offering is to burn entirely, no part thereof may be eaten. This proves that R. Simeon would also inflict the penalty of flogging.

(21) The opening words of the Mishnah, Chapter III. fol 13a, which apply also to the prohibition enumerated in the Mishnah 17a, including the EATING OF THE MOST HOLY MEATS OUTSIDE THE HANGINGS.

Talmud - Mas. Makkoth 18a

— But [yet] the text[1] is tautological! Consider: it having been written already, And thither ye shall bring . . . and there ye shall eat before the Lord thy God[2] — could not the All-Merciful have proceeded briefly thus: 'Thou mayest not eat them within thy gates'? What else then could be the purpose of the All-Merciful in having them all restated in detail, save to stress separately the prohibition[3] attaching to every instance.

The [above] text [stated]: 'Raba said that, according to R. Simeon, any lay person eating of the flesh of burnt-offering before the sprinkling of the blood and outside the wall [of Jerusalem], is flogged on five counts.' Should he not be flogged on a sixth count arising out of the text: [And they[4] shall eat those things wherewith atonement was made to consecrate and to sanctify them]; but a stranger shall not eat thereof because they are holy?[5] — [No, as] that [prohibition bears on such meat] as was permitted for priests [to eat],[6] while that [referred to in Raba's statement] is not proper even for priests.

And should he not be flogged on the strength of [the text]: [And ye shall be holy men unto me: therefore] ye shall not eat any flesh in the field [like] torn [of beasts];[7] [which is taken] to imply that any [holy] flesh that has got beyond its partition[8] is forbidden? — [No, as] that applies to [meat] available when within the partition; whereas here [in Raba's case] it is not available even while within the partition.[9] And should he not also be flogged on the strength of R. Eliezer's interpretation. For R. Eliezer said: [The words], it shall not be eaten because it is holy[10] convey

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(1) Deut. XII, 17, on which the whole discussion turns.

(2) Ibid. 6-7.

(3) And the penalty attached thereto.

(4) Aaron and his sons on being inducted into their priestly office.
(5) Ex. XXIX, 33.
(6) Note carefully vv. 18-19 and 31-33.
(7) Ex. XXII, 31, taken metaphorically.
(8) That is, taken outside, beyond its proper sphere or bound, such as the precincts of the Temple, or the walls of Jerusalem. There are several other applications of this text. Cf. Hul. 68a. (Cf. Lev. XVII, 5.)
(9) As it is to be wholly burnt. Lev. I, 9, 13, 17. Cf. Ex. XXIX, 18.
(10) Ex. XXIX, 34: And if aught of the flesh of the consecration or of the bread remain unto the morning, then thou shalt burn it with fire; it shall not be eaten, because] it is holy.

Talmud - Mas. Makkoth 18b

that the text means to declare as forbidden any [sort of] holy meat which has become disqualified? — [No, as] here too it can only refer to [meat that was] available before becoming disqualified, whereas here [in Raba's statement the meat] was not available even before it became disqualified. And should he not also be flogged on the strength of that other interpretation of R. Eliezer, as it is taught: R. Eliezer says [that the words,] It shall be wholly made to smoke; [it shall not be eaten,][1] impose a negative command against the eating of anything [that is ordered to be wholly burnt]? — Just so, and it is on this interpretation of the text that he based his statement.[2]

R. Giddal citing Rab said (Kuza)[3] that a priest who ate of a sin-offering or guilt-offering before the sprinkling of the blood is flogged. The reason [for this]? The writ says: And they [Aaron and his sons] shall eat of those things[4] wherewith atonement was made[5] ; which implies [that they are to be eaten only] after [ritual] atonement has been made, but not before atonement has been made; this being [an instance of] a negative command implied in a ‘positive command which is [tantamount to] a negative.’[6]

Raba raised objection from the following: And every beast that parteth the hoof and hath the hoof wholly cloven into two and cheweth the cud among the beasts, that ye may eat[7] — [implies,] ‘that ye may eat,’ but ‘you may not eat another beast.’ Now, if [the principle be] as you stated, what further need to continue, But these ye shall not eat, of them that only chew the cud and of them that only have the hoof cloven?[8] — We must therefore say that if the reported dictum be a fact,it must have been worded thus: R. Giddal citing Rab said that a stranger[9] [layman] who ate of a sin-offering or guilt-offering before the sprinkling [of the blood] is exempt.[10] The reason [for this]? The text says: ‘And they shall eat of those things wherewith atonement was made’ [that is] anyone to whom the former part of the text [the positive command] — and they shall eat of those things wherewith atonement has been made — applies, to him the latter part of the text [the negative command] — but a stranger shall not eat thereof, because they are holy — applies also; and [vice versa,] anyone to whom the former part of that text — and they shall eat of those things wherewith atonement has been made — does not apply, to him the latter part of that text — but a stranger shall not eat thereof, because they are holy — does not apply.[11]

R. Eleazar reporting R. Hoshaia, said regarding the [ceremonies of] first fruits that [the omission] to place them [before the altar] is a bar [to their release], but the [omission of the] recital is not a bar. But did R. Eleazar [actually] say that? Did not R. Eleazar reporting R. Hoshaia say that if a man had set apart [his] first fruits before the Feast [of Tabernacles] and the Feast passed [without these fruits having been presented before the altar] they are left to rot?[12] Now what [is the implication here]? Is it not that [they are to be left to rot] because it is no longer the period for the recital over them?[13] If then you suppose that the [omission of the] recital is not a bar, why are they to be left to rot? — In accordance with [the principle enunciated by] R. Zera, for R. Zera said: Wherever the conditions for mingling [oil with the flour for a meal-offering[14]] are present, the [omission of the] mingling is not a bar; but where the conditions are not present the [omission of] mingling is a bar.[15]

R. Aha b. Jacob taught the same [lesson] as a statement of R. Assi reporting R. Johanan,[16] and thus made one statement of R. Johanan clash with another: Did R. Johanan[17] say regarding the [ceremonies of] first fruits that [the omission] to place them [before the altar] is a bar to their release, but the [omission of the] recital is not a bar? Why, when R. Assi asked of R. Johanan how soon were the first fruits permitted to be partaken of by the priests, did he not reply that those [that had come] at the proper time for the recital[18] [were released] immediately after the recital,[19] and those that were not [brought] at the proper time for the recital [were released] immediately they had come face to face with the Temple[20] — a statement which clashes on both points, in regard to recital as well as to placing them [before the altar]? — As regards the recital, it is not difficult [to explain the seeming discrepancy]: One statement[21] represents the view of R. Simeon,[22] while the other[23] is according to the Rabbis. Again, as regards placing them [before the altar], it is not difficult [to explain the seeming discrepancy]: One statement[21] is according to R. Judah;[24] while the other[25] is that held by the Rabbis.[23]

What statement of R. Judah [have you in mind]? — [It is the following,] as it is taught: R. Judah says, [And the priest shall take the basket out of thy hand] and set it down [before the altar].[26] This refers to the [ritual of] 'waving'.[27] You say that it refers to the [ritual of] 'waving', or maybe it only means 'setting them down' ordinarily? As, however, [later it is said,] And thou shalt set it down [before the Lord thy God and worship before the Lord thy God,[28] the ordinary 'setting down' [of the fruit] is already indicated. What then is the meaning of the former injunction, [and the priest shall take the basket out of thy hand] and set it down [before the altar]?[26] It can only refer to the [ritual] 'waving'.[29] And who is the Tanna that does not concur with R. Judah? — It is R. Eliezer b. Jacob,[30] as it is taught: And the priest shall take the basket out of thy hand[31] — ['out of thy hand'] indicates that the 'waving' is an essential part [of the ceremony]: these are the words of R. Eliezer b. Jacob. What is the reason of R. Eliezer b. Jacob? — It is derived from the occurrence of the word 'hand' [both here and] in connection with the peace-offerings [in this way]: Here it is written, 'And the priest shall take the basket out of thy hand'[31] and there it is written, His[32] own hands shall bring the offering unto the Lord.[33] Just as here the priest [is the recipient],[34] so there the priest [is the recipient];[35] just as there the owner tenders, so here the owner tenders. How is it [done]? [In each case] the priest puts his hand under those of the worshipper and waves them.[36]

Rabin b. Adda reported R. Isaac to have said: In the case of first fruits,

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(1) Lev. VI, 15-16.

(2) [That he is flogged, this verse supplying the requisite explicit prohibition for the infliction of a flogging.]

(3) A Mnemonic of the two statements of Rab that follow: K = Kohen, 'priest', Z = Zar, 'a layman'.

(4) of the special consecration offerings.

(5) Ex. XXIX, 33.

(6) And, as such, sanctions the flogging (which the breach of a positive command does not). This rule is soon challenged by Raba on textual grounds and, in consequence, he emends the reported dictum by an interpretation of the text. This rule was debated in Palestine, Resh Lakish taking the view expressed above, while R. Johanan contested it by asserting that a 'positive' command implying a 'negation' is tantamount to a 'positive'. Raba elsewhere explains the difference by a very apt illustration. If the Master bids his disciple, 'Go fetch me some wheat,' and the disciple brings wheat and barley, it can hardly be said that he disobeyed his master, although he went beyond instructions. If, however, the Master said, 'Don't bring me anything else but wheat,' he certainly disobeys instructions if he bring wheat and barley. V. Zeb. 34a. There is involved in this, the important logical difference between affirmation and negation. 'Go fetch me wheat' does not necessarily imply that I would not have barley — I might have it or not. But, 'Don't bring me barley' is clearly prohibitory on that point. V. B. Bosanquet's Essentials of Logic (1897), Lect. VIII, On Negation and Opposition of Judgments.

(7) Deut. XIV, 6.

(8) Ibid. verse 7.

(9) Not a priest, as first reported.
(10) Not flogged, as first stated.
(11) Cf. Kid. 21b.
(12) I.e., they may not be eaten even by priest.
(13) First fruits were tokens of gratitude and were brought in their respective harvesting periods, from the Feast of Weeks (Pentecost) to Tabernacles (for Spring and Summer produce respectively), from early Sivan to the end of Tishri; and from Tabernacles to Chanucah (end of Kislev, for late autumn fruits). The recital could only be performed at the actual time of harvesting (Ex. XXIII, 16), when the heart rejoiced at the abundance (Deut. XXVI, 11), that is, between the Feast of Weeks (Pentecost) and Tabernacles; after that, the fruits were brought without recital, till Chanucah. Cf. Bik. I, 3, 6.
(14) V. Lev. I, 1, 6, 15 (and he shall pour oil upon the fine flour) and verses 4, 5-6; VII, 10 (mingled with oil); Num. XV, 4, 6, 9.
(15) V. B.B. (Sonc. ed.). p. 331. nn. 4-5. V. Men. 103b.
(16) Which Rabbah b. Bar Hanah already cited supra 17a.
(17) As his personal opinion.
(18) I.e., between the Feast of Weeks and Tabernacles. Cf. supra note 2.
(19) That means that recital is indispensable and its omission is a bar to the release.
(20) That means, immediately on entering the portals of the 'Court of Israelites', 'Azarah, without recital or placing them before the altar to be released!
(21) That of R. Johanan to R. Assi while discussing the subject generally, it seems.
(22) As embodied in the Mishnah (17a), namely, that eating of first fruits without recital entails a flogging.
(23) Reported of R. Johanan by Rabba b. Bar Hanah in the opening discussion on the Mishnah (17a) and by R. Eleazar in the name of R. Hoshaia above, the view generally held by the Rabbis.
(24) That placing the first fruits before the altar was not indispensable or a bar to their release, as is soon to be explained.
(25) That placing the first fruits before the altar is essential.
(26) Deut. XXVI, 4. The direction to set them down occurs twice in the passage, here first by the priest, and in verse 10 (quoted soon), by the worshipper. In our Talmud texts the second is quoted first, which makes R. Judah's interpretation difficult to understand. The order of the Biblical texts adopted here is that given by the Wilna Gaon in his notes שנות אליהו on Bik. III, 6. Cf. Tosaf. here, s.v. ומאן and again, on Suk. 47b. s.v. הבכוים and כהן.
(27) On the ceremony, cf. Ex. XXIX, 24, 26; Lev. VII, 30; XXIII, 11-12, 17, 20; Num. VI, 20. The priest placed his hand under those of the worshipper who tendered the gift-portions and waved them to and fro, a dedicating motion.
(28) Deut. XXVI, 10.
(29) Explaining these texts thus, R. Judah finds no specific direction for placing the first fruits before the altar, to make it indispensable or barring their release by its omission. [It is a well-established principle that no prescription relating to offering is deemed indispensable, unless Scripture emphasises it by reiteration.]
(30) Whose view is followed. His Mishnah, it is said, is but a modicum (in quantity), but the finest, purest flour (in quality).
(31) V. p. 130. n. 7.
(32) The worshipper's hands.
(33) Lev. VII, 30, the rule. Cf. p 130, n. 8.
(34) Of the first fruits.
(35) Of the portions.
(36) [Thus we see that R. Eliezer b. Jacob does not derive 'waving' from either of the phrases 'setting down' so that he will expound both cases as denoting 'setting down' ordinarily, the reiteration thus making the ceremony of placing before the altar an indispensable rite.]

Talmud - Mas. Makkoth 19a

when does the penalty[1] begin? From the time that these come face to face with the Temple. Whose is the view [expressed here]? — That of the Tanna [mentioned in the following], as it is taught: R. Eliezer says: As regards first fruits, if some are left outside [the wall of Jerusalem] and some are taken within, those that are [still] outside are like ordinary fruits[2] in every respect, while those within are [to be treated] like ‘things of the Sanctuary’[3] in every respect.

R. Shesheth said:[4] in regard to first fruits, [the omission] to place then, [before the altar] is a bar [to their release], but the [omission of the] recital is not a bar. Whose is the view expressed here? — That of the following Tanna, as it is taught: R. Jose reports three things in the name of three Elders[5] [this statement being one of them]:[6] R. Ishmael says that one might presume that [even] nowadays [although there is no Temple], a person must bring his second tithe to Jerusalem and eat it there [as such, instead of redeeming it]. But, there is this argument [against it]: Firstlings[7] must be brought to [Jerusalem], the [appointed] place,[8] even as second tithe[9] must be brought to [Jerusalem], the [appointed] place. Now what is [requisite] in the case of firstlings? They may not [be eaten there] save when there is a Temple; and the same obtains in regard to second tithe, that it should not [be eaten there] save when there is a Temple! [This is not conclusive, because] in the case of firstlings there are requisite [specific] altar-rites, the sprinkling of blood and the burning of certain ‘prescribed’ portions [of fat].[10] [But] then [I ask] let first fruits support [my contention]![11] [To this, we may reply] what is [requisite] in the case of the first fruits? They too must be placed [before the altar].[12] Here then comes the instructive text, And thou shalt eat before the Lord thy God, [in the place which He shall choose to cause His name to dwell there, the tithe of thy corn, of thy wine, and of thine oil, and the firstlings of thy herd and of thy flock,][9] wherein [second] tithe and firstlings are set side by side, showing that what obtains in firstlings, namely, that they may not be eaten there save when there is a Temple, equally obtains in second tithe, not to be eaten there save when there is a Temple. Now if it were that the non-recital is a bar, the wording of the last objection [before finally citing the Scripture text][13] should have been: [To this we may reply.] What is requisite in the case of first fruits? They need both, the recital as well as laying them [before the altar].[14] R. Ashi said: [This is not decisive] because even granted that [the recital] is not a bar [to the release of first fruits], yet is it not to be considered even a precept,[15] and as such it[16] could be made the basis of an objection![17] But no, said R. Ashi: [the reason of its omission is that] since first fruits were also brought to the Temple by proselytes[18] and they ought to have recited the [prescribed] wording. I profess this day unto the Lord . . . that I am come into the land which the Lord swore to our fathers to give us[19] and could not [as being inapplicable]; he [R. Jose] could not state it absolutely.[20]

But could not the argument run on and the deduction be based on common aspects?[21] — [No,] as this can be refuted [thus]: What is their[22] common aspect? They all have some ritual association with the altar.[23]

And [tell me], what is his [R. Ishmael's] view?[24] If he deems the first dedication [by Solomon] to have been effected ‘for the nonce, and for all time to come,’[25] then even [unblemished] firstlings[26] might be eaten nowadays [at Jerusalem even without Temple or altar]; and [on the other hand], if he deems the first dedication to have been efficient only ‘for the nonce, and not for all time to come, then the same question arises in regard to the firstlings [as to the second tithe]?[27] — Said Rabina: indeed he [R. Ishmael] deemed the first dedication efficient ‘for the nonce, and not for all time to come, and here [in deriving the rule of the tithe from that of a firstling] he is thinking [of some particular incident] of a firstling, where the [ritual] blood-sprinkling [on the altar] had been performed just before the destruction of the Temple, and when the Temple was destroyed the flesh was still left [unconsumed by the priests]. And we compare the flesh to the blood thereof:[28] just as for [sprinkling of] the blood, there is need of the presence of the altar, so for [the eating of] the flesh, there is need of the existence of the altar [not otherwise];[29] and then again, we compare second tithes to firstlings.[30] But can a ruling inferred by analogy[31] be employed [in matters appertaining to hallowed things][32] as basis of inference for a further analogy?[33] — The tithe of corn, [wine and oil] is [considered] non-hallowed.[34]

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(1) For eating them, unlawfully, be it priest or layman. V. Tosaf. 18b, s.v. בכורים.

(2) Subject to no restrictions, apart from the ordinary dues.

(3) To be enjoyed by priests only. Cf. Lev. V, 15-16; XXVII, 30-31.

(4) In agreement with the statement of Hoshaia (cited by R. Eleazar and R. Johanan).

(5) R. Ishmael (b. Elisha). R. Akiba (b. Joseph), the two great Masters and founders of schools and (Simeon) Ben Zoma (according to one reading, Ben 'Azzai).

(6) Cf. the parallels, Zeb. 60b; Tem., 21a; Tosef. Sanh. III; Sifre on Deut, XIV, 23.

(7) Firstborn of sheep and kine.

(8) Deut. XII, 6, 17; XV, 20-21.

(9) Ibid. XIV, 22-23, and cf. Lev. XXVII, 30, 32.

(10) Which is not the case in second tithes. On the rites, cf. Num. XVIII, 17; v. also supra p. 125. n. 8.

(11) First fruits have no ritual sprinkling (of blood or burning of fat) on the altar, yet they have to be brought to and be eaten at Jerusalem. Cf. Deut. XII, 6, 17; Num. XVIII, 13.

(12) Deut. XXVI, 4, 10, but second tithe is not placed before the altar, and may be eaten in Jerusalem anywhere.

(13) V. p. 132, n. 5.

(14) This shows that, already according to R. Ishmael, the omission of recital is not a bar, but that of not placing the fruits before the altar is a bar to their release.

(15) Surely it is!

(16) [Cf. MS.M.. cur, edd.: 'let him say a precept'.]

(17) [Thus: What is requisite in the case of first fruits? They need both the placing (before the altar) as an indispensable rite, and the recital as an enjoined (though not indispensable) precept which is not the case with the second tithe.] But in fact is not; which shows that nothing is to be inferred from its omission. (Against the other Rabbis who regard the omission of the recital as not a bar to the release.)

(18) V. Bik. I, IV.

(19) Deut. XXVI, 3.

(20) That recital is indispensable.

(21) [Common to firstlings and first fruits: Though they are unlike one another, the former not requiring to be placed before the altar, and the latter, lacking the specific altar rites of blood and fat etc., they nevertheless possess one aspect in common in that they both have to be brought to Jerusalem and consequently are in force only when there is the Temple in existence; and the same argument can similarly be applied to second tithe which also has to be brought to Jerusalem and hence not in force save when the Temple stood.]

(22) I.e., first fruits and firstlings.

(23) Which is not the case of the second tithe, which consequently cannot be derived from firstlings and first fruits.

(24) On another implied issue.

(25) A very moot question, involving many issues on which opinion is considerably divided. It has three aspects, (a) in regard to Palestine as the Holy Land of Israel, for various religious observances, dues and privileges; (b) in regard to Jerusalem, as the Holy City within the mural precincts, for eating there certain holy foods of a minor degree of sanctity, and (c) in regard to the Temple and altar, for certain sacrificial rites. Here, the question touches only the last two.

(26) V. Deut. XV, 19-20. Blemished firstlings were unfit for the altar and could be eaten anywhere as ordinary flesh, by the pure or defiled alike (verse 21).

(27) [This is difficult. Rashi explains the reference to the case where the Temple was destroyed between the sprinkling of the blood of the firstling and the eating of the flesh thereof; and the question would arise since it need no more be brought to the Temple, it is comparable to second tithe, and it should therefore be permitted for eating. It is however better to adopt reading of other texts and MSS. (v. D.S.) 'then even second tithe should present no problem.']

(28) Since both are associated together in the Holy Writ. Num. XVIII, 17-18. Cf. also Deut. XII, 27.

(29) In the parallel passage, Temurah 21a, it is put thus, that if the blood were available at the moment (since the fall of the Temple) it could not be used for the ritual without an altar, nor could, therefore, the meat be eaten then.

(30) Both likewise being associated in the same text (v. supra p. 132, n. 5), that second tithe is not to be eaten outside Jerusalem only during the existence of the altar. [According to the preferable text of versions referred to in note 3, Read: 'Said Rabina, indeed he holds that the first dedication was for the nonce and for all time to come and the reason why R. Ishmael assumes that a firstborn may not be eaten nowadays is because he is thinking etc.']

(31) Hekkesh (v. Glos.) that the flesh of the firstling, by analogy with the blood (and fat), on Num. XVIII, 17-18, demands the presence of the altar.

(32) 'R. Johanan said: Everywhere in the (exposition of the) Torah deduction may be drawn from deduction, save in matters appertaining to hallowed things (i.e. Temple and sacrificial rites).’ Tem. 21b, and Zeb. 49b.

(33) By the further analogy between second tithe with the (flesh of the) firstling (on Deut. XV, 23) to require the presence of the altar likewise for eating second tithe.

(34) Second tithe may be redeemed (with silver current coin) before it passes through the gates of Jerusalem, and if it has become defiled even in Jerusalem, it may then be used just as ordinary corn, wine or oil, unlike first fruits or other sacrificial kinds (of offerings) mentioned together, which may not be eaten on becoming defiled. In using here one deduction for a further deduction on an ordinary nonsacred element, the aforementioned exegetical rule is not infringed.

Talmud - Mas. Makkoth 19b

This reply [to the objection raised] is satisfactory according to the view that we follow the derived-point;[1] but what of the view that we follow the instructive-point as well?[2] — [Again no difficulty here, as] blood and flesh [in this case] are one and the same thing[3] [being of the same animal].

WHO EATS OF MOST HOLY [MEATS] OUTSIDE THE HANGINGS; OF LESSER HOLY [MEATS] OR OF SECOND TITHE, OUTSIDE THE CITY WALL. Have we not already learnt this [in the former Mishnah], ‘And [who eats of] second tithe or of "sanctuary-gifts" unredeemed’?[4] — Said R. Jose b. Hanina: The latter [Mishnah] refers to a second tithe that is clean and to a person in a clean state, who [unlawfully] eats [thereof, unredeemed,] outside the city wall; whereas the former [Mishnah] to a second tithe that is unclean and to a person in an impure state, who ate [unlawfully] of it [unredeemed,] within Jerusalem. Now, where do we find [in Holy Writ] that eating of second tithe in impurity[5] renders one liable? — As it is taught: R. Simeon says: [The text,] Neither have I put away thereof, being unclean[6] [implies]: Neither [have I eaten of it] while I was unclean and the tithe clean, nor while I was clean and the tithe defiled. And where is the admonition not to eat it? I know not . . .[7] [You know not?] Is not [eating of holy meats during] personal impurity explicitly prescribed: The soul that toucheth any such unclean things shall be unclean until the even and shall not eat of the hallowed things until . . .?[8] — But [I meant] its own defilement.[9] It is written, Thou mayest not eat within thy gates.[10] And later it is said, the unclean and the clean may eat together, as the gazelle and the hart.[11] And the school of R. Ishmael taught that [this means that] even a ‘clean’ person and one who is ‘unclean’ may eat [meat of a blemished firstling] out of the same platter, without scruple.[12] Thus does the All-Merciful direct; that what is allowed you elsewhere,[13] for the ‘clean’ beside the ‘unclean’ [‘to eat thereof together’]. does not apply here,[14] where — ‘thou mayest not eat’. And [again], whence is it derived that second tithe which has become defied is redeemable [even within[15] Jerusalem]? — Even as R. Eleazar said: How can it be shown that second tithe which has become defiled may be redeemed even at Jerusalem? From the instructive text: [And thou shalt eat before the Lord thy God, in the place that He shall choose . . . the tithe of thy corn . . . And if the way be [too] long for thee]; if thou art not able to bring it up . . . then shalt thou turn it into money,[16] and the expression se'etho[17] [‘to bring it up’] means [in this connection] only ‘eating’, as in the passage. And portions [mas'oth] were brought forward unto them [Joseph's brothers] from before him [Joseph].[18] R. Bibi, citing R. Assi said: Whence could it be shown that clean second tithe may be redeemed even within one pace of the wall outside Jerusalem? From what is said, When thou art not able to bring it up, [then shalt thou turn it into money][19] But is that text not claimed for the point already made by R. Eleazar? — Were that the [only] lesson intended, the text should have said, ‘when thou art not able to eat it’; why was that [unusual] expression, se'etho[17] ‘[not able] to bring it up’ used. Am I to take it then, entirely in the sense suggested [by you]? — [No, as then another term,] li[n]telo,[20] [‘(unable) to take the load’] might have been used; what then, does [this special term] se'etho[17] convey? It suggests both meanings.

R. Hanina and R. Hoshaia sat and raised the [following] question: What would be the case [where a pilgrim had just reached] the very entrance to Jerusalem.[21] Obviously when he is outside and his charge inside [he cannot redeem], as the partitions [walls] have already taken in the charge; but when he is within and his charge [still] outside, what is the law? — Thereupon a certain aged scholar imparted to them a teaching of the school of R. Simeon b. Yohai [to this effect]: If the place is far from thee . . . [turn it into money],[22] the word mi-meka[23] [‘from thee’] [implies] ‘thy amplitude’.[24] R. Papa raised the question: What if he [being within the entrance] carries his load on a stick [behind him]?[25] — The question is left over.[26]

[WHO EATS . . . OF SECOND TITHE, OUTSIDE THE CITY-WALL.] R. Assi citing R. Johanan said: When does the liability begin [for eating of] second tithe [outside the city-wall]? As soon as it has [once] come within sight of the [interior] wall. The reason? Because [one] text reads: And thou shalt eat before the Lord thy God,[27] [... the tithe of thy corn];[28] and again it is written, Thou mayest not eat within thy gates[29] [the tithe of thy corn].[30] [We say that] wherever [the former command,] ‘eat before the Lord thy God’ — becomes applicable, [the other,] ‘thou mayest not eat within thy gates’ becomes applicable;[31] and [vice versa], wherever the [former command], ‘eat before the Lord thy God’, has not become applicable, there too, [the other] ‘thou mayest not eat within thy gates’ is not applicable.[32] An objection [against this exposition] was raised from the following: R. Jose said: If a priest picks a fig out of tebel[33] produce, [and before eating] says, Let the terumah thereof be [situate[34] somewhere] near the peduncle [stalk]; the first tithe thereof in its northern [left] part; the second tithe thereof in its southern [right] part, this being in a year when second tithe is due and he being then in Jerusalem; or, [let] the poor tithe thereof [be] in its southern side, he being then in the ‘country-adjoining,’[35] if he then eats that fig,

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(1) Here, the second tithe.

(2) Here, the inference from the ritual sprinkling-blood, the due of altar, to the flesh given to the priest or worshipper.

(3) Cf. Men. 13a. And therefore in deriving flesh from blood there is no argument from analogy.

(4) V. Mishnah, supra 13a.

(5) This has two meanings, referring to (a) the impurity of the person, or (b) the impurity of the tithe.

(6) Deut. XXVI. 13-14. A declaration to be made in the Temple on the afternoon of the 7th day of Passover, in the 4th and 7th years of the Septennial Cycle. Cf. Sifre a.l. and on Deut. XII, 17. and M.Sh. V, 10.

(7) The quotation is here interrupted by the questioner and the Scriptural passage adduced by him is not to the point, as that refers to the impurity of the person, not to the impurity of the tithe that the previous speaker wished to elucidate.

(8) Lev. XXII, 6. ‘Hallowed things’ here, and in Deut. XXVI, 13. ‘the hallowed thing’ are taken to mean ‘second tithe’.

(9) That of the tithe, not of the person.

(10) With reference to second tithe, Deut. XII, 17. Cf. also verses 6 and 11; XIV, 23.

(11) With reference to a blemished firstling. Ibid. XV, 21-22.

(12) Of bringing the meat of a firstling (that is usually considered as ‘hallowed’, v. P.B. p. 13) into contact with the (ritually) ‘unclean’ eater. It should be noted that some of the restrictions attach even to the blemished firstling, before it is killed for food, e.g., it may not be shorn of its wool or milked. V. Rashi.

(13) In the case of a blemished firstling.

(14) in the case of second tithe, which must not be eaten when it is brought into contact with what is unclean.

(15) Already implied in the wording of the Mishnah, 13a, HE WHO EATS OF SECOND TITHE UNREDEEMED (is flogged); which plainly suggests that in some cases it may be redeemed. [This however cannot apply to undefiled second tithe, which may not be exchanged into money except outside Jerusalem, and that for the purpose of taking it up there.]

(16) Deut. XIV, 23-24.

(17) שאתו, the verbal noun of the root נשא which means ‘to raise’, ‘lift’, ‘carry’, ‘bring up’. The word משאת has the extended meaning of a ‘portion of food’ brought to the guest, as in the passage in Genesis cited here. Cf. II Sam. XI, 8.

(18) Gen. XLIII, 34.

(19) Note the double provision made in Deut. XV, 24, ‘If the way be (too) long, and if the place (Jerusalem) be (too) far,’ which is taken to provide (a) against distance and (b) against other difficulties that may arise even close to the Holy ‘City as explained here.

(20) לטלו from the root נטל to take a load’, ‘to carry’. Cf. Isa. XL, 15, and Prov. XXVII, 3.

(21) [MS.M. ‘Sat at the entrance of Jerusalem and asked the (following) question’, v. Rashi.]

(22) Deut. XIV, 23-24.

(23) ממך seemingly taken as — מעמך — i.e., far ‘from what thou hast with thee,’ namely, the tithe of corn, wine or oil. For such use of מעם v. Gen. XXXI, 31-32; Ex. XXII, 11, 13; cf. עם Job VI, 4; X, 13 and XXIII, 14. This solves the difficulty felt by Tosaf s.v. הוא.

(24) Here, the bulging bundle of tithe-fruit. The strange word מילואך used here for the bulging load may be taken as suggested by מלאתך (‘thy corn’). Ex. XXII, 28, and Num. XVIII, 27; Deut. XXII, 9. [The meaning of the verse is accordingly, ‘If the place is far from what thou hast with thee,’ i.e., the load which thou hast with thee on thy shoulders. Consequently where he is already within, though his charge is still outside, since he is not with it, it is not considered far.]

(25) Is the load associated with the bearer as within, or not, in spite of the connecting staff?

(26) See on this point the remark of Rabina, at the very end of this section, 20a.

(27) I.e., in Jerusalem.

(28) Deut. XIV, 23.

(29) I.e., anywhere, outside Jerusalem.

(30) Deut. XII, 17.

(31) I.e., as soon as second tithe enters within the precincts of the Holy City it is ‘seized’ to be eaten there, and not redeemable or to be taken out again, unless it has become defiled.

(32) I.e., either it has not yet been taken into the Holy City or has become defiled; it is then redeemable.

(33) V.Glos.

(34) Terumah being called ‘the Prime’, First, has to be definitely marked off, ‘designated’ and ‘allocated’, before the rest may be eaten (temporarily). V. Ter. III ,5.

(35) בגבולין, i.e., anywhere outside the Holy City. Poor tithe may be eaten anywhere.

Talmud - Mas. Makkoth 20a

he incurs a flogging on one[1] count; and if he be a layman [non-priest], he is flogged on two[2] counts, whereas, had he eaten it straightway [without specifying the several dues] he [the layman] would have been liable only on one[3] count. [Now] the reason [that a layman is said to be liable on two counts] is because he ate in Jerusalem; but supposing he had done it in the ‘country-adjoining’, he would have incurred a flogging on three[4] counts, [that is to say] he would be liable even though the fig [with its comprised quota of second tithe] had not come within sight of the [interior] wall [of Jerusalem]![5] — [No; we assume] that he had brought it in [to Jerusalem] and taken it out again. If so, [I ask] what is the object of R. Jose's statement?[6] — [I would suggest] that the case he has in mind is where one had taken his fruits in tebel-condition to Jerusalem, R. Jose being of opinion that gifts not yet segregated are regarded as virtually segregated.[7] But does R. Jose hold gifts not yet segregated are regarded as virtually segregated? Why, it is taught: R. Simeon b. Judah says in the name of R. Jose that Beth Shammai and Beth Hillel were not in disagreement about fruits that were not yet completely ready [for tithing],[8] if they were taken in transit through Jerusalem, that the [comprised quota of] second tithe in them may be redeemed and the fruits may then be eaten anywhere.[9] Where they did differ was about fruits that were completely ready [for tithing] and were taken in transit through Jerusalem, Beth Shammai saying that the [comprised quota of] second tithe in them should be ‘brought back to Jerusalem[10] and be eaten there, while Beth Hillel say that the comprised quota should be redeemed and may be eaten anywhere.[11] Now, if you suppose that [R. Jose considers comprised] gifts[12] not yet segregated are as virtually segregated [how could such redeemed dues be eaten anywhere] seeing that they have been received within the [city] walls? — Said Raba:[13] [The power of the city] walls [to place an embargo] on the eating [of second tithe within] is recognised by the Scriptures, whereas [its power] of ‘seizing’[14] is only Rabbinical;[15] and the Rabbis declared an embargo only to second tithe overt;[16] but if it is [still merged] in tebel, they made no embargo. Rabina suggested that [the first objection raised][17] might be [met by supposing the reference to be to] a man carrying his bundle of second tithe on a stick [behind him].[18] And this [by the way] might offer a solution to the problem raised by R. Papa.[19]

MISHNAH. IF A MAN MAKES A BALDNESS ON HIS HEAD, OR ROUNDS THE CORNER OF HIS HEAD, OR MARS THE CORNER OF HIS BEARD, OR MAKES ONE CUTTING [IN HIS FLESH] FOR THE DEAD, HE IS LIABLE [TO A FLOGGING]. IF HE MAKES ONE CUTTING FOR FIVE DEAD, OR FIVE CUTTINGS FOR ONE, HE IS LIABLE [SEVERALLY] FOR EACH ONE.

ON [ROUNDING] THE HEAD [HE IS LIABLE] FOR TWO CORNERS,[20] ONE FOR ONE SIDE AND ONE FOR THE OTHER; ON [MARRING] THE BEARD [HE IS LIABLE] FOR TWO [CORNERS] ON ONE SIDE, FOR TWO ON THE OTHER SIDE, AND FOR ONE LOWER DOWN;[21] R. ELIEZER[22] SAYS: IF THEY WERE ALL TAKEN OFF AS ONE[23] HE IS LIABLE ONLY ON ONE COUNT. AND HE IS ONLY LIABLE ON TAKING OFF WITH A RAZOR; R. ELIEZER[22] SAYS: EVEN IF HE PICKS OFF THE HAIRS WITH TWEEZERS,[24] OR [REMOVES THEM] WITH PINCERS,[25] HE IS LIABLE.

GEMARA. Our Rabbis taught: ‘[It is written]. They [the priests] shall not make bald . . . [on their head].[26] One might presume that if he made four or five bald patches he would be liable only on one count; we are therefore told, a baldness[27] — to teach that he is liable on each and every bald patch. What is the [special] import of ‘on their head’ [in this passage]?[28] As it is written [elsewhere], Ye shall not cut yourselves nor make a baldness between your eyes for the dead,[29] one might presume that [it means] he should only be liable for making a baldness between the eyes alone; how is it shown that the prohibition extends to [anywhere on] the entire head?[30] By the expression, ‘on their head,’ [that is, the prohibition] extends to [anywhere] on] the entire head. I have here an injunction only for priests, for whom Holy Writ has laid down many [other] additional precepts; whence is it shown that these are injunctions for Israel [at large]? Because it is said here [to priests] — [they shall not make] a baldness [on their head][31] — and it is said there [to all Israel] — [nor make] a baldness [between your eyes for the dead,][32] and [we say]: Just as [in the case of the priests] the offender is liable for each bald patch and on [any part of] the head as for [a baldness made] between the eyes, so likewise here [in the case of all Israel] the offender is liable for each bald patch and on [any part of] the head as for [a baldness made] between the eyes; just as there it is forbidden [only] in mourning for the dead,[33] so likewise here it is forbidden [only] in mourning for the dead.’[34]

How, for instance, were those four or five baldnesses made?[35] If I say one after another, he having duly been admonished [four or] five times, it is obvious [that he is liable for each].

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(1) For eating tebel, i.e., the first tithe from which the priestly due had not been set aside. Being a priest, he may eat terumah and there is no offence as regards eating the comprised quota of second tithe, because he is eating it now in Jerusalem, as stated in the data, nor as regards eating the first tithe which is permissible even to laymen.

(2) For eating (i) tebel, and (ii) terumah (twice).

(3) For tebel only. The version of this quotation in the Tosef. Mak. III, is different, but to the same effect.

(4) For eating tebel, terumah (twice) and second tithe outside Jerusalem.

(5) Which is in conflict with the (reported) statement of R. Johanan above, that the liability (technically) begins as soon as the second tithe comes within sight of the interior of the wall of Jerusalem.

(6) Why all those particulars, when and where it was done?

(7) Hence three counts for a layman: For tebel, for terumah (twice) and for second tithe, albeit as yet unsegregated.

(8) I.e., for storing and tithing. Tithes are not actually due until the final stage of harvesting. V. Ma'as. I, 5.

(9) As the second tithe was as yet not actually due.

(10) Having once been taken into the Holy City, they were ‘seized’ and appropriated, not to be taken out again.

(11) M.Sh. III, 6.

(12) Dues.

(13) Var. lec.: ‘Rabbah’.

(14) Preventing the redemption thereof.

(15) By interpretation of the implications of the text.

(16) I.e., actually segregated and visibly distinct.
(17) That if he ate the fig (instanced above) outside Jerusalem he would be liable on three counts, although it had not yet been brought within sight of the interior of the wall.
(18) And this circumstance might be taken as if by the man's penetration his bundle too has reached within sight of the interior with him, and thereby he incurs a flogging, if he eats the fruit outside.
(19) Supra p. 138.
(20) The side growth descending over the junction of jaw-bone to the skull.
(21) There are several explanations: (i) The corners mean the ‘regions’, directions of the beard: two side-whiskers; two running parallel with the jaw to the sides of the mouth; and one on and under the chin (R. Han.). (ii) Two upper junctions of the jaw to the skull, in the region of the eyes; two corners of lower-jaw below the lobes of the ear; and one on the chin. (iii) Two corners of the lower jaw-bone under the ear; two ends of the jaw-bone nearing the chin; and the chin. (Rashi — RIBN, on the text.) V. R. Shimshon (of Sens) and Raabad (of Posquieres, Beaucaire) on Sifra, Lev. XIX, 27; Asheri Mak. III, 2, and R. Jacob's Summaries (there) No. 5 and Tur, Y.D. 181.
(22) Var. lec.: ‘R. Eleazar’.
(23) In a single movement.
(24) Tweezers, the Roman volsellae, hairpluckers.
(25) Or possibly the Roman radula, a kind of shaving spoke.
(26) Literal rendering of Lev. XXI, 5.
(27) [The deduction is based on the cognate accusative which is deemed superfluous.]
(28) They shall not make a baldness on their head.
(29) Deut. XIV,1. Cf. Jer. XVI, 6 and XLVII, 5.
(30) Var. lec. add ‘No less than between the eyes.’ v. D.S.
(31) V. p. 141, n. 7.
(32) V. p. 141, n. 10.
(33) As is clear from the context, Lev. XXI. 1ff.
(34) Cf. Kid. 36a, and Sifra on Lev. XXI, 5.
(35) For each of which he is rendered liable.

Talmud - Mas. Makkoth 20b

If [on the other hand] there had been uttered but one admonition, is he liable [on four or five counts]? Do we not learn [in the Mishnah]:[1] A nazirite[2] who has been drinking wine all day is liable only on one count;[3] if they said to him, ‘Drink not [wine]!’ ‘Drink not [wine]!’ — and he drinks [each time], he is liable on each and every [instance]? — The ruling has application where [say] he dipped his five fingers in a [depilatory] salve and applied them simultaneously [on five places], in which case the one admonition refers to each [finger separately].

And how much constitutes a baldness? — R. Huna says: Enough to show the [bare] scalp; R. Johanan says, in the name of R. Eleazar son of R. Simeon:[4] It is about the size of a bean. [These statements correspond] to different Tanna-statements: ‘How much constitutes a baldness? About the size of a bean; others[5] say, enough to show the [bare] scalp.’ Rab Judah b. Habiba observed that three Tannaim differed on that point: one saying the size of a bean, another saying, large enough to show the [bare] scalp, and yet another saying, the removal of two hairs [at least]; some delete ‘two hairs’ and substitute ‘about the size of a lentil’. As a mnemonic use the following [Mishnaic] phrase: ‘If a [leprous] bright-spot[6] is of the size of a halved [Cilician][7] bean and quick-flesh[8] of the size of a lentil [encircles it etc.].’[9]

A Tanna taught: ‘One who removes [on the Sabbath] a scissors-nip [of hair] is liable for [a sin-offering]’;[10] and how much is a scissors-nip? — Said Rab Judah: Two hairs. But was it not taught[11] that two hairs are [the minimum] for a baldness? — Then take it as meaning, ‘And the same [minimum] obtains in the case of a baldness.’ It is likewise taught in [another] Baraitha: One who removes [on the Sabbath] a scissors-nip [of hair] is liable [to a sin-offering]. And how much is a scissors-nip? Two hairs; R. Eliezer says [even] one hair. Yet the Sages concede to R. Eliezer where one picks out white hair from the black that he is liable even for one, and this thing is forbidden even on week-days,[12] because it [comes under what] is said, And a man shall not put on a woman's garment.[13]

OR ROUNDS THE CORNER OF HIS HEAD. Our Rabbis taught: ‘The corner of his head’, is the extreme end on one's head: and what is [rounding] the extreme end on his head? If he levels his temple-growth from the back of his ears to the forehead.

A tanna recited in the presence of R. Hisda: The one who rounds [the corners], and the one who has them rounded are equally liable [to a flogging]. Said R. Hisda to him: ‘Does a fellow who eats dates from a sieve get a flogging?’[14] Should anyone ask whose view that is, [tell him] it is R. Judah's view who says: [The contravention of] a prohibition [involving] no [tangible] action entails a flogging.[15] Raba suggested [that the dictum may refer] to one who crops himself [rounding off the corners of his head],[16] and that would harmonize with either view.[17] R. Ashi suggested [it might refer] to one who assists[18] the hairdresser, and this [too] harmonizes with either view.

OR MARS THE CORNER OF HIS BEARD. Our Rabbis taught: ‘The corner of his beard’ means the ‘end’ of his beard; and what is the ‘end’ of his beard? The ‘tuft’[19] of his beard.

OR MAKES ONE CUTTING [IN THE FLESH] FOR THE DEAD. Our Rabbis taught: [It is written,] Ye shall not make a cutting in your flesh.[20] One might presume that [he is liable] even for cutting himself on the collapse of his house, or on the foundering of his ship at sea; we are therefore told ‘for a soul’[20] — [that is to say,] he is liable only on [cutting himself] for the dead alone. And whence is it shown that one who makes five cuttings [in his flesh] for one dead is liable on each and every cutting? We learn it from the words, ‘a cutting’,[20] that is, to make one liable for every cutting. R. Jose[21] Says: Whence can it be shown that one who makes one cutting for five dead is liable on each [of the five] dead? From the instructive text ‘for a soul’,[20] which indicates that one is liable for every soul — But, have you not already made use of this text for excluding [from this category] one ‘who cut himself on the collapse of his house, or on the foundering of his ship at sea’?

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(1) P. 148.

(2) V. Num. VI, 1ff.

(3) For drinking wine.

(4) Var. lec.: R. Eleazar b. Shammu'a.

(5) ‘Others’ a designation of R. Meir, after he came into conflict with Rabban Simeon b. Gamaliel. V. Hor. 13b.

(6) Lev. XIII, 2.

(7) The Cilician bean was a large quadrangular bean, and was taken as the standard measure for deciding on a state of impurity in skin-eruptions described in Lev. XIII, 1ff. Cf. Kel., XVII, 12; Neg. VI, 1, where it is defined as nine lentils, 3 X 3 = 36 hairbreadths, a lentil being 4 hairbreadths.

(8) Ibid. 14-15.

(9) Neg. VI, 5; cf. Kel. XVII, 8.

(10) If done in error, Shab. 94b.

(11) [This, being the continuation of the Baraitha cited, implies that a scissors-nip is not the equivalent of two hairs (v. Rashi. Shab. 94b.)]

(12) As effeminacy and vanity.

(13) Deut. XXII, 5 as ‘a abomination unto the Lord’.

(14) Seemingly a proverb, meaning that if one ate some dates gathered in sieve (or basket) would he be treated like a thief who was caught picking them from the tree? Ritba explains it thus: If someone had gathered some fruit on the Festival day and another came and took some out of the basket and ate them, would the second be as guilty as the first who desecrated the Festival?

(15) Cf. supra 4b.

(16) He would be liable on two counts, for cropping or shaving and being cropped or shaved, as the expression לא תקיפו is in the plural, i.e., more than one acting, and the meaning of the verb in this form — Hif'il — 'do not make the corner rounded' (yourself) or 'do not have someone rounding it' (for you). V. Malbim on Lev. XIX, 27.

(17) R. Judah's, and also that of the Rabbis who require action.

(18) By holding the hair for the barber to cut more effectively.

(19) Lit., the 'barb' or 'tress'. V. note 2, p. 141, on the Mishnah.

(20) Lev. XIX, 28.

(21) Cf. Kid. 35b, where the name is R. Issi (of Huzal).

Talmud - Mas. Makkoth 21a

— [Yes, but] R. Jose[1] takes [the two terms used] — seritah[2] and gedidah[3] as having the same import, and in the case of the latter it is said 'for the dead'.[4] Samuel said: One who cuts himself with an instrument is liable.[5] An objection [against this] was raised from the following: seritah and gedidah are one [and the same] thing, save that seritah is done with the hand, while gedidah is done with an instrument! — He [Samuel] shares the view of R. Jose.[6]

A tanna recited in the presence of R. Johanan: [One who cuts himself] for the dead, whether with the hand or with instrument, is liable [to a flogging]; [if he does so] as an idolatrous practice, if with hand he is liable, if with instrument, he is exempt. But, is it not written [of the priests of Baal] the other way about, and they cut themselves after their manner with swords and lances?[7] — But rather say, 'If with the hand, he is exempt,[8] if with an instrument, he is liable.'

ON [ROUNDING] THE HEAD [HE IS LIABLE] FOR TWO CORNERS, ONE FOR ONE SIDE AND ONE FOR THE OTHER. R.Shesheth pointed them out between the two [lateral] joints[9] of the head. ON [MARRING] THE BEARD [HE IS LIABLE] FOR TWO [CORNERS] ON THIS SIDE, FOR TWO ON THE OTHER SIDE AND FOR ONE LOWER DOWN. R. Shesheth pointed them out between the [several] junctions of the beard.[10]

R. ELIEZER SAYS: IF THEY WERE ALL TAKEN OFF AS ONE, HE IS LIABLE ONLY ON ONE COUNT. [That is,] he considers the whole [process as comprised under the] one prohibition.

AND HE IS ONLY LIABLE ON TAKING OFF[11] WITH A RAZOR. Our Rabbis taught: [It is written], Neither shall they [the priests] shave off the corner of their beard.[12] One might suppose that [he is liable] even if he removed it with scissors; we are therefore told, neither shalt thou mar [destroy][13] Reading, 'neither shalt thou mar'; one might suppose that he is liable[14] even if he picked off the hairs with tweezers or with pincers; we are therefore told, 'they shall not shave,' to show that it must be shaving that involves destruction,[15] which is the kind of shaving that involves destruction? You must say, it is [that done] by the [use of the] razor.[16]

R. ELIEZER SAYS: EVEN IF HE PICKS OFF THE HAIRS WITH TWEEZERS OR PINCERS HE IS LIABLE. However you wish [to take this statement, it is difficult]. If he received on tradition[17] the Gezerah shawah,[18] he should insist only on the razor [as the forbidden instrument]; if [on the other hand], he does not receive on tradition the Gezerah shawah, he should not permit even scissors!?[19] — Indeed, he did receive on tradition the Gezerah shawah, but he considers [the process of] those instruments[20] practically as shaving.

MISHNAH. HE WHO WRITES AN 'INCISED'-IMPRINT [IN HIS FLESH, IS FLOGGED]. IF HE WRITES [ON HIS FLESH] WITHOUT INCISING, OR INCISES [HIS FLESH] WITHOUT IMPRINTING, HE IS NOT LIABLE: [HE IS] NOT LIABLE UNTIL HE WRITES AND IMPRINTS THE INCISION WITH INK, EYE-PAINT[21] OR ANYTHING THAT MARKS. R. SIMEON B. JUDAH SAYS IN THE NAME OF R. SIMEON [B. YOHAI] THAT HE IS NOT

LIABLE UNTIL HE HAS WRITTEN THERE THE NAME, AS IT IS SAID: NOR PUT ON YOU ANY WRITTEN-IMPRINT, I AM THE LORD.[22]

GEMARA. Said R. Aha the son of Raba to R. Ashi: [Does it mean, not] until he has actually inscribed the words, I am the Lord? — No, replied he, it means, as Bar Kappara taught,[23] [viz.:] He is not liable [to a flogging] until he inscribed the name of some profane deity, as it is said: Nor put on you any written-imprint, I am the Lord,[22] [that is,] 'I am the Lord' and no other.[24]

R. Malkiah, as citing R. Adda b. Ahabah, said: It is prohibited to powder one's wound with burnt wood ash, because it gives the appearance of an incised imprint. R. Nahman[25] the son of R. Ika said: 'Spit',[26] 'Maids'[27] and 'Follicles'[28] were subjects of comment by R. Malkio,[29] while the 'Belorith-tresses',[30] 'Wood-ash'[31] and 'Cheeses'[32] were subjects of comment by R. Malkiah. R. Papa said: Malkiah comments on 'Our Mishnah' and [other] Mishnahs,[33] while R. Malkio comments on 'Reported-pronouncements':[34] your mnemonic [for this] is, The Mishnahs[35] are Malkatha[36] ['Queens']. What is the difference between the two? The point of 'Maids'.[37]

R. Bibi b. Abaye was particular even about [powdering] the scorings of the cupping instruments. R. Ashi observed [that this was going too far, as] wherever there is a wound the wound attests the [man's] purpose.

MISHNAH. IF A NAZIRITE HAS BEEN DRINKING WINE[38] ALL DAY, HE IS LIABLE ONCE ONLY; IF THEY SAID TO HIM, 'DRINK NOT [WINE]!' 'DRINK NOT [WINE]!' AND HE DRANK [EACH TIME], HE IS LIABLE ON EACH [INSTANCE]. IF HE HAS BEEN DEFILING HIMSELF FOR THE DEAD[39] ALL DAY, HE IS LIABLE ONCE ONLY; IF THEY SAID TO HIM, 'DEFILE NOT YOURSELF!' DEFILE NOT YOURSELF!' AND HE DID DEFILE HIMSELF [EACH TIME], HE IS LIABLE ON EACH [INSTANCE]. IF HE WAS SHAVING[40] ALL DAY HE IS LIABLE ONCE ONLY; IF THEY SAID TO HIM, SHAVE NOT!' 'SHAVE NOT!' AND HE DID' SHAVE [EACH TIME], HE IS LIABLE ON EACH [INSTANCE]. IF ONE WEARS A GARB OF 'LINSEY-WOOLSEY'[41] ALL DAY, HE IS LIABLE ONCE ONLY; IF THEY SAID TO HIM, 'DO NOT PUT IT ON!' 'DO NOT PUT IT ON!' AND HE TAKES IT OFF AND PUTS IT ON, HE IS LIABLE ON EACH [INSTANCE].

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(1) V. p. 144, n. 8.

(2) שריטה literally scratching or tearing. Ibid. XXI, 5.

(3) גדידה — Deut. XIV, 1.

(4) ['For a soul' being thus superfluous is employed to teach liability for every soul.]

(5) On two counts, as it is prohibited twice, in Lev. XIX, 28, and in Deut. XIV, 1.

(6) Who holds that seritah and gedidah have one and the same signification.

(7) I Kings XVIII, 28.

(8) I.e., from the death penalty for idolatrous practice, as this is not the regular manner of doing it.

(9) Cf. p. 141, n. 1.

(10) Cf. p. 141, n. 2.

(11) I.e., the corners of the beard.

(12) Lev. XXI. 5, where the instrument is not indicated and the term 'shaving' denotes also cropping.

(13) Ibid. XIX, 27.

(14) To a flogging.

(15) The complete levelling of the projecting hairs.

(16) That is, the two verbs 'shave' and 'destroy' (mar) are taken together to explain each other as to the kind of action explicitly forbidden.

(17) V. supra 15b.

(18) That is, linking our two texts (where 'corner' of beard and head are mentioned) with Lev. XIV, 9, on the ritual-cleansing of the leper, when head, beard, etc. must be shaven. How? By a razor, as inferred from the ritual-purification of the Levites, Num. VIII, 7, where the razor is specified as the shaving instrument. The razor alone, therefore, is to be the forbidden or recommended instrument, authentically, v. Nazir 40b-41 but cf. Kid. 35b-36.

(19) That is, permit no removal of any kind, as Scripture simply demands no rounding, no shaving and no marring.

(20) Which he forbids.

(21) Kohl.

(22) Lev. XIX, 28.

(23) Var. lec. add (v. D.S.): ‘For Bar Kappara taught.’ Bar-Kappara was an eminent exponent of Baraitha-teachings.

(24) ‘THE NAME’ in the Mishnah will accordingly denote the name of an idol.

(25) In the parallel passages it is R. Hanina son of R. Ika.

(26) A reported pronouncement of Samuel that after the meat has been roasted the (greasy) spit should not be handled again on the Festival day; but R. Malkio, citing R. Adda b. Ahabah, said it may be put aside at the time. v. Bezah, 28b.

(27) R. Eliezer says (in a Mishnah), Even if a wife brought with her a hundred maids of her own, the husband can still insist on her doing work with wool, on the ground that idleness is demoralising. On this R. Malkio's comment (as citing R. Adda b. Ahabah) is that the halachah follows R. Eliezer; Keth. 61b.

(28) R. Huna observed that the two hairs proving pubes should be set in follicles (pitlets). On this R. Malkio commented (citing R. A. b. Ah.) that the follicles alone even without the hairs are sufficient indication of pubes; Nid. 52a.

(29) All these have Malkio, while the next group has Malkiah as commentator, also as citing the same Master, R. Adda b. Ahabah.

(30) A Baraitha teaches that in trimming the hair of a pagan, a Jew should cautiously ‘keep off’ his (other) hand from touching the top-tresses for these were usually consecrated to some deity. On this R. Malkiah commented (in the name of his Master) that he should begin to withdraw his hand at a distance of three fingers’ breadth, on each side. A.Z. 29a. On belorith v. Sanh. (Sonc. ed.) p. 114, n. 5.

(31) Mentioned above, as comment on our Mishnah.

(32) On a discussion why cheeses of heathens arc forbidden (in the Mishnah) R. Malkiah (in his Master's name) comments that they are forbidden because they are smeared over with lard. A.Z. 35b.

(33) I.e., Baraitha — externa, outside the Main Collection designated here Our Mishnah.

(34) Opinions, dicta, interpretations heard from eminent teachers and reported by their disciples or visiting scholars.

(35) That is ‘Our Mishnah’ par excellence.

(36) I.e., they are commented upon by R. Malkiah (which name closely resembles Malkah ‘queen’); not Malkio.

(37) A point in the Mishnah, on which Malkiah comments (in the first group), which clashes with R. Papa's mnemonic. V. A.Z. (Sonc. ed.) p. 145.

(38) Num. VI, 3-4.

(39) Ibid. 6 ff.

(40) Ibid. 5.

(41) Sha'atnez, mixed material of linen and wool interwoven, knitted or sewn together, forbidden to wear, in Deut. XXII, 11, or to put on oneself, in Lev. XIX, 19.

Talmud - Mas. Makkoth 21b

IT IS POSSIBLE [FOR ONE] TO PLOUGH BUT ONE FURROW AND BECOME LIABLE [THEREBY] FOR EIGHT PROHIBITED ACTS: IF HE PLOUGHS WITH AN OX AND ASS [YOKED TOGETHER][1] AND THESE WERE [ANIMALS] OF THE SANCTUARY;[2] [THE PLOUGH BEING DRAWN OVER] DIVERSE MIXED-SEED[3] [SOWN] IN A VINEYARD,[4] DURING THE SABBATICAL YEAR,[5] ON A FESTIVAL-DAY,[6] [THE PLOUGHER BEING] A PRIEST[7] AND A NAZIRITE[8] AND THE PLOT BEING SITUATE ON A DEFILED AREA.[9] HANANIA B. HAKINAI SUGGESTS ALSO THAT HE MAY HAVE BEEN WEARING THEN ‘LINSEY-WOOLSEY’[10] SAID THEY TO HIM: THIS [LAST] IS NOT OF THE SAME CATEGORY. SAID HE TO THEM: NOR IS THE NAZIRITE[11] IN THE SAME CATEGORY.[12]

GEMARA. [AND HE TAKES IT OFF AND PUTS IT ON.] Said R. Bibi as citing R. Assi: Not [necessarily] actually taking it off and putting it on, but even if he only put his hand in and out of the arm-hole.[13] R. Aha the son of R. Ika illustrated it [as requiring] to get into the coat and to get out of it. R. Ashi says: Even if he only wore it long enough to put it on and to take it off he becomes liable.[14]

IT IS POSSIBLE TO PLOUGH BUT ONE FURROW AND BECOME LIABLE. Said R. Jannai: A decision by vote was taken at a certain [Rabbinical] Convention[15] that he who [only] covers over diverse seeds [with earth] makes himself liable to a flogging.[16] Said R. Johanan to him: Is that not [learnt in] our Mishnah: — IT IT POSSIBLE TO PLOUGH BUT ONE FURROW AND BECOME LIABLE [THEREBY] FOR EIGHT PROHIBITED ACTS; IF HE PLOUGHS [WITH AN OX AND ASS YOKED TOGETHER AND THESE ARE THE CHATTELS OF THE SANCTUARY . . .] OVER DIVERSE SEEDS [SOWN IN A VINEYARD etc.]? Now, how does he make himself liable by ploughing for [sowing] diverse seeds unless it is by covering them over [with the clods] as he proceeds [with the plough]?[17] — He [R. Jannai] replied: Had I not picked up the shard for you, you would not have found the pearl beneath it.[18] Said Resh Lakish to R. Johanan: Had not that great man[19] praised you, I should have said, Whose is the view expressed in the Mishnah? It is R. Akiba's, who said that one who preserves diverse seeds incurs a flogging.[20] Which statement of R. Akiba [have you in mind]? — [The following, as] it is taught: One who weeds or covers over diverse-seeds is flogged; R. Akiba says: Also one who preserves [them].[21] What is R. Akiba's reason? — It is as taught [in the following]: Thou shalt not sow thy field with two-kinds-of-seeds;[22] I [know that it is forbidden] to sow, whence [say I, that] preserving [is debarred]? From the instructive [order of the] wording. Two kinds of seed in thy field [there shall] not [be].[23]

Said ‘Ulla to R. Nahman: And why not [mention[24] also] that he would be flogged for sowing[25] on the festival-day? — Said R. Nahman to him: [The Tanna] ‘teaches and leaves out [some].’[26] Said ‘Ulla to him: The Tanna teaches eight prohibited acts and you tell me ‘He teaches and leaves out [some]’? — But said Rabbah:[27] The [principle of] ‘distributive liability[28] for different kinds of work’ is applicable to Sabbath, but no [principle of] ‘distributive liability for work’ is applicable to Festivals. Said he to him [Rabbah]: Let it remain at that! Abaye, however, raised an objection against him [saying]: But is not the principle of ‘distributive liability for different kinds of work’ held applicable also to Festivals? Is it not taught: One who on a festival-day boils the sciatic-sinew in milk and eats it incurs a flogging on five counts, [i] for eating the sinew,[29] [ii] for [unnecessary] cooking[30] on a festival-day. [iii] for boiling the sinew in milk,[31] [iv] for eating meat with milk,[31]

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(1) Deut. XXII, 10.

(2) Votive-gifts to the Sanctuary, animals for sacrifice or service, v. Lev. XXVII, 9-12; 26-27. If these animals are firstlings they may not be worked at all, even separately. (V. Ex. XIII, 12-13; Deut. XV, 19.)

(3) Forbidden in Lev. XIX, 19. In Palestine the seeds were scattered on the ground immediately after the first rain-fall and the plough was drawn over to cover them, v. Shab. 73a.

(4) Forbidden in Deut. XXII, 9. Even if he himself had not scattered the mixed diverse-seeds on the ground, his drawing the plough to cover them over amounts to sowing; if he did scatter them too, he would also have that to his guilt, but not to be included here in the example of accumulated-offences in one single act.

(5) Forbidden Ex. XXIII, 11; Lev. XXV, 4. The ploughing here is a form of sowing.

(6) On which work is forbidden, Lev. XXIII, 7-8; 21, 25, 30-31, 35-36. Sabbath is not mentioned, as a breach of the Sabbath by ploughing involves the supreme penalty (which would cover all counts) and no flogging is given in such cases. Cf. supra 13b and Rashi Pes. 47b (top).

(7) Who may not defile himself to the dead, Lev. XXI, 1-3. Cf. Num. XIX, 11, 16 (‘grave’).

(8) Likewise forbidden, Num. VI, 6 ff.

(9) I.e., a graveside, or burial ground. Cf. Num. XIX, 16.

(10) V. p. 148, note 9.

(11) Nor likewise the priest.

(12) As that of the prohibited act of ploughing on account of which he is flogged and with which we are concerned.

(13) ‘Neither shall there come upon thee a garment of two kinds of stuff mingled together (sha'atnez);’ Lev. XIX, 19. (Cf. p. 148, n. 9.) [The reading adopted here is that of the Yalkut; cur. edd. read: Does it mean he actually takes it off . . .

or even if he only puts his hand in etc.']

(14) [I.e., he becomes liable for every space of time during which he could put it on and take it off.]

(15) On the nature and function of these, v. S.I. Zuri, The Reign of the Patriarchate and Sanhedrin, (in Hebrew, London, 1933) Vol. III, p. 85; v. B.K. (Sonc. ed.). p. 407, n. 11.

(16) As for sowing diverse seeds.

(17) V. p. 149, n. 3.

(18) [As you might have explained the Mishnah as representing the view of R. Akiba to be cited anon.]

(19) [I.e., had not R. Jannai accepted your inference from the Mishnah, v. Rashi.]

(20) [But on the view of the Rabbis who oppose R. Akiba (v. n. 8) there would be no flogging for covering over diverse seeds, as against the decision of the convention.]

(21) Even though he has not scattered or sown them himself, but merely preserved them from going to waste by fencing them in or manuring them. It will be noticed that this would be action, and make him liable to a flogging. Preserving, however, might be taken to mean merely leaving alone, allowing the forbidden growth without uprooting it (as was expected). From the wording of the citation here, it is doubtful whether R. Akiba imposes a flogging even for a mere passive preservation. The Tosef. Mak. IV, 5, and Kil. I, 8, distinctly says that preserving as such makes him 'a transgressor of a forbidden act' — עובר בלא תעשה — but not liable to a flogging for inaction. V. Aruch s.v. חף, and particularly the commentary of R. Shimshon (of Sens), on Sifra, Lev. XIX, 29. also J. Kil. VIII, 1. V. Friedmann, M. op. cit. a.l. [The opening clause of this Baraitha is explained in M.K. 2a as introducing the view of R. Akiba. Thus: 'one who weeds or covers ... is flogged, because R. Akiba says that also one who preserves them is liable.' The Rabbis, however, who disagree with R. Akiba in the case of preserving, will also differ from him in the case of covering.]

(22) Lev. XIX, 29.

(23) שדך כלאים. This text might also be explained, that as there are several kinds of kil'ayim (diverse-mixed things) that are forbidden here, its purpose must be 'Of kil'ayim have none'!

(24) In the detailed enumeration in the Mishnah.

(25) V. p. 149. n. 6, Since covering over diverse seed is treated as sowing.

(26) I.e., it is not an exhaustive list. There are other such instances.

(27) [For this reading v. D.S. a.l.; cur. edd. Raba said.]

(28) I.e., to be liable for every category of work separately, e.g., for ploughing and sowing, or for kindling the fire and cooking. This principle is inferred in the case of Sabbath, from Ex. XXXV, 2-3, where verse 2 forbids work on the Sabbath on the pain of death (kareth, or sin-offering, as the case may be), while verse 3 singles out the kindling of fire as if in a category by itself. One of the explanations given is that verse 3 indicates the 'distributive principle' for Sabbath, namely, that if one did many kinds of work (forgetful that it was a Sabbath day) he is liable on as many counts as the different categories of work he had done during that spell of forgetfulness. (V. Shab. 70a and parallel and Sanh. (Sonc. ed.) p. 420, n. 3.) R. Jose derives the same point from another text. No such authentic indication is available in the law of the Festivals.

(29) Forbidden in Gen. XXXII, 33.

(30) Ex. XII, 16, permits the preparation of food on festival days, but the sinew is not (proper) food.

(31) The prohibition is derived from the thrice forbidden seething of the kid in its mother's milk — in Ex. XXIII, 19; XXXIV, 26; Deut. XIV, 21 — as forbidding cooking, eating, or even all manner of use thereof.

Talmud - Mas. Makkoth 22a

and [v] for kindling[1] fire. Now, if it is [as you suggested], he should not be flogged for kindling the fire, as he is already held liable for cooking it [the sinew]? — Then [perhaps] remove kindling [from this text] and substitute [eating] sinew of a nebelah instead.[2] But then, is it not taught by R. Hiyya [on this same point]: 'He is flogged for eating it, on two counts, and on three counts for boiling it'? Now, if it be [emended as you suggest], he would be liable on three counts for eating it! — But take out kindling [on festival-day] and put instead [kindling] fire-wood from an asherah, and as to the requisite forewarning [to justify a flogging],[3] it is contained in the verse, And there shall cleave nought of the accursed thing to thy hand.[4]

Said R. Aha the son of Raba to R. Ashi: Should he then not also incur a flogging on account of, And thou shalt not bring an abomination into thy house?[5] — But here we deal with a case where he cooked it with fire-wood belonging to the Sanctuary, and as to requisite forewarning it is contained in the following [two texts]: And burn their asherim with fire, and [on the other hand], Ye shall not do so unto the Lord your God.[6]

To this R. Oshaia[7] demurred: Why not include [in the list] also one who sows in 'a rough valley', the requisite forewarning being contained in the words, Which shall neither be ploughed nor sown?[8] R. Hanania demurred: Why not include also if he erased [with plough] the Divine Name [inscribed on something] whilst proceeding with it, the requisite forewarning being found in the words, And ye shall destroy their name out of that place. Ye shall not do so unto the Lord your God?[9] R. Abbahu demurred: Why not include also one who cuts away a [leprous] 'bright-spot'[10] the requisite forewarning being contained in the words, Take heed in the plague of leprosy that thou observe diligently, and do according to all that the priest the Levites shall teach you?[11] Abaye demurred: Why not include also one who loosened the 'breastplate' [of the High priest] from the ephod,[12] and also one who removed the staves from [their rings] on the ark,[13] the requisite forewarnings being, they shall not be taken from it,[14] And that the breastplate be not loosed?[15] R. Ashi demurred: Why not include also one who ploughed with sticks taken from an asherah tree, the forewarning being, And there shall cleave nought of the accursed thing to thy hand?[16] Rabina demurred: Why not include also one who cuts down good [fruit] trees, whilst proceeding[17] [with the plough], the forewarning being, for thou mayest eat of them, but thou shalt not cut them down?[18] Said R. Ze'ira to R. Mani: Why not include also the case of one who solemnly swore, 'I shall not plough on the Festival-day'? — In that case the oath has no application, because he stands already adjured[19] by the law of Sinai. Then, said he [R. Ze'ira] to him: Supposing he had sworn: 'I shall not plough [at all], be it week-day or Festival-day,'in which case, as the oath is valid for a week-day, it attaches [incidentally] also to the Festival-day?[20] — The Tanna does not mention anything for which absolution may be obtained.[21] But [does he] not? Behold there is [the mention of ANIMALS] OF THE SANCTUARY?[22] — [I explain that] to refer to a firstling.[23] And what about [the mention] of A Nazirite?[24] — That refers to a Samson-Nazirite.[25] 'A Samson-Nazirite'! Is he debarred from defiling himself to the dead?[26] — But [say][27] that the Tanna [of this Mishnah] does not admit the principle of issur-kolel.[28]

R. Hoshaia[29] said: If a votive-ox that had become disqualified [for sacrifice][30] were to be used for covering a female [for breeding], the person using it so is liable to a flogging on two [counts].[31] R. Isaac[29] [similarly] observed that if one drives [works] a votive-ox that had become disqualified [for sacrifice],[32] he becomes liable to a flogging [for working it]: for, although the animal is [physically] one body, Holy Writ has [by its restrictions legally] placed it in the category of two ['diverse'] bodies.[33]

MISHNAH. [AND][34] HOW MANY LASHES ARE GIVEN HIM? FORTY SAVE ONE, AS IT IS SAID: BY NUMBER FORTY,[35] WHICH MEANS, A NUMBER COMING UP TO[36] FORTY. R. JUDAH SAYS: HE IS GIVEN FORTY [LASHES] IN FULL, AND WHERE IS THE ADDITIONAL LASH[37] APPLIED? BETWEEN[38] HIS SHOULDERS.

WHEN THEY ESTIMATE THE NUMBER OF LASHES HE CAN STAND IT MUST BE A NUMBER DIVISIBLE BY THREE. IF THEY ESTIMATED HIM CAPABLE OF RECEIVING FORTY, AND AFTER RECEIVING SOME[39]

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(1) V. Ex. XII, 16 and v. note 2.

(2) As the fifth count, for the flesh of nebelah is forbidden as food in Deut. XIV, 21.

(3) V. supra, p. 18, n. 5.

(4) Deut. XIII, 18.

(5) Ibid. VII, 26.

(6) Ibid. XII, 3-4. On the above discussion cf. pes. 47b-48.

(7) Also Hoshaia, the Younger (not the Great, the Elder, disciple of both Bar-Kappara and R. Hiyya). Hoshaia and Hanania were brothers (also of Rabbah b. Nahmani), Babylonians, contemporaries of R. Abbahu. R. Johanan wanted to ordain them, but the special occasion was missed V. Sanh. 14a and Makk. 19b. A. Hyman. Toledoth, 116-117.

(8) Deut. XXI, 4. If in the Mishnah, ‘rough valley’ be substituted for ‘a vineyard’, there would result nine offences, as there are two prohibitions involved there, ‘neither to be ploughed nor sown.’ Cf. J. Sot., IX, 5.

(9) V. p. 152, n. 9.

(10) Cf. Lev. XIII, 4. [I.e., the affection happened to be in his leg and he cut it away with the plough whilst proceeding with it.]

(11) Deut. XXIV, 8.

(12) [I.e., where he who ploughed was a high priest and he loosened during the ploughing the ‘breastplate’.]

(13) [For ploughing with them, committing the transgression as long as they are with him.]

(14) Ex. XXV, 15. with reference to ‘the staves’.

(15) Ibid. XXVIII, 28, with reference to ‘the breastplate’.

(16) Deut. XIII, 28.

(17) [So MS.M.]

(18) Deut. XX, 19.

(19) Oath or no oath, there is no option in regard to a Divine ordinance; he may not plough on the Festival-day, v. Shebu. 27a.

(20) The assumption is this, that here, in the self-imposed oath not to plough on any day we have a more ‘Comprehensive Restriction’ — איסור כולל, extending over or inclusive of the occasional Festival-day or days, so that the particular incidental restriction not to plough on Festival-day, is embraced in the (more) comprehensive, or general restriction. For a fuller discussion of the various types of restrictions v. Shebu. (Sonc. ed.) 17b and 24b. Cf. note 10.

(21) He may obtain absolution from his oath, and thus secure exemption from the flogging.

(22) I.e., being of the same category, since vows, like oaths are equally subject to absolution.

(23) Hallowed from birth, Ex. XIII, 12-13; he must remain so and is not subject to absolution.

(24) His vow is also like the oath subject to absolution.

(25) I.e., a permanent nazirite like Samson. As Samson had not himself taken the vow, for it was imposed on him before he was born (Judg. XIII, 5), his nazirite state was not subject to absolution. Nazir, 4a-b.

(26) Samson did defile himself (Judg. XIV, 19: XV, 15 and Nazir, 4b), whereas here (in the Mishnah) it is counted as part of the offence.

(27) Having exhausted all possibilities.

(28) Comprehensive Restriction (v. supra note 1,) a principle which had been assumed by R. Ze'ira in putting the question to R. Mani.

(29) R. Hoshaia, the Elder (not the one mentioned earlier with his brother, R. Hanania, v. p. 153, n. 1). He and R. Isaac (b. Abdimi) mentioned next were contemporaries. Cf. Sanh. 24a.

(30) By blemish.

(31) (a) Lev. XIX, 19, Thou shalt not let thy cattle gender with a diverse kind, and (b) Deut. XV, 19. Like the firstling, even though unfit for the altar, it may be eaten but not put to work. Cf. M.K. 12a (Tosef. II) and Bek. 15b. [This interpretation assumes that assisting in the mating of a votive-ox or of a firstling is considered work involving the penalty of flogging. This, however, is a moot point: v. Maim. Yad, Me'ilah, I, 9, and Mishneh le-Melek, a.l. MS.M. Rashi and Tosaf. and Maim. Yad, Kil'ayim IX, 11, omit ‘on two counts’, and the liability is in respect of the reason given infra. n. 2 (a)].

(32) V. p. 154, n. 12.

(33) (a) Partly as an ordinary animal, whose flesh is non-hallowed in every way, and (b) and partly as sanctified not to be put to work. Cf. Tosaf. s.v. שהרי

(34) Some texts read וכמה connecting it with the preceding Mishnah.

(35) Deut. XXV, 2-3. That is, as the Hebrew text is unpointed and the verses are undivided, it seems that the two verses were run together so as to read ‘By the number of forty’.

(36) סמוך, contiguous, or close to forty (not inclusive). Cf. Asheri, Pes. X, 40, about 49 days of Omer. Others read —

סוכם ‘coming to a total at forty’.
(37) The 40th. [MS. M. omits ‘THE ADDITIONAL’.]
(38) Var. lec., ‘over against his shoulders’: v. D.S.
(39) And stopped on physical or other considerations.

Talmud - Mas. Makkoth 22b

THEY AGAIN ESTIMATED HIM AS NOT CAPABLE OF ENDURING FORTY, HE IS EXEMPTED [FROM THE REST].[1] IF THEY ESTIMATED HIM FIT TO RECEIVE EIGHTEEN, AND AFTER HE RECEIVED THE SAME THEY AGAIN ESTIMATED HIM AS FIT FOR RECEIVING FORTY [SAVE ONE], HE IS EXEMPTED [FROM THE REST].[1] GEMARA. [AND HOW MANY LASHES ARE GIVEN? FORTY SAVE ONE.] What is the reason for this [particular number]? — If it were written, ‘forty in number,’ I should have said it means [actually] forty in number; but as [the order of] the wording is ‘by number forty’[2] [it means] a number coming up to the forty.[3] Raba observed: How dull-witted are those other people[4] who stand up [in deference] to the Scroll of the Torah but do not stand up [in deference] to a great personage, because, while in the Torah Scroll forty lashes are prescribed, the Rabbis come and [by interpretation] reduce them by one.

R. JUDAH SAYS: FORTY [LASHES] IN FULL. AND WHERE IS THE ADDITIONAL LASH APPLIED? BETWEEN THE SHOULDERS. Said R. Isaac: What is R. Judah's reason?[5] — It is written, And one shall say, what are these[6] wounds between thine hands?[7] Then he shall answer, I was beaten in the house of my friends.[8] And the Rabbis [what say they to this]? — That [say they] is written in reference to the [punishment of] school children.

WHEN THEY ESTIMATE THE NUMBER OF LASHES [HE CAN STAND] IT MUST BE A NUMBER DIVISIBLE BY THREE [IF . . . AFTER RECEIVING SOME THEY AGAIN ESTIMATED HIM . . . HE IS EXEMPT]. That is, exempt only after he had received some, but if he has not yet received any [of the first sentence] he is not [granted that consideration]. But this is contradicted by the following: If they estimated him fit for forty, and then again estimated him[9] unfit for receiving forty, he is exempt; if they estimated him fit for receiving eighteen, and then again estimated him[10] fit for receiving forty, he is exempt [from the rest]! — Said R. Shesheth: This is not difficult [to explain]. Here [in the Mishnah], they estimated his fitness for the same day,[11] while there [in the Baraitha cited], they estimated his fitness for the next, or some other day.[12]

MISHNAH. IF HE COMMITTED A TRANSGRESSION WHICH OFFENDED AGAINST TWO PROHIBITIONS[13] AND THEY MADE ONE ESTIMATE [FOR BOTH],[14] HE TAKES HIS SCOURGING AND IS QUIT; IF NOT,[14] HE IS FLOGGED [FOR ONE TRANSGRESSION], IS ALLOWED TO RECOVER AND THEN IS FLOGGED AGAIN.

GEMARA. But is it not taught: One infliction [of lashes] is not adjudged for two prohibitions? — Said R. Shesheth: This is not difficult [to explain]; in one case it is where they assigned him forty-one lashes,[15] while [this Mishnah bears on a case] where they assigned him forty-two[16] lashes. MISHNAH. HOW DO THEY SCOURGE HIM? HIS TWO HANDS ARE TIED TO A POST[17] ON EITHER SIDE OF IT. THE SUPERINTENDENT OF THE SYNAGOGUE[18] LAYS HOLD OF HIS GARMENTS, IF THEY ARE TORN THEY ARE TORN: IF THEY ARE RIPPED OPEN, THEY ARE RIPPED OPEN[19] UNTIL HE EXPOSES THE OFFENDER'S CHEST. A STONE IS PLACED BEHIND THE OFFENDER ON WHICH THE SUPERINTENDENT OF THE SYNAGOGUE STANDS OVER HIM, [HOLDING] IN HIS HAND A STRAP OF CALF-HIDE, MADE OF ONE THONG, ONE FOLDED INTO TWO, AND [THE] TWO INTO FOUR,[20] AND [OTHER][21] TWO THONGS RUNNING [AS IT WERE] UP AND DOWN;[22] THE HAFT IS A HANDBREADTH [IN LENGTH][23] AND THE [THONG'S] WIDTH A HANDBREADTH: ITS TIP REACHING TO THE

EDGE OF THE ABDOMEN.[24] HE ADMINISTERS ONE-THIRD [OF THE LASHES] IN FRONT[25] AND TWO-THIRDS BEHIND.[26] HE LASHES HIM NOT IN A STANDING OR SITTING POSTURE BUT STOOPING, AS IT IS SAID, AND THE JUDGE SHALL CAUSE HIM TO FALL [STOOP] DOWN AND HAVE HIM BEATEN.[27] HE WHO ADMINISTERS THE LASHES SMITES WITH HIS ONE HAND AND WITH HIS WHOLE FORCE, WHILE THE ONE WHO RECITES, SAYS: IF THOU WILT NOT OBSERVE TO DO . . . THEN THE LORD THY GOD SHALL MAKE THY STROKES PRONOUNCED,[28] AND THE STROKES OF THY SEED [etc.][29] AND HE GOES BACK AGAIN TO THE BEGINNING OF THE TEXT [IF NECESSARY][30] AND CONCLUDES WITH: BUT HE, BEING FULL OF COMPASSION, FORGIVETH INIQUITY AND DESTROYETH NOT; YEA, MANY A TIME DOTH HE TURN HIS ANGER AWAY AND DOTH NOT STIR UP ALL HIS WRATH,[31] AND AGAIN RETURNS TO THE TEXT:[32] OBSERVE THEREFORE, THE WORDS OF THIS COVENANT AND DO THEM, THAT YE MAY MAKE ALL THAT YE DO TO PROSPER.[33] IF THE OFFENDER DIES UNDER HIS HAND [STROKE] HE IS EXEMPT [FROM PENALTY].[34] IF HE GAVE HIM ONE MORE LASH AND THE OFFENDER DIED, HE GOES INTO BANISHMENT. IF THE OFFENDER BEFOULED HIMSELF EITHER WITH FAECES OR URINE, HE IS DISCHARGED.[35] R. JUDAH SAYS: FAECES IN THE CASE OF A MAN AND URINE IN THE CASE OF A WOMAN.

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(1) As, having had part of his degradation by order of Court, he can no longer be said to have got away unpunished for his misdeed. But if he has not yet received any strokes, and he cannot for some reason take them that day, the lashing can be deferred and even reimposed for another day.

(2) V. p. 155, n. 4.

(3) V. p. 155, n. 5.

(4) I.e., other than cultured people who generally show respect to scholars.

(5) For his view that forty lashes are given. [Or better, that the additional lash is applied between the shoulders.]

(6) Or these 'strokes', i.e. the forty lashes. The number forty is obtained from the word אלה (these), in this way: the numerical value of the letters being *t* = 1; *k* = 30; *v* = 5 + 4 letters — *vktv* = total 40; v. A. Chaikin ציוני רש״י on Mak. 22b. [V. however next note.]

(7) [I.e., 'BETWEEN THE SHOULDERS', which affords a basis for R. Judah's view as regards the place where the additional lash is inflicted, v. Ritba.]

(8) Zech. XIII, 6: 'who seek to reconcile me with God are my friends.' Cf. Midr. Tan. on Deut. XXV, 3, p. 164.

(9) Omitting any mention about him having received part of his punishment, as if that condition was of no importance and what the Court had once determined cannot be changed on further consideration. This seems an entire contradiction of the ruling in the Mishnah.

(10) V. p. 156, n. 8.

(11) That is, to be inflicted on the day of the decision. If the Court changes its mind before he received any of the lashes, there is practically no decision, the second abrogating the first: and, the second, too, may be wrong, as the man's condition could hardly have changed so quickly. His punishment must be deferred for a clearer estimation. If, however, he has already suffered part of his punishment, he has had his humiliation already, and is quit.

(12) And when on the appointed day it is found that his condition has improved or deteriorated, the Court may adjust the punishment accordingly, without any reflection on their former adjudication as to his fitness.

(13) E.g., for ploughing with ox and ass yoked together to cover over diverse-seeds scattered in (his field or) vineyard, forbidden in Deut. XXII, 9-10, and Lev. XIX, 19.

(14) For both offences.

(15) I.e., thirty-nine for one offence and two lashes only for the other. Thirty-nine is the statutory limit for any one offence at any one time: as the remaining (two lashes) are not divisible by three, they cannot be administered but he is allowed to recover and is subjected to a new series of lashes.

(16) I.e., thirty-nine for one offence and three for the other: he can take the whole number at one time and is quit.

(17) Reaching up to the middle of the body, over which the offender is bent, with his hands tied down to the post.

(18) Hazzan denotes various kinds of officials, here an executive officer of the Court. V. Kohut, Aruch s.v. חזן. It occurs in the Tel-el-Amarna Letters, Ziri-Basana, or the Field of Bashan, was then under the government of one Khazan, or ‘prefect’. Sayce, Patriarchal Palestine (1895), p. 95. Epiphanius reports that in Cilicia there were in the Jewish Community three Azanites. S. Krauss, JQR (1905) XVII (O.S.). p. 373 and p. 380, note 2. [Krauss, Sanh-Mak. p. 372, translates: ‘Guardian of the Synagogue’: pointing out that scourging was generally inflicted in the Synagogue.]

(19) At the seams.

(20) I.e., the thong is first doubled then redoubled.

(21) Of ass-hide.

(22) I.e., running through the fourfold thong. The words, של חמור ‘of ass-hide’ are not authentic, but are an intrusion from the Baraitha cited in the Gemara. V. marginal note on Talmud text. Cf. דרכי משה on Tur. O. H. 607, note 4.

(23) The usual standard measure of a ‘grip’.

(24) I.e., long enough to swing round the sides and flip the edge of the abdomen — the navel.

(25) Of the man, the front of his (exposed) body.

(26) On his shoulders, one third on each. The reason is given later.

(27) Deut. XXV, 2. On this, v. Midr. Tan. p. 163.

(28) I.e., counted aloud, pronounced clearly, as in the case of a vow. Cf. Lev. XXVII, 2: Num. VI, 2, and supra 13b, in explanation of R. Ishmael's point of view, from this text.

(29) Deut. XXVIII, 58-59, consisting of 13 words, which, repeated three times (if necessary) counted 39.

(30) The text here is in disorder, as can be seen from various parallel sources, Mishnah, Yalkut and Midrash and Maimonides. The order adopted here is conjectural, and aims at retaining the additions, rationally arranged. [MS.M. and other texts omit the verses that follow, thus showing that they are intrusions into our text. Cur. edd. read on: And ye shall observe the words of this covenant etc. (Deut. XXIX, 9), and he concludes with, But he being full of compassion forgave their iniquity etc. (Ps. LXXVIII, 38) and he returns again to the beginning of the passage.]

(31) Ps. LXXVIII, 38, also consisting of 13 words, and used like the preceding (which is too fierce and menacing) on voluntarily submitting oneself to penitential chastisement. V. Tur. O.H. 607 (end) and Sh. ‘Ar. ibid. 6.

(32) As an exhortation (not to conclude with a rebuke).

(33) Deut. XXIX, 8.

(34) Having acted under direction of the judges. Cf. supra 8a (Mishnah).

(35) Having suffered humiliation for his misdeed.

Talmud - Mas. Makkoth 23a

GEMARA. [HOW DO THEY SCOURGE HIM? HIS TWO HANDS ARE TIED TO A POST...HIS GARMENTS IF THEY ARE TORN THEY ARE TORN . . . UNTIL HE EXPOSES THE OFFENDER'S CHEST.] What is the reason for this? — The implication of [the words, And thy brother] become debased.[1]

[A STRAP OF CALF-HIDE.] Said R. Shesheth in the name of R. Eleazar b. ‘Azariah:[2] Whence may it be deduced that the strap is to be of calf-hide? It is written, Forty [lashes] shall he strike him,[1] and in proximity to it, Thou shalt not muzzle the ox when he treadeth the corn.[3] R. Shesheth said also, in the name of R. Eleazar b. ‘Azariah: Whence may it be shown that a yebamah[4] who has become liable to marry a yabam[5] smitten with boils should not be ‘muzzled’ [to voice her dissent from the marriage]? It is written, Thou shalt not muzzle the ox . . .[3] and in proximity to it, If brethren dwell together etc.[6] And this also said R. Shesheth in the name of R. Eleazar b. ‘Azariah: To disregard the Appointed Seasons[7] is like practising idolatry, because it is written, Thou shalt make thee no molten gods[8] and next to it [is the ordinance of the Festivals] — The feast of unleavened bread shalt thou keep, etc.[9] And R. Shesheth further said in the name of R. Eleazar b. ‘Azariah: Whosoever bears evil tales and whosoever receives evil tales, or whosoever bears false witness deserves to be cast to the dogs; for it is written, Ye shall cast it to the dogs,[10] and next to it [is the warning], Thou shalt not raise a false report: [put not thine hand with the wicked to be an unrighteous witness],[11] read [not only tissa,[12] but] also tasshi[13] [‘beguile not another’].

TWO [OTHER] THONGS RUNNING [AS IT WERE] UP AND DOWN. A Tanna taught [that one thong was][14] of ass's hide, as a certain Galilean once expounded, in the presence of R. Hisda,[15] [the following text]: The ox knoweth his owner and the ass his master's crib; but Israel doth not know, my people doth not consider.[16] The Holy One, blessed be He, said, Let there come one that recognises its master's crib and exact punishment from him that recognises not his master's crib.

THE HAFT IS A HANDBREADTH [. . . THE ABDOMEN]. Said Abaye: That seems to imply that each person should have a lash corresponding to his back. Said Raba to him: That would mean that they would have [to keep a good] many different thongs! But no, said Raba, the lash was provided with a clasp by means of which it could be tightened [shortened] or loosened [lengthened] as required.

HE ADMINISTERS [ONE-THIRD (OF THE LASHES) IN FRONT AND TWO-THIRDS BEHIND]. What [Scriptural] ground is there for this? — Said R. Kahana: The words of the text, And the judge shall cause him to fall and have him beaten before him according to the measure of his wickedness by number,[17] [that is], one [-third of ‘his] wickedness’ on the front[18] and two [-thirds] on his back.

THEY LASH HIM NOT [STANDING OR SITTING BUT STOOPING]. Said R. Hisda as reporting R. Johanan: Whence may it be shown that the strap is to be folded?[19] From the wording in the text, And the judge shall cause it[20] to fall [and cause it[20] to strike him].[21] But is that passage not needed to tell us about [the posture of] the man himself? — If [only] that, [the more appropriate expression] yattehu [‘and he shall cause him to bend’] might have been written there; what then is the import of [the peculiar expression] hippilo [‘he shall cause it to fall’]? To indicate both [instructions].

HE WHO ADMINISTERS THE LASHES DOES IT WITH ONE HAND, etc. Our Rabbis taught: Only men lacking in physical vigour and abounding in knowledge are appointed as ‘superintendents’; R. Judah says: Even men lacking in knowledge and abounding in physical vigour. Said Raba: R. Judah's view seems the more logical, because it is written there, Forty he shall have him beaten, he shall not exceed; lest he exceed. Now, if you say that [the superintendents are men] lacking in knowledge, then [I understand that] such a warning is necessary; but if you say that only men abounding in knowledge [may be appointed as superintendents], is such a warning necessary? And [what say] the Rabbis [to this]? — [They say:] We caution only those who are cautious of themselves.

A Tanna taught: When he raises [the lash] he raises it with both hands [so as to raise it all the higher],[22] and when he smites he smites with one hand so that it comes [down] of itself [vehemently].[23]

AND HE WHO RECITES THE SCRIPTURAL VERSES SAYS, etc. Our Rabbis taught: The most prominent of the judges recites [the Scriptural verses]; the second counts [the strokes], and the third says, Strike him! When the ‘beating’ is of many strokes, he lengthens the recital; and when the beating is less, he shortens the recital. But do we not learn, HE GOES BACK TO THE BEGINNING OF THE VERSE? — [The rule is that] he should [time the recital] to correspond precisely [with the lashing]; but if he has not been so precise, he goes back again to the beginning of the verse.

Our Rabbis taught: It is written, (He shall not exceed . . .) an ample beating.[24] From this I gather that only ‘an ample beating’ [is forbidden]; whence do I learn that [not even] a slight beating [in excess of the determined number of strokes] is permissible? From the instructive words, ‘He shall not exceed’. If so, what is the import of the phrase ‘an ample beating’? — This phrase implies that the former [imposed number of] strokes were [in themselves] ‘an ample beating’.[25]

IF HE BEFOULED HIMSELF etc. Our Rabbis taught: The offender, whether man or woman, is discharged on losing faeces, but not urine; these are the words of R. Meir. R. Judah says: A man is discharged on losing faeces and a woman on losing urine; but the Sages say man and woman alike are discharged on losing faeces or urine. But then, is it not [also] taught: R. Judah says: The offender, whether man or woman, is discharged on losing faeces? — Said R. Nahman b. Isaac: [There is no contradiction, as the latter citation merely states that] in regard to faeces, it is the same in the case of man or woman.

Samuel said: If they had tied him [down to the post] and he [broke away and] escaped from the Court, he is exempt.[26] (What is the reason? — Because of [the text], lest he be dishonored,[27] and he has been dishonoured.)[28] An objection was raised: If he befouled himself either at the first or at the second stroke, they let him go. If the thong snapped at the second stroke,[29] they let him go, but at the first stroke[30] they do not let him go. Now why [not at the first stroke]?[31] Why [not let him go] as if he had escaped?[32] — [Because] there he [actually] ran away,[33] whereas here he has not run away.[34]

Our Rabbis taught: If they estimate him that he would befoul himself as soon as they applied the lash; they let him go; if that he would befoul himself on coming away from the Court, they give the flogging.[35] Not only this, but even if he broke down at the very first,[36] they flog him, because the text reads, And he shall cause him to be beaten [. . . he shall not exceed . . .] lest thy brother be dishonoured [before thine eyes],[37] [implying,] but not if he had already been dishonoured while at Court.[38]

MISHNAH. ALL WHO HAVE INCURRED [THE PENALTY OF] KARETH, ON BEING FLOGGED OBTAIN REMISSION FROM THEIR PUNISHMENT OF KARETH; FOR IT IS SAID, FORTY HE SHALL HAVE HIM BEATEN HE SHALL NOT EXCEED . . . LEST THY BROTHER SHALL BE DISHONOURED BEFORE THINE EYES,[39] WHICH SHOWS THAT ON HAVING RECEIVED THE FLOGGING HE IS [CONSIDERED] ‘THY BROTHER’:[40] THESE ARE THE WORDS OF R. HANANIAH B. GAMALIEL.[41] AND, SAID R. HANANIAH B. GAMALIEL, IF IN ONE TRANSGRESSION A TRANSGRESSOR FORFEITS HIS SOUL, HOW MUCH MORE SHOULD ONE WHO PERFORMS ONE PRECEPT HAVE HIS SOUL GRANTED HIM? R. SIMEON[42] SAYS THAT YOU CAN LEARN THIS FROM ITS OWN PASSAGE;[43] FOR IT IS SAID [THERE]: [FOR WHOSOEVER SHALL DO ANY OF THESE ABOMINATIONS,] EVEN THE SOULS THAT DO THEM SHALL BE CUT OFF FROM AMONG THEIR PEOPLE;[44] AND THERE [IN THE PREAMBLE] IT SAYS:

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(1) Deut. XXV, 3. ונקלה The implication of the passage is, do not strike the offender capriciously but a carefully determined number of lashes lest he become too degraded: yet the humiliation of an offender for his offence is the main purpose of the lashing by order of the Court. [MS.M. omits this passage. Cf. also Tosaf. Sot. 8a s.v. והכהן where this reason is given as their own.]

(2) Who lived about 200 C.E., two hundred years before R. Shesheth, who obviously was in possession of a collection of the former's teachings.

(3) Deut. XXV, 4.

(4) The widow of a childless brother.

(5) The brother of the deceased husband.

(6) Deut. XXV, 5. The consideration demanded here for the dumb animal in not cruelly thwarting a natural desire suggests no less consideration for the woman who for her protection is required to marry her late husband's brother. Although he has a legal claim to her, she is not to be coerced when he is likely to be loathsome. Her objection to the union is (on textual grounds) not to be considered as offending against the law.

(7) That is, the Festivals, cf. Lev. XXIII, 2, 4. Commentators (v. Rashi) take it to refer to the intermediate-days of Passover and Tabernacles, when work is restricted though not forbidden. V. Hag. 18a: M. Kat. 12a-b. This Eleazar, however, may refer to the Festivals themselves, like the other R. Eleazar of Modin (Aboth III, 11), who seemingly refers to those who are misled by the allegorical misinterpretations and the abrogation of the Jewish observances by Paul and other later Christian teachers such as are found in the Epistle of Barnabas, a contemporary of Eleazar of Modin.

(8) Ex. XXXIV, 17.

(9) Ex. XXXIV, 18-23.

(10) With reference to flesh torn by beasts. Ex. XXII, 31.

(11) Ibid. XXIII, 1.

(12) תשא, ‘raise (not a false report)’ from the root נשא, ‘to raise’, ‘pick up’.

(13) תשיא, from ‘deceive’, ‘mislead’ (not another by misrepresentation). Cf. Jer. XXXVII, 9, and Gen. III, 13.

(14) So Yalkut Isa. 387: Maim. Sanh. XVI, 8, has ‘two straps’, probably meaning one folded in half, v. page 158, n. 6.

(15) At one of his gatherings.

(16) Isa. I, 3.

(17) Deut. XXV, 2.

(18) ‘Before him’ is here taken to refer to the offender, instead of the judge.

(19) That is, folded in half with the two ends left hanging free.

(20) Both expressions are taken to refer to the strap, instead of to the ‘man’ who is scourged. MS.M. reads here: קרי ביה והכפילו

(21) Deut. XXV, 2.

(22) So MS. M. (v. D.S.)

(23) So MS.M. Cf. Sanh. 45b (about a stone).

(24) Deut. XXV, 3.

(25) Heavy, forcible strokes.

(26) Cf. Shebu. 28a, and Rashi there.

(27) Deut. XXV, 3.

(28) The bracketed passage is supplied from MS.M. The warning not to exceed the statutory number of strokes ‘lest he be dishonoured’, shows that the purpose of the ‘beating’ is rather corrective than punitive, and therefore, as soon as the offender has lost morale and self-control, or acts in a scared manner, the moral object has been attained.

(29) As it fell.

(30) After the first, as the second was about to fall.

(31) He has been humiliated.

(32) He has already received humiliation: the accidental snapping of the strap is in his favour.

(33) Terror-stricken and in discomfort.

(34) Showed no signs of discomfort or remorse.

(35) The text is in disorder and the interpretation adopted here is that of Rashi, for other interpretation based on a variant reading v.commentary of Riban.

(36) During preliminaries.

(37) Deut. XXV, 2-3.

(38) I.e., before the flogging. v. D.S.

(39) Deut. XXV, 3.

(40) No longer to be ‘degraded’ or ‘cut off’ from his people.

(41) Often R. Hanina b. Gamaliel and in some MS. of Sifre, b. Gamala (Friedmann op. cit.).

(42) MS. M. has R. Ishmael.

(43) On the subject of kareth, not indirectly as from the quoted text dealing with flogging.

(44) Lev. XVIII, 29.

Talmud - Mas. Makkoth 23b

YE SHALL THEREFORE KEEP MY STATUTES AND MINE ORDINANCES WHICH IF A MAN DO, HE SHALL LIVE BY THEM,[1] WHICH MEANS THAT ONE WHO DESISTS FROM TRANSGRESSING IS GRANTED REWARD LIKE ONE WHO PERFORMS A PRECEPT. R. SIMEON B. RABBI SAYS: BEHOLD HOLY WRIT SAYS, ONLY BE STEADFAST IN NOT EATING THE BLOOD . . . AND THOU SHALT NOT EAT THE LIFE WITH THE FLESH . . . [THAT IT MAY GO WELL WITH THEE AND WITH THY CHILDREN AFTER THEE WHEN THOU SHALT DO WHAT IS RIGHT IN THE EYES OF THE LORD].[2] NOW, IF IN THE CASE

OF BLOOD FOR WHICH MAN'S SOUL HAS A LOATHING, ANYONE WHO REFRAINS THEREFROM RECEIVES REWARD, HOW MUCH MORE SO IN REGARD TO ROBBERY AND INCEST FOR WHICH MAN'S SOUL HAS A CRAVING AND LONGING SHALL ONE WHO REFRAINS THEREFROM ACQUIRE MERIT FOR HIMSELF AND FOR GENERATIONS AND GENERATIONS TO COME, TO THE END OF ALL GENERATIONS! R. HANANIAH B AKASHIA SAYS: THE HOLY-ONE, BLESSED BE HE, DESIRED TO MAKE ISRAEL WORTHY, THEREFORE GAVE HE THEM THE LAW [TO STUDY] AND MANY COMMANDMENTS [TO DO]: FOR IT IS SAID: THE LORD WAS PLEASED, FOR HIS RIGHTEOUSNESS'[3] SAKE. TO MAKE THE LAW GREAT AND GLORIOUS.[4]

GEMARA. Said R. Johanan: R. Hananiah b. Gamaliel's colleagues disagree with him.[5] Said R. Adda b. Ahaba: At Rab's college they used to say: We learn [in a Mishnah].[6] 'There is no difference [in sanctity] between Sabbath and the Day of Atonement, save that in the case of the former, a deliberate desecration is punishable by human agency,[7] while in that of the latter, a deliberate desecration is punished by kareth.'[8] Now, were this [doctrine of R. Hananiah b. Gamaliel] generally accepted, [the Mishnah would have said that] the punishment of deliberate desecration in either case [of Sabbath or Day of Atonement] is [practically] left to human agency?[9] — Said R. Nahman b. Isaac:[10] Whose view may that [Mishnah] express? It is R. Isaac's,[11] for he says that there is no penalty of flogging for those liable to kareth, as it was taught: Seeing that Holy Writ has [already] comprehended in a single verse all the offenders in unlawful relations as being liable to kareth,[12] what object was there in singling out that penalty in the case of [the brother with] his sister?[13] Only to show that kareth is their penalty, not flogging.[14] R. Ashi said: You might even say that [the cited Mishnah expresses the opinion of] the Rabbis [by explaining that it states] that in one case [the Sabbath][15] its main punishment is delegated to human authority, whereas in the other [the Day of Atonement] it is left to the Celestial Authority.

R. Adda, as citing Rab, said that halachah rests with R. Hananiah b. Gamaliel.

Said R. Joseph: Who has gone up [to Heaven] and come [back with this information]?[16] — Said Abaye to him: But then, in regard to what R. Joshua b. Levi said: 'Three things were enacted by the [mundane] Tribunal below, and the Celestial Tribunal on high have given assent to their action'; [we might also exclaim,] who has gone up [to Heaven] and come [back with this information]? Only, we [obtain these points by] interpreting certain texts; and, in this instance too, we so interpret the texts.

[To turn to] the main text: 'R. Joshua b. Levi said that three things were enacted by the [mundane] Tribunal below and the [Celestial] Tribunal on high gave assent to their action.' These were: The [annual] recital of the Scroll [of Esther];[17] saluting with the Divine Name;[18] and the [Levite's] tithe to be brought [to the Temple-chamber].[19] 'The [annual] recital of the Scroll [of Esther],' as it is written, They confirmed,[20] and the Jews took upon them and their seed, etc.:[21] they 'confirmed' above what they had 'taken upon themselves' below. 'Saluting with the Divine Name,' — as it is written, And behold, Boaz came from Bethlehem and said to the reapers, 'The Lord be with you';[22] and [furthermore] it says, The Lord bless thee, thou mighty man of valour.[23] What is the purport of, 'And [furthermore] it says'? — Lest you should say that Boaz did this of his own idea and that this action of his was not approved by Heaven, come and hear what it says, The Lord be with thee, thou mighty man of valour.[24] 'The [Levite's] tithe to be brought [to the Temple-chamber].' — as it is written, Bring ye the whole tithe unto the store house that there may be food in My house, and try Me herewith, saith the Lord of Hosts, if I will not open you the windows of heaven and pour you out a blessing, until there be no enough.[25] What means, 'until there be no enough'? — Said Rami b. Rab: [It means], until your lips weary of saying 'Enough, enough'!

R. Eleazar said: The Holy Spirit manifested itself in three places; at the Tribunal of Shem,[26] at the Tribunal of Samuel of Ramah, and at the Tribunal of Solomon. At the Tribunal of Shem,[27] as it is written, And Judah acknowledged them,[28] and he said, She is right, it is from me.[29] How did he know [for certain]? Maybe, just as he had come to [consort with] her, some other man had come to [consort with] her? [But] it was a Bath Kol[30] that came forth and said, 'She is right, constrained by Me these things came about.'[31]

'At the Tribunal of Samuel,'[32] — as it is written, Here I am; witness against me before the Lord and before His anointed, whose ox have I taken? or whose ass . . . and they said, Thou hast not defrauded us nor oppressed us, neither hast thou taken aught of any man's hand. And he said unto them, The Lord is witness against you and His anointed is witness this day that ye have not found aught in my hand,' and He[33] said, [He is] witness.[34] 'And He said'; should it not be 'And they said'? [But] it was a Bath Kol that came forth and said, 'I am witness in this matter.'

'At the Tribunal of Solomon,' — as it is said, And the king answered and said, Give her the living child, and in no wise slay it; she is his mother:[35] 'She is his mother'; whence knew he [for certain]? Maybe, she had been acting craftily? [But] it was a Bath Kol that came forth and said, 'She is his mother'.

Said Raba: How [can we be sure of this?] Maybe Judah had reckoned the days and months and found them to coincide,[36] — for what we see we may presume; but we presume not what we see not.[37] Again, Samuel may have taken all Israel collectively, using the singular[38] expression [verb], as it is written [elsewhere]: O Israel, thou art saved by the Lord with an everlasting salvation, Ye shall not be ashamed?[39] And Solomon likewise, because he saw one woman was compassionate and the other was not compassionate! Only [of course], these [interpretations] are points of traditional lore.

[THEREFORE GAVE HE THEM TORAH (TEACHINGS) AND MANY COMMANDMENTS . . .] R. Simlai when preaching said: Six hundred and thirteen precepts were communicated to Moses, three hundred and sixty-five negative precepts, corresponding to the number of solar days [in the year], and two hundred and forty-eight positive precepts, corresponding to the number of the members[40] of man's body. Said R. Hamnuna: What is the [authentic] text for this? It is, Moses commanded us torah, an inheritance of the congregation of Jacob,[41] 'torah' being in letter-value, equal to

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(1) Lev. XVIII, 5.

(2) Deut. XII, 23-28.

(3) [Probably Israel's righteousness. i.e., to make Israel righteous, v. Bacher AT II, 376.]

(4) Isa. XLII, 21. [One may see in the words of R. Hananiah b. 'Akashia a polemic against the Pauline conception that puts the Law in opposition to innocence and spiritual law and considers it a source of sin and wrath. Here it is asserted that the Law was given, not as a mark of divine wrath in order to increase sin so as to make all the greater the need of divine mercy, but as a mark of divine love designed to train Israel in moral holiness in order to make them all the more worthy in the eyes of the Holy One, blessed be He.]

(5) I.e., R. Ishmael and R. Akiba, supra, both of whom hold that the remission of kareth depends on repentance rather than in punishment.

(6) Meg. 7b.

(7) Ex. XXXI, 14-15. and v. Num. XV, 32-36.

(8) That is, by Divine agency, Lev. XXIII, 29-30.

(9) Stoned for desecrating the Sabbath, and flogged for the Day of Atonement, whereby kareth is finally remitted. In making, however, this distinction, there seems to be an implied rejection of R. Hananiah's doctrine of complete remission?

(10) Meg. 7b omits 'b. Isaac'. There was another R. Nahman, b. Jacob.

(11) A personal view, in opposition to those of R. Akiba and R. Ishmael. He dissociates kareth from flogging. If so, that Mishnah does not really show the attitude of Hananiah's colleagues to his doctrine of remission.

(12) Lev. XVIII, 29.

(13) Ibid. XX, 17.
(14) V. supra 13b and notes on the passage.
(15) Laid down in the Holy Writ. Cf. notes 1 and 2. By thus stating what the written law is, says R. Ashi, there is no necessary implication that Hananiah's colleagues thereby disagree with his view of remission.
(16) R. Joseph felt that the expression halachah, ‘the law in practice’, was here inappropriate, as, although the offender was considered immune from further legal prosecution, it could hardly be confidently asserted that he was no longer answerable to Heaven.
(17) On Purim, the 14th and 15th of Adar. V. reference below.
(18) A practice not approved of by the Rabbis, as its common use tends to a loss of reverence; the Sacred Name is then ‘taken in vain’ and in many languages the Divine Names have become vulgar asseverations.
(19) V. Ezra, VIII, 15 ff: Neh. X. 39-40. Some say it was Ezra that deprived the Levites of their (the first) tithe due to them according to Num. XVIII, 21 ff, and gave it entirely to the priests (instead of 1/10th only). because the Levites had not responded to his call for the return to Palestine. V. Yeb. 86a-b and Keth. 26a and Tosaf. there. Others say R. Joshua b. Levi refers rather to the view that Scripturally, tithes were due to be given only of corn, wine and oil (Num. XVIII, 27,30), but that tithes on all other produce of the soil, of fruits, legumina and vegetables, were a voluntary contribution imposed by the mundane Authorities (cf. Sifre on Deut. XIV, 22) which the statement of Malachi confirmed as approved of by the Tribunal above. V. J. Ber. IX, end. An attempt was made to restore the tithe to the Levites (instead of to priests) and R. Joshua b. Levi was invited to give his support to that movement, but he did not concur on textual grounds. V. J. M. Sh. V, 3, 56b.
(20) I.e., the Celestial Tribunal, by inspiring the wording of the writer of Esther that the Purim institution was accepted as an ordinance for all time to come and ‘never to pass away’ (Esth. IX, 27). Cf. Meg. 7a on the canonicity of Esther.
(21) Esth. IX, 27.
(22) Ruth II, 4.
(23) Judg. VI, 12, where the angel, or prophet-messenger used those words, indicating approval of the practice.
(24) V. p. 167, n. 7.
(25) Mal. III, 10, speaking in the name of God.
(26) ‘The tents of Shem’ (Gen. 26-27) are taken to denote schools for the study of law and traditional lore. Cf. Rashi and Pseudo-Jonathan (Targum) a.l., and Gen. XIV, 18.
(27) After Tamar had been condemned to death, presumably by a regular tribunal.
(28) His pledges.
(29) I.e., admitting that her condition was due to him. Gen. XXXVIII, 26.
(30) A Heavenly voice, v. Glos.
(31) [Or, From me issued these secret things]
(32) Cf. ‘Er. 45a; Tosef., Sot. XI, 12.
(33) Kethib. The spelling is ויאמר in the singular, instead of ואמרו plural.
(34) I Sam. XII, 3-5.
(35) I Kings, III, 27.
(36) With the time since he had consorted with Tamar.
(37) [He might have calculated the period, and finding that the days and months corresponded, he had no reason to presume that she had consorted with another man about the same time.]
(38) V. David Kimhi's commentary on I Sam. XII, 5.
(39) Isa. XLV, 17.
(40) Joints, or bones, covered with flesh and sinews (excluding the teeth). V. M. Oha. I, 8; Bek. 45a; J. E. I. Art. Anatomy, p. 565a, and J. Preuss, Biblisch-Talmudischemedizin (2nd ed.) Berlin, 1921. p. 66 ff.
(41) Deut. XXXIII, 4.

Talmud - Mas. Makkoth 24a

six hundred and eleven,[1] ‘I am’ and ‘Thou shalt have no [other Gods]’ [not being reckoned, because] we heard from the mouth of the Might [Divine].[2] David came and reduced them to eleven [principles],[3] as it is written, A Psalm of David.[4] Lord, who shall sojourn in Thy tabernacle? Who shall dwell in Thy holy mountain? — [i] He that walketh uprightly, and [ii] worketh righteousness, and [iii] speaketh truth in his heart; that [iv] hath no slander upon his tongue, [v] nor doeth evil to his fellow, [vi] nor taketh up a reproach against his neighbour, [vii] in whose eyes a vile person is despised, but [viii] he honoureth them that fear the Lord, [ix] He sweareth to his own hurt and changeth not, [x] He putteth not out his money on interest, [xi] nor taketh a bribe against the innocent. He that doeth these things shall never be moved. 'He that walketh uprightly': that was Abraham, as it is written, Walk before Me and be thou whole-hearted.[5] 'And worketh righteousness,' such as Abba Hilkiahu.[6] 'Speaketh truth in his heart,' such as R. Safra.[7] 'Hath no slander upon his tongue,' that was our Father Jacob, as it is written, My father peradventure will feel me and I shall seem to him as a deceiver.[8] 'Nor doeth evil to his fellow,' that is he who does not set up in opposition to his fellow craftsman.[9] 'Nor taketh up a reproach against his neighbour;' that is he who befriends his near ones [relatives].[10] 'In whose eyes a vile person is despised;' that was Hezekiah the king [of Judah] who dragged his father's bones on a rope truckle-bed.[11] 'He honoureth them that fear the Lord;' that was Jehoshaphat[12] king of Judah, who every time he beheld a scholar-disciple rose from his throne, and embraced and kissed him, calling him Father, Father;[13] Rabbi, Rabbi; Mari, Mari! 'He sweareth to his own hurt and changeth not,' like R. Johanan; for R. Johanan [once] said:[14] I shall remain fasting until I reach home. 'He putteth not out money on interest,' not even interest from a heathen.[15] 'Nor taketh a bribe against the innocent,' such as R. Ishmael son of R. Jose.[16] It is written [in conclusion], He that doeth these things shall never be moved. Whenever R. Gamaliel came to this passage he used to weep, saying: [Only] one who practised all these shall not be moved; but anyone falling short in any of these [virtues] would be moved! Said his colleagues to him: Is it written, 'He that doeth all these things [shall not fall]'? It reads, 'He that doeth these things', meaning even if only he practises one of these things [he shall not be moved]. For if you say otherwise,[17] what of that other [similar] passage, Defile not ye yourselves in all these things?[18] Are we to say that one who seeks contact with all these vices, he is become contaminated; but if only with one of those vices, he is not contaminated? [Surely,] it can only mean there, that if he seeks contact with any one of these vices he is become contaminated, and likewise here, if he practises even one of these virtues [he will not be moved].

Isaiah came and reduced them to six [principles],[19] as it is written, [i] He that walketh righteously, and [ii] speaketh uprightly, [iii] He that despiseth the gain of oppressions, [iv] that shaketh his hand from holding of bribes, [v] that stoppeth his ear from hearing of blood, [vi] and shutteth his eyes from looking upon evil; he shall dwell on high. 'He that walketh righteously,' that was our Father Abraham, as it is written, For I have known him, to the end that he may command his children and his household after him, etc.;[20] 'and speaketh uprightly,' that is one who does not put an affront on his fellow in public. 'He that despiseth the gain of oppressions,' as, for instance, R. Ishmael b. Elisha;[21] 'that shaketh his hand from holding of bribes,' as, for instance, R. Ishmael son of Jose;[22] 'that stoppeth his ear from hearing of blood', one who hears not aspersions made against a rabbinic student[23] and remains silent,[24] as once did R. Eleazar son of R. Simeon;[25] 'and shutteth his eyes from looking upon evil,' as R. Hiyya b. Abba [taught]; for R. Hiyya b. Abba said: This refers to one who does not peer at women as they stand washing clothes [in the court-yard][26] and [concerning such a man] it is written, He shall dwell on high.[27]

Micah came and reduced them to three [principles], as it is written, It hath been told thee, O man, what is good, and what the Lord doth require of thee: [i] only to do justly, and [ii] to love mercy and [iii] to walk humbly before thy God.[28] 'To do justly,' that is, maintaining justice; and to love mercy,' that is, rendering every kind office; 'and walking humbly before thy God,' that is, walking in funeral and bridal processions.[29] And do not these facts warrant an a fortiori conclusion that if in matters that are not generally performed in private the Torah enjoins 'walking humbly,' is it not ever so much more requisite in matters that usually call for modesty?

Again came Isaiah and reduced them to two [principles], as it is said, Thus saith the Lord, [i] Keep ye justice and [ii] do righteousness [etc.].[30] Amos came and reduced them to one [principle], as it is said, For thus saith the Lord unto the house of Israel, Seek ye Me and live.[31] To this R. Nahman b. Isaac demurred, saying: [Might it not be taken as,] Seek Me by observing the whole Torah and live? — But it is Habakuk who came and based them all on one [principle], as it is said, But the righteous shall live by his faith.[32]

Said R. Jose b. Hanina: Our Master Moses pronounced four [adverse] sentences on Israel, but four prophets came and revoked them. Moses said, And Israel dwelleth in safety, alone,[33] at the fountain of Jacob;[34] Amos came and revoked that, as it is said, Then said I, O Lord God, cease, I beseech Thee; how shall Jacob stand [alone]? for he is small, and it goes on saying, The Lord repented concerning this; 'This also shall not be,' saith the Lord God.[35] Moses had said, And among those nations thou shalt have no repose;[36] Jeremiah came and said, Thus saith the Lord, The people that were left of the sword have found grace in the wilderness, even Israel, when I go to afford him rest.[37] Moses had said, The Lord is . . . visiting the iniquity of the fathers upon the children and upon the children's children, unto the third and unto the fourth generation;[38] Ezekiel came and declared, the soul that sinneth, it shall die.[39] Moses had said, And ye shall perish among the nations;[40] Isaiah came and said, And it shall come to pass in that day, that a great horn shall be blown; [and they shall come that were lost in the land of Assyria, etc.][41] Rab observed: I have misgivings about that verse, And ye shall perish among the nations.[40] R. Papa demurred at this [apprehension of Rab] saying: Could it not perhaps rather be taken in the sense of something lost and searched for, as it is written, I have gone astray like a lost sheep; seek Thy servant, etc.![42] — But it was the latter part of that verse [that perturbed Rab]: And the land of your enemies shall eat you up.[43] Mar Zutra then demurred, saying: Might it not be [understood] in the way that cucumbers and pumpkins are eaten?[44]

Long ago, as Rabban Gamaliel, R. Eleazar b. 'Azariah, R. Joshua and R. Akiba were walking on the road, they heard the noise of the crowds at Rome [on travelling] from Puteoli,[45] a hundred and twenty miles away. They all fell a-weeping, but R. Akiba seemed merry. Said they to him: Wherefore are you merry? Said he to them: Wherefore are you weeping? Said they: These heathens who bow down to images and burn incense to idols live in safety and ease, whereas our Temple, the 'Footstool' of our God[46]

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(1) *,* = 400. *u* = 6; *r* = 200; *v* = 5, total = 611.

(2) V. Hor. (Sonc. ed.) p.55, n. 14.

(3) I.e., reduced them to eleven leading virtues.

(4) Ps. XV.

(5) Gen. XVII, 1.

(6) A saint to whom the Rabbis went that he might pray for rain (as others had come, during Temple times, to his paternal grandfather, 'Onias that drew a circle' around him, in which he prayed). He was most scrupulous in his 'work', bearing and words, and would not take the least credit to himself or allow any false impression. All these are illustrated in Ta'an. 23a-b.

(7) A Babylonian scholar of eminence who settled in Palestine at Caesarea and carried on extensive trade and scholarly communication between the two countries. An offer was made once to him by a buyer for an article whilst he was reciting the Shema' when he could not indicate his acceptance and the anxious purchaser increased his offer; but R. Safra refused to receive an increased offer which had been made under misapprehension, he being satisfied with the first offer. V. Rashb. B.B. 88a. On another occasion he and Raba were walking on the road when they met Mar Zutra son of R. Nahman who expressed his appreciation on meeting these two great men, saying that it was more than he could have expected of them, to come and meet him, whereupon R. Safra felt in duty bound to explain that they had only met him casually, but added that he would have come even a longer distance to show Mar Zutra respect. V. Hul. 94b.

(8) Gen. XXVII, 12. He acted only under pressure and protest, on his mother's advice.

(9) Cf. Sanh. 81a.

(10) Cf. Sanh. 76b.

(11) V. Sanh. (Sonc. ed.) p. 310, n. 3.

(12) Cf. Keth. 103b, also II Chron. XIX, 3 ff.

(13) Cf. II Kings II, 12. Mari is the Aramaic equivalent of Rabbi, my Master or lord. Cf. Ab., VI, 3.
(14) I.e., acting on a self-imposed restriction. According to Ta'an., 12a, R. Johanan pleaded a fast to avoid an invitation to the table of the Nasi (R. Judah II). J. Ned. VIII, 1, however, is a more appropriate illustration, where R. Johanan said: I shall remain fasting until I have finished my (allotted) study of Mishnah or Scripture.
(15) As a demoralizing practice, although not forbidden Scripturally, in the case of a heathen (Deut. XXIII, 21). V. B. M. 70b-71a, and Tosef. Ibid. end of Chapter V).
(16) J. b. Halafta. He refused to take the rent-fruit that his own gardener-tenant brought him once on a Thursday instead of (as usual) on Friday, because, said the gardener, he had cited someone to appear with him before R. Ishmael. He refused the fruit and appointed two other scholars to hear the case. While listening to the proceedings he found himself unconsciously thinking of the possible pleadings in the gardener's favour, and remarked to himself how perverting an influence bribery was. Keth. 105b.
(17) Than we interpreted it, ‘some’.
(18) Lev. XVIII, 24.
(19) Isa. XXXIII, 15-16.
(20) Gen. XVIII, 19.
(21) The founder of a school, like R. Akiba, represented in the Mekilta on Exodus. Being a priest, someone brought him a gift of the first-fleece (Deut. XVIII, 4). In reply to a question whether there was not a priest in his own place to be the recipient, the visitor told him that he had a suit with someone. R. Ishmael thereupon refused the gift and appointed others to hear the case. He (as told above of his junior), found himself unconsciously biassed in the visitor's favour. Keth. 105b.
(22) V. p. 171, n. 6.
(23) צורבא מדרבנן, lit., ‘one who is scorched through (his association with) rabbis.’
(24) Without defending him.
(25) B.M. 84b, where it is told how his widow discovered a worm emerging from her dead husband's ear, but her husband appeared and told her in a dream that it was because he had once heard aspersions being made against a scholar without defending him as he should have done.
(26) V. B.B. 57b.
(27) Isa. XXXIII, 15-16.
(28) Micah VI, 8.
(29) V. Suk. 49b, P.B. p. 5.
(30) Isa. LVI, 1.
(31) Amos V, 4.
(32) Hab. II, 4.
(33) I.e., safe in isolation, but not among the nations.
(34) Deut. XXXIII, 28.
(35) Amos VII, 5-6.
(36) Deut. XXVIII, 65.
(37) Jer. XXXI, 1 (2).
(38) Ex. XXXIV, 7.
(39) Ezek. XVIII, 3-4.
(40) Lev.XXVI, 38.
(41) Isa.XXVII, 13.
(42) Ps. CXIX, 176.
(43) V. p. 173, n. 12.
(44) At varying times in different parts of the country. Some are eaten here and others left ripening there. Their great apprehension was, lest the Jew should lose identity.
(45) A great sea-port in Italy. (This was on the occasion of their journey to Rome in the year 95 C.E.)
(46) Ps. XCIX, 5; CXXXII, 7; Lam. II, 1.

Talmud - Mas. Makkoth 24b

is burnt down by fire, and should we then not weep? He replied: Therefore, am I merry. If they that offend Him fare thus, how much better shall fare they that do obey Him! Once again they were coming up to Jerusalem together, and just as they came to Mount Scopus they saw a fox emerging from the Holy of Holies. They fell a-weeping and R. Akiba seemed merry. Wherefore, said they to him, are you merry? Said he: Wherefore are you weeping? Said they to him: A place of which it was once said, And the common man that draweth nigh shall be put to death,[1] is now become the haunt of foxes, and should we not weep? Said he to them: Therefore am I merry; for it is written, And I will take to Me faithful witnesses to record, Uriah the priest and Zechariah the Son of Jeberechiah.[2] Now what connection has this Uriah the priest with Zechariah? Uriah lived during the times of the first Temple, while [the other,] Zechariah lived [and prophesied] during the second Temple; but Holy-Writ linked the [later] prophecy of Zechariah with the [earlier] prophecy of Uriah, In the [earlier] prophecy [in the days] of Uriah it is written, Therefore shall Zion for your sake be ploughed as a field etc.[3] In Zechariah it is written, Thus saith the Lord of Hosts, There shall yet old men and old women sit in the broad places of Jerusalem,[4] so long as Uriah's [threatening] prophecy had not had its fulfilment, I had misgivings lest Zechariah's prophecy might not be fulfilled; now that Uriah's prophecy has been [literally] fulfilled, it is quite certain that Zechariah's prophecy also is to find its literal fulfilment. Said they to him: Akiba, you have comforted us! Akiba, you have comforted us!

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(1) Num. I, 51.

(2) Isa. VIII, 2. Cf. Zech. I, 1.

(3) Micah III, 12; Jer. XXVI, 18-20.

(4) Zech. VIII, 4.

Talmud - Mas. Shevu'oth 2a

CHAPTER I

MISHNAH. OATHS ARE OF TWO KINDS, SUBDIVIDED INTO FOUR;[1] THE LAWS CONCERNING THE DISCOVERY OF HAVING [UNCONSCIOUSLY] SINNED THROUGH UNCLEANNESS ARE OF TWO KINDS, SUBDIVIDED INTO FOUR;[2] THE LAWS CONCERNING CARRYING ON THE SABBATH ARE OF TWO KINDS, SUBDIVIDED INTO FOUR;[3] THE SHADES OF LEPROUS AFFECTIONS ARE OF TWO KINDS, SUBDIVIDED INTO FOUR.[4]

WHERE[5] THERE IS KNOWLEDGE AT THE BEGINNING AND AT THE END BUT FORGETFULNESS BETWEEN,[6] A ‘SLIDING SCALES’ SACRIFICE IS BROUGHT.[7] WHERE THERE IS KNOWLEDGE AT THE BEGINNING BUT NOT AT THE END, THE GOAT THE BLOOD OF WHICH IS SPRINKLED WITHIN THE VEIL ON THE DAY OF ATONEMENT[8] TOGETHER WITH THE DAY OF ATONEMENT ITSELF HOLD THE SIN IN SUSPENSE[9] UNTIL IT BECOME KNOWN TO THE SINNER, AND HE BRINGS THE ‘SLIDING SCALE’ SACRIFICE. WHERE THERE IS NO KNOWLEDGE AT THE BEGINNING BUT THERE IS KNOWLEDGE AT THE END, THE GOAT SACRIFICED ON THE OUTER ALTAR TOGETHER WITH THE DAY OF ATONEMENT ITSELF BRING HIM FORGIVENESS;[10] FOR IT IS SAID: ‘[ONE HE-GOAT FOR A SIN-OFFERING] BESIDE THE SIN-OFFERING OF ATONEMENT’:[11] [THEY ARE LIKENED TO ONE ANOTHER SO THAT WE MAY DEDUCE THAT] BOTH ATONE FOR SIMILAR KINDS OF SIN: JUST AS THE ‘INNER’ GOAT[12] ATONES ONLY FOR AN UNCONSCIOUS SIN — WHERE THERE WAS KNOWLEDGE [AT THE BEGINNING], SO THE ‘OUTER’[13] GOAT ATONES ONLY FOR AN UNCONSCIOUS SIN — WHERE THERE WAS KNOWLEDGE [AT THE END]. WHERE THERE IS NO KNOWLEDGE EITHER AT THE BEGINNING OR AT THE END, THE GOATS OFFERED AS SIN-OFFERINGS ON FESTIVALS AND NEW MOONS BRING ATONEMENT. THIS IS THE OPINION OF R. JUDAH [B. ILA'I]. R. SIMEON [B. YOHAI] HOLDS THAT THE FESTIVAL GOATS ALONE AND NOT THE NEW MOON GOATS ATONE FOR THIS CLASS OF UNCONSCIOUS OFFENCE.[14] AND FOR WHAT DO THE NEW MOON GOATS BRING ATONEMENT? —

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(1) Positive and negative with reference to both future action (I swear I shall . . .; I swear I shall not . . .) and past action (I swear I did . . .; I swear I did not . . .). V. Lev. V, 4.

(2) A person defiled by dead man or carrion who, forgetful of his uncleanness, eats holy food or enters the sanctuary; or, does either of these two actions, whilst conscious of his uncleanness, but not of eating holy (sacrificial) food or entering the sanctuary. V. Lev. V, 2ff.

(3) Two kinds of Hoza'ah, carrying out: standing in public ground, stretching out the hand to private ground, and withdrawing an object; standing in private ground, and removing an object thence to public ground. And two kinds of Haknasah, bringing in: standing in private ground, stretching out the hand to public ground, and withdrawing an object; standing in public ground, and removing an object thence to private ground.

(4) Bahereth, white like snow; Se'eth, like white wool; Sid ha-hekal, white like the plaster of the Temple walls; and Kerum Bezah, white like the membrane round an egg: they are all different shades of white. V. Lev. XIII, 2ff.

(5) The laws of uncleanness are here discussed. The Gemara (3a) explains why these laws rather than the laws of oaths are discussed first. The Sabbath and leprosy laws are explained in their own tractates, and are only mentioned here en passant simply because of their similarity in that they are ‘two, subdivided into four’.

(6) I.e., Knowledge at the time of becoming unclean, but forgetfulness (v. n. 2) at the actual moment of eating the holy food or entering the sanctuary.

(7) According to the pecuniary circumstances of the sinner: a lamb or goat, if he be wealthy; two turtledoves or two young pigeons, if he cannot afford a lamb; or the tenth part of an ephah of fine flour, if he be poor (Lev. V, 6-11).

(8) Lev. XVI, 15.

(9) Shielding the sinner from punishment.

(10) For he can never bring a sacrifice himself, since there was no knowledge at the beginning.
(11) Num. XXIX, 11.
(12) I.e., ‘the sin-offering of atonement.’
(13) The ‘he-goat for a sin-offering.’
(14) V. infra 9b.

Talmud - Mas. Shevu'oth 2b

FOR A RITUALLY CLEAN MAN WHO ATE HOLY FOOD THAT HAD BECOME UNCLEAN. R. MEIR SAYS: ALL THE GOATS [EXCEPT THE ‘INNER’] HAVE EQUAL POWERS OF ATONEMENT FOR TRANSGRESSIONS OF THE LAWS OF UNCLEANNESS IN CONNECTION WITH THE TEMPLE[1] AND HOLY FOOD THEREOF.[2] NOW, R. SIMEON HOLDS THAT THE NEW MOON GOATS BRING ATONEMENT FOR A CLEAN MAN WHO ATE UNCLEAN HOLY FOOD; AND THE FESTIVAL GOATS ATONE FOR TRANSGRESSION OF THE LAWS OF UNCLEANNESS WHERE THERE WAS NO KNOWLEDGE EITHER AT THE BEGINNING OR AT THE END; AND THE ‘OUTER’ GOAT OF THE DAY OF ATONEMENT FOR TRANSGRESSION OF THESE LAWS WHERE THERE WAS NO KNOWLEDGE AT THE BEGINNING BUT THERE WAS KNOWLEDGE AT THE END. THEY[3] [THEREFORE] SAID TO HIM: ‘IS IT PERMITTED TO OFFER UP THE GOAT SET APART FOR ONE DAY ON ANOTHER?’[4] HE REPLIED ‘YES!’ THEY [HOWEVER] ARGUED WITH HIM: ‘SINCE THEY ARE NOT EQUAL IN THE ATONEMENT THEY BRING, HOW CAN THEY TAKE EACH OTHER'S PLACE?’ HE REPLIED: ‘THEY ARE ALL AT LEAST EQUAL [IN THE WIDER SENSE] IN THAT THEY ALL BRING ATONEMENT FOR TRANSGRESSIONS OF THE LAWS OF UNCLEANNESS IN CONNECTION WITH THE TEMPLE AND HOLY FOOD THEREOF.’ R. SIMEON B. JUDAH SAID IN HIS NAME:[5] THE NEW MOON GOATS BRING ATONEMENT FOR A CLEAN PERSON WHO ATE UNCLEAN HOLY FOOD; THE FESTIVAL GOATS, IN ADDITION TO BRINGING ATONEMENT FOR SUCH A CASE, ATONE ALSO FOR A CASE WHERE THERE WAS NO KNOWLEDGE EITHER AT THE BEGINNING OR AT THE END; THE ‘OUTER’ GOAT OF THE DAY OF ATONEMENT, IN ADDITION TO BRINGING ATONEMENT FOR BOTH THESE CASES, ATONES ALSO FOR A CASE WHERE THERE WAS NO KNOWLEDGE AT THE BEGINNING BUT THERE WAS KNOWLEDGE AT THE END. THEY ACCORDINGLY ASKED HIM: ‘IS IT PERMITTED TO OFFER UP THE GOAT SET APART FOR ONE DAY ON ANOTHER?’ HE SAID, ‘YES!’ THEY [FURTHER] SAID TO HIM: ‘GRANTED THAT THE DAY OF ATONEMENT GOAT[6] MAY BE OFFERED UP ON THE NEW MOON, BUT HOW CAN THE NEW MOON GOAT BE OFFERED UP ON THE DAY OF ATONEMENT TO BRING ATONEMENT FOR A TRESPASS THAT IS NOT WITHIN ITS SCOPE?’ HE REPLIED: ‘THEY ARE ALL AT LEAST EQUAL [IN THE WIDER SENSE] IN THAT THEY ALL BRING ATONEMENT FOR TRANSGRESSIONS OF THE LAWS OF UNCLEANNESS IN CONNECTION WITH THE TEMPLE AND HOLY FOOD THEREOF.

FOR WILFUL TRANSGRESSION OF THE LAWS OF UNCLEANNESS IN CONNECTION WITH THE TEMPLE AND HOLY FOOD THEREOF, THE ‘INNER’ GOAT OF THE DAY OF ATONEMENT TOGETHER WITH THE DAY OF ATONEMENT ITSELF BRING FORGIVENESS.[7] FOR OTHER TRANSGRESSIONS OF THE TORAH, LIGHT AND GRAVE, WILFUL AND UNCONSCIOUS, KNOWN AND UNKNOWN, POSITIVE AND NEGATIVE, THOSE PUNISHABLE BY KARETH[8] AND THOSE PUNISHABLE BY DEATH IMPOSED BY THE COURT — FOR ALL THESE THE SCAPEGOAT[9] BRINGS ATONEMENT TO ISRAELITES, PRIESTS, AND THE ANOINTED HIGH PRIEST. WHAT [THEN] IS THE DIFFERENCE BETWEEN ISRAELITES, PRIESTS, AND THE ANOINTED HIGH PRIEST?[10] — [NONE], SAVE THAT THE BULLOCK[11] BRINGS ATONEMENT TO THE PRIESTS FOR TRANSGRESSIONS OF THE LAWS OF UNCLEANNESS IN CONNECTION WITH THE

TEMPLE AND HOLY FOOD.[12] R. SIMEON SAYS: JUST AS THE BLOOD OF THE GOAT THAT IS SPRINKLED WITHIN THE VEIL BRINGS ATONEMENT FOR ISRAELITES, SO THE BLOOD OF THE BULLOCK BRINGS ATONEMENT FOR PRIESTS; AND JUST AS THE CONFESSION OF SINS PRONOUNCED OVER THE SCAPEGOAT BRINGS ATONEMENT FOR ISRAELITES, SO THE CONFESSION PRONOUNCED OVER THE BULLOCK BRINGS ATONEMENT FOR PRIESTS.[13] GEMARA. Now, the Tanna has just ended the treatise Makkoth; why does he study Shebu'oth?[14] — Because he learned:[15] For rounding the corners of the head[16] the penalty of lashes is incurred twice, once for each corner;

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(1) Lit., ‘sanctuary’.

(2) They all equally atone for sins committed unconsciously, whether there was no knowledge at the beginning but knowledge at the end, or no knowledge either at the beginning or at the end; and for a clean man who ate unclean holy food.

(3) The Sages.

(4) If, for example, the goat set apart for offering on the Day of Atonement was lost, and was found only after another had been offered in its place, is it permissible to offer it up on a festival or new moon?

(5) Another version of R. Simeon b. Yohai's view.

(6) Because it is more inclusive.

(7) V. 12b seq.

(8) Extinction by divine intervention; v. Glos.

(9) Lit., ‘the one to be sent away’.

(10) This apparent contradiction of the former statement is explained in the Gemara (13b).

(11) The bullock brought by the High Priest, Lev. XVI, 3-6.

(12) Whereas for Israelites the ‘inner’ and ‘outer’ goats bring atonement for these transgressions; the scapegoat, however, brings atonement both to Israelites and priests for all other transgressions.

(13) Disagreeing with the previous Tanna who holds that the scapegoat brings atonement to both Israelites and priests for other transgressions, he contends that the scapegoat is for Israelites only; the sprinkling of the blood of the ‘inner’ goat (attended by no confession) brings atonement to Israelites for transgressions connected with uncleanness; the confession over the scapegoat (attended by no blood sprinkling) brings atonement to Israelites for other transgressions. Similarly, the sprinkling of the blood of the bullock brings atonement to priests for transgressions connected with uncleanness; and the confession over the bullock brings atonement to them for other transgressions; v. 13b. seq.

(14) Shebu'oth follows immediately upon Makkoth in the Mishnah. What connection is there between the two treatises that the Tanna studies them in this order?

(15) Mak. 20a.

(16) Removing the hair from the temples, where the head joins the cheeks; v. Lev. XIX, 27.

Talmud - Mas. Shevu'oth 3a

and for shaving the beard, five times, twice for each cheek,[1] and once for the point of the chin. Since he has been discussing a single prohibition involving two punishments, he continues with OATHS ARE OF TWO KINDS, SUBDIVIDED INTO FOUR. Why did the Tanna enumerate all the instances of ‘two, subdivided into four’ only in this treatise, and not in the treatise Shabbath, when discussing the laws of carrying, nor in the treatise Nega'im, when discussing the shades of leprous affections? — I will tell you: The laws of oaths and uncleanness are mentioned together in the Bible,[2] and are akin to each other in that their transgressor brings a ‘sliding-scale’ sacrifice;[3] the Tanna therefore mentions them together here, and, having mentioned these two, he includes the rest also.

Having begun with the laws of oaths, why does the Tanna proceed to explain the laws of uncleanness first? Because the laws of uncleanness are few he disposes of them first; then he proceeds to explain the laws of oaths which are more numerous.

OATHS ARE OF TWO KINDS, SUBDIVIDED INTO FOUR. TWO: I shall eat; I shall not eat. SUBDIVIDED INTO FOUR: I have eaten; I have not eaten.

THE LAWS CONCERNING THE DISCOVERY OF HAVING [UNCONSCIOUSLY] SINNED THROUGH UNCLEANNESS ARE OF TWO KINDS, SUBDIVIDED INTO FOUR. TWO: The discovery of having been unclean and partaken of holy food; and the discovery of having been unclean and entered the Temple [the uncleanness having been forgotten in both cases]. Subdivided INTO FOUR: The discovery that it was holy food he had eaten while being unclean [having forgotten that it was holy during the eating of it]; and the discovery that it was the Temple he had entered while being unclean [having forgotten it was the Temple at the time of entering].

THE LAWS CONCERNING CARRYING ON THE SABBATH ARE OF TWO KINDS, SUBDIVIDED INTO FOUR. TWO: The carrying out by the poor man; and the carrying out by the householder.[4] SUBDIVIDED INTO FOUR: The bringing in by the poor man; and the bringing in by the householder.

THE SHADES OF LEPROUS AFFECTIONS ARE OF TWO KINDS, SUBDIVIDED INTO FOUR. TWO: Se'eth and Bahereth. SUBDIVIDED INTO FOUR: The derivative of Se'eth, and the derivative of Bahereth.[5]

Who is the Tanna of our Mishnah? — It is neither R. Ishmael nor R. Akiba! It is not R. Ishmael, for he states: He is guilty only when the oath is in the future tense.[6] And it is not R. Akiba, for he states: He is guilty only in the cases where he forgets his uncleanness [while eating holy food or entering the Temple], but not in the cases where he forgets that it is the Temple he is entering [or that the food is holy while he is unclean].[7]

If you wish, I can say the Tanna of our Mishnah is R. Ishmael, or, if you prefer, I can say it is R. Akiba. It may be R. Ishmael. [Of the four kinds of oaths mentioned, not all are equally serious; but] two incur punishment, and the other two do not. Or, it may be R. Akiba. Two [of the cases of transgression through uncleanness] incur punishment, and two do not. In some cases there is no punishment?

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(1) Which has two corners, the end of the lower jawbone where it joins the bottom of the ear, and the end near the chin.

(2) Lev. V, 2ff.

(3) V. p. 1, n. 7.

(4) For the sake of brevity the terms ‘poor man’ and ‘householder’ are employed, it being assumed that the poor man stands outside, and the householder inside; v. supra p. 1, n. 3 on Mishnah.

(5) V. supra p. 1, n. 4 on Mishnah.

(6) Infra 25a. Our Mishnah includes also oaths in the past tense.

(7) Infra 14b. Our Mishnah includes the four categories.

Talmud - Mas. Shevu'oth 3b

But does not the Tanna mention them together with the laws concerning the shades of leprosy: just as in these laws all four shades make him unclean, necessitating a sacrifice, so here [in the case of oaths and uncleanness] all must be equal, necessitating a sacrifice? — Verily, the Tanna is R. Ishmael; and though in the case of oaths R. Ishmael excludes the past tense, it is only to free the transgressor from bringing a sacrifice[1] [if he transgresses unwittingly], but not to free him from lashes [if he transgresses wilfully].[2] And this will be in accordance with Raba's dictum, for Raba said:[3] Clearly did the Torah state that a false oath is like a vain oath[4] [for lashes]; just as a vain oath which is necessarily in the past [being untrue the moment it is uttered, is attended by the penalty of lashes], so is a false oath in the past [attended by the penalty of lashes].

Granted in the case of the oaths, ‘I have eaten,’ ‘I have not eaten,’ [he is guilty and receives the lashes, if they are false], as Raba says. Also, in the case of ‘I shall not eat,’ and he ate, he is guilty [and receives lashes], for he has transgressed a negative precept involving action; but in the case of ‘I shall eat,’ and he did not eat, why should he receive lashes, since the transgression is of a negative precept involving no action?[5] [Where then are the four kinds of punishable oaths?] — R. Ishmael holds that the violation of a negative precept not involving action is also punishable by lashes. If so, R. Johanan contradicts himself; for R. Johanan said: The rule is in accordance with the anonymous Mishnah;[6] and yet we find it stated: ‘I swear I shall eat this loaf today,’ and the day passed, and he did not eat it; R. Johanan and Resh Lakish both say he does not receive lashes, R. Johanan's reason for his opinion being because it is a negative precept not involving action, and the transgression of a negative precept involving no action is not liable to lashes; and Resh Lakish's reason being because it is an ‘uncertain warning’,[7] and an uncertain warning is not a warning — R. Johanan found another anonymous Mishnah [which agrees with his view] Which one? Is it the following anonymous Mishnah? For we learnt: ‘But he who leaves over a portion of even a ritually clean paschal lamb; or breaks the bone of an unclean paschal lamb, does not receive the forty lashes.’[8] Granted that he who breaks the bone of an unclean paschal lamb does not receive lashes, because it is written: Ye shall not break a bone thereof[9] — of a ritually clean and not of a disqualified paschal lamb. But he who leaves over a portion of a clean paschal lamb — why should he be exempt, unless it be because he is transgressing a negative precept not involving action, and a negative precept not involving action is not liable to punishment? [This, then, is the anonymous Mishnah with which R. Johanan agrees.] But how do you know that this Mishnah is reflecting the view of R. Jacob, who holds that the violation of a negative precept involving no action is not punishable by lashes? Perhaps it is reflecting the view of R. Judah [b. Ila'i], who holds that this transgression is not punishable by lashes, because Scripture has come to appoint a positive precept to follow the negative precept,[10] but otherwise it would be punishable by lashes. For it is taught: Ye shall let nothing remain until the morning; but that which remaineth of it until the morning ye shall burn with fire:[11] Scripture has come to appoint the positive precept to follow the negative precept to teach us that this negative precept is not punishable by lashes, — this is the opinion of R. Judah. R. Jacob says, this is not the reason;[12] but rather because it is a negative precept not involving action, and the disregard of a negative precept not involving action is not punishable by lashes.[13] But he found the following anonymous Mishnah: ‘I swear I shall not eat this loaf, I swear I shall not eat it;’ and he ate it,

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(1) V. Lev. V, 4 seq.

(2) According to this, our Mishnah, in enumerating four kinds of oaths, is referring to wilful transgression.

(3) V. infra 21a.

(4) A vain oath is an oath which is demonstrably untrue on the face of it, e.g., ‘I swear this is gold’ (pointing to a lump of wood or stone). A false oath is an oath which is not, on the face of it, demonstrably untrue, e.g., ‘I swear I have eaten a loaf of bread.’ It may be true; it is false only if he has not eaten.

(5) V. infra.

(6) Which, in the present instance, is shown to be in accordance with R. Ishmael's view that a negative precept not involving action is liable to the punishment of the forty lashes.

(7) If a transgressor is not warned immediately before committing the sin, the punishment is not inflicted. In this case the actual moment of transgression is uncertain, for he has the whole day in which to fulfil his oath.

(8) Pes. 84a.

(9) Ex. XII, 46.

(10) I.e., to provide a remedy for the violation of the negative precept, averting punishment.

(11) Ex. XII, 10.

(12) Lit., ‘not of the same denomination.’

(13) And since the exemption of the transgressor from lashes in the cited Mishnah may be due to R. Judah's reason and not R. Jacob's, the question remains, which is the anonymous Mishnah which supports R. Johanan?

Talmud - Mas. Shevu'oth 4a

he is guilty of transgressing only one oath:[1] this is the ‘useless oath’[2] for which the punishment of lashes is inflicted for wilful transgression, and the sliding-scale sacrifice for unwitting transgression.[3] This is the oath for which the punishment of lashes is inflicted for wilful transgression, but in the case: ‘I swear I shall eat,’ and he did not eat, [we may deduce] he would not receive lashes. [Presumably because the transgression involves no action, and this anonymous Mishnah would be the one with which R. Johanan agrees.] Now, well! This Mishnah is anonymous, and our Mishnah is anonymous; why does R. Johanan prefer the ruling of this Mishnah rather than of ours? But [might it not be asked as a counter-question] even according to your argument, how can Rabbi[4] himself agree with both? — At first, Rabbi held that a negative precept not involving action is punishable by lashes, and, therefore, stated the ruling of our Mishnah anonymously; afterwards, he held it is not so punishable, and stated the ruling of the second Mishnah anonymously, and [though he had changed his view] he allowed the first Mishnah to stand also.[5]

You have explained our Mishnah as being in accordance with R. Ishmael's view, and as referring to lashes for wilful transgression: if so, what lashes can there be in connection with the shades of leprosy? — There are lashes in the case where one cuts off his leprous spot; and as R. Abin said in the name of R. Ila'a; for R. Abin said in the name of R. Ila'a: Whenever there occur in Holy Writ the expressions ‘take heed’, ‘lest’, or ‘do not’, they are negative precepts.[6] In connection with carrying on the Sabbath what lashes can there be? Is it not a negative precept which requires the warning that its violation is punishable by death:[7] and every such negative precept is not punishable by lashes?[8] — For this very reason we have explained the Mishnah as being in accordance with R. Ishmael's view, who holds that a negative precept requiring the death warning is [if the lashes warning be given] punishable by lashes.[9] But, were it not for this, would it have been possible to explain the Mishnah as being in accordance with R. Akiba's view? [Surely not! For] has it not been shown that the laws of uncleanness in our Mishnah are not in accordance with his views? — But did you not say that even according to R. Ishmael, the Mishnah would have to be interpreted as referring to wilful transgressions involving the punishment of lashes; and, if so [were it not for the fact that R. Akiba holds that a negative precept requiring the death warning is not punishable by lashes, even if the lashes warning be given],[10] we could just as easily have explained the Mishnah as being in accordance with R. Akiba's view, and as referring to lashes.[11]

If so,[12] the phrase THE DISCOVERY OF HAVING SINNED THROUGH UNCLEANNESS [implying unconscious sinning] is inappropriate; the appropriate expression would be ‘warnings against sinning through uncleanness’? — This question need cause no difficulty: the Tanna means ‘the laws concerning the knowledge of the warnings against sinning’ . . . If so, how can there be TWO, SUBDIVIDED INTO FOUR? There are only two![13] Further, WHERE THERE IS KNOWLEDGE AT THE BEGINNING AND AT THE END, BUT FORGETFULNESS BETWEEN . . . How can there be forgetfulness, if the Mishnah is referring to wilful transgression and lashes? Further, A ‘SLIDING SCALE’ SACRIFICE IS BROUGHT [obviously refers to wilful transgression]?[14] — Hence, said R. Joseph, we must conclude that the Tanna of the Mishnah is Rabbi himself, who [as editor] incorporates the views of both Tannaim; for the laws of uncleanness he gives the view of R. Ishmael, and for the laws of oaths he gives the view of R. Akiba [the Mishnah referring accordingly to unwitting transgression]. Said R. Ashi: I repeated this statement [of R. Joseph's] to R. Kahana; and he said to me: Do not think that [R. Joseph meant that] Rabbi simply incorporated in the Mishnah the views of both Tannaim, he himself not agreeing; but the fact is that Rabbi himself, for a sufficiently good reason, agrees [with R. Ishmael in the laws of uncleanness and with R. Akiba in the laws of oaths]. For it is taught: Whence do we deduce that one is not liable [to bring a sacrifice] except when there is knowledge at the beginning and at the end and forgetfulness between? Scripture records: It was hidden from him — twice.[15] This is the opinion of R. Akiba. Rabbi said: This deduction is not necessary. Scripture says:

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(1) The first: for, having uttered the first oath, the loaf is already prohibited to him; and when he utters the second oath, he is, as it were, swearing to fulfil a mizvah [i.e., to fulfil the first oath]; and he who swears to fulfil a mizvah, and does not fulfil it, is not liable to punishment; v. infra 27a.

(2) See Lev. V, 4.

(3) Infra 27b.

(4) Rabbi Judah the Prince, redactor of the Mishnah. Why does he include both anonymous Mishnahs, if they contradict each other?

(5) Lit., 'the Mishnah was not removed from its place', Rabbi relying on the intelligence of the student to realise that the second Mishnah is the authoritative one. R. Johanan, therefore, agrees with the second Mishnah.

(6) Deut. XXIV, 8: Take heed in the plague of leprosy. Cutting off a leprous spot is therefore a violation of a negative precept, punishable by lashes.

(7) The violation of a negative precept is punishable only if the appropriate warning be given by witnesses.

(8) Even if the warning was, erroneously, that its violation was punishable by lashes.

(9) Mak. 13b.

(10) Ibid.

(11) And not to an offering.

(12) If the Mishnah refers to wilful transgression and lashes.

(13) Warnings: against eating holy food whilst unclean, and against entering the Temple whilst unclean.

(14) And the question, 'Who is the Tanna of our Mishnah?' still remains unanswered.

(15) Lev V, 2, 3. One being superfluous, it is to teach that the uncleanness was hidden from him after having been known to him (i.e., knowledge at the beginning); knowledge at the end is obviously necessary, otherwise how does he know to bring a sacrifice? (Tosaf).

Talmud - Mas. Shevu'oth 4b

it was hidden from him [i.e., forgotten], therefore, it must have been known to him at the beginning; then Scripture says: and he knows of it[1] [i.e., at the end], hence, knowledge is essential both at the beginning and at the end. If so, why does Scripture say: it was hidden from him — twice? — In order to make him liable both in the case of forgetfulness of the uncleanness, and in the case of forgetfulness of the Temple or holy food.[2]

Concerning the laws of uncleanness, then, Rabbi has his own reason; but concerning oaths, where we do not find that he gives a reason of his own, how do we know [that he holds OATHS ARE TWO, SUBDIVIDED INTO FOUR]? — It is a reasonable assumption; for, what is R. Akiba's reason for including oaths in the past tense for liability? — Because he expounds 'amplifications and limitations'![3] We find that Rabbi also expounds 'amplifications and limitations'. For it is taught:[4] Rabbi said: The first-born of man may be redeemed[5] by all things except bonds; but the Rabbis[6] said: The first-born of man may be redeemed by all things except slaves, bonds, and lands. What is Rabbi's reason? — He expounds [the verse in accordance with the principle of] 'amplifications and limitations': And those that are to be redeemed from a month old — the verse amplifies; according to thy valuation, five shekels of silver — the verse limits; shalt thou redeem — the verse again amplifies; since it amplifies, limits, and amplifies, it includes everything, and excludes only bonds. But the Rabbis expound [the verse in accordance with the principle of] 'generalisations and specifications': And those that are to be redeemed from a month old — the verse generalises; according to thy valuation, five shekels of silver — the verse specifies; shalt thou redeem — the verse again generalises; since it generalises, specifies, and generalises, you must include in the 'generalisation' only those things which are similar to the 'specification': just as the specification is clearly movable and of intrinsic value, so all things which are movable and of intrinsic value [may be used for redeeming the first-born]; but you must exclude lands, which are not movable, and slaves, which have been likened to lands,[7] and bonds, which, though they are movable, are not of intrinsic value. [Hence, since Rabbi expounds 'amplifications and limitations', he agrees with R. Akiba.]

Rabina said to Amemar: Does Rabbi really expound ‘amplifications and limitations’? Surely, Rabbi expounds ‘generalisations and specifications’! For it is taught:[8] [Then thou shalt take] an awl . . .[9] Hence I deduce that an awl may be used; whence do I deduce also a sharp wooden prick, thorn, needle, borer, or stylus? — It is said: Thou shalt take — anything that may be taken by hand. This is the opinion of R. Jose, son of R. Judah. Rabbi said: and awl — just as an awl is of metal, so only those things which are of metal [may be used]. And we explained the reason for their argument thus: Rabbi expounds ‘generalisations and specifications’,[10] and R. Jose son of R. Judah expounds

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(1) Lev. V, 3.

(2) This proves that the statement THE LAWS OF UNCLEANNESS ARE TWO SUBDIVIDED INTO FOUR represents the view of Rabbi.

(3) Infra 26a. R. Akiba expounds the verse (Lev. V, 4) thus: If any one swear clearly with his lips — ‘amplification; (i.e., all oaths); to do evil or to do good — ‘limitation’ (i.e., this particularisation limits the general statement to oaths which are similar to the particular in that they are in the future tense); Whatsoever it be that a man utter clearly with an oath — another ‘amplification’ (this additional general statement serves to amplify the particular, adding even oaths which are not similar to it, i.e., even those in the past tense, and excluding only swearing to transgress a precept).

(4) Bek. 51a.

(5) V. Num. XVIII, 15, 16.

(6) Representing the opinion of teachers in general. And those that are to be redeemed is a general statement, implying that they may be redeemed with all things; this is followed by a particular statement five shekels of silver, limiting redemption to that alone; then follows another general statement shalt thou redeem — apparently with all things. According to Rabbi, the particular (five shekels) implies that the first generalisation is to be taken as including all things which are similar to the particular, and the final generalisation adds even things which are not entirely similar to the particular, excluding only that which is most dissimilar. According to the Rabbis, the particular limits the first generalisation to that particular alone, excluding even similar things, but the final generalisation adds all similar things, excluding all things which are dissimilar. Though in this verse both generalisations precede the particular (and those that are to be redeemed from a month old shalt thou redeem, according to thy valuation, for five shekels of silver), the procedure is, in such a case, to assume that the particular is between the two generalisations. Rabbi's method of exposition is called ‘amplification and limitation’ (Ribbu u-Mi'ut ריבוי ומיעוט); the other is called ‘generalisation and specification’ (Kelal u-ferat כלל ופרט). The former is more inclusive than the latter.

(7) Lev. XXV, 46: And ye may make them (the slaves) and inheritance for your children, to hold for a possession.

(8) Bek. 51a.

(9) Deut. XV, 17, referring to a Hebrew slave who does not desire to be set free at the end of six years.

(10) Explaining the verse thus: Thou shalt take — a ‘generalisation’; an awl — a ‘specification’; and thrust it through his ear and into the door — another ‘generalisation’ (i.e., anything that may be thrust); in such a case, only those things which are similar to the specification (in the present instance, made of metal) are included. But R. Jose includes everything, excluding only the use of a poison which is powerful enough to bore a hole.

Talmud - Mas. Shevu'oth 5a

‘amplifications and limitations’.[1]

True, elsewhere he expounds ‘generalisations and specifications’, but here [in connection with the redemption of the first-born he expounds ‘amplifications and limitations’, and] his reason is that which was taught in the Academy of R. Ishmael, for in the Academy of R. Ishmael it was taught:[2] In the waters, in the waters — twice.[3] This is not ‘generalisation and specification’, but ‘amplification and limitation’. And the Rabbis [who disagree with Rabbi in connection with the redemption of the first-born — what is their reason]? Rabina said: They agree with the Western [Palestinian] Academies who hold that where there are two general statements followed by a particular, the particular should be regarded as being between the two general statements, and the verse may then be expounded on the principle of ‘generalisations and specifications’.

Now that you say that Rabbi [as a general rule] expounds ‘generalisations and specifications’, the difficulty concerning oaths [in our Mishnah] necessarily remains.[4] We must perforce say, therefore, that [in the Mishnah] he gives R. Akiba's view on oaths, but he himself does not agree.

To revert to the main subject:[5] ‘Whence do we deduce that one is not liable except when there is knowledge at the beginning and at the end and forgetfulness between? Scripture records: It was hidden from him — twice. This is the opinion of R. Akiba. Rabbi said: This deduction is not necessary. Scripture says: It was hidden from him, — therefore it must have been known to him at the beginning; then Scripture says: And he knows of it [i.e., at the end], hence, knowledge is essential both at the beginning and at the end. If so, why does Scripture say: it was hidden from him — twice: — In order to make him liable both in the case of forgetfulness of the uncleanness, and in the case of forgetfulness of the Temple or holy food.’

The Master said: ‘And it was hidden from him, therefore it must have been known to him’. How do you conclude this? Raba said: Because it is not written: ‘and it is hidden from him’.[6] Abaye said to him: If so, in connection with the wife suspected of infidelity, when Scripture says: And it was hidden from the eyes of her husband,[7] will you reason from this also that he knew at the beginning? [Surely not, for] if he knew, the waters would not test her, as it is taught: And the man shall be clear from iniquity, and that woman shall bear her iniquity:[8] when the man is clear from iniquity, the waters test his wife; but when the man is not clear from iniquity,[9] the waters do not test his wife.[10] And further, in connection with the Torah it is written: It is hid[11] from the eyes of all living, and from the birds of the heavens it is kept secret;[12] will you conclude from this that they knew it? [Surely not, for] it is written: Man knows not the value thereof.[13] Of necessity then, said Abaye, Rabbi holds that the knowledge gained from a teacher[14] is also called knowledge. But if so, said R. Papa to Abaye, the statement in the Mishnah WHERE THERE IS NO KNOWLEDGE AT THE BEGINNING, BUT THERE IS KNOWLEDGE AT THE END [is incomprehensible, for] is there anyone who has not even the knowledge gained from a teacher? He replied: Yes! it is possible in a child taken into captivity among heathen.

THE LAWS CONCERNING CARRYING ON THE SABBATH ARE OF TWO KINDS, SUBDIVIDED INTO FOUR. We learnt there:[15] The laws concerning carrying on the Sabbath are two, subdivided into four inside;[16] and two, subdivided into four outside.[17] Why does our Mishnah here state simply: TWO, SUBDIVIDED INTO FOUR, and nothing else, whereas the Mishnah there states: Two, subdivided into four inside; and two, subdivided into four outside? — The Mishnah there deals mainly with the Sabbath laws, and therefore mentions the Principals and Derivatives, but our Mishnah here, which is not concerned mainly with the Sabbath laws mentions the Principals only and not the Derivatives. Which are the principals? — Carrying out: the laws of carrying out are only two.[18] [and our Mishnah says: TWO, SUBDIVIDED INTO FOUR]! And perhaps you will say. [our Mishnah means] two hoza'oth [carrying out] which are punishable, and two which are not.[19] [That is not possible, for] they are mentioned together with the shades of leprous affections, and just as those are all punishable, so are these? — We must necessarily say, said R. Papa, that the other Mishnah, which deals mainly with the Sabbath laws, mentions those which are punishable, and those which are not; but our Mishnah mentions only those which are punishable, and not those which are not. Which are those that are punishable? Carrying out: these are only two![20] The Mishnah means two hoza'oth and two haknasoth. But the Mishnah says hoza'oth![21] — Said R. Ashi: The Tanna calls haknasah also hoza'ah. How do you know?

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(1) Which shows that Rabbi does not expound ‘amplifications and limitations’, and that therefore he does not agree with R. Akiba.

(2) Hul. 67a.

(3) Lev. XI, 9: These may ye eat of all that are in the waters: whatsoever hath fins and scales in the waters, in the seas, and in rivers, them may ye eat. In the waters is a general statement; in the seas and in the rivers is a particular. In this verse the particular is not between the two general statements, but follows them. In such a case, R. Ishmael's Academy assert, the verse is expounded on the principle of ‘amplifications and limitations’. Rabbi agrees, and he therefore expounds similarly the verse about the redemption of the first-born.

(4) For if Rabbi does not expound ‘amplifications and limitations’ he cannot agree with R. Akiba, who includes oaths in the past tense.

(5) Supra p. 11.

(6) The form of the verb (niphal) ונעלם used by Scripture has the force of: it became hidden from him, implying knowledge at the beginning.

(7) Num, V, 13: the niphal is used.

(8) Num, V, 31.

(9) Having known of her intrigue and yet cohabited with her.

(10) Sotah 28a.

(11) The niphal is used, ונעלמה

(12) Job XXVIII, 21.

(13) Job XXVIII, 13

(14) The theoretical knowledge that one who touches an unclean thing becomes unclean is also considered knowledge for the purpose of ‘knowledge at the beginning’, even if he did not realise at the moment of touching the unclean thing that he had become unclean. According to this, there is always ‘knowledge at the beginning’, the only exception being the case of a child taken into captivity among heathen.

(15) In Shab. 2a

(16) The haknasah of the poor man and the haknasah of the householder (which are punishable); and the same two haknasoth when only half the action is done by each person, one person withdrawing the object, and the other taking it from him, thus completing the action. These two haknasoth are not punishable.

(17) Two hoza'oth which are punishable, and two which are not.

(18) Of the householder and the poor man.

(19) v. p. 15, n. 10.

(20) V. previous note.

(21) The word used is yezi'oth (going out), but it is presumably equivalent to hoza'oth (carrying out).

Talmud - Mas. Shevu'oth 5b

— Because we learnt: He who carries out from one domain to another domain [on the Sabbath] is guilty.[1] And are we not concerned there also with bringing in, and yet he calls it hoza'ah.? [No!] Perhaps [the Tanna means] carrying out from a private domain to a public domain. — If so, let him say distinctly: He who carries out from a private domain to a public domain [is guilty]; why does he say: ‘from one domain to another domain’? Obviously, to include even bringing in from a public domain to a private domain; and he calls it hoza'ah — What is the reason? — The withdrawing of an object from its place the Tanna calls hoza'ah. Rabina said: The Mishnah also lends support to this view, for it states: The laws of carrying [Yezi'oth] on the Sabbath are two, subdivided into four inside; and two, subdivided into four outside: and it goes on to explain haknasah [bringing in]![2] This is conclusive. Raba said: The Tanna means domains; there are two kinds of domain[3] with regard to carrying on the Sabbath.

THE SHADES OF LEPROUS AFFECTIONS ARE TWO, SUBDIVIDED INTO FOUR. We learnt there:[4] the shades of leprous affections are two, subdivided into four: Bahereth intensively white, like snow; secondary to it [i.e., its derivative], Sid ha-hekal; Se'eth like white wool; secondary to it, Kerum bezah.[5] R. Hanina said: the Tanna who stated this Mishnah of leprous affections[6] is not R. Akiba; for, if it were R. Akiba, then, since elsewhere he enumerates them one above the other,[7] Sid hekal cannot combine with any other shade; for, with which shade will you combine it? Will you combine it with Bahereth? There is Se'eth which is [one degree] higher than it [intervening, Bahereth being two degrees higher]. Will you combine it with Se'eth.? It is not its derivative. If so, Kerum bezah also — with what will you combine it? Will you combine it with Se'eth? There is Sid which is [one degree] higher than it [intervening, Se'eth being two degrees higher]. Will you combine it with Sid? It is not of its kind.[8]

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(1) Shah. 73a.

(2) The poor man, having withdrawn an object from public territory, stretches out his hand into the house, and hands it to the householder; the poor man is guilty. V. Mishnah, Shah. 2a.

(3) Public and private, which produce four punishable transgressions, two hoza'oth and two haknasoth. Raba endeavours to explain why the Tanna uses the word yezi'oth and not hoza'oth; and he explains that it means ‘goings out’, i.e., roads or paths which go out or lead out, and is therefore equivalent to domains (Tosaf).

(4) V. Neg. I, 1.

(5) V. supra Mishnah, note 4.

(6) In the form of principals and derivatives, implying that a principal combines with its derivative to form the requisite size of כגרים garis, bean, to mark the person thus afflicted a leper.

(7) According to their degree of whiteness — Bahereth, Se'eth, Sid, Kerum; holding that two shades, if separated by only one degree, may combine.

(8) For Sid and Kerum are derivatives of two different principals.

Talmud - Mas. Shevu'oth 6a

This is no question: without Sid hekal, Kerum bezah would present no difficulty, for, although Kerum bezah is [two degrees] lower than Se'eth, Scripture says: For Se'eth and for Sappahath.[1] Sappahath is secondary to Se'eth although it is much [i.e., two degrees] lower. But Sid hekal presents a difficulty: [with what shade can it combine?] Obviously, then, our Mishnah [in making Sid secondary to Bahereth, and Kerum secondary to Se'eth] is not in accordance with R. Akiba's view.

And where have we heard R. Akiba [enumerating the shades of leprosy] one above the other? Shall we say, in the following [Baraitha], where it is taught that R. Jose said: Joshua, the son of R. Akiba, asked R. Akiba. ‘Why did they say the shades of leprous affections are two, subdivided into four?’ He replied. ‘What should they say?’ ‘They should say’, [said his son, ‘All shades] from Kerum bezah and upwards are unclean’. He replied. ‘[The Rabbis stated the law in the form of two, subdivided into four] so that we may deduce that they combine with each other.’ His son argued. ‘They could have said. "[All shades] from Kerum bezah and upwards are unclean, and combine with each other".’ He replied. ‘[The Rabbis stated it in the form of two, subdivided into four] to teach us that a priest who is not well versed in them and their names is not competent to inspect the leprous shades.’ Now, [in his question], Joshua did not suggest [that they could have said that the shades from Kerum bezah and upwards are unclean and combine, and the shades] from Sid hekal and upwards are unclean and combine. And because he did not say this, we may deduce that he had heard that R. Akiba held that they all combine with Se'eth,[2] [But this is not conclusive], as [R. Akiba may perhaps hold that] Se'eth combines with its derivative, and Bahereth with its derivative.[3] Well, then from R. Hanina's statement [we may deduce that R. Akiba enumerates the shades one above the other], for R. Hanina said: To what may R. Akiba's statement be compared? — To four tumblers of milk; into one there fell two drops of blood; into the second, four drops; into the third, eight drops; and into the fourth, twelve drops — some say, sixteen drops. They are all shades of white, but one above the other. [No!][4] When did you hear R. Akiba holding this view — only in connection with variegated leprosy,[5] but did you hear it in connection with plain [white leprosy]? And if you will say that, just as he holds this view in connection with variegated leprosy, so he holds it in connection with plain; are you really sure that he holds it [even] in connection with variegated leprosy? Is it not taught: R. Akiba says: the redness in this and in that [Bahereth and Se'eth] is like wine mixed with water, except that Bahereth is white like snow, and Sid is fainter than it.

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(1) Lev. XIV, 56: For a rising and for a scab. Sappahath (translated ‘scab’) is from a root meaning ‘to Join’, ‘be added to'. It is here taken to denote that which is joined, attached to Se'eth (translated 'rising'), i.e., its derivative Kerum bezah.

(2) Because he suggests that the Rabbis could have said: the shades from Kerum and upwards are unclean and combine: without differentiating a derivative for Bahereth and a derivative for Se'eth. Hence we may deduce that Se'eth has two derivatives, Sid and Kerum (because Sappahath, which implies derivatives, is connected with Se'eth in Holy Writ), both of which combine with it and each other, and that Bahereth being only one degree higher than Se'eth also combines with Se'eth; but Bahereth has no derivative. Thus R. Akiba holds they are one above the other.

(3) And Joshua really asked: Let them say the shades from Kerum and upwards and from Sid and upwards are unclean and combine; but R. Jose was not particular to quote him verbatim.

(4) Neither is this conclusive.

(5) Reddish-white; v. Lev. XIII, 19

Talmud - Mas. Shevu'oth 6b

And if it is [as you say, that R. Akiba holds they are one above the other, i.e., Bahereth, then Se'eth], he should have said: White wool [i.e., Se'eth] is fainter than it? — That is so [R. Akiba really said Se'eth, and not Sid]. And so said R. Nathan: R. Akiba did not say: Sid is fainter than it, but white wool [i.e., Se'eth] is fainter than it.

And how do we know that Bahereth is brilliantly white? Abaye said: Because Scripture says: And if the bright spot be white . . .[1] That is white and no other is [as] white [as it].

Our Rabbis taught: Bahereth is deep; and so Scripture says: And the appearance thereof [of the Bahereth] is deeper than the skin[2] — like the appearance of the sun which is deeper than the shade. Se'eth: Se'eth denotes high; and so Scripture says: Upon all the high mountains and upon all the hills that are lifted up.[3] Sappahath: Sappahath denotes an attachment [i.e derivative]; and so Scripture says: And he shall say: Attach me, I pray thee, [to one of the priest's offices].[4] We find a derivative for Se'eth.[5] Whence do we deduce that there is a derivative for Bahereth.[6] R. Zera said: The word 'white' is mentioned with Se'eth,[7] and the word 'white' is mentioned with Bahereth.[8] Just as the 'white' mentioned with Se'eth has a derivative, so the 'white' mentioned with Bahereth has a derivative.[9] In a Baraitha it is taught: Scripture put Sappahath[10] between Se'eth and Bahereth[11] to teach you that just as there is a derivative for Se'eth, so there is a derivative for Bahereth.

Se'eth is like white wool. What white wool? — R. Bibi said that R. Assi said: Clean wool of a new-born lamb which is covered, up [to be made] into a cloak of fine wool.[12]

R. Hanina said: The Rabbis' enumeration [of the four shades] — to what may it be likened? To two Kings and two Governors: the King of this is higher than the King of that; and the Governor of this is higher than the Governor of that.[13] But this [enumeration] is one above the other![14] — Well then, the King of this is higher than his own Governor; and the King of that is higher than his own Governor.[15] R. Adda bar Abba said: It is like King, Alkafta,[16] Rufila,[17] and Resh Galutha.[18] But this is one above the other! Well then, it is like King, Rufila, Alkafta, and Resh Galutha. Raba said: It is like King Shapur and Caesar.[19] R. Papa said to Raba: Which of them is greater? He replied: You eat in the forest![20] Go forth and see whose authority is greater in the world; for it is written: It shall devour the whole earth, and shall tread it down, and break it in pieces.[21] Said R. Johanan: This is wicked Rome[22] whose authority is recognised all over the world. Rabina said: It is like a [new white] woollen garment, and a worn-out woollen garment; and a [new white] linen garment, and a worn-out linen garment.[23]

WHERE THERE IS KNOWLEDGE AT THE BEGINNING ETC. Our Rabbis taught: How do we know that Scripture [in demanding a sliding scale sacrifice for uncleanness] refers only to cases where the Temple is entered or holy food eaten while unclean?[24] — There is a good argument for this deduction. Scripture warns against uncleanness,[25] and punishes it;[26] and also enacts that a sacrifice be brought for uncleanness.[27] Now just as Scripture, in warning against uncleanness and punishing it, did so only in cases where the Temple was entered or holy food eaten while unclean; so when it enacted that a sacrifice be brought for uncleanness,it did so only in cases where the Temple was entered or holy food eaten. Then let us include Terumah[28] [for sacrifice, if eaten while unclean], since Scripture also warned [against its being eaten while unclean] and punished [the transgressor with death by divine intervention]?[29] — We do not find that the sin for which the death penalty by divine intervention is inflicted [for wilful transgression] should be punishable by sacrifice [for unwitting transgression].[30] You may say it is only the case in regard to a fixed sacrifice, but

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(1) Lev. XIII. 4: ‘bright spot’ is the translation of Bahereth.

(2) Ibid. 25.

(3) Isa. II, 14: נשאות (lifted up) is from the same root as שאת.

(4) I Sam. II, 36. ספחני (Attach me) is from the same root as ספחת.

(5) V. supra p. 17, n. 7.

(6) This question is according to the Sages who hold that Bahereth has a derivative; and not according to R. Akiba who holds that it has no derivative.

(7) Lev. XIII, 10.

(8) Ibid. 4.

(9) This kind of deduction is called גזרה שוה Gezerah Shawah: an inference from similarity of phrases; v. Glos.

(10) Meaning derivative.

(11) Lev. XIV, 56.

(12) A covering of skin is clasped round the lamb to protect the wool.

(13) Bahereth, the King (i.e., principal) of Sid, is higher than Se'eth, the King of Kerum; and Sid, the Governor (i.e., second in command) of this King (Bahereth), is higher than Kerum, the Governor of that King (Se'eth). According to this, the order is: Bahereth, Se'eth, Sid, Kerum.

(14) Which is R. Akiba's and not the Rabbis’ enumeration.

(15) I.e., Principal and derivative: Bahereth, Sid; Se'eth, Kerum.

(16) High Persian dignitary.

(17) Persian military officer, lower than Alkafta.

(18) Chief of the Babylonian Jews.

(19) I.e., Persian King and Roman Emperor, each having an adjutant.

(20) You live in a forest, and know not what is going on in the world. Surely you know that the Roman Emperor is greater! R. Papa, however, asked the question, because Raba had mentioned Shapur before Caesar. Raba had done so, because he was a Persian subject.

(21) Dan. VII, 23.

(22) Read רומי in the text instead of פרס.

(23) New garments are whiter than worn-out ones. New woollen and linen garments are closer to each other in whiteness than are the new and worn-out garments of each kind; so the two principals are, according to the Rabbis, nearer to each other than are principal and derivative of each kind.

(24) Lev. V, 2. The verse merely states: If anyone touch any unclean thing . . ., making no mention of eating holy food or entering the Temple while unclean.

(25) Num. V, 2-3: Command the Children of Israel that they put out of the camp . . . whosoever is unclean . . . that they defile not their camp; this is explained (Pes. 67a) as a warning against entering the Temple while unclean. Lev. XXII, 4: He shall not eat of the holy things until he be clean; this is the warning against eating holy food while unclean.

(26) With Kareth for willing transgression; Num. XIX. 13: Whosoever toucheth the dead . . . and purifieth not himself — he hath defiled the tabernacle of the Lord — that soul shall be cut off; this is the punishment for entering the Temple while unclean. Lev. VII, 20: Anyone that eateth of the flesh of the sacrifice of peace offerings . . . having his uncleanness upon him, that soul shall be cut off; this is the punishment for eating holy food while unclean.

(27) For unwitting transgression.

(28) The priest's share of the produce, which is holy in a minor degree; v. Glos.

(29) מיתה Mithah, as distinct from Kareth (v. Glos.). Lev. XXII, 4: He shall not eat of the holy things until he be clean; this is explained (Yeb. 74b) as being a warning also against eating Terumah while unclean, holy things including

Terumah. Ibid. 9: They shall therefore keep My charge, lest they bear sin for it, and die therein, if they profane it; this is the punishment for eating Terumah while unclean.

(30) When wilful transgression is punished by Kareth, unwitting transgression is punished by sacrifice (Hor. 8a).

Talmud - Mas. Shevu'oth 7a

a sliding scale sacrifice should perhaps be, as in the case of ‘hearing the voice of adjuration’[1] and ‘swearing clearly with the lips’[2] [where a sliding scale sacrifice is brought for unwitting transgression, though neither Kareth nor death [by divine intervention] is inflicted for wilful transgression]? — Scripture says: [Whatsoever his uncleanness be] by which [he becomes unclean.][3] By which, excludes Terumah.[4] Let us rather say that by which excludes Temple [and holy food] in that a sliding scale sacrifice shall not suffice, but a fixed sacrifice be necessary? Raba said of Rabbi: He draws water from deep pits;[5] for it was taught: Rabbi said: I read, [If any one touch any unclean thing, whether it be the carcass of an unclean] beast [or the carcass of unclean cattle . . .].[6] Why should cattle be written?[7] — [To deduce the following:] Here it is said unclean cattle, and further on it is said unclean cattle.[8] Just as there it refers to eating holy food while unclean, so here it refers to eating holy food while unclean. Thus we deduce the law regarding eating holy food while unclean; whence do we deduce the law regarding entering the Temple while unclean? — Scripture says: She shall touch no hallowed thing, nor come into the sanctuary.[9] Sanctuary is equated with holy food. — If so, Terumah also [should be included for sliding scale sacrifice, if eaten while unclean], for it has been said that she shall touch no hallowed thing includes Terumah?[10] — [No!] Scripture limits the application of the law by the expression, by which.[11] — Let us say that the expression by which excludes Temple [and not Terumah]? — It is reasonable not to exclude Temple, because the same punishment, Kareth, is inflicted [for wilfully entering the Temple, or eating holy food, while unclean].[12] — On the contrary, Terumah should not be excluded, because the act of transgression consists of eating, just as in the case of holy food [whereas in the case of the Temple, it is entering it which constitutes the transgression]? Well then, said Raba:[13] Why is the punishment of Kareth for eating peace offerings [i.e., holy food] while unclean mentioned three times in Holy Writ?[14] — Once for a general statement,[15] once for a particular, and once for the uncleanness written in the Torah without being defined,[16] so that I know not what it means. You may say, then, it means eating holy food while unclean; and since it is unnecessary to have another prohibition for eating holy food while unclean, for I deduce that from Rabbi's statement, you may utilise the prohibition for entering the Temple while unclean. — But this [extra Kareth] we require for R. Abbahu's deduction! For R. Abbahu said: Why does Scripture mention Kareth three times for eating peace offerings [while unclean]? — Once for a general statement, once for a particular, and once for things which are not eaten.[17] And according to R. Simeon who holds that things which are not eaten are not punishable by Kareth if eaten during uncleanness,[18] [we still require the extra Kareth to deduce that] the ‘inner’ sin offerings[19] are included;[20] for we might have thought that, since R. Simeon holds that sacrifices which are not offered on the outer altar, as are peace offerings, are not subject to the law of piggul,[21] therefore they are also not subject to the law of uncleanness;[22] he therefore teaches us that they are. [The third Kareth, then, is necessary for this deduction. How then shall we deduce that an unclean person entering the Temple brings a sliding scale sacrifice?] — Well then, the Nehardeans say in the name of Raba:[23] Why does Scripture mention ‘uncleanness’ three times[24] in connection with peace offerings? — Once for a generalisation, once for a particular, and once for the uncleanness written in the Torah without being explained, so that I know not what it means. You may say then, it refers to eating holy food while unclean, and since it is unnecessary to have another prohibition for that, for I deduce that from Rabbi's statement, you may utilise the prohibition for entering the Temple while unclean. But this [extra word ‘uncleanness’] we also require; since Scripture had to write [the extra] Kareth for R. Abbahu's deduction, it perforce had to write also [the extra] ‘uncleanness’, for without it the phrase would have been meaningless? — Well then, said Raba: We deduce [that an unclean person entering the Temple brings a sliding scale sacrifice] from [the similarity of phrases] ‘his uncleanness’, ‘his uncleanness’. Here it is written: [If he touch the uncleanness of man] whatsoever his uncleanness be.[25]

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(1) Lev. V, 1: He heareth the voice of adjuration, he being a witness; v. infra Ch. IV.

(2) Ibid. 4: If anyone swear clearly with his lips to evil or to do good; v. infra p. 1, n. 1.

(3) Ibid. 3.

(4) The word בה, by which, is superfluous, and is taken to limit the applications of the law to some extent, i.e., to exclude a sacrifice for the lesser transgression; so that only for eating holy food while unclean is a sacrifice brought, but not for eating Terumah while unclean.

(5) I.e., shows great erudition. Here follows another argument to deduce that holy food and Temple are included, and Terumah excluded.

(6) Lev. V, 2.

(7) Cattle is included in beast. V. Lev. XI, 2, 3: These are the beasts which ye may eat . . . whatsoever parteth the hoof . . . among the cattle . . .

(8) Lev. VII, 21: And when anyone shall touch any unclean thing, whether it be the uncleanness of man or unclean cattle . . . and eat of the flesh of the sacrifice of peace offerings, which pertain unto the Lord, that soul shall be cut off from his people.

(9) Lev. XII, 4: referring to a woman after childbirth.

(10) Mak. 14b.

(11) V. supra p. 22, n. 5.

(12) Whereas the wilful eating of Terumah while unclean is not punishable by Kareth.

(13) Another argument for including Temple and holy food, and excluding Terumah.

(14) (a) Lev. XXII, 3: Whosoever he be . . . that approacheth unto the holy things . . . having his uncleanness upon him, that soul shall be cut off. (Approach here means eat; v. Zeb. 45b). (b) Lev. VII, 20: Anyone that eateth of the flesh of the sacrifice of peace offerings . . . having his uncleanness upon him, that soul shall be cut off (c) Ibid. 21: When anyone shall touch any unclean thing . . . and eat of the flesh of the sacrifice of the peace offerings . . . that soul shall be cut off.

(15) Lev. XXII. 3: Whosoever he be . . . that approacheth unto the holy things. This is a generalisation — holy things; Lev. VII, 20: Anyone that eateth of the flesh of the sacrifice of the peace offerings. This is a particular specification — peace offerings. Now, peace offerings are included in holy things: why should they be specified separately? — In order that we may deduce that only holy things which are sacrificed on the altar (as are peace offerings) are included in the law regarding uncleanness, but offerings for the Temple repair are excluded. (Rashi.)

(16) The Kareth in Lev. VII, 21, being superfluous, is for the purpose of teaching that it is the punishment for the witting transgression of that sin (eating holy food while unclean), the unwitting transgression of which is punished by a sliding scale sacrifice in Lev. V, 2 (which is there not fully defined). And since we already know that unwittingly eating holy food while unclean punishable by a sliding scale sacrifice (from Rabbi's deduction, v. supra), we may apply the superfluous Kareth for deducing that it is the punishment for the witting transgression of that sin, the unwitting transgression of which is punishable by a sliding scale sacrifice, i.e., entering the Temple while unclean (for, eating holy food while unclean we already know).

(17) Such as incense. If he eats it wittingly while unclean, the transgressor is punished by Kareth.

(18) V. Zeb. 45b.

(19) Such as the bullock and goat offered on the Day of Atonement, whose blood is sprinkled within the veil.

(20) Eating them while unclean is punishable by Kareth for witting, and sliding scale sacrifice for unwitting, transgression.

(21) Zeb. 43a. פיגול (abomination, Lev. VII, 18; XIX, 7, 8) is a sacrifice left over beyond the time limit for its consumption; its eating is punishable by Kareth. Piggul is mentioned only in connection with peace offerings. The ‘inner’ sin offerings, according to R. Simeon, are, therefore, not subject to the law of piggul.

(22) Anyone eating an ‘inner’ sin offering while unclean would not be liable to Kareth for witting transgression, or sliding scale sacrifice for unwitting transgression.

(23) Another version of Raba's statement.

(24) Lev. XXII, 13: having his uncleanness upon him; Lev. VII, 20: having his uncleanness upon him; Lev. VII, 21: when anyone shall touch any unclean thing.

(25) Lev. V, 3.

Talmud - Mas. Shevu'oth 7b

And there it is written: He shall be unclean; his uncleanness is yet upon him.[1] Just as there it refers to entering the Temple while unclean,[2] so here it refers to entering the Temple while unclean. — If so, why is the expression by which necessary?[3] — To include [that he who eats] the carcass of a clean bird[4] [and enters the Temple or eats holy food must bring a sliding scale sacrifice]. — But you said that by which is intended to exclude [and not include]! For the very reason that it does exclude it is superfluous: it is written: Or if he touch [the uncleanness][5] — this implies that only that which defiles by touch is included [in the regulation of the sliding scale sacrifice], but that which does not defile by touch is not included.[6] Then it is written also: by which[7] which implies limitation. We have, then, limitation after limitation; and limitation after limitation serves to amplify.[8] WHERE THERE IS KNOWLEDGE AT THE BEGINNING BUT NOT AT THE END, THE GOAT THE BLOOD OF WHICH IS SPRINKLED WITHIN THE VEIL etc.

Our Rabbis taught: And he shall make atonement for the holy place, because of the uncleannesses of the Children of Israel . . .[9] It is possible in this phrase to include three types of uncleanness — the uncleanness of idolatry, the uncleanness of incest, and the uncleanness of bloodshed. Of idolatry the verse says: [He hath given of his seed unto Molech] to defile My sanctuary.[10] Of incest it says: Ye shall keep My charge, that ye do not any of these abominable customs . . . that ye defile not yourselves therein.[11] Of bloodshed it says: And thou shalt not defile the land.[12] Now, I might have thought that for these three types of uncleanness this [‘inner’] goat atones, therefore the text says: Of the uncleannesses of the Children of Israel,[13] and not ‘all the uncleannesses’. [These three are excluded, because] what [uncleanness] do we find that the text has differentiated from all other uncleannesses? — You must say, it is the uncleanness of [the transgressor who enters] the Temple or [eats] holy food;[14] so here also [the text in stating that the inner goat atones for the transgression of the laws of uncleanness refers to] the uncleanness connected with Temple and holy food.[15] This is the opinion of R. Judah. R. Simeon says: From its own text it may be deduced, for it says. And he shall make atonement for the holy place, of the uncleannesses . . ., [i.e.,] of the uncleannesses of the holy place.[16] Now, I might have thought that for every uncleanness connected with the Temple and holy food[17] this goat atones, therefore the text says: And of their transgressions, even all their sins[18] — sins are equated with transgressions; just as transgressions are not liable for sacrifice,[19] so sins [in this verse] are those which are not liable for sacrifice.[20] And how do we know that [only] when there is knowledge at the beginning and not at the end does this goat hold the sin in suspense?[21] — Because the text says, even all their sins — implying sins for which a sin offering may ultimately be brought.[22]

The Master stated: ‘It is possible in this phrase[23] to include three types of uncleanness — the uncleanness of idolatry, the uncleanness of incest, and the uncleanness of bloodshed.’ With reference to idolatry, how is it possible? If it was witting transgression, the transgressor suffers the death penalty;[24] if unwitting, he brings a sacrifice.[25] — [Yes, it may atone] for witting transgression without warning,[26] or unwitting transgression before it becomes known to him.[27]

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(1) Num. XIX, 13.

(2) Ibid: He hath defiled the Tabernacle of the Lord.

(3) V. supra p. 22, n. 5. It had been suggested that by which excludes Terumah; but that argument had been refuted; and now we find that we even require an extra deduction to include Temple; we should therefore not have included Terumah in any case, even without the limitation of by which.

(4) A dead clean bird defiles on being eaten, and not on being touched, as does a dead beast. V. Zeb. 69b.

(5) Lev. V, 3.

(6) Hence the carcass of a clean bird is automatically excluded.

(7) Ibid. Whatsoever his uncleanness be by which he is unclean. By which implies some limitation or exclusion.

(8) A double limitation is equivalent to an amplification, just as a double negative is equivalent to a positive. This is one

of the thirty-two hermeneutical principles by which R. Eliezer, son of R. Jose the Galilean, expounds Holy Writ. In the present instance the double limitation serves to include that he who eats the carcass of a clean bird and enters the Temple or eats holy food must bring a sliding scale sacrifice.
(9) Lev. XVI, 16: referring to the sacrifice of the High Priest on the Day of Atonement of the goat the blood of which is sprinkled within the veil.
(10) Ibid. XX, 3; worshipping Molech is idolatry (Sanh. 64a).
(11) Ibid. XVIII, 30, referring to incest and other offences enumerated in the chapter.
(12) Num. XXXV, 34.
(13) Lev. XVI, 16: The מ of מטמאת (of) is taken as partitive, implying some of, and not all.
(14) In that a sliding scale sacrifice is brought for unwitting transgression, whereas a fixed sacrifice is brought for other unwitting transgressions.
(15) And not idolatry, incest, or bloodshed.
(16) As if in the text the two consecutive words הקדש מטמאת were transposed to read מטמאת הקדש
(17) Even where there is knowledge at the end.
(18) Lev. XVI, 16.
(19) Transgressions mean witting sins, and cannot be atoned for by sacrifice.
(20) Excluding those where there is knowledge at the end, when a sliding scale sacrifice is brought.
(21) And does not atone for the sin where there is no knowledge at the beginning, though it is also not liable for a sacrifice.
(22) חטאתם which may be atoned for by חטאת; i.e., where there is knowledge at the beginning, but not at the end; a sacrifice is brought later when knowledge comes to the sinner. But where there is knowledge at the beginning, there is no possibility that a sacrifice may ultimately be brought.
(23) Lev. XVI. 16.
(24) Stoning; v. Sanh. 53a.
(25) A she-goat; v. Num. XV, 27. How then could we possibly suggest that the ‘inner’ goat of the Day of Atonement atones for idolatry.
(26) When warning has not been given, the death penalty is not inflicted (Sanh. 41a).
(27) The inner goat will hold the sin in suspense till it become known to him, and he brings a sacrifice.

Talmud - Mas. Shevu'oth 8a

With reference to incest also, how is it possible? If it was witting transgression, the transgressor suffers the death penalty;[1] if unwitting, he brings a sacrifice.[2] — [Yes, it may atone] for witting transgression without warning, or unwitting transgression before it becomes known to him. With reference to bloodshed also, how is it possible? If it was witting transgression, the transgressor suffers the death penalty;[3] if unwitting, he is exiled?[4] — [Yes, it may atone] for witting transgression without warning, or unwitting transgression before it becomes known to him, or for cases where the punishment of exile is not inflicted.[5]

The Master has stated: ‘I might have thought that for these three types of uncleannesses this goat atones, therefore the text says, of the uncleannesses, and not "all the uncleannesses." What do we find that the text has differentiated from all other uncleannesses? — The uncleanness connected with Temple and holy food; so here also [the text refers to] the uncleanness connected with Temple and holy food. This is the opinion of R. Judah.’ What is the differentiation [alluded to]? — [In that] he [alone][6] brings a sliding scale sacrifice.[7] Then include idolatry;[8] and as to the differentiation, it is in that the sinner brings a she-goat and not a lamb?[9] — R. Kahana said: We mean a differentiation to relax,[10] but this is a differentiation to restrict.[11]

Then include a woman after childbirth, for the text differentiates in her case in that she brings a sliding scale sacrifice?[12] — R. Hoshaia said: [The verse says,] all their sins,[13] and not ‘all their uncleannesses.’ And according to R. Simeon b. Yohai who said that a woman after childbirth is also a sinner,[14] what shall we say?[15] — R. Simeon is consistent in that he holds ‘from its own text it may be deduced.’[16]

Then include a leper [who also brings a sliding scale sacrifice]?[17] — R. Hoshaia said [the verse says]: all their sins; and not ‘all their uncleannesses’.[18] And according to R. Samuel b. Nahman who said, for seven sins leprous affections afflict man,[19] what shall we say?[20] — There the leprosy itself atones for him;[21] and the sacrifice is merely to permit him to join the congregation. Then include a Nazirite[22] who has become unclean, for the text differentiates in his case in that he brings turtledoves or young pigeons?[23] — R. Hoshaia said [the verse says]: all their sins, and not ‘all their uncleannesses.’[24] And according to R. Eleazar ha-Kappar who said that a Nazirite is also a sinner,[25] what shall we say?[26] — He agrees with R. Simeon who holds that ‘from its own text it may be deduced.’[27]

The Master has stated: ‘R. Simeon said from its own text it may be deduced, for it says: And he shall make atonement for the holy place, of the uncleannesses . . . of the uncleannesses of the holy place.’ R. Simeon argues well. [Why then does not] R. Judah [accept this deduction]?[28] — He may say to you that [and he shall make atonement . . .] is required [to teach us] that just as he does in the Holy of Holies,[29] so shall he do [outside the veil] in the Temple. And how does R. Simeon [deduce this]? — He deduces it from and so shall he do.[30] And R. Judah [cannot he also deduce it from this phrase? — No!] From this phrase we might have thought that he must bring another bullock and goat to do [the service outside the veil in the Temple], therefore the text teaches us [and he shall make atonement for the holy place, implying that he shall use the same bullock and goat, and so shall he do means that he shall repeat the service outside the veil]. And R. Simeon [why does he not agree with this argument of R. Judah? — Because the phrase] and so shall he do for the tent of meeting implies everything.[31]

The Master stated: ‘I might have thought that for every uncleanness connected with the Temple and holy food this goat atones, therefore the text says: and of their transgressions, even all their sins [- sins are equated with transgressions; just as transgressions are not liable for sacrifice, so sins in this verse are those which are not liable for sacrifice: but a sin which is liable for sacrifice is exclude, i,e., the inner goat does not atone for it].’[32] Which is it [that is excluded]? Where there is knowledge at the beginning and at the end. [Surely for such a sin] the transgressor must bring a sliding scale sacrifice![33] The deduction is not necessary save in the case where the sin becomes known to the transgressor near sunset [on the eve of the Day of Atonement].[34] I might have thought that [in the meantime] until he brings his sacrifice,

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(1) Stoning; v. Sanh. 53a.

(2) Ker. I, 2.

(3) Decapitation by the sword; Num XXXV, 16; Sanh, 76b.

(4) Num. XXXV, 11.

(5) E.g., if a man ascending a ladder falls on another man and kills him, he is not exiled; v. Mak. 7b.

(6) I.e., the unwitting transgressor of the laws of uncleanness connected with the Temple and holy food.

(7) Whereas for other unwitting transgressions a fixed sacrifice is brought.

(8) That the inner goat of the Day of Atonement should atone for it.

(9) Whereas for other unwitting transgressions, either a she-goat or a lamb may be brought.

(10) A sliding scale sacrifice is an act of leniency on the part of Holy Writ enabling the sinner to bring an offering according to his means (v. p. 1, n. 7) — a differentiation characteristic of the inner goat of the Day of Atonement, which is a sacrifice bought from public funds, and secures for the individual sinner the suspension of his sin.

(11) He must bring a she-goat even at great expense.

(12) Lev. XII, 6-8. If the Day of Atonement arrives before the time when she has to bring her sacrifice, let us say that the inner goat has already atoned for her, and she need not bring a sacrifice.

(13) Ibid. XVI, 16. The inner goat atones for sins; but the woman, in giving birth to a child, has not committed a sin; she brings a sacrifice merely to cleanse her from her uncleanness, so that she may partake of holy food.

(14) Nid. 31b; because of the travail she vows she will not cohabit again with her husband; and she breaks her vow.
(15) Why should not the inner goat atone for her?
(16) He does not exclude a woman after childbirth because of the phrase all their sins; but he deduces that the inner goat atones only for the sin of uncleanness connected with the Temple and holy food from its own text; v. supra p. 26.
(17) Lev. XIV, 10-32.
(18) A leper is not a sinner,
(19) Calumny, bloodshed, false oath, incest, haughtiness, robbery, selfishness; ‘Ar. 16a.
(20) A leper is therefore a sinner; let us say then that the inner goat of the Day of Atonement atones for him.
(21) The distress he suffers because of his leprosy is sufficient punishment for him.
(22) One who vows to consecrate himself to God; he must abstain from grapes and all productions of the vine, and let his hair grow; v. Num. VI, 1-21.
(23) Ibid. 9-10.
(24) A Nazirite is not a sinner.
(25) By his vow he has inflicted upon himself abstinence from wine, and has thereby sinned; Nazir 19a.
(26) Why should not the inner goat atone for him?
(27) That the inner goat atones only for the uncleanness connected with Temple and holy food.
(28) Instead of deducing it from the fact that Holy Writ differentiates in the case of the uncleanness connected with Temple and holy food; v. supra p. 26.
(29) Lev. XVI, 14, 15.
(30) Ibid. 16.
(31) That he shall repeat the service outside the veil; and it would not have entered our minds to think that he should bring an extra bullock and goat. Therefore the phrase and he shall make atonement for the holy place, of the uncleannesses is superfluous, and hence may of be utilised for the deduction that the inner goat atones only for the uncleannesses of the holy place, i.e., Temple and holy food.
(32) V. supra p 26.
(33) Why then do we require the deduction to exclude such a sin from the atonement effected by the inner goat.
(34) When there is no time to bring the sliding scale sacrifice, as sacrifices are offered only during the day-time (v. Meg. 20b).

Talmud - Mas. Shevu'oth 8b

the inner goat should hold the sin in suspense, therefore the text teaches us [that it does not].

The Master stated: ‘How do we know that, when there is knowledge at the beginning and not at the end, this goat holds the sin in suspense?’ ‘How do we know’! What is his question?[1] — This is his question: Now that you say, ‘sins are equated with transgressions: just as transgressions are not liable for sacrifice, so sins are those which are not liable for sacrifice;’ you might logically argue, just as transgressions are never liable for sacrifice, so sins are those which are never liable for sacrifice; and which are they? Those where there is no knowledge at the beginning but knowledge at the end; but where there is knowledge at the beginning and not at the en, since, when the knowledge comes to him at the end, he is liable to bring a sacrifice, let us say that the inner goat should not hold the sin in suspense! And if you[2] should say, where there is no knowledge at the beginning but knowledge at the end, the outer goat together with the Day of Atonement atones?[2] — I might have thought that we should reverse [the atonements].[3] Therefore the text says: even all their sins, so that we may infer that they are ultimately liable for a sin offering[4] [i.e., the inner goat holds in suspense those sins where there is knowledge at the beginning but not at the end]. But why should it not atone completely [instead of merely holding the sin in suspense till he brings his sacrifice]? — If it had been written: ‘[And he shall make atonement . . . of their transgressions and] of their sins,’[5] I should have agreed with you: but now that it is written: ‘[of their transgressions], even all their sins,’ [the text means that it holds in suspense] such transgressions as may ultimately be atoned for by sin offerings.[6]

Now since it does not atone completely, what is the purpose of holding it in suspense? — R. Zera said: So that if he dies [before the knowledge comes to enable him to bring his sacrifice] — he dies without sin. Said Raba to him: If he dies, his death purges him from sin;[7] but, said Raba, the inner goat [by holding the sin in suspense] shields him from suffering[8] [until he brings his sacrifice].

WHERE THERE IS NO KNOWLEDGE AT THE BEGINNING BUT KNOWLEDGE AT THE END THE GOAT SACRIFICED ON THE OUTER ALTAR AND THE DAY OF ATONEMENT ATONE, etc.

Now, they[9] have been equated with each other; let the inner goat, then, atone for its own [where there is knowledge at the beginning and not at the end] and for that for which the outer goat atones [where there is no knowledge at the beginning but at the end], and the outcome of this would be [that there would be atonement] in such case where the outer goat was not sacrificed.[10] [No!] The text says: [And Aaron shall make atonement upon the horns of it] once [in the year; with the blood of the sin offering of atonement once in the year shall he make atonement for it]:[11] one atonement it atones, but it does not effect two atonements. Well, let the outer goat atone for its own and for that for which the inner goat atones; and the outcome of this would be [that there would be atonement] in such case where uncleanness occurred between the offering of this [inner goat] and that [outer goat.[12] No!] The text says: once in the year — this atonement shall be

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(1) It has just been deduced that the inner goat atones for sins which are not liable for sacrifice, and such a sin is not liable for sacrifice at present.

(2) V. Mishnah: hence we know that the inner goat does not atone for it, and therefore, of necessity it will atone for the sin where there is knowledge at the beginning and not at the end, then why his question?

(3) Viz. the inner goat should atone for the sin where there is no knowledge at the beginning but knowledge at the end, because it is never liable for sacrifice; and the outer goat should hold in suspense the sin where there is knowledge at the beginning but not at the end.

(4) V.supra p. 27, n. 5.

(5) Cf. Lev. XVI, 16. ומפשעיהם ומחטאתם

(6) Sins is explanatory of transgressions, i.e., the inner goat atones for the transgressions until such time as they enter the category לכל חטאתם, i.e., until a sin offering is brought; therefore the inner goat atones temporarily, not permanently; in other words, it holds the sin suspense.

(7) Since it was an unwitting sin; death purges also certain witting transgressions for which repentance alone does not suffice, such as the profanation of the Name; v. Yoma 86a.

(8) For certain offences for which Kareth (v. Glos.) is the penalty repentance alone does not suffice, but sufferings are inflicted on the transgressor to purge him from his sin; v. Yoma 86a.

(9) The inner and outer goats: v. supra p. 2.

(10) Because there were not sufficient goats available.

(11) Ex. XXX. 10: referring to inner goat.

(12) Where an unclean person entered the Temple or ate holy food after the inner goat had been offered, so that it cannot atone for him.

Talmud - Mas. Shevu'oth 9a

only once a year.[1]

And according to R. Ishmael who holds that where there is no knowledge at the beginning but knowledge at the end the transgressor must bring a [sliding scale] sacrifice,[2] for which sin will the outer goat atone? For that where there is no knowledge either at the beginning or at the end. But for this the goats offered on the festivals and New Moons make atonement![3] He agrees with R. Meir who holds that ALL THE GOATS GIVE EQUAL ATONEMENT FOR THE UNCLEANNESS CONNECTED WITH THE TEMPLE AND HOLY FOOD. In that case, for what purpose was the outer goat equated with the inner?[4] — [To teach us that] just as the inner does not atone for other sins, so the outer does not atone for other sins.

WHERE THERE IS NO KNOWLEDGE EITHER AT THE BEGINNING OR AT THE END THE FESTIVAL AND NEW MOON GOATS BRING ATONEMENT: THIS IS THE OPINION OF R. JUDAH [B. ILA'I].

Said Rab Judah that Samuel said: What is R. Judah's reason? — Because the text says: And one goat for a sin offering unto the Lord:[5] for a sin which is known only to the Lord[6] shall this goat atone. — But this [superfluous word] we require for the deduction of R. Simeon b. Lakish, for R. Simeon b. Lakish said: 'Why is the New Moon goat different in that [the phrase] onto the Lord is used in connection with it? — [Because] the Holy One, blessed be He, said: This goat shall be an atonement [for Me, as it were,] for my diminishing the size of the Moon!'[7] — If so [for R. Simeon b. Lakish's deduction], the text could have said: '[a sin offering] for the Lord'; why 'to the Lord'? For our deduction. Then say that it is solely for this deduction [and eliminate R. Simeon b. Lakish's deduction]. If so, the text could have said: 'a sin offering of the Lord;' why 'to the Lord'? Hence we deduce both.

Let it [the New Moon goat] atone also for other sins [which are known only to the Lord, i.e., are unknown to the transgressor]! — In the school of R. Ishmael it was stated that since this [outer goat of the Day of Atonement] comes at a fixed season, and this [New Moon goat] comes at a fixed season; then, just as this [outer goat] atones only for the uncleanness connected with the Temple and holy food,[8] so this [New Moon goat] atones only for the uncleanness connected with the Temple and holy food.

Thus we find [that] the New Moon goats [atone for this class of sin]; whence do we know [that] the festival goats [atone for it]? And if you will say that this also follows from the deduction of the school of R. Ishmael,[9] it is possible to refute [this reasoning]: if [the deduction is made] from the New Moon [goat, it may be argued] that it is more frequent [than the festival goat, therefore it atones for this sin, but the festival goat may not atone for it]; and if [the deduction is made] from the Day of Atonement [goat, it may be argued] that the atonement of the Day is more inclusive,[10] [therefore the outer goat of the Day atones for this sin, but the festival goat may not atone for it]. And if you will say,

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(1) No other sacrifice can make this atonement.

(2) Infra 19b.

(3) Supra p. 2.

(4) Ibid. p. 2.

(5) Num. XXVIII, 15: referring to the New Moon goat.

(6) But unknown to others, i.e., where there is no knowledge at all either at the beginning or at the end. This deduction is made because the text could have said: one goat for a sin offering; the words unto the Lord are superfluous.

(7) V. Hul. 60b: It is written: 'And God made the two great lights' (sun and moon — apparently equal); and it is written: 'the greater light' and 'the lesser light' (obviously unequal)! The moon said to the Holy One, blessed be He: 'How can two kings use one crown?' He replied: 'Go and diminish thyself'.

(8) For it has been equated with the inner goat: supra p. 2.

(9) The festival goat comes at a fixed season, and the New Moon goat comes at a fixed season, and the Day of Atonement goat comes at a fixed season: the first may be deduced from either of the other two.

(10) Atoning for all sins, whereas the festival does not atone; and though Holy Writ states clearly that the festival goat atones, it may be that it has not the power to atone for a sin (such as entering the Temple or eating holy food while unclean), the witting transgression of which is punishable by Kareth.

Talmud - Mas. Shevu'oth 9b

but we deduced the New Moon [goat] from the Day Of Atonement [goat],[1] and did not refute the argument, [therefore let us deduce the festival goat from the Day of Atonement goat; it may be said in reply that with reference to the New Moon goat] atonement is distinctly mentioned in the text [for a sin which is unknown to the transgressor];[2] and what we desired is merely an intimation [that only the unknown sins connected with Temple and holy food are intended]; but here it may be said that the whole law we cannot deduce.[3] Well then, just as R. Hama b. Hanina said [elsewhere: the text could have said] ‘one goat’, [but it says] ‘and one goat’;[4] so here [the text could have said] ‘one goat’, [but it says] ‘and one goat’;[5] so that the festival goats are equated with the New Moon goats; just as the New Moon goats atone only for sins where there is no knowledge either at the beginning or at the end,[6] so the festival goats atone only for sins where there is no knowledge either at the beginning or at the end.

The question was propounded: when R. Judah said [that the New Moon and festival goats atone] for sins where there is no knowledge either at the beginning or at the end, does this statement apply only to a sin which will ultimately remain unknown [to the transgressor], but a sin which will ultimately become known[7] is counted as if there were knowledge at the end, and consequently is atoned for by the outer goat [of the Day of Atonement] together with the Day of Atonement; or [does his statement include] even a sin which will ultimately become known, since actually at this moment it [is unknown and] may be termed a ‘sin which is known only to the Lord’? — Come and hear: It has been taught: For sins where there is no knowledge either at the beginning or at the end, and for a sin which will ultimately become known, the festival and New Moon goats atone: this is the opinion of R. Judah.

R. SIMEON SAYS THE FESTIVAL GOATS ATONE [FOR THIS CLASS OF SIN], BUT NOT THE NEW MOON GOATS. [AND FOR WHAT DO THE NEW MOON GOATS ATONE? FOR A RITUALLY CLEAN MAN WHO ATE HOLY FOOD THAT HAD BECOME UNCLEAN.]

R. Eleazar said that R. Oshaia said: What is R. Simeon's reason?[8] — The verse says: And it hath He given you to bear the iniquity of the congregation.[9] This verse refers to the New Moon goat;[10] and we deduce [by analogy, because of the use of the identical word] iniquity, from the ziz:[11] here it is said iniquity, and there it is said iniquity;[12] just as there it refers to the uncleanness of the flesh,[13] so here it refers to the uncleanness of the flesh.[14] [But, since we deduce one from the other, let us say,] just as there it refers to offerings, so here it refers [only] to offerings,[15] [and let it not atone for a clean man who ate unclean holy food. No!] It is written: ‘the iniquity of the congregation’.[16] Well now, we deduce one from the other; then let the New Moon goat atone for its own,[17] and also do the work of the ziz, and the outcome would be [that there would be acceptance of the offering though unclean,] even when the ziz is broken? — [No!] the verse says: the iniquity[18] — one iniquity it bears, but it does not bear two iniquities. Well then, let the ziz atone for its own[19] and for that for which the New Moon goat atones, and the outcome would be [that there would be atonement] for uncleanness[20] which occurred between this [New Moon] and the next?[21] [No!] the verse says: it[22] hath He given you to bear the iniquity of the congregation — it bears the iniquity, but no other bears the iniquity. R. Ashi said: Here[23] it is written the iniquity of the congregation — congregation and not holy things; and there[24] it is written the iniquity of the holy things — holy things and not congregation.

Hence we find that the New Moon goats atone for a clean man who ate unclean holy food. How do we know that the festival goats atone for [sins of uncleanness] where there is no knowledge either at the beginning or at the end? — As R. Hama b. Hanina said [elsewhere,[25] the text could have said:] ‘one goat’, [but it says:] ‘and one goat’; so here [the text could have said:] ‘one goat’, [but it says:] ‘and one goat’.[26]

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(1) Just as this comes at a fixed season etc., supra p. 33.
(2) Num. XXVIII, 15: a sin offering to the Lord, as explained above.
(3) For, since it is necessary to deduce the whole law that the festival goats atone for these sins of uncleanness, the argument may be refuted: the Day of Atonement goat atones for these sins of uncleanness because its atonement is more inclusive, but the festival goats may not have the power to atone for sins which are punishable by Kareth for witting transgression.
(4) Infra 10a.
(5) Num. XXVIII, 22: the Passover goat; XXIX, 5: the New Year goat; XXIX, 16: the Tabernacles goat. In these verses the text has ‘and one goat for a sin offering’; the superfluous, vav (וֹ) and, which is a conjunction, implies that the law with reference to these goats is connected with and is the same as that of the first mentioned goat, i.e., of the New Moon (XXVIII, 15). In connection with the Pentecost goat (XXVIII, 30) the text has ‘one goat’ (not and), but as long as and occurs in even one of the festivals, the other festivals may be likened to it: v. Tosaf.
(6) This was deduced (supra 9a) from the phrase ‘sin offering to the Lord’, and by analogy from the Day of Atonement goat: just as this comes at a fixed season, etc.
(7) E.g., if he was seen to become unclean and to enter the Temple, he will be told later.
(8) For saying that the New Moon goat atones for a clean man who are unclean holy food.
(9) Lev. X, 17.
(10) V. Zeb. 101b.
(11) High Priest's plate of pure gold worn on the forehead: Ex. XXVIII, 36.
(12) And it (the ziz) shall be upon Aaron's forehead, and Aaron shall bear the iniquity committed in the holy things; Ex. XXVIII, 38.
(13) The ziz makes the sacrifice acceptable if the flesh or blood or fat had become unclean, and another need not be offered; but it does not atone for the uncleanness of the person offering the sacrifice: v. Men. 25b.
(14) Hence, the New Moon goat atones for a clean man who ate unclean holy food.
(15) The ziz does not atone for any sin, but makes the offering acceptable if it had become unclean. Let the atonement of the New Moon goat be limited likewise; it will be useful in the event of the ziz becoming broken.
(16) Implying that it atones for sins committed by men.
(17) For a clean man who ate unclean holy food.
(18) ‘It (the New Moon goat) hath He given you to bear the iniquity’ (Lev. X, 17).
(19) To make acceptable an offering the flesh of which had become unclean.
(20) I.e., the guilt incurred by a clean man caring unclean holy food.
(21) If the New Moon goat alone atones for this kind of sin, a clean man eating unclean holy food immediately after the New Moon would not have atonement until the next New Moon; but if the ziz atones, he will have immediate atonement, for the ziz is worn continually by the High Priest.
(22) אותה, the New Moon goat.
(23) Lev. X, 17: referring to the New Moon goat; therefore it atones for a clean man who ate unclean holy food.
(24) Ex. XXVIII, 38: referring to the ziz; therefore it makes acceptable an offering the flesh of which had become unclean.
(25) Infra 10a.
(26) Num. XXVIII, 22; XXIX, 5, 16: referring to the festival goats: and one goat for a sin offering. The ‘and’ connects and equates the festival goats with the New Moon goat mentioned in the text immediately before them.

Talmud - Mas. Shevu'oth 10a

Thus the festival goats are equated with the New Moon goats; just as the New Moon goats atone for something connected with holy things, so the festival goats atone for something connected with holy things. And if you should say, let them [the festival goats] atone for that for which the New Moon goat atones, [we would reply. No! for] we have said: it [hath He given to you to bear the iniquity] — it [the New Moon goat] bears the iniquity, and no other bears the iniquity. And if you should say, let them atone for that for which the Day of Atonement [outer] goat atones,[1] [we would reply. No! for] we have said: once in the year [shall he make atonement for it][2] — this atonement [of the Day of Atonement outer goat] shall be only once a year. For what, then, do they [the festival goats] atone? If for a case where there is knowledge at the beginning and at the end, the transgressor must bring a [sliding scale] sacrifice? If for a case where there is knowledge at the beginning and not at the end, this is a case where the inner goat and the Day of Atonement hold the sin in suspense? If for a case where there is no knowledge at the beginning but at the end, for this the outer goat and the Day of Atonement atone? Of necessity, therefore, they [the festival goats] atone for a case where there is no knowledge either at the beginning or at the end.

R. MEIR SAYS ALL THE GOATS HAVE EQUAL POWERS OF ATONEMENT, etc.

Said R. Hama b. Hanina: what is R. Meir's reason? — The text [could have] said: ‘one goat’, [but it says:] ‘and one goat’ — all the goats are thus equated with each other: the conjunction and adds to the preceding subject. It was at first assumed that each deduced [its additional powers of atonement] from its neighbour;[3] [but that cannot be, for] R. Johanan said: In the whole Torah a law may be deduced by analogy from another law which has itself been deduced by analogy, except in the case of holy things, where a law may not be deduced by analogy from another law which has itself been deduced by analogy.[4] — This need cause no difficulty: they may all deduce from the first.[5] Granted, in every case where the text has ‘and one goat’,[6] but in the case of Pentecost and the Day of Atonement where the text has not ‘and one goat’, how can we deduce [their laws]? — Well then, said R. Jonah, the verse says: ‘These ye shall offer unto the Lord in your festivals’[7] — all the festivals are equated with each other.[8] But the New Moon is not a festival! Verily, the New Moon is also called a festival, as Abaye said [elsewhere], — for Abaye said Tammuz of that year[9] they made a full month [of thirty days], as it is written: He hath called a solemn assembly [or, festival] against me to crush my young men.[10]

R. Johanan said: R. Meir agrees that the goat offered within [the veil on the Day of Atonement] does not atone their[11] atonements, nor do they atone his atonement. He does not atone their atonements: he atones one atonement, and does not atone two atonements;[12] they do not atone his atonement, for the verse says: once in the year [shall he make atonement][13] — this atonement shall be only once in the year. It was likewise taught [in a Baraitha]: For a case where there is no knowledge either at the beginning or at the end, and for a case where there is no knowledge at the beginning but knowledge at the end, and for a clean man who ate unclean holy food, the festival goats and the New Moon goats and the goat offered outside [the veil on the Day of Atonement] bring atonement: this is the opinion of R. Meir. The inner goat, however, he leaves out, and that they [the others] atone [his atonement] he also leaves out.[14]

NOW, R. SIMEON SAYS THE NEW MOON GOATS ATONE FOR A CLEAN MAN WHO ATE UNCLEAN HOLY FOOD, etc.

Granted that the New Moon goats do not atone for that for which the festival goats atone, because the text says: [It hath He given you to bear] the iniquity[15] — one iniquity it bears, but it does not bear two iniquities; but let the festival goats atone for that for which the New Moon goats atone? — [No!] The text says: it[16] [hath He given you to bear the iniquity] — it bears the iniquity, but no other bears the iniquity.[17] Granted that the festival goats do not atone for that for which the Day of Atonement goat atones, because the text says: once in the year [shall he make atonement][18] — this atonement shall be only once a year; but let the Day of Atonement goat atone for that for which the festival goats atone? [No!] The text says: [And Aaron shall make atonement upon the horns of it] once[19] — one atonement it atones, but it does not atone two atonements. But once is written in connection with the inner goat [and not the outer]! — The text says: [One goat for a sin offering,][20] beside

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(1) Where there is no knowledge at the beginning but at the end.

(2) Ex. XXX, 10; supra 8b.

(3) The Passover goat (Num. XXVIII, 22) is mentioned in Holy Writ immediately after the New Moon goat; it is equated with it, and therefore, like it, atones for a clean man who ate unclean holy food (R. Meir agreeing with R. Simeon that the New Moon goat atones for a clean man who ate unclean holy food.) The Tabernacles goat (Num. XXIX, 16), mentioned immediately after the Day of Atonement goat, is equated with it, and therefore, like it, atones for a case where there is no knowledge at the beginning but at the end; and the Day of Atonement goat, being equated with the Tabernacles goat, atones, like it, for a case where there is no knowledge either at the beginning or at the end. Similarly, all the goats deduce the necessary laws from each other, each one from its nearest neighbour in Holy Writ; the result is that they all equally atone for all things which they atone for individually.

(4) How then, for example, can R. Meir deduce that the Day of Atonement goat atones for a clean man who ate unclean holy food? This has to be deduced first from the Tabernacles goat, which in its turn (being likened to the Passover goat) has to be deduced from the New Moon goat?

(5) They need not deduce, by gradual stages, each one from its nearest neighbour, but they may all equally and simultaneously deduce from the New Moon goat to atone for a clean man who ate unclean holy food; and the New Moon goat may deduce from them (the festival goats) to atone for a case where there is no knowledge either at the beginning or at the end. And all may deduce from the Day of Atonement goat to atone for a case where there is no knowledge at the beginning but at the end; and the Day of Atonement goat from them for a case where there is no knowledge either at the beginning or at the end.

(6) The and adds to the preceding subject, and equates them with each other.

(7) Num. XXIX, 39.

(8) New Moon is included in festival: mo'ed (מועד), appointed season, is the word used in the text.

(9) The second year after the Exodus. The twelve men who went to reconnoitre the land of Canaan left on the 29th of Sivan, and returned on the 8th of Ab (the 2 last days of Sivan, 30 days of Tammuz, and 8 days of Ab 40 days). And the people wept that night (Num. XIV, 1), i.e., on the eve of the 9th of Ab. Because they wept for no reason that night, it was fixed as an annual night of weeping for the future. (The first and second Temples were destroyed on that date); v. Ta'an. 29a.

(10) Lam. I, 15: according to Abaye the verse means this: He called a mo'ed, מועד (festival), i.e., He intercalated an extra day, making Tammuz 30 days, so that the 30th day was proclaimed New Moon (festival), in order to crush my young men, in order that the night of weeping (9th of Ab) would coincide with the date my young men were to be crushed centuries later at the time of the destruction of the Temple.

(11) The outer goat of the Day of Atonement, festival and New Moon goats.

(12) Supra 8b.

(13) Ex. XXX, 10; supra 8b.

(14) He does not include the inner goat with the others; nor does he say that the other goats atone (or hold in suspense) where there is knowledge at the beginning but not at the end.

(15) Lev. X, 17; supra 9b.

(16) New Moon goat.

(17) Supra 9b.

(18) Ex. XXX, 10; supra 8b.

(19) Ibid.

(20) I.e., the outer goat.

Talmud - Mas. Shevu'oth 10b

the sin offering of atonement[1] — hence the outer is equated with the inner.

R. SIMEON B. JUDAH SAID IN HIS [R. SIMEON B. YOHAI'S] NAME: [THE NEW MOON GOATS ATONE FOR A CLEAN MAN WHO ATE UNCLEAN HOLY FOOD; THE FESTIVAL GOATS, IN ADDITION TO ATONING FOR A CLEAN MAN WHO ATE UNCLEAN HOLY FOOD, ATONE ALSO FOR A CASE WHERE THERE WAS NO KNOWLEDGE EITHER AT THE BEGINNING OR AT THE END; THE OUTER GOAT OF THE DAY OF ATONEMENT, IN ADDITION TO ATONING FOR A CLEAN MAN WHO ATE UNCLEAN HOLY FOOD, AND FOR A CASE WHERE THERE WAS NO KNOWLEDGE EITHER AT THE BEGINNING OR AT

THE END, ATONES ALSO FOR A CASE WHERE THERE WAS NO KNOWLEDGE AT THE BEGINNING BUT THERE WAS KNOWLEDGE AT THE END.]

What is the difference: the New Moon goats do not atone for that for which the festival goats atone because the text says: [it hath He given you to bear] the iniquity[2] — one iniquity it bears, but it does not bear two iniquities; then let the festival goats also not atone for that for which the New Moon goats atone, because the text says: it [hath He given you to bear the iniquity][3] — it bears the iniquity, but no other bears the iniquity?[4] — Because [the emphasis on] it does not seem justified to him.[5]

What is the difference: the festival goats do not atone for that for which the Day of Atonement goat atones, because the text says: once in the year [shall he make atonement][6] — this atonement [of the Day of Atonement goat] shall be only once a year; then let the Day of Atonement goat also not atone for that for which the festival goats atone, because it is written: [And Aaron shall make atonement upon the horns of it] once[7] — one atonement it atones, but it does not atone two atonements?[8] [The emphasis on] once does not seem justified to him. Why? — For it is written in connection with the inner goat [and not the outer]. If so, let the festival goats also atone for that for which the Day of Atonement goat atones, because once [in the year] is written in connection with the inner goat [and not the outer]. In reality, [the emphasis on] once does seem justified to him,[9] but here it is different, for the text says: And Aaron shall make atonement upon the horns of it once in the year — the horns, namely, of the inner altar: with reference to this [we say that] it atones one atonement and not two atonements, but with reference to the outer [we may say] it atones even two atonements.[10]

Ulla said that R. Johanan said: The regular offerings which are not required for the community are redeemed unblemished.[11] Rabbah sat and stated this law. Said R. Hisda to him: Who heeds you and R. Johanan, your teacher! Whither has the holiness in them departed![12] He replied to him: Do you not hold that we do not say, ‘whither has the holiness in them departed’?[13] For we learnt in a Mishnah:[14] The remainder of the incense — what was done with it?[15] The wages of the workmen were allocated [from the Temple treasury],[16] and the extra incense was exchanged for this money, and given to the workmen as their wages, and was then re-bought [from them] with the new donations.[17] Now why [should this procedure be permitted]? Let us say, ‘whither has the holiness in them departed’?[18] — He said to him: You argue from incense! Incense is different,

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(1) I.e., the inner goat: Num. XXIX, 11.

(2) Lev. X, 17; supra 9b, 10a.

(3) Ibid.

(4) Why, then, does R. Simeon differentiate, and say that the festival goats do atone for that for which the New Moon goats atone?

(5) It hath He given you to bear the iniquity does not necessarily imply that no other goat can hear the iniquity. It may mean that it (the New Moon goat) was also, in addition to other goats, given the power of bearing the iniquity (of a clean man who ate unclean holy food). But the emphasis on iniquity he holds to be justified, for this word is clearly singular: the verse therefore implies that the New Moon goat atones for only one iniquity.

(6) Ex. XXX. 10: second half of the verse.

(7) Ibid.: first half of the verse.

(8) Why then does R. Simeon say that the Day of Atonement goat does atone also for that for which the festival goats atone?

(9) For, though it is written in connection with the inner goat, it has already been explained that the outer is equated with the inner (v. supra p. 2). Hence, the latter half of the verse: with the blood of the sin offering of atonement once in the year shall he make atonement for it implies that the atonement of the sin offering (i.e., inner goat, and also outer goat, for it has been equated with it) is only once a year, i.e., the other goats (such as the festival goats) cannot make this atonement.

(10) The first half of the verse does not mention the sin offering (i.e., inner goat), but only the inner altar; therefore we cannot say that the deduction that it atones only one atonement refers also to the outer goat; for the outer goat has been equated with the inner goat, but not with the inner altar; hence the outer goat of the Day of Atonement atones also for that for which the festival goats atone.

(11) In the Temple store-room for congregational offerings there had always to be at least six lambs which had been examined and found free from blemish (‘Ar. 13a), in order that there should always be a ready supply for the two daily offerings (Num. XXVIII, 1-4). On the first of Nisan the lambs of the previous year (i.e., the day before) were nor permitted to he sacrificed, because congregational sacrifices were not allowed to be bought with the previous year's donations to the Treasury; hence there were always four lambs left which are not required for the community. These could be redeemed, though they were unblemished, although an individual's offering may not be redeemed unless it has a blemish which disqualifies it as a sacrifice (Men. 101a). The method of redemption was to exchange the four lambs for their money equivalent, the lambs becoming hullin (un-holy), and the money becoming holy, and being utilised for making gold plates to cover the walls and floor of the Holy of Holies. Since the lambs were now not holy, they could be re-bought with the money subscribed in the New Year (1st of Nisan) to the Temple treasury.

(12) Since they were consecrated bodily (קדושת הגוף), and not merely for their value (קדושת דמים), how can they become hullin if they are unblemished?

(13) In the case of a congregational offering, as distinct from an individual's offering.

(14) Shek. IV, 5.

(15) The incense (Ex. XXX, 34-36) was compounded from eleven ingredients: balm, onycha, galbanum, frankincense (in quantities of seventy manehs each in weight), myrrh, cassia, spikenard, saffron (sixteen manehs each), costus (twelve manehs), aromatic bark (three manehs), and cinnamon (nine manehs) — altogether 368 manehs, one for each day of the year (half in the morning, and half in the evening) and three extra for the Day of Atonement (v. Ker. 6a). But in an ordinary lunar year there were 11 manehs over (the lunar year being 354 days); and though these 11 manehs were necessary for supplementing the incense in intercalary years, they had to be bought from the new donations every 1st of Nisan (Tosaf). Some method had to be devised, therefore, of making the remainder of the old incense valid for the new year. — The lye obtained from a species of leek and the Cyprus wine which are mentioned in connection with the incense, were nor actual ingredients, but were used simply for whitening the onycha, and also for making its odour more pungent (Ker. 6a).

(16) Omit ממנה in the text. The workmen were the family of Abtinas who were skilled in compounding the incense for the Temple: Yoma 38a.

(17) The incense, having been exchanged for the money, became hullin, and could be re-bought with the donations of the new year, becoming holy again, and valid for the new year.

(18) And not permit the incense which had once been holy to become hullin; yet we do not say this. It is assumed at present that the mortar in which the incense is pounded, being a holy vessel, makes the incense bodily holy.

Talmud - Mas. Shevu'oth 11a

for it has [only] a monetary holiness.[1] — If so, let it not become invalid by [the touch of] a tebul yom,[2] and yet it has been taught: As soon as it [the incense] is placed in the mortar it becomes liable to invalidation by [the touch of] a tebul yom! But perhaps you will say, all things which have only a monetary holiness are liable to invalidation by [the touch of] a tebul yom — [that cannot be,] for we have learnt:[3] The meal-offerings[4] are liable to be trespassed against[5] as soon as they are verbally consecrated; when they are consecrated in the vessel,[6] they become liable also to invalidation by [the touch of] a tebul yom, and one lacking atonement,[7] and by linah.[8] [Hence we may deduce:] ‘When they are consecrated in the vessel’ — yes, [they become liable to invalidation by the touch of a tebul yom,] but before they are consecrated in the vessel — no![9] — Well then, is it [the incense] holy bodily? If so, let it become invalidated [also] by linah, and yet we have learnt:[10] The handful,[11] and the frankincense,[12] and the incense, and the meal-offering of the priests,[13] and the meal-offering of the anointed [High] Priest,[14] and the meal-offerings brought with libations,[15] are liable to be trespassed against as soon as they are verbally consecrated; when they are consecrated in the vessel, they become liable also to invalidation by [the touch of] a tebul yom, and one lacking atonement, and by linah, [Hence we may deduce:] When ‘they are consecrated in the vessel’ — yes, [they become liable to invalidation by linah,] but before they are consecrated in the vessel — no.[16] He said to him: You argue from [the fact that it is not invalidated by] linah [that therefore the incense is not bodily holy]! Incense is different [it is bodily holy even in the mortar, but is not invalidated by linah], because it retains its form all the year.[17] Nevertheless, the question remains[18] [since the incense is bodily holy]: whither has the holiness in them departed? — Rabbah said: The Beth din make a mental stipulation that if they are required, they are required [i.e., utilised]; but if not, they shall be holy only for their value.[19]

Said Abaye to him: But you, Sir, yourself said, if one consecrates a male [ram] to be holy only for its value, it nevertheless becomes bodily holy?[20] This is no question: [I said it becomes bodily holy] in the case where he said it should be holy for its value to buy a burnt offering;[21] but if he said it should be holy for its value to buy libations [it does not become bodily holy].[22] — Abaye asked him, [It was taught:][23] The bullock and [inner] goat of the Day of Atonement which were lost, others being set apart in their stead,

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(1) It is holy only for its value, and not bodily holy. The mortar in which it is pounded is not deemed to be a holy vessel; the incense can, therefore, be redeemed for money and become hullin, but why should the daily offerings which are actually holy bodily, be redeemable if unblemished?

(2) Lit., 'bathed on that day': a person who, having become unclean, and bathed, is not restored to perfect ritual cleanliness till sunset (Lev. XXII, 6, 7). His touch, before sunset, defiles holy objects. If the incense is not holy bodily, it should not become invalid by the touch of a tebul yom. (The holier the object the more easily it is liable to defilement.)

(3) Me'i. 9a.

(4) Of an individual who had sinned (Lev. V, II), מנחת חוטא; or a voluntary meal-offering (Men. 103a); or that which is brought with a thanksgiving sacrifice (Lev. VII, 12, 13).

(5) Lev. V, 15: unlawful use of sacred property constitutes מְעִילָה, trespass.

(6) Having been brought to the Temple, and placed in the appropriate holy vessel, their holiness is increased.

(7) An unclean person such as a זב; (gonorrhoeist: Lev. XV, 1-15); זבה (woman having irregular issue of blood: Lev. XV, 25-30); woman after childbirth (Lev. XII, 1-8); and leper (Lev. XIV, 1-32); must bring a sacrifice on becoming clean. Before the sacrifice is brought the person is מחוסר כפורים; v. Ker. 8b. Strictly speaking, these four do not 'lack atonement', for they have committed no sin; they merely have to bring a sacrifice in order to be permitted to partake of holy food.

(8) Being kept over night.

(9) Hence things which have only a monetary, and not a bodily, holiness, are not liable to invalidation by the touch of a tebul yom; why then should the incense, if it has only a monetary holiness, become invalidated by the touch of a tebul yom?

(10) Me'i. 10a.

(11) Lev. II, 2: a handful (three middle fingers bent over the hollow of the palm) was taken by the priest from an individual's meal-offering, and burnt on the altar; the rest was eaten by the priest.

(12) Ibid. I: frankincense was put on the meal-offering to flavour it.

(13) Lev. VI, 16: a priest's meal-offering was wholly burnt on the altar.

(14) Ibid. 15.

(15) Num. XXVIII and XXIX: these meal-offerings are wholly burnt.

(16) This vessel is not the mortar in which the incense is pounded, but the vessel in which it is placed when brought to the altar to be burnt; for, while in the mortar, the Baraitha states, it is invalidated by the touch of a tebul yom, and not by linah, whereas this Mishnah states that when the incense is consecrated in the vessel it is invalidated also by linah; obviously, therefore, this is a different (holier) vessel. The incense, then, before it is placed in this holier vessel is not bodily holy.

(17) Linah does not alter its appearance or freshness as it would, for example, in the case of meat. When consecrated in the vessel, however, it is liable to invalidation by linah (though it still retains its form), because all other things consecrated in a vessel are liable to invalidation by linah; if incense were not so liable, it might sometimes be erroneously inferred that the others were also not so liable.

(18) Both in the case of incense and the daily offerings; why should they be redeemable if bodily holy?

(19) The authorities, when buying animals for the daily offerings, or when having the incense compounded, decide that only that which is necessary for that year shall become bodily holy; and that the rest shall become holy only for their value, and therefore be redeemable.

(20) And cannot be redeemed, because it is itself fit for a sacrifice. Accordingly, even granted that the Beth din do make the stipulation that they shall be holy only for their value, the daily offerings and incense ought still to retain their bodily holiness, and the question. 'Whither has the holiness in them departed?' remains.

(21) And since the ram is itself fit for a burnt offering, it cannot be sold in order that for its money another ram may be bought.

(22) Similarly, the Beth din have the power to stipulate at the outset that the daily offerings or incense not required shall become holy only for their value to provide gold plates for the floor and walls of the Holy of Holies.

(23) Tosaf. Yom Hakkip. IV.

Talmud - Mas. Shevu'oth 11b

and also the goats to atone for idolatry[1] which were lost, others being set apart in their stead — they all die.[2] This is the opinion of R. Judah. R. Eleazar and R. Simeon say: They pasture till they become unfit [for sacrifice],[3] then they are sold, the money going as a donation [to the Temple treasury], for a congregational sin-offering does not die.[4] — Why [should they be starved, or pasture till they become blemished]? Let us say the Beth din make a mental stipulation [that if they be lost and found again they be redeemed unblemished]? — You quote the case of lost sacrifices! Lost sacrifices are different, because they are rare.[5] But the red heifer[6] is rare, and yet it was taught:[7] The red heifer is redeemed on account of any disqualification in it; if it died, it is redeemed; if it was slaughtered,[8] it is redeemed; if he found another which was more excellent, it is redeemed;[9] but if he had already slaughtered it on its wood-pile,[10] it can never be redeemed?[11] The red heifer is different, for it is in the category of holy things for Temple repair.[12] If so,[13] how is it redeemed if it died or was slaughtered [outside the prescribed place], surely we require 'placing and valuation'?[14] — This will be in accordance with R. Simeon, who says that holy things for the altar are subject to the law of 'placing and valuation', but holy things for the Temple repair are not subject to the law of 'placing and valuation'.[15] If it is in accordance with R. Simeon's view, how will you explain the last clause:[16] If he had already slaughtered it on its wood-pile, it can never be redeemed? Surely, it has been taught:[17] R. Simeon says. 'The red heifer defiles the defilement of edibles,[18] because it had a period of fitness.'[19] And R. Simeon b. Lakish said: 'R. Simeon used to say that the red heifer may be redeemed [even] on its woodpile!'[20] Well, then, the red heifer is different, because it is expensive.[21]

The Master said: 'If it died, it is redeemed.' Do we then redeem holy things in order to feed dogs?[22] — R. Mesharsheya said: [It is redeemed] for the sake of its hide.[23] Do the Beth din, then, make a mental stipulation [merely] for the sake of its hide?[24] — R. Kahana said: 'Men say, of a camel the ear [is valuable].'[25]

He further asked him:[26] THEY SAID TO R. SIMEON: IS IT PERMITTED TO OFFER UP THE GOAT SET APART FOR ONE DAY ON ANOTHER? HE SAID TO THEM: IT MAY BE OFFERED. THEY ARGUED WITH HIM: SINCE THEY ARE NOT EQUAL IN THE ATONEMENT THEY BRING, HOW CAN THEY TAKE EACH OTHER'S PLACE? HE REPLIED: THEY [ARE ALL AT LEAST EQUAL IN THE WIDER SENSE IN THAT THEY] ALL BRING ATONEMENT FOR TRANSGRESSIONS OF THE LAWS OF UNCLEANNESS IN CONNECTION WITH THE TEMPLE AND HOLY FOOD THEREOF.[27] Now, why [should R. Simeon give such an unconvincing reply]? Let him say, the Beth din make a mental stipulation in their case![28] — You argue thus against R. Simeon! R. Simeon does not hold that the Beth din are empowered to make a mental stipulation; for R. Idi b. Abin said that R. Amram said that R. Johanan said: The regular offerings which are not required for the community are, according to R. Simeon, not redeemed unblemished;[29] and, according to the Sages, are redeemed unblemished.

Who are the Rabbis who disagree with R. Simeon [and hold that the Beth din make a mental stipulation]? Shall we say they are the Rabbis [who state the law] of incense?[30]

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(1) Num. XV, 22-26: referring to congregational lapse into idolatrous worship through erroneous ruling of the Beth din,

(2) I.e., the lost ones which were found again after the others had already been sacrificed (v. Hor. 6a); they are put in a special stable, and not given food, so that they die. V. Kid. 55b; Tem. IV, 1; Tosaf. Yom Tob.

(3) By becoming blemished.

(4) I.e,, is not starved to death. Sin-offerings of individuals are, in certain circumstances, starved to death; but not congregational sin-offerings. V. Tem. 15a.

(5) It is rare for a sacrifice to be lost, and the Beth din, therefore, do not deem it necessary to make a stipulation for such an infrequent occurrence.

(6) Num. XIX. During the whole period of the first and second Temples only seven were prepared. V. Parah III, 5.

(7) Tosaf. Parah l.

(8) Outside the spot prescribed for the purpose on the Mount of Olives. V. Parah III, 6-11,

(9) Even if it has no blemish.

(10) In the proper place and in accordance with the prescribed ritual.

(11) Even if he finds a better one. Since everything in connection therewith has been correctly performed, it would not be seemly to redeem it and make it hullin (v. Glos.). Now reverting to the first clause of this Baraitha, how could it be redeemed without a blemish, seeing that the Beth din do not make mental stipulations in connection with rare matters?

(12) קדשי בדק הבית I.e., holy only for its value, and not for offering on the altar, קדשי מזבח, and therefore redeemable without a blemish. קדשי בדק הבית is equivalent to קדושת דמים; v. Yoma 42a.

(13) If it is holy only in respect of its value.

(14) Lev. XXVII, 11, 12; He shall place (lit., cause to stand) the beast before the priest. And the priest shall value it. The beast must be able to stand on its feet to be valued and redeemed. If it died or was slaughtered, it cannot stand: how, then, can it be redeemed? It appears that if it were holy for the altar, the question would not arise, for, according to one authority (v. Tem, 32b), offerings for the altar, when redeemed, do not require ‘placing and valuation’. V. Tosaf.

(15) Tem, 32b: they may be redeemed even if they are not able to stand,

(16) Lit., ‘say the last clause.’

(17) Tosaf. Parah VI.

(18) After it has been slaughtered, its flesh can become unclean by contact with the carcass of an unclean animal (or clean animal not ritually killed), and it can then make edibles unclean by contact. Although the enjoyment of any kind of benefit from it is prohibited, and, according to R. Simeon, only edibles that are permitted are considered edibles capable of receiving and transmitting defilement (Men. 101b), it is, nevertheless, counted as an edible, because there was a time when the use of it might have been permitted, as explained infra. If it be asked, surely the flesh of the red heifer itself defiles without contact with a carcass, v. Hul. 82a, Rashi; B.K. 77a, Tosaf., for an explanation.

(19) I.e., capable of being counted fit as an edible.

(20) I.e., if a better one was obtainable, the heifer could be redeemed even after having been ritually slaughtered. This is the period of fitness to which R. Simeon alludes, and in virtue of which the flesh is regarded by him as an edible; R. Simeon holding that whatever is capable of being redeemed is counted as if it were redeemed. How, then, can the Baraitha be in accordance with R. Simeon's view, since the last clause in it states that if he slaughtered it on its wood-pile it can never be redeemed?

(21) The Baraitha will not be in accordance with R. Simeon's view; and the reason for its statement that if he found a better heifer it can be redeemed, is that the Beth din make a mental stipulation to that effect; and though a red heifer is rare, yet, because it is expensive, the Beth din deem it worth while to make such a stipulation. The red heifer was expensive because it was difficult to obtain one which fulfilled all the ritual requirements: e.g., two black or white hairs rendered it unfit (Parah II, 5). A perfectly red heifer was so rare that almost any price could be demanded by the owner. Dama b. Nethina, a heathen, received 600,000 gold denarii for a red heifer (Kid. 31a).

(22) If it died, its consumption is prohibited.

(23) Which may be utilised.

(24) Which is such an insignificant item.

(25) A proverb current in his day. Of a valuable animal even a small part is valuable.

(26) Abaye asked Rabbah.

(27) Supra Mishnah 2b.

(28) That if a goat set apart for the Day of Atonement, for example, is not offered on that day, it may be offered on a festival or New Moon. V. Rashal, comment on Rashi, a.l.

(29) This proves that he does not hold that the Beth din are empowered to make a mental stipulations; (v. supra 11a).

(30) Supra 10b. The incense left over at the end of the year was redeemed, because the Beth din made a mental stipulations to that effect.

Talmud - Mas. Shevu'oth 12a

[It may be retorted,] Incense is different, because it cannot be put to pasture.[1] Well, then, the Rabbis [who State the law] of the red heifer.[2] [But again it may be urged:] Perhaps the red heifer is different, because it is expensive![3] — Well, then, the Rabbis [of our Mishnah] who argued with him.[4] [But here again,] how do you know that it is R. Judah[5] [who argues with R Simeon], and that thus he argues with him: ‘It is right according to my view, holding as I do that the Beth din make a mental stipulation; therefore the goat set apart for one day may be offered on another; but according to you who say, no, [we do not say the Beth din make a mental stipulation], why should the goat set apart for one day be offered on another?’ — [How do you know this?] Perhaps it is R. Meir[6] [who argues with R. Simeon], and thus he argues with him: ‘It is right according to my view, holding as I do that all the goats bring equal atonement, therefore the goat set apart for one day may be offered on another; but according to you [who do not hold that all the goats bring equal atonement], why should the goat set apart for one day be offered on another?’ [Who, then, are the Rabbis who disagree with R. Simeon, holding that the Beth din make a mental stipulation?] — But. R. Johanan had a tradition that, according to R. Simeon, they [the daily offerings] are not redeemed [unblemished]; and, according to the Sages, they are redeemed.[7]

And according to R. Simeon who does not hold that the Beth din make a mental stipulation [that the daily offerings which are not required should be redeemed], what is done with them? R. Isaac said that R. Johanan said: They are offered as dessert[8] to the altar.

R. Samuel, son of R. Isaac, said: R. Simeon admits, however, that the goats for a sin-offering are not themselves offered as dessert for the altar, but their money equivalent;[9] for here [in the case of the surplus daily offering], it was originally intended for a burnt-offering, and it is now also a burnt-offering; but there [in the case of the sin-offering], it was originally intended for a sin-offering, and now it will be a burnt-offering; [it is, therefore, not permitted to be offered up itself,] a restriction being imposed even after [the congregation have had] atonement [with another sin-offering], as a preventive measure [in case it may be offered up] before [the congregation have had] atonement [with another].[10]

Abaye said: We have also learnt [in a Baraitha]:[11] The bullock and [inner] goat of the Day of Atonement which were lost, others being set apart in their stead; and also the goats to atone for idolatry which were lost, others being set apart in their stead — they all die: this is the opinion of R. Judah. R. Eleazar and R. Simeon say: They pasture till they become unfit [for sacrifice], and then they are sold, the money going as a donation [to the Temple treasury],[12] for a congregational sin-offering does not die![13] — Now, why [should they pasture till they become blemished and then be sold]? Let them be offered up themselves as burnt-offerings [as dessert for the altar]. Obviously, therefore, [since they do not say this], we may deduce that a restriction is imposed [even] after atonement as a preventive measure [in case they may be offered up] before atonement.

Raba said: We have also learnt:[14] . . . and the second one[15] pastures till it becomes unfit [for sacrifice], when it is sold, and the money goes as a donation [to the Temple treasury].[16] Now, why [should it pasture till it becomes blemished and then be sold]? Let it be offered up itself as a burnt-offering [as dessert for the altar]. Obviously, therefore, [since this is not done,] we may deduce that a restriction is imposed [even] after atonement as a preventive measure [in case it may be offered up] before atonement,

Rabina said: We have also learnt.[17] A guilt offering[18] the owner of which died, or obtained atonement [with another], pastures till it becomes unfit [for sacrifice],[19] when it is sold, and the money goes as a donation [to the Temple treasury]. R. Eliezer says: It dies.[20] R. Joshua says: He brings a burnt-offering for its money.[21] Now, let it be offered up itself as a burnt-offering [as dessert for the altar]. Obviously, therefore, [since this is not done,] we may deduce that a restriction is imposed [even] after atonement as a preventive measure [in case it may be offered up] before atonement. This is conclusive.

This has also been taught [in the following Baraitha].[22] What do they bring from the surplus [congregational offerings]?

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(1) Therefore the Beth din make a mental stipulation, but in the case of the regular daily offerings that are left over at the end of the year, since they may he put to pasture till they become blemished, and then redeemed, the Beth din would make no mental stipulations. The Rabbis who state the law of incense may, therefore, agree with R. Simeon in the case of the daily offerings. Who, then, are the Rabbis who disagree with him?

(2) Supra 11b. The red heifer may be redeemed unblemished.

(3) Therefore the Beth din deem it worth while to make a mental stipulation, but in the case of the daily offerings which are not expensive, the Beth din possibly do not make a mental stipulation.

(4) Thus: Since the goats are not equal in the atonement they bring, and since you do not hold that the Beth din can make a mental stipulation that if the goat of the Day of Atonement, for example, was lost and found later, it may be offered on a subsequent festival, how according to you, can the goat set apart on one day be offered on another? These Rabbis, then, themselves hold that the Beth din can make a mental stipulation.

(5) Who agrees with R. Simeon that the goats do not bring equal atonement (v. supra. Mishnah 2a), and disagrees with him only in that he holds that the Beth din make a mental stipulation that the goats can take each other's place.

(6) Who holds that all the goats bring equal atonement (v. supra Mishnah 2b). R. Judah, however, may not argue with R. Simeon, as he may not hold that the Beth din make a mental stipulation, and R. Meir's question to R. Simeon could quite as easily be directed against R. Judah too. R. Judah, also, would agree with R. Simeon's reply.

(7) Because they do hold that the Beth din make a mental stipulation.

(8) קיץ is summer fruit, v. II Sam. XVI, 1, 2. These burnt offerings were consumed by the altar after the usual obligatory offerings had been consumed, just as summer fruit (dessert) is taken at the end of a meal. Barth (Jahrb. der jud. Liter. Gesel. VII. 129), connects קיץ המזבח with the Syriac קיסא ‘wood’, and translates it ‘fuel for the altar’, i.e., the extra burnt offerings are used as fuel for the altar when the ordinary offerings have been consumed. This is ingenious, but farfetched, and against the Talmud's own explanation of the word (infra 12b, top) ‘as white figs for the altar’. Barth's objection that קיץ though meaning ‘summer fruit’, never has the meaning ‘dessert’, is unreasonable, for fruit is obviously dessert. — R. Simeon holds that the superfluous regular offerings are sacrificed on the altar as congregational freewill burnt-offerings, because they were originally intended as burnt-offerings (though as regular offerings and not as dessert); just as he holds, in the Mishnah, that a goat which was not offered on a festival may be offered on the New Moon or Day of Atonement because, through not exactly the same, they are all at least equal in that they atone for the sins of uncleanness connected with the Temple and holy food.

(9) If, for example, the New Moon goat for the month of Adar was lost, and found in Nisan, it cannot be offered up then, for it was bought with money from the previous year, but it may he used as dessert for the altar; it cannot, however, itself be offered on the altar as a burnt-offering, for it was originally intended as a sin-offering. It is allowed to pasture till it becomes blemished, and is then redeemed, and the money is expended on the purchase of an animal for a burnt-offering as dessert for the altar.

(10) After the congregation have had atonement with another sin-offering there is no reason why this sin-offering should not itself be permitted to be offered up as a burnt-offering as dessert for the altar. It is, however, prohibited, for, if it were permitted, it might be taken as a precedent for offering it up as a burnt-offering even before the congregation have had at atonement with another sin-offering, when it is still a sin offering, having been expressly allocated for that purpose.

(11) V. supra 11a. Confirming that R. Simeon holds sin offerings may not themselves be used as dessert for the altar, but only their money equivalent may be used, because a restriction is imposed even after atonement, in case they may be offered up before atonement.

(12) From which burnt offerings are bought as dessert for the altar. V. Suk. 56a, Rashi.

(13) Supra 11a-b.

(14) Another confirmation.

(15) Two goats were required for the Day of Atonement (Lev. XVI, 5-10), one of which, after lots had been cast, was offered up as a sin-offering, and the other hurled down a steep precipice in the wilderness (Yoma 67a). If the goat which bad to be sent into the wilderness died, two other goats had to be obtained, and lots cast again. There were now two goats for a sin-offering to the Lord, the one left over from the first pair and one from the second pair. One of them was offered up as a sin-offering, and the other left to pasture till it became blemished, when it was sold, and the proceeds expended on a burnt-offering as dessert for the altar.

(16) Yoma 62a: ‘Because a congregational sin-offering does not die.’ It is R. Simeon who is known to hold this view; and yet he says that the goat is not itself offered up as dessert for the altar, but is sold, after it becomes blemished, and a burnt-offering bought from the proceeds.

(17) Tem. 20b. Another confirmation.

(18) Lev. V, 15-26; XIV, 12; XIX, 20-22; Nuns. VI, 12. There are different kinds of guilt-offerings, v. Zeb. V, 5.

(19) A sin-offering would, in such circumstances, be starved to death, v. Tem. 16a. Where a sin-offering is starved, a guilt-offering pastures, Tem. 18a.

(20) Holding the view that a guilt-offering is like a sin-offering; v. Zeb. 2a.

(21) The owner of the guilt-offering who obtained atonement with another sells this one, and for its money brings a burnt-offering; it is counted as his own private burnt-offering, and he must therefore supply the libations to go with it. According to the first view, as it comes from funds that had gone to the Temple treasury, it is counted as a congregational burnt-offering, and the libations are supplied from the public funds. V. Tem. 20b.

(22) In confirmation that surplus congregational offerings remaining over at the end of the year are used as dessert for the altar, as R. Simeon holds; but v. Tosaf.

Talmud - Mas. Shevu'oth 12b

Dessert like white figs[1] for the altar. But it is written: For any leaven or honey ye shall not offer up as smoke, as an offering made by fire unto the Lord?[2] — R. Hanina explained: [The burnt-offerings are dessert for the altar] as white figs are [dessert] for man.

R. Nahman son of R. Hisda expounded: A burnt-offering of a bird is not offered as dessert for the altar.[3] Raba said: This is an absurdity! Said R. Nahman b. Isaac to Raba: Wherein lies its absurdity? I told it him; and in the name of R. Shimi of Nehardea I told it him; for R. Shimi of Nehardea said: The surplus offerings are utilised as congregational donations;[4] and a burnt-offering of a bird cannot be a congregational burnt offering.[5]

And Samuel also agrees with R. Johanan,[6] for Rab Judah said that Samuel said: In the case of congregational offerings, it is the knife that draws them to what they are.[7]

It has also been taught likewise:[8] And R. Simeon admits that the goat which was not offered on a festival may be offered on the New Moon; and if it was not offered on the New Moon, it may be offered on the Day of Atonement; and if it was not offered on the Day of Atonement, it may be offered on a festival; and if it was not offered on this festival, it may be offered on another festival; for it was originally intended only to make atonement on the outer altar.

AND FOR WILFUL TRANSGRESSION OF THE LAWS OF UNCLEANNESS IN CONNECTION WITH THE TEMPLE AND HOLY FOOD THEREOF THE GOAT OFFERED WITHIN [THE VEIL] AND THE DAY OF ATONEMENT ITSELF BRING ATONEMENT.[9]

How do we know this? For our Rabbis learnt. [Scripture says:] And he shall make atonement for the holy place, because of the uncleannesses of the children of Israel, and because of their transgressions, even all their sins:[10] Transgressions mean rebellious acts,[11] and thus it says, The king of Moab hath rebelled against me;[12] and also, Then did Libnah revolt at the same time.[13] Sins mean unwitting sins, and thus it says: If any one shall sin through error.[14]

FOR OTHER TRANSGRESSIONS OF THE TORAH, LIGHT AND HEAVY, WILFUL AND UNWITTING, KNOWN AND UNKNOWN, POSITIVE AND NEGATIVE, THOSE PUNISHABLE BY KARETH AND THOSE PUNISHABLE BY DEATH AT THE HAND OF THE BETH DIN FOR ALL THESE THE SCAPEGOAT BRINGS ATONEMENT.[15]

Surely LIGHT is equivalent to POSITIVE AND NEGATIVE; HEAVY is equivalent to THOSE PUNISHABLE BY KARETH AND THOSE PUNISHABLE BY DEATH AT THE HAND OF THE BETH DIN; KNOWN is equivalent to WILFUL; and UNKNOWN is equivalent to in UNWITTING![16] — Rab Judah said: Thus he means:[17] For other transgressions of the Torah, whether light or heavy, whether committed unwittingly or wilfully — those committed unwittingly, whether their doubtful commission[18] was known to him or not known to him; and these are the light transgressions: positive and negative; and these are the heavy transgressions: those punishable by kareth and those punishable by death at the hand of the Beth din. That positive precept [for transgression of which the scapegoat atones] — how is this [to be understood]? If he did not repent, [why should the scapegoat atone? Surely it is written:] The sacrifice of the wicked is an abomination![19] If he did repent, [why do we require the scapegoat? Repentance on] any day avails, for it was taught: If he transgressed a positive precept and repented, he does not move from there until he is forgiven![20] — R. Zera said:

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(1) V. Ber. 40b.

(2) Lev. II, 11. Any sweet fruit juice is called honey. (Rashi, a.l.) How, then, can you use the expression like white figs for the altar?

(3) The money obtained from selling superfluous congregational sin-offerings or individual guilt-offerings is not expended on buying a turtle-dove or young pigeon to be offered as dessert for the altar.

(4) And the money obtained from their sale is used for providing burnt-offerings as dessert for the altar on behalf of the congregation.

(5) Lev. I, 14: He shall bring his offering of turtle-doves or of young pigeons. His offering: an individual may bring a bird as an offering, but not a congregation. (Sifra.)

(6) Supra 12a, that, according to R. Simeon, the surplus of regular offerings are used as dessert for the altar; and, according to the Rabbis, they are redeemed unblemished, and are re-bought to be sacrificed as regular offerings in the coming year; so that, both according to R. Simeon and the Rabbis, the regular offerings themselves are sacrificed, and they need not be put to pasture till they become blemished.

(7) It is the slaughtering knife, or, in other words, the moment of slaughter, that determines their purpose. Before they are slaughtered, however, they may be changed, according to R. Simeon, from one type of offering to another, e.g., from regular burnt-offerings to dessert (also burnt-offerings); and, according to the Rabbis who hold that the Beth din have the power to make a mental stipulation, the year's surplus of regular offerings may be redeemed unblemished, and later re-bought and sacrificed as regular offerings in the coming year. V. Rabbenu Hananel and Tosaf. a.l.; Zeb. 6b, Rashi and Tosaf.

(8) Confirmation of Samuel's statement that congregational offerings are drawn by the knife to be what they are; and that even R. Simeon holds this view. The Rabbis obviously hold this view, for they say the Beth din have the power to stipulate that the surplus regular offerings may be redeemed unblemished; but even R. Simeon, who disagrees with them, nevertheless holds that an offering which was set apart for one purpose may be sacrificed for a similar purpose, for be holds that the goats of all the festivals, New Moon, and Day of Atonement, are interchangeable, because they are all at least equal in that they are offered on the outer altar to bring atonement for transgressions of the laws of uncleanness connected with the Temple and holy food; and he would therefore similarly hold that the surplus regular offerings may be offered as dessert, because regular offerings and dessert are both at least equal in that they are both burnt-offerings; and it is at the moment of slaughter that their purpose is fixed.

(9) Supra 2b.
(10) Lev. XVI, 16; with the inner goat (verse 15).
(11) I.e., wilful transgressions.
(12) II Kings III, 7. The word used, פשע, is from the same root as that which is used in Lev. XVI, 16, and translated transgressions.
(13) Ibid. VIII, 22. The same root, פשע, is here also used for revolt.
(14) Lev. IV, 2. The word used for sin is from the same root, חטא, as that which is used for sins in Lev. XVI, 16.
(15) Supra 2b.
(16) Then why the repetition?
(17) The latter half is explanatory of the former half: POSITIVE AND NEGATIVE is explanatory of LIGHT, and KARETH AND DEATH is explanatory of HEAVY. And both light and heavy transgressions whether committed wilfully or unwittingly are atoned for by the scapegoat. KNOWN AND UNKNOWN is an amplification of UNWITTING.
(18) If, for example, he ate one of two pieces of fat, one of which was prohibited fat (חלב, Lev. III, 3, 4), and the other permitted fat (שומן); and he is in doubt as to which of the two he ate, he would normally have to bring a guilt-offering for a doubtful sin (אשם תלוי, v. Lev. V, 17, 18, Rashi). Whether he became aware or not of the doubtful commission of this sin before the Day of Atonement, and if he had not yet brought his offering, he need not bring it after the Day of Atonement, for the scapegoat had atoned for it (Ker. 25a-b).
(19) Prov. XXI, 27.
(20) Yoma 86a.

Talmud - Mas. Shevu'oth 13a

[It refers to the case of a man] who persists in his rebellion;[1] and it is in accordance with Rabbi's view, for it was taught: Rabbi said: For all transgressions of the Torah, whether he repented or not, the Day of Atonement brings atonement, except in the case of one who throws off the yoke,[2] perverts the teachings of the Torah,[3] and rejects the covenant in the flesh[4] — [in these cases,] if he repented, the Day of Atonement brings atonement, and if not — the Day of Atonement does not bring atonement.

What is Rabbi's reason? For it was taught: [Scripture says:] Because he hath despised the word of the Lord:[5] this refers to one who throws off the yoke, or perverts the teachings of the Torah; and hath broken His commandment:[5] this refers to one who rejects the covenant in the flesh; that soul shall utterly be cut off:[5] to be cut off before the Day of Atonement; he shall be cut off, after the Day of Atonement.[6] I might think that [this is the case] even if he repented, therefore Scripture says: his iniquity shall be upon him.[5] I did not say [that the Day of Atonement does not bring atonement] except when his iniquity is still on him.[7] And the Rabbis?[8] — [They may reply: Scripture means] to be cut off, in this world; he shall be cut off in the world to come.[9] His iniquity shall be upon him: if he repented[10] and died, death wipes out [the sin].[11]

But how can you establish [our Mishnah as being] in accordance with the view of Rabbi?[12] Surely since the last clause is in accordance with R. Judah's view, the first clause must also be in accordance with R. Judah's view! For the last clause states — [THE SCAPEGOAT BRINGS ATONEMENT FOR] ISRAELITES, PRIESTS, AND THE ANOINTED HIGH PRIEST.[13] Now, who holds this view? R. Judah.[14] Therefore the first clause must also be in accordance with R. Judah' view![15] — R. Joseph said: It is really in accordance with Rabbi's view, and he is in agreement with R. Judah.[16]

Said Abaye to him: Do you, Master, mean particularly that Rabbi agrees with R. Judah, but R. Judah does not agree with Rabbi;[17] or that just as [you say,] Rabbi agrees with R. Judah, so also R. Judah agrees with Rabbi, but you state, as is customary, that a disciple agrees with his master?[18] — He replied: I mean particularly that Rabbi agrees with R. Judah, but R. Judah does not agree with Rabbi; for it was taught: I might think that the Day of Atonement should atone for those who repent and for those who do not repent; and [although] an analogy [might be adduced to the contrary thus]: since sin-offering and guilt-offering atone, and the Day of Atonement atones, [we might therefore say,] just as the sin-offering and guilt-offering atone only for those who repent,[19] so the Day of Atonement atones only for those who repent, [yet we could argue,] sin-offering and guilt-offering do not atone for wilful transgression[20] as for unwitting, [therefore they atone only for those who repent], but the Day of Atonement atones for wilful as for unwitting transgression, [therefore let us say that] just as it atones for wilful as for unwitting transgression, so let it atone for those who repent and for those who do not repent — therefore Scripture says: Howbeit[21] [on the tenth day of this seventh month is the Day of Atonement] — this limits [the power of the Day of Atonement]. Now, who is the author of any anonymous statement in the Sifra? — R. Judah;[22] and it states that [the Day of Atonement atones] for only those who repent, and not for those who do not repent.[23]

But there is a contradiction between one anonymous statement in the Sifra and another! For it was taught: I might think that the Day of Atonement should not atone unless he fasted on it, and called it a holy convocation,[24] and did no work on it; but if he did not fast on it, and did not call it a holy convocation, and worked on it — whence do we deduce [that the Day atones for him]? Scripture says: It is a Day of Atonement[25] — in all cases [it atones].[26] Abaye said: This is no question; this [latter statement] is in accordance with the view of Rabbi,[27] and that [former statement] is in accordance with the view of R. Judah. Raba said: Both statements are in accordance with Rabbi's view; but Rabbi admits [that the Day does not atone for] the kareth of the Day itself;[28] for, if you will not say this, does not Rabbi hold that there is kareth for the Day of Atonement![29] Why not?[30] It is possible, for example, in the case where he committed [the sin][31] at night, and died, so that the Day did not come to atone for him![32] — But, say:

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(1) I.e., who did not repent, nevertheless the scapegoat atones for him, according to Rabbi; and the verse, the sacrifice of the wicked is an abomination, which implies that a wicked man (i.e., who does not repent) cannot obtain atonement with a sacrifice, has reference to a sacrifice on any other day, except the Day of Atonement.

(2) Denying the existence of God.

(3) Lit., ‘reveals an aspect of the Torah (not in accordance with the correct interpretation)’, or ‘acts in a bare-faced manner against the Torah.’ For a full discussion of the phrase, v. Sanh. 99a and Aboth III, 11.

(4) Circumcision. V. loc. cit.

(5) Num. XV, 31. Lit., ‘to be cut off, he shall be cut off’. הכרת תכרת: the infinitive preceding the finite verb is taken as emphatic.

(6) I.e., the Day of Atonement shall not have the power is wipe out the sin.

(7) I.e., when he did not repent. According to Rabbi, therefore, it is only for these three sins that the Day of Atonement brings no atonement without repentance; but for other sins it brings atonement even without repentance.

(8) Who disagree with Rabbi, holding that the Day does not atone even for other sins, without repentance. How will they interpret the emphasis of Scripture on that soul shall utterly be cut off?

(9) In the case of these three sins, if the sinner does not repent; and even death cannot wipe out these sins without repentance; but in the case of other sins, if he does not repent, death has the power to wipe them out. The Day of Atonement, however, has not the power to wipe out even other sins without repentance.

(10) His iniquity being no longer upon him.

(11) Whereas in the case of other sins, apart from these three, death without repentance wipes them out.

(12) That for all sins, except these three, the Day of Atonement brings atonement, even without repentance; and that the Mishnah, in stating that the scapegoat of the Day of Atonement atones for the transgression of positive precepts, refers to cases of non-repentance, in accordance even Rabbi's view.

(13) Supra 2b.

(14) Infra 13b: that the scapegoat brings atonement for the priests.

(15) And not Rabbi's.

(16) That the scapegoat brings atonement for the priests.

(17) That the Day of Atonement brings atonement even when there is no repentance.

(18) R. Judah the Prince was a disciple of R. Judah b. Il'ai; and therefore you said that Rabbi agrees with R. Judah, but the reverse is also true.

(19) Lev. V, 5: he shall confess that wherein he hath sinned (sin-offering); Num. V, 7: they shall confess their sin (guilt-offering); (cf. verse 8, and Lev. V, 15).

(20) V. Rashi: the majority of sin offerings and guilt offerings atone only for unwitting transgressions, but there are a few exceptions.

(21) Lev. XXIII, 27. Heb. אך implies limitation: that the Day should atone only for those who repent. V. Sifra, a.l.

(22) Sanh. 86a: an accepted Talmudic maxim. The Sifra is the tannaitic exposition of Leviticus (v. Sanh. p. 567, n. I).

(23) Hence R. Judah, who is the author of the anonymous passage quoted from the Sifra, does not agree with Rabbi.

(24) By including in the prayers on that day: Blessed art Thou, O Lord . . . Who sanctifiest Israel and the Day of Atonement; and by wearing holiday garments to signify his acceptance of the Day as holy. V. Ker. 7a, Tosaf.

(25) Lev. XXIII, 28. V. Sifra, a.l.

(26) Hence this anonymous statement in the Sifra holds that the Day atones even for those who do not repent (but actually sin on the very Day); it, therefore, contradicts the other statement in the Sifra.

(27) That the Day atones even for those who do not repent. It is not an anonymous statement, but should be mentioned in the Sifra as being the view of Rabbi.

(28) The first anonymous statement that the Day does not atone for whose who do not repent refers only to the sins, punishable by kareth, of the Day itself, such as non-fasting and working; the second statement that the Day does atone, even when the person does not fast, refers to other sins, i.e., the Day atones for other sins committed during the year even without fasting on the Day; but it cannot atone for the sin of non-fasting on the Day itself.

(29) If the Day atones for all sins, even connected with the Day itself, without repentance, why does Scripture decree the punishment of Kareth for transgressing the Day (Lev. XXIII, 29)? It can never be put into effect. Obviously, therefore, Rabbi must make the distinction which Raba suggests.

(30) Rabbi may hold that the Day atones even for the kareth which it itself carries, and yet it is possible to find a case where kareth is inflicted.

(31) Punishable by kareth, e.g., non-fasting.

(32) The night of Atonement cannot atone; Only the Day has the power of atonement: For on this Day shall atonement be made for you (Lev. XVI, 30).

Talmud - Mas. Shevu'oth 13b

Does not Rabbi hold that there is kareth for the day [of the Day of Atonement]?[1] Why not?[2] It is possible in the case where he ate a piece of meat, which choked him,[3] so that he died; or, he ate it almost at the setting of the sun,[4] so that there was not time to atone for him.[5]

[THE SCAPEGOAT BRINGS ATONEMENT EQUALLY FOR] ISRAELITES, PRIESTS, AND THE ANOINTED HIGH PRIEST.[6]

This itself is contradictory: he states that [THE SCAPEGOAT BRINGS ATONEMENT EQUALLY FOR] ISRAELITES, PRIESTS, AND THE ANOINTED HIGH PRIEST; then he states WHAT IS THE DIFFERENCE BETWEEN ISRAELITES, PRIESTS, AND THE ANOINTED HIGH PRIEST?[7] Rab Judah said, thus he means: Israelites, priests, and the anointed High Priest all equally obtain atonement with the scapegoat for other sins, and there is no difference between them [in this respect]; but what is the difference between Israelites, priests, and the anointed High Priest? [This:] the bullock atones for the priests for transgression of the laws of uncleanness in connection with the Temple and holy food thereof [whereas for Israelites the inner and outer goats atone for these transgressions]. And who holds this view?[8] R. Judah; for it was taught: [Scripture says:] And he shall make atonement for the most holy place,[9] this means the Holy of Holies; and the tent of meeting,[9] this means the Holy place; and the altar[9] — in its usual sense; he shall atone,[9] this means for the various compartments in the Temple court; and for the priests[9] — in the usual sense; and for all the people of the assembly;[9] this means the Israelites;[10] he shall atone,[9] this means for the Levites; they are all equated for one atonement,[11] in that they obtain atonement with the scapegoat for other sins: this is the opinion of R. Judah. R. Simeon Says: Just as the blood of the goat offered within [the veil] atones for Israelites for transgression of the laws of uncleanness connected with the Temple and holy food thereof, so the blood of the bullock atones for the priests for transgression of the laws of uncleanliness connected with the Temple and holy food thereof; and just as the confession pronounced over the scapegoat atones for Israelites for other sins, so the confession pronounced over the bullock atones for the priests for other sins.[12]

But according to R. Simeon [it may be asked]: Surely they have been equated![13] — In what respect are they equated? In that they all obtain atonement, but each obtains atonement with his own.[14]

What is R. Simeon's reason?[15] — It is written: And he shall take the two goats:[16] the scapegoat is equated with the goat offered within [the veil]; just as the goat offered within [the veil] does not atone for the priests for transgression of the laws of uncleanness connected with the Temple and holy food thereof, because it is written concerning it: [the goat of the sin offering] that is for the people;[17] so the scapegoat does not atone for the priests for other sins. And R. Judah?[18] — He may say to you: For this reason they are equated, that they should be alike in colour, height, and value.[19]

Who is the Tanna who made this statement which the Rabbis taught. [viz., Scripture says:] He shall kill the goat of the sin offering that is for the people:[20] [this teaches] that the priests do not obtain atonement with it; and with what do they obtain atonement? With the bullock of Aaron.[21] I might think that they should not obtain atonement with the bullock of Aaron, for it has already been said: [And Aaron shall offer the bullock of the sin offering] which is for himself;[22] hence they would have no atonement at all.[23] But when Scripture says: And he shall make atonement for the priests,[24] we find that they have atonement. With what do they obtain atonement? It is better that they should obtain atonement with the bullock of Aaron, for it was released from its implication,[25] in order to include also his house;[26] and that they should not obtain atonement with the goat offered within [the veil], which was not released from its implication.[27] in order to include also his house. And if you desire to say anything,[28] [I may add another argument, for] Scripture says: O house of Aaron, bless ye the Lord; O house of Levi, bless ye the Lord; ye that fear the Lord, bless ye the Lord.[29] Who is the Tanna [of this Baraitha]?[30] — R. Jeremiah said: It is not R. Judah, for if R. Judah, surely he says the priests obtain atonement with the scapegoat![31] Then who is it? Raba said: It is R. Simeon who holds that the priests do not obtain atonement with the scapegoat. Abaye said: You may even say that it is R. Judah, and thus he[32] reasons: Hence they would have no atonement at all for transgression of the laws of uncleanness connected with the Temple and holy food thereof;[33] but when Scripture says: And he shall make atonement for the priest, we find that they have atonement for other sins; and just as we find that they have atonement for other sins, so they have atonement

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(1) If he holds that the Day atones even for transgression of the Day itself, the punishment of kareth decreed for transgressing the Day can never he put into effect; yet Scripture says: For whatsoever soul it be that shall not be afflicted in that same day, he shall be cut off from his people (Lev. XXIII, 29).

(2) Rabbi may still hold that the Day atones even for the kareth which it carries, and yet it is possible to have a case where kareth operates.

(3) So that not even a moment of the Day passed after the eating of it; but had he lived a moment after eating, the Day would have atoned.

(4) At the termination of the Day.

(5) Hence it is possible that Rabbi holds the Day atones even for the kareth it involves, and Raba's distinction does not necessarily follow.

(6) Supra 2b.

(7) Ibid.

(8) That the scapegoat atones also for priests for other sins.

(9) Lev. XVI, 33.

(10) From this verse it is deduced that the High Priest on the Day of Atonement makes atonement with the bullock and goat for the transgression of the laws of uncleanness in the Holy of Holies, holy place, altar, etc. If one, that is to say, became unclean in the Holy of Holies, and tarried for such time as he could prostrate himself (v. infra 16b), or if he offered incense on the golden altar while unclean, or entered other compartments of the Temple court while unclean, he has transgressed the law of uncleanness, and for this the bullock atones for priests, and the goat for Israelites.

(11) Priests, Levites, and Israelites, are all deduced from this latter part of the verse, which is superfluous, as obtaining equal atonement; but this equal atonement cannot refer to the atonement for transgression of the laws of uncleanness connected with the Temple and holy food, because in this case the atonements are not equal, the bullock atoning for priests, and the inner and outer goats for Israelites and Levites. The equal atonement, consequently, refers to the scapegoat which atones for priests, Israelites, and Levites, for other sins.

(12) V. supra p. 4, n. 7.

(13) The verse quoted by R. Judah above seemingly implying that both Israelites and priests obtain atonement with the scapegoat for other sins.

(14) Priest with the bullock, and Israelite with the goat.

(15) For stating that the scapegoat does not atone for priests for other sins.

(16) Lev. XVI, 7: the inner goat and the scapegoat.

(17) Ibid. 15.

(18) How will he explain this equation of the two goats?

(19) Yoma VI. 1.

(20) Lev. XVI, 15.

(21) Or his successor in the High Priest's office.

(22) Lev. XVI, 6.

(23) Neither with the goat, which is for the people, nor with the bullock, which is for Aaron.

(24) Lev. XVI, 33.

(25) The Biblical statement, which is for himself, implies that the bullock atones only for himself, and for other priests.

(26) Lev. XVI, 6: And he shall make atonement for himself in for his house, i.e., household. The bullock, therefore, atones for more than himself; it may, therefore, atone also for the other priests.

(27) Lev. XVI, 15: The goat of the sin offering that is for the people.

(28) In refutation of this argument.

(29) Ps. CXXXV, 19, 20. All priests are included in House of Aaron; therefore the priests obtain atonement with Aaron's bullock, for Scripture says: And he shall make atonement for himself and for his house.

(30) Which states that if the priests would not obtain atonement with Aaron's bullock, they would have no atonement at all.

(31) At least for other sins; whereas, according to the Baraitha, it appears that their atonement depends entirely on the bullock of Aaron.

(32) R. Judah who is the Tanna of the Baraitha.

(33) If we should say that the priests can obtain atonement neither with the inner goat of the people nor with bullock of the High Priest for the sins of uncleanness connected with the Temple, the result would be that they would have no atonement at all for these sins; though for other sins they would still obtain atonement with the scapegoat.

Talmud - Mas. Shevu'oth 14a

for the sins of uncleanness in connection with the Temple and holy food thereof. With what do they obtain atonement? It is better that they should obtain atonement with the bullock of Aaron, for it was released from its implication, in order to include also his house; and that they should not obtain atonement with the goat offered within [the veil], which was not released from its implication. And if you desire to say anything, [I may add another argument, for] Scripture says: O house of Aaron, bless ye the Lord, etc.

What [is meant by]: If you desire to say anything?[1] You might say, it is written: [He shall atone for himself and for] his house,[2] [therefore I add the argument that] all [priests] are called his house, for it is said: O house of Aaron, bless ye the Lord . . . ye that fear the Lord, bless ye the Lord.

Now, as to the phrase, that is for the people,[3] does it come for this purpose?[4] Surely it is required [to deduce] that the Divine Law means it should be from the people's [funds]![5] — This we may deduce from: And from the congregation of the Children of Israel [he shall take two goats].[6]

Now, as to the phrase, which is for himself,[7] does it come for this purpose?[8] Surely it is required [to deduce] that which was taught: From his own [funds] he brings [the bullock], and he does not bring it from public funds. I might think that he does not bring it from public funds, because the congregation do not obtain atonement with it, but he may bring it from [funds subscribed by] his brother priests, for his brother priests obtain atonement with it, therefore Scripture says: which is for himself.[9] I might think that he should not bring it [from priestly subscriptions], but if he did, it is still valid,[10] therefore Scripture says once more: which is for himself;[11] the verse repeats it in order to make [this condition] indispensable![12] — The Tanna meant thus in his argument: Why do they [the priests] not obtain atonement with [the goat of] the people? — Because they spend no money on it, for it is written: that is for the people;[13] [then we should say, that since] on Aaron's [bullock] they also spend no money,[14] [they should not obtain atonement with it,][15] therefore he says, they are all called his house.[16]

It is right according to R. Simeon[17] that Scripture mentions two confessions[18] and the blood of the bullock:[19] one instead of the goat offered within [the veil],[20] one instead of the goat offered outside,[21] and one instead of the scapegoat.[22] But according to R. Judah,[23] why do we require two confessions and the blood of the bullock? One confession and the blood should suffice![24] — One for himself and one for his household;[25] as it was taught in the Academy of R. Ishmael:[26] Thus the nature of justice is practiced:[27] it is better that the innocent should come and atone for the guilty, and not that the guilty should come and atone for the guilty.

CHAPTER II

MISHNAH. THE LAWS CONCERNING THE DISCOVERY OF HAVING UNCONSCIOUSLY SINNED THROUGH UNCLEANNESS ARE TWO, SUBDIVIDED INTO FOUR;[28] [IF] HE BECAME UNCLEAN AND WAS AWARE OF IT,[29] THEN THE UNCLEANNESS BECAME HIDDEN FROM HIM, THOUGH HE REMEMBERED THE HOLY FOOD;[30] [IF THE FACT THAT IT WAS] HOLY FOOD WAS HIDDEN FROM HIM, THOUGH HE REMEMBERED THE UNCLEANNESS; [IF] BOTH WERE HIDDEN FROM HIM; AND HE ATE HOLY FOOD, AND WAS NOT AWARE,[31] AND WHEN HE HAD EATEN, BECAME AWARE: — IN THESE CASES HE BRINGS A SLIDING SCALE SACRIFICE. [IF] HE BECAME UNCLEAN AND WAS AWARE OF IT, THEN THE UNCLEANNESS BECAME HIDDEN FROM HIM, THOUGH HE REMEMBERED THE TEMPLE;[32] [IF THE FACT THAT IT WAS] THE TEMPLE WAS HIDDEN FROM HIM, THOUGH HE REMEMBERED THE UNCLEANNESS; [IF] BOTH WERE HIDDEN FROM HIM; AND HE ENTERED THE TEMPLE, AND WAS NOT AWARE,[33] AND WHEN HE HAD GONE OUT, BECAME AWARE: — IN THESE CASES HE BRINGS A SLIDING SCALE SACRIFICE.

IT IS THE SAME WHETHER ONE ENTERS THE TEMPLE COURT OR THE ADDITION TO THE TEMPLE COURT,[34] FOR ADDITIONS ARE NOT MADE TO THE CITY [OF JERUSALEM], OR TO THE TEMPLE COMPARTMENTS EXCEPT BY KING, PROPHET, URIM AND TUMMIN,[35] SANHEDRIN OF SEVENTY ONE,[36] TWO [LOAVES] OF THANKSGIVING,[37] AND SONG;[38] AND THE BETH DIN WALKING IN PROCESSION, THE TWO [LOAVES] OF THANKSGIVING [BEING BORNE] AFTER THEM, AND ALL ISRAEL [FOLLOWING] BEHIND THEM.

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(1) What argument could be used to refute this reasoning?

(2) Limiting the atonement to his household, and excluding other priests.

(3) Lev. XVI, 15.
(4) To limit the atonement by the inner goat to Israelites, and to exclude priests.
(5) Though the bullock of the High Priest is bought from his own private means.
(6) Lev. XVI, 5
(7) Ibid. 6.
(8) To limit the atonement by the bullock to the High Priest, and to exclude others.
(9) Lev. XVI, 11: אשר לו, which may be translated which is his, i.e., bought with his own money.
(10) Sometimes an action which is not directly permissible before it is done is declared legitimate after it has been done, a distinction being drawn between לכתחלה (before the act) and דיעבד (after the act).
(11) Lev. XVI, 11. אשר לו occurs twice in this verse, and once in verse 6. The first, in verse 6, prohibits the buying of the High Priest's bullock from public funds; the second, in verse 11, prohibits its purchase from priestly funds; and the third, in verse 11, is לעכב, to emphasize that it must be bought from his own funds, and that even if it had already been bought from priestly funds it is invalid.
(12) The phrase אשר לו is, therefore, necessary for this deduction. How then could the Tanna suggest that it would come to limit the atonement by the bullock to the High Priest, and exclude other priests, were it not for the further arguments adduced to include them?
(13) From which we have deduced that it must be bought from the people's money, and not from the priest's money. More accurately, this deduction was made from the phrase: from the congregation of the Children of Israel; v. supra, and Tosaf.
(14) For it must be bought from the High Priest's private means, as deduced from אשר לו.
(15) The Tanna, therefore, in stating that from the phrase אשר לו we might be inclined to exclude other priests from the atonement of the bullock, meant that, because from this phrase we deduced that other priests must not subscribe to it, we would, for that very reason, exclude them from the atonement.
(16) All priests are included in the house of Aaron, and therefore obtain atonement with his bullock, though they are not permitted to subscribe towards its cost.
(17) Who holds that the priests obtain all their atonement with the bullock, and have no atonement at all, even for the other sins, with the scapegoat.
(18) Lev. XVI, 6, 11: And he shall make atonement occurs twice. It refers to the verbal confession before the bullock is killed (Yoma 36b).
(19) Ibid. 14: And he shall take of the blood of the bullock, and sprinkle it etc.
(20) Which holds in suspense the sin in connection with uncleanness where there was knowledge at the beginning but not at the end.
(21) Which atones for the case where there was no knowledge at the beginning but knowledge at the end.
(22) Which atones for other sins. And for these three types of sin for which Israelites obtain atonement with the three goats, the priests obtain atonement with the two confessions and the blood sprinkling of the bullock.
(23) Who holds that the priests obtain atonement for other sins with the scapegoat.
(24) One instead of the inner goat, and one instead of the outer goat.
(25) He confesses his own sins, and then, being innocent, is in a position to make confession for the other priests.
(26) Yoma 43b.
(27) I.e., common sense dictates this.
(28) This Mishnah, elaborating the statement of the Mishnah, supra 2a, explains fully which are the four: forgetfulness of uncleanness (in connection with eating holy food), forgetfulness of holy food, forgetfulness of uncleanness (in connection with entering the Temple), forgetfulness of Temple, v. infra 14b.
(29) Either immediately or later.
(30) I.e., was aware that it was holy food he was eating.
(31) That he was unclean, or that the food was holy, or both.
(32) I.e., that the place he had entered was the Temple.
(33) That he was unclean, or that it was the Temple he had entered, or both.
(34) The additional portion is as holy as the original, for it is consecrated with full ceremonial. An unclean person entering the additional portion must, therefore, also bring a sacrifice. The whole of the Temple court was 187 cubits long and 135 cubits wide; and was divided into a number of compartments (Mid. V.). An unclean person was prohibited from entering anywhere within the court.

(35) V. Ex. XXVIII, 30; and Rashi, a.l.

(36) The great Sanhedrin sitting in Jerusalem; there were minor courts in each town composed of 3 members, for deciding monetary questions, and of 23 members, for deciding questions of life and death; v. Sanh. 2a.

(37) V. infra 15a.

(38) V. infra 15b.

Talmud - Mas. Shevu'oth 14b

THE INNER ONE IS EATEN, AND THE OUTER ONE IS BURNT.[1] AND AS TO ANY ADDITION THAT WAS MADE WITHOUT ALL THESE — HE WHO ENTERS IT [WHILE UNCLEAN] IS NOT LIABLE.[2]

IF HE BECAME UNCLEAN IN THE TEMPLE COURT [AND WAS AWARE OF IT], AND THE UNCLEANNESS THEN BECAME HIDDEN FROM HIM, THOUGH HE REMEMBERED THE TEMPLE; [OR, THE FACT THAT IT WAS] THE TEMPLE BECAME HIDDEN FROM HIM, THOUGH HE REMEMBERED THE UNCLEANNESS; [OR,] BOTH BECAME HIDDEN FROM HIM, AND HE PROSTRATED HIMSELF, OR TARRIED THE PERIOD OF PROSTRATION,[3] OR WENT OUT THE LONGER WAY, HE IS LIABLE; THE SHORTER WAY, HE IS NOT LIABLE; THIS IS THE POSITIVE PRECEPT CONCERNING THE TEMPLE[4] FOR WHICH THEY [THE BETH DIN] ARE NOT LIABLE.[5] AND WHICH IS THE POSITIVE PRECEPT CONCERNING A MENSTRUOUS WOMAN FOR WHICH THEY ARE LIABLE?[6] [THIS:] IF ONE COHABITED WITH A CLEAN WOMAN, AND SHE SAID TO HIM: ‘I HAVE BECOME UNCLEAN!’;[7] AND HE WITHDREW IMMEDIATELY, HE IS LIABLE,[8] BECAUSE HIS WITHDRAWAL IS AS PLEASANT TO HIM AS HIS ENTRY.[9]

R. ELIEZER SAID: [SCRIPTURE SAYS: ‘IF ANY ONE TOUCH. . . THE CARCASS OF] AN UNCLEAN CREEPING THING, AND IT BE HIDDEN FROM HIM’:[10] WHEN THE UNCLEAN CREEPING THING IS HIDDEN FROM HIM, HE IS LIABLE; BUT HE IS NOT LIABLE, WHEN THE TEMPLE IS HIDDEN FROM HIM.[11] R. AKIBA SAID: [SCRIPTURE SAYS:] ‘AND IT BE HIDDEN FROM HIM THAT HE IS UNCLEAN’:[12] WHEN IT IS HIDDEN FROM HIM THAT HE IS UNCLEAN, HE IS LIABLE; BUT HE IS NOT LIABLE, WHEN THE TEMPLE IS HIDDEN FROM HIM.[13] R. ISHMAEL SAID: [SCRIPTURE SAYS:] ‘AND IT BE HIDDEN FROM HIM’ TWICE,[14] IN ORDER TO MAKE HIM LIABLE BOTH FOR THE FORGETFULNESS OF THE UNCLEANNESS AND THE FORGETFULNESS OF THE TEMPLE.

GEMARA. Said R. Papa to Abaye: TWO, SUBDIVIDED INTO FOUR! They are two, subdivided into six! Knowledge of the uncleanness at the beginning and at the end; knowledge of the holy food at the beginning and at the end; knowledge of the Temple at the beginning and at the end! — But [even] according to your argument, they should be eight; for there is the uncleanness in connection with eating holy food, and the uncleanness in connection with entering the Temple, [necessitating knowledge] both at the beginning and at the end![15] This is no question; the name uncleanness is the same.[16] [But] nevertheless [there remains the question] there are six? — R. Papa said: Verily, they are eight:[17] the first four which do not make him liable for a sacrifice[18] are not counted; but the last four which make him liable for a sacrifice are counted. Some say: [Thus] said R. Papa: Verily, they are eight: the first four which occur nowhere else in the whole Torah are counted;[19] but the last four which occur elsewhere in the Torah are not counted.

R. Papa asked; If the laws of uncleanness were hidden from him, what [is the ruling]? How do you mean? Shall we say that he did not know whether a reptile is unclean, or a frog is unclean?[20] Surely, this is taught in school![21] — Well then, he did know that a reptile is unclean, but, for example, he touched [a portion of a reptile] the size of a lentil; and he did not know whether the size of a lentil contaminates or not: What [is the ruling]? [Shall we say] since he knew that a reptile contaminates, this is counted knowledge; or, since he did not know whether the size of a lentil contaminates or not, it is counted as unawareness?[22] — The question remains undecided.[23]

R. Jeremiah asked: If a Babylonian went up to Palestine, and the place of the Temple was hidden from him;[24] what [is the ruling]? — According to whose view? If according to R. Akiba, who holds there must be knowledge at the beginning,[25] [the question does not arise, for] he does not make him liable for [uncleanness in connection with] forgetfulness of the Temple;[26] if according to R. Ishmael, who does make him liable for [uncleanness in connection with] forgetfulness of the Temple,[27] [again the question does not arise, for] he does not require knowledge at the beginning?[28] — It is not necessary [to ask this question except] according to Rabbi, who requires knowledge at the beginning, and makes him liable in the case of forgetfulness of the Temple,[29] and who holds, furthermore, that knowledge gained from a teacher is counted knowledge;[30] what [is the ruling]? [Shall we say], since he knew that there was a Temple in existence, this is called knowledge; or, since its place was not known to him it is counted as unawareness?[31] — The question remains undecided. IT IS THE SAME WHETHER ONE ENTERS THE TEMPLE COURT, etc. How do we know?[32] — R. Shimi b. Hiyya said: Because Scripture says: According to all that I show thee, the pattern of the tabernacle, and the pattern of all its vessels,

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(1) Ibid.

(2) Because it is not holy.

(3) V. infra 16b.

(4) Num. V, 2: Command the children of Israel that they send out of the camp . . . whosoever is unclean. If uncleanness occurs to him while in the precincts of the Temple, he must leave immediately by the shortest route.

(5) If the Beth din give an erroneous ruling, permitting that which is prohibited, they must bring a bullock for a sin-offering: If the whole congregation of Israel shall err . . . and do any of the things which the Lord hath commanded not to be done . . . the assembly shall offer a young bullock (Lev. IV, 13, 14). Congregation of Israel refers to the Beth din (Great Sanhedrin); v. Hor. 4b. In the present instance, if the Beth din give an erroneous ruling in connection with uncleanness occurring to a person while in the Temple, they do not bring a bullock, for they only bring a bullock for an erroneous ruling on a matter which, when unwittingly done by an individual, must be atoned for by a sin-offering, but not for an erroneous ruling on a matter which, when unwittingly done by an individual, is atoned for by a sliding scale sacrifice; v. Hor. 8b.

(6) Lev. XV, 31: Ye shall separate the children of Israel from their uncleanness; v. infra 18b. For an erroneous ruling on this the Beth din bring a bullock, because an individual, for an unwitting transgression of this precept, brings a sin offering.

(7) This is similar to entering the Temple legitimately while clean, and becoming unclean while in the Temple.

(8) And brings a sin offering.

(9) Coition; the remedy is to remain passive till the genital member becomes quiescent, when he withdraws.

(10) Lev. V, 2.

(11) He brings a sliding scale sacrifice for entering the Temple when unclean only when be has forgotten that he is unclean through contact with the carcass of a creeping thing, and not when he has forgotten that it is the Temple he is entering.

(12) Lev. V, 2.

(13) V. infra 18b for an explanation of the difference between the views of R. Eliezer and R. Akiba.

(14) Lev. V, 2, 3.

(15) The Mishnah uses the expression ידיעות הטומאה, states of knowledge (or, awareness) of the uncleanness. Had the Mishnah used the word העלמות, states of forgetfulness (or, unawareness), it would have been justified in stating that there are only four (v. supra p. 66, n. 1); states of awareness are, however, eight; for each state of unawareness must be preceded and followed by a state of awareness.

(16) The states of unawareness of the uncleanness both in connection with eating holy food and entering the Temple are reckoned as coming under one category. There are, therefore, only six states of awareness; before and after, in connection with the unawareness of the holy food; before and after, in connection with the unawareness of the Temple; before and after, in connection with the unawareness of the uncleanness (whether with reference to eating holy food or entering the Temple).

(17) The states of awareness are definitely eight, v. n. 1.

(18) For, if he remains unaware at the end, he cannot, obviously, bring a sacrifice.

(19) Elsewhere, with reference to the commission of other transgressions, there need be no awareness before the act that it was forbidden.

(20) E.g., he touched a dead toad (צב, Lev. XI, 29) which resembles a frog, and did not know the law that a toad contaminates. A dead frog does not contaminate by touch (Ker. 13b).

(21) Lit., 'go, read it in school'. All children know that the carcass of a reptile contaminates (Lev. XI, 29, 30). His temporary forgetfulness of this law is, therefore, immaterial. He is reckoned as having knowledge at the beginning, and later, when eating holy food (having forgotten that he is unclean), there is unawareness in the middle; ultimately, when the knowledge at the end comes to him, he brings a sliding scale sacrifice. Had ignorance of the law been counted as unawareness, there would have been, in this case, no knowledge at the beginning, and he would not be liable for a sacrifice.

(22) Therefore, there is no knowledge at the beginning.

(23) Lit., 'Let it stand'.

(24) And he entered the Temple whilst unclean, and had never been aware that this building was the Temple.

(25) Supra 4a.

(26) Supra Mishnah 14b.

(27) Ibid.

(28) Infra 19b.

(29) Supra 4a-b.

(30) Supra 5a.

(31) And there is no knowledge at the beginning. The fact that he knew there is a Temple in existence does not constitute 'knowledge gained from a teacher', because he never knew its site; but in the case where he became unclean by touching a carcass though he was not aware at the moment of contact that this contact made him unclean, it is nevertheless counted as knowledge at the beginning (knowledge gained from a teacher), because he had been aware at one time that contact with a carcass makes him unclean, and he had been aware at the moment of contact that he was touching a carcass.

(32) That king, prophet, etc. are necessary for consecrating an addition to the Temple court.

Talmud - Mas. Shevu'oth 15a

even so shall ye make it[1] — for future generations. Raba objected: All the vessels which Moses made were consecrated by their anointing;[2] thenceforth,[3] their employment in the service dedicated them.[4] Now why? Let us say: so shall ye make it — for future generations.[5] — It is different there, for Scripture says: And he anointed them and sanctified them[6] — 'them' he anointed; but [vessels] in future generations [are] not [consecrated] by anointing. But you may say: 'them' he anointed; but [vessels] in future generations [may be consecrated] either by anointing or by employment in the service? — R. Papa said: Scripture says. [And they shall take all the vessels of ministry,] wherewith they minister in the sanctuary;[7] the verse makes them dependent upon ministry.[8] Now that Scripture has written 'wherewith they minister', why do we require 'them'?[9] — If Scripture had not written 'them', I might have said: these [in the time of Moses] were [consecrated] by anointing [only], but [vessels] in future generations [require both] anointing and employment in service, for Scripture has written so shall ye make it;[10] therefore Scripture limits [by writing] 'them' — them[11] by anointing, but not [vessels] in future generations by anointing.[12]

AND WITH TWO [LOAVES] OF THANKSGIVING. We learnt: The two thanksgiving offerings which are mentioned refer to their loaves and not their flesh.[13] How do we know? R. Hisda said: Because Scripture says: And I placed two great thanksgiving offerings,[14] and we went in procession, on the right upon the wall.[15] Now, what is meant by 'great'? Shall we say, from a great [or, large] kind actually?[16] [If so,] let him say, oxen! But then, large of their kind?[17] [That is impossible, for] is there any importance [attached to size] before Heaven? Surely we learnt: It is said with reference to a burnt offering of cattle: an offering made by fire, a sweet savour [unto the Lord];[18] with reference to a burnt offering of a bird: an offering made by fire, a sweet savour [unto the Lord];[19] with reference to a meal offering: an offering made by fire, a sweet savour [unto the Lord].[20] This teaches us that it is the same whether one gives much or little, as long as he directs his heart to his Father who is in Heaven! — Well then, that which is [inevitably] the larger in the thanksgiving offering, and which is it? The leaven. For we learnt: The thanksgiving offering came from five Jerusalem se'ahs, which are equivalent to six wilderness[21] se'ahs, which are two ephahs, (for an ephah is three se'ahs); twenty tenths [of an ephah],[22] ten for leavened, and ten for unleavened [loaves]; and the unleavened [loaves] were of three kinds: cakes, wafers, and cakes saturated with oil.[23] [Hence, the leavened loaves were larger.][24]

Rami b. Hama said: The [addition to the] Temple court is not sanctified except by the remnants of the meal offering.[25] What is the reason? — Like Jerusalem; just as Jerusalem is sanctified by that which must be eaten within it,[26] so the Temple court is sanctified by that which must be eaten within it.[27] Cannot then the loaves of thanksgiving be eaten in the Temple court?[28] — Well then, like Jerusalem; just as Jerusalem [is sanctified by] that which must be eaten within it, and which, if it goes outside it, becomes invalid,[29] so the Temple court [is sanctified by] that which must be eaten within it, and which, if it goes outside it, becomes invalid.[30] [But why not say,] just as there[31] it is leaven, so here[32] let it be leaven? — How can you reason thus? Is there, then, a meal offering of leaven![33]

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(1) Ex. XXV, 9; the phrase, so shall ye make it, being superfluous, because it has already been said, Let them make Me a sanctuary (verse 8), is taken to imply that whatever was done for the tabernacle in the wilderness should be done for any future tabernacle or Temple. The tabernacle was consecrated in the presence of King and Prophet (Moses), Urim and Tummim (worn by Aaron), and the seventy elders.

(2) With the holy anointing oil (Ex. XXX, 25-28), becoming thereby bodily holy.

(3) Vessels in later times were not anointed.

(4) V. Sanh 16b.

(5) And let them require anointing.

(6) Num. VII, 1; the tabernacle and all its vessels.

(7) Num. IV, 12; this verse is taken to refer to future vessels, because the word used, ישרתו is in the future tense (lit., ‘they will minister’); v. Rashi, Sanh. 16b.

(8) I.e., being employed in the service, they become vessels of ministry (holy).

(9) Since we deduce from the phrase wherewith they minister that vessels in the future are consecrated by ‘ministry’, why do we require the emphasis on ‘them’ to exclude vessels in the future.

(10) In the future: Just as now the vessels are consecrated by anointing, so they shall be in the future; and that vessels in the future are consecrated by ‘ministry’ is deduced from wherewith they minister; hence they require both anointing and employment in service in order to become consecrated.

(11) In the time of Moses.

(12) But by ‘ministry’ only.

(13) A thanksgiving offering comprises, in addition to the animal sacrificed, loaves of unleavened and leavened bread (Lev. VII, 12, 13).

(14) שתי תודות גדולות: E.V, two great companies that gave thanks.

(15) Neh. XII, 31. The verse refers to the re-dedication of Jerusalem by Nehemiah.

(16) The animals of the thanksgiving offerings were of a large breed (e g., oxen) and not of a small breed (e.g., sheep).

(17) I.e., even if they were of a small breed (e.g., sheep), the largest of that kind were brought.

(18) Lev. I, 9.

(19) Ibid. 17.

(20) Lev. II, 2.

(21) I.e., Biblical se'ahs, measures referred to in the Bible, when the Israelites were in the wilderness.

(22) For it was is made of 6 se'ahs = 2 ephahs; and an ephah is 10 tenths (i.e., omers): an omer is the tenth part of and ephah (Ex. XVI, 36).

(23) Lev. VII, 12; ten loaves of each kind were made, so that there were thirty unleavened loaves made from the ten omers; the leavened loaves were only of one kind (Lev. VII, 13); so that the ten leavened loaves were equal to the thirty unleavened loaves; each leavened loaf was, therefore, three times the size of an unleavened loaf (Men. 77a).
(24) Nehemiah's statement that he took two large thanksgiving offerings therefore means two leavened loaves of the thanksgiving offering.
(25) Eaten by the priests (Lev. VI, 9).
(26) The two loaves of the thanksgiving offering must be eaten within the city.
(27) The remnant of the meal offering eaten by the priests (Lev. VI, 9).
(28) The priest may eat the portion he receives from an Israelite's thanksgiving offering (Lev. VII, 14) within the Temple court, if he desires. Since the loaves of thanksgiving may, therefore, be eaten in the Temple court, let them sanctify the addition to the Temple court.
(29) The loaves of thanksgiving, if taken outside the city walls, become invalid.
(30) The remnant of the meal offering eaten by the priests becomes invalid, if taken outside the Temple court,
(31) In sanctifying the city two loaves of leavened bread are used.
(32) In sanctifying the Temple court.
(33) Since we require the remnant of a meal offering to sanctify the Temple Court, it must perforce be unleavened: No meal offering, which ye shall bring unto the Lord, shall be made with leaven (Lev. II, 11).

Talmud - Mas. Shevu'oth 15b

And if you should say that he leavens the remnants,[1] and sanctifies with them, [that cannot be, for] it is written: It shall not be baked leavened. As their portion [have I given it].[2] And Resh Lakish said: Even their portion must not be baked leavened. But why not?[3] It is possible to sanctify it with the two loaves of Pentecost![4] — It is impossible. How shall he do it? Shall he build it[5] on the eve [of Pentecost], and sanctify it on the eve? The two loaves become holy only by the sacrifice of the lambs [on Pentecost].[6] Shall he build it on the eve, and sanctify it now [on Pentecost]? We require sanctification at the time of [the completion of] the building. Shall he complete the building on the festival, and sanctify it on the festival? The building of the Temple does not supersede the festival.[7] Shall he leave [the two loaves] till [a day] later, and complete the building and sanctify it? They [the loaves] become invalid by linah.[8] Shall he build it on the eve of the festival, and leave a little [incomplete], so that when he has recited the blessing at the end of the day [Habdalah], he may complete it immediately and sanctify it?[9] The building of the Temple cannot take place at night, for Abaye said: How do we know that the building of the Temple cannot take place at night? Because it is said: ‘And on the day that the tabernacle was reared up’[10] — during the ‘day’ it is reared up, during the night it is not reared up. Therefore it is not possible.[11]

AND WITH SONG. Our Rabbis taught: The song of thanksgiving[12] was [accompanied by] lutes,[13] lyres,[14] and cymbals[15] at every corner and upon every great stone in Jerusalem; and [the psalm] is intoned; I will extol Thee, O Lord, for Thou hast raised me up etc.;[16] and the song against evil occurrences,[17] and some call it the song against plagues. He who calls it [the song] against plagues [does so] because it is written: neither shall any plague come nigh thy tent;[18] and he who calls it [the song] against evil occurrences [does so] because it is written: a thousand may fall at my side;[19] [that is to say, this psalm] is intoned: O thou who dwellest in the secret place of the Most High, and abidest in the shadow of the Almighty, till for thou hast made the Lord who is my refuge, even the Most High, thy habitation;[20] and then again [this psalm] is intoned; A Psalm of David, when he fled from Absalom his son. Lord, how many are mine adversaries become! till Salvation belongeth unto the Lord; Thy blessing be upon Thy people. Selah.[21]

R. Joshua b. Levi recited these verses[22] when retiring to sleep. How could he do so? Did not R. Joshua b. Levi [himself] say it is prohibited to heal oneself with words of the Torah?[23] — To protect oneself is different.[24] Well then, when he said it is prohibited, [he meant] where there is [already] a wound. If there is a wound, is it merely prohibited, and nothing else? Surely, we have learnt: He who utters an incantation[25] over a wound has no portion in the world to come![26] — But it has been taught with reference to this; R. Johanan said: They taught [this law only] if he spits, for the Name of Heaven must not be mentioned in connection with spitting.[27]

THE BETH DIN WALK IN PROCESSION, THE TWO [LOAVES] OF THANKSGIVING BEING BORNE AFTER THEM, etc. Shall we say that the Beth din walk in front of the [loaves of] thanksgiving? Surely, it is written: And after them [the two loaves] went Hoshaiah and half of the princes of Judah.[28] — Thus he means: The Beth din walk, and the two [loaves] of thanksgiving are borne, and the Beth din walk behind.[29]

How are they borne? — R. Hiyya and R. Simeon son of Rabbi [disagreed]: One said, one opposite the other; and the other said, one behind the other.[30] According to the one who holds they were opposite each other, the inner one is that which is nearest the wall;[31] and according to the one who holds that they were one behind the other, the inner one is that which is nearest the Beth din.[32]

We learnt: THE INNER ONE IS EATEN, AND THE OUTER ONE IS BURNT. It is right according to the one who holds that they were one behind the other, therefore the inner one is eaten, because the outer one came before it and sanctified the place;[33] but according to the one who holds that they were opposite each other, they both simultaneously sanctified the place![34] — But even according to your reasoning, according to the one who holds they were one behind the other, [why is the inner one eaten?] does the one [loaf][35] then sanctify the place? Surely, we have learnt: ANY [ADDITION] THAT WAS NOT MADE WITH ALL THESE [IS NOT HOLY];[36] and even according to the one who holds [that the reading in the Mishnah is]: 'with any one of all these',[37] [still] these two [loaves] together are one precept![38] — Well then, said R. Johanan,

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(1) After the ritual has been performed by the priest with the unleavened meal offering, he takes the remnant due to him, and makes it leavened.

(2) Lev. VI, 10. לא תאפה חמץ חלקם may be translated: 'their portion must not be baked leavened.'

(3) Is it not really possible to sanctify the Temple court with a meal offering of leaven?

(4) Lev. XXIII, 17: they shall be baked leavened.

(5) The addition in the Temple court.

(6) Lev. XXIII, 20: And the priest shall wave them with the bread of the first-fruits for a wave offering before the Lord, with the two lambs; they shall be holy to the Lord. Though the loaves are holy for their value (קדושת דמים) before the lambs are sacrificed, for they are purchased from the Temple funds, they do not become bodily holy (קדושת הגוף) until the lambs are sacrificed on Pentecost; v. Men. 78b.

(7) No building operation may be performed on a Sabbath or festival even if it be for so sacred a task as the building of the Temple; v. Yeb. 6a.

(8) לינה (night rest) 'Being left overnight till the morrow': for they are permitted to be eaten only for one day (Pentecost) and one night (till midnight); v. Zeb. 54b.

(9) Before midnight, while the loaves are still valid.

(10) Num. IX, 15.

(11) To sanctify the Temple court with leavened loaves.

(12) Ps. C.

(13) Of seven strings (v. 'Ar. 13b), resembles the guitar.

(14) Stringed instrument like harp; or, leather wind instrument like accordion or concertina; v. ibid. Rashi.

(15) Of metal, clashed together in pairs.

(16) Ps. XXX; the heading is: A psalm; a Song at the Dedication of the House.

(17) I.e., the psalm referring to evil spirits or demons, XCI.

(18) Ps. XCI, 10.

(19) Ibid. 7; i.e., the evil spirits will depart when the place is sanctified.

(20) Ps. XCI, 1-9 this is actually the song of pegaim or nega'im; v. Rashal.

(21) Ps. III; according to Maharsha the heading of this psalm was not recited.

(22) Ps. XCI, 1-9.
(23) And these verses are intended to drive away evil spirits.
(24) And is permitted; the verses are not intended to heal an actual wound, but to shield from possible affliction.
(25) Lit., ‘whispers’.
(26) Sanh. 90a. This is more than merely prohibiting it. [‘Spitting was believed to have the power of breaking the spell, v. Blau, Zauberwesen, p.68.]
(27) If he spits on the wound, and utters an incantation of Biblical verses, he has no portion in the world to come; but to utter the incantation without spitting is also prohibited; to utter verses to protect oneself from a possible affliction is permitted, v. Sanh. 101a.
(28) Neh. XII, 32.
(29) And the Mishnah should be emended accordingly.
(30) The loaves are borne by two priests; according to one view, the priests walk side by side; according to the other view, they walk one behind the other.
(31) According to Rashi, the procession marched round the wall outside; according to Tosaf., inside the city. In either case, the inner one is that which is nearest the wall. Tosaf. suggest that they marched inside the wall, because if the loaves were taken outside, they would automatically become invalidated by being יוצא (outside the consecrated area, i.e., the city of Jerusalem).
(32) Because there is one priest in front, and the Beth din behind.
(33) As soon as the first loaf in the procession comes to a place, it sanctifies it; the second one, coming to it, enters holy ground, and does not, therefore, become invalid by being יוצא (going out into unconsecrated ground). The first one, however, is burnt, because at the actual moment of entering the unconsecrated spot it became יוצא.
(34) Then, either both should be burnt, if we assume that at the moment of entry into unconsecrated ground they became יוצא; or, both should be eaten, if we assume that the act of entry automatically sanctifies the spot at the same moment.
(35) The first.
(36) Hence we require both loaves to enter a place in order to consecrate it.
(37) Infra 16a; that any one of those mentioned in the Mishnah suffices to consecrate a place; and you might, therefore, conceivably say that one loaf suffices.
(38) They are inseparable; ‘any one of these’ means either King or priest or Sanhedrin or two loaves.

Talmud - Mas. Shevu'oth 16a

by the ruling of the prophet the one was eaten, and by the ruling of the prophet the other was burnt.[1]

ANY [ADDITION] THAT WAS NOT MADE WITH ALL THESE, ETC. It was taught: R. Huna said: WITH ALL THESE we learnt in our Mishnah; R. Nahman said: WITH ANY ONE OF ALL THESE we learnt in our Mishnah. R. Huna said: WITH ALL THESE we learnt in our Mishnah, because he holds the first consecration[2] consecrated it for the time being, and consecrated if for the future; and Ezra [in re-consecrating it] merely did it as a symbol.[3] R. Nahman said: WITH ANY ONE OF ALL THESE we learnt in our Mishnah, because he holds the first consecration consecrated it for the time being, and did not consecrate it for the future; and Ezra really re-consecrated it,[4] although there were no Urim and Tummim. Raba asked R. Nahman: We learnt: ANY ADDITION THAT WAS NOT MADE WITH ALL THESE!? — [Emend it and] learn: ‘With any one of all these.’

Come and hear: Abba Saul said: There were two meadows[5] on the Mount of Olives, the lower and the upper;[6] the lower was consecrated with all these;[7] the upper was not consecrated with all these, but by the returned exiles,[8] without King and without Urim and Tummim; the lower one which was properly consecrated; the illiterate[9] entered there, and ate there sacrifices of a minor grade of holiness,[10] but not the second tithe.[11] And the learned[12] ate there sacrifices of a minor grade of holiness and also the second tithe.[13] The upper one which was not properly consecrated; the illiterate entered there, and ate there sacrifices of a minor grade of holiness,[14] but not the second tithe. And the learned did not eat there either sacrifices of a minor grade of holiness or the second tithe. And why did they not consecrate it? Because additions are not made to the city and to the Temple courts except by King, Prophet, Urim and Tummim, Sanhedrin of seventy-one, and two [loaves] of thanksgiving, and song. And why did they consecrate it?[15] Why did they consecrate it? You have just said they did not consecrate it! — But [read] ‘why did they bring it within [the city boundaries]?’ Because it was a vulnerable spot of Jerusalem, and it would have been easy to conquer it [the city] from there.[16] [This is, however, in conflict with R. Nahman's view![17] — He may answer that it is a subject upon which] Tannaim disagree [and he will agree with one of them], for it has been taught: R. Eliezer said: I heard [from my teachers] that when they were building the Temple [in Ezra's time], they made curtains for the Temple and curtains for the courts,[18] but for the Temple they built [the wall] outside [the curtains],[19] and for the courts they built [the walls] within [the curtains]. R. Joshua said: I heard that sacrifices were offered although there was no Temple,[20] and sacrifices of the highest grade of holiness were eaten although there were no curtains, and sacrifices of a minor grade and the second tithe, although there was no wall,[21] because the first consecration consecrated it for the time being, and consecrated it for the future. This implies [does it not?] that R. Eliezer holds, it did not consecrate it for the future.[22]

Said Rabina to R. Ashi; How [do you deduce this]? Perhaps all agree that the first consecration consecrated it for the time being, and consecrated it for the future, but one Master states [merely] what he heard [from his teachers], and the other Master states [merely] what he heard [from his teachers].[23] And if you will say, [if so,][24] why, according to R. Eliezer, are curtains necessary? [We may reply,] for privacy only!

Well then, there the Tannaim [disagree], for it has been taught: ‘R. Ishmael son of R. Jose said: Why did the Sages enumerate these?[25] Because when the exiles returned, they came upon these, and consecrated them;[26] but [the sanctity of] the earlier [cities] was abolished when [the sanctity of] the land was abolished.’ Hence, he holds that the first consecration consecrated it for the time being, but did not consecrate it for the future. But we may point out an incongruity: ‘R. Ishmael son of R. Jose said: Were there, then, only these?[27] Surely it is already written: [And we took all his cities ... sixty cities, all the region of Argob, the kingdom of Og in Bashan. All these were fortified cities, with high walls.[28] Then why did the Sages enumerate these? Because when the exiles returned, they came upon these, and consecrated them.’ — They consecrated them now! Surely we state further on[29] that it was not necessary to consecrate them! But read, ‘they came upon these, and enumerated them. And not these only [are walled cities], but any one about which you may have a tradition from your fathers that it was surrounded by a wall from the days of Joshua, the son of Nun, then all these precepts[30] apply to it; because the first consecration consecrated it for the time being, and consecrated it for the future.’[31] There is thus a discrepancy between [the statement of] R. Ishmael son of R. Jose [in the Baraitha] and [that of] R. Ishmael son of R. Jose [in the Tosefta]![32] — If you will, you may say that [they reflect the opinions of] two tannaim [who] disagree about [the view of] R. Ishmael son of R. Jose; and if you will, you may say that one of the statements was spoken by R. Eleazar b. Jose,[33] for it has been taught: R. Eleazar b. Jose said: [Scripture says: The city] that has a wall;[34] although it has not [a wall] now, as long as it had one before [it is reckoned a walled city].[35]

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(1) There is no discoverable reason why one loaf suffices and the other burnt; but this was the ruling of the prophets Haggai, Zechariah, and Malachi who were present at Ezra's and Nehemiah's re-consecration of Jerusalem.

(2) Of the Temple and of Jerusalem in the time of Solomon.

(3) Because it was still holy, and did not need re-consecration, and could not, in any, case, be re-consecrated, because King and Urim and Tummim were lacking (v. Yoma 21 b); for R. Huna holds that we require ‘all these’ (enumerated in the Mishnah) for re-consecration, and Ezra neither re-consecrated the city nor made any addition to it which would require consecration.

(4) With Sanhedrin, two loaves of thanksgiving, and song; for, according in R. Nahman, even one of the requisites (mentioned in the Mishnah) suffices for re-consecration.

(5) [בצעיין Schlatter, Tage Trajans, 20, renders it ‘parts’, ‘districts’; Krauss, as ‘fissures’ produced by an earthquake, the Eroge mentioned in Josephus, Ant. IX, 10, 4, and which he identifies with Bethsaida (Bethesda), v. REJ, LXXIII, 59ff.]

(6) On the slopes of the mountain, one near the base and the other near the summit.

(7) During the time if the First Temple it was incorporated within the city boundary, and joined to the city by a wall.

(8) From Babylon, who included it in the city, and built another wall around it.

(9) Amme ha-arez (v. Glos.). I.e., not strictly observant of the laws regarding levitical uncleanness.

(10) Such as thanks offerings or peace offerings which were permitted to be eaten within the city by all Israelites; v. Zeb. V, 6-8.

(11) Eaten by the owner in Jerusalem: Deut. XIV, 22-26. The second tithe could also have been eaten in the lower meadow, for it was properly consecrated, and was part of the city; but the illiterate thought that the second tithe had to be eaten within the inner (old) wall of Jerusalem, for the verse states: Thou shalt eat before the Lord thy God . . . the tithe of thy corn . . . (Deut. XIV, 23). They were stricter with the tithe than with the sacrifices, because the verse (ibid. 22) states: Thou shalt surely tithe; and they had probably heard the popular exposition: עשר תעשר עשר בשביל שתתעשר (a play on the word תעשר; v. Shab. 119a) — give tithes in order that thou mayest have wealth.

(12) Haberim (v. Glos.).

(13) Because they knew that the sacrifices and second tithe were equal, and that the lower meadow was properly consecrated and part of the city.

(14) They thought the upper meadow was as holy as the lower, because it had also been incorporated within the city by a wall, and they did not distinguished between the full consecration of the lower meadow and the incomplete consecration of the upper meadow.

(15) [Tosef. Sanh. III reads, ‘Why was it not consecrated?’]

(16) [V. REJ, loc. cit.]

(17) For it is stated that the upper meadow was not consecrated, because all the essentials were not present, whereas R. Nahman holds that ‘any one of all these’ suffices.

(18) As temporary partitions to enable sacrifices to be offered and eaten forthwith (v. n. 8); and then they built the walls near curtain.

(19) So that the curtains prevented the workmen from gazing into the holy place.

(20) Before it was re-built by Ezra; v. Ezra III, 1-6; Meg. 10a, Rashi.

(21) Round Jerusalem.

(22) Because R. Eliezer requires curtains in order that it may be counted as a Temple; but without curtains it is not holy because, presumably, the first consecration did not consecrated it for the future. R. Nahman will thus agree with R. Eliezer.

(23) R. Eliezer and R. Joshua are not arguing on this subject, their statements being entirely separate, and not uttered to each other's hearing.

(24) If R. Eliezer holds that the first consecration consecrated it for the future also.

(25) The Mishnah (‘Ar. 32a), explaining that walled cities (Lev. XXV, 29, 30) are such which had walls round them since the days of Joshua, mentions a few as examples, such as Gamala, Gedud, etc. Why did the Sages mentioned these particularly? There were many more which could have been mentioned.

(26) By Beth din, two loaves of thanksgiving, and song; v. ‘Ar. 32b, Rashi. Cf. however Rashi a.l.

(27) Walled cities, mentioned in ‘Ar. 32a.

(28) Deut. III, 4, 5.

(29) In the same passage.

(30) Concerning the sale of a house (Lev. XXV, 20, 30); sending lepers outside the city (Lev. XIII, 46; Num. V, 2); and that the open space (1,000 cubits) round the city should be left uncultivated (‘Ar. 33b).

(31) Tosaf. ‘Ar. V.

(32) From the Baraitha it appears he holds that the first consecration did not consecrate it for the future, and from the Tosefta it appears he holds that it did.

(33) The statement in the Tosefta.

(34) Lev. XXV, 30; the kethib is לא חמה (‘has not a wall’), but the kere is לו (‘has a wall to it’).

(35) Because the first consecration, when it had a wall, suffices for now also, though the wall is now destroyed. Hence, there are two tannaim, R. Ishmael and R. Eleazar b. Jose, who disagree as to whether the first consecration consecrated it for the future also or not; and R. Nahman will agree with R. Ishmael.

Talmud - Mas. Shevu'oth 16b

IF HE BECAME UNCLEAN IN THE TEMPLE COURT [AND WAS AWARE OF IT], THEN THE UNCLEANNESS BECAME HIDDEN FROM HIM, etc. How do we know uncleanness in the Temple court [is punishable]?[1] — R. Eleazar [b. Pedath] said: One verse states: The tabernacle of the Lord he hath defiled;[2] and another verse states: For the sanctuary of the Lord he hath defiled.[3] If it is not applicable to [the case of] uncleanness occurring outside,[4] apply it to [the case of] uncleanness occurring inside.[5] But are the verses superfluous? Surely they are necessary, for it has been taught: R. Eleazar [b. Shammua'] said: If tabernacle is mentioned, why is sanctuary mentioned; and if sanctuary is mentioned, why is tabernacle mentioned? If tabernacle had been mentioned, and sanctuary had not been mentioned, I might have thought that for [entering] the tabernacle he should be liable, because it was anointed with the anointing oil;[6] but for [entering] the sanctuary [i.e., Temple] he should not be liable; and if sanctuary had been mentioned, and tabernacle had not been mentioned, I might have thought that for [entering] the sanctuary he should be liable, because its holiness is an everlasting holiness;[7] but for [entering] the tabernacle he should not be liable; therefore tabernacle is mentioned, and sanctuary is mentioned.[8] — R. Eleazar [b. Shammua'] argued thus; Since tabernacle is called sanctuary, and sanctuary is called tabernacle, let Scripture write either in both verses sanctuary, or in both verses tabernacle;[9] why [does Scripture write] tabernacle and sanctuary? Hence, we deduce both.[10]

Granted that sanctuary is called tabernacle, for it is written: And I will set My tabernacle among you;[11] but whence do we know that tabernacle is called sanctuary? Shall we say, because it is written: And the Kohathites, the bearers of the sanctuary set forward?[12] This refers to the Ark,[13] — Well then, from this verse: And let them make me a sanctuary, that I may dwell among them;[14] and it is written: According to all that I show thee the pattern of the tabernacle.[15]

AND HE PROSTRATED HIMSELF, OR TARRIED THE PERIOD OF PROSTRATION, Raba said: They did not teach this[16] except when he prostrated himself facing inwards;[17] but if he prostrated himself facing outwards, then, only if he tarried is he liable, but if he did not tarry, he is not liable. Some append this [comment of Raba] to the latter clause; OR TARRIED THE PERIOD OF PROSTRATION: This implies that prostration itself requires tarrying. Raba said: They did not teach this except when he prostrated himself facing outwards; but, if facing inwards, even if he did not tarry [he is liable;] and thus [the Mishnah] means: If he prostrated himself facing inwards [without tarrying], or if he tarried the period of prostration in his prostration facing outwards, he is liable.

What is considered prostration in which there is tarrying, and what is considered prostration in which there is no tarrying? — Where there is no tarrying, that is mere kneeling; where there is tarrying, that is the spreading out of hands and feet. And what is the duration of tarrying? In this there is disagreement between R. Isaac b. Nahmani and one of his associates, namely, R. Simeon b. Pazzi (and some say, R. Simeon b. Pazzi and one of his associates, namely, R. Isaac b. Nahmani, and some say, R. Simeon b. Nahmani); one says: As the time taken to recite this verse:[18] And all the children of Israel looked on, when the fire came down, and the glory of the Lord was upon the house; and they bowed themselves with their faces to the ground upon the pavement, and prostrated themselves, and gave thanks unto the Lord: 'for He is good, for His mercy endureth for ever';[19] and the other says: As [the time taken to recite] from and they bowed till the end.

Our Sages taught: Kiddah means [falling] on the face; and so Scripture says: Then Bath-sheba bowed with her face to the earth.[20] Kneeling means upon the knees; and so Scripture says: from kneeling at his knees.[21] Prostration means spreading out of hands and feet; and so Scripture says:

Shall I and thy mother and thy brethren indeed come to bow down to thee to the earth?[22]

Raba queried: Is tarrying necessary for stripes,[23] or is tarrying not necessary for stripes? For [the bringing of] a sacrifice there is a tradition that tarrying is necessary,[24] but for stripes there is no tradition that tarrying is necessary?[25]

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(1) If one enters while clean, and becomes unclean in the Temple, how do we know that he must bring a sliding scale sacrifice?

(2) Num. XIX, 13; refers to a person defiled by a dead body entering the tabernacle or sanctuary.

(3) Ibid. 20.

(4) For that is deduced from the first verse.

(5) Since otherwise the verse is superfluous.

(6) And therefore possessed greater sanctity.

(7) Sacrifices on bamoth (‘high places’) being prohibited from the time the Temple was built, even after its destruction.

(8) Hence, since neither is superfluous, how can the case of uncleanness occurring inside be deduced?

(9) And from the superfluous verse we could deduce the case of uncleanness occurring inside.

(10) Because Scripture of set purpose uses tabernacle in one verse and sanctuary in the other, we may deduce also that they are both equal in sanctity, and that an unclean person entering either is liable; v. Tosaf.

(11) Lev. XXVI, 11; lit., ‘I will set My dwelling (or, ‘abode’) among you’. Wherever God dwells is His mishkan; since He dwelt in the sanctuary (i.e. Temple), that also is His mishkan (i.e., tabernacle). V. ‘Er. 2a. Rashi, for another interpretation.

(12) Num. X, 21.

(13) And not to the tabernacle, for that was borne by the sons of Gershon and the sons of Merari (Num. X, 17).

(14) Ex. XXV, 8.

(15) Ibid. 9: tabernacle in this verse is referred to as sanctuary in the previous verse; hence the tabernacle they built in the wilderness was also called sanctuary.

(16) That if he prostrated himself quickly, without tarrying the period that prostration should take, he is liable.

(17) To the Holy of Holies in the west.

(18) In Hebrew.

(19) II Chron. VII, 3.

(20) I Kings I, 31; ותקד, from the same root as קידה, קדד, ; the face alone touches the ground; this is not the same as complete prostration of the whole body; v. Suk. 53a.

(21) I Kings VIII, 54.

(22) Gen. XXXVII, 10; ‘bow down to earth’ implies complete prostration.

(23) If, having become unwittingly unclean in the temple, he was warned to leave; but he remained, though less than the duration of the tarrying period, is he punished by stripes?

(24) If he became unwittingly unclean in the Temple, and tarried the period of prostration while he was unaware of his uncleanness or of the Temple, he brings a sliding scale sacrifice; supra 14b.

(25) Perhaps, since he remained wilfully, after being warned, he is liable for stripes, though he did not tarry the full period of prostration.

Talmud - Mas. Shevu'oth 17a

Or, perhaps the tradition is that within [the Temple] tarrying is necessary, no matter whether for sacrifice or for stripes?[1] It remains undecided.

Raba queried: If he suspended himself in the air in the Temple,[2] what is the ruling? Is the tradition that tarrying makes him liable only in the case of such tarrying as may be used for prostration,[3] but for such tarrying which cannot be used for prostration there is no tradition [that he is liable]? Or perhaps the tradition is that within [the Temple] tarrying makes him liable, no matter whether it may be used for prostration or not? It remains undecided.

R. Ashi queried: If he defiled himself wilfully, what is the ruling?[4] For an accidental defilement there is a tradition that tarrying is necessary, but for wilful defilement there is no tradition that tarrying is necessary? Or perhaps the tradition is that within [the Temple] tarrying is necessary, no matter whether for accidental or wilful defilement? It remains undecided.

R. Ashi queried: Does a Nazirite at a grave require tarrying for stripes or not?[5] Within [the Temple] there is a tradition that tarrying is necessary, but outside there is no tradition that tarrying is necessary?[6] Or perhaps for accidental uncleanness there is a tradition that tarrying is necessary,[7] no matter whether inside or outside? It remains undecided.

IF HE WENT OUT THE LONGER WAY, HE IS LIABLE; THE SHORTER WAY, HE IS EXEMPT, etc. Raba said: THE SHORTER WAY which they said [exempts him, implies] even [walking] heel to toe,[8] and even the whole day.

Raba queried: Can pauses be combined?[9] — Let him solve it from his own statement![10] — There [he is exempt only] if he did not pause.[11]

Abaye inquired of Rabbah: If he went out the longer way in the time taken for the shorter way, what is the ruling?[12] Is the tradition that the time taken [is the essential factor], and if he went out the longer way in the time taken for the shorter way, he is exempt; or, is the tradition definite that for the longer way he is liable, and for the shorter way he is exempt? — He said to him: [The law that for] the longer way [he is liable] was not given that it should be suspended for him.[13]

R. Zera objected strongly to this: Now, it is established with us that an unclean [priest] who officiated is punished by death.[14] How can this be possible? If he did not tarry, how could he do the service?[15] If he tarried, he is liable to kareth! Granted, if you would say that the tradition is that time [is the essential factor],[16] then it is possible,[17] if he strained himself in the shorter way, after he had done the service;[18]

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[1] **(1)** When one becomes unclean within the Temple accidentally, the punishment, whether of sacrifice or of stripes, is not inflicted, unless one tarries the period of prostration.

[2] **(2)** For example, on becoming unclean, he immediately caught hold of a rope in the ceiling, and remained suspended thus for the tarrying period.

[3] **(3)** I.e., when he is on the ground; but since he cannot prostrate himself in the air, he is not liable, even if he remains thus suspended for the period of tarrying.

[4] **(4)** If Raba's question (whether tarrying is necessary for stripes) should be decided in the affirmative, that may be because he became unclean accidentally, though he tarried wilfully; but if he became unclean wilfully, perhaps he is liable for stripes, though he does not tarry.

[5] **(5)** If a Nazirite (who must avoid defilement by the dead, Num. VI, 6) was borne aloft in the cemetery in a closed carriage (not, thereby, becoming unclean), and when there the top of the carriage was removed, thus making him unclean from the air of the cemetery; and he was warned to leave, but he remained, though not the period of tarrying, is he liable

for stripes? This example is similar to that of a person entering the Temple while clean, and becoming unclean inside.

(6) Because tarrying is measured as the duration of full prostration; this measure of duration is appropriate for the Temple, but not outside; and therefore the Nazirite is liable even if he did not tarry.

(7) The Nazirite became unclean accidentally, and is therefore not liable unless he tarries.

(8) Taking very short steps, so that the toe of one foot touches the heel of the foot in front.

(9) Walking out by the shorter route, he paused a while, then continued walking; then paused again; the combined moments of pausing being equal to the tarrying period. Is he liable in such case, or is he liable only when the tarrying period is one uninterrupted pause?

(10) For he holds that even if he walks very slowly, occupying the whole day, he is still exempt; though the time occupied is more than the tarrying period.

(11) Though he occupied the whole day, he did not stop walking.

(12) He ran quickly, so that the time taken in going out the longer way was only as much as would be taken in going out the shorter way at a medium pace.

(13) Even if he runs; hence, by the longer route he is always liable, even if he runs; by the shorter he is exempt, even if he walks slowly.

(14) By divine intervention, מיתה בידי שמים, not by a human tribunal; the priest must have become unclean in the Temple, for, if he became unclean outside, he is liable to the punishment of kareth (which is severer than מיתה בידי שמים) for entering.

(15) Which priestly service, however minute, could he possibly do in less time than the period of prostration?

(16) That the periods of duration mentioned in the Mishnah are simply measurements of time: the time duration of tarrying the period of prostration, and the time duration of going out by the longer route; and that he is exempt only if he does not tarry the period of prostration and goes out the shorter route, i.e., the time he spends in the Temple must be less than the combined times of the period of prostration and that occupied in walking out the shorter route at a medium pace.

(17) To have a case of an unclean priest officiating and tarrying the period of prostration, and yet not being liable for kareth, but for death by divine intervention.

(18) He ran out very quickly by the shorter route, so that, although he had tarried the period of prostration, the time he had spent altogether in the Temple was less than the combined times of prostration and walking out the shorter route at a medium pace.

Talmud - Mas. Shevu'oth 17b

but if you say that the tradition is definite,[1] how is it possible?[2] — Said Abaye: What a question! It is possible that he went out the shorter way [without tarrying first], and turned [a piece of the sacrifice on the altar fire] with a prong;[3] and this is in accordance with R. Huna's view, for R. Huna said: A layman who turned [a piece of the sacrifice on the altar fire] with a prong is punished by death.[4]

The text says: ‘R. Huna said, A layman who turned [a piece of the sacrifice on the altar fire] with a prong is punished by death.’ How is this? If, without turning it, it would not have been consumed, this is self-evident! And if, without turning it, it would also have been consumed, then what has he done? — It is not necessary [for R. Huna to state his law except] in a case where if he had not turned it, it would have been consumed in two hours, and now [after turning it] it is consumed in one hour; and this [law] he teaches us, that an acceleration of the service is also a service.

R. Oshaia said: I wish to state a law, but am afraid of my associates: He who enters a house plagued by leprosy,[5] backwards, even with his whole body [inside] except his nose, is clean, for it is written: He that cometh into the house . . . [shall be unclean]:[6] the normal way of coming in did Scripture prohibit; but I am afraid of my associates [in stating this law] for, if so, even if he entered wholly [including his nose, he should] also [be clean]. — Said Raba: His whole body is not worse than the vessels in the house; for it is written: [They shall empty the house before the priest comes to see the plague,] so that all that is in the house be not made unclean.[7]

It has also been taught similarly: These roofs [of the Temple] — sacrifices of the highest grade of holiness may not be eaten there,[8] and sacrifices of a minor grade of holiness may not be sacrificed there;[9] and an unclean person who entered the Temple by the roof is exempt, for it is said: And into the sanctuary she shall not come:[10] the normal way of coming did Scripture prohibit.

THIS IS THE POSITIVE PRECEPT CONCERNING THE TEMPLE FOR WHICH THEY [THE BETH DIN] ARE NOT LIABLE, ETC. What is he referring to that he says — THIS IS THE POSITIVE PRECEPT, etc.?[11] He is referring to this:[12] They [the Beth din] are not liable for [an erroneous ruling in connection with the transgression of] a positive[13] or negative[14] precept [concerning uncleanness] in the Temple; and they [individuals] do not bring a suspensive guilt offering for [a doubtful sin[15] in connection with] the positive or negative precept [concerning uncleanness] in the Temple;[16] but they [the Beth din] are liable for [an erroneous ruling in connection with the transgression of] the positive[17] or negative[18] precept concerning a menstruous woman;[19] and they [individuals] bring a suspensive guilt offering for a [doubtful sin in connection with the] positive or negative precept concerning a menstruous woman.[20] So [the Tanna here] says:[21] THIS IS THE POSITIVE PRECEPT CONCERNING THE TEMPLE FOR WHICH THEY ARE NOT LIABLE; AND WHICH IS THE POSITIVE PRECEPT CONCERNING A MENSTRUOUS WOMAN FOR WHICH THEY ARE LIABLE? [THIS:] IF ONE COHABITED WITH A CLEAN WOMAN, AND SHE SAID TO HIM; 'I HAVE BECOME UNCLEAN!', AND HE WITHDREW IMMEDIATELY, HE IS LIABLE, BECAUSE HIS WITHDRAWAL IS AS PLEASANT TO HIM AS HIS ENTRY.

It was stated: Abaye said in the name of R. Hiyya b. Rab: He[22] is liable to [bring] two [sin-offerings].[23] And so said Raba that R. Samuel son of R. Sheba said that R. Huna said: He is liable to bring two, one for entering and one for withdrawing. Raba raised the question: In what [circumstances]? Shall we say, it was near the time of her regular period? And with whom? Shall we say, a learned man? Granted, then, for entering he should be liable, for he thought I am able to cohabit;[24] but for withdrawing, why should he be liable, since he acted wilfully![25]

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(1) In each case: that if he tarried the period of prostration he is liable, even if he runs out the shorter way; and that if he goes out the longer way he is liable, even if he had not tarried, and even if he runs quickly.

(2) To have a case of an unclean priest doing the service, and presumably tarrying (in order to do the service), and yet not being liable to kareth?

(3) Which is a priestly function, and requires only a moment of time.

(4) Because it is a priestly function, and must not be done by a layman. Cf. Num. XVIII, 7. Death here, too, means by Divine intervention, v. n. 1.

(5) V. Lev. XIV, 33 seq.

(6) Ibid. 46.

(7) Ibid 36.

(8) For they must be eaten within the Temple; and only the floor and air till the ceiling are holy, but not the attics and roofs.

(9) Though they may be eaten there, because, of course, they may be eaten anywhere within the walls of Jerusalem. According to Tosaf., however, they may not be eaten on the roof; but v. Pes. 85b, Rashi (s.v. גגין), and Adreth, Responsa, 34.

(10) Lev. XII, 3; a woman after childbirth, till after 40 days for a male child, and 80 days for a female. Entering by the roof is not normal.

(11) Lit., 'where does he stand?' Where have we learnt that the Beth din are not liable for an erroneous ruling concerning the transgression of a positive precept with reference to uncleanness in the Temple, that he states here: this is the positive precept for which they are not liable?

(12) Hor. 8b.

(13) Num. V, 2: Command the children of Israel that they put out of the camp . . . whosoever unclean by the dead; טמא לנפש is put out of the מחנה שכינה, i.e., Temple; v. Rashi a.l. If a person become unclean in the Temple, and stays, he is transgressing this positive precept.

(14) Lev. XII, 4: And into the sanctuary she shall not come (a woman after childbirth, till after 40 days for a male, and 80 days for a female).
(15) A suspensive guilt offering, אשם תלוי, is brought by a person who is in doubt whether he has committed an act which, if done wilfully, is punishable by kareth, and if done wittingly, is punishable by the bringing of a sin offering; v. Lev. V, 17-19; and Rashi on verse 17; Hor. 8b.
(16) Because a sliding scale sacrifice, and not a fixed offering, is brought for actual unwitting transgression,
(17) V. infra 18b.
(18) Lev. XVIII, 19: And unto a woman who is impure by her uncleanness thou shalt not approach.
(19) Because for an unwitting transgression a fixed sin offering is brought.
(20) V. n. 7.
(21) Referring to the ruling in the Mishnah just quoted from Hor. 8b.
(22) Who withdraws forthwith.
(23) V. infra.
(24) Before she has her period; if, therefore, she becomes unclean during cohabitation, he commits a sin unwittingly, and must bring a sin offering.
(25) Being learned, he knows that it is prohibited to withdraw immediately, and is therefore liable for kareth, and not a sin offering.

Talmud - Mas. Shevu'oth 18a

And if an illiterate man,[1] then both acts are the same as eating two portions of forbidden fat, each the size of an olive, in one spell of unawareness.[2] Well then, [shall we say,] it was not near the time of her period? And with whom? Shall we say, a learned man? Then he should not be liable to bring even one; for, in entering he was the victim of a pure accident,[3] and in withdrawing he acted wilfully![4] And if an illiterate man, he is liable to bring one, for withdrawing?[5] Afterwards, Raba said: It really refers to the time near her period, and to a learned man; but a learned man for this,[6] and not a learned man for that.[7]

Raba said: And both [these laws] we have learnt: Entering, we have learnt; and withdrawing, we have learnt. 'Withdrawing, we have learnt' — for it states, IF ONE COHABITED WITH A CLEAN WOMAN, AND SHE SAID TO HIM: 'I HAVE BECOME UNCLEAN!', AND HE WITHDREW IMMEDIATELY, HE IS LIABLE. 'Entering, we have learnt' [in another Mishnah] — If [blood is] found on his [rag after cohabitation], they are [both] unclean,[8] and are liable for a sacrifice.[9] Now this surely refers [does it not?] to the time near her period, and to [the act of] entering.[10] R. Adda b. Mattenah said to Raba: [No!] Really I can say to you, it refers to the time not near her period, and to withdrawing.[11] And should you ask, what need is there to state the law of withdrawing, since it has already been stated?[12] [I may reply,] because it is necessary to tell us: If [blood is] found on her [rag after cohabitation],[13] they are [both] unclean because of the doubt,[14] but exempt from bringing a sacrifice.[15] And because he wishes to teach us [this law concerning] 'If found on hers',[16] he teaches us also [the law concerning] 'If found on his.'[17]

Said Rabina to R. Adda; How can you maintain that that [other Mishnah] refers to the time not near her period, and to withdrawing, seeing that it states; If [blood is] found, and found implies later;[18] and if it refers to withdrawing, from the very first when he withdrew he already had the knowledge![19] Said Raba to him [R. Adda]; Listen to what your teacher [Rabina][20] tells you.[21] — [He replied:] How can you [maintain that it refers to entering],[22] since it has been taught with reference to it:[23] This is the positive precept concerning a menstruous woman for which one is liable; and if it is [as you say],[24] it is a negative precept![25] — He said to him: If you have learnt [the Baraitha thus], it is defective, and your should read it thus: This is the negative precept concerning a menstruous woman for which one is liable; if [however] he was cohabiting with a clean woman, and she said to him; 'I have become unclean', and he withdrew immediately, he is liable: this is the positive precept concerning a menstruous woman, etc.

The text says: 'If he withdrew immediately, he is liable.' What should he do? R. Huna said in the name of Rab: He should press his ten nails into the ground [i.e., bed] until his desire dies out.[26] Raba said: From this we may deduce that he who commits incest[27] with membrum mortuum is exempt, for, if it will enter your mind to say that he is liable, what is the reason that he is exempt here? Because he has no alternative?[28] If it is because he has no alternative, then even if he withdraws immediately, let him also be exempt, for he has no alternative![29] — Abaye said to him: Verily, I may say to you, he who commits incest with membrum mortuum is liable, and here the reason that he is exempt is because he has no alternative, and as for your question, if he withdraws immediately, why is he liable? [I may reply,] because he should have withdrawn with little pleasure, and he withdrew with much pleasure. Said Raba b. Hanan to Abaye: If so, we find a longer and a shorter route in connection with a menstruant.[30]

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(1) Who acted unwittingly in both cases.

(2) For which he brings only one sin offering. Here also, since he is illiterate, he is not aware, when she tells him she has become unclean, that he has committed a sin by cohabiting near the time of her period; or that it is prohibited to withdraw immediately. Since he has no knowledge of guilt between the two acts (entering and withdrawing), he should bring only one sin offering.

(3) He could not be aware that she would become unclean, since it was not near her period.

(4) Being learned, and knowing that it is prohibited to withdraw immediately, he is liable to kareth.

(5) Thinking it is permitted to withdraw immediately, he acted unwittingly.

(6) Knowing that he ought not to cohabit near the time of her period, yet thinking he still had time before she became unclean; he therefore committed a sin unwittingly (not accidentally, as would be the case if he cohabited not near her period), and brings a sin offering.

(7) Not knowing that he must not withdraw immediately, he thus brings two, one for entering, and one for withdrawing. This is not the same as eating two portions of prohibited fat in one spell of unawareness (for which he brings only one sin offering) for, when she told him she had become unclean, he was immediately aware that he had committed a sin; for, being learned, he knew that he ought not to have cohabited with her near her period.

(8) Seven days; Lev. XV, 19 and 24.

(9) Sin offering for cohabiting while she is unclean. Nid. 14a.

(10) Hence we learn that for entering (near her period) he is liable for a sacrifice, if she becomes unclean.

(11) He brings the sacrifice for withdrawing immediately, when she tells him she is unclean; for entering he is not liable, because it was not near her period.

(12) In our Mishnah, supra 14b.

(13) Not immediately, but after a short interval; Nid. 14a.

(14) The woman is definitely unclean, because she is now menstruous, but the man is unclean only because of the doubt whether he had cohabited with her when she was already unclean, or before her uncleanness commenced.

(15) Because she may have become unclean infer cohabitation; and he does not even bring a suspensive guilt offering for the doubtful sin (Mishnah, Nid. 14b).

(16) And to distinguish between the case where she applied her rag immediately and the case where an interval elapsed (v. Nid. 14a).

(17) Though this is superfluous.

(18) After withdrawing, blood was found, but during cohabitation they were not aware of uncleanness.

(19) That she is unclean, for she told him during cohabitation.

(20) [So curr. ed. Other reading adopted by Adreth and Zerahis Halevi: 'He (Rabina) said to him (R. Adda): Listen when your teacher (Raba) tells you.' This is preferable, as Raba was the teacher of Rabina.]

(21) That the Mishnah cannot refer to withdrawing.

(22) [Read with MS. M. and other ed.: אציית, 'How can I listen?']

(23) As a comment on Mishnah in Nid. 14a.

(24) That it refers to entering.

(25) Lev. XVIII, 19.

(26) He should remain passive.

(27) Cohabits with a woman forbidden to him owing to consanguinity (Yeb. 2a, b).

(28) For he must not withdraw immediately and must perforce withdraw when it is passive; but if he commits incest even with membrum mortuum he is liable.

(29) If you say that he is liable if he commits incest with membrum mortuum, then there is no difference between passive and virile member, so that he should be exempt even if he is withdraws forthwith.

(30) If he took the shorter route, i.e., withdrew immediately, he is liable; and if the longer route, i.e., waited till it was passive, he is exempt.

Talmud - Mas. Shevu'oth 18b

Whereas we learnt [this distinction, only] in the case of the Temple![1] — They are not the same:[2] the longer route here[3] is as the shorter route there; and the longer route there is as the shorter route here.

R. Huna son of R. Nathan raised an objection: Did Abaye then say that he had no alternative;[4] from which we deduce that we are discussing the time not near her period;[5] surely, it was Abaye who said that he is liable to bring two;[6] from which we deduced that it refers to the time near her period![7] — Abaye's statement[8] was made elsewhere.

R. Jonathan b. Jose b. Lekunia enquired of R. Simeon b. Jose b. Lekunia: Where is the prohibition in the Torah against intercourse with a menstruous woman? — He took a clod, and threw it at him. Prohibition against intercourse with a menstruant! And into a woman who is impure by her uncleanness thou shalt not approach![9] — Well then, [I meant to ask] where do we find the warning that he who cohabits with a clean woman, and she says to him, ‘I have become unclean’; he should not withdraw immediately? — Hezekiah said, Scripture says: [And if any man lie with her (a menstruous woman)] her impurity shall be with him[10] — even at the time of her impurity she shall be ‘with him’[11] Hence, we have a positive precept; whence do we derive a negative precept? — R. Papa said, Scripture says: Thou shalt not approach [unto a woman who is impure];[12] thou shalt not approach means also, thou shalt not withdraw; for it is written: Who say, Approach to thyself, come not near me, for I am holier than thou.[13]

Our Rabbis taught: Thus shall ye separate the children of Israel from their uncleanness;[14] R. Josiah said: From this we deduce a warning to the children of Israel that they should separate from their wives near their periods. And how long before? Rabbah said: One ‘onah.[15]

R. Johanan said in the name of R. Simeon b. Yohai: He who does not separate from his wife near her period, then even if he has sons like the sons of Aaron, they will die, even as it is written: Thus shall ye separate the children of Israel from their uncleanness,’. . .[16] [this is the law . . .] of her that is sick with her impurity;[17] and next to it: [And the Lord spoke unto Moses] after the death [of the two sons of Aaron].[18]

R. Hiyya b. Abba said that R. Johanan said: He who separates from his wife near her period will have male children, even as it is written: To make a distinction between the unclean and the clean;[19] and next to it: If a woman conceive and bear a male child.[20] R. Joshua b. Levi said: He will have sons worthy to be teachers, for it is written: That ye may make a distinction [between . . . the unclean and the clean]; and that ye may teach.[21] R. Hiyya b. Abba said that R. Johanan said: He who recites the Habdalah over wine at the termination of the Sabbath will have male children, even as it is written: That ye may make a distinction between the holy and the common;[22] and elsewhere it is written: To make a distinction between the unclean and the clean;[23] and next to it: If a woman conceive [and bear a male child].[24] R. Joshua b. Levi said: He will have sons worthy to be teachers, even as it is written: That ye may make a distinction [between the holy and the common] . . . and that ye may teach.[25]

R. Benjamin b. Japhet said that R Eleazar said: He who sanctifies himself during cohabitation will have male children, even as it is said: Sanctify yourselves therefore, and be ye holy,[26] and next to it: If a woman conceive [and bear a male child].[27]

R. ELIEZER SAID, [SCRIPTURE SAYS: IF ANY ONE TOUCH THE CARCASS OF AN UNCLEAN] CREEPING THING, AND IT BE HIDDEN FROM HIM etc. What is the difference between their views?[28] Hezekiah said: ‘Creeping thing and carcass’ is the difference between them; R. Eliezer holds, we require that he should know whether he had become unclean by [the carcass of] a creeping thing or of an animal; and R. Akiba holds, we do not require that he should know this; as long as he knows that he has actually become unclean, it is not necessary [that he should know] whether he has become unclean by a creeping thing or by an animal carcass.[29] And so said Ulla: ‘Creeping thing and carcass’ is the difference between them; for Ulla pointed out an incongruity between one statement of R. Eliezer's and another, and then explained it: Did R. Eliezer, then, say that we require he should know whether he had become unclean by a creeping thing or by a carcass? I question this, for R. Eliezer said: In any case, if he ate prohibited fat, he is liable, or if he ate nothar, he is liable;[30] if he desecrated the Sabbath, he is liable, or if he desecrated the Day of Atonement, he is liable;[31] if he cohabited with his wife when menstruous, he is liable, or if he cohabited with his sister, he is liable.[32] Said R. Joshua to him, Scripture says: If his sin, wherein he hath sinned, be known to him;[33] only when it is known to him wherein he hath sinned.[34] [Ulla, however,] explains it thus: There, Scripture says: he hath sinned, then he shall bring [his offering] — as long as [he knows that] he has sinned [though he does not know the actual sin, he brings his offering]: but here, since it is already written: [If any one touch] any unclean thing,[35] why do we require: or the carcass of an unclean creeping thing?[36] Hence, we deduce that we require he should know whether he had become unclean by a creeping thing or by an animal carcass.[37] And R. Akiba?[38] — Because

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(1) If this distinction holds good also in the case of a menstruous woman, why does not the Mishnah mention it?

(2) And are therefore not mentioned in the Mishnah.

(3) In the case of a menstruous woman, exempts him, as does the shorter route in the Temple.

(4) If he withdraws when it is passive, he is exempt, because he has no alternative.

(5) For if he cohabited near the time of her period he should have realised that there is a possibility that she might become unclean; and he is liable for withdrawing even when passive, for Abaye holds that he who cohabits with membrum mortuum is also liable. (V. supra 18a.) Only if he cohabits not near the time of her period is he exempt if he withdraws when passive, with membrum mortuum, for he has no other alternative, and is not to be blamed for cohabiting then.

(6) Supra 17b; one for entering, and one for withdrawing.

(7) Supra 18a.

(8) That he is liable to bring two, was not made with reference to our Mishnah. Abaye explains our Mishnah, which differentiates between withdrawing with virile member and passive, as referring to cohabitation not near the time of her period when, in entering, he is completely innocent, and in withdrawing forthwith is liable to bring a sin offering (not two), because he could have withdrawn with member passive with less pleasure. Abaye's statement that he brings two offerings does not refer to our Mishnah, but to a case where he cohabits with a clean woman near the time of her period, and she tells him during cohabitation that she has become unclean. In this case he brings two offerings, one for entering, and one for withdrawing, even passive, for Abaye holds that in this case, there is no difference how he withdrew, since he is not entirely blameless, for he should have foreseen that she might become unclean during cohabitation.

(9) Lev. XVIII, 19.

(10) Ibid. XV, 24.

(11) I.e., he must not withdraw immediately.

(12) Lev. XVIII, 19.

(13) Isa. LXV, 5; לא תקרב in Lev. XVIII, 19, may, therefore, mean: thou shalt not approach to thyself, i.e., thou shalt not withdraw.

(14) Lev. XV, 31.

(15) A period of time (with special reference to marital duty): the whole day or the whole night. If her period comes during the day, he must separate from the beginning of the day; if during the night, from the beginning of the night.
(16) Lev. XV, 31.
(17) Ibid. 33.
(18) Ibid. XVI, 1. He takes the sequence and contiguity of the verses to imply that if a man does not separate from ‘her that is sick with her impurity’, his sons will die, even as the sons of Aaron died.
(19) Lev. XI, 47.
(20) Ibid. XII, 2.
(21) Ibid. X, 10, 11.
(22) Ibid. 10. He who recites Habdalah also makes a distinction between the holy and the common (Sabbath and weekday). In verse 9 the priests are commanded: Drink no wine . . . when ye go into the tent of meeting. The implication is: but ye may drink wine when ye make a distinction between the holy and the common, I.e., when you recite the Habdalah.
(23) Ibid, XI, 47.
(24) Ibid. XII, 2.
(25) Ibid. X, 10, 11.
(26) Ibid. XI, 44.
(27) Ibid, XII, 2.
(28) Both R. Eliezer and R. Akiba agree in the Mishnah (supra 14b) that he is not liable unless he is aware that it is the Temple that he entered in an unclean state, and thus the question arises, what is the difference between them?
(29) R. Eliezer holds he must know the exact source of his uncleanness (whether by a creeping thing or animal carcass), whereas R. Akiba holds it matters not, as long as he knows he is unclean.
(30) Ker. 19a; if there lay before him חלב, a piece of prohibited fat, and נותר, a piece of a sacrifice left over behind the time limit for its consumption, and he ate one of them unwittingly, but he does not know which, R. Eliezer says he must bring a sin offering, because, whether he ate the heleb or nothar, he is liable for a sin offering in either case; but R. Joshua says he is exempt; and is liable only when, he knows definitely which he has eaten.
(31) If he did work unwittingly, but does not know whether it was on a Sabbath or the Day of Atonement.
(32) His wife and sister were together with him, and he cohabited with one, thinking it was his wife not believing her to be clean, but later it was ascertained that his wife was already unclean, and, moreover, a doubt arose as to whether it might not have been his sister with whom he cohabited.
(33) Lev. IV, 23.
(34) I.e., exactly what his sin was, does he bring a sin offering. This contradicts the previous statement of R. Eliezer, for here he says, he brings a sin offering even if he does not know exactly what his sin was, and in our Mishnah he says, he does not bring his offering unless he knows exactly the source of his uncleanness, whether carcass of creeping thing or animal.
(35) Lev. V, 2.
(36) Surely, unclean creeping thing is included in any unclean thing?
(37) Because Scripture particularises, we deduce that he does not bring an offering unless he knows the exact source of his uncleanness.
(38) Since Scripture particularises, why does R. Akiba hold that it is not necessary he should know the exact source of his uncleanness, as long as he knows he is unclean?

Talmud - Mas. Shevu'oth 19a

Scripture wishes to write cattle and beast[1] for the sake of Rabbi's deduction,[2] it writes also creeping thing;[3] as was taught in the School of R. Ishmael: Any Biblical passage that was stated once, and then repeated, was repeated only for the sake of something new that was added to it.[4] And what does R. Eliezer do with the word wherein [he hath sinned]?[5] — To exclude him who occupies himself [with a permitted thing and unintentionally does that which is prohibited].[6]

And R. Johanan said: ‘Inferences of Expounders’ is the difference between them.[7] And so said R. Shesheth: ‘Inferences of Expounders’ is the difference between them, for R. Shesheth was wont to change the words of R. Eliezer for those of R. Akiba, and the words of R. Akiba for those of R. Eliezer,[8]

Raba inquired of R. Nahman: If he was unaware of both, what is the ruling?[9] — He said to him: Since there is the unawareness of uncleanness, he is liable. On the contrary, since there is the unawareness of Temple, he should be exempt! — R. Ashi said: we observe, if because of the uncleanness he leaves, then it is a case of unawareness of uncleanness, and he is liable; and if, because it is the Temple, he leaves, then it is a case of unawareness of Temple, and he is exempt:[10] — Said Rabina to R. Ashi: Does he then leave because it is the Temple, unless it be also because of the uncleanness? And does he leave because of the uncleanness, unless it be also because it is the Temple?[11] Well then, there is no difference,[12]

Our Rabbis taught: Two [public] paths, one unclean,[13] and one clean; and he walked along one,[14] and did not enter [the Temple afterwards]; then along the other, and entered [the Temple],[15] he is liable [to bring a sliding scale sacrifice].[16] If he walked along one, and entered [the Temple],[17] and was sprinkled upon [on the third day], and again [on the seventh day], and bathed himself;[18] and then he walked along the other,[19] and entered [the Temple],[20] he is liable.[21] R. Simeon [b. Yohai] exempts him;[22] and R. Simeon b. Judah exempts him in all these cases in the name of R. Simeon [b. Yohai].

‘In all of them,’

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(1) Lev. v, 2: the carcass of an unclean beast, or the carcass of unclean cattle.

(2) Supra 7a.

(3) Though it is superfluous; but we must not deduce from this particularisation that the unclean person must know the source of his uncleanness in order to be liable for a sacrifice.

(4) Here the ‘something new’ is Rabbi's deduction.

(5) Lev. IV, 23; the word wherein implies that he must know the actual sin he has committed, yet R. Eliezer holds that if there lay before him heleb and nothar, and he unwittingly ate one of them, not knowing which, he must also bring a sin offering.

(6) E.g., on Sabbath he intended (what is permissible) to cut something which was already detached (from the ground or tree), but his knife slipped, and he cut something which was still attached (to the ground or tree). Or, he intended to cohabit with his wife who was clean, and he inadvertently cohabited with his sister who was sleeping near her. In these cases, his intention was quite innocent; and the word wherein (he hath sinned) implies that in such cases he is exempt from a sacrifice, and that he is liable only if his intention was to do something which is actually wrong, though he thought it was right; e.g., he intended to cut a definite thing, which he thought was detached, but which actually was attached; or, he intended to cohabit with a certain person, whom he thought was his wife, but who actually was his sister. In these cases, he brings a sacrifice, because the actual act, though innocently committed, was definitely intended; in the former cases, the actual act which was committed was not intended.

(7) He disagrees with Hezekiah who said that R. Eliezer and R. Akiba differ in their interpretation of the law; he holds that they do not differ at all as to the law; they both hold that it is not necessary that the unclean person should know the exact source of his uncleanness; but they merely choose different texts from which to deduce the law; they, therefore, differ as ‘expounders’ merely as to the texts from which they derive their ‘inferences’.

(8) It matters not, since there is no difference in law between them.

(9) According to R. Eliezer and R. Akiba who hold that sin offering is brought only for unawareness of uncleanness and not for unawareness of Temple, what is the ruling of the unclean person was unaware of both uncleanness and Temple?

(10) If he leaves the Temple, when told he is unclean (the fact that it is the Temple is not mentioned to him), we realise that he regrets his entry because of his uncleanness; and it is, therefore, a case of unawareness of uncleanness. If, however, he leaves the Temple, when told that he is in the Temple (his uncleanness is not mentioned), we realise that he regrets his entry because it is the Temple; and it is, therefore, a case of unawareness of Temple.

(11) When he is told one of the facts, either that he is unclean, or that he is in the Temple, he does not leave because of that one fact; for his uncleanness, were it not for the fact that he is in the Temple, would not matter; and the fact that he is in the Temple, were it not for his uncleanness, would also not matter. He leaves, when told one of the facts, because he recollects immediately the other fact also. Since, however, when he entered the Temple while unclean, he was unaware of both facts, what is the ruling?

(12) And he is exempt, because R. Eliezer and R. Akiba hold that he is liable only for unawareness of uncleanness by itself, while realising that he has entered the Temple.

(13) Someone being buried there, and it is impossible to walk along the path without treading on the grave.

(14) But does not know whether it was the clean or the unclean path.

(15) Having forgotten that he is unclean, since he walked along both.

(16) Because he entered the Temple while definitely unclean, and had knowledge at the beginning of definite uncleanness.

(17) Having forgotten that he had walked along one path (which possibly was the unclean one, though he is not sure).

(18) Num. XIX, 19; a person unclean by the dead requires sprinkling with water into which has been put some of the ashes of the burnt red heifer.

(19) Knowing that it is possibly the unclean one.

(20) Having forgotten his possible uncleanness.

(21) Because either the first or the second time he entered the Temple while unclean.

(22) Because, before he entered the Temple either the first or second time, he had not the knowledge of definite uncleanness, for, before entering the Temple the first time, he certainly had not the knowledge of definite uncleanness (for the first path may have been clean), and even after walking along the second path he had not now the knowledge of definite uncleanness, since he had already purified himself from the first possible uncleanness (and the second path may be clean); and in order to bring a sacrifice we require knowledge at the beginning of definite uncleanness. In the previous instance, where he had not purified himself between the two entries, he has the knowledge of definite uncleanness before entering the Temple the second time.

Talmud - Mas. Shevu'oth 19b

even in the first case? At all events he is unclean?[1] — Said Raba: Here we are discussing the case of one who walked along the first [path]; and when he walked along the second [path], forgot that he had already walked along the first, so that he has only an incomplete knowledge [of uncleanness];[2] and this is in what they differ:[3] The first Tanna holds that we say, an incomplete knowledge is like a complete knowledge;[4] and R. Simeon [b. Judah] holds that we do not say, an incomplete knowledge is like a complete knowledge.[5]

‘If he walked along the first [path], and entered [the Temple], and was sprinkled upon [on the third day], and again [on the seventh day], and bathed himself; and then he walked along the second [path], and entered [the Temple], he is liable; and R. Simeon [b. Yohai] exempts him.’ Why is he liable,[6] since it is a doubtful knowledge?[7] — R. Johanan said: Here they made doubtful knowledge like definite knowledge.[8] And Resh Lakish said: This is in accordance with the view of R. Ishmael, who holds that we do not require knowledge at the beginning.

We may point out an incongruity between the words of R. Johanan [here] and the words of R. Johanan [elsewhere]; and we may point out an incongruity between the words of Resh Lakish [here] and the words of Resh Lakish [elsewhere]; for it has been taught: If he ate doubtful prohibited fat, and became aware of it [later; and he ate again] doubtful prohibited fat, and became aware of it [later]; Rabbi said: Just as he would bring a sin offering for each one, so he brings a guilt offering for doubtful sin for each one.[9] R. Simeon b. Judah and R. Eleazar son of R. Simeon said in the name of R. Simeon [b. Yohai]: He brings only one guilt offering for doubtful sin;[10] for it is said: [And he shall bring a ram . . . for a guilt offering . . .] for his error wherein he erred[11] — the Torah includes many errors for one guilt offering.[12] And Resh Lakish said: Here Rabbi taught that the awareness of the doubt separates [the acts] for sin offerings.[13] And R. Johanan said: [Rabbi meant:] Just as, the awareness of definite sin elsewhere separates [the acts] for sin offerings, so the awareness of doubtful sin [here] separates [the acts] for guilt offerings.[14] [Hence, there is incongruity between R.

Johanan's statements,[15] and between Resh Lakish's statements.][16] — Granted that there is no contradiction between one statement of R. Johanan and the other statement of R. Johanan, [for he said:] ‘Here they made [doubtful knowledge like definite knowledge]’, and not everywhere in the whole Torah did they do so; for [only] here, because knowledge [at the beginning] is not explicitly written, but is deduced from and it be hidden,[17] [therefore they made doubtful knowledge like definite knowledge;] ‘but not everywhere in the whole Torah did they do so’, for it is written: [If his sin] be known to him[18] — a definite knowledge we require. But Resh Lakish — why does he establish it as being in accordance with R. Ishmael's view? Let him establish it as being in accordance with Rabbi's view![19] — This he teaches us: that R. Ishmael does not require knowledge at the beginning. [But] it is obvious that he does not require [knowledge at the beginning], for he has no extra verse [from which to deduce it, since he requires] and it be hidden to make him liable for unawareness of Temple?[20] — Perhaps you might think that he does not infer [that we require knowledge at the beginning] from the verse, but he has it from a tradition; therefore [Resh Lakish] teaches us [that R. Ishmael definitely does not require knowledge at the beginning].

CHAPTER III

MISHNAH. OATHS ARE TWO, SUBDIVIDED INTO FOUR: ‘I SWEAR I SHALL EAT’, AND ‘[I SWEAR] I SHALL NOT EAT’;[21] ‘[I SWEAR] I HAVE EATEN’, AND ‘[I SWEAR] I HAVE NOT EATEN’.[22] — ‘I SWEAR I SHALL NOT EAT’, AND HE ATE A MINUTE QUANTITY, HE IS LIABLE: THIS IS THE OPINION OF R. AKIBA. THEY [THE SAGES] SAID TO R. AKIBA: WHERE DO WE FIND THAT HE WHO EATS A MINUTE QUANTITY IS LIABLE, THAT THIS ONE SHOULD BE LIABLE![23] — R. AKIBA SAID TO THEM: BUT WHERE DO WE FIND THAT HE WHO SPEAKS BRINGS AN OFFERING, THAT THIS ONE SHOULD BRING AN OFFERING?[24]

GEMARA. Shall We say that okal means ‘I shall eat’? We may question this, [for we learnt:] ‘"I swear I shall not eat of thine", "I swear I shall eat [okal] of thine"; "I do not swear I shall not eat of thine"; he is prohibited [to eat of that man's food]’?[25] — Abaye said: Really [okal] means ‘I shall eat’ [as our Mishnah states], yet there is no difficulty: Here [it is a case where] he is urged to eat; and there [it is a case where] he is not

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(1) After walking through both paths (without purification in the interval) he has the definite knowledge of uncleanness, and when he enters the Temple later, being unaware of his uncleanness, he should bring a sacrifice.

(2) Having forgotten that he had walked along the first path, and remembering only the second, he has not the complete knowledge of definite uncleanness.

(3) The first Tanna and R. Simeon b. Judah disagree as to the view of R. Simeon b. Yohai.

(4) The first Tanna who states that R. Simeon b. Yohai exempts him only in the case, where there was purification between the two entries, but not in the first case, holds that in the first case he is liable, because, when entering the Temple after having walked along both paths, he is definitely unclean, and though his knowledge is incomplete, for, when walking in the second path, he had forgotten about the first, nevertheless he is liable, for incomplete knowledge of definite uncleanness is counted as complete knowledge, since he is definitely unclean, and, if he had the complete knowledge, he would have known that he was definitely unclean, whereas in the case where there was purification between, the knowledge he had, though complete, was of doubtful uncleanness. He knew, that is to say, that he had walked in both paths, and yet, despite this knowledge, he is still doubtful, after walking in the second path, whether he is now unclean (for this path may be clean; and if the first was unclean he has already purified himself in any case) and is therefore exempt.

(5) And he is, therefore, exempt even in the first case, where there was no purification between the two entries.

(6) He questions the view of the Tanna who disagrees with R. Simeon b. Yohai.

(7) For when entering the Temple after walking along the first path he did not have the knowledge of definite uncleanness (for this path may have been clean); and when entering the Temple after walking along the second path, he also did not have the knowledge of definite uncleanness (for he had purified himself from the first path, and the second may be clean).

(8) Though his knowledge, in the case of each entry, was doubtful, yet, since he had certainly entered the Temple once while definitely unclean, and he had knowledge at the beginning (though of a doubtful nature), he brings an offering.

(9) He ate a piece of fat about which there was a doubt whether it was prohibited fat (חלב) or permitted (שומן); at the time of eating he thought it was permitted fat, but later became aware that there was a doubt about it. In such a case he brings a suspensive guilt offering, (Lev. V. 17; Rashi). If, after becoming aware of this, he commits this doubtful sin again, he must bring a guilt offering for each separate act, since there was awareness between each act; just as, if he had unwittingly eaten actual (not doubtful) prohibited fat on a number of occasions (with awareness between each act) he would have had to bring a sin offering for each separate act.

(10) For all the acts together.

(11) Lev. V, 18.

(12) Because Scripture could have written simply, על שגגתו, for his error; but it adds the words, אשר שגג, wherein he erred, implying that, however many times he erred, he brings only one suspensive guilt offering.

(13) He takes Rabbi's statement to mean this: If, after a time, he became aware that it was definitely prohibited fat, he would have to bring a sin offering for each act, although the awareness between the acts was only the awareness of doubtful prohibited fat, because such awareness is also sufficient to separate the acts. If there were no awareness at all between the acts, he would bring only one sin offering.

(14) If, after unwittingly committing a definite sin, he became aware of it, and later again unwittingly committed the same definite sin, the awareness of the definite sin between the two acts makes a division between the acts, and he brings a sin offering for each act; so here, the awareness of the doubtful sin between the acts makes a division between the acts, and he brings a guilt offering for each act. But if the awareness between the acts was only the awareness of the doubtful sin, he does not later bring a sin offering for each act when the knowledge comes to him that he has committed a definite sin.

(15) For R. Johanan said, with reference to entering the Temple after walking along two paths, one of which was unclean (with purification between the two walks), that doubtful knowledge is counted as definite knowledge; yet here he says that doubtful knowledge is not the same as definite knowledge in making a division between acts for sin offerings.

(16) For Resh Lakish said above that the Tanna who says he is liable (in the ease of entering the Temple after walking along two paths etc.) agrees with R. Ishmael that there is no need for knowledge at the beginning; Resh Lakish could have said that he agrees with Rabbi (according to Resh Lakish's exposition of his view) that doubtful knowledge is counted as definite knowledge.

(17) Lev. V, 3; v. supra 4a.

(18) Lev. IV, 28.

(19) Why does he say that the Tanna who makes him liable in the case of walking along the two paths agrees with R. Ishmael that we do not require knowledge at the beginning? Let him rather say that he does require knowledge at the beginning, but he makes him liable because he holds with Rabbi that doubtful knowledge is like definite knowledge (in accordance with Resh Lakish's own interpretation of Rabbi's view).

(20) Supra 14b.

(21) Lev. V, 4: If any one swears, pronouncing with his lips, or to do evil, or to do good. These are the two oaths, positive and negative, in the future. ‘To eat’ and ‘not to eat’ are merely examples of doing good and doing evil.

(22) These are the two additional oaths, positive and negative, in the past; v. infra 25a.

(23) On eating prohibited food there is liability only when a certain minimum (the size of an olive) is consumed; v. Yoma 81a.

(24) An oath is merely the utterance of the lips; yet he brings an offering for transgressing his utterance; therefore he brings an offering also even if he eats a minute quantity, since thereby he has also transgressed his utterance.

(25) Ned. 16a; If he used any of these three forms of oath, he must not partake of the other's food. Hence, ‘I swear that okal (I shall eat) of thine’ apparently implies that he takes an oath not to eat; yet in our Mishnah it is taken as a positive oath. The explanation why שבועה שאוכל לך may be taken negatively is this: שבועה — it shall be prohibited to me by oath; שאוכל לך — that which I eat of thine; i.e., I swear I shall not eat. The third form of oath means this: לא שבועה — it shall not be prohibited to me by oath; לא אוכל — that which I shall not eat; the implications being, but that which I shall eat shall be prohibited to me by oath.

Talmud - Mas. Shevu'oth 20a

urged to eat: our Mishnah [refers to the case where] he is not urged to eat;[1] and the Baraitha[2] [to the case where] he is urged to eat, and he says: ‘I shall not eat, I shall not eat’; so that when he swears,[3] he means: ‘I swear I shall not eat’. R. Ashi said: Read [in the Baraitha]: ‘I swear I shall not eat of thine’.[4] If so, what need is there to state it?[5] — I might have thought his tongue became twisted,[6] therefore he teaches us [that it is a definite negative].

Our Rabbis taught: Mibta[7] is an oath; issar[8] is an oath. What is the binding force of issar? If you say that issar is an oath, he is liable; and if not, he is exempt. If you say that issar is an oath! But you have just said that issar is an oath? Abaye said: Thus he means: Mibta is an oath; issar is tacked on to an oath.[9] What is the binding force of issar? If you say, that which is tacked on to an oath is like a properly expressed oath, he is liable; and if not, he is exempt. And how do we know that mibta is an oath? Is it not because it is written: If any one swear, pronouncing with his lips.[10] Then issar also [should be counted an oath], for it is written: Every vow and every oath of a bond?[11] Then again, how do we know that issar has the force of being tacked on to an oath? Is it not because it is written: Or bound he,’ soul by a bond with an oath?[12] Then mibta also [should have the force of being tacked on to an oath], for it is written: Whatsoever it be that a man shall pronounce with an oath.[13] But, said Abaye: That mibta is an oath we deduce from this: And if she be married to a husband while her vows are upon her, or the utterance of her lips, wherewith she hath bound her soul:[14] Now, oath is not mentioned; with what, then, did she bind herself? With mibta. Raba said: In reality, I can say to you, that which is tacked on to an oath is not like a properly expressed oath;[15] and thus he [the Tanna] means: Mibta is an oath; issar is also an oath; and what is the binding force of issar? Scripture placed it between a vow and an oath [to teach us that] if he expressed it in the form of a vow, it is a vow; and if in the form of an oath, it is an oath.[16] Where did [Scripture] place it [between a vow and an oath]? And if in her husband's house she vowed, or bound her soul by a bond with an oath.[17]

And they[18] follow their own opinions, for it has been stated: That which is tacked on to an oath[19] — Abaye said,it is like a properly expressed oath;[20] and Raba said,it is not like a properly expressed oath.

An objection was raised; [for it has been taught:] What is issar which is mentioned in the Torah? He who says: I take it upon me that I shall not eat meat, and that I shall not drink wine, as on the day that my father died, or, as on the day that So-and-So died, or, as on the day that Gedaliah, son of Ahikam, was killed, or, as on the day that I saw Jerusalem in its destruction; he is prohibited [from eating meat, etc.]; and Samuel said: only if he had already made a vow on that day.[21] Now, it is well, according to Abaye, for just as that which is tacked on to a vow is a vow, so that which is tacked on to an oath is an oath;

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(1) And he swears ‘I shall eat’- obviously a positive oath.

(2) [Tosaf. deletes ‘Baraitha’ as the passage belongs to a Mishnah.]

(3) Using the expression שבועה שאוכל.

(4) Not שאוכל, but שאי אוכל.

(5) For אי אוכל is the same as לא אוכל.

(6) That he intended to say שאוכל (positive), but inadvertently said שאי אוכל (negative).

(7) Num. XXX, 7: the utterance (מבטא) of her lips. If a man says: ‘This loaf shall be mibta to me’, it is an oath, as if he had said: ‘I swear I shall not eat this loaf’.

(8) Num. XXX, 3: To bind his soul with a bond (אסר). If a man says: ‘This loaf shall be issar to me’, it is an oath.

(9) If he says: ‘This loaf is issar to me’, it is not actually an oath, but has the same force as if it were tacked on to an oath, as in the following case: If he prohibits one loaf to himself by oath; then he says of a second loaf: ‘This second loaf shall be like the first’, the second loaf is here tacked on to an oath. Similarly, if he says: ‘This loaf is issar to me’, the ruling is the same as in the case of a statement which is tacked on to an oath. If that is counted as a proper oath, then issar is also a proper oath. The Tanna is simply equating issar with a statement that is tacked on to an oath.

(10) Lev. V, 4: תשבע לבטא, i.e., swear by the expression מבטא.

(11) Num. XXX, 14: שבועת אסר, i.e., the oath of issar.

(12) Ibid. 11: אסרה ... אסר בשבועה, i.e., bound herself by issar by (tacking it on to) an oath.

(13) Lev. V, 4: יבטא ... בשבועה, i.e., prohibit it to himself by mibta by tacking it on to an oath.

(14) Num. XXX, 7: מבטא ... אסרה, i.e., she bound herself by mibta; hence, mibta is an oath.

(15) Raba disagrees with Abaye who said that the Tanna holds that issar is the same as a statement tacked on to an oath, and that he is in doubt whether that has the force of a properly expressed oath or not; but, says Raba, the Tanna holds definitely that a statement tacked on to an oath is not the same as a proper oath.

(16) If he said: ‘This loaf is issar to me’, it is a vow, and he is exempt from a sliding scale sacrifice. If he said: ‘Issar that I shall not eat this loaf’, it is an oath, and he is liable.

(17) Num. XXX, 11: נדרה ... אסר ... בשבועה.

(18) Abaye and Raba.

(19) Lit., ‘he who tacks on to an oath.’

(20) Lit., ‘as if he expresses an oath by word of mouth.’

(21) He had previously vowed that he would never eat meat on the anniversary of his father's death, or on the anniversary of Gedaliah's murder (3rd Tishri); and now when he says, ‘I take it upon me that I shall not eat meat on that day’, he is tacking on the present prohibition to a previous vow; and he is prohibited from eating meat now, as if he had now made a vow; therefore a statement tacked on to a vow is like a proper vow; and similarly, a statement tacked on to an oath is like a proper oath.

Talmud - Mas. Shevu'oth 20b

but according to Raba, it is difficult? — Raba may say to you, explain it thus: What is the binding force of a vow which is mentioned in the Torah?[1] He who says: I take it upon me that I shall not eat meat, and that I shall not drink wine, as on the day that my father died, or, as on the day that So-and-So was killed; [he is prohibited from eating meat, etc.;] and Samuel said: only if he had already made a vow on that day. What is the reason Scripture says: If a man vow a vow unto the Lord[2] — only if he vow in the matter which he had already vowed.[3] — ‘As on the day my father died’! This is self-evident?[4] — ‘As on the day that Gedaliah, son of Ahikam, was killed’ is necessary. I might have thought that, since it is also prohibited[5] even if he had not vowed, the fact that he vowed does not bring a prohibition upon him [because of his vow]; so that it [his present vow] is not based on a [previous] vow, [and hence is not a normal vow]; therefore he teaches us [that it is so based; and because perforce he mentions this clause, he mentions also the previous clause, though it is unnecessary]. And R. Johanan also holds this view of Raba,[6] for when Rabin came [from Palestine] he said that R. Johanan said: [If one says:] ‘Mibta that I shall not eat of thine’, or, ‘Issar that I shall not eat of thine’, it is an oath. When R. Dimi came [from Palestine] he said that R. Johanan said: [If one says: ‘I swear] I shall eat’, or, ‘[I swear] I shall not eat’, [and he transgresses the oath,] it is a false oath;[7] and its prohibition is [derived] from this [verse]: Ye shall not swear by My name falsely.[8] [If one says: ‘I swear] I have eaten’ or, ‘[I swear] I have not eaten’, [and it was untrue,] it is a vain oath,[9] and its prohibition is [derived] from this [verse]: Thou shalt not take the name of the Lord thy God in vain.[10] Vows[11] come under the prohibition of: He shall not break his word.[12]

An objection was raised: Vain and false [oaths] are one. Does not this imply that just as a vain oath is in the past tense, so a false oath is in the past tense;[13] hence, ‘[I swear] I have eaten’ and ‘[I swear] I have not eaten’ are false oaths![14] — Is this an argument? This is in its own category, and that is in its own category.[15] And what is the meaning of: ‘They are one’? That they were pronounced in one utterance; as it has been taught [in another connection]: Remember[16] [the Sabbath day], and Keep[17] [the Sabbath day] were pronounced in a single utterance, — an utterance which the mouth cannot utter, nor the ear hear. Granted, there they were pronounced in one utterance, as R. Ada b. Ahabah said, for R. Ada b. Ahabah said: Women are in duty bound to sanctify the [Sabbath] day,[18] by decree of the Torah, for Scripture says: Remember and Keep; all who are included in the exhortation Keep are included in the exhortation Remember; and women, since they are included in Keep, are included also in Remember.[19] But here, for what law is it necessary?[20] But, [say then to teach us that] just as stripes are inflicted for a vain oath, so they are inflicted for a false oath;[21] — Whither are you turning?[22] — Well [then, say]: Just as stripes are inflicted for a false oath,[23] so they are inflicted for a vain oath.[24] But this is obvious:[25] this[26] is a negative precept, and that[27] is a negative precept! — I might have thought, as R. Papa said to Abaye: He will not hold him guiltless at all,[28]

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(1) The Tanna is not discussing a statement tacked on to a vow, but explaining that every normal vow (to make him guilty, if he breaks it) must be based on a previous vow, and must be detailed. If, however, he says: ‘This day shall be to me as the day that father died’ (without mentioning details, ‘I shall not eat meat’, etc.), it is merely a statement tacked on to a vow, and is not counted as a vow.

(2) Num. XXX, 3.

(3) Base the present vow on a previous vow.

(4) If the reason is that he based this vow on a previous vow, why mention his father's death? This does not make the vow stronger.

(5) To him to eat, since it is a public fast.

(6) That issar expressed in the form of an oath is an oath.

(7) An oath uttered in the future tense, if transgressed, comes under the category of ‘false’ oath.

(8) Lev. XIX, 12; i.e., ye shall not swear to do that which later, by transgressing, you make false.

(9) An oath in the past tense, which is known to be untrue at the moment of utterance, comes under the category of ‘vain’ oath.

(10) Ex. XX, 7.

(11) קונם konam is one of the forms in which vows are expressed.

(12) Num. XXX, 3.

(13) A vain oath is an oath which is known immediately to be untrue, such as, swearing that a stone pillar is gold (infra 29a); so a false oath in the past tense is known immediately to be untrue. It is called false, and not vain, because its falsity is not apparent to all, but only to the one who utters it.

(14) Yet R. Johanan calls them vain oaths.

(15) They are entirely different: vain oaths are in the past, and false oaths are in the future, but they are declared to be one merely because the prohibitions against both were simultaneously uttered by God.

(16) Ex. XX, 8.

(17) Deut. V, 12.

(18) By reciting, or hearing the recital of, the Kiddush. Though such positive precepts as depend for their observance on certain specified times need not be observed by women (מצות עשה שהזמן גרמא נשים פטורות), the precept of Kiddush must be observed by them, for Remember (which is explained as meaning ‘Remember it over wine’, i.e., recite Kiddush) is equated with Keep (i.e., do not transgress the negative precepts of the Sabbath); and just as women must keep the Sabbath (for all negative precepts, whether dependent for their observance on time or not, must be observed by women), so they must remember it.

(19) Therefore Remember and Keep were pronounced in one utterance, in order to teach us this.

(20) That the prohibition against vain oath and false oath should have been pronounced in one utterance?

(21) The statement ‘Vain and false oaths are one’ does not mean that they were pronounced in one utterance, but that they are both the same in that stripes are inflicted equally for both.

(22) Your statement should be reversed, for the transgression of a false oath (such as, ‘I swear I shall not eat’, and he ate) is more likely to be punishable by stripes (because it involves action) than the transgression of a vain oath (such as, ‘I swear I have eaten’ or, ‘not eaten’, which does not involve action).

(23) In the transgression of which, action is involved.

(24) Although no action is involved; v. infra 21a.

(25) As deduced from a verse, infra 21a.

(26) False oath.

(27) Vain oath.

(28) V. Ex. XX, 7; he who swears a vain oath will never be guiltless, i.e., he is not punished by stripes to remove his guilt (for, after punishment, the guilt is wiped out).

Talmud - Mas. Shevu'oth 21a

therefore he teaches us [that he is punished by stripes] as Abaye answered him.[1] And if you will, I may say, that just as he brings an offering for a false oath, so he brings an offering for a vain oath;[2] and it is in accordance with R. Akiba's view who makes him liable for [an oath in] the past as in the future.[3]

An objection was raised: What is a vain oath? Swearing that which is contrary to the facts known to man.[4] A false oath? Swearing that which is the reverse.[5] [Hence, a false oath is in the past tense, yet R. Johanan says, in the future.] Say, Swearing and reversing.[6]

When R. Abin came [from Palestine], he said that R. Jeremiah said that R. Abbahu said that R. Johanan said: '[I swear] I have eaten', '[I swear] I have not eaten' [and it was untrue], are false oaths,[7] and their prohibition is from: Ye shall not swear by My name falsely.[8] '[I swear] I shall eat', '[I swear] I shall not eat' [and he broke the oath], he transgresses: He shall not break his word.[9] And what is a vain oath? Swearing that which is contrary to the facts known to man.

R. Papa said: This statement of R. Abbahu's was not explicitly expressed, but only deduced by implication;[10] for R. Idi b. Abin said that R. Amram said that R. Isaac said that R. Johanan said: R. Judah said in the name of R. Jose the Galilean: Every negative precept in the Torah, if it involves action, is punished by stripes; if it does not involve action, is not punished by stripes, except swearing, exchanging,[11] and cursing one's neighbour with the Name.[12] 'Swearing' — how do we know?[13] R. Johanan said in the name of R. Simeon b. Yohai: Scripture says: Thou shalt not take the name of the Lord thy God in vain; for the Lord will not hold him guiltless[14] — the Upper Court[15] will not render him guiltless, but the lower court inflict stripes and render him guiltless.[16] Said R. Papa to Abaye: Perhaps Scripture means this: He will not render him guiltless at all? — If it had been written: For he will not hold him guiltless, it would have meant what you say; but now that it is written: For the Lord will not hold him, guiltless, [it means], the Lord does not render him guiltless, but the lower court inflict stripes and render him guiltless. Hence we find that a vain oath [is punished by stripes]. How do we know a false oath [is so punished]? — R. Johanan himself said: 'In vain' is mentioned twice.[17] Since it[18] is not needed for a vain oath, utilise it for a false oath. And R. Abbahu raised the question: This false oath — what kind is meant? Shall we say, 'I swear I shall not eat', and he ate? This is a negative precept involving action.[19] Then again, if he said: 'I swear I shall eat', and he did not eat, does he then receive stripes? Surely, it has been stated: 'I swear I shall eat this loaf to day', and the day passed, and he did not eat it: R. Johanan and Resh Lakish both hold that he does not receive stripes; R. Johanan says he does not receive stripes, because it is a negative precept not involving action, and any negative precept not involving action is not punishable by stripes; and Resh Lakish says, he does not receive stripes, because it is an uncertain warning, and an uncertain warning is not a warning?[20] — Well then, said R. Abbahu: It refers to: '[I swear] I have eaten', '[I swear] I have not eaten'.[21] And what is the difference?[22] — Raba said: Clearly did the Torah include a false oath which is like a vain oath;[23] just as a vain oath is in the past, so a false oath which is in the past [is included].[24]

R. Jeremiah put a question to R. Abbahu: [We learnt:] 'I swear I shall not eat this loaf; I swear I shall not eat it; I swear I shall not eat it', and he ate it, he is liable only for one [oath]:[25] this is the oath of utterance[26] for the wilful transgression of which stripes are incurred, and for the unwitting transgression of which a sliding scale sacrifice is brought.[27] 'This is [the oath, etc.]' What does 'this' exclude? Surely, it excludes '[I swear] I have eaten', '[[swear] I have not eaten', that he is not liable for stripes?[28] — No! It excludes '[I swear] I have eaten', '[I swear] I have not eaten' from an offering: ‘this[29] is [the oath . . .]’ for the unwitting transgression of which a sliding scale sacrifice is brought, but not ‘[I swear] I have eaten’, ‘[I swear] I have not eaten’; and this will be in accordance with the opinion of R. Ishmael who holds that he is only liable for an oath in the future;[30] but stripes he incurs.

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(1) infra 21a.

(2) The statement ‘Vain and false oaths are one’ means they are equal in that an offering is brought for the transgression of a vain oath (such as, ‘I have eaten’, ‘I have not eaten’) as for a false oath (‘I shall eat’, ‘I shall not eat’).

(3) Infra 25a, and supra 3a.

(4) E.g., swearing of gold that it is wood.

(5) Of the truth; e.g., swearing that he had eaten, when he had not.

(6) Swearing to do something in the future, and not doing it.

(7) Disagreeing with R. Dimi who said in R. Johanan's name that they are vain oaths; supra 20b.

(8) Lev. XIX, 12,

(9) Num. XXX, 3.

(10) R. Jeremiah did not hear R. Abbahu say definitely that R. Johanan holds an oath in the past is termed a false oath, but deduced it from another statement of his; v. infra p. 109, n. 8.

(11) For another, a beast which he had dedicated as a sacrifice (v. Lev. XXVII, 10; both become holy); the exchange is effected merely by utterance, without action.

(12) Of God; v. Tem. 3b.

(13) That stripes are inflicted for its transgression?

(14) Ex. XX, 7.

(15) The Lord.

(16) The human tribunal punish him, and thereby (having expiated his offence), he becomes once more guiltless.

(17) Ex. XX, 7.

(18) The second ‘in vain’.

(19) And therefore is certainly punished by stripes. But which is the oath not involving action which is said to be punished by stripes?

(20) Supra 3b; v. p. 8, n. 1.

(21) This is the false oath which, though not involving action, is punishable by stripes. From this statement of R. Abbahu's R. Jeremiah deduced that an oath in the past tense is called a false oath according to R. Johanan.

(22) Why should this oath, though not involving action, be punishable by stripes, whereas an oath in the future not involving action is not punishable?

(23) Because false oath is deduced from the second ‘in vain’.

(24) Swearing that which is contrary to a known fact is like an oath in the past; the falsity is immediately evident.

(25) Although he uttered three oaths; because the second oath cannot ‘fall’ on the first; i.e., since the first oath already prohibits him from eating the loaf, the second oath is, in effect, a promise to fulfil the mizwah of keeping the first oath, and ‘he who swears to fulfil a mizwah, and does not fulfil it, is not liable’ (Infra 27a).

(26) Lev. V, 4; swearing to utter (or, pronounce) with the lips to do evil, or to do good.

(27) Infra 27b.

(28) Yet R. Abbahu states that he is.

(29) Oath in the future.

(30) Infra 25a.

Talmud - Mas. Shevu'oth 21b

How [then] will you explain the latter clause: This[1] is the vain oath for the wilful transgression of which stripes are incurred, and for the unwitting transgression of which he is exempt.[2] ‘This is [the vain oath, etc.]’ What does ‘this’ exclude? Surely, it excludes ‘[I swear] I have eaten’, ‘[I swear] I have not eaten’, that he is not liable for stripes![3] — No! ‘This is [the oath . . .] for the unwitting transgression of which he is exempt [from a sacrifice]’ but ‘[I swear] I have eaten’, ‘[I swear] I have not eaten’, makes him liable for a sacrifice for unwitting transgression; and this will be in accordance with the opinion of R. Akiba who holds that he is liable for [an oath] in the past as in the future.[4] But you have said that the first statement is in accordance with R. Ishmael's view. Is the first statement, then, in accordance with R. Ishmael's view, and the second in accordance with R. Akiba's view! — [No!] It is entirely in accordance with R. Akiba's view; and the first statement is not intended to exclude '[I swear] I have eaten', '[I swear] I have not eaten' from a sacrifice, but to exclude '[l swear] I shall eat', and he did not eat, from stripes; but for a sacrifice he is liable.[5] Why should you prefer this?[6] — It is reasonable that, since he is discussing the future, he should exclude the future; but, discussing the future, shall he exclude the past?[7]

I SWEAR I SHALL NOT EAT , AND HE ATE A MINUTE QUANTITY, HE IS LIABLE; [THIS IS THE OPINION OF R. AKIBA.]

It was queried [by the scholars]: Does R. Akiba agree in the whole Torah with R. Simeon who imposes liability for a minute quantity, for it has been taught: 'R. Simeon says. For a minute quantity stripes are incurred;[8] and it was not said that the size of an olive is necessary except for a sacrifice.'[9] And by right they[10] should disagree also elsewhere, but the reason their disagreement is stated here is to show you the power of the Sages, for, although it is possible to say, since if he had expressly stated [a minute quantity] he would have been liable,[11] he should also be liable even if his statement is undefined,[12] we are informed, nevertheless, that they exempt him.[13] Or, elsewhere, does R. Akiba agree with the Sages,[14] and here, this is the reason:[15] since if he expressly states [a minute quantity] he is liable, he is liable also if his statement is undefined?

Come and hear: THEY SAID TO R. AKIBA: WHERE DO WE FIND THAT HE WHO EATS A MINUTE QUANTITY IS LIABLE, THAT THIS ONE SHOULD BE LIABLE? And if it is so [that he agrees with R. Simeon elsewhere also], let him answer them: l agree in the whole Torah with R. Simeon? — [It is possible that] he is replying according to the views of the Rabbis[16] themselves: As for me, I agree with R. Simeon in the whole Torah; but as for you, agree with me at least that, since if he expressly states [a minute quantity] he is liable, he should be liable also if his statement is undefined. And the Rabbis replied to him: No!

Come and hear: R. Akiba says, A nazirite who soaked his bread in wine, and there is sufficient in both together to make up the size of an olive, is liable.[17] Now if you were to hold that everywhere he agrees with R. Simeon,[18] what need is there for combining?[19] And again, we learnt: 'I swear I shall not eat', and he ate carrion, trefa, forbidden animals, and reptiles, he is liable;[20] and R. Simeon exempts him.[21] And we asked: Why is he liable,[22] since he had already been adjured on Mount Sinai? Rab and Samuel and R. Johanan said: [He is liable because] he had included permitted things with the prohibited things.[23] And Resh Lakish said: You cannot find [that he should be liable] except either, if he expressly stated half the legal quantity,[24] and it will be in accordance with the view of the Rabbis, or, [even] if his statement was undefined, and it will be in accordance with R. Akiba's view,[25] who holds that a man [in an undefined oath], prohibits to himself [even] a minute quantity. Now if you were to say that elsewhere R. Akiba also agrees with R. Simeon,[26] then for a minute quantity he also stands adjured from Mount Sinai! Hence, we deduce from this [must we not?] that elsewhere he agrees with the Rabbis.[27] It is proven.

THEY SAID TO R. AKIBA: WHERE DO WE FIND [THAT HE WHO EATS A MINUTE QUANTITY IS LIABLE, etc.]. Can we not? Is there not the ant?[28] A creature is different.[29] Is there not sacred property?[30] — But we require it should be the value of a perutah.[31] Is there not the expressly defined oath?[32] An expressly defined oath is like a creature.[33] Is there not dust?[34] May you then,

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(1) Swearing that which is contrary to a known fact,

(2) Infra 29a.

(3) Yet R. Abbahu says he is.
(4) Infra 25a.
(5) For unwitting transgression.
(6) Interpretation of the Mishnah? Perhaps it excludes an oath in the past from sacrifice; and it will not be in accordance with R. Akiba's view.
(7) The Mishnah states: ‘I swear I shall not eat’, and he ate — this is the oath for which he is liable both for witting and unwitting transgression; but (we may deduce) ‘I swear I shall eat’, and he did not eat — for this he does not incur stripes for witting transgression. Both statement and deduction are future.
(8) Not only in the case of oaths, but in the case of any prohibited food, R. Simeon holds that if he eats a minute quantity wittingly he incurs stripes.
(9) For unwitting transgression where, for witting transgression, he incurs the penalty of kareth. In the case of an oath, however, witting transgression is punishable by stripes even for a minute quantity, and consequently unwitting transgression is punishable by a sacrifice even for a minute quantity.
(10) R. Akiba and the Sages of our Mishnah; they disagree not only in the case of an oath, but in all prohibited things. R. Akiba holding with R. Simeon that for a minute quantity he is liable.
(11) If he had expressly sworn: ‘I swear I shall not eat a minute quantity’, and he ate, the Sages agree that he is liable, for he has broken his oath.
(12) For it may be that when he says: ‘I swear I shall not eat’, he means even a small quantity, because he is not thinking of the legal minimum enjoined by the Torah for prohibited foods.
(13) When his oath is undefined.
(14) That on eating a minute quantity of prohibited food he is exempt.
(15) Why he makes him liable.
(16) The Sages.
(17) The permitted food (bread) combines with the prohibited (wine) to make up the legal minimum; Nazir 35b.
(18) That he is liable for a minute quantity of any prohibited food.
(19) The permitted bread with the prohibited wine?
(20) To bring a sliding scale sacrifice for unwitting transgression of the oath.
(21) From a sacrifice, for all Israel had been adjured at Mount Sinai to observe the Torah and not to eat carrion, etc., therefore his present oath cannot ‘fall’ on the first oath; it is merely like an oath to fulfil a mizwah, (infra 22b).
(22) According to the Sages?
(23) If he had sworn: I swear I shall not eat carrion’, this oath could not have ‘fallen’ on the first oath (adjuration at Mount Sinai); but he said: ‘I swear I shall not eat’, thus including even permitted things; and since the oath can fall on the permitted things, it falls also on the prohibited, for this oath is more inclusive than the oath taken at Mount Sinai (including as it does even permitted things); and when the second oath is more inclusive than the first, it has the power to fall on the first. R. Simeon, however, holds that even a more inclusive second oath cannot fall on the first.
(24) Not necessarily half: even a minute quantity.
(25) According to Resh Lakish, in the case of an oath, even the Rabbis (who disagree here with R. Simeon) do not hold that a more inclusive second oath falls on the first oath; but they make him liable here only if he said: ‘I swear I shall not eat a small quantity of carrion’, because for a small quantity (less than the size of an olive) there is no previous oath (from Mount Sinai), and this oath therefore takes effect. Only in the case of such an oath will he be liable, according to the Sages (who disagree with R. Akiba). And according to R. Akiba, he is liable even if he says: ‘I swear I shall not cat’, because he thereby prohibits to himself even a minute quantity of carrion, and for a minute quantity there is no previous oath (from Mount Sinai).
(26) That he is liable for a minute quantity of any prohibited food.
(27) That he is liable only when he eats the legal minimum (the size of an olive).
(28) For eating which, though it is less than the size of an olive, he is liable; Mak. 13a.
(29) Because, though minute, it is a complete creature.
(30) For which he is liable to bring a trespass offering if he uses for a profane purpose even an amount less than the size of an olive.
(31) A small coin, (v. Glos.). That is the legal minimum for bringing a trespass offering; hence, here also there is a definite minimum.
(32) ‘I swear I shall not eat a minute quantity’, and he ate, he is liable, though it is less than the size of an olive.

(33) Just as he is liable on eating a minute creature, because it is important owing to its being complete, so he is liable for a minute quantity, if he expressly states it in the oath, for he has rendered the minute quantity of sufficient importance to prohibit it to himself.

(34) The questioner assumes that if he says: 'I swear I shall not eat dust', he is liable for a minute quantity, because, since it is not edible, the normal minimum for edibles is not applicable.

Talmud - Mas. Shevu'oth 22a

decide that which Raba enquired: '"I swear I shall not eat dust", and he ate; what quantity [must he eat to make him liable]?' — May you [then] decide that it must be the size of an olive![1] — [No!] When do we say[2] [that we do not find liability for a minute quantity,] only in the case of an edible do we say so.[3] Is there not the case of vows?[4] — Vows are like expressly defined oaths.[5]

HE SAID TO THEM: BUT WHERE DO WE FIND THAT HE WHO SPEAKS BRINGS AN OFFERING, THAT THIS ONE SHOULD BRING AN OFFERING?

Do we not [find such a case]? Is there not the blasphemer?[6] — We mean, speaking and prohibiting; but this one speaks and sins.[7] Is there not the nazirite?[8] — We mean, bringing an offering for [breaking] his word;[9] but this one brings an offering so that wine may again be permitted to him. Is there not sacred property?[10] — We mean, prohibiting to himself only; but this one prohibits to the whole world.[11] Is there not the case of vows?[12] — He holds that there is no trespass offering for [breaking] vows.

Raba said: The controversy [between R. Akiba and the Sages] is in the case of an undefined oath, but if he expressly states [a minute quantity], all agree that he is liable for a minute quantity. What is the reason? An expressly defined oath is on a par with a 'creature'.[13] And Raba said further: The controversy is only where he says, 'I shall not eat,' but if he says, 'I shall not taste, all agree that he is liable for a minute quantity. This is self-evident! — I might have thought that 'to taste' should be taken in the way that people talk,[14] therefore he teaches us [that it is taken literally].

R. Papa said: The controversy is in the case of oaths, but in Konamoth all agree that he is liable for a minute quantity. What is the reason? Vows, since the word 'eating' is not mentioned in them,[15] are like expressly defined oaths.

An objection was raised: Two Konamoth combine; two oaths do not combine.[16] R. Meir says: Konamoth are like oaths. Now, if you say that [in vows] he is liable for a minute quantity, what need is there for combining? — He said, 'Eating of this [loaf] shall be to me konam; and eating of that [loaf] shall be to me konam.'[17] — If so, why do they combine? In any case, if you go here, there is not the legal minimum, and if you go there, there is not the legal minimum.[18] — He said, 'Eating of both [loaves] shall be to me konam.'[19] Now, a similar expression in the case of oaths would be, if he said, 'I swear I shall not eat of both [loaves];' then why do they not combine?[20] — R. Phinehas said: Oaths are different; because they are divided in respect of sin offerings, they do not combine.[21] If so, 'R. Meir says: Konamoth are like oaths.' [Why?] Granted, oaths [do not combine], because they are divided in respect of sin offerings; but konamoth, why not? — Reverse it: R. Meir Says: oaths are like Konamoth [and combine]; and he does not agree with R. Phinehas. Rabina said: That which R. Papa said [that in Konamoth he is liable for a minute quantity] refers only to stripes; and that which we learnt in the Baraitha [that vows combine] refers to an offering, where we require [that the enjoyment should be] the value of a perutah.[22]

Shall we say that the Sages hold there is a trespass offering for Konamoth?[23] Yet we learnt: [If he says,] 'This loaf is sacred,' and he eats it — either he or his neighbour — he trespasses; therefore there is redemption for it.[24] [If he says,] 'This loaf is to me sacred', he trespasses [by eating it], but his neighbour does not trespass; therefore there is no redemption for it;[25] this is the opinion of R. Meir.

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(1) For our Mishnah says: Where do we find that he who eats a minute quantity is liable? Apparently, therefore, it assumes that in the case of dust there must also be the legal minimum.

(2) In our Mishnah.

(3) But in the case of dust he may be liable even for a small quantity, and Raba's query remains.

(4) If he says: ‘This loaf shall be konam (v. p. 106, n. 6) to me’, he prohibits himself, thereby, from partaking even of a small quantity of it.

(5) Because he does not mention the term ‘eating’, — it is as if he had expressly prohibited even a minute quantity of it. It is only in oaths, where the term ‘eating’ is mentioned, that the question arises whether even a small amount is prohibited, or only the legal minimum, because elsewhere ‘eating’ implies a minimum of the size of an olive, אכילה בכזית.

(6) Num. XV, 30; Lev. XXIV, 11; Ker. 7a: R. Akiba says the blasphemer brings an offering.

(7) The Mishnah means: Where do we find that he, who by speaking, prohibits something to himself, should bring an offering for transgressing his word? But he who blasphemes the name of God, commits a sin by his very utterance.

(8) Who by his speech (vow) prohibits wine to himself, and brings an offering when the period of his naziriteship is ended; Num. VI. 1-21.

(9) Where do we find that a man by prohibiting something to himself, and then breaking his word, brings an offering?

(10) Which is dedicated by his word; and if he breaks his word by making profane use of it, he brings a trespass offering.

(11) Anything dedicated to the Temple is prohibited to all.

(12) E.g., by vowing not to partake of food, he prohibits the food to himself only. The questioner assumes that, since he expressed the prohibition in the form of a vow, he must bring a trespass offering also (if he breaks the vow), for vowing is similar to dedicating.

(13) V. supra 21b.

(14) Colloquially, ‘tasting’ means ‘eating’; and therefore we may think that if he says, ‘I shall not taste,’ he should not be liable unless he eats a ka-zayith (the size of an olive), according to the Sages.

(15) I.e., where a man says: That loaf shall be to me Konam (v. Glos.).

(16) If he prohibits two loaves to himself by vows, and he eats a small portion of each, the two portions combine to make up the requisite amount of ka-zayith, but if he prohibits them by oaths, they do not combine.

(17) Although he utters it in the form of a vow, yet, since he mentions the word ‘eating’, there must be the requisite amount.

(18) If he mentions the word ‘eating’ for each loaf, he must eat the legal minimum of each loaf in order to be liable; just as in the case of oaths.

(19) Therefore if he eats the legal minimum of both together, it suffices for liability.

(20) Why is it stated that two vows combine, and two oaths do not combine? What is the difference?

(21) The two loaves are distinct in the case of oaths. If he said, ‘I swear I shall not eat of this one and of that one’, and he ate a ka-zayith of each in one spell of unawareness, he brings two offerings. Since, therefore, they are counted as separate, they do not combine if he ate less than a ka-zayith of each. But in the case of vows the two loaves are not treated as distinct, for according to the view that a trespass offering must be brought for the enjoyment of that which he prohibits to himself by Konam, he would be liable to only one offering for a number of enjoyments in one spell of unawareness (Rashi). [For a full discussion of this distinction between oaths and Konamoth, v. Mishnah le-Melek on Maim. Yad, Shebu'oth IV, 1.]

(22) He receives stripes even for a minute quantity; and he brings a trespass offering if his combined enjoyments of the two loaves totalled the value of a perutah.

(23) For they say that two vows combine for a trespass offering.

(24) That which is dedicated to the Temple treasury (קדושת דמים) may be redeemed; Lev. XXVII, 27.

(25) For he has not dedicated it to the Temple, but has vowed that it shall be prohibited to him like a sacred thing; and there can be no redemption to permit the prohibited.

Talmud - Mas. Shevu'oth 22b

And the Sages say: Neither he nor his neighbour trespasses [by eating it], for there is no trespass in Konamoth.[1] — Reverse it: Neither he nor his neighbour trespasses, for there is no trespass in Konamoth: this is the opinion of R. Meir. And the Sages say: He trespasses, but his neighbour does not trespass.[2] If so, 'R. Meir says: Konamoth are like oaths', implying that Konamoth do not combine, but there is trespass in them?[3] Yet R. Meir says: There is no trespass in Konamoth at all! — According to the views of the Sages he is replying: As for me, I hold there is no trespass in Konamoth at all; but as for you, admit to me at least that Konamoth are like oaths [and do not combine]. And the Sages? — [They reply:] In oaths there is the reason of R. Phinehas; in Konamoth there is not the reason of R. Phinehas.[4]

Raba said: — [If a man says,] 'I swear shall not eat,' and he ate dust, he is exempt.[5] Raba inquired: [If a man says.] 'I swear I shall not eat dust,' what amount [must he eat to make him liable]? [Shall we say:] Since he said, 'I shall not eat,' his intention was a kazayith,[6] or, since it is not something that people eat, [his intention was] a minute quantity? — Let it stand.[7]

Raba inquired: [If a man says,] 'I swear I shall not eat grape stones,' what amount [must he eat to make him liable]? [Shall we say:] Since it can be eaten mixed [with the grapes], his intention was a ka-zayith, or, since, by itself, it is not eaten by people, his intention was a minute quantity?[8] — Let it stand.

R. Ashi inquired: If a nazirite said, 'I swear I shall not eat grape stones,' what amount [must he eat to make him liable]?[9] [Shall we say:] Since a ka-zayith is prohibited in the Torah,[10] therefore when he swears, he swears for that which is permitted, and his intention is for a minute quantity; or, since he says. 'I shall not eat,' his intention is a ka-zayith?[11] — Come and hear: 'I swear I shall not eat,' and he ate carrion, trefa, forbidden animals, and reptiles, he is liable; and R. Simeon exempts him. And we asked: Why is he liable, since he stands adjured from Mount Sinai? Rab and Samuel and R. Johanan said: Because he included permitted things with the prohibited things. And Resh Lakish said: You cannot find [that he should be liable] except either, if he expressly stated half the legal quantity, in accordance with the view of the Sages, or, if his statement was undefined, in accordance with the view of R. Akiba, who holds that a man [in an undefined oath] prohibits to himself a minute quantity.[12] Now, carrion, for which he stands adjured from Mount Sinai, is like grape stones to a nazirite; and yet, only if he expressly states [less than the legal quantity, is he liable],[13] but if he does not expressly state this, his intention is for a ka-zayith. — It is proven.

Well then, you may decide that which Raba enquired: [If a man says.] 'I swear I shall not eat dust,' what amount [must he eat to make him liable]? You may decide that it must be a ka-zayith; for carrion is like dust;[14] and yet [he is liable] only if he expressly states [less than the legal quantity], but if he does not expressly state this, his intention is for a ka-zayith. — No! Dust is not edible at all;[15] but carrion is edible, except that a lion is lying on it.[16] MISHNAH. [IF A MAN SAYS,] 'I SWEAR I SHALL NOT EAT' AND HE ATE AND DRANK, HE IS LIABLE ONLY ONCE.[17] 'I SWEAR I SHALL NOT EAT AND I SHALL NOT DRINK,' AND HE ATE AND DRANK, HE IS LIABLE TWICE.[18] 'I SWEAR I SHALL NOT EAT,' AND HE ATE WHEAT BREAD, BARLEY BREAD, AND SPELT BREAD, HE IS LIABLE ONLY ONCE. 'I SWEAR I SHALL NOT EAT WHEAT BREAD, BARLEY BREAD, AND SPELT BREAD,' AND HE ATE, HE IS LIABLE FOR EACH ONE. 'I SWEAR I SHALL NOT DRINK,' AND HE DRANK MANY LIQUIDS, HE IS LIABLE ONLY ONCE. 'I SWEAR I SHALL NOT DRINK WINE, OIL, AND HONEY,' AND HE DRANK, HE IS LIABLE FOR EACH ONE. 'I SWEAR I SHALL NOT EAT,' AND HE ATE FOODS WHICH ARE NOT FIT TO BE EATEN, AND DRANK LIQUIDS WHICH ARE NOT FIT TO BE DRUNK, HE IS EXEMPT.[19] 'I SWEAR I SHALL NOT EAT,' AND HE ATE CARRION, TREFA, FORBIDDEN ANIMALS, AND REPTILES, HE IS LIABLE.[20] AND R. SIMEON EXEMPTS HIM.[21] HE SAID, 'I VOW THAT MY WIFE SHALL NOT BENEFIT FROM ME, IF I HAVE EATEN TODAY,' AND HE HAD EATEN CARRION, TREFA, FORBIDDEN ANIMALS, OR REPTILES, HIS WIFE IS PROHIBITED TO HIM.[22]

GEMARA. R. Hiyya b. Abin said that Samuel said: [If a man says,] ‘I swear I shall not eat,’ and he drank, he is liable. If you will, it may be deduced by reason; and if you will, it may be deduced from Scripture. If you will, it may be deduced by reason; for a man will say to his friend, ‘Let us eat something,’ and they go in, and eat and drink.[23] And if you will, it may be deduced from Scripture; drinking is included in eating, for Resh Lakish said: Whence do we know that drinking is included in eating? Because it is said: And thou shalt eat before the Lord thy God, in the place which He shall choose to cause His name to dwell there, the tithe of thy coin, of thy wine . . .[24]

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(1) This proves that the Sages hold that there is no trespass in vows!

(2) For the Sages hold there is trespass in vows.

(3) A trespass offering is brought for breaking a vow, but two vows do not combine for one trespass offering.

(4) Supra 22a.

(5) Because dust is not edible, and ‘eating’ normally refers to edibles.

(6) Because the legal minimum for eating is a ka-zayith.

(7) I.e., it remains unsolved.

(8) Assuming that in the case of dust he is liable for a minute quantity, is he here also liable for a minute quantity, or, since grape stones are not as inedible as dust (because they are eaten mixed with the grapes), a ka-zayith must be eaten for liability.

(9) Assuming that in the case of other men (not nazirites) a ka-zayith is necessary (counting it as an edible), shall we say that a nazirite, knowing that a ka-zayith is in any case prohibited to him, intends, when taking the oath, to prohibit himself further (i.e., even a minute quantity)?

(10) Num. VI, 4: from the grape stones even to the grape skin he shall not eat.

(11) For the term ‘eating’ denotes the minimum of a ka-zayith.

(12) V. supra 21b.

(13) According to the Sages (in Resh Lakish's view); and we do not say, since a ka-zayith is in any case prohibited already by the Torah, his intention when swearing, must have been for a smaller quantity.

(14) Since it must not be eaten.

(15) Therefore the legal minimum for edibles is not applicable; and his intention may have been to prohibit even a minute quantity.

(16) The prohibition of the Torah lies on it like a lion, making it inaccessible.

(17) Though drink is included in the oath (for drinking is included in eating, as explained in the Gemara; v. infra), yet he is liable for only one punishment (stripes for wilful, and offering for unwitting transgression), for it is as if he had eaten twice in one spell of unawareness.

(18) Because they are two oaths.

(19) Because ‘eating’ implies edibles.

(20) Because, though prohibited by the Torah, they are edible.

(21) V. supra 21b.

(22) R. Simeon agreeing, for he has eaten edibles.

(23) Hence, drinking is included in eating.

(24) Deut. XIV, 23.

Talmud - Mas. Shevu'oth 23a

Now, tirosh[1] is wine, and yet it is written, ‘thou shalt eat’. Perhaps [Scripture means] when used in elaiogaron?[2] For Raba b. Samuel said: Elaiogaron contains the juice of beets, oxygaron the juice of all kinds of boiled vegetable! — But, said R. Aha b. Jacob: [We deduce that drinking is included in eating] from the verse, And thou shalt bestow the money for whatsoever thy soul desireth, for oxen, or for sheep, or for wine, or for strong drink . . . [and thou shalt eat there].[3] Now, yayin is certainly wine; and yet it is written, ‘thou shalt eat’. Perhaps here also [Scripture means] in elaiogaron? — ‘Strong drink’ is written, implying that which can cause intoxication.[4] Perhaps pressed figs from

Keilah[5] [are intended];[6] for it was taught: If he ate a pressed fig from Keilah, or drank honey, or milk, and entered the Temple, and ministered, he is liable?[7] — Well then, we deduce [that drinking is included in eating] by analogy from 'strong drink' [used here and in connection with a nazirite]: just as there it implies wine, so here it implies wine.[8]

Raba said: We have also learnt thus:[9] 'I SWEAR I SHALL NOT EAT,' AND HE ATE AND DRANK, HE IS LIABLE ONLY ONCE. Granted, if you say that drinking is included in eating, it is necessary for the Tanna to teach us that [nevertheless] he is liable only once.[10] But if you say that drinking is not included in eating,[11] [if he says.] 'I swear I shall not eat,' and he ate, and did work, would it be necessary [for the Tanna] to teach us that he is liable only once? Abaye said to him: What then, drinking is included in eating! [If so,] read the second clause, 'I SWEAR I SHALL NOT EAT, AND I SHALL NOT DRINK,' AND HE ATE AND DRANK, HE IS LIABLE TWICE. Now, since he said, 'I shall not eat,' he is already prohibited from drinking;[12] then when he says, 'I shall not drink,' why should he be liable? If he had said, 'I shall not drink' twice, would be have been liable twice? — He replied to him: There [the Mishnah means] he [first] said, 'I shall not drink,' and then he said, 'I shall not eat;' for drinking is included in eating, but eating is not included in drinking. But if he said, 'I swear I shall not eat and I shall not drink,' and he ate and drank, he would be liable only once? If so, why does he teach in the first clause: 'I SWEAR I SHALL NOT EAT,' AND HE ATE AND DRANK, HE IS LIABLE ONLY ONCE? Let him teach: 'I swear I shall not eat and I shall not drink,' he is liable only once; and most certainly [we should know, when he says:] 'I shall not eat' alone [he is liable only once]! We must therefore read the Mishnah as it stands;[13] but here it is different.[14] Since he said, 'I shall not eat,' and then he said, 'I shall not drink,' he revealed his mind that this 'eating' that he mentioned meant eating only.[15]

R. Ashi said: Our Mishnah also proves it:[16] 'I SWEAR I SHALL NOT EAT;' AND HE ATE FOODS WHICH ARE NOT FIT TO BE EATEN, AND DRANK LIQUIDS WHICH ARE NOT FIT TO BE DRUNK, HE IS EXEMPT. [This implies that] if they are fit, he is liable.[17] But why so? Surely he said [merely]: 'I swear I shall not eat'! — Perhaps he said both: 'I swear I shall not eat; I swear I shall not drink.'[18] 'I SWEAR I SHALL NOT EAT,' AND HE ATE WHEAT BREAD, etc. But perhaps he wished to exempt himself from other kinds?[19] — [In that case,] he should have said: '[I shall not eat] wheat, barley, and spelt.'[20] But perhaps, [that would have meant] 'to chew'?[21] — He could have said, '[I shall not eat] the bread of wheat, barley, and spelt.'[22] — But perhaps, [that would have meant] the bread of wheat to eat, and barley and spelt to chew? — He could have said: '[I shall not eat] the bread of wheat, and of barley, and of spelt'.

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(1) Heb. תירש (not the usual יין) is used in the verse.

(2) A sauce of oil and garum to which wine is sometimes added; this is a food, and therefore Scripture calls it 'eating'; but drinking is perhaps not included in eating.

(3) Deut. XIV, 26.

(4) 'Strong drink' is taken as explanatory of wine; hence it must be taken in its ordinary connotation, and not as an admixture to a sauce.

(5) A town in the lowland district of Judea.

(6) Strong drink may not be explanatory of wine, but a separate noun denoting pressed figs from the town of Keilah, which are intoxicating.

(7) If a priest conducts the service in the Temple when intoxicated, he transgresses the command in Lev. X, 9.

(8) A nazirite must abstain only from wine products (Naz. 4a); the term, 'strong drink' in the case of a nazirite (Num. VI, 3) refers only to wine; hence the term 'strong drink' in Deut. XIV, 26 refers also to wine; and Scripture says: 'thou shalt eat'; hence drinking is included in eating.

(9) That drinking is included in eating.

(10) Because he ate and drank in one spell of unawareness.

(11) What need is there for the Tanna to teach us that he is liable only once?

(12) Since drinking is included in eating.

(13) That he first says, ‘I shall not eat’, and then, ‘I shall not drink,’
(14) Why he is liable twice, though drinking is already included in eating.
(15) And he supplemented his oath to include drinking.
(16) That drinking is included in eating.
(17) This would prove that drinking is included in eating.
(18) From this passage there is no proof that drinking is included in eating, for the Mishnah may mean this: ‘I swear I shall not eat,’ and he ate foods which are not fit,’ etc.; and ‘I swear I shall not drink,’ and he drank liquids which are not fit, etc. But the Mishnah abbreviates.
(19) If he says, ‘I swear I shall not eat wheat bread, barley bread, and spelt bread,’ and he ate, he is liable for each one. Why? Perhaps he enumerates these kinds of bread in order to exclude other kinds, such as, bread of oats, rye, or millet, which he does not desire to prohibit; for, if he had said, ‘I swear I shall not eat,’ without particularising, he would have been prohibited from all kinds. But, in reality, it is only one oath, not three.
(20) But since he mentions the word BREAD each time, he implies that they are three separate oaths.
(21) Grains of wheat, barley, and spelt; but bread would not have been prohibited; therefore he must mention the word BREAD.
(22) But because he mentions the word BREAD on each occasion, he implies that they are three separate oaths.

Talmud - Mas. Shevu'oth 23b

But perhaps [that would have meant] mixed?[1] — Say, [he could have said: ‘I shall not eat the bread of wheat,] and also of barley, and also of spelt’. Why is BREAD repeated? Obviously, in order to separate.[2]

‘I SWEAR I SHALL NOT DRINK;’ AND HE DRANK MANY LIQUIDS. HE IS LIABLE ONLY ONCE, etc. Granted there,[3] as you say, the word BREAD, being superfluous, makes him liable;[4] but here,[5] what could he have said? Perhaps he wishes to exempt himself from other liquids?[6] — R. Papa said: Here we are discussing [the case of] where they are lying before him; so that he could have said: ‘I swear I shall not drink these.’[7] But perhaps [that would have meant], ‘These I shall not drink, but others [of the same kind] I shall drink’? — Well, he could have said, ‘I swear I shall not drink [liquids] just like these.’ Perhaps [that would have meant], ‘Just like these[8] I shall not drink, but less than these, or more than these, I shall drink’? Well then, he could have said, ‘I swear I shall not drink of these kinds.’ Perhaps [that would have meant], ‘These kinds I shall not drink, but these themselves I shall drink’? — Say [he could have said], ‘I shall not drink these and their kinds.’

R. Aha the son of R. Ika said: We are discussing [a case] where his friend is urging him, saying to him, ‘Come and drink with me wine, oil, and honey;’ so that he could have said, ‘I swear I shall not drink with you.’ What need is there [to enumerate] wine and oil and honey? [Obviously, therefore,] to make him liable for each one.

We learnt there: [If a man says to another.] ‘Give me the wheat, barley, and spelt of mine in your possession.’[9] [and the other replies,] ‘I swear that there is nothing of yours in my possession;’ he is liable only once.[10] [But if he says,] ‘I swear that I have not of yours in my possession wheat, barley, and spelt;’ he is liable for each one.[11] And R. Johanan said: Even if there is only a perutah of all of them together, they combine.[12] Now, R. Aha and Rabina disagree;[13] one says, he is liable for the particularisations, but he is not liable for the generalisations; and the other says, he is liable also for the generalisations.[14] Now here,[15] how will it be? — Raba said: How now?[16] There he is liable for the generalisation, and he is liable for the particularisation, for if he swears once, and then swears again, he is liable twice.[17] But here, if it should enter your mind that they are included in the generalisation, why should he be liable for the particularisations, since he already stands adjured?[18]

‘I SWEAR I SHALL NOT EAT’, etc. This itself is contradictory! You say: ‘I SWEAR I SHALL

NOT EAT', AND HE ATE FOODS WHICH ARE NOT FIT TO BE EATEN, AND DRANK DRINKS WHICH ARE NOT FIT TO BE DRUNK, HE IS EXEMPT. And then you teach: I SWEAR I SHALL NOT EAT,' AND HE ATE CARRION, TREFA, FORBIDDEN ANIMALS, AND REPTILES, HE IS LIABLE. What is the difference between the first clause, where he is exempt, and the second, where he is liable?[19] — This is no question: the first clause relates to an undefined oath,[20] and the second to a defined oath.[21] [In the case of] a defined oath itself it may also be asked: Why? Surely he is adjured from Mount Sinai![22] — Rab and Samuel and R. Johanan said: Because he included permitted foods with the prohibited foods.[23] And Resh Lakish said: You cannot find [that he should be liable] except either if he expressly states half the legal quantity, in accordance with the view of the Rabbis; or, if his oath is undefined, in accordance with the view of R. Akiba, who says, a man [in an undefined oath] prohibits to himself even a minute quantity.[24]

Granted, R. Johanan does not agree with Resh Lakish, because he wishes to expound our Mishnah in accordance with the views of all;[25] but why does not Resh Lakish agree with R. Johanan? — He may reply to you: We say that a more inclusive prohibition [falls on a less inclusive one]

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(1) That he should not eat bread made of all three together.

(2) Making them into three oaths.

(3) In the enumeration of the different kinds of bread.

(4) For each kind separately.

(5) In the Case where he enumerates the liquids, and is liable for each one separately.

(6) That is why he enumerates these; but there is really only one oath.

(7) But since be enumerates them, be is swearing three oaths.

(8) The same quantity.

(9) Deposited temporarily in the other's care.

(10) A trespass offering for the false oath (שבועת הפקדון); Lev, V, 21-26.

(11) Infra 36b.

(12) To make him liable to bring one trespass offering. The oath must be a denial of liability of at least the value of a perutah for a trespass offering to be brought.

(13) As to the meaning of the Mishnah and R. Johanan's comment.

(14) When he says. 'I swear that I have not of yours in my possession wheat, barley, and spelt,' the first part is a generalisation ('I swear that I have not of yours in my possession'), then there are three particularisations. When the Mishnah says, he is liable for each one, does it mean three trespass offerings or four? R. Aha and Rabina disagree: one says, three; he is liable for the particularisations alone, and not for the generalisation; and we do not say that the first part, 'I swear that I have not of yours in my possession,' should be taken as an additional oath; and R. Johanan's comment that they combine to the value of a perutah refers to the previous statement in the Mishnah: 'I swear that there is nothing of yours in my possession' (with no particulars mentioned at all); but where particulars are mentioned, they do not combine; there must be the value of a perutah in each. And the other Amora says, when the Mishnah states he is liable for each, it means four, the generalisation also being taken as an oath; and R. Johanan's comment refers to this too, that for the first of the four oaths (the generalisation) he is liable to bring a trespass offering even if there is only the value of a perutah in the wheat, barley, and spelt combined.

(15) In our Mishnah: 'I swear I shall not eat wheat bread, barley bread, and spelt bread,' he is liable for each one. Will R. Aha and Rabina disagree here also, one of them holding (taking the generalisation as a separate oath) that he is liable for four oaths?

(16) There is no comparison at all.

(17) In the case of denying a deposit, if the trustee denies it on oath several times, he brings a trespass offering for each denial; infra 36b.

(18) If we should assume that the generalisation, 'I swear I shall not eat,' is taken as an additional oath, and as prohibiting all foods, then, when he adds 'wheat, barley, and spelt', these three oaths cannot take effect, for they are already assumed to have been included in the generalisation; and a later oath cannot 'fall' on a previous oath.

(19) Is not carrion, etc., food unfit to be eaten?

(20) 'I swear I shall not eat' implies only foods which are fit to be eaten, and excludes carrion.

(21) ‘I swear I shall not eat carrion, etc,’

(22) His oath cannot take effect, since there is already a previous oath (administered at Mount Sinai) not to eat carrion.

(23) He said: ‘I swear I shall not eat properly killed meat and carrion, etc.;’ and because the oath can take effect on the permitted food it takes effect also on the prohibited; v. supra 21b.

(24) V. supra 21b.

(25) R. Akiba and the Sages who agree that a more inclusive oath can fall on a less inclusive one.

Talmud - Mas. Shevu'oth 24a

only when the [more inclusive] prohibition comes of its own accord, but when the prohibition is imposed by himself, we do not say this.[1]

Granted, according to Resh Lakish, it is for this reason that R. Simeon exempts him;[2] for we learnt, R. Simeon says: A minute quantity [imposes liability] for stripes; and it was not said that a ka-zayith is necessary except for [imposing liability for] a sacrifice. But, according to R. Johanan,[3] what is R. Simon's reason for exempting him? — Is not the reason [that the Sages make him liable] because it is a more inclusive prohibition? R. Simeon is consistent in his view that a more inclusive prohibition cannot take effect; for it has been taught, R. Simeon Says: He who eats carrion on the Day of Atonement is exempt.[4] Granted, according to Resh Lakish, it is possible to have it negative and positive;[5] but, according to R. Johanan, granted that negative is possible, but how is positive possible?[6] — Well then, [the Mishnah may be explained] in accordance with Raba's view, for Raba said: [If a man says,] ‘I swear I shall not eat’, and he ate dust, he is exempt.[7]

R. Mari said: We have also learnt thus:[8] ‘I VOW THAT MY WIFE SHALL NOT BENEFIT FROM ME IF I HAVE EATEN TO-DAY,’ AND HE HAD EATEN CARRION, TREFA, FORBIDDEN ANIMALS, AND REPTILES, HIS WIFE IS PROHIBITED TO HIM. [Hence, eating carrion is also called eating!] — How now? There, since first he ate, and then he swore,

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(1) If a man eats carrion on the Day of Atonement, he is liable to bring a sin offering for his transgression of the Day, though carrion was already prohibited to him before the Day, because the prohibition of the Day is more inclusive (including, as it does, also permitted foods). This more inclusive prohibition comes of its own accord, and is therefore powerful enough to fall even on previously prohibited food; but if the more inclusive prohibition comes by the action or word of the man himself (as in the case of an oath), it cannot fall on a previous prohibition. Resh Lakish, therefore, who makes this distinction, cannot explain the Mishnah as R. Johanan does.

(2) In the Mishnah, supra 22b, because R. Simeon holds that for a small quantity he also stands adjured, and consequently the oath cannot fall on a small quantity.

(3) Who explains that the Sages in the Mishnah make him liable because he says: ‘I swear I shall not eat properly killed meat and carrion;’ why does R. Simeon exempt him?

(4) From a sin offering (for unwitting transgression of the Day), for the prohibition of the Day, though more inclusive, cannot fall on the prohibition of carrion.

(5) A sliding scale sacrifice is not brought for the transgression of an oath unless it is equally punishable when reversed (v. infra 25a). According to Resh Lakish, the oath in the Mishnah for which the Sages make him liable is: ‘I swear l shall not eat a small portion of carrion.’ This may be reversed: ‘I swear l shall eat a small portion of carrion;’ and he is liable for transgressing it, for he has not sworn to annul a precept (only a ka-zayith is prohibited in the Torah). Had he sworn to eat a ka-zayith of carrion, i.e., to annul a precept, and transgressed his oath, he would have been exempt; infra 27a.

(6) According to R. Johanan, the oath in the Mishnah for which the Sages make him liable is, ‘I swear I shall not eat properly killed meat and carrion.’ The positive of this oath is not possible; if he says. ‘I swear I shall eat properly killed meat and carrion,’ his oath cannot be carried out, so far as the carrion is concerned, because it is an oath to annul a precept (for a ka-zayith of carrion is prohibited by the Torah).

(7) The contradiction in the Mishnah was first explained by saying that the first clause (‘I swear I shall not eat’, and he ate foods which are not fit, etc., he is exempt) refers to an undefined oath, and the second clause (‘l swear I shall not eat’, and he ate carrion, etc., he is liable) refers to a defined oath (i.e., ‘I swear I shall not eat properly killed meat and carrion, etc.’). This explanation raises a difficulty for R. Johanan, because the second oath is not reversible. The Gemara now says that both clauses refer to an undefined oath; in the first case he is exempt, because he ate dust (the phrase ‘foods not fit to be eaten’ refers to dust and similar inedibles); and in the second case he is liable, because he ate carrion (which is edible, but prohibited by the Torah). According to R. Johanan, in the second case when he says, ‘I shall not eat,’ he is liable if he eats carrion, because his oath is inclusive, including as it does all foods (permitted also); and because it can take effect on the permitted, it takes effect on the prohibited also. This oath (being undefined) is reversible: ‘l shall eat’, and can be fulfilled by eating permitted food; therefore if he transgresses it, he is liable.

(8) That carrion is counted food fit to be eaten (for, though prohibited, it is edible).

Talmud - Mas. Shevu'oth 24b

he had made it important;[1] but here, did he make it important?

Raba said: What is the reason of the one who holds an inclusive prohibition [can take effect on a previous prohibition]? Because it is analogous to an extensive prohibition.[2] And [the reason of] the one who exempts him, not holding this? Because he says, an extensive prohibition is applicable only to one piece, but not to two pieces.[3]

And Raba said further: According to the one who holds an inclusive prohibition [takes effect on a previous prohibition], if one says, ‘I swear I shall not eat figs,’ and then says, ‘I swear I shall not eat figs and grapes,’ because it takes effect on the grapes,[4] it takes effect also on the figs. [But] this is self evident! — I might have thought that [in the case of] a prohibition which comes of its own accord we say it takes effect [on a previous prohibition], but [in the case of] a prohibition which is imposed by himself, we do not say this; therefore he teaches us [that even in this case it takes effect]. Raba the son of Rabbah raised an objection: [We learnt:] One may eat one portion [a ka-zayith] and yet be liable for it four sin offerings and one guilt offering, thus: An unclean person who ate heleb, which was nothar of holy food, on the Day of Atonement.[5] R. Meir said: Also if it was Sabbath, and he carried it out in his mouth, he is liable.[6] They [the Sages] said to him: It is not in the same category.[7] Now, if it is [as you say],[8] it is possible to have five;[9] for example, if he said: ‘I swear I shall not eat dates and heleb,’ because it takes effect on the dates, it takes effect also on the heleb?’ — The Tanna mentions only [the case of] a prohibition which comes of its own accord, but a prohibition imposed by himself he does not mention.[10] But [he mentions] holy food![11] — [It refers to] a firstborn, which is holy from the womb.

If you will, you may say, the Tanna mentions only that which does not come within the category of absolution, but an oath which comes within the category of absolution he does not mention.[12] — But [he mentions] holy food![13] — Well, we have established that it refers to a firstborn.

If you will, you may say, the Tanna mentions only [the case where] a fixed sacrifice [is brought], but where a sliding scale sacrifice is brought he does not mention.[14] But [he mentions] an unclean person who ate holy food, for which a sliding scale sacrifice is brought! — [It refers to] a prince; and it is in accordance with the view of R. Eliezer, who says a prince brings a goat.[15]

R. Ashi said: The Tanna mentions only that which takes effect on the legal minimum,[16] but an oath which takes effect on less than the legal minimum,[17] he does not mention. But [he mentions] holy food![18] — Because we require that it should be the value of a perutah.[19]

And R. Ashi of Avirya said in the name of R. Zera: The Tanna mentions only that for which, for wilful transgression, kareth is inflicted, but that for which, for wilful transgression, there is only a negative prohibition,[20] he does not mention. But he mentions a guilt offering, in the case of which, for wilful transgression, there is only a negative prohibition![21] —

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(1) The fact of having eaten the carrion shows that he deemed it edible and not distasteful to him; but if he swears, ‘I shall not eat’ (without specifying carrion), and he eats carrion, he may perhaps not be liable for the oath; as he might not have contemplated including carrion in the oath.

(2) An inclusive prohibition (איסור כולל) does not add anything to the previous prohibition, but includes more objects in the present prohibition; e.g., carrion is prohibited; when the Day of Atonement arrives, it prohibits not only carrion, but also previously permitted foods; the incidence of the Day does not make the carrion prohibited in any way except as food, but it includes in its prohibition other foods apart from this carrion. An extensive prohibition (איסור מוסיף) adds something to this present prohibited object, making it more extensively prohibited; e.g., heleb (forbidden fat) of an offering is prohibited to be eaten, but may be offered on the altar; when it becomes nothar (by being kept beyond the time limit for its offering), it is prohibited to be offered on the altar. The prohibition of nothar takes effect on the heleb (which was permitted so far as the altar is concerned), so that it may not now be offered on the altar; and since the prohibition of nothar takes effect on the heleb (so far as the altar is concerned), it ipso facto takes effect on it so far as human consumption is concerned also; so that a man eating it now is liable both for heleb and nothar.

(3) An extensive prohibition can take effect on a previous prohibition because it extends the scope of the prohibition of this one piece; e.g., heleb, permitted for the altar, on becoming nothar is prohibited; this same piece of fat is now more extensively prohibited; previously it was prohibited for human consumption only, now it is prohibited for the altar also. But an inclusive prohibition does not add any prohibition to this one piece; it merely includes other pieces in its prohibition; therefore, he holds, it does not take effect on a previous prohibition.

(4) For they were not prohibited by the first oath.

(5) Four sin offerings: (i) for heleb, (ii) for nothar, (iii) for the Day of Atonement, and (iv) for eating holy food while unclean; and one guilt offering for his trespass in deriving enjoyment from holy food. He is liable for all these, if we hold that inclusive and extensive prohibitions can take effect on previous prohibitions. The heleb of an animal is prohibited; when he sanctifies the animal, the whole of it becomes prohibited to him: this second prohibition is an inclusive one, because the permitted portions of the animal are now included in the prohibition; and because the prohibition can take effect on the permitted portions, it takes effect also on the heleb; when it becomes nothar, a further prohibition is extended to this heleb itself, making it prohibited to the altar; this extensive prohibition therefore takes effect on it as far as human consumption is concerned also. When the person becomes unclean, holy foods previously permitted to him now become prohibited; this inclusive prohibition, because it can take effect on previously permitted holy foods, takes effect also on this heleb. The Day of Atonement is another inclusive prohibition (prohibiting all kinds of food), and therefore it takes effect on the heleb also.

(6) Another sin offering for carrying on the Sabbath, as well as for carrying on the Day of Atonement (for carrying is prohibited on the Day of Atonement also); v. Ker. 14a.

(7) As eating; for they are giving examples of liability for eating, and not for carrying. Mishnah Ker. 13b.

(8) That an inclusive prohibition, even if imposed by himself, can take effect.

(9) Sin offerings.

(10) Though he agrees that an inclusive prohibition, even if imposed by himself, can take effect, he wishes to limit his example to a case where four sin offerings are brought, without including any prohibition imposed by himself.

(11) Which is a prohibition imposed by himself, because he made it holy.

(12) An oath or a vow may be absolved in certain circumstances as, for example, if the person uttering the oath or vow explains to the Sage (or three laymen) that, had he known of certain eventualities which later transpired, he would not have uttered it.

(13) Which becomes holy by his vow, and may therefore be absolved.

(14) Therefore he does not mention oath, for the transgression of which a sliding scale sacrifice is brought.

(15) For the transgression of the laws of uncleanness in connection with the Temple and holy food (Hor. 9a, b); but he admits that for transgressing an oath a prince also brings a sliding scale sacrifice.

(16) Ka-zayith.

(17) If he expressly states so in the oath.

(18) A trespass offering is brought even if the holy food from which he derived enjoyment was less than a ka-zayith.

(19) So that this is its legal minimum.

(20) The wilful transgression of an oath is punishable by stripes, but heleb, nothar, Day of Atonement, and eating holy food while unclean, are punishable by kareth.

(21) For wilfully deriving enjoyment from holy food he is punished by stripes, v. Sanh 84a.

We mean in the case of a sin offering.[1]

Rabina said: The Tanna mentions only that which is applicable to foods, but an oath, which can take effect even on that which is not a food, he does not mention. But [he mentions] holy things, which are applicable also to wood and stone![2] — Well then, he mentions only that which is applicable to that which has substance, but an oath, which can take effect also on that which has no substance, as, for example, ‘I shall sleep’, or, ‘I shall not sleep.’ he does not mention.[3]

MISHNAH. IT IS THE SAME [WHETHER HE SWEARS OF] THINGS CONCERNING HIMSELF, OR OF THINGS CONCERNING OTHERS, OR OF THINGS WHICH HAVE SUBSTANCE, OR OF THINGS WHICH HAVE NO SUBSTANCE. HOW SO? [IF] HE SAID, ‘I SWEAR THAT I SHALL GIVE TO SO-AND-SO,’[4] OR, ‘I SHALL NOT GIVE;’ ‘I HAVE GIVEN,’ OR ‘I HAVE NOT GIVEN;’ ‘I SHALL SLEEP,’[5] OR, ‘I SHALL NOT SLEEP;’ ‘I HAVE SLEPT,’ OR, ‘I HAVE NOT SLEPT;’ ‘I SHALL THROW A PEBBLE IN THE SEA.’[6] OR, ‘I SHALL NOT THROW;’ ‘I HAVE THROWN,’ OR, ‘I HAVE NOT THROWN’; [HE IS LIABLE.] R. ISHMAEL SAYS, HE IS LIABLE ONLY FOR [AN OATH IN] THE FUTURE, FOR IT IS SAID: TO DO EVIL OR TO DO GOOD.[7] R. AKIBA SAID TO HIM: IF SO,[8] WE KNOW ONLY SUCH CASES WHERE DOING EVIL AND DOING GOOD ARE APPLICABLE; BUT HOW DO WE KNOW SUCH CASES WHERE DOING EVIL AND DOING GOOD ARE NOT APPLICABLE.? HE REPLIED TO HIM: FROM THE AMPLIFICATION OF THE VERSE.[9] WHEREUPON HE SAID TO HIM: IF THE VERSE AMPLIFIES FOR THAT, IT AMPLIFIES FOR THIS ALSO.[10]

GEMARA. Our Rabbis taught: There is a greater restriction in vows than in oaths [in one respect]; and there is a greater restriction in oaths than in vows [in another respect] — The greater restriction in vows is that vows take effect on a precept as on an optional matter, which is not the case in oaths.[11] The greater restriction in oaths is that oaths take effect on a thing which has no substance as on a thing which has substance, which is not the case in vows.[12]

HOW SO? [IF] HE SAID, ‘I SWEAR THAT I SHALL GIVE TO SO-AND-SO,’ OR, ‘I SHALL NOT GIVE.’ What is meant by, ‘I shall give’? Shall we say, charity to the poor? [For that] he already stands adjured from Mount Sinai, for it is said: Thou shalt surely give him.[13] — It must therefore mean a gift to a rich man.

‘I SHALL SLEEP,’ OR, ‘I SHALL NOT SLEEP.’ This cannot be,[14] for R. Johanan said: He who says, ‘I shall not sleep three days,’ is given stripes, and he may sleep immediately.[15] — There, he said ‘three’; here, he did not say ‘three’.[16]

I SHALL THROW A PEBBLE IN THE SEA,’ OR, ‘I SHALL NOT THROW’. It was stated: [If a man says,] ‘I swear that So-and-so threw a pebble in the sea,’ or, ‘that he did not throw,’ Rab said, he is liable; and Samuel said, he is exempt. Rab said, he is liable, because it is applicable in both negative and positive [forms];[17] and Samuel said, he is exempt, because it is not applicable in the future.[18] Shall we say that they disagree on the same principle on which R. Ishmael and R. Akiba disagree? For we learnt: R. ISHMAEL SAYS, HE IS LIABLE ONLY FOR [AN OATH IN] THE FUTURE, FOR IT IS SAID: TO DO EVIL OR TO DO GOOD. R. AKIBA SAID TO HIM: IF SO, WE KNOW ONLY SUCH CASES WHERE DOING EVIL AND DOING GOOD ARE APPLICABLE; BUT HOW DO WE KNOW SUCH CASES WHERE DOING EVIL AND DOING GOOD ARE NOT APPLICABLE? HE REPLIED TO HIM: FROM THE AMPLIFICATION OF THE VERSE. WHEREUPON HE SAID TO HIM: IF THE VERSE AMPLIFIED FOR THAT, IT

AMPLIFIED FOR THIS ALSO. [Shall we say that] Rab agrees with R. Akiba,[19] and Samuel agrees with R. Ishmael?[20] — [No!] With reference to R. Ishmael's view they do not disagree; for since even in a case which is [possible of application] in the future,[21] R. Ishmael does not make him liable for the past, obviously in a case which is not [possible of application] in the future,[22] he most certainly [does not make him liable for the past]. But they disagree with reference to R. Akiba's view: Rab agrees with R. Akiba; and Samuel says, R. Akiba makes him liable there[23] for [an oath in] the past, because in a case which is [possible of application] in the future, R. Akiba makes him liable for the past, but in a case which is not [possible of application] in the future, he does not [make him liable for the past].

Shall we say that they disagree on the same principle on which

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(1) He mentions only those for which kareth is inflicted for wilful transgression, and therefore omits an oath, for which stripes are inflicted; all these are sins for which a sin offering is brought for unwitting transgression; but he mentions the case of a trespass offering, through for wilful transgression only stripes are inflicted.

(2) A man may devote wood and stone for the Temple treasury.

(3) Sleep is not tangible

(4) This comes in the category of ‘things concerning others’.

(5) This comes in the category of ‘things which have no substance’.

(6) This also comes in the category of ‘things which have no substance’, in the sense that no useful purpose is served.

(7) Lev. V, 4; this implies an oath to do something in the future.

(8) If you take the verse literally.

(9) Lev., V, 4: whatsoever it be that a man shall utter with an oath.

(10) That an oath in the past is also punishable.

(11) If he says, ‘I vow that the sukkah which I make shall be prohibited to me,’ it is prohibited, and he may not sit in it; but if he says: ‘I swear that I shall not sit in the sukkah,’ his oath cannot take effect; v. infra 27a; Ned. 16a, b.

(12) A vow can take effect only on something tangible. If he says, ‘I vow that I shall not sleep,’ it has no effect; but if he says, ‘I vow my eyes from sleep’ (i.e., I condemn my eyes to sleeplessness), the vow takes effect on the eyes (which are tangible). The reason is that uttering a vow (usually expressed by konam) is akin to dedicating to the Temple (konam is a substitute for korban, an offering to the Temple); and just as the korban must be tangible, so must the konam be tangible.

(13) Deut. XV, 10; and an oath to fulfil a mizwah cannot take effect; infra 27a.

(14) ‘I shall not sleep,’ with no time limit imposed, implies ‘I shall never sleep,’ which is obviously an impossibility.

(15) Because it is impossible to refrain from sleep for three days; therefore it is a vain oath (i.e., as soon as uttered, its falsity is apparent), and not שבועת בטוי.

(16) He might therefore have meant a lesser period.

(17) For Scripture says, to do evil or to do good (Lev. V, 4); to do evil, e.g., ‘I shall not eat’ = negative; to do good, e.g., ‘I shall eat’ = positive. An oath, to make the utterer liable, must therefore be applicable both negatively and positively.

(18) ‘I swear that So-and-so will throw (or, will not throw’) a pebble in the sea;’ this is merely a vain oath, and not an oath of utterance (שבועת בטוי), because he has no power to compel that person to carry out his oath; and because the oath is inapplicable in the future, it imposes no liability when uttered in the past.

(19) That he is liable for an oath in the past also.

(20) That he is liable only for an oath in the future. Now, since R. Akiba and R. Ishmael already disagree on this point, why do Rab and Samuel (who are amoraim) state their view's as if they were disagreeing on a new principle? Let Rab say that he agrees with R. Akiba, and Samuel that he agrees with R. Ishmael.

(21) E.g , ‘I shall eat,’ or, ‘I shall not eat.’

(22) E.g., ‘So-and-so will throw (or, will not throw) a pebble in the sea.’

(23) In the Mishnah.

Talmud - Mas. Shevu'oth 25b

R. Judah b. Bathyra and the Rabbis disagree? For we learnt: If he swore to annul a precept, and did not annul it, he is exempt; to fulfil a precept, and did not fulfil it, he is exempt; though logically he should be liable [in the second case] as is the opinion of R. Judah b. Bathyra, [for] R. Judah b. Bathyra said: If, for an optional matter, for which he is not adjured from Mount Sinai, he is liable;[1] for a precept, for which he is adjured from Mount Sinai, he should most certainly be liable! — They replied to him: No! If you say that for an oath on an optional matter [he is liable], it is because [Scripture] has made negative equal to positive;[2] but how can you say that for an oath [to fulfil] a precept [he is liable], since [Scripture] in that case, has not made negative equal to positive?[3] — Now, shall we say that Rab agrees with R. Judah b. Bathyra,[4] and Samuel agrees with the Rabbis?[5] — [No!] With reference to R. Judah b. Bathyra's view they do not disagree; since even negative and positive he does not require, will he require future and past?[6] But they disagree as to the view of the Rabbis: Samuel agrees with the Rabbis, and Rab [says], the Rabbis do not make him liable [unless it is applicable] in both negative and positive [forms], for it is written distinctly: to do evil, or to do good; but for future and past, which is deduced [merely] from the amplification of the verse,[7] they make him liable [even if the oath is not applicable in both future and past].[8]

R. Hamnuna raised an objection: [We learnt: If a man says,] ‘I did not eat today’, or, ‘I did not put of tefillin today.’ ‘I adjure you;’ and he said, ‘Amen!’ he is liable.[9] Granted, ‘I did not eat’ is applicable [in the future]: ‘I shall not eat’; but ‘I did not put on [tefillin]’- is this applicable [in the future]: ‘I shall not put on tefillin]’?[10] — He himself put the question, and he himself answered it: The Mishnah means it disjunctively:[11] ‘I did not eat’, [he is liable] for an offering: ‘I did not put on [tefillin’, he is liable] for stripes.[12]

Raba raised an objection [We learnt:] What is a vain oath? If he swore that which is contrary to the facts known to man, saying of a pillar of stone that it was of gold.[13] And Ulla said: Provided that it was already known to three men [that it was of stone].[14] Now, the reason [that he is liable for a vain oath] is because it is known [to three men that it is of stone], but if it were not known [to three men], he would be transgressing an oath of utterance.[15] Why? It is not [applicable in the future: ‘I swear] it will be of gold!’[16] He himself put the question — and he himself answered it: If it is known, he transgresses a vain oath; if it is not known, he transgresses a false oath.[17]

Abaye said: Rab admits that he who says to his neighbour, ‘I swear that I know some testimony for you,’ and it was found that he did not know, is exempt, because it is not applicable [negatively]. ‘I do not know any testimony for you.[18]

[If a man says,] ‘I did know [testimony for you]’, or, ‘I did not know;’ [in this there is] disagreement [between Rab and Samuel].[19] ‘I bore witness [for you],’ or, ‘I did not bear witness’: [in this there is also] disagreement [between them].[20]

Granted, according to Samuel who says that in a case which is not applicable in the future he is not liable for the past, therefore the Divine Law removed the oath of testimony from the category of the oath of utterance;[21] but, according to Rab, for what purpose did the Divine Law remove it?[22] — The Rabbis said to Abaye: In order to make him liable for it twice.[23] He [however] replied to them: You cannot say [he is liable] twice, for it has been taught: [When he shall be guilty] in one of these things[24] — for one you make him liable, but you do not make him liable for two. Well then, according to Abaye, for what purpose did the Divine Law remove [the oath of testimony from the category of the oath of utterance in Rab's view]?[25] — [For this purpose:] It has been taught: In all of them it is said, and it was hidden [from him];[26] but here,[27] it is not said, and it was hidden; in order to make him liable[28] for wilful[29] as for unwitting [transgression]. The Rabbis said to Abaye: Say that for wilful transgression he is liable one;[30] for unwitting, two.[31] — He replied to them: Is that not what I said: [it is written,] in one [of these things][24] — for one you make him liable, but you do not make him liable for two; and if [it refers to] wilful transgression, are there, then, two?[32]

Raba said: Because it was a matter included in a generalisation, and it was singled out [from the generalisation] in order to introduce an anomaly; therefore, you cannot add anything to this anomaly.[33] — This would imply that Abaye holds that the oath [of utterance] is still in existence.[34] But did not Abaye say: Rab admits that he who says to his neighbour, ‘I swear that I know some testimony for you,’ and it was found that he did not know, is exempt, because it is not applicable [negatively], ‘I do not know any testimony for you’![35] — Abaye withdrew from that [statement].[36] Or, if you will, you may say,

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(1) For not fulfilling his oath.

(2) If he swears not to do a certain action, he is liable if he does not fulfil his oath.

(3) If he swears not to fulfil a precept, he cannot carry out his oath; Mishnah infra 27a.

(4) Who does not require that an oath should be applicable in both positive and negative forms, and therefore does not require also that it should be applicable in both past and future forms.

(5) Just as the Rabbis, who oppose R. Judah, hold that it should be possible for an oath to be applied both positively and negatively, so they hold that it should be possible for it to be applied also for past and future; and when it is inapplicable in the future (e.g., ‘I swear So-and-so will throw a pebble’), it cannot be applied in the past (‘I swear So-and-so has thrown’).

(6) Rab and Samuel agree that R. Judah b. Bathyra does not require an oath to be applicable both in the past and the future, for he does not even require it to be applicable both positively and negatively, though Scripture states, to do evil or to do good, which implies negative and positive. He therefore certainly does not require the oath to be applicable in both past and future, for this proviso is not definitely stated in the Scriptures.

(7) Supra 25a, infra 26a.

(8) Rab, therefore, in accordance with his interpretation of the view of the Rabbis, makes him liable in the case of ‘I swear So-and-so has thrown a pebble in the sea,’ though it is inapplicable in the future.

(9) A second person said to the first, ‘l want you to swear that you did not eat, or did not put on tefillin,’ and the first replied, ‘Amen;’ but he had eaten, or had put on tefillin, he is liable for breaking his oath; for ‘Amen’ in response to an adjuration is equivalent to uttering an oath; Mishnah infra 29b.

(10) This is swearing to annul a precept, for which he is not liable. According to the Rabbis (in Samuel's interpretation), if an oath is not applicable in the future he is not liable for it even in the past; then why is he liable for ‘I have not put on tefillin’?

(11) They are two distinct statements.

(12) Fist wilfully uttering a false oath, but he is not liable for an offering, if he unwittingly uttered this false oath, because it is inapplicable in the future.

(13) Infra 29a.

(14) If a fact is known to at least three men, it is accepted as well established.

(15) שבועת בטוי; if it is known to less than three men, his oath is not contrary to the fact known to men (i.e., universally known); and is therefore not a vain oath (the falsity if which is evident to all immediately).

(16) And therefore, according to the Rabbis (in Samuel's interpretation), he should not be liable for it even in the past.

(17) Which need not be applicable in the future to make him liable. It is only in the case of שבועת בטוי that the oath must be applicable both for positive and negative and (according to Samuel) also for past and future.

(18) For Rab agrees that though it is not necessary for an oath to be applicable for both future and past, it must be applicable for negative and positive. If he swears, ‘I did not know any testimony for you,’ and it was found that he did know, he is not liable for שבועת בטוי, but for שבועת העדות, for refusing to bear witness for his neighbour; and for this he is liable only if he swears falsely before the Beth din; infra 30a.

(19) According to Rab he is liable, because it is applicable positively and negatively; but according to Samuel he is exempt; because it is not applicable in the future: ‘I swear I shall know (or, shall not know) testimony for you,’ for it is outside his control; v. Maharsha, a.l.

(20) Because it is inapplicable in the future: ‘I swear I shall (or, shall not) bear witness’ is an oath to fulfil (or, annul) a precept, for which he is exempt.

(21) And expressed it clearly in a separate verse (Lev. V, 1); because the oath of testimony, since it is inapplicable in the future (and yet imposes liability), could not be deduced from the oath of utterance (ibid. 4), which does not impose liability in the past in a case where the future is inapplicable.

(22) From the category of the oath of utterance, since, according to Rab, he is liable for an oath even if it is not applicable in the future.

(23) If he is eligible as a witness, and swore before the Beth din that he did not know any testimony, he is liable both for the oath of testimony and oath of utterance.

(24) Lev. V, 5.

(25) V. note 1.

(26) Lev. V, 2, 3, 4; with reference to the laws of uncleanness, and the oath of utterance.

(27) Lev. V, 1; with reference to the oath of testimony.

(28) A sliding scale sacrifice.

(29) In which case there is no sacrifice for the transgression of the oath of utterance, but he brings a sacrifice for the wilful transgression of the oath of testimony.

(30) Sliding scale sacrifice for the oath of testimony.

(31) One for the oath of testimony, and one for the oath of utterance.

(32) The verse, in distinctly limiting liability to one offering, must refer to unwitting transgression (where two offerings are possible), and not to wilful transgression, for here, two are not possible, and there is no need for Scripture's limitation.

(33) Lit., 'You have therein only its anomaly.' Raba maintains that it is not necessary to deduce from the phrase, in one of these things that he is liable for only one offering; without this phrase we know it, for the oath of testimony was included in the oath of utterance (for it is also an utterance); but Scripture singled it out from this generalisation in order to teach us that he is liable to bring an offering even for wilful transgression; therefore, since this is exceptional, we cannot make it more exceptional still by declaring him liable to bring two offerings in certain circumstances.

(34) Abaye holds that the oath of testimony is still an oath of utterance also, for he requires the limitation (in one of these things) to deduce that only one offering is brought. According to him, therefore, in a case where the oath of testimony would not apply (e.g., an ineligible witness), he would be liable on account of the oath of utterance.

(35) The oath of testimony, therefore, cannot create liability on account of its being also an oath of utterance, because it is inapplicable negatively. But if Abaye holds that the oath of testimony is also an oath of utterance, it is possible to find a case where it is applicable negatively, e.g., one who is ineligible as a witness. In such a case, if he says: 'I swear I know some testimony for you', he should be liable on account of the oath of utterance, for it is applicable negatively: 'I swear I do not know any testimony for you;' and if he does know, he should bring an offering for transgressing the oath of utterance (for the oath of testimony does not apply at all, since he is ineligible as a witness).

(36) I.e., changed his opinion, and does not now hold that 'Rab admits that he who says, etc.'

Talmud - Mas. Shevu'oth 26a

one of them was stated by R. Papa.[1]

R. ISHMAEL SAYS, HE IS LIABLE ONLY FOR [AN OATH IN] THE FUTURE. Our Rabbis taught: To do evil, or to do good.[2] [From this] we know only such cases where doing evil and doing good are applicable; but how do we know such cases where doing evil and doing good are not applicable? Because it is said, Or if anyone swear clearly with his lips.[3] [From this] we know only [oaths in] the future;[4] how do we know [oaths in] the past? Because it is said: Whatsoever it be that a man shall utter clearly, with an oath.[5] This is the opinion of R. Akiba. R. Ishmael says: To do evil, or to do good implies the future. R. Akiba said to him: If so, we know only such cases where doing evil and doing good are applicable; how do we know such cases where doing evil and doing good are not applicable? He replied to him: From the amplification of the verse.[6] Whereupon he said to him: If the verse amplified for that,[7] it amplified for this also.[8] Well did R. Akiba reply to R. Ishmael![9] — R. Johanan said: R. Ishmael who ministered to[10] R. Nehunia b. Hakanah, who expounded the whole Torah on the principle of generalisation and specification, also expounded it on the principle of generalisation and specification; R. Akiba who ministered to Nahum of Gamzu,[11] who expounded the whole Torah on the principle of amplification and limitation, also expounded it on the principle of amplification and limitation.

How does R. Akiba expound it on the principle of amplifications and limitations? It has been taught: Or if any one swear [clearly with his lips — this amplifies;[12] to do evil, or to do good — this limits;[13] whatsoever it be that a man shall utter clearly [with an oath] — this again amplifies: because it amplifies, limits, and amplifies, it includes all;[14] what does it include? It includes all things. What does it exclude? It excludes a precept.[15] And R. Ishmael expounds it on the principle of generalisation and specification: or if any one swear clearly with his lips — this generalises; to do evil or to do good this specifies; whatsoever it be that a man shall utter clearly [with an oath] — this again generalises: because it generalises, specifies, and generalises, you may include in the generalisation only [those oaths which are] similar to the specification: just as the specification is clearly in the future, so all [oaths] in the future [may be included]; the generalisation helping to include even cases where doing evil and doing good are not applicable [as long as they are oaths] in the future; and the specification helping to exclude even cases where doing evil and doing good are applicable [if they are oaths] in the past. Let me reverse it![16] — R. Isaac said: [We include only oaths] similar to [the oath] to do evil, or to do good, where the prohibition is on account of he shall not break his word,[17] but exclude this [oath] where the prohibition is not on account of he shall not break his word, but on account of ye shall not lie.[18] R. Isaac b. Abin said: Scripture says, Or if any one swear clearly with his lips: the oath must precede the utterance, and not the utterance precede the oath;[19] this excludes ‘I ate’, or, ‘I did not eat,’ where the action precedes the oath.

Our Rabbis taught: [Whatsoever it be that] a man [shall utter clearly] with an oath[20] — this excludes [a false oath by] accident; and it be hid — this excludes wilful [transgression of oath]; from him — [this implies that] the oath was hidden from him.[21] I might think that [even] if the thing be hidden from him [he should be liable], therefore it is said: . . . with an oath, and it be hid . . . for the unawareness of the oath he is liable, and he is not liable for the unawareness of the thing.[22] The Master said: ‘. . . a man . . . with an oath — this excludes [a false oath by] accident’. How is this? As the case of R. Kahana and R. Assi: when they rose from [the lecture of] Rab, one said, ‘I swear that thus said Rab,’ and the other said, ‘I swear that thus said Rab.’ When they came [again] before Rab, he would agree with one of them; then the other would say to him, ‘Did I, then, swear falsely?’ He would reply to him, ‘Your heart deceived you.’[23]

‘And it be hid from him — [this implies that] the oath was hidden from him. I might think that [even] if the thing be hidden from him [he should be liable], therefore it is said: . . . with an oath, and it be hid . . . for the unawareness of the oath he is liable, and he is not liable for the unawareness of the thing.’ They laughed at this in the West.[24] Granted, [unawareness of] oath is possible without [unawareness of] thing; for example, if he said, ‘I swear I shall not eat wheat bread,’ and he thought he had said, ‘I shall eat,’ his oath he forgot, and the thing he remembered. But [unawareness of] thing without [unawareness of] oath — how is that possible? If for example, he said, ‘I swear I shall not eat wheat bread,’ and he thought he had said ‘barley [bread],’ his oath he remembered,[25] and the thing he forgot. — Since he forgot the thing, it is [automatically] unawareness of oath![26] — Well then, said R. Eleazar, this and that are one.[27]

R. Joseph demurred: This means that [unawareness of] thing without [unawareness of] oath is by no means possible? But surely it is possible; for example, if he said, ‘I swear I shall not eat wheat bread,’ and he stretched out his hand to the basket to take barley bread, but wheat [bread] came to his hand, and he, thinking it was barley [bread], ate it: now, his oath he remembered, but it was the thing that he did not know![28] — Abaye said to him: But do you not make him liable for an offering for that which he holds in his hand? It is, therefore, unawareness of oath.[29] Another version: Abaye said to R. Joseph: In any case, he should bring an offering for this bread, for it is unawareness of oath. And R. Joseph? — He may reply to you: Since, if he had known that this was wheat, he would have refrained from [eating] it, it is unawareness of thing.

Raba enquired of R. Nahman: If there was unawareness of both, what is the ruling? — He said to him: Since there is unawareness of oath, he is liable. On the contrary, since there is unawareness of thing, he should be exempt! — R. Ashi said: We observe, if because of the oath he refrains,[30] it is [a case of] unawareness of oath, and he is liable; and if because of the thing he refrains,[31] it is [a case of] unawareness of thing, and he is exempt. Said Rabina to R. Ashi: Does he then refrain because of the oath unless it be also because of the thing, and does he refrain because of the thing unless it be also because of the oath?[32] There is really no difference.[33]

Raba enquired of R. Nahman:

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(1) Who was a disciple of Abaye and Raba. His disciples, in turn, were sometimes not sure whether a statement of his was intended to be his own view or the view of Abaye (or Raba). One of the two statements (which cannot be reconciled with each other) attributed here to Abaye is, in reality, the opinion of R. Papa, his successor.

(2) Lev. V, 4.

(3) Ibid.; apparently any oath.

(4) If any one swear . . . to do evil, or to do good, implies swearing to do something in the future.

(5) Lev. V, 4, whatsoever it be, i.e., even an oath in the past.

(6) Whatsoever it be, etc.

(7) Cases where doing evil and doing good are not applicable.

(8) Oaths in the past.

(9) Why does not R. Ishmael agree with him?

(10) Was a disciple of.

(11) A village in south-western Judea; v. Ta'an. 21a; he was called איש גם זו, because, whatever evil befell him, he said, גם זו לטובה 'this also is for the best'.

(12) All kinds of oaths.

(13) Only oaths where doing evil or good are applicable.

(14) V. p. 12, n. 3.

(15) Swearing to fulfil or annul a precept; infra 27a.

(16) Since the generalisation tends to include, and the specifications to exclude, let us include even oaths in the past which are similar to the specification in that doing evil and doing good are applicable; and exclude even oaths in the future where doing evil and doing good are not applicable.

(17) Num. XXX, 3; this implies that he may keep his word if he wishes, which is possible only in an oath in the future.

(18) Lev. XIX, 11, this implies that at the moment of utterance the oath must not be a lie; this can refer only to an oath in the past.

(19) Lit., 'if any one swear to utter with the lips:' the swearing must precede the utterance, i.e., the action to which the utterance refers; but if the action to which the utterance refers has already preceded the swearing (= oath in the past), the oath is excluded.

(20) Lev. V, 4; האדם בשבועה; at the time of the oath he must be a man, i.e., have all his faculties, but if he swears falsely by accident (thinking it is the truth), he is exempt.

(21) Whatsoever . . . a man shall utter with an oath, and it be hid from him; i.e., the oath be hid from him; he forgot, when doing the action, that he had sworn not to do it.

(22) E.g., 'I swear I shall not eat wheat bread,' and he took a loaf which he thought was of barley (but which was really of wheat), and ate it, he is not liable to bring an offering, because it is a case of unawareness of thing (and awareness of oath).

(23) You thought you were swearing the truth; it is a false oath by accident.

(24) In Palestine; v. Sanh. 17b.

(25) He remembered that it was: 'I shall not eat,' but forgot which thing it was he was not to eat.

(26) For the oath was: 'I shall not eat wheat bread,' and if he forgot 'wheat bread,' he forgot an integral part of the oath.

(27) Unawareness of oath and unawareness of thing are the same; unawareness of thing is not possible without unawareness of oath.

(28) He remembered the oath completely, but mistook the object: this then might be the unawareness of thing by itself which is excluded in the Baraitha.

(29) He thought that what he held in his hand was barley bread, and therefore he thought that he had not sworn for what he held in his hand; but, in reality, he had sworn not to eat it, for it was wheat bread; he was, therefore, unaware of the oath with reference to this loaf: hence, it is unawareness of oath.

(30) He is reminded, for example, that he has sworn not to eat wheat bread (and the fact that this loaf is wheat bread is not mentioned to him), and he immediately refrains from eating this loaf; he thus refrains because of the oath. He had already, however, eaten a ka-zayith, before he was reminded, and he is therefore liable to bring an offering, because it is a case of unawareness of oath.

(31) He is reminded that this is wheat bread (and the fact that he has sworn is not mentioned to him), and he refrains from continuing to eat it.

(32) When he is reminded of one of the facts (that he has sworn, or that this is wheat bread), he refrains from eating, because he immediately recollects the other fact. If he did not recollect the other fact, he would not refrain, for the fact that he had sworn not to eat wheat bread would not matter if this loaf were not wheat, and the fact that this loaf is wheat would not matter if he had not sworn not to eat it.

(33) And he is exempt; for he is liable only for unawareness of oath by itself; v. supra 19a for similar discussion.

Talmud - Mas. Shevu'oth 26b

What is unwitting transgression of oath of utterance in the past?[1] If he knew,[2] it is wilful transgression; if he did not know, it is accidental transgression? — He replied to him: [It is possible in the case of] one who says, ‘I know that this oath is prohibited, but I do not know whether one is liable to bring an offering for it or not.’[3] According to whom will this be? According to Monobaz, who holds that ignorance of [liability for] an offering is termed ignorance![4] — You may [however] say that it will be even in accordance with the view of the Rabbis;[5] for the Rabbis disagree with Monobaz only in the rest of the Torah where there is no innovation,[6] but here where there is an innovation — for in the whole Torah we do not find that [the unwitting transgression of] a negative precept [for the wilful transgression of which kareth is not inflicted] should make him liable for an offering, for we deduce it from the ruling concerning idolatry;[7] yet here, it does make him liable to bring [an offering] even the Sages admit.[8]

Rabina enquired of Raba: If he swore concerning a loaf [not to eat it], and he was dangerously ill on account of [not being able to eat] it, what is the ruling? — If he is dangerously ill, [of course] you may permit it to him![9] Well then, if he is distressed,[10] and he ate it, unwittingly transgressing the oath, what is the ruling?[11] — He said to him, it has been taught: He who would turn back if he knew[12] brings an offering for his unwitting transgression; he who would not turn back if he knew, does not bring an offering for his unwitting transgression.[13]

Samuel said: If he decided in his mind,[14] he must utter it with his lips,[15] for it is said: to utter with the lips.[16] An objection was raised: with the lips, but not in the mind. If he decided in his mind, how do we know [that he is liable]? Because it is said: whatsoever it be that a man shall utter clearly with an oath.[16] This itself is contradictory! You say, with the lips, but not in the mind; and then you say, if he decided in his mind, how do we know [that he is liable]? — R. Shesheth said: This is no question; thus he means: with the lips, but not if he decided in his mind to utter it with his lips, and did not utter it.[17] If he decided in his mind, simply,[18] how do we know [that he is liable]? Because it is said: whatsoever it be that a man shall utter clearly. But against Samuel the question remains![19] — R. Shesheth said: Answer it thus: with the lips, but not if he decided in his mind to utter ‘wheat bread’, and he uttered ‘barley bread’.[20] If he decided in his mind to utter ‘wheat bread’, and he uttered ‘bread’ simply, how do we know [that he is liable]?[21] Because it is said: whatsoever it be that a man shall utter clearly.[22]

An objection was raised: That which is gone out of thy lips thou shalt observe and do;[23] from this we know only, if he uttered it with his lips; if he decided in his mind, how do we know [that he must keep his promise]? Because it is said: all who were willing-hearted [brought . . . an offering of gold unto the Lord].[24] — There it is different, because it is written: all who were willing-hearted.[25] But let us deduce from it.[26] — [No!] because [tabernacle] offerings and holy things are ‘two verses which come as one';[27] and all [cases of] 'two verses which come as one' do not teach [for other cases].[28] — That is well, according to the one who holds that 'they do not teach'; but according to the one who holds that 'they do teach', what shall we say?[29] — This is hullin, and [the others are] holy things; and hullin we cannot deduce from holy things.[30]

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(1) Since it has been deduced (from האדם בשבועה, supra) that if he swears falsely, thinking it is the truth, it is termed accidental transgression, and he is exempt; how is unwittingly transgression (for which he is liable) possible?

(2) At the time of the oath that he was swearing falsely.

(3) Although it is wilful transgression, it is counted as unwitting, because he did not know that he was liable for an offering.

(4) Shab. 69a; and because of this his wilful transgression of the oath is counted as unwitting transgression.

(5) Who hold that ignorance of liability for an offering does not make the transgression unwitting.

(6) Normally, when kareth is inflicted for wilful transgression, an offering is brought for unwitting transgression; it is an innovation in the Torah, in the case of oaths, to make him liable for an offering for unwitting transgression, when for wilful transgression the punishment is merely stripes.

(7) Shab. 68b, 69a; Scripture says: And if ye err, and do not observe all these commandments . . . (Num. XV, 22); this refers to idolatry (Hor. 8a); an offering is brought for unwitting transgression (verse 27); ye shall have one law for him that doeth aught in error (verse 29): this implies that one law, the same law, applies both to idolatry and to other sins; in idolatry, wilful transgression is punished by kareth: but the soul that doeth aught with a high hand (i.e., wilfully) . . . shall be cut off (verse 30); therefore all sins, for the wilful transgression of which kareth is inflicted, are punished by the bringing of an offering for unwitting transgression.

(8) That ignorance of liability for an offering is counted as ignorance, and he brings an offering.

(9) In the case of dangerous illness (סכנה) a commandment may be transgressed; even the Sabbath may be desecrated; v. Bez. 22a.

(10) Not dangerously ill, but sufficiently distressed to have eaten it, even if he had remembered his oath.

(11) Does he bring an offering, since he transgressed the oath unwittingly: or, since he was prepared to transgress it wilfully, does he not bring an offering?

(12) I.e., he would not transgress wilfully.

(13) V. Hor. 20a; in the present instance, since he would have eaten the loaf, even if he had remembered his oath, he does not bring an offering for eating it when he forgot the oath, for it is not absolutely unwitting transgression; it is almost (though not quite) like wilful transgression; and though stripes are not inflicted, for it is not actually wilful transgression, yet he is not allowed to bring an offering (which would serve to cleanse him from his sin): it is not a sufficiently heavy punishment for his sin.

(14) To swear a certain oath.

(15) Otherwise it is no oath, and he is not liable.

(16) Lev. V, 4.

(17) He decided it should not be an oath unless he uttered it.

(18) That it should be an oath without uttering it.

(19) For Samuel said: If he decided in his mind, he must utter it with his lips; apparently it is not counted an oath unless it is uttered. Samuel's statement cannot be explained in the same way as R. Shesheth explains the Baraitha, because Samuel, being an amora, should have explained it clearly himself, had he intended it thus; v. Tosaf. a.l.

(20) It is no oath; and he is exempt if he eats wheat bread, because he did not utter it; and he is exempt if he eats barley bread, because he had not intended it in his mind; v. R. Han. a.l.

(21) If he eats wheat bread, since his uttered oath does not at least conflict with his intended oath.

(22) Even if he does not utter his complete intention. And Samuel also means this: If he decided in his mind, he must utter it with his lips, i.e., he must utter at least the main portion of his oath (e.g., 'bread', and not necessarily 'wheat bread'); but if he does not utter it with his lips, it is no oath: an oath in the mind is not an oath.

(23) Deut. XXIII, 24; promising to bring free-will offering.

(24) Ex. XXXV, 22; hence, the willing-hearted (those who had only made up their hearts or minds to bring) fulfilled their promise. Why then, does Samuel say, in the case of an oath, that it must be uttered with the lips in order to make him liable?

(25) But in the case of oaths the expression willing-hearted is not used.

(26) That in the case of an oath also the intention of the mind should be sufficient.

(27) i.e., teach the same thing. In the case of the Tabernacle offerings the phrase willing-hearted is used, and in the case of holy things (when Hezekiah re-consecrated the Temple, and the people brought free-will offerings: 2 Chron. XXIX, 31) the phrase willing-hearted is used. When the same phrase (or, rule) is used in the case of two things, the implications is that only in these two things is this phrase (or, rule) applicable, and in no other, for, if Holy Writ had desired other cases to be the same, then the phrase would have been used only in one case, and all others could have been deduced from it: the fact that it is used in two cases implies that it is limited to these two, and that no others are to be deduced from them.

(28) I.e., we cannot deduce other cases from them.

(29) One authority (R. Judah; v, Kid. 35a) holds that from two similar cases we can deduce for others; and that only when there are three similar cases we cannot deduce others from them. According to him, let us deduce from these two cases the case of oaths that intention should suffice.

(30) Tabernacle offerings and Temple offerings are holy things; and we cannot deduce the case of oaths (which are hullin, dealing with ordinary, unconsecrated objects) from that which obtains in connection with holy things: the law with reference to holy things may be stricter.

Talmud - Mas. Shevu'oth 27a

MISHNAH. IF HE SWORE TO ANNUL A PRECEPT, AND DID NOT ANNUL IT, HE IS EXEMPT; TO FULFIL [A PRECEPT], AND DID NOT FULFIL IT, HE IS EXEMPT; THOUGH LOGICALLY [IN THE SECOND INSTANCE] HE SHOULD HAVE BEEN LIABLE, AS IS THE OPINION OF R. JUDAH B. BATHYRA: [FOR] R. JUDAH B. BATHYRA SAID: NOW, IF FOR AN OPTIONAL MATTER, FOR WHICH HE IS NOT ADJURED FROM MOUNT SINAI, HE IS LIABLE;[1] FOR A PRECEPT, FOR WHICH HE IS ADJURED FROM MOUNT SINAI, HE SHOULD MOST CERTAINLY BE LIABLE![2] THEY REPLIED TO HIM: NO! IF YOU SAY THAT FOR AN OATH IN AN OPTIONAL MATTER [HE IS LIABLE]. IT IS BECAUSE [SCRIPTURE] HAS IN THAT CASE MADE NEGATIVE EQUAL TO POSITIVE [FOR LIABILITY];[3] BUT HOW CAN YOU SAY THAT FOR AN OATH [TO FULFIL] A PRECEPT [HE IS LIABLE], SINCE [SCRIPTURE] HAS NOT IN THAT CASE MADE NEGATIVE EQUAL TO POSITIVE, FOR IF HE SWORE TO ANNUL [A PRECEPT], AND DID NOT ANNUL IT, HE IS EXEMPT![4] GEMARA. Our Rabbis taught: I might think that if he swore to annul a precept, and did not annul it, he should be liable,[5] therefore it is said: to do evil, or to do good; just as doing good is optional,[6] so doing evil must be optional;[7] I must therefore exclude: if he swore to annul a precept, and did not annul it; for which he is exempt. I might think that if he swore to fulfil a precept, and did not fulfil it, he should be liable, therefore it is said: to do evil, or to do good; just as doing evil is optional, so doing good must be optional; I must therefore exclude: if he swore to fulfil a precept, and did not fulfil it; for which he is exempt.[8]

I might think that if he swore to do evil to himself, and did not do so, that he should be exempt, therefore it is said: to do evil, or to do good; just as doing good is optional, so doing evil must be optional; I will therefore include: if he swore to do evil to himself, and did not do so, [that he is liable,] for the option is in his own hands.[9] I might think that if he swore to do evil to others, and did not do so, that he should be liable, therefore it is said: to do evil, or to do good; just as doing good is optional, so doing evil must be optional. I will therefore exclude: if he swore to do evil to others, and did not do so, [that he is exempt], for the option is not in his hands. Whence do we know to include [an oath] to do good to others?[10] Because it is said: or[11] to do good. And what is doing evil to others? ‘I shall smite So-and-so, and crack his brain.’

But how do we know that the verses refer to optional matters, perhaps they refer [also] to matters relating to precepts?[12] — That cannot enter our minds, for we require that doing good shall be similar to doing evil, and that doing evil shall be similar to doing good; for [the verse] likens doing evil to doing good: just as doing good cannot refer to the annulling of a precept,[13] so doing evil cannot refer to the annulling of a precept;[14] [so that this] doing evil is actually doing good![15] And it likens doing good to doing evil; just as doing evil cannot refer to the fulfilling of a precept,[16] so doing good cannot refer to the fulfilling of a precept;[17] [so that this] doing good is actually doing evil![18] If so, even in an optional matter it is not possible![19] — Well then since [the word] ‘or’ is necessary in order to include doing good to others,[20] we deduce that the verses refer to optional matters, for if it should enter your mind that they refer to matters relating to precepts [we would not require the word ‘or’ to include doing good to others for], since doing evil to others is included,[21] doing good is certainly [included]!

But this [word] ‘or’ is necessary to separate [the phrases]?[22] — To separate them the word is not necessary.[23] That is so, according to R. Jonathan, but according to R. Josiah, what is to be said? For it has been taught: A man who curseth his father or his mother [shall surely be put to death];[24] from this we know only [if he curses] his father and his mother;[25] [if he curses] his father and not his mother, or his mother and not his father, how do we know [that he is liable]? Because it is [also] said: His father or his mother he hath cursed;[26] his father he hath cursed, his mother he hath cursed.[27] This is the opinion of R. Josiah. R. Jonathan said: It may imply both together, and it may also imply each one alone

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(1) If he swears to do it, and does not.

(2) If he swears to fulfil it, and does not.

(3) If he swears to do evil (e.g., not to eat) or, to do good (e.g., to eat), and breaks his oath, he is liable in either case.

(4) Annulling a precept being counted negative; and fulfilling, positive. If there is no liability for not fulfilling the negative oath, there is no liability for not fulfilling the positive oath.

(5) For it comes under the category of to do evil.

(6) It is explained below why the expression to do evil, or to do good is taken to refer to optional matters, and not to annulling (to do evil) or fulfilling (to do good) a precept.

(7) The oath to do evil must refer to that which is purely optional (e.g., not to eat), but not to the annulling of a precept (e.g., to eat on the Day of Atonement) which is not optional.

(8) For, fulfilling a precept is obligatory, and not optional.

(9) A man may do an injury to himself; v. B. K. 91b.

(10) That if he swore to do good to others, and did not fulfil his oath, he is liable.

(11) או is superfluous, for the verse could have said להרע ולהיטיב (vav has the meaning also of ‘or’).

(12) Doing good will mean complete good, i.e., to body and soul; e.g., to eat (= good for the body) mazzah on Passover (= good for the soul, in fulfilling the precept); and doing evil will mean complete evil, i e., to body and soul; e.g., not to eat (= evil for the body) mazzah on Passover (= evil for the soul, in annulling the precept); v. Tosaf. a.l. and Maharsha.

(13) E.g., ‘I shall eat (= doing good) hamez on passover’ (= annulling a precept), for this is not a complete good. It must refer, therefore, to the fulfilling of a precept, e.g., ‘I shall eat mazzah on Passover’.

(14) E.g., ‘I shall not eat (= doing evil) mazzah on Passover’ (= annulling a precept), but must refer to the fulfilling of a precept, e.g., ‘I shall not eat hamez on passover’.

(15) ‘I shall not eat hamez on Passover’ is doing good, for though the first part (‘I shall not eat’) is evil for the body, the oath is good for the soul, and that is the main factor (v. Maharsha). If the verse, then, is concerned with the fulfilling and annulling of precepts, why is this clause (doing evil) mentioned, since it is actually doing good, and that has already been mentioned?

(16) E.g., ‘I shall not eat (= doing evil) hamez on Passover’ (= fulfilling a precept); for this is not doing evil so far as the precept is concerned (which is the main factor). It must therefore refer to the annulling of a precept, e.g., ‘I shall not eat mazzah on Passover.’

(17) E.g., ‘I shall eat (= doing good) mazzah on Passover’ (= fulfilling a precept); but must refer to the annulling of a precept, e.g., ‘I shall eat hamez on Passover.’ Hence this doing good (‘I shall eat’) is actually doing evil from the point of view of the precept; then why is this clause written, since doing evil is already mentioned?

(18) Hence, we must say that the verse is not concerned with precepts, but with optional matters, i.e., doing good or evil simply to the body in matters not affecting the soul.

(19) According to your reasoning the verse cannot refer to optional matters either; for, we may say, the verse likens doing evil to doing good: just as doing good (‘I shall eat’) means a complete good, and not, e.g., ‘I shall eat poison’ (for that is not doing good), but means e.g., ‘I shall eat bread,’ where the result is beneficial; so doing evil (‘I shall not eat’) must have a beneficial result, e.g., ‘I shall not eat poison.’ but this doing evil is actually doing good: and that has already been mentioned. Similarly, the verse likens doing good to doing evil: just as doing evil (‘I shall not eat’) does not refer to injurious foods (for that is not doing evil) but to beneficial foods, so that the result is injurious; so doing good (‘I shall eat’) must refer to that which is injurious (‘I shall eat poison’) so that the result is injurious; hence this doing good is actually doing evil; and this has already been mentioned; why does the verse mention it again?

(20) That if he swears to do good to others, and does not fulfil his oath, he is liable.

(21) For if he they refer to precepts, doing evil means annulling a precept, and this includes doing evil to another (for, injuring another is prohibited); and if he is liable for breaking his oath to injure another, he is certainly liable for breaking his oath to benefit another.

(22) To do evil, or to do good; without ‘or’ we might have assumed that he is liable only if he swears both to do evil and to do good. Since ‘or’ is necessary, it cannot be said to be superfluous in order to include doing good to others.

(23) Vav is also disjunctive, and ולהיטיב (instead of או) could have been written.

(24) Lev. XX, 9.

(25) For the verse has: את אביו ואת אמו (not או אמו).

(26) Lev. XX, 9.

(27) Though the verse has: אביו ואמו (not או), we deduce that it means either father or mother; for in the first half of the verse the verb is contiguous to father (יקלל את אביו ...), and in the second half it is contiguous to mother (... ואמו קלל).

Talmud - Mas. Shevu'oth 27b

unless the verse clearly specifies together.[1] [According to R. Josiah, then, how do we know that the verse concerning oaths refers to optional matters?][2] — You may say that it will be even in accordance with the view of R. Josiah.[3] He agrees with R. Akiba who expounds [the verse on the principle of] amplification and limitation; so that, granted if you say the verse refers to optional matters, it may exclude a precept; but if you say it refers [also] to precepts, what can it exclude?[4]

R. JUDAH B. BATHYRA SAID: NOW, IF FOR AN OPTIONAL MATTER, etc. Well did the Rabbis reply to R. Judah b. Bathyra.[5] And R. Judah b. Bathyra? He may reply to you: Is there not [the case of] doing good to others, which, though it is not applicable [negatively] in doing evil to others, is yet included by the Divine Law? Similarly, therefore, in [the case of] fulfilling a precept, though it is not applicable [negatively] in annulling a precept, it may be included by the Divine Law. And the Rabbis? — There[6] it is applicable [negatively in such a case as], ‘I shall not do good [to others];’[7] but here,[8] is it applicable [negatively] in, ‘I shall not fulfil [the precept]’?

MISHNAH. ‘I SWEAR I SHALL NOT EAT THIS LOAF;’ ‘I SWEAR I SHALL NOT EAT IT;’ ‘I SWEAR I SHALL NOT EAT IT;’ AND HE ATE IT, HE IS LIABLE ONLY ONCE. THIS IS THE OATH OF UTTERANCE, FOR WHICH ONE IS LIABLE, FOR ITS WILFUL TRANSGRESSION, STRIPES; AND FOR ITS UNWITTING TRANSGRESSION, A SLIDING SCALE SACRIFICE. FOR A VAIN OATH ONE IS LIABLE FOR WILFUL TRANSGRESSION, STRIPES; AND FOR UNWITTING TRANSGRESSION ONE IS EXEMPT.

GEMARA. Why does he state: I SWEAR I SHALL NOT EAT [THIS LOAF]; I SWEAR I SHALL NOT EAT IT?[9] — This he teaches us: The reason is because he said, ‘[I swear] I shall not eat;’ then he said, ‘[I swear] I shall not eat it,’ therefore he is liable only once;[10] but if he said, ‘[I swear] I shall not eat it;’ and then he said, ‘[I swear] I shall not eat,’ he is liable twice;[11] as is Raba's view, for Raba said: [If he said,] ‘I swear I shall not eat this loaf,’ as soon as he ate a ka-zayith of it, he is liable;[12] [but if he said, ‘I swear] I shall not eat it,’ he is not liable until he eats it all.[13]

‘I SWEAR I SHALL NOT EAT IT,’ AND HE ATE IT, HE IS LIABLE ONLY ONCE, etc. Why is this further [oath] necessary?[14] — This he teaches us: that there is no liability,[15] but the oath remains, so that if room is found,[16] it takes effect. For what practical purpose?[17] — For that which Raba said, for Raba said: If he obtained absolution[18] from the first, the second takes effect in its place.[19]

Shall we say that [the following] supports him? [For it has been taught:] He who vowed two vows of naziriteship,[20] and counted the first, and set apart the offering for it,[21] and then obtained absolution from the first — then the second [vow] takes the place of the first![22] — How now![23] There the [second vow of] naziriteship is at least in existence, so that when he would have finished counting for the first, he would have had to begin counting for the second, even if there had been no absolution; but here, would the second oath have any existence at all [were it not for the absolution from the first]?[24]

Raba said: If he swore concerning a loaf,[25] and was eating it; then, if he left a ka-zayith of it, he may obtain absolution from it;[26] but if he has eaten it all, he cannot obtain absolution from it. Said R. Aha the son of Raba to R. Ashi: How is this? If he said, ‘I shall not eat,’ then from the first ka-zayith he has already transgressed the prohibition?[27] And if he said: ‘I shall not eat it’, then why mention ka-zayith,

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(1) From the first half of the verse we know that each one separately is intended; for when Scripture intends the vav as a conjunction the word together (יחדו) is added; e.g., Thou shalt not plough with an ox and an ass together (Deut. XX, 10). The second half of the verse is, according to R. Jonathan, not necessary for the deduction that each one separately is intended, and is utilised by him for another deduction (cursing after death; v. Sanh. 85b).

(2) According to R. Jonathan, vav may be disjunctive, and או is not necessary (in להרע או להיטיב) to separate the phrases, so that it may be utilised, because it is superfluous, to include doing good to others; hence, because we require to deduce that doing good to others is included, it follows that the verse refers to optional matters (v. supra). But according to R. Josiah, או is necessary to separate the phrases, for vav is conjunctive; so that we cannot deduce the inclusion of doing good to others from או ; how, then, do we know that the verse refers to optional matters?

(3) That the verse refers to optional matters.

(4) For, on the principle of amplification and limitation, only one thing is excluded; and that which most logically should be excluded is swearing to annul a precept; swearing to fulfil a precept is automatically excluded, because every oath must be possible of application both negatively and positively.

(5) V. Mishnah supra 27a.

(6) In the case of doing good to others.

(7) E.g., ‘I shall not give a present to a wealthy man’ (‘I shall not give charity’ would be annulling a precept).

(8) In the case of fulfilling a precept.

(9) Let him use the same form twice: ‘I swear I shall not eat; I swear I shall not eat.

(10) Because when he swears, ‘I shall not eat,’ he prohibits even a ka-zayith of it to himself; the second oath, ‘I swear I shall not eat it’ (implying all of it) can therefore not take effect on the first oath.

(11) For the first oath prohibits only the eating of all of it (not a ka-zayith), and the second oath prohibits even a ka-zayith; when therefore he eats a ka-zayith, the second oath takes effect; when he eats it all, the first oath takes effect. He is therefore liable to bring two offerings, if he eats it all.

(12) For the oath implies ‘I shall not eat (i.e., a ka-zayith, for אכילה בכזית) of this loaf.’

(13) For the oath implies ‘I shall not eat it’ (i.e., the whole.)

(14) Why does the Mishnah mention the third oath? From the fact that the second oath does not take effect on the first, we already know that the third also does not take effect.

(15) To bring an offering, because a later oath cannot take effect when a previous oath exists; but the later oath is not wasted; it can take effect when the previous oath is removed.

(16) I.e., if the previous oath is removed.

(17) Does he tell us that the later oath remains?

(18) Lit., ‘allowed himself to be asked,’ v. note 2.

(19) If he explains to a Sage that the first oath was made under a misapprehension, and he expresses regret for it, the

Sage absolves him; so that it is now counted as if he had not sworn the first oath; the second oath therefore takes effect. The Mishnah therefore mentions a third oath to teach us that no matter how many oaths are uttered they all remain, but are merely suspended from taking effect as long as the first oath is in existence.

(20) I.e., vowed to be a nazir for two periods, each of which is for 30 days; v. Naz. I, 3.

(21) Num. VI, 13-21.

(22) And he does not need to be a nazir for another period of 30 days, for, since the first is absolved, the 30 days he has already counted are reckoned for the fulfilment of the second vow, and the offering may also be utilised for it. Similarly, in the case of all oaths, when the first is absolved, the second takes its place. This therefore supports Raba's statement.

(23) There is no similarity, and it does not support Raba.

(24) In the case of the vow of naziriteship, the second vow was not uttered in vain, for it was to be fulfilled in any case, but in the case of oaths, the second oath, when uttered, was in vain, and might possibly never take effect (if the first is not absolved); therefore we may say that, since when uttered, it was in vain, it should not take effect even when the opportunity arises.

(25) Not to eat it.

(26) Then he will not have transgressed the oath, and may also eat the remainder.

(27) Then how can he obtain absolution now?

Talmud - Mas. Shevu'oth 28a

even if only a minute quantity [is left, he should obtain absolution] also?[1] — If you will, you may say [that he said], ‘I shall not eat,’ and if you will, you may say [that he said], ‘I shall not eat it.’ If you will, you may say [that he said], ‘I shall not eat;’ and since absolution is effective for the last ka-zayith, absolution is effective also for the first ka-zayith.[2] And if you will, you may say [that he said], ‘I shall not eat it;’ now, if he left a ka-zayith, it is of sufficient consequence to have absolution obtained for it; but if not, it is not of sufficient consequence to have absolution obtained for it.[3]

An objection was raised: ‘He who vowed two vows of naziriteship, and counted the first, and set apart an offering for it, and then obtained absolution from the first — the second [vow] takes the place of the first’.[4] Here we are discussing the case where he has not yet obtained atonement.[5] But surely it has been taught: [Even if] he obtained atonement [he can still obtain absolution]! — It refers to the case where he had not yet shaved;[6] and it is in accordance with the view of R. Eliezer, who holds that shaving is indispensable.[7] — But surely it has [also] been taught: [Even if] he shaved [he can still obtain absolution]? R. Ashi said: You put a question from that which obtains in the case of naziriteship! [There is no comparison.] What caused the second [vow] not to take effect? The first! Well, it is no more![8]

Amemar [however] said: Even if he ate it all, he may obtain absolution from it; for, if unwittingly, he lacks an offering; and if wilfully, he lacks stripes;[9] but if he had already been bound to the pole,[10] no; as Samuel said, for Samuel said: If they bound him to the pole, and he ran away from the Beth din, he is exempt.[11] — But it is not really analogous; there he ran; here he did not run.[12]

Raba said: [If he said:] ‘I swear I shall not eat this loaf, if I eat that one,’ and he ate the first[13] unwittingly, and the second[14] wilfully, he is exempt;[15] [if he ate] the first wilfully, and the second unwittingly, he is liable;[16] both unwittingly, he is exempt;[17]

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(1) For as long as he has not eaten it all he has not yet transgressed the oath, and may obtain absolution.

(2) After eating the first ka-zayith he may obtain absolution from the oath to permit him to eat the remainder of the loaf; and since he can obtain absolution for the rest, the oath is thus automatically removed (for the Sage has the power to uproot the oath ab initio), and the first ka-zayith which he has already eaten is therefore now counted as not having been eaten under prohibition.

(3) If he leaves less than a ka-zayith, it is counted as if he had already eaten the whole loaf, and thus transgressed his oath; and he cannot, therefore, obtain absolution; v. Tosaf. 27b, s.v. אם.

(4) This shows that absolution may be obtained from the first vow even after it has been completely fulfilled. Why then, in the case of an oath, should he not be able to obtain absolution even after he has completely eaten the loaf?

(5) Num. VI, 14-17; if the offerings have not yet been sacrificed, he has not obtained atonement for his vow; it is therefore not yet completed, and he may obtain absolution.

(6) Cf. Num. VI, 18; the omission of this act invalidates the rite; therefore so long as this has not been done the first vow has not been completed entirely, and he may still obtain absolution.

(7) Lit., 'restrains'; he must still refrain from drinking wine, until this is completed.

(8) He vowed two vows, counted 30 days, and now asks for absolution from the first. Why assume that the 30 days that have been counted are for the first vow, and that it has therefore been completed, and absolution should not be possible? Since the Sage has the power to uproot the first vow in its entirety by showing it to have been made under a misapprehension, the result is that we may legitimately assume that the 30 days that have been counted are for the second vow, and the counting for the first vow has not even started, so that when absolution is asked for the first vow, it is still intact, and absolution may therefore he granted; but in the case of an oath, if he has already eaten the loaf completely, he has transgressed the oath; how can he now obtain absolution?

(9) Since there is something still necessary, he may yet obtain absolution and be exempt from offering or stripes. Amemar disagrees with Raba who holds that only if a ka-zayith is left can he obtain absolution.

(10) In readiness for receiving the stripes (v. Mak. 22b), he cannot obtain absolution, for it is counted as if he had already received the stripes.

(11) It is counted as if he had already received the stripes, and he is not brought back.

(12) By running away he has already suffered degradation (v. Mak. 23a), and it is counted as if he had already received his punishment; but here we may say that even if he has been bound to the pole, it is not yet counted as if he had received his stripes, and he may therefore still obtain absolution from his oath.

(13) The conditional one.

(14) The one he prohibited to himself; if he should eat the conditional one.

(15) An oath which is conditional upon the performing of another act does not take effect at the moment it is uttered, but at the moment the first act is performed; and if at that moment he remembers the oath, it takes effect, but if he has forgotten the oath, it cannot take effect, for it is not counted האדם בשבועה (v. supra 26a). If he ate the conditional one unwittingly (having forgotten the oath) and the prohibited one wilfully (remembering the oath), he is exempt from stripes (though he ate the prohibited one wilfully), because at the moment of the first act (eating the conditional one) when the oath was due to take effect, he had forgotten it (and it is not, therefore, האדם בשבועה).

(16) For an offering, because when he ate the conditional one he remembered the oath: he ate it wilfully (it was, of course, permitted to him then); when, therefore, he later ate the prohibited one unwittingly, he became liable for an offering.

(17) Whether he ate the conditional or the prohibited loaf first, because at the moment he ate the first one he had forgotten the oath, and it cannot, therefore, take effect.

Talmud - Mas. Shevu'oth 28b

both wilfully, then, if he [first] ate the conditional one, and then he ate the prohibited one, he is liable;[1] but if he [first] ate the prohibited one, and then he ate the conditional one, [the ruling depends on] the controversy between R. Johanan and Resh Lakish:[2] according to the one who holds an uncertain warning is a warning he is liable, and according to the one who holds it is not a warning, he is exempt.[3]

If he made them conditional upon each other: 'I shall not eat this one, if I eat that one; I shall not eat that one, if I eat this one';[4] then, if he ate this one wilfully, [mindful of the oath] concerning it, but forgetful [of the oath] concerning the other; and [ate] the other wilfully, [mindful of the oath] concerning it, but forgetful [of the oath] concerning the first, he is exempt:[5] [if he ate] this one unwittingly, [forgetful of the oath] concerning it, but mindful [of the oath] concerning the other, and [ate] the other unwittingly, [forgetful of the oath] concerning it, but mindful [of the oath] concerning the first, he is liable;[6] both unwittingly, he is exempt;[7] both wilfully, then, for the second he is liable;[8] but for the first, [the ruling depends on] the controversy between R. Johanan and Resh Lakish.[9]

R. Mari said: We have also learnt thus [in a Mishnah]:[10] Four vows did the Sages permit:[11] vows of urging.[12] vows of hyperbole.[13] vows made unwittingly,[14] and vows accidentally unfulfilled.[15] Vows made unwittingly: how? ‘Konam[16] [this loaf to me], if I ate or drank [today]’, and he remembered that he had eaten or drunk; ‘[konam this loaf to me,] if I eat or drink [today]’, and he forgot, and ate or drank, he is permitted [to eat that loaf]; and it was taught with reference to this: just as vows made unwittingly are permitted, so oaths made unwittingly are permitted.[17]

Efa[18] learnt [the laws of] oaths in the school of Rabbah. His brother Abbimi met him, and asked him: [If one said,] ‘I swear I have not eaten; I swear I have not eaten’, [and he had eaten,] what is the ruling? — He replied: He is liable only once. He said to him: You are mistaken, for surely a false oath went forth [from his mouth].[19] — [He asked him again: If one said,] ‘I swear I shall not eat nine [figs; I swear I shall not eat] ten [figs’, and he ate ten figs], what is the ruling? — He replied: He is liable for each [oath].[20] — He said to him: You are mistaken, for if he will not eat nine, he will not eat ten.[21] [He asked him again: If one said,] ‘I swear I shall not eat ten [figs; I swear I shall not eat] nine [figs,’ and he ate ten], what is the ruling? — He replied: He is liable only once.[22] He said to him: You are mistaken: ten he would not eat, but nine he would eat.[23]

Abaye said: Sometimes this ruling of Efa is possible,[24] as the Master said, for Rabbah said: [If a man said,] ‘I swear I shall not eat figs and grapes [together in one day],’ then he said, ‘I swear I shall not eat figs;’[25]

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(1) Stripes; provided, before eating the second, he was given the required definite warning: ‘Do not eat this loaf, because you have sworn not to eat it, if you eat the first; and you have already eaten the first.’

(2) V. supra 3b.

(3) The warning, which must be given before the eating of the prohibited loaf, cannot be definite: ‘You must not eat this loaf’ (for it is not prohibited until he eats the conditional loaf). The warning is therefore: ‘You must not eat this loaf, in case you eat the conditional one, and then you will have transgressed the oath in having eaten this prohibited loaf.’ This warning is uncertain, for he may never eat the conditional loaf.

(4) Both loaves are conditional and prohibited.

(5) When he ate the first one, he remembered that he had sworn not to eat it, if he ate the other; but he forgot that he had also sworn not to eat the other, if he ate this one. When he ate the second, he remembered that he had sworn not to eat it, if he ate the first; but forgot that he had also sworn not to eat the first, if he ate this. Now, he is exempt from stripes for the second loaf which he has just eaten wilfully, because at the time the oath has to take effect, i.e., at the moment of the first act (eating the first loaf), he had forgotten that he had sworn not to eat the second loaf, if he ate the first; the second oath, therefore, does not take effect; and he is exempt from stripes or offering for the first, because, though he ate it wilfully, it was permitted at the moment of eating (for he had then not yet eaten the second).

(6) When he ate the first one, he forgot that he had sworn not to eat it, if he ate the second, but remembered that he had sworn not to eat the second, if he ate this; and when he ate the second, he forgot that he had sworn not to eat it, if he ate the first, but remembered that he had sworn not to eat the first, if he ate this. Now, for the second loaf he must bring an offering, for the second loaf took effect at the beginning, at the moment of the first act (eating the first loaf), for at that moment he remembered that he had sworn not to eat the second loaf, if he ate the first. And now when he ate the second loaf (though he forgot this oath now) he is liable, for it is a simple case of unwitting transgression (eating the loaf, having forgotten his oath not to do so). But he is not liable for stripes for the first loaf (though now, when eating the second loaf, he remembers that he had sworn, not to eat the first, if he ate the second, and yet he eats the second wilfully), because at the moment of the first act (eating the first loaf) this oath (not to eat the first, if he ate the second) did not take effect, for he had forgotten it.

(7) For at the moment of the first act, when the oaths are due to take effect, he had forgotten them, and the condition of האדם בשבועה is therefore not fulfilled.

(8) Stripes; where he was given a definite warning which, in this case, is possible: ‘Do not eat this loaf, for you have sworn not to eat it, if you eat the first; and you have already eaten the first.’

(9) For it is an uncertain warning: ‘Do not eat this in case you also eat the other, and if you eat the other you will be liable for having eaten this.’ It is uncertain, because he may never eat the other.

(10) In support of Raba's statement that in the case of a conditional oath the person must remember the oath at the time of fulfilling the condition.

(11) To be deemed as of no effect even without absolution; Ned. 20b.

(12) Bargaining in business; e.g., the seller says: ‘I vow that food shall be prohibited to me today, if I sell you this article for less than 4 denarii’, and the buyer vows similarly that he will not give more than 2 denarii; both intend to compromise for 3 denarii; they vow merely to obtain better terms, and do not intend their vows to be taken seriously.

(13) Or exaggeration; e.g., I vow that this loaf shall be prohibited to me, if I did not see 500,000 men pass along this road today.’ He knows it is untrue; It is merely exaggerated speech.

(14) E.g., ‘I vow that this loaf shall be prohibited to me, if I have drunk wine today.’ When uttering the vow he thought he had not drunk, but later reminded himself that he had; the vow is null, and he may eat the loaf.

(15) E.g., ‘I vow that enjoyment of my property shall be prohibited to you, if you do not dine with me today,’ and illness prevented the acceptance of the invitation, the vow’ is null, for the person who made it did not intend it to take effect if accident prevented the fulfilment of the condition.

(16) Prohibited be (v. Glos.).

(17) E.g., ‘I swear I shall not eat this loaf, if I drink wine today,’ and he forgot and drank wine, he is permitted to eat the loaf; because in order that the oath shall take effect he must remember the oath at the time of fulfilling the condition, but in this case, when fulfilling the condition (drinking the wine), he had forgotten the oath. This, therefore, agrees with Raba's statement.

(18) He and Abbimi were the sons of Rahabah of Pumbeditha.

(19) Only in the case of an oath in the future can you say that the second oath does not take effect, because the first has already prohibited it, and the second is now an oath to fulfil a precept (to fulfil the first oath); but in the case of an oath in the past, which is false immediately when it is uttered, why should he not be liable for the second or any number of subsequent oaths?

(20) He assumed that the second oath is not included in the first, and therefore can take effect.

(21) The second oath is therefore already included in the first, and cannot take effect, for it is now an oath to fulfil a precept.

(22) He assumed that the second oath is included in the first, for ‘nine’ is included in ‘ten’.

(23) The first oath was only for ten, but he was permitted to eat nine; the second prohibited nine. When he ate nine, he transgressed the second oath, and when he ate another one, be transgressed the first.

(24) That if he swore for ten, and then nine; and ate ten, he should be liable only once.

(25) If he would have eaten figs and grapes together in one day, he would have had to bring two offerings: for, as soon as he ate the figs, he is liable for the second oath, and when he eats also the grapes, he is liable for the first.

Talmud - Mas. Shevu'oth 29a

and he ate figs,[1] and set apart the offering; and then he ate grapes alone,[2] the grapes are then only half the quantity,[3] and for half the quantity he is not liable. So here also, if he said: ‘I swear I shall not eat ten [figs],’ and then he said, ‘I swear I shall not eat nine [figs],’ and he ate nine, and set apart the offering, and then he ate a tenth [fig], the tenth is then only half the quantity, and for half the quantity he is not liable.[4]

MISHNAH. WHAT IS A VAIN OATH? IF HE SWORE THAT WHICH IS CONTRARY TO THE FACTS KNOWN TO MAN, SAYING OF A PILLAR OF STONE THAT IT IS OF GOLD; OR OF A MAN THAT HE IS A WOMAN; OR OF A WOMAN THAT SHE IS A MAN; IF HE SWORE CONCERNING A THING WHICH IS IMPOSSIBLE, [AS E.G., ‘IF I HAVE NOT SEEN A CAMEL FLYING IN THE AIR’,[5] OR, ‘IF I HAVE NOT SEEN A SERPENT LIKE THE BEAM OF THE OLIVE PRESS’; IF HE SAID TO WITNESSES, ‘COME AND BEAR TESTIMONY FOR ME’, [AND THEY REPLIED,] ‘WE SWEAR THAT WE WILL NOT BEAR TESTIMONY FOR YOU’;[6] IF HE SWORE TO ANNUL A PRECEPT, [AS E.G.,] NOT TO MAKE A SUKKAH,[7] OR, NOT TO TAKE A LULAB,[7] OR, NOT TO PUT ON TEFILLIN:[7] THESE[8] ARE VAIN OATHS, FOR WHICH ONE IS LIABLE, FOR WILFUL TRANSGRESSION, STRIPES, AND FOR UNWITTING TRANSGRESSION ONE IS EXEMPT. [IF A MAN SAID:] 'I SWEAR I SHALL EAT THIS LOAF; I SWEAR I SHALL NOT EAT IT,' THE FIRST IS AN OATH OF UTTERANCE,[9] AND THE SECOND IS A VAIN OATH.[10] IF HE ATE IT, HE TRANSGRESSED THE VAIN OATH; IF HE DID NOT EAT IT, HE TRANSGRESSED THE OATH OF UTTERANCE.[11]

GEMARA. Ulla said: Provided that it was already known to three men.[12] IF HE SWORE CONCERNING A THING WHICH IS IMPOSSIBLE, [AS E.G.,] 'IF I HAVE NOT SEEN A CAMEL FLYING IN THE AIR.' 'I swear that I have seen,' he does not say! What [then] is meant by, 'If I have not seen ? Abaye said: Learn, 'I swear I have seen.'[13] Raba said: [The Mishnah means:] he said, '[I swear that] all the fruits of the world shall be prohibited to me, if I have not seen a camel flying in the air.' Said Rabina to R. Ashi: Perhaps this man saw a large bird, and gave it the name of camel, and when he swore, he swore according to his own mind;[14] and if you say, we go according to his mouth, and we do not go according to his mind,[15] [that cannot be,] for it has been taught: When they adjure him,[16] they say to him, 'Know that we do not adjure you according to your own mind, but according to the mind of the Omnipresent and the mind of the Beth din.' What is the reason? Is it not because we say, perhaps he gave him counters,[17] and called them zuzim, in which case when he swears, he swears according to his own mind?[18] — No! There [the reason is] because of the cane of Raba.[19]

Come and hear! And so we find that when Moses adjured the Israelites, he said to them: Know that I do not adjure you according to your own minds, but according to the mind of the Omnipresent and according to my mind.[20] Now, why [should he say this]? Let him say to them: Fulfil what God has decreed. Is it not then because they might bring to their minds an idol?[21] — No! But because an idol is also called god,[22] for it is written: gods of silver, or gods of gold, [ye shall not make unto you].[23] — Well, let him say to them: Fulfil the Torah.[24] — [That might have implied] one Torah.[25] Let him [then] say: Fulfil the two Toroth. — [That might have implied] the Torah of sin offering and the Torah of trespass offering.[26] [Let him say:] Fulfil the whole Torah. — [That might have implied merely the avoidance of] idolatry,[27] for it has been said: Important is idolatry in that he who denies it is as if he accepts the whole Torah.[28] Well, let him say to them: Fulfil the precept. — [That would have implied] one precept. [Let him say:] Fulfil the precepts. — [That might have implied merely] two. [Let him say: Fulfil] all the precepts. — [That might have implied] the precept of zizith,[29] for a Master said: The precept of zizith is equal to all the precepts together.[30] Then, let him say to them: Fulfil the six hundred and thirteen precepts. — But, even according to your reasoning,[31] let him say. 'According to my mind;' why is it necessary to add, 'according to the mind of the Omnipresent'?[32]

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(1) Having forgotten the second oath.

(2) Having forgotten the first oath.

(3) I.e., only a portion of that which he prohibited to himself by the first oath, for as soon as he had set apart his offering for the figs, they can no longer combine with the grapes to make him liable for the first oath; so that he is not now transgressing the first oath by eating the grapes, for the oath was 'grapes and figs'.

(4) If he had not yet set apart the offering for the nine figs, and had eaten the tenth fig, he would have been liable for the first oath also; but now that he has set apart the offering for the nine, they no longer combine; he is therefore now eating only one fig, and is not thereby transgressing the first oath.

(5) The Gemara explains why the oath is not positive: 'I swear I have seen a camel flying'.

(6) This is annulling a precept, for they must bear testimony, if they were witnesses; Lev. V, 1.

(7) V. Glos.

(8) All those mentioned in the Mishnah.

(9) Lev. V, 4: if any one swear uttering with his lips to do evil, or to do good.

(10) For he is swearing to annul a precept; the fulfilling of his first oath is incumbent upon him like a precept.

(11) In addition to transgressing the vain oath (v. infra 29b).

(12) That the pillar is of stone; then it is a vain oath (for at the moment of utterance its falsity is already evident); but if it was not known to three men, it is a false oath, and not a vain oath.

(13) I.e., emend the Mishnah.

(14) And not according to the universally accepted view of what the word ‘camel’ connotes; therefore it is not a vain oath, for he really did see a ‘camel’ (the name he gave in his own mind to the large bird) flying.

(15) Therefore it is a vain oath, for his mouth said ‘camel’, i.e., what is universally recognised as camel.

(16) When the Beth din impose an oath on a litigant in court.

(17) Perhaps the debtor (who has to swear) had given to the creditor counters, such as are used as tokens (instead of money) in the game of iskundre (a kind of draughts or chess).

(18) I.e., when taking the oath the debtor may have mentally called the counters zuzim; therefore the Beth din say to him that the oath must be taken according to their mind, not his (i.e., mental reservations are not taken account of); hence, since the Beth din's warning is necessary, we deduce that an oath (were it not for the Beth din's warning) would take effect in accordance with the mind of the utterer.

(19) Ned. 25a; a case came before Raba where the debtor, when ordered by Raba to take an oath, handed the creditor a cane to hold for a moment while he took the oath: ‘I swear I have given to the creditor the money I owe him.’ The creditor, in a fit of temper, broke the cane, and a number of coins (the amount of the debt) fell out. The debtor had put the coins in a hollow cane; the oath he took was true: he had given the creditor the money he owed him (by handing him the cane, which he would have taken back later). To avoid the occurrence of such an incident as this the Beth din warn the debtor that the oath he takes is in accordance with their mind, and not his. Hence, the Beth din's warning is necessary not because a man may swear an oath with mental reservations, but because he may swear a true oath (though with trickery). It may be, therefore, that in an oath we go according to the mouth and not the mind.

(20) Deut. XXIX, 13: Neither with you only do I make this covenant and this oath, i.e., neither with you only, not as you yourselves think (with possible reservations in your minds) do I impose this oath of allegiance upon you.

(21) I.e., they might in their own minds interpret the word ‘God’ by ‘idol’; hence, an oath is in accordance with the mind of the utterer; and therefore Moses had to warn them.

(22) An oath is in accordance with the mouth (i.e., actual words uttered); and ‘god’ may actually imply ‘idol’.

(23) Ex. XX, 20.

(24) Yet he did not say this because, presumably, they could have made a mental reservation (when taking the oath to fulfil the Torah) that sins be included in the word ‘Torah’; hence, we go according to the mind or thought of the utterer of the oath.

(25) Therefore he could not have imposed the oath in that form, for we have two Toroth, written and oral.

(26) Lev. VI, 18: זאת תורת החטאת; ibid. VII, 1: זאת תורת האשם; The name ‘Torah’ is applied to the laws concerning sin offerings and trespass offerings, as also to the laws concerning burnt offerings (Lev. VI, 2) meal offerings (VI, 7), and peace offerings (VII, 11). If Moses had said: ‘Fulfil the two Toroth’, the Israelites, in taking the oath, might have intended it to apply only to the laws concerning sin offerings and trespass offerings (or any other two, such as burnt offerings and peace offerings) to which the name תורה is specifically applied, but not to any other precepts.

(27) Had the oath been imposed in that form, they could have fulfilled it by merely refraining from idol worship, without fulfilling any other commandments.

(28) Num. XV, 22: And if ye err, and do not observe all these commandments; it is explained (Hor. 8a) that all these commandments refers to idolatry.

(29) The fringes; Num. XV, 38.

(30) Ibid. 39: that he may look upon it, and remember all the commandments of the Lord; v. Men. 43b.

(31) You infer that the reason for the formula of the oath which Moses administered to the Israelites was because they might have made mental reservations.

(32) Moses could have said, ‘I adjure you according to my mind, not yours.’ That would have sufficed to overcome the difficulty of possible mental reservations on their part.

Talmud - Mas. Shevu'oth 29b

Obviously, therefore, merely so that there should not be any absolution for their oath.[1]

‘IF I HAVE NOT SEEN A SERPENT LIKE THE BEAM OF THE OLIVE PRESS.’ And is it not [possible]?[2] Lo! There was one in the reign of King Shapur[3] which swallowed thirteen hides[4] stuffed with straw.[5] — Samuel said: [He meant] striped.[6] But they are all striped! [He meant] striped on his back.[7]

‘I SWEAR I SHALL EAT THIS LOAF; I SWEAR I SHALL NOT EAT IT’, etc. Now, for the oath of utterance he is liable, and for the vain oath he is not liable?[8] Surely, the oath was uttered in vain! — R. Jeremiah said: Learn, ALSO THE OATH OF UTTERANCE.[9] MISHNAH. THE OATH OF UTTERANCE APPLIES TO MEN AND WOMEN, TO RELATIVES AND NON-RELATIVES,[10] TO THOSE QUALIFIED [TO BEAR WITNESS] AND THOSE NOT QUALIFIED,[11] [WHETHER UTTERED] BEFORE THE BETH DIN, OR NOT BEFORE THE BETH DIN, [BUT IT MUST BE UTTERED] WITH A MAN'S OWN MOUTH;[12] AND HE IS LIABLE, FOR WILFUL TRANSGRESSION, STRIPES, AND FOR UNWITTING TRANSGRESSION, A SLIDING SCALE SACRIFICE. A VAIN OATH APPLIES TO MEN AND WOMEN, TO NON-RELATIVES AND RELATIVES, TO THOSE QUALIFIED [TO BEAR WITNESS] AND THOSE NOT QUALIFIED, [WHETHER UTTERED] BEFORE THE BETH DIN OR NOT BEFORE THE BETH DIN, [BUT IT MUST BE UTTERED] WITH HIS OWN MOUTH; AND HE IS LIABLE, FOR WILFUL TRANSGRESSION, STRIPES, AND FOR UNWITTING TRANSGRESSION HE IS EXEMPT. [IN THE CASE OF] BOTH THIS AND THAT [OATH], IF HE WAS ADJURED BY THE MOUTH OF OTHERS, HE IS LIABLE; THUS, IF HE SAID, ‘I HAVE NOT EATEN TODAY,’ OR, ‘I HAVE NOT PUT ON TEFILLIN TODAY,’ [AND THE OTHER SAID,] ‘I ADJURE THEE,’ AND HE SAID, ‘AMEN!’ HE IS LIABLE.

GEMARA. Samuel said: He who responds ‘Amen’ after an oath — it is as if he uttered the oath with his own mouth, for it is written: And the woman shall say, Amen, Amen.[13] R. Papa said in the name of Raba: A Mishnah and a Baraitha also prove it, for the Mishnah states: ‘The oath of testimony applies to men, and not to women; to non-relatives, and not to relatives; to those qualified [to bear witness], and not to those unqualified; and it applies only to those liable to bear witness; and [whether uttered] before the Beth din or not before the Beth din, [if uttered] with his own mouth; but if [adjured] by the mouth of others, he is not liable unless he denies it before the Beth din: this is the opinion of R. Meir.’[14] And in the Baraitha it was taught: What is the oath of testimony? He said to witnesses, ‘Come and bear testimony for me;’ [and they replied,] ‘We swear we know no testimony for you,’ or they said,[15] ‘We know no testimony for you,’ [and he said,] ‘I adjure you,’ and they responded. ‘Amen’ — whether [it was uttered] before the Beth din, or not before the Beth din, whether from their own mouths or the mouths of others, since they denied [knowing any testimony], they are liable: this is the opinion of R. Meir. Now, they contradict each other![16] Obviously, therefore, we deduce from this that here[17] [it is a case where] he said ‘Amen,’[18] and there[19] [a case where] he did not say ‘Amen’. This proves it.[20]

Rabina said in the name of Raba: Our Mishnah also proves it, for it states: THE OATH OF UTTERANCE APPLIES TO MEN AND WOMEN, TO NON-RELATIVES AND RELATIVES, TO THOSE QUALIFIED [TO BEAR WITNESS] AND THOSE NOT QUALIFIED, [WHETHER UTTERED] BEFORE THE BETH DIN OR NOT BEFORE THE BETH DIN, [BUT IT MUST BE UTTERED] WITH HIS OWN MOUTH. [Hence, if uttered] WITH HIS OWN MOUTH, he is liable; but from the mouth of others, he is not liable. And yet the last clause states: [IN THE CASE] OF BOTH THIS AND THAT [OATH], IF HE WAS ADJURED BY THE MOUTH OF OTHERS HE IS LIABLE. Thus they contradict each other! Obviously, therefore, we must infer from this that here[21] [it is a case where] he said ‘Amen’, and there[22] [a case where] he did not say ‘Amen’. — But, if so, what does Samuel teach us?[23] — The deduction of the Mishnah he teaches us.[24] [

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(1) For an oath taken in accordance with the mind of others cannot be absolved. An oath, however, always takes effect in accordance with the mouth (i.e., actual words uttered); therefore, ‘I have seen a camel flying’ is a vain oath.

(2) To see a serpent as thick as the beam of the olive press?

(3) Sapur I, King of Persia.

(4) [Var. lec., ‘stables’.]

(5) [According to Rashi, this was a man-devouring serpent, and he was killed by being stuffed with straw in which hot coals were concealed.]

(6) Like the markings in the wood of the beam; but he was not thinking of its girth or length.

(7) Whereas all serpents are striped only on the neck. (Rashi.) [Asheri, Ned. 28a, renders ‘flat at the back’, whereas serpents are flat only at the belly, v. Lewysohn, Zoologie, p. 234.]

(8) But why should he not be liable also, if he does not eat it for the vain oath, even if he fulfils it (by not eating the loaf)? The vain oath, when uttered, was designed to annul a precept (not to fulfil the previous oath); and if one swears to annul a precept, would he not be liable even if he fulfils the oath, and annuls the precept?

(9) The Mishnah means: If he did not eat it, he transgresses the oath of utterance also, in addition to the vain oath.

(10) If he swore, ‘I shall give So-and-so a loaf,’ and did not fulfil his oath, he is liable, whether that person is a relative or not.

(11) V. Sanh. III, 3, 4.

(12) But if he is adjured by another to say, e.g., whether he has eaten, and he replies. ‘I have eaten,’ it is not an oath, since he himself did not utter the oath. If, however, he says. ‘Amen’ to the other's adjuration, it is counted as an oath (v. infra).

(13) Num. V, 22; the previous verse states that the priest shall cause the woman to swear; but the priest himself pronounces the oath, and the woman merely responds, ‘Amen’.

(14) Infra 30a.

(15) Without taking an oath.

(16) For in the Mishnah R. Meir says that, if adjured by others, they are liable only if the adjuration be uttered before the Beth din; and in the Baraitha he says that, even if adjured by others, they are liable even if the adjuration be not uttered before the Beth din.

(17) In the Baraitha.

(18) And this is counted as if he uttered the oath himself.

(19) In the Mishnah.

(20) That responding ‘Amen’ to an oath is like uttering an oath oneself, as Samuel states.

(21) The last clause.

(22) The first clause.

(23) Why does Samuel need to tell us that he who responds ‘Amen’ to an oath is reckoned as uttering an oath himself? This is so easily and obviously deduced from the Mishnah!

(24) That the Mishnah really wishes to teach us that there is no liability if adjured by others, unless be did say, ‘Amen’; and we should not think that the first clause, in stating that the oath must be uttered by himself, does not thereby desire to exclude adjuration by others, but mentions it merely because it is more usual for the oath to be uttered by himself; and that the last clause, in stating that adjuration by others makes him liable, if he responds, ‘Amen’, does not thereby desire to imply that if he does not respond, ‘Amen’, he is not liable, but merely mentions ‘Amen’ because it is usual for ‘Amen’ to be said in response to an oath, but that really he is liable, if adjured by others, even if he does not say, ‘Amen’. Therefore, Samuel states that the Mishnah really does desire to make this distinction in adjuration by others [between the case where ‘Amen’ is said and the case where it is not said.

Talmud - Mas. Shevu'oth 30a

CHAPTER IV

MISHNAH. THE OATH OF TESTIMONY[1] APPLIES TO MEN AND NOT TO WOMEN,[2] TO NON-RELATIVES AND NOT TO RELATIVES,[3] TO THOSE QUALIFIED [TO BEAR WITNESS] AND NOT TO THOSE UNQUALIFIED;[4] AND IT APPLIES ONLY TO THOSE LIABLE TO BEAR WITNESS; AND WHETHER [UTTERED] BEFORE THE BETH DIN OR NOT BEFORE THE BETH DIN, IF [UTTERED] WITH HIS OWN MOUTH; BUT IF [ADJURED]

BY THE MOUTH OF OTHERS HE IS NOT LIABLE UNLESS HE DENIES IT BEFORE THE BETH DIN; THIS IS THE OPINION OF R. MEIR. BUT THE SAGES SAY: WHETHER [UTTERED] WITH HIS OWN MOUTH OR [ADJURED] BY THE MOUTH OF OTHERS HE IS NOT LIABLE UNLESS HE DENIES IT BEFORE THE BETH DIN. AND THEY ARE LIABLE FOR WILFUL TRANSGRESSION OF THE OATH, AND FOR ITS UNWITTING TRANSGRESSION COUPLED WITH WILFUL [DENIAL OF KNOWLEDGE OF] TESTIMONY;[5] BUT THEY ARE NOT LIABLE FOR ITS UNWITTING TRANSGRESSION.[6] AND WHAT ARE THEY LIABLE FOR THE WILFUL TRANSGRESSION OF THE OATH? A SLIDING SCALE SACRIFICE.

GEMARA. How do we know?[7] — Because the Rabbis taught: And the two men shall stand.[8] the verse refers to witnesses.[9] — You say [it refers to] witnesses; but perhaps [it refers to] the litigants? When it says: between whom the controversy is,[10] the litigants are already mentioned; hence, how do I explain and the two men shall stand, [Therefore,] the verse refers to witnesses.[11] And if you wish to say [something to refute this deduction, I give you another]: Here[12] it is said, ‘two’, and there[13] it is said, ‘two’; just as there it refers to witnesses, so here it refers to witnesses.[14] What is meant by: If you wish to say [something to refute the deduction]?[15] — You might say, because the verse did not write: and those between whom the controversy is, the whole verse refers to the litigants,[16] [therefore, I give the second deduction:] here it is said: two, and there it is said: two; just as there it refers to witnesses, so here it refers to witnesses.

Another [Baraitha] taught: And the two men shall stand; the verse refers to witnesses. You say [it refers to] witnesses; but perhaps [it refers to] the litigants? You may retort: Do, then, two come to court, and do not three ever come to court?[17] But if you wish to say something [to refute this deduction, I give you another]: Here it is said, ‘two’, and there it is said, ‘two’,’ just as there it refers to witnesses, so here it refers to witnesses. What is meant by: If you wish to say [something to refute this]? You might say, the verse refers to plaintiff and defendant,[18] [therefore I give the second deduction:] here it is said, ‘two’, and there it is said, ‘two’; just as there it refers to witnesses, so here it refers to witnesses. Another [Baraitha] teaches: And the two men shall stand; the verse refers to witnesses. You say [it refers to] witnesses; but perhaps [it refers to] the litigants? You may retort: Do, then, men come to court, and do not women ever come to court?[19] But if you wish to say [something to refute this deduction, I give you another]: Here it is said, ‘two’, and there it is said, ‘two’; just as there it refers to witnesses, so here it refers to witnesses. What is meant by: If you wish to say [something to refute this]? — You might say, it is not usual for a woman,[20] because all glorious is the King's daughter within,[21] [therefore I give the second deduction:] here it is said, ‘two’, and there it is said, ‘two’; just as there it refers to witnesses, so here it refers to witnesses.

Our Rabbis taught: And the two men shall stand: it is a precept that the litigants stand. R. Judah said: I heard that if they[22] desire to allow them both to sit, they may allow them to sit. What is prohibited? One should not stand, and the other sit; one speak all that he wishes, and the other bidden to be brief.

Our Rabbis taught: In righteousness shalt thou judge thy neighbour:[23] that one should not sit, and the other stand; one speak all that he wishes, and the other bidden to be brief. Another interpretation: In righteousness shalt thou judge thy neighbour: judge thy neighbour in the scale of merit.[24] R. Joseph learnt: In righteousness shalt thou judge thy neighbour- he who is with thee[25] in Torah and precepts — endeavour to judge him favourably.

R. Ulla the son of R. Elai had a case before R. Nahman. R. Joseph sent [a message] to him:[26] Our friend Ulla is a neighbour[27] in Torah and precepts. Said [R. Nahman]: Why did he send [this message] to me? That I should favour him?[28] Then he said: [Probably] that I should settle his case first;[29]

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(1) Witnesses denying on oath that they know any testimony for a litigant; Lev. V, 1.

(2) Because women are not eligible as witnesses.

(3) V. Sanh. 27b.

(4) Such as, e.g., a robber.

(5) Knowing testimony for the litigant, and wilfully denying the knowledge on oath, but transgressing unwittingly so far as the sacrifice is concerned, i.e., not knowing that they are liable to bring a sacrifice for the transgression of the oath.

(6) If, at the moment of taking the oath, they really thought they did not know any testimony, they are exempt from a sacrifice, for they swore falsely merely by accident.

(7) That women are ineligible as witnesses.

(8) Deut. XIX, 17.

(9) Hence witnesses must be men.

(10) Deut. XIX, 17: And the two men, between whom the controversy is, shall stand before the Lord, before the priests and the judges.

(11) For the verse could have said: ‘And those between whom the controversy is shall stand.’ Because the verse adds, superfluously, ‘the two men,’ the reference is to witnesses, and what follows, ‘between whom the controversy is,’ is an asyndeton construction.

(12) Deut. XIX, 17.

(13) Ibid. 15: at the mouth of two witnesses.

(14) This is a deduction by גזרה שוה, similarity of words.

(15) How can the first deduction be refuted?

(16) Had the verse written: ‘And the two men, and those between whom the controversy is, shall stand’, we could have inferred definitely that the two men refers to witnesses: since, however, the verse writes: And the two men between whom the controversy is, it refers to litigants only.

(17) Litigants may be more than two: therefore the two men refers to witnesses.

(18) And though there may be several plaintiffs and several defendants, the verse calls them the two men, i e., the two protagonists, plaintiffs on the one side, and defendants on the other.

(19) Surely, women are also litigants sometimes; hence, the two men refers to witnesses, who must be men.

(20) To go to court as a litigant: therefore the verse talks of the two men, but in reality it includes women and refers to litigants.

(21) Ps. XLV, 14; the King's daughter (i.e., the Jewish woman) is modest, and stays within her home as much as possible.

(22) The court.

(23) Lev. XIX, 15.

(24) When you see a person doing what appears to be wrong, take a favourable view of his action.

(25) Taking עמיתך as עם אתך.

(26) R. Nahman.

(27) A colleague, of your fraternity; i.e., a learned man.

(28) Surely, that cannot be!

(29) Before any other case that may come before me, and not keep him waiting.

Talmud - Mas. Shevu'oth 30b

or, [with reference to] the discretion of the judges.[1]

Ulla said: The controversy[2] is in regard to the litigants, but in regard to witnesses all agree that they must stand, for it is written: And the two men shall stand. R. Huna said: The controversy is in regard to the time of the discussion,[3] but at the time of the completion of the case[4] all agree that the judges sit and the litigants stand, for it is written: And Moses sat to judge the people; and the people stood.[5]

Another version: The controversy is in regard to the time of the discussion, but at the time of the completion of the case all agree that the judges sit and the litigants stand, for witnesses are like the completion of the case,[6] and it is written with reference to them: And the two men shall stand.[7]

The widow of R. Huna had a case before R. Nahman. He said [to himself]: What shall I do? If I should rise before her,[8] the plea of her opponent will be stopped up;[9] if I should not rise before her, [I should be doing wrong, for] the wife of a scholar is like a scholar.[10] So he said to his attendant: ‘Go and make a duck fly over me, and urge it towards me, so that I will rise.’[11] But the Master said: The controversy is in regard to the time of the discussion, but at the time of the completion of the case all agree that the judges sit and the litigants stand![12] — He sits as one who unties his shoes,[13] and says, ‘You, So-and-so, are innocent, and you, So-and-so, are guilty.’

Rabbah son of R. Huna said: If a Rabbinical scholar and an illiterate person have some dispute with each other, [and come to court,] we persuade the Rabbinical scholar to sit; and to the illiterate person we also say, ‘Sit’, and if he stands, it matters not. Rab son of R. Sherabya had a case before R. Papa. He told him to sit, and told his opponent also to sit; but the attendant of the court came and nudged[14] the illiterate man and made him stand up. And R. Papa did not say to him, ‘Sit’. How could he do so; will not the other's plea be stopped up?[15] — R. Papa may say: He[16] will say, ‘He has[17] asked me to sit, but the attendant was not appeased by me.’[18] And Rabbah son of R. Huna said: If a Rabbinical scholar and an illiterate person have some dispute with each other, the scholar should not come first and sit down [before the judge],[19] because it will appear as if he is setting forth his case. And we do not say this except when he has not a fixed time with him;[20] but if he has a fixed time with him, it matters not,[21] for he[22] will say, he is occupied with his lesson.

And Rabbah son of R. Huna said: If a Rabbinical scholar knows some testimony, and it is undignified for him to go to the judge, who is inferior to him, to give testimony before him, he need not go. R. Shisha the son of R. Idi said: We also learnt thus: If he found a sack or a basket which it is not his custom to handle, he need not take it.[23] However, this is only the case in money matters,[24] but in the case of a prohibition[25] [he must give evidence, for it is written]: There is no wisdom nor understanding nor counsel against the Lord:[26] wherever there is a profanation of the Name, the honour of a scholar is not regarded.

R. Yemar knew some testimony for Mar Zutra, and came before Amemar. He told them all to sit. Said R. Ashi to Amemar: Did not Ulla say: The controversy is in regard to the litigants, but in regard to witnesses all agree that they should stand? — He replied to him: This is a positive precept,[27] and that is a positive precept;[28] the positive precept enjoining respect for the Torah[29] is greater.

(Mnemonic: Advocate, Uncultured, Robbery, False.)

Our Rabbis taught: How do we know that a judge should not appoint an advocate for his words?[30] — Because it is said: From a false matter keep far.[31] And how do we know that a judge should not allow an uncultured disciple to sit before him?[32] Because it is said: From a false matter keep far. And how do we know that a judge who knows his colleague to be a robber, or a witness who knows his colleague to be a robber, should not join with him?[33] Because it is said: From a false matter keep far. And how do we know that a judge who knows that a plea is false[34] should not say, Since the witnesses give evidence, I will decide it,[35] and

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(1) In a case which does not depend on witnesses or oath the judge may use his discretion. Here R. Joseph sent a message to R. Nahman that, if the case in which Ulla was involved was of such a nature, he should use his discretion in his favour, because he was a learned and righteous man, and was therefore more likely to be in the right.

(2) Between R. Judah and the Sages as to whether the litigants may sit in court.

(3) While the case is being argued.

(4) When the judge gives his decision.

(5) Ex. XVIII, 13.
(6) When they give their evidence, the case virtually ends.
(7) This only proves that the litigants must stand, not that the judges have to sit.
(8) Out of respect, because she is the widow of a scholar.
(9) He will be intimidated, and will not be able to state his case clearly.
(10) And must be respected.
(11) I will really rise out of respect for her, but her opponent will not be intimidated, because he will think I rise to ward off the duck.
(12) How then is a judge to show his respect for scholarship should a scholar happen to come in while he is giving the verdict?
(13) [MS. M.: 'shoe-laces.'] Half sitting and half standing, and pronounces the verdict.
(14) Lit., 'kicked.' [Omitted in some texts; v. D.S. a.l.]
(15) When he sees that R. Papa respects his opponent more.
(16) The illiterate man.
(17) R. Papa. [MS. M.: 'He (the litigant) will say, R. Papa has asked me to sit but,' etc.]
(18) I did not tip him, so he made me stand.
(19) Before his opponent comes, even if he remains silent.
(20) For study.
(21) If the judge is his teacher, and they have a fixed time for study together, the scholar may come to him before his opponent arrives.
(22) The opponent.
(23) B.M. 29b; if an eminent man finds in the street something which, even if it were his own, he would not trouble to take into his house, because he deems it undignified, he need not pick it up in order to restore it to its owner.
(24) He need not give evidence, if it is undignified.
(25) E.g., if a married woman comes before the judge saying she believes her husband to be dead, and she desires to re-marry; and this scholar knows her husband to be alive, he must give his evidence before the judge, though he is his junior or inferior, for, in face of a prohibition, his dignity does not count.
(26) Prov. XXI, 30; wisdom and understanding are of no value against the Lord, i.e., if their possession results in His will being opposed.
(27) And the two men shall stand.
(28) Thou shalt fear the Lord thy God: Deut. X, 20; from את ה it is deduced that respect for scholars is also enjoined; v. B.K. 41b.
(29) And its exponents.
(30) Should not endeavour to bolster up his decision (though realising he has made a mistake) by an advocate, i.e., by trying to think of further arguments to support it, because he is ashamed to change his view.
(31) Ex. XXIII, 7.
(32) When trying a case, in order to discuss the arguments with him, for he may suggest wrong views to him.
(33) To judge, or to give evidence.
(34) Having concluded from the evidence of the witnesses that they are not speaking the truth.
(35) In accordance with their evidence.

Talmud - Mas. Shevu'oth 31a

the chain [of guilt] will hang round the neck of the witnesses?[1] — Because it is said: From a false matter keep far.

(Mnemonic: Three [of] disciples, Three [of] creditors, Rags, Hearing, Explaining.)

How do we know that a disciple sitting before his master, who sees that the poor man is right and the wealthy man wrong, should not remain silent?[2] Because it is said: From a false matter keep far. And how do we know that a disciple, who sees his master making a mistake in the law, should not say, I will wait until he finishes, and then upset his decision, and build up [another decision] according to my own judgment, so that the decision will be called by my name? Because it is said: From a false matter keep far. And how do we know that a disciple to whom his master says, ‘You know that if I were given a hundred manehs, I would not tell a lie; now, So-and-so owes me one maneh, and I have only one witness against him;’ how do we know that the disciple should not join with him?[3] — Because it is said: From a false matter keep far. — Is this, then, deduced from: From a false matter keep far? Surely this is definitely lying, and the Divine Law said: Thou shalt not bear false witness against thy neighbour![4] — Well, then, for example, if he said to him, ‘I have definitely one witness; and you come and stand there,[5] and you need not say anything, so that you will not be uttering a lie from your mouth;’[6] even so it is prohibited, because It is said: From a false matter keep far.

How do we know that he who has a claim of a hundred zuzim against his neighbour should not say, ‘I will claim two hundred, so that he will admit a hundred, and be liable for an oath,[7] then I will be able to impose an oath upon him from another place’?[8] — Because it is said: From a false matter keep far. And how do we know that, if one has a claim of a hundred zuzim against his neighbour, and sues for two hundred, the debtor should not say, ‘I will deny it totally in court, but admit it outside the court, so that I should not be liable for an oath, and he may not impose on me an oath from another place’? Because it is said: From a false matter keep far. And how do we know that, if three persons have a claim of a hundred zuzim against one person,[9] one should not be the litigant, and the other two, the witnesses, in order that they may extract the hundred zuzim and divide it? Because it is said: From a false matter keep far.

How do we know that, if two come to court, one clothed in rags and the other in fine raiment worth a hundred manehs, they[10] should say to him,[11] ‘Either dress like him, or dress him like you’?[12] — Because it is said: From a false matter keep far. When they[13] would come before Raba son of R. Huna, he would say to them, ‘Remove your fine shoes, and come down for your case.’

How do we know that a judge should not hear the words of one litigant before the other litigant arrives? — Because it is said: From a false matter keep far. And how do we know that a litigant should not explain his case to the judge before the other litigant arrives? — Because it is said: From a false matter keep far. R. Kahana learnt [these deductions] from: Thou shalt not utter [a false report]:[14] thou shalt not cause to be uttered.[15]

And did that which is not good among his people:[16] Rab said this refers to one who comes with power of attorney;[17] and Samuel said it refers to one who buys a field about which there are disputes.[18]

AND IT APPLIES ONLY TO THOSE LIABLE TO BEAR WITNESS, etc. What does this exclude? — R. Papa said, it excludes a king;[19] and R. Aha b. Jacob said, it excludes a dice player.[20] He who says [it excludes] a dice player certainly [holds it excludes] a king;[21] but he who says [it excludes] a king [holds it does not exclude] a dice player, for he is fit [to be a witness] according to Holy Writ, and it is the Rabbis who have disqualified him.[22]

BEFORE THE BETH DIN OR NOT BEFORE THE BETH DIN, etc. In what do they disagree?[23] — Said the Scholars to R. Papa: They disagree [as to whether we say,] ‘deduce from it, and [entirely] from it’; or, ‘deduce from it, and establish it in its own place’.[24] R. Meir holds, ‘deduce from it, and [entirely] from it’. ‘Deduce from it’:[25] just as [in the case of] a deposit, if he swears of his own accord,[26] he is liable, so [in the case of] testimony, if he swears of his own accord, he is liable;[27] ‘and [entirely] from it’ — just as [in the case of] a deposit [he is liable] whether [he utters the oath] before the Beth Din or not before the Beth Din,[28] so [in the case of] testimony [he is liable] whether [he utters the oath] before the Beth Din or not before the Beth Din. And the Rabbis[29] hold, ‘deduce from it, and establish it in its own place’: ‘Deduce from it:’[30] just as [in the case of] a deposit, if he swears of his own accord, he is liable, so [in the case of] testimony, if he swears of his own accord, he is liable; ‘and establish it in its own place’: just as when adjured by others, [he is liable only if he swears] before the Beth Din,[31] but not [if he swears] not before the Beth Din, so if he swears of his own accord, before the Beth Din he is liable, but if not before the Beth Din he is not liable.

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(1) The guilt will be on their heads.

(2) If his master has come to the opposite conclusion.

(3) With the witness to give evidence, in order that there should be two witnesses.

(4) Ex. XX, 13.

(5) In the court.

(6) But the debtor will think you have come to give evidence, and will perhaps admit the debt of his own accord.

(7) He who admits a portion of a claim (מודה במקצת) takes an oath that he owes no more, and is exempt.

(8) I.e., in connection with another claim which he totally denied (כופר הכל), and for which no oath could be imposed; but since he has to take an oath in this case, the court can at the same time include the previous claim in the oath.

(9) And have no witnesses.

(10) The court.

(11) The well dressed man.

(12) In order that the judges be not biassed in your favour, and the poorly dressed man be not intimidated.

(13) Litigants.

(14) Ex. XXIII, 1, lit., ‘thou shalt not take up, or accept’; a warning to the judge not to hear one litigant before the arrival of the other, because the litigant, in his opponent's absence, may be tempted to lie.

(15) Reading the same Hebrew word, תשא, with different vowels (the Hiphil): ‘thou shalt not cause to be accepted’; a warning to the litigant not to explain his case to the judge in his opponent's absence, because he may be tempted to lie, and will thereby cause the judge to accept a false report, v. Sanh. 7b.

(16) Ezek. XVIII, 18.

(17) He is authorised by one of the litigants to take his place; he is doing ‘that which is not good among his people’, if he undertakes it merely our of love of contention and litigation, for the litigant himself might have been willing to compromise, whereas he presses for the full amount of the claim. If, however, the litigant himself is not able to appear for some reason, and he is acting on his behalf, in order to obtain his money for him, he is doing a meritorious act; v. Tosaf. a.l.

(18) The title of which is disputed; this man buys it, relying on his strength to resist other claimants.

(19) ‘Thou shalt set a king over thee (Deut. XVII, 15); he must be respected, and it is therefore not seemly that he should stand as a witness before the Judge; and since he cannot be a witness (Sanh. 18a), the oath of testimony does not apply.

(20) A gambler, since he is willing to retain money won by him which is not really his, is disqualified by the Sages from being a witness. The Torah disqualifies only עד חמס (Ex. XXIII, 1). ‘a witness of violence’, i.e., who has been guilty of robbery by violence.

(21) For a dice player is disqualified only by the Sages, whereas a king is disqualified by the Torah.

(22) And, therefore, though we do not accept him as a witness owing to the Sages’ disqualification, the oath of testimony applies in his case, for, according to the Torah, he may be a witness.

(23) R. Meir and the Sages, in the Mishnah; i.e., on what principle do they differ?

(24) Where Holy Writ does not explicitly state the law concerning a certain subject, and it is necessary to deduce it by גזרה שוה from another subject concerning which Holy Writ states the law explicitly, we may either deduce one from the other entirely (i.e liken the unexplained subject to the explained subject in every respect), or deduce only one point, and, as for the rest, leave the unexplained subject in its own place, i.e., leave it to be governed by the rules which govern other aspects of it.

(25) [Adopting reading of MS.M.] By גזרה שוה: in the case of a deposit it is said תחטא if any one sin (Lev. V, 21), and in the case of the oath of testimony it is also said תחטא (Lev. V, 1).

(26) Lev. V, 24: about which he hath sworn falsely (i.e., of his own accord).

(27) Though Holy Writ does not specifically say so, but we deduce it by גזרה שוה from the case of a deposit.

(28) For Holy Writ says: and sweareth falsely (Lev. V, 22) — wherever he swears falsely, not necessarily before the

Beth Din.

(29) The Sages.

(30) V. p. 173, n. 8.

(31) Lev. V, 1: he heareth the voice of adjuration . . . if he tell it not, then he shall bear his iniquity — in the place where, if he had told it (i.e., given his testimony), it would have been effective, i.e., before the Beth Din.

Talmud - Mas. Shevu'oth 31b

Said R. Papa to them: If the Rabbis deduce it from [the law of] deposit, none disagrees that we 'deduce from it, and [entirely] from it';[1] but this is the reason of the Rabbis; they deduce it by inference from minor to major:[2] since, if [adjured] by others, he is liable; if [he swears] of his own accord, how much more so should he be liable; and because they deduce it by inference from minor to major, [they hold] it is sufficient for that which is deduced by this inference to be similar to that from which it is deduced:[3] just as, if adjured by others, he is liable before the Beth Din only, but not outside the Beth Din; so, if he swears of his own accord, he is liable before the Beth Din only, but not outside the Beth Din. Said the Scholars to R. Papa: How can you say that they do not disagree on [the principle of] 'deduce from it, and [entirely] from it'? Surely we learnt concerning a deposit: The oath of deposit applies to men and women, to non-relatives and relatives, to those qualified [to bear witness] and those unqualified, before the Beth Din and not before the Beth Din, if [uttered] from his own mouth; but if [adjured] by the mouth of others, he is not liable unless he denies it before the Beth Din: this is the opinion of R. Meir. And the Sages say, whether [uttered] by his own mouth or [adjured] by the mouth of others, since he denied it, he is liable.[4] [Now,] if adjured by the mouth of others, in [the case of] a deposit, how do the Sages know that he is liable?[5] Is it not because they deduce it from [the case of] testimony?[6] Hence, you must infer from this that they disagree on [the principle of] 'deduce from it, and [entirely] from it'![7] — [R. Papa replied:] From this, yes;[8] but from the other it is not possible to infer it.

AND THEY ARE LIABLE FOR THE WILFUL TRANSGRESSION OF THE OATH. How do we know this? — For our Rabbis taught: In all of them[9] it is said, and it be hid [from him]; but here it is not said, and it be hid, in order to make him liable for wilful as for unwitting transgression.[10]

AND FOR ITS UNWITTING TRANSGRESSION COUPLED WITH WILFUL [DENIAL OF KNOWLEDGE OF] TESTIMONY. How is unwitting transgression possible coupled with wilful [denial of knowledge of] testimony? — Said Rab Judah that Rab said: If one says, 'I know that this oath is prohibited, but I do not know if one is liable to bring an offering for it or not.'

BUT THEY ARE NOT LIABLE FOR ITS UNWITTING TRANSGRESSION ONLY. Shall we say that we are here taught [a confirmation of] that which R. Kahana and R. Assi [were told]?[11] — No! Although we learnt it [here], it was necessary,[12] for I might have thought, here,[13] because it is not written and it be hid, we require unwitting to be like wilful transgression;[14] but there,[15] since it is written and it be hid, even unwitting transgression in a slight degree [makes him liable],[16] therefore he[17] teaches us [that this is not so].[18]

MISHNAH. WHAT KIND IS THE OATH OF TESTIMONY? HE SAID TO TWO [PERSONS]: 'COME AND BEAR TESTIMONY FOR ME'; [AND THEY REPLIED:] 'WE SWEAR WE KNOW NO TESTIMONY FOR YOU'; OR THEY SAID TO HIM: 'WE KNOW NO TESTIMONY FOR YOU', [AND HE SAID:] 'I ADJURE YOU', AND THEY SAID, 'AMEN!', THEY ARE LIABLE.[19] IF HE ADJURED THEM FIVE TIMES OUTSIDE THE BETH DIN,[20] AND THEY CAME TO THE BETH DIN, AND ADMITTED [KNOWLEDGE OF TESTIMONY], THEY ARE EXEMPT;[21] BUT IF THEY DENIED,[22] THEY ARE LIABLE FOR EACH [OATH].[23] IF HE ADJURED THEM FIVE TIMES BEFORE THE BETH DIN, AND THEY DENIED [KNOWLEDGE OF TESTIMONY], THEY ARE LIABLE ONLY ONCE. SAID R. SIMEON:

WHAT IS THE REASON?[24] BECAUSE THEY CANNOT AFTERWARDS ADMIT [KNOWLEDGE].[25] IF BOTH [PERSONS] DENIED [KNOWLEDGE] TOGETHER,[26] THEY ARE BOTH LIABLE; IF ONE AFTER ANOTHER, THE FIRST IS LIABLE, AND THE SECOND EXEMPT.[27] IF ONE DENIED, AND THE OTHER ADMITTED, THE ONE WHO DENIED IS LIABLE. IF THERE WERE TWO SETS OF WITNESSES, AND THE FIRST DENIED, AND THEN THE SECOND DENIED, THEY ARE BOTH LIABLE, BECAUSE THE TESTIMONY COULD BE UPHELD BY [EITHER OF] THE TWO.

GEMARA. Samuel said: If they[28] saw him running after them, and they said to him, ‘Why are you running after us? We swear we know no testimony for you’, they are exempt, [being liable only] when they hear from his mouth.[29] — What does he teach us? We have learnt it: If he sent [the adjuration] by his slave,[30] or if the defendant said to them: ‘I adjure you that, if you know any testimony for him,[31] you should come and bear testimony for him’, they are exempt[32]

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(1) And the Sages would therefore hold that if he swore of his own accord even outside the Beth Din he would be liable.

(2) From oath of testimony itself, and not from deposit at all.

(3) The principle of dayyo (v. B.K. 25a) is that the derived law cannot logically be stricter than the original law.

(4) Even if he denied it outside the Beth Din.

(5) For Holy Writ says: he hath sworn falsely (Lev. V, 24), implying of his own accord.

(6) By גזרה שוה, v. p. 173, n. 8.

(7) Since they bold that, in the case of deposit, even where adjured by others, he is liable even outside the Beth Din, obviously they deduce liability for adjuration by others from the case of testimony, though they do not make the case of deposit entirely like the case of testimony; for in the latter they hold the denial must always be before the Beth Din; whereas in the case of deposit, once they have deduced that there is liability for adjuration by others, they say, ‘establish it in its own place’, i.e., make the law of adjuration by others equal to the law of swearing of his own accord, which (in the case of a deposit) does not need to be before the Beth Din.

(8) We certainly infer that the Sages hold ‘deduce from it, and establish it in its own place’; but from our Mishnah it is not possible to draw this inference, for it may be that the Sages deduce their ruling by inference from minor to major, as explained above.

(9) Laws of uncleanness and oath of utterance; Lev. V, 2-4.

(10) V. supra p. 136, for notes.

(11) Supra 26a; Rab re-assured the one who bad sworn falsely by telling him he had committed no offence, since be had made a genuine mistake. Why was it necessary for Rab to re-assure him? Does not this mishnah teach us that one is not liable for absolutely unwitting transgression?

(12) For Rab to re-assure them in the case of oath of utterance.

(13) In the case of oath of testimony.

(14) But for a genuine mistake he is not liable.

(15) In the case of oath of utterance.

(16) For Holy Writ says he must bring an offering even if ‘it be hid from him’, i.e., even if he made a mistake.

(17) Rab, in re-assuring R. Kahana and R. Assi.

(18) But that even in the case of oath of utterance there is no liability for a genuine mistake.

(19) If they really knew testimony, and thus swore falsely.

(20) And they denied knowledge of testimony.

(21) Because denial outside the Beth Din does not make them liable.

(22) Before the Beth Din.

(23) Sworn outside.

(24) Why are they not liable for all the oaths?

(25) If they denied knowledge of testimony immediately after the first adjuration before the Beth Din, they are no longer able to bear testimony (for the principle that one cannot testify again after having testified once, v. Sanh. 44b). Hence, even if they denied it at the end, all the adjurations except the first are in vain; for, if silence at the beginning implies denial, they cannot be adjured again; and if silence at the beginning implies acquiescence (that they do know testimony), why the further oaths? But adjurations outside the Beth Din are all counted, because denial outside does not impose liability, and they can still bear testimony, and can therefore be adjured again and again; then, when they deny the knowledge at the Beth Din they are liable for all the adjurations.

(26) Or, within a short time of each other's denial; v. infra 32a.

(27) For since the first denied knowledge, there is only one witness left, and one witness is not liable to bear testimony.

(28) The witnesses.

(29) ‘Come and bear testimony for me.’

(30) He sent his slave to adjure them to bear testimony for him.

(31) The plaintiff.

(32) If they falsely deny knowledge of testimony.

unless they hear [the adjuration] from the mouth of the plaintiff![1] — ‘If he ran after them’ he requires [to tell us]: I might have thought that, since he ran after them, it is as if he had said to them,[2] therefore he teaches us [that it is not so]. But this we have also learnt:[3] What is the oath of testimony? He said to witnesses, ‘COME AND BEAR TESTIMONY FOR ME’, [AND THEY REPLIED,] ‘WE SWEAR etc.’, [implying only] if he said, [‘Come and bear testimony’,] they are liable, but if he did not say it, they are not liable! — ‘HE SAID’ is not necessarily stressed [by the Mishnah],[4] for if you will not say thus, then, with reference to deposit, where we learnt: What is the oath of deposit? He said to him, ‘Give me the deposit that you have of mine’,[5] will you also say that if he said, [‘Give me the deposit’,] he[6] is liable, and if he did not say it, he is not liable?[7] [That cannot be,] for [the verse] and deal falsely with his neighbour[8] [implies] in however slight a degree.[9] Hence, ‘HE SAID’ is not stressed [in that mishnah], and here also it is not stressed.[10] What is this![11] Granted, if you say that ‘HE SAID’ here [in our Mishnah] is stressed, he states it there[12] because of here;[13] but if you say, neither ‘HE SAID’ there is stressed nor ‘HE SAID’ here is stressed, why does the Mishnah say ‘HE SAID’ in both places?[14] — Perhaps because it is the usual thing,[15] therefore he[16] teaches us [that it is to be taken literally]. It was taught in agreement with Samuel: If they saw him coming after them, and said to him: ‘Why are you coming after us? We swear we know no testimony for you’, they are exempt; but in the case of a deposit, they are liable.

IF HE ADJURED THEM FIVE TIMES, etc. How do we know that for denial in the Beth Din they are liable, but outside the Beth Din they are not liable? — Abaye said: Scripture says, If he tell it not, he shall bear his iniquity;[17] I do not say to you [that he bears his iniquity][18] except in the place where, if he would tell [his evidence], the other would be liable to pay money.[19] Said R. Papa to Abaye: If so, say the oath itself, if [uttered] before the Beth Din, makes him liable, if not before the Beth Din, does not! — That cannot enter our minds, for we learnt: [Scripture says: when he shall be guilty] in one [of these things][20] — to make him liable for each one; and if it enters your mind [to say it must be uttered] before the Beth Din, is he then liable for each one? Surely we learnt: IF HE ADJURED THEM FIVE TIMES BEFORE THE BETH DIN, AND THEY DENIED IT, THEY ARE LIABLE ONLY ONCE. SAID R. SIMEON: WHAT IS THE REASON? BECAUSE THEY CANNOT AFTERWARDS ADMIT IT. Hence, we deduce from this, the oath [must be uttered] outside the Beth Din, and denial [must be] before the Beth Din.

IF THEY BOTH DENIED IT TOGETHER, THEY ARE BOTH LIABLE. But it is impossible to ascertain simultaneity![21] — R. Hisda said: This is in accordance with the view of R. Jose the Galilean, who says it is possible to ascertain simultaneity.[22] R. Johanan said: You may even say it is in accordance with the view of the Rabbis,[23] [and the Mishnah means,] for example, they both denied it within the time of an utterance;[24] and [two statements following each other] within an interval of the time of an utterance are considered one utterance. Said R. Aha of Difti[25] to Rabina: Well, now, within the time of an utterance — what is its duration? As the greeting of a disciple to his Master (some say, as the greeting of a Master to his disciple);[26] now, till they say, ‘We swear, we know no testimony for you’, the duration is longer![27] — He said to him: Each one within the interval of utterance of his neighbour.[28]

ONE AFTER ANOTHER, THE FIRST IS LIABLE, AND THE SECOND EXEMPT. Our Mishnah will not be in accordance with the view of this Tanna, for we learnt: If he adjures one witness,[29] he is exempt; but R. Eleazar son of R. Simeon makes him liable. Shall we say that they disagree in this: One[30] holds that one witness, when he comes [to bear testimony], comes [to make the defendant liable] for an oath; and the other[31] holds that one witness, when he comes [to bear testimony], comes [to make him liable to pay] money?[32] — Can you really think so?[33] Surely Abaye said: All agree in [the case of] the witness of the sotah; and all agree in [the case of] the witnesses of the sotah; and they disagree in [the case of] the witnesses of the sotah.[34] All agree in [the case of] one witness;[35] and all agree in [the case of] the witness where his[36] adversary is suspected of swearing falsely![37] — Well then, all agree that one witness, when he comes [to bear testimony], comes [to make the defendant liable] for an oath; and here, they disagree in this: one[38] holds that which causes [extraction of] money is counted as [if it had actually extracted] money;[39] and the other holds it is not counted as [if it had actually extracted] money.

[To revert to] the text above: 'Abaye said: All agree in [the case of] the witness of the sotah; and all agree in [the case of] the witnesses of the sotah, and they disagree in [the case of] the witnesses of the sotah. All agree in [the case of] one witness, and all agree in [the case of] the witness where his adversary is suspected of swearing falsely.' 'All agree in [the case of] the witness of the sotah that he is liable' — the witness of defilement,[40] for Scripture believes him, as it is written: and there be no witness against her[41] — as long as there is [some testimony] against her. 'And all agree in [the case of] the witnesses of the sotah that they are exempt' — the witnesses of jealousy, for they are the cause of a cause.[42]

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(1) Infra 35a; why, then, does Samuel need to tell us his ruling? It is already taught in a Mishnah!

(2) 'Come and bear testimony.'

(3) That he must definitely ask them, and running after them is of no avail.

(4) And, were it not for Samuel, we might have thought that if he ran after them, they are also liable.

(5) infra 36b.

(6) The bailee.

(7) If the bailee denied on oath having the deposit, will you say he is not liable, if the depositor did not in the first place ask for it!

(8) Lev. V, 21.

(9) As long as he deals falsely (i.e., denies the deposit), he is liable.

(10) We would therefore have thought that if he ran after the witnesses (even if he did not say, 'Come and bear testimony'), they are liable; therefore Samuel must teach us that they are not.

(11) This is no argument.

(12) In connection with deposit, though it is not intended to be taken literally there.

(13) In our Mishnah it has to be stated, and is intended to be taken literally.

(14) Let them both be omitted. Obviously therefore we must say that at least in our Mishnah 'HE SAID' is to be taken literally; why, therefore, does Samuel need to tell us his ruling? It is implicit in the Mishnah!

(15) We might have thought that the Mishnah mentions 'HE SAID', not because it is to be taken literally, but because it is usual for the plaintiff to say, 'Come and bear testimony for me.'

(16) Samuel.

(17) Lev. V, 1.

(18) For denying knowledge of testimony.

(19) The emphasis is on 'tell', 'declare', i.e., before the Beth Din.

(20) Lev. V, 5.

(21) How can we know if both witnesses denied it actually simultaneously?

(22) Bek. 9a.

(23) Who disagree (loc. cit.) with R. Jose.

(24) Which is explained below as the time required for the greeting: 'Peace be upon thee, my Master!'

(25) [Dibtha on the Tigris, v. Die Landschaft Babylonien Obermeyer, J. p. 197.]

(26) 'Peace be upon thee.'

(27) These words cannot be said in the time that a greeting can be uttered, for the greeting (in Hebrew) is three words, whereas the oath (in Hebrew) is six words.

(28) The interval elapsing between the denials of the two witnesses must not be longer than the time taken to utter the greeting.

(29) And he denies knowledge of testimony, he is exempt from bringing the offering.

(30) The first Tanna holds that one witness is not sufficient to make the defendant liable to pay what the plaintiff demands, but can only make him take an oath denying liability (v. infra 40a), and therefore, his testimony being ineffective, the witness, if he denies knowledge of testimony, is not liable to bring an offering.

(31) R. Eleazar b. R. Simeon.

(32) Though Scripture says: One witness shall not rise up against a man for any iniquity, or for any sin (Deut. XIX, 15), R. Eleazar holds it refers only to stripes or other punishment, but one witness is sufficient in money matters; therefore, if one witness denies knowledge of testimony, he is liable. Our Mishnah, in exempting the second witness, is therefore not in accordance with the view of R. Eleazar b. R. Simeon.

(33) That R. Eleazar b. R. Simeon holds one witness is sufficient in money matters?

(34) Wife suspected by husband of unfaithfulness, Num. V, 11-31; all agree that in certain circumstances even if one witness of the sotah is adjured and denies knowledge he is liable; and in certain circumstances even if two witnesses are adjured and deny knowledge they are exempt; and in certain circumstances if two witnesses are adjured, R. Eleazar b. R. Simeon and the Sages disagree, the former holding they are liable, and the latter that they are exempt. The circumstances are explained below.

(35) That in certain circumstances (such as those at which R. Abba was present; infra 32b) he is liable, if be denies on oath knowledge of testimony.

(36) The reference will be explained infra.

(37) That he is liable (v. infra 32b for reason). Now the reason for R. Eleazar b. R. Simeon's view that in certain circumstances witnesses of the sotah who are adjured are liable, is explained below by Abaye to be that they are the cause of pecuniary loss and this is so also in the case of one witness (in money matters) who, though his testimony is insufficient to extract money, is yet liable, if adjured, because he is the cause of pecuniary loss, for he makes the defendant take an oath (to deny liability), and since the majority of people do not swear falsely, the defendant would have to pay. The witness, therefore, by denying knowledge of testimony, causes pecuniary loss to the plaintiff. This consequently shows that even according to R. Eleazar b. R. Simeon no money can be extracted on the strength of the mere evidence of one witness!

(38) R. Eleazar b. R. Simeon, in saying that if one witness is adjured he is liable, though if he had given evidence, he would have made the defendant liable for an oath only.

(39) This witness, though not actually extracting money, causes extraction of money, because the defendant, rather than take an oath, pays the claim.

(40) First there must be two witnesses before whom the husband warns his wife, ‘Do not go with So-and-so secretly’ (עדי קנוי, witnesses of his jealousy); and two witnesses that she did go secretly with him (עדי סתירה, witnesses of the secret meeting). If now there is one witness that she actually was unfaithful at this secret meeting (עדי טומאה, witness of defilement), the witness is believed, and the husband need not pay his wife her כתובה (marriage settlement). If this witness of defilement avoids giving testimony by swearing falsely that he knows no testimony, he is liable to bring an offering, for he has, by his avoidance of evidence, occasioned a pecuniary loss to the husband (who has to pay his wife the kethubah).

(41) Lev. V. 13; though Scripture says, there is no עד (singular), it is explained (Sotah 31b) that עד (without the qualifying numeral אחד) denotes two witnesses; hence, Scripture means, ‘there be not two witnesses’, but only one.

(42) Even if they had given evidence, there is still the need of the other two witnesses that the wife had secreted herself with her paramour; and even these latter do not actually benefit the husband directly (by freeing him from paying the kethubah), but indirectly, for by their evidence they cause the wife to drink the ‘bitter waters’ (Lev. V. 17-24), and possibly, out of fear, she might confess her unfaithfulness, and lose her kethubah. Hence, the עדי סתירה are merely the cause of pecuniary loss, and the עדי קנוי the cause of the cause, i.e., remote and very indirect cause. If, therefore, the עדי קנוי avoided giving evidence by swearing falsely, they are not liable, for they did not directly cause any pecuniary loss.

Talmud - Mas. Shevu'oth 32b

‘And they disagree in [the case of] the witnesses of the sotah’ — the witnesses of the secret meeting; one holds that which causes [extraction of] money is counted as [if it had actually extracted] money, and they are liable; and the other holds it is not counted as [if it had actually extracted] money, and they are exempt.[1]

‘All agree [in the case of the witness] where his adversary is suspected of swearing falsely’.[2] ‘All agree in [the case of] one witness' [in such circumstances as came] before R. Abba.[3] 'All agree [in the case of the witness] where his adversary is suspected of swearing falsely.' Who is suspected? Shall we say the debtor is suspected; and the creditor could say [to the witness]. 'If you would have come to bear testimony for me, I would have sworn, and taken [the debt]'? Let the witness say to him, 'Who says that you would have sworn?'[4] — Well then, for example, if they are both suspect, in which case it has been said, the oath returns to the one who is bound to take it,[5] and because he cannot swear,[6] he pays.[7]

'All agree in [the case of] one witness' [in such circumstances as came] before R. Abba; for there was a man who snatched a bar of silver from his neighbour; they came before R. Ammi, and R. Abba was sitting before him. He[8] went and brought one witness that he had snatched it from him. The other said, 'Yes, I snatched it, but it is mine that I snatched'. Said R. Ammi: How shall judges settle this dispute? Shall he pay? There are not two witnesses. Shall he be exempt? There is one witness that he snatched it. Shall he swear? Since he said, 'Yes, I snatched it, but it is mine that [snatched', he is like a robber.[9] R. Abba said to him: He is bound to take an oath,[10] and he cannot swear; and anyone who is bound to take an oath, and cannot swear, pays.[11]

R. Papa said: All agree in [the case of] a witness of death[12] that he is liable; and all agree in [the case of] a witness of death that he is exempt. 'All agree in [the case of] a witness of death that he is exempt', — if he told it to her,[13] and did not tell it to the Beth Din; for we learnt: A woman who said, 'My husband died', may remarry; 'my husband died', marries her brother-in-law.[14] 'All agree in [the case of] a witness of death that he is liable,' — if he told it neither to her nor to the Beth Din.[15] Can we deduce from this that if one adjures witnesses in connection with land [and they deny knowledge of testimony], they are liable?[16] — No! Perhaps she had seized movables.[17]

IF ONE DENIED, AND THE OTHER ADMITTED, etc. Now, if in the case of one after another where both deny, you say the first is liable,[18] and the second exempt, in the case where one denies and the other admits, is there any question?[19] — It is not necessary [for the Mishnah to tell us this except in the case] where both denied, and then one of them turned and admitted within the interval of the time of an utterance; and this he teaches us, that [two statements following each other] within the interval of the time of an utterance are considered one utterance.[20] Granted, according to R. Hisda who explains that [clause][21] as being in accordance with the view of R. Jose the Galilean;[22] the first clause [establishes that] it is possible to ascertain simultaneity, and the second clause[23] is necessary in order to teach us that [two statements following each other] within the interval of the time of an utterance are considered one utterance; but, according to R. Johanan, the first clause [teaches us the law with regard to statements uttered] within the interval of the time of an utterance, and the second clause [teaches us the law with regard to statements uttered] within the interval of the time of an utterance! Why do we need both? — You might have thought that only in the case of denial and denial[24] [do we say that two statements within a brief interval are considered one],[25] but in the case of denial and admission[26] we do not say this, therefore he teaches us [that we do].

IF THERE WERE TWO SETS OF WITNESSES, AND THE FIRST DENIED, AND THEN THE SECOND DENIED, [THEY ARE BOTH LIABLE]. Granted, the second should be liable, because the first denied;[27] but the first — why [should they be liable]?

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(1) If the husband adjures the two witnesses of the secret meeting (עדי סתירה) to bear testimony for him, and they swear, denying knowledge of testimony, R. Eleazar b. R. Simeon (who regards the causing of pecuniary loss as the direct infliction of a money loss, as is proved by his view imposing liability on one witness who was adjured) will hold they are liable, for by withholding their testimony they cause a pecuniary loss to the husband (for, had they given testimony, the wife might have confessed rather than undergo the ordeal of the 'bitter waters', and the husband would have been exempt from paying the kethubah); but the Sages hold they are not liable, for their testimony would not have directly freed the husband from paying the kethubah.

(2) If there is one witness for a debt, the debtor takes an oath denying liability; but if he is suspected of swearing falsely, the creditor takes an oath that the debt is due, and is paid (infra 44b). If the witness is adjured by the creditor, and denies knowledge of testimony, he is thereby depriving the creditor of his debt, and therefore all agree that in such a case he is liable. [The order of the text in cur. edd. is somewhat disarranged. MS.M. preserves a better order and reading which avoid the needless repetitions in our text, v. D.S.].

(3) Explained below.

(4) Perhaps you would not have wished to swear, and would not have obtained your money. The witness is therefore merely a possible cause of monetary loss (and does not actually deprive the creditor of his money); the Sages (who disagree with R. Eleazar b. R. Simeon) would therefore not hold him liable. Why, then, say that all agree in this case?

(5) The debtor, infra 47a.

(6) Being suspected of swearing falsely.

(7) The witness, therefore, by withholding his testimony in such a case, definitely deprives the creditor of his money, and all agree that he is liable.

(8) The owner of the bar.

(9) A man cannot free himself by saying, ‘it is mine that I snatched’, for if this excuse were accepted, no robber would ever be liable, even when there were two witnesses that he robbed, for he could always say, ‘I admit I took it, but it is my own property’; v. Tosaf. a.l. And since he is like a robber, he cannot take an oath.

(10) He cannot keep it by saying, ‘it is mine’, for there is a witness that he snatched it from some one else; and property is always presumed to belong to the one in whose possession it has been (unless there is definite proof to the contrary). He must therefore take an oath to deny the statement of the witness. This he cannot do, for he admits that he snatched it (agreeing with the witness), and since he cannot swear, he must return it; v. B.B. (Sonc. ed.) p. 156 and notes.

(11) The witness, therefore, if he had withheld his evidence, would have deprived the man of his bar of silver; therefore all agree that he must bring an offering for his false oath in such circumstances.

(12) That a woman's husband had died.

(13) That he knows her husband has died abroad; but when she adjured him to give evidence before the Beth Din, he denied the knowledge. He is not liable, because she can go to the Beth Din herself, and say her husband is dead, and requires no witness. He has therefore not occasioned any monetary loss to her by withholding his evidence, for she is believed, and can obtain her kethubah from the heirs.

(14) If her husband died without issue; Deut. XXV, 5.

(15) If the wife adjures him to give evidence, and he denies having any knowledge, he is liable, for he has deprived her of the kethubah, since he did not tell even her that her husband had died, and she has therefore no information at all on the matter.

(16) The kethubah was collected (in Talmudic times) from immovable property only; the witness of the husband's death is liable, according to R. Papa, if he is adjured and withholds information. But there is already a dispute between Tannaim on this point (v. infra 37b). Let R. Papa then merely say he agrees with one of the Tannaim!

(17) The wife had in her possession during the husband's lifetime some of his movable property; and if the witness had given evidence, she would have retained it in settlement of her kethubah. R. Papa's ruling may refer to such a case, and not to a case where the kethubah has to be collected from immovable property.

(18) Though be could say, ‘Why should I be liable? My testimony alone is of no avail, since the other also denies’, yet because when he denies, the other had not yet denied, he is liable.

(19) Surely, it is obvious that the first is liable, for the second admits knowing testimony; hence, the first, by withholding testimony, deprives the claimant of his money. Why, then, does the Mishnah mention this clause? It is superfluous!

(20) And the Mishnah does not wish to teach us that the one who denies is liable (for this we know from the previous clause), but that the one who admits is exempt, although he first denied, his admission within the brief interval being accepted, and exempting him.

(21) Where both denied together.

(22) V. supra 32a.

(23) One denied, and the other admitted.

(24) As in the first clause.

(25) And the second is liable like the first.

(26) The second clause, where the same person first denies, and then admits.

(27) Hence, only the second set were left to bear testimony, and by withholding testimony, they make the claimant incur a loss.

Talmud - Mas. Shevu'oth 33a

The second set are still there![1] — Rabina said: Here we are discussing [a case] where, for example, the second set, at the time of the denial of the first set, were related through their wives;[2] and their wives were dying: you might have thought [because we say] the majority of dying people actually die [the second set are eligible],[3] therefore he teaches us [that they are not], because as yet the wives are not dead.[4]

MISHNAH. ‘I ADJURE YOU THAT YOU COME AND BEAR TESTIMONY FOR ME THAT THERE ARE OF MINE IN THE POSSESSION OF SO-AND-SO A DEPOSIT, LOAN, THEFT, AND LOST OBJECT.’[5] — ‘WE SWEAR WE KNOW NO TESTIMONY FOR YOU’: THEY ARE LIABLE ONLY ONCE. ‘WE SWEAR WE KNOW NOT THAT THERE ARE OF YOURS IN THE POSSESSION OF SO-AND-SO A DEPOSIT, LOAN, THEFT, AND LOST OBJECT’: THEY ARE LIABLE FOR EACH ONE. ‘I ADJURE YOU THAT YOU BEAR TESTIMONY FOR ME THAT THERE IS OF MINE IN THE POSSESSION OF SO-AND-SO A DEPOSIT OF WHEAT, BARLEY, AND SPELT’. — ‘WE SWEAR WE KNOW NO TESTIMONY FOR YOU’: THEY ARE LIABLE ONLY ONCE. ‘WE SWEAR WE KNOW NO TESTIMONY FOR YOU THAT THERE IS OF YOURS IN THE POSSESSION OF SO-AND-SO A DEPOSIT OF WHEAT, BARLEY, AND SPELT’: THEY ARE LIABLE FOR EACH ONE.[6] — ‘I ADJURE YOU THAT YOU COME AND BEAR TESTIMONY FOR ME THAT SO-AND-SO OWES ME FULL INDEMNITY FOR DAMAGE, OR HALF INDEMNITY,[7] OR DOUBLE,[8] OR FOUR OR FIVE TIMES THE AMOUNT;[9] OR THAT SO-AND-SO VIOLATED MY DAUGHTER, OR SEDUCED MY DAUGHTER;[10] OR THAT MY SON SMOTE ME;[11] OR THAT MY NEIGHBOUR INJURED ME, OR SET FIRE TO MY HAYSTACK ON THE DAY OF ATONEMENT’;[12] [AND THEY DENY KNOWLEDGE OF TESTIMONY] THEY ARE LIABLE.[13]

GEMARA. It was debated: If he adjures witnesses in [a case where] a fine [is imposed],[14] what is the ruling? In accordance with the view of R. Eleazar son of R. Simeon who says, let the witnesses come and hear testimony, there is no question;[15] but the question is in accordance with the view of the Rabbis who say, he who admits [an act for which] a fine [is imposed], and then witnesses come, is exempt.[16] But [consider] the Rabbis there,[17] with whom do they agree? Shall we say they agree with R. Eleazar son of R. Simeon here?[18] Surely he says, that which causes [extraction of] money is counted as [if it had extracted] money![19] — Well then, they agree with the Rabbis here[20] who say that which causes [extraction of] money is not counted as [if it had extracted] money: what is the ruling? [Shall we say] since, if he had confessed, he would have been exempt,[21] he is not denying [a legitimate] money [liability],[22] or, since now he did not actually confess, [he is denying a money liability]?[23] — Come and hear: ‘I ADJURE YOU THAT YOU COME AND BEAR TESTIMONY FOR ME THAT SO-AND-SO OWES ME FULL INDEMNITY FOR DAMAGE, OR HALF INDEMNITY’. Now, half indemnity is a fine,[24] [and yet they are liable]![25] — [The Mishnah will agree with him] who holds the half indemnity is a liability.[26] That is well according to him who holds that the half indemnity is a liability, but according to him who holds it is a fine, what shall we say?[27] — [The Mishnah will refer to] the half indemnity of pebbles,[28] for which there is a tradition that it is a liability. Come and hear: ‘[SO-AND-SO OWES ME] DOUBLE’![29] — Because of the principal.[30] ‘FOUR OR FIVE TIMES THE AMOUNT’! — Because of the principal. — ‘SO-AND-SO VIOLATED, OR SEDUCED MY DAUGHTER’![31] — Because of the shame and deterioration.[32] What does he teach us? It is all liability![33] — The first clause teaches us one thing, and the last clause teaches us one thing. The first clause teaches us one thing, that the half indemnity of pebbles is a liability.[34] The last clause teaches us one thing: ‘THAT HE SET FIRE TO MY HAYSTACK ON THE DAY OF ATONEMENT’ [etc.]. What does this exclude? It excludes the view of R. Nehunia b. Hakkanah, for it was taught: R. Nehunia b. Hakkanah made the Day of

Atonement equivalent to the Sabbath for payment; just as on the Sabbath, etc.[35]

Come and hear: ‘I adjure you that you come and bear testimony for me

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(1) To bear testimony; and the first have therefore not occasioned him any loss by withholding their evidence.

(2) They married two sisters, and therefore were ineligible to bear testimony together in one case.

(3) Because we assume the wives are counted as dead, therefore the witnesses are no longer related to each other; and since they are now eligible, the first set should be exempt, because the second set are there to give evidence.

(4) The first set are therefore liable, because they alone are eligible, and by withholding their testimony they make the claimant incur a loss.

(5) ‘I deposited with him some wheat, and be borrowed from me some wheat, and stole from me some wheat, and found some wheat which I had lost’.

(6) In this clause the claim is under one head (deposit), but of different kinds (wheat, barley, and spelt). In the first clause the claim is under different heads (deposit, loan, theft, lost object), but one kind (e.g., wheat).

(7) Explained in the Gemara.

(8) For theft; Ex. XXII, 3.

(9) If the thief sold or killed the animal he stole, he pays four times its value (for a sheep), and five times its value (for an ox); Ex. XXI, 37.

(10) He must pay the father for the shame caused to his daughter (בושת), and for the deterioration in her value (פגם).

(11) Without causing a wound, he must pay for the shame. If he caused a wound, the penalty is death (Sanh. 85b), and the lesser penalty (compensation for בושת) is not inflicted, but is merged in the larger.

(12) Though the penalty for wounding or setting fire on the Day of Atonement is kareth, the money penalty is also inflicted.

(13) For they thereby deprive the claimant of his money.

(14) E.g., for seducing a maid, for which he pays 50 shekels; Deut. XXII, 29. This is a fine (קנס) in contradistinction to a real liability (ממון). Any payment that does not correspond to the amount of damage caused is considered a fine.

(15) He who admits an act for which a fine is imposed is exempt (B.K. 64b); but if after his confession witnesses give evidence, he is liable, according to R. Eleazar b. R. Simeon. If, therefore, the witnesses withhold their testimony, they cause a pecuniary loss to the injured party, and are therefore liable.

(16) Do we say this is not a real liability, since a confession would exempt him, and therefore if witnesses are adjured to bear testimony before he confesses, and deny knowledge of testimony, they are exempt; or, since, if they had given evidence before his confession, he would have been liable, they are, by withholding evidence, causing a loss to the claimant, and consequently should be liable?

(17) Who hold that even if witnesses come after his confession he is still exempt.

(18) Supra 32a; if one witness is adjured, and denies knowledge, he is liable.

(19) Therefore, even if we say that confession of a fine, followed by witnesses, still exempts him; the witnesses, who are adjured before the confession, should be liable, because, by withholding their evidence, they cause loss to the claimant.

(20) Supra 32a.

(21) Even if witnesses had come later.

(22) And therefore the witnesses, who are adjured before he confesses, are not liable, though by withholding testimony they cause a loss to the claimant, for that is merely גורם לממון.

(23) And the witnesses who are adjured are depriving the claimant of money by withholding their testimony, and are therefore liable.

(24) It is assumed at present that this half indemnity is for the damage caused by a goring ox on the first two occasions while yet a Tam (v. Glos.), Ex. XXI, 35; and this is a fine, B.K. 15a.

(25) Hence you may deduce that if witnesses for a fine are adjured, they are liable.

(26) B.K. 15a; hence you cannot solve the problem from the Mishnah.

(27) How will he explain the half indemnity of the Mishnah?

(28) If an animal, while walking, treads on pebbles, and they fly out from under its feet, and cause damage to another's property, the owner of the animal pays half the amount of the damage; B.K. 17a.

(29) For theft; the extra amount above the principal is a fine. The witnesses are liable; hence you may solve your problem.

(30) The witnesses are liable because by withholding evidence they deprive him even of the principal.

(31) For which a fine is imposed; Deut. XXII, 29.

(32) By withholding evidence the witnesses deprive the father of compensation by the seducer (apart from the fine of 50 shekels) for the shame, and also for the deterioration in value of the girl (which sums are ממון, not קנס).

(33) If all the clauses in the Mishnah refer to ממון and not קנס, why does the Mishnah need to enumerate them all? One clause would suffice.

(34) And because the Mishnah mentions this, it mentions also the rest (double, four or five times), for they are equal in that they are either more or less than the principal.

(35) Because he incurs the death penalty (מיתת בית דין) for setting a haystack on fire, he does not pay for the damage; so on the Day of Atonement, because he incurs the penalty of kareth, he does not pay; Keth. 30a. Our Mishnah, in stating that the witnesses are liable if they withhold evidence in the case of a man who set fire to a haystack on the Day of Atonement, obviously holds that had they given evidence he would have had to pay, hence it disagrees with R. Nehunia b. Hakkanah. This last clause is therefore inserted to exclude R. Nehunia b. Hakkanah's view.

Talmud - Mas. Shevu'oth 33b

that So-and-So uttered an evil report about my daughter';[1] [and the witnesses deny knowledge of testimony] they are liable. If he confessed himself, he is exempt![2] — This is in accordance with the view of R. Eleazar son of R. Simeon, who says, let the witnesses come and bear testimony.[3] Read then the latter clause: 'If he confessed himself, he is exempt'.[4] We here thus come round to [the view of] the Rabbis! — It is all in accordance with the view of R. Eleazar son of R. Simeon; and thus he means: It is not possible that, if he confessed himself, he should be exempt, except when there are no witnesses at all, and he confessed himself.[5]

MISHNAH. 'I ADJURE YOU THAT YOU COME AND BEAR TESTIMONY FOR ME THAT I AM A PRIEST, OR, THAT I AM A LEVITE, OR, THAT I AM NOT THE SON OF A DIVORCED WOMAN, OR, THAT I AM NOT THE SON OF A HALUZAH;[6] THAT SO-AND-SO IS A PRIEST, OR, THAT SO-AND-SO IS A LEVITE, OR, THAT HE IS NOT THE SON OF A DIVORCED WOMAN, OR, THAT HE IS NOT THE SON OF A HALUZAH; THAT SO-AND-SO VIOLATED ANOTHER'S DAUGHTER, OR SEDUCED HIS DAUGHTER; THAT MY SON INJURED ME;[7] THAT MY NEIGHBOUR INJURED ME,[8] OR SET FIRE TO MY HAYSTACK ON THE SABBATH,' — THEY ARE EXEMPT.[9]

GEMARA. The reason [they are exempt] is because [he adjured them:] 'SO-AND-SO IS A PRIEST, OR, SO-AND-SO IS A LEVITE',[10] but [if he adjured them:] 'So-and-So owes So-and-So a hundred zuz', they would be liable? Surely he teaches in a later clause: [They are exempt] unless they hear [the adjuration] from the mouth of the claimant![11] — Samuel said: [It refers to a case where] he comes with power of attorney.[12] But the Nehardeans say: We do not write an authorisation on movables![13] — That is only when he denies it, but when he does not deny it, we do write.[14]

Our Rabbis taught: How do we know that the verse refers only to a money claim? R. Eliezer said, Here[15] it is said: or . . . or;[16] and there[17] it is said: or . . . or;[18] just as there it refers only to a money claim, so here it refers only to a money claim. But let the or . . . or of a murderer[19] prove [that a money claim is not intended], for they are or . . . or, and refer not to a money claim! We deduce or . . . or which are concerned with an oath[20] from or . . . or which are concerned with an oath;[21] and let not the or . . . or of a murderer prove [anything], for they are not concerned with an oath. But let the or . . . or a sotah[22] prove, for they are or . . . or,[23] and are concerned with an oath,[24] and refer not to a money claim![25] We deduce or . . . or which are concerned with an oath, and not concerned with a priest from or . . . or which are concerned with an oath, and not concerned with a priest; and let not the or . . . or of a murderer prove [anything], for they are not concerned with an oath; nor let the or . . . or of a sotah prove [anything], for, although they are concerned with an oath, they are also concerned with a priest.

R. Akiba said: And it shall be, when he shall be guilty in one of these things[26] — in some of ‘these things’ he is liable, and in some of ‘these things’ he is exempt: how is this? If he claimed from him money, he[27] is liable, if something else, he is exempt.

R. Jose the Galilean said, Behold Scripture says: He being a witness, whether he hath seen or known[28] — of such testimony as may be established by seeing without knowing, and by knowing without seeing, the verse deals.[29] ‘Seeing without knowing’, how? ‘A hundred zuz I counted out to you before So-and-so and So-and-so.’[30] ‘Let So-and-so and So-and-so come and bear testimony.’[31] This is seeing without knowing. ‘Knowing without seeing’, how? ‘You admitted that you owe me a hundred zuz before So-and-So and So-and-so.’[32] ‘Let So-and-so and So-and-so come and bear testimony.’[33] This is knowing without seeing.

R. Simeon said: He is liable here,[34] and he is liable in [the case of] deposit; just as there it deals only with a money claim, so here it deals only with a money claim; and further, [we have an argument] from minor to major: Deposit, where the law makes women equal to men, relatives equal to non-relatives, those ineligible [to bear testimony] equal to those eligible, and where he is liable for

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(1) That he found her not a virgin when he married her; Deut. XXII, 14. If his allegation is false, he is fined 100 shekels of silver; ibid. 19.

(2) Apparently even if witnesses came later; yet if witnesses are adjured before the confession, and they withhold testimony, they are liable. Hence it is proved that if witnesses for a fine are adjured and withhold testimony they are liable.

(3) Even after confession (cf. p. 187, n. 10), but the question is with reference to the Rabbis.

(4) Apparently even if witnesses come later.

(5) And the confession was not followed by witnesses. We cannot therefore decide the question (according to the Rabbis) whether or not witnesses who are adjured for a fine and withhold testimony, are liable.

(6) A woman (whose husband died without issue) released, by the ceremony of halizah (Deut. XXV, 9), from marrying her husband's brother.

(7) Causing a wound. Since death is inflicted, there is no money payment.

(8) On the Sabbath: the penalty is death.

(9) The witnesses, denying knowledge of testimony, are exempt in all these cases, for they are liable only if by their refusal to testify they cause a monetary loss to the claimant. In the case of ‘So-and-so violated another's daughter’, they are exempt (though causing monetary loss) because it is not the claimant himself who adjures them.

(10) The issue is not monetary.

(11) Infra 35a.

(12) Our Mishnah, which implies that if it were a money claim the witnesses would be liable even if the person who adjured them was not the claimant, refers to a case where he who adjured the witnesses was authorised by the creditor to claim the debt on his behalf.

(13) B.K. 70a.

(14) Should then the debtor deny the claim after the authorisation was given, the witnesses, by withholding their testimony, would cause a loss to the claimant, and therefore be liable.

(15) In connection with the oath of testimony.

(16) Lev. V, 1: or saw or knew.

(17) In connection with the oath of deposit.

(18) Lev. V, 21: in a deposit or pledge or robbery, or oppressed his neighbour.

(19) Num. XXXV, 18-21: or if he smote him with a weapon of wood . . . or hurled at him . . . or in enmity smote him.

(20) Oath of testimony.

(21) Oath of deposit.

(22) Woman suspected by husband of infidelity; Num. V, 12-31.

(23) Num. V, 14: or if the spirit of jealousy; ibid. 30: or when the spirit of jealousy.

(24) Ibid. 21, 22: the priest shall cause the woman to swear.
(25) But to make her drink the bitter waters; Num. V, 24.
(26) Lev. V, 5.
(27) The witness who withholds testimony.
(28) Lev. V, 1.
(29) And this is only possible in a money claim, as he explains.
(30) The claimant says to the debtor: 'The witnesses saw me counting out the money to you, but I did not tell them if it was a gift or loan or repayment of debt.'
(31) The debtor replies: 'If they testify that they saw you counting out the money to me, I will pay you.'
(32) They did not see the transaction; they only heard your admission, and therefore know that you owe me the money.
(33) That they heard my admission, and I will pay you.
(34) In the case of oath of testimony.

Talmud - Mas. Shevu'oth 34a

each [oath], whether [uttered] before the Beth Din or not before the Beth Din,[1] yet deals only with a money claim; testimony, where the law does not make women equal to men, relatives equal to non-relatives, those ineligible [to bear testimony] equal to those eligible, and where he is liable only once [if adjured] before the Beth Din, how much more that it should deal only with a money claim![2] — [No! We may argue:] Deposit [is restricted to money claims] because the law does not make him who is adjured [by others] equal to him who swears [of his own accord], or him who swears wilfully like him who swears unwittingly; but how can you say in [the case of] testimony [that it should be restricted to money claims], since the law makes him who is adjured [by others] equal to him who swears [of his own accord], and him who swears wilfully equal to him who swears unwittingly? — It is said: sin, sin, for deduction by analogy;[3] here[4] it is said: [If any one] sin,[5] and there[6] it is said: [If any one] sin;[7] just as there it deals only with a money claim, so here it deals only with a money claim.

Rabbah b. Ulla raised an objection:[8] Or . . . or of [the oath of] utterance[9] will prove [that a money claim is not intended], for they are or . . . or, and are concerned with an oath, and not concerned with a priest, and yet deal not with a money claim![10] — It is more reasonable to deduce it from deposit, because [we may deduce] 'sin'[11] from 'sin'.[12] — On the contrary, we should deduce it from [the oath of] utterance, for [we may deduce] sin offering from sin offering![13] — Well, it is more reasonable to deduce it from deposit, because [they are both equal in respect of] sin,[14] wilful,[15] claim and denial,[16] past.[17] On the contrary, we should deduce it from [oath of] utterance, because [they are both equal in respect of] sin offering, sliding scale, fifth![18] — The others are more.[19]

'R. Akiba said: And it shall be, when he shall be guilty in one of these things — in some of these things he is liable, and in some of these things he is exempt; how is this? If he claimed from him money, he is liable; if he claimed from him something else, he is exempt.'[20] Let me reverse it![21] — R. Akiba relies on the or . . . or of R. Eliezer.[22] — [If so,] what is the difference between R. Eliezer and R. Akiba?[23] — The difference between them is, if he adjures witnesses for land: according to R. Eliezer[24] they are liable, according to R. Akiba they are exempt. — But according to R. Johanan who says there[25] that if he adjures witnesses for land, they are exempt even according to R. Eliezer, what will be the difference here between R. Eliezer and R. Akiba? — The difference between them will be witnesses for a fine.[26]

'R. Jose the Galilean said: He being a witness, whether he hath seen or known — of such testimony as may be established by seeing without knowing, and by knowing without seeing, the verse deals.'[27] R. Papa said to Abaye: Shall we say that R. Jose the Galilean[28] does not agree with R. Aha? For it was taught: R. Aha said; If a camel copulates among other camels, and one camel is found killed at his side, it is known that he killed him.[29] Now, if he would agree with R. Aha, it is possible also in capital cases, as [in the incident related by] R. Simeon b. Shetah, for we learnt, R. Simeon b. Shetah said; May I not see the consolation [of Zion] if I did not see a man running after his neighbour into a ruin, and I ran after him, and found him with a sword in his hand with the blood dripping, and the victim writhing in agony. I said to him: ‘Wicked one! Who killed this man? I or you? But what can I do, since your blood is not given into my hand, for Scripture says: At the mouth of two witnesses, or three witnesses, shall he that is to die be put to death.[30] But the Omnipresent will exact retribution from you!’ It is said, they had not yet moved from there, when a serpent bit him, and he died![31] — You may say, he does agree with R. Aha. Granted, knowing without seeing is possible,[32] but seeing without knowing how is that possible?[33] Does he not need to know if he killed a heathen or a Jew,[34] if he killed a man suffering from a fatal disease or a healthy man?

We may deduce that R. Jose the Galilean holds that if he adjures witnesses for a fine,[35] they are exempt, for if you will say they are liable, granted that knowing without seeing is possible,[36] but seeing without knowing — [how is that possible]? Does he not need to know if he cohabited with a heathen woman or a Jewish woman, with a virgin or with a woman who is not a virgin?[37]

R. Hamnuna sat before Rab Judah, and Rab Judah sat and enquired; [If one said;] ‘A hundred zuz I counted out to you before So-and-So and So-and-So’;

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(1) Infra 36b.

(2) If the law concerning the oath of deposit, which has a more universal application, is yet restricted to money claims only, the law concerning the oath of testimony, which is restricted in many points, should the more so be restricted to money claims.

(3) A Gezerah shawah, v. Glos.

(4) In the case of oath of testimony.

(5) Lev. V. 1.

(6) In the case of oath of deposit.

(7) Lev. V, 21.

(8) To the deduction of R. Eliezer; supra 33b.

(9) Lev. V, 4: Or if any one swear . . . to do evil, or to do good.

(10) Therefore let us say that the oath of testimony also does not deal with a money claim.

(11) Lev. V. 1: if any one sin (referring to oath of testimony).

(12) Ibid. 21: if any one sin (referring to oath of deposit).

(13) For transgression of oath of testimony, or oath of utterance, a sin offering (sliding scale sacrifice) is brought, whereas for transgression of oath of deposit a guilt offering is brought.

(14) In both testimony and deposit the phrase if any one sin occurs.

(15) In both an offering is brought for wilful transgression, whereas in the case of oath of utterance an offering is brought only for unwitting transgression.

(16) In both the oath is the result of a claim and a denial.

(17) In both the oath is in the past (‘We did not see you lend money to So-and-so’ — testimony. ‘You did not deposit anything with me’ — deposit); but the oath of utterance is mainly concerned with the future (‘I swear I shall eat’), for Scripture clearly implies the future: to do evil, or to do good (though according to R. Akiba it is possible to deduce the past also; supra 25a).

(18) Testimony and utterance entail liability for a sin offering, which is a sliding scale sacrifice, and no fine of a fifth of the principal is imposed, whereas in the case of deposit, the liability is for a guilt offering, which is a fixed sacrifice, and a fine of a fifth of the principal is imposed.

(19) Testimony is equal to deposit in four things, and equal to utterance only in three things, hence it is more reasonable to deduce testimony from deposit (and infer that it deals only with money claims) rather than deduce it from utterance (and infer that it is not restricted to money claims).

(20) V. supra 33b.

(21) Why deduce that if the claim is for money the witnesses are liable, and if not, they are exempt? The verse does not mention money claims.

(22) Supra 33b; R. Eliezer deduces from or . . . or that the oath of testimony refers to money claims only; and on this R. Akiba says that in some cases (of money claims) the witnesses are liable, and in some they are exempt.

(23) What sort of money claims does R. Akiba exempt?

(24) Cf. infra 37b.

(25) Loc. cit.

(26) According to R. Eliezer who expounds the Torah on the principle of amplification and limitation (v. infra 37b), if he adjures witnesses in a case where only a fine would be imposed, they are liable if they withhold their testimony; according to R. Akiba they are exempt.

(27) Supra 33b.

(28) Who holds that only in money matters can there be testimony based on seeing without knowing, and knowing without seeing; but in other matters both seeing and knowing are necessary.

(29) It is assumed that this camel kicked the other males away, and the owner of this camel must pay for the dead camel. R Aha thus holds that circumstantial evidence is equivalent to definite knowledge, v. B.B. 93a; Sanh. 37b.

(30) Deut. XVI, 6.

(31) V. Sanh. (Sonc. ed.) p. 235. If R. Jose the Galilean agrees with R. Aha that circumstantial evidence is as good as definite knowledge, why does he say that only in money matters is it possible to have testimony based on knowing without seeing? Hence, he does not agree with R. Aha.

(32) As in the case of R. Simeon b. Shetah.

(33) If he sees one person killing another, would that be sufficient to condemn him? Would it not be necessary to know whether or not the victim e.g., suffered from a fatal disease (in which case the murderer does not pay the extreme penalty;)? Sanh. 78a? R. Jose therefore rightly says that only in money matters is it possible to have evidence based on seeing without knowing.

(34) V. B.K. (Sonc. ed.) p. 253, n. 4.

(35) E.g., to testify that a man had seduced his daughter, for which a fine of 50 shekels is imposed; Deut. XX, 29.

(36) By circumstantial evidence.

(37) Since testimony cannot be established by seeing without knowing, R. Jose must hold that when witnesses are adjured in the case of a fine, and they withhold testimony, they are exempt; for he holds that the oath of testimony is applicable only in such a case where testimony may be established by seeing without knowing, and by knowing without seeing.

Talmud - Mas. Shevu'oth 34b

and witnesses had been watching him from outside,[1] what [is the ruling]? — R. Hamnuna said to him: And what does that one[2] plead? If he says, ‘The thing never occurred’, he is proven a liar.[3] If he says, ‘Yes, I took [the money], but it was my own that I took’, if witnesses come, what happens?[4] — He said to him: ‘Hamnuna, you come and go in’.[5]

A certain [man] said to his neighbour. ‘A hundred zuz I counted out to you by the side of this pillar’. He replied to him, ‘I did not pass by the side of this pillar’. Two witnesses came and bore testimony that he had urinated by the side of that pillar. Said Resh Lakish, he is proven a liar. R. Nahman raised an objection: This is a Persian judgment![6] Did he then say ‘never’?[7] In connection with this affair, he meant.

Some say: A certain [man] said to his neighbour. ‘A hundred zuz I counted out to you by the side of this pillar’. He replied to him, ‘I never passed by the side of this pillar’. Witnesses came that he had urinated by the side of that pillar. R. Nahman said, he is proven a liar. Said Raba to R. Nahman; Anything which is not imposed upon a man[8] he will do without being conscious of it.[9] ‘R. Simeon said: He is liable here, and he is liable in [the case of] deposit, etc.’[10] They laughed at it in the West.[11] Why the laughter? — Because he states; ‘Deposit [is restricted to money claims] because the law does not make him who is adjured [by others] like him who swears [of his own accord], nor him who swears wilfully like him who swears unwittingly.’ Now, he who swears of his own accord in [the case of] testimony — how does R. Simeon know [that he is liable]?[12] Because he deduces it from deposit;[13] then let him also in [the case of] deposit deduce adjuration by others from testimony.[14] But why the laughter? Perhaps R. Simeon deduces it by argument from minor to major: if when adjured by others he is liable, when he swears of his own accord he should the more so be liable?[15] — Well then, the laughter is in connection with 'wilful like unwitting', for he states: 'Deposit [is restricted to money claims] because the law does not make him who is adjured [by others] like him who swears [of his own accord], nor him who swears wilfully like him who swears unwittingly.' Now for swearing wilfully in [the case of] testimony, how do we know [that he is liable]? Because it is not written, and it be hidden. Here[16] also it is not written, and it be hidden.[17] R. Huna said to them: But why the laughter? Perhaps R. Simeon deduces that wilful [transgression] is not like unwitting in [the case of] deposit from [the law of] trespass [in holy things].[18] — This then is the very reason for the laughter: why does he deduce it from trespass?[19] Let him rather deduce it from testimony![20] — It is more reasonable that he should deduce it from trespass, because it is 'trespass' from 'trespass'![21] On the contrary, he should deduce it from testimony, because it is 'sin' from 'sin'.[22] It is more reasonable that he should deduce it from trespass, because [they are both equal in respect of] 'trespass',[23] all,[24] enjoyment,[25] fixed offering,[26] fifth, and guilt offering. On the contrary, he should deduce it from testimony, because [they are both equal in respect of] 'sin',[27] layman,[28] oath,[29] claim and denial,[30] and 'or . . . or'![31] — The others are more.[32] Well then, why the laughter?[33] — When R. Papa and R. Huna the son of R. Joshua came from the Academy,[34] they said this is the reason for the laughter: Behold R. Simeon deduces by analogy [testimony from deposit].[35] Why then does he argue: 'Deposit [is restricted to money claims] because the law does not make him who is adjured [by others] like him who swears [of his own accord], nor him who swears wilfully like him who swears unwittingly.'[36] But why the laughter? Perhaps he argued thus before he established the analogy, but after he established the analogy he does not argue thus.[37] But does he not? Surely Raba b. Ithi said to the Sages: Who is the Tanna who holds that [in the case of] the oath of deposit wilful transgression is not atoned for [by an offering]? It is R. Simeon![38] — Perhaps he argues that wilful transgression [is not] like unwitting [in the case of deposit], because he deduces it from trespass[39] since [it is equal to it] in more respects; but that adjuration by others [is not] like swearing of his own accord he does not argue.[40] — Well, let testimony now be in turn deduced from deposit that wilful is not like unwitting transgression; just as [in the case of] deposit he is liable for unwitting but not for wilful transgression, so [in the case of] testimony let him be liable for unwitting and not for wilful transgression; just as he deduces deposit from trespass![41] —

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(1) Unknown to the debtor.

(2) The debtor.

(3) And is not believed on oath, but must pay.

(4) The witnesses only saw him count the money, but they do not know if it was a loan, or gift, or the repayment of a loan.

(5) To the Academy; i.e., you are fit to teach.

(6) An arbitrary decision.

(7) 'I never passed by this pillar'.

(8) An act which is not of sufficient importance to be done with concentration.

(9) Therefore he may really be unaware that he had urinated near the pillar, and should not be presumed a liar.

(10) Supra 33b.

(11) [Phrase generally denoting R. Jose b. Hanninah, v. Sanh. 17b.]

(12) For Scripture implies only adjuration by others; Lev. V, 1.

(13) Where Scripture implies that only he who swears of his own accord is liable; Lev. V, 21, 22. R. Simeon deduces testimony from deposit by analogy of phrases: תחטא תחטא.

(14) By the same analogy. Why then assume that in the case of deposit adjuration by others does not make him liable? This was the cause of the laughter.

(15) He does not deduce testimony from deposit by גזרה שוה from תחטא תחטא; he argues that in the case of testimony, where Scripture says adjuration by others makes him liable, he should certainly be liable if he swears of his own accord. Since he does not make use of the גזרה שוה, he does not use it for deducing deposit from testimony either.

(16) In the case of deposit.

(17) Therefore let us say that for swearing falsely wilfully he is also liable to bring an offering. Because R. Simeon did not say this, they laughed.

(18) Lev. V, 15: If any one commit a trespass, and sin through error in the holy things. And in the case of deposit Scripture says: If any one sin, and commit a trespass: Lev. V, 21. We deduce deposit from trespass by the גזרה שוה of מעל, מעל: as in the case of trespass an offering is brought only for unwitting transgression, so also in the case of deposit.

(19) And say that wilful transgression is exempt.

(20) And say that wilful transgression is liable.

(21) In both, the word מעל is used.

(22) In both, the word תחטא is used.

(23) In both, מעל is used.

(24) The laws of deposit and trespass are applicable to all people, whereas testimony is limited to those eligible to be witnesses.

(25) In the case of both deposit and trespass the transgressor derives enjoyment and benefit from his transgression (from the deposit or from the holy things), but in the case of testimony the witnesses derive no benefit by withholding testimony.

(26) For deposit and trespass a fixed offering is brought, whereas for testimony a sliding scale sacrifice is brought. In the case of the first two also a fifth of the principal is imposed as a fine, and a guilt offering is brought, but not in the case of testimony. Therefore because deposit and trespass are equal in all these respects, we also equate deposit with trespass to exempt wilful transgression from an offering.

(27) In both deposit and testimony תחטא occurs.

(28) Deposit and testimony are both concerned with laymen, but not so trespass in holy things, where the Temple is the claimant.

(29) The transgression in the case of deposit and testimony is in respect of swearing falsely, but not so in the case of trespass.

(30) The transgression is the result of claim and denial.

(31) In both, ‘or . . . or’ occurs, which is not the case in trespass, v. supra p. 191.

(32) Deposit is like trespass in more respects than it is like testimony, six instead of five.

(33) For it is really more reasonable to deduce deposit from trespass, and therefore to exempt wilful transgression from an offering.

(34) Be-rab; v. Sanh. (Sonc. ed.) p. 387, n. 7.

(35) Supra 34a; by the גזרה שוה of תחטא תחטא that just as deposit deals only with money claims so testimony deals only with money claims.

(36) Since he uses the גזרה שוה to deduce testimony from deposit, let him use the same גזרה שוה to deduce deposit from testimony for liability in the case of adjuration by others, and for wilful as for unwitting transgression.

(37) But agrees that deposit may be deduced from testimony to make him liable in the case of adjuration by others, and for wilful transgression.

(38) Hence R. Simeon does not use the גזרה שוה to deduce deposit from testimony; and that was the cause of the laughter.

(39) Even after he has established the גזרה שוה of תחטא תחטא (testimony from deposit).

(40) After having established the גזרה שוה, but deduces deposit from testimony that adjuration by others makes him liable. There is therefore no cause for laughter, for he likens deposit to trespass to exempt wilful transgression from an offering (for deposit is like trespass in more respects than it is like testimony); and he likens deposit to testimony (because he has a גזרה שוה) to make him liable in the case of adjuration by others. (He cannot liken it to trespass in this respect, for there is no oath involved.)

(41) Since he has already deduced deposit from trespass that he is not liable for wilful transgression, and since he has a גזרה שוה to equate testimony with deposit, let him say that in the case of testimony also he is not liable for wilful transgression; why does he say that in testimony wilful is like unwitting transgression? Hence the laughter.

Talmud - Mas. Shevu'oth 35a

For this reason Scripture wrote testimony near the oath of utterance and near [the laws of] uncleanness in connection with the Temple and the holy food thereof: for in all of them it is said, and it be hidden; and here[1] it is not said, and it be hidden; in order to make him liable for wilful as for unwitting transgression.[2]

MISHNAH. [IF A MAN SAID,] ‘I ADJURE YOU THAT YOU COME AND BEAR TESTIMONY FOR ME THAT SO-AND-SO PROMISED TO GIVE ME TWO HUNDRED ZUZ, AND DID NOT GIVE ME’, THEY ARE EXEMPT, FOR THEY ARE LIABLE ONLY FOR A MONEY CLAIM AS [IN THE CASE OF] DEPOSIT.[3] ‘I ADJURE YOU THAT, WHEN YOU KNOW ANY TESTIMONY FOR ME, YOU SHOULD COME AND BEAR TESTIMONY FOR ME,’ THEY ARE EXEMPT, BECAUSE THE OATH PRECEDED THE TESTIMONY.[4] [IF] HE STOOD IN THE SYNAGOGUE AND SAID, ‘I ADJURE YOU THAT IF YOU KNOW ANY TESTIMONY FOR ME YOU SHOULD COME AND BEAR TESTIMONY FOR ME,’ THEY ARE EXEMPT[5] UNLESS HE DIRECTS HIMSELF TO THEM.[6] HE SAID TO TWO [PERSONS]. ‘I ADJURE YOU, SO-AND-SO AND SO-AND-SO, THAT IF YOU KNOW ANY TESTIMONY FOR ME YOU SHOULD COME AND BEAR TESTIMONY FOR ME,’ [AND THEY REPLIED,] ‘WE SWEAR WE KNOW NO TESTIMONY FOR YOU;’ AND THEY DID KNOW TESTIMONY FOR HIM, [BUT IT WAS EVIDENCE OF] ‘ONE WITNESS FROM THE MOUTH OF ANOTHER WITNESS;’[7] OR IF ONE OF THEM WAS A RELATIVE OR [OTHERWISE] INELIGIBLE [AS A WITNESS], THEY ARE EXEMPT.[8] IF HE SENT BY THE HAND OF HIS SERVANT;[9] OR IF THE DEFENDANT SAID TO THEM, ‘I ADJURE YOU THAT IF YOU KNOW ANY TESTIMONY FOR HIM YOU SHOULD COME AND BEAR TESTIMONY FOR HIM;’ THEY ARE EXEMPT, [BEING LIABLE ONLY] WHEN THEY HEAR [THE ADJURATION] FROM THE MOUTH OF THE CLAIMANT.

GEMARA. Our Rabbis taught; [If a man says,] ‘I adjure you that you come and bear testimony for me that So-and-So promised to give me two hundred zuz, and did not give me’; I might think they should be liable, therefore it is said: [If any one] sin,[10] [if any one] sin,[11] for analogy; here[12] it is said; ‘[if any one] Sin’, and there[13] it is said: ‘[if any one] sin’; just as there it deals with a claim of money which is due to him, so here it deals with a claim of money which is due to him.

‘I ADJURE YOU THAT WHEN YOU KNOW ANY TESTIMONY FOR ME, etc.’ Our Sages taught: ‘I adjure you that when you know’ any testimony for me you should come and bear testimony for me’: I might think they should be liable, therefore it is said; and heard the voice of adjuration, he being a witness, whether he hath seen or known[14] — where the testimony precedes the oath, and not where the oath precedes the testimony.

HE STOOD IN THE SYNAGOGUE AND SAID; ‘I ADJURE YOU, etc.’ Samuel said: Even if his witnesses are among them [they are exempt]. This is obvious![15] — It is not necessary [for him to tell us this except] where he stands next to them; you might have thought it is as though he said it to them [specifically], therefore he teaches us [that it is not so]. It was also taught likewise: If he saw a company of men standing, and his witnesses were among them, and he said to them, ‘I adjure you that if you know any testimony for me you should come and bear testimony for me;’ I might think they should be liable, therefore it is said, he being a witness[16] — and here he did not single out his witnesses. I might think that even if he said, ‘All who stand here [I adjure’, they are exempt], therefore it is said, ‘he being a witness’; and here he did single out his witnesses.

HE SAID TO TWO [PERSONS]: ‘I ADJURE YOU, etc.’ Our Sages taught: If he said to two [persons]. ‘I adjure you, So-and-So and So-and-So, that if you know any testimony for me you should come and bear testimony for me’; and they knew testimony for him, but it was evidence of ‘one witness from the mouth of another witness’, or if one of them was a relative or [otherwise] ineligible [as a witness]; I might think they should be liable, therefore it is said, if he do not tell it, then he shall bear his iniquity[17] — with those who are eligible to tell, the verse deals.

IF HE SENT BY THE HAND OF HIS SERVANT, etc. Our Sages taught: If he sent by the hand of his servant; or if the defendant said to them, 'I adjure you that if you know any testimony for him you should come and bear testimony for him;' I might think they should be liable, therefore it is said, if he do not tell it, then he shall bear his iniquity. How is the deduction made? — R. Eleazar said: It is written: if he tell it not,[18] [implying] if to him[19] he tell it not, then he shall bear his iniquity; but if to another he tell it not, he is exempt.

MISHNAH. [IF HE SAID.] 'I ADJURE YOU'; 'I COMMAND YOU'; 'I BIND YOU'; THEY ARE LIABLE.[20] 'BY HEAVEN AND EARTH!' THEY ARE EXEMPT. 'BY ALEF DALETH';[21] 'BY YOD HE';[22] 'BY SHADDAI';[23] 'BY ZEBAOTH';[24] 'BY THE MERCIFUL AND GRACIOUS ONE'; 'BY THE LONG SUFFERING ONE'; 'BY THE ONE ABOUNDING IN KINDNESS'; OR BY ANY OF THE SUBSTITUTES [FOR THE NAME]: THEY ARE LIABLE. HE WHO BLASPHEMES[25] BY ANY OF THEM IS LIABLE:[26] THIS IS THE OPINION OF R. MEIR; BUT THE SAGES EXEMPT HIM.[27] HE WHO CURSES HIS FATHER OR MOTHER BY ANY OF THEM IS LIABLE;[28] THIS IS THE OPINION OF R. MEIR; BUT THE SAGES EXEMPT HIM. HE WHO CURSES HIMSELF OR HIS NEIGHBOUR BY ANY OF THEM TRANSGRESSES A NEGATIVE PRECEPT.[29] [IF HE SAID,] 'THE LORD[30] SMITE YOU'; OR 'GOD SMITE YOU';[31] THESE ARE THE CURSES WRITTEN IN THE TORAH.[32] 'MAY [THE LORD] NOT SMITE YOU'; OR 'MAY HE BLESS YOU'; OR 'MAY HE DO GOOD UNTO YOU [IF YOU BEAR TESTIMONY FOR ME]': R. MEIR MAKES [THEM] LIABLE,[33] BUT THE SAGES EXEMPT [THEM].

GEMARA. 'I adjure you:' what does he mean? Rab Judah said; Thus he means: 'I adjure you by the oath stated in the Torah'; 'I command you by the command stated in the Torah;' 'I bind you by the bond stated in the Torah'.[34] Abaye said to him: But then what of R. Hiyya who taught; 'I chain you';[35] they are liable. Is 'chain' then mentioned in Scripture? — Well, said Abaye. Thus he means: 'I adjure you by oath'; 'I command you by oath', 'I bind you by oath'; 'I chain you by oath'.[36] 'BY ALEF DALETH'; 'BY YOD HE, BY SHADDAI'; 'BY ZEBAOTH'; 'BY THE MERCIFUL AND GRACIOUS ONE'; 'BY THE LONG SUFFERING ONE'; 'BY THE ONE ABOUNDING IN KINDNESS'.

Shall we say that Merciful and Gracious are Names?[37] This is contradicted [from the following]: There are Names which may be erased;[38] and there are Names which may not be erased. These are the Names which may not be erased, such as: 'El',[39] 'Eloha',[40] 'Elohim', 'your God', I am that I am,[41] 'Alef Daleth', 'Yod He', 'Shaddai', 'Zebaoth' — these may not be erased; but the Great, the Mighty, the Revered, the Majestic, the Strong, the Powerful, the Potent, the Merciful and Gracious, the Long Suffering, the One Abounding in Kindness these may be erased![42] Abaye said: Our Mishnah means: '[I adjure you] by Him who is Gracious';

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(1) In the case of testimony.

(2) Therefore we do not deduce testimony from deposit though we have a גזרה שוה, for it is as though Scripture had expressly stated (by the omission of ונעלם) that in the case of testimony he is liable also for wilful transgression.

(3) Where there is a definite liability; but here, even if the witnesses had given their testimony that he had promised the money, he would not have to pay, for he could say that he had changed his mind.

(4) At the time of the oath there was no testimony to be given.

(5) Because he must single out particular witnesses.

(6) [I.e., to some among them in particular. Some texts omit this clause.]

(7) A technical phrase denoting indirect evidence. They had no direct evidence, but only what they had heard from others; they could not, in any case, offer that as testimony.

(8) Even if there were three witnesses, and only one was ineligible. Though there are two eligible witnesses left, they are also exempt, because as soon as one of the original three is found to be ineligible, the testimony of the other two is inadmissible; v. Tosaf.
(9) He sent his servant to adjure them.
(10) Lev. V, 1.
(11) Ibid. 21.
(12) With reference to oath of testimony.
(13) With reference to oath of deposit.
(14) Lev. V, 1, he being a witness implies that he already had evidence at the time of adjuration.
(15) For if the witnesses were not there, of course they are exempt.
(16) Lev. V, 1.
(17) Ibid.
(18) The Heb. has לוא instead of לא; so that we may deduce: אם לו לא יגיד.
(19) The claimant.
(20) If he uses any of these forms when adjuring the witnesses, they are liable, if they deny knowledge of testimony.
(21) If he adjures them by the Name Adonai.
(22) The Tetragrammaton.
(23) The Almighty.
(24) (Lord of) Hosts.
(25) The Name.
(26) Death by stoning, v. Sanh. VII, 5.
(27) If he uses the substitutes; holding that he is liable only if he uses the Names: Tetragrammaton, God, Lord, Almighty, Hosts.
(28) V. Lev. XX, 9; Sanh. 66a; but the Sages hold that if he uses the substitutes he is exempt.
(29) V. infra 36a.
(30) [So MS.M. Cur. edd.: The Lord God. Var. lec. (v. Mishnah texts): God smite you; v. n. 7.]
(31) [If you do not come to testify for me. According to var. lec. given in previous note: or ‘Thus may God smite you.’ I.e., having heard some one reading the curses in Deut. XXVIII, he says, ‘Thus may God smite you if you do not come to testify for me.’]
(32) Deut. XXVIII, 22; e.g., ‘The Lord smite you with consumption if you do not bear testimony for me’.
(33) Because the opposite may be deduced: ‘May the Lord smite you if you do not bear testimony.
(34) Using forms of adjuration mentioned in Scripture.
(35) I impose upon you the obligation like a chain to bear testimony.
(36) In all cases invoking the Name.
(37) I.e., substitutes for the divine Name, and that therefore adjuration by these Names makes then, liable.
(38) Because they are not used solely of the Deity, and are therefore not sacred.
(39) God.
(40) V. Vilna Gaon, a.l.
(41) אהיה אשר אהיה.
(42) Hence, Merciful and Gracious are not substitutes for the divine Name.

Talmud - Mas. Shevu'oth 35b

‘by Him who is Merciful’. Raba said to him: If so, BY HEAVEN AND EARTH also [let us say] it means; ‘By Him to whom heaven and earth belong’![1] — That is no question! There, since there is nothing else which is called Merciful and Gracious, it is clear that he means, ‘By Him who is Gracious’, ‘By Him who is Merciful’; but here, since there are heaven and earth, he means, ‘By heaven and earth’.

Our Sages taught: If he wrote alef lamed of Elohim, yod he of the Tetragrammaton, they may not be erased;[2] shin daleth of Shaddai, alef daleth of Adonai, zadi beth of Zebaoth, they may be erased.[3] R. Jose said: The whole word Zebaoth may be erased, because Zebaoth refers only to Israel, as it is said: And I will bring forth My hosts, My people the children of Israel, out of the land of Egypt.[4] Samuel said: The halachah is not in accordance with R. Jose.

Our Sages taught: That which is joined to the Name, whether before it or after it,[5] may be erased. Before it; how? To the Lord; the lamed [‘to’] may be erased; in the Lord: the beth [‘in’] may be erased; and the Lord: the vav [‘and’] may be erased; from the Lord; the mem [‘from’] may be erased; that the Lord; the shin [‘that’] may be erased; interrogative he[6] before the Lord: the he may be erased; as the Lord: the kaph [‘as’] may be erased. After it: how? Our God: the suffix nu [‘our’] may be erased; their God: the suffix hem [‘their’] may be erased; your God: the suffix kem [‘your’] may be erased. Others say, the suffix may not be erased, for the Name has already hallowed it. R. Huna said: the halachah is in accordance with these others.

(Mnemonic:[7] Abraham, who cursed, Naboth, in Gibeah of Benjamin, Solomon, Daniel.)

All the Names mentioned in Scripture in connection with Abraham are sacred, except this which is secular: it is said; And he said, ‘My lord, if now I have found favour in thy sight’.[8] Hanina, the son of R. Joshua's brother, and R. Eleazar b. Azariah in the name of R. Eliezer of Modin, said, this also is sacred.[9] With whom will [the following] agree? Rab Judah said that Rab said: Greater is hospitality to wayfarers than receiving the Divine Presence. With whom [will this agree]? With this pair.[10]

All the Names mentioned in connection with Lot are secular, except this which is sacred: it is said: And Lot said unto them, ‘Oh, not so, my Lord: behold now, thy servant hath found grace in thy sight, [and thou hast magnified thy mercy which thou hast shown unto me in saving my life]’[11] — He in whose power it is to kill and to revive; that is the Holy One blessed be He.

All the Names mentioned in connection with Naboth[12] are sacred; in connection with Micah[13] are secular. R. Eliezer said, in connection with Naboth [all are] sacred; in connection with Micah, some are secular, and some sacred: [the Name beginning] alef lamed is secular,[14] yod he[15] is sacred; except this which is alef lamed and is sacred: all the time that the house of God was in Shiloh.[16]

All the Names mentioned in connection with Gibeah of Benjamin,[17] R. Eliezer said, are secular; R. Joshua said, are sacred. R. Eliezer said to him: Does He then promise, and not fulfil?[18] — R. Joshua replied to him: What He promised. He fulfilled; but they did not inquire whether [the result would be] victory of defeat;[19] later, when they did inquire [of the Urim and Tummim], they approved their action, as it is said; And Phineas, the son of Eleazar, the son of Aaron, stood before it in those days — saying: ‘Shall I yet again go out to battle against the children of Benjamin my brother, or shall I cease?’ [And the Lord said: ‘Go up; for to-morrow I will deliver them into thy hand’].[20]

Every Solomon mentioned in the Song of Songs is sacred: the Song to Him whose is the peace,[21] except this: My vineyard, which is mine, is before me; thou, O Solomon, shalt have the thousand[22] — Solomon for himself [shall have a thousand]; and two hundred for those that keep the fruit thereof[23] — [viz.] Sages. And there are some who say this also is secular: Behold it is the bed of Solomon[24] — ‘This also’, [implies] that the other[25] is undoubtedly [secular]. But then what of Samuel who said: A Government which kills Only one out of six[26] is not punished; for it is said: My vineyard, which is mine, is before me; thou, O Solomon, shalt have the thousand — for the Kingdom of Heaven;[27] and two hundred for those that keep the fruit thereof — for the kingdom on earth.[28] Now Samuel is not in agreement with the first Tanna nor with the ‘some who say’![29] — But this is what it means: And some there are who say this[30] is sacred, and this is secular — [the verse] about his bed; and Samuel agrees with them.

All Kings mentioned in Daniel are secular except this which is sacred: Thou, O king, king of kings, unto whom the God of heaven hath given the kingdom, the power, and the strength, and the glory.[31] And some say, this also is sacred; it is said: My Lord, the dream be to them that hate thee, and the interpretation thereof to thine adversaries.[32] To whom does he say this? If it should enter your mind that he says it to Nebuchadnezzar — who are those who hate him? Israel! Then he is cursing Israel![33] And the first Tanna?[34] — He holds: Are the enemies [of Nebuchadnezzar] only Israelites? Are there not enemies [too] who are heathens?[35]

OR BY ANY OF THE SUBSTITUTES [FOR THE NAME], THEY ARE LIABLE, etc. We may cite [the following] in contradiction: The Lord make thee a curse and an oath.[36] Why is this stated? Is it not already said: The priest shall cause the woman to swear with the oath of cursing?[37] Because it is said: And hear the voice of alah [cursing]:[38] here[39] it is said 'alah', and there[40] it is said 'alah'; just as here it implies an oath,[41] so there it implies an oath; just as here it must be by the Name,[42] so there it must be by the Name.[43] — Abaye said: It is no question. This[44] is [the view of] R. Hanina b. Idi, and that[45] is [the view of] the Rabbis; for we learnt: R. Hanina b. Idi said: Since the Torah said, 'Thou shalt swear,'[46] and 'thou shalt not swear';[47] 'thou shalt curse',[48] and 'thou shalt not curse';[49] [we deduce:] just as 'thou shalt swear' means by the Name, so thou shalt not swear' means by the Name; and just as 'thou shalt curse' means by the Name, so 'thou shalt not curse' means by the Name.

Now, the Rabbis, if they received on tradition this Gezerah shawah,[50] let them require the actual Name;[51] and if they did not receive on tradition this Gezerah shawah, how do they know that 'alah'[52] implies an oath?[53] — They deduce it front [the Baraitha in] which it was taught. 'Alah':[52] 'alah' is nothing but the expression of an oath; and so it says: And the priest shall cause the woman to swear with the oath of alah.[54] But there it is written: the oath of alah![55] — Thus he means: 'alah'; 'alah' can only be an oath,[56] and thus it says: 'and the priest shall cause the woman to swear with the oath of alah.'

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(1) Why does the Mishnah say it is not a proper adjuration, and they are exempt?

(2) Although he had not yet finished the words, because the first two letters also constitute a Name: אל, יה.

(3) Because צב, אד, שד are not Names. [So Rashi; but MS.M. and R. Han. (v. Tosaf. a.l.) include Alef Daleth in the first group, i.e., among the Names that may not be erased, the reason being that אד as well as יה and אל were commonly used as abbreviations for a Divine name, which was not the case with שד and צב which out of reference for the Divine Name were never used as abbreviations, the former two letters spelling a 'demon' (שד), the latter, a 'great lizard' (צב). V. Lauterbach, J.Z American Academy for Jewish Research, Proceedings, 1930-1931, pp. 43ff.]

(4) Ex. VII, 4.

(5) Prefix or suffix.

(6) The fifth letter of the Heb. alphabet, ה.

(7) [In aid of memory; consisting of key words of the statements that follow. 'Who cursed' דלטיא is a play on the word 'Lot' who figures in the second passage.]

(8) Gen. XVIII, 3; Abraham was addressing the chief of the three men who came towards him: according to midrash they were the angels Michael, Gabriel, and Raphael.

(9) He was addressing the Lord.

(10) R. Hanina and R. Eleazar who say that Abraham addressed the Lord, asking Him not to withdraw His Presence while he entertained the angels.

(11) Gen XIX, 18, 19; the verse is read thus: And Lot said unto them. 'Oh, not so'; then turning to God: 'My Lord, behold now, Thy servant etc.' The ordinary interpretation is that Lot is addressing one of the angels.

(12) I Kings XXI, 10, 13.

(13) Judges XVII, XVIII.

(14) E.g., Judges XVII, 5. XVIII, 5, 10, 24.

(15) E.g., Judges XVII, 2, 3, 13; XVIII, 6.

(16) Judges XVIII, 31.

(17) Ibid. XX, 18-28.

(18) If, as you say, God is intended, why did He tell the other tribes to make war on the tribe of Benjamin, and then allow them to be defeated?
(19) They merely enquired whether they should go to war against Benjamin, and which of their tribes should go to battle first.
(20) Judges XX, 28, and this promise He fulfilled.
(21) שלמה = His peace.
(22) Cant. VIII, 12: homiletically interpreted the verse means this: God said: From My vineyard (Israel) Solomon shall have 1,000 men as soldiers out of every 1,200; and 200 shall be left to ‘keep the fruit’, i.e., study the Torah.
(23) Ibid.
(24) Ibid. III, 7.
(25) V. p. 206, n. 12.
(26) By going to war. [So according to reading of Rashi and R. Han. Cur. edd.: ‘one-sixth of the world;’ this was probably said by him with reference to Shapur's military campaigns in Asia: v. Krochmal, Hechalutz, I, p. 89.]
(27) Taking Solomon as referring to God.
(28) Serving the king; 200 for the king, and 1,000 for God = 1,200 altogether; the king is thus permitted one sixth for his army.
(29) For they all hold that the word Solomon in the verse My vineyard, etc. is secular.
(30) My vineyard, etc.
(31) Dan. II, 37: Daniel would nor have called Nebuchadnezzar King of Kings; the verse is therefore interpreted thus: Thou, O king (Nebuchadnezzar), unto whom the King of Kings, the God of heaven hath given, etc.
(32) Dan IV. 16.
(33) Hence, we must say that Daniel in saying, ‘My lord, the dream, etc.’ is addressing God, whose enemies are the heathens.
(34) Who holds that ‘My Lord’ is secular, and that it is addressed to Nebuchadnezzar.
(35) When Daniel said: ‘My lord [Nebuchadnezzar], the dream be to them that hate thee’, he referred to the heathens who hated him.
(36) Num. V, 21.
(37) Ibid.; this implies that she shall be for a curse and an oath. It would suffice if the verse now merely stated the curse: the Lord make thy thigh to fill away.
(38) Lev. V, 1; i.e., adjuration.
(39) Num. V, 21.
(40) Lev. V, 1.
(41) Because it is said: the priest shall cause . . . to swear.
(42) For it is said: The Lord (Tetragrammaton) make thee a curse.
(43) Hence, adjuration of witnesses must be by the Name, and not by substitutes.
(44) The Baraitha which states that an oath must be by the Name.
(45) The Mishnah which states that the substitutes are of equal potency.
(46) There are occasions when an oath is obligatory, e.g., the oath of the Lord shall be between them both (Ex. XXII, 10).
(47) E.g., ye shall not swear by My name falsely (Lev. XIX, 12).
(48) E.g., the Lord make thee a curse (Num. V, 21).
(49) E.g., thou shalt not curse the deaf (Lev. XIX, 14).
(50) V. Glos. The analogy deriving adjuration from sotah. Adjuration (Lev. V, I): and hear the voice of אלה (cursing); sotah (Num. V, 21): the Lord make thee a אלה (curse) and an oath. Just as אלה used in connection with sotah implies oath (for oath is explicitly mentioned in the verse), so אלה used in connection with adjuration means oath. But if we deduce adjuration from sotah we must carry the deduction further: just as in the case of sotah, the oath was by the Name (for the verse states: the Lord make thee a curse and an oath), so in the case of adjuration it should be by the Name, and not by any substitute. [It is a well established principle that no man may draw a conclusion from a Gezerah shawah unless he received it on tradition from his teacher. Pes. 66a; Nid. 19b.]
(51) שם המיוחד, the ‘Distinguishing Name’, the Tetragrammaton; v. Sanh. (Sonc. ed.) p. 408, n. 1.
(52) Mentioned in Lev. V. 1.
(53) For in the case of adjuration, oath is not mentioned in the verse.

(54) Num. V, 21. This proves that ‘alah’ implies an oath.

(55) [This is a new question: the phrase ‘the oath of alah’ indeed proves that ‘alah’ implies an oath, but whence do we know that an oath without an accompanying ‘alah’ (curse) is an oath? V. n. 7.]

(56) [So MS.M. V. Sifra on Lev. V, 1; cur. edd.: with an oath; cf. n. 7.]

Talmud - Mas. Shevu'oth 36a

And whence do we know to make an oath unaccompanied by an alah like an oath accompanied by an alah? Because it is said; and heareth the voice of cursing:[1] and heareth the cursing; and heareth the voice.[2]

R. Abbahu said: Whence do we know that alah implies an oath? Because it is said: And brought him under an alah;[3] and it is written; And he also rebelled against king Nebuchadnezzar who made him swear by God.[4] A Tanna taught: Arur[5] may imply excommunication,[6] curse,[7] or oath. [It implies] excommunication, as it is written: ‘Curse ye Meroz’, said the angel of the Lord, ‘curse ye bitterly the inhabitants thereof.’[8] And Ulla said: With four hundred blasts of the trumpet did Barak announce the ban over Meroz.

It implies curse, as it is written: And these shall stand for the curse;[9] and it is written: Arur be the man that maketh a graven image.[10]

It implies oath, as it is written: And Joshua adjured them at that time, saying, Arur be the man before the Lord . . .[11] But perhaps two things he did to them: he adjured them, and cursed them![12] — Well then, from here: And the men of Israel were distressed that day; but Saul adjured the people saying, Arur be the man that eateth;[13] and it is written: But Jonathan heard not when his father adjured the people.[14] But perhaps here also he did two things to them; he adjured them, and cursed them! — Is it then written: and arur?[15] Now since you have come to this,[16] [you may say] there[17] also it is not written: and arur.

R. Jose b. Hanina said: ‘Amen’ implies oath,[18] acceptance of words,[19] and confirmation of words.[20] It implies oath, as it is written: And the woman shall say, Amen, amen.[21] It implies acceptance of words, as it is written: Cursed be he that confirmeth not the words of this law to do them, and all the people shall say, Amen.[22] It implies confirmation of words, as it is written: And the prophet Jeremiah said, Amen, the Lord do so! The Lord perform thy words![23]

R. Eleazar said: ‘No’ is an oath; ‘Yes’ is an oath. Granted, ‘No’ is an oath, as it is written: And the waters shall no more become a flood;[24] and it is written: For this is as the waters of Noah unto Me; for as I have sworn [that the waters of Noah should no more go over the earth . . .].[25] But that ‘Yes’ is an oath, how do we know? — It is reasonable; since ‘No’ is an oath. ‘Yes’ is also an oath. Said Raba: But only if he said, ‘No! No!’ twice;[26] or he said, ‘Yes! Yes!’ twice; for it is written: And all flesh shall not be cut off any more by the waters of the floods;[27] [and also:] and the waters shall no more become a flood.[28] And since ‘No’ [must be said] twice [to imply an oath]. ‘Yes’ [must] also [be said] twice.

HE WHO BLASPHEMES BY ANY OF THEM IS LIABLE: THIS IS THE OPINION OF R. MEIR; BUT THE SAGES EXEMPT HIM. Our Rabbis taught: Whosoever curseth his God shall bear his sin.[29] Why is it written? Is it not already said: And he that blasphemeth the name of the Lord shall surely be put to death?[30] — I might think he should be liable only for the actual Name;[31] whence do we know to include the substitutes? Therefore it is said: Whosoever curseth his God — in any manner; this is the opinion of R. Meir; but the Sages say: for the actual Name, [the penalty is] death;[32] for the substitutes, there is a warning.[33]

HE WHO CURSES HIS FATHER OR MOTHER, etc. Who are the Sages?[34] R. Menahem b. Jose; for we learnt, R. Menahem b. Jose said; When he blasphemeth the Name, he shall be put to death.[35] Why is it said: ‘Name’?[36] It teaches us that he who curses his father or mother is not liable unless he curses them by the Name.

HE WHO CURSES HIMSELF OR HIS NEIGHBOUR, etc. R. Jannai said; This is the view of all.[37] [HE WHO CURSES] HIMSELF: as it is written: Only take heed to thyself, and keep thy soul diligently;[38] and as R. Abin said in the name of R. Elai; for he said; Wherever it is said, take heed, lest, or not, it is nothing but a negative precept.[39] [HE WHO CURSES] HIS NEIGHBOUR; as it is written: Thou shalt not curse the deaf.[40]

‘THE LORD SMITE YOU’, OR ‘GOD SMITE YOU’: THESE ARE THE CURSES WRITTEN IN THE TORAH. R. Kahana sat before Rab Judah, and was reciting this Mishnah as we learnt it. He[41] said to him: Modify it![42] One of the Scholars was sitting before R. Kahana and reciting: God will likewise break thee forever; He will take thee up, and pluck thee out of thy tent, and root thee out of the land of the living. Selah.[43] He said to him: Modify it! — Why do we require both?[44] — I might have thought that only the Mishnah [we are permitted to modify], but verses of Scripture we are not permitted to modify; therefore he teaches us [that we are].

‘[MAY THE LORD] NOT SMITE YOU’; OR, ‘MAY HE BLESS YOU’; OR, ‘MAY HE DO GOOD UNTO YOU, [IF YOU BEAR TESTIMONY FOR ME]’; R. MEIR MAKES THEM LIABLE; AND THE SAGES EXEMPT THEM. But R. Meir does not hold that from the negative you may derive the affirmative![45] — Reverse it![46] When R. Isaac came, he stated the Mishnah as we learnt it.[47] R. Joseph said; Since we learnt it thus, and when R. Isaac came he also stated it thus, we may infer that we learnt it definitely so. But the question [then] remains![48] — He does not hold [that from the negative we derive the affirmative] in money matters, but in prohibitions he holds [this principle].[49] But the case of sotah is a prohibition, and yet R. Tanhum b. R. Hakinai said; It is written; hinnaki.[50] The reason is because it is written hinnaki [which may be read as hinki], but were it not for this, [we should not know the affirmative], for we do not say that from the negative you may derive the affirmative![51]

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(1) Lev. V, 1.

(2) The verse could have said: and heareth the alah (cursing) i.e., oath accompanied by a curse; the word voice is superfluous, so we deduce that it implies even a voice (i.e., oath) unaccompanied by a curse. [The interpretation adopted here follows Rashi who, apart from the reading of MS.M. referred to in n. 5, which he seemed to have had, deletes the words: ‘an alah unaccompanied by an oath like an alah with an oath,’ which are placed in cur. edd. in brackets. These words are, however, retained by Nahmanides in his novellae on Shebu'oth, and other texts. Adopting this reading, preference is to be given to the reading ‘with an oath’ of cur. edd. (v. n. 5) and the whole passage must be taken as a continuation of the discussion relating to the source whence the Rabbis derive that ‘alah’ implies an oath, and is to be interpreted thus: ‘But there it is written the oath of alah (how then can there be derived from that verse that alah by itself denotes an oath)? — Thus he (the Tanna of the Baraitha) means: ‘alah’; alah can only be with an oath, and thus it says: ‘and the priest . . . of alah.’ And whence do we know to make an alah unaccompanied by an oath like an alah with an oath, and an oath unaccompanied by an alah like an oath accompanied etc. — Thus is afforded the source whence the Rabbis deduce that alah implies an oath.]

(3) Ezek. XVII, 13; Nebuchadnezzar imposed an oath (alah) upon King Zedekiah.

(4) 2 Chron. XXXVI, 13; here a derivative of שבועה is used; so that אלה in Ezekiel is equated with שבועה in Chronicles; hence אלה is an oath.

(5) ‘Cursed be’. If a Sage says to a man: ‘Thou art arur’, he is excommunicated.

(6) For a period of at least 30 days; v. M.K. 16a.

(7) He who curses another, using this word, is liable.

(8) Judg. V, 23.

(9) Deut. XXVII, 13; קללה is used.

(10) Ibid. 15; ארור is used; hence ארור implies קללה.

(11) Josh. VI, 26; ארור is used in the adjuration, hence it is a form of oath.

(12) And ארור is not the expression of the adjuration, but a curse apart from the adjuration.

(13) I Sam. XIV, 24.

(14) Ibid. 27; ‘cursed be’ (of verse 24) is here termed adjuration (שבועה).

(15) Which would have implied that he adjured the people, and also said, ‘and cursed be the man . . .’ Since, however, the verse says: he adjured the people saying, ‘Cursed be’, this phrase is obviously the form of the adjuration.

(16) Since you argue thus.

(17) Josh. VI, 26.

(18) He who responds ‘Amen’ after an oath is accounted as if he had uttered the oath himself.

(19) Agreement to fulfil a request.

(20) I.e., prayer for fulfilment: so may it be!

(21) Num. V, 22; the priest utters the oath, the woman merely responding ‘Amen’. Her response is counted as an oath, and the ‘bitter waters’ test her.

(22) Deut. XXVII, 26. The people taking upon themselves to fulfil the words of the Law.

(23) Jer. XXVIII, 6.

(24) Gen. IX, 15.

(25) Isa. LIV, 9.

(26) Since he emphasizes his statement, he intends it as an oath.

(27) Gen. IX, 11.

(28) Ibid. 15; the promise not to bring a flood was made twice; but v. Asheri a.l.

(29) Lev. XXIV, 15.

(30) Ibid. 16.

(31) Tetragrammaton, v. supra p. 208, n. 16.

(32) By stoning; v. Lev. XXIV, 14.

(33) I.e., negative prohibition, for the transgression of which the penalty is stripes.

(34) Who exempt him, if he curses his father or mother by the substitutes.

(35) Lev. XXIV, 16.

(36) The verse is superfluous, because it is already said: He that blasphemeth the Name of the Lord shall surely be put to death. The verse is therefore taken to refer to the case of cursing a parent by the Name.

(37) R. Meir and the Sages agree in this that he who curses himself or his neighbour by any of the substitutes (not merely the Name) transgresses a negative precept. [Although the verse is superfluous (cf. p. 211, n. 14), it can nevertheless be applied only in regard to the cursing of a parent, which like blasphemy is punishable by death, but not with reference to cursing oneself or one's neighbour which does not involve so grave a penalty.]

(38) Deut. IV, 9. [The verse is explained in Ber. 32b as an injunction to take care of the body and its physical requirements and not to expose oneself to dangers. This implies the prohibition of invoking upon oneself any curses.]

(39) Here, ‘take heed to thyself’ means ‘do not curse thyself.’

(40) Lev. XIX, 14; v. Sanh. 66a: the prohibition includes all persons, not only the deaf.

(41) Rab Judah.

(42) Use the third person, so that it should not appear as if you were cursing me.

(43) Ps. LII, 7.

(44) To be informed that both in the Mishnah and the Psalms it is necessary, when in company, to use the third person instead of the second, to avoid giving offence.

(45) Kid. 61a. In our Mishnah: ‘May the Lord not smite you, if you bear testimony’ is not an oath unless the positive is implied: ‘May the Lord smite you, if you do not bear testimony’; and yet R. Meir makes the witnesses liable, though he does not hold that the positive may be derived from the negative.

(46) Read in the Mishnah: R. Meir exempts them, and the Sages make them liable.

(47) Not reversed.

(48) R. Meir does not hold that from the negative we derive the affirmative!

(49) And our Mishnah deals with an oath (a prohibition).

(50) Num. V, 19: הנקי; If thou hast not gone aside to uncleanness . . . be thou free from this water of bitterness. This implies: ‘if thou hast gone aside . . . be thou not free’. Hence, we deduce from the fact that Scripture does not state the affirmative, that we may derive the affirmative from the negative. This is an argument against R. Meir. R. Tanhum (explaining R. Meir's view) states that Scripture uses the word הנקי advisedly, so that it may also be read as חנקי (‘be thou choked’), and taken with the subsequent verse: be thou choked by this water of bitterness . . . if thou hast gone aside. Hence, Scripture itself gives both negative and positive: If thou hast not gone aside . . . be thou free (הנקי); and be thou choked (חנקי) . . . if thou hast gone aside. But we cannot derive the affirmative from the negative. According to Aruch , s.v. הנקי, the word is taken by R. Tanhum in its double meaning ‘to be bereft’ (cf. Isa. III, 23), as well as ‘to be free’, and the phrase חנקי is employed by him as a mere wordplay.

(51) Hence, even in the case of a prohibition R. Meir does not hold this principle.

Talmud - Mas. Shevu'oth 36b

— Well then [you must] reverse;[1] for even in a prohibition he does not hold [this principle]. To this Rabina demurred; And in a prohibition does he not hold [this principle]? Now then, [priests ministering in the Temple] intoxicated with wine,[2] or with a long growth of hair,[3] the punishment for which is [said to be] death — will you also say [in these cases] that R. Meir does not hold [the principle]?[4] Surely we learnt: These are liable for death: [priests] intoxicated with wine, and with a long growth of hair![5] — Hence indeed, reverse; but only in money matters does he not hold [the principle]; in a prohibition, however, he does hold the principle;[6] and the case of sotah[7] is different, because it is a prohibition which includes also money matters.[8]

CHAPTER V

MISHNAH. THE OATH OF DEPOSIT[9] APPLIES TO MEN AND WOMEN. TO NON-RELATIVES AND RELATIVES, TO THOSE QUALIFIED [TO BEAR TESTIMONY] AND THOSE UNQUALIFIED; BEFORE THE BETH DIN AND NOT BEFORE THE BETH DIN, [IF UTTERED] FROM HIS OWN MOUTH;[10] BUT [IF ADJURED] BY THE MOUTH OF OTHERS,[11] HE IS NOT LIABLE UNLESS HE DENIES IT BEFORE THE BETH DIN: THIS IS THE OPINION OF A. MEIR; BUT THE SAGES SAY, WHETHER [UTTERED] FROM HIS OWN MOUTH OR [ADJURED] BY THE MOUTH OF OTHERS — SINCE HE DENIED IT, HE IS LIABLE. AND HE IS LIABLE FOR THE WILFUL TRANSGRESSION OF THE OATH,[12] AND FOR ITS UNWITTING TRANSGRESSION,[13] COUPLED WITH WILFUL [DENIAL OF] DEPOSIT; BUT HE IS NOT LIABLE FOR UNWITTING TRANSGRESSION SIMPLY.[14] AND TO WHAT IS HE LIABLE FOR WILFUL TRANSGRESSION? A GUILT OFFERING[15] OF [THE VALUE OF] TWO SHEKELS OF SILVER.[16] THE OATH OF DEPOSIT — HOW? HE SAID TO HIM: ‘GIVE ME MY DEPOSIT WHICH I HAVE IN THY POSSESSION.’ [THE OTHER REPLIED:] ‘I SWEAR THAT THOU HAST NOT [ANYTHING] IN MY POSSESSION’; OR HE REPLIED TO HIM; ‘THOU HAST NOT [ANYTHING] IN MY POSSESSION,’ [AND THE DEPOSITOR SAID:] ‘I ADJURE THEE.’ AND HE RESPONDED, ‘AMEN!’; HE IS LIABLE. IF HE ADJURED HIM FIVE TIMES, WHETHER BEFORE THE BETH DIN OR NOT BEFORE THE BETH DIN, AND HE DENIED, HE IS LIABLE[17] FOR EACH ONE. R. SIMEON SAID: WHAT IS THE REASON? BECAUSE HE CAN RETRACT AND ADMIT.[18] IF FIVE CLAIMED FROM HIM, AND SAID TO HIM: ‘GIVE US THE DEPOSIT THAT WE HAVE IN THY POSSESSION,’ [AND HE REPLIED:] ‘I SWEAR THAT YOU HAVE NOT [ANYTHING] IN MY POSSESSION,’ HE IS LIABLE ONLY ONCE. [IF HE SAID:] ‘I SWEAR THAT THOU HAST NOT IN MY POSSESSION, NOR THOU, NOR THOU,’[19] HE IS LIABLE FOR EACH ONE. R. ELIEZER[20] SAYS: ONLY IF HE SAYS, ‘I SWEAR’ AT THE END.[21] R. SIMEON SAYS: ONLY IF HE SAYS, ‘I SWEAR’ TO EACH ONE. ‘GIVE ME THE DEPOSIT, LOAN, THEFT, AND LOST OBJECT THAT I HAVE IN THY POSSESSION.’ — ‘I SWEAR THAT THOU HAST NOT [THESE] IN MY POSSESSION,’ HE IS LIABLE ONLY ONCE. ‘I SWEAR THAT THOU HAST NOT IN MY POSSESSION DEPOSIT, LOAN, THEFT, AND LOST OBJECT,’ HE IS LIABLE FOR EACH ONE. ‘GIVE ME THE WHEAT, BARLEY, AND SPELT THAT I HAVE IN THY POSSESSION.’ — ‘I SWEAR THAT THOU HAST NOT [THESE] IN MY POSSESSION,’ HE IS

LIABLE ONLY ONCE. 'I SWEAR THAT THOU HAST NOT IN MY POSSESSION WHEAT, BARLEY, AND SPELT,' HE IS LIABLE FOR EACH ONE. R. MEIR SAID: EVEN IF HE SAID, '... A GRAIN OF WHEAT, BARLEY AND SPELT,'[22] HE IS LIABLE FOR EACH ONE. 'THOU HAST VIOLATED OR SEDUCED MY DAUGHTER' AND THE OTHER SAYS, 'I DID NOT VIOLATE, NOR SEDUCE.' — 'I ADJURE THEE,' — AND HE RESPONDS, 'AMEN!' HE IS LIABLE. R. SIMEON EXEMPTS HIM, FOR HE DOES NOT PAY A FINE ON HIS OWN ADMISSION.[23] THEY SAID TO HIM: THOUGH HE DOES NOT PAY A FINE ON HIS OWN ADMISSION, HE STILL PAYS FOR THE SHAME AND BLEMISH ON HIS OWN ADMISSION.[24] 'THOU HAST STOLEN MY OX,' AND HE SAYS, 'I HAVE NOT STOLEN IT.' — 'I ADJURE THEE,' — AND HE RESPONDS, 'AMEN!' HE IS LIABLE. 'I HAVE STOLEN IT, BUT I HAVE NOT KILLED IT OR SOLD IT.' — 'I ADJURE THEE,' AND HE RESPONDS, 'AMEN!' HE IS EXEMPT.[25] 'THY OX KILLED MY OX,' AND HE SAYS, 'IT DID NOT KILL [THY OX].'- 'I ADJURE THEE,' — AND HE RESPONDS, 'AMEN!' HE IS LIABLE. 'THY OX KILLED MY SLAVE,' AND HE SAYS, 'IT DID NOT KILL [THY SLAVE].' — 'I ADJURE THEE.' — AND HE RESPONDS, 'AMEN!' HE IS EXEMPT.[26] HE SAID TO HIM, 'THOU HAST INJURED ME, OR BRUISED ME,' AND THE OTHER SAYS, 'I HAVE NOT INJURED THEE OR BRUISED THEE.' — 'I ADJURE THEE,' AND HE RESPONDS, 'AMEN!' HE IS LIABLE. HIS SLAVE SAID TO HIM, 'THOU HAST KNOCKED OUT MY TOOTH, OR BLINDED MY EYE,' AND HE SAID, 'I DID NOT KNOCK OUT [THY TOOTH], OR BLIND [THY EYE].' — 'I ADJURE THEE,' — AND HE RESPONDS, 'AMEN!' HE IS EXEMPT.[27] THIS IS THE PRINCIPLE: WHENEVER HE PAYS ON HIS OWN ADMISSION,[28] HE IS LIABLE,[29] AND WHEN HE DOES NOT PAY ON HIS OWN ADMISSION,[30] HE IS EXEMPT.

GEMARA. R. Aha b. Huna and R. Samuel the son of Rabbah b. Bar Hanah and R. Isaac the son of Rab Judah studied [the tractate of] Shebu'oth at the School of Rabbah. R. Kahana met them and said

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(1) Our Mishnah.

(2) Lev. X, 9: Drink no wine nor strong drink . . . when ye go into the tent of meeting, that ye die not.

(3) More than 30 days' growth; v. Rashi, Sanh. 83a. They shall not suffer their locks to grow long . . . neither shall any priest drink wine, when they enter into the inner court (Ezek. XLIV, 20, 21). Allowing the hair to grow long is equated with drinking wine; just as for drinking wine the penalty is death, so for allowing the hair to grow long the penalty is death; Sanh. 83b.

(4) In these cases we must derive the affirmative from the negative in order to impose the penalty: Drink no wine . . . that ye die not; but if you drink wine, you will die.

(5) Sanh. 83a, none disputing.

(6) Therefore he agrees that intoxicated priests are liable to the penalty of death.

(7) Where he does not hold the principle.

(8) Her kethubah is involved, for if she is guilty she does not receive it. In our Mishnah, too, the oath (adjuring the witnesses) involves a money claim; therefore R. Meir exempts the witnesses (for we reverse the reading).

(9) Lev. V, 2.

(10) Or if he responds 'Amen!' after the depositor's adjuration.

(11) Without responding 'Amen!'

(12) Knowing that he has the deposit, and knowing that for denying it on oath he is liable to bring a guilt offering.

(13) Not knowing that he is liable to an offering.

(14) If he really forgot that he had the deposit.

(15) Lev. V, 25.

(16) Ibid, 15: according to thy valuation in shekels of silver (shekels == two).

(17) An offering.

(18) After each oath he may retract, and admit that he has the deposit; each denial is thus a fresh denial of money.

(19) Addressing each of the five in turn.

(20) [MS.M.: 'R. Eleazar'.]

(21) ‘You have not in my possession, nor you, nor you; I swear it,’ he is liable for each one, because the oath refers to all.
(22) V. infra 38a.
(23) If he had confessed to the seduction, he would not have had to pay the fine (50 shekels; v. Deut. XXII, 29); on the principle that he who admits on his own accord liability to a fine is exempt from payment, v. B.K. 74b. Since he is therefore denying a fine קנם, and not a money liability, ממון, he is exempt.
(24) Because these sums are ממון; therefore he is liable for the oath.
(25) The extra amount he is liable to pay for killing or selling it (Ex. XXI, 37) is a fine; his oath is hence a denial of a fine, and not of an actual money liability.
(26) Because the 30 shekels which the owner of the ox has to pay for the slave (Ex. XXI, 32) is merely a fine, this sum being paid even if the slave is worth much less.
(27) For blinding an eye or knocking out a tooth of a slave the master must allow him to go free; Ex. XXI, 26, 27; this is a fine.
(28) I.e., ממון.
(29) To bring an offering for his oath.
(30) I.e., קנם.

Talmud - Mas. Shevu'oth 37a

to them: If he wilfully transgressed the oath of deposit, and [witnesses] warned him, what is the ruling?[1] Since it presents an anomaly in that in the whole Torah we do not find that a wilful transgressor brings an offering, and here he brings an offering;[2] there is therefore no difference whether he is warned or not warned;[3] or, it applies only when he is not warned; but when he is warned, he receives stripes, and does not bring an offering; or, do we impose both [punishments] on him? — They said to him: We have it stated [in a Baraitha]: The oath of deposit is more severe than it;[4] for one is liable for its wilful transgression, stripes,[5] and for its unwitting transgression, a guilt offering of [the value of] two silver shekels.[6] Now, since it says: ‘for its wilful transgression, stripes,’ we deduce they warned him;[7] and yet it says stripes only and not an offering![8] And wherein lies then the greater severity?[9] [In that] a man prefers to bring an offering rather than suffer stripes. Said Raba b. Ithi to them: [No! this affords no solution, for] who is the Tanna [who holds that] wilful transgression of oath of deposit is not atoned for by an offering? It is R. Simeon;[10] but according to the Rabbis, he brings an offering also.[11] — R. Kahana said to them: Away with this [Baraitha];[12] for I learnt it, and thus l learnt it: Both for its wilful and unwitting transgression [the penalty is] a guilt offering of [the value of] two silver shekels. And wherein lies its greater severity?[13] There[14] [he may bring] a sin offering of the value of a danka,[15] whereas here [he must bring] a guilt offering of the value of two shekels of silver. Let us then deduce from this![16] — Perhaps [it refers to the case where] they did not warn him.[17]

Another version.[18] Come and hear: One is not liable for its unwitting transgression.[19] To what is one liable for its wilful transgression? A guilt offering of [the value of] two shekels of silver. Now does this not refer to the case where they warned him?[20] — [No!] Here also it may refer to the case where they did not warn him. Come and hear: No! If you say in the case of a nazirite who had become unclean [that such and such is the case],[21] it is because he receives stripes,[22] but how can you say in the case of the oath of deposit [that such and such is the case], since its transgressor does not receive stripes? Since it says, ‘he receives stripes,’ we deduce that they warned him; and it says, ‘how can you say in the case of the oath of deposit [that such and such is the case], since its transgressor does not receive stripes?’ — but [presumably] an offering he brings![23] — What is meant by ‘he does not receive stripes’ is that he is not freed by stripes.[24] Do we infer then that a nazirite who had become unclean is freed by stripes?[25] Surely an offering is [specifically] mentioned with reference to him![26] — There he brings an offering merely in order that his naziriteship should recommence in cleanliness.[27]

The Scholars told this to Rabbah.[28] He said to them: Hence,[29] if they did not warn him, though there are witnesses, he is liable,[30] [but surely] it is [like] a merely [useless] denial of words![31] This[32] shows that Rabbah [himself] holds, he who denies money for which there are witnesses, is exempt.[33]

R. Hanina said to Rabbah: There is [a Baraitha] taught in support of your view: And denieth it[34] — except if he admits it to one of the brothers or one of the partners;[35] and sweareth falsely[34] — except if he borrowed on a bond or borrowed in the presence of witnesses![36] — He said to him: From this you can bring no support to my view. [It refers to a case where] he says, 'I borrowed, but I did not borrow in the presence of witnesses'; 'I borrowed, but I did not borrow on a bond.'[37] How [do we know it refers to such a case]? Because it states: 'and denieth it — except if he admits it to one of the brothers or one of the partners.' [Now,] 'to one of the brothers' — what does it mean? Shall we say [it means] he admits his half?[38] But there is the denial of the other![39] Obviously then, it means, they say to him: 'From both of us you borrowed,' and he replies to them: 'No! From one of you I borrowed';[40] and this is simply a denial of words.[41] And since the first clause refers to a denial of words, the second clause also refers to a denial of words. (Mnemonic: Liable, sets [of witnesses], of the trustee, the severity, of the nazirite.[42])

Come and hear: He is not liable for its unwitting transgression; and to what is he liable for its wilful transgression? A guilt offering of [the value of] two silver shekels. Does it not mean wilful transgression [after warning by] witnesses?[43] — No! [It may mean] wilful transgression on his own account.[44]

Come and hear: If there were two sets of witnesses, and the first denied, and then the second denied, they are both liable, because the testimony could be upheld by [either of] the two.[45] Now granted, the second set should be liable, for the first set have denied;[46] but the first set — why should they be liable?

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(1) Does he bring an offering; or is he punished by stripes; or both?

(2) [Rashi and Tosaf. point out that it is not exactly an anomaly as there are other instances, a Nazirite who wilfully makes himself unclean, where an offering is brought far a wilful transgression, being one of them.]

(3) And even if warned he brings all offering, but does not suffer stripes.

(4) The oath of testimony.

(5) Whereas in the case of oath of testimony there cannot be stripes, because it is not possible to know if the witnesses transgressed wilfully, for they can always say they forgot the testimony; v. Tosaf. a.l.

(6) Whereas in the case of oath of testimony a sliding scale sacrifice (which may be worth less than 2 shekels) is brought.

(7) For without warning, stripes are not inflicted.

(8) Hence, R. Kahana's question is solved.

(9) Of oath of deposit. If for wilful transgression with warning, stripes only are inflicted (and no offering is brought); and in the case of oath of testimony an offering is brought, why is the oath of deposit said to be severer than the oath of testimony?

(10) Supra 34b.

(11) R. Kahana's question cannot be solved from this Baraitha, for it may be voicing the view of R. Simeon; but according to the Sages it is possible that for wilful transgression of oath of deposit, with warning, an offering is also brought.

(12) We cannot in any way deduce anything from it; and there is no need to say it is in accordance with R. Simeon's view.

(13) Since in the case of oath of testimony, too, only an offering is brought for both wilful and unwitting transgression.

(14) In the case of oath of testimony.

(15) Small Persian coin, one sixth of denar.

(16) That he brings an offering, and does not suffer stripes; and thus solve R. Kahana's question.

(17) Therefore he does not suffer stripes.

(18) [MS.M. rightly omits.]
(19) If he swore falsely really by mistake.
(20) And we may solve R. Kahana's question that even when warned he brings only all offering.
(21) The actual reference is not known (Rashi), yet this does not affect the argument; but see R. Han. and Tosaf.
(22) For wilfully making himself unclean; Num. VI, 6 ff. Therefore his case is stricter.
(23) Hence, R. Kahana's question is solved, that the transgressor of the oath of deposit, after warning, does not receive stripes, but brings an offering.
(24) Stripes alone are insufficient; he must bring an offering also.
(25) And brings no offering.
(26) Num. VI, 12: and he shall bring a lamb of the first year for a guilt offering.
(27) And not as an atonement for sin.
(28) The scholars mentioned above who studied the tractate of Shebu'oth in the School of Rabbah told Rabbah of R. Kahana's question.
(29) Because R. Kahana asks only the ruling in the case where he was warned, he is apparently satisfied that, when not warned, he brings an offering, although the witnesses may know that he has the deposit.
(30) An offering.
(31) For his denial can achieve nothing, since there are witnesses who know he has the deposit.
(32) Rabbah's question.
(33) From an offering.
(34) Lev. V, 22.
(35) Who has a share in this deposit; when the deposit is claimed by one brother or partner, he admits it, and when it is claimed by another, he denies it; he is not, in such a case, liable to bring an offering for his false oath, because Scripture says: and denieth it, i.e., completely.
(36) Since his denial can achieve nothing, he does not bring an offering for his oath. This supports Rabbah.
(37) He does not deny that he owes the money; he merely denies that there were witnesses or that he gave a bond. Therefore, he does not bring an offering for his oath, because his denial is of no material consequence, but he who denies a money claim though there are witnesses would be liable to an offering.
(38) The amount owing to the one brother.
(39) He should be liable to bring an offering for denying the other half on oath.
(40) The whole amount.
(41) And not of money; therefore he is not liable for an offering.
(42) Mnemonic of the teachings that follow.
(43) Yet he is liable to bring an offering. This is opposed to Rabbah's view that where there is denial of money for which there are witnesses, he does not bring an offering.
(44) And there are no witnesses.
(45) Supra 31b.
(46) And the claim now depends entirely on the evidence of the second set.

Talmud - Mas. Shevu'oth 37b

The second set are still available![1] — Rabina said: Here we are discussing [a case] where the second set, at the time of the denial of the first set, were related through their wives, and their wives were dying; you might have thought that [because we say] the majority of dying people actually die [the second set are reckoned eligible witnesses];[2] therefore he teaches us [that they are not, because] as yet the wives are alive and not dead.[3]

Come and hear: If the trustee[4] pleaded the plea of theft in the case of a deposit,[5] and swore, then confessed, and witnesses came — if before the witnesses came he confessed, he pays the principal, the fifth, and brings a guilt offering;[6] if after the witnesses came he confessed, he pays double,[7] and brings a guilt offering![8] — Here also, as Rabina said.[9]

Rabina said to R. Ashi: Come and hear: The oath of deposit is more severe than it,[10] for one is liable for its wilful transgression, stripes, and for its unwitting transgression, a guilt offering of [the value of] two silver shekels. Now, since he says he receives stripes, it follows that there are witnesses; and yet he says, for its unwitting transgression a guilt offering of [the value of] two silver shekels.[11] — R. Mordecai said to them:[12] Away with this [Baraitha]; for, lo. R. Kahana said to them: I learnt it, and thus I learnt it: Both for its wilful and unwitting transgression [the penalty is] a guilt offering of [the value of] two silver shekels.[13]

Come and hear: No! If you say in the case of a nazirite who had become unclean [that such and such is the case], it is because he receives stripes, but how can you say in the case of an oath of deposit [that such and such is the case] since its transgressor does not receive stripes![14] — Now, how is this? If there are no witnesses, why does he receive stripes? Obviously, therefore, there are witnesses; and yet he states: ‘How can you say in the case of an oath of deposit [that such and such is the case] since its transgressor does not receive stripes?’ — stripes he does not receive, but an offering he brings! Verily, a refutation of Rabbah's view![15] It is a refutation!

R. Johanan said: He who denies [on oath] money for which there are witnesses, is liable;[16] for which there is a bond, is exempt. R. Papa said: What is R. Johanan's reason? Because witnesses are likely to die,[17] but the bond remains.[18] Said R. Huna the son of R. Joshua to R. Papa: But a bond, too, is likely to be lost! — However, said R. Huna the son of R. Joshua: This is R. Johanan's reason: A bond is a hypothecary pledge of lands,[19] and an offering is not brought for a denial of a hypothecary pledge of lands.

It was stated: He who adjures witnesses for land,[20] — R. Johanan and R. Eleazar disagree: one says they are liable,[21] and the other says they are exempt. It may be concluded that it is R. Johanan who says they are exempt, for R. Johanan said: He who denies money for which there are witnesses is liable; for which there is a bond, is exempt; and as R. Huna the son of R. Joshua [explained it].[22] It is conclusive.

R. Jeremiah said to R. Abbahu: Shall we say that R. Johanan and R. Eleazar disagree on the same principle on which R. Eliezer and the Rabbis [disagree]? For we learnt: He who robs a field from his neighbour and a river flooded it, must restore a field to him: this is the opinion of R. Eliezer; but the Sages say: He may say to him, ‘Lo, thine own is before thee.’[23] And we said: On what do they disagree? R. Eliezer expounds ‘amplifications and limitations,’ and the Rabbis [Sages] expound ‘generalisations and specifications.’[24] R. Eliezer expounds ‘amplifications and limitations’: and lie unto his neighbour[25] — this amplifies;[26] in deposit or loan — this limits; or any thing about which he hath sworn[27] — this again amplifies; since it amplifies, limits, and amplifies, it includes all. What does it include? It includes all things: and what does it exclude? It excludes bonds.[28] And the Rabbis expound ‘generalisations and specifications’: and lie unto his neighbour — this generalises; in deposit or loan or robbery — this specifies; or any thing about which he hath sworn — this again generalises; since it generalises, specifies, and generalises, you may include only that which is similar to the specification: just as the specification is clearly movable and intrinsically money, so everything which is movable and intrinsically money [may be included], but exclude lands,[29] which are not movable, and exclude slaves, which have been likened to lands, and exclude bonds, which, though they are movable, are not intrinsically money. — [Now, shall we say that] he who makes them liable agrees with R. Eliezer,[30] and he who exempts them agrees with the Rabbis?[31] — He said to him:[32] No! He who makes them liable agrees with R. Eliezer; but he who exempts them, may tell you that in this even R. Eliezer agrees,[33] for Scripture say's, ‘of all’, and not, ‘all’.[34]

R. Papa said in the name of Raba: Our Mishnah too is evidence,[35] for it states: ‘THOU HAST STOLEN MY OX,’ AND THE OTHER SAYS, ‘I HAVE NOT STOLEN IT.’ — ‘I ADJURE THEE,’ AND HE RESPONDS, ‘AMEN!’ HE IS LIABLE. — Now, ‘Thou hast stolen my slave’ it does not state. What is the reason? is it not because a slave is likened to land, and an offering is not brought for a denial of a hypothecary pledge of lands? — Said R. Pappi in the name of Raba: Say the final clause: THIS IS THE PRINCIPLE: WHENEVER HE PAYS ON HIS OWN ADMISSION, HE IS LIABLE; AND WHEN HE DOES NOT PAY ON HIS OWN ADMISSION, HE IS EXEMPT. — This is the principle: What does this include?[36] Does it not include [the case where he claims], ‘Thou hast stolen my slave’?[37]

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(1) And the claim can be upheld by them. Since we say, however, that the first set are also liable (though their denial has not harmed the claimant), we may deduce that a denial of money for which there are witnesses (in this case, the second set), though it is ineffective, is still deemed a denial; and the transgressor is liable. This is opposed to Rabbah's view.

(2) And the first set should therefore be exempt, because there are other witnesses; v. supra 33a.

(3) And the first set are therefore liable.

(4) Lit., ‘owner of a house’.

(5) That it had been stolen from him; he is not responsible for theft, because he is an unpaid bailee, שומר חנם.

(6) Lev. V, 24, 25.

(7) As if he had been the thief himself, but he pays no fifth; v. B.K. 63b.

(8) Though there are witnesses; this is opposed to Rabbah's view.

(9) At the time the trustee swore the oath the witnesses were related through their wives, and, therefore, being ineligible, are counted as non-existent; he therefore brings an offering.

(10) Oath of testimony.

(11) Hence, a guilt offering is brought even when there are witnesses.

(12) [Read with MS.M.: ‘He said to him.’]

(13) Since stripes are not mentioned, wilful transgression need not imply the presence of witnesses; so that we cannot, from this Baraitha, refute Rabbah's view.

(14) V. supra p. 219.

(15) For Rabbah holds he who denies money where there are witnesses does oat bring an offering for his false oath.

(16) An offering.

(17) And since his denial would be effective if they died, he brings a guilt offering for his false oath.

(18) His denial is therefore always ineffective.

(19) Where there is a signed document of indebtedness, the lands of the debtor are security for the debt.

(20) To bear testimony for him in a claim for land.

(21) To bring a sliding scale sacrifice for denying testimony on oath.

(22) That the reason for exemption in the case of a bond is that the lands of the debtor are security for the debt; and no offering is brought for a denial on oath in such a case.

(23) They hold that land cannot be stolen, i.e., though he dispossesses the owner forcibly, it is still counted as the owner's property.

(24) For full exposition v. supra 4b; and B.K. (Sonc. ed.) p. 703.

(25) Lev. V, 21.

(26) I.e it includes anything about which he may lie.

(27) Lev. V, 24.

(28) Which are most dissimilar to the examples (‘limitations’) given by Scripture: but it does not exclude land. R. Eliezer therefore holds that he who robs a field, which was later flooded, must recompense the owner.

(29) The Rabbis thus hold that land cannot be stolen.

(30) R. Eleazar, as is concluded above, holds that witnesses who, adjured to bear witness to a land claim, deny testimony on oath, are liable to bring an offering. He will therefore agree with R. Eliezer who holds that land may be stolen and is in the same category as other goods.

(31) R. Johanan who exempts the witnesses will agree with the Rabbis that land cannot be stolen.

(32) R. Abbahu said to R. Jeremiah.

(33) Though he holds that land is included in the category of things that may be stolen, and must be returned in the state it was at the time of the robbery (or the owner recompensed), he agrees that there is no liability to bring an offering for a false oath in a land claim, for with reference to oath Scripture says: of all things about which he hath sworn falsely . . . he hall bring his guilt offering; this implies that an offering is not brought for all things, but of all things: of excludes something, i.e., land, because land is (after bonds) least similar to the particulars mentioned by Scripture.

(34) Lev. V, 24: מכל אשר ישבע.

(35) In support of R. Johanan that there is no liability to bring an offering for an oath in respect of a land claim.

(36) The principle is obvious from the previous examples; the Mishnah, in stating this clause, therefore wishes us to infer something additional.

(37) For here also the thief pays on his own admission; hence, in his case too, he is liable to bring an offering for a false oath.

Talmud - Mas. Shevu'oth 38a

Hence, then, from this it is not possible to deduce.[1]

THE OATH OF DEPOSIT-HOW? ‘GIVE ME THE DEPOSIT WHICH I HAVE IN THY POSSESSION,’ etc.

Our Rabbis taught: For a general statement he is liable only once; for a particular he is liable for each one:[2] this is the opinion of R. Meir. R. Judah says: ‘I swear I do not owe thee, and not thee, and not thee,’ he is liable for each one.[3] R. Eliezer says: ‘I do not owe thee, and not thee, and not thee, l swear it,’ he is liable for each one. R. Simeon says: [He is not liable for each one] unless he says, ‘I swear’ to each one.

Rab Judah said that Samuel said: The general statement of R. Meir is the particular of R. Judah, and the general statement of R. Judah is the particular of R. Meir.[4] And R. Johanan said: All agree that ‘and not thee’ is a particular; they disagree only in ‘not thee,’ R. Meir holding it is a particular, and R. Judah holding it is a general; and what is the general statement according to R. Meir? ‘I swear that you have not in my possession ...’[5] In what do they[6] disagree? — Samuel argues from the Baraitha, and R. Johanan argues from our Mishnah. ‘Samuel argues from the Baraitha’: Since R. Judah says ‘and not thee’ is a particular, we infer that he heard R Meir say it is a general, and therefore R. Judah [disagrees and] says to him it is a particular. And R. Johanan says: Both[7] are, according to R. Meir, particulars; and R. Judah said to him: In ‘and not thee’ I agree with you,[8] but in ‘not thee’ I disagree with you. But Samuel says: [If so,] why mention that in which he agrees with him; let him mention that in which he disagrees with him.[9] ‘And R. Johanan argues from our Mishnah’: Since R. Meir says:[10] ‘I swear you [plural] have not in my possession ...’ is a general statement, we infer that ‘and not thee’ is a particular, for if it enters your mind to say that ‘and not thee’ is a general statement, why does he teach us ‘I swear I do not owe you,’[11] let him teach us, ‘I swear I do not owe thee, and not thee, and not thee,’ and it would be obvious that ‘I swear I do not owe you’ [is a general statement]. — And Samuel says, if he says, ‘and not thee,’ it is as if he says, ‘I swear I do not owe you.’[12]

We learnt: NOT THEE, AND NOT THEE, AND NOT THEE.[13] — Read in the Mishnah: ‘not thee’.[14]

Come and hear: GIVE ME THE DEPOSIT, AND LOAN, AND THEFT, AND LOST OBJECT.[15] Read: ‘loan, theft, lost object.’ Come and hear: GIVE ME THE WHEAT, AND BARLEY, AND SPELT. — Read: ‘barley, spelt.’ — But does the Tanna go on so frequently blundering?[16] — Well then, it is the view of Rabbi,[17] who says: There is no difference between ‘Ka-zayith, ka-zayith’ and ‘ka-zayith and ka-zayith’: both are particulars.[18]

Come and hear — from his own view:[19] R. MEIR SAYS, [EVEN IF HE SAID:] ‘A GRAIN OF WHEAT, AND BARLEY, AND SPELT,’ HE IS LIABLE FOR EACH ONE.[20] — Read: ‘A grain of wheat, a grain of barley, a grain of spelt.’ — What is the force of EVEN?[21] R. Aha the son of R. Ika said: Even a grain of wheat is included in wheat, and a grain of barley is included in barley, and a grain of spelt is included in spelt.[22]

‘GIVE ME THE DEPOSIT, LOAN, THEFT, AND LOST OBJECT WHICH I HAVE IN THY POSSESSION,’ etc.

‘Give me the wheat and barley.’ R. Johanan said: If there is a perutah[23] [in the value] of all of them together, they combine.[24] — R. Aha and Rabina disagree. One says: For the particulars he is liable, but for the general statements he is not liable;[25] and the other says: For the general statements he is also liable.[26] But did not R. Hiyya teach: Behold, there are here fifteen sin-offerings;[27] and if it is [as you say], there are twenty. — This Tanna[28] is counting the particulars, and is not counting the general statements.[29] And behold, R. Hiyya taught: There are here twenty sin-offerings.[30] — [No!] that refers to deposit, loan, theft, and lost object.[31]

Raba inquired of R. Nahman: If five claimed from him, saying to him: ‘Give us the deposit, loan, theft, and lost object which we have in thy possession,’ and he said to one of them: ‘I swear that thou hast not in my possession a deposit, loan, theft, and lost object; and thou hast not, and thou hast not, and thou hast not, and thou hast not;’ what is the ruling? For one is he liable,[32]

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(1) Support for R. Johanan: the Mishnah may, or may not, agree with him.

(2) If he denies on oath the claim of several people in one general statement, ‘I swear I owe you all nothing,’ he is liable only for one oath; but, if he particularises, and says. ‘I swear I do not owe you, nor you, nor you,’ he is liable for each one; v. Mishnah, supra 36b.

(3) The difference between R. Meir and R. Judah is explained below.

(4) Because R. Judah says, ‘I swear I do not owe thee and not thee’ is counted a particular, he must have heard R. Meir say that it is a general statement (because of the connecting and), equivalent to ‘I do not owe all of you.’ R. Meir's particular must therefore be, ‘I do not owe thee, not thee, not thee’ (without and) — turning to each claimant, and addressing him separately. This expression, ‘not thee, not thee,’ R. Judah counts as a general statement, for he states that ‘and not thee’ is a particular.

(5) I.e., ‘I swear I do not owe you’ (plural).

(6) Samuel and R. Johanan, in their interpretation of the views of R. Meir and R. Judah.

(7) ‘Not thee’ and ‘and not thee’.

(8) That it is a particular.

(9) When stating his view in the Baraitha, R. Judah should say, ‘not thee’ is a general (in which he disagrees with R. Meir, who holds it is a particular); and not ‘and not thee’ is a particular (with which R. Meir agrees).

(10) The author of an anonymous statement in the Mishnah is generally R. Meir.

(11) Is a general statement.

(12) They are both equal, and one is not more obvious than the other.

(13) He is liable far each one, supra Mishnah 36b; the author of the anonymous statement in the Mishnah being R. Meir (v. note 6), it proves that R. Meir holds that ‘and not thee’ is a particular; which is a refutation of Samuel's interpretation of his opinion.

(14) Without and.

(15) And he replies, ‘I swear I have not in my possession the deposit, and loan, and theft, and lost object,’ he is liable for each one. Hence the enumeration of the objects with the connecting word and makes the statement a particular. This again is an argument against Samuel.

(16) The Tanna inserts and, and you say it must be omitted in all these instances; a Tanna is always very careful and exact.

(17) The anonymous statements in our Mishnah, which imply that and denotes a particular, are not the view of R. Meir (according to Samuel), but of Rabbi.

(18) If one kills a sacrifice, and intends to eat a ka-zayith (a piece the size of an olive) of it later than the time allotted for its consumption, or outside the place fixed for its consumption (v. Zeb., Mishnah, Chap. V), it is, in the first case, piggul (an abomination), v. Lev. VII, 18, (for which kareth (v. Glos.) is inflicted), and in the second case, merely ritually unfit (v. Zeb., 29b). If one has the intention: ‘I shall eat a ka-zayith outside the time limit, a ka-zayith outside the place,’ or, ‘I shall eat a ka-zayith outside the time limit, and a ka-zayith outside the place,’ it is the same, according to Rabbi, the first thought ('ka-zayith outside the time') being in either case counted as the main thought, and the sacrifice is therefore piggul, and kareth inflicted; Zeb. 30b. Hence, Rabbi holds that whether and is inserted or omitted, the thoughts are separate, and in our Mishnah also he will hold that and separates the persons (or objects); and the statement is therefore particular, and not general.

(19) An argument against Samuel's interpretation of R. Meir's view from R. Meir's own clearly expressed opinion.

(20) Hence, and separates the items, and makes each one a particular.

(21) R. Meir says: Even if he said, 'Give me the grain of wheat . . .'

(22) Even if the claimant said, 'grain of wheat,' and the bailee said, 'wheat,' or vice versa, it matters not: they are the same; and the bailee is denying on oath exactly what the other is claiming.

(23) A small coin (v. Glos.).

(24) If the wheat, barley and spelt are together worth only one perutah they combine, and the bailee is liable to an offering for denying on oath that he has them in his possession; for less than a perutah there is no liability.

(25) When the bailee says, 'I swear thou hast not in my possession wheat, barley, or spelt,' he is liable for each one' i.e., three offerings (for the three particulars), but not four: we do not say that his first words ('I swear thou hast not in my possession') are themselves also an oath, meaning, 'I swear thou hast not anything in my possession.' R. Johanan's statement (that the wheat, barley and spelt combine to make up the value of a perutah) does not refer to this clause, because he is liable for three separate oaths, and there must be a perutah in each. R. Johanan's statement refers to the first clause: 'I swear thou hast not these in my possession,' he is liable only once; and in this case R. Johanan says: The wheat, barley and spelt combine to the value of a perutah.

(26) And he is liable for four oaths: for the three particulars, and for his opening words, which are counted as a general oath. R. Johanan's statement will hence refer to this clause too; and the wheat, barley and spelt combine to the value of a perutah to make him liable at least for one oath, the general oath; though not for the other three, if there is not a perutah in each.

(27) If five persons claimed, each one claiming wheat, barley, and spelt, and he denied on oath the claim of each one, he is liable to bring 15 sin-offerings (more correctly, guilt-offerings). Hence, since R. Hiyya said 15 offerings, he is counting the particulars only, for if he counted the general statements also, there would be 4 offerings for each of the 5 claimants, i.e., 20 offerings.

(28) R. Hiyya.

(29) Though he may agree that altogether he has to bring 20 offerings.

(30) So he really agrees that for the general statements he also brings offerings.

(31) Where there are 4 particulars, i.e., 20 for the 5 claimants; but he really does not reckon the general statements.

(32) For each of the 4 claimants, apart from the first, is he liable to only one offering, because he did not mention all the particulars to each claimant; and, therefore, he will be liable to 4 offerings for the 4 claimants, and another 4 for the first claimant (because in his case he mentioned the 4 particulars), i.e. 8 offerings in all.

Talmud - Mas. Shevu'oth 38b

or is he liable for each one?[1] — Come and hear: R. Hiyya taught: Behold, there are here twenty sin offerings. How is this? If he expressed fully,[2] [it is obvious;] does R. Hiyya come to tell us the number?[3] Obviously therefore, he did not express fully;[4] hence, we deduce from this that they are particulars.[5]

'THOU HAST VIOLATED OR SEDUCED MY DAUGHTER,' etc. R. Hiyya b. Abba said that R. Johanan said: What is R. Simeon's reason?[6] Because mainly it is the fine that he is claiming.[7] Said Raba: In illustration of R. Simeon's view, to what may it be compared? To a man who said to his neighbour, 'Give me the wheat, barley, and spelt that I have in thy possession,' and he replied to him, 'I swear that thou hast not in my possession wheat,' and it was found that wheat he really did not have, but barley and spelt he had; he is exempt, for when he swore about the wheat, he swore the truth.[8] Said Abaye to him: How can they be compared? There he denies the wheat, but does not deny the barley and spelt,[9] but here, he denies the whole thing![10] But this then is to be compared only to one who says to his neighbour, 'Give me the wheat, barley and spelt which I have in thy possession,' [and the other replies,] 'I swear that thou hast not anything in my possession,' and it was found that wheat he really did not have, but barley and spelt he had; he is liable![11] — But when Rabin came [from Palestine] he said in the name of R. Johanan: According to R. Simeon, he is claiming the fine, and not for shame and blemish; according to the Sages, he is claiming also for shame and blemish. In what do they disagree? — R. Papa said: R. Simeon holds, a man does not leave that which is fixed[12] to claim that which is not fixed;[13] and the Rabbis hold, he does not leave that which, if he were to admit it, he would not be exempt,[14] to claim that which, if he were to admit it, he would be exempt.[15]

CHAPTER VI

MISHNAH. THE OATH OF THE JUDGES[16] [IS IMPOSED WHEN] THE CLAIM IS [AT LEAST] TWO SILVER COINS,[17] AND THE ADMISSION THE EQUIVALENT OF A PERUTAH.[18] AND IF THE ADMISSION IS NOT OF THE SAME KIND AS THE CLAIM,[19] HE IS EXEMPT.[20] HOW? — ‘TWO SILVER MA'AHS[21] OF MINE HAVE YOU IN YOUR POSSESSION,’ [AND THE OTHER REPLIES,] ‘I HAVE NOT IN MY POSSESSION OF YOURS EXCEPT A PERUTAH,’[22] HE IS EXEMPT.[23] — ‘TWO SILVER MA'AHS OF MINE AND A PERUTAH HAVE YOU IN YOUR POSSESSION,’ [AND THE OTHER REPLIES,] ‘I HAVE NOT IN MY POSSESSION OF YOURS EXCEPT A PERUTAH,’ HE IS LIABLE.[24] — ‘YOU HAVE OF MINE A HUNDRED DENARII.’ — ‘I HAVE NOT OF YOURS,’ HE IS EXEMPT.[25] — ‘YOU HAVE OF MINE A HUNDRED DENARII.’- ‘I HAVE OF YOURS ONLY FIFTY DENARII,’ HE IS LIABLE. — ‘YOU HAVE OF MY FATHER'S A HUNDRED DENARII.’[26] — ‘I HAVE OF HIS ONLY FIFTY DENARII.’ HE IS EXEMPT, BECAUSE IT IS AS IF HE RESTORES A LOST OBJECT.[27] ‘YOU HAVE OF MINE A HUNDRED DENARII.’ HE SAID TO HIM,[28] ‘YES.’ ON THE MORROW HE SAID TO HIM, ‘GIVE THEM TO ME;’ [AND HE REPLIED,] ‘I HAVE GIVEN THEM TO YOU,’ HE IS EXEMPT. [IF HE SAYS,] ‘I HAVE NOT OF YOURS IN MY POSSESSION,’ HE IS LIABLE.[29] — ‘YOU HAVE OF MINE A HUNDRED DENARII.’ HE SAID TO HIM, ‘YES. — GIVE THEM NOT TO ME EXCEPT BEFORE WITNESSES.’ ON THE MORROW HE SAID TO HIM, ‘GIVE THEM TO ME;’ [AND HE REPLIED,] ‘I HAVE GIVEN THEM TO YOU,’ HE IS LIABLE, BECAUSE HE SHOULD HAVE GIVEN THEM TO HIM BEFORE WITNESSES. — ‘YOU HAVE OF MINE A LITRA[30] OF GOLD.’ — ‘I HAVE OF YOURS ONLY A LITRA OF SILVER,’ HE IS EXEMPT.[31] — ‘YOU HAVE OF MINE A GOLDEN DENAR.’[32] — ‘I HAVE OF YOURS ONLY A SILVER DENAR, OR A TRESIS,[33] OR A PUNDION, OR A PERUTAH’; HE IS LIABLE, FOR ALL ARE ONE KIND OF COINAGE.[34] — ‘YOU HAVE OF MINE A KOR[35] OF GRAIN.’ — ‘I HAVE OF YOURS ONLY A LETHEK OF BEANS;’ HE IS EXEMPT; ‘YOU HAVE OF MINE A KOR OF PRODUCE.’ — ‘I HAVE OF YOURS ONLY A LETHEK OF BEANS;’ HE IS LIABLE, FOR BEANS ARE INCLUDED IN PRODUCE. IF HE CLAIMED FROM HIM WHEAT, AND THE OTHER ADMITTED BARLEY, HE IS EXEMPT; BUT R. GAMALIEL MAKES HIM LIABLE.[36] IF HE CLAIMS FROM HIS NEIGHBOUR JARS OF OIL, AND HE ADMITS [HIS CLAIM TO THE EMPTY] JARS, ADMON SAYS, SINCE HE ADMITS TO HIM A PORTION OF THE SAME KIND AS THE CLAIM, HE MUST SWEAR. BUT THE SAGES SAY, THE ADMISSION IS NOT OF THE SAME KIND AS THE CLAIM.[37] R. GAMALIEL SAID, I APPROVE THE WORDS OF ADMON. IF HE CLAIMS FROM HIM VESSELS AND LANDS, AND HE ADMITS THE VESSELS, BUT DENIES THE LANDS; OR ADMITS THE LANDS, BUT DENIES THE VESSELS, HE IS EXEMPT.[38] IF HE ADMITS A PORTION OF THE LANDS, HE IS EXEMPT; A PORTION OF THE VESSELS, HE IS LIABLE;[39] BECAUSE PROPERTIES FOR WHICH THERE IS NO SECURITY[40] BIND PROPERTIES FOR WHICH THERE IS SECURITY[41] TO TAKE AN OATH FOR THEM. NO OATH IS IMPOSED IN A CLAIM BY A DEAF-MUTE, IMBECILE, OR MINOR. AND NO OATH IS IMPOSED ON A MINOR; BUT AN OATH IS IMPOSED WHEN A CLAIM IS LODGED AGAINST A MINOR, OR AGAINST THE TEMPLE.[42]

GEMARA. How do we impose the oath on him? — Rab Judah said that Rab said: We adjure him with the oath that is stated in the Torah, as it is written, And I will make thee swear by the Lord, the

God of heaven.[43] Said Rabina to R. Ashi: In accordance with whose view [is this]? In accordance with the view of R. Hanina b. Idi, who says we require the Distinguishing Name![44] — He said to him: You may even say it is in accordance with the view of the Rabbis, who say [he may be adjured] with a Substitute [for the Name];[45] but the outcome is that he must hold something [sacred] in his hand;[46] and as Raba said, for Raba said: A judge who adjures by 'the Lord God of heaven' [without handing a sacred object to the person taking the oath] is counted as having erred in the ruling of a Mishnah,[47] and must repeat [the ceremony correctly].[48] And R. Papa said: A judge who adjures with tefillin[49] is counted as having erred in the ruling of a Mishnah, and must repeat [the ceremony].[50] The law is in accordance with the view of Raba,[51] and the law is not in accordance with the view of R. Papa.[52] The law is in accordance with the view of Raba, for he did not hold any [sacred] object in his hand; but the law is not in accordance with the view of R. Papa, for he held a [sacred] object in his hand.

The oath [must be taken] standing; a disciple of the wise [may take it] sitting. The oath must be administered with a Sefer Torah,[53] a disciple of the wise may directly take it with tefillin.[54]

Our Sages taught: [As to] the oath of the judges — it also may be said in any language. They say to him: Know

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(1) Of the particulars in the case of each of the claimants, i.e., 20 in all.

(2) To each claimant: 'And thou hast not in my possession a deposit, loan, theft, and lost object,' repeating all the particulars to each claimant.

(3) We can count ourselves.

(4) But as in Raba's enquiry.

(5) Though he does not express them fully to each claimant, we assume that when he says, 'and thou hast not in my possession,' he refers to the particulars already enumerated to the first claimant; and therefore he is liable to 20 offerings.

(6) For exempting him from an offering.

(7) 50 shekels; Deut. XXII, 29; and for denying a fine on oath he is not liable; and though for seduction there is also liability for 'shame and blemish' (which are ממון), the father of the girl is concerned mainly with obtaining the 50 shekels.

(8) Here also, since the father is claiming mainly the fine, the seducer in denying seduction on oath, is denying mainly the fine; and for denying a fine, he is not liable for an offering.

(9) And he swore the truth.

(10) For since he denies seduction, he is ipso facto denying liability also for shame and blemish, which are ממון.

(11) For he denied barley and spelt; here also, R. Simeon should make him liable, for he denied shame and blemish.

(12) The fine.

(13) Shame and blemish, which have to be estimated according to the individual.

(14) Shame and blemish, which are ממון.

(15) The fine.

(16) An oath is imposed by the judges on a debtor who admits a portion of the claim, denying the rest.

(17) Two ma'ahs; a ma'ah was the smallest silver coin (about 2 d.).

(18) The smallest copper coin, 1/32 of a ma'ah (8 perutahs = 1 isar, 2 isars = 1 pundion, 2 pundions = 1 ma'ah); hence a perutah = about 1/16 d.

(19) The debtor admits something else, which the creditor is not claiming.

(20) From an oath.

(21) Not the coins, but their weight in silver.

(22) Its weight in copper.

(23) Because the creditor claims silver, and the debtor admits copper. If, however, the claim was a silver coin, and the admission a copper coin, he is liable; for they are both coins.

(24) Because he admits a portion of the claim.

(25) Because there is no admission of a portion.

(26) I.e., 'l believe you have, but I am not sure'; v. infra 42b.

(27) For he could have denied it all, since the son who claims is himself doubtful.
(28) In the presence of witnesses (Rashi, 42a).
(29) To pay, and is not believed on oath, for he is already proved to be a liar, having the previous day admitted before witnesses his liability.
(30) A certain weight.
(31) Because the admission is not of the same kind as the claim.
(32) Equals 25 silver denarii; 1 silver denar = 6 ma'ahs.
(33) Read טריסים, = 3 isars; v. p. 232, n. 3.
(34) The claim is a coin, and the admission is a coin.
(35) 1 kor = 2 lethek; measure of capacity.
(36) He does not require the admission to be of the same kind as the claim.
(37) Since he claims both jars and oil, the admission must be a portion of both.
(38) From an oath; if he admits the vessels, but denies the land, there is no oath, for there is no oath in the case of land (infra 42b); if he admits the land, but denies the vessels, there is no oath, for there is no admission of a portion of the vessels; and since he denies all (כופר הכל) he is free from an oath.
(39) To swear for the vessels, and also for the lands, since an oath is imposed in any case because of the vessels.
(40) Movables.
(41) Land.
(42) V. infra 42b.
(43) Gen. XXIV,3.
(44) Tetragrammaton; supra p. 208, n. 16.
(45) Ibid.
(46) What Rab meant in saying he must be adjured by the oath stated in the Torah is not that the Name must be used, but that a Sefer Torah (Scroll of the Law) or Tefillin (phylacteries) must be held by the person taking the oath.
(47) Though it is not stated in the Mishnah, but is merely a law promulgated by Rab, it has the force of a mishnaic law; Sanh. 33a.
(48) And we do not say that the judge, having already administered the oath incorrectly, should suffer the consequences of his mistake, and pay the amount denied by the debtor on this incorrectly administered oath.
(49) Tefillin are not deemed as sacred as a Scroll of the Law.
(50) With a Scroll of the Law.
(51) That if he did not hold any sacred object when taking the oath, it must be repeated properly.
(52) That if he held tefillin it is not good enough.
(53) Though if it has already been administered with tefillin it is effective; but a Sefer Torah is required in the first instance לכתחלה.
(54) As a special consideration.

Talmud - Mas. Shevu'oth 39a

that the whole world trembled at the time when the Holy One, blessed be He, said at Sinai: Thou shalt not take the name of the Lord thy God in vain.[1] And with reference to all transgressions in the Torah it is said, holding guiltless;[2] but here it is said, Will not hold him guiltless.[3] And for all the transgressions in the Torah he [the sinner] alone is punished, but here he and his family; for it is said: Suffer not thy mouth[4] to bring thy flesh into guilt;[5] and ‘flesh’ means ‘near relative’, as it is said: And from thine own flesh thou shalt not hide thyself.[6] And for all the transgressions in the Torah he alone is punished, but here he and all the world; for it is said: Swearing and lying....[therefore doth the land mourn, and every one that dwelleth therein doth languish].[7] — But say, perhaps, only when he does them all![8] That cannot enter your mind, for it is written, Because of swearing the land mourneth;[9] and it is written, therefore doth the land mourn, and every one that dwelleth therein doth languish.[10] And with reference to all transgressions in the Torah, if he has merit, punishment is suspended for two or three generations, but here he is punished immediately, as it is said, I cause it to go forth, saith the Lord of hosts, and it shall enter into the house of the thief and into the house of him that sweareth falsely by My name; and it shall abide in the midst of his house, and shall consume it with the timber thereof and the stones thereof.[11] ‘I cause it to go forth’:[12] immediately; ‘and it shall enter into the house of the thief’: he who steals the mind[13] of people; [e.g.], there is no money owing to him by his fellow, but he claims from him, and causes him to swear; ‘and into the house of him that sweareth falsely by My name’: according to its plain meaning; ‘and it shall abide in the midst of his house, and shall consume it with the timber thereof and the stones thereof’: from this you learn, that things which neither fire nor water can destroy,[14] a false oath can destroy. If he says, ‘I shall not swear,’[15] he is dismissed immediately.[16] But if he said, ‘I shall swear,’ those who are standing there say to each other, ‘Depart, I pray you, from the tents of these wicked men, etc.’[17] And when they adjure him, they say to him: ‘Know that we do not adjure you according to your own mind, but according to the mind of the Omnipresent, and the mind of the Beth din;’[18] for thus we find in the case of Moses our teacher: When he adjured Israel,[19] he said to them: ‘Know that not according to your own minds do I adjure you, but according to the mind of the Omnipresent, and my mind;’ as it is said: Neither with you only [do I make this covenant and this oath].[20] But with him that standeth here with us:[21] hence we know only those who were standing by Mount Sinai [were adjured]; the coming generations, and proselytes who were later to be proselytised, how do we know [that they were adjured also then]? Because it is said, and also with him that is not here with us this day.[22] And from this we know only [that they were adjured for] the commandments which they received at Mount Sinai; how do we know [that they were adjured for] the commandments which were to be promulgated later, such as reading the Megillah?[23] Because it is said: They confirmed and accepted:[24] they confirmed what they had long ago accepted.[25]

What is the meaning of: it[26] also may be said in any language? — As we learnt: These may be recited in any language: The scriptural text of the Sotah,[27] confession when giving the tithe,[28] the Shema’,[29] Tefillah,[30] Grace after meals,[31] the oath of testimony, and the oath of deposit.[32] And now it says also, ‘The oath of the judges may also be said in any language.’

The Master said: They say to him, Know that the whole world trembled at the time when the Holy One blessed be He said, Thou shalt not take the name of the Lord thy God in vain. — What is the reason? Shall we say because it was given at Sinai? The Ten Commandments were also given there! Again, if because it is more serious?[33] — But is it more serious? Behold, has it not been taught: These are light: positive and negative [precepts], except, ‘Thou shalt not take [the name of the Lord thy God in vain];’ serious: [sins for the transgression of which] kareth and death at the hands of the Beth din [are inflicted], and ‘Thou shalt not take etc.’ is in this category.’[34] — Well then, because of the reason which he states: With reference to all transgressions in the Torah it is said ‘holding guiltless’, but here it is said, ‘will not hold guiltless’. And with reference to all transgressions in the Torah is it not said, ‘Will not hold guiltless’? Surely, it is written: and will by no means hold guiltless![35] That is required for R. Eleazar's deduction, for we learnt, R. Eleazar said: It is impossible to say, ‘holding guiltless’, for it is already said, ‘Will not hold guiltless’; it is impossible to say, ‘Will not hold guiltless’, for it is already said, ‘holding guiltless’. How [can they be reconciled]? He ‘holds guiltless’ those who repent, and ‘does not hold guiltless’ those who do not repent.[36]

‘For all transgressions in the Torah he alone is punished, but here he and his family.’ — And for all transgressions of the Torah is not his family punished? Lo, it is written, And I will set My face against that man, and against his family.[37] And it was taught: R. Simeon said: If he sinned, what sin did his family commit? But this shows you that there is not a family containing a tax-collector,[38] in which they are not all tax-collectors; or containing a robber, in which they are not all robbers;[39] because they protect him![40] — There [the family are punished] with another [lighter] punishment, but here with his own punishment; as was taught: Rabbi said: And I will cut him off.[41] Why is it said? Because it is said, And I will set My face [against that man, and against his family];[42] I might think the whole family shall be cut off, therefore it is said, ‘him’:[43] him will I cut off, but not the whole family shall I cut off.[44]

‘For all transgressions in the Torah he alone is punished, but here he and the whole world.’ — And for all transgressions of the Torah is not the whole world punished? Lo, it is written, And they shall stumble one upon another:[45] one because of the iniquity of the other; this teaches us that all Israel are sureties one for another![46]

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(1) Ex. XX, 7.

(2) Ibid. XXXIV, 7: Keeping mercy unto the thousandth generation, forgiving iniquity and transgression and sin, and holding guiltless. The text has ונקה לא ינקה, and will not hold guiltless; but Scripture of set purpose did not write simply לא ינקה, but wrote ונקה first to teach us that there are occasions when He holds guiltless the transgressors (when they repent).

(3) Ibid. XX, 7: The Lord will not hold him guiltless that taketh His name in vain. Here the text has simply לא ינקה, and not נקה. So serious is the sin of a false oath that even repentance and the Day of Atonement do not bring the sinner complete absolution, but he must suffer some punishment to expiate his sin; v. Maharsha.

(4) By swearing falsely.

(5) Eccl. V, 5.

(6) Isa. LVIII, 7.

(7) Hosea IV, 2, 3.

(8) The verse says also, ‘killing, and stealing, and committing adultery.’ If he does them all, then the whole world suffers, but not for swearing only!

(9) Jer. XXIII, 10.

(10) Hosea IV, 3; when the land mourns, every inhabitant languishes; and because of swearing the land mourns (Jer. XXIII, 20), therefore every inhabitant languishes because of swearing.

(11) Zech. V, 4.

(12) The curse (verse 3), i.e., punishment.

(13) I.e., deceives.

(14) I.e., ‘stones’.

(15) As a result of the judges’ homily on the seriousness of a false oath.

(16) From the court, and not given the opportunity to change his mind; and he mist pay the claim.

(17) Num. XVI, 26.

(18) V. supra 29a.

(19) To keep the commandments.

(20) Deut. XXIX, 13; i.e., not in accordance with your own minds.

(21) Ibid. 14.

(22) Ibid.

(23) Scroll of Esther on Purim.

(24) Est. IX, 27.

(25) I.e., at Mount Sinai; for acceptance of laws was at Mount Sinai. The deduction is made because acceptance must come before confirmation. [For the whole passage cf. Tosaf. Sot. 7.]

(26) The oath imposed by the judges. Why also? What else is there?

(27) A wife suspected of adultery. Cf. Num. V, 19-22; the priest should adjure her in the language which she understands.

(28) Deut. XXVI, 13-15.

(29) Ibid. VI, 4-9; XI, 13-21; Num. XV, 37-41, v. Glos.

(30) Lit., ‘prayer’, the Eighteen (Nineteen) Benedictions recited three times daily, v. P.B. pp. 44-54.

(31) V. P.B. pp. 280-285.

(32) Sot. 32a.

(33) Than any other sin.

(34) Hence ‘Thou shalt not take’ etc. is the same as, and not more serious than the sins for which the penalty is kareth or death.

(35) Ex. XXXIV, 7.

(36) The text, literally, is: ‘and holding guiltless, will not hold guiltless.’ R. Eleazar explains: ‘holding guiltless’ those who repent, ‘He will not hold guiltless’ those who do not repent. But a false oath is more serious than other transgressions in that Scripture writes, with reference to it, לא ינקה, He will not hold guiltless even those who repent; whereas, with reference to other transgressions, it writes, ונקה לא ינקה.

(37) Lev. XX, 5; for worshipping Molech.

(38) Tax-collectors were considered unscrupulous, often taking more than their due, v. Sanh. (Sonc. ed.), p. 148, n. 6.

(39) If there is a black sheep in a family, the other members are probably not much better.

(40) Hence, in the case of other transgressions, too, the whole family is punished; and not merely in the case of a false oath.

(41) Lev. XX, 3.

(42) Ibid.

(43) ‘I will cut him off.’

(44) They will suffer merely a minor punishment.

(45) Lev. XXVI, 37.

(46) Hence in the case of all transgressions the whole world (of Israel) is punished, because all Israelites are responsible for one another, and bound to prevent wrongdoing!

Talmud - Mas. Shevu'oth 39b

There [they are punished], because it was in their power to prevent [the sin], and they did not prevent it.[1]

What is the difference between the wicked of his[2] family and the wicked of the [rest of the] world; and between the righteous of his family and the righteous of the [rest of the] world? — He himself, in the case of other transgressions, is punished by his own [appropriate] punishment, and the wicked of his family, by a severe punishment, and the wicked of the [rest of the] world, by a light punishment; the righteous, both here[3] and there,[4] are free. In the case of a [false] oath, he and the wicked of his family are punished with his punishment, and the wicked of the [rest of the] world, with a severe punishment; and the righteous, both here and there, with a light punishment.[5] ‘If he says, l shall not swear, he is dismissed immediately; but if he said, I shall swear, those who are standing there say to each other: Depart, I pray you, from the tents of these wicked men.’ — Granted that he who swears is committing a wrong, but he who causes him to swear — why [should he be counted wicked]?[6] — As was taught: R. Simeon b. Tarfon said: The oath of the Lord shall be between them both,’[7] this teaches us that the oath rests on both.[8]

‘And when they adjure him, they say to him, Know that not in accordance with your own mind, etc.’ — Why should they say this to him? — Because of [the episode of] the cane of Raba.[9]

THE CLAIM [MUST BE AT LEAST] TWO MA'AHS.

Rab said: The denial [in regard to] the claim must be [at least] two ma'ahs;[10] and Samuel said: The claim itself must be [at least] two [ma'ahs]; even if he denied only a perutah, or admitted only a perutah, he is liable. Raba said: Our Mishnah is evidence in support of Rab, and there are Scriptural verses in support of Samuel. ‘Our Mishnah is evidence in support of Rab’ — for it states: THE CLAIM [MUST BE AT LEAST] TWO MA'AHS, AND THE ADMISSION [AT LEAST] THE VALUE OF A PERUTAH. But it does not state that the denial of the claim may be a perutah; and we learnt also: Admission must be [at least] a perutah;[11] but it does not state that the denial [must be at least] a perutah. ‘There are Scriptural verses in support of Samuel’ — for it is written: If a man give unto his neighbour silver or vessels to keep[12] — just as ‘vessels’ implies two,[13] so ‘silver’ implies two;[14] just as ‘silver’ is a thing of worth, so everything[15] which is of worth [is included]; and Scripture says, This is it.[16] — And Rab?[17] — That we require for admission of a portion of the claim.[18] And Samuel? — It is written, ‘it’, and it is written, ‘this’, [to teach us] that if he denied a portion, and admitted a portion, he is liable.[19] And Rab? — One [word is to teach us] that there must be admission of a portion of the claim, and one [word is to teach us] that there must be admission of the same kind as the claim.[20] And Samuel? — [He may retort:] Can you not incidentally infer that the amount of the claim is lessened?[21] — Well, then, Rab may tell you: 'Silver' when originally mentioned is with reference to the denial;[22] for, if it were not so, Scripture could have written: 'If a man give unto his neighbour vessels to keep'; and I would have said: Just as 'vessels' implies two, so everything must be two;[23] why did Scripture need to write 'silver'? Since it is not required for the claim, apply it for the denial.[24] And Samuel? — He may say to you: If Scripture had written 'vessels', and had not written 'silver', I might have said: Just as 'vessels' implies two, so everything must be two, but a thing of worth we do not require,[25] therefore it teaches us [that we do].

We learnt: 'TWO SILVER [MA'AHS] OF MINE YOU HAVE IN YOUR POSSESSION.' — 'I HAVE OF YOURS IN MY POSSESSION ONLY A PERUTAH,' HE IS EXEMPT. What is the reason? Is it not because the claim is now less [than two ma'ahs]? Hence it is a refutation of Samuel's view! — Samuel may tell you: Do you think the Mishnah means the value [of two ma'ahs]?[26] It means literally [two ma'ahs];[27] that which he claimed, the other did not admit to him; and that which he admitted to him, he had not claimed from him. If so, say the latter clause: 'TWO SILVER [MA'AHS] AND A PERUTAH OF MINE HAVE YOU IN YOUR POSSESSION.' 'I HAVE OF YOURS IN MY POSSESSION ONLY A PERUTAH,' HE IS LIABLE. Granted, if you say [the Mishnah means] the value [of two ma'ahs and a perutah], therefore he is liable,[28] but if you say [the Mishnah means it] literally, why is he liable? That which he claimed, the other did not admit to him, and that which he admitted to him, he had not claimed from him! — Is this not an argument against Samuel? But surely R. Nahman said that Samuel said: If he claimed from him wheat and barley, and he admitted to him one of them, he is liable.[29] This appears to be the more reasonable interpretation, for it states in a later clause: 'A LITRA OF GOLD OF MINE YOU HAVE IN YOUR POSSESSION.' — 'I HAVE OF YOURS IN MY POSSESSION ONLY A LITRA OF SILVER,' HE IS EXEMPT. Granted, if you say the Mishnah means them literally, therefore he is exempt;[30] but if you say it means their value,[31] why is he exempt? A litra is much![32] — Well then, since the latter clause is intended literally, the first clause is also intended literally; shall we say, then, that it will be a refutation of Rab's view![33] — [No!] Rab may tell you: The whole Mishnah deals with the value [of ma'ahs and perutah];[34] but [the case of] a litra of gold is different.[35]

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(1) [Whereas false swearing undermines the very foundations and structure of human society involving in a common destruction the wholly righteous as well as the wicked.]

(2) The sinner's.

(3) Of his family.

(4) Of the rest of the world.

(5) The whole passage deals with people who were able to prevent the sin, and did not; righteous people are those who are righteous in other respects, but passive in not preventing sin; and wicked people are those who are wicked in other respects. Hence, in the case of a false oath, the righteous, both of the family and others, are punished by a light punishment, because they were able to prevent it, and did not; but in the case of other transgressions they are free, though they were able to prevent them, because other transgressions are not as serious as a false oath; and they were, in any case, merely passive. According to this, the statement of the Talmud (top of 39b), that in the case of other transgressions they are punished if they were able to prevent the sin and did not (which implies, that in the case of an oath, they are punished even if they were not able to prevent it), is, in the sequel, not accepted. This explanation of the passage is opposed to that of Maharsha who explains 'righteous' as those unable to prevent the sin. In that case, why should they, in the case of an oath, be punished? They did not commit the sin, and they were unable to prevent its commission. The view of the Maharsha seems to conflict with one's sense of justice, [V. however p. 238, n. 5].

(6) For the bystanders say, these wicked men, i.e,, both.

(7) Ex. XXII. 10.

(8) The claimant also merits rebuke, for if he had been careful to arrange for witnesses to be present when giving the debtor the money, or to have a signed document, there would have been no need for an oath.

(9) V. supra 29a.

(10) Lit., 'silver (pieces)'. The amount he denies must be at least two ma'ahs, and since the admission must be at least a perutah, the total amount claimed must be at least two ma'ahs and a perutah.

(11) B.M. 55a: There are five cases where the minimum is a perutah; admission of a perutah is mentioned, but not denial. Hence this Mishnah and our Mishnah agree with Rab.

(12) Ex. XXII, 6.

(13) Two being the minimum of the plural ‘vessels’.

(14) So that the claim must be for at least two silver pieces, i.e., ma'ahs.

(15) [Var. lec., ‘vessels’, reading כלים for כל; v. Rashi and Tosaf.; cf. infra p. 247, n. 6.]

(16) Ex. XXII, 8: for any claim about which the debtor says, ‘I do not owe you the whole amount, but this is it’, i.e., ‘I admit owing you this portion only,’ he takes an oath. Hence, the admission may be part of the two ma'ahs (leaving less than two ma'ahs for denial). Scripture thus appears to support Samuel.

(17) Scripture is against him!

(18) Scripture writes ‘this is it’ to teach us that an oath is imposed only when a portion of the claim is admitted; but it does not necessarily refer to the claim of two ma'ahs mentioned in verse 6; there must always be a denial of two ma'ahs apart from the portion admitted.

(19) I.e., ‘it (a portion) I deny; this (a portion) I admit’. Hence, if the denial is only a perutah, he is liable.

(20) I.e., ‘it (a portion of the claim) I admit; this (of this very kind) I admit’.

(21) Assuming even, as you say, that the verse refers to admission only (that it must be a portion, and of the same kind), it is still obvious that the denial is less than two ma'ahs, for the only claim mentioned by Scripture (verse 6) is two ma'ahs, and of this, Scripture says (verse 8), he admits a portion — hence, he denies a portion (clearly less than two ma'ahs). Thus Scripture appears to be opposed to Rab's view.

(22) The word ‘silver’ (Ex. XXII, 6), which we say implies two ma'ahs, does not refer to the total claim, but to the denial.

(23) ‘Silver’ included; hence I would have known that two ma'ahs are the minimum for the claim.

(24) That the denial must be at least two ma'ahs.

(25) It is not necessary that the two things claimed shall be valuable (for silver is not mentioned), and even two perutahs suffice for a claim.

(26) One claimed goods to the value of two ma'ahs, and the other admitted goods (the same kind) to the value of a perutah? If this were the case, he would be liable, though the claim is now less than two ma'ahs.

(27) One claimed two ma'ahs (silver), and the other admitted a perutah (copper); he is exempt, because the admission is not of the same kind as the claim.

(28) For he admits a portion of the claim: the same kind of goods.

(29) Samuel counts this as being admission of the same kind as the claim; similarly, if he claimed two ma'ahs (silver) and a perutah (copper), and the other admitted a perutah (copper), he is liable.

(30) Because he claims gold, and the other admits silver.

(31) Goods to the value of a litra of gold, or silver.

(32) Sufficient for the minimum required for admission and denial.

(33) For the first clause states that if he claims two ma'ahs, and the other admits a perutah, he is exempt, because, presumably (taking the Mishnah literally) he claims silver, and the other admits copper; but if he claimed goods to the value of two ma'ahs, and the other admitted goods to the value of a perutah, he would be liable, though the claim was only originally two ma'ahs, and was, after the admission of a perutah, diminished from two ma'ahs.

(34) In the first clause he is therefore exempt, because, after the admission, the claim becomes less than two ma'ahs; and in the second clause, when the claim is two ma'ahs and a perutah, he is liable, because after the admission of a perutah, there is still denial of two ma'ahs.

(35) The Mishnah obviously intends this literally, for one claims a certain weight (not coins) of gold, and the other admits the same weight of silver; therefore he is exempt, because the admission is not of the same kind as the claim. If the Mishnah had said that one claimed a sum of money in gold, and the other admitted a sum of money in silver, we might have said, legitimately, that goods to the value of those sums were intended, and the man would have been liable; but since the Mishnah states the weight of the gold and silver, it means actually gold and silver; and therefore he is exempt.

Talmud - Mas. Shevu'oth 40a

Know [that this is so],[1] for it states in a later clause: ‘A GOLDEN DENAR OF MINE HAVE YOU IN YOUR POSSESSION.’ — ‘I HAVE OF YOURS IN MY POSSESSION ONLY A SILVER DENAR, OR A TRESIS, OR A PUNDION, OR A PERUTAH,’ HE IS LIABLE, FOR THEY ARE ALL ONE COINAGE.[2] Granted, if you say [the Mishnah deals with] values, therefore he is liable;[3] but if you say it means them literally, why is he liable?[4] — R. Eleazar said: [It means] he claimed from him a denar in coins; and he teaches us that a perutah is in the category of coin.[5] This also is evidence [that the Mishnah means this], for it states: FOR THEY ARE ALL ONE COINAGE. And Rab?[6] — All coins are subject to the same law.[7] Now, as to R. Eleazar: shall we say, that, since he expounds the latter clause in accordance with the view of Samuel,[8] he agrees in the first clause also with Samuel?[9] — No! The latter clause is definitely intended literally, for it states: FOR THEY ARE ALL ONE COINAGE; but the first clause may be either in accordance with the view of Rab[10] or Samuel.

Come and hear: ‘A golden denar coin of mine you have in your possession.’ — ‘I have of yours in my possession only a silver denar,’ he is liable. Now the reason [he is liable] is because he said to him ‘a golden coin,’[11] but if he had said simply [‘a golden denar’], he would have implied its value![12] — R. Ashi said: Thus it means: If he says, a golden denar, it is as if he said, a golden denar coin.[13] R. Hiyya taught in support of Rab: ‘A sela’ of mine you have in your possession.’ — ‘I have of yours in my possession only a sela’,[14] less two ma'ahs,’ he is liable; ‘less one ma'ah’, he is exempt.[15]

R. Nahman b. Isaac[16] said that Samuel said: They did not teach this[17] except in the case of a claim of a creditor and admission [of a portion] on the part of the debtor; but in the case of a claim of a creditor and the testimony of one witness, even if he claimed only a perutah, he is liable.[18] What is the reason? Because it is written, One witness shall not rise up against a man for any iniquity, or for any sin;[19] for any iniquity, or for any sin, he does not rise up, but he rises up for an oath; and it was taught: Wherever two [witnesses] make him liable for money, one witness makes him liable for an oath.

And R. Nahman said that Samuel said: If he claimed from him wheat and barley, and the other admitted one of them, he is liable .[20] Said R. Isaac to him: ‘Correct! And so said R. Johanan.’ Do we infer that Resh Lakish disagrees with him?[21] — Some say, he was waiting and was silent;[22] and some say, he was drinking and was silent.

Shall we say this supports him: IF HE CLAIMED FROM HIM WHEAT, AND THE OTHER ADMITTED BARLEY, HE IS EXEMPT; BUT R. GAMALIEL MAKES HIM LIABLE.[23] — The reason [he is exempt] is because he claimed from him wheat, and he admitted barley; but [if he claimed from him] wheat and barley, and he admitted one of them, he is liable![24] — No! The same rule applies: even [if he claimed] wheat and barley, [and the other admitted one,] he is also exempt; and why they disagree in the case of wheat is to show you the power of R. Gamaliel.[25]

Come and hear: IF HE CLAIMED FROM HIM VESSELS AND LANDS, AND HE ADMITTED THE VESSELS, AND DENIED THE LANDS; OR [ADMITTED] THE LANDS, AND DENIED THE VESSELS, HE IS EXEMPT;

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(1) That the rest of the Mishnah deals with values.

(2) [MS.M. rightly omits: FOR THEY ARE ALL ONE COINAGE.]

(3) For he claims goods to the value of a golden denar, and the other admits goods to the value of a silver denar, or less.

(4) He claims gold, and the other admits silver, or copper.

(5) We need not necessarily infer that the Mishnah deals with goods to the value of a golden denar or silver denar; it means actual coins; and it teaches us that though the claim is for a gold coin and the admission is a silver or copper coin, he is liable, because they are all coins (and the admission is therefore of the same kind as the claim), and that even a perutah (the value of which is very small) is still counted a coin.

(6) Who says the Mishnah means values, how will he explain the phrase, FOR THEY ARE ALL ONE COINAGE?

(7) The Mishnah means, all the coins (being the values of the goods claimed or admitted) are in the same category. Even the smallest (a perutah) is of sufficient value to be the amount of admission in a claim.

(8) That the Mishnah means actual coins.

(9) That if he claimed two ma'ahs (weight in silver), and the other admitted a perutah (weight in copper), he is exempt, because the admission is not of the same kind as the claim; but if he claimed goods to the value of two ma'ahs, and the other admitted goods to the value of a perutah, he would be liable, though the claim was only two ma'ahs (and not two ma'ahs and a perutah), and, after admission, was less than two ma'ahs.

(10) That the Mishnah means values, and he is exempt because the denial is less than two ma'ahs.

(11) Specifically mentioning ‘coin’; he is liable because the admission (a silver denar) is of the same kind (a coin) as the claim.

(12) Hence our Mishnah which states golden denar (not mentioning coin) means value, and since this clause in the Mishnah means value, the first clause also means value. Now, the first clause states that if one claims two ma'ahs (goods to that value), and the other admits a perutah (goods to that value), he is exempt — obviously, because the denial is less than two ma'ahs. This, therefore, supports Rab.

(13) The Baraitha does not mean that he actually said a golden denar coin, but simply golden denar; but this is equivalent to mentioning coin. The claim is a coin, and the admission a coin, therefore he is liable. Hence, we cannot deduce that if he said golden denar (without coin) he meant value, and obtain from this (via the Mishnah) support for Rab.

(14) Twenty-four ma'ahs.

(15) Because the denial must be at least two ma'ahs; which is the view of Rab.

(16) [MS.M. rightly omits ‘b. Isaac’; cf. the next dictum.]

(17) That the claim must be at least two ma'ahs to make the debtor liable for an oath, if he admits a portion and denies the rest.

(18) If the debtor denies the whole claim, and one witness testifies that he owes the money, he must take an oath, even if the whole claim was only for a perutah; for if there had been two witnesses, the debtor would have had to pay; and wherever two witnesses impose payment, one witness imposes an oath.

(19) Deut. XIX, 15.

(20) It is counted as admission of the same kind as the claim.

(21) R. Johanan.

(22) Resh Lakish always waited till R. Johanan completed his discourse, and then he would give his own view. In the present case, R. Isaac left the Academy before R. Johanan ended the lecture, and did not know whether later Resh Lakish disagreed with him or not.

(23) He does not require that the admission shall be of the same kind as the claim.

(24) Hence this supports R. Nahman.

(25) That even when the admission is not of the same kind as the claim he holds that he is liable.

Talmud - Mas. Shevu'oth 40b

IF HE ADMITTED A PORTION OF THE LANDS, HE IS EXEMPT; A PORTION OF THE VESSELS, HE IS LIABLE. Now, the reason [he is exempt] in the case of vessels and lands is because for land no oath is imposed; but for vessels and vessels similar to vessels and lands he is liable![1] — [No!] The same rule applies: even in the case of vessels and vessels he is also exempt; and the reason it states vessels and lands is because it wishes to teach us that if he admits a portion of the vessels, he is liable also for the lands. What does he [intend to] teach us [thereby]? That they bind?[2] We have already learnt it! They[3] bind the properties for which there is security, to take an oath for them.[4] — Here is the chief place [for the enunciation of this law];[5] there[6] he mentions it merely incidentally.

And R. Hiyya b. Abba said that R. Johanan said: If he claimed from him wheat and barley, and the other admitted to him one of them, he is exempt. — But did not R. Isaac say: ‘Correct! and so said R. Johanan.’[7] — They[8] are amoriam who disagree as to R. Johanan's view.

Come and hear: IF HE CLAIMED FROM HIM WHEAT, AND THE OTHER ADMITTED TO HIM BARLEY, HE IS EXEMPT; AND R. GAMALIEL MAKES HIM LIABLE. — The reason [he is exempt] is because he claimed from him wheat, and he admitted barley; but [if he claimed from him] wheat and barley, and he admitted one of them, he is liable![9] — [No!] The same rule applies: even [if he claimed] wheat and barley, [and the other admitted one,] he is also exempt; and the reason it states it thus is to show you the power of R. Gamaliel.

Come and hear: IF HE CLAIMED FROM HIM VESSELS AND LANDS, AND HE ADMITTED THE VESSELS, AND DENIED THE LANDS; OR [ADMITTED] THE LANDS, AND DENIED THE VESSELS, HE IS EXEMPT; IF HE ADMITTED A PORTION OF THE LANDS, HE IS EXEMPT; A PORTION OF THE VESSELS, HE IS LIABLE. — The reason [he is exempt] in the case of vessels and lands is because for land no oath is imposed; but for vessels, and vessels similar to vessels, and lands he is liable! — [No!] The same rule applies: even in the case of vessels and vessels he is also exempt; but this he teaches us that if he admits a portion of the vessels, he is liable also for the lands. — What does he teach us? That they bind? We have already learnt it! They bind the properties for which there is security, to take an oath for them. — Here is its chief place; there he mentions it merely incidentally.[10]

R. Abba b. Mammal raised an objection against R. Hiyya b. Abba: If he claimed from him an ox, and he admitted to him a lamb; or [he claimed] a lamb, and he admitted an ox, he is exempt; If he claimed from him an ox and a lamb, and he admitted one of them, he is liable! — He said to him: This [Baraitha] is the view of R. Gamaliel. If it is R. Gamaliel's view, even in the first clause [he should be liable]! — But it is the view of Admon;[11] and I am not putting you off [with an incorrect answer], for it is an accepted teaching in the mouth of R. Johanan: it is the view of Admon.

R. ‘Anan said that Samuel said: If he claimed from him wheat [and was about to claim barley also]; and the other quickly came forward, and admitted to him barley,[12] then, if he appears to act with subtlety,[13] he is liable,[14] but if he merely intends [to reply to the claim], he is exempt.[15]

And R. ‘Anan said that Samuel said: If he claimed from him two needles,[16] and he admitted one of them, he is liable; for therefore were ‘vessels’ expressly mentioned — whatever their value.[17]

R. Papa said: If he claimed from him vessels and a perutah, and he admitted the vessels, and denied the perutah, he is exempt; if he admitted the perutah, and denied the vessels, he is liable. In one law he agrees with Rab, and in the other with Samuel. In one law he agrees with Rab, who holds that the denial in the claim must be two ma'ahs;[18] and in the other he agrees with Samuel, who holds that if he claimed from him wheat and barley and he admitted one of them, he is liable.[19]

‘A HUNDRED DENARII OF MINE YOU HAVE IN YOUR POSSESSION.’ — ‘I HAVE NOT OF YOURS IN MY POSSESSION;’ HE IS EXEMPT.

Said R. Nahman: But they impose upon him the consuetudinary oath.[20] What is the reason? Because it is a presumption that a man will not claim [from another] unless he has a claim upon him. — On the contrary, it is a presumption that a man will not have the effrontery [to deny] before his creditor![21] — He is merely trying to slip away from him [for the moment], thinking, ‘when I will have money, I will pay him.’[22] Know [that this is so], for R. Idi b. Abin said that R. Hisda said: He who denies a loan, is fit for testimony;[23] a deposit, is unfit for testimony.[24]

R. Habiba taught [R. Nahman's law] as applicable to the later clause: ‘A HUNDRED DENARII OF MINE YOU HAVE IN YOUR POSSESSION;’ HE SAID TO HIM, ‘YES’. ON THE MORROW HE SAID TO HIM: ‘GIVE THEM TO ME’; [AND THE OTHER REPLIED,] ‘I HAVE

GIVEN THEM TO YOU;' HE IS EXEMPT. — And R. Nahman said: But they impose upon him the consuetudinary oath. — He who applies [R. Nahman's law] to the first clause[25] will certainly apply it to the second clause;[26]

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(1) If he claimed two different vessels, and the other admitted one (which is similar to claiming vessels and lands, the other admitting one of them), he is liable. Hence, it supports R. Nahman.

(2) That the vessels 'bind' the lands, i.e., that because he has to take an oath for the vessels in any case, the lands are joined and included in the oath.

(3) Properties for which there is no security, i.e., movables.

(4) Kid. 26a.

(5) Because this treatise deals with the laws of oaths.

(6) In Kiddushin; v. B.M. 4b.

(7) That if he claimed wheat and barley, and the other admitted one, he is liable.

(8) R. Isaac and R. Hiyya b. Abba.

(9) This is an argument against R. Hiyya b. Abba.

(10) V. supra p. 245.

(11) Supra 38b. [Who though he requires the admission to be of the same kind as the claim, considers the claim of two objects of different species and the admission of one of them to be an admission in like kind to the claim, v. Keth. 108 (Rashi).]

(12) Before the claimant had mentioned barley.

(13) Admitting barley quickly before the claimant mentions it, so that it appears that the claimant demanded wheat, and he admitted barley, and therefore he would be exempt from an oath.

(14) For the claimant in fact demands both, and he admits one.

(15) The claimant having, as yet, only demanded wheat; and he replies, denying wheat, but admitting barley.

(16) Though they are worth less than two ma'ahs.

(17) The verse (Ex. XXII, 6) states: If a man give unto his neighbour silver or vessels to keep; and we deduce that 'silver' implies a thing of value, and 'vessels' implies two. But Scripture could have said 'silvers' (כספים, instead of כסף) and we could have deduced both laws (that the claim must be for two things of value). Hence, since Scripture specifically mentions 'vessels' separately, we infer that vessels need not be of value. [Whether the minimum of a perutah is required with vessels, depends on the reading 'everything' or 'vessels'; v. supra p. 240, n. 4 and Tosaf. 39b s.v. מה]

(18) Therefore for the denial of a perutah he is exempt.

(19) Therefore if he claimed a perutah and vessels, and he admitted the perutah but denied the vessels, he is liable (and the vessels need not be of the value of two ma'ahs, as has been explained).

(20) Lit., 'of inducement', v. B.M. (Sonc. ed.) p. 20, n. 4. Though, being a כופר הכל, he is legally exempt from an oath, the Beth din, as a matter of equity, impose an oath.

(21) And since he does deny the whole claim, he must be speaking the truth; then why an oath?

(22) The denial is therefore not effrontery, but an excuse to gain time; hence, he may not be speaking the truth, and he must take an oath.

(23) For, since it is a loan, he may have spent the money, and, in order to gain time, he denies it; but he is not really dishonest; and though witnesses testify that he owes he money (and he had denied it, but not on oath), we still assume that he merely wishes to gain time, and will pay later, and he is therefore still qualified to be accepted as a witness in a case.

(24) For a deposit is not intended to be spent; and where witnesses testified that at the time of denial it was in his possession, he must be considered dishonest (v. B.M. 5b).

(25) That even if he never admitted the claim at all he must take the consuetudinary oath.

(26) For he has already admitted the claim, and therefore it is obvious at least that the claim is a valid one.

Talmud - Mas. Shevu'oth 41a

but he who applies it to the second clause [may say] here it is applicable because there is money at stake;[1] but there where there is no money at stake,[2] it is not applicable.

What is the difference between an oath imposed by the Torah[3] and an oath imposed by the Rabbis?[4] — There is this difference; transference of the oath: in the case of an oath imposed by the Torah we do not transfer the oath; but in the case of an oath imposed by the Rabbis we transfer the oath.[5] And according to Mar son of R. Ashi who holds that in the case of a Torah oath we also transfer the oath, what is the difference between a Torah oath and a Rabbinic oath? — There is this difference: going down to his property; in the case of a Torah oath we go down to his property;[6] in the case of a Rabbinic oath we do not go down to his property. And according to R. Jose who holds that in the case of a Rabbinic [law] we also go down to his property? For we learnt: The finding of a deaf-mute, imbecile, or minor, is subject to the law of theft, in the interests of peace.[7] R. Jose says: Real theft.[8] And R. Hisda said: [He means] real theft according to their enactment.[9] What is the difference?[10] Its extraction by the Court.[11] [Now, according to R. Jose] what is the difference between a Torah oath and a Rabbinic oath?[12] — There is a difference in the case where the opponent is suspected of swearing falsely: in the case of a Torah oath, where the opponent is suspected of swearing falsely, we transfer the oath to the other one;[13] but in the case of a Rabbinic oath, it is an enactment, and we do not institute one enactment on top of another enactment.[14]

And according to the Rabbis who disagree with R. Jose, holding that in the case of a Rabbinic [law] We do not go down to his property,[15] what do we do to him? We excommunicate him. — Said Rabina to R. Ashi: This is holding him by his testicles till he gives up his cloak![16] — Well then what do We do to him?[17] — He [Rabina][18] said to him: We excommunicate him until the time comes for his punishment with lashes, and we lash him, and leave him.[19]

R. Papa said: If one produces a document of indebtedness against his neighbour, and the other says to him, ‘It is a paid document, we say to him, ‘It is not at all in your power [to question the validity of the document]; go and pay him.’ And if he says, ‘Let him swear to me,’[20] we say to him, ‘Swear to him.’ Said R. Aha b. Raba to R. Ashi: [If so][21] what is the difference between this and one who impairs the validity of his document?[22] — He said to him: There,[23] even if the debtor does not demand [an oath], we demand it for him; but here, we say to him, ‘Go and pay him’; but if he demands and says, ‘Swear to me,’ we say to the creditor, ‘Go and swear to him.’[24] But if he is a Rabbinic scholar, we do not make him swear. Said R. Yemar to R. Ashi: A Rabbinic scholar may strip men of their cloaks?[25] But[26] we do not attend to his case.[27]

‘YOU HAVE OF MINE IN YOUR POSSESSION ONE HUNDRED DENARII,’ etc.

R. Judah said: R. Assi said; If one lends to his neighbour before witnesses, he must repay him before witnesses. When I said this before Samuel, he said to me: He may say to him: ‘I paid you before So-and-so and So-and-so, and they went to a country beyond the seas.’[28] We learnt: ‘YOU HAVE OF MINE IN YOUR POSSESSION A HUNDRED DENARII’; HE SAID TO HIM [BEFORE WITNESSES]: ‘YES’. ON THE MORROW HE SAID TO HIM: ‘GIVE THEM TO ME’; [AND THE OTHER REPLIED:] ‘I HAVE GIVEN THEM TO YOU,’ HE IS EXEMPT. Now here, since he claimed from him before witnesses,[29] it is as if he lent him before witnesses, and yet it states he is exempt:

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(1) The money has already been admitted in front of witnesses; and therefore when he says he has returned it, he must at least take an oath.

(2) For it is not absolutely certain that the claim is valid, since he denied it completely.

(3) In the case of a partial admission of the claim.

(4) In the case of a complete denial: R. Nahman's consuetudinary oath.

(5) The rule is that the debtor takes the oath, and is free. If he says to the claimant, ‘You take the oath’ (being satisfied to pay, if he really takes the oath), the Court do not permit this transference of the oath from debtor to creditor in the case of a Torah oath (מודה במקצת), but permit it in the case of a Rabbinic oath (כופר הכל, where a consuetudinary oath is imposed).

(6) If he refuses to take the oath or to pay, the Court instruct their officers to distrain on his goods to the value of the debt.
(7) If they find anything, it belongs to them, though, because of their disabilities, they have no legal right of possession. Yet, in the interests of peace, no one is permitted to deprive them of what they find; and he who does is guilty of theft.
(8) Not only in the interests of social stability do we empower the deaf-mute, imbecile, and minor to retain what they find; it is really lawfully theirs; and he who extracts it from them is guilty of real theft.
(9) Not real theft according to the Biblical law, but only according to the Rabbinic law.
(10) Between R. Jose and the other Rabbis, since he also agrees that it is only theft by enactment of the Rabbis in the interests of social peace.
(11) R. Jose makes the proprietary rights of the deaf-mute stronger (though only Rabbinically, and not Biblically), and if anyone steals from him that which he has found, the Court extracts it from the thief; though the thief has not transgressed the Biblical law (Thou shalt not steal), nor is he disqualified from being a witness (v. Git. 61a, Rashi). According to the other Rabbis, if the thief stole from the deaf-mute the thing that he found, the Court does not interfere,
(12) Since he holds even in the case of a Rabbinic law the court has power to distrain.
(13) If the debtor is suspected of swearing falsely (in the case of a claim of which he admits a portion) the creditor is given the oath, and obtains his money.
(14) To impose an oath on a כופר הכל is itself a Rabbinic ordinance; and to transfer the oath from debtor to creditor is also a Rabbinic ordinance; we do not impose both; if the debtor is suspect and cannot take the oath, the creditor is not permitted to take the oath, but loses his money.
(15) The Court has no power to extract from the thief who stole from the deaf-mute the object he found.
(16) This is actually force, the same as distraint, if you say that we excommunicate him till he restores the theft or, in the case of a debtor, pays the debt; then what is the difference between the Rabbis and R. Jose?
(17) [Omitted in MS.M., v. next note.]
(18) [According to MS.M. (previous note) this reply would be made by R. Ashi.]
(19) If he allows 30 days to elapse with the ban of excommunication upon him for contempt of court, he is punished with lashes (v. Kid. 12b).
(20) That I have not paid him.
(21) [Adopting reading of Florentine MS. v. D.S. a.l.]
(22) If a creditor, producing a document for his claim, admits having already received some payment on account, he impairs the trustworthiness of his document, for the amount stated on the document is now not true (on his own admission), and he may have received more than he admits; he therefore cannot obtain the rest of his claim without taking an oath. But in R. Papa's example he does not admit partial repayment, and therefore has not impaired the validity of the document he produces; why then should he be asked to take an oath?
(23) Where the document is impaired.
(24) For though the document is valid, it is possible the debtor paid him, and the creditor omitted to restore the document to the debtor for destruction; therefore he must swear, if the debtor demands it; v. Tosaf.
(25) Because he is a scholar is he favoured, and allowed to enforce his claim without an oath?
(26) [It is not clear whether what follows are the words of R. Ashi or of R. Yemar. MS.M. reads, He (R. Ashi) said to him.]
(27) We do not make him swear, because it would appear that we suspect him of attempting to claim money on a paid document; but he cannot receive his money, for the debtor demands an oath. But what is the difference between a scholar and an ordinary person? An ordinary person, too, need not swear, and loses his money. A scholar, if he has obtained his money by force from the debtor, is allowed to retain it; but an ordinary person is compelled by the court to return it; v. Asheri and פלפולא חריפתא a.l.
(28) And are therefore not available; and the borrower is exempt.
(29) And he admitted the debt before them; v. B.B. 30a Tosaf. s.v. לאו.

Talmud - Mas. Shevu'oth 41b

which is a refutation of R. Assi![1] — R. Assi may say to you: I said [that he must repay him before witnesses] only if originally he lent him before witnesses, [which shows that] he did not trust him; but here, he trusted him!'[2]

R. Joseph taught it thus:[3] R. Judah said, R. Assi said: If one lends to his neighbour before witnesses, he need not repay him before witnesses; but if he said to him: 'Do not repay me except before witnesses,' he must repay him before witnesses. When I said this before Samuel, he said to me: He may say to him: 'I paid you before So-and-so and So-and-so, and they went to a country beyond the seas.'[4] We learnt: 'YOU HAVE OF MINE IN YOUR POSSESSION A HUNDRED DENARII'; HE SAID TO HIM [BEFORE WITNESSES]: 'YES'. HE SAID TO HIM: 'DO NOT GIVE THEM TO ME EXCEPT BEFORE WITNESSES'; ON THE MORROW HE SAID TO HIM: 'GIVE THEM TO ME'; [AND THE OTHER REPLIED:] 'I HAVE GIVEN THEM TO YOU,' HE IS LIABLE, BECAUSE HE MUST GIVE THEM TO HIM BEFORE WITNESSES. This is a refutation of Samuel![5] — Samuel may say to you: This is a question upon which Tannaim disagree;[6] for it was taught: [If a man said to his fellow] 'I lent you before witnesses; pay me before witnesses'; he must either pay, or bring proof that he has paid.[7] R. Judah b. Bathyra said: He may say to him: 'I paid you before So-and-so and So-and-so, and they went to a country beyond the seas.'[8]

R. Aha[9] asked: How do we know that this[10] refers to the time of the loan, perhaps it refers to the time of the claim? And thus he says to him: 'Did I not lend you before witnesses? You should have repaid me before witnesses!' But at the time of the loan, all hold that he is liable.[11] R. Papi said in the name of Raba: The law is: If one lends his neighbour before witnesses, he must repay him before witnesses. But R. Papa said in the name of Raba: If one lends his neighbour before witnesses he need not repay him before witnesses; but if he said to him: 'Do not repay me except before witnesses,' he must repay him before witnesses; and if he says to him: 'I repaid you before So-and-so and So-and-so, and they went to a country beyond the seas,' he is believed.[12]

(Mnemonic:[13] Reuben and Simeon, who studied the law, they lent and paid (before) So-and-so and So-and-so, gallnuts, different claims, being believed as two.)

There was a certain [man] who said to his neighbour: 'When you repay me, repay me before Reuben and Simeon'; but he went and repaid him before two others.[14] Abaye said: He told him to repay him before two witnesses, and [he said] he repaid him before two witnesses.[15] Said Raba to him: For this reason he said to him: Before Reuben and Simeon, so that he should not be able to put him off.[16]

There was a certain [man] who said to his neighbour: 'When you repay me, repay me before two who have studied laws.'[17] He went and repaid him privately.[18] The money was lost.[19] The lender came to R. Nahman and said, 'Yes, I received it from him, but only as a deposit,[20] and I said, Let it remain with me as a deposit until we obtain two witnesses who have studied laws, so that the condition may be fulfilled.' Said [R. Nahman] to him: 'Since you admit that you definitely received the money from him, it is a proper repayment; if you desire the condition to be fulfilled, go and bring the money [here], for here am I and R. Shesheth who have studied the laws, Sifra, Sifre, Tosefta,[21] and the whole Gemara.'[22]

There was a certain [man] who said to his neighbour: 'Give me the hundred zuz that l lent you.' The other said to him: 'The thing never happened.'[23] He went and brought witnesses that he lent him, but [they also said] he repaid him. Abaye said: What shall we do? They say he lent him, and they themselves say he repaid him.[24] Raba said: If he says, 'I did not borrow,' it is as if he said, 'I did not repay.'[25]

There was a certain [man] who said to his neighbour: 'Give me the hundred zuz that I claim from you.' He replied to him: 'Did I not repay you before So-and-so and So-and-so?' [Thereupon] So-and-so and So-and-so came and said: 'The thing never happened.'[26] R. Shesheth thought of saying that he was therefore proven a liar.[27] Said Raba to him: Anything which does not rest upon a man he will do unconsciously.[28]

There was a certain [man] who said to his neighbour: ‘Give me the six hundred zuz that I claim from you.’ The other replied to him: ‘Did I not repay you a hundred kabs

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(1) For he says he must repay the loan before witnesses, and if he cannot produce the witnesses he is liable.

(2) For he lent him without witnesses, and only when he claimed the loan later were there witnesses present.

(3) He had a different tradition as to what R. Judah reported to Samuel in the name of R. Assi.

(4) Even if the creditor says to him he must repay him before witnesses, the borrower may always exempt himself by saying he did repay him before witnesses, but they are not now available.

(5) For Samuel says the borrower may always contend that he did repay him before witnesses, but they have since gone abroad.

(6) And I have a Tanna who agrees with me.

(7) The debtor cannot free himself by saying he has paid, but that the witnesses have gone abroad.

(8) And Samuel agrees with R. Judah b. Bathyra.

(9) [MS.M.: ‘Ahai’ i.e. the Saborean; v. Brull, Jahrb. II, p. 28.]

(10) The lender's statement: ‘I lent you before witnesses; pay me before witnesses.’

(11) If the lender definitely stipulated at the time of the loan that he must repay him before witnesses, even R. Judah b. Bathyra will agree that be cannot free himself by saying the witnesses have gone abroad. Hence Samuel has no Tanna to support him, whilst our Mishnah is clearly in refutation of him.

(12) The reading in text alternates between ‘he is believed’ and ‘he is not believed,’ v. Maim. Yad, Malweh XV, 2.

(13) Made up of catchwords as aids to memorise discussions that follow.

(14) I.e., he said he repaid him before two other witnesses, but they went abroad (v. Tosaf.).

(15) Therefore he is believed.

(16) The lender specifically named the two witnesses so that the borrower might not put him off by saying he had repaid him before two other witnesses who went abroad and are not available. It is therefore no excuse, and he must pay.

(17) I.e., learned men.

(18) Without witnesses.

(19) After being received by the lender.

(20) Not as repayment, because I particularly wanted my condition to be fulfilled, that it should be repaid before two learned witnesses; and now that the money is lost, he must still repay the loan, because I was only a gratuitous bailee not responsible for loss.

(21) On these terms, v. Sanh. (Sonc. ed.) p. 567, n. 1.

(22) I.e., it is no excuse to say, because the money is now lost, that you accepted it as a deposit and not as repayment of the loan. [MS.M. reads ‘Talmud’ for ‘Gemara’ in curr. ed. On these terms, v. B.M. (Sonc. ed.) p. 206, n. 6.]

(23) I did not borrow from you.

(24) Therefore he is exempt.

(25) For if he did not borrow he certainly did not repay. Witnesses testify that he did borrow, and they are believed; but they are not believed when they say he repaid, for he himself admits that he did not repay; therefore he must pay.

(26) He did not repay before us.

(27) And is not believed even on oath to say that he repaid the loan though not before those two witnesses; for he has already been proved guilty of a lie.

(28) It was not incumbent upon him to remember whether he paid before witnesses or not, for the lender had not stipulated that he must repay him before witnesses; when, therefore, he said he had repaid before witnesses, his memory was at fault, but he is not thereby accounted a liar, and may take an oath that he has repaid the loan.

Talmud - Mas. Shevu'oth 42a

of gallnuts, which were worth six [zuz per kab]?’ He said to him: ‘No! They were worth four [zuz per kab].’ Two witnesses came and said: ‘Yes, they were worth four [zuz per kab].’ Said Raba: He is proven a liar.[1] Said Rami b. Hama. But you said: Anything which does not rest upon a man he will do unconsciously![2] — Said Raba to him: The fixed market price people remember.

There was a certain [man] who said to his neighbour: ‘Give me the hundred zuz that I claim from you, and here is the document.’[3] He said to him: ‘I have paid you.’ The other said to him: ‘Those [monies] were for a different claim.’[4] R. Nahman said: The document is impaired.[5] R. Papa said: The document is not impaired. And, according to R. Papa, in what way does this differ from the case of the man who said to his neighbour: ‘Give me the hundred zuz that I claim from you; and here is the document;’ and the other said to him: ‘Did you not give it to me to buy oxen,[6] and did you not come and sit by the butcher's stall[7] and receive your money?’ And he replied to him: ‘Those [monies] were on a different occasion;’ and R. Papa said: The document is impaired.[8] — There, since he said: ‘You gave [the money] to me for oxen, and you received repayment from the [sale of the] oxen,’ the document is impaired; but here, perhaps they were for a different claim.[9] What then [is the ruling] with reference to this? — R. Papi said: The document is not impaired. R. Shesheth the son of R. Idi said: The document is impaired. And the law is: The document is impaired; but this is so only if he paid him before witnesses, and did not remember [to take back] the document;[10] but if he paid him privately, since he could have said: ‘The thing never happened,’ he can also say: ‘The monies were for a different account’;[11] as in the case of Abimi the son of R. Abbahu.[12]

There was a certain [man][13] who said to his neighbour:[14] ‘You are believed by me whenever you say to me that I have not paid you.’ He went and paid him before witnesses.[15] Abaye and Raba both said: Behold, he believes him![16] R. Papa argued: Granted, he believes him more than himself, but does he believe him more than witnesses?[17]

There was a certain [man] who said to his neighbour: ‘You are believed by me like two [witnesses] whenever you say that I have not paid you.’ He went and paid him before three [witnesses].[18] — R. Papa said: Like two he believed him, but like three he did not believe him.[19] Said R. Huna the son of R. Joshua to R. Papa: When do the Rabbis say that we go according to the majority of opinions — only in the case of estimates,[20] where the more there are, the more experts there are; but in the case of testimony, a hundred are like two, and two are like a hundred![21]

Another version: There was a certain [man] who said to his neighbour: ‘You are believed by me like two whenever you say that I have not paid you.’ He went and paid him before three. Said R. Papa: Like two he believed him, but like three he did not believe him.[22] To this R. Huna the son of R. Joshua demurred: Two are like a hundred and a hundred are like two! But if he said to him: ‘like three’,[23] and he went and paid him before four [witnesses, the lender is not believed], for since he troubles to mention the number of opinions,[24] he definitely means that number of opinions.

AN OATH IS NOT IMPOSED FOR THE CLAIM OF A DEAF-MUTE, IMBECILE, OR MINOR; AND A MINOR IS NOT ADJURED.

What is the reason? Scripture says: If a man give into his neighbour silver or vessels to keep:[25] but the giving of a minor is nothing.[26]

BUT AN OATH IS IMPOSED IN A CLAIM AGAINST A MINOR OR THE TEMPLE.[27]

But you said in the first clause: AN OATH IS NOT IMPOSED FOR THE CLAIM OF A DEAF-MUTE, IMBECILE, OR MINOR! — Rab said: If he comes on behalf of his father's claim;[28] and it is in accordance with the view of R. Eliezer b. Jacob; for it was taught: R. Eliezer b. Jacob says: Sometimes a man must take an oath on his own claim.[29] How? He said to him: ‘I have a hundred denarii of your father's in my possession, of which I have returned to him the half’; he takes an oath;[30] and this is the one who swears on his own claim. But the Sages Say: He is only like one who restores a lost object, and is exempt.[31] And does not R. Eliezer b. Jacob hold that he who restores a lost object is free![32] — Said Rab: [He means], when a minor claims from him.[33] ‘A minor'! But you said: AN OATH IS NOT IMPOSED FOR THE CLAIM OF A DEAF-MUTE, IMBECILE, OR MINOR! — Indeed an adult [is meant]; and he is called a minor, because with reference to the affairs of his father he is a minor.[34] If so, [why does R. Eliezer call it] his own claim? It is the claim of others! — [Yes!] it is the claim of others, but his own admission.[35]

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(1) And must pay the difference — two hundred zuz.

(2) Perhaps he did not remember the actual market price at the time, but he still maintains that he repaid the money, if not with gallnuts, then with money.

(3) Proving the claim.

(4) I admit you paid me 100 zuz, but that was in settlement of another claim.

(5) We assume the claim to be paid, since the claimant admits having received the money; and we do not believe his submission that the payment was for another claim (for which he has no document), and that the present claim is still unpaid.

(6) To kill, and sell the meat, the profits to be divided equally between us.

(7) As the meat was being sold, and receive the money which you advanced.

(8) Since he admits having received the money. Why does not R. Papa hold the same view in the previous case?

(9) Since the claimant admits all the circumstances mentioned by the debtor, and admits having received his money from the sale of the oxen, it is reasonable to assume that this was the very transaction for which he produces the document, and he cannot say that the claim on this document is still unsettled, and that the transaction with the oxen (for which no document is produced) is the one that is settled. But where he claims on a document, the debtor saying he has paid, without giving any concrete details, the claimant may say the payment was for another debt, but this document still holds good.

(10) The claimant cannot say the payment was for another account.

(11) If the debtor paid the claimant privately (no witnesses being present), and the claimant admits receiving the payment, he is believed when he says that it was for another account, and the debt on the document is still outstanding, for, had he desired to tell an untruth, he might have said that he had not received any payment at all; and having the document, he could have enforced his claim without difficulty.

(12) Where a similar incident occurred; v. Keth. 85a.

(13) Borrower.

(14) Before witnesses, when borrowing the money.

(15) And the creditor denies having received payment.

(16) The debtor himself said, when borrowing the money, that he would always believe him if he denied receiving payment; therefore he must pay again.

(17) And since there are witnesses that he paid him, he does not pay again.

(18) But the lender denies having received it.

(19) Therefore we believe the three that he has paid.

(20) E.g., estimating the valve of land; v. A.Z. 72a.

(21) Therefore if he said he believes him like two, he believed him also like three; and he must pay again.

(22) MS.M. deletes the whole of this passage, apparently as a needless repetition, and begins the variant version at this point.

(23) Are you believed by me.

(24) I.e., people; that he counts him like three people; he means three, and not four; for if he had intended to imply that he counted him like any number of witnesses, he would have said two (for two are equivalent to any number of witnesses), but since he said three, he meant three only. Therefore if four witnesses say he paid, the claimant is not believed.

(25) Ex. XXII, 6; and for this an oath is imposed.

(26) And a deaf-mute and imbecile are counted as minors, for their minds are undeveloped.

(27) Lit., 'they (the defendants) must swear to a minor, or to the Temple (authorities);' i.e. if the minor or the Temple has a claim against them, and they deny the claim, they must take an oath. In the text, however, the Mishnah has been translated in accordance with the sequel (infra 42b).

(28) The original giving (of the deposit or loan) was by a man (who is now dead); therefore the claim is valid, though it is proceeded with by a minor: 'my father lent you 100 denarii.'

(29) I.e., on his own admission that the other has a claim against him though the other does not know it.
(30) That he owes no more, having returned the half which he admits still owing.
(31) For the son knew nothing of this debt; therefore he merely returns what he admits, and does not take an oath for the rest. Now, according to R. Eliezer b. Jacob, if the defendant must take an oath though the minor had not instituted the claim, he must certainly take an oath if the minor does claim; hence the Mishnah is in accordance with his view.
(32) From an oath, though the person to whom it is restored claims, for example, that there was more money in the purse that is restored to him now. All admit that the restorer of a lost object is free. Surely R. Eliezer does not disagree!
(33) R. Eliezer b. Jacob imposes an oath only when the minor claims; but if no one claims, and he himself mentions the claim, he does not take an oath, for he is 'a restorer of a lost object'.
(34) For he may not be fully acquainted with the affairs of his father who is now dead.
(35) He admits owing half.

Talmud - Mas. Shevu'oth 42b

But all [cases] are the claims of others and his own admission![1] But [say] they[2] disagree in Rabbah's dictum; for Rabbah said: Why did Scripture say that he who admits a portion of a claim must take an oath? Because it is a presumption that a man has not the effrontery to deny a claim in front of his creditor,[3] for this one may have wished to deny it all, but did not deny it, because he had not the effrontery [to do so] in front of his creditor;[4] and he really wished to admit it all, but he did not admit it all, because he tried to evade him [for the moment], thinking, 'When I will have money, I will pay him'; so Divine Law said: Impose an oath on him, so that he may admit it all. Now R. Eliezer b. Jacob holds: No matter whether against him or against his son, he has not the effrontery;[5] and therefore he is not a restorer of a lost object.' But the Rabbis hold: Against him himself he has not the effrontery, but against his son he has the effrontery;[6] and since he is not evincing any effrontery, he is 'a restorer of a lost object' [and exempt]. But how can you affirm the Mishnah to be in accordance with the view of R. Eliezer b. Jacob? Surely it states in the first clause: 'YOU HAVE A HUNDRED DENARII OF MY FATHER'S IN YOUR POSSESSION.' — 'I HAVE OF HIS IN MY POSSESSION ONLY FIFTY DENARII'; HE IS EXEMPT, FOR HE IS 'A RESTORER OF A LOST OBJECT'! — There,[7] he did not say, 'I am certain'; here,[8] he said, 'I am certain.'

Samuel said:[9] 'AGAINST A MINOR' [means] to collect payment from the estate of a minor; 'AGAINST THE TEMPLE' — to collect payment from the estate of the Temple.'[10] — 'Against a minor' — to collect payment from the estate of a minor! But we have already learnt it, [viz.:] From the estate of orphans one cannot collect payment except with an oath.[11] Why do we require [this ruling] twice? — This he teaches us, as Abaye the Elder said, for Abaye the Elder stated: Orphans which are mentioned[12] are adults,[13] and there is no need to say [they include] minors, whether for oath, or for [exacting payment from] the lowest class of land.[14] — 'AGAINST THE TEMPLE' — to collect payment from the estate of the Temple! But we have already learnt it, [viz.:] From assigned property they cannot collect except with an oath![15] [For] what is the difference whether they are assigned to a layman or assigned to the Most High? — It is necessary,[16] for I might have thought [in the case of property assigned to] a layman [an oath is necessary],[17] because a man may make a conspiracy to defraud a layman;[18] but in the case of the Temple [an oath is not necessary], for a man will not make a conspiracy to defraud the Temple, therefore he teaches us [that it is necessary].[19] But did not R. Huna say: A dying man who dedicated all his property to the Temple, and said: 'I have a hundred denarii of So-and-so in my possession,' he is believed,[20] because it is a presumption that a man does not make a conspiracy to defraud the Temple. — I will tell you: that is only in the case of a dying man, for a man will not sin without benefit to himself;[21] but in the case of a healthy man we certainly fear [for conspiracy].

MISHNAH. AND THESE ARE THE THINGS FOR WHICH NO OATH IS IMPOSED: SLAVES, BONDS, LANDS, AND DEDICATED OBJECTS.[22] [THE LAW OF] PAYING DOUBLE,[23] OR FOUR OR FIVE TIMES THE VALUE, DOES NOT APPLY TO THEM. AN

UNPAID GUARDIAN DOES NOT TAKE AN OATH,[24] AND A PAID GUARDIAN DOES NOT PAY,[25] R. SIMEON SAID: FOR DEDICATED OBJECTS FOR WHICH HE IS RESPONSIBLE AN OATH IS IMPOSED;[26] AND FOR WHICH HE IS NOT RESPONSIBLE AN OATH IS NOT IMPOSED. R. MEIR SAID: THERE ARE THINGS WHICH ARE [ATTACHED] TO LAND, BUT ARE NOT LIKE LAND. BUT THE SAGES DO NOT AGREE WITH HIM. HOW? [IF A MAN SAYS,] ‘TEN VINES LADEN WITH FRUIT I DELIVERED TO YOU.’ — AND THE OTHER SAYS: ‘THERE WERE ONLY FIVE’; R. MEIR MAKES HIM TAKE AN OATH;[27] BUT THE SAGES SAY: ALL THAT IS ATTACHED TO LAND IS LIKE LAND. AN OATH IS IMPOSED ONLY FOR A THING [DEFINED] BY SIZE, WEIGHT, OR NUMBER. HOW? [IF A MAN SAYS,] ‘A HOUSEFUL [OF PRODUCE] I DELIVERED TO YOU,’ OR ‘A PURSEFUL [OF MONEY] I DELIVERED TO YOU’; AND THE OTHER SAYS: ‘I DO NOT KNOW; BUT WHAT YOU LEFT YOU MAY TAKE,’ HE IS EXEMPT.[28] IF ONE SAYS: ‘[I GAVE YOU PRODUCE REACHING] UP TO THE MOULDING [ABOVE THE WINDOW],’ AND THE OTHER SAYS: ‘ONLY UP TO THE WINDOW,’ HE IS LIABLE.[29]

GEMARA. That [THE LAW OF] PAYING DOUBLE [DOES NOT APPLY] how do we know? — Our Rabbis taught: For every matter of trespass[30] — is a generalisation; for ox, for ass, for sheep, for raiment — are specifications; for any lost thing — is another generalisation: where there is generalisation, specification, and generalisation, you may include only those things which are similar to the specification: just as the specification is clearly a thing which is movable, and intrinsically worth money, so everything which is movable and intrinsically worth money [may be included], but exclude lands, which are not movable, exclude slaves, which are likened to land, and exclude bonds which, though they are movable, are not intrinsically worth money. As for dedicated things, it is written: his neighbour.[31]

AND NOT FOUR OR FIVE TIMES THE VALUE. What is the reason? — The payment of four or five times the value, said Scripture, and not the payment of three or four times the value.[32]

AN UNPAID GUARDIAN DOES NOT TAKE AN OATH. Whence do we know this? — Our Rabbis taught:

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(1) Then why does R. Eliezer say: Sometimes a man must take an oath etc.? And if an adult is claiming, why do the other Sages hold that the defendant need not take an oath, for he is ‘a restorer of a lost object’? If an adult claims, the defendant is not accounted ‘a restorer etc.’

(2) R. Eliezer b. Jacob and the Sages disagree in a case where a minor claims (his father being dead). R. Eliezer calls it ‘his own (the defendant's) claim,’ because a minor's claim is really of no consequence, and no oath is imposed elsewhere; but here, since it is on behalf of an adult (his father), an oath is imposed, for the original ‘giving’ (of the deposit) was by a ‘man’.

(3) Who has done him a favour by lending him the money.

(4) But since he does deny a portion, let us believe him, for since a man has not the effrontery to deny a valid claim, and this one does deny, he must be speaking the truth; then why should he take an oath? Because, continues the Talmud, to deny a portion does not necessitate effrontery (and he may really owe the money); for he is merely trying to evade his obligation temporarily in order to gain time, fully intending to pay later when he has money; v. B.M. 3b Tosaf. For an alternative interpretation of this passage, v. B.M. (Sonc. ed.) pp. 8ff. and notes.

(5) Therefore when the minor claims, it is as if the father is claiming, and the defendant, since he admits a half, takes an oath like any other person who admits part of a claim.

(6) And could have denied it all, if he had wished; therefore whatever he admits is like the restoration of a lost object, and he does not take an oath.

(7) In the first clause, the minor did not say ‘I am certain you owe my father 100 denarii,’ but ‘I think you do;’ therefore the defendant in admitting a half is exempt, for he is a ‘restorer of a lost object’.

(8) In the later clause ‘an oath is imposed for the claim of a minor’ when the minor puts forward a definite claim.

(9) There is no inconsistency in the Mishnah. An oath is not imposed for the claim of a minor; but when the Mishnah states later that an oath is imposed for a minor and the Temple, it means that when a claim is made against the estate of a minor or the Temple (and even when documentary evidence is produced), the claimant must take an oath that it has not already been paid by the minor's father.

(10) If a man dedicated some property to the Temple treasury, and a claimant (with a document) desires to exact payment for his debt from that dedicated property, he must take an oath that it has not yet been paid.

(11) Infra 45a.

(12) That when payment is claimed from them on their father's debt the claimant must take an oath.

(13) Even if the orphans are adults, the claimant must still take an oath.

(14) When the oath is taken and payment demanded, it may be exacted only from the third grade of land (if the orphans possess best, medium, and third grade; v. B.K. 7a). The law is therefore stated twice; in our Mishnah: an oath is imposed when a claim is made against the estate of an orphan who is a minor; and in the other Mishnah (infra 45a) that even when they are adults an oath must be taken in any claim against them.

(15) Infra 45a. If the property has already been assigned (or mortgaged) to another, the creditor cannot collect his debt from that property without an oath.

(16) That we be told the law holds good also in the case of property assigned to the Temple.

(17) Before the creditor can collect from the property.

(18) The borrower may already have paid his debt; and now, having sold his land, he conspires with the creditor to defraud the purchaser, by saying he still owes the money, so that the creditor takes the land, and they divide it. Therefore the creditor must take an oath that the debt is still unpaid.

(19) For even in the case of the Temple a man may conspire.

(20) And the man obtains the money without an oath.

(21) And since he himself will derive no benefit from the 100 denarii we believe him.

(22) In any claim concerning these the defendant does not take an oath.

(23) For stealing.

(24) Normally, an unpaid guardian takes an oath that he did not wilfully cause the loss of the deposit, and he is free from payment (v. infra 49a), but in the case of slaves etc. no oath is imposed.

(25) For loss or theft, which, normally, he would have to pay (infra 49a).

(26) If a man vowed to bring a burnt offering, and assigned a certain animal for that purpose, and gave it into the keeping of a neighbour for a time, and on claiming it, the bailee denies having it; he must take an oath, for this will cause a loss to the depositor (who will have to offer another animal), and not to the Temple.

(27) Though the vines are fixed to the ground they are not accounted as land to exempt him from an oath, because the grapes were ripe and ready for picking, and it is for the grapes that he is claiming; v. infra 43a.

(28) Because the claim was not defined as to size, weight, or number.

(29) For the claim is defined.

(30) Ex. XXII, 8; the verse ends, he whom the judges shall condemn shall pay double unto his neighbour.

(31) Ibid., but he does not pay double in a claim by the Temple.

(32) Since the payment of double does not apply for theft, there would only be three or four times the value for killing or selling (three for a lamb and four for an ox), which Scripture does not enjoin; Ex. XXI, 37.

Talmud - Mas. Shevu'oth 43a

If a man give unto his neighbour[1] — is a generalisation; silver or vessels — are specifications; to keep — is another generalisation: where there is generalisation, specification, and generalisation, you may include only those things which are similar to the specification: just as the specification is clearly a thing which is movable and intrinsically worth money, so everything which is movable, and intrinsically worth money [may be included], but exclude lands, which are not movable, exclude slaves, which are likened to land, and exclude bonds which, though they are movable, are not intrinsically worth money. As for dedicated things, it is written, his neighbour.[2]

A PAID GUARDIAN DOES NOT PAY. Whence do we know this? — Our Rabbis taught: If a man give unto his neighbour[3] — is a generalisation; an ass, or an ox, or a sheep — are specifications; or any beast, to keep — is another generalisation: where there is generalisation, specification, and generalisation, etc. till: as for dedicated things, it is written, his neighbour.[4]

R. MEIR SAID: THERE ARE THINGS WHICH ARE [ATTACHED] TO LAND, BUT ARE NOT LIKE LAND, ETC. Hence, R. Meir holds that which is attached to land is not counted like land?[5] — Then why do they disagree about laden [vines], let them disagree about fruitless [trees]![6] — R. Jose son of R. Hanina said: Here they disagree about grapes which are ready to be cut, R. Meir holding they are as if they are already cut; whereas the Rabbis hold they are not as if they are already cut.[7]

AN OATH IS IMPOSED ONLY FOR A THING [DEFINED] BY SIZE, WEIGHT, etc. Abaye said: They did not teach [that an oath is not imposed] except when he said to him: 'A HOUSE' merely;[8] but if he said to him: 'This house full etc.' his claim is known.[9] — Said Raba to him: If so, why does he teach in the later clause: THIS ONE SAID: '[I GAVE YOU PRODUCE REACHING] UP TO THE MOULDING [ABOVE THE WINDOW],' AND THE OTHER SAID: 'ONLY UP TO THE WINDOW,' HE IS LIABLE. Let him make a distinction in teaching this [first] clause itself — [thus:] When is it stated [that an oath is not imposed] — only if he says: 'A full house,' but if he says: 'This full house,' he is liable![10] — But said Raba: He is never liable unless he claims from him a thing [that is defined] by size, weight, or number; and he admits to him a thing [that is defined] by size, weight, or number.[11]

It was taught in support of Raba: [If a man says,] 'A kor of grain of mine you have in your possession'; and the other says: 'I have not of yours in my possession,'[12] he is exempt.[13] 'A large candlestick of mine you have in your possession.' — 'I have of yours in my possession only a small candlestick,' he is exempt.[14] 'A large girdle of mine you have in your possession.' — I have of yours in my possession only a small girdle,' he is exempt. But if he said to him: 'A kor of grain of mine you have in your possession,' and the other said: 'I have of yours in my possession only a lethek [of grain],' he is liable.[15] 'A candlestick of [the weight of] ten litras you have of mine in your possession.' — 'I have of yours in my possession [a candlestick of the weight of] only five litras,' he is liable.[16] The principle of the matter is: He is never liable unless he claims from him a thing [that is defined] by size, weight, or number; and he admits to him a thing [that is defined] by size, weight, or number. Now, 'The principle of the matter': what does this include?[17] Does it not include [the case where he says]: 'This house full etc.'?[18]

Now, what is the difference? [In the case of] 'large candlestick and small candlestick,' [he is exempt because] what he claimed from him, he did not admit to him; and what he admitted to him, he did not claim from him; if so, [in the case of] 'ten litras and five litras [weight]' he should also be exempt, because what he claimed from him, he did not admit to him; and what he admitted to him, he did not claim from him! — R. Samuel son of R. Isaac said: Here we are discussing a candlestick of sections, of which he admits a portion.[19] — If so, [in the case of] girdle also let him teach [a similar law], and explain it as referring to pieces sewn together![20] But [you must conclude that] he [the Tanna] does not state [the case of a girdle made up of] pieces sewn together. Here also [then], he would not state [the case of a candlestick made up of] separate sections![21] — But said R. Abba b. Mammal: A candlestick is different, because he can scrape it and reduce it to five litras.[22] MISHNAH. IF A MAN LENDS [MONEY] TO HIS NEIGHBOUR ON A PLEDGE, AND THE PLEDGE WAS LOST, AND HE SAID TO HIM: 'I LENT YOU A SELA' ON IT, AND IT WAS WORTH A SHEKEL,'[23] AND THE OTHER SAYS: 'NO! YOU LENT ME A SELA' ON IT, AND IT WAS WORTH A SELA',' HE IS EXEMPT.[24] 'I LENT YOU A SELA' ON IT, AND IT WAS WORTH A SHEKEL,' AND THE OTHER SAYS: 'NO! YOU LENT ME A SELA' ON IT, AND IT WAS WORTH THREE DENARII,' HE IS LIABLE.[25] 'YOU LENT ME A SELA' ON IT, AND IT WAS WORTH TWO,'[26] AND THE OTHER SAYS: 'NO! I LENT YOU A SELA' ON IT, AND IT WAS WORTH A SELA',' HE IS EXEMPT. 'YOU LENT ME A SELA' ON IT, AND IT WAS WORTH TWO,' AND THE OTHER SAYS: 'NO! I LENT YOU A SELA' ON IT, AND IT WAS

WORTH FIVE DENARII,' HE IS LIABLE. AND WHO TAKES THE OATH?[27] HE WHO HAD THE DEPOSIT,[28] LEST, IF THE OTHER TAKE THE OATH, THIS ONE MAY BRING OUT THE DEPOSIT.[29]

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(1) Ex. XXII, 6; this verse deals with an unpaid guardian (v. B.M. 94b), who takes an oath that he has not been wilfully neglectful, and is exempt from making restitution.

(2) Ibid.

(3) Ex. XXII, 9; this verse deals with a paid guardian (v. B.M. 94b) who normally pays for loss or theft.

(4) Ibid.; the whole argument as above.

(5) Since he says that in a claim for 10 vines (the other admitting 5) an oath is imposed.

(6) Why mention in the illustration that the trees are laden with grapes? That is surely immaterial!

(7) R. Meir holds that which is joined to the land is counted like land, but here, in the case of vines, he holds that an oath is imposed, because the grapes were ready for cutting, and therefore he accounts them as equivalent to having been cut, and therefore imposes an oath.

(8) 'A house full of produce I delivered to you.'

(9) For if he says: 'This house full of produce,' he is defining his claim exactly, for the amount of produce it will contain may be ascertained; and if the other returns the house to him half empty, he is liable to take an oath.

(10) Why then should the Mishnah insert an extra clause (that one claims 'to the moulding' and the other admits 'to the window')? Obviously, therefore, there is no difference between 'a house full' and 'this house full'.

(11) But if he says: 'This house full etc.' though the amount it holds may be ascertained, the defendant is not liable; for he too must mention specifically the exact amount (size, weight, or number) he is admitting; v. Tosaf.

(12) [MS.M. preserves a preferable reading, adding: 'but pulse'. V. next note].

(13) Because he denies it all (כופר הכל). [According to MS.M. (n. 5): Because the admission is not in like kind of the claim, cf. next note.]

(14) Because the admission is not of the same kind as the claim; he does not admit a portion of what the other claims, but something else.

(15) Because he admits a portion: 1 kor = 2 lethek.

(16) The reason is explained below.

(17) The principle may be inferred from the examples mentioned. Why is the principle stated? Obviously, to include something that may not be deduced from the examples.

(18) That the defendant is here also exempt, because neither the claim nor the admission is defined exactly as to size, weight, or number. Hence this Baraitha supports Raba.

(19) The candlestick of ten litras is built up of separate sections which can be taken apart, and the defendant admits that certain sections, amounting to five litras, belong to the claimant, but not the rest. He is therefore liable, because he admits a portion of this very candlestick.

(20) If one claims a girdle of the length of ten cubits, and the other admits owing him a girdle five cubits long, he is liable, if the girdle consists of separate pieces (each, for example, one cubit long) sewn together, and he admits that five of the pieces of the girdle belong to the claimant.

(21) Since he does not mention the case of a girdle of separate pieces, we cannot say, in the case of a candlestick, that the reason he is liable is because it is composed of sections (some of which he admits). What, then, is the reason for liability in the case of a candlestick of ten litras (the defendant admitting owing a candlestick of five litras)?

(22) If one claims a candlestick of ten litras, and the other admits one of five litras, he is liable for an oath, because he may have scraped the metal, or planed the wood, (if it is made of wood) of this very candlestick, so that its weight is now only five litras. He therefore admits a portion of the actual claim, and is liable. If, however, one claims a large candlestick (i.e., tall) and the other admits a small candlestick (i.e., short), he is not liable, because he is admitting something which was not claimed, for we cannot say that he shortened the very same candlestick that was claimed, by cutting off top or bottom, because that would spoil it. In the case of a large girdle (i.e., long) and small girdle (i.e., short), the defendant is exempt, because we cannot say he is admitting a portion of the same girdle (which he has cut down and shortened) for the cut ends would be noticeable. Hence, both in the case of candlestick (tall and short) and girdle (long and short), the defendant is exempt, because he is admitting something else (not a portion of that which was claimed).

(23) Two denarii, so you still owe me two denarii.

(24) Because he denies the whole; therefore he does not take an oath.

(25) Because he admits owing one denar; and he takes an oath.

(26) Therefore you, the lender, have to pay me a sela'.

(27) How much the pledge was worth.

(28) The lender with whom the pledge was deposited.

(29) If the borrower takes the oath, the lender (who may not have lost the deposit at all) may bring out the deposit, and show that the borrower has sworn falsely as to its value.

Talmud - Mas. Shevu'oth 43b

GEMARA. To what does it refer?[1] Shall we say, to the last clause?[2] You may infer this [in any case], for the oath devolves upon the lender![3] — Said Samuel: It refers to the first clause: and so said R. Hiyya b. Rab: It refers to the first clause; and so said R. Johanan: It refers to the first clause. — Which first clause? The latter part of the first clause: 'I LENT YOU A SELA' ON IT, AND IT WAS WORTH A SHEKEL,' AND THE OTHER SAYS: 'NO! YOU LENT ME A SELA' ON IT, AND IT WAS WORTH THREE DENARII,' HE IS LIABLE. For here the oath devolves upon the borrower, but the Rabbis removed it from the borrower, and imposed it upon the lender.[4] But now that R. Ashi has said that we have established that this one[5] swears that it is not in his possession,[6] and the other one[7] swears how much it was worth, he means thus: WHO TAKES THE OATH first?[8] HE WHO HAD THE DEPOSIT,[9] LEST, IF THE OTHER TAKE THE OATH [FIRST],[10] THIS ONE MAY BRING OUT THE DEPOSIT.[11]

Samuel said: If one lent a thousand zuz to his neighbour, who deposited with him as a pledge the handle of a saw;[12] if the handle of the saw was lost, the thousand zuz are lost;[13] but in the case of two handles we do not say this.[14] But R. Nahman Says, even in the case of two handles, if he lost one, he loses five hundred [zuz], if he lost [also] the other, he loses the whole [loan]; but in the case of a handle and a bar [of silver] we do not say this.[15] The Nehardeans say, even in the case of a handle and silver bar, if he lost the silver bar, he loses half [the loan], if he lost [also] the handle, he loses the whole [loan].

We learnt: 'I LENT YOU A SELA' ON IT, AND IT WAS WORTH A SHEKEL,' AND THE OTHER SAYS: 'NO! YOU LENT ME A SELA' ON IT, AND IT WAS WORTH THREE DENARII,' HE IS LIABLE. — [Now why?] Let him say to him: 'But you accepted it [as security]'![16] — Our Mishnah [refers to a case] where he stated explicitly;[17] and Samuel [refers to a case] where he did not state this explicitly.[18]

Shall we say that Tannaim [disagree on this point]? [For it was taught:] If a man lends his neighbour [money] on a pledge, and the pledge was lost, he swears,[19] and takes his money: this is the opinion of R. Eliezer. R. Akiba says: He may say to him: 'Did you not lend me because of the pledge? Since the pledge is lost, your money is lost.' But if one lends a thousand zuz on a bond, and he deposited a pledge with him, all agree that if the pledge is lost, the money is lost.[20] — Now, how is this? If the pledge is equal to the amount of the loan,

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(1) The statement of the Mishnah that the lender takes the oath.

(2) Where the borrower claims a sela' from the lender, and the lender admits owing him a denar.

(3) For he is the one who admits a portion of the claim.

(4) For the reason given in the Mishnah.

(5) The lender.

(6) For he may not have lost the pledge, but may have become enamoured of it and desired to retain it; he therefore says that he lost it, and wishes to pay its value. Consequently, he must take an oath that it is really not in his possession.

(7) The borrower.

(8) In the latter part of the first clause (where the oath devolves upon the borrower) to which this question of the Mishnah refers.

(9) Takes the oath that it is not in his possession; he cannot now produce the deposit.

(10) About the value of the deposit.

(11) And show that the other had sworn falsely as to its value.

(12) Which is worth much less than the loan.

(13) Because the lender accepted it as sufficient security.

(14) That he accepted each handle as security for 500 zuz, and if he loses one handle, he loses 500 zuz. For he did not specifically say that he accepted each handle as security for half the loan. We therefore say that both handles together are the pledge for the loan, and if he loses one handle, as long as the other is left, he may restore it to the borrower; and he deducts from the loan merely the value of the lost handle, and not 500 zuz.

(15) That he accepted the silver bar as security for half the loan, for since a silver bar is sufficiently valuable to be accepted as part payment, the lender accepted it as a pledge only up to its value,

(16) Why should the borrower have to take an oath? Let him say to the lender: ‘You accepted the pledge as security for your loan, and since you have lost the pledge, you have lost your money!’ Since the Mishnah does not say this, it conflicts with the view of Samuel!

(17) That he accepts the pledge as security only up to its value.

(18) But simply accepted the pledge; we assume therefore that he accepted it as full security for the whole amount of the loan; and if he loses the pledge, he loses the loan.

(19) That he has lost it.

(20) For since the lender has a document that the other owes him the money, what need is there for a pledge? Obviously, therefore, he took the pledge to secure himself, that if the borrower would not pay (or would have no means to pay) he would keep the pledge. The pledge was therefore not merely a reminder of the loan but a possible source of repayment (for, as a reminder of the loan, he had the bond). If he loses the pledge, therefore, he loses the loan.

Talmud - Mas. Shevu'oth 44a

what is the reason of R. Eliezer?[1] But [you must therefore say,] it is not equal to the amount of the loan, and they disagree about Samuel's ruling.[2] — No! if it is not equal to the amount of the loan, neither of them would agree with Samuel;[3] but here, it is equal to the amount of the loan; and they disagree about R. Isaac's ruling; for R. Isaac said: Whence do we know that the creditor ‘possesses’[4] the pledge? Because it is said: And it shall be righteousness unto thee.[5] [Now,] if he does not ‘possess’ the pledge, wherein is his righteousness [in returning it]? Hence, the creditor ‘possesses’ the pledge.[6]

Shall we say [then] that [these] Tannaim disagree about R. Isaac's ruling?[7] — How can you think so? You may say that R. Isaac stated [his law] if he took the pledge not at the time of his loan;[8] but if he took the pledge at the time of the loan, did he say [this]?[9] — But [answer thus]: If he took the pledge not at the time of the loan, all agree with R. Isaac; but here[10] [we deal with a case where] he took the pledge at the time of his loan, and they disagree on [the same principle which governs] the guardian of a lost object;[11] for it has been stated: The guardian of a lost object: Rabbah says he is like an unpaid bailee,[12]

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[1] That the lender merely takes an oath that he has lost it, and still claims his loan? If the pledge equals the amount of the loan, it was obviously intended as full security; and if he loses it, he should lose his loan.

[2] R. Eliezer does not agree with Samuel, for since the pledge is not worth as much as the loan, the lender accepts it simply as a reminder of the loan and not as full security; and he is regarded as an unpaid guardian of the pledge; therefore he takes the required oaths. And R. Akiba agrees with Samuel that, since the lender made no stipulation, he accepted the pledge as full security, and therefore if he loses it, he loses his money. Hence, Tannaim disagree on this point; then why does Samuel state his ruling as if he originated it? Let him say he agrees with R. Akiba

[3] Both R. Eliezer and R. Akiba holding that, in such a case, the lender did not accept it as security, but merely as a reminder, and therefore if he loses it, he does not lose his money.

[4] I.e., becomes legally responsible for it, and if anything happens to it (even though it is not due to his negligence) he must pay for it; v. B.M. 82a, Rashi.

(5) Deut. XXIV, 13; when the lender returns the pledge to the borrower it is accounted an act of righteousness.

(6) R. Eliezer does not agree with R. Isaac, but holds that the lender is accounted an unpaid guardian of the pledge, and therefore is not responsible for its loss; and R. Akiba agrees with R. Isaac, holding that he is responsible, and since it is equal to the amount of the loan, he loses the whole loan, if he loses the pledge.

(7) Then why does R. Isaac state his ruling as if he originated it? Let him say he agrees with R. Akiba!

(8) But later; and an officer of the Court was sent to obtain the pledge from the borrower; v. B.M. 113a. Since he took the pledge later, he obviously wanted it as a source for the repayment, and is therefore fully responsible for it: he ‘possesses’ it.

(9) He may thus agree with R. Eliezer that he is only an unpaid guardian, and is not responsible for its loss.

(10) The case in which R. Eliezer and R. Akiba disagree.

(11) One who finds a lost object and guards it till its rightful owner is found.

(12) For he does not receive payment for guarding it, and is not responsible for its loss or theft.

Talmud - Mas. Shevu'oth 44b

and R. Joseph says he is like a paid bailee.[1]

Shall we say [then] that [these] Tannaim disagree about R. Joseph's ruling?[2] — No! In the case of a guardian of a lost object all agree with R. Joseph;[3] but here they disagree in a case where the lender requires the pledge [for his use]:[4] one[5] holds he is doing a mizwah, and the other[6] holds he is not doing a mizwah.

Shall we say that [the following] Tannaim [disagree about Samuel's ruling]? [For it was taught:] If one lends his neighbour [money] on a pledge, and the Sabbatical year arrives, even if it is only worth a half, it does not cancel [the debt]:[7] this is the opinion of Rabban Simeon b. Gamaliel. R. Judah the Prince says: If his pledge was equal in value to the debt, it does not cancel it; but if not, it cancels it.[8] Now, what is meant by ‘it does not cancel it’ which the first Tanna states? Shall we say, only up to its value?[9] [But] this would imply that R. Judah the Prince holds it cancels also that portion up to its value! Then for what purpose is he holding the pledge? But it therefore means [does it not?] all of it;[10] and they disagree about Samuel's ruling![11] — No! Really only up to its value,[12] and in this they disagree: the first Tanna holds [it does not cancel] up to its value; and R. Judah the Prince holds it cancels also up to its value;[13] and as to your question: Why is he holding the pledge? That is merely as a reminder.[14]

CHAPTER VII

MISHNAH. ALL WHO TAKE AN OATH [ENFORCED] IN SCRIPTURE, TAKE AN OATH, AND DO NOT PAY.[15] BUT THESE TAKE AN OATH, AND RECEIVE [PAYMENT]: THE HIRED LABOURER,[16] HE WHO HAS BEEN ROBBED, HE WHO HAS BEEN WOUNDED, HE WHOSE OPPONENT IS SUSPECTED OF TAKING A FALSE OATH,[17] AND THE SHOPKEEPER WITH HIS ACCOUNT BOOK.[18] ‘THE HIRED LABOURER’ — HOW? [IF] HE SAYS TO HIM [HIS EMPLOYER]. ‘GIVE ME MY WAGES WHICH YOU OWE ME,’ AND HE REPLIES, ‘I HAVE GIVEN IT,’ AND THE OTHER SAYS, ‘I HAVE NOT RECEIVED IT,’ HE [THE LABOURER] TAKES AN OATH AND OBTAINS [HIS DUE]. R. JUDAH SAYS, [THERE IS NO OATH] UNLESS THERE IS PARTIAL ADMISSION:[19] HOW? IF HE SAYS TO HIM, ‘GIVE ME MY WAGES, FIFTY DENARII, WHICH YOU OWE ME,’ AND THE OTHER SAYS, ‘YOU HAVE RECEIVED A GOLD DENAR.’[20] ‘HE WHO HAS BEEN ROBBED, — HOW? IF THEY TESTIFIED OF A MAN[21] THAT HE ENTERED INTO ANOTHER'S HOUSE TO TAKE A PLEDGE WITHOUT AUTHORITY, AND THE OTHER SAYS, ‘YOU HAVE TAKEN MY VESSELS, AND HE SAYS, ‘I HAVE NOT TAKEN THEM,’ HE[22] TAKES AN OATH, AND RECOVERS THEM. R. JUDAH SAYS, [THERE IS NO OATH] UNLESS THERE IS PARTIAL ADMISSION: HOW? HE SAID TO HIM, ‘YOU HAVE TAKEN TWO VESSELS,’ AND THE

OTHER SAYS, ‘I HAVE TAKEN ONLY ONE.’ ‘HE WHO HAS BEEN WOUNDED,’ — HOW? IF THEY TESTIFIED OF A MAN THAT ANOTHER WENT INTO HIM WHOLE, AND CAME OUT WOUNDED, AND HE SAID TO HIM, ‘YOU HAVE WOUNDED ME,’ AND THE OTHER SAID, ‘I HAVE NOT WOUNDED YOU,’ HE TAKES AN OATH, AND RECEIVES [DAMAGES]. R. JUDAH SAYS, [THERE IS NO OATH] UNLESS THERE IS PARTIAL ADMISSION: HOW? HE SAID TO HIM, YOU HAVE INFLICTED ON ME TWO WOUNDS,’ AND THE OTHER SAID, ‘I INFLICTED ON YOU ONLY ONE WOUND.’ ‘HE WHOSE OPPONENT IS SUSPECTED OF TAKING A FALSE OATH,’ — HOW?

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(1) For he receives divine reward for the mizwah of guarding the lost object, and is therefore responsible for its loss or theft. A lender also has a mizwah for helping the borrower with a loan, therefore he is like a paid bailee for the pledge which is in his keeping, according to R. Joseph. Accordingly, R. Eliezer, who holds the lender is not responsible for the pledge, will agree with Rabbah; and R. Akiba, with R. Joseph.

(2) They certainly disagree about Rabbah's view, for R. Akiba definitely does not agree with him. But can R. Joseph (who agrees with R. Akiba) also say that R. Eliezer agrees with him, too?

(3) Even R. Eliezer agrees, for, since he is doing a mizwah, he is accounted a paid guardian (for he will receive divine payment).

(4) And he deducts from the loan the amount he would have to pay for its hire.

(5) R. Akiba holds that though he is making use of the pledge he is still doing a mizwah by lending the money, for he is deducting from the debt the amount he would have to pay for hiring the pledge; and since he is doing a mizwah, he is a paid guardian for the pledge, and is responsible for its loss.

(6) R. Eliezer holds that since he is using the pledge, he is not doing a mizwah, for he wants it for his own benefit, and is therefore an unpaid guardian, and is not responsible for its loss.

(7) The Sabbatical year cancels debts (Deut. XV, 1, 2), but if a pledge was taken for the debt, the Sabbatical year does not cancel the debt; v. Git. 37a; but Rabban Simeon b. Gamaliel holds that this applies even where the pledge was worth only half of the value of the debt.

(8) V. B.M. 48b.

(9) The Sabbatical year does not cancel that portion of the debt which is equal to the value of the pledge (and therefore secured by it).

(10) R. Simeon b. Gamaliel holds that even if the pledge is worth only half the amount of the debt, the Sabbatical year does not cancel any part of the debt at all; and R. Judah holds it does not cancel that portion which the pledge secures (i.e., up to its value).

(11) R. Simeon agrees with Samuel that, even if the pledge is not worth as much as the debt, it is counted as security for the whole debt. If so, let Samuel say he agrees with R. Simeon b. Gamaliel.

(12) Does R. Simeon b. Gamaliel hold that the Sabbatical year does not cancel it, for the pledge secures that portion; and he does not agree with Samuel.

(13) I.e., if the pledge is not actually worth as much as the loan, it is of no effect, and the Sabbatical year cancels the whole debt.

(14) That he lent him money, but is no security at all, since it is not equal in value to the debt.

(15) i.e., according to the Torah, it is the defendant in the action who takes the oath that he does not owe, and is exempt from paying.

(16) Takes an oath that his wages have not been paid.

(17) The debtor, who normally takes the oath, is known to have sworn falsely in the past; so the Court impose the oath on the creditor, and he exacts his money.

(18) Who has written down in his book the amount he has allowed the other on credit.

(19) When the defendant, the employer, would normally have had to take the oath (being a מודה במקצת); in that case, the Sages say that the oath is removed from him, and imposed upon the employee; but where there is no admission on the part of the employer, there would have been no oath (according to the Torah, except the Rabbinic consuetudinary oath, v. supra p. 247); and in this case the Rabbis do not impose it on the labourer.

(20) 25 silver denarii.

(21) The robber.

(22) The householder.

Talmud - Mas. Shevu'oth 45a

WHETHER IT BE THE OATH OF TESTIMONY,[1] OR THE OATH OF DEPOSIT, OR EVEN A VAIN OATH;[2] IF ONE [OF THE LITIGANTS] WAS A DICE-PLAYER,[3] OR USURER, OR PIGEON-FLYER,[4] OR DEALER IN THE PRODUCE OF THE SEVENTH YEAR,[5] HIS OPPONENT TAKES THE OATH AND RECEIVES [HIS CLAIM].[6] IF BOTH ARE SUSPECT, THE OATH RETURNS TO ITS PLACE:[7] THIS IS THE OPINION OF R. JOSE. R. MEIR SAYS: THEY DIVIDE.[8] ‘AND THE SHOPKEEPER WITH HIS ACCOUNT BOOK,’ — HOW? NOT THAT HE [E.G.,] SAYS TO HIM, ‘IT IS WRITTEN IN MY ACCOUNT BOOK THAT YOU OWE ME TWO HUNDRED ZUZ’;[9] BUT HE[10] SAYS TO HIM, ‘GIVE MY SON TWO SEAHS OF WHEAT,’[11] OR, ‘GIVE MY LABOURER SMALL CHANGE TO THE VALUE OF A SELA;’[12] I HE SAYS, ‘I HAVE GIVEN,’ AND THEY[13] SAY, ‘WE HAVE NOT RECEIVED’; HE[14] TAKES AN OATH, AND RECEIVES [HIS DUE].[15] AND THEY TAKE AN OATH, AND RECEIVE [THEIR DUE].[16] BEN NANNUS SAID: HOW CAN BOTH BE PERMITTED TO COME TO A VAIN OATH?[17] BUT HE[14] TAKES WITHOUT AN OATH, AND THEY[13] TAKE WITHOUT AN OATH. — IF HE SAID TO A SHOPKEEPER, ‘GIVE ME FRUIT FOR A DENAR,’ AND HE GAVE HIM, THEN THE SHOPKEEPER SAID TO HIM, ‘GIVE ME THE DENAR’; AND HE REPLIED TO HIM, ‘I GAVE IT TO YOU, AND YOU PLACED IT IN THE TILL,’ THE HOUSEHOLDER TAKES AN OATH.[18] IF HE GAVE HIM THE DENAR, AND SAID TO HIM, ‘GIVE ME THE FRUIT,’ AND THE SHOPKEEPER SAYS TO HIM, ‘I HAVE GIVEN IT TO YOU, AND YOU TOOK IT TO YOUR HOUSE,’ THE SHOPKEEPER TAKES AN OATH.[19] R. JUDAH SAYS: HE WHO HAS THE FRUIT IN HIS POSSESSION. HIS HAND IS UPPERMOST.[20] IF HE SAID TO A MONEY-CHANGER, ‘GIVE ME CHANGE FOR A DENAR,’ AND HE GAVE HIM; AND SAID TO HIM, ‘GIVE ME THE DENAR,’ AND THE OTHER SAID, ‘I HAVE GIVEN IT TO YOU, AND YOU PLACED IT IN THE TILL,’ THE HOUSEHOLDER TAKES AN OATH. IF HE GAVE HIM THE DENAR, AND SAID TO HIM, ‘GIVE ME THE SMALL CHANGE,’ AND THE OTHER SAID TO HIM, ‘I HAVE GIVEN IT YOU, AND YOU THREW IT IN YOUR PURSE,’ THE MONEY-CHANGER TAKES AN OATH. R. JUDAH SAYS: IT IS NOT USUAL FOR A MONEY-CHANGER TO GIVE [EVEN] AN ISSAR UNTIL HE RECEIVES THE DENAR.[21] — JUST AS THEY HAVE SAID THAT SHE WHO IMPAIRS HER KETHUBAH CANNOT RECEIVE PAYMENT EXCEPT ON OATH;[22] AND THAT IF ONE WITNESS TESTIFIES AGAINST HER THAT IT HAS BEEN PAID [IN FULL], SHE CANNOT RECEIVE PAYMENT EXCEPT ON OATH; AND THAT FROM ASSIGNED PROPERTY[23] OR ORPHANS’ PROPERTY SHE CANNOT EXACT PAYMENT EXCEPT ON OATH; AND THAT IF SHE CLAIMS NOT IN HIS PRESENCE,[24] SHE CANNOT RECEIVE PAYMENT EXCEPT ON OATH; SO, TOO, ORPHANS CANNOT RECEIVE PAYMENT[25] EXCEPT ON OATH [NAMELY]: ‘WE SWEAR THAT OUR FATHER DID NOT ENJOIN IN HIS TESTAMENT UPON US, NEITHER DID OUR FATHER SAY UNTO US, NOR DID WE FIND [WRITTEN] AMONG THE DOCUMENTS OF OUR FATHER THAT THIS DOCUMENT IS PAID.’[26] R. JOHANAN B. BEROKA SAYS: EVEN IF THE SON WAS BORN AFTER HIS FATHER'S DEATH HE MAY TAKE AN OATH,[27] AND RECEIVE HIS CLAIM. R. SIMEON B. GAMALIEL SAYS: IF THERE ARE WITNESSES THAT THE FATHER SAID AT THE TIME OF HIS DEATH THAT THIS DOCUMENT WAS NOT PAID, HE RECEIVES [HIS CLAIM] WITHOUT AN OATH, — AND THESE TAKE AN OATH THOUGH THERE IS NO [DEFINITE] CLAIM:[28] PARTNERS,[29] TENANTS,[30] ADMINISTRATORS,[31] THE WIFE WHO TRANSACTS THE AFFAIRS IN THE HOUSE,[32] AND THE SON OF THE HOUSE.[33] [IF] HE[34] SAID TO HIM,[35] ‘WHAT DO YOU CLAIM OF ME?’ [AND THE OTHER REPLIED.] ‘I DESIRE THAT YOU SWEAR TO ME’;[36] HE MUST TAKE AN OATH. IF THE PARTNERS OR TENANTS HAD DIVIDED,[37] HE CANNOT IMPOSE AN OATH UPON THEM.[38] IF AN OATH WAS IMPOSED UPON HIM IN ANOTHER CASE, THEY IMPOSE UPON HIM THE WHOLE.[39] AND THE SEVENTH YEAR CANCELS THE OATH.[40]

GEMARA. ALL WHO TAKE AN OATH [ENFORCED] IN SCRIPTURE, TAKE AN OATH, AND DO NOT PAY. Whence do we know this? — Because Scripture said: And the owner thereof shall accept it, and he shall not pay[41] — he whose duty it is to pay: upon him devolves the oath.

BUT THESE TAKE AN OATH, AND RECEIVE [PAYMENT], etc. In what way is the hired labourer different that the Rabbis have instituted for him [the privilege] that he should take the oath and receive [his wages]? — Rab Judah said that Samuel said: Great halachoth did they teach here. ‘Halachoth!’ Are these then halachoth?[42] But say: Great enactments did they teach here. — ‘Great’! Hence there are also small [enactments]?[43] — But, said R. Nahman that Samuel said: Fixed enactments did they teach here: our Rabbis removed the oath from the householder[44] and imposed it upon the hired labourer for the sake of his livelihood. [But] for the sake of the labourer's livelihood do we fine the householder? — The householder himself is satisfied that the labourer should take the oath and receive [his wages], so that labourers may hire themselves out to him.[45] On the contrary, the hired labourer is satisfied that the householder should take the oath, and be released [from payment], so that the householder should hire him?[46] — The householder must of necessity employ [labourers].[47] The labourer also must of necessity be employed![48] — Well, then, the householder is busy with his labourers.[49] — Then, let him give him without an oath![50] — In order to appease the mind of the householder [an oath is imposed].[51] — Well, let him pay him in the presence of witnesses?[52] — That would be too troublesome for him.[53] Then let him pay him at the beginning?[54] — Both desire credit.[55]

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(1) If he is known to have sworn falsely any of these, he can no longer be trusted to take an oath.

(2) Though he did not thereby injure anybody.

(3) Gambler.

(4) Racing his pigeon against a neighbour's pigeon, and betting on the result; or, a fowler, laying snares for pigeons; sometimes a pigeon belonging to somebody may be ensnared, and he is thus guilty of theft; v. Sanh. 25a.

(5) The Sabbatical year's produce was free to all to eat, and the owner of the field was not allowed to count himself the sole possessor of the produce, and was not allowed to trade with it; v. Lev. XXV, 6, and Rashi a.l.

(6) Because those enumerated are not trusted with an oath.

(7) It devolves upon the person who normally would take the oath, i.e., the defendant, who, if he admits a portion of the claim, must take an oath; here, since he is suspect, he cannot take the oath, so he pays the full claim; v. infra 47a.

(8) The defendant pays half the claim only.

(9) This is not sufficient to allow the shopkeeper to take an oath, and exact the money.

(10) The purchaser

(11) ‘And I will pay.’

(12) ‘And I will give you a sela.’

(13) The son or labourer.

(14) The shopkeeper.

(15) From the householder.

(16) Also from the householder.

(17) One of them, either the shopkeeper or the labourer, is bound to be swearing falsely.

(18) That he paid him; this oath is a consuetudinary oath, for he is a כופר הכל denying the whole of the claim (Rashi); but v. Tosaf. infra 48a s.v. נשבע. [Though the oath serves here to exempt the purchaser from paying, it is nevertheless included among those taken in order to receive payment, as the oath enables the purchaser to retain the produce he bought (Hoffmann). For other interpretations, v. Alfasi on the passage and attendant commentaries.]

(19) That he gave him the fruit.

(20) He disagrees with the first clause which states that the householder takes an oath that he has paid the denar. R. Judah says he does not need to swear, for it is not usual for a shopkeeper who sells for cash to give the fruit before he receives the money, and since the householder already has the fruit, his hand is uppermost, and we assume that he has paid.

(21) Therefore, in the first clause, the householder does not need to take an oath.

(22) If a wife, producing her kethubah (v. Glos.) admits that she has been paid a part of the money due to her, she ‘impairs her kethubah’ (i.e., weakens its validity, for the amount shown in the document is no longer correct, on her own admission), and if the husband, who is divorcing her, says he has paid her the whole amount, she cannot obtain payment of her claim unless she takes an oath that she has not been paid.

(23) Mortgaged to another.

(24) If her husband sent her a divorce from abroad, and is not present now when she claims her kethubah.

(25) In their claim of a debt due to their father.

(26) I.e., ‘our father did nor tell us before his death that the claim in this document which we now produce has been satisfied; nor did we find that he had already written out a receipt ready to be dispatched to the debtor.’

(27) That he has found no documentary evidence among his father's papers that this claim has been paid.

(28) Though the claimant does not make a definite charge of fraudulence against them, but only suspects them, they must take an oath to refute the charge; v. infra 48b.

(29) If one suspects the other, the suspected one takes an oath.

(30) One who tills the owner's land, and receives for his work a certain share of the produce.

(31) One who is appointed to administer the business affairs of another.

(32) The husband handed over his business for her to manage.

(33) One of the sons who, after the father's death, administers the affairs.

(34) The partner, tenant, etc.

(35) To his respective claimant.

(36) ‘That you did not fraudulently convert to your own use what is mine.’

(37) Had dissolved their partnership or business arrangement, each taking his due.

(38) On the grounds of a possible fraudulent dealing.

(39) If this partner or tenant was concerned in another law-suit with the same claimant, and had to take an oath in that case, then the Court insert in the oath a statement having reference to the present claim, so that he takes the oath for both claims together; v. infra p. 301, n. 9.

(40) If the Sabbatical year intervenes, he does not take the oath.

(41) Ex. XXII, 10; the verse begins: The oath of the Lord shall be between them both, to see whether he hath not put his hand unto his neighbour's goods. The owner shall accept this oath, and the guardian (in whose care the animal had died) does not need to pay; hence the person whose duty it is to pay has the oath imposed upon him, and exempts himself from payment.

(42) The word halachah used here implies a traditional law handed down from the time of Moses.

(43) Surely all enactments instituted by the Sages are equally important and great!

(44) Who, according to the Biblical law, would take the oath and be exempt.

(45) For if the employer would take the oath, and not pay the labourer, no one would ever want to work for him.

(46) On this occasion when there is a dispute as to whether he has paid him his wages or not, the labourer prefers to allow the employer to take the oath (and not pay), so that he may employ him again.

(47) So the labourer need not fear; and should take the oath.

(48) Hence employer and labourer are equally dependent upon each other; so that we cannot say the reason why the oath is imposed upon the labourer is because the employer prefers it thus, so that labourers may not be afraid of him, and may hire themselves out to him; they would in any case seek employment from him.

(49) He has many labourers to whom he pays wages, and he may genuinely have made a mistake and thought he had paid this one too; but the labourer has only one employer to deal with, and he remembers whether he has received his wages; therefore the oath is imposed upon the labourer.

(50) Why should the labourer have to take an oath?

(51) To satisfy him that he was mistaken, and that he had not really paid the labourer yet.

(52) Let the Rabbis establish a rule that wages must be paid in the presence of witnesses, to avoid the necessity for an oath.

(53) For witnesses are not always available.

(54) In the morning before he begins work. If then, at the end of the day, the labourer claims his daily wage, there will be no need for an oath, for we would assume definitely that the wages had been paid in the morning, since the Rabbis had established that rule, and the labourer would not have commenced his work unless he had been paid first.

(55) The employer desires credit till the evening, for he frequently has not the money for the wages in the morning; and the labourer desires to grant this credit, and does not want his money in the morning, in case he spends it.

Talmud - Mas. Shevu'oth 45b

If so,[1] even in the case where he fixed [the wages], also [let the labourer take the oath];[2] wherefore has it been taught: [If] the artisan says: ‘Two [zuz] did you stipulate to pay me,’ and the other says: ‘I stipulated to pay you only one;’ he who wishes to exact from his neighbour must bring proof![3] — The amount fixed [as wages] he certainly remembers.[4] If so, even in the case where his time had expired also [let the labourer take the oath];[5] wherefore has it been taught: If his time had expired and he had not given him,[6] he does not take an oath to receive [his wages];[7] [for] it is a presumption that the householder would not transgress [the precept]: the wages of a hired servant shall not abide with thee all night until the morning.[8] Now did you not say that the householder is busy with his labourers?[9] — That is only before the time of liability arrives, but when the time of liability arrives it thrusts itself upon him, and he remembers. Would then the labourer transgress [the precept]: thou shalt not rob?[10] — With the householder there are two presumptions: one, that the householder would not transgress [the precept]: ‘the wages of a hired servant shall not abide with thee’ etc., and another, that the hired servant would not allow his wages to be delayed.[11]

R. Nahman said that Samuel said: They did not teach this,[12] except when he hired him in the presence of witnesses, but if he hired him without witnesses, since he may say to him, ‘I never hired you,’ he may say to him, ‘I hired you and paid you your hire.’[13] R. Isaac said to him: ‘Correct; and so said R. Johanan.’ Are we hence to infer that Resh Lakish disagrees with him? — Some say, that he was drinking and was silent; and some say, that he waited for him, and was silent.[14]

It was stated also: R. Menashya b. Zebid said that Rab said: They did not teach this, except when he hired him in the presence of witnesses, but if he hired him without witnesses, since he may say to him, ‘I never hired you,’ he may say to him, ‘I hired you, and paid you your hire.’ Rami b. Hama said: How excellent is this ruling! Said Raba to him: Wherein is its excellence? If such is the case, the oath of guardians, which the Divine Law imposes[15] — how is it possible of fulfillment? Since he may say to him, ‘The thing never happened,’ he may say to him, ‘It was an unpreventable accident.’[16] — In the case where he deposited it with him before witnesses.[17] But since he may say to him, ‘I returned it to you,’ he may say to him, ‘An accident happened.’[18] In the case where he deposited it with him by a document.[19] Hence we can infer that both[20] hold that he who deposits [an article] with his neighbour before witnesses need not return it to him before witnesses;[21] but if by document, he must return it to him before witnesses.[22]

Rami b. Hama applied to R. Shesheth the verse: And David laid up these words in his heart.[23] For R. Shesheth met Rabbah b. Samuel, and said to him: Have you studied anything about a hired labourer? — He replied to him: Yes, we are taught: A hired labourer [if he claims] within his time limit,[24] takes an oath, and receives [his wages]. How? If he said to him: ‘You hired me, and did not pay me my wages,’ and the other said: ‘I hired you and did pay you your wages.’[25] But if he said to him: ‘Two did you stipulate to pay me,’ and the other said: ‘I stipulated to pay you only one,’ he who desires to exact from his neighbour must bring proof.[26] Now, since the second clause is concerned with proof, the first clause is not concerned with proof![27] — R. Nahman b. Isaac said:

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[1] If you say that the labourer takes the oath and receives his wages, because the employer is too busy with his workmen to remember whether he had paid or not.

[2] Where the dispute is as to the amount that had been agreed upon, let us also say that the labourer should swear and receive what he claims.

[3] The artisan who claims an extra one (zuz, denar, or any coin) must bring witnesses to testify that his claim is correct. Why should he not take an oath and receive his money, without witnesses?

[4] The employer may possibly not remember whether he paid the labourer, but he remembers the amount he stipulated

to pay; therefore the labourer is not in this case more reliable than the employer, and must bring witnesses.
(5) A day labourer has time to claim his wages during the whole of the succeeding night; and a night labourer, during the whole of the succeeding day (B.M. 110b).
(6) I.e., the labourer claims that the employer has not yet paid him.
(7) Why should not the labourer take an oath and receive his wages? Since we say the employer is busy with his labourers, he may have forgotten that he has not yet paid him.
(8) Lev. XIX, 23; since he does not wish to transgress this prohibition, he is careful to remember to pay in time.
(9) So that in spite of himself he may really have forgotten. Let the labourer then take the oath!
(10) Lev. XIX, 13; he would not rob his employer by claiming his wages twice; therefore let him take the oath.
(11) There are two presumptions in favour of the householder; i.e., which incline us to the belief that he paid the wages in the proper time.
(12) That the labourer takes an oath that he has not received his wages and obtains his due.
(13) If there were no witnesses that the employer hired this labourer, the employer, if he wished to evade payment, could have said that he did not hire him at all; therefore, if he admits he hired him, but says he has paid him, he is believed.
(14) V. supra 40a.
(15) Ex. XXII, 10; deals with a paid guardian who claims that the loss was unpreventably accidental; he must take an oath to this effect (i.e., that it was hurt, or forcibly removed by robbers, or died), and is exempt.
(16) Since the guardian may say that he never had the other's animal to guard, and he would have been exempt, he should be believed when he says that an accident happened to it. Why, then, does Scripture impose an oath on him?
(17) Then the oath is imposed; for the guardian could not have evaded payment by saying he never took the animal, for there are witnesses that it was deposited with him.
(18) He should still be believed without an oath, for he could have said that he had already returned the animal to its owner.
(19) The guardian signed a document that he received the animal from him. He cannot say that he returned the animal to the owner, because he would have claimed the return of the document. He is therefore not believed (without an oath) if he says an unpreventable accident happened to it.
(20) Raba and Rami b. Hama.
(21) For Rami b. Hama replies at first that he deposited it with the guardian in the presence of witnesses; and Raba asks, since the guardian may say to him, ‘I returned it to you,’ etc. Hence, Raba holds that he does not require to have witnesses that he returned it. And Rami b. Hama agrees, for he does not dispute this statement, but gives another answer — that he deposited it by document.
(22) For both agree that the guardian cannot say, ‘I have already returned the article to you’; hence, he must return it in the presence of witnesses.
(23) I Sam. XXI, 13; he applied this verse to him, because he also ‘laid up these words in his heart,’ i.e., he took pains to ascertain if the ruling of Rab and Samuel (that the labourer takes an oath and receives his wages only if he was hired in the presence of witnesses) had any support.
(24) V. B.M. 110b, where the different time limits for claiming are enumerated, in the case of labourers hired for the day, night, week, month, etc.
(25) In this case, where the dispute is whether he paid him or not, the labourer takes an oath that he has not been paid, and receives his wages.
(26) The labourer must bring witnesses, and if he has no witnesses, he cannot take an oath and receive what he claims.
(27) For the first clause does not mention it; hence, in the first clause, the labourer takes an oath, and receives his wages, even if he does not bring witnesses that he was hired by the employer. Thus, this is opposed to the ruling of Rab and Samuel that only if there were witnesses that he was hired is he believed with an oath.

Talmud - Mas. Shevu'oth 46a

Both the first and second clauses are concerned with proof:[1] the proof which necessitates payment he mentions;[2] the proof which necessitates [merely] an oath he does not mention.[3]

R. Jeremiah b. Abba said: The School of Rab sent to Samuel [the request]: Let our Master teach us: If an artisan says [to his employer]: ‘Two [zuz] have you stipulated to pay me,’ and the other says: ‘I stipulated to pay you only one,’ who takes the oath? — He replied to them: In this case the householder takes the oath, and the artisan loses, for the amount stipulated people certainly remember.[4] But this is not so? For did not Rabbah b. Samuel learn: ‘[In the case of dispute about the amount] stipulated, he who desires to exact from his neighbour must bring proof’[5] — [thus implying that] if he does not bring proof, it is cancelled![6] But why? Let the householder take an oath, and the artisan lose![7] — R. Nahman said: Both alternatives are meant: Either [the artisan] brings proof, and receives [his claim], or the householder takes an oath, and the artisan loses.[8]

An objection was raised: If one gave his cloak to an artisan [to mend], and the artisan says. ‘You did stipulate to pay me two [zuz],’ and the other says, ‘I stipulated to pay you only one,’ as long as the cloak is in the hands of the artisan, the householder must bring proof;[9] but if he had already given it him, then [if he claims] within his time limit,[10] he takes an oath, and receives [his claim]; but if his time has passed, he who desires to exact from his neighbour must bring proof.[11] [Now it states] after all: ‘[If he claims] within his time limit, he takes an oath and receives [his claim]’! Why? Let the householder take an oath, and the artisan lose![12] — R. Nahman b. Isaac said: This is in accordance with the view of R. Judah[13] who says whenever the oath inclines towards the householder, the hired person takes the oath and receives [his claim].[14] Which R. Judah? Shall we say. R. Judah of our Mishnah? [Surely] he is more stringent, for we learnt: R. JUDAH SAYS: [THERE IS NO OATH] UNLESS THERE IS PARTIAL ADMISSION.[15] — But it is R. Judah of the Baraitha; for it was taught: A hired labourer, as long as his time limit has not expired,[16] takes an oath, and receives [his claim]; but if not,[17] he does not take an oath, and receive [his claim]. And R. Judah said: When [does he take an oath]? Only if he says to him, ‘Give me my wages fifty denarii which you owe me, and the other says. ‘You have already received of it a gold denar’,[18] or, if he says to him. ‘Two did you stipulate to pay me,’ and the other says. ‘I stipulated to pay you only one.’[19] But if he says to him, ‘I never hired you at all,’ or, if he says to him, ‘I hired you, and paid you your wages,’ then he who desires to exact from his neighbour must bring proof.[20]

To this R. Shisha the son of R. Idi demurred: Well then, [in the case where the dispute is about the amount] stipulated [is this ruling][21] the view of R. Judah, and not that of the Rabbis. Now since where R. Judah is more stringent,[22] the Rabbis are more lenient;[23] where R. Judah is more lenient,[24] will the Rabbis be more stringent![25] — But then, [will] the Rabbis [also agree]?[26] Then, that which Rabbah b. Samuel learnt that [where the amount] stipulated [is in dispute] he who desires to exact from his neighbour must bring proof[27] — whose view would it be? It cannot be the view of R. Judah, nor that of the Rabbis! — But, said Rabbah, in this they disagree: R. Judah holds in [an oath imposed by] the Torah[28] an enactment was instituted in favour of the hired labourer,[29] but in [an oath imposed by] the Rabbis,[30] which is itself an enactment — we do not impose one enactment upon another enactment.[31] And the Rabbis hold even in [an oath imposed by] the Rabbis we also institute an enactment in favour of the hired labourer; but [in the case of a dispute about] the amount stipulated, this the employer remembers.[32]

‘HE WHO WAS ROBBED,’ — HOW? IF THEY TESTIFIED AGAINST HIM THAT HE ENTERED HIS HOUSE TO SEIZE HIS PLEDGE, etc. But perhaps he did not seize his pledge.[33] Did not R. Nahman say: If one held an axe in his hand, and said, ‘I am going to cut down the palm-tree of So-and-so,’ and it was found cut and cast [on the ground], we do not say that he cut it down?[34] Hence, a man often boasts, but does not fulfil; here also [perhaps] he boasted, and did not fulfil! — Read:[35] ‘And seized his pledge.’ — Then let us see what pledge he seized![36] — Rabbah b. Bar Hanah said that R. Johanan said: He claimed from him vessels which may be taken under his garments.[37]

Rab Judah said: If they saw him hiding articles under his garments,[38] and he came out,

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(1) I.e., there must be witnesses that he was hired.

(2) In the second clause he requires witnesses as to the amount that was stipulated; this proof (without which payment cannot be exacted) the tanna mentions.

(3) In the first clause witnesses are necessary to testify that he was hired; this the tanna does not mention (though the witnesses are necessary), for these witnesses merely give the labourer power to take an oath.

(4) And we do not say that because the employer is busy with his labourers he does not remember the amount stipulated, and that therefore the oath should devolve on the labourer; but the employer takes the oath like every one who admits part of the claim.

(5) Supra 45b.

(6) The extra amount which he claims; and the employer does not need to take an oath, but is automatically exempt.

(7) Only if the employer takes an oath, but not otherwise.

(8) Do not deduce from the teaching of Rabbah b. Samuel that if the artisan does not bring proof, the employer is automatically exempt; if he does not bring proof, the employer must take an oath that he stipulated only one.

(9) I.e., witnesses, that be stipulated to pay only one zuz, for he is the one who desires to exact from his neighbour (the cloak for only one zuz).

(10) On the day that he gave it him.

(11) The artisan must bring witnesses that the householder had agreed to pay him two zuz, and if he does not bring witnesses, he loses his claim.

(12) This question is directed against Samuel who holds that where the dispute is about the amount stipulated, the householder takes an oath, and is exempt.

(13) And Samuel does not agree with him, but with the other Sages.

(14) Whenever the householder should, according to Scripture, take the oath, i.e., when he admits part of the claim, as here, the oath is transferred from him to the employee, because the employer cannot remember so well (even in a dispute about the amount stipulated), for he is busy with his labourers.

(15) Supra 44b. Hence R. Judah restricts the labourer, and does not allow him to take an oath, even where the Sages do allow him. Therefore in the case where the amount stipulated is in dispute, how can you say that it is R. Judah who allows the labourer to take an oath and receive his claim, since others hold that in such a case the labourer is not allowed to take an oath, but the householder takes the oath, and is exempt?

(16) In which to claim.

(17) If it is after the time limit.

(18) 25 silver denarii.

(19) Hence, even in a case where the amount stipulated is in dispute. R. Judah states clearly that the labourer takes an oath.

(20) The labourer must bring witnesses, and if not, the employer is exempt, for he denies the whole claim.

(21) That the labourer takes the oath.

(22) In the case of the Mishnah where there is no partial admission on the part of the employer, R. Judah is more stringent, and does not allow the labourer to take an oath.

(23) They do allow him to take the oath, and receive his claim.

(24) Where the amount stipulated is in dispute.

(25) And not allow the labourer to take the oath!

(26) That in the case where the amount stipulated is in dispute the labourer takes the oath.

(27) The labourer must bring witnesses; but he cannot receive the amount he claims merely by taking an oath.

(28) Where the employer admits a portion of the claim.

(29) That the oath be removed from the employer and given to the labourer, who takes the oath, and receives his claim.

(30) Where the employer denies the whole; and there is only the Rabbinic oath of equity.

(31) By removing this oath from the employer and giving it to the labourer.

(32) And we do not say, because he is busy with his labourers, he forgets; therefore in this case the oath is not transferred to the labourer. Hence, it is in fact true that R. Judah is sometimes more stringent (even when the Sages are more lenient, as in the case where there is no partial admission), and sometimes the Sages are more stringent (even where R. Judah is more lenient, as in the case where the dispute is about the amount stipulated): the reason is because these cases depend upon different principles. Thus the ruling that the labourer takes the oath in the case of dispute about the amount is R. Judah's view, and not that of the Sages; and Rabbah b. Samuel agrees with the Sages.

(33) The witnesses merely say that he entered the house to seize the pledge, but they did not see him take it. Why, then, should the householder he permitted to take an oath, and claim the vessels?

(34) Though the evidence against him is strong; but we must have definite evidence before we can make him pay for the damage.

(35) In the Mishnah.

(36) If the witnesses testify that they actually saw him seize the pledge, they can give evidence and state what the pledge was. What need, then, is there for the householder to take an oath?

(37) The householder claims that he took from him small articles which could easily be hidden under his coat; and though the witnesses saw that he took something, they could not see exactly what it was; therefore the householder takes an oath.

(38) If witnesses saw a man entering another man's house, and hide some articles under his coat, and come out.

Talmud - Mas. Shevu'oth 46b

and said, ‘I bought them,’[1] he is not believed.[2] And we do not say this, except in the case of a householder who does not usually sell his [household] articles; but in the case of a householder who sometimes sells his articles, he is believed.[3] And [in the case of a householder] who does not usually sell his household articles we also do not say [that the intruder is not believed] except [with regard to] articles it is not usual to hide,[4] but [with regard to] articles which it is usual to hide, he is believed.[5] And [with regard to articles] which it is not usual to hide we also do not say [that he is not believed] except if he is a man who is not decorous, but [in the case of] a decorous man, that is his way.[6] And we do not say [that he is not believed] except when the householder says he lent them, and the other says he bought them, but [if the householder says the other] stole them, it is not at all in the householder's power [to say so], for we do not assuredly presume a man to be a robber.[7] And we do not say [that the intruder is not believed] except in the case of articles which it is customary to lend or hire out, but in the case of articles which it is not customary to lend or hire out, he is believed;[8] for R. Huna b. Abin sent[9] [his decision that] in the case of articles which it is customary to lend or hire out, and [the intruder] said, ‘I bought them,’ he is not believed; as in the case where Raba removed a pair of scissors for [cutting] cloth and a book of Aggada[10] from orphans — things which it is customary to lend and hire out.[11]

Raba said: Even the caretaker may take the oath;[12] and even the caretaker's wife may take the oath. R. Papa inquired: In the case of his hired labourer or retainer,[13] what is the ruling?[14] — Let it stand.[15]

R. Yemar said to R. Ashi: if he claimed from him a silver goblet, what is the ruling?[16] — [He replied:] We see, if he is a man reputed to be wealthy,[17] or a man who is trustworthy so that people deposit [articles] with him,[18] he takes an oath and recovers [the goblet], but if not, he does not.

‘HE WHO WAS WOUNDED,’ — HOW? Rab Judah said that Samuel said: They did not teach it,[19] except [if the wound were] in a spot where he could have inflicted it himself,[20] but if it is in a spot where he could not have inflicted it himself, he receives [compensation] without an oath.[21] But let us take into consideration that perhaps he rubbed himself against a wall![22] — R. Hiyya taught [that the Mishnah deals with a case] where a bite appeared on his back or between his arm-pits.[23] But perhaps someone else did it to him?[24] — There was no other.

‘AND HE WHOSE OPPONENT IS SUSPECTED OF SWEARING FALSELY. . . AND EVEN A VAIN OATH.’ What is meant by EVEN A VAIN OATH?’[25] — He[26] states a case of ‘not only’: not only [if he is guilty] in these[27] where there is a denial of money, but even in this[28] also which is merely a denial of words,[29] he is no longer believed [on oath]. Let him[26] mention also the oath of utterance. — He mentions only such an oath that at the time of swearing he swears falsely; but the oath of utterance, where it is possible to say that he is swearing the truth,[30] he does not mention. Granted, in the case of ‘I shall eat,’ or, ‘I shall not eat’;[31] but in the case of ‘I have eaten,’ or, ‘I have not eaten,’[32] what shall we say?[33] — He[26] mentions vain oath

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(1) And the householder said he lent them to him.

(2) The intruder is not believed, even if he desires to take an oath; but the householder takes a consuetudinary oath that he did not sell them or give them to him, and recovers the articles; v. Maim., Yad, To'en we-Nite'am, IX, 4.

(3) The intruder is believed (with a consuetudinary oath) that he bought them.

(4) Articles which one is not ashamed to carry openly in the street. This person hid them, apparently because he was ashamed to have to borrow them; if he had really bought them, as he states, he would not have been ashamed to carry them openly.

(5) That he bought them; and though this householder does not usually sell his household goods, he may have been in need of money on this occasion.

(6) And he is believed that he bought them, though he carries them hidden under his cloak (and they are articles which other men would carry openly).

(7) And the intruder is believed that he bought them, even if he is not a decorous man who always carries articles hidden under his cloak.

(8) When he says he bought them.

(9) From Palestine, v. B.B. 52b.

(10) Containing legendary matter and homiletic literature.

(11) The claimant brought witnesses who testified that the articles were his; and he maintained that he had lent them to the orphans’ father. Raba decided in favour of the claimant (who, naturally, must take an oath that he did not give them or sell them to their father). Since Raba decided thus, it is obvious that he holds that if the father had been alive and said he had bought them, he would not have been believed (for these are articles which it is customary to lend), for had the father been believed, it would have been the duty of the Court, in his absence, to put forward the same plea on behalf of the orphans. The book, which the claimant said he had lent the father, happened to be Aggada, but the same rule applies to all books (v. Tosaf. ad loc.; but Rashi differs).

(12) This refers to the Mishnah that if witnesses testify that an intruder entered another man's house and seized a pledge which he hid under his cloak (so that they could not distinguish what it was) the householder takes an oath that the article is his, and recovers it. Raba says that if the householder was absent when the intruder entered, but the caretaker was there, he takes the oath.

(13) Upon whom the duty of minding the house does not devolve.

(14) Do they take the oath in the householder's absence?

(15) It remains unsolved.

(16) If the householder claimed from the intruder a valuable object, is he also believed on oath?

(17) Who is known to have in his home similar objects of value.

(18) And he states that the silver goblet had been deposited with him by another person.

(19) In the Mishnah that the injured person takes an oath that the other had inflicted upon him the wound which he exhibits.

(20) Therefore an oath is necessary that the other did it.

(21) For witnesses testified that he entered the other's premises whole, and came out injured.

(22) And injured himself; why should he receive compensation from the other without an oath?

(23) Or in the elbow joint, which could not have been caused by rubbing against a wall.

(24) Why should he obtain compensation, without an oath, from the householder? Perhaps another person in the house injured him.

(25) Why ‘EVEN’?

(26) The Tanna of our Mishnah.

(27) Having sworn falsely in a case involving an oath of testimony or of deposit.

(28) Taking a vain oath, e.g., swearing that a pillar of stone is gold.

(29) Denial (i.e., false statement) involving words only.

(30) E.g., he swears ‘I shall not eat this loaf’; at the moment of swearing he may intend to fulfil it; even if later he is overcome by temptation, and eats it, he should not thereby be accounted untrustworthy and debarred from taking an oath in a money claim.

(31) It is possible that at the moment of swearing he intends to fulfil them.

(32) Where, at the moment of swearing, he knew he was swearing falsely.
(33) Why should not the Mishnah mention that in such a case, too, he is no longer believed on oath, and his opponent is given the oath.

Talmud - Mas. Shevu'oth 47a

and all that are similar to it.[1]

IF ONE OF THEM WAS A DICE-PLAYER. Wherefore is this necessary?[2] — He [the tanna] mentions a Biblical disqualification, and he mentions a Rabbinic disqualification.[3]

IF BOTH WERE SUSPECT, etc. Raba said to R. Nahman: 'How did we learn in the Mishnah?'[4] — He said to him: 'I do not know.' 'What is the law?' — He said to him: 'I do not know.' It was stated: R. Joseph b. Minyomi said that R. Nahman said: R. Jose says, They divide.[5] And so did R. Zebid b. Oshaia learn: R. Jose says, They divide. Some say.[6] R. Zebid learned: R. Oshaia said: R. Jose says, They divide. R. Joseph b. Minyomi said: R. Nahman decided a case thus: they divide.

THE OATH RETURNS TO ITS PLACE. Whither does it return? — R. Ammi said: Our Masters of Babylon said, the oath returns to Sinai;[7] our Masters of the Land of Israel said, the oath returns to him upon whom it devolves.[8] R. Papa said: Our Masters of Babylon[9] are Rab and Samuel; our Masters of the Land of Israel are R. Abba.[10] 'Our Masters of Babylon are Rab and Samuel,' for we learnt: AND SO ALSO ORPHANS CANNOT EXACT PAYMENT EXCEPT WITH AN OATH. And we discussed this: From whom? Shall we say, from the borrower?[11] Their father would have received payment without an oath, and they require an oath![12] But it means: 'And so also orphans from orphans cannot exact payment except with an oath.'[13] And Rab and Samuel both said: They did not teach this,[14] except if the lender died during the lifetime of the borrower;[15] but if the borrower died during the lifetime of the lender, the lender was already obliged to take an oath to the sons of the borrower;[16] and a man cannot bequeath an oath to his sons.[17]

'Our Masters of the Land of Israel are R. Abba'; for there was a man who snatched a bar of silver from his neighbour; they came before R. Ammi, and R. Abba was sitting in his presence. He[18] brought one witness that he had snatched it from him. The other said, 'Yes, I snatched it; but it is mine that I snatched.' Said R. Ammi: How shall judges settle this dispute? Shall we say to him, 'Go and pay'?[19] There are not two witnesses.[20] Shall we exempt him?[21] There is one witness [that he snatched].[22] Shall we say to him, 'Go and swear'?[23] Since he says. 'I snatched it,' he is like a robber![24] — R. Abba said to him: He is liable to take an oath, and he cannot take the oath; and everyone who is liable to take an oath, and cannot take the oath, must pay.[25]

Raba said: It is reasonable to agree with R. Abba, for R. Ammi learned: The oath of the Lord shall be between them both[26] — but not between the heirs. How is this [to be understood]? Shall we say, that he said to him: 'Your father owed my father a hundred zuz,' and the other replied to him: 'Fifty he owed him, but not the other fifty'; what is the difference between him and his father?[27] But then, [it must mean] he said to him: 'Your father owed my father a hundred zuz,' and the other replied to him: 'Fifty I know, but the other fifty I do not know.'[28]

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(1) All oaths in the past which are false the moment they are uttered, just as a vain oath is, are included (as far as disqualifying the offender is concerned) in the category of VAIN OATH.

(2) A dice-player is accounted a robber, and we have already been told that, in the case of a robber, the opponent takes the oath.

(3) A real robber is disqualified by Scripture from taking an oath; but a gambler, since he does not take his winnings by force but with the other's consent, is disqualified merely by the Rabbis.

(4) Was it R. Jose or R. Meir who said that the amount in dispute should be divided? He did not remember what the tradition was.

(5) Later R. Nahman remembered the tradition.

(6) Not that R. Zebid, the son of Oshaia, had that tradition, but that R. Zebid said that R. Oshaia had the tradition that it was R. Jose who holds the view that the plaintiff and defendant divide.

(7) Since both claimant and defendant are suspected of swearing falsely, neither can be asked to take the oath; it returns to Sinai (its place of origin), for it cannot be applied. The result is, the case cannot be tried by the court, and the matter is left alone until evidence is produced by either of the two.

(8) The defendant who admits a portion of the claim; and since he cannot take the oath (for he is suspect) he must pay the whole claim.

(9) Who hold that the oath returns to Sinai.

(10) v. Sanh. 17b.

(11) If orphans produce a document showing that the borrower is indebted to their father, can they not exact payment unless they take an oath (mentioned in the Mishnah, supra 45a) that their father did not tell them before he died that the document had been settled?

(12) Surely not! We do not impose restrictions on orphans.

(13) The lender and borrower both died, and the lender's sons are claiming from the borrower's sons. Here the lender's sons must take an oath, for the lender himself could not have exacted payment from the borrower's sons without an oath; for payment cannot be exacted from orphans except on oath.

(14) That the lender's sons receive payment from the borrower's sons, if they take an oath.

(15) When the lender's sons would have obtained payment from the borrower without an oath; and when the borrower dies, the lender's sons can exact payment from the borrower's sons only with an oath.

(16) For no payment can be exacted from orphans except with an oath.

(17) I.e., a man cannot bequeath to his sons money which he himself cannot obtain without an oath. Now, the lender would have to take an oath to the sons of the borrower that he had not yet been paid by their father. When he dies, he cannot transmit this oath to his sons, for their oath (if they were to take one) would have to be, ‘We swear that our father did not inform us that the debt had been paid.’ (v. Mishnah). Since the father had already become liable to take an oath, and the same oath cannot be transmitted to his sons, they cannot take an oath at all. The sons of the borrower also cannot take an oath that their father had already paid. Hence, Rab and Samuel hold that since neither can take an oath, there is neither oath nor payment; i.e., the oath returns to Sinai.

(18) The owner of the silver bar; v. supra 32b.

(19) For he admits that he snatched it; and we cannot believe him when he says it is his own, for every robber could put forward that excuse.

(20) Who saw him snatch it; he could therefore have denied snatching it; he should therefore be believed when he admits he snatched it, but maintains that it is his.

(21) For this reason.

(22) He could not therefore have denied snatching it, for he would have had to take an oath to refute the statement of the witness.

(23) To refute the statement of the witness.

(24) And is not believed on oath, v. B.B. (Sonc. ed.) p. 336 and notes.

(25) Hence R. Abba holds that ‘the oath returns to him upon whom it devolves’; and since he cannot take the oath, he pays.

(26) Ex. XXII, 10.

(27) Since he definitely admits a portion, and definitely denies a portion, why should he not take the oath, as his father would have taken it?

(28) He is exempt both from oath (for he cannot take an oath that his father does not owe it, since he is not sure about it) and from payment.

Talmud - Mas. Shevu'oth 47b

Now granted, if you say, that his father in such circumstances, would have been liable [to take an oath],[1] it is therefore necessary for Scripture to exempt the heirs;[2] but if you say, that his father in such circumstances would also have been exempt,[3] wherefore do we need Scripture [to exempt] the heirs![4] And Rab and Samuel, how do they expound this [verse]: ‘the oath of the Lord etc.’? — They require it for what was taught: Simeon b. Tarfon says: ‘The oath of the Lord shall be between them both’: this teaches that the oath falls upon both.[5] Simeon b. Tarfon says: Whence do we know that there is a prohibition to the souteneur?[6] Because It is said: Thou shalt not commit adultery:[7] thou shalt not cause adultery to be committed.[8]

And ye murmured in your tents.[9] Simeon b. Tarfon says: You spied out and put to shame the tent of the Omnipresent.[10]

As far as the great river, the river Euphrates.[11] Simeon b. Tarfon says: Go near a fat man, and be fat.[12] In the School of R. Ishmael it was taught: The servant of a King is like a King.[13]

AND THE SHOPKEEPER WITH HIS ACCOUNT BOOK, etc. It was taught: Rabbi said: What is the object of troubling with this oath?[14] — R. Hiyya said to him:[15] We have already learnt it: Both take an oath and receive [payment] from the householder. — Did he accept it from him, or did he not accept it from him?[16] — Come and hear: It was taught: Rabbi says, 'The workmen take an oath to the shopkeeper.'[17] Now if it were so,[18] it should be to the householder [that they take the oath].[19] — Raba said: The workmen swear to the householder in the presence of the shopkeeper, so that they may be ashamed because of him.[20]

It was stated: If two sets of witnesses contradict each other, R. Huna said, this set may come by itself and bear testimony, and that set may come by itself and bear testimony;[21] but R. Hisda said: What do we want with false witnesses![22] [Where there are] two lenders and two borrowers and two documents — is the point at issue between them.[23] [In the case of] one lender and one borrower and two documents — the holder of the document is at a disadvantage.[24] [Where there are] two lenders and one borrower and two documents — that is our Mishnah.[25] [But in the case of] two borrowers and one lender and two documents — what [is R. Huna's ruling]?[26] Let it stand.[27]

R. Huna b. Judah raised an objection.

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(1) And since he could not take an oath, for he is not sure, he would have had to pay.

(2) That in such circumstances they are entirely exempt.

(3) As Rab and Samuel say, that when an oath cannot be imposed, it 'returns to Sinai', i.e., the matter lapses, and there is neither oath nor payment.

(4) Hence, the fact that we do need the verse to exempt the heirs implies that the father would have to pay. Thus, this supports the view of R. Abba.

(5) Even the claimant, though his claim be legitimate, is guilty to some extent for causing an oath to be taken; for he could have had witnesses or a document, when transacting his affair with the defendant, and so have avoided the necessity of imposing an oath on his fellow-suitor; v. supra 39b.

(6) Lit., 'he who is at the heels of the adulterer,' i.e., procures prostitutes for him.

(7) Ex. XX, 13.

(8) The Heb. may be pointed as the Hiph'il.

(9) Deut. I, 27.

(10) The Heb. תרגנו (from רגן, to murmur rebelliously) is here divided into תר גנו: you have spied out (from תור), and put to shame (from גנה, pi'el) your tent, i.e., the tent (land) which the Omnipresent had destined for you; you have rejected His offer of the Holy Land.

(11) Deut. I,7.

(12) Or, touch a person smeared with oil, and you will also become smeared with oil. The river Euphrates is not really greater, but smaller, than the others, for it is mentioned last (of the four rivers, Gen. II, 14), but it is called here 'the great river', because it is mentioned in connection with the Holy Land (as its eastern boundary), and anything connected with the Holy Land is great (Rashi). [Maharsha: Though in reality the Euphrates is the longest of the four it is described as great only when mentioned in connection with the Holy Land.]

(13) The Euphrates, servant of the Holy Land, is great like the Holy Land itself.

(14) For there is bound to be one false oath: the shopkeeper swears he gave the workman small change to the value of a sela as instructed, and the workman swears he has not received it; and both claim from the employer, and are paid. Rabbi does not hold that both shall swear; but he does not explain whether he agrees with Ben Nannus that both are paid without an oath, or that the workman alone takes an oath that he has not been paid by the shopkeeper, and he is paid by the shopkeeper, so that the shopkeeper loses (if he has really paid him once); and it is right that he should lose, for he ought to have paid the workman in the presence of witnesses.

(15) You yourself, the Editor of the Mishnah, stated definitely in our Mishnah (supra 45a) that both take the oath (Rashi).

(16) Did Rabbi accept this statement from R. Hiyya, i.e., did Rabbi, though at first holding the view that there should not be two oaths imposed (because one would be false), later change his mind, and agree that both should take the oath?

(17) That they have not been paid, and he must pay them.

(18) That Rabbi changed his mind.

(19) For that is his view in the Mishnah that both shopkeeper and workman take the oath, and obtain their due from the householder.

(20) Rabbi did change his mind, and both the shopkeeper as well as the workmen, take the oath to the householder; when he states that they swear to the shopkeeper, he means, in the presence of the shopkeeper: that may deter them from swearing falsely, for they might be ashamed to swear in front of him that they had not received their money, if in reality they had.

(21) In the present case, of course, since the evidence is contradictory, the accused is exempt; but in any future case, each set is qualified to testify, for, since we do not know which of the two sets had testified falsely in the first case, we cannot disqualify either; but one witness of the first set together with one witness of the second set cannot combine to testify in any case, for one of them is certainly a false witness.

(22) Neither set is qualified to testify, because one set is false.

(23) Two separate cases of lender, borrower and bond; one set of these witnesses had signed the bond in one case, and the other had signed the bond in the other case. According to R. Huna, both bonds are correct and legally enforceable, and according to R. Hisda, both bonds are invalid.

(24) One lender lent one borrower two loans, for which he produces two documents, on one of which one set of witnesses had signed, and on the other of which the other set of witnesses had signed. Both R. Huna and R. Hisda agree that since this lender desires to exact money from the borrower on both documents, on one of which (though we do not know which one) false witnesses had signed, he may obtain payment on one loan only, the lesser one; and he loses the bigger loan, for the borrower may maintain that the witnesses who had signed on the larger amount are the false witnesses; since the lender cannot prove the contrary, he cannot obtain that loan.

(25) Two lenders, each producing a document against the same person, one document having been signed by one set of witnesses and the other document by the other set: R. Huna holds both documents can be enforced, for the case is similar to that of our Mishnah where both shopkeeper and workman take the oath and enforce their claims against the householder, though we know definitely that one of them is swearing falsely; but we cannot deprive either of them of his money; so here, both lenders can enforce their claims. Though, according to R. Hisda, neither, of course, can enforce his claim; cf. next note.

(26) The lender produces two documents against two borrowers: does R. Huna hold, since it is one man who produces both documents (one of which is definitely signed by false witnesses), the court cannot uphold his claim at all, for each borrower may maintain that the document against him is the false one; or since his claim is against two separate people, he produces one document at a time and enforces his claim, for R. Huna holds that both sets of witnesses are believed separately. According to R. Hisda, of course, the claims cannot be enforced, for he holds that both sets of witnesses, even separately, are disqualified (even when two different lenders are the claimants).

(27) We do not know R. Huna's view in such a case.

Talmud - Mas. Shevu'oth 48a

If one said it was two ox-goads high, and the other said three, their testimony is valid;[1] but if one said three, and the other said five, their testimony is invalid; but they may join for other testimony.[2] Now does this not mean for testimony in a money matter?[3] — Raba said: [No! it means] he and another may join for other testimony for [this] new moon; for they are now two against one, and the words of one are of no value where there are two.[4]

HE SAID TO THE SHOPKEEPER: ‘GIVE ME FOR A DENAR FRUIT,’ etc. It was taught: R.

Judah said: When [do we say that the householder takes the oath]? If the fruits are heaped up and lying there, and both are contesting about them; but if he threw them into his basket over his back, he who wishes to exact from his neighbour must bring proof.[5]

HE SAID TO THE MONEY CHANGER: 'GIVE ME etc.' It is necessary [for both clauses to be stated],[6] for if he had taught us only the first one, [we might have thought] in that case the Rabbis[7] say [that the householder takes an oath][8] because fruit may decay, and because it decays they do not keep it,[9] but in the case of money, which does not decay, we might think they agree with R. Judah.[10] And if this [second clause] had been stated, [we might have thought] in this case R. Judah says [that the householder does not take an oath],[11] but in that [first clause] I might have thought he agrees with the Rabbis,[12] therefore [both clauses are] necessary.[13]

JUST AS THEY SAID THAT SHE WHO IMPAIRS HER KETHUBAH. . .SO ALSO ORPHANS CANNOT EXACT PAYMENT EXCEPT WITH AN OATH. From whom?[14] Shall we say, from the borrower? Their father would have obtained payment without an oath; and they require an oath! — Thus he [the Tanna] means: So also orphans from orphans cannot exact payment except with an oath. Rab and Samuel both said: They did not teach this except if the lender died during the lifetime of the borrower; but if the borrower died during the lifetime of the lender, the lender had already become liable to take an oath to the children of the borrower; and a man cannot bequeath an oath to his children.

They sent this [question] to R. Eleazar: What is the nature of this oath?[15] — He sent them [the reply]: The heirs swear the oath of heirs, and receive [their due].[16]

They sent this [question also] in the days[17] of R. Ammi. He exclaimed: So often do they continue sending this [question]! If I would have found some argument in connection with it, would I not have sent it to them? But, said R. Ammi, since it has come to us, we will say something concerning it: If he stood in the court[18] and died, the lender had already become liable to take an oath to the children of the borrower, and a man cannot bequeath an oath to his children; but if he died before he came to the court,[19] the heirs swear the oath of heirs, and receive [their due]. To this R. Nahman demurred: Is it the Court that makes him liable to take the oath? From the time that the borrower died, the lender had already become liable to take an oath to the children of the borrower![20] But, said R. Nahman, if the ruling of Rab and Samuel is accepted, it is accepted; and if not, not.[21] Hence, he is in doubt,[22] But did not R. Joseph b. Minyomi say that R. Nahman decided a case that they should divide?[23] — According to the view of R. Meir, he means; but he himself does not agree.[24]

R. Oshaia raised an objection: If she died, her heirs mention her kethubah until twenty five years [have elapsed]![25] Here we are discussing a case where she took the oath, and then died.[26]

Come and hear: If he married a first [wife], and she died; and he married a second, and he died, the second and her heirs come before the heirs of the first.[27] — Here also, she took the oath and then died.

Come and hear: But his heirs make her take an oath, and her heirs, and those who come with her authority.[28] — R. Shemaiah said: Alternatives are stated: 'her', if she is a widow; and 'her heirs', if she is divorced.[29] R. Nathan b. Hoshaia raised an objection: The son's power is more extensive than the father's power.

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(1) Two witnesses who saw the New Moon came to inform the Beth din in Jerusalem; one of them said it appeared to him to be above the horizon about the height of two ox-goads; the other said three ox-goads; since their estimates differ only slightly, we believe them that they really did see the new moon, and the New Moon and festivals dependent on it can be fixed in accordance with their testimony.

(2) R.H. 24a.

(3) Each one of these witnesses may join another in a case concerning a money claim, and is accepted as a qualified witness, though we know that one of them is a false witness. This is an argument against R. Hisda.

(4) One of these two witnesses may be joined to another who agrees with him, so that there are now two against the one who had testified differently.

(5) The householder said to the shopkeeper: ‘Give me fruit for a denar,’ and the shopkeeper gave him; then asked him for the denar; and the householder said he had paid him; the householder takes an oath to that effect, and is free. R. Judah says this is the case only if the fruit is lying between them, but if the householder had already taken possession, he does not take an oath, but the shopkeeper (who now desires to exact from him either the money or the fruit) must bring proof that he has not yet paid him, and if he has no proof, he loses.

(6) Why does the Mishnah state the clause of the money changer? It is exactly the same as the case of the shopkeeper selling fruit.

(7) The representative of the anonymous opinion in the Mishnah.

(8) Even if the fruit is already in his basket.

(9) The shopkeeper therefore hurriedly threw it into the purchaser's basket, even before he received the money, so that the purchaser should not change his mind; therefore, even if the fruit is already in the purchaser's basket, it is possible he has not yet paid the shopkeeper, and he must take an oath.

(10) That the householder does not need to take an oath that he had already given the money-changer the denar, for the money-changer would not have given him the small change before he had received the denar.

(11) And we believe him that he has paid the money-changer, for the money-changer would not have given him the small change before receiving the denar.

(12) That the householder takes an oath, for in the case of fruit, the shopkeeper may have put it into the purchaser's basket before receiving the money.

(13) To teach us that R. Judah and the Rabbis disagree in both.

(14) V. supra 47a, where the whole passage is explained.

(15) Which the orphans swear to the orphans? Can they always exact money with this oath, even if the borrower had died during the lifetime of the lender (when, according to Rab and Samuel, the orphans cannot take an oath, and cannot obtain the money)?

(16) If the borrower died during the lifetime of the lender, and then the lender died, his heirs take the oath that is imposed in such a case on heirs, that their father had not told them (or left any document) that the debt due to him had been paid, and they exact the money from the borrower's heirs. R. Eleazar thus differs from Rab and Samuel and holds that a man may bequeath an oath to his children, though it cannot naturally be the same oath: the oath he would have had to take is: ‘I have not yet been paid this debt by your father.’ The oath the orphans take is: ‘Our father has not left us instructions that your father's debt has been paid.’ [The interpretation adopted here follows text in cur. edd. MS.M., however, furnishes a better reading which is also that of Asheri: ‘They sent (i.e., the above question) to R. Eleazar, (to which) he replied: What is the import of this oath (i.e. why should the oath which the father would have had to take be considered more effective than any other oath)? Hence the heirs swear the oath of heirs etc.]

(17) [MS.M.: ‘before R. Ammi’.]

(18) If the lender had already appeared at court with his claim against the borrower's heirs, and been bidden to take an oath, and then, before the oath, had died, he cannot bequeath this oath, to which he had already become liable, to his heirs; and the claim lapses.

(19) He had not as yet become liable to take the oath.

(20) Even if he died before bringing his claim to the court, he had already become liable for the oath; i.e., he could not have obtained payment from the borrower's heirs except with the oath. Hence, if the lender cannot bequeath an oath to his children, they cannot, even in such a case, take the oath of heirs.

(21) Either the lender can, or cannot, bequeath his oath; we cannot accept R. Ammi's distinction.

(22) As to whether the ruling of Rab and Samuel holds good or not.

(23) Supra 47a, where it is explained that according to Rab and Samuel ‘the oath returns to Sinai’, and the case lapses. Hence, R. Nahman, in deciding that the claimant and borrower divide, does not agree with Rab and Samuel.

(24) The ruling of Rab and Samuel is applicable to R. Meir's view that the oath returns to Sinai; and on this R. Nahman says that R. Ammi's differentiation is irrational; but R. Nahman himself does not agree with R. Meir, but with R. Jose, that they divide. [MS.M. substitutes ‘R. Ammi’ for R. Meir, which simplifies the argument.]

(25) Keth. 104a. A widow who had not yet been paid her kethubah from her husband's estate, and died, bequeaths this claim to her heirs; but they must ‘mention’ it, i.e., claim it, within 25 years of her husband's death. Now the widow herself could not have obtained her kethubah from the husband's heirs except with an oath (supra 45a); yet when she dies, her heirs can claim the kethubah with the oath that heirs take (‘Our mother did not leave instructions that she had received the kethubah’). Hence, though the borrower died during the lifetime of the lender (the husband who owes the kethubah died during the lifetime of the wife), and the lender (wife) had already become liable to take an oath to the heirs, she may bequeath the oath to her heirs. This is an argument against Rab and Samuel.

(26) Since she had already taken the oath, the kethubah is virtually in her possession, and her heirs do not need to take an oath, but merely exact payment.

(27) Keth. 90a; when he died, the second wife who is still alive, has a claim (the kethubah) against his estate, if she dies before receiving the money, her heirs exact payment; but the heirs of the first wife have no claim for kethubah (for she died before her husband). When the kethubah has been paid to the heirs of the second wife, the heirs of the first wife also, of course, participate in their father's inheritance together with their stepbrothers. The Mishnah states, however, that the heirs of the second wife can exact payment of the kethubah; the second wife herself can obtain the kethubah only with an oath from the husband's heirs; her heirs must also take an oath; hence she can bequeath an oath to her heirs. This is an argument against Rab and Samuel.

(28) Keth. 86b. If he gave his wife a written agreement that he would not demand an oath of her (in a case where she would otherwise have to take an oath, e.g., if she impairs a kethubah, supra 45a), nor would he demand an oath of her heirs, nor of those who come with her authority (i.e., those to whom she sold her kethubah, and who would be entitled to the kethubah on her divorce or death), he cannot impose an oath upon her, her heirs, etc. But if he dies, his heirs may impose the oath upon her, her heirs, etc., i.e., if she claims her kethubah from the husband's heirs, she must take an oath; if she dies, her heirs take an oath and obtain the kethubah. Hence she bequeaths the oath to her heirs. This is an argument against Rab and Samuel. Here it cannot be said that she had already taken the oath, and then died; for in that case her heirs would not require to take an oath, whereas the Mishnah states definitely that the husband's heirs make the wife's heirs take an oath.

(29) The husband's heirs make ‘her’ take an oath, if she is a widow; she can obtain her kethubah from her husband's estate only by taking an oath to his heirs (that she has not yet been paid); but if she dies before she obtains her kethubah, ‘her heirs’ cannot obtain it from the husband's heirs, because she cannot bequeath the oath (as Rab and Samuel say). The Mishnah which states that the husband's heirs make her heirs take an oath refers to a case where she was divorced (the husband now being liable to pay her the kethubah without imposing an oath on her, for he had given her a written agreement that he himself would not demand an oath of her), then she died before obtaining the kethubah, then the husband died; now, when she died, the kethubah was already due to her without an oath: this money claim she may bequeath to her heirs; but when her heirs wish to exact payment from the husband's heirs, they must take an oath (for orphans from orphans can only exact payment with an oath).

Talmud - Mas. Shevu'oth 48b

for the son exacts payment either with an oath or without an oath,[1] whereas the father exacts payment only with an oath.[2] Now, in what circumstances? [Obviously] if the borrower died during the lifetime of the lender;[3] and yet it states that the son exacts payment either with an oath or without an oath: ‘with an oath’ — the oath of heirs; without an oath’ — as R. Simeon b. Gamaliel says![4] — R. Joseph said: This is in accordance with the view of Beth Shammai who hold that a bond which is ready to be collected is counted as if it is already collected.[5] R. Nahman happened to come to Sura. R. Hisda and Rabbah son of R. Huna went in to him, and said to him: Come, sir, abrogate this ruling of Rab and Samuel.[6] He replied to them: Have I taken the trouble to come all these parasangs[7] in order to abrogate the ruling of Rab and Samuel? But grant, at least, that we do not add to it.[8] As, for example? That which R. Papa said: He who impairs his bond, and died, his heirs swear the oath of heirs, and obtain payment.[9]

There was a man who died, and left a guarantor.[10] R. Papa thought of saying in this case also [the principle] that ‘we should not add to it’ applies.[11] Said R. Huna the son of R. Joshua to R. Papa: Will not the guarantor go after the orphans?[12] There was a certain man who died, and left a brother,[13] Rami b. Hama thought of saying this is also a case where [the principle] 'we should not add to it' applies.[14] Said Raba to him: What is the difference between 'my father did not instruct me etc.' and 'my brother did not instruct me etc.'?[15]

R. Hama said: Now, since the law has not been stated either in accordance with the view of Rab and Samuel or in accordance with the view of R. Eleazar,[16] if a judge decides as Rab and Samuel, it is legal; if he decides as R. Eleazar, it is also legal.

R. Papa said: This document of orphans[17] we do not tear up, and we do not exact payment on it. 'We do not exact payment on it,' — in case we agree with Rab and Samuel;[18] and 'we do not tear up,' — for if a judge decides as R. Eleazar, it is legal.[19]

There was a judge who decided as R. Eleazar. There was a Rabbinic scholar in his town who said to him: I can bring a letter from the West[20] that the law is not in accordance with R. Eleazar. He replied to him: When you bring it.[21] He came before R. Hama. He[22] said to him: If a judge decides as R. Eleazar, it is legal.

AND THESE TAKE AN OATH [THOUGH NO CLAIM IS PREFERRED AGAINST THEM]. Are we discussing the case of idiots?[23] — Thus he means: 'And these take an oath not in a definite claim, but in a doubtful claim: partners, tenants, [etc.].'[24] A Tanna taught: THE SON OF THE HOUSE who was mentioned [in the Mishnah as liable to take an oath] does not mean that he walks in and walks out,[25] but he brings in labourers and takes out labourers, brings in produce and takes out produce.[26] And wherein are these different?[27] — Because they allow themselves permission in it.[28] R. Joseph b. Minyomi said that R. Nahman said: But only when the claim between them is [at least] two silver [ma'ahs].[29] In accordance with whose view? — Samuel's?[30] But R. Hiyya taught in support of Rab![31] — Say, the denial of the claim,[32] as Rab holds.

IF THE PARTNERS OR TENANTS HAD DIVIDED,[33] [AN OATH CANNOT BE IMPOSED]. They enquired: Can this oath be superimposed on a Rabbinic oath?[34] — Come and hear: If he borrowed from him on the eve of the Sabbatical year, and on the termination of the Sabbatical year he became a partner with him, or a tenant, we do not impose on him [any previous oath together with the present oath].[35] The reason is because he borrowed from him on the eve of the Sabbatical year, so that when the Sabbatical year came, it cancelled it; but in any other of the seven years, we do impose on him [a previous oath]![36] — Do not infer that in any of the other seven years we do impose on him [a previous oath].[37] but infer thus: If he became a partner with him, or a tenant, on the eve of the Sabbatical year, and on the termination of the Sabbatical year, he borrowed from him, we impose on him [a previous oath].[38] But this is already stated clearly: If he became a partner with him, or a tenant, on the eve of the Sabbatical year, and on the termination of the Sabbatical year, he borrowed from him, we impose on him [a previous oath]![39] — Therefore, we deduce that we superimpose the oath on a Rabbinic oath.[40] It is proven.

R. Huna said:

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(1) The lender's heir exacts payment from the borrower's heir with an oath (that his father had told him that the debt was not yet paid), or without an oath, if there were witnesses that the father had said before he died that the debt was unpaid (supra 45a).

(2) From the borrower's heirs.

(3) The statement that the father exacts payment only with an oath can only refer to a case where the borrower is already dead, and the father (i.e., the lender) is claiming from the heirs, for if the borrower is alive the lender does not need to take an oath (for he produces a document).

(4) Supra 45a; if there are witnesses that the father said at the time of his death that the document was not settled, the heir obtains payment of the debt without an oath. However, the Baraitha states that the son exacts payment with an oath from the heirs, where the borrower died during the lifetime of the lender. This is opposed to the view of Rab and Samuel.

(5) Sot. 25a; if the husband of a woman suspected of infidelity (sotah, v. Glos.) died before she drank of the ‘bitter waters’ (Num. V, 11-31), she does not need to undergo the ordeal, and obtains payment of her kethubah; and though it is possible that she did, in fact, commit adultery, yet, since she has the document (ketubah) setting forth her husband's indebtedness to her, it is as if her husband's property were assigned to her and in her possession; and it is the husband's heirs who would require to bring proof that she was unfaithful, if they desired to deprive her of the kethubah; and if no proof is forthcoming, she obtains payment of the kethubah. This is the view of Beth Shammai, who hold that the money in the document is reckoned as if it is already collected and in the possession of the holder of the document. Here also, if the borrower died during the lifetime of the lender, the money is counted as if it is already in the possession of the lender (since he produces a document), though the Sages made a regulation that the lender must take an oath to the borrower's heirs. Hence, the lender is not bequeathing an oath to his sons, but a definite money asset (though the sons, when claiming from the borrower's heirs, must also take an oath, according to Rabbinic regulation). Rab and Samuel, however, agree with Beth Hillel that the money in the document is not counted as if it is already collected; Sot. 25b.

(6) That a man cannot bequeath an oath to his son, with the implication of this ruling.

(7) [From Mahuza, the home of R. Nahman, to Sura, was a distance of about 60 miles.]

(8) But agree with Rab and Samuel only in such a case as they stated; and do not extend their ruling to apply to other cases.

(9) If the holder of a bond admitted having received part payment, he cannot obtain the rest without an oath. If he dies, his heirs swear the oath of heirs, and obtain payment; and we do not, in this case, apply the ruling of Rab and Samuel that a man cannot bequeath an oath to his heirs.

(10) One man lent money to another on a document, and a third person became a surety for the loan. The borrower died (so that the lender became liable for an oath), then the lender died; and his heirs claimed from the surety.

(11) That we should not apply the restrictive ruling of Rab and Samuel, but permit the heirs to take an oath to the surety, and obtain their money.

(12) He will claim from the heirs of the borrower; hence, the heirs of the lender, if permitted to take an oath and claim from the guarantor, will ultimately be depriving the borrower's heirs because of this oath; and to such a case the ruling of Rab and Samuel applies.

(13) The lender died childless, and left a brother as his heir; the borrower had previously died, leaving children. The lender's brother now claims from the borrower's children.

(14) But that the brother should be allowed to take an oath and exact payment from the borrower's heirs, for Rab and Samuel said only the children of the lender could not take the oath in such circumstances. Let us not add the reservation also in regard to the brother of the lender,

(15) The children of the lender take the oath: ‘Our father did not instruct us that the bond is paid.’ The brother would have to say, ‘My brother did not instruct me, etc.’ There is no difference; and since Rab and Samuel ruled that the lender could not bequeath the oath to his sons, they hold similarly that he cannot bequeath it to his brother.

(16) Supra 48a, that the oath can be bequeathed to the heirs.

(17) Where the borrower died during the lifetime of the lender, then the lender died.

(18) I.e., in case they are right.

(19) The lender's heirs may find such a judge, and exact payment.

(20) The Palestinian scholars.

(21) I will believe you.

(22) R. Mama.

(23) If nobody is claiming from them, why should they take an oath?

(24) If one partner suspects the other (though he admits he is not certain) of fraudulently converting a part of their joint holdings to his own use, the accused must take an oath to refute the accusation.

(25) That he is merely a member of the household.

(26) He attends to the business.

(27) Why should these have to take an oath for a doubtful accusation?

(28) Because they are engaged in the management of the property, they permit themselves certain liberties, and appropriate some of the funds for themselves.

(29) One partner says: ‘I believe you may have appropriated two ma'ahs for yourself,’ and the other admits a portion; he must take an oath to refute the rest of the claim. If the accusation is for an amount less than two ma'ahs there is no oath.

(30) Supra 39b.

(31) That the denial in the claim must be at least two ma'ahs; supra 40a.

(32) R. Nahman meant the denial must be two ma'ahs.

(33) Their property, i.e., dissolved partnership; one of the partners cannot afterwards make the other swear to refute a doubtful accusation. If, however, he has to take an oath in connection with another dispute, this oath too is at the same time included; supra 45a.

(34) If the partner was liable only for a Rabbinic oath (e.g., consuetudinary oath) in the other dispute, can an oath be imposed upon him in this case too where, after their separation, the other partner accuses him of misappropriation of their joint funds? Or is this oath included only if the other oath (which is definitely imposed upon him) is a Biblical oath (e.g., מודה במקצת)?

(35) If, for example, he denied completely the loan which he borrowed on the eve of the Sabbatical year, and now, having become a partner on the termination of the Sabbatical year, an oath is imposed upon him because of his partner's accusation against him of misappropriation, the court does not include in the present oath any reference to his denial of the loan, for the Sabbatical year has cancelled the loan.

(36) The inference is that if he had borrowed in any other year (the Sabbatical year not intervening), and later became a partner, the oath which he is liable for denying the whole loan would have been included in the present oath imposed on him by his partner. Hence, though the present oath is only a Rabbinic regulation, it has the power to include in it another oath. The oath for denying the whole loan, it is here assumed, can only be included in some other oath, for as yet, in the mishnaic period, the consuetudinary oath had not been instituted; it was instituted much later by R. Nahman (supra 40b).

(37) For it may be that since the oath imposed by the partner is only Rabbinic, it has not the power to include another oath with it.

(38) If they dissolved partnership, and then on the termination of the Sabbatical year one partner borrowed from the other, and later admitted a portion of the loan, but denied the rest (for which he is liable a Biblical oath), we impose on him also the previous oath which his partner makes him take by accusing him, after the dissolution, of a previous fraudulence. Hence, it is because he is liable to take a Biblical oath (being a מודה במקצת) that we include also the previous Rabbinic oath. This Baraitha wishes to teach us also that the Sabbatical year does not cancel the partner's oath; it cancels only oaths attached to loans as well as the loans themselves.

(39) Since this is already expressly stated, why should we assume that this is what the first clause desires us to deduce by inference?

(40) As we inferred from the first clause at the beginning.

Talmud - Mas. Shevu'oth 49a

On all [oaths] we impose others, except on [the oath of] the hired labourer on which we do not impose others.[1] R. Hisda said: To all we are not lenient,[2] except a hired labourer to whom we are lenient. What is the difference between them?[3] — There is this difference: [whether the court] find an opening for him [to impose another oath].[4]

BUT THE SABBATICAL YEAR CANCELS THE OATH. Whence do we know this? — R. Giddal said that Rab said: Because Scripture says. And this is the word of the release:[5] even a ‘word’[6] it releases.

CHAPTER VIII

MISHNAH. THERE ARE FOUR GUARDIANS: AN UNPAID GUARDIAN, A BORROWER, A PAID GUARDIAN, AND A HIRER.[7] AN UNPAID GUARDIAN TAKES AN OATH IN ALL CASES;[8] A BORROWER PAYS IN ALL CASES;[9] A PAID GUARDIAN AND A HIRER TAKE AN OATH IN THE CASE OF INJURY, CAPTURE,[10] OR DEATH, BUT PAY FOR LOSS OR THEFT.

IF HE [THE OWNER] SAID TO THE UNPAID GUARDIAN, WHERE IS MY OX?’ AND HE REPLIED TO HIM, ‘IT DIED,’ WHEREAS IT WAS INJURED OR CAPTURED OR STOLEN OR

LOST; [OR HE REPLIED], ‘IT WAS INJURED,’ WHEREAS IT DIED OR WAS CAPTURED OR STOLEN OR LOST; [OR HE REPLIED,] ‘IT WAS CAPTURED,’ WHEREAS IT DIED OR WAS INJURED OR STOLEN OR LOST; [OR HE REPLIED,] ‘IT WAS STOLEN,’ WHEREAS IT DIED OR WAS INJURED OR CAPTURED OR LOST; [OR HE REPLIED,] ‘IT WAS LOST,’ WHEREAS IT DIED OR WAS INJURED OR CAPTURED OR STOLEN; [AND THE OWNER SAID,] ‘I ADJURE YOU,’ AND HE SAID, ‘AMEN’, HE IS EXEMPT.[11]

[IF THE OWNER SAID,] ‘WHERE IS MY OX?’ AND HE REPLIED TO HIM, ‘I DO NOT KNOW WHAT YOU SAY,’ WHEREAS IT DIED OR WAS INJURED OR CAPTURED OR STOLEN OR LOST; [AND THE OWNER SAID,] ‘I ADJURE YOU,’ AND HE SAID, AMEN, HE IS EXEMPT.[12]

[IF THE OWNER SAID,] ‘WHERE IS MY OX?’ AND HE REPLIED TO HIM, ‘IT WAS LOST’; [AND THE OWNER SAID,] ‘I ADJURE YOU’, AND HE SAID, ‘AMEN’; AND WITNESSES TESTIFIED AGAINST HIM THAT HE HAD CONSUMED IT, HE PAYS THE PRINCIPAL; IF HE CONFESSED HIMSELF, HE PAYS THE PRINCIPAL, FIFTH, AND GUILT-OFFERING.[13]

[IF THE OWNER SAID,] ‘WHERE IS MY OX?’ AND HE REPLIED TO HIM, ‘IT WAS STOLEN;’ [AND THE OWNER SAID,] ‘I ADJURE YOU, AND HE SAID, ‘AMEN;’ AND WITNESSES TESTIFIED AGAINST HIM THAT HE HIMSELF STOLE IT, HE PAYS DOUBLE;[14] IF HE CONFESSED HIMSELF, HE PAYS THE PRINCIPAL,[15] FIFTH, AND GUILT-OFFERING.

IF A MAN SAID TO ONE IN THE STREET, ‘WHERE IS MY OX WHICH YOU HAVE STOLEN?’ AND HE REPLIED, ‘I DID NOT STEAL IT,’ AND WITNESSES TESTIFIED AGAINST HIM THAT HE DID STEAL IT, HE PAYS DOUBLE;[16] IF HE KILLED IT OR SOLD IT, HE PAYS FOUR OR FIVE TIMES ITS VALUE.[17] IF HE SAW WITNESSES COMING NEARER AND NEARER, AND HE SAID, I DID STEAL IT, BUT I DID NOT KILL OR SELL IT,’ HE PAYS ONLY THE PRINCIPAL.[18] IF HE [THE OWNER] SAID TO THE BORROWER, ‘WHERE IS MY OX?’ AND HE REPLIED TO HIM,

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(1) If a man is liable to take even a Rabbinic oath, other Rabbinic oaths may be included at the same time at the instance of the claimant; but when the labourer has to take an oath that he has not received his wages, the court do not permit the employer to include any other oath; for in reality the labourer should be believed without an oath; and it is only to appease the employer that an oath is imposed on him (supra 45a), therefore the court do not allow other oaths to be added.

(2) But impose other oaths.

(3) R. Huna and R. Hisda appear to say the same thing.

(4) According to R. Huna, even if the claimant does not urge the imposing of other oaths, the court investigate and ask the claimant whether he has any further claims against the defendant in which an oath might be imposed; but according to R. Hisda the court are not lenient with the defendant if the claimant wishes to impose other oaths (and they permit the imposition), but they do not themselves, if the claimant does not urge it, endeavour to find an opening for the imposition of other oaths (Rashi).

(5) Literal rendering of Deut. XV, 2; E.V. ‘the manner of the release.’

(6) I.e., oath.

(7) They must all guard the object given in to their care, but their liability varies.

(8) That he has not deliberately been neglectful, and is free from liability.

(9) Of injury, capture, death, loss, and theft; but if the animal died in the course of its work, he is free, for he borrowed it for that purpose.

(10) Forcible capture by robbers, which is counted an accident for which he is not responsible.

(11) From a guilt-offering for denying a deposit on oath; for he is liable for an offering only in a case where, if he had admitted the truth, he would have had to make restitution; by his denial on oath, therefore, he wishes to free himself from payment, and if it is found that he has sworn falsely, he brings a guilt-offering and makes restitution, adding also a fifth of its value (Lev. V, 21-26). In this case of an unpaid guardian, however, he did not, by his denial, wish to exempt himself from payment; for even if he had admitted the truth, he would have been exempt; therefore he does not bring a guilt-offering.

(12) For even if he had admitted the truth, he would have been free from payment.

(13) According to the law governing oath of deposit; if he confesses, and repents and desires atonement, he pays back the principal, adds a fifth of its value, and brings a guilt-offering: they shall confess their sin . . . and he shall make restitution for his guilt in full, and add unto it the fifth part thereof. . . besides the ram of the atonement. . . (Num. V, 7, 8).

(14) An unpaid guardian who tries to free himself by maintaining that the animal was stolen, whereas he himself had stolen it, pays double (like a thief); but if he tries to free himself by maintaining that it was lost (as in the previous clause), whereas he had himself stolen it, he does not pay double; v. B.K. 63b.

(15) But not double, for that is a fine, which is not imposed on his own confession.

(16) Ex. XXII, 3.

(17) Ibid. XXI, 37.

(18) For since he confessed that he stole it (though he confessed only out of fear of the witnesses), it is a proper confession, and he is exempt from paying double for the theft; and since there is no double, there is no fourfold or fivefold payment (though he denied the selling or killing, and witnesses testified against him that he did steal and kill or sell); v. B.K. 75b.

Talmud - Mas. Shevu'oth 49b

‘IT DIED,’ WHEREAS IT WAS INJURED OR CAPTURED OR STOLEN OR LOST; [OR HE REPLIED,] ‘IT WAS INJURED,’ WHEREAS IT DIED OR WAS CAPTURED OR STOLEN OR LOST; [OR HE REPLIED,] ‘IT WAS CAPTURED, WHEREAS IT DIED OR WAS INJURED OR STOLEN OR LOST; [OR HE REPLIED,] ‘IT WAS STOLEN, WHEREAS IT DIED OR WAS INJURED OR CAPTURED OR LOST; [OR HE REPLIED,] ‘IT WAS LOST, WHEREAS IT DIED OR WAS INJURED OR CAPTURED OR STOLEN; [AND THE OWNER SAID,] ‘I ADJURE YOU,’ AND HE SAID, ‘AMEN,’ HE IS EXEMPT.[1]

[IF THE OWNER SAID,] ‘WHERE IS MY OX?’ AND HE REPLIED TO HIM, ‘I DO NOT KNOW WHAT YOU SAY,’ WHEREAS IT DIED OR WAS INJURED OR CAPTURED OR STOLEN OR LOST; [AND THE OWNER SAID,] ‘I ADJURE YOU,’ AND HE SAID, ‘AMEN,’ HE IS LIABLE.[2]

IF HE SAID TO A PAID GUARDIAN, OR HIRER. ‘WHERE IS MY OX?’ AND HE REPLIED TO HIM, ‘IT DIED,’ WHEREAS IT WAS INJURED OR CAPTURED; [OR HE REPLIED,] ‘IT WAS INJURED,’ WHEREAS IT DIED OR WAS CAPTURED; [OR HE REPLIED,] ‘IT WAS CAPTURED,’ WHEREAS IT DIED OR WAS INJURED;[3] [OR HE REPLIED,] ‘IT WAS STOLEN, WHEREAS IT WAS LOST; [OR HE REPLIED,] ‘IT WAS LOST,’ WHEREAS IT WAS STOLEN;[4] [AND THE OWNER SAID,] ‘I ADJURE YOU,’ AND HE SAID, ‘AMEN,’ HE IS EXEMPT. [IF HE REPLIED,] ‘IT DIED,’ OR, ‘IT WAS INJURED,’ OR, ‘IT WAS CAPTURED,’ WHEREAS IT WAS STOLEN OR LOST; [AND THE OWNER SAID,] ‘I ADJURE YOU.’ AND HE SAID, ‘AMEN,’ HE IS LIABLE.[5] [IF HE REPLIED,] ‘IT WAS LOST,’ OR, ‘IT WAS STOLEN,’ WHEREAS IT DIED OR WAS INJURED OR CAPTURED; [AND THE OWNER SAID,] ‘I ADJURE YOU,’ AND HE SAID, ‘AMEN,’ HE IS EXEMPT.[6] THIS IS THE PRINCIPLE: HE WHO [BY LYING] CHANGES FROM LIABILITY TO LIABILITY. OR FROM EXEMPTION TO EXEMPTION, OR FROM EXEMPTION TO LIABILITY, IS EXEMPT;[7] FROM LIABILITY TO EXEMPTION, IS LIABLE. THIS IS THE PRINCIPLE: HE WHO TAKES AN OATH TO MAKE IT MORE LENIENT FOR HIMSELF, IS LIABLE; TO MAKE IT MORE STRINGENT FOR HIMSELF, IS EXEMPT.[8]

GEMARA. Who is the Tanna who holds that there are four guardians? — R. Nahman said that Rabbah b. Abbuha said: It is R. Meir. Said Raba to R. Nahman: Is there then a tanna who does not hold that there are four guardians![9] — He said to him: Thus I meant to say to you: Who is the tanna who holds that a hirer is like a paid guardian? Rabbah b. Abbuha said: It is R. Meir. But surely, we have heard that R. Meir holds the reverse [view], for we learnt: A hirer: how does he pay? R. Meir said: Like an unpaid guardian; R. Judah said: Like a paid guardian! — Rabbah b. Abbuha learned it reversed.[10]

Are they four? They are three![11] — R. Nahman b. Isaac said: There are four guardians, but their regulations are three. IF HE SAID TO AN UNPAID GUARDIAN, etc. 'WHERE IS MY OX?' etc. IF HE SAID TO ONE IN THE STREET, etc. IF HE SAID TO A GUARDIAN,[12] etc. WHERE IS MY OX?' HE REPLIED TO HIM, 'I DO NOT KNOW WHAT YOU SAY,' etc. Rab said: They are all exempt from the oath of guardians,[13] but are liable in respect of the oath of utterance;[14] and Samuel said: They are exempt also in respect of the oath of utterance. In what do they disagree? — Samuel holds it is not [possible of application] in the future;[15] and Rab holds it is [possible of application] both negatively and positively.[16] But they have already expressed their disagreement on this point once, for it was stated: 'I swear that So-and-so threw a pebble into the sea,' 'I swear that he did not throw [a pebble into the sea]'; Rab says, he is liable, and Samuel says, he is exempt. Rab says, he is liable, because it is [applicable] negatively and positively; and Samuel says, he is exempt, because it is not [applicable] in the future![17] — It is necessary [for them to express their disagreement in the present instance too], for if they had told us [their disagreement] in that case, [we might have thought that] in that case Rab says [he is liable], because he swears of his own accord, but in this case, where the Court administer the oath to him,[18] we might have thought that he agrees with Samuel;[19] as R. Ammi said, for R. Ammi said: In any oath which the Judges administer there is no liability in respect of the oath of utterance. And if [their disagreement] had been stated in this case, [we might have thought that] in this case Samuel says [he is exempt].[20] but in that case we might have thought that he agrees with Rab,[21] therefore it is necessary [for their disagreement to be stated in both cases]. [To turn to the main] text: R. Ammi said: In any oath which the Judges administer there is no liability in respect of the oath of utterance, for it is said: Or if any one swear, uttering with the lips[22] — of his own accord; as Resh Lakish said, for Resh Lakish said: ki is translatable by four expressions: 'if', 'perhaps', 'but', 'because'.[23]

R. Eleazar says: They are all exempt from the oath of guardians, but are liable in respect of the oath of utterance,[24] except [in the case of the statement], 'I DO NOT KNOW WHAT YOU SAY, [made] by the borrower, and that of theft and loss, by the paid guardian and hirer, where they are liable,[25] for they denied money.

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(1) From the guilt-offering, for he did not, by his false oath, desire to evade payment, since even if the facts were in accordance with his oath, he would still have had to pay.

(2) For a guilt-offering (in addition to paying for the animal) for by his denial he desired to evade payment.

(3) A paid guardian and hirer are exempt from payment in any of these cases, therefore they do not bring a guilt-offering, for even if they had admitted the truth they would not have had to pay.

(4) In these two cases the paid guardian and hirer must pay; they did not therefore, by their oath, wish to avoid payment, and are therefore exempt from a guilt-offering.

(5) For he desired to evade payment by his oath, whereas if he admitted the truth he would have had to pay; therefore he brings a guilt-offering.

(6) For by his oath he is making himself liable to pay, whereas in reality (since it died, etc.) he would have been exempt; he is therefore exempt from a guilt-offering.

(7) If by his oath he is not trying to evade payment, he is exempt from a guilt-offering.

(8) [The last passage is omitted in MS.M. and other texts as superfluous repetition, and moreover as implying some contradiction to the preceding passage, which extends the exemption to one who effects no change by his lying, whereas here the exemption is limited to one who makes it more stringent for himself.]

(9) Surely all admit that there are four!

(10) That R. Meir holds a hirer pays like a paid guardian.

(11) For a hirer is either like a paid or an unpaid guardian.

(12) Read: ‘To A BORROWER’.

(13) Those mentioned in the Mishnah as being exempt are exempt only from liability in respect of the oath of guardians, i.e., are exempt from a guilt-offering for their false oath of deposit.

(14) For though they did not desire to evade a money payment (and are therefore exempt from a guilt-offering), they nevertheless uttered a false oath, and must bring a sliding scale sacrifice. This sacrifice is brought, however, only if the transgressor trespassed unwittingly in that he was unaware that a sacrifice was necessary for a false oath, though he knew a false oath was prohibited, and that he was swearing falsely; for if he swore falsely unwittingly (i.e., if he really thought he was swearing the truth), he would in any case be exempt from a guilt-offering for his false oath of deposit; v. supra 36b.

(15) He holds that a sliding-scale sacrifice for a false oath of utterance is brought only if that oath is applicable to the future; e.g., if the guardian swore falsely, ‘The animal died,’ he does not bring a sliding scale sacrifice, for he could not swear, ‘The animal will die’; v. supra 25a.

(16) Applicability in the future is not necessary, as long as it is applicable in the negative and positive; e.g., the animal died, or did not die; was stolen, or was not stolen.

(17) ‘So-and-so will throw a pebble;’ for he does not know what So-and-so will do; supra 25a.

(18) He must perforce take an oath, if he wishes to free himself from payment. If he is an unpaid guardian, he takes an oath that he was not wilfully neglectful; if a paid guardian, he takes an oath that the animal died, or was forcibly taken from him by robbers, or injured.

(19) That if he swore falsely, he is not liable to bring a sliding scale sacrifice, because he did not utter the oath of his own free will.

(20) Because the court administered it.

(21) That he is liable, because he swore of his own accord.

(22) Lev. V, 4; he brings a sliding scale sacrifice.

(23) R. Ammi takes the conjunction כי in this verse (Lev. V, 4) to mean ‘if’: if any one swear, i.e., of his own accord; he need not swear, but if he does swear, he must bring a sliding scale sacrifice. Rab, however, takes ki here as meaning ‘because’: because he swears (whether of his own accord, or compelled by the court), he must bring a sacrifice.

(24) He agrees with Rab.

(25) For a guilt-offering, and do not bring a sliding scale sacrifice. R. Eleazar does not need to mention in his exceptions the case of an unpaid guardian who, after swearing that the animal was lost or stolen, confessed that he stole it himself, in which case he is exempted from a sliding scale sacrifice, for the Mishnah states clearly that he brings a guilt-offering; and it is obvious that he is therefore exempt from the sacrifice for the oath of utterance.

Mishna - Mas. Eduyyot Chapter 1

MISHNAH1. SHAMMAI[1] SAYS: FOR ALL WOMEN [WHO BECOME MENSTRUOUS] IT SUFFICES [TO RECKON THEIR UNCLEANNESS FROM] THE TIME [OF THEIR DISCOVERING IT].[2] AND HILLEL SAYS: [THEIR UNCLEANNESS IS RECKONED BACKWARDS] FROM THE [LAST] EXAMINATION TO THE [PREVIOUS] EXAMINATION, EVEN IF THIS COVERS MANY DAYS.[3] BUT THE SAGES SAY: NEITHER ACCORDING TO THE OPINION OF THE ONE NOR ACCORDING TO THE OPINION OF THE OTHER, BUT [THEY ARE CONSIDERED UNCLEAN FOR] THE PAST TWENTY FOUR HOURS[4] WHEN THIS LESSENS THE PERIOD FROM THE [LAST] EXAMINATION TO THE [PREVIOUS] EXAMINATION,[5] AND FOR THE PERIOD FROM THE [LAST] EXAMINATION TO THE [PREVIOUS] EXAMINATION WHEN THIS LESSENS THE PAST TWENTY-FOUR HOURS.[6] ANY WOMAN WHO HAS A SETTLED PERIOD, IT SUFFICES [TO RECKON HER UNCLEANNESS FROM] HER SET TIME.[7] SHE WHO USES TESTING-CLOTHS WHEN SHE HAS MARITAL CONNEXION,[8] LO, THIS IS LIKE AN EXAMINATION: IT LESSENS EITHER THE PERIOD OF THE [PAST] TWENTY FOUR HOURS OR THE PERIOD FROM THE [LAST] EXAMINATION TO THE [PREVIOUS] EXAMINATION.

MISHNAH2. SHAMMAI SAYS: [DOUGH] OF A KAB[9] OR MORE IS SUBJECT TO THE LAW OF HALLAH.[10] AND HILLEL SAYS: OF TWO KABS OR MORE. BUT THE SAGES SAY: NEITHER ACCORDING TO THE OPINION OF THE ONE NOR ACCORDING TO THE OPINION OF THE OTHER, BUT [DOUGH OF] A KAB AND A HALF[11] IS SUBJECT TO THE LAW OF HALLAH. AND AFTER THEY INCREASED THE MEASURES[12] THEY SAID: [DOUGH ‘OF] FIVE QUARTERS IS SUBJECT. R. JOSE SAID: FIVE ARE EXEMPT, FIVE AND MORE[13] ARE LIABLE.

MISHNAH3. HILLEL SAYS: A HIN[14] -FULL OF DRAWN WATER RENDERS THE MIKWEH[15] UNFIT.[16] (HOWBEIT[17] A MAN MUST SPEAK IN THE LANGUAGE OF HIS TEACHER.)[18] AND SHAMMAI SAYS: NINE KABS. BUT THE SAGES SAY: NEITHER ACCORDING TO THE OPINION OF THE ONE NOR ACCORDING TO THE OPINION OF THE OTHER: BUT WHEN TWO WEAVERS FROM THE DUNG-GATE WHICH IS IN JERUSALEM[19] CAME AND TESTIFIED IN THE NAME OF SHEMAIAH AND ABTALION;[20] ‘THREE LOGS OF DRAWN WATER RENDER THE MIKWEH UNFIT,’ THE SAGES[21] CONFIRMED THEIR STATEMENT.

MISHNAH4. AND WHY DO THEY RECORD THE OPINIONS OF SHAMMAI AND HILLEL TO SET THEM ASIDE? — TO TEACH THE FOLLOWING GENERATIONS THAT A MAN SHOULD NOT [ALWAYS] PERSIST IN HIS OPINION, FOR BEHOLD, THE FATHERS OF THE WORLD[22] DID NOT PERSIST IN THEIR OPINION.

MISHNAH5. AND WHY DO THEY RECORD THE OPINION OF A SINGLE PERSON AMONG THE MANY, WHEN THE HALACHAH[23] MUST BE ACCORDING TO THE OPINION OF THE MANY? SO THAT IF A COURT PREFERS THE OPINION OF THE SINGLE PERSON IT MAY DEPEND ON HIM. FOR NO COURT MAY SET ASIDE THE DECISION OF ANOTHER COURT[24] UNLESS IT IS GREATER THAN IT IN WISDOM[25] AND IN NUMBER.[26] IF IT WAS GREATER THAN IT IN WISDOM BUT NOT IN NUMBER, IN NUMBER BUT NOT IN WISDOM, IT MAY NOT SET ASIDE ITS DECISION, UNLESS IT IS GREATER THAN IT IN WISDOM AND IN NUMBER.[27]

MISHNAH6. R. JUDAH SAID: IF SO, WHY DO THEY RECORD THE OPINION OF A SINGLE PERSON AMONG THE MANY TO SET IT ASIDE?[28] SO THAT IF A MAN SHALL SAY, THUS HAVE I LEARNT THE TRADITION,’ IT MAY BE SAID TO HIM, ‘ACCORDING

TO THE [REFUTED] OPINION OF THAT INDIVIDUAL DID YOU HEAR IT.

MISHNAH7. BETH SHAMMAI SAY: A QUARTER-KAB OF ANY BONES, EVEN FROM TWO CORPSES OR FROM THREE.[29] AND BETH HILLEL SAY: A QUARTER-KAB OF BONES FROM A CORPSE,[30] EITHER FROM [THE BONES WHICH FORM] THE GREATER PORTION OF THE [BODY'S] BUILD,[31] OR FROM THE GREATER PORTION OF THE NUMBER[32] [OF THE BODY'S BONES]. SHAMMAI SAYS: EVEN FROM A SINGLE BONE.[33]

MISHNAH8. VETCHES[34] OF TERUMAH,[35] BETH SHAMMAI SAY, MUST BE SOAKED AND RUBBED[36] IN PURITY,[37] BUT CAN BE GIVEN FOR FOOD[38] IN IMPURITY.[39] AND BETH HILLEL SAY: THEY MUST BE SOAKED IN PURITY,[40] BUT CAN BE RUBBED AND GIVEN FOR FOOD IN IMPURITY. SHAMMAI SAYS: THEY MUST BE EATEN DRY.[40] R. AKIBA SAYS: ALL DEEDS IN CONNECTION WITH THEM [CAN BE CARRIED OUT] IN IMPURITY.[41]

MISHNAH9. WHOSO[42] CHANGES FOR A SELA'[43] COPPER COIN FROM SECOND TITHE,[44] BETH SHAMMAI SAY: COPPER COIN FOR THE WHOLE SELA'. AND BETH HILLEL SAY: SILVER FOR ONE SHEKEL AND COPPER COIN FOR ONE SHEKEL.[45] R. MEIR SAYS: SILVER AND FRUITS MAY NOT BE SUBSTITUTED FOR SILVER.[46] BUT THE SAGES ALLOW IT.

MISHNAH10. WHOSO CHANGES A SELA' FROM SECOND TITHE IN JERUSALEM,[47] BETH SHAMMAI SAY: COPPER COIN FOR THE WHOLE SELA'. AND BETH HILLEL SAY: SILVER FOR ONE SHEKEL AND COPPER COIN FOR ONE SHEKEL. THE DISPUTANTS BEFORE THE SAGES[48] SAY: SILVER FOR THREE DENARS AND COPPER COIN FOR ONE DENAR. R. AKIBA SAYS: SILVER FOR THREE DENARII AND FOR THE FOURTH SILVER AND FOR THE FOURTH [THEREOF] COPPER COIN.[49] R. TARFON SAYS: FOUR AS PERS[50] IN SILVER. SHAMMAI SAYS: HE MUST LEAVE[45] T[51] IN A SHOP AND EAT ON THE CREDIT THEREOF.

MISHNAH11. A[52] BRIDE'S STOOL FROM WHICH THE COVERING-BOARDS HAVE BEEN TAKEN,[53] BETH SHAMMAI PRONOUNCE [LIABLE TO BECOME] UNCLEAN, AND BETH HILLEL PRONOUNCE IT NOT [LIABLE TO BECOME] UNCLEAN.[54] SHAMMAI SAYS: EVEN THE FRAMEWORK OF A STOOL [BY ITSELF IS [LIABLE TO BECOME] UNCLEAN. A STOOL WHICH HAS BEEN SET IN A BAKER'S TROUGH, BETH SHAMMAI PRONOUNCE [LIABLE TO BECOME] UNCLEAN, AND BETH HILLEL PRONOUNCE IT NOT [LIABLE TO BECOME] UNCLEAN.[55] SHAMMAI SAYS: EVEN ONE MADE THEREIN [IS LIABLE TO BECOME UNCLEAN].

MISHNAH12. THESE ARE SUBJECTS CONCERNING WHICH BETH HILLEL TURNED AND TAUGHT ACCORDING TO THE OPINION OF BETH SHAMMAI: A[56] WOMAN WHO CAME FROM THE REGION OF THE SEA AND SAID: MY HUSBAND DIED — MAY BE MARRIED AGAIN; MY HUSBAND DIED [WITHOUT ISSUE] — SHE MUST BE MARRIED BY HER HUSBAND'S BROTHER.[57] THIS IS THE OPINION OF BETH SHAMMAI. BUT BETH HILLEL SAY: WE HAVE HEARD SO[58] ONLY IN THE CASE OF ONE WHO CAME FROM THE HARVESTING. BETH SHAMMAI SAID TO THEM: IT IS THE SAME THING IN THE CASE OF ONE WHO CAME FROM THE HARVESTING OR WHO CAME FROM THE OLIVE-PICKING OR WHO CAME FROM THE REGION OF THE SEA: THEY MENTIONED HARVESTING ONLY AS AN ACTUAL OCCURRENCE.[59] THEN BETH' HILLEL TURNED AND TAUGHT ACCORDING TO BETH SHAMMAI. BETH SHAMMAI SAY: SHE MAY BE MARRIED AGAIN AND TAKE HER MARRIAGE PORTION. BUT BETH HILLEL SAY: SHE MAY BE MARRIED AGAIN BUT MAY NOT TAKE HER MARRIAGE-PORTION. BETH

SHAMMAI SAID TO THEM: YOU HAVE PRONOUNCED LAWFUL THE GRAVER MATTER OF A FORBIDDEN MARRIAGE,[60] SHOULD YOU NOT PRONOUNCE LAWFUL THE LIGHTER MATTER OF PROPERTY? BETH HILLEL SAID TO THEM: WE HAVE FOUND THAT BROTHERS DO NOT INHERIT ON HER STATEMENT.[61] BETH SHAMMAI SAID TO THEM: DO WE NOT INFER IT FROM HER MARRIAGE DOCUMENT IN WHICH HE WRITES FOR HER 'THAT IF YOU BE MARRIED TO ANOTHER YOU SHALL TAKE WHAT IS WRITTEN FOR YOU'? THEN BETH HILLEL TURNED AND TAUGHT ACCORDING TO THE OPINION OF BETH SHAMMAI.

MISHNAH13. WHOEVER[62] IS HALF A SLAVE AND HALF A FREE MAN[63] SHOULD TOIL ONE DAY FOR HIS MASTER AND ONE DAY FOR HIMSELF. THIS IS THE OPINION OF BETH HILLEL. BETH SHAMMAI SAID TO THEM: YOU HAVE SET MATTERS IN ORDER AS REGARDS HIS MASTER, BUT YOU HAVE NOT SET MATTERS IN ORDER AS REGARDS HIMSELF. HE IS NOT ABLE TO MARRY A BONDMAID,[64] NOR IS HE ABLE [TO MARRY] A WOMAN WHO IS FREE.[65] IS HE TO REFRAIN [FROM MARRYING]? AND IS IT NOT THE CASE THAT THE WORLD WAS CREATED FOR THE PROPAGATION OF THE RACE? FOR IT IS SAID, HE CREATED IT NOT TO BE A WASTE; HE FORMED IT TO BE INHABITED.[66] BUT FOR THE RIGHTFUL ORDERING OF THE WORLD HIS MASTER IS COMPELLED TO MAKE HIM FREE, AND HE[67] WRITES OUT A BOND FOR HALF HIS VALUE. THEN BETH HILLEL TURNED AND TAUGHT ACCORDING TO THE OPINION OF BETH SHAMMAI.

MISHNAH14. A VESSEL OF EARTHENWARE[68] CAN, ACCORDING TO THE OPINION OF BETH HILLEL, PROTECT EVERYTHING[69] [IN IT FROM IMPURITY]. BUT BETH SHAMMAI SAY: IT PROTECTS ONLY EATABLES AND LIQUIDS AND [OTHER] VESSELS OF EARTHENWARE. BETH HILLEL SAID TO THEM: WHY? BETH SHAMMAI SAID TO THEM: BECAUSE IT IS [ITSELF] IMPURE WITH RESPECT TO AN 'AM HA-AREZ,[70] AND NO IMPURE VESSEL CAN SCREEN [AGAINST IMPURITY]. BETH HILLEL SAID TO THEM: AND DID YOU NOT PRONOUNCE PURE THE EATABLES AND LIQUIDS INSIDE IT? BETH SHAMMAI SAID TO THEM: WHEN WE PRONOUNCED PURE THE EATABLES AND LIQUIDS INSIDE IT, WE PRONOUNCED THEM PURE FOR HIM[71] ONLY, BUT WHEN YOU PRONOUNCED THE VESSEL[72] PURE YOU PRONOUNCED IT PURE FOR YOURSELF[73] AND FOR HIM. THEN BETH HILLEL TURNED AND TAUGHT ACCORDING TO THE OPINION OF BETH SHAMMAI.

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(1) Cf. Nid. I, 1.

(2) Therefore only things which they touch from that time become unclean, but not what they have touched before.

(3) All foodstuffs which they touched since the previous examination are unclean, because menstruation may have occurred immediately after the previous examination without their having been aware of it.

(4) Lit., 'from time to time,' i.e., from any given hour to the corresponding one on the preceding or following day.

(5) I.e., when the period between the last two examinations is more than twenty-four hours.

(6) When the period between the last two examinations is less than twenty-four hours.

(7) There is no need to suspect that menstruation may have occurred before the set time.

(8) Before and after connexion to make sure she is free from menstruation.

(9) Cf. II Kings VI, 25. It equals four logs, or 24 eggs, or roughly two litres.

(10) The portion of the dough, the minimum quantity being the size of one egg, which has to be given to the priest: Num. XV, 20.

(11) Equal to the 'Omer. [The 'omer = 1/10 ephah (v. Ex. XVI, 16), = 1.8 kab = 7.2 logs = 43.2 eggs. The Wilderness measure was, however, subsequently increased in Jerusalem by 1/6th, so that 43.2 wilderness eggs became equal to 36 Jerusalem eggs, i.e. a kab and a half.]

(12) At Sepphoris, when six Jerusalem logs became equal to five logs of the new measure.

(13) Which would leave just five quarters after taking off the Hallah.

(14) Cf. Ex. XXX, 24, etc. It contains twelve logs, or three kabs.

(15) The ritual bath of purification; cf. Lev. XI, 36. It has to contain at least forty se'ahs (= 12.148 litres) of originally flowing water.

(16) If it fell into the Mikweh before the Mikweh had forty se'ahs of originally flowing water.

(17) Some texts omit ‘Howbeit’.

(18) A parenthetic observation of the redactor of the Mishnah to explain why Hillel used the Biblical term Hin, and not the Mishnaic expression twelve logs, or three kabs, as below; viz. because Hillel's teachers had used the term Hin. [The reference is to Hillel's Babylonian teachers, not to Shemaiah and Abtalion, v. Halevy, Doroth. I, 96.]

(19) [At the south-east corner of the city. V. G. A. Smith, Jerusalem, I, p. 177]. Cf. Nehem. II, 13. The trade and abode of the two men are specified in order to indicate that in spite of their lowly station in life their testimony prevailed against the opinions of Hillel and Shammai.

(20) The teachers of Hillel and Shammai; cf. Ab. I, 12.

(21) Including Shammai and Hillel themselves.

(22) Viz., Hillel and Shammai.

(23) The accepted ruling.

(24) A former court if it decided according to the opinion of a majority. But if that court decided according to the opinion of an individual, its decision may be set aside even when the condition named here is not fulfilled.

(25) The wisdom of its president as compared with the wisdom of the president of the former court.

(26) Of the members of the court. V. Ab. (Sonc. ed.) p. 64, n. 7.

(27) [According to another explanation: Where there is the opinion of an individual to appeal for support, a subsequent court can set aside the decision of a former court even if it is not greater than it in wisdom and number, and this justifies the recording of the opinion of a single person among the many, v. Tosaf. Yom Tob a.l. and Halevy, Doroth. I, 200 f.]

(28) In cases where the individual opinion is untenable, and no court would ever agree to it.

(29) Confers defilement upon everything which happens to be under the same roof-space (‘tent’; cf. Num. XIX, 14). But if less than a quarter-kab, it can cause defilement only by actual contact.

(30) Only from one corpse.

(31) The two legs and one thigh; cf. Bek. 45a.

(32) 125 out of the 248 bones of the human body; cf. Ohol. I, 8.

(33) Causes ‘tent’ defilement if it fills a quarter-kab.

(34) Cf. M. Sh. II, 4. Vetches are usually food for cattle, but in time of scarcity they are also eaten by human beings.

(35) Heave offering which belongs to the priest.

(36) On the body as a detergent.

(37) With the hands washed.

(38) To cattle only.

(39) With the hands unwashed.

(40) Since moisture renders them liable to defilement in accordance with Lev. XI, 38.

(41) Because animal food is not subject to the laws of Terumah.

(42) With this and the following halachah cf. M. Sh. II, 8-9.

(43) Equals two silver shekels, or four silver denarii.

(44) Second Tithe produce is changed for money in accordance with Deut. XIV, 25. To lighten further the burden of the pilgrim to Jerusalem, copper coin is changed into silver money.

(45) If pilgrims will bring to Jerusalem only silver money, copper coin will become scarce in the Holy City, and its value will rise, thus causing a loss to the Second Tithe.

(46) Half a silver denar and its value in fruit may not together be changed for a silver denar.

(47) For smaller coins, in order to buy Second Tithe provisions.

(48) Young Sages who were not yet members of the Sanhedrin. For their identity cf. Sanh. 17b.

(49) I.e., a fourth of a denar, or one sixteenth of a sela’, in copper coin. So the commentaries. The text is uncertain.

(50) According to Bertinoro it equals one fifth of a denar, or one twentieth of a sela’.

(51) The whole sela’ without changing it at all, lest when there is any surplus he unwittingly uses it as profane money.

(52) Cf. Kel. XXli, 4.

(53) The ordinary stool was made of four legs held together by four boards (= מלבן, framework), on which were placed boards (covering-boards) for sitting. A bride's stool had, in addition, three upright boards (also called ‘covering-boards’), against which the occupant leant.

(54) The controversy turns on the question whether on the removal of an essential part the stool still retains its usefulness for its original purpose as a seat, and so still comes within the category of כלי, utensil, and is therefore still liable to defilement from the pressure on it of the body of an unclean person (= מדרם), in accordance with Lev. XV, 4.

(55) Here the controversy turns on whether the stool retains the character of a stool when fixed within the trough.

(56) Cf. Yeb. XV, 1-3.

(57) Cf. Deut. XXV, 5.

(58) That the statement of the woman is to be accepted.

(59) It so happened that a woman came from the harvest field and stated that her husband had died from the bite of a snake, and on investigation this was found to be true.

(60) If by chance the first husband should prove to be alive.

(61) The sons of the first husband cannot claim his property on the strength of the woman's evidence alone, as the transfer of property requires two witnesses for its validity.

(62) Cf. Git. IV, 5.

(63) He had belonged to two partners, one of whom had set him free. Or, if he belonged to one master, only half of his redemption money had been paid to the master.

(64) Since he is half free.

(65) Since he is half a slave.

(66) Isa. XLV, 18.

(67) The half slave.

(68) Under the roof-space (‘tent’) where there is a dead body.

(69) Even other vessels that are not of earthenware. But only if this earthenware vessel is covered by a tightly-fitting lid (צמיד פתיל); cf. Num. XIX, 15; Kel. IX, 2.

(70) Literally ‘the people of the land’, an untutored person who is indifferent to the observances of clean and unclean, distinguished from the scrupulous, Haber, ‘associate’. V. Glos.

(71) The ‘Am ha-arez, who in any case does not abstain from the unclean. As for the Haber, he does not use the food and drink of the ‘Am ha-arez, nor his earthenware vessels, because these cannot be rendered clean by immersion.

(72) And all its contents, including vessels not of earthenware.

(73) I.e., for the Haber also. ‘There is, therefore, the risk that the Haber may borrow these vessels that are not of earthenware, purify them by simple immersion and use them, whereas they require for their purification to be also sprinkled with the ‘Water of Purification’, in accordance with the rules applying to the removal of an uncleanness caused by a corpse, Num. XIX, 18-19.

Mishna - Mas. Eduyyot Chapter 2

MISHNAH1. R.[1] HANINA, CHIEF[2] OF THE PRIESTS, TESTIFIED CONCERNING FOUR MATTERS: THROUGH ALL THEIR DAYS THE PRIESTS NEVER SHRANK FROM BURNING FLESH WHICH HAD BEEN DEFILED BY AN ‘OFFSPRING’[3] OF DEFILEMENT WITH FLESH WHICH HAD BEEN DEFILED BY A ‘FATHER’[4] OF DEFILEMENT, ALTHOUGH THEY WERE [THEREBY] INCREASING ITS DEFILEMENT BY A [HIGHER] DEFILEMENT.[5] R. AKIBA ADDED: THROUGH ALL THEIR DAYS THE PRIESTS NEVER SHRANK FROM LIGHTING OIL[6] WHICH HAD BEEN RENDERED UNFIT BY A TEBUL YOM[7] IN A LAMP[8] DEFILED BY ONE WHO WAS DEFILED BY A CORPSE,[9] ALTHOUGH THEY WERE [THEREBY] INCREASING ITS DEFILEMENT[10] BY A [HIGHER] DEFILEMENT.

MISHNAH2. R.[11] HANINA, CHIEF OF THE PRIESTS, SAID: ALL MY DAYS I NEVER SAW A HIDE[12] TAKEN OUT TO THE PLACE OF BURNING.[13] R. AKIBA SAID: FROM HIS WORDS WE INFER THAT WHOSO FLAYS THE HIDE OF THE FIRSTBORN BEAST[14] AND IT IS FOUND[15] TO BE TREFA,[16] THE PRIESTS MAY ENJOY THE USE OF THE HIDE. BUT THE SAGES SAY: WE SAW NOT’ IS NO PROOF,[17] BUT [SUCH A HIDE] MUST BE TAKEN OUT TO THE PLACE OF BURNING.[18]

MISHNAH3. ALSO HE TESTIFIED CONCERNING A SMALL VILLAGE IN THE VICINITY OF JERUSALEM IN WHICH THERE WAS AN OLD MAN WHO USED TO LEND TO ALL THE PEOPLE OF THE VILLAGE AND WRITE OUT [THE BOND] IN HIS OWN HANDWRITING AND OTHERS SIGNED IT,[19] THAT WHEN THE FACT WAS BROUGHT BEFORE THE SAGES THEY PRONOUNCED IT LEGAL.[20] HENCE, INCIDENTALLY, YOU MAY INFER THAT THE WIFE MAY WRITE HER OWN BILL OF DIVORCEMENT, AND THE HUSBAND MAY WRITE HIS OWN QUITTANCE;[21] FOR THE LEGALITY OF A DOCUMENT DEPENDS ONLY ON THOSE WHO SIGN IT. AND [HE TESTIFIED] CONCERNING A NEEDLE[22] WHICH WAS FOUND IN FLESH,[23] THAT THE KNIFE AND THE HANDS [WHICH HAD BEEN EMPLOYED ON THE FLESH] ARE CLEAN,[24] BUT THE FLESH ITSELF IS DEFILED;[25] AND IF IT WAS FOUND IN THE EXCREMENT, ALL ARE CLEAN.[26]

MISHNAH4. R. ISHMAEL DECLARED THREE THINGS BEFORE THE SAGES IN THE VINEYARD[27] AT YABNEH. CONCERNING AN EGG[28] WHICH WAS BEATEN TOGETHER, AND PLACED ON VEGETABLES OF TERUMAH — THAT IT ACTS AS A CONNECTION;[29] BUT IF IT WAS IN THE FORM OF A HELMET[30] IT DOES NOT ACT AS A CONNECTION. AND CONCERNING AN EAR OF CORN[31] IN THE HARVESTING[32] THE TOP OF WHICH REACHED THE STANDING CORN — THAT IF IT CAN BE REAPED TOGETHER WITH THE STANDING CORN, LO, IT BELONGS TO THE OWNER; AND IF NOT, IT BELONGS TO THE POOR.[33] AND CONCERNING A SMALL GARDEN[34] WHICH WAS SURROUNDED BY ESPALIER VINES — THAT IF IT HAS SPACE FOR THE GRAPE-GATHERER AND HIS BASKET ON ONE SIDE,[35] AND SPACE FOR THE GRAPE-GATHERER AND HIS BASKET ON THE OTHER SIDE,[35] IT MAY BE SOWN WITH SEED; BUT IF NOT, IT MAY NOT BE SOWN WITH SEED.[36]

MISHNAH 5. THEY STATED THREE THINGS BEFORE R. ISHMAEL, AND HE PRONOUNCED NONE OF THEM EITHER UNLAWFUL OR LAWFUL; BUT R. JOSHUA THE SON OF MATTHIA ELUCIDATED THEM.[37] WHOSO CUTS AN ABSCESS ON THE SABBATH, HE IS GUILTY IF IT WAS TO MAKE AN OPENING[38] TO IT, BUT INNOCENT IF IT WAS TO BRING OUT THE PUS;[39] AND CONCERNING ONE WHO HUNTS A SNAKE ON THE SABBATH — THAT IF HE WAS THUS OCCUPIED IN ORDER THAT IT SHOULD NOT BITE HIM, HE IS INNOCENT;[40] BUT IF THAT HE MIGHT USE IT AS A REMEDY,[41] HE IS GUILTY. AND CONCERNING IRONIAN[42] STEWPOTS — THAT THEY DO NOT CONTRACT DEFILEMENT WHEN UNDER THE SAME ROOF-SPACE AS A CORPSE, BUT BECOME DEFILED IF THEY ARE CARRIED BY ONE WHO HAS AN ISSUE.[43] R. ELIEZER B. ZADOK SAYS: ALSO IF THEY ARE CARRIED BY ONE WHO HAS AN ISSUE THEY REMAIN UNDEFILED, BECAUSE THEY ARE UNFINISHED IN THE MAKING.[44]

MISHNAH 6. R. ISHMAEL DECLARED THREE THINGS, AND R. AKIBA DISAGREED WITH HIM. IF GARLIC OR UNRIPE GRAPES OR GREEN EARS OF CORN WERE BEING CRUSHED [ON[45] THE EVE OF THE SABBATH] WHILE IT IS YET DAY, R. ISHMAEL SAYS: HE MAY ALLOW [THE CRUSHING] TO BE COMPLETED AFTER IT GROWS DARK.[46] BUT R. AKIBA SAYS: HE MAY NOT ALLOW IT TO BE COMPLETED.[47]

MISHNAH 7. THEY DECLARED THREE THINGS BEFORE R. AKIBA, TWO IN THE NAME OF R. ELIEZER AND ONE IN THE NAME OF R. JOSHUA. TWO IN THE NAME OF R. ELIEZER: — A WOMAN MAY GO FORTH [ON THE SABBATH ADORNED] WITH A ‘GOLDEN-CITY’;[48] AND: THEY THAT FLY PIGEONS ARE UNFIT TO BEAR EVIDENCE.[49] AND ONE IN THE NAME OF R. JOSHUA: — IF[50] THERE WAS A CREEPING THING[51] IN THE MOUTH OF A WEASEL WHEN IT WALKED OVER LOAVES OF TERUMAH, AND IT IS DOUBTFUL WHETHER IT[52] TOUCHED THEM OR WHETHER IT DID NOT TOUCH THEM, THAT ABOUT WHICH THERE IS DOUBT REMAINS CLEAN.[53]

MISHNAH8. R. AKIBA DECLARED THREE THINGS; ABOUT TWO THEY AGREED WITH HIM, AND ABOUT ONE THEY DISAGREED WITH HIM. ABOUT A LIME-BURNER'S SANDAL,[54] THAT IT IS LIABLE TO CONTRACT DEFILEMENT[55] FROM PRESSURE UNCLEANNESS;[56] AND ABOUT THE REMAINS OF A [BROKEN] OVEN,[57] THAT THEY MUST BE FOUR HANDBREADTHS HIGH IN ORDER TO RETAIN THE DEFILEMENT].[58] WHEREAS THEY USED TO SAY: THREE.[59] AND THEY AGREED WITH HIM. AND ABOUT ONE THEY DISAGREED WITH HIM. ABOUT A STOOL,[60] FROM WHICH TWO OF ITS COVERING-BOARDS[61] HAD BEEN REMOVED, THE ONE BESIDE THE OTHER, WHICH R. AKIBA PRONOUNCES LIABLE TO UNCLEANNESS,[62] BUT THE SAGES DECLARE NOT LIABLE TO UNCLEANNESS.

MISHNAH9. HE USED TO SAY: THE FATHER TRANSMITS TO THE SON COMELINESS AND STRENGTH AND WEALTH AND WISDOM AND YEARS[63] AND THE NUMBER OF GENERATIONS BEFORE HIM,[64] THAT HE SHALL BECOME THEIR APPOINTED END:[65] FOR IT IS SAID, CALLING THE GENERATIONS FROM THE BEGINNING.[66] ALTHOUGH IT IS SAID, AND SHALL SERVE THEM, AND THEY SHALL AFFLICT THEM FOUR HUNDRED YEARS,[67] IT IS SAID ALSO, AND IN THE FOURTH GENERATION THEY SHALL COME HITHER AGAIN.[67]

MISHNAH10. ALSO HE USED TO SAY: THERE ARE FIVE THINGS OF [THE DURATION OF] TWELVE MONTHS: THE JUDGMENT OF THE GENERATION OF THE FLOOD [CONTINUED] TWELVE MONTHS;[68] THE JUDGMENT OF JOB [CONTINUED] TWELVE MONTHS;[69] THE JUDGMENT OF THE EGYPTIANS [CON TINUED] TWELVE MONTHS;[70] THE JUDGMENT OF GOG AND MAGOG[71] IN THE TIME TO COME [WILL CONTINUE] TWELVE MONTHS;[72] THE JUDGMENT OF THE UNGODLY IN GEHENNA [CONTINUES] TWELVE MONTHS, FOR IT IS SAID, AND IT WILL BE FROM ONE MONTH UNTIL ITS [SAME] MONTH.[73] R. JOHANAN B. NURI SAYS: [AS LONG AS] FROM PASSOVER TO PENTECOST,[74] FOR IT IS SAID, AND FROM ONE SABBATH[75] UNTIL ITS [NEXT] SABBATH.

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(1) Cf. Pes. I, 6.

(2) Segan; next in rank to the High Priest, occasionally acting as deputy; v. Sanh. (Sonc. ed.) p. 97, n. 1.

(3) ולד הטומאה, a generated, or secondary, defilement.

(4) אב הטומאה, a generating, or principal, defilement. This principal defilement has the power of conferring secondary defilement (ולד הטומאה) of the first degree (ראשון לטומאה). The ראשון, again, confers on food and drink secondary defilement (ולד הטומאה) of a second degree (לטומאה). If the שני belongs to the category of unhallowed things (חולין), it merely becomes itself ‘unfit’ (פסול), but the process of generating further defilement ceases with it. But if this שני belongs to hallowed things, like heave-offering or altar-offering, it can confer secondary defilement of a third degree (שלישי לטומאה). If this שלישי belongs to heave-offering, it becomes itself unfit, but it cannot confer further defilement. If, however, the שלישי belongs to altar-offerings, it can confer secondary defilement of a fourth degree (רביעי לטומאה). The רביעי, becomes unfit, but without the power of transmitting any further defilement.

(5) The first flesh contracted secondary defilement of a third degree. By being burnt together with flesh that had contracted defilement of a first degree from a ‘father’ of defilement, this first flesh contracted defilement of a second degree. But the priests did not mind raising the defilement of this first flesh, since in any case it was going to be destroyed by burning.

(6) Of terumah, heave-offering.

(7) Lit., ‘immersed by day’, a person, or utensil, that has undergone purification by immersion in the ritual bath (מקוה; cf. I, 3, n. 7), but has still to wait till sunset to complete the purification, in accordance with Lev. XXII, 7. The tebul yom confers on terumah secondary defilement of the third degree, rendering the terumah ‘unfit’; cf. n. 4.

(8) Of metal.

(9) A corpse possesses the highest degree of defilement, being the ‘father of the fathers’ of defilement, אבי אבות הטומאה. It confers a generating, or principal, defilement, אב הטומאה. But metal articles, like this lamp, contract defilement equal in degree to the defilement of the source, viz. they become אבי אבות הטומאה when defiled by a corpse, and אב הטומאה when defiled by a principal defilement. (This principle is deduced from the expression בהלל הרב, ‘slain by the sword’, Num. XIX, 16, which is interpreted: הרב הרי הוא כהלל ‘the sword is equal in its defilement to the slain’ (Naz. 53b). And what applies to a sword applies also to any other metal article.) Hence a metal lamp defiled by one who was defiled by a corpse becomes itself אב הטומאה, and confers on the oil put in it a secondary defilement of the first degree, ראשון לטומאה.

(10) By raising the defilement of the oil from the third degree (cf. n. 2) to the first degree (cf. n. 1). This is more remarkable than R. Hanina's testimony, which only involved the raising of a third degree defilement to a second degree.

(11) Cf. Zeb. Xli, 4.

(12) Of a sacrifice which was found after flaying to be unfit for the altar.

(13) Where all unfit sacrifices were destroyed.

(14) Even if it was slaughtered outside the Temple, because of a blemish (cf. Lev. XXII, 20 ff.), it is treated as though it were prepared for the altar.

(15) After flaying.

(16) Unfit for food owing to disease, cf. Hul. III, 1. Lit., ‘torn by a wild beast’; cf. Ex. XXII, 30.

(17) Such a case may not have occurred in R. Hanina's time; or it may have occurred and he failed to notice it.

(18) Since it was unfit for consumption from the very first.

(19) As witnesses.

(20) Though the deed was drafted by the creditor who was an interested party.

(21) For the payment of the marriage settlement; cf. I, 12.

(22) Which had been defiled by a corpse.

(23) Flesh of a sacrifice, in the Temple court which is considered public ground (רשות הרבים).

(24) Because it is doubtful whether they touched the needle, and a doubtful defilement arising in public ground is considered clean; cf. Toh. IV, 7, 11.

(25) Because the flesh certainly touched the needle.

(26) Because it is to be presumed that the flesh, too, did not touch the needle.

(27) The meeting place of the Sages after the destruction of Jerusalem by Titus. V. B.B. (Sonc. ed.) p. 549, n. 4.

(28) Cf. T.Y. III, 2.

(29) So that if a tebul yom (II, 1, n. 7) touches the egg, the vegetables become unfit, though an egg cannot be set aside as terumah.

(30) Blown up and hollow within, so that air intervenes between it and the vegetables.

(31) Cf. Pe'ah V, 2.

(32) Which has been left behind through forgetfulness.

(33) In accordance with the command of Deut. XXIV, 19; cf. Pe'ah VI, 4.

(34) Having a fence round it.

(35) Equalling a space of two cubits, or a minimum total space for the whole garden of four cubits square.

(36) It comes under the prohibition of Deut. XXII, 9.

(37) In what case they are forbidden, and in what case they are lawful.

(38) A permanent opening. This comes under the prohibition of making on the Sabbath an opening for a door in a building.

(39) The making of the opening is then a work which is not done for its own sake (מלאכה שאינה צריכה לגופה), but for another object, and therefore permissible; cf. Shab. 105b.

(40) As in the last case, the catching of the snake is not the real object of the work.

(41) The snake was believed to heal a certain skin disease (חפפית); cf. Shab. 77b.

(42) אירוניות. The correct reading, as well as the exact meaning of the term, is uncertain. The commentators take it as עירוניות, and explain it in the sense of provincial, coarse and unfinished.

(43) Cf. Lev. XV, 12.

(44) And therefore they are not considered utensils; cf. I, 11, n. 10.

(45) By placing on them heavy stones.

(46) He need not remove the stones from them, and may use the juice which flows from them on the Sabbath, since the crushing began before the coming in of the Sabbath.
(47) Cf. Shab. XVIl, 1.
(48) A gold ornament bearing a representation of the city of Jerusalem. R. Akiba is reported to have given one to his wife; cf. Shab. VI, 1, and the Gemara ibid. 59a, b; Ned. 50a.
(49) Cf. Sanh. III, 3. They do it for betting purposes, and thus make unlawful gain. Another explanation is that the pigeons serve to decoy strange pigeons for their master.
(50) Cf. Toh. IV, 2.
(51) A dead one, cf. Lev. XI, 29 ff.
(52) The creeping thing.
(53) Any doubt arising about a moving defilement is deemed clean.
(54) A coarse foot-covering made of wood or straw, and only used for protecting the feet from the lime, but not for walking.
(55) If worn by one who has an issue.
(56) מדרם, lit., ‘treading’; cf. I, 11, n. 10. The reason is that the lime-burner may sometimes wear it when walking home from his work, thereby making it an article of apparel.
(57) Of earthenware, standing upright on the ground like a cooking-pot, which contracted a defilement when still whole.
(58) But if they are less, they become clean, like the fragments of a broken utensil; cf. Kel. II, 2.
(59) Cf. Kel. VI, 1.
(60) Cf. Kel. XXII, 7.
(61) Viz., the boards forming the seat; cf. I. 11, n. 9.
(62) By body pressure, מדרם, because it can still be used in case of necessity for sitting; cf. I, 11, n. 1.
(63) I.e., long life.
(64) The reading is uncertain. According to most commentators the passage means that the son becomes the recipient of the good promised after the lapse of a number of generations, such as the redemption from Egypt which was promised after four generations, Gen. XV, 16.
(65) והוא הקיץ. This may also be rendered: ‘which is the appointed end’.
(66) Isa. XLI, 4.
(67) Gen. XV, 13, 16.
(68) Cf. Gen. VII, 11, with VIII, 14.
(69) ‘Months of vanity’, Job VII, 3, is interpreted to imply a full twelve months; cf. Seder Olam Rabbah, ch. XXX.
(70) Ex. IV, 12, is said to have occurred in the month of lyyar, while the Exodus took place twelve months later in Nisan.
(71) Cf. Esek. XXXVIII, 2 ff.
(72) Ezek. XXXIX, 4, 17, is combined with Isa. XVIII, 6, implying that the birds and beasts of prey will feast on the bodies of Gog and Magog a whole summer and a whole winter, or together twelve months.
(73) Isa. LXVI, 23, combined with the following verse, 24. The ‘same’ month, viz. of the following year.
(74) Forty nine days, the briefest interval between two festivals.
(75) The Festival is also called Sabbath, as Lev. XXIII, 11, 15, where ‘Sabbath’ is traditionally interpreted: the first day of Passover.

Mishna - Mas. Eduyyot Chapter 3

MISHNAH 1. [IN THE CASE OF] ALL[1] THINGS[2] WHICH CAUSE DEFILEMENT IN A ‘TENT’,[3] IF THEY WERE DIVIDED[4] AND BROUGHT INTO THE HOUSE,[5] R. DOSA B. HARKINAS PRONOUNCES [EVERYTHING UNDER THE SAME ROOF-SPACE] CLEAN, BUT THE SAGES PRONOUNCE IT UNCLEAN. HOW IS THIS? HE WHO TOUCHES AS MUCH AS TWO HALVES OF AN OLIVE [IN QUANTITY] OF A CARCASS[6] OR CARRIES THEM; OR IN THE CASE OF A CORPSE, HE WHO TOUCHES AS MUCH AS HALF AN OLIVE AND STANDS[7] OVER AS MUCH AS HALF AN OLIVE; OR TOUCHES AS MUCH AS HALF AN OLIVE AND AS MUCH AS HALF AN OLIVE IS ABOVE HIM; OR IF HE STANDS OVER AS MUCH AS TWO HALVES OF AN OLIVE; OR IF HE STANDS OVER AS MUCH AS

HALF AN OLIVE AND AS MUCH AS HALF AN OLIVE IS ABOVE HIM — R. DOSA B. HARKINAS PRONOUNCES HIM CLEAN, AND THE SAGES PRONOUNCE HIM UNCLEAN.[8] BUT IF HE TOUCHES AS MUCH AS HALF AN OLIVE [IN QUANTITY] AND ANOTHER THING[9] WAS OVER HIM AND OVER AS MUCH AS HALF AN OLIVE; OR IF HE STOOD OVER AS MUCH AS HALF AN OLIVE AND ANOTHER THING WAS OVER HIM AND OVER AS MUCH AS HALF AN OLIVE, HE IS CLEAN.[10] R. MEIR SAID: ALSO IN THIS CASE R. DOSA PRONOUNCES HIM CLEAN AND THE SAGES PRONOUNCE HIM UNCLEAN. IN[11] ALL SUCH CASES A MAN IS UNCLEAN UNLESS THERE IS AN ACT OF TOUCHING AND ALSO AN ACT OF CARRYING,[12] OR AN ACT OF CARRYING AND ALSO [THE FACT OF] BEING UNDER THE SAME ROOF-SPACE.[12] THIS IS THE GENERAL RULE: IN WHATEVER CASE THE MEANS OF CAUSING DEFILEMENT ARE OF ONE CATEGORY,[13] HE IS UNCLEAN;[14] IF THEY ARE OF TWO CATEGORIES,[15] HE IS CLEAN.[16]

MISHNAH 2. FOOD IN SEPARATED PIECES[17] IS NOT COMBINED TOGETHER.[18] THIS IS THE OPINION OF R. DOSA B. HARKINAS. BUT THE SAGES SAY: IT IS COMBINED TOGETHER. ONE[19] MAY EXCHANGE [PRODUCE OF] SECOND TITHE FOR UNCOINED METAL.[20] THIS IS THE OPINION OF R. DOSA. BUT THE SAGES SAY: ONE MAY NOT SO EXCHANGE IT. THE HANDS[21] [ALONE] NEED BE IMMERSED[22] FOR THE WATERS OF PURIFICATION.[23] THIS IS THE OPINION OF R. DOSA. BUT THE SAGES SAY: IF HIS HANDS HAVE BECOME UNCLEAN HIS WHOLE BODY BECOMES UNCLEAN.[24]

MISHNAH 3. THE INSIDES OF A MELON AND THE OFFAL LEAVES OF A VEGETABLE, WHEN THEY ARE TERUMAH, R. DOSA PERMITS [THEIR] USE TO NON-PRIESTS, AND THE SAGES FORBID IT.[25] FIVE[26] EWES, THEIR FLEECES WEIGHING EACH A MINA[27] AND A HALF, ARE SUBJECT TO [THE LAW OF] THE FIRST OF THE FLEECE.[28] THIS IS THE OPINION OF R. DOSA. BUT THE SAGES SAY: FIVE EWES [ARE SUBJECT] WHATEVER [THEIR FLEECES WEIGH].[29]

MISHNAH 4. ALL MATS[30] ARE [LIABLE TO BECOME] DEFILED BY ‘CORPSE’ DEFILEMENT. THIS IS THE OPINION OF R. DOSA. BUT THE SAGES SAY: [ALSO BY] ‘PRESSURE’ DEFILEMENT.[31] NO NETWORK[32] [ARTICLES] ARE LIABLE TO UNCLEANNESS[33] EXCEPT A [NETWORK] GIRDLE.[34] THIS IS THE OPINION OF R. DOSA. BUT THE SAGES SAY: THEY ARE ALL LIABLE TO UNCLEANNESS, EXCEPT THOSE USED BY WOOLDEALERS.[35]

MISHNAH 5. A SLING WHOSE POCKET IS WOVEN IS LIABLE TO UNCLEANNESS;[36] IF IT IS OF SKIN, R. DOSA B. HARKINAS PRONOUNCES IT NOT LIABLE TO UNCLEANNESS,[37] AND THE SAGES PRONOUNCE IT LIABLE TO UNCLEANNESS.[38] IF ITS FINGER-HOLD IS BROKEN OFF, IT IS NOT LIABLE;[39] BUT IF THE STRING-HANDLE [ONLY] IS BROKEN OFF IT IS LIABLE TO UNCLEANNESS.[40]

MISHNAH 6. A FEMALE CAPTIVE[41] MAY EAT OF TERUMAH.[42] THIS IS THE OPINION OF R. DOSA B. HARKINAS. BUT THE SAGES SAY: THERE IS A FEMALE CAPTIVE WHO MAY EAT, AND THERE IS A FEMALE CAPTIVE WHO MAY NOT EAT. HOW IS THIS? THE WOMAN[43] WHO SAID: I WAS MADE A CAPTIVE BUT [NONE THE LESS] I AM PURE, SHE MAY EAT; BECAUSE THE EVIDENCE[44] WHICH MADE IT UNLAWFUL IS THE SAME EVIDENCE[44] WHICH MADE IT LAWFUL. BUT IF THERE ARE WITNESSES [WHO DECLARE] THAT SHE WAS MADE A CAPTIVE, AND SHE SAYS: [NONE THE LESS] I AM PURE, SHE MAY NOT EAT.[45]

MISHNAH7. FOUR[46] CASES OF DOUBT R. JOSHUA PRONOUNCES UNCLEAN, AND THE SAGES PRONOUNCE THEM CLEAN. HOW IS THIS? IF THE UNCLEAN PERSON[47]

STANDS[48] AND THE CLEAN PERSON PASSES BY HIM, OR IF THE CLEAN PERSON STANDS[48] AND THE UNCLEAN PERSON[47] PASSES BY HIM; OR IF IMPURITY IS IN PRIVATE PREMISES[49] AND SOMETHING CLEAN IS IN PUBLIC PREMISES,[50] OR IF SOMETHING CLEAN IS IN PRIVATE PREMISES[49] AND IMPURITY IS IN PUBLIC PREMISES;[50] IF IT IS DOUBTFUL WHETHER ONE TOUCHED OR DID NOT TOUCH THE OTHER, OR IF IT IS DOUBTFUL WHETHER ONE STOOD OVER[51] OR DID NOT STAND OVER THE OTHER, OR IF IT IS DOUBTFUL WHETHER ONE MOVED OR DID NOT MOVE THE OTHER, R. JOSHUA PRONOUNCES SUCH A CASE UNCLEAN,[52] AND THE SAGES PRONOUNCE IT CLEAN.[53]

MISHNAH 8. THREE[54] THINGS R. ZADOK PRONOUNCES UNCLEAN AND THE SAGES PRONOUNCE THEM CLEAN. THE NAIL OF THE MONEY-CHANGER,[55] AND THE CHEST OF GRIST MAKERS, AND THE NAIL OF A STONE DIAL,[56] R. ZADOK PRONOUNCES UNCLEAN, AND THE SAGES PRONOUNCE THEM CLEAN.[57]

MISHNAH 9. FOUR[58] THINGS RABBAN GAMALIEL PRONOUNCES UNCLEAN, AND THE SAGES PRONOUNCE THEM CLEAN.[57] THE COVERING OF A METAL BASKET, IF IT BELONGS TO HOUSEHOLDERS,[59] AND THE HANGER OF CURRY-COMBS, AND THE VESSELS OF METAL STILL UNSHAPED,[60] AND A PLATE[61] THAT IS DIVIDED INTO TWO [EQUAL] PARTS. AND THE SAGES AGREE WITH RABBAN GAMALIEL IN THE CASE OF A PLATE THAT WAS DIVIDED INTO TWO PARTS, ONE LARGE AND ONE SMALL, THAT THE LARGE ONE IS LIABLE TO UNCLEANNESS AND THE SMALL ONE IS NOT LIABLE TO UNCLEANNESS.[57]

MISHNAH 10. IN[62] THREE CASES RABBAN GAMALIEL PRONOUNCES A RIGOROUS RULING ACCORDING TO THE OPINION OF BETH SHAMMAI. ONE MAY NOT WRAP UP[63] HOT FOOD ON A FESTIVAL FOR THE SABBATH; AND ONE MAY NOT JOIN TOGETHER A LAMP[64] ON A FESTIVAL, AND ONE MAY NOT BAKE [ON FESTIVALS] THICK LOAVES BUT ONLY WAFER-CAKES.[65] RABBAN GAMALIEL SAID: IN ALL THEIR DAYS MY FATHER'S HOUSE NEVER BAKED LARGE LOAVES BUT ONLY WAFERCAKES. THEY SAID TO HIM: WHAT CAN WE DO AS REGARDS YOUR FATHER'S HOUSE, FOR THEY WERE RIGOROUS IN RE SPECT TO THEMSELVES BUT WERE LENIENT TOWARDS ISRAEL TO LET THEM BAKE BOTH LARGE LOAVES AND WHITE BREAD.

MISHNAH 11. ALSO[66] HE DECLARED THREE DECISIONS OF A LENIENT CHARACTER: ONE MAY SWEEP UP [ON A FESTIVAL] BETWEEN THE COUCHES,[67] AND PUT SPICES[68] [ON THE COALS] ON A FESTIVAL, AND ROAST A KID WHOLE ON THE NIGHT OF PASSOVER.[69] BUT THE SAGES FORBID THEM.[70]

MISHNAH 12. R.[71] ELEAZAR B. AZARIAH ALLOWS THREE THINGS AND THE SAGES FORBID THEM: HIS[72] COW USED TO GO OUT WITH THE STRAP WHICH SHE HAD BETWEEN HER HORNS;[73] ONE MAY CURRY[74] CATTLE ON A FESTIVAL; AND ONE MAY GRIND PEPPER IN ITS OWN MILL. R. JUDAH SAYS: ONE MAY NOT CURRY CATTLE ON A FESTIVAL, BECAUSE IT MAY CAUSE A WOUND, BUT ONE MAY COMB[75] THEM. BUT THE SAGES SAY: ONE MAY NOT CURRY THEM, NEITHER MAY ONE COMB[76] THEM.

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(1) Cf. Oh. III, 1.

(2) These are enumerated, Oh. II, 1 f.

(3) Cf. I, 7, note 1.

(4) The minimum quantity required for conferring defilement (viz. the size of an olive, Oh. II, 1.) was divided into two halves.

(5) I.e., under the same roofspace.

(6) Cf. Lev. XI, 35, 40. Touching or carrying a dead animal does not really belong to ‘tent’ defilement dealt with here. We must assume that this controversy of R. Dosa and the Sages covers also carcass defilement. Some authorities would delete the words ‘He who touches . . . . corpse’.
(7) Lit., ‘forms a tent over’.
(8) They hold that the parts combine to form the minimum quantity.
(9) A board, or beam, or the like.
(10) Even according to the Sages who agree that in this case the half quantities cannot be combined. The reason for this ruling is discussed, Hul. 125b.
(11) This continues R. Meir's exposition of the opinion of the Sages.
(12) Touching one part and carrying the other part of the divided quantity. These acts belong to two different categories, but touching and ‘tent’ defilement are considered as belonging to the same category.
(13) Viz., two acts of touching, or carrying, or standing over, each applied to one of the two parts of the divided quantity; or touching the one and standing over the other; cf. the last note.
(14) The identical act combines the two parts into the required minimum quantity.
(15) E.g., touching one half and carrying the other half.
(16) The two parts do not combine.
(17) Food consisting of small particles, like peas, or small nuts; or food broken up in fragments.
(18) To form the minimum quantity required to become subject to all the laws governing the defilement of food; cf. Me'i. IV, 5.
(19) Cf. M.Sh. I, 2.
(20) Gr. **.
(21) If they have touched defiled food or drink; cf. Yad. lii, 1.
(22) In a ritual bath; cf. I, 3, note 7.
(23) To enable one to sprinkle it upon the defiled; cf. Num. XIX, 17-19.
(24) And the whole body requires Immersion.
(25) Cf. Lev. XXII, 10.
(26) Cf. Hul. XI, 2.
(27) Cf. Ezek. XLV, 12.
(28) Deut. XVIII, 4.
(29) For the minimum quantity, v. Hul. 137b.
(30) Made of rushes with a raised seam round them, so that they can be used as a receptacle.
(31) They can also serve as a spread to lie on; cf. Lev. XV, 4, and supra, I, 11, n. 10.
(32) As distinguished from woven material.
(33) As they do not form a garment; cf. Lev. XI, 32. etc.
(34) Through being stretched round the body, it becomes like a woven article.
(35) Which have very large meshes.
(36) [Though the pocket is not considered a ‘utensil with receptacle’, as the stones are placed therein only to be slung forth, it is susceptible to defilement in that it is woven work (Raabad).]
(37) The pocket not being considered a ‘utensil with receptacle’ it cannot become unclean because it lacks the minimum quantity of five handbreadths square which a skin needs for contracting defilement; cf. Kel. XXVII, 2.
(38) It is considered a ‘utensil with receptacle’, and therefore does not require that minimum.
(39) The sling has become unfit for use, and ceases to be a ‘utensil’.
(40) The sling can be used also without the string.
(41) The wife of a priest.
(42) We do not suspect that she was violated by her captors, and thus became a ‘harlot’ who is unfit to be a priest's wife.
(43) Cf. Ket. II, 5.
(44) Lit., ‘the mouth’. If you believe her statement that she was made a captive, you must also believe her when she asserts her purity.
(45) Unless she can bring witnesses to prove that she remained pure.
(46) Cf. Toh. VI, 2.
(47) A leper.
(48) Under a tent, or a tree.

(49) E.g., in an open house or shop.
(50) E.g., in a street near by.
(51) Cf. supra 1, n. 7.
(52) Because the defilement concerns also private ground where a doubtful defilement is unclean.
(53) Because it concerns also a public ground where a doubtful defilement is clean; cf. Il, 3, n. 6.
(54) Cf. Kel. Xli, 5.
(55) On which he suspends his scales; or, according to others, which he uses for keeping up the board which serves him as a table.
(56) Fixed to the ground, and serving as a sun clock.
(57) The controversy turns on the question whether these three articles are to be deemed ‘utensils’, or not.
(58) Cf. Kel. XII, 6.
(59) As opposed to the covering of a metal basket belonging to physicians; cf. Kel. XII, 3.
(60) The making of which is not quite finished; cf. II, 5, n. 11.
(61) Of earthenware, provided with a rim.
(62) Cf. Bez. II, 6.
(63) To keep it hot; cf. Shab. IV, 1.
(64) The parts of which have become severed.
(65) In order to avoid extra labour.
(66) Cf. Bez. II, 7.
(67) On which people recline at meals.
(68) For perfume, offered to guests after dinner; cf. Ber. VI, 6.
(69) After the manner of the Passover lamb; cf. Pes. VII, 1.
(70) Because sweeping may cause holes in the ground; the burning of spices for perfume is only practiced by the rich, and cannot therefore be regarded as a regular part of the meal to be permitted on the Festival; finally, roasting the kid whole may give the impression of a Passover sacrifice which was forbidden after the destruction of the Temple.
(71) Cf. Bez. II, 8.
(72) According to Bez. 23a, the cow really belonged to a female neighbour of R. Eleazar.
(73) As an adornment, but the Sages consider it a ‘burden’.
(74) Even with fine metal combs.
(75) With large wooden combs.
(76) The latter is forbidden to prevent any one doing also the former.

Mishna - Mas. Eduyyot Chapter 4

MISHNAH 1. THE FOLLOWING CASES ARE [EXAMPLES] OF THE LENIENT RULINGS OF BETH SHAMMAI AND OF THE RIGOROUS RULINGS OF BETH HILLEL.[1] AN EGG[2] WHICH IS LAID ON A FESTIVAL — BETH SHAMMAI SAY: IT MAY BE EATEN,[3] AND BETH HILLEL SAY: IT MAY NOT BE EATEN.[3] BETH SHAMMAI SAY: LEAVEN AS MUCH AS AN OLIVE [IN QUANTITY], AND LEAVENED FOOD AS MUCH AS A DATE.[4] AND BETH HILLEL SAY: AS MUCH AS AN OLIVE [IN QUANTITY] IN BOTH CASES.

MISHNAH 2. A BEAST[5] WHICH WAS BORN ON A FESTIVAL — ALL AGREE THAT IT IS PERMITTED; AND A CHICKEN WHICH WAS HATCHED FROM THE EGG — ALL AGREE THAT IT IS FORBIDDEN.[6] HE WHO SLAUGHTERS A WILD ANIMAL[7] OR A BIRD ON A FESTIVAL — BETH SHAMMAI SAY: HE MAY DIG WITH A PRONGED TOOL[8] AND COVER UP [THE BLOOD].[9] BUT BETH HILLEL SAY: HE MAY NOT SLAUGHTER UNLESS HE HAS HAD EARTH MADE READY.[10] BUT THEY AGREE THAT IF HE DID SLAUGHTER HE SHOULD DIG WITH A PRONGED TOOL[11] AND COVER UP [THE BLOOD, AND] THAT THE ASHES OF A STOVE[12] COUNT AS ‘MADE READY’.[13]

MISHNAH 3. BETH SHAMMAI SAY: [PRODUCE MADE] OWNERLESS[14] WITH RESPECT TO THE POOR [ONLY] IS COUNTED AS OWNERLESS. BUT BETH HILLEL SAY: IT IS NOT

COUNTED AS OWNERLESS UNLESS IT IS MADE OWNERLESS ALSO WITH RESPECT TO THE RICH, AS IN THE YEAR OF RELEASE.[15] IF ALL THE SHEAVES OF THE FIELD WERE OF ONE KAB[16] EACH AND ONE WAS OF FOUR KABS, AND IT WAS FORGOTTEN,[17] BETH SHAMMAI SAY: IT DOES NOT COUNT AS FORGOTTEN,[18] AND BETH HILLEL SAY: IT COUNTS AS FORGOTTEN.[19]

MISHNAH 4. A SHEAF[20] WHICH WAS CLOSE TO A WALL OR TO A STACK OR TO THE HERD OR TO [FIELD] UTENSILS, AND WAS FORGOTTEN, BETH SHAMMAI SAY: IT DOES NOT COUNT AS FORGOTTEN,[21] AND BETH HILLEL SAY: IT COUNTS AS FORGOTTEN.

MISHNAH 5. A VINEYARD[22] OF THE FOURTH YEAR[23] — BETH SHAMMAI SAY: IT IS NOT SUBJECT TO THE LAW OF THE FIFTH NOR TO THE LAW OF REMOVAL, AND BETH HILLEL SAY: IT IS SUBJECT TO THE LAW OF THE FIFTH[24] AND TO THE LAW OF REMOVAL.[25] BETH SHAMMAI SAY: IT IS SUBJECT TO THE LAW OF FALLEN GRAPES AND TO THE LAW OF GLEANINGS,[26] AND THE POOR REDEEM THEM FOR THEMSELVES.[27] BUT BETH HILLEL SAY: ALL OF IT GOES TO THE WINEPRESS.[28]

MISHNAH6. BETH SHAMMAI SAY: ONE NEED NOT PERFORATE A BARREL OF PICKLED OLlves,[29] AND BETH HILLEL SAY: ONE MUST PERFORATE IT.[30] BUT THEY AGREE THAT IF IT WAS PERFORATED AND THE DREGS STOPPED IT UP, IT IS NOT LIABLE TO UNCLEANNESS.[31] WHOSO HAD ANOINTED HIMSELF WITH CLEAN OIL AND [THEN] BECAME UNCLEAN, AND HE WENT DOWN AND IMMERSED[32] HIMSELF, BETH SHAMMAI SAY: ALTHOUGH HE STILL DRIPS IT[33] IS CLEAN. AND BETH HILLEL SAY: [ONLY WHILE THERE REMAINS] ENOUGH FOR ANOINTING A SMALL LIMB.[34] AND IF FROM THE BEGINNING[35] IT WAS UNCLEAN OIL, BETH SHAMMAI SAY: [IT IS UNCLEAN AS LONG AS THERE REMAINS ONLY] ENOUGH FOR ANOINTING A SMALL LIMB, AND BETH HILLEL SAY: [EVEN IF THERE REMAINS AS MUCH AS A MOIST LIQUID. R. JUDAH SAYS IN THE NAME OF BETH HILLEL: [PROVIDED IT REMAINS] MOIST [ITSELF] AND [CAN ALSO] MOISTEN [OTHER THINGS].

MISHNAH 7. A WOMAN[36] IS BETROTHED BY A DENAR[37] OR THE VALUE OF A DENAR, ACCORDING TO THE OPINION OF BETH SHAMMAI. BUT BETH HILLEL SAY: BY A PERUTAH[38] OR THE VALUE OF A PERUTAH. AND HOW MUCH IS A PERUTAH? ONE-EIGHTH OF AN ITALIAN ISSAR. BETH SHAMMAI SAY: ONE[39] MAY DISMISS HIS WIFE WITH AN OLD BILL OF DIVORCEMENT, AND BETH HILLEL FORBID IT. WHAT IS AN OLD BILL OF DIVORCEMENT? WHENSOEVER HE HAS HAD PRIVACY WITH HER AFTER HE HAS WRITTEN IT FOR HER.[40] WHOSO[41] DIVORCES HIS WIFE AND SHE [AFTERWARDS] SPENDS A NIGHT WITH HIM AT THE [SAME] INN[42] — BETH SHAMMAI SAY: SHE DOES NOT REQUIRE A SECOND BILL OF Dlvorcement FROM HIM. BUT BETH HILLEL SAY: SHE REQUIRES A SECOND BILL OF DIVORCEMENT FROM HIM.[43] WHEN [DOES SHE REQUIRE A SECOND BILL OF DIVORCEMENT]? WHEN SHE WAS DIVORCED AFTER MARRIAGE. BUT IF SHE WAS DIVORCED AFTER BETROTHAL SHE DOES NOT REQUIRE FROM HIM A SECOND BILL OF DIVORCEMENT, SINCE HE IS NOT [YET] FAMILIAR WITH HER.[44]

MISHNAH8. BETH SHAMMAI PERMIT[45] THE RIVAL WIVES [OF A DECEASED BROTHER TO BE MARRIED][46] TO THE [SUR VIVING] BROTHERS; BUT BETH HILLEL FORBID THEM. IF THEY[47] HAVE PERFORMED HALIZAH,[48] BETH SHAMMAI PRONOUNCE THEM UNFIT TO [MARRY INTO] THE PRIESTHOOD,[49] BUT BETH HILLEL PRONOUNCED THEM FIT.[50] IF THEY[47] HAVE MARRIED THEIR BROTHER-IN-LAW,[51] BETH SHAMMAI PRONOUNCE THEM FIT,[52] AND BETH HILLEL PRONOUNCED THEM

UNFIT[53] [TO MARRY INTO THE PRIESTHOOD]. AND ALTHOUGH THESE PRONOUNCED UNFIT THOSE WHOM THE OTHERS PRONOUNCED FIT, BETH SHAMMAI DID NOT SHRINK FROM MARRYING WOMEN FROM [THE DAUGHTERS OF] THE SCHOOL OF HILLEL. NOR THE SCHOOL OF HILLEL FROM MARRYING WOMEN FROM [THE DAUGHTERS OF] THE SCHOOL OF SHAMMAI.[54] AND IN THE CASE OF ALL MATTERS OF PURITY AND IMPURITY IN RESPECT TO WHICH THESE USED TO PRONOUNCE CLEAN WHAT THE OTHERS PRONOUNCED UNCLEAN, THEY DID NOT SHRINK FROM PREPARING FOODS REQUIRING A CONDITION OF PURITY EACH BY MEANS OF [THE VESSELS OF] THE OTHER.[54]

MISHNAH9. [IN THE CASE OF] THREE[55] BROTHERS, OF WHOM TWO WERE MARRIED TO TWO SISTERS AND ONE WAS UNMARRIED, IF ONE OF THE HUSBANDS OF THE SISTERS DIED[56] AND THE UNMARRIED ONE BETROTHED HER,[57] AND AFTER WARDS HIS OTHER BROTHER[58] DIED,[59] BETH SHAMMAI SAY: HIS WIFE[60] REMAINS WITH HIM, AND THE OTHER [WIDOW] IS RELEASED[61] ON THE GROUNDS OF [THE LAW OF] THE WIFE'S SISTER. BUT BETH HILLEL SAY: HE SHOULD PUT AWAY HIS WIFE[62] WITH A BILL OF DIVORCEMENT AND HALIZAH, AND THE WIFE OF HIS BROTHER [HE SHOULD PUT AWAY] WITH HALIZAH. THIS IT IS OF WHICH THEY HAVE SAID: WOE TO HIM BECAUSE OF HIS WIFE, AND WOE TO HIM BECAUSE OF HIS BROTHER'S WIFE![63]

MISHNAH10. WHOSO[64] FORBIDS HIS WIFE BY VOW TO HAVE INTERCOURSE — BETH SHAMMAI SAY: [SHE MUST SUFFER IT FOR] TWO WEEKS,[65] AND BETH HILLEL SAY: FOR ONE WEEK.[66] WHOSO[67] HAS A MISCARRIAGE ON THE NIGHT OF THE EIGHTY FIRST[68] [DAY] — BETH SHAMMAI RELEASE HER FROM THE OFFERING, BUT BETH HILLEL DO NOT RELEASE HER. A LINEN WRAPPER[69] — BETH SHAMMAI RELEASE IT FROM THE LAW OF THE FRINGE,[70] BUT BETH HILLEL DO NOT RELEASE IT. A BASKET[71] OF [FRUIT SET APART FOR] THE SABBATH-BETH SHAMMAI RELEASE IT [FROM TITHES].[72] BUT BETH HILLEL DO NOT RELEASE IT.[73]

MISHNAH 11. WHOSO[74] VOWED [TO KEEP] A LONGER NAZIRITESHIP[75] [THAN ORDINARY].[76] AND HE COMPLETED HIS NAZIRITESHIP AND AFTERWARDS CAME TO THE [HOLY] LAND[77] — BETH SHAMMAI SAY: [HE MUST BE] A NAZIRITE [ONLY] THIRTY DAYS,[78] BUT BETH HILLEL SAY: [HE MUST BE] A NAZIRITE [THE FULL TIME VOWED AS] IN THE BEGINNING. WHOSO[79] HAS TWO GROUPS OF WITNESSES WHO TESTIFY ABOUT HIM, THESE TESTIFYING THAT HE VOWED TWO NAZIRITESHIPS AND THESE TESTIFYING THAT HE VOWED FIVE[80] — BETH SHAMMAI SAY: THEIR TESTIMONY IS DIVIDED,[81] AND THERE IS HERE NO [OBLIGATION TO PERFORM] NAZIRITESHIP. BUT BETH HILLEL SAY: WITHIN THE FIVE THE TWO ARE INCLUDED, SO THAT HE MUST BE A NAZIRITE TWICE OVER.

MISHNAH 12. A MAN[82] WHO WAS SET BENEATH THE GAP[83] — BETH SHAMMAI SAY: HE DOES NOT CAUSE THE IMPURITY TO PASS OVER.[84] BUT BETH HILLEL SAY: A MAN IS HOLLOW, AND THE UPPER SIDE CAUSES THE IMPURITY TO PASS OVER.

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(1) Whereas in most of their controversies it is the School of Shammai who adopt a severer view and the School of Hillel a lenient one.

(2) Cf. Bez. I, 2.

(3) On the same day. The grounds of the controversy are discussed in the Gemara, Bez. 2b ff.

(4) Must be destroyed on the eve of the Passover. But as regards eating, Beth Shammai agree that even an olive's quantity is prohibited.

(5) Some texts omit ‘A beast . . . . forbidden’.

(6) As נולד, ‘newly-born’, i.e. a food, the use of which became available only on the Festival day. But a beast born on the Festival is considered available from before the Festival, since if its dam was slaughtered it could have been used as food before its birth together with its dam.

(7) E.g., a deer, etc.; cf. Deut. XIV, 5.

(8) Which had been stuck in the ground for the purpose before the advent of the Festival. [V. Bez. 8a; Tosaf. s. v. ואינו.]

(9) Cf. Lev. XVII, 13.

(10) מוכן, viz., from before the Festival for use on the Festival; opposed to מוקצה, 'set apart', as not intended for use on the Festival.

(11) V. supra, p. 22, n. 8.

(12) And may therefore be used for covering up the blood; cf. Hul. 88b.

(13) V. p. 22, n. 10.

(14) Cf. Pe'ah VI, 4. Ownerless produce is exempt from Tithes.

(15) When produce is free for the use of all alike; cf. Ex. XXIII, 11; Lev. XXV, 6.

(16) Cf. I, 2, n. 1.

(17) Cf. Deut. XXIV, 19, and supra II, 4, n. 25.

(18) It is counted as four single sheaves, which, according to the opinion of Beth Shammai, do not come under the law of the Forgotten Sheaf; cf. Pe'ah, VI, 5.

(19) It counts as a single sheaf only.'

(20) Cf. Pe'ah VI, 2.

(21) Having been left by the side of marked objects.

(22) Cf. Pe'ah VII, 6; M.Sh. V, 3.

(23) The same applies also to a single fruit tree; cf. Lev. XIX, 23-24.

(24) If it is not taken up to Jerusalem but is 'redeemed' for money (cf. I, 9, n. 16), a fifth of the value of the fruit must be added, as in the case of Second Tithe; cf. Lev. XXVII, 31; B.M. IV, 8.

(25) Like Tithes, it has to be removed from the house on the eve of the Passover of the fourth and seventh year of the septennial cycle; cf. Deut. XXVI, 13; M.Sh. V, 6.

(26) Like common produce. Cf. Lev. XIX, 10; Pe'ah VII, 3-4.

(27) If they will not take them up to Jerusalem.

(28) I.e., it all — the fallen grapes and gleanings alike — belongs to the owner, who must take it up to Jerusalem or redeem it. [The stringency of Beth Hillel affects the interests of the poor (Raabad).]

(29) Where the olives are preserved for eating, and not for the extraction of their oil.

(30) In order to show by allowing the juice to escape through the holes that one does not desire the oil as a liquid. Therefore when the olives are moistened by the exuding oil they will not thereby become susceptible to uncleanness in accordance with Lev. XI, 38; cf. I, 8, n. 12; Maksh. I, 1.

(31) The perforation has shown that the owner does not desire the Iiquid.

(32) In the ritual bath, thereby regaining his cleanness; cf. I, 3, n. 7.

(33) The oil, as it belongs to his body which is now clean.

(34) A little finger. But if more, it is counted as distinct from the man's body, and since oil cannot become clean by immersion, it still retains the uncleanness it contracted from the body, and now conveys it back to the body.

(35) Before the man used it for anointing.

(36) Cf. Kid. I, 1.

(37) Equal to the weight of ninety-six barleycorns of silver.

(38) The weight of half a barleycorn of silver.

(39) Cf. Git. VIII, 4.

(40) And before delivering it to her. Beth Hillel prohibit it, because she may have a child by him, and as the conception of the child will have occurred at a date later than that of the bill of divorcement, the child may be wrongfully stigmatized as having been conceived out of wedlock.

(41) Cf. Git. VIII, 9.

(42) There are witnesses who testify to this effect.

(43) He may have betrothed her again by marital intercourse; cf. Kid. I, 1.

(44) So we need not suspect intercourse.

(45) Cf. Yeb. I, 4.

(46) Under the law of Levirate Marriage. Deut. XXV, 5. The controversy arises in a case where the deceased, who died without issue, had married more than one wife. One of the wives was a blood relation (such as a daughter) to the surviving brother, marriage with whom would be an act of incest (ערות). As the surviving brother may not perform the levirate marriage with his blood relation, so, according to Beth Hillel, he may not perform the levirate marriage with the rival wives of the blood relation. But Beth Shammai permit levirate marriage with the rival wives.
(47) The rival wives.
(48) Lit., 'drawing off', viz. the shoe, being the ceremony prescribed. Deut. XXV, 9.
(49) A woman who performed halizah is by Rabbinical injunction considered like a woman divorced, and is therefore forbidden to marry a priest; cf. Lev. XXI, 7. Since according to Beth Shammai levirate marriage with the rival wives is lawful, their halizah also is lawful, and it therefore renders them unfit for marrying a priest.
(50) The whole ceremony of halizah was unnecessary and void.
(51) And they became, widows again.
(52) The levirate marriage was lawful, and they are now counted as ordinary widows who may marry an ordinary priest.
(53) The levirate marriage was unlawful, and it has therefore made them 'harlots' who are forbidden to a priest; cf. Lev. XXI, 7.
(54) Because they were careful to communicate to each other any case which either of them considered unlawful, so as to prevent an infringement of their ruling.
(55) Cf. Yeb. III, 5.
(56) Without leaving any issue.
(57) Lit., 'performed to her a saying' (מאמר). Instead of consummating the levirate marriage by an act (מעשה, as prescribed Deut. XXV, 5), he merely betrothed her by a gift (cf. supra, p. 25) and the utterance of the betrothal formula.
(58) The husband of the second sister.
(59) V. p. 26, n. 10.
(60) Viz., the one he had betrothed. Beth Shammai consider the betrothal (מאמר) fully binding.
(61) From both levirate marriage and halizah, since the brother-in-law is now married to her sister; cf. Lev. XVIII, 18.
(62) The one he has betrothed. Beth Hillel consider the betrothal (מאמר) only partly binding. But he cannot consummate the levirate marriage with the betrothed one, since her sister also is now tied to him in a marriage relationship. Therefore he must give her a bill of divorcement to undo the betrothal. On the other hand, since the betrothal is not fully binding, both sisters must perform halizah.
(63) He is unlucky in losing both the one and the other; cf. Yeb. XIII, 7.
(64) Cf. Keth. V, 6.
(65) Abstinence for such a period is also prescribed in the case of Lev. XII, 5.
(66) As Lev. XII, 2; XV, 19.
(67) Cf. Ker. I, 6.
(68) After having given birth to a female child. She has now fulfilled the fourteen days of her uncleanness and the sixty-six days of her cleanness, and should bring her prescribed offering in accordance with Lev. XII, 5-6; but it being night, she is prevented from bringing the offering till the following day. Beth Shammai hold that since she could not have brought her offering for the first birth, the new birth may be included in the first birth, and one offering suffice for the two. But Beth Hillel hold that since the new birth took place after the completion of the period for the first birth, she must bring separate offerings for each of them.
(69) Used chiefly by night, but also worn by day.
(70) ציצית, made of a woollen cord of blue, Num. XV, 38. The use of wool and linen (flax) in the same garment, though ordinarily forbidden (שעטנז, Deut. XXII, 11) is permitted in the case of ציצית. But as the law of the Fringe applies only to day garments, therefore Beth Shammai exempt the linen wrapper from the law of the Fringe even by day, for fear of the transgression of the prohibition of שעטנז when the wrapper is used by night. But Beth Hillel do not apprehend such a transgression.
(71) Cf. Ma'as. IV, 2.
(72) I.e., one may take of it an incidental mouthful on the eve of the Sabbath before tithing it, but not on the Sabbath itself, as the sanctity of the day imparts importance to any incidental mouthful, making it liable to tithing.
(73) It must be tithed immediately.
(74) Cf. Naz. III, 6.
(75) Cf. Num. VI, 2 ff.

(76) Longer than thirty days; cf. Naz. I, 3.

(77) The observance of the Naziriteship outside the Holy Land is not counted, as one cannot observe there the purity demanded by the law; cf. Num. VI, 6 ff.

(78) He must resume the observance, but only for the ordinary period of thirty days.

(79) Cf. Naz. III, 7.

(80) While he himself denies having made any vow at all.

(81) The evidence is contradictory, and therefore void.

(82) Cf. Oh. XI, 3; Oh. XI, 2, lays down that if a ceiling has a gap right across, and there is a corpse defilement on the floor below on the one side of the gap, the defilement cannot be conveyed by the roof-space across the gap to articles that may be found on the floor on the other side of the gap, unless there is on the floor right below the gap a hollow article of a cubic handbreadth in extent, which serves to bridge the gap.

(83) On the floor right vertically beneath the gap.

(84) He cannot be considered as bridging the gap, and connecting the sides of the ceiling into one undivided roof-space; cf. I, 7, n. 1.

Mishna - Mas. Eduyyot Chapter 5

MISHNAH 1. R. JUDAH CITES SIX INSTANCES[1] OF LENIENT RULINGS BY BETH SHAMMAI AND RIGOROUS RULINGS BY BETH HILLEL. THE BLOOD OF A CARCASS[2] BETH SHAMMAI PRONOUNCE CLEAN,[3] AND BETH HILLEL PRONOUNCE IT UNCLEAN. AN EGG FOUND IN A [BIRD'S] CARCASS, IF THE LIKE OF IT WERE SOLD IN THE MARKET,[4] IS PERMITTED, AND IF NOT, IT IS FORBIDDEN, ACCORDING TO THE OPINION OF BETH SHAMMAI. AND BETH HILLEL FORBID IT. BUT THEY AGREE IN THE CASE OF AN EGG FOUND IN A TREFA[5] [BIRD] THAT IT IS FORBIDDEN. SINCE IT HAD ITS GROWTH IN A FORBIDDEN CONDITION.[6] THE[7] BLOOD[8] OF A GENTILE[9] WOMAN AND THE BLOOD OF PURITY[10] OF A LEPROUS[11] WOMAN, BETH SHAMMAI PRONOUNCE CLEAN; AND BETH HILLEL SAY: [IT IS] LIKE HER[12] SPITTLE AND HER[12] URINE.[13] ONE[14] MAY EAT FRUITS OF THE SEVENTH YEAR[15] WITH AN EXPRESSION OF THANKS[16] AND WITHOUT AN EXPRESSION OF THANKS; THUS ACCORDING TO THE OPINION OF BETH SHAMMAI. BUT BETH HILLEL SAY: ONE MAY NOT EAT [EXCEPT] WITH AN EXPRESSION OF THANKS.[17] BETH SHAMMAI SAY: A WATERSKIN[18] [IS LIABLE TO BECOME UNCLEAN[19] IF IT IS] TIED UP AND REMAINS UNIMPAIRED.[20] AND THE SCHOOL OF HILLEL SAY: EVEN IF IT IS NOT TIED UP.[21]

MISHNAH 2. R. JOSE CITES SIX INSTANCES OF LENIENT RULINGS BY BETH SHAMMAI AND RIGOROUS RULINGS BY BETH HILLEL. ACCORDING TO THE OPINION OF BETH SHAMMAI, A FOWL[22] MAY BE BROUGHT UP ON THE TABLE [TOGETHER] WITH CHEESE BUT MAY NOT BE EATEN [WITH IT].[23] BUT BETH HILLEL SAY: IT MAY NEITHER BE BROUGHT UP [TOGETHER WITH IT] NOR EATEN [WITH IT].[24] ACCORDING TO THE OPINION OF BETH SHAMMAI,[25] OLIVES MAY BE GIVEN AS TERUMAH FOR OIL AND GRAPES FOR WINE. BUT BETH HILLEL SAY: THEY MAY NOT BE GIVEN.[26] BETH SHAMMAI SAY: WHOSO[27] SOWS [WITHIN] FOUR CUBITS OF A VINEYARD HAS CAUSED ONE ROW [OF VINES] TO BE PROHIBITED.[28] BUT BETH HILLEL SAY: HE HAS CAUSED TWO ROWS[29] TO BE PROHIBITED. FLOUR[30] PASTE[31] BETH SHAMMAI EXEMPT[32] [FROM THE LAW OF HALLAH];[33] BUT BETH HILLEL PRONOUNCE IT LIABLE. ONE[34] MAY IMMERSE ONESELF[35] IN A RAIN-TORRENT,[36] ACCORDING TO THE OPINION OF BETH SHAMMAI; BUT BETH HILLEL SAY: ONE MAY NOT IMMERSE ONESELF [THEREIN].[37] IF[38] ONE BECAME A PROSELYTE ON THE EVE OF PASSOVER, BETH SHAMMAI SAY: HE MAY IMMERSE HIMSELF[39] AND EAT HIS PASSOVER SACRIFICE IN THE EVENING.[40] BUT BETH HILLEL SAY: WHOSO SEPARATES HIMSELF FROM UNCIRCUMCISION IS AS ONE WHO SEPARATES HIMSELF FROM THE GRAVE.[41]

MISHNAH 3. R. ISHMAEL[42] CITES THREE INSTANCES OF LENIENT RULINGS BY BETH SHAMMAI AND RIGOROUS RULINGS BY BETH HILLEL. THE BOOK[43] OF ECCLESIASTES DOES NOT DEFILE THE HANDS[44] ACCORDING TO THE OPINION OF BETH SHAMMAI; BUT BETH HILLEL SAY: IT DEFILES THE HANDS. WATER OF PURIFICATION WHICH HAS DONE ITS DUTY,[45] BETH SHAMMAI PRONOUNCE CLEAN,[46] BUT BETH HILLEL PRONOUNCE IT UNCLEAN,[47] BLACK CUMMIN[48] BETH SHAMMAI PRONOUNCE NOT LIABLE TO BECOME UNCLEAN,[49] BUT BETH HILLEL PRONOUNCE IT LIABLE TO BECOME UNCLEAN. SO, TOO, WITH REGARD TO TITHES.[50]

MISHNAH 4. R. ELIEZER CITES TWO INSTANCES OF LENIENT RULINGS BY BETH SHAMMAI AND RIGOROUS RULINGS BY BETH HILLEL. THE BLOOD[51] OF A WOMAN AFTER CHILDBIRTH WHO HAS NOT IMMERSED HERSELF,[52] BETH SHAMMAI SAY: [IT IS] LIKE HER SPITTLE AND HER URINE.[53] BUT BETH HILLEL SAY: IT CAUSES DEFILEMENT WHETHER WET OR DRY.[54] HOWEVER, THEY AGREE IN THE CASE OF THE BLOOD OF A WOMAN WHO BROUGHT FORTH WHEN SHE HAD AN ISSUE, THAT IT CAUSES DEFILEMENT WHETHER WET OR DRY.[55]

MISHNAH 5. [IN THE CASE OF] FOUR[56] BROTHERS OF WHOM TWO WERE MARRIED TO TWO SISTERS, IF THOSE MARRIED TO THE SISTERS DIED, LO, THESE SHOULD PERFORM HALIZAH AND NOT MARRY THE BROTHERS-IN-LAW.[57] IF THE LATTER BESTIRRED THEMSELVES AND MARRIED THEM,[58] THEY MUST PUT THEM AWAY. R. ELIEZER SAYS IN THE NAME OF BETH SHAMMAI: THEY MAY KEEP THEM. BUT BETH HILLEL SAY: THEY MUST PUT THEM AWAY.[59]

MISHNAH 6. AKABIA B. MAHALALEEL TESTIFIED CON CERNING FOUR THINGS. THEY SAID TO HIM: AKABIA, WITHDRAW THESE FOUR THINGS WHICH YOU SAY, AND WE WILL MAKE YOU FATHER OF THE COURT[60] IN ISRAEL. HE SAID TO THEM: IT IS BETTER FOR ME TO BE CALLED A FOOL[61] ALL MY DAYS THAN THAT I SHOULD BECOME [EVEN] FOR ONE HOUR A WICKED MAN[62] IN THE SIGHT OF GOD; AND[63] LET NOT MEN SAY: HE WITHDREW HIS OPINIONS FOR THE SAKE OF GETTING POWER. HE USED[64] TO PRONOUNCE UNCLEAN THE HAIR WHICH HAS BEEN LEFT OVER [IN LEPROSY],[65] AND YELLOW BLOOD;[66] BUT THE SAGES DECLARED THEM CLEAN. HE USED[67] TO PERMIT THE HAIR OF A FIRSTLING WHICH WAS BLEMISHED[68] AND WHICH HAD FALLEN OUT[69] AND HAD BEEN PUT IN A WINDOW,[70] THE FIRSTLING BEING SLAUGHTERED AFTERWARDS; BUT THE SAGES FORBID IT.[71] HE USED TO SAY: A WOMAN PROSELYTE AND A MANUMITTED BONDWOMAN ARE NOT MADE TO DRINK OF THE WATER OF BITTERNESS.[72] BUT THE SAGES SAY: THEY ARE MADE TO DRINK. THEY SAID TO HIM: IT HAPPENED IN THE CASE OF KARKEMITH, A MANUMITTED BONDWOMAN WHO WAS IN JERUSALEM, THAT SHEMAIAH AND ABTALION MADE HER TO DRINK. HE SAID TO THEM: IN SIMULATION[73] [ONLY] THEY MADE HER TO DRINK. WHEREUPON THEY EXCOMMUNICATED HIM;[74] AND HE DIED WHILE HE WAS UNDER EXCOMMUNICATION, AND THE COURT STONED[75] HIS COFFIN. R. JUDAH SAID: GOD FORBID [TO SAY] THAT AKABIA WAS EXCOMMUNICATED, FOR THE TEMPLE COURT WAS NEVER CLOSED[76] IN THE FACE OF ANY MAN IN ISRAEL WHO WAS EQUAL TO AKABIA B. MAHALALEEL IN WISDOM AND THE FEAR OF SIN. BUT WHOM DID THEY EXCOMMUNICATE? ELIEZER THE SON OF ENOCH WHO DEMURRED AGAINST THE LAWS CONCERNING THE PURIFYING OF THE HANDS.[77] AND WHEN HE DIED THE COURT SENT AND LAID A STONE ON HIS COFFIN. THIS TEACHES THAT WHOEVER IS EXCOMMUNICATED AND DIES WHILE UNDER EXCOMMUNICATION, HIS COFFIN IS STONED.

MISHNAH 7. IN THE HOUR OF HIS[78] DEATH HE SAID TO HIS SON[79] : WITHDRAW THE

FOUR OPINIONS WHICH I USED TO DECLARE. AND HE SAID TO HIM: WHY DID NOT YOU WITHDRAW THEM? HE SAID TO HIM: I HEARD THEM FROM THE MOUTH OF THE MANY, AND THEY HEARD [THE CONTRARY] FROM THE MOUTH OF THE MANY.[80] I STOOD FAST BY THE TRADITION WHICH I HEARD, AND THEY STOOD FAST BY THE TRADITION WHICH THEY HEARD. BUT YOU HAVE HEARD [MY TRADITION] FROM THE MOUTH OF A SINGLE INDIVIDUAL[81] AND [THEIR TRADITION] FROM THE MOUTH OF THE MANY. IT IS BETTER TO LEAVE THE OPINION OF THE SINGLE INDIVIDUAL AND TO HOLD BY THE OPINION OF THE MANY, HE SAID TO HIM: FATHER COMMEND ME TO YOUR COLLEAGUES. HE SAID TO HIM: I WILL NOT COMMEND YOU. HE SAID TO HIM: HAVE YOU FOUND IN ME ANY WRONG? HE SAID: NO; YOUR OWN DEEDS WILL CAUSE YOU TO BE NEAR,[82] AND YOUR OWN DEEDS WILL CAUSE YOU TO BE FAR.[82]

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(1) Cf. IV, 1, n. 1.

(2) Of an animal which died of itself or which was slaughtered in a manner that rendered it unfit for food; cf. Lev. XI, 24ff.

(3) The blood is not considered part of the carcass; cf. infra VIII, 1.

(4) If the egg has a fully formed hard shell. It is then considered distinct from the bird.

(5) Cf. supra II, 2, n. 8.

(6) The bird was already forbidden when the egg was still an inseparable part of its body.

(7) Cf. Nid. IV, 3.

(8) Of menstruation, or of a flux; cf. Lev. XV, 19, 25.

(9) From the expression, the children of Israel, Lev. XV, 2, it is deduced that all the laws concerning impurity contained in that chapter apply only to Israelites.

(10) Cf. Lev. XII, 4, 5.

(11) Cf. Lev. XIII, 2ff. Her blood is not affected by her leprosy.

(12) Viz., of the Gentile woman, or of the leprous woman after childbirth in the period of her purification.

(13) Their spittle and urine are deemed unclean by a Rabbinical ruling (as distinguished from the Biblical law), even according to Beth Shammai. But unlike blood of menstruation or of a flux, which confer defilement also when dried up, spittle and urine confer defilement only when wet. And Beth Hillel hold that the menstruous blood of a Gentile woman and the ‘blood of purity’ of a leprous woman are also unclean only when wet, but not when dried up; cf. infra 4, n. 5.

(14) Cf. Sheb. IV, 2.

(15) The Year of Release; cf. supra IV, 3, n. 5.

(16) To the owner, though the owner is forbidden to look upon his fruit as his own.

(17) That one may not get into the habit of entering also at other times another man's field and eating its fruit without the owner's knowledge. Some texts omit ‘except’. The reason of the prohibition will then be the one given in the last note.

(18) Which was damaged by a hole and then repaired by tying it up; cf Kel. XXVI, 4.

(19) By body-pressure uncleanness (מדרס) if used as pillow or seat; cf. Kel. XX, 1; and above I, 11, n. 10.

(20) I.e., it does not deflate even when the knot is removed.

(21) If the hole is stopped up by some other means, so as to retain the liquid; cf. Kel. XVII, 2.

(22) Cf. Hul. VIII, 1.

(23) The prohibition against eating fowl's flesh boiled in milk is not Biblical but only Rabbinic; cf. Hul. VIII, 4. Hence Beth Shammai hold that while the Rabbis have forbidden the eating of cattle's flesh with cheese as a precaution lest it may lead to the eating of cattle's flesh boiled in milk, they have not forbidden also the eating of fowl's flesh with cheese, since it can only lead to eating fowl's flesh boiled in milk, which itself is merely a Rabbinic injunction.

(24) They hold that eating fowl's flesh with cheese may lead to eating cattle's flesh boiled in milk.

(25) Cf. Ter. I, 4.

(26) From Num. XVIII, 27, it is inferred that terumah and the produce for which it is given must both be in the same stage of preparation as a food.

(27) Cf. Kil. IV, 5.

(28) קידש , ‘he has sanctified’, an expression derived from Deut. XXII, 9.

(29) The controversy turns on whether the minimum quantity of fruit of the vineyard (Deut. ibid.) consists of one row of vines, or of two rows.

(30) Cf. Hal. I, 6.

(31) Made of flour mixed with boiling water.

(32) It is not counted as ‘bread’ (לחם . Num. XV, 19).

(33) Cf. I, 2, n. 2.

(34) Cf. Mik. V, 6.

(35) For the purpose of purification; cf. I, 3, n. 7.

(36) A running pool formed by rain water coming down from a hill.

(37) They hold that rain water must be stationary in a cavity to be fit for ritual immersion.

(38) Cf. Pes. VIII, 8.

(39) After the circumcision, in order to complete his proselytism; cf. Yeb. 46a.

(40) Cf. Ex. XII, 48.

(41) He is like one who has corpse defilement, and requires to be sprinkled with the waters of purification, in accordance with Num. XIX, 19.

(42) Some texts read ‘Simeon’.

(43) Cf. Yad. III, 5.

(44) It is not considered inspired Scripture; cf. Yad. IV, 6.

(45) After it has been sprinkled upon the unclean; cf. Num. XIX, 9, 18 f.

(46) Cf. Par. XII, 4.

(47) In accordance with Num. XIX, 21; cf. Yoma 14a.

(48) Cf. ‘Uk. III, 6.

(49) It is not eaten by itself, and therefore it is not counted a ‘food’ (אכל , Lev. XI, 34).

(50) Beth Shammai exempt it from tithes, as not being a ‘food’; and Beth Hillel do not exempt it.

(51) Cf. Nid. IV, 3.

(52) After an interval of seven days from the birth of a male child, and of fourteen days from the birth of a female child; Lev. XII, 2, 5.

(53) It defiles only when wet; cf. supra 1, n. 13.

(54) Without immersion it is counted as blood of menstruation.

(55) Since in accordance with Lev. XV, 28, she has to count seven clean days in addition to the period of impurity due to the childbirth.

(56) Cf. Yeb. III, 2.

(57) Because both sisters are tied in a marriage relationship to each of the surviving brothers, therefore the levirate marriage of either sister to either surviving brother comes within the prohibition of marrying a wife's sister; cf. supra IV, 9, n. 5.

(58) Each surviving brother married one of the sisters.

(59) Cf. Yeb. 28a.

(60) Ah Beth din, Second President of the Great Sanhedrin; v. Ab. IV (Sonc. ed.) p. 3, n. 8.

(61) For refusing the offer.

(62) By denying the truth of my tradition.

(63) An additional reason for refusing the offer (v. Tosaf Yom Tob).

(64) Cf. Neg. V, 3.

(65) A hair was turned white in a leprous white spot, rendering it unclean, in accordance with Lev. XIII, 3. Then the leprosy was healed, and the man became clean. But the white hair remained until finally another white spot appeared in the same place of the body. The Sages declare it clean, since the whiteness of the hair existed before this new white spot appeared, while Akabia declares it unclean.

(66) Cf. Nid. II, 6. The Sages hold that to be unclean blood must be red in colour.

(67) Cf. Bek. III, 4.

(68) And had therefore been declared permitted to be slaughtered outside the Temple; cf. II, 2, n. 6.

(69) Cutting its hair, or wool, deliberately is forbidden, although it is blemished.

(70) Or in a niche in the wall, in order to preserve it until the animal should be slaughtered.

(71) Lest it should lead to delaying the slaughtering of the firstling for the sake of profiting from its hair or wool.

(72) Cf. Num. V, 18ff. He inferred from the expression, in the midst of thy people (Num. ibid. 21) that the law applied only to Israelitish women.

(73) דיגמה , Gr. **. They really gave her other water, but similar in colour to the water of bitter ness. Others explain: ‘Men who were like unto her made her to drink,’ i.e. Shemaiah and Abtalion were themselves also of Gentile extraction, therefore they treated Karkemith as if she was an Israelite.

(74) Because he defamed the honour of Shemaiah and Abtalion.

(75) By placing a big stone upon it; cf. infra.

(76) On the eve of the Passover, when the Passover lamb was sacrificed in relays, in order to prevent overcrowding; cf. Pes. V, 5.

(77) Cf. Yad. III, 2.

(78) Akabia's.

(79) [Derenbourg, Essai, p. 483, identifies him with Jose b. Akabia (Pes. 113b; Yoma 52b).]

(80) Cf. supra I, 5. The controversy between Akabia and the Sages was as to what had been the opinion of the majority of the Sages before them. [Halevy, op. cit. I, 362 and Ie 292, accounts this controversy to the breaking up of all Central Authority during the civil war that characterised the days of the last Hasmonean rulers. Lauterbach, (J.Q.R., N.S. VI, 66, n. 59) ignoring Halevy, involves himself in unnecessary difficulties.]

(81) Akabia himself, as opposed to the Sages.

(82) Near to my colleagues; far from my colleagues; i.e., your own conduct will win you friends or alienate them.

Mishna - Mas. Eduyyot Chapter 6

MISHNAH 1. R. JUDAH B. BABA TESTIFIED CONCERNING FIVE THINGS: THAT WOMEN WHO ARE MINORS ARE MADE[1] TO DECLARE AN ANNULMENT OF THEIR MARRIAGE;[2] THAT A WOMAN IS ALLOWED TO RE-MARRY ON THE EVIDENCE OF ONE WITNESS;[3] THAT A COCK WAS STONED[4] IN JERUSALEM BECAUSE IT HAD KILLED A HUMAN BEING;[5] AND ABOUT WINE FORTY DAYS OLD,[6] THAT IT WAS USED AS A LIBATION ON THE ALTAR; AND ABOUT THE CONTINUAL OFFERING OF THE MORNING, THAT IT IS OFFERED AT THE FOURTH HOUR.[7]

MISHNAH 2. R. JOSHUA AND R. NEHUNIA B. ELINATHAN, A MAN OF KEFAR HABABLI,[8] TESTIFIED CONCERNING A LIMB[9] FROM A CORPSE THAT IT IS UNCLEAN;[10] WHEREAS R. ELIEZER SAYS: THEY DECLARED [THIS] ONLY OF A LIMB FROM A LIVING [MAN]. THEY SAID TO HIM: IS NOT THERE AN INFERENCE FROM THE MINOR TO THE MAJOR:[11] IF IN THE CASE OF A LIVING MAN [WHO IS HIMSELF CLEAN] A LIMB SEVERED FROM HIM IS UNCLEAN, HOW MUCH MORE IN THE CASE OF A CORPSE [WHICH IS ITSELF UNCLEAN] SHOULD A LIMB SEVERED FROM IT BE UNCLEAN! HE SAID TO THEM: THEY HAVE [NEVERTHELESS] DECLARED IT ONLY OF A LIMB FROM A LIVING MAN. ANOTHER ANSWER[12] IS: THE DEFILEMENT OF LIVING MEN IS GREATER THAN THE DEFILEMENT OF CORPSES, BECAUSE A LIVING MAN[13] CAUSES WHAT IS UNDER HIM[14] TO BECOME A ‘COUCH’ AND A ‘SEAT’[15] FOR THE PURPOSE OF DEFILING [ANOTHER] MAN AND HIS GARMENTS, AND [HE CAUSES ALSO] WHAT IS OVER HIM[16] [TO BECOME] A NON- CONTIGUOUS MEDIUM[17] FOR THE PURPOSE OF DEFILING FOODS AND LIQUIDS- WHICH IS DEFILEMENT THAT A CORPSE DOES NOT CAUSE.[18]

MISHNAH 3. AN OLIVE'S QUANTITY OF FLESH SEVERED FROM A LIMB OF A LIVING MAN, R. ELIEZER PRONOUNCES UNCLEAN[19] AND R. JOSHUA AND R. NEHUNIA PRONOUNCE CLEAN. A BARLEY-GRAIN'S QUANTITY OF BONE SEVERED FROM A LIMB OF A LIVING MAN, R. NEHUNIA PRONOUNCES UNCLEAN[20] AND R. ELIEZER AND R. JOSHUA PRONOUNCE CLEAN. THEY SAID TO R. ELIEZER: WHAT REASON HAVE YOU FOUND FOR PRONOUNCING UNCLEAN AN OLIVE'S QUANTITY OF FLESH SEVERED PROM A LIMB OF A LIVING MAN? HE SAID TO THEM: WE FIND[21] THAT A LIMB FROM A LIVING MAN IS LIKE AN ENTIRE CORPSE. AS IN THE CASE OF A

CORPSE, AN OLIVE'S QUANTITY OF FLESH SEVERED FROM IT IS UNCLEAN, SO ALSO IN THE CASE OF A LIMB FROM A LIVING MAN AN OLIVE'S QUANTITY OF FLESH SEVERED FROM IT MUST BE UNCLEAN. THEY SAID TO HIM: NO![22] WHEN YOU PRONOUNCE UNCLEAN AN OLIVE'S QUANTITY OF FLESH SEVERED FROM A CORPSE, IT IS BECAUSE YOU HAVE PRONOUNCED UNCLEAN A BARLEY-GRAIN'S QUANTITY OF BONE SEVERED FROM IT. BUT HOW CAN YOU ALSO PRONOUNCE UNCLEAN AN OLIVE'S QUANTITY OF FLESH SEVERED FROM A LIMB OF A LIVING MAN, SEEING THAT YOU HAVE PRONOUNCED CLEAN[23] A BARLEY-GRAIN'S QUANTITY OF BONE SEVERED FROM IT? THEY SAID TO R. NEHUNIA: WHAT REASON HAVE YOU FOUND FOR PRONOUNCING UNCLEAN A BARLEY-GRAIN'S QUANTITY OF BONE SEVERED FROM A LIMB OF A LIVING MAN? HE SAID TO THEM: WE FIND[21] THAT A LIMB FROM A LIVING MAN IS LIKE AN ENTIRE CORPSE. AS IN THE CASE OF A CORPSE, A BARLEY-GRAIN'S QUANTITY OF BONE SEVERED FROM IT IS UNCLEAN,[20] SO ALSO IN THE CASE OF A LIMB FROM A LIVING MAN, A BARLEY-GRAIN'S QUANTITY OF BONE SEVERED FROM IT MUST BE UNCLEAN. THEY SAID TO HIM: NO![22] WHEN YOU PRONOUNCE UNCLEAN A BARLEY-GRAIN'S QUANTITY OF BONE SEVERED FROM A CORPSE, IT IS BECAUSE YOU HAVE PRONOUNCED UNCLEAN AN OLIVE'S QUANTITY OF FLESH SEVERED FROM IT. BUT HOW CAN YOU ALSO PRONOUNCE UNCLEAN A BARLEY-GRAIN'S QUANTITY OF BONE SEVERED FROM A LIMB OF A LIVING MAN, SEEING THAT YOU HAVE PRONOUNCED CLEAN[24] AN OLIVE'S QUANTITY OF FLESH SEVERED FROM IT? THEY SAID TO R. ELIEZER: WHAT REASON HAVE YOU FOUND FOR DIVIDING YOUR STANDARDS? EITHER PRONOUNCE THEM BOTH[25] UNCLEAN, OR PRONOUNCE THEM BOTH[25] CLEAN! HE SAID TO THEM: GREATER IS THE DEFILEMENT OF FLESH THAN THE DEFILEMENT OF BONES, FOR THE DEFILEMENT OF FLESH APPLIES BOTH TO CARCASSES AND TO CREEPING THINGS,[26] BUT IT IS NOT SO IN THE CASE OF BONES. ANOTHER ANSWER IS: A LIMB[27] WHICH HAS ON IT THE PROPER QUANTITY[28] OF FLESH CAUSES DEFILEMENT BY TOUCHING AND BY CARRYING AND BY BEING UNDER THE SAME ROOF-SPACE; IF THE FLESH IS DIMINISHED IT IS STILL UNCLEAN,[29] WHILE IF THE BONE IS DIMINISHED IT IS CLEAN.[30] THEY SAID TO R. NEHUNIA: WHAT REASON HAVE YOU FOUND FOR DIVIDING YOUR STANDARDS? EITHER PRONOUNCE THEM BOTH[25] UNCLEAN, OR PRONOUNCE THEM BOTH[25] CLEAN! HE SAID TO THEM: GREATER IS THE DEFILEMENT OF BONES THAN THE DEFILEMENT OF FLESH, FOR FLESH SEVERED FROM A LIVING MAN IS CLEAN, WHEREAS A LIMB SEVERED FROM HIM, WHILE IN ITS NATURAL CONDITION,[31] IS UNCLEAN. ANOTHER ANSWER IS: AN OLIVE'S QUANTITY OF FLESH[32] CAUSES DEFILEMENT BY TOUCHING AND BY CARRYING AND BY BEING UNDER THE SAME ROOF-SPACE; AND A MAJORITY[33] OF A DEAD MAN'S BONES CAUSES DEFILEMENT BY TOUCHING AND BY CARRYING AND BY BEING UNDER THE SAME ROOF-SPACE; IF FLESH IS DIMINISHED IT IS CLEAN, BUT IF A MAJORITY OF THE BONES IS DIMINISHED, ALTHOUGH IT DOES NOT CAUSE DEFILEMENT BY BEING UNDER THE SAME ROOF-SPACE, IT YET CAUSES DEFILEMENT BY TOUCHING AND BY CARRYING.[34] ANOTHER ANSWER IS: ANY FLESH OF A CORPSE LESS THAN AN OLIVE'S QUANTITY[35] IS CLEAN, BUT BONES FORMING THE GREATER PORTION OF THE BODY'S BUILD[36] OR THE GREATER PORTION OF THE NUMBER OF THE CORPSE'S BONES, EVEN THOUGH THEY DO NOT FILL A QUARTER-KAB ARE YET UNCLEAN.[37] THEY SAID TO R. JOSHUA: WHAT REASON HAVE YOU FOUND FOR PRONOUNCING THEM BOTH CLEAN? HE SAID TO THEM: NO! WHEN YOU PRONOUNCE UNCLEAN IN THE CASE OF A CORPSE, IT IS BECAUSE THE RULES OF ‘MAJORITY’,[38] QUARTER-KAB’, AND ‘DECAYED MATTER’[39] APPLY TO IT. BUT HOW CAN YOU SAY THE SAME OF A LIVING MAN, SEEING THAT THE RULES OF MAJORITY’, ‘QUARTER-KAB’, AND ‘DECAYED MATTER’ DO NOT APPLY TO HIM?[40]

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(1) In circumstances such as those described in n. 2.

(2) Girl minors when fatherless may be given in marriage by their mother or brothers. But unlike the marriage of a minor arranged by her father (cf. Deut. XXII, 16), the marriage of a minor arranged by her mother or brothers has validity only in Rabbinic law, but not in Biblical law. Therefore the minor has the right of declaring מיאון or a ‘Refusal’ to live with the husband given her, and thereby annulling her marriage without the formalities of a regular divorce; cf. Yeb. XIII, 1ff. Now, if two brothers were married to two sisters, one of age and the other a minor given in marriage by her mother or brothers, and the husband of the older sister died without issue, then the husband of the minor is bound by Biblical law to marry the minor's sister. Therefore the continuation of the minor as his wife under merely Rabbinical law now comes within the Biblical prohibition of marrying two sisters (cf. IV, 9, n. 5; V, 5, n. 9). In such a case the child-wife is persuaded to declare מיאון thus enabling her husband to perform by her sister the duty of levirate marriage. This testimony accords with the opinion of R. Eliezer, Yeb. XIII, 7. Another such case may arise in the circumstances described in Yeb. XIII, 11.

(3) Who testifies to the death of her husband; cf. VIII. 5; Yeb. XVI, 7.

(4) Under the law of Ex. XXI, 28, although that law specifies only an ox causing death by goring.

(5) It put out the brain of a child by pecking it with its beak.

(6) But under forty days it is not permitted; cf. B.B. 97a.

(7) As late as the fourth hour of the day. This happened during a siege of Jerusalem by the Syrian Greeks, when one day no lamb could be obtained for the morning sacrifice till the fourth hour.

(8) Bablia, 8 miles S. of Zidon.

(9) A whole limb, even when less than the size of an olive; cf. III, 1, n. 4.

(10) It confers ‘tent’ uncleanness, i.e., by being under the same roof-space; cf. I, 7, n. 1.

(11) קל וחומר.

(12) Of R. Eliezer. He refutes the proposition that the dead is more unclean than the living.

(13) When he has an issue.

(14) However many articles there may be under him, one below the other, they all receive an equal degree of defilement through the pressure of the man's body (מדרס); cf. I,11, n. 10.

(15) Cf. Lev. XV, 4’ 6.

(16) Whatever the number of articles, one above the other.

(17) מדף . Unlike defilement by body-pressure (מדרס), defilement through a non-contiguous medium can be transmitted only to food and drink, but not to man and utensils.

(18) For corpse defilement diminishes in strength as it passes from one article to another; cf. II, 1, nn. 3, 4.

(19) Just like a whole limb severed from a living man (cf. supra 2; Oh. I, 7), it defiles one who touches or carries it, or is under the same roof-space; cf. infra.

(20) Only by touching or carrying; cf. Oh. II, 3.

(21) Cf. Oh. II, 1.

(22) The argument is fallacious, since according to your opinion the defilement of a corpse is greater than that of a living man.

(23) Supra, together with R. Joshua against R. Nehunia.

(24) Supra, together with R. Joshua against R. Eliezer.

(25) Both an olive's quantity of flesh severed from a living man, and a barley-grain's quantity of bone severed from a living man.

(26) An olive's quantity of flesh from a carcass and a lentil's quantity of flesh from creeping things cause defilement, but their bones do not cause defilement in any quantity.

(27) From a living man; or, according to R. Joshua and R. Nehunia, also from a corpse.

(28) Cf. Kel. II, 5.

(29) It defiles by touching and carrying, though not by being under the same roof. space; cf. Kel. loc. cit.

(30) It is no longer counted a limb.

(31) With flesh, sinew, and bone.

(32) From a corpse.

(33) Cf. I, 7, n. 4.

(34) For defilement by touching and carrying, a quantity of a barley-grain is sufficient.

(35) E.g., in the case of an abortion; cf. Hul. 89b.

(36) Cf. I, 7, n. 3.

(37) They defile by being under the same roof-space; cf. I, 7, n. 5.

(38) A majority of the body's bones.

(39) A large spoonful (or two handfuls) of decayed matter of a corpse, which was buried naked in a closed marble coffin, causes defilement by carrying and by being under the same roof-space, but not by touching; cf. Oh. II, 1.

(40) Therefore a living man has less power of defilement than a corpse.

Mishna - Mas. Eduyyot Chapter 7

MISHNAH 1. R.[1] JOSHUA AND R. SADOK TESTIFIED CONCERNING THE REDEMPTION-LAMB OF THE FIRSTLING OF AN ASS,[2] THAT IF IT DIED[3] THE PRIEST HAS NO CLAIM THEREIN,[4] WHEREAS R. ELIEZER SAYS: THE OWNER MUST BEAR THE RESPONSIBILITY AS WITH THE FIVE SELA'S[5] [IN THE CASE] OF A [FIRSTBORN] SON. BUT THE SAGES SAY: HE BEARS NO RESPONSIBILITY ANY MORE THAN IN THE CASE OF THE REDEMPTION OF SECOND TITHES.[6]

MISHNAH 2. R.[7] ZADOK TESTIFIED CONCERNING BRINE OF UNCLEAN[8] LOCUSTS THAT IT IS CLEAN,[9] WHEREAS THE FIRST MISHNAH [SAID]:[10] UNCLEAN LOCUSTS THAT HAVE BEEN PRESERVED TOGETHER WITH CLEAN LOCUSTS DO NOT MAKE THEIR[11] BRINE UNFIT.

MISHNAH 3. R.[12] ZADOK TESTIFIED CONCERNING FLOWING[13] WATER WHICH EXCEEDED IN QUANTITY DRIPPING[14] WATER; THAT IT WAS VALID. THERE WAS SUCH A CASE AT BIRATH HAPPALIYYA,[15] AND WHEN THE CASE CAME BEFORE THE SAGES THEY DECLARED IT VALID.

MISHNAH 4. R. ZADOK TESTIFIED CONCERNING FLOWING WATER WHICH WAS MADE TO RUN IN A STREAM THROUGH NUT-LEAVES,[16] THAT IT WAS VALID.[17] THERE WAS SUCH A CASE AT AHALIYYA,[18] AND WHEN THE CASE CAME BEFORE [THE SAGES IN] THE CHAMBER OF HEWN STONE[19] THEY DECLARED IT VALID.

MISHNAH 5. R.[20] JOSHUA AND R. YAKIM, A MAN OF HADAR,[21] TESTIFIED CONCERNING A JAR,[22] WITH ASHES OF PURIFICATION[23] WHICH WAS PUT OVER A CREEPING THING, THAT THEY[24] WERE UNCLEAN, WHEREAS R. ELIEZER HAD PRONOUNCED THEM CLEAN. R.[25] PAPIAS TESTIFIED CONCERNING ONE WHO HAD VOWED TWO NAZIRITESHIPS,[26] THAT IF HE CUT HIS HAIR[27] AFTER THE FIRST ONE ON THE THIRTIETH DAY, HE COULD CUT HIS HAIR AFTER THE SECOND ONE ON THE SIX TIETH[28] DAY, THOUGH IF HE CUT HIS HAIR ON THE FIFTY-NINTH DAY HE HAS ALSO DISCHARGED HIS DUTY, FOR THE THIRTIETH DAY IS CREDITED TO HIM TOWARDS THE REQUIRED NUMBER.[29]

MISHNAH 6. R.[30] JOSHUA AND R. PAPIAS TESTIFIED CONCERNING THE YOUNG OF A PEACE-OFFERING, THAT IT COULD BE BROUGHT AS A PEACE-OFFERING,[31] WHEREAS R. ELIEZER SAYS THAT THE YOUNG OF A PEACE-OFFERING COULD NOT BE BROUGHT AS A PEACE-OFFERING.[32] BUT THE SAGES SAY: IT MAY BE BROUGHT. R. PAPIAS SAID: I TESTIFY THAT WE HAD A COW, A PEACE- OFFERING, AND WE ATE IT AS PASSOVER, AND ITS YOUNG WE ATE AS A PEACE-OFFERING AT THE [NEXT] FESTIVAL.[33]

MISHNAH 7. THE SAME[34] TESTIFIED CONCERNING THE BOARDS[35] OF BAKERS, THAT THEY ARE [LIABLE TO BECOME] UNCLEAN, WHEREAS R. ELIEZER DECLARES THEM NOT[36] [LIABLE TO BECOME] UNCLEAN. THE SAME[37] TESTIFIED CONCERNING

AN OVEN[38] WHICH WAS CUT INTO RINGS AND SAND WAS PUT BETWEEN ONE RING AND THE OTHER RING,[39] THAT IT IS [LIABLE TO BECOME] UNCLEAN,[40] WHEREAS R. ELIEZER DECLARES IT NOT [LIABLE TO BECOME] UNCLEAN.[41] THE SAME TESTIFIED THAT THE YEAR MAY BE INTERCALATED[42] THROUGHOUT THE WHOLE OF ADAR,[43] WHEREAS THEY USED TO SAY: ONLY TILL PURIM.[44] THE SAME TESTIFIED THAT THE YEAR MAY BE INTERCALATED[45] CONDITIONALLY. THERE WAS SUCH A CASE WITH RABBAN GAMALIEL WHO WENT TO TAKE AUTHORISATION FROM THE GOVERNOR IN SYRIA AND HE DELAYED IN COMING BACK; AND THEY INTERCALATED THE YEAR ON CONDITION THAT RABBAN GAMALIEL SHOULD APPROVE; AND WHEN HE CAME BACK HE SAID: I APPROVE, AND THE YEAR WAS THEREBY DULY INTERCALATED.

MISHNAH 8. MENAHEM B. SIGNAI[46] TESTIFIED CONCERNING THE LEDGE[47] ATTACHED TO AN OLIVE-BOILER'S CAULDRON, THAT IT IS [LIABLE TO BECOME] UNCLEAN; AND CONCERNING THAT OF DYERS,[48] THAT IT IS NOT [LIABLE TO BECOME] UNCLEAN, WHEREAS THEY USED TO SAY: THE RULE IS THE REVERSE.[49]

MISHNAH 9. R. NEHUNIA[50] THE SON OF GUDGADA TESTIFIED CONCERNING A DEAF-MUTE WHOSE FATHER HAD GIVEN HER IN MARRIAGE,[51] THAT SHE COULD BE PUT AWAY WITH A BILL OF DIVORCEMENT;[52] AND CONCERNING A MINOR, DAUGHTER OF AN ISRAELITE[53] AND MARRIED[54] TO A PRIEST, THAT SHE MIGHT EAT TERUMAH,[55] AND IF SHE DIED HER HUSBAND INHERITED FROM HER; AND CONCERNING A STOLEN BEAM THAT HAD BEEN BUILT INTO A PALACE,[56] THAT IT MIGHT BE RESTORED BY THE PAYMENT OF ITS VALUE;[57] AND CONCERNING A SIN-OFFERING THAT HAD BEEN STOLEN, AND THIS WAS NOT KNOWN TO MANY,[58] THAT IT MADE DUE ATONEMENT[59] BECAUSE OF THE WELFARE OF THE ALTAR.[60]

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(1) Cf. Bek. I, 6.

(2) Cf. Ex. Xlii, 13.

(3) After it was designated for the redemption, and before it was presented to the priest.

(4) The owner may hand over to the priest the dead lamb, but is not bound to give him another lamb.

(5) The redemption money of the first born son; cf. Ex. loc. cit.; and Num. III, 47. If the father set aside this redemption money and it was lost, he has to find other money; cf. Bek. VIII, 8.

(6) If the tithes were exchanged for money and the money lost, the owner is not bound to make it good.

(7) Cf. Ter. X, 9.

(8) I.e, prohibited as food; cf. Lev. XI, 20.

(9) And may be eaten.

(10) V. Sanh. (Sonc. ed.) p. 263, n. 7.

(11) Of the clean locusts. R. zadok adds that one may even eat the brine of the prohibited locusts themselves.

(12) Cf. Mik. V., 4.

(13) I.e., from a running river or stream.

(14) Rainwater, or, according to Maimonides, water dropping intermittently from a high spring. Mik. loc. cit. lays down that flowing water is counted like ‘living water’ of a spring, and can be used in the preparation of the Waters of Purification (Num. XIX, 17), the cleansing of a man who had an issue (Lev. XV, 13), and for a ritual bath in any quantity; while dripping water may not be used as Water of Purification, or for the cleansing of a man who had an issue, and if used as a ritual bath it must have no less than forty se'ahs in quantity (cf. I, 3, n. 7). If, then, in a mixture of these two’ kinds of water, the flowing water is more in quantity than the dripping water, the whole mixture is deemed ‘living water’.

(15) [Birfilia, about six miles E. of Ramala (Horowitz, Palestine, p. 118).]

(16) Its flow was directed to a particular spot by means of a channel made of the wide leaves of a walnut tree.

(17) It retains the character of flowing water for the purposes mentioned p. 42, n. 14, and is not deemed to have passed through a receptacle (מים שאובין ; cf. I, 3) by running through the channel of leaves.

(18) [Horowitz, op. cit., p. 22, identifies it with Bait Ilu, near Jerusalem.]

(19) V. Sanh. (Sonc. ed.) p. 205, n. 5.
(20) Cf. Par. X, 3.
(21) [Cannot be identified.]
(22) Of earthenware.
(23) Cf. Num. XIX, 9, 17.
(24) The ashes, since they can no longer be said to have been kept in a ‘clean Place’, Num. loc. cit. The jar itself remains clean, because an earthenware vessel does not contract uncleanness by outward contact; cf. Kel. II, 1.
(25) Cf. Naz. III, 2.
(26) Each of which is normally of a duration of thirty days; cf. IV, 12, n. 7,
(27) In accordance with Num. VI, 18. He should really have waited till the full completion of the thirty days, viz. till the thirty-first day.
(28) Which forms an interval of full thirty days since the last cutting of his hair.
(29) Of both periods of thirty days.
(30) Cf. Tem. III, 1.
(31) It is itself also holy like its dam, and cannot be put to common use.
(32) But it should be allowed to starve to death. R. Eliezer holds that permission to offer the young may lead people to delay the sacrificing of an animal as peace offering until it gives birth to its young, and this would involve a transgression of the command of Deut. XXIII, 22.
(33) בחג viz., on the Feast of Weeks. Raba (R.H. 6a) renders בחג according to its usual meaning of the Feast of Tabernacles, and assumes that owing to illness the young animal could not be offered on the intervening Feast of Weeks.
(34) Cf. Kel. XV, 2.
(35) On which the unbaked loaves are placed to allow them to rise; or, according to others, on which the dough is rolled.
(36) They are not considered ‘utensils’, because they are flat. But all the Sages agree that baking boards for ordinary household use are not liable to uncleanness. [Because unlike those of the bakers they are put to all kinds of use (Raabad).]
(37) Cf. Kel. V, 10.
(38) Of earthenware, and without a bottom; cf. II, 8, n. 1.
(39) To prevent the rings adhering to one another. The whole was plastered over on the outside to keep the cut parts together.
(40) The plasterings makes it whole again.
(41) It is deemed a broken ‘utensil’’
(42) By the addition of a second month, viz. a second Adar; v. Sanh. 12b’
(43) Until the twenty-ninth of Adar.
(44) The fourteenth of Adar, when it is customary to begin the public exposition of the laws of the Passover.
(45) By the Sanhedrin, subject to the approval of the President, with whom the final decision rests; v. Sanh. 11a (Sonc. ed.) p. 47.
(46) [Or. ‘of Signai’. a village in Judea (Buchler, De, gal. ‘Am-h. 79. n. 1.)].
(47) Of earthenware, to prevent the boiling liquid in the metal cauldron from running over. The ledge is therefore a necessary part of the cauldron; cf. Kel. V, 5.
(48) Dyers are careful not to allow the boiling dye to rise to the earthenware ledge, for fear the dye may become soiled. Therefore the ledge is not really needed for their cauldron.
(49) It was thought that dyers had greater need of the ledge to prevent the boiling dye from running over, since the dye was more valuable than the liquid of olive-boilers.
(50) Cf. Git. V, 5; Yeb. XIV, 2.
(51) While still a minor; cf. VI, 1, n. 2.
(52) Although she is legally an imbecile, she can be divorced according to Biblical law without her consent.
(53) A non-priest who is dead.
(54) By her mother or brothers, although the marriage is valid according to Rabbinical law only; cf. VI, 1, n. 2.
(55) But only such as is terumah in Rabbinic law alone, but she may not eat what is terumah in Biblical law, which does not recognize her as the priest's wife.
(56) Or any building.
(57) The owner of the beam cannot insist on the restoration of the beam itself. This rule was ordained ‘for the benefit of

the penitent' (Git. loc. cit.). to make the sinner's path of repentance easy.

(58) Three persons.

(59) The thief need not bring another sin-offering, and the priests who ate of its flesh did not commit a sin unwittingly.

(60) The priests might refuse to sacrifice the offering of a man who was unknown to them, from fear that the animal was stolen, and the altar would thus suffer loss.

Mishna - Mas. Eduyyot Chapter 8

MISHNAH 1. R. JOSHUA B. BATHYRA TESTIFIED CONCERNING THE BLOOD OF CARCASSES THAT IT WAS CLEAN.[1] R. SIMEON B. BATHYRA TESTIFIED CONCERNING THE ASHES OF PURIFICATION,[2] THAT IF A DEFILED PERSON HAD TOUCHED PART THEREOF HE HAD DEFILED THE WHOLE OF THEM.[3] R. AKIBA ADDED IN REGARD TO THE FINE FLOUR,[4] THE INCENSE, THE FRANKINCENSE, AND THE COALS,[5] THAT IF A TEBUL. YOM[6] HAD TOUCHED PART THEREOF HE HAD MADE THE WHOLE OF THEM UNFIT.[7]

MISHNAH 2. R. JUDAH B. BABA AND R. JUDAH THE PRIEST TESTIFIED CONCERNING A MINOR,[8] THE DAUGHTER OF AN ISRAELITE AND MARRIED TO A PRIEST, THAT SHE COULD EAT TERUMAH AS SOON AS SHE ENTERED THE BRIDAL CHAMBER EVEN THOUGH SHE HAD NO MARITAL INTERCOURSE. R. JOSE THE PRIEST AND R. ZECHARIAH B. HA-KAZZAB TESTIFIED CONCERNING A YOUNG GIRL WHO HAD BEEN GIVEN AS A SECURITY[9] IN ASHKELON, AND WHOM THE MEMBERS OF HER FAMILY[10] HAD PUT AWAY,[11] THOUGH HER WITNESSES[12] TESTI Fled FOR HER THAT SHE HAD NOT SECLUDED HERSELF[13] [WITH ANY MAN] AND THAT SHE HAD NOT BEEN DEFILED; THAT THE SAGES SAID TO THEM: IF YOU BELIEVE THAT SHE WAS GIVEN AS A SECURITY, BELIEVE ALSO THAT SHE DID NOT SECLUDE HERSELF [WITH ANY MAN] AND THAT SHE WAS NOT DEFILED; AND IF YOU DO NOT BELIEVE THAT SHE DID NOT SECLUDE HERSELF AND THAT SHE WAS NOT DEFILED, NEITHER BELIEVE THAT SHE WAS GIVEN AS A SECURITY.

MISHNAH 3. R. JOSHUA AND R. JUDAH THE SON OF BATHYRA TESTIFIED CONCERNING THE WIDOW OF [A MAN

BELONGING TO] A FAMILY OF DOUBTFUL PURITY,[14] THAT SHE WAS FIT TO MARRY INTO THE PRIESTHOOD, SINCE A FAMILY OF DOUBTFUL PURITY WAS FIT TO DECLARE WHO[15] WAS UNCLEAN[16] AND WHO[15] CLEAN,[16] WHO WAS TO BE PUT AWAY[17] AND WHO[15] WAS TO BE BROUGHT NEAR.[17] RABBAN GAMALIEL SAID: WE ACCEPT YOUR TESTIMONY, BUT WHAT CAN WE DO SINCE RABBAN JOHANAN B. ZAKKAI ORDAINED THAT COURTS SHOULD NOT BE COMMISSIONED FOR THIS PURPOSE?[18] THE PRIESTS WOULD LISTEN TO YOU CONCERNING THOSE WHO MIGHT BE PUT AWAY, BUT NOT CONCERNING THOSE WHO MIGHT BE BROUGHT NEAR![19]

MISHNAH 4. R.[20] JOSE B. JO'EZER, A MAN OF ZEREDA,[21] TES TIFIED CONCERNING THE AYIL[22] -LOCUST, THAT IT IS CLEAN; AND CONCERNING LIQUID[23] IN THE SLAUGHTER-HOUSE,[24] THAT IT IS CLEAN, AND THAT ONE WHO TOUCHES A CORPSE IS UNCLEAN.[25] AND THEY CALLED HIM 'JOSE THE PERMITTER'.

MISHNAH 5. R. AKIBA TESTIFIED IN THE NAME OF NEHEMIAH, A MAN OF BETH DELI,[26] THAT A WOMAN IS ALLOWED TO RE-MARRY ON THE EVIDENCE OF ONE WITNESS.[27] R. JOSHUA TESTIFIED CONCERNING BONES[28] FOUND IN THE WOOD-SHED[29] [THAT THEY WERE UNCLEAN].[30] THAT THE SAGES SAID: ONE MAY GATHER THEM UP, BONE BY BONE,[31] AND ALL IS CLEAN.[32]

MISHNAH 6. R. ELIEZER SAID:[33] I HAVE HEARD THAT WHEN THEY BUILT THE TEMPLE[34] THEY MADE HANGINGS FOR THE TEMPLE AND HANGINGS FOR THE TEMPLE-COURTS; BUT IN THE CASE OF THE TEMPLE THEY BUILT[35] FROM THE OUTSIDE,[36] AND IN THE CASE OF THE TEMPLE-COURT THEY BUILT FROM THE INSIDE. R. JOSHUA SAID: I HAVE HEARD THAT SACRIFICES MAY BE OFFERED EVEN THOUGH THERE IS NO TEMPLE, AND THAT THE MOST HOLY SACRIFICES[37] MAY BE EATEN EVEN THOUGH THERE ARE NO HANGINGS, AND THE LESSER HOLY SACRIFICES[38] AND SECOND TITHES EVEN THOUGH THERE IS NO WALL;[39] BECAUSE THE FIRST SANCTIFICATION[40] WAS VALID BOTH FOR ITS OWN TIME AND FOR THE TIME HEREAFTER.

MISHNAH 7. R. JOSHUA SAID: I HAVE RECEIVED A TRADITION FROM RABBAN JOHANAN B. ZAKKAI, WHO HEARD IT FROM HIS TEACHER, AND HIS TEACHER [HEARD IT] FROM HIS TEACHER, AS A HALACHAH [GIVEN] TO MOSES FROM SINAI,[41] THAT ELIJAH[42] WILL NOT COME TO PRONOUNCE UNCLEAN OR TO PRONOUNCE CLEAN, TO PUT AWAY OR TO BRING NEAR,[43] BUT TO PUT AWAY THOSE BROUGHT NEAR BY FORCE AND TO BRING NEAR THOSE PUT AWAY BY FORCE. THE FAMILY OF BETH ZEREPHAH[44] WAS ON THE OTHER SIDE OF THE JORDAN. AND BEN ZION[45] PUT IT AWAY BY FORCE; AND YET ANOTHER FAMILY[46] WAS THERE, AND BEN ZION BROUGHT IT NEAR BY FORCE. SUCH LIKE ELIJAH WILL COME TO PRONOUNCE UNCLEAN OR TO PRONOUNCE CLEAN, TO PUT AWAY OR TO BRING NEAR. R. JUDAH SAYS: TO BRING NEAR, BUT NOT TO PUT AWAY.[47] R. SIMEON SAYS: TO CONCILIATE DISPUTATIONS.[48] AND THE SAGES SAY NEITHER TO PUT AWAY NOR TO BRING NEAR, BUT TO MAKE PEACE IN THE WORLD,[49] FOR IT IS SAID,[50] BEHOLD I SEND TO YOU ELIJAH THE PROPHET, ETC., AND HE SHALL TURN THE HEART OF THE FATHERS TO THE CHILDREN AND THE HEART OF THE CHILDREN TO THEIR FATHERS.

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(1) Agreeing with the opinion of Beth Shammai according to the version of H. Judah; cf. V, 1, n. 3.

(2) Cf. VII, 5, n. 9.

(3) The jar which contains the ashes makes all their particles one unit.

(4) Intended for an offering; cf. Lev. II, 2ff.

(5) Which the High Priest carried into the Holy of Holies on the Day of Atonement; cf. Lev. XVI, 12.

(6) Cf. II, 1, n. 7.

(7) פסל ; cf. II, 1, n. 4. [Their various particles constitute a unit though the vessels which contain them are not fashioned like receptacles, but Hat (Maim.).]

(8) An orphan given in marriage by her mother or brothers; cf. VII, 9, nn. 3-4.

(9) For a debt to Gentiles.

(10) Who were priests.

(11) They disqualified her from marrying a priest, for fear she might have been violated; cf. III, 6, n. 2.

(12) Who testified that she had been left at Ashkelon, also testified that she had remained pure.

(13) נסתרה cf. Num. V, 13.

(14) עיסה. 'mixed dough'. a priestly family, a member of which was suspected of being the offspring of an illegitimate union, חלל cf. Lev. XXI, 7; Kid. IV, 6. In the case of this widow, it is doubtful whether her dead husband was that suspected offspring, and if so, whether he really was illegitimate, חלל . [For a full discussion of the subject, v. Buchler, Schwarz-Festschrifi, 133ff.]

(15) Who of its members.

(16) I.e., illegitimate; legitimate.

(17) Who was to be declared unfit to marry a priest, and who fit. Therefore the evidence of this family is to be accepted with regard to the widow's dead husband. The text and interpretation of this passage are not quite certain.

(18) Of declaring the legitimacy of such a doubtful case.

(19) [And would refuse to accept the decision of a Court to the contrary. v. Buchler, Priester und Cultus, p. 20, n. 3.]

(20) Most texts omit ‘Rabbi’. Jose's statement is given in Aramaic.
(21) I Kings XI. 26.
(22) איל , of unknown meaning.
(23) Blood and water.
(24) In the Temple court.
(25) For the meaning and discussion of this statement as well as of the whole passage, cf. A.Z. (Sonc. ed.) 182f.
(26) [Identified by Horowitz, op. cit., p. 231, with Dili, a village in Galilee.]
(27) Cf. VI, I, n. 3.
(28) Of a corpse.
(29) At the north-eastern corner of the Women's Court in the Temple; cf. Mid. II, 5.
(30) A variant reading. not quite in agreement with what follows.
(31) There is no reason to suspect the presence of graves.
(32) Because It was doubtful whether the bones had caused any defilement; therefore it was declared clean, as being in the Temple court which is considered public ground; cf. II, 3, nn. 5, 6.
(33) V. Shebu. (Sonc. ed.) 16a, notes.
(34) The Second Temple.
(35) The walls of the Temple.
(36) To keep the builders outside the Temple.
(37) Which have to be eaten ‘within the hangings’. i.e. in the Temple court; cf. Zeb. V, 5.
(38) Which have to be eaten within the City of Jerusalem; cf. Zeb. V, 6; Deut. XIV, 23.
(39) Round Jerusalem.
(40) By King Solomon.
(41) I.e., an ancient ordinance.
(42) Who will come to usher in the Messianic Age; cf. Mal. III, 1.
(43) Cf. 3, nn. 4-5. He will not abrogate justly established laws, but only set aside arbitrary and lawless decisions.
(44) [A priestly family (Buchler. op. cit., p. 137); or, a lay family (Epstein. J.N., MGWJ LXV. 89). The context favours the former view. As to Beth Zerephah. Klein, S. מאמרים שונים p. 6, n. 9, identifies it with Zarafaud, N.W. of Lydda.]
(45) [Klein. S. מדעי היהדות I, p. 77. adopts on the basis of var. lec. the reading. Bene Zion ‘the Sons of Zion’, the reference being to the descendants of the Hasmonean high priests. the Watch of Jehojarib. For other suggestions v. ibid. n. 22.]
(46) The family is left unnamed, so as not to cause shame to its members.
(47) Even those brought near by force.
(48) Among the Sages in matters of law.
(49) Among all men.
(50) Mal. III, 23-24.

Talmud - Mas. Avodah Zarah 2a

CHAPTER I

MISHNAH. ON THE THREE DAYS PRECEDING THE FESTIVITIES[1] OF IDOLATERS, IT IS FORBIDDEN TO TRANSACT BUSINESS WITH THEM, TO LEND ARTICLES TO THEM OR BORROW ANY FROM THEM, TO ADVANCE, OR RECEIVE ANY MONEY FROM THEM, TO REPAY A DEBT, OR RECEIVE REPAYMENT FROM THEM.[2] R. JUDAH SAYS: WE SHOULD RECEIVE REPAYMENT FROM THEM, AS THIS CAN ONLY DEPRESS THEM;[3] BUT THEY [THE RABBIS][4] SAID TO HIM: EVEN THOUGH IT IS DEPRESSING AT THE TIME, THEY ARE GLAD OF IT SUBSEQUENTLY.

GEMARA. Rab and Samuel [differed]: the one quoting [from this Mishnah] ed, while the other quoted ‘ed.[5] The one who quoted ed is not in error, nor is the one who quoted ‘ed in error.[6] The one who quoted ed is not in error, since Scripture says: For the day of their calamity is at hand;[7] so also is he who quotes ‘ed not in error, for Scripture also says: Let them bring their witnesses [testimonies] that they may be justified.[8] Why does he who quotes ed not have ‘ed? — He might say, the term ed [‘calamity’] is more applicable [to idolatry]. Why then does not the one who quotes ‘ed have ed? — He might say: What is it that brings about that calamity [if not] their testimony? hence the term ‘ed [‘testimony’] is more apt.

But does the verse, Let them bring their witnesses that they may be justified, refer to idolaters at all? It surely refers to Israel; as R. Joshua b. Levi said: All the good deeds which Israel does in this world will bear testimony unto them in the world to come, as it is said: Let them bring their witnesses that they may be justified — that is Israel; And let them hear and say: It is truth — these are the idolaters. Whereupon R. Huna the son of R. Joshua said that the one who quotes ‘ed derives it from this verse: They that fashion a graven image are all of them vanity, and their delectable things shall not profit,’ and their own witnesses see not, nor know.[9]

R. Hanina b. Papa — some say R. Simlai — expounded [the foregoing verse] thus: In times to come,[10] the Holy One, blessed be He, will take a scroll of the Law in His embrace and proclaim: ‘Let him who has occupied himself herewith, come and take his reward.’ Thereupon all the nations will crowd together in confusion, as it is said: All the nations are gathered together, etc.[11] The Holy One, blessed be He, will then say to them: ‘Come not before Me in confusion, but let each nation come in

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(1) The Hebrew word איד ED, here used as a metonymy for FESTIVITY, means CALAMITY; in the variant spelling עד ‘ED it means WITNESS OR TESTIMONY — hence the variation discussed in the Gemara which follows.

(2) Lest any benefit they may derive from these be made by them a cause for rejoicing before their idols on the day of festivity.

(3) The reason for the objection does not therefore exist.

(4) Representing the opinion of teachers in general.

(5) V. n. 1.

(6) As both terms are used in Scripture in connection with idolatry. [The letter ע was frequently confused, especially among the Babylonians, with א ; and according to Berliner, Beitr. z. Gram. i. Tal. u. Mid., p. 17, it is Samuel the Babylonian who quoted איד while Rab who was a Palestinian, read עד]

(7) Deut. XXXII, 35.

(8) Isa. XLIII, 9.

(9) Ibid. XLIV, 9.

(10) A typical example of consolatory Aggadah wherewith the Rabbis sought to sooth the people's present afflictions by depicting the glories which the future had in store for them. A liturgical difficulty is solved thereby. The term consolations ונחמתא in the Kaddish passage: ‘Blessed be He above all the blessings and hymns, praises and consolations which are uttered in the world' (P.B., p. 75), which is so puzzling to commentators, is explained by the fact that the Kaddish is in its origin a doxology pronounced after Aggadic expositions, which were generally of a consolatory nature. Cp. יהא שמה רבא דאגדתא (Sot. 49a).

(11) Isa. XLIII, 9.

Talmud - Mas. Avodah Zarah 2b

with its scribes;' as it is said, and let the peoples be gathered together,'[1] and the word le'om [used here] means a kingdom, as it is written, and one kingdom [u-leom] shall be stronger than the other kingdom.[2] (But can there be confusion in the presence of the Holy One, blessed be He? — [No;] it is only that they be not confused, and so hear what He says to them.) Thereupon the Kingdom of Edom[3] will enter first before Him. (Why first? Because they are the most important. Whence do we know they are so important? — Because it is written: And he shall devour the whole earth and shall tread it down and break it in pieces;[4] and R. Johanan says that this refers to Rome, whose power is known to the whole world. And whence do we know that the most important comes forward first? — Because R. Hisda said: When a king and a community appear before the [Heavenly] tribunal, the king enters first, as it is said: That He maintain the cause of His servant [King Solomon] and [then] the cause of His people Israel.[5] And why is it so? — You may say, because it is not the way of the world that a king shall wait without; or you may say [in order that the king shall plead] before the anger [of the Judge] is roused.)[6] The Holy One, blessed be He, will then say to them: 'Wherewith have you occupied yourselves?' They will reply: 'O Lord of the Universe, we have established many market-places, we have erected many baths, we have accumulated much gold and silver, and all this we did only for the sake of Israel, that they might [have leisure] for occupying themselves with the study of the Torah.' The Holy One, blessed be He, will say in reply: 'You foolish ones among peoples, all that which you have done, you have only done to satisfy your own desires. You have established marketplaces to place courtesans therein; baths, to revel in them; [as to the distribution of] silver and gold, that is mine, as it is written: Mine is the silver and Mine is the gold, saith the Lord of Hosts;[7] are there any among you who have been declaring this?' And 'this' is nought else than the Torah, as it is said: And this is the Law which Moses set before the children of Israel.[8] They will then depart crushed in spirit. On the departure of the Kingdom of Rome, Persia will step forth. (Why Persia next? — Because they are next in importance. And how do we know this? — Because it is written: And behold another beast, a second like to a bear;[9] and R. Joseph learned[10] that this refers to the Persians, who eat and drink greedily like the bear, are fleshly like the bear, have shaggy hair like the bear, and are restless like the bear.)[11] The Holy One, blessed be He, will ask of them: 'Wherewith have ye occupied yourselves?'; and they will reply 'Sovereign of the Universe, we have built many bridges, we have captured many cities, we have waged many wars, and all this for the sake of Israel, that they might engage in the study of the Torah. Then the Holy One, blessed be He, will say to them: 'You foolish ones among peoples, you have built bridges in order to extract toll, you have subdued cities, so as to impose forced labour;[12] as to waging war, I am the Lord of battles, as it is said: The Lord is a man of war;[13] are there any amongst you who have been declaring this?' and 'this' means nought else than the Torah, as it is said: And this is the Law which Moses set before the Children of Israel[14] . They, too' will then depart crushed in spirit. (But why should the Persians, having seen that the Romans achieved nought, step forward at all? — They will say to themselves: 'The Romans have destroyed the Temple, whereas we have built it.')[15] And so will every nation fare in turn. (But why should the other nations come forth, seeing that those who preceded them had achieved nought? They will say to themselves: The others have oppressed Israel, but we have not. And why are these [two] nations singled out as important, and not the others? — Because their reign will last till the coming of the Messiah.) The nations will then contend: 'Lord of the Universe, hast Thou given us the Torah, and have we declined to accept it? (But how can they argue thus, seeing that it is written, The Lord came from Sinai and rose from Seir unto them, He shined forth from Mount Paran?[16] And it is also written, God cometh from Teman.[17] What did He seek in Seir, and what did He seek in Mount Paran?[18] — R. Johanan says: This teaches us that the Holy One, blessed be He, offered the Torah to every nation and every tongue, but none accepted it, until He came to Israel who received it. [How, then, can they say that the Torah was not offered to them?] Their contention will be this: ‘Did we accept it and fail to observe it? But surely the obvious rejoinder to this their plea would be: ‘Then why did you not accept it?’ — This, then, will be their contention: ‘Lord of the Universe, didst Thou suspend the mountain over us like a vault[19] as Thou hast done unto Israel and did we still decline to accept it?’ For in commenting on the verse: And they stood at the netherpart of the mountain[20] R. Dimi b. Hama said: This teaches us that the Holy One, blessed be He, suspended the mountain over Israel like a vault, and said unto them: ‘If ye accept the Torah, it will be well with you, but if not, there will ye find your grave.’) Thereupon the Holy One, blessed be He, will say to them: ‘Let us then consider the happenings of old,’ as it is said, Let them announce to us former things,[21] ‘there are seven commandments which you did accept.[22] did you observe them?’ (How do we know that they did not observe them? — For R. Joseph learned:[23] He standeth and shaketh the earth, He seeth and maketh the nations to tremble:[24] what did He see? He saw that the nations did not observe even the seven precepts which the sons of Noah had taken upon themselves,[25] and seeing that they did not observe them, He stood up and released them therefrom.[26] Then they benefited by it; according to this it pays to be a sinner! — Said Mar the son of Rabina:

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(1) Ibid.

(2) Gen. XXV, 23.

(3) Edom, or Esau, generally represents Rome.

(4) Dan. VII, 23.

(5) I Kings VIII, 59.

(6) By the misdeeds of the people for which the king would be held responsible.

(7) Hag. II, 8.

(8) Deut. IV, 44.

(9) Dan. VII, 5.

(10) Kid. 72a.

(11) Cf. Lewysohn, Zoologie des Talmuds, p. 99. The Persians are compared to the bear, which bolts its food, is covered with a girdle of fat, and can stand the winter with but little food. The skin is woolly and thick, and only gets softer with age. He is always rolling about, even if kept in a cage.

(12) ** = angaria.

(13) Ex. XV, 3.

(14) Deut. IV, 44.

(15) Referring to Cyrus's edict. Ezra I, 2 seq.

(16) Deut. XXXIII, 2.

(17) Hab. III, 3.

(18) Seir or Edom representing the predecessors of Rome; Paran, those of Ishmael, Gen. XXI, 21.

(19) Lit., ‘cask’, ‘tub’.

(20) Ex. XIX, 17.

(21) Isa. XLIII, 9.

(22) V. n. 6.

(23) B.K. 38a.

(24) Hab. III, 6.

(25) The Rabbis held that God had given Noah seven commandments embracing the whole of natural religion: against (i) idol worship, (ii) blasphemy, (iii) bloodshed, (iv) adultery, (v) robbery, (vi) for the establishment of courts of justice, (vii) against eating the limb torn off a living animal. These were imposed on all men, Jews and non-Jews alike. V. Sanh. 56a ff. Cf. Maimonides’ Guide for Perplexed, III, 48.

(26) The Heb. word for maketh to tremble, ויתר, also means, ‘he releaseth’, cf. מותר permitted.

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The release from those commands only means that even if they observed them they would not be rewarded. But why should they not? Is it not taught: R. Meir used to say. ‘Whence do we know that even an idolater who studies the Torah is equal to a High Priest? From the following verse: Ye shall therefore keep My statutes and My ordinances which, if a man do, he shall live by them.[1] It does not say "If a Priest, Levite, or Israelite do, he shall live by them," but "a man"; here, then, you can learn that even a heathen who studies the Torah is equal to a High Priest!’ — What is meant, then, is that they are rewarded not as greatly as one who does a thing which he is bidden to do, but as one who does a thing unbidden. For, R. Hanina said: He who is commanded and does, stands higher then he who is not commanded and does.[2])

The nations will then say, ‘Sovereign of the Universe, has Israel, who accepted the Torah, observed it? The Holy One, blessed be He, will reply, ‘I can give evidence that they observed the Torah.’ ‘O Lord of the Universe,’ they will argue, ‘can a father give evidence in favour of his son? For it is written, Israel is My son, My firstborn.’[3] Then will the Holy One, blessed be He, say: ‘Heaven and Earth can bear witness that Israel has fulfilled the entire Torah.’ But they will [object], saying: ‘Lord of the Universe, Heaven and Earth are partial witnesses, for it is said, If not for My covenant with day and with night. I should not have appointed the ordinances of Heaven and Earth.’[4] (And R. Simeon b. Lakish further said: What is conveyed by the phrase. And there was evening and there was morning the sixth day?[5] It teaches us that God made a condition with the works of creation, saying: ‘If Israel accept my Law it will be well, but if not, I shall reduce you to a state of chaos’[6] ; which accords with the comment of R. Hezekiah on the verse, Thou didst cause sentence to be heard from Heaven, the earth trembled and was still:[7] If the earth trembled, how could it be still, and if it was still, how could it tremble? But at first it trembled, and subsequently it became still.)[8] Then the Holy One, blessed be He, will say, ‘Some of yourselves shall testify that Israel observed the entire Torah. Let Nimrod come and testify that Abraham did not [consent to] worship idols; let Laban come and testify that Jacob could not be suspected of theft;[9] let Potiphar's wife testify that Joseph was above suspicion of immorality; let Nebuchadnezzar come and testify that Hanania, Mishael and Azariah did not bow down to an image; let Darius come and testify that Daniel never neglected the [statutory] prayers;[10] let Bildad the Shuhite, and Zophar the Naamathite, and Eliphaz the Temanite [and Elihu[11] the son of Barachel the Buzite][12] testify that Israel has observed the whole Torah; as it is said, Let them [the nations] bring their [own] witnesses, that they [Israel] may be justified.’[13]

The nations will then plead. ‘Offer us the Torah anew and we shall obey it.’ But the Holy One, blessed be He, will say to them, ‘You foolish ones among peoples, he who took trouble [to prepare] on the eve of the Sabbath can eat on the Sabbath, but he who has not troubled on the eve of the Sabbath, what shall he eat on the Sabbath? Nevertheless, I have an easy command which is called Sukkah;[14] go and carry it out.’[15] (But how can you say so: does not R. Joshua b. Levi say: What is [the meaning of] the verse, The ordinances which I command thee this day to do them?[16] It is that this day only [the present] is the time to do them,’ they cannot be done tomorrow [in times to come]: this day is the time in which to do them, but not in which to be rewarded for them. [Why then should they be offered this observance in the Messianic time?] — Because the Holy One, blessed be He, does not deal imperiously with His creatures.[17] And why does He term it an easy command? — Because it does not affect one's purse.) Straightaway will every one of them betake himself and go and make a booth on the top of his roof; but the Holy One, blessed be He, will cause the sun to blaze forth over them as at the Summer Solstice.[18] and every one of them will trample down his booth and go away, as it is said, Let us break their bands asunder, and cast away their cords from us.[19] (But you have just said ‘The Holy One, blessed be He, does not deal imperiously with his creatures? — True! but with the Israelites, too, it occasionally happens

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(1) Lev. XVIII, 5.

(2) [The idea underlying this principle is the contrast between the Autonomy of the Will and the Law of God as the Authority to Man. The moral act finds its sure basis only when it is conceived as prompted by the command of God.

When man acts in obedience thereto the merit is thus greater. Cf. Lazarus, M. The Ethics of Judaism (English ed.) 1 pp. 123 ff.]

(3) Ex. IV, 22.

(4) Jer. XXXIII, 25 rendered homiletically thus: If not for My covenant (i.e, the Torah, which is to be meditated) day and night, I should not have appointed etc.

(5) Gen. I, 31.

(6) The phrase is made to read — There was evening and there was morning [only because of] the sixth day of Sivan, the date of the revelation at Sinai.

(7) Ps. LXXVI, 9.

(8) The earth feared that its inhabitants could not abide in the absence of a moral code to serve as the foundation of society; but it was set at rest when sentence was heard from heaven, i.e., when the Divine commandments were proclaimed from Sinai.

(9) Cf. Gen. XXXI, 37.

(10) His windows were open in his upper chamber towards Jerusalem, and he kneeled upon his knees three times a day, and prayed, and gave thanks before his God, as he did aforetime. (Dan. VI, 11). This is the earliest record of the practice, still observed by Jews the world over, of offering prayers thrice daily. morning (Shaharith), afternoon (Minhah) and evening (Ma'arib) with face turned towards the Holy City.

(11) A friend of Job; Job XXXII, 2.

(12) Buz, according to Gen. XXII, 21, was a son of Nahor; his descendant Elihu, therefore, being an Israelite, is not to be included here (Rashi); cf. B.B. 15b, where it is discussed whether Elihu was an Israelite or a Gentile.

(13) Isa, ibid.

(14) Sukkah, booth, the temporary structure in which Jews dwell during the Festival of Tabernacles (Lev. XXIII, 42).

(15) To test their self-exertion for the sake of a religious observance.

(16) Deut. VII, 11.

(17) טרוניא, sovereignty, despotic rule.

(18) Lit., ‘the cycle of Tammuz’ which lasts from 21st June to 22nd September. The Jewish Calendar, while being lunar, takes cognisance of the solar system, to which it is adjusted at the end of every cycle of nineteen years. For ritual purposes, the four Tekufoth are calculated according to the solar system, each being equal to one fourth of 365 days, viz. 91 days, 7 1/2 hours. T. of Nisan, (vernal Equinox) begins March 21; T. of Tammuz (Summer Solstice), June 21; T. of Tishri (Autumnal Equinox). Sept. 23; T. of Tebeth (Winter Solstice) Dec. 22.

(19) Ps. II, 3.

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that the summer solstice extends till the Festival [of Tabernacles] and they are vexed [by the heat].[1] But does not Raba say: He who is vexed thereby is freed from dwelling in the Sukkah?[2] — Granted, they would [in such circumstances] be freed, but would Israelites contemptuously trample it down?) Thereupon the Holy One, blessed be He, will laugh at them, as it is said, He that sitteth in heaven laugheth.[3] Said R. Isaac: ‘Only on that day is there laughter for the Holy One, blessed be He!’ Some connected that comment of R. Isaac with the following teaching: R. Jose says, In time to come idol-worshippers will come and offer themselves as proselytes. But will such be accepted? Has it not been taught[4] that in the days of the Messiah proselytes will not be received; likewise were none received in the days of David or of Solomon? — Well, they will be self-made proselytes,[5] and will place phylacteries on their foreheads and on their arms, fringes in their garments, and a Mezuzah on their doorposts, but when the battle of Gog-Magog will come about[6] they will be asked, ‘For what purpose have you come?’ and they will reply: ‘Against God and His Messiah’ as it is said, Why are the nations in an uproar, and why do the peoples mutter in vain, etc.[7] Then each of the proselytes will throw aside his religious token and get away, as it is said, Let us break their bands asunder[8] , and the Holy One, blessed be He, will sit and laugh, as it is said: He that sitteth in heaven laugheth.[9] [It was on this that] R. Isaac remarked that there is no laughter for the Holy One, blessed be He, except on that day. But is there not, indeed? Yet Rab Judah said in the name of Rab: ‘The day consists of twelve hours; during the first three hours the Holy One, blessed be He, is occupying

Himself with the Torah, during the second three He sits in judgment on the whole world, and when He sees that the world is so guilty as to deserve destruction, He transfers Himself from the seat of Justice to the seat of Mercy;[10] during the third quarter, He is feeding the whole world, from the horned buffalo to the brood of vermin; during the fourth quarter He is sporting with the leviathan,[11] as it is said, There is leviathan, whom Thou hast formed to sport therewith'?[12] Said R. Nahman b. Isaac: Yes, He sports with His creatures, but does not laugh at His creatures except on that day.[13]

R. Aba said to R. Nahman b. Isaac: Since the day of the destruction of the temple, there is no laughter for the Holy One, blessed be He. Whence do we know that there is not? Shall we say from the verse, And on that day did the Lord, the God of Hosts, call to weeping and lamentation?[14] But this refers to that day and no more. Shall we then say, from this verse: If I forget thee, O Jerusalem, let my right hand forget her cunning, let my tongue cleave to the roof of my mouth if I do not remember thee?[15] But this, too, excludes forgetfulness, but not laughter. Hence, [it is known] from the verse, I have long time held my peace, I have been still, and refrained myself, now will I cry.[16] What then does God do in the fourth quarter?[17] — He sits and instructs the school children,[18] as it is said, Whom shall one teach knowledge, and whom shall one make to understand the message? Them that are weaned from the milk.[19] Who instructed them theretofore?[20] — If you like, you may say Metatron,[21] or it may be said that God did this as well as other things. And what does He do by night? — If you like you may say, the kind of thing He does by day; or it may be said that He rides a light cherub, and floats in eighteen thousand worlds; for it is said, The chariots of God are myriads, even thousands shinan.[22] Do not read Shinan, [repeated], but she-enan [that are not];[23] or it may be said, He sits and listens to the song of the Hayyoth,[24] as it is said, By the day the Lord will command His lovingkindness and in the night His song shall be with me.[25]

R. Levi says: He who discontinues [learning] words of the Torah and indulges in idle gossip will be made to eat glowing coals of juniper, as it is said, They pluck salt-wort with wormwood; and the roots of juniper are their food.[26]

Resh Lakish says: To him who is engaged in the study of the Torah by night, the Holy One extends a thread of grace by day, as it is said, By day the Lord will command his lovingkindness, and in the night his song shall be with me.[27] For what reason will the Lord command his lovingkindness by day? — because His song shall be with me in the night.

Some report the exposition of Resh Lakish thus: To him who is engaged in the study of the Torah in this world, which is likened unto the night, the Holy One, blessed be He, extends the thread of grace in the future world, which is likened unto the day, as it is said: By day the Lord, etc.

Rab Judah says in the name of Samuel: Why is it written, And Thou makest man as the fishes of the sea, and as the creeping things, that have no ruler over them?[28] Why is man here compared to the fishes of the sea? To tell you, just as the fishes of the sea, as soon as they come on to dry land, die, so also man, as soon as he abandons the Torah and the precepts [incurs destruction]. Another explanation: Just as the fishes of the sea, as soon as the sun scorches them, die; so man, when struck by the sun, dies. This can be applied to the present world, or to the future world. You can, in accordance with R. Hanina, apply this to the present world, for R. Hanina says: Everything is in Heaven's hands, except cold and heat, as is said, 'colds and heat-boils are in the way of the froward, he that keepeth his soul holdeth himself far from them;[29] or, according to R. Simeon b. Lakish, it can be applied to the future life, for R. Simeon b. Lakish says: There is no Gehenna in the Future World,[30] but the Holy One, blessed be He, brings the sun out of its sheath, so that it is fierce: the wicked are punished by it, the righteous are healed by it. The wicked are punished

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(1) The test is therefore not exceptional or harsh.

(2) Suk. 26a.

(3) Ps. II, 4.
(4) Yeb. 24a.
(5) [Gerim gerurim, lit., ‘dragged-in proselytes’ a class of converts who judaize in mass under the impulsion of fear, v. Moore, G. F., Judaism I, 337].
(6) In the great drama of the Messianic age there will be a combat with the heathen powers under the leadership of Gog and Magog (Ezek. XXXIX).
(7) Ps. II, 1.
(8) Ibid. 3.
(9) Ibid. 4.
(10) I.e., instead of meting out punishment, exercises clemency.
(11) [A huge sea monster, real according to some but according to others imaginary. We have here a magnification of God's power in sporting with the mightiest, as men do with their animal pets.]
(12) Ps. CIV, 26; hence we see there is laughter before the Lord!
(13) [The discomfiture of the nations which sought to rule without the restraints of the moral law will prove the most laughter-provoking sight.]
(14) Isa. XXII, 12.
(15) Ps. CXXXVII, 5,6.
(16) Isa. XLII, 14.
(17) According to the statement that all laughter has been eliminated since the Destruction.
(18) [I.e., who died in their infancy (Rashi); the development of their personality that survives death is in the special care of the Eternal.]
(19) Isa. XXVIII, 9.
(20) I.e., prior to the Destruction.
(21) [Metatron: Name of an angel, who is also called שר הפנים Metatron is probably derived from Metator, meaning guide, precursor, he being regarded as the angel who went before the Israelites in the wilderness.]
(22) Ps. LXVIII, 18.
(23) By altering שנאן into שאינן the verse is made to mean: The chariots . . . are twice ten thousand less two thousand, i.e, eighteen thousand.
(24) Hayyoth are angels that surround the heavenly throne (v. Ezek. III), proclaiming the praises and holiness of God.
(25) Ps. XLII, 9.
(26) Job XXX, 4. By a very slight alteration, the verse — which speaks of the poor who pick vegetables and roots for their food — is made to read: הקוטפים מלוח אלי שיח ושורש רתמים לחמם which is rendered thus: They who break away from the table (of the Law) to idle gossip will have roots of juniper as their food.
(27) Ps. XLII, 9.
(28) Hab. I, 14.
(29) Prov. XXII, 5. The Heb, words (צנים ופחים) standing for thorns and snares may also be rendered colds and heat-boils. The underlying idea is that man is not to take a fatalistic view and blame Providence for maladies and other evils which, by care and prudence, he can avert.
(30) I.e., the Messianic era.

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by it, as it is said: For, behold, the day cometh, it burneth as a furnace; and all the proud, and all that work wickedness, shall be stubble; and the day that cometh shall set them ablaze, saith the Lord of Hosts, that it shall leave them neither root nor branch.[1] It shall leave them neither root — in this world, nor branch — in the world to come. The righteous are healed by it, as it is said, But unto you that fear My name, shall the sun of righteousness arise with healing in its wings.[1] Moreover, they will revel therein, as it is said, And ye shall go forth, and gambol as calves of the stall.[2] Another explanation:[3] Just as among fish of the sea, the greater swallow up the smaller ones, so with men, were it not for fear of the government, men would swallow each other alive. This is just what we learnt: R. Hanina, the Deputy High Priest, said, Pray for the welfare of the government, for were it not for the fear thereof, men would swallow each other alive.[4]

R. Hinena b. Papa pointed to the following contradiction: Scripture says, As to the Almighty, we do not find him [exercising] plenteous power,[5] yet it says, Great is our Lord and of abundant power[6] and also, Thy right hand, O Lord, is become glorious in power![7] [The answer is] there is no contradiction here: the former refers to the time of judgment,[8] the latter refers to a time of war.[9]

R. Hama b. Hanina pointed to another contradiction: Scripture says, Fury is not in me,[10] yet it also says. The Lord revengeth and is furious![11] But there is really no contradiction: the former refers to Israel, the latter to idolaters.[12] R. Hinena b. Papa [or R. Aha b. Hanina] explains the foregoing verse thus: Fury is not in me, for I already vowed;[13] would that I had not so vowed, then, as the briars and thorns in flame I would with one step burn it altogether.[14]

This[15] accords with the following teaching of R. Alexandri: What is the meaning of the verse, And it shall come to pass on that day that I will seek to destroy all the nations[16] — 'seek' among whom? What the Holy One, blessed be He, says is, I will seek their records:[17] if they have any meritorious deeds to their credit, I will redeem them, but if not, I will destroy them. This also accords with what Raba said: What is the meaning of the verse, Howbeit He will not stretch out a hand for a ruinous heap though they cry in his destruction ?[18] — The Holy One, blessed be He, said to Israel,' When I judge Israel, I do not judge them as I do the idolaters concerning whom it is said, I will overturn, overturn, overturn it,[19] but I only exact payment from them [little at a time] as the hen does her picking.'[20] Another explanation: Even if Israel does before Me but few good deeds at a time, like hens picking in a rubbish heap, I will make it accumulate to a large sum, as it is said, though they pick little they are saved.[21] Another rendering is: As a reward of their crying unto Me, I help them.[22] This is similar to what R. Abba said, What is the meaning of the verse, Though I would redeem them, yet they have spoken lies against Me?[23] I thought I would redeem them by depriving them of monetary possessions in this world, so that they be worthy to merit the world to come, yet they etc. Which is in agreement with what R. Papi said in the name of Raba: What is the meaning of the verse, Though I have trained [yissarti], strengthened their arms, yet do they imagine mischief against Me?[24] The Holy One, blessed be He, says,I thought I would chastise them[25] with suffering in this world, so that their arm might be strengthened in the world to come, yet they etc.

R. Abbahu commended R. Safra to the Minim[26] as a learned man, and he was thus exempted by them from paying taxes for thirteen years.[27] One day, on coming across him, they said to him; 'It is written: You only have I known [or loved] from all the families of the earth; therefore I will visit upon you all your iniquities;[28] if one is in anger does one vent it on one's friend?' But he was silent and could give them no answer; so they wound a scarf round his neck and tortured him. When R. Abbahu came and found him [in that state] he said to them, Why do you torture him? Said they, 'Have you not told us that he is a great man? he cannot explain to us the meaning of this verse!' Said he, 'I may have told you [that he was learned] in Tannaitic teaching; did I tell you [he was learned] in Scripture?' — 'How is it then that you know it?' they contended. 'We,' he replied. 'who are frequently with you, set ourselves the task of studying it thoroughly, but others[29] do not study it as carefully.' Said they, 'Will you then tell us the meaning?' 'I will explain it by a parable.' he replied. 'To what may it be compared? To a man who is the creditor of two persons, one of them a friend, the other an enemy; of his friend he will accept payment little by little, whereas of his enemy he will exact payment in one sum!'[30]

Said R. Aba b. Kahana: What is the meaning of the verse, That be far from Thee to do after this manner, to slay the righteous with the wicked?[31] What Abraham said is: 'Sovereign of the Universe, it is profanation to do after this manner.'[32] And does not God act after this manner? Is it not written, And I will cut off from thee the righteous and the wicked?[33] — That refers to one who is not thoroughly righteous. But not to one who is wholly righteous? Is it not written, And begin [the slaughter] with my sanctuary,[34] which, R. Joseph learned, should not be read my sanctuary but my sanctified ones, namely the men who fulfilled the Torah from Aleph to Taw? — There, too, since it was in their power to protest against [the wickedness of the others] and they did not protest, they are not regarded as thoroughly righteous.

R. Papa mentioned the following contradiction: It is written, God is angry every day,[35] while it is also written Who could stand before His anger?[36] But there is really no contradiction; the latter refers to an individual, the former to men collectively.[37] Our Rabbis taught: God is angry every day, but how long does His anger last? — A moment. And how long is a moment? — one fifty three thousand eight hundred forty eighth of an hour is a moment.[38] No creature could ever precisely fix this moment, except Balaam the wicked, of whom it is written

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(1) Mal. III, 29.

(2) Ibid. 20.

(3) Of the foregoing verse, comparing men to fishes.

(4) Ab. III, 2. Shakespeare's lines, put in the mouth of Marcius (Coriolanus, Act 1, Sc. 1). What's the matter, That in these several places of the city You cry against the noble senate, who, Under the gods, keep you in awe, which else Would feed on one another? bear such a close resemblance to R. Hanina's words, that the suggestion has been made that the Poet was cognisant of them through the Latin translation of Aboth by Paulus Fagius which was published in 1541 (see L. Kelner in the Hebrew periodical D'VIR, Berlin, 1923, vol. 1, p. 287). It is, however, quite probable that Shakespeare merely had in his mind the scriptural verse: If it had not been the Lord who was for us, When men rose up against us, Then they had swallowed us up alive, When their wrath was kindled against us. Ps. CXXIV, 2, 3.

(5) A literal rendering of Job XXXVII, 23.

(6) Ps CXLVII, 5.

(7) Ex. XV, 6.

(8) When the Almighty restrains His power, by tempering Justice with Mercy.

(9) When Divine Power is exercised against His enemies.

(10) Isa. XXVII, 4.

(11) Nah. I, 2.

(12) V. nn. 6-7.

(13) That I would not be in wrath with thee (Isa. LIV, 9).

(14) According to this explanation the whole verse applies to Israel.

(15) The statement that in dealing wish Israel, God is ever mindful of His oft repeated promise of their eternal preservation.

(16) Zech. XII, 9.

(17) The reading in editions is בנגני which Jastrow connects with the Latin benignae, favourable side. Kohut, however, points out that Mss. have בנגגי from root נגג which he associates with a Persian word meaning a book.

(18) Job XXX, 24.

(19) Ezek. XXI, 32.

(20) Little at a time; a play on the word פיד (pid) which stands here for destruction but which also means picking with the beak.

(21) A homiletical rendering of the phrase בפידו להם שוע — by picking they have salvation.

(22) שוע conveying the double sense of cry and salvation.

(23) Hos. VII, 13, v. RV.

(24) Ibid. 15.

(25) יסר (Yasser) stands both for training and chastising.

(26) Sectaries, dissenters; used generally as a designation for the early (Jewish) Christians. From many places in the Talmud it appears that to taunt Rabbis, particularly about difficult biblical passages, was a favourite practice of the Minim.

(27) [As honorarium for his work either (a) as teacher to the Minim (Herford, Christianity in Talmud and Midrash p. 267 f) or (b) as assistant collector of imperial revenues (Bacher A.d. Pal. Am., II, 96 ff.) or (c) simply as a scholar, v. B.B. 8b.]

(28) Amos III, 2.

(29) [I.e., those of Babylonia.]

(30) So does God punish Israel only by intermittent visitations.

(31) Gen. XVIII, 25.

(32) The word Halilah חללה is here connected with חול Hol profane, as secondary root of חלל.

(33) Ezek. XXI, 8.

(34) Ibid. IX, 6.

(35) Ps. VII, 12.

(36) Nah. 1, 6.

(37) As the merits of some may atone for the rest. Cp. infra 5a.

(38) [The duration of the moment is given variously in different parts of the Talmud. V. Feldman, W. M. Rabbinical Mathematics etc., p 188.]

Talmud - Mas. Avodah Zarah 4b

who knew the knowledge of the Most High.[1] Is that possible? He did not know the mind of his animal, how could he have known the mind of the Most High! (What is meant by the words ‘he did not know the mind of his animal’? — At the time when he was seen riding on his ass, they said to him, ‘Why do you not ride on a horse?’[2] And he replied, ‘I consigned mine to the meadow.’ Whereupon the ass said,[3] Am I not thy ass — ‘Just for carrying burdens,’ he interrupted; she continued, upon whom thou hast ridden — ‘Only casually’ he again Interrupted; but she continued, ever since I was thine? ‘What is more [she added] I have carried you by day and have been thy companion by night;’ for the word I was wont [hiskanti], used here, is analagous to the word let her be his companion [sokeneth] used elsewhere.)[4] What, then, is the meaning of He knew the knowledge of the Most High? — He knew the exact hour when the Holy One, blessed be He, is angry. This, indeed, is what the Prophet is alluding to when he says, O my people, remember now what Balak king of Moab consulted, and what Balaam son of Beor answered him from Shittim unto Gilgal; that ye may know the righteousness of the Lord.[5] Said R. Eleazar: The Holy One, blessed be He, said to Israel, O my people, see how many righteous acts I did for you, in that I abstained from anger all those days, for had I been in anger, none would have remained or been spared of Israel's enemies.[6] This, too, is what Balaam refers to when he says, How can I curse, seeing that God doth not curse, and how can I be wrathful, seeing that the Lord hath not been wrathful?[7] And how long does His wrath last? — A moment [Rega’]. And how long is a Rega’? Said Amemar (others say, Rabina): As long as it takes to utter this word. And whence do we know that His wrath lasts a moment? — Because it is written, For His anger is for a moment, His favour is for a life-time;[8] or, if you wish, from this verse: Hide thyself for a little moment, until the wrath be past.[9] When is He wrathful? — Said Abaye: During the first three hours,[10] when the comb of the cock is white. And is it not white at all other times? — At other times it has red streaks, at that time there are no red streaks in it.

R. Joshua b. Levy used to be pestered by a Min [with taunts] about scriptural verses. One day the Rabbi took a cock and, placed it between the legs of the bed and watched it, thinking. ‘When that hour will arrive, I shall curse him.’ When that hour did arrive, he was dozing. Whereupon he said: You can learn from this that it is not proper to act thus: His tender mercies are over all His works[11] is what Scripture says, and it also says. Neither is it good for the righteous to punish.[12]

It was taught in the name of R. Meir: It is when the kings place their crowns on their heads and bow down to the sun,[13] that the Holy One, blessed be He, at once becomes wrathful.

Said R. Joseph: No one should recite the Prayer[14] of the Additional Service on the first day of the New Year,[15] during the first three hours of the day, in private,[16] lest, since judgment is then proceeding, his deeds may be scrutinised and the prayer rejected. But if that be so,it should apply to congregational prayer also! — The [collective] merits of a congregation are greater. In that case, [the

Prayer] of the Morning Service, too, should not be recited in private! — That is not so, since there is sure to be a congregation praying at the same time,[17] the prayer will not be rejected. But have you not said,[18] 'During the first three hours the Holy One, blessed be He, is occupying Himself with the Torah, during the second three He sits in judgment over the whole world'? — You may reverse [the order]; or, if you wish, you may say it need not be reversed: [while occupied with] the Torah, which Scripture designates as 'truth', as it is written, buy the truth and sell it not,[19] the Holy One, blessed be He, will not overstep the line of justice; [but when sitting in] judgment, which is not designated by Scripture as 'truth',[20] the Holy One, blessed be He, may overstep the line of justice [towards mercy].

[To revert to] the above text:[21] 'R. Joshua b. Levi said: What is the meaning of the verse, The ordinances which I command thee this day to do them? It is that this day only is the time to do them; they cannot be done in the time to come: this day is the time in which to do them, but not in which to be rewarded for them'. R. Joshua b. Levi also said:[22] All the good deeds which Israel does in this world will bear testimony unto them in the world to come, as it is said, Let them bring their witnesses that they may be justified; let them hear and say it is truth. Let them bring their witnesses that they may be justified — that is Israel; let them hear and say it is truth — these are the idolaters. R. Joshua b. Levi also said:[23] All the good deeds which the Israelites do in this world will come and flutter before the faces of the idolaters in the world to come, as it is said, Keep therefore and do them, for this, your wisdom and understanding [will be] in the eyes of the peoples.[24] It does not say in the presence of the peoples, but, in the eyes of the peoples; that teaches you that they will come and flutter before the faces of the idolaters in the world to come. R. Joshua b. Levi further said: The Israelites made the [golden] calf only in order to place a good argument in the mouth of the penitents,[25] as it is said, O that they had such a heart as this alway, to fear Me and keep all My commandments etc.[26]

This last statement accords with what R. Johanan said in the name of R. Simeon b. Yohai: David was not the kind of man to do that act,[27] nor was Israel the kind of people to do that act.[28] David was not the kind of man to do that act, as it is written, My heart is slain within me;[29] nor were the Israelites the kind of people to commit that act, for it is said, O that they had such a heart as this alway etc. Why, then, did they act thus?

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(1) Num. XXIV, 16.

(2) As a man of high rank would do when on an urgent errand.

(3) Num. XXII, 30.

(4) I Kings I, 2 הסכנתי and סכנת

(5) Micah VI, 5.

(6) A euphemistic substitution for Israel.

(7) Literal rendering of Num. XXIII, 8.

(8) Ps. XXX, 6.

(9) Isa. XXVI, 20.

(10) Of the day, the day always consisting of 12 hours, from 6 a.m. to 6 p.m.

(11) Ps. CXLV, 9.

(12) Prov. XVII, 26.

(13) Generally during the first three hours of the day.

(14) I.e, the part called 'Amidah. P.B., 245.

(15) Which is also the Day of Judgment.

(16) Without a congregation.

(17) Though not in the same place; as the Morning Service must be terminated by noon, whereas the Additional Service may be held any time during the day.

(18) Supra 3b.

(19) Prov. XXIII, 23.

(20) Judgment may be modified by equity, but Truth is rigid and unyielding.
(21) Supra 3a.
(22) Ibid. 2a.
(23) ‘Er. 22a.
(24) Literal rendering of Deut. IV, 6.
(25) To rely on the efficacy of repentance, however grievous their sins might be.
(26) Deut. V, 26 which shows that they possessed all the self-discipline that could be desired.
(27) Relating to Bathsheba.
(28) The worship of the golden calf.
(29) This literal rendering of Ps. CIX, 22 is taken to mean that David's inclinations had been completely conquered by himself.

Talmud - Mas. Avodah Zarah 5a

[God predestined it so] in order to teach thee that if an individual hath sinned [and hesitates about the effect of repentance] he could be referred to the individual [David], and if a community commit a sin they should be told: Go to the community.[1] And both these instances are necessary; for if [the case of] the individual only were mentioned. [it might have been thought that pardon is granted] because his sin is not generally known, but in the case of a community whose sins are publicly known it might not be so; if, on the other hand, the case of a community only were mentioned, it might have been thought, because they command greater mercy,[2] but with an individual, whose merits are not so numerous, it is not so; hence both are necessary.

This accords with the following saying of R. Samuel b. Nahmani, who said in the name of R. Jonathan: What is the meaning of the verse The saying of David the son of Jesse, and the saying of the man raised on high.[3] [It means this:] The saying of David the son of Jesse, the man who elevated the yoke of repentance.[4]

R. Samuel b. Nahmani in the name of R. Jonathan also said: Every good deed that one does in this world precedes him and walks in front of him in the world to come, as it is said: And thy righteousness shall go before thee; the glory of the Lord shall be thy rearward.[5] Likewise, every transgression that one commits clasps him and leads him on the day of judgment, as it is said, They clasp him in the course of their way.[6] R. Eleazar said: It is tied on to him like a dog, as it is said, He hearkened not unto her, to lie by her, to be with her;[7] [it is to say that] to lie by her in this world, [would mean for him] to be with her in the world to come.

Said Resh Lakish: Come let us render gratitude to our forebears,[8] for had they not sinned, we should not have come to the world, as it is said: I said ye are gods and all of you sons of the Most High; now that you have spoilt your deeds, ye shall indeed die like mortals etc.[9] Are we to understand that if the Israelites had not committed that sin they would not have propagated? Had it not been said, And you, be ye fruitful and multiply?[10] — That refers to those who lived up to the times of Sinai. But of those at Sinai, too, it is said, Go say to them, Return ye to your tents[11] which means to the joy of family life?[12] And is it not also said, that it might be well with them and with their children?[13] — It means to those of their children who stood at Sinai. But did not Resh Lakish [himself] say. What is the meaning of the verse This is the book of the generations of Adam?[14] Did Adam have a book? What it implies is that the Holy One, blessed be He, showed to Adam every [coming] generation with its expositors, every generation with its sages, every generation with its leaders; when he reached the generation of R. Akiba[15] he rejoiced at his teaching, but was grieved about his death, and said, How precious are Thy thoughts unto me, O God![16] Also, what of the teaching of R. Jose:[17] The Son of David will only come when all the souls destined to [inhabit earthly] bodies will be exhausted, as it is said, For I will not contend for ever, neither will I be always wroth, for the spirit should fall before me and the spirits which I have made?[18] — Do not take Resh Lakish's saying to mean that [if our ancestor had not sinned] we should not have come to the world, but that [they would have become immortal and] we should have been [disregarded] as if we had never come to the world. Does that mean then that if they had not sinned, they would have been immune from death? But there are written [in the Torah] the chapter about the widow of a man dying without issue, and the chapter about inheritances![19] — These were written conditionally. But are conditional passages written [in the Torah]? — Certainly; for R. Simeon b. Lakish said:[20] What is the meaning of the verse, And it was evening and it was morning the sixth day?[21] It teaches us that the Holy One, blessed be He, made a condition with all creation, saying, If Israel will accept the Torah all will be well, but if not, I will turn the world void and without form.

The following objection was then raised: ‘The verse, O that they had such a heart as this alway that it may be well with them and their children[22] cannot obviously refer to the abolition of the angel of death, since the decree [of death] had already been made?[23] It means therefore that the effect of Israel's acceptance of the Torah would be that no nation or tongue could prevail against them, as it is said, that it might be well with them and their children after them’?[24] He [Resh Lakish] may be of the same opinion as the following Tanna, for it is taught: R. Jose said, The Israelites accepted the Torah only so that the Angel of Death should have no dominion over them, as it is said: I said ye are gods [i.e, immortals] and all of you children of the Most High, now that you have spoilt your deeds, ye shall indeed die like mortals.[25] But against R. Jose, too, [it may be argued] that the verse that it may be well with them and their children for ever holds out the promise of well-being but not of deathlessness? — R. Jose may reply: The abolition of death is surely as desirable a kind of well-being as you might wish for. Then how does the first Tanna[26] explain the phrase: Ye shall indeed die? — What may be meant here by dying is to become impoverished[27] for a Master has said:[28] Four [kinds of persons] may be regarded as dead, they are: the poor, the blind, the leprous, and the childless; the poor, for it is said, for all the men are dead which sought thy life[29] — now these ‘men’ were Dathan and Abiram, and they surely were not then dead, they only became reduced in their material circumstances; the blind, as it is said: He hath made me to dwell in darkness, as those that have been long dead;[30] the leprous, as it is said, Let her not, I pray thee, be as one who is dead;[31] the childless, as it is said, Give me children, or else I die.[32]

Our Rabbis taught: In the verse, If ye walk in my statutes,[33] the word if is used in the sense of an appeal, similar to the verse, O that my people would hearken unto Me, that Israel would walk in my ways . . . I should soon subdue their enemies;[34] or in the verse, O that thou hadst hearkened to my commandments: Then had thy peace been as a river, thy seed also had been as the sand, etc.[35]

Our Rabbis taught: In the verse, O that they had such a heart alway.[36] Moses said to the Israelites, Ye are an ungrateful people, the offspring of an ungrateful ancestor. When the Holy One, blessed be He, said to you[37] . Who might grant that they had such a heart alway[38] , you should have said: ‘Thou grant!’ [They proved themselves] ungrateful by saying. Our soul loatheth

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(1) I.e, the Israelites, in order to be convinced that the gates of repentance are ever open.

(2) As their collective merits are greater.

(3) II Sam. XXIII, 1.

(4) A play on the words ‘al,על ‘on high’, and ‘ol, על ‘yoke’, i.e., ‘duty’, ‘obligation’. [The way of penitence which he showed to sinners is David's distinct greatness, which set him ‘on high’.]

(5) Isa. LVIII, 18.

(6) Homiletical rendering of Job VI, 18, based on a play on the word lapath לפת which means ‘to turn aside’ as well as ‘to clasp’, or ‘cling’.]

(7) Gen. XXXIX, 10.

(8) Who worshipped the golden calf.

(9) Ps. LXXXII, 6, which is applied to the Israelites who witnessed the revelation at Sinai.

(10) Gen. IX, 7.

(11) Deut. V, 27.
(12) Which had been interrupted for three days (Ex. XIX, 15).
(13) Deut. V, 26.
(14) Gen. V, 1.
(15) The great sage who died a martyr's death during the persecution of Hadrian.
(16) Ps: CXXXIX, 17.
(17) Yeb. 62b.
(18) Isa. LVII, 16. In face of the foregoing teachings how could it be stated that had it not been for the sin of the golden calf, we should not have come into the world?
(19) Which takes the incidence of death for granted.
(20) Supra 3a.
(21) Gen. I, 31.
(22) Deut. V, 26.
(23) At the worship of the golden calf.
(24) How then could Resh Lakish hold that but for the golden calf worship Israel would have enjoyed physical deathlessness?
(25) Ps. LXXXII, 6.
(26) Who holds that the Torah was to render Israel proof against attacks by other nations.
(27) Through oppression by other nations.
(28) Ned. 62b.
(29) Ex. IV, 19.
(30) Lam. III, 6.
(31) Of Miriam, who had become leprous. Num. XII, 12.
(32) Gen. XXX, 1.
(33) Lev. XXVI, 3.
(34) Ps. LXXXI, 14-15. [Cf, the Latin si, o si, and the English ‘O if I had!’ in which the conditional becomes a desiderative. V. Ges. K. (1910) 151e.]
(35) Isa. XLVIII, 18.
(36) Deut. V, 26.
(37) [So MS.M.]
(38) Lit., rendering of preceding verse.

Talmud - Mas. Avodah Zarah 5b

this light bread;[1] ‘the offspring of an ungrateful ancestor’, for it is written, The woman whom Thou gavest to be with me, she gave me of the Tree, and I did eat.[2] Yet Moses indicated this to the Israelites only after forty years had passed, as it is said, And I have led you forty years in the wilderness . . . but the Lord hath not given you a heart to know, and eyes to see and ears to hear, unto this day.[3] Said Raba:[4] From this you can learn that it may take one forty years to know the mind of one's master.

R. Johanan said on behalf of R. Bana'ah: What is the meaning of the verse, Blessed are ye that sow beside all waters, that send forth the feet of the ox and the ass?[5] [It means this: [Blessed is Israel; when they occupy themselves with Torah and acts of kindness their inclination is mastered by them, not they by their inclination,[6] as it is said, Blessed are ye that sow beside all waters. For what is meant by ‘sowing’ but doing kind deeds, as it is said,[7] Sow to yourselves in righteousness, reap according to mercy; and what is meant by ‘water’ is Torah, as it is said, Oh ye who are thirsty come to the water.[8] [The phrase,] that send forth the feet of the ox and the ass, [was explained in the] Tanna debe Eliyyahu[9] thus: In order to study the words of the Torah one must cultivate in oneself the [habit of] the ox for bearing a yoke and of the ass for carrying burdens.

ON THE THREE DAYS PRECEDING THEIR FESTIVALS IT IS FORBIDDEN TO DO ANY

BUSINESS TRANSACTION WITH THEM.

Is all this period necessary? Have we not learnt:[10] ‘At four periods of the year it is necessary for one, when selling cattle to another for slaughter, to let him know if its dam had been sold or if its young had been sold to be slain [the same day]:[11] namely, the eve of the last day of the Feast [of Tabernacles].[12] the eve of the first day of Passover, the eve of Pentecost, and the Eve of the New Year,[13] and, according to R. Jose the Galilean, also on the day preceding the Eve of the Day of Atonement, in Galilee’?[14] — In those cases where the animals are bought for consumption, one day is enough, but in the case where these are required for sacrifices, three days are needed.[15] But are three days enough in the case of sacrifices? Have we not learnt’;[16] ‘The laws relating to Passover should be discussed for thirty days before the Passover; R. Simeon b. Gamaliel says two weeks’? — We, with whom blemishes [disqualifying a sacrifice] abound, since we disqualify an offering even because of a blemish in the eye-lid, require thirty days; but for the heathen, who only take note of a missing limb, three days suffice. And so also R. Eleazar said: How do we know that [an animal] short of a limb is forbidden to Noachides [for use as a sacrifice]? — Because it is written, Of every living thing of all flesh two of every sort shall thou bring into the ark.[17] The Torah thus says. ‘Bring such cattle whose principal limbs are living [i.e. sound]’. But is not this phrase needed to exclude such animals as are trefa,[18] so that they were not [brought into the ark]? — Trefa is excluded by the phrase, to keep seed alive.[19] This answer holds good according to the one who is of the opinion that an animal which is trefa cannot bear any young;[20]

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(1) Num. XXI, 5.

(2) Gen. III, 12, wherein Adam, instead of being appreciative of his God-given gift, makes Eve an object of complaint.

(3) Deut. XXIX, 3, 4.

(4) Some texts have Rabbah.

(5) Isa. XXXII, 20.

(6) [יצרם i.e, character, not to be confused with the ‘Evil Urge’ but ‘man's vital and active impulse in general’; Lazarus, M., The Ethics of Judaism II, 107.] Sending forth the ox and the ass is interpreted to mean the banishment of bestial inclinations.

(7) Hos. X, 12.

(8) Isa. LV, 1.

(9) The title of a Midrash, containing chiefly Baraithas compiled by R. Anan, Bab. Amora of the 3rd cent.

(10) Hul. 83a.

(11) So as to avoid slaying an animal and its young on the same day (Lev. XXII, 28).

(12) Which was regarded as a ‘festival by itself’. On the eve of the first day of the Feast of Tabernacles, the erection of the Sukkah (the booth) did not leave much time for slaying animals.

(13) As on these days preceding the respective festivals the animals would be slain for the festivals.

(14) From the mention made in Lev. XXIII, 32 of the ninth day of the month Tishri, it is deduced that the partaking of meals on that day, the eve of the Day of Atonement, is as much a religious observance as the fasting on the Day of Atonement, hence the meals on that day were specially lavish. Thus, the assumption is that the animals needed for the festival are slain only on the preceding day: why then extend the prohibition to three days?

(15) As they have to be prepared for the purpose beforehand.

(16) Meg. 29b.

(17) Gen. VI, 19. Some of these animals were intended for the purpose of sacrifices: v. Gen. VIII, 20.

(18) Trefa, lit., ‘torn’ — connotes any animal which is mortally affected and forbidden for consumption.

(19) Gen. VII,3.

(20) Zeb. 113a.

Talmud - Mas. Avodah Zarah 6a

but according to the one who holds that a trefa animal can bear, what answer would you give? — [This:] The words spoken [to Noah] are, Thou shalt bring with thee, which implies such as are like thyself. But how can we tell that Noah himself was not mortally affected? — Because he is described as perfect.[1] Does this not rather mean that he was perfect in his manners? — That is implied by his being described as righteous.[2] But does not this phrase rather mean 'perfect' in his manners and 'righteous' in his deeds? — It cannot enter your mind [in any case] that Noah himself was mortally affected; for were he so affected, would the Divine Law[3] have bidden him take in animals similarly affected, and keep out whole ones? Well, now that we deduce this[4] from the phrase with thee, wherefore do we need the phrase to keep seed alive? — 'With thee' might mean such as could just keep him company, even if they be old or castrate, therefore the Divine Law had to indicate 'to keep seed alive.'

The question was asked: Does THREE DAYS mean inclusive of the FESTIVALS or apart from the FESTIVALS? Come and hear: R. Ishmael says: On the three preceding and the three following [days] it is forbidden.[5] Now if it should enter your mind that the numbers given are inclusive of the Festival itself, R. Ishmael must be taken to include the day of the Festival both in the preceding and following days![6] — [Not at all!] It is only because he uses the words 'three preceding' that he also speaks of the 'three following'.[7]

Come then and hear the comment of R. Tahlifa b. Abdimi in the name of Samuel: According to R. Ishmael, it should always be forbidden [to transact business with idolaters because of] Sunday![8] Now, were we to take it that the festival is to be included, there would still remain Wednesday and Thursday on which dealing would be permitted! — According to R. Ishmael, there is no question but that the period does not include the festivals themselves. It is only according to the Rabbis' opinion[9] that I ask what [is the law],

Said Rabina: Come and hear [the following Mishnah]: These are the festivals of idolaters, Kalenda, Saturnalia and Kratesis,[10] now R. Hanin b. Raba explained that Kalenda [lasts for] eight days after the [Winter] Equinox, and Saturnalia [is kept on the] eight days preceding the Equinox; as a mnemonic take the verse, Thou hast beset me behind and before. Now, were you inclined to think that the periods are inclusive of the Festivals, then there are [at times] ten days:[11] The Tanna may regard the whole Kalenda as one day.

Said R. Ashi: Come and hear: [Our Mishnah says] ON THE THREE DAYS PRECEDING THE FESTIVITIES OF THE IDOLATERS. Now were it to mean that the period is to include the festival itself, it might have said, 'At the Festivals of the idolaters for three days;'[12] or, even if you contend that the words PRECEDING THE FESTIVAL are necessary to avoid [their being applied to] those after the festival, it might still have said, 'At the festivals of the idolaters for three days preceding them';[13] but [from the words actually used][14] you can only deduce that the period is exclusive of the festival. This is conclusive.

The question was asked: Is it [forbidden] because of the profit, or perhaps because Thou shalt not put a stumbling block before the blind?[15] The difference would affect a case where an idolater has an animal of his own. If you say [one must not sell him one] because of profit, here, too, the profit is derived; if however you say it is because of placing a stumbling block before the blind, here, then, he has [a sacrifice] of his own.[16]

And if he has one of his own does the placing of a stumbling block before the blind not apply? Have we not learnt[17] that R. Nathan said:

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(1) Gen. VI, 9.

(2) Ibid.

(3) Lit., 'the All-Merciful One, Whose word Scripture reveals.'

(4) I.e., that Trefa was to be excluded from the Ark.

(5) Infra 7b.

(6) In which case the days following would have been given as two, and not three.

(7) Although apart from the Festival they are, indeed, only two.

(8) Infra 7b. Each Sunday, which is a festive day, with the three preceding and three following days would rule out the whole week. The passage in editions is obscure, owing to censorial tampering. The interpretation here given is borne out by Rashi. One might suggest the reading יום א לעולם אוסר instead of אסור 'Sunday would render it permanently forbidden'.

(9) Who forbid only the preceding, but not the following days.

(10) V. infra p. 36, note 9.

(11) That is the eight Kalenda together with the two preceding days instead of the three days mentioned in the Mishnah.

(12) But not PRECEDING THE FESTIVAL.

(13) Implying that the prohibition refers also to the festivals themselves.

(14) Which say distinctly, THREE DAYS PRECEDING THE FESTIVALS — a phrase which places the festive days themselves outside the terms of reference of the Mishnah, as too obvious to be stated.

(15) Lev. XIX, 14. Is the reason for forbidding business transactions with idolaters near their festivals because any profit they may derive might be made a cause for thanksgiving to the idols, to which an Israelite should not be party, or because of the means or the opportunity that might be thus afforded to the idolater of acquiring and offering an animal for sacrifice to the idols, of the prohibition of which he may be ignorant, the Israelite thus causing him to 'stumble'?

(16) The prohibition therefore should not apply.

(17) Pes. 22b.

Talmud - Mas. Avodah Zarah 6b

How do we know that one should not hold out a cup of wine to a Nazirite[1] or a limb from a living animal to a Noachide?[2] From Scripture, which says, Thou shalt not put a stumbling block before the blind.[3] Now here, too, were it not held out to him he could take it himself, yet the one [who hands it] is guilty of placing a stumbling block before the blind![4] Here we may be dealing with a case of two persons on opposite sides of a river.[5] You can prove it, indeed, by the use of the words 'one should not hold out': it does not say, 'one should not hand'. This proves it.

The question was asked: What if one did transact business?[6] — R. Johanan says: [The proceeds of] the transaction are forbidden. R. Simeon b. Lakish says [the proceeds of] the transaction are permitted. R. Johanan cited [the following as] an argument against Resh Lakish: As to the festivals of idolaters, if one transacts any business [the proceeds] are forbidden. Does not this refer to [the period] preceding the festivals? — No, [it refers to] the festival exclusively.

Some report it was R. Simeon b. Lakish who cited [this passage] as an argument against R. Johanan: 'As to the festivals of idolaters, if one transacts any business [the proceeds] are forbidden'. During their festivals only it is forbidden, but before their festival it is not?[7] — No, by 'their festivals' the Tanna means the one as well as the other.

There is a Baraitha[8] which is in accordance with the view of Resh Lakish: The prohibition of transacting business with them [before their festivals] only applies to unperishable articles[9] but not to perishable articles; and even in the case of unperishable articles, if the transaction is made, [the proceeds] are permitted. R. Zebid learned out of the Baraitha of R. Oshaia:[10] An article that is perishable may be sold to them, but may not be bought from them.[11]

A certain Min once sent on his festival day a Caesarean denar[12] to R. Judah Nesi'a[13] , while Resh Lakish happened to sit before him. Said he, 'What shall I do? if I accept it, he will go and praise [the idols for it]; if I do not accept it, he will be displeased.' 'Take it,' answered Resh Lakish, 'and drop it into a well in the messenger's presence.' 'But this will displease him all the more!' 'I mean you should do it by sleight of hand.'

TO LEND ARTICLES TO THEM OR BORROW ANY FROM THEM. It is quite right to forbid lending to them, which benefits them; but surely borrowing from them can only mean deprivation to them! — Said Abaye: We forbid the borrowing from them as a safeguard against lending to them. But Raba said: It is all on account of their going to offer thanks.[14]

TO LEND THEM MONEY OR BORROW ANY FROM THEM.

It is quite right to forbid lending them money, which profits them, but why not borrow any from them? Abaye said: The borrowing is forbidden as a safeguard against lending. Raba, however, said: Both are [forbidden] because of their going to offer thanks.

TO REPAY A DEBT, OR RECEIVE REPAYMENT FROM THEM.

The [forbidding of] repayment is quite right, since it benefits them, but to recover from them, surely, means to deprive them! — Said Abaye: The recovery is forbidden as a safeguard against repayment. Raba said: It is all because of their going to offer thanks.

And all [the instances given in our Mishnah] are necessary; for if it only mentioned transacting business with them, I might have said [it is forbidden] because it profits them and they will go and offer thanksgiving for it, but to borrow from them, which means a deprivation to them, would be quite in order. If [on the other hand] it only mentioned borrowing articles from them, I might have thought it is because the importance that the idolater attaches[15] to it [would induce him to] go and offer thanksgiving for it, but to borrow money from him might only cause him anxiety, as he might think, ‘My money may not be returned again.’ Were the case of lending money only mentioned, [it might be thought this is] because he might say, ‘I can enforce payment,’ and he would have good cause for thanksgiving, but to recover from them money which will never return to the lender we might regard as troublesome, so that he would not offer thanks for it — hence all the instances are necessary.

R. JUDAH SAYS: WE SHOULD RECEIVE REPAYMENT FROM THEM, [AS THIS CAN ONLY DEPRESS THEM; BUT THE RABBIS SAID TO HIM: EVEN THOUGH IT IS DEPRESSING AT THE TIME, THEY ARE GLAD OF IT SUBSEQUENTLY].

Does R. Judah, then, disregard the idea that though it is depressing at the time it is pleasing subsequently? Is it not taught: R. Judah says, A woman must not smear lime on her face on Mo'ed[16] because it disfigures her; R, Judah, however, admits that if the lime can still be scraped off during Mo'ed, it may be applied on Mo'ed for though she is troubled by it for the while, it will eventually please her![17] — Said R. Nahman b. Isaac: Leave alone the laws relating to [work permitted on] Mo'ed: they are all of the trouble now, pleasure later’ kind.[18] Rabina said: To an idolater, the matter of repayment is always irksome.

Our Mishnah is not in accord with [the opinion of] R. Joshua b. Karha. For it is taught: R. Joshua b. Karha says, A loan made against a document, should not be recovered from them,[19] but a loan made against the word of mouth may be recovered from them, since it is, as it were, rescued from their hands.[20]

R. Joseph was sitting behind R. Abba while R. Abba was sitting facing R. Huna who, as he was sitting [and lecturing], stated: [In one instance] the halachah[21] is to be decided according to R. Joshua b. Karha and [in another] the halachah is according to R. Judah. The law [decided] according to R. Joshua is the one about which we have just spoken; that according to R. Judah refers to what we learnt:[22] If one gives wool to a dyer to be dyed red and he dyed it black, or to be dyed black and he dyed it red,

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(1) Who is forbidden to partake of any strong drink, Num. VI, 1 seq.
(2) Supra p. 5, note 7.
(3) Lev. XIX, 14.
(4) The selling of an animal to an idolater is surely analogous to this and should therefore be forbidden.
(5) So that the one could not have attained the prohibited article without the agency of the other.
(6) With an idolater before his festival; may he derive any benefit from the proceeds?
(7) Hence this teaching is contrary to R. Johanan's ruling.
(8) Tosef. A.Z.I.
(9) Such as will remain in good condition till the festival.
(10) R. Oshaia, and R. Hiyya, both disciples of R. Judah the prince, compiled a collection of Baraithas; v. infra, p. 284, n. 6.
(11) As the disposal of such an article is gratifying to the idolater.
(12) [(i) Coined in commemoration of the coronation; or (ii) coined at Caesarea in Cappadocia, the only Greek colony that enjoyed the right of coinage in gold under the Romans; v. Zuckermann, Ueber Talm. Gewich, u. Mun, p. 28.]
(13) Judah II, lived in Tiberias in the middle of the third century.
(14) The lender's dependence on him is also a matter of gratification.
(15) The knowledge that the Israelite is in need of his articles, coupled with the certainty of having them safely returned, would give him great satisfaction.
(16) Full term, Hol Hammo'ed חולו של מועד — lit., ‘the weekdays of the Festival’ — the intermediate days of Passover and the Feast of Tabernacles, when many kinds of work, including those necessary for personal appearance, forbidden on Festivals, are permitted. The lime which remained smeared on the face for some days showed its beautifying effect on its removal.
(17) M.K., 8b. Thus R. Judah expresses the very opinion which he seems to oppose in our Mishnah.
(18) Such as the slaying of animals for consumption, the preparation of food-articles and the like.
(19) From idolaters before their festivals, as the redemption of the bond is a matter of gratification.
(20) Tosef. A.Z. Chap. I; v, also B.K. 102a.
(21) I.e. ‘the regulated law’, v. Glos.
(22) B.K. 100b.

Talmud - Mas. Avodah Zarah 7a

R. Meir says: The dyer should refund to the owner the value of his wool.[1] R. Judah says: If the increase in value [through the dyeing] exceeds the outlay thereon, the owner may refund the outlay, or if the outlay exceeds the increased value, he may offer him the increase in value.[2] Thereupon R. Joseph turned his face away [and remarked]: It was right and necessary [to state] that the halachah is according to R. Joshua b. Karha.[3] We might indeed have applied the principle:[4] ‘[Where the opinions of] an individual and of a majority [conflict] the halachah is according to the majority’, so we are given to understand that here the halachah is according to the individual. But wherefore state that the law is according to R. Judah? It is a commonplace that where differing opinions [are quoted, and one of these is] subsequently quoted anonymously, the law is decided according to the anonymous opinion.[5] Now, these differing opinions are quoted in Baba Kamma, and there is the subsequent anonymous opinion in Baba Mezi'a,[6] where we learn that the party which changes [an agreement] has the lesser right, likewise whichever party alters his mind has the lesser right![7]

And as to R. Huna?[8] — [His statement is necessary] because the Mishnah has not [retained its original] order,[9] so that it might be said that the anonymous statement was quoted earlier and the differing opinions later. But if that were so, you can apply to every case of differing opinions followed by an anonymous one the argument that the Mishnah has not retained its original order![10] R. Huna, however, [could reply thus]: The argument that the Mishnah has not its original order could not be admitted in regard to the same Tractate, but it could be used in regard to two Tractates.[11] And as to R. Joseph?[12] — He holds that all [those dealing with] torts[13] are to be regarded as one tractate; or, if you wish, it could be said, because this rule is included among legal and fixed decisions, thus: ‘The party which changes an agreement has the lesser right; and whichever party alters his mind has the lesser right.[14]

Our Rabbis taught:[15] One should not say to another [on the Sabbath], ‘We shall see whether you will stay on with me [to do work] this evening.’[16] R. Joshua b. Karha says: One may say to another, ‘We shall see whether you will stay on with me this evening.’ Said Rabbah b. Bar-Hana in the name of R. Johanan, the halachah is according to R. Joshua b. Karha.

Our Rabbis taught: If one consulted a sage who declared [the person or article] as unclean, he should not consult another sage who might declare it as clean; if one sage declared as forbidden, one should not consult another sage who might declare as permitted. If of two sages present one declares as unclean and the other as clean, one forbids and the other permits, then if one of them is superior to the other in learning and in point of number[17] his opinion should be followed, otherwise, the one holding the stricter view should be followed. R. Joshua b. Karha says: In laws of the Torah[18] follow the stricter view, in those of Soferim[19] follow the more lenient view.[20] Said R. Joseph: The halachah is according to R. Joshua b. Karha.

Our Rabbis taught: If they[21] reverted [to their usual practices] none of them should ever be accepted.[22] This is the opinion of R. Meir. R. Judah says: If they reverted in secret matters, they should not be accepted,[23] but if in things done in public they should be accepted.[24] Some say that, if they observed [in their penitent state] even secret things, they should be accepted,

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(1) In the undyed state, and he has the right to retain the dyed wool, however much its value may have increased.

(2) And claim the wool; since, in the case of the dyed wool being worth more than undyed wool plus the cost of dyeing, the dyer will benefit by miscarrying the order.

(3) That a loan made on a verbal understanding may be recovered from idolaters, contrary to the opinion of the Rabbis of our Mishnah.

(4) Ber. 9a.

(5) Yeb. 42b.

(6) 15a.

(7) And since here the dyer, by miscarrying the order, changed the agreement, it might be taken for granted that he would be placed at a disadvantage in accordance with the ruling of R. Judah.

(8) What was the object of his assertion?

(9) In which it was originally propounded.

(10) And since this principle is generally accepted (v. Yeb 42) R. Huna's explanation is inadmissible.

(11) And in this case the differing opinions and the anonymous one are each in a separate Tractate; R. Huna's statement was therefore necessary.

(12) Why did he then disapprove of R. Huna's statement?

(13) Baba Kamma, Baba Mezi'a, and Baba Bathra.

(14) It was therefore too obvious to be stated that the decision is according to R. Judah.

(15) Shab. 150a.

(16) Since he engages him, even though by mere insinuation, on the Sabbath to do work.

(17) I.e., of disciples or followers.

(18) Laws explicitly stated in Scripture.

(19) Laws enacted by the Scribes (sofer-scribe) from the time of Ezra onward.

(20) V. Tosef. ‘Eduy. I.

(21) I.e., ‘amme ha-arez — people who are ignorant and careless about religious observances, particularly those relating to the tithe which they would generally withhold from the Levite — their utensils and food articles were consequently held by the Haber (v. note 7) in Levitical uncleanliness. This made them unacceptable to the Haber's society. And the discussion that follows is whether they could be accepted again.

(22) Regarded as Haberim (plural of Haber), those particular about religious observances and the giving of the tithe. On Haber v. Weinberg and Krauss, Jeshurun 1929, 1930.

(23) They prove themselves hypocrites and are not to be trusted.

(24) Their frankness may be taken to show that they give an undertaking to act rightly and will stand by it.

Talmud - Mas. Avodah Zarah 7b

but if only things done in public they should not be accepted. R. Simeon and R. Joshua b. Karha say: Whether in the one case or in the other they should be accepted, for it is said, Return, O backsliding children.[1] Said R. Isaac, the native of Kefar Acco, in the name of R. Johanan: The halachah is according to the latter pair.

MISHNAH. R. ISHMAEL SAYS ON THE THREE PRECEDING DAYS AND THE THREE FOLLOWING DAYS IT IS FORBIDDEN;[2] BUT THE SAGES SAY BEFORE THEIR FESTIVITIES IT IS FORBIDDEN, BUT AFTER THEIR FESTIVITIES IT IS PERMITTED.

GEMARA. Said R. Tahlifa b. Abdimi in the name of Samuel: According to R. Ishmael it should always be forbidden [to transact business with idolaters because of] Sunday.[3]

BUT THE SAGES SAY, BEFORE THEIR FESTIVITIES IT IS FORBIDDEN, BUT AFTER THEIR FESTIVITIES IT IS PERMITTED. Is not [the opinion of] the Sages identical with that of the first Tanna?[4] — The exclusion of the festivals themselves is the point on which they differ. The first Tanna holds that the period is exclusive of the festival, but these latter Rabbis hold that it includes the festivals. Or it might probably be said that they differ on the question of business transactions carried out,[5] the first Tanna holding that [the proceeds of] such transactions are permissible, while our latter Rabbis hold that [the proceeds of] these transactions are forbidden. It might also be said that this ruling of Samuel is a matter on which they differ. For Samuel said:[6] In the Diaspora[7] the prohibition is limited to their festival day only. The first Tanna accepts Samuel's ruling, while our last Rabbis do not hold with Samuel. You may further say that they differ in the ruling of Nahum the Mede. For it is taught:[8] Nahum the Mede says, The prohibition applies to only one day before their Festivals. The first Tanna does not accept the ruling of Nahum the Mede, and our latter Rabbis do agree with Nahum the Mede's ruling.

To revert to [the above text]: ‘Nahum the Mede says: The prohibition applies to only one day before their festivals.’ Thereupon they said to him: ‘This matter ought to be suppressed and left unsaid.’[9] But are there not our latter Rabbis who hold the same opinion?[10] — Our latter Rabbis may be none other than Nahum the Mede.[11]

Another [Baraitha] taught: Nahum the Mede says, One may sell [to idolaters] a male or old horse in war time.[12] Whereupon they said to him: This matter ought to be suppressed and left unsaid. But is there not Ben Bathyra who holds the same opinion; for we learnt: Ben Bathyra permits [the sale of] a horse?[13] — Ben Bathyra makes no distinction between the sale of horses and mares, whereas Nahum the Mede, who does make that distinction will share the opinion of the Rabbis;[14] but according to the Rabbis: This matter ought to be suppressed and left unsaid.[15]

It is [further] taught: Nahum the Mede says: The dill plant is subject to tithe whether [in its state of] seeds, or vegetables, or pods.[16] Whereupon he was told: This matter ought to be suppressed and left unsaid. But is there not R. Eliezer who holds the same opinion; for we learnt: R. Eliezer said: The dill plant is subject to tithe whether in its state of seeds, or vegetable, or pods?[17] — There the garden variety is meant.[18]

Said R. Aha b. Minyomi to Abaye: A great man has come from our place,[19] but whatever he says he is told that it ought to be suppressed and left unsaid. He replied: There is one instance in which we do follow his ruling. It is taught: Nahum the Mede says: One may ask for one's own needs in the course of the Benediction [concluding with] ‘Who heareth prayer.’[20] — As to this ruling, he said, an exception had to be made, for it is hanging on strong ropes![21] It is taught: R. Eliezer says: One should first pray for his own needs and then recite The Prayer.[22] as it is said; A prayer for the afflicted [himself] when he is overwhelmed, and [then] poureth forth his meditation before the Lord;[23] and by ‘meditation,’ only prayer is meant, as it is said, And Isaac went out to meditate in the field at the eventide.[24] But R. Joshua says: One should first recite The Prayer and then ask for his own needs, as it is said, I pour out my meditation[25] before Him [then] I declare my [own] affliction before Him.[26] Now, as to R. Eliezer, what of the verse, I pour out my meditation etc.? — He interprets it thus, ‘I pour out my meditation before Him when I had already declared my [own] affliction.’ And as to R. Joshua [how does he explain] the verse, A prayer for the afflicted when he is overwhelmed etc.? — He explains it thus: When is the [personal] ‘prayer for the afflicted’ offered? When he had poured forth his meditation before the Lord. Well now, as for these scriptural verses, they prove no more the statement of the one than they prove that of the other; is there any [principle] underlying their dispute? — It is the one explained by R. Simlai; for R. Simlai gave the following exposition:[27] One should always recount the praises of the Omnipresent and then offer his supplications.[28] Whence do we learn it? From [the prayer of] our Teacher Moses which is recorded thus: O Lord God, Thou hast begun to show Thy servant Thy greatness etc., and then only, Let me go over, I pray Thee, and see the good land.[29]

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(1) Jer. III, 14. Thus repentant sinners are to be accepted unconditionally.

(2) The prohibitions enumerated in the preceding Mishnah (supra 2a) extend to three days before the idolaters’ festivities and three days after them.

(3) V. p. 24, n. 9.

(4) Of the Mishnah supra 2a.

(5) Infra 18b.

(6) Infra 11b.

(7) Lit., ‘exile’, applied to all places outside Palestine in which Jews resided. Many restrictions as to idolaters were waived outside Palestine, since ‘gentiles of the lands other than Palestine are not really idolaters’ (Hul. 13b).

(8) Tosef. A.Z.I.

(9) ‘Inadmissible’, ‘ruled out of court’.

(10) According to the reply given last.

(11) His opinion being recorded in the Mishnah anonymously in the form of ‘the Sages say’.

(12) ‘Er. 83a. The sale of big cattle to an idolater is forbidden (v. infra 14b) out of consideration for the animal: as, being used for labour, it would be deprived of its weekly day of rest. The sale, however, in war time, of a male horse, which is not easily disciplined (V.J.A.Z.I, 6 40a) or of an old one, to which the general objection of ‘placing a weapon in the hand of a heathen’ is not quite applicable, might be permitted as a matter of rare occurrence.

(13) Infra 17a. Since it is used chiefly for riding, and the carrying of a rider is not to be regarded as carrying a burden (on the Sabbath) according to the dictum ‘a living being carries itself’.

(14) Who prohibit the sale of a horse, v. infra 14b and 16a.

(15) As the Rabbis prohibit the sale of all kinds of horses, and do not admit the distinction made by Nahum.

(16) Vegetables are only subject to tithe when reaching the state in which they are used as food; in the case of the dill plant, the seeds and the leaves, as well as the pods, are used as such.

(17) Ma'as. IV, 5. Bek. 2a.

(18) Which is eaten in the various forms mentioned; but generally, as grown in fields, it is only used as food in its seed-state.

(19) Media, whence Nahum hailed, was also their native place. Weiss Dor. I, 182, sees in this remark a bitter complaint against Palestinian authorities, who are alleged to take up a derogatory attitude towards Sages coming from other lands.

(20) The sixteenth of the Eighteen (now nineteen) Benedictions which are the main part of each of the three daily Services. P. B. p. 30.

(21) An idiom meaning. ‘It is based on high authority’. Contrarily, that for which there is but slender authority is characterised as ‘a mountain hanging on a hair;’ v. Hag. 10a.

(22) I.e. the Eighteen Benedictions, also called Shemone-’Esre, or ‘Amidah.

(23) Ps. CII, 1.

(24) Gen. XXIV, 63, which is interpreted that Isaac was then offering the now statutory afternoon Prayer (Minhah), the institution of which tradition ascribes to the second Patriarch (Ber. 26b).

(25) I.e., the statutory Prayer.

(26) Ps. CXLII, 3.

(27) Ber. 32b.

(28) praise is a higher form of Divine worship then supplication. A man should offer thanks for what he has, before he thinks of what he lacks.

(29) Deut. III, 24, 25.

Talmud - Mas. Avodah Zarah 8a

Now R. Joshua holds that we are guided by [the example of] Moses,[1] while R. Eliezer says we should not follow the example of Moses; it is different with Moses whose greatness is so outstanding.[2] The Sages, however, say [the decision is] neither according to the one nor according to the other, but that one should pray for his personal needs at the Benediction [concluding with], ‘Who heareth prayer’. Rab Judah in the name of Samuel declared that the halachah is that one should pray for his personal needs only at the Benediction [ending with], ‘Who heareth prayer’.

Said Rab Judah the son of Samuel b. Shilath in the name of Rab: Even though it was said that one should pray for his private needs only at ‘Who heareth prayer,’ nevertheless, if he is disposed to supplement any of the Benedictions [by personal supplications] relevant to the subject of each particular Benediction, he may do so. [So also] said R. Hiyya b. Ashi in the name of Rab:[3] Even though it has been said that one should pray for his own needs only at ‘Who hearest prayer’, still if [for example] one has a sick person at home, he may offer [an extempore] prayer at the Benediction for the Sick;[4] or if he is in want of sustenance, he may offer a [special] prayer in connection with the Benediction for [Prosperous] Years.[4] R. Joshua b. Levi said: Though it has been decided that private prayers for personal needs only may be inserted in the Benediction ‘Who heareth prayer’[5] , yet if one is disposed to offer supplication after The Prayer to the extent of the Day of Atonement Service.[6] he may do so.[7]

MISHNAH. THESE ARE THE FESTIVITIES OF THE IDOLATERS:[8] KALENDA,[9] SATURNALIA,[10] KRATESIS,[11] THE ANNIVERSARY OF ACCESSION TO THE THRONE AS WELL AS [ROYAL] BIRTHDAYS AND ANNIVERSARIES OF DEATHS. THIS IS R. MEIR'S OPINION. BUT THE SAGES SAY, A DEATH AT WHICH BURNING [OF ARTICLES OF THE DEAD] TAKES PLACE IS ATTENDED BY IDOLATRY, BUT WHERE THERE IS NOT SUCH BURNING THERE IS NO IDOLATRY. HOWEVER, THE DAY OF SHAVING ONES BEARD OR LOCK OF HAIR,[12] OR THE DAY OF LANDING AFTER A SEA VOYAGE, OR THE DAY OF RELEASE FROM PRISON, OR IF AN IDOLATER HOLDS A BANQUET FOR HIS SON — THE PROHIBITION ONLY APPLIES TO THAT DAY AND THAT PARTICULAR PERSON.

GEMARA. Said R. Hanan b. Raba: KALENDA is kept on the eight days following the [winter] equinox. SATURNALIA on the eight days preceding the equinox. As a mnemonic take the verse, Thou hast beset me behind and before.[13]

Our Rabbis taught:[14] When primitive Adam saw the day getting gradually shorter, he said, ‘Woe is me, perhaps because I have sinned, the world around me is being darkened and returning to its state of chaos and confusion; this then is the kind of death to which I have been sentenced from Heaven!’ So he began keeping an eight days’ fast. But as he observed the winter equinox and noted the day getting increasingly longer, he said, ‘This is the world's course’, and he set forth to keep an eight days' festivity. In the following year he appointed both[15] as festivals. Now, he fixed them for the sake of Heaven, but the [heathens] appointed them for the sake of idolatry.

This is quite right according to the one who holds that the world was created in Tishri,[16] so that he saw the short days before seeing the longer days; but according to the one holding that the world was created in Nisan, Adam must have seen the long days as well as the short ones![17] — Still, he had not yet seen the very short days. Our Rabbis taught: When Adam, on the day of his creation, saw the setting of the sun he said! 'Alas, it is because I have sinned that the world around me is becoming dark; the universe will now become again void and without form — this then is the death to which I have been sentenced from Heaven!' So he sat up all night fasting and weeping and Eve was weeping opposite him. When however dawn broke, he said: 'This is the usual course of the world!' He then arose and offered up a bullock whose horns were developed before its hoofs, as it is said [by the Psalmist], And it [my thanksgiving] shall please the Lord better than a bullock that hath horns and hoofs.[18] Rab Judah said in the name of Samuel: The bullock which Adam offered had only one horn in its forehead, as the verse says, And it shall please the Lord better than a bullock that is horned and hoofed. But does not 'horned' imply two horns? — Said R. Nahman b. Isaac: 'Horned' is here spelt [defectively].[19]

R. Mattena asked: When Rome appoints a Kalend and there are towns in its vicinity subjected to her, is it forbidden or permitted [to transact business etc.] in those towns?[20] R. Joshua b. Levi said: On the Kalends the prohibition applies to all. R. Johanan said: The prohibition applies only to [the Romans] who celebrate it. A Baraitha is taught which accords with the view of R. Johanan: Even though it was said that when Rome institutes Kalends they extend to all the towns in its vicinity which are subjected to it, yet the actual prohibition is only in regard to those who celebrate it. As to Saturnalia, Kratesis, Royal Celebrations, or the day on which a king is proclaimed, the prohibition applies to the period preceding them, but thereafter it is permitted. If an idolater gives a banquet for his son the prohibition is limited to that day and that man.

Said R. Ashi: We ourselves have learnt likewise. For our Mishnah states[21] [AS TO] THE DAY OF SHAVING ONE'S BEARD OR LOCK OF HAIR, OR THE DAY OF LANDING AFTER A SEA VOYAGE, OR THE DAY OF RELEASE FROM PRISON — THE PROHIBITION ONLY APPLIES TO THAT DAY AND THAT PARTICULAR PERSON. Now, it rightly says. THAT DAY, thereby excluding the preceding and following [days], but what is THAT MAN meant to exclude, unless it excludes those subjected to him? From here then you deduce it!

It has been taught: R. Ishmael says,[22] Israelites who reside outside Palestine serve idols though in pure innocence. If, for example, an idolater gives a banquet for his son and invites all the Jews in his town, then, even though they eat of their own and drink of their own and their own attendant waits on them, Scripture regards them as if they had eaten of the sacrifices to dead idols, as it is said, And he will call thee and thou wilt eat of his sacrifice.[23] But does not this apply to actual eating? — Said Raba: If that were so, the verse would have only said, And thou shalt eat of his sacrifice; why then say, And he will call thee? That extends the prohibition to the time of the participation. Hence

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(1) Hence the Shemone-'Esre, declaring God's praise, should be recited before any private petition.

(2) An ordinary man should proceed direct with his petition; to dilate might be considered as presumptuous.

(3) Ber. 31b.

(4) P.B. p. 47.

(5) Ibid. p. 49.

(6) Which may last all day.

(7) While the obligatory prayers are necessarily fixed, private extemporary prayers are desirable.

(8) Referred to in our Mishnah (supra 2a).

(9) The Roman New Year which was observed as a day of rejoicing.

(10) A Roman festival beginning on the 17th December and lasting several days. ‘Feasting and revelry and all the mad pursuits of pleasure are the features which seem to have specially marked this carnival of antiquity’ (Frazer, Golden Bough, III, p. 138).

(11) ** A Roman festival commemorating the conquest of Eastern Countries.

(12) Which Greek and Roman youths, on arriving at puberty, offered to the gods.

(13) Ps. CXXXIX, 5. As an aid to remembering that KALENDA mentioned first in the Mishnah is behind the equinox and SATURNALIA mentioned later is before it.

(14) V. ARN ch. VIII.

(15) The eight days preceding and following the equinox (v. p. 8, note 2).

(16) The Jewish year has two starting points. The New Year begins on the 1st of Tishri (about September) yet in counting months, Nisan (about March) is taken first. Hence the different opinions as to which of these two dates formed the beginning of the year ONE (v. R. H. 10a und 11b).

(17) His experience during the spring and summer should have made him familiar with the fluctuation of the days.

(18) Ps. LXIX, 32, which is taken to refer to sacrifice offered by Adam, since the animal is described as שור-פר lit. a bullock-ox, implying an animal which was mature in form though young in age. פר denotes a mature ox, whereas שור designated an ox even of the tenderest age; cf. Lev. XXII, 27 (Rashi).

(19) מקרן (‘horned’) owing to its defective spelling, instead of מקרין, may be read מקרן (of a horn).

(20) Whose inhabitants do not observe the festivity, lest their profit, which generally goes to Rome, be used for procuring offerings to idols.

(21) V. supra p. 36.

(22) Tosef. V and ARN XXVI have ‘R. Simeon b. Eleazar’.

(23) Ex. XXXIV, 15.

Talmud - Mas. Avodah Zarah 8b

during the entire thirty days [following a marriage celebration] whether it is or it is not mentioned that the banquet is connected with the wedding, [participation in it] is forbidden; from that time onward, however, if it is stated that it is connected with the wedding, it is forbidden, but if its connection with the wedding is not mentioned, it is permitted. And how long [is it forbidden] if it is connected with the wedding? — Said R. Papa: For a twelvemonth thereafter. And how long is it forbidden beforehand? — Said R. Papa in the name of Raba: From the time when the barley is placed in the tub.[1] Is it, then, permitted [to partake of food in the house] after the twelvemonth ? Yet R. Isaac the son of R. Mesharsheya, who happened to be in the house of a certain idolater more than a year after a marriage, when he heard that they were feasting [because of that event] abstained from eating there! It is different with R. Isaac the son of R. Mesharsheya who was a highly esteemed man.[2]

KRATESIS etc. What does KRATESIS mean? Said Rab Judah in the name of Samuel: [the anniversary of] the day on which Rome extended her dominion.[3] But have we not learnt Kratesis and the day on which Rome extended her dominion? — Said R. Joseph: Rome extended her dominion twice; once in the days of Cleopatra[4] the queen [of Egypt] and [once before] in the days of the Greeks. For when R. Dimi came[5] he said: Thirty-two battles did the Romans fight against the Greeks and could not prevail against them until the Romans made an alliance with the Israelites. And these were the conditions made with them: If the kings are [chosen] from among us, the princes should be chosen from your midst, and if the kings are chosen from among you, the princes shall come from our midst. Then the Romans sent word to the Greeks as follows: Hitherto we have been fighting matters out, now let us argue them out: Of a pearl and a precious stone which shall form a setting for which?[6] They sent the reply: ‘The pearl for the precious stone.’ And of a precious stone and an onyx which shall form a setting to the other? ‘The precious stone to the onyx.’ was the reply. And of an onyx and the Book of the Law which shall serve as the setting for the other? ‘The onyx for the Book of the Law,’ they replied. The Romans then sent word: In that case, the Book of the Law is in our possession, for Israel is with us. Thereupon the Greeks gave in.

For twenty-six years did the Romans keep faith with Israel, thereafter they subdued them.

What scriptural support did they have for their former attitude and what for the latter? To the former may be applied the words: Let us take our journey and let us go.[7] And to the latter may be applied the words: Let my lord now pass before his servant.[8]

Whence can it be proved that Rome kept faith with Israel for twenty six years? [From the following:][9] For R. Kahana said: When R. Ishmael b. Jose was ill they sent word to him: Rabbi, tell us the two or three things which thou hadst told us in thy father's name. He then told them: One hundred and eighty years before the Temple was destroyed did Rome cast her rule over Israel; eighty years before the destruction of the Temple it was decreed that neighbouring countries of Palestine[10] were to be regarded as ritually unclean,[11] and likewise all glass vessels.[12] Forty years before the Temple was destroyed did the Sanhedrin abandon [the Temple] and held its sittings in Hanuth.[13] Has this any legal bearing? — Said R. Isaac b. Abdimi: It indicates that [from that time onward] they did not deal with cases of fines.[14] 'Cases of fines'! How can that enter your mind? Has not Rab Judah said [the following] in the name of Rab: Verily that man, R. Judah b. Baba by name, be remembered for good, for were it not for him the laws of fine would have been forgotten in Israel? 'Forgotten'! Surely, they could be studied? — Nay, they would have been abolished;[15] for the wicked Government of Rome[16] issued a decree that he who ordains a Rabbi shall be slain, likewise he who is ordained shall be put to death, the town in which an ordination takes place shall be destroyed and the tehum[17] in which the ordination is held shall be laid waste. What did R. Judah b. Baba do? He went and sat down between two mountains and between two large towns between two tehums,[18] namely, between Usha and Shefar'am[19] and there he ordained five elders: R. Meir, R. Judah [b. Il'ai]. R. Jose, R. Simeon and R. Eleazar b. Shammua (R. Awia adds also R. Nehemiah). On seeing that they were detected by the enemies, he said to them, 'Flee, my children!' but they said to him, 'And you, O Rabbi, what about you?' 'I,' he replied. 'will lie still before them, even as a stone that is not turned.' It was stated that the Romans did not move from there until they drove three hundred iron spears into his body and made his corpse like a sieve![20] — But said R. Nahman b. Isaac: Say not that 'cases of fines' ceased, but that capital cases ceased. Why? — Because when the Sanhedrin saw that murderers were so prevalent that they could not be properly dealt with judicially, they said: Rather let us be exiled from place to place than pronounce them guilty [of capital offences] for it is written[21] And thou shalt do according to the sentence, which they of that place which the Lord shall choose shall tell thee, which implies that it is the place that matters.[22]

[Now, it was mentioned above that Rome cast her rule over Israel] one hundred and eighty years prior to the Destruction. Is not the period longer? For R. Jose b. Rabbi[23]

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(1) Some time prior to a wedding, barley was customarily sown in tubs to sprout forth in time for the wedding, when they were placed before the bridal pair to symbolise fertility (Rashi).

(2) And importance would have been attached to his partaking of the celebration even at a later period.

(3) On conquering the Greeks.

(4) [When Octavian gained the victory over her at the Battle of Actium.]

(5) From Palestine to Babylon.

(6) I.e., which is the inferior of the two.

(7) I.e., as equals; words spoken by Jacob to Esau, Gen. XXXIII, 12.

(8) Ibid, 14. I.e., Rome is to lord it over Israel.

(9) Shab. 15a.

(10) Syria and Asia Minor.

(11) One who went outside Palestine was regarded as defiled and on returning had to undergo the usual process of purification. According to Graetz this measure was intended to stem the migration of the people, and in particular of the priests, from the Holy Land.

(12) [Glass vessels imported from those countries were regarded as unclean; probably to protect the glass industry in Palestine. V. L. Ginzberg's lecture on The Place of the Halachah, etc., p. 6. Hebrew University. Jerusalem, 1931.]
(13) [A place on the Temple mount, v. Sanh. (Sonc, ed.) p. 267, n. 4.]
(14) These could only be dealt with by Rabbis ordained in Palestine by the laying on of hands סמיכה (v. Sanh. 13b-14a). This mode of ordination, first mentioned in connection with the appointment by Moses of Joshua as his successor (Num. XXVII, 20), was continued, according to tradition, unbroken throughout the succeeding generations; it ceased about the 4th century when the academies of Palestine declined. An attempt by Jacob Berab to re-introduce the Semichah in Palestine, in 1538, ended in failure.
(15) For want of properly ordained Rabbis who are qualified to adjudicate such matters; v. B. K 84a-b.
(16) During the Hadrianic Persecutions in 135 C.E.
(17) תחום, fuller term תחום שבת a Sabbath limit is an area of 2000 cubits (about 1516 metres) round an inhabited place, forming the limit within which it is permitted to walk on Sabbath (v. Er. 42a).
(18) I.e., in an area adjacent to neither of the two towns, in the meaning of the decree.
(19) Towns in Galilee near Tiberias.
(20) These Rabbis were thus qualified to deal with the imposition of fines some 100 years after the Destruction; how then can R. Isaac b. Abdimi say that cases of fines ceased to be dealt with 40 years before the Destruction?
(21) Deut. XVII, 10.
(22) Capital cases were only dealt with by any court of 23 while the Sanhedrin sat in the Hewn-Stone Chamber of the Temple: the abandoning of their seat therefore meant the cessation of judging capital cases. V. Sanh. (Sonc, ed.) p. 267, n. 7.
(23) [Read with MS.M.: R. Jose b. Halafta.]

Talmud - Mas. Avodah Zarah 9a

taught: Persian rule lasted thirty-four years after the building of the Temple, Greece ruled one hundred eighty years during the existence of the Temple, the Hasmonean rule lasted one hundred three years during temple times, the House of Herod ruled one hundred three years. Thence onward, one should go on counting the years as from the Destruction of the Temple. Hence we see that it was two hundred six years,[1] yet you say one hundred eighty years! — But for twenty six years the Romans kept faith with Israel[2] and did not subdue them, and therefore those years are not reckoned in the period during which Rome cast her dominion over Israel.

Said R. Papa, if a[3] Tanna is uncertain about the minor figures [of any year] let him ask a notary what year it is according to his reckoning and add twenty thereto; he will then find his solution.[4] As a mnemonic sign take the verse, Thus I have been twenty years in Thy house.[5]

If on the other hand a notary is uncertain, let him ask a Tanna what the year is according to his reckoning and deduct therefrom twenty years and he will find his solution.[6] As a mnemonic [memorise] ‘The Scribe is sparing the Tanna is redundant.’[7]

The Tanna debe Eliyyahu taught:[8] The world is to exist six thousand years; the first two thousand years are to be void;[9] the next two thousand years are the period of the Torah, and the following two thousand years are the period of the Messiah. Through our many sins a number of these have already passed [and the Messiah is not yet].

From when are the two thousand years of the Torah to be reckoned? Shall we say from the Giving of the Torah at Sinai? In that case, you will find that there are not quite two thousand years from then till now [i.e., the year four thousand after the Creation], for if you compute the years [from the Creation to the Giving of the Torah] you will find that they comprise two thousand and a part of the third thousand;[10] the period is therefore to be reckoned from the time when Abraham and Sarah had gotten souls in Haran[11] for we have it as a tradition that Abraham was at that time fifty-two years old. Now, to what extent does our Tanna encroach [on the other thousand]? Four hundred and forty-eight years! Calculate it and you will find that from the time when they had gotten souls in Haran till the giving of the Torah there are just four hundred and forty-eight years.[12]

Said R. Papa: If the Tanna[13] does not know the exact number of years [of the period of the Messiah] that have passed let him ask a notary what year he uses in his writings, and on adding forty-eight to it he will find his solution.[14] As a mnemonic

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(1) Before the destruction, i.e., at the end of the Greek dominion, that Rome began, to extend her dominion.

(2) V. p. 40.

(3) So D.S., a.l.

(4) The Eras in use among Jews in Talmudic Times are: (a) ERA OF CONTRACTS מנין שטרות dating from the year 380 before the Destruction of the Second Temple (312-1 B.C.E.) when, at the Battle of Gaza, Seleucus Nicator, one of the followers of Alexander the Great, gained dominion over Palestine. It is also termed Seleucid or Greek Era מנין יונים. Its designation as Alexandrian Era connecting it with Alexander the Great (Maim. Yad, Gerushin 1, 27) is an anachronism, since Alexander died in 323 B.C.E. — eleven years before this Era began (v. E. Mahler, Handbuch der judischen Chronologie, p. 145). This Era, which is first mentioned in Mac. I, 10, and was used by notaries or scribes for dating all civil contracts, was generally in vogue in eastern countries till the 16th cent, and was employed even in the 19th cent, among the Jews of Yemen, in South Arabia (Eben Saphir, Lyck, 1866, p. 62b). (b) THE ERA OF THE DESTRUCTION (of the Second Temple) לחרבן הבית the year 1 of which corresponds to 381 of the Seleucid Era, and 69-70 of the Christian Era. This Era was mainly employed by the Rabbis and was in use in Palestine for several centuries, and even in the later Middle Ages documents were dated by it. One of the recently discovered Genizah documents bears the date 13 Tammuz 987 after the Destruction of the Temple — i.e. 917 C.E. — (Op. cit. p. 152, also Marmorstein ZDMG, Vol. VI, p. 640). The difference between the two Eras as far as the tens and units are concerned is thus 20. If therefore a Tanna, say in the year 156 Era of Dest. (225 C.E.), while remembering, naturally, the century, is uncertain about the tens and units, he should ask the notary what year it is according to his — Seleucid — era. He will get the answer 536 (156 + 380), on adding 20 to which he would get 556, the last two figures giving him the year [1] 56 of the Era of Destruction.

(5) Gen. XXXI 41.

(6) If in the same year, (225 C.E.) — 536 Seleucid Era — the Scribe, remembering that he is in the 6th century is uncertain as to the exact number of the year to be used by him, he will ascertain from the Tanna that it is the year 156 E. of D., and on subtracting 20 will get 136, the last two figures of which give him the tens and units of his year [5] 36.

(7) I.e., in regard to the use of vowel letters the Scribe (of Biblical scrolls) frequently employing the scriptio defectiva, where the Tanna uses the scriptio pleno. Thus, the Scribe has to deduct from, the Rabbi to add to, the given number.

(8) V. p. 22, n. 10.

(9) I.e., without possessing the Divine Law.

(10) The exact number is 2,448 years which is arrived at as follows (v. Gen. Chap. V and XI): Age of Adam at birth of Seth 130 years From birth of Seth to birth of Enosh 105 " " " " Enosh " " " Kenan . . 90 " " " "Kenan " " " Mahalalel . 70 " " " " Mahalalel " " " Jared . . 65 " " " " Jared " " " Enoch . . 162 " " " " Enoch " " " Methuselah . 65 " " " " Methuselah " " " Lamech . 187 " " " " Lamech " " " Noah . . 182 " Period from Adam to Noah 1,056 years Age of Noah at birth of Shem (allowing 2 years from birth of Japhet, Noah's eldest son) . . . . 502 years From birth of Shem to birth of Arpachshad 100 " " " " Arpachshad " " " Shelah . 35 " " " " Shelah " " " Eber . . 30 " " " " Eber " " " Peleg . . 34 " " " " Peleg " " " Re'u . . 30 " " " " Re'u " " " Serug . . 32 " " " " Serug " " " Nahor . 30 " " " " Nahor " " " Terah . . 29 " " " " Terah " " " Abraham . 70 " Period from Noah to Abraham 892 " Age of Abraham at birth of Isaac . . . 100 years From birth of Isaac to birth of Jacob . . . 60 " Age of Jacob on arriving in Egypt . . . 130 " Israelites' sojourn in Egypt . . . 210 " Period from birth of Abraham to Exodus from Egypt 500 " Period from Creation to Exodus and Giving of the Law at Sinai 2,448 years

(11) Gen. XII, 5. These words are taken by the Targum and other Rabbinic commentators to refer to the heathen men and women whom Abraham and Sarah respectively gained for the worship of God.

(12) The birth of Abraham was, as given above, in the year of Creation 1948 (1,056 + 892); add thereto the fifty-two years that passed till his proselytising activity and you get exactly 2,000, i.e. 448 years before the Giving of the Torah.

(13) Who said before that a number of these have already passed', etc.

(14) As the notary uses the Seleucid Era, the year 1 of which corresponds to 380 before the Destruction, and as the year

4,000 of Creation corresponds to 172 after the Destruction, the difference between the two eras is 552 (380 + 172), which 48 would bring up to even hundreds.

Talmud - Mas. Avodah Zarah 9b

take the phrase, Forty-eight cities.[1] If, on the other hand, the notary is uncertain as to his number, let him ask the Tanna how many he counts and deduct therefrom forty-eight and he will find his solution. As a mnemonic, take the phrase, 'The Scribe is sparing, the Tanna is redundant.'[2]

Said R. Huna the son of R. Joshua: If one does not know what the year is in the Sabbatical cycle of seven years,[3] let him add one year [to that in the era of the Destruction] and let him put aside the hundreds as Jubilee Cycles and convert the remainder into Sabbatical Cycles [of seven years each] after adding thereto two years for every complete century; what is left over will give him the number of the given year in the current Sabbatical Cycle. As a mnemonical sign [for adding two years for every century, think of the verse]. For these two years hath the famine been in the land.[4]

Said R. Hanina:[5] From the year four hundred after the destruction onwards, if one says unto you. 'Buy a field that is worth one thousand denarii for one denar' — do not buy it.[6] In a Baraitha it is taught: From the year four thousand two hundred and thirty-one of the Creation of the World onward, if one says unto you. 'Buy thee a field that is worth a thousand denarii for one denar,' do not buy it. What difference is there between these two [given periods]? — There is a difference of three years between them, the one of the Baraitha being three years longer.[7]

There was [produced in court] a document which was dated

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(1) Assigned to the Levites. Num. XXXV, 7.

(2) V. supra p. 43, n. 3.

(3) Scripture enjoins that every seventh year is to be kept as a Sabbatical Year, on which there is to be observed: (a) A land release שמיטת קרקעות the fields being allowed to lie fallow, and the produce of the vineyards and olive-yards left ungathered by the owner for his servants, the poor and the strangers, 'and what they leave the beast of the field shall eat' (Ex. XXV, 8 and Lev. XXV, 1, seq.). (b) Monetary release a שמיטת כספים according to which all debts incurred were forfeited at the end of the Sabbatical Year (Deut. XV, 1, 2) a procedure which was modified by the institution of the Prosbul by Hillel the Elder. The Bible does not furnish any fixed data as to the year from which the Sabbatical Cycle is to be counted. There is, however, a talmudic tradition (Ta'an. 29a) that the Second Temple, as well as the First, was destroyed on the 9th of Ab in the year immediately following a Sabbatical Year. This means that the Sabbatical Cycle began on the year preceding the year 1 of the Era of Destruction. Some authorities, however, (Maim. Yad, Shemittoth X, 4) take the statement in Ta'an. to mean that the Destruction was on the Sabbatical Year itself, so that the Sabbatical Cycle is to begin with the year 1 of that Era. Another matter of dispute is the fixing of the Jubilee Year, i.e. the year following the completion of seven Sabbatical Cycles, in which all slaves were freed and all real estates reverted to their hereditary owners (Lev. XXV, 10). According to the Rabbis (Ned. 61a and R.H. 8b-9a) the fiftieth year was excluded from the Sabbatical Cycles, so that it formed a 'blank' year after every seven cycles. But according to Rabbi Judah it formed both the Jubilee Year and the first of the next Sabbatical Cycle, so that these cycles followed on in uninterrupted succession. (It must be pointed out that the Jewish Encyclopedia in the article 'Sabbatical Year and Jubilee', Vol. X, p. 606, not only designates Rabbi Judah b. Il'ai wrongly as Rabbi Judah Hanasi, but his statement, too, is misrepresented to mean that the Jubilee Year is to be regarded as 'identical with the seventh Sabbatical Year'.) The rule given by R. Huna for computing the year of the Sabbatical Cycle is based on the opinion that (a) the Sabbatical Cycle began with the year preceding that of the Destruction, and (b) that, in accordance with R. Judah's view, the Jubilee Year did not interrupt the succession of Sabbatical Cycles. Applied to the present year, 1934 C.E. — 1865 E. of D. — this process would work out as follows: — 1865 + 1 = 1866. Leaving aside hundreds take 66 and add thereto 2 for every 100: 66 + (18 X 2) = 102. Divide total by 7: 102 / 7 = 14 (remainder 4). Thus the year 1934 is the 4th of the Sabbatical Cycle.

(4) Gen. XLV, 6.

(5) In the first generation of the third century.
(6) As the coming of the Messiah will then be imminent, when Israel will be rehabilitated in the Holy Land.
(7) The year 1 of Destruction is equal to 3828 of the Era of Creation (4000 — 172, v. p. 42, n. 7(b)); hence the period given by R. Hanina is 4228 (3828+400), while the one given in the Baraitha — 4231 — is three years later. This Baraitha is of particular importance on account of its allusion — the earliest on record and the only one in the Talmud — to the Era of the World (generally designated Anna Mundi) which is now in use by Jews well nigh universally. While familiar to the Rabbis of the Talmud, it is not known to have been used as an Era until long after the close of the Talmud (Azariah de Rossi, Me'or ‘Enayim. Vienna, 1829, 152a). Among the earliest evidence of its use are epitaphs dating from 822 and 827 C.E, in the catacombs of Vnosa (Poznanski Encyc. of Rel. and Eth, s.v. Calendar) also a Genizah scroll describing an incident as having occurred on the 3rd Shevat in the year 4772 A.M. (1012 C.E., J. Mann, HUCA. Annual, Voi. 111, 259). The attempt which had been made to ascribe the use of this Era to Sherirah Gaon in his famous Epistle, has been disproved (Posnanski ZDMG, LXVIII, 121). Likewise, an epitaph which the Karaite Firkowitz professed to have discovered in Crimea registering the Era of the World in 151 B.C.E. has been pronounced as spurious by Harkavy (Altjudische Denkmaeler, p. 161). Solomon Ibn Verga's שבט יהודה contains a description of the Yom-Kippur Service in the Temple by the Roman Consul Marcus in which mention is made of the Era of the World שנת כך וכך ליצירה (Amst. 1709, p. 52b); but ‘That description is a late forgery’ (Buchler). Dr. F. C. Ewald (Aboda Zara Nurnberg, 1856, p. 68, note) suggests that it was early in the 10th century that the Jews, who were mostly settled in Spain, on dispensing with the Seleucid Era, adopted the A.M, for fear of being compelled to use the Christian era, but this suggestion lacks historical basis. Much better founded is the assertion of Mahler (op. cit. 158) that the C.E., which came into general use in France and Germany in the 10th century, found its way into Spain about two centuries later, and that it was about that time and for that reason that the Era of Creation gained general currency among the Jews. In computing this conventional Era, a number of uncertainties have, naturally, to be compromised (see Jewish Encyclopedia. Vol. IV, p. 68). To convert any given year from A.M. into C.E. — apart from the thousands — 240 is to be added; thus, the present year A.M. 5694 plus 240 gives [1]934 C.E. To convert from C.E. into A.M. add 3760: thus, 1934 + 3760 = 5694.

Talmud - Mas. Avodah Zarah 10a

six years ahead.[1] The Rabbis who were sitting before Raba were of opinion that it should be pronounced a post-dated document, which is to be deferred and not executed until the date which it bears. Whereupon R. Nahman said: This document must have been written by a scribe who was very particular and took into account the six years of the Greek Reign in Elam which we do not reckon. The dating is therefore correct, for we have learnt: Rabbi Jose said, Six years did the Greeks reign in Elam and thereafter their dominion extended universally.

R. Aha b. Jacob then put this question: How do we know that our Era [of Documents] is connected with the Kingdom of Greece at all? Why not say that it is reckoned from the Exodus from Egypt, omitting the first thousand years and giving the years of the next thousand?[2] In that case, the document is really post-dated! — Said R. Nahman: In the Diaspora the Greek Era alone is used. He [the questioner] thought that R. Nahman wanted to dispose of him anyhow, but when he went and studied it thoroughly he found that it is indeed taught [in a Baraitha]: In the Diaspora the Greek Era alone is used.

Said Rabina: Our Mishnah also proves this, for we learn,[3] ‘The first of Nisan is New Year for reckoning [the reign of] kings[4] and of Festivals,’ and to the question ‘The reign of kings’, what is the practical object of this law? R. Hisda replied: [It affects] the dating of documents.[5] Now, the same Mishnah says. ‘The first of Tishri is New Year for [counting] years and sabbatical cycles’[6] and when it was asked: ‘What practical significance has this ruling?’ R. Hisda [again] replied: [It affects the dating of] documents.[7] [The question was then raised:] Is not this rule of dating documents self-contradictory?[8] And the answer given was: ‘The one refers to Jewish kings, the other to kings of Gentile nations — the year of Gentile kings being counted from Tishri, and of Jewish kings from Nisan.’ Now, in the present time we count the years from Tishri; were we then to say that our Era is connected with the Exodus it is surely from Nisan that we ought to count.[9] Does this not prove that our reckoning is based on the reign of the Greek kings [and not on the Exodus]? That indeed proves it.

THE ANNIVERSARY OF THE GENOSIA [ACCESSION] OF HEATHEN KINGS etc.

What is meant by GENOSIA OF HEATHEN KINGS? — Said Rab Judah: It is the day on which the king is raised [to the throne]. But has it not been taught [elsewhere] ‘The day of Genosia and the day of the king's accession’?[10] — There is no difficulty there; the one term indicates the king's own accession, the other that of his son.[11] But do [the Romans][12] ever appoint a king's son as king? Did not R. Joseph apply [the following verse to Rome]: Behold I made thee small among the nations[13] — in that they do not place the son of a king on the royal throne, — thou art greatly despised[14] — in that they do not possess a tongue or script?[15] What then does GENOSIA mean? — [The King's] birthday. But we learn [elsewhere] ‘The Genosia and the birthday.’ That, too, is no contradiction. The one refers to the king's own birthday, the other to that of his son. But we have also the wording: ‘The king's Genosia and his son's Genosia, his own birthday and his son's birthday’! Then [as said previously] Genosia means indeed the day of the King's accession. but there is no difficulty [raised by the mention of both terms], the one applying to his own accession, the other to that of his son; and as to your question about their not appointing a king's son as king, such appointment would be made at the [king's] request, as was the case with Asverus the son of Antoninus[16] who reigned [in his father's place].

Antoninus once said to Rabbi: It is my desire that my son Asverus should reign instead of me and that Tiberias[17] should be declared a Colony.[18] Were I to ask one of these things it would be granted while both would not be granted.[19] Rabbi thereupon brought a man, and having made him ride on the shoulders of another, handed him a dove bidding the one who carried him to order the one on his shoulders to liberate it. The Emperor perceived this to mean that he was advised to ask [of the Senate] to appoint his son Asverus to reign in his stead, and that subsequently he might get Asverus to make Tiberias a free Colony.

[On another occasion] Antoninus mentioned to him that some prominent Romans were annoying him. Rabbi thereupon took him into the garden and, in his presence, picked some radishes, one at a time. Said [the Emperor to himself] his advice to me is: Do away with them one at a time, but do not attack all of them at once.

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(1) Its date was six years later than the time when it was claimed to be due e.g. 516 instead of 510 (Seleucid Era).

(2) The Era of Documents, as explained above, (p. 42, n. 7) dates from the dominion of Seleucus which was established in the year 380 before the Destruction. Now, the Exodus occurred in the year 1380 before the Destruction, thus: — Exodus to building of 1st Temple...480 years Existence of 1st Temple 410 " Babylonian Exile 70 " Existence of 2nd Temple 420 " Period from Exodus to Destruction of 2nd Temple 1380 years The Exodus was therefore just one thousand years earlier than the Seleucid Conquest, so that the year, say, 510 Era of Contract would be 1510 from the Exodus. R. Aha therefore submits that the year of Contracts may have as its starting point not the Seleucid Conquest but the Exodus, with the omission of the thousand; the year, say, 310 would not mean 310 years after the Sel Con. but [1]310 after the Exodus.

(3) R. H. 2a.

(4) The reign of a Jewish King was always reckoned from Nisan, so that even if it began in the preceding month, it would be in its second year in Nisan.

(5) The year given in dating legal documents was that of the reign of the present king.

(6) V. above note.

(7) For the purpose of dating documents Tishri is to be regarded as the beginning of the year.

(8) According to the early part of the Mishnah the year should begin with Nisan, while in the latter part it is said to begin with Tishri.

(9) Since the Exodus occurred in Nisan.
(10) Which proves that the two are not identical.
(11) When raised to the throne at the father's wish in his own lifetime.
(12) Whose kings do not reign by hereditary right but are elected.
(13) Obad. I, 2.
(14) Ibid.
(15) [Greek remained the spoken and written language throughout the East even after the establishment of the Eastern Roman Empire, to which the allusion here is made, v. Obermeyer, op. cit. 263]
(16) The bearers of the names given here have been variously identified. S. J. Rappaport ערך מלין s.v. אנטונינס אסוירוס) is of opinion that our Antoninus is Antoninus Pius (138-161) and that Asverus is his adopted son Marcus Aurelius (161-180), who was also called Annius Verus — here contracted into A-S-Verus. According to Jast, however, (Allgem. Gesch. des Isr. Volkes, Berlin 1832, II, 129 and Gesch. d. Israeliten IV, 88 seq.) our Ant. is Caracalla (211-217) and Asverus is his son Alexander Severus (222-235). Z. Frankel דרכי המשנה (Warsaw, 1923, 203) identifies Ant. with Lucius Verius Antoninus who was co-regent with Marcus Aurelius and is reputed to have issued decrees favourable to Jews. Differing from all the foregoing authorities, Graetz (Geschichte, Vol. IV, pp. 450ff). claiming the support of Origen's Epistola ad Africanum, asserts that Ant. is none other than Alexander Severus who was surnamed Antoninus in the East, and that the ‘Rabbi’ who is associated with Ant. in the narratives that follow here and in many others is not R. Judah I but his grandson R. Judah II who flourished near the middle of the 3rd century. That he, too, was sometimes called by the title Rabbi alone is, indeed, borne out by the phrase in the Mishnah (infra 35b) ‘Rabbi and his court’ which is taken to refer to R. Judah II.
(17) In Galilee whither the Sanhedrin was transferred by R. Judah II.
(18) So that its inhabitants should be raised to the rank of libertines — evidently intended as a tribute of regard to Rabbi.
(19) The Emperor was seeking Rabbi's guidance without openly taking counsel with an outsider on matters of state. Rabbi, likewise, would not commit himself to more than offering his advice by mere insinuation.

Talmud - Mas. Avodah Zarah 10b

But why did he not speak explicitly? — He thought his words might reach the ears of those prominent Romans who would persecute him. Why then did he not say it in a whisper? — Because it is written: For a bird of the air shall carry the voice.[1]

The Emperor had a daughter named Gilla who committed a sin;[2] so he sent to Rabbi a rocket-herb,[3] and Rabbi in return sent him coriander.[4] The Emperor then sent some leeks[5] and he sent lettuce in return.[6] Many a time[7] Antoninus sent Rabbi gold-dust in a leather bag filled with wheat at the top, saying [to his servants]: ‘Carry the wheat to Rabbi!’ Rabbi sent word to say. ‘I need it not, I have quite enough of my own’, and Antoninus answered: ‘Leave it then to those who will come after thee that they might give it to those who will come after me, for thy descendants and those who will follow them will hand it over to them.’[8]

Antoninus[9] had a cave which led from his house to the house of Rabbi. Every time[7] [he visited Rabbi] he brought two slaves, one of whom he slew at the door of Rabbi's house and the other [who had been left behind] was killed at the door of his own house.[10] Said Antoninus to Rabbi: When I call let none be found with thee. One day he found R. Haninah b. Hama sitting there, so he said: ‘Did I not tell thee no man should be found with thee at the time when I call?’ And Rabbi replied. ‘This is not an [ordinary] human being.’ ‘Then’, said Antoninus, ‘let him tell that servant who is sleeping outside the door to rise and come in.’ R. Haninah b. Hama thereupon went out but found that the man had been slain. Thought he, ‘How shall I act now? Shall I call and say that the man is dead? — but one should not bring a sad report; shall I leave him and walk away? — that would be slighting the king.’ So he prayed for mercy for the man and he was restored to life. He then sent him in. Said Antoninus: ‘I am well aware that the least one among you can bring the dead to life, still when I call let no one be found with thee.’ Every time [he called] he used to attend on Rabbi and wait on him with food or drink. When Rabbi wanted to get on his bed Antoninus crouched in front of it saying.

‘Get on to your bed by stepping on me.’ Rabbi, however, said, ‘It is not the proper thing to treat a king so slightingly.’ Whereupon Antoninus said: ‘Would that I served as a mattress unto thee in the world to come!’ Once he asked him: ‘Shall l enter the world to come?’ ‘Yes!’ said Rabbi. ‘But,’ said Antoninus, ‘is it not written, There will be no remnant to the house of Esau?’[11] ‘That,’ he replied. ‘applies only to those whose evil deeds are like to those of Esau.’ We have learnt likewise: There will be no remnant to the House of Esau, might have been taken to apply to all, therefore Scripture says distinctly — To the house of Esau, so as to make it apply only to those who act as Esau did. ‘But’, said Antonius, is it not also written: There [in the nether world] is Edom, her kings, and all her princes.’[12] ‘There, too,’ Rabbi explained, ‘[it says:] ‘her kings’, it does not say all her kings; ‘all her princes’, but not all her officers!

This is indeed what has been taught: ‘Her kings’ but not all her kings; ‘all her princes’, but not all her officers; ‘Her kings’, but not all her kings — excludes Antoninus the son of Asverus; ‘all her princes’. but not all her officers — excludes Keti'ah the son of Shalom.

What about this Keti'ah b. Shalom? — There was once a Caesar who hated the Jews. One day he said to the prominent members of the government. ‘If one has a wart[13] on his foot, shall he cut it away and live [in comfort] or leave it on and suffer discomfort?’ To which they replied: ‘He should cut it away and live in comfort’. Then Keti'ah b. Shalom addressed them thus: ‘In the first place, you cannot do away with all of them, for it is written, For I have spread you abroad as the four winds of the heaven.[14] Now, what does this verse indicate? Were it to mean that [Israel] was to be scattered to the four corners of the world, then instead of saying, as the four winds, the verse would have said, to the four winds? It can only mean that just as the world cannot exist without winds, so the world cannot exist without Israel. And what is more, your kingdom will be called a crippled kingdom.’ To this the king replied: ‘You have spoken very well; however, he who contradicts the king is to be cast into a circular furnace’.[15] On his being held and led away, a Roman matron said of him: ‘Pity the ship that sails [towards the harbour] without paying the tax’.[16] Then, throwing himself on his foreskin he cut it away exclaiming: ‘Thou hast paid the tax thou wilt pass and enter [paradise]’. As he was being cast [into the furnace] he said: ‘All my possessions [are to go to] R. Akiba and his friends’. This, R. Akiba interpreted according to the verse, And it shall be unto Aaron and his sons[17] [which is taken to mean that] one half is Aaron's and one half his sons’. A bath-kol[18] then exclaimed: ‘Keti'ah b. Shalom is destined for [eternal] life in the world to come!’ Rabbi [on hearing of it] wept saying: ‘One may acquire eternity in a single hour, another may acquire it after many years!’

Antoninus attended on Rabbi: Artaban[19] attended on Rab. When Antoninus died, Rabbi exclaimed: The bond is snapped! [So also] when Artaban died, Rab exclaimed:

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(1) Eccl. X, 20.

(2) Presumably adultery.

(3) The Aramaic for which is גרגילא Gargilla, which may be divided into the two words: Gar-Gilla, meaning ‘Gilla has gone astray.’ Editions give the name of the daughter as Gira and of the herb Gargira גרגירא by which the meaning is unchanged; Kohut (‘Aruch II, 343) prefers the version given here which is found in the best MSS.

(4) In Aram. כוסברתא Kusbarta mod. Greek **, divisible into the two words כוס kus which has a treble meaning (a) Reprove — the verse in Proverbs אל תוכח לץ Reprove not the fool lest he hate thee being rendered by Targ. לא תיכוס לממיקנא (b) Cover over — cf. Prov. X, 12 על כל פשעים תכסה אהבה love covereth all sins (c) Slay, as in Hul. 37b כוס slay; ib. 15a ראוי לכוס fit for slaughter. ברתא daughter. The message could therefore be taken to mean: ‘Reprove’ or ‘Forgive’ or ‘Slay the daughter.’

(5) Aram. כרתי Karethi, which also means ‘cut-off.’

(6) In Aram חסא, hasa, which also means ‘compassion’. This clandestine correspondence, deciphered, reads as follows: ‘My daughter has gone astray.’ — ‘Reprove her (or overlook it, or slay her)’. — ‘Shall she be cut off?’ — ‘No, have compassion.’

(7) Lit., ‘Everyday’.

(8) An ironical allusion to the Jews always having to purchase their freedom with gold from their Roman masters.

(9) Dr. L. Ginzberg's comments on the conversations between Ant. and Rabbi reported here are as follows (J.E.I, 656): ‘Jewish folklore loved to personify the relations of Judaism with heathendom in the guise of conversations between Jewish sages and heathen potentates. Legend has many details concerning the personal relations between the two . . . It appears that, owing to political circumstances, the exchange of views between these friends was attended with positive danger although it was arranged that there should be no third person when A. visits R. . . The friends were also compelled to have recourse to a species of sign language.’

(10) So that the visits should not be reported. Tosaf, suggests that the slaves employed for that purpose were traitors who had incurred capital punishment.

(11) Obad. I, 18.

(12) Ex. XXXII, 29.

(13) Editions have נימא but Mss give נומו ** nome, a sore, wart, v. ‘Aruch s.v. נם. To regard the Jewish subjects of the State as an irritating appendage of the body politic is characteristic of the Roman attitude to alien races who were unwilling to merge their identity. In complete contrast to this is the emphatic and repeated scriptural injunction to love the stranger and to accord him equal rights and treatment (v. Lev. XIX, 33 etc.).

(14) Zech. II, 10.

(15) קמוניא, a furnace, pottery kiln, to which K. was consigned.

(16) In order to make sure of entering the harbour the tax should be paid. Probably an allusion to the Roman custom of placing a coin in the mouth of the corpse as a kind of passage-money to the other world. Rashi: K., who was laying down his life for the sake of Israel, was going to the hereafter without having conformed to the Jewish rite of circumcision. This Roman matron's assertion, that Paradise would be closed to the uncircumcised, did not express the Jewish view which is that ‘The pious of all nations have a portion in the world to come.’ Tosef. San. XIII. חסידי אומות העולם יש להם חלק לעולם הבא.

(17) . Ex. XXIX, 28. The bequest is to be interpreted in the same manner; half the property being assigned to Rab and the other half to his friends.

(18) A heavenly voice; v. Glos.

(19) Artaban IV, Parthian King, a contemporary of Marcus Aurelius and of his son Ant. Comodus, who is reported to have sent a gift to Rabbi ארטבן שלח לרבי מרגליתא (J. Pes. I) and was an intimate friend of Rab. [Graetz, Geschichte, IV, p. 257, n. 1, rightly maintains that in the latter the reading ‘Rabbi’ is erroneously given instead of Rab.]

Talmud - Mas. Avodah Zarah 11a

The bond is snapped!

[When] Onkelos[1] the son of Kalonymus became a proselyte, the Emperor sent a contingent of Roman [soldiers] after him,[2] but he enticed them by [citing] scriptural verses and they became converted to Judaism. Thereupon, the Emperor sent another Roman cohort after him, bidding them not to say anything to him. As they were about to take him away with them, he said to them: ‘Let me tell you just an ordinary thing: [In a procession] the torchlighter carries the light in front of the torchbearer,[3] the torchbearer in front of the leader, the leader in front of the governor, the governor in front of the chief officer; but does the chief officer carry the light in front of the people [that follow]?’ ‘No!’ they replied. Said he: ‘Yet the Holy One, blessed be He, does carry the light before Israel, for Scripture says. And the Lord went before them . . . in a pillar of fire to give them light.’[4] Then they, too, became converted. Again he sent another cohort ordering them not to enter into any conversation whatever with him. So they took hold of him; and as they were walking on he saw the mezuzah[5] which was fixed on the door-frame and he placed his hand on it saying to them: ‘Now what is this?’ and they replied: ‘You tell us then.’ Said he, ‘According to universal custom, the mortal king dwells within, and his servants keep guard on him without; but [in the case of] the Holy One, blessed be He, it is His servants who dwell within whilst He keeps guard on them from without; as it is said: The Lord shall guard thy going out and thy coming in from this time forth and for evermore.’[6] Then they, too, were converted to Judaism. He sent for him no more.

And the Lord said to her: Two nations [Goyim] are in thy womb.[7] Said Rab Judah in the name of Rab: Read not Goyim[8] [nations] but Ge'im [lords].[9] This refers to Antoninus and Rabbi[10] from whose table neither lettuce, nor radish nor cucumber was ever absent either in summer or winter; and, as a master has said: Radish helps the food to dissolve, lettuce helps the food to be digested, cucumber makes the intestines expand. But was it not taught in the school of R. Ishmael that cucumbers are called Kishshuin[11] because they are as hard and as injurious to the body as swords? — There is no contradiction here: that was said of large ones, but our reference is to small ones.

THE BIRTHDAY AND ANNIVERSARIES OF KINGS DEATHS. [THIS IS R. MEIR'S OPINION. THE SAGES SAY IDOLATRY ONLY OCCURS AT A DEATH AT WHICH BURNING OF ARTICLES TAKES PLACE.] This implies that R. Meir is of opinion that at every death, whether there is burning of articles or there is no burning, idol-worship takes place — consequently, the burning of articles is not an [idolatrous] cult. From which is to be inferred that the Rabbis[12] hold that burning [of articles at a funeral] is an [idolatrous] cult; what then of the following which has been taught: The burning of articles at a king's [funeral] is permitted and there is nothing of Amorite usage about it?[13] Now if it is a cult of idolatry how could such burning be allowed? Is it not written, and in their statutes ye shall not walk?[14] — Hence, all agree[15] that burning is not an idolatrous cult and is merely a mark of high esteem [for the deceased]; where they differ is this: R. Meir holds that at every death, whether burning of articles takes place or does not take place. there is idol-worship; but the Rabbis hold that a death at which burning takes place is regarded as important and is marked by idol-worship, but one at which no burning takes place is unimportant and is not marked by idol-worship.

[To return to] the main text.[16] ‘The burning of articles at a king's [funeral] is permitted and there is nothing of Amorite usage about it,’ as it is said, Thou shalt die in peace and with burnings of thy fathers, the former kings that were before thee, so shall they make a burning for thee.[17] And just as it is permitted to burn at the [funerals] of kings so it is permitted to burn in the case of princes. What is it that may be burnt in the case of kings? — Their beds and articles that were in use by them. In the instance of the death of R. Gamaliel the elder, Onkelos the proselyte[18] burnt after him seventy Tyrian manehs.[19] But did you not say that only articles in use by them could be burnt?[20] — What is meant is [articles] ‘to the value of seventy Tyrian manehs.’ May other things then not be burned? Yet it has been taught: It is permitted to mutilate [an animal] at royal funerals and there is nothing of Amorite usage about it![21] — Said R. Papa [that refers to] the horse on which he rode.[22] Are clean animals then not to be included? Yet it has been taught, Mutilation which renders the animal trefa[23] is forbidden, but such as does not render it trefa is permitted; what kind of mutilation does not render it trefa?

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(1) Git. 56b, where a fuller story of his conversion is given, has ‘Onkelos son of Kolonikos son of Titus's sister’. He is often confused with the other proselyte, Aquila, v. Kohut, op. cit., Vol. I, 158 and references given there. For discussion of the identity of Onk. see A. E. Silverstone ‘Aquila and Onkelos’.

(2) To arrest him.

(3) ניפיוראץץץפיפיורא Lexicographers differ about the origin and exact meaning. They are obviously those of dignitaries arranged in ascendant order of rank. The above rendering is based chiefly on Kohut, op. cit. s. vv.

(4) Ex. XIII, 21.

(5) The mezuzah whereby the words of God are written on the door-post of every Jewish home (Deut. VI, 9) is meant to remind the occupants, on entering their home and on leaving it to go into the world without, of God's constant watchfulness and guardianship.

(6) Ps. CXXI, 8.

(7) Gen. XXV, 23, the words were spoken to Rebecca before the birth of her two sons, Jacob and Esau.

(8) גוים

(9) Plural of גיא lofty, lord, ruler.

(10) The respective descendants of Jacob — Israel, and Esau — Rome.

(11) קישואין from root קשה hard.
(12) I.e., the Sages who oppose R. Meir in our Mishnah.
(13) Sanh. 52b, Tos. Shab. VIII.
(14) Lev. XVIII, 3.
(15) Both R. Meir and the Rabbis.
(16) Tosef. Shab. VIII, 9. Tos. Sanh. IV.
(17) Jer. XXXIV, 5. Spoken to King Zedekiah.
(18) V. supra.
(19) 1 maneh of Tyrian weight equals 25 sela's, v. Glos.
(20) Yet from the wording here used it would appear that the coins were burned.
(21) Tosef. Shab. ibid. Hence the articles mentioned above are not exclusive.
(22) Which comes under the category of articles in use by him.
(23) Unfit for use as food, v. supra. p. 23, n. 8.

Talmud - Mas. Avodah Zarah 11b

Trimming the tendons of its hoofs from the ankle downward![1] — This was explained by R. Papa to refer to a calf [employed for] drawing the royal coach.

THE DAY OF SHAVING THE BEARD, etc.

The question was asked: What does it mean — the day of [the usual] shaving of one's beard when the lock of hair is left, or the [annual] shaving of the beard when the lock of hair is removed? — Come and hear: Both are taught distinctly: [In one Baraitha it is said]: The day of shaving one's beard when one's lock of hair is left; [in another it is said:] The day of shaving one's hair and of removing one's lock of hair.

Said Rab Judah in the name of Samuel: They have yet another festival in Rome [which occurs] once every seventy years. Then a healthy man is brought and made to ride on a lame man; he is dressed in the attire of Adam,[2] on his head is placed the scalp of R. Ishmael,[3] and on his neck are hung pieces of fine gold to the weight of four zuzim,[4] the market places [through which these pass] are paved with onyx stones, and the proclamation is made before him: ‘The reckoning of the ruler is wrong. The brother of our lord, the impostor! Let him who will see it see it; he who will not see it now will never see it. Of what avail is the treason to the traitor or deceit to the deceiver!’; and they concluded thus: Woe unto the one when the other will arise.’[5] Said R. Ashi: the wording [of the proclamation] defeats their object:[6] Had they said ‘Our lord's brother the impostor’,it would have accorded with their intention, but when they say[6] The brother of our lord, the impostor, it may be taken to mean that it is their lord himself who is the impostor. And why does not our Tanna include this [festivity in the preceding Mishnah?] — He only enumerates those which occur year by year, but does not mention such as are not annual ones. Those are the Roman [annual festivals]. Which are the Persian ones? — Mutardi, Turyaskai, Muharnekai, Muharin.[7] These then are those of the Romans and Persians, which are the Babylonian ones? — Muharnekai, Aknayata, Bahnani and the Tenth of Adar.[8]

Said R. Hanan b. Hisda in the name of Rab (some have it, ‘Said R. Hanan b. Raba in the name of Rab’): There are five appointed Temples of idol-worship: they are: The Temple of Bel in Babel,[9] The Temple of Nebo in Kursi,[10] Tar'ata which is in Mapug.[11] Zerifa which is in Askelon,[12] and Nishtra which is in Arabia.[13] When R. Dimi came[14] he said that to these had been added the market-place[15] [with the idol] in ‘En-Beki and the Nidbakah of Acre [some call it Nitbara of Acre][16] . R. Dimi of Nahardea gave these in the reversed order: The market place of Acre, the Nidbakah of ‘En-Beki.

Said R. Hanan son of R. Hisda to R. Hisda: What is meant by saying that these [Temples] are ‘appointed’? — He answered him: This is how your mother's father[17] explained it,’ They are appointed permanently; regularly all the year round worship is taking place in them.’

Said Samuel: In the Diaspora[18] it is only forbidden [to transact business with idolaters] on the actual festival days alone.[19] And is it forbidden even on the actual days of the Festivals, did not Rab Judah declare it permissible to R. Bruna to buy wine and to R. Giddal to buy wheat on the Festival of the Travellers?[20] — The Festival of the Travellers is different, as it is not a fixed one.[21]

MISHNAH. WHEN AN IDOLATROUS [FESTIVAL] TAKES PLACE WITHIN A CITY IT IS PERMITTED [TO TRANSACT BUSINESS WITH HEATHEN] OUTSIDE IT; IF THE IDOLATROUS [FESTIVAL] TAKES PLACE OUTSIDE IT, [BUSINESS] IS PERMITTED WITHIN IT. HOW ABOUT GOING THERE? IF THE ROAD LEADS SOLELY TO THAT PLACE, IT IS FORBIDDEN;[22] BUT IF ONE CAN GO BY IT TO ANY OTHER PLACE, IT IS PERMITTED.

GEMARA. What may be regarded as OUTSIDE IT? — Said R. Simeon b. Lakish, such as, for example, the bazaar of Gaza.[23] Some report this as follows: R. Simeon b. Lakish asked of R. Hanina, How about the market-place of Gaza?[24] — He replied: Have you never gone to Tyre[25] and seen an Israelite and an idolater

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(1) Tosef. ibid. This must refer to clean animals which are not generally employed for personal use of the King, which proves that burning is not confined to articles in use.

(2) In garments of skin (Gen. III, 21).

(3) Ishmael b. Simeon, one of the Ten Martyrs executed by order of Hadrian, who was flayed before his execution (v. Jellinek Beth Hamidrash, I, 64 and VI, 19).

(4) So עין יעקב also MSS. Editions have ‘two hundred zuzim’ — an error which evidently arose from mistaking the numeral letter ד — 4 for ר — 200.

(5) The whole spectacle including the obscure proclamation is explained by Rashi to apply to Jacob, representing the Jews, here impersonated by the lame man (Gen. XXXII, 32 and he halted upon his thigh); and to Esau, representing Rome, impersonated by the healthy man; The reckoning which is pronounced as wrong alludes Jacob's prediction as to what would happen to his descendants at the end of days (Gen. XLIX, 1) the treason being an allusion to Jacob's deceitful gaining of the paternal blessing which was intended for Esau, and the concluding threat is a warning to Israel for whom the rising of Rome would be fraught with trouble. Quite a different interpretation is offered by Rapaport (‘Erek Millin s.v. איך). According to him, Samuel here presents an account which reached him of one of the Ludi Saeculares, the spectacular carnivals and pompous pageants, of which altogether ten are known to Roman history. This one must have been arranged by the Roman Emperor Philippus, about 247 C.E., who introduced into the pageant the spectacle of a halting dancer ridden upon by a strong man. This was intended to satyrise and discredit P's rival, Decius, who pretended to be a friend and ‘brother’ of the Emperor, yet had accepted the crown which P. fondly hoped would be handed to his own son. The lame dancer with a larva, or kind of mask, tied at his neck (described by the Rabbi as R. Ishmael's scalp), thus impersonated Decius the treacherous ‘ruler’ whose plans and plottings are declared as wrong. The rider was impersonating Philippus. When he (or his son) rises woe betide his rival. The exclamation ‘Let him who will see it etc.’ alludes to the festivity which occurs but once in a lifetime. The fact that Samuel lived till 3 or 13 years after the date of this Game lends added feasibility to this interpretation.

(6) Lit., Their own mouth (i.e., words) causes them to stumble.

(7) מוטרדי וטוריסקי מוהרנקי ומוהרין Names of idolatrous annual festivals. Kohut s.v. מסרדי cites a Responsum by R. Moses b. Isaac (Responsa of the Geonim ed. Harkavi, Vol. 1, 22, ch. 46) where the names are given as follows: 1. מוסרדי 2. מוהרקני 3. טריאסקי 4. מהריד stating that the first and third are no longer kept, but that the second takes place at the beginning of the summer and of the winter, while the last one is celebrated as New Moon, v. Brull's Jahrbuch, Vol. I, 168 and Jeshurun, ed. Kobak, Vol. VIII, 49 seq.

(8) Names of Chaldean Festivals.

(9) Capital of Chaldea, (Gen. XI, 9) called Babylon [The reference is to the Temple of Marduk]

(10) Nebo נבו an Assyro-Babylonian Deity regarded by some as the Chaldean Mercury, v. Sanh. 63a. Kursi is probably Gerasa where ruins of Temples have been discovered. [V. l. Borsip (Borsippa) the sister city of Babylon.]

(11) [Tar'ata, a Syrian deity in Mabug (Hieropolis) v. Perles, Etym. Stud. p. 100].

(12) Ashkelon, on the Mediterranean coast, v. Josh. XIII, 3 and I Samuel VI, 17, צריפא probably an adaptation of שריפא the burning deity, Venus. [Or, Serapis, Kohut, Aruch.]

(13) An Arabian deity resembling an eagle Heb. נשר Arab. Nasr.

(14) To Babylon from Palestine.

(15) יריד, yerid — a yearly fair accompanied by idol-worship. evidently identical with נדבכה Nidbakah. The two terms are indeed interchanged here in manuscripts. ‘En-Bechi עין-בכי assumed to be identical with בעל-בכי Baalbek, a place between the Lebanon and Anti-Lebanon mountains, the Greek Heliopolis. Acre עכו; town on Phoenician shore at foot of Mt. Carmel; the ‘Ummah עמה of Josh. XIX, 30.

(16) The words in parenthesis are not found in the MS.M.

(17) [R. Hanan b. Raba, the son-in-law of Rab; v. Hyman, Toledoth. p. 517.]

(18) Since the Jews depend for their livelihood on heathens.

(19) V. supra 7b.

(20) [טייעא, Tai, traveller, especially Bedouin merchants, the Tai being a name of an Arab tribe applied to all Bedouins, as a part to a whole. Obermeyer, Die Landschaft Babylonien, 234 renders it simply ‘Festivals of the Tai’, whose festivals were not determined by the calender and consequently bore no religious character.]

(21) It cannot therefore be cited as a case for establishing a general rule.

(22) As he might be regarded as going to the celebration.

(23) A Philistine city on Mediterranean coast, S.E, of Jerusalem, inhabited by pagans. Its bazaar, though quite close to it, is considered ‘outside it’.

(24) Being quite close to the city, should it be termed ‘outside it’ according to the Mishnah or not?

(25) A Phoenician city.

Talmud - Mas. Avodah Zarah 12a

placing two pots on the same stove? yet the Sages did not mind.[1]

What is it that they did not mind?[2] Said Abaye: The possibility of eating ‘flesh of nebelah:[3] We are not to presume that while the Israelite turned his face, the heathen dropped some nebelah into his pot; as a parallel case, here too the Sages should not mind the possibility of receiving money of an idolater.[4] Raba said, what the Sages did not mind there is the cooking by a heathen; the parallel being that here too, the Sages should not object to the transacting of business on account of the festivity.[5] Rabbah b. ‘Ulla said: What the Sages raised no objection to is only the splashing,[6] the analogy to our case is [only] that the sages would not object to the period before the festivity.

WHAT ABOUT GOING THERE? etc.

Our Rabbis taught: It is forbidden to enter a city while idolatrous worship is taking place therein — or [to go] from there to another city; this is the opinion of R. Meir. But the Sages say, only when the road leads solely to that city is it forbidden; if however the road does not lead exclusively to that place it is permitted. If a splinter has got into his [foot] while in front of an idol, he should not bend down to get it out, because he may appear as bowing to the idol; but if not apparent[7] it is permitted. If his coins got scattered in front of an idol he should not bend and pick them up, for he may be taken as bowing to the idol; but if not apparent it is permitted. If there is a spring flowing in front of an idol he should not bend down and drink, because he may appear to be bowing to the idol; but if not apparent it is permitted. One should not place one's mouth on the mouth of human figures, which act as water fountains in the cities, for the purpose of drinking; because he may seem as kissing the idolatrous figure. So also one should not place one's mouth on a water pipe and drink therefrom for fear of danger.[8]

What is meant by ‘not being apparent’ — Shall we say that he is not seen? Surely Rab Judah stated in the name of Rab that whatever the Sages prohibited merely because it may appear objectionable to the public, is also forbidden in one's innermost chamber! — It can only mean that if [by bending] he will not appear as bowing to the idol.

And all [three instances given] are necessary. For if we were taught the case of the splinter only, [we would have thought that it is forbidden] because he can well walk away from the idol and take it out, but in the case of the coins where this could not be done, the prohibition does not apply. If, on the other hand, we were given the case of the coins only [we might say that the prohibition holds good] because only a loss of money is incurred, but in the case of the thorn, where pain is caused, the prohibition is not to be applied. Were we given both these instances, [we might still say that the prohibition applied to them] because there is no danger involved, but in the case of the spring where there is danger, for it may mean dying of thirst, we might say that the prohibition should be waived, hence all the instances are necessary.

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(1) So also no objection need be raised against transacting business with the idolaters in the bazaar merely because of the festival held at Gaza in proximity to it.

(2) What kind of prohibition was disregarded in the case of Tyre, which might offer an analogy to our case?

(3) נבלה, flesh of any animal, even a clean one, which dies of itself, or which is not slaughtered in accordance with ritual law and is forbidden to a Jew.

(4) We are not to assume that the money paid by the heathen outside the city for the animal sold to him by the Jew, has been handed to him by an idolater within the city with the express order of procuring a sacrifice for the idolatrous festival. Ye shall not eat of anything that dieth of itself (Deut. XIV 21) being a scriptural injunction, the practice in Tyre may be taken as a parallel for waiving the scriptural prohibition, There shall cleave naught of the devoted thing to thy hand (Deut. XIII, 18) which is applied to things connected with idolatry (v, infra 64a). Thus, according to Abaye, even a possible transgression of a scriptural prohibition may be disregarded under the circumstances given here.

(5) Raba's contention is that in the case of Tyre there is no Scriptural prohibition involved at all. The possibility of eating forbidden flesh could not have occurred to the Sages, for there is no ground for suspecting the heathen of the offence of tampering with the Israelite's food. What did suggest itself to them is the possibility of the heathen, in the desire to oblige the Israelite, attending in the latter's absence to his cooking, in which case it would become food cooked by an idolater (בשולי עכ׳ום) which is prohibited by the Rabbis. This case may therefore only be cited as a parallel to transacting business with an idolater, on his festival, when he is dealing with his own money and not with that appertaining to idolatry — so that only a Rabbinic enactment is involved, in which case the proximity of the Bazaar of Gaza to the town might be overlooked.

(6) According to Rabbah b. ‘Ulla the case of Tyre does not offer a parallel for disregarding even a Rabbinic prohibition. The possibility of cooking by heathen must here be excluded, this being applicable only to food cooked solely by idolaters without any intervention by the Jew, which is obviously not the case in this instance. All that the Sages could have suspected in that case is the ‘splashing’ of some of the contents of the heathen's pot into that of the Jew. This being but a light prohibition — as the small quantity of the Trefa liquid would become ‘nullified’ by the much larger quantity of the kasher one — and of rare occurrence, it can only be taken to offer a parallel to the transaction of business in the Bazaar of Gaza prior to, but not during, the idolatrous festival held within the city.

(7) This is explained presently.

(8) I.e., of swallowing an insect, etc. v. Tosef. A.Z., VII.

Talmud - Mas. Avodah Zarah 12b

Why then mention the instance of [placing one's mouth on the mouths of the] figures? — That is only because he wanted to teach the instance, which resembles it, of not placing one's mouth on the water-pipe to drink therefrom for fear of danger. What is the danger? — The swallowing of a leech.

Our Rabbis taught: One should not drink water either from rivers or from pools direct with his mouth or [by drawing the water] with the one hand;[1] if he drinks it, his blood shall be upon his head, for it is dangerous. What danger is there? That of [swallowing] a leech.

[This statement] supports R. Hanina: for R. Hanina said: For one who swallows a leech it is permissible to get water heated on the Sabbath.[2]

There was actually a case of one swallowing a leech, when R. Nehemiah declared it permissible to get water heated for him on the Sabbath. ‘Meanwhile’, said R. Huna son of R. Joshua, ‘let him sip vinegar’. Said R. Idi b. Abin: One who has swallowed a wasp cannot possibly live. Let him however drink a quarter[3] of strong vinegar; perhaps [by this means] he will live long enough to set his house in order.

Our Rabbis taught: One should not drink water in the night;[4] if he does drink his blood is on his head, for it is dangerous. What danger is there? The danger of Shabriri.[5] But if he be thirsty, how can he put things right? — If there is another person with him, he should wake him and say: ‘I am athirst for water’. If not, let him knock with the lid on the jug and say to himself: ‘Thou [giving his name] the son of [naming his mother], thy mother hath warned thee to guard thyself against Shabriri, briri, riri, iri, ri, which prevail in blind vessels.’[6]

MISHNAH. A CITY IN WHICH IDOLATRY IS TAKING PLACE, SOME OF ITS SHOPS BEING DECORATED WITH GARLANDS AND SOME NOT DECORATED[7] — THIS WAS THE CASE WITH BETH-SHEAN,[8] AND THE SAGES SAID: IN THE DECORATED ONES IT IS FORBIDDEN [TO BUY] BUT IN THE UNDECORATED ONES IT IS PERMITTED.[9]

GEMARA. Said R. Simeon b. Lakish: This only refers to [shops] decorated with garlands of roses and myrtle, so that he enjoys the odour,[10] but if they are decorated with fruit, it is permissible [to buy in them]. The reason is this: Scripture says, There shall cleave naught of the devoted thing to thy hand[11] ; hence it is to derive an enjoyment that is forbidden

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(1) The drawing of the water with one hand has to be done so rapidly that he would have no time to examine it.

(2) The biblical injunction ye shall kindle no fire throughout your habitation upon the Sabbath day (Ex. XXXV, 3) is to be waived in cases where danger to life is involved; hence the swallowing of a leech is regarded as dangerous.

(3) Of a Log.

(4) V. Pes. 112a, where the words ‘either from streams or from pools’ are added.

(5) שברירי Aram. ‘blindness’; v. Targum to Gen. XIX, 11. Generally taken as a contraction of the words שובר ראיה breaker of the eyesight. Kohut, s.v. ברירי asserts that the correct reading is shab-khiri, Persian for night blindness. — ‘A demon appointed over the affliction of blindness’ (Rashi).

(6) So Kohut, who calls attention to the resemblance of this incantation against the demon of blindness to the amulet bearing the inscription Abracadabra reduced by one letter on each succeeding line till the last letter only remains, and used by Romans as an antidote to the influence of evil spirits.

(7) The decoration signified that part of the proceeds in that shop is dedicated to idolatry.

(8) Place in Palestine south of Lake Gennesareth, v. Josh. XVII, 16 and, Judges I, 27. The modern Baisan.

(9) Tosaf. explains that we are here dealing with a market-day that is not a festival, to which the prohibition mentioned in the first Mishnah of this Tractate does not apply.

(10) Of articles which are usually strewn before the idols as part of the worship.

(11) Deut. XIII, 18.

Talmud - Mas. Avodah Zarah 13a

but to confer enjoyment [or profit] is permitted. But R. Johanan said: Even if they are decorated with fruit they are also forbidden, by an induction from the minor to the major, thus: if it is forbidden to enjoy [the odour of idolatrous articles] how much more so should it be forbidden to confer a benefit [which will be applied to such purpose]!

The following question was then asked: R. Nathan says: On the day when remission is made of the usual tax towards idolatrous purpose, the proclamation is made: ‘Whosoever will take a wreath and put it on his head and on the head of his ass in honour of the idols, his tax will be remitted; otherwise his tax will not be remitted!’ How should the Jew act who is present there? Shall he put it on? That means that he is enjoying [the odour of idolatrous articles]! Shall he not put it on? Then he confers a benefit [of paying tax towards idolatry]! Hence it was said: If one buys aught in a market of idolaters, if it be cattle it should be disabled, if fruit, clothes or utensils, they should be allowed to rot, if money or metal vessels he should carry them to the Salt Sea.[1] What is meant by disabling? the cutting the tendons of the hoofs beneath the ankle.[2] Here, then, we are taught: ‘Shall he put it on? That means he is enjoying! Shall he not put it on? Then he confers a benefit!’[3] Said R. Mesharsheya the son of R. Idi: R. Simeon b. Lakish is of opinion that the Rabbis disagree with R. Nathan, so that [he can reply:] ‘I give the opinion of the Rabbis who held the opposite view; whereas R. Johanan[4] is of opinion that the Rabbis do not disagree [with R. Nathan]’.[5] But [how could R. Johanan think that] the Rabbis do not disagree? Was it not taught:[6] One may attend a fair of idolaters and buy of them cattle, menservants, maidservants, houses, fields and vineyards; one may even write the necessary documents and deposit them at their courts[7] because thereby he, as it were, rescues [his property] from their hands.[8] If he be a priest[9] he may incur the risk of defilement by going without the [Holy] Land for the purpose of arguing the matter with them and have it tried in court. And just as he may defile himself [by going] without the Land, so he may become defiled by walking on a burial ground (‘A burial ground’! How can that enter your mind? this is a defilement forbidden by Scripture! — What is meant is an Unclean Field[10] which is only a Rabbinic prohibition.) Likewise, one may incur similar defilement for the sake of studying the Torah or taking a wife. Said R. Judah: This only applies when he cannot find [a place elsewhere] for studying, but when one can manage to learn [elsewhere] one must not defile oneself; but R. Jose said: Even when one can manage to study [elsewhere] he may defile himself, for no man is so meritorious as to learn from any teacher. Said R. Jose: There is the case of Joseph the Priest who followed his master to Zidon.[11] Whereupon R. Johanan [himself] said: The halachah is according to R. Jose. Hence the Sages do disagree![12] R. Johanan may answer you thus: The Rabbis do not indeed disagree [with R. Nathan], yet there is no difficulty here: The one case[13] refers to purchasing from a dealer, from whom the tax is exacted, the other case refers to purchasing from a private man[14] from whom the tax is not exacted.

The master stated: ‘Cattle should be disabled.’ But is there not the prohibition of causing suffering to a living being?[15] — Said Abaye: The Divine Law says, Their horses thou shalt hough.[16]

The Master stated: ‘What is meant by disabling [cattle]? The cutting of the tendons beneath the ankle.’ The following is cited as contradicting it: One should not declare anything as sanctified, or as devoted, or as set value upon[17] at the present time;[18] and if one did declare aught as sanctified or devoted or set value upon, then if it be cattle it should be disabled, if fruit clothes or utensils

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(1) In the Talmud this refers to the (Mediterranean) Ocean, though it is generally identified with the Dead Sea. They should be disposed of so that no benefit whatsoever is derived from them by anybody.

(2) So as not to affect the vitality of the animal, which is forbidden in all circumstances.

(3) Which is forbidden. Why then does R.S.b.L. say that to confer benefit on idols is permitted?

(4) Who opposes R.S.b.L.

(5) He therefore shares R. Nathan's view.

(6) M.K. 11a, ‘Er. 47a.

(7) Regardless of the fact that this recognition of the idolaters’ court may be made the subject of praise to the idols.

(8) By arming himself with evidence which will establish his ownership.

(9) Who must not come in contact with any ritual uncleanliness.

(10) Beth ha-Peras בית הפרס (lit., ‘an area of a square peras’; peras=half length of a furrow) a field which has been ploughed together with a grave it contained, which is to be regarded as unclean, on account of the crushed bones carried over it (v. M. K. 5b).

(11) In Phoenicia, which, being, outside Palestine, is declared by the Rabbis unclean, like a Beth ha-Peras.

(12) With the view of R. Nathan who stated above that it is forbidden to make any purchase at a market of idolaters; nor could R. Johanan have been unaware of this teaching, as he is reported to express an opinion on it.

(13) Where purchase is forbidden.

(14) בעל הבית lit., 'master of the house', an ordinary, private, man.

(15) צער בעלי חיים Causing of suffering to any living being, or leaving a suffering animal unrelieved, is a Scriptural prohibition (v. Shab. 128b).

(16) Josh. XI, 6; hence in exceptional cases this biblical command may be waived (Tosaf s.v. אמר).

(17) The article, or in the case of a person his value, as set forth in Lev. XXVII, thereby becoming the property of the Sanctuary.

(18) After the destruction of the Temple.

Talmud - Mas. Avodah Zarah 13b

they should be allowed to rot, if money or metal vessels, he should carry them to the Salt Sea. What is meant by disabling? The door is locked in front of it, so that it dies of itself![1] — Said Abaye: That case is treated differently, so as [to avoid] despising sanctified things.[2] Then by all means let it be slaughtered! — That may lead to transgression.[3] Then let him cut it in twain![4] — Said Abaye: Scripture says, And ye shall break down their altars . . . and ye shall hew down the graven images of their gods . . . Ye shall not do so unto the Lord your God.[5] Raba said: [Houghing is here avoided] because it seem like inflicting a blemish upon sanctified things.[6] 'Seems!' This is surely a real blemish! — This could only be so termed while the Temple was in existence, so that the animal is fit for being offered up; but at the present time, since it cannot in any case be offered, the scriptural injunction does not apply.[7] But let it be regarded as inflicting a blemish upon a blemished animal which, even though such animal was not fit for a sacrificial purpose, is forbidden by Scripture![8] — Granted; an animal which had been blemished cannot itself be used for sacrifice, yet the money obtained for it may be so used;[9] but our case[10] is unlike it, in that neither its equivalent in money nor the animal itself is capable of being used for a sacrificial purpose.[11]

R. Jonah found R. Elai as he was standing at the gate of Tyre; he said to him: It is stated, cattle [bought at a heathen fair] should be invalidated; what about a slave? I am not asking about a Jewish slave; what I am asking about is a heathen slave — what is one to do? — The other replied: Why do you ask at all? It has been taught;[12] As to idolaters and [Jewish] shepherds of small cattle,[13] even though one is not bound to get them out [of a pit], one must not throw them in [to a pit to endanger their lives].[14]

Said R. Jeremiah to R. Zera: It was taught, 'We may buy of them cattle, menservants and maidservants,'[15] — Is this to be applied to a Jewish servant or to a heathen servant also? — Said he in reply: According to common sense, a Jewish servant [is meant]; for were it to apply to a heathen servant, what [meritorious] use could he make of him?[16] When Rabin came,[17] he said in the name of R. Simeon b. Lakish: It may even apply to a heathen servant; because he brings him under the wings of the Shechinah.[18] Said R. Ashi: How then could the bringing under the wings of the Shechinah be applied to cattle?[19] — It is only because of diminishing [the possessions of the idolaters][20] that those are permitted; this also is permitted because of its diminishing effect.

R. Jacob once bought sandals, while R. Jeremiah bought bread.[21] Said the one to the other: 'Ignoramus![22] would your master act thus?' The other rejoined: 'Ignoramus, would your master act thus?' Both in fact had bought of private men,[23] but each one thought that the other had bought of a dealer; for R. Abba the son of R. Hiyya b. Abba said: The prohibition was only taught in the case of buying of a dealer of whom tax is exacted, but the buying of a private person of whom no tax is exacted is permitted.

Said R. Abba the son of R. Hiyya b. Abba: ‘Had R. Johanan been present at the time in that place where taxes were exacted even from private persons he would have forbidden [even such purchase].’ How is it then that they made the purchase? — They bought of a private person who was not a permanent resident of the place.[24] MISHNAH. THE FOLLOWING THINGS ARE FORBIDDEN TO BE SOLD TO IDOLATERS: IZTROBLIN, BNOTH-SHUAH,[25] STEMS, FRANKINCENSE, AND A WHITE COCK.[26] R. JUDAH SAYS: IT IS PERMITTED TO SELL A WHITE COCK TO AN IDOLATER AMONG OTHER COCKS; BUT IF IT BE BY ITSELF, ONE SHOULD CLIP ITS SPUR AND THEN SELL IT TO HIM, BECAUSE A DEFECTIVE [ANIMAL] IS NOT SACRIFICED TO AN IDOL. AS FOR OTHER THINGS, IF THEY ARE NOT SPECIFIED[25] THEIR SALE IS PERMITTED, BUT IF SPECIFIED[25] IT IS FORBIDDEN. R. MEIR SAYS: ALSO A GOOD-PALM’,[27] HAZAB AND NIKOLAUS[25] ARE FORBIDDEN TO BE SOLD TO IDOLATERS.

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(1) Shek. 13b. Hence the mode of ‘disabling’ is different from the one here described!

(2) It would be derogatory to an animal which was declared as sacred to be seen in its disabled state, hence a quicker means than hocking is resorted to.

(3) Lit. ‘stumbling block’. Its flesh might be eaten, which, being sanctified, is forbidden.

(4) גיסטרא. From the Aramaic גיסי תרי two sides, or parts. The animal killed thus, not according to ritual, would not be used for food.

(5) Deut. XII, 3.4.

(6) Which is contrary to the scriptural injunction: Whosoever bringeth a sacrifice . . . it shall be perfect to be accepted; there shall be no blemish therein. (Lev. XXII, 21).

(7) The prohibition is thus only a Rabbinic one, and is therefore referred to as ‘seeming’.

(8) According to one opinion given in Bek. 33. Why then does Raba describe this case as a ‘seeming’ prohibition?

(9) For purchasing another animal for an offering, so that the scriptural words . . . to be accepted, there shall be no blemish therein are still applicable to it.

(10) Of an animal declared as sacred, while there is no temple for offering any sacrifices.

(11) The houghing of such animal is therefore only a Rabbinic prohibition, justly described by Raba as the ‘seeming’ infliction of a blemish upon sanctified things.

(12) Infra 26a. San. 57b.

(13) Whether Jews or heathen. Most shepherds were known to practise robbery and theft; hence they were disqualified as witnesses.

(14) It is therefore plain that to invalidate a heathen servant is forbidden.

(15) Supra 13a.

(16) Which should justify the opinion of the Rabbis who, in opposition to R. Nathan, permit such purchase.

(17) From Palestine.

(18) The Divine Presence. The meritorious feature of buying such a servant is his being introduced to the tenets of true religion.

(19) The purchase of which is likewise permitted by these Rabbis.

(20) I.e., the withdrawal of the animal from their idolatrous service.

(21) Of idolaters at one of their fairs.

(22) יתמא, lit., ‘orphan’, ‘untutored’. The remark is obviously to be taken as a friendly reproof. R. Jacob and his younger contemporary R. Jeremiah (b. Abba) were both friends who came from Babylon to study at the Academies in Palestine; both sat at the feet of R. Johanan who (infra 13a) forbids all kinds of purchase from which any benefit may accrue to idolatry.

(23) Which is permissible, as private persons are not liable to pay part of their profits towards idolatrous purposes (supra 13a).

(24) As such a person would in no case be liable to pay the tax.

(25) Explanation follows in the Gemara.

(26) White animals were offered to heavenly deities; the white cock was a regular offering for a poor man to make (v. Elmslie, p. 9 note).

(27) Heb. Dekel Tab, a variety of dates.

Talmud - Mas. Avodah Zarah 14a

GEMARA. What is IZTROBLIN? — Pine-wood.[1] But this is contradicted [by the following teaching]: ‘To these[2] have been added Alexandrian nuts, iztroblin, moxasin[3] and bnoth-shuah.’ Now were you to suggest that iztroblin is pine-wood, has pine-wood anything to do with the Sabbatical Year? Has it not been taught:[4] This is the general rule: Everything which has a [perennial] root is subject to the laws of the Sabbatical Year[5] but anything that has no such root is not subject to the law of the Sabbatical Year. R. Safra then said: It means fruit of the cedar. So also when Rabin came [from Palestine] he said in the name of R. Eleazar [It means] fruit of the cedar.[6]

BNOT-SHUAH. Said Raba b. Bar-Hana in the name of R. Johanan, White figs.[7]

STEMS. Said Raba b. Bar-Hana ‘with their stems’ is what the Mishnah intended to teach.[8] FRANKINCENSE. Said R. Isaac in the name of R. Simeon b. Lakish, that is clear-frankincense. A Tanna taught:[9] But of any of these a parcel may be sold.[10] And how much is a parcel? — R. Judah b. Bathyra explained, A parcel is no less than three manehs.[11] But we surely ought to fear lest he goes and sells it to others who will burn it [before idols]? — Said Abaye; We should be particular not to [place a stumbling-block] before [the blind][12] but we need not be so particular as to avoid placing it before one who may place it before the blind.

AND A WHITE COCK. Said R. Jonah in the name of R. Zera who said in the name of R. Zebid [Some report, ‘Said R. Jonah in the name of R. Zera’): [If an idolater asks,] Who has a cock? it is permitted to sell him [even] a white cock, but if he asks, Who has a white cock? it is forbidden to sell him a white cock.

Our Mishnah states: R. JUDAH SAID: ‘ONE MAY SELL HIM A WHITE COCK AMONGST [OTHER] COCKS.[13] Now what are the circumstances? Shall we say that he was enquiring: Who hath a white cock, who hath a white cock? In that case it must not be sold to him even among others! It can only mean that he was enquiring: Who hath a cock, who hath a cock? and even then according to R. Judah a white one may be sold him only among others but not by itself, while according to the first Tanna it may not be sold even among others![14] — Said R. Nahman b. Isaac: The case dealt with in our Mishnah is of one asking for various kinds.[15] It has been taught likewise:[16] Said R. Judah: Only if he asks for ‘this [white] cock’ [it must not be sold to him], but if he asks for this and another one it is permitted [to sell both together]; and even when he asks for ‘this [white] cock’,if the idolater is giving a banquet for his son, or if he has a sick person in his house, [its sale] is permitted.[17]

But have we not learnt: ‘If an idolater gives a banquet for his son the prohibition [of selling] applies to that day and that man alone’, so that as regards that day and that man the prohibition does apply![18] Said R. Isaac son of R. Mesharsheya: Our statement refers to an ordinary party.[19]

We have learnt: AS FOR OTHER THINGS, IF THEY ARE NOT SPECIFIED THEIR SALE IS PERMITTED, BUT IF SPECIFIED IT IS FORBIDDEN. Now what is meant by ‘specified’ and by ‘unspecified’? Shall we say that ‘unspecified’ means if he asks [for example] for white wheat, and ‘specified’ if he states that [he requires it] for idolatry?

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(1) So Rashi. Tosaf. s.v. תורניתא renders it ‘brimstone’, hence ‘Kohut, Aruch suggests the reading תויניתא.

(2) I.e., to articles enumerated in connection with the laws relating to the Sabbatical Year.

(3) A species of figs.

(4) Shah. 90a; Nid. 62b.

(5) V. supra p. 45 n. 7(a).

(6) [Cones of pine or fir-trees (**) were burned before deities as sweet smelling gifts, v. Krauss, Talm. Arch. I, 686, and Elmslie, loc. cit.]
(7) The fruit of the fig-tree was closely associated with phallic worship (Elmslie, a.l.)
(8) The word ‘stems’ is not an additional item but refers to the ‘cedar-fruit’ and the ‘white figs’ which precede it. These were usually hanged by their stems as ornaments for idols.
(9) Tosef. A.Z.I.
(10) Because it is intended for sale and not for idolatrous worship.
(11) Weight equal to a hundred ordinary or 50 sacred shekels. V. Zuckermandel Talm. Mun., p. 7. seq.
(12) V. supra p. 26.
(13) Cf. the slight variations in our Mishnah.
(14) This refutes the ruling reported by R. Jonah.
(15) Hence R. Judah forbids its sale since it was specified by the idolator; his mentioning those of other colours may have been prompted by his knowledge that if he were to ask for a white one only, it would be withheld from him. It is however permitted to be sold among cocks of other colours, for we may assume that, as the others are not intended for idolatry, neither is this one. The other Rabbis however hold that, since it was specified by the idolater, it must not be sold even among others. When however the idolater asks for cocks without specifying any colour both R. Judah and the other Rabbis permit the sale of a white one. There is thus no difference between the opinion expressed in our Mishnah and that held by R. Zera.
(16) Tosef. A.S.I, end; in Zuck. ed. the version is different from ours.
(17) For it is required to lend importance to the banquet, or as a remedy for the sick and not for idolatrous purposes.
(18) Supra 8a, which is contrary to the foregoing statement.
(19) מטוזיג picnic. (v. Pes. 49b) where no idolatry takes place, whereas the statement cited refers to a wedding.

Talmud - Mas. Avodah Zarah 14b

In that case it is neither necessary to state that the unspecified may be sold,[1] nor is it necessary to state that the specified must not be sold![2] We must then say that ‘unspecified’ means if he asks for [say], wheat, [which is permitted] and ‘specified’ when he asks for white wheat, [which is forbidden]; and this would imply that in the case of a cock it is forbidden even when unspecified![3] — [No.] We may say, indeed, that ‘unspecified’ is when he asks for white wheat, and ‘specified’ is when he states [that it is required] for idolatry; yet it is necessary to state that the ‘specified’ is forbidden: we might think that that man does not really require it for idolatry; only being very much attached to idolatry, he thinks that all people are likewise attached to it; [he therefore thinks to himself] let me say thus, so that they might readily give it to me; it is therefore necessary to state [that its sale is forbidden].

R. Ashi propounded: [If he asks,] ‘Who has a mutilated white cock?’ may one sell him a white cock without blemish? Do we say since he asks for a mutilated one, he does not require it for the idols, or perhaps he is merely acting cunningly? And if you should say that this one is acting cunningly, [what if one enquires,] ‘Who has a white cock? Who has a white cock?’ and when a black one is given to him he accepts it or when a red one is given to him he accepts it, may a white one be sold to him? Do we say, since when he was given a black one or a red one he accepted it, it is proved that he does not require one for idolatry, or perhaps he is merely acting cunningly? This stands undecided.

R. MEIR SAYS, ALSO A GOOD-PALM etc. Said R. Hisda to Abimi: There is a tradition that the [tractate] Abodah Zarah of our father Abraham consisted of four hundred chapters; we have only learnt five, yet we do not know what we are saying. And what difficulty is there? The Mishnah states that R. MEIR SAYS: ALSO A GOODPALM’, HAZAB AND NIKOLAUS ARE FORBIDDEN TO BE SOLD TO IDOLATERS [which implies that] it is only a ‘good-palm’ that we must not sell but a ‘bad-palm’ we may sell, yet we have learnt:[4] One may not sell to them anything that is attached to the soil! He replied: What is meant by ‘good-palm’ is the fruit of a ‘good-palm’. And so also said R.

Huna: The fruit of a good-palm. HAZAB is the species of dates called Kishba. As to NIKOLAUS, when R. Dimi came[5] he said in the name of R. Hama b. Joseph that it is kuirati.[6] Said Abaye to R. Dimi: We learn ‘nikolaus, and do not know what it is, so you tell us it is ‘kuriati’ which we do not know either, where then have you benefited us? — Said he: I have benefited you this much: were you to go to Palestine and say ‘nikolaus’[7] no one would know what it is; but if you say ‘kuriati’ they will know and will show it to you.

MISHNAH. IN A PLACE WHERE IT IS THE CUSTOM TO SELL SMALL CATTLE TO IDOLATERS, SUCH SALE IS PERMITTED; BUT WHERE THE CUSTOM IS NOT TO SELL, SUCH SALE IS NOT PERMITTED.[8] IN NO PLACE HOWEVER IS IT PERMITTED TO SELL BIG CATTLE, CALVES OR FOALS, WHETHER WHOLE OR MAIMED.[9] R. JUDAH PERMITS IN THE CASE OF A MAIMED ONE[10] AND BEN BATHYRA PERMITS IN THE CASE OF A HORSE.[11]

GEMARA. Are we to take it that there is no actual prohibition, but that it is only a matter of custom; so that where the usage is to prohibit, it is to be followed, and where the usage is to permit it is to be followed? But this is in conflict with the following [Mishnah]: One should not place cattle in inns kept by heathen, because they are suspected of immoral practices![12] — Said Rab: In places where it is permitted to sell, it is permitted to leave them together alone, but where leaving them together alone is forbidden [by usage] the sale is also forbidden.[13]

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(1) As there is no ground for such prohibition, since it is only in the case of cocks that white ones are used for idolatry.

(2) Since no article required for idol-worship may be sold.

(3) Which is contrary to the ruling reported by R. Jonah above!

(4) Infra 19b.

(5) From Palestine.

(6) A species of dates. The date-palm was the most sacred of all trees to the Semitic peoples (Elmslie, p. 10).

(7) [The Nikolaus dates are named after the Greek philosopher, Nicholas of Damascus, who supplied his friend, the Emperor Augustus, with a variety of dates which grew in Palestine. The Emperors as a mark of appreciation called the dates by the philosopher's name (v.J.E. IX, 11, and Elmslie, p. 11). This name would naturally not be generally known to the people of Palestine.]

(8) In Pes. 53, where this Mishnah also occurs, the following words are inserted: let no one alter (local customs) in order to avoid controversy.

(9) The sale of big cattle to a heathen is forbidden out of consideration for the animal, as it will be deprived by its master of its rest on Sabbaths and Festivals (v. Ex. XX, 10).

(10) As it is sure to be killed for food.

(11) This is generally used for riding which is not to be termed as carrying a burden, on the principle that ‘the living rider carries himself.’ V. supra 7b.

(12) The Israelite is thus guilty of ‘placing a stumbling-block before the blind’. V. infra 22a.

(13) The prohibition of placing cattle with a heathen in the other Mishnah cited here is also dependent on local usage.

Talmud - Mas. Avodah Zarah 15a

But R. Eleazar said: Even where it is forbidden to leave them together it is permitted to sell, the reason being that the heathen will avoid the risk of having his cattle sterilised.[1] And Rab, too, altered his opinion: for R. Tahlifa said in the name of R. Shila b. Abimi, who said in the name of Rab: A heathen will not run the risk of having his cattle sterilised.[2]

IN NO PLACE, HOWEVER, IS IT PERMITTED TO SELL BIG CATTLE etc. What reason is there [for this prohibition]? — Though there is no fear of immoral practice,[3] there is the fear of his making the animal work [on the days of rest]. Then let him make it work; since he has bought it, he owns it![4] — The prohibition[5] is because of lending and because of hiring. [But, surely] when he borrows it he owns it, or when he hires it he owns it [during that period]![6] Then said Rami the son of R. Yeba: The prohibition is because of the probability of ‘trying’.[7] For he might happen to sell it to him close to sunset on the eve of the Sabbath and the heathen might say to him ‘Come now let us give it a trial,’ and hearing the owner's voice it will walk because of him, and he indeed desires it to walk, so that he acts as a driver of his burdened beast on the Sabbath and he who drives his burdened beast on the Sabbath is liable to bring a sin-offering.[8]

R. Shisha the son of R. Idi objected:[9] But does hire constitute acquisition? Have we not learnt, ‘Even in a place where they pronounced as permitted to let [premises to a heathen], they did not pronounce it in regard to a dwelling house, because he will bring idols into it.’[10] Now, if we were to be of opinion that hiring constitutes acquisition, then whatever this one brings in he brings into his own house! — It is different with bringing in idols, which is a very grave matter, for scripture says, And thou shalt not bring abomination into thy house.[11]

Then R. Isaac the son of R. Mesharsheya objected: But does hire constitute acquisition? Have we not learnt, An Israelite[12] who hires a cow from a priest may feed her on vegetables which are Terumah;[13] but a priest who hires a cow of an Israelite, even though he is obliged to feed it, may not feed it on vegetables that are Terumah.[14] Now, were we to hold the opinion that hiring constitutes acquisition, why should he not feed her on it? Surely the cow belongs to him! From here then you can deduce that hire does not constitute acquisition.

Now, since you have declared that hire does not constitute acquisition, the prohibition[15] is both because of ‘hiring’, and because of ‘lending’ and because of ‘trying’.

R. Adda permitted to sell an ass [to a heathen] through a [Jewish] agent: As for ‘trying’,it is not familiar with his voice that it should walk because of him, and as to ‘lending’ or ‘hiring’, since it is not his own he will neither lend nor give it on hire; also, lest some fault be discovered in it.[16]

R. Huna sold a cow to a heathen. Said R. Hisda to him: Wherefore have you acted thus? — Said he, I assume that he bought it for slaying.

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(1) Through immoral practice.

(2) Infra 22b.

(3) For the reason just stated.

(4) A heathen is not commanded to let his cattle rest on the Sabbath; the Israelite is therefore not guilty of ‘placing a stumbling-block before the blind’, as is the case where he affords him an opportunity for an immoral practice which is forbidden to a Noachide (V. supra 2b).

(5) The permission to sell may lead to lending or hiring cattle to a heathen over the Sabbath.

(6) Since he is liable for any accidents that might happen to it.

(7) How the animal carries a load.

(8) According to an opinion given in Shah. 154a.

(9) To the statement above, ‘when he hires it, he owns it’.

(10) Infra 21a.

(11) Deut. VII, 26.

(12) One who is not of the priestly family or the Levitical tribe.

(13) The heave-offering of the produce set aside as the portion of the priests (Num. XVIII, 8ff.), which may not be given to a beast that is not owned by a priest. He is not guilty thereby of robbing the priest of his portion, for having the option of giving it to any priest he chooses, he may consider it as assigned to the one whose cow he had hired.

(14) Ter. XI, 9.

(15) Pronounced in our Mishnah of selling big cattle to a heathen.

(16) Which would be against his interest as an agent charged with selling it.

Talmud - Mas. Avodah Zarah 15b

Talmud - Mas. Avodah Zarah 15b

And whence can it be deduced that one may so assume in a case of this kind? — From [the Mishnah which we learnt:][1] ‘Beth Shammai say: One should not sell a ploughing-cow during the Sabbatical Year;[2] but Beth Hillel permit it, because he may possibly slay it.’[3] Said Raba:[4] How can the two be compared: In that other case, one is not commanded to let one's cattle rest on the Sabbatical year,[5] whereas in our case, one is commanded to let one's cattle rest on the Sabbath![6] Said Abaye to him: Are we to take it then that when one is commanded [concerning a thing] he is forbidden [to sell it to one who may disregard the command]? Take then the case of a field — for one is commanded to let his field lie fallow on the Sabbatical Year. Yet it has been taught: Beth Shammai say: One may not sell a ploughed field on the Sabbatical year, but Beth Hillel permit it, because it is possible that he will let it lie fallow [during that year]![7]

R. Ashi objected: Are we, on the other hand, to take it that a thing concerning which there is no direct command may be sold to one who is likely to use it contrary to that command? Take then the case of implements — for no one is commanded to let one's implements be idle in the Sabbatical year. Yet we have learnt: Following are the implements which one is not allowed to sell in the Sabbatical year: the plough and all its accessory vessels, the yoke, the winnowing-fan and the mattock![8] But, continued R. Ashi, where there is reason for the assumption [that proper use will be made] we assume it,[9] even though a command is involved, and where there is no reason for such assumption,[10] we do not assume it, even where there is no command involved.

Rabbah once sold an ass[11] to an Israelite who was suspected of selling it to an idolater. Said Abaye to him: ‘Wherefore have you acted thus?’ said he, ‘It is to an Israelite that I have sold it.’ ‘But,’ he retorted, ‘he will go and sell it to an idolater!’ ‘Why’ — [argued the other] ‘should he sell it to an idolater and not sell it to an Israelite?’[12] He [Abaye] objected to him [from the following Baraitha]: In a place where it is the custom to sell small cattle to Cutheans,[13] such sale is permitted, but where they usually do not sell, such sale is not permitted. Now, what is the reason [for the prohibition]? Shall we say because they are suspected of immoral practices? But are they to be suspected? Has it not been taught: One may not place cattle in inns kept by idolaters even male-cattle with male persons and female-cattle with female persons, and it is needless to say that female-cattle with male persons and male-cattle with female persons [are forbidden]; nor may one hand over cattle to one of their shepherds; nor may one be alone with them;[14] nor may one entrust a child to them to be educated, or to be taught a trade.[15] One may however place cattle in inns kept by Cutheans even male-cattle with female persons and female-cattle with male persons, and it goes without saying that males with males and females with females are permitted; so also may one hand over cattle to one of their shepherds and be alone with them, or hand over a child to them to be educated or to be taught a trade.[16] This shows indeed that they are not to be suspected.[17] And it has further been taught: One should not sell them either weapons or accessories of weapons, nor should one grind any weapon for them, not may one sell them either stocks or neck-chains or ropes, or iron chains — neither to idolaters nor Cutheans.[18] Now, what is the reason?[19] Shall we say because they are suspected of murder? But are they suspect, seeing we have just said that one may be alone with them! Hence it is only because he might sell it to an idolater.[20] Should you, moreover, say that whereas a Cuthean will not repent an Israelite will repent?[21] Surely R. Nahman said in the name of Raba b. Abbuha: Just as it was said that it is forbidden to sell to an idolater, so is it forbidden to sell to an Israelite who is suspected of selling it to an idolater! He [Rabbah] thereupon ran three parasangs[22] after the buyer (some say one parasang along a sand-mount) but failed to overtake him.

R. Dimi b. Abba said: Just as it is forbidden to sell[23] to an idolater, so it is forbidden to sell to a robber who is an Israelite. What are the circumstances? If he is suspected of murder, then it is quite plain; he is the same as an idolater! If [on the other hand] he has never committed murder, why not [sell them to him]? — It refers indeed to one who has not committed murder; but we may be dealing here with a cowardly thief who is apt at times [when caught] to save himself [by committing murder].

Our Rabbis taught: It is forbidden to sell them shields; some say, however, that shields may be sold to them. What is the reason [for this prohibition]? Shall we say, Because they protect them? In that case even wheat or barley should likewise not [be sold to them].[24] — Said Rab:

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(1) Sheb. V, 8.
(2) To a fellow-Jew who is suspected of tilling his fields on that year contrary to the Biblical prohibition, as he thereby 'places a stumbling-block before the blind'.
(3) R. Hunah's action has therefore the ruling of the Hillelites as its authority.
(4) [So Ms. M. Cur. edd. 'Rabbah', v. p. 77 n. 7.]
(5) The question of hiring, lending or trying, mentioned in connection with selling cattle to a heathen does not therefore arise; and the comparatively minor objection of 'placing a stumbling-block before the blind' is waived by the assumption that the animal may have been intended for slaughter.
(6) The objections mentioned before therefore do apply.
(7) Tosef. Sheb. III.
(8) Sheb. V, 6.
(9) In the case of a field, for example, the fact that it is not often procurable may serve as ground for the assumption that the buyer availed himself of the opportunity of purchasing it, even though he does not intend tilling it till the following year.
(10) As, for instance, in the case of the 'implements'.
(11) To which case the assumption of buying for slaughter cannot be applied.
(12) We have a right to assume that he will sell it to an Israelite, so that there is no objection to its being sold to him. [This is contrary to the view expressed above by Rabbah (v. p. 76, n. 9), and supports the reading 'Raba', v. Tosaf. s.v.רבה.]
(13) Members of the Samaritan sect.
(14) As his life would be endangered.
(15) Lest he be taught idolatry.
(16) Tosef. A.S. III.
(17) Since, however, the sale of small cattle only is governed by custom, it is obvious that big cattle may not be sold in any case to a Cuthean; and as the suspicion of immorality does not exist, the reason for the prohibition can only be the probability of his selling it to an idolater, which is contrary to the view of Raba.
(18) Tosef. ibid.
(19) For forbidding the sale of these articles to a Cuthean.
(20) Who might use them for assailing an Israelite, which refutes Rabbah's view.
(21) So that even though he had been addicted to this wrongdoing, he might be taken to have recanted, and this justifies Rabbah's action.
(22) Persian miles.
(23) The aforementioned articles.
(24) Since they protect them against hunger.

Talmud - Mas. Avodah Zarah 16a

If it is possible,[1] these, too, should not.

There are some who say that the reason for not permitting [the sale of] shields is this: When they have no weapons left, they might use these for killing [in battles]. But there are others who say that shields may be sold to them, for when they have no more weapons they run away. Said R. Nahman in the name of Rabbah b. Abbuha: The halachah is with 'the Others'.

Said R. Adda b. Ahabah: One should not sell them bars of iron. Why? — Because they may hammer weapons out of them. If so, spades and pick-axes too [should be forbidden]! — Said R. Zebid: We mean [bars of] Indian iron.[2] Why then do we sell it now? — Said R. Ashi: [We sell it] to the Persians who protect us.

CALVES AND FOALS. It has been taught:[3] R. Judah permits [the sale of] a maimed one, since it cannot be cured or restored to health.[4] Said they to him: Might she not be fit for breeding purposes, and since she proves fit for breeding purposes, she will be kept?[5] He replied: You wait till she bears. This is to say, An animal [in such a state] will not let the male get near her.

BEN BATHYRA PERMITS IN THE CASE OF A HORSE. It has been taught: Ben Bathyra permits [the sale of] a horse, because it is only put to a kind of work which does not involve the bringing of a sin-offering.[6] Rabbi, however, forbids it for two reasons: the one, because it comes under the prohibition of selling weapons,[7] the other, because it comes under the prohibition of big cattle. It is quite right as regards the prohibition of weapons; there are [horses] which [are trained to] kill by trampling, but how does the prohibition of big cattle apply?[8] — Said R. Johanan, when the horse gets old, it is made to work a mill on the Sabbath.[9] Said R. Johanan: The halachah is with Ben Bathyra.

The following question was asked: What about an ox that has been fatted?[10] This question applies both to R. Judah[11] and to the Rabbis:[12] It applies to R. Judah, for R. Judah only permits in the case of a maimed one, which can in no case be fit for work, whereas this one, which if kept long enough may be fit for work, might be forbidden; or it might be said that even according to the Rabbis it is only in that case [of a maimed one], which is ordinarily not intended for slaughter, that they forbid, but this one, which is ordinarily intended for slaughter, they might permit?

Come and hear: Rab Judah said in the name of Samuel that the House of Rabbi had to present a fatted ox [to the Romans] for their festival, and a sum of forty thousand [coins] was paid for the concession not to contribute it on the day of the festival but on the morrow; then another forty thousand was paid for the permission to present it not alive but slaughtered; then forty thousand was again expended to be freed altogether from presenting it. Now what is the reason [for not presenting it alive] if not to avoid its being kept?[13] — But if that is the reason, what is the purpose of the concession of offering it on the morrow instead of on the day? Obviously, then, Rabbi was anxious to abolish the thing entirely, but he considered it advisable to do it little by little.[14] But is [a fatted ox] if kept [and slimmed] healthy enough to do work? — Said R. Ashi: Zabida[15] told me that a young bullock when kept [and slimmed] does the work of two.

MISHNAH. ONE SHOULD NOT SELL THEM BEARS, LIONS OR ANYTHING WHICH MAY INJURE THE PUBLIC. ONE SHOULD NOT JOIN THEM IN BUILDING A BASILICA,[16] A SCAFFOLD, A STADIUM, OR A PLATFORM.[17] BUT ONE MAY JOIN THEM IN BUILDING PEDESTALS [FOR ALTARS][18] AND ALSO [PRIVATE-] BATHS. WHEN HOWEVER HE REACHES THE CUPOLA IN WHICH THE IDOL IS PLACED HE MUST NOT BUILD.

GEMARA. Said R. Hanin, son of R. Hisda (some report, Said R. Hanan b. Raba in the name of Rab): To big beasts the same rule applies as to small cattle as regards struggling[19] but not as regards selling,[20] but my opinion is that it applies to selling also, so that in such places where it is the custom to sell,[21] such sale is permitted, but where the custom is not to sell, it is forbidden.

Our Mishnah says: ONE SHOULD NOT SELL THEM BEARS, LIONS, OR ANYTHING WHICH MAY INJURE THE PUBLIC. The reason, then, is because they may injure the public, but were it not for fear of injury to the public would it be permitted?[22] Said Rabbah b. ‘Ulla: [Our Mishnah may refer] to a mutilated lion

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(1) To withhold it from them without incurring their animosity.
(2) Which is used exclusively for manufacturing weapons.
(3) Tosef. A.Z. II.
(4) It is therefore only fit for slaughter.
(5) And those who see her might think that any other cattle may likewise be sold to a heathen.
(6) V. supra p. 33, n. 6.
(7) A horse being as helpful as a weapon in battle.
(8) Since you have stated that a horse is not put to a kind of labour which involves a sin-offering, there is no ground for prohibiting the sale for fear of the animal being tried (v. supra ibid.).
(9) Which is a ‘principal’ work.
(10) Being unfit for work, may it be sold to an idolater?
(11) Who permits in the case of a maimed one.
(12) The representatives of the anonymous opinion in our Mishnah.
(13) And then put to work; hence it is proved that for this reason a fatted ox may not he sold to idolaters.
(14) His action cannot therefore he cited as a proof.
(15) Who was an expert in fattening cattle.
(16) [A large high building used partly as an exchange and mart and also regularly as a court of law where men might be sentenced to death (Elmslie, p. 12).]
(17) בימה, used for throwing off victims sentenced to death. [So Rashi. Hoffmann: ‘Judge's seat’ (**); Elmslie: ‘judge's tribunal’.]
(18) [בימוסיאות from **, v. l. דימוסאיות (**) ‘public-baths’.]
(19) According to Hul. 37a, an animal whose condition is dangerous, must, after being slaughtered, show signs of struggling to be at all fit for food; otherwise it is assumed that it died before being slaughtered and is thus unfit for food. The least extent of struggling is: in the case of small cattle, the stretching out and the bending back of a leg, and in the case of big cattle either stretching or bending is sufficient.
(20) Which depends on local custom. V. supra 14b.
(21) Big beasts to idolaters.
(22) E.g., tamed lions and the like. This Mishnah is thus contrary to the opinion of Rab.

Talmud - Mas. Avodah Zarah 16b

in accordance with the opinion of R. Judah.[1] R. Ashi said: Generally, any lion may be regarded as ‘mutilated’ in regard to labour.[2]

An objection was raised: Just as it is forbidden to sell them big cattle, so it is forbidden to sell them big animals; and even in such places where they do sell small cattle [to heathen], big animals should not be sold to them.[3] This refutes the opinion of R. Hanan b. Raba![4] It [admittedly] refutes it.

Rabina referred to the contradiction between our Mishnah and this Baraitha, but adjusted it: We learnt: ONE SHOULD NOT SELL THEM BEARS, LIONS OR ANYTHING WHICH MAY INJURE THE PUBLIC. The reason, then, is because they may injure the public, but apart from such injury they may be sold! This is contradicted [by the following Baraitha]: Just as it is forbidden to sell them big cattle, so it is forbidden to sell them big animals, even in such places where they do sell small cattle [to heathens] big animals should not be sold to them! — He then adjusted it by saying [that our Mishnah] refers to a mutilated lion, in accordance with the view of R. Judah. R. Ashi said: Generally, any lion may be regarded as ‘mutilated’ as regards labour.

R. Nahman objected: Who told us that a lion is to be regarded as a big animal? Let us regard it as a small animal.[3]

R. Ashi, on examining our Mishnah minutely, deduced therefrom the following refutation: We there learn, ONE SHOULD NOT SELL THEM BEARS, LIONS OR ANYTHING WHICH MAY

INJURE THE PUBLIC. The reason is, evidently, that it is injurious, but were it not for the injury, it could be sold; furthermore, the reason why ‘lion’ is mentioned, is because a lion is generally regarded as ‘mutilated’ as regards labour, but to any other animal which is fit for labour the prohibition would not apply — this refutes the opinion of R. Hanan b. Raba.[5] It admittedly refutes it.

But to what kind of labour could any big animal be put? — Said Abaye: Mar Judah told me that at Mar Johni's they work mills with wild asses.

Said R. Zera: When we were at the school of Rab Judah[6] he said to us: You may take the following matter from me, for I have heard it from a great man — though I know not whether from Rab or from Samuel: To big beasts the same rule applies as to small cattle as regards struggling.[7] When I came to Korkunia[8] I found R. Hiyya b. Ashi who was sitting [in the academy] and saying in the name of Samuel, ‘To a big beast the same rule applies as to small cattle as regards struggling’ — Said I, ‘That means then that it is in the name of Samuel that this has been stated’ — But when I came to Sura I found Rabbah b. Jeremiah who was sitting and saying in the name of Rab, ‘To a big beast the same rule applies as to small cattle as regards struggling’ — Then said I, ‘That means that this has been stated in the name of Rab as well as in the name of Samuel’. Now, when I went up there[9] I found R. Assi sitting and saying, ‘Said R. Hama b. Guria in the name of Rab: To a big beast the same rule applies as to small cattle as regards struggling’. Said I to him, ‘Do you not hold, then, that the one who reported this teaching in the name of Rab is Rabbah b. Jeremiah?’[10] He answered me: ‘You black-pot.’[11] Through me and you this report will be completed.’[12] It has indeed been stated so: R. Zera said in the name of R. Assi, in the name of Rabbah b. Jeremiah, in the name of R. Hama b. Guria, in the name of Rab: To a big animal the same rule applies as to small cattle as regards struggling.

ONE SHOULD NOT JOIN THEM IN BUILDING A BASILICA, AN EXECUTIONER'S SCAFFOLD, A STADIUM OR A TRIBUNE.

Said Rabbah b. Bar-Hana in the name of R. Johanan: There are three kinds of basilica-buildings: those attached to royal palaces, baths, or store-houses. Said Raba: Two of these are permitted and one[13] is forbidden; as a reminder [take the phrase], To bind their Kings with chains.[14] Some report, Raba said: All [basilicae] are permitted. But have we not learnt, ONE SHOULD NOT JOIN THEM IN BUILDING A BASILICA, AN EXECUTIONER'S SCAFFOLD, A STADIUM OR A TRIBUNE? — This should be taken to mean a basilica attached to an executioner's scaffold, a stadium or a tribune.[15]

Our Rabbis taught:[16] When R. Eliezer[17] was arrested because of Minuth[18] they brought him up to the tribune to be judged. Said the governor[19] to him, ‘How can a sage man like you occupy himself with those idle things?’ He replied, ‘I acknowledge the Judge as right.’ The governor thought that he referred to him — though he really referred to his Father in Heaven — and said, ‘Because thou hast acknowledged me as right, I pardon;[20] thou art acquitted.’ When he came home, his disciples called on him to console him, but he would accept no consolation.[21] Said R. Akiba to him, ‘Master, wilt thou permit me to say one thing of what thou hast taught me?’ He replied, ‘Say it.’ ‘Master,’ said he, ‘perhaps some of the teaching of the Minim had been transmitted to thee

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(1) In the Mishnah, 14b.

(2) It is unfit for work; hence even according to the other Rabbis its sale should be permitted, as the reasons given in case of cattle are inapplicable here.

(3) Tosef. A.Z. II.

(4) Who holds that there is no objection to the sale of big animals, where it is customary to do so. (8) There will thus be no contradiction offered by the Baraitha which forbids the sale of big animals.

(5) V. p. 82, n. 7.

(6) Who was a disciple of both Rab and Samuel.

(7) V. supra p. 81.

(8) [Identified with Kirkesium (Circesium) on the Euphrates. This town as well as Sura lay on R. Zera's itinerary from Pumbeditha to Palestine, Obermeyer, op. cit. p. 33.]

(9) To Palestine.

(10) The Rabbis attached great importance to the accuracy of those in whose names anything was reported. V. Ab. VI, 6.

(11) The mild rebuke was presumably warranted by R. Zera's attire.

(12) [That it was R. Hama who heard it from Rab and from whom Rabbah in turn had heard it reported.]

(13) Connected with the royal palace — where men are sometimes sentenced to death.

(14) לאסור מלכיהם בזיקים Ps. CXLIX, 8. לאסור suggests, prohibition.

(15) Otherwise, even one of a royal palace is permitted; the latter being only used as part of the royal residence.

(16) The following incident is recorded with considerable variations in Eccl. Rab. I, 8.

(17) For the historical significance of this story, v. Klausner's Jesus of Nazareth, p. 37ff and references there given; also T. Herford's, op. cit. p. 143 and note.

(18) מינות (abstract noun of מין Min, v. supra, p. 14, n. 2) ‘heresy’, with special reference to Christianity. [During the Roman persecution of Christians in Palestine in the year 109 under Trajan (Herford, loc. cit.) R. Eliezer b. Hyrcanus was arrested on suspicion of following that sect.]

(19) **.

(20) דימוס, dimissus.

(21) He was sorely grieved to have been at all suspected of apostacy.

and thou didst approve of it and because of that thou wast arrested?' He exclaimed: 'Akiba thou hast reminded me.' I was once walking in the upper-market of Sepphoris when I came across one [of the disciples of Jesus the Nazarene][1] Jacob of Kefar-Sekaniah[2] by name, who said to me: It is written in your Torah, Thou shalt not bring the hire of a harlot . . . into the house of the Lord thy God.[3] May such money be applied to the erection of a retiring place for the High Priest?[4] To which I made no reply. Said he to me: Thus was I taught [by Jesus the Nazarene],[5] For of the hire of a harlot hath she gathered them and unto the hire of a harlot shall they return.'[6] they came from a place of filth, let them go to a place of filth. Those words pleased me very much, and that is why I was arrested for apostacy; for thereby I transgressed the scriptural words, Remove thy way far from her — which refers to minuth — and come not nigh to the door of her house,[7] — which refers to the ruling power.'[8]

There are some who apply, 'Remove thy way from her' to minuth as well as to the ruling power, and, 'and come not nigh to the door of her house' to a harlot. And how far is one to keep away? Said R. Hisda: Four cubits. And to what do the Rabbis[9] apply, of the hire of a harlot? — To the saying of R. Hisda. For R. Hisda said: Every harlot who allows herself to be hired will at the end have to hire,[10] even as it is said, And in that thou givest hire, and no hire is given to thee, thus thou art reversed.[11] This[12] is contrary to what R. Pedath said; for R. Pedath said:[13] Only in the case of incest did the Torah forbid close approach, as it is said, None of you shall approach to any that is near of kin to him to uncover their nakedness.[14]

'Ulla[15] on returning from college used to kiss his sisters on the hand; some say, on the breast. He, then, contradicts himself. For 'Ulla said: Even mere approach is forbidden because we say to a Nazarite,[16] 'Go, go — round about; but do not approach 'the vineyard.'[17]

The horse-leech hath two daughters: Give, give.[18] What is meant by 'Give, give'? Said Mar 'Ukba: It is the voice of the two daughters who cry from Gehenna calling to this world: Bring, bring! And who are they? Minuth[19] and the Government.[20] Some report: Said R. Hisda in the name of Mar 'Ukba: It is the voice of Hell crying and calling: Bring me the two daughters who cry and call in this world, 'Bring, bring.'

Scripture says, None that go unto her return neither do they attain the paths of life.[21] But if they do not return, how can they attain [the paths of life]? — What it means is that even if they do turn away from it they will not attain the paths of life.'[12] Does it mean then that those who repent from minuth die? Was there not that woman who came before R. Hisda confessing to him that the lightest sin that she committed was that her younger son is the issue of her older son? Whereupon R. Hisda said: Get busy in preparing her shrouds — but she did not die. Now, since she refers to her [immoral] act as the lightest sin, it may be assumed that she had also adopted minuth [and yet she did not die]! — That one did not altogether renounce her evil-doing, that is why she did not die.

Some have this version: [Is it only] from minuth that one dies if one repents, but not from other sins? Was there not that woman who came before R. Hisda who said, Prepare her shrouds and she died?[22] — Since she said [of her guilt] that it is one of the lightest, it may be assumed that she was guilty of idolatry also.

And does not one die on renouncing sins other [than idolatry]? Surely it has been taught: It was said of R. Eleazar b. Dordia that he did not leave out any harlot in the world without coming to her. Once, on hearing that there was a certain harlot in one of the towns by the sea who accepted a purse of denarii for her hire, he took a purse of denarii and crossed seven rivers for her sake. As he was with her, she blew forth breath and said: As this blown breath will not return to its place, so will

Eleazar b. Dordia never be received in repentance. He thereupon went, sat between two hills and mountains and exclaimed: O, ye hills and mountains, plead for mercy for me! They replied: How shall we pray for thee? We stand in need of it ourselves, for it is said, For the mountains shall depart and the hills be removed![23] So he exclaimed: Heaven and earth, plead ye for mercy for me! They, too, replied: How shall we pray for thee? We stand in need of it ourselves,for it is said, For the heavens shall vanish away like smoke, and the earth shall wax old like a garment.[24] He then exclaimed: Sun and moon, plead ye for mercy for me! But they also replied: How shall we pray for thee? We stand in need of it ourselves, for it is said, Then the moon shall be confounded and the sun ashamed.[25] He exclaimed: Ye stars and constellations, plead ye for mercy for me! Said they: How shall we pray for thee? We stand in need of it ourselves, for it is said, And all the hosts of heaven shall moulder away.[26] Said he: The matter then depends upon me alone! Having placed his head between his knees, he wept aloud until his soul departed. Then a bath-kol[27] was heard proclaiming: 'Rabbi Eleazar b. Dordai is destined for the life of the world to come!' Now, here was a case of a sin [other than minuth] and yet he did die! — In that case, too, since he was so much addicted to immorality it is as [if he had been guilty of] minuth. Rabbi [on hearing of it] wept and said:[28] One may acquire eternal life after many years, another in one hour! Rabbi also said: Repentants are not alone accepted, they are even called 'Rabbi'!

R. Hanina and R. Jonathan were walking on the road and came to a parting of ways, one of which led by the door of a place of idol-worship and the other led by a harlots' place. Said the one to the other: Let us go [through the one leading] by the place of idolatry

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(1) The bracketed words occur in MS. M.

(2) [Identified with Suchnin, north of the plain of El Battauf in Galilee (v. Klein, Neue Beitr, z. Geschichte und Geogr., 20ff); and this Jacob may have been either James the son of Alphaeus (Mark III, 18) or James the Little (ibid. XV, 40).]

(3) Deut. XXIII, 19.

(4) Who spent the whole night preceding the Day of Atonement in the precincts of the Temple, where due provision had to be made for all his conveniences.

(5) V. n. 3.

(6) Micah I, 7.

(7) Prov. V, 8.

(8) Cf. Ab. I, 10, 'Seek not intimacy with the ruling power'; also ib. II, 3.

(9) Who do not share the view of Jacob cited above.

(10) She will be despised by all.

(11) Ezek. XVI, 34.

(12) The distance of four cubits prescribed by R. Hisda.

(13) Shab. 13a.

(14) Lev. XVIII, 6.

(15) V. Shab. 13a.

(16) Who has vowed to abstain from wine or anything issuing from the vine (v. Num. VI, 1 seq.).

(17) Infra 58b.

(18) Prov. XXX, 15.

(19) Which continually lures the unwary to its erroneous teaching.

(20) Which constantly imposes fresh taxes and duties.

(21) Prov. II, 19, applied to those converted to idolatry. (12) Torment of remorse will shorten their lives.

(22) Though her sin was incest and not minuth!

(23) Isa. LIV, 10.

(24) Ibid. LI, 6.

(25) Ibid. XXIV, 23.

(26) Ibid. XXXIV, 4.

(27) 'A heavenly voice', v. Glos.

(28) V. supra 10a.

Talmud - Mas. Avodah Zarah 17b

the inclination for which has been abolished.[1] The other however said: Let us go [through that leading] by the harlots' place and defy our inclination and have our reward. As they approached the place they saw the harlots withdraw[2] at their presence. Said the one to the other: Whence didst thou know this?[3] The other, in reply, quoted, She shall watch over thee, mezimmah [against lewdness], discernment shall guard thee.[4] Said the Rabbis to Raba: How is this word mezimmah to be understood?[5] Shall it be rendered 'The Torah' since the word zimmah in Scripture is rendered in the Targum,[6] 'It is a counsel of the wicked';[7] and Scripture has the phrase, wonderful is His counsel and great His wisdom?[8] But in that case the word should have been zimmah. This, then, is how it is to be understood, Against things of lewdness — zimmah — she [Discernment, i.e., the Torah] shall watch over thee.

Our Rabbis taught: When R. Eleazar b. Perata and R. Hanina b. Teradion were arrested, R. Eleazar b. Perata said to R. Hanina b. Teradion: Happy art thou that thou hast been arrested on one charge; woe is me, for I am arrested on five charges. R. Hanina replied: Happy art thou, who hast been arrested on five charges, but wilt be rescued; woe is me who, though having been arrested on one charge, will not be rescued; for thou hast occupied thyself with [the study of] the Torah as well as with acts of benevolence, whereas I occupied myself with Torah alone.

This accords with the opinion of R. Huna. For R. Huna said: He who only occupies himself with the study of the Torah is as if he had no God, for it is said: Now for long seasons Israel was without the true God.[9] What is meant by 'without the true God'? — It means that he who only occupies himself with the study of the Torah is as if he had no God.

But did he not occupy himself with acts of benevolence? Surely it has been taught: R. Eliezer b. Jacob says: One should not put his money into a charity-bag, unless it is supervised by a learned man such as R. Hanina b. Teradion![10] — He was indeed very trustworthy, but he did not practise benevolence.

But has it not been taught: He[11] said to him [R. Jose b. Kisma]: I mistook Purim-money[12] for ordinary charity money, so I distributed [of my own] to the poor![13] — He did indeed practise charity, but not as much as he might have done.

When they brought up R. Eleazar b. Perata [for his trial] they asked him, 'Why have you been studying [the Torah] and why have you been stealing?' He answered, 'If one is a scholar he is not a robber, if a robber he is not a scholar, and as I am not the one I am neither the other.' 'Why then,' they rejoined, 'are you titled Master'?[14] 'I,' replied he, 'am a Master of Weavers.' Then they brought him two coils and asked, 'Which is for the warp and which for the woof?' A miracle occurred and a female-bee came and sat on the warp and a male-bee came and sat on the woof. 'This,' said he, 'is of the warp and that of the woof.' Then they asked him,[15] 'Why did you not go to the Meeting-House?'[16] He replied, 'I have been old and feared lest I be trampled under your feet.' 'And how many old people have been trampled till now?' he was asked. A miracle [again] happened; for on that very day an old man had been trampled. 'And why did you let your slave go free?'[17] He replied, 'No such thing ever happened.' One of them then was rising to give evidence against him, when Elijah came disguised as one of the dignitaries of Rome and said to that man: As miracles were worked for him in all the other matters, a miracle will also happen in this one, and you will only be shown up as bad natured. He, however, disregarded him and stood up to address them, when a written communication from important members of the government had to be sent to the Emperor and it was dispatched by that man. [On the road] Elijah came and hurled him a distance of four hundred parasangs. So that he went[18] and did not return.

They then brought up R. Hanina b. Teradion and asked him, ‘Why hast thou occupied thyself with the Torah?’[19] He replied, ‘Thus the Lord my God commanded me.’ At once they sentenced him to be burnt, his wife to be slain, and his daughter to be consigned to a brothel.

(The punishment of being burnt came upon him because he

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(1) V. Sanh. 64a.
(2) Abstaining from solicitation.
(3) How could he be so sure of being able to subdue his inclination.
(4) Prov. II, 11.
(5) מזמה (E.V. ‘discretion’). זמה has the twofold meaning of ‘counsel’ and ‘lewdness’.
(6) V. Targum Onkelos.
(7) Lev. XVIII, 17. זמה הוא — generally rendered, it is lewdness.
(8) Isa. XXVIII, 29. ‘Counsel’ is thus used as a synonym for the Torah; the words quoted from Prov. would therefore be rendered, The Torah shall watch over thee.
(9) II Chron. XV, 3.
(10) B.B. 10a.
(11) R. Han, b. Ter., who was a Charity-Treasurer.
(12) Money set aside for distribution among the poor for celebrating the Festival of Purim (v. Esther) which must not be applied by the recipient to any other purpose whatsoever.
(13) Having distributed the Purim Funds without specifying their purpose, he distributed his own money as Purim allowances. Infra 18a.
(14) The third charge.
(15) The fourth charge brought against him.
(16) ביוועדן-אבידן Place of Assembly for matters and performances connected with idolatry. Under Hadrian Jews were forced to attend these. V. Shab. 115a, where this is referred to as a place where disputations were held between Jews and the early Christians. [Meaning of the word still obscure despite the many and varied explanations suggested; e.g., (a) House of the Ebonites, (b) Abadan (Pers.) ‘forum’, (c) Beh Mobedhan (Pers.), i.e., House of the chief magi; v. Krauss, Synagogale Altertumer, p. 31].
(17) In accordance with the Biblical injunction to free all Jewish slaves after six years, or at the advent of the Jubilee Year — the fifth offence with which he was charged.
(18) Without giving the intended evidence.
(19) This was forbidden by Hadrian under penalty of death.

Talmud - Mas. Avodah Zarah 18a

pronounced the Name in its full spelling.[1] But how could he do so? Have we not learnt: The following have no portion in the world to come: He who says that the Torah is not from Heaven, or that the resurrection of the dead is not taught in the Torah. Abba Saul says: Also he who pronounces the Name in its full spelling?[2] — He did it in the course of practising, as we have learnt: Thou shalt not learn to do after the abominations of those nations,[3] but thou mayest learn [about them] in order to understand and to teach. Why then was he punished? — Because he was pronouncing the Name in public. His wife was punished by being slain, because she did not prevent him [from doing it]. From this it was deduced: Any one who has the power to prevent [one from doing wrong] and does not prevent, is punished for him.[4] His daughter was consigned to a brothel, for R. Johanan related that once that daughter of his was walking in front of some great men of Rome who remarked, ‘How beautiful are the steps of this maiden!’ Whereupon she took particular care of her step. Which confirms the following words of R. Simeon b. Lakish: What is the meaning of the verse, The iniquity of my heel compasseth me about?[5] — Sins which one treads under heel[6] in this world compass him about on the Day of Judgment.)

As the three of them went out [from the tribunal] they declared their submission to [the Divine] righteous judgment. He quoted, The Rock, His work is perfect; for all his ways are justice.[7] His wife continued: A God of faithfulness and without iniquity, just and right is He;[8] and the daughter quoted: Great in counsel and mighty in work, whose eyes are open upon all the ways of the sons of men, to give everyone according to his ways, and according to the fruit of his doing.[9] Said Raba: How great were these righteous ones, in that the three Scriptural passages, expressing submission to Divine justice, readily occurred to them just at the appropriate time for the declaration of such submission.

Our Rabbis taught: When R. Jose b. Kisma was ill, R. Hanina b. Teradion went to visit him. He said to him: ‘Brother Hanina, knowest thou not that it is Heaven[10] that has ordained this [Roman] nation to reign? For though she laid waste His House, burnt His Temple, slew His pious ones and caused His best ones to perish, still is she firmly established! Yet, I have heard about thee that thou sittest and occupiest thyself with the Torah, dost publicly gather assemblies, and keepest a scroll [of the Law] in thy bosom!’[11] He replied, ‘Heaven will show mercy.’ — ‘I,’ he remonstrated, ‘am telling thee plain facts, and thou sayest "Heaven will show mercy"! It will surprise me if they do not burn both thee and the scroll of the Law with fire.’ ‘Rabbi,’ said the other, ‘How do I stand with regard to the world to come?’ — ‘Is there any particular act that thou hast done?’ he enquired. He replied: ‘I once mistook Purim-money for ordinary charity-money, and I distributed [of my own] to the poor.’[12] ‘Well then,’ said he, ‘would that thy portion were my portion and thy lot my lot.’

It was said that within but few days R. Jose b. Kisma died and all the great men of Rome[13] went to his burial and made great lamentation for him. On their return, they found R. Hanina b. Teradion sitting and occupying himself with the Torah, publicly gathering assemblies, and keeping a scroll of the Law in his bosom. Straightaway they took hold of him, wrapt him in the Scroll of the Law, placed bundles of branches round him and set them on fire. They then brought tufts of wool, which they had soaked in water, and placed them over his heart, so that he should not expire quickly. His daughter exclaimed, ‘Father, that I should see you in this state!’ He replied, ‘If it were I alone being burnt it would have been a thing hard to bear; but now that l am burning together with the Scroll of the Law, He who will have regard for the plight of the Torah will also have regard for my plight.’ His disciples called out, ‘Rabbi, what seest thou?’ He answered them, ‘The parchments are being burnt but the letters are soaring on high.’[14] ‘Open then thy mouth’ [said they] ‘so that the fire enter into thee.’[15] He replied, ‘Let Him who gave me [my soul] take it away, but no one should injure oneself.’ The Executioner[16] then said to him, ‘Rabbi, if I raise the flame and take away the tufts of wool from over thy heart, will thou cause me to enter into the life to come?’ ‘Yes,’ he replied. ‘Then swear unto me’ [he urged]. He swore unto him. He thereupon raised the flame and removed the tufts of wool from over his heart, and his soul departed speedily. The Executioner then jumped and threw himself into the fire. And a bathkol[17] exclaimed: R. Hanina b. Teradion and the Executioner have been assigned to the world to come. When Rabbi heard it he wept and said: One may acquire eternal life in a single hour, another after many years.[18]

Beruria, the wife of R. Meir, was a daughter of R. Hanina b. Teradion. Said she [to her husband], ‘I am ashamed to have my sister placed in a brothel.’ So he took a tarkab-full[19] of denarii and set out.[20] If, thought he, she has not been subjected to anything wrong, a miracle will be wrought for her, but if she has committed anything wrong, no miracle will happen to her. Disguised as a knight, he came to her and said, ‘Prepare thyself for me.’ She replied, ‘The manner of women is upon me.’ ‘I am prepared to wait,’ he said. ‘But,’ said she, ‘there are here many, many prettier than I am.’ He said to himself, that proves that she has not committed any wrong; she no doubt says thus to every comer. He then went to her warder and said, ‘Hand her over to me. He replied, ‘I am afraid of the government.’ ‘Take the tarkab of dinars.’ said he, ‘one half distribute [as bribe], the other half shall be for thyself.’ ‘And what shall I do when these are exhausted?’ he asked. ‘Then,’ he replied, ‘say, "O God of Meir, answer me!" and thou wilt be saved.’ ‘But,’ said he,

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(1) The Tetragrammaton, the four-lettered Name of God, יהוה, was fully pronounced only by the Priests in the temple when blessing the people. Everywhere else it was pronounced ‘Adonai’. For full treatment of the subject, v.J.E. IX, 162 seq.
(2) Sanh. 90a.
(3) Deut. XVIII, 9.
(4) Shab. 54b.
(5) Literal rendering of Ps. XLIX, 6.
(6) Regards as insignificant.
(7) Deut. XXXII, 4.
(8) Ibid.
(9) Jer. XXXII, 19. These verses are embodied to this day in the Jewish Burial Service (v.P.B, p. 318), the main idea of which is submission to the justice of the Divine judgment — צדוק-הדין by which Hebrew name the Burial Service is called.
(10) Synonym for God.
(11) Contrary to the Roman decree.
(12) V. supra 17a.
(13) [The Roman officials in Caesarea where he lived and died.]
(14) Scrolls of the Torah may be destroyed, but its spirit is immortal and indestructible.
(15) And put an end to his agony.
(16) קלצטונירי, ** Torturer, executioner.
(17) V. Glos.
(18) His favourite aphorism. V. supra 10b, 17a.
(19) תרי-קבתתרקב a dry measure holding two kabs.
(20) To release her.

Talmud - Mas. Avodah Zarah 18b

‘who can assure me that that will be the case?’ He replied, ‘You will see now.’ There were there some dogs who bit anyone [who incited them]. He took a stone and threw it at them, and when they were about to bite him he exclaimed, ‘O God of Meir answer me!’ and they let him alone. The warder then handed her over to him. At the end the matter became known to the government, and [the warder] on being brought [for judgment] was taken up to the gallows, when he exclaimed, ‘O God of Meir answer me.’ They took him down and asked him what that meant, and he told them the incident that had happened. They then engraved R. Meir's likeness on the gates of Rome and proclaimed that anyone seeing a person resembling it should bring him there. One day [some Romans] saw him and ran after him, so he ran away from them and entered a harlot's house.[1] Others say he happened just then to see food cooked by heathens and he dipped in one finger and then sucked the other. Others again say that Elijah the Prophet appeared to them as a harlot who embraced him. God forbid, said they, were this R. Meir, he would not have acted thus! [and they left him]. He then arose and ran away and came to Babylon. Some say it was because of that incident that he ran to Babylon; others say because of the incident about Beruria.[2]

Our Rabbis taught: Those who visit stadiums[3] or a camp[4] and witness there [the performance] of sorcerers and enchanters, or of bukion and mukion, lulion and mulion, blurin or salgurin[5] — lo, this is ‘the seat of the scornful,’ and against those [who visit them] Scripture says, Happy is the man that hath not walked in the counsel of the wicked . . . nor sat in the seat of the scornful, but his delight is in the law of the Lord.[6] From here you can infer that those things cause one to neglect the Torah.[7]

The following was cited as contradicting the foregoing: It is permitted to go to stadiums, because by shouting one may save [the victim].[8] One is also permitted to go to a camp for the purpose of maintaining order in the country, providing he does not conspire [with the Romans], but for the purpose of conspiring it is forbidden. There is thus a contradiction between [the laws relating to] stadiums as well as between [those relating to] camps! There may indeed be no contradiction between those relating to camps, because the one may refer to where he conspires with them, and the other to where he does not; but the laws relating to stadiums are surely contradictory! — They represent the differing opinions of [two] Tannaim. For it has been taught: One should not go to stadiums because [they are] ‘the seat of the scornful’, but R. Nathan permits it for two reasons: first, because by shouting one may save [the victim], secondly, because one might be able to give evidence [of death] for the wife [of a victim] and so enable her to remarry.

Our Rabbis taught: One should not go to theatres or circuses because entertainments are arranged[9] there in honour of the idols. This is the opinion of R. Meir. But the Sages say: Where such entertainments are given there is the prohibition of being suspected of idolatrous worship, and where such entertainment is not given. the prohibition is because of being in ‘the seat of the scornful’. What is the difference between these two reasons?[10] Said R. Hanina of Sura: There is a difference in the case of calling to do business.[11]

R. Simeon b. Pazi expounded [the foregoing verse as follows]: What does Scripture mean by, Happy is the man that hath not walked in the counsel of the wicked, nor stood in the way of sinners, nor sat in the seat of the scornful?[12] If he did not walk [that way] at all how could he stand there? And if he did not stand there he obviously did not sit [among them], and as he did not sit among them he could not have scorned! The wording is to teach thee that if one walks [towards the wicked] he will subsequently stand with them, and if he stands he will at the end sit with them, and if he does sit, he will also come to scorn, and if he does scorn the scriptural verse will be applicable to him, If thou art wise, thou art wise for thyself, and If thou scornest thou alone shalt bear it.[13] Said R. Eleazar: He who scoffs, affliction will befall him, as it is said, Now therefore do ye not scoff lest your punishment be made severe.[14] Raba used to say to the Rabbis: I beg of you, do not scoff, so that you incur no punishment. R. Kattina said: He who scoffs, his sustenance will be reduced, as it is said, He withdraweth His hand in the case of scoffers.[15] R. Simeon b. Lakish said: He who scoffs will fall into Gehenna, as it is said, A proud and haughty man, scoffer is his name, worketh for arrogant wrath.[16] And by ‘wrath’ nought but Gehenna is meant; as it is said, That day is a day of wrath.[17] R. Oshaia said: He who is haughty falls into Gehenna, as it is said, A proud and haughty man, scoffer is his name, worketh for arrogant wrath.[16] And by ‘wrath’ nought but Gehenna is meant; as it is said, That day is a day of wrath.[17] Said R. Hanilai[18] b. Hanilai: He who scoffs brings destruction upon the world, as it is said, Now therefore be ye not scoffers, lest your affliction be made severe, for an extermination wholly determined have I heard.[19] Said R. Eleazar: It is indeed a grievous sin, since it incurs ‘affliction’ at first and ‘extermination’ at last.

R. Simeon b. Pazi expounded [that verse as follows]: ‘Happy is the man that hath not walked’ — i.e., to theatres and circuses of idolaters ‘nor stood in the way of sinners’ — that is he who does not attend contests of wild beasts;[20] ‘nor sat in the seat of the scornful’ — that is he who does not participate in [evil] plannings. And lest one say, ‘Since I do not go to theatres or circuses nor attend contests of wild animals, I will go and indulge in sleep.’ Scripture therefore continues, ‘And in His Law doth He meditate day and night.’ Said R. Samuel b. Nahmani in the name of R. Jonathan: Happy is the man that hath not walked in the counsel of the wicked — that is

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(1) So as not to be identified with R. Meir, who naturally would not enter such a place.

(2) The incident as related in Kid. 80b is to the effect that when R. Meir's wife taunted him about the familiar Rabbinic adage ‘Women are lightminded’, נשים דעתן קלות, he replied that one day she would herself testify to its truth. When, subsequently, she was enticed by one of her husband's disciples, she indeed proved to be too weak to resist. She then committed suicide and the husband, for shame, ran away to Babylon.

(3) Arenas for gladiatorial contests.

(4) כרקום, the Roman castra.

(5) Names given to various performers and performances. [Krauss, op. cit. III, 120, gives the Latin equivalent: bucco, pappus, maccus, morio (kinds of clowns), ludio (mimic), burrae (drolleries), scurrae (buffoons).]

(6) Ps. I, 1-2.

(7) Tos. ‘A.Z. Ch. II.

(8) From the animal which might he scared by their shouts. [Rashi: They might succeed in rescuing the victim by interceding on his behalf.]

(9) [מזבלין Levy takes it as kakophemism for מזבחין ‘sacrifice’.]

(10) Since according to the Sages one is forbidden to enter such places in any case, is there any difference between a place where idolatrous entertainments are present or absent? (V. Tosaf. s.v. מאי.)

(11) In the absence of idolatrous entertainments the sages would not forbid the going for such purpose, since the purpose is not to sit in the seat of the scornful.

(12) Ps. I. 1.

(13) Prov. IX, 12.

(14) Isa. XXVIII, 22. The word מוסרכם, here rendered ‘your bands’, may also stand for ‘your affliction’, v. supra, p. 14, n. 1.

(15) A homiletical rendering of Hos. VII, 5.

(16) Prov. XXI, 24, rendered homiletically.

(17) Zeph. I, 15, referring to the Day of Judgment when the wicked will be sentenced to Gehenna.

(18) Some versions have Tanhum.

(19) Isa. ibid.

(20) קניגיון ** contest of wild beasts with beasts or with men; hunt of animals.

Talmud - Mas. Avodah Zarah 19a

our father Abraham who did not follow the counsel of the men of the Generation of the Division[1] who were wicked, as it is said, Come, let us build us a city, and a tower, with its top in heaven,’[2] nor stood in the way of sinners — for he did not take up the stand of the Sodomites, who were sinful, as it is said, Now the men of Sodom were wicked and sinful against the Lord exceedingly;[3] nor sat in the seat of the scornful — for he did not sit in the company of the Philistines, because they were scoffers; as it is said, And it came to pass, when their hearts were merry, that they said: Call for Samson that he may make us sport.[4]

Happy is the man that feareth the Lord:[5] Does it mean happy is the ‘man’ and not the woman? — Said R. Amram in the name of Rab: [It means] Happy is he who repents whilst he is still a ‘man’.[6] R. Joshua b. Levy explained it: Happy is he who over-rules his inclination[7] like a ‘man’. That delighteth greatly in His commandments,[8] was explained by R. Eleazar thus: ‘In His commandments,’ but not in the reward of His commandments.[9] This is just what we have learnt. ‘He used to say, Be not like servants who serve the master on the condition of receiving a reward; but be like servants who serve the master without the condition of receiving a reward.’[10]

But whose desire is in the law of the Lord.[11] Said Rabbi: A man can learn [well] only that part of the Torah which is his heart's desire,[12] for it is said, But whose desire is in the law of the Lord.

Levi and R. Simeon the son of Rabbi were once sitting before Rabbi and were expounding a part of Scripture.[13] When the book was concluded, Levi said: Let the book of Proverbs now be brought in. R. Simeon the son of Rabbi however said: Let the Psalms be brought; and, Levi having been overruled, the Psalms were brought. When they came to this verse, ‘But whose desire is in the Law of the Lord’, Rabbi offered his comment: One can only learn well that part of the Torah which is his heart's desire. Whereupon Levi remarked: Rabbi, You have given me the right to rise.[14]

Said R. Abdimi b. Hama: He who occupies himself with the Torah will have his desires granted by the Holy One, blessed be He, as it is said: He who [is occupied] with the Law of the Lord, his desire [shall be granted].[15]

Raba likewise said: One should always study that part of the Torah which is his heart's desire, as it is said, But whose desire is in the law of the Lord. Raba also said: At the beginning [of this verse] the Torah is assigned to the Holy One, blessed be He, but at the end it is assigned to him [who studies it],[16] for it is said, Whose desire is in the Law of the Lord and in his [own] Law doth he meditate day and night.[17]

Raba also said the following: One should always study the Torah first and meditate in it afterwards,[18] as it is said, ‘ . . . the Law of the Lord’, and then, ‘and in his [own] law he meditates.’[19] This, too, did Raba say: Let one by all means learn, even though he is liable to forget, yea, even if he does not fully understand all the words which he studies, as it is said, My soul breaketh for the longing that it hath unto Thy ordinances at all times.[20] ‘Breaketh’ is what Scripture says, it does not say ‘grindeth’.[21]

Raba pointed to the following contradictions:[22] Scripture says, Upon the highest places,[23] and then it says. On a seat [in the high places]![24] — At the beginning [the student occupies] any place, but ultimately [he will occupy] a seat.[25] [In another instance] Scripture says, In the top of high places[26] and then it says by the road![27] — Though at first he is in the [solitary] top in [out of the way] high places, yet ultimately [he will sit as judge] by the road.

‘Ulla pointed to the following contradiction: Scripture says, Drink waters out of thine own cistern;[28] and then it says, and running waters out of thine own well![29] — At first drink from thy cistern, and latterly, running waters from thine own well.[30]

Said Raba in the name of R. Sehorah, who said it in the name of R. Huna:[31] What is the meaning of the verse, Wealth gotten by vanity shall be diminished, but he that gathereth little by little shall increase?[32] — If one takes his studies by heaps at a time, he will benefit but little, but if one gathers [knowledge] little by little he will gain much.

Said Raba: The Rabbis know this thing, and yet they disregard it. Said R. Nahman b. Isaac: I have acted up to it and it stood me in good stead.

Said R. Shizebi in the name of R. Eleazar b. Azariah: What is the meaning of the verse, The slothful man shall not hunt his prey?[33] — [It means that] he who is, as it were, a cunning hunter [in matters of learning], will not live or have length of days.[34] R. Shesheth, however, said: [It means that] the cunning hunter has prey to roast,[35] When R. Dimi came[36] he said: This may be likened to one who is hunting birds; if he breaks the wings of each one in turn,[37] he has made sure that all will remain in his possession, otherwise none will remain with him.

And he shall be like a tree transplanted[38] by streams of water.[39] — Those of the school of R. Jannai said: ‘a tree transplanted,’ not ‘a tree planted’ — [which implies that] whoever learns Torah from one master only will never achieve great success. Said R. Hisda to the Rabbinic students: I have a mind to tell you something, though I fear that you might leave me and go elsewhere: ‘Whoever learns Torah from one master only will never achieve great success.’[40] They did leave him and went [to sit] before Rabbah, who however explained to them that the maxim only applies to lessons in logical deductions,[41] but as to oral traditions[42] it is better to learn from one master only, so that

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(1) The builders of the Tower of Babel. Abraham was a younger contemporary of Peleg in whose days was the earth divided. (Gen. X, 25.)

(2) Ibid. XI, 4.

(3) Ibid. XIII, 13.

(4) Judges XVI, 25.

(5) Ps. CXII, 1.

(6) [Enjoying the full vitality and energy of youthful manhood.]

(7) V. supra p. 22, n. 8.

(8) Ibid.

(9) Cf. Ab. IV, 2. ‘The reward of a precept is the precept.’

(10) V. Ibid. I, 3, note (Soncino ed.)

(11) Ps. I, 2.

(12) I.e., for which he has an aptitude, or to which his mood is attuned.

(13) The phrase here used פסק סדרא, ‘expounded a part of scripture’, which occurs only in the Babylonian Talmud, is the equivalent of פשט קרא of the Palestinian Talmud, which has the same meaning. Though it refers to Scripture generally, the phrase is mostly applied to the exposition of the Hagiographa. The passage in Shab. 116b, בנהרדעא פסקי סדרא בכתובים במנחתא דשבתא, ‘In Nehardea a portion of the Hagiographa is expounded at the Sabbath Afternoon Service’ has been taken to indicate the custom of reading a Haftarah from the Hagiographa at those services. This is hardly warranted by the passage in question. V. Bacher Terminologie s.v. סדרא.

(14) From the exposition, as the subject was not of his choice.

(15) Homiletilca rendering of the same verse.

(16) Kid. 32b.

(17) By diligent study the student makes the subject his own.

(18) One should make oneself master of a subject before discussing it.

(19) Ber. 63b.

(20) Ps. CXIX.

(21) Comparing the intellect (soul) to a mill, the above verse is made to indicate that it is satisfied just to break up the grain, even though it cannot grind it into fine flour.

(22) Sanh. 38a.

(23) Prov. IX, 3. Wisdom, the subject of this chapter, is taken as a synonym for the Torah.

(24) Ibid. 14.

(25) As an exponent of the Torah to disciples. V. Sanh. 38b.

(26) Ibid. VIII, 2.

(27) Ibid,

(28) Prov. V, 15.

(29) Ibid.

(30) Imbibe the knowledge drawn from other sources, and in time you will become an inexhaustible source of learning.

(31) ‘Er. 54b.

(32) Prov. XIII, 11.

(33) Ibid. XII, 27.

(34) He who poses as a man of learning without having acquired any knowledge does not deserve to live. The interpretation is based on a play on the words לא יהרוך which is made to read לא יהיה ויאריך ‘He will not live nor have length of days.’

(35) The wise scholar who gathers knowledge little by little will amass good stores.

(36) From Palestine.

(37) Lit., ‘of the first one’ (and then proceeds to hunt for other birds).

(38) שתול (E.V. planted) is rendered ‘transplanted’ as distinct from נטוע ‘planted’. V. Malbim, הכרמל s.v. נטע.

(39) Ps. I, 3.

(40) Lit., ‘a sign of blessing.’

(41) סברא dialectic, from סבר, ‘to hold an opinion’, ‘to reason’.

(42) [גמרא Gemara from גמר — ‘to complete’, a subject that has been completely acquired by means of oral study, v. Bacher, HUCA. 1904, pp. 20 seqq.]

Talmud - Mas. Avodah Zarah 19b

one is not confused by the variation in the terms used.

‘By streams of water’.[1] — Said R. Tanhum b. Hanilai:[2] [This implies that] one should divide one's years [of study] into three [and devote] one third of them to Scripture, one third to Mishnah,[3] and one third to Talmud.[3] But does a man know the tenure of his life? — What is meant is that he should apply this practice to every day of his life.[4]

That bringeth forth its fruit in its season and whose leaf doth not wither[5] — was explained by Raba thus: If he bringeth forth his fruit in its season, then, his leaf will not wither,[6] otherwise, both to the one taught and to the one who teaches does the scriptural verse apply, Not so the wicked; but they are like the chaff which the wind driveth away.[7] R. Abba said in the name of R. Huna, in the name of Rab:[8] The scriptural words, For she hath cast down many wounded,[9] refer to the disciple who gives decisions though he has not reached the age of ordination;[10] yea, a mighty host are her slain[11] refer to the disciple who has reached the ordination age but refrains from giving decisions.[12] And what is the age? — Forty years. But did not Rabbah act as Rabbi?[13] — That was a case of being equal [to anyone].[14]

And whose leaf doth not wither.[15] — Said R. Aha b. Adda in the name of Rab (some ascribe it to R. Aha b. Abba in the name of R. Hamnuna, in the name of Rab): Even the ordinary talk of scholars needs studying, for it is said, And whose leaf doth not wither, and whatsoever he doeth shall prosper.[16] R. Joshua b. Levi said: The following is written in the Law,[17] repeated in the Prophets and mentioned a third time in the Hagiographa: Whosoever occupies himself with the Torah, his possessions shall prosper. ‘It is written in the Law,’ — for it says, Observe therefore the words of this covenant, and do them, that ye may make all that ye do to prosper.’[18] ‘It is repeated in the Prophets,’ — for it is written, This book of the Law shall not depart out of thy mouth, but thou shalt meditate therein day and night, that thou mayest observe to do according to all that is written therein; for then thou shalt make thy ways prosperous, and then thou shalt have good success.[19] ‘It is mentioned a third time in the Hagiographa,’ — for it is written, But his delight is in the Law of the Lord, and in His Law doth he meditate day and night. And he shall be like a tree planted by streams of water, that bringeth forth its fruit in its season, and whose leaf doth not wither; and in whatsoever he doeth he shall prosper.[20]

R. Alexandri was once calling out, ‘Who wants life, who wants life?’ All the people came and gathered round him saying: ‘Give us life!’ He then quoted to them, Who is the man who desireth life and loveth days that he may see good therein? Keep thy tongue from evil and thy lips from speaking guile, depart from evil and do good, seek peace and pursue it.[21] Lest one say, ‘I kept my tongue from evil and my lips from speaking guile. I may therefore indulge in sleep,’ Scripture therefore tells us, Turn from evil and do good. By ‘good’ nought but Torah is meant; as it is said, For I have given you a good doctrine, forsake ye not my Torah.

WHEN, HOWEVER, HE REACHES THE CUPOLA IN WHICH THE IDOL IS PLACED [HE MUST NOT BUILD]. Said R. Eleazar in the name of R. Johanan: If, however, he did build, the pay he received is permitted. This surely is obvious: it is a case of appurtenances of idols, and appurtenances of idols, whether according to R. Ishmael or according to R. Akiba,[22] are not forbidden till actually worshipped! — Said R. Jeremiah: It is necessary in the case of the idol itself.[23] This would be right according to the one[24] who holds that [to derive any benefit from] the making of an idol for an Israelite[25] is forbidden forthwith, but from the making of one for an idolater, not until it is worshipped. In that case this is very well; but according to the one who holds that even when made for an idolater [any benefit] is forbidden forthwith, what is there to be said?[26] — But, said Rabbah b. ‘Ulla, the statement is necessary in regard to the last stroke of work; for what is it that makes the idol fit for worship? It is its completion; and when is the completion brought about? With the last stroke.[27] But the last stroke does not constitute the value of a perutah![28] Consequently, he holds the opinion that the wage is earned from the beginning to the end [of the work].[29]

MISHNAH. ONE SHOULD NOT MAKE JEWELLERY FOR AN IDOL [SUCH AS] NECKLACES, EAR-RINGS, OR FINGER-RINGS. R. ELIEZER SAYS, FOR PAYMENT IT IS PERMITTED. ONE SHOULD NOT SELL TO IDOLATERS A THING WHICH IS ATTACHED TO THE SOIL, BUT WHEN SEVERED IT MAY BE SOLD. R. JUDAH SAYS, ONE MAY SELL IT ON CONDITION THAT IT BE SEVERED.

GEMARA. Whence do we derive these rules? — Said R. Jose b. Hanina:

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(1) Ibid.

(2) V. Kid. 30a.

(3) V. Glos.

(4) V. Tosaf. S.V. ישלש. It is in conformity with this rule that the scriptural verses from Num. XXVIII, the Mishnah from Zeb. Ch. V, and the Baraitha de-R. Ishmael have been inserted into the preliminary part of the Morning Service. (V.P.B. pp. 9-14). [The term ‘Talmud’ when occurring in the Talmud denotes the discussion in the Amoraic schools based on the Mishnah of Rabbi.]

(5) Ps. ibid.

(6) Only if the student's deeds and conduct are in harmony with the teaching of the Torah will his study be of lasting benefit.

(7) Ps. I, 4.

(8) V. Sotah 22a.

(9) Prov. VII, 26.

(10) The word הפילה in the original is suggestive of נפל = ‘a child of premature birth’.

(11) Ibid.

(12) The original עצומים (E.V. mighty host) is rendered those who shut themselves up, or suppress themselves, as עוצם עיניו ‘he closes his eyes’.

(13) Though he died on reaching the age of 40 years, (v. R.H. 18b). [On the difficulties involved in this figure v. Halevy Doroth. II, 438 ff. He maintains that Rabbah lived 60 years (40 in the text being a copyist's error), but seeing that he was head of his school for 22 years he must have already acted as Rabbi at the age of 38. Hence the question of the Gemara. Cf. however Funk, Die Juden in Babylonien, II, note 1.]

(14) Rabbah, though young in years, was second in learning to none in the town (Rashi). [Tosaf., Sotah 22b, s.v. בשוין explains that Rabbah surpassed all other scholars in his town, and the restriction to age applies only where there are others who are equal in learning to the young scholar.]

(15) Ps. I, 3.

(16) Ps. ibid. Even the table-talk of the learned — here likened to the leaves, the least useful produce of the tree — is instructive,

(17) The Pentateuch.

(18) Deut. XXIX, 8.

(19) Josh. 1,8.

(20) Ps. I, 2-3.

(21) Ibid. XXXIV, 13-15.

(22) V. infra 51b, seq.

(23) Where an Israelite has been working at the making of an idol, R. Eleazar's statement, permitting the use of the payment for such work, is necessary.

(24) The point is under dispute between R. Ishmael and R. Akiba in the reference given above.

(25) Probably for selling to idolaters.

(26) About the statement of R. Eleazar permitting the payment received.

(27) It is therefore necessary for R. Eleazar to state that the payment received even for the completion of the work is not forbidden.

(28) Smallest coin (v. Glos.); it should therefore, in any case, be too insignificant to be forbidden!

(29) V. Kid. 48a and B.K. 99a, where it is discussed whether a job-worker is entitled to payment as his work progresses, or only on the completion of the job.

Talmud - Mas. Avodah Zarah 20a

From the scriptural words, nor be gracious unto them — lo-tehannem[1] — [which may be rendered] nor allow them to settle on the soil. But are not these words needed to convey the Divine command not to admire their gracefulness? — If that alone were intended, the wording should have been lo tehunnem;[2] why is lo tehannem used? To imply both these meanings. But there is quite another purpose for which this is needed, to express the Divine command not to give them any free gift![3] — For that purpose the wording should have been lo tehinnem,[4] why then is it lo tehannem? — So as to imply all these interpretations. It has indeed been taught so elsewhere: lo tehannem means, thou shalt not allow them to settle on the soil. Another interpretation of lo tehannem is, thou shalt not pronounce them as graceful; yet another interpretation of lo tehannem is, thou shalt not give them any free gift.

The giving of free gifts [to idolaters] is itself a matter of dispute between Tannaim, for it has been taught:[5] [The verse], Ye shall not eat of anything that dieth of itself' unto the stranger that is within thy gates thou mayest give it that he may eat it,' or thou mayest sell it unto a heathen,[6] only tells us that it may be given away to a stranger or sold to a heathen. How do we know that it may be sold to a heathen? Because Scripture says, thou mayest give it — or sell it. How do we know that it may be given away to a heathen? Because Scripture says, thou mayest give it that he may eat it or thou mayest sell it to a heathen: hence it may be derived that both giving and selling may be applied to a stranger or a heathen.[7] This is the opinion of R. Meir. R. Judah, however, says: The words should be taken as they are written, giving being applied to a stranger, and selling to a heathen.[8] But R. Meir's interpretation is quite right! — R. Judah may contend thus: Were the divine words to be interpreted according to R. Meir, they would have read: ‘Thou shalt give it as well as sell it’; why then does it say ‘or’ [sell it] if not to convey the particular meaning of the words?[9] And R. Meir? — [He might reply that ‘or’] indicates that it is preferable to give it away to a stranger-settler than to sell it to a heathen. And as to R. Judah? — He might say that, since the maintenance of such a stranger is commanded by Scripture[10] and that of a heathen is not so commanded, no scriptural word is needed to give [the stranger] preference.

[It has been stated above.] ‘Another interpretation of lo tehannem is, Thou shalt not pronounce them as graceful.’ This supports the view of Rab. For Rab said: One is forbidden to say, ‘How beautiful is that idolatress!’ The following objection was raised: It happened that R. Simeon b. Gamaliel, while standing on a step on the Temple-mount, saw a heathen woman who was particularly beautiful, and he exclaimed: How great are Thy works, O Lord.[11] Likewise, when R. Akiba saw the wife of the wicked Tyranus Rufus,[12] he spat, then laughed, and then wept. ‘Spat,’ — because of her originating only from a putrefying drop;[13] ‘laughed,’ — because he foresaw that she would become a proselyte and that he would take her to wife; ‘wept’, that such beauty should [ultimately] decay in the dust. What then about Rab's ruling?[14] [He might say that] each of these Rabbis merely offered thanksgiving. For a Master has said: He who beholds goodly creatures should say. ‘Blessed be He who hath created such in His universe.’[15] But is even mere looking permitted? The following can surely be raised as an objection: ‘Thou shalt keep thee from every evil thing[16] [implies] that one should not look intently at a beautiful woman, even if she be unmarried, or at a married woman even if she be ugly,

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(1) Deut. VII, 2. תחנם, connected with root חנה, to encamp.

(2) תחונם.

(3) Infra 64a.

(4) תחינם.

(5) Hul. 114b.
(6) Deut. XIV, 21 — The Hebrew word here rendered ‘stranger’ is Ger גר, a heathen who, for the purpose of acquiring rights of citizenship in Palestine, renounced idolatry but does not observe Jewish dietary laws. Such a ‘stranger’ had to be maintained by the state according to the Biblical injunction: a stranger and a settler he shall live with thee (Lev. XXV, 35).
(7) The phrasing may be so altered as to make giving and selling applicable to both cases.
(8) But to give it as a gift to a heathen is forbidden. Thus the giving of a free gift to a heathen, which is permitted according to R. Meir, is forbidden according to R. Judah.
(9) That selling refers to the one case, and giving to the other.
(10) V. n. 2, end.
(11) Ps. CIV, 24.
(12) Tineius Rufus, Governor of Judea, 1st century (C.E.).
(13) Ab. III, 1.
(14) Who holds that one must not admire the beauty of heathen.
(15) V. Ber. 58b, where the prescribed benediction is ‘Blessed be He who hath such in His universe.’
(16) Deut. XXIII, 10.

Talmud - Mas. Avodah Zarah 20b

nor at a woman's gaudy garments, nor at male and female asses, or a pig and a sow, or at fowls when they are mating; even if one be all eyes like the Angel of Death! (It is said of the Angel of Death that he is all full of eyes. When a sick person is about to depart, he stands above his head-pillow with his sword drawn out in his hand and a drop of gall hanging on it. As the sick person beholds it, he trembles and opens his mouth [in fright]; he then drops it into his mouth. It is from this that he dies, from this that [the corpse] deteriorates, from this that his face becomes greenish)’? — [What may have happened in those cases was that] the woman turned round a corner.[1]

[It was said above.] ‘Nor at a woman's gaudy garments!’ Said R. Judah b. Samuel: Even when these are spread on a wall. Whereon R. Papa remarked: That is if he knows their owner. Said Raba: This is also proved by the wording which reads, ‘Nor at a woman's gaudy garments,’ but does not read ‘at gaudy garments.’[2] This proves it. R. Hisda said: That can only refer to such as had been worn,[3] but in the case of new ones it does not matter; for were you not to say so, how could women's dresses be handed to a trimmer; he must needs look at them! — And according to your opinion, [how will you explain] the statement of Rab Judah[4] that in the case of animals of the same kind one may bring them together [for mating] in the very closest manner; surely he, too, must needs look![5] — But, we assume that what he cares about is only his work; so here, too, it is only his work that he cares about.

The Master said: ‘From it he dies.’ Shall we say, then, that this differs from the statement of Samuel's father?[6] For Samuel's father said: The Angel of Death told me, Were it not for the regard I have for people's honour, I could cut the throat of men as widely as that of an animal [is cut]’![7] — Possibly, it is that very drop that cuts into the organs of the throat. [The above-mentioned statement.] ‘From it the corpse deteriorates’ supports the view of R. Hanina b. Kahana. For R. Hanina b. Kahana stated: It had been said in the school of Rab that if one wants to keep a corpse from deteriorating, he should turn it on its face.

Our Rabbis taught: The words, Thou shalt keep thee from every evil thing,[8] mean that[9] one should not indulge in such thoughts by day as might lead to uncleanliness by night. Hence R. Phineas b. Jair said:[10] Study leads to precision, precision leads to zeal, zeal leads to cleanliness, cleanliness leads to restraint, restraint leads to purity, purity leads to holiness, holiness leads to meekness, meekness leads to fear of sin, fear of sin leads to saintliness, saintliness leads to the [possession of] the holy spirit, the holy spirit leads to life eternal,[11] and saintliness is greater than any of these, for Scripture says. Then Thou didst speak in vision to Thy saintly ones.[12] This, then, differs from the view of R. Joshua b. Levy. For R. Joshua b. Levy said: Meekness is the greatest of them all, for Scripture says, The spirit of the Lord God is upon me, because the Lord hath anointed me to bring good tidings unto the meek.[13] It does not say, ‘unto the saints’, but ‘unto the meek’, from which you learn that meekness is the greatest of all these.

ONE SHOULD NOT SELL TO IDOLATERS A THING WHICH IS ATTACHED TO THE SOIL. Our Rabbis taught: One may sell a tree to a heathen with the stipulation that it be felled and he then fells it; this is the opinion of R. Judah. R. Meir, however says: We may only sell to heathen a tree when felled. Likewise, low-growth, with the stipulation that it be cut and he may then cut it; this is the opinion of R. Judah. R. Meir, however, says: We may only sell it to them when it is cut. So also, standing corn, with the stipulation that it be reaped and he may then reap it; this is the opinion of R. Judah. R. Meir, however, says: We may only sell it them when reaped.[14] And all these three instances are necessary; for were we told of the case of a tree only [we might think that] in that case only does R. Meir oppose, for, since the heathen will not lose by letting it remain in the ground, he might leave it so, but the other case [the standing corn] where he would lose by letting it remain in the soil, we might think that R. Meir would agree with R. Judah. On the other hand, were we told about the tree and the corn only [we might have thought that] it is because it is not obvious that he benefits by leaving them in the soil [that R. Judah permits], but in the case of low-growth where he obviously benefits by leaving it to grow on, we might think that he agrees with R. Meir. Were we again to be told of the case of [low-growth] only, we might have thought that it is only in that case that R. Meir objects [since it pays him not to cut it], but in the other two cases, he shares the view of R. Judah; hence all these are necessary.

The question was asked: How about selling cattle with the stipulation that it be slaughtered? Shall we say that in those other instances the reason why R. Judah permits is because [the articles], not being in the heathen's domain, could not be left there altogether, whereas cattle, which is in his own domain, might be kept by him [unslaughtered], or should no distinction be made? — Come and hear: It has been taught: [We may sell a heathen] cattle with the stipulation that he should slaughter it, and he then slaughters it; this is the opinion of R. Judah. R. Meir, however, says: We may only sell it to them when slaughtered.

MISHNAH. ONE SHOULD NOT LET HOUSES TO THEM IN THE LAND OF ISRAEL; AND IT IS NEEDLESS TO MENTION FIELDS. IN SYRIA.[15]

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(1) Her face thus met the Rabbi's eyes unexpectedly.

(2) [בגדי צבעונין is used only of feminine wear, as men do not wear highly coloured garments (Rashi).]

(3) Which may bring to mind the one who had been seen wearing them.

(4) B. M. 91a.

(5) Which, as stated above, is forbidden.

(6) Abba b. Abba, the father of the Babylonian Amora, Samuel (b. about 165), is usually known by the designation of ‘The Father of Samuel’.

(7) Which implies that an incision, though an imperceptibly small one, is actually made.

(8) Deut, ibid.

(9) V. Ket. 46b.

(10) V. Shek. IV, 6, also Sotah IX, 9, where the version varies from the present one. [For a full discussion of this passage which has been named the Saint's Progress, v. Buchler, A. Types of Jewish Palestinian Piety, pp. 42-67.]

(11) תחיית המתים Lit., ‘resurrection of the dead’. [The phrase may also mean that the possessor of the holy spirit is endowed with the power of restoring life to the dead.]

(12) Ps. LXXXIX, 20.

(13) Isa. LXI, 1.

(14) V. Tosef. A.Z. II.

(15) The northern part of Trans-Jordania which King David annexed to Palestine of his own accord; v. II Sam. X, 6 ff.

Talmud - Mas. Avodah Zarah 21a

HOUSES MAY BE LET TO THEM, BUT NOT FIELDS. ABROAD,[1] HOUSES MAY BE SOLD AND FIELDS LET TO THEM; THIS IS THE OPINION OF R. MEIR. R. JOSE SAYS: IN THE LAND OF ISRAEL, ONE MAY LET TO THEM HOUSES BUT NOT FIELDS; IN SYRIA, WE MAY SELL THEM HOUSES AND LET FIELDS; BUT ABROAD, THE ONE AS WELL AS THE OTHER MAY BE SOLD. EVEN IN SUCH A PLACE WHERE THE LETTING OF A HOUSE HAS BEEN PERMITTED, IT IS NOT MEANT FOR THE PURPOSE OF A RESIDENCE, SINCE THE HEATHEN WILL BRING IDOLS INTO IT; FOR SCRIPTURE SAYS, AND THOU SHALT NOT BRING AN ABOMINATION INTO THY HOUSE.[2] NOWHERE, HOWEVER, MAY ONE LET A BATH-HOUSE TO A HEATHEN, AS IT IS CALLED BY THE NAME OF THE OWNER.

GEMARA. Why is it ‘NEEDLESS TO MENTION FIELDS’? Shall we say because it offers two [objections]: the one, that the heathen settles on the soil, and the other that [the produce] becomes exempt from tithes? If it be that, then houses too offer two objections: the one, that the heathen settles on the soil, and the other that they become exempt from having a mezuzah.[3] Said R. Mesharsheya: It is upon the occupant that the observance of mezuzah devolves.[4]

IN SYRIA HOUSES MAY BE LET TO THEM, BUT NOT FIELDS. Why is selling [of houses] not allowed — lest it lead to selling [houses] in the Land of Israel? Why then not make a safeguard in the case of letting also? — Letting[5] is in itself a safeguard;[6] shall we then go on making another safeguard to guard it? But is not the letting of a field in Syria a safeguard to another safeguard,[7] and yet it is upheld? — That is not a mere safeguard, it follows the opinion that even the annexation by an individual is to be regarded as annexed [to Palestine];[8] hence, in the case of a field, which offers a twofold objection[9] our Rabbis ordained a safeguard;[10] but in the case of houses, since there is no such double objection, no safeguard was made by our Rabbis.

ABROAD, HOUSES MAY BE SOLD AND FIELDS LET TO THEM. Because in the case of a field, which offers a twofold objection, our Rabbis ordained a safeguard;[11] but in the case of a house, since there is no such double objection, no such safeguard was made by our Rabbis.

R. JOSE SAYS: IN THE LAND OF ISRAEL, WE MAY LET TO THEM HOUSES BUT NOT FIELDS. What is the reason? — In the case of fields, which offer the twofold objection, our Rabbis ordained a safeguard, but in the case of houses, since there is no such double objection, no safeguard was made by our Rabbis.

IN SYRIA, WE MAY SELL THEM HOUSES AND LET FIELDS, What is the reason? — [R. Jose] holds that the annexation made by an individual is not regarded as a proper annexation; hence in the case of fields, which offer the twofold objection, our Rabbis instituted a safeguard, but in the case of houses, since there is no such double objection, no safeguard was made by our Rabbis. BUT ABROAD, THE ONE AS WELL AS THE OTHER MAY BE SOLD. What is the reason? — Because, on account of the distance [from Palestine], the principle of safeguard does not apply.

Said Rab Judah in the name of Samuel: The halachah is with R. Jose.[12] Said R. Joseph: Provided he does not make it a [heathen] settlement. And how many [tenants] constitute a settlement? — A Tanna taught that at least three persons constitute a settlement. But should we not fear lest, after this Israelite has sold the property to one idolater, the latter may go and sell a part thereof to two others?[13] — Said Abaye: We need not be particular overmuch.[14]

EVEN IN SUCH A PLACE WHERE LETTING HAS BEEN PERMITTED. This implies that there are places where letting is not permitted —

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(1) חוץ לארץ, 'outside the Land (of Israel).'

(2) Deut. VII, 26.

(3) V. supra p. 55, n. 5.

(4) The house is only liable to have a mezuzah if it is occupied by an Israelite; the term exemption cannot therefore be applied to it. V.B.M. 101b, Pes. 4a.

(5) Even in Palestine.

(6) Against possible sale.

(7) Lest it lead to selling in Syria which in turn may lead to selling in Palestine.

(8) V. supra p. 108, n. 1, and Git. 8b.

(9) As explained before.

(10) Forbidding letting as against possible sale.

(11) As against possible selling in the Land of Israel.

(12) That abroad one may sell them both houses and fields.

(13) [Retaining a part for himself and thus forming a heathen settlement.]

(14) Lit., 'we are particular as regards before, but not before before.' V. supra 14a.

Talmud - Mas. Avodah Zarah 21b

which proves that R. Meir's view is accepted.[1] since according to R. Jose letting is permitted everywhere.

NOWHERE, HOWEVER, MAY ONE LET A BATH-HOUSE, etc. It has been taught: Rabban Simeon b. Gamaliel said: One should not let his bath-house to a heathen, for it is called by the owner's name, and the idolater will work in it on Sabbath and festivals.[2] It would seem, then, that to a Cuthean[3] it may be let? But might not a Cuthean do work in it on the intermediate Days?[4] — We, too, are permitted to do [such] work on the Intermediate Days.[5] [Again] it would seem that in the case of a field, letting to a heathen is permitted! What is the reason?[6] — Because people will say that he is merely a metayer working for his tenancy.[7] Why then not apply the same principle to a bath-house? — People do not generally let a bath-house on terms of metayage.

It has been taught: R. Simeon b. Eleazar says: One should not let one's field to a Cuthean, for it is called by the owner's name and that Cuthean will do work in it on the intermediate Days.[8] So that to an idolater such letting is permitted? Because it will be said that he is a metayer working for his own tenancy. If so, why should it not be said in the case of a Cuthean, too, that he is a metayer working for his own tenancy?

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(1) According to which letting in Palestine is forbidden.

(2) [And the Jew would appear to desecrate the Sabbath (Tosef. A.Z.II.)]

(3) V. Glos. Who abstains from work on Sabbath and Festivals, but not on the intermediate Days of the Festivals.

(4) V. supra p. 28, n. 2.

(5) Heating a bath is permitted on the week-days of the festivals. [Text in cur. edd. difficult. Render with Venice ed. (v.D.S. a.l.): But to a Cuthean it may be sold. (For) when might he do work in it? On the Intermediate days; but on the intermediate days we too are permitted to do such work.]

(6) Even though where the objection of letting them settle on the soil does not apply, as for example, outside Palestine, this objection to work being done by a heathen in a property known to be owned by an Israelite still exists! [Venice ed.: But in the case of a field . . . permitted, because etc.]

(7) And not by order of the Jewish owner.

(8) Tosef. A.Z. ibid,

Talmud - Mas. Avodah Zarah 22a

— R. Simeon b. Eleazar has not in mind the metayage principle at all; but the reason why he permits in the case of an idolater is because, if he is told [to abstain from work on forbidden days] he obeys. But a Cuthean, too, if told would surely obey! — A Cuthean would not obey; he would say: ‘I am more learned than thou!’ If that is so, why then mention the objection of the field being called by the owner's name; he could have given the reason of not placing a stumbling block before the blind?[1] — He mentions that reason as an additional one, as if to say: There is the one reason of [not placing a stumbling block] before the blind, and there is also the objection of its being called by his name.

Two[2] saffron-growers, [one of whom was] a heathen who took charge of the field on the Sabbath, and [the other] an Israelite who did so on the Sunday, came before Raba; he declared the partnership as permissible. Rabina, however, cited the following in refutation of Raba's ruling: If an Israelite and a heathen leased a field in partnership, the Israelite must not say subsequently to the heathen, Take as thy share the profit in respect of the Sabbath, and I will take as mine that in respect of a week-day;[3] only when such a condition was made originally is it permitted. [Likewise] if they just calculate the profit[4] it is forbidden! Whereupon he [Raba] blushed. Subsequently, the fact came to light that the partners had indeed laid down that condition originally.

R. Gabiha of Be-Kathil[5] said: That was a case of ‘orlah[6] plants, the produce of which the heathen was to eat during the forbidden years and the Israelite during [a corresponding number of] permitted years, and they came before Raba who permitted it.[7] But did not Rabina cite a statement in objection to Raba's ruling? — [No,] it was in order to support it.[8] Then why did Raba blush? — That never occurred at all.

The question was asked: What if no arrangements at all were made? — Come and hear [the above passage]: ‘Only when such a condition was made originally is it permitted,’ hence, if there was no arrangement it is forbidden. Continue, then, with the next part: ‘If they calculated the profit it is forbidden,’ which implies that, if there was no arrangement it is permitted! — The fact is, no answer can be deduced from this passage.

CHAPTER II

MISHNAH. ONE SHOULD NOT PLACE CATTLE IN HEATHENS’ INNS,[9] BECAUSE THEY ARE SUSPECTED OF IMMORAL PRACTICE WITH THEM. A WOMAN SHOULD NOT BE ALONE WITH THEM, BECAUSE THEY ARE SUSPECTED OF LEWDNESS, NOR SHOULD A MAN BE ALONE WITH THEM, BECAUSE THEY ARE SUSPECTED OF SHEDDING BLOOD.

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(1) Lev. XIX, 14. V. supra. 6a.

(2) Lit., ‘these’.

(3) As the partnership was entered into unconditionally, the duty of working the field devolved equally on both partners. The work carried out by the heathen on the Sabbath is therefore done by him, in respect of one half thereof, as the agent of the Israelite.

(4) If the Israelite apportions the profits in respect of the Sabbath to the heathen even without telling him explicitly to work on the Sabbath it is likewise forbidden, as in the absence of specific conditions, the assumption is that the heathen is to work on behalf of the Jew on the Sabbath — which is in direct opposition to Raba's ruling.

(5) [On the Tigris, north of Bagdad (Obermeyer, op. cit. p. 147).]

(6) Lit., uncircumcised’, newly-planted trees, the produce of which is forbidden during the first three years. V. Lev. XIX, 23.

(7) This is quite in order since even during the forbidden years, the Israelite is only forbidden to eat of the produce, but is permitted to do the work. There is therefore no objection to the heathen's working even though he does so as the Israelite's agent.

(8) The statement in Rabina's citation, that where the prohibition does not extend to the work — as in the case of laying down the conditions originally — the arrangement is permitted, distinctly supports Raba's ruling in regard to produce of ‘orlah trees.

(9) (On the ill-repute of the Greek and Roman inns, v. Elmslie a.l.]

Talmud - Mas. Avodah Zarah 22b

GEMARA. The following was cited in contradiction: One may buy of them cattle for a sacrifice, and it need not be feared lest it committed, or had been used for, an immoral act, or had been designated as an offering to idols, or had been worshipped.[1] Now we are quite right not to fear about its having been designated as an offering to idols or having been made an object of worship, since if it had been so designated or worshipped, its owner would not have sold it; but we surely ought to fear as to committing an immoral act![2] — Said R. Tahlifa in the name of R. Shila b. Abina in the name of Rab: A heathen would have regard for his cattle, lest it becomes barren.[3] This would indeed hold good in the case of female cattle but what answer would you give in the case of males? — Said R. Kahana: Because it has a deteriorating effect on their flesh. Then what about that [Baraitha] which has been taught: ‘One may buy cattle of any heathen shepherd’; ought we not to fear lest he used it for an immoral purpose?[4] — The heathen shepherd would be afraid of forfeiting his fee. What then about this [other Baraitha] which has been taught: ‘One should not entrust cattle to a heathen shepherd’;[5] why not assume that the heathen shepherd would be afraid of forfeiting his fee? — They fear detection by one another since they know a good deal about it, but they are not afraid of us who do not know much about it. Rabbah said: This is what the popular proverb says. ‘As the stylus penetrates the stone so one cunning mind detects another.’ In that case, neither should we buy male cattle[6] from women, for fear of their having used them for immoral practice! — She would be afraid of being followed about by the animal. What then about this which R. Joseph learnt: ‘A widow should not rear dogs, nor accommodate a student as a guest’? Now it is quite right in the case of a student, as she might reckon on his modesty,[7] but in the case of a dog why not say that she would be afraid of being followed about by it? — Since it would follow about on being thrown a piece of meat, people will say that it is because of being given such pieces that it follows her. Why then should we not leave female animals alone with female heathens?[8] — Said Mar ‘Ukba b. Hama: Because heathens frequent their neighbours’ wives, and should one by chance not find her in, and find the cattle there, he might use it immorally. You may also say that even if he should find her in he might use the animal, as a Master has said:[9] Heathens prefer the cattle of Israelites to their own wives, for R. Johanan said: When the serpent came unto Eve he infused filthy lust into her.[10] If that be so [the same should apply] also to Israel! — When Israel stood at Sinai that lust was eliminated, but the lust of idolaters, who did not stand at Sinai, did not cease.

The question was asked: How about fowls?[11] — Come and hear: Rab Judah said in the name of Samuel on behalf of R. Hanina: I saw a heathen buy a goose in the market, use it immorally, and then strangle it, roast, and eat it. Also R. Jeremiah of Difti[12] said: I saw an Arab who bought a side [of meat], pierced it for the purpose of an immoral act, after which act he roasted and ate it.

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(1) Any of which uses would disqualify it for the purpose of sacrifice (Tosef. ‘A.Z. II). V. B.K. 40b.

(2) The Baraitha which rules out such possibility is therefore in conflict with our Mishnah.

(3) Hence the Baraitha does not suspect immoral practice in the case of the heathen's own cattle, while our Mishnah, which deals with other people's cattle left in a heathen's inn, does suspect it.

(4) As the cattle does not belong to him.

(5) Supra 15b, Tosef. A.Z. III.

(6) For sacrifices.

(7) Which would deter him from making it known.

(8) V. supra, 15b.

(9) Git. 38a.

(10) Shab. 146a; Yeb. 103b.

(11) Does the suspicion connected with animals apply to them?

(12) [Identified with Dibtha below the Tigris, S.E. Babylon, Obermeyer, op. cit. p. 197.]

Talmud - Mas. Avodah Zarah 23a

Rabina said:[1] There is really no contradiction; the one teaching [prohibits it] in the first instance; the other [permits it] after it happened.[2] And whence do we know that a difference is to be made in a case between the first instance and where it had happened? — From the following: We have learnt: A WOMAN SHOULD NOT BE ALONE WITH THEM, BECAUSE THEY ARE SUSPECTED OF LEWDNESS; now this seems to be contradicted by the following: A woman who had been imprisoned by heathens in connection with money matters, is permissible to her husband,[3] but if on a capital charge, she is forbidden to her husband.[4] Does this not go to prove that we make a difference in a case between the first instance and where it had happened?[5] — Not at all! It may indeed be that the prohibition applies even after it happened, but here the reason is that the heathen will be afraid to forfeit his money! You can indeed prove it by what is stated in the second clause: 'If on a capital charge, she is forbidden to her husband.' So there is no more [to be said about this].

R. Pedath said: There is no contradiction,[6] the one is [according to] R. Eliezer, the other is [according to] the Rabbis. For we have learnt in connection with the Red Heifer:[7] R. Eliezer says: It must not be bought of a heathen, but the Sages permit it.[8] Is not [the point] on which they differ this: that R. Eliezer holds that we suspect immoral practice whilst the Rabbis hold that we do not suspect immoral practice?[9] — Whence [do you know this]? It may well be said that all agree that immoral practice is not to be suspected, the reason for R. Eliezer's opinion being this: he holds the view presented by Rab Judah in the name of Rab. For Rab Judah said in the name of Rab: [In the case of the Red Heifer][10] even if a bundle of sacks has been laid on her she becomes ritually unfit, but in the case of the calf,[11] only if she had been made to draw a burden. [It may thus be that] one master[12] is of the opinion that we should suspect,[13] and the other that we should not suspect it! — Do not let this enter your mind; for the sake of a small benefit one would not risk a big loss.[14] Let us then say likewise that for the sake of a little enjoyment[15] one would not risk so big a loss! — In that instance his passion impels him.

But [still] it may be that all agree that immoral practice is not to be suspected, but that the reason for R. Eliezer's ruling is the one given in the teaching of Shila? For Shila learned: 'What is the reason for R. Eliezer's ruling? [It is the scriptural words:] Speak unto the Children of Israel that they bring unto thee,[16] [which imply that] Israelites shall bring, but it should not be brought by heathens'![17] — Do not let this enter your mind; for it is stated in the second clause: 'R. Eliezer applied this disqualification to all other kinds of sacrifices.' Now were you to adduce the reason as taught by Shila, it would hold good in the case of the [red] heifer, in connection with which Scripture mentions 'bringing', but does Scripture ever mention 'bringing' in connection with other sacrifices? But [still] might we not say, then, that the Rabbis differ from R. Eliezer

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(1) In reference to the contradiction between our Mishnah and the Baraitha cited above, p. 113.

(2) The Mishnah forbids the deliberate placing of an animal with a heathen, while the Baraitha permits the use of such an animal when it had already been so placed.

(3) The heathen who has charge of her will not ill-use her for fear of losing the money involved.

(4) Keth. 26b.

(5) The former being forbidden according to the first teaching, while the latter is permitted according to the second.

(6) Between our Mishnah and the Baraitha.

(7) פרה אדומה, Num. XIX, 1 seq.

(8) Par. II, 1.

(9) Their opinions are thus represented respectively by our Mishnah and Baraitha.

(10) Concerning which it is said, upon which never came yoke (Num. XIX, 2).

(11) עגלה ערופה, To be brought by the elders of the place in the vicinity of which a murdered person is found (Deut. XXI, 1 seq.), concerning which it is said, which hath not drawn in the yoke.

(12) R. Eliezer.

(13) The owner, of having placed a bundle on her, and not because of immoral practice.

(14) The price paid for a perfectly red heifer being very high.

(15) Of committing an immoral act.

(16) With reference to the red heifer, Num. XIX, 2.

(17) [And since R. Eliezer extends the disqualification to all sacrifices, his reason must be that he suspects immoral practice, and our Mishnah thus represents his view.]

Talmud - Mas. Avodah Zarah 23b

only in the case of the [red] heifer which commands a high price,[1] but that in the case of other sacrifices they agree with him? — In that case, whose opinion would the [Baraitha] taught [above, viz.]: ‘We may purchase from heathen cattle for [ordinary] sacrifices’ represent? Neither that of R. Eliezer nor that of the Rabbis! Moreover, it is distinctly taught as follows:[2] What was cited as a refutation to R. Eliezer by his colleagues is, All the flocks of Kedar shall be gathered together unto thee . . . they shall come up with acceptance on mine altar.[3]

The difference of opinions[4] is only in regard to suspicion, so that where the immoral use is certain, the heifer is unfit. From here then you can deduce that the degree of sanctity of the red heifer is that of animals sacrificed on the altar; for if it had only the sanctity of those [dedicated] to repairs of the temple,[5] immoral use should not render it unfit! — The red heifer may be different [in this respect alone], because it is designated by Divine law as a sin-offering.[6] If that be so, it ought to be unfit if it be a Yoze Dofan:[7] and were you to say that it is so indeed, why then are we taught: If one dedicates a Yoze Dofan as a red heifer, it is unfit, but R. Simeon declares it as fit?[8] Again, were you to say that R. Simeon follows here the opinion he expressed elsewhere that a Yoze Dofan is to be regarded as a properly born child,[9] has not R. Johanan said that R. Simeon admitted, in regard to sacred things, that it is not valid for such sanctity?[10] — But the case of the red heifer is different; since a blemish renders it unfit, immoral use or idolatrous worship also render it unfit;[11] for Scripture says, for their corruption is in them, there is a blemish in them; they shall not be accepted,[12] and the School of R. Ishmael taught:[13] Wherever ‘corruption’ is mentioned it only means lewdness and idolatry: ‘lewdness’, as it is said, for all flesh had corrupted their way upon the earth;[14] and ‘idolatry’,for Scripture says, lest ye deal corruptly, to make ye a graven image,[15] and since a blemish renders the red heifer unfit, immoral use and idolatrous worship also render it unfit.

The above text stated: ‘Shila learned, What is the reason for R. Eliezer's ruling? [It is the scriptural words,] Speak unto the Children of Israel that they bring unto thee, [which imply that] Israelites shall bring, but it should not be brought by heathens.’ According to this, Speak unto the Children of Israel that they take for me an offering[16] should also mean that Israelites should take and that it should not be taken of idolaters! And were you to say that it does indeed mean so, surely Rab Judah reported in the name of Samuel:[17] R. Eliezer [himself] was asked: To what extent is honouring one's father and mother to be practised? He answered: Go forth and see how a certain idolater of Ashkelon, Dama the son of Nathina by name, acted towards his father. He was once approached about selling precious stones for the ephod[18]

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(1) So that the owner would not tamper with her for fear of monetary loss.

(2) Infra 24a.

(3) Isa. LX, 7. This proves that the discussion between the Rabbis and R. Eliezer applies to all sacrifices. [The Rabbis will permit in every case, whereas R. Eliezer will forbid in all cases; the Mishnah thus represents the view of R. Eliezer, and the Baraitha that of the Rabbis, even as is explained by R. Pedath.]

(4) Between R. Eliezer and the Rabbis.

(5) V. Shebu. 11b.
(6) Num. XIX, 9.
(7) יוצא דופן ‘A fetus extracted by means of the cesarean section’ (Jast.) which is, according to Bek. 12a, unfit as sacrifice, of which it is said (Lev. XXII, 27), When a bullock or a sheep or a goat is born . . . it may be accepted for an offering.
(8) Tosef. Par. I.
(9) So that the period of uncleanliness and subsequent purification and sacrifice (Lev. XII) are to be observed by the woman (Nid. 40a).
(10) Why then should a Yoze Dofan be valid as a red heifer?
(11) Though in other respects it does not possess the sanctity of sacrifices brought on the altar.
(12) Lev. XXII, 25.
(13) Sanh. 27a.
(14) Gen. VI, 12, where immorality is meant.
(15) Deut. IV, 16.
(16) Ex. XXV, 2.
(17) Kid. 31.
(18) The vestment worn by the high priest, the shoulder piece of which had two onyx stones on which the names of the twelve tribes of Israel were engraved. (Ex. XXVIII, 9.)

Talmud - Mas. Avodah Zarah 24a

at a profit of six hundred thousand [denarii] (R. Kahana's version is eight hundred thousand); but the keys were lying under his father's head-pillow, so he would not disturb him![1] — The words ‘onyx stones’[2] are detached from the preceding words.[3] But are they not followed by and stones to be set[4] which again connects them? Moreover, the sequel to the report is:[5] In a subsequent year a ‘red heifer’ was born in his herd, and some of the Sages of Israel called on him.[6] Said he to them: From what I know of you [I am aware] that if I were to demand of you all the money in the world, you would give it to me, but all I ask of you now is that money that I had lost because of my father![7] — In that case it was purchased through [the agency of] Israelite merchants.[8]

Does R. Eliezer then hold that immoral use is not to be suspected?[9] Has it not been taught: When the incident was mentioned to R. Eliezer of [a Red Heifer] having been bought of a heathen named Dama — or, as some say, named Ramaz — R. Eliezer replied: What does that prove, seeing that Israelites watched the heifer from the hour of its birth?[10] — R. Eliezer indeed admits both reasons, that of its having to be brought [by an Israelite] as well as the suspicion of immoral use.

The Master said: ‘Israelites watched the heifer from the hour of its birth.’ But is there not the suspicion that its mother may have been ill-used when she bore her, seeing that Raba said: The young of a goring cow is unfit[11] for it was both the cow and her young that did the goring. Likewise the young of an ill-used animal is unfit, since the animal and the young were ill-used together? — What is evidently meant is that it was watched by Israelites from the time it was first formed. Still, is there not the suspicion of the mother having been ill-used previously, for we have learnt: As to all those which are forbidden to be offered on the altar — their young[12] are permitted.[13] And thereon it was learnt that R. Eliezer forbade. Now, this is all right according to [the exposition of] Raba, for Raba said in the name of R. Nahman: The dispute only applies to a case of an animal being ill-used when already dedicated as a sacrifice; but if when still in an ordinary state, all agree that [the young] is permitted. But how will you explain it according to R. Huna b. Hinena who said in the name of R. Nahman that the dispute applies only to a case of an animal being ill-used while still undedicated, but if when already dedicated all agree that [the young] is forbidden?[14] — Then we must say that the mother, too, was watched by Israelites since the time it was first formed. And why not raise the suspicion of the mother's mother having been ill-used? — We should not let suspicion go so far as all that.

The Master said: ‘It was watched by Israelites from the time it was first formed.’ How did they know it?[15] — Said R. Kahana: A red cup is being passed before [the mother] when the male is mating with her.[16] If that is so, why should [a red heifer] be so costly? — Because even two hairs [of another colour] render her unfit. Then why [use this means] on their [animals]?[17] — Said R. Kahana: Only with specified breeds [is it effective].

R. Ammi and R. Isaac Nappaha were sitting in the tent of R. Isaac Nappaha when one of them began to cite: Thus R. Eliezer forbade [cattle bought of a heathen] for all sacrifices. Thereupon the other stated that, in refutation of R. Eliezer's opinion, there was cited by his colleagues [the verse], All the flocks of Kedar shall be gathered together unto Thee . . . they shall come up with acceptance on my altar;[18] to which R. Eliezer replied: All these will become self-made proselytes in the time to come.[19] Said R. Joseph: What is the scriptural authority for this? For then will I turn to the peoples a pure language, that they may all call upon the name of the Lord.[20] Abaye asked: perhaps this merely means that they will turn away from idolatry?[21] And R. Joseph answered him: The verse continues, and to serve Him with one consent.[22] This is how R. Papa reported it; but R. Zebid reported thus: Both [R. Ammi and R. Isaac Nappaha] said: Thus, R. Eliezer forbade [cattle bought of a heathen] for all sacrifices, and both of them said: What was cited as a refutation to R. Eliezer by his colleagues is, All the flocks of Kedar shall be gathered etc., and R. Eliezer said: They will all become self-made proselytes in the time to come, [and it was he who cited] the scriptural authority, For then will I turn to the peoples a pure language, that they may all call upon the name of the Lord [and when] R. Joseph objected: Does this not say merely that they will turn away from idolatry? [it was] Abaye [who] answered him that the verse continues, to serve Him with one consent.

An objection was raised: And Moses said: Thou must also give into our hand sacrifices and burnt-offerings.[23] It was different before the giving of the Torah. Then come and hear [this]: And Jethro, Moses’ father-in-law, took a burnt-offering and sacrifices for God.[24] In the case of Jethro, too, it was before the giving of the Torah. This is very well according to the one who says that Jethro's [visit to Moses] preceded the giving of the Torah,[25] but how will you explain it according to the one who says

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(1) Thus R. Eliezer himself assumes that the onyx stone of a heathen was considered fit for the purpose enacted in the scriptural passage which opens with the very words quoted above, Speak unto the Children of Israel that they take for me an offering. (Ex. XXV, 2 and 7.)

(2) [Without the waw copulativum which is prefixed to the other enumerated offerings.]

(3) So that the words, . . . the Children of Israel shall take, do not apply to them.

(4) [R. Han. deletes ‘to be set’, and the reference is to Ex. XXXV, 9; v. Tosaf. s.v. ואבני.]

(5) V. Kid. 31a.

(6) With a view to purchasing it for the ritual purpose.

(7) Thus a red heifer bought of a heathen was considered fit for the ritual purpose!

(8) So that when acquired for the ritual purpose it was the property of an Israelite.

(9) According to Shila, who gives as the reason for R. Eliezer's prohibition of a heathen's heifer the wording, the Children of Israel shall bring.

(10) Tosef. Par. I. R. Eliezer thus implies that were it not watched, it would not have been fit on account of suspected ill-use.

(11) For use as a sacrifice if her mother bore her whilst goring a person fatally.

(12) Which are born subsequently.

(13) Infra 46b.

(14) [And thus the suspicion of the mother having been ill-used previously should have disqualified the heifer.]

(15) That the cow would give birth to a potential ‘red heifer’.

(16) Which has the effect of producing a red calf.

(17) Of the family of Dama b. Nethina.

(18) Isa. LX, 7.
(19) The Messianic era, v. supra p. 8, n. 8.
(20) Zeph. III, 9.
(21) [But not from immoral practice.]
(22) Ibid.
(23) Ex. X, 25; so that Pharaoh's cattle were considered fit for sacrifices. This refutes R. Eliezer.
(24) Ibid. XVIII, 12.
(25) V. Zeb. 116a.

Talmud - Mas. Avodah Zarah 24b

that Jethro's [call] was after the giving of the Torah? — In that case [it must be assumed that] Jethro bought it from an Israelite.

Come and hear: And Saul said, They have brought them from the Amalekites; for the people spared the best of the sheep and of the oxen, to sacrifice unto the Lord thy God![1] — What is meant by the best is the price of the best.[2] Then why bring the best? — So that they find eager buyers.

Come and hear: And Araunah said unto David, Let my lord the King take and offer up what seemeth good unto him: behold the oxen for the burnt offering and morigim [the threshing instruments] and the furniture of the oxen for the wood.[3] — Said R. Nahman: Araunah was a resident alien.[4] What are morigim? — Said ‘Ulla: It is a ‘turbil bed’.[5] And what is a ‘turbil bed’? — A ‘goat with hooks’ wherewith one threshes.[6] Said R. Joseph: What is the scriptural [evidence]? — Behold I will make thee a new sharp threshing instrument [Heb. morag] having teeth; thou shalt thresh the mountains, and beat them small, and shalt make the hills as chaff.[7] A [further] objection was raised: And the kine they offered as burnt offering unto the Lord![8] — This was a special ruling for that occasion.[9] Common sense, indeed, proves it; for had not that been the case, how could a female be used as a burnt offering?[10] What difficulty does this present? We could say that it referred to a private ‘high place,’[11] in accordance with the opinion of R. Adda b. Ahaba; for R. Adda b. Ahaba said: Whence can it be deduced that a female is fit as a burnt offering on a private high-place? From what is said in Scripture, And Samuel took one sucking lamb and offered it for a burnt offering.[12] [But is not] the wording, and offered him, that is to say a male! — Said R. Nahman b. Isaac: It is written, and offered her.[13]

R. Johanan said:[14] There are limits.[15] Under the age of three years [an animal] becomes mutilated,[16] but from the age of three years it does not become mutilated. When all the above verses were cited to him in refutation, he replied that they referred to animals under the age of three years. Come then and hear: And the kine they offered as a burnt offering unto the Lord![17] — This, too, refers to those under the age of three years. To this R. Huna the son of R. Nathan strongly objected. In that case the words, and their calves they shut up at home,[18] [refer to those of kine] under three years; but does a cow under three years bear at all? Have we not learnt: In the case of a cow or of an ass which is three years old [the one born] certainly belongs to the priest; from that age upward this is doubtful?[19] — The answers given previously are therefore best.

And the kine took the straight way [wa-yishsharnah] by the way to Beth-Shemesh etc.[20] What is the meaning of the word ‘wa-yishsharnah’? — Said R. Johanan in the name of R. Meir: They rendered song. R. Zutra b. Tobiah said in the name of Rab: They directed their faces towards the Ark and rendered song.[21] And what did they sing? — It was stated in the name of R. Johanan on behalf of R. Meir: [The song beginning with] Then sang Moses and the Children of Israel.[22] R. Johanan, however, gave it as his own opinion that they sang: And in that day shall ye say, Give thanks unto the Lord, call upon His name, make known His doings among the peoples etc.[23] R. Simeon b. Lakish said: [They sang] the ‘Orphaned’ Psalm: A Psalm. O sing unto the Lord a new song, for He hath done marvellous things; His right hand, and His holy arm, hath wrought salvation for Him.[24] R. Eliezer said: The Lord reigneth, let the peoples tremble.[25] R. Samuel b. Nahmani said: The Lord reigneth; He is apparelled with majesty.[26] R. Isaac Nappaha said: [They sang:]

Sing, O sing, acacia tree,[27] Ascend in all thy gracefulness. With golden weave they cover thee, The sanctuary-palace hears thy eulogy, With divers jewels art thou adorned.

R. Ashi connected this [song cited] by R. Isaac with the following: [Scripture says,] And it came to pass, when the Ark set forward, that Moses said, Rise up, O Lord etc.[28] What did the Israelites say? — Said R. Isaac:

'Sing, O sing, acacia tree, etc.'

Said Rab:[29] What analogy is there for the Persians calling a book 'Debir'?[30] — This: Now the name of Debir before time was Kiriath-sepher.[31] R. Ashi said: What analogy is there for the Persians calling a menstruous woman 'Dashtana'? This: For the manner of woman is upon me.[32]

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(1) I Sam. XV, 15.

(2) The proceeds of the cattle, which were sold, were intended to be used as offerings.

(3) II Sam. XXIV, 22.

(4) גר תושב is a gentile who undertakes to observe the seven Noachide precepts, which include that of morality, v. supra p. 5, n. 7.

(5) **, a threshing sledge consisting of a wooden platform studded with sharp pieces of flint or with iron teeth (Jast.).

(6) [עיזא דקורקסא. The phrase is obscure. Krauss, Talm. Arch. II, 57b, suggests tentatively, 'Circassian goats' with reference to the front teeth of the sledge shaped like goats' horns. The rendering adopted is Jastrow's.]

(7) Isa. XLI, 15.

(8) I Sam. VI, 14, so that the cattle of the Philistine were considered fit for sacrifice.

(9) [In celebration of the miracle performed through the cattle (Rashi).]

(10) If his sacrifice be a burnt offering of the herd, he shall offer a male. Lev. I, 3.

(11) A high place (bamah) used either by individuals or communities for offering sacrifices when the tabernacle was not in existence, as at the time in question, when the tabernacle at Shiloh had been destroyed.

(12) I Sam. VII, 9.

(13) In the Heb. text the word in question is written (Kethib) ויעלה, which refers to a female, while it is to be read (Kere) ויעלהו, referring to a male.

(14) In reconciliation of our Mishnah and the Baraitha on p. 113.

(15) To the permission of using cattle of heathens for sacrificial purposes.

(16) By immoral use; it may therefore be assumed that its owner did not ill-use it.

(17) I Sam. VI, 14.

(18) Ibid. 10.

(19) Bek. 19b. Dealing with the young born of an animal bought of a heathen, so that it cannot be ascertained whether the young is a first born one which — either itself or its value — belongs to the priest (v. Num. XVIII, 15), the Mishnah states that if the mother is not more than three years old, the one born is to be taken as a first born; it is thus assumed that a cow does not bear under the age of three years.

(20) I Sam. VI, 12.

(21) וישרנה is connected with שירה song.

(22) Ex. XV, 1. The song of triumph and thanksgiving at the Red Sea was also rendered as the Ark was being returned from the land of the Philistines, on the downfall of Dagon their idol.

(23) Isa. XII, 4.

(24) Ps. XCVIII, called 'orphaned' because, apart from the absence of its author's name, its heading 'A Psalm' has no designation, such as is given to other anonymous psalms, e.g., A Psalm, a Song for the Sabbath Day, XCII A Psalm of Thanksgiving, C.

(25) Ibid. XCIX.

(26) Ibid. XCIII.

(27) And they shall make an ark of acacia wood Ex. XXV, 10).

(28) Num. X, 35.

(29) Yalkut, Gen. has ‘R. Safra.’

(30) [דביר is the Heb. of ‘sanctuary’ in the above song, and this provides the connecting link of the statements that follow.]

(31) Judg. I, 11. Kiriath-Sepher, lit. means, ‘the City of the Book’.

(32) Gen. XXXI, 35. The Heb. words used דרך נשים לי bear a similarity to דשתנתא.

Talmud - Mas. Avodah Zarah 25a

[The same Rabbis also discuss the following:] And the sun stood still, and the moon stayed until the nation had avenged themselves of their enemies. Is not this written in the book of Jashar. What is the book of Jashar? — Said R. Hiyya b. Abba in the name of R. Johanan: It is the book of Abraham, Isaac and Jacob,[1] who are designated as righteous,[2] as it is said, Let me die the death of the righteous:[3] And where is this incident hinted at [in Genesis]? — And his seed shall fill the nations:[4] When shall [Ephraim's fame] reach the nations? When the sun shall stand still for Joshua. And the sun stayed in the midst of the heaven and hasted not to go down about a whole day.[5] How long [is day-time said to have lasted]? — Said R. Joshua b. Levi: Twenty four hours: [The sun] moved for six hours and stood still for six, then it moved for six and stood still for six, then it moved for six and stood still for six; the whole incident equalled a whole day.

R. Eleazar said: Thirty-six hours; it moved for six hours and stood still for twelve, it then moved for six and stood still for twelve so that the halt alone equalled a whole day. R. Samuel b. Nahmani said: Forty-eight; it moved for six and stood for twelve, it then moved for six and stood still for twenty-four, for Scripture says, and hasted not to go down about a whole day, which implies that the previous halt did not equal a whole day. Some report that it is the additional hours of daytime which are disputed. R. Joshua b. Levi said: They were twenty-four; it moved for six and stood for twelve, then moved for six and stood for twelve — its halt thus equalled a whole day; while R. Eleazar said: Thirty-six; it moved for six and stood for twelve, then moved for six and stood for twenty-four [which is meant by] and hasted not to go down about a whole day. R. Samuel b. Nahmani said: Forty-eight; it moved for six and stood for twenty-four, then moved for six and again stood for twenty-four; the standing still [at noon] equalled that of setting time; as the one at setting time equalled a whole day, so the standing still [in the midst of the heaven] equalled a whole day.

A Tanna taught:[6] Just as the sun stood still for Joshua, so did the sun stand still for Moses and for Nakdimon b. Gorion. [As to the case of] Joshua, there are the scriptural verses; [that of] Nakdimon b. Gorion is a tradition;[7] whence do we know about Moses? — It may be derived from the identical [expression] I will begin [used in the two cases]. Here is written, I will begin to put the dread of thee,[8] and there, referring to Joshua, it is written, I will begin to magnify thee.[9] R. Johanan[10] said: It may be derived from the use of the identical word teth[11] [‘put’] [in both cases]. Here is written, I will begin to put the dread of thee,[12] and there, concerning Joshua, it is written, In the day when the Lord put the Amorites.[13] R. Samuel b. Nahmani said: You can detect it in the very wording of the verse itself, [The peoples that are under the whole heaven] who shall hear the report of thee, and shall tremble and be in anguish because of thee:[14] When did they tremble and were in anguish because of Moses? When the sun stood still for him.

The question was asked: [Does not Scripture say in the case of Joshua] And there was no day like that before it or after it?[15] [The answer given was,] You may explain this [to mean that] there was none that lasted as long as that one; or, if you wish, you may say it means that there were no hailstones [as in the case of Joshua], of which it is written, And it came to pass, as they fled from before Israel, while they were in the going down of Beth-Horon, that the Lord cast down great stones from heaven upon them unto Azeka and they died.[16]

And he bade them teach the Children of Judah [to handle] the bow, behold it is written in the Book of Jashar.[17] Which is the Book of Jashar? — Said R. Hiyya b. Abba in the name of R. Johanan: It is the book of Abraham, Isaac and Jacob who are designated as righteous and of whom Scripture says, Let me die the death of the righteous and let my last end be like his.[18] And where is this fact referred to?[19] — Judah, thee shall thy brethren praise; thy hand shall be on the neck of thine enemies;[20] what kind of fighting requires the aiming of the hand at the [enemy's neck]? Surely, archery. R. Eleazar said: It is the book of Deuteronomy, which is here called the Book of Jashar, because it contains the words And thou shalt do that which is Jashar [‘right’] in the sight of the Lord.[21] And where does it refer [to Judah's archery]? — With his hands he contended for himself:[22] What kind of fighting requires both hands? Surely, archery. R. Samuel b. Nahmani said: It is the Book of Judges, which is here called the Book of Jashar, because it contains the verse, In those days there was no King in Israel; every man did that which was Jashar [‘right’] in his own eyes.[23] And where is [Judah's skill in archery] referred to in it? That the generations of the Children of Israel might know, to teach them war;[24] now what kind of warfare requires teaching? Surely, archery. But how do we know that this verse refers to Judah? — From the scriptural verse, Who shall go up for us first against the Canaanites, to fight against them? And the Lord said, Judah shall go up.[25]

[These same Rabbis also discussed the following:] And the cook took up the thigh, and that which was upon it and set it before Saul.[26] — What means, ‘that which was upon it’? — R. Johanan [explained it to mean] ‘the thigh and the tail’: and what does that which was upon it mean? The thigh which is adjoined by the tail; while R. Eleazar said that the thigh and the breast [are here meant]: and what does ‘that which was upon it’ mean? The placing of the breast upon the thigh when these have to be formally waved.[27] R. Samuel b. Nahmani, however, applied it to the leg and the cap; and what does ‘that which was upon it’ mean? The cap which is above the leg.

A WOMAN SHOULD NOT BE ALONE WITH IDOLATERS. To what circumstances [does this rule apply]? If to one idolater, then even in the case of an Israelite it would not be permitted? Have we not learnt, ‘One man should not remain alone even with two women’?

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(1) I.e., the Book of Genesis.

(2) Josh. X, 13. ישר, righteous.

(3) Num. XXIII, 10, which is taken to refer to the peaceful ending of the Patriarchs.

(4) Gen. XLVIII, 19, spoken of Ephraim to whose tribe Joshua belonged.

(5) Josh. ibid. The wording implies a double halt by the sun: (a) in the midst of the heaven, i.e., at noon; (b) hasted not to go down, i.e., towards evening.

(6) V. Ta'an. 20a.

(7) V. Ibid.

(8) Deut. II, 25, referring to Moses.

(9) Josh. III, 7.

(10) In Ta'an. R. Samuel b. Nahmani is given.

(11) תת.

(12) Deut. ibid.

(13) Josh. X, 12.

(14) Deut. ibid.

(15) Josh. X, 14.

(16) Ibid. 11.

(17) II Sam.I, 18.

(18) V. p. 124, n. 8.

(19) In Genesis, that the descendants of Judah were skilled in handling the bow.

(20) Gen. XLIX, 8.

(21) Deut. VI, 18.
(22) Ibid. XXXIII, 7, in the words spoken by Moses of Judah.
(23) Judg. XVII, 6.
(24) Ibid. III, 2.
(25) Ibid. I, 1-2.
(26) 1 Sam. IX, 24.
(27) V. Zeb. 119b.

Talmud - Mas. Avodah Zarah 25b

It must therefore refer to three idolaters being present [which would be permissible in the case of Israelites].[1] But would even this be permitted in the case of Israelites of loose manners? Have we not learnt: 'But one woman may be alone with two men', whereon Rab Judah commented: This only refers to well-mannered men, but as to loose-mannered ones,it is not permitted, even if they be ten; there is indeed the incident of ten men having carried an adulterous woman on a bier [for an immoral purpose]! — Our Mishnah refers to a case where the man's wife is present, and implies [that in the case of] an idolater his wife is no safeguard,[2] though in the case of an Israelite his wife is a safeguard. But is there not, in any case, the fear of her being murdered? — Said R. Jeremiah: We are here dealing with a woman of high repute, so that he would be afraid of killing her.[3] R. Idi replied: Every woman has her weapons on her.[4] Wherein do these two differ? — In the case of a woman who has a high repute among men but not among women.[5] [The following Baraitha] has been taught in agreement with the opinion of R. Idi b. Abin: A woman, even though she can always look after her safety, should not be alone with heathen, because they are suspected of lewdness.

NO MAN SHOULD BE ALONE WITH THEM. Our Rabbis taught: If a Jew happens to be overtaken by an idolater while on the road, he should let him walk on his right.[6] R. Ishmael the son of R. Johanan the son of R. Johanan b. Berokah says: [If the heathen is armed] with a sword, he should be let to walk on the right; if with a stick on the left.[7] If they are ascending or descending, let not the Israelite be on the lower level and the heathen on the higher, but the Israelite higher and the heathen lower; nor should the Israelite bend down in front of him, lest he smashes his skull. If the heathen asks him whither he is going, he should say towards a place beyond his actual destination,[8] just as our father Jacob acted towards the wicked Esau; for Scripture says, Until I come unto my lord to Seir,[9] while it records, And Jacob journeyed to Succoth.[10] It once happened to some disciples of R. Akiba that while journeying to Chezib[11] they were overtaken by robbers who asked them whither they were going. They replied, 'To Acco'.[12] On reaching Chezib they stopped.[13] The robbers then said to them, 'Whose disciples are you?' And they replied, 'The disciples of R. Akiba.' Said they, Happy are R. Akiba and his disciples, for no evil man has ever encountered them.

R. Manashi was once going

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(1) V. Kid. 80b.
(2) As she is not particular about her husband's conduct. V. Meg. 12a.
(3) One who has influence in government circles, so that murder need not be feared, but the fear of committing immorality, with her consent, still exists.
(4) 'Her physical weakness is her protection against murder. (Jast.)
(5) One who has influence in high places but who is repulsive in appearance. According to R. Jeremiah both the risks of murder and of adultery are here eliminated; while according to R. Idi, who evidently does not take the woman's unattractiveness into consideration, the prohibition still holds good.
(6) Having his right hand close to the heathen, he will find it easier to ward off an attack by his companion.
(7) A sword being worn on one's left and a stick on one's right, the Israelite should see that he walks on the side of the weapon, so that it could quickly be got hold of by him in case of a contemplated attack.
(8) The heathen may then defer the carrying out of his contemplated attack till the end of the journey, and the Israelite

will reach his destination safely.

(9) Gen. XXXIII, 14.

(10) Ibid. 17, Succoth being before Seir.

(11) [The Biblical Achzib' (Judg. I, 31) nine miles N. of Acco (Acre)]

(12) [Which was beyond Chezib on their line of journey.]

(13) Lit., 'they desisted'.

Talmud - Mas. Avodah Zarah 26a

to Be-Toratha[1] when thieves met him and asked him whither he was going. He said, 'Toward Pumbeditha,' but when he reached Be-Toratha he stopped. Whereupon they exclaimed, 'You are a disciple of Judah the deceiver.'[2] Said he to them, 'Do you indeed know him [as such]? May it be the [Divine] will that these men be under his ban.' For twenty-two years they went on stealing but did not meet with any success. When they saw this, they all came to ask for the ban to be revoked. Now there was among them one weaver who did not come to have his ban annulled, and he was devoured by a lion. Hence the popular saying: A year's scanty earnings will alter [improve] a weaver if he be not a proud fool.[3]

Come now and see what difference there is between mere thieves of Babylon and robbers of Palestine![4]

MISHNAH. AN ISRAELITE WOMAN SHOULD NOT ACT AS MIDWIFE TO A HEATHEN WOMAN, BECAUSE SHE WOULD BE DELIVERING A CHILD FOR IDOLATRY. A HEATHEN WOMAN, HOWEVER, MAY ACT AS MIDWIFE TO AN ISRAELITE WOMAN. AN ISRAELITE WOMAN SHOULD NOT SUCKLE THE CHILD OF A HEATHEN, BUT A HEATHEN WOMAN MAY SUCKLE THE CHILD OF AN ISRAELITE WOMAN IN HER PREMISES.

GEMARA. Our Rabbis taught: An Israelite woman should not act as midwife to heathen, because she delivers a child to idolatry; nor may a heathen woman [be allowed to] act as midwife to an Israelite woman because heathens are suspected of murder. This is the opinion of R. Meir. The Sages, however, say: A heathen may act as midwife to an Israelite woman so long as there are others standing by, but not if she is acting on her own.[5] But R. Meir holds: Not even if others are standing by her, for she may find an opportunity of pressing her hand on the [infant's] temples and kill it without being observed; witness the incident of that woman who, on being called by a neighbour 'Jewish midwife, the daughter of a Jewish midwife!' retorted, 'May as many evils befall that woman, as I have dropped [Jewish children] like lumps of wood into the river.' Our Rabbis, however, say: No; she may have merely given her some kind of retort.

AN ISRAELITE WOMAN SHOULD NOT SUCKLE etc. Our Rabbis taught: An Israelite woman should not suckle a child of a heathen, because she rears a child for idolatry; nor should a heathen woman [be allowed to] suckle a child of an Israelite woman, because she is liable to murder it. This is the opinion of R. Meir. But the Sages say: A heathen may suckle a child of an Israelite woman, so long as there are others standing by her, but not if she is on her own. R. Meir, however, says: Not even while others are standing by her, for she may take the opportunity of rubbing in poison on her breast beforehand and so kill the child. And both the above instances are necessary; for if we were told about a midwife only [we might have thought that] only in that case do the Sages permit, since, being observed by others, she could do no harm, but in the case of suckling, where it is possible for her to apply poison to the breast beforehand and so kill the child, they might agree with R. Meir. If [on the other hand] we were told only about suckling, [we might have thought that] only in that case does R. Meir forbid, because she could kill the child by applying poison to her breast beforehand, but in the case of a midwife, where she could do no harm while others are standing by her, he might agree with the Rabbis; [hence both are] necessary.

The following was cited in contradiction: A Jewish woman may act as midwife to a heathen woman for payments but not gratuitously! — Answered R. Joseph: Payment is permitted to prevent ill feeling.[6] R. Joseph had a mind to say that even on the Sabbath it is permitted to act as midwife to a heathen for payment, so as to avoid ill feeling;[7] he was, however, told by Abaye that the Jewish woman could offer the excuse, ‘Only for our own, who keep the Sabbath, may we waive it, but we must not waive the Sabbath for you who do not keep it.’ R. Joseph also had a mind to say that even suckling for payment should be allowed because of ill-feeling; but Abaye said to him: She can excuse herself by saying, ‘I want to get married,’ if she is unmarried; or, if she be married, ‘I will not degrade myself before my husband.’ R. Joseph further had in mind to say, in regard to what has been taught that in the case of idolaters and shepherds of small cattle one is not obliged to bring them up [from a pit] though one must not cast them in it[8] — that for payment one is obliged to bring them up on account of ill feeling. Abaye, however, said to him: He could offer such excuses as, ‘I have to run to my boy who is standing on the roof’, or, ‘I have to keep an appointment at the court.’

R. Abbahu recited to R. Johanan: ‘Idolaters and [Jewish] shepherds of small cattle need not be brought up

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(1) A place in Babylon unidentified.

(2) Rab Judah was indeed R. Manashi's teacher.

(3) V. Jast. s.v. טייזן.

(4) The Palestinian robbers complimented R. Akiba on having outwitted them, while the Babylonian thieves slandered Rab Judah for the same reason.

(5) V. Tosef. A.Z. III.

(6) As the Jewish midwife could not then offer any feasible excuse for her refusal.

(7) It being known to the heathen that the Sabbath is waived in the case of a Jewish woman.

(8) V. supra 13b and San. 57a.

Talmud - Mas. Avodah Zarah 26b

though they must not be cast in, but minim,[1] informers, and apostates may be cast in, and need not be brought up.’ Whereupon R. Johanan remarked: I have been learning that the words, And so shalt thou do with every lost thing of thy brother's [thou mayest not hide thyself],[2] are also applicable to an apostate, and you say he may be thrown down; leave out apostates! Could he not have answered that the one might apply to the kind of apostate who eats carrion meat to satisfy his appetite,[3] and the other to an apostate who eats carrion meat to provoke? — In his opinion, an apostate eating carrion meat to provoke is the same as a min.[4]

It has been stated: [In regard to the term] apostate there is a divergence of opinion between R. Aha and Rabina; one says that [he who eats forbidden food] to satisfy his appetite, is an apostate, but [he who does it] to provoke is a ‘min’; while the other says that even [one who does it] to provoke is merely an apostate. — And who is a ‘min’? — One who actually worships idols.[5]

An objection was raised: If one eats a flea or a gnat he is an apostate. Now such a thing could only be done to provoke, and yet we are taught that he is merely an apostate! — Even in that case he may just be trying to see what a forbidden thing tastes like.

The Master said: ‘They may be cast in and need not be brought up’ — if they may be cast in need it be said that they need not be brought up? — Said R. Joseph b. Hama in the name of R. Shesheth: What is meant to convey is that if there was a step in the pit-wall, one may scrape it away, giving as a reason for doing so, the prevention of cattle being lured by the step to get unto the pit. Raba and R.

Joseph both of them said: It means to convey that if there is a stone lying by the pit opening, one may cover the pit with it, saying that he does it for [the safety] of passing animals. Rabina said: It is meant to convey that if there is a ladder there, he may remove it, saying, I want it for getting my son down from a roof.

Our Rabbis taught: An Israelite may perform a circumcision on a heathen for the purpose of becoming a proselyte — thus excluding [the purpose of] removing a morana.[6] But a heathen should not [be allowed to] perform circumcision on an Israelite, because he is liable to take his life. This is the opinion of R. Meir. The Sages said: A heathen may circumcise an Israelite, so long as others are standing by him, but not while he is on his own.[7] R. Meir, however, said: Not even when others are standing by, for he may find occasion to let the knife slip and so sterilise him. Does then R. Meir hold the opinion that a heathen is not [to be allowed to circumcise]? But the opposite is proved by the following: In a town where there is no Jewish physician, but there is a physician who is a Cuthean as well as one who is an idolater, circumcision should be performed by the idolater but not by the Cuthean.[8] This is the opinion of R. Meir. R. Judah, however, said: It should be performed by the Cuthean but not by the idolater?[9] — Reverse [the names]: R. Meir holding that the Cuthean and not the idolater should circumcise, and R. Judah holding the idolater and not the Cuthean. Does then R. Judah hold that it is in order for an idolater to do so? Surely it has been taught: R. Judah said: Whence can it be deduced that circumcision performed by a heathen is invalid? From this verse, And as for thee, thou shalt keep my covenant![10] — Indeed, do not reverse, but say that we are here dealing

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(1) Those who act as priests to idols whether they be Israelites or heathen (Rashi).

(2) Deut. XXII, 3.

(3) When he can get no other meat; but who would avoid eating forbidden food when other food is at hand.

(4) And does not require specification.

(5) Hor. 11a.

(6) A parasite worm(?) which may be lodged in the foreskin; which would mean healing without payment.

(7) Tosef. ‘A.Z. Ch.III.

(8) An idolater does not usually practise circumcision. He would therefore perform it in accordance with the intention of the father of the infant. The Cutheans (Samaritans) however, observe circumcision in the name of some object of worship placed on Mount Gerizim where their Temple stood — for which an Israelite must not afford an opportunity.

(9) The heathen being suspected of taking the child's life. (Men. 42a.) Thus R. Meir is said to permit circumcision by a heathen!

(10) Gen. XVII, 9, spoken by God to Abraham when the rite of circumcision was first enacted, which implies that only one bound to keep the rite is qualified to perform it. R. Judah thus rules that a heathen is not qualified.

Talmud - Mas. Avodah Zarah 27a

with an expert physician.[1] For when R. Dimi came[2] he said in the name of R. Johanan that if [a heathen physician] is recognised as an expert by multitudes, it is permissible [for an Israelite child to be circumcised by him]. Does then R. Judah hold that it is in order for a Cuthean [to circumcise an Israelite]? Surely it has been taught: An Israelite may perform circumcision on a Cuthean, but a Cuthean should not [be allowed to] circumcise an Israelite, because he performs the circumcision in the name of Mount Gerizim,[3] this is the opinion of R. Judah. Said R. Jose to him: Where is it at all to be found in the Torah that circumcision must be performed specifically for its purpose? But he may go on performing it[4] even though he expires in the act![5] — We must then indeed reverse names as we did before,[6] and as to the opinion cited in the name of R. Judah which contradicts the opinion held here by R. Judah — the former opinion should be ascribed to R. Judah the Prince.[7] For it has been taught: R. Judah the Prince says: Whence can it be deduced that circumcision performed by a heathen is invalid? From the words of Scripture, And as for thee, thou shalt keep my covenant.[8] Said R. Hisda: What reason could R. Judah give?[9] — The scriptural words, Unto the Lord he shall circumcise.[10] And [what scriptural authority has] R. Jose? — [The words are,] must needs be circumcised.[11] But as to the other [R. Jose], is not the phrase unto the Lord he shall circumcise? — The words Unto the Lord refer to the Passover sacrifice.[12] And as to the other [R. Judah] is it not written, must needs be circumcised? — The Torah speaks in the language of men.[13]

It has been stated: Whence could it be deduced that circumcision performed by a heathen is invalid? — Daru b. Papa said in the name of Rab: [From the words,] And as for thee, thou shalt keep my covenant;[14] while R. Johanan [deduces it from the words] Himmol yimmol.[15] What practical difference is there between these two? — The case of a circumcised Arab or a circumcised Gibeonite:[16] According to the one who relies on 'He who is circumcised shall circumcise' [the qualification] is there, but according to the one who relies on Thou shalt keep my covenant, it is not there.[17] But is such a one qualified according to him who relies on He who is circumcised shall circumcise! Have we not learnt: [He who says], I vow not to enjoy anything belonging to uncircumcised persons, may enjoy anything of uncircumcised Israelites, but must not enjoy anything of circumcised heathen.[18] Which proves that heathens who undergo circumcision are still designated as uncircumcised'![19] We must therefore say that they differ in the case of an Israelite whose brothers died in consequence of circumcision, so that he was not circumcised: according to the one who relies on Thou shalt keep my covenant the qualification is there:[20] while according to the one who relies on He who is circumcised shall circumcise, it is not there. And is such a one not qualified according to the one who relies on He who is circumcised shall circumcise? Have we not learnt: [He who says,] I vow not to enjoy anything belonging to circumcised persons, must not enjoy of uncircumcised Israelites, but may enjoy of circumcised heathens:[21] which proves that Israelites who are not circumcised are designated as 'circumcised'! — We must therefore say that the case wherein they differ is that of a woman. According to the one who relies on Thou shalt keep my covenant, the qualification is not there, since a woman is not subject to the observance, while according to the one who relies on He who is circumcised shall circumcise, the qualification is there, for a woman should be classed among the 'circumcised'. But does anyone hold that a woman is not [qualified to perform circumcision]. Does not scripture say, Then Zipporah took a flint?[22] — Read into it, she caused to be taken.[23] But it also says, And she cut off! — Read into it, and she caused it to be cut off, by asking another person, a man, to do it. Or you may say it means that she only began and Moses came and completed it.

MISHNAH. WE MAY ALLOW THEM TO HEAL US WHEN THE HEALING RELATES TO MONEY, BUT NOT PERSONAL HEALING;[24] NOR SHOULD WE HAVE OUR HAIR CUT BY THEM IN ANY PLACE.[25] THIS IS THE OPINION OF R. MEIR; BUT THE SAGES SAID, IN A PUBLIC PLACE IT IS PERMITTED, BUT NOT WHEN THE TWO PERSONS ARE ALONE. GEMARA. What is HEALING RELATING TO MONEY and what is PERSONAL HEALING? Shall we say that HEALING RELATING TO MONEY means for payment and PERSONAL HEALING free? Then the Mishnah should have said: We may allow them to heal us for payment but not free! HEALING RELATING TO MONEY must therefore mean where no danger is involved[26] and PERSONAL HEALING where there is danger. But has not Rab Judah said: Even a scar over the puncture caused by bleeding should not be healed by them? — HEALING RELATING TO MONEY therefore relates to one's cattle, and PERSONAL HEALING to one's own body, about which Rab Judah said that even a scar over the puncture caused by bleeding should not be healed by them. Said R. Hisda in the name of Mar 'Ukba: But if [a heathen physician on being consulted] says to one that such and such medicine is good for him and such and such medicine is bad for him, it is permitted [to follow his advice]

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(1) Who, though a heathen, would not risk his reputation by miscarrying the operation.

(2) From Palestine to Babylon.

(3) Cf. p. 132, n. 4.

(4) [Tosaf: 'in the name of Mount Gerizim'.]

(5) Tosef. ‘A.Z. III.

(6) R. Judah holding that a Cuthean is not allowed.

(7) The Redactor of the Mishnah, a younger contemporary of his namesake R. Judah (b. Ila'i).

(8) V. p. 133, n. 2,

(9) R. Judah b. Ila'i, who disqualifies a Cuthean because circumcision must be performed specifically for its purpose.

(10) Ex. XII, 48: And when a stranger shall sojourn with thee, and will make the Passover sacrifice unto the Lord, he shall circumcise etc. The claimed scriptural authority is thus obtained by the juxtaposition.

(11) Gen. XVII, 13. The emphatic wording (indicated in Hebrew by the infinitive before the finite verb) is taken to imply that the stricture of purpose is not to be applied.

(12) V. n. 3.

(13) An oft quoted dictum. The words are therefore not to be taken to imply anything beyond ordinary emphasis.

(14) V. 133, n. 2.

(15) Gen. XVII, 13. המול ימול ‘He must needs be circumcised’ may be rendered, by a slight alteration in the first word, to read המל ימול, He who is circumcised shall circumcise, excluding a heathen.

(16) Instead of גבנני in cur. edd. MS.M. and Yalk. Gen. 81, has גבעוני Gibeonite.

(17) As the covenant was only concluded with the Israelites, [or those who join without reservation the congregation of Israel.]

(18) V. Ned. 31b.

(19) Hence an Arab or Gibeonite should not be considered qualified to practise circumcision.

(20) As he is exempted from circumcision by law (V. Maim. Yad. Milah, II, 1. Tur. Y.D. 264, 1).

(21) Ned. ibid.

(22) Ex. IV, 25.

(23) Heb. ותקח and ותכרת.

(24) Explanation follows in the Gemara.

(25) For the heathen is liable to cut his throat with the razor.

(26) A case where a misdemeanour by the heathen physician may only result in prolonged illness or intensified pain.

Talmud - Mas. Avodah Zarah 27b

for he will think that he is merely asking him, and just as he is asking him so he will also ask others, so that that man [by giving wrong advice] would have his reputation spoilt. Said Raba in the name of R. Johanan [some say R. Hisda in the name of R. Johanan]: In the case where it is doubtful whether [the patient] will live or die, we must not allow them to heal; but if he will certainly die, we may allow them to heal. ‘Die [etc.]’! Surely there is still the life of the hour [to be considered]?[1] The life of the hour is not to be considered. What authority have you for saying that the life of the hour is not to be considered? — The scriptural words, If we say: we will enter into the city, then the famine is in the city, and we shall die there.[2] Now there is the life of the hour [which they might forfeit]! This implies that the life of the hour is not to be considered. An objection was raised: ‘No man should have any dealings[3] with Minim, nor is it allowed to be healed by them even [in risking] an hour's life. It once happened to Ben Dama the son of R. Ishmael's sister that he was bitten by a serpent and Jacob, a native of Kefar Sekaniah,[4] came to heal him but R. Ishmael did not let him; whereupon Ben Dama said, ‘My brother R. Ishmael, let him, so that I may be healed by him: I will even cite a verse from the Torah that he is to be permitted’; but he did not manage to complete his saying, when his soul departed and he died.[5] Whereupon R. Ishmael exclaimed, Happy art thou Ben Dama for thou wert pure in body and thy soul likewise left thee in purity; nor hast thou transgressed the words of thy colleagues, who said, He who breaketh through a fence, a serpent shall bite him’?[6] — It is different with the teaching of Minim, for it draws, and one [having dealings with them] may be drawn after them.

The Master said: ‘Nor hast thou transgressed the words of thy colleagues who have said, He who breaketh through a fence, a serpent shall bite him’? But a serpent did indeed sting him! — The bite of the serpent [which is inflicted upon those transgressing the words] of the Rabbis is such as can never be cured.[7] Now, what is it that he might have said?[8] — ‘He shall live by them,[9] but not die by them.’ And R. Ishmael? — This is only meant when in private, but not in public; for it has been taught: R. Ishmael used to say: Whence can we deduce that if they say to one, ‘Worship the idol and thou wilt not be killed,’ that he may worship it so as not to be killed? because Scripture says, He shall live by them, but not die by them; you might take this to mean even in public, therefore Scripture says, And ye shall not profane my holy name.[10]

Said Rabba b. Bar Hanah in the name of R. Johanan: Any sore for which the Sabbath may be profaned should not be healed by a heathen.[11] Others report that Rabba b. Bar Hanah said: Any

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(1) The heathen may bring about the end prematurely, and so shorten his life even though by some hours.

(2) II Kings VII, 4; where the four leprous men decide to hand themselves over to the besieging enemy saying, If they kill us, we shall but die.

(3) Conversational intercourse [v. Tosaf. a.l.).

(4) A disciple of Jesus, v. supra p.85, n. 3.

(5) [Ms. M. omits ‘he died’.]

(6) Eccl. X, 8, applied to those who break through ‘legal fences’ which serve to safeguard the Torah (V. Ab. I, 1). — Thus the above cited opinion of R. Johanan is contradicted by this incident which proves that in cases of extreme danger it is forbidden to be attended by a Min! [On this passage v. Herford, op cit. pp. 104 ff.]

(7) [The fate in the hereafter that meets him who transgresses the words of the wise is more grievous than the sting of a serpent on earth.]

(8) What scriptural verse might Ben Dama have cited in support of being healed by the Min?

(9) Lev, XVIII, 5, Ye shall therefore keep my statutes and mine ordinances, which if a man do he shall live by them. ‘The Rabbis take these words to mean that God's commandments are to be a means of life and not of destruction to His children. With the exception of three prohibitions — public idolatry, murder, or adultery — all commandments of the Law are therefore in abeyance whenever life is endangered’. Lev. edited by the Chief Rabbi (Dr. J. H. Hertz), p. 175.

(10) Lev. XXII, 32 (Sanh. 74a).

(11) It is to be regarded as serious enough to involve the risk of a misdemeanour by the heathen.

Talmud - Mas. Avodah Zarah 28a

internal sore should not be healed by them. Wherein do these versions differ? — They differ in the case of a swelling of the hand or a swelling of the foot.[1] For R. Adda b. Mattena said[2] in the name of Rab: A swelling of the hand or a swelling of the foot is to be regarded as [serious as] an internal sore, and the Sabbath may be profaned for it. Said R. Zutra b. Tobiah in the name of Rab: Any sore which requires [medical] opinion[3] justifies the profanation of the Sabbath. R. Shaman b. Abba said in the name of R. Johanan: The inflammatory fever is to be regarded as an internal sore for which the Sabbath may be profaned. Which sore is to be termed internal? R. Ammi explained: [Such as are] on the lip and inward. R. Eleazar asked: How about the gums and the teeth: should they, being hard, be regarded as external; or do we say that, since they are placed within [the mouth], they are to be regarded as internal? — Said Abaye: Come and hear: One who is troubled with his teeth must not rinse them with vinegar [on the Sabbath].[4] [Which means that] if he is only ‘troubled’ he must not [rinse them] but if they hurt him very much it is proper [for him to do it]! — Probably this Tanna would call ‘being troubled’ even if they hurt very much. Then come and hear this:[5] R. Johanan was troubled with scurvy [on his gums] and he went to a certain [heathen] lady[6] who attended to him on the Thursday and the Friday. Said he: What about to morrow?[7] She replied: You will not need [the treatment]. But what if I do need it? he asked. She replied: Swear unto me that you will not reveal [the remedy]. Said he: I swear, to the God of Israel I will not reveal it. She then divulged it to him and on the morrow he referred to it in the course of lecturing. But did he not swear unto her? — He swore: ‘To the God of Israel I will not reveal it,’ [implying that] I may reveal it to His people Israel. But is this not a profanation of the Name?[8] He mentioned [that proviso] to her originally. Now is it not evident then that [a sore on the gum] is regarded as an internal sore?[9] — Said R. Nahman b.

Isaac: Scurvy is different, because though starting in the mouth it extends to the intestines. What is its symptom? — If he places anything between his teeth, blood comes from the gums. What brings it on? — The chill of cold wheat-food and the heat of hot barley-food, also the remnant of fish-hash and flour. What did she apply to it? — Said R. Aha the son of Raba: Leaven-water with olive oil and salt. Mar son of R. Ashi said: Geese-fat smeared with a goose-quill. Said Abaye: I did all this but was not cured, until a certain Arab told me to get seeds of an olive not one third ripe and burn them on a new spade and spread [the ashes] on the gums; which I did and was cured. But how came R. Johanan to act as he did: had not Rabba b. Bar Hanah said in the name of R. Johanan: Any sore for which the Sabbath may be profaned should not be healed by a heathen? — It is different with a distinguished man.[10] What about R. Abbahu, who too was a distinguished man,[11] yet Jacob the Min prepared for him a medicine for his leg, and were it not for R. Ammi and R. Asi who licked his leg,[12] he would have cut his leg off? — The one [who attended] R. Johanan was an expert physician. — So too was that of R. Abbahu, an expert physician! — It was different in the case of R. Abbahu, for Minim adopt the attitude of let me die with the Philistines.[13]

Said Samuel: An open wound is to be regarded as dangerous for which the Sabbath may be profaned. What is the remedy? — For stopping the bleeding, cress with vinegar; for bringing on [flesh], scraped root of cynodon and the paring of the bramble, or worms form a dunghill.

Said R. Safra: A berry-like excrescence[14] is a forerunner of the Angel of Death. What is the remedy for it? — Rue in honey, or parsley in strong wine. In the meantime a berry resembling it [in size] should be brought and rolled over it: white [berry] for a white one, and black for a black one. Said Raba: An abscess is a forerunner of fever. What is the remedy for it? — It should be snapped sixty times with the thumb and then cut open crosswise; that is if it has not been brought to a white head, but if its head is white, it matters not.

R. Jacob was suffering from

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(1) Which is serious enough to justify the waiving of the Sabbath, yet is not an internal sore.

(2) Shab. 109a.

(3) As to whether it is fatal or not.

(4) Lest he be led to grind ingredients on the Sabbath (Shab. 111a).

(5) Yoma 84a.

(6) [The daughter of (a certain) Domitian. J. Shab. XIV. v. Preuss, op. cit., p. 196, n. 3].

(7) When his Sabbath lecture would prevent him from calling on her.

(8) חלול השם, the profanation of the Divine Name by doing anything that may discredit God or Israel was always regarded as a grievous sin, particularly if the misdeed is committed in dealing with a non-Jew. The positive form קדוש השם, sanctifying the Name is applied to every act which brings credit upon God and His People (v. p. 137, n. 6).

(9) Since he was prepared to have it treated on the Sabbath.

(10) Such as R. Johanan was; as the heathen would be afraid to commit any foul play.

(11) V. Sanh. 14a and Keth. 17a, where he is spoken of as a familiar figure in the Emperor's court.

(12) [To suck the poison out.]

(13) Judg. XVI, 30, exclaimed by Samson, who readily jeopardised his own life in order to avenge himself on his enemies.

(14) [עינבתא, the disease referred to is not clear, Preuss, op. cit., pp. 304 ff.]

Talmud - Mas. Avodah Zarah 28b

a slit in the rectum and R. Ammi — some say R. Assi — directed him to take seven grains of purple coloured alkali, wrap them up in the collar of a shirt, tie it round with a white thread [of cattle-hair], dip it in white naphtha and burn it, and apply [the ashes] to the sore. While preparing this he was to take the kernel of a bramble nut and apply its split side to the slit. That is if there is a slit externally; what [is one to do] if it is internal? One should take some fat of a goat that has not borne any young, melt it and apply it. Else one should take three melon leaves which have faded in the shade, burn them and apply the ashes. In the absence of these, let one apply snail-shells, or else take olive-oil mixed with wax and let him be covered with rag of linen in the summer and cotton wool in the winter.

R. Abbahu had pain in his ear and he was given some directions by R. Johanan — others say, by those in the House of Study. What were the directions? — Similar to those of Abaye[1] [who said]: My Mother told me that kidneys were only made to [heal] the ear. So also said Raba: Minyomi the physician told me that any kind of fluid is bad for the ear except the juice from kidneys. One should take the kidney of a ‘bald-buck’, cut it cross-wise and place it on glowing coals, and pour the water which comes out of it into the ear, neither cold nor hot, but tepid. Else, one should take the fat of a large-size cockchafer, melt it and drip it [into the ear]. Or else, the ear should be filled with oil, then seven wicks should be made out of green blades of wheat-stalks at the one end of which dry garlic ends and some white thread should be set alight while the other end is placed within the ear, the ear should be exposed to the light but care should be taken that no spark falls on it, each wick [when done with] should be replaced by another. Another version is: One should prepare seven wicks of white thread[2] and dip them in oil of balsam-wood[3] setting light to the one end and placing the other end in the ear, each one, when done with, should be replaced by another, care being taken to avoid any sparks. Or let one take tow cotton which has been dyed but not combed and place it within the ear, which should be placed above a fire, taking precaution against sparks. Another remedy: Take a tube of an old cane [which has been detached from the soil] for about a century and fill it with rock salt, then burn it and apply the ashes [to the sore part]. [Take as] thy mnemonic [to remember how to apply the foregoing,] in liquid form to a dry sore, and in dry form to a wet sore.

Said Raba b. Zutra in the name of R. Hanina: It is permissible to restore the ear into its proper position on the Sabbath. Whereon R. Samuel b. Judah commented: Only with the hand, but not by applying medicines. Some report: By applying medicine, but not with the hand, the reason being that it causes soreness.

Said R. Zutra b. Tobiah in the name of Rab: If one's eye gets out of order, it is permissible to paint it on the Sabbath. He was understood to be of opinion that this only holds good when the medical ingredients had been ground the previous day, but if it is necessary to grind them on the Sabbath and carry them through a public road, it would not be permitted; but one of the Rabbis, R. Jacob by name, remarked to him: It was made plain to me on behalf of Rab Judah that even grinding on the Sabbath and the carrying through the public street are permissible.

Rab Judah declared it as permissible to paint the eye on the Sabbath. Whereupon R. Samuel b. Judah said: He who acts according to Judah profanes the Sabbath. After some time when he himself had a sore eye he sent to ask of Rab Judah: Is it permitted or forbidden? He sent back [the following reply:] ‘To everyone else it is permitted — but to you it is forbidden.[4] Was it on my own authority [that I permitted it?] It was on that of Mar Samuel’. It once happened to a maid-servant in Mar Samuel's house that her eye became inflamed on a Sabbath; she cried, but no one attended her[5] and her eye dropped. On the morrow Mar Samuel went forth and propounded that if one's eye gets out of order it is permissible to paint it on the Sabbath, the reason being because the eyesight is connected with the mental faculties.[6]

What kind [of disorder]?[7] Said R. Judah: Such as discharge, pricking, congestion, watering, inflammation or the first stages of sickness, excluding the last stage of sickness or the brightening of the eyesight in which cases it is not permitted.

Said Rab Judah: The sting of a wasp, the prick of a thorn,[8] an abscess, a sore eye or an inflammation — for all these a bath-house is dangerous. Radishes are good for fever, and beets for cold shivers: the reverse is dangerous. Warm things [are good] for a scorpion [bite] and cold things for that by a wasp: the reverse is dangerous. Likewise warm things for a thorn prick and cold

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(1) Kid. 31b.

(2) [So MS. M. (v. Jast.); according to current edd.: wax tapers.]

(3) So according to MSS. and old editions which have דאפרסמא instead of דאספסתא (wheat stalks) in current edd.

(4) Since, in opposition to Rab Judah, he declared it as forbidden.

(5) Thinking that it was not serious enough to warrant disregarding the Sabbath.

(6) So Tosaf. a.l. s.v. שורייני Rashi's rendering is, The nerves of the eye affect the fat around the heart.

(7) Justifies the medical painting of the eye on the Sabbath.

(8) Lit., ‘he who was stung by a thorn’, similarly with the other phrases that follow.

Talmud - Mas. Avodah Zarah 29a

for an eruption: the reverse is dangerous. Vinegar [is good] after letting blood and small fish in brine after fasting; the reverse is dangerous. Cress [after] blood-letting is dangerous. Fever is [likewise] dangerous for blood-letting; so also are sore eyes dangerous for blood-letting. The second [day] after [eating] fish [may be used] for [the letting of] blood; the second day after bleeding, for [eating] fish; on the third day it is injurious.

Our Rabbis taught:[1] One who has his blood let should abstain from HGBSH,[2] milk, cheese, onions and pepperwort. If one has eaten any of these, said Abaye, he should take a quarter[3] of vinegar and a quarter of wine, mix them together and drink; and when he has subsequently to attend to his natural needs, he should retire east of the town to obviate the vitiating smell.

Said R. Joshua b. Levi: It is permitted to lift the Unklai on the Sabbath. What does unklai mean? Said R. Abba: The cartilage [in front] of the heart.[4] What is the remedy for it? — Take cumin, carraway, mint, wormwood, saturera and hyssop.[5] For [curing the cartilage of] the heart, [these should be taken] in wine — as a mnemonic take Wine maketh glad the heart of man;[6] for [defective] breathing, in water. Mnemonic: The breath of God hovered over the face of the water;[7] for a woman in childbirth, in beer — mnemonic, her pitcher on her shoulder.[8] R. Aha the son of Rabba ground all these together and took a fist-full [of the mixture] and drank it. R. Ashi ground each one separately and took a full pinch of it with his thumb and little finger. Said R. Papa: I did all these but was not cured till an Arabian traveller told me to take a new jug, fill it with water into which a spoonful of honey, which stood overnight under the stars, should be dropped, and the contents should be drunk on the morrow;[9] this I did and was cured.

Our Rabbis taught: Six things help the sick to recover from sickness and have a real curative effect — they are: cabbage, beets, a decoction of dry sisin,[10] tripe, womb and the lobe above the liver; some say, also small fish; moreover small fish keep the whole human body in a fit condition. Ten things are liable to send the patient back to his illness, and to make his illness severe; these are: to eat ox-meat, fat, roast meat, birds’ meat, roast egg, pepperwort, shaving, bathing, cheese or liver. Some say also nuts, others add also melons. In the School of Ishmael it was taught: Why are they called Kishshuim [melons]? Because they are Kashin [injurious] to the whole human body as swords.[11]

NOR SHOULD WE HAVE OUR HAIR CUT BY THEM IN ANY PLACE. Our Rabbis taught: When an Israelite is having his hair cut by a heathen he should be looking in the mirror;[12] and when an Israelite cuts the hair of a heathen he should, on reaching the forelock, leave it alone.[13] The

Master said: ‘When an Israelite is having his hair cut by a heathen he should be looking in the mirror.’ What are the circumstances? If it is done in a public road, what for the mirror?[14] If in a private place, what is the use of looking into it? — [It refers] indeed to a private place, but his using the mirror will make him appear an important person. R. Hana b. Bizna was having his hair cut in the road leading to Nehardea by a heathen who remarked: Hana, Hana, thy throat is fine for the shears. Answered he: I deserve it for transgressing the words of R. Meir. And did he not also transgress those of the Rabbis, for the Rabbis only permit it in a public place but not in a private place? — He thought that the roads leading to Nehardea, where there are usually many [passers by], are to be regarded as a public place.

‘When an Israelite cuts the hair of a heathen he should, on reaching the forelock, leave it alone.’ How much [of it is he to leave]? — Said R. Malkiah in the name of R. Adda b. Ahaba: Three fingers’ length on every side.

Said R. Hanina the son of R. Ika.[15] [The statements about] a Spear,[16] Maid-servants,[17] Depressions,[18] are by R. Malkio; [but those about] Forelock,[19] Vegetable-ashes,[20] and Cheese[21] are by R. Malkiah. R. Papa however said: If referring to a Mishnah or Baraitha, it is R. Malkiah, but if independent statements, it is R. Malkio. Mnemonic — ‘The Mishnah is queen.’[22] Wherein do the two differ? — They differ in regard to the statement about Maid-servants.[23]

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(1) V. Ned. 54b.

(2) A mnemonic consisting of the initials of the Hebrew of the words that follow.

(3) Of a log.

(4) [R. Hananel: ‘the stomach’.]

(5) MSS. have אברתא instead of אבדתא of current edd.

(6) Ps. CIV, 15.

(7) Gen. I, 2. The Heb. word רוח used there denotes ‘spirit’, ‘breath’, ‘wind’.

(8) Ibid. XXIV, 15. In the original כדה stands for her pitcher and שכמה for her shoulder, while כודא stands for sickness in childbirth and שכרא for beer.

(9) [MS. M.: fill it with water allowing it to stand overnight under the stars, in the morning drop into it a spoonful of honey.]

(10) Sisin, a medicinal herb.

(11) V. supra 11a.

(12) The study of his appearance will make the barber think that he is an important person whom he will fear to harm (Rashi).

(13) As it is dedicated to the idols, V. supra 8a.

(14) The heathen will all the same be afraid to harm him.

(15) V. Mak. 21a.

(16) If it may be straightened on the festival, v. Bezah 28b.

(17) Brought by a woman at marriage, Keth. 59b.

(18) Nid. 52b.

(19) Quoted above.

(20) Spread on wounds. Mak. 21a.

(21) If that made by a heathen is forbidden. Infra 29b.

(22) The one associated with the Mishnah (and Baraitha) is Malkiah, which name closely resembles Malkah — queen.

(23) According to R. Hanina it is attributed to R. Malkio, while according to R. Papa, since it has reference to a Mishnah, it is attributed to R. Malkiah.

Talmud - Mas. Avodah Zarah 29b

MISHNAH. THE FOLLOWING THINGS BELONGING TO HEATHENS ARE FORBIDDEN AND THE PROHIBITION EXTENDS TO ANY BENEFIT THAT MAY BE DERIVED FROM

THEM: WINE, OR A HEATHEN'S VINEGAR THAT WAS FORMERLY WINE,[1] HADRIANIC EARTHENWARE,[2] SKINS PIERCED AT THE ANIMAL'S HEART.[3] RABBAN SIMEON B. GAMALIEL SAYS: WHEN ITS RENT IS ROUND, [THE SKIN] IS FORBIDDEN, BUT IF OBLONG IT IS PERMITTED.[4] MEAT WHICH IS BEING BROUGHT IN TO A PLACE OF IDOLS IS PERMITTED,[5] BUT THAT WHICH IS BROUGHT OUT IS FORBIDDEN, BECAUSE IT IS [REGARDED] AS SACRIFICES OF THE DEAD,[6] THIS IS THE OPINION OF R. AKIBA. [WITH IDOLATERS] GOING ON A PILGRIMAGE[7] IT IS FORBIDDEN TO HAVE ANY BUSINESS TRANSACTIONS, BUT WITH THOSE COMING THENCE IT IS PERMITTED. SKIN-BOTTLES OR FLAGONS OF HEATHENS IN WHICH WINE OF AN ISRAELITE IS KEPT ARE FORBIDDEN AND THE PROHIBITION EXTENDS TO ANY BENEFIT THAT MAY BE DERIVED FROM THEM, THIS IS THE OPINION OF R. MEIR. BUT THE SAGES SAY THAT THE PROHIBITION DOES NOT EXTEND TO DERIVING ANY BENEFIT. GRAPE-STONES AND GRAPE-SKINS OF HEATHENS ARE FORBIDDEN, THE PROHIBITION EXTENDING TO ANY BENEFIT, THIS IS THE OPINION OF R. MEIR. BUT THE SAGES SAY, WHEN FRESH THEY ARE FORBIDDEN BUT WHEN DRY THEY ARE PERMITTED. MURIES[8] AND BITHYNIAN CHEESE[9] OF THE HEATHENS ARE FORBIDDEN, THE PROHIBITION EXTENDING TO ANY BENEFIT, THIS IS THE OPINION OF R. MEIR. BUT THE SAGES SAY THAT THE PROHIBITION DOES NOT EXTEND TO ANY BENEFIT.

R. JUDAH SAID: R. ISHMAEL PUT THIS QUESTION TO R. JOSHUA AS THEY WERE ON A JOURNEY, ‘WHY,’ ASKED HE, ‘HAVE THEY FORBIDDEN THE CHEESE OF HEATHENS?’[10] HE REPLIED, BECAUSE THEY CURDLE IT WITH THE RENNET OF A NEBELAH.’[11] HE RETORTED: ‘BUT IS NOT THE RENNET OF A BURNT-OFFERING MORE STRICTLY FORBIDDEN THAN THE RENNET OF A NEBELAH? [AND YET] IT WAS SAID THAT A PRIEST WHO IS NOT FASTIDIOUS MAY SUCK IT OUT RAW (THOUGH THIS OPINION WAS NOT APPROVED, AND IT WAS SAID THAT NO BENEFIT MAY BE DERIVED FROM IT, ALTHOUGH NO TRESPASS WOULD APPLY THERETO).’[12] ‘THE REASON THEN,’ [R. JOSHUA SAID,] ‘IS BECAUSE THEY CURDLE IT WITH THE RENNET FROM CALVES SACRIFICED TO IDOLS.’ SAID HE, ‘IF THAT BE SO, WHY DO THEY NOT EXTEND THE PROHIBITION TO ANY BENEFIT DERIVED FROM IT?’ HE, HOWEVER, DIVERTED TO ANOTHER MATTER, SAYING:[13] ‘ISHMAEL, HOW DO YOU READ — FOR THY [MASC.] LOVE IS BETTER THAN WINE OR THY [FEM.] LOVE ETC.’[14] HE REPLIED: ‘THY [FEM.] LOVE IS BETTER . . .’ HE RETORTED: THIS IS NOT SO, AS IT IS PROVED BY ITS FELLOW [-VERSE]: THINE OINTMENTS HAVE A GOODLY FRAGRANCE [WHEREFORE THE MAIDENS LOVE THEE].’[15]

GEMARA. Whence do we deduce [the prohibition of] WINE? — Rabbah b. Abbuha said: From the scriptural verse which says, Who did eat the fat of their sacrifices, and drank the wine of their drink-offering,’[16] as [heathens’] sacrifice is forbidden as to deriving any benefit, so also their wine is forbidden. But whence do we deduce the prohibition of a sacrifice itself? — From the scriptural words, They joined themselves also unto Baal of Peor, and ate the sacrifices of the dead:[17] as anything appertaining to the dead is forbidden as to any benefit, so [heathen] sacrifices are likewise forbidden. And how do we know this about the dead? — We deduce it from the similar expression ‘there’ used in connection with the heifer whose neck was to be broken,[18] as well as here [in connection with the dead]. Here it is said, And Miriam died there,[19] and there it is said, And they shall break the heifer's neck there in the valley.[20] As in that other case the heifer was forbidden as to any benefit, so also in our case the prohibition is the same. But how do we know that it is so in that case? — Those of the School of R. Jannai said: Because forgiveness[21] is mentioned in connection therewith as with sacrifices.[22]

OR A HEATHEN'S VINEGAR THAT WAS FORMERLY WINE. This, surely, is obvious! Shall its prohibition cease because it turned sour? — R. Ashi said: The statement serves to imply that vinegar belonging to us when in the keeping of a heathen does not require double sealing;[23] [and for this reason:] as to the fear lest he would offer it to idols — this is generally not offered, and [again] as to the possibility that he might exchange it for his own — since there is one seal, he would not take the trouble to falsify it.

R. Elai said: We have had it stated that a heathen's boiled wine, which was formerly [raw] wine [while in his possession], is forbidden. This, too, is self evident! Does its prohibition cease because it had been boiled? — Said R. Ashi: This, too, enables us to draw the implication that our boiled wine which is in the keeping of a heathen does not require double sealing.[24] For as to the fear lest he would offer it to the idol, it is not offered [in that state]; and as for

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(1) While it was in the heathen's possession

(2) V. infra 32a.

(3) It was the practice of the heathen to remove the heart of a living animal for a sacrifice to the idol; thus the whole animal is forbidden as an idolatrous offering.

(4) The rounded shape is a sign of the crinkling of the skin on being rent while the animal was still alive; the oblong, or natural, shape of the rent shows that it was made after the animal was dead. V. J. a.l.

(5) To derive some benefit therefrom.

(6) [Cf. Ps. CVI, 28, and Ab. III, 3. The meat is regarded as idolatrous even though no part of it had actually been offered as sacrifice to the idol. Tosaf. 32b, s.v. והיוצא.]

(7) [תרפות, lit., ‘obscenity’, a contemptuous designation of an idolatrous cult. Jast. and Elmslie (p. 33) understand the reference to be to the Dyonisian festivals.]

(8) ‘Fish-brine’, often mixed with wine.

(9) The reason given (infra 34b) is that in Bithynia many calves were offered to the idols; it is therefore to be suspected that their rennet is used in preparing the cheese. [‘Bithynian cheese was prized as a delicacy,’ Elmslie, p. 35.]

(10) Why do the Sages forbid the eating of such cheese, seeing it is only made from the milk of ‘clean’ animals.

(11) An animal which dies of itself (v. Glos.).

(12) Cf. Lev. V, 15. Which goes to prove that rennet in a burnt-offering was not regarded as part of the animal, but as mere refuse.

(13) The diversion was intentional, as is explained further in the Gemara.

(14) Cant. I, 2. The Heb. word may stand for either gender according to the vocalisation: דודיך masc., or דודיך fem. The Song of Songs is regarded as a dialogue between God the lover (in the masc.) and Israel His beloved (fem.).

(15) Which obviously is addressed to one of masculine gender.

(16) Deut. XXXII, 38.

(17) Ps. CVI, 28.

(18) Deut. XXI.

(19) Num. XX, 1.

(20) Deut. XXI, 4.

(21) Forgive O Lord Thy people Israel (ibid. 8).

(22) From which no secular benefit may be derived.

(23) Lit., ‘a seal within a seal,’ as is the case with wine, to make sure that part of it is not offered to the idol.

(24) The teaching that it is forbidden to benefit from boiled wine only when it was in the heathen's keeping in a raw state implies that, if the Israelite handed it to the heathen after boiling it, there is no fear of its being offered to the idol, as only raw wine is used for such purpose.

Talmud - Mas. Avodah Zarah 30a

the possibility that he might exchange it — since there is one seal, he would not take the trouble to falsify it.

Our Rabbis taught: Boiled wine or alontith of a heathen is forbidden, but prepared alontith[1] is permitted. What is alontith? — As it has been taught in connection with Sabbath:[2] We may make anomalin[3] but not alontith.[4] What is ‘anomalin’ and what is ‘alontith’? ‘Anomalin’ [is a mixture of] wine, honey and pepper; ‘alontith’, of old wine, clear water and balsam, which is used [as a cooling drink] in the bath-house.

Rabbah and R. Joseph both of them said that diluted wine[5] does not become forbidden through being left uncovered;[6] nor is boiled wine to be suspected of idolatrous use. The question was asked: Is boiled wine rendered forbidden by being left uncovered or is it not so? — Come and hear: R. Jacob b. Idi testified in regard to boiled wine that it is not rendered forbidden by being left uncovered. R. Jannai b. Ishmael was sick and R. Ishmael b. Zirud and other Rabbis called to enquire about him. As they sat, the question was asked of them: Does the objection to remaining uncovered apply to boiled wine or not? — To which R. Ishmael b. Zirud replied: Thus said R. Simeon b. Lakish on behalf of a great man — namely, R. Hiyya: Boiled wine is not rendered unfit by being left uncovered. On their asking, ‘Shall we rely on it?’ R. Jannai b. Ishmael motioned [as if to say], ‘Upon my responsibility.’[7]

Samuel and Ablet[8] were sitting together when boiled wine was brought up for them and [the latter] withdrew his hand,[9] but Samuel said to him: Behold, it has been said that boiled wine is not to be suspected of idolatrous use! R. Hiyya's maid-servant found that some boiled wine had been left uncovered. She came [to ask about it] of R. Hiyya, who told her that it had been declared that boiled wine is not rendered unfit by being left uncovered. The servant of R. Adda b. Ahaba found that some diluted wine had been left uncovered. [His master] however told him that it had been stated that diluted wine is not rendered unfit by being left uncovered. R. Papa said: This has only been said [of wine] that is well diluted; but if it is only slightly diluted [a snake] might indeed drink it. But does it indeed drink wine that is slightly diluted? — [What about] Rabbah son of R. Huna who was travelling in a boat and had some wine with him? Observing that a snake, cutting through the water, was approaching, he said to his attendant, ‘Turn it away,’[10] and the attendant took some water and was pouring it into the wine; whereupon the snake turned back! — [This may only show that] for pure wine [the snake] will even endanger its life, while for diluted wine it will not face danger.[11] And does it not face danger for diluted wine? — What about R. Jannai who was at ‘Akbara[12] (some say it was Bar-Hadaya[13] that was at ‘Akbara) where people were sitting and drinking diluted wine, and as there was some of it left in the cask they tied a shred over it? He then saw a snake carrying water which it poured into the cask till the cask was so filled that the wine came above the shred, and [the snake then] drank! — It may be said that what [the snake] itself dilutes it will drink, but it will not drink what others dilute. Said R. Ashi (some say, R, Mesharsheya): What an answer [to give in a matter] where danger [to life is involved]![14]

Raba said: The law is that diluted wine is rendered unfit by being left uncovered and is to be suspected of idolatrous use, but boiled wine does not become unfit by being left uncovered nor is it suspected of idolatrous use.

The attendant of R. Hilkiah b. Tobi [found that] a tank of water had been left uncovered, though he had been sitting and slumbering close to it. He came to [ask about it of] R. Hilkiah b. Tobi, who said to him: It has been stated that snakes are afraid of a sleeping person; this, however, only applies in day time but not at night. But this is not the case; it is not to be assumed that they are afraid of a sleeping person either by day or by night.

Rab did not drink water of an Aramean's house, saying that they do not mind if it is kept uncovered. He, however, drank that of a widow's[15] house, saying: She is sure to follow her husband's practice. Samuel [on the other hand] would not drink water of the house of a widow. In the absence of the fear of a husband, he said, she will not necessarily keep the water covered. He, however, drank that of the house of an Aramean. Even if they are not particular about [the prohibition relating to] uncovered liquids, they are particular about cleanliness.[16] Some report that Rab would not drink the water of an Aramean's house, but would drink that of a widow's house, while Samuel would not drink the water of either the house of an Aramean or that of a widow.

R. Joshua b. Levi said: There are three kinds of wine to which the prohibition through being left uncovered does not apply, namely: Strong, Bitter, and Sweet. ‘Strong’ is the acrid tila[17] which makes the wine-skin burst; ‘Bitter’ is wine made of unripe grapes; ‘Sweet’ is wine made of grapes sweetened [by the heat of the sun].[18] R. Hama taught [that those three] are improved wines: ‘Strong’-is wine mixed with pepper; ‘Bitter’ — mixed with wormwood; ‘Sweet’ — is sparkling wine.[19] Said R. Simeon b. Lakish: Karina becomes prohibited through being left uncovered. What is Karina? — Said R. Abbahu: Karina[20] is a sweet wine which comes from Assia.[21] Said Raba: In its own place, however, it is rendered unfit if left uncovered, the reason being that it is the ‘local wine.’[22]

Raba said: Wine which has formed a film is made unfit by being left uncovered and is suspected of idolatrous use during the first three days;

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(1) If when it reached the heathen it was already in its prepared state and not in the form of wine.

(2) Shab. 140a.

(3) Because it is for drinking purposes, and may be prepared on the Sabbath.

(4) Which is for medicinal purposes, and must not be prepared, lest he might be led to grind the ingredients.

(5) The usual proportion is 2 water to 1 pure wine.

(6) As a snake does not drink it (cf. Ter. VIII, 4).

(7) Lit., ‘On me and on my neck,’ an idiom denoting the assuming of full responsibility.

(8) A learned Gentile, mentioned in several places in the Talmud. [E.g., Shab. 129a, 156b.]

(9) Wine touched by a heathen is suspected of being manipulated for idolatrous purposes.

(10) Lit., ‘Blind its eyes.’

(11) [But not that it will not drink undiluted wine where it can do so without being seen.]

(12) A place in Upper Galilee. [R. Jannai had established there a school wherein the study of the Law went hand in hand with agricultural pursuits, v. Halevy, Doroth II, 273 ff.]

(13) [A famous interpreter of dreams, v. Ber, 56a.]

(14) [The fact that a snake has been seen to drink diluted wine is sufficient warrant to put us on our guard and apply the prohibition to diluted wine that has been left uncovered.]

(15) A Jewess; though women are not well versed in laws.

(16) They will therefore keep it covered for the sake of cleanliness.

(17) A wine with a very pungent taste.

(18) The taste of any of these being objectionable, a snake would not drink thereof even if left uncovered.

(19) מי בארג — Borag-water, ‘a superior drink’ (Rashi). [Krauss, Talm. Arch. II, 241, takes מי in its Persian sense, meaning ‘wine’, and renders accordingly ‘Barag wine’.] These three are also distasteful to snakes.

(20) Cf. L. carenum (Jast.)

(21) עסיא or אסיא taken by some to mean Asia Minor or a certain part of it; by others, Essa, a town E. of the Lake of Tiberias. V. Sanh, (Sonc. ed.) p. 151, n. 1.

(22) And snakes of that locality drink it.

Talmud - Mas. Avodah Zarah 30b

thence onwards neither the suspicion of idolatry nor the objection to being uncovered applies to it;[1] those in Nehardea, however, said that even after the three days the objection to being uncovered still holds good, the reason being that occasionally even such wine is drunk [by snakes].

Our Rabbis taught: Wine in the first stage of fermentation is not subject to the rules relating to uncovered [liquids]; and how long does that stage last? Three days. Cress-dish[2] is not subject to the rules relating to uncovered [liquids]. Those in the Diaspora[3] made a practice of forbidding it [if left uncovered]; but only if there was no vinegar in it; for the vinegar that is in it deters[4] serpents [from tasting it]. Babylonian Kutah,[5] too, is not rendered unfit if left uncovered, though those in the diaspora have the practice of forbidding it. R. Manashi said: If it has traces of biting we must suspect [it of being bitten by a serpent]. Said R. Hiyya b. Ashi in the name of Samuel: Water that drips into a vessel is not subject to the rules in regard to uncovered [liquids].[6] R. Ashi said: That is if the dripping is continuous. R. Hiyya b. Ashi said in the name of Samuel: The opening of a fig[7] does not come under the rules relating to [liquids] left uncovered. This view accords with that of this Tanna: For it has been taught:[8] R. Eliezer says, One may eat grapes and figs at night without suspecting any harm,[9] for Scripture says, The Lord guardeth the simple.[10]

R. Safra said in the name of R. Joshua of the South: There are three kinds of venoms [of serpents]: that of a young one sinks to the bottom; that of one not quite young drops to about the middle; while that of an old one floats on top. Are we to take it that the older a serpent gets the more his strength diminishes? Has it not been taught:[11] There are three whose strength increases as their age advances, these are: a fish, a serpent and a swine! — Its strength may indeed increase, but its venom becomes weaker.

‘The venom of a young one sinks to the bottom’. — What practical application has this? — That of the following teaching: If a barrel was uncovered, even if nine persons drank of its contents with no fatal consequence, the tenth person is still forbidden to drink thereof. It happened indeed that nine people drank of such and did not die but the tenth one died; and R. Jeremiah said: It was a case of the venom sinking to the bottom. Likewise if a [cut] melon was left uncovered and nine persons partook thereof without fatal consequences, it is forbidden for a tenth person to partake thereof, for it once happened that nine persons ate of such a one and did not die and the tenth one who ate it died; and Rab said that it was a case of venom that sank to the bottom.

Our Rabbis taught: Water which had been left uncovered should not be poured out in a public road, or used for sprinkling the floor of a house, or for kneading mortar; nor should one give it to his animal or to his neighbour's animal to drink; nor should one wash one's face, hands or feet therewith. Others said: Only a part of the body that has an opening[12] must not [be washed therewith] but where there is no opening it is permitted. Do not the ‘Others’ hold the same opinion as the first Tanna?[13] — They differ in regard to the back part of the hand and of the foot, or the upper part of the face.[14]

The Master said: ‘Nor should one give it to his own animal or to his neighbour's animal to drink’. But has it not been taught: One may, however, give it to his own animal to drink? — That teaching refers to a cat.[15] Why then not to his neighbour's? — Because it deteriorates it. Then his own, too, would deteriorate? — But it subsequently recovers. Then his neighbour's would likewise recover? — It might so happen that he might wish to sell it and would suffer loss through it.[16]

R. Assi said in the name of R. Johanan who said it on behalf of R. Judah b, Bathyra: There are three kinds of wine: [i] Libation-wine,[17] from which it is forbidden to derive any benefit, and of which a quantity of the size of an olive causes grave defilement;[18]

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(1) As its taste is then completely changed.

(2) Chopped cress mixed with wine.

(3) גולה, All countries outside Palestine, with special reference to Babylonia, v. Glos. s.v. Golah.

(4) Lit., ‘attacks’.

(5) A mixture consisting of sour milk, crusts of bread and salt (Jast.).

(6) As the noise caused by the dripping would frighten a serpent.

(7) Freshly plucked and left overnight.

(8) B.K. 116b.

(9) Though liquids must not be had in the dark.

(10) Ps. CXVI, 6.
(11) Shab. 77b.
(12) Where the poisonous matter would be retained and subsequently penetrate into the body.
(13) He too forbids the parts of the body, such as the face, hands and feet, which are liable to retain the poison.
(14) Parts which are smooth, which the others permit, but the first Tanna forbids.
(15) To which such drink is not injurious, v. Pes. 112b.
(16) He has a right to risk a loss to himself, but not to his neighbour.
(17) Yen Nesek, wine from which libation had been poured before an idol. V. Glos.
(18) Anyone coming in contact with it, or being in premises in which it is found, becomes ritually unclean, as in the case of a dead body. (V. supra 29b).

Talmud - Mas. Avodah Zarah 31a

[ii] Ordinary wine of heathens, from which it is likewise forbidden to derive any benefit whatsoever,[1] and a quarter [of a log] of which renders drinks [or edibles] unclean;[2] [iii] Wine [of an Israelite] that had been deposited with an idolater, which must not be drunk, but the benefit of it is permitted. But have we not learnt:[3] 'If one deposits his fruit with an idolater it is considered as if it were the idolater's own fruit as regards tithes or Sabbatical year's produce'?[4] In our instance he assigned a separate corner to it.[5] In that case it should be permissible for drinking also! For when R. Johanan happened to be in Parud[6] he enquired if there was any Mishnah of Bar-Kappara [available], and R. Tanhum of Parud quoted to him [the following]: Wine which had been deposited with an idolater is permissible for drinking. Applying the verse, In the place where the tree falleth, there shall it be[7] — [he commented:] How can it be assumed that there it shall be? But it means that there shall its fruit be![8] — R. Zera said: There is no contradiction here: the one is according to the opinion of R. Eliezer and the other according to that of the Rabbis, For it has been taught: If one buys or hires a house in a court of an idolater and stores wine therein, the key or seal of the place being in the charge of an Israelite, [such wine] is permitted by R. Eliezer but the Sages forbid it.[9] R. Hiyya the son of R. Hiyya b. Nahmani said in the name of R. Hisda [who said it] in the name of Rab (some say that R. Hisda said it in the name of R. Ze'iri, while others report that R. Hisda said, I was told by Aba b. Harina that Ze'iri said it): The halachah rests with R. Eliezer.

R. Eleazar said: Everything is sufficiently guarded by one seal, except wine, which is not considered guarded by one seal. R. Johanan however said: Even wine is sufficiently guarded by one seal. And the one is not in conflict with the other, as the one follows the opinion of R. Eliezer, and the other, that of the Rabbis.[10] Some have the following version: Said R. Eleazar: Everything is sufficiently guarded by a seal within another seal,[11] except wine which is not guarded even by such double seal. R. Johanan however said: Even wine is guarded by a seal within a seal. Both these follow the opinion of the Rabbis, the one holding that the Rabbis only differ from R. Eliezer where there is but one seal, but if there is a seal within another seal they, too, permit it; while the other holds that even in the case of a double seal they forbid.

What, for example, is a seal within another seal? — Raba said: A basin placed over the opening of a barrel and joined to the barrel with a seal on it, is a seal within another seal, otherwise it is not so; or a basket fastened [over the stopper] is a seal within a seal, but if it is not fastened it is not a seal within a seal; a skin bottle within a bag with the closed opening of the skin bottle inside, is a seal within a seal, but if the opening is without, it is not a seal within a seal; if he bends in the closed opening of the skin bottle within and then ties the bottle up again and seals it, it is likewise considered a seal within a seal.

Our Rabbis taught: Formerly the ruling was that wine of En-Kushi[12] is forbidden because of Birath-Sirika,[13] that of Borkata[14] is forbidden on account of Kefar-Parshai, and that of Zagdar is forbidden because of Kefar-Shalem;[15] subsequently however this was altered thus: If in open barrels it is forbidden, but if in closed ones it is permitted. What was the opinion held formerly and what was the later opinion? — At first the opinion was held that a Cuthean is not particular about an idolater's coming in contact [with the wine] whether the barrels be open or closed; but subsequently they formed the opinion that only in the case of open ones they are not particular, but in the case of closed barrels they are very particular indeed.

Is it then permitted in the case of open barrels? But the following contradicts it:

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(1) [This is an extension of the prohibition of 'libation-wine'.]

(2) [V. Tosaf. Pes. 14a, for various explanations as to the necessity of a minimum quantity to communicate defilement. Maim. Yad, Aboth ha-Tume'oth, VII, 8, makes no mention of this reservation.]

(3) Dem. III, 4; Bek. 11b.

(4) It is not liable to tithe etc., as the idolater may have exchanged it for his own. Why, then, is the wine deposited with an idolater not regarded as such?

(5) The Israelite has thus made sure that it was not exchanged.

(6) Where Bar-Kappara, who was already dead, had resided. [Identified with El-Faradije, S.W. of Saffed, v. Klein, S. op. cit. p. 40.]

(7) Eccl. XI, 3.

(8) The teachings of the wise are preserved in the place where they had lived. According to him wine deposited with an idolater is thus permissible even for drinking, which is contrary to the ruling given above!

(9) For drinking only. V. Shab. 122a.

(10) The Sages. [For each Amora the matter had already been settled by a Tanna whom he followed, so that there was no need for him to make it a point of controversy with the other, so Tosaf.]

(11) V. infra.

(12) A place inhabited by Cutheans.

(13) A place in Samaria, whose inhabitants were idolaters, in close proximity of the former place. The same applies to each of the cases that follow.

(14) [Probably Borkeos on the boundary between Samaria and Judaea mentioned in Josephus, Wars, III, 3, 5, v. Montgomery, The Samaritans, p. 146.]

(15) [Perhaps Salem on the Jordan, south of Beth-Shean, Montgomery, loc. cit.]

Talmud - Mas. Avodah Zarah 31b

If one sends a cask of wine by the hand of a Cuthean, or of brine[1] or muries[2] by the hand of an idolater if he can identify his seal and the [spot and manner of] his closing up, it is permitted, but if not it is forbidden![3] — R. Zera said: There is no contradiction: The one refers to the town,[4] the other to the open road.[5] R. Jeremiah demurred to this: But did not that of the town come by road? — But, said R. Jeremiah: Our teaching only refers to [barrels closed in] the vicinity of the wine presses; since all the people are about there, he would be afraid [to let an idolater touch it] lest it be detected and he lose thereby.

It has been stated: Why has beer of heathens been forbidden? Rami b. Hama said in the name of R. Isaac: Because of marriages.[6] R. Nahman said: Because it might have been left uncovered. 'Uncovered' when? If while in the vat — we also keep it uncovered;[7] and if while in the barrel, in that state, too, we keep it uncovered![8] — It may only refer to a place where the water is allowed to settle.[9] In that case it should be permitted when it matures, for Rab said:[10] [Liqueur which is] matured is permitted, for [the venom] would not allow it to mature; [so also wine which is] fermented is permitted, for it would not have allowed it to ferment! — Matured is forbidden as a safeguard against the fresh. R. Papa used to drink beer when it was brought out to him to the door of the shop; R. Ahai used to drink it when it was brought to his house. Both of them held that the reason [for the prohibition] is intermarriage, but R. Ahai insisted on extraordinary precaution.

R. Samuel b. Bisna happened to be in Marguan;[11] they brought him wine but he would not drink it, they then brought him beer which he did not drink either. It is quite correct as to the wine, as there is a suspicion, but what objection is there to the beer? There is the suspicion of a suspicion.[12] Said Rab: 'Beer of an Aramean is permitted, still I would not allow my son Hiyya to drink it'. Which way will you have it? If it is permitted then it should be permitted to all; if [on the other hand] it is forbidden, it should be forbidden to all! — Rab suspects it of being left uncovered; but the bitter taste of the hops counteracts any venom that might be in it, so that it can only prove injurious to one who is an invalid, and his son Hiyya, being an invalid, should therefore abstain from drinking it.

Samuel said: All reptiles have poisonous venom; that of a serpent is fatal, while that of other reptiles has no fatal effect. Said Samuel to Hiyya b. Rab: O son of a scholar,[13] come let me tell you a good thing which your father Rab used to say. Thus said your father: The reason why those swollen Arameans who drink what is kept uncovered suffer no fatal consequences is because, through eating abominable and creeping things, their bodies become immune from it. R. Joseph said:

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(1) Which the heathen might exchange for brine of unclean fish.

(2) מורייס a kind of pickle sometimes mixed with wine.

(3) Though a Cuthean is not suspected of making idolatrous use of wine, it is feared that he might let an idolater get in contact with it even though it is in a sealed casket — which is contrary to the opinion here given.

(4) Where a Cuthean, fearing that he might be noticed by a Jew, would not allow an idolater to get in contact with the wine and thus be unable to dispose of it among Israelites.

(5) Where there is no-one to notice him.

(6) To avoid intimacy with heathens which might lead to intermarriage.

(7) As it is assumed that serpents do not drink beer. [According to R. Han. this had to be done in order to allow the fumes to escape.]

(8) [As otherwise the barrels would burst as a result of the fermentation, R. Han.]

(9) Before being used for making beer; there is thus the danger of the water having been exposed. [R. Han. explains: Where water is added to the beer to make it settle, there being thus no fermentation.]

(10) V. infra 35a, where the name given is R. Hanina.

(11) The Jewish inhabitants of which place were not particular about using wine of idolaters. [Neubauer, p. 380, identifies it with the province of Margiana between the Oxus and Aria.]

(12) The drinking of beer may lead to drinking wine.

(13) בר-אריא Ms.M. has בר-איריא some versions have בר-ארי — son of a lion. V. Ber. 12a and Kohut s.v.

Talmud - Mas. Avodah Zarah 32a

The vinegar which the Arameans make of beer is forbidden because they mix yeast of idolatrous wine with it. R. Ashi said: If however it had been in store it is permitted, for if it contained such admixture it would have got spoilt.

HADRIANIC EARTHENWARE. What does HADRIANIC mean? — Said Rab Judah in the name of Samuel: Earthenware of King Hadrian.[1] When R. Dimi came [from Palestine] he said: Virgin soil, which had not been tilled before, used to be tilled by [the Romans] and planted with vines; the wine [produced] they used to pour into white jugs[2] which absorbed the wine. These vessels they broke into fragments which they used to carry, and wherever they came they soaked them [in water] and drank of it. R. Joshua b. Levi said: Our first [quality wine] is only equal to their third [soaking].

The question was asked: How about placing these shards as supports of the legs of a bedstead? Is this intention to preserve a [forbidden thing][3] for some other purpose allowed or forbidden? — Come and hear! For R. Eleazar and R. Johanan [argued about it], one pronouncing it as forbidden and the other as permitted. An objection was raised: Wine kept in barrels or leather bottles belonging to idolaters is forbidden for drinking but permitted for deriving benefit. Simeon b. Gudda testified in the presence of R. Gamaliel's son[4] that R. Gamaliel[5] drank of such in Acco, but this was not accepted. As to flagons belonging to idolaters, R. Simeon b. Gamaliel says in the name of R. Joshua b. Kapusai that it is forbidden to make of them covers for an ass. Now in this latter case there is an intention to preserve [the forbidden thing] for some other purpose and yet we are taught that it is forbidden! — According to your opinion then, the sale of [earthenware] flasks of heathens should also be forbidden, for what difference is there between [leather] flagons[6] and [earthenware] flasks? But Raba said: There is this risk: if his flask be split he might take the one of the heathen and patch his own with it.[7] Now according to the one who holds that the intention to preserve [a forbidden thing] for some other purpose is forbidden, why is the use of [earthenware] flasks allowed? — His answer might be: In that case the forbidden matter is not there in substance,[8] whereas in the other case[9] the substance of the forbidden matter is there.

[It has been stated above:] ‘But this was not accepted.’ A contradiction was raised: Wine contained in leather bottles of heathens is forbidden for drinking but permitted for deriving benefit. Simeon b. Gudda’ testified in the presence of R. Gamaliel's son that R. Gamaliel drank of such in Acco, and it was accepted! — What is meant there is that it was not accepted by the whole company, but it was the son who did accept it. Or, if you wish, it may be said that Gudda is one and Gudda’ is another.[10]

SKINS PIERCED AT THE ANIMAL'S HEART. Our Rabbis taught:[11] What is [the sign of] such a heart-rent skin? If it is rent opposite the heart and is round like a circular aperture, and there is a drop of coagulated blood on it, it is forbidden,[12]

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(1) [Which Hadrian took with him on his journeys with his troops (Rashi)]. Elmslie, A.Z. p. 31, quoting Lewy, Philologus, 52 p. 571, explains it as earthenware jars coming from the Adriatic coast.

(2) [I.e., of unburnt clay.]

(3) [By putting these shards to such use there is incidentally evidence of a desire to preserve them, though not for the sake of the wine they contain, but for some other purpose. Any act which involves the preservation of idolatrous wine is forbidden. V. infra 73b.]

(4) [Hanina b. Gamaliel II (Tosaf.).]

(5) [Gamaliel II, v. Buchler, gal. ‘Amh. p. 313, n. 1.

(6) [Which as stated do not render prohibited for use the wine kept in them, cf. Tosaf. The passage is, however, difficult and does not occur in Ms.M. and several other texts.]

(7) In which case the idolatrous wine will actually flavour the contents of his flask.

(8) The flavour only is retained.

(9) Of Hadrianic wine which is absorbed and emitted by the vessel.

(10) The name given in the first report is Gudda גודא while that in the second is Gudda’ גודע. [While they may not have accepted the report of one, when reported by the other too they accepted it.]

(11) Tosef. A.Z. Ch. V.

(12) It proves that the skin was rent while the animal was alive.

Talmud - Mas. Avodah Zarah 32b

but if it has no such drop of blood it is permitted. R. Huna said: That is only if it has not been treated with salt, but if salt has been applied to it, it is forbidden in either case, as the salt may have removed it.

R. SIMEON B. GAMALIEL SAYS WHEN ITS RENT IS ROUND [THE SKIN] IS FORBIDDEN, BUT IF OBLONG IT IS PERMITTED. Said R. Joseph in the name of Rab Judah who said it in the name of Samuel: The halachah rests with R. Simeon b. Gamaliel. Said Abaye: ‘The halachah [rests with him]’ implies that the matter is disputed![1] But what difference does it make to you? retorted the other. To which he replied: Is the learning of Gemara, then, to be like the singing of a song?[2]

MEAT WHICH IS BEING BROUGHT INTO AN IDOLATROUS PLACE IS PERMITTED. What Tanna's opinion might this represent? — Said R. Hiyya b. Abba in the name of R. Johanan: Not that of R. Eliezer; for were it R. Eliezer's, surely he holds the opinion that an idolater has generally idolatry in his mind.[3]

BUT THAT WHICH IS BROUGHT OUT IS FORBIDDEN, BECAUSE IT IS REGARDED AS SACRIFICES OF THE DEAD.

What is the reason? Because it is impossible for some idolatrous sacrifice not to have taken place. Whose [opinion might this represent]? — That of R. Judah b. Bathyra; for it has been taught: R. Judah b. Bathyra says: Whence can we deduce that idolatrous offerings defile by overshadowing[4] ? From the verse, They joined themselves unto Ba'al-Peor, and ate the sacrifices of the dead[5] — as a dead body defiles by overshadowing, so also an idolatrous sacrifice causes such defilement by overshadowing.[6]

WITH IDOLATERS GOING ON A PILGRIMAGE IT IS FORBIDDEN TO HAVE ANY BUSINESS TRANSACTIONS. Samuel said: With idolaters going on a pilgrimage it is forbidden [to transact business] on their journey there, for they will go and offer thanks to the idols; but on their return journey it is permitted, for bygones are bygones. If an Israelite however goes on such a pilgrimage [to idols], it is permitted [to deal with him] on his journey there, for he may change his mind and not go; but on his return it is forbidden, for as

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(1) Whereas no other opinion is mentioned at all.

(2) Where precision is of no consequence.

(3) He must have therefore appointed it in his mind for idolatry already at the time of the slaughtering of the animal.

(4) טומאת אהל cf. Num. XIX, 14. Whatever is overshadowed by the same roof or object that is over a corpse.

(5) Ps. CVI, 28.

(6) Hul. 13b.

Talmud - Mas. Avodah Zarah 33a

he has already become attached to it he will go again and again. But has it not been taught: It is forbidden [to do any business transactions] with an Israelite going on a pilgrimage of idolatry either on his journey there or back? — R. Ashi said: That refers to an apostate Israelite, who is sure to go.

Our Rabbis taught: With an idolater going to a market-fair[1] it is permitted to deal both on his journey there and back; but in the case of an Israelite going to such a fair, it is permitted on his journey thither but forbidden on his return journey. Now, how is it that in the case of an Israelite it is forbidden on his return journey? Because we say that he may have been selling articles of idolatry and has thus idolatry-money with him! Should we not likewise say in the case of an idolater that he may have sold articles of idol-worship and carries idolatry-money on him? It appears therefore that in the case of an idolater we say that he may have sold such things as a garment or wine. [If so] let us then say in the case of an Israelite, too, that it may have been such things as a garment or wine that he was selling! — If he had such things only he would have sold them here.

BUT WITH THOSE COMING THENCE IT IS PERMITTED.

R. Simeon b. Lakish said: This teaching applies only if they do not form one band, but if they[2] are keeping closely together it is forbidden, for we are to assume that each one has a mind to return again.

SKIN BOTTLES AND [EARTHENWARE] FLAGONS OF HEATHENS.

Our Rabbis taught: ‘Skin bottles of heathens, if stripped,[3] are permitted while new,[4] but if old or pitch-lined[5] they are forbidden. If an idolater pitched[6] and lined and put the wine[7] into it while an Israelite was standing by him there is no cause for suspicion.’[8] But since it is the heathen who puts the wine into the bottles, of what avail is it that an Israelite does stand by him? — R. Papa said: What is meant is that if a heathen pitched and lined them and an Israelite poured wine into them while another Israelite was standing by there is no cause for suspicion. But if it is an Israelite that is pouring the wine into them, what need is there for another Israelite to stand by? — Lest while the Israelite is engaged in the pouring, the heathen pour some of it for idolatry without being detected by him.

R. Zebid said: The original wording can indeed stand, but here the reason is that when wine is poured into the fresh pitch it is as water that is poured in mortar.[9] R. Papi said: From what was said by R. Zebid it may be deduced that if a heathen poured wine into the salt cellar of an Israelite [the salt] is permitted. R. Ashi demurred to this: How can these be compared? In that case the wine has disappeared, while in our case it has not disappeared![10]

A certain Arab, Bar ‘Adi, once seized a wine-skin from R. Isaac b. Joseph, and after keeping wine in it returned it to him. He came and asked about it in the House of Learning and R. Jeremiah said to him: Thus was the decision given by R. Ammi in a specific case:[11] [The vessels] are to be filled with water for three days and then emptied; whereon Raba said: The water should be emptied every twenty-four hours. This was taken to apply to our[12] [vessels if used by heathens] but not to theirs; when, however, Rabin came [from Palestine] he said in the name of R. Simeon b. Lakish: [It applies to] either ours or theirs. R. Aha b. Raba, sitting before R. Ashi, was of opinion that this only applies to skin-bottles but not to earthenware ones;[13] but R. Ashi said to him: It makes no difference whether they be skin-bottles or earthenware ones.

Our Rabbis taught: Earthenware bottles of idolaters, if new and stripped, are permitted, but if old and pitched they are forbidden. If an idolater kept wine in them, the Israelite should put water into them;[14] but though an idolater kept wine in them an Israelite may [immediately] put bran, or Muries[15] into them without any scruples[16] . The question was asked:

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(1) [The markets were associated with idolatrous festivals, v. Elmslie, p. 33.]
(2) [Those who come back and those who go there].
(3) Having no pitch coating.
(4) Not having been long in use, the skin would not have absorbed any wine: skin being more dense than earthenware.
(5) [Wine soaks into pitch.]
(6) [He poured the molten pitch into them (Rashi).]
(7) [While the pitch was still hot, wine was poured into it to remove its bitterness (Rashi).]
(8) Tosef. Ch. V.
(9) The reason why wine poured into a bottle freshly lined with pitch by a heathen is permitted is because the wine which first comes in contact with the pitch soaks thoroughly into it, like the water in the mortar, and does not exude again when the pitch hardens.
(10) [The flavour it imparted to the salt remains.]
(11) הלכה למעשה, lit., ‘a decision for practice’.
(12) As in R. Isaac's case, where the vessel originally used by an Israelite had already absorbed a large quantity of permissible wine, while the absorption of the prohibited wine would be scant.
(13) Which absorb more.
(14) As above — on three days, changing the water every 24 hours.
(15) V. p. 156, n. 2. The sharpness of these annuls the taste of the wine.
(16) [Having regard to the question that follows, read with MS.M., ‘and it is permissible.’]

Talmud - Mas. Avodah Zarah 33b

[Does this apply to] deliberate action or to an act committed?[1] — Come and hear: For R. Zebid b. Oshaia learned: If one buys earthenware bottles of an idolater, if they be new he may put wine into them; if old, he may use them for bran and Muries deliberately.

R. Judah Nesi'a[2] asked of R. Ammi: What if he put them back into a furnace, so that they became heated? — He replied: If bran has a cleansing effect on them, how much more so fire! It has likewise been stated: R. Johanan said (according to others R. Assi said it in the name of R. Johanan): Flagons of heathens which had been placed back in the furnace, as soon as the pitch thereof has dropped off, are permitted. Said R. Ashi: You need not say ‘until it has dropped off’; if it has only been loosened, even though it has not dropped off [it is enough]. [Where the pitch is removed by means of] lighted chips this is a matter of dispute between R. Aha and Rabina, the one forbidding [the use of the flask], while the other permitted. The law rests with the one who forbids.[3] The question was asked: How about putting beer into such a vessel?[4] — R. Nahman and Rab Judah forbid, but Raba permits it. Rabina declared it permissible to R. Hiyya the son of R. Isaac to pour beer into such a vessel, so he went and put wine into it; still he had no scruples about it, saying: It was only done casually. R. Isaac b. Bisna had some vessels of heathens, made of boxwood;[5] he filled them with water and let them stand in the sun,[6] and they split. Said R. Abba to him: You have indeed rendered them forbidden for good![7] All that our Rabbis said is that such are to be filled with water; has it been said they should be left in the sun? Said R. Yosna in the name of R. Ammi: A vessel of natron[8] can never be rendered ritually clean. What is a vessel of natron? — Said R. Jose b. Abin: A vessel made of crystals coming from an alum- mine. Some of the men of the field-marshal Parzak[9] seized some [earthenware] wine-casks from [Jews in] Pumbeditha, kept wine in them and then returned them. [The owners] came to ask Rab Judah about these, and he said: This is a case of vessels taken for temporary use, let them be rinsed with water and they will be permitted for use. R. ‘Awira said: Those jugs of Arameans made of dark clay, since they do not absorb much, are permitted for use on being rinsed in water. R. Papa said: Those earthenware vessels coming from Be-Mikse[10] may be used after being rinsed in water, as they do not absorb much.[11] Cups[12] are forbidden by R. Assi, but permitted by R. Ashi. If an idolater drank from it the first time it was used, no one disputes that it is forbidden,[13] the dispute only arises if it was the second time. Some say that if it is the first or second time it is indisputably forbidden and that the dispute only arises if it is the third time. The law is, if it is the first or second time it is forbidden, if the third time it is permitted. R. Zebid said: Vessels which are glazed, if white or black are permitted, but if green are forbidden because it contains crystals of alum;[14] and if they have any cracks [in the glazing] they are all forbidden.

Meremar stated in his exposition[15] that glazed[16] vessels, whether black or white or green, are permitted. But why should this case be different from that of leaven on Passover? For Meremar [himself] was asked: How about using glazed vessels[17] on Passover; we do not ask [they said] about green glazing which contains alum crystals which absorbs and thus [renders the vessel] forbidden; what we are asking about is white or black glazing; nor do we ask even about these if there are any cracks, for such unquestionably absorb and are forbidden; it is about smooth ones that we are asking you what [the law is]? — He answered

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(1) Is it permitted ab initio or only as an accomplished fact?

(2) [The prince, Judah II.]

(3) [As the pitch in this case melts even before the fire could exercise a cleansing effect on the flasks themselves.]

(4) Is this to be forbidden as a safeguard against wine or not?

(5) פקסונא, v. l. פיקסינא, ‘Boxwood’; according to Rashi: made of clay and ordure.

(6) [As an additional precaution.]

(7) [I.e., you have destroyed them for no reason.)

(8) If used for wine by idolaters.

(9) [Funk, Die Juden in Babylonien, I, 105, renders: ‘the great field marshal,’ taking Parzak not as nom. prop., but as Persian wzurg, ‘great,’ v. infra p. 301, n. 3.]

(10) [Be-Mekse was a frontier town between Babylon and Arabia. V. Obermeyer, op. cit., 334.]

(11) The clay of this place was particularly hard.

(12) Earthenware cups which are used for drinking, but not keeping, wine.

(13) As it would absorb idolatrous wine while new and in a receptive state.

(14) Which absorb liquid freely.

(15) V. Pes. 30b.

(16) Kovia, ‘powdered lime’.

(17) Which had been used for leaven.

Talmud - Mas. Avodah Zarah 34a

them: I observed that such vessels exude, and being porous they certainly absorb and are therefore forbidden, the reason being that the Torah testified that an earthenware vessel can never be rid of its defect.[1] Why then should this be different from wine used for idolatry concerning which [we are told] Meremar expounded that all glazed vessels [which had been used for it] are permitted? And should you say that leaven [on Passover] is forbidden by the Torah, whereas idolatrous wine is merely a Rabbinic prohibition, [surely it is an established principle] that whatever is instituted by the Rabbis is [treated] as [that which is ordained] by the Torah![2] [The difference is this:] In the one case [the use of the vessel, is for hot things,[3] while in the other only for cold.

R. Akiba[4] happened to come to Ginzak;[5] he was asked: Is fasting by hours considered a fast, or is it not considered a fast?[6] He had no answer to give them. [They then asked him:] Is the use of bottles of idolaters ever permitted? Again he had no answer. In what garments [he was then asked] did Moses minister during the seven days of consecration?[7] He had no answer to this either. He then went and enquired at the House of Learning and they said to him: The law is: Fasting by hours is considered a fast, so that if he completed the day, he may say the prayer for a fast; as to bottles of heathens, the law is that they are permissible for use after twelve months;[8] and as to the garment in which Moses ministered during the seven days of consecration, [he ministered] in a white frock without border.[9] GRAPE-STONES AND GRAPE-SKINS OF HEATHENS etc. Our Rabbis taught: Grape-stones and grape-skins of heathens are forbidden while fresh but permitted when dry. Which are considered fresh and which dry? — Said Rab Judah in the name of Samuel: They are considered moist during the first twelve months, and dry after the twelve months. It has been stated that Raba b. Bar-Hana said in the name of R. Johanan: When they are forbidden, the prohibition extends to any benefit to be derived from them, and when they are permitted, they are permitted even as food. Said R. Zebid: Yeast made of wine of Arameans is permitted after a full year. R. Habiba the son of Raba said: Jugs are permitted after a complete year. R. Habiba said:

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(1) V. Pes. 30b, where instead of דופנו the word is דופיו which Mss. have also here.

(2) And the earthen vessel shall be broken, Lev. XV, 12, thus, the same Meremar pronounced glazed vessels forbidden on Passover on account of the leaven they may have absorbed.

(3) In the case of a vessel which had been used all the year for leaven its prohibition on the Passover is based on the fact that it had been used for hot matter which is more liable to penetrate.

(4) [Ta'an, 11a: Mar ‘Ukba, which appears to be the proper reading.]

(5) [Ganzaka, identified with Shiz, S.E. of the Urmia lake, N.W. of Persia. V. Obermeyer, op. cit. p. 10.]

(6) If one undertakes to fast part of a day and happens to abstain from food during the rest of the day, is he entitled to say ‘Anenu, the prayer which is appointed for a fast day (Rashi). V. Ta'an. 11b.

(7) Lev. VIII, 33.

(8) Without any special cleansing.

(9) [To indicate that it was for temporary ministration only (Tosaf.).]

Talmud - Mas. Avodah Zarah 34b

Travellers’ wine-bags are permitted after a twelve-month. Said R. Aha the son of R. Ika: Kernels sold by Arameans are permitted after a twelvemonth. R. Aha the son of Raba said: Those red or black jugs are likewise permitted after twelve months.

MURIES[1] etc. Our Rabbis taught: Muries made by an expert is permitted.[2] R. Judah b. Gamaliel says in the name of R. Hanina b. Gamaliel: [Brine of] heilek[3] prepared by an expert is likewise permitted. Abimi the son of R. Abbahu learned that muries of an expert is permitted; while he had learnt it thus, he however explained that only the first and second [extracts] from this fish are permitted, but the third is forbidden, the reason being that these first and second [extracts] are quite fat and require no admixture of wine; after these, however, wine is put into it.

Once a ship-load of muries reached the port of Acco[4] and R. Aha of Acco placed a guard by it.[5] Said Raba to him: And who watched the ship till now? — Till now, he replied, there was no cause for suspicion: as to mixing the brine with wine, a xestos[6] of muries cost[7] a luma[8] while a xestos of wine cost four lumas. Said R. Jeremiah to R. Zera: Might they not have come by the way of Tyre where wine is cheap? — He replied: There are narrow bays and shallow waters.[9]

AND BITHYNIAN CHEESE etc. Said R. Simeon b. Lakish: The reason why Bithynian cheese has been forbidden[10] is because the majority of calves of that place are slaughtered [as sacrifices] to idols.[11] Why say ‘the majority of calves’? Even if it were the minority it would have sufficed, since R. Meir always takes the minority into consideration![12] — When we say the majority [of calves] we really have only a minority [of cattle],[13] but were only a minority of calves slain for idolatry — seeing that there would have been a majority of calves not slain for idolatry to which would have to be added all other cattle that are not slaughtered for idolatry — they would really have formed a minority of a minority, and even R. Meir does not take a negligible minority into consideration. Said R. Simeon b. Eliakim to R. Simeon b. Lakish: What matters it if they are slaughtered for idolatry, seeing that you yourself permit [something similar]? For it has been stated:[14] If one slaughters an animal with the intention of sprinkling its blood for idolatry, or offering its fat for idolatry, R. Johanan says that the animal is forbidden, as in his opinion the one sacrificial process is to be connected with the other process,[15] and the slaughtering without the sanctuary is deduced from that within it;[16] . R. Simeon b. Lakish, however, says it is permitted! — He replied: You are to be congratulated[17] [on your acumen; but in our case we assume that] he[18] declares that he worships [the idol] with the completion of the slaughtering.[19]

SAID R. JUDAH: R. ISHMAEL PUT A QUESTION etc. Said R. Ahdaboi in the name of Rab: If one acquires[20] a woman with the dung of an ox which is to be stoned[21] she becomes ‘consecrated’ to him; but if with dung of calves used for idolatry, she does not become ‘consecrated’ to him. You can say that this can be proved by common sense, or, you may prove it from Scripture: As a matter of common sense — in the case of calves to be offered to idols it pleases [the owner] that they be stout,[22] whereas in the case of the ox to be stoned there is no pleasure to him in its being stout. And as to Scripture-here the verse says, There shall cleave nought of the banned thing to thy hand,[23] while there the words are, The ox shall be surely stoned and its flesh shall not be eaten[24] — its flesh only is forbidden, but its dung is permitted [to profit by]. Raba said: We have learnt both these cases [in our Mishnah]. The fact that when R. Joshua replied:[25] BECAUSE THEY CURDLE IT WITH THE RENNET OF A NEBELAH AND R. ISHMAEL RETORTED, BUT IS NOT THE RENNET OF A BURNT OFFERING MORE STRICTLY FORBIDDEN THAN THAT OF A NEBELAH?[26]

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(1) Fish-brine.

(2) As no unclean fish is used in its preparation, the only objection is offered by its being mixed with wine; an expert, however, will avoid such practice (Rashi).

(3) L. Alec, halec, alex — a small fish not easily distinguished from unclean ones; an expert will, however, take care to use the genuine kind only.

(4) Acre, a town and harbour on the Phoenician coast.

(5) To watch lest wine be mixed with the brine.

(6) קיסתא, Sixtarius, a measure of about the size of a log.

(7) In the place from where the cargo came.

(8) לומא, Luma, corrupt from a nummus(-sesterius) (Jast.), a small coin.

(9) Between the ports of Tyre and Acco; and the pilot would not risk taking that course.

(10) Even as to deriving any benefit according to R. Meir.

(11) And the rennet of these calves is used in preparing the cheese.

(12) Infra 40b.

(13) Whose rennet might be used in preparing cheese.

(14) V. Hul. 38b; Sanh. 60b.

(15) The sprinkling of the blood or the offering of the fat affects also the slaughtering.

(16) The Biblical injunction (Lev. VII, 18) which is taken to declare any sacrifice offered within the sanctuary with an improper intention as ‘an abhorred thing’ (פגול) is to be applied also to ordinary slaughtering without the sanctuary.

(17) תרמינך שעתך, lit., ‘may the hour of thy birth prove lucky.’

(18) Whoever slaughters a sacrifice to an idol.

(19) In such a case I, too, forbid.

(20) Lit., ‘Consecrates’. One of the ways of effecting a betrothal is the handing by the man to the woman of a coin or an article of some value (a perutah, a small coin), pronouncing at the time the formula: ‘Behold, thou art consecrated unto me by this .... according to the law of Moses and of Israel.’ V. Kid. I, 1, Ter. 30b.

(21) From which animal no benefit may be derived.

(22) He would therefore give them extra food on that account, so that even the dung is associated with idolatry.

(23) Deut. XIII, 18, referring to things connected with idol worship.

(24) Ex. XXI, 28.

(25) To the question as to why heathen's cheese is forbidden.

(26) And yet benefit may be derived from the rennet of a burnt offering, though the animal itself, like an ox which is to be stoned, is forbidden as to any benefit.

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proves that the dung of an animal from which no benefit may be derived is permitted. Again, since when R. JOSHUA GAVE AS THE REASON, BECAUSE THEY CURDLE IT WITH THE RENNET OF CALVES SACRIFICED TO IDOLS, R. Ishmael replied: IF THAT BE SO, WHY DO THEY NOT EXTEND THE PROHIBITION TO ANY BENEFIT DERIVED FROM IT, — this proves that the dung of animals used for idolatry is forbidden as to the derivation of any benefit.

Could he not, in reply, have given the reason that the forbidden matter is not present in substance? For take the case of Muries; is not the reason why the Rabbis did not forbid the derivation of any benefit from it because the forbidden matter is not there in substance? — I will tell you: Since it is [the rennet] that keeps the milk curdled it must be regarded as though the prohibited matter is there in substance.

DIVERTED TO ANOTHER MATTER etc. What is the meaning of the words, For thy love is better than wine?[1] When R. Dimi came [from Palestine] he explained it thus: The Congregation of Israel declared to the Holy One, blessed be He: Master of the Universe! The words of thy beloved ones[2] are more pleasant to me than the wine of the Torah.[3]

Why did he ask him just about this verse? Said R. Simeon b. Pazi (some say R. Simeon b. Ammi): He hinted at the beginning of this verse: Let him kiss me with the kisses of his mouth,[4] [saying]: ‘Ishmael, my brother, press thy lips one to the other and do not be eager to ask for an answer.’[5] For what reason? — Said ‘Ulla (some say R. Samuel b. Aba): This is a new ordinance about which one should not particularise. What [then] is the reason for this ordinance? — Said R. Simeon b. Pazi in the name of R. Joshua b. Levi: [The probability of its] having been bitten [by a serpent]. Then why not tell him that the reason is the probability of its having been bitten? — Because of ‘Ulla's ruling; for ‘Ulla said: When an ordinance is made in Palestine, its reason is not revealed before a full year passes, lest there be some who might not agree with the reason and would treat the ordinance lightly. This[6] was ridiculed by R. Jeremiah. If that be so [said he] then hard [cheese] should be permitted, and old [cheese], too, should be permitted. for R. Hanina said: [When any matter becomes] dry, it is permitted, because the [serpent's venom] would not let it get dry; [so also] when matured it is permitted,[7] as it would not have allowed it to mature! — Said R. Hanina: [The reason for forbidding cheese is] because it is impossible for it not to have particles of milk.[8] Samuel said: Because it is set in the skin of the rennet of a nebelah.[9] This implies that the rennet itself is permitted — how could Samuel have stated so? Have we not learnt, ‘The rennet of heathen's animals or of a nebelah is forbidden’?[10] And when the question was asked, Is then any [slaughtered] animal of a heathen not a nebelah? it was Samuel himself who answered: These are meant to be taken together thus: The rennet of an animal slaughtered by heathens, which is nebelah, is forbidden! — There is no contradiction here.

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(1) Cant. I, 2.

(2) The Heb. word here used, דודיך, stands for thy beloved ones as well as thy love.

(3) The verbal expositions of the sages are more precious than the written words of the Torah. [For it is the unwritten Law that supplements the written Law and completes it.]

(4) Ibid.

(5) To the question why heathen's cheese is forbidden.

(6) The reason given in the name of R. Joshua b. Levy.

(7) V. supra 31b.

(8) It is assumed that the milk out of which cheese is made is of clean animals, as milk of unclean ones does not curdle. There may however have been an admixture of milk of an unclean animal which would remain in the holes of the cheese.

(9) And though the rennet being mere ‘refuse’ is permitted, the skin is forbidden.

(10) Hul. 116a.

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The former [represents R. Joshua's opinion] before it was reversed;[1] the latter after it was reversed, and the Mishnah was allowed to remain as it was.

R. Malkiah in the name of R. Adda b. Ahaba said: [Cheese is forbidden] because its surface is smeared with fat of swine. R. Hisda said: Because it is curdled with vinegar.[2] R. Nahman b. Isaac said: Because it might be curdled with the sap of ‘Orlah.[3] Whose opinion does this [last answer] represent? — That of the following Tanna; for we learnt: R. Eliezer says: If milk is curdled with sap of ‘Orlah it is forbidden because it is considered fruit![4] — You may even say that it also represents the opinion of R. Joshua,[5] for R. Joshua only differs from R. Eliezer as regards the sap of the tree, but as regards that of the fruit he agrees with him, even as we learnt: R. Joshua said: I have heard explicitly that milk curdled with the sap of the leaves or with the sap of the root is permitted; but if with the sap of unripe figs it is forbidden, because this is a fruit.[6]

Whether the reason be the one given by R. Hisda, or by R. Nahman b. Isaac the prohibition ought surely to extend to the derivation of any benefit![7] — This indeed is a difficulty.

R. Nahman the son of R. Hisda gave the following exposition:[8] What is the meaning of the verse, Thine ointments have a goodly fragrance [thy name is as ointment poured forth]? To what may a scholar[9] be compared? To a flask of poliatum:[10] When opened,[11] its odour is diffused, but if covered up its odour does not diffuse; moreover things that are hidden become revealed to him, as it is said, Therefore do the maidens love thee:[12] which may be read to mean ‘the hidden [love thee].’ What is more, even the Angel of Death loves him.for the words may be read to mean, ‘The one [appointed] over Death [loves thee];’ still more, he inherits both worlds — this world and the world to come — for the words may be read to mean, worlds [love thee].’

MISHNAH. THE FOLLOWING ARTICLES OF HEATHENS ARE PROHIBITED BUT THE PROHIBITION DOES NOT EXTEND TO ALL USE OF THEM:[13] MILK WHICH A HEATHEN MILKED WITHOUT AN ISRAELITE WATCHING HIM, THEIR BREAD AND OIL — RABBI[14] AND HIS COURT PERMITTED THE OIL — STEWED[15] AND PRESERVED[16] FOODSTUFFS INTO WHICH THEY ARE ACCUSTOMED TO PUT WINE OR VINEGAR, PICKLED HERRING WHICH HAD BEEN MINCED,[17] BRINE IN WHICH THERE IS NO KALBITH-FISH[18] FLOATING, HELEK,[19] DROPS OF ASAFOETIDA[20] AND SAL-CONDITUM.[21] BEHOLD THESE ARE PROHIBITED BUT THE PROHIBITION DOES NOT EXTEND TO ALL USE OF THEM.

GEMARA. Why should we feel concern about milk [that it is prohibited]? If on account of the possibility that there may have been a substitution [of animals], [the milk of] a clean animal is white and of an unclean animal greenish in colour! If, on the other hand, it is on account of the possibility of a mixture [of a clean animal's milk with that of an unclean animal], let him curdle it, because a Master has declared: The milk of a clean animal curdles but that of an unclean animal does not! — [This test is all right] if he required [the milk for the purpose of making] cheese; but with what circumstance are we dealing here? When he requires it as a diet! Then let him take a small quantity and curdle it! — [This test would not be conclusive], because even with the milk of a clean animal there is the whey which does not curdle, so nothing can be proved thereby. Or if you wish I can say that even should you maintain that the milk is intended for cheese [the test is not conclusive because drops of milk] remain between the holes.[22]

THEIR BREAD. R. Kahana said in the name of R. Johanan: Their bread was not permitted by the Court.[23] Is it to be deduced from this statement that anybody does allow it? — Yes, because when R. Dimi came [from Palestine] he said: On one occasion Rabbi went out into the field, and a heathen brought before him a loaf baked in a large oven from a se'ah of flour. Rabbi exclaimed: How beautiful is this loaf; why should the Sages have thought fit to prohibit it! ‘Why should the Sages have thought fit to prohibit it?’ As a safeguard against intermarriages! — No, what he meant was: Why should the Sages have thought fit to prohibit it in a field![24] [As the result of this remark] people imagined that Rabbi permitted the loaf [of a heathen] but it was not so; Rabbi did not permit it. R. Joseph — according to another version, R. Samuel b. Judah said: The incident was not so;[25] but it is said that Rabbi once went to a certain place and observed that his disciples experienced difficulty in obtaining bread; so he asked, ‘Is there no baker here?’ people imagined that his inquiry was for a Gentile baker, but he really intended an Israelite baker. R. Helbo said: Even according to those who maintain [that he inquired for] a Gentile baker, [the permission] would only apply where there was no Israelite baker and not where such was to be found. R. Johanan, however, said: Even according to those who maintain [that he inquired for] a Gentile baker, [the permission] only holds good in a field, and not in a city as a safeguard against intermarriages. Aibu used to bite and eat [Gentiles’] bread at the boundaries [of the fields];[26] but Raba-according to another version, R. Nahman b. Isaac-said to the people, ‘Hold no converse with Aibu because he eats the bread of Gentiles.’[27]

AND THEIR OIL. As regards oil Rab said: Daniel decreed against its use; but Samuel said:

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(1) The Mishnah in Hul. 116, stating that the rennet of a nebelah is forbidden, represents the opinion of R. Joshua in our Mishnah before he retracted in deference to the objection raised by R. Ishmael.

(2) Of wine that turned sour, which is forbidden; v. supra.

(3) Produce of a tree during its first three years.

(4) ‘Orlah I, 7.

(5) V. ibid. * [The translation from here to the end of the Tractate is by the Rev. Dr. A. Cohen.]

(6) Ibid.

(7) Since vinegar and ‘Orlah are both so forbidden.

(8) Of Cant. I, 3, following the verses cited above.

(9) תלמיד חכם, lit., ‘a disciple of a sage.’

(10) **, a fragrant ointment.

(11) [Applied to the scholar it means that he does not keep his knowledge to himself.

(12) Ibid. The Heb. word here used for maidens, עלמות may be read: ‘Alummoth-hidden ones; ‘Al-Maweth — upon death; ‘Olamoth-worlds.

(13) They may not form part of the diet of a Jew, but he is allowed to dispose of them to Gentiles.

(14) The reference is to R. Judah II, the grandson of the R. Judah who compiled the Mishnah. The parenthesis must therefore be a later interpolation.

(15) The prohibition is not caused by the presence of yen nesek (v. Glos.), but is due to the fear of close social intercourse resulting in mixed marriages (Rashi).

(16) Lit., ‘pressed’, viz. in brine.

(17) Since it is minced, the identity of the fish is in doubt and it may have belonged to an unclean species.

(18) The kalbith was a kind of stickleback which was supposed to breed only in brine formed with the clean species of fish.

(19) Probably the Latin allec, a sauce made from small fish; and there is a doubt whether the fish of which it was made is allowed.

(20) The bark from which it was obtained was presumably cut with a knife which had been used for prohibited food.

(21) Traditionally explained as salt used by the Romans as a condiment which was mixed with fat. But Krauss (TAI p. 500) suggests that the word salkundith is a corruption of istroknith, i.e., Ostracena, a town on the border between Palestine and Egypt where salt was produced.

(22) Even when the milk is derived from a clean animal. So it is not possible to determine with certainty whether forbidden milk was mixed in the cheesemaking.

(23) Of R. Judah the Prince, although they permitted the oil.

(24) As distinct from an inhabited area like a city where the reason, viz. the danger of mixed marriages, could not apply.

(25) As related by R. Dimi.

(26) To take advantage of the rule which allows the bread to be eaten outside the city.

(27) [Ran reads: Do not report (any teaching) in the name of Aibu.]

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The residue from their unclean vessels [which they pour into the oil-container] renders it prohibited. Is this to say that people generally are concerned to eat their food in a state of ritual purity![1] — Rather [must Samuel's statement be amended to:] the residue from their prohibited vessels [which they pour into the oil-container] renders it prohibited. Samuel said to Rab: According to my explanation that the residue from their prohibited vessels renders it prohibited, it is quite right that when R. Isaac b. Samuel b. Martha came [from Palestine] he related that R. Simlai expounded in Nisibis:[2] As regards oil R. Judah and his Court took a vote and declared it permitted, holding the opinion that [when the forbidden element][3] imparts a worsened flavour [the mixture] is permitted. But according to your statement that [it is prohibited because] Daniel decreed against it, [can it be thought that] Daniel made a decree and R. Judah the Prince then came and annulled it? For have we not learnt: A Court is unable to annul the decisions of another Court, unless it is superior to it in wisdom and numerical strength! — Rab replied to him: You quote Simlai of Lud; but the inhabitants of Lud are different because they are neglectful [of Rabbinical ordinances]. [Samuel] said to him: Shall I send for him?[4] [Rab] thereupon grew alarmed and said: If [R. Judah and his Court] have not made proper research,[5] shall we not do so? Surely it is written, But Daniel purposed in his heart that he would not defile himself with the king's meat nor with the wine which he drank[6] — the verse speaks of two drinkings, viz. the drinking of wine and the drinking of oil! Rab was of the opinion that Daniel purposed in his own heart [not to drink the oil] and decided similarly for all Israel; whereas Samuel was of the opinion that he purposed in his own heart [not to drink the oil] but did not decide similarly for all Israel.

But did Daniel decree against oil? Behold Bali declared that Abimi the Nabatean[7] said in the name of Rab: The bread, wine and oil of heathens and their daughters are all included in the eighteen things![8] Should you argue that Daniel came and made the decree but it was not accepted, and then the disciples of Hillel and Shammai came and made the decree which was accepted, in that case what was the purpose of Rab's testimony?[9] — But [Rab's contention is that] Daniel decreed against the use of the oil in a city,[10] and [the disciples] came and decreed against its use even in a field. How, then, was it possible for R. Judah the Prince to permit [what was forbidden by] the ordinance of the disciples of Shammai and Hillel, seeing that we have learnt: A Court is unable to annul the decisions of another Court, unless it is superior to it in wisdom and numerical strength! Furthermore, Rabbah b. Bar Hanah has said in the name of R. Johanan: In all matters a Court can annul the decisions of another Court except the eighteen things [prohibited by the Schools of Hillel and Shammai], for even were Elijah and his Court to come [and declare them permitted] we must not listen to him! — R. Mesharsheya said: The reason [that these eighteen things form an exception] is because their prohibition has spread among the large majority of Israelites, but the prohibition concerning oil did not so spread;[11] for R. Samuel b. Abba said in the name of R. Johanan: Our masters[12] sat and made investigation concerning [the use of heathens'] oil [and found] that its prohibition had not spread among the large majority of Israelites; they accordingly relied upon the dictum of Rabban Simeon b. Gamaliel and R. Eliezer b. Zadok who declared: We make no decree upon the community unless the majority are able to abide by it.[13] R. Adda b. Ahaba said:[14] What Scriptural verse supports this rule?

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(1) That on such a ground the oil of a heathen is prohibited. In fact the majority of people have not that concern.

(2) Formerly an important city in N.E. Mesopotamia.

(3) Derived from the prohibited vessel, v. supra 75b.

(4) So that he can hear the charge which Rab brought.

(5) In the Scriptures to ascertain that Daniel had decreed against oil. Rab implied that they had acted in ignorance when they permitted the oil.

(6) Dan. I, 8. The last words are lit., 'the wine of his drinkings'.

(7) Belonging to Nabatea, a district to the S.E. of Palestine.

(8) Which were prohibited by decree in the upper room of Hananiah b. Hezekiah b. Gorion when the School of Shammai outnumbered the School of Hillel. V. Shab. 13b, 17b. How, then, could Rab attribute the decree to Daniel?

(9) In ascribing the decree to Daniel since it was not adopted.

(10) V. p. 173, n. 2.

(11) And consequently R. Judah was able to annul it.

(12) I.e., R. Judah II and his Court.

(13) [Oil was one of the staple products of Palestine, and the trade in it was of vital importance, so that it became difficult to keep the laws; v. Elmslie, p. 38.]

(14) [So Ms.M.]

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Ye are cursed with the curse; for ye rob Me, even this whole nation[1] — i.e., when the whole nation has [accepted an ordinance, then the curse which is the penalty of its infraction] does apply, otherwise it does not.

The above text stated: 'Behold Bali declared that Abimi the Nabatean said in the name of Rab: The bread, wine and oil of heathens and their daughters are all included in the eighteen things?' What means 'their daughters'? — R. Nahman b. Isaac said: [The Schools of Hillel and Shammai] decreed that their daughters should be considered as in the state of niddah[2] from their cradle; and Geneba said in the name of Rab: With all the things against which they decreed the purpose was to safeguard against idolatry. For when R. Aha b. Adda came [from Palestine] he declared in the name of R. Isaac: They decreed against [heathens'] bread on account of their oil. But how is oil stricter than bread! — Rather [should the statement read that they made a decree] against their bread and oil on account of their wine; against their wine on account of their daughters;[3] against their daughters on account of another matter,[4] and against this other matter on account of still another matter.[5] [But the prohibition against marrying] their daughters is a Biblical ordinance, for it is written, Neither shall thou make marriages with them![6] — The 'Biblical ordinance is restricted to the seven nations [of Canaan] and does not include other heathen peoples; and [the Schools of Hillel and Shammai] came and decreed against these also. But according to 'R. Simeon b. Yohai who declared that the words, For he will turn away thy son from following Me,[7] include all women who would turn [their husbands aside from the worship of God], what is there to say? — Perhaps [the explanation is that] the Biblical ordinance is against intercourse through marriage, and they came and decreed even against immoral connection with them. But the decree against such connection had already been made by the Court of Shem,[8] for it is written, And Judah said, Bring her forth and let her be burnt![9] — Perhaps, then, [the explanation is that] the Biblical ordinance refers to an Israelite woman in intercourse with a heathen since she would be drawn after him[10] but not against an Israelite having intercourse with a heathen woman,[11] and they came and decreed even against the latter. But [the prohibition against] an Israelite having intercourse with a heathen woman is a law of Moses from Sinai,[12] for a Master has said: If [an Israelite] has intercourse with a heathen woman, zealots may attack him! — The Biblical ordinance refers to a public act even as the incident that had happened;[13] but they came and decreed even against a private act. But the Court of the Hasmoneans[14] had already decreed also against a private act; for when R. Dimi came [from Palestine] he declared: The Court of the Hasmoneans decreed that an Israelite who had intercourse with a heathen woman is liable on four counts, viz., she is regarded as niddah, a slave, a non-Jewess, and a married woman; and when Rabin came [from Palestine] he declared: On the following four counts, viz., she is regarded as niddah, a slave, a non-Jewess, and a harlot! — The decree of the Court of the Hasmoneans was against Intercourse but not against private association [with a heathen woman]; so they came and decreed even against this. But the Court of David had already decreed against private association, for Rab Judah said: At that time[15] they made a decree against private association! — It may be replied [that the decree of the Court of David] there referred to private association with an Israelite and not a heathen woman, and they came and decreed even against associating with a heathen woman. But [the prohibition against] associating with an Israelite woman is a Biblical ordinance; for R. Johanan said in the name of R. Simeon b. Jehozedek: Whence is there an indication in the Torah against such association? As it is said, If thy brother, the son of thy mother... entice thee[16] — can, then, the son of the mother, and not the son of the father, entice! But the intention is, a son may privately associate with his mother, and nobody else may privately associate with any woman whom the Torah disallows him in marriage! — [The correct explanation is that] the Biblical ordinance against such association refers to an [Israelite] married woman; David came and extended the law to association with an unmarried woman; and the disciples of the Schools of Shammai and Hillel came and extended it still further to association with a heathen woman.

What is the meaning of the phrase used above: ‘and against this other matter on account of still another matter’? — R. Nahman b. Isaac said: They decreed in connection with a heathen child that it should cause defilement by seminal emission[17] so that an Israelite child should not become accustomed to commit pederasty with him. For R. Zera said: I experienced great trouble with R. Assi,[18] and R. Assi with R. Johanan, and R. Johanan with R. Jannai, and R. Jannai with R. Nathan b. Amram, and R. Nathan b. Amram with Rabbi over this question: From what age does a heathen child cause defilement by seminal emission? — He replied to me: From a day old; but when I came to R. Hiyya, he told me: From the age of nine years and one day. When I then came and discussed the matter with Rabbi, he said to me: Abandon my reply and adopt that of R. Hiyya who declared: From what age does a heathen child cause defilement by seminal emission? From the age of nine years and one day,

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(1) Mal. III, 9. The verse is thus interpreted: The whole nation undertook to fulfil a law, the penalty for disobedience being a curse; and now that they robbed God by utilising what they had agreed to forgo, the curse has come upon them.

(2) V. Glos. They would then defile by touch.

(3) Drinking wine with heathens would arouse desire for their women.

(4) Viz., idolatry.

(5) This phrase is discussed later.

(6) Deut. VII, 3, so how can it be said to be the consequence of a Rabbinical decree?

(7) Ibid. 4.

(8) The son of Noah from whom the Hebrews descended. Tradition ascribes to him a School of Torah-study.

(9) Gen. XXXVIII, 24, referring to Tamar who was with child; and the penalty which Judah intended to inflict upon her was derived by him from the Court of Shem.

(10) Into idolatry.

(11) Because he might rather turn her from idolatry.

(12) An old traditional law; so it could not have been instituted by the Schools of Hillel and Shammai.

(13) V. Numb. XXV, 6 ff.

(14) In the 2nd cent. B.C.E., nearly two hundred years before the Schools of Hillel and Shammai. [Derenbourg, Essai, p. 84., places it under Simeon who ruled from 143-135 B.C.E. v. Sanh. (Sonc. ed.) p. 544, n. 8.]

(15) Referring to the incident of Tamar, II Sam. XIII.

(16) Deut. XIII, 7.

(17) [Even though he suffered from no issue.]

(18) He put the following question to him and had difficulty in eliciting a reply.

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for inasmuch as he is then capable of the sexual act he likewise defiles by emission. Rabina said: It is therefore to be concluded that a heathen girl [communicates defilement] from the age of three years and one day, for inasmuch as she is then capable of the sexual act she likewise defiles by a flux. This is obvious! — You might argue that he is at an age when he knows to persuade [a female] but she is not at an age when she knows to persuade [a male, and consequently although she is technically capable of the sexual act, she does not cause defilement until she is nine years and one day old]. Hence he informs us [that she communicates defilement at the earlier age].

R. Judah Nesi'a[1] was once walking and leaning upon the shoulder of his attendant, R. Simlai, when he said to him, ‘Simlai, you were not present yesterday at the House of Study when we declared [heathens’] oil permitted.’ He replied, ‘Would that in our days you permitted their bread also!’ He said to him, ‘If we were to do that, they would call us "the permitting Court". As we have learnt: R. Jose b. Jo'ezer of Zeredah testified that the stag-locust is clean,[2] that the flow [of blood and water] from the place of slaughter [in the Temple] is non-defiling, and that one who comes in contact with a corpse is defiled; and they called him "Joseph the permitter".’ [R. Simlai] said to him, ‘There he permitted three things,[3] and the master has only permitted one; so that if he permits another there would still be only two!’ He replied, ‘I have already permitted a second.’ What is it? — As we have learnt: [If a husband said to his wife before a journey,] ‘This is your bill of divorce should I not return within twelve months’, and he died within the twelve months, the divorce is invalid.[4] In this connection it was taught: And our Rabbis permitted her to remarry;[5] and we ask, who is intended by ‘our Rabbis’? — Rab Judah replied in the name of Samuel: The Court which permitted [heathens’] oil;[6] for they held the same view as R. Jose who said: The date of the document is proof of this.[7] R. Abba, son of R. Hiyya b. Abba said: R. Judah the Prince gave this decision, but [the Rabbis] did not agree with him all his lifetime [sha'ato]. Another version is: All his colleagues [saya'to] [did not agree with him].

R. Eleazar asked a certain old man: When you permitted a woman [to remarry in the circumstances described above], did you allow her to do so immediately[8] since he could not return, or perhaps it was after the lapse of the twelve months since his condition had then been fulfilled? — [He rejoined:] But this question arises also in connection with [the continuation of the cited] Mishnah where we learnt: [But if the husband said,] ‘Behold this is your bill of divorce from now onward should I not return within twelve months’, and he died within the twelve months, the divorce is valid-because the condition had been fulfilled; and the question thus arises. Does the divorce take effect immediately [on his death] since he could not return, or perhaps only after twelve months when the condition had been fulfilled? — [R. Eleazar said to him:] Yes, even in this case [I am in doubt] but [I put the question to you] because you were among the number [who voted to grant her permission to remarry]. Abaye said: All[9] admit [that if a man said to his wife that the divorce should take effect] when the sun issues from its sheath,[10] he intended the time of sunrise, and should he die in the night, it is then a bill of divorce which comes into force after his death [and is invalid]; [but if he said to her that the divorce should take effect] on condition that the sun issues from its sheath, he intended it to apply from that moment onward, and should he die in the night, this was certainly a condition, and the divorce thus took effect while he was alive [and is valid] in agreement with the view of R. Huna. For R. Huna said: If one uses the expression ‘on condition’ [in a bill of divorce] it is the same as if he had said, ‘From now onward’. They only differ over the case [where he used the expression] if the sun issues [from its sheath]’;[11] R. Judah the Prince being of the same opinion as R. Jose who said, ‘The date of the document is proof of this’ and he holds it to be identical with the phrases, ‘From to-day if I die’ and ‘From now onward if I die’. The Rabbis, on the other hand, do not agree with R. Jose and maintain that it is merely identical with, ‘Here is your bill of divorce if I die.’

The above text stated: ‘R. Jose b. Jo'ezer of Zeredah testified that the stag-locust is clean, that the flow [of blood and water] from the place of slaughter [in the Temple] is non-defiling, and that one who comes in contact with a corpse is defiled; and they called him, "Joseph the permitter."’ What is the stag-locust? — R. Papa said: Shoshiba, and R. Hiyya b. Ammi said in the name of ‘Ulla: Susbel.[12] R. Papa said it was the shoshiba, — so they[13] differ on [the permissibility] of the long-headed locust, one holding that it is prohibited and the other that it is permitted. R. Hiyya b. Ammi said in the name of ‘Ulla that it was the susbel,

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(1) The Prince, i.e., R. Judah II, as in the Mishnah.
(2) And may be eaten.
(3) It will be explained below that he took a lenient view of the law of defilement by a corpse.
(4) Because he did not say that the divorce was to apply ‘from now onward’. Consequently if she was left a childless widow, she became subject to the law of levirate-marriage (v. Deut. XXV, 5 ff.).
(5) Whomever she wished and released her from the levirate-marriage.
(6) I.e., R. Judah II and his Court.
(7) According to the Mishnah on B.B. 136a, if a father assigns the whole of his estate to one of his sons for him to take possession of it after his death, he must insert in the document the words ‘from to-day and after my death’, otherwise it has no value. R. Jose disagrees on the ground that the date of the document is sufficient indication of the testator's intentions. R. Judah similarly held that the bill of divorce was valid in the circumstances described, so that the wife on the husband's death had legally the status of a divorcee and not a widow.
(8) On learning of her husband's death.
(9) I.e., even R. Jose.
(10) In which its rays were thought to be encased when not shining; i.e., when the sun has fully risen.
(11) And he died in the night.
(12) The former is a long-headed and the latter a short-headed species of locust.
(13) R. Jose of Zeredah and his colleagues.

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and nobody differs that the long-headed locust is prohibited, and here they disagree when there is difficulty in perceiving whether its wings cover the greater part of the body, one holding that we require [the wings] to cover just more than the greater part of the body and the other that we require it appreciably to cover the greater part of the body.

‘That the flow [of blood and water] from the place of slaughter [in the Temple] is non-defiling.’ What means ‘non-defiling’? — Rab said: It is essentially clean;[1] but Samuel said: It was non-defiling in the sense that it did not render other things unclean [which it touched] but in itself there was uncleanness. When Rab said that it was essentially clean, he was of the opinion that the defiling power of liquids was a [Rabbinical ordinance and when the Rabbis decreed so their intention was to attribute defilement to liquids in general but they did not so decree in connection with the flow from the place of slaughter. When, however, Samuel said that it was non-defiling in the sense that it did not render other things unclean but in itself there was uncleanness, he was of the opinion that the defilement in liquids was a Biblical ordinance; but with respect to its power to render other things unclean it was a Rabbinical ordinance, and when the Rabbis decreed so their intention was to attribute the power of communicating defilement to liquids in general, but they did not so decree in connection with the flow from the place of slaughter.

‘And that one who comes in contact with a corpse is defiled; and they called him, "Joseph the permitter".’ Rather should he have been called [in this instance] ‘Joseph the prohibiter’! Furthermore [that a corpse defiles] is a Biblical ordinance, as it is written, And whosoever in the open field toucheth one that is slain with a sword, or a dead body [or a bone of a man, or a grave, shall be unclean seven days]![2] — According to Scripture he who comes in contact with a corpse is defiled, but anybody who comes in contact with this person is clean; and [the Rabbis] proceeded to decree that even such as he is defiled; then [Jose b. Jo'ezer] proceeded to re-establish the law in its Biblical form.[3] But [the defilement of] the person who comes in contact with one who had touched a corpse is likewise a Biblical ordinance, for it is written, And whatsoever the unclean person toucheth shall be unclean![4] — The Rabbis declared in the presence of Raba on the authority of Mar Zutra son of Nahman who said it in the name of R. Nahman: According to the Scriptures, if a person touches another while the latter is in contact [with a corpse], he too is defiled for seven days; but if he touches him when there is not this contact, then he is only defiled until the evening. The Rabbis proceeded to decree that even without contact he is defiled for seven days, and [R. Jose] proceeded to re-establish the law in its Scriptural form. Whence is this to be derived from the Torah?[5] — For it is written, He that toucheth the dead body of any man shall be unclean seven days,[6] and it is also written, And whatsoever the unclean person toucheth shall be unclean[7] continuing with And the soul that toucheth it shall be unclean until even. How [are these texts] to be understood? The former refers to the circumstance where there is actual contact and the latter to where there is not actual contact.

Raba said to them: Have I not previously told you not to hang empty pitchers on R. Nahman![8] This is what R. Nahman said: He [Jose of Zeredah] permitted a doubtful case of defilement in a public domain.[9] But this is a rule which is drawn by analogy from the case of a woman suspected of infidelity, viz., as [the case of doubt in connection with] the suspected woman can only occur [when seclusion with her paramour takes place] in a private domain, so [the case of doubt in connection with] defilement can only occur [when the contact with the corpse takes place] in a private domain![10] — R. Johanan said: Such, indeed, is the traditional rule, but [none of the Rabbis] would decide in that manner[11] until [Jose b. Jo'ezer] came and definitely decided so.[12] There is a teaching to the same effect: R. Judah says: [Jose b. Jo'ezer] stuck stakes [in the ground] for the people, declaring, ‘Up to here is a public domain and up to there a private domain,’[13] When persons[14] came to consult R. Jannai, he used to tell them, ‘There is plenty of water in the depth of the river; go and immerse yourselves.’[15]

STEWED FOODSTUFFS. Whence is this derived?[16] — R. Hiyya b. Abba said in the name of R. Johanan: Scripture states, Thou shalt sell me food for money that I may eat, and give me water for money that I may drink.[17] A comparison is to be drawn with water — as only water which has undergone no change [is permitted to Jews] so also must the food have undergone no change [at the hand of heathens]. According to this reasoning ears of corn should also be prohibited when roasted by them; and should you maintain that that is so, behold it has been taught: Ears of corn are permitted when roasted by them! — Perhaps, then, the comparison with water must be drawn in this sense — as only water which has not been changed from its natural form [is permitted to Jews] so the food must not have been changed from its natural form. According to this reasoning wheat should be prohibited when milled by them; and should you maintain that that is so, behold it has been taught: Roasted ears of corn and the various kinds of ground flour of heathens are permitted! — perhaps, then, the comparison with water must be drawn in this sense — as only water which has not been changed from its natural form by fire [is permitted to Jews] so the food must not have been changed from its natural form by fire. But there is nothing in the verse about fire!

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(1) I.e., there was no element of defilement in it at all.

(2) Num. XIX, 16.

(3) Viz., the man who touches a corpse is unclean for seven days, but he who touches him does not contract uncleanness.

(4) Ibid. 22.

(5) That without actual contact the defilement only lasts until the evening.

(6) Ibid. 11.

(7) Ibid. 22.

(8) I.e., do not ascribe absurd teachings to him.

(9) [I.e., he declared clean a person who is in doubt whether he incurred defilement in a public domain.]

(10) Consequently, if the doubt occurred about contact in a public place, he would be considered undefiled. If so, what was the innovation of Jose of Zeredah?

(11) Publicly, so that people should not be negligent about the laws of defilement.

(12) [By declaring that only he who is certain of having come in contact with a corpse in a public domain is unclean, but not he who is in doubt. For an interesting discussion of these decisions of Jose of Zeredah, v. Lauterbach, J.Z. JQR. (N.S.) VI, pp. 62 ff.]

(13) As a guide for them should they come in contact with a defiling object.

(14) Who were in doubt whether they came in contact in a public domain with a corpse.

(15) To be on the safe side he told them to regard themselves as unclean.

(16) That the cooked foods of heathens are prohibited.

(17) Deut. II, 28.

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— Rather, then, is it a Rabbinical ordinance and the Scriptural verse is merely a support.

R. Samuel b. Isaac said in the name of Rab: Whatever is eaten raw does not come within [the law of what is prohibited] on account of having been cooked by heathens. Thus was it taught in Sura;[1] but in Pumbeditha[2] they taught this version: R. Samuel b. R. Isaac said in the name of Rab: Whatever is not brought upon the table of kings to serve as a relish with bread does not come within [the law of what is prohibited] on account of having been cooked by heathens. What is the difference between the two versions? — [The permissibility of] small fish, mushrooms and pounded grain.[3]

R. Assi said in the name of Rab: Small fish when salted [by heathens] do not come within [the law of what is prohibited] on account of having been cooked by heathens. R. Joseph said: If a heathen roasted them, an Israelite may rely upon them in connection with ‘erube tabshilin.[4] If, however, a heathen made them into a pie of fish-hash it is prohibited. This is obvious! — You might argue that [in such a pie] the fish-hash is the principal element;[5] hence he informs us that the flour is the principal element.

R. Berona said in the name of Rab: If a heathen set fire to uncleared ground,[6] all the [roasted] locusts found in the uncleared ground are prohibited. How is this to be understood? Is it to say that the reason is because he could not distinguish between the clean and unclean species; why, then, specify that a heathen [kindled the fire] since it would be the same if even an Israelite did so! Or is it on account of [the locusts] having been cooked by a heathen? But in such a circumstance[7] would they be prohibited! Did not R.Hanan b. Ammi declare that R. Pedath said in the name of R. Johanan: If a heathen singed the head,[8] it is permissible to eat of it even from the tip of the ear![9] This proves [does it not?] that it is assumed that his intention, was to remove the hair; so similarly [in the other case it should be allowed] because his intention was to clear the ground! — [No, the true reason was] certainly because he could not distinguish between the clean and unclean species, and the incident actually happened with a heathen.[10]

The above text stated: ‘R. Hanan b. Ammi declared that R. Pedath said in the name of R. Johanan: If a heathen singed the head, it is permissible to eat of it even from the tip of the ear.’ Rabina said: Consequently if a heathen threw a coulter into a stove and an Israelite had previously deposited a pumpkin there, it is all right.[11] This is obvious! — You might argue that his intention had been to boil the blade;[12] hence he informs us that his intention was to harden it.[13]

Rab Judah said in the name of Samuel: If an Israelite left meat on the coals and a heathen came and turned it over, it is permitted. How is this to be understood? If I say that the meat would have been cooked without being turned over, obviously [it is permitted]; is it not then [to be inferred] that we have here a case where it would not have been cooked without being turned over? Why, then, is it permitted seeing it is food cooked by a heathen! — No; it is necessary to suppose a circumstance where it would have taken two hours to cook if he had not turned it over, but now it was cooked in one hour. You might consequently have argued that hastening the process of cooking is a matter which is taken into consideration;[14] hence he informs us [that it is not considered]. But R. Assi said in the name of R. Johanan: Any food which is [already cooked to the extent] of that which was eaten by Ben Drusus[15] does not come within the law prohibiting the cooked food of heathens,[16] hence if it is not cooked to that extent it does come within the prohibition![17] — The circumstance referred to [by R. Johanan] is where, e.g., [an Israelite] placed the meat in a pot and a heathen took and set it in an oven.[18] There is a teaching to the same effect: An Israelite may set meat upon the coals and let a heathen then come and turn it over pending his return from the Synagogue or House of Study, and he need not take notice of it; and [an Israelite] woman may set a pot on a stove and let a Gentile woman

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(1) A town in S. Babylonia where Rab founded his School.

(2) Called in the Talmud 'the capital of the Exile', to the north of Sura.

(3) These are not eaten raw nor served as a relish. According to the Sura teaching they may not be eaten when cooked by a heathen, but according to the Pumbeditha version they are permitted.

(4) Lit., 'conjunctions of cookings'. A device of the Rabbis to enable cooking to be done on a Friday which is a Festival for the following day. Jastrow defines the regulation as follows: 'A person prepares a dish on Thursday and lets it lie over until the end of the Sabbath, by which fiction all the cooking for the Sabbath which he does on the Holy Day (Friday) is merely a continuation of the preparation begun on Thursday'. The subject is treated at length in Tractate 'Erubin.

(5) And for that reason the pie should be allowed, since the fish element can be eaten raw.

(6) To prepare it for cultivation.

(7) Where he did not light the fire for cooking purposes.

(8) Of an animal which had been slaughtered by a Jew, the object being to remove the hair.

(9) Which, being tender, would be roasted by the singeing.

(10) That is why a heathen was specified above.

(11) It may be eaten although roasted by a heathen. The Jew placed the pumpkin in the oven before the fire was lit.

(12) In which case the pumpkin would have been cooked by a heathen.

(13) Since his object was only to harden it, there was nothing in his mind about cooking.

(14) And if performed by a heathen disqualifies the food.

(15) The name of a bandit who ate his food slightly cooked.

(16) If a heathen completes the cooking.

(17) Under this rule the meat turned over by the heathen should be disallowed.

(18) This is prohibited, but when the food is already placed in the oven, where it would have been cooked without the heathen, it is permitted.

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then come and stir it pending her return from the bathhouse or Synagogue, and she need take no notice of it.

The question was asked: How is it if a heathen placed [meat upon the coals] and an Israelite turned it over? — R. Nahman b. Isaac said: The answer can be deduced by a fortiori reasoning — if the food is permitted when its cooking is completed by a heathen, how much more so when it is completed by an Israelite! It has been similarly stated: Rabbah b. Bar Hanah said in the name of R. Johanan — another version is, R. Aha son of Hanah said in the name of R. Johanan: Whether a heathen placed it there and an Israelite turned it over or vice versa, it is permitted; and it is not prohibited unless both the beginning and completion of the cooking are performed by a heathen. Rabina said: The law with reference to bread is, if a heathen kindled the fire and an Israelite baked it or vice versa, or if a heathen both kindled the fire and baked the bread but an Israelite came and raked the fire, it is all right. Fish salted [by a heathen] is permitted by Hezekiah but prohibited by R. Johanan.[1] An egg roasted [by a heathen] is permitted by Bar Kappara[2] but prohibited by R. Johanan. When R. Dimi came [from Palestine] he said: Both salted fish and roasted eggs are permitted by Hezekiah and Bar Kappara but prohibited by R. Johanan.

R. Hiyya Parva'ah visited the house of the Exilarch where he was asked, 'How is it when an egg is roasted [by a heathen]?' He replied, 'Hezekiah and Bar Kappara permit it, but R. Johanan prohibits it, and the opinion of one authority cannot stand against that of two.’ R. Zebid said to them, ‘Pay no attention to him, because Abaye declared that the legal decision agrees with R. Johanan.’ [The Exilarch's heathen servants were infuriated by R. Zebid's remark and] gave him a draught of spiced vinegar from which he died.

Our Rabbis taught: The caper-flower, leeks and liver-wort [preserved by heathens],[3] water boiled and ears of corn[4] roasted by them are permitted, but a roasted egg is prohibited. As regards oil, R. Judah the Prince and his Court took a vote on it and declared it permitted. It has been taught: The rule which applies to liver-wort holds good also of the beans called pesilya and Egyptian beans [shi'atha]. What are shi'atha? — Rabbah b. Bar Hanah said in the name of R. Johanan: It is forty years since this preparation was imported from Egypt; while Rabbah b. Bar Hanah himself said: It is sixty years since this preparation was imported from Egypt. There is no contradiction since each statement was made in the corresponding year.[5] [The manner of its preparation is as follows:] Take the seeds of parsley, flax and fenugreek, soak them together in lukewarm water and leave them until they begin to sprout. Then take new earthenware pots, fill them with water and soak therein red clay into which the seeds are planted. After that go to the bathhouse and by the time of coming out they will have blossomed, and on eating of them you will feel cooled from the hair of the head down to the toe-nails. R. Ashi said: R. Hanina told me that this is an empty tale; according to another version [he told him that the effect was achieved] through magical spells.

Our Rabbis taught: Date-husks[6] belonging to a heathen when boiled in a large cauldron are prohibited, but if in a small cauldron they are permitted.[7] Which is a small cauldron? — R. Jannai said: One into which a swallow cannot enter. But perhaps it is cut up in pieces and placed in it [to be cooked]![8] — Rather [must a small cauldron be defined as] one into which the head of a swallow cannot enter.[9] But it has been taught: Whether it be a large or small cauldron [the brew] is permitted! There is no contradiction; for where [the teacher forbids the large cauldron] he is in agreement with the view that when [the forbidden element of a mixture] imparts a worsened flavour it is prohibited, while in the other case the teacher is in agreement with the view that when [the forbidden element] imparts a worsened flavour the mixture is permitted.[10]

R. Shesheth said: The cooked oil of a Gentile is prohibited. R. Safra said: Why should we be concerned about it [to declare it prohibited]? If because of the possibility that he may have mixed [yen nesek] with it, the effect would be to turn it rancid! If it is on account of [the prohibition against] all things cooked by a heathen, it is something which is eatable in its raw state![11] If on account of the rule that vessels used by heathens must be scoured before they may be used by a Jew,[12] it is an instance where a worsened flavour is imparted and it should therefore be permitted! R. Assi was asked: What of dates cooked by a Gentile? — As regards the sweet species the question does not arise since they are certainly permitted;[13] as regards the bitter species the question also does not arise since they are certainly prohibited;[14] but there is a question about the middle species?[15] How is it with them? — He replied: Why do you ask me this question seeing that my teacher, viz. Levi, has declared them prohibited!

As for shattitha'a[16] [brewed by a heathen], Rab permits it but Samuel's father and Levi prohibit it. If it is made from wheat or barley, they all agree that it is permitted.[17] If from lentils and vinegar all agree that it is prohibited; where there is disagreement is when it is made from lentils and water.[18] [Samuel's father and Levi] are of the opinion that we decree it prohibited from fear [that being permitted with water people will drink it when it has been prepared with vinegar], whereas [Rab] held that we do not declare it prohibited because of that fear. Another version is: When [the shattitha'a] is made from lentils and water all agree that it is prohibited; where there is disagreement is when it is made from wheat or barley [and prepared with water, Samuel's father and Levi] being of the opinion that we decree it prohibited from fear [that being permitted with water people will drink it when it has been prepared with vinegar], whereas [Rab] held that we do not declare it prohibited because of that fear. Rab said: Two kinds of shattitha'a did Barzilai the Gileadite send to David, as it is said, Beds and basons and earthen vessels and wheat and barley and meal and parched [corn] and beans and lentils and parched [pulse].[19] Nowadays people carry out basketfuls to the markets of Nehardea and no attention is paid to the view of Samuel's father and Levi.

AND PRESSED FOODSTUFFS INTO WHICH THEY ARE ACCUSTOMED TO PUT WINE. Hezekiah said: This teaching only applies when they are merely accustomed [to put wine or vinegar into them]; but when it is certain [that they actually do so], the foodstuffs are prohibited even for all use. Why, then, the distinction in that the Rabbis permit muries brine[20] for every use? — There the purpose [of the wine] is to overcome the bad smell [of the fish] and here the purpose is to sweeten the taste. R. Johanan, however, said: Even when it is certain [that wine is included in the pressed foodstuffs] they are also permitted. Why, then, the distinction in that R. Meir prohibits muries brine for every use? —

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(1) The former does not, and the latter does, consider the salting to be an act of cooking.

(2) The egg, being roasted in its shell, could not be affected by what the heathen does.

(3) They are allowed because they are also eaten raw. V. supra 38a.

(4) These do not change their natural form as the effect of heat. V. supra p. 184.

(5) Bar Bar Hanah made his statement twenty years after R. Johanan.

(6) What is left after the juice has been pressed out.

(7) Its mouth is very small, so it is assumed that he had cooked nothing unclean in it.

(8) So that the date-husks brewed therein are affected by what had been previously cooked.

(9) It is not to be assumed that they cooked in it an unclean thing of a smaller size than this.

(10) V. infra p. 324.

(11) And it was stated above that the prohibition of things cooked by a heathen does not apply in such a case.

(12) V. infra p. 362.

(13) Being eaten raw, they are permitted when cooked by a heathen.

(14) Because they are not eaten raw.

(15) Which are not very sweet or very bitter.

(16) A beverage made from roasted flour. Since it is very sweet, vinegar is usually added, and that is the ground of the prohibition.

(17) Because the brew is not so sweet and vinegar is not added.

(18) [So Ms.M.]

(19) II Sam. XVII, 28. The word parched occurs twice and is explained as denoting two kinds of brew made from roasted flour.

(20) Fish-brine, when prepared by heathens, although wine is included in it. V. supra 34b.

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There [when the bread is dipped in the fish-sauce] the presence of the wine is something actual,[1] but [with the pressed foodstuffs] it is not something actual.[2]

PICKLED HERRING WHICH HAD BEEN MINCED, BRINE IN WHICH NO FISH etc. What is the meaning of HELEK? — R. Nahman b. Abba said in the name of Rab: It is the sultanith.[3] Why is it prohibited? Because other species of a similar kind[4] [but prohibited] are caught together with it.

Our Rabbis taught: [Those species of fish] which have no [fins and scales] at the time but grow them later, as, e.g., the sultanith and ‘aphiz,[5] are permitted; those which have them at the time but shed them when drawn out of the water, as, e.g., the colias, scomber, sword-fish, anthias and tunny are permitted. R. Abbahu announced in Caesarea that fish-entrails and fish-roe may be purchased from anybody since the presumption is that they only come from Pelusium and Aspamia.[6] This is like what Abaye said: The zahanta[7] from the river Bab-Nahara[8] is permitted. On what ground? If I answer because of the rapid flow of the stream and an unclean species of fish cannot exist in fast-flowing water since the backbone is lacking in them, we do see them existing there! If it be suggested that the reason is because the water is salty and an unclean species of fish cannot exist in salty water since scales are lacking in them, we do see them existing there! — Rather must the explanation be that the river-bed is such that it does not permit the breeding of the unclean species of fish. Rabina said: Since nowadays the rivers Goza and Gamda flow into [Bab-Nahara, its zahanta] is prohibited.[9] Abbaye said: The sea-ass [i.e., hake] is permitted, the sea-ox[10] prohibited; and an aid to the memory is the unclean [on land, viz., the ass] is clean [in the water] and vice versa. R. Ashi said: Shefarnuna[11] is permitted, kedashnuna[12] prohibited; and an aid to the memory is Holy [kodesh] to the Lord[13] [but not to men]. According to another version he said that the kebarnuna[14] is prohibited, an aid to the memory being the phrase ‘graves [kibre] of heathens.’

When R. Akiba visited Guizak,[15] they set before him a fish resembling the mud-fish; he covered it over with a basket, and noticing scales[16] in it declared it permitted. When R. Ashi visited Tamduria,[17] they set before him a fish resembling an eel; holding it up against the sun, he noticed that it had growths [like scales], so he declared it permitted. When R. Ashi visited a certain place, they set before him fish resembling the shefarnuna, — he covered white basins over them, and perceiving scales[18] in them declared them permitted. When Rabbah b. Bar Hanah visited the fort of Agama,[19] they set before him some zahanta; but when he heard somebody call it ‘roach’, he said, ‘Since this has been called "roach", I conclude that there is something unclean in it.’ He did not eat any of it; and looking at it the following day he found something unclean in it; so he applied to himself the verse, There shall no mischief happen to the righteous.[20]

DROPS OF ASAFOETIDA. On what ground [are they prohibited when obtained by a heathen]? — Because [to secure them the root] must be cut with a knife;[21] and although a Master has said that when [the forbidden element] imparts a worsened flavour [the mixture] is permitted, yet on account of the pungency of the asafoetida it sweetens the fatty substance [which had been absorbed in the knife] and it therefore becomes a case where [the forbidden element] imparts an improved flavour and as such is prohibited. R. Levi's slave used to sell asafoetida; and when R. Levi died people asked R. Johanan whether it was permissible to buy of him. He replied to them: The slave of a haber[22] is like a haber.

R. Huna b. Minyomi bought blue wool[23] from the wife[24] of R. Amram the pious, and came before R. Joseph.[25] He was unable to answer him; and when Hanan the tailor chanced to meet him [R. Huna mentioned the matter to him]. He replied: How could the poor Joseph be acquainted with this! But it once happened that I bought blue wool from the household of Rabbanaah,[26] brother of R. Hiyya b. Abba, and I came before R. Mattena who could not answer [the same question]. So I went to R. Judah of Hagronia[27] who said to me: You have need of my instruction. Thus said Samuel: The wife of a haber is like a haber; for our Rabbis have taught: The wife of a haber is like a haber, the slave of a haber is like a haber, and when a haber dies his wife, children and members of his household remain in that state of confidence until they give grounds for suspicion. Similarly a store in which blue wool is sold remains in a state of confidence until its wares are disqualified.

Our Rabbis have taught: The wife of an ‘am ha-arez[28] who marries a haber, likewise the daughter of an ‘am ha-arez who marries a haber, and the slave of an ‘am ha-arez who is sold to a haber are all required to take the obligation relating to the status of a haber;[29] but the wife of a haber who marries an ‘am ha-arez likewise the daughter of a haber who marries an ‘am ha-arez and the slave of a haber who is sold to an ‘am ha-arez are not ab initio[30] required to take the obligation relating to the status of a haber. Such is the statement of R. Meir; R. Judah says: These too are required ab initio to take the obligation relating to the status of a haber. Similarly declared R. Simeon b. Eleazar: It happened that a woman married to a haber used to bind the phylacteries upon his arm; she afterwards married a tax-collector[31] and she used to attach the tax-seals for him.[32]

Rab said: Milk, meat, wine and blue wool [if transmitted through

was no longer alive at the time of the purchase and the wife might have sold him some imitation instead of the genuine blue. a heathen] with only one seal [attached to identify them] are prohibited;[33] but asafoetida, fish-sauce, bread and cheese[34] are permitted with one seal. Milk, meat, wine and blue wool

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(1) Because one swallows the sauce together with the bread.

(2) One eats the preserved food but not the liquor in which it has been kept.

(3) A fish of the anchovy species.

(4) Lewysohn, Zoologie des Talmuds, p. 260, explains the word as meaning ‘the sprat’.

(5) Perhaps the sardine (Lewysohn, p. 261).

(6) The former is a town on the Nile, the latter is Spain. It was supposed that no forbidden kinds of fish existed there.

(7) A small fish preserved in brine.

(8) A tributary of the Euphrates.

(9) Because these streams carry unclean fish into it. [These three tributaries of the Euphrates flowed above Pumbeditha, Obermeyer, op. cit. p. 228.]

(10) According to Lewysohn, p. 270, a species of ray.

(11) Lewysohn, p. 267, explains it as the hammer-fish, of the shark family.

(12) A fish of the anthias genus.

(13) Ex. XXVIII, 36. Tosaf. cites another reading to the effect that the shefarnuna is prohibited and the kedashnuna permitted, and this is the more probable. The mnemonic then indicates that this latter fish is ‘holy’, i.e., clean.

(14) A species of mud-fish. According to Tosaf. the reading should be ‘permitted’ instead of ‘prohibited’, the mnemonic ‘graves of heathens’ indicating this since they do not defile.

(15) V. supra, p. 165, nn. 4-5.

(16) [Which the fish dropped while struggling in the basket (Rashi). R. Han. explains: He scraped the back of the fish against the edge of a basket.]

(17) An unidentified place in Babylonia.

(18) [I.e., the dark scales against the white background.]

(19) Near Pumbeditha.

(20) Prov. XII, 21.

(21) Which may be impregnated with the fat of forbidden food.

(22) V. Glos. Just as the master was scrupulous with the dietary laws so is the servant likely to be. It is therefore allowed to buy of him.

(23) For the zizith. V. Glos.

(24) Lit., ‘household’.

(25) To inquire whether he may use it, since R. Amram

(26) [Rabbanai; v., e.g., Ber. 21b.]

(27) The town Agranum on one of the tributaries of the Euphrates near Nehardea.

(28) V. Glos.

(29) Before reliance can be placed upon them.

(30) I.e., before they can be trusted. It is assumed that they will continue their former practice.

(31) Who was generally an unscrupulous person.

(32) Which served as a receipt. The point is that a woman is influenced by her husband. Therefore the wife of a haber who marries an ‘an ha-arez cannot be trusted.

(33) The heathen may have changed the article and attached the seal to it. In the text mnemonics are employed to represent the two sets of enumerated articles, and the explanation of the mnemonics follows on.

(34) These being less expensive articles, the heathen is not so likely to make a substitution.

Talmud - Mas. Avodah Zarah 39b

are prohibited with one seal; but asafoetida, fish-sauce, bread and cheese are permitted with one seal. Why need we be concerned about bread? Were he to change a fresh loaf for a stale one, or a wheaten-loaf for one of barley, it could be readily detected! If [the fear is that he might substitute] one loaf for another like it [baked by a heathen], since there is one seal attached he would not take the trouble to commit a fraud. Why, however, should Rab make a distinction that with cheese [the heathen] would not take the trouble to commit a fraud [and allows one seal]; likewise with milk he would not take the trouble to commit a fraud [and yet Rab demands two seals]? — R. Kahana said: Strike out the word ‘milk’ and insert ‘slices of fish’ which have no distinguishing mark. But that is the same as meat! — [Rab differentiates] two kinds of meat.[1] Samuel, on the other hand, said: Meat, wine and blue wool are prohibited with one seal; but fish-sauce, asafoetida and cheese[2] are permitted with one seal. According to Samuel, a slice of fish which has no distinguishing mark is regarded as the same as meat, and we do not say that there are two kinds of meat.[3]

Our Rabbis taught: We do not buy in Syria[4] wine, fish-sauce, milk, sal-conditum, asafoetida or cheese,[2] unless it be from a reliable dealer; but if [an Israelite] is the guest of a host there [all these foodstuffs] are permitted.[5] This supports the statement of R. Joshua b. Levi who said: If [a Syrian] householder sends him [as a gift any of these foodstuffs] to his house he may eat them; for what reason? — A householder would not leave what is allowed and eat what is forbidden, and if he sends anything to him [it may be assumed that] he sends him from what he himself eats.

AND SAL-CONDITUM. What is sal-conditum? — Rab Judah said in the name of Samuel: Salt of which all Roman guests[6] partake. Our Rabbis have taught: Black sal-conditum is prohibited and the white is permitted. Such is the statement of R. Meir; R. Judah says: The white is prohibited and the black permitted. R. Judah b. Gamaliel says in the name of R. Hanina b. Gamaliel: Both kinds are prohibited. Rabbah b. Bar Hanah said in the name of R. Johanan: In the opinion of him who declared the white to be prohibited, the intestines of unclean white fish are mixed with it; in the opinion of him who declared the black to be prohibited, the intestines of unclean black fish are mixed with it; and in the opinion of him who declared both kinds to be prohibited, [the intestines of] both species of fish are mixed with them. R. Abbahu said in the name of R. Hanina b. Gamaliel: There was an old man in our neighbourhood who used to polish this salt with swine's fat.

BEHOLD THESE ARE PROHIBITED. What does this intend to exclude? — According to Hezekiah it excludes [those preserved foods] in which it is known [that wine is included].[7] According to R. Johanan it excludes fish-brine and cheese from Bithynia.[8] This anonymous statement [in the Mishnah] is that of R. Meir.

MISHNAH. THE FOLLOWING ARE PERMITTED TO BE EATEN [BY AN ISRAELITE]: MILK WHICH A HEATHEN MILKED WITH AN ISRAELITE WATCHING HIM; HONEY, GRAPE-CLUSTERS[9] — EVEN WHEN THESE EXUDE MOISTURE THE LAW WHICH RENDERS FOOD SUSCEPTIBLE TO DEFILEMENT BY A LIQUID DOES NOT APPLY TO THEM — PRESERVED FOODSTUFFS INTO WHICH THEY ARE NOT ACCUSTOMED TO PUT WINE OR VINEGAR, PICKLED HERRING WHICH HAS NOT BEEN MINCED, BRINE CONTAINING FISH, A LEAF OF ASAFOETIDA, AND ROLLED OLIVE-CAKES. R. JOSE SAYS: THOSE OLIVES HAVING STONES READY TO DROP OUT ARE PROHIBITED. LOCUSTS WHICH COME OUT OF [A SHOPKEEPER'S] BASKET[10] ARE PROHIBITED, BUT IF FROM HIS STOCK THEY ARE PERMITTED. THE SAME RULE APPLIES TO THE HEAVE-OFFERING.

GEMARA. What we learn here in the Mishnah is a support for what the Rabbis have taught elsewhere: If an Israelite is sitting near a heathen's flock[11] and the latter milks and brings some to him, he need have no concern [and is allowed to drink it]. How is this to be understood? If there is no unclean animal in the flock, obviously so; but if there is an unclean animal in the flock why [should he be permitted to drink the milk]! — It certainly deals here with the circumstance when there is an unclean animal, but [the Israelite is in such a position that] when he stands up he can see the heathen and when sitting he is unable to see him. You might argue that since he cannot see him when sitting, he should fear that he might bring him [milk in which something forbidden] has been mixed; hence we are informed [that there need be no such fear], because inasmuch as he is able to see him when standing, the heathen would be afraid to mix anything with the milk.

HONEY. Why should he have any concern about honey? If because of the possibility that something [forbidden] may have been mixed with it, the effect would be to make it rancid! If it is on account of [the prohibition against] all things cooked by a heathen, it is something which is eaten in its raw state![12] If on account of the rule that vessels used by heathens must be scoured [before they may be used] by a Jew, it is an instance where a worsened flavour is imparted and it is therefore permitted!

GRAPE-CLUSTERS-EVEN WHEN THESE EXUDE MOISTURE THE LAW WHICH RENDERS FOOD SUSCEPTIBLE TO DEFILEMENT BY A LIQUID DOES NOT APPLY TO THEM. Against this I quote: If one gleans grapes for the wine-press, Shammai says that they are susceptible to defilement [by liquid] while Hillel says that they are not susceptible; but eventually Hillel agreed with Shammai! — In the passage just cited the grapes are required for the manufacture of a liquid,[13] whereas [in the Mishnah] they are not required for that purpose.

PICKLED HERRING WHICH HAS NOT BEEN MINCED. Our Rabbis have taught: How do we define ‘pickled herring which has not been minced’? Such as have the head and backbone recognisable.[14] And how do we define ‘brine containing fish’? Such as have one or two kalbith-fish[15]

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(1) One of a more costly kind than the other.

(2) These are likewise introduced by mnemonics.

(3) He omits bread because he felt no concern about that; and as to fish, this is included in meat and need not be specified.

(4) The Israelite shopkeepers there were suspected of adulterating their wares.

(5) The food used in the Jewish house may be considered unadulterated.

(6) This is Krauss's explanation, identifying the word with the Greek sullektoi. Jastrow thinks of the Latin siliginarii, bakers of wheat flour. The traditional Jewish interpretation is ‘nobles’.

(7) They are forbidden for any use.

(8) V. Mishnah, supra 29b.

(9) The word is also explained to mean ‘honeycombs’.

(10) In which they are exhibited for sale on the counter.

(11) Although he does not actually see the milking done.

(12) And should be permitted, as already explained.

(13) In which case the liquid that exudes is acceptable to him, and accordingly can render the cluster susceptible to uncleanness, which is not the case when he wishes to eat the grapes. V. Mak. I, 1.

(14) They have not been broken up, and the species, whether clean or unclean, can then be identified.

(15) V. supra p. 172.

Talmud - Mas. Avodah Zarah 40a

floating in it. Since you declare it permitted when there is one kalbith-fish in it, is there any need of mentioning two? — There is no difficulty; in open barrels [two are necessary],[1] but in closed [one suffices].

It has been stated: R. Huna said: [Pickled herring is not considered as minced] so long as the head and backbone are recognisable. R. Nahman said: Either the head or the backbone. R. ‘Ukba b. Hama objected: [We learnt] with regard to fish, only such as have fins and scales [may be eaten]![2] — Abaye said: The Mishnah deals with the skate and pelamys[3] the heads of which resemble those of unclean fish.[4]

Rab Judah said in the name of ‘Ulla: The difference of opinion [between R. Huna and R. Nahman is over the permissibility] to dip [bread] in the brine, but as regards eating the chopped herring, all agree that it is prohibited unless both the head and backbone are recognisable. R. Zera said: At first I used to dip [bread] in the brine;[5] but when I heard the statement of Rab Judah in the name of ‘Ulla, viz., the difference of opinion is over the permissibility to dip [bread] in the brine but as regards eating the chopped herring all agree that it is prohibited unless both the head and backbone are recognisable, I would not also dip in it.[6]

R. Papa said: The legal decision is that both the head and backbone of each fish must be recognisable. An objection is raised: Pieces of fish are all permitted so long as a mark [that the fish was of the clean species] is found in the whole of it or a portion of it, even a hundredth part of it. And it once happened that a heathen brought a barrel containing pieces of fish and a mark [of the clean species] was found in one of them; thereupon Rabban Simeon b. Gamaliel declared the whole barrel to be permitted! — R. Papa gave this explanation: [Such a decision is correct] when the pieces are alike.[7] If this be so, why mention it![8] — You might argue that we are concerned lest [that fish which had the mark of cleanness] happened [to fit in] by chance;[9] so he informs us [that we need have no such fear].

A boat-load of zahanta once came to Sikara.[10] R. Huna b. Hinnena went to inspect it and, noticing scales [on the sides of the boat], declared the fish to be permitted. Raba said to him: How is it possible to give permission in a place where [fish with] scales are common![11] So Raba issued an announcement prohibiting the fish, whereupon R. Huna b. Hinnena issued an announcement that they were permitted. R. Jeremiah of Difti[12] said: R. Papi told me that R. Huna b. Hinnena only allowed the brine but not the eating of the fish. R. Ashi said: R. Papa told me that R. Huna b. Hinnena even allowed the fish to be eaten; but as for myself, I cannot prohibit it after what R. Papa told me, nor can I permit it in view of what Rab Judah declared in the name of ‘Ulla,[13] viz., the difference of opinion is over the permissibility to dip [bread] in the brine, but as regards eating the fish all agree that it is prohibited unless both the head and backbone are recognisable in each one.

R. Hinnena b. Idi was sitting in the presence of R. Adda b. Ahabah; and while sitting there he said: If a heathen brought a boat laden with barrels [of fish-brine] and a kalbith-fish is found in one of them, should they be open barrels they are all permitted,[14] but if closed that barrel is permitted and the rest are prohibited. [R. Adda] asked him: Whence have you this? — [He replied:]I heard it from three eminent scholars,[15] viz., Rab, Samuel and R. Johanan.

R. Berona said in the name of Rab: Fish-entrails and roe should only be bought of a reliable man. ‘Ulla remarked to R. Dosthai of Berai:[16] Since Rab mentioned that fish-entrails and roe should only be bought of a reliable man, it follows that unclean fish have roe; but against this I quote: Unclean fish are viviparous, whereas clean fish eject eggs! — [He replied:] Then strike out the word roe’! R. Zera said to him: Do not strike out the word because they both eject eggs; but whereas [the clean species] breed [by ejecting eggs which mature in the sand of the river-bed] the other is actually viviparous. Why, however, is it necessary [to buy the roe] from a reliable man? Surely we could examine the marks [which differentiate the clean and unclean species]; for it has been taught: The marks of [clean birds’] eggs are the same as those of [clean] fish.[17] But how can such a thought enter your mind since Scripture mentions fins and scales as the marks of [clean] fish![18] The meaning is: The marks of [clean birds’] eggs are the same as those of fish-roe [which may be eaten]; and the following are the marks of [clean] birds’ eggs: Such as are arched and rolling, I.e., one end is rounded and the other pointed, are clean; if both ends are pointed or round ed 'they are unclean; if the yolk is outside and the white inside the egg is unclean; if the white is outside and the yolk inside the egg is clean; if the white and yolk are mixed up it is a reptile's egg! — Raba said: [Rab's statement that it must only be bought of a reliable person refers to when the roe] has been pressed.[19] But as for R. Dosthai of Berai who said that the word 'roe' should be struck out,

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(1) If there was only one, it might be thought that the fish fell into it after the brine had been prepared.

(2) Hul. 59a. So how can the head or backbone be used as the criterion?

(3) A species of tunny fish.

(4) In which case the head or backbone is no criterion, but generally it is.

(5) When either the head or backbone could be recognised, on the supposition that the two Rabbis only differed with regard to eating the herring.

(6) He adopted R. Huna's view that both the head and backbone must be capable of identification.

(7) I.e., they can be joined together so that it is possible to see that they are all pieces of the same fish.

(8) There being a sign of cleanness, the fish may obviously be eaten.

(9) And the remainder were of the unclean species.

(10) A town on the Tigris near Mahoza.

(11) The boat might contain a mixture of clean and unclean fish.

(12) Identified with Dibtha on the lower Tigris.

(13) V. supra, p. 197.

(14) It is assumed that each barrel had such a fish in it, and if not there at that time it may have fallen out.

(15) The word really denotes 'a scholar of the Scriptures'. Rashi explains: They are so eminent that they may be relied upon as upon the Scriptures.

(16) A town in Babylonia. It was also the birth-place of 'Ulla (Jast.). [There was a Biri also in Galilee, with which the place mentioned here is rather to be identified.]

(17) Hul. 63b.

(18) Lev. XI, 9. This is an interjection.

(19) And the shape of the eggs cannot be ascertained.

Talmud - Mas. Avodah Zarah 40b

surely it has been taught: The marks of [clean birds'] eggs are the same as those of fish-roe [which may be eaten]![1] — Must not [this Baraitha at all events] be explained?[2] Read, therefore, thus:[3] 'Are the same as fish entrails.' But where is it found that the marks of fish-entrails are rounded and pointed?[4] — This is actually found with the fish-bladder.

If there be no reliable man,[5] what then? — Rab Judah said: So long as he declares, 'I salted the fish,'[6] it is permitted — R. Nahman said: He must be able to declare, 'These are the fish and these their entrails.'[7] Rab Judah instructed Adda, the attendant, 'So long as he declares, "I salted the fish," it is permitted.'

A LEAF OF ASAFOETIDA. Obviously [it may be eaten]![8] It would not have been necessary to mention it except for the drops which may be attached to the leaf. You might argue that we must be concerned lest [a heathen] bring [other drops of asafoetida which he had cut from the root with his knife] and mix them with it. Hence he informs us that [the drops which are found on the leaf] detached themselves [without cutting] and came off together with it.

AND ROLLED OLIVE-CAKES. Obviously they may be eaten! — No, it is necessary to mention [that they may be eaten] even when they are very soft. For you might argue that [the heathen] put wine on them.[9] Hence he informs us that their softness is due to the oil.

R. JOSE SAYS: THOSE OLIVES HAVING STONES READY TO DROP OUT [SHELAHIN]

ARE PROHIBITED. What is to be understood by shelahin! — R. Jose b. Hanina said: Those olives whose kernels drop out as soon as one takes them in his hand.

LOCUSTS WHICH COME etc. Our Rabbis taught: Locusts, capers and leeks[10] which come from the warehouse, the stock or from a ship are permitted; but those sold on the counter in front of a shop are prohibited because [the shopkeeper] sprinkles wine upon them. Similarly the apple-cider of a heathen taken from the warehouse, the stock or a basket is permitted; but if it is sold on the counter it is prohibited because they mix wine with it.

Our Rabbis taught: Rabbi once suffered from a disorder of the bowels and said, ‘Does anyone know whether apple-cider of a heathen is prohibited or permitted?’ R. Ishmael son of R. Jose replied, ‘My father once had the same complaint and they brought him apple-cider of a heathen which was seventy years old; he drank it and recovered.’ He said to him, ‘You had this information all this time and let me suffer!’ They made inquiry and found a heathen who possessed three hundred jars of apple-cider seventy years old. [Rabbi] drank some of it and recovered; whereupon he exclaimed, ‘Blessed be the All-present Who delivered His Universe into the keeping of guardians!’[11]

THE SAME RULE APPLIES TO THE HEAVE-OFFERING. How is this phrase to be understood? — R. Shesheth said: [It means that] the same rule applies to a priest who is suspected of selling his portion of the heave-offering[12] as though it were common food. If it is in front of him, it is prohibited [to buy it]; but if it comes out of a warehouse or the stock or a basket,[13] it is permitted because he would be afraid [to include the heave-offering among the wares] thinking that should the Rabbis hear of it they would deprive him of the lot.

CHAPTER III

MISHNAH. ALL IMAGES ARE PROHIBITED[14] BECAUSE THEY ARE WORSHIPPED ONCE A YEAR. SUCH IS THE STATEMENT OF R. MEIR; BUT THE SAGES DECLARE: [AN IMAGE] IS NOT PROHIBITED EXCEPT ONE THAT HAS A STAFF OR BIRD OR ORB[15] IN ITS HAND. RABBAN SIMEON B. GAMALIEL SAYS: Also ANY [IMAGE] WHICH HAS ANYTHING IN ITS HAND [IS PROHIBITED].

GEMARA. If they are worshipped once a year, what is the reason of the Rabbis?[16] — R. Isaac b. Joseph said in the name of R. Johanan: In the place where R. Meir lived, [the heathens] used to worship each image once a year; and since R. Meir takes a minority into consideration,[17] he decreed [against the use of images] in the other places on account of the place [where they are worshipped]. The Rabbis, on the other hand, who do not take a minority into consideration, did not decree [against the use of images] in the other places on account of the place [where they are worshipped].

Rab Judah said in the name of Samuel: The teaching of the Mishnah refers to the royal statues.[18] Rabbah b. Bar Hanah said in the name of R. Johanan: The teaching of the Mishnah only applies [to these statues] when they stand at the entrance of a city.[19]

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(1) Consequently there is roe which may not be eaten; so how can he omit the word from Rab's statement?

(2) As above.

(3) [So Ms.M.]

(4) And its edibility is decided by this criterion.

(5) When the roe has been pressed.

(6) And can vouch that they were of the clean kind.

(7) He must be able to produce the fish from which the roe had been obtained.

(8) Since it was plucked and not cut with a knife.

(9) And this is the cause of their softness.

(10) Preserved by a heathen.

(11) He thanked God that the beverage which he required to cure his illness had been preserved for the seventy years necessary to make it effective.

(12) It should only be eaten by priests.

(13) Belonging to a priest.

(14) To he used for any purpose whatever.

(15) E.g., Hermes was often represented as holding a staff (caduceus). Zeus an eagle and the son-god (Helios) an orb.

(16) In allowing them to be used for a secular purpose, provided certain symbols are not in their hand.

(17) V. supra 34b. Although he knew that the custom practised in his own town was not generally followed, he decreed against all images lest, in the exceptional places where they were worshipped annually, they would be used by the Jews because they saw them in use elsewhere.

(18) Statues of kings which were reverenced by the populace, and not to ordinary idolatrous images.

(19) Only such are prohibited by R. Meir because they are erected in a conspicuous place to be worshipped.

Talmud - Mas. Avodah Zarah 41a

Rabbah said: There is a difference of opinion [with regard to statues] in villages, but as for those which are in cities all agree that they are permitted. What is the reason [for their being permitted]? They are made for ornamentation.[1] But is there anyone [who says that the images set up] in villages are made merely for ornamentation? Surely those in the villages were made to be worshipped![2] — If, however, [Rabbah's statement] is quoted it must be in this form: Rabbah said: There is difference of opinion [with regard to statues] in cities;[3] but as for those in villages all agree that they are prohibited.

BUT THE SAGES DECLARE, [AN IMAGE] IS NOT PROHIBITED etc. [It is prohibited when holding] a staff, because [the implication is] that it rules the whole world as with a staff.[4] [It is prohibited when holding] a bird, because [the implication is] that it grasps the whole world as though it were a bird. [It is prohibited when holding] an orb, because [the implication is] that it grasps the whole world as though it were a ball.

A Tanna taught: They added [subsequently to the aforementioned] a sword [in the hand], a crown [upon the head], or a ring [upon the finger].[5] A sword — at first it was thought to be just the emblem of a robber, but later it was interpreted as denoting that it has the power of slaying the whole world. A crown — at first it was thought to be just a woven wreath, but later it was interpreted as denoting a kingly crown. A ring — at first it was thought to be just an emblem of distinction, but later it was interpreted as denoting that it has the power of sealing [the fate of] the whole world for death.

RABBAN SIMEON B. GAMALIEl. SAYS etc. A Tanna taught: Even [if it has in its hand] a pebble or chip of wood. R. Ashi asked: How is it if it held excrement in its hand? Do we say that [the intention is that] it shows contempt for all people as though they were filth,[6] or perhaps [the meaning is] that it is held in contempt by all as though it were filth? The question remains unanswered.

MISHNAH. IF ONE FINDS FRAGMENTS OF IMAGES, BEHOLD THEY ARE PERMITTED. IF ONE FOUND THE FIGURE OF A HAND OR THE FIGURE OF A FOOT, BEHOLD IT IS PROHIBITED BECAUSE SUCH AN OBJECT IS WORSHIPPED.[7]

GEMARA. Samuel said: Even fragments of idols [are permitted]. But have we not learnt: FRAGMENTS OF IMAGES?[8] — The same law applies even to fragments of idols. And the reason the Mishnah uses the phrase FRAGMENTS OF IMAGES is because of the intention to continue with the teaching: IF ONE FOUND THE FIGURE OF A HAND OR THE FIGURE OF A FOOT, BEHOLD IT IS PROHIBITED BECAUSE SUCH AN OBJECT IS WORSHIPPED.[9]

We learnt [in the Mishnah]: IF ONE FOUND THE FIGURE OF A HAND OR THE FIGURE OF A FOOT, BEHOLD IT IS PROHIBITED BECAUSE SUCH AN OBJECT IS WORSHIPPED. But why [should they be prohibited]?

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(1) And not to be worshipped.

(2) Because villagers do not spend money on statues just as ornaments.

(3) Since there it is uncertain whether they are ornamental or for worship.

(4) Lit., 'it rules itself beneath the whole world' etc. The purpose is to avoid saying that an idolatrous image has sway over the world. Similarly with the phrases that follow.

(5) As symbols disqualifying the image.

(6) In which case the image would be prohibited for any use whatsoever.

(7) Elmslie, a.I., suggests that Asklepios, the god of healing, was often thanked by invalids for their cure by the presentation of an image of the part of the body which had been affected.

(8) Which presumably excludes 'fragments of idols'.

(9) If the Mishnah had used 'idols' in the first clause, the second might have been understood in the sense that only the figure of a hand or foot of an idol is prohibited. By using 'images' in the first clause, it is clear that the figure is prohibited even if it had belonged to an image and not an idol; but other fragments, even those of an idol, are permitted.

Talmud - Mas. Avodah Zarah 41b

They are only fragments! — Samuel explained that [the prohibition only applies when the hand and foot] are set upon their base.[1]

It has been stated: If an idol was broken of its own accord,[2] R. Johanan said that [its fragments] are prohibited, and R. Simeon b. Lakish said that they are permitted. R. Johanan said that they are prohibited because [the idol] has not been annulled.[3] R. Simeon b. Lakish said that they are permitted because [the owner] certainly annuls [the idol] without expressly doing so by saying, 'It could not save itself, so how can it save me!'

R. Johanan quoted against R. Simeon b. Lakish: And the head of Dagon and both the palms of his hands lay cut off . . . Therefore neither the priests of Dagon, nor any that come into Dagon's house, tread etc.![4] — He replied to him: Can any proof [be brought] from there? In that passage [we learn] that they abandoned Dagon and worshipped the threshold; because, said they, the divinity left Dagon and went and settled itself upon the threshold.[5] [R. Johanan then] quoted against him: IF ONE FINDS FRAGMENTS OF IMAGES, BEHOLD THEY ARE PERMITTED — consequently, fragments of idols are prohibited! — [R. Simeon replied:] Do not deduce that fragments of idols are prohibited, but deduce that the images themselves [when whole] are forbidden, and the anonymous statement in the Mishnah is the view of R. Meir.[6]

Now as to R. Johanan, are we not to infer from the view of R. Meir what is the opinion of the Rabbis: Did not R. Meir say that images are prohibited but the fragments of images are permitted? Hence likewise, according to the Rabbis, while an idol itself is prohibited, its fragments are permitted?[7] — But is the analogy correct? There [in the case of images] they were perhaps worshipped or perhaps not; and even if you assume that they had been worshipped, perhaps they had been annulled. But in the case of an idol, it has certainly been worshipped; and who can say whether it has been annulled? Consequently there is a doubt[8] and a certainty,[9] and a doubt cannot set aside a certainty.[10]

And cannot a doubt set aside a certainty? Behold it has been taught: If a haber[11] died and left a store-room full of fruits even if they are only then due to be tithed,[12] they are presumed to have been properly treated.[13] Now here it is certain [that the fruits were once] untithed and there is a doubt whether he had tithed them or not; yet the doubt does set aside the certainty![14] [No] here it is a case of certainty and certainty, because it is regarded as certain that he had tithed the produce, according to the teaching of R. Hanina of Hozae.[15] For R. Hanina of Hozae said: It is presumed with a haber that he does not allow anything to pass out of his control unless it had been properly treated. Or if you wish I can say that it is a case of doubt and doubt, as he might have acted according to [the advice of] R. Oshaia who said: A man may act cunningly with his produce and store it together with the chaff, so that his cattle may eat of it and it become exempt from the tithe.[16]

And cannot a doubt set aside a certainty? Behold it has been taught: R. Judah said: It once happened that a female slave

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(1) I.e., they are not part of an image but a separate object upon a base. The presumption then is that it is an idolatrous object.

(2) By falling, and was not shattered by human action.

(3) An idol could he annulled only by a wilful act of desecration on the part of an idolater.

(4) I Sam. v. 4 f. Consequently they reverenced the fragments.

(5) On the idea of sanctity attached to the threshold, v. H.C. Trumbull, The Threshold Covenant. This passage, with its parallel in the J. Talmud, is quoted by Jast. on p. 308.

(6) Although in Mishnah I he prohibits all images, yet he teaches in the first clause of Mishnah II that the fragments are permitted.

(7) Why, then, does R. Johanan forbid the use of the fragments of idols?

(8) Whether the idol was deliberately broken or fell of its own accord.

(9) That it was an idol and had been worshipped.

(10) For this reason the fragments of idols are prohibited, though those of images are permitted.

(11) V. Glos.

(12) Lit., ‘sons of their day’. The time varies with the different kinds of produce. V. Ma'as. I, 2 ff.

(13) And the tithe removed.

(14) Because on the strength of the owner's reputation it is assumed that he had tithed the produce.

(15) A district East of the Tigris.

(16) Corn, in order to become liable to the tithe, must he winnowed before it is brought into the store-room within the house (v. B. M. 88a). If brought in unwinnowed, it need not be tithed, though according to Rabbinic ruling, while cattle may feed on it, it may not he used for human consumption without the tithe having been removed. Accordingly, there is a doubt (Biblically) whether the produce was liable to the tithe, and assuming that a haber would not allow anything to pass out of his control unless it had been properly treated, the Rabbis waived aside their reservation in this case.

Talmud - Mas. Avodah Zarah 42a

of a certain tax-collector in Rimmon[1] threw the body of a premature child into a pit, and a priest[2] came and gazed [into the pit] to ascertain whether it was male or female.[3] The matter came before the Sages and they pronounced him clean[4] because weasels and martens are commonly found there.[5] Now here is a certainty that the woman had cast a premature child [into the pit], and a doubt whether [animals] dragged it elsewhere or not; yet the doubt sets aside the certainty! — Do not say ‘she cast a premature child into a pit’ but ‘she cast a kind of embryo into a pit.[6] But it is stated [that the priest gazed] to ascertain whether it was male or female![7] — It must be understood thus: [he gazed] to ascertain whether she had aborted wind[8] or cast a premature child [into the pit]; and if you assume that she threw a premature child there, [he gazed] to ascertain whether it was male or female. Or if you wish I can say that since weasels and martens are commonly found there, they certainly dragged it elsewhere.

[R. Johanan] quoted against [R. Simeon b. Lakish]: IF ONE FOUND THE FIGURE OF A HAND OR THE FIGURE OF A FOOT, BEHOLD IT IS PROHIBITED BECAUSE SUCH AN OBJECT IS WORSHIPPED. Why [should they not be permitted]? They are only fragments![9] But surely Samuel explained that [the prohibition only applies when the hand and foot] are set upon their base.[10]

[R. Johanan further] quoted against [R. Simeon]: An idolater can annul an idol belonging to himself or to another idolater, but an Israelite cannot annul the idol of an idolater.[11] Why [should not an Israelite be able to annul it]? Let it be considered the same as an idol which was broken of its own accord! — Abaye said: [The Mishnah refers to a case] where he only defaced the idol.[12] And supposing he only defaced it, what of it? Behold we have learnt: If he defaced it, although there was no reduction in the mass of the material, it is annulled![13] — This rule only applies when an idolater defaced it in this manner, but if an Israelite did so it is not annulled.[14] Raba, however, said: In reality when an Israelite only defaces it, it is also annulled; but it was feared that he might lift it up[15] and then annul it. In that event it would be an idol in the possession of an Israelite, and an idol which is in the possession of an Israelite can never be annulled.

[R. Johanan further] quoted against [R. Simeon]: If an idolater brought stones from [the statue of] Mercurius and used them for paving roads or theatres, they are permitted [to be walked on by an Israelite]; but if an Israelite brought stones from [the statue of] Mercurius and used them for paving roads or theatres, they are prohibited.[16] But why [are they not permitted]? Let them be considered the same as an idol which was broken of its own accord! — This case has also to be explained according to the exposition of Raba.[17]

[R. Johanan further] quoted against [R. Simeon]: If an idolater chipped off an idol to make use of the pieces, it and the pieces are permitted, and if he did so to embellish it, it is prohibited but its pieces are permitted; but if an Israelite chipped off an idol, whether to make use of the pieces or for its embellishment, it and the pieces are prohibited.[18] Now why [are they not allowed]? Let them be considered the same as an idol which is broken of its own accord! — This case has also to be explained according to the exposition of Raba.

[R. Johanan further] quoted against [R. Simeon]: R. Jose says: He may grind [an idol] to powder and scatter it to the wind or throw it into the sea. They said to him: Even so it may then become manure, and it is stated, And there shall cleave nought of the devoted thing to thine hand.[19] Now why [is it not permitted]? Let it be considered the same as an idol which is broken of its own accord! — This case has also to be explained according to the exposition of Raba.

[R. Johanan further] quoted against [R. Simeon:] R. Jose b. Jasian says: If he found the figure of a dragon with its head cut off, should there be a doubt whether an idolater or an Israelite had mutilated it, it is permitted; but if it is certain that an Israelite had mutilated it, it is prohibited. But why? Let it be considered the same as an idol which is broken of its own accord! — This case has also to be explained according to the exposition of Raba.

[R. Johanan further] quoted against [R. Simeon]: R. Jose says: Nor may vegetables [be planted beneath an Asherah] in winter because the foliage falls upon them.[20] But why? Let it be considered the same as an idol which is broken of its own accord! — It is different in this case because the basic part of the idol remains.[21]

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(1) A Biblical town south of Jerusalem.

(2) He would be well versed in the laws of defilement.

(3) To determine the duration of the woman's impurity, which was twice as long in the case of a female child (Lev. XII, 2 ff.).

(4) By bending over the pit, the kohen may have contracted impurity through the presence of the dead body.

(5) In pits. The Rabbis presumed that the animals had devoured it or dragged it elsewhere. For that reason they declared the priest to be clean (Tosef. Oh. XVI).

(6) A. Judah's statement is amended. There is a doubt whether the embryo was sufficiently developed to cause defilement to the priest.

(7) Consequently it must have been sufficiently developed to defile.

(8) I.e , an undeveloped embryo; in that event she does not become impure.

(9) v. supra. This refutes the view of R. Simeon b. Lakish that idol-fragments are permitted.

(10) But ordinary idol-fragments are permitted.

(11) V. infra 52b.

(12) Knocked it with a hammer out of shape without breaking off any part of the material.

(13) V. infra 53a.

(14) And it cannot be compared to an idol which fell in pieces of itself, because the effect of the falling produced in the mind of the heathen, viz., it cannot save itself', is more devastating than 'when he knows that a Jew had defaced it. But when a Jew breaks off a piece to annul it, it is considered as if it broke of its own accord and is permitted.

(15) In order to deface it; and the act of raising caused it technically to become the property of the Jew.

(16) V. infra 50a, b. So the fragments may not be used!

(17) viz., the raising of the stones constitutes an act of possession.

(18) V. infra 49b.

(19) Deut. XIII, 18. The passage is cited from the Mishnah 43b.

(20) V. infra 48b.

(21) Although the leaves fell, the tree used for idolatrous worship still exists; for that reason the foliage is prohibited as manure.

Talmud - Mas. Avodah Zarah 42b

But there is [the analogous instance] of chips where the basic part of the idol remains, and it was taught [above]: 'If he did so to embellish it, it is prohibited but its pieces are permitted'! — R. Huna the son of R. Joshua said: [There is a difference] because an idol cannot be annulled by a natural cause.[1]

R. Simeon b. Lakish quoted against R. Johanan: If there be a bird's nest upon the top of a tree which had been dedicated to the Sanctuary, no use may be made of it;[2] but if wrongful use of it had been made the law of trespass[3] does not apply to it. [If, however, the nest be] on top of an Asherah, he knocks it off with a stick![4] Now it is to be assumed [is it not? that the case dealt with here] is, for example, where [the bird] broke twigs from the Asherah and built a nest of them; and yet it is taught: He knocks it off with a stick![5] [No:] We are dealing here with the case where, for example, [the bird] brought twigs from all sorts of places[6] and built a nest of them. This conclusion is proved to be correct from the fact that in connection with [a tree] dedicated to the Sanctuary it is stated: No use may be made of it, but if wrongful use had been made of it the law of 'trespass' does not apply to it. Now this is quite right, if you say that [the bird] brought twigs from all sorts of places, that it is stated in connection with a tree dedicated to the Sanctuary: No use may be made of it, but if wrongful use had been made of it the law of 'trespass' does not apply to it. 'No use may be made of it' according to Rabbinical ruling,[7] 'and no law of "trespass" applies to it' — according to the law of the Torah because [the twigs] were not dedicated to the Sanctuary. But if, on the other hand, you say that [the bird] broke twigs from that tree [which had been dedicated] and built a nest with them, why is there no 'trespass' since they were dedicated to the Sanctuary!

Does this prove anything?[8] Here we are dealing with the circumstance where [the bird used twigs] which grew after [the tree had been dedicated to the Sanctuary], and he holds that there is no 'trespass' involved [if a wrongful use is made of] the after-growth![9] R. Abbahu said in the name of R. Johanan: What means 'he knocks off'? He knocks [the nest down] to get the young birds.[10] R. Jacob said to R. Jeremiah b. Tahlifa: I will make the cited passage clear to you: As for young birds, 'they may be used in any event;[11] as for eggs they are prohibited in any event.[12] R. Ashi said: But young birds which need the care of their mother[13] are considered to be like eggs [and are not permitted].

MISHNAH. IF ONE FINDS UTENSILS UPON WHICH IS THE FIGURE OF THE SUN OR MOON OR A DRAGON,[14] HE CASTS THEM INTO THE SALT SEA.[15] RABBAN SIMEON B. GAMALIEL SAYS: IF IT IS UPON PRECIOUS UTENSILS THEY ARE PROHIBITED, BUT IF UPON COMMON UTENSILS THEY ARE PERMITTED.

GEMARA. Is this to say that [the heathens] worship these objects and no others? [Against such a conclusion] I cite the following: If one slaughters an animal in the name of seas, rivers, a desert, the sun, moon, stars and planets, Michael the great Prince[16] or a tiny worm, behold these come within the category of ‘sacrifices to dead objects’![17] — Abaye explained: As to worshipping they might worship whatever they take hold of; but in regard to the making of images for worship, they do so only of these three objects [enumerated in the Mishnah] which are specially honoured by them; but as for the other figures, they only make them for ornamental purposes.

R. Shesheth used to collect difficult extra-Mishnaic passages and expound them:[18] [Pictures of] all the planets are permissible except that of the sun and moon; of all faces are permissible except that of a human face; and of all figures are permissible except that of the dragon.

The Master said: ‘[Pictures of] all the planets are permissible except that of the sun and moon.’ With what are we dealing here? Shall I say with the making of them? If it is with the making of them, are any of the planets allowed, seeing that it is written, Ye shall not make with Me[19] — i.e., ye shall not make according to the likeness of My attendants who serve before Me in the heights![20] Obviously, then, it must refer to finding them,[21] and it is in accord with our Mishnah: IF ONE FINDS UTENSILS UPON WHICH IS THE FIGURE OF THE SUN OR MOON OR A DRAGON, HE CASTS THEM INTO THE SALT SEA. If, then, it refers to finding them, consider the middle clause: ‘Of all faces are permissible except that of a human face.’ Now if this refers to finding them, is the picture of a human face prohibited? Surely we have learnt: IF ONE FINDS UTENSILS UPON WHICH IS THE FIGURE OF THE SUN OR MOON OR A DRAGON, HE CASTS THEM INTO THE SALT SEA. Which implies that [he does this] to the figure of a dragon but not to the picture of a human face! Obviously, then, it must refer to making them, and it is in accord with the view of R. Huna the son of R. Joshua.[22] If, then, it refers to making them, consider the last clause: ‘Of all figures are permissible except that of the dragon.’ Now if this refers to making them, is the image of a dragon prohibited seeing it is written, Ye shall not make with Me gods of silver or gods of gold

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(1) In the course of nature the foliage falls; but to chip a piece off an idol has to be a conscious act on the part of a human being.

(2) For secular purposes.

(3) V. Lev. V, 15.

(4) He is permitted to use the material of the nest as fuel. He may not climb the Asherah to get it, because he would then be making use of an idolatrous object (Me'i, III, 5).

(5) And uses it as fuel; which proves that fragments of an idol may be used, as against the view of R. Johanan.

(6) But not from an Asherah or dedicated tree, and it is for this reason that its nest may be used as fuel.

(7) Which made the law stricter from fear that if the twigs were used the tree itself might be used.

(8) Now R. Simeon b. Lakish will demonstrate that no support can be derived from this extract for R. Johanan's view because the analogy is false.

(9) Since the tree and not the after-growth was dedicated.

(10) It is objected to the foregoing argument that it is based on a misunderstanding of the extract quoted. It has nothing to do with using the nest as fuel; but as against a possible view that since the nest is on a tree which may not be used, the young birds in the nest there are likewise forbidden for fear the tree itself might be used, it is maintained that he may knock the nest from the tree to secure the pigeons.

(11) Whether the nest be on a dedicated tree or an Asherah, because the birds can fly away and do not require the tree.

(12) Because use is made of the tree as a resting-place for the eggs and there is a likelihood that the man might be making use of the tree.

(13) They are unable to fly away and need the security of the nest on the tree.

(14) The figure referred to was in the form of a pendant attached to the utensil. The device of a dragon was commonly carried upon the standards of the Roman legions. See the illustration in Seyffert, Dict. of Classical Antiquities. p. 586. [On the worship of the 'Dragon', v. Elmslie, a. I.]

(15) I.e., the Dead Sea, It is an expression denoting utter destruction.

(16) The Archangel.

(17) Cf. Ps. CVI, 28. Hul. 40a.

(18) There follows an example of a difficult Baraitha with his exposition.

(19) Ex. XX, 23.

(20) And all the planets serve God in heaven.

(21) If they are found one may use them, except figures of the sun and moon.

(22) Who explained Ex. XX, 23, as referring to man as made in the image of God and not His attendants. V. infra 43b.

Talmud - Mas. Avodah Zarah 43a

[implying,] these are [prohibited] but not the image of a dragon![1] Obviously, then, it refers to finding them, and it is in accord with our Mishnah: IF ONE FINDS UTENSILS UPON WHICH IS THE FIGURE OF THE SUN [or a dragon, they are prohibited]. Therefore the first and last clauses deal with the act of finding and the middle clause with the act of making! Abaye said: That is so, the first and last clauses deal with the act of finding and the middle clause with the act of making. Raba said: They all deal with the act of finding, and as for the middle clause it is the teaching of R. Judah.[2] For it has been taught: 'R. Judah also includes the picture of a woman giving to suck and Serapis.'[3] A woman giving to suck alludes to Eve who suckled the whole world; Serapis alludes to Joseph who became a prince [sar] and appeased [hefis] the whole world.[4] [The picture of Serapis is only prohibited when he is represented as] holding a measure and is measuring,[5] and that [of Isis] when she is holding a child and giving it to suck.[6]

Our Rabbis taught: Which is the figure of a dragon [that is prohibited]? — R. Simeon b. Eleazar explained: Such as has scales[7] between its joints. Upon this R. Assi commented: Between the joints of the neck. R. Hama son of Hanina said: The halachah is in accord with the view of R. Simeon b. Eleazar.

Rabbah b. Bar Hanah said in the name of R. Joshua b. Levi:I was once walking with the eminent R. Eleazar Hakkappar along the road, and he found a ring upon which was the figure of a dragon.[8] There passed by[9] a heathen child but he said nothing to him. Then there passed by an adult heathen and [R. Eleazar] said to him, 'Annul it,'[10] but he refused to do so; and he struck him until he annulled it. Draw three deductions from this: first, a heathen can annul an idolatrous object which belongs to himself or to a fellow-heathen;[11] secondly, if [the heathen] understands the nature of the idolatrous object and its mode of worship he can annul it, but if he is ignorant of its nature and mode of worship he cannot annul it;[12] and thirdly, force may be used to make a heathen annul the object. R. Hanina ridiculed [the foregoing statement, saying]: Does not the eminent R. Eleazar Hakkappar agree with the following teaching: If a person rescued something from a lion, bear, leopard, or from a robber,[13] a river, or from what the tide throws up, or the overflow of a river; or if a person finds something in a camp or main highway or in a place where many people congregated behold the object belongs to him because the owner despairs of recovering it![14] — Abaye explained: Granted that [the owner] despaired of recovering it, but did he despair of its sacred character?[15] He must have said [to himself]: If an idolater finds it he will worship it, if an Israelite finds it, since it is a valuable object, he will sell it to an idolater who will worship it.[16]

We have learnt elsewhere: R. Gamaliel had a picture of lunar diagrams in his upper chamber in the form of a chart hanging on the wall, which he used to show to the unlearned[17] and ask then', 'Did you see (the moon] thus or thus?'[18] But is [such a picture] allowed, for behold it is written, Ye shall not make with Me — i.e., ye shall not make according to the likeness of My attendants who serve before Me! — Abaye explained: The Torah only forbids the making of his attendants which can be reproduced in facsimile, according to the teaching: A man may not make a house after the design of the Temple, or a porch after the design of the Temple-porch, a courtyard after the design of the Temple-court, a table after the design of the table [in the Temple], or a candelabrum after the design of its candelabrum — He may, however, make one with five, six or eight [branches], but with seven he may not make it even though it be of other metals.[19] R. Jose b. Judah says: Also of wood he may not make it, because thus did the Hasmoneans make it,[20] [The Rabbis] said to him: Is any proof to be deduced from that? It consisted of metal staves overlaid with tin.[21] When [the Hasmoneans] grew rich they made one of silver, and when they grew still richer they made one of gold![22] And are His attendants which cannot be reproduced in facsimile allowed? For behold it has been taught: Ye shall not make with Me — i.e., ye shall not make according to the likeness of My attendants who serve before Me in the heights![23] — Abaye explained:

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(1) Since the dragon is not among the heavenly bodies.

(2) Who prohibits the use of utensils found with a human figure on them.

(3) Tosef. A.S. VI. The former indicates Isis; the latter is the Greek name for Osiris — both of them important Egyptian deities.

(4) During the seven years of famine. [The identification of Serapis with Joseph occurs frequently in writings of antiquity. V. Blaufuss, Gotter etc. p. 19.]

(5) In Seyffert, op. cit., p. 578, the modius or ‘measure’ is depicted as resting on the head of Serapis.

(6) See the illustration in Seyffert, op. cit., p. 325.

(7) [Or ‘hairs’ (v. Rashi). Dragons were believed to be bearded. V. Blaufuss, op. cit., p. 41.]

(8) He left it lying on the ground, since if he picked it up he could never have it annulled.

(9) Lit., ‘he found’.

(10) By doing some damage to the ring or treating it disrespectfully.

(11) Because the man annulled the ring which did not belong to him.

(12) For that reason he ignored the child (v. infra 57b), and that the man whom the Rabbi met knew the nature of the symbol on the ring was evidenced by his refusal at first to annul it.

(13) In B.M. 24a the reading is ‘a panther’.

(14) It may therefore be assumed that the owner of the ring, having given up hope of finding it, must have annulled it, why then, did the Rabbi go to the trouble of having it annulled?

(15) Being preserved by the finder.

(16) On that account the Rabbi rightly had the ring annulled before he picked it up.

(17) Who came to report that they had seen the new moon.

(18) R.H. 24a.

(19) That in the Temple had seven branches and was of gold.

(20) When they recaptured and purified the Temple.

(21) Some MSS. read: ‘with wood’.

(22) Consequently the wooden candelabrum was only temporary; so why should it be forbidden to make a wooden reproduction?

(23) From which it may be inferred that even such as cannot be reproduced in facsimile are forbidden.

Talmud - Mas. Avodah Zarah 43b

The Torah only prohibited the making of the likeness of the four faces together.[1] According to this, a human face by itself should be permitted; so how can it have been taught: ‘Of all faces are permissible except that of a human face’! — R. Judah the son of Rab Joshua said: From the discourse of R. Joshua[2] I learnt: Ye shall not make itti [‘with me’] — [this should be rendered as though it was] ‘ye shall not make Me’ [othi],[3] but the other attendants are permitted.

But are the other attendants permitted? Behold it has been taught: Ye shall not make with Me, i.e., ye shall not make according to the likeness of My attendants who serve before Me in the heights, as, e.g., the Ophannim, Seraphim, holy Hayyoth and Ministering Angels![4] — Abaye explained: The Torah only prohibited the reproduction of the attendants who are in the highest stratum.[5] Are, then, those in the lower stratum permitted? Behold it has been taught: That is in heaven[6] — this is to include the sun, moon, stars and planets; above this is to include the Ministering Angels! — That teaching alludes to serving then.[7] But if it is a matter of serving them, even a tiny worm is also [prohibited]! — That is so, and [the thought] is derived from the continuation of the verse; for it has been taught: Or that is in the earth — this is to include seas, rivers, mountains and hills; beneath — this is to include a tiny worm. But is the mere making of them permitted?[8] Behold it has been taught: Ye shall not make with Me, i.e., ye shall not make according to the likeness of My attendants who serve before Me in the heights, as, e.g., the sun, moon, stars and planets! — It was different with R. Gamaliel because others[9] made [the chart] for him.

But there is the case of Rab Judah for whom others made [a design on a ring], and Samuel said to him, ‘You clever person![10] Blind its eyes!’[11] In this instance it was a ring whose signet was cut in relief and on account of suspicion [that it might be worshipped Samuel objected to it]; for it has been taught: It is forbidden to put on a signet-ring which is cut in relief but it is allowed to seal with it; and if the signet is cut in, one may put the ring on but not seal with it. Do we, however, take into account the suspicion [that an object might be worshipped]? Behold in the Synagogue of Shaph-weyathib[12] in Nehardea a statue was set up; yet Samuel's father and Levi entered it and prayed there without worrying about the possibility of suspicion! It is different when there are many people together.[13] But R. Gamaliel was a single individual![14] — Since he was President of the Community many persons were always found with him. Or if you wish I can answer that [his chart] was in sections.[15] As a further alternative I can answer that when it is for the purpose of study the matter is different; as it has been taught: Thou shalt not learn to do[16] — but thou mayest learn in order to understand and teach.

RABBAN SIMEON B. GAMALIEL SAYS etc. Which utensils are precious and which common? — Rab said: The precious are those which [have the figures] above the water,[17] the common those which have them under the water. Samuel said: Both these kinds are to be regarded as common,[18] but those are precious which are upon bracelets, nose-rings and signet-rings.[19] There is a teaching in agreement with Samuel: The precious utensils are those which [have figures] upon bracelets, nose-rings and signet-rings; the common those which have them upon kettles, pots, vessels for boiling water, sheets and towels.

MISHNAH. R. JOSE SAYS: HE MAY GRIND [AN IDOL] TO POWDER AND SCATTER IT TO THE WIND OR THROW IT INTO THE SEA. THEY SAID TO HIM, EVEN SO IT MAY THEN BECOME MANURE,[20] AS IT IS STATED, AND THERE SHALL CLEAVE NOUGHT OF THE DEVOTED THING TO THINE HAND.[21]

GEMARA. It has been taught: R. Jose said to [the Rabbis]: Has it not been stated, And I took your sin,

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(1) Of the heavenly creatures described in Ezek. I, 10, each of which hath four faces viz., of a man ,lion, ox and eagle.

(2) [Read with MS. M. ‘R. Huna b. R. Joshua . . . discourse of Abaye.’]

(3) And since man was made in God's image (Gen. I, 27) the reproduction of the human face is not allowed.

(4) V. Ezek. I.

(5) The Rabbis thought of heaven as divided into seven strata one above the other. V. Hag. 12b.

(6) Ex. XX, 4.

(7) Not making pictures of them.

(8) Without the intention of worshipping them.

(9) Non-Jews.

(10) [Lit.. ‘sharp. toothed’, v. B.B. (Sonc. ed.) p. 561, n. 14.]
(11) Deface the image; hence the fact that it had been made by others did not render it permissible.
(12) Either the name of a place or man. On the image in this Synagogue, v. Krauss, Synagogale Altertumer, pp. 214 ff.
(13) There is less likelihood of idolatrous worship.
(14) Yet nobody suspected him in connection with his lunar diagrams.
(15) And he only joined them together, when they formed a picture of the moon, in the presence of the witnesses who came to report to him. So he was not alone.
(16) Deut. XVIII, 9.
(17) The figures are on the upper part of the utensils.
(18) When they are used in connection with food or drink.
(19) They are only ornamental.
(20) And advantage would be derived from it contrary to the law.
(21) Deut. XIII, 18.

Talmud - Mas. Avodah Zarah 44a

the calf which ye had made, and burnt it with fire, and stamped it, grinding it very small, until it was as fine as dust; and I cast the dust thereof into the brook that descended out of the mount[1] They replied to him: Can any proof be adduced from this passage? Behold it states, And he strewed it upon the water, and made the children of Israel drink of it[2] — i.e he had no other intention than to test them as is done with women suspected of infidelity![3] R. Jose answered them: But has it not been stated, And also Maacah the mother of Asa the king, he removed her from being queen, because she had made at abominable image . . . he made dust of it, and burnt it at the brook of Kidron![4] They said to him: Can any proof be adduced from this passages seeing that the brook of Kidron is not a fertile place?[5] It is not! But it has been taught: [The blood of] the various [sacrifices] mingled in the conduit and flowed into the brook of Kidron and was sold to gardeners for manure, and by making an illegal use of it one becomes liable to bring a ‘trespass’ offering![6] — There were different kinds of sites there, some fertile and others not.

What means miplezeth [abominable image]? — Rab Judah said: [An object which] intensifies licentiousness [maphli’ lezanutha] as R. Joseph taught: It was a kind of phallus with which she had daily connection.

R. Jose said to [the Rabbis]: But has it not been stated, He brake in pieces the brazen serpent that Moses had made.[7] They replied to him: Can any proof be adduced from this passage? Behold it states, And the Lord said unto Moses, Make leka [‘thee’] a fiery serpent,[8] — ‘leka’ means ‘from what belongs to thee,’ and a man cannot render prohibited what is not his property![9] — In the affair [of the brazen serpent] there was really no necessity for it to have been broken in pieces,[10] but when [Hezekiah] saw that the Israelites were erring after it, he arose and destroyed it. [R. Jose] said to [the Rabbis]: But has it not been stated — And they left their images there, and David and his men took then away[11] — and what means, and David . . . took them away? — It is an expression for scattering, as R. Joseph translated[12] the word in the passage, Thou shalt fan them and the wind shall carry them away.[13] and we translate it: ‘Thou shalt winnow them and a wind will disperse them’! They replied to him: Can any proof be adduced from this passage? Behold it states, And they were burned with fire,[14] and since it is not written, ‘and he burnt them and took them away,’ conclude that took them away must be interpreted in the literal sense [and not as ‘scattered’]! Nevertheless the two verses are contradictory! — It is as R. Huna pointed out; for R. Huna objected: It is written, And David gave commandment, and they were burned with fire, and it is written, he took them away. There is no contradiction; the first passage refers to the time before Ittai the Gittite came, the latter to after his coming;[15] for it is written, And he took the crown of Malcam from off his head, and the weight thereof was a talent of gold.[16] But was that permissible since any advantage is prohibited [from an idol]? — R. Nahman explained: Ittai the Gittite came and annulled it. If the weight [of the crown] was a talent of gold, how could [David] have put it on? — Rab Judah said in the name of Rab: [The meaning is] that it was fit to rest upon David's head.[17] R. Jose son of R. Hanina said: There was a lodestone in it[18] which raised it up.[19] R. Eleazar said: [The meaning is] that there was a precious stone in it worth a talent of gold.

This I have had, because I kept Thy precepts[20] — what does this intend? — The following: as a reward for keeping Thy precepts, 'this' is a testimony on my behalf.[21] What was its testimony? — R. Joshua b. Levi said: He used to wear [the crown] in the place of the phylacteries and it fitted him. But it would be necessary for him to put on the phylacteries! R. Samuel son of R. Isaac said: There is sufficient room on the forehead to lay two sets of phylacteries.[22]

[It is written], Then he brought out the king's son and put upon him the Nezer and the testimony.[23] 'Nezer' — that is the 'crown'. [What is] 'the testimony'? — Rab Judah said in the name of Rab: It was a testimony to the house of David that whoever was eligible for the throne [the crown] fitted, but it would not fit anyone who was not eligible.

[It is written], Then Adonijah the son of Haggith exalted himself saying, I will be king.[24] Rab Judah said in the name of Rab: He exalted himself [thinking that the crown] would fit him, but it did not fit him. And he prepared his chariots, and horsemen, and fifty men to run before him. In what did their superiority consist? — It has been taught: All of them had had their spleen cut out and the soles of their feet hollowed.[25]

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(1) Ibid. IX, 21. So Moses had no scruple about throwing the dust into the water.

(2) Ex. XXXII, 20. Moses disposed of the dust in this way for a special purpose; so this is an exceptional case.

(3) Whose innocence was proved by means of the ordeal of drinking water mingled with dust from the floor of the Sanctuary (Num. V, 12 ff.).

(4) II Chron. XV, 16.

(5) So there could have been no practical purpose in scattering the dust there as manure, but on fertile ground it is forbidden to scatter it.

(6) V. Lev. V,15. Since manure was used in the brook of Kidron, it must have been a fertile place.

(7) II kings, XVIII, 4.

(8) Num. XXI, 8.

(9) Consequently even if the Israelites did worship the serpent, it was not an idol which could be prohibited by Hezekiah, since it was technically the private property of Moses' heirs.

(10) Because for the reason just mentioned there was no infringement of the law.

(11) II Sam. V, 21.

(12) [The edition of the Targum to the Prophets is ascribed to him.]

(13) Isa. XLI, 16. Here carry away clearly means their being scattered.

(14) I Chron. XIV, 12.

(15) Being a heathen (II Sam. XV, 19) he was able to annul the idols; so David countermanded his first order to have them burnt.

(16) II Sam. XII, 30. Malcam (Milcom) is the name of the Ammonite god. A talent was about 57 lbs. in weight.

(17) Not that he actually wore it.

(18) [Rashi omits 'in it'.]

(19) David sat beneath it, the appearance being that he was wearing it.

(20) Ps. CXIX, 56. The word 'this' alludes to the crown.

(21) V. infra.

(22) So David had room for the crown and phylacteries.

(23) II Kings, XI, 12.

(24) I Kings, I, 5.

(25) To make them swifter runners. Based on the literal meaning of he prepared, viz., 'he made'. V. Sanh. (Sonc. ed.) p. 115, nn. 11-12.

Talmud - Mas. Avodah Zarah 44b

MISHNAH. PROCLOS, SON OF A PHILOSOPHER,[1] PUT A QUESTION TO R. GAMALIEL IN ACCO WHEN THE LATTER WAS BATHING IN THE BATH OF APHRODITE.[2] HE SAID TO HIM, IT IS WRITTEN IN YOUR TORAH, AND THERE SHALL CLEAVE NOUGHT OF THE DEVOTED THING TO THINE HAND;[3] WHY ARE YOU BATHING IN THE BATH OF APHRODITE?' HE REPLIED TO HIM, WE MAY NOT ANSWER [QUESTIONS RELATING TO TORAH] IN A BATH.[4] WHEN HE CAME OUT, HE SAID TO HIM, 'I DID NOT COME INTO HER DOMAIN, SHE HAS COME INTO MINE.[5] NOBODY SAYS, THE BATH WAS MADE AS AN ADORNMENT FOR APHRODITE; BUT HE SAYS, APHRODITE WAS MADE AS AN ADORNMENT FOR THE BATH. ANOTHER REASON IS, IF YOU WERE GIVEN A LARGE SUM OF MONEY, YOU WOULD NOT ENTER THE PRESENCE OF A STATUE REVERENCED BY YOU WHILE YOU WERE NUDE OR HAD EXPERIENCED SEMINAL EMISSION, NOR WOULD YOU URINATE BEFORE IT. BUT THIS [STATUE OF APHRODITE] STANDS BY A SEWER AND ALL PEOPLE URINATE BEFORE IT. [IN THE TORAH] IT IS ONLY STATED, THEIR GODS[6] — I. E., WHAT IS TREATED AS A DEITY IS PROHIBITED, WHAT IS NOT TREATED AS A DEITY IS PERMITTED.

GEMARA. But how did [R. Gamaliel] act in this manner?[7] For Rabbah b. Bar Hanah has said in the name of R. Johanan: It is permitted to ponder [over matters of Torah] in any place except a bath and privy! Should you reply that he spoke to him in the vernacular,[8] behold Abaye has said: It is permitted to discuss secular subjects in the holy tongue, but it is forbidden to discuss holy subjects in the vernacular! A Tanna taught: When he came out, he replied to him, 'We may not answer [questions relating to Torah] in a bath.'[9]

R. Hama b. Joseph said in the name of R. Oshaia: R. Gamaliel made a fallacious reply to that general [Proclos], but I maintain that it was not fallacious. What was the fallacy? — Because he told him,[10] THIS [STATUE] STANDS BY A SEWER AND ALL PEOPLE URINATE BEFORE IT. And if people do urinate before it, what of it?[11] For Raba has said: Peor[12] proves [the contrary], because people evacuate in its presence every day but it is not annulled as a consequence. 'But I maintain that [R. Gamaliel's answer] was not fallacious,'[13] — because [in the case of Peor] such was the mode of its worship, but [with Aphrodite] it was not the mode of her worship.

Abaye said: [It can be shown that the reply was] fallacious from the fact that he told him, 'I DID NOT COME INTO HER DOMAIN, SHE HAS COME INTO MINE.' And if he had come into her domain, what of it?[14] For we learn: If an idol has a bath-house or garden, we may use either so long as it is not to the advantage [of idolatry],[15] but we may not use either if it is to its advantage![16] 'But I maintain that [R. Gamaliel's answer] was not fallacious,'[17] — because no token of recognition by R. Gamaliel was as valued as a token of recognition by other men.[18]

R. Shimi b. Hiyya said: [It can be shown that the reply was] fallacious from the fact that he told him, 'THIS [STATUE] STANDS BY A SEWER AND ALL PEOPLE URINATE BEFORE IT.' And if people do urinate before it, what of it? For we learn: If he spat before it, urinated before it, dragged it [in the dust] or hurled excrement at it, behold it is not annulled![19] 'But I maintain that [his answer] was not fallacious.' There [in the Mishnah just cited] the man may have been momentarily incensed against the idol and subsequently made his peace with it; but here [in the case of the Aphrodite image] it is constantly treated in this contemptuous manner.

Rabbah b. 'Ulla said: [It can be shown that the reply was] fallacious from the fact that he told him, 'NOBODY SAYS, THE BATH WAS MADE AS AN ADORNMENT FOR APHRODITE, BUT APHRODITE WAS MADE AS AN ORNAMENT FOR THE BATH. And if one said that the bath was made as an adornment for Aphrodite, what of it? For it has been taught: If one says, ‘This house is for an idol, this cup is for an idol,’ he has said nothing because there can be no dedication to an idol![20] ‘But I maintain that [his answer] was not fallacious.’ Granted that [the use of the bath] is not actually forbidden, it is nevertheless intended as an ornament [of the idol, and is consequently prohibited].

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(1) The word for ‘philosopher’ is doubtless a corruption of a proper noun (v. Bacher, Agada d. Tan., I, p. 86 n.).

(2) Baths were frequently adorned with statues of deities. v. Krauss, Tal. Arch., I, p. 218.

(3) Deut. XIII, 18.

(4) Owing to the nudity of the persons there.

(5) The bath existed before the image of Aphrodite was set up in it and it was constructed for general use.

(6) Deut. VII, 16; XII, 2.

(7) To answer him at all while in the bath.

(8) And not Hebrew, and therefore it it permissible.

(9) And while he was in there he made no reply at all. This is a more correct version than that given in the Mishnah.

(10) According to R. Oshaia.

(11) That would not annul the idol.

(12) The name of a heathen deity; v. Num. XXV, 3.

(13) What follows is in explanation of the vague statement of R. Hama.

(14) That the use thereof should then be prohibited.

(15) There is no payment or recognition of any kind for the use.

(16) Infra 51b.

(17) V. p. 221, n. 8.

(18) Since he was so eminent, the heathens would consider it an honour for him to use the bath gratis if it had really been dedicated to Aphrodite; so that if the bath had been there first it would have been impossible for him to have entered such a bath.

(19) Infra 53a.

(20) By word of mouth; it must be formally offered to the idol (Tosef. ‘Ar. IV).

Talmud - Mas. Avodah Zarah 45a

MISHNAH. IF IDOLATERS WORSHIP MOUNTAINS AND HILLS THESE ARE PERMITTED;[1] BUT WHAT IS UPON THEM[2] IS PROHIBITED, AS IT IS SAID, THOU SHALT NOT COVET THE SILVER OR THE GOLD THAT IS ON THEM.[3] R. JOSE THE GALILEAN SAYS: [IT IS STATED] THEIR GODS UP ON THE HIGH MOUNTAINS,[4] NOT THEIR MOUNTAINS WHICH ARE THEIR GODS, AND THEIR GODS UPON THE HILLS, NOT THEIR HILLS WHICH ARE THEIR GODS.[5] BUT WHY IS AN ASHERAH PROHIBITED?[6] BECAUSE THERE WAS MANUAL LABOUR CONNECTED WITH IT,[7] AND WHATEVER HAS MANUAL LABOUR CONNECTED WITH IT IS PROHIBITED. R. AKIBA SAID: LET ME EXPOUND AND DECIDE [THE INTERPRETATION] BEFORE YOU: WHEREVER YOU FIND A HIGH MOUNTAIN OR ELEVATED HILL OR GREEN TREE, KNOW THAT AN IDOLATROUS OBJECT IS THERE.[8]

GEMARA. But R. Jose the Galilean holds the same opinion as the first teacher [in the Mishnah]![9] — Rami b. Hama said in the name of R. Simeon b. Lakish: The issue between them is whether the covering on a mountain is identical with the mountain. The first Tanna holds that the covering on a mountain is not identical with the mountain and is prohibited, whereas R. Jose the Galilean holds that the covering on a mountain is identical with the mountain [and is permitted]. R. Shesheth said: All agree that the covering on a mountain is not identical with the mountain,

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(1) E.g., to quarry there or use the plants which grow on the slopes.

(2) If they had been adorned with precious metals.

(3) Deut. VII, 25.
(4) Ibid. XII, 2.
(5) He therefore holds that the mountains and hills are permitted.
(6) The text continues, and under every green tree, and R. Jose would not argue under the tree and not the tree itself!
(7) It had been planted by somebody for idolatrous worship, whereas mountains are the work of nature.
(8) I.e., neither the mountains nor what is upon them are prohibited, but only the object which is actually worshipped, as the passage is intended only to tell the people where they were likely to find the idols which they were commanded to destroy.
(9) Why, then, is his view separately expressed?

Talmud - Mas. Avodah Zarah 45b

and here they differ with regard to a tree which had been planted[1] and was subsequently worshipped. The first Tanna holds that a tree which had been planted and was subsequently worshipped is permitted, whereas R. Jose the Galilean holds that such a tree is prohibited. From where [is it deduced that R. Jose is of this opinion]? — From what he stated in the latter part of the Mishnah: BUT WHY IS AN ASHERAH PROHIBITED? BECAUSE THERE WAS MANUAL LABOUR CONNECTED WITH IT, AND WHATEVER HAS MANUAL LABOUR CONNECTED WITH IT IS PROHIBITED; and what does the phrase, WHATEVER HAS MANUAL LABOUR CONNECTED WITH IT, mean to include? It surely includes the case of a tree which had been planted and was subsequently worshipped.

R. Jose son of R. Judah likewise holds that a tree which had been planted and was subsequently worshipped is prohibited; for it has been taught: R. Jose son of R. Judah says: Since it is stated, Their gods upon the high mountains — and not the mountains which are their gods, Their gods upon the hills — and not the hills which are their gods, I might have [similarly] understood, Their gods under every green tree — and not the green tree itself which is their god, therefore there is a text to state, And burnt their Asherim with fire.[2] Why, then, is there need for the phrase, under every green tree? — This is required in accordance with the teaching of R. Akiba; for R. Akiba said: LET ME EXPOUND AND DECIDE [THE INTERPRETATION] BEFORE YOU:-WHEREVER YOU FIND A HIGH MOUNTAIN OR ELEVATED HILL OR GREEN TREE, KNOW THAT AN IDOLATROUS OBJECT IS THERE.[3]

What do the Rabbis make of, ‘and burn their Asherim with fire’?[4] — It is required to cover the case of a tree which had been planted in the first instance for idolatry.[5] And does not R. Jose son of R. Judah likewise require the same text for this rule? — Indeed so. Whence then does he derive his teaching that a tree which had been planted and was subsequently worshipped [is prohibited]? — He derives it from, and hew dawn their Asherim,[6] Which tree has its later growth[7] prohibited while its root is permitted? Answer that it is a tree which had been planted and was subsequently worshipped. But surely the teaching uses the phrase, ‘and burn their Asherim with fire’![8] — He employs the argument ‘if it had not been stated’ as follows: If it had not been stated, ‘and burn their Asherim with fire’, I would have said that, ‘and hew dawn their Asherim’, refers to a tree which had been originally planted for idolatry; but since it is written, ‘and burn their Asherim with fire’, the phrase, ‘and hew dawn their Asherim’, is superfluous; [so it must be employed] to refer to a tree which had been planted and was subsequently worshipped.

What do the Rabbis make of the phrase, ‘and hew down their Asherim’? — [They explain it] according to the view of R. Joshua b. Levi; for R. Joshua b. Levi said: The felling of idolatrous trees takes precedence of the conquest of the land of Israel,[9] but the conquest of the land of Israel takes precedence of the burning of idolatrous trees. For R. Joseph learned: Ye shall break dawn their altars[10] — and leave them,[11] and dash in pieces their pillars — and leave them. Can it enter your mind that they are to be left?[12] They must be burnt! — R. Huna said: [The meaning is,] Pursue [the enemy after breaking the altars and pillars] and then burn them [immediately afterwards]. Whence does R. Jose son of R. Judah derive this rule?[13] He derives it from, ye shall surely destroy[14] — destroy [by breaking them] and after [conquering the land] ye shall destroy [the Asherim by burning them]. How do the Rabbis [explain this phrase]? — They require it for the rule that when one destroys an idol he must eradicate every trace of it, Whence does R. Jose son of R. Judah [derive the rule] that he must eradicate every trace of it? — He derives it from, and ye shall destroy their name out of that place.[15] And how do the Rabbis [explain that phrase]? — That the idol must be renamed;[16] for it has been taught: R. Eliezer says: Whence is it that when one destroys an idol he must eradicate every trace of it? — There is a text to state, And ye shall destroy their name.

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(1) Not as an idol but to produce fruit.

(2) Deut, XII, 3.

(3) [This proves that R. Jose b. R. Judah prohibits the use of a tree that had been planted and subsequently worshipped, for otherwise he could have explained the phrase, ‘under’ every green tree as teaching that ‘the green tree itself which is their god’, if it had not been originally planted as an idol, is permitted.]

(4) Since they permit the trees that had not been planted for idolatrous worship.

(5) This, they agree, must not be used.

(6) Ibid. VII, 5, i.e., the tree must be cut down and not used, but its root is permitted.

(7) After the trunk bad been felled,

(8) To deduce the prohibition by R. Jose b. R. Judah of such a tree.

(9) As the Israelites marched through Canaan they must cut down these trees and leave the trunks to be burnt after the campaign was over.

(10) Deut. VII, 5.

(11) The Torah does not add: and burn them.

(12) They might be put together and worshipped!

(13) Since he applies this verse to a tree which had been planted and then worshipped.

(14) Ibid. XII, 2, lit., ‘destroy ye shall destroy.’

(15) Ibid. 3.

(16) When its name is attached to a shrine.

Talmud - Mas. Avodah Zarah 46a

R. Akiba said to him: But has it not been already stated, Ye shall surely destroy? If so, why is there a text to state, And ye shall destroy their name out of that place? — [Its purpose is to teach that] an idol must be renamed. It is possible to think [it may be renamed] for praise.[1] Can it enter your mind [that the renaming] is for praise? But it is possible to think [that the renaming may be] neither for praise nor contempt; therefore there is a text to state, Thou shalt utterly detest it, and thou shalt utterly abhor it.[2] How is it, then? If [the heathens] called it Beth Galya [house of revelation], call it Beth Karya [house of concealment]; if they called it ‘En Kol [the all-seeing eye], call it ‘En Koz [the eye of a thorn].

A tanna recited as follows in the presence of R. Shesheth: If idolaters worship mountains and hills, these latter are permissible but the worshippers [should be destroyed] with the sword; [if they worshipped] plants and herbage, these latter are prohibited but the worshippers [should be destroyed] with the sword. [R. Shesheth] said to him: Who tells you that? It must be R. Jose son of R. Judah who declared: A tree which had been planted and was subsequently worshipped is prohibited. But let [R. Shesheth] apply [the statement reported by the tanna] to a tree which had been planted for idolatry at the outset and [make it agree with the view of] the Rabbis! — This cannot enter your mind, because it states the analogy of a mountain: as with a mountain it was not planted for idolatry at the outset, so with this also it was not planted for idolatry at the outset.

It has been stated: If boulders become detached from a mountain, the sons of R. Hiyya and R.

Johanan [take different views];[3] one says that they are prohibited and the other that they are permitted. What is the reason of him who says they are permitted? — [The boulders are] like the mountain; and as the mountain is something with which no manual labour has been connected and is permitted, so these likewise have had no manual labour connected with them and are permitted. [But it may be argued] that a mountain is immovable![4] — The case of an animal will prove [the contrary].[5] [Here again it may be argued] that an animal [is only permitted] because it is an animate being! — The case of a mountain proves [the contrary].[6] Therefore the conclusion returns,[7] because the two examples[8] are dissimilar; but the point common to them both is that with neither has there been any manual labour and each is permitted. Consequently everything is permitted with which there has been no manual labour.

[But it may be argued that] the point common to them both is that they have not changed from their natural form![9] — [Well then, derive that a boulder is permitted by] an analogy drawn between an animal which has become blemished and a mountain;[10] or [it may be drawn] also between an unblemished animal and a withered tree.[11] As for him who prohibits [the boulders], it is because Scripture declares, Thou shalt utterly detest it, and that, shalt utterly abhor it — although it is possible to reason to the conclusion that they are permitted, yet do not draw that conclusion.[12]

It can be proved that it is the sons of R. Hiyya[13] who permit their use; because Hezekiah asked: How is it if a man set up an egg to worship it? This question must be understood in the sense that the man had the intention of worshipping it and did worship it; and the point of [Hezekiah's] query is whether the setting up of the egg is to be considered an action[14] or not. Consequently [his opinion must be that] if the man had not set it up, it is not prohibited [to be used].[15] Conclude, therefore, that it was the sons of R. Hiyya who permitted [the use of the boulders]! — No; I can always maintain that it was the sons of R. Hiyya who prohibited their use, because if the man worshipped [the egg], even though he had not set it up,[16] it would be prohibited [according to their view]; and the circumstance with which we are dealing here is where he set up an egg to worship but did not worship it. Now according to whom [is the question of its permissibility to be decided]? If according to him who says that the idolatrous object of an Israelite is prohibited forthwith, then it is prohibited;[17] if according to him who says [that such an object is not prohibited] until it has been actually worshipped, behold the man has not worshipped it![17] — No;[18] but it is necessary [to suppose the following case]: If he, e.g., set up an egg to worship but did not do so, and an idolater came and worshipped it [is it permitted] regard being had to what Rab Judah said in the name of Samuel:[19] If an Israelite set up a brick to worship [but did not do so] and an idolater came and worshipped it, it is prohibited. And [Hezekiah] asked thus the question: [Does he specify] a brick because its erection is conspicuous, but the law is otherwise with an egg;[17] or perhaps there is no difference? — The question remains unanswered.

Rami b. Hama asked: If a man worshipped a mountain, may its stones be used to build an altar [to God]?[20]

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(1) I.e., to give it a better-sounding name.

(2) Ibid. VII, 26.

(3) As to whether they may be used, the mountain had been worshipped.

(4) And a boulder is not fixed in the ground and therefore the two are not comparable, with the consequence that a boulder should not be permitted.

(5) Since it is not fixed in the ground; and yet, if it had been worshipped, it may be put to a secular use.

(6) Because it is inanimate and yet permitted.

(7) To what was stated at first, viz., the boulders are permitted.

(8) The mountain and the animal.

(9) And for that reason an animal or mountain is permitted; but this is not so with a boulder because it is now a movable object and should therefore be prohibited.

(10) If the animal, while unblemished, was worshipped, it may be used later if it became blemished. Therefore the criterion of not having changed its form cannot apply to the boulder.

(11) The latter, despite the change it has undergone in its condition, is permitted solely on the ground that the existence thereof, like that of the beast, is not due to human action.

(12) In order to carry out the strict law of Scripture and only allow what the Torah expressly permits. Therefore that reason must apply also to a boulder.

(13) Their names were Judah and Hezekiah.

(14) I.e., the effect of human labour.

(15) So it all depended upon whether there had been manual labour, and the same criterion applies to the boulders.

(16) And so there had been no manual labour. Consequently the illustrations of the boulder and egg are not analogous.

(17) And what was the point of Hezekiah's query?

(18) It is agreed that Hezekiah asked his question on the view of the one who holds that the idolatrous object of an Israelite must first be worshipped before it is prohibited.

(19) Infra 53b; the reading is ‘Rab’. (8) Since it is a small object.

(20) Is it analogous to an animal which has been worshipped? It cannot be offered to God but may be used by man.

Talmud - Mas. Avodah Zarah 46b

Does the law prohibiting the use in the divine Service of objects which have been worshipped apply to things fixed in the ground or does it not? And if you decide that this law does apply to things fixed in the ground, are objects necessary for the preparation of a sacrifice[1] analogous to the sacrifice or not?[2] — Raba said: It is an a fortiori conclusion: if the hire of a harlot is usable for secular purposes when it is an object which is not fixed in the ground, but is prohibited in the divine Service when it is an object fixed in the ground[3] (as it is written, Thou shalt not bring the hire of a harlot, or the wages of a dog[4] — consequently it is immaterial [with the divine Service] whether it is not fixed in the ground or is fixed), how much more must a worshipped object, whose use for secular purposes is prohibited when it is not fixed, be prohibited in the divine Service when it is fixed! R. Huna the son of R. Joshua said to Raba: The reverse conclusion may be deduced, thus: If a worshipped object may not be used for secular purposes when unfixed but is permitted in the divine Service when fixed (as it is said, Their gods upon the high mountains, not the mountains which are their gods — consequently it is immaterial whether it is for secular use or for the divine Service), how much more must the hire of a harlot which is usable for secular purposes when it is unfixed be permissible in the divine Service when it is fixed! And if [you would argue that this conclusion is inadmissible] because of the words, into the house of the Lord thy God,[5] they are required in accordance with this teaching: Into the house of the Lord thy God excludes a [red] heifer which does not enter the Sanctuary[6] — such is the statement of R. Eliezer; but the Sages say: Their purpose is to include plates of beaten gold.[7]

[Raba] replied to [R. Huna]: I reason from the lenient to the strict view and you reason from the strict to the lenient view; and the rule is that where it is possible to reason to both conclusions we argue to the strict view. R. Papa said to Raba: But is it a fact that where it is possible to reason to both conclusions we never argue to the lenient view? Behold there is the example of the sprinkling in connection with the Passover[8] on which R. Eliezer and R. Akiba differ; for R. Eliezer holds the strict view and makes the man liable [to bring the Paschal lamb] and R. Akiba holds the lenient view and absolves him.[9] And still R. Akiba argues for the lenient conclusion; for we have learnt: R. Akiba said: Rather conclude the reverse: if the sprinkling which is only (forbidden on the Sabbath] on account of shebuth[10] does not supersede the Sabbath, how much more must the act of slaughtering [the Paschal lamb which is a form of work prohibited] by the Torah not [supersede the Sabbath]![11] — [No;] in that matter R. Eliezer had himself taught him,[12] but had forgotten his own teaching; so R. Akiba came and reminded him of it. That is why [R. Akiba] said to him, ‘My master! do not make me an atonement in the time of judgment![13] Thus have I received the teaching from you: Sprinkling [is prohibited] on account of shebuth and it does not supersede the Sabbath.’[14]

Rami b. Hama asked: How is it if a man had worshipped standing-corn [in a field]; may it be subsequently used for meal-offerings? Does a change in form[15] (make permissible] what had been used for idolatrous worship or does it not have that effect? — Mar Zutra son of R. Nahman said: Come and hear: In cases where [animals] are prohibited from being offered upon the altar, their young are permissible for that purpose;[16] and in this connection it was taught that R. Eliezer forbids [the young as offerings].[17] But was it not stated on that subject; R. Nahman said in the name of Rabbah b. Abbahu:[18] The difference of opinion is over the circumstance where the animals had been unnaturally used and had then conceived,

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(1) As, e.g., the altar.

(2) If they are, then they cannot be used in the divine Service.

(3) Suppose he gave her a house, it may not be sold and the proceeds used for the purposes of the Sanctuary.

(4) Deut. XXIII, 19.

(5) Ibid.

(6) V. Num. XIX, 3. The red heifer was burnt outside the camp and only its ashes were used in the Sanctuary. Therefore the woman's hire may be used to purchase the animal.

(7) To decorate the walls of the Temple. These may not be purchased from her hire (Tosef. Par, I).

(8) I.e., a man had become defiled through contact with a dead body, and his seventh day, when he should be sprinkled with the water of purification occurred on the eve of Passover. If that day is the Sabbath, is the purification to be postponed?

(9) And they both employ the a fortiori argument. V. Pes. VI, 2.

(10) V. Glos.

(11) [Whereas R. Eliezer had previously argued to the effect that sprinkling supersedes the Sabbath.]

(12) Viz., R. Akiba, that in such a circumstance the sprinkling is forbidden on the Sabbath.

(13) I.e., do not say to me that my death be an atonement for my sins (v. Pes. 69a). In other words, do not show anger against me for contradicting your argument.

(14) In this illustration R. Akiba only employed his argument to refute his master's mistaken teaching. We have not, therefore, a genuine case against the rule quoted by Raba.

(15) The corn being now ground into flour.

(16) So by analogy the flour should be permitted.

(17) Hence the query propounded by Rami is a point of issue between Tannaim.

(18) Rashi corrects the text to: Raba said in the name of R. Nahman. In the parallel passage (Tem. 30b) the reading is: R. Huna b. Hinnena said in the name of R. Nahman.

but when they had conceived and then been unnaturally used, all agree that [the young] are forbidden [as offerings]?[1] Similarly here [with the standing-corn] it is analogous to the circumstance where the animals conceived and had then been unnaturally used.[2] Others declare that [Mar Zutra himself quoted the following statement of R. Nahman:] 'The difference of opinion is over the circumstance where the animals had been unnaturally used and then conceived, but when they had conceived and then been unnaturally used, all agree that [the young] are forbidden [as offerings]. Similarly here [with the standing-corn] it is analogous to the circumstance where the animals conceived and had then been unnaturally used,'[3] But is the analogy correct? In the one instance it was originally an animal[4] and now it is an animal, only the door had been closed in its face;[5] but in the other instance it was originally wheat and now it is flour!

R. Simeon b. Lakish asked: How is it if a man had worshipped a palm-tree, may its branch be used for the fulfilment of the commandment?[6] If it was a tree originally planted for idolatry the question does not arise, because it is prohibited even for secular use; but the question does arise with a tree which had been planted and subsequently worshipped. Now according to the view of R. Jose son of R. Judah,[7] [even then] the question does not arise because it is prohibited by him even for secular use; but the question does arise according to the view of the Rabbis.[8] How, then, is [the branch] to be regarded in connection with the fulfilment of a commandment; is it to be rejected in the divine Service or not? — When R. Dimi came[9] he said: [R. Simeon b. Lakish] asked the question in connection with an Asherah[10] which had been annulled: Does a disability continue in respect of commandments or not?[11] — You can solve this problem from what we have learnt: If one covered it,[12] and it became uncovered,[13] he is free from the obligation to cover it again; but if the wind covered it,[14] he is obliged to cover it himself. And Rabbah b. Bar Hanah said in the name of R. Johanan: This teaching only applies when the wind again uncovered it,[15] but if the wind did not again uncover it, he is free from the obligation to cover it. And we raised the question against this point of view: If the wind again uncovered it, what of it?[16] Since [the blood] has been obliterated [by the covering], it is obliterated [once for all]! Thereupon R. Papa said: This proves that a disability does not continue in respect of commandments.[17] But there is a question in connection with this very statement of R. Papa, viz., Is it quite clear to R. Papa that disability does not continue in respect of commandments either to take a lenient[18] or strict[19] view; or perhaps he is doubtful; and we apply [accordingly] this rule to the strict view only and not to the lenient?[20] — The question remains unanswered.

R. Papa asked: How is it if a man worshipped an animal; may its wool be used for blue thread? 'Blue thread' for what purpose? If it is for the blue material of the priests' [garments], that is dealt with in the question of Rami b. Hama![21] If it is for the blue thread of the zizith,[22] that is dealt with in the question of R. Simeon b. Lakish![23] — Quite so, there was no need [for R. Papa] to ask about this; but the reason why he raised the question is because there are other similar matters [about which he asked, viz.]: May its wool be used for blue thread, its horns for trumpets, the bones of its legs for flutes, its intestines for harp-strings?[24] According to him, who says that the basis of [Temple-] music is in the instrument, the question does not arise because these are certainly prohibited; but the question does arise according to him who says that the basis of [Temple-] music is in the mouth. Is, then, the purpose [of the instrument] only to sweeten the sound[25] and we may introduce them [when made of these materials], or perhaps even then it is prohibited? — The question remains unanswered.

Rabbah asked: How is it if a man worshipped a fountain; may its water be used for the drink-offerings? What is the point of his question? Is it whether the man worshipped his reflection [in the water],[26] or perhaps he worshipped the water itself?[27] He could, then, have put the same question about a bowl of water and its use for secular purposes![28] — Certainly [it is assumed] that he worshipped the water; and this is the point of his question: Did he worship the water which was in front of him and that water has flowed away,[29] or did he worship the whole stream of water? But can [water which has been worshipped] be prohibited at all; for behold R. Johanan said in the name of R. Simeon b. Jehozedek: Water which is public property is not prohibited [if an individual worshipped it]! — No, it was necessary [to ask the question] where it is water which wells up front the earth.[30]

MISHNAH. IF [AN ISRAELITE] HAS A HOUSE ADJOINING AN IDOLATROUS SHRINE AND IT COLLAPSED, HE IS FORBIDDEN TO REBUILD IT.[31] HOW SHOULD HE ACT? HE WITHDRAWS A DISTANCE OF FOUR CUBITS INTO HIS OWN GROUND AND THERE BUILDS. [IF THE WALL] BELONGED BOTH TO HIM AND THE SHRINE, IT IS JUDGED

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(1) Because the act was committed against the animal and its embryo.

(2) The flour being in the ears of corn when these were worshipped, it is therefore prohibited.

(3) [According to the first version, Mar Sutra expressed no opinion as to the use of the flour for offerings; in the second he forbids it.]

(4) When still an embryo.

(5) It had an existence as an animal while still in the womb.There had been no essential change as the effect of birth

(6) On the Feast of Tabernacles; v. Lev. XXIII, 40.

(7) He maintained that if a tree had been planted and afterwards worshipped its use is prohibited. V. supra 45b.

(8) Who oppose R. Jose b. R. Judah supra, loc. cit.

(9) From Palestine to Babylon.

(10) Consisting of a palm-tree.

(11) The disability in this case was removed when the Asherah was annulled so far as secular use is concerned: but does it continue when it is a question of using it to carry out a precept of the Torah?

(12) The blood of an animal or bird which had been slaughtered; v. Lev. XVII, 13.

(13) The wind blew the dust off.

(14) The wind blew dust over the blood in the first instance.

(15) After covering it in the first instance and it was not covered by the slaughterer.

(16) Why is a second covering necessary?

(17) [And when the disability is removed the precept, in this case the covering of the blood, must be fulfilled.]

(18) And permit the use of a branch for the ritual from an Asherah which has been annulled.

(19) And require the second covering of the blood.

(20) [And the branch of the Asherah which has been annulled cannot be employed for the precept.]

(21) When he asked whether the preparation of a sacrifice is analogous to the sacrifice, since the priestly garments are a preparation. V. infra 46b.

(22) V. Glos.

(23) Who asked whether the branch of an Asherah can be used in the Feast of Tabernacles.

(24) For the music in the Temple.

(25) To give an accompaniment to the vocal music.

(26) Then obviously it may be used because the water was not worshipped.

(27) It would then obviously be prohibited.

(28) If that was the point of his question; so why does he ask about a well and its use for drink-offerings?

(29) And consequently the fountain may be used even for divine Service.

(30) It is the property of an individual. The question remains unanswered.

(31) Because by rebuilding his house, he restores the wall of the shrine.

Talmud - Mas. Avodah Zarah 47b

AS BEING HALF AND HALF.[1] ITS STONES, TIMBER AND RUBBISH DEFILE LIKE A CREEPING THING,[2] AS IT IS SAID, THOU SHALT UTTERLY DETEST IT;[3] R. AKIBA SAYS: [IT DEFILES] LIKE A NIDDAH,[4] AS IT IS SAID, THOU SHALT CAST THEM AWAY AS AN UNCLEAN THING, THOU SHALT SAY UNTO IT,GET THEE HENCE.[5] AS A NIDDAH DEFILES [AN OBJECT] BY CARRYING IT, SO ALSO AN IDOLATROUS OBJECT DEFILES

BY ITS BEING CARRIED.

GEMARA. [But by acting as directed in the Mishnah], he enlarges the space for the shrine! — R. Hanina of Sura said: He should use [the four cubits] for constructing a privy. But it is necessary to safeguard modesty![6] — He should make a privy for use at night. But behold a Master has said: Who is modest? He who relieves himself at night in the same place where he relieves himself by day![7] And although we explain that [in that statement] the phrase ‘in the same place’ is to be understood as ‘in the same manner,’[8] still it is necessary to safeguard modesty! — He should, then, make [a privy] for children; or let him fence in the space with thorns and shrubs.[9]

MISHNAH. THERE ARE THREE TYPES OF SHRINES:[10] A SHRINE ORIGINALLY BUILT FOR IDOLATROUS WORSHIP — BEHOLD THIS IS PROHIBITED.[11] IF A MAN PLASTERED AND TILED [AN ORDINARY HOUSE] FOR IDOLATRY AND RENOVATED IT, ONE MAY REMOVE THE RENOVATIONS.[12] IF HE HAD ONLY BROUGHT AN IDOL INTO IT AND TAKEN IT OUT AGAIN, [THE HOUSE] IS PERMITTED.[13]

GEMARA. Rab said: If one worshipped a house, he has rendered It prohibited. Conclude, then, that he holds that an object which is not fixed in the ground and subsequently becomes fixed is like an unfixed object.[14] But the Mishnah deals with a shrine built [originally for idolatry]![15] — [The prohibition applies to a shrine] built [originally for idolatry] although nobody has yet worshipped in it, and to one in which somebody worshipped although he had not built it.[16] If that be so, the three types [mentioned in the Mishnah] should be four![17] — Since the reference is to the subject of annulment,[18] the erection [of a shrine] and worshipping there are considered one and the same thing. MISHNAH. THERE ARE THREE KINDS OF [IDOLATROUS] STONES:[19] A STONE WHICH A MAN HEWED ORIGINALLY TO SERVE AS A PEDESTAL [FOR AN IDOL] — BEHOLD THIS IS PROHIBITED. IF A MAN [MERELY] PLASTERED AND STUCCOED [A STONE] FOR IDOLATRY, ONE MAY REMOVE THE PLASTER AND STUCCO, AND IT IS THEN PERMITTED. IF HE SET AN IDOL UPON IT AND TOOK IT OFF, BEHOLD [THE STONE] IS PERMITTED.

GEMARA. R. Animi said: [It is only prohibited] if he plastered and stuccoed in the stone itself.[20] But surely it is, as we learn, analogous to a house; and[21] in the case of a house [the plastering] was not inserted into the material and yet it is prohibited![22] — Also with the house there is [that kind of plastering] in the space between the bricks. [Since, however, the Mishnah does not mention this,] may we not be dealing with the circumstance where he plastered [a house not for idolatry] and then re-plastered it [for idolatry]?[23] — Therefore, if R. Ammi's teaching is quoted it must be with reference to annulment,[24] and although the man plastered and stuccoed in the stone itself, if he removes the renovation, it is all right — For[25] what you might have said was that since he plastered and stuccoed in the material of the stone, it is analogous to a stone which had been originally hewn for idolatry and the whole of it is prohibited. He consequently informs us [that it is not so].

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(1) So he reckons his four cubits from half the wall's thickness.

(2) V. Lev. XI, 31. Even the debris of his own part of the wall defiles, because it cannot be clearly distinguished from that of the shrine.

(3) Deut. VII, 26.

(4) V. Glos and v. Lev. XV, 19 ff. This is more contaminating.

(5) Isa. XXX, 22. The Heb. word for unclean thing also denotes a woman in her time of uncleanness.

(6) When arranging for the construction of a privy, and here he is not allowed to put up a wall.

(7) Even at night he should go to a walled-in place.

(8) V. Ber. 62a.

(9) And use the space behind as a privy.

(10) With regard to the question of annulment.

(11) And must be annulled before it can be used.
(12) And then the house is permitted.
(13) No annulment is necessary.
(14) The materials were originally unfixed, but being built into the house are now fixed. Therefore the house is prohibited.
(15) Consequently if not built with that intention, it should not be prohibited.
(16) In either case it is forbidden, the Mishnah dealing only with one of the two cases — the former.
(17) There should be added a fourth category, viz., a shrine built for idolatry but not yet used for that purpose.
(18) And not prohibiting the house.
(19) With reference to annulment.
(20) It was not merely external ornamentation; but incisions had been made in the stone and plaster inserted.
(21) [Ms. M. omits 'surely . . . and'.]
(22) V. preceding Mishnah.
(23) In that case none of the new plaster penetrated, and yet the house is prohibited unless the stucco is removed.
(24) And not to prohibiting the stone.
(25) If R. Ammi had not given this explanation.

Talmud - Mas. Avodah Zarah 48a

MISHNAH. THERE ARE THREE KINDS OF ASHERAH: A TREE WHICH HAS ORIGINALLY BEEN PLANTED FOR IDOLATRY — BEHOLD THIS IS PROHIBITED. IF HE LOPPED AND TRIMMED [A TREE] FOR IDOLATRY,[1] AND ITS SPROUTED AFRESH, HE REMOVES THE NEW GROWTH. IF HE ONLY SET [AN IDOL] UNDER IT AND TOOK IT AWAY, BEHOLD THE TREE IS PERMITTED.

GEMARA. Those of the School of R. Jannai said: [When the Mishnah declares that he removes the new growth and then the tree is permitted,] it applies only when he trailed a branch and grafted it on the trunk of the tree.[2] But surely we learnt in the Mishnah: IF HE [MERELY] LOPPED AND TRIMMED![3] — Therefore if the statement of the School of R. Jannai is quoted it must be with reference to annulment,[4] viz., that although he trained a branch and grafted it on the trunk of the tree, if he removes the new growth [on the grafting], it is all right. For what you might have said was that since he trained a branch and grafted it on the trunk of the tree, it is like a tree which had been originally planted for idolatry and the whole of it is prohibited. Consequently we are informed [that it is not so].

Samuel said: If a man worshipped a tree, the branches which subsequently grow are also prohibited. R. Eleazar quoted against him: IF HE [MERELY] LOPPED AND TRIMMED [A TREE] FOR IDOLATRY, AND ITS SPROUTED AFRESH, HE REMOVES THE NEW GROWTH — therefore if he lopped and trimmed it the new growth is [prohibited] otherwise it is not! — Samuel could reply: Whose is [the teaching of the Mishnah]? It is the Rabbis',[5] whereas Samuel's view agrees with that of R. Jose b. Judah who said: If a tree was planted and subsequently worshipped it is prohibited. R. Ashi objected to this explanation: How do we know that R. Jose b. Judah and the Rabbis differ on the question of the new growth? Perhaps they all agree that it is prohibited, and it is on the question of [the permissibility of] the trunk itself that they are at variance! For R. Jose b. Judah holds that the trunk [of a tree which has been worshipped] is likewise prohibited[6] since it is stated, And burn their Asherim with fire, and the Rabbis hold that the trunk of the tree is permitted since it is stated, And hew down their Asherim-which tree has its hewn part prohibited while the trunk is permitted? Answer that it is a tree which had been planted and was subsequently worshipped! Should you retort to this: But we have not explained [the verses] in this way above![7] [I could reply:][8] Reverse the interpretation of the passages cited respectively by the Rabbis and R. Jose b. Judah![9] — [This is an impossible suggestion;] because if that were so, who taught the passage in the Mishnah: IF HE LOPPED AND TRIMMED?[10] It cannot be either the Rabbis or R. Jose b.

Judah; because according to the Rabbis, even if he did not lop and trim the tree, the new growth would still be prohibited, and according to R. Jose b. Judah even the trunk of the tree is prohibited! [No.] If you wish I can say that [the Mishnah agrees] with either the Rabbis or R. Jose b. Judah. I can say that it agrees with R. Jose b. Judah, because he maintained that the trunk is prohibited when the tree has not been lopped and trimmed,[11] but if the man lopped and trimmed it then he revealed that his intention was to worship the new growth and not the trunk.[12] I can likewise say that it agrees with the Rabbis, and [as to the phrase] IF HE LOPPED AND TRIMMED, It is necessary [to mention it] since I might have otherwise imagined that for the reason that he does this to the tree itself the trunk is also prohibited, Consequently we are informed [that the prohibition extends only to the new growth].[13]

MISHNAH. WHAT IS AN ASHERAH? ANY [TREE] BENEATH WHICH THERE IS AN IDOL. R. SIMEON SAYS: ANY [TREE] WHICH IS WORSHIPPED. IT HAPPENED AT SIDON[14] THAT THERE WAS A TREE WHICH WAS WORSHIPPED AND THEY FOUND A HEAP OF STONES BENEATH IT. R. SIMEON SAID TO THEM, ‘EXAMINE THIS HEAP.’ THEY EXAMINED IT AND DISCOVERED AN IMAGE IN IT, HE SAID TO THEM, ‘SINCE IT IS THE IMAGE THAT THEY WORSHIP, WE PERMIT THE TREE FOR YOU.’[15]

GEMARA. [The Mishnah asks:] WHAT IS AN ASHERAH? But we learnt above: There are three kinds of Asherah![16] — What he means is this: There is agreement about two kinds,[17] but in connection with the third there is a difference of opinion between R. Simeon and the Rabbis. [Therefore the Mishnah must he construed thus:] What is the Asherah about which R. Simeon and the Rabbis differ? Any [tree] beneath which there is an idol. R. Simeon says: Any [tree] which is worshipped.

How is an Asherah which is not specified as such [to be recognised]?[18] — Rab said: Any tree beneath which heathen priests sit but do not partake of its fruits.[19] Samuel said: Even if [the priests beneath it] say, ‘These dates are for a Christian place of worship,’[20] the tree is prohibited because[21] they brew an intoxicating liquor from them which they drink on their feast days. Amemar said: The elders of Pumbeditha[22] told me that the legal decision is in agreement with Samuel. [

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(1) I.e., to worship what would from then grow upon it.

(2) The Mishnah only refers to what grows on the grafted branch as being prohibited; and if he had merely trimmed the tree without grafting on to it, it would not be prohibited.

(3) And nothing is said about grafting.

(4) And not in connection with declaring the tree prohibited at the outset.

(5) Who allow a tree to be used if it was not originally planted for idolatry. (5) And the prohibition includes the new growth, v. supra 45b.

(6) Even when a tree was not originally planted for idolatry.

(7) Supra 45b. R. Jose used the text and hew down their Asherim exactly as the Rabbis do here. Consequently he does not differ from them on the permissibility of the trunk of a tree which had not been originally planted for idolatry, and the point of variance must be the new growth which the Rabbis permit and R. Jose prohibits.

(8) Since the interpretation of and burn their Asherim ascribed here to R. Jose is nowhere explicitly stated but was assumed to be his, the assumption may be wrong and he does differ from the Rabbis on the question of the trunk.

(9) Viz., R. Jose prohibits the root and the Rabbis permit it, but the Rabbis likewise prohibit the new growth and so Samuel agrees with their opinion.

(10) The implication being that if he did not lop and trim it, the new growth is permitted!

(11) [The text in current edd. is difficult, Rashi preserves the simpler reading, adopted in this rendering, v. a.l.]

(12) So in such a circumstance he prohibits the new growth and not the root.

(13) And so Samuel's view will agree both with R. Jose b. Judah and the Rabbis.

(14) A Biblical city in Phoenicia.

(15) Not ‘for them,’ as in the edd.

(16) The logical order would be first to define an Asherah and then enumerate the three kinds.
(17) First mentioned in the preceding Mishnah.
(18) How can it be distinguished from an ordinary tree?
(19) This is evidence that they worship the tree.
(20) Lit., 'for the house of Nizrefe', a cacophemistic disguise of Nozrae, 'the Nazarenes', (Jast.) [Ginzberg. L., MGWJ., LXXVII, regards it as the name of a Persian house of worship meaning 'the Asylum of Helplessness'.]
(21) Although they do not worship the tree.
(22) [By the elders of Pumbeditha are meant Rab Judah and R. 'Ena, v. Sanh. 17b.]

Talmud - Mas. Avodah Zarah 48b

MISHNAH. ONE MAY NOT SIT IN ITS SHADOW,[1] BUT IF HE SAT HE IS UNDEFILED. NOR MAY HE PASS BENEATH IT,[2] AND IF HE PASSED HE IS DEFILED. IF IT ENCROACHES UPON THE PUBLIC ROAD AND HE PASSED BENEATH HE IS UNDEFILED.[3]

GEMARA. [The Mishnah states:] ONE MAY NOT SIT IN ITS SHADOW — this is obvious![4] — Rabbah b. Bar Hanah said in the name of R. Johanan: There is no necessity to mention it but for the case of the shadow of its shadow.[5] Is it to be inferred that if he sat in the shadow corresponding to the height of the tree he is defiled? — No, because even if he sat in the shadow corresponding to the height of the tree he is also undefiled, yet we are informed that one may not sit even in the shadow of its shadow. There are some who apply this teaching to the continuation: BUT IF HE SAT HE is undefiled — this is obvious![6] — Rabbah b. Bar Hanah said in the name of R. Johanan: There is no necessity to mention it but for the case of the shadow corresponding to the height of the tree. Is it to be inferred that even ab initio he may sit in the shadow of its shadow? No; but we are informed that even if he sat in the shadow corresponding to the height of the tree he is undefiled.[7]

NOR MAY HE PASS BENEATH IT, AND IF HE PASSED HE IS DEFILED. What is the reason? — Because it is impossible that there should be no [remains] of idolatrous offerings there. Whose teaching is this? — It is that of R. Judah b. Bathyra; for it has been taught: R. Judah b. Bathyra says: Whence is it that an idolatrous offering communicates defilement within a space which is covered over? Because it is said, They joined themselves also unto Baal-Peor, and ate the sacrifices of the dead[8] — as a dead body communicates defilement in a space which is covered over, so an idolatrous offering communicates defilement in a space which is covered over.

IF IT ENCROACHES UPON THE PUBLIC ROAD AND HE PASSED BENEATH IT HE IS UNDEFILED. The question was asked: [Is the word to be read] 'passed' or 'passes'?[9] — R. Isaac b. Eleazar said in the name of Hezekiah: It should be 'passes', but R. Johanan said: [The reading is] IF HE PASSED; and yet there is no difference of opinion between them — One [has in mind] if there is another road,[10] and the other if there is not another road.

R. Shesheth[11] said to his attendant, 'When you reach there,[12] hurry me past.' How is this to be understood? If there was no other road, why need he say, 'Hurry me past, since it is permitted? If, however, there was another road, when he said, 'Hurry me past, was that permissible? Certainly there was no other road; but with an eminent man it is different.[13]

MISHNAH. THEY MAY SOW VEGETABLES BENEATH IT IN WINTER[14] BUT NOT IN SUMMER,[15] AND LETTUCE NEITHER IN SUMMER NOR WINTER.[16] R. JOSE SAYS: NOR MAY VEGETABLES [BE PLANTED] IN WINTER BECAUSE THE FOLIAGE FALLS UPON THEM AND BECOMES MANURE FOR THEM. GEMARA. Is this to say that R. Jose holds that a product of combined causes is prohibited[17] and the Rabbis hold that a product of combined causes is permitted? But we heard the reverse in connection with them, for we have learnt: R. Jose says: He may grind [an idol] to powder and scatter it to the wind or throw it into the sea. They said to him:

Even so it may then become manure, as it is stated, And there shall cleave nought of the devoted thing to thine hand![18] Here we have the Rabbis contradicting themselves and R. Jose contradicting himself![19] It is quite right, there is no contradiction in the teaching of R. Jose. In the case just cited since the man proceeds to destroy [the idol],[20] [R. Jose] permits [the use of the dust as manure]; but in the case [dealt with in our Mishnah], where he does not proceed to destroy [the idol], [the dust] is prohibited [as manure]. But the Rabbis contradict themselves! — Reverse [the statements in our Mishnah].[21] Or if you wish I can say that there is no need to reverse them.[22] The opinion of R. Jose is as we explained;[23] and that of the Rabbis is as R. Mari the son of R. Kahana said: What makes the hide valuable decreases the value of the meat.[24] Similarly here, the benefit gained through the foliage is lost by reason of the shade.[25]

Does, however, R. Jose hold that a product of combined causes is prohibited? Behold We have learnt: R. Jose says: We may plant a young shoot which is ‘orlah[26] but not a nut which is ‘orlah because it is fruit. And Rab Judah said in the name of Rab: R. Jose admits that if one planted [a nut which is ‘orlah] or trained and grafted [a young shoot which is ‘orlah on an old tree], [the fruit it grows] is permitted![27] It has been similarly taught R. Jose admits

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(1) Not the shade of the foliage but the shadow cast by the tree.

(2) I.e., beneath its branches; it then forms a tent over him and for that reason he is defiled.

(3) [The defilement involved is only due to Rabbinical ruling, and has not been extended by them to these cases.]

(4) Because he would be deriving advantage from a prohibited object.

(5) Viz., the additional shadow, beyond that corresponding to the height of the tree, which is cast when the soil is in the east or west. The true shadow of the tree is denser than is its extension through the slanting rays of the sun, and the thinner shade is the shadow of the shadow.

(6) He has not contracted defilement by touching the tree.

(7) If it is an accomplished fact.

(8) Ps. CVI, 28. V. supra, 42b,

(9) The point at issue is whether we are dealing here with an act which is disallowed ab initio but is condoned as an accomplished fact.

(10) Then it is not permitted to pass under an Asherah.

(11) He was blind.

(12) A place in his town where an Asherah overhung the public road.

(13) He interpreted the law for himself in a stricter sense than for an ordinary person. Although he was allowed to pass beneath the tree, he did so as quickly as possible.

(14) Lit., ‘the days of rain,’ which really occur in the late Autumn. The reason why sowing is then permitted is because the proximity of the tree is not beneficial to them at that season.

(15) Because the shade is helpful to their growth.

(16) Because the shade of the tree is helpful at all seasons.

(17) When one of the causes is itself prohibited. The Gemara is here dealing with the vegetables planted in winter. The manure is a prohibited cause, but the soil is permitted.

(18) V. supra 43b.

(19) The Rabbis here forbid the powder to be used as manure while R. Jose permits it.

(20) And the act of destruction is virtual annulment of the idol.

(21) Assign to the Rabbis the statement which is attributed to R. Jose.

(22) And still there is no contradiction.

(23) That he draws a distinction between the case dealt with in our Mishnah and that in regard to the destruction of the idol.

(24) If an animal dedicated to the Temple became blemished, it is sold and the proceeds are devoted to its treasury. But the hide is not to be flayed whole, as this would lessen the value of the fish which would be badly cut up in the process, and the gain in the enhanced value of the hide would be counterbalanced by the loss in the value of the flesh.

(25) While the fall of the leaves may be beneficial to the vegetables growing there, the shadow cast by the tree is to their detriment. So the gain is set off by the loss

(26) V. Glos.

(27) Despite the fact that one contributory cause, being ‘orlah, was prohibited. Rashi gives an alternative explanation: he planted the nut and grafted the shoot which grew from it on an old tree; but he prefers the former because, even without grafting, the shoot which grew from the nut is the effect of combined causes, viz., the nut which is prohibited and the soil which is permitted.

Talmud - Mas. Avodah Zarah 49a

that if he planted [a nut which is ‘orlah] or trained and grafted [a young ‘orlah shoot on an old tree], [the fruit it grows] is permitted.[1] And should you say that R. Jose makes a distinction [in respect of combined causes] between idolatry and other prohibitions[2] , does he really make this differentiation? Has it not been taught: If a field has been manured with the manure derived from an idolatrous source or a cow has been fattened on beans derived from an idolatrous source, one Tanna decides that the field may be sown and the cow slaughtered, while another decides that the field must lie fallow[3] and the cow grow lean? Is it not, then, that the former decision is that of R. Jose[4] and the latter that of the Rabbis?[5] — No, the former decision is that of R. Eliezer and the latter that of the Rabbis.[6]

Where have we [a difference between] R. Eliezer and the Rabbis on this question? Can I say it is [the difference] between them in the matter of leaven? For we have learnt: If common leaven and leaven of heave-offering fell into dough,[7] and in each there was an insufficient quantity to cause fermentation, but added together they caused fermentation, R. Eliezer says: I decide according to which [leaven entered the dough] last.[8] But the Sages say: Whether the disqualifying matter fell in first or last, [the dough] is not prohibited unless it is of a sufficient quantity by itself to cause fermentation.[9] And Abaye explained: The teaching [of R. Eliezer] only applies when he first removed the disqualifying matter.[10] but if he did not first remove the disqualifying matter, [the dough] is prohibited.[11] But whence do we know that R. Eliezer's meaning is that offered by Abaye; perhaps his meaning is to be derived from the words, ‘I decide according to which [leaven] entered [the dough] last,’ i.e., if it ended with what is forbidden then [the dough] is forbidden and if it ended with what is permitted then [the dough] is permitted, whether he first removed the disqualifying matter or not![12]

Rather is it [the difference] between R. Eliezer and the Rabbis on the question of the wood [of an Asherah]; for we learn: If one took pieces of wood from it, they are forbidden to be used. If he heated a new oven with them, it must be taken to pieces; [if he kindled] an old oven with them, it must be allowed to cool. If he baked bread [in an oven so heated], it is forbidden to be used, and if [the loaf] became mixed with other loaves, they are all prohibited. R. Eliezer says: Let him cast the advantage [he derives] into the Salt Sea. [The Sages] said to him: There is no redemption with an idol.[13] Now which Rabbis[14] differ from R. Eliezer? If I say it is the Rabbis [whose opinion has been quoted on the subject] of the pieces of wood, they take the stricter view![15] — Therefore it must be the Rabbis [whose opinion has been quoted on the subject] of the leaven.[16] But, then, even though you understood the Rabbis to take the lenient view in connection with leaven, does it follow that they take the lenient view in connection with idolatry![17] Surely, then, one opinion is R. Jose's and the other is the Rabbis’;[18] and R. Jose[19] is merely discussing the statement of the Rabbis, saying to them: According to my opinion, the product of combined causes is permitted; but according to you who maintain that the product of combined causes is prohibited, at least admit to me that[20] also [the sowing of] vegetables in winter [is prohibited]![21] But the Rabbis [make reply] as R. Mari son of R. Kahana stated.[22] Rab Judah said in the name of Samuel: The halachah agrees with R. Jose.

There was a garden manured with the manure obtained from an idolatrous source. R. Amram sent to R. Joseph [to know how to act with the fruits]. He replied to him: Thus said Rab Judah in the name of Samuel: The halachah agrees with R. Jose.

MISHNAH

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(1) This proves that R. Jose permits a product of combined causes.

(2) He prohibits the product of combined causes only when idolatry is a contributory cause, but not otherwise.

(3) Until the effect is the manure has passed.

(4) He allows the field to be sown exactly as he permitted the fruit from the ‘orlah.

(5) Who prohibit the grinding of an idol to powder, lest it be used for manure.

(6) And so nothing can be quoted of R. Jose inconsistent with his view that the regulation of combined causes only applies in connection with idolatry.

(7) For ordinary use.

(8) If the common leaven fell in last, the dough may be eaten by non-priests, otherwise it may not be eaten by them.

(9) ‘Orlah II, 11.

(10) Viz., the leaven of the heave-offering.

(11) Whichever fell in last. Consequently we have here an instance of combined causes; and since one of them is prohibited the effect is also prohibited, according to R. Eliezer; whereas according to the Sages it is permitted.

(12) In view of this uncertainty, it is not possible to derive from the illustration what R. Eliezer's view is on the question of combined causes.

(13) Quoted from the next Mishnah.

(14) Who permit the product of combined causes.

(15) Whereas the attempt is to show that R. Eliezer takes the stricter view on the question of combined causes.

(16) There they allow dough in which two kinds of leaven had fallen provided the leaven of the offering was insufficient to cause fermentation by itself.

(17) [And there is thus no proof that the above Baraitha which permits the product of combined causes in the case of idolatry will represent the view of these Rabbis.]

(18) The former maintaining that the product of combined causes is permitted, the latter that it is prohibited. [There is still no contradiction between the view of R. Jose given in the Baraitha and his ruling in our Mishnah.]

(19) In the Mishnah, on the subject of planting vegetables in winter.

(20) [The text is difficult and can only mean ‘admit to me that you have here a case of combined products’. Ms. M., however, omits ‘at least . . . that’.]

(21) Since the foliage, which is prohibited, is a contributory cause.

(22) supra 48b: the advantage derived from the foliage is counterbalanced by the shade cast.

Talmud - Mas. Avodah Zarah 49b

IF ONE TOOK PIECES OF WOOD FROM IT, THEY ARE FORBIDDEN TO BE USED — IF HE HEATED A NEW OVEN WITH THEM, IT MUST BE BROKEN TO PIECES;[1] [IF HE HEATED] AN OLD OVEN WITH THEM, IT MUST BE ALLOWED TO COOL.[2] IF HE BAKED BREAD [IN AN OVEN SO HEATED], IT IS FORBIDDEN TO BE USED, AND IF [THE LOAF] BECAME MIXED WITH OTHER LOAVES, THEY ARE ALL PROHIBITED,[3] R. ELIEZER SAYS: LET HIM CAST THE ADVANTAGE [HE DERIVES] INTO THE SALT SEA.[4] [THE SAGES] SAID TO HIM: THERE IS NO REDEMPTION WITH AN IDOL. IF ONE TOOK [A PIECE OF WOOD] FROM IT [TO USE AS] A SHUTTLE, IT IS FORBIDDEN TO BE USED. IF HE WOVE A GARMENT WITH IT, IT IS FORBIDDEN TO BE USED. IF [THE GARMENT) BECAME MIXED WITH OTHERS, AND THESE WITH OTHERS, THEY ARE ALL FORBIDDEN TO BE USED. R. ELIEZER SAYS: LET HIM CAST THE ADVANTAGE [HE DERIVES] INTO THE SALT SEA. [THE SAGES] SAID TO HIM: THERE IS NO REDEMPTION WITH AN IDOL.

GEMARA. It was necessary [to mention both illustrations, baking and weaving]; because if he had informed us of only the first [it might have been supposed] that R. Eliezer makes his remark because at the time when the loaf is finished [baking, the wood which is] the prohibited material has been consumed; but in the case of the shuttle, since it remains discernible as a forbidden object [after the weaving is finished] conclude that he agrees with the Rabbis.[5] If, on the other hand, he had only informed us of the illustration of the shuttle, [it might have been supposed] that the Rabbis make their remark in connection with it alone, but in the case of a loaf conclude that they agree with R. Eliezer.[6] [Therefore both are] necessary.

R. Hiyya, son of Rabbah b. Nahmani, said in the name of R. Hisda: Ze'iri said that the halachah agrees with R. Eliezer. Others declare that R. Hisda said: Abba son of R. Hisda informed me that Ze'iri said: The halachah agrees with R. Eliezer.

R. Adda b. Ahabah said: They only differ in the matter of the loaf, but not in the matter of a cask of wine.[7] But R. Hisda said: Even a cask of wine is permitted.[8] An instance occurred of a man who mixed a cask of yen nesek[9] with his own wine. He came before R. Hisda who told him, ‘Take four zuz[10] and throw them into the river and the wine will then be permitted to you [to dispose of].’[11]

MISHNAH. HOW DOES ONE ANNUL [AN ASHERAH]? IF [A HEATHEN] PRUNED OR TRIMMED IT,[12] REMOVING FROM IT A STICK OR TWIG OR EVEN A LEAF, BEHOLD IT IS ANNULLED. IF HE CHIPPED IT TO EMBELLISH IT, IS IS PROHIBITED; BUT IF NOT TO EMBELLISH IT, IS IT PERMITTED.

GEMARA. What of the pieces chipped off?[13] — R. Huna and Hiyya b. Rab differ in opinion. One said that they are prohibited, the other that they are permitted — There is a teaching in agreement with him who said that they are permitted, for it has been taught: If an idolater chipped off an idol to make use of the pieces, it and the pieces are permitted, and if he did so to embellish it, it is prohibited but its pieces are permitted; but if an Israelite chipped off an idol, whether to make use of the pieces or for its embellishment, it and the pieces are prohibited.[14]

It has been stated: If an idol was broken of its own accord, Rab said: It is necessary to annul every fragment;[15] but Samuel said: An idol is only annulled when it is in its natural form![16] — On the contrary, does one annul it when it is in its natural form![17] — But thus he means to say: An idol need not be annulled except when it is in its natural form.[18] Is this to say that they differ on this point: One holds that [idolaters] worship fragments [of idols] and the other holds that they do not worship fragments? — No, they all agree that idolaters worship fragments; and here they differ with respect to the fragments of the fragments. One holds that the fragments of the fragments are prohibited and the other holds that they are permitted. Or if you wish, I can say that they all agree that the fragments of the fragments are permitted, and here they differ with respect to an idol which is formed in sections[19] and in connection with an ordinary man who is able to restore it.[20] One holds that since an ordinary man is able to restore it, it is not annulled; while the other holds that an idol can only be annulled when it is in its natural form, that is, the form it normally assumes.[21] So in this instance it is not in its natural form,[22] and there is no need to annul it.

CHAPTER IV

MISHNAH. R. ISHMAEL SAYS: IF THREE STONES ARE LYING SIDE BY SIDE NEXT TO A MERCURIUS,[23] THEY ARE PROHIBITED; IF THERE ARE TWO THEY ARE PERMITTED. THE SAGES, HOWEVER, SAY: IF [THE STONES] ARE SEEN TO BE CONNECTED WITH IT THEY ARE PROHIBITED:[24] BUT IF THEY DO NOT APPEAR TO BE CONNECTED WITH IT THEY ARE PERMITTED.[25]

GEMARA. The opinion of the Rabbis[26] is clear. They maintain that [idolaters] worship the fragments [of their idols], so that when [the stones] are seen to be connected with it, the assumption is that they fell from it and are prohibited, but if they do not appear to be connected with it they are permitted. What, however, does R. Ishmael maintain? If he holds that [idolaters] worship the fragments, then even two stones should be prohibited; and if he holds that they do not worship the fragments, then even three stones should not [be prohibited]! — R. Isaac b. Joseph said in the name of R. Johanan: When it is certain that they dropped from the idol, all agree that they are prohibited, and even according to him who says that they do not worship fragments [and so these may be used], this only applies to an idol which has not that form;[27] whereas here [with the Mercurius, the stones are] from the outset detached[28] and that is its normal form. When, therefore, [R. Ishmael and the Rabbis] differ, it must be in connection with stones which cannot be determined.[29]

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(1) Because the oven, made of clay, became hardened by the heat from fuel which is prohibited.

(2) There is no need to break it up in pieces because the oven derives no benefit from the heat of the fuel as does a new one.

(3) Since the loaf which has been baked under unlawful conditions cannot be distinguished from the rest.

(4) Rashi explains this to be the monetary value of the prohibited fuel. But Tosaf. rightly objects that the man could in this way redeem the loaf which had become mixed with the others, it therefore explains that the monetary value of the loaf is intended.

(5) That there can be no redemption. So we learn from the Mishnah that R. Eliezer does not take this view.

(6) That the fuel having been consumed, there can be redemption.

(7) Even R. Eliezer admits that if a cask of prohibited wine became mixed with others, there can be no redemption.

(8) By means of redemption.

(9) V. Glos.

(10) The value of a cask of wine. For zuz, v. Glos.

(11) But not to drink thereof.

(12) To use the twigs as fuel or for any other secular purpose.

(13) When the heathen embellishes the tree, may they be used?

(14) V. Infra 42a.

(15) He regards every piece as an idolatrous object.

(16) If it has been damaged, it ceases to be an idol and further annulment is unnecessary.

(17) It must be damaged to be annulled.

(18) But when it falls and is broken, the heathen virtually annuls it by thinking, ‘It could not save itself.’ V. supra 41b.

(19) Such an idol has fallen and is broken up into its component parts.

(20) It does not require a skilled workman to put it together.’

(21) [Even if it falls in pieces as in the case of the foliage, since it is natural for a tree to drop its foliage (Rashi).]

(22) Having fallen to pieces.

(23) [The Greek Hermes, the patron deity of wayfarers, v. Sanh. (Sonc. ed.) p. 410, n. 2.] It is presumed that they are the remains of a dolmen and for that reason forbidden.

(24) Whatever be their number.

(25) Even if there be three stones there.

(26) The Sages in the Mishnah.

(27) I.e., the idol does not consist of a pile of stones.

(28) Lit., ‘broken’, i.e., they were never cemented together but simply a pile. Therefore each stone is an idolatrous object and prohibited.

(29) Whether they belong to the statue or not.

Talmud - Mas. Avodah Zarah 50a

With regard to stones which are near,[1] we may likewise assume that they fell [from the idol] and all agree that they are prohibited; the point of variance between them must therefore be with respect to stones which are at a distance.[2] But the Mishnah uses the phrase: NEXT TO A MERCURIUS![3] — What means NEXT TO? Within four cubits of its side. R. Ishmael holds that they make a small Mercurius[4] by the side of a large Mercurius; if, then, there are three stones which together resemble a Mercurius they are prohibited, and if there are two they are permitted. The Rabbis, on the other hand, hold that they do not make a small Mercurius by the side of a large Mercurius; consequently it is immaterial whether there are three or two stones. If they are seen to be connected with it they are prohibited, otherwise they are permitted.

The Master said [above]: ‘When it is certain that they dropped from the idol, all agree that they are prohibited.’ Against this statement I cite the following: When stones dropped from a Mercurius, if they are seen to be connected with it they are prohibited, and if they do not appear to be connected with it they are permitted; and R. Ishmael says: Three stones are prohibited but two are permitted! — Raba explained: Do not read in this extract ‘dropped’ but ‘were found’.[5] But is R. Ishmael's opinion that [if they are within four cubits] two stones are permitted? Behold it has been taught: R. Ishmael says: If two stones were found within the idol's reach[6] they are prohibited and three are prohibited even at a greater distance! — Raba explained: There is no contradiction; here[7] they were within one reach, and there within two reaches. How is this to be understood?[8] — There is a mound between [the stones] and the Mercurius.

When they are lying in this manner[9] [are they to be considered a Mercurius]? For behold it has been taught: The following are the stones of a Beth-Kulis[10] — one here, a second next to it, and a third on the top of them![11] — Raba explained: This teaching refers to the basis of a Mercurius.[12]

The palace of King Jannaeus[13] was destroyed. Idolaters came and set up a Mercurius there. Subsequently other idolaters came, who did not worship Mercurius, and removed the stones with which they paved the roads and streets. Some Rabbis abstained [from walking in them] while others did not. R. Johanan exclaimed, ‘The son of the holy walks in them, so shall we abstain!’ Who was ‘the son of the holy’? — R. Menahem son of R. Simai. And why did they call him ‘the son of the holy’? — Because he[14] would not gaze even at the image on a zuz.[15] What was the reason of him who abstained [from walking in these streets]? — He agreed with what R. Giddal said in the name of R. Hiyya b. Joseph: Whence is it that an idolatrous offering[16] can never be annulled? As it is stated, They joined themselves also unto Baal-peor, and ate the sacrifices of the dead[17] — as a dead body can never be annulled,[18] similarly an idolatrous offering can never be annulled. As for him who did not abstain, he said: We require [such an offering] to resemble what was offered within the Temple.[19] and we have not such here.[20]

R. Joseph b. Abba said: Rabbah b. Jeremiah once visited our town. When he came he brought with him this teaching: If an idolater took stones from a Mercurius and paved roads and streets with them,

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(1) E.g.. within a cubit or a half cubit of the idol (Rashi).

(2) Within four cubits (Rashi).

(3) So they must be near it.

(4) Consisting of three stones or more.

(5) According to the amended reading there is still uncertainty whether the stones are part of the idolatrous heap.

(6) I.e., within a distance of four cubits.

(7) When he prohibits two stones.

(8) Viz., the phrase ‘within two reaches’. The probability is then much less that they were part of the idol.

(9) V. Mishnah: SIDE BY SIDE.

(10) A wayside cairn dedicated to Mercurius.

(11) Formed like a dolmen.

(12) In this manner they start the heap and additions are made to it. But a small Mercurius by the side of a large one need not take the form of a dolmen.

(13) Alexander Jannaeus who ruled over Judea 104-78 B.C.E. The allusion is probably to the palace which he had built, not that it was destroyed during his lifetime. [Klein. op. cit. p. 2, refers this to the palace of Herod the Tetrarch in Tiberias, which was destroyed at the beginning of the revolt in 67 C.E.; v. Josephus, Vita, 12.]

(14) [R. Menahem, ‘son’ expressing an attributive idea = a holy man. Tosaf. ascribes the designation ‘holy’ to the father,

whose holiness the son inherited.]
(15) V. Glos. The coin bore the emblem of some idolatrous cult.
(16) And the stones used for Mercurius came within that category.
(17) Ps. CVI, 28.
(18) So as not to defile.
(19) Before we declare that it cannot be annulled.
(20) Stones were not offered in the Temple!

Talmud - Mas. Avodah Zarah 50b

they are permitted;[1] if an Israelite took stones from a Mercurius and paved roads and streets with them, they are prohibited; [and he added that] there was no scholar[2] or scholar's son[3] who could elucidate this teaching.[4] R. Shesheth said: I am neither a scholar nor a scholar's son, yet I can elucidate it. What is the difficulty? The statement of R. Giddal.[5] [To this I make the reply given above:] ‘We require [such an offering] to resemble what was offered within the Temple, and we have not such here.’

R. Joseph b. Abba said: Rabbah b. Jeremiah once visited our town. When he came he brought with him this teaching: We may remove worms [from a tree] and patch the bark with dung[6] during the Sabbatical year,[7] but we may not perform these operations during [the non-holy days of] a festival. On both these occasions we may not prune,[8] but we may smear oil on the place of pruning[9] either during [the non-holy days of] a festival or during the Sabbatical year; and he added that there was no scholar or scholar's son who could elucidate this teaching. Rabina said: I am neither a scholar nor a scholar's son, yet I can elucidate it. What is the difficulty in it? Shall I say that the difficulty lies [in the operations mentioned] in connection with [the non-holy days of] a festival and the Sabbatical year, viz., why is the latter occasion different that the work is permitted from the former occasion when it is prohibited? Is, then, the Sabbatical year analogous [to the non-holy days of a festival], since the Divine Law forbade labour then but permitted occupation, whereas on [the non-holy days of] a festival even occupation is also prohibited!

Perhaps the difficulty is in connection with patching the bark and smearing the place of pruning — what is the distinction that the former is permitted and the latter prohibited? But is patching the bark, the purpose of which is the preservation of the tree and is permitted, analogous to smearing the place of pruning, the purpose of which is to strengthen the tree and is prohibited![10]

Perhaps the difficulty is in the contradiction about patching the bark, because the teaching was: ‘We may remove worms [from a tree] and patch the bark with dung during the Sabbatical year’; and against this I quote: We may patch the bark of plants, enwrap them, cover them with powder, make supports for them, and water them up to the New Year[11] — up to the New Year this is permissible but not in the Sabbatical year itself![12] — Perhaps [the contradiction might be solved] according to the view of R. ‘Ukba b.Hama who said: There are two kinds of hoeing [olive trees]; one to strengthen the tree and this is prohibited [in the Sabbatical year] and the other to close up cracks[13] and this is permitted. Similarly here there are two kinds of patching; one is to preserve the tree and is permitted and the other to strengthen the tree and is prohibited!

Perhaps the difficulty is in the contradiction about smearing the place of pruning, because the teaching was: ‘We may smear oil on the place of pruning either during [the non-holy days of] a festival or during the Sabbatical year’; and against this I quote: We may smear figs and perforate them to fatten them [with oil] up to the New Year[14] — up to the New Year this is permissible but not in the Sabbatical year itself! — But are the two cases analogous; in the former the purpose is to preserve the tree and is permitted, whereas in the latter it is to fatten the fruit and is prohibited!

R. Sama the son of R. Ashi said to Rabina: Rabbah b. Jeremiah's difficulty is in connection with smearing the place of pruning on [the non-holy days of] a festival[15] and patching the bark on that occasion.[16] Since the purpose of both is to preserve the tree, why the distinction that one is permitted and the other prohibited? That is why [Rabbah b. Jeremiah] remarked, ‘There was no scholar or scholar's son who could elucidate it.’

Rab Judah said in the name of Rab: If an idol is worshipped [by tapping before it] with a stick and [an Israelite] broke a stick in its presence, he is liable;[17] if he threw a stick in front of it he is free of penalty. Abaye said to Raba: Why is it different when he broke the stick? Because it resembles the slaughter [of an animal in the Temple].[18] Then the act of throwing a stick resembles the rite of sprinkling [the blood in the Temple]![19] — He replied: We require a sprinkling which is broken up and that we have not here.[20] Against [this explanation of Raba] is quoted: If he offered to the idol excrement or poured out before it a vessel of urine,

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(1) Because by using them for such a purpose, the heathen annulled them.

(2) Lit., ‘skilled artisan’, i.e., an ordained Rabbi.

(3) A Rabbinical student.

(4) The difficulty is, how could idolatrous offerings have been annulled?

(5) That there can be no annulment with an idolatrous offering.

(6) In places where the bark had fallen off, Jastrow explains: smear a plant with rancid oil to keep worms away.

(7) When all agricultural labour has to be suspended (Lev. XXV, 4).

(8) To increase the foliage. So Rashi; but Jastrow has: Cut a branch to let the sap drip.

(9) To prevent the sap from running out, which would injure the tree.

(10) The latter, unlike the former, increases the growth and is consequently forbidden in the Sabbatical year. So the problem is not to be sought in this point.

(11) Preceding the Sabbatical year (Sheb. II, 4).

(12) Whereas Rabbah b. Jeremiah taught that this could be done during the Sabbatical year.

(13) In the soil around the root. Its purpose is then only to preserve the tree.

(14) Sheb. II, 5.

(15) Which is permitted.

(16) Which is prohibited.

(17) To the death-penalty for the sin of idolatry.

(18) The animal is, as it were, broken.

(19) So the man who did this should also be punished.

(20) There is no analogy between throwing a solid object and sprinkling drops of a liquid.

Talmud - Mas. Avodah Zarah 51a

he is liable. It is clear [why he is liable if he poured out] a vessel of urine because it is a kind of sprinkling which is broken up; but where is there a sprinkling which is broken up with excrement? — With moist excrement. Is it to be said [that Rab's statement] is a matter of dispute between Tannaim: ‘If one slaughtered a locust to an idol, R. Judah holds him liable, but the Sages free him of penalty’? Is not this the point at issue between them — [R. Judah] holds that we declare [that to incur guilt the idolatrous worship need only be] like the act of slaughter,[1] whereas the others hold that we do not declare [it sufficient to be only] like the act of slaughter and it must resemble the ritual within the Temple? — No, all agree that we do not declare [it sufficient to be only] like the act of slaughter and we require a resemblance to the ritual within the Temple; but it is different with a locust because it has a neck like the neck of an animal.[2]

R. Nahman reported that Rabbah b. Abbuha said in the name of Rab: If an idol is worshipped [by rapping before it] with a stick and [an Israelite] broke a stick in its presence, he is liable and [the stick] is prohibited.[3] If he threw a stick in front of it, he is liable but [the stick] is not prohibited.[4]

Raba asked R. Nahman: Why the distinction — if he broke the stick it is regarded as an act of slaughter; if he threw the stick, it should likewise be regarded as an act of sprinkling! — He replied to him: We require a sprinkling which is broken up and that we have not here. [Raba retorted:] According to this reasoning, whereby should the stones [which are thrown before] a shrine of Mercurius be forbidden?[5] — He answered him: I, too, had that difficulty and I put the question to Rabbah b. Abbuha who put it to Hiyya b. Rab and he put it to Rab who said to him: [The stone] becomes, as it were, an enlargement of the idol.[6] This reply is satisfactory for him who maintains that the idol of an idolater is prohibited forthwith;[7] but according to him who maintains that [the idol is not prohibited] until it has been worshipped [the stones] should be permitted since it has not been worshipped![8] — [R. Nahman] answered [Raba]: Each stone becomes an idolatrous object in itself and also an offering to the one next to it.[9] [Raba asked]: If this is so, the last stone at least should be permitted![10] — [R. Nahman retorted]: If you know [which is the last stone], go and remove it![11] R. Ashi said: Each stone becomes an offering in itself and an offering to the one next to it.[12]

We learn: If he found on top [of a Mercurius] a garment or coins or utensils, behold these are permitted; but [if he found] grape-clusters, wreaths of corn, [gifts of] wine, oil or fine flour, or anything resembling what is offered upon the altar, it is prohibited.[13] This is all right with [gifts of] wine, oil and fine flour, since they have a resemblance to what is within the Temple and also to the sprinkling which is broken up; but grape-clusters and wreaths of corn have no resemblance to what is within the Temple and to sprinkling which is broken up![14] — Raba said in the name of ‘Ulla: [The prohibition applies when,] e.g., the man cut them at the outset for an idolatrous purpose.[15]

R. Abbahu said in the name of R. Johanan: Whence is it that he who sacrifices a blemished animal to an idol is free of liability? — As it is stated, He that sacrificeth onto any god, save unto the Lord alone, shall be utterly destroyed.[16] — the Torah only prohibits what resembles that which is within the Temple. Raba objected: What [sort of blemish has R. Abbahu in mind]? Shall I say it is a cataract in the eye?[17] Since, however, such an animal was qualified to be offered by the sons of Noah[18] to God upon their altars, how much more so to an idol! Rather [must he be thinking of a blemish like] being defective in a limb, and it is in accord with R. Eleazar who said: Whence is it that an animal defective in a limb is prohibited [as an offering] to the sons of Noah? As it is stated, And of every living thing of all flesh, two of every sort[19] — the Torah declares, Bring an animal which has all its limbs living.[20] But the phrase of every living thing is required to indicate the exclusion of an animal which is trefa![21] — This is derived from the phrase to keep them alive with thee.[22] This reply is satisfactory for him who maintains that an animal which is trefa cannot bring forth young; but for him who maintains that it can, what is there to say? — Scripture states with thee, i.e,, animals like yourself.[23] Perhaps, however, Noah was himself unsound of limb! It is written concerning him that he was perfect.[24] Perhaps that means perfect in his ways! It is written concerning him that he was righteous![25] Perhaps the meaning is ‘perfect’ in his ways and ‘righteous’ in his actions! — It is impossible to say that Noah himself was unsound of limb, for if it entered your mind that he was, then the All-merciful said to him, Animals like yourself [which are defective] take [into the Ark] and exclude those which are unblemished! Since, now, [the thought that the animals were not defective] is derived from ‘with thee’, what is the purpose of ‘to keep them alive’? — If [the Torah had only written] ‘with thee,’ I might have imagined that the reason was merely to provide him with company and [the animals could include] the old and even the castrated; therefore we are informed ‘to keep them alive.’[26]

R. Eleazar said: Whence is it that if one slaughters an animal to Mercurius he is liable?[27] As it is stated, And they shall no more sacrifice their sacrifices unto the satyrs.[28] Since this text cannot apply to the subject [of worshipping idols] in their regular way — for it is written, How do these nations serve their gods![29] — apply it to the subject [of worshipping idols] in a way which is not regular to them. But is [the verse and they shall no more sacrifice etc.] to be used for this purpose? Surely it is required in accordance with the following teaching:

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(1) Although a locust was never sacrificed in the Temple. Similarly with the breaking of the stick for which the man is liable.

(2) For that reason R. Judah holds the man liable with the slaughter of a locust but with throwing a stick he may not hold him liable, so that Rab finds no support for his view among Tannaim.

(3) The breaking of the stick is an offering to the idol.

(4) It is not then considered to be an offering.

(5) Since this is analogous to throwing a stick and cannot be said to resemble the act of sprinkling in the Temple.

(6) It is therefore not an offering to an idol but itself an idolatrous object, a Mercurius consisting of a cairn.

(7) Before it was actually worshipped, v. supra 46a.

(8) Even if the stones are considered to enlarge the idol, they are still not prohibited until there has been an act of worship.

(9) His act of throwing the stone renders the rest of the heap an idol since he thereby worships Mercurius, and the stone which is thrown becomes an idolatrous object as soon as another is added.

(10) For the reason that it has not yet been worshipped.

(11) Because one cannot be sure which is the last stone added to the heap, they are all prohibited.

(12) The worship of Mercurius consisting in the throwing of stones, the act of throwing constitutes each stone an idolatrous object, even the last.

(13) Quoted from the next Mishnah.

(14) This refutes Rab's ruling.

(15) It is then analogous to an act of slaughter.

(16) Ex. XXII, 19. Hence the animal must be such as is fit to be offered to God before the man is liable.

(17) This defect would disqualify an animal as a sacrifice.

(18) Rashi explains the term as including the Israelites before they received the Torah at Sinai.

(19) Gen. VI, 19.

(20) To the exclusion of any that are defective; and it was understood that the criterion which applied to the clean animals for the Ark was also to hold good for the Temple, v. supra 5b.

(21) V. Glos.

(22) Ibid.

(23) Sound in limb. It therefore does not intend the exclusion of what is trefa.

(24) Ibid. VI, 9.

(25) So if ‘perfect’ referred to his character, it is superfluous.

(26) To preserve the species and only such as are fit for that purpose were to be selected. On the whole passage, v. supra 5b-6a.

(27) Although sacrificing animals to it was not its mode of worship.

(28) Lev. XVII, 7.

(29) Deut. XII, 30. Here the Torah forbids the normal worship of idols.

Talmud - Mas. Avodah Zarah 51b

Up to here[1] it speaks of sacrificial animals which had been dedicated as offerings during the time that improvised altars were prohibited and were offered during the time such altars were prohibited, because the penalty is actually stated, viz., And hath not brought it unto the door of the tent of meeting etc.[2] Here we learn the penalty; but whence is the prohibition? There is a text to state, Take heed to thyself lest thou offer thy burnt offerings in every place that thou seest;[3] and it is as R. Abin said in the name of R. Elai: Wherever it is stated Take heed, or lest, or do not, it denotes a negative command. From [and they shall no more sacrifice] onwards it speaks of sacrificial animals which had been dedicated as offerings during the time that improvised altars were permitted and were offered during the time such altars were permitted, as it is stated, To the end that the children of Israel may bring their sacrifices, [which they sacrifice in the open field,][4] viz., which I previously permitted you [to offer upon improvised altars]; ‘in the open field’ — this teaches that whoever sacrifices upon an improvised altar at a time when such is prohibited, Scripture ascribes it to him as though he sacrifices in the open field. ‘And bring them unto the Lord’ — this is a positive command; but whence is the negative precept in this connection? There is a text to state, And they shall no more sacrifice their sacrifices. It is possible to think that the penalty [for transgressing the law about sacrificing to satyrs] is excision;[5] therefore there is a text to state, This shall be a statute for ever unto them[6] — i.e., this is for them but the other is not for them![7] — Raba said: Scripture reads, And they shall no more sacrifice.[8]

MISHNAH. IF HE FOUND ON TOP [OF A MERCURIUS] A GARMENT OR COINS OR UTENSILS BEHOLD THESE ARE PERMITTED;[9] [BUT IF HE FOUND] GRAPE-CLUSTERS, WREATHS OF CORN, [GIFTS OF] WINE, OIL OR FINE FLOUR, OR ANYTHING RESEMBLING WHAT IS OFFERED UPON THE ALTAR, SUCH IS PROHIBITED.

GEMARA. Whence have we this? — R. Hiyya b. Joseph said in the name of R. Oshaia: One verse states, And ye have seen their abominations, and their idols, wood and stone, silver and gold, which were among them;[10] and another verse states, Thou shalt not covet the silver or the gold that is on them.[11] How is it, then? ‘Among then,’ is analogous to ‘on them’; as with the things ‘on them’ what is ornamental[12] is prohibited and what is not ornamental is permitted, so with the things ‘among them’ what is ornamental is prohibited and what is not ornamental is permitted. But reason [the other way about]: ‘On them’ is analogous to ‘among them’; as ‘among them’ means that everything that is among them [is prohibited][13] so ‘on them’ means that everything that is upon them [is prohibited]! — In that case there would have been no need to mention ‘on them’.[14]

COINS are surely an ornament![15] — The School of R. Jannai said: [The Mishnah deals with the circumstance] where they are tied in a bag and suspended from the idol.[16] A GARMENT is surely an ornament! — The School of R. Jannai said: [The Mishnah deals with the circumstance] where it is folded and placed upon the head of the idol.[17] A utensil is surely an ornament! R. Papa said: [The Mishnah deals with the circumstance] where a basin is inverted over its head. R. Assi b. Hiyya said: Whatever is within the veils,[18] even water and salt, is prohibited;[19] of the things outside the veils what is ornamental is prohibited and what is not ornamental is permitted.[20] R. Jose b. Hanina said: We have a tradition that [this regulation concerning] veils applies neither to the idol Peor nor to a Mercurius. For what purpose [does he mention this]? If I answer that [non-ornamental] objects which are even within [the veils] are like those outside and are permitted, since people relieve themselves before it[21] would they not the more bring water and salt as an offering to it! — Rather must the reason be that even what is outside is like what is within the veils and is prohibited.[22]

MISHNAH. IF AN IDOL HAS A GARDEN OR BATH-HOUSE, WE MAY USE EITHER SO LONG AS IT IS NOT TO THE ADVANTAGE [OF IDOLATRY],[23] BUT WE MAY NOT USE EITHER IF IT IS TO ITS ADVANTAGE. IF THEY BELONGED JOINTLY TO IT AND TO OTHERS, USE MAY BE MADE OF THEM WHETHER IT BE TO THE ADVANTAGE [OF IDOLATRY] OR NOT. THE IDOL OF AN IDOLATER IS PROHIBITED FORTHWITH; BUT IF IT BELONGED TO AN ISRAELITE IT IS NOT PROHIBITED UNTIL IT IS WORSHIPPED.

GEMARA. Abaye said: The term ADVANTAGE means that payment is made to the heathen priests, and NOT TO ITS ADVANTAGE means that no payment is made to them, thus excluding the circumstance where payment is made to the idol-worshippers, which is permitted. There are some who apply this explanation to the second clause [of the Mishnah]: IF THEY BELONGED JOINTLY TO IT AND TO OTHERS, USE MAY BE MADE OF THEM WHETHER IT BE TO THE ADVANTAGE [OF IDOLATRY] OR NOT. Abaye said: The term ADVANTAGE means that the payment is made to the other joint-owners, and NOT TO THEIR ADVANTAGE means that no payment is made to the heathen priests. If one applies this explanation to the second clause, it clearly holds good all the more of the first clause;[24] but if he applies it to the first clause, then it could not hold good of the second clause for the reason that there being others [sharing the ownership] with it, it would be right even to make payment to the heathen priests.[25]

THE IDOL OF AN IDOLATER IS PROHIBITED FORTHWITH. Whose is the teaching of our Mishnah? — It is R. Akiba's; for it has been taught: Ye shall destroy all the places wherein the nations served[26] — the verse refers to the utensils which are used for idolatry. It is possible to think that if they were made but not completed, or completed but not brought [into the heathen shrine], or brought there but not yet used, they would still be prohibited; therefore the text states, ‘Wherein the nations served’, i.e., they are not prohibited until they have been used in the worship. Hence it is said: The idol of an idolater is not prohibited until it is worshipped; but if it belonged to an Israelite it is prohibited forthwith — Such is the statement of R. Ishmael; but R. Akiba says the opposite: The idol of an idolater is prohibited forthwith; but if it belonged to an Israelite it is not prohibited until it is worshipped.

The Master said [above]: ‘The verse refers to the utensils which are used for idolatry.’ But the verse speaks of ‘places’ [and not utensils]! — Since, however, It cannot refer to places, which are not prohibited — for it is written, Their gods upon the high mountains, not their mountains which are their gods[27] —

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(1) I.e., in the preceding verses of Lev. XVII.

(2) Ibid. 4. The continuation is: that man shall be cut off from among his people.

(3) Deut. XII, 13.

(4) Lev. XVII, 5.

(5) The same as if he had offered sacrifices when improvised altars were prohibited, as mentioned above.

(6) Ibid. 7.

(7) I.e., the penalty is restricted to the offence stated and not to one who sacrifices, e.g., to Mercurius. Consequently Lev. XVII, 7, cannot be employed to support the rule that a man who sacrifices to Mercurius is liable.

(8) Lit., ‘they shall not sacrifice’ and ‘no more’. The double phrase therefore indicates two prohibitions, and one of them may be applied to R. Eleazar's dictum about sacrificing to Mercurius.

(9) Elmslie suggests that these were not offerings to the idol but were left there by devotees to be used by passers-by. For that reason they were not prohibited. The Gemara gives a different explanation.

(10) Deut. XXIX, 16.

(11) Ibid. VII, 25. Here there is no mention of wood and stone, because these are not ornaments of an idol.

(12) [E.g., ‘the silver or the gold’.]

(13) [Although not ornamental as, e.g., ‘wood and stone’.]

(14) The verse would have been superfluous, since the law could have been deduced from Deut. XXIX, 16.

(15) Why, then, does the Mishnah allow them?

(16) Only then is it permitted, because the idol appears to be a carrier and this is derogatory to it.

(17) This too takes away from the dignity of the idol.

(18) Which hang in front of the idol.

(19) Because it is presumably an offering.

(20) It is not regarded as an offering.

(21) The idol Peor. V. infra 44b.

(22) Even though it be non-ornamental, because the veils are only used for reasons of decency since the worship takes an immodest form. They cannot therefore be regarded as partitioning off the idol.

(23) There is no payment or any other recognition for the use.

(24) The reason must be the stronger when the garden or bathhouse belongs exclusively to the idol.

(25) Because whether payment is made to the joint-owners or the priests, there is advantage to idolatry.

(26) Deut. XII, 2.

(27) V. supra 45a.

Talmud - Mas. Avodah Zarah 52a

apply it to the subject of utensils.[1] ‘Hence it is said: The idol of an idolater is not prohibited until it is worshipped; but if it belonged to an Israelite [it is prohibited] forthwith.’ But we explained the verse as referring to utensils [and not to idols]! — Scripture states, Which ye shall possess their gods,[2] thus comparing their gods to utensils — as utensils [are not prohibited] until they are used in worship so their gods likewise [are not prohibited] until they are worshipped. R. Akiba, however, who does not draw this comparison, can tell you that the particle eth[3] interrupts the subject-matter.[4]

We have ascertained R. Ishmael's reason for the view that the idol of an idolater is not prohibited until it is worshipped; but whence does he derive that the idol of an Israelite is prohibited forthwith? — It is common sense that if when it belongs to an idolater [it is not prohibited] until it is worshipped, when it belongs to an Israelite it should be prohibited forthwith — But draw the conclusion that when it belongs to an Israelite [it is prohibited] not at all! — Since it has to be removed out of sight,[5] shall it not be prohibited at all! But why not say [that when it belongs to an Israelite it is to be treated in the same way as when it belongs to] an idolater! — Scripture stated, And I took your sin, the calf which ye had made[6] — from the moment it was made it came within the category of ‘sin’. [But again] conclude from these words that a man is guilty of sin [when he makes an idol] but not that it is prohibited! — Scripture stated, Cursed be the man that maketh a graven or molten image[7] — from the moment it is made he comes under the curse. Conclude from these words that a man becomes involved in a curse [when he makes an idol] but not that it is prohibited! — It is written, An abomination unto the Lord.[8]

How does R. Akiba [explain this phrase]?[9] — [The idol] is a thing that leads to an abomination.[10] Whence does R. Akiba derive his view that the idol of an idolater is prohibited forthwith? — ‘Ulla said: Scripture stated, The graven images of their gods shall ye burn with fire[11] — as soon as they have been made into graven images they become deities. And how does the other[12] [explain this verse]? — He requires it in accordance with the teaching of Rab Joseph who learned: Whence is it that an idolater can annul his deity? — As it is stated, The graven images of their gods shall ye burn with fire.[13] And whence does the other [i.e., R. Akiba, derive this regulation]? — He deduces it from the statement of Samuel who asked: It is written, Thou shalt not covet the silver or the gold that is on them, and it continues, Thou shalt take it unto thee[14] — so how is this to be understood? When [the idolater] fashions it into a god do not covet it, but when he has annulled[15] it so that it is no longer a god you may take it for yourself.

We have ascertained R. Akiba's reason for the view that the idol of an idolater is prohibited forthwith, but whence does he derive that if it belonged to an Israelite [it is not prohibited] until it is worshipped? — Rab Judah said: Scripture stated, And setteth it up in secret,[16] i.e.,[he is not involved in the curse] until he performs towards it things which are done in secret.[17] And how does the other [i.e., R. Ishmael, explain this phrase]? — He requires it in accordance with the teaching of R. Isaac who said: Whence is it that an idol belonging to an Israelite must be removed out of sight?[18] As it is stated, And setteth it up in secret. And from where does the other [i.e., R. Akiba, derive this regulation]? — He deduces it from what R. Hisda said in the name of Rab: Whence is it that an idol belonging to an Israelite must be removed out of sight? As it is stated, Thou shalt not plant thee an Asherah of any kind of tree beside the altar[19] — as an altar must be removed out of sight,[20] so an Asherah [belonging to an Israelite] must be removed out of sight. And what does the other [i.e., R. Ishmael, make of this verse]? — He requires it in accordance with the teaching of R. Simeon b. Lakish who said: Whoever appoints an unworthy judge is as though he plants an Asherah in Israel, as it is stated, Judges and officers shalt thou make thee in all thy gates,[21] and near it [is stated], ‘Thou shalt not plant thee an Asherah of any kind of tree’; and R. Ashi said: [Should he have appointed such a judge] in a place where there are disciples of the Sages, it is as though he had planted an Asherah by the side of the altar, as it is stated, ‘Beside the altar.’[22]

R. Hamnuna asked: How is it if one rivetted a vessel [which has been broken] for an idol? Whose idol? If I answer the idol of an idolater, then both according to R. Ishmael and R. Akiba they are appurtenances of idolatry, and appurtenances of idolatry are not prohibited until they are used. It must therefore be the idol belonging to an Israelite; so according to whom [is the question to be decided?] If I say it is according to R. Akiba, since the idol itself is not prohibited until it is worshipped obviously its appurtenances [must first be used before they are prohibited]! If on the other hand, according to R. Ishmael who said that [the idol of an Israelite] is prohibited forthwith [the question will then be]: do we draw a deduction about the appurtenances [of an Israelite's] idol from the appurtenances [of a heathen's idol]? Just as with the latter [they are not prohibited] until they are used, so with the former [they are not prohibited] until they are used. Or do we draw the deduction from the idol itself, that as [an Israelite's idol] is prohibited forthwith also its appurtenances are prohibited forthwith? [But if this is what R. Hamnuna meant to ask,] why does he specify ‘one rivetted a vessel’ in his question? Let him ask about one who made a vessel![23] — R. Hamnuna put the question in that form because of the problem of the former defilement; for we have learnt: Of metal utensils those which are flat and those which are formed as receptacles contract defilement; if they are broken they lose their defilement, but if repaired they return to their former defilement.[24] So thus did [R. Hamnuna ask]: When its defilement returns, does it mean to the Biblical defilement or to the Rabbinical defilement, or perhaps there is no difference?[25] But if that were his intention, let him put his question with reference to the other Rabbinical defilements![26] — His purpose was that one question should embrace another, viz., Does Rabbinical defilement return or not? And if you decide that it does not return, do the Rabbis make defilement caused by idolatry, on account of its severity, equal to Biblical defilement or not?[27] — The question remains unanswered.

R. Johanan asked R. Jannai: How is it with foodstuffs offered to an idol?[28] Does the annulment [of the idol] avail to purify them of their defilement or not? But he should have framed his question with reference to utensils![29] — There is no question about utensils, because for them there is purification [by immersion] in a ritual bath,[30] so the defilement [by idolatry] can likewise be annulled.[31] What he does ask is about foodstuffs [offered to an idol].[32] But let him frame his question with reference [to foodstuffs] which are themselves the object of idolatrous worship![33] — He does not frame his question with reference [to foodstuffs] which are themselves the object of idolatrous worship,

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(1) I.e., the things worshipped or used for worship in these places.

(2) Ibid., so the Hebrew literally.

(3) The sign of the accusative case before ‘their gods’.

(4) And so ‘places’, i.e. utensils, is distinct from ‘their gods’ and no analogy is to be drawn to overthrow his contention that the idol of an idolater is prohibited forthwith.

(5) As will be explained below.

(6) Deut. IX, 21.

(7) Ibid. XXVII, 15.

(8) Ibid., so obviously it is prohibited forthwith.

(9) His opinion being that the idol of an Israelite is prohibited only after it has been worshipped.

(10) When it is worshipped.

(11) Ibid. VII, 25.

(12) R. Ishmael who says that they must be worshipped before they are prohibited.

(13) I.e., so long as they are graven images they are gods; when he has damaged them they are no longer gods.

(14) Ibid. Samuel separates the two phrases and does not understand the second as governed by the negative in the first.

(15) The word for ‘annul’ is the same as for ‘fashion’,

(16) Ibid. XXVII, 15.

(17) Cf. Deut. XIII, 7.

(18) If it is undamaged it should be buried in the earth.

(19) Ibid. XVI, 21.

(20) When no longer used in the Temple it is buried in the earth, v. infra 52b.

(21) Ibid. XVI, 18.
(22) V. Sanh. 7b.
(23) [For an idol, whether it is prohibited forthwith or not.]
(24) Kelim XI, 1.
(25) In certain respects the Rabbis made the Biblical laws of defilement stricter. E.g., the regulation that an idol contaminates is a Rabbinical ordinance. If, then, an article was unclean in the severer Rabbinical sense, when it is repaired after being broken, to which degree of defilement does it return?
(26) Why does he specify an idol?
(27) So that in this exceptional case the defilement does return.
(28) Which have become defiled by idolatry.
(29) Why did he specify foodstuffs?
(30) For other defilements.
(31) [Annulment in the case of idolatry is of the same effect as immersion with other defilements.]
(32) [Foodstuffs cannot become purified by immersion.]
(33) Would their defilement depart if they were annulled as idols?

Talmud - Mas. Avodah Zarah 52b

because when its prohibited character is annulled its defilement is likewise annulled. What he does ask is with reference to foodstuffs offered to an idol: How [are we to decide]? [Shall we say] since its prohibited character cannot be annulled according to R. Giddal,[1] it follows that its defilement can likewise never be annulled; or perhaps, though what is prohibited by the Torah cannot be annulled its defilement, which is a Rabbinical ordinance, can be annulled? — The question remains unanswered.

R. Jose b. Saul asked Rabbi: May utensils which were used in the Temple of Onias[2] be used in the Sanctuary? This question follows on the view of him who said that the Temple of Onias was not an idolatrous shrine; for we have learnt: Priests who served in the Temple of Onias may not serve in the Sanctuary which is in Jerusalem, and it is unnecessary to state that [priests who served] an idol[3] [are disqualified].[4] Were the priests penalised by the Rabbis because they were rational beings but [they did not penalise] the utensils, or perhaps there is no difference [and the utensils are also disqualified]? — [Rabbi] replied to him: They are prohibited and I had a Scriptural text [upon which to support this decision] but I have forgotten it. [R. Jose b. Saul] quoted against him: Moreover all the vessels, which king Ahaz in his reign did cast away when he trespassed, have we prepared and sanctified[5] — does not 'have we prepared' mean that we immersed them [in a ritual bath to purify them], and 'sanctified' that we have made them holy again![6] He said to him: May the blessing of Heaven be upon you for having restored my loss to me![7] 'Have we prepared' means we have stored them away, and sanctified that we have substituted others for them. Is this to say that [Rabbi] has support [from this Mishnah]: In the north-east[8] the Hasmoneans stored away the altar-stones which the Greeks had made abominable;[9] and R. Shesheth remarked thereon: They had made them abominable through idolatry?[10] — R. Papa said: There [in the case of the Hasmoneans] they found a verse and expounded it [to support their action], for it is written, And robbers shall enter into it and protect it.[11] [When the Hasmoneans recaptured the Temple] they said, How shall we act? If we have them broken,[12] the All-merciful declared that they were to be whole stones;[13] if we saw them,[14] the All-merciful declared, Thou shalt lift up no iron tool upon them![15] But why did they not have them broken[16] and take them for their own private use? Has not R. Oshaia said: [The Rabbis] wished to store away all the silver and gold in the world on account of the silver and gold [plundered from the Sanctuary] of Jerusalem![17] And to this it was objected: Is Jerusalem the greater part of the world![18] But, said Abaye: What the Rabbis aimed at doing was to store away every Hadrianic and Trajanic denarius[19] which had become worn by use[20] because it was coined from [metal captured from] Jerusalem;[21] until they discovered a verse of the Torah according to which it was permitted. viz., And robbers shall enter into it and profane it! — There [in the case of the coins] they had not been used in the Divine Service;[22] but here [in the case of the altar-stones], since they had been used in the Divine Service it would not be respectful to put them to a secular use.

MISHNAH. AN IDOLATER CAN ANNUL AN IDOL BELONGING TO HIMSELF OR TO ANOTHER IDOLATER, BUT AN ISRAELITE CANNOT ANNUL THE IDOL OF AN IDOLATER. HE WHO ANNULS AN IDOL ANNULS ITS APPURTENANCES. IF HE ONLY ANNULLED THE APPURTENANCES THESE ARE PERMITTED BUT THE IDOL IS PROHIBITED.

GEMARA. Rabbi taught his son R.Simeon: AN IDOLATER CAN ANNUL AN IDOL BELONGING TO HIMSELF OR TO ANOTHER [HEATHEN]. The latter said to him, ‘My Master, in your youth you taught us that an idolater can annul an idol belonging to himself or to an Israelite!’ But can the idol of an Israelite be annulled; for behold it is written. And setteth it up in secret![23] R. Hillel the son of R. Wallas said: No, [Rabbi's teaching] is necessary for the circumstance where there was joint-ownership of the idol [by an Israelite and a heathen]. On this point what view did Rabbi hold in his youth and what view in his old age? — In his youth he held that the Israelite worshipped the idol on account of the heathen, so that when the latter annulled it for himself he annulled it also for the Israelite. In his old age, however, he held that the Israelite worshipped it on his own account, so that when the heathen annulled it he did so for himself but not for the Israelite.

There are some who apply [the statement of R. Hillel] to the next clause in our Mishnah: AN ISRAELITE CANNOT ANNUL THE IDOL OF AN IDOLATER. This is obvious! — R. Hillel the son of

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(1) V. supra p. 251.

(2) Erected by Onias IV in Leontopolis in Egypt about 260 B.C.E. V. Josephus, Antiquities, XIII, iii, 1 ff.

(3) Lit., ‘another matter’.

(4) V. Men. 109b.

(5) II Chron. XXIX, 19.

(6) If, then, utensils used for idolatry could be restored to purity and used in the Sanctuary, how much more so those belonging to the Temple of Onias!

(7) The verse cited by R. Jose was the one Rabbi had forgotten.

(8) Of the four chambers in the part of the Temple where the fire was kept continually burning.

(9) Mid. I, 6.

(10) Although these stones, as property of the Temple, might have been allowed for secular use, on the principle that ‘no one can render prohibited anything that is not his,’ v. infra 53b, yet as a precautionary measure they were stored away lest they be employed in the divine Service. The same applies to the utensils in the Temple of Onias.

(11) Ezek. VII, 22. [The stones, having been rendered profane by the actions of the idolaters, were no longer regarded as the property of the Temple and became forbidden even for secular use.]

(12) Viz., the altar stones, by an idolater, to annul them.

(13) Deut, XXVII, 6.

(14) After they had been broken to make them level.

(15) Ibid. 5.

(16) And annulled by a heathen.

(17) Some of this metal, captured by the Romans, must have come into the possession of Jews as coins, which, by law, they should not use.

(18) The majority cannot be prohibited on account of the minority.

(19) [Or, every denarius of Hadrianus Trajanus, Trajan being an adopted name of Hadrian, v. next note.]

(20) [Kuk. S.H. Hazofeh, 1928, p. 262, renders ‘obliterated’, and suggests the reference to be to the holy coins restruck by Hadrian, who stamped over their holy legends those of the Romans. For other explanations of this difficult passage. v. Madden, Jewish Coinage, p. 331 ff.]

(21) And as such its use by a Jew was illegal.

(22) So having been annulled by the ‘robbers’ they could be put to secular use.

(23) Deut. XXVII, 15. On the basis of this text it was taught above (52a) that the idol of an Israelite cannot be annulled.

Talmud - Mas. Avodah Zarah 53a

R. Wallas said: No, the clause is necessary for the circumstance where there was joint-ownership; and it informs us that while the Israelite cannot annul [the part of] the idol which belongs to the heathen, the heathen can do it [to the part] which belongs to himself.

There are still others who apply [the statement of R. Hillel] to this teaching: R. Simeon b. Menasya says: An idol belonging to an Israelite can never be annulled. What means 'never'? — R. Hillel the son of R. Wallas said: No, it was necessary [to have the word 'never'] for the circumstance where a heathen has part-ownership.[1] He thereby informs us that the Israelite worships the idol on his own account.[2]

MISHNAH. HOW DOES HE ANNUL IT? IF HE CUT OFF THE TIP OF ITS EAR, THE TIP OF ITS NOSE, OR THE TIP OF ITS FINGER; OR IF HE DEFACED IT,[3] ALTHOUGH THERE WAS NO REDUCTION IN THE MASS OF THE MATERIAL,[4] HE HAS ANNULLED IT. IF HE SPAT BEFORE IT, URINATED BEFORE IT, DRAGGED IT [IN THE DUST] OR HURLED EXCREMENT AT IT, BEHOLD IT IS NOT ANNULLED. IF HE SOLD OR GAVE IT AS A PLEDGE, RABBI SAYS THAT HE HAS ANNULLED IT, BUT THE SAGES SAY THAT HE HAS NOT ANNULLED IT.

GEMARA. Since there was no reduction in the mass of the material, how could it be annulled?[5] — R. Zera said: Because he defaced its appearence.[6]

IF HE SPAT BEFORE IT, URINATED BEFORE IT. Whence is this? — Hezekiah said: Because Scripture stated, And it shall come to pass that, when they shall be angry, they shall fret themselves and curse their king and their god and turn their faces upward,[7] and it continues, And they shall look unto the earth, and behold, distress and darkness etc.[8] Thus, although [the heathen] curse his king and his god and turn upward [to the true God], he still looks unto the earth.[9]

IF HE SOLD OR GAVE IT AS A PLEDGE, RABBI SAYS THAT HE HAS ANNULLED IT etc. Zei'ri in the name of R. Johanan and R. Jeremiah b. Abba in the name of Rab [are at variance].[10] One said that the difference is over a heathen smelter,[11] but if it was [sold to] an Israelite smelter all agree that he annulled it.[12] The other said that the difference is over an Israelite smelter.[13] The question was asked: Is the difference over an Israelite smelter but with a heathen smelter all agree that he has not annulled it, or perhaps in either case there is the difference?[14] — Come and hear: For Rabbi said: My view[15] is the more probable when he sold it to be broken up,[16] and my colleagues' view is the more probable when he sold it to be worshipped.[17] What means 'to be broken up' and 'to be worshipped'? Am I to say that these terms are to be understood in their literal sense? [If that were so,] what is the reason of him who says that he had annulled it[18] , and the reason of him who says that he had not annulled it?[19] Must not, then, 'to be broken up' mean [that he sold it] to someone who would break it up, viz., an Israelite smelter,[20] and 'to be worshipped' means [that he sold it] to someone who would worship it, viz., a heathen smelter;[21] and are we not to conclude that in either case there is a difference of opinion?[22] — No; this is the meaning — Rabbi said: My view is acceptable to my colleagues when he sold it to be broken up, i.e., to an Israelite smelter, because even my colleagues do not differ from me except in the case where he sold it to be worshipped, but when it is sold to be broken up they agree with me [that it had been annulled].

Against the above the following is quoted: If one brought scrap metal from a heathen and found an idol amongst it, should he have drawn it [into his possession] before paying over the purchase price he can return the idol;[23] but should he have drawn it [into his possession] after paying over the purchase money, he casts it into the Salt Sea.[24] This is quite right if you say that the above difference is over an Israelite smelter; then whose is this teaching? It is the Rabbis'.[25] But if you say that the difference is over a heathen smelter and all agree that with an Israelite smelter he has annulled it, whose is this teaching?[26] — It is otherwise in the present illustration because his intention was to sell scrap metal and not an idol.[27]

Our Rabbis taught: If [a heathen] borrowed money on an idol, or ruins fell upon it,[28] or robbers stole it,[29] or the owners left it behind and journeyed to a distant land,

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(1) When he annuls the idol, it does not affect the Israelite's position. So far as he is concerned the idol can never be annulled.

(2) And what his heathen partner does cannot affect his own position in the matter.

(3) By hammering at it when it is hollow.

(4) Nothing was broken off.

(5) Since something must be broken off the idol for its annulment.

(6) And it is no longer recognisable as an idol.

(7) Isa. VIII, 21.

(8) Ibid, 22.

(9) And eventually resumes his idolatry. His repudiation of the idol is only the effect of momentary exasperation. V. supra, p. 222.

(10) Over the reasons which induced Rabbi and the Rabbis to adopt their respective views.

(11) If the idol were sold to a heathen he may worship instead of melting it.

(12) Because the seller assumes that the idol will be destroyed.

(13) In that case the Rabbis maintain the idol is not annulled.

(14) Whoever bought it, Rabbi maintaining that it is annulled and the Rabbis that it is not.

(15) [I.e., the view which I received from my teachers (Rashi).]

(16) It can then be assumed that he annulled it,

(17) Then the seller probably had not annulled it.

(18) If he sold it to be worshipped.

(19) If he sold it to be broken up.

(20) And then all must agree that he had annulled it.

(21) Therefore all must agree that there has been no annulment.

(22) The Rabbis holding that even if sold to an Israelite smelter the seller may think the Jewish purchaser will sell it to another heathen to be worshipped, and so he did not annul it; whereas Rabbi is assured that the seller annulled it even when he sold it to a heathen smelter because he was certain that it would be put into the melting-pot.

(23) For the owner to annul and then the purchaser may accept it.

(24) He may not return the idol and get his money back. Since the idol has to be thrown away, the assumption is that the seller has not annulled it. (v. infra 71b).

(25) Who, in our Mishnah, say 'He has not annulled it'.

(26) It agrees with neither Rabbi nor the Rabbis,

(27) And so presumably there had been no annulment.

(28) He makes no effort to recover it.

(29) He does not try to get it back.

Talmud - Mas. Avodah Zarah 53b

if with the intention of returning [to claim it] as happened during the war waged by Joshua,[1] it is not annulled. It was necessary [to cite all these circumstances]. For if there had only been taught the case where he borrowed money on it, from the fact that he had not sold it [it follows that] he had not annulled it; but if ruins fell upon it, since he does not clear them away [to recover it], conclude that he had annulled it! Therefore it was necessary [to mention that in the latter circumstance the idol is not annulled]. If there had only been taught the case where ruins fell upon it, because he thought that [the idol] is lying there and whenever I want it I can take it [he did not annul it]; but in the case where robbers stole it, from the fact that he does not go searching for it [it might be assumed] that he had annulled it! Therefore it was necessary [to mention that in the latter circumstance the idol is not annulled]. If there had only been taught the case where robbers stole it, because he thought that if a heathen took it he would doubtless worship it and if an Israelite took it, it being an article of value, he would sell it to a heathen who would worship it [therefore it is not annulled]; but in the case where the owners left it behind and journeyed to a distant land, since they did not take it with them [it might be assumed] that they had annulled it! Therefore it was necessary [to mention that in the latter circumstance the idol is not annulled].

'If with the intention of returning [to claim the idol] as happened during the war waged by Joshua, it is not annulled!' But in the instance of the war waged by Joshua did [the Amorites] return?[2] — This is the meaning: If [the owners] have the intention of returning, it is analogous to the war waged by Joshua and there can be no annulment.[3] Why, then, compare it to[4] the war waged by Joshua? — He thereby informs us of something incidentally, and it is as Rab Judah said in the name of Rab: If an Israelite set up a brick to worship [but did not do so] and an idolater came and worshipped it, it is prohibited.[5] Whence have we that it is prohibited?[6] — R. Eleazar said: It is the same as happened at the beginning of the settlement in the land of Israel; for the Divine Law declared, And burn their Asherim with fire.[7] Now it was an inheritance to [the Israelites] from their ancestors[8] and a man cannot make prohibited what does not belong to him![9] If [it is assumed that the reason was] on account of those [Asherim] which existed there originally,[10] then just an annulment would have sufficed![11] But inasmuch as the Israelites worshipped the Golden Calf, they revealed their proneness for idolatry, so[12] when the idolaters came [and worshipped Asherim] they acted according to [the Israelites'] bidding.[13] Similarly when an Israelite set up a brick, he revealed his proneness for idolatry; therefore when a heathen came and worshipped it he acted according to [the Israelite's] bidding. But perhaps the proneness was only for the Golden Calf and for nothing else![14] — No; Scripture states, These be thy gods, O Israel,[15] which proves that they lusted for many gods. Conclude, then, that all [the Asherim] which existed at the same time as the Golden Calf are prohibited, but those planted subsequently[16] are permitted![17] — Who is able to distinguish between them? MISHNAH. AN IDOL WHICH ITS WORSHIPPERS ABANDONED IN TIME OF PEACE IS PERMITTED,[18] IN TIME OF WAR IS PROHIBITED. PEDESTALS OF KINGS[19] ARE PERMITTED BECAUSE [THE HEATHENS ONLY] SET THEM UP AT THE TIME THE KINGS PASS BY.

GEMARA. R. Jeremiah b. Abba said in the name of Rab: The Temple of Nimrod[20] is to be regarded the same as an idol which its worshippers abandoned in time of peace and is permitted; for although, due to the fact that the All-merciful dispersed them, it was like a time of war, if they had wished to return [and claim the idols] they could have returned; but since they did not, they must have annulled them.

PEDESTALS OF KINGS ARE PERMITTED. Because [the heathens only] set them up at the time the kings pass by they are permitted! Rabbah b. Bar Hanah said in the name of R. Johanan: The meaning is — because they only set them up at the time kings pass by and the kings may abandon that road and proceed by another road.[21] When 'Ulla came[22] he seated himself on a damaged pedestal. Rab Judah said to him: Behold both Rab and Samuel declared that a damaged pedestal is prohibited; and even according to him who said that [heathens] do not worship fragments [of idols], that applies only to an idol because it is an act of contempt to worship fragments but with this [pedestal] one does not care![23] — He replied to him: Who would give me some of the dust [from the bodies] of Rab and Samuel that I might fill my eyes with it![24] [Nevertheless] both R. Johanan and R. Simeon b. Lakish declared that a damaged pedestal is permitted; and even according to him who said that [heathens] do worship fragments, that applies only to an idol because from the fact that they worship it, they would regard it a desecration to annul it; but as for these [pedestals] they throw them aside [when damaged] and bring another.[25] There is a teaching in agreement with R. Johanan and R. Simeon b. Lakish, viz.: A damaged pedestal is permitted — a damaged altar is prohibited until the greater part of it is demolished.[26]

What constitutes a pedestal and what an altar?[27] — R. Jacob b. Idi said in the name of R. Johanan: A pedestal consists of a single stone, an altar of several stones.

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(1) Against the Amorites for the possession of Canaan.

(2) Why is that cited as an illustration?

(3) And the idol would have to be destroyed in the same manner, as everything captured during the war against the Amorites was under a ban (Josh. VI, 19).

(4) Lit., 'make it depend on.'

(5) And cannot be annulled, despite the rule that a person cannot render prohibited what does not belong to him.

(6) Although it was not his property.

(7) Deut. XII, 3.

(8) The land having been promised to the patriarchs.

(9) So how could the Amorites make the Asherim prohibited when they really belonged to the Israelites?

(10) Before the promise to the patriarchs, and were consequently the property of the Amorites.

(11) The Israelites could have compelled the Amorites to annul the Asherim and there would have been no need to burn them.

(12) Although the land really belonged to the Israelites.

(13) Therefore the Asherim were in fact idols of the Israelites and as such could not be annulled and had to be destroyed.

(14) And the Asherim were not idolatrous objects of the Israelites and should be annulled.

(15) Ex. XXXII, 4. Note the plural.

(16) [After they had repented of their sin.]

(17) If annulled.

(18) Because they did not take it with them, it is assumed that they annulled it.

(19) Upon which an idol is set when the king passes that way.

(20) The Tower of Babel erected at the time when, according to tradition, Nimrod was king.

(21) Therefore they are not necessarily idolatrous appurtenances. The object was rather to honour the king.

(22) From Palestine to Babylon.

(23) Whether it is damaged or not, he could still put an idol upon it.

(24) Such was his veneration for these great teachers.

(25) Consequently nobody attaches sanctity to pedestals.

(26) Tosef. A.Z. VI.

(27) How are we to distinguish in the case of idolaters which erection is for a pedestal and which for offerings?

Talmud - Mas. Avodah Zarah 54a

Hezekiah said: Which is the text?[1] — When he maketh all the stones of the altar as chalkstones that are beaten in sunder, so that the Asherim and the sun-images shall rise no more[2] — i.e., if [the altar] becomes like 'chalkstones that are beaten in sunder', then 'the Asherim and the sun-images shall rise no more,'[3] otherwise they will rise again.

A Tanna taught: If a man worshipped [an animal] which is his own it is prohibited;[4] but if it belonged to another it is permitted. Against this I quote: Which [animal is considered to have been] worshipped? Any which was worshipped, whether inadvertently or deliberately, whether under compulsion or voluntarily.[5] How is the term 'under compulsion' to be understood? Is it not, e.g., when a man took his neighbour's animal by force and worshipped it?[6] — Rami b. Hama said: No, it is, e.g., when heathens brought pressure to bear upon a man and he worshipped his own animal.[7] [To this interpretation] R. Zera objected: But the All-merciful absolves anyone who acts under pressure, as it is written, But unto the damsel thou shalt do nothing![8] — But, said Raba, all[9] were included in the general law Nor serve them;[10] so when Scripture specifies He shall live by them,[11] i.e., and not die through them, it excludes the man who acts under pressure. After that, however, the All-merciful wrote. And ye shall not profane My holy name[12] — i.e., not even under compulsion![13] How is it, then? — The former refers to an act in private, the latter to an act in public.[14]

The Rabbis said to Raba: There is a teaching which supports your view, viz.: Idolatrous pedestals [set up] in a time of religious persecution[15] are not annulled even when the persecution is over.[16] He said to them: If it is on that account, [the teaching you quote] gives no support to my view, for the reason that perhaps there was an apostate who worshipped at it voluntarily! R. Ashi said: Do not use the word ‘perhaps’, but there certainly was an Israelite, an apostate, who worshipped voluntarily.[17] Hezekiah said: For instance, he poured wine unto an idol upon the horns of [his neighbour's animal].[18] [To this explanation] R. Adda b. Ahaba objected: Can this be considered [an animal] which is worshipped?[19] [In such circumstances the animal] is merely a pedestal and is permitted![20] — But, said R Adda b. Ahaba, it is, e.g., a case where he poured wine between the horns of [his neighbour's animal] in which case he performed on it an act [of worship].[21] This is in accord with what ‘Ulla reported in the name of R. Johanan when he came [from Palestine]: Although they declare that he who worships his neighbour's animal does not render it prohibited, still if he performed on it an act [of idolatrous worship][22] he rendered it prohibited. R. Nahman said [to the Rabbis]: Go, tell ‘Ulla, that R. Huna has already expounded this thy teaching in Babylon![23] For R. Huna said: If the animal of his neighbour was lying in front of an idol, as soon as he cut one of its neck-veins[24] he has rendered it prohibited.[25] Whence have we that he rendered it prohibited? If I answer from the priests,[26] it is different with priests because they are rational beings;[27] and if [I answer that it may be derived] from the altar-stones,[28] perhaps it is as R. Papa explained![29]

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(1) That proves an altar to consist of several stones and that it is prohibited until the greater part is demolished

(2) Isa. XXVII, 9.

(3) I.e., no more offerings will be brought upon such an altar and it is then no longer prohibited.

(4) As an offering in the Temple.

(5) Tosef. A.S. VI.

(6) [Whereas the first Baraitha teaches that one does not render prohibited his neighbour's animal by worshipping it.]

(7) According to this interpretation the two teachings are in agreement.

(8) Deut. XXII, 26, when a betrothed girl was violated in a field.

(9) Viz., both the cases of under compulsion and voluntarily. This is how Raba proposed to harmonise the two contradictory teachings.

(10) Ex. XX, 5.

(11) Lev. XVIII, 5, viz., by the divine commandments.

(12) Ibid. XXII, 32.

(13) So here is a contradiction.

(14) In similar manner are the two teachings to be harmonised. If a man worshipped his own animal not in public under compulsion it may be brought as an offering; but if the worship was in public the animal is prohibited.

(15) When a Jew is compelled publicly to worship at them.

(16) [This proves that whatever is worshipped in public under compulsion is rendered prohibited.]

(17) Among a large number it is improbable that there should not be at least one apostate. Therefore the pedestal is an idolatrous object worshipped by an Israelite voluntarily and remains prohibited for ever.

(18) He offers this explanation of the phrase ‘animal worshipped under compulsion.’ It does not refer to just bowing before it.

(19) It was not the animal that was worshipped but the idol.

(20) Under the rule that animate beings used as an appurtenance to idolatry are not prohibited.

(21) Then it is prohibited although he took his neighbour's animal by force and worshipped it.

(22) As, e.g., pouring wine between its horns.

(23) There was no need to bring it as a teaching of the Palestinian Schools.

(24) For a complete act of slaughter both the gullet and windpipe must be cut; but if he cut only one in honour of the idol the animal is prohibited.

(25) [Because he performed on it an act of worship.]

(26) Israelite priests whom their kings forced to sacrifice to idols. V. Ezek. XLIV, 13.

(27) And could have fled rather than act as they did; therefore they were for ever disqualified from the divine Service. But an animal is not a rational being and did not willingly submit to being used for the worship of an idol; so why should it be prohibited?

(28) Which the Hasmoneans stored away after they had been desecrated.

(29) In his exposition of Ezek. VII, 22. V. supra p. 266.

Talmud - Mas. Avodah Zarah 54b

— Rather [must it be derived] from the Sanctuary vessels; for it is written, Moreover all the vessels, which king Ahaz in his reign did cast away when he trespassed, have we prepared and sanctified, and a Master declared: ‘Have we prepared’ means that we have stored them away, and ‘sanctified’ means that we have substituted others for them.[1] But [there is the rule that] a man cannot render prohibited what is not his property! Since, however, an act [of idolatrous worship] was performed on them [king Hezekiah and his followers] declared them prohibited for themselves — Similarly here [with the animal] since he performed an act [of idolatrous worship] on it, he has rendered it prohibited.

When R. Dimi came [from Palestine] he reported in the name of R. Johanan: Although [the Rabbis] declared that he who worships a piece of ground does not render it prohibited, yet if he dug in it[2] wells, pits or caves he has rendered it prohibited. When R. Samuel b. Judah came [from Palestine] he reported that R. Johanan said: Although [the Rabbis] declared that he who worships animate beings has not rendered them prohibited, if he obtained them in exchange for an idol he has rendered them prohibited. When Rabin came [from Palestine] he said: On this point R. Ishmael son of R. Jose and the Rabbis are at variance. One said that the animals obtained in exchange for an idol are prohibited but the animals obtained in exchange for these are permitted; while the other says that even these are prohibited. What is the reason of him who says that even these are prohibited? — Scripture states, And become a devoted thing like unto it,[3] i.e., whatever you bring into being from [a devoted thing] is to be treated like it. [What is the reason of] the other? — Scripture states, [For] it [is a devoted thing][4] — it [is a devoted thing] but not what is obtained as the result of a double exchange. [How does] the second authority [explain this phrase]? — He requires it for the exclusion of ‘orlah[5] and the mixed plantings of a vineyard,[6] so that if he sold them and with the proceeds married a wife[7] she is legally married. [Why does] the first authority [not explain the word it similarly]? Because ‘orlah and the mixed plantings of a vineyard do not require to be specially excluded, since in connection with idolatry and the Sabbatical year we have two texts which have an identical purpose,[8] and the rule is: We draw no deduction when two texts have an identical purpose.[9] As regards idolatry it is as we have stated.[10] As regards the Sabbatical year, it is written, For it is a jubilee, it shall be holy unto you[11] — as the holiness affects the redemption money[12] and is prohibited, similarly the Sabbatical year [described as holy like the Sanctuary] affects its money[13] and is prohibited. If [this conclusion is correct], then as the holiness affects its redemption money and [the object which is redeemed] becomes non-holy,[14] similarly the Sabbatical year should affect its money and [the produce which had been sold] become non-holy! But there is a text to state, It shall be [holy],[15] i.e., it shall remain in that state.[16] How is it, then? If he bought meat with fruits grown in the seventh year, both must be ‘removed’ during the Sabbatical year.[17] But if he bought fish with that meat, the meat ceases to be holy and the fish becomes holy; if he then bought wine with the fish, the fish ceases to be holy and the wine becomes holy; if he then bought oil with the wine, the wine ceases to be holy and the oil becomes holy. How is it, then? It is the last thing [in the series of exchanges] which is affected by the Sabbatical year[18] and the fruit itself is prohibited.[19] What, however, of the second authority?[20] — He holds that we do draw a deduction when two texts have an identical purpose, and [the phrase ‘for it is a devoted thing’] is required for the exclusion [of ‘orlah and the mixed plantings of a vineyard, as explained above].

MISHNAH. THE ELDERS[21] IN ROME WERE ASKED, ‘IF [YOUR GOD] HAS NO DESIRE FOR IDOLATRY, WHY DOES HE NOT ABOLISH IT?’ THEY REPLIED, ‘IF IT WAS SOMETHING UNNECESSARY TO THE WORLD THAT WAS WORSHIPPED, HE WOULD ABOLISH IT; BUT PEOPLE WORSHIP THE SUN, MOON, STARS AND PLANETS; SHOULD HE DESTROY HIS UNIVERSE ON ACCOUNT OF FOOLS!’ THEY SAID [TO THE ELDERS], ‘IF SO, HE SHOULD DESTROY WHAT IS UNNECESSARY FOR THE WORLD AND LEAVE WHAT IS NECESSARY FOR THE WORLD!’ THEY REPLIED, ‘[IF HE DID THAT], WE SHOULD MERELY BE STRENGTHENING THE HANDS OF THE WORSHIPPERS OF THESE,[22] BECAUSE THEY WOULD SAY, "BE SURE THAT THESE ARE DEITIES, FOR BEHOLD THEY HAVE NOT BEEN ABOLISHED!"’

GEMARA. Our Rabbis taught: Philosophers asked the elders in Rome, ‘If your God has no desire for idolatry, why does He not abolish it?’ They replied, ‘If it was something of which the world has no need that was worshipped, He would abolish it; but people worship the sun, moon, stars and planets; should He destroy the Universe on account of fools! The world pursues its natural course, and as for the fools who act wrongly, they will have to render an account. Another illustration: Suppose a man stole a measure of wheat and went and sowed it in the ground; it is right that it should not grow, but the world pursues its natural course and as for the fools who act wrongly, they will have to render an account. Another illustration: Suppose a man has intercourse with his neighbour's wife; it is right that she should not conceive, but the world pursues its natural course and as for the fools who act wrongly, they will have to render an account.’ This is similar to what R. Simeon b. Lakish said: The Holy One, blessed be He, declared, Not enough that the wicked put My coinage to vulgar use, but they trouble Me and compel Me to set My seal thereon![23]

A philosopher asked R. Gamaliel, ‘It is written in your Torah, For the Lord thy God is a devouring fire, a jealous God.[24] Why, however, is He so jealous of its worshippers rather than of the idol itself?’ He replied, ‘I will give you a parable: To what is the matter like? To a human king who had a son, and this son reared a dog to which he attached his father's name, so that whenever he took an oath he exclaimed, "By the life of this dog, my father!" When the king hears of it, with whom is he angry — his son or the dog? Surely he is angry with his son!’ [The philosopher] said to him, ‘You call the idol a dog; but there is some reality in it.’ [The Rabbi asked], ‘What is your proof?’ He replied, ‘Once a fire broke out in our city, and the whole town was burnt with the exception of a certain idolatrous shrine!’ He said to him, ‘I will give you a parable: To what is the matter like? To a human king against whom one of his provinces rebelled. If he goes to war against it, does he fight with the living or the dead? Surely he wages war with the living!’[25] [The philosopher] said to him, ‘You call the idol a dog and you call it a dead thing. In that case, let Him destroy it from the world!’ He replied, ‘If it was something unnecessary to the world that was worshipped, He would abolish it; but people worship the sun and moon, stars and planets, brooks and valleys. Should He destroy His universe on account of fools! And thus it states,

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(1) V. supra p. 266.

(2) As an act of idolatry.

(3) Deut. VII, 26.

(4) Ibid.

(5) V. Glos.

(6) Lev. XIX, 19.

(7) At marriage the bridegroom has to hand the bride a sum of money. Although the money was obtained in exchange for what was unlawful it could be used for the purpose.

(8) Lit., ‘two texts which come as one,’ i.e., a law is given twice in Scripture in such similar terms that one appears to be superfluous since either could have been deduced from the other by analogy.

(9) We do not apply the regulation contained in the two texts to anything else than what is specified therein.
(10) Viz., And become a devoted thing like unto it, from which is deduced that what is exchanged for a prohibited thing is likewise prohibited.
(11) Lev. XXV, 12.
(12) When the object dedicated to the Sanctuary is redeemed for a sum of money.
(13) Obtained by illegally selling produce grown in that year.
(14) And may be put to secular use.
(15) Not ‘it is holy’.
(16) I.e., whatever grows in that year shall be always in a state of holiness.
(17) They are both ‘holy’. [They can be eaten by the owner only as long as like produce is available to the public and animals in the fields. Once this produce is beginning to fail, it must be ‘removed’ from the house and made free to all.]
(18) And is holy.
(19) [It is ‘holy’. We thus have two texts to teach the prohibition of things obtained in exchange for forbidden things, so that there is no need of the phrase ‘it’ to exclude ‘orlah etc.’ Hence it must be applied to the exclusion of that which is obtained as the result of a double exchange.]
(20) Who deduces that the result of a double exchange is forbidden.
(21) They were R. Gamaliel, Eleazar b. Azariah, Joshua b. Hananiah and Akiba, who visited Rome in 95 C.E. V. Bacher, Agada d. Tann, I, p. 84, and the authorities quoted by him.
(22) The essential things which God spared.
(23) The wicked make wrong use of the sexual instinct with which they have been endowed by God and trouble Him to form the embryo which results from their immorality.
(24) Deut. IV, 24.
(25) The idol is a dead thing, so God does not wage war with it.

Talmud - Mas. Avodah Zarah 55a

Am I utterly to consume all things from off the face of the ground, saith the Lord; am I to consume man and beast; am I to consume the fowls of the heaven, and the fishes of the sea, even the stumbling-blocks of the wicked![1] — i.e., because the wicked stumble over these things is He to destroy them from the world? Do they not worship the human being; so am I to cut off man from off the face of the ground!’[2]

The General Agrippa asked R. Gamaliel, ‘It is written in your Torah, For the Lord thy God is a devouring fire, a jealous God. Is a wise man jealous of any but a wise man, a warrior of any but a warrior, a rich man of any but a rich man?’[3] He replied, ‘I will give you a parable: To what is the matter like? To a man who marries an additional wife. If the second wife is her superior, the first will not be jealous of her;, but if she is her inferior, the first wife will be jealous of her.’[4]

[An Israelite named] Zunin[5] said to R. Akiba: ‘We both know in our heart that there is no reality in an idol; nevertheless we see men enter [the shrine] crippled and come out cured.[6] What is the reason?’ He replied, ‘I will give you a parable: To what is the matter like? To a trustworthy man in a city, and all his townsmen used to deposit [their money] in his charge without witnesses. One man, however, came and deposited [his money] in his charge with witnesses; but on one occasion he forgot and made his deposit without witnesses. The wife [of the trustworthy man] said to [her husband], "Come, let us deny it." He answered her, "Because this fool acted in an unworthy manner, shall I destroy my reputation for trustworthiness!" It is similar with afflictions. At the time they are sent upon a man the oath is imposed upon them, "You shall not come upon him except on such and such a day, nor depart from him except on such and such a day, and at such an hour, and through the medium of so and so, and through such and such a remedy." When the time arrives for them to depart, the man chanced to go to an idolatrous shrine. The afflictions plead, "It is right that we should not leave him and depart; but because this fool acts in an unworthy way shall we break our oath!"’ This is similar to what R. Johanan said: What means that which is written, And sore and faithful sicknesses?[7] — ‘Sore’ in their mission and ‘faithful’ to their oath.

Raba son of R. Isaac said to Rab Judah: ‘There is an idolatrous shrine in our place, and whenever the world is in need of rain, [the idol] appears to [its priests] in a dream, saying, "Slay a human being to me and I will send rain." They slay a human being to it and rain does come!’ He replied, ‘Now were I dead, nobody could have related to you a certain dictum of Rab, viz., What means that which is written, Which the Lord thy God hath divided [halak] unto all the peoples under the whole heaven![8] This teaches that He made smooth [hehelik] their words[9] to banish [idolaters] from the world. This is similar to what R. Simeon b. Lakish said: What means that which is written, Surely He scorneth the scorners, but He giveth grace unto the lowly![10] If one comes to defile himself he is granted facilities for so doing, and if he comes to purify himself support is given to him.

MISHNAH. A WINEPRESS [CONTAINING] TRODDEN [GRAPES] MAY BE PURCHASED FROM A HEATHEN EVEN THOUGH IT WAS HE THAT LIFTED [THE TRODDEN GRAPES] WITH HIS HAND AND PUT THEM AMONG THE HEAP;[11] AND [THE JUICE] DOES NOT BECOME YEN NESEK[12] UNTIL IT DESCENDS INTO THE VAT. WHEN IT HAS DESCENDED INTO THE VAT, WHAT IS IN THE VAT IS PROHIBITED[13] BUT THE REMAINDER IS PERMITTED. [ISRAELITES] MAY TREAD THE WINEPRESS TOGETHER WITH A HEATHEN

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(1) Zeph. I, 2 f. The Talmud requires this translation. E.V., I will utterly consume etc.

(2) Ibid.

(3) Consequently if God is jealous of idols, they must be comparable to Him.

(4) Because the affront is when the man chooses an inferior woman to take her place in his affections.

(5) [Bacher, op. cit., p. 301, identifies him with the superintendent of R. Gamaliel's household. Pes. 49a.]

(6) [According to Bacher, loc. cit., n. 3, the reference is to the pagan practice which was for the afflicted person to repair to the shrine of Asklepios or Serapis where he would pass the night in the expectation of receiving in a dream a revelation of his cure.]

(7) Deut. XXVIII, 59. So the Hebrew literally.

(8) Ibid. IV, 19.

(9) Gave the idols power to deceive men.

(10) Prov. III, 34.

(11) [‘After the first treading the husks and stalks were piled in a heap in the centre and then submitted to further pressure by means of weights.’ (Elmslie, a.l.)]

(12) ‘Libation-wine,’ v. Glos.

(13) [Should the heathen handle it.]

Talmud - Mas. Avodah Zarah 55b

BUT MAY NOT GLEAN GRAPES WITH HIM.[1] SHOULD AN ISRAELITE BE WORKING IN A STATE OF RITUAL IMPURITY, WE MAY NEITHER TREAD NOR GLEAN WITH HIM, BUT WE MAY CONVEY [EMPTY] CASKS WITH HIM TO THE PRESS AND CARRY THEM [FILLED] WITH HIM FROM THE PRESS. IF A BAKER WAS WORKING IN A STATE OF RITUAL IMPURITY, WE MAY NEITHER KNEAD NOR ROLL DOUGH WITH HIM BUT WE MAY CONVEY LOAVES WITH HIM TO THE BAKERY.

GEMARA. R. Huna said: As soon as the wine begins to flow[2] it may become nesek. But we learn in our Mishnah: A WINEPRESS [CONTAINING] TRODDEN [GRAPES] MAY BE PURCHASED FROM A HEATHEN EVEN THOUGH IT WAS HE THAT LIFTED [THE TRODDEN GRAPES] WITH HIS HAND AND PUT THEM AMONG THE HEAP![3] — R. Huna said: This refers to a winepress which is stoppered and full.[4] Come and hear: AND [THE JUICE] DOES NOT BECOME YEN NESEK UNTIL IT DESCENDS INTO THE VAT![5] — Similarly here [says R. Huna, the

Mishnah deals with] a vat which is stoppered and full.[6] Come and hear: WHEN IT HAS DESCENDED INTO THE VAT, WHAT IS IN THE VAT IS PROHIBITED BUT THE REMAINDER IS PERMITTED![7] — R. Huna said: There is no contradiction; one teaching is from the older Mishnah and the other from the later Mishnah;[8] for it has been taught: ‘At first [the Sages] used to say (B.D.D.)[9] that [Israelites] may not glean grapes together with a heathen [and bring them] into a winepress,[10] for the reason that it is forbidden to cause defilement to the ordinary foodstuffs[11] of the Land of Israel, nor may they tread grapes together with an Israelite who works with his fruits while he is in a state of defilement for the reason that it is forbidden to assist transgressors; but they may tread grapes together with a heathen in a winepress.’[12] Consequently no attention is here paid to the view of R. Huna.[13] ‘Later [the Rabbis] said (D.B.B.):[14] [Israelites] may not tread grapes together with a heathen in a winepress,’ for the reason given by R. Huna,[15]

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(1) The explanation is given in the Gemara.

(2) From the upper trough which contains the grapes through a pipe into the lower where the wine collects. The press always consisted of two compartments. V. the illustration in Encyc. Bib., IV, col. 5312, and the description in Krauss, Tal, Arch., II, pp. 233 f.

(3) It would consequently appear that the wine is not prohibited as soon as it begins to flow.

(4) No wine could then run out; so when the juice flows from the grapes it remains on top. Consequently the wine must have been touched by the heathen and it is rendered nesek.

(5) This contradicts the explanation just given.

(6) So that the wine remains in the upper trough.

(7) Consequently wine must have flowed into the vat.

(8) [Probably that of R. Akiba, v. Sanh, (Sonc. ed.) p. 163, n. 7.]

(9) A mnemonic of the three rulings that follow: בוצרין.דורכין.דורכין

(10) [The heathen winepress for which they are destined will cause defilement to the grapes.]

(11) Eaten by the people as distinct from parts of certain offerings which belong to the priests.

(12) [Because the grapes having been picked and placed in the winepress by the heathen have already become defiled, and the assistance of the Jew at treading causes no further damage.]

(13) That wine becomes nesek as soon as it begins to flow, in which case it would be forbidden for the Jew to assist in the treading.

(14) Mnemonic of the rulings that follow: דורכין.בוצרין.בוצרין

(15) Viz., that the juice is considered to be wine as soon as it runs from the grapes, and the Jew would be working at Yen Nesek.

Talmud - Mas. Avodah Zarah 56a

‘nor may they glean grapes together with an Israelite who works with his fruits while he is in a state of defilement;[1] so how much more may they not tread grapes,[2] but may glean them, together with a heathen, since it is permitted to cause defilement to the ordinary foodstuffs of the land of Israel.’

AND [THE JUICE] DOES NOT BECOME YEN NESEK UNTIL IT DESCENDS INTO THE VAT. But we have learnt: Wine [becomes subject to the tithe] when it is skimmed![3] — Raba said: There is no contradiction, because [this latter teaching] is R. Akiba's and [that of the Mishnah] is the Rabbis’. For it has been taught: [The liquid is considered to be] wine when it descends into the vat, whereas R. Akiba says, When it is skimmed.[4]

The question was asked: Does this mean skimming [of the wine] while it is in the vat or when it is in the cask? — Come and hear! We have learnt: [It is to be considered] wine when it is skimmed; and although he has skimmed it, he may draw some off from the upper trough and from the pipe and drink it.[5] Deduce from this that we mean the skimming while it is in the vat. Draw this conclusion. But R. Zebid learnt in the [collection of Baraithas] of the School of R. Oshaia:[6] [It is to be considered] wine when it descends into the vat and is skimmed; whereas R. Akiba says: When it is drawn into casks![7] — That former [Baraitha][4] must be also explained in the sense just given, vis.: [It is considered to be] wine when it descends into the vat and is skimmed; whereas R. Akiba says: When it is drawn into casks. But since our Mishnah teaches: IT DOES NOT BECOME YEN NESEK UNTIL IT DESCENDS INTO THE VAT, conclude that there are three Tannaim [offering different definitions]![8] — No; it is different as regards yen nesek because the Rabbis take a strict view;[9]

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(1) [Because they would be aiding in the breach of the law, by preparing for the defilement of the priestly portion he is obliged to offer when the grapes are placed in his vat. Grapes, in common with other foodstuffs, are not susceptible to levitical impurity before they come in contact with certain kinds of liquids.]

(2) [When they would be actually assisting transgressors.]

(3) I.e., when the substances which are on top of the wine at the time of fermentation are skimmed off (Ma'as. I, 7). This is a later stage than that mentioned in the Mishnah.

(4) B.M. 92b.

(5) Without first tithing it; consequently it is not yet considered to be wine.

(6) [R. Oshaia had a collection of Baraithas as supplementary to the Mishnah of Rabbi. V. Halevy, II, 253 ff, and supra, p. 27, n. 4.]

(7) This contradicts the Mishnah which does not include skimming, according to the Rabbis, nor drawing into casks, according to R. Akiba.

(8) Viz., (i) the Mishnah, that it is wine when it descends into the vat; (ii) the Rabbis, when it is skimmed in the vat; (iii) R. Akiba, when it is drawn into casks.

(9) For the law of nesek they regard the juice as wine as soon as it descends into the vat, but for the law of tithe they are not so strict and add the condition that it must have been skimmed.

Talmud - Mas. Avodah Zarah 56b

but as for Raba who draws no distinction,[1] he makes his explanation on the hypothesis that there are three Tannaim [offering different definitions].

WHAT IS IN THE VAT IS PROHIBITED BUT THE REMAINDER IS PERMITTED. R. Huna said: They only taught this in the case where he did not return the net-work[2] to the press, but if he did return it to the press [the whole of it] is prohibited.[3] Why, however, should that which is in the net-work itself be prohibited?[4] — On account of the outflow.[5] Deduce from this that the outflow is a connecting medium! [No,] as R. Hiyya taught: His jar[6] forced the wine back; and similarly here the [contents of the] vat forced the wine back.[7]

There was a boy who had learnt the Tractate on Idolatry when he was six years old. He was asked, ‘May [an Israelite] tread grapes together with a heathen in a press?’ He replied, ‘It is lawful to tread grapes together with a heathen in a press.’ [To the objection] ‘But he renders it yen nesek by [the touch of] his hands!’[8] [he answered], ‘We tie his hands up.’ [To the further objection] ‘But he renders it yen nesek by [the touch of] his feet!’ [he answered], ‘Wine touched by the feet is not called nesek.’

It happened in Nehardea that an Israelite and a heathen pressed out wine together. [On the question being put to him how this wine was to be considered,] Samuel delayed three Festivals[9] [before replying]. What was his reason [for the delay]? Shall I say that he thought to himself,

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(1) Between the definition of wine for tithe and for nesek, since he finds a contradiction between our Mishnah and that dealing with tithes; supra 284.

(2) Used as a strainer before the juice descends from the pipe into the vat.

(3) [Even that which is in the upper trough.]

(4) Since the heathen only touched what was in the vat.

(5) This forms a connection between the liquid in the vat network and lower vat and is the conductor of the prohibited wine from one to the other.
(6) V. infra p. 347. The jar was filled to the brim through a pipe and so forced some of the liquor back into the cask.
(7) The vat was so full that the surface of the wine touched the net-work, which forced the wine back again. In this way it caused contamination, and not because the outflow is considered a connecting medium.
(8) Which is contrary to the ruling of the later Mishnah, v. supra 55b.
(9) On these Festivals discourses were given in public on the laws of the holy days.

Talmud - Mas. Avodah Zarah 57a

If I find a Tanna who forbids its use as does R. Nathan, then I will forbid it even to be used for any purpose whatever — since it has been taught: If [a heathen] measured [the quantity of wine] either by using his hand or leg for that purpose, it may be sold;[1] whereas R. Nathan says: If he used his hand it is prohibited, but if his leg it is permitted. But then admit that R. Nathan declared [his prohibition where the wine was touched] by the hand,[2] but did he say so [when it was touched] by the leg! — Rather [must he have thought to himself], If I find a teacher who permits[3] like R. Simeon, then I will permit it even for drinking.

It happened at Biram[4] that a heathen climbed a palm-tree and took one of its branches. While descending he unintentionally touched a [cask of] wine with the branch. Rab, [on being consulted] permitted it to be sold to heathens.[5] R. Kahana and R. Assi said to him,'But the Master[6] it was who declared that a child only a day old can render wine nesek!'[7] He replied, 'I merely decided against its being drunk [by Israelites], but did I say aught against its use otherwise [by them]?'

The text states: The Master himself has declared that a child only a day old can render wine nesek.' R. Shimi b. Hiyya quoted in objection to Rab's statement: If [an Israelite] bought slaves from a heathen who had been circumcised but not immersed,[8] and similarly with the children of female slaves[9] [born in an Israelite's house] who had been circumcised but not immersed, their spittle and the place where they tread in the street[10] are unclean, but others declare that they are clean. As for wine, adults render it nesek [by contact with it], but minors do not render it nesek. The following are adults and minors: Adults are such as understand the nature of an idol and its appurtenances, whereas minors are such as do not understand this.[11] At all events, it here teaches that adults do [render wine nesek] and minors do not![12] — [Rab] explained the teaching as referring to the children of female slaves.[13] But in the passage [cited above] we have the words 'and similarly'![14] — That refers to their spittle and place of treading![15] This answer is all right according to him who declared that these are unclean, but according to him who declared that they are clean what is there to say?[16] — It informs us of the similarity of slaves to the children of female slaves: as the children of female slaves, when circumcised but not immersed, render wine nesek, and if both circumcised and immersed do not, so is it also with slaves. This excludes what R. Nahman said in the name of Samuel, viz.: If [an Israelite] bought slaves from a heathen, although they had been both circumcised and immersed, they render wine nesek until idolatry is entirely banished from their lips. Hence we are informed that it is not so.

The text states: 'R. Nahman said in the name of Samuel: If [an Israelite] bought slaves from a heathen, although they had been both circumcised and immersed, they render wine nesek until idolatry is entirely banished from their lips.' How long is this? — R. Joshua b. Levi said: Up to twelve months.

Rabbah quoted against R. Nahman: If [an Israelite] bought slaves from a heathen, who had been circumcised but not immersed, and similarly with the children of female slaves, who had been circumcised but not immersed, their spittle and the place where they tread

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(1) By an Israelite to a Gentile, although he may not drink it himself. The heathen's intention was to measure and not render the wine nesek. For all that R. Nathan prohibits it when the measuring was done by hand.

(2) And the question put to Samuel related to treading grapes with the feet.

(3) Wine touched by a heathen when the intention was innocent of idolatry. V. infra 60b.

(4) A town between Syria and Mesopotamia. It possessed a hot spring (Sanh. 108a). [According to Obermeyer op. cit., p. 25, it lay 8 parasangs north of Pumbeditha, on the Western bank of the Euphrates.]

(5) And the money used, but Israelites may not drink the wine.

(6) I.e., Rab himself. It was respectful to address an individual in the third person.

(7) Obviously without intention; so why is it mentioned that the heathen touched the wine unintentionally?

(8) In a ritual bath. Both are necessary for proselytisation.

(9) If they have not become converts before the birth of the children. After their conversion, the children born to them are Jews and do not require immersion.

(10) [Even in a street, where doubtful cases of uncleanness are considered clean (Toh. IV, 11). Tosef, A.Z. III, however, omits ‘in the street’.]

(11) V. Tosef. A.S. III.

(12) This contradicts Rab's assertion that a child a day old can make wine nesek.

(13) Only these do not make wine nesek, but ordinary heathen children do.

(14) Which seem to imply that the law holds good equally of heathen slaves who were bought and slave-children born in an Israelite's house.

(15) And not to wine.

(16) How is the phrase ‘and similarly’ to be explained?

Talmud - Mas. Avodah Zarah 57b

in the street are unclean, but others declare that they are clean. As for wine, adults render it nesek but minors do not render it nesek. The following are adults and minors: Adults are such as understand the nature of an idol and its appurtenances, whereas minors are such as do not understand this! At all events it here teaches that when circumcised but not immersed, they do [render wine nesek], and if both circumcised and immersed they do not![1] — [R. Nahman] explained the teaching as referring to the children of female slaves.[2] But in the passage cited above we have the words ‘and similarly’! — That refers to their spittle and place of treading. This answer is all right according to him who declared that these are unclean, but according to him who declared that they are clean what is there to say? — It informs us of the similarity of slaves to the children of female slaves: as the adult children of female slaves render wine nesek but if minors they do not, so also with slaves they render wine nesek when adults but not when minors. This excludes what Rab said: A child only a day old can render wine nesek. Hence we are informed that it is not so.

It happened at Mahuza[3] that a heathen came and entered the shop of an Israelite. He asked them, ‘Have you wine to sell?’ They replied, ‘We have not.’ There was some wine contained in a bucket, into which [the heathen] plunged his hand and splashed about, and said to them, ‘Is not this wine?’ In his anger [the shop-keeper] took the wine and poured it back into the cask. Raba permitted him to sell it[4] to Gentiles, but R. Huna b. Hinnena and R. Huna son of R. Nahman differed from him.[5] An announcement issued from Raba permitting [the sale of the wine], and an announcement issued from R. Huna b. Hinnena and R. Huna son of R. Nahman forbidding it.

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(1) Nothing is here said of the condition ‘until idolatry is entirely banished from their lips.’

(2) Having been reared in the house of an Israelite, such a condition is unnecessary, but not with bought slaves who had been brought up in an idolatrous environment.

(3) A town on the Tigris.

(4) Although it contained yen nesek.

(5) When they heard of it, but they were not in the town to argue the subject with Raba. They forbade its use for any purpose.

Talmud - Mas. Avodah Zarah 58a

[Later on][1] R. Huna son of R. Nahman visited Mahuza, and Raba said to his attendant, R. Eliakim,' 'Bolt the doors so that nobody shall enter to disturb us.'[2] [R. Huna son of R. Nahman] entered the room and asked him, 'In such circumstances[3] how is the law?' — He replied, 'It is forbidden even for use.' [R. Huna exclaimed], 'But the Master[4] it was who declared that such splashing does not render wine nesek!' [Raba replied], 'I was referring [to the contents of the cask] apart from the value of that wine [which had been in the bucket]; I said nothing with reference to the value of that wine.'[5] Raba continued, 'When I came to Pumbeditha,[6] Nahmani[7] overwhelmed me with precedents and teachings to the effect that it is prohibited. As to precedents, there was a similar occurrence in Nehardea where Samuel prohibited it, and another in Tiberias where R. Johanan prohibited it; and when I replied to him that [they gave that decision because in those towns the inhabitants] were not students of Torah,[8] he retorted, "[The inhabitants of] Tiberias and Nehardea are not students of Torah and those of Mahoza are students of Torah! As to a teaching, there is that of a heathen inspector of weights who tapped [a cask of wine] with a tube and drew off [some wine], or he tasted some of it in a glass and returned [the remainder] to the cask — this actually happened and [the Rabbis] declared it forbidden.[9] Is it not be supposed that [the decision applied] to its use for any purpose?[10] — No, only to its being drunk [by Israelites]." [Abaye asked,] "If that is so, let it teach: 'He may sell it,' in the same way that it teaches in the sequel: If a heathen oppressor extends his hand into a cask, thinking that it contained oil, but it chanced to contain wine — this actually happened and [the Rabbis] said that it may be sold!"' This is a refutation of Raba! It is a refutation.[11]

R. Johanan b. Arza[12] and R. Jose b. Nehorai were once sitting and drinking wine, when a man entered to whom they said, 'Come, pour out for us.' After he had poured it into their glass, the fact was disclosed that he was a heathen. One of them prohibited it to be used for any purpose, while the other permitted it even for drinking. R. Joshua b. Levi said: He who prohibited it acted rightly and he who permitted it acted rightly. He who prohibited it

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(1) By which time Raba had retracted his decision, v. below, n. 6. cf. however, p. 290, n. 2.

(2) I.e., when R. Huna paid him a visit.

(3) When a heathen splashed his hand in the wine without any intention of idolatry.

(4) Viz., Raba himself.

(5) Which had been touched by the heathen, its value must be cast into the sea, since a Jew may derive no benefit from it. In this way Raba attempted to extricate himself from his difficult position (v. however, p. 290, n. 2).

(6) [This occurred before R. Huna's visit to Raba. V. p. 290, n. 2.]

(7) I.e., Abaye, whose grandfather's name was Nahmani which was occasionally applied to him.

(8) And where the people are unlearned, the law must be interpreted in a stricter sense because of their liability to err.

(9) Tosef, A.Z. VIII.

(10) This refutes Raba.

(11) [Tosaf. on the basis of a variant reading has a different version. R. Nahman happened to be in Mahuza when he was visited by Raba, his former disciple, who asked him his opinion. When R. Nahman declared himself against the use of the wine, Raba recalled a former decision of his in a similar case that splashing does not render nesek. To this R. Nahman replied that his ruling related only to the contents of the wine in the cask etc. The merit of this version is that it clears Raba from a charge of prevarication and further obviates the necessity of placing Raba's visit in Pumbeditha mentioned later in the text before the discussion he had with his visitor in Mahuza.]

(12) Another reading is: Arwa.

Talmud - Mas. Avodah Zarah 58b

[acted on this supposition: The heathen] must have said to himself, 'Would it occur to such Rabbis as these to drink beer? It must surely be wine!' and he rendered it nesek. He who permitted it acted rightly [on this supposition: The heathen] must have said to himself, ‘Would it occur to such Rabbis as these to drink wine and ask me to pour out for them? It must be beer they are drinking!’[1] and he did not render it nesek. But he could have seen [whether it was wine or beer]! — It was night. But he could have smelt! — It was new.[2] But he must have touched it [when he drew the liquor from the cask] with a measure, so it is a case where a heathen touched [wine] unintentionally[3] and it is prohibited! — No; it is necessary [to understand it as a case] where he merely poured out,[4] and so it is a circumstance of unintentional action,[5] and the Rabbis did not decree against a circumstance of unintentional action.

R. Assi asked R. Johanan: How is it when wine is mixed[6] by a heathen? — He said to him: Use the verb mazag![7] [R. Assi] replied: I used the Scriptural word as in, She hath killed her beasts, she hath mingled [masekah] her wine.[8] He said to him: The language of the Torah is distinct and so is the language of the Sages.[9] How is it, then, [if a heathen mixes it with water]? — [R. Johanan] answered: It is prohibited[10] on the principle, ‘Keep off, we say to a Nazirite; go round the vineyard and come not near it!’[11]

R. Jeremiah once visited Sakhutha[12] and there saw heathens mixing the wine and Israelites drinking it. He prohibited it to them on the principle, ‘Keep off, we say to a Nazirite; go round the vineyard and come not near it!’ It has likewise been stated: R. Johanan said — another version is, R. Assi said in the name of R. Johanan: Wine mixed by a heathen is prohibited on the principle, ‘Keep off, we say to a Nazirite; go round the vineyard and come not near it.’

R. Simeon b. Lakish once came to Bozrah[13] and there saw the Israelites eating untithed fruits and he prohibited them. He saw water which had been worshipped by idolaters being drunk by Israelites and he prohibited it. He came before R. Johanan [and related to him what he had done]; and the latter said to him, ‘While your cloak is still upon you, return;[14] Bezer[15] is not Bozrah; and water belonging to the public cannot become prohibited!’[16] R. Johanan here followed his own opinion;

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(1) The law of nesek does not apply to beer.

(2) When fresh the smell is not so distinctive.

(3) Since he was unaware that it was wine.

(4) And did not touch the wine.

(5) The man being unaware that it was wine he was to pour out.

(6) Wine was usually diluted with water before it was drunk.

(7) This is the usual verb for ‘to dilute wine with water’, whereas R. Assi used masak.

(8) Prov. IX, 2.

(9) His point is that in the language of the Rabbis mazag has the signification to mix wine with water; but masak, while having that meaning in Biblical Hebrew, means in Rabbinic Hebrew to mix strong wine with weaker wine.

(10) For drinking but not for other use, and it is prohibited although he had not touched it.

(11) As a precautionary measure to avoid the possibility of breaking the law which forbids the fruit of the vine to a Nazirite.

(12) According to Jastrow the Aramaic equivalent of Mizpah. Neubauer prefers the alternative reading ‘Sabtha’ which may be Sebaste. [Obermeyer, op. cit., p. 185, identifies it with Sabat, in the district of Mahuza.]

(13) An Edomite city (Isa. XXXIV, 6).

(14) I.e., without delay go back and rescind your prohibition.

(15) One of the cities of refuge (Deut. IV, 43). As a Palestinian city untithed fruits were disallowed there but not in a town like Bozrah, which was outside the confines of the Holy land.

(16) If it had been worshipped.

Talmud - Mas. Avodah Zarah 59a

for R. Johanan said in the name of R. Simeon b. Jehozadak: Water belonging to the public cannot become prohibited. Consequently when it belongs to an individual it does become prohibited. But it should be excluded for the reason that it is something fixed in the ground![1] — No; it is necessary [to mention it because it can be prohibited in the case] where a wave caused some of the water to flow away.[2] At all events [such water may be compared] to boulders which had broken away;[3] and it must therefore be concluded that it was R. Johanan who said they were prohibited! — No; it is necessary [to suppose a case] where [a heathen] collected [the waters] with his own hand[4]

R. Hiyya b. Abba once visited Gabla,[5] and there saw Israelite women who were pregnant by heathens who had been circumcised but not immersed. He also saw wine being drunk by Israelites which had been mixed by heathens, and lupins eaten when cooked by heathens; but he said nothing to them. When he came before R. Johanan [and reported the matter to him], the latter exclaimed, ‘Go and announce that their children are illegitimate, their wine is nesek, and their lupins [are prohibited] as something cooked by heathens, because [the inhabitants of Gabla] are not students of Torah!’[6] [In announcing that] their children were illegitimate R. Johanan followed his own opinion; for R. Johanan said: [A Gentile] is never to be regarded as a proselyte until he is both circumcised and immersed, and since he has not undergone immersion he is a Gentile. And Rabbah b. Bar Hanah has said in the name of R. Johanan: If a Gentile or a slave has intercourse with an Israelite woman, the child is a mamzer.[7] He decreed that their wine was nesek on the principle, ‘Keep off, we say to a Nazirite; go round the vineyard and come not near it.’ [And he decreed] against their lupins as something cooked by heathens, because [the inhabitants of Gabla] were not students of Torah. His reason was that they were not students of Torah. Consequently if they had been students of Torah, [the lupins] would have been permitted! But surely R. Samuel son of R. Isaac said in the name of Rab: Whatever is eaten raw does not come within [the law of what is prohibited] on account of having been cooked by heathens![8] — R. Johanan follows a different version [of the teaching, viz.]: R. Samuel son of R. Isaac said in the name of Rab: Whatever is not brought upon the table of kings to serve as a relish with bread does not come within [the law of what is prohibited] on account of having been cooked by heathens.[9] Therefore his reason was that they were not students of Torah, and if they had been students of Torah [the lupins] would have been permitted.

R. Kahana was asked: May a heathen be allowed to convey grapes to a winepress? He replied: It is prohibited on the principle, ‘Keep off, we say to a Nazirite; go round the vineyard and come not near it!’ R. Jemar quoted against R. Kahana: If a heathen carried grapes to a winepress in baskets

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(1) And what is fixed in the ground does not become prohibited if worshipped.

(2) And such a stream of water, if belonging to an individual, would be prohibited as it is no longer fixed to the ground.

(3) From a mountain which had been worshipped. Whether they may be used was debated supra 46a, by R. Johanan and R. Hiyya's sons, and it was not decided which of them took the view that they were prohibited.

(4) There would then be manual labour involved and consequently prohibited if belonging to an individual; whereas the breaking away of the boulders was due to a natural force, and the two cases are not analogous.

(5) Gebal of Ps. LXXXIII, 8, i.e., the northern part of Mount Seir. [V. Klein, S. MGWJ, LXIV, p. 183.]

(6) The phrase ‘because they are not students of Torah’ applies only to the prohibition of the lupins, as will be explained.

(7) ‘Illegitimate’, v, Glos.

(8) Lupins are not eaten raw; so they should be prohibited when cooked by heathens whether the inhabitants were learned or not.

(9) Lupins are not used for such a purpose and should be permitted.

Talmud - Mas. Avodah Zarah 59b

or barrels, even though the wine drips upon them, it is permitted! — [R. Kahana] replied to him: You used the word ‘carried’,[1] whereas I was speaking of a case ab initio.[2]

A citron once fell into a cask of wine, and a heathen sprang for ward to pull it out. R. Ashi said to them:[3] Hold his hand so that he does not splash about,[4] and tilt [the cask] until it is emptied.[5]

R. Ashi said: When a heathen has deliberately rendered the wine of an Israelite nesek, although it is prohibited to sell it to another heathen, [the owner] is allowed to receive the cost from the person [who disqualified it]. On what ground? — Because he involved him in a loss.[6] R. Ashi said: Whence do I derive this? — From this teaching: If an idolater offered wine of an Israelite [as a libation], not in the presence of an idol, it is prohibited; but R. Judah b. Baba and R. Judah b. Bathyra permit it[7] for two reasons: first, because wine can be rendered nesek only in the presence of an idol, and secondly because [the owner can] say to him, ‘You have no right to make my wine prohibited through no fault of my own.’[8]

It once happened that the bung fell out of a cask of wine, and a heathen sprang forward and placed his hand over it, R. Papa said: All the wine that is on the level with the bung-hole is prohibited[9]

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(1) Signifying an accomplished fact.

(2) He only forbids it ab initio but post factum he too would allow it.

(3) The Jewish bystanders.

(4) Which action would render all the wine nesek.

(5) Into another vessel. So long as he did not move his hand about in the wine, he has not rendered it prohibited.

(6) Lit., ‘he burned it’,

(7) To be sold.

(8) It follows, at all events, though the ruling of R. Judah b. Baba and R. Judah b. Bathyra is not accepted, that the Jew can receive compensation for his loss.

(9) To be drunk by a Jew but it may be sold to a Gentile, since there was no ‘splashing’ at that spot.

Talmud - Mas. Avodah Zarah 60a

and the remainder is permitted.[1] Another version is — R. Papa said: The wine above the bung-hole is prohibited[2] and the remainder is permitted. R. Jemar said: [This is] like the Tannaim [who are at variance over the following]:[3] If a keg[4] became perforated whether on top, the bottom or its sides, and a tebul yom[5] touched it, it is defiled. R. Judah says: [If it was perforated] on top or bottom it is defiled,[6] but if on its sides it is altogether undefiled.[7]

R. Papa said: If a heathen [was holding] the barrel and an Israelite the cask,[8] the wine is prohibited. On what ground? — Because [the pouring] results from the effort of the heathen. If, however, an Israelite [was holding] the barrel and a heathen the cask, the wine is permitted; but should [the heathen] tilt it sideways it is prohibited.[9]

R. Papa said: If a heathen carries a skin-bottle [of wine] and an Israelite follows behind him,[10] should it be full it is permitted because [the wine] does not shake,[11] but should it not be full it is prohibited because there is the possibility of shaking. In the case, however, of a full cask [being so carried],[12] it is prohibited because he might have touched it, but should it not be full it is permitted because there is less likelihood that he touched it. R. Ashi said: In the case of a skin-bottle, whether full or not,it is permitted. On what ground? — Because such is not the way of rendering wine nesek[13] .

[Wine] from a press where beams are used[14] is permitted[15] by R. Papi but prohibited by R. Ashi, or according to another version, by R. Shimi b. Ashi. In the case of direct action[16] there is certainly no difference of opinion that it is prohibited, the difference being over the circumstance where there was indirect action.[17] Some declare that in the case of indirect action there is certainly no difference of opinion that it is permitted, the difference being over the circumstance where there was direct action. An instance of such indirect action occurred and R. Jacob of Nehar-Pekod[18] prohibited it.

It once happened that a cask

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(1) To be drunk.
(2) Because it would tend to run out and by touching his hand communicate contamination to the rest of the wine.
(3) Accordingly R. Papa's decision is not accepted by all.
(4) Containing wine to be used for the heave-offering.
(5) V. Glos.
(6) Because the defilement is communicated to all the contents.
(7) This opinion corresponds with R. Papa's, but it is not adopted in law.
(8) The wine being poured from the barrel into the cask.
(9) Because he would then be contributing effort towards filling the cask.
(10) To see that he does not touch the wine.
(11) The bottle is tied at the neck, and when full the contents are not shaken; but when not full, the wine may be shaken. [R. Papa regards shaking when carried as ‘splashing’ with the hand.]
(12) Which is open on top.
(13) [Through accidental shaking in the carrier's hand.]
(14) To crush the grapes so that the treader does not come in contact with the wine.
(15) When the beams are placed over the grapes by a heathen.
(16) On the part of the heathen, as when he stood on the beams to press the grapes.
(17) If, e.g., a wheel, turned by a heathen, pressed on the beams.
(18) Pekod is mentioned in Jer. L, 21 and Ezek XXIII, 23; a district in S.E. Babylon; v. Sanh, (Sonc. ed.) p. 468, n. 3.

Talmud - Mas. Avodah Zarah 60b

split lengthwise, and a heathen sprang forward and clasped it in his arms. Rafram b. Papa — another version is, R. Huna the son of Rab Joshua — permitted it to be sold to heathens. This rule applies only when it split lengthwise, but if crosswise it is permitted even to be drunk [by Israelites].[1] On what ground? — [The heathen] only did what a brick might have done.[2]

A heathen was once found standing in [the empty] wine-press [of an Israelite]. [On being consulted] R. Ashi said: If it was sufficiently moist to moisten other objects, it needs to be rinsed with water and rubbed dry, otherwise mere rinsing is sufficient.

MISHNAH. IF A HEATHEN WAS FOUND STANDING BY THE SIDE OF A VAT OF WINE, SHOULD HE HAVE A LIEN UPON IT THEN IT IS PROHIBITED;[3] BUT SHOULD HE NOT HAVE A LIEN UPON IT THEN IT IS PERMITTED. IF [A HEATHEN] FELL INTO A VAT AND CLIMBED OUT,[4] OR MEASURED IT WITH A ROD, OR FLICKED OUT A HORNET WITH A ROD, OR TAPPED ON THE TOP OF A FROTHING CASK[5] — IT HAPPENED SO WITH ALL THESE CIRCUMSTANCES, AND [THE RABBIS] SAID THAT IT MAY BE SOLD, WHILE R. SIMEON PERMITS IT.[6] IF HE TOOK A CASK, AND IN HIS ANGER THREW IT INTO THE VAT — THIS ACTUALLY HAPPENED AND [THE RABBIS] DECLARED IT FIT [FOR DRINKING].

GEMARA. Samuel said: [The first clause of the Mishnah only applies] when he has a lien on that wine [which is in the vat].[7] R. Ashi said: This is also implied in the [next] Mishnah where we learn: If [an Israelite] prepares a heathen's wine in a state of ritual purity[8] and leaves it in [the latter's] domain who writes for him, ‘I have received the money from you,’[9] then [the wine] is permitted.[10] If, however, the Israelite wished to remove it and [the heathen] refuses to let it go until he paid him — this actually happened in Beth-Shan and [the Rabbis] prohibited it.[11] The reason [why they prohibited it] was because he refused to let it go; hence if he had agreed to let it go, it would have been permitted. Conclude, then, that we require that the lien should be on that wine [for it to be prohibited]! Draw that conclusion.

IF [A HEATHEN] FELL INTO A VAT AND CLIMBED OUT. R. Papa said: [The teaching of the Mishnah that the wine may be sold] applies only to the circumstance when he is brought out dead, but if he climbed out alive it is prohibited. On what ground? — Because it would then be to him like an idolatrous feast-day.[12]

OR MEASURED IT WITH A ROD . . . IT HAPPENED SO WITH ALL THESE CIRCUMSTANCES, AND [THE RABBIS] SAID THAT IT MAY BE SOLD, WHILE R. SIMEON PERMITS IT. R. Adda b. Ahabah said: May blessings alight upon the head of R. Simeon, because when he permits he permits even the drinking [of the wine] and when he prohibits he prohibits it for all use![13] R. Hiyya the son of Abba b. Nahmani reported that R. Hisda said in the name of Rab — another version is, R. Hisda said in the name of Ze'iri: The halachah agrees with R. Simeon. Others declare that R. Hisda said: Abba b. Hanan remarked to me that Ze'iri said: The halachah agrees with R. Simeon. But the halachah is not in accord with R. Simeon.

IF HE TOOK A CASK AND IN HIS ANGER THREW IT INTO THE VAT — THIS ACTUALLY HAPPENED AND [THE RABBIS] DECLARED IT FIT [FOR DRINKING]. R. Ashi said: Whatever is rendered unclean by a zab[14] makes wine [in a similar circumstance] nesek by a heathen, and whatever is not rendered unclean by a zab makes wine not to be nesek by a heathen. R. Huna quoted against R. Ashi: IF HE TOOK A CASK AND IN HIS ANGER THREW IT INTO THE VAT — THIS ACTUALLY HAPPENED IN BETH-SHAN[15] AND [THE RABBIS] DECLARED IT FIT [FOR DRINKING]! [Consequently if he did this] in anger it is [fit for drinking], but if he had not done it in anger it would not [be fit]![16] —

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(1) The top part of the barrel presses upon the lower, so only a little wine would run, and there is less possibility of contamination if the heathen exerted pressure on top.

(2) Pressed down to lessen the crack.

(3) Because he would not be afraid to touch it. If the Israelite were to remonstrate with him, he had the right to claim the wine for his debt.

(4) The Gemara requires the rendering: and is brought out (dead).

(5) To reduce the amount of the froth.

(6) Even to be drunk by Jews.

(7) Which the owner was making to pay off the debt, because then the heathen would not be afraid to touch it. But if his lien was generally upon the owner, he would hesitate to disqualify the wine and so involve his debtor in loss.

(8) To be sold to Jews.

(9) So that the Jew can remove the wine whenever he so desires.

(10) So long as the Jew holds the key to the place where the wine is stored.

(11) Because the heathen had a lien on that wine, it not having been paid for.

(12) In gratitude for his escape he would dedicate the wine to his god.

(13) Unlike the other Rabbis whose prohibition is often limited to the drinking of the wine by Jews.

(14) V. Glos. The reference here is only to the effect of touching an article.

(15) The words in ‘Beth-Shan’ are included in the text of the Mishnah in some MSS. The place is a Biblical city, the modern Beisan, west of the Jordan.

(16) As against this conclusion, if a zab had thrown a cask into the vat, the wine would have been defiled, whereas it is an established principle that a zab defiles only by ‘contact’ and not by ‘throwing’.

Talmud - Mas. Avodah Zarah 61a

[R. Ashi replied:] There [it refers to the circumstance where the cask] was being roiled by him [the whole distance into the vat].[1]

MISHNAH. IF [AN ISRAELITE] PREPARES A HEATHEN'S WINE IN A STATE OF RITUAL PURITY[2] AND LEAVES IT IN [THE LATTER'S] DOMAIN, IN A HOUSE WHICH OPENS ON TO THE PUBLIC DOMAIN, SHOULD IT BE IN A CITY WHERE HEATHENS AND ISRAELITES RESIDE, IT IS PERMITTED;[3] BUT SHOULD IT BE IN A CITY WHERE ONLY HEATHENS RESIDE IT IS PROHIBITED UNLESS [AN ISRAELITE] SITS AND WATCHES.[4] THERE IS NO NEED FOR THE SUPERVISOR TO SIT AND WATCH [THE WHOLE TIME]; EVEN IF HE KEEPS GOING OUT AND COMING IN IT IS PERMITTED. R. SIMEON B. ELEAZAR SAYS: IT IS ALL ONE WITH THE DOMAIN OF A HEATHEN.[5] IF [AN ISRAELITE] PREPARES A HEATHEN'S WINE IN A STATE OF RITUAL PURITY AND LEAVES IT IN [THE LATTER'S] DOMAIN WHO WRITES FOR HIM ‘I HAVE RECEIVED THE MONEY FROM YOU,’ THEN [THE WINE] IS PERMITTED. IF, HOWEVER, THE ISRAELITE WISHED TO REMOVE IT AND [THE HEATHEN] REFUSES TO LET IT GO UNTIL HE PAID HIM — THIS ACTUALLY HAPPENED IN BETH-SHAN AND [THE RABBIS] PROHIBITED IT.[6]

GEMARA. In a city where only heathens reside it should also [be permitted without a supervisor] since there are [Israelite] spice-sellers[7] going about the cities! — Samuel said: [The Mishnah refers] to a city which has doors and bolts.[8] R. Joseph said: If there is a window[9] it is the equivalent [of the house being in] a public domain; or if there is a rubbish-heap[10] it is the equivalent [of the house being in] a public domain; and similarly a date-palm makes it the equivalent of a public domain.[11] If the top [of the date-palm] had been cut off,[12] R. Aha and Rabina differ, one forbidding [the wine] and the other permitting it. He who forbids it [does so for the reason that the heathen thinks that the owner of the tree] has no cause to climb it; and he who permits it [does so for the reason that] an occasion may occur that [the Israelite's] cattle will stray and he will climb it to look for them.[13]

Our Rabbis taught: ‘Whether [an Israelite] purchases or rents an apartment in the court of a heathen and fills it with [casks of] wine, and an Israelite resides in that court, it is permitted even though the key and seal be not in his [the Israelite's] possession.

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(1) Vis., acting in anger, he gave the cask a violent push and it rolled of itself into the vat; consequently he did not handle the cask and for that reason the wine is fit. If, on the other hand, he did not act in anger, he must have rolled the cask the whole distance to the vat, likely touched the wine, and so the wine is disqualified. Hence the parallel of the zab and the heathen holds good.

(2) [For the purpose of selling it to Jews. Wine prepared by heathens was alike forbidden and levitically unclean. V. supra 30b.]

(3) It is assumed that the heathen would be afraid to tamper with the wine because he might be seen by a Jewish inhabitant, and be unable to dispose of his wine among Jews.

(4) [V.l. ‘he appoints a supervisor’.]

(5) Whether it be private or public, a supervisor is necessary.

(6) The second half of the Mishnah was quoted on p. 297. V. the notes there.

(7) General term for pedlars.

(8) So that nobody could enter without the fact becoming known, and he could therefore, even if the wine is placed in a house opening on to the public domain, disqualify the wine without the fear of being seen.

(9) In the heathen's house looking on to the public domain. Rashi prefers the explanation that the window of a Jew's house faces the entrance of the heathen's house.

(10) On which a person could stand and see what was done in the house.

(11) In all these circumstances there is the possibility of being overlooked, so the heathen would be afraid to tamper with the wine.

(12) The tree belonging to a Jew; and since the top is cut off, he would have no occasion to climb it to gather the fruit. There would then be less fear of being overlooked.

(13) And the possibility of being watched would act as a deterrent.

Talmud - Mas. Avodah Zarah 61b

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If, however, [he resides] in another court, it is permitted only when the key and seal are in his possession. If [an Israelite] prepares the wine of a heathen in a state of ritual purity in the latter's domain and an Israelite resides in that court, it is permitted should the key and seal be in his possession.’ R. Johanan said to the tanna:[1] Read [as follows]: Even though the key and seal be not in his possession it is permitted. ‘[Should he reside] in another court, it is prohibited even if the key and seal are in his possession. Such is the statement of R. Meir; but the Sages prohibit it unless a supervisor sits and watches or until somebody is appointed to go there for stated periods.’ To which [of the four circumstances just enumerated] do the Sages refer? If I say it is to the last,[2] the first Tanna[3] also prohibits it. Perhaps it is to the third![4] But R. Johanan informed the tanna: ‘Read [as follows]: Even though the key and seal be not in his possession [the wine is permitted]’![5] — Rather must it be to the second, for the first Tanna declared, ‘If, however, [he resides] in another court, it is permitted only when the key and seal are in his possession.’ Whereas the Sages hold that it is always prohibited ‘unless a supervisor sits and watches or until somebody is appointed to go there for stated periods.’ But his going there for stated periods is a disadvantage![6] — Rather [must the statement be amended to]: Until somebody is appointed to go there not for stated periods.

R. SIMEON B. ELEAZAR SAYS: IT IS ALL ONE WITH THE DOMAIN OF A HEATHEN, The question was asked: Is the purpose of R. Simeon b. Eleazar to make the law lenient or strict? — Rab Judah said in the name of Ze'iri: To make it lenient; but R. Nahman said in the name of Ze'iri: To make it strict. Rab Judah said in the name of Ze'iri that it is to make the law lenient, and the statement of the first Tanna must be understood thus: Just as [the wine] is prohibited in the domain of [that heathen] it is similarly prohibited in the domain of any other heathen and we take into account [the possibility of heathens] being partial one to another;[7] but R. Simeon b. Eleazar says: That only applies to his own domain, but when it is in the domain of another heathen it is permitted because we do not take into account the fear of partiality.[8] R. Nahman said in the name of Ze'iri that it is to make the law strict, and the statement of the first Tanna must be understood thus: This only applies to his own domain, but when it is in the domain of another heathen it is permitted and we do not take into account the fear of partiality; but R. Simeon b. Eleazar says: It is all one with the domain of a heathen. There is a teaching in accord with what R. Nahman said in the name of Ze'iri, i.e.,the purpose is to make the law strict, viz.: R. Simeon b. Eleazar said: It is all one with the domain of a heathen because of the fraudulent.

[Israelites once bought grapes from] the house of Parzak, the king's field-marshal,[9] [and having made wine from them] left it in charge of his tenant-labourers. The Rabbis in the presence of Raba thought to declare [it permitted] on the ground that we only take into account the fear of partiality where there might be mutual agreement;[10] but in this instance since it could not be the custom of the tenant-labourers to enter into an agreement with Parzak, the king's field-marshal, we take no account of the fear of partiality, Raba, however, said to them: On the contrary, even according to him who maintains that we take no account of the fear of partiality, that only applies where there is no possibility of terrorisation; but in this instance since [the tenants] are afraid of him, they would conceal any action on his part [to interfere with the wine] to shield him.

In a certain town where there was wine belonging to an Israelite, a heathen was found standing among the jars. Raba said: If he would be arrested on that account as a thief,[11] the wine is permitted,[12] otherwise it is prohibited.[13] [

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(1) Who quoted this teaching to the students.

(2) The Jew resides in a different court.

(3) I.e., R. Meir.

(4) Lit., ‘the first (part) of the last (clause).’ The Jew resides in the court where the wine is stored.

(5) [Which shows that R. Johanan did not consider it possible for anyone to forbid the wine in such a case even though the key and seal are not in the Israelite's possession.]
(6) The heathen knows when he will be there and can interfere with the wine during his absence.
(7) Lit., ‘paying favours’. They would not give one another away and for that reason cannot be trusted.
(8) [The heathen householder in whose domain the wine is placed would not permit the other heathen to tamper with it, R. Simeon's statement must accordingly be understood as a rhetorical question: ‘Is it all one with the domain of a heathen?’]
(9) [Cf. Lat. Rufulus. v, Funk, op. cit., I, 33, v. p. 163, n. 7.]
(10) I.e., one heathen tells a lie for another, or does not expose his wrong-doing, on condition that the latter will act similarly towards him.
(11) Should he be found touching the jars.
(12) He would be afraid to touch the jars because he would be suspected of wanting to steal them.
(13) It must then be assumed that he touched the wine and disqualified it.

Talmud - Mas. Avodah Zarah 62a

CHAPTER V

MISHNAH. IF [A HEATHEN] HIRE [AN ISRAELITE] WORKMAN TO ASSIST HIM IN [THE PREPARATION OF] YEN NESEK, HIS WAGE IS PROHIBITED. IF HE HIRED HIM TO ASSIST HIM IN ANOTHER KIND OF WORK, EVEN SAYING TO HIM, ‘REMOVE FOR ME A CASK OF YEN NESEK FROM THIS PLACE TO THAT,’ HIS WAGE IS PERMITTED. IF HE HIRED [AN ISRAELITE'S] ASS TO CARRY YEN NESEK,ITS HIRE IS PROHIBITED; BUT IF HE HIRED IT TO SIT UPON, EVEN THOUGH THE HEATHEN RESTED HIS JAR [OF YEN NESEK] UPON IT, ITS HIRE IS PERMITTED.

GEMARA. Why is [the workman's] wage prohibited? If I answer that inasmuch as yen nesek is prohibited for use of any kind and therefore the wage which came to him from it is likewise prohibited, behold ‘orlah[1] and the mixed plantings of a vineyard[2] are prohibited for use of any kind and yet we have learnt: If he sold them and with the proceeds married a wife she is legally married![3] On the other hand, [should I answer that the reason is] because his money [which comes to him on account of yen nesek] is affected as though it were an idolatrous object,[4] behold the Sabbatical year affects the money [obtained from the sale of its produce] and yet we have learnt: If one said to a workman [in the Sabbatical year], ‘Here is a denar and for it gather vegetables for me to-day,’ his wage is prohibited;[5] [but if he said,] ‘Gather vegetables for me to-day,’ his wage is permitted![6] — R. Abbahu said in the name of R. Johanan: [The true explanation is] that it is a penalty which the Sages imposed upon ass-drivers and in connection with yen nesek.[7] As for yen nesek it is as has just been stated; and what is the case of the ass-drivers? — As it has been taught: If ass-drivers work with the fruits of the Sabbatical year, their wage is [the produce of] a Sabbatical year.[8] What means ‘their wage is [produce of] a Sabbatical year’? If I say it means that they receive their wage in fruits of the Sabbatical year, consequently [the employer] discharges his obligation with fruits of the Sabbatical year and the Torah stated, [And the sabbath of the land shall be] for food[9] — but not for trading![10] If, on the other hand, [I answer that the meaning is] that their wage is holy[11] like the holiness of [the produce of] the Sabbatical year, is it holy? For it has been taught: If one said to a workman [in the Sabbatical year], ‘Here is a denar and gather vegetables for me to-day,’ his wage is permitted; [only if he said], ‘Gather vegetables for me to-day for this [denar]’ is his wage prohibited! — Abaye said: It certainly means that they receive their wage in fruits of the Sabbatical year, and the difficulty you raise, viz., ‘for food’ but not for trading, [is met by the supposition] that he paid them in a lawful manner, as we have learnt: One may not say to his neighbour,

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(1) V. Glos.

(2) Lev. XIX, 19.

(3) V. supra, p. 277.

(4) Since the wine was prepared as a libation to an idol, on the principle, ‘Whatever you bring into being from a devoted thing is to be treated like it’ (loc. cit.).

(5) [To use it after the time of ‘removal’, v. supra, p. 278 n. 5,]

(6) In the latter case he did not stipulate by his words that the money was given as payment for gathering the forbidden produce. But the point is, the workman may use the money he earned by performing an illegal act.

(7) Although legally the wage should be permitted.

(8) And is accordingly prohibited.

(9) Lev. XXV, 6.

(10) Consequently the employer has no right to pay wages with the produce.

(11) I.e., prohibited.

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‘Carry up for me these fruits[1] to Jerusalem [and for doing so] have a share in them’; but he may say to him, ‘Carry them up so that we may eat and drink of them in Jerusalem.’ They may also make a free gift of them to each other.[2] Raba, however, said: [The meaning is] certainly that their wage is holy like the holiness of [the produce of] the Sabbatical year, and the difficulty you raise over the teaching concerning the workman [who gathers fruits in that year can be met by the answer] that in the case of a labourer whose wage is small the Rabbis did not impose a penalty, but in the case of ass-drivers whose wage is considerable the Rabbis did impose a penalty;[3] and as for our Mishnah[4] the seriousness of yen nesek accounts for the difference.

The question was asked: How is it with his wage [when an Israelite is employed by a heathen] in connection with ordinary wine?[5] Do we maintain that since its prohibition[6] is as strict as with wine for a libation, the wage is likewise prohibited; or perhaps for the reason that its power of defilement is lighter[7] [the attitude towards] the wage is also more lenient? — Come and hear! A certain man hired out his ship [to transport] ordinary wine [of heathens] and they paid him in wheat. He came before R. Hisda who said to him, ‘Go, burn and bury it in a graveyard.’ But he should have told him to scatter it![8] — People might come to wrong-doing through it.[9] Then he should have told him to burn and scatter it! — People might use it as manure. Then let it be buried in its natural state, for have we not learnt: The stone with which a person was stoned, the tree upon which he was hanged, the sword with which he was decapitated, and the sheet with which he was strangled are all alike buried with him![10] — In this latter instance, since the persons were buried by the Court,[11] it would be generally known that they had been executed under sentence of the Court; but in the former instance the circumstances would not be generally known and a person might suppose that somebody had stolen [the wheat] and brought it to be buried there.

The scholars in the School of R. Jannai used to borrow fruits of the Sabbatical year from the poor and repay them in the eighth year.[12] When this was reported to R. Johanan, he said to them, ‘They act rightly’;[13] and an analogy may be found in the matter of a harlot's hire which is permitted;[14] for it has been taught: If he gave her [an animal] without having intercourse with her or had intercourse without giving it to her,[15] her hire is permitted [for use in the Sanctuary]. Now if he gave her it without having intercourse with her, obviously [it may be devoted to the Sanctuary] for the reason that, having had no intercourse with her, he merely presented her with a gift! Further, if he had intercourse without giving it to her, behold he gave her nothing, and since he made no presentation to her what means that her hire is permitted! — This is what he intends: If he gave her it and subsequently had intercourse with her, or had intercourse with her and subsequently gave it to her, the hire is permitted[16] But if he gave it to her and subsequently had intercourse with her, since he did have intercourse with her,

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(1) Representing the second tithe which must be taken by the owner to Jerusalem and eaten there. It would be unlawful to discharge an obligation with the fruits.

(2) M. Sh. III, 1. Similarly by a legal fiction the ass-drivers may be given a free gift from the produce of the Sabbatical year.

(3) This then is the case referred to where a penalty was imposed on ass-drivers.

(4) Where a workman's wage is declared to be prohibited although it is small.

(5) Not made expressly for a libation to idols.

(6) The wine, belonging to a heathen, is still nesek although not used for a libation.

(7) V. supra, 30b, seq.

(8) Why did he insist on its being burnt and buried?

(9) Jews would unwittingly collect and use it.

(10) Sanh. 45b. Consequently no account is taken of the possibility that people may disinter it.

(11) There were special cemeteries for them.

(12) This was done to assist them in a year when the harvest, after the Sabbatical year, would be meagre. Nevertheless the lenders ate what was obtained in exchange for the Sabbatical produce, and this should be prohibited.

(13) Because it was not actually a case of exchange since the produce of the eighth year was non-existent at the time when the fruits of the Sabbatical year were borrowed, and the ‘holiness’ of the Sabbatical year did not affect what they ate in the eighth year.

(14) To be devoted to the Temple, in spite of the Law of Deut. XXIII, 19.

(15) At the time, but he did so later.

(16) The two matters are regarded as separate and what she received is legally a gift. Similarly with the borrowing of the fruits of the Sabbatical year, what is repaid is technically a gift.

Talmud - Mas. Avodah Zarah 63a

the prohibition of the harlot's hire should apply retrospectively to [the animal]! — R. Eleazar replied: [It is permitted] when she first offered it.[1] How is this to be understood? — If he said to her, ‘Take possession of this at once,’[2] then obviously it is permitted because it is no longer there at the time of intercourse and he merely presented her with a gift; but if he had not said to her, ‘Take possession of this at once,’ how could she offer it, since the All-merciful has declared, And when a man shall sanctify his house to be holy[3] — as the house [which he sanctifies] must be in his possession, so must everything [which is dedicated to the Sanctuary] be in the person's possession! — Rather [must we suppose the circumstance] where he said to her, ‘Let it be with you until the time of intercourse; but should you require it then take possession of it at once.’[4]

R. Hoshaia asked: How is it if she dedicated [the animal to the Sanctuary] beforehand?[5] Since a Master has said that a declaration[6] in connection with the Divine service is like the act of delivery in a secular transaction, is she like one who has actually offered it,[7] or perhaps [the animal] is after all still in existence [at the time of intercourse]?[8] But why not solve the question from the statement of R. Eleazar who said: Only if she actually offered it beforehand is the offering [lawful] but not if she merely dedicated it? On this statement of R. Eleazar itself the question is to be asked: Is it clear to R. Eleazar that only if she had actually offered it [is it permitted] but not if she merely dedicated it because it is [in her possession] at the time of intercourse; or perhaps he is clear in the circumstance where it had been offered but doubtful when it had only been dedicated? The question remains unanswered.

[It was stated:] If he had intercourse with her and subsequently gave it to her, her hire is permitted. Against this I quote: If he had intercourse with her and subsequently gave it to her, even after the lapse of three years, her hire is prohibited! — R. Nahman b. Isaac said in the name of R. Hisda: There is no contradiction, the latter teaching referring to the circumstance where he said to her, ‘Have intercourse with me for this lamb,’ and the former teaching to the circumstance where he said to her, ‘Have intercourse with me for a lamb.’[9] And if he did use the phrase ‘for this lamb’ what of it, inasmuch as the act of drawing towards oneself is lacking![10] — [It deals here] with a gentile harlot who does not acquire an object by the act of drawing it towards herself.[11] Or if you wish I can say that it surely deals with an Israelite harlot when, e.g., it is standing in her courtyard.[12] But if it was standing in her courtyard, [how can it be taught that] he had intercourse with her and subsequently presented it to her, seeing that she already had possession of it! — No, it is necessary [to suppose a case] where he used it as a pledge, saying to her, ‘If I bring you a certain number of zuz by such a date, well and good; otherwise take [the lamb] for your hire.’[13]

R. Shesheth quoted in objection:[14] A man can say to his ass-drivers and workmen,[15] ‘Go and eat for this denar, go out and drink for this denar,’ and he need not be concerned

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(1) To the Temple and afterwards had intercourse. [In this case the offering is acceptable and valid. V. Yad, Issure Mizbeah, IV, 11.]

(2) Before the intercourse.

(3) Lev. XXVII, 14.

(4) And therefore the prohibition of a harlot's hire does not apply to it.
(5) But intercourse occurred before she presented the animal.
(6) That the animal is to be dedicated to the Temple.
(7) And it may therefore be offered.
(8) And is to be considered a harlot's hire.
(9) In this latter circumstance, what she receives afterwards is not technically her hire.
(10) He merely indicated the lamb which he would give her. Until she actually draws the animal towards her she has not legally acquired it, v. B.M. 47b.
(11) [Ms. M.: Who does not lack ‘drawing’. A non-Jew acquires possession by payment (Bek. 13a) in this case by the act of intercourse. V. R. Gershom, Tem. 29b.]
(12) [A courtyard confers possession, v. B.M. 10b.]
(13) [In this circumstance the lamb is partly her property and considered a harlot's hire and yet strictly speaking is not yet presented to her, since he may substitute for it some other gift.]
(14) To the action of R. Jannai's School who used to borrow fruits of the Sabbatical year from the poor and repay them in the eighth year.
(15) Who are Gentiles or Israelites who do not observe the law of tithe.

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[about their eating and drinking the produce of] the Sabbatical year or [what has not been subject to] the tithe or yen nesek; but if he said to them, ‘Go out and eat and I will pay, go out and drink and I will pay,’ he must be concerned [about their eating and drinking the produce of] the Sabbatical year or [what has not been subject to] the tithe or yen nesek.[1] Consequently when he pays them he does so at the price of what is prohibited, and similarly in the case [of the School of R. Jannai] when they made repayment they did so for something that was prohibited! — R. Hisda explained: [The teaching just quoted deals] with a shop-keeper who gives [the employer] credit so that he is indebted to him,[2] and since it was his custom to give him credit it is as though the latter had himself bought for a denar of him.[3] When, on the other hand, he does not give him credit, how is it? It is permitted! If that is so,[4] when he teaches the circumstance of, ‘Go and eat for this denarius, go out and drink for this denarius,’ he should draw a distinction in this very case and teach as follows: When does this apply? [When they make their purchase] of a shopkeeper who gives him credit so that he is indebted to him [it is prohibited], but of a shopkeeper who does not give him credit it is permitted! And further, as regards a shopkeeper who does not give him credit,is not [the employer in such a circumstance] indebted to him? For Raba has declared: If a man says to his neighbour, ‘Give so-and-so a maneh[5] and let all my possessions be surety to you,’ [the lender] has acquired them by the law of security![6] — But, said Raba: It is immaterial whether he gives him credit or not; but although [the employer] is indebted to him, for the reason that he does not specify his indebtedness,[7] it is not prohibited.[8] Why, then, in the present circumstance[9] should he be concerned [about their eating and drinking the produce of] the Sabbatical year inasmuch as he does not specify his indebtedness! — R. Papa said: Here it is when, e.g., he paid him the denar in advance.[10]

R. Kahana said: I cited this teaching in the presence of R. Zebid of Nehardea who remarked to me: If that were so, then instead of the words ‘Go out and eat and drink and I will pay,’ we should have expected ‘I will have a reckoning with him’![11] [R. Kahana] said to him: Read, ‘Go out and I will have a reckoning with him.’ R. Ashi said: It is when, e.g.,[the employer] took [the foodstuffs] from the shopkeeper and handed them [to his workmen].[12] R. Jemar said to R. Ashi: If that were so, then instead of the words, ‘Go out[13] and eat, go out and drink’ we should have expected, ‘Take and eat, take and drink’! — He replied to him: Read, ‘Take and eat, take and drink.’

R. Nahman, ‘Ulla and Abimi b. Papi were sitting together and R. Hiyya b. Ammi sat with them. As they sat the question was raised: How is it if [an Israelite] was hired to break [a cask of] yen nesek [and pour out the contents]?[14] Do we say that since his wish is the preservation [of the cask][15] it is prohibited, or perhaps it is right in every case where the effect is to reduce what is improper? — R. Nahman said: Let him break it and may a blessing alight upon him [for so doing]. Is it to be assumed that his opinion receives support [from this teaching]: We may not hoe together with a heathen among mixed plantings

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(1) Because he would then be discharging his obligation to them with what was forbidden. (V. Tosef. A.Z. VIII.)

(2) As soon as the employees receive the food and drink, so that it is as though the shop-keeper handed the goods to the employer.

(3) If, therefore, the foodstuff was prohibited, the employer exchanged his money for what was illegal. In the case of R. Jannai's School, however, the poor were not accustomed to give credit, so that we have not here an instance of unlawful exchange.

(4) Viz., that the decision rests on whether he gives him credit.

(5) V. Glos.

(6) As soon as the loan is made, the lender is technically the owner of what had been given as surety. Therefore when the shopkeeper gives the workmen the food, he is technically the owner of the employer's denarius whether he is in the habit of giving him credit or not.

(7) He owes him a denarius but not any particular one.

(8) Thus is the action of the school of R. Jannai justified.

(9) When the employer added the words ‘and I will pay’.

(10) And then told his men to get food for it. In this case he must be concerned about unlawful foodstuffs.

(11) I.e., I will set off what you have had against the money which I have already given the shopkeeper.

(12) In that case the employer became the owner of the foodstuffs and must be concerned about their legality, whether he took them on credit or not.

(13) ‘Go out’ implies that he does not accompany them and therefore he could not hand the food to them.

(14) May he use the money he earned in this way?

(15) So that he may have the work of breaking it and earn money.

Talmud - Mas. Avodah Zarah 64a

but we may uproot them[1] together with him in order to reduce what is improper![2] They maintained that the statement [that uprooting is permitted] was [even according to] R. Akiba who said: He who helps to preserve mixed plantings[3] is liable to the punishment of lashes; for it has been taught: He who weeds or covers mixed plantings with soil is liable to the punishment of lashes; R. Akiba says: Also he who helps to preserve them. What is R. Akiba's reason? — Scripture stated, Thou shalt not sow thy field with two kinds of seed[4] — I have here mention only of sowing; whence is it [that the prohibition applies also to] preserving them? There is a text to state, Not . . . with a diverse kind,[5] so [deduce from this that] if the purpose is to reduce what is improper it is permitted![6] — No, we have here [not the opinion of R. Akiba but] of the Rabbis.[7] If, however, it is the opinion of the Rabbis, why specify ‘We may uproot them,’ since their teaching holds good even with the preservation of the plants![8] — With what circumstance are we dealing here? When, e.g., he worked for nothing,[9] and it is in accord with the teaching of R. Judah who said: It is forbidden to make them a free gift.[10] [But nevertheless] from R. Judah's statement can we not infer what is R. Akiba's view: R. Judah having declared that it is forbidden to make them a free gift, but it is all right for the purpose of reducing what is improper;[11] similarly with R. Akiba, although he declared that he who preserves [mixed plantings] is liable to the punishment of lashes, it is all right for the purpose of reducing what is improper![12] There is nothing further to discuss on this subject. Again [while the afore-mentioned Rabbis] were sitting together the question was raised: How is it with the price of an idol in the possession of an idolater?[13] Does [the prohibition] affect the money which is in the possession of an idolater or not? — R. Nahman said to them: The more probable view is that the price of an idol in the possession of an idolater is permitted, [as may be seen from the incident where some would-be proselytes] came before Rabbah b. Abbahu and he told them, ‘Go and sell all your possessions and then come to be converted.’[14] What was his reason? Was it not because he held that the price of an idol in the possession of an idolater is permitted![15] But perhaps it is different in this latter circumstance, because having the intention of becoming a proselyte each of them must surely have annulled [his idolatrous objects]![16] — Rather may [support for R. Nahman's view be obtained] from this teaching: If an Israelite has a claim for a maneh against an idolater and the latter sold an idol or yen nesek and brought him the proceeds, [the money] is permitted to him; but if [the idolater] said, ‘Wait until I sell an idol or yen nesek and I will bring you the proceeds,’ it is prohibited.[17]

What is the difference between the two circumstances [that one is permitted and the other not]? — R. Shesheth said: The latter [is prohibited] because [the Israelite] then wishes [the idol] to be preserved.[18] But is it prohibited if he wishes it to be preserved under such conditions? For behold we have learnt: If a proselyte and an idolater inherited from their father who was an idolater, the proselyte can say to the other, ‘You take the idol and I the money; you take the yen nesek and I the fruits’;[19] but after [the inherited objects] have come into the possession of the proselyte it is forbidden [to make such a proposition]![20] — Raba b. ‘Ulla said: This Mishnah refers to an idol which can be divided according to its pieces.[21] Granted that this is so with an idol, but what is there to say with yen nesek![22] — [It refers to wine preserved] in hadrianic earthenware.[23] But is he not desirous of their preservation that they should not be stolen or lost! — Then R. Papa said: [You cite a passage that] treats of the inheritance of a proselyte![24] It is different with a proselyte's inheritance in connection with which the Rabbis took a lenient view from fear that he might relapse into his error.[25]

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(1) Even for payment.

(2) Here, too, the Jew must long for the preservation of the forbidden plantings so that he may be hired to uproot them.

(3) By putting up a hedge around them.

(4) Lev. XIX, 19.

(5) The verse in Lev. is lit.: ‘Thou shalt not let thy cattle gender with a diverse kind, thou shalt not sow thy field with a diverse kind.’ Since the two laws are not connected by ‘and’, they are united for the purpose of exposition, and the second clause is interpreted as implying that not only may a field not be sown with two kinds of seeds but a mixed planting which had already taken place there must not be allowed to remain.

(6) Although it is in his interests that they should be cultivated since he would have employment. [This is what led them to maintain that the author of the Baraitha permitting uprooting could also be R. Akiba.]

(7) Who are unconcerned about the man's interest in the preservation of the mixed plantings in order to earn money from their eradication. [As regards idolatry, however, they would agree that it is forbidden to accept payment where it involves the wish to preserve idolatry.]

(8) Therefore the quoted teaching cannot be the Rabbis’; and since it is found to agree neither with them nor R. Akiba, it must be re-interpreted, and this is done to make it accord with the Rabbis.

(9) The regulation ‘we may uproot them’ does not refer to paid labour.

(10) It is accordingly forbidden for a Jew to give his services free to an idolater (v. supra 20a) and yet where the effect is to reduce what is improper it is permitted.

(11) As, e.g., uprooting mixed plantings.

(12) And R. Nahman who permits the breaking of a cask of yen nesek finds support in this Baraitha, whoever the author of it may be.

(13) If an idolater sold an idol to another idolater, may a Jew have dealings with him for that money?

(14) If they become converts first, their idolatrous objects could not be annulled and the proceeds used by them or by Jews generally.

(15) This supports R. Nahman.

(16) And then they could be sold and the money used.

(17) Tosef. A.S. VIII. This supports R. Nahman.

(18) So that it may be sold and he receive the proceeds.

(19) The proselyte then hopes for their preservation, so that he may have his share; and yet this is permitted.

(20) Dem. VI, 10.

(21) E.g., a golden image which is broken up and the metal shared between them, because the proselyte would have no objection to the idol being destroyed.

(22) The proselyte would be anxious that the jars containing it should not be broken.

(23) V. supra 32a. In this case there is no anxiety about the jar being broken.

(24) This is an exceptional circumstance; consequently nothing can be deduced from it in connection with the subject under discussion.

(25) If he lost his inheritance through a strict interpretation of Jewish law.

Talmud - Mas. Avodah Zarah 64b

There is a teaching to the same effect: This only applies when they inherit, but in a case of partnership[1] it is prohibited.

Then again [the afore-mentioned Rabbis] were sitting together and the question was raised: Can a ger toshab[2] annul an idol? Must a worshipper annul it so that a non-worshipper cannot, or perhaps anybody who belongs to them[3] can annul it and he belongs to them? — R. Nahman said to them: The more probable view is that a worshipper must annul it and a non-worshipper cannot. Against this is quoted: If an Israelite found an idol in a public place, before it comes into his possession he may ask an idolater to annul it, but after it comes into his possession he may not ask an idolater to annul it because [the Rabbis] declared: An idolater can annul the idol belonging to himself or to another idolater whether he worships or does not worship it.[4] What means ‘he worships it’ and what means ‘he does not worship it’? If I say that in either case it refers to an idolater, then it is identical with ‘belonging to himself or to another idolater’! Must we not then suppose that the subject of ‘worships’ is an idolater and of ‘does not worship’ a ger toshab, and deduce from it that a ger toshab can also annul? — No; I can always tell you that in either case it refers to an idolater, and when it is argued that it is then identical with ‘belonging to himself or to another idolater,’[the reply I make is] that in the first clause it means when each of them [worships] Peor or each [worships] Mercurius,[5] whereas in the second clause it means when one [worships] Peor and the other [worships] Mercurius.[6]

Against this is quoted: ‘Who is a ger toshab? Any [Gentile] who takes upon himself in the presence of three haberim[7] not to worship idols. Such is the statement of R. Meir; but the Sages declare: Any [Gentile] who takes upon himself the seven precepts[8] which the sons of Noah undertook; and still others maintain: These do not come within the category of a ger toshab; but who is a ger toshab? A proselyte who eats of animals not ritually slaughtered, i.e., he took upon himself to observe all the precepts mentioned in the Torah apart from the prohibition of [eating the flesh of] animals not ritually slaughtered. We may leave such a man alone with wine,[9] but we may not deposit wine in his charge even in a city where the majority of residents are Israelites.[10] We may, however, leave him alone with wine even in a city where the majority of residents are heathens; and his oil is like his wine.’ How can it enter your mind to say that his oil is like his wine; can oil become nesek![11] [The wording must be amended to] his wine is like his oil,[12] but in every other respect he is like a heathen.[13] Rabban Simeon says: His wine is yen nesek. Another version [of Rabban Simeon's statement] is: ‘It is allowed to be drunk [by Israelites].’ At all events it teaches that ‘in every other respect he is like a heathen.’ For what practical purpose [is this mentioned]? Is it not that he can annul an idol in the same manner as an idolater?[14] — R. Nahman b. Isaac said: No; it is in connection with his power to transfer or renounce ownership;[15] as it has been taught: An apostate Israelite who publicly observes the Sabbath[16] may renounce his ownership, but if he does not observe the Sabbath publicly he may not renounce his ownership because [the Rabbis] said: An Israelite may transfer or renounce his ownership, whereas with a heathen this can only be done by renting [his property]. In what way? — [One Israelite] can say to [another Israelite], ‘My ownership is acquired by you; my ownership is renounced in your favour,’ and the latter has thereby acquired [the property][17] without the necessity of a formal assignment.

Rab Judah sent a present

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(1) Between a proselyte and a heathen. In that case the proselyte may not derive benefit from an idol or yen nesek.
(2) Lit., 'proselyte-settler,' i.e., a Gentile who renounces idolatry to become a settler in Palestine. V. the next paragraph for a discussion of the term.
(3) I.e., are non-Jews whether actual idolaters or not.
(4) Tosef. A.Z. VI.
(5) Each worships a separate idol of the same deity; only then can one annul the idol of the other.
(6) Even then one can annul the other's idol although he himself does not worship it.
(7) V. Glos. s.v. Haber.
(8) V. supra p. 5, n. 7.
(9) Without its being disqualified as yen nesek. This is not allowed with a heathen.
(10) [For fear that he might erroneously exchange it with his wine, which is forbidden.]
(11) [Rashi omits the word 'wine' in our edd.]
(12) I.e., just as his oil may be used by Jews so his wine may be used by them, though not for drinking purposes.
(13) Because he had not submitted to the two conditions of a proselyte vis., circumcision and immersion.
(14) This contradicts R. Nahman.
(15) Of a piece of land to combine it with the property of a Jew for the purpose of uniting them to enable an article to be carried from one place to another within that area on the Sabbath.
(16) Whatever he may do in private. The fact that he observes it publicly indicates that his Jewish sensibility has not been completely suppressed.
(17) By the mere declaration, without the purchase money having been first paid.

Talmud - Mas. Avodah Zarah 65a

to Abidarna[1] on a heathen feast-day, saying, 'I know that he does not worship idols.' R. Joseph said to him, 'But it has been taught: Who is a ger toshab! Any [Gentile] who takes upon himself in the presence of three haberim not to worship idols!'[2] — [Rab Judah] replied, 'This teaching only applies to the matter of supporting him.'[3] [R. Joseph] retorted, 'But Rabbah b. Bar Hanah said in the name of R. Johanan: A ger toshab who allows twelve months to pass without becoming circumcised is to be regarded as a heretic among idolaters!'[4] [Rab Judah] answered, 'This refers to the circumstance where he undertook to be circumcised but did not undergo the rite.'

Raba once sent a present to Bar-Sheshak[5] on a heathen feast-day, saying, 'I know that he does not worship idols'; but on paying him a visit, he found him sitting up to his neck in a bath of rosewater while naked harlots were standing before him. [Bar-Sheshak] said to him, 'Have you [Israelites] anything like this in the World to Come?' He replied, 'We have much finer than this.' He asked, 'Is there anything finer than this?' [Raba] answered, 'There is upon you the fear of the ruling power,[6] but for us there will be no fear of the ruling power.' He said to him, 'What fear have I, at any rate, of the ruling power!' While they were sitting together, the king's courser arrived with the message, 'Arise, the king requires your presence.' As he was about to depart [Bar-Sheshak] said to [Raba], 'May the eye burst that wishes to see evil of you!' To this Raba responded, 'Amen,' and Bar-Sheshak's eye burst. R. Papi said: [Raba] should have answered him by quoting the verse, Kings' daughters are for thine honour; at thy right hand doth stand the queen in gold of Ophir.[7] R. Nahman b. Isaac said: [Raba] should have answered him by quoting the verse, No eye hath seen what God, and nobody but Thee, will work for him that waiteth for Him.[8]

IF HE HIRED HIM TO ASSIST HIM IN ANOTHER KIND OF WORK. [Is his wage permitted] even if he did not ask him [to remove the cask of yen nesek] towards evening?[9] Against such a conclusion I quote: If [a heathen] hires an [Israelite] workman[10] and towards evening says to him, 'Remove a cask of yen nesek from this place to that,' his wage is permitted.[11] The reason [why it is permitted] is because he asked him to do so towards evening; consequently [if he was asked to do so] throughout the day it would not [be permitted]! — Abaye said: Our Mishnah likewise refers to when he asked him to do so towards evening. Raba said: [Even if we assume that our Mishnah does not refer to the time towards evening] there is no contradiction, because [the second teaching deals with the circumstance] where he says to him, ‘Remove for me a hundred casks for a hundred perutahs’,[12] and [the Mishnah] where he says to him, ‘Remove for me some casks for a perutah each.’[13] And thus it has been taught: If [a heathen] hires an [Israelite] workman, saying to him, ‘Remove for me a hundred casks for a hundred perutahs’ and a cask of yen nesek was found among them, his wage is prohibited; [but if he said, ‘Remove for me] some casks for a perutah each,’ and a cask of yen nesek was found among them, his wage is permitted.[14] IF HE HIRED [AN ISRAELITE'S] ASS TO CARRY YEN NESEK, ITS HIRE IS PROHIBITED. What need is there for this [to be mentioned] since it is identical with the first clause?[15] — It was necessary on account of the continuation, viz., BUT IF HE HIRED IT TO SIT UPON, EVEN THOUGH HE RESTED HIS JAR [OF YEN NESEK] UPON IT, ITS HIRE IS PERMITTED.[16] Is this to say that it is not lawful[17] to rest the jar [upon the ass]? Against this I quote: If a man hires an ass, the hirer may rest upon it his clothes, jar and the food which is required for that journey, but as regards anything beyond this the ass-driver may object; an ass-driver may rest upon it barley, straw and food required by him for that day, but as regards anything beyond this the hirer may object![18] — Abaye said: Granted that it is lawful to rest a jar upon the animal; nevertheless should [the hirer] not rest a jar upon it, do we say to him, ‘Deduct the carriage of the jar’![19]

How is this?[20] Since [the hirer] is able to purchase [food on the journey], the ass-driver should also be allowed to object![21] And should [the driver] not be able to purchase [food on the journey], the hirer should also not be allowed to object![22] — R. Papa said: No; it is necessary [to suppose conditions] where one is able by trouble[23] to make purchases from station to station; an ass-driver is accustomed to the trouble of making such purchases[24] whereas the hirer is not accustomed to it.[25]

The father of R. Aha the son of R. Ika[26]

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(1) A heathen friend of his.

(2) And Abidarna was not considered a ger toshab.

(3) If a Gentile renounced idolatry and became poor he must receive support from the Jewish community.

(4) And Abidarna was not circumcised.

(5) A heathen friend.

(6) Your fate is in the hands of your king who can at will deprive you of all you possess.

(7) Ps. XLV, 10. Instead of ‘for thine honour’ required as the rendering by the Talmud, E.V. has ‘among thy honourable women.’ The point of the verse is that Israelites in the Hereafter will be attended by noble women, and not surrounded by harlots as this heathen was.

(8) Isa. LXIV, 3, sic. This verse, understood in this sense, is used by the Talmud to denote that the good things of the World to Come cannot be conceived by the mind of man (v. Ber. 34b).

(9) The labourer was hired by the day and at evening he was paid for his work. The question, therefore, is whether a Jew may accept pay for removing the cask when it was part of the day's lawful work.

(10) For permitted work, and after the day's task is completed he imposes the additional task upon him.

(11) Tosef. A.Z. VI.

(12) V. Glos., s.v. perutah. His wage is for all the work he did. If, then, all the casks contained oil but one had yen nesek, all his earnings are prohibited.

(13) He can then throw away what he earned for the unlawful work and retain the rest.

(14) With the exception of the perutah for that cask.

(15) Viz., if a heathen hired an (Israelite) workman to assist him in (the preparation of) yen nesek, his wage is prohibited.

(16) Consequently it is considered that the owner of the ass only receives pay for the man riding upon it and the jar is not taken into account.

(17) [Rashi reads, ‘not usual’.]

(18) It follows that the hirer may rest his jar upon the ass, and therefore the owner receives payment for this.

(19) Because there is no special charge for the carrying of the jar, the hire is permitted.

(20) That the hirer can load the animal with the food he requires for the whole journey but the ass-driver with what he requires for one day.

(21) Because the stop to buy food prolongs the duration of the journey.

(22) To his having food for the whole journey.

(23) [Ms. M.: ‘he is able to purchase.’]

(24) So he is allowed only a day's supply.

(25) For that reason he may take food with him for the whole journey.

(26) He was a wine-dealer. He did not sell heathens jars of wine, but used to pour it into their bottles retaining the jar for himself. The usual custom was to sell the wine inclusive of the jar.

Talmud - Mas. Avodah Zarah 65b

used to pour out the wine for heathens [into their own vessels], and carry it across the ford for them, receiving from them the jars as the reward for doing so. People reported the matter to Abaye who told them: When he laboured[1] he did so with what was permitted.[2] But, [it was objected,] he had an interest in the preservation of something [that was unlawful],[3] viz., that their skin-bottles should not split! — [No;] he had made a condition with them;[4] or [as an alternative explanation] they brought barrels with them.[5] But, [it was objected,] he carried them across the ford for them and consequently he laboured with what was prohibited! [No;] he instructed the ferryman from the outset [to convey the buyers across],[6] or [as an alternative explanation] they carried with them certain identification marks.[7]

MISHNAH. IF YEN NESEK FELL UPON GRAPES, ONE MAY RINSE THEM AND THEY ARE PERMITTED, BUT IF THEY WERE SPLIT THEY ARE PROHIBITED. IF IT FELL UPON FIGS OR UPON DATES, SHOULD THERE BE IN THEM [SUFFICIENT WINE] TO IMPART A FLAVOUR, THEY ARE PROHIBITED. IT HAPPENED WITH BOETHUS B. ZUNIN THAT HE CONVEYED DRIED FIGS IN A SHIP AND A CASK OF YEN NESEK WAS BROKEN AND IT FELL UPON THEM; SO HE CONSULTED THE SAGES WHO DECLARED THEM PERMITTED. THIS IS THE GENERAL RULE: WHATEVER DERIVES ADVANTAGE [FROM YEN NESEK BY ITS] IMPARTING A FLAVOUR IS PROHIBITED, BUT WHATEVER DOES NOT DERIVE ADVANTAGE [FROM YEN NESEK BY ITS] IMPARTING A FLAVOUR IS PERMITTED, AS, E.G., VINEGAR WHICH FELL UPON SPLIT BEANS.

GEMARA. But there is an incident[8] [narrated] which contradicts [the first clause of the Mishnah]! — [The wording of the Mishnah] is defective and should read as follows: If [the wine] affects the flavour adversely it is permitted; and thus it happened with Boethus b. Zunin that he conveyed dried figs in a ship and a cask of yen nesek was broken and it fell upon them; so he consulted the Sages who declared them permitted.[9]

A cask of yen nesek once fell upon a heap of wheat, and Raba permitted it to be sold to heathens. Rabbah b. Liwai quoted against Raba: If mixed stuffs occur[10] in a garment, he may not sell it to a heathen, nor make a pack-saddle of it for an ass, but he may use it as shrouds for a meth mizwah.[11] Why may he not [sell it] to a heathen? Lest he dispose of it to an Israelite! So here also [there is the fear that the wheat] may be sold back by him to an Israelite? — Thereupon [Raba] permitted [the Israelite] to mill it, bake it and sell [the loaves] to a heathen not in the presence of an Israelite.[12]

We learnt: IF YEN NESEK FELL UPON GRAPES, ONE MAY RINSE THEM AND THEY ARE PERMITTED, BUT IF THEY WERE SPLIT THEY ARE PROHIBITED. If they are split they are [prohibited], but if not split they are not![13] — R. Papa said: It is different with wheat because on account of the slit [in the ears] they are considered to be split.

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(1) [By pouring the wine into their bottles.]
(2) The wine did not become nesek until it was in the jars of the heathens.
(3) Viz., their bottles, because if these were broken they would retain his jars and he would be the loser.
(4) That he was to have the jars even if their bottles were broken.
(5) In which the bottles were placed, so that if wine ran out it would not be lost.
(6) Before the jars were filled; this is allowed because they were still in his possession.
(7) Which the ferryman recognised, and he conveyed them across without being told do so in each case. Accordingly R. Ika did not himself carry them to the other side.
(8) Viz., what is told of Boethus.
(9) Because the wine had a bad effect on the dried figs.
(10) Lit., 'was lost'. Cf. Lev. XIX, 19. The case here is where some threads of different materials were woven into the fabric and they cannot be distinguished from the rest to be cut away.
(11) V. Glos. A dead person is absolved from the precepts of the Torah, and so the prohibition of mixed stuffs does not apply.
(12) If he sold them in the presence of a Jew, they might be bought by a Jew. Loaves baked by a heathen are disallowed, so that there would be no fear lest they would be bought by a Jew.
(13) And this rule should also apply to wheat.

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When old wine [falls] upon grapes, all agree that [they are prohibited, if] it imparts a flavour. In the case of new wine [which falls] upon grapes, Abaye said that [they are prohibited] however small the quantity be, but Raba said that it must impart a flavour. Abaye said that [they are prohibited] however small the quantity be for the reason that we use the criterion of flavour, and since both [the wine and grapes] have one flavour, it is a case of one species being mixed with the same species, and in such circumstances a minimum quantity [suffices to disqualify]. Raba, on the other hand, said that it must impart a flavour for the reason that we use the criterion of name; and since they each have a distinctive name it is a case of one species [being mixed] with a different species, and in such circumstances [the disqualification depends upon the prohibited element] imparting its flavour [to the mixture].[1]

We learnt: IF YEN NESEK FELL UPON GRAPES etc. Now it is assumed that [the reference is to] new wine upon grapes; and yet [are they not disqualified only] if it imparts a flavour?[2] — No, [they are prohibited] however small the quantity be. Since, however, it states in the sequel: THIS IS THE GENERAL RULE: WHATEVER DERIVES ADVANTAGE [FROM YEN NESEK BY ITS] IMPARTING A FLAVOUR IS PROHIBITED; WHATEVER DOES NOT DERIVE ADVANTAGE [FROM YEN NESEK BY ITS] IMPARTING A FLAVOUR IS PERMITTED, it follows that we are dealing here with a case where it does impart a flavour. What, then, of Abaye?[3] — [He explains] our Mishnah as referring to old wine [which fell] upon grapes.[4]

If wine-vinegar [becomes mixed] with malt-vinegar or wheat-yeast with barley yeast,[5] Abaye said: [The mixture is prohibited when the unlawful element] imparts a flavour and we use the criterion of flavour; and since each has a separate flavour, it is a case of one species [being mixed] with a different species, and in such circumstances [the disqualification depends upon the prohibited element] imparting its flavour [to the mixture]. Raba, on the other hand, said: [It is prohibited] however small the quantity be and we use the criterion of name; and since each is called vinegar or yeast, they belong to the same species and a minimum quantity [suffices to disqualify] with what belongs to the same species. Abaye said: Whence do I declare that we use the criterion of flavour? As we have learnt: Spices of two or three different categories[6] which belong to the same species,[7] or three species [of one category], are prohibited[8] and may be combined together;[9] and Hezekiah said: We are dealing here with kinds of [condiments which impart a flavour of] sweetness[10] because they are appropriately used for sweetening what is cooked. Now this is quite right if you maintain that we use the criterion of flavour, since they all taste alike; but should you maintain that we use the criterion of name, each of them has a separate name![11] — Raba, however, can reply:[12] Whose teaching is this? It is R. Meir's, as it has been taught: R. Judah says in the name of R. Meir: Whence is it that all the prohibited things of the Torah may be combined together?[13] — As it Is stated, Thou shalt not eat any abominable thing[14] — everything which I declared to be abominable comes within the law of Thou shalt not eat.[15]

If [prohibited] vinegar fell into [permitted] wine, all agree that it depends on whether it imparts a flavour;[16] but if [prohibited] wine fell into [permitted] vinegar,[17] Abaye said [that it is prohibited] however small the quantity be, and Raba said [that it depends upon whether the forbidden element] imparts a flavour. Abaye said [that it is prohibited] however small the quantity be,

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(1) What the proportion of the forbidden element must be to the whole for the mixture to be allowed is discussed at the end of this Gemara (p. 329).

(2) This refutes Abaye.

(3) Who prohibits them however small be the quantity of wine which fell upon them.

(4) And then all agree that the prohibition depends on the flavour.

(5) I.e., the wine-vinegar being nesek and the wheat-leaven being part of a heave-offering.

(6) Viz., they are forbidden for common use under different headings, as, e.g., ‘orlah, heave-offering etc.

(7) E.g., white pepper, black pepper, etc.

(8) When they impart a flavour to food with which they have been mixed.

(9) If each one by itself is not sufficient to impart a flavour but together they are (‘Orlah, II, 10).

(10) They must all have the same taste if they are to be combined together to disqualify the mixture.

(11) Why then should they combine?

(12) He rejects Hezekiah's interpretation.

(13) If each element is itself insufficient to disqualify.

(14) Deut. XIV, 3.

(15) Consequently the criterion in regard to combination is neither name nor taste. The forbidden character of the several spices is in itself sufficient to make them combine.

(16) Because the vinegar is not affected either in its odour or taste before it mixes with the wine and it is thus a case of the mixture of two species.

(17) As soon as the wine begins to fall into the vessel, it is affected by the odour of the vinegar, even before the two liquids actually mix.

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because where the smell [of the wine] is that of vinegar and the taste is of wine it is regarded as vinegar;[1] it is then a case of one species [being mixed] with the same species and in such circumstances a minimum quantity [suffices to disqualify]. Raba, on the other hand, said [that it depends upon whether the forbidden element] imparts a flavour, because when the smell [of the wine] is vinegar and the taste is of wine it is regarded as wine, and it is a case of one species [being mixed] with a different species, and in such circumstances [the disqualification depends upon the prohibited element] imparting its flavour [to the mixture].

If a heathen [smelt the wine] of an Israelite through the bung-hole[2] it is all right; but if an Israelite does this with the wine of a heathen Abaye declared it prohibited whereas Raba declared it permitted. Abaye declared it prohibited because the smell is something actual, whereas Raba declared it permitted because the smell is not something actual. Raba said: Whence do I maintain that the smell is not considered anything at all? As we have learnt: If they used cumin of a heave-offering as fuel for an oven and baked a loaf in it, the loaf is permitted because it [absorbs] not the taste but the smell of the cumin.[3] [How does] Abaye [meet this argument]? — It is different in this instance because the prohibited element was burnt. R. Mari said: This is like [the difference between the following] Tannaim: If a man removes a warm loaf [from the oven] and places it upon a cask of wine[4] which is heave-offering, R. Meir prohibits and R. Judah permits it;[5] R. Jose permits it with a wheaten-loaf but prohibits it with a barley-loaf because the latter absorbs [the fumes of the wine]. Is not the issue here that one Master regards smell as something actual and the other regards it as nothing at all? From Raba's viewpoint the Tannaim do certainly differ on this matter;[6] but from Abaye's viewpoint are we to say that the Tannaim differ on this matter![7] — Abaye can reply: Has it not been stated in this connection: Rabbah b. Bar Hanah said in the name of R. Simeon b. Lakish: With a hot loaf and open cask

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(1) The smell of vinegar is stronger than of wine, and people would judge the mixture by the odour.

(2) To see whether it was matured.

(3) Ter. X, 4. And if the smell were considered something actual, the loaf would be prohibited.

(4) The mouth of the cask being open so that the smell of the wine penetrates the loaf.

(5) To a non-priest.

(6) Because his opinion coincides with R. Judah's, whereas R. Meir by prohibiting the loaf obviously takes notice of the smell of the wine.

(7) Abaye could explain that even R. Judah regards smell as something actual, only his opinion is that the loaf does not absorb the fumes of the wine.

Talmud - Mas. Avodah Zarah 67a

all agree that it is prohibited;[1] with a cold loaf and a stoppered cask all agree that it is permitted; they only differ when the loaf is hot and the cask stoppered or when the loaf is cold and the cask open; and the case under consideration[2] is like a hot loaf upon an open cask.

THIS IS THE GENERAL RULE: WHATEVER DERIVES ADVANTAGE [FROM YEN NESEK BY ITS] IMPARTING A FLAVOUR etc. Rab Judah said in the name of Samuel: Such is the legal decision.[3] Further declared Rab Judah in the name of Samuel: This teaching only applies when [the vinegar] fell into hot split beans;[4] but if it fell into cold split beans[5] and he then warms them[6] the effect is to improve them and only in the end are they deteriorated, and therefore they are prohibited. Similarly when Rabin came [from Palestine] he reported that Rabbah b. Bar Hanah said in the name of R. Johanan : This teaching only applies when [the vinegar] fell into hot split beans; but if it fell into cold split beans and he then warms them the effect is to improve them and only in the end are they deteriorated, and therefore they are prohibited. There was a similar report from Rab Dimi when he came [from Palestine, and he added] that they used to do this[7] on Sabbath-eves in Sepphoris and they called them cress-dish.[8]

R. Simeon b. Lakish said: When [the Rabbis] use the phrase ‘it imparts a worsened flavour,’[they do not mean] that we are to say that a certain dish lacks salt or is oversalted, or lacks spice or is over-spiced;[9] but [what they do mean is] any food which is not lacking in anything and is not eaten because of this.[10] Another version is: R. Simeon b. Lakish said: When [the Rabbis] use the phrase ‘it imparts a worsened flavour’, we do not attribute [the bad flavour to the fact that] a certain dish lacks salt or is oversalted, or lacks spice or is over-spiced, but [we declare that] now only it has deteriorated [owing to the mixture].[11]

R. Abbahu said in the name of R. Johanan: Whenever the flavour and substance [of the prohibited element in a mixture are perceptible] it is prohibited [and one who eats it] is liable to the punishment of lashes; and that is a quantity equal to the size of an olive [of the prohibited element mixed] with a quantity equal to half a loaf.[12]

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(1) Because the smell certainly affects the loaf.

(2) The Israelite smelling the heathen's wine through the bung-hole.

(3) Viz., that when the wine or vinegar causes a deterioration in the value of the food-stuff it is permitted.

(4) The effect is to spoil them.

(5) Which improves the flavour.

(6) In order to destroy the advantage of the vinegar.

(7) Pour vinegar upon cold split beans.

(8) Cf. supra 30b.

(9) And would not for that reason be eaten quite apart from the disqualifying matter which has been mixed with it.

(10) Viz., the bad flavour which resulted from the mixture with disqualifying matter. Only in that circumstance does it become permitted.

(11) This is a less strict view than what is given in the previous version; because even if it is under- or over-seasoned, it may still be allowed when mixed with what is unlawful, provided this imparted a bad flavour.

(12) I.e., a quantity equal to the size of four eggs (Rashi). To be liable he must in addition have eaten the minimum amount spread over a period which is defined by the phrase ‘in which one could eat half a loaf.’

Talmud - Mas. Avodah Zarah 67b

If the taste [is perceptible] but not the substance,[1] it is prohibited but he is not punished with lashes; should, however, [the unlawful element] have intensified the flavour so as to worsen it, then it is permitted. Let him then say [more explicitly] that if it imparts a worsened flavour it is permitted! — He thereby informs us that it is so even when there is another element in it which worsens the flavour, and [that] the legal decision is in accord with the second version of R. Simeon b. Lakish's statement.[2]

R. Kahana said: We learn from the words of them all[3] that when [the forbidden element] imparts a worsened flavour it is permitted. Abaye said to him: As regards all the rest of them very well, but since R. Simeon b. Lakish has the words, ‘When [the Rabbis] use the phrase,’ it follows that he personally does not hold that view. Are we, then, to infer that there are some who maintain that when [the forbidden element] imparts a worsened flavour it is prohibited? — Yes, for it has been taught: Whether it imparts a worsened or improved flavour it is prohibited — such is the statement of R. Meir; R. Simeon says: If improved it is prohibited but if worsened it is permitted. What is R. Meir's reason? — He derives it from the vessels of Gentiles. The vessels of Gentiles, do they not impart a worsened flavour [to the food cooked in them]? and yet the All-merciful forbade them;[4] so here also it makes no difference [and it is prohibited]. How does the other [viz., R. Simeon establish his view]? — In the same manner as R. Huna the son of R. Hiyya who said: The Torah only forbade a utensil which had been used [by a Gentile] the same day, the effect of which is not to worsen the flavour. [What reply is made to this by] the other? — Even in the case of a pot used [by a Gentile] the same day it is impossible that it should not worsen [the flavour] a little. And what is R. Simeon's reason? — Because it has been taught: Ye shall not eat of anything that dieth of itself [nebelah]; thou mayest give it unto the stranger that is within thy gates[5] — whatever is fit for use by a stranger is called nebelah,

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(1) It had become dissolved in the mixture.

(2) The more lenient view is adopted.

(3) Rab Judah, R. Dimi, Resh Lakish, R. Abbahu.

(4) They must be rinsed with boiling water before a Jew may use them. This law is based on Num. XXXI, 23; v. p. 362.

(5) Deut.XIV, 21.

Talmud - Mas. Avodah Zarah 68a

and whatever is unfit for use by a stranger is not called nebelah.[1] How does R. Meir [explain the verse]? — Its purpose is to exclude what was tainted from the outset.[2] How does R. Simeon [meet this argument]? — An animal tainted from the outset does not require to be specially excluded because it is nothing more than dust.[3]

‘Ulla said: The difference [between R. Meir and R. Simeon] is over the circumstance where [the mixture] is improved [by the addition of the forbidden element] and in the end deteriorates, but if it deteriorates in the first instance all agree that it is permitted. R. Haga quoted against ‘Ulla: If wine [which is nesek] fell into lentils or vinegar into split beans it is prohibited, but R. Simeon permits it. Hence is a case where it deteriorates from the outset, and for all that they differ! — ‘Ulla replied: Haga is ignorant of what the Rabbis are here discussing and yet quotes it in objection. With what are we dealing here? E.g., it fell into cold split beans and he then warms them, the effect of which is to improve them, and only in the end are they deteriorated, and so they are prohibited. R. Johanan, on the other hand, said: The difference is when [the mixture] deteriorates from the outset. The question was asked: Is the difference over a case where it deteriorates from the outset and all agree that it is prohibited when it first improves and only in the end deteriorates, or perhaps in either event there is a difference of opinion?[4] — The question remains unanswered.

R. Amram said: Is it possible that R. Johanan's statement[5] should have any substance and not be the subject of a Mishnaic teaching? He went forth and examined and found a teaching. For we learnt: If non-holy yeast fell into dough and was sufficient to leaven it and did actually leaven it, and subsequently there fell into it yeast of a heave-offering or yeast of mixed plantings[6] sufficient to cause leavening,it is prohibited — but R. Simeon permits it.[7] Now, here is a case where [the mixture] deteriorated from the outset[8] and yet they differ![9] — R. Zera said: It is otherwise with dough because it is capable of fermenting many other pieces of dough.[10]

Come and hear.[11] If yeast of a heave-offering and also some which was non-holy fell into dough,[12] each being sufficient to cause leavening, and they leavened it, then it is prohibited; but R. Simeon permits it. If the yeast of a heave-offering fell in first, all agree that it is prohibited;[13] but if the non-holy yeast fell in first and then the yeast of a heave-offering or mixed plantings,[14] it is prohibited, but R. Simeon permits it. Now here is a case where it deteriorated from the outset and yet they differ! Should you answer that here also

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(1) I.e., if it was unfit for consumption because it was so deteriorated, the prohibition departs from it.

(2) So that it had never been fit for consumption; consequently the prohibition of nebelah does not apply to it.

(3) It is not regarded as an animal at all.

(4) Viz., R. Meir prohibits and R. Simeon permits it.

(5) That the difference is when the mixture deteriorates from the outset.

(6) Prohibited by the law of Lev. XIX, 19.

(7) ‘Orlah II, 10.

(8) Since it was already leavened before the prohibited yeast fell into it. The effect must be to spoil the dough.

(9) This supports R. Johanan.

(10) The yeast that fell into the dough deteriorated it from the point of view of eating; yet it was an advantage by rendering it capable of leavening other pieces of dough.

(11) Another attempt is made to find a teaching in support of R. Johanan's statement.

(12) At the same time, and the combined quantity was greater than was necessary for leavening.

(13) Because there was improvement at first and only in the end it deteriorated because of the second quantity of yeast.

(14) And leavened it so that it was worsened from the outset by the unlawful element.

Talmud - Mas. Avodah Zarah 68b

R. Zera's explanation applies,[1] come and hear the continuation [of this teaching]: If wine [which is nesek] fell into lentils or vinegar into split beans, it is prohibited, but R. Simeon permits it. Now here is a case where it deteriorated from the outset and for all that they differ! Should you answer that here also what ‘Ulla taught R. Haga applies, viz., where it first improved and only in the end deteriorated, do they differ in a case where it first improves and only in the end deteriorates? For behold it taught: If the yeast of a heave-offering fell in first,[2] all agree that it is prohibited! Is it not then to be concluded from this that there is difference of opinion even when it deteriorated from the outset? — Draw that conclusion.

Why were the three clauses[3] which are taught necessary? — It is quite right that he quotes the third because he thereby teaches us that there is difference of opinion even when it deteriorated from the outset. The second likewise [taught us that] if it improved and in the end deteriorated all agree that it is prohibited. But why [quote] the first clause? Since in the third clause, where no improvement at all occurred, the Rabbis prohibit it, how much more so [must they prohibit it] where there was improvement! — Abaye said: The first clause is necessary because of R. Simeon,[4] and the Rabbis spoke thus to R. Simeon: This dough should take two hours to leaven and what caused it to leaven in one hour? — [Yeast which was] prohibited.[5] How does R. Simeon [meet this argument]? — When there was improvement it was caused by both [kinds of yeast][6] and when there was deterioration it was also caused by both. But according to R. Simeon, the lawful and prohibited elements should be combined and render [the dough] prohibited! — R. Simeon follows his own opinion, viz., that even two prohibited elements[7] are not to be combined,[8] for we have learnt: ‘Orlah and mixed plantings may be combined; R. Simeon says that they may not be combined.[9]

A mouse fell into a cask of beer and Rab prohibited the beer. Some Rabbis mentioned this in the presence of R. Shesheth and remarked: He evidently was of the opinion that when it imparts a worsened flavour it is prohibited. [R. Shesheth] said to them: Rab certainly maintains elsewhere that when it imparts a worsened flavour it is permitted. Here, however, we have an anomaly since it is something repugnant and people recoil from it; and even then the Divine Law prohibited it[10] with the consequence that although it imparts a worsened flavour it is nevertheless prohibited. The Rabbis said to R. Shesheth: According to your argument [a creeping thing] should defile[11] whether moist or dry; why then have we learnt: They defile when moist but not when dry![12] — And according to your reasoning semen should defile whether moist or dry; why then have we learnt: It defiles when moist but not when dry! What, however, you could say is that the semen of which the Divine Law speaks [as defiling] is such as is capable of causing fertilisation; and likewise here [in connection with creeping things] the Divine Law uses the expression when they are dead,[13] i.e., when they have the appearance of being dead.[14] R. Shimi of Nehardea objected: Is [the mouse something] repugnant; is it not brought upon the table of kings! — R. Shimi of Nehardea said:[15] There is no contradiction, for [what is served at meals] is the fieldmouse and [what fell into the beer] was the domestic mouse.

Raba said: The legal decision is that when it imparts a worsened flavour it is permitted, but what was Rab's reason [for prohibiting it] in the case where a mouse fell into beer I do not know. Was it because he held that when it imparts a worsened flavour it is prohibited and the legal decision is not in agreement with him, or because he held that when it imparts a worsened flavour it is permitted but a mouse in the beer causes an improvement [to the flavour]!

The question was asked:

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(1) That there is a special feature about dough, and no general rule can be deduced from it.

(2) Cf. n. 1.

(3) (a) Holy and non-holy yeast fell in the dough at the same time. (b) The holy yeast fell in first. (c) Yen nesek fell into lentils.

(4) Who permits the dough when the unlawful yeast fell in simultaneously.

(5) Consequently the yeast was at first an advantage and only in the end a cause of deterioration, and even R. Simeon admits that this is prohibited.

(6) And not only by the prohibited yeast.

(7) Each of which is insufficient in quantity.

(8) To constitute a quantity sufficient to render something prohibited.
(9) ‘Orlah, II, 1.
(10) Lev. XI, 29. That the mouse was eaten, v. Isa. LXVI, 17.
(11) For the reason that the Torah prohibited it despite its repugnance.
(12) Liquid being a conductor of defilement.
(13) Lev. XI, 32, only then does contact cause defilement.
(14) I.e., when they are moist.
(15) [To be deleted with MS. M.]

Talmud - Mas. Avodah Zarah 69a

How is it if [a mouse] fell into vinegar?[1] — R. Hillel said to R. Ashi: Such an incident happened with R. Kahana and he prohibited it. [R. Ashi] replied to him: In that case [the mouse] may have been dissolved into pieces.[2] Rabina thought to apply here the standard of a hundred and one[3] since it is not less than with the heave-offering in connection with which we learnt: A heave-offering [mixed with the non-holy] is neutralised when the proportion is one in a hundred.[4] R. Tahlifa b. Giza said to Rabina: Perhaps [the case under discussion] is like spices of a heave-offering [which fell into] a pot of food the taste of which is not neutralised. R. Ahai estimated that with vinegar the proportion must be fifty [to one].[5] R. Samuel the son of R. Ika estimated that with beer the proportion must be sixty [to one]. The legal decision in either case is sixty [to one], and it is so with all things prohibited by the Torah.

MISHNAH. IF A HEATHEN WAS CONVEYING JARS OF WINE TOGETHER WITH AN ISRAELITE FROM PLACE TO PLACE, AND IT MAY BE PRESUMED THAT [THE WINE] IS UNDER SUPERVISION, IT IS PERMITTED. BUT IF [THE ISRAELITE] INFORMED HIM THAT HE WAS GOING AWAY [AND HE WAS ABSENT A LENGTH OF TIME] SUFFICIENT FOR THE OTHER TO BORE A HOLE [IN A JAR], STOP IT UP AND [THE SEALING CLAY] TO BECOME DRY, [THE WINE IS PROHIBITED]. R. SIMEON B. GAMALIEL SAYS: [A LENGTH OF TIME] SUFFICIENT FOR HIM TO OPEN A CASK,[6] RESTOPPER IT AND [THE NEW STOPPER] TO BECOME DRY.[7] IF [AN ISRAELITE] LEFT HIS WINE[8] IN A WAGGON OR A SHIP WHILE HE WENT ALONG A SHORT CUT, ENTERED A TOWN AND BATHED, IT IS PERMITTED. BUT IF HE INFORMED HIM THAT HE WAS GOING AWAY [AND HE WAS ABSENT A LENGTH OF TIME] SUFFICIENT FOR THE OTHER TO BORE A HOLE, STOP IT UP AND [THE SEALING CLAY] TO BECOME DRY, [THE WINE IS PROHIBITED]. R. SIMEON B. GAMALIEL SAYS: [A LENGTH OF TIME] SUFFICIENT FOR HIM TO OPEN A CASK, RESTOPPER IT AND [THE NEW STOPPER] TO BECOME DRY. IF [AN ISRAELITE] LEFT A HEATHEN IN HIS SHOP, ALTHOUGH HE KEPT GOING IN AND OUT, [THE WINE THERE] IS PERMITTED. BUT IF HE INFORMED HIM THAT HE WAS GOING AWAY [AND HE WAS ABSENT A LENGTH OF TIME] SUFFICIENT FOR THE OTHER TO BORE A HOLE, STOP IT UP AND [THE SEALING CLAY] TO BECOME DRY, [THE WINE IS PROHIBITED]. R. SIMEON B. GAMALIEL SAYS: [A LENGTH OF TIME] SUFFICIENT FOR HIM TO OPEN A CASK, RESTOPPER IT AND [THE NEW STOPPER] TO BECOME DRY. IF HE WAS EATING WITH HIM AT A TABLE AND SET SOME FLAGONS UPON THE TABLE AND OTHERS UPON A SIDE-TABLE[9] AND LEAVING THEM THERE WENT OUT, WHAT IS UPON THE TABLE IS PROHIBITED[10] AND WHAT IS UPON THE SIDE-TABLE IS PERMITTED;[11] . AND SHOULD HE HAVE SAID TO HIM, ‘MIX [SOME OF THE WINE WITH WATER] AND DRINK,’ WHAT IS UPON THE SIDE-TABLE IS LIKEWISE PROHIBITED.[12] OPENED CASKS[13] ARE PROHIBITED, AND THE CLOSED ONES ARE PERMITTED [EXCEPT WHEN HE WAS ABSENT A LENGTH OF TIME] SUFFICIENT FOR [THE HEATHEN] TO OPEN, RESTOPPER AND [THE NEW STOPPER] TO BECOME DRY.

GEMARA. How is the phrase, IT MAY BE PRESUMED THAT [THE WINE] IS UNDER

SUPERVISION to be defined? — As it has been taught: Behold a man's ass-drivers and workmen[14] are laden with things which are ritually clean; and though he be more than a mil[15] apart from them, his ritually clean things retain their state of purity; but if he said to them, ‘Go on and I will follow you,’ as soon as they are out of sight his ritually clean things lose their state of purity. What is the difference between the first and second circumstance [that one is permitted and the other prohibited]?[16] — R. Isaac said: The first refers to when he purified his ass-drivers and workmen for the task.[17] If that is so, it should apply also to the second clause![18] — An ‘am ha-arez[19] is not particular about the touch of his fellow.[20] If that is so, it should apply also to the first clause![21] — Raba said:

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(1) Do we say that the mouse does not affect the taste since it is so sharp?

(2) And R. Kahana prohibited the vinegar from fear that a piece might be swallowed. Therefore no answer to the question can be inferred from this incident.

(3) If the permitted quantity is a hundred times as much as the prohibited element, the mixture is allowed.

(4) V. Ter. IV, 7.

(5) Owing to its pungent flavour the proportion is halved, i.e., the quantity of vinegar must be fifty times as much as the bulk of the mouse, if the liquid is to be permitted.

(6) I.e., remove the clay stopper which is sealed on to the cask.

(7) R. Simeon does not accept the first teaching because, in his opinion, the new patch of clay in the side of the jar could easily be detected.

(8) In charge of a heathen. Since he is unaware how long the owner will be away, he is afraid to tamper with the jars.

(9) Delphica mensa.

(10) Because from the fact that he was eating with the Jew, he would assume that he had the right to drink some of the wine and by touching it he renders it nesek.

(11) [As it is unusual for a guest to help himself from the provisions on the side-table.]

(12) Acting upon the permission, he may have touched the wine on the side-table.

(13) In the room where the heathen had been eating with a Jew and received permission to drink some wine.

(14) Belonging usually to the ‘Am-ha-arez class. Their touch would defile what is ritually clean.

(15) A thousand paces; and he cannot see at such a distance what they might do with the loads.

(16) Even in the first circumstance described, inasmuch as the men are carrying the load they must necessarily touch and defile it.

(17) Through immersion in a ritual bath.

(18) Being cleansed how could they defile the load?

(19) V. Glos.

(20) Who, being ritually unclean, would communicate defilement to the load; and since the owner is out of sight, the men would not be careful to avoid such contact.

(21) Because he could not watch what happened at a distance of a mil.

Talmud - Mas. Avodah Zarah 69b

It refers to when [the owner] could come upon them by some by-path.[1] If that is so, it should apply also to the second clause! — Since he had told them, ‘Go on and I will follow you,’ their mind is at rest.[2] IF [AN ISRAELITE] LEFT A HEATHEN IN HIS SHOP etc. IF [AN ISRAELITE] LEFT HIS WINE IN A WAGGON OR A SHIP etc. [Both the circumstances] are necessary; for if he had only taught the case of a heathen [conveying jars of wine], since the man thought that perhaps [the Israelite] would come and observe him,[3] but when [the wine is left] in a waggon or ship, conclude [that it must be prohibited because the heathen] could put the ship to sea and do whatever he wished [to the wine].[4] If, however, he had only taught the instance [of wine being left] in a waggon or ship, [it might have been assumed that it was permitted] because the man would have thought, ‘Perhaps [the owner] will come by another path or stand upon the bank and observe me,’ but when a heathen [is left] in his shop, conclude [that it must be prohibited because] he could shut the door and do whatever he wished. Hence he informs us [that in such a circumstance the wine is not necessarily prohibited].

Rabbah b. Bar Hanah said in the name of R. Johanan: The difference[5] is over [a stopper of] lime,[6] but with one of clay[7] all agree [that he must have been absent a length of time] sufficient for him to open, restopper and [the new stopper] to become dry. Against this statement the following is quoted: R. Simeon b. Gamaliel said to the Sages: But [if he bored a hole in a jar] cannot his stopping be detected either on the outside[8] or the inside![9] This is all right if you maintain that there is difference of opinion [when the stopper is] of clay and hence [R. Simeon b. Gamaliel] teaches that the stopping can be detected either on the outside or the inside. If, on the other hand, you maintain that there is difference of opinion [when the stopper is] of lime, then it is all right as regards the inside since it can be known, but as regards the outside it cannot be known! — R. Simeon b. Gamaliel was uncertain what the Rabbis intended; so he spoke to them as follows: If you refer [to a stopper of] clay, then his stopping can be detected on the outside or the inside; but if you refer to one of lime, granted that it cannot be known on the outside, yet it can be known on the inside! [What was the answer of] the Rabbis? — Since it cannot be known on the outside, it would not occur to him to reverse [the stopper] and inspect it; or also at times [the new stopping] hardens.[10]

Raba said: The halachah agrees with R. Simeon b. Gamaliel, since there is an anonymous Mishnah in accord with him; for we learn: IF HE WAS EATING WITH HIM AT A TABLE AND SET SOME FLAGONS UPON THE TABLE AND OTHERS UPON A SIDE-TABLE AND LEAVING THEM THERE WENT OUT, WHAT IS UPON THE TABLE IS PROHIBITED AND WHAT IS UPON THE SIDE-TABLE IS PERMITTED; AND SHOULD HE HAVE SAID TO HIM, ‘MIX [SOME OF THE WINE WITH WATER] AND DRINK,’ WHAT IS UPON THE SIDE-TABLE IS LIKEWISE PROHIBITED. OPENED CASKS ARE PROHIBITED, AND THE CLOSED ONES ARE PERMITTED [EXCEPT WHEN HE WAS ABSENT A LENGTH OF TIME] SUFFICIENT FOR [THE HEATHEN] TO OPEN, RESTOPPER AND [THE NEW STOPPER] TO BECOME DRY. Obviously [this teaching agrees with R. Simeon b. Gamaliel; so why does Raba mention the fact]! — You might have said that the whole of the passage was taught by R. Simeon b. Gamaliel. Hence we are informed [that it is not so].[11] Now since we have established the fact that [the halachah] agrees with R. Simeon b. Gamaliel, viz., we need not be concerned about the possibility of a hole being bored in a jar, and inasmuch as the halachah also agrees with R. Eliezer, viz., we need not be concerned about the possibility of the seal being forged,[12] what is the reason that we do not nowadays leave [stoppered casks] in charge of a heathen? — On account of the vent.[13]

Raba said: If Israelites were reclining at table with a Gentile harlot, the wine is permitted because while lust would be strong in them

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(1) The men would then be afraid to defile their load.

(2) They are not under observation and would be careless. Accordingly the phrase UNDER SUPERVISION means that the heathen is afraid to tamper with the wine because he might be observed by the owner.

(3) Tampering with the wine, and for this reason he would be afraid to do so, and consequently the wine is permitted.

(4) Therefore the Mishnah has to state this case separately, and draw a distinction between whether the owner informed or did not inform the heathen of his intention to be absent for a while.

(5) Between the Rabbis and R. Simeon b. Gamaliel in the Mishnah.

(6) Because this is white from the beginning, and a new stopper of this material could not be easily detected.

(7) This is of a dark colour at first, and only after several days becomes white. Tampering would be readily noticed.

(8) The newness of the inserted material would be apparent.

(9) Even if the heathen smoothed the outside surface, he could not do this inside the jar; consequently the Jew could soon discover if anything was wrong by examining the stopper on the inside. If, then, R. Simeon holds that the new stopper can always be detected, why does he disagree with the Rabbis in the Mishnah?

(10) Both on top and bottom alike, so that detection is difficult.

(11) I.e., from ‘If he was eating’ is not part of R. Simeon's statement which precedes, although it harmonises with his view.

(12) V. supra 31a.

(13) Through which the fumes of the wine are allowed to escape. A heathen might draw off some of the wine through it. Another reading is shibba, ‘plug’. This could be taken out and the wine interfered with.

Talmud - Mas. Avodah Zarah 70a

a desire for yen nesek would not be strong in them.[1] If, however, Gentiles were reclining at table with an Israelite harlot the wine [which belongs to her] is prohibited. Why? — Because she would be held in contempt by them and be influenced to follow them.[2]

In a certain house was stored wine belonging to an Israelite. A heathen entered and locked the door behind him. There was a crack in the door through which the heathen was discovered standing among the jars. Raba said: All those which were opposite the crack are permitted,[3] but those on either side are prohibited.

Wine belonging to an Israelite was stored in a house where an Israelite resided above and a heathen below.[4] Once they heard a sound of quarrelling [in the street] and went out. The heathen came back first and locked the door behind him. Raba said: The wine is permitted on the ground that [the heathen] must have thought,’Just as I came back first, so might the Israelite have come back first and be sitting upstairs watching me.’

There was some wine belonging to an Israelite stored in an inn, and a heathen was discovered among the jars. Raba said: If he could be convicted of theft the wine is permitted, otherwise it is prohibited.[5]

Wine [of an Israelite] was stored in a house and a heathen was discovered among the jars. Raba said: If he has an excuse[6] the wine is prohibited, otherwise it is permitted.[7] Against this is quoted: If the inn was locked[8] or [the Israelite] said to him,[9] ‘Keep watch,’ it is prohibited.[10] Is it not to be supposed that [the wine is prohibited] even when the heathen has no excuse?[11] — No, [the cited teaching applies] when he has an excuse.[12]

An Israelite and a heathen were sitting and drinking wine together. The Israelite heard the sound of prayer in a Synagogue; so he arose and went there. Raba said: The wine is permitted on the ground that [the heathen] must have thought, ‘He will remember the wine at any moment and return.’

An Israelite and a heathen were sitting in a ship. The Israelite heard the sound of the ram's horn announcing the advent of the Sabbath;[13] so he left [the ship] and went ashore. Raba said: The wine is permitted on the ground that [the heathen] must have thought, ‘He will remember the wine at any moment and return.’ But if [it is supposed that the heathen would not think so] on account of its being the Sabbath, behold Raba has said: Issur the proselyte[14] once told me, ‘When we were still Gentiles we declared that Jews do not observe the Sabbath, because if they did observe it how many purses would be found in the streets![15] I did not[16] then know that we follow the view of R. Isaac who said: If a person finds a purse on the Sabbath he may carry it for distances less than four cubits.’[17]

A lion once roared in an [Israelite] wine-press and a heathen [who was working in it], on hearing this, hid among the jars. Raba said: The wine is permitted on the ground that he must have thought, ‘Just as I am hiding here, so also may the Israelite be hiding behind me and watching me.’

Some thieves came up[18] to Pumbeditha and opened many casks. Raba said: The wine is permitted. What was his reason? — Because the majority of thieves [in that part of the country] are Israelites.

The same thing happened in Nehardea and Samuel said: The wine is permitted. According to whom [was this decision made]? Was it according to R. Eliezer who said: When there is uncertainty about his entrance[19] he is undefiled; for we have learnt: If a person entered [the fields in] a valley during the rainy season[20] and there was a source of defilement in a certain field, and he said, ‘I walked in that place but am not sure whether I did or did not enter that field,’ R. Eliezer says: When there is uncertainty about his entrance[21] he is undefiled but if the uncertainty is about his having touched [the unclean object] he is defiled![22] — No, it is different there [in the case of the thieves] because there are some who open [the casks] to search for money;[23] thus there is a double uncertainty.[24] [

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(1) And they would prevent her touching it. [So, R. Nissim Gerondi (Ran.).]

(2) She would raise no objection if they touched the wine.

(3) It was assumed that the heathen would be afraid to tamper with these because he might be under observation.

(4) The wine was stored below, but the Jew was able to see it.

(5) V. supra 61b.

(6) By pretending that he was looking for something, it is evidence that he went there with the intention of tampering with the wine.

(7) Being confused and unable to give an explanation, it is assumed that he was too afraid to have come there with the intention of disqualifying the wine.

(8) In which was a heathen together with the wine of a Jew.

(9) To a heathen outside the door.

(10) Because relying on the owner's absence, the heathen could interfere with the wine.

(11) For being suspiciously close to the wine. This contradicts Raba's decision.

(12) If he is found near the jars.

(13) That was the signal for work to cease. A description is given in Suk. V, 5. V. also Josephus, War, IV, ix, 12.

(14) V. B.B. (Sonc, ed.) p. 644, n. 15.

(15) Which Jews would have to throw away if in their possession when Sabbath began, and no other Jew could pick up.

(16) [Alfasi reads ‘they (the Gentiles) do not know.’]

(17) I.e., he carries it a distance less than four cubits and stops a while, and so on until he reaches his house. This explains why purses are not found in the streets on the Sabbath.

(18) [From some district in the South (v. Obermeyer, op. cit., p. 253).]

(19) Whether a ritually clean person had entered a ritually defiled place. Similarly here there is doubt whether the thieves were heathens.

(20) The fields are then sown and are regarded as a private domain.

(21) Into the field where the defiled object was.

(22) Toh. VI, 5; v. B.B. (Sonc. ed.) p. 225.

(23) [So Rashi. The difficulty is obvious. V.l.: ‘Since they opened many casks (it is clear that) the intention was for money.’ V. D.S. a.l., n. 9. This implies that in Nehardea too ‘many’ casks were opened. The word is missing in cur. edd. but occurs in several texts; cf. Tosaf. s.v. פתחו.]

(24) Besides the doubt whether they were heathens, there was the additional doubt whether they interfered with the wine since they were only searching for money. [In this case even the Rabbis who oppose R. Eliezer will agree that the wine is permitted.]

Talmud - Mas. Avodah Zarah 70b

A [heathen] girl[1] was found among jars of wine holding some of the froth in her hand. Raba said: The wine is permitted on the ground that she probably obtained it from the outside of the cask, and although none was there any more[2] [at the time she was discovered] we say she happened to find some.

Some troops[3] once came up to Nehardea and opened several casks. When R. Dimi arrived [from Palestine] he said: A similar occurrence came before R. Eleazar and he permitted [the wine], but I do not know whether he did so because he agreed with the view of R. Eliezer who said that when there is uncertainty about his entrance he is undefiled or whether he did so because he held the opinion that the majority of the men who were in the troops[4] were Israelites. But if that is so[5] this is not a case of uncertainty about entrance; but uncertainty about touching![6] — Since, however, they opened many,[7] conclude that they opened them with the intention of [searching for money][8] and so it is like a case of uncertainty about entrance.[9]

An [Israelite] woman who dealt in wine left the key of her door in charge of a heathen woman. R. Isaac said in the name of R. Eleazar: A similar occurrence was once brought before our House of Study [and they permitted the wine because] they maintained that she only entrusted her with charge of the key.[10] Abaye said: We have likewise learnt similarly: If a person entrusts his keys to an ‘am ha-arez his things which are in a state of ritual purity remain undefiled because he only entrusted him with charge of the key.[11] Since his things which are in a state of ritual purity remain undefiled, this must be all the more true in the matter of yen nesek. Is this to say that the law of ritual purity is more stringent than that of yen nesek? — Yes, for it has been stated: If a courtyard is divided off by pegs,[12] Rab said that the ritually clean things [of a haber] are defiled,[13] but [if the resident on the other side is] a heathen he does not render the wine [of the haber] nesek; and R. Johanan said: Also his ritually clean things remain undefiled. Against this is quoted: [If there are two courtyards one within the other,] the inner belonging to a haber and the other to an ‘am ha-arez, the haber may lay out his fruits there[14] and leave utensils there, even though the hand of the ‘am ha-arez can reach to it.[15] This contradicts Rab's statement! — Rab can answer you: It is different in this case because he can be regarded as a thief.[16]

Come and hear: R. Simeon b. Gamaliel says: If the roof of a haber is higher than the roof of an ‘am ha-arez, the former may lay out his fruits there and leave utensils there, provided the hand of the ‘am ha-arez cannot reach to it.[17] This contradicts R. Johanan's statement! — R. Johanan can answer you: It is different in this case because he could offer the excuse that his intention was to take measurements.[18]

Come and hear: If the roof of a haber adjoined that of an ‘am ha-arez, the former may lay out his fruits there and leave utensils there, even though the hand of the ‘am ha-arez can reach to it. This contradicts Rab's statement![19] — Rab can answer you: Is there not R. Simeon b. Gamaliel who shares my view?[20] I made my statement in agreement with R. Simeon b. Gamaliel. MISHNAH. IF A BAND OF MARAUDERS[21] ENTERED A CITY IN PEACE-TIME, THE OPEN CASKS ARE PROHIBITED AND THE SEALED ARE PERMITTED; IN WAR-TIME BOTH ARE PERMITTED BECAUSE THEY HAVE NOT THE LEISURE TO OFFER LIBATIONS.

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(1) She being only a child, the presumption was that she knew nothing about disqualifying the wine and her intentions were innocent.

(2) [Ms.M. omits ‘any more’.]

(3) [Or, ‘a commander’ (Rashi).]

(4) [Lit., ‘who came with those troops,’ or with that commander.]

(5) Viz., his doubt was whether they were Jews. [Delete, however, with Ms.M. ‘if that is so.’]

(6) In regard to which even R. Eliezer adopts the more rigorous view, since the doubt is whether it was Jews who opened the casks.

(7) More casks than were required only for drinking.

(8) And there was no thought of disqualifying the wine.

(9) In respect of which a more lenient view is taken by R. Eliezer; and so the wine was permitted.

(10) And not of the wine-store itself.

(11) Toh. VII, 1.

(12) And not by a high partition, and a haber lives on one side and an ‘am ha-arez on the other.

(13) Since it is presumed the ‘am ha-arez has touched them.

(14) Because the ‘am ha-arez has not to walk through it to reach his own courtyard.

(15) The ‘am ha-arez if found in the courtyard of the haber.

(16) But this cannot be assumed when the one courtyard is only divided off by pegs.

(17) Tosef. Toh. IX.

(18) From his roof to construct a building, and for that reason he stretched out his hand. [V.I. ‘I merely stretched myself.’]

(19) [In Tosef. Toh. IX, the reading is ‘provided the ‘am ha-arez cannot reach,’ which is in support of Rab.]

(20) He added above the condition, ‘provided the hand of the ‘am ha-arez cannot reach to it.’

(21) Some edd. add: of heathens.

Talmud - Mas. Avodah Zarah 71a

GEMARA. I quote in contradiction to this: When a city has been captured by besieging troops, all the wives of priests therein are disqualified [to their husbands]![1] — R. Mari said: [The soldiers] have no leisure to offer libations, but they have it to satisfy their lust.

MISHNAH. IF A HEATHEN SENT TO ISRAELITE CRAFTSMEN A CASK OF YEN NESEK AS THEIR WAGE, THEY ARE ALLOWED TO SAY, GIVE US ITS VALUE IN MONEY’;[2] BUT AFTER [THE WINE] HAS COME INTO THEIR POSSESSION [THE EXCHANGE] IS PROHIBITED.[3]

GEMARA. Rab Judah said in the name of Rab: A man is allowed to say to a heathen, ‘Go and settle for me the king's portion.’[4] Against this is quoted: A man may not say to a heathen, ‘Go in my place [and give a bribe] to the official’! — Rab retorted: You speak of a case where a man says, ‘Go in my place [and give a bribe] to the official.’[5] But the circumstance [where I give permission is quite different] and is the equivalent of: He may, however, say to him, ‘Save me from the official.’[6] MISHNAH. IF [AN ISRAELITE] SELLS HIS WINE TO A HEATHEN, SHOULD HE HAVE SETTLED THE PRICE BEFORE HE MEASURED IT OUT, THE PURCHASE-MONEY IS PERMITTED; BUT SHOULD HE HAVE MEASURED IT OUT BEFORE HE SETTLED THE PRICE,[7] THE PURCHASE-MONEY IS PROHIBITED.

GEMARA. Amemar said: Acquisition by meshikah[8] does apply to a Gentile.[9] You may ascertain this from the practice of the Persians who send presents[10] to one another and never retract.[11] R. Ashi said: I certainly maintain that acquisition by meshikah does not apply to a Gentile, and the reason why [the Persians] do not retract is due to the spirit of pride which possesses them.[12] R. Ashi said: What is my authority for this statement? That which Rab told the [Israelite] wine-sellers, viz., ‘When you measure wine for Gentiles, first take the money and then measure for them, and if they have not the cash with them, lend it to them and get it back later so that it should be a loan [of money] with them; for should you not act in this manner, when it becomes yen nesek it will be in your possession and when you receive payment it will be for yen nesek.’ Now should it enter your mind [argued Rab Ashi] that acquisition by meshikah does apply to a Gentile,

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(1) Keth. 27a. The assumption is that they were violated; and a priest's wife, even when dishonoured by force, is disqualified to her husband.

(2) Because their wages were due in money.

(3) Once in their possession the wine belongs to them, and to get money in exchange for it is the equivalent of its sale.

(4) The royal levy on the subject's produce which was paid in kind. If what the heathen paid over included yen nesek, it is permitted although the Jew is discharging his obligation with what is prohibited.

(5) Therefore if the heathen presents him with wine, it is as though the Israelite had given it, and he cannot use yen nesek for that purpose.

(6) To secure himself from molestation he requests the heathen to make a present to the official. He would be willing to make a gift of money; so if the heathen gave him wine, he is not technically the Jew's agent in the presentation of that wine and for that reason it is allowed.

(7) The heathen has not acquired the wine by drawing it towards himself; but by touching it he rendered it nesek. Therefore the Jew is in fact selling disqualified wine.

(8) V. Glos.

(9) Before the payment of the money, whether the seller or purchaser is a Gentile; consequently in the circumstance described in the Mishnah the money should be permitted.

(10) [Another rendering: 'Samples'. Rashi in name of Gaonim.]

(11) Because having once passed into the possession of the receiver it is considered his property. [Or, having accepted the samples, the transaction is deemed closed.]

(12) And legally they could demand its return.

Talmud - Mas. Avodah Zarah 71b

then as soon as the Gentile drew [the wine] to himself he acquired it[1] and it did not become yen nesek until he touched it![2] — It would indeed not be so if the wine was measured and poured [by the Israelite] into the Israelite's vessel;[3] but it is necessary [to suppose the circumstance] where [the Israelite] measured and poured it into the Gentile's vessel.[4] At all events when [the wine] enters the interior of the vessel [the Gentile] acquired it,[5] and it does not become yen nesek until it reached the bottom of the vessel.[6] Are we, then, to conclude that the flow is a connecting link?[7] — No; if the Gentile was holding the vessel in his hand it would indeed not be so;[8] but it is necessary [to suppose the circumstance] where it was resting upon the ground.[9] But let [the Gentile's] vessels acquire [the wine] for him![10] Is it to be deduced from this that when the purchaser's vessels are in the possession of the seller the former has not become the owner?[11] — No; I can always maintain that the purchaser does acquire them; but with what are we dealing here?[12] E.g., when there is some wine held back on the mouth of the smaller vessel[13] through which the former wine becomes all the while nesek even before [it enters the Gentile's vessel].[14] According to whom will this be? — It will not be in accord with R. Simeon b. Gamaliel; for if it were in accord with him, behold he has said: All of it may be sold to a heathen with the exception of the value of the yen nesek which is in it![15] — Against whom is this argument [directed]? Against Rab; but he himself declared that the halachah agrees with R. Simeon b. Gamaliel only when a cask [of yen nesek] became mixed with other casks but not when wine [which is nesek] became mixed with other wine.

Against [the statement of Amemar that acquisition by meshikah does apply to a Gentile] is quoted: If one bought scrap metal from a heathen and found an idol amongst it, should he have drawn it to himself before paying over the purchase price he can return the idol; but should he have drawn it after paying over the purchase money, he casts [the profit he derives from it] into the Salt Sea![16] Now if it enters your mind that acquisition by meshikah does apply to a Gentile, how can he return it?[17] — Abaye said: Because it appears to be a purchase in error.[18] Raba said: Is there a purchase in error in the first circumstance and not in the second![19] — But, said Raba: There is a purchase in error in both circumstances; but in the first, since he had not paid over the money, it does not appear like an idol in the possession of an Israelite, whereas in the second, since he had paid over the money, it does appear like an idol in the possession of an Israelite.[20]

Mar Kashisha, son of R. Hisda, said to R. Ashi: Come and hear: IF [AN ISRAELITE] SELLS HIS WINE TO A HEATHEN, SHOULD HE HAVE SETTLED THE PRICE BEFORE HE MEASURED IT OUT, THE PURCHASE-MONEY IS PERMITTED. Now should you maintain that acquisition by meshikah does not apply to a Gentile, why is the purchase-money permitted?[21] — [R. Ashi replied:] With what are we dealing here? When he paid him the denar[22] beforehand. [Mar Kashisha said]: If so, I quote the continuation: BUT SHOULD HE HAVE MEASURED IT OUT BEFORE HE SETTLED THE PRICE THE PURCHASE-MONEY IS PROHIBITED. Now if he paid him the denar beforehand, why should the purchase-money be prohibited? — [R. Ashi replied:] But according to you who maintain that acquisition by meshikah does apply to a Gentile, why in the first circumstance is the purchase-money permitted and prohibited in the second! What you have to say is that when he settled the price his mind is made up [to acquire the wine] and if he had not settled the price his mind is not made up. Similarly, according to my view, even when he has paid him the denar in advance, should he have settled the price his mind is made up and if he had not settled the price his mind is not made up.[23]

Rabina said to R. Ashi: Come and hear: R. Hiyya b. Abba said in the name of R. Johanan: A son of Noah[24] is put to death for stealing less than a perutah's worth [of the property of an Israelite] and is not obliged to make restitution. Now if you maintain that acquisition by meshikah does not apply to a Gentile, why should he be put to death?[25] — Because he caused trouble to an Israelite.[26]

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(1) Even before paying for it.

(2) In that case how could Rab insist on payment first on the ground that otherwise the Israelite would be selling yen nesek, since on the supposition that a Gentile acquires by meshikah the wine does not become nesek until after it had passed into his possession? Therefore the supposition is wrong and we must conclude that meshikah does not apply to a Gentile.

(3) The wine would not become nesek until after it had passed into the Gentile's possession by his touching it.

(4) The wine would then become nesek as soon as it was poured out because the vessel is prohibited and communicates forthwith the prohibition to the wine, even before the heathen drew it towards himself; so there is nothing to prove that meshikah does not apply to a Gentile.

(5) If he held the vessel while the wine was poured into it.

(6) Why then should Rab require the money to be paid first, seeing that the wine does not become nesek until after it had passed into the possession of the Gentile?

(7) [I.e., the flow of the liquid connects the two vessels and conveys the prohibition of the Gentile's vessel to that of the Israelite's, from which it is poured out, making the wine it contains nesek even before it had been acquired by the Gentile.] This question is debated in B.B. 85b. V. also supra 56b, and infra 72b.

(8) [Rab would not demand the payment of the money first, because he might hold that the flow is no connecting link.]

(9) While the wine is poured out, and in that circumstance Rab does prohibit the money unless paid first, since the wine becomes nesek while still in the possession of the Israelite.

(10) [Why then should Rab demand payment in advance?]

(11) Of the contents which the seller put into them even before the purchaser takes hold of the vessels, so that the wine becomes nesek even before it passed into the possession of the Gentile.

(12) The reason why Rab demanded payment in advance was not based on the law of meshikah but is to be sought in the cause which is now explained.

(13) Of the Gentile into which the wine is poured from the Israelite's vessel. These drops retained on the rim are yen nesek before the wine enters the interior of the vessel and becomes the possession of the Gentile.

(14) [Every portion of the wine passing over the brim becomes contaminated through these drops.]

(15) V. infra 74a, referring to yen nesek which fell into a vat. [Likewise here the money of all the wine apart from the value of the drops retained on the brim should be permitted.]

(16) Supra 53a.

(17) It is then an idol in a Jew's possession and his duty is to destroy it.

(18) The Jew did not intend to buy an idol; for that reason he may return it.

(19) If that were the true explanation, it should hold good in both instances.

(20) And if he received money back for its return, the impression would be that he had sold the idol to the heathen.

(21) Since on that hypothesis the wine belongs to the Jew until he is paid and it becomes nesek by the heathen touching it before he pays for it.

(22) Representing the cost of the wine. The money was handed over before the wine was measured out.

(23) That is the criterion underlying the Mishnah and it has no bearing on the question of meshikah.

(24) Who took upon himself seven precepts (v. supra p. 314) one of which was to abstain from robbery, v. Sanh. (Sonc. ed.) p. 381, n. 5.

(25) Since technically what had been stolen is still the Jew's property.

(26) The thief is not put to death for the theft, but for the reason that he may have endangered the Jew's life; because if the owner had tried to prevent the robbery the thief might have killed him.

Talmud - Mas. Avodah Zarah 72a

And what means ‘he is not allowed an opportunity of making restitution’?[1] — [It signifies that] he does not come within the scope of the law of restitution.[2] If that is so I quote the continuation of the teaching: If his neighbour came and stole it from him, [that man] is put to death on account of it. Now this is quite right with the first circumstance because [the original thief] caused trouble to an Israelite; but what had [the second thief] done in the latter circumstance [to be put to death]![3] Consequently we must deduce from this that acquisition by meshikah does apply to a Gentile! [Yes,] draw that conclusion.

A man once said to his neighbour, ‘If I sell this piece of land, I will sell it to you’;[4] but he went and sold it to another person. R. Joseph said: The first one acquired it.[5] Abaye said to him: But he had not settled the price![6] [R. Joseph asked:] And whence do you declare that wherever he had not settled the price he has not acquired it? — [He replied:] As we learn in our Mishnah: IF [AN ISRAELITE] SELLS HIS WINE TO A HEATHEN, SHOULD HE HAVE SETTLED THE PRICE BEFORE HE MEASURED IT OUT, THE PURCHASE-MONEY IS PERMITTED; BUT SHOULD HE HAVE MEASURED IT OUT BEFORE HE SETTLED THE PRICE THE PURCHASE-MONEY IS PROHIBITED. [Now,] how is it then? — [How can you ask,] how is it then? It is as we have stated.[7] — Perhaps the seriousness of yen nesek makes a difference! — Come and hear: R. Idi b. Abin said: A similar occurrence[8] came before R. Hisda who referred it to R. Huna. The latter expounded it from the following: For it has been taught: If a man took possession of another's ass-drivers and workmen[9] and brought them into his own house, whether he settled the price before measuring [the fruits] or measured them without having settled the price, he has not acquired them and both can retract. If, however, he unloaded them and brought them into his house, then should he have settled the price before he measured them neither can retract, and should he have measured them before settling the price both can retract.[10]

A man once said to his neighbour, ‘If I sell this piece of land I will sell it to you for a hundred zuz.’ He later sold it to another for a hundred and twenty. R. Kahana said: The first man acquired it. Rab Jacob of Nehar-pekod objected: As to this man, [it was] those zuz that compelled him.[11] The legal decision agrees with R. Jacob of Nehar-pekod.

If [the seller] said to [the would-be purchaser], ‘When the article has been valued by three persons [we will settle the price accordingly],’ even if two of the three agree [on the price it must be accepted]; but if he said, ‘As three will declare [the price to be],’ then there must be three who agree on the price.[12] If he said, ‘When it has been valued by four persons,’[13] then there must be four who agree on the price; so how much more so if he said to him, ‘As four will declare [the price to be].’ If he said to him, ‘When the article has been valued by three persons’ and three men came and valued it, and then the other said, ‘Let three different men come who are better qualified,’ R. Papa said: He has the right to object.[14] R. Huna the son of R. Joshua demurred: How can we know that the latter three will be better qualified; perhaps the first three were better qualified![15] The legal decision agrees with R. Huna the son of R. Joshua.

MISHNAH. IF [AN ISRAELITE] TOOK THE FUNNEL AND MEASURED [WINE] INTO A HEATHEN'S FLASK AND THEN MEASURED SOME INTO AN ISRAELITE'S FLASK, SHOULD A DROP OF THE [FIRST] WINE HAVE REMAINED [IN THE FUNNEL], THEN [THE WINE MEASURED INTO THE SECOND FLASK] IS PROHIBITED. IF HE POURED FROM [HIS OWN] VESSEL INTO [A HEATHEN'S] VESSEL, [THE WINE IN THE VESSEL] FROM WHICH HE POURED IS PERMITTED AND [THE WINE IN THE VESSEL] INTO WHICH HE POURED IS PROHIBITED.

GEMARA. We have learnt elsewhere: An outflow, a downward stream of water and dripping liquid do not form a connecting link to communicate either defilement or purification,[16] but a pool of water is a connecting link to communicate both defilement and purification.[17] R. Huna said: An outflow, a downward stream of water and dripping liquid form a connecting link in connection with yen nesek.[18] R. Nahman asked R. Huna: Whence have you this? If from [the Mishnah] which we learnt: An outflow, a downward stream of water and dripping liquid do not form a connecting link to communicate either defilement or purification, [and you argue that] it is only in connection with defilement and purification that it does not form a link but it does in connection with yen nesek; in that case I cite the continuation, viz., but a pool of water is a connecting link to communicate both defilement and purification, [and you must by analogy deduce that] it is only in connection with defilement and purification that it does form a link but it does not in connection with yen nesek! So there is no inference to be drawn from this extract.

We learnt: IF [AN ISRAELITE] TOOK THE FUNNEL AND MEASURED [WINE] INTO A HEATHEN'S FLASK AND THEN MEASURED SOME INTO AN ISRAELITE'S FLASK,

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(1) The property being ex hypothesi the Jew's.

(2) For the very reason that he had not technically acquired the Jew's property.

(3) He would not be executed for stealing the property of a non-Jew; hence he is regarded as having stolen what belonged to a Jew. Consequently what was in the possession of ‘the son of Noah’ was Jewish property and he had acquired it by meshikah.

(4) [This was attended by a formal kinyan (Rashi).]

(5) If he pays the price given by the purchaser.

(6) [The kinyan is of no effect, since in the absence of the fixation of any price the mind of the seller is not made up (Rashi).]

(7) Viz., the criterion is the settling of the price.

(8) Viz., similar to the sale of the field.

(9) I.e., a man is conveying fruits to market laden upon asses or carriers, and a would-be purchaser leads the asses and men into his own house, which is evidence of his intention to buy the produce.

(10) It follows that the criterion is the settling of the price. Accordingly in the case mentioned above, the man cannot claim the field.

(11) The offer of the higher price may have tempted him to dispose of it; and if it had not been made he would not have sold the field.

(12) In the former instance the three constituted a Court, and with a Court of three judges the verdict of two is adopted.

(13) Since a Court never consists of four, the intention when arranging for that number must have been to secure a unanimous valuation.

(14) To the first valuation and ask for three other valuers.

(15) The bargaining could then be drawn out indefinitely.

(16) So that if what is below is ritually unclean what is on top is not similarly affected; and if a ritual bath does not contain the requisite minimum quantity of water, an outflow etc. cannot be reckoned in to make up the deficiency.

(17) Toh. VIII, 9.

(18) So that if wine is poured into a vessel which contains yen nesek the former is contaminated.

Talmud - Mas. Avodah Zarah 72b

SHOULD A DROP OF THE [FIRST] WINE HAVE REMAINED [IN THE FUNNEL], THEN [THE WINE MEASURED INTO THE SECOND FLASK] IS PROHIBITED. How is the wine left [in the funnel] rendered prohibited? Must it not be by the outflow?[1] So deduce from this that the outflow is a connecting link. [But against such a conclusion] R. Hiyya taught: [Our Mishnah refers to the circumstance where] his flask forced the wine back;[2] therefore if his flask did not force it back, how is it? It is not [prohibited]. May you then not solve from the foregoing that the outflow is not a connecting link? — No; it merely proves that when his flask forced the wine back it is prohibited,[3] but the question whether the outflow [is or is not a connecting link] remains.

Come and hear: IF HE POURED FROM [HIS OWN] VESSEL INTO [A HEATHEN'S] VESSEL, [THE WINE IN THE VESSEL] FROM WHICH HE POURED IS PERMITTED. Hence what is between [the two vessels] is prohibited; so deduce from this that the outflow is a connecting link! But if the outflow is a connecting link, then what is inside [the first] vessel should likewise be prohibited! — This is no difficulty, because [we have here a case where] he cuts off [the outflow].[4] Nevertheless [we do deduce from this that][5] the outflow is a connecting link! But according to your reasoning I will quote the continuation: AND [THE WINE IN THE VESSEL] INTO WHICH HE POURED IS PROHIBITED. Hence what is between [the two vessels] is permitted! Consequently no inference is to be drawn from this Mishnah.[6]

Come and hear: If he pours from a cask into a vat [which contains yen nesek], the jet of liquid which descends from the rim of the cask is prohibited![7] — R. Shesheth explained this [extract] as referring to a heathen pouring out so that [the wine flows] because of his action.[8] But if it is a heathen pouring out, what is in the cask is likewise prohibited![9] — [What is disqualified] because of a heathen's action is prohibited by the Rabbis,[10] and they decreed only against what issued [from the cask] and not against what was inside it.[11]

R. Hisda told the [Israelite] wine-dealers: When you measure wine for heathens, either cut off [the outflow] or pour it in with a splash.[12] Raba told the [Israelites] whose occupation was to pour wine: When you pour wine, let no heathen come near to help you, lest you forget yourselves and rest [the vessel] upon his [hands] and [the pouring] result from his action and [the wine] be prohibited.

A man was drawing wine[13] through [a siphon consisting of] a large and small tube. A heathen came and laid his hand upon the large tube,[14] and Raba disqualified all the wine.[15] R. Papa said to Raba — another version is, R. Adda b. Mattena said to Raba; and still another version is, Rabina said to Raba: Was it on account of the outflow? So is it to be deduced from this that the outflow is a connecting link? — [Raba answered: No;] it is different in this instance, because all the wine is drawn through the siphon.[16]

Mar Zutra son of R. Nahman said: It is permitted [to drink from] a vessel containing several tubes,[17] provided the Israelite stops first but not when a heathen stopped first.[18] Rabbah son of R. Huna visited the house of the exilarch and allowed [the company which included Gentiles] to drink from a vessel containing several tubes.

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(1) Which connected the wine poured into the Jew's vessel with what was left in the funnel, and this was previously made nesek by the flow into the heathen's vessel.

(2) The heathen's flask being full, some wine flowed back into the funnel. According to this explanation, the wine in the funnel was contaminated not because the outflow formed a link.

(3) [Even if no drop of wine remained in the funnel (Tosaf.).]

(4) Before the wine enters the heathen's flask he moves aside the vessel from which he is pouring out so that the outflow does not connect the two.

(5) [The bracketed words are from Ms. M.]

(6) Whether the outflow is a link or not.

(7) The inference must then be that the flow is a link.

(8) In that case the flow was disqualified by the heathen and not by the contents of the vat.

(9) And not merely the outflow; why, then, does the extract refer to the outflow only as being prohibited?

(10) And not by the Torah.

(11) This extract accordingly does not establish the view that the outflow forms a link.

(12) I.e., a connecting flow must be avoided; he held that it did form a link.

(13) [From a full cask to an empty one.]

(14) [The side from which the wine flowed into the empty cask (Rashi).]

(15) [Even the wine in the full cask.]

(16) For this reason it must be considered as though he had touched the whole quantity of wine and not merely what was in the tube.

(17) So that many can drink at the same time; this is permitted even when a heathen is one of the number.

(18) If the heathen stopped first, what he had drawn into the tube but not drunk would flow back and disqualify the remainder.

Talmud - Mas. Avodah Zarah 73a

Some say that Rabbah son of R. Huna himself drank from such a vessel. MISHNAH. YEN NESEK IS PROHIBITED AND RENDERS [OTHER WINE] PROHIBITED BY THE SMALLEST QUANTITY. WINE [MIXED] WITH WINE AND WATER WITH WATER[1] [DISQUALIFIES] BY THE SMALLEST QUANTITY. WINE [MIXED] WITH WATER AND WATER WITH WINE [DISQUALIFIES WHEN THE PROHIBITED ELEMENT] IMPARTS A FLAVOUR. THIS IS THE GENERAL RULE: WITH THE SAME SPECIES [THE MIXTURE IS DISQUALIFIED] BY THE SMALLEST QUANTITY, BUT WITH A DIFFERENT SPECIES [IT IS DISQUALIFIED WHEN THE PROHIBITED ELEMENT] IMPARTS A FLAVOUR.

GEMARA. When R. Dimi came [from Palestine] he reported that R. Johanan said: If one pours yen nesek from a cask into a vat,[2] even the whole day long, the former is all the while annulled.[3] We learnt: YEN NESEK IS PROHIBITED AND RENDERS [OTHER WINE] PROHIBITED BY THE SMALLEST QUANTITY! Does not this mean when the forbidden element fell into the permitted? — No, when the permitted fell into the prohibited.[4]

Come and hear: WINE [MIXED] WITH WATER [DISQUALIFIES WHEN THE PROHIBITED ELEMENT] IMPARTS A FLAVOUR. Does not this mean when prohibited wine fell into permitted water? — No, when permitted wine fell into prohibited water. If, however, the first clause [deals with] prohibited water, the second clause must likewise [deal with] prohibited water, but in the second clause he teaches: WATER WITH WINE [DISQUALIFIES WHEN THE PROHIBITED ELEMENT][5] IMPARTS A FLAVOUR![6] — R. Dimi can reply to you: Throughout our Mishnah it deals with the permitted falling into the prohibited, the first clause when permitted wine fell into prohibited water and the second when permitted water fell into prohibited wine.

When R. Isaac b. Joseph came [from Palestine] he reported in the name of R. Johanan: If one pours yen nesek from a small cooler[7] into a vat, even the whole day long, the former is all the while annulled. This applies only to a small cooler whose jet is not considerable[8] but not to a cask whose jet is considerable.

When Rabin came [from Palestine] he reported in the name of R. Johanan: If yen nesek fell into a vat and a ewer of water also fell into it, we consider the permitted [portion of the wine] as nonexistent and as for the remainder the water may prevail over it and annul it.[9] When R. Samuel b. Judah came [from Palestine] he reported in the name of R. Johanan: This teaching only applies when the ewer of water fell in first, but if it did not fall in first a species met with its own species and is aroused.[10] There are some who connect [this statement of R. Samuel b. Judah's] with our Mishnah: WINE [MIXED] WITH WINE [DISQUALIFIES] BY THE SMALLEST QUANTITY. R. Samuel b. Judah said in the name of R. Johanan: This teaching only applies when a ewer of water did not fall into it, but if a ewer of water did fall into it we consider the permitted [portion of the wine] as non-existent and as for the remainder the water may prevail over it and annul it. What difference is there whether [R. Samuel's statement] is connected with our Mishnah or Rabin's statement? — He who connects it with our Mishnah does not require [the ewer of water to fall in] first, but he who connects it with Rabin's statement does require [it to fall in] first.

It has been stated: If yen nesek fell into a vat and a ewer of water also fell into it,

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(1) When one liquid has been used for a libation.

(2) And the wine in the vat is of sufficient quantity to absorb the yen nesek poured into it, viz., the proportion of sixty to one; v. supra 69a.

(3) Each portion of yen nesek is absorbed as it falls into the vat, however large the aggregate be, and the wine may be sold or used for any other purpose but actual drinking (Rashi).

(4) Whereas R. Dimi referred to the prohibited falling into the permitted; hence the difference.

(5) I.e., the water, on the present assumption.

(6) And so it is not true here that the prohibited element is absorbed.

(7) A stone vessel containing a strainer and having an indented (comb-like) rim (Jast.).

(8) And there is always a preponderance of pure wine of sixty to one.

(9) I.e., so long as the water is sixty times as much as the yen nesek the mixture is not disqualified.

(10) The two combine so that the wine is disqualified even if the quantity of water which mixes with it subsequently is sixty times the yen nesek.

Talmud - Mas. Avodah Zarah 73b

Hezekiah said that should [the mixture] have become increased in quantity through the prohibited element,[1] then it is prohibited; but should it have become increased in quantity through the permitted element,[2] then it is permitted. R. Johanan, however, said: Even when it becomes increased in quantity through the prohibited element it is permitted.[3] R. Jeremiah said to R. Zera: Does this mean that Hezekiah and R. Johanan differ over the same issue as R. Eliezer and the Rabbis, for we have learnt: If leaven of non-holy and leaven of an offering fell into dough, and in each there was an insufficient quantity to cause fermentation, but added together they caused fermentation, R. Eliezer says: I decide according to which [leaven entered the dough] last. But the Sages say: Whether the disqualifying matter fell in first or last, [the dough] is not prohibited unless there is in it a sufficient quantity [of disqualifying matter] to cause fermentation![4] But how can you understand the passage in this way, for behold Abaye explained: The teaching [of R. Eliezer] only applies when he first removed the disqualifying matter, but if he did not first remove the disqualifying matter, [the dough] is prohibited.[5] Now, then, with whom does Hezekiah agree![6] — But here the point of difference is[7] whether we consider [the pure wine as non-existent],[8] Hezekiah holding that we do not and R. Johanan that we do. Does, however, R. Johanan hold that we do consider [the pure wine as non-existent]? For behold R. Assi asked R. Johanan: How is it if there were two goblets, one containing secular wine and the other wine of a heave-offering, and a man diluted them with water and then mixed the two together?[9] And he did not offer a decision![10] — At first he gave no decision but subsequently he did. For it has been similarly reported: R. Ammi said in the name of R. Johanan — another version is, R. Assi said in the name of R. Johanan: If there were two goblets, one containing secular wine and the other wine of a heave-offering, and a man diluted them with water and then mixed the two together, we consider the permitted element as non-existent and as for the remainder the water may prevail over it and annul it.

THIS IS THE GENERAL RULE: WITH THE SAME SPECIES [THE MIXTURE IS DISQUALIFIED] BY THE SMALLEST QUANTITY, BUT WITH A DIFFERENT SPECIES [IT IS DISQUALIFIED WHEN THE PROHIBITED ELEMENT] IMPARTS A FLAVOUR. Rab and Samuel both declare: With all the prohibited things of the Torah, should the mixture consist of the same species [it is disqualified] by the smallest quantity and with different species when [the prohibited element] imparts a flavour. What do the words THIS IS THE GENERAL RULE mean [accordingly] to include? — To include all the prohibited things of the Torah. R. Johanan and R. Simeon b. Lakish both declared: With all the prohibited things of the Torah, whether mixed with the same species or not, [they are disqualified when the prohibited element] imparts a flavour, with the exception of produce from which the heave-offering has not been taken and yen nesek. In these instances with the same species [the mixture is disqualified] by the smallest quantity, but with a different species when [the prohibited element] imparts a flavour. What [then] do the words THIS IS THE GENERAL RULE mean to include? — To include produce from which the heave-offering has not been taken.

There is a teaching in agreement with Rab and Samuel, and also one in agreement with R. Johanan and R. Simeon b. Lakish. There is a teaching in agreement with Rab and Samuel, viz.: With all the prohibited things of the Torah, should the mixture consist of the same species [it is disqualified] by the smallest quantity, and with different species when [the prohibited element] imparts a flavour. There is a teaching in agreement with R. Johanan and R. Simeon b. Lakish, viz.: With all the prohibited things of the Torah, whether mixed with the same species or not, [they are disqualified when the prohibited element] imparts a flavour, with the exception of produce from which the heave-offering has not been taken and yen nesek. In these instances with the same species [the mixture is disqualified] by the smallest quantity, but with a different species when [the prohibited element] imparts a flavour. This is quite right with yen nesek because of the seriousness of idolatry; but why with produce from which the heave-offering has not been taken? — Like its permissibility is its prohibition; for Samuel said: One grain of wheat can free the heap.[11] And we learnt to the same effect: When [the Rabbis] declared that produce from which the heave-offering has not been taken renders [a mixture] prohibited by the smallest quantity, it refers to the same species, but when it is with a different species it must impart a flavour.[12]

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(1) I.e., the water fell into the pure wine, and then yen nesek fell into it; and although the water is more than sixty times the forbidden element, the whole is prohibited. This teaching is at variance with that reported by Rabin in the preceding paragraph.

(2) The pure wine fell in last. In that event the yen nesek was annulled by the water before the other wine fell into it, and so the mixture is permitted.

(3) This is consistent with the view expressed in his name in the last paragraph. Since the water fell in first, it is not a case of a species meeting with its own species.

(4) [Supra p. 243. R. Jeremiah assumes that Hezekiah will hold with R. Eliezer that we decide according to which element entered last, whereas R. Johanan will agree with the Sages.]

(5) Whichever fell in last.

(6) According to R. Eliezer the contents of the vat would be prohibited whichever fell in last since the forbidden element had not been removed; and according to the Rabbis it would be allowed in any event.

(7) Not which fell in first or last.

(8) In calculating whether the water is sixty times as much as the yen nesek which fell into the vat.

(9) In the final mixture the water is sixty times as much as the holy wine.

(10) [This shows that R. Johanan was not quite decided on the question whether ‘we consider etc.’]

(11) The Torah does not prescribe how much is to be removed to constitute a heave-offering, so the obligation can be discharged with the smallest quantity. The same criterion is therefore applied to its power of rendering a mixture prohibited.

(12) Hal. III, 10.

Talmud - Mas. Avodah Zarah 74a

MISHNAH. THE FOLLOWING ARE PROHIBITED AND RENDER PROHIBITED[1] BY THE SMALLEST QUANTITY: [A CASK OF] YEN NESEK,[2] AN IDOLATROUS OBJECT,[3] SKINS OF ANIMALS WHICH HAVE HOLES OVER THE REGION OF THE HEART,[4] AN OX WHICH HAD BEEN STONED,[5] AN HEIFER WHOSE NECK WAS BROKEN,[6] BIRDS BROUGHT AS AN OFFERING BY A LEPER,[7] THE HAIR-OFFERING OF A NAZIRITE,[8] THE FIRSTLING OF AN ASS,[9] FLESH COOKED IN MILK,[10] THE SCAPEGOAT,[11] AND NON-CONSECRATED ANIMALS SLAUGHTERED IN THE TEMPLECOURT.[12] BEHOLD THESE ARE PROHIBITED

AND RENDER PROHIBITED BY THE SMALLEST QUANTITY.

GEMARA. On what basis does the Tanna make his enumeration? If he enumerates objects which are [customarily] numbered,[13] then he should include slices of meat from an animal which had not been ritually slaughtered; if they are objects which may not be put to any use, then he should include leaven during Passover! — R. Hiyya b. Abba — another version is, R. Isaac the smith — said: The Tanna enumerates the objects to which both criteria apply, viz., they are customarily numbered and may not be put to any use.[14] In that case he should include the nuts of Perek and the pomegranates of Baddan[15] because they are customarily numbered and may not be put to any use! [The compiler of the Mishnah] treated of them elsewhere,[16] [and he enumerated a list of which he stated:] Those which belong to ‘orlah-fruit come within the law of ‘orlah, and those which belong to mixed plantings of a vineyard come within the law of mixed plantings of a vineyard. Then he should include the loaves of a householder[17] with reference to the law of leaven during Passover![18] — The teacher whom you have heard expressing this opinion is R. Akiba; and [the compiler of the Mishnah] has already stated there:[19] R. Akiba adds the loaves of a householder.

BEHOLD THESE. What do these words intend to exclude? — To exclude things which are customarily numbered but are not prohibited for all use, or the things which are prohibited for all use but are not customarily numbered.[20] MISHNAH. IF YEN NESEK FELL INTO A VAT, THE WHOLE OF IT IS PROHIBITED FOR ALL USE. R. SIMEON B. GAMALIEL SAYS: THE WHOLE OF IT MAY BE SOLD TO HEATHENS WITH THE EXCEPTION OF [A QUANTITY CORRESPONDING TO] THE VALUE OF THE YEN NESEK IN IT.

GEMARA. Rab said: The halachah agrees with R. Simeon b. Gamaliel when a cask [of yen nesek] has been mixed with other casks, but not when it is a matter of wine [which is nesek becoming mixed with other] wine. Samuel, on the other hand, said: Even when it is wine mixed with wine. Similarly said Rabbah b. Bar Hanah in the name of R. Johanan: Even when it is wine mixed with wine. Similarly said R. Samuel b. Nathan in the name of R. Hanina: Even when it is wine mixed with wine. Similarly said R. Nahman in the name of Rabbah b. Abbuha: Even when it is wine mixed with wine. R. Nahman said: In practice the rule to follow in connection with yen nesek is that when wine is mixed with wine it is prohibited and a cask mixed with casks is permitted;[21] but with ordinary wine[22] even when it is a matter of wine being mixed with wine it is permitted.[23]

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(1) What they are mixed with, irrespective of the proportion of the forbidden element to the whole.

(2) When confused with other casks of wine.

(3) E.g., an image which had been worshipped confused with others of a similar kind which had not been worshipped.

(4) V. supra 29b.

(5) Ex. XXI, 29.

(6) Deut. XXI, 4.

(7) Lev. XIV, 4 ff.

(8) Num. VI, 18.

(9) Ex. XIII, 13.

(10) Ibid. XXIII, 19.

(11) Lev, XVI, 22.

(12) V. B.K. 70a.

(13) With such objects each one is a separate entity, and therefore it cannot be annulled by becoming absorbed in the rest.

(14) [Thus excluding from his ruling leaven during Passover, unless it is of a large size, and slices of meat which had not been ritually slaughtered.]

(15) They are both localities in Samaria (cf. Rashi). These nuts and pomegranates are included in a list of fruits which are counted when sold and render prohibited what they are mixed with if they are in a state of ‘orlah. V. ‘Orlah III, 7. [Tosaf. Yeb. 81b s.v. פרך takes the former to mean ‘crack nuts’.]

(16) Loc. cit. Having dealt with them in that Tractate, the Mishnah does not include them here.
(17) As distinct from the loaves of a baker which are smaller.
(18) Because both criteria apply to them.
(19) V. ‘Orlah loc. cit.
(20) These do not render prohibited by the smallest quantity.
(21) For use only (but not for drinking) apart from the value of one cask. This agrees with Rab.
(22) Belonging to heathens which had not been used for a libation.
(23) For use only (not for drinking). With the deduction of the value of the heathen's wine.

Talmud - Mas. Avodah Zarah 74b

MISHNAH. IF A HEATHEN COVERED A STONE WINE-PRESS WITH PITCH[1] IT MAY BE SCOURED AND IS THEN CLEAN; BUT IF IT WAS OF WOOD, RABBI SAYS THAT IT MAY BE SCOURED[2] AND THE SAGES SAY THAT HE MUST PEEL OFF THE PITCH.[3] IF IT WAS OF EARTHENWARE, EVEN THOUGH HE PEELED OFF THE PITCH IT IS PROHIBITED.[4]

GEMARA. Raba said: [Scouring is necessary] only when he coated it with pitch,[5] but not if he trod [his grapes] in it.[6] This is obvious since the Mishnah stated: COVERED . . . WITH PITCH! — You might have said that the same law[7] applied even if he trod them in it, and the reason why he stated the circumstance of coating with pitch is because he mentioned the customary practice.[8] He accordingly informs us [that rinsing is sufficient if the heathen trod grapes in it]. Another version is: Raba said: [Scouring is necessary] only when he coated it with pitch, but if he trod [his grapes in a press which had been covered with pitch] scouring is insufficient.[9] This is obvious, since the Mishnah stated: COVERED... WITH PITCH! — You might have said that the same law[10] applied even when he trod them in it, and the reason why he stated the circumstance of coating with pitch is because he mentioned the customary practice. He accordingly informs us that [scouring suffices] only when he coated it with pitch but if he trod in it scouring is insufficient. As when a man came before R. Hiyya and said to him, ‘Provide for me a man to purify my winepress.’ [R. Hiyya] said to Rab, ‘Go with him and see that there is no ground for complaint against me in the House of Study.’[11] He went and noticed that [the sides of the press] were very smooth; so he said, ‘Here it will surely be sufficient with scouring.’ But as he proceeded [with his examination] he noticed a crack at the bottom and saw that it was full of wine; so he said, ‘Here it will not be sufficient with scouring but it will have to be scraped.’ That is what my uncle[12] intended when he said to me, ‘See that there is no ground for complaint against me in the House of Study.’

Our Rabbis taught: As for the winepress, ladle and funnel[13] belonging to a heathen, Rabbi permits them after scouring, whereas the Sages prohibit them. Rabbi, however, admits that flasks[14] belonging to a heathen are prohibited. What is the difference between one and the other? — In the latter he puts wine to be kept but not in the former.[15] Should [the winepress, ladle or funnel] be of wood or stone he scours them,[16] and if they had been covered with pitch they are prohibited.[17] But we learnt: IF A HEATHEN COVERED A STONE WINEPRESS WITH PITCH IT MAY BE SCOURED AND IS THEN CLEAN! — Our Mishnah refers to when he had not trodden in it,[18] and the quoted Baraitha to when he had trodden in it.[19]

The Master said, ‘As for the winepress, ladle and funnel[20] belonging to a heathen, Rabbi permits them after scouring, whereas the Sages prohibit them.’ But we learnt: IF IT WAS OF EARTHENWARE, EVEN THOUGH HE PEELED OFF THE PITCH IT IS PROHIBITED! — Raba said: This last clause of our Mishnah gives the view of the Rabbis.[21]

Raba expounded: ‘Scald the vat!’[22] When Raba sent [empty] jars to Harpania[23] he placed them mouth downwards [in sacks] the hem of which he sealed, being of the opinion that the Rabbis decreed against every utensil into which [wine] is put for keeping [by a heathen] even temporarily.

With what does one scour them? — Rab said: With water; Rabbah b. Bar Hanah said: With ashes. When Rab said with water, [did he mean] with water and not with ashes; and when Rabbah b. Bar Hanah said with ashes [did he mean] with ashes and not with water! — Rather

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(1) The custom was to throw in some wine to remove the smell of the pitch.

(2) With water and ashes.

(3) A thicker coating is necessary with wood and it would absorb a greater quantity of wine.

(4) Because of the absorptive power of the earthenware.

(5) And threw wine into the vat.

(6) Without coating it with pitch; in that circumstance rinsing is sufficient.

(7) That scouring is necessary.

(8) Viz., to throw wine into a vat after pitching it.

(9) The pitch must also be peeled off, because the wine must have penetrated the cracks in the pitch.

(10) That scouring is sufficient.

(11) I.e., see that the cleaning is done according to law that the man's wine should not be disqualified.

(12) Either ‘my friend’ or ‘my uncle’, this being the relationship of Rab and R. Hiyya. V. Sanh. 5a.

(13) Made of earthenware and not covered with pitch.

(14) When made of earthenware and not covered with pitch.

(15) Consequently there is less time for the wine to become absorbed, and scouring makes them fit for use.

(16) On this point they all agree.

(17) Unless the pitch is scraped off.

(18) So if the press was of stone, all agree that scouring is enough, and if of wood only Rabbi requires it to be scoured.

(19) In that event, whether it is of stone or wood, the pitch must be scraped off.

(20) [I.e., of earthenware, since those of wood or stone are mentioned later.]

(21) And Rabbi differs from them.

(22) Of a heathen before a Jew may use it.

(23) A town in Babylon. He sent them in charge of a heathen. He took these precautions to guard against the carrier putting his wine into the jars, even for a short while, and disqualifying them. [Harpania on the Tigris, South of Babylon, was one of the most fruitful districts in the country; and Raba, whose home was Mahuza, also on the Tigris, sent down his empty casks to Harpania in order to import wine from there. V. Obermeyer, op. cit., p. 200.]

Talmud - Mas. Avodah Zarah 75a

did Rab intend with water and then with ashes, and Rabbah b. Bar Hanah intended with ashes and then with water. Nor is there any difference between them, since one was referring to what is dry and the other to what is moist.[1]

It has been stated: The School of Rab said in the name of Rab: [The number of processes is] two and three;[2] but Samuel maintained that it is three and four.[3] Thus they taught in Sura, but in Pumbeditha they taught: The School of Rab said in the name of Rab: [The number of processes is] three and four; but Samuel maintained that it is four and five. Nor is there any contradiction [in the two versions], since the latter counts the final rinsing with water [as a separate process] whereas the former does not.

The question was put to R. Abbahu: How is it with wicker-nets[4] used by Gentiles? — R. Abbahu answered: You have learnt the law: If his winepress and oil-press were defiled and he wished to prepare [wine or oil] in them in a state of purity, the boards [on the sides], the troughs and supporting-beams[5] must be rinsed, and as for the wicker-work, if it is made of willows and hemp, it must be scoured, but if of bast and reeds,it must remain unused for twelve months.[6] R. Simeon b. Gamaliel says: He leaves them from one period of wine-pressing to another and from one period of oil-pressing to another. But that agrees with the statement of the first Tanna![7] — The issue between them is the matter of the early and late ripening [of the grapes].[8] R. Jose says: If he desires to purify them at once, he should pour over them boiling water or scald them with olive-water.[9] R. Simeon b. Gamaliel says in the name of R. Jose: He leaves them beneath a pipe through which there is a continuous stream of water or in a fountain with flowing water. For how long? — An ‘onah.[10] The same provisions made with regard to yen nesek are made with regard to purification.[11] But is not the order reversed, since we are dealing here[12] with purification? — Rather [say] they made the same provisions with regard to yen nesek as they made for purification.

How long is an ‘onah? — R. Hiyya b. Abba said in the name of R. Johanan: Either a day or a night. R. Hana-She'ina — according to another version, R. Hana b. She'inah — reported that Rabbah b. Bar Hanah said in the name of R. Johanan: Half a day and half a night. R. Samuel b. Isaac said: There is no contradiction [in the two definitions], the former referring to the time of the spring and autumn equinox[13] and the latter to the summer and winter solstice.[14]

Rab Judah said: Filter-bags used by Gentiles,if made of hair, are to be rinsed, if of wool they must be scoured, and if of flax they must be left unused [for twelve months]; and if there be any knots in them they must be untied.[15] Wicker-baskets and strainers used by Gentiles, if plaited from strips of palm-fibre, must be rinsed,

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(1) If the traces of the wine had dried in the vat, it is rinsed with water and then rubbed with ashes; but if the moisture of the wine was still present the order was reversed.

(2) I.e., with a moist vat first ashes then water, and with a dry vat first water then ashes and again water.

(3) With a moist vat, ashes, water and ashes, and if he then rinses with water, this is not counted because the purpose is only to wash away the ashes; and with a dry vat the process is water, ashes, water and ashes.

(4) Which are placed over the grapes to prevent them from being scattered during the pressing (Rashi). How are these cleaned for use by a Jew?

(5) [Or ‘twigs used as brooms in the wine press’ (Rashi).]

(6) [This solves the question put to R. Abbahu. V. Asheri a.l.]

(7) Since the interval was twelve months; so why is it mentioned separately?

(8) The time of pressing varies according to the state of ripening and it may not be exactly twelve months.

(9) The water in which olives are boiled to make them soft.

(10) Half of the day and night. The definition is discussed below.

(11) Tosef. Toh. XI.

(12) In the Tosef. just cited.

(13) When day and night are of equal duration, i.e., twelve hours.

(14) At such times of the year it is not correct to say either a day or a night since they are unequal. We then have to say half a day and half a night, i.e., twelve hours.

(15) Before they are rinsed or scoured.

Talmud - Mas. Avodah Zarah 75b

if of twigs they must be scoured, and if of flax they must be left unused [for twelve months]; and if there be any knots in them they must be untied.

It has been stated: If an ‘am ha-arez[1] stretched his hand into a winepress and touched [one of] the clusters, Rabbi and R. Hiyya [express different opinions]. One says that the cluster and all that is around it are defiled[2] but the press as a whole is undefiled, whereas the other says that the entire press is also defiled. According to him who maintained that the clusters and all that is around them are defiled but the press as a whole is undefiled, why should there be a difference, since we learnt:[3] ‘If a reptile is found in an oil-mill, it only defiles the place it touches, but if there is flowing liquid it is all defiled’? — In this latter case there is no division at all,[4] but in the former the clusters are separate. The Rabbis taught R. Jeremiah — another version is, [they taught] R. Jeremiah's son — in agreement with him who says that the cluster and all that is around it are defiled but the press as a whole is undefiled.

MISHNAH. IF [AN ISRAELITE] PURCHASES COOKING-UTENSILS[5] FROM A HEATHEN, THOSE WHICH ARE CUSTOMARILY CLEANSED BY IMMERSION[6] HE MUST IMMERSE, BY SCALDING HE MUST SCALD, BY MAKING WHITE-HOT IN THE FIRE HE MUST MAKE WHITE-HOT IN THE FIRE. A SPIT AND GRILL MUST BE MADE WHITE-HOT, BUT A KNIFE MAY BE POLISHED AND IS THEN RITUALLY CLEAN.

GEMARA. It has been taught: They all[7] need to be immersed in [a ritual bath containing a minimum of] forty se'ah.[8] Whence is this derived? — Raba said: Because Scripture states, Every thing that may abide the fire ye shall make to go through the fire, and it shall be clean.[9] Scripture[10] has here added for you an additional [process of] cleansing. Bar Kappara taught: From the text, [Nevertheless it shall be purified] with the water of separation,[11] I might have inferred that [a Gentile's utensil] requires sprinkling [with this water] on the third and seventh day;[12] therefore the word nevertheless is used, the purpose of which is to make a distinction. If that be so, what is the purpose of the words with the water of separation [niddah]? It signifies water in which a niddah[13] immerses. And it was necessary for Scripture to write both and it shall be clean, and with the water of separation. If it had only written, and it shall be clean, I might have thought, it shall be clean means by any quantity of water, so the Divine Law wrote, with the water of separation; and if the Divine Law had only written, with the water of separation, I might have thought that [it only becomes ritually clean] at sunset as happens with a niddah, so the Divine Law wrote and it shall be clean, i.e., immediately [after the immersion].

R. Nahman said in the name of Rabbah b. Abbuha: Even new utensils[14] must be included, since old ones when made white-hot are regarded as new and for all that require to be immersed. R. Shesheth raised the objection: If this be so, shearing-scissors should likewise [be immersed if obtained from a heathen]! — [R. Nahman] replied: The Scriptural passage deals with utensils connected with a meal. R. Nahman said in the name of Rabbah b. Abbuha: The teaching only applies to utensils which are purchased as then happened,[15] but not when they are borrowed.

R. Isaac b. Joseph bought a vessel made from a mixture of earth and animal's ordure from a heathen and thought to immerse it. A certain Rabbi, named R. Jacob, said to him: It was explained to me by R. Johanan that the Scriptural passage deals only with utensils of metal.

R. Ashi said: Utensils of glass, since they can be repaired when broken, are like utensils of metal.[16] As for a glazed utensil R. Aha and Rabina differ; one maintains [that it must be treated] according to its original state,[17] while the other maintains [that it must be treated] according to its final state.[18] The legal decision is [that it must be treated] according to its final state.

The question was asked: How is it with [a new vessel which had been given by a heathen] as a pledge? — Mar son of R. Ashi said: A heathen deposited a silver goblet with my father as a pledge, and he immersed it and drank from it; but I do not know whether it was because he considered a pledge to be the same as a bought article or for the reason that he saw that the heathen's intention was to leave it with him.[19]

Our Rabbis taught: If [an Israelite] purchases cooking-utensils from a heathen, the unused articles are to be immersed and are then clean; as for those which were used for cold things, such as cups, jugs and flasks, they must be rinsed and immersed and are then clean; but as for those which were used for hot things, such as boilers, kettles and heating vessels, they must be scalded and immersed and are then clean. Utensils used with fire, such as spits and grills, must be made white-hot and immersed and are then clean. If, with all of them, any had been used [by an Israelite] before it was immersed or scalded or made white-hot, one authority teaches that [the contents] are prohibited whereas another teaches that they are permitted. There is, however, no contradiction; for one decides according to him who said that when [the forbidden element] imparts a worsened flavour it is prohibited and the other according to him who said that when it imparts a worsened flavour it is permitted.[20] But according to him who maintains that when it imparts a worsened flavour it is permitted, in which circumstance can the prohibition of the Divine Law against the use of Gentiles' vessels[21] apply?[22] — R. Hiyya, the son of R. Huna[23] said: The Torah only forbade a utensil

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(1) V. Glos.

(2) And must be removed.

(3) Toh. IX, 8.

(4) The olives are not in clusters where the twigs separate one from the other as with grapes, and the oil unites them together. Therefore the defilement affects them all.

(5) Lit., 'utensils of service.'

(6) Before they may be used by a Jew.

(7) Even after being scalded or made white-hot.

(8) Approximately 120 gallons.

(9) Num. XXXI, 23.

(10) By adding the words, and it shall be clean, the inference is that something more is required, viz., immersion besides making the article white-hot.

(11) Ibid.

(12) As is done with one that had been defiled by a corpse. Cf. ibid., XIX, 12 ff.

(13) V. Glos. The reference is to the ritual bath containing a minimum of forty se'ah.

(14) Which belonged to a heathen; although not used by him, must be immersed.

(15) When the Israelites captured such utensils from the Midianites; i.e., they must be the property of the Jew to require cleansing by him.

(16) And require immersion.

(17) Like earthen vessels and need not be immersed.

(18) Like utensils of metal, since lead is used for the glazing.

(19) And not redeem it. For that reason he considered it to be his property and cleansed it.

(20) V. supra 36a.

(21) Without previous cleansing.

(22) [It is assumed that the vessels taken from the Midianites imparted a deteriorating flavour.]

(23) Supra 67b, the name is given as R. Huna b. R. Hiyya. The present reading is preferable.

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which had been used [by a Gentile] the same day since the effect is not to worsen the flavour. Then let [the utensils which had been used] from then onwards be permitted [without cleansing]! — The decree was made against those which had not been used the same day on account of those which had been used the same day.[1] What of the other authority? — [His view is] that a utensil used the same day also imparts a worsened flavour.[2]

R. Amram pointed out the following contradiction to R. Shesheth: We learn: A SPIT AND GRILL MUST BE MADE WHITE-HOT; but it has been learnt with reference to the holy flesh: A spit and grill must be scalded with boiling water![3] — He replied: Amram, my son, what have the sacred utensils to do with Gentiles' vessels since the former absorbed what is permitted and the latter what is prohibited! Raba said: At all events what they discharge is prohibited![4] — But, said Raba, what does the term hag'alah ['scalding'] imply?[5] Merikah and shetifah ['rinsing and washing'].[6] Abaye said to him: What comparison is this? Merikah and shetifah are with cold water whereas hag'alah applies to boiling water! — But, said Abaye, let his fellow tell concerning him.[7] Here [in the Mishnah] he taught that it must be made white-hot and scalding also applies,[8] and there [in connection with the holy flesh] he taught that they must be scalded and making them white-hot also applies. Raba answered him: If that be so, let him teach both in one passage and one of them in the other, and then it would be possible to say, ‘Let his fellow tell concerning him’![9] But, said Raba, [in the case of] the holy flesh [the cleansing of the vessels by means of scalding] follows the reason given by R. Nahman in the name of Rabbah b. Abbuha, viz., Every day scalding was carried out with respect to the preceding day's [offerings].[10] This is quite right with the peace-offerings which could be eaten on the second day [after the sacrificial act]; in this case the process of scalding would be performed before [the traces of the offering] became ‘left over’.[11] With a sin-offering, however, since it must be eaten the same day [as sacrificed] and the following night, when he cooks to-day a sin-offering, there would be [traces thereof] ‘left over’; so if he further cooked in it on the morrow either a peace-offering or sin-offering, then what was ‘left over’ of to-day's sin-offering would be discharged into the sin-offering or peace-offering of the next day![12] — I can reply: It is not necessary [to arrive at such a conclusion], for if he cooks to-day a sin-offering, then he again cooks to-day a peace-offering [so that the time-limit of the morrow's sin-offering and the peace-offering of the preceding day will expire simultaneously;] and then he may cook in it the morrow's peace-offering![13] If that be so, then scalding would likewise be unnecessary![14] This [indeed] is a difficulty. R. Papa said: [The reason is that] one is encrusted and the other is not.[15] R. Ashi said: [The reason is] certainly as was originally explained, viz., in the former they absorbed what is permitted and in the latter what is prohibited, and as for your[16] objection that what it gives forth when it discharges is prohibited, [the reply is] that at the time of discharging there is nothing which is prohibited apparent.[17]

For how long must they be made white-hot? — R. Mani said: Until the accretion falls off. And how is scalding done? — R. Huna said: A small vessel must be placed inside a large vessel.[18] What, however, is to be done with a large vessel? — Come and hear: There was a pot in the house of R. Akabiah[19] [which had to be scalded]; so he made for it

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(1) Theoretically they do not need cleansing, but as a precaution Rabbinic law does not draw the distinction.

(2) [The prohibition against the use of such utensils proves that the effect of a deteriorating flavour is also prohibited.]

(3) Zeb. 97a. Before they may be used again on account of the ‘remnant’ they have absorbed of previous sacrifices. V. next note.

(4) If the flesh of the sacrifice remains on them beyond the prescribed period it becomes prohibited and the traces of it left behind affect the next offering which is roasted on them. If a priest ate of it he incurred the penalty of excision, v. Lev. VII, 18.

(5) In the passage quoted about the ‘holy flesh.’ [Delete with Ms.M. ‘also’ in curr. edd.]

(6) [I.e., in addition to the cleansing by fire, the Torah has demanded ‘rinsing and washing’.]

(7) I.e., let one passage explain the other. The phrase is actually a quotation from Job XXXVI, 33, but given a different sense.

(8) Both processes are necessary.

(9) Only when the Mishnah or Baraitha expressly mentioned that both processes are necessary either with the sacred utensils or a Gentile's vessels could such an inference be drawn.

(10) The cooking of each day served to clean away what the utensil absorbed on the preceding day before it actually became ‘left over’, so that nothing could remain beyond the prescribed period. For that reason the process of making it white-hot was not required with the spit or grill, and scalding sufficed.

(11) Which may no longer be eaten and must be burnt as ‘an abomination’. V. Lev. VII, 18.

(12) Because before the daily scalding occurred, the time-limit of the preceding day's offering would have expired. [The text in curr. edd. is difficult. Read with Ms. M., ‘When he cooks to-day's sin-offering and boils in it tomorrow's peace-offering, then what etc.’]

(13) In this way the difficulty of the ‘left over’ is obviated. [The bracketed passage is likewise difficult, and is best deleted with Ms.M.]

(14) Since there would be nothing ‘left over’ to remove from the utensil.

(15) The Gentile's utensil, which may not have been in constant use, becomes encrusted and must be made white-hot. The sacred vessels, on the other hand, are in regular use and escape this crust. For that reason scalding is sufficient.

(16) I.e., Raba's.

(17) What is ‘left over’ is nothing more than vapour of the cooked flesh and that need not be treated so seriously.

(18) The utensil to be cleansed must be placed inside a larger pot, filled with boiling water. The whole of the former is thus affected by the boiling water.

(19) [V.l. Mar ‘Ukba or R. ‘Ukba.]

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a rim of dough around its mouth and filled it with water which he boiled up.[1] Raba said: Who could have been clever enough to do this if not R. Akabiah who is a great man! He was of the opinion that as [a vessel] absorbs so it discharges; as [its rim] absorbs by the splashings [of the food which is cooked in the pot] so [the boiling water] would cause [the rim] to discharge by means of the splashings.

BUT A KNIFE MAY BE POLISHED AND IS THEN RITUALLY CLEAN. R. ‘Ukba b. Hama said: One plunges it ten times in soil.[2] R. Huna the son of R. Joshua said: That is, in untilled soil. R. Kahana said: [This holds good only] of a knife which is in sound condition and has no notches. It has been also taught to the same effect: With a knife in sound condition and without notches one plunges it ten times in soil. R. Huna the son of R. Joshua said: [This holds good only] to eat cold food with it.[3] Thus Mar Judah and Bati b. Tobi were sitting with King Shapur and a citron was set before them. [The king] cut a slice and ate it, and then cut a slice and handed it to Bati b. Tobi. After that he stuck [the knife] ten times in the ground, cut a slice [of the citron] and handed it to Mar Judah. Bati b. Tobi said to [the king], ‘Am I not an Israelite!’ He replied, ‘Of him I am certain that he is observant [of Jewish law] but not of you.’ According to another version he said to him, ‘Remember what you did last night!’[4]

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(1) The purpose of the rim was that the boiling water should overflow the top of the vessel and every part of it be scalded.

(2) In addition to polishing it with a rough cloth (Rashi).

(3) For hot food it must be scalded.

(4) According to the Persian rule of hospitality, the king sent a slave-girl to each of them the night before. Mar Judah refused to receive her but the other did not. [Bati was a half-manumitted slave. Tosaf. s.v. אידכר.]

Mishna - Mas. Avoth Chapter 1

MISHNAH 1. MOSES RECEIVED THE TORAH[1] AT[2] SINAI AND TRANSMITTED IT TO JOSHUA,[3] JOSHUA TO THE ELDERS,[4] AND THE ELDERS TO THE PROPHETS, AND THE PROPHETS TO THE MEN OF THE GREAT SYNAGOGUE.[5]

THE LATTER USED TO SAY THREE THINGS:[6] BE PATIENT IN [THE ADMINISTRATION OF] JUSTICE, REAR MANY DISCIPLES AND MAKE A FENCE ROUND THE TORAH.[7]

MISHNAH 2. SIMEON THE RIGHTEOUS[8] WAS ONE OF THE LAST OF THE MEN OF THE GREAT SYNAGOGUE. HE USED TO SAY: THE WORLD IS BASED UPON THREE THINGS: THE TORAH, DIVINE SERVICE, AND THE PRACTICE OF KINDLINESS.[9]

MISHNAH 3. ANTIGONUS[10] (A MAN) OF SOCHO[11] RECEIVED [THE ORAL TRADITION] FROM SIMEON THE RIGHTEOUS. HE USED TO SAY: BE NOT LIKE UNTO SERVANTS WHO SERVE THE MASTER IN THE EXPECTATION OF RECEIVING A GRATUITY,[12] BUT BE LIKE UNTO SERVANTS WHO SERVE THE MASTER WITHOUT THE EXPECTATION OF RECEIVING A GRATUITY, AND LET THE FEAR OF HEAVEN[13] BE UPON YOU.[14]

MISHNAH 4. JOSE[15] B. JO'EZER (A MAN) OF ZEREDAH,[16] AND JOSE B. JOHANAN [A MAN] OF JERUSALEM RECEIVED [THE ORAL TRADITION] FROM THEM [I.E. SIMEON THE RIGHTEOUS AND ANTIGONUS].

JOSE. B. JO'EZER[17] USED TO SAY: LET THY HOUSE BE A HOUSE OF MEETING FOR THE SAGES AND SUFFER THYSELF TO BE COVERED BY THE DUST OF THEIR FEET,[18] AND DRINK IN THEIR WORDS WITH THIRST.

MISHNAH 5. JOSE B. JOHANAN (A MAN) OF JERUSALEM USED TO SAY: LET THY HOUSE BE WIDE OPEN, AND LET THE POOR BE MEMBERS OF THY HOUSEHOLD,[19] ENGAGE NOT IN TOO MUCH CONVERSATION WITH WOMEN. THEY[20] SAID THIS WITH REGARD TO ONE'S OWN WIFE, HOW MUCH MORE [DOES THE RULE APPLY] WITH REGARD TO ANOTHER MAN'S WIFE. HENCE HAVE THE SAGES SAID:[21] AS LONG AS A MAN[22] ENGAGES IN TOO MUCH CONVERSATION WITH WOMEN, HE CAUSES EVIL TO HIMSELF, [FOR] HE GOES IDLE FROM [THE STUDY OF] THE WORDS OF THE TORAH, SO THAT HIS END WILL BE THAT HE WILL INHERIT GEHINNOM.[23]

MISHNAH 6. JOSHUA B. PERAHIAH[24] AND NITTAI[25] THE ARBELITE[26] RECEIVED [THE ORAL TRADITION] FROM THEM [I.E. THE FOREGOING].

JOSHUA B. PERAHIAH USED TO SAY: APPOINT FOR THYSELF A TEACHER[27] AND ACQUIRE FOR THYSELF A COMPANION[28] AND JUDGE ALL MEN IN THE SCALE OF MERIT.[29]

MISHNAH 7. NITTAI THE ARBELITE USED TO SAY: KEEP AT A DISTANCE[30] FROM AN EVIL NEIGHBOUR, DO NOT MAKE THYSELF AN ASSOCIATE OF A WICKED MAN,[31] NEITHER DO THOU ABANDON FAITH IN [DIVINE] RETRIBUTION.[32]

MISHNAH 8. JUDAH B. TABBAI AND SIMEON B. SHETAH[33] RECEIVED [THE ORAL TRADITION] FROM THEM [I.E. THE FOREGOING].

JUDAH B. TABBAI SAID: DO THOU NOT [AS-A JUDGE] PLAY THE PART OF AN ADVOCATE;[34] WHILST THEY [I. E. THE PARTIES IN A LAWSUIT] ARE STANDING

BEFORE THEE, LET THEM BE REGARDED BY THEE AS IF THEY WERE [BOTH OF THEM] GUILTY, AND WHEN THEY LEAVE THY PRESENCE, [AFTER] HAVING SUBMITTED TO THE JUDGMENT[35] LET THEM BE REGARDED BY THEE AS IF THEY WERE [BOTH OF THEM] GUILTLESS.

MISHNAH 9. SIMEON B. SHETAH[36] USED TO SAY: BE THOROUGH IN THE INTERROGATION OF WITNESSES, AND BE CAREFUL IN THY WORDS, LEST FROM THEM [I. E. FROM YOUR WORDS] THEY LEARN TO UTTER FALSEHOOD.[37]

MISHNAH 10. SHEMAIAH AND ABTALION[38] RECEIVED [THE ORAL TRADITION] FROM THEM [I.E. THE FOREGOING]. SHEMAIAH USED TO SAY: LOVE WORK, HATE ACTING THE SUPERIOR, AND DO NOT BRING THYSELF TO THE KNOWLEDGE OF THE RULING AUTHORITY.

MISHNAH 11. ABTALION USED TO SAY: YE SAGES BE CAREFUL WITH YOUR WORDS,[39] LEST YE BE CONDEMNED TO EXILE,[40] AND YE BE EXILED TO A PLACE OF EVIL WATERS,[41] AND THE DISCIPLES WHO FOLLOW YOU[42] DRINK AND DIE,[43] WITH THE RESULT THAT THE NAME OF HEAVEN BECOMES PROFANED.[44]

MISHNAH 12. HILLEL AND SHAMMAI[45] RECEIVED [THE ORAL TRADITION] FROM THEM [I.E. THE FOREGOING].

HILLEL USED TO SAY: BE THOU OF THE DISCIPLES OF AARON, LOVING PEACE AND PURSUING PEACE,[46] [BE THOU[47]] ONE WHO LOVETH [ONE'S FELLOW.] CREATURES AND BRINGETH THEM NIGH TO THE TORAH.

MISHNAH 13. HE [ALSO] USED TO SAY: A NAME THAT IS WIDESPREAD LOSES ITS FAME; ONE WHO DOES NOT ADD [TO HIS KNOWLEDGE] CAUSES [IT] TO CEASE;[48] WHOEVER DOES NOT STUDY[49] [THE TORAH] DESERVES DEATH; WHOEVER MAKES [UNWORTHY] USE OF THE CROWN[50] [OF LEARNING] PASSETH AWAY.

MISHNAH 14. HE [ALSO] USED TO SAY: IF I AM NOT FOR MYSELF, WHO IS FOR ME, BUT IF I AM FOR MY OWN SELF [ONLY],[51] WHAT AM I, AND IF NOT NOW, WHEN?[52]

MISHNAH 15. SHAMMAI USED TO SAY: MAKE THY [STUDY OF THE] TORAH [A MATTER OF] ESTABLISHED [REGULARITY];[53] SPEAK LITTLE, BUT DO MUCH; AND RECEIVE ALL MEN WITH A PLEASANT COUNTENANCE.[54]

MISHNAH 16. RABBAN GAMALIEL[55] USED TO SAY: APPOINT A TEACHER FOR THYSELF AND AVOID DOUBT,[56] AND MAKE NOT A HABIT OF TITHING BY GUESSWORK.[57]

MISHNAH 17. SIMEON, HIS SON,[58] USED TO SAY: ALL MY DAYS I GREW UP AMONG THE SAGES, AND I HAVE FOUND NOTHING BETTER FOR A PERSON[59] THAN SILENCE. STUDY IS NOT THE MOST IMPORTANT THING, BUT DEED; WHOEVER INDULGES IN TOO MANY WORDS BRINGS ABOUT SIN.[60]

MISHNAH 18. RABBAN SIMEON, SON OF GAMALIEL[61] USED TO SAY: ON THREE THINGS DOES THE WORLD STAND:[62] ON JUSTICE, ON TRUTH AND ON PEACE, AS IT IS SAID: JUDGE YE TRUTHFULLY AND A JUDGMENT OF PEACE IN YOUR GATES.[63]

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(1) Scripture and its complementary Oral Instruction, with special reference to the latter.

(2) Lit., ‘from’.

(3) IARN, Ch. I, ‘Joshua received from Moses’. The transmission and reception were done orally. All evidence goes to show that there was a continuous succession of ‘schools’ headed by the Elders, prophets and scribes of their respective generations, which maintained and developed the theoretical study and practical application of the Torah. For a full examination of the terms מסר (transmitted) and קבל (received) v. Bacher, Tradition und Tradenten, p. 1.

(4) The Elders that outlived Joshua, Judges II, 7. ‘Elders’ in this Mishnah includes the Judges.

(5) Kenesseth hagedolah: A body of 120 men founded by the leaders of the Jews who returned from the Babylonian captivity.

(6) Whereby reverence for, the knowledge of, and the inviolability of the Torah might be secured (cf. Rashi).

(7) The Torah is conceived as a garden and its precepts as precious plants. Such a garden is fenced round for the purpose of obviating wilful or even unintended damage. Likewise, the precepts of the Torah were to be ‘fenced’ round with additional inhibitions that should have the effect of preserving the original commandments from trespass.

(8) Son of Onias. According to the older authorities, also Frankel, Graetz and Halevy, it was Simeon b. Onias I (ca. 300 B.C.E.) referred to in Sirach, Ch. L, and Josephus Ant. XII, 2, 5; 4, 1. Others (e.g. Krochmal, Brull) say it was Simeon b. Onias II (219-199 B.C.E.). Halevy says it could not have been the latter, as he could not have been designated ha-Zaddik (the Righteous), and that, in fact, the elder Simeon b. Onias (I) was not so designated until later times, when it became necessary to distinguish the worthy grandfather from the unworthy grandson.

(9) Some commentators cite Ps. LXXXIX, 3 עולם חסד יבנה (the usual translation of which is forever is Mercy built) taking עולם as meaning world, and rendering the world is built on kindness. גמילות חסדים is enumerated in another old Mishnah (Pe'ah I, 1) among ‘the things the fruits of which a man enjoys in this world, while the stock remains intact for him for the world to come’.

(10) The first noted Jew known to have had a Greek name. First half of the third century B.C.E.

(11) Josh. XV, 35. I Sam. XVII, 1.

(12) ‘Gratuity’ rather than ‘reward’ (for which שכר would have been used and not פרס) since a servant may rightly and without reproach expect and accept his wage (v. M.).

(13) The term was used before the Persian and Greek periods (Marmorstein, A., The Old Rabbinic Doctrine of God, p. 14 and pp. 105-6), as against the view that ‘Heaven’ for God, in Jewish literature is an expression derived from the Greek, as Bousset, Die Religion des Judentums, p. 359, n. 3).

(14) ‘Antigonus’ trilogy was directed against Epicurean teachings; the first and second sayings against the eudaemonist doctrine that all action, even specifically moral action, should be undertaken for the purpose of creating happiness for oneself; the third, against the Epicurean doctrine that whereas there are gods, these gods do not concern themselves with the doings of men,’ (Frankel, op. cit. pp. 8-9).

(15) Short form of Joseph.

(16) I Kings XI, 26.

(17) Called Hasid shebikehunnah, ‘the most saintly man in the Priesthood’. Hag. II, 7.

(18) Either: let the dust of the feet of the Sages, as they walk, cover you (i.e., follow them closely), or, sit in the dust (on the ground) at their feet whilst they teach. The two Jose's were the first of the Zugoth, GR.** ‘pairs’ of scholars (one a Nasi, Prince, President, Patriarch; the other Ab-Beth-din, Father of the Court) referred to in Pe'ah II, 6 (as Zugoth) and Hag. II, 2 (by their names as here). How did the Zugoth arise? Weiss, op. cit. p. 103: it is a reversion to an earlier practice, the first sign of which (v. ob. p. 35) is the dual appointment in II Chron. XIX, 5-11. Bacher, op. cit. p. 48 ff. points out that there were Zugoth from Moses onwards. Frankel, op. cit., p. 32: When Hellenistic High Priests rose to power and became a menace to Judaism, it was felt that two leaders would be able to cope with the situation better than one. Halevy, op. cit., p. 199: Simeon the Righteous was succeeded by his brother Eleazar, as High Priest, but not as Head of Sanhedrin. This dignity devolved on Antigonus who was followed by Jose b. Johanan. Eleazar was followed (in the High Priesthood) by Onias II (another son of Simeon the Righteous) who handed over the civil power to the Tobiads. The latter disregarded the Sanhedrin and, exercising a powerful influence over the court of the King of Egypt, carried on in a high-handed way. The Sanhedrin then found it necessary to appoint, in addition to the Ab-Beth-din, a Nasi who should represent the Sanhedrin vis-a-vis the people, and as first Nasi they appointed Jose ben Jo'ezer, a younger disciple of Antigonus, who was both a scholar and of eminent priestly descent.

(19) Either: treat the poor as members of your own family or, employ poor men (rather than slaves) as servants (so Rashi and Maim.). The commentary Ez Joseph renders: ‘let the members of thy family be poor’, i.e. content themselves with poorer fare, so that you may be able to keep an open door and hospitable table for strangers.

(20) What follows is the addition of the Redactor of the Mishnah. Herford, p. 24 reads אמרו ‘He (Jose) said it.’

(21) The term מכאן אמרו חכמים points to an ancient Mishnah. (Frankel, op. cit., p. 305.) For a full examination of the term see Bacher, op. cit. p. 160 and p. 171 ff.

(22) The P. B. version has ‘whoever’.

(23) V. infra V, 20, notes.

(24) According to Sotah 470 (ed. Amsterdam), also MS. Brit. Mus. Or. 1389 (a collection of Haggadic writings) fol. 158a, line 28 ff, he fled to Alexandria owing to Sadducee hostility but was recalled later by Simeon b. Shetah (v. Mish. 8) when ‘peace’ was restored. But J. Hag. 77d reports this of Judah b. Tabbai.

(25) נתאי or נתי, J. Hag. 76d has מתי Mattai.

(26) Arbel. Hosea XI, 14. In Galilee, v. l Mace. IX, 2.

(27) Cf. Mish. 16. II ARN, Ch. XVIII. רב לחכמה , explained as a master to supply one with knowledge already existing.

(28) II ARN, ibid. חבר למשנה , explained as a companion for studying together, so that one may be able to note what the other misses, or to supply information not known to the other.

(29) Frankel, op. cit. p. 35, says Joshua b. Perahiah said this when John Hyrcanus was still with the Pharisees, with whom he later broke after Eleazar b. Po'irah made mischief over the demand made by the Pharisees, that John Hyrcanus should content himself with the crown, and relinquish the High Priesthood, for which, they said, he was unfit on account of his mother having been (as they alleged) once taken captive at Modin. The allegation was disproved and the king turned against the Pharisees. (Sotah 47a. Frankel and Weiss take ינאי there to be John Hyrcanus rather than Alexander Jannaeus.) II ARN attributes the sayings given here as Joshua b. Perahiah's to Nittai.

(30) II ARN, ‘Run away’.

(31) As one might be tempted to do should one see the wicked prosper.

(32) Wickedness will not succeed in the end. Frankel ibid.: Nittai said this after John Hyrcanus joined the Sadducees. In ARN this is attributed to Joshua b. Perahiah.

(33) J. Hag 77d states that in later times there was disagreement as to whether Judah b. Tabbai was Nasi, and Simeon b. Shetah Ab-Beth-din, or vice-versa. Frankel, op. cit. p. 37, says: ‘at first Judah was Nasi, but after his mistaken decision in the case of a false witness (‘Ed Zomen v. Mak. 5b) he resigned in favour of Simeon and thus they changed posts.’ These scholars lived in the reigns of John Hyrcanus, Alexander Jannaeus and Queen Salome. II ARN attributes Judah's sayings to Simeon and vice-versa.

(34) I.e., do not suggest to either party a line of argument. For a case involving the question of the applicability of this principle see J. B.B. IX, 6; J. Keth. IV, 10. A woman came before R. Johanan with a claim on her husband (or her late husband's heirs) for the cost of medical attention during her illness, and R. Johanan said to her: ‘If the sum has been previously agreed upon with the physician you cannot recover it from your husband (or from his estate), but it must come out of your marriage-settlement.’ Otherwise it is included in the husband's alimentation obligation to the wife, v. Epstein, M., Marriage Contract, 163. Objection was taken to R. Johanan for having said this, as being at variance with the dictum here in Aboth, which had been interpreted by R. Haggai in the name of R. Joshua b. Levi as: ‘It is prohibited (for a judge) to reveal to any one litigant the law as it applies to his case.’ This objection is answered thus: R. Johanan knew that this applicant was a woman of high principles who would not take unfair advantage of that knowledge, but tell the truth as to whether the sum of the physician's fee had been a pre-arranged one or not. I and II ARN take this in a quite different sense, viz. advice against allowing oneself to be prejudiced by any considerations, and against treating one party differently to the other. ARN seems to understand עורכי הדיינים to mean judges who estimate’ and make up their minds by conjecture before they have heard the whole case.

(35) This is the best translation of כשקבלו, and gives the best sense; it is only when a litigant has submitted to the decision that he can be considered guiltless, but not if he is recalcitrant. (V. Buchler, op. cit. p. 53, n. 4.)

(36) Brother of Queen Salome. He reinstated the Pharisees in the Sanhedrin which had, for some time, been dominated by the Sadducees.

(37) It is suggested that the tragic episode that led to the execution of his own son, which had been due to reliance on evidence which (when it was too late) proved to have been false (v. J. Sanh. 23b), prompted this dictum.

(38) Said to have been descendants of proselytes, themselves descendants of Sennacherib.

(39) II ARN, ch. XXIII, amplifies ‘lest you teach anything not in accordance with the teachings of the Torah’. M.: Inexact language would give heretics an opportunity for misrepresenting your teaching. Halevy: Abtalion supplemented Shemaiah's advice: be careful even in your words, so as not to embroil yourselves with the rival sides.

(40) By the Sadducees and Hellenists (who had regained power at the Court), as had already happened in the cases of Joshua b. Perahiah and Judah b. Tabbai.

(41) A place of heretical teachings (e.g. Alexandria).

(42) Into exile.

(43) Spiritual death.

(44) By reason of the spiritual disaster that will have overtaken students of the Torah, faith in, and reverence for, God would wane.

(45) Identified by Halevy, op. cit. p. 40 ff. (and others) with Sameas and Pollion of Jos. Ant. XIV, 9, 4; XV, 1, 1; XV, 10, 4. V. Bacher, Tradition, pp. 51-2, who identifies similarly but, owing to chronological difficulties created by the Josephus passages, he suggests that on account of the similarity, especially in Greek pronunciation, of Shemaiah and Shammai, Josephus did not keep the two pairs (Shemaiah-Abtalion and Hillel-Shammai) sufficiently distinct.

(46) For the qualities of the ideal priest, v. Mal. II, 6.

(47) So MV, p. 473. i.e. this is not a continuation of the description of Aaron, or of Aaron's disciples, but a further admonition by Hillel.

(48) Or, (himself) ceases (to be).

(49) Another reading ‘teach’, i.e., one who refuses to impart the knowledge he has.

(50) 1. The Shem ha-meforash, the Name of God in its full form (I ARN, Ch. XII). 2. ‘The Crown of God’, i.e., a man who claims divine honours and prerogatives (II ARN, Ch. XXVII).

(51) One must be self-reliant and not accustom oneself to depend on others; but, being exclusively for oneself is an unworthy attitude for a human being. M.: If I do not rouse my soul to higher things who will rouse it? Rashi: If I do not acquire merit for myself who should do it for me, and when I have already achieved that, have I even then done the whole of my duty? L.: If my ego is not mine (i.e. under my control) over whom can I exercise influence, and when I have myself to myself (and I examine myself) I am led to ask myself, what am I?

(52) If I do not act in accordance with these reflections now that I realize them (or now whilst I am young, or alive), then, when? Later it may be too late.

(53) L.: Ideal conditions for study are fixity of purpose, regularity of habits and stability of temperament on the part of the student, as well as an habitual locale and students’ accessories of suitable and standard types. B. cites another rendering, viz., ‘Make thy (decisions in) Law consistent’.

(54) This advice on the part of Shammai is the more noteworthy in view of his own impatient nature (as compared with Hillel's at any rate).

(55) Son of Simeon (who was Nasi after his father Hillel, according to Graetz for 20 years, but according to Halevy only a very short time), known as Rabban Gamaliel Ha-zaken (the Elder). Although here he follows Hillel and Shammai, he is not said to have received’ (the oral teaching) from them (that is said of Rabban Johanan b. Zakkai, supra II, 5) and this leads some to say that he was not a Nasi. Hoffmann (Erste Mishnah, p. 26) says the dictum here is by R. Gamaliel II (of Jabneh). Geiger adheres to Gamaliel I. It is probably the same Gamaliel (‘a doctor of the Law’) as in Acts V, 34; XXII, 3.

(56) According to M. and others this is advice to one who is himself a Rabbi, that he should choose another scholar whom he is to respect as a greater authority, and whom he should consult in cases of difficulty and doubt before giving a decision.

(57) L.: To be too strict is one's decision (a course a Rabbi would be likely to take when he is in doubt) is a fault, even as it is wrong to give more than is due in tithes by tithing by conjecture instead of by measure.

(58) I.e., the son of R. Gamaliel I. He was slain at the time of the fall of Jerusalem. He is not called Rabban here, because he said this before he was Nasi.

(59) Heb. גוף body, person, cf. IV, 6.

(60) Cf. Prov. X, 19.

(61) Son of Gamaliel II of Jabneh and grandson of the Simeon in the foregoing Mishnah. Others say it is that same Simeon but one dictum was uttered before, and the other (here) after, he became Nasi (hence the title Rabban here).

(62) Is its stability founded; cf. Mishnah 2.

(63) Zech. VIII, 16. Rashi says that in the Mishnah of Tiberias (MV, ‘in careful texts’) the Scriptural quotation is not given.

Mishna - Mas. Avoth Chapter 2

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MISHNAH 1. RABBI[1] SAID: WHICH IS THE RIGHT WAY THAT A MAN SHOULD CHOOSE UNTO HIMSELF? ONE WHICH IS [ITSELF] AN HONOUR TO THE PERSON ADOPTING IT,[2] AND [ON ACCOUNT OF WHICH] HONOUR [ACCRUES] TO HIM FROM MEN.[3] AND BE THOU CAREFUL WITH A LIGHT PRECEPT[4] AS WITH A GRAVE ONE, FOR THOU KNOWEST NOT THE GRANT OF REWARD [FOR THE FULFILMENT] OF PRECEPTS.[5] ALSO, RECKON THE LOSS [THAT MAY BE SUSTAINED THROUGH THE FULFILMENT] OF A PRECEPT AGAINST THE REWARD [ACCRUING] THEREFROM, AND THE GAIN [THAT MAY BE OBTAINED THROUGH THE COMMITTING] OF A TRANSGRESSION AGAINST THE LOSS [ENTAILED] THEREBY.[6] APPLY THY MIND[7] TO THREE THINGS AND THOU WILT NOT COME INTO THE POWER OF SIN:[8] KNOW WHAT[9] THERE IS ABOVE THEE:[10] AN EYE THAT SEES,[11] AN EAR THAT HEARS,[12] AND ALL THY DEEDS WRITTEN IN A BOOK.[13]

MISHNAH 2. RABBAN GAMALIEL THE SON OF R. JUDAH THE PATRIARCH[14] SAID: EXCELLENT IS THE STUDY OF THE TORAH TOGETHER WITH A WORLDLY OCCUPATION,[15] FOR THE ENERGY [TAKEN UP] BY BOTH OF THEM KEEPS SIN OUT OF ONE'S MIND; AND [AS FOR] ALL [STUDY OF THE] TORAH WHERE THERE IS NO WORLDLY OCCUPATION, THE END THEREOF [IS THAT] IT COMES TO NOUGHT[16] AND BRINGS SIN IN ITS TRAIN;[17] AND ALL WHO LABOUR WITH THE COMMUNITY, LET THEM LABOUR WITH THEM FOR THE [SAKE OF THE] NAME OF HEAVEN,[18] FOR THE MERIT OF THEIR[19] FATHERS SUSTAINS THEM[20] , AND THEIR RIGHTEOUSNESS ENDURES FOR EVER;[21] AND AS FOR YOU, [GOD[22] IN SUCH CASE SAYS] I ACCOUNT YOU WORTHY OF MUCH REWARD, AS IF YOU [YOURSELVES] HAD [ACTUALLY] ACCOMPLISHED [IT ALL].[23]

MISHNAH 3. BE YE CIRCUMSPECT [IN YOUR DEALINGS] WITH THE RULING AUTHORITIES[24] FOR THEY SUFFER NOT A MAN TO BE NEAR THEM EXCEPT IT BE FOR THEIR OWN REQUIREMENT; THEY SHOW THEMSELVES AS FRIENDS WHEN IT IS TO THEIR OWN INTEREST, BUT THEY DO NOT STAND BY A MAN IN THE HOUR OF HIS DISTRESS.[25]

MISHNAH 4. HE USED TO SAY: DO HIS WILL AS [THOU WOULDST DO][26] THINE OWN WILL,[27] SO THAT HE MAY DO THY WILL AS [HE DOES] HIS [OWN] WILL.[28] SET ASIDE THY WILL IN THE FACE OF HIS WILL,[29] SO THAT HE MAY SET ASIDE THE WILL OF OTHERS[30] BEFORE THY WILL.

HILLEL SAID: SEPARATE NOT THYSELF FROM THE COMMUNlty,[31] NEITHER TRUST THOU IN THYSELF UNTIL THE DAY OF THY DEATH,[32] MOREOVER JUDGE NOT THY FELLOW-MAN UNTIL THOU HAST REACHED HIS PLACE.[33] SAY NOT A THING THAT CANNOT BE UNDERSTOOD[34] [AT ONCE], [TRUSTING] THAT IN THE END IT WILL BE UNDERSTOOD. SAY NOT: WHEN I SHALL HAVE LEISURE I SHALL STUDY;’ PERHAPS THOU WILT NOT HAVE LEISURE.[35]

MISHNAH 5. HE USED TO SAY: AN UNCULTURED[36] PERSON IS NOT SIN-FEARING,[37] NEITHER IS AN IGNORANT[38] PERSON PIOUS; [IT IS] NOT A SHAMEFACED PERSON [WHO IS APT TO] LEARN, NOR [IS IT] AN IMPATIENT PERSON [WHO IS FITTED TO] TEACH, NOR [IS IT] EVERYONE[39] WHO ENGAGES MUCH[40] IN BUSINESS [THAT] BECOMES WISE.[41] IN A PLACE WHERE THERE ARE NO MEN, STRIVE THOU TO BE A MAN.[42]

MISHNAH 6. HE ALSO SAW A SKULL FLOATING ON THE FACE OF THE WATER. HE

SAID TO IT: BECAUSE THOU DIDST DROWN [OTHERS] THEY[43] DROWNED THEE, AND THE END OF THOSE THAT DROWNED THEE [WILL BE THAT] THEY WILL BE DROWNED.[44]

MISHNAH 7. HE USED TO SAY: THE MORE FLESH,[45] THE MORE WORMS;[46] THE MORE PROPERTY, THE MORE ANXIETY;[47] THE MORE WIVES, THE MORE WITCHCRAFT;[48] THE MORE BONDWOMEN THE MORE LEWDNESS;[49] THE MORE SLAVES, THE MORE ROBBERY;[50] [BUT] THE MORE [STUDY OF THE] TORAH, THE MORE LIFE;[51] THE MORE SITTING DOWN[52] [TO STUDY AND CONTEMPLATE], THE MORE WISDOM;[53] THE MORE COUNSEL, THE MORE UNDERSTANDING;[54] THE MORE RIGHTEOUSNESS,[55] THE MORE PEACE. ONE WHO HAS ACQUIRED UNTO HIMSELF A GOOD NAME,[56] HAS ACQUIRED [IT] FOR HIMSELF;[57] ONE WHO HAS ACQUIRED UNTO HIMSELF WORDS OF TORAH, HAS ACQUIRED FOR HIMSELF THE LIFE OF THE WORLD TO COME.[58]

MISHNAH 8. RABBAH JOHANAN B. ZAKKAI RECEIVED [THE ORAL TRADITION] FROM HILLEL AND SHAMMAI.[59] HE USED TO SAY: IF THOU HAST LEARNT[60] MUCH TORAH, DO NOT CLAIM CREDIT UNTO THYSELF, BECAUSE FOR SUCH [PURPOSE] WAST THOU CREATED.[61]

RABBAN JOHANAN B. ZAKKAI HAD FIVE [PRE-EMINENT] DISCIPLES AND THEY WERE THESE: R. ELIEZER B. HYRCANUS, R. JOSHUA B. HANANIAH, R. JOSE, THE PRIEST, R. SIMEON B. NETHANEEL AND R. ELEAZAR B. ‘ARACH. HE [I. E. R. JOHANAN] USED TO RECOUNT THEIR [FOREMOST] QUALITIES:[62] R. ELIEZER B. HYRCANUS IS A PLASTERED CISTERN WHICH LOSES NOT A DROP;[63] R. JOSHUA B. HANANIAH — HAPPY IS SHE THAT BARE HIM;[64] R. JOSE, THE PRIEST, IS A PIOUS MAN;[65] R. SIMEON B. NETHANEEL IS ONE THAT FEARS SIN,[66] AND R. ELEAZAR B.’ARACH IS LIKE UNTO A SPRING THAT [EVER] GATHERS FORCE.[67]

HE [I.E. R. JOHANAN] USED TO SAY: IF ALL THE SAGES OF ISRAEL WERE IN ONE SCALE OF THE BALANCE AND ELIEZER B. HYRCANUS IN THE OTHER SCALE, HE WOULD OUTWEIGH THEM ALL. ABBA[68] SAUL SAID IN HIS[69] NAME: IF ALL THE SAGES OF ISRAEL WERE IN ONE SCALE OF THE BALANCE, AND R. ELIEZER B. HYRCANUS ALSO WITH THEM, AND R. ELEAZAR B. ARACH IN THE OTHER SCALE, HE WOULD OUTWEIGH THEM ALL.[70]

MISHNAH 9. HE [R. JOHANAN] SAID UNTO THEM: GO FORTH[71] AND OBSERVE WHICH IS THE GOOD WAY UNTO WHICH A MAN SHOULD CLEAVE? R. ELIEZER SAID, A GOOD EYE;[72] R. JOSHUA SAID, A GOOD ASSOCIATE;[73] R.JOSE SAID,A GOOD NEIGHBOUR;[74] R. SIMEON SAID, ONE WHO LOOKS [AHEAD TO SEE] WHAT [CONSEQUENCES] SHALL BE BROUGHT FORTH [BY HIS OWN ACTIons].[75] R. ELEAZAR SAID, A GOOD HEART.[76] SAID HE [R. JOHANAN] UNTO THEM: I PREFER THE WORDS OF ELEAZAR B. ‘ARACH TO YOUR WORDS, FOR WITHIN THE COMPREHENSIVE CHARACTER OF HIS WORDS, ARE YOUR WORDS [INCLUDED].

HE [FURTHER] SAID UNTO THEM: GO FORTH AND OBSERVE WHICH IS THE EVIL WAY FROM WHICH A MAN SHOULD REMOVE HIMSELF FAR?[77] R. ELIEZER SAID, AN EVIL EYE;[78] R. JOSHUA SAID, AN EVIL ASSOCIATE; R. JOSE SAID, AN EVIL NEIGHBOUR; R. SIMEON SAID, ONE WHO BORROWS AND REPAYS NOT[79] — [IT IS ALL] ONE [WHETHER] ONE BORROWS FROM MAN OR ONE BORROWS FROM THE ALL-PRESENT[80] — AS IT IS SAID: THE WICKED BORROWS AND PAYETH NOT; BUT THE RIGHTEOUS DEALETH GRACIOUSLY AND GIVETH[81] . R. ELEAZAR SAID, AN EVIL HEART. SAID HE [R. JOHANAN] UNTO THEM: I PREFER THE WORDS OF ELEAZAR B.

ARACH TO YOUR WORDS, FOR WITHIN THE COMPREHENSIVE CHARACTER OF HIS WORDS ARE YOUR WORDS [INCLUDED].

MISHNAH 10. THEY [EACH] SAID THREE THINGS. R. ELIEZER SAID: LET THE HONOUR OF THY FRIEND BE AS DEAR TO THEE AS THINE OWN;[82] AND BE NOT EASILY PROVOKED TO ANGER;[83] AND REPENT ONE DAY BEFORE THY DEATH,[84] AND [HE ALSO SAID:] WARM THYSELF BEFORE THE FIRE OF THE WISE,[85] AND BEWARE OF THEIR GLOWING COALS,[86] THAT THOU MAYEST NOT BE SINGED,[87] FOR THEIR BITE IS THE BITE OF A FOX,[88] AND THEIR STING IS THE STING OF A SCORPION,[89] AND THEIR HISS IS THE HISS OF A SERPENT,[90] AND ALL THEIR WORDS ARE LIKE COALS OF FIRE.[91]

MISHNAH 11. R. JOSHUA SAID: AN EVIL EYE, THE EVIL INCLINATlon,[92] AND HATRED FOR [ONE'S FELLOW.] CREATURES PUT A MAN OUT OF THE WORLD.[93]

MISHNAH 12. R. JOSE SAID: LET THE PROPERTY OF THY FELLOW BE AS PRECIOUS UNTO THEE AS THINE OWN;[94] FIT THYSELF TO STUDY TORAH[95] FOR IT IS NOT [A THING THAT COMES] UNTO THEE [AS] AN INHERITANCE;[96] AND LET ALL THINE ACTIONS[97] BE FOR [THE SAKE OF] THE NAME OF HEAVEN[98] .

MISHNAH 13. R. SIMEON SAID: BE CAREFUL WITH THE READING OF SHEMA'[99] AND WITH PRAYER,[100] AND WHEN THOU PRAYEST, MAKE NOT THY PRAYER A SET TASK,[101] BUT [AN APPEAL FOR] MERCY[102] AND AN ENTREATY BEFORE THE ALL-PRESENT,[103] FOR IT IS SAID: FOR HE IS GRACIOUS AND COMPASSIONATE, LONG-SUFFERING AND ABUNDANT IN MERCY, AND REPENTETH HIM OF THE EVIL;[104] AND BE NOT WICKED IN THINE OWN ESTEEM.[105]

MISHNAH 14. R. ELEAZAR SAID:[106] BE EAGER[107] TO STUDY THE TORAH;[108] AND KNOW[109] WHAT ANSWER THOU SHOULDST GIVE TO THE EPICUREAN,[110] AND KNOW BEFORE WHOM THOU TOllest,[111] AND WHO[112] IS THINE EMPLOYER[113] WHO WILL PAY THEE THE REWARD OF THY LABOUR.

MISHNAH 15. R. TARFON[114] SAID: THE DAY[115] IS SHORT, AND THE WORK[116] [TO BE PERFORMED] IS MUCH;[117] AND THE WORKMEN[118] ARE INDOLENT,[119] BUT THE REWARD IS MUCH;[120] AND THE MASTER OF THE HOUSE[121] IS INSISTENT.[122]

MISHNAH 16. HE [I.E., R. TARFON] USED TO SAY: IT IS NOT [INCUMBENT] UPON THEE TO FINISH THE WORK, BUT NEITHER ART THOU A FREE MAN SO AS TO [BE ENTITLED TO] REFRAIN THEREFROM;[123] IF THOU HAST STUDIED MUCH TORAH, THEY[124] GIVE THEE MUCH REWARD, AND FAITHFUL IS THINE EMPLOYER TO PAY THEE THE REWARD OF THY LABOUR;[125] AND KNOW THAT THE GRANT OF REWARD UNTO THE RIGHTEOUS IS IN THE TIME TO COME.[126]

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(1) Rabbi Judah ha-Nasi (the Prince, the Patriarch) also called רבינו הקדוש 'Our holy Master'. All the best qualities characteristic of the righteous were combined in him (J. Sanh. 30a). Son of Rabban Simeon b. Gamaliel (supra I, 28) ca. 200 C.E. He is famous as the one who, either orally (so Rashi), or in writing (so M.). compiled, or reduced to order, previously collected material (so Tosaf.), consisting of the authoritative opinions of the Tannaim on legal, ritual, ethical and related matters, and forming our Mishnah (v. L.). Among the modern historians, Weiss (II, p. 183) says that R. Judah collected, arranged and reduced to writing. Halevy (II, pp. 829, 858, 866) says the original Mishnah was the work of the Great Synagogue. That 'Ur,' Mishnah was sifted and clarified progressively by Hillel and Shammai and their successors. The Mishnah was all but complete before the end of the days of R. Simeon b. Gamaliel. As the latter held office for a very short time only, it fell to his son R. Judah to add the final touches. Actual additions made in R. Judah's own time were very few.

(2) לעשיה or לעשה. R. Jonah, Elijah Wilna, and others understand ‘to Him who made it (the way)’, i.e. God. They seem to have taken דרך ישרה to have been suggested by ישרים דרכי ה the ways of the Lord are right (Hos. XIV, 10), cf. Prov. XVI, 9. A man's heart deviseth his way; but the Lord directeth his steps. Taylor, Sayings of the Jewish Fathers, a.l. cites an interpretation of R. Isaac bar Shelomo which, rejecting the possibility of applying the verb עשה to דרך (Taylor says ‘but see Judg. XVII, 8.’ However, there the expression is used in quite a different sense), assumes a reading לעשהו ‘to his (man's) Maker’. The passage would in that case express the idea in for them that honour Me [will honour (I Sam. II, 30), cf. infra IV, 1.

(3) Elijah Wilna quotes Prov. III, 4, So shalt thou find grace and good favour in the sight of God and Man.

(4) A precept, compliance with which does not entail any, or much, exertion or cost, or the reward (where known), or punishment for which is slight (L.).

(5) I.e., positive precepts; the penalties for non-compliance with negative precepts are known. II ARN, Ch. XXXII, adds, ‘and flee from a light transgression as from a grave one for thou knowest not what are the penalties for transgressions’ (sc. of positive precepts).

(6) Does this metaphor, taken evidently from commercial life, not indicate the principle of the ‘double-entry’ system of book-keeping, which is usually stated to have been devised in the 16th century?

(7) הסתכל denom. vb. from שכל sense, mind.

(8) Lit., ‘into the hands,’ into the grip of sin, out of which there may be no escape.

(9) Lowe's MS. (used by Taylor) omits מה.

(10) MV understands ‘in Heaven’. L.: ‘beyond thy comprehension’.

(11) Cf. Job XXXIV, 21, 22. For His eyes are upon the ways of a man, and He seeth all his doings.

(12) For God's ear, cf. II Kings XIX, 16, Incline Thine ear, O Lord, and hear; Ps. CXVI, 2, He hath inclined his ear unto me.

(13) V. Job XXXVII, 7, He sealeth up the hand of every man, that all men whom He hath made may know it. This is rendered ‘By the hand of every man is a seal (or signature) affixed so that He may know the deeds of all men (or, so that every man may know his own deeds). For the idea of a Heavenly Book of Records, cf. Mal. III, 16, also Ex. XXXII, 32. Dan. VII, 10. For the amplification of this idea and its implications, v. R.H., 16b ff.

(14) ‘Rabbi’ of the foregoing Mishnah.

(15) Cf. Ps. CXXVIII. 2, then thou eatest the labour of thy hands, happy shalt thou be, and it shall be well with thee. L. takes דרך ארץ in its sense of correct and unassuming conduct. However, the words immediately following. ‘the energy (lit. labour) of both of them,’ precludes such a rendering.

(16) L.: Since, on account of not having an occupation by which to earn a steady livelihood, he has to seek the latter at random, he thus uses up time which he could otherwise have devoted to the study of the Torah.

(17) Unable to procure a livelihood by honest means, he would be tempted, or driven to, dishonest means of obtaining it.

(18) I.e., disinterestedly and devotedly, not for the sake of self-aggrandisement or of exercising authority over others. Or, even if your actions are unpopular with the community.

(19) The community's.

(20) The community. L.: the communal workers.

(21) Even if the community do not readily support, or even if they oppose the labours of those who are doing the communal work for the sake of Heaven, the merit of the community's fathers, i.e., the traditional righteousness and charitableness of the Israelite character, being everenduring, will sustain the workers (or the community as a whole) and help them to acquit themselves of their duty, in the end, creditably. even if for the time being the community may be doing it unwillingly (after an alternative in B.). Another interpretation: One should take up the communal burden disinterestedly and not take credit for what one does; rather put it down to the merit of the community as a whole, as it is their inherited qualities which are mainly responsible for the consummation of the good work.

(22) Baer suggests it may mean the Tanna himself (Rabban Gamaliel) addressing these words to the communal leaders of his own generation.

(23) Rashi: Even if you have not completed the task (cf. Mishnah 16). Some explain: If in the course of public duty you have unavoidably neglected a precept. I account it to you as if you had fulfilled it.

(24) R. Gamaliel had much experience of intercourse with the (Roman) powers-that-be as his father, R. Judah ha-Nasi, was on intimate and friendly terms with one of the Antonines. B. and others: This caution was particularly intended for the communal leaders addressed in the preceding Mishnah.

(25) This is generally taken as a reflection upon corrupt and grasping officialdom. It also reflects the conception prevailing among the ruling classes of antiquity as to their own raison d'etre; they took it for granted that they might make whatever use they could of their subjects, but they did not consider it an integral part of their duty to be of service to their subjects.

(26) As willingly and as joyfully.

(27) So B., L. and R. Jonah who further develop the idea, ‘make thy will identical with God's will’. Rashi: ‘even when thou doest thine own business do it for the sake of Heaven’ but this would presuppose reading עשה רצונך כרצונו

(28) Cf. Ps. CXLV, 19, He will fulfill the desire of them that fear Him.

(29) When they conflict.

(30) Who will things against your interests. MV and B. also give an alternative explanation, viz., that ‘the will of others’ is an euphemism for His (God's) will, i.e., that he may annul any punishment decreed by Him against you. (V. Jast. s.v. בטל.)

(31) Identify yourself with the community in everything except wrong-doing. (i) Participate in its sorrows as well as its joys, cf. Isa. LXVI, 10. (ii) Do not lead a selfish life or that of a recluse. (iii) Do not act independently of, or contrary to, what is the norm accepted by the community as a whole. L.: The Mishnah having given R. Gamaliel's dictum on duty towards the community quotes also Hillel on the subject.

(32) Do not rely upon the material or spiritual position you have attained. Unless one is constantly on one's guard these may only too easily be lost. Or construe the Mishnah thus: ‘Separate not thyself from the Community, neither trust thou in thyself, until the day of thy death,’ i.e., do not, ever in your life, rely on your own powers to the extent of deliberately remaining detached from the community. Cf. I, 24.

(33) Rashi, B. ‘When you see a man succumbing to temptation do not condemn him, until, faced by a similar temptation, you have overcome it.’ R. Jonah says this follows on ‘do not trust in thyself ‘, do not, through thinking yourself infallible, presume to judge and condemn another, in particular a man who has reached a high position and appears to you not to be acting correctly; if and when you reach his position and you experience the psychological effects of high office upon its holder, it will be time enough for you to come to conclusions on the conduct of others in such a position.

(34) Lit., ‘heard’. ‘that cannot . . . ;’ according to the reading of M., whose explanation is adopted in this translation. Others (adopting the same reading) ‘do not reveal secrets (or secret, esoteric, doctrines) that should not be revealed to all and sundry, because in the end, they will become public.’ Another reading: ‘that can be heard’ is explained by MV, Rashi, B.: ‘When you have the opportunity of hearing Torah do not say there is yet time to hear it later.’ Cf. the next sentence.

(35) Cf. prov. XXVII, 1, Boast not thyself of tomorrow; for thou knowest not what a day may bring forth.

(36) בור Originally: a piece of ground altogether uncultivated. Of a person: one devoid of knowledge as well as of ethical principles (M. and others).

(37) He may avoid sin by unreasoningly following the accepted standards of conduct, or out of a fear of the consequences, but not out of a conscious and deliberate abhorrence of sin itself (after L.).

(38) עם הארץ A man devoid of mental attainments but possessing some moral qualities (M.). He may act with propriety but, lacking a knowledge of the Torah and the advantage of association with scholarly and saintly men, he is not equipped for rising to the plane of Hasiduth, which is conduct of a standard higher than that strictly required, and a striving for progressive self-perfection. (MV, L.)

(39) כל . So Tosaf. Yom Tob.

(40) And leaves little or no time for study (R. Jonah).

(41) Even though business is, admittedly, a valuable factor in the development of the mind, it is not, except perhaps in rare cases, in itself sufficient. Cf. infra VI, 5, where among the qualifications for the acquisition of the Torah, some texts have מיעוט סחורה moderation in business. מחכים L., relying on the causative (Hif'il) conjugation of the word: ‘makes himself and others wise’.

(42) In Ber. 63a there is an Aramaic version גבר תמן הוי גבר באתר דלית Hillel used both Hebrew and Aramaic, cf. supra I, 12, 13, 14.

(43) The impersonal use of ‘they’. Though this usage is not uncommon in English, a passive construction might be preferable.

(44) The underlying idea is that divine retribution operates by way of ‘measure for measure’, cf. Ob. 15, As thou hast done, it shall be done unto thee. Ps. VII, 16, 17, He hath digged a pit and hollowed it, and is fallen into the ditch which he made. His mischief shall return upon his own head, and his violence shall come down upon his own pate. Ez Joseph lays stress on סוף ‘even if these people die a natural death, a time will come when their skulls will float about on water.’ However, the version in the Talmud (Suk. 53a) has not got סוף.

(45) One puts on by over-indulgence in food.

(46) In the grave.

(47) Cf. Eccl. II, 22, 23. For what hath a man of all his labour . . . for all his days are pains . . . yea, even in the night his heart taketh no rest.

(48) Wives in their jealous rivalry for their husband's attentions will resort to seeking charms from witches whose occupation will prosper and spread (V.).

(49) A well-known feature of female slavery.

(50) They will combine to rob their master, or to rob others without their master's knowledge, but implicating him nevertheless. B. notes the sequence, (i) Flesh: the more one feels well-fed and ‘pleased’ with himself, the more one strives to amass (ii) wealth. The wealthier he is the more (iii) wives he will take, each of whom requires a large number of (iv) serving maids. The household grows to such proportions that he requires a large retinue of (v) slaves.

(51) prov. III, 1, 2. My son, forget not my teaching (Torah) but let thy heart keep my commandments; for length of days, and years of life, will they add to thee. Cf. ibid. IX, II, and Deut. XXX, 20.

(52) ישיבה some render ‘academy’, ‘school(ing)’ i.e., the more opportunities given to disciples for corporate study, the greater the ingenuity developed.

(53) Some versions מרבה חכמה מרבה ישיבה ‘the greater the wisdom of the teacher, the better attended will be his school’ (v. R. Jonah and B.).

(54) Cf. Prov. XII, 15, rendered, he that hearkeneth to counsel is wise.

(55) Cf. Isa. XXXII, 17, and the work of righteousness shall be peace. Some render צדקה ‘charity’ which makes for sympathy and understanding, and counteracts the bitterness often felt by the poor towards the rich, and which, by thus ensuring goodwill all round, preserves peace.

(56) Cf. Prov. XXII, I, A ‘good name is rather to be chosen than great riches; Eccl. VII, 1, A good name is better than precious oil.

(57) It is peculiarly his own in the sense that, unlike any other possession, one man's good name can never become another's.

(58) Cf. Prov. VIII, 35. Wisdom (Torah) says: Whoso findeth me, findeth life, and obtaineth favour from the Lord; cf. Deut. XXX, 20.

(59) The chain of ‘tradents’ and ‘recipients’ interrupted at the end of I, 15, is continued here. It is suggested that when it came to Hillel, a ‘progenitor’ of a ‘dynasty’, the Mishnah continued with the descendants of Hillel till R. Judah ha-Nasi and his son R. Gamaliel (then adduced Hillel, by the way, on a topic dealt with by R. Gamaliel son of R. Judah, see Mishnah 4, n. 7), and then resumed here the chain of discipleship (see L.).

(60) למדת Lowe's MS., I ARN, Ch. XIV, R. Jonah. MV read עשית ‘thou hast accomplished’. V. Taylor, a.l.

(61) The idea that man, and expecially an Israelite, is created for the purpose of giving himself to the study of the Word of God and obedience thereto, is deeply rooted in Biblical and Rabbinic literature, cf. Micah VI, 8: It hath been told thee, O man, what is good, and what the Lord doth require of thee: only to do justly and to love mercy and to walk humbly with thy God. Cf. Deut. X, 12. L.: If you have acquired more than the average knowledge of the Torah, do not attribute it to your own superior abilities, for it is God who has endowed you with special talents in that direction.

(62) Lit. ‘their praise’.

(63) ARN I, Ch. XXIX, adds, ‘a vessel lined with pitch that retains the wine,’ i.e., he had a very retentive memory. In Suk. 28a, he is reported to have claimed that he had never said anything that he had not heard from his own teachers. Frankel, op. cit. p. 78, argues that this statement cannot be upheld.

(64) I.e., to his mother was due most of the credit for his scholarship and she therefore had real cause to be proud of him. She is said to have taken him, in his cot, to the Beth-ha-Midrash so that from his infancy his ears might become attuned to the sound of the study of the Torah. ARN XIV has, instead, ‘a threefold cord (that) is not quickly broken.’ (Eccl. IV, 12.)

(65) I ARN (Ch. XIV) and II (Ch. XXIX): ‘the most pious man in his generation.’ V. Mishnah 5, n. 5, for the meaning of Hasid.

(66) V. Mishnah 5, n. 4. I ARN ibid. gives ערוגה שבמדבר שמחזקת מימיה ‘a garden-bed in the wilderness which retains its water,’ (II ARN, XVI, to the same effect) as R. Johanan's description of R. Simeon b.

Nethaneel.

(67) I.e., noted for an independent, keen and vigorous critical faculty, and thus differentiated from R. Eliezer b. Hyrcanus whose greatness consisted in assiduously gathering in and faithfully preserving all that he heard. I ARN adds ‘whose waters swell and flow abroad as it is said (Prov. V, 16), lit thy springs be dispersed abroad, and courses of water in the streets.’

(68) Title for a scholar less than that of ‘Rabbi’ (v. Jast.).

(69) R. Johanan's. II ARM ibid. ‘on the authority of R. Akiba who used to say it in his (R. Johanan's) name.’ Rashi, ‘in the name of R. Gamaliel in the name of R. Johanan b. Zakkai.’

(70) There was a difference of opinion as to whether the scholastic quality known as סיני (‘Sinai’, an erudite scholar) which was that of R. Eliezer, or the one termed עוקר הרים (‘an uprooter of mountains’, a dialectician), which distinguished R. Eleazar, is to be preferred. V. Ber. 64a, where the conclusion is that the former is the better, as even the scholar who is ingenious in arguing the merits of various opinions, is himself dependent on the material made available by the scholar who accumulates the teaching of his predecessors and contemporaries. The ‘First Tanna’ (תנא קמא) of this Mishnah understood Rabban Johanan to have preferred the ‘Sinai’, whilst Abba Saul ascribed to Rabban Johanan a predilection for the ‘uprooter of mountains’. Some versions omit ‘Rabbi’ given here with the names of Eliezer, etc. as at that time they were still disciples and not yet independent scholars.

(71) Leave your immediate environment, and go among men of all classes (v. L.).

(72) Generosity. Cf. Prov. XXIl, 9, He that hath a bountiful (lit. ‘good’) eye shall be blessed, for he giveth of his bread to the poor. Maim. Contentment with what one has.

(73) One should seek and cultivate a good friend. R. Jonah: One should oneself be a good friend.

(74) One should seek and cultivate a good neighbour. As a good friend is not necessarily with you very often, it is even more important to have someone who is constantly near at hand. R. Jonah: One should oneself be a good neighbour.

(75) Or, by time, v. Prov. XXVII, 1, What the day may bring forth.

(76) The heart being the generator of all physical, mental and emotional processes (after Maim.). R. Jonah: A good heart means patience and goodwill. Perhaps, however, לב טוב is to be taken in the only sense in which it is used in the Bible, viz. ‘a joyous heart’, which puts one in a good humour with, and ensures the right kind of disposition towards everybody and all things. ARN ibid. appears to have understood it so. ‘A good heart towards Heaven, (a good heart towards the commandments,) a good heart: towards all creatures’ (cf. Elijah Wilna and L.).

(77) He had to ask this question instead of inferring the answer to it from the answers to the previous question, because the negative of a good quality is not always an evil quality which should be shunned.

(78) A grudging nature; cf. Prov. XXIII, 6, Eat thou not the bread of him that hath an evil eye.

(79) Apart from the dishonesty of such conduct, he does not think that he is not likely to be trusted again with a loan; in this he is the antithesis of the man who looks ahead to see the consequences of his conduct.

(80) For מקום (lit., ‘Place’) as an appellation for God see Marmorstein, Old Rabbinic Doctrine of God, pp. 14, 92, 142. It was used in the earliest Rabbinic sources.

(81) Ps. XXXVII, 21. M. and others understand ‘the righteous’, in this connection, in the Midrashic sense, viz. ‘the Righteous One’, i.e., God (v. Marmorstein, op. cit., p. 95). If a borrower fails to repay, God will repay the kindly lender. Thus the borrower (even if he is released, say by bankruptcy, from the obligation of repaying to man [so R. Jonah]) remains a debtor to God, and continued neglect to repay renders him a רשע. For the idea that help given to the needy is a loan to God, v. Prov. XIX, 17. He that is gracious unto the poor, lendeth unto the Lord; his good deed will He repay unto hitr. If R. Simeon himself really understood צדיק in this case as referring to God, we have an earlier authority for the idea than the one referred to by Marmorstein ibid. (viz., Bar-Kappara).

(82) On the principle of Love thy neighbour as thyself (Lev. XIX, 18).

(83) Cf. Eccl. VII, 9, Be not hasty in thy spirit to be angry.

(84) I ARN, Ch. XV; II Ch. XXIX, Koh. Rab. Ch. IX, Shab. 153a report that when R. Eliezer's disciples asked him: Does any man know what day he is to die? he replied: All the more reason for him to repent every day of his life in case he should die on the morrow. ARN, Maim., R. Jonah take the foregoing to constitute the ‘three things’ referred to in the heading of this Mishnah, and what follows (‘Warm thyself,’ etc.) as an addition. This scheme is adopted in this translation. However, Rashi, MV, B., L. take ‘let the honour . . .’ and ‘be not easily provoked . . .’ as one dictum, ‘repent etc. as the second, and ‘warm thyself . . .’ as the third.

(85) The Torah which is called אור (i e. light or flame) v. Prov. VI, 23, The teaching (Torah) is light. Elijah Wilna cites Isa. II, 5, O house of Jacob, came ye and let us walk in the light (אור which also flame) of the Lord.

(86) The commentators regard this as a warning against behaving towards the Sages in a manner incompatible with the dignity which should be theirs as exponents of the Torah.

(87) Their fire, the fire of the Torah, being a divine fire (cf. Deut. XXXIII, 2, At his right hand was a fiery law), is an ever potent one, even when the Sages are, as it were, not aflame but only resembling glowing coals.

(88) The bite, even a slight one, of a fox was thought particularly hurtful because its teeth were said to be crooked.

(89) The sting alone of a scorpion is poisonous.

(90) The very hiss of a serpent was believed to be deadly. Some render ‘the murmuring (of incantations) over them (i.e. the scholars or their ‘bites’ and ‘stings’) is (as ineffective) as the murmuring (of incantations) over a fiery serpent.’ cf. Ps. LVIII, 6 (of an asp) which hearkeneth not to the voice of charmers (מלחשים).

(91) Their mere words, even if they seem unimportant, should be heeded as they, too, are aglow with the Divine fire of the Torah. Or, the mere words of the Sages even when not intended to be ‘burning’ are like coals of fire, which, if approached or dealt with, without due care, will burn one. For the action of the fire of God upon those who take up the wrong attitude towards Him, i.e. upon the wicked, v. Mal. III, 19, 20. For, behold, the day cometh, it burneth as a furnace; and all the proud, and all that work wickedness, shall be stubble; and the day that cometh shall set them ablaze, saith the Lord of hosts, that it shall leave them neither root nor branch. But unto you that fear my name shall the sun of righteousness arise with healing in its wings. Herford sees in these words of R. Eliezer a piece of self-revelation expressive of the deep suffering he endured as a result of the severe ban of excommunication which the Rabbis pronounced aginst him, v. B.M. 59b.

(92) For a full treatment of the subject, v. Schechter, Some aspects of Rabbinic Theology, p. 24.

(93) II ARN. Ch. XXX, ‘out of this world and out of the world to come’. A man who hates everybody will draw upon himself the hatred of all others and this is likely to bring him to a premature and unnatural end (v. B.). Maim.: Greed for wealth (== the evil eye), a surfeit of lustfulness (== the evil inclination) and a bad disposition (== hatred of one's fellows), which is melancholia, have the effect of making one loathe the world and of inducing him to take up the life of a recluse not out of ascetic piety, but because he is insatiably envious of, and grudging towards, his fellow-men. This would no doubt also have deleterious physical effects, and cause his premature death.

(94) Cf. Mishnah 10, n. 6. R. Jonah understands, ‘when the other person's property is in your charge, deal with it in accordance with the owner's wish.’

(95) Put yourself in a proper frame of mind so that you approach the Torah with due reverence and Zest (v. MV and Ez Joseph). ARN, B., in view of the following clause, lay stress on ‘thyself’.

(96) ARN cites the case of the sons of Moses who did not follow in their father's footsteps. MV says this clause is not an authentic part of R. Jose's dictum and should be omitted.

(97) Even the most elementary bodily functions. II ARN, Ch. XXX, relates the anecdote of Hillel who looked upon the taking of a bath as a Mizwah (religious duty), inasmuch as by that one cleansed the body which God made in his own image.

(98) On ‘Heaven’, cf. supra I, 3, n. 6.

(99) The liturgical unit comprising the passages Deut. VI, 4 — 9, XI, 13 — 21, Num. XV, 37 — 41, considered by the Rabbis to contain the principles of the Decalogue, and ordained for recital twice daily, ‘when thou liest down, and when thou risest up’ (Deut. VI, 7). The admonition here is that it should be ‘read’ or ‘recited’ (the verb קרא may mean either) at the proper hours (Rashi, V., B.).

(100) Prayer תפלה par excellence is the ‘Amidah, (P.B. p. 44 etc.) to be recited thrice daily at defined times.

(101) L.: Since these prayers are regularly repeated, there is the danger of their recital deteriorating into one by rote, hence ‘be careful’.

(102) רחמים omitted in Lowe's MS., R. Jonah, and MV.

(103) V. Mishnah 9, n. 6.

(104) Joel II, 13. Possibly the Scriptural quotation was introduced later. R. Jonah quotes Jonah IV, 2, which is very similar to Joel II, 13.

(105) So R. Tam (quoted in MV.), R. Jonah and M. The latter adds ‘and thus set yourself a low standard of conduct.’ MV: Do not do anything which you understand to be wrong, even if others do not realize it. Or (preferred by MV), do not be wicked by imagining and behaving as if you were the only person in the world, and therefore refusing to associate in friendship with your fellow-men.

(106) Much depends on the division of this Mishnah into the three dicta. MV and R. Jonah: 1) Be eager . . . that thou mayest know what . . . 2) Know before whom . . . 3) Who is thine Employer . . . Rashi's division is not quite clear.

Though we would expect him to agree with V., it nevertheless seems that he divided 1) Be eager . . . 2) Know what answer . . . 3) Know before whom . . . and who is thine Employer . . . B.’s arrangement was: 1) Be eager . . . 2) Know what answer . . . and before whom thou toilest, 3) Who is thine Employer. M.’s division (though not interpretation) seems to have been the same as B.’s, but may, on the other hand, have agreed with the one given here as the probable one of Rashi.

(107) שקוד the passive instead of the active mood of the verb used in the Bible suggests ‘be actuated by an eagerness’ (v. L.).

(108) It may be that R. Eleazar's advocacy of eagerness and enthusiasm in the study of Torah, was due to the lesson he had learnt from his own experience, when after the death of his master (R. Johanan b. Zakkai) he refused to join his fellow-disciples and went to reside in Emmaus (?) because it was a pleasant resort, and in the course of a short time he forgot his learning. V. infra IV, 14, where R. Nehorai is thought to be another name for R. Eleazar b. ‘Arak.

(109) MV., R. Jonah: in order that thou mayest know. Maim.: Get to know, study, other religious systems.

(110) A term applied to heretics in general, v. Sanh. (Sonc. ed.) p. 244, n. 10.

(111) M.: ‘but know . . .’ Whilst you are studying the creeds of others, know, keep in mind, that He whom you are serving knows your innermost thoughts and so take care to prevent false doctrines from influencing you.

(112) ומי הוא so MV, Rashi, R. Jonah, Lowe's MS. The other reading ונאמן (‘and faithful’), which is specifically ruled out by MV, is evidently due to that phrase in the next Mishnah.

(113) I.e., God, v. Marmorstein, op. cit., p. 79. Lowe's MS. stops here. The clause which follows in our Version may also be due to the next Mishnah. v. Bacher, Agada der Tannaiten, I, p. 77.

(114) A younger (?) contemporary of the above-mentioned disciples of Rabban Johanan b. Zakkai.

(115) I.e., man's earthly life, cf. Job VIII, 9, For we are but of yesterday . . . because our days upon earth are a shadow.

(116) MV, R. Jonah, B.: ‘Study of the Torah’. L.: ‘man's duties towards God and man.’

(117) Therefore do not waste any time away from your task. cf. Job XI, 8, 9 (of the study of the ways and purposes of God). It is as high as heaven . . . deeper then the nether-world . . ., the measure thereof is longer than the earth, and broader than the sea.

(118) Human beings (v. M. and R. Jonah and others). The faculties which man has at his service (L.).

(119) Naturally so; some more and some less, but all are so inclined; therefore you should deliberately overcome that sluggishness.

(120) Prov. VIII, 10, 11, Receive my instruction and not silver, and knowledge rather than choice gold; for wisdom is better than rubies, and all things desirable are not to be compared with her (‘Instruction’, ‘Knowledge’, ‘Wisdom’ are taken to mean the Torah). ‘Reward’ here would, accordingly, mean that the very knowledge of the Torah is the reward acquired by the diligent work put into the study thereof.

(121) The Master of the World, i.e., God; v. Marmorstein, op. cit., p. 77.

(122) In that Scripture repeatedly urges the study of the Word of God and the fulfilment of His precepts, and, even if you should renounce the desire for the reward, you must carry out your task because your Master insists that you should.

(123) MV has an interesting alternative interpretation, viz., ‘You were not made a free man (i.e. delivered from Egyptian bondage) so that you might remain exempt from Torah and Precepts.’ The divine purpose of the Redemption was that Israel might accept God's Law. Ex. XIX, 4, 5, Ye have seen what I did unto the Egyptians . . . Now therefore, if ye will hearken unto My voice indeed, and keep my covenant. Deut. IV, 37 — 40, . . . and brought thee . . . out of Egypt . . . and thou shalt keep His statutes and his commandments. ibid. VI, 23, 24, And He brought us forth from thence . . . and he commanded us to do all these statutes.

(124) V. Mishnah 6, n. 1.

(125) L. says the פעלה means labour accomplished, work perfected. The passage would thus mean: You can trust God to reward you if you have carried out His commandments to the highest perfection of which you are capable.

(126) Lit., ‘for the future (that is) to come,’ or ‘for (the time) that is due to come,’ i.e., the Hereafter or the Messianic future.

Mishna - Mas. Avoth Chapter 3

MISHNAH 1. AKABIAH B. MAHALALEEL[1] SAID: APPLY THY MIND[2] TO THREE[3] THINGS AND THOU WILT NOT COME INTO THE POWER OF SIN: KNOW WHENCE THOU CAMEST, AND WHITHER THOU ART GOING, AND BEFORE WHOM THOU ART

DESTINED TO GIVE AN ACCOUNT AND RECKONING. WHENCE CAMEST THOU? — FROM A FETID DROP. WHITHER ART THOU GOING? — TO A PLACE OF DUST,[4] OF WORM AND OF MAGGOT.[5] BEFORE WHOM ART THOU DESTINED TO GIVE AN ACCOUNT AND RECKONING?[6] — BEFORE THE KING OF THE KINGS OF KINGS,[7] THE HOLY ONE,[8] BLESSED BE HE.[9]

MISHNAH 2. R. HANINA, THE VICE-HIGH PRIEST,[10] SAID: PRAY FOR THE WELFARE OF THE GOVERNMENT, FOR WERE IT NOT FOR THE FEAR THEREOF, ONE MAN WOULD SWALLOW UP ALIVE HIS FELLOW-MAN.[11] R. HANANIAH B. TERADION[12] SAID: [WHEN] TWO SIT TOGETHER AND THERE ARE NO WORDS OF TORAH [SPOKEN] BETWEEN THEM, LO, THIS [CONSTITUTES] A SESSION OF SCORNERS, AS IT IS SAID: NOR SAT HE IN THE SEAT OF THE SCORNFUL;[13] BUT [WHEN] TWO SIT TOGETHER AND THERE ARE WORDS OF TORAH [SPOKEN] BETWEEN THEM, THE SHECHINAH[14] ABIDES AMONG THEM, AS IT IS SAID: THEN THEY THAT FEARED THE LORD SPOKE ONE WITH ANOTHER;[15] AND THE LORD HEARKENED AND HEARD, AND A BOOK OF REMEMBRANCE WAS WRITTEN BEFORE HIM, FOR THEM THAT FEARED THE LORD AND THAT THOUGHT UPON HIS NAME[16] . — I HAVE NO [SCRIPTURAL PROOF FOR THE PRESENCE OF THE SHECHINAH] EXCEPT [AMONG] TWO, WHENCE [IS THERE PROOF THAT] EVEN [WHEN THERE IS ONLY] ONE [PERSON]. THE HOLY ONE, BLESSED BE HE, APPOINTS UNTO HIM A REWARD? — SINCE IT IS SAID: THOUGH HE SIT ALONE AND [MEDITATE] IN STILLNESS, YET HE TAKETH [A REWARD] UNTO HIMSELF.[17]

MISHNAH 3. R. SIMEON[18] SAID: IF THREE HAVE EATEN AT ONE TABLE[19] AND HAVE NOT SPOKEN THEREAT WORDS OF TORAH, [IT IS] AS IF THEY HAD EATEN SACRIFICES [OFFERED] TO THE DEAD,[20] FOR [OF SUCH PERSONS] IT IS SAID, FOR ALL TABLES ARE FULL OF FILTHY VOMIT, [THEY ARE] WITHOUT THE ALL-PRESENT.[21] BUT, IF THREE HAVE EATEN AT ONE TABLE, AND HAVE SPOKEN THEREAT WORDS OF TORAH, [IT IS] AS IF THEY HAD EATEN AT THE TABLE OF THE ALL-PRESENT, BLESSED BE HE, AS IT IS SAID, THIS IS THE TABLE BEFORE THE LORD.[22]

MISHNAH 4. R. HANINA B. HAKINAI[23] SAID: HE WHO KEEPS AWAKE AT NIGHT, AND HE WHO WALKS ON THE WAY ALONE[24] AND MAKES ROOM[25] IN HIS HEART FOR THAT WHICH IS FUTILE,[26] LO, THIS [MAN] INCURS GUILT [EXPIABLE] BY HIS LIFE.[27]

MISHNAH 5. R. NEHUNIA[28] B. HAKKANAH[29] SAID: WHOEVER TAKES UPON HIMSELF THE YOKE OF THE TORAH,[30] THEY REMOVE FROM HIM THE YOKE OF GOVERNMENT[31] AND THE YOKE OF WORLDLY CONCERNS,[32] AND WHOEVER BREAKS OFF FROM HIMSELF[33] THE YOKE OF THE TORAH, THEY PLACE UPON HIM THE YOKE OF GOVERNMENT AND THE YOKE OF WORLDLY CONCERNS.

MISHNAH 6. R. HALAFTA[34] [A MAN) OF KEFAR HANANIA[35] SAID: [WHEN THERE ARE] TEN SITTING TOGETHER AND OCCUPYING THEMSELVES WITH TORAH, THE SHECHINAH ABIDES AMONG THEM, AS IT IS SAID: GOD STANDETH IN THE CONGREGATION OF GOD.[36] AND WHENCE [DO WE INFER THAT THE SAME APPLIES] EVEN [WHEN THERE ARE] FIVE? [FROM] THAT WHICH IS SAID: AND HE HATH FOUNDED HIS BAND UPON THE EARTH.[37] AND WHENCE [DO WE INFER THAT THE SAME APPLIES] EVEN [WHEN THERE ARE THREE?] [FROM] THAT WHICH IS SAID: IN THE MIDST OF THE JUDGES HE JUDGETH.[38] AND WHENCE [DO WE INFER THAT THE SAME APPLIES] EVEN [WHERE THERE ARE] TWO? [FROM] THAT WHICH IS SAID: THEN THEY THAT FEAR THE LORD SPOKE ONE WITH ANOTHER, AND THE LORD HEARKENED, AND HEARD ETC.[39] AND WHENCE [DO WE INFER THAT THE SAME SAME APPLIES] EVEN [WHEN THERE IS] ONE? [FROM] THAT WHICH IS SAID: IN EVERY

PLACE WHERE I CAUSE MY NAME TO BE MENTIONED I WILL COME UNTO THEE AND BLESS THEE.[40]

MISHNAH 7. R. ELEAZAR[41] (A MAN) OF BERTOTHA[42] SAID: GIVE UNTO HIM OF THAT WHICH IS HIS, FOR THOU AND WHAT THOU HAST ARE HIS; EVEN SO [WE FIND IT EXPRESSED] IN [THE CASE OF] DAVID, [WHEN] HE SAID: FOR ALL THINGS COME OF THEE, AND OF THINE OWN HAVE WE GIVEN THEE.[43]

R. SIMEON[44] SAID: WHEN ONE, WALKING ON THE ROAD, REHEARSES[45] [WHAT HE HAS LEARNT], AND BREAKS OFF[46] FROM HIS REHEARSING, AND SAYS, ‘HOW FINE IS THIS TREE!’ [OR] ‘HOW FINE IS THIS NEWLY PLOUGHED FIELD!’ SCRIPTURE[47] ACCOUNTS IT TO HIM AS IF[48] HE HAD INCURRED GUILT [EXPIABLE] BY HIS LIFE.[49]

MISHNAH 8. R. DOSTAI[50] B. R. JANNAI[51] SAID IN THE NAME OF[52] R. MEIR: WHOEVER FORGETS ONE [SINGLE] WORD[53] OF HIS STUDY, SCRIPTURE ACCOUNTS IT UNTO HIM AS IF HE HAD INCURRED GUILT [EXPIABLE] BY HIS LIFE, AS IT IS SAID, ONLY TAKE HEED TO THY SELF AND KEEP THY SOUL DILIGENTLY, LEST THOU FORGET THE THINGS WHICH THINE EYES SAW[54] . ONE COULD [HAVE INFERRED THAT THIS IS THE CASE] EVEN WHEN HIS STUDY PROVED [TOO] HARD FOR HIM; [THERE IS, THEREFORE] SOMETHING [FURTHER] TAUGHT [IN SCRIPTURE], SAYING: AND LEST THEY DEPART FROM THY HEART ALL THE DAYS OF THY LIFE.[55] THUS, HE DOES NOT INCUR GUILT EXPIABLE BY HIS LIFE UNLESS HE DELIBERATELY[56] SUFFERS THEM TO DEPART[57] FROM HIS HEART.

MISHNAH 9. R. HANINA B. DOSA[58] SAID: ANYONE WHOSE FEAR OF SIN[59] PRECEDES[60] HIS WISDOM, HIS WISDOM IS ENDURING,[61] BUT ANYONE WHOSE WISDOM PRECEDES HIS FEAR OF SIN, HIS WISDOM IS NOT ENDURING.[62] HE [ALSO] USED TO SAY: ANYONE WHOSE DEEDS EXCEED HIS WISDOM, HIS WIS DOM IS ENDURING, BUT ANYONE WHOSE WISDOM EXCEEDS HIS DEEDS, HIS WISDOM IS NOT ENDURING.[63]

MISHNAH 10. HE [ALSO] USED TO SAY: ANYONE FROM WHOM THE SPIRIT OF [HIS FELLOW-] CREATURES DERIVES SATISFACTION, FROM HIM THE SPIRIT OF THE ALL-PRESENT [TOO] DERIVES SATISFACTION.[64] BUT ANYONE FROM WHOM THE SPIRIT OF [HIS FELLOW-] CREATURES DERIVES NO SATISFACTION, FROM HIM THE SPIRIT OF THE ALL-PRESENT [TOO] DERIVES NO SATISFACTION.

R. DOSA B. HARKINAS[65] SAID: MORNING SLEEP,[66] MIDDAY WINE,[67] CHILDREN'S TALK[68] AND SITTING IN THE ASSEMBLIES OF THE IGNORANT[69] PUT A MAN OUT OF THE WORLD.[70]

MISHNAH 11. R. ELEAZAR OF MODIN[71] SAID: ONE WHO PROFANES THINGS SACRED,[72] AND ONE WHO SLIGHTS THE FESTIVALS, AND ONE WHO CAUSES HIS FELLOW-MAN'S FACE TO BLANCH[73] IN PUBLIC, AND ONE WHO NULLIFIES THE COVENANT OF OUR FATHER ABRAHAM,[74] PEACE BE UPON HIM,[75] AND HE WHO EXHIBITS IMPUDENCE TOWARDS THE TORAH,[76] EVEN THOUGH HE HAS TO HIS CREDIT[77] [KNOWLEDGE OF THE] TORAH[78] AND GOOD DEEDS, HE HAS NOT A SHARE IN THE LIFE OF THE WORLD TO COME.[79]

MISHNAH 12. R. ISHMAEL SAID: BE QUICK[80] [TO RENDER SERVICE] TO A SUPERIOR[81] AND EASY [OF APPROACH] TO A SUPPLIANT [FOR THY SERVICES],[82] AND RECEIVE ALL MEN WITH CHEERFULNESS.[83]

MISHNAH 13. R. AKIBA SAID: JESTING AND LIGHT-HEADEDNESS[84] LEAD A MAN ON[85] TO LEWDNESS;[86] TRADITION[87] IS A FENCE TO THE TORAH;[88] TITHES [FORM] A FENCE TO WEALTH,[89] VOWS A FENCE TO SELF-RESTRAINT;[90] A FENCE TO WISDOM IS SILENCE.[91]

MISHNAH 14. HE [ALSO] USED TO SAY: BELOVED IS MAN[92] IN THAT HE WAS CREATED IN THE IMAGE [OF GOD]. [IT IS A MARK OF] SUPERABUNDANT LOVE [THAT] IT WAS MADE KNOWN TO HIM THAT HE HAD BEEN CREATED IN THE IMAGE [OF GOD], AS IT IS SAID: FOR IN THE IMAGE OF GOD MADE HE MAN.[93]

BELOVED ARE ISRAEL IN THAT THEY WERE CALLED CHILDREN OF THE ALL-PRESENT. [IT WAS A MARK OF] SUPERABUNDANT LOVE [THAT] IT WAS MADE KNOWN TO THEM THAT THEY WERE CALLED CHILDREN OF THE ALL-PRESENT, AS IT IS SAID: YE ARE CHILDREN OF THE LORD YOUR GOD.[94] BELOVED ARE ISRAEL IN THAT A DESIRABLE INSTRUMENT[95] WAS GIVEN TO THEM. [IT WAS A MARK OF] SUPERABUNDANT LOVE [THAT] IT WAS MADE KNOWN TO THEM THAT THE DESIRABLE INSTRUMENT, WHEREWITH THE WORLD HAD BEEN CREATED,[96] WAS GIVEN TO THEM, AS IT IS SAID: FOR I GIVE YOU GOOD DOCTRINE FORSAKE NOT MY TEACHING.[97]

MISHNAH 15.[98] EVERYTHING IS FORESEEN[99] BUT THE RIGHT [OF CHOICE][100] IS GRANTED, AND THE WORLD IS JUDGED WITH GOODNESS,[101] AND EVERYTHING IS IN ACCORDANCE WITH THE PREPONDERANCE OF [MAN'S] DEED[S].[102]

MISHNAH 16. HE[103] [ALSO] USED TO SAY: EVERYTHING[104] IS GIVEN AGAINST A PLEDGE,[105] AND A NET IS SPREAD OUT OVER ALL THE LIVING;[106] THE STORE[107] .IS OPEN AND THE STOREKEEPER[108] ALLOWS CREDIT, BUT THE LEDGER[109] IS OPEN AND THE HAND WRITES,[110] AND WHOEVER WISHES TO BORROW MAY COME AND BORROW; BUT THE COLLECTORS[111] GO ROUND REGULARLY EVERY DAY AND EXACT DUES FROM MAN, EITHER WITH HIS CONSENT OR WITHOUT HIS CONSENT,[111] AND THEY HAVE THAT ON WHICH THEY [CAN] RELY [IN THEIR CLAIMS], SEEING THAT THE JUDGMENT IS A RIGHTEOUS JUDGMENT,[112] AND EVERYTHING IS PREPARED FOR THE BANQUET.[113]

MISHNAH 17. R. ELEAZAR B. AZARIAH[114] SAID: WHERE THERE IS NO TORAH[115] THERE IS NO GOOD BREEDING;[116] WHERE THERE IS NO GOOD BREEDING THERE IS NO TORAH.[117] WHERE THERE IS NO WISDOM THERE IS NO FEAR [OF GOD]; WHERE THERE IS NO FEAR [OF GOD] THERE IS NO WISDOM.[118] WHERE THERE IS NO UNDERSTANDING[119] THERE IS NO KNOWLEDGE;[120] WHERE THERE IS NO KNOWLEDGE THERE IS NO UNDERSTANDING. WHERE THERE IS NO MEAL[121] THERE IS NO TORAH;[122] WHERE THERE IS NO TORAH THERE IS NO MEAL.[123] HE USED TO SAY: ONE WHOSE WISDOM EXCEEDS HIS DEEDS[124] UNTO WHAT IS HE [TO BE] COMPARED? UNTO A TREE THE BRANCHES WHEREOF ARE MANY AND THE ROOTS FEW, SO THAT WHEN THE WIND COMES, IT UPROOTS IT AND OVERTURNS IT UPON ITS FACE, AS IT IS SAID, FOR HE SHALL BE LIKE A TAMARISK IN THE DESERT, AND SHALL NOT SEE WHEN GOOD COMETH; BUT SHALL INHABIT THE PARCHED PLACES IN THE WILDERNESS, A SALT LAND AND NOT INHABITED.[125] BUT ONE WHOSE DEEDS EXCEED HIS WISDOM, UNTO WHAT IS HE [TO BE] COMPARED? UNTO A TREE THE BRANCHES WHEREOF ARE FEW AND THE ROOTS MANY, SO THAT EVEN IF ALL THE WINDS IN THE WORLD COME AND BLOW UPON IT, THEY MOVE IT NOT OUT OF ITS PLACE, AS IT IS SAID, FOR HE SHALL BE AS A TREE PLANTED BY THE WATERS AND

THAT SPREADETH OUT ITS ROOTS BY THE RIVER, AND SHALL NOT SEE WHEN HEAT COMETH, BUT ITS FOLIAGE SHALL BE LUXURIANT, AND SHALL NOT BE ANXIOUS IN THE YEAR OF DROUGHT, NEITHER SHALL CEASE FROM YIELDING FRUIT.[125]

MISHNAH 18. R. ELIEZER HISMA[126] SAID: KINNIM [I. E. ‘NESTS’][127] AND PITHEHE NIDDAH [I.E. ‘THE STARTING TIMES OF A MENSTRUOUS WOMAN’][128] ARE ESSENTIAL ORDINANCES;[129] [THE STUDY OF THE] ‘REVOLUTIONS’ [OF THE HEAVENLY BODIES][130] AND ARITHMETIC[131] ARE AFTER COURSES[132] OF WISDOM.

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(1) Frankel, op. cit. pp. 57-8: he lived in Temple times and was a contemporary of Hillel. On Shammai's death he was invited to become Ab-Beth-din on condition that he should first withdraw opinions adhered to by him against his colleagues, but he refused. (‘Eduy. V, 6.)

(2) V. supra II. 1.

(3) I and II ARN p. 69: four things, viz. (i) and (ii) as here, (iii) what is to become of thee? (iv) who is thy judge? This form of the admonition is ascribed in D.E.R. Ch. III to Simeon b. ‘Azzai. V. Schechter's notes to ARN.

(4) Cf. Gen. III, 19, for dust thou art, and to dust shalt thou return.

(5) Cf. Job XXV, 6, . . . man that is a worm and the son of man, that is a maggot!

(6) V. Eccl. XI, 9, But know thou, that for all these things, God will bring thee unto judgment.

(7) An early appellation of God which has parallels in the Apocrypha and Pseudepigrapha. V. Marmorstein, op. cit. p. 90.

(8) A synonym for God introduced in the third century. Marmorstein, op. cit., p. 97 and pp. 216-17: at that period saint-worship spread in Christianity, and Judaism reacted by calling God הקדוש (and variations), implying that He is the only Holy Being. Here, therefore, in an early Tannaitic dictum, הקדוש must be by a later hand. It is not in Lowe's MS. From Tanhuma Gen. (ed. Buber, p. 120) Marmorstein concludes that the original reading was המקום ברוך הוא , v. op. cit., p. 109, n. 13.

(9) Marmorstein, op. cit., p. 90, points out that ברוך הוא is an early adjunct to various names of God, and refers to Jub. XXII, 27, and the Book of Enoch. Consideration of the first point will induce humility; of the second, will prevent too strong a craving for worldly pleasures; of the third, will result in a fuller appreciation of the majesty and power of God. (After M., R. Jonah and B.)

(10) סגן הכהנים cf. II Kings XXIII, 4, כהני המשנה the priests of the second rank, which Targum renders סגני כהניא . The ‘Segan’ was appointed to take the place of the High Priest on the Day of Atonement in the event of some occurrence preventing the latter from performing the offices of the Day, since those offices were strictly obligatory and might be performed by none except a properly constituted High Priest, v. Sanh. (Sonc. ed.) p. 97 n. 1.

(11) V. Jer. XXIX, 7, And seek ye the welfare of the city whither I have carried you away captive, and pray unto the Lord for it; for in the peace thereof shall ye have peace. For the expression ‘swallow alive’, cf. Prov. I, 12 (the wicked say.) Let us swallow them (i.e. the innocent) up alive.

(12) Father of Beruriah, the wife of R. Meir.

(13) Ps. I, 1. לצים the plural, according to a Rabbinic exegetical rule, denotes a minimum of two. The following verse, but his delight is in the Law of the Lord shows, by contrast, that a session of the scornful means one at which there is no conversation on Torah.

(14) שכינה the Divine Immanence, from the root שכן ‘to dwell’. It has been thought that GR.** (sc. GR.**) in N.T. is a transliteration of שכינה This identification is however by no means established; v. Abelson, The Immanence of God in Rabbinic Literature, p. 80. He rejects the identification except in one case (John I, 14), where he admits only a ‘seeming probability’. Marmorstein, op. cit., pp. 103-4, says, ‘It is by no means impossible that שכינה stands in the Aramaic versions for מקום, both of which point to the dwelling-place of God.’ He also refers to the statement of Landau, Synonyma fur Gott, to the effect that שכינה is the latest of God's names to be used before the period of the redaction of the Mishnah.

(15) Obviously two persons conversing.

(16) Mal. III, 16.

(17) Lam. III, 28. The rendering given here is one that was probably in the mind of the Sage who used the quotation here. Lowe's MS. has a different version of this section of the Mishnah, viz., ‘as for one who sits and studies, Scripture accounts it unto him as if he fulfilled the whole Torah, as it is said, then one sitteth alone (and meditateth) in stillness, it is as he hath taken (the yoke of the Torah) upon himself.' R. Jonah cites a similar version. 'I have no etc.' is omitted according to MV, p. 506, in the text of Ephraim of Regensburg and other 'careful texts', but M. and R. Jonah had it.

(18) R. Simeon b. Yohai, a disciple of R. Akiba. In II ARN, Ch. XXXIV, the first part of the Mishnah is attributed to R. Eleazar son of Zadok.

(19) Three males over the age of thirteen constitute a quorum for a corporate form of the Opening of Grace after Meals. This rule possibly has its origin in the custom reflected here, as the recital of Grace after meals was in certain circumstances considered as covering also the desirable custom of speaking words of Torah at the table.

(20) I.e., idols, v. Ps. CVI, 28, They joined themselves also to Ba'al-Pe'or, and ate the sacrifices of the dead. Cf. Isa. VIII, 19.

(21) Isa. XXVIII, 8. The second half is translated here in accordance with the Aggadic rendering of בלי מקום (in the Versions, and no place [is clean]), viz., to the effect that God is not present at such a table; and inasmuch as God comes wherever His name is mentioned or Torah studied (v. Mishnah 6), God's absence can only be due to the absence of words of Torah. Elijah Wilna draws attention to the verse following, Whom shall one teach knowledge etc. as indicating that what was lacking at those tables was Torah.

(22) Ezek. XLI, 22, where it refers to the Altar. By designating the Altar as 'table', the text is taken to convey that there are times when the table of man can become as hallowed even as the altar — when it is consecrated by words of Torah spoken thereat.

(23) A disciple of R. Akiba.

(24) MV., B., L.: 'alone' is also to be understood with 'he who keeps awake at night'.

(25) For this meaning of the Pi'el of פנה cf. Gen. XXIV, 31.

(26) Most commentators take this to qualify the two preceding clauses, as there is nothing wrong with keeping awake at night (according to some, even alone) as long as one is occupied with worthy thoughts, e.g., with prayer (cf. Ps. CXIX, 62, at midnight I will rise to give thanks unto Thee . . .), or with Torah (cf. Josh. I, 8, This book of the Law shall not depart out of thy mouth, but thou shalt meditate therein day and night. Ps. LXIII, 7, When I remember Thee on my couch, and meditate on Thee in the night-watches). Nor is there moral danger in walking alone when similarly occupied, cf. Deut. VI, 7, and thou shalt talk of them (i.e., the words commanded by God) . . . when thou walkest by the way. Some versions 'and he who makes room in his heart . . .' thus making three categories of men who endanger their own lives.

(27) Or 'incurs guilty responsibility for his life'.

(28) Probably a form of חוניא (Onias), or of יוחנן (Johanan). He was a contemporary of R. Johanan b. Zakkai and a teacher of R. Ishmael.

(29) Some read ha-Kanah. The meaning and derivation of the name is obscure. קנה Kanah occurs in Josh. XVI, 8, XVII, 8, as the name of a brook or wadi, and ibid. XIX, 28, as the name of a place. Geiger, relying on a reading הקנא, conjectures 'the zealot', v. Bacher Agada d. Tannaiten I, p. 58. n. 1.

(30) V. Schechter, Some Aspects, Chapters V-VII and XIV. Buchler, Sin and Atonement, pp. 88ff., says the 'yoke of the Torah' is not exactly synonymous with the 'yoke of the Kingdom of Heaven,' and refers particularly to the duty of the study of Torah.

(31) Jast. s.v. מלכות 'the yoke of secular government, i.e. the burden of office.' Buchler, op. cit., 89-91; the yoke of the Imperial Government.

(32) The strain imposed by the struggle for existence and striving for wealth and by various forms of temptation; cf. Buchler, op. cit., pp. 89 and 91, n. 3, 'worldly occupation'. In the 13th century this and similar passages were assumed to mean that poor scholars were supported by the communities.

(33) V. Schechter, op. cit., pp. 220-221.

(34) A contemporary of R. Akiba. P.B. versions add 'b. Dosa'.

(35) The present Kefr Anan, a village in Galilee.

(36) Ps. LXXXII, I. A 'congregation' consists of a minimum of ten, as the term 'Edah is used in Num. XIV, 27, for ten men, v. Sanh. 2a. A 'congregation of God' is obviously one that is constituted in honour of God.

(37) Amos IX, 6. For אגדתו A.J.V. (following BDB) gives vault. R. Halafta however understood it as band (A.V. troop). M. says אגדה means a number of things held together by the five fingers of the hand, as well as the hand itself, consisting as it does of five separate fingers knit together.

(38) Ps. LXXXII, 1. The smallest Jewish Court consisted of three judges. In some versions (e.g. MV, R.,B., Lowe's MS.) this Scriptural text is quoted for five (counting the two litigants in addition to the three judges), and Amos IX, 6, is cited for three as אגדה means a bundle of three, cf. M.; B. M. I, 8, [Of] how many [does] an ‘Aguddah’ of Shetaroth (== documents) [consist]? — [Of] three tied one to another. The term is also used for the binding of the ceremonial palm branch, myrtle, and willow twigs (Lev. XXIII, 40) (M. Sukkah III, 8). An ‘Aguddah’ of hyssop (Ex. XII, 22) consists of three stalks (M. Parah XI, 9). Tosaf. to Sukkah, 13a, referring to our Mishnah, upholds the allocation of Biblical texts adopted in the versions used for this translation, since (a) in Ber. 6a, where the subject is the Divine Presence among ten (at prayer), three (sitting as judges), and two (studying Torah), the verse quoted for three is as here, viz., Ps. LXXXII, 1, In the midst of judges etc. (there is no reference there to five); and (b) a comparison with Isa. XLVIII, 13, suggests that אגדה in Amos IX, 6, may be understood to mean a hand and would thus be appropriate as an allusion to five.

(39) Mal. III, 16. ‘One with another’ indicates the presence of two.

(40) Ex. XX, 21. ‘Thee’ indicates one person only who is responsible for mentioning God's Name.

(41) Some versions: b. Judah; a contemporary of R. Akiba.

(42) In Upper Galilee. Baer thinks it is identical with Berotha (Ezek. XLVII, 16), and Berothai (II Sam. VIII, 8), the precise location of which is uncertain (v. BDB).

(43) I Chron. XXIX, 14.

(44) Some versions: R. Jacob (b. Korshai); one of the teachers of Rabbi.

(45) This rendering is preferred because (a) the root bears that meaning, and (b) it is only recapitulation of that which has already been learnt that is recommended for wayfarers (v. Ta'an. 10b).

(46) ומפסיק seems to imply a deliberate act.

(47) Rashi omits this, as no scriptural text is quoted here. Lowe's MS. has the impersonal form מעלין עליו ‘They account it to him’. It may be that the verse intended here is omitted because it is quoted in the next paragraph.

(48) MV and R. emphasize ‘as if’ because actually he does not thereby forfeit his life, as, after all, exclaiming ‘how fine, etc.’ is a form of adoration of God. It is only because learning is so much more important that the breaking off therefrom deserves severe condemnation.

(49) V. supra 4, n. 5.

(50) A Greek name, GR.**

(51) Probably a graecized form of Johanan.

(52) To say a thing in the name of him who said it,’ was a point of honour among the Rabbis (v. infra VI, 6), even as it was of the essence of a tradition of learning.

(53) Point, detail or subject.

(54) Viz., the ‘righteous statutes and judgments, etc.’ of the previous verse. Deut. IV, 9.

(55) Ibid.

(56) Lit. ‘he sits down and . . .’

(57) Or ‘turns them away’ or ‘removes them’.

(58) A disciple of R. Johanan b. Zakkai.

(59) I.e., his moral convictions and conduct.

(60) Takes precedence in his estimation (B.); or, precedes in order of acquisition. If one already possesses firmly acquired moral habits, wisdom will strengthen his attachment to them and this practical result, gained through wisdom, will encourage him to seek more wisdom (M.).

(61) I ARN, Ch. XXII, cites Ps. CXI, 10, The fear of the Lord is the beginning of wisdom. Cf. Prov. I, 7, The fear of the Lord is the beginning of knowledge, and ibid. III, 7, Be not wise in thine own eyes; Fear the Lord, and depart from evil.

(62) Wisdom will have taught him the principles of higher conduct but, not being habituated to the latter, he will find it irksome and will give up wisdom, so that it might not trouble his conscience, or restrain his unprincipled conduct. Thus ‘his wisdom will not endure’ (M.). I ARN, Ch. XXII, reports R. Johanan b. Zakkai: ‘A wise man who is not sin-fearing is like a skilled artisan who has no tools.’

(63) I ARN, ibid. cites Ex. XXIV, 7, All that the Lard hath spoken we shall observe and hearken (rendered in accordance with the Rabbinic interpretation which regards this as a declaration promising observance of the commandments, made by Israel before they had even heard the commandments). The general sense seems to be that one's observance of commandments should not depend on one's having achieved, by one's own wisdom, a full understanding of them. The more precepts one practises, the more will one seek to extend one's knowledge as to their meaning, purpose, and manner of observance. If, however, one acquires wisdom which he does not apply to his daily conduct, he will see no use in his wisdom and drop it.

(64) V. Prov. III, 4, So shalt thou find grace and good favour in the sight of God and man.

(65) The names are said to be Greek, GR.** and GR.** Maim. Introduction to ‘Zera'im’, Ch. 4, says he was a contemporary of Simeon the Righteous and lived on till the days of R. Akiba. Hyman, A., Toledoth, suggests that Maim. relies on J. Yeb. I and Yeb. 16a. If these passages be taken literally, R. Dosa actually knew also Ezra and Haggai, but, the reference to the seat once occupied by Haggai may easily have been to a seat so designated by a tradition known to R. Dosa (so already Hyman). He was a contemporary of R. Johanan b. Zakkai and a rich man. His dictum here reflects conduct prevailing in his social stratum. V. Bacher, Tradition, p. 29. AT I, p. 157.

(66) Late sleeping is decried in Prov. XXVI, 14, The door is turning upon its hinges, and the sluggard is still upon his bed. Early rising is, by implication, recommended, e.g. Ps. CXIX, 62, At midnight I will rise to give thanks unto thee; ibid. 147-8, I rose early at dawn and cried, I hoped in Thy word. Mine eyes forestalled the night-watches, that I might meditate in Thy word. Some take it to mean morning sleep that makes one late for the proper time for reciting the Shema’, v. supra p. 22, n. 8.

(67) Because it makes one unfit for meditation or study.

(68) R. Jonah points out that just because of its pleasantness, which is due to love for children, one is likely to be tempted to listen to it for too long, and thus lose time that should be given to the study of Torah.

(69) Not necessary or casual intercourse with them is condemned here, but habitual and prolonged stay in the society of the characteristically ignorant and boorish, involving participation in their inane pursuits.

(70) For the phrase cf. supra II, 11.

(71) A contemporary of R. Johanan b. Zakkai whose disciple he may have been. His aggadic interpretations were much sought after (v. Shab. 55b). He met his death through the treacherous cunning of a Samaritan informer who denounced him to Bar-Cochba during the siege of Bethar, ca. 135.

(72) קדשים. Objects belonging or due to the sanctuary, either absolutely, in accordance with scriptural enactments, or by virtue of having been voluntarily dedicated thereto.

(73) I.e., puts him to shame. MV. reads המאדים ‘he who causes etc . . . to redden.’ המלבין is explained in B.M. 58b: ‘the blush subsides and whiteness takes its place.’ .

(74) ‘Of our father Abraham’ not found in the parallels where the original reference is apparently to setting at nought God's covenant (with Israel) in general, e.g., Sifre to Num. XV, 22, ed. Friedman, ¤ III, p. 31b, where the covenant is identified with the Torah. In J. Sanh. XI, p. 27c, however, the phrase is explained: ‘one stretching the foreskin’ (to disguise circumcision). It seems that originally מפר ברית meant nullifying the covenant in general and that R. Eleazar of Modin applied it specifically to the covenant of circumcision. V. Buchler, op. cit., pp. 97ff.

(75) Not found in most editions.

(76) Omitting (as do parallels cited supra n. 5) שלא כהלכה not according to the Halachah’. R. Hillel (a commentator on Aboth) quoted by Friedmann, Sifre, ibid. explains מחציף פניו R. Jonah מעיז פניו, which explanations presuppose the absence of שלא כהלכה, in their versions. Geiger, retaining שלא כהלכה, understands by the phrase the allegorical interpretation of the Torah not in accordance with Halachah, (i.e., the authoritative rulings of the Law), with special reference to the Christians who taught that it is only the ideas symbolized by the precepts that mattered, but not their actual observance. Bacher (תנאים) ערכי המדרש s.v. פנים p. 101, says שלא כהלכה was added by one who took פנים in the sense of ‘interpretations’ or ‘meanings’ (v. MV. p. 512), thus making the phrase mean ‘publishing interpretations of the Torah’; as this could not, in itself, be considered a sin at all, much less such a grave one as contemplated here, he felt bound to add שלא כהלכה i.e., interpretations opposed to Halachah. But פנים in the sense of ‘meanings’ is not found in Tannaitic sources, its earliest use being by the Amora R. Jannai. V. Buchler, op. cit., p. 103. Guttmann בחינת קיום המצוות (in Bericht jud.-Theol. Seminar, Breslau 1930), pp. 62-4, understands the allegorizers of the Alexandrian school who rejected the literal sense of the commandments and accepted only the symbolic.

(77) Lit., ‘in his hand’.

(78) MV. says ‘we do not read תורה’, which word is also omitted in Lowe's MS. (rightly so according to Guttman, op. cit., p. 64, n. 4.)

(79) Sifre to Num. XV, 31: ‘he deserves to be pushed out of the world.’ R. Eleazar's stricture certainly refers to the antinomian teachings of Jewish Gnostics. V. Buchler, op. cit., p. 100. Guttmann, op. cit., p. 64, points out that the first results of the allegorizing methods of Hellenistic Jews were the rejection of 1) circumcision (and obliteration of its effects), (v. I Macc. XVII); 2) sacrifices קדשים (v. particularly the Sibylline Oracles); 3) the holy days מועדות (cf. Philo, who denounces those who honour the Sabbath idea on account of the allegorical significance of the number seven, yet do not observe the Sabbath).

(80) So B. קל often occurs in the Bible in the sense of ‘swift’, cf. infra V, 20.

(81) ראש often so in Bible. The reading, in Lowe's MS., קל ראש which, if correct, would have the meaning (unparallelled elsewhere) of ‘pliant’ (as opposite to ‘strong-headed’) is to some extent borne out by MV. a.l.: הקל את ראשך

(82) תשחורת a difficult word. Its meaning here can only be surmised. There are various renderings of the word and these affect the meaning of the dictum. Some deriving it from שחור, translate ‘a black-haired, i.e. young, man’ (as in Ekah Rab. to I, 2) which would make the whole mean ‘be deferential to your seniors and condescending to your juniors.’ Others connect it with שחוור ‘officer’ (v. Sifre Deut. ¤ 6, p. 66b); the sense would thus be ‘be submissive to a ruler and pleasant even to a lesser official.’ Another translation is ‘press-gang’ (as in Seder Elijah R. Ch. 1), making the saying a piece of advice to accommodate oneself to supreme authority and its executive representatives however oppressive. The rendering adopted here derives תשחורת from שחר ‘to seek’, ‘and appears to give, in conjunction with the context, the best sense.

(83) Cf. supra I, 15.

(84) Levity, irresponsibility. Some (e.g. R. Jonah) ‘jesting when combined with light-headedness.’

(85) Lit. ‘cause (someone's) feet to move’, cf. Hos. XI, 3.

(86) According to Buchler. Some Types of Jewish Palestinian Piety, pp. 62-7, ‘Jesting’ שחוק denotes trifling with sexual modesty. The verb (in the form צחק) has already in Biblical Hebrew (Gen. XXXIX, 14, 17) the meaning of immoral advances. שחוק is often clearly so used in Rabbinic Hebrew. In ARN I and II this part of the dictum is brought into line with the parts following, viz. ‘a fence (safeguard) for honour is not to jest (or, act immodestly).’

(87) מסורת (so vocalized by Bacher). The traditionally fixed text of the Bible, particularly the Pentateuch, on the correctness of every detail of which depends not only the interpretation of the Scriptures in general, but the determination of laws meant for practical observance (Halachah). The term מסורת as used by R. Akiba (who is said to have based interpretations even on the apparently ornamental ‘titles’ (תגין = crowns) attached to certain letters; v. Men. 29b) already contained the idea of the specialized branch of learning which set itself the task of noting and recording every detail — down to the minutest — of the text of the Scriptures, and bears the name Masorah מסורה par excellence, v. Bacher op. cit. s.v. מסורת P. 74 and Buchler, op. cit., p. 62.

(88) Cf. supra I, 1.

(89) Omitted in Lowe's MS. and in ARN. The commentators explain the saying by quoting, from Shab. 119a, the play on the words עשר תעשר (Deut. XIV, 22), viz. עשר בשביל שתתעשר , ‘Give tithes in order that thou mayest be made rich’ (by R. Johanan, 3rd cent.). Our dictum would thus mean that the giving of tithes is a fence which protects, and even makes for an increase in, wealth. L., however, interprets ‘tithes are A fence against (v. end of next note) the dangers attending the possession of wealth;’ wealth is liable to make its possessor too proud, and lead him to attribute his success to himself alone and to discount or disregard the factor of God's help, but the giving of tithes is a safeguard against such a notion, as it is bound to bring to his mind the truth that the earth is the Lord's, and the fulness thereof (Ps. XXIV, 1). Cf. Deut. VIII, 13-18, lest when thy silver and gold is multiplied . . . then thy heart be lifted up, and thou forget the Lord thy God . . . and thou say in thy heart: ‘My power and the might of my hand hath gotten me this wealth.’ But thou shalt remember the Lord thy God, for it is He that giveth thee power to get wealth.

(90) פרישות Perishuth. The manner of life of the פרושים (Pharisees); v. M. a. l. and more fully Nahmanides to Lev. XIX, 2, who says, ‘separating oneself, withdrawing and keeping away, restraining oneself, from going to the full length of permitted conduct, when taking such advantage is likely to conduce to something unseemly, e.g. gluttony, insobriety, unbecoming language, sexual over-indulgence. Such self-restraint is the standard of the conduct of the פרושים (Pharisees).’ Vows can be helpful to Perishuth, inasmuch as when one has made vows with regard to particular things, he has thereby acquired the capacity for a general self-discipline and a more complete aloofness from everything improper. I ARN, Ch. XXVI and II ARN, Ch. XXXIII, invert the saying סייג לנדרים פרישות ‘A fence to vows is self-restraint’. As we know that R. Akiba discouraged vows (I ARN, Ch. XXVI, v. Buchler, op. cit., p. 64, n. 1), this reading may be the correct one and the dictum would mean, Perishuth is a fence (guard, defence) against vows, i.e., a life of Perishuth makes it unnecessary to indulge in vows, which in themselves are not wholly commendable. v. Schechter, Some Aspects, pp. 199-218, Buchler, op. cit., pp. 62-5.

(91) Cf. supra I, 17. Buchler, op. cit., p. 72, contends that as safeguards for Torah and Hokma are given, the admonitions in this Mishnah were intended, in the first place, for scholars. The reference to Perishuth bears out this contention.

(92) L. utilizes this passage to controvert the notion prevailing in some quarters, that the Rabbinic conception of God's fatherly love was narrow and chauvinistic. It is inconceivable, he says, that one should deny the merits of eminent

Gentiles who have rendered great humanitarian services, such as Jenner, the pioneer in vaccination, Guttenberg, the inventor of printing, Drake, who introduced into Europe the potato which has often averted the worst consequences of famine, Reuchlin, the great humanist who at the beginning of the 16th century defended the Talmud against the machinations of the apostate Pfefferkorn, who instigated Emperor Maxmilian I to order the confiscation and destruction of the Talmud.

(93) Gen. IX, 6 is quoted and not I, 26, 27, because whilst in the latter passage the fact is just recorded, in the one quoted we are told that God informed man (to wit Noah) of the fact.

(94) Deut. XIV, 1 is quoted and not Israel is my first-born son, Ex. IV, 22, because the latter was addressed to Pharaoh; the first occasion the Israelites were told that they were God's children was in the passage quoted, v. Buchler, Sin and Atonement, p. 80; Kohler, Theologie des Judentums, p. 195.

(95) I.e., the Torah, cf. Ps. XIX, 11, More desired are they (the Ordinances of the Lord) than gold, yea than much fine gold.

(96) The idea that the Torah (or Wisdom) pre-existed creation, and ‘assisted’ thereat, or formed the ‘architect's plan’ thereof, is said to go back to such passages as Prov. III, 19, The Lord by wisdom founded the earth; ibid. VIII, 22-32. (Wisdom says), The Lord made me as the beginning of his way, the first of His works of old . . . When there were no depths . . . no fountains . . . before the mountains, before the hills was I brought forth . . . While as yet He had not made the earth . . . when He established the heavens, I was there . . . then was I by him a nursling . . . The Hebrew for nursling אמון was understood as אמן a craftsman’ or ‘architect’.

(97) Prov. IV, 2.

(98) Cf. I ARN, Ch. XXXIX; II Ch. XLIV. In the latter this Mishnah and the following are in the name of R. Eliezer son of R. Jose the Galilean.

(99) MV., ‘seen’. i.e., God sees all. The verb צפה often means looking ahead in time or distance. When this is said of God, ‘foreseen’ is, strictly speaking, not applicable or admissible, as God is independent of time and space, i.e., there is with Him neither past nor future nor distance, and he ‘sees’ everything at once. Marmorstein, The Old Rabbinic Doctrine of God, p. 159, points out that the idea of God's prescience in Rabbinic literature goes back to Simeon b. Shetah (or Judah b. Tabbai) who called God בעל מחשבות (Master of Thoughts); Sanh. 37b, Schechter, Some Aspects, p. 285, refers to ARN (Addenda), pp. 75a and 81b, from which it would seem that צפוי was taken by some to refer to man. In one case (p. 75a) ‘everything is seen by man: by means of the keys of wisdom" granted to him, man can learn what the heavenly likeness" is, and choose the right way.’ The other reference (p. 81b) takes צפוי to mean ‘covered’, ‘hidden’ (from the root צפה which in the Pi'el form means ‘cover’, ‘hide’) and explains: since man sinned, the light of wisdom was hidden from him and he knows not what will happen in the future.’ MV., p. 514, and Aruch s.v. סעד quote a reading צפון ‘hidden’.

(100) Or ‘Authority (over self)’ i.e., free-will. v. Oesterley, The Sayings of the Jewish Fathers a.l. Commentators quote Deut. XXX, 19, I have set before thee life and death, the blessing and the curse; therefore choose life . . . as the basis for the doctrine of free-will in Judaism. Kohler, op cit. p. 175, cites Gen. IV, 7, and the Midrash thereto. Schechter, op. cit., p. 284 ff. says the parallels in ARN make it doubtful whether R. Akiba here really meant the antithesis of predestination and free-will. Kohler, op. cit., Ch. XXXVII, points out that Judaism teaches free-will in matters of ethical conduct.

(101) Cf. Ps. CXLV, 9, The Lord is good to all; and his tender mercies are over all his works. This, according to the Rabbis, includes even the wicked.

(102) Readings differ here. Some omit רוב e.g., Lowe's MS., v. Taylor a.l. The version in Aruch ibid. and M. instead of והכל read אבל לא ‘but not according to. . .’ M. explains: Divine goodness is exercised towards man not by reason of the greatness of a deed, but according to the number of deeds, i.e., repeated and ever new good deeds. But see L. The Version in Aruch explains: Men are judged by God's goodness and not in accordance with their doings. Bacher AT. I, p. 275, n. 2, refers to R. Akiba's saying in Koh. R. to X, 1, ‘Man is adjudged in accordance with the preponderance of his deeds; he should always consider himself half guilty and half innocent; one more good deed and it is well with him, one more evil deed, woe to him.’ Some seem to understand by העולם mankind as a whole; and by הכל all men in their individual capacities. Others: ‘In this world (העולם) all are judged with kindness (else sinners would be condemned outright); but in the hereafter, everybody (והכל) is judged according to (the Preponderance of) his (good or bad) deeds.’

(103) V. supra, p. 38, n. 4.

(104) Life and all its benefits.

(105) A guarantee of good conduct. MV.: the soul.

(106) All are liable to be caught if they attempt to evade the pledge. For the expression, cf. Ezek. XXXII, 3.

(107) The divine store of gifts intended for man.

(108) God.

(109) פנקס == GR.** writing-tablet, list, register, account-book.

(110) Cf. supra II, 1.

(111) The agents for the execution of divine justice, e.g. suffering, calamity, sickness. (12) Or (lit.) ‘knowledge’, i.e., whether or not he realizes, or acknowledges, that the visitations coming upon him are in punishment for his sins. Our translation means: whether he willingly undergoes penance for his sins, or he unrepentantly resents the punishment.

(112) There is no vindictiveness in it.

(113) The reward of those who discharge their obligations is assured in the hereafter. B.: ‘everybody is fitted for the banquet,’ i.e., all men are ab initio intended to have a share in the spiritual feast of the world to come. R. Meshullam b. Kalonymos quoted in Aruch s.v. סעד and in MV., says ‘banquet’, here is an expression for death, and explains thus (after Shab. 152a): Just as all enter for a banquet by one entrance, but are allotted seats at the banquet according to their status, so at death, it is true, all go through the same door, but once they have entered the hereafter they are treated severally in accordance with their merits. R. Jonah: ‘The purpose of all this is to make ready for the banquet of the future life.’ Incidentally this Mishnah reflects the traders’ methods of those days.

(114) A younger contemporary of R. Gamaliel II, R. Joshua b. Hananiah etc. He was chosen Nasi at a very young age when R. Gamaliel, who had become unpopular, was forced to vacate the Patriarchate. When the latter was restored, R. Eleazar b. Azariah retired to the second office of Ab-Beth-din. He used his great wealth to facilitate the approaches made by the Rabbis to the Roman authorities on behalf of the Jews.

(115) Used here for religion in general, any religion that postulates divine authority for moral conduct (L.).

(116) Or ‘cultured behaviour’, Derech Eretz. Unless rooted in religion (in the above sense), moral and cultured conduct lacks the source which feeds and sustains it perennially.

(117) Conversely, religious belief is sterile when it does not express itself in ethical conduct and becoming behaviour.

(118) V. supra 9 and notes.

(119) בינה Binah, The ability to make logical deductions (v. B.).

(120) דעת Da'ath, The ability to arrive at the reasons for things (v. B.). Perhaps better rendered ‘(capacity for) thinking.’

(121) קמח flour v. infra V. 15 p. 69 n. 10.

(122) Lack of food impairs one's mental powers. Or, if Torah is understood here as earlier in the paragraph, starvation is liable to have an adverse effect on one's moral faculties.

(123) Cf. Deut. VIII, 3, Man doth not live by bread only, but by everything that proceedeth out of the mouth of the Lord doth man live.

(124) Cf. supra Mishnah 9.

(125) Jer. XVII, 6 and 8. Both quotations are omitted in Lowe's MS. In the context, the first refers to ‘the man that trusteth in man,’ the second to ‘the man that trusteth in the Lord.’ Placing wisdom before deeds means relying on unaided human abilities. The practice of deeds commanded by God, whether or not one's mind comprehends them fully, means placing implicit trust in Him.

(126) A disciple of R. Akiba: In ARN I and II only the second half of this Mishnah is attributed to him; the first half is in the name of R. Johanan b. Nuri.

(127) The name for a section of laws dealing with bird. sacrifices (v. Lev. XII, 8; XIV, 4, 22, 49; XV, 14, 29).

(128) A term for the regulations whereby the times of commencement, and the duration, of ‘uncleanness of women, by reason of menstruation, are calculated and determined.

(129) גופי הלכות . Lowe's MS. גופי תורה .

(130) Astronomy.

(131) So MV, also Jastrow, who derives it from GR.** From this the term גמטריא could have acquired its better known meaning, viz. the use, for exegetical purposes, of the letters of alphabet in their numerical value, or as initials of words. Another derivation is from GR.**; the word then meaning ‘mensuration’ in its various forms. V. Sanh. (Sonc. ed.) p. 121, n. 4.

(132) Desirable but not essential. Some: ‘appetizers’ that create a desire for further knowledge. Others derive from GR.** ‘the outer circle’ (of wisdom) as opposed to גופי הלכות , the core and essence of learning. The reason for this differentiation is that the former consist of positive commandments, i.e. ‘deeds’, ‘works’, whilst the latter are typical of ‘wisdom’. The particular instances of the former appear to have been chosen for the following reasons: In one case, (kinnim), the precepts concerned are operative only when the Temple in Jerusalem exists and functions, and in the other, (Pithehe Niddah, they deal with unpleasant details; and yet, the inference is, even these precepts, apparently of lesser moment and of lesser attractiveness, form part of the essence of knowledge for the Israelite. The instances in the latter category are singled out, because in one case (astronomy), it is the most comprehensive branch of wisdom and is, in addition, calculated to increase our adoration of God by giving man a fuller conception of His wonderful Universe, and in the other case (arithmetic or mensuration) it is a science of great mind-exercising, as well as of highly utilitarian, value. Even so, the inference is, these sciences are of secondary importance to the study of the practical precepts of the Torah.

Mishna - Mas. Avoth Chapter 4

MISHNAH 1. BEN ZOMA[1] SAID: WHO IS HE THAT IS WISE? HE WHO LEARNS FROM EVERY MAN, AS IT IS SAID: FROM ALL WHO TAUGHT ME HAVE I GAINED UNDERSTANDING, WHEN THY TESTIMONIES WERE MY MEDITATION.[2] WHO IS HE THAT IS MIGHTY?[3] HE WHO SUBDUES HIS [EVIL] INCLINATION,[4] AS IT IS SAID: HE THAT IS SLOW TO ANGER IS BETTER THAN THE MIGHTY; AND HE THAT RULETH HIS SPIRIT THAN HE THAT TAKETH A CITY.[5] WHO IS HE THAT IS RICH?[6] HE WHO REJOICES IN HIS LOT, AS IT IS SAID: WHEN THOU EATEST OF THE LABOUR OF THY HANDS, HAPPY SHALT THOU BE, AND IT SHALL BE WELL WITH THEE.[7] HAPPY SHALT THOU BE — IN THIS WORLD, AND IT SHALL BE WELL WITH THEE — IN THE WORLD TO COME. WHO IS HE THAT IS HONOURED? HE WHO HONOURS HIS FELLOW-MEN, AS IT IS SAID: FOR THEM THAT HONOUR ME I WILL HONOUR, AND THEY THAT DESPISE ME SHALL BE LIGHTLY ESTEEMED.[8]

MISHNAH 2. BEN ‘AZZAI[9] SAID: RUN[10] TO [PERFORM] AN EASY PRECEPT,[11] AS [YOU WOULD] IN [THE CASE OF] A DIFFICULT ONE,[12] AND FLEE[13] FROM TRANSGRESSION; FOR [ONE] PRECEPT DRAWS [IN ITS TRAIN[14] ANOTHER] PRECEPT, AND [ONE] TRANSGRESSION DRAWS [IN ITS TRAIN ANOTHER] TRANSGRESSION;[15] FOR THE RECOMPENSE FOR [PERFORMING] A PRECEPT IS A PRECEPT, AND THE RECOMPENSE FOR [COMMITTING] A TRANSGRESSION IS A TRANSGRESSION.

MISHNAH 3. HE USED TO SAY:[16] DESPISE NOT ANY MAN, AND DISCRIMINATE NOT[17] AGAINST ANY THING,[18] FOR THERE IS NO MAN THAT HAS NOT HIS HOUR, AND THERE IS NO THING THAT HAS NOT ITS PLACE.[19]

MISHNAH 4. R. LEVITAS (A MAN) OF JABNEH[20] SAID: BE EXCEEDING[21] LOWLY OF SPIRIT,[22] FOR THE EXPECTATION OF MORTAL MAN IS [THAT HE WILL TURN TO] WORMS.[23]

R. JOHANAN B. BEROKAH[24] SAID: WHOEVER PROFANES THE NAME OF HEAVEN[25] IN SECRET,[26] THEY[27] EXACT THE PENALTY FROM HIM IN THE OPEN.[28] [IN THIS RESPECT, IT IS ALL] ONE [WHETHER ONE HAS ACTED] IN ERROR, AND [IT IS ALL] ONE[29] [WHETHER ONE HAS ACTED] WITH PRESUMPTION, IN [A CASE WHERE THE RESULT IS] THE PROFANATION OF THE NAME.[30]

MISHNAH 5. R. ISHMAEL[31] SAID: HE WHO LEARNS IN ORDER TO TEACH,[32] THEY AFFORD HIM[33] ADEQUATE MEANS TO LEARN AND TO TEACH; AND HE WHO LEARNS IN ORDER TO PRACTISE,[34] THEY AFFORD HIM ADEQUATE MEANS TO LEARN AND TO TEACH[35] AND TO PRACTISE.

R. ZADOK[36] SAID: MAKE THEM[37] NOT A CROWN WHEREWITH TO MAGNIFY

THYSELF, NOR A SPADE[38] , WHEREWITH TO DIG;[39] EVEN SO WAS HILLEL WONT TO SAY, 'AND HE WHO MAKES [UNWORTHY] USE OF THE CROWN [OF LEARNING] PASSETH AWAY.'[40] LO, [HENCE] THOU HAST LEARNT: ANYONE WHO DERIVES WORLDLY BENEFIT[41] FROM THE WORDS OF THE TORAH, REMOVES HIS LIFE FROM THE WORLD.[42]

MISHNAH 6. R. JOSE[43] SAID: WHOEVER HONOURS THE TORAH[44] IS HIMSELF[45] HONOURED BY MEN, AND WHOEVER DISHONOURS THE TORAH IS HIMSELF DISHONOURED BY MEN.

MISHNAH 7. R. ISHMAEL[46] SAID: HE WHO REFRAINS HIMSELF FROM JUDGMENT,[47] RIDS HIMSELF OF ENMITY[48] AND ROBBERY[49] AND VAIN SWEARING;[50] BUT HE WHOSE HEART IS OVER-CONFIDENT IN GIVING A JUDICIAL DECISION,[51] IS FOOLISH,[52] WICKED[53] AND OF UNCOUTH SPIRIT.[54]

MISHNAH 8. HE USED TO SAY: JUDGE NOT ALONE,[55] FOR NONE MAY JUDGE ALONE SAVE ONE;[56] AND SAY NOT ACCEPT MY VIEW', FOR THEY ARE FREE BUT NOT THOU.[57]

MISHNAH 9. R. JONATHAN[58] SAID: WHOEVER FULFILS THE TORAH OUT OF [A STATE OF] POVERTY,[59] HIS END [WILL BE] TO FULFIL IT OUT OF [A STATE OF] WEALTH;[60] AND WHOEVER DISCARDS THE TORAH OUT OF [A STATE OF] WEALTH,[61] HIS END [WILL BE] TO DISCARD IT OUT OF [A STATE OF] POVERTY.[62]

MISHNAH10. R. MEIR[63] SAID: DO [RATHER] LESS BUSINESS, AND BUSY THYSELF [MAINLY] WITH THE TORAH,[64] AND BE LOWLY OF SPIRIT BEFORE ALL MEN.[65] IF THOU HAST [ONCE] BEEN IDLE IN [REGARD] TO] THE TORAH, THOU WILT HAVE MANY [MORE] OCCASIONS FOR IDLENESS BEFORE THEE,[66] BUT IF THOU HAST LABOURED AT THE TORAH, THERE IS[67] MUCH REWARD TO GIVE UNTO THEE.[68]

MISHNAH 11. R. ELIEZER B. JACOB[69] SAID: HE WHO PERFORMS ONE PRECEPT ACQUIRES FOR HIMSELF ONE ADVOCATE,[70] AND HE WHO COMMITS ONE TRANSGRESSION ACQUIRES FOR HIMSELF ONE ACCUSER.[71] REPENTANCE[72] AND GOOD DEEDS ARE AS A SHIELD[73] AGAINST PUNISHMENT.[74]

R. JOHANAN[75] HA-SANDELAR SAID: EVERY ASSEMBLY WHICH IS FOR THE NAME OF HEAVEN,[76] [WILL IN] THE END THEREOF BECOME [OF] PERMANENT [VALUE]; AND EVERY ASSEMBLY WHICH IS NOT FOR THE NAME OF HEAVEN, [WILL IN] THE END THEREOF NOT BECOME [OF] PERMANENT [VALUE].[77]

MISHNAH 12. R. ELEAZAR[78] B. SHAMMUA'[79] SAID: LET THE HONOUR OF THY DISCIPLE BE AS DEAR TO THEE AS THINE OWN,[80] AND THE HONOUR OF THY COLLEAGUE AS THE REVERENCE[81] FOR THY TEACHER,[82] AND THE REVERENCE FOR THY TEACHER AS THE FEAR OF HEAVEN.[83]

MISHNAH 13. R. JUDAH[84] SAID: BE CAREFUL IN STUDY,[85] FOR AN ERROR IN STUDY AMOUNTS TO PRESUMPTION.[86] R. SIMEON[87] SAID: THERE ARE THREE CROWN[84] :[88] THE CROWN OF TORAH,[89] THE CROWN OF PRIESTHOOD,[90] AND THE CROWN OF ROYALTY; BUT THE CROWN OF A GOOD NAME EXCELS[91] THEM ALL.[92]

MISHNAH 14. R. NEHORAI[93] SAID: GO AS A [VOLUNTARY] EXILE TO A PLACE OF TORAH[94] — AND SAY NOT THAT IT WILL COME AFTER THEE[95] — FOR [IT IS] THY

FELLOW[-STUDENT]S WHO WILL MAKE IT PERMANENT IN THY KEEPING[96] AND LEAN NOT UP ON THIN E OWN UNDERSTANDING.[97]

MISHNAH 15. R. JANNAI[98] SAID: IT IS NOT IN OUR POWER [TO EXPLAIN THE REASON] EITHER OF THE SECURITY OF THE WICKED,[99] OR EVEN OF THE AFFLICTIONS OF THE RIGHTEOUS.[100]

R. MATHIA B. HERESH[101] SAID: BE FIRST IN [ENQUIRING AFTER] THE PEACE[102] OF ALL MEN; AND BE THOU A TAIL UNTO LIONS, AND NOT A HEAD UNTO FOXES.[103]

MISHNAH 16. R. JACOB[104] SAID: THIS WORLD IS LIKE UNTO A VESTIBULE[105] BEFORE THE WORLD TO COME; PREPARE THYSELF[106] IN THE VESTIBULE, SO THAT THOU MAYEST ENTER THE BANQUETING-HALL.[107]

MISHNAH 17.HE USED TO SAY: MORE BEAUTIFUL IS ONE HOUR [SPENT] IN REPENTANCE AND GOOD DEEDS[108] IN THIS WORLD, THAN ALL THE LIFE OF THE WORLD TO COME;[109] AND MORE BEAUTIFUL IS ONE HOUR OF THE EVEN-TEMPERED SPIRIT OF THE WORLD TO COME[110] , THAN ALL THE LIFE OF THIS WORLD.[111]

MISHNAH 18. R. SIMEON B. ELEAZAR[112] SAID: PACIFY[113] NOT THY FELLOW IN THE HOUR OF HIS ANGER;[114] NOR COMFORT HIM IN THE HOUR WHEN HIS DEAD LIES BEFORE HIM,[115] NOR QUESTION HIM AT THE TIME OF HIS VOW;[116] NOR STRIVE TO SEE HIM IN THE HOUR OF HIS DISGRACE.[117]

MISHNAH 19. SAMUEL HA-KATAN[118] SAID [QUOTING FROM SCRIPTURE]: REJOICE NOT WHEN THINE ENEMY FALLETH AND LET NOT THY HEART BE GLAD WHEN HE STUMBLETH.[119] LEST THE LORD SEE IT, AND IT DISPLEASETH HIM, AND HE TURN AWAY HIS WRATH FROM HIM.[120]

MISHNAH 20. ELISHA B. ABUYAH[121] SAID: HE WHO LEARNS [WHEN] A CHILD, UNTO WHAT IS HE [TO BE] COMPARED?[122] — UNTO INK WRITTEN UPON A NEW WRITING SHEET;[123] AND HE WHO LEARNS [WHEN] AN OLD MAN,[124] UNTO WHAT IS HE LIKE? — UNTO INK WRITTEN ON A RUBBED WRITING SHEET.[125]

R. JOSE B. JUDAH (A MAN) OF KEFAR HA-BABLI[126] SAID: HE WHO LEARNS FROM THE YOUNG, UNTO WHAT IS HE [TO BE] COMPARED? UNTO ONE WHO EATS UNRIPE GRAPES, AND DRINKS WINE FROM HIS VAT;[127] AND HE WHO LEARNS FROM THE OLD, UNTO WHAT IS HE [TO BE] COMPARED? UNTO ONE WHO EATS RIPE GRAPES, AND DRINKS OLD WINE.[128]

RABBI[129] SAID: REGARD NOT THE CONTAINER[130] BUT THAT WHICH IS THEREIN: THERE IS A NEW CONTAINER FULL OF OLD [WINE], AND AN OLD [CONTAINER] IN WHICH THERE IS NOT EVEN NEW [WINE].[131]

MISHNAH 21. R. ELEAZAR HA-KAPPAR[132] SAID: JEAL OUSY,[133] CUPIDITY[134] AND [THE DESIRE FOR] HONOUR PUT A MAN OUT OF THE WORLD.[135]

MISHNAH 22. HE USED TO SAY: THE BORN [ARE DESTINED] TO DIE, THE DEAD TO BE BROUGHT TO LIFE,[136] AND THE LIVING[137] TO BE JUDGED; [IT IS, THEREFORE, FOR THEM[138]] TO KNOW AND TO MAKE KNOWN, SO THAT IT BECOME KNOWN,[139] THAT HE IS GOD, HE THE FASHIONER,[140] HE THE CREATOR, HE THE DISCERNER,[141] HE THE JUDGE, HE THE WITNESS,[142] HE THE COMPLAINANT,[143] AND THAT HE IS OF A

CERTAINTY[144] TO JUDGE, BLESSED BE HE,[145] BEFORE WHOM THERE IS NO UNRIGHTEOUSNESS, NOR FORGETTING, NOR RESPECT OF PERSONS, NOR TAKING OF BRIBES,[146] FOR ALL IS HIS.[147] AND KNOW THAT ALL IS ACCORDING TO THE RECKONING.[148] AND LET NOT THY [EVIL] INCLINATION[149] ASSURE THEE THAT THE GRAVE IS A PLACE OF REFUGE FOR THEE;[150] FOR WITHOUT THY WILL[151] WAST THOU FASHIONED, WITHOUT THY WILL WAST THOU BORN, WITHOUT THY WILL LIVEST THOU, WITHOUT THY WILL WILT THOU DIE,[152] AND WITHOUT THY WILL ART THOU OF A CERTAINTY[153] TO GIVE AN ACCOUNT AND RECKONING[154] BEFORE THE KING OF THE KINGS OF KINGS, BLESSED BE HE.

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(1) Simeon b. Zoma, a disciple of R. Joshua b. Hananiah. His own name is omitted as also that of his colleague, Simeon b. Azzai (v. infra, Mishnah 2). because they both died at an early age, before ordination (R.); their scholarship was nevertheless highly esteemed. After his death he was praised as the last of the (great) homileticians (Sotah IX. 15). though not many examples of his Aggadic exegesis are preserved. He was a devotee of mystical studies which, according to some, affected his mind. (V. Bacher AT I, p. 422ff.)

(2) Ps. CXIX, 99. This translation is in accordance with the interpretation presupposed here. The second part of the quotation is not given in all editions.

(3) I ARN 'the mightiest among the mighty'.

(4) יצר Yezer. V. A.Z. (Sonc. ed.) p. 22, n. 7.

(5) Prov. XVI, 32.

(6) I ARN 'the richest among the rich'. In addition to the questions as to the mightiest and richest, I ARN has, 'Who is the most unpretentious (עלוב) among persons of unpretentious disposition? He who is as unpretentious as Moses', but no question as to who is honoured.

(7) Ps. CXXVIII, 2.

(8) 1 Sam. II ,30. Real honour comes from God, and the measure in which we honour man, created in the image of God, is the measure of the honour we give to God: if we honour God by honouring man, God will honour us. R.: God says: Them that honour Me, by honouring men (who are entitled to honour, e.g. parents. the aged. the learned), I shall honour. R. Jonah: If God honours those who honour Him, notwithstanding that all His creatures, by their mere existence and without deliberate or conscious effort, bring Him honour (cf. Isa. XLIII, 7), it follows, with greater force, that human beings (who are not entitled to honour automatically or to the same degree as God is), should reciprocate by honouring those who honour them.

(9) Cf. supra, p. 43. n. 1. Ben 'Azzai was first a disciple of R. Joshuah. Hananiah, and later stood towards R. Akiba in the alternating relationships of disciple and younger colleague. His death is attributed to his having 'peered into the Garden' of theosophic speculation (which some identify with Gnosticism), though in some sources he is named among the first victims of the Hadrianic persecutions. (V. Bacher, AT., I, pp. 408-9.)

(10) Show eagerness, seize the opportunity. cf. infra V, 20.

(11) Cf. P5. CXIX, 60. One is more liable to be slack and procrastinating with regard to an easy task, and thus forget it entirely; to obviate this one should hasten to perform it as soon as it presents itself.

(12) This clause is not in all versions.

(13) Not merely avoid, but as quickly as you can, put as long a distance as possible between transgression and yourself (L.). In both cases (i.e. of fulfilment of a precept and of avoidance of transgression) Ben 'Azzai advocates quickness of resolve and action (Buchler, Sin and Atonement, p. 309).

(14) Automatically (Buchler, ibid).

(15) This saying has been explained variously: (i) Virtue is its own reward, and sin its own penalty. (ii) The spiritual joy one derives from the performance of a divine precept, (Mizwah) is in itself a Mizwah, i.e., a valuable religious experience. (iii) The practical gain from the carrying out of a precept, is the new precept which it automatically brings in its train. See Buchler, ibid., for a fine analysis of the dictum.

(16) I ARN, Ch. XXIII, appears to attribute this dictum to R. Nehorai.

(17) מפליג a difficult word variously interpreted: 'place at a distance,' 'consider far off and unimportant, or impossible,' 'treat slightingly'. 'despise', 'cavil, or carp at'. The translation given here combines the literal meaning of the verb with the general sense of the dictum, as indicated by the context and adopted by commentators.

(18) Or 'word' or 'matter'. ARN adds: 'For it is said: Whoso despiseth the word shall suffer thereby, but he that feareth the commandment shall be rewarded (Prov. XIII, 13).' evidently taking דבר in the Mishnah to mean 'word (of God)'. This citation suggests that ARN took the whole dictum as a parallel to Mishnah 1 and 2 thus: Who is wise? He who learns from every man — there is no man that has not his hour. Run to perform an easy (seemingly unimportant) commandment-Discriminate not against any word (of divine command). . . for there is no word (precept), however abstruse or unimportant it may seem, that has not its place.

(19) The sense in which this Mishnah is generally understood is: No person or object or matter is so unimportant that you can be sure that you will not have to reckon with it, either for good or for evil, at some time or in some place or in some circumstances.

(20) A contemporary of R. Akiba, of whom we know only this saying in our Mishnah, and some passages attributed to him in Pirke di R. Eliezer.

(21) מאד מאד M. (followed by B. and R. Jonah) explains: Why this accentuated deviation from the advocacy of a middle course? Because, man being naturally over-inclined to pride, it is necessary to over-emphasize the quality of self-depreciation.

(22) Some editions add, 'before all men'. The whole dictum is missing from Lowe's MS. where the following saying is in the name of R. Levitas instead of that of R. Johanan b. Broka.

(23) V. supra III,1.

(24) A disciple of R. Joshua.

(25) V. supra p. 3, n. 2, also p. 7, n, 10.

(26) How can any secret misdeed be a profanation of the Name, which necessarily implies a knowledge of the sin by at least one other than the guilty person? Tosaf. Yom Tob says: When the sin can be committed only together with another person, e.g. prohibited sexual intercourse. L.: There are two kinds of 'profaners of the Name': (a) one who commits a sin, making it clear to others that he contemptuously disregards the divine commandments; (b) one who transgresses secretly. not because he is concerned for the Glory of the Name of God, but for his own reputation among his fellow men, by whom he wishes to be regarded as a pious man. The latter is profaning the Name in secret, and it is this duplicity that is to be exposed by punishment in public. V.: A sin committed in secret which, should it become known, would cause a profanation of the Name.

(27) Used impersonally.

(28) חלול השם (Profanation of the Name) was considered so grave that R. Akiba taught that a person guilty thereof is not entitled to divine forgiveness.

(29) Lit., one . . . one', cf. supra II, 9.

(30) M. insists that only in respect of being punished openly is there no difference between one who commits profanation of the Name in error and one who does so wilfully. In respect of the actual nature of the punishment (as is the case with reference to all sins), the Torah clearly distinguishes between the unwitting and presumptuous sinner (Lev. IV and V).

(31) Some texts add 'his son', i.e. of R. Johanan b. Berokah.

(32) Cf. supra p. 22, n. 5.

(33) II ARN, Ch. XXXII, 'they do not afford him',so also R. who explains: If his only object in learning is that he might become a teacher, i.e., be addressed as 'Rabbi', his efforts at learning do not enjoy the favour of Heaven. I ARN, Ch. XXVII, has our version.

(34) Cf. supra I, 17, 'Study is not the most important thing, but deed.'

(35) Some texts insert here 'to observe'.

(36) Probably the one who was contemporary of R. Johanan b. Zakkai. First century.

(37) I.e., the words of the Torah. Some texts 'it'.

(38) In I Sam. XIII, 20, and Ps. LXXIV, 5, קרדם == axe. It may have been two tools in one, one side being a broad blade for a hatchet, and the other a pointed one for breaking up 'ground. V. fast. s.v. and Oesterley, 'Sayings', ad loc.

(39) Lowe's MS. and R. לאכל מהן lit., 'to eat of them' which Taylor translates, 'an axe, to live by them', evidently taking אכל in the sense of 'enjoy', 'have the use of', 'have benefit from', as e.g. in Pe'ah I, 1. R. Jonah has לחתוך 'to cut'.

(40) V. supra I, 13.

(41) Cf. the reading preserved in R.

(42) Our translation is In accordance with the maxim of Hillel which gave rise to this thought. R. however understood 'takes his reward in this world'. Seemingly he translated 'takes his life (i.e. all the benefits to which he may be entitled) out of this world.’ Tosaf. Yom Tob ‘removes himself from the life of the world to come. M. bases on R. Zadok's dictum a vigorous defence of his view that it is strictly forbidden to make a living out of the Torah and that none of the early Rabbis ever made such use of it. A scholar who happens to be poor, or afflicted and physically helpless, should of course be helped. It is, indeed, a duty of congregations to pay the levies and taxes on behalf of scholars (v. supra III, 5, and note). but that is because they are, in this respect, looked upon as Kohanin’ (Aaronides) who were by Biblical law exempt from tithes, etc.

(43) b. Halafta. 2nd century.

(44) Honouring the Torah consists in zeal and alacrity in carrying out its precepts, in the proper and reverent care for books of, or appertaining to, the Torah, and in respectful bearing towards scholars (M.).

(45) גופו lit., ‘his body’. ‘his person’. V. supra I, 17.

(46) Some texts add ‘his son’. II ARN, Ch. XXXIV, has R. Eliezer son of R. Eleazar ha'Kappar. R. had a reading. R. Eliezer, son of R. Jose.

(47) Either, (a) a judge who refrains from imposing a judgment, and strives to induce parties to come to an agreement; or (b) any person who avoids entering into litigation, and seeks a friendly settlement of differences.

(48) Which disappointed litigants might feel towards the judge, or towards the other side.

(49) The virtual robbery which a judge might commit if, however honestly, he gave a decision in favour of the wrong party; or which might result when a party in the heat of dispute puts in an exaggerated claim or denial and succeeds therein.

(50) The oath which a judge imposes, in accordance with the Torah, but which he may quite conceivably impose in error, though in good faith, on the wrong party (see L.); or, untrue statements which a litigant may, in the stress of the judicial proceedings, make under oath. The expression here used שבועת שוא (an oath taken in vain) differs, in its technical use, from שבועת שקר (a false oath), v. Shebu. 25b. Some (e.g., B.) think ש שוא is used here not in the technical sense, but as synonymous with ש שקר L. insists that ש שקר is inapplicable here, and that ש שוא is to be taken in its precise meaning.

(51) I.e., he looks upon the judicial position as one that confers on him the opportunity for exercising authority, rather than one that demands self-effacing objectivity, involving infinite pains in the sifting of evidence (v:. supra I, 9), deliberate impartiality towards parties (v. I, 5), a deep and lifelong study of the Law, and patience in coming to a decision (v. I, 1), cf. infra VI, 6.

(52) He is too sure of his own wisdom and Seest thou a man wise in his own eyes? There is more hope of a fool than of him. (Prov. XXVI, 12.)

(53) Because he is indifferent to the possible injustice that may result from his actions.

(54) גם גם רוח = bulky, oversized, uncouth, gross. The same word with לב (heart) is translated ‘over confident’ earlier in the sentence.

(55) The Jewish judiciary system provided for the Great Sanhedrin of seventy-one members, a Lesser Sanhedrin of twenty-three, and the smallest court of three laymen or of one accredited expert (מומחה Mumhe) in the Law. But even this expert, although permitted to ‘sit’ alone, is advised here not to take unnecessary advantage of the permission but, if at all possible, to obtain the assistance of (two) others (so M.).

(56) I.e., God.

(57) Either, ‘they are free to concur, but not thou to force them to concur,’ or, ‘they are entitled to say to thee, accept our opinion" (as they are in the majority), but not thou (as you are only one against two).’ Some point out that an ‘expert’ who has called in lay assistance might be tempted to force his opinion by over-emphasizing his own superior learning, or even by pointedly reminding his cojudges that he could, had he chosen, have ‘sat’ and decided alone, and that he had called them in only as a matter of grace. The proper procedure is that whilst the expert's voice prevails on a point of law, that of a majority of the court is decisive in matters dependent on ‘the weighing of opinions’ (שקול הדעת).

(58) b. Jose(ph) as in II ARN, Ch. XXXV (where the wording of the dictum differs). I ARN, Ch. XXX has, R. Nathan b. Joseph. A disciple of R. Akiba and R. Ishmael. Frankel, Parke ha-Mishnah, p. 155, says his name, like that of his colleague R. Joshiah, does not occur in Mishnah or Tosef. or Torath Kohanim. The inclusion of the name here is due to the fact that in Aboth are mentioned many Tannaim of the sixth generation whose names occur otherwise only in Baraithas, v. Oesterley, a.l.

(59) I.e., whilst he is in etc. For a similar use of מ v. Deut. XXVIII, 47, מרב כל Lam. I, 3, מעני . Others: ‘by means of poverty’, i.e., by sacrificing time he could use for improving his material lot, in order to study and practise the Torah. Others: ‘despite poverty’.

(60) With which he will be rewarded.

(61) Though it enables him to devote more time to the study of the Torah, and Increases his opportunities for observing its precepts. Or, because the thought and anxiety he expends on his possessions and concerns, occupy his mind to the exclusion of Torah.

(62) Which will be his punishment, and which might indeed make it impossible for him to devote himself to the Torah even if by that time he is desirous of making good his former omissions. For the latter half of the dictum cf. Deut. XXVIII, 47-8: Because thou didst not serve the Lord thy God with joyfulness and with gladness of heart, by reason of the abundance of all things; therefore shalt thou serve thine enemy whom the Lord shall send against thee, in hunger and in thirst, and in nakedness, and in want of all things.

(63) The greatest of R. Akiba's disciples; deserved the name מאיר because ‘he threw light’ on the meaning of Scripture.

(64) Cf. supra II, 5, and infra VI, 5.

(65) Cf. Mishnah 4.

(66) Conditions conducive to idleness which will militate against your becoming learned in the Torah. Cf. the quotation from Megillath Hasidim in J. Ber., end, ‘If thou forsakest it (the Torah) one day, it will forsake thee two days. ‘a saying otherwise known from Sirach. V; also Sifre, Ekeb. ed. Friedmann, p. 84a. I ARN, Ch. XXIX: ‘idlers (בטלנין) (such as robbers, thieves, lions, bears, etc.) against thee.’ Others: ‘idlers like thee’.

(67) Some texts ‘He (God) has.’

(68) Cf. supra II, 14 and 16.

(69) Disciple and colleague of R. Akiba. There was an earlier scholar of the same name who lived towards the end of Temple times. V. Frankel, op. ‘it., p. 76ff. Hyman Toledoth s.v.

(70) פרקליט Gr. **.

(71) קטיגור , Gr. **.

(72) Lit., ‘Return’.

(73) תרים some identify with the Greek **= Gr. **) ‘door’, or its derivative Gr. ** ‘an oblong shield’; others with Gr. ** breastplate. In both cases it would denote something that serves as a protection. V. fast. for an attempted Hebrew derivation.

(74) If transgressions have outnumbered fulfilments of precepts, then divine punishment can be averted by Repentance (in the case of a person about to die), and by (that together with) good deeds (in the case of one who lives on).

(75) One of the youngest of R. Akiba's disciples. His cognomen is said to be due either to his occupation as a sandal-maker, or to his having been a native of Alexandria. Another opinion is that he was a piercer of gems, called in Aramaic סנדלכון (which may be identical with the Greek **).

(76) Or, for the ‘sake of Heaven’. Lowe's MS. also some edd. of ARN (v. Schechter's ed. 1 ARN, Ch. XL, p. 129 note 23), ‘In the name of duty (מצוה).’

(77) Frankel, op. cit., p. 187, suggests that R. Johanan had in mind the distinction between the Palestinian schools and the Alexandrian schools (known to him who had come from Alexandria). In the latter they followed the allegorical method of exegesis, which led to negative and even antinomian results. Hyman, Toledoth s.v. suggests that R. Johanan said this with reference to the assembly of Rabbis, in which he himself took part, in the Valley of Beth-Rimmon after the fall of Bethar, for the purpose of encouraging his colleagues who had met for a worthy purpose under conditions that were precarious and with prospects that were extremely unpromising.

(78) Some: Eliezer.

(79) In II ARN, Ch. XXXIV, p. 76, this dictum is in the name of R. Nathan. R. El. b. Shammua’ was a disciple of R. Akiba.

(80) I ARN (Ch. XXVII, p. 84) and II ARN (Ch. XXXIV, p. 76) cite Ex. XVII, 9: Moses ‘bracketed’ himself with his disciple Joshua by saying, ‘choose unto us men’. Lowe's MS. and an alternative in R. MV. Aruch (v. Baer, Siddur Abodath Israel, a. I.) have ‘as the honour of thy colleague’ which produces an apparently smoother sequence. R. Jonah has a composite reading כשלך ככבוד חברך which he tries to explain (v. Schechter, I ARN p. 85, n. 17).

(81) מורא the same word is translated ‘fear’, in ‘fear of Heaven’.

(82) I ARN cites Num. XII, 11. Aaron said to Moses: ‘I pray thee, my master.’ Although Aaron was the elder brother, he acknowledged Moses as his master. II ARN cites Ex. VII, 2.

(83) I ARN cites Num. XI, 28, where Joshua addresses Moses, ‘My Lord Moses.’ II ARN cites Ex. IV, 16, ‘And thou (Moses, the Master) shalt be unto him (Aaron) in God's stead.’

(84) b. Il'a'i, a contemporary of R. Eleazar b. Shammua'. L.: This dictum is a complement to the foregoing and the advice is meant for the teacher.

(85) In view of the foregoing note perhaps best render תלמוד as ‘teaching’. Some texts have למוד but that too could have the meaning of ‘teaching’.

(86) If the error is due to carelessness; because one error leads to further errors, and is liable to result in breaches of the law not only on one's own part but on that of one's hearers or disciples.

(87) b. Yohai, v. supra III, 4, and infra VI, 8, p. 87, n. 8.

(88) Which one should try to attain; or, to which one should show deference.

(89) Cf. Prov. I, 9: For they (instruction and teaching, תורה) shall be a chap let unto thy head.

(90) Cf. Ex. XXIX, 6: And thou shalt set the mitre upon his (Aaron's) head, and put the holy crown upon the mitre.

(91) For the verb עלה in this sense, cf. Prov. XXXI, 29.

(92) Because without it the other crowns do not command deference. Cf. Eccl. VII, I; Prov. XXII, I.

(93) Identified in this case with R. Eleazar b. ‘Arach. V. supra II, 14 note.

(94) B.: If there are no scholars in your own place. L.: Even if there are scholars in your own locality; the very experience of ‘exile’ — the strange surroundings, the privations it entails (cf. infra VI, 4) and the self-reliance it calls forth — is conducive to the better study of the Torah. The understanding of this passage in this sense has been the motive power of the deep-rooted custom among Jews, rife even in recent, and by no mean extinct in modern, times, of sending one's sons away from home to ‘learn Torah’.

(95) R. Eleazar b. ‘Arach (v. p. 51, n. 14) had probably learnt this from personal experience, v. supra II, 14, n. 8.

(96) The advantages of corporate study are frequently stressed. A companion in one's studies is not less important than a teacher (cf. supra I, 6).

(97) Prov. III, 5. Some think that the stress intended is on the necessity for a teacher to give authoritative guidance to the student, and render ‘and say not that it will come after thee or that thy equals (in learning) will help you to acquire a complete and sound knowledge; nor do thou lean on thine own understanding".’

(98) Probably Jannai the father of R. Dosthai mentioned in III, 8; a contemporary of R. Meir.

(99) Perhaps rather ‘the secure feeling of . . .’ cf. Jer. XII, 1, Wherefore doth the way of the wicked prosper? Wherefore are they all secure that deal very treacherously?

(100) ‘Even (אף) . . .’ The afflictions of the righteous might appear easier to account for, e.g., by alleging the man's righteousness may be a sham, and that he is being punished for hidden sins; even so we cannot know the real reason.

(101) After the vocalization in I Chron. IX, 15. Others vocalize Harash v. Bacher AT. I, p. 380. R. Mathia (or Mattithiah) lived in Rome in the middle of the second century.

(102) After II ARN, Ch. XXXIV לשאול בשלום cf. I ARN. Ch. XXIX end, or, ‘Be first with the (greeting of) Shalom (‘Peace’) to all men.’ It is reported of R. Johanan b. Zakkai that never did anyone anticipate him in the salutation of Peace, not even a heathen in the market-place (Ber. 17a).

(103) Frankel, op. cit., p. 238, suggests that this dictum was intended against the proverb, attributed to Julius Caesar, to the effect that it is better to be the first in a small village, than second in a large city. There is much in this suggestion, as the latter proverb is all very well for a mentality that idealizes temporal power, but not for those who recognise the supremacy of the spirit (cf. Zech. IV, 6). V. Bacher op. cit., p. 384. For a Rabbinic reversal of R. Mathia's advice: ‘Be a head to foxes rather than a tail to lions,’ v. J. San. IV, 10, p. 22b.

(104) Probably R. J. b. Kurshai (or Kudshai), a tradent of R. Meir and of R. Simeon b. Yohai.

(105) פרוזדור Gr. ** ‘the space before the door’, ‘porch’.

(106) With repentance and good deeds.

(107) טרקלין Gr. ** A room with three couches for reclining at meals; among Romans, the triclinium was the dining room.

(108) By means of which one wins one's way to the world to come.

(109) When one's goal is attained. The energy and enthusiasm of the striving are more spiritually exhilarating than the final achievement.

(110) The state of perfect and enduring balance, evenness and temperateness of spirit characteristic of the existence after death (cf. Eccl. IX, 10).

(111) In which satisfaction is never complete, and joy never unalloyed. This world, whilst in the end not comparable to the world to come, has its compensations — the very striving in this world for the perfection that is possible only in the world to come, is something greater than the perfection itself, since the repentance and good deeds of this world can only be achieved by dint of conscious avoidance of evil, and of positive well-doing, the former superfluous and the latter not requiring deliberate effort, in the world to come.

(112) b. Shammua' (v. Mish. 12). R. Simeon was a disciple of R. Meir.

(113) תרצה The Pi'el of רצה is once used in the Bible, Job XX, 10, as 'seek the favour of . . . .'appease'.

(114) Your efforts are likely to be worse than useless.

(115) The Jewish custom is, therefore, not to offer condolence to mourners until after the interment of their dead.

(116) If one is closely questioned at the time he makes a vow, as to its precise scope etc., he is liable-either through overzeal or foolhardiness-to extend its scope and over-particularize its applicability, and thus undertake more than he intended, or impose upon himself uncalled for commitments or inhibitions; he is also likely to be led into expressing the vow in such terms as would make it extremely difficult, if not impossible, for him ever to obtain release therefrom (as one can, in many cases, be released from a vow by a competent 'court'). V. I ARN, Ch. XXVI, R. Akiba said, . . . be not free with vows.'

(117) Whether due to his own fault, or caused by others. He is liable to think that you are gloating over him (v. supra III, 11). The advice here is not that one should deliberately avoid seeing him, but that one should not seek opportunities for seeing him. Noticeable avoidance would be almost as undesirable.

(118) First century, called ha-Katan, the Small, on account of his humility, or (according to others) because he was less only than Samuel the Prophet. On his chronology, v. Herford, a.I.

(119) It may be that this dictum was placed here because it happens to illustrate and emphasize the advice immediately preceding. Even over an enemy one should not gloat, how much less over others. Bacher AT, I, p. 370, n. 8, cites a conjecture that דשמואל הקטן אמר is a mistaken amplification of the letters ש׳ה׳א׳ which actually were the initial letters (ראשי תיבות) of the words שהרי הכתוב אומר 'even as Scripture says' introducing a Biblical authority for the last section of the foregoing sentence.

(120) Prov. XXIV, 17-18. Samuel ha-Katan did not adopt or advocate too pacific an attitude towards Israel's enemies; on the contrary, he played a leading part in the insertion into the daily 'Amidah Prayer of a special Blessing directed against Israel's external and (chiefly) internal enemies, the Minim. However, he quite conceivably felt that Israel by rejoicing at the fallings and stumblings of their enemies, and thus exhibiting an unworthy feeling. would incline God, who is ever on the side of the wronged, to favour their adversaries, not for the latter's merits but because of Israel's failings, and that thus would Israel, by their own fault, hold up their final and complete salvation from their enemies, for which he prayed. In the light of this consideration, the inclusion of verse 18, which is omitted in some Aboth texts, is necessary as supplying the main point to Samuel's favourite quotation.

(121) Second century. A disciple of R. Meir. He became a great scholar, but having entered too deeply into esoteric speculation, he eventually apostasized from Judaism, probably to Gnosticism. Thereafter he was referred to as אחר 'another'. Abuyah אבויה is the usual reading. Lowe's MS. has אביה Abiyah, a name occurring in I Kings XIV, 1.

(122) הלומד ילד So all old texts except R. Jonah who has הלומד תורה לילד a reading adopted later by some. The reading followed here is borne out by I ARN, Ch. XXIV p. 77 and II ARN, Ch. XXXV, p. 88.

(123) Which is smooth and clean. נייר is derived by Jast. from נור 'to (be) clear,' i.e., a blank surface. Krauss derives from ניר 'warp', i.e., (originally) the fibre from which the writing material was prepared. In modern Hebrew, נייר is used for paper.

(124) I and II ARN. בזקנותו

(125) The rough surface causes spluttering and 'running' of the ink, rendering legibility difficult, if not impossible.

(126) A contemporary of Rabbi Judah ha-Nasi, as evident from the end of this Mishnah.

(127) New and unmatured. One learning from the young can expect to obtain only immature knowledge.

(128) One who learns from the old gets the benefit of ripe knowledge and mature judgment.

(129) V. supra II, 1. The P.B. text has ר מאיר which is incorrect (v. Baer, Siddur, 'Abodath Israel a.I.).

(130) קנקן , fast. 'a cylindrical vessel let into the ground of the cellar, in general a wine- or oil-vessel'. 'Aruch Kohut suggests an Arabic derivation.

(131) Rabbi disputes R. Jose b. Judah's opinion. In Rabbi's experience, a man's age was by no means a reliable index to his learning.

(132) A contemporary of Rabbi and the teacher of the celebrated Aggadist R. Joshua b. Levi.

(133) קנאה Taylor rightly points out that the word is also used in a good sense, viz. 'emulation'.

(134) תאוה '(keen) desire', 'lust'.

(135) Any one of the undesirable characteristics mentioned have this effect, since they necessarily negate the religious teachings of the Torah, and render one unreceptive of the mental and moral excellences. (M.) For the phrase cf. supra II, 11.

(136) להחיות vocalize להחיות as a Nif'al. A polemic against those who denied resurrection (e.g. the Gnostics).

(137) M. and others, ‘those living again (after their death)’.

(138) I.e., the living.

(139) I.e., to the end that, eventually, men might naturally and spontaneously, become aware that God is the creator etc. Cf. Jer. XXXI, 34, prophesying of the ‘days that come’, and they shall teach no more every man his neighbour, and every man his brother, saying: ‘Know the Lord’; for they shall all know Me, from the least of them unto the greatest of them, saith the Lord. (cf. R; Jonah).

(140) V. next note.

(141) היוצר and המבין . Cf. Ps. XXXIII, 15: He that fashioneth (היוצר) the hearts of them all, that considereth or discerneth (המביו) all their doings.

(142) Cf. Mal. III, 5: And I will come near to you in judgment, and I will be a swift witness . . . .

(143) בעל דין the opposite party in a lawsuit. Cf. Job XXXI, 35.

(144) עתיד Oesterley. ‘in the hereafter’. The sentence is, of course, so understood; but, grammatically. עתיד with the Infinitive (used in Mishnaic Hebrew to express the future tense) generally, as here, expresses the certainty and inevitability of that which, it is said, is to happen. When used with regard to human beings one can render ‘destined’ as in supra III, 1.

(145) Omitted in some versions. For the expression. v. supra III, 1, note. perhaps it is inserted here in view of the reference to God as Judge. Cf. ברוך דין האמת Blessed be the righteous Judge’ prescribed in Ber. IX, 1, to be said on hearing evil tidings, but capable, of course, of general application. Note ‘in whom there is no unrighteousness’ which immediately follows here.’

(146) Taken from II Chron. XIX, 7: For there is no iniquity (or, unrighteousness) with the Lord our God, nor respect of persons, nor taking of bribes. Cf. Deut. XXXII, 4: Ps. XCII, 16; ‘nor forgetting’ appears to have been added so as to declare every conceivable departure from justice as impossible with God; not only is He certain not to do an injustice deliberately, but even an unwitting miscarriage of justice through forgetting (either a man's good or evil deeds) cannot occur with Him. ‘Nor taking of bribes’; M. says this must not be taken in the usual sense of the expression, because such a thing is positively unthinkable of God. What it means is that even if a man has a thousand good deeds to his credit to one evil one, the thousand do not ‘influence’ God to overlook the one. The latter must be expiated, while for the former there is reward.

(147) Apparently added by someone who took ‘taking of bribes’ in the ordinary sense. In view of M.’s interpretation (v. previous note) these words (‘for all is His’) are meaningless and superfluous.

(148) The account which a man must give of his life.

(149) V. supra II, 11.

(150) A polemic against the heretics who denied reward and punishment in the hereafter. V. p. 56, n. 4. Perhaps it is also intended as against the idea of suicide, which the Roman Stoics (e.g. Seneca) extolled as ‘a way out’.

(151) The phrase is used mostly in the sense of ‘against one's will’.

(152) This supports the suggestion in note 5 as to a possible polemic against suicide.

(153) V. p. 56, n. 12.

(154) V. supra III, 2.

Mishna - Mas. Avoth Chapter 5

MISHNAH 1. WITH TEN [DIVINE] UTTERANCES[1] WAS THE WORLD CREATED.[2] AND WHAT IS THIS [SCRIPTURAL] INFORMATION [MEANT] TO TELL, FOR SURELY IT COULD HAVE BEEN CREATED WITH[3] ONE UTTERANCE? BUT IT IS THAT PENALTY MIGHT BE EXACTED FROM THE WICKED WHO DESTROY THE WORLD THAT WAS CREATED WITH TEN UTTERANCES,[4] AND TO GIVE A GOODLY REWARD TO THE RIGHTEOUS WHO MAINTAIN THE WORLD THAT WAS CREATED WITH TEN UTTERANCES.[5]

MISHNAH 2. [THERE WERE] TEN GENERATIONS FROM ADAM TO NOAH,[6] IN ORDER

TO MAKE KNOWN HOW LONG-EXTENDED IS LONG-SUFFERING WITH HIM; FOR ALL THOSE GENERATIONS WERE REPEATEDLY ACTING PROVOKINGLY,[7] UNTIL HE BROUGHT UPON THEM THE WATERS OF THE FLOOD.

[THERE WERE] TEN GENERATIONS FROM NOAH TO ABRAHAM,[8] IN ORDER TO MAKE KNOWN HOW LONG-EXTENDED IS LONG-SUFFERING WITH HIM; FOR ALL THOSE GENERATIONS WERE REPEATEDLY ACTING PROVOKINGLY, UNTIL ABRAHAM, OUR FATHER, CAME AND RECEIVED THE REWARD OF ALL OF THEM.[9]

MISHNAH 3. WITH TEN TRIALS WAS ABRAHAM, OUR FATHER, PROVED,[10] AND HE STOOD [FIRM][11] IN THEM ALL; TO MAKE KNOWN HOW GREAT WAS THE LOVE OF ABRAHAM,[12] OUR FATHER (PEACE BE UPON HIM).

MISHNAH 4. TEN WONDERS WERE WROUGHT FOR OUR FATHERS IN EGYPT,[13] AND TEN AT THE [RED] SEA.[14] TEN PLAGUES DID THE HOLY ONE, BLESSED BE HE, BRING UPON THE EGYPTIANS IN EGYPT AND TEN AT THE [RED] SEA.[15]

[WITH] TEN TEMPTATIONS DID OUR FATHERS PUT TO PROOF THE HOLY ONE, BLESSED BE HE,[16] AS IT IS SAID, YET HAVE THEY PUT ME TO PROOF THESE TEN TIMES, AND HAVE NOT HEARKENED TO MY VOICE.[17]

MISHNAH 5. TEN WONDERS WERE WROUGHT FOR OUR FATHERS IN THE SANCTUARY: [i] NO WOMAN MISCARRIED FROM THE ODOUR OF THE HOLY [I.E.. SACRIFICIAL] FLESH;[18] [ii] THE HOLY FLESH NEVER BECAME PUTRID;[19] [iii] NO FLY WAS SEEN IN THE SLAUGHTERHOUSE;[20] [iv] NO PERSONAL UNCLEANNESS OCCURRED TO THE HIGH PRIEST ON THE DAY OF ATONEMENT;[21] [v] THE RAINS DID NOT EXTINGUISH THE FIRE OF THE WOOD OF THE PILE;[22] [vi] THE WIND DID NOT PREVAIL AGAINST THE COLUMN OF SMOKE;[23] [vii] NO DISQUALIFICATION WAS FOUND IN THE OMER,[24] OR IN THE TWO LOAVES,[25] OR IN THE SHEWBREAD;[26] [viii] THEY STOOD SERRIED,[27] YET PROSTRATED THEMSELVES [WITH] WIDE SPACES [BETWEEN THEM]; [ix] NEVER DID A SERPENT OR A SCORPION DO INJURY IN JERUSALEM; [x] AND NO MAN SAID TO HIS FELLOW: THE PLACE IS TOO STRAIT FOR ME TO LODGE OVERNIGHT[28] IN JERUSALEM.

MISHNAH 6. TEN THINGS WERE CREATED ON THE EVE OF THE SABBATH[29] AT TWILIGHT, AND THESE ARE THEY: [i] THE MOUTH OF THE EARTH,[30] [ii] THE MOUTH OF THE WELL,[31] [iii] THE MOUTH OF THE SHE-ASS,[32] [iv] THE RAINBOW,[33] [v] THE MANNA, [vi] THE ROD [OF MOSES],[34] [vii] THE SHAMIR,[35] [viii] THE TEXT,[36] [ix] THE WRITING,[37] AND [x] THE TABLES.[38] AND SOME SAY: ALSO THE SEPULCHRE OF MOSES, OUR TEACHER,[39] AND THE RAM OF ABRAHAM, OUR FATHER,[40] AND SOME SAY: ALSO THE DESTROYING [SPIRITS],[41] AND TONGS TOO, MADE WITH TONGS.[42]

MISHNAH 7. [THERE ARE] SEVEN THINGS [CHARACTERISTIC] IN A MAN OF IMPERFECTLY DEVELOPED MIND,[43] AND SEVEN IN A WISE MAN: A WISE MAN SPEAKS NOT BEFORE ONE WHO IS GREATER THAN HE IN WISDOM,[44] AND ENTERS NOT INTO[45] THE MIDST OF THE WORDS OF HIS FELLOW; AND IS NOT HASTY TO ANSWER;[46] HE ASKS IN ACCORDANCE WITH THE SUBJECT-MATTER,[47] AND HE ANSWERS[48] IN ACCORDANCE WITH THE ACCEPTED DECISION;[49] AND HE SPEAKS OF THE FIRST [POINT] FIRST, AND OF THE LAST [POINT] LAST; AND CONCERNING THAT WHICH HE HAS NOT HEARD, HE SAYS:[45] HAVE NOT HEARD;[50] AND HE ACKNOWLEDGES THE TRUTH.[51] AND THE REVERSE OF THESE [ARE CHARACTERISTIC] IN A MAN OF IMPERFECTLY DEVELOPED MIND.

MISHNAH 8. SEVEN KINDS OF PUNISHMENT COME TO THE WORLD[52] FOR SEVEN CATEGORIES OF TRANSGRESSION:[53] WHEN SOME OF THEM [I. E., THE PEOPLE] GIVE TITHES, AND OTHERS DO NOT GIVE TITHES, A FAMINE FROM DROUGHT[54] COMES, AND SOME GO HUNGRY, AND OTHERS HAVE PLENTY; WHEN THEY HAVE ALL DECIDED NOT TO GIVE TITHES, A FAMINE FROM TUMULT[55] COMES; [WHEN THEY HAVE, IN ADDITION, DECIDED] NOT TO SET APART THE DOUGH[-CAKE],[56] A FAMINE OF EXTERMINATION COMES. PESTILENCE COMES TO THE WORLD[57] FOR [SINS] THE DEATH-PENALTIES [FOR] WHICH ARE PRONOUNCED IN THE TORAH, BUT WHICH HAVE NOT BEEN REFERRED TO A [HUMAN] TRIBUNAL;[58] AND ON ACCOUNT OF [THE TRANSGRESSION OF THE LAWS REGARDING] THE PRODUCE OF THE SEVENTH YEAR.[59]

THE SWORD COMES TO THE WORLD[60] FOR THE RETARDATION OF JUDGMENT,[61] AND FOR THE PERVERSION OF JUDGMENT, AND ON ACCOUNT OF THOSE WHO INTERPRET THE TORAH NOT IN ACCORDANCE WITH THE ACCEPTED LAW.[62]

MISHNAH 9. WILD BEASTS COME TO THE WORLD[63] FOR VAIN SWEARING,[64] AND FOR THE PROFANATION OF THE NAME.[65] EXILE COMES TO THE WORLD[66] FOR IDOLATRY, FOR INCEST AND FOR BLOODSHED,[67] AND FOR [TRANSGRESSING THE COMMANDMENT OF] THE [YEAR OF THE] RELEASE OF THE LAND.[68] AT FOUR PERIODS PESTILENCE INCREASES: IN THE FOURTH [YEAR], IN THE SEVENTH [YEAR] AND AT THE CONCLUSION OF[69] THE SEVENTH [YEAR], AND AT THE CONCLUSION OF THE FEAST [OF TABERNACLES][70] IN EVERY YEAR. IN THE FOURTH [YEAR], ON ACCOUNT OF [DEFAULTING WITH] THE TITHE OF THE POOR WHICH IS [DUE] IN THE THIRD [YEAR];[71] IN THE SEVENTH [YEAR], ON ACCOUNT OF [DEFAULTING] WITH THE TITHE OF THE POOR WHICH IS [DUE] IN THE SIXTH [YEAR]; AT THE CONCLUSION OF THE SEVENTH [YEAR], ON ACCOUNT OF [TRANSGRESSING THE LAWS REGARDING] THE PRODUCE OF THE SEVENTH [YEAR];[72] AND AT THE CONCLUSION OF THE FEAST [OF TABERNACLES] IN EVERY YEAR, FOR ROBBING THE GIFTS [ASSIGNED BY THE TORAH] TO THE POOR.[73]

MISHNAH 10. [THERE ARE] FOUR TYPES OF CHARACTER[74] IN MEN: HE THAT SAYS: ‘MINE IS MINE, AND THINE IS THINE’: THIS IS A NEUTRAL TYPE SOME SAY THIS IS A SODOM-TYPE[75] OF CHARACTER: [HE THAT SAYS:] ‘MINE IS THINE AND THINE IS MINE’ IS AN UNLEARNED PERSON;[76] [HE THAT SAYS:] MINE IS THINE AND THINE IS THINE,’ IS A PIOUS MAN;[77] [HE THAT SAYS:] ‘MINE IS MINE, AND THINE IS MINE,’ IS A WICKED MAN.[78]

MISHNAH 11. [THERE ARE] FOUR TYPES OF CHARACTER IN [RESPECT OF] TEMPERAMENTS: EASY TO BECOME ANGRY, AND EASY TO BE PACIFIED: HIS GAIN DISAPPEARS IN HIS LOSS;[79] HARD TO BECOME ANGRY, AND HARD TO BE PACIFIED: HIS LOSS DISAPPEARS IN HIS GAIN; HARD TO BECOME ANGRY AND EASY TO BE PACIFIED: [HE IS] A PIOUS MAN;[80] EASY TO BECOME ANGRY AND HARD TO BE PACIFIED: [HE IS] A WICKED MAN.

MISHNAH 12. [THERE ARE] FOUR TYPES OF CHARACTER AMONG DISCIPLES: QUICK TO COMPREHEND,[81] AND QUICK TO FORGET:[82] HIS GAIN DISAPPEARS IN HIS LOSS; SLOW TO COMPREHEND, AND SLOW TO FORGET: HIS LOSS DISAPPEARS IN HIS GAIN: QUICK TO COMPREHEND, AND SLOW TO FORGET: [HE IS] A WISE MAN;[83] SLOW TO COMPREHEND, AND QUICK TO FORGET, THIS IS AN EVIL PORTION.[84]

MISHNAH 13. [THERE ARE] FOUR TYPES OF CHARACTER IN [RESPECT OF] ALMSGIVING.[85] HE WHO DESIRES THAT HE [HIMSELF] SHOULD GIVE, BUT THAT OTHERS SHOULD NOT GIVE: HIS EYE IS EVIL[86] TOWARDS THAT WHICH APPERTAINS TO OTHERS;[87] [HE WHO DESIRES] THAT OTHERS SHOULD GIVE, BUT THAT HE [HIMSELF] SHOULD NOT GIVE: HIS EYE IS EVIL TOWARDS THAT WHICH IS HIS [OWN]; [HE WHO DESIRES] THAT HE [HIMSELF] SHOULD GIVE, AND THAT OTHERS SHOULD GIVE: [HE IS] A PIOUS MAN; [HE WHO DESIRES] THAT HE HIMSELF SHOULD NOT GIVE AND THAT OTHERS [TOO] SHOULD NOT GIVE: [HE IS] A WICKED MAN.[88]

MISHNAH 14. [THERE ARE] FOUR TYPES OF CHARACTER IN [REGARD TO REGULAR] ATTENDANCE[89] AT THE HOUSE-OF-STUDY: HE WHO ATTENDS BUT PRACTISES[90] NOT, THE REWARD FOR ATTENDING IS IN HIS HAND;[91] HE WHO PRACTISES BUT ATTENDS NOT,[92] THE REWARD FOR PRACTISING IS IN HIS HAND; HE WHO ATTENDS AND PRACTISES, HE IS A PIOUS MAN;[93] HE WHO ATTENDS NOT AND PRACTISES NOT: HE IS A WICKED MAN.[94]

MISHNAH 15. [THERE ARE] FOUR TYPES OF CHARACTER AMONG THOSE WHO SIT BEFORE THE SAGES:[95] [THEY ARE, SEVERALLY, TYPIFIED BY] A SPONGE, A FUNNEL, A STRAINER AND A SIEVE:[96] A SPONGE, WHICH ABSORBS ALL; A FUNNEL, WHICH LETS IN AT ONE END AND LETS OUT AT THE OTHER; A STRAINER, WHICH LETS OUT THE WINE AND RETAINS THE LEES; A SIEVE, WHICH LETS OUT THE COARSE MEAL AND RETAINS THE CHOICE FLOUR.[97]

MISHNAH 16. ALL LOVE THAT DEPENDS ON A [TRANSIENT] THING,[98] [WHEN THE] THING CEASES, [THE] LOVE CEASES; AND [ALL LOVE] THAT DEPENDS NOT ON A [TRANSIENT] THING, CEASES NOT FOR EVER. WHICH IS THE [KIND OF] LOVE THAT DEPENDS ON A [TRANSIENT] THING? SUCH AS WAS THE LOVE OF AMNON FOR TAMAR;[99] AND [WHICH IS THE KIND OF LOVE] THAT DEPENDS NOT ON A [TRANSIENT] THING? SUCH AS WAS THE LOVE OF DAVID AND JONATHAN.[100]

MISHNAH 17. EVERY CONTROVERSY THAT IS ln THE NAME OF HEAVEN,[101] THE END THEREOF IS [DESTINED] TO RESULT IN SOMETHING PERMANENT;[102] BUT ONE THAT IS NOT IN THE NAME OF HEAVEN, THE END THEREOF IS NOT [DESTINED] TO RESULT IN SOMETHING PERMANENT.

WHICH IS THE [KIND OF] CONTROVERSY THAT IS IN THE NAME OF HEAVEN? SUCH AS WAS THE CONTROVERSY BETWEEN HILLEL AND SHAMMAI;[103] AND WHICH IS THE [KIND OF] CONTROVERSY THAT IS NOT IN THE NAME OF HEAVEN? SUCH AS WAS THE CONTROVERSY OF KORAH AND ALL HIS CONGREGATION.[104]

MISHNAH 18. WHOEVER CAUSES THE MANY[105] TO BE RIGHTEOUS,[106] SIN OCCURS NOT THROUGH HIM;[107] AND WHOEVER CAUSES THE MANY TO SIN, THEY DO NOT AFFORD HIM THE FACULTY[108] TO REPENT.[109] MOSES WAS RIGHTEOUS AND CAUSED THE MANY TO BE RIGHTEOUS, [THEREFORE] THE RIGHTEOUSNESS OF THE MANY WAS [CONSIDERED] DEPENDENT ON HIM,[110] AS IT IS SAID, HE EXECUTED THE RIGHTEOUSNESS OF THE LORD AND HIS ORDINANCES WITH ISRAEL.[111] JEROBOAM, THE SON OF NEBAT, SINNED AND CAUSED OTHERS TO SIN, [THEREFORE] THE SIN OF THE MANY WAS [CONSIDERED] DEPENDENT ON HIM, AS IT IS SAID, FOR THE SINS OF JEROBOAM WHICH HE SINNED, AND WHEREWITH HE MADE ISRAEL TO SIN.[112]

MISHNAH 19. WHOEVER POSSESSES THESE THREE THINGS, HE IS OF THE DISCIPLES OF ABRAHAM, OUR FATHER; AND [WHOEVER POSSESSES] THREE OTHER THINGS, HE

IS OF THE DISCIPLES OF BALAAM, THE WICKED.[113] THE DISCIPLES OF ABRAHAM, OUR FATHER, [POSSESS] A GOOD EYE,[114] AN HUMBLE SPIRIT[115] AND A LOWLY SOUL.[116] THE DISCIPLES OF BALAAM, THE WICKED, [POSSESS] AN EVIL EYE,[117] A HAUGHTY SPIRIT[118] AND AN OVER-AMBITIOUS SOUL.[119] WHAT IS [THE DIFFERENCE] BETWEEN THE DISCIPLES OF ABRAHAM, OUR FATHER, AND THE DISCIPLES OF BALAAM, THE WICKED. THE DISCIPLES OF ABRAHAM, OUR FATHER, ENJOY[120] [THEIR SHARE] IN THIS WORLD, AND INHERIT THE WORLD TO COME, AS IT IS SAID: THAT I MAY CAUSE THOSE THAT LOVE ME[121] TO INHERIT SUBSTANCE AND THAT I MAY FILL THEIR TREASURIES,[122] BUT THE DISCIPLES OF BALAAM, THE WICKED, INHERIT GEHINNOM,[123] AND DESCEND INTO THE NETHERMOST PIT, AS IT IS SAID: BUT THOU, O GOD, WILT BRING THEM DOWN TO THE NETHERMOST PIT; MEN OF BLOOD AND DECEIT[124] SHALL NOT LIVE OUT HALF THEIR DAYS; BUT AS FOR ME, I WILL TRUST IN THEE.

MISHNAH 20. JUDAH B. TEMA[125] SAID: BE BOLD AS A LEOPARD,[126] AND SWIFT AS AN EAGLE,[127] AND FLEET AS A HART,[128] AND STRONG AS A LION,[129] TO DO THE WILL OF THY FATHER WHO IS IN HEAVEN.[130]

HE USED TO SAY: THE BOLD-FACED[131] IS [DESTINED] FOR GEHINNOM[132] AND THE SHAME-FACED[133] FOR THE GARDEN OF EDEN.[134]

MAY IT BE THE WILL [EMANATING] FROM THY PRESENCE, O LORD OUR GOD,[135] THAT THY CITY[136] BE [RE]BUILT SPEEDILY IN OUR DAYS AND GRANT THOU [THAT] OUR PORTION [BE][137] IN THY LAW.[138]

MISHNAH 21. HE USED TO SAY:[139] FIVE YEARS [IS THE AGE] FOR [THE STUDY OF] SCRIPTURE,[140] TEN-FOR [THE STUDY OF] MISHNAH,[141] THIRTEEN-FOR [BECOMING SUBJECT TO] COMMANDMENTS,[142] FIFTEEN-FOR [THE STUDY OF] TALMUD,[143] EIGHTEEN- FOR THE [BRIDAL] CANOPY,[144] TWENTY — FOR PURSUING,[145] THIRTY-FOR [FULL] STRENGTH,[146] FORTY — FOR UNDERSTANDING, FIFTY- FOR [ABILITY TO GIVE] COUNSEL,[147] SIXTY-FOR MATURE AGE, SEVENTY-FOR A HOARY HEAD,[148] EIGHTY [IS A SIGN OF SUPERADDED] STRENGTH,[149] NINETY [IS THE AGE] FOR [A] BENDING [FIGURE],[150] AT A HUNDRED, ONE IS AS ONE THAT IS DEAD, HAVING PASSED AND CEASED FROM THE WORLD.[151]

MISHNAH 22,[152] BEN BAG BAG[153] SAID: TURN IT[154] OVER, AND [AGAIN] TURN IT OVER, FOR ALL IS THEREIN.[155] AND LOOK[156] INTO IT; AND BECOME GREY AND OLD THEREIN;[157] NEITHER MOVE THOU AWAY THEREFROM,[158] FOR THAN IT THOU HAST NO BETTER STANDARD OF CONDUCT.[159]

MISHNAH 23. BEN HEHE[160] SAID: ACCORDING TO THE LABOUR IS THE REWARD.[161]

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(1) מאמרות with reference to the phrase ויאמר אלה and God said, which, in Gen. I, introduces the several phases of creation, and to the original utterance which brought the universe as a comprehensive whole into being, as implied in Ps. XXXIII, 9, for he spoke, and it was.

(2) In Gen. 1,3-29. ‘and God said’ occurs nine times (ויאמר in v. 28b is looked upon as introducing a command or a blessing and not some new act of creation. V. Elijah Wilna's commentary to Aboth). As to which is the tenth ‘utterance’, opinions differ. Some think in view of Ps. XXXIII, 6, By the word of the Lord were the heavens wade, that an ‘utterance’ is implied in Gen. I, 1. P.R.E ch. III designates ‘and he said’ in Gen. II,18 (introducing the creation of woman) as the tenth. (The Epstein MS. of P.R.E. speaks of the ten utterances but does not enumerate them. V. G. Friedlander's Edition, a.i.) V. also II ARN ch. XXXVI, where one authority is reported as substituting Gen. I, 22, (the creation of the sea-monsters) where there is no ‘and he said’ but ‘and he created’ which term is held to imply a separate act of creation and therefore to have involved a separate ‘utterance’. Gen. R. ch. XXVII enumerates eight times ויאמר up to Gen. I, 26, and in addition Gen. I, 1. (בראשית) and I, 2 ‘and the breath of God hovered over the face of the waters,’ cf. the use of רוח breath in Ps. XXXIII, 6, as a parallel to word.

(3) מה תלמוד לומר v. supra III, 8, note.

(4) If the world had been created by one single fiat, men, judging by the little they can themselves achieve by one act only, would think lightly of the world, and have little compunction about ‘spoiling’ a ‘cheap’ thing that can be so easily made. The fact that God took, as it were, extraordinary and, in view of his omnipotence, apparently unnecessary pains in its creation, should serve to warn would-be wicked men — potential destroyers of the world — that God will by no means allow anyone to go scot free who by his conduct tends to destroy the world in the creation of which He has taken so much trouble, as it were.

(5) ‘The implied relationship between ethical and cosmic processes’ (Oesterley) is an important factor in Jewish theology.

(6) Viz., (i) Adam; (ii) Seth; (iii) Enosh; (iv) Kenan; (v) Mahalaleel; (vi) Jered; (vii) Enoch; (viii) Methuselah; (ix) Lamech; (x) Noah; (Gen. V. 3-29).

(7) מכעיסין ובאין so also I ARN ch. XXXII, but in the parallel to the latter half of this Mishnah (ibid Ch. XXXIII) מכעיסין לפניו ‘acting provokingly before Him’ which Lowe's MS., MV., R. Jonah and others have in both instances.

(8) Viz., (i) Shem; (ii) Arpachshad; (iii) Shelah; (iv) Eber; (v) Peleg; (vi) Reu; (vii) Serug; (viii) Nahor; (ix) Terah; (x) Abraham; (Gen. XI, 10-26).

(9) I.e., the reward which had been in store for the people of those ten generations and would have been given them had they not by their wickedness angered God and forfeited their share.

(10) I ARN Ch. XXXIII amplifies: Two trials at the time he was bidden to leave Haran, two with his two sons, two with his two wives, one in the wars of the Kings, one at the covenant ‘between the pieces’ (Gen. XV). one in Ur of the Chaldees (where, according to a tradition, he had been thrown into a furnace whence he came out unharmed). II ARN Ch. XXXVI speaks of ten trials, but names only nine: (i) at Ur; (ii) Get thee out of thy land. ‘ . (Gen. XII, 2); (iii) The famine when he left Haran (Ibid. v. 10); (iv) Sarah at Pharaoh's palace; (v) Sarah at Abimelech's; (vi) Circumcision; (vii) The covenant ‘between the pieces’; (viii) With Isaac; (ix) With Ishmael. p.R.E. contains numbers II,III (the latter as two separate trials), IV, VI-IX of the above list and adds his hiding underground from Nimrod for thirteen years, and the wars of the Kings (including the plight of Lot).

(11) I ARN, ‘he was found perfect’.

(12) Cf. Isa. XLI, 8, Abraham that loved Me; II Chron. XX, 7, Abraham that loved Thee.

(13) That the ten plagues did not harm the Israelites is looked upon as constituting ten miracles.

(14) These ten are enumerated in I ARN ch. XXXIII (ed. Schechter, p. 96). Mekilta, Bshallah (ed. Weiss, p. 36). Tanhuma ib. (but not in ed. Buber), M. to Aboth summarizes: (i) the Sea cleft (Ex. XIV, 21); (ii) An arched tunnel (‘tube’) was formed through the water (Hab. III, 15); (iii) The sea-bed became hard (Ex. XIV, 29); (iv) it turned back to its muddy and clogging condition when the Egyptians attempted to use it (Hab. III, 14); (v) Separate paths were formed for each of the twelve tribes (Ps. CXXXVI, 13); (vi) The water congealed and hardened (Ps. LXXIV, 13); (vii) However not as one whole mass, but in separate blocks (ibid. Thou didst break the sea in pieces); (viii) The water-partitions between the parallel paths of the tribes were translucent (Ps. XVIII 12, 13); (ix) From the congealed (and salty) sea water, ‘sweet’ water flowed for the Israelites to drink, but (x) that which they did not drink, congealed again in its flow before it reached the ground (Ex. XV, 8).

(15) This paragraph not in all versions. The ten at the Red Sea are implied in the following expressions in Ex. XV: (i) v. I,. . . .hath he thrown; (ii) v. 4, . . . hath he cast; (iii) ib. are sunk; (iv) v. 5, The deeps cover them; (v) ib. They went down into the depths; (vi) v. 6,. . . dasheth in pieces the enemy; (vii) v. 7. Thou overthrowest those that rise up against Thee; (viii) ib . . .it consumeth them as stubble; (ix) v. 10, The sea covereth them; (x) ib. They sank as lead. M., basing himself on Mekilta, has one variation.

(16) In some edd. of ARN (ch. XXXIV) ‘with ten trials did the Holy One, blessed be He, put Israel to proof and in all of them they were found not perfect’. A list of the ten is given in ‘Ar. 15a, b. (i) Because there are no graves in Egypt hast thou taken us away to die in the wilderness? (Ex. XIV, 11); (ii) Not till they had seen the Egyptians washed up dead, did the Israelites believe (ib. 30-31); (iii) At Marah (Ex. XV, 24); (iv) At Rephidim (ib. XVII, 2 ff); (v) Gathering manna on the Sabbath (ib. XVI, 27); (vi) Leaving it till the morning (ib. 20); (vii) The first lust for flesh which was satisfied by the quails that came with the Manna (ib. 3, 12-13); (viii) The second lust for flesh followed by a surfeit of quails at Kibroth ha-Ta'avah (Num. XI, 4. 18-20,34); (ix) The Golden calf (which was not only a transgression of the prohibition against idols, but a sign of lack of faith); (x) The evil report of the ten spies ‘accepted’ by the people. M. varies some items of the above list: for (v) he gives the murmuring which preceded the Manna (Ex. XVI, 2, 3), and for (vii) the murmuring at Taberah (Num. XI, 1.3). For the latter as well as for (iv) and (viii) cf. Deut. IX, 22, And at Taberah, and at Massah and at Kibroth ha-Ta'avah ye wade the Lord wroth.

(17) Num. XIV, 22. This also exemplifies God's long-suffering: hitherto the punishments for each act due to lack of faith had been ad hoc; it was only after the tenth ‘trial’, that God finally doomed that generation to perish in the wilderness.

(18) Through a longing that could not have been satisfied to partake of it, (but v. L.).

(19) Though it could be, and often was, kept at the altar-head for two or three days. R. Jonah and MV had התליע, a denominative of תולעה worm’.

(20) It was fitted with marble tables.

(21) Which would not only disqualify him from carrying through the service of the Day, but would make him feel exceedingly self-conscious, as everybody would be bound to get to know of it. I ARM Ch. XXXV adds, ‘except R. Ishmael b. Kimhith’ who was accidentally rendered unclean through the uncleanness of another person (v. Yoma 47a). In the case of another High priest who is reported to have become unclean on the Day of Atonement (ib. 12b), it is held by some authorities that that, too, was caused by an external impurity. Others say this miracle operated only in the First Temple, whereas the cases mentioned occurred in the Second.

(22) Laid on the altar, which was under the open sky. The Hebrew word translated ‘pile’ (מערכה) is from the root ערך ‘to set (or lay) in order’ which is used for laying a fire on an altar (e.g.. Gen. XXII, 9; Lev. I, 7,12).

(23) Some: A column of smoke from the altar-fire broken up or deflected by wind denoted an unacceptable sacrifice. L. explains quite prosaically: so that the smoke was not blown downward, thus causing discomfort to the priests in the performance of the service. L. is probably right as the first interpretation does not tally with the fact known from the Prophets. etc. that there had been sacrifices offered up in the Temple that were unacceptable to God.

(24) Lev. XXIII, 9ff. A sheaf of new barley freshly cut during the night following the First Day of passover, brought to the Temple courtyard, threshed, parched, spread on the courtyard floor to be dried by the wind, milled, sifted through thirteen sieves, a tenth part of an epha taken off and given to the priests who offered it up in the manner prescribed for meal-offerings (Men. X, 3-5). This ‘released’ the new grain for reaping (ib. 7). Should some disqualifying defect have rendered the omer unfit for the altar, it would have been impossible to prepare another sheaf in time for the offering (v. B.).

(25) Baked of the ‘First Fruits’ of the wheat-harvest and offered up on the Feast of Weeks (Pentecost) (Lev. ibid. 15ff.). The baking had to be done before the commencement of the festival, and was not among those Temple ritual occupations which overrode the prohibition of work on Sabbath and Festival. If, therefore, by reason of any defect, the Two Loaves would have had to be disqualified, others could not have been ‘brought’.

(26) Ex. XXV, 30; Lev. XXIV, 5-7. It was changed weekly, on the Sabbath, but had to be baked before the Sabbath. If there had been some disqualifying cause, they could not have changed the shewbread for another week. The last three miracles are treated in our Mishnah as one, but they are enumerated as separate in Yoma 21a, where the rain and wind miracles are not given among the ten.

(27) Or ‘pressed together’.

(28) אלין Another reading is אדור ‘dwell’ and, according to some, it means that everybody who lived in Jerusalem was able to obtain a livelihood. Our reading refers to the large number of pilgrims who came to Jerusalem for the Three Festivals (Passover, Pentecost, Tabernacles). all of whom found accommodation in Jerusalem.

(29) בין השמשות; Nahmanides to Ex. XII, 6, on בין הערבים (which Onkelos translates בין שמשיא and Targum Jonathan’ ביני שמשתא) renders it ‘between the suns’, between the sun in the East and the sun in the West: till midday the sun is in the East, after that in the West. At midday it shines in both directions (which explains the dual form of צהרים noon). After noon the sun's light gradually diminishes as from both directions (hence the dual ערבים) until it sinks. The Rabbinic phrase בין השמשות would thus mean the period between the sun leaving the East and the sun leaving also the West. According to Ibn Ezra (v. Ex. ib. and Gen. I, 18) בין השמשות (or בין הערבים) would mean the period between the disappearance of the sun's disc beneath the horizon and the disappearance of its light which is still reflected in the clouds. Jastrow s.v. ‘between the services’ sc. of day and night, relying. on Nahmanides’ interpretation of לממשלת היום not as ‘to rule by day’ but as ‘to rule over the day etc.’ According to this interpretation, the day and the night are the servants of the sun and the moon, and the durations of day and night may be termed their respective periods of service. Ibn Ezra says of בין הערבים that it is מלה קשה ‘a difficult term’, which applies similarly, of course, to בין השמשות).

(30) Num. XVI, 30, And if the Lord shall (be found to) have created a (special) creation and the ground open her mouth, and swallow them (i.e. Korah and his confederates) up, with all that appertain unto them . . ‘ .

(31) פי הבאר Either the mouth of the well in the rock which Moses opened by striking the rock (Num. XX, 7-11), or the mouth of the Well of Miriam which followed the Israelites in the wilderness and which halted when they encamped, and which is taken by some to be the well referred to in Num. XXI, 16-18.

(32) V. Num. XXII, 28, And the Lord opened the mouth of the ass, and she said unto Balaam . . .

(33) V. Gen. IX, 13ff.

(34) V. Ex. IV, 17.

(35) שמיר In Bibl. Heb. thorn, also flint used for engraving. In Rabbinic literature it also denotes a legendary worm or insect which by passing over stones could make an incision for an engraving or split them through completely. Such an assumption was deemed necessary in view of the command that no iron tool be lifted at the building of an altar to God (Ex. XX, 22) and, of the report in I Kings VI, 7, that in fact no such tool was heard during the building of Solomon's Temple.

(36) So M. and R. Jonah. And the Lord said unto Moses: Come up to Me into the mount, and be there; and I will give thee the tables of stone, and the law and the commandment which I have written. . — (Ex. XXIV, 12.) i.e., God had already once written the Law before he called Moses into the mount. B. and others, ‘the shape of the written characters’ on the Tables which were held to have been of an unique nature in that the letters having been cut right through the stone, were not only equally readable on both sides, but a letter such as the ancient ‘Ayin which was O-shaped-could, in such circumstances, have been possible only by miracle (v. Shab. 104a). This belief was based on Ex. XXXII, 15: tables that were written on both their sides; on the one side and on the other were they written.

(37) מכתב Ex. XXXII, 16, and the writing (מכתב) was the writing of God. Others (e.g. Rashi) vocalize, here in the Mishnah, מכתב or מכתב the writing or engraving instrument.

(38) Ibid. And the tables were the work of God.

(39) Deut. XXXIV, 6.

(40) I.e., It was ordained on the eve of the First Sabbath at twilight that a certain ram in Abraham's time should be ‘ownerless’ (hefker), so that when Abraham should require one as a surprise-substitute for Isaac, he might find one ready at hand which he could rightfully (i.e, without robbing anyone) appropriate for a sacrifice (L.).

(41) מזיקין from root נזק suffer injury, Est. VII, 4 (also Dan, VI, 3; Ezra IV, 13, 15, 22, Aramaic) i,e., those who cause injury, do harm, destroy. Demons. Souls unfinished before the First Sabbath set in.

(42) The idea is: There must have been tongs to hold the iron from which the first man-made tongs were forged. V. Pes. 54a, where it is suggested that the first tongs could have been cast in a mould. The parallels mention some other Sabbath-eve creations such as the rod of Aaron (Num. XVII, 16 ff), the garment of Adam (Gen. III, 21), the cave in which Moses and Elijah stood when God revealed himself to them. (Ex. XXXIII, 22; I Kings XIX, 9 ff.) With reference to the things enumerated in the Mishnah, Singer (P.B. p. 200) remarks: ‘All phenomena that seemed to partake at once of the natural and the supernatural were conceived as having had their origin in the interval between the close of the work of creation and the commencement of the Sabbath.’ It is generally held that what is meant is that these things were created on the Sabbath eve at twilight, in posse, to become available in esse when the right time for their use would arrive.

(43) גלם in Ps. CXXXIX, 16, means the yet undeveloped embryo. Its use here as an antithesis to חכם proves that it has reference to a man's mental powers.

(44) Some versions add ובמנין ‘and in number’ which means either in number of years, i.e., age, or in the number of scholars who agree with the opinion of the other man, if they be in the majority.

(45) I.e., does not break in or interrupt.

(46) Cf. the advice in I,1. patience is required of a Rabbi, teacher or judge in giving a considered reply.

(47) Cf. Shab. 3b: R. Hiyya said to Rab: ‘When Rabbi is definitely occupied with one tractate, do not ask him a question relating to another . . . were it not that Rabbi is a great man (scholar) you would have confounded him and he would have given you an inappropriate reply.’

(48) B . . . and (consequently) the teacher answers, etc.

(49) Others: ‘to the point’.

(50) I.e., learnt it. He admits not knowing. Cf. Ber. 4a. DEZ ch. III, ‘teach thy tongue to say l know not . . . Others: When he gives an answer, either an interpretation or a decision, which has not been handed down to him by his own teachers, he deliberately makes a clear statement to that effect, so that his hearers might not be misled into taking for granted that this teaching of his too is from tradition. Some render ‘understood’ instead of ‘heard’.

(51) R. Jonah: When in discussion he recognizes as true the solution propounded by another man, he acknowledges it as correct, though he may think of clever counter-arguments, and he does not consider it inconsistent with his dignity to admit defeat.

(52) I.e., upon mankind, more particularly upon Israel.

(53) Cf. MV. Others (e.g. Singer, P.B.), ‘important transgressions’.

(54) Cf. Lev. XXVI, 19; Deut. XXVIII, 23.

(55) Tumult, turmoil as opposite to peace. V. II Chron. XV, 5. Cf. Deut. ibid. 20.

(56) V. Num. XV, 19ff.

(57) Cf. Lev. ibid. 25; Deut. ibid. 21.

(58) Either, because the Torah expressly, or impliedly, excludes those matters from the competency of a human court, or, because the sins, though committed, have not come to the knowledge of the judicial authorities, or, at a time when a Jewish tribunal is not able to promulgate or enforce capital punishment.

(59) The Sabbatical year (Shemittah); v. Lev. XXV, 6-7.

(60) Cf. Lev. XXVI, 25.

(61) Lit., ‘oppression (better, suppression) of judgment’, a term used of deliberate methods of unduly prolonging proceedings and of general interference with the course of justice calculated to delay the ultimate decision. It is also used of unnecessarily postponing an execution (Sanh. XI, 4).

(62) V. supra III,11.

(63) Cf. Lev. ibid. 22.

(64) Including ‘false’ swearing. V. supra IV, 7, notes.

(65) V. ibid.

(66) Cf. Lev. ibid., 33; Deut. ibid., 36, 64.

(67) These three are among the ‘Seven Precepts of the Sons of Noah’.

(68) V. Ex. XXIII, 10,11; Lev. XXV, 3-5.

(69) Lit., ‘the goings out of’.

(70) Succoth, The ‘Feast’ par excellence. Three times does Scripture enjoin to rejoice thereon, viz. Lev. XXIII, 40, Deut. XVI, 14 and 15.

(71) V. Deut. XIV, 28 f.

(72) Lev. XXV, 6-7; Ex. XXIII, 11.

(73) Viz., Leket (gleaning), Pe'ah (the corner sc. of the field), v. Lev. XIX, 9. and Shikehah (‘forgotten’ sc. sheaves) v. Deut. XXIV, 19, which were to be left to the poor. With the end of Succoth, the Festival of Ingathering, i.e., the completion of the agricultural year, the failure to carry out those observances in the past year, brings in its wake Divine punishment. V. Buchler, Sin and Atonement, p. 383.

(74) מדה מדות :=a measure (quantitative or qualitative), a standard by which one judges or is judged, characteristic, quality, type.

(75) The attitude of a ‘self-contained’, smug, selfishness is unethical and immoral, wicked from the highest point of view (the Hasid's), though one cannot call it an illegitimate one (v. Buchler, Some Types, p. 38). Anyone might say, ‘if I am not for myself, who will be for me?’ but a Hillel (who is often called a Hasid) adds, ‘but if I am for myself only, what am l?’ Commentators quote Ezek. XVI, 49 Behold thy sister Sodom: . . . she strengthened not the hand of the poor and needy.

(76) ‘Am ha-arez:, v. note to II, 6. L. understands ‘mine is thine’, as ‘on condition that thine is mine.’

(77) Hasid, v. supra II, 6.

(78) According to Hoffmann, Erste Mischna, p. 28, this was the last paragraph in the Tractate Aboth underlying ARM. (V. Buchler op. cit., p. 41.)

(79) Cf. supra II, 1.

(80) חסיד He is not free from the tendency, common to all men, to become angry, but by his self-control he reduces that inclination to the least proportions. (Cf. supra IV, 1), v. M. The designation of such a man as a Hasid would account for the epithet of חסיד given to Hillel after his death, Sotah 48b, cf. Buchler op. cit., p. 39.

(81) Lit., ‘to hear’.

(82) Lit. ‘lose’.

(83) MV and others (including p.B. versions), ‘a goodly portion’, clearly in contrast to the next category.

(84) Commentators remark that the terms חסיד and רשע (i.e., ‘pious’ and ‘wicked’) are not used here, because these refer to moral qualities, whereas this dictum deals with intellectual ability.

(85) Lit., ‘the givers of alms’. צדקה = righteousness, applied in Rabbinic phraseology to helping those in need, which is viewed as an act of social justice.

(86) I.e., grudging; v. supra II, 9.

(87) He thinks the poor have enough with what he has given, and grudges them the additional help they might get from others. B and others: He grudges other would-be donors the credit that would accrue to them for their charitableness.

(88) Seeking to cut off all possible sources of help from the poor man is tantamount to a deliberate attempt to starve him.

(89) Lit., ‘those who go to.’

(90) Lit., ‘does.’ Buchler, op. cit. p. 40f. has shown that it must refer to practising (the moral and ethical teachings of the school).

(91) Even though his attendance has not yet bad the desired result. ‘Great is Midrash (learning) in that it brings one to Ma'aseh (deed).’

(92) He practises the precepts and leads a good-life by following the example of others, but does not take the trouble to acquire for himself a first hand knowledge of the Torah.

(93) As Hasid refers to a man's conduct towards his fellowman, its use here can only be explained by supposing that the Beth ha-Midrash for the ordinary man was not a place for academic instruction but for the imparting of ethical and religious guidance for every-day life. (V. Buchler, ibid.)

(94) Mot only does he fail to perform the precepts, for which there may be the excuse of lack of knowledge, but by keeping away from the school he wilfully precludes his ever acquiring the knowledge, or coming under the influence, which could in time enable him to lead a worthier life.

(95) Mishnah 12 dealt with qualities of memory among ‘disciples’, our Mishnah with the capacity of advanced students (‘those who sit before the wise’) for examining knowledge acquired from one's teachers and arriving at one's own conclusions, (cf. B. and L.).

(96) Taylor, ‘bolt-sieve’ v. note below.

(97) If קמח means coarse flour and no fine flour, as they are usually translated, then what should one understand by נפה ? What we know as a sieve would, contrary to the description of the Mishnah, let through the סלת (fine flour) and retain the קמח (coarse flour). According to M., R., and B, נפה is an ordinary sieve but קמח is the very fine part of the ground corn which forms a kind of superfine dust or powder of almost useless quality. It is the part which is thicker than this, and remains in the sieve, that is סלת . Taylor renders ‘bolt-sieve’ which he describes: ‘It sifts the ground corn at once into three sorts. The corn in the bolter descends an incline, passing first over a fine cloth, and then over a coarse cloth: the former lets through the fine flour, which is caught in a receptacle attached to the machine: the process is repeated at the second cloth: the third quality, coarse bran, passes out at the end of the bolter.’ This description tallies with the function of נפה as described in II ARM Ch. XLV, q.v. What types of students are intended by these similes? M. says: The Sponge: He absorbs, and mostly retains, all he is taught without any discrimination whatsoever. The Funnel: He takes all the knowledge poured into him, but he lets it escape him almost as quickly as he gets it. The Strainer: He retains the least useful and lets out the best. The Sieve: Retains the best and discards the inferior. L. explains differently: The Sponge: Absorbs all, the good and the inferior, indiscriminately, and is unable to give out his mixed knowledge unless he is pressed by many insistent questions. The Funnel: Also allows everything in indiscriminately. but can and does easily pass on what he has learnt to others, though, again, indiscriminately. The Strainer: Takes all but separates the pure from the dregs, passes the former on to others, and retains, but eventually discards, the latter. (This is the best type of scholar.) The Sieve: Soleth being (according to L.) the very finest flour-dust or powder which the sieve retains (because it adheres to the sieve), this (would-be) scholar ‘feeds’ others with the inferior and leaves the best altogether. (This is the scholar of a perverted mind, the worst type.)

(98) So 13. followed by Oesterley; M. (followed by Singer. P.B.): ‘material cause’.

(99) Reading according to a suggestion by Baer בתמר . The usual reading ותמר ‘and Tamar’ cannot be right because Tamar did not love Amnon, v. II Samuel XIII. (Even verse 13 suggests no more than a mere possibility that she was not actually averse to him.)

(100) V. I Sam. XVIII, 1; Ibid. XX, 17; II Sam. I, 26.

(101) V. supra I, 11, notes.

(102) Cf. supra IV, 11.

(103) According to ‘Er. 13b, a Bath Kol (Heavenly Voice) declared, ‘Both these (the words of Hillel) and these (the words of Shammai) are the words of the Living God.’

(104) V. Num. XVI. For the phrase Korah and all his congregation v. ibid 6 and passim.

(105) The public, the people in general.

(106) Or ‘to have merit.’

(107) So that he be not punished whilst his disciples or followers are rewarded (ARM).

(108) For the phrase cf. supra IV, 5.

(109) Lit., ‘to do repentance.’ Perhaps לעשות should be translated to attain, achieve’. Cf. the use of the verb in Deut. VIII, 17. The door of repentance is closed to him ‘since the sins of others are beyond the remedial action of his repentance’ (Singer, P.B.). Also, if his repentance were accepted, he would escape punishment, whilst those whom he had misled would be undergoing it (ARM).

(110) I.e., attributed to him; he is given credit therefor.

(111) Deut. XXXIII, 21.

(112) 1 Kings XV, 30.

(113) So designated in Jewish literature, as’ his wickedness is proved by his own willingness, even eagerness, to go with Balak's messengers, and his ‘apologies’ for not being able to curse Israel; it is he, too, who is said to have counselled the seduction of the Israelites by the Moabite women.

(114) V. supra II, 9. Abraham demonstrated his generous and ungrudging nature in his dealings with the King of Sodom (Gen. XIV, 22f.) and with Ephron the Hittite (Gen. XXIII).

(115) Abraham's humility is evident from his words:. . . I. . .’ who am but dust and ashes (Gen. XVIII, 27).

(116) נפש (soul) is used here of ‘desire’, ‘appetite’, a meaning which it has already in Biblical Hebrew. שפלה would thus mean ‘kept low’, ‘subdued’. Cf. Abraham's dealing with Lot, Gen. XIII. The three above qualities are among those sought for when appointing judges. v. J. Sanh. I, 4.

(117) Balaam's avarice is clear from his own words; v. Num. XXII, 18; XXIV, 13.

(118) A reference to Balaam's claim that he was one that . knoweth the knowledge of the Most High (Num. XXIV, 16).

(119) Balaam's ‘handling’ of Balak, and his attempts at ‘outwitting’ God, reveal an insatiable desire for power.

(120) Lit., ‘eat’, cf. Pe'ah 1,2.

(121) This is taken as a reference to Abraham of whom God said, Abraham who loved me (Isa. XLI, 8).

(122) Prov. VIII, 21. It seems that ‘to inherit substance’ is intended as a reference to that which the disciples of Abraham receive in this world and ‘that I may fill their treasuries’ to their reward in the world to come. Cf. the treatment of Ps. CXXVIII, 2, supra IV. 1. Some take the whole quotation to refer to the reward in the hereafter, the word for ‘substance’ יש ‘ being aggadically explained (in ‘Uk. III, 12) as a Gematria (v. supra 111,18) equalling three hundred and ten, sc. worlds, which God allots to the righteous.

(123) Cf. supra 1,5; v. note on next Mishnah.

(124) Ps. LV, 24. This twofold designation fits Balaam who by his evil counsel (v. p. 72, n. 1) brought about the death of 24,000 Israelites, v. Num. XXV, 9.

(125) Mentioned in the Mishnah only here (though it is held by some that this paragraph, too, is a later addition, v. note to Mishnah 10), but a few times in Tosef. In Hag. 14a he is referred as one of the בעלי משנה ‘Masters of the Mishnah’. As we do not find him mentioned together with any particular Tanna we cannot determine in which generation he lived (Frankel Darke ha-Mishnah, p. 213).

(126) I.e., (negatively) fearless, and (positively) challenging. For this quality in the service of God v. Isa. L, 6-7; Ps. XL, 10-11; CXIX, 46.

(127) Cf. II Sam. I, 23.

(128) Cf. Ps. CXIX, 60. 1 made haste, and delayed not, to observe Thy commandments. Cf. supra IV, 2.

(129) Cf. II Sam. ibid. They were stronger than lions.

(130) ‘Father’ is a characteristic appellation of God in the Hebrew Bible, e.g., Deut. XXXII, 6,15 not He thy father . . .? Jer. III, 4, Didst thou not just now cry unto Me: ‘My father’ . . ‘ Mal. II, 10, Have we not all one Father? Hath not one God created us. V. also Jer. ibid, 29; Mal. I, 6. The God in, or of, Heaven, too, is frequent, e.g., Gen. XXIV, 3, 7, etc. The Biblical passage which is most probably the source of (if not itself to be traced to) the combined expression ‘Our Father in Heaven’ is Isa. LXIII, 15.16, Look down from heaven . . . even from Thy holy habitation . . . for Thou art our Father . . . Thou, O Lord, art our Father. V. Marmorstein, The old ,’tabb. Doctrine of God, p. 56ff. MV notes here ‘Tractate Aboth is Ended’ and then gives the dictum about man's successive ages.

(131) עז פנים Deut. XXVIII, 50, ‘fierce of countenance’ synonymous with insolence (‘that shall not regard the person of the old’) and callousness (‘nor show favour to the young’) cf. Dan. VIII, 23. In Eccl. VIII, 1, עז פניו ‘the boldness of his face’ means (according to 13DB.) ‘impudence’. In Rabbinic Hebrew the expression stands for supineness and impudence in general; as a characteristic it is looked upon among the most undesirable. Rabbi Judah ha-Nasi was wont to offer up a private prayer that he be spared from meeting ‘Azzuth Panim in other people, and from being himself tainted there with (Ber. 16b). This private prayer has since been incorporated among the statutory daily prayers (P.B. p. 7).

(132) גיהנם interchangeably with גי בן הנם in Josh. XV, 8, and elsewhere is the Valley of (the son of) Hinnom S.S.W. of Jerusalem. According to II Kings XXIII, 20; Jer. VII, 31f; XIX, 6, 9, etc., etc., it was the place where children were sacrificed, by burning, to Moloch. It was also known as תפת (Topheth) or the Valley of Slaughter. The revolting associations of the place evidently led to the transference of its name to the most horrifying place in human imagination, the place of punishment of the wicked in the hereafter. Some Rabbinic traditions place Gehinnom of the hereafter below the valley of that name, but there are also other supposed locations. The Moloch worship in the actual valley of Hinnom together with Isa. LXVI, 24, (. . . the carcases of the men that have rebelled against me; for their worm shall not die, neither shall their fire be quenched . . .) which suggests that the punishment of the wicked is to be by fire, has invested the Gehinnom of the hereafter with the characteristics of ‘hell’. The methods and duration of punishment in Gehinnom are also matters on which opinions differ. V. f.E.

(133) Cf. Yeb. 79a: A sense of shame (i.e., the opp. to insolence and self-assertiveness) compassion, and the practice of disinterested kindliness are the characteristics of Israel.

(134) גן עדן The :celestial Garden of Eden, ‘paradise’ — the abode of the righteous — of which the terrestrial one, spoken of in Gen. II and III, is the model (v. also Ezek. XXXI which speaks of the trees in Eden in the garden of God) or (according to some) vice-versa. In the popular conception the two are not kept separate. Views as to its location, dimension, appearance, etc. differ in the Midrashic and Talmudic references, It is often used as synonymous with ‘Olam habba, ‘the world-to-come.’ Some distinguish between Eden and the Garden of Eden. The Garden, they say, is but a part of Eden; Adam and Eve were only in the Garden, but no mortal eye has yet perceived the real, unspeakably more wonderful, Eden. V. J.E. Articles ‘Eden, Garden of’ and ‘Paradise’. Taylor: This part of the Mishnah is probably a later addition borrowed from Tractate Kallah.

(135) Many edd. add ‘and God of our Fathers.’

(136) P.B. versions ‘the Sanctuary.’

(137) Taylor (followed by Oesterley) ‘grant us our portion.’

(138) Elijah Wilna says this paragraph should be at the end of the chapter. In MV it is at the end of Chapter VI.

(139) MV, also other texts, attribute this dictum to Samuel the Little. In some versions it is preceded by the dictum which is also found in the latter's name in IV, 19. By some, our Mishnah is credited to Ben He-He, whose name occurs in the next Mishnah.

(140) מקרא (v. Meh. VIII, 8), lit., that which was (to be) read sc. from a written text (synonymous with ‘The Law in Writing’), as distinguished from משנה ‘that which was (to be) recited sc. from hearing and memory’ (synonymous with ‘The Law which was (transmitted) by (word of) mouth’). The five years here are said to be based on the analogy of the newly planted tree, the fruit of which becomes available for general consumption in the fifth year (Lev. XIX, 25).

(141) משנה v. previous note. The age of ten in this connection is explained thus: In Num. IV, 3’ etc. the period of a Levite's service is commanded to begin ‘from thirty years old’, but ibid. VIII, 24, ‘from twenty-five years old.’ The discrepancy is explained by allotting five years for the Levite's training before he becomes proficient for his sacred duties (v. Hui. 24a). Five years is, thus, an accepted period for the first phase of education. Commencing Scripture at five, one is ready for Mishnah at ten.

(142) In connection with many precepts, references to the committing of sins and penalties, the term איש — ‘man’ — is used; hence the age at which one becomes subject to Mizwoth and penalties is thirteen, when the boy is said to have matured into a ‘man’ (v. Elijah Wilna to this Mishnah). This, of course, underlies the Bar-Mizwah institution, which, however, in the present usage of the term, appears to be of much later origin.V. Schechter, Studies in Judaism (First Series), p. 378ff.

(143) תלמוד Used here, apparently, in the special sense of study based on the Mishnah or Oral Learning (though not, of course, in the specific sense that we use it), rather than study in general. At the age of fifteen, he will have completed the second five years’ stage of his studies.

(144) Eighteen was the age recommended at which a man should marry so that he may fulfil the precept, When a man taketh a new wife, he shall not go out in the host . . .’ one year, and shall cheer his wife whom he hath taken (Deut. XXIV, 5) and yet be ready to undertake military service at the age of twenty (Num. I, 3 passim).

(145) Some: For military service which began ‘from twenty years old’ (Num. ibid.). Most commentators: for pursuing, seeking, a livelihood. This will have given him a further five-year period (from fifteen to twenty) for devoting himself to Talmud before setting out in earnest on a worldly career. Others explain ‘for pursuing’ to mean for quickness, zest, impetuosity, in the pursuit of one's desires or ideals (so Abrabanel, v. Taylor).

(146) Thirty was the age at which a Levite entered upon his full duties which comprised the work of service and the work of bearing burdens (Num. IV, 47); these duties being so comprehensive and arduous required the possession of full physical faculties i e כח Scripture thus considers thirty the age for strength. V. also ibid. VII, 9.

(147) According to Num. VIII, 25f.: from the age of fifty years they (the Levites) shall return from the service of the work, and shall serve no more; but shall minister with their brethren in the tent of meeting, to keep the charge, but they shall do no manner of service. As their ministrations were not in the nature of actual work, they must then have served in the capacity of responsible counsellors. Hence fifty must be the age when a man becomes fitted for giving counsel.

(148) V. II Sam. V, 4: David was thirty years old when he began to reign, and he reigned.forty years. i.e., he lived seventy years; and I Chron. XXIX, 28, And he (David) died in a good old age (שיבה =hoary head). Thus שיבה is reached at the age of seventy.

(149) Cf. Ps. XC, 10.

(150) לשוח The Bibl. root שוח means ‘sink down’ and its cognates שחח and שחח ‘bend’, ‘bow down’. Others take שוח here as a noun which in the Bible occurs in a feminine form שוחה’ ‘pit’, ‘grave’.

(151) Elijah Wilna cites Isa. LXV, 20, There shall be no more thence an infant of days, nor an old man that hath not filled his days; for the youth shall die one hundred years old, and points out that the context there shows that this is intended as a blessing. Thus the extreme limit up to which life is a blessing is a hundred years; and one who exceeds that limit is as one who no more belongs to the world. Exceptions to this are very rare; and in the case of Moses, Scripture found it necessary to say: his eye was not dim nor his natural force abated (Deut. XXXIV, 7).

(152) MV has this passage at the end of Chapter VI, together with the prayer in Mishnah 20.

(153) His full name, Johanan b. Bag Bag, occurs in J. Keth. V: 4. Tos. V, as a contemporary of R. Judah b. Bathyra. Tosaf. Yom Tob a.l. says the name is omitted here, as also in Ben He-He's case, because they did not live long (cf. Ben Zoma and Ben ‘Azzai supra IV beginning), and quotes Rashbam to the effect that Ben Bag Bag and Ben He-He were proselytes, and בין הא הא means a son of Abraham and Sarah, to whose respective names God had, as a sign of favour, added the letter ה and whose spiritual ‘parenthood’ is assumed for all proselytes; בג (in Ben Bag Bag) is the numerical equivalent of ה (five). He was so called to distinguish him from b. He He (v. Tosaf. to Hag. 9b). Bacher AT, I, p. 10f. suggests the following explanation of the two names: In Shab. 31a, etc. we have the story of the would-be proselyte who desired to learn Torah, but only the written and not the oral (traditional). Hillel cured him of his contempt for the oral tradition by letting him see that the knowledge of the very names of the letters of the Alphabet depended on oral tradition, e.g., he pointed out to him that we know ב is Beth and ג is Gimmel and not vice-versa only by means of oral instruction. Such a disciple might well have earned for himself the name בן ב׳ג ב׳ג or בן הי הי (the one who learnt that ה is He). They, or (if they are identical) he, may have derived the sayings given here in the two names from Hillel himself as in I ARM XII, both sayings are in the name of Hillel (in II ARM XXVII the first in Hillel's name, the second in that of בן הא הא as in our text). There is also a suggestion that בג is formed from the initial letters of בן גרים son of proselytes,’ (v. MV).

(154) The Torah.

(155) Lowe's MS. adds וכולך בה ‘and thy all is therein,’ for which Taylor adduces Eccl. XII, 13, and this (i.e., fearing God and observing his commandments) is the whole of wan.

(156) Look deeply, contemplate. MV: ובה תהוי ‘and therein (thou shouldst) have thy being.’

(157) Cf. Ps. XCII, 15.

(158) Cf. the frequent admonitions not to turn aside from the Law to the right or to the left.

(159) מדה v. p. 67, n. 3.

(160) V. p. 76, n. 7.

(161) A proverb of general application, but here it has special reference to the labour and energy devoted to the study of the Torah.

Mishna - Mas. Avoth Chapter 6

Mishna - Mas. Avoth Chapter 6

THE SAGES TAUGHT IN THE STYLE[1] OF THE MISHNAH;[2] BLESSED BE HE WHO HAS APPROVED[3] THEM AND THEIR TEACHING.[4]

BARAITHA 1. R. MEIR SAID: WHOEVER OCCUPIES HIMSELF WITH THE TORAH FOR ITS OWN SAKE, ACQUIRES BY MERIT MANY THINGS, NAY MORE, THE WHOLE OF THE WORLD IS WORTH WHILE FOR HIS SAKE. HE IS CALLED A FRIEND,[5] A BELOVED,[6] ONE THAT LOVES THE ALL-PRESENT, ONE THAT LOVES [HIS FELLOW-] CREATURES.[7] ONE THAT GLADDENS GOD,[8] ONE THAT GLADDENS MAN;[8] AND IT [I. E. THE TORAH] CLOTHES HIM[9] WITH MEEKNESS AND FEAR,[10] AND FITS[11] HIM TO BE RIGHTEOUS, PIOUS, UPRIGHT AND FAITHFUL; IT ALSO KEEPS HIM FAR FROM SIN, AND BRINGS HIM NEAR TO MERIT [ORIOUS CONDUCT]; AND MEN BENEFIT FROM HIM BY [WAY OF] COUNSEL, SOUND KNOWLEDGE, UNDERSTANDING AND STRENGTH, AS IT IS SAID, COUNSEL IS MINE AND SOUND WISDOM; I AM UNDERSTANDING, POWER IS MINE;[12] AND IT GIVES HIM SOVEREIGNTY[13] AND DOMINION,[14] AND [THE FACULTY TO BE] SEARCHING IN JUDGMENT;[15] AND THEY REVEAL TO HIM[16] THE SECRET MEANINGS[17] OF THE TORAH, AND HE IS MADE AS A WELL THAT EVER GATHERS FORCE,[18] AND LIKE A STREAM THAT NEVER CEASES;[19] AND HE BECOMES MODEST, LONG-SUFFERING AND FORGIVING OF INSULT TOWARDS HIMSELF; AND IT MAKES HIM GREAT, AND EXALTS HIM ABOVE ALL THE WORKS [OF GOD].

BARAITHA2. R. JOSHUA B. LEVI[20] SAID: EVERY DAY A BATH KOL[21] GOES FORTH FROM MOUNT HOREB, AND MAKES PROCLAMATION AND SAYS: WOE UNTO MEN ON ACCOUNT OF [THEIR] CONTEMPT TOWARDS THE TORAH,[22] FOR WHOEVER OCCUPIES HIMSELF NOT WITH THE [STUDY OF] TORAH IS CALLED: ‘[THE] REBUKED [ONE]’[23] AS IT IS SAID, AS A RING OF GOLD IN A SWINE'S SNOUT, SO IS A FAIR WOMAN THAT TURNETH AWAY FROM DISCRETION,[24] AND IT SAYS, AND THE TABLES WERE THE WORK OF GOD, AND THE WRITING WAS THE WRITING OF GOD, GRAVEN UPON THE TABLES.[25] READ NOT HARUTH [WHICH MEANS ‘GRAVEN’] BUT HERUTH [WHICH MEANS ‘FREEDOM’].[26] FOR THERE IS NO FREE MAN FOR THEE BUT HE THAT OCCUPIES HIMSELF WITH THE STUDY OF THE TORAH; AND WHOEVER REGULARLY OCCUPIES HIMSELF WITH THE STUDY OF THE TORAH, LO, HE IS EXALTED, AS IT IS SAID, AND FROM MATTANAH TO NAHALIEL; AND NAHALIEL TO BAMOTH.[27]

BARAITHA 3. HE WHO LEARNS FROM HIS FELLOW ONE SINGLE SECTION,[28] OR ONE SINGLE RULE,[29] OR ONE SINGLE VERSE,[30] OR ONE SINGLE EXPRESSION,[31] OR EVEN ONE SINGLE LETTER,[32] IS UNDER OBLIGATION TO TREAT HIM WITH HONOUR; FOR SO WE FIND WITH DAVID, KING OF ISRAEL, WHO LEARNT FROM AHITOPHEL TWO THINGS ONLY,[33] [YET] CALLED HIM HIS MASTER, HIS COMPANION AND HIS FAMILIAR FRIEND, AS IT IS SAID, BUT IT WAS THOU, A MAN MINE EQUAL, MY COMPANION[34] AND MY FAMILIAR FRIEND.[35] IS THIS NOT [AN INSTANCE OF THE ARGUMENT] ‘FROM THE LESS TO THE GREATER’?[36] WHAT [WAS IT IN THE CASE OF] DAVID, KING OF ISRAEL? [IT WAS] THAT HE HAD LEARNT FROM AHITOPHEL TWO THINGS ONLY, [YET] HE CALLED HIM HIS MASTER, HIS COMPANION AND HIS FAMILIAR FRIEND; [THEN IN THE CASE OF] ONE WHO LEARNS FROM HIS FELLOW A SECTION, A RULE, A VERSE OR AN EXPRESSION OR EVEN ONE LETTER, THERE ARE FOR [EVERY] ONE [REASON IN THE FORMER CASE] EVER SO MANY [REASONS IN THE LATTER CASE, FOR CONCLUDING] THAT HE IS UNDER OBLIGATION TO TREAT HIM [I.E. HIS FELLOW] WITH HONOUR. AND ‘HONOUR’ MEANS NOTHING BUT TORAH, AS IT IS SAID, THE WISE SHALL INHERIT HONOUR,[37] AND THE PERFECT SHALL INHERIT GOOD,[38] AND IT IS [ALSO] SAID, FOR I GIVE YOU GOOD DOCTRINE; FORSAKE YE NOT MY TEACHING [TORAH].[39]

BARAITHA 4. SUCH IS THE WAY [OF LIFE CONDUCIVE TO THE STUDY] OF THE TORAH: A MORSEL OF BREAD WITH SALT[40] THOU SHALT EAT, AND WATER BY MEASURE THOU SHALT DRINK,[41] AND UPON THE GROUND THOU SHALT SLEEP, AND A LIFE OF PRIVATION THOU SHALT LIVE, AND IN THE TORAH SHALT THOU LABOUR.[42] IF THOU DOEST THUS, HAPPY SHALT THOU BE, AND IT SHALL BE WELL WITH THEE:[43] HAPPY SHALT THOU BE IN THIS WORLD, AND IT SHALL BE WELL WITH THEE IN THE WORLD TO COME.

SEEK NOT GREATNESS FOR THYSELF, AND COVET NOT HONOUR MORE THAN THY LEARNING;[44] NEITHER CRAVE THOU FOR THE TABLE OF KINGS,[45] FOR THY TABLE IS GREATER THAN THEIR TABLE, AND THY CROWN IS GREATER THAN THEIR CROWN,[46] AND FAITHFUL IS THINE EMPLOYER TO PAY THEE THE REWARD OF THY LABOUR.[47]

BARAITHA 5. GREATER IS THE TORAH THAN THE PRIESTHOOD AND THAN THE KINGSHIP, SEEING THAT THE KINGSHIP IS ACQUIRED IN [THE FORM OF][48] THIRTY[49] DISTINCTIONS,[50] AND THE PRIESTHOOD IN [THE FORM OF] TWENTY-FOUR,[51] BUT THE TORAH IN [THE FORM OF] FORTY-EIGHT THINGS,[52] AND THESE THEY ARE IN: [THE FORM OF] STUDY, ATTENTIVE LISTENING,[53] ORDERED PRESENTATION [OF ONE'S STUDY-MATTER] WITH [ONE'S] LIPS,[54] REASONING OF THE HEART,[55] INTELLIGENCE OF THE HEART,[56] AWE,[57] FEAR,[58] HUMILITY,[59] JOYOUSNESS,[60] MINISTERING UNTO THE SAGES,[61] PAINSTAKING EXAMINATION [OF A SUBJECT,] TOGETHER WITH [ONE'S] COLLEAGUES,[62] FINE ARGUMENTATION OF DISCIPLES,[63] SE DATENESS,[64] [KNOWLEDGE OF] SCRIPTURE, [KNOWLEDGE OF] THE ORAL LEARNING, MODERATION IN SLEEP,[65] MODERATION IN GOSSIP,[66] MODERATION IN [WORLDLY] PLEASURE,[67] MODERATION IN HILARITY,[68] MODERATION IN WORLDLY INTERCOURSE,[69] LONG-SUFFERING, A GOOD HEART,[70] THE CONSCIENTIOUSNESS OF THE SAGES,[71] [UNCOMPLAINING] ACCEPTANCE OF [DIVINE] CHASTISEMENTS.[72]

BARAITHA 6. [THE POSSESSOR OF TORAH IS ONE] WHO RECOGNIZES HIS PLACE,[73] WHO REJOICES IN HIS PORTION,[74] WHO MAKES A FENCE[75] TO HIS WORDS,[76] WHO CLAIMS NO CREDIT FOR HIMSELF,[77] IS LOVED, LOVES THE ALL-PRESENT, LOVES [HIS FELLOW] CREATURES,[78] LOVES RIGHTEOUS WAYS,[79] WELCOMES[80] REPROOFS [OF HIMSELF],[81] LOVES UPRIGHTNESS,[82] KEEPS HIMSELF FAR FROM HONOUR[S],[83] LETS NOT HIS HEART BECOME SWELLED ON ACCOUNT OF HIS LEARNING, DELIGHTS NOT IN GIVING LEGAL DECISIONS,[84] SHARES IN THE BEARING OF A BURDEN[85] WITH HIS COLLEAGUE,[86] USES HIS WEIGHT WITH HIM ON THE SCALE OF MERIT,[87] PLACES HIM UPON [A GROUNDWORK OF] TRUTH,[88] PLACES HIM UPON [A GROUNDWORK OF] PEACE,[89] COMPOSES Hlmself[90] AT HIS STUDY,[91] ASKS AND ANSWERS,[92] LISTENS [TO OTHERS], AND [HIMSELF] ADDS [TO HIS KNOWLEDGE],[93] LEARNS IN ORDER TO TEACH,[94] LEARNS IN ORDER TO PRACTISE,[94] MAKES HIS TEACHER WISER,[95] NOTES WITH PRECISION THAT WHICH HE HAS HEARD,[96] AND SAYS A THING IN THE NAME OF HIM WHO SAID IT. LO, THOU HAST LEARNT: EVERYONE THAT SAYS A THING IN THE NAME OF HIM WHO SAID IT, BRINGS DELIVERANCE INTO THE WORLD, AS IT IS SAID: AND ESTHER TOLD THE KING THEREOF IN MORDECAI'S NAME.[97]

BARAITHA 7. GREAT IS TORAH FOR IT GIVES LIFE, UNTO THOSE ‘THAT PRACTISE IT, IN THIS WORLD, AND IN THE WORLD TO COME, AS IT IS SAID: FOR THEY[98] ARE LIFE UNTO THOSE THAT FIND THEM, AND HEALTH TO ALL THEIR FLESH,[99] AND IT SAYS [ALSO]: IT[98] SHALL BE HEALTH TO THY NAVEL, AND MARROW TO THY BONES ,[100] AND IT SAYS [ALSO] SHE[101] IS A TREE OF LIFE TO THEM THAT LAY HOLD UPON HER, AND HAPPY IS EVERYONE THAT HOLDETH HER FAST,[102] AND IT SAYS [ALSO]:

FOR THEY[101] SHALL BE A CHAPLET OF GRACE UNTO THY HEAD, AND CHAINS ABOUT THY NECK,[103] AND IT SAYS [ALSO]: SHE[101] WILL GIVE TO THY HEAD A CHAPLET OF GRACE; A CROWN OF GLORY WILL SHE BESTOW ON THEE,[104] AND IT SAYS [ALSO]: LENGTH OF DAYS IS IN HER[101] RIGHT HAND; IN HER LEFT HAND ARE RICHES AND HONOUR,[105] AND IT SAYS [ALSO]: FOR LENGTH OF DAYS, AND YEARS OF LIFE, AND PEACE, WILL THEY[101] ADD TO THEE.[106]

BARAITHA 8. R. SIMEON B. JUDAH[107] SAID IN THE NAME OF R. SIMEON B. YOHAI:[108] COMELINESS, STRENGTH, RICHES, HONOUR, WISDOM, OLD AGE, HOARY AGE, AND CHILDREN[109] ARE BECOMING TO THE RIGHTEOUS, AND BECOMING TO THE WORLD, AS IT IS SAID: THE HOARY HEAD IS A CROWN OF GLORY, IT IS FOUND IN THE WAY OF RIGHTEOUSNESS,[110] AND IT SAYS [ALSO]: THE CROWN OF THE WISE IS THEIR RICHES,[111] AND IT SAYS [ALSO]: CHILDREN'S CHILDREN ARE THE CROWN OF OLD MEN; AND THE GLORY OF CHILDREN ARE THEIR FATHERS,[112] AND IT SAYS [ALSO]: THE GLORY OF YOUNG MEN IS THEIR STRENGTH; AND THE BEAUTY OF OLD MEN IS THE HOARY HEAD,[113] AND IT SAYS [ALSO]: THE MOON SHALL BE CONFOUNDED, AND THE SUN ASHAMED; FOR THE LORD OF HOSTS WILL REIGN IN MOUNT ZION, AND IN JERUSALEM, AND BEFORE HIS ELDERS SHALL BE GLORY.[114]

BARAITHA 9. R. SIMEON B. MENASYA[115] SAID: THESE SEVEN QUALITIES,[116] WHICH THE SAGES HAVE ENUMERATED [AS BECOMING] TO THE RIGHTEOUS, WERE ALL OF THEM REALIZED IN RABBI AND HIS SONS.[117]

R. JOSE B. KISMA[118] SAID: ONCE I WAS WALKING BY THE WAY WHEN A MAN MET ME, AND GAVE ME [THE SALUTATION OF] ‘PEACE’,[119] AND I RETURNED HIM [THE SALUTATION OF] PEACE’. SAID HE TO ME, RABBI, FROM WHAT PLACE ART THOU?’ SAID I TO HIM, ‘FROM A GREAT CITY OF SAGES AND SCRIBES AM I.’ SAID HE TO ME, ‘RABBI, [SHOULD IT BE] THY PLEASURE THAT THOU DWELL WITH US IN OUR PLACE, I WILL GIVE THEE A THOUSAND THOUSAND DENARII OF GOLD,[120] AND PRECIOUS STONES AND PEARLS.’ SAID I TO HIM: ‘IF THOU SHOULDST GIVE ME ALL THE SILVER AND GOLD, PRECIOUS STONES AND PEARLS THAT ARE IN THE WORLD, I WOULD NOT DWELL [ANYWHERE] EXCEPTING IN A PLACE OF TORAH; FOR IN THE HOUR OF THE DEPARTURE OF A MAN [FROM THE WORLD], THERE ACCOMPANY HIM NEITHER GOLD NOR SILVER, NOR PRECIOUS STONES NOR PEARLS, BUT TORAH AND GOOD DEEDS ALONE, AS IT IS SAID, WHEN THOU WALKEST, IT SHALL LEAD THEE, WHEN THOU LIEST DOWN, IT SHALL WATCH OVER THEE; AND WHEN THOU WAKEST, IT SHALL TALK WITH THEE.[121] WHEN THOU WALKEST, IT SHALL LEAD THEE — IN THIS WORLD, WHEN THOU LIEST DOWN, IT SHALL WATCH OVER THEE — IN THE GRAVE,[122] AND WHEN THOU WAKEST, IT SHALL TALK WITH THEE[123] — IN THE WORLD TO COME; AND THUS IT IS WRITTEN IN THE BOOK OF PSALMS BY DAVID, KING OF ISRAEL, THE LAW OF THY MOUTH IS BETTER UNTO ME THAN THOUSANDS OF GOLD AND SILVER,[124] AND IT SAYS [ALSO]: MINE IS THE SILVER, AND MINE THE GOLD, SAITH THE LORD OF HOSTS.[125]

BARAITHA 10. FIVE[126] POSSESSIONS HAS THE HOLY ONE, BLESSED BE HE, [SPECIFICALLY] DECLARED HIS OWN IN HIS WORLD, AND THESE THEY ARE: THE TORAH, ONE POSSESSION, THE SANCTUARY, ONE [OTHER] POSSESSION,[127] HEAVEN AND EARTH, ONE [MORE] POSSESSION, ABRAHAM, ONE [OTHER] POSSESSION,[128] ISRAEL, ONE [MORE] POSSESSION.

THE TORAH IS ONE[129] POSSESSION. WHENCE [DO WE INFER THIS]? SINCE IT IS WRITTEN, THE LORD POSSESSED ME[130] AT THE BEGINNING OF HIS WAY, BEFORE HIS

WORKS OF OLD.[131] HEAVEN AND EARTH ARE ONE POSSESSION. WHENCE [DO WE INFER THIS]? SINCE IT IS SAID:[132] THUS SAITH THE LORD: THE HEAVEN IS MY THRONE, AND THE EARTH IS MY FOOTSTOOL; WHERE IS THE HOUSE THAT YE MAY BUILD UNTO ME? AND WHERE IS THE PLACE THAT MAY BE MY RESTING PLACE ?[133] AND IT SAYS [ALSO]: HOW MANIFOLD ARE THY WORKS, O LORD! IN WISDOM HAST THOU MADE THEM ALL, FULL IS THE EARTH, THY POSSESSION.[134] ABRAHAM IS ONE POSSESSION. WHENCE [DO WE INFER THIS]? SINCE IT IS WRITTEN: AND HE BLESSED HIM AND SAID: BLESSED BE ABRAM OF GOD THE MOST HIGH, MAKER OF HEAVEN AND EARTH'.[135] ISRAEL IS ONE POSSESSION. WHENCE [DO WE INFER THIS]? SINCE IT IS WRITTEN: TILL THY PEOPLE PASS OVER, O LORD, TILL THE PEOPLE PASS OVER THAT THOU HAST MADE THINE OWN,[136] AND IT SAYS [ALSO]: AS FOR THE HOLY THAT ARE IN THE EARTH, THEY ARE THE EXCELLENT IN WHOM IS ALL MY DELIGHT.[137] THE SANCTUARY IS ONE POSSESSION. WHENCE [DO WE INFER THIS]? SINCE IT IS SAID: THE SANCTUARY, O LORD, WHICH THY HANDS HAVE ESTABLISHED,[138] AND IT IS SAID [ALSO]: AND HE BROUGHT THEM TO HIS HOLY BORDER, TO THE MOUNTAIN, WHICH HIS RIGHT HAND HAD POSSESSED.[139]

BARAITHA 11. WHATEVER THE HOLY ONE, BLESSED BE HE, CREATED IN HIS WORLD, CREATED HE NOT BUT FOR HIS GLORY, AS IT IS SAID: AND [AS FOR] EVERYTHING THAT IS CALLED BY MY NAME, INDEED [IT IS] FOR MY GLORY [THAT] I HAVE CREATED IT, I HAVE FORMED IT, YEA I HAVE MADE IT,[139] AND IT SAYS [ALSO]: THE LORD SHALL REIGN FOR EVER AND EVER.[140]

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(1) Lit., 'tongue', 'language', v. n. 2.

(2) The whole of this paragraph is introductory. The chapter that follows is not actually a part of the Mishnah, but consists almost exclusively of Baraithas i.e., dicta of Tannaitic authorship not included in the Mishnah of R. Judah ha-Nasi (v. supra p. II, n. 1), the exception being a saying by R. Joshua b. Levi an early Palestinian Amora. The chapter is otherwise known as פרק קנין תורה 'The Chapter on the Possession of Torah,' its subject being the praise of the Torah, or as פרק ר מאיר 'The Chapter of A. Meir,' from its opening words, and forms the eighth chapter of Tractate Kallah. It was attached to Aboth (which consists of five chapters) as a sixth chapter, apparently after it had become customary to read the chapters of Aboth in their order on the successive Sabbaths between Passover and Pentecost, of which there are six (v. Introduction). The choice of this chapter to fill the gap is to be explained by its being in style and subject matter close to Aboth, and by its being appropriate, by reason of its praise of the Torah, for the Sabbath preceding the festival celebrating, inter alia, the Giving of the Torah on Sinai.

(3) Lit., 'chosen'.

(4) Some translate 'their Mishnah'.

(5) רע companion, friend, sc. of God, so explained by MV and others who quote Ps. CXXXIX, 17 which they understand as, How precious are (רעיך) Thy friends (A.V. thoughts) to me, O God (Rashi a.l.). For the righteous as God's friends (אוהב) cf. Isa. XLI, 8; Prov. VIII, 17; Ps. XCVII, 10; Ex. XX, 6; Deut. V, 10.

(6) One that loves God is himself beloved of God. v. Prov. VIII, 17, I love them that love me, cf. I Sam. II, 30.

(7) Cf. supra I,12.

(8) The expression was probably suggested by Judges IX, 13.

(9) Cf. Job XXIX, 14; Isa. LXI, 10.

(10) Sc. of God.

(11) מכשרתו Hif'il of כשר to be proper, fit, suitable, cf. Est. VIII, 5. In Rabbinic Hebrew it is mostly used in the technical sense of being legally valid or ritually fit.

(12) Prov. VIII, 14.

(13) L. 'kingly appearance'.

(14) L. 'personality that commands obedience'.

(15) Cf. Prov. ibid. 15, (Wisdom-Torah speaking). By me princes rule and nobles, even all the judges of the earth.

(16) MV adds 'from Heaven'.

(17) Cf. Ps. XXV, 14, The secret of the Lord is with them that fear Him; Amos III, 7. He hath revealed his secret to his servants the prophets.

(18) V. supra II, 8. R. Johanan b. Zakkai's characterisation of R. Eleazar b. ‘Arach.

(19) The quality attributed in some texts to the well.

(20) One of the first generation of Palestinian Amoraim (middle third century). A prolific and popular Aggadist.

(21) בת קול lit., ‘the daughter of a voice, or of a sound,’ a secondary sound caused by the reverberation of an original sound, used of (i) an echo, (ii) a sound caused by a sound that was originally divinely uttered, and intended for human hearing. Man cannot endure hearing the direct voice of God, v. Deut, V, 22, if we hear the voice of God any more, then we shall die.

(22) Through neglecting its study and practice.

(23) Tanhuma ibid, ‘rebuked of the Holy One, blessed be He.’ The verb נזף means to rebuke, censure, reprimand, and is also used of a form of excommunication. MV. adduces Deut. XXVII, 26, Cursed be he that confirmeth not the words of this Law . . . and quotes Shebu. 36a to the effect that ‘cursed’ there has, inter alia, the meaning of excommunication.

(24) Prov. XI, 22. The Hebrew rendered ‘a ring of gold in the snout’, viz. Nenem Zahab be'af is taken as pointing to the opprobrious appellation ‘Nazuf’ i.e., the rebuked one. This form of play on words is called נוטריקן notaricon (from Latin, notarius, a shorthand writer) a mode of cypher-writing; טעם ‘discretion’ as used in the Wisdom literature is taken as one of the synonyms for Torah. The meaning intended here is in the nature of the following: One who has capacity for Torah (‘a fair woman’) and turns his back on it (‘turning away from discretion’) is like a swine that has a gold ring in its snout (Nes'em Zahab be'af) and burrows with it in the mud and dirt, and therefore incurs divine censure.

(25) Ex. XXXII, 16.

(26) ‘Read not . . . but (read) . . . ‘is an exegetical device used when the expounder felt that a minor alteration of a word would provide a ‘short cut’ to the interpretation he wished to convey. It was a deliberate and manifest play on words, and was not intended to indicate a variant in the Scriptural text, (v. Taylor a.l. and Bacher ערכי המדרש I, s.v. קרא).

(27) Treating the Hebrew place-names as if they were common nouns, the passage may be taken to mean ‘Through (God's) gift (to Israel) (i.e. the Torah) (one attains) a heritage of God; from the heritage of God (one is raised) to high places.’ MV adds: ‘But if he cultivates overweening pride, God brings him low, as it is said, And from Bamoth (i.e. high places) to the valley (Num. XXI, 20, the continuation of the quotation in our text). V. ‘Er. 54a.

(28) פרק an old term for a Psalm, also used for a section of the oral law (Mishnah), v. Bacher, op. cit. s.v.

(29) הלכה an accepted or decided law. V. Bacher op. cit. s.v.

(30) פסוק a rather shorter division of Scripture, synonymous with הכתוב v. Bacher op. cit. s.v. The division of the Bible into chapters and verses (called פסוקים in neo-Hebrew) is a much later device.

(31) דבור (a) divine speech, (b) Biblical expression. (c) saying. V. Bacher op. cit. s.v.

(32) אות . lit., ‘sign’. letter (of the Alphabet), word, a name of God, etc. v. Bacher op. cit. s.v. The ‘Gemara’ to Kallah VIII says ‘one single letter’ refers to the correct spelling of words in which one is in doubt about one letter only, e.g. whether-to use א or ע .

(33) The ‘Gemara’ to Kallah VIII in the name of Raba defines the two things as: (i) The principle that study in the company of a fellow-student is preferable to solitary study; and it is to this that David referred when he said (Ps. LV, 15) together we sweetened counsel (which- [study of the] Torah) with the emphasis on ‘together’. (ii) The lesson that it is proper to proceed to the House of Prayer not alone and leisurely. but in company and eagerly; and it is this that David meant when he said (ibid). In the house of God we walked with the throng (ברגש, which may also mean with eagerness, enthusiasm). Yalkut, Samuel, 142, reproduces two different lessons which Ahitophel is supposed to have imparted to David. (i) When the fatality of ‘Uzza's death occurred in connection with the conveying of the Ark on a cart (II Sam. VI). Ahitophel drew David's attention to Num. VII, 9. according to which the Ark was to be borne on the shoulder. (Sifre, Num. 46, p. 14a; J. Sanh. X. 2.) (ii) When David was digging the foundations for the Temple, he dislodged a stone that had stopped up the depths, the floods of which then threatened to overwhelm the earth. David enquired whether it be permissible to write the Divine name on a potsherd and throw it into the water, knowing that the water would obliterate the writing. Ahitophel drew a comparison with the instance of the Sotah (the wife suspected of unfaithfulness). There it is ordained, the priest shall write these curses in a scroll and he shall blot them with the waters of bitterness (Num. V, 23) and the passage containing those curses contains also the Divine name which, too, the priest has in such a case to blot out. If, argued Ahitophel, in the hope of re-establishing peace in one household, the Divine name may be obliterated, surely the same may be done for the sake of the well-being of the whole world (Mak. 11a, cf. I. Sanh. ibid). Hertz in JQR. N.S. Vol. X (1919). pp. 109ff. argues strongly in favour of an anonymous suggestion that instead of שני דברים בלבד (two things only) we should read שנדברים בלבד , which = they merely spoke to one another, conversed.

(34) So the Versions, but the author of the Baraitha evidently thought of the word אלוף as derived from the root אלף meaning ‘to learn’ and understood it as ‘teacher’, or, in accordance with the use of the word in Gen. XXXVI as ‘chief’, ‘superior’.

(35) מידעי Ps. LV, 14. It appears not impossible that the word was understood as ‘my man of knowledge’.

(36) Hal wa-Homer (v. Glos.). The Hal wa-Homer here is certainly not a very evident one. If our text is correct (v. however p. 81, n. 6) we must assume that the argument intended is: If David who was a King referred in such respectful terms to Ahitophel who was only an ordinary person (and not an exemplary one at that), because he had learnt from him only two things, how much more should a person who has learnt something from his equal or from his superior, accord the latter respect.

(37) Prov. III, 35.

(38) Ibid. XXVIII, 20.

(39) Ibid. IV, 2. The process of reasoning here resembles an equation. Prov. III,35 {the wise == the perfect shall inherit shall inherit Honour == Good } Prov. XXVIII, 10. and, since Good=Torah (Prov. IV, 2) Honour=(Good=) Torah.

(40) The proverbial meal of a poor man. V. Ber. 2b.

(41) Cf. Ezek. IV, 11.

(42) This saying is to be found in Tanh. נח beginning (but not in ed. Buber) where it is clear that it means that one who wishes to study Torah in earnest should deliberately adopt these measures of self-discipline. Rashi, however, says it does not mean that a wealthy person should reduce himself to a life of penury, but that even if a man be so poor as to be able to afford no more than bread with salt, etc., study of the law is nevertheless expected of him; if one is rich, his duty to engage in the study of the Torah is all the greater (MV).

(43) Ps. CXXVIII, 2. Cf. ibid. CXIX, 71. Cf. supra IV, 1.

(44) Consider learning the greatest of all honours (v. infra Bar. 5) or ‘covet not more honour than that to which your learning entitles you.’ Some texts: ‘Covet not honour. More than thy learning (shouldst thou) practise’ which is reminiscent of supra I, 16, and III, 9. The reading adopted is more in keeping with the Baraitha as a whole.

(45) With its luxuries and dainties.

(46) V. supra IV, 13.

(47) V. supra II, 14 and 16.

(48) For this use of ב v. BDB. s,v. ב I, 7 d. The better-known usage of . . . . . קנה ב (Beth pretii) e.g. Gen. XXXIII, 19, has evidently misled translators and commentators of this Baraitha, where that construction is impossible, since the fact is not that either the kingship or the priesthood are acquired at the price of, or in return for, or by means of, the respective ma'aloth, but rather that the ma'aloth are acquired in virtue of the kingly or priestly office.

(49) One enumeration can be traced in I Sam. VIII, 11-17 (v. Elijah Wilna to our Barai tha), and another is detailed in Sanh. II, Rashi says that on investigation both lists prove identical.

(50) מעלות , raised positions (steps), excellences, preferments, prerogatives, distinctions.

(51) V. Num. XVIII, 8, to the end (v. Elijah Wilna ibid.) and the list in Tanhuma Bamidbar, 29.

(52) I.e., (more or less) specific qualities which when present in a man show him to be a possessor of the Torah in a comprehensive and complete sense.

(53) Lit., ‘the hearing of the ear’.

(54) ‘Thinking out aloud’ one's learning, likewise articulate rehearsing of the expositions of others, are now, as ever, characteristic of, even if not exclusively peculiar to, the Jewish Torah-student, Rabbinic pedagogics insist upon audible study, probably because for a learning that was exclusively oral, audible study was almost a sine-qua-non. Cf. ‘Er. 53b-54a.

(55) ‘Heart’ means the seat of the reasoning faculties, now termed ‘mind’.

(56) שכלות (שכול) הלב , Rashi says, ‘I cannot see any difference between this and the former quality.’ L. however says, the former means understanding in the sense of deriving conclusions by means of logical processes, the latter-deep (intuitive) insight into the hidden meanings of the Torah.

(57) In his bearing towards his master (L.).

(58) Sc. of God.

(59) V. Baraitha 1.

(60) Cf. the phrase שמחה של מצוה , The joy expended on, and experienced in, the performing of a divine precept.

(61) Personal attendance on scholars, constituting ‘apprenticeship’ to them, is considered superior even to study itself (v. Ber, 7b), cf. Prov. XIII, 20. Every serious student of Rabbinics, especially if he aspires to the Rabbinicial Degree, submits to a course of שמוש

(62) דקדוק הברים Meticulous and objective examination of the subject of one's study in collaboration with fellow-students, i.e. one's equals. MV reads דקדוק הברים ‘attachment to colleagues.’

(63) פלפול התלמידים from פלפל , ‘a pepper-grain’ with reference to its extreme fineness, and to the sharpness of its taste and aroma. In the case of disciples, credit is given for sheer ingenuity in theoretical reasoning without strict regard to its immediate objectivity. As an exercise developing the mental faculties, ‘Pilpul’ is intended to serve in good stead when with a fuller store of knowledge and a maturer appreciation of the realities, the erstwhile Talmid, now a Haber or Hakam, is called upon to apply his knowledge in practical fashion.

(64) Calculated and purposeful approach to problems confronting one.

(65) Cf. supra III, 10.

(66) Cf. supra I, 5.

(67) Cf. supra Baraitha 4 and III, 10.

(68) ‘Laughter’, cf. ibid. 13, though it cannot be understood here in so extreme a sense as it is suggested to have there.

(69) Cf. supra II, 2 et al.

(70) Cf. supra ibid. 9.

(71) Their moral steadfastness and intellectual honesty. Most commentators render ‘Trust or faith in the wise.’

(72) So that suffering does not deflect him from the study and practice of the Torah. The man of Torah is able to ‘take things philosophically’ and to derive salutary moral gain from evil and painful experiences.

(73) Realises the comparative lowliness of man's estate, cf. supra III, 1, IV, 4, or, knows his own place vis-a vis other, and greater, scholars. Cf. supra IV, 12; V, 7. MV: He knows his place in the house-of-study, even though he always arrives there so early in the morning, that it is too dark to distinguish with one's eyes one seat from another.

(74) Torah makes him so contented that worry does not interfere with his further study (v. MV).

(75) Cf. supra I, 1.

(76) Cf. ibid. 11.

(77) Cf. supra II, 8.

(78) Cf. Baraitha 1.

(79) For the phrase cf. Ps. XI, 7.

(80) Lit., ‘loves’.

(81) Cf. Prov. IX, 8, Reprove a wise man and he will love thee.

(82) For a similar phrase cf. I Chron. XXIX, 17.

(83) MV adds, ‘and he runs not after honour.’ Cf. ‘Whoever goes around seeking greatness, greatness flees from him, and, Whoever runs away from greatness, greatness follows him.’ (‘Er. 13b).

(84) Cf. supra IV, 7.

(85) He considers judicial office as a burden and a weighty responsibility, and not as an opportunity of exhibiting authority.

(86) Disliking the ‘ipse dixit’ he shares the burden of giving a decision with his co-judge who may be a layman, or with some greater scholar whom he consults. Cf. supra IV, 7, 8.

(87) Or, ‘causes him to incline towards . . .’ Induces his colleague to take a lenient view.

(88) He guides and directs his legal assessors so that they reach a true understanding of the case, and a correct knowledge of the relevant law.

(89) Peace must be allied to Truth, in judgment, v. supra I, 18. Most commentators and translators take ‘Shares in the bearing . . . peace’ as denoting qualities that should characterize the relationship of the possessor of Torah towards all men. This may well be so, but here, it appears, his attitude towards his (lay) court assessors is, in the first place, meant.

(90) Some versions, ‘his heart’.

(91) Or ‘his teaching’, which is perhaps better as ‘sedateness’ (ישוב) (presumably, mainly, in learning) has already been given in this list.

(92) Some read as in supra V, 7, q.v.

(93) Cf. supra I, 13.

(94) Cf. supra IV, 5.

(95) Cf, ibid. I. Or render ‘Acknowledges his teacher to be superior to himself in wisdom’ (L.).

(96) Sc. from his teachers.
(97) Est. II, 22. This dictum is attributed in Meg. 15a to R. Hanina.
(98) The subject in all cases is (Words of) Wisdom, which is identified with Torah,
(99) Prov. IV, 22.
(100) Ibid. III, 8.
(101) V. p.86, n. 12.
(102) Prov. III, 18,
(103) Ibid. 1, 9.
(104) Ibid. IV, 9. Some versions insert here ibid. IX, 11.
(105) Ibid, III, 16.
(106) Ibid. III, 2.
(107) So in Tosef. Sanh. XI, 4, but J. Sanh. XI, 3, R. Simeon b. Menasya, who was a contemporary of R. Simeon b. Judah. The latter, however, is not only one of the ‘tradents’ par excellence, but the main tradent of R. Simeon b. Yohai (v. Bacher, Tradition, pp. 80 and 82).
(108) One of the foremost disciples of R. Akiba. Whilst his father appears to have been persona grata with the Roman authorities, R. Simeon himself was their bitter enemy, on account of the selfish mercenary and immoral motives that prompted even their apparently good actions. Eventually he had to flee them and, together with his son R. Eleazar, hide in a cave for thirteen years. (Shab. 33b.) During that time his knowledge of both legal and mystical lore increased phenomenally. In the Mishnah the name R. Simeon (without further description) denotes R. Simeon b. Yohai.
(109) This list contains, apparently, eight items, whereas the next Baraitha refers to ‘the above seven qualities.’ Heidenheim (quoted in Baer's Siddur Abodath Israel and in MV, p. 561), pointing out there is no Biblical citation in support of comeliness, which shows that it is not intended to rank as a separate and distinct accomplishment, renders ‘Comeliness, consisting in strength etc.’ — only seven qualities. Heidenheim was, however, apparently unaware of Elijah Wilna's comment in which the latter points out that there is no Scriptural quotation for ‘wisdom’ which he, accordingly, deletes. This, too, leaves only seven. As for ‘comeliness’, he points out that Prov. I, 9 and IV, 9, cited in the previous Baraitha, offer apposite Scriptural authority. In J. Sanh. loc. cit. ‘old age’ is omitted and only ‘hoary age’ is given. L. says there is obviously no need for proof that strength, riches, honour and wisdom are ‘good things, and is of opinion that all the Scriptural texts here, are given, as they are required, in support of the claims made on behalf of old age and hoary age (treating them as one) and children, as these are liable to be disputed on the grounds that hoary age, entailing physical weakening, and the possession of children, owing to the uncertainty as to how they will grow up, appear to be not unmixed blessings.
(110) Prov. XVI, 31.
(111) Ibid. XIV, 24.
(112) Ibid. XVII, 6.
(113) Ibid, XX, 29.
(114) Isa, XXIV, 23.
(115) A disciple of R. Meir and a contemporary of R. Judah ha-Nasi whom he survived, and, thus, one of the last generation of Tannaim.
(116) מדות v. supra V, 10. cf, p. 67 n. 3.
(117) R. Simeon b. Menasya must have lived to a considerable age (v. n. 7) to have had the opportunity of testifying so unequivocally to the qualities of Rabbi's sons,
(118) A contemporary of R. Hanania b. Teradion; taught in Caesarea, He held that the Roman domination was heaven-ordained and was respected by leading Romans, many of whom attended his funeral (A.Z. 18a). His name does not occur in the Mishnah.
(119) Cf. supra IV, 15.
(120) A denarius of gold = 24 denarii of silver,
(121) Prov. VI, 22.
(122) Midrash Tehillim to Ps. I, 3, adds, ‘from the worms,’ and Gen. Rab. XXXV read, ‘in the hour of death’,
(123) MV: ‘it shall speak for thee,’ i.e., intercede on thy behalf.
(124) Ps. CXIX, 72.
(125) Hag. II, 8.
(126) Elijah Wilna emends to ‘Four’. Sifre Deut. 309 (p. 134a) enumerates only three (Torah, Israel, Sanctuary), Mekilta

Beshallah (Shirah) Pes. 87b, adding Heaven and earth, gives four. In all these parallels the reference to Abraham is omitted. MV, though retaining it in its text, comments on its clumsiness.

(127) V. preceding note.

(128) Elijah Wilna deletes this item. V, ibid,

(129) Perhaps transl. ‘an unique’.

(130) Wisdom (= Torah) speaking.

(131) Prov. VIII, 22.

(132) Elijah Wilna deletes from here onwards and continues from ‘And he blessed him etc.’, thus eliminating the incongruous introduction of the reference to Abraham, and providing a suitable scriptural authority for ‘heaven and earth’ as a ‘possession’, viz. Gen. XIV, 19 (which is also the relevant citation in Pesah. 87b).

(133) Isa. LXVI, 2.

(134) Ps. CIV, 24. This is the only rendering applicable here. קנינך (spelt חסר ‘defective’ as in some texts) is taken as a singular.

(135) Gen. XIV, 29. If this should, after all, be intended as a proof for Abraham as a possession’, the verse would have to be understood thus: ‘Blessed be Abraham of the Most High God who possesses him even as he possesses heaven and earth’ (MV), or ‘Blessed . . . God because He is possessor of heaven and earth which owe their existence to the merit of Abraham,’ (Rashi).

(136) Ex. XV, 16.

(137) Ps. XVI, 3. ‘The holy . . .’ was taken by the author of the Baraitha to refer to Israel; ‘my delight’, חפצי , he understood as ‘that which [desire to possess’; cf, the use of חפץ in Mal. III, 2; Prov. III, 15.

(138) Ex. XV, 17.

(139) Ps, LXXVIII, 54. As the first quotation Ex. XV, 17 did not employ the term ‘possess’, the latter is provided by adducing, as a complement the verse from Psalms. Rashi criticizes the reference to the Sanctuary as a ‘possession’ on the ground that the proof is indirect.

(140) Ex. XV, 18.

Talmud - Mas. Horayoth 2a

CHAPTER I

MISHNAH. IF THE COURT[1] RULED THAT ‘ANY ONE OF THE [RITUAL.] COMMANDMENTS MENTIONED IN THE TORAH MAY BE TRANSGRESSED, AND AN INDIVIDUAL PROCEEDED AND ACTED THROUGH ERROR[2] , IN ACCORDANCE WITH THEIR RULING, WHETHER THEY[3] ACTED [THUS][4] AND HE ACTED WITH THEM[5] OR THEY ACTED[4] AND HE ACTED AFTER THEM OR EVEN IF THEY DID NOT ACT[4] AND HE ACTED,[4] HE IS EXEMPT,[6] BECAUSE HE RELIED ON [A RULING OF] THE COURT. [IF, HOWEVER, WHEN] THE COURT ISSUED [AN ERRONEOUS] RULING ONE OF THEM,[3] WHO KNEW THAT THEY HAD ERRED, OR A DISCIPLE WHO WAS HIMSELF CAPABLE OF DECIDING MATTERS OF LAW, PROCEEDED AND ACTED IN ACCORDANCE WITH THEIR RULING, WHETHER THEY[3] ACTED[4] AND HE[7] ACTED WITH THEM OR THEY ACTED AND HE ACTED AFTER THEM OR THEY DID NOT ACT AND HE ACTED,[4] HE IS LIABLE,[8] SINCE HE[9] WAS NOT DEPENDENT UPON [THE RULING OF] THE COURT. THIS IS THE GENERAL RULE: HE WHO IS [IN A POSITION] TO RELY UPON HIMSELF IS SUBJECT TO A PENALTY, AND [ONLY] HE WHO MUST DEPEND UPON THE COURT IS EXEMPT.[6]

GEMARA. Samuel said: A court is never responsible[10] unless they ruled.[11] ‘You are permitted’. R. Dimi of Nehardea said: Unless they ruled, ‘You are permitted to act’. What is the reason? — Because [otherwise][12] the decision is not final. Said Abaye: We also have learned the same: If he[13] returned to his [home] town and continued to teach as he had taught,[14] he is exonerated. If, however, he issued instructions [for the public] to act,[15] he is subject to the penalty.[16] Said R. Abba: We also have learned the same: If the court decided[17] that she[18] may be married, and she went and contracted a forbidden union[19] , she[20] must bring an offering, because the court permitted her only to marry.[21] Rabina said: We also have learned the same: IF THE COURT RULED THAT ANY ONE OF THE [RITUAL] COMMANDMENTS MENTIONED IN THE TORAH MAY BE TRANSGRESSED.[22] Nothing more [need he said about it]. Some read as follows:[23] Samuel said: A court is not responsible unless they’ ruled, ‘You are permitted to act’.[24] R. Dimi of Nehardea said.’ Even [if the ruling was], ‘You are permitted’ the decision is [regarded as] final. But surely, said Abaye, we have not so learnt: If he returned to his [home] town and continued to teach as he had taught he is exonerated. If, however, he issued instructions [for the public] to act, he is subject to penalty![25] But surely, said R. Abba, we have not so learned: If the court decided that she may be married and she went and committed adultery, she must bring an offering, because the court permitted her only to be married![26] But surely, said Rabina, We have not so learned: IF THE COURT RULED THAT ANY ONE OF THE [RITUAL] COMMANDMENTS MENTIONED IN THE TORAH MAY BE TRANSGRESSED![26] Nothing more [need be said about it]. AND AN INDIVIDUAL PROCEEDED AND ACTED THROUGH ERROR IN ACCORDANCE WITH THEIR RULING. Let it be taught, AND HE ACTED IN ACCORDANCE WITH THEIR RULING; what need was there for[27] THROUGH ERROR! — Raba replied: [The addition of] THROUGH ERROR [was meant] to include [the following case]. If the court ruled that suet[28] was permitted [to be eaten], and a person mistook[29] suet for fat and ate it,[30] he is exonerated;[31] [while] ACCORDING TO THEIR RULING [implies] at their actual ruling.[32] Others read [as follows]. Raba said: Only a person who ACTED THROUGH ERROR [NAMELY] IN ACCORDANCE WITH THEIR RULING IS EXONERATED, but he who mistook suet for fat[33] and ate it is liable.[34] That which was obvious to Raha was raised by Rami b. Hama as a question. For Rami b Hima isked.’ What [is the law where] the court ruled that suet was permitted and a person mistook it for fat[35] and ate it?[36] — Raba replied: Come and hear: AN INDIVIDUAL PROCEEDED AND ACTED THROUGH ERROR IN ACCORDANCE WITH THEIR RULING etc. Why should it be necessary to state[37] THROUGH ERROR [and also] IN ACCORDANCE WITH THEIR RULING.[38] Obviously[39] to include [the following case]: Where the court ruled that suet was permitted and a person mistook suet for fat and ate it, he is exonerated![40] — Perhaps [it may be retorted, our Mishnah means to] exempt a person only when he ACTED THROUGH ERROR [namely] IN ACCORDANCE WITH THEIR RULING, but when he mistook suet for fat and ate it he is liable. Others say that Raba said: Come and hear AN INDIVIDUAL PROCEEDED AND ACTED THROUGH ERROR IN ACCORDANCE WITH THEIR RULING. This surely implies[41] that only when he acted THROUGH ERROR [namely] IN ACCORDANCE WITH THEIR RULING he is exonerated, but when he mistook suet for fat and ate it he is liable![42] — Perhaps [it was retorted, our Mishnah implies] either THROUGH ERROR or IN ACCORDANCE WITH THEIR RULING.[43] [The following are] in dispute [on the case mentioned]: If the court ruled that suet was permitted and a person mistook suet for fat and ate it, Rab said: He is exonerated, and R. Johanan said: He is liable. An objection was raised: Of the common people [sin] in doing[44] excludes[45] the apostate.[46] R. Simeon b. Jose said in the name of R. Simeon: This is not necessary; since it is written, [And doeth] through error [any of all the things], which [the Lord hath commanded] not to be done, and is guilty; if [his sin] . . . be known to him,[47] [which shows that only] he who repents when it becomes known to him [that he has sinned] brings a sacrifice for a sin he committed through error, but he who does not repent when he becomes aware [of his sin] does not bring a sacrifice for a sin he has committed through error.[48] Now, if [this view] is tenable, surely [it may be objected], he[49] would not repent even when he becomes aware [of the facts]![50] — R. Papa replied: R. Johanan holds the view that since the court would repent when [the error] became known to them, and he[51] also would then repent, [such a person] may justly be described as one who repents of his action when he becomes aware [of his sin], and he is, therefore, liable. Raba said: Rab agrees that he is not counted in the making up of the majority of the congregation.[52] What is the reason? Scripture says, through error, implying [that no sacrifice is to be brought] unless all of them shared[53] one and the same ‘error’. WHETHER THEY ACTED [THUS] AND HE ACTED WITH THEM etc. What need was there[54] to teach all these?[55] [In the case of] the former section, this may be justified [as being a climactic arrangement]: ‘not only this but also that:’ in the later section, however, where liability is spoken of, the order, surely, should have been reversed![56]

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(1) rich. Beth din, House of Judgement or Law, v. Glos.

(2) This will be explained in the Gemara Infra.

(3) The members of the court.

(4) In accordance with their decision.

(5) Eating, e.g., together with them blood or suet.

(6) From bringing the prescribed sin offerings. V. Lev. IV, 27 ff.

(7) The member of the court or the disciple who knew the ruling to be erroneous.

(8) To bring the prescribed sin offerings. Cf. n. 6. supra.

(9) Being capable of deciding such matters for himself.

(10) Lit., ‘guilty", ‘culpable’.

(11) Lit., ‘until they’ would say’ to them’, i.e., to the public. (12) Unless the ruling was issued in this definite form it is not regarded as final. [Cf. B. B. 130b.] Hence, in the case there the entire, or the majority of the public transgressed by relying on a ruling of a court to which the formula ‘You are permitted’ was not added, neither they nor the court are under an obligation to bring a sin offering (v. Lev. IV, 13 ff). nor is an individual in the case of such a ruling entitled to claim exemption by reason of his reliance upon the court. (The question whether, in any case, the court or the congregation, are to bring the offering is a matter of dispute, infra).

(12) If ‘to act’ is not added.

(13) A ‘rebellious elder’ who defied the authority of the supreme court in Jerusalem. Deut. XVII, 8 ff.

(14) Before the decision of the supreme court.

(15) In accordance with his own decisions.

(16) Sanh. 86b. The expression ‘to act’ in this case implies final decision, similar to the formula ‘You are permitted to act’ required by R. Dimi.

(17) Lit., ‘they taught her or directed her’.

(18) A woman the death of whose husband is attested by one witness only. (In the case of two witnesses no special ruling of a court is necessary.)

(19) Which was in any case forbidden to her.

(20) Her husband having subsequently appeared.

(21) I.e., to contract a lawful marriage. Yeb. 87b. Since the expression ‘decided’ and not merely ‘allowed’ is used, a definite and final decision is meant. Cf. supra note 5.

(22) ‘Ruled . . .may be transgressed’, implies definite and final decision to act. Cf. previous note.

(23) Lit., ‘there are who say’.

(24) V. supra p. I for notes.

(25) V. supra p. 2 for notes. This proves, contrary to the view of H. Dimi, that the formula ‘you are permitted’ is not sufficient unless ‘to act’ is added!

(26) V. supra p. for notes, and Previous note.

(27) Lit., ‘Why to me’.

(28) ‘Forbidden fat’, v. Lev. III, 17. VII, 25.

(29) Lit , ‘it was is exchanged for him’.

(30) Thus sinning through error, though not ‘serially ‘at their ruling’, since he ate the suet not because he depended upon the court but lease he thought the suet was fat.

(31) Because even if he had known it to be suet he would have eaten it, relying on the ruling of the court.

(32) I.e., the case where a person ate suet not through his own error but through his reliance upon the ruling of the court.

(33) V. supra note 5.

(34) Since his error was not due to the Court's ruling. The Mishnah had to specify both ‘through error’, and ‘in accordance with their ruling’, to indicate that where the sin was due to his error alone be is liable.

(35) V. p. 3, n. 5.

(36) Is he exempt from a sin offering because the court permitted the eating of suet; or is he liable since he ate the suet not because of his reliance upon the court but through his own error of mistaking suet for fat?

(37) Lit., ‘why to me’.

(38) [Delete with MS. M.: IN ACCORDANCE WITH THEIR RULING, v. D.S. a.l.]

(39) Lit., ‘not’?

(40) I.e., in accordance with the first version of Raba's statement.

(41) Lit., ‘what, not’

(42) I.e., in accordance with the second version of Raba's statement.

(43) And one is exonerated in either case Hence a person mistaking suet for fat would also be exonerated.

(44) Lev. IV, 27.

(45) ‘Of the people’, מעם , the מ partitive implying. ‘not all of them’.

(46) From whom no offering is to be accepted.

(47) Lev. IV, 22f

(48) An apostate does not repent when he becomes aware of his sin.

(49) The person who mistook suet for fat.

(50) Because even when it was brought us his notice that he ate suet he would not repent, in view of the ruling of the court. How then could R. Johanan subject one in such a case to the obligation of a sacrifice?

(51) The person who mistook the suet for fat.

(52) The sacrifice of a bullock on the part of the congregation (Lev. IV, 13 ff) is brought only when all or at least a majority of the people had committed the same sin through the error of the court. Eating forbidden food by mistake is not the same as eating it deliberately in reliance upon the decision of a court, though erroneous (MS. M. preserves a clearer inference: Num. XV, 26, For in respect of all the people it was done in error.]

(53) Lit., ‘were in’.

(54) Lit., ‘wherefore to him’.

(55) Acting with, acting after, etc. (10) Not only is one exonerated when acting together with the court (a definite case of dependence on it) but also when acting after them, not only when the court also has so acted but even when one acted alone but in reliance on the court's ruling.

(56) Since each succeeding case is more obvious than the previous one as regards obligation.

Talmud - Mas. Horayoth 2b

Talmud - Mas. Horayoth 2b

— This is a case[1] [of anti-climax]: 'this, and there is no need to say that.' ONE OF THEM WHO KNEW THAT THEY HAD ERRED, OR A DISCIPLE WHO WAS HIMSELF CAPABLE OF DECIDING MATTERS OF LAW. What need was there for the two? — Raba replied: Both are required, since, otherwise, it might have been assumed that the reference was only to[2] one who possesses learning and is also capable of logical reasoning and deduction but not to one possessing learning and no capacity for logical reasoning. Said Abaye to him: Surely, CAPABLE OF DECIDING MATTERS OF LAW implies the possession of knowledge and also capacity for logical reasoning! What I mean, the other replied, is this: If [the inference had to be derived] from that,[3] it might have been assumed that the reference is only to[2] one who possesses learning and is also capable of logical reasoning and deduction, but not to one possessing learning and no capacity for logical reasoning and deduction; hence it was taught, CAPABLE OF DECIDING MATTERS OF LAW [so that] from the superfluous Mishnah [it may be inferred that the reference includes] even him who possesses learning only, though incapable of logical reasoning and deduction, [as well as] him who is only capable of logical reasoning and deduction though he possesses no learning. CAPABLE OF DECIDING MATTERS OF LAW etc. Like whom, for instance? — Raba replied: For instance, like Simeon b. Azzai and Simeon b. Zoma.[4] Said Abaye to him: In the case of such [scholars] it would be a wilful transgression![5] And according to your argument, [the other replied, how will you explain] the following wherein it was taught: 'In doing one,[6] [implies that if] an individual acts on his own authority he is liable; if under the authority of the ruling of the court, he is exonerated. How is this so? [In the case where] the court ruled that suet was permitted and it was known to one of then, or to a disciple sitting before them and capable of deciding matters of law, such for instance as Simeon b. 'Azzai, that they erred, it might have been assumed that he is exonerated, hence it was expressly taught, in doing one,[7] [implying that if] an individual acts on his own authority he is liable: if under the authority of the ruling of the court he is exonerated'?[8] How then could this[9] be possible? [Obviously] in such a case as where [the scholar] knew that it[10] was prohibited, but erred in the [interpretation of the] precept of obeying the words of the Sages;[11] according to my view also[12] it is a case where they erred in the [interpretation of the] precept of obeying the words of the Sages. THIS IS THE GENERAL RULE: HE WHO IS [IN A POSITION] TO RELY UPON HIMSELF IS SUBJECT TO A PENALTY. What does this include? It includes one who usually disregards[13] the decisions of the court.[14] 'HE WHO MUST DEPEND UPON THE COURT includes [the case where] the court issued a decision and when they discovered that they erred they retracted.[15] But this, surely, is explicitly stated![16] — It was first stated here and later it was amplified. Rab Judah said in the name of Samuel: This[17] is the view of R. Judah, but the Sages maintain that an individual who acted in accordance with [an erroneous] ruling of the court is liable. Which [statement of] R. Judah [is referred to]? — It was taught: If any one person...sin through error in doing,[18] behold there are three limitations[19] [to indicate that only] he who acts on his own authority is liable; [but he who acts] on the authority of the ruling of the court is exonerated. Which [statement of the] Rabbis?[20] — It was taught: Lest it be said[21] that a minority of the congregation who committed a sin are subject to the obligation of a sacrifice because the court does not bring a bullock on their account,[22] but a majority of the congregation who had committed a sin should be exempt because the court brings a bullock on their account,[22] Scripture expressly stated, Of the common people[23] [to indicate that] even if a majority of them[24] or all of them. Now, in what [circumstances was the sin spoken of committed]? If it be suggested through error in action,[25] how [it may be asked] does the court enter at all into the question[26] when [the commission of the sin] was not on the authority of the ruling of the court? Does then a court bring [a sacrifice] when [the commission of the sin] was not under the authority of their ruling![27] If, however, [it be suggested that the sin had been committed] under the authority of the ruling of the court, surely [it may be pointed out] the text, Of the common people,[23] was written in reference to error in action![25] Consequently[28] [it must be concluded that] it is this that was meant: A minority of the congregation who committed a sin through error in action[25] are liable, because the court does not bring a bullock on their account in [the case where a sin was committed] on the authority of the ruling of the court, and yet they[29] are liable.[30] [Since, however,] one might assume that a majority of the congregation who committed [a sin] through error in action[25] should be exempt because the court brings a bullock on their account when [the sin was committed] under the authority of the ruling of the court, it was expressly taught, ‘Of the common people’[31] [to include] even a majority of them.[32] Said R. Papa: Whence [is this proved]? Is it not possible that neither they nor the court [bring any sacrifice]![33] — If so,[34] why should it be sought to prove that a majority is liable?[35] Must it not then be concluded that [in the case of] a minority acting under a court's ruling it had been definitely established that they were liable, though they had acted under the authority of the ruling of a court;[36] for [otherwise] it should have been sought first to prove that a minority is liable, when sinning through error of action, and then should have come the attempt to prove that a majority also is liable when sinning through error of action. Consequently, since[37] the attempt has not been made [first] to prove that a minority is liable, when sinning through error of action, and only finally to prove that a majority [also] is liable when sinning through error of action, it must be concluded that a minority [committing a sin] under the ruling of the court are liable [to bring] a lamb or a goat, and likewise when they committed the sin under no authority from the ruling of a court, through error of action, they are also liable.[38] Consider, however, this: Both [Baraithas][39] have been taught[40] anonymously, whence then [is it proved] that the first one [represents the view of] R. Judah and the last [that of] the Rabbis? Might not the reverse be suggested! — Who has been heard to make an exposition on limitations in such a manner?[41] Surely it was R. Judah: for it has been taught: R. Judah said:

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(1) Lit., ‘he teaches’.

(2) Lit., ‘these words’.

(3) If one qualification only had been mentioned.

(4) They were for some reason never ordained. V. Sanh. 17b.

(5) Involving no sacrifice, while our Mishnah does subject such disciples to the obligation of a sacrifice.

(6) Lev. IV. 27. בעשותה Lit., ‘in her doing one’, ‘her’ referring to ‘soul’, the subject of the sentence.

(7) V. p. 6, n. 7.

(8) Which shows that even in the case of a Ben ‘Azzai he is not considered a wilful transgressor, contrary to the view of Abaye.

(9) The obligation to bring a sacrifice on the part of a scholar who knew the ruling of the court to be wrong.

(10) That which the court permitted.

(11) Believing that the Sages must be obeyed even here they permit a thing prohibited.

(12) Raba's: Instancing b. ‘Azzai and b. Zoma, as the kind of disciple referred to in our Mishnah.

(13) Lit., ‘kicks against’.

(14) It is obvious, therefore, that on this occasion he acted in accordance with their decision, not because he relied upon their ruling but because it happened to agree with his convenience or with his view.

(15) Even in such a case the individual who acted on the authority of their ruling is exonerated.

(16) In the Mishnah infra 3b.

(17) The ruling of our Mishnah exempting an individual acting on the erroneous decision of the court.

(18) Lev. IV, 27. E.V.. ‘If anyone etc.’

(19) ‘One’, ‘person’, ‘in its doing’. נפש אחת בעשותה Cf. Shab. 93a.

(20) The Sages.

(21) Lit., ‘I might yet say’.

(22) I.e., If they committed the sin by acting in accordance with his erroneous ruling of the court.

(23) Lev. IV. 27.

(24) Lit., ‘her’, the congregation.

(25) The people committed the sin through their own error and not in depending on an erroneous ruling of the court.

(26) Lit ‘what is their doing?’

(27) [Read with MS. M.: ‘If it be . . . in action, not on the ruling of the court, how does the court enter etc.?]

(28) Lit., ‘but not’.

(29) The minority of the congregation.

(30) Because, according to the Rabbis, even an individual who acted under the ruling of a court is also obliged to bring the prescribed sin offering.

(31) V. p. 8, n. 5.

(32) I.e that even where most of the people committed the sin, everyone of them must bring the sin offering prescribed in Lev. IV, 27ff.

(33) The Baraitha cited being interpreted as follows.’ A minority ate liable to bring a sacrifice when they have sinned through error in action because only in the case where their sin was committed on the authority of the court's ruling neither the court nor they themselves (acting as they did under the court's authority) are liable. Whereas in the case of a majority, since the court brings a bullock on their account, they should be exempt in respect of error in action.

(34) That a minority who committed a sin under the authority of a ruling of the court is exempt from the obligation of bringing a sacrifice.

(35) In respect of an error in action when the liability of a minority has not yet been proved.

(36) And this warrants the assumption that they are liable in respect of error in action.

(37) Lit., ‘but not’.

(38) [The text in cur. edd. is unduly long and not smooth. MS. M. preserves a better reading: Why should the Tanna have sought to prove that a majority is liable in respect of an error in action, he should first have sought to prove that a minority is liable in respect of error in action and then attempted to show that a majority (too) is liable through error in action. Consequently it must be concluded that a minority (committing a sin) under the ruling’ etc.]

(39) The one ascribed to R. Judah and the one ascribed to the Sages.

(40) Lit., ‘we learned’.

(41) As supra ‘behold these are three limitations’.

Talmud - Mas. Horayoth 3a

This is the law of the burnt offering,[1] behold these are three exclusions.[2] And if preferred I might say, [the statement beginning] ‘Lest it be said’[3] cannot be attributed to R. Judah, for in it was taught. ‘Where a majority of the congregation committed a sin, the court brings a bullock on their account’, while[4] R. Judah had said. ‘The congregation only have to bring [the sacrifice] but not the court’; as we learned: R, Judah said: Seven tribes who committed a sin[5] bring seven bullocks.[6] R. Nahman, however, said in the name of Samuel: This[7] is the view of R. Meir, but the Sages maintain that an individual who acted in accordance with [an erroneous] ruling of the court is liable. Which [statement of] R. Meir and which of the Rabbis? — It was taught, ‘If they had ruled and acted accordingly, R. Meir exonerates them and the Sages consider them liable’. Now, who are ‘those that acted’? If the court be suggested, what [it may be retorted] is the reason of the Rabbis who consider them liable? Surely it was taught, ‘Since it might have been assumed that a court who issued [an erroneous] ruling and acted accordingly are liable, it was expressly taught. The assembly, and do,[8] indicate that] action depends on the assembly[9] and ruling depends on the court.’[10] If, again,[11] [it be suggested that the meaning[12] is that] the court ruled and the majority of the congregation acted accordingly, the question arises] what is the reason why R. Meir exonerates them? Must it not then be concluded[13] [that the meaning[14] is that] the court ruled and a minority of the congregation acted accordingly, and that the principle underlying their[15] dispute is the following: The Master[16] holds that an individual who acted under the authority of the ruling of the court is exonerated, and the Masters hold that an individual who acted under the authority of the ruling of the court is liable! R. Papa. however, said: All agree[17] that an individual who acted under the authority of the court's ruling is exonerated, but they differ [on the question] whether the court is counted in the making up of a majority of the congregation.[18] The Masters hold that the court is counted in the making of a majority of the congregation[19] and the Master holds that the court is not to be counted in making up a majority of the congregation. And if preferred I might say [that the meaning[20] is that] the court ruled and a majority of the congregation acted accordingly: and[20] by ‘Sages’ was meant[21] R. Simeon who stated that both the congregation and the court bring [a sin offering].[22] And if you prefer I might say [that they differ in the case where] one tribe acted in accordance with the ruling of its own court: and by ‘Sages’ R. Judah was meant; for it was taught,’A tribe that acted on the authority of [an erroneous] ruling of its court, that tribe is liable.[23] And if you prefer I might say [that the dispute relates to] such a case as where the sin was committed by six [tribes] who formed a majority of the congregation or by seven [tribes] although they did not form a majority of the congregation, and [the anonymous author of] our Baraitha[24] is[21] R. Simeon b. Eleazar; for it was taught: R. Simeon b. Eleazar said in his[25] name. 'Six [tribes] who form a majority of the congregation or seven [tribes] although they do not form a majority of the congregation, who have committed a sin are liable [to bring a sin offering].[26] R. Assi said: In [the case of an erroneous] ruling [of a court][27] the majority of the inhabitants of the Land of Israel are to be taken into account,[28] for it is said, So Solomon held the feast at that time, and all Israel with him, a great congregation, from the entrance of Hamath unto the Brook of Egypt, before the Lord our God, seven days and seven days, even fourteen days.[29] Now, consider, it is written, and all Israel with him a great congregation, what need was there for,[30] from the entrance of Hamath unto the Brook of Egypt? From this it may be inferred that only these[31] are included in the[32] 'congregation' but those are not.[28] It is obvious [that the case where] a majority[33] has been reduced[34] to a minority [is a matter of] dispute between R. Simeon and the Rabbis.[35] What, [however, is the law where] a minority[36] has become[37] the majority?[38] Do R. Simeon and the Rabbis differ [in this case also]. R. Simeon, who is guided by[39] [the status of the person at the time of the] discovery [of the sin], holding them liable,[40] and the Rabbis who are guided by [the status of the person at the time of the] commission of the sin, exonerating them,[41] or not? — How could [such a thing][42] be imagined! It might well be said that R. Simeon was heard to be guided by[39] [the time of the] discovery [of the sin] also:[43] was he heard, however, [to be guided by the time of the] discovery alone![44] For had that been the case[45] they[46] should have brought [their offering] according to their present status.[47] Consequently [it must be concluded that] R. Simeon requires both commission of the sin and its discovery.[48] The question was raised: What [is the law where] the court ruled that suet was permitted and a minority of the congregation acted accordingly, and, after the court had withdrawn their decision and again issued a similar ruling, another minority acted accordingly? [Are we to say,] since this is a case of two distinct spells of awareness,[49] they do not combine,[50] or perhaps, since both[51] [are concerned with] suet they combine? And if some ground could be found for the decision[52] that, since both[51] [are concerned with] suet, they combine, [the question arises,] what [is the law where one] minority [was involved] in the forbidden fat of[53] the maw and [another] minority in the forbidden fat of[53] the small bowels? Is it certain that in these cases,[54] since [the prohibitions] are derived[55] from[56] two [distinct] texts, they[57] do not combine, or, perhaps, since both[51] [are concerned with] forbidden fat, they[57] combine. And if some ground should be for the decision[52] that, [since the two kinds bear] the name of 'forbidden fat', they[57] combine, [the question may be asked,] what [is the law where one] minority [was involved] in the [eating of] suet and [another] minority in that of blood? Is it certain that in this case,[58] since these are two [distinct] prohibitions they[59] do not combine, or perhaps, since the same kind of sacrifice has to be brought in both cases,[60] they combine? And if some ground could be found for the decision[61] that, since the same kind of sacrifice has to be brought in both cases, they[59] combine, [the question might be asked,] What is the law [where one] minority [was involved] in [the eating of] suet and [another] minority in idolatry? Is it certain that in this case,[58] [since] neither the prohibitions nor the sacrifices are alike [they[59] are not to be combined] or, perhaps, since [the punishment] in both cases[62] is that of kareth[63] they are to be combined. — These questions remain undecided.[64] The question was raised: [What is the law where] a court ruled that suet was permitted and a minority of the congregation acted accordingly, and the members of that court died and another court that was appointed also issued a similar ruling and another minority acted [in accordance with that ruling]? According to him who stated that the court brings [the sacrifice] no question arises, for, surely, they are no more in existence. The question, however, arises what [is the law] according to him who stated that the congregation bring [the sacrifice]? The congregation, surely, exists:[65]

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(1) Lev. VI, 2.

(2) V. Nid. 40a.

(3) The second Baraitha, supra 2b.

(4) Lit., 'and if'.

(5) Owing to an erroneous ruling of the court.
(6) But the court brings none, infra 5a.
(7) V. supra p. 11, n. 7.
(8) Lev. IV, 13.
(9) Or ‘congregation’, i.e the people.
(10) Consequently ‘those who acted’ cannot refer to the court.
(11) Lit ‘but’.
(12) Of the Baraitha cited.
(13) Lit., ‘what, not’?
(14) Of the Baraitha cited.
(15) That of R, Meir and the Sages.
(16) R. Meir.
(17) Lit., ‘all the world’, i.e., R. Meir and the Sages.
(18) Where members of the public as well as the judges of the court had acted in accordance with the court's decision and together only they form a majority of the congregation.
(19) [In which case there is a liability for a communal offering.]
(20) As to the question why R. Meir exonerates them.
(21) Lit., ‘who. . .it’.
(22) And to this R. Meir objected, advancing the view that the congregation is exonerated. The court only has to bring the sacrifice.
(23) To bring a sin offering. One tribe, in his opinion, is also called ‘assembly’ or ‘congregation’ (kahal).
(24) The Sages.
(25) R. Meir's
(26) Infra 5a.
(27) In connection with which a sin offering of a bullock must be brought if the majority of the people acted in accordance with this ruling.
(28) Those living outside that land are not to be included in the computation.
(29) I Kings VIII, 65.
(30) Lit. ‘wherefore to me’.
(31) Those living within the boundaries of Palestine specified.
(32) Lit., ‘called’.
(33) Of the people, who acted in accordance with an erroneous ruling of the court.
(34) Between the time of the emission of the sin and that of bringing the Sacrifice.
(35) Infra 10a.
(36) V. supra note 9.
(37) Between the time of the action and the time when it was discovered to have been a sinful act.
(38) Owing to cases of death among members of the previous majority.
(39) Lit., ‘goes after’.
(40) Since at the time their sin came to their notice they were already a majority.
(41) Because when the sin had been committed they were still a minority.
(42) That a minority who increased into a majority shall be liable.
(43) Cur. edd. add, ‘where the sin and consciousness of it took place (when the person was under the status of obligation’.
(44) Lit., ‘knowledge (of the sin) that is not (i.e.. without) sin’.
(45) Lit., ‘if so’, that discovery alone is the determining factor.
(46) A High Priest and a prince who assumed office after they had committed a sin as laymen.
(47) I.e., a bullock, and not (as laymen) a lamb or a goat. Since they are now conscious of the sin why does not R. Simeon consider them liable unless they were also conscious of it before their appointment!
(48) One without the other is no determining factor. Consequently, in the case under discussion (i.e., a minority that became a majority), no communal sacrifice is to be brought, since the sin was committed when they were still a minority who are exempt if acting on the ruling of the court.
(49) The acts being based on two separate rulings, the erroneous character of which was subsequently discovered.

(50) To form a majority and consequently to become liable to bring a communal sacrifice.
(51) Lit., 'that and that'.
(52) Lit., 'and if you will find to say'.
(53) Lit., 'which is upon'.
(54) Lit., 'here'.
(55) Lit., 'come'.
(56) Lit., 'in'.
(57) The two minorities.
(58) Lit., 'here'.
(59) The two minorities.
(60) Lit., 'their sacrifice is the same'.
(61) Lit., 'and if you will find to say'.
(62) Lit., 'that and that'.
(63) כרת 'premature, or sudden death through some visitation'. V. Glos.
(64) תיקו Teku, v. Glos.
(65) Hence the two minorities are to be combined to form a majority, and a sacrifice is to be brought.

Talmud - Mas. Horayoth 3b

or is it, perhaps, necessary[1] [to have in the case of both minorities] the ruling[2] of the court that ruled [in the first instance]. — This is undecided. R. Jonathan said: Where a hundred [judges] sat down to consider a decision they are not liable[3] unless all of them arrived at the same [erroneous] decision; for it is said, and if the whole congregation of Israel shall err[4] [which implies] that they must all[5] err.[6] Said R. Huna son of Hoshaiah: Logical deduction leads to the same conclusion.[7] For throughout the Torah there is an established rule that a majority is like the whole and yet it was written here, 'the whole congregation'; and since such is the case[8] [it must be concluded that] even if there were a hundred.[9] We learned, [WHEN] THE COURT ISSUED [AN ERRONEOUS] RULING AND ONE OF THEM, WHO KNEW THAT THEY HAD ERRED OR A DISCIPLE WHO WAS HIMSELF CAPABLE OF DECIDING MATTERS OF LAW PROCEEDED AND ACTED IN ACCORDANCE WITH THEIR RULING, WHETHER THEY ACTED AND HE ACTED WITH THEM OR THEY ACTED AND HE ACTED AFTER THEM, OR THEY DID NOT ACT AND HE ACTED, HE IS LIABLE, SINCE HE WAS NOT DEPENDENT UPON [THE RULING OF THE COURT]. [From this it follows that only] that person[10] is liable, but another[11] is exempt; but why? The decision, surely, was not unanimous![12] — Here it is a case where that person[13] nodded with his head.[14] Come and hear: If the court issued a ruling, and one of them knew that they erred and said to them, 'You are mistaken', they are exempt.[15] The reason, then, why they are exempt is because he said to them, 'You are mistaken', had he however remained silent they would have been liable and their decision would have been regarded as unanimous;[16] but why? Surely, they did not all arrive at the same decision? — It may be answered that here also it is a case where he nodded with his head. R. Mesharsheya raised an objection: Our Rabbis relied upon the words of R. Simeon b. Gamaliel and upon the words of R. Eleazar the son of R. Zadok who said, 'No law may be imposed upon the public unless a majority of the people can endure it'; and R. Adda b. Abba said: What Scriptural proof is there for this view? Ye are cursed with a curse, yet ye rob me, even this whole nation.[17] Now, surely, it is written here, 'This whole nation,' and yet a majority is regarded as the whole.[18] [Is not this] a refutation of the view of R. Jonathan?[19] — This is a refutation. Why then did the All-Merciful say, 'the whole congregation'? — It is this that was meant: Where they are all present[20] the decision is valid; but if not, their decision is invalid. R. Joshua said: When ten sit in judgment, the responsibility rests upon[21] all of them. Is not this obvious? It teaches us that even a disciple in the presence of his Master [must share the responsibility].[22] When R. Huna went to court he took with him ten students of the college, 'in order that', he said, 'each of us[23] might receive only a chip of the beam',[24] When an animal suffering from an organic disease was brought before R. Ashi[25] he used to bring together ten ritual slaughterers[26] of Matha Mehasia[27] and made them sit down before him, saying, ‘In order that each of us might receive only a chip of the beam’.[22]

MISHNAH. WHERE A COURT ISSUED A DECISION,[28] AND LATER DISCOVERED THAT THEY HAD ERRED AND WITHDREW THEIR DECISION, WHETHER THEY BROUGHT THEIR OFFERING[29] OR WHETHER THEY DID NOT BRING THEIR OFFERING, IF AN INDIVIDUAL[30] PROCEEDED AND ACTED IN ACCORDANCE WITH THEIR [ERRONEOUS] DECISION, R. SIMEON EXONERATES HIM AND R. ELEAZAR DECLARES [HIS CASE] DOUBTFUL.[31] WHICH CASE MAY BE REGARDED DOUBTFUL? IF HE[32] WAS[33] AT HOME, HE IS LIABLE.[34] IF, HOWEVER, HE WENT TO A COUNTRY BEYOND THE SEA HE IS EXEMPT. SAID R. AKIBA: I AGREE THAT A PERSON IN SUCH A CASE[35] IS NEARER TO EXONERATION THAN TO CULPABILITY. SAID BEN ‘AZZAI TO HIM: HOW DOES SUCH A PERSON DIFFER FROM ONE WHO REMAINS AT HOME? HE WHO REMAINS AT HOME IS IN A POSITION TO ASCERTAIN THE FACTS[36] BUT THE OTHER WAS NOT IN SUCH A POSITION.[37] IF THE COURT RULED THAT AN ENTIRE PRINCIPLE HAS TO BE UPROOTED; IF THEY SAID, FOR EXAMPLE, THAT [THE LAW CONCERNING THE] MENSTRUANT[38] IS NOT FOUND IN THE TORAH OR THE [LAW CONCERNING THE] SABBATH IS NOT FOUND IN THE TORAH OR [THE LAW CONCERNING] IDOLATRY IS NOT FOUND IN THE TORAH, THEY ARE EXEMPT. IF, HOWEVER, THEY RULED THAT A PART [OF A COMMANDMENT] WAS TO BE ANNULLED AND A PART RETAINED, THEY ARE LIABLE. HOW IS THIS SO? — IF THEY SAID: [THE LAW CONCERNING THE] MENSTRUANT OCCURS IN THE TORAH BUT IF A MAN HAS INTERCOURSE WITH A WOMAN THAT AWAITS A DAY CORRESPONDING TO A DAY[39] HE IS EXEMPT, [OR THAT THE LAW CONCERNING THE] SABBATH OCCURS IN THE TORAH BUT IF A MAN CARRIES ANYTHING FROM A PRIVATE DOMAIN TO A PUBLIC DOMAIN HE IS EXEMPT, [OR THAT THE LAW OF] IDOLATRY OCCURS IN THE TORAH, BUT IF A MAN ONLY BOWS DOWN TO AN IDOL HE IS EXEMPT, THEY ARE LIABLE; FOR SCRIPTURE SAYS, AND IF SOME THING BE HID,[40] ‘SOMETHING BUT NOT THE ENTIRE PRINCIPLE.

GEMARA. Rab Judah said in the name of Rab: What is R. Simeon's reason? Because he acted on the authority of the court. Others say that Rab Judah said in the name of Rab: R. Simeon used to say that [in the case of] any ruling [of the court], which has spread[41] to a majority of the congregation, if an individual acted according to it he is exempt;[42] for [he ruling was given for the purpose[43] of distinguishing between one who acts in error[44] and one acting presumptuously.[45] An objection was raised: The bullock required[46] when a matter was hid from the congregation,[47] and the goats [of atonement] for idolatry[48] are to be purchased from a collection made for the purpose:[49] these are the words of R. Simeon. R. Judah said: They are taken[50] from the funds of the Temple treasury.[51] Now, why?[52] Since a collection is made for the purchase of the sacrifices, the facts became known![53] — If you wish I might say: It is a case, for instance, where the object of the collection was not stated.[54] And if you prefer I might say: In the case, for instance, where he was not in town.[55] And if you prefer I might say: Rab holds the same view as the other Tanna,[56] [in whose name] the reverse was taught: ‘A collection is made for the occasion;[57] these are the words of R. Judah. R. Simeon said: They are taken from the funds of the Temple treasury.’[58] It was taught: R. Meir declares him[59] liable and R. Simeon exonerates him; R. Eleazar said, ‘doubtful’; in the name of Symmachus it was said, ‘suspended’. Said R. Johanan: The difference between them[60] is the obligation to bring an asham talui.[61] Said R. Zera: [As to an] analogy [in respect of the view] of R. Eleazar — to what may the thing be compared? To the case of a man who ate something about which it is doubtful whether it was suet or fat,[62] who, when it becomes known to him[63] brings a guilt offering.[64]

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(1) If the two minorities are to be combined.

(2) Thus Bomberg ed. Cur. edd.: ‘knowledge’, i.e., ‘discovery of the sin’.

(3) To bring the sacrifice if they erred in their decision.

(4) Lev. IV, 13.

(5) Since Scripture uses the expression ‘the whole’, which is taken to refer to the assembly of the judges who are the cause of the error committed by the congregation.
(6) Cur. edd. insert, ‘until the rulings will spread among all the congregation of Israel’.
(7) Lit., ‘thus also’.
(8) ‘The whole’ being specifically stated.
(9) They must all arrive at a unanimous decision.
(10) The member of the court or learned disciple.
(11) Anyone who did not take part in the deliberations of the court.
(12) Lit., ‘the ruling was not concluded’, since there was at least one dissentient.
(13) V. supra note 6.
(14) Which is taken as consent.
(15) Infra 4b.
(16) Cf. note 8.
(17) Mal. III. 9.
(18) Since both R. Simeon and R. Eleazar had said, ‘a majority of the people’. v. A.Z. 36a.
(19) Who said supra that a majority of the court is not regarded as the whole.
(20) Though their opinions differ.
(21) Lit., ‘the collar (or ‘chain’) hangs on the neck of’.
(22) Sanh. 10a.
(23) Lit., ‘we’.
(24) That the responsibility for any wrong decision might be shared by all of them.
(25) For him to decide whether it was ritually fit for human consumption.
(26) Who were familiar with the ritual laws relating to diseased animals.
(27) A suburb of the town of Sura; v. B.B. (Sonc. ed.) p. 10, n. 1.
(28) And a majority of the people acted accordingly.
(29) Lit., ‘their atonement’, the sin offering prescribed in Lev. IV, 13ff.
(30) Who was unaware that the decision is as rescinded.
(31) It cannot be determined whether such a case comes under the category of dependence upon the court or under that of acting independently. Hence an asham talui (v. Glos.) must be brought.
(32) The transgressor who claims not to have heard that an erroneous decision had been withdrawn.
(33) Lit., ‘sat’.
(34) To bring an asham talui (v. Glos.).
(35) Lit., ‘in this, that he’.
(36) Lit., ‘it was possible for him to hear’.
(37) Cf. previous note. Since it was an impossibility for him to ascertain the facts his action is regarded as entirely dependent upon the court's decision. Hence he is exonerated.
(38) Cf. Lev. XV, 19ff: XVIII, 19.
(39) If during the eleven day's (which follow the seven unclean days that a woman must observe after her menstruation (cf. Lev. XV, 19), she noticed any kind of blood, it is not regarded as the blood of menstruation but as a mere flow; and she need not, therefore, count seven days (as in the case of menstruation) but waits only one day, after which she is again clean.
(40) Lev. IV, 13.
(41) Lit., ‘went out’.
(42) [Even after the court had retracted, provided he was unaware of the retraction.]
(43) Lit., ‘was not given but’.
(44) Believing the decision of the court to be a correct one and thus acting upon it.
(45) (And this reason applies even after the court has withdrawn its decision.]
(46) As an offering.
(47) In consequence of which they committed a transgression, and when the error was discovered must bring an offering, cf. Lev. IV, 13.
(48) Cf. Num. XV, 24.
(49) Lit., ‘in the beginning they called for them’. Every member of the congregation makes a special contribution

towards the cost of the sacrifice.

(50) Lit., 'they come', i.e., they are purchased.

(51) No special collection from the members of the congregation is to be made. Men. 52a.

(52) Why does R. Simeon exempt the individual in our Mishnah?

(53) Lit., 'it is be known'. Since every individual contributes towards the cost of the offering everyone must be aware of the fact that the court has retracted!

(54) Hence it is quite possible for individuals to be unaware of the retraction of the court.

(55) He should not know, therefore, of the retraction of the court even if those in town were informed of the object of the collection.

(56) Quoted in the following Baraitha.

(57) V. supra p. 18, n. 10.

(58) So that, according to R. Simeon, individuals might be unaware of the fact that the court had retracted, and are, therefore, as stated by him in our Mishnah, exonerated.

(59) An individual who acted in accordance with an erroneous ruling of the court after it had been rescinded.

(60) R. Eleazar who said, 'doubtful' and Symmachus who said 'suspended'.

(61) V. Glos. According to R. Eleazar such an offering is to be brought as is the case with all 'doubtful' trespasses. According to Symmachus, however, his offering is 'suspended' and he consequently brings nothing.

(62) Lit., 'doubtful suet, doubtful fat', and he took it to be fat.

(63) That it might have been suet.

(64) Asham talui, v. Glos.

Talmud - Mas. Horayoth 4a

And there is no need[1] [to say that this is so] according to him, who holds that the public bring the offering, since [in that case] the matter is well known;[2] but even according to him who holds that the court brings the sacrifice, in which case the matter is not well known,[3] [the asham talui must be brought, because] had he inquired he would have been told.[4] R. Jose b. Abin — others say, R. Jose b. Zebida — said: [As to an] analogy [in respect of the view'] of Symmachus — to what may the thing be compared? To [the case of] a man who brought [an offering for] his atonement at twilight when there was doubt whether it was still day[5] and[6] his atonement was effective or night has already fallen[7] and his atonement was not effective,[6] who does not bring an asham talui.[8] And there is no need[9] [to say that this is so] according to him who holds that the court bring [the sacrifice] since [in that case] the matter is not sufficiently known;[10] but even according to him who holds that the public bring the sacrifice, in which case the matter is well known and people could have told him,[11] [this case is nevertheless the same] as[12] that of doubt whether it was still day, or night has already fallen.[13] For even if he had wished to ask he might not have found anyone who could tell him.[14] SAID BEN 'AZZAI TO HIM: HOW DOES SUCH A PERSON DIFFER FROM ONE WHO REMAINS etc. R. Akiba, surely, answered Ben 'Azzai well![15] — Raba replied: The difference between them is [the case of one who started on a journey.[16] According to Ben 'Azzai he is liable because he is still at home;[17] according to R. Akiba he is exempt since he has already started on his journey.[18] IF THE COURT RULED THAT AN ENTIRE PRINCIPLE WAS TO BE UPROOTED. Our Rabbis taught: And something be hid,[19] but not when an entire commandment be uprooted. How? One might assume that if they said, for example, that [the law concerning] the menstrtiant is not found in the Torah [or the law concerning] the Sabbath is not found in the Torah [or the law concerning] idolatry is not found in the Torah — they are liable,[20] hence it was expressly stated, 'And something be hid'[21] but not when an entire commandment he hid. They are consequently exempt. One might assume, however, that if they said: [The law' concerning] the menstruant occurs in the Torah but if a man has intercourse with a woman that awaits a day corresponding to a day[22] is exempt [or that the law concerning] the Sabbath occurs in the Torah but if a man carries anything from a private domain into a public domain he is exempt. [or that the law' concerning] idolatry occurs in the Torah but if a man only bows down to an idol be is exempt, they[23] are exempt, hence it was expressly stated, 'and something he hid' but not the entire principle. The Master said, 'One might assume that . . .they are exempt'. But [it may be asked] if when [the ruling was that] part [of a commandment] be retained and a part annulled they are exempt. and when an entire principle be uprooted they are also exempt, in what case, then, would they be liable?[24] — The Tanna bad raised his question thus: It might have been assumed that dabar'[25] means the entire commandment,[26] hence it was expressly said. And something be hid. How does this prove it? — 'Ulla replied: In this text, read, 'and a part of a thing was hid'.[27] Hezekiah replied: Scripture says. And do any of the commandments[28] [which implies] of the commandments,[29] but not all the commandments. Does not commandments' denote the plural?[30] — R. Nahman b. lsaac replied: It is written, commandment.[31] R. Ashi replied: Dabar,[32] here, is to be deduced from dabar' mentioned in the case of a 'rebellious elder.'[33] For concerning a 'rebellious elder' it was written, If there arise a matter too hard for thee[34] . . . thou shalt not turn aside from the sentence which they shall declare unto thee, to the riqht hand, nor to the left hand;[35] as in the case of the 'rebellious elder' the meaning is 'a part of the thing' and not all the thing[36] so in the case of an [erroneous] ruling, [of a court] a part of the thing [is meant] and not an entire principle. Rab Judah said in the name of Samuel: The court is liable only when they ruled concerning a prohibition[37] which the Sadducees[38] do not admit,[39] but if concerning a prohibition[37] which the Sadducees admit[40] they are exempt.[41] What is the reason? It is a matter which anyone can learn at school.[42] We learnt: [THE LAW' CONCERNING THE] MENSTRUANT OCCURS IN THE TORAH BUT IF A MAN HAS INTERCOURSE WITH A WOMAN THAT AWAITS A DAY CORRESPONDING TO A DAY HE IS EXEMPT. But why? Surely [the law concerning] a woman that awaits a day corresponding to a day is mentioned in the Scriptures: Then she shall number to herself,[43] teaches that she counts one [day] for one [day]![44] — They might rule that the first stage of contact is permitted and only the consummation of coition is forbidden. Surely this also is written in the Scriptures: He hath made naked her fountain![45] — They might rule that in the natural way it is forbidden; in an unnatural way it is permitted. but, surely, it is written, As with womankind.[46] — They might rule that in the natural way even the first stage of contact is forbidden; in the unnatural way, however, consummation of coition only is forbidden but the first stage of contact is permitted. If so, [the same might apply] even [to the case of] a menstruant also![47] — The fact, however, is [that the ruling might have permitted][48] even in the natural way[49] alleging [that the prohibition of] the first stage[50] has reference to a menstruant woman only.[51] And if you prefer I might say: The — ruling may have been that a woman is not regarded as a zabah[52] except during the day time because it is written, all the days of her issue.[53] We learnt: [THE LAW CONCERNING THE] SABBATH OCCURS IN THE TORAH BUT IF A MAN CARRIES ANYTHING FROM A PRIVATE DOMAIN INTO A PUBLIC DOMAIN IS EXEMPT [etc.]. But why? Surely the prohibition of carrying from [one domain into another] is mentioned in the Scriptures: Neither carry forth a burden out of your houses on [the Sabbath day]![54] — They ruled that carrying out alone is prohibited but bringing in is permitted. And if you prefer I might say: They ruled that only carrying out and bringing in[55] is prohibited but handing across and throwing[56] is permitted.[57] We learnt: [THE LAW CONCERNING] IDOLATRY OCCURS IN THE TORAH BUT IF A MAN ONLY BOWS DOWN TO AN IDOL HE IS EXEMPT [etc.]. But why? The case of him, who bows down is certainly mentioned in the Scriptures: for it is written, Thou shalt bow down to no other god![58] — They ruled that bowing down is prohibited only when performed in the usual manner but if in an unusual manner it is permitted. And if you prefer I might say: They ruled that bowing itself in a natural manner is only then prohibited when the hands and the feet are stretched out but bowing without stretching out the hands and the feet is permitted.

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(1) Lit., 'and it is not required'.

(2) And every individual is thus acquainted with the retraction of the court.

(3) And it might have been assumed that the transgressor could justify his action by claiming that he was not aware of the retraction of the court.

(4) As he did not take the trouble to inquire he must himself bear part of the responsibility.

(5) Sacrifices may only be offered in the day time.

(6) So MS.M., Cur. edd., 'it was atoned for him'.

(7) Lit., ‘from when it was dark’.

(8) V. Glos.

(9) V. supra p. 19. n. 12.

(10) Hence the individual can justify his action by pleading ignorance of the retraction and claiming reliance upon the court's original ruling.

(11) Cf. Bomberg ed.

(12) So Ma'aseh Rab, quoted in marginal glosses, a.l., Cur. edd., ‘in’.

(13) As no sacrifice is required in the latter case so it is not required in the former.

(14) So MS.M. v. D.S. a.l., Cur. edd. ‘whom to ask’.

(15) How then, could the latter differ from the former's view?

(16) Lit., ‘he took hold of the way’, i.e., he already left his house but is still in town.

(17) The town being regarded as home MS.M. reads,’in town’ for, ‘in his house’ of cur. edd.

(18) Being pre-occupied with the anxieties of travel he is not in a position to pay attention to what is happening in the town.

(19) Lev. IX, 13; then a sacrifice is to be brought.

(20) To bring the prescribed offering.

(21) V. p. 20,11 13.

(22) V. Supra p. 17, n. 10.

(23) The court or the public.

(24) since ii it impossible that there should be no liability at all, how could such an assumption be entertained?

(25) דבר rendered something, may also signify ‘a thing’, i.e., an entire commandment.

(26) And that only when an entire commandment was uprooted is liability incurred, but not when a part only was annulled.

(27) The Mem, מ in ונעלם דבר is read twice; once as the final letter of ונעלם and again as the initial of דבר having the force of the partitive; מדבר ‘(a part) of a thing’.

(28) Lev. ibid.

(29) I.e., a part was annulled and a part retained.

(30) Lit., ‘two’. Does not ‘any of the commandments’ imply one of several, and not a part of one,

(31) מצות (with the omission of the waw of the plural) is to be read as mizwath, מצות , sing. const., ‘commandment of’, not mizwoth in the plur.

(32) דבר ‘thing’. (Lev. ibid.).

(33) An elder who defies the authority of the supreme Court in Jerusalem.

(34) Deut. XVII, 8.

(35) Ibid. v. II.

(36) V. Sanh. 88b.

(37) Lit., ‘thing’.

(38) A sect believing in the Scriptures (the Written Law) but not in the Rabbinic interpretations and traditions (Oral Law).

(39) I.e., a prohibition not mentioned in the Scriptures.

(40) A Biblical law’.

(41) Because their ruling, being Contrary to what everybody is expected to know, has no validity whatsoever.

(42) Lit ‘it (is a matter of) go read at school’. There was no reason why anyone should rely upon the court's erroneous ruling when any school boy knew it to be contrary to a Biblical prohibition.

(43) Lev. XV, 28.

(44) Cf. supra p. 17, n. 10. Since she is thus Biblically’ considered unclean how could a court rule that one having intercourse with her is exempt?

(45) Lev. XX,18.

(46) Ibid. 13. The plural משכבי implies natural, and unnatural intercourse.

(47) Why then was the case of a woman who ‘awaits a day corresponding to a day’ given as an illustration when the case of a menstruant, already mentioned, should supply the same illustration.

(48) The first stage of Contact.

(49) In the case of one ‘who awaits a day corresponding to a day’; only consummation of coition being forbidden in her case.

(50) Cf. Lev. XX, 18.

(51) Thus permitting a forbidden act which the Sadducees do not admit.

(52) A woman who has an issue of blood not in the time of her menstruation, and is subject to certain laws of uncleanness and purification (Lev. XV, 25 ff).

(53) Lev. XV, 26. Emphasis being laid on days.

(54) Jer. XVII, 22. Why then should there be liability to a communal offering seeing that the Court ruled against a specific Biblical prohibition?

(55) So Bomberg ed. Cur. edd. delete 'Carrying in' [V. shap. 96b, where 'carrying in' is treated as a specific Biblical prohibition as well as 'carrying forth'.]

(56) From one domain into another.

(57) These are not mentioned in the Scriptures.

(58) Ex. XXXIV, 14; cf. p. 23. n.9.

Talmud - Mas. Horayoth 4b

R. Joseph enquired: What [is the law where the court ruled that] ploughing is not forbidden on the Sabbath, is it assumed that, as they had admitted the whole law,[1] the ruling is deemed to be a partial annulment and a partial retention [of a law][2] or, perhaps, since they have uprooted altogether the law of ploughing it is deemed to be an uprooting of an entire principle? — Come and bear! [THE LAW CONCERNING THE] MENSTRUANT OCCURS IN THE TORAH BUT IF A MAN HAS INTERCOURSE WITH A WOMAN THAT AWAITS A DAY CORRESPONDING TO A DAY HE IS EXEMPT [. . . THEY ARE LIABLE]. But why? surely, [the law concerning] a woman that awaits a day corresponding to a day has been uprooted completely![3] — R. Joseph can reply[4] [that the law of] a woman that awaits a day corresponding to a day, that has been mentioned, is to be explained as above.[5] Come and bear: [THE LAW CONCERNING THE] SABBATH OCCURS IN THE TORAH BUT IF A MAN CARRIES ANYTHING FROM A PRIVATE DOMAIN INTO A PUBLIC DOMAIN HE IS EXEMPT [. . .THEY ARE LIABLE]. But why? Surely. [the law concerning] carrying from [one domain into another] has been completely uprooted![3] — There also the explanation is as given above.[5] Come and hear: [THE LAW CONCERNING] IDOLATRY OCCURS IN THE TORAH BUT IF A MAN ONLY BOWS DOWN TO AN IDOL HE IS EXEMPT [. . . THEY ARE LIABLE]. But why? Surely, the law concerning bowing to an idol has been completely uprooted![6] — It may be reported that [the law of] bowing also is to be explained as above.[7] R. Zera enquired: What [is the law where the court ruled that] no Sabbath is to be kept in the seventh[8] year? Wherein did they err? — In the following text: In ploughing time and in harvest thou shalt rest,[9] when ploughing is carried on, [they explained,] Sabbath is to be observed but when no ploughing is carried on Sabbath is not to be observed. Is it to be assumed that, as they retain it[10] in the other years of the Septennial, [their ruling] is deemed to be a partial annulment and a partial retention [of a law] or, perhaps, since they are uprooting it in the seventh year it is deemed to he an uprooting of an entire principle? Rabina replied: Come and hear! If a prophet taught[11] that any. thing[12] of the words of the Torah was to be uprooted, he is guilty; if only to annul a part of it and to retain a part he is, R. Simeon said, exempt. And in respect of idolatry, even if he said that the idol be worshipped only to-day and destroyed to-morrow, he is guilty.[13] From this[14] it may be inferred that [the ruling that] no Sabbath is to be kept in the Sabbatical year is to be deemed as partial annulment and partial retention.[15] This proves it.

MISHNAH. IF THE COURT RULED AND ONE OF THEM KNEW THAT THEY HAD ERRED AND SAID TO THEM, YOU ARE MISTAKEN', OR IF THE MUFLA[16] OF THE COURT WAS NOT PRESENT,[17] OR IF ONE OF THEM WAS A PROSELYTE OR A BASTARD OR A NATHIN[18] OR TOO OLD TO HAVE CHILDREN,[19] THEY ARE[20] EXONERATED, FOR CONGREGATION WAS MENTIONED[21] HERE[22] AND CONGREGATION WAS MENTIONED FURTHER ON;[23] AS CONGREGATION FURTHER ON [REFERS TO MEN] ALI. (IF WHOM

MUST BE CAPABLE OF DECIDING MATTERS OF LAW[24] SO [IN THE CASE OF] CONGREGATION. MENTIONED HERE [THE RULING IS INVALID] UNLESS[25] THEY ARE ALL CAPABLE OF DECIDING MATTERS OF LAW.

GEMARA. OR IF THE MUFLA OF THE COURT WAS NOT PRESENT. Whence is this derived? — R. Shesheth replied, and so It was taught by the School of R. Ishmael: Why has it been said that a court that ruled concerning a prohibition[26] which the Sadducees admit, are exempt? because they should have learned and did not learn; [in the case of] the absence of the mufla of the court they are also exempt, because they should have learned and did not learn.[27] CONGREGATION WAS MENTIONED HERE AND CONGREGATION WAS MENTION FURTHER IN . . . UNLESS THEY ARE ALL CAPABLE OF DECIDING MATTERS OF LAW. And whence is this[28] derived there? — For R. Hisda said: Scripture states, That they may stand there with thee;[29] with thee implies ‘such as are like thee’. Might it not be suggested that with thee [has reference] to the divine presence?[30] — but, said R. Nahman b. Isaac. Scripture states, And they shall bear the burden with thee,[31] ‘with thee’ implies ‘such as are like thee’.[32]

MISHNAH. IF THE COURT ISSUED A [WRONG] DECISION UNWITTINGLY AND ALL THE PEOPLE ACTED UNWITTINGLY ACCORDINGLY, A BULLOCK MUST BE BROUGHT.[33] [IF THE COURT RULED] WILFULLY AND [THE PEOPLE] ACTED UNWILLINGLY ACCORDINGLY, A LAMB OR A GOAT[34] MUST BE BROUGHT. [IF THE COURT RULED] UNWILLINGLY AND [THE PEOPLE] ACTED WILLINGLY ACCORDINGLY, THEY ARE EXEMPT.

GEMARA. [IF THE COURT RULED] UNWITTINGLY AND [THE PEOPLE] ACTED WILFULLY, THEY ARE EXEMPT. [From this[35] it follows] that one acting unwittingly though in a way similar to one acting wilfully, is liable; and how’ is this to be imagined? When e.g., the court ruled that suet was permitted and a man mistook it for fat and ate it.[36] May it then he suggested that this answers Rann b. Hania's enquiry![37] — He can tell you: Because in the first clause it was taught, [IF THE COURT RULED] WILFULLY AND THE PEOPLE ACTED UNWITTINGLY it was also taught in the final clause,[38] [IF THE COURT RULED] UNWITTINGLY AND [THE PEOPLE] ACTED WILFULLY.[39]

MISHNAH. IF THE COURT ISSUED AN [ERRONEOUS] RULING AND. ALL THE PEOPLE OR A Majority OF THEM ACTED ACCORDINGLY, A BULLOCK MUST BE BROUGHT.[40] AND IN [THE CASE OF] IDOLATRY A BUTTOCK OR A GOAT[41] ARE TO BE BROUGHT; THESE ARE THE WORDS OF R. MEIR. R. JUDAH SAID: THE TWELVE TRIBES BRING TWELVE BULLOCKS;[42] AND IN RESPECT OF IDOLATRY TWELVE BULLOCKS AND TWELVE GOATS.

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(1) Lit., ‘thing’, the corpus of all the laws of Sabbath.

(2) Hence, in accordance with our Mishnah, they are liable.

(3) And yet it is regarded in out Mishnah as partial annulment only. So also in the case of the law of ploughing its denial where the other laws of the Sabbath are retained, should be regarded as partial annulment.

(4) Lit . ‘he said to you’.

(5) Supra 4a, where it was explained that only a part of that law was annulled.

(6) V. p. 24, n. 4.

(7) V. p. 24. N. 6.

(8) v. Ex. XXIII,10F, DEUT. XV, 1FF.

(9) Ex. XXXIV, 21.

(10) The Sabbath.

(11) Lit., ‘prophesied’.

(12) A Complete law.

(13) Sanh, 90a.
(14) That worshipping idols on one day and destroying them in another is regarded as partial annulment and partial retention of the law of idolatry.
(15) Like the case of idolatry cited the law of the Sabbath was, according to the ruling, to be retained at one time and annulled at another.
(16) מופלא lit., ‘distinguished’; an expert not a member of he court, to whom doubtful points are submitted and by whose directions the court is guided in its deliberations. For a fuller discussion of the term, v. Sanh. 9Sonc.ed.) p. 574, n. 1.
(17) Lit., ‘there’.
(18) נתין lit., ‘given’, i.e., dedicated in the service of the Temple and the people. A descendant of the Gibeonites (Josh. IX, 3ff) whom Joshua made into hewers of wood and drawers of water (ibid. v. 27) and david a excluded from intermarriage with the Community (Yeb. 78b) [They are not competent to act as members of the Beth din, v. Sanh. 32a]
(19) Others: ‘too aged, or one who never had children.’ [These too may not act on the Beth din, v. Sanh. 36b]
(20) So MS. M. Cur. edd ‘he is exempt’, is obviously a misprint.
(21) Lit,, ‘for it was said’.
(22) In the case of an erroneous ruling of the court, Lev’. IV, 13.
(23) In respect of the Sanhedrin. (V. Num. XV, and Sanh. 2a.)
(24) Proof of this is given in the Gemara infra.
(25) Lit., ‘until’,
(26) Lit., ‘thing’.
(27) And as such are in be considered wilful transgressors.
(28) That they’ must all be capable of deciding matters of law.
(29) Num. XI, 16.
(30) I,e., though God said to Moses, ‘Gather unto Me seventy’ men’, they are to remain ‘with thee’, i,e., with Moses, and must not venture into the divine presence.
(31) Ex, XVIII, 22. The section deals with the appointment of judges.
(32) V. Sanh, (Sonc. ed.) p. 230.
(33) It will be explained infra by’ whom it is to be brought.
(34) V. Lev, IV, 27ff, 32ff.
(35) The mention of wilful action only for which a sacrifice cannot atone,
(36) His eating of the suet was done unwittingly since he believed to be permitted fat, it is nevertheless similar to wilful action since in fact he has not been acting on the strength of the court's decision,
(37) V. Supra 2a.
(38) By way of contrast.
(39) Hence no deduction can be made, and Rami's enquiry remains unanswered.
(40) Lev. IV, 13ff.
(41) Num. XV, 24. V. Gemara, infra.
(42) In his view the people and not the court bring sacrifices, and each tribe is called ‘congregation’ (kahal).

Talmud - Mas. Horayoth 5a

R. SIMEON SAID: THIRTEEN BULLOCKS;[1] AND IN RESPECT OF IDOLATRY, THIRTEEN BULLOCKS AND THIRTEEN GOATS: A BULLOCK AND A GOAT FOR EACH TRIBE, AND A BULLOCK AND A GOAT FOR THE COURT. IF THE COURT RULED [ERRONEOUSLY] AND SEVEN TRIBES OR A MAJORITY OF THEM[2] ACTED ACCORDINGLY, A BULLOCK IS TO BE BROUGHT; AND IN RESPECT OF IDOLATRY, A BULLOCK AND A GOAT MUST BE BROUGHT; THESE ARE THE WORDS OF R. MEIR. R. JUDAH SAID: THE SEVEN TRIBES WHO SINNED MUST BRING SEVEN BULLOCKS AND THE REST OF THE TRIBES WHO DID NOT SIN MOST BRING BULLOCK[S][3] (IN THEIR ACCOUNT, BECAUSE EVEN THOSE WHO DID NOT SIN MUST BRING OFFERINGS ON ACCOUNT OF THESE WHO SINNED. R. SIMEON SAID: EIGHT BULLOCKS; AND IN RESPECT OF IDOLATRY, EIGHT BULLOCKS AND EIGHT GOATS, A BULLOCK AND A GOAT FOR EVERY TRIBE AND A

BULLOCK AND A GOAT FOR THE COURT. IF THE COURT OF ONE OF THE TRIBES RULED [ERRONEOUSLY], AND THAT TRIBE ACTED ACCORDINGLY, THAT TRIBE IS LIABLE, BUT ALL THE OTHER TRIBES ARE EXEMPT; THESE ARE THE WORDS OF R. JUDAH. BUT THE SAGES SAY: NO LIABILITY IS INCURRED EXCEPT AS A RESULT OF THE RULINGS OF THE SUPREME COURT ONLY; FOR IT IS STATED, AND IF THE WHOLE CONGREGATION OF ISRAEL SHALL ERR,[4] BUT NOT THE CONGREGATION OF ONE PARTICULAR TRIBE.

GEMARA. Our Rabbis taught: It might have been assumed that, if it had come to the knowledge of the court that a ruling of theirs was erroneous and they had forgotten what the ruling was,[5] they are liable,[6] hence it was expressly stated, When the salt was known,[7] [implying] not, however, when only those who sinned were known. Wherein they have sinned[8] [implies that] if two tribes had sinned they must bring two bullocks,[9] if three had sinned three have to be brought. But is it not possible that this only means[10] that if two individuals had sinned they bring two bullocks, if three had sinned they bring three? It was expressly stated. The congregation,[11] [showing that] only a congregation is liable, and that every congregation[12] is liable. How? If two tribes sinned they bring two bullocks, if seven sinned they bring seven, and also the other tribes who did not sin bring each a bullock on account of the former,[13] because even those who bad not sinned must bring sin offerings, because of those who sinned — Hence Scripture stated, ‘congregation’, in order to impose the obligation upon every congregation: these are the words of R. Judah. R. Simeon said: If seven tribes sinned they bring seven bullocks, and the court also brings a bullock on account of them, for ‘congregation’ was mentioned below[14] and ‘congregation’ was also mentioned above,[15] as ‘congregation’ that was mentioned above means both the court and the congregation[16] so ‘congregation’ that was mentioned below means both the court and the congregation. R. Meir said: If seven tribes had sinned the court brings a bullock on their account but they themselves are exempt, for ‘congregation’ was mentioned below[14] and ‘congregation’ was mentioned above,[15] as ‘congregation’ that was mentioned above refers to the court and not to the people[17] so ‘congregation’ that was mentioned below refers to the court and not to the people. R. Simeon b. Eleazar said in his name: If six tribes had sinned and they[18] represent a majority of the people, or seven, although they[18] do not represent a majority of the people, they bring a bullock. The Master said: ‘When the sin was known [implying], not, however, when only those who sinned were known’. Who is the author of this statement? — Rab Judah said in the name of Rab (others say Raba): It is not[19] R. Eliezer, for it was taught:[20] R. Eliezer said,[21] ‘Whatever your assumption [he must bring a sin offering], for if\ he ate the suet he is liable and if he ate the nothar[22] be is also liable.[23] R. Ashi said: It may even be said to be R. Eliezer, for here the case is different since it is written, [When the sin] wherein they have sinned [is known][24] But surely, there[25] also it is written, [If he sin], wherein he has sinned, [be known to him]![26] — That[27] is required for the purpose of excluding the case of one who performed a forbidden act while his mention was to perform a different act.[28] What is the reason of R. Judah? — He holds the opinion that ‘congregation’ was written four times: ‘Congregation’, the congregation congregation, the congregation.[29] One of these is to indicate \hat the obligation bring offering falls on every congregation;[30] one is to indicate that the ruling depends on the court and the action depends on the congregation;[31] one is to indicate attraction,[32] and one has reference to a tribe that acted in accordance with the [erroneous] ruling of its own court.[33] And R. Simeon maintains that ‘congregation’ was written three times: The congregation, congregation, the congregation[34] because the expression, from the eyes of the congregation is the usual form of Biblical speech — as people say, ‘from the eyes of so and so’,[35] one of these[36] is to indicate that the obligation to bring an offering falls on every congregation.[37] and the other two [are required for the following deduction]: ‘Congregation’ was mentioned below and ‘congregation’ was mentioned above, as below the reference is to the court together with the congregation, so here also it refers to the court together with the congregation.[38] And R. Meir makes no exposition on congregation, the congregation. Consequently, congregation was written only twice, and both are required [for the following deduction]: ‘congregation was mentioned below and ‘congregation’ was mentioned above, as below the reference is to the court and not to the congregation, so here also the reference is to the court and not to the congregation.[38] As to R. Simeon b. Eleazar, what is his reason? It is written, And it shall be it from the eyes of the congregation[39] which clearly refers to a minority, since it is written, from the eyes,[40] but it is also written, For in the respect of all the people it was done in error,[41] which indicates that the reference is only to[42] a majority and not to a minority; how', then, [are these contradictory deductions to be reconciled]? — If the sin was committed by six tribes who represent the majority of the congregation or by seven, even though they do not comprise a majority of the congregation, they are liable.

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(1) In the case of an erroneous ruling other than idolatry.

(2) Of each tribe, representing a majority of all Israel.

(3) Each of them one.

(4) Lev. IV, 13.

(5) Lit,, 'they knew that they ruled and erred what they ruled'.

(6) To bring an offering of a bullock if the people unwittingly infringed two prohibitions one or the other of which was that which the court erroneously permitted.

(7) Lev, IV, 24: Emphasis on sin. Only then is an offering of a bullock to be brought.

(8) Ibid.

(9) I.e., one offering is not enough when more than one tribe had sinned.

(10) Lit., 'or he does not say'.

(11) הקהל

(12) I.e., 'tribe', which is called kahal. V. infra.

(13) Lit,, 'through them'.

(14) Lev, IV, 24, 'then the congregation shall offer'.

(15) Ibid, v. 13, 'the thing being hid from the eyes of the congregation'.

(16) 'The eyes' referring to the court: 'congregation' to the people.

(17) The eyes of the congregation', according to R. Meir, implying the court only.

(18) In the number of their individuals,

(19) Lit , 'that not as'.

(20) Gut. edd. 'we learnt'.

(21) In the case where it is not certain which of two prohibited foods a man has eaten through error,

(22) נותר , sacrificial meat that was left over beyond the period allowed for its consumption.

(23) Shebu. 18b. So here, according to R. Eliezer, a sin offering would be obligatory even if it were not certain to what precise prohibition the ruling of the court referred. (Cf. supra p. 29.11 2).

(24) Lev, IV, 14. Emphasis on 'knowledge of the sin'.

(25) The case of all individual who is uncertain which prohibited food he ate. Cf. supra n.4.

(26) Lev. IV, 23. Emphasis on 'wherein' (בה).

(27) The emphasis bah. V. previous note.

(28) V. Sanh. (Sonc. ed.) p. 426.

(29) I.e., 'the congregation' (hakahal), occurs in Lev, IV, 13 and ibid. v. 14, and each expression (because the definite article is used there it could have been omitted) counts for two.

(30) I.e., 'tribe'.

(31) V. supra p.10 notes 12 and 13.

(32) גרירה 'dragging', i.e., the tribes who sinned drag with them the others who did not sin into the liability of bringing the sin offerings.

(33) V. the final section of our Mishnah.

(34) Cf. p. 30, n. 12.

(35) I.e., while the definite article in v. 14 is unnecessary and may, therefore, be regarded as doubling the expression of 'congregation', the article in v. 13 is grammatically required by the status constructus.

(36) Expressions of 'congregation'.

(37) I.e. tribe,

(38) V. supra p. 29, for notes.

(39) Num. XV, 24.
(40) מעיני (מ) partitive.
(41) Ibid, 26.
(42) Lit., ‘yes’.

Talmud - Mas. Horayoth 5b

And whence does R. Simeon and R. Meir[1] infer that the ruling depends on the court and the action depends on the con gregation?[2] — Abaye replied: For Scripture stated, And it shall be it from the eyes of the congregation the sin be committed unwittingly.[3] Raba said: [It is inferred] from, In respect of all the people it was done in error.[4] And [both texts are] required. For if the All Merciful had written only’, And it shall be if from the eyes of the congregation the sin be committed unwittingly it might have been assumed that the reference[5] is even to a minority’, hence it was written, In respect of all the people it was done in error. And if only In respect of all the people it was done in error had been written, It might have been assumed [that there is no obligation][6] unless the court[7] committed the sin together with the majority, hence it was written. Did it shall be if from the eyes of the congregation the sin be committed unwittingly. But, surely, both these texts speak rather of[8] idolatry! — From the eyes[9] is inferred from [the other expression] from the eyes.[10] IF THE COURT OF ONE etc, The question was raised: Where one tribe acted on the [erroneous] ruling of the supreme court, do the other tribes, according to the view of R. Judah, bring sin offerings] or not? Is it assumed that only where seven tribes [have sinned] do the other tribes bring [sin offerings] together with them because they[11] constitute a majority, but not where one tribe[12] [only had sinned] since it does not constitute a majority, or is there, perhaps, no difference? — Come and hear! ‘What do they bring? One bullock. R. Simeon said two bullocks.’ Now, under what circumstances?[13] If it be suggested where seven tribes had sinned. [it might be retorted.] R. Simeon, ‘surely, requires [in such a ease] eight [bullocks]![14] If, again,[15] [it be suggested,] where one tribe had sinned, [it may be asked] under what authority?[16] If on the ruling of its own court, R. Simeon, surely, does not in such a case admit liability![17] Consequently it must be a case[18] of acting under the ruling of the supreme court; who, however, is the first Tanna?[19] If it be suggested R. Meir, be, [it may be asked] surely requires a majority;[20] consequently,[21] it must be R. Judah![22] — It may be argued[23] that here it is a case[24] where a sin was committed by six tribes who constituted a majority of the congregation and it[25] is the view of R. Simeon b. Eleazar. For it was taught: R. Simeon b. Eleasar said in his name, ‘Six [tribes] who form a majority of the congregation or seven [tribes], although they do not form a majority of the congregation who committed a sin, bring a bullock.[26] Come and hear: R. Judah said, ‘If a tribe acted on the ruling of its own court, that tribe is liable[27] and all the other tribes are exempt: if, [however, it acted] on the ruling of the supreme court. even the other tribes are liable. This proves it. Said R. Ashi: This may also be deduced from our Mishnah, for it was taught, AND THAT TRIBE ACTED ACCORDINGLY, THAT TRIBE IS LIABle, BUT ALL THE OTHER TRIBES ARE EXEMPT; what need was there for the statement, THE OTHER TRIBES ARE EXEMPT when[28] it was stated, THAT TRIBE IS LIABLE? Surely, since it was stated, THAT TRIBE IS LIABLE it is obvious that THE OTHER TRIBES ARE EXEMPT! This, consequently, teaches us the following: That only when [one tribe acted] on the ruling of its own court are the other tribes exempt, but if on the ruling of the supreme court even the other tribes are liable — This proves it. The question was raised: Does one tribe who acted on the [erroneous] ruling of the supreme court bring [a sin offering],[29] according to R. Simeon, or not?[30] Come and hear! ‘What do they bring? One bullock. R. Simeon said: Two bullocks.’ Now, under what circumstances? If it be suggested that seven tribes had sinned, [it may be retorted that in such a case not] two bullocks but eight bullocks are required! Consequently it must be a case where one tribe had sinned, but, [it may be asked,] under what authority?[31] If on the ruling of its own court, R. Simeon surely does not in such a case admit liability! Consequently, [it must be a case of a tribe's acting] under the ruling of the supreme court![32] Who, however, is to be understood to be the first Tanna? If [it be suggested] R. Meir, be, surely, [it may be asked,] requires a majority![33] If R. Judah. [surely he holds] that other tribes also must bring;[34] consequently, it must be [the view of] R. Simeon b. Eleazar, and as it has been taught.[35] Come and hear: But the Sages say. 'One is never liable except when acting on a ruling of the supreme court.'[36] Now, who are the Sages? If it be suggested R. Meir, surely. [it may be retorted,] be requires a majority![33] Consequently it must represent the view of R. Simeon. This proves it. And whence do R. Judah and R. Simeon infer that one tribe is called 'congregation'? — It may be replied: Because it is written, And Jeheshaphat stood in the congregation of Judah and Jerusalem, in the house of the Lord before the new court.[37] What is meant by 'new'? — R. Johanan replied: They issued new regulations ordaining that an unclean man who bathed during the day[38] must not enter the camp of the Levites. R. Aha b. Jacob demurred: How [does this prove it]?[39] Is it not possible that Jerusalem is different since Benjamin also was there![40] — But, said R. Aha b. Jacob, because it is written, And he said unto me: Behold, I will make thee fruitful and multiply thee, and I will make of thee a congregation of Peoples;[41] but who was born to him at that time? Only Benjamin! Consequently it must be concluded that the All Merciful said thus: Another congregation will now be born unto thee.[42] Said R. Shaba to R. Kahana: Is it not possible that the All Merciful said to him[43] thus: 'When Benjamin will have been born to you there will be twelve tribes so that you might then be called congregation'? — He said to him: Would twelve tribes, then, be called 'congregation' while eleven tribes would not be called 'congregation'.[44] It was taught, R. Simeon said: What need was there for stating. And a second young bullock shalt thou take for a sin offering[45] If it is to teach that there were two, surely, [it may be pointed out] it has already been stated, And he shall offer the one for a sin offering and the other for a burnt offering, unto the Lord![46] But [the purpose of the statement is this]: As it might have been assumed that this sin offering was to be eaten by the Levites[47] it was expressly stated, And a second young bullock,[48] , [implying that it is] second to the burnt offering; as the burnt offering must not be eaten

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(1) Who require the two expressions of 'congregation' (Lev. IV, 13 and 14) for the purpose of comparison.

(2) A law which R. Judah inferred supra from one of the expressions of 'congregation'.

(3) Num. XV, 24. The use of the Niph'al (נעשתה) implies that the commission of the sin by the people was due to the error of others, i.e., the court on whom the ruling depends.

(4) Ibid. 26. 'All the people', implies the court as well as the congregation, the former through their ruling and the latter through their action.

(5) To the obligation of bringing a bullock for a sin offering.

(6) Cf. n.4.

(7) In addition to their erroneous ruling.

(8) Lit., 'are written'.

(9) Lev. IV, 13, dealing with an erroneous ruling of the court.

(10) Num. XV, 24 speaking of idolatry.

(11) The seven tribes.

(12) Or any minority of the tribes.

(13) Lit., 'in what are engaged '.

(14) Seven for the tribes and one for the court.

(15) Lit., 'but'.

(16) Lit., 'in what'.

(17) Lit., 'there is not to him', i.e., he does not impose the obligation to bring a sin offering, the word 'congregation', according to him, occurring only three times providing no Biblical authority for this obligation. (V. supra 5a)

(18) Lit,, 'but not',

(19) In the Baraitha cited,

(20) A minority bring no such sin offering.

(21) Lit., 'but, not',

(22) Thus it has been proved that according to R. Judah the other tribes do not bring sin offerings on account of the one tribe that sinned, (Cur. edd., 'and for example when one tribe had sinned').

(23) Lit., 'said',

(24) Lit,, 'in what are we engaged'.

(25) The statement of the first Tanna in the Baraitha.
(26) On behalf of all the congregation (v. supra 3a). The first Tanna of the Baraitha cited who requires the offerings of one bullock may consequently be R. Simeon b. Eleazar.
(27) To bring the sin offering of a bullock.
(28) Lit., ‘surely’.
(29) As it must bring in the case where it committed the sin together with the majority.
(30) Is one tribe, committing the sin alone, regarded as an individual who is exempt from an offering when acting on the ruling of the court?
(31) Lit., ‘and in what’.
(32) This shows that according to R. Simeon a single tribe committing a sin has to bring an offering.
(33) Cf supra p. 33, n.5.
(34) As shown supra p. 33.
(35) Ct. p. 33. The Baraitha, consequently, does not deal with the case of one tribe.
(36) Cf. our Mishnah. The Sages ate in dispute with R. Judah who speaks of the case where only one tribe had sinned.
(37) II Chron. XX, 5. The tribe of Judah alone was mentioned and yet it is described as ‘Congregation’ (kahal).
(38) טבול יום , lit., ‘immersed of the day’, a person Levitically unclean who bathed during the day and is awaiting sunset (nightfall) for the completion of his purification,
(39) That one tribe is called ‘congregation’. Lit,, ‘from what’.
(40) Congregation (Kahal) may have reference to the two tribes,
(41) קהל עמים , Gen. XLVIII, 4.
(42) Thus it is proved that one tribe is also called ‘Congregation’.
(43) Jacob.
(44) Hence, it must have been Benjamin alone who was referred to as ‘congregation’, proving that one tribe also is so called.
(45) Num, VIII, 5,
(46) Ibid, 22.
(47) As were the other sin offerings.
(48) Num, VIII, 8.

Talmud - Mas. Horayoth 6a

so must not this sin offering be eaten. Similarly, said R. Jose: The children of the captivity, that were come out of exile, offered burnt offerings unto the God of Israel twelve bullocks . . . . all this was a burnt offering;[1] can it be imagined that ‘all this was a burnt offering’ [is to be taken literally]? Is it possible for a sin offering to be a burnt offering?[2] But [this is the meaning]: all this was like a burnt offering, as a burnt offering must not be eaten so were those sin offerings not to be eaten,’ for it was taught:[3] R. Judah said, ‘They brought them for the sin of idolatry’.[4] Furthermore, Rab Judah said in the name of Samuel: [They brought them] for the sin of idolatry that had been committed in the days of Zedekiah. According to R. Judah one can well understand these twelve sin offerings to be possible in the case, for example, where the sin was committed by twelve tribes who must bring twelve goats — or again where the sin was committed by seven tribes where others must bring offerings on account of them.[5] According to R. Simeon, also, this is possible in the case, for example, where the sin was committed by eleven tribes who bring eleven goats, the twelfth[6] being that of the court, According to R. Meir, however, who said that the court, and not the congregation, bring the sin offering. how could [the bringing of] twelve offerings be possible? — In the case, for instance, where they sinned, and sinned again and again unto the twelfth time. But surely, those who had committed the sin[7] were dead![8] — R. Papa replied: The tradition that a sin offering the owner of which died must be left to die,[9] is applicable only to the offering[10] of an individual, but not to that of a congregation — because a congregation does not die.[11] Whence does R. Papa derive this law? If it be suggested, from the Scriptural text, Instead of thy fathers shall be thy sons,[12] if so, [it may be asked], this should apply to the offering of an individual also! — But R. Papa draws his inference from the goat of the new moon[13] concerning which the All Merciful said that it was to be brought from the funds of the Temple treasury.[14] but surely, some of Israel had died,[15] how then[16] could those who survived bring [the new moon sin offering]? From this it must consequently be inferred that a sin offering of the congregation — whose owners bad died, may be offered. Are these at all alike? [In the case of] the goat for the new moon it is possible that none of the congregation bad died, but here[17] [the owners] had certainly died! — R. Papa's proof. however, is derived from here: Because it is written, Forgive, O Lord, thy people Israel, whom thou hast redeemed[18] [which implies that] this offering is fit to atone even for those who departed from Egypt,[19] for it is written, Whom thou hast redeemed.[20] Is this, however, a proper analogy? There[21] they were all[22] present, and since [the heifer] atones for the living it may also atone for the dead: here,[23] however, were there any survivors? — Yes; there were indeed, for it is written, But many of the priests and Levites and heads of fathers' houses etc.[24] Is it not possible that they[25] were only a minority[26] and not a majority?[27] — Surely it is written, So that the people could not discern the noise of the shout of joy from the noise of the weeping of the people. . . . and the noise was heard afar off.[28] Were they not, however, wilful sinners?[29] — That[30] was a temporary measure. This[31] may also be arrived at by reasoning. For should this not be granted, on whose behalf, [it may be asked,] were the ninety and six rams and seventy and seven lambs?[32] But, [it must be granted, that] it was a temporary measure; in this respect also it must have been a temporary measure. Our Rabbis taught: If one of the congregation died[33] they are still liable; if one of the court, they are exempt. Who is the author [of this statement]? — R. Hisda, in the name of R. Zera in the name of R. Jeremiah, in the name of Rab, said: It is R. Meir who maintains that the court, and not the congregation, bring the sin offering. Hence, when one of the congregation dies they are still liable since all the members of the court are alive; if, however, one of the court dies they are exempt, because it is then a sin offering one of whose joint owners died; and for this reason they are exempt. R. Joseph demurred: Let this statement be established in accordance with the view of R. Simeon who maintains that the court together with the congregation [bring the sin offering]. Hence, when one of the congregation dies, they are still liable because a congregation does not die;[34] if one of the court dies they are exempt for the reason given, because it is a sin offering [one] of [whose] joint owners [died]! — Abaye said to him: We have heard R. Simeon say that a sin offering in joint ownership is not to be left to die;[35] for it was taught, 'If the bullock and the goat of the Day of Atonement were lost and others were set aside in their stead,[36] all these must be left to die; so R. Judah. R. Eleasar and R. Simeon said: They shall be left to the pasture,[37] because no congregational sin offering may be left to die.'[38] — Said R. Joseph to him: Do you speak of priests! Priests are different, because they are called 'congregation'; for it is written, And he shall make atonement for the priests and for all the people of the congregation.[39]

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(1) Ezra VIII, 35.

(2) The text referred to enumerates sin offerings as well as burnt offerings.

(3) [Read with MS.M. 'And it was taught.' as R. Jose would not likely appeal for support to a statement of R. Judah his contemporary. v. D.S. a.l.]

(4) Such sin offerings must not be eaten (v.Zcb. 47a).

(5) V.supra p. 30, n.14.

(6) Lit., 'and the other',

(7) The generation of Zedekiah, as stated supra.

(8) In the time of Ezra when the offerings were brought. This difficulty arises according to the views of both R. Judah and R. Simeon as well as according to that of R. Meir, since a sin offering, the owner of which had died, must not be offered up.

(9) I.e., not offered up on the altar.

(10) Lit., 'these words'.

(11) Though the whole generation had passed away.

(12) Ps. XLV, 17.

(13) Which was a sin offering. V. Num. XXVIII, 15.

(14) All congregational offerings were purchased from the funds to which all Israel contributed,

(15) Between the time they contributed to the funds and the time the sacrifice was offered.

(16) Since owners of the sacrifice were dead.
(17) The sin offerings in the days of Ezra brought for the idolatry of the generation of Zedekiah.
(18) Deut. XXI, 8.
(19) Who were obviously dead when the heifer was brought (v. Deut, XXI, I ff).
(20) An allusion to those ‘redeemed’ from the slavery of Egypt. As a sin offering could be brought for the dead men of the Exodus so it could be brought for the dead generation of Zedekiah.
(21) In the case of the heifer (Deut. ibid.).
(22) All living men concerned,
(23) The offerings in the days of Ezra,
(24) Ezra III, 12. The conclusion of the verse reads, The old men that had seen the first house . . . wept with a loud voice, which shows that there were survivors from the days of the first Temple.
(25) The survivors.
(26) Of the generation of Ezra.
(27) If a majority of the sinners had died, the sin offering must not be offered up.
(28) Ezra III, 13. This shows that the survivors formed a majority of the people. Where a majority of its owners ate alive, a sin offering may be offered up.
(29) The idolaters in the days of Zedekiah, whose sin, therefore, could not be atoned by an offering.
(30) The privilege of bringing an offering for a wilful sin.
(31) That it was a temporary measure.
(32) Ezra VIII, 35.
(33) Before the sin offering, for an erroneous ruling of the court that resulted in a transgression by the public, had been offered.
(34) And consequently a congregational sin offering is to be offered on the altar though a number of individuals (its joint owners) died.
(35) If one of the owners died: but is to be offered on the altar.
(36) And after the rite of atonement had been performed with the substituted animal the lost one was found.
(37) Where they graze until they contract some disqualifying blemish when they are sold and the sum they realize is used for the purchase of free will offerings.
(38) V. Shebu. 11a, The bullock of the Day of Atonement brought by Aaron nd his sons as a sin offering is of joint ownership, and concerning it R. Simeon stated that, unlike the sin offering of an individual, it must not be left to die. Now, since according to R. Simeon no sin offering in joint ownership may be left to die, it is possible that in this case only, where the atonement was performed with a substituted animal, are the original ones to be left to the pasture, but where one of the joint owners died (no animal having been substituted for the original one) it is possible that R. Simeon even allows the sacrifice to be offered on the altar, Hence the Baraitha cited cannot be taken, as A. Joseph suggested, to represent his view (Rashi). [Or, better, since the other joint owners (the surviving members of the court) are alive there is no reason why it should not be sacrificed by them (Tosaf. Asheri).]
(39) Lev, XVI, 33. ‘priests’ being placed on the same footing as ‘congregation’, [Tosat. Asheri reads, ‘they are considered a people by themselves, since they ate mentioned separately.] A court, however, cannot be regarded as a ‘congregation’ and if one of them died their joint sin offering, according to R. Simeon, may have to be killed.

Talmud - Mas. Horayoth 6b

If so,[1] however, let them also bring a bullock in the case of an erroneous ruling! And if it be said that this is really the case,[2] then there would be more tribes![3] — But, said R. Aha, son of R. Jacob: The tribe of Levi is not called ‘congregation’,[4] for it is written, Behold, I will make thee fruitful and multiply thee, and I will make of thee a congregation of peoples etc.[5] He who has a possession is designated ‘congregation’, but he who has no possession is not designated ‘congregation’.[6] If so,[7] there would be less than twelve tribes! — Abaye replied: Ephraim and Manasseh, even as Reuben and Simeon, shall be mine.[8] Said Raba: But, surely, it is written, They shall be called after the name of their brethren it, their inheritance,[9] [which shows that] they were compared only in regard to ‘inheritance’ but not in any other respect![10] — Were they not? Surely, they were also separated [when mentioned] in [connection with] the banners![11] — Their campings were like their possessions;

in order to show respect to their banners. But, surely, they were also separated in respect of their princes![12] — That was done in order to show honor to the princes, as it was taught: 'Solomon celebrated seven days of dedication; what reason did Moses have for celebrating twelve days of dedication? In order to show honor to the princes.' What becomes of that?[13] — Come and hear that which has been taught: R. Simeon said: The following five kinds of sin offerings are to be left to die.[14] The young of a sin offering,[15] the exchange of a sin offering, a sin offering whose owner died — a sin offering whose owner has received atonement[16] and a sin offering that passed the age of a year. And since in the case of a congregation one cannot speak of the young of a sin offering, because no female offering is ever brought[17] by a congregation; and one cannot speak of an exchange of a sin offering in the case of a congregation because a congregation may not exchange an offering;[18] and one cannot speak, in the case of a congregation, of a sin offering whose owner died because a congregation does not die; while as regards one whose owner had received atonement and one that passed the age of a year we have not heard;[19] one might suppose that they should be left to die, it is, therefore, pointed out[20] that what is vague may be inferred from what is explicit; as in regard to the law[21] of the young of a sin offering, the exchange of a sin offering and one whose owner had died we find that it applies only to an individual owner[22] and not to a congregation, so also the law[21] in regard to the case of one whose owner has received atonement and one that passed the age of a year it is applicable to an individual and not to a congregation.[23] But may that which is possible[24] be deduced from that which is impossible?[25] — R. Simeon received the tradition [in regard to the five kinds of sin offering that they must be left to die] from one common source.[26]

CHAPTER II

MISHNAH. AN ANOINTED HIGH PRIEST[27] WHO MADE A DECISION FOR Hlmself[28] THROUGH ERROR AND ACTED UNWITTINGLY ACCORDINGLY, MUST BRING A SIN OFFERING OF A BULLOCK.[29] IF, HOWEVER, HE MADE THE DECISION THROUGH ERROR BUT ACTED UPON IT WILFULLY, OR MADE IT Wilfully BUT ACTED UPON IT UNWITTINGLY, HE IS EXEMPT; FOR A DECISION A HIGH PRIEST MADE FOR HIMSELF IS LIKE A RULING ISSUED BY THE COURT TO THE CONGREGATION.[30]

GEMARA. THROUGH ERROR AND ACTED UNWITTINGLY ACCORDINGLY MUST BRING A SIN OFFERING OF A BULLOCK. Is not this Obvious? — Abaye replied: The case dealt with here is one, for example, where[31] he made a decision and forgot on what ground his decision had been made, and at the time of his action[32] he declared, 'I am acting on the strength of my[33] decision;' in view of the fact that [in such a case] it might be assumed that, since, had he recollected[34] he might have retracted, he is like a wilful sinner[35] and, therefore, not liable to a sin offering, hence it was taught [that it is not so]. OR MADE IT WILFULLY BUT ACTED UPON IT UNWITTINGLY etc. Whence these words? — For our Rabbis taught: So as to bring guilt upon the people,[36] proves[37] that the anointed High Priest is like the congregation.[38] Could not this be arrived at by deduction?

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(1) Lit., 'From now', if the priests are designated 'congregation'.

(2) Lit,, 'thus also'.

(3) Thirteen; while R. Simeon speaks of no more than twelve tribes,

(4) And the same applies to the priests who are descendants of that tribe. Hence the Baraitha, contrary to R. Joseph's arguments, cannot be reconciled with the view of R. Simeon (Rashi). [Tosaf. Asheri: priests nevertheless are considered a 'people' in respect of the sacrifice one of the joint owners of which died, so that the Baraitha can be in agreement with R. Simeon.]

(5) Gen. XLVIII, 4, the conclusion of the verse being 'And I will give this land to thy seed . . . for an everlasting possession.'

(6) Priests and Levites received no possess ions when Canaan was divided between the tribes.

(7) That the tribe of Levi was not included in the number of the tribes.

(8) Gen. XLVIII, 5. The tribe of Joseph was divided into two tribes.
(9) Ibid. 6.
(10) In the case, e.g., of the number of offerings on the occasion of an erroneous ruling of the court Ephraim and Manasseh would, consequently, be regarded as one tribe. How, then, is the number twelve in the total of the tribes arrived at?
(11) V. Num. II, 18-21.
(12) V. ibid, Vli, 45, 54,
(13) Lit., what is on it'; the question, supra, whether, according to R. Simeon, a sin offering belonging to joint owners, one of whom has died, is to be offered on the altar or left to die,
(14) I.e., must not be offered up on the altar,
(15) Born after its dam had been consecrated.
(16) Through another offering, in the case where the original could not be found at the time.
(17) Lit., 'separate'.
(18) Cf. Tem. 13a.
(19) Whether, if their owners were a congregation, they were to be offered up on the altar or left to die.
(20) Lit,, 'you said',
(21) That it must be left to die,
(22) Lit,, 'in an individual the words are said'.
(23) Tem. 26a.
(24) The last two cases which may be applicable to a congregational sin offering.
(25) The first three cases which can never occur with regard to an offering of the congregation.
(26) Lit., 'place'. Consequently, they must all be subject to the same reservations, and since the first three cannot apply to a Congregation, the last two must all deal with the case of an individual. Similarly since the second case (the 'exchange') applies only to an individual to the exclusion even of joint partners (v. Tem, 13a), the others too must be similarly restricted, It thus follows that according to R. Simeon a sin offering of joint owners, one of whom died, may be offered, Therefore the Tanna of the Baraitha which exempts the court when one of its members died, because the sin offering must be left to die, cannot be R. Simeon,
(27) כהן משיח the title of the High Priests in the days of the first Temple when they were anointed with the 'holy anointing oil' (v. Ex. XXX, 30 ff).
(28) In ritual, or other religious matters.
(29) v. Lev. IV, 3 ff.
(30) Both action and ruling most he the result of an error.
(31) Lit., 'here in what are we engaged? As for instance.'
(32) So MS.M., Cur. edd. 'when he erred'.
(33) So MS.M. Cur. edd. 'his'.
(34) The reason for his decision.
(35) He should have hesitated in his act, in view of the fact that he could no longer recollect the reason of his decision.
(36) Lev. Iv., 3.
(37) Lit., 'behold'.
(38) It is explained infra in what respect.

Talmud - Mas. Horayoth 7a

A congregation, [it might be argued,] is excluded from the law relating to[1] an individual and the anointed High Priest is excluded from the law relating to an individual; as the congregation is only liable [to bring a sin offering] where there was ignorance of the law[2] together with error in action[3] so an anointed High Priest should only be liable where there was ignorance of the law together with error in action! Or it might be argued thus:[4] A ruler is excluded from the law relating to an individual[5] and an anointed High Priest is excluded from the law relating to an individual; as a ruler brings a sin offering where there was only error in action without ignorance of the law so an anointed High Priest should bring a sin offering where there was error in action without ignorance of the law! — Let us, then, see whom he more resembles. The congregation brings a bullock but does not bring an asham talui[6] and an anointed High Priest brings a bullock and does not bring an asham talui;[7] as the congregation is liable to a sin offering only where there was ignorance of the law together with error in action so an anointed High Priest should be liable only where there was ignorance of the law together with error in action! Or argue thus: A ruler brings a goat for the sin of idolatry[8] and also brings an asham waddai[9] and an anointed High Priest brings a goat for idolatry and also an asham waddai; as a ruler brings a sin offering where there was error in action only[10] so the anointed High Priest brings a sin offering where there was error in action only. Hence[11] it was definitely stated, So as to bring built upon the people[12] to show that[13] an anointed High Priest is like the congregation; as the congregation bring a sin offering only where there was ignorance of the law together with error in action so the anointed High Priest brings a sin offering only where there was ignorance of the law together with error in action. Since it might be suggested that as [in the case of] a congregation, [if the court] ruled and the congregation acted in accordance with their decision they are liable, so [in the case of] an anointed High Priest where he ruled and they acted in accordance with his ruling he is also liable, it was, therefore, definitely stated, Then let him offer for his sin, which he hath sinned,[14] [which shows that] he brings a sin offering for his own sin[15] only, and that he does not bring a sin offering for the sins of others.[16] The Master said, ‘An anointed High Priest brings a bullock and does not bring an asham talui.’ Whence is it deduced that he does not bring an asham talui? — For it is written,[17] And the priest shall make an atonement for him concerning the error which he committed,[18] [which shows that] only he whose sin and error are alike[19] [brings an asham talui], but not[20] an anointed High Priest whose error and sin are not alike, for it is written, So as to brine guilt upon the people[21] which shows[22] that an anointed High Priest is like the congregation.[23] Did he not, however, speak at that point[24] [on the assumption that]. So as to bring guilt upon the people[21] had not been written![25] — But [the fact is that the mention of] guilt offering[26] is irrelevant[27] MISHNAH. IF [THE ANOINTED HIGH PRIEST] GAVE [AN ERRONEOUS] DECISION ALONE[28] AND ACTED [ACCORDINGLY] ALONE, HE MARES HIS ATONEMENT ALONE.[29] IF HE GAVE HIS RULING TOGETHER WITH [THE COURT OF] THE CONGREGATION AND ACTED ACCORDINGLY TOGETHER WITH THE CONGREGATION, HE MAKES HIS ATONEMENT TOGETHER WITH THE CONGREGATION.[30] THE COURT IS NOT LIABLE[31] UNLESS THEY RULED TO ANNUL PART OF A COMMANDMENT AND TO RETAIN A PART OF IT; AND SO [IT IS WITH] THE HIGH PRIEST. NOR [ARE THEY LIABLE] FOR IDOLATRY UNLESS THEY RULED TO ANNUL THE LAW IN PART AND TO RETAIN IT IN PART.

GEMARA. Whence are these laws[32] derived? — [From that] which our Rabbis taught; It might have been assumed that if he[33] ruled together with [the court of] the congregation and acted together with the congregation he must bring a bullock independently, this being arrived at by the following argument: A ruler is excluded from the law relating to an individual[34] and an anointed High Priest is excluded from the law relating to an individual; [if the argument — then, be advanced that] as a ruler, if he committed a sin alone, brings his offering alone and if he committed the sin together with the congregation he makes atonement together with the congregation, so in the case of a High Priest, if he sinned alone he must bring a sin offering alone, and if he sinned together with the congregation he must make his atonement together with the congregation, [it can be retorted] no; if this[35] applies to the ruler who makes his atonement together with the congregation on the Day of Atonement, must it also apply to an anointed High Priest who does not make his atonement together with the congregation on the Day of Atonement! Consequently, since his atonement is not made together with the congregation on the Day of Atonement it might have been assumed that he must bring a bullock as a sin offering independently, hence it was expressly stated, For his sin which he hath sinned;[36] how [is this to be understood]? If he sinned alone he brings his sin offering alone, and if he sinned together with the congregation he makes his atonement together with the congregation.[37] How is this[38] to be imagined? It be suggested, that he is a mufla[39] and they[40] are not mufla'in,[41] is it not obvious that he must make his atonement alone since their ruling has no legal force[42] and every individual[43] must bring a lamb or a goat![44] And if [it be suggested] that they are mufla'in and he is not a mufla,[45] why should he make his atonement alone? His ruling, surely, has no legal force![46] —

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(1) Lit., ‘general rule’, that of bringing a sin offering of a lamb or a goat (Lev. IV. 27ff). The congregation brings a bullock (ibid. 23ff).

(2) On the part of the court.

(3) On the part of the congregation.

(4) Lit., ‘finish and go to this way’.

(5) Cf. n. 3. A ruler brings a goat as a sin offering (Lev. IV, 22 ff).

(6) V. Glos. Such a guilt offering is brought only by an individual when it is doubtful whether he committed a sin. [This cannot apply to a congregation whose offering is limited to a sin through an erroneous decision.]

(7) When his sin is in doubt, v. infra.

(8) [Cf. Num. XV, 27; ‘A soul’ includes all-commoners, as well as prince or High Priest.]

(9) אשם ודאי a guilt offering brought in connection with a number of sins (v. Lev. v, 20 ff) when there is no doubt that the sin had been committed. Cf asham talui in Glos.

(10) Though there was no ignorance of the law.

(11) As logically it is uncertain with whom the High Priest is to be compared.

(12) Lev. IV, 3.

(13) Lit., ‘behold’.

(14) Lev. IV. 3.

(15) Lit., ‘what he sinned’.

(16) Lit., ‘what others sinned’.

(17) In the case of an asham talui.

(18) Lev. V, 18

(19) I.e., an ordinary individual in whose case error in action alone involves him in the obligation of bringing a sin offering as if he was also ignorant of the law.

(20) Lit., ‘he went out’, ‘excluded’.

(21) Lev. IV, 3.

(22) Lit., ‘behold’.

(23) Before obligation to bring a sin offering is incurred by him, both error in action as well as ignorance of the law are necessary’.

(24) Lit., ‘until here’; i.e., iii the argument, supra, where it was attempted to show that the High Priest resembles the congregation.

(25) Lit., ‘he did not say’, i.e., if the assumption is that the text had not been written, how can this presumably non-existent text be adduced as proof?

(26) The asham talui, v. Glos.

(27) Lit., ‘he took it without any purpose,’ the resemblance between an anointed High Priest and the congregation being their respective obligations to bring a bullock, and not a goat or a lamb, as a sin offering, being in itself sufficient to compare the High Priest to the Congregation.

(28) Though the court had at the same time ruled erroneously concerning another prohibition, e.g., he having permitted suet, and they an idolatrous cult,

(29) He brings the offering of a bullock on his own behalf.

(30) His atonement is effected by the communal offering.

(31) So MS.M. reading, אין [שאין in cur. edd. is explained by Tosaf. Asheri ואין v. Bezah 8a.]

(32) Lit., ‘words’; the first two laws in our Mishnah relating to an anointed High Priest.

(33) A High Priest.

(34) Cf. supra p. 43, n.6.

(35) Lit., ‘you said’. That if he sinned together with the congregation be brings his offering together with them.

(36) Lev. IV, 3. I.e., be brings an offering alone, only where he alone has sinned.

(37) Thus the first two laws in our Mishnah have been proved.

(38) That where a High Priest ruled erroneously alone he must bring his sin offering alone, though the court had at the same time ruled erroneously concerning another prohibition, e.g., he having permitted suet, and they an idolatrous rite. [R. Han. explains the question as referring to where he sinned together with the congregation in which case he makes his atonement together with them.]

(39) V. Glos. [The term mufla seems here to be used in a loose sense to denote one who is qualified to give decisions, although this would imply that when no qualified scholars were available, the absence of the necessary qualifications would not debar one from acting as judge — v. Tosaf. Asheri, cf. also Tosaf. Sanh. 16b, s.v. אחד .]

(40) The court who ruled erroneously concerning a prohibition other than that permitted by the High Priest.

(41) Plural of mufla.

(42) Lit., ‘and nothing’.

(43) Of the Congregation.

(44) V. supra 4b.

(45) V. Glos.

(46) Lit., ‘and nothing’.

Talmud - Mas. Horayoth 7b

R. Papa replied; in the case, for instance, where both[1] were mufla'in. Abaye proposed to say that IF [THE ANOINTED HIGH PRIEST] GAVE [AN ERRONEOUS] DECISION[2] ALONE AND ACTED [AC CORDINGLY] ALONE, is to be understood[3] [as referring to a High Priest and a court] who live[4] in two different places and ruled respectively concerning two different prohibitions. Raba, however, said to him; Is then diversity of domicile[5] the determining factor? [Surely not]; but even if they dwell’ in the same place. so long as they ruled concerning two different prohibitions, he[6] is regarded as having sinned alone. It is obvious that if he[6] [transgressed[7] in respect of the prohibition] of Suet and they[8] in respect of idolatry. he [is regarded as] having sinned alone, because these prohibitions are distinct in origin[9] and distinct in respect of sacrifices, he[6] bringing a bullock and they[8] a bullock and a goat.[10] so that they bring, in addition, a goat and he does not bring one; and much more so[11] if he transgressed in respect of idolatry and they in respect of suet, since these prohibitions are entirely distinct in respect of their sacrifices, he having to bring a goat[12] and they a bullock; what, however, is the law where he transgressed in respect of the forbidden fat of the entrails and they in respect of the forbidden fat of the small bowels? Is it assumed that, though they are alike in respect of sacrifices, they are nevertheless, being derived from two different Biblical texts, to be regarded as distinct in their origins[13] or, perhaps, since the designation of ‘fat’ is the same [in both cases, they are regarded as one]. If some reason could be found for the assumption[14] that [since] the designation of ‘fat’ is the same [in both cases, they are to be regarded as one], what is the law, [it may be asked], where he[6] transgressed in respect of suet and they[8] in respect of blood? Is it assumed [that these are distinct prohibitions since] they are distinct in their origins, or, perhaps. since they are alike in respect of sacrifices, [they are to be regarded as one] the determining factor being the sacrifice?[15] — This remains undecided.[16] THE COURT IS NOT LIABLE UNLESS THEY RULED TO ANNUL PART OF A COMMANDMENT AND TO RETAIN A PART OF IT etc. Whence is it derived that [they are not liable] UNLESS THEY RULED TO ANNUL PART OF A COMMANDMENT AND TO RETAIN A PART OF IT? — As it has been said in the preceding[17] chapter; And a thing be hid,[18] i.e. ‘a thing’ but not an entire principle.[19] AND SO IT IS WITH THE ANOINTED HIGH PRIEST. Whence is this deduced? — [From the text] wherein it is written, So as to bring guilt upon the people,[20] which shows[21] that the anointed High Priest is like the congregation. NOR [ARE THEY LIABLE] FOR IDOLATRY etc. Whence is this derived? — [From] what our Rabbis taught: From the fact[22] that idolatry was singled out[23] it might have been assumed that only the uprooting of the entire principle involves the bringing of a sacrifice,[24] hence it was stated here, from the eyes[25] and elsewhere it was stated, from the eyes,[26] as elsewhere the court is meant[27] so here also the court was meant;[27] and as further on only a think[28] [was hid][26] but not an entire principle so here also[29] a part only, not an entire principle, must have been annulled.

MISHNAH. THE OBLIGATION [UPON THE COURT TO BRING A SACRIFICE][30] IS INCURRED ONLY WHERE IGNORANCE OF THE LAW WAS ACCOMPANIED BY ERROR IN ACTION, AND SO [IT IS WITH THE] ANOINTED HIGH PRIEST; NOR [DO THEY INCUR

OBLIGATION] IN THE CASE OF IDOLATRY UNLESS IGNORANCE OF THE LAW WAS ACCOMPANIED BY ERROR IN ACTION. GEMARA. Whence is this[31] deduced? — [From] what our Rabbis taught: They err[32] might have been assumed to imply obligation for error in action, hence it was stated, They err and a thing be hid,[32] indicating that no obligation is incurred unless ignorance of the law was accompanied by error in action. AND SO [IT IS WITH] THE ANOINTED HIGH PRIEST. Whence is this deduced? — From the Scriptural text, So as to bring guilt upon the people.[33] which shows[34] that the anointed High Priest is like the congregation. NOR [DO THEY INCUR OBLIGATION] IN THE CASE OF IDOLATRY UNLESS IGNORANCE OF THE LAW WAS ACCOMPANIED BY ERROR IN ACTION. Whence is this derived? — [From what] our Rabbis taught: In view of the fact that the prohibition of idolatry was singled out it might have been assumed that obligation is incurred even for error in action, hence it was stated here, from the eyes,[35] and elsewhere it was stated, from the eyes.[36] [to indicate that] as further on no obligation is incurred unless ignorance of the law was accompanied by error in action so here also no obligation is incurred unless ignorance of the law was accompanied by error in action. Since the anointed High Priest was not mentioned[37] in connection with idolatry, our Mishnah must represent the view of[38] Rabbi. For it was taught: [As to the obligation to bring a sacrifice on the part of] an anointed High Priest in the case of idolatry, Rabbi said, [it depends] on his error in action, and the Sages said, [only if this was accompanied] by ignorance of the law. Both, however, agree[39] that the sacrifice he brings is a goat, and both also agree[39] that he does not bring an asham talui.[40] Consider, however, [this point]; Has [the anointed High Priest] been specified[37] in connection with [the offence] concerning which the punishment is kareth, if it was committed wilfully, and a Sin offering if committed unwittingly?[41] And yet it must be admitted[42] that though he was mentioned in the one case[43] the same law applies to the other,[44] so here also[45] he was mentioned in the first case[46] and the same law applies to the second. What is Rabbi's reason? — Scripture states, And the priest shall make atonement for the soul that erreth, when he sinneth through error.[47] The soul, refers to[48] the anointed High Priest; that erreth, refers to the ruler; when he sinneth through error, implies, according to[49] Rabbi, ‘this shall be deemed a "sin"[50] even if due to error in action alone[51] . But the Rabbis are of the opinion [that the reference is to] him whose sin depends on error in action, the anointed High Priest, however, being excluded, since his ‘sin’[52] does not depend solely on error in action but also on ignorance of the law.[53] ‘Both, however, agree that the sacrifice he brings is a goat like [that of any other] individuals’ Whence is this deduced? — [From that] which Scripture stated, And If one person,[54] implying that there is no difference between a private individual, a ruler, or an anointed High Priest. All of then, are included in the general expression of ‘one person’

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(1) The High Priest and the court.

(2) So MS.M. reading הורה Cur. edd.: חטא ‘he sinned’.

(3) Lit., ‘how is it to be imagined’.

(4) Lit., ‘sit’.

(5) Lit., ‘two places’.

(6) The High Priest.

(7) I.e., by erroneous ruling and action.

(8) The court.

(9) Lit., ‘in their reasons’, each prohibition being derived from a different Biblical text.

(10) Cf. Num. XV, 24.

(11) Is the High Priest regarded as having transgressed alone.

(12) V. supra p. 43, n. 9, and infra p. 50.

(13) V. supra 3a.

(14) Lit., ‘if you will find to say’.

(15) Lit., ‘we go after the sacrifice’.

(16) Heb., teko, v. Glos.

(17) Lit., ‘other’.

(18) Lev. IV, 23.

(19) Supra 4a.
(20) Lev. IV, 3.
(21) Lit., ‘behold’.
(22) Lit., ‘because’.
(23) Lit., ‘went out to pass sentence (or ‘to judge’) separately’. i.e., Scripture did not include the sin of idolatry among the prohibitions for which a bullock is offered (Lev. IV, 13ff) but singled it out for special sacrifices (Num. XV. 22ff).
(24) Lit., ‘they are liable for’.
(25) Num. XV, 24, referring to idolatry.
(26) Lev. IV, 13, referring to the other commandments.
(27) V. supra 5a. Lit., ‘in (or about) the court’.
(28) Heb. dabar, ** read with the addition of the Mem ** partitive, v. supra p. 21, n. 8.
(29) Num. XV, 24, referring to idolatry.
(30) V. Lev. IV, 23.
(31) The first law in our Mishnah.
(32) V. Lev. IV, 13.
(33) Lev. IV, 3.
(34) Lit., ‘behold’.
(35) Num. XV, 24, referring to idolatry.
(36) Lev. IV, 13, referring to the other commandments.
(37) Lit., ‘taught’.
(38) Lit., ‘who? it is’.
(39) Lit., ‘and they are alike’.
(40) Sanh. 61b. V. Glos. Our Mishnah thus represents the view of the Rabbi.
(41) V. Mishnah, infra 8a.
(42) Lit., ‘but’.
(43) Lit., ‘he taught that’, i.e., mentioned the High Priest in the first clause of the Mishnah, infra 5a.
(44) The second clause.
(45) In our Mishnah.
(46) Lit., ‘he taught that’.
(47) Num. XV, 28.
(48) Lit., ‘this’.
(49) Lit., ‘holds the view’, ‘is of the opinion’.
(50) For which the must bring a sin offering.
(51) Lit., ‘this sin, in error shall be’.
(52) In connection with other transgressions.
(53) V. Supra 7a.
(54) Num. XV. 27.

Talmud - Mas. Horayoth 8a

‘And both also agree that he does not bring an asham talui’. Whence is this deduced? — From the Scriptural text. And the priest shall make atonement for him concerning the error which he committed.[1] Rabbi is of the opinion [that only] he whose ‘sin’[2] depends entirely on error in action[3] [brings such a guilt offering]; a High Priest, however,[4] whose sin[5] does not [invariably] depend entirely on error in action alone but also on ignorance of the law, is excluded. Is it, then, written ‘entirely’?[5] — [Virtually] Yes; for otherwise[6] it should have been written, ‘Concerning his error’; what need was there for which he committed! Its object, consequently, must be, to teach us that [there is no obligation] unless all one's sin[7] is dependent on error in action.[8] And the Rabbis?[9] — Only he whose sin[7] depends on error in action alone [is liable]; an anointed High Priest, however, is excluded since his sin[7] does not depend on error in action alone, either in idolatry or in the other commandments, but on ignorance of the law together with error in action.

MISHNAH. THE COURT IS UNDER NO OBLIGATION[10] UNLESS THEY RULED CONCERNING A PROHIBITION[11] THE PUNISHMENT FOR WHICH IS KARETH,[12] IF IT WAS TRANSGRESSED WILFULLY, AND A SIN OFFERING IF TRANSGRESSED UNWITTINGLY; AND SO [IT IS WITH] THE ANOINTED HIGH PRIEST. NOR [ARE THEY LIABLE] IN RESPECT OF IDOLATRY UNLESS THEY RULED CONCERNING A MATTER THE PUNISHMENT FOR WHICH IS KARETH, IF IT WAS COMMITTED WILFULLY, AND A SIN OFFERING IF COMMITTED UNWITTINGLY.

GEMARA. Whence is this deduced? — From the following.[13] Rabbi said: Here[14] it is stated ‘aleha,[15] and further on[16] it is stated ‘aleha;[17] as further on[16] the prohibition involves the penalty of kareth,[18] if it was transgressed wilfully, and that of a sin offering if transgressed unwittingly, so[14] here also, [the ruling must be concerning] a prohibition which involves the penalty of kareth, if it was transgressed wilfully and that of a sin offering if transgressed unwittingly. Proof has thus been found for the case of the congregation, whence that of the anointed High Priest? — So as to bring guilt upon the people[19] shows[20] that the anointed High Priest is like the congregation. As to a ruler? — The inference is made by a comparison of ‘commandments’;[21] with ‘commandments’ in respect to a ruler it is written, And doeth [through error] any one of all the commandments which the Lord,[22] and in respect of the congregation it is written, And do any of the commandments,[23] as the [obligation of the] congregation relates to a prohibition involving kareth, if it was transgressed wilfully, and a sin offering if transgressed unwittingly, so also the obligation of a ruler relates to a prohibition involving kareth, if it was transgressed wilfully, and a sin offering if transgressed unwittingly. As to an ordinary individual? — Scripture states, And if any one,[24] and the latter is inferred from the former.[25] NOR [ARE THEY LIABLE] IN RESPECT OF IDOLATRY UNLESS THEY RULED etc. Whence [is this law deduced] in regard to idolatry? — [From] what our Rabbis taught: From the fact that idolatry was singled out[26] it might have been assumed that, [in regard to it] obligation is incurred even in respect of a prohibition which does not involve kareth when it was transgressed wilfully and a sin offering when transgressed unwittingly,[27] hence it was stated here, From the eyes[28] and elsewhere it was stated, From the eyes.[29] as there obligation is incurred only in respect of a prohibition involving kareth when it was transgressed wilfully and a sin offering when transgressed unwittingly, so here also obligation is incurred only in respect of a prohibition involving kareth when it was transgressed wilfully and a sin offering when transgressed unwittingly. Proof has thus been found for the case of the congregation. whence that of an ordinary individual, a ruler or an anointed High Priest? — Scripture stated, And if one person.[30] [which implies that] there is no distinction between a private individual, a ruler, or an anointed High Priest. All of then, are included in the general expression of one person, and the latter may be deduced from the former.[31] [This explanation] is satisfactory in accordance with the view of him who employed[32] the expression of ‘aleha for an analogical purpose, as stated above; whence, however, do the Rabbis, who employed ‘aleha in connection with the laws of incest and rival wives,[33] deduce that obligation is incurred only where the prohibition involves kareth when it was transgressed wilfully, and a sin offering when transgressed unwittingly? — They deduce it from that which R. Joshua b. Levi taught his son: Ye shall have one law for him that doeth aught in error. But the soul that doeth aught with a high hand etc.,[34] all the commandments of the Torah were compared to the prohibition of idolatry;[35] as in regard to idolatry obligation is incurred only where the offence involves the punishment of kareth when it was committed wilfully, and a sin offering when committed unwittingly, so also here obligation is incurred only where the offence involves kareth when committed wilfully and a sin offering when committed unwittingly. Proof has thus been found[36] for the case of a private individual, a ruler and an anointed High Priest both in regard to idolatry and the rest of the commandments; whence, however, [is it proved that the same applies to the] congregation? The former[37] is deduced from the latter.[38] As to Rabbi,[39] what does he do with R. Joshua b. Levi's text? He applies it to the following:[40] Since we find that Scripture made a distinction[41] between a majority and individuals, a majority being punished by the sword and their money destroyed[42] while individuals are punished by stoning and their money is spared.[43] it might have been assumed that a distinction should also he made in respect of their sacrifices,[44] hence[45] it was expressly stated, Ye shall have one law etc.[46] R. Hilkiah of Hagronia[47] demurred: is the reason[48] because Scripture did not differentiate in this respect, but had it differentiated it would have been suggested that a distinction should be made [in respect of their sacrifices]? What, however, could they[49] bring! Should they bring a bullock? The congregation, surely, brings a bullock for the infringement of any of the other commandments![50] Should they bring a bullock for a burnt offering and a goat for a sin offering? The congregation, surely, brings such offerings in respect of idolatry![51] Should they bring a goat? A ruler, surely, brings such an offering in the case of his transgression of any of the other commandments![51] Should they bring a goat? This, Surely, is also the sacrifice of an individual![51] — It[52] is required; because it might have been suggested that whereas the congregation brings a bullock for a burnt offering and a goat for a sin offering, these[53] should reverse the procedure and bring a bullock for a sin offering and a goat for a burnt offering. Or [the meaning[54] may be]; It might have been assumed to be necessary[55] and that consequently there is no remedy for them,[56] hence it was taught [that there was no such necessity].[55] All,[57] at any rate, agree that if these verses were written [for any purpose at all] they were written for that of idolatry; but what is the proof? Raba, (others say R. Joshua b. Levi, and again others say, Kadi), replied: Scripture says; And when ye shall err, and not observe all these commandments.[58] Now, which is the commandment that is as weighty as all other commandments? Surely[59] it is that concerning idolatry. The School of Rabbi[60] taught; Scripture Says, Which the Lord hath spoken unto Moses,[61] and it is also written That the Lord hath commanded you by the hand of Moses.[62] Now, which is the commandment that was given in the words of the Holy One, blessed be He, and also by the hand of Moses? Surely[63] it is that of idolatry; for R. Ishmael recited; [The words] I[64] and Thou shalt not have[65] were heard[66] from the mouth of Omnipotence.[67] The School of R. Ishmael taught:

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(1) Lev. V, 18, dealing with the laws of asham talui.

(2) Making him liable to a sin offering.

(3) Lit 'all his sin in error'.

(4) Lit., 'this'.

(5) Lit., 'all'.

(6) Lit., 'if so', i.e., if 'entirely' was not implied.

(7) V. p. 50, n. 15.

(8) Cur. edd. insert in parenthesis: 'An anointed High Priest is excluded, all whose sin is not in error but in idolatry, not in the rest of the commandments, where it must be through ignorance of the law together with error in action'.

(9) Why do they exempt a High Priest from the asham talui?

(10) To bring the sin offering prescribed in Lev. IV, 13ff.

(11) Lit., 'a thing', 'matter'.

(12) V. Glos.

(13) Lit., 'for it was taught'.

(14) Concerning an erroneous ruling.

(15) עליה Lev. IV, 14. (E.V. 'wherein'.)

(16) Concerning the marriage of two sisters.

(17) Ibid. XVIII, 18. (E.V. 'to her')

(18) V. lbid. 29.

(19) Ibid. IV, 3.

(20) Lit., 'behold'.

(21) מצות 'commandments'.

(22) Lev. IV, 22.

(23) Ibid. 13.

(24) Ibid. 27. dealing with one of the common people.

(25) Yeb. 9a. Lit., 'lower from the upper', the case of the individual (Lev. IV. 27ff) is deduced from that of ruler (ibid. v. 22ff). [The inference is from the copulative particle. waw', 'and' (Rashi. Yeb. 9a).]

(26) V. supra p. 48, notes 6 and 7.

(27) When the idol, e.g., was only kissed or embraced.
(28) Num. XV, 24, dealing with idolatry.
(29) Lev. IV, 13, with reference to other commandments.
(30) Num. XV, 27.
(31) Cf. supra p. 52, n. 7. ‘One person’ (in Num. XV, 27) which includes a private individual, ruler and High Priest is deduced from the law relating to the congregation (ibid. 24).
(32) I.e., Rabbi.
(33) V. Yeb. 3b. [Read with MS.M. ‘to prohibit the rivals if the forbidden relatives’.]
(34) Num. XV, 29-30.
(35) The text quoted refers to idolatry (v. infra), and in it the expression of law or Torah is mentioned.
(36) By deduction from ‘person’ (Num. XV. 27) which includes persons of all ranks and the analogy, supra, in Num. XV. 29-30.
(37) Num. XV, 22, ‘and when ye shall err’, which refers to the congregation. v. ibid. 24.
(38) Ibid. 27, ‘and if one person’.
(39) Who derives this latter ruling from the similarity of expressions — ‘aleah.
(40) Lit., ‘as it was taught’.
(41) Where the offence was committed wilfully.
(42) In the case of a town ‘condemned for idolatry’. V. Deut. XIII, 13ff.
(43) V. ibid. XVII, 21f.
(44) If the sin was committed unwittingly.
(45) To show that where an entire town committed idolatry (v. Deut. XIII, 13ff) unwittingly they only bring the same sacrifices as individuals.
(46) Yeb. 911.
(47) [A suburb of Nebardea; Obermeyer, Die Landschaft Babylonean, p. 265.]
(48) Why there is no differentiation between the sacrifices of a majority and those of individuals. V. supra.
(49) The inhabitants of the ‘condemned town’. (V. supra notes 5 and 6).
(50) If a distinction must be made between the sin offerings of a ‘condemned town’ and those of individuals, how-much more should such a distinction be made between the sin offerings of such a town and those which the congregation — which must consist of at least one tribe (v. supra 3a) and which consequently is never subject to the laws of a ‘condemned town’ (v. Sanh. 2a) brings for the transgression of any of the other commandments!
(51) And consequently if a distinction is to be made, these could not be offerings of a condemned town.
(52) The Scriptural text of Num. XV. 29.
(53) The inhabitants of a condemned town.
(54) Of the citation supra from Yeb. 9a.
(55) For the inhabitants of a ‘condemned town’ to bring a special sin offering.
(56) If the sin was committed unwittingly; since an offering all peculiar to themselves is an impossibility.
(57) Lit , ‘that all the world’.
(58) Num. XV, 22, emphasis on all.
(59) Lit.,’be saying’.
(60) Bomberg Ed., ‘R. Ishmael’.
(61) Ibid.
(62) Ibid. 23.
(63) Lit., ‘be saying’.
(64) The first word of the first commandment, ‘I am the Lord etc.’ Ex. XX, 2.
(65) First words of the second commandment. Ibid. 3.
(66) Lit., ‘we heard them’.
(67) The Almighty. Mak. 24a. The commandment was repeated by Mosei in many passages of the Pentateuch. [The other commandments, according to R. Ishmael, the people received from Moses only. This is another way of saying that the Revelation at Sinai that enabled Israel to apprehend in a unique manner the Divine was limited, as far as the people themselves were concerned, to God's special dealings with Israel and to His Oneness as proclaimed in the first two commandments; the others the people accepted on trust at the hands of Moses whose divine mission they bad seen confirmed before their eyes.]

Talmud - Mas. Horayoth 8b

From the day that the Lord gave commandments, and onward throughout your generations;[1] which is the commandment that was spoken at the very beginning?[2] Surely[3] it is that of idolatry.[4] But did not a Master state that Israel was given ten commandments at Marah![5] — But[6] the best proof is that given at first.[7]

MISHNAH. [THE COURT] ARE UNDER NO OBLIGATION [TO BRING A SIN OFFERING] FOR THE TRANSGRESSION[8] OF A POSITIVE OR A NEGATIVE COMMANDMENT RELATING TO THE SANCTUARY; NOR [DOES ANYONE][9] BRING AN ASHAMTALUI[10] FOR THE TRANSGRESSION OF A POSITIVE OR A NEGATIVE COMMANDMENT RELATING TO THE SANCTUARY. THEY[11] ARE LIABle, HOWEVER,[12] FOR THE TRANSGRESSION[13] OF A POSITIVE, OR A NEGATIVE COMMANDMENT RELATING TO THE MENSTRUANT; AND [ANY OTHER INDIVIDUALS] BRING AN ASHAM TALUI FOR THE TRANSGRESSION OF A POSITIVE OR NEGATIVE COMMANDMENT RELATING TO THE MENSTRUANT. WHICH IS THE POSITIVE COMMANDMENT CONCERNING THE MENSTRUANT? [THE COMMANDMENT]. SEPARATE THYSELF FROM THE MENSTRUANT.[14] AND THE NEGATIVE COMMANDMENT? — DO NOT COME IN UNTO THE MENSTRUANT.[15]

GEMARA. Whence is it deduced[16] that elsewhere[17] the congregation is not liable to bring a sacrifice and that an individual also is not liable to bring an asham talui?[18] — R. Isaac b. Abdimi replied: Scripture said, And he is guilty in connection with a sin offering[19] and an asham talui,[20] and it also said, And they are guilty in connection with the congregation;[21] as [the phrase] ‘and he is guilty’ in connection with an individual refers to the fixed sin offering[22] So And are guilty, said in connection with the congregation, also refers to the fixed sin offering, and, furthermore, as the congregation brings only the fixed sin offering, so is the asham talui[23] brought only in the case of doubt in respect of one's liability to the fixed sin offering.[24] If so, the same law should also apply to a sliding scale sacrifice[25] , for Surely it is written, And it shall be, when he shall be guilty in one of these things?[26] — Deduction may be made from the analogy between ‘is guilty’ and ‘are guilty’, but no deduction may be made from an analogy between ‘is guilty’ and ‘he shall be guilty’. But what is the difference? The School of R. Ishmael taught. [with reference to the expressions.] The priest shall return[27] and The priest shall come[28] that ‘returning’ and ‘coming’ mean the same thing![29] Furthermore, let deduction be made from And he is guilty, said in connection with uncleanness relating to the Sanctuary and its consecrated things; for it is written, And [it being hidden from him that] he is unclean and he is guilty![30] — R. Papa replied: An analogy is drawn only between the expressions. And he is guilty, and, The commandments of the Lord [on the one hand],[31] and the expressions. And are guilty, and, The commandments of the Lord[32] [on the other].[33] Said R. Shimi b. Ashi to R. Papa; Then let deduction be made from the analogy between, ‘And he is guilty, and, Bearing of iniquity[34] [used in reference to the asham talui] and he is guilty, and, Bearing of iniquity[35] [that occur in connection with sliding scale sacrifices]! — But, said R. Nahman b. Isaac: Deduction is made from analogy between ‘he is guilty’, and The thinks which the Lord hath commanded not to be done[36] [used in reference to asham talui] and ‘they are guilty’ and ‘The things which the Lord hath commanded not to be done[37] [that’ occur in connection with the congregational sin offering];[38] no proof, however, may be adduced from, The hearing of the voice,[39] Swearing clearly with the lips,[40] and uncleanness relating to the Sanctuary and its consecrated things,[41] concerning ‘which it has not been said, ‘he is guilty’ and ‘The thinks which the Lord hath commanded not to be done’.

MISHNAH. [THE COURT] ARE UNDER NO OBLIGATION [TO BRING AN OFFERING] FOR [AN ERRONEOUS RULING RELATING TO] THE HEARING OF THE VOICE [OF

ADJURATION].[42] FOR SWEARING CLEARLY WITH THE LIPS[43] AND FOR UNCLEANNESS RELATING TO THE SANCTUARY AND ITS CONSECRATED THINGS;[44] AND THE RULER IS SIMILARLY [EXEMPT]; THESE ARE THE WORDS OF R. JOSE THE GALILEAN. R. AKlba SAID; THE RULER IS LIABLE[45] IN THE CASE OF ALL THESE EXCEPT THAT OF HEARING OF THE VOICE [OF ADJURATION], BECAUSE THE KING[46] MAY NEITHER JUDGE NOR BE JUDGED, NEITHER MAY HE GIVE EVIDENCE NOR MAY EVIDENCE BE TENDERED AGAINST HIM.[47] GEMARA. ‘Ulla said: What is the reason of R. Jose the Galilean? — Scripture said, And it shall be when he shall be guilty in one of these things;[48] whoever is subject to liability for every one of these is liable for any of them, and whosoever is not subject to liability for every one of these is not liable for any of them.[49] Might not this[50] be suggested to imply that liability is incurred for one[51] even where a person is not subject to liability for all![52] — But the following is the source from which[53] R. Jose the Galilean derives his reason. It was taught: R. Jeremiah[54] used to say, it was stated in the Scriptures,

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(1) Num. XV, 23.

(2) before any of the other commandments.

(3) Lit., ‘be saying’.

(4) Since it is the first of the Ten Commandments.

(5) Sanh. 56b. Marah was reached long before Sinai where the Ten Commandments were given.

(6) Cut. edd. insert in parenthesis: For it is written, If thou wilt diligently. hearken to the voice of the Lord thy God (Ex. XV, 26).

(7) Either that of Rabbi's school or R. Joshua b. Levi.

(8) Through an erroneous timing of theirs (V. Lev. IV. 13).

(9) Who in the case of doubtful transgressions has to bring an asham talui.

(10) V. Glos.

(11) The Court.

(12) To bring a sin offering.

(13) V. supra, note 6

(14) V. Shebu. 18b.

(15) V. Lev. XVIII. 19.

(16) Lit., ‘these words’.

(17) I.e., wherever the sin involves a sliding scale sacrifice, the value of which is determined by the sinner's financial position, as in the case of a transgression relating to the sanctuary, v. Shebu. 2a.

(18) For transgressing a positive or negative precept relating to the Sanctuary.

(19) Lev. IV, 27, dealing with the sin offering of an individual.

(20) Ibid. V. 17.

(21) Ibid. IV, 13.

(22) חטאת קבועה

(23) Of an individual.

(24) But not in the case of an offering that must be brought for the certain transgression of precepts (positive and negative) relating to the Sanctuary, the value of which varies according to one's means.

(25) קרבן עולה ויורד determined by the means of the offender.

(26) Lev. V. 5, dealing with a sliding-scale sacrifice.

(27) Lev. XIV, 39.

(28) Ibid. 44.

(29) Viz. the coming of the priest to the affected house. Now, if a comparison is made between words which resemble each other in their general significance only, how much more should comparison be made between the same verbs that differ in tense only!

(30) Lev. V,2. (Cf.vv. 3 and 4).

(31) Ibid. V, 17, used with reference to the asham talui.

(32) Ibid. IV. 13. used in reference to the congregation.

(33) In the case, however, of uncleanness relating to the Sanctuary and its consecrated things these two expressions do

not occur.
(34) Lev. V, 17.
(35) ibid. vv. I and 4.
(36) Lev.V, 17.
(37) Ibid. IV. 13.
(38) As the congregation brings the fixed sin offering only so is an asham talui to be brought in here there is doubt about that kind of sin offering only; but not where the doubt relates to an offering the value of which is not fixed, and varies according to one's means.
(39) Of adjuration; Lev. V, I.
(40) Lev. V, 4.
(41) For the transgressions for which sliding scale sacrifices are prescribed. v. Lev. V, 1-13.
(42) V. Lev. V, 1.
(43) V. ibid. v. 4.
(44) For these transgressions individuals are liable to a sliding scale sacrifice, whereas the court is exempt.
(45) To bring the offering.
(46) Ruler, v. infra 10a, Mishnah.
(47) Sanh. 18a. Since he cannot act as witness the laws of evidence cannot apply to him.
(48) Lev. v, 5, dealing with the transgressions enumerated in our Mishnah.
(49) Since the former is exempt from one (hearing of the voice) he is also exempt from the others.
(50) The text cited from Lev. V, 5.
(51) Of the transgressions enumerated.
(52) The ruler should, consequently, be liable for the last two transgressions mentioned though he may be exempt from the first.
(53) Lit., ‘from here’.
(54) [A Tanna and contemporary of Rabbi; not to be confused with the Palestine Amora.]

Talmud - Mas. Horayoth 9a

His means suffice not[1] and later it was stated again. His means suffice not[2] [to indicate that] only he who is subject to the vicissitudes if[3] poverty and wealth [is subject to the laws mentioned], a ruler and an anointed High Priest, however, are excluded since they can never be reduced to poverty. As to ‘a ruler’, — it is written, And doeth any one of all the things which the Lord his God hath commanded,[4] [implying], he above whom there is none but the Lord his God;[5] as to ‘an anointed High Priest’, — It is written, And the priest that is highest among his brethren,[6] [meaning,] who is greatest among his brethren in beauty, strength, wisdom and wealth. Others say: Whence is it proved that if he has nothing of his own he must be made to be greater than his brethren? For it was expressly stated, And the priest that is highest among his brethren upon whose head [the anointing oil] is poured,[6] he must be made greater than his brethren. Rabina enquired of R. Nahman b. Isaac: What is the law of a ruler who was stricken with leprosy;[7] [was his obligation] com pletely set aside,[8] or was he only temporarily exempted?[9] — He said to him: [Does he bring] of yours or of his own![10] It was taught: R. Akiba said: An anointed High Priest is exempt from all these.[11] Raba said: What is R. Akiba's reason? — Scripture stated, This is the offering of Aaron and his sons,[12] [implying] that only this [one] is obligatory upon him but no other such offering[13] is obligatory upon him. Might it not be suggested that the All Merciful has exempted him only from the poorest offering which is[14] a tenth part of an ephah[15] but not[16] [from those other offerings that are brought in case of] poverty and wealth![17] — his cannot be imagined at all, for it is written, And the priest shall make atonement for him as touching his sin that he hath sinned in any of these things,[18] whoever may receive atonement by everyone of these[19] may also receive atonement by any of the others,[20] but whosoever may not obtain atonement by every one of these may not obtain atonement by any of the others. Now, however,[21] since it is written, And it shall be, when he shall be guilty in one of these things,[22] is the meaning there also that whosoever is liable for everyone of these can also become liable for any of the others and whosoever is not liable for everyone of these cannot become liable for the others! Why then have we learned that R. Akiba said: A ruler is liable for all except for hearing of the voice? — Both Abaye and Raba replied: [The expression] in any[23] is regarded by him as proof but that of in one[24] is not regarded by him as proof. But why is 'in any' regarded as proof? — Because the All Merciful has written in at the end in connection with the law of the tenth part of an ephah; thus indicating that whosoever is liable to bring the tenth part of an ephah can also come under the obligation to bring any of the others. For could it have been imagined that a person may be liable for one of these offerings [alone] although he cannot become liable for any of the others, in any of these things[25] should have been written either in connection with the offering to the poor[26] or with that for the rich![27]

MISHNAH. [FOR THE UNWITTING TRANSGRESSION OF ANY OF] ALL THE COMMANDMENTS IN THE TORAH THE PENALTY FOR WHICH, IF COMMITTED WILFULLY, IS KARETH AND, IF COMMITTED UNWITTINGLY, A SIN OFFERING, THE INDIVIDUAL BRINGS AS AN OFFERING A LAMB OR A GOAT;[28] THE RULER BRINGS A GOAT;[29] AND THE ANOINTED HIGH PRIEST AND THE COURT BRING A BULLOCK.[30] IN THE CASE OF IDOlatry, THE INDIVIDUAL AND THE RULER AND THE ANOINTED HIGH PRIEST BRING A GOAT[31] WHILE THE COURT BRING A BULLOCK AND A GOAT, THE BULLOCK FOR A BURNT OFFERING AND THE GOAT FOR A SIN OFFERING.[32] THE INDIVIDUAL AND THE RULER ARE BOTH SUBJECT TO THE OBLIGATION OF AN ASHAM TALUI,[33] BUT THE ANOINTED HIGH PRIEST AND THE COURT ARE EXEMPT. THE INDIVIDUAL AND THE RULER AND THE ANOINTED HIGH PRIEST ARE SUBJECT TO THE OBLIGATION OF AN ASHAM WADDAI,[34] BUT THE COURT IS EXEMPT. [FOR UNWITTING TRANSGRESSION] IN RESPECT OF THE HEARING OF THE VOICE [OF ADJURATION],[35] FOR SWEARING CLEARLY WITH THE LIPS[36] AND FOR UNCLEANNESS RELATING TO THE SANCTUARY AND ITS CONSECRATED THINGS, THE COURT IS EXEMPT AND THE INDIVIDUAL, THE RULER[37] AND THE ANOINTED HIGH PRIEST ARE LIABLE, WITH THIS EXCEPTION,[38] THAT THE ANOINTED HIGH PRIEST IS NOT LIABLE FOR A TRANSGRESSION RELATING TO THE UNCLEANNESS OF THE SANCTUARY AND ITS CONSECRATED THINGS; THESE ARE THE WORDS OF R. SIMEON. WHAT DO THEY[39] BRING? A SLIDING SCALE SACRIFICE. R. ELIEZER SAID: THE RULER BRINGS A GOAT.[40]

GEMARA. It was taught: R. Simeon laid down the following rule; Wherever the individual is liable to an asham talui[41] the ruler is subject to the same obligation, while an anointed High Priest and the court are exempt; and wherever the individual is liable to an asham waddai[41] a ruler and an anointed High Priest are subject to the same obligation while the court is exempt. In respect of hearing of the voice, swearing clearly with the lips, and the uncleanness relating to the Sanctuary and its consecrated things, the court is exempt while a ruler and an anointed High Priest are liable, except that the ruler is not liable in respect of heating of the voice nor the anointed High Priest in respect of uncleanness relating to the Sanctuary and its consecrated things. Wherever an individual is liable to a sliding scale sacrifice, the ruler is subject to the same obligation while the anointed High Priest and the court are exempt. Is not this teaching self-contradictory? First it is stated that an anointed High Priest is not liable in respect of uncleanness relating to the Sanctuary and its consecrated things. [from which it follows that] he is exempt only in respect of uncleanness relating to the Sanctuary and its consecrated things but that in respect of hearing of the voice and swearing clearly with the lips he is liable; now read the final clause; 'Wherever an individual is liable to a sliding scale sacrifice, the ruler is subject to the same obligation while an anointed High Priest and the court are exempt;' since the exemptions of the High Priest and that of the court were mentioned together[42] [it follows that] as the court is exempt from all these[43] so is the anointed High Priest exempt from all these.

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(1) Lev. V,7, referring to the transgressions enumerated in our Mishnah.

(2) Ibid. V. 11, with reference to the same transgressions.

(3) Lit., ‘he who comes to the hand of’.
(4) Lev. IV, 22, dealing with the transgression of a ruler. Emphasis is laid on his.
(5) I.e., he must be supreme in all things including wealth.
(6) Lev. XXI, 10.
(7) And was in consequence deposed from office.
(8) Hence he is never liable to such an offering.
(9) While he held office. Hence he must bring the offering now.
(10) Lit., ‘treasure’. As he would obviously have to bring the offering out of his own funds there can be no difference between his being in, or out of office. His wealth, which is the cause of his exemption, has not been lost or diminished by his deposition. There is, therefore, no need for him to bring an offering even after his deposition.
(11) As regards the bringing of a sliding scale sacrifice.
(12) Lev. VI, 13. with reference to the special priestly offering of a tenth part of an ephah.
(13) I.e., the offering of a tenth part of an ephah which forms one in the series of offerings the value of which varies according to means. (V. Lev. V, 6-11.)
(14) Lit., ‘and what is it’.
(15) V. Lev. VI, 13. and ibid. V, II.
(16) Lit., ‘the All Merciful did not exclude bins’.
(17) A lamb or a goat for the rich who can afford it (Lev. V, 6), and turtledoves or pigeons for the pour who cannot afford it (ibid. V. 7). How, then, could R. Akiba maintain that a High Priest is exempt from these offerings if his transgression related to any of those enumerated in our Mishnah.
(18) Lev. V. 13.
(19) Including the offering of a tenth part of an ephah.
(20) Lit, ‘all of them’.
(21) If deduction is to be made from ‘in any’, מאחת
(22) Ibid. v. 5; ‘in one’, לאחת
(23) Lev. V. 13 (V. p. 60, n. 14).
(24) Ibid. V, 5.
(25) Lev. V, 13.
(26) I.e., with that of turtledoves or pigeons (ibid. v. 7).
(27) A lamb or a goat (ibid. v. 6). Since, however, it was written in connection with the tenth part of an ephah (the poorest of the offerings) it must have been intended for the purpose of indicating that whosoever is exempt from that offering is also exempt from the rest. An anointed High Priest being exempt from that offering by deduction from Lev. VI, 23 (v. supra), is also exempt from all the others.
(28) Lev. IV, 27ff, 32ff.
(29) Ibid. 22ff
(30) Ibid. IV, 3ff, 13ff. V. supra 8a
(31) Num. XV, 27. V. Gemara infra.
(32) Ibid. 24. V. supra 7b.
(33) V. Glos. and Lev. V, 17ff.
(34) V. GIos. and Lev. V, 14-16, 20-26; ibid. XIX, 20-22; ibid. XIV, 12; Num. VI, 12.
(35) Lev. V, I.
(36) Ibid. 4.
(37) It will be shown infra that a ruler is exempt according to R. Simeon from the ‘hearing of the voice’, even as in the view of R. Akiba in the preceding Mishnah.
(38) Lit., ‘but’.
(39) The ruler in the case of the two last mentioned transgressions (v. supra note 5), and the High Priest in the case of the two first mentioned.
(40) Lev. IV, 22ff
(41) V. Glos.
(42) Lit., ‘it taught . . . exempt’.
(43) The three transgressions enumerated.

Talmud - Mas. Horayoth 9b

Talmud - Mas. Horayoth 9b

Are not, then, these two statements contradictory! — R. Huna son of R. Joshua replied: There is really no contradiction, one statement referring[1] to the poor[2] and the other[1] to the poorest;[3] and R. Simeon is of the same opinion as R. Akiba in respect of the one, and disagrees with him in respect of the other. He is of the same opinion as R. Akiba that in respect of the poorest offering the High Priest is exempt,[4] and disagrees with hills in respect of the poor.[5] WITH THIS EXCEPTION, THAT THE ANOINTED HIGH PRIEST IS NOT LIABLE etc. Hezekiah said; What is A. Simeon's reason?[6] — Because it is written,[7] That soul shall be cut off from the midst of the assembly[8] [which implies that] only he whose offering is like that of the 'assembly' [is liable];[9] he,[10] however, since his offering is not like that of the 'assembly',[11] is excluded. If so, [it may be asked, the offering of] a ruler also is not like that of the 'assembly'![12] — It is like [that of the 'assembly'] in the atonement of the Day of Atonement. If so, [it may again be asked.] the priests also are not like the 'assembly' in the atonement of the Day of Atonement![13] — Priests are like the 'assembly' in respect of the other commandments throughout the year. But the anointed High Priest also is like [the 'assembly'] in respect Of the other commandments of the year! — But. said Raba. say thus: He whose sin is like that of individuals; and who are they? The 'assembly'.[14] R. ELIEZER SAID; THE RULER BRINGS A GOAT etc. Said R. Johanan; R. Eliezer referred only to the uncleanness relating to the Sanctuary and its consecrated things[15] because the punishment of kareth was mentioned concerning it as in the case of the fixed sin offering.[16] R. Papa said; Logical argument leads to the same conclusion. For if it be imagined that R. Eliezer referred to all of them.) consider this; Since the goat of a ruler or the bullock of an anointed High Priest corresponds to the sin offering of an individual it should also have been stated that an anointed High Priest brings a bullock in respect of a transgression relating to the 'hearing of the voice' and the 'swearing clearly with the lips'! As, however, the anointed High Priest was not mentioned, it must be concluded that the reference is only to the uncleanness relating to the Sanctuary and its consecrated things from which the anointed High Priest is exempt.[17] R. Huna son of R. Nathan said to R. Papa: How is this inferred? Is it not possible that R. Eliezer refers to all of them,[18] but in the case of an anointed High Priest he holds the same opinion as R. Akiba who maintains that the anointed High Priest is exempt in the case of all of them?[19] — He replied to him; And does R. Akiba exempt him from the bringing of the bullock![20] And there is nothing more [to be said on the subject]. R. Johanan said; R. Elieser admits that he[21] does not bring a guilt offering.[22] A tanna recited before R. Shesheth: An asham talui[23] is offered for [the unwitting transgression of the law of] uncleanness relating to the Sanctuary and its consecrated things. He said to him: Who could have told you this? Obviously R. Eliezer who[24] said: Because kareth was mentioned in connection with it, as in the case of a fixed sin offering, a goat must be offered by the ruler for it;[25] but R. Johanan Surely said that R. Eliezer admitted that he[21] does not bring an asham talui! — This is a difficulty.

CHAPTER III

MISHNAH. IF AN ANOINTED HIGH PRIEST COMMITTED A SIN AND SUBSEQUENTLY RELINQUISHED[26] HIS HIGH PRIESTHOOD,[27] AND SIMILARLY IF A RULER COMMITTED A SIN AND SUBSEQUENTLY LOST[26] HIS RANK,[28] THE ANOINTED HIGH PRIEST BRINGS[29] A BULLOCK, AND THE RULER BRINGS A GOAT. IF THE ANOINTED HIGH PRIEST RELINQUISHED[26] HIS HIGH PRIESTHOOD[27] AND COMMITTED A SIN AFTERWARDS, AND, SIMILARLY, IF A RULER LOST[26] HIS RANK AND COMMITTED A SIN AFTERWARDS, THE ANOINTED HIGH PRIEST STILL BRINGS A BULLOCK WHILE THE RULER [BRINGS THE SAME SIN OFFERING] AS A LAYMAN.

GEMARA. Now that it had to be stated [that if a High Priest] relinquished his High Priesthood

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[1] Lit., 'here'.

(2) In the case of an offering brought by a poor man (turtledoves or pigeons) the High Priest is liable in respect of ‘Hearing of the voice’ and ‘Swearing with the lips’.

(3) In which case the High Priest is exempt, as deduced supra 9a.

(4) As deduced from who is the offering’, supra p. 60.

(5) Though R. Akiba exempts the High Priest in this case also R. Simeon does not, as he does not accept the argument based on the text, ‘And the priest shall . . . in any,’ loc. cit.

(6) I.e., why does he exempt a High Priest from transgressions relating to uncleanness of the Sanctuary and its consecrated things

(7) In connection with such transgressions. (V. previous site.)

(8) ‘Assembly’ — congregations’. Num. XIX, 20.

(9) V. p. 63, n. 9.

(10) Lit., ‘this’, the High Priest.

(11) On the Day of Atonement his offering is a bullock and that of the congregation is a goat.

(12) For a transgressions committed during the year a ruler brings a goat while the congregation brings a bullock. Why, then, was only a High Priest, and not also a ruler excluded?

(13) The offering of the priests is the same as that of the High Priest. Since they, like him, differ from the congregation they also should be exempt like him from the same offering (v. p. 63. n. S).

(14) If individuals, or a congregation, committed a sin through ‘error in action’, where there was no ‘ignorance of the law’, every one of them must bring a sin offering. A High Priest, however, is not liable to bring an offering unless his error in action was also accompanied by ignorance of the law.

(15) Only in that case does a ruler bring an offering of a goat instead of a sliding scale sacrifice.

(16) Which is brought by individuals only for offenses involving the penalty of kareth, if committed wittingly; and as in the case of a fixed sin offering, the offering for this offence of uncleanness to be brought by the ruler must be that of a goat. In respect, however, of transgressions relating to ‘hearing of the voice’ and ‘swearing with the lips’ which are not subject to the penalty of kareth if committed wilfully. the offering of a ruler, in the case of error, is not a goat but the same as that of a private individual — a sliding scale sacrifice. (9) I.e., that a ruler brings an offering of a goat for ‘hearing of the voice’, ‘swearing’, and uncleanness relating to the Sanctuary and its consecrated things.

(17) As suited by R. Simeon in the Mishnah.

(18) V. p. 64, n. 9.

(19) Cf supra p. 60. And he consequently could not have mentioned the High Priest.

(20) He only exempts him from a sliding scale sacrifice. Had R. Eliezer therefore been referring to all the other offenses, he should have mentioned the High Priest as well as the ruler. [There is no warrant for the assumption that R. Akiba would not exempt the High Priest from bringing a bullock. On the other hand if R. Papa's statement was a mere suggestion, it would be devastating for his claim that logical reasoning is in support of R. Johanan. The words ‘He replied . . . . bullock’ are accordingly suspect, especially as they do not occur in MS.M., v. Tosaf. Asheri.]

(21) The ruler.

(22) MS.M. reads asham talui. I.e., be agrees with the Mishnah supra p. 56. without differentiating between a ruler and an ordinary individual.

(23) V. Glos.

(24) In giving the reason why a ruler brings a goat for all offence of uncleanness relating to the Sanctuary and its consecrated things.

(25) And from this the liability to an asham talui is obviously deduced.

(26) Lit.,’he passed’.

(27) Lit., ‘from his anointing’.

(28) Lit., ‘from his greatness’.

(29) As a sin offering.

Talmud - Mas. Horayoth 10a

and committed a sin afterwards he still must bring a bullock, was it also necessary to state [that he brings a bullock] where he sinned first and relinquished his high priesthood afterwards? — Since it was stated[1] in respect of a ruler that if he lost his rank and committed a sin afterwards he brings [the same sin offering] as a layman it stated in respect of an anointed High Priest that if he committed a sin and afterwards relinquished [his high priesthood] he brings a bullock.[2] Whence are these laws derived? — [From] that which our Rabbis taught: Then let him offer for his sin[3] teaches that he[4] brings his sin offering even [if he sinned] after he relinquished office. For it might have been argued,[5] if a ruler who brings a sin offering in case of error in action alone does not bring his sin offering[6] after he lost his rank how much less an anointed High Priest who does not bring his sin offering in case of error in action alone but only where error in action was accompanied by ignorance of the law; hence Scripture expressly stated, ‘Then let him offer for his sin,’[7] which teaches that he brings [the same offering] for his sin even [if he sinned] after he relinquished his office. [And in case it be argued:] Let, then [the law that] a ruler also[8] brings [the same sin offering][9] be deduced by an inference from major to minor:[10] If an anointed High Priest who does not bring a sin offering for error in action alone brings nevertheless [the same] sin offering[11] [even if he sinned] after relinquishing office, how much more should a ruler who brings a sin offering for error in action alone, bring the same sin offering[12] [even if he sinned] after losing his rank; Scripture expressly stated, When a ruler sinneth,[13] only when he is ‘a ruler’[14] but not when he is a layman.

MISHNAH. IF THEY[15] COMMITTED A SIN BEFORE THEY WERE APPOINTED, AND WERE SUBSEQUENTLY APPOINTED, THEY ARE REGARDED[16] AS LAYMEN. R. SIMEON SAID: IF THEIR SIN CAME TO THEIR KNOWLEDGE BEFORE THEY WERE APPOINTED THEY ARE LIABLE, BUT IF AFTER THEY WERE APPOINTED THEY ARE EXEMPT. WHO IS MEANT BY RULER? A KING; FOR IT IS STATED IN THE SCRIPTURES, ANY OF ALL THE THINGS WHICH THE LORD HIS GOD HATH COMMANDED,[17] HE ABOVE WHOM THERE IS NONE BUT THE LORD HIS GOD. GEMARA. Whence are these laws derived? — [From] that which our Rabbis taught: If the anointed priest shall sin,[18] excludes sins committed previously.[19] Could not this law, however, be arrived at by logical reasoning: If a ruler who brings a sin offering for error in action alone does not bring one for sins committed previously,[20] how much less should a High Priest, who brings a sin offering only where error in action was accompanied by ignorance of the law, bring one for sins committed previously! But no; if this[21] is said to apply to a ruler who indeed does not bring his sin offering after he lost his rank, could it be said to apply also to an anointed High priest who does bring his sin offering even after he relinquished office?[22] Since he brings his sin offering even after relinquishing office it might have been assumed that he brings also for sins committed previously,[19] hence Scripture stated, ‘The anointed priest shall sin’[18] [which teaches that] if he sinned while he was already anointed High Priest he brings [the prescribed sin offering], if, however, when he was still one of the common people he does not bring it. A similar discussion also took place[23] in respect of a ruler: When in ruler sinneth[24] excludes sins he committed previously.[19] Could not this law, however, be arrived at by logical reasoning: If an anointed High Priest who brings his sin offering even [if he sinned] after he relinquished office does not, nevertheless, bring one for sins he committed previously,[19] how much less should a ruler who does not bring his sin offering[25] [if he sinned] after he lost his rank, bring one for sins he committed previously. The anointed High Priest [it may, however, be retorted] may well be exempt from bringing[26] because he is also exempt [where his sin consisted] of error in action alone, could it be said, however, [that the same law should apply] to a ruler who does bring one [where his sin consisted] of error in action a lone? Now, since he brings ‘for error in action alone it might be assumed that he brings also for sins he committed previously,[27] hence Scripture stated, ‘When a ruler sinneth,’[28] only if he sinned when he was already ruler,[29] but not if he sinned while he was still a layman. Our Rabbis taught: When[30] a ruler sinneth[31] might have been taken to imply a decree, hence Scripture stated, If the anointed priest shall sin;[32] as there the meaning is ‘if and when[33] he sinneth’ so here also the meaning is ‘if and when he sinneth’. The Master said, ‘[It] might have been taken to imply a decree’; but could one possibly imagine such a thing![34] — Yes, it may be answered, for we find that it is written in the Scripture, And I shall put the plague of leprosy in a house of the land of your possession,[35] which is an announcement to them that they will be visited by plagues; these are the words of R. Judah. R. Simeon said: [This text] excludes[36] plagues due to supernatural causes.[37]

Now, as[38] R. Judah declared [that the Scriptural text is] an announcement, so here also it might have been assumed that the text implies a decree, hence 'if' had to be written.[39] According to R. Simeon, however, do not plagues that are due to supernatural causes impart Levitical uncleanness? Surely it was taught, When a man shall have,[40] implies 'from the time of the promulgation onwards'.[41] May not this, however, be arrived at by logical deduction? Uncleanness [is mentioned in connection] with one who has an issue,[42] and uncleanness [is mentioned in respect] of plagues; as in the case of a man who has an issue, [the laws of uncleanness are applicable only] from the time of their promulgation onwards,[43] so in the case of plagues [their laws of uncleanness are applicable only] from the time of their promulgation onwards! No; if [this restriction] is applicable to a man who has an issue, because he does not become unclean where it was due to accident, could it also be said to apply to plagues which do impart uncleanness even where they were due to supernatural causes.[44] Hence Scripture stated, 'When a man shall have'[45] which implies, 'from the time of the promulgation onwards'![46] — Raba replied: The exclusion[47] refers to plagues that are due to ghosts,[48] R. Papa replied: The exclusion refers to plagues that are due to witchcraft.[48] Our Rabbis taught: When in ruler sinneth[49] excludes a sick man. Should he, because he is, sick, be removed from his rank? — R. Abdimi b. Hama replied: The exclusion refers to a ruler who became leprous; as it is said, And the Lord smote the king, so that he was a leper unto the day of his death, and dwelt in the house of freedom,'[50] and Jotham the king's son wins over the household.[51] Since it is stated, In the house of freedom[50] it must be inferred that until then he was a servant;[52] as is illustrated in the case[53] of R. Gamaliel[54] and R. Joshua.[55] They once traveled on board a ship. R. Gamaliel had with him some bread only, while R. Joshua had with him bread and flour. When R. Gamaliel's bread was consumed he depended on R. Joshua's flour. 'Did you know', the former asked him, 'that we should be so much delayed that you brought flour with you?' The latter answered him, 'A certain star rises once in seventy years and leads the sailors[56] astray, and I suspected it might rise and lead us astray.' 'You possess so much knowledge', the former said to him, 'and yet must travel on board a ship!'[57] The other replied, 'Rather than be surprised at me, marvel at two disciples you have on land, R. Eleazar Hisma and R. Johanan b. Gudgada,[58] who are able to calculate how many drops there are in the sea, and yet have neither bread to eat nor raiment to put on. He decided to appoint them as supervisors,[59] and when he landed[60] he sent for them, but they did not come.[61] He sent for them a second time and when they came he said to them, 'Do you imagine that I offer you rulership?

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(1) Lit., 'that it taught'.

(2))Text of cur. edd. is difficult. Read with MR.M. 'It was necessary to state it on account of a ruler. As I might think since where he had passed from his greatness and then sinned he is treated as a layman, he should be also considered so even where he first sinned and then passed from his greatness, hence we are told that this is not so.']

(3) Lev. IV, 3.

(4) A High Priest.

(5) Lit., 'for he could, is it not (a matter for) reasoning'.

(6) I.e., a he-goat which is the prescribed sin offering for a ruler.

(7) Lev. IV, 3.

(8) Where he sinned after he lost his rank.

(9) A he-goat. V. supra note 2.

(10) Kal wa-homer. V. Glos.

(11) A bullock, as if he were still High Priest.

(12) V. supra note 2.

(13) Lev. IV, 22.

(14) Does he bring the sin offering of a he-goat.

(15) A High Priest and a ruler.

(16) In respect of their sin offerings.

(17) Lev. IV, 22.

(18) Ibid. 3.

(19) Prior to his appointment.

(20) V. infra.
(21) That no sin offering is to be brought for sins committed prior to appointment.
(22) As stated in the previous Mishnah.
(23) Lit., ‘and it was also taught’.
(24) Lev. IV, 22.
(25) A he-goat which is the ruler's prescribed sin offering.
(26) A bullock, the sin offering prescribed for a High Priest. (10) A he-goat which is the ruler's prescribed sin offering.
(27) Prior to his appointment.
(28) Emphasis on ‘ruler’.
(29) Only then does he bring the sin offering prescribed for a ruler.
(30) אשר may be rendered ‘when’ (i.e., ‘if’) as well as ‘that’, (i.e., ‘shall’).
(31) Lev. IV, 22.
(32) Ibid. v. 3.
(33) The expression ‘if’, (im, אם) having been used.
(34) Lit., ‘a decree? Whence does it come!’
(35) Lev. XIV, 34.
(36) From Levitical uncleanness.
(37) [נגעי אונסין] So Rashi. The argument that follows, however, does not run smoothly: Tosaf. Asheri in the name of the Ramah renders, ‘due to accident,’ it being assumed at present that the reference is to bodily plagues as those affecting houses were held to be possible only as a result of a providential infliction.]
(38) Lit., ‘not’.
(39) The expression ‘if’(אם).
(40) Lev. XIII, 2.
(41) But any plagues that broke out prior to the promulgation of the law were not subject to the laws of uncleanness
(42) V. Lev. XV, 2ff.
(43) Since the future (imperfect) יהיה is used in Lev. XV, 2. V. supra p. 69, n. 15.
(44) [Or ‘to accident’.]
(45) Lev. XIII, 2.
(46) How, then, could it be said that, according to R. Simeon, plagues that are due to supernatural causes (or to accidents) are not subject to the laws of uncleanness?
(47) Deduced by R. Simeon.
(48) Such are not unclean: while in the Baraitha cited the reference is to plagues that are due to external violence such as a fall or scald which do impart uncleanness. [According to Tosaf. Asheri: Such are not unclean, while in the Baraitha cited the reference is to plagues of houses inflicted providentially, and as such impart uncleanness, it being now maintained that there is an additional agency apart from a special act of Providence for the infliction.]
(49) Lev. IV, 22.
(50) החפשית בבית (E.V. ‘in a house set apart’), indicating that he became freed of all royal prerogatives and privileges and considered an ordinary individual.
(51) II Kings XV, 5.
(52) Of his people, i.e., a ruler.
(53) Lit., ‘that’.
(54) [R. Gamaliel II on his journey to Rome in the year 95.]
(55) Which proves that a person in authority is described as ‘servant’.
(56) Who steer their course by the stars. [The star with which R. Joshua was acquainted has been identified as Halley's comet whose periodic time is about 75 years. Brodetsky, Z. disputes this view, since one of the periodic returns of Halley's comet was in the year 66, whereas the journey of R. Gamaliel to Rome was in the year 95. It remains nevertheless remarkable that the periodic time of at least one comet was known to R. Joshua in the second century, about 1500 years before this phenomenon became known even to the most civilized nations. V. Feldman, W.M. Rabbinical Mathematics, pp. 11 and 216.]
(57) To earn a livelihood.
(58) [R. Johanan b. Gudgada belonged to a much earlier generation, and the reference must be in R. Johanan b. Nuri, v. Bacher AT., I, 374.]

(59) Thus enabling them to earn a living.
(60) Lit., 'went up', i.e., on land.
(61) being too modest to accept a position of honor.

Talmud - Mas. Horayoth 10b

It is servitude that I offer you; as it is said, And they spoke to him saying: If thou wilt be a servant unto this people this day.'[1] Our Rabbis taught: When a ruler sinneth;[2] R. Johanan b. Zakkai said: Happy[3] is the generation whose ruler brings a sacrifice for a sin he has committed unwillingly. If its ruler brings a sacrifice, is there any need to say what one of the common people would do; and if he brings a sacrifice for a sin he has committed unwillingly, is there any need to say what he would do in case of a sin committed wilfully? Raba son of Rabbah demurred: Now, then, it is written, And he shall make restitution for that which[4] he hath done amiss in the holy thing,[5] and concerning Jeroboam the son of Nebat it is written, Which[4] he hath sinned, and wherewith[6] she hath made [Israel] to sin,[7] could the meaning there[8] also be, 'happy is that generation'? — Here the case is different, because Scripture deliberately changed the expression.[9] R. Nahman b. Hisda made the following exposition: What is meant by the Scriptural text: There is a vanity which is done upon the earth: [That[4] there are righteous men, unto whom it happeneth according to the work of the wicked; again there are wicked men to whom it hanppeneth] etc?[10] Happy[11] are the righteous men unto whom it happeneth in this world according to the work of the wicked in the world to come;[12] woe[13] to the wicked men to whom it happeneth in this world according to the work of the righteous in the world to come.[14] Said Raba: Would the righteous, then, if they enjoyed both worlds find it so distasteful? — But, said Raba, happy[11] are the righteous men unto whom it happeneth in this world according to the work of the wicked in this world;[14] woe[13] to the wicked men unto whom it happeneth in this world according to the work of the righteous in this world.[12] R. Papa and R. Huna son of R. Joshua once came before Raba. 'Have you', he asked them, 'mastered[15] this or that tractate?' 'Yes', they replied. 'Are you', he asked, 'a little better off?'[16] 'Yes', they replied, 'for we have bought some[17] land.' He, thereupon, exclaimed:[18] Happy are the righteous unto whom it happeneth in this world according to the work of the wicked in this world. Rabbah b. Bar Hana said in the name of R. Johanan: What is meant by the Scriptural text, For the ways of the Lord are right, and the just do walk in them; but transgressors do stumble therein?[19] This may be applied[20] to two men both of whom roasted their paschal lambs, and one of them ate his with the intention of performing the commandment, while the other ate his merely to enjoy a substantial meal.[21] To him who ate with the intention of performing the commandment [applies], The just do walk in them,[22] while to him who ate merely to enjoy a substantial meal [applies], But transgressors do stumble therein.[22] Said Resh Lakish to him: Do you call him 'wicked'! Granted he has not performed the commandment to perfection, has he not, however, eaten of the paschal lamb? But it[22] may be applied[23] to two men, one of whom had his wife and his sister with him at home and the other also had his wife and sister with him at home. One happened to come in contact with his wife while the other happened to come in contact with his sister. To him who happened to come in contact with his wife [applies] The just do walk in them,[22] while to him who happened to come in contact with his sister [applies], But transgressors do stumble therein.[22] What a comparison! We spoke of one way;[24] but here, is it not a case of two ways?[25] But it[22] may be applied[23] to Lot and his two daughters. To them, whose intention was the performance of a commandment [applies], The just do walk in them,[22] but to him, since his intention was to commit a sin [applies], But transgressors do stumble therein.[22] Is it not possible that he also intended to perform a commandment? R. Johanan replied: This entire verse shows that his intention was transgression: And Lot lifted up[26] [is analogous to], His Master's wife lifted up her eyes;[27] His eyes[26] [is analogous to] Samson said. . . . 'Get her for me, for she is pleasing in my eyes;'[28] And beheld[26] [is analogous to], Shechem the son of Hamor beheld her;[29] All the plain[30] of the Jordan[26] [is analogous to], For on account of a harlot in man is brought to a loaf[30] of bread;[31] That it was well watered[26] [is analogous to], I will go after my lovers, that give me my bread and my water, my wool and my flax, mine oil and my drink. But was he[32] not a victim of circumstances?[33] — It was taught in the name of R. Jose son of R. Honi: Why is there a point on the waw of u-be-kumah[34] mentioned in connection with the elder daughter? To indicate that though he did not know when she lay down[35] he well knew when she arose.[35] What, however, could he do?[36] Surely what was done could not be undone?[37] — Matters might have been different: He should not have drunk again on the following evening. Rabbah made the following exposition: What is meant by the Biblical text, A brother transgressed against a strong city, and their contentions are like the bars of a castle?[38] — A brother transgressed against a strong city refers to Lot who separated himself from Abraham;[39] and their contentions are like the bars of the castle, because he caused contentions between Israel and Ammon, as it is said, An Ammonite or a Moabite shall not enter into the assembly of the Lord.[40] Raba (others say R. Isaac) made the following exposition: What is the meaning of the Biblical text, He that separateth himself seeketh his own desire, and snarleth against all sound wisdom?[41] — He that separateth himself seeketh his own desire, refers to Lot who separated himself from Abraham: And snarleth[42] against all sound wisdom, for his shame was exposed[43] in the Synagogues and in the houses of study, as we learnt: An Ammonite and a Moabite are forbidden [to enter into the assembly] for ever. ‘Ulla said: Tamar[44] committed adultery and Zimri[45] also committed adultery. Tamar committed adultery and kings and prophets descended from her;[46] Zimri committed adultery and through him many ten thousands of Israel fell.[47] R. Nahman b. Isaac said: A transgression with good intent is more meritorious than the performance of a commandment with no intent; for it is said, Blessed above women Jael be,[48] the wife of Heber the Kenite, above women in the tent shall she be blessed.[49] Who are the women in the tent? Sarah, Rebeka, Rachel and Leah. But this[50] is not so! For did not Rab Judah say in the name of Rab: Let a man always engage in Torah and the performance of commandments even though his motive may be ulterior,[51] because even ulterior motive will ultimately lead to disinterested [study and performance]?[52] Say. ‘Like the meaningless performance of a commandment.’[53] R. Johanan said: That profligate[54] had seven sexual connections at that hour; for it is said, Between her feet he sunk, he fell. he lay etc.[55] But, surely, she enjoyed the transgression! — R. Johanan said in the name of R. Simeon b. Yohai: Even the favours of the wicked are distasteful to the righteous. [Reverting to] the above text,[56] ‘Rab Judah said in the name of Rab: Let a man always engage in Torah and the performance of commandments even though his motive be ulterior, because ulterior motive will ultimately lead to disinterested [study and performance;]’[57] for as a reward for the forty-two sacrifices which the wicked Balak offered[58] he gained the privilege of having Ruth descended from him; for R. Jose son of R. Hanina said: Ruth was the daughter of the son of Eglon who was the son of the son of Balak the King of Moab. R. Hiyya b. Abba said in the name of R. Johanan: Whence is it deduced that the Holy One, blessed be He, does not deprive one even of the reward for an elegant expression? From here: Whereas in the case of the elder daughter,[59] who called her son Moab,[60] the All Merciful said to Moses, Be not at enmity with Moab, neither contend with them in battle,[61] ‘battle’

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(1) I Kings XII, 7, addressed by the old counsel lots to Rehoboam who was at that time King of Judah and Israel.

(2) Lev. IV, 22.

(3) When, אשר , is rendered ‘happy’ like אשרי .

(4) אשר .

(5) Lev. V, 16.

(6) ואשר

(7) I Kings XIV. 16.

(8) Lit., ‘here’: the incidents referred to in the texts cited.

(9) While in the case of the High Priest (Lev. IV, 3) and the people (ibid. v. 13) the expression אם (if) has been used, in that of the ruler the expression is אשר (v. supra p. 71, n. 9).

(10) Eccl. VIII, 14.

(11) Cf. p. 71, n. 9.

(12) They suffer.

(13) ויש read as וי יש (woe that there is).

(14) They prosper.

(15) Lit., ‘established’.

(16) Lit., ‘richer’.

(17) Lit, ‘a small (piece)’.

(18) Lit., ‘called about them’.

(19) Hos. XIV, 10.

(20) Lit., ‘compared’.

(21) [Or, a gluttonous meal, Tosaf. Asheri.]

(22) Hos. XIV, 10.

(23) Lit., compared’.

(24) In which the righteous walk and the transgressors stumble.

(25) One permitted (wife); and one forbidden (sister).

(26) Gen. XIII, 10.

(27) Ibid. XXXIX, 7. With immoral intent.

(28) Jud. XIV, 3. Unholy marriage with a heathen.

(29) Gen. XXXIV, 2. Adultery.

(30) ככר .

(31) Prov. VI, 26. (12) Hos, II, 7.

(32) Lot.

(33) Having been under the influence of drink administered by his daughters (v Gen. XIX, 32ff).

(34) ובקומה Gen. XIX. 33.

(35) Ibid.

(36) When she arose.

(37) Lit., ‘that which was, was’.

(38) Prov. XVIII, 19.

(39) V. Gen. XIII, 11. ‘Strong’ is a reference to Abraham (cf. Isa. LI, 1-2).

(40) Deut. XXIII, 4.

(41) Prov. XVIII, 1.

(42) יתגלע .

(43) נתגלה (rt. גלה resembles גלע).

(44) V. Gen. XXXVIII, 13ff.

(45) V. Num. XXV, 6ff and 14.

(46) Her motive was not gratification but the propagation of her tribe.

(47) This was a case of common adultery.

(48) Though she committed a sin (v. infra), her intention was to weaken and exhaust the wicked.

(49) Jud. V, 24.

(50) That a meaningless performance of a commandment is worse than a well-meant transgression and must, consequently, be discouraged.

(51) Lit., ‘not for its sake’.

(52) Which shows that even meaningless performance of a commandment is to be encouraged.

(53) I.e., not more, but a, meritorious.

(54) Sisera,

(55) Jud. V, 27. Each of the expressions, he sunk (כרע), and he fell (נפל) occurs three times, and he lay (שכב), occurs once.

(56) So in Naz. 23b.

(57) [This is based on the sound psychologic principle that ‘personal experience with the good will induce recognition of its ideal value and teach that it is to be esteemed and sought for its own sake.’ Lazarus, M. The Ethics of Judaism, I, p. 173.]

(58) Seven bullocks and seven rams on each of three altars, V. Num, XXIII, 1f., 14, 29ff.

(59) Of Lot.

(60) Meaning ‘from the father’, thus publicly announcing her indecent act.

(61) Deut. II, 9.

only must not [be contended with them] but annoying them was well permitted; in the case, however, of the younger daughter, who called her son Ben-ammi,[1] He told him, Harass them not, nor contend with them[2] at all, even annoying them was not permitted. R. Hiyya b. Abin said in the name of R. Joshua b. Korha: One should always perform a good deed[3] as early as possible, for as a reward for the one night by which she[4] anticipated the younger[5] the elder[5] gained the privilege of royal status [in Israel][6] four generations earlier.[7] Our Rabbis taught: Of the common people[8] excludes an anointed High Priest;[9] 'of the common people' excludes a ruler.[9] Have not these been once excluded, the anointed High Priest having been subjected to the offering[10] of a bullock and the ruler to that[10] of a he goat? — Since it might have been assumed that an anointed High Priest brings a bullock only where ignorance of the law was accompanied by error in action but where there was error in action alone he brings a lamb or a she-goat,[11] hence it was expressly stated, 'of the common people,' to exclude an anointed High Priest,[12] 'of the common people', to exclude a ruler. This reply satisfactorily explains the case of the anointed High Priest, but as regards that of the ruler, he, surely, does bring [his particular] offering even where there was only error in action![13] — R. Zebid replied in the name of Raba: Here it is a case[14] where he ate, for instance, suet of the size of an olive[15] while he was still a commoner, then he was appointed to rulership and then his transgression came to his knowledge;[16] it might have been assumed that he must bring a lamb or a she goat,[17] hence it was stated [that the law was not so].[18] This explanation is quite satisfactory according to R. Simeon who is guided by[19] [the time the sin was brought to his] knowledge;[20] what, however, can be said according to the Rabbis who are guided by [the time] the sin was committed?[21] — But, said R. Zebid in the name of Raba, here it is a case[14] where he ate, for instance, suet of the size of half an olive while he was a commoner and then he was appointed to rulership and finished it,[22] and after that his transgression came to his knowledge; since it might have been assumed that these[23] are combined[24] and he must bring an offering of a lamb or a she goat, hence it was stated [that the law was not so].[25] Raba enquired of R. Nahman: Does rulership constitute a break? How is this to be understood? Where a man, for instance, ate suet of the size of half an olive while he was commoner, then he was appointed to rulership, and when he relinquished office he finished it;[22] are [the two halves] in the previous case[26] not combined merely because he ate the one half when he was a commoner and the other when he was ruler, but in this case,[27] since he ate both halves[28] when he was a commoner, the two are combined, or is there perhaps no difference? — This may be solved from the following: For 'Ulla said in the name of R. Johanan: If a man having eaten suet had set aside a sacrifice,[29] and then changed his faith and subsequently retracted, his offering, since it had been suspended,[30] must remain so for ever.[31] How now! An apostate is not a person qualified to bring a sacrifice, but this ruler is, surely, one who is well qualified to bring a sacrifice. R. Zera enquired of R. Shesheth: What is the law if, while a commoner, [the ruler][32] ate something concerning which there is doubt as to whether it was not suet,[33] and having been appointed to rulership the doubt came to his knowledge?[34] According to the Rabbis who are guided by the time the sin was committed[35] there can be no question that he must bring an asham talui; the question, however, arises according to R. Simeon; does the change[36] affect a case of doubt as it does one of certainty[37] or does it, perhaps, affect a case of certainty only, because the ruler has to bring a different sacrifice,[38] but here, since his sacrifice does not change,[39] it might be said that he must bring an asham talui? — This remains undecided.[40] Our Rabbis taught: Of the common people[41] excludes an apostate.[42] R. Simeon b. Jose said in the name of R. Simeon: [And doeth through] error [any of all the things] which [the Lord his God hath commanded] not to be done, and is guilty[43] implies that only he who repents when he becomes conscious of his sin brings a sacrifice for his error, but he who does not repent on becoming conscious of his sin does not bring a sacrifice for his error. What practical difference is there between them?[44] — R. Hamnuna replied: The difference between them lies in the case of one who, being an apostate in respect of the eating of suet, brings a sacrifice for eating blood; the Masters hold that since he is an apostate in respect of the eating of suet he is also regarded as an apostate in respect of the eating of the blood,[45] while the Master holds that in respect of blood, at least, he repents when he becomes conscious of his sin.[46] But, surely, Raba stated that all agreed that an apostate in respect of the eating of suet is not regarded as an apostate in respect of the blood! — But here they[44] differ in regard to one who eats carrion[47] to satisfy his appetite,[48] and suet was mistaken by him for permitted fat and he ate it;[49] the Masters are of the opinion that, as he would have eaten it to satisfy his appetite even wilfully,[50] he is treated as an apostate,[45] while the Master is of the opinion that, as he does not eat forbidden food when he can obtain permitted food, he is not regarded as an apostate.[51] Our Rabbis taught: He who eats suet is considered an apostate; and who is an apostate?[52] He who eats meat that is nebelah or trefa;[53] loathsome creatures or reptiles; or he who drinks wine of libation.[54] R. Jose son of[55] R. Judah said: Also he who wears a garment made of wool and linen mingled together.[56] The Master said: ‘He who eats suet is considered an apostate; and who is an apostate? He who eats the meat that is nebelah or trefa.’ What does this mean?[57] — Rabbah b. Bar Dana replied in the name of R. Johanan: It is this that was meant: If a man eats suet merely in order to satisfy his appetite he is considered an apostate, but if in defiance of the law he is considered a Sadducee.[58] And which apostate, in the absence of declared motive, is to be regarded a Sadducee? He who[59] eats the meat of animals that is nebelah or trefa, loathsome creatures or reptiles, or he who drinks wine of libation.[60] ‘R. Jose son of R. Judah said: Also he who wears a garment made of wool and linen mingled together.’ What is the practical difference between them?[61] — The difference between them is the case of a mingled texture forbidden only Rabbinically; the Masters hold the opinion that only when something is Biblically forbidden is he [who disregards it] to be deemed an apostate but if it is only Rabbinically forbidden one is not to be deemed an apostate; while the Master is of the opinion that in respect of a mingled texture, since its prohibition is well known, one is deemed an apostate [if he disregards it] even though the prohibition is only Rabbinical. [Concerning this law] there is a dispute between R. Aha and Rabina. One maintains [that he who eats forbidden food] in order to satisfy his appetite is deemed an apostate, but if in defiance of the law he is deemed to be a Sadducee; and the other maintains that even in defiance of the law he is deemed an apostate; but who is a Sadducee? He who worships idols. An objection was raised: ‘If he ate one flea or one gnat he is considered an apostate;’ in this case, surely, he acted in defiance of the law[62] and yet he is called an apostate! — There it is a case where he said, ‘I would like to feel the taste of forbidden food.’[63] WHO IS MEANT BY RULER? A KING etc. Our Rabbis taught: A ruler[64] might signify the ruler of a tribe, like Nahshon the son of Amminadab, hence it was stated, Of all the things which the Lord his God hath commanded,[65] and further on it stated, That he may learn to fear the Lord his God,[66]

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(1) I.e., ‘son of my people’, thus displaying some modesty.

(2) Ibid. v. 19.

(3) Lit., ‘to a matter of commandment’.

(4) Lit., ‘the elder’,

(5) Daughter of Lot.

(6) So in Naz. 23b.

(7) From the elder daughter descended Ruth the ancestress of Obed, Jesse, David and Solomon (v. Ruth IV, 21f), while from the younger descended Naamah the mother of Rehoboam (v. I Kings XIV, 31) the first King of Judah.

(8) Lev. IV, 27.

(9) Whose sin offering is not to be that of a goat or a lamb as prescribed in that section for laymen.

(10) Lit., ‘to be judged’.

(11) As a layman.

(12) Who is not to bring a sin offering for error in action alone.

(13) What, then, does the text exclude?

(14) Lit., ‘in what are we engaged’?

(15) The minimum quantity for which an offering is due.

(16) Lit., ‘and afterwards it was known to him’.

(17) His sin having been committed while he was still one of the common people.

(18) His appointment to office exempts him from the offering of the commoner.
(19) Lit., goes after'.
(20) I.e., the nature of the offering is determined by the status of the sinner at the time he becomes aware of his sin: not by that in which he was at the time of its commission, v. supra 10a.
(21) The ruler, surely, having been a commoner at the time of the commission of the sin would have to bring the offering of the layman.
(22) Eating suet of the size of another half an olive and thus completing the prescribed minimum (v. supra p. note 2).
(23) The two halves.
(24) To form together the prescribed minimum.
(25) The two halves are not to be combined.
(26) Lit., 'there'.
(27) Lit., 'here'.
(28) Lit., 'this and this'.
(29) An offering for his sin.
(30) During the period of his apostasy when no offering would be accepted at his hands.
(31) Lit., 'shall be suspended'.
(32) The same question applies mutatis mutandis to a High Priest.
(33) He being unaware of the doubtful nature of the food.
(34) Has he to bring an asham talui (v. Glos.)?
(35) V. supra, p. 77 notes 6-8.
(36) Of the personal status of the sinner.
(37) As in the case of certain sin he is entitled to exemption from the offering prescribed for a commoner on attaining to rulership, so should he be exempt in the case of doubtful sin.
(38) As commoner he had to bring a she goat or a lamb; as ruler he has to bring a he goat.
(39) Both ruler and commoner having to bring the same kind of offering for a doubtful sin.
(40) V. Glos. s.v. teko.
(41) Lev. IV, 27; emphasis on of, i.e., some of and not all.
(42) From whom no sacrifice is accepted.
(43) Lev. IV, 22.
(44) The Rabbis and R. Simeon.
(45) Hence no sacrifice whatsoever may be accepted from him.
(46) If, then, he brings a sacrifice as an atonement for having eaten blood it is to be accepted.
(47) נבלה , the meat of an animal that has not been ritually slaughtered.
(48) I.e., not just in defiance of the law.
(49) Believing that he was eating permitted food; and when he discovered his error he desired to bring a sin offering.
(50) Even if he had known it to be suet.
(51) And his sacrifice must be accepted.
(52) The meaning of the question is explained infra.
(53) V. Glos.
(54) יין נסך wine that is known, or suspected, to have been consecrated to an idol.
(55) Cur. edd. omit.
(56) כלאים, V. Lev. XIX, 19.
(57) First a definition of apostate is given and then it is asked what is an apostate!
(58) [Read with MS.M., Min, a general term for sectarian, heretic, not necessarily a Jewish Christian; v. A. Z. (Sonc. ed.) p. 14, n. 2.]
(59) Lit., 'be saying'.
(60) [These are supposed to be unfit for human consumption, trefa denoting here meat of an animal afflicted with a disease which renders it unwholesome for food even as carrion and other loathsome creatures and reptiles. As to wine of libation, it is the gravity of the prohibition which branded the offender as an apostate; v. Tosaf. Asheri.]
(61) The Rabbis (first Tanna), and R. Jose.
(62) Since no man would eat such unwholesome things to satisfy his appetite.
(63) And no defiance was intended.

(64) Lev. IV, 22.
(65) Lev. IV, 22.
(66) Deut. XVII, 29.

Talmud - Mas. Horayoth 11b

as further on the reference is to him[1] who has none above him save the Lord his God so in the case of the ruler the reference is to him above whom there is none save the Lord his God. Rabbi enquired of R. Hiyya: ‘Is one like myself to bring a hegoat?’[2] ‘You have your rival in Babylon,’[3] the other replied. ‘The Kings of Israel and the Kings of the House of David,’ the first objected, ‘bring sacrifices independently of one another!’ ‘There,’ the other replied, ‘they were not subordinate to one another, here,[4] however, we are subordinate to them.’[5] R. Safra taught thus: Rabbi enquired of R. Hiyya, ‘Is one like myself to bring a he-goat?’[2] ‘There,’[6] the other replied, ‘is the scepter; here[4] only the law giver;’ as it was taught. The scepter shall not depart from Judah[7] refers to the exilarch in Babylon who rules Israel with the scepter; nor the ruler's staff from between his feet[7] refers to the grandchildren of Hillel[8] who teach the Torah to Israel in public.[9]

MISHNAH. AND WHO IS THE ANOINTED HIGH PRIEST?[10] HE WHO WAS ANOINTED WITH THE ANOINTING OIL[11] AND NOT HE [WHO MERELY MINISTERS] IN MORE GARMENTS.[12] THE ONLY DIFFERENCE BETWEEN A HIGH PRIEST WHO IS ANOINTED WITH THE ANOINTING OIL AND THE [ONE WHO MERELY MINISTERS] IN MORE GARMENTS IS THE BULLOCK[13] THAT IS OFFERED FOR [THE UNWITTING TRANSGRESSION OF] ANY OF THE COMMANDMENTS.[14] AND THE ONLY DIFFERENCE BETWEEN THE ACTING, AND THE RETIRED[15] HIGH PRIEST IS THE BULLOCK ON THE DAY OF ATONEMENT AND THE TENTH PART OF THE EPHAH.[16] THEY[17] ARE BOTH EQUAL IN THE TEMPLE SERVICE OF THE DAY OF ATONEMENT, AND BOTH ARE COMMANDED TO MARRY A VIRGIN[18] AND ARE FORBIDDEN TO MARRY A WIDOW.[19] BOTH MAY NOT DEFILE THEMSELVES FOR [THE DEAD BODIES OF] THEIR RELATIVES,[20] NEITHER MAY THEY LET THEIR HAIR GROW WILD, NOR MAY THEY REND[21] THEIR CLOTHES, AND BOTH ENABLE THE MANSLAYER TO RETURN.[22]

GEMARA. Our Rabbis taught: The anointing oil which Moses prepared in the wilderness[23] was used for the boiling of[24] the roots;[25] these are the words of R. Judah. R. Jose said: Surely it did not suffice even for the dabbing of the roots![26] But the roots were soaked in water and over its surface the oil was poured, which thus absorbed the scent and retained it. Said R. Judah to him: Did, then, only one miracle happen with the anointing oil? Surely, it was originally only twelve logs and with it was anointed the Tabernacle and its furniture, Aaron and his sons, throughout the seven days of consecration, and all of it still remained intact for the time to come, as it is said, This shall be a holy anointing oil unto Me throughout your generation.[27] Another [Baraitha] taught: And Moses took the anointing oil, and anointed the tabernacle and all that was therein,[28] R. Judah said: With the anointing oil which Moses prepared in the wilderness there occurred many miracles from the beginning to the end. Originally it only measured twelve logs. Now, consider how much the pot absorbed, how much the roots absorbed, and how much the fire burned, and yet it sufficed for the anointing of[29] the Tabernacle and its furniture, and Aaron and his sons, throughout the seven days of consecration; and High Priests and kings also were anointed with it. And even a High Priest who was the son of a High Priest must be anointed,[30] but a king who was the son of a king need not be anointed. And if it be asked: Why was Solomon anointed?[31] It was due, [it may be replied], to the dispute of Adonijah; and so was Joash anointed on account of the claims of Athaliah, and Jehoahaz on account of Jehoiakim who was older than he by two years; and that oil remains for the time to come, as it is said, This shall be a holy anointing oil unto Me throughout your generations,[32] the numerical value of Zeh[33] is twelve — logs. The Master said, ‘And even a High Priest who is the son of a High Priest must be anointed.’ Whence is this deduced? — [From the Scriptures] wherein it is written, And the anointed priest that shall be in his stead from among his sons;[34] Scripture should have stated, ‘And the priest that shall be in his stead[35] from among his sons,’ why, then, the anointed? Consequently it must have been intended to imply[36] that even the son[37] of a High Priest succeeds to his father's office only if he was anointed: otherwise[38] he does not. The Master said, ‘But a king who is the son of a king need not be anointed.’ Whence is this deduced? R. Aha b. Jacob replied: [From Scripture] wherein it is written, To the end that he may prolong his days in his kingdom [he and his children] etc.[39] which implies that the kingship is an inheritance.[40] Whence is it deduced that in cases of dispute anointing is required, and that the king is not entitled to transmit the kingship as he desires? — R. Papa replied: Scripture stated, He and his children in the midst of Israel,[41] only when there is peace in Israel may the text, He and his children, be applied to him even though no anointing had taken place. A Tanna taught: Jehu the son of Nimshi also was anointed only on account of the dispute of Joram. This surely could have been deduced from the fact that he was the first of a dynasty! — There is a lacuna in the text and the following should be inserted: ‘The kings of the House of David were anointed: the kings of Israel were not anointed.’[42] Whence is this deduced? — Raba replied: Scripture stated, Arise, anoint him; for this is he, etc.,[43] only he requires anointing but no other [who is not of the Davidic dynasty] requires anointing. The Master said, ‘Jehu the son of Nimshi also was anointed only on account of the dispute of Joram.’ Is it permissible to make inappropriate use[44] of the sacred oil on account of the dispute of Joram the son of Ahab? — As R. Papa said elsewhere[45] that the anointing was performed with pure balsam,[46] so here also it was performed with pure balsam. ‘And Jehoahaz on account of Jehoiakim who was older than he by two years.’ But was he older than he? Surely it is written, And the sons of Josiah: the firstborn Johanan, the second Jehoiakim, the third Zedekiah, the fourth Shallum,[47] and R. Johanan said that Shallum is identical with Zedekiah, and Johanan with Jehoahaz! — Jehoiakim was in fact older, but the meaning of firstborn[48] is ‘first in succession to the kingship.’ Do, however, younger sons succeed to kingship before the older ones? Surely, it is written, But the kingdom gave he to Jehoram, because he was the firstborn![49] — Jehoram was worthily filling the place of his ancestors;[50] Jehoiakim was not worthily filling the place of his ancestors. The Master said, ‘Shallum is identical with Zedekiah, and Johanan with Jehoahaz.’ Were they not, however, enumerated individually, for it is written, the third, the fourth?[51] — ‘Third’ means third of the sons, and ‘fourth’ means fourth in succession to the kingdom, since Jehoahaz reigned first, then Jehoiakim, then Jekoniah and finally Zedekiah. Our Rabbis taught: Shallum is identical with Zedekiah. Then why was he called Shallum? Because he was perfect[52] in his deeds. Others say: Shallum implies that the kingdom of David came to end[53] in his days. And what was his real name? Mattaniah; as it is stated, And the king of Babylon made Mattaniah his father's brother king in his stead, and changed his name to Zedekiah.[54] He said to him, ‘May God justify[55] my judgment against you, should you rebel against me,’ as it is said, And he[56] brought him under an oath;[57] and it is also written, And he also rebelled against King Nebuchadnezzar, who had made him swear by God.[58]

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(1) The king. The entire section (ibid. XVII, 14-20) deals with the appointment of a king.

(2) The ruler's sin offering (Lev. IV, 23). i.e., does his office of Patriarch in the Palestine community confer upon him the title of ‘ruler’ over all Israel?

(3) The Babylonian exilarch.

(4) In Palestine.

(5) V. next paragraph.

(6) In Babylon.

(7) Gen. XLIX, 10.

(8) Rabbi was of the line of Palestine Patriarchs and heads of the principal academies, who descended from Hillel.

(9) V. Sanh. (Sonc. ed.) p. 16, n. 2.

(10) Referred to in Lev. IV, 3.

(11) V. Ex. XXX, 23ff.

(12) מרובה בגדים (‘having more garments’, i.e., more than an ordinary priest) was the title of the High Priests in the days of the Second Temple. In the days of the first Temple when the anointing oil was in use the title was

כהן משוח (or משיח) ‘the anointed High Priest’

(13) Which is to be brought by the anointed High Priest only. The other brings the same sin offering as an ordinary individual.

(14) V. Lev. IV, 2ff.

(15) If the High Priest is for any reason disqualified for the Temple service, a substitute is appointed in his place. When the disqualification is removed the priest returns to his duties while his substitute retires. The former then becomes the acting, and the latter the retired High Priest.

(16) V. ibid. VI, 13-15.

(17) The acting, and the retired High Priest.

(18) V. Lev. XXI, 13.

(19) V. ibid. 14.

(20) Ibid. 11.

(21) In token of mourning. Ibid. 10.

(22) From the cities of refuge. v. Num. XXXV, 25.

(23) V. Ex. XXX, 23ff.

(24) Lit., ‘they were boiling in it’.

(25) Of the spices. V. ibid. 23ff.

(26) Much less for boiling them.

(27) Ex. XXX, 31.

(28) Lev. VIII, 10.

(29) Lit., ‘and with it was anointed’.

(30) Otherwise he does not succeed to the office.

(31) V. I Kings, I, 34, 39.

(32) Ex. XXX. 31; emphasis on the last three words.

(33) זה ‘this’.

(34) Lev. VI, 15.

(35) [So MS.M.]

(36) Lit., ‘he teaches us’.

(37) Lit., ‘from his sons’.

(38) Lit., ‘and if not’.

(39) Deut. XVII, 20.

(40) Lit., ‘an inheritance to you’.

(41) Deut. XVII, 20.

(42) Yet Jehu was anointed for the reason stated.

(43) I Sam. XVI, 12.

(44) Since the other kings of Israel were not anointed.

(45) Infra 12a.

(46) Not with the holy oil.

(47) I Chron. III, 15.

(48) As applied to Johanan (Jehoahaz).

(49) II Chron. XXI, 3.

(50) In the early days of his kingship he was righteous and just.

(51) I Chron. III, 15.

(52) משולם from the same root as שלום .

(53) שלמה Cf. previous note.

(54) II Kings XXIV, 17.

(55) יה יצדיק , a play upon the word צדקיהו

(56) The King of Babylon.

(57) Ezek. XVII, 13. This is the reading of Bomberg Ed. M.T. reads ויבא אתו instead of ויביאהו . Cur. edd. enclose in parentheses, ויביאהו בבלה which is meaningless in the context.

(58) II Chron. XXXVI, 13.

Talmud - Mas. Horayoth 12a

Talmud - Mas. Horayoth 12a

Was, however, the anointing oil in existence [in the days of Jehoahaz]? Surely it was taught: At the time when the Holy Ark was hidden away there were also hidden the anointing oil, the jar of manna,[1] Aaron's rod with its almonds and blossoms,[2] and the coffer which the Philistines had sent to Israel as a gift and concerning which it is said, And put the jewels of gold, which ye returned Him for a guilt offering, in a coffer by the side thereof; and send it away that it may go.[3] And who hid them? It was Josiah, King of Judah, who hid them; because, having observed that it was written in the Torah, The Lord will bring thee and thy king . . . [unto a nation that thou hast not known],[4] he gave orders that they shall be hidden away, as it is said, And he said unto the Levites that taught all Israel, that were holy unto the Lord, ‘Put the Holy Ark into the house which Solomon the son of David, King of Israel, did build; there shall no more be a burden upon your shoulders; now serve the Lord your God and his people Israel;’[5] and R. Eleazar stated: The inference[6] is arrived at by an analogy between the expressions. ‘There’ and ‘there’,[7] ‘To he kept’[8] and ‘to he kept’,[9] and ‘generations’ and ‘generations’![10] — R. Papa replied: [Jehoahaz was anointed] with pure balsam. Our Rabbis taught: How were the kings anointed? — In the shape of a wreath. And the priests? — In the shape of a Chi. What is meant by ‘the shape of a Chi’! — R. Menashya b. Gadda replied: In the shape of a Greek ** . One [Tanna] reported that oil was poured upon his head first and afterwards some oil was applied between his eyelids, but another [Tanna] reported that first some oil was applied between his eyelids and afterwards oil was poured upon his head![11] — This is a matter of dispute between Tannaim. Some maintain that anointing takes precedence while others maintain that the pouring takes precedence. What reason is advanced by him who maintains that pouring takes precedence? — [The fact] that it is written. And he poured of the anointing oil upon Aaron's head and anointed him, to sanctify him.[12] And what reason is offered by him who maintains that anointing takes precedence? — He holds this opinion because a similar procedure is found in connection with the vessels of ministry.[13] But, surely, And he poured[12] is written first, and only afterwards And he anointed![12] — The meaning intended is this: What is the reason why he poured? Because he had already anointed. Our Rabbis taught: It is like the precious oil . . . coming down upon the beard, even Aaron's beard, etc.,[14] two drops like pearls hung from Aaron's beard. R: Papa said: A Tanna taught that when he spoke[15] they ascended and lodged at the root of his beard. And concerning this matter, Moses was anxious. He said, ‘Have I, God forbid, made an improper use of the anointing oil?’[16] A heavenly voice came forth and called out, Like the precious oil . . ., like the dew of Hermon;[17] as the law of improper use of holy objects is not applicable to the dew of Hermon, so also is it not applicable to the anointing oil on the beard of Aaron. Aaron however, was still anxious. He said, ‘It is possible that Moses did not trespass, but I may have trespassed’. A heavenly voice came forth and said to him, Behold how good and how pleasant it is for brethren to dwell together in unity;[18] as Moses is not guilty of trespass, so are you not guilty of trespass. Our Rabbis taught: The kings are anointed only at a fountain that their sovereignty may endure, as it is said, And the king said unto them: ‘Take with you the servants of your lord . . . and bring him down to Gihon’.[19] R. Ammi said: He who wishes to ascertain whether he will live through the year or not shall, during the ten days between the New Year and the Day of Atonement, kindle a lamp in a house wherein there is no draught. If the light continues to burn he may know that he will live through the year. He who desires to engage in business and wishes to ascertain whether he will succeed or not, let him rear up a cock; if it grows plump and fine he will succeed. He who desires to set out on a journey and wishes to ascertain whether he will return home again or not. let him station himself in a dark house; if he sees the reflection of his shadow he may know that he will return home again. This, however, is not a proper thing to do, lest his courage fail him and he meet with misfortune in consequence. Said Abaye: Now that it has been said that omens are of significance, a man should make a regular habit of eating,[20] at the beginning of the year, pumpkin, fenugreek, leek, beet and dates.[21] R. Mesharsheya said to his sons: Whenever you intend coming in for your lesson with your master revise the subject first and then enter the presence of your master; and when you sit before him, look at his mouth, for it is written, But thine eyes shall see thy teacher.[22] When you practice your lessons, practice them by a river of water so that as the waters advance continually, so may your acquired knowledge advance continually. Rather sit on the rubbish heap of Matha Mehasia[23] than in the palaces of Pumbeditha. Rather eat an unsavory gildana[24] of Matha Mehasia than the kuthha[25] of the lofty mansions.[26] My horn is exalted in the Lord;[27] my horn is exalted but not my flask: The kingdoms of David and Solomon who were anointed with a 'horn'[28] endured; the kingdoms of Saul and Jehu who were anointed with a 'flask'[29] did not endure. HE WHO WAS ANOINTED WITH THE ANOINTING OIL etc. Our Rabbis taught: 'Anointed' might imply a king, hence it was stated 'priest'. If only 'priest' had been stated one might have applied it to the High Priest who was dedicated by the additional garments only, hence it was stated, 'anointed'. If only 'anointed' had been written one might have applied it to the priest anointed for war,[30] hence it was stated, and the anointed Priest[31] above whom there is no other anointed [Priest]. How is this inferred? — As Raba said that 'the thigh'[32] implies the right thigh, so here also 'the anointed' implies the most important of the anointed. The Master said, 'Anointed might imply a king.' Does a king bring a sin offering of a bullock? Surely it is a he-goat that he brings![33] — It[34] was necessary, since it might have been assumed that only for error in action does a king bring a sin offering of a he-goat but that for ignorance of the law he brings a bullock, hence it was necessary to teach us [that he never brings a bullock]. THE ONLY DIFFERENCE BETWEEN A [HIGH PRIEST WHO IS] ANOINTED WITH THE ANOINTING OIL etc. Our Mishnah cannot be reconciled with the view of R. Meir; for should it be assumed to agree with the view of R. Meir it may be pointed out that it was taught: A High Priest who is dedicated by the additional garments brings a bullock which is the prescribed sin offering for the transgression of all the commandments; these are the words of R. Meir, but the Sages did not agree with him. What is R. Meir's reason? Because it was taught: Anointed only implies a High Priest who was anointed with the anointing oil, whence, however, is it deduced that one dedicated by the additional garments only is also subject to that law? For it was expressly stated, If the priest the anointed.[35] To whom, then is our Mishnah to be attributed? To the Rabbis![36]

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(1) V. Ex. XVI, 33.

(2) V. Num. XVII, 23.

(3) I Sam. VI, 8.

(4) Deut, XXVIII, 36.

(5) II Chron. XXXV, 3.

(6) That the anointing oil and the other objects mentioned were hidden at the same time as the Ark.

(7) Ex. XVI, 33 (the manna) and ibid. XXX, 6 (the Ark).

(8) Ibid. XVI, 33 (the manna).

(9) Num. XVII, 25 (Aaron's rod).

(10) Ex. XVI, 33 (manna) and ibid. XXX, 31 (anointing oil). Thus it has been shown by analogy that the anointing oil was hidden away in the days of Josiah: how then could it have been in use when Jehoahaz was made king?

(11) How are the two contradictory statements to be reconciled?

(12) Lev. VIII, 12.

(13) Which were only anointed.

(14) Ps. CXXXIII. 2.

(15) [Or when he dipped (his beard).]

(16) [By having applied too much (Rashi Ker. 5b).]

(17) Ibid. 3.

(18) Ibid. 1.

(19) I Kings I, 33.

(20) So in Ker. 5b. Cur, edd.: 'to see'.

(21) These grow in profusion and are symbolic of prosperity.

(22) Isa. XXX, 20.

(23) A suburb of Sura, a place of scholarship and culture; v. B.B. (Sonc. ed.) p. 10, n. 1.

(24) A kind of small fish.

(25) A kind of preserve of curdled milk.

(26) Jastrow, ‘than a kuthha which is hard enough to break rocks.’
(27) I Sam. II, 1.
(28) The receptacle of the anointing oil, v. I Sam. XVI, 13, and I Kings I, 39.
(29) V. I Sam. X, 1, and II Kings IX, 1.
(30) V. Deut. XX, 2.
(31) Lev. IV, 3.
(32) Gen. XXXII, 33.
(33) Consequently the context could not possibly have been assumed to refer to a king; what need, then, was there for a specific expression to show the obvious?
(34) The specific expression.
(35) Lev. IV, 3. [So literally. The inference is from the redundant ‘the priest’, v. Tosaf. Asheri.]
(36) Lit., ‘in what did you set it? According to the Rabbis.’

Talmud - Mas. Horayoth 12b

Read, however, the final clause: THE ONLY DIFFERENCE BETWEEN THE ACTING, AND THE RETIRED HIGH PRIEST IS THE BULLOCK ON THE DAY OF ATONEMENT AND THE TENTH PART OF THE EPHAH. This,[1] surely, must represent the view of R. Meir! For it was taught: If some disqualification occurred in the High Priest who consequently retired and another priest was anointed in his stead, when the first[2] returns to his ministry the other retains all the obligations relating to the priesthood; these are the words of R. Meir. R. Jose said: The first returns while the second is rendered unfit either as a High Priest or as an ordinary priest. Said R. Jose, once it happened with Joseph the son of Ailim of Sepphoris[3] that, a disqualification in the High Priest having occurred, he[4] was appointed in his stead; and when the incident was submitted to the Sages they ruled that the first returns to his ministry while the second is rendered unfit either as a High Priest or as an ordinary priest. [He is unfit as] a High Priest owing to enmity;[5] [and he is unfit as] an ordinary priest, because, in the sphere of holiness, you may ascend, not descend.[6] Does the first clause,[7] then, represent the view of the Rabbis and the final clause[7] that of R. Meir! — R. Hisda replied: Yes; the first clause represents the view of the Rabbis and the final clause that of R. Meir. R. Joseph replied: The author of our Mishnah is Rabbi who based[8] it upon the opinions of two Tannaim. Raba replied: The views represented[9] are those of R. Simeon who agrees with R. Meir in one respect and differs from him in the other; as it was taught: The things which distinguish a High Priest from an ordinary priest are the following: The bullock that is offered for [the unwitting transgression of any of] all the commandments, and the bullock of the Day of Atonement, and the tenth part of the ephah; he must neither let his hair grow wild nor may he rend his garments, but he tears them from below while the ordinary priest tears them from above; he must not defile himself by [coming in contact with the dead bodies even of his] relatives; he is commanded to marry a virgin and is forbidden to marry a widow; he[10] enables the manslayer to return to his home;[11] he may offer sacrifices even while an onan,[12] though he must not then eat of the sacrificial meat or take a share of it; he offers up his portion first and receives his portion first; he ministers in eight garments, and the entire service of the Day of Atonement may be performed by him alone; and he is also exempt from bringing a sacrifice for an unwitting transgression of defilement relating to the Sanctuary and its consecrated things. And all these laws are applicable to the High Priest who is dedicated by the additional garments alone, with the exception of the bullock that is offered for [the unwitting transgression of any of] ‘all the commandments’. All these laws, furthermore, are also applicable to an anointed High Priest who [having acted as substitute] has retired from office, with the exception of the bullock of the Day of Atonement and the tenth part of the ephah. All these laws are inapplicable to a Priest anointed for War, with the exception of the five things that are specified in the Biblical Section under discussion: He must not let his hair grow wild nor may he rend his garments, he must not defile himself for the dead bodies of his relatives, he is commanded to marry a virgin and forbidden to marry a widow, and enables the manslayer to return to his home;[13] so R. Judah. But the Sages said: He does not enable [the manslayer] to return.[14] And whence is it proved that this Baraitha represents the view of R. Simeon? — R. Papa replied: Who was it that was heard to say that [the High Priest] is exempted in regard to an unwitting transgression of defilement relating to the Sanctuary and its consecrated things? Surely it was R. Simeon.[15] 'With the exception of the five things that are specified in the Biblical section under discussion.' Whence is this inference?[16] — From that which our Rabbis taught: And the priest that is highest among his brethren,[17] refers[18] to the High Priest; upon whose head the anointing oil is poured,[17] refers to the Priest who is anointed for War; and that is consecrated to put on the garments,[17] refers to the High Priest who is dedicated by the additional garments alone. Concerning all of them it is stated, He shall not let the hair of his head grow wild,[19] nor rend his clothes, neither shall he go in to any dead body.[20] As one might assume that all of them may offer sacrifices while onans, it was specifically stated, For the consecration of the anointing oil of his God is upon him,[21] upon 'him'[22] but not upon his associate.[23] Now that Scripture has excluded him[23] it might have been assumed that he is not commanded to marry a Virgin, hence it was stated, And he [shall take a wife in her virginity].[24] On this point[25] Tannaim are in dispute: And he shall take a wife in her virginity,[24] after Scripture has excluded him[23] it included him again; so R. Ishmael. R. Akiba said: One could well have known[26] [this law][27] in the case where he[28] was [temporarily] removed on account of a mishap[29] ; whence, however, could it have been inferred [in the case where he was permanently removed] on account of disqualifying blemishes? Hence it was stated, 'And he.'[24] Raba inquired of R. Nahman: May an anointed High Priest who was stricken with leprosy[30] marry a widow;[31] is he only suspended[32] or is he exempt from all the duties of the High Priesthood?[33] — He[34] was unable to give an answer.[35] Once R. Papa was sitting at his studies and raised the same inquiry. Said Huna the son of R. Nahman to R. Papa: We have learned [such a law]:[36] 'One could well have known [this law] in the case where he was [temporarily][37] removed on account of a mishap; whence, however, could it be inferred [in the case where he was permanently] removed on account of disqualifying blemishes? Hence it was stated, 'and he'. He[38] thereupon arose, kissed him on his head and gave him his daughter. MISHNAH. A HIGH PRIEST RENDS HIS GARMENTS[39] FROM BELOW AND AN ORDINARY PRIEST FROM ABOVE. A HIGH PRIEST MAY OFFER SACRIFICES WHILE AN ON AN THOUGH HE MAY NOT EAT [OF THE SACRIFICIAL MEAT]; BUT AN ORDINARY PRIEST MAY [IN SUCH CIRCUMSTANCES] NEITHER OFFER SACRIFICES NOR EAT [OF SACRIFICIAL MEAT].

GEMARA. Rab said: BELOW means actually below[40] and ABOVE means actually above.[41] Samuel, however, said: BELOW means beneath the binding[42] and ABOVE means above the binding,[43] the one as well as the other being round the neck. An objection was raised: In respect of all relatives[44] a man may, if he wishes, sever[45] his binding, and if he wishes he need not sever his binding. In respect of his father and mother, however, he must sever.[46] Now, since [a tear made in such a manner][47] is elsewhere [regarded as a legally proper] tear, the prohibition for a High Priest to tear his garments should be applied to such a tear also![48] — Samuel is of the same opinion as R. Judah who said: Any tear that does not sever one's binding is nothing more than a wanton rent.[49] Is R. Judah, however, of the opinion that the law of rending one's garments is applicable to a High Priest? Surely it was taught: If Scripture had only stated, 'He shall not let the hair of a head go loose, nor rend a garment' it might have been assumed that Scripture spoke of the head and the garment of a sotah,[50] hence it was expressly stated, He shall not let the hair of his head grow wild, nor rend his clothes.[51] showing that the requirements of letting one's hair grow wild or rending one's garments[52] are not at all applicable to him;[53] so R. Judah. R. Ishmael said: He does not rend his clothes in the manner of other people, but he rends from below while an ordinary priest rends from above![54] — Samuel holds the same opinion as R. Judah in one respect[55] and disagrees with him in another.[56]

MISHNAH. WHATEVER IS MORE FREQUENT THAN ANOTHER TAKES PRECEDENCE OVER THAT OTHER, AND WHATSOEVER IS MORE SACRED THAN ANOTHER TAKES PRECEDENCE OVER THAT OTHER. IF THE BULLOCK OF THE ANOINTED HIGH PRIEST AND THE BULLOCK OF THE CONGREGATION ARE SIMULTANEOUSLY PRESENTED,[57] THE BULLOCK OF THE ANOINTED HIGH PRIEST MUST PRECEDE THAT OF THE CONGREGATION IN ALL ITS DETAILS.[58]

GEMARA. Whence are these laws deduced? — Abaye replied: From Scripture which stated, Besides the burnt offering of the morning which is for a continual burnt offering.[59] Now consider, since it was written the burnt offering of the morning, what need was there for writing again continual burnt offering? Consequently it was this that the All Merciful intended: Whatsoever is more frequent takes precedence. AND WHATSOEVER IS MORE SACRED THAN ANOTHER TAKES PRECEDENCE OVER THAT OTHER. Whence is this deduced? — From what was taught at the School of R. Ishmael: Thou shalt sanctify him [the priest] therefore,[60] in respect of any matter of sanctity; he must be the first in the reading of the Law, the first in the recital of any benediction[61] and the first in receiving a handsome portion.

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(1) That in all respects other than those mentioned the two are entitled to the same privileges.

(2) His disqualification having disappeared.

(3) [He was a kinsman of Matthias, a High priest, at the time of Herod. ‘This Matthias the High Priest, on the night before that day when the fast was to be celebrated, seemed in a dream to have conversation with his wife, and because he could not himself officiate on that account, Joseph the son of Ellemus his kinsman assisted him in that sacred office.’ (Josephus. Ant. XVII, 6, 4.)]

(4) This to the end of the sentence, is the reading in Yoma 12b, and is adopted here by Bash (v. marginal Glosses). Cur. edd. enclose the following in parentheses: ‘And he was removed, and another was appointed in his stead, and his brethren the priests did not allow him to be either High Priest or ordinary priest.’

(5) Between him and the first High Priest.

(6) Lit., ‘we bring up in holiness, but do not bring down’.

(7) Of our Mishnah.

(8) Lit., ‘took’.

(9) In our Mishnah.

(10) When he dies.

(11) One who killed another unwittingly finds shelter in the cities of refuge where he remains until the death of the High Priest.

(12) V. Glos.

(13) V. p. 90, n. 7.

(14) Thus it has been shown that R. Simeon, the presumed author of the Baraitha, agrees with R. Meir that the only difference between the High priest and his temporary substitute is the bullock of the Day of Atonement and the tenth part of the ephah, and differs from him in maintaining that the bullock for the unwitting transgression of any of ‘all commandments’ is to be brought by the anointed High Priest only and not, as R. Meir asserted, by the High Priest also, who was dedicated by the extra garments only.

(15) Supra 9a.

(16) Lit., ‘these words’.

(17) Lev. XXI, 10.

(18) Lit., ‘this’.

(19) E.V. ‘go loose’.

(20) Ibid, vv. 10-11.

(21) Ibid, v. 12.

(22) The anointed High Priest.

(23) The Priest anointed for War only.

(24) Lev. XXI, 13.

(25) Whether the Priest anointed for War is commanded to marry a virgin.

(26) Lit., ‘there is not to me but’.

(27) That a High Priest must marry a virgin.

(28) A High Priest.

(29) Cf. Deut. XXIII, 11.

(30) In consequence of which he retired from office.

(31) For the following interpretation, which differs from that of Rashi, v. Tosaf. Asheri.

(32) From the High Priesthood; i.e., from the performance of such duties as are forbidden to a leper; hence he is still subject to all other restrictions of the High Priesthood including the prohibition to marry a widow which a leper also may observe.

(33) And consequently also from the prohibition to marry a widow.

(34) R. Nahman.

(35) Lit., ‘it was not in his hand’.

(36) Supra (in the name of R. Akiba) q. v. for notes.

(37) Leprosy is, of course, one of the disqualifying blemishes.

(38) R. Papa.

(39) A sign of mourning on the death of certain relatives.

(40) The lower hem of the garment.

(41) The upper hem round the neck.

(42) קמי שפה ‘the stiff cords in the binding round the neck’. The binding itself remaining untorn.

(43) The tear starting above the binding and passing also through it.

(44) Other than parents.

(45) V. supra, n. 1.

(46) M.K. 22b.

(47) From beneath the binding only.

(48) Lit., ‘read here: He shall not tear his garments’. How, then, could Samuel state that the High Priest does rend his garment beneath the binding?

(49) It has no legal or religious significance. Samuel could, therefore, justly permit a High Priest to rend his garment below the binding.

(50) A woman suspected of adultery. The priest lets her hair go loose (Num. V, 18), and takes hold of her garments which may or may not thereby be torn (Sotah 7a).

(51) Lev. XXI, 10.

(52) As symbols of mourning.

(53) The High Priest.

(54) Now, since R. Judah exempts a High Priest from the law of rending one's clothes, how could Samuel who, as it has been said, holds the same opinion as R. Judah require a priest to rend his clothes at all?

(55) That a rent that does not cut the binding round the neck is of no legal or religious significance.

(56) While R. Judah exempts the High Priest entirely from the law of rending one's clothes, Samuel maintains that a High Priest must rend his garments but only from below the binding.

(57) As sin offerings (v. Lev. IV, 3, 13). Lit., ‘stand’.

(58) Lit., ‘deeds’, i.e., the various parts of the process of sacrificing.

(59) Num. XXVIII, 23.

(60) Lev. XXI, 8.

(61) Especially in the zimmun, v. Glos.

Talmud - Mas. Horayoth 13a

IF THE BULLOCK OF THE ANOINTED HIGH PRIEST AND THE BULLOCK OF THE CONGREGATION etc. Whence is this deduced? — From what our Rabbis taught: And he shall burn it ins he burnt the first bullock;[1] what need was there to state, the first?[2] In order to indicate that it[3] must precede the bullock of the congregation in all its details.[4] Our Rabbis taught: If the bullock of the anointed High Priest and the bullock of the congregation are simultaneously presented, the bullock of the anointed High Priest must precede the bullock of the congregation in all its details,[4] forasmuch as the anointed High Priest effects the atonement and the congregation receives the atonement, it is reasonable that he who effects atonement shall take precedence over him who receives the atonement; and so it is also stated [in Scripture]. And have made atonement [i] for himself, and [ii] for his household, and [iii] for all the assembly of Israel.[5] The bullock that is offered for a sin committed by the congregation through ignorance of a law is to precede the bullock for the sin of idolatry. What is the reason? — The one is a sin offering and the other[6] is a burnt offering, and it was taught, 'What need was there for Scripture to state, And he shall offer that which is for the sin offering first?[7] If merely in order to teach that the sin offering was to be the first, surely, it has already been stated, And he shall prepare the second for a burnt offering, according to the ordinance![8] Consequently it must be concluded that in this text there has been laid down the general principle[9] that all sin offerings are to precede the burnt offerings that are presented together with them; and, there is an accepted tradition that even a sin offering consisting of a bird is to precede a burnt offering consisting of a beast.' The bullock for idolatry is to precede the goat for idolatry. Why? The one surely, is a sin offering while the other is a burnt offering! — In the West[10] it was explained in the name of Rabbah[11] b. Mari: Because an Aleph is wanting in the Hattath[12] for idolatry, the written form being le-Hatth.[13] Raba replied: Because According to the ordinance[14] was written concerning it.[15] The goat for idolatry is to precede the goat of the ruler. What is the reason? — The one is for a congregation while the other is for an individual. The he-goat of a ruler is to precede the she-goat of a private individual. What is the reason? — The one is for a sovereign; the other for a commoner. The she-goat of an individual is to precede the ewe-lamb of an individual.[16] But, surely, it was taught that the ewe-lamb of an individual must precede the she-goat of an individual! — Abaye replied: This is a matter of dispute between Tannaim. One Master holds the view that a she-goat is preferable since it has also the advantage of being the offering of an individual for the sin of idolatry, while the other Master is of the opinion that a ewe-lamb is preferable since it has the advantage of having its fat tail also offered on the altar. The omer[17] must precede the lamb that is brought together with it. The two loaves[18] are to precede the lambs[19] that are brought with them. This is the general rule: The offering which is due to the sanctity of[20] the day is to precede the offering the presentation of which is due to[20] the bread.[21] MISHNAH. A MAN TAKES PRECEDENCE OVER A WOMAN IN MATTERS CONCERNING THE SAVING OF LIFE AND THE RESTORATION OF LOST PROPERTY, AND A WOMAN TAKES PRECEDENCE OVER A MAN IN RESPECT OF CLOTHING AND RANSOM FROM CAPTIVITY. WHEN BOTH ARE EXPOSED TO IMMORAL DEGRADATION IN THEIR CAPTIVITY THE MAN'S RANSOM[22] TAKES PRECEDENCE OVER THAT OF THE WOMAN.

GEMARA. Our Rabbis taught: If a man and his father and his teacher were in captivity he takes precedence over[23] his teacher and his teacher takes precedence over his father,[24] while his mother takes precedence over all of them. A scholar takes precedence over a king of Israel, for if a scholar dies there is none to replace him[25] while if a king of Israel dies, all Israel are eligible for kingship. A king takes precedence over a High Priest, for it is said, And the king said unto them: Take with you the servants of your lord etc.[26] A High Priest takes precedence over a prophet, for it is said, And let Zadok the priest and Nathan the prophet anoint him there,[27] Zadok being mentioned before Nathan; and furthermore it is stated, Hear now, O Joshua the High Priest, thou and thy fellows etc.;[28] lest it be assumed that these were common people it was expressly stated, For they are men that are a sign,[28] and the expression 'sign' cannot but refer to a prophet as it is stated, And he[29] give thee a sign or a wonder.[30] A High Priest anointed with the anointing oil takes precedence over one who is only dedicated by the additional garments. He who is dedicated by the additional garments takes precedence over an anointed High Priest who has retired from office owing to a mishap. An anointed High Priest who has retired from office on account of a mishap takes precedence over one who has retired on account of his blemish. He who has retired on account of his blemish takes precedence over him who was anointed for war purposes only. He who was anointed for war takes precedence over the Deputy High Priest.[31] The Deputy High Priest takes precedence over the amarkal.[32] What is amarkal? — R. Hisda replied: He who commands[33] all. The amarkal takes precedence over the Temple treasurer. The Temple treasurer takes precedence over the chief of the watch.[34] The chief of the guard takes precedence over the chief of the men of the daily watch.[35] The chief of the daily watch takes precedence over an ordinary priest. The question was raised: In respect of Levitical uncleanness,[36] who takes precedence, the Deputy High Priest or the Priest anointed for War? — Mar

Zutra the son of R. Nahman replied: Come and hear what has been taught: If a Deputy High Priest or a Priest anointed for War were going on their way and came upon a corpse the burial of which is obligatory upon them,[37] it is better that the Priest anointed for War shall defile himself rather than the Deputy High Priest; for if the High Priest meet with some disqualification the Deputy High Priest steps in to perform the Temple service. Has it not been taught, however, that the Priest anointed for War takes precedence over the Deputy High Priest? — Rabina replied: That Baraitha deals with the question of saving life.[38]

MISHNAH. A PRIEST TAKES PRECEDENCE OVER A LEVITE, A LEVITE OVER AN ISRAELITE, AN ISRAELITE OVER A BASTARD, A BASTARD OVER A NATHIN,[39] A NATHIN OVER A PROSELYTE, AND A PROSELYTE OVER AN EMANCIPATED SLAVE. THIS ORDER OF PRECEDENCE APPLIES ONLY WHEN[40] ALL THESE WERE IN OTHER RESPECTS EQUAL. IF THE BASTARD, HOWEVER, WAS A SCHOLAR AND THE HIGH PRIEST AN IGNORAMUS,[41] THE LEARNED BASTARD TAKES PRECEDENCE OVER THE IGNORANT HIGH PRIEST.

GEMARA. A PRIEST TAKES PRECEDENCE OVER A LEVITE for it is stated The sons of Amram: Aaron and Moses; and Aaron wins separated that he should be sanctified as most holy.[42] A LEVITE takes precedence OVER AN ISRAELITE for it is stated, At that time the Lord separated the tribe of Levi etc.[43] AN ISRAELITE takes precedence OVER A BASTARD for the one is of legitimate birth and the other is not. A BASTARD takes precedence OVER A NATHIN for the one comes from an eligible origin and the other from a non-eligible origin. A NATHIN takes precedence OVER A PROSELYTE for the one was brought up with us in holiness and the other was not brought up with us in holiness. A PROSELYTE takes precedence OVER AN EMANCIPATED SLAVE for the one was included in the curse[44] and the other was not included in the curse. THIS ORDER OF PRECEDENCE APPLIES ONLY WHEN ALL THESE WERE IN OTHER RESPECTS EQUAL etc. Whence is this deduced? — R. Aha son of R. Hanina replied: From Scripture which states, She[45] is more precious than rubies,[46] i.e., more precious than the High Priest who enters into the innermost[47] sanctuary. It was taught, R. Simeon b. Yohai said: It stands to reason that an emancipated slave should take precedence over a proselyte, for the one was brought up with us in holiness and the other was not; but the former was included in the curse[44] while the latter was not. R. Eleazar son of R. Zadok was asked by his disciples: Why are all willing to marry a proselyte while not all are willing to marry an emancipated slave? He answered them: The one was included in the curse[48] while the other was not. Another explanation is that the one is known to protect her chastity while the other is not. R. Eleazar[49] was asked by his disciples: Why does a dog know its owner while a cat does not? He answered them: If he who eats something of that from which a mouse has eaten loses his memory, how much more so the animal which eats the mouse itself! R. Eleazar[50] was asked by his disciples: Why do all persecute the mice? — Because of their bad nature. What is it? Raba replied: They gnaw even at clothes[51]

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(1) Lev. IV, 21.

(2) This being obvious, since that offering was in that context mentioned first.

(3) The bullock of the High Priest.

(4) V. supra p. 94, n. 8.

(5) Lev. XVI, 17.

(6) That for idolatry.

(7) Lev. V, 8.

(8) Ibid. 10.

(9) Lit., ‘but this built a father’.

(10) Palestine.

(11) So MS. M. Cut, edd. ‘Raba’.

(12) חטאת , ‘sin offering’.

(13) לחטת , ‘for a sin offering’. Num. XV, 24; as if to say that it is lacking in something accorded to other sin offerings.
(14) Ibid.
(15) The burnt offering for idolatry; thus implying that the process of the offering of the sacrifices in that particular case must be in the same order as they were ordained in that text, viz., the burnt offering first.
(16) The individual's sin offering may be either a she-goat (Lev. IV, 28) or a ewelamb (ibid. v. 32).
(17) V. Glos.
(18) The wave-loaves offered on Pentecost. V. Lev. XXIII, 17.
(19) V. ibid. v. 18.
(20) Lit., ‘that comes for the sake of’.
(21) The wave-loaves and the omer. The lambs are merely an adjunct to these.
(22) [To spare him the indignity of pederasty.]
(23) In procuring his ransom.
(24) I.e., he must procure the ransom of his teacher before that of his father.
(25) Lit., ‘we have none like him’.
(26) I Kings I, 33. David is designated lord in an instruction addressed to Zadok his High Priest.
(27) Ibid. 34.
(28) Zech. III, 8.
(29) The prophet.
(30) Deut. XIII, 2.
(31) Segan, v. Sanh. (Sonc, ed.) p. 97, n. 1.
(32) V. Glos. [They were officers, the ‘Keepers of the door’ (cf. II Kings XII, 12) drawn from every watch; Mishmar (v. n. 4), entrusted with the keys and vessels of the Temple during their particular week of service. V. Buchler, Priester and Cultus, p. 96, who draws attention to Josephus, Contra Apinem, II, 8: ‘When those days are over, other priests . . . assemble together at mid-day and receive the Keys of the temple and the vessels by tale.’]
(33) אמר כולא , ‘who said (i.e, directs) all things.’
(34) Mishmar, v. Glos.
(35) Heb., beth ab, v. Glos.
(36) The burial, e.g., of a corpse found in a lonely spot where there is no one else to attend to it.
(37) Heb, meth mizwah, v. Glos. and cf. previous note.
(38) The life of the Priest for War is of more importance in a war of defence than the life of the Deputy High Priest.
(39) V. Glos.
(40) Lit., ‘when? at the time’.
(41) Heb. ‘am ha-arez, v. Glos.
(42) I Chron. XXIII, 13. A priest is a descendant of Aaron.
(43) Deut. X, 8.
(44) Lit., ‘cursed be’, ‘the first two words of the curse which Noah pronounced against Canaan when he condemned him to slavery (v. Gen. IX, 25), which he considered the greatest curse imaginable (Rashi).
(45) The Torah, learning.
(46) Prov. III, 15. מכנינם .
(47) לפני ולפנים a play upon the word מפנינים V. n. 7.
(48) V. p. 99, n. 5.
(49) [MS. M.: ‘Eleazar b. Zadok.’]
(50) [Var. lec.: ‘Eleazar b. Zadok.’]
(51) Which is no food. They cause loss to the owner though they themselves derive no benefit.

Talmud - Mas. Horayoth 13b

R. Papa replied: They gnaw even at the handle of a hoe. Our Rabbis taught: Five things make one forget one's studies: Eating[1] something from which a mouse or a cat has eaten, eating[1] the heart of a beast, frequent consumption[2] of olives, drinking[3] the remains of water that was used for washing, and washing[4] one's feet one above the other. Others say: He also who puts his clothes under his head [forgets his studies]. Five things restore one's learning:[5] Wheaten bread and much more so wheat[6] itself, eating[1] a roasted[7] egg without salt, frequent consumption[8] of olive oil, frequent indulgence in wine and spices, and the drinking[3] of water that has remained from kneading. Others say: Dipping one's finger in salt and eating is also included. 'Frequent consumption of olive-oil'. This corroborates the view of R. Johanan who said: As the olive causes one to forget seventy years of study, so does olive oil restore seventy years of study. 'Frequent indulgence in wine and spices'. This corroborates the view of Raba who said: Wine and spices have made me wise. 'Dipping one's finger in salt' — Said Resh Lakish: One only. This is a matter of dispute between Tannaim: R. Judah said, one finger but not two; R. Jose said, two but not three. Your mnemonic[9] is the third finger.[10] Ten things adversely affect one's study: Passing[11] under the bit of a camel and much more so under the camel itself, passing[11] between two camels, passing between two women, the passing of a woman[12] between two men, passing under the offensive odour of a carcass, passing under a bridge under which water has not flowed for forty days, eating bread that was insufficiently baked, eating meat out of a soup-ladle, drinking from a streamlet that runs through a graveyard, and looking into the face of a dead body. Others say: He who reads an inscription upon a grave is also [subject to the same disability]. Our Rabbis taught: When the Nasi[13] enters, all the people rise and do not resume their seats until he requests them to sit. When the Ab-beth-din[14] enters, one row rises on one side[15] and another row on the other [and they remain standing] until he has sat down in his place. When the Hakam[16] enters, every one [whom he passes] rises and sits down [as soon as he passed] until the Sage has sat down in his place. Sons of sages, and scholars may, if the public is in need of their services, tread upon the heads of the people.[17] If one [of them] went out in his need to ease himself he may re-enter and sit down in his place.[18] Sons of a scholar[19] whose father holds the office of Parnas[20] may, if they possess the capability of understanding [the discourses], enter and sit down before their father with their backs to the people. When, however, they do not possess the capability of understanding [the discourses] they enter and sit down before their father with their faces towards the public. R. Eleazar son of R. Zadok said: In a festive gathering[21] also they are treated as attachments [to their father].[22] The Master said, 'If he went out in his need to ease himself he may re-enter and sit down in his place.' R. Papa said: This applies only[23] to the minor [functions of the body] but not to the major [functions], since he should have examined himself before; for Rab Judah said: A man should always make a habit of easing himself early in the morning and late in the evening in order that there be no need for him to go far.[24] Now,[25] however, that everybody[26] is weaker the same rule applies even to the larger functions. 'R. Eleazar son of R. Sadok said: At a festive gathering also they[27] are treated as attachments [to their father].' Raba said: Only during the lifetime of their father and in the presence of their father. R. Johanan said: That instruction[28] was issued[29] in the days of R. Simeon b. Gamaliel [II], when R. Simeon b. Gamaliel was the President, R. Meir the Hakam,[30] and R. Nathan the Ab-beth-din.[31] Whenever R. Simeon b. Gamaliel entered all the people stood up for him; when R. Meir and R. Nathan entered all the people stood up for them also. Said R. Simeon b. Gamaliel: Should there be no distinction between my [office] and theirs? And so he issued that ordinance.[32] R. Meir and R. Nathan were not present on that day. Coming on the following day and seeing that the people did not rise for them as usual, they inquired as to what had happened.[33] On being told that R. Simeon b. Gamaliel had issued that ordinance, R. Meir said to R. Nathan, 'I am the Hinkam and you are the Ab-heth-din, let us retaliate.[34] Now, how are we to proceed against him? — Let us request him to discourse[35] upon the tractate of 'Ukzin with which he is unfamiliar,[36] and as he will be unable to discourse upon it[37] we shall tell him: Who can express the mighty acts of the Lord; make all His praise to he heard;[38] for whom is it becoming to express the mighty acts of the Lord? For him who can make all his praise to he heard. We shall then depose him and I shall become Ab-beth-din and you the Nasi.' R. Jacob b. Korshai on hearing this conversation[39] said, 'The matter might, God forbid, lead to [the Nasi's] disgrace.' So he went and sat down behind R. Simeon b. Gamaliel's study, expounding [the tractate of 'Uksin], and repeating it again and again. He[40] said, 'What could this mean?[41] Did anything, God forbid, happen at the college!' He concentrated his attention and familiarized himself with it. On the following day when they said to him, 'Will the Master come and discourse on 'Uksin', he began and discoursed upon it.

After he had finished he said to them, ‘Had I not familiarized myself with it, you would have disgraced me!’ He gave the order and they were removed from the college. Thereupon they wrote down scholastic difficulties on slips of paper which they threw into the college.[42] That which he[43] solved was disposed of[44] and as to those which he did not solve they wrote down the answers and threw them in. Said R. Jose to them:[45] The Torah is without and we are within! Said R. Simeon b. Gamaliel to them:[45] We shall re-admit them[46] but impose upon them this penalty, that no traditional statement shall be reported in their names. [As a result] R. Meir was designated ‘others’, and R. Nathan ‘some say’. In their dreams they received a message to go and pacify[47] R. Simeon b. Gamaliel. R. Nathan went; R. Meir did not, for he said: Dreams are of no consequence.[48] When R. Nathan came,[49] R. Simeon b. Gamaliel remarked to him: The honorable position[50] of your father has indeed helped you to become Ab-beth-din; shall we therefore make you also Nasi? Rabbi taught his son R. Simeon: Others say that if it[51] had been an exchanged beast

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(1) Lit., ‘he who eats.’

(2) Lit., ‘he who is accustomed in.’

(3) Lit., ‘he who drinks.’

(4) Lit., ‘he who washes’.

(5) I.e., strengthen one's memory.

(6) So MS. M. Cur. edd. ‘bread of (i.e, baked on) coals . . . coals.’

(7) Lit., ‘rolled’.

(8) Lit., ‘he who is accustomed’.

(9) An aid for remembering the numbers given by the two Tannaim.

(10) Which, the thumb not being counted, has one finger on its right and two on its left.

(11) Lit., ‘he who passes.’

(12) Lit., ‘and a woman who passes.’

(13) The Prince, the President of the Sanhedrin.

(14) [Father of the Beth din, generally taken to denote as here the Vice-President. Buchler, Synedrion, pp. 172ff., however, shows that the title ‘Ab-beth-din’ was also of a more general character, designating the head of any important school.]

(15) Lit., ‘they make for him one row from here.’

(16) [Lit.. ‘the Sage.’ There is no certainty either in regard to the original function or rank of the Hakam. He here appears as third in rank to the Nasi; v. Buchler, op. cit. pp. 155, 161ff.]

(17) [I.e., they may enter the house of study though the rest are already seated (cf. n. 10); v. Sanh. (Sonc. ed.) p. 30, n. 8.]

(18) Though he thereby disturbs the people whom he has to pass.

(19) Lit., ‘scholars.’

(20) [A title denoting usually a general leader of the people, and sometimes also a member of the council of the city; v. Buchler, Sepphoris, pp. 14, 16.]

(21) Lit., ‘house’.

(22) Are given a place beside him. [According to Krauss, Sanhedrin-Makkot, p. 34, the meaning is that the young men were delegated to assist as supervisors against laxities and misdemeanours at marriage festivities.]

(23) Lit., ‘they did not say but.’

(24) To find a private spot. In those days privies within the town or the village were unknown.

(25) ‘Raba said’ is placed within parentheses in cur. edd. [It is rightly omitted in some texts, as Raba is unlikely to comment on a statement of R. Papa, his pupil.]

(26) Lit., ‘all the world.’

(27) The sons of scholars mentioned supra.

(28) Heb., Mishnah, (teaching), v. Glos.

(29) Lit., ‘taught.’

(30) חכם ‘sage’, ‘wise man’; an office in the college next in rank to that of Ab-beth-din. V supra p. 101, n. 8.

(31) V. supra p. 101, n. 6.

(32) Lit., ‘established that teaching.’ the procedure described supra. [This arrangement, made by H. Simeon, was not prompted by personal vanity. (Simeon's humility, well attested by his sayings. B. M. 84, 55a, is the best proof against such an imputation.) But it was introduced in order to increase the authority of the College over which the Nasi presided and to promote due respect for learning. V. Lauterbach, J.E. XI, p. 347.]

(33) Lit., ‘they said, what is this’.

(34) Lit., ‘let us do a thing as to us’.

(35) Lit., ‘reveal’, i.e., expound.

(36) Lit., ‘he has not’.

(37) Lit., ‘he did not learn’.

(38) Ps. CVI, 2.

(39) Lit., ‘heard them’.

(40) K. Simeon b. Gamaliel.

(41) Lit., ‘what is that in front’.

(42) Lit., ‘there’.

(43) V. p. 102, n. 9.

(44) Lit., ‘was solved’.

(45) The members of the college.

(46) The expelled scholars.

(47) Lit., ‘they showed them in their dreams, go pacify him’.

(48) Lit., ‘words of dreams neither bring up nor bring down’.

(49) Lit., ‘went’.

(50) Lit., ‘girdle’.

(51) A beast that in the course of tithing has been erroneously counted as the tenth.

Talmud - Mas. Horayoth 14a

it would not have been sacrificed.[1] The latter said to him: Who are those whose waters we drink but whose names we do not mention? Rabbi answered him: These are men who wished to uproot your dignity and the dignity of your father's house. His son said to him: As well their love, as their hatred and their envy is long ago perished![2] Rabbi said to him, The enemy has disappeared; the swords[3] are forever.[4] The other said to him: This applies only to the case where their actions were successful; in the case of these Rabbis, however, their actions were not successful. Subsequently he repeated his lesson [as follows]: It was said in the name of R. Meir that if it had been an exchanged beast it would not have been sacrificed. Raba said: Even Rabbi who was unassuming used the ex pression,[5] ‘it was said in the name of R. Meir’, and did not say ‘R. Meir said’. R. Johanan said: [On the following point] there is a difference of opinion between R. Simeon b. Gamaliel and the Rabbis. One view is[6] that a well-read scholar[7] is superior [to the keen dialectician] and the other view is[6] that the keen dialectician[8] is superior. R. Joseph was a well-read scholar; Rabbah was a keen dialectician. An enquiry was sent up to Palestine:[9] Who of these should take precedence? They sent them word in reply: ‘A well-read scholar is to take precedence’; for the Master said, ‘All are dependent on the owner of the wheat’.[10] R. Joseph, nevertheless, did not accept office. Rabbah was head[11] for twenty-two years and only after this period did R. Joseph take up the office.[12] Throughout the years of Rabbah's rectorship. Rab Joseph did not call to his house even a cupper.[13] Abaye. Raba, R. Zera and Rabbah b. Mattena once sat studying together and felt the need to appoint a head.[14] They agreed[15] that whosoever would make a statement which could not be refuted shall become head. The statements of all of them were refuted, but that of Abaye was not. When Raba[16] saw that Abaye held up his head, he called out to him: ‘Nahmani,[17] begin and say something’. The question was asked: Between R. Zera and Rabbah son of R. Mattena which is the superior? R. Zera was keen-witted but undecided[18] while Rabbah son of R. Mattena was slow but able to arrive at conclusions.[19] Now, what is the answer? — This must remain undecided.[20]

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(1) V. Bek. 60a.

(2) Eccl. IX, 6.

(3) חרבות , pl. of חרב ‘sword’. Others, ‘waste places’.
(4) Ps. IX, 7.
(5) Lit., ‘taught’.
(6) Lit., ‘one said’.
(7) A sinai. A scholar well versed in the Law communicated from Mount Sinai.
(8) Lit., ‘he who uproots mountains’.
(9) Lit., ‘thither.’
(10) The scholar who is well read and who is, consequently, able to give reliable decisions based on trustworthy tradition.
(11) Lit., ‘reigned’ [as head of the school of Pumbeditha].
(12) [Because he was told by astrologers that he would reign only two years (v. Ber. 64a). Rabbah was head 309.330, and R. Joseph who succeeded him died in 333, v. Graetz, Geschichte IV, pp. 322ff. Funk, Die Juden in Babylonien, I, p. 26, suggests that there may be a deeper reason for R. Joseph's reluctance. He felt that the keen dialectical method of the Pumbeditha School (cf. Sanh, 17b) needed for its direction a man with greater dialectical powers than he possessed.]
(13) R. Joseph, in his modesty, avoided all superior airs and called on the cupper instead of summoning him to his house.
(14) [To the school of Pumbeditha after the death of R. Joseph.]
(15) Lit., ‘said.’
(16) So Bomberg ed. Cur. edd.: ‘Rabbah.’ [D.S. a.l. n. 90, gives preference to the reading ‘Rabbah’ who, as Abaye's teacher, had to give him permission to expound. In this case, the ‘head’ they felt in need of would be, not for the school of Pumbeditha, but for the purpose of taking charge of that particular course: v. Tosaf. Asheri.]
(17) Abaye's nickname. Nahmani was the name of the father of Rabbah in whose house Abaye received his education as well as his upbringing.
(18) מקשה ‘raises difficulties.’
(19) מסיק ‘coming to conclusions.’
(20) Heb, teku, v. Glos.

Talmud - Mas. Zevachim 2a

C H A P T E R I

MISHNAH ALL SACRIFICES SLAUGHTERED NOT IN THEIR OWN NAME[1] ARE VALID,[2] SAVE THAT THEY DO NOT FREE THEIR OWNERS OF THEIR OBLIGATION,[3] WITH THE EXCEPTION OF THE PASSOVER-OFFERING AND THE SIN-OFFERING.[4] [THIS HOLDS GOOD OF] A PASSOVER-OFFERING IN ITS PROPER TIME;[5] AND A SIN-OFFERING AT ALL TIMES. R. ELIEZER SAID: ALSO THE GUILT-OFFERING [IS INVALID]. [AND THE LAW HOLDS GOOD OF] A PASSOVER-OFFERING IN ITS PROPER TIME, AND A SIN-OFFERING AND A GUILT-OFFERING AT ALL TIMES. R. ELIEZER ARGUED: THE SIN-OFFERING COMES ON ACCOUNT OF SIN, AND THE GUILT-OFFERING COMES ON ACCOUNT OF SIN: AS A SIN-OFFERING [SLAUGHTERED] NOT IN ITS OWN NAME IS INVALID, SO IS THE GUILT-OFFERING INVALID [SLAUGHTERED] NOT IN ITS OWN NAME. JOSE B. HONI SAID: [SACRIFICES] SLAUGHTERED IN THE NAME OF A PASSOVER-OFFERING OR A SIN-OFFERING ARE INVALID. SIMEON THE BROTHER OF ‘AZARIAH[6] SAID: IF ONE SLAUGHTERED THEM UNDER A HIGHER DESIGNATION THAN THEIR OWN THEY ARE VALID; UNDER A LOWER DESIGNATION THAN THEIR OWN, THEY ARE INVALID. HOW SO? IF ONE SLAUGHTERED MOST SACRED SACRIFICES UNDER THE DESIGNATION OF LESSER SACRIFICES,[7] THEY ARE INVALID; IF ONE SLAUGHTERED LESSER SACRIFICES UNDER THE DESIGNATION OF MOST SACRED SACRIFICES, THEY ARE VALID. IF ONE SLAUGHTERED A FIRSTLING OR TITHE IN THE NAME OF A PEACE-OFFERING,[8] IT IS VALID; IF ONE SLAUGHTERED A PEACE-OFFERING IN THE NAME OF A FIRSTLING OR TITHE, IT IS INVALID.

GEMARA. Why must [the Tanna] teach, SAVE THAT THEY DO NOT FREE [THEIR OWNERS OF THEIR OBLIGATION]; let him teach, ‘and they do not free their owners of their obligation?’[9] — He informs us this: they merely do not free their owners of their obligation. yet they retain their [original] sanctity, and no alteration therein is permitted, in accordance with Raba's dictum. For Raba said: If a burnt-offering was slaughtered under a different designation, its blood must not be sprinkled under a different designation .[10]

If you wish, I can say [this follows] from reason, and if you wish I can say, from Scripture. If you wish, I can say [this follows] from reason: because he made an alteration therein [once], is he to go on making alterations therein?[11] And if you wish, I can say [it follows] from Scripture: That which is gone out of thy lips thou shalt observe and do; according as thou hast vowed a freewill-offering unto the Lord thy God etc.:[12] is this a freewill-offering —

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(1) I.e. under a different designation. E.g., a burnt-offering slaughtered as a peace-offering.

(2) They count as a sacrifice, and all their rites, such as sprinkling the blood, burning the emurim (v. Glos). and eating the flesh, must be performed.

(3) If the owner vowed e.g.. a burnt-offering, this sacrifice does not free him of his obligation and he must bring another.

(4) These are altogether invalid; hence they must be burnt (not on the altar), and the usual rites may not be performed.

(5) Sc. from midday on the eve of Passover until nightfall.

(6) Sotah 21a.

(7) Sacrifices were divided into two categories: (i) Most sacred; these included the sin-offering, meal-offering, burnt-offering and guilt-offering; and (ii) Lesser sacrifices e.g.,the peace-offering. Passover-offering and the thanksoffering.

(8) The sanctity of the former is lower, v. infra 89a.

(9) Which is more in keeping with the terse style of the Mishnah.

(10) But as the blood of a burnt-offering.

(11) Obviously not-one wrong does not authorise another!

(12) Deut. XXIII,24.

Talmud - Mas. Zevachim 2b

surely it is a vow?[1] The meaning however is this: if you have acted in accordance with your vow,[2] let it be the fulfilment of your vow; but if not, let it count as a freewill-offering.[3] Now as a freewill-offering is it permitted to make a change in it?[4]

Rabina said to R. Papa: You were not with us in the evening within the Sabbath limit of Be Harmack,[5] when Raba pointed out a contradiction in two important laws, and then reconciled them. What are these important laws? — We learnt: ALL SACRIFICES SLAUGHTERED NOT IN THEIR OWN NAME etc. Thus it is only when they are slaughtered for another purpose; but if no purpose is defined, they even acquit their owners of their obligation, which proves that an undefined purpose is the same as its own purpose [defined]. But the following contradicts it: 'Every Get[6] which was written not in the name of the woman [for whom it is intended][7] is invalid;[8] and [in point of fact if it is written with] an undefined purpose it is also invalid?[9] And he answered it: Sacrifices, where no purpose is defined, stand [to be slaughtered] for their own purpose.[10] whereas a woman, if nothing is defined, does not stand to be divorced.

Now, how do we know that sacrifices slaughtered with undefined purpose are valid? Shall we say, because we learned: ALL SACRIFICES SLAUGHTERED NOT IN THEIR OWN NAME etc., while he [the Tanna] does not teach, 'which were not slaughtered under their own designation'. But surely in the case of the Get too, he also teaches: Every Get which was written not in the name of the woman, is invalid , and does not teach , 'which was not written in the name of the woman is invalid'! — Rather, it follows from what we learned: How is 'in its own name and not in its own name' meant? In the name of the Passover-offering and in the name of a peace-offering.[11] Thus it is [invalid] only because he stated[12] 'in the name of the Passover-offering and in the name of a peace-offering' but, [if he slaughtered it] in the name of the Passover-offering and [sprinkled its blood] with undefined purpose, it is fit; which proves that with purpose undefined it is as in its own name![13] — Perhaps it is different there, because one may argue: Whoever does anything, does it with the original [expressed] intention! — Rather, it follows from the second clause: [How is] 'not in its own name and in its own name' [meant]? In the name of a peace-offering [first] and [then] in the name of the Passover-offering. Thus it is [invalid] only because he stated,[12] 'In the name of a peace-offering and in the name of the Passover-offering'; but [if he slaughtered it] without a defined purpose [and sprinkled the blood] in the name of the Passover-offering,it is valid![13] — Perhaps it is different there, because we say: the end illumines the beginning.[14] Alternatively, [perhaps] because he teaches 'in its own name and not in its own name' [in the first clause], he also teaches 'not in its own name and in its own name' [in the second clause]![15] Rather, it follows from this: A sacrifice is slaughtered for the sake of six things: For the sake of the sacrifice, for the sake of the sacrificer, for the sake of the Divine Name, for the sake of fire-offerings, for the sake of a savour, for the sake of pleasing, and a sin-offering and a guilt-offering for the sake of sin.[16] R. Jose said: Even if one did not have any of these purposes in his heart,it is valid, because it is a regulation[17] of the Beth din.[18] Thus the Beth din made a regulation that one should not state its purpose, lest he come to state a different purpose. Now if you think that an undefined purpose [renders] it invalid, would the Beth din arise and make a regulation which would invalidate it?[19]

Now how do we know in the case of a Get that an undefined purpose [renders] it invalid? Shall we say from what we learned: If one was passing through the street and heard the voice of scribes dictating: 'So-and-so divorced So-and-so of such a place,'[20] whereupon he exclaimed , 'That is my name and my wife's name,' it [the Get so written] is invalid for divorcing therewith![21] — Yet perhaps that is [to be explained] as [did] R. Papa. For R. Papa said: We are discussing scribes engaged in practising, So that it was not written for the purpose of divorcement at all![22] — Rather [it follows] from this:

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(1) As thou hast vowed implies that we are treating of a vow; while a freewill-offering applies to a nedabah (a freewill-offering). When one vows, ‘Behold, I undertake to bring a sacrifice, ‘ it is technically called a vow; if one declares, ‘Behold, this animal be for a sacrifice,’ it is a freewill-offering. In the first case, if he subsequently dedicates an animal in pursuance of his vow, and it is lost before it is sacrificed, he must bring another. In the latter case, should the animal be lost or become unfit, his obligation is at an end.

(2) I.e., you have slaughtered it in the name of the sacrifice which you actually vowed.

(3) Additional to the vow originally made.

(4) Of course not. Hence, though it was slaughtered for a different purpose, its other rites must still be performed for the right purpose.

(5) To he able to visit us at the schoolhouse. — He was referring to the Sabbath. Be Harmack is in the vicinity of Pumbeditha; Obermeyer, Die Landschaft Babylonian p. 124.

(6) Deed of Divorce.

(7) Of course a name must be written in the Get; but even if this particular woman's name is written, yet without having her in mind, so that the fact of the name being identical is a pure coincidence, the Get is unfit.

(8) Git. 24a.

(9) Hence an undefined purpose is the same as a wrongful purpose.

(10) This may be assumed.

(11) I.e. he slaughtered the paschal sacrifice in the name of a Passover-offering as required but sprinkled the blood in the name of a peace-offering. V. infra 13a.

(12) Not necessarily, as mere wrongful intention is effective.

(13) Which proves that where the purpose is undefined the sacrifice is valid.

(14) Hence since the end (sprinkling) was in the name of the Passover-offering, we assume the beginning (the slaughtering) to have been likewise.

(15) For the sake of parallelism.Yet actually if he slaughters it without a defined purpose, it may be invalid.

(16) He who offers the sacrifice must have these in mind (or express them): (i) the particular sacrifice it is intended to be; (ii) the person for whom it is sacrificed; (iii) that it is sacrificed in honour of the Divine Name; (iv) with the intention of burning the emurim on the altar, not merely roasting it; (v) and (vi) with the intention that it shall provide a pleasing savour to God (v.e.g., Lev.III, 5 — nihoah, translated there ‘sweet’, is rendered ‘pleasing’).

(17) Lit., ‘stipulation’.

(18) That one should not define its purpose-the name of the sacrifice for which it is offered, infra 46b.

(19) Surely not. This then proves Raba's first point.

(20) They were teaching pupils to write a Get, and had selected the names at random.

(21) Git. 24a.

(22) But if a scribe writes a Get for the purpose of divorce, selecting names at random, perhaps it is valid.

Talmud - Mas. Zevachim 3a

Even more; If he wrote [a Get] to divorce his wife and then changed his mind; then a fellow-citizen met him and said to him ‘My name is the same as yours, and my wife's name is the same as your's, it [the Get] is invalid for divorcing therewith! — Yet perhaps it is different there, because it had been designated for that particular person's divorce![1] — Rather, from the following: Even more: If he had two wives of the same name, and he wrote [a Get] to divorce the elder therewith, he cannot divorce the younger with it.[2] — Perhaps it is different there, as it had been designated for that particular wife's divorce! — Rather, from the following: Even more: If he said to the writer, ‘Write it and I will then divorce whichever I desire,’ it is invalid for divorcing therewith![2] — Perhaps it is different there, because selection is not retrospective![3] — Rather, from this: He who writes formulas of Gittin[4] must leave blanks for the name of the husband, and the name of the wife, the names of the witnesses, and the date.[5] Rab Judah said in Samuel's name: He must also leave a blank for [the passage], ‘Behold, thou art permitted unto all men’.

He [Raba] pointed out a further contradiction. Did then Rab Judah say in Rab's name: if one slaughtered a sin-offering under the designation of a burnt-offering, it is invalid; [if one slaughtered it] under the designation of hullin,[6] it is valid? This proves that its own kind destroys it, while a different kind does not destroy it.[7] But the following contradicts it: ‘Every Get written not in the name of the woman [for whom, it is intended] is invalid’,[8] and [in point of fact] even [if written] in the name of a Gentile woman it is still invalid.[9] And he answered: In the case of a Get, disregard the Gentile woman altogether,[10] [and] it is then [written] without defined purpose, which is invalid.[11] But as for sacrifices, disregard the hullin,[12] [and] it is [a sacrifice slaughtered] without defined purpose, which is valid.[13]

He pointed out another contradiction. Did then Rab Judah say in Rab's name: If one slaughtered a sin-offering under the designation of a burnt-offering, it is invalid; [if he slaughtered it] under the designation of hullin,it is valid? This proves that its own kind destroys it, while a different kind does not destroy it. But it was taught : [And every earthen vessel into] whose inside [any of them falleth, whatsoever is in it shall be unclean, and it ye shall break][14] but not the inside of the inside, and even a non-earthen vessel[15] saves it.[16] And he answered it: They [the Rabbis] treated hullin in respect to consecrated animals as a partition in respect to an oven. Just as a partition in respect to an oven has no effect at all, so hullin in respect to consecrated animals has no effect at all. For we learned: If an oven is partitioned with boards or curtains, and a reptile is found in one compartment, the whole is unclean. If a defective receptacle,[17] which is stuffed with straw, is lowered into the air-space of an oven, and a reptile is in it, the oven becomes unclean; if a reptile is in the oven the foodstuffs in it [the receptacle] become unclean;[18] while R. Eliezer declares it clean. Said R. Eliezer: It follows a fortiori: If it protects in the case of a corpse, which is stringent,[19] shall it not protect it in the case of an earthen vessel[20] which is less stringent? Not so, they replied:

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(1) And for no other.

(2) Git. 24b.

(3) His subsequent intention has no retrospective validity in the sense that it is regarded as though he had intended it thus in the first place, and so it is still possible that he had first intended it for the other, and therefore it is invalid.

(4) Plural of Get. He writes them to have them ready whenever the occasion arises.

(5) Then he can fill them in as required. But he cannot fill them in in the first place, though writing them for the express purpose of divorce, and then find persons with the same name (Git. 26a). This proves that they must be written expressly for persons who are to use them.

(6) V. Glos — i.e., not as a sacrifice at all.

(7) A sin-offering and a burnt-offering are of the same kind — both are sacred, and by substituting the name of the latter for that of the former, he destroys its validity. But hullin, being non-sacred, is of a different kind, as it were, and does not harm it.

(8) Git. 24a.

(9) Now a Gentile woman belongs to a different category, in that the law of Get does not apply to her at all, and yet she destroys the validity of the Get.

(10) Regard the Get as though it had not been written for her.

(11) Since it must be written expressly for a particular woman.

(12) Viz., that it was slaughtered as hullin.

(13) V. supra 2b.

(14) Lev. XI, 33.

(15) Lit., ‘a vessel of rinsing.’ This is the technical designation of all non-earthen vessels, because they can be purified from ritual uncleanness in a ritual bath (mikweh).

(16) If a reptile (sherez) falls inside an earthen utensil containing eatables, even without touching them, they become unclean. On this the comment is made: only if it falls, inside, but not into the inside of the inside. Thus: if a utensil containing eatables is lying in an earthen oven (ancient ovens were open on top), with its mouth protruding above the top of the oven, and a reptile falls into the oven, the foodstuffs remain clean, as the inside of the utensil is regarded as the ‘inside of the inside,’ of an oven. This holds good not only when the inner utensil too is an earthen one, but even if it is non-earthen. The difference between the two is this: an earthen vessel is defiled only if the reptile falls inside, whereas a non-earthen vessel is defiled even if the reptile touches it on the outside. Now a non-earthen vessel is really of a different kind, since it differs in law, and yet it protects the foodstuffs in it from defilement, acting as interposition between the foodstuffs and the vessel in the oven. Thus a different kind too can ‘destroy’ the status of the food as being ‘inside’ the oven and gives it the status of being ‘inside the inside’.

(17) Lit. ‘a beehive (shaped receptacle)’.

(18) Thus the receptacle, not being of the same kind as the oven, does not destroy the status of the food as being in the air-space of the oven. If the receptacle were whole it would protect the eatables, as above. Since it is not whole, however, it lacks the status of a utensil, and this is so even if it is stuffed with straw as a repair.

(19) If this partition were in a room containing a corpse, it would suffice to protect the foodstuffs from defilement, though the contaminating powers of a corpse are far greater than those of a reptile in an oven.

(20) As in the case of the oven.

Talmud - Mas. Zevachim 3b

if it protects in the case of a corpse, which is stringent, that is because it is divided into tents;[1] shall it therefore protect in the case of earthen vessels which are less stringent but which are not divided into tents?[2] Now this is well according to the Rabbis.[3] But what can be said on R. Eliezer's view?[4] — R. Eliezer argues a fortiori.[5] If so, here too we can argue a fortiori: if sacred animals profane sacred animals, how much more does hullin![6] — Rather, Rab's reason is in accordance with R. Eleazar.[7] For R. Eleazar said: What is Rab's reason? And they shall not profane the holy things of the children of Israel, which they set apart unto the Lord:[8] holy things profane holy things, but hullin does not profane holy things.[9] This proves that a Scriptural text comes and nullifies the argument a fortiori; then here too, let the text ‘its inside’ come and nullify the argument a fortiori?[10] — This text, ‘its inside’, is required in respect of foodstuffs pasted round with clay and placed within the air-space of an oven. You might think, since they cannot be defiled by contact,[11] they cannot be defiled through its air-space either. Hence [the deduction] informs us that It is not so.[12] And the Rabbis? — [They argue,] No text is necessary in respect of these [foodstuffs].[13]

R. Joseph b. Ammi pointed out a contradiction between change [of intention] in respect of sanctity and change [of intention] in respect of owners,[14] and answered it. Did then Rab say: If one slaughters a sin-offering [for one offence] as a sin-offering [for another offence],[15] it is fit; as a burnt-offering, it is unfit? This then proves that another kind destroys it, whereas its own kind does not destroy it. Yet surely Rab said: If a sin-offering is slaughtered on behalf of one who is liable to a sin-offering,[16] it is unfit; on behalf of one who is liable to a burnt-offering, it is fit. This proves that a person of the same category as the offender destroys it, whereas one of a different category does not destroy it? And he answered: In the former case, the Divine Law states, And he shall kill it for a sin-offering,[17] and lo, a sin-offering has been slaughtered as a sin-offering. But in the latter case it is written, and the priest shall make atonement for him,[18] [which intimates,] ‘for him’, but not for his fellow, and ‘his fellow’ implies one like himself, who stands in need of atonement just as he does.[19]

R. Habibi shewed a contradiction between the law of change [of intention] in respect of owners and that of the inside of the inside, and then answered it. Did then Rab say: If a sin-offering is slaughtered on behalf of one who is liable to a sin-offering, it is unfit; on behalf of one who is liable to a burnt-offering, it is fit? This then proves that its own kind destroys it, whereas a different kind does not destroy it. Yet surely it was taught: ‘Its inside’, but not the inside of it inside, and even a non-earthen vessel protects it?[20] And he answered: ‘Its inside’ is written four times, ‘the inside [tok]’,’its inside [toko]; ‘the inside’ [tok], ‘its inside [toko]’;[21] one is required for its essential law;[22] another for a gezerah shawah;[23] a third [intimates] the inside of this, but not the inside of another;[24] and finally [to teach]: Its inside, but not the inside of its inside, and even a non-earthen vessel protects.[25]

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(1) A single partition across a room is sufficient to divide it into two rooms, and if a corpse is in one, eatables or utensils in the other are not contaminated. Hence it is right that even a defective receptacle should have the same effect.

(2) I.e., a partition placed in an earthen vessel (sc. an oven) does not divide it into separate compartments (here designated ‘tents’), as stated supra 3a: therefore a defective receptacle cannot do so either; so Tosaf. Rashi explains more simply: if it protects . . . into tents — i.e., it is quite usual to partition off a room into two, therefore a partition converts it into two separate tents. But it is not usual to partition an oven: hence the partition cannot affect its status. On this interpretation it appears that R. Eliezer holds that a partition does affect it, protecting the foodstuffs from contamination. In that case they differ not only in respect to a defective receptacle, but also in respect to the partitioning of an oven by a board or curtain.

(3) The view that the defective receptacle (or, a partition) does not protect agrees with Rab's statement that what is not of its own kind does not ‘destroy’ it.

(4) According to him a different kind too apparently ‘destroys’ it: is then Rab's ruling a matter of dispute between the Rabbis and R. Eliezer?

(5) Generally he agrees with Rab, but in this particular case he rules differently, because of his argument.

(6) When one kills a sin-offering as a burnt-offering, he is still killing it as something sacred, and yet you say it is unfit. How much more should it be unfit when he kills it as hullin, which is not sacred at all!

(7) Not because a different kind does not ‘destroy’ it, but because a Scriptural text teaches this law. Sh. M. emends: R. Elai.

(8) Lev. XXII, 15.

(9) Tosaf. suggests that ‘the holy things’ is superfluous, being understood from the context, and is therefore employed for this deduction.

(10) From this text, ‘its inside,’ it is deduced supra a, but not ‘the inside of the inside’, which is explained as meaning the inside of a second vessel within the first. Now from this it is deduced afortiori that a partition does not destroy the unity of an oven (v. supra a), for if it did, a text would surely not be necessary for teaching that another vessel within the first protects its contents.

(11) For a ‘creeping thing’ cannot touch them.

(12) The food is defiled. This is learnt from the deduction, its ‘inside’, but not ‘the inside of its ‘inside’, whence it follows that a partition does not protect; and it is in respect of a partition of this nature, viz., clay pasted round food, that this conclusion is drawn.

(13) For they are obviously ‘inside’ of the oven.

(14) I.e. between wrongful intention in respect of the sacrifice and that in respect of the owner thereof; e.g., he offered the sacrifice under the name of one who was not its owner.

(15) Its owner had incurred the liability on account of a particular offence, whereas in slaughtering it he (or the priest) intended it as a sin-offering for some other offence.

(16) But who is not the owner of this particular sacrifice.

(17) Lev. IV, 33.

(18) Ibid. 26, 31, 35.

(19) For otherwise he cannot be called ‘his fellow’ in this respect. Hence the exclusion of his fellow applies only to such a case.

(20) Cf. supra a p. 7. n. 1.

(21) V. Lev. XI, 33, where toko (lit, ‘its inside’) is repeated twice, though in each case tok (‘inside’) would suffice. Each tok (which could have been written) is interpreted; further, each addition, ‘toko’, is likewise interpreted, which gives four in all.

(22) Viz., that any food or drink within it is defiled through the reptile (sherez) entering its air-space.

(23) V. Glos. Teaching that the dead reptile defiles the utensil too, through entering its air-space, even without touching it; v. Hul. 24b.

(24) Only an earthen vessel thus becomes unclean through its air-space without actual contact, but not a non-earthen vessel.

(25) Hence this is a specially decreed law and stands by itself; therefore its principle cannot be applied to sacrifices.

Talmud - Mas. Zevachim 4a

Talmud - Mas. Zevachim 4a

How do we know that the slaughtering must be in its own name? Because Scripture says, And if his offering be a zebah slaughtering of peace-offerings:[1] [this teaches] that its slaughtering must be in the name of a peace-offering. But perhaps that is their name?[2] — Since it is written, He that offereth the blood of the peace-offerings[3] and [he] that dasheth the blood of the peace-offerings [against the altar],[4] and zebah' is not written,[5] whereas here 'zebah' is written, you may infer from it that the slaughtering must be in the name of a peace-offering.

We have thus learned [it of] slaughtering, how do we know [it of] the other [sacrificial] services?[6] And if you say, let us learn then, from slaughtering [by analogy], then it may be objected, as for slaughtering, the reason is because it disqualifies in the case of a Passover-sacrifice [if done] on behalf of those who cannot eat it.[7] — Rather Scripture says, He that offereth the blood of the peace-offerings[8] which teaches that the reception [of its blood] must be in the name of peace-offerings. Then let the Divine Law state it of the reception [of the blood], whence the slaughtering [too] could be derived? — [That is not done] because [the analogy] can be refuted. As for the reception [of the blood], the reason is because it is unfit [if done] by a lay-Israelite or a woman.[9] We have thus learned [it of] slaughtering and receiving; how do we know [it of] sprinkling? And if you answer, let us learn it from the former [by analogy, then it may be argued]: As for the former, the reason is because they require the north,[10] and are practised in the case of the inner sin-offerings! — Rather, Scripture says, 'He that dasheth the blood of the peace-offerings!' [which teaches] that the sprinkling [dashing] must be in the name of peace-offerings. Then let the Divine Law write it in respect to sprinkling, whence the others could be derived? [That is impossible] because [the analogy] can be refuted: as for sprinkling, that is because a lay-Israelite is liable to death on its account.[11]

We have thus found it of all [rites]; whence do we know [it] of carrying? And if you say, let us learn it from all the others, [then it may be argued]: As for all the others,that is because they are rites which cannot be dispensed with; will you say the same of carrying, which can be dispensed with?[12] — Rather, Scripture says, And the priest shall bring near[13] the whole . . . to the altar,[14] and a Master said: This refers to the carrying of the limbs to the [altar] ascent; while it was also taught, [And Aaron's sons . . .] shall present [the blood]:[15] this refers to the receiving of the blood. Now, Scripture expresses this by a term denoting carrying[16] in order to teach that carrying cannot be excluded from the scope of receiving,[17]

Now we have thus found [it] of change [of intention] in respect of sanctity;[18] whence do we know it of change [of intention] in respect of owner? — Said R. Phinehas the son of R. Ammi: Scripture says, And the flesh of the slaughtering of his peace-offerings for thanksgiving etc.,[19] [which teaches] that the slaughtering must be in the name of a thanksoffering; now since this is superfluous for change in respect of sanctity, for that is deduced from the other text, transfer its teaching to change in respect of owners.[20] But is that the purpose of this verse? Surely it is required for what was taught. [Viz.,] 'And the flesh of the zebah [slaughtering] of his peace-offerings for thanksgiving': Abba Hanin said on R. Eliezer's authority: This comes to teach that if a thanksoffering is slaughtered in the name of a peace-offering, it is valid; if a peace-offering is slaughtered in the name of a thanksoffering,it is invalid.[21] What is the difference between these two cases? — A thanksoffering is designated a peace-offering, but a peace-offering is not designated a thanksoffering![22] — We state [our deduction] from the word 'slaughtering'.[23] Yet it is still needed [thus]: How do we know [it of] a sin-offering and a guilt-offering?[24] From the word 'slaughtering'.[25] — If so,[26] let Scripture write, And the flesh of his peace-offerings for thanksgiving slaughtering [shall be eaten etc.][27] why state, the slaughtering [of his peace-offerings for thanksgiving]?[28] So that both laws may be inferred from it.

We have thus found [it of] slaughtering; whence do we know [it of] other services?[29] And if you say, Let us learn [them] from slaughtering, [then it may be objected]: as for slaughtering, the reason is because it disqualifies in the case of a Passover-offering, [when it is done] for the sake of those who cannot eat it! — ‘Slaughtering’ is stated in reference to change [of intention] in respect of sanctity, and ‘slaughtering’ is stated in reference to change [of intention] in respect of owner; as in the case of the slaughtering stated in reference to change in respect of sanctity, you do not differentiate between slaughtering and other services, so also in the case of the slaughtering which stated in reference to change of owners, you must not differentiate between slaughtering and other rites. This can be refuted: as for change in respect of sanctity, [that is] because its disqualification is intrinsic,[30] and it is [operative] in respect of the four services,[31] and it is [operative] after death,[32] and it is [operative] in the case of the community as In the case of an individual.[33]

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(1) Lev. III, 1. So literally. E.V. ‘sacrifice of peace-offerings’.

(2) Perhaps the Heb. zebah simply means ‘sacrifice’, as E.V the name of the offering being the sacrifice of peace-offerings, and thus it has no bearing on the question of slaughtering.

(3) Lev. VII, 33.

(4) Ibid. 14.

(5) It does not say, ‘He that offereth the blood of the ‘zebah’ of the peace-offerings.’

(6) Receiving the blood, carrying it to the part of the altar where it is to be sprinkled, and the actual sprinkling, count as separate services.

(7) E.g on behalf of aged and infirm, who cannot eat. But if the blood is sprinkled on their behalf, the offering is not unfit; and similarly in the case of any other of the services performed on their behalf.

(8) The Rabbis refer this to the receiving of the blood,

(9) It must be done by a priest. The slaughtering however may be done by a lay-Israelite too, and therefore, but for the text which teaches otherwise, I might think that it need not be done specifically in the name of that particular sacrifice.

(10) They must both be done at the north side of the altar.

(11) If he performs it. But the slaughtering may be done by a non priest; while the receiving and carrying, though forbidden to a non priest, do not involve death. By ‘death’ is meant death at the hands of heaven, not capital punishment.

(12) If the animal is killed at the very spot where the blood is to be sprinkled.

(13) We-hikrib; E.V. ‘offer’.

(14) Lev. 1,13.

(15) Ibid. 5.

(16) The same Heb. word, hikrib here explained to mean the receiving of the blood, is interpreted as carrying (the limbs) in the other verse.

(17) I.e., receiving includes carrying, and the law of one applies to the other.

(18) I.e., that a particular sacrifice must not be offered in the name of a different sacrifice.

(19) Ibid. VII, 15.

(20) This is a principle of Talmudic exegesis: where a verse is superfluous in respect of the subject upon which it directly bears, its teaching is to be transferred to another, analagous subject.

(21) ‘Valid’ and ‘invalid’ mean that the bringer has discharged or not discharged his obligations respectively.

(22) ‘Peace-offering’ is a wider term, which includes but is not included in the term ‘thanksoffering’. — Thus the verse is required for a different purpose.

(23) Whereas the other teaching is deduced from the phrase ‘his peace-offerings for thanksgiving’.

(24) That their flesh too may be eaten only on the day when they are sacrificed and the following night, as that text is interpreted is respect of thanksgiving.

(25) Which term includes other sacrifices.

(26) If that is the only teaching of that verse.

(27) Thus ‘zebah’ would be written immediately in connection with eating.

(28) Bringing ‘slaughtering’ into connection with the sacrifice rather than with the eating.

(29) Sc. that they must not be performed in the name of any but their true owner.

(30) I.e., on illegitimate intention is expressed in respect to the sacrifice itself.

(31) An Illegitimate intention in respect of any service disqualifies it (according to the terms of the Mishnah). But change in respect of owner is a disqualification only for sprinkling, which constitutes the principal rite of atonement, either at that rite itself, or by expressing an intention at the slaughtering or any other service that the sprinkling shall be for a different owner.

(32) If the owner dies, his son must bring it, and if he slaughters it for a different purpose it is invalid.

(33) A public sacrifice, just like a private sacrifice, is disqualified if offered for another purpose.

Talmud - Mas. Zevachim 4b

Now although two [of these refutations] are not exact,[1] two at all events are! (For how is change in respect of owner different, that it is not an intrinsic disqualification? [Surely] because it is a mere intention![2] Then change in respect of sanctity too is a mere intention! But what you must say is that since he intended it [for a wrongful purpose], he disqualified it; then here too,[3] since he intended it [for a different owner], he disqualified it.[4] Furthermore, according to R. Phinehas the son of R. Mari who maintained: Change in respect of owner does operate after death,[5] on two points at least you can refute it.) — Rather, said R. Ashi, Scripture says, And it shall be accepted for him to make atonement for him,[6] [implying,] but not for his fellow.[7] But does it come for this purpose? Surely it is required for what was taught: And it shall be accepted for him to make atonement for him: R. Simeon said: Where [the sacrifice] is [a liability] upon him, he is responsible for its loss; where it is not [a liability] upon, him, he is not responsible for its loss,[8] And R. Isaac b. Abdimi said: What is the reason? Since he declared, '[I take] upon myself to bring an offering],' it is as though he carried it on his shoulder![9] — R. Ashi makes his deduction from 'and it shall be accepted for him to make atonement,[10]

We have now learned [it of] slaughtering and sprinkling: how do we know [it of] the receiving [of the blood]? And if you say, let us learn it from slaughtering and sprinkling, [it can be objected]: as for slaughtering and sprinkling, the reason is because [each is] a service which involves culpability [if performed] without [the Temple court]![11] — Rather said R. Ashi: It is deduced from the nazirite's ram. For it is written, And he shall offer the ram for a slaughtering of peace-offerings,[12] [which teaches] that it must be offered specifically as a peace-offering. Now since this teaching is superfluous regarding change in respect of sanctity, as that is deduced from the other text, apply its teaching to change in respect of owner. R. Aha b. Abba said to Raba: Let us say, 'he shall offer' is a general proposition:[13] 'slaughtering' is a particularization: now [where we have] a general proposition followed by a particularization, [the rule is] the general proposition includes only what is contained in the particularization; hence slaughtering is so,[14] but every other service is not so? — If [Scripture] wrote, 'He shall offer a peace-offering as a slaughtering,' it would be as you say. Since however it writes, 'he shall offer for a slaughtering of peace offerings,' It is an incomplete general proposition,[15] and an incomplete general proposition is not treated as a case of a general proposition followed by a particularization. Rabina said: In truth we do treat it as such, but 'unto the Lord'[16] is another general proposition.[17] R. Aha of Difti said to Rabina: But the first generalization is dissimilar from the last generalization, for the first includes [sacrificial] acts but nothing more, whereas the last one implies everything that is 'unto the Lord', even the pouring out of the residue [of the blood] and the burning of the emurim?[18] Behold the Tanna of the School of R. Ishmael[19] [even] in the case of a general proposition and particularization of this nature applies the rule that in a general proposition followed by a particularization and followed again by a general proposition you must be guided by the particularization: just as that is explicitly a [sacrificial] service,[20] and we require rightful intention, so in the case of every [sacrificial] service we require rightful intention. If so, [you may argue:] just as the particularization is explicitly a service which involves culpability [if it is performed] without [its legitimate boundaries], so is every service [included] which involves culpability [if performed] without; hence slaughtering and sprinkling are indeed included, but not receiving and carrying? or [you may argue]: as the particularization is explicitly something that must be done at the north [side of the altar] and is operative in the case of the inner sin-offerings, so all [services] which must be done at the north and are operative in the case of the inner sin-offerings [are included]; hence slaughtering and receiving are indeed included, but not sprinkling? — You can argue in this way or in that way; they are equally balanced, and so both [arguments] are admissible.[21] (Another version: Each argument stands.) Alternatively, I can say, sprinkling follows from R. Ashi's deduction.[22]

We have thus found [it true of] the nazirite's ram; how do we know [it of] the other peace-offerings? And if you say, Let us learn them from the nazirite's ram, [it can be argued:] As for the nazirite's ram, the reason is because other sacrifices[23] accompany it.[24] — If so,[25] Scripture should write, [And he shall offer the ram for. . .'] his peace-offerings;[26] why state, [for] peace-offerings? — In order to include all peace-offerings.

We have thus found [it true of] peace-offerings; how do we know [it of] other sacrifices? And if you say, Let us learn them from peace-offerings, [it can be argued:] As for peace-offerings, the reason is because they require laying [of hands], libations, and the waving of the breast and shoulder![27] Rather, Scripture says, This is the law of the burnt-offering, of the meal-offering, and of the sin-offering, and of the guilt-offering, and of the consecration-offering, and of the sacrifice of peace-offerings;[28] thus Scripture assimilates them to peace-offerings. Just as we require peace-offerings [to be offered] for their own sake, [thus forbidding] both change in respect of sanctity and change in respect of owner, so do we require all [sacrifices to be offered] for their own sake, [thus forbidding] both change in respect of sanctity and change in respect of owner.

Let us say that if one slaughtered them in a different name they are invalid? — Scripture says, That which is gone out of thy lips thou shalt observe and do,' as thou has vowed a nedabah [freewill-offering] etc.:[29] is this a freewill-offering — surely it is a vow? The meaning however is this: if you acted in accordance with your vow, let it be [the fulfilment of your] vow; but if not, let it count as a freewill-offering.[30] Now [both texts viz. . .] 'that which is gone out of thy lips' and 'this is the law' etc. , are required.[31] For if the Divine Law wrote, 'that which is gone out of thy lips' [only], I would say,

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(1) As it proceeds to explain.

(2) Nothing wrong is actually done to the sacrifice.

(3) Viz., in respect of wrongful ownership.

(4) Thus both can be regarded as intrinsic or non-intrinsic disqualifications.

(5) As a disqualification. The bracketed passage explains the two points in which they are not really different.

(6) Lev. I, 4.

(7) This proves that the 'sprinkling' which effects the atonement must be performed in the name of its owner.

(8) If a man declares, 'I vow an animal for a sacrifice,' he thereby undertakes a liability. If he subsequently sets aside an animal and it dies or is lost before it is sacrificed, he must replace it. But if he declared, 'I vow this animal for a sacrifice,' he accepted no liability beyond that animal, and if it dies his obligations ceases. R. Simeon deduces it from the verse quoted, which he renders and interprets thus: And it shall be accepted for him. When is it accepted for him? When its effect is to make atonement in which case he does not bring another. Hence if it did not make atonement, he must bring another. And when must he bring another in order to make atonement (i.e. to be quit of his obligation)? When he declared it a liability upon him' (E.V. for him). Sh. M.

(9) As though he had it in his care all the time, and until it is actually sacrificed his vow is not fulfilled. Thus the verse is required for a different purpose.

(10) Which implies: it must be 'for him to make atonement 'but not for another to make atonement. Whereas R. Simeon's deduction is from 'upon him' as stated in end of n. 9, p. 14.

(11) But there is no culpability if the other two services (receiving and carrying of the blood) are done outside their legitimate boundaries.

(12) Num. VI, 17.

(13) 'He shall offer (lit. 'do')' is a term embracing all services, while 'slaughtering' is a particular one.

(14) I.e. , the deduction made regarding change in respect of owner applies to slaughtering.

(15) 'He shall offer' obviously requires the completion of 'peace-offerings' before we know to what it refers at all;

‘slaughtering’ however interposes, and therefore it is only an incomplete generalization.

(16) The continuation of this verse.

(17) For it implies any service performed ‘unto the Lord.’ Thus we have a general proposition followed by a particularization and followed again by a general proposition. The exegetical rule then is that the general proposition includes all things similar to the particularization, and thus the other services are included.

(18) Whereas only the four services under discussion are sacrificial acts.

(19) Who formulated thirteen rules of exegesis, including this one.

(20) Sc. slaughtering.

(21) Since one approach includes slaughtering and sprinkling, and the other includes slaughtering and receiving, you must admit both, since neither is stronger than the other. Carrying too is then included, for it is really ‘a part of the act of receiving.

(22) Supra, from the verse ‘and it shall be accepted for him etc.; hence the present deduction must be in respect of receiving.

(23) Lit., ‘blood’,

(24) And it is natural that one cannot be sacrificed in the name of one person and a second in the name of another, when all are for the same person. The other sacrifices are the sin-offering and the burnt-offering.

(25) If the deduction of the verse were intended to be confined to this particular sacrifice.

(26) V. marginal gloss.

(27) But no other sacrifices require all these, and consequently they may be offered under another designation either in respect of sanctity or of ownership.

(28) Lev. VII, 37.

(29) Deut. XXIII, 24.

(30) V. supra. Since it counts as a freewill-offering, it is obviously valid.

(31) One might argue that the text, ‘that which . . . . lips’ etc., itself proves that a sacrifice must in the first place at least be offered for its own sake. Hence the Talmud proceeds to shew that that is not so.

Talmud - Mas. Zevachim 5a

I do not know to what this refers,[1] therefore the Divine Law wrote ‘this is the law’ etc. While if the Divine Law wrote ‘this is the law’ [only], I would say that they become invalid;[2] therefore the Divine Law wrote, ‘that which is gone out of thy lips’ etc.

Resh Lakish lay face downward[3] in the Beth Hamidrash, and raised a difficulty: If they are valid, let them be accepted;[4] while if they are not accepted,[5] for what purpose do they come?[6] — Said R. Eleazar to him: We find that those [sacrifices] which come after the death [of their owners] are valid, yet they are not accepted.[7] For we learnt: If a woman brought her sin-offering [after childbirth] and then died, her heirs must bring her burnt-offering; [if she brought] her burnt-offering, her heirs do not bring her sin-offering.[8] I agree in the case of a burnt-offering,[9] he replied, since it comes after death;[10] but in the case of a guilt-offering which does not come after death,[11] whence do we know [that it is valid]?[12] — He replied, Lo, [support to] your contention is [available] close at hand: R. ELIEZER SAYS, ALSO THE GUILT-OFFERING [IS INVALID].[13] Thereupon he exclaimed: Is this he who is spoken of as a great man? I speak to you of an explicit Mishnah, and you answer me with R. Eliezer's view![14] Rather, said Resh Lakish: I will find a solution myself: ‘That which is gone out of thy lips etc:’ is this a freewill-offering — surely it is a vow,[15] etc. as above.[16]

R. Zera and R. Isaac b. Abba were sitting, and Abaye sat with them. They sat and debated: Resh Lakish had a difficulty about the guilt-offering, which does not come after death, and he adduced an exegesis on ‘that which goeth out of thy lips’. Yet say, That which may come as a vow or as a freewill-offering must be brought[17] but do not propitiate,[18] but a guilt-offering is not to be brought at all?[19] Said Abaye to them: Resh Lakish solved [the difficulty] from the following text: And he shall kill it for a sin-offering:[20] only it [when slaughtered] in its own name is valid and [when slaughtered] not it its own name is invalid;[21] but other sacrifices [slaughtered] not in their own name are valid.

You might think then that they are ‘accepted’. Therefore it states, ‘that which goeth out of thy lips’.[22] Then say, That which comes as a vow or a freewill-offering must be brought but is not ‘accepted’, whereas a guilt-offering is even ‘accepted’ too?[23] — Said Abaye: You cannot maintain that a guilt-offering is [in such circumstances] accepted, [as the reverse follows] from a burnt-offering, a fortiori: if a burnt-offering, whose purpose is not to make atonement, is not ‘accepted,[24] then how much more is a guilt-offering , whose purpose is to make atonement, not ‘accepted’. As for a burnt-offering [you might argue] ‘ the reason [that it is not ‘accepted’] is because it is altogether burnt! Then let peace-offerings prove it.[25] As for peace-offerings, [you might argue] [they are not ‘accepted’] because they require libations and the waving of the breast and shoulder, Then let a burnt-offering prove it.[26] And thus the argument revolves: the characteristic of the former is not that of the latter and the characteristic of the latter is not that of the former. The factor common to both is that they are holy [sacrifices] ‘ and if slaughtered not in their own names they are valid, yet not ‘accepted’, so also do I adduce the guilt-offering which is holy, hence if one slaughters it not in its name it is valid and not accepted. [No:] The factor common to both [it may be argued] is that they are [also] brought as public offerings![27] — Then let the thanksgiving-offering prove it,[28]

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(1) I would not know that Scripture refers at all to the offering of a sacrifice for a purpose other than its own.

(2) If not offered for their own sake.

(3) Lit.’ on his stomach.’ He was very stout, v. Git. 47a.

(4) I.e., let their owners be regarded as having fulfilled their obligations.

(5) If they do not acquit their owners.

(6) Why are they valid? At this stage he did not know that their validity is deduced from Scripture.

(7) I.e. , they do not propitiate.

(8) Because in the latter case, it is a sin-offering whose owner died (the passage treats of the case where she dedicated both animals before her death) before it was offered, and it is a traditional law that such is not sacrificed but left to die. — Yet the burnt-offering is offered, though no propitiation is required on behalf of a dead woman. The present case is similar.

(9) That even if it is killed for a different purpose, it must still be offered (i.e. , the remaining rites must be carried out).

(10) The same therefore applies to peace-offerings and other sacrifices which come after death.

(11) A guilt-offering is not brought after the death of the owner, but is left to pasture.

(12) Since the Tanna of the Mishnah mentions as exceptions only the paschal-offering and sin-offering.

(13) Sc. it is invalid presumably because it does not come after death.

(14) My difficulty concerns the law stated anonymously in the Mishnah, which presumably is authoritative, and it is not enough to answer me that according to R. Eliezer there is no difficulty.

(15) Resh Lakish had not known of this when he raised the difficulty, and arrived at this exegesis independently.

(16) Supra p. 2.

(17) I.e. if slaughtered not in its own name, the other sacrificial rites in, connection with it must be performed.

(18) I.e., the vow is not thereby fulfilled, since it was not brought in its proper name.

(19) The sacrifice in such circumstances being considered invalid.

(20) Lev. IV, 33.

(21) Altogether, and therefore we cannot proceed with the remaining rites.

(22) Teaching that it does not propitiate as the offering for which it was originally intended.

(23) So that another sacrifice is not required.

(24) If slaughtered not under its own name.

(25) Which are not altogether burnt, yet are not ‘accepted’.

(26) Which does not require these,

(27) The daily burnt-offering and the lambs of peace-offerings offered on Pentecost were public offerings. But no guilt-offering was ever a public offering.

(28) Which was likewise never a public offering, yet conformed to the same law as the others,

Talmud - Mas. Zevachim 5b

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As for the thanksgiving-offering [it is not ‘accepted’] because it requires loaves [as an accompaniment]![1] Then let the burnt-offering and peace-offerings prove it. And thus the argument revolves: the characteristic of the one is not that of the other, and that of the other is not that of the first. The factor common to all is that they are holy [sacrifices], and if one slaughters them not in their own name, they are valid and are not accepted; so also do I adduce the guilt-offering which is holy, and hence if one slaughters it not in its name it is valid and is not accepted. [No] the factor common to them all [it may be asked] is that they come as a vow or as a freewill-offering! — Rather said Raba: [Scripture saith,] ‘This is the law etc.,’ thus Scripture assimilated it [the guilt-offering] to peace-offerings. As the peace-offerings are holy [sacrifices], and if slaughtered not in their own name are valid and are not accepted, so do I adduce the guilt-offering too which is holy etc. What reason do you see to assimilate it to peace-offerings: assimilate it to the sin-offering?[2] — Surely the Divine Law expressed a limitation [in the word] ‘it’.[3]

[Mnemonic: Hagesh Basar][4] R. Huna and R. Nahman were sitting, and R. Shesheth sat with them. They sat and said: Now Resh Lakish had experienced a difficulty, what about the guilt-offering which does not come after death?[5] But R. Eleazar could have answered him that the guilt-offering too comes after death?[6] — Said R. Shesheth to them: In what way is a guilt-offering brought? As a remainder![7] Then the remainder of a sin-offering too is indeed offered.[8] [This, however, is no argument;] in the case of a sin-offering though the remainder thereof is offered, yet the Divine Law expressed a limitation in the word ‘it’ [hu]![9] — But in connection with the guilt-offering too hu [it] is written?[10] — That is written after the burning of the emurim, as it was taught: But in the case of a guilt-offering, ‘it is’ [hu] is stated only after the burning of the emurim, and in fact if the emurim are not burnt at all it [the offering] is valid.[11] Then what is the purpose of ‘it’? — For R. Huna's teaching in Rab's name. For R. Huna said in the name of Rab: If a guilt-offering was transferred to pasture and one then slaughtered it without a defined purpose, it is valid.[12] Thus, if it was transferred, it is so, but if it was not transferred, it is not so. What is the reason? Scripture says, ‘it is’, intimating, it must be in its essential form.[13]

R. Nahman and R. Shesheth sat, and R. Adda b. Mattenah sat with them. Now they sat and debated: Now as to what R. Eleazar said: ‘We find in the case of sacrifices that come after the death [of their owners] that they are valid, yet are not accepted’, let Resh Lakish say to him, Let these too come and be accepted?[14] — Said R. Adda b. Mattenah to them: As for [the offering of] a woman after confinement,if she gave birth, did her children give birth?[15] To this R. Assi demurred: Yet who is to say if she had been guilty of [the neglect of] many affirmative precepts she would not be atoned for?[16] And since she would be forgiven if she had been guilty of neglecting affirmative precepts, then her heirs too may thus be atoned for![17] — Are we then to say that they [the heirs] acquire it?[18] But surely R. Johanan said: If one leaves a meal-offering to his two sons and dies, it is offered, and the law of partnership does not apply to it.[19] If however you think that they acquire a title to it, surely the Divine Law saith, And when a soul [bringeth a meal-offering]![20] Will you then say that they do not acquire it? Surely R. Johanan said: If one leaves an animal [dedicated for a sacrifice] to his two sons, and dies,it is offered, but they cannot effect substitution with it.[21] Now it is well if you say that they acquire it; for that reason they cannot effect substitution with it, because they become partners,

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(1) V. Lev, VII, 12.

(2) Which is mentioned in the same verse.

(3) As supra a.

(4) The object of this mnemonic, which means ‘bring near flesh’ is not clear. D.S. emends into Hanesh Nashad, consisting of key letters of the names of the Amoraim in the two paragraphs that follow.

(5) Supra 5a.

(6) For when its owner dies, it is left to graze until it contracts a blemish, whereupon it is sold and the money spent on a sacrifice, viz., a burnt-offering.

(7) As explained in preceding note.

(8) E.g., if a man sets aside two animals for his sin-offering, in case one is lost the other should be available. When the first is subsequently offered, the second is treated as a guilt-offering whose owner died. Thus a sin-offering too may be brought after death, and yet if it is sacrificed for a different purpose it is invalid; then a guilt-offering too should be invalid, and this justifies Resh Lakish's difficulty.

(9) Lev. IV, 24 (referring to the sin-offering, brought ‘when a ruler sinneth’): And he shall . . . kill it . . . before The Lord; it is a sin-offering. This emphatic hu (‘it is’) implies that it must be brought as such, and if offered as a different sacrifice, it is invalid.

(10) Lev. VII, 5: And the priest shall make them smoke on the altar for an offering made by fire unto the Lord: it is (hu) a guilt-offering.

(11) I.e. , we cannot say that it teaches that if the emurim are burnt in the name of a different sacrifice this offering is invalid, since the sacrifice is fit even if the emurim are not burnt at all.

(12) If it was slaughtered (in the Temple court) before it became blemished ‘ it is valid as a burnt-offering, since that would eventually have been brought from its proceeds (v. note 2). The flesh is then burnt on the altar, while the hide belongs to the priest.

(13) Hence unless it was formally transferred to grazing on the instructions of the Beth din, it is not valid as a burnt-offering if it was slaughtered without a defined purpose.

(14) For the heirs.

(15) They do not need the sacrifice.

(16) Through the burnt-offering necessitated by childbirth. Burnt-offerings make atonement for the violation of positive precepts and negative precepts which are technically regarded as having been transformed into positive precepts. I.e where the violation of a negative precept necessitates the performance of a positive one: e.g., the violation of ‘Thou shalt not rob’ (Lev. XIX, 13) necessitates the performance of the positive precept, ‘he shall restore that which he took by robbery’ (ib. V, 23) — Thus this burnt-offering would serve another purpose too.

(17) If they were guilty of the same.

(18) And it becomes their own, so that it can make atonement for them.

(19) All sacrifices may be brought in partnership, except a meal-offering. Here this does not apply.

(20) Lev. II, 1. — So literally; E.V. and when any one. From this word ‘a soul’ the Talmud deduces that it can be brought by one person only. But if heirs acquire a title to their father's sacrifices, this meal-offering has now two owners.

(21) When a person dedicates an animal for a sacrifice, he must not propose another as a substitute; if he does, both are sacred (Lev. XXVII, 33). This is called effecting substitution. Here this does not apply, so that if they declare a substitute for it, it does not become sacred.

Talmud - Mas. Zevachim 6a

and partners cannot effect substitution. But if you say that they do not acquire it, let them indeed even effect substitution? — There it is different, because Scripture saith, ‘And if he change it at all,’ which is to include the heir;[1] and [the same verse teaches,] one can change, but not two.[2] To this R. Jacob of Nehar Pekod demurred: If so, when it is written, And if a man will redeem ought[3] in connection with tithe, which is also to include the heir, will you say there too, One can redeem, but not two? — Tithe is different, because as far as their father too is concerned it [redemption] can be done in partnership.[4] R. Assi said to R. Ashi: Now from this itself [you may argue]: It is well if you agree that they acquire it, for that reason one [heir] at least can effect substitution.[5] But if you say that they do not acquire it, how can he effect substitution? Surely R. Abbahu said in R. Johanan's name: He who sanctifies [the animal] must add the fifth, whilst only he for whom atonement is made can effect substitution;[6] and he who gives terumah of his own for another man's produce, the goodwill is his![7] — It does not effect a fixed [absolute] atonement, but it does make a floating atonement.[8]

The question was asked: Do they make atonement in respect of the purpose for which they came, or do they not make atonement?[9] Said R. Shisha the son of R. Idi: Reason asserts that it does not make atonement; for if you think that it does, what is the purpose of a second [sacrifice]? What then:

[do you maintain]; it does not make atonement? Why then is it offered?[10] — Said R. Ashi: This is the difficulty felt by R. Shisha the son of R. Idi: It is well if you say that it does not make atonement; [for though slaughtered] for a different purpose, yet it comes in virtue of [having been dedicated for] its true purpose,[11] while the second [sacrifice] comes to make atonement. But if you say that it has made atonement, what is the purpose of the second?

The question was asked: Does it [a burnt-offering] make atonement[12] for [the violation of] a positive precept [committed] after the separation [of the animal], or not? Do we say, it is analogous to a sin-offering: just as a sin-offering [makes atonement] only for [the sins committed] before separation, but not for [those committed] after separation, so here too [it makes atonement] only for [the sins committed] before separation, but not for [those committed] after separation. Or, perhaps, it is unlike a sin-offering, for a separate sin-offering is incurred for each sin, whereas here, since it makes atonement if he had been guilty of [violating] many positive precepts,[13] it may also make atonement for positive precepts [neglected] after separation? — Come and hear: And he shall lay [his hand upon the head of the burnt-offering]; and it shall be accepted [for him to make atonement for him];[14] does then the laying [of hands] make atonement? Surely atonement can be made only with the blood, as it says, For it is the blood that maketh atonement by reason of the life![15] What then is taught by the verse, And he shall lay. . . and it shall be accepted. . . to make atonement? — [To teach] that if he treated [the laying of hands] as the residue of the precept,[16] Scripture regards him as though he did not make atonement, and yet he did make atonement. Now what is meant by ‘he did not make atonement’ and ‘he did make atonement’? Surely, ‘he did make atonement’ [means] in respect of positive precepts [neglected] before the separation [of the animal], while ‘he did not make atonement’ in respect of the positive precept of laying [of hands], because it is a positive precept [neglected] after separation?[17] — Said Raba: You speak of the precept of laying [the hand]? There it is different, because as long as he has not yet slaughtered, he is subject to the injunction ‘Arise and lay [hands]’;[18] when then is it a [neglected] positive precept? After the slaughtering; and in respect of [a precept neglected] after the slaughtering no question arises.[19] R. Huna b. Judah said to Raba: Perhaps it means, ‘It did make atonement’ — for the person,

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(1) The emphatic ‘at all’ is expressed in Hebrew by the doubling of the verb, and this doubling is interpreted as an extension including the heir.

(2) Since it is couched in the singular.

(3) Lev. XXVII, 31.

(4) If the produce belonged to partners in the first place, they could tithe and redeem the tithe in partnership. Hence the same applies to a man's heirs.

(5) If he is the only heir.

(6) If A dedicates an animal for B's sacrifice, and it subsequently receives a blemish and must be redeemed, then if A, who sanctified it, redeems it himself, he must add a fifth to its value, but not if B redeems it (this is deduced from Lev. XXVII, 15). Again, only B effects substitution, but not A. Since then the heir does effect substitution, he is obviously regarded as in the place of B, hence its owner.

(7) I.e., he (so. the man who gives it) can give it to any priest he desires. If money is offered for the terumah to be given to a particular priest, that money belongs to him.

(8) I.e,, it does not make an absolute atonement for the heir as though he were its absolute owner; therefore in the case of a meal-offering, though there are two heirs, they still offer it. But the heir has, as it were, a light floating right of atonement in it (i.e., he has some slight rights of ownership in it), and therefore he can effect substitution.

(9) When a sacrifice is killed for a purpose other than its own, its owner has not fulfilled his obligation. Nevertheless the question arises where this was brought in order to make atonement for a certain sin, whether the owner can regard it as having made that atonement, or not. It makes no practical difference, save that the owner may feel himself forgiven even before he offers the second sacrifice.

(10) Why do we proceed with the sacrificial rites e.g. sprinkling, if it does not make atonement in any case?

(11) Originally it was dedicated for its rightful purpose. This hallows it, and so even when it is killed for a different purpose it retains its sanctity, and therefore the other sacrificial rites must be proceeded with,

(12) On the atoning effect of a burnt-offering V. supra p. 22, n. 3.
(13) One burnt-offering makes atonement for all.
(14) Lev. I, 4.
(15) Lev. XVII, 11.
(16) I.e., as something unimportant, and so neglected it altogether.
(17) Which solves the question propounded.
(18) Hence before he slaughtered he cannot be said to have violated it.
(19) It certainly does not make atonement for such (though further on R. Jeremiah asks even in respect of such too), and the question is only in respect of precepts neglected after the separation of the animal, but before it is slaughtered.

Talmud - Mas. Zevachim 6b

‘and it did not make atonement’ before Heaven?[1] Did we not learn: And the rest of the oil that is in the priest's hand he shall put upon the head of him that is to be cleansed; and the priest shall make atonement for him before the Lord;[2] if he put [it], he made atonement; while if he did not put [it], he did not make atonement — this is the view of R. Akiba. R. Johanan b. Nuri said: It is but the residue of a precept,[3] therefore whether he did put [it on his head] or he did not, he made atonement, yet we regard him as though he did not make atonement. What is meant by ‘as though he did not make atonement’? Shall we say, that he must bring another sacrifice? But you say, ‘Whether he did put or he did not put, he made atonement’! Hence it must mean, ‘It made atonement’ — for the person, ‘yet it did not make atonement’ — before Heaven. Then here too [it may mean that] ‘it did make atonement etc’! — [No:] there too It means that ‘he made atonement’ — in respect of putting it on the thumbs,[4] but ‘he did not make atonement’ — in respect of the putting it on the head.[5] Come and hear: R. Simeon said: For what purpose are the [sacrificial] lambs of Pentecost brought?[6] [Surely] the lambs of Pentecost are peace-offerings![7] Rather the question is: For what purpose are the two he-goats of Pentecost brought?[8] — [To make atonement] for the defilement of the Temple and its holy things.[9] Now once the blood of the first has been sprinkled, for what purpose is the second offered?[10] [To make atonement] for uncleanness which [may have] occurred in the interval between the two. From this it follows that Israel should have been perpetually[11] engaged in offering their sacrifices,[12] but that Scripture spared them.[13] Now in this case it is a positive command [violated] after the separation [of the animals],[14] yet it makes atonement! — [No:] If they were separated at the same time, that indeed would be so;[15] but the circumstances are that they were separated one after the other.[16] Are we then to arise and assert that the written law of Scripture [that two are brought] holds good only [when they are separated] one after the other?[17] — Said R. Papa: Do you speak of public sacrifices? Public sacrifices are different, because the Beth din tacitly stipulates concerning them,[18] in accordance with Rab Judah's diction in Samuel's name. For Rab Judah said in Samuel's name: The knife draws them to their legitimate purpose.[19] Said R. Joseph the son of R. Samuel to R. Papa: Does then R. Simeon accept the thesis that the Beth din makes a tacit stipulation? Surely R. Idi b. Abin said in the name of R. ‘Amram in the name of R. Isaac in the name of R. Johanan: Daily burnt-offerings which are not required for the community[20]

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(1) I.e.,it has technically made atonement, the laying of the hands not being absolutely indispensable, yet not satisfactorily, in the proper way. On this interpretation it has nothing to do with the question when these precepts were violated.
(2) Lev. XIV, 18.
(3) Since Scripture refers to this oil as ‘the rest’; hence it is not indispensable.
(4) V.Lev. XIV, 14.
(5) Therefore more oil must be brought for that purpose. But whereas R. Johanan b. Nuri holds that it is sufficient now for the oil to be put on his head, R. Akiba rules that it must also be put again on his thumbs.
(6) Lev. XXIII, 18; Num. XXVIII, 27.
(7) Whose purpose is to permit the use of the new wheat for meal-offerings and first-fruits.
(8) V. Lev. XXIII, 19 and Num. XXVIII, 30.

(9) I.e., for the sin of entering the Temple or eating the flesh of sacrifices whilst unclean.

(10) Seeing that atonement has already been made with the first. The essence of atonement was the sprinkling of the blood.

(11) Lit., 'at every time and every moment'.

(12) For this possibility is always before us; thus, immediately the blood of the second has been sprinkled, a third ought to be brought, and so on.

(13) For the strain and obligation would be too great.

(14) They were separated the previous day. The injunction against entering the Sanctuary lies in the passage: Command the children of Israel, that they put out of the camp . . . whosoever is unclean by the dead (Num. V, 2). Since this is expressed affirmatively, it ranks as a positive command.

(15) The second would not make atonement for anything not atoned for by the first, and so it would have no purpose.

(16) And the second makes atonement for the defilement which occurred in the interval on the eve of the Festival between the separations.

(17) That is hardly feasible!

(18) That no matter when they are actually separated, the last is to be regarded as though separated immediately prior to its being offered, and therefore it makes atonement up to that very moment.

(19) If an animal is slaughtered as a public sacrifice, yet for a purpose other than for which they had been originally intended the knife, as it were, automatically dedicates it to a legitimate purpose, and the sacrifice is valid. The reason is that Beth din is regarded as tacitly stipulating their purpose (v. Shebu. 12b), and so the same holds good here too.

(20) 'Not required' means here not fit as such. There was an annual levy of one shekel for the public sacrifices, which was to be paid not later than the first of Nisan. From that date the statutory public sacrifices had to be purchased from the new funds, and not from the old. If animals however were purchased with the old funds, they were offered as extra public sacrifices (if it happened at any time that there was a paucity of private sacrifices), but not as the statutory public sacrifices, such as the daily burnt-offering.

Talmud - Mas. Zevachim 7a

cannot be redeemed, according to R. Simeon's view, as long as they are unblemished, while on the view of the Sages they can be redeemed while unblemished.[1] Moreover,[2] surely R. Jeremiah asked R. Zera: If the blood of the Pentecostal he-goats was received in two basins,[3] and the blood of one was sprinkled, what is the purpose of the second?[4] [To which he replied:] On account of defilement that occurred between the sprinkling [of the blood] of the one and that of the other. Thus he is in doubt only in respect of [the violation of] a positive command after the slaughtering, but he does not ask in respect of [the violation of] a positive command after the separating [of the animal]![5] — [No:] Perhaps his question is hypothetical.[6]

It was taught: If one slaughtered a thanksoffering in the name of his fellow's thanksoffering,[7] — Rabbah ruled: It is valid;[8] while R. Hisda said: It is invalid. Rabbah ruled, 'It is valid', [because] a thanksoffering has been slaughtered as a thanksoffering. R. Hisda said, 'It is invalid', because it must be slaughtered in the name of his peace-offering.[9] Rabbah said: Whence do I know it? Because it was taught: And the flesh of his peace-offerings for thanksgiving shall be eaten on the day of his offering:[10] Abba Hanin said on R. Eliezer's authority: This comes to teach that if a thanksoffering is slaughtered in the name of a peace-offering, it is valid; if a peace-offering is slaughtered in the name of a thanksoffering, it is invalid. What is the difference between these two cases? A thanksoffering is designated a peace-offering, but a peace-offering is not designated a thanksoffering.[11] Thus a peace-offering [slaughtered] as a thanksoffering is invalid, whence it follows that a thanksoffering [slaughtered] as a [different] thanksoffering is valid. Surely that means, [even in the name] of his fellow's [thanksoffering].[12] No: only [when brought in the name of] his own.[13] But what if it is [in the name of] his fellow's: it is invalid? Then instead of teaching, 'if a peace-offering is slaughtered in the name of a thanksoffering, it is invalid', let him teach, 'if a thanksoffering [is slaughtered in the name of] a thanksoffering [of a different class, it is invalid], and how much more so a peace-offering in the name of a thanksoffering? — He wishes to teach of a peace-offering [slaughtered] in the name of his own thanksoffering.[14] You might argue, Since a thanksoffering is designated a peace-offering, a peace-offering too is designated a thanksoffering, and when he kills it [the former] in the name of the thanksoffering, it should be valid. Therefore he informs us [that it is not so].

Raba said: If one slaughters a sin-offering [for one offence] as a sin-offering [for another offence], it is valid; as a burnt-offering, it is invalid,[15] What is the reason? The Divine Law saith, And he shall kill it for a sin-offering,[16] and lo, a sin-offering has been slaughtered for a sin-offering; [while from the same verse we learn that if it is slaughtered] for a burnt-offering, it is invalid.[17]

Raba also said: If one slaughters a sin-offering on behalf of [another] person who is liable to a sin-offering, it is invalid; on behalf of one who is liable to a burnt-offering, it is valid. What is the reason? — [And the priest] shall make atonement for him,[18] but not for his fellow, and ‘his fellow’ implies one like himself, being in need of atonement as he is.[19]

Raba also said: If one slaughters a sin-offering on behalf of a person who is not liable in respect of anything at all,[20] it is invalid, because there is not a single Israelite who is not liable in respect of an affirmative precept; and Raba said: A sin-offering makes atonement for those who are liable in respect of an affirmative precept, a fortiori: seeing that it makes atonement for those who are liable to kareth, how much the more for those who are liable in respect of an affirmative precept![21] Shall we then say that it belongs to the same category?[22] But surely Raba said: If one slaughters a sinoffering on behalf of [another] person who is liable to a sin-offering, it is invalid; on behalf of a person who is liable to a burnt-offering, it is valid?[23]

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(1) For we assume a tacit stipulation of the Beth din that it be permitted to redeem them even while unblemished (normally this is forbidden) and thus, becoming hullin, they can be purchased with the new shekels and then be offered as daily burnt-offerings. R. Simeon however rejects this assumption, and therefore holds that they cannot be redeemed but must be offered as extra public sacrifices.

(2) Even assuming that the Biblical text itself might be explained as referring to the case where the two goats were separated one after the other.

(3) They were both killed at the same time.

(4) According to R. Simeon, since no defilement could occur in the interval, as they were killed simultaneously.

(5) Presumably R. Jeremiah was certain that according to R. Simeon it does make atonement in that case.

(6) He may be in doubt about the latter too, but his question is this: on the hypothesis that R. Simeon holds that it does make atonement in the latter case, how is it in the former one?

(7) A and B each brought one, and A's offering was killed for the purpose for which B's was brought.

(8) He has done his duty, and does not bring another.

(9) Cf. Lev. VII, 15: And the flesh of his peace-offerings for thanksgiving.

(10) Ibid.

(11) Supra 4a

(12) Belonging to a different class.

(13) Even if he killed it for a different reason. E.g.,he brought a thanksoffering for being freed from prison, but declared it to be on account of having made a sea-journey in safety. Here, though the reason is different, yet both belong to the same category, and therefore it is valid,

(14) Where he was to bring both,

(15) V. Supra 3b.

(16) Lev, IV, 33.

(17) V. infra 7b.

(18) Ibid 26,31,35.

(19) V. Supra 3b.

(20) Actually specifying thus.

(21) Hence it is the same as though he had slaughtered it on behalf of another person who is liable to a sin-offering.

(22) I.e., that sins of omission fall into the same category as offences entailing a sin-offering.

(23) Now a burnt-offering atones for sins of omission. But if these fall into the same category as offences entailing a sin-offering, then just as the latter is invalid when slaughtered on behalf of another who is liable to a sin-offering, so should it be invalid when slaughtered on behalf of another who is liable to a burnt- offering, for 'his fellow' is then like himself (V. supra).

Talmud - Mas. Zevachim 7b

— It [a sin-offering] does not make a fixed atonement but it does make a floating atonement.[1]

Raba also said: If a burnt-offering was killed for a different purpose, its blood must not be sprinkled for a different purpose. This follows either from Scripture or by reason. If you will, it is [deduced from] a text: That which is gone out of thy lips thou shalt observe, etc.[2] Alternatively, it is logical: because he has made an alteration therein, etc. as stated at the beginning of this chapter.[3]

Raba also said: If a burnt-offering is brought after [the] death [of its owner], and is slaughtered under a changed sanctity,[4] it is invalid;[5] but [if it is slaughtered] with a change in respect of ownership,[6] it is valid, for there is no ownership after death. But R. Phinehas the son of R. Ammi maintained: There is ownership after death.[7] R. Ashi asked R. Phinehas the son of R. Ammi: Do you particularly maintain that there is ownership after death, and so he [the heir] must bring another burnt-offering;[8] or perhaps, if he [the heir] has violated many affirmative precepts, it makes atonement for him?[9] I maintain it particularly, he answered him.

Raba said further: A burnt-offering is a votive gift.[10] For how is it possible?[11] If there is no repentance, then the sacrifice of the wicked is an abomination![12] While if there is repentance, surely it was taught: If one violated an affirmative precept and repented, he does not stir thence until he is forgiven.[13] Hence it follows that it is a votive gift.

(Mnemonic: For whom does a sin-offering atone? A burnt-offering after a votive gift.)[14] It was taught likewise. R. Simeon said: For what purpose does a sin-offering come? — [You ask,] 'for what purpose does a sin-offering come?' Surely in order to make atonement! — Rather, [the question is:] Why does it come before the burnt-offering?[15] [Because it is] like an intercessor who enters [to appease the King]: When the intercessor has appeased [him], the gift follows.[16]

WITH THE EXCEPTION OF THE PASSOVER-OFFERING AND THE SIN- OFFERING. How do we know it of the Passover-offering? — Because it is written, Observe the month of Abib, and prepare the Passover-offering;[17] [this intimates] that all its preparations must be in the name of the Passover-offering. We have thus found [that] change in respect of sanctity [disqualifies it]; how do we know [the same of] change in respect of owner? — Because it says, Then ye shall say: It is the slaughtering of the Lord's Passover,[18] [which teaches] that the 'slaughtering' must be done in the name of the Passover-offering. Now since this teaching is redundant in respect of change in respect of sanctity,[19] apply the teaching to change in respect of owner. We have thus found it as a regulation;[20] how do we know that it is indispensable?[21] — Scripture saith, And thou shalt sacrifice the Passover-offering unto the Lord thy God.[22] To this R. Safra demurred: Does this [passage], 'And thou shalt sacrifice etc.' come for this purpose: Surely it is required for R. Nahman's dictum? For R. Nahman said in Rabbah b. Abbuha's name: How do we know that the leftover of a Passover-offering is brought as a peace-offering?[23] Because it is said, 'And thou shalt sacrifice the Passover-offering unto the Lord thy God, of the flock and of the herd.' Now surely the Passover-offering comes only from lambs or from goats?[24] Hence we learn that the left-over of the Passover-offering is to be [utilised] for something which comes from the flock and from the herd; and what is it?A peace-offering. — Rather, said R. Safra: 'And thou shalt sacrifice the Passover-offering' [is required] for R. Nahman's dictum; 'Observe the month of Abib' [is required] for the regulation in respect of changed sanctity; ' Then ye shall say: [It is] the slaughtering of the Lord's Passover' [is required] for the regulation relating to change in respect of owner; ‘it is’[25] teaches that it is indispensable, both in the former and in the latter cases.[26]

Now we have thus found [it in the case of] slaughtering: how do we know [it of] the other services? — Since it was revealed [in the one], it was [also] revealed [in the others].[27] R. Ashi said: We do not argue, ‘Since it was revealed, it was revealed’. How then do we know it of [the other] services? — Because it is written, This is the law of the burnt-offering, of the meal-offering, [and of the sin-offering, and of the guilt-offering, and of the consecration-offering, and of the sacrifice of peace-offerings].[28] Now it was taught: In the day that He commanded the children of Israel to present their offerings[29] refers to the firstling, tithe, and Passover-offering. Thus Scripture assimilates it [the Passover-offering] to the peace-offering: as [in the case of the] peace-offering we require as a regulation [that there shall not be] either change in respect of sanctity or change in respect of owner, so in the case of all [these] do we require as a regulation [that there shall not be] either change in respect of sanctity or change in respect of owner. Again, it is like the peace-offering [in this respect]: As you do not differentiate in the peace-offering between slaughtering and the other services in respect of the regulation, so must you not differentiate in the case of the Passover-sacrifice between slaughtering and the other services in respect of indispensability.[30] Then in that case, what is the purpose of ‘it is’? — For what was taught: As for the Passover-offering, ‘it is’ is stated there to teach indispensability as far as slaughtering is concerned; whereas in the case of a guilt-offering ‘it is’ is stated only after the burning of the emurim, and in fact if the emurim are not burnt at all, it [the offering] is valid.[31]

How do we know it of the sin-offering?[32] — Because it is written, And he shall kill it for a sin-offering,[33] which intimates that it must be killed for the sake of a sin-offering. We have thus found [it of] slaughtering; how do we know [it of] receiving [the blood]? — Because it is written,

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(1) Cf. supra 6a. A sin-offering does not make atonement for the omission of positive precepts when it is directly dedicated for that purpose only, but only when it is dedicated for sins which entail a sin-offering, but whose owner has also been guilty of sins of omission. Since it does not atone for sins of omission standing by themselves, one who is in need of a burnt-offering (on account of sins of omission) is not ‘his fellow’ similar to ‘himself’, and therefore if a sin-offering is slaughtered on behalf of such, it is valid, provided that one had already vowed a burnt-offering, which covers all his sins of omission, so that a sin-offering is quite superfluous as far as he is concerned. But if he had not vowed a burnt-offering, a sin-offering has a certain relation to him in so far that if he was liable to a sin-offering too, this would make atonement for the sins of omission also. Hence he is sufficiently similar to his fellow to invalidate his fellow's sin-offering slaughtered on his behalf.

(2) Deut. XXIII, 24.

(3) Supra 2a.

(4) I.e as a different sacrifice, e.g a peace-offering.

(5) And another must be brought before the deceased is deemed to have fulfilled his vow.

(6) For a different person.

(7) V. Supra 4b.

(8) As in n. 6.

(9) For the heir is the owner,

(10) It does not actually atone for sins of omission, but after one has repented this comes as a gift of appeasement, as it were.

(11) For it to make atonement in actuality.

(12) Prov. XXI, 27.

(13) I.e., he is undoubtedly forgiven even without a sacrifice.

(14) A string of words so arranged as to facilitate the remembering of the subjects discussed hereunder.

(15) When one has to bring both, the sin-offering takes precedence; infra 89b.

(16) Thus the sin-offering is the intercessor and the burnt-offering follows as a gift.

(17) Deut. XVI, 1.

(18) Ex. XII, 27.
(19) As that has been derived from Deut. XVI, 1.
(20) I.e., these verses teach that the Passover-offering must be sacrificed specifically as such and for its registered owner.
(21) In the sense that it is otherwise disqualified.
(22) Deut. XVI, 2. This too has the same teaching as XVI, 1. Since however it is superfluous in that case, it must intimate that this regulation is indispensable.
(23) E.g.,if an animal dedicated for a Passover-sacrifice was lost, whereupon its owners registered for another animal, and then the first was found after the second was sacrificed. Or again, if a sum of money was dedicated to buy a paschal lamb, but it was not all expended; then too the surplus must be used for a peace-offering.
(24) But not from the herd, which means the larger cattle.
(25) Heb. ‘hu’, This is regarded as superfluous and hence interpreted as emphasizing the regulation to the extent of making it indispensable.
(26) A change either in respect of sanctity or owner invalidates the paschal sacrifice.
(27) I.e., they follow automatically.
(28) Lev, VII. 37.
(29) Ibid. 38.
(30) What is indispensable for slaughtering is also indispensable for the other services. — Here follows a short passage in the original which the commentaries delete.
(31) V. Supra 5b.
(32) That if not slaughtered for its own sake it is invalid.
(33) Lev. IV, 33.

Talmud - Mas. Zevachim 8a

And the priest shall take of the blood of the sin-offering,[1] which intimates that receiving must be for the sake of a sin-offering. We have thus found [it of] slaughtering and receiving: How do we know it of sprinkling? — Because Scripture saith, And the priest shall make atonement for him through his sin-offering,[2] [which teaches] that atonement must be [made] for the sake of the sin-offering.[3] We have thus found [the law relating to] change in respect of Sanctity; how do we know it of change in respect of owner?-Scripture saith: [And the priest shall make atonement]for him, implying for him, but not for his fellow. We have thus found it as a regulation: how do we know that it is indispensable? — As R. Huna the son of R. Joshua said [elsewhere; Scripture saith,] ‘his sin-offering’, [where] ‘sin-offering’ [alone would suffice]: so here too’ [Scripture saith,] his sin-offering [where] sin-offering [alone would suffice].[4] We have thus found the regulation relating to change in respect of sanctity, and [a prohibition of] change in respect of owner at the sprinkling, this being both a regulation and indispensable. How do we know that it is indispensable [in the case of all services][5] as far as change in respect of sanctity is concerned; and that [the prohibition of] change in respect of ownership at the other services is both a regulation and indispensable? — Said R. Jonah: It is inferred from a nazirite's sin-offering, for it is written, And the priest shall bring them before the Lord, and shall prepare his sin-offering, and his burnt-offering:[6] [this intimates] that all its preparations [sc. the services] must be for the sake of a sin-offering. We have thus found it regarding change in respect of sanctity; how do we know change In respect of owner?[7] — Said R. Huna son of R. Joshua: [Scripture saith,] ‘his sin-offering’, [where] ‘sin-offering’ [alone would suffice]. To this Rabina demurred: If so, how do you interpret [the superfluous] ‘his burnt-offering’ [where] ‘burnt-offering’ [alone would suffice]? (But according to Rabina, how does he interpret [the apparently superfluous] ‘his meal-offering’, ‘his drink-offering’, where ‘meal-offering’, ‘drink-offering’ [alone would suffice]?[8] — He requires those [for the following deduction]: Their meal-offering and their drink-offering [intimates] at night; their meal-offering and their drink-offering, even on the next day.)[9] But how do you interpret [the superfluous] his burnt-offering [where] burnt-offering [alone would suffice]? Furthermore, can they[10] be learnt from each other? The sin-offering of forbidden fat[11] cannot be learnt from a nazirite's sin-offering, since the latter is accompanied by another sacrifice.[12] [On the other hand] a nazirite's sin-offering cannot be learnt from the sin-offering of forbidden fat, since the latter is a case of kareth![13] — Rather, said Raba: We infer it from a leper's sin-offering, for it is written, And the priest shall prepare[14] the sin-offering,[15] which teaches that all its preparations [services] must be for the sake of a sin-offering. Thus we have found [the law relating to] change in respect of sanctity; how does he know it of change in respect of owner? — Scripture saith, And [he shall] make atonement for him that is to be cleansed:[15] [this intimates,] for this [man] who is to be cleansed, but not for his fellow who is to be cleansed.

Yet [the question] still [remains]: Can they be learnt from each other? The sin-offering of forbidden fat cannot be learnt from the leper's sin-offering, since the latter is accompanied by another sacrifice. [On the other hand] a leper's sin-offering cannot be learnt from the sin-offering of forbidden fat, since the latter is a case of kareth! — One cannot be learnt from one, but one can be learnt from two.[16] But in the case of which should it not be written? [Shall we say,] Let the Divine law not write it in the case of the sin-offering of forbidden fat, and let it be deduced from these others? [Then I can argue that] the reason in the case of these others is that another sacrifice accompanies them! [If we say,] Let the Divine law not write it in the case of the nazirite's sin-offering and let it be deduced from these others: [I can argue that] the reason in the case of these others is that no absolution [revocation] is possible![17] [If I say,] Let the Divine law not write it in the case of the leper's sin-offering, and let it be deduced from these others: [then I can argue that] the reason in the case of these others is that they do not come in poverty![18] — Rather, Scripture saith, This is the law of the burnt-offering, of the meal-offering, and of the sin-offering [and of the sacrifice of peace-offerings]:[19] thus the Writ assimilated it [the sin-offering] to the peace-offering. As in the case of peace-offerings both change in respect of sanctity and change in respect of name [are prohibited, for] we require [that the services be performed] for their own [sc. that of the peace-offerings’] sake, this being a regulation;[20] so in the case of the sin-offering both change in respect of sanctity and change in respect of name [are prohibited, for] we require [that the services be performed] for their own sake, this being a regulation. Therefore the regulation is deduced from a peace-offering, while these other verses[21] teach that it is indispensable. Again, we have found [this of] the sin-offering of forbidden fat, where ‘for a sin-offering’ is written;[22]

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(1) Ibid, 34.

(2) Ibid. 35. This is apparently the Talmudic rendering of the verse.

(3) Atonement consists in essence of the sprinkling. — Carrying the blood to the side of the Altar where it is sprinkled is included in receiving (Rashi).

(4) The emphasis implicit in ‘his’ intimates indispensability.

(5) Sh. M. deletes bracketed words.

(6) Num. VI, 16.

(7) A passage follows here in the original which the commentaries delete.

(8) ‘His meal-offering’ and ‘his drink-offering’ (or rather ‘their’) occur quite frequently; why does Rabina ask only about ‘his burnt-offering’ and not about these?

(9) V. infra 84a.

(10) Sc. different kinds of sin-offerings.

(11) This is the technical designation of all sin-offerings brought on account of actual sin, in contrast e.g., to a nazirite's sin-offering, which is not really brought through sin at all.

(12) Lit., ‘other blood’.

(13) A sin-offering is brought for the unwitting transgression of an injunction which, if deliberately violated, entails kareth (v. Glos).

(14) E.V. ‘offer’.

(15) Lev. XIV, 19.

(16) For Scripture need not have intimated the teaching in the case of all those. — This answer implies that one intimation at least is superfluous.

(17) A nazirite can be absolved of his vow altogether, and then his sacrificial obligations automatically expire. But in no circumstances can the other two be freed of their obligations.

(18) If a leper is too poor he can bring a bird instead of an animal for a sin-offering (V. Lev. XIV, 21-22). But this leniency is not permitted in the case of the other two.

(19) Lev. VII, 37.

(20) But not, however, indispensable to the extent that a peace-offering is invalid if offered as a different sacrifice,

(21) Quoted above, teaching that change of name and of sanctity are forbidden, which are now superfluous.

(22) In Lev. IV, 33. The passage deals with an offering brought for sins other than those which the Talmud proceeds to enumerate.

Talmud - Mas. Zevachim 8b

how do we know [it of] the sin-offerings of idolatry, hearing a voice, swearing clearly with the lips and the defilement of the Sanctuary and its sacred objects, where [‘for a sin-offering’] is not written?[1] — The sin-offering of idolatry is inferred from the sin-offering of forbidden fat, since it entails kareth, just as the latter does. While all the others are inferred [by analogy] through a common characteristic.[2] Our Rabbis taught: The Passover-offering, in its season,[3] [if slaughtered] in its own name, is valid; if not [slaughtered] in its own name, it is invalid. During the rest of the year, [if slaughtered] in its own name, it is invalid; if not [slaughtered] in its own name, it is valid.[4] (Mnemonic: Shalew Kab'AYZan, Memaher, Beza, BA.) Whence do we know it? — Said Samuel's father: Scripture saith, And if his offering for a sacrifice of peace-offerings unto the Lord be of the flock:[5] [this teaches that] whatever comes of the flock is to be for a sacrifice of peace-offerings.[6] Then say, [if sacrificed as] a peace-offering, it is [valid]; but [if sacrificed as] anything else, it is not valid?[7] Said R. Ela in R. Johanan's name: ‘For a sacrifice’ includes every sacrifice.[8] Then say, For whatever purpose it is slaughtered, let it be such?[9] — If it were written, ‘for peace-offering and a sacrifice’, [it would be] as you say; since however it is written, ‘for a sacrifice of peace-offerings’, [its implication is,] for whatever purpose it is slaughtered, let it be a peace-offering. Yet say, ‘for a sacrifice’ is a generalization, while ‘of peace-offerings’ is a particularization; how [in the case of] a generalization and a particularization, the generalization includes only what is contained in the particularization; [hence if it is sacrificed as] a peace-offering, it is [valid], but [if it is offered as] anything else, it is not [valid]?’Unto the Lord’ is again a generalization.[10] To this R. Jacob of Nehar Pekod demurred: But the last generalization is dissimilar from the first, [for] the first generalization includes sacrifices but nothing else, whereas the last generalization, ‘unto the Lord’, implies whatever is the Lord's, even [if he slaughtered it] for fowl — [offerings],[11] and even for meal-offerings? — This is in accordance with the Tanna of the School of R. Ishmael who applies the rule to a generalization and a particularization of this nature, [and maintains that even in such a case, where you have] a generalization, a particularization and a generalization [in this sequence,] you must be guided by the particularization: as the particularization is explicitly something that is not in its own name, and it is valid,[12] so whatever that is not in its own name is valid. Then [say:] as the particularization is explicitly something which can come as a vow or a freewill-offering,[13] so everything which can come as a vow or as a freewill-offering [is included]; [hence, if he slaughters the Passover-offering out of its season as] a burnt-offering or as a peace-offering it is [valid], [but if he slaughters it then as] a sin-offering or a guilt-offering, it is not [valid]! — Rather, ‘For a sacrifice’ is an extension.[14] Then say, for whatever it is slaughtered, let it be such![15] — Said Rabin:

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(1) The sin-offering of idolatry: And when ye shall err, and not observe all these commandments etc.; and if one person sin through error etc. (Num. XV, 22, 27). The Talmud relates this to idolatry in ignorance. The text: And if any one sin, in that he heareth the voice of adjuration etc. . ‘. .’ or if any one touch an unclean thing (and then, according to the Rabbinic interpretation, enters the Sanctuary or eats sacred food). . . or if any one swears clearly with his lips etc. (Lev. V, 1-4).

(2) They are inferred by analogy through the feature common to the sin-offering of forbidden fat, that of a nazirite, and that of a leper. The only feature they have in common is that they are sin-offerings, and both change in respect of sanctity and change in respect of owner disqualify them. Therefore the others here enumerated, which have the same feature, viz., that they are sin-offerings, are likewise disqualified by change of sanctity or change of owner.

(3) The time for killing it is from midday on the fourteenth of Nisan until nightfall.

(4) This refers to an animal dedicated for a Passover-offering which was lost when it was required and found later. It is then to be sacrificed as a peace-offering.

(5) Lev. III, 6.

(6) Since a Passover-offering comes of the flock it is included in this deduction. Further, that can only mean after its season, for it has already been deduced supra that if it is offered for anything but itself in its season it is invalid.

(7) Whereas it is simply stated, 'if not slaughtered in its own name, it is valid', which implies that it is valid if sacrificed as any offering.

(8) For these words (one word in the original) are superfluous, hence they are interpreted as an extension.

(9) E.g., if it is slaughtered as a burnt-offering, it is a burnt-offering. — Actually it is a peace-offering under all circumstances.

(10) In such cases the generalization includes everything that is similar to the particularization; hence, anything that comes of the flock.

(11) I.e., if he slaughtered it as the sin-offering of a bird.

(12) As explained above,

(13) Both are votive offerings. A vow is technically where one vows to bring a sacrifice, without specifying the animal at the time; a freewill-offering is a vow to bring a particular animal for an offering.

(14) Rashi: it is not interpreted under the rule of generalization etc., but as an extension, in which case even cases not similar to itself are included. The rule of generalization etc., is applied only where the natural sense of the passage yields a generalization and a particularization, without anything in the text being superfluous. Here, however, 'for a sacrifice of peace-offerings' is regarded as altogether superfluous, and therefore it is held to be an extension.

(15) As above,

Talmud - Mas. Zevachim 9a

We transfer sacrifices which are eaten to sacrifices which are eaten, but do not transfer sacrifices which are eaten to sacrifices which are not eaten.[1] Are then a sin-offering and a guilt-offering not eaten? — [Say] rather, we transfer sacrifices which are eaten by all to sacrifices which are eaten by all, but do not transfer sacrifices which are eaten by all to sacrifices which are not eaten by all.[2] R. Jose son of R. Abin said: We transfer sacrifices of lesser sanctity to sacrifices of lesser sanctity, but do not transfer sacrifices of lesser sanctity to sacrifices of higher sanctity.[3] To this R. Isaac son of R. Sabarin demurred: Then say that if one slaughtered it as tithe, let it be tithe;[4] and in respect of what law would that be? That it should not require a drink-offering; and that the penalty of flagellation should be incurred by one who violates the injunction, It shall not be redeemed?[5] — Scripture saith, The tenth shall be holy,[6] [which implies,] this one [the tenth] can be tithe, but no other can be tithe. [Again,] say that if one slaughtered it as a firstling, let it be as a firstling: in respect of which law? That it should not require a drink-offering; or that it should be given to the priests? — As for a firstling too, similarity of law with tithe is deduced from the fact that 'passing' is written in both cases.[7] Say that if one slaughtered it as a substitute,[8] let it be a substitute: in respect of which law? To be flagellated on its account;[9] or alternatively, that in respect thereof we should be guilty of, 'it shall not be redeemed'?[10] — Said Mar Zutra the son of R. Nahman: Scripture saith, Then both it and that for which it is changed shall be [holy], [which implies;] This is a substitute but no other is a substitute.[11] And say that if one slaughters is as a thanksoffering, let it be a thanksoffering: in respect of what law? That it may require [the addition of] loaves.[12] — Can there be a case where the Passover-offering itself does not require loaves, yet its remainder does require loaves! If so, then now too [you may argue:] Can there be a case where the Passover-offering itself does not require a drink-offering [to accompany it], yet its remainder requires a drink-offering? — This is our argument: Can there be a case where the remainder of the thanksoffering itself requires no loaves, yet the remainder of that which was converted into a thanksoffering[13] shall require loaves!

To this[14] R. Yemar the son of R. Hillel demurred: And whence [does it follow] that it is written in reference to the remainder of a Passover-offering: perhaps it is written of the remainder of a guilt-offering?[15] — Said Raba, Scripture saith: ‘And if his offering for a sacrifice of peace-offerings be of the flock’,[16] [which implies that it refers to] that for which the whole flock is equally fit.[17] To this R. Abin b. Hiyya-others say, R. Abin b. Kahana-demurred: Everywhere else you say that ‘of’ is a limitation, yet here ‘of’ is an extension?[18] — Said R. Mani: Here too ‘of’ is a limitation, [teaching] that it cannot be two years old nor a female.[19] R. Hana of Baghdad demurred: Can you say that this text is written in reference to the Passover-remainder; surely since it states, If [he bring] a lamb [for his offering] . . . And if [his offering be] a goat,[20] it follows that it does not refer to a Passover remainder?[21] — That is required for what was taught: ‘[If he bring] a lamb’: this is to include the Passover-offering, in respect of its fat tail.[22] When it is stated, ‘If [he bring] a lamb’, it is to include a Passover-offering more than a year old,[23] and a peace-offering which comes in virtue of a Passover-offering[24] in respect of all the regulations of peace-offerings, [viz.,] that they require laying on [of the hands],[25] drink-offerings, and the waving of the breast and shoulder. [Again,] when it states, ‘and if [his offering be] a goat’,[26] it breaks across the subject [and] teaches that a goat does not require [the burning of the] fat tail [on the altar].[27] But is that[28] deduced from this? Surely it is deduced from [the verse quoted by] Samuel's father? For Samuel's father said: And if his offering for a sacrifice of peace-offerings unto the Lord be of the flock[29] [teaches that] whatever comes of the flock must be for a sacrifice of peace-offerings.[30] — But still, this is deduced from [the verse quoted by] R. Nahman in the name of Rabbah b. Abbuhah. For R. Nahman said in Rabbah b. Abbuha's name: How do we know that a Passover remainder is brought as a peace-offering? Because it says, And thou shalt sacrifice the Passover-offering unto the Lord thy God, of the flock and of the herd.[31] Yet surely the Passover-offering comes only from lambs or from goats? From this [we learn] that the Passover-remainder must be [utilised] for something which comes from the flock and from the herd; and what is it? A peace-offering.[32]

In fact, however, three texts are written:

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(1) The animal dedicated for a Passover-offering was in the first place consecrated as a sacrifice which is eaten. Now that it cannot be offered for what it was originally intended, it is transferred to a peace-offering, which is eaten, and not to a burnt-offering, which cannot be eaten.

(2) The Passover-offering and peace-offering are eaten by all, whereas the sin-offering and the guilt-offering are eaten by male priests only.

(3) These are fully discussed in Ch. V.

(4) For that too is a sacrifice of lesser sanctity.

(5) Lev. XXVII, 33 . The Talmud (Bek. 32b) interprets this to mean that it may not be sold; hence if one does sell it, he is liable to flagellation, which is the penalty for the violation of a negative command.

(6) Ibid. 32.

(7) Tithe: Whatsoever passeth under the rod (ibid); Firstling: All that openeth the womb thou shalt cause to pass (E.V. Set apart-the same root is used in both texts) to the Lord (Ex. XIII, 12). The employment of the same word in both cases teaches that they are similar in law. Therefore since this Passover-offering cannot be transferred to tithe, it cannot be transferred to a firstling either.

(8) Lev. XXVII, 33: Neither shall he change it; and if he change it at all, then both it and that for which it is changed shall be holy; it shall not be redeemed. From this it is learnt that if one consecrates an animal to substitute another consecrated animal, both are holy, the second having the same sanctity as the first,

(9) For having violated the injunction, Neither shall he change it.

(10) Sh. M. deletes.

(11) I.e., only if one consecrates a non-sacred animal (hullin, v. Glos) as a substitute does the law apply, but not when one consecrates as a substitute an animal which had already been consecrated earlier, as is the case of this lost Passover-offering.

(12) V. Lev. VII, 12 seq.

(13) Lit., ‘the remainder of that which comes thereto (sc. the thanksoffering) from the world.’ — Thus here we are treating of the remainder of a Passover-offering which it is proposed shall rank as a thanksoffering if slaughtered as such.

(14) Sc. the interpretation of the verse Lev. III, 6 quoted supra 8b, q.v.

(15) Since a guilt-offering too was a ram without blemish from the flock, and might not come from the herd.

(16) Lev. III, 6.

(17) I.e., sheep and goats too, whereas the guilt-offering must be a ram.

(18) If you interpret of the flock as intimating that all animals included in the term ‘flock’ are meant,

(19) By relating the verse to a Passover-offering remainder you exclude a two years old animal and a female. (V. Ex. XII, 5).

(20) Lev. III, 7, 12.

(21) This verse must simply refer to an ordinary peace-offering; for if it referred to a Passover remainder, it is obviously a lamb or a goat (V. Ex. XII, 5), and it need not be stated.

(22) The fat tail of all other sacrifices is explicitly counted in the emurim (q.v. Glos) which are burnt on the altar (V. Lev. III, 9, VII, 3). The burning of the emurim is not mentioned at all in connection with the Passover, however, but deduced from elsewhere; consequently a verse is required to teach that the fat tail too is included.

(23) I.e., dedicated as a Passover-offering, and consequently unfit for its purpose (V. Ex. XII, 5).

(24) E.g., the substitute of a Passover-offering; or where the owner of a Passover-offering registered for a different animal, so that the first is a Passover remainder: both are sacrificed as peace-offerings.

(25) V. Lev. III, 2.

(26) Ibid, 12.

(27) ‘And if’ is regarded as a disjunctive, teaching that the provisions that apply to a lamb do not apply to a goat, unless expressly stated. The fat tail is mentioned in connection with the former (V. 9) but not the latter,

(28) Sc. that a Passover-offering more than a year old, which is therefore a Passover remainder, is sacrificed as a peace-offering.

(29) Lev. Ill, 6.

(30) Supra 8b, q.v.

(31) Deut. XVI, 2.

(32) Supra 7b. Hence if you object that the law under discussion is deducted in accordance with the teaching of Samuel's father, it can be counter-objected that it follows from the verse last quoted.

Talmud - Mas. Zevachim 9b

One refers to [an animal] whose time [for slaughtering] is overpassed and whose year has passed;[1] another [is required] for [an animal] whose time [for slaughtering] is overpassed but whose year is not passed; and the third is required for an animal neither whose time [for slaughtering] nor whose year is passed.[2] Now [all three texts] are necessary. For if the Divine Law wrote one text [only], I would say that it applies only [to an animal] whose year is passed and also its time [for slaughtering], since it is completely disqualified from a Passover-offering. But if its time [for slaughtering] is passed but not its year, I would say that it is not [valid, if slaughtered as a peace-offering], since it is eligible for the second Passover.[3] While if the Divine Law stated these two, [I would argue that they are valid if slaughtered as a peace-offering] because they have been disqualified from their own purpose.[4] But if neither its time [for slaughtering] nor its year has passed, so that it is eligible for the [first] Passover, I would say that it is not so. Hence [all three texts] are necessary. Rab said in Mabog's name: If one slaughtered a sin-offering as the sin-offering of Nahshon[5] it is valid, for Scripture saith, This is the law of the sin-offering,[6] [which teaches that] there is one law for all sin-offerings,[7] Raba sat and reported this discussion, whereupon R. Mesharshia raised an objection to Raba: R. Simeon said: All meal-offerings whose fistfuls were taken under a different designation[8] are valid and acquit their owners of their obligation, because meal-offerings are dissimilar from [blood] sacrifices. For when one takes a fistful of a griddle [meal-offering] in the name of a stewing-pan [meal-offering], its preparation proves that it is a griddle [meal-offering].[9] [If one takes a fistful of] a dry meal-offering[10] in the name of [a meal-offering] mingled [with oil],[11] its preparation proves that it is a dry [meal-offering]. But in the case of [animal] sacrifices it is not so, for there is the same slaughtering for all, the same receiving for all, [and] the same sprinkling for all.[12] Thus it is only because its preparation proves its nature; hence if its preparation did not prove its nature, this would not be so. Yet why? let us say [that] This is the law of the meal-offering[13] [intimates that] there is one law for all meal-offerings? — Rather if stated, it was thus stated: Rab said in Mabog's name: If one slaughtered a sin-offering in order that Nahshon might be forgiven through it, it is valid, [for] no atonement [is required] for the dead.[14] Then, let him speak of any dead person? — He informs us this: The reason [that it is valid] is that he [Nahshon] is dead. Hence [if one slaughtered it] for a living person similar to Nahshon, it is invalid. And who are meant? [Those who are liable to] a nazirite's sin-offering or a leper's sin-offering.[15] But these are [as] burnt-offerings?[16] — Rather if stated, it was thus stated: Rab said in Mabog's name: If one slaughters a sin-offering for a [wrong] person who is liable to a sin-offering such as Nahshon's, it is valid, [for] Nahshon's sin-offering was [as] a burnt-offering.

Others state that Rab said in Mabog's name: If one slaughters a sin-offering in the name of Nahshon's sin-offering, it is invalid, for Nahshon's sin-offering is [as] a burnt-offering. Now let him state a nazirite's sin-offering or a leper's sin-offering?[17] — He mentions the original sin-offering [of that nature].[18]

Raba[19] said: If one slaughters a sin-offering of forbidden fat in the name of a sin-offering of blood [or] in the name of a sin-offering for idolatry, it is valid. [If one slaughters it] in the name of a nazirite's sin-offering or a leper's sin-offering, it is invalid, [for] these are [in fact] burnt-offerings.[20] Raba asked: If one slaughters a sin-offering of forbidden fat in the name of a sin-offering on account of the defilement of the Sanctuary and its sacred flesh, what is the law? Do we say, [the latter entails] kareth,[21] just as the former;[22] or perhaps the latter is not fixed like itself?[23] R. Aha son of Raba recited all these cases as invalid. What is the reason? — And he shall kill it for a sin-offering[24] [intimates that it must be killed] for the sake of that sin-offering.[25] Said R. Ashi to R. Aha the son of Raba: How then do you recite Raba's question?[26] — We recite it in reference to change in respect of owner, he answered him, and we recite it thus: Raba said: If one slaughters a sin-offering of forbidden fat on behalf of a [wrong] person who is liable to a sin-offering for blood or a sin-offering for idolatry, it is invalid; [but if he slaughters it] on behalf of a person who is liable to a nazirite's sin-offering or a leper's sin-offering, it is valid. And as for the question, this is what Raba asked: If one slaughters a sin-offering of forbidden fat on behalf of a person who is liable to a sin-offering on account of the defilement of the sanctuary and its sacred flesh, what is the law? Do we say, [the latter entails] kareth like itself;[27] or perhaps the latter is not fixed like itself?[28] The question stands over. It was stated: If one slaughtered it for its own sake with the intention of sprinkling its blood for the sake of something else,[29] R. Johanan said: It is invalid; while Resh Lakish said: It is valid. R. Johanan said [that] it is invalid [because] an [effective] intention can be expressed at one service in respect to another service,[30] and we learn [by analogy] from the intention of piggul.[31] While Resh Lakish said [that] it is valid, [because] an [effective] intention cannot be expressed at one service in respect to another, and we do not learn from the intention of piggul. Now they are consistent with their views. For it was stated:

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(1) I.e., it was lost until it was too late for slaughtering as a Passover-offering, and is also more than a year old.

(2) I.e., if it is slaughtered before Passover as a peace-offering it is valid, though it was eligible for a Passover-offering.

(3) V. Num. IX, 9 seq.

(4) Which was to be slaughtered at the first Passover.

(5) Which Nahshon, the prince of the tribe of Judah, brought at the dedication of the altar; V. Num. VII, 12 seq.

(6) Lev. VI, 18.

(7) They all stand in the same category. Hence although Nahshon's sin-offering was not on account of sin at all, yet by slaughtering an ordinary sin-offering as such one is not deemed to have changed its purpose, and therefore it is valid.

(8) V. Lev. II, 2. The priest, in taking the fistful, declared that he took it for the sake of a different type of meal-offering.

(9) His declaration is manifestly untrue and of no account, since one can see what meal-offering it is. — For the various types of meal-offerings mentioned here V. Lev. II, 4 seq.

(10) Which is brought on account of sin, v. Lev. V, 11f.

(11) Which was not brought on account of sin, v. Lev. II, 1 seq.

(12) In these acts there is nothing to indicate the nature of the sacrifice. Consequently a false declaration is effective to invalidate them.

(13) Lev. VI, 7.

(14) A sin-offering slaughtered for a wrong person is invalid, provided that he is likewise liable to a sin-offering. This condition is obviously unfulfilled here: hence the sacrifice is valid.

(15) Which are not brought on account of sin at all, just as Nahshon's sin-offering was not on account of sin.

(16) Rashi: A nazirite's sin-offering is the same as a burnt-offering, since it is not brought on account of sin, and it is stated supra 7a that if one slaughters a sin-offering in the name of a different person who is liable to a burnt-offering, it is valid. Sh. M. cites a reverse interpretation: These are as burnt-offerings; hence his action is tantamount to slaughtering a sin-offering as a burnt-offering, which is obviously invalid. What then does Rab inform us?

(17) Since that is in fact what he means to imply by ‘Nahshon's sin-offering’.

(18) Nahshon was the first to bring a sin-offering which was not for sin. Hence his is mentioned as an example of all sin-offerings of that nature (Sh. M.).

(19) So amended in margin and Sh. M.; cur, edd. Rab.

(20) As above. But in the first clause the others too are on account of sin.

(21) V. Glos.

(22) Hence it is valid.

(23) For if the transgressor is too poor he can bring two birds instead of an animal, which is not permitted in the case of the former.

(24) Lev. IV, 33.

(25) Not in the name of any other.

(26) When is Raba in doubt?

(27) Hence it is invalid.

(28) Hence it is valid,

(29) Declaring this intention at the time of slaughtering.

(30) It is effective to render the animal unfit.

(31) V. Glos. There this is certainly the case; v. infra 27b.

Talmud - Mas. Zevachim 10a

If one slaughters an animal with the express intention of sprinkling its blood or burning its fat to an idol, — R. Johanan said: It is forbidden [for any use] ,[1] [for] an [effective] intention can be expressed at one service in respect to another service, and we learn ‘without’ from ‘within’.[2] Resh Lakish rules that it is permitted,[3] for an [effective] intention cannot be expressed at one service in respect of another service, and we do not learn ‘without’ from ‘within’. [Now these are both necessary.] For if we were informed [of their views] in the latter case, I might argue that Resh Lakish rules [thus only] in this instance, yet he agrees with R. Johanan [that] ‘within’ [is learnt] from ‘within’.[4] While if we were informed [of their views] in the former instance, I might argue that R. Johanan rules [thus only] there, yet he agrees with Resh Lakish in the present case.[5] Thus both are required. When R. Dimi came,[6] he said: R. Jeremiah raised an objection in support of R. Johanan, while R. Ela [did so] in support of Resh Lakish. R. Jeremiah in support of R. Johanan: If it is valid where one says, ‘Behold, I slaughter after its time [for slaughtering],’[7] yet it is invalid if one slaughters it with the intention of sprinkling the blood after time; then seeing that it is invalid if he declares, ‘Behold, I slaughter for the sake of something else,’ is it not logical that it is invalid if one slaughters it with the intention of sprinkling the blood for the sake of something else? To this Raba b. Ahilai demurred: As for [intending to sprinkle its blood] after time, the reason [that this invalidates it even at the slaughtering] is that it entails kareth![8] Rather said Raba b. Ahilai, This is his argument: If it is valid where one says, ‘Behold, I slaughter [this sacrifice] without its precincts,’[9] yet it is invalid when one slaughters it with the intention of sprinkling its blood without its precincts; then seeing that it is invalid when he declares, ‘Behold, I slaughter for the sake of something else,’is it not logical that it is invalid if one slaughters it with the intention of sprinkling the blood for the sake of something else? To this R. Ashi demurred: As for [its unfitness when one intends sprinkling the blood] without its precincts, the reason is because it operates [as a disqualification] in the case of all sacrifices. Will you say that the same applies in the case of an intention for the sake of a different sacrifice, which does not operate [thus] save in the case of a Passover-offering and a sin-offering? Rather said R. Ashi, This is how he argues: If it is valid where one says, ‘Behold, I slaughter [this sacrifice] in the name of so-and-so,’[10] yet it is invalid [if one declares his intention] to sprinkle its blood for the sake of so-and-so; then seeing that when he declares, ‘Behold, I slaughter [it] for the sake of something else,’ it is invalid,[11] is it not logical that it is invalid if he slaughters it with the intention of sprinkling the blood for the sake of something else?

R. Ela [raised an objection] in support of Resh Lakish: Let it not be stated in the case of sprinkling[12] and it could be inferred a miniori from slaughtering and receiving;[13] then for what purpose did the Divine Law state [it]? To teach that you cannot [effectively] express an intention in respect of one service at a [previous] service.[14] To this R. Papa demurred: Yet perhaps [its purpose is on the contrary to intimate] that you can express an intention in respect of one service at a [previous] service? — If so, let Scripture be silent about it, and infer it by R. Ashi's a minori argument. And the other?[15] — Refute [the argument] thus: as for those [slaughtering and receiving], the reason may be that they require the north[16] and are present at the inner sin-offerings. And the other?[17] — Now, at all events, we are discussing peace-offerings.[18]

It was stated: If one slaughters it in its own name with the intention of sprinkling its blood for the sake of something else, — R. Nahman says: It is invalid; Rabbah says: It is valid. But Rabbah retracted on account of R. Ashi's a minori argument.

R, ELIEZER SAID: THE GUILT-OFFERING TOO. It was taught: R. Eliezer said: A sin-offering comes on account of sin, and a guilt- offering comes on account of sin: just as a sin-offering [slaughtered] under a different designation is invalid, so is a guilt-offering invalid [if slaughtered] under a different designation. Said R. Joshua to him: That is not so. If you say [thus] of the sin-offering, [the reason is] because its blood is [sprinkled] above [the scarlet line].[19] Said R. Eliezer to him: Let the Passover-offering prove it: though its blood is [sprinkled] below, yet if one slaughters it for the sake of something else it is invalid. As for the Passover-offering, replied R. Joshua, the reason is that it has a fixed time. Said R. Eliezer to him: Then let the sin-offering prove it. R. Joshua replied:

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(1) Even it he did not eventually sprinkle it thus,

(2) Idolatrous sprinkling of the blood etc. is naturally done without the Temple, while the illegitimate action of piggul is done within the Temple.

(3) It he did not eventually sprinkle it idolatrously.

(4) Sc. if one slaughters a sacrifice with the intention of sprinkling its blood in the name of a different sacrifice, his illegitimate intention is in respect of something that is done within, and therefore we learn by analogy from piggul that his intention is effective.

(5) By reversing the argument.

(6) From Palestine to Babylon. R. Dimi and Rabin were two Palestinian amoraim who travelled between the Palestinian and the Babylonian academics to transmit the teachings of one to the other.

(7) Since whenever he slaughters it, that is the time,

(8) This illegitimate intention renders the flesh piggul immediately, so that if one eats it even within the permitted time he is liable to kareth. Since it is so strict, it is natural that an illegitimate intention in respect of one service expressed at an earlier service is effective.

(9) For his declaration cannot negative the fact that he is slaughtering it within its precincts.

(10) For change of name is a disqualification at the sprinkling, but not at the slaughtering.

(11) Viz.,in the case of a Passover-offering and a sin-offering.

(12) That an intention for a different sacrifice disqualifies it.

(13) It slaughtering for the sake of a different sacrifice disqualifies, though it is valid when done by a zar (lay-Israelite), how much the more sprinkling, which may not be performed by a zar. And if you answer that slaughtering may be more stringent because a Passover-offering slaughtered for others than those enrolled for it is invalid; then let receiving prove it, where this disqualification does not operate.

(14) I.e., the illegitimate intention in respect of sprinkling must be expressed at the sprinkling.

(15) R. Johanan: How does he rebut this argument?

(16) They are performed at the north side of the altar.

(17) Resh Lakish: how does he rebut this argument?

(18) Which are not slaughtered at the north nor on the inner altar. Hence the argument does not apply.

(19) The blood of some sacrifices was sprinkled on the upper half of the altar, and the blood of other sacrifices was sprinkled on the lower half; a scarlet line on the altar demarcated them. — The fact that the blood of the sin-offering was sprinkled above that line may be the reason for greater stringency.

Talmud - Mas. Zevachim 10b

I am moving in a circle.[1] R. Eliezer then drew another analogy. In the case of a sin-offering it says, It is [a sin-offering],[2] [which intimates that if it is slaughtered] for its own sake it is valid, and if it [is] not [slaughtered] for its own sake it is invalid;[3] [Again] in the case of a Passover-offering it says, It is [the sacrifice of the Lord's Passover],[4] [which likewise intimates,] for its own sake it is valid, and if not for its own sake, it is invalid; [then] in the case of a guilt-offering too it says, It is [a guilt-offering],[5] [hence this too intimates,] for its own sake it is valid, while if not for its own sake, it is invalid. Said R. Joshua to him: ‘It is’ is stated of the sin-offering in connection with the slaughtering, [and so] ‘it is’ [intimates], for its own sake it is valid, and if not for its own sake, it is invalid. [Again] ‘it is’ is stated of the Passover-offering in connection with the sacrificing,[6] [and here too] ‘it is’ [intimates,] for its own sake it is valid, while if it is not for its own sake, it is invalid. But as for the guilt-offering. ‘it is’ is stated of it only after the burning of the emurim [is prescribed], and yet if the emurim were not burnt at all it is valid.[7] Said R. Eliezer to him: Lo, it says. As is the sin-offering, so is the guilt-offering:[8] [hence] as the sin-offering is invalid if not [slaughtered] for its own sake, so is the guilt-offering invalid if not [slaughtered] for its own sake.

The Master said: ‘R. Joshua said to him: l am moving in a circle.’ Yet let the argument revolve and the inference be made from the feature common to both.[9] — [That argument is not employed] because it can be refuted: the feature common to both is that there is an aspect of kareth in them.[10]

The Master said:[11] ‘R. Joshua said to him: That is not so. If you say [thus] of the sin-offering, [the reason is] because its blood [is sprinkled] above [the scarlet line].’ Yet let him [rather] say to him: That is not so. If you say [thus] of the sin-offering, [the reason is] because its blood enters the innermost shrine?[12] — We are discussing the outer sin-offerings.[13] [Yet let him say: The reason is] because if its blood enters the innermost shrine it is invalid? — R. Eliezer holds that the guilt-offering too [is invalid in that case]. [Let him say to him: The reason is] because it makes atonement for those who are liable to kareth? — [R. Eliezer draws his analogy] from the sin-offering incurred through hearing a voice.[14] [Let him say to him: The reason is] because it [the blood] requires four applications? — [R. Eliezer holds] as R. Ishmael, who maintains: All blood[15] requires four applications. [Yet let him say: The reason is because the blood requires four applications] on the four horns [of the altar]?[16] — Now according to your reasoning, surely there are [the distinctions of] the finger, the horn, and the point?[17] Rather [the fact is that] he [R. Joshua] mentions [but] one of two or three reasons [distinctions].

The Master said: ‘Said R. Joshua to him: That is not so. If you say’ etc. Let R. Eliezer answer him: The blood of a guilt-offering too is [sprinkled] above [the scarlet line]?[18] — Said Abaye: You cannot say that the blood of a guilt-offering is [sprinkled] above, [as the reverse may be inferred] from a burnt-offering, a fortiori: if the blood of a burnt-offering, which is completely burnt, is [sprinkled] below, how much the more [is this true of] a guilt-offering, which is not completely burnt. As for a burnt-offering, the reason is because it does not make atonement! Let the bird sin-offering prove it.[19] As for a bird sin-offering, the reason is because it is not a species that is slaughtered![20] Then let a burnt-offering prove it. Thus the peculiarity of the one is not the peculiarity of the other, and that of the other is not the same as the peculiarity of the first: the feature common to both is that they are sacrifices of the higher sanctity,[21] and their blood is [sprinkled] below: so will I adduce a guilt-offering too, that [since] it is of the higher sanctity, its blood is [sprinkled] below. Raba of Parzakia[22] said to R. Ashi: But let him refute [it thus]: The feature common to both is that [their value] is unfixed; will you then say [the same of] a guilt-offering, which has a fixed [value]?[23] Rather this is R. Eliezer's reason,[24] viz., because Scripture saith, The priest that offereth it for a sin-offering:[25] [‘it’ requires] its blood [to be sprinkled] above, but the blood of no other [sacrifice] is [sprinkled] above. If so, let us say with respect to [the slaughtering of] the sin-offering too, [only] it is valid [when slaughtered] in its own name but invalid when not [slaughtered] in its own name, whereas other sacrifices are valid whether in their own name or not in their own name?[26] — That ‘it’ is not meant particularly, since it disregards the Passover-offering.[27] Then here too it is not meant particularly, since it disregards the bird burnt-offering?[28] — At all events nothing which is slaughtered is omitted.[29] Alternatively, this agrees with R. Eleazar son of R. Simeon, who maintained: [The blood of] the one is [sprinkled] in a separate place, and [that of] the other is [sprinkled] in a separate place.[30] For it was taught: The lower blood is applied below the scarlet line, while the upper [blood is applied] above the scarlet line,[31] Said R. Simeon b. Eleazar: This holds good only of the bird burnt-offering; but in the case of the animal sin-offering its [blood] is applied essentially on the very horn [of the altar].[32] We learnt elsewhere:[33] For R. Akiba maintained: All blood which entered the Hekal[34] to make atonement is unfit; but the Sages rule: The sin-offering alone [is unfit].[35] R. Eliezer said: The guilt-offering too [is thus], for it says, As is the sin-offering, so is the guilt-offering.[36] As for R. Eliezer, it is well, his reason being as stated. But what is the reason of the Rabbis? — Said Raba: [They argue that] you cannot say that if the blood of the guilt-offering enters within it is unfit, [for the reverse follows] from the burnt-offering, afortiori. If

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(1) This way of arguing leads nowhere.

(2) Lev. IV, 24.

(3) Ii is implies emphasis: it must be slaughtered as a sin-offering and nothing else.

(4) Ex. XII, 27.

(5) Lev. VII, 5.

(6) Likewise the slaughtering.

(7) Obviously then ‘it is’ cannot have the same implication here. V. supra 5b.

(8) Lev. VII, 7.

(9) Lit. from ‘what is the side’ (which they have in common)? V. Supra a bottom; the feature common to both the sin-offering and the Passover-offering is that they may be eaten one night only. The guilt-offering shares this feature, and therefore it also, like the other two, should be invalid if slaughtered for a different purpose.

(10) The sin-offering is brought on account of an unwitting offence which if wilful is punishable by kareth, The neglect to bring the Passover-offering by one who is not unclean or on a distant journey is likewise punishable by kareth (Num. IX, 13).

(11) Emended text (Sh. M.).

(12) In the case of the sin-offering of the Day of Atonement,

(13) Those which do not enter the innermost shrine — i.e., all save that of the Day of Atonement,

(14) V. Lev, V, 1ff. This does not involve kareth,

(15) The blood of all sacrifices,

(16) Whereas even R. Ishmael admits that the blood of the guilt-offering is not sprinkled on the four horns, but only on two.

(17) The blood of the sin-offering must be applied with the finger on the point (i.e.. the top) of the horn, whereas the blood of other sacrifices is not applied actually on the top. — The point is: If one is seeking distinctions, there are many other than that drawn by R. Joshua.

(18) For R. Eliezer likens the guilt-offering to the sin-offering.
(19) Its blood is sprinkled below, though it does make atonement.
(20) The bird-offering was not slaughtered, its neck being wrung (Lev. I, 15).
(21) V. Supra 2a p. 1, n. 7.
(22) Farausag, in the vicinity of Be Dura, one of the four districts in the middle of which Baghdad was built; v. Obermeyer, Landschaft, pp. 268-9.
(23) V. Lev. V, 15 seq.
(24) For holding that the blood of a guilt-offering is sprinkled below.
(25) Lev. VI, 19. The Heb. המחטא is understood to mean he who sprinkles its blood in accordance with its law as a sin-offering, viz., above the scarlet line.
(26) Since the unfitness of a sin-offering when not killed for its own sake is deduced from, And he shall kill it for a sin-offering (Lev. IV, 33). Then R. Eliezer should regard the ‘ it’ here too as a limitation and not apply the same law to the guilt-offering.
(27) To which the same law applies, as was shewn supra 7b.
(28) Whose blood too is sprinkled above; infra 65a.
(29) The limitation of ‘it’ applies to all slaughtered sacrifices,
(30) Though the blood of both the sin-offering and the bird burnt-offering is sprinkled above the scarlet line, yet each has a different place. Therefore the limitation of ‘it’ in respect to the sprinkling of the blood has no exception at all.
(31) At any point above it. — ‘Lower’ and ‘upper’ mean that which is applied below and that which is applied above respectively.
(32) And not merely anywhere above the line.
(33) Infra 81b.
(34) The hall containing the golden altar etc., contrad. to the Holy of Holies (Jast.).
(35) When Moses rebuked Aaron for not eating the flesh of the sin-offering on the day of his consecration, he said to him: Behold, the blood of it was not brought into the sanctuary within; ye should certainly have eaten it (Lev. X, 18; v. also ib. VI, 23). This proves that if it had been brought ‘within’ Aaron would have been right, for the sacrifice would have thereby become unfit. Now the passage actually refers to a sin-offering: R. Akiba holds that its implication extends to all other sacrifices too, while the Rabbis confine it to the sin-offering.
(36) Lev. VII, 7.

Talmud - Mas. Zevachim 11a

the burnt-offering is fit when its blood enters within, though it is entirely burnt, how much the more is the guilt-offering [fit], seeing that it is not entirely burnt. [But it may be asked:] As for the burnt-offering, [the reason is] because it does not make atonement? — Let a sinner's meal-offering prove it.[1] (Yet he should rather say: Let the sin-offering of a bird prove it?[2] The sin-offering of a bird is the subject of a question by R. Abin.)[3] As for a sinner's meal-offering ‘[4] [the reason is] because it is not of the species that is slaughtered?[5] Let the burnt-offering prove it. And thus the argument revolves, the peculiarity of the one not being that of the other, while the peculiarity of the latter is not that of the former: the feature common to both is that they are sacrifices of the higher sanctity, and when their blood enters within they are fit; so too will I adduce the guilt-offering which is a sacrifice of the higher sanctity, and if its blood enters within it is fit. Raba of Barnesh[6] said to R. Ashi: Yet let him refute [it thus]: The feature common to both is that they have no fixed [value]; will you say [the same of] the guilt-offering, which has a fixed [value]? Rather this is the Rabbis’ reason, viz., because Scripture saith, [And no sin-offering whereof any of] its blood [is brought into the tent of meeting . . . shall be eaten; it shall be burnt with fire]:[7] [this intimates] the blood of this [sacrifice], but not the blood of another [sacrifice]. And the other?[8] — ‘Its blood’ [implies,] but not its flesh.[9] And the other?[10] — [Scripture writes,] ‘its blood’ [where] ‘blood’ [would suffice].[11] And the other? — He does not interpret ‘blood’, ‘its blood’ [as having a particular significance].

It is well according to the Rabbis who maintain that if one slaughters a guilt-offering under a different designation it is valid: for that reason a meal-offering is likened to a sin-offering and to a guilt-offering. For it was taught, R. Simeon said: [It is written,] It is most holy, as the sin-offering, and as the guilt-offering:[12] a sinner's meal-offering is like a sin-offering, therefore if its fistful [of flour] is taken under a different designation,it is invalid;[13] a votive meal-offering is like a guilt-offering, therefore if he [the priest] takes its fistful under a different designation, it is valid. But according to R. Eliezer, in respect of which law is a meal-offering likened to a sin-offering and a guilt-offering? — In respect of the other [ruling] of R. Simeon. For it was taught: [If the fistful was carried to the altar] not in a service-vessel,[14] it is invalid; but R. Simeon declares it valid.[15] Now Rab Judah son of R. Hiyya said, What is R. Simeon's reason? — Scripture saith, ‘It is most holy, as the sin-offering, and as the guilt-offering’: [this teaches:] If he [the priest] comes to perform its service with his hand, he does so with his right hand, as in the case of the sin-offering; [if he comes] to perform the service with a vessel, he may do so with his left hand, as in the case of the guilt-offering.[16] Now R. Simeon utilises this verse for both purposes?[17] — The essential purpose of the text is to teach the dictum of Rab Judah the son of R. Hiyya, while that a sinner's meal-offering is invalid when [the priest does] not [take its fistful] for its own sake is [based] on a different reason. [Thus:] what is the reason of a sin-offering?[18] Because ‘it is’ is written in connection therewith; then In connection with a sinner's meal-offering too ‘it is’ is written. Now according to the Rabbis, in respect of which law is a guilt-offering likened to a sin-offering? — To teach you: as a sin-offering requires laying on [of hands], so does a guilt-offering require laying on [of hands].

JOSEPH b. HONI SAID: SACRIFICES SLAUGHTERED [IN THE NAME OF A PASSOVER-OFFERING OR A SIN-OFFERING ARE INVALID]. R. Johanan said: Joseph b. Honi and R. Eliezer said the same thing.[19] Rabbah said: They disagree in respect of others slaughtered in the name of a sin-offering. For it was taught: A paschal lamb which has passed its year,[20] and he [its owner] slaughtered it in its season,[21] for its own purpose;[22] and similarly, when a man slaughters other [sacrifices] as a Passover-offering in its season, — R. Eliezer disqualifies them;[23] while R, Joshua declares them valid. Said R. Joshua: If during the rest of the year, when it is not valid [if slaughtered] in its own name, yet others [slaughtered] in its name are valid;[24] then is it not logical that in its season, when it is valid [if slaughtered] in its own name, others [slaughtered] in its name are valid? Said R. Eliezer to him: Yet perhaps the argument is to be reversed? If it is valid [when slaughtered] during the rest of the year in the name of another sacrifice,[25] though it is not valid [if slaughtered then] in its own name; is it not logical that it should be valid [when slaughtered] in its season in the name of another sacrifice, seeing that it is valid [if slaughtered,then] in its own name; and thus a Passover-offering [slaughtered] on the fourteenth [of Nisan] under a different designation should be valid.[26] Now, would you say thus? [But in point of fact your a minori argument can be refuted thus:] As for others being valid during the rest of the year [when slaughtered] in its [sc. the Passover-offering's] name, that is because it is valid [when slaughtered then] in the name of other [sacrifices]; should then others [slaughtered] in its season[27] in its name be valid, seeing that it [the Passover-offering] is invalid [if slaughtered then] in the name of others?[28] Said R. Joshua to him: If so, you lessen the strength of the Passover-offering and increase the strength of the peace-offering?[29] Subsequently R. Eliezer proposed a different argument: We find that a Passover remainder[30] comes as a peace-offering, whereas a peace-offering remainder does not come as a Passover-offering. Now if the Passover-offering, whose remainder comes as a peace-offering, is [nevertheless] unfit if one slaughters it in its season as a peace-offering; is it not logical that the peace-offering is unfit if slaughtered in the name of a Passover-offering in its season, seeing that its remainder does not come as a Passover-offering?

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(1) This makes atonement, yet if it enters within it remains fit, for the disqualification is stated in reference to the entering of blood only.

(2) This would provide a better analogy, as it is a blood-sacrifice just as the other sacrifices under consideration.

(3) Whether it is unfit when its blood enters within (infra 92b). The objection and answer are parenthetical, and now the Talmud returns to its discussion.

(4) Emended text (Bah); omitting, ‘and let him refute’, of cur. edd.

(5) It is not a blood-sacrifice.
(6) A town in the vicinity of Matha Mehasia, a suburb of Sura (Obermeyer, op. cit. pp. 296-7).
(7) Lev. VI, 23.
(8) R. Eliezer: how does he explain ‘its blood’?
(9) It its flesh is taken ‘into the tent of meeting’, into the inner sanctuary, it is not disqualified.
(10) The Rabbis: how do they know this?
(11) Hence ‘its’ excludes that of other sacrifices, while ‘blood’ excludes the flesh of the same sacrifice.
(12) Lev, VI, 10. This refers to the meal-offering, and since it is likened to two other sacrifices, R. Simeon deduces that one kind of meal-offering is like a sin-offering, while another is like a guilt-offering, as explained in the text,
(13) The taking of the fistful of the meal-offering and its burning on the altar are the equivalent of the sprinkling of the blood of an animal sacrifice.
(14) A service-vessel is one that has been sanctified for use in the Temple in connection with the sacrificial service.
(15) If the priest carried it in his hand to the altar,
(16) This being R. Simeon's view, others hold that the service of all sacrifices must be done with the right hand (infra 24b).
(17) He had made two distinct deductions from the same verse,
(18) That it is invalid when not slaughtered for its own sake.
(19) R. Eliezer too holds that other sacrifices slaughtered as a Passover-offering in its time or as a sin-offering at any time are invalid. R. Johanan deduces this anon.
(20) It became a year old on the first of Nisan, and was then set aside for the Passover sacrifice. Since a year is the extreme limit for such (V. Ex. XII, 5: a male of the first year), it automatically stands to be a peace-offering, being unfit for its original purpose.
(21) I.e. , on the eve of Passover.
(22) Sc. as a Passover-offering. Thus he slaughtered a peace-offering as a Passover sacrifice.
(23) He infers this a minori: If an animal set aside for the Passover-offering is disqualified when slaughtered in its season (on the eve of Passover) as a peace-offering, though if left until after Passover it must be offered as such; then how much the more is a peace-offering disqualified if slaughtered on the eve of Passover as a Passover-offering, seeing that if left over and not brought as a peace-offering at the time appointed for same it cannot be brought as a Passover-offering on Passover eve.
(24) For all sacrifices except the Passover-offering and the sin-offering are valid when slaughtered for a different purpose (supra 2a).
(25) Sc. a peace-offering.
(26) Which however is obviously wrong. Hence by a reductio ad absurdum the deduction a minori is shewn to be inadmissible.
(27) On the eve of Passover,
(28) Surely not. From this R. Johanan deduces that just as R. Eliezer declares others unfit when slaughtered in the name of the Passover-offering, so are they unfit when slaughtered in the name of a sin-offering. For R. Eliezer's reason, as seen here, is because it (the Passover-offering) is unfit when slaughtered in the name of a different sacrifice, and this same holds good of the sin-offering too.
(29) For at the proper season for peace-offerings (i.e., during the rest of the year) the Passover-offering if slaughtered as a peace-offering is fit; whereas at the season of the Passover-offering (on Passover eve) a peace-offering slaughtered in the name of a Passover-offering is unfit! Yet in fact while Scripture insists that the Passover-offering must be killed in its own name (V. supra 7b), there is no such insistence with respect to the peace-offering. — ‘Weaken’ and ‘strengthen’ mean to weaken and strengthen the necessity for (or, the insistence on) slaughtering these sacrifices for nought but their own sake.
(30) If an animal was dedicated for a Passover-offering, lost and refound after Passover.

Talmud - Mas. Zevachim 11b

Said R. Joshua to him: We find that a sin-offering remainder comes as a burnt-offering,[1] but a burntoffering remainder does not come as a sin-offering. Now if the sin-offering is unfit when slaughtered as a burnt-offering, though its remainder comes as a burnt-offering; is it not logical that a burnt-offering slaughtered as a sin-offering is unfit, seeing that its remainder does not come as a sin-offering?[2] Not so, replied R. Eliezer to him. If you speak of a sin-offering, the reason [that a burnt-offering slaughtered in its name is fit] is because it [the sin-offering] is fit [when slaughtered] in its own name throughout the year. Will you say the same of a Passover-offering which is fit [when slaughtered] in its own name only in its season? Since then that itself is unfit [when slaughtered] in its own name [during the rest of the year], it is logical that others slaughtered in its name [during the rest of the year] are unfit.

SIMEON THE BROTHER OF AZARIAH SAID etc. R. Ashi recited the following in R. Johanan s name, and R. Aha son of Raba recited it in R. Jannai's name: What is the reason of Simeon the brother of Azariah? Because Scripture saith, And they shall not profane the holy things of the children of Israel, which they shall exalt unto the Lord:[3] [this teaches that] they are not profaned [rendered unfit] through what is superior [higher] than themselves, but they are profaned through what is inferior to themselves.[4] But does this text come for this purpose? Surely it is required for Samuel's dictum! For Samuel said: Whence do we know that he who eats tebel[5] is liable to death? From the verse, And they shall not profane the holy things of the children of Israel, which they shall exalt unto the Lord: the Writ refers to that which is yet to be exalted.[6] — If so,[7] Scripture should write, ‘which were exalted [offered]’: why state, ‘which they shall exalt’? Hence infer both from this.[8]

R. Zera asked: Are they valid yet do not propitiate, and so he disagrees in one only; or are they valid and propitiate, and he disagrees in both?[9] — Said Abaye — others maintain, R. Zerika,-Come and hear: IF ONE SLAUGHTERED A FIRSTLING OR TITHE IN THE NAME OF A PEACE-OFFERING, IT IS VALID; IF ONE SLAUGHTERED A PEACE-OFFERING AS A FIRSTLING OR TITHE, IT IS INVALID. Now if you think that [he means that] they are valid and propitiate, is propitiation applicable to a firstling?[10] Hence they are valid and do not propitiate, and since the second clause [means that] they are valid and do not propitiate, [in] the first clause too they are valid and do not propitiate. But what argument is this? The one is according to its nature, and the other is according to its nature.[11] Then what does he inform us?[12] [The principle governing] a higher and lower sanctity![13] Surely we learnt it: HOW SO? IF ONE SLAUGHTERED MOST SACRED SACRIFICES UNDER THE DESIGNATION OF LESSER SACRIFICES etc. — You might say, Only in the most sacred sacrifices and the lesser sacrifices is there higher and lower, but not where both are lesser sacrifices. [Hence we are informed that it is not so.] But we learnt this too: The peace-offering takes precedence over the firstling, because the former requires four [blood-] sprinklings, laying on [of hands], drink-offerings, and the waving of the breast and the shoulder?[14] — The present passage[15] is the main source, while in the other it is taught incidentally.[16]

MISHNAH. IF ONE SLAUGHTERS THE PASSOVER-OFFERING ON THE MORNING OF THE FOURTEENTH [OF NISAN] UNDER A DIFFERENT DESIGNATION, R. JOSHUA DECLARES IT VALID, JUST AS IF IT HAD BEEN SLAUGHTERED ON THE THIRTEENTH; BEN BATHYRA DECLARES IT INVALID, AS IF IT HAD BEEN SLAUGHTERED IN THE AFTERNOON.[17] SAID SIMEON B. AZZAI: I HAVE A TRADITION FROM THE MOUTH OF SEVENTY-TWO ELDER[S][18] ON THE DAY THAT R. ELEAZAR [SON OF AZARIAH][19] WAS APPOINTED TO THE ACADEMY,[20] THAT ALL SACRIFICES WHICH ARE EATEN,[21] THOUGH SLAUGHTERED UNDER A DIFFERENT DESIGNATION ARE VALID, SAVE THAT THEIR OWNERS HAVE NOT DISCHARGED THEIR OBLIGATION, EXCEPT THE PASSOVER-OFFERING AND THE SIN-OFFERING. THUS THE SON OF ‘AZZAI ADDED[22] ONLY THE BURNT-OFFERING, BUT THE SAGES DID NOT AGREE WITH HIM.

GEMARA. R. Eleazar said in R. Oshaia's name: Ben Bathyra declared fit a Passover-offering which one slaughtered in its own name on the morning of the fourteenth, because [he holds that] the whole day is its season.[23] Then what does AS IF [etc.] mean?[24] Because R. Joshua states AS IF,[25] he too says, AS IF. If so, instead of disputing where it is [slaughtered] under a different designation, let them dispute where it is [slaughtered] in its own name?[26] — If they differed where it is [slaughtered] in its own name, I would say that R. Joshua agrees with Ben Bathyra [that it is invalid] when [slaughtered] under a different designation, since part of it [the day] is fit [eligible]. Hence he informs us [that it is not so]. But surely it is written, At dusk?[27] — Said ‘Ulla the son of R. Ila'i: [That means,] Between two evenings.[28] Then [will you say] that the whole day is fit for the daily offering too, seeing that at dusk[29] is written in connection therewith? — There, since it is written, ‘The one lamb thou shalt offer in the morning’, it follows that ‘at dusk’ is meant literally. Yet say, One [must be offered] in the morning, while the other [may be offered] the whole day?- [Scripture prescribes] one for the morning and not two for the morning. Again, will you say that the whole day is fit for [the lighting of] the lamps, since ‘at dusk’ is written in connection therewith?[30] — There it is different, because it is written, [to burn] from evening to morning,[31] and it was taught: ‘From evening to morning’: Furnish it with its [requisite] measure, so that it may burn from evening to morning. Another interpretation: You have no other [service] valid from evening to morning save this alone.

Now [will you say] in the case of incense too, where ‘at dusk’ is written,[32] that the whole day is fit [for the burning thereof]?-incense is different,

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(1) Tem. 23b.

(2) Yet in fact it is not unfit, which shews that an ad majus argument from the law of a remainder is inadmissible. As R. Eliezer does not answer that in his view it is indeed unfit, Rabbah deduces that he admits that other sacrifices slaughtered as sin-offerings are fit.

(3) Lev. XXII, 15.

(4) Rendering: they shall not profane the holy things (sc. the sacrifices) when they exalt them, i.e, when they offer them as a sacrifice whose sanctity is higher than their own.

(5) V. Glos,

(6) I.e., offered. The verb ‘ירימו’ is imperfect (which they shall exalt) and hence refers to ‘holy things’, which includes terumah (q.v. Glos.), which are yet to be separated from the produce, so that it is all tebel. — For the liability to death (at the hands of Heaven) v. Sanh. 83a.

(7) That the text teaches the former dictum of Simeon the brother of Azariah only.

(8) The root word ‘exalt’ teaches the former, and the future tense teaches the latter.

(9) Does Simeon the brother of Azariah mean that when slaughtered in the name of a higher sacrifice they are fit, yet do not propitiate, i.e., they do not acquit their owner of their obligation; but if slaughtered in the name of a lower sacrifice they are completely unfit? In that case he agrees with the first Tanna as far as the former instance is concerned, and disagrees only in respect of the latter. Or does he mean in the former instance that they also propitiate? If so, he disagrees with the first Tanna in respect of the former too, the first Tanna holding that they do not propitiate.

(10) Surely not!

(11) Where there is no question of propitiation it means that they are valid but do not propitiate. But where propitiation does apply (sc. in the first clause) they may propitiate too.

(12) By the second clause,

(13) Is that the only purpose of this second clause dealing with the firstling etc.?

(14) V. Infra 89a. It takes precedence because its sanctity is higher.

(15) Sc. our Mishnah.

(16) As part of the order of precedence observed in all sacrifices. Yet the main source of the ruling that the peace-offering enjoys a higher sanctity than the firstling is our own Mishnah.

(17) V. Mishnah 2a.

(18) The Gemara discusses infra why the text uses the singular.

(19) Emended text.

(20) As its head. V. Ber. 27b.

(21) This excludes the burnt-offering.

(22) As being unfit.

(23) And not the afternoon only. For that very reason he declares it invalid when not slaughtered for its own sake.

(24) Seeing that if the whole day is the season, there is no point in saying AS IF IT HAD BEEN SLAUGHTERED IN THE AFTERNOON.

(25) On his view it is pertinent, since he holds that only the afternoon is its season.

(26) According to Ben Bathyra it is valid, while in R. Joshua's view it is invalid.

(27) Ex. XII, 6. How then can R. Oshaia maintain that the whole day is the proper time?

(28) This being the literal meaning of the Hebrew בין הערבים. I.e., between the evening of the fourteenth (which he counts as until dawn) and the evening of the fifteenth, hence the whole day of the fourteenth.

(29) Ibid. XXIX, 39.

(30) Ibid, XXX, 8.

(31) Ibid, XXVII, 21.

(32) Ibid. XXX, 8, — the same text as that quoted for the lamps.

Talmud - Mas. Zevachim 12a

because it is likened to lamps.[1] But there too it is written, There thou shalt sacrifice the Passover-offering at even [ba-'ereb]?[2] — That comes to teach deferment. For it was taught: Let that in connection with which ba-'ereb [at even] and ben ha-'arbayim [between the evenings][3] are said be deferred after that in connection with which ben ha-'arbayim alone is said.[4] Now can there be a case where if he slaughtered it in the morning you say that it is its proper time, yet when afternoon arrives you say that it should be deferred?[5] — Yes, for surely R. Johanan said: The halachah is that one must recite the minhah [afternoon] service and then recite the additional service.[6]

Now, what is the purpose of 'ben ha-'arbayim' [at dusk] written in connection with incense and lamps?[7] Furthermore, [it was taught:][8] Rabbi rebutted the words of R. Joshua on Ben Bathyra's view: That is not so,[9] If you speak of the thirteenth, where no part of it is fit, will you speak [thus] of the fourteenth ,where part of it is fit? Now if this is correct,[10] then the whole of it is fit![11] — Rather said R. Johanan: Ben Bathyra declared unfit a Passover-offering which one slaughtered in the morning of the fourteenth, whether in its own or in a different name, since part of it is fit [for the slaughtering].[12] R. Abbahu sneered at this view: If so, how is it possible on Ben Bathyra's ruling for a Passover-offering to be fit?[13] If one separates it now, it is rejected ab initio; while if one separated it yesterday, it was eligible and rejected![14] — Rather said R. Abbahu: It must be [that he separated it] after midday.[15] Abaye said: You may even say [that one separates it] in the morning, [because the disqualification of] prematureness does not apply to the same day.[16] R. Papa said: You may even say [that one separates it] the [previous] evening:[17] prematureness does not apply to the night. For R. Ishmael taught: On the night of the eighth day it enters the fold to be tithed.[18] And [this is] in accordance with R. Aftoriki. For R. Aftoriki pointed out a contradiction, It is written, Then it shall be seven days under its dam;[19] hence on the [following] night it is eligible. Yet it is written, But from the eighth day and thenceforth it may be accepted [for an offering],[19] whence it follows that it was not eligible the [previous] evening. How is this [to be reconciled]? The night for sanctification and the day for acceptance.[20]

R. Zera asked R. Abbahu: Must we say that R. Johanan holds that live animals can be [permanently] rejected?[21] — Even so, replied he. For R. Johanan said: [With regard to] an animal belonging to two partners; if one [of them] dedicates half, and then purchases [the other] half and dedicates it, it is holy, yet cannot be offered up;[22] and it establishes [the sanctity of] a substitute,[23] and the substitute is as itself.[24] This proves three things: that live animals may be rendered [permanently] rejected;[25] that which is rejected ab initio is rejected;[26] and

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(1) Since 'at dusk' refers to both, as stated in the preceding note.

(2) Deut. XVI, 6.

(3) E.V. at dusk,

(4) In connection with the Passover-offering both expressions are used (Ex. XII, 6; Deut. XVI, 6), while in connection with the daily-offering one only is stated (Num. XXVIII, 4). Hence the former is sacrificed after the latter.
(5) Until after the afternoon daily offering.
(6) On the Sabbath, festivals and New Moon there are three services, the morning service, the additional service and the afternoon service in that order (beside the evening service, which is recited the previous evening). The additional service must commence before the time of the afternoon service, which is from half an hour after noon until dusk. If one had not recited it by then, he must give precedence to the afternoon service. This is exactly analogous to our own case.
(7) Since its meaning must be elucidated through another text (supra 11b).
(8) In objection to R. Oshaia.
(9) Sc. that it is as though it was slaughtered on the thirteenth.
(10) That Ben Bathyra holds that the whole of the fourteenth is the proper time.
(11) And not only part!
(12) If slaughtered in its own name, it is invalid because the proper time is the afternoon. If not in its own name, it is invalid because part of that day is the proper time for it, and hence the law on 2a applies.
(13) Even if it is slaughtered at the proper time (in the afternoon of the fourteenth) and in its own name,
(14) If one separates the animal for a Passover-offering on the morning of the fourteenth, it is fit for nothing at all then, neither for a Passover-offering nor for a peace-offering. Thus from the very beginning it is ineligible (technically ‘rejected’), and R. Johanan holds infra that in such circumstances it can never be eligible again, even if conditions subsequently alter. Again, if one separated it the previous day, it was then eligible for a peace-offering, but on the following morning it was ‘rejected’ (became ineligible), and in the view of all Rabbis it then remains permanently rejected.
(15) When it is actually eligible. — The answer is obvious, and R. Abbahu's objection is probably only rhetorical, as a means of expressing the opinion that according to Ben Bathyra as interpreted by R. Johanan the animal cannot be separated for the Passover-offering until the afternoon,
(16) Where an animal becomes eligible for a particular purpose during the day, the earlier part of the same day is not regarded as premature, in the sense discussed here.
(17) Which is also the fourteenth of Nisan.
(18) An animal cannot he sacrificed before it is eight days old, and for the same reason when animals are to be tithed it does not enter the fold for the purpose. Yet if the tithing is taking place on the night of the eight day (it will be eight days old the next day) it does enter. This proves that prematureness does not apply to the night.
(19) Lev. XXII, 27.
(20) It can be sanctified on the night of the eighth but not ‘accepted’. i.e., sacrificed, until the following day.
(21) V. following notes. For otherwise you need not answer that one separates it after midday.
(22) Since it was not fit for offering originally, as the half belonging to the other partner was as yet secular. Hence it must now be sold, and an animal purchased with the money and sacrificed,
(23) The reference is to Lev. XXVII, 33: neither shall he change it (a consecrated animal): and if he change it, then both it and the change thereof shall be holy. Thus here, if one substitutes another animal for this one, the substitute too is holy.
(24) It may not be sacrificed, but must be sold.
(25) As here: the animal having been tendered ineligible when dedicated, since half remained secular, it remains so even when the other half too is dedicated. There is an opposing view that only a dead animal can become permanently ineligible, V. Yoma 64a.
(26) This animal was not eligible for dedication by a single partner from the very outset.

Talmud - Mas. Zevachim 12b

that rejection applies to monetary sanctity.[1]

‘Ulla said in R. Johanan's name: If one ate heleb[2] and set aside a sacrifice,[3] then apostatized, yet subsequently retracted, since it was [once] rejected,[4] it remains rejected. It was stated likewise: R. Jeremiah said in R. Abbahu's name in R. Johanan's name: If a man ate heleb, set aside an offering, became insane and then regained his sanity, since it [the offering] was [once] rejected, it remains so.[5]

Now both rulings are necessary. For had he informed us of the first only, [you might have said that] the reason is that he made himself ineligible [to offer a sacrifice] with his own hands; but in the latter case where he was involuntarily disqualified, he is [merely] as one who fell asleep.[6] Again, had he informed us the latter case only, you might argue that the reason is because his recovery is not dependent on himself; but in the former case [apostasy] it is not so, since it lies with him to retract — Thus both are required.

R. Jeremiah asked: If one ate heleb, set aside a sacrifice, then the Beth din[7] ruled that heleb is permitted, yet subsequently they retracted, what is the law? Does this constitute [permanent] rejection[8] or does it not constitute [permanent] rejection? Said a certain old man to him: When R. Johanan commenced [his rulings] on rejected [sacrifices], he commenced with this very case.[9] What is the reason? There[10] the person was disqualified, but the sacrifice was not rejected[11] ; whereas here the sacrifice too became rejected.[12] SAID SIMEON THE SON OF' AZZAI:I HAVE A TRADITION FROM THE MOUTH OF SEVENTY-TWO ELDER[S], etc. Why does he state, SEVENTY-TWO ELDER[S]?[13] — Because they all held this view unanimously.[14]

BEN AZZAI ADDED ONLY THE BURNT-OFFERING. R. Huna said: What is Ben 'Azzai's reason? — It is a burnt-offering, an offering made by fire, of a sweet savour unto the Lord:[15] 'it is' implies that [when it is slaughtered] in its own name it is valid; when not in its own name, it is invalid. But 'it is' is written in the case of the guilt-offering too? — That is written after the burning of the emurim.[16] But in this case too it is written after the burning of the emurim? — 'It is' is written twice [in connection with the burnt-offering].[17] Yet 'it is' is written twice in the case of the guilt-offering too?[18] — Rather, Ben 'Azzai infers it a fortiori: If a sin-offering is invalid when one slaughters it under a different designation, though it is not entirely burnt, how much the more is a burnt-offering [invalid in such circumstances], seeing that it is entirely burnt — As for the sin-offering, [it may be argued] the reason is that it makes atonement! Then let the Passover-offering prove it. As for the Passover-offering, the reason is because its time [for slaughtering] is fixed! Then let the sin-offering prove it. And thus the argument revolves: the feature peculiar to the one is not that peculiar to the other, and the feature peculiar to the other is not that peculiar to the first. Their common characteristic is that they are sacred sacrifices, and if one slaughters them under a different designation they are invalid; so will I adduce the burnt-offering too, which is a sacred sacrifice, and if one slaughters it for a different purpose, it is invalid. [No:] their common feature is that an aspect of kareth is involved in them![19] — Ben'Azzai

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(1) This animal was sanctified from the very outset only for its value. i.e., that the money for which it would be sold should be expended for a sacrifice; nevertheless it becomes permanently ineligible for the altar. This excludes the possible view that only an animal that was fit in the first place to be dedicated to the altar can be rendered permanently ineligible.

(2) Forbidden fat. V. Glos.

(3) For atonement, v. Lev. IV, 27-28.

(4) For sacrifices are not accepted from apostates, cf. Hul. 5b.

(5) An insane person cannot offer.

(6) When he had to sacrifice. This gap in his intelligent consciousness does not of course permanently disqualify him.

(7) V. Glos.

(8) For when they ruled that heleb is permitted, the sacrifice became rejected, since a sin-offering can be brought only when one is liable.

(9) Teaching that it is permanently rejected.

(10) In the cases of apostasy and insanity.

(11) The animal separated still belonged to the category of sin-offerings, save that its owner was not fit to bring it.

(12) Hence it follows a minori that it remains rejected.

(13) In the singular.

(14) Sh. M. emends: they were all present at the same sitting (when they stated this). This apparently is Rashi's reading too.

(15) Lev. I, 17.

(16) V. supra, 5b for notes.

(17) The one already quoted, and the other in Ex. XXIX, 18. Though there too it is after the burning of the emurim, yet since its teaching is unnecessary in that respect, as one text is sufficient for that, you must apply its teaching as intimating that when not slaughtered in its own name it is unfit,

(18) Lev. V, 19 and VII, 5.

(19) V. supra 10b p 49. n. 2.

Talmud - Mas. Zevachim 13a

does not admit the refutation of kareth.[1] Then let him adduce the guilt-offering too?[2] — The feature common to both is that they apply to the whole community as to an individual,[3] Alternatively he does admit the refutation of kareth, but Ben ‘Azzai had a tradition.[4] And when R. Huna said [that he inferred it] afortiori, he said this only in order to sharpen his disciples.[5]

MISHNAH. IF ONE SLAUGHTERED THE PASSOVER-OFFERING OR THE SIN-OFFERING NOT IN THEIR OWN NAME, [AND] HE RECEIVED [THE BLOOD], WENT [WITH IT], AND SPRINKLED [IT] NOT IN THEIR OWN NAME, OR IN THEIR OWN NAME AND NOT IN THEIR OWN NAME, OR NOT IN THEIR OWN NAME AND IN THEIR OWN NAME,[6] THEY ARE DISQUALIFIED. HOW IS ‘IN THEIR OWN NAME AND NOT IN THEIR OWN NAME’ MEANT? — IN THE NAME OF THE PASSOVER-SACRIFICE [FIRST] AND [THEN] IN THE NAME OF A PEACE-OFFERING. ‘NOT IN THEIR OWN NAME AND IN THEIR OWN NAME’ [MEANS] IN THE NAME OF A PEACE-OFFERING [FIRST] AND [THEN] IN THE NAME OF THE PASSOVER-OFFERING. FOR A SACRIFICE CAN BE DISQUALIFIED AT [ANY ONE OF] THE FOUR SERVICES: SLAUGHTERING, RECEIVING, CARRYING AND SPRINKLING. R. SIMEON DECLARES IT VALID IN THE CARRYING, BECAUSE HE ARGUED: [THE SACRIFICE] IS IMPOSSIBLE WITHOUT SLAUGHTERING, WITHOUT RECEIVING AND WITHOUT SPRINKLING, BUT IT IS POSSIBLE WITHOUT CARRYING. [HOW SO]? ONE SLAUGHTERS IT AT THE SIDE OF THE ALTAR AND SPRINKLES [FORTHWITH].[7] R. ELIEZER SAID: IF ONE GOES WHERE HE NEEDS TO GO, AN [ILLEGITIMATE] INTENTION DISQUALIFIES [IT]; WHERE HE NEED NOT GO, AN [ILLEGITIMATE] INTENTION DOES NOT DISQUALIFY [IT].[8]

GEMARA. Does then receiving disqualify? Surely it was taught: And they shall present:[9] this refers to the receiving of the blood. You say, This refers to the receiving of the blood: yet perhaps it is not so, but rather it means the sprinkling? When it says, And they shall dash [the blood],[10] lo, sprinkling is stated, hence to what can I apply, ‘And they shall present’? It must refer to the receiving of the blood. Aaron's sons, the priests[10] [teaches] that [these services] must be performed by a legitimate priest[11] [robed] in priestly vestments.[12] Said R. Akiba: How do we know that receiving must be performed by none but a legitimate priest [robed] in priestly vestments? ‘Aaron's sons’ is stated here, while elsewhere it says, These are the names of the sons of Aaron, the priests that were anointed:[13] as there it refers to legitimate priest[s] [robed] in priestly vestments,[14] so here too it means by a legitimate priest [robed] in priestly vestments. R. Tarfon observed: May I lose my sons if I have not heard a distinction made between receiving and sprinkling, yet I cannot explain [what it is]! Said R. Akiba: I will explain it. In the case of receiving intention was not made tantamount to action, whereas in the case of sprinkling intention was made tantamount to action.[15] [Again] if one received [the blood] without [its proper precincts], he is not liable to kareth, whereas if one sprinkles [it] without, he is punished with kareth. If unfit men received it,[16] they are not liable on its account, if unfit men sprinkled it, they are liable on its account. Said R. Tarfon to him, By the [Temple] service! You have[not] deviated to the right or the left![17] I heard [it] yet could not explain it, whereas you investigate it and agree with [my] tradition. In these words he addressed him:

‘Akiba! whoever departs from thee is as though he departed from life!’ — Said Raba: There is no difficulty: the one refers to an intention of piggul,[18] while the other [our Mishnah] refers to an intention for the sake of something else. This too may be proved, because it teaches, FOR A SACRIFICE CAN BE DISQUALIFIED, but it does not teach, ‘For a sacrifice becomes piggul’. This proves it.

Now, does not an intention of piggul disqualify it [the sacrifice] at the receiving? Surely it was taught: You might think that an intention [of piggul] is effective only at the sprinkling; whence do we know to include slaughtering and receiving? From the text, And if any of the flesh of the sacrifice of his peace-offerings be at all eaten on the third day, it shall not be accepted. . . it shall be an abhorred thing [piggul];[19] Scripture treats of the services which lead to eating.[20] You might think that I also include the pouring out of the residue [of the blood] and the burning of the emurim; therefore it states, . . . on the third day, it shall not be accepted, neither shall it be imputed unto him that offereth it.[21] Now sprinkling was included in the general statement,[22] and why was it singled out? That an analogy therewith might be drawn , intimating: as sprinkling is a service and is indispensable for atonement, so every [act which is a] service and is indispensable for atonement [is included]; thus the pouring out of the residue and the burning of the emurim are excluded, since these are not indispensable for atonement![23]

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(1) Because it does not feature in the same way in both of them. For the sin-offering is brought for a sin of commission which involves kareth, whereas it is the omission to bring the Passover-offering that entails kareth.

(2) That it is invalid when slaughtered under a different designation, by the same analogy. V. supra 10b, where the analogy is proposed but rejected because kareth is not involved in the guilt-offering. Since, however, Ben Azzai does not admit that this is a refutation, the analogy stands.

(3) A sin-offering may be incurred by the whole community, just as by an individual, v. Lev. IV. The Passover-offering too, though brought by individuals, is a communal (public) sacrifice, since the whole community must bring one (Yoma 51a). But a guilt-offering is never brought by the whole community.

(4) In respect of the burnt-offering, as stated in the Mishnah. Hence he does not infer it a fortiori at all.

(5) Challenging them, as it were, to find the fallacy in his statement.

(6) I.e., one of the services was for its own sake and another was for a different purpose, in the order stated.

(7) Where it is straightway sprinkled. Since then the blood may not be carried at all, the sacrifice cannot be disqualified if it is carried for a different purpose.

(8) The Gemara discusses this.

(9) Lev. I, 5.

(10) Ibid.

(11) Which excludes one of profaned birth, e.g., the issue of a divorced woman, and one suffering from a physical blemish or defect; v. Lev. XXI, 7, 17.

(12) Lit., ‘service vessels’ (here, robes). ‘The priests’ implies that they must be vested as priests.

(13) Num. 111,3.

(14) Legitimate, since Nadab and Abihu, Eleazar and Ithamar, Aaron's sons, are enumerated (v. 2). ‘Robed in priestly vestments’ is deduced from the end of the verse: whom he consecrated to minister in the priest's office; cf. Lev. XXI, 10: and that is consecrated to put on the garments.

(15) The reference is to illegitimate intention and action. An illegitimate intention is now assumed to mean an intention to receive the blood in the name of a different sacrifice or to eat of its flesh after the permitted time, which would render it piggul (q.v. Glos.). Thus an illegitimate intention at the receiving of the blood does not disqualify, which contradicts the view in the Mishnah. — The difficulty is answered at the end of the discussion.

(16) E.g. , lay Israelites or intoxicated priests.

(17) You have stated exactly what I heard, but had forgotten.

(18) Such an intention does not disqualify at the receiving.

(19) Lev. VII, 18.

(20) I.e. which permit the consumption of the flesh; these include receiving.

(21) ‘Accepted’ is understood to refer to the sprinkling, which makes the sacrifice acceptable.

(22) I.e., as one of the services which ‘lead to eating’.
(23) Hence the intention of piggul at the reception of the blood does disqualify it,

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— There is no difficulty:[1] In the one case it means that he declared, ‘Lo, I slaughter [this sacrifice] with the intention of receiving its blood to-morrow while in the other case it means that he declared, ‘Lo,I receive the blood with the intention of pouring out its residue to-morrow’.[2]

One of the Rabbis said to Raba: Now does not intention disqualify at the pouring out of the residue and the burning of the emurim? Yet surely it was taught: You might think that intention is effective only in connection with the eating of the flesh. Whence do we know to include the pouring out of the residue and the burning of the emurim? From the text, And if [any of the flesh. . .] be at all eaten [on the third day . . . it shall be an abhorred thing]:[3] Scripture refers to two eatings, viz., eating by man and eating by the altar.[4] There is no difficulty:’ In the one case he declares, ‘Lo, I sprinkle [the blood] with the intention of pouring out the residue to-morrow’;[5] in the other he declares, ‘Lo, I pour out the residue with the intention of burning the emurim to-morrow.[6]

R. Judah the son of R. Hiyya said: I have heard that the dipping of the finger [in the blood][7] renders [a sacrifice] piggul in the case of an inner sin-offering.[8] Ilfa heard this and reported it before Bar Padda. Said he: Do we learn piggul from ought else but from a peace-offering?[9] Then as the dipping of the finger does not render a peace-offering piggul,[10] so in the case of a sin-offering too, the dipping of the finger does not render piggul. But do we really learn everything from a peace-offering? If so, [then reason thus:] as [a service] in the name of a different sacrifice does not free a peace-offering from piggul, so [a service] in the name of a different sacrifice does not free a sin-offering from piggul.[11] What then can you say? That it is deduced from the extension implied in Scriptural texts;[12] and so here too it is deduced from the extension implied in the Scriptural texts.[13]

R. Joshua b. Levi said: In this upper chamber I heard that the dipping of the finger renders piggul. Thereat R. Simeon b. Lakish wondered: Do we learn piggul from ought else but from the peace-offering? Then as the dipping of the finger does not render the peace-offering piggul, so in the case of the sin-offering too, the dipping of the finger does not render it piggul. But do we then really learn everything from the peace-offering? If so, [then reason thus:] as [a service] in the name of a different sacrifice does not free a peace-offering from piggul, so [a service] in the name of a different sacrifice does not free a sin-offering from piggul? — Said R. Jose b. Hanina: Yes, indeed, we really learn everything from the peace-offering: since [the intention to consume it] without its precincts disqualifies a peace-offering, while [performing a service] for the sake of something else disqualifies a sin-offering, then as [the intention to consume it] without its precincts, which disqualifies the peace-offering, frees it from piggul, so [performing a service] for the sake of something else, which disqualifies the sin-offering, frees it from piggul. R. Jeremiah observed: The refutation [of this analogy] is at its side.[14] As for [the intention of consuming it] without its precincts, which disqualifies a peace-offering, [it frees it from piggul] because it operates [as a disqualification] in all sacrifices; will you say [the same of performing a service] for the sake of something else, which operates in the case of the Passover-offering and the sin-offering only? Rather, what must you say?[15] That that which disqualifies it [a peace-offering] frees it from piggul, while that which is indispensable for it renders it piggul;[16] so here too that which disqualifies it [the sin-offering] frees it from piggul, while that which is indispensable to it[17] renders it piggul.[18]

R. Mari said, We too have learned likewise: This is the general principle: Whoever takes the fistful [of the meal-offering], places it in the utensil, carries it [to the altar] or burns it [thereon] [renders it piggul].[19] Now as for taking the fistful, it is well [that this effects piggul, as] it corresponds to slaughtering; carrying [the fistful] corresponds to carrying [the blood]; burning [it] corresponds to sprinkling. But to what does putting [the fistful] into a utensil correspond? Shall we say that it is similar to receiving: is it then similar? There it is automatic,[20] whereas here he takes it himself and places it [in the utensil]. But since you cannot dispense with placing it [in the utensil],[21] you must say that it is an important service;[22] so here too, since one cannot dispense with it[23] you must say that it is [part of] carrying [the blood to the altar]! — No: in truth it is similar to receiving, and as to your objection: There it is automatic whereas here he takes it himself and places it [in the utensil, the answer is:] since both are [instances of] placing in a utensil, what does it matter whether it is automatic or whether he personally takes and places it [there]?

Shall we say that it is a controversy of Tannaim?[24] For one [Baraitha] taught: The dipping of the finger renders a sin-offering piggul; while another taught: It does not effect piggul, nor does it become piggul.[25] Surely then it is a controversy of Tannaim! — No: one agrees with our Rabbis and the other agrees with R. Simeon.[26] If R. Simeon, why particularly the dipping of the finger? Surely he said,

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(1) So Rashi. Cur. edd.: ‘Rather (answer thus)’.

(2) Both may be styled intentions of piggul at the receiving of the blood, yet they are obviously different intentions; the former does not disqualify the sacrifice, whereas the latter does,

(3) The emphatic ‘be at all eaten’ is expressed in the original by doubling the verb, which in Talmudic exegesis denotes extension.

(4) Sprinkling the blood and pouring out its residue at the foot of the altar are regarded as the eating of the altar. Thus in connection with these too, an illegitimate intention renders the sacrifice piggul, which contradicts the previous statement.

(5) Then the sacrifice becomes piggul, since it was his intention to give the altar its food on the morrow, which is after its appointed time.

(6) This does not render it piggul, since the wrongful intention was not at one of the four services.

(7) V. Lev, IV, 6: And the priest shall dip his finger in the blood, and sprinkle of the blood etc.

(8) One sacrificed at the inner altar. If he dipped his finger in the blood with the intention of burning the emurim the next day, the sacrifice becomes piggul.

(9) The law of piggul is expressly written only in connection with the peace-offering, whence we extend the law to other sacrifices.

(10) Since there is no dipping of the finger in the case of a peace-offering, the blood being dashed on the altar direct from the utensil. Since it is not a statutory service, it cannot render the sacrifice piggul even if it is done.

(11) It is stated infra 28b that if a sacrifice is slaughtered with the intention of consuming it after its prescribed period, which renders it piggul, it remains piggul only if the subsequent services (receiving, carrying and sprinkling), which are technically designated the mattirin (q.v. Glos) are performed without any other intention which would disqualify it in any case. Now if one slaughtered a peace-offering with the intention of consuming it after its prescribed period, thus rendering it piggul, and then performed the subsequent services in the name of a different sacrifice, it remains piggul, since this change of name does not disqualify a peace-offering. A sin-offering in like circumstances ceases to be piggul, since change of name does disqualify it, (Though the flesh of course remains forbidden, it is not forbidden as piggul, so that eating it does not render one liable to kareth.) But if piggul of other sacrifices were completely analogous to piggul of a peaceoffering, as Bar Padda's objection implies, then the sin-offering too should not be free from piggul.

(12) The extension of piggul to other sacrifices is effected not by analogy with the peace-offering, but from extending particles in the text; hence the conditions of freeing it from piggul need not be the same. By the same reasoning the conditions for making it piggul need not be the same.

(13) Hence though there is no piggul at the dipping of the finger in the case of the peace-offering, there is in the case of the sin-offering.

(14) Obvious and inherent.

(15) If you insist on retaining a complete analogy with the sin-offering.

(16) If performed with a piggul intention.

(17) Which excludes the dipping of the finger.

(18) Thus the analogy is complete in its principles, though the detailed application of these principles varies according to the individual laws of the various sacrifices.

(19) If he performs one of these services with the intention of consuming the rest or burning the fistful on the morrow. — The burning of the fistful corresponds to the sprinkling of the blood of an animal sacrifice.
(20) It naturally drops into the basin.
(21) I.e., it is a necessary part of the service.
(22) It is a definite service in that an illegitimate intention thereat effects piggul.
(23) Sc. the dipping of the finger.
(24) Whether it is analogous to receiving the blood or to carrying the blood.
(25) It does not effect piggul, if the priest dipped his finger with the intention of burning the emurim the next day; and it does not become piggul, if he slaughtered or received the blood with the intention of dipping the finger on the morrow.
(26) All agree that it is part of carrying, but the ruling that it does not render it piggul is in accordance with R. Simeon in our Mishnah that there can be no piggul at the carrying.

Talmud - Mas. Zevachim 14a

Whatever is not [offered] on the outer altar, like the peace-offering, is not subject to piggul?[1] — Rather, both agree with the Rabbis,[2] yet there is no difficulty: the one refers to outer sin-offerings, while the other refers to the inner sin-offerings.[3] As for the outer sin-offerings, it is obvious, since ‘and he shall dip’ is not written in connection therewith? — It is necessary [to teach it]: One might argue, since ‘and he shall take’ is written,[4] and if an ape came and placed [the blood] thereon [his finger], he [the priest] must take it again, it is as though ‘and he shall dip’ were written.[5] Therefore he informs us that for that very reason ‘and he shall dip’ is not written, so that it may imply the one and imply the other.[6]

R. SIMEON DECLARES IT FIT IN THE CARRYING. R. Simeon b. Lakish said: R. Simeon agrees that an [illegitimate] intention disqualifies at the carrying [of the blood of] the inner sin-offerings, because it is a service which cannot be omitted,[7] But R. Simeon said: Whatever is not [offered] on the outer altar, like the peace-offering, does not entail liability on account of piggul?[8] — Said R. Joseph son of R. Hanina: He agrees that it disqualifies it,[9] a minori: If [offering] for the sake of something else disqualifies a sin-offering, though it is valid in the case of a peace-offering; is it not logical that [the intention of consuming it] after time disqualifies a sin-offering, Seeing that it disqualifies in the case of a peace-offering?[10]

We have thus found [that the intention of consuming it] after time [disqualifies it]. How do we know that [the intention to eat it] without its precincts [disqualifies]?[11] If [you would learn it] from after time [by analogy], [you may refute it:] as for after time, that is because [it involves] kareth.[12] If from [sacrificing] for the sake of something else, that is because it operates at the bamah?[13] — Where does [sacrificing] for the sake of something else operate [as a disqualification]? [You must say] in the case of the Passover-offering and the sin-offering; and the Passover-offering and the sin-offering were not sacrificed at the bamah![14] Alternatively, It is a Scriptural analogy, [for And if any of the flesh of the sacrifice of his peace-offerings be at all eaten] on the third [day][15] refers to [the disqualification of] after time, while it shall be an abhorred thing [piggul][16] [refers to the intention of eating it] without its precincts.[17]

Raba said: If you will say that R. Simeon agrees with his son, who maintained, Between the ulam[18] and the altar is north, [R. Simeon will then hold that] an [illegitimate] intention is effective in the case of the carrying [of the blood] of inner sin-offerings only from within the entrance of the ulam.[19] And if you will say that [R. Simeon] agrees with R. Judah who maintained: The [whole of the] inner part of the Temple court is sanctified; [he will then hold that] an [illegitimate] intention is effective during the passage of the removal of the incense dishes only from the entrance of the hekal and without.[20] Again, if you will say that he holds that the sanctity of the hekal and that of the ulam is one, [then] an [illegitimate] intention is effective only from the entrance of the ulam and without.[21] And if you will say that within the entrance is as within [the hekal]; then an [illegitimate] intention is not effective even for one step save within the stretching out of his [one's] hand.[22] But if you will say that he holds that carrying without [using] the foot is not called carrying, then an [illegitimate] intention is not effective at all.

Abaye said to R. Hisda's amora:[23] Ask R. Hisda, what of carrying by a lay-Israelite [zar]? — It is valid, he replied, and a Scriptural text supports me: And they killed the Passover lamb, and the priests dashed [the blood, which they received] of their hand, and the Levites flayed them.[24] R. Shesheth objected: A zar, an onen,[25]

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(1) While we are now discussing the inner sin-offerings.

(2) Who maintain that there is piggul at the carrying of the blood.

(3) In the former case the dipping of the finger does not effect piggul, because Scripture does not say that the priest must dip his finger in the blood, but merely that he must take of the blood with his finger, which taking means the receiving of the blood (cf. infra 48a).

(4) Lev. IV, 30.

(5) Since we interpret ‘he shall take’ in the sense that he must personally take the blood from the utensil, which is impossible without dipping his finger into it,

(6) By not saying ‘and he shall dip’ Scripture intimates that the dipping is not a service on a par with the other services, and so it is not subject to piggul. At the same time ‘and he shall take’ definitely implies that the priest personally must do this, which is in fact dipping.

(7) Because it is unusual to slaughter it in the hekal (the inner sanctuary). Hence it is slaughtered in the Temple court and the blood carried to the horns of the inner altar in the hekal. Consequently R. Simeon's argument in the Mishnah does not apply here.

(8) For eating its flesh,

(9) Though one does not incur kareth, which is the penalty for eating piggul.

(10) It will disqualify both the outer and the inner sin-offerings.

(11) In the case of the inner sin-offerings.

(12) V. p. 71, n. 9.

(13) V. Glos. Slaughtering for a different purpose is a disqualification of a sacrifice offered on a private bamah, when such was permitted. But slaughtering it without its precincts did not disqualify.

(14) For only votive sacrifices were offered at the bamah, which excludes these two. Hence the refutation falls to the ground.

(15) Lev. VII, 18.

(16) Ibid.

(17) Scripture, by including them both in the same verse, assimilates them to each other and makes the same law apply to both. In such a case the analogy cannot be rebutted even when there is a point of dissimilarity.

(18) Lit., ‘porch’, ‘entrance’, ‘hall’. The hall leading to the interior of the Temple.

(19) A sin-offering must be slaughtered in the north (infra Ch. V.). Now it is possible for R. Simeon to agree with his son (infra 20a) that the northern part of the Temple court (‘azarah) between the ulam and the altar, though actually to the west of the altar, and therefore one cannot apply to it the Scriptural injunction, And he shall kill it on the side of the altar northward before the Lord (Lev. 1, 11), is nevertheless ‘north’ in respect of sacrifices of the higher sanctity. The reason for his view in the Mishnah on 13a is that he holds an illegitimate intention expressed during the passage of the blood from the place of slaughtering to the ulam is disregarded, since this passage could altogether have been avoided by slaughtering at the entrance of the ulam. But if he agreed with R. Jose that the sacrifice must be slaughtered actually between the northern side of the altar and the northern wall of the Temple court, the passage of the blood would be an indispensable service, and therefore an illegitimate intention during that passage would disqualify it.

(20) The hekal is the ‘Holy’, the hall containing the golden altar etc., contrad. to the Holy of Holies (Jast.). The reference is to the burning of the shew-bread incense, in virtue of which the shewbread was permitted to be eaten, in the same way as the sprinkling of the blood permits the flesh of the sacrifice; consequently it is on a par therewith and the same law applies to both, Now, if R. Simeon holds that the whole of the inner part of the Temple court is sanctified, so that the incense can be burnt there and not necessarily at the altar only, it follows that its carriage to the altar is not an essential act, and therefore an illegitimate intention does not render the shewbread piggul.

(21) I.e,, only at the five cubits of the thickness of the wall of the ulam. For the intention is not effective within the ulam itself, Since that is as the inner part, nor is it effective without the entrance, since the shewbread incense can be burnt there.

(22) He stands at the entrance of the ulam and stretches out his hand to the pavement; an illegitimate intention during that action is effective,

(23) V. Glos.

(24) II Chron. XXXV, 11. Thus the priests were only required for the sprinkling, but the blood was brought to them (which is the carrying) by those who slaughtered the sacrifice, these being zarim.

(25) V. Glos.

Talmud - Mas. Zevachim 14b

one who is intoxicated and one who is [physically] blemished are unfit to receive [the blood], carry [it] and sprinkle [it], and the same applies to one who is sitting and to [the performance of these by] ‘the left hand. This is indeed a refutation! But R. Hisda quotes a text? — It means that he [the zar] served as a [mere] post.[1]

Rabbah and R. Joseph both maintained: Carriage by a zar is a [subject of] controversy between R. Simeon and the Rabbis. [According to] R. Simeon who says that a [Temple] service which can be dispensed with is not a service, [carriage] by a zar is valid. But according to the Rabbis it is invalid. Said Abaye to them: But slaughtering is a service which cannot be dispensed with, and yet it is valid [when done] by a zar? — Slaughtering is not a service, he replied.[2] Is it not? Surely R. Zera said in Rab's name: The slaughtering of the [red] heifer by a zar is invalid; and R. Papa[3] observed thereon: [The reason is because] ‘Eleazar’ and ‘Statute’ are written in connection with it.[4] — The [red] heifer is different, because it is of the holy things of the Temple repair.[5] But does it not follow a fortiori: it is a service in the case of the holy objects of the Temple repair, yet it is not a service in the case of holy objects dedicated to the altar![6] — Said R. Shisha the son of R. Idi: Let it be analogous to the inspection of [leprous] plagues, which is not a service, and yet requires the priesthood.[7]

Yet the carrying of the limbs to the ascent[8] is a service which can be dispensed with,[9] and yet it is invalid [when done] by a zar, for it is written, And the priest shall offer [bring near] the whole, and make it smoke [burn it] upon the altar,[10] and a Master said: This refers to the carrying of the limbs to the ascent? — Where [Scripture] has revealed [that a priest is required], it has revealed [it], but where [Scripture] has not revealed [it], it has not.[11] But does not [the reverse] follow a fortiori: if the carrying of the limbs to the ascent requires the priesthood, though it is not indispensable to atonement,[12] how much the more [does] the carrying of the blood [require a priest], seeing that it is indispensable to atonement![13]

It was stated likewise: ‘Ulla said in R. Eleazar's name: Carriage by a zar is invalid even according to R. Simeon.

It was asked: Is carriage without [moving] the foot[14] called carriage[15] or not? — Come and hear: And the same applies to one who is sitting and to [the performance of these by] the left hand, [which renders it] invalid. Hence standing similar to sitting[16] is valid! — [No:] perhaps sitting means that he drags himself along, [and then] standing similar to sitting means that he moves slightly.

Come and hear: A [lay-] Israelite slaughtered [the Passover-offering] and a priest received [the blood]; he handed it to his colleague, and his colleague to his colleague![17] — There too it means that they [the priests] moved slightly. Then what does he [the Tanna] inform us?[18] — That in the multitude of people is the king's glory.[19]

Come and hear: If a fit person received [the blood] and handed it to an unfit one, the latter must return it to the fit one![20] — Say, the fit person must go round and take it.[21]

It was stated: ‘Ulla said in R. Johanan's name: Carriage without [moving] the foot is not called carriage.

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(1) On which the blood was placed. A priest received the blood and gave it to the zar, who held it until another priest took it from him and carried it to the altar. Thus the zar did not carry it himself but was completely passive.

(2) Rashi: Since it may be done by all who are otherwise unfit to perform the sacrificial service.

(3) Emended text (Bah).

(4) Num. XIX, 2 seq.: This is the statute of the law which the Lord hath commanded, saying: Speak unto the children of Israel, that they bring thee a red heifer . . . and ye shall give her unto Eleazar the priest . . . and he shall slaughter her (this is the literal translation, not as E.V.) before his face. Thus the text specifies that Eleazar, viz., a priest, must slaughter, and by referring to it as a ‘statute’ intimates that this is indispensable. This proves that slaughtering is a service.

(5) This is the technical term for all objects dedicated to the Temple which cannot be sacrificed.

(6) Surely if it is a service in the former case it is all the more so in the latter.

(7) And likewise with the red heifer, being of the holy things of the Temple repair, the slaughtering thereof is not deemed in the category of Temple services, and the requirement of a priest is a special feature of the ritual connected therewith,

(8) The inclined ascent leading to the altar. — These limbs were carried there for burning.

(9) By slaughtering the sacrifice near the altar, and burning the limbs on the spot.

(10) Lev. I, 13.

(11) Hence according to R. Simeon the carrying of the blood to the altar may not require a priest, notwithstanding that the carrying of the limbs does,

(12) Even it the limbs are not burnt at all the purpose of the sacrifice is achieved.

(13) Var. lec. add: this is indeed a difficulty.

(14) When the blood is merely transferred by hand.

(15) So that an illegitimate intention will disqualify the sacrifice, on the view of the Rabbis; and likewise if it is performed by a zar.

(16) Viz., standing without moving.

(17) This is a description of the sacrifice of the Passover. The priests stood in rows, passing the blood from one to another, until it reached the altar for sprinkling. Thus the blood was carried without the priests moving their feet.

(18) In stating that the priests were drawn up in rows.

(19) Prov. XIV, 28.

(20) Hence carrying without using the feet does not count at all. For otherwise the unfit might simply be regarded as a post on which the fit person had placed the blood, and it would not be necessary for the former to return it to the latter, but simply for another fit person to come and take it.

(21) He must go to the other side of the unfit and take it from him. In that case his first carriage definitely counts.

Talmud - Mas. Zevachim 15a

[Now the question arises:] Can this be repaired or can it not be repaired?[1] — Come and hear: If a fit person received [the blood] and handed it to an unfit one, the latter must return it to the fit one. Now, granted that the fit person receives it back, yet if you think that it cannot be repaired, it has [already] been made invalid. [This does not prove anything:] do you think that the lay-Israelite[2] stood within? No: it means that the lay-Israelite stood without.[3] It was stated: ‘Ulla said in R. Johanan's name: Carriage without [moving] the foot is invalid. This proves that it cannot be repaired.

R. Nahman raised an objection to ‘Ulla: If [the blood] was spilled from the vessel on to the pavement, and one [a priest] collected it, it is valid?[4] — The circumstances here are that [the blood] had run outward.[5] Would it run without [only] and not enter within?[6] — [It fell] on sloping ground.[7] Alternatively, [it fell] into a depression.[8] Another alternative is that it [the blood] was thick.[9] But does the Tanna trouble to teach us all these![10] Moreover, instead of teaching in another chapter, ‘If it was spilt on to the ground[11] and [the priest] collected it, it is unfit'[12] ; let him [the Tanna] draw a distinction in that very case,[13] thus: When does this hold good? [Only] if [the blood] ran without; but if it entered within, it is unfit? This is indeed a refutation.

It was stated: Carriage without moving the foot is [the subject of] a controversy between R. Simeon and the Rabbis.[14] In the case of a long carriage all agree that it is unfit; they disagree only in respect of a short carriage.[15] This was ridiculed in the West [Eretz Israel][16] : if so, as for [the law that] an [illegitimate] intention[17] disqualifies a sin-offering of a bird, how is this possible according to R. Simeon? if [the priest] expressed this intention before the blood issued,it is nothing;[18] if after the blood has issued, then surely the precept has already been performed?[19] — What difficulty is this? perhaps [the priest expressed his intention] between the issuing [of the blood] and its reaching the altar? For surely R, Jeremiah asked R. Zera: What if one was sprinkling, and the sprinkler's hand was cut off before the blood reached the altar air-space? And he answered him, It is invalid. What is the reason? Because it is essential that 'he shall sprinkle' and 'he shall put' [of the blood upon the horns of the altar].[20]

When R. Papa and R. Huna the son of R. Joshua came from [the academy] they stated: This was the [point of their] derision: Do they not differ about a long passage? Surely they differ precisely in respect of a long passage?[21] Rather, all agree that it is not invalid in the case of a short passage;[22] they differ in the case of a long passage.

If a zar carried [the blood],[23] whereupon a priest returned it and then carried it [himself], — the sons of R. Hiyya and R. Jannai disagree. One maintains that it is valid, while the other holds that it is invalid; the former holding that it can be repaired,[24] while the latter holds that it cannot be repaired. If a priest carried [the blood] but returned it and then a zar carried it [to the altar] again, said R. Simi b. Ashi: He who declares it valid [in the previous case], holds [here] that it is invalid; while he who declares it invalid [there], holds [here] that it is valid.[25] Raba said: Even he who declares it invalid [in the previous case], holds that it is invalid [here too]. What is the reason?-Because he is bound

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(1) Do we regard the carriage as simply having been omitted, in which case the blood can be taken back and the carriage performed; or do we regard the carriage as having been performed improperly, thus disqualifying the blood permanently, so that it cannot be repaired, and the sacrifice is consequently invalid?

(2) The unfit person.

(3) Further away from the altar, not nearer to it. Hence the blood had been handed backward, and that certainly does not constitute carriage at all, and it can be repaired. The question under discussion, however, is whether a wrongly performed service can be repaired.

(4) Since it had been originally received in a vessel. Now, he assumed that the blood had run down toward the altar, so that we have a form of carriage without the foot, yet this can be repaired by collecting it.

(5) Away from the altar.

(6) Nearer the altar. Surely the blood would run in all directions!

(7) Sloping away from the altar,

(8) Where it could not run at all in any direction.

(9) Semi-solid, and so could not run.

(10) Would he state a law that holds good in such exceptional circumstances only?

(11) Directly from the animal's throat.

(12) Infra 25a.

(13) I.e., where it was spilt from the vessel,

(14) R. Simeon does not regard carriage as a service at all (v. Mishnah 13a); hence however it is done it cannot disqualify the sacrifice. The Rabbis, however, do regard it as a service, and therefore if done improperly the sacrifice is disqualified.

(15) I.e., when the animal is slaughtered so near the altar that the priest merely stretches out his' hand and sprinkles the blood without walking at all.

(16) V. Sanh. 17b.
(17) At the sprinkling.
(18) For the bird is killed near the altar and its blood made to spurt against the altar direct from the bird. This act of making it spurt constitutes a short carriage, during which, on the present hypothesis, there can be no disqualification, according to R. Simeon,
(19) This assumes that immediately the blood spurts from the neck, even before it reaches the altar, the precept has been performed.
(20) Cf. Lev. IV, 6-7. The priest must both ‘sprinkle’ the blood and ‘put’ it on the altar, i.e., see that it actually reaches the altar; consequently, until it actually reaches the altar the service is still being performed, and therefore if the priest's hand is cut off just then, we have a service performed by a priest with a physical blemish, which is invalid (v. Lev. XXI, 17 seq.). By the same reasoning, an illegitimate intention during the passage of the blood to the altar may disqualify it. — This argument is unrefuted, and therefore the view that the controversy refers to a short passage may be correct.
(21) Since R. Simeon states that it is possible without walking (12a), he obviously refers to a case where walking is, in fact, done.
(22) Var. lec., that it is invalid (Bah).
(23) Actually walking in doing so.
(24) Sc. the invalidity of the star's action.
(25) For the former makes the status of the last person who carries it the determining factor, while the latter reverses it.

Talmud - Mas. Zevachim 15b

to bring it up.[1]

R. Jeremiah[2] said to R. Ashi, This is what R. Jeremiah of Difti[3] said: [The validity of the argument,] ‘Surely he is bound to bring it up’, is disputed by R. Eliezer and the Rabbis. For we learned: R. ELIEZER SAID: IF ONE GOES WHERE HE NEEDS TO GO, AN [ILLEGITIMATE] INTENTION DISQUALIFIES IT; [IF HE GOES] WHERE HE NEED NOT GO, AN [ILLEGITIMATE] INTENTION DOES NOT DISQUALIFY IT. Whereon Raba commented: All agree that if [the priest] received [the blood] without and carried it within,[4] that is a necessary walk. If he received [it] within and carried it without, it is an unnecessary walk.[5] They disagree only where he brought it within and then carried it without again: One Master holds, But he must surely bring it up [to the altar;][6] while the other Master holds: This is not the same as a carriage required for the service.[7] Abaye refuted him: R. Eliezer said: If one goes where he must go, an [illegitimate] intention disqualifies it. How so? If he received it without and brought it within, it is a necessary walk. If he received it within and carried it without ‘ it is an unnecessary walk. Whence,[8] if he carried it within again, it is a necessary walk? — Said he [Raba] to him: If it was taught, it was taught.[9]

CHAPTER II

MISHNAH. ALL SACRIFICES WHOSE BLOOD WAS CAUGHT BY A ZAR, AN ONEN, A TEBUL YOM,[10] ONE LACKING SACRIFICIAL ATONEMENT,[11] ONE LACKING [PRIESTLY] VESTMENTS, ONE WHO HAD NOT WASHED HIS HANDS AND FEET,[12] AN UNCIRCUMCISED [PRIEST]. AN UNCLEAN [PRIEST]. ONE WHO WAS SITTING, ONE STANDING ON UTENSILS[13] OR ON AN ANIMAL OR ON HIS FELLOW'S FEET, ARE DISQUALIFIED. IF [THE PRIEST] CAUGHT [THE BLOOD] WITH HIS LEFT HAND, IT IS DISQUALIFIED. R. SIMEON DECLARES IT VALID.[14]

GEMARA. How do we know [that] a zar [disqualifies the sacrifice if he receives the blood]? — Because Levi taught: [Scripture says,] Speak unto Aaron and to his sons, that they separate themselves from the holy things of the children of Israel etc.[15] What does ‘the children [sons] of Israel’ exclude? Shall we say that it excludes [the sacrifice of] women? Can women's sacrifice be offered in uncleanness?[16] Again, is it to exclude [the sacrifices of] heathens? seeing that [even] the headplate does not propitiate, for a Master said: But in the case of [the sacrifices of] heathens, whether [done][17] in ignorance or deliberately, propitiation is not effected,[18] can these [actually] be offered in uncleanness! Hence this is what [Scripture] means: that they separate themselves from the holy things of the children of Israel, and that they [the children of Israel] profane not [My holy name].[19]

The School of R. Ishmael taught: [That a zar disqualifies the sacrifice] is inferred a minori from [a priest] with a blemish: if [a priest] with a blemish, who may eat [of the sacrifice], profanes [it] when he officiates,[20]

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(1) Since in fact the blood was taken away from the altar, it must be brought back. This becomes a service, and is therefore disqualified by a zar.

(2) Sh. M. reads: Rabina.

(3) Obermeyer, op. cit. p. 197 conjectures that this is identical with Dibtha, in the neighbourhood of Wasit, north of Harpania.

(4) I.e., he received it at some distance from the altar and brought it up to the altar.

(5) During the course of which an illegitimate intention does not disqualify the sacrifice, on all views.

(6) Hence an illegitimate intention even during this second passage to the altar disqualifies it.

(7) Since there was no need in the first place to take it away from the altar. Hence an illegitimate intention during that passage does not disqualify it.

(8) Sh. M. deletes.

(9) I must accept it.

(10) V. Glos. for these terms.

(11) A priest who became unclean through the dead was sprinkled with the ashes of the red heifer mixed with water; then he took a ritual bath; and on the eighth day of his uncleanness he offered a sacrifice, which made atonement for him. Similarly, a leper and a zab (q.v. Glos.) took a ritual bath on becoming clean, and offered a sacrifice the following day. in all these cases they are regarded as ‘lacking atonement’ after their ritual bath and before they offer their sacrifice.

(12) At the laver; v. Ex. XXX, 18 seq.

(13) I.e., not directly on the pavement.

(14) In the law concerning the last case.

(15) Lev. XXII, 2. This prohibits the priest from officiating whilst unclean (see following verses). Hence the phrase ‘the children’ (or, ‘sons’, which may be the meaning of the Heb. בניו) apparently implies a limitation: only from the sacrifices of ‘the children of Israel’ must they hold aloof when they are unclean, but not from other sacrifices.

(16) Surely not.

(17) I.e., offered in an unclean state.

(18) V. infra 45b.

(19) Since ‘the children of Israel’ cannot be a limitation, it is interpreted as an additional subject of ‘separate’: the children of Israel (i.e., zarim) too must separate themselves from the sacrifices, as otherwise they profane God's name, by disqualifying the sacrifice.

(20) V. Lev. XXI, 22f.

Talmud - Mas. Zevachim 16a

is it not logical that a zar, who may not eat,[1] profanes [the sacrifice] by officiating? [No:] as for [a priest] with a blemish, the reason may be because in his case the man who offers [officiates] is treated on a par with what is offered![2] Then let an unclean [priest] prove it.[3] As for an unclean [priest], the reason is that he defiles [the flesh of the sacrifice]! Then let one with a blemish prove it. And thus the argument revolves, the distinguishing feature of one not being that of the other, and the distinguishing feature of the other not being that of the first. The feature common to both is that they are admonished [not to officiate], and if they do officiate, they profane [the sacrifice]; so will I also adduce a zar, who is [likewise] admonished, that if he officiates, he profanes.

How do we know that he is admonished? If from, ‘that they separate themselves’,[4] surely profanation is written in its very context![5] — Rather, from [the text] But a common man [zar] shall not draw nigh unto you.[6] But the [argument] can be refuted: the feature common to both is that they were not permitted at the high places![7] Do not say. ‘Let an unclean [priest] prove it’, but say. ‘Let an onen prove it’[8] As for an onen, [the reason is] because he is forbidden [to partake of] the Second tithe![9] Then let a [priest] with a blemish prove it.[10] And thus the argument revolves, the distinguishing feature of one is not that of the other [and vice versa]; the feature common to both is that they are forbidden etc. But here too let us refute [the argument]: the feature common to both is that they were not permitted at the high places? To this R. Sama the son of Raba demurred: And who is to tell us that an onen was forbidden at the high places; perhaps he was permitted at the high places?[11]

R. Mesharshia said: It is inferred a minori from [a priest who] sits. If one who is sitting profanes [the sacrifice] if he officiates, though he may eat [thereof when sitting]; is it not logical that a zar, who may not eat, profanes [it] if he officiates? As for one who is sitting, the reason may be because he is unfit to testify![12] — [The inference is] from a scholar who is sitting.[13] [Then refute it thus:] As for the general interdict[14] of one who sits the reason may be because such is unfit to testify![15] — One does not refute by a general interdict.[16] And should you say that you can refute [thus], [then say that] it is inferred from one who sits and one of these others.[17] And how do we know that one who is sitting is fit at the high place?[18] — Scripture saith, To stand before the Lord, to minister to Him:[19] before the Lord [one must stand], but not at the high place.[20]

ONEN. How do we know it? — Because it is written, Neither shall he go out of the Sanctuary, and he shall not profane [the Sanctuary of his God]:[21] hence if another [priest, when an onen,] does not go out, he does profane [it]. R. Eleazar said, [it is inferred] from this verse: Behold, have they offered [their sin-offering and burnt-offering this day before the Lord]?[22] It was I who offered. Hence it follows that had ‘they’ offered, it would rightly have been burnt.[23] Now, why does not R. Eleazar draw [the inference] from [the text] ‘Neither shall he go out of the Sanctuary’? — He can answer you: Is it then written, but if another goes out, he does profane it?[24] And the other; why does he not draw [the inference] from [the text] ‘Behold, have they offered’? — He holds that it was burnt on account of uncleanness.[25]

The school of R. Ishmael taught: It is inferred a minori from a [priest] with a blemish. If

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(1) The flesh of the most sacred sacrifices, such as a sin-offering.

(2) A blemish disqualifies a priest from offering the sacrifice, just as it disqualifies an animal from being sacrificed.

(3) He may not officiate; but an animal cannot become unclean while alive, to render it unfit for a sacrifice. He too disqualifies a sacrifice by officiating.

(4) As on 15b.

(5) Why infer it a minori?

(6) Num. XVIII, 4.

(7) Before the Temple was built sacrifices were offered at the bamoth or high places (v. infra 112a). A priest with a blemish and an unclean priest might not officiate, as in the Temple. but a zar could do so.

(8) He could officiate at the high places, yet if he officiated in the Temple he disqualified the sacrifice.

(9) V. Deut. XXVI, 14.

(10) Who is not so forbidden.

(11) This objection is left unanswered. Hence the argument by inference from a priest with a blemish cannot be sustained.

(12) A witness may not sit when giving his testimony. Of course, this has nothing to do with sacrifices, but in order to refute an argument based on an inference a minori it is sufficient to shew that the premise is subject to a particular restriction from which the other is free.

(13) He was permitted to testify sitting.

(14) Lit. 'name' .

(15) I.e., we find that sitting disqualifies one (though not all) from testifying, but we never find a zar disqualified from testifying.

(16) In the abstract, but rather from the actual person. Since then the argument is based on a scholar who sits, it remains unrefuted.

(17) An onen, an unclean priest, or a priest with a blemish.

(18) For otherwise this inference too can be refuted as above.

(19) Deut. X, 8.

(20) ' Before the Lord' is understood to mean in the Temple.

(21) Lev. XXI, 12. This refers to a High Priest when an onen: he must remain in the sanctuary (for sacrificing). and is assured that he will not profane, i.e. , disqualify the sacrifices at which he officiates.

(22) Ibid. X, 19.

(23) A he-goat was sacrificed as a sin-offering on the eighth day of Aaron's consecration (v. Lev. VIII, 33-IX, 3) On that same day Aaron's sons, Nadab and Abihu, died (Ibid. X, 1-2). and the he-goat,instead of being eaten, was burnt. Moses was angry, and enquired whether the reason was that Aaron's other sons, Eleazar and Ithamar, had officiated in their bereavement, to which Aaron replied as in the text. R. Eleazar's interpretation of the text as a rhetorical question does not agree with E.V., which makes it a positive statement. His reason is because if it were a positive statement it is superfluous, as Aaron should simply have answered, 'Behold, there have befallen one such things as these this day,' as he goes on to say, and which was the real cause of the burning of the sacrifice.

(24) Surely not. Possibly an ordinary priest too does not disqualify the sacrifice, yet Scripture specifically states that a High Priest does not disqualify it, lest it be thought that precisely because his sanctity is greater he does disqualify it.

(25) V. infra 101a. Hence the passage has nothing to do with bereavement.

Talmud - Mas. Zevachim 16b

a [priest] with a blemish, who does eat [thereof], profanes [it] if he officiates, it is surely logical that an onen, who may not eat thereof, profanes it by his officiating. In the case of a [priest] with a blemish, the reason may be because they who sacrifice are regarded the same as those which are sacrificed![1] Then let a zar prove it. As for a zar, the reason may be because there is no remedy for him![2] Then let a [priest] with a blemish prove it.[3] And thus the argument revolves: the feature peculiar to one is not that of the other, and the feature which characterises the other is not that of the first. The feature common to both is that they are admonished [not to officiate], and if they do officiate, they profane it. So do I adduce an onen too who is admonished, and if he officiates, he profanes it. Now, where is he admonished? Shall we say, in the text, 'Neither shall he go out of the Sanctuary'? Surely profanation is written in that very context![4] — Rather, [it is inferred] from [the text]. 'Behold, have they offered', and he [the school of R. Ishmael] holds that it was burnt on account of bereavement.[5] This argument may be refuted: As for the feature common to both, it is that there is no exception to the general interdict![6] Then let an unclean [priest] prove it.[7] As for an unclean [priest], the reason is that he defiles [the flesh]! Then let the others prove it. And thus the argument revolves etc. The feature common to both is that they are admonished etc. Yet let us refute it [thus]: As for their common feature, it is that there is no exception to the general [interdict] in favour of a High Priest in the case of a private sacrifice?[8] — The interdict[9] of uncleanness is nevertheless raised.[10] R. Mesharshia said: It is inferred a minori from [a priest] who sits: if a priest, who eats sitting, profanes [the sacrifice] if he officiates whilst sitting, it is surely logical that an onen, who may not eat [thereof], profanes [the sacrifice] by his officiating. As for one who sits, the reason may be because he is unfit to testify? — [The argument is] from a scholar who sits. [Then refute it thus:] As for the interdict of sitting, that may be because such is unfit to testify? — One does not refute from the [general] interdict of sitting. And should you say that you can refute thus, [say that] it is inferred from one who sits and one of these others.[11] [All SACRIFICES WHOSE BLOOD WAS CAUGHT BY...] AN ONEN... ARE DISQUALIFIED. Rabbah[12] said: They learned this only of a private sacrifice, but in the case of a public sacrifice[13] it is accepted.[14] [this being inferred] from uncleanness, a minori: if the general interdict of uncleanness was not raised in favour of a High Priest in the case of a private sacrifice, yet it was permitted to an ordinary priest in the case of a public sacrifice; then bereavement, whose general interdict was raised in favour of a High Priest in the case of a private sacrifice, is surely permitted to an ordinary priest in the case of a public sacrifice. To this Raba b. Ahilai demurred: Let [the interdict of] bereavement not be raised in favour of a High Priest in the case of a private sacrifice, a minori: if [the interdict of] uncleanness was not raised in favour of a High Priest in the case of a private sacrifice, though it was raised for an ordinary priest in the case of a public sacrifice; is it not logical that [the interdict of] bereavement, which was not raised for an ordinary priest in the case of a public sacrifice, shall not be raised for a High Priest in the case of a private sacrifice? [Or. argue thus:] Let uncleanness be permitted to a High Priest in the case of a private sacrifice, a minori: if bereavement, which is not permitted to an ordinary priest in the case of a public sacrifice, is permitted to a High Priest in the case of a private sacrifice; is it not logical that uncleanness, which is permitted to an ordinary priest in the case of a public sacrifice, is permitted to a High Priest in the case of a private sacrifice? Again. [argue thus:] let uncleanness not be permitted to an ordinary priest in the case of a public sacrifice, a minori: If bereavement is not permitted to an ordinary priest in the case of a public sacrifice, though it is permitted to a High Priest in the case of a private sacrifice; then uncleanness which is not permitted to a High Priest in the case of a private sacrifice, is surely not permitted to an ordinary priest in the case of a public sacrifice? [Mnemonic:[15] Let it not be permitted; let it not be permitted; bereavement and uncleanness, private sacrifice; private sacrifice; public sacrifice.][16]

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(1) V. supra a, p. 81 ‘ n.6.

(2) Under no circumstances can he become fit to officiate. An onen however, will be fit on the next day.

(3) He may become whole again.

(4) If it is so interpreted as to make it bear upon an ordinary priest. there is no need for the inference a minori.

(5) Nevertheless the text itself does not prove that if an onen officiates the sacrifice is disqualified. as Moses may have meant: Perhaps you transgressed the law by sacrificing it in bereavement, and having done so, you mistakenly thought that it is now disqualified (Rashi, as elaborated by Tosaf.).

(6) Lit., ‘it was not permitted out of its general rule’. There is no exception to the general law that a zar and a blemished priest may not officiate; but a High Priest is excepted from the law interdicting an onen to officiate.

(7) There is an exception in his case, for if the majority of the people are unclean on the eve of Passover, they offer the Paschal lamb in their unclean state.

(8) As opposed to a communal sacrifice. The Passover-offering is accounted as the latter, since the whole nation had to offer one.

(9) Lit., ‘name’.

(10) There is an exception to the general interdict of uncleanness, viz. ‘ in the case of the Paschal offering.

(11) Cf. supra a for notes.

(12) Text as emended by Sh. M. Cur. edd. Raba.

(13) One offered on behalf of the whole community.

(14) This is the technical term to denote that it is made valid (generally, in virtue of the headplate worn by the High Priest).

(15) For the various arguments just adduced.

(16) The point of all these objections is this: if the Scriptural law can be qualified by logical arguments, these can easily be reversed and precisely the opposite conclusions drawn.

Talmud - Mas. Zevachim 17a

But you can refute it thus, and you can refute it thus;[1] [therefore] let each one remain in its place.[2] TEBUL YOM. Whence do we know it? — For it was taught, R. Simai said: Where is the allusion that if a tebul yom officiates he profanes [the sacrifice]? In the text , They [the priests] shall be holy . . and not profane:[3] since this cannot refer to an unclean [priest], for [his prohibition] is deduced from, That they separate themselves,[4] apply it to a tebul yom.[5] Say, apply it to the making of a baldness and the shaving off of the corners of the beard?[6] — Since a tebul yom is liable to death for officiating (and how do we know that? because we deduce [similarity of law] from the use of 'profanation' here and in the case of terumah.)[7] [it follows that] he who is unfit [to partake of] terumah profanes the service [of sacrifice], whereas he who is not unfit [to partake of] terumah does not profane the service. Rabbah said:Why must the Divine Law enumerate an unclean priest, a tebul yom, and one who lacks atonement?[8] — They are all necessary. For had the Divine Law written [the law for] an unclean priest [only, I would say that he disqualifies the sacrifice] because he defiles.[9] [If the law were written] with reference to a tebul yom, one who lacks atonement could not be derived from it, seeing that [the former] is disqualified [to partake] of terumah.[10] [If it were written] with reference to one who lacks atonement, a tebul yom could not be learnt from it, seeing that [the former] lacks a [positive] act .[11] Now[one]cannot be derived from one [other], [but] let one be derived from two?[12] — In which should the Divine Law not write [this ruling]? Should it not write [it] with respect to one who lacks atonement, so that it might be inferred from the others, [it might be argued]: as for the others, [their peculiar feature is] that they are disqualified [to partake of] terumah. Rather, let not the Divine Law write it of a tebul yom, which could be inferred from the others. For how will you refute [the analogy]: as for these others, [the reason is that] they are wanting in a [positive] act?[13] [This would be no refutation] for after all, its[14] uncleanness is but slight![15]

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(1) You can argue either way.

(2) Assume each law to be without exceptions. Thus, when Scripture permits bereavement to a High Priest, it applies to both private and public sacrifices, while it is forbidden to an ordinary priest likewise in the case of both. Again, when uncleanness is forbidden in the case of a private sacrifice, the interdict applies to the High Priest also; on the other hand, when it is permitted in the case of public sacrifices, that applies to an ordinary priest too.

(3) Lev. XXI, 6. The passage treats of defilement, among other things.

(4) Ibid. XXII, 2; that verse forbids an unclean priest to officiate.

(5) As intimating that he too must not officiate, and if he does, he 'profanes', i.e. , disqualifies the sacrifice.

(6) Which is mentioned in the preceding verse, ibid. XXI, 5. Perhaps Scripture teaches that a priest who transgresses these interdicts 'profanes' (disqualifies) a sacrifice if he officiates.

(7) V. Glos. The allusion is to Lev. XXII,9: They shall therefore keep My charge. (this refers to terumah, as the whole passage shews) lest they bear sin for it, and die therein, if they profane it. Since 'profanation' (i.e.. defilement) is punishable by death there, the same holds good here. It also follows conversely that the present passage can apply only to such as 'profane' terumah. — By 'death' is meant death at the hands of heaven, not actually capital punishment by man.

(8) These are similar to one another, and therefore only one need be mentioned, and the others would follow by analogy.

(9) Either the flesh of the sacrifice, or another person by contact.

(10) Which the latter is not.

(11) Viz., the offering of a sacrifice. But a tebul yom merely has to wait for sunset.

(12) Let Scripture write the law with reference to two of these, and the third could be derived by analogy.

(13) The unclean priest must take a ritual bath.

(14) Reading as Rashi, which is preferable to cur. edd. 'their'.

(15) The uncleanness of one who lacks atonement is slighter than that of a tebul yom, since the latter must still wait for sunset, but not the former. Hence the question remains, why must Scripture indicate the law for all three?

Talmud - Mas. Zevachim 17b

— He holds that a zab lacking atonement is as a zab.[1] Now, whether a zab lacking atonement is as a zab, is dependent on Tannaim. For it was taught: If an onen or one lacking atonement burns it,[2] it is fit.[3] Joseph the Babylonian said: If an onen [burns it], it is fit, [but] if one who lacks atonement burns it, it is unfit. Now surely they disagree in this: one Master holds that a zab lacking atonement is as a zab,[4] while the other Master holds that he is not as a zab![5] — No. All agree that he is as a zab, but here they disagree in the following: For it is written, And the clean person shall sprinkle upon the unclean,[6] whence it follows that he is unclean, thus teaching that a tebul yom is fit [to officiate] at the [red] heifer.[7] Now, one Master holds: This applies to every form of uncleanness mentioned in the Torah;[8] while the other Master holds that it applies to the uncleanness dealt with in this chapter only.[9] Therefore an onen and a tebul yom rendered [originally] unclean through a [dead] reptile,[10] who are less stringent, are derived a minori from a tebul yom rendered [originally] unclean through a dead body. But a zab who lacks atonement is not [thus derived], since he is more stringent, as his uncleanness proceeds from his own body.

ONE LACKING THE [PRIESTLY] VESTMENTS. Whence do we know it? — Said R. Abbahu in R. Johanan's name, and some derive ultimately [the teaching] from R. Eleazar the son of R. Simeon: Because Scripture saith, And thou shalt gird them with girdles, Aaron and his sons, and bind head-tires on them; and they shall have the priesthood by a perpetual statute:[11] When wearing their [appointed] garments, they are invested with their priesthood; when not wearing their garments, they are not invested with their priesthood. Now, is this derived from the verse quoted? Surely it is derived from elsewhere? For it was taught: How do we know that if one who had drank wine officiates, he profanes [the sacrifices]? Because it is written, Drink no wine nor strong wine....that ye may put difference between the holy and the profane.[12] How do we know [the same of] one who lacks [priestly] vestments and [of] one who had not washed his hands and feet?

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[1] Until he brings his sacrifice, not only must he not partake of the flesh of sacrifices, but he even incurs kareth for doing so just as a zab who has not had his ritual bath at all. Similarly, he defiles the flesh just as a zab does. (Rashi. Tosaf explains it differently.) Hence his uncleanness is not less at all. — Though a zab is mentioned, the same applies to a leper too.

[2] Sc. the red heifer, v. Num. XIX.

[3] Because the red heifer does not possess the sanctity of a sacrifice, but only of anything which is dedicated for general Temple use, technically called ‘the sacred objects of the Temple repair’. An onen and one lacking atonement are disqualified to officiate at real sacrifices only.

[4] Hence his service is unfit, because Scripture specifies ‘a man that is clean’ (v. 9).

[5] Hence he is clean.

[6] Ibid. 19.

[7] ‘The clean person’ is superfluous, as the preceding verse states ‘and a clean person shall take hyssop’ etc. The repetition is understood to indicate that even if his cleanness is not absolute, but relative only, he is fit, and we do find in Lev. XIV, 8 that a tebul yom is designated ‘clean’: And he shall bath himself in water and be clean.

[8] Including a tebul yom who had been a zab. He still lacks atonement, and thus Scripture teaches that although such is unfit elsewhere, an exception is made in the case of the red heifer.

[9] Viz., that caused by contact with a dead body.

[10] Bah. emends omitting onen: therefore a tebul yom rendered (originally) unclean through a sherez or through carrion.

[11] Ex. XXIX, 9.

[12] Lev. X, 9f. This is interpreted as meaning that the officiating of such profanes, i.e., invalidates the sacrifice.

Talmud - Mas. Zevachim 18a

Because ‘statute’ is written in connection with each, to serve as a gezerah shawah![1] — If [it were derived] from that verse, I would argue that it applies [only] to a service for which a zar is liable to death; but as for a service for which a zar is not liable to death, I would say that it is not so,[2] hence we are informed [that it is not so].

We have thus found [it in the case of] one who lacks [priestly] vestments; how do we know it of one who has drunk wine?[3] -We deduce it from the word ‘statute’ [written here and] in the case of one who lacks vestments. But the Tanna deduces it from the text, That ye may put a difference etc.? — That is before he has established the gezerah shawah. But the Tanna learns [the law for] one who lacks vestments from that of one who drank wine?’[4] — This is what he means: How do we know that no distinction is drawn between one who lacks vestments and one who drank wine or who did not wash his hands and feet? Because ‘statute’ is written in respect of each, to serve as a gezerah shawah.[5] Then what is the need of ‘that ye may put difference’ etc.?[6] — To teach the practice of Rab. For Rab would not appoint an interpreter from one Festival day to the next, on account of drinking.[7]

But still, is it deduced from this text? Surely it is deduced from elsewhere. viz., And the sons of Aaron the priest shall put [fire upon the altar].[8] [which implies,] in his priestly state;[9] this teaches that if a High Priest donned the vestments of an ordinary priest and officiated, his service is unfit? — If [we made the deduction] from the earlier text, I would argue that it applies only to a service which is essential for atonement, but not to a service which is not essential for atonement.[10] But still, is it deduced from this text? Surely it is deduced from elsewhere, viz., And Aaron's sons, the priests, shall lay the pieces etc.[11] [which intimates,] ‘the priests’ in their priestly state, whence we learn that if an ordinary priest donned the vestments of a High Priest and officiated, his service is unfit? — If [we made the deduction] from the earlier text, I would argue that it applies only to an insufficiency [of vestments],[12] but not to an excess. Therefore it [the present text] informs us [that it is not so].

Our Rabbis taught: If [the priestly vestments] trailed [on the floor], or did not reach [the floor] or were threadbare, and [the priest] officiated [in them], his service is valid. But if he put on two pairs of breeches, two girdles, or if one [garment] was wanting, or if there was one too many, or if he had a plaster on a wound in his flesh, or if [his garments] were

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(1) V. Glos. — In the present context: it shall be a statute for ever; the verse for one lacking atonement has been quoted in the text; the washing of the hands and feet: And it shall be a statute for ever to them (Ex. XXX, 21). — The use of the same word in connection with all three teaches that the same law applies to all.

(2) Scripture says, Drink no wine . . when ye go into the tent of meetings, that ye die not. The Talmud interprets this as referring to a service which if performed by those unfit to do so involves death, viz., sprinkling the blood, burning the fats, and making the libations of water or wine. Now, the conditions of the various disqualifications, such as officiating without priestly vestments or without having washed the hands and feet, are deduced from those of a zar: where a zar incurs a penalty, officiating without vestments, etc. incurs a penalty. Hence as far as the present verse is concerned, since death is mentioned, I would think that the sacrifice is disqualified only where the death penalty is incurred.

(3) That he disqualifies the sacrifice even by officiating in a service for which he does not incur the death penalty.

(4) Not vice versa, as here.

(5) But in fact the law of one who has drunk wine is learned from that of one who lacks vestments.

(6) Since we learn by a gezerah shawah that one who drank wine ‘profanes’ (disqualifies) the sacrifice, this text adds nothing.

(7) The Rabbis gave their public addresses, in the course of which they taught the law, through the medium of an interpreter. Now, once Rab had ushered in the festival and had partaken of the meal, eating and drinking, he would not appoint an interpreter, i.e., he would not give such an address, until the following day, when the effect of the wine would have worn off. He learnt this from the present verse, ‘that ye may put a difference between the holy and the profane’, which he interpreted to mean that one must not drink before he comes to teach the law, whereby the difference between the holy and the profane is taught.

(8) Lev. I,7

(9) Wearing the priestly vestments.

(10) Such as putting the fire upon the altar. Hence ‘the priest’ teaches that even for this service he must be in his priestly state. — Though the difficulty was apparently why the former verse was required, the answer shows that the real difficulty was why Scripture added ‘the priest’ in the verse now quoted.

(11) Lev. I, 8.

(12) E.g.. if a High Priest wears the vestments of an ordinary priest.

Talmud - Mas. Zevachim 18b

besmeared or torn, and he officiated, his service is invalid. Rab Judah said in Samuel's name: Trailing [garments] are fit; [garments which] do not reach [the pavement] are unfit. But it was taught, If they do not reach [the ground] they are fit? — Said Rami b. Hama, There is no difficulty: The latter means where he hitches them up by the girdle;[1] the former, where from the very outset they are not long enough.[2] Rab said: Either [garments] are invalid.

R. Huna visited Argiza.[3] His host's son put a difficulty to him: Did then Samuel say, Trailing [garments] are fit, while those which do not reach [the ground] are unfit? but it was taught, If they do not reach [the ground] they are fit? — Said he to him, Disregard that, for Rami b. Hama has answered it. But the difficulty is according to Rab. And should you answer, What is meant by ‘trailing’? Those which are hitched up by the girdle, for the girdle cuts off [the length].[4] but then there is a difficulty about garments which do not reach? — Said R. Zera, Rab learns [both clauses as one]: Trailing [garments] which are hitched up by a girdle are fit.

R. Jeremiah of Difti said: As to trailing [garments] which he did not lift up, there is a controversy of Tannaim. For it was taught: [Thou shalt make thee twisted cords] upon the four corners of thy covering:[5] ‘four’ [intimates,] but not three.[6] Yet perhaps that is not so, but rather, ‘four’ [intimates,] but not five?[7] When it says, Wherewith thou coverest thyself[8] a five-cornered [garment] is alluded to.[9] Hence, how can I interpret ‘four’? as intimating four but not three. Now, why do you include a five-cornered garment and exclude a three cornered one? I include a five-cornered one, because five includes four, and I exclude a three-cornered one, because three does not include four. Now, another [Baraitha] taught: ‘Upon the four corners of thy covering’: four but not three, four but not five. Surely, they disagree in this: one Master holds: The additional [corner] is counted as existent;[10] while the other Master holds: It is as non-existent?[11] — No: all agree that it is as existent, but here it is different, because Scripture includes [a five-cornered garment in the phrase,] ‘Wherewith thou coverest thyself’.

And the other? how does he utilise this phrase. ‘Wherewith thou coverest thyself’? — He requires it for what was taught: ‘That ye may look upon it’:[12] this excludes night attire.[13] Yet perhaps that is not so,but rather it excludes a blind man's garment? When it says, ‘wherewith thou coverest thyself’, lo, a blind man's garment is alluded to. Hence, how can I interpret, ‘that ye may look upon it’? As excluding night attire. Now, why do you include a blind man's garment and exclude a night garment? I include a blind man's garment because it can be seen by others, while I exclude night attire, because it is not seen by others. And the other?[14] — He deduces it from ‘wherewith’.[15] And the other?-He does not interpret ‘wherewith’ [as having a separate significance].

Our Rabbis taught: [And the priest shall put on his garment of] bad:[16] this teaches that they [his garments] must be of linen; ‘bad’ implies that they must be new; ‘bad’ implies that they must be of twisted thread; ‘bad’ implies that the thread must be sixfold; ‘bad’ implies that secular garments must not be worn with them. Abaye said to R. Joseph: As for saying. ‘"bad" implies that they must be of linen,’ it is well, for he informs us this: only of linen, but not of anything else. But when he says, "bad" implies that they must be new,’ [does it mean] only new but not threadbare? Surely it was taught : Threadbare [garments] are fit! — Said he to him: And according to your reasoning, [when he says] "bad" implies that the thread must be sixfold,’ [yet surely] ‘bad’ implies each [thread] separately?[17] Rather, this is what he means: the garments which it is stated are to be ‘bad’, must be of linen, new, of twisted thread, and of six-fold thread: Some of these [provisions] are recommendations [only], while others are indispensable.

How do you know that ‘bad’ means flax [linen]? — Said R. Joseph son of R. Hanina: [It connotes] that which comes up from the ground in separate stalks.[18] Say that it means wool?[19] — Wool splits.[20] But flax too splits?[21] — It splits through beating.[22] Rabina said, [It is deduced] from the following: They shall have linen tires upon their heads, and shall have linen breeches upon their loins; they shall not gird themselves with [anything that causes] sweat [bayaza’].[23] Said R. Ashi to Rabina: Then how did we know this before Ezekiel came? — Then according to your reasoning, when R. Hisda said: We did not learn this[24] from the Torah of Moses our Teacher, but we learnt it from Ezekiel the son of Buzi: No alien, uncircumcised in heart and uncircumcised in flesh [shall enter into My sanctuary]:[25] whence did we know it until Ezekiel came? But indeed it was a tradition, and Ezekiel came and gave it a support in Scripture; so this too was a tradition etc.

What does ‘they shall not gird themselves with [anything that causes] sweat’ mean?[26] — Said Abaye: They shall not gird themselves in the place where they sweat.[27] As it was taught: When they gird themselves, they must do so neither below their loins nor above their elbows,[28] but

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(1) But they are long enough to reach the ground.

(2) Lit., ‘they are not present at all’.

(3) Obermeyer op. cit. p. 144 conjectures that this was a place in the district of Be Ketil by the ‘Jewish Canal’ which branched out of the left bank of the Tigris and ran parallel to it. He suggests however in note 1 a.l. that ארגיזא is an error here for חרתא דארגיז, Hira in the south of Babylon, which fell within R. Huna's jurisdiction, whereas Argiza was in the distant north, and he had no connection with same.

(4) Only then does the Tanna of the Baraitha rule that they are fit, but not if they are actually trailing on the ground.

(5) Deut. XXII, 12.

(6) A garment of three corners only, the fourth being rounded, so that it is not a corner, is exempt.

(7) E.g., if one corner is cut away, leaving two in its stead.

(8) Ibid.

(9) For this is really superfluous and therefore interpreted as an extension, to include garments with more than four corners.

(10) Hence it is not four-cornered, and therefore exempt.

(11) And the same principle would apply to priestly garments that trail: one holds that the superfluous length is as non-existent, and so they are fit; while the other maintains that they are as existent, and therefore unfit.

(12) Num. XV, 39. This refers to a fringed garment.

(13) Which is not looked upon.

(14) Who utilises ‘wherewith thou coverest thyself’ to include a five-cornered garment: whence does he learn the present law?

(15) Which he regards as an extension.

(16) E.V. ‘linen. Lev. VI,3 et passim.

(17) Bad is derived from badad, to be alone, separate.

(18) Where two stalks do not come out of one root.

(19) For each thread grows separately on the sheep's back.

(20) On the animal the threads split up.

(21) Before it is woven into linen.

(22) But not naturally of its own accord.

(23) Ezek. XLIV. 18.

(24) That an uncircumcised priest disqualifies the service, infra 22b.

(25) Ibid.9

(26) The Heb. bayaza is connected with ze'ah, (sweat), but its exact meaning in this verse is not clear.

(27) Where flesh folds over flesh and causes perspiration.

(28) As these hung naturally down.

Talmud - Mas. Zevachim 19a

[in the place] corresponding to their elbows.[1]

R. Ashi said: Hanna b. Nathana told me, I was once standing before King Izgedar;[2] my girdle lay high up, whereupon he pulled it down, observing to me, It is written of you. [And ye shall be unto Me] a kingdom of priests and a holy nation.[3] When I came before Amemar he said to me: The text, ‘And kings shall be thy fosterfathers’[4] has been fulfilled in you.

We learnt elsewhere: If a priest has a wound on his finger, he may wind a reed about it in the Temple, but not in the Country.[5] But if his purpose is to squeeze out blood, it is forbidden in both places.[6] R. Judah the son of R. Hiyya said: They learnt this only of a reed, but a small belt[7] constitutes an excess garment.[8] But R. Johanan said: They ruled [that] excess garments [disqualify] only [when they are worn] where garments are worn; but if not where garments are worn, they are not an excess. Yet deduce [that it disqualifies] on account of an interposition?[9] — It is on his left hand,[10] or even on the right, but not in the place of service.[11] Now this disagrees with Raba, for Raba said in R. Hisda's name: In the place of garments even a single thread interposes; but [what is] not in the place of garments, if three [fingerbreadths] square, it interposes; if less than this, it does not interpose. Now he certainly disagrees with R. Johanan;[12] but are we to say that he disagrees with R. Judah the son of R. Hiyya?[13] — [No:] a small belt is different, because it is of [some] account.[14]

Another version states it thus: R. Judah the son of R. Hiyya said: They learnt this only of a reed, but a small belt interposes. While R. Johanan maintained: They said [that] interposition [disqualifies even] when less than three square only in the place of garments; but if not where garments are worn, then if it is three square it interposes; if less, it does not interpose: and that is identical with Raba[‘s ruling] in R. Hisda's name. Shall we say that he [Raba] disagrees with R. Judah the son of R. Hiyya? — [No, for] a small belt is different, since it is of [some] account. Now according to R. Johanan, why particularly [specify] a reed? let him mention a small belt? — He informs us en passant that a reed heals.

Raba asked: What if a wind entered through his garment?[15] Do we require [the garment to be] on his flesh, which [condition] is now absent ; or perhaps, this is the normal mode of wearing? Further, is vermin an interposition? There is no question where it is dead, for it certainly interposes. But what if it is alive? Do we say. Since it moves to and fro, it is natural, and does not interpose; or perhaps it does interpose, since he objects to it? Does earth interpose? — Earth certainly interposes![16] — Rather [the question is] what about dust of earth? Does [the space between the sleeves and] the armpit interpose?[17] do we require [it to be] on his flesh, which [condition] is absent; or perhaps this is the normal mode of wearing? What if he thrust his hand into his bosom? does his body[18] interpose or not? Does a thread interpose? — A thread certainly interposes — Rather [the question is] what about a hanging thread.[19] Mar the son of R. Ashi asked: What if one's hair entered beneath his garment?[20] is his hair as [part of] his body, or is it not as his body? R. Zera asked: Do the tefillin[21] interpose? There is no question on the view that night is not the time for tefillin,[22] for since they interpose at night,[23] they interpose by day too. The question is raised only on the view that night is the time for tefillin. What then? Does a precept which is incumbent upon the body interpose or not? Now this question travelled about until it reached R. Ammi. Said he to him [the questioner]: We have an explicit teaching that tefillin interpose. An objection is raised: Priests engaged in their [sacrificial] service, Levites on their dais[24] and Israelites during their ma'amad[25] are exempt from prayer[26] and tefillin. Surely that means that if they do put them on, they do not interpose? — No: [it means that] if they do put them on, they do interpose. If so, [can you say,] they are exempt? Surely he should state, they are forbidden [to don them]? — Since there are the Levites and the Israelites, of whom he cannot teach, ‘they are forbidden,’[27] he therefore teaches, They are exempt. But it was taught: If he put them on, they do not interpose? — There is no difficulty; one refers to [the tefillin of] the hand,[28] the other to that of the head. Wherein does that of the hand differ? because it is written, [And the priest shall put on his linen garment, and his linen breeches] shall he put upon his flesh,[29] which implies that nothing may interpose between it and his flesh; then with respect to that of the head too it is written, And thou shalt set the mitre upon his head?[30] — It was taught: His hair was visible between the headplate and the mitre.

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(1) Where these naturally touch the body.

(2) Or, Yezdyird, a Persian king.

(3) Ex. XIX, 6. Hence you must wear your girdle like priests, and not so high.

(4) Isa. XLIX, 23.

(5) This is a technical designation for all places outside the Temple. — The reference is to the Sabbath, when the Rabbis forbade healing. Nevertheless they permitted this in the Temple when the priest is officiating at the sacrifice, as it is indecorous for his wound to be exposed then.

(6) The act constitutes making a wound, which is forbidden.

(7) Used as a bandage.

(8) Which is forbidden, supra 18a.

(9) Nothing may interpose between the priest's hand and the sacrifice, when he has to handle it.

(10) Which he does not use for the purpose.

(11) Not on the part of the hand which he needs for service.

(12) For R. Johanan holds that it never interposes save in the place of garments.

(13) For he rules that a small belt is an interposition, and this is less than three fingerbreadths square.

(14) A rag less than that size is of no account, whereas a belt, being made up into an article, is of some account.

(15) And blew it away from immediate contact with his body.

(16) Surely there cannot be a question about this.

(17) If the garment is loosely cut with broad sleeves.

(18) I.e., the hand, which now comes between the body and the garment.

(19) Hanging from the garment itself.

(20) If the hair of the head grew so long that it fell within the garment.

(21) V. Glos.

(22) I.e., that there is no obligation to wear these at night. The reference is to Deut. VI, 8 and it is disputed in ‘Erub. 96a whether this applies to night as well as to daytime.

(23) As there is no need to wear them then, they are definitely superfluous. and so constitute an interposition.

(24) Engaged in singing the Temple hymns.

(25) A body of Israelites, representing the people. stood (ma'amad — ‘amad standing) in the Temple court during the sacrificing of the daily burnt-offering (v. Ta'an. 26a).

(26) The ‘Eighteen Benedictions’ which were recited daily, and which constituted the Prayer par excellence.

(27) For they are certainly permitted to put them on,since they do not officiate at the actual sacrificing.

(28) That interposes.

(29) Lev. VI, 3.

(30) Ex. XXIX, 6.

Talmud - Mas. Zevachim 19b

and there he laid the tefillin.[1]

ONE LACKING IN SACRIFICIAL ATONEMENT. Whence do we know it? — Said R. Huna, Scripture saith, And the priest shall make atonement for her, and she shall be clean:[2] ‘She shall be clean’ proves that she is unclean [before atonement is made for her].[3]

AND ONE WHO HAD NOT WASHED HIS HANDS OR HIS FEET. [The implication of] ‘statute’ is derived from ‘statute’ written in connection with one who lacked his priestly vestments.[4]

Our Rabbis taught: If a High Priest did not perform immersion or did not sanctify [himself][5] between the changing of robes and between the services,[6] and he officiated, his service is valid. But the service of both a High Priest or an ordinary priest who officiated without the matutinal sanctification of their hands and feet is invalid. Said R. Assi to R. Johanan: Consider: The five immersions and the ten sanctifications[7] are scriptural, and ‘statute’ is written in connection with them; then let them be indispensable?[8] — Said he to him: Scripture saith, And put them on:[9] the putting on [of the priestly vestments] is indispensable, but nothing else is indispensable.[10] [At that] his face lit up.[11] Said he to him: I have written you a waw on a tree-trunk:[12] [for] if that is so, [the sanctifications] of the morning[13] too [should not be indispensable]! — Said Hezekiah, Scripture saith, And it shall be a statute for ever to them, even to him and to his seed throughout their generations:[14] that which is indispensable for ‘his seed’ is indispensable for himself, and that which is not indispensable for ‘his seed’ is not indispensable for himself.[15] R. Jonathan said, He deduced it from this: That Moses and Aaron and his sons might wash their hands and their feet thereat:[16] that which is indispensable in the case of his sons is indispensable in his own case; while that which is not indispensable in the case of his sons is not indispensable in his own case. Why does R. Jonathan not deduce it from the text quoted by Hezekiah? — He can answer you: That is written [to shew that the law holds good] for all generations.[17] And the other? why did he not deduce it from this text? — He requires it for R. Jose son of R. Hanina's [ruling]. For R. Jose son of R. Hanina said: You may not wash in a laver which does not contain sufficient [water] for the sanctifications of four priests, for it says. That Moses and Aaron and his sons might wash their hands and their feet thereat.[18]

Our Rabbis taught: How is the precept of ‘sanctification’ [fulfilled]? [The priest] places his right hand on his right foot and his left hand on his left foot, and sanctifies them.[19] R. Jose son of Judah said: He places his both hands on each other and on his two feet lying on each other, and sanctifies them. Said they to him: You have made it too hard, for it is impossible to do it thus. Surely they speak rightly to him? — Said R. Joseph: His colleague assists him.[20] Wherein do they differ? — Said Abaye: They disagree in respect of standing by being supported.[21] Said R. Sima the son of R. Ashi to Rabina: And let him indeed sit and perform his sanctifications? — Scripture saith, [And thou shalt anoint Aaron and his sons, and sanctify them,] that they my minister,[22] and the ministration must be done standing.[23]

Our Rabbis taught: if [the priest] sanctified his hands and feet by day, he need not sanctify [them] at night; [if he sanctified them] at night, he must sanctify [them] by day. This is Rabbi's view, for Rabbi maintained: The passing of the night is effective in respect of the sanctification of hands and feet.[24] R. Eleazar son of R. Simeon said: The passing of the night is not effective in respect of the sanctification of hands and feet. Another [Baraitha] taught: If [a priest] was standing and offering [the fats] on the altar throughout the night, at dawn he needs sanctification of hands and feet: this is Rabbi's view. R. Eleazar son of R. Simeon said: Since he sanctified his hands and feet at the beginning of the service, he need not sanctify [them again] even for ten days.[25] Now, both are necessary. For if we were informed of the first [Baraitha], [I would argue that] Rabbi ruled thus only there, [the circumstances being] that there had been an interval between one service and another;[26] but here that there was no interval, I would say that Rabbi agrees with R. Eleazar son of R. Simeon. While if we were informed of the latter [Baraitha]. I would argue that here only does R. Eleazar son of R. Simeon rule thus, but in the former he agrees with Rabbi. Hence they are both necessary.

What is Rabbi's reason? — Because it is written, When they approach [the altar to minister].[27] What is R. Eleazar son of R. Simeon's reason? — Because it is written, When they enter [into the tent of meeting, they shall wash with water].[28] And the other too? surely it is written, When they enter! — If ‘when they approach’ were written and not ‘when they enter’ I would say that for every single approach [sanctification is necessary];[29] therefore the Divine Law wrote, ‘when they enter.’ And the other too? surely it is written, ‘when they approach’! — If ‘when they enter’ were written and not ‘when they approach’. I would say that [they must wash] even for a mere entrance.[30] ‘For a mere entrance’! surely it is written, ‘to minister’? — Rather, ‘when they approach’ is required for R. Aha son of Jacob's [ruling]. For R. Aha son of Jacob said: All agree with respect to the second ‘sanctification,’ that [the priest] performs this sanctification when he is clothed,[31] for Scripture saith, ‘or when they approach’: he who lacks nothing but the approach [washes his hands and feet]; hence he who has yet to clothe himself and then approach is excluded. What is the purpose of, to cause an offering made by fire to smoke?[32]

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(1) Thus the tefillin did not actually interpose.

(2) Lev. XII, 8.

(3) Although she had already performed her ritual ablutions. Thus Scripture designates even such as unclean, and he is disqualified in the same way as an unclean priest is disqualified.

(4) V. supra 17b, 18a.

(5) This is the technical designation for washing the hands and feet at the laver.

(6) On the Day of Atonement the High Priest performed five services, in the course of which he changed his robes several times. Each change was to be preceded by tebillah (immersion) and sanctification; v. Yoma 32a.

(7) Five for the hand and five for the feet.

(8) So that the service should be invalid.

(9) Lev. XVI, 4.

(10) The verse reads: He shall pull on the holy linen tunic, and he shall have the linen breeches . . . and shall be girded with the linen girdle, and with the linen mitre shall he be attired . . . and he shall bathe his flesh in water, and put them on. Thus ‘put them on’ is emphasized by being repeated in the verse, to teach that that only is indispensable, but the other thing mentioned, viz bathing. is not indispensable.

(11) R. Assi was very pleased with the answer.

(12) On which, owing to its rough lined surface the letter is not visible. This is an idiom for idle talk.

(13) On the Day of Atonement.

(14) Ex. XXX, 21.

(15) ‘His seed’ denotes an ordinary priest, while ‘statute’ implies indispensability, as stated above. Hence the sanctification of the morning which is normally indispensable for an ordinary priest is indispensable for a High Priest on the Day of Atonement.

(16) Ex. XL, 31.

(17) But not to provide an analogy.

(18) ‘His sons’ implies at least two; hence it must be big enough for four.

(19) So that he washes his hands and feet simultaneously, by pouring water on each pair with his fore hand.

(20) So that he does not fall.

(21) Lit., ‘a standing from the side’. The priest must stand when performing these ablutions, and if R. Jose b. R. Judah's method is adopted, he can stand only by being supported. He holds that that is sufficient, while the first Tanna holds that that is not called standing.

(22) Ex. XXX, 30.

(23) ‘Sanctify them’ is interpreted as in the present discussion. Thus the ablutions are made analogous to ministrations, and as the latter must be done standing, the former too must be done standing.

(24) As soon as one night passes, the previous sanctification ceases to count.

(25) As long as he is continuously engaged thus.

(26) For in the first Baraitha it is not stated that the priest was actually engaged in officiating all night.

(27) Ex. XXX, 20. Each time the priest ‘approaches’ the altar he must wash his hands. At daybreak there is a new approach since the altar has to be freshly arranged with new wood; therefore he must wash his hands again.

(28) Ibid. As long as he is engaged on the sacrifices there is no new entry.

(29) Even in the same day.

(30) Without officiating.

(31) The changing of the garments by the High Priest on the Day of Atonement was preceded by immersion, and the immersion was preceded and followed by ‘sanctification’. All agree that the second ‘sanctification’ is done after the priest has donned the robes into which he was to change. v. Yoma 32b.

(32) Ibid. That too is enumerated as one of the purposes for which the priest must wash. But it is surely obvious, as it is included in the clause, ‘when they approach the altar to minister’.

Talmud - Mas. Zevachim 20a

— You might say: This [sanctification] is required only for a service which is indispensable to atonement, but not for a service which is not indispensable to atonement; hence [this clause] informs us otherwise.[1]

When R. Dimi came,[2] he said in R. Johanan's name: Ilfa asked: On the view that the passing of the night is of no effect in respect of the sanctification of hands and feet, does the water of the laver become unfit?[3] Do we say: For what purpose is this [water]? for the sanctification of hands and feet; but the sanctification of hands and feet itself is not nullified by the passing of the night. Or perhaps, since [the water] is sanctified in a service vessel, it becomes unfit? When Rabin came, he said in R. Jeremiah's name, who reported R. Ammi's statement in R. Johanan's name: Ilfa subsequently resolved [this problem]: there is the same controversy about the one as about the other. Said R. Isaac b. Bisna to him:[4] Rabbi, do you say thus? Thus did R. Ammi[5] say, reporting R. Johanan in Ilfa's name: If the laver was not lowered [into the well] in the evening.[6] [the priest] performs his sanctifications in it for the service of the night.[7] but on the morrow he does not perform his ablutions. Now we questioned this: ‘on the morrow he does not perform his ablutions’ because he does not need [further] sanctification; or perhaps [the water] has become unfit through the passing of the night?[8] Now, we could not resolve this, and yet to the Master it is clear? — Come and hear: Ben Kattin made twelve spouts for the laver; he also made wheels [pulleys] for the laver, so that its water should not become unfit through the passing of the night.[9] Surely this is [even] according to R. Eleazar son of R. Simeon?[10] — No: it represents Rabbi's view. Yet surely, since the first clause is according to R. Eleazar son of R. Simeon, the second clause too is according to R. Eleazar son of R. Simeon. For the first clauses teaches: [The High Priest then] came to his bullock,[11] which bullock stood between the ulam [porch][12] and the altar, its head toward the south and its face toward the west,[13] while the priest stood in the east and faced west. Now, whom do you know to maintain that between the ulam and the altar was north?[14] R. Eleazar son of R. Simeon. For it was taught: What is the north? From the northern wall of the altar to the northern wall of the Temple court and the whole of the space opposite the altar is north: that is R. Jose son of R. Judah's view. R. Eleazar son of R. Simeon added the space between the ulam and the altar.[15] Rabbi adds the place where the priests and lay-Israelites tread. But all agree that the place on the inside of the knives chamber[16] is unfit![17] — Now, is it reasonable that [the first Baraitha] represents R. Eleazar son of R. Simeon's view and not Rabbi's? Seeing that Rabbi goes further than R. Jose son of R. Judah, does he not go further than R. Eleazar son of R. Simeon's [definition]?[18] — This is what we mean: If you think that it agrees with Rabbi, let him station it in the place where the feet of the priests and the lay-Israelites tread! — What then? it is according to R. Eleazar son of R. Simeon? Then let him station it [in the space] from the northern wall of the altar to the northern wall of the Temple court? What then must you answer? [that it was placed in the position indicated] on account of the High Priest's fatigue;[19] so on this view too,[20] it was on account of the High Priest's weakness. R. Johanan said: If [the priest] sanctified his hands and feet for the removal of the ashes,[21] he need not sanctify [them again] on the morrow,[22] because he has already done so at the beginning of the service. According to whom? if according to Rabbi, surely he said that the passing of the night renders it null! if according to R. Eleazar son of R. Simeon, surely he said, He need not sanctify himself [again] even for ten days! — Said Abaye: In truth it is according to Rabbi, and [the nullifying effect of] the passing of the night is [merely] Rabbinical, and he admits that the passing of the night does not nullify from cock-crow until morning. Raba said: in truth it agrees with R. Eleazar son of R. Simeon, but R. Johanan accepted his view [only] in respect of the beginning of the service, but not in respect of the end of the service.[23]

An objection is raised: When his brother priests saw him descend,[24] they quickly ran and sanctified their hands and feet at the laver.[25]

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(1) For ‘to cause an offering made by fire to smoke’ refers to the burning of the limbs on the altar, and that is not really essential to the efficacy or validity of the sacrifice.

(2) V. p. 46, n. 1.

(3) After the passing of the night.

(4) To R. Jeremiah.

(5) Var. lec. R. Assi.

(6) Thereby leaving its water unchanged.

(7) Such as the burning of the fats and the other parts of animals sacrificed during the day.

(8) So that he may not perform his ablutions thereat.

(9) He attached it to pulleys whereby it was lowered into the well in the evening and drawn up in the morning, which made the water fresh, being now accounted as part of the well water.

(10) Which shews that the water is unfit even though the priest would not require further ‘sanctification’.

(11) To make confession of sins over it. — This was on the Day of Atonement.

(12) The hall leading to the interior of the Temple.

(13) It stood between north and south, and the face was made to turn toward the west.

(14) Of the Temple. For immediately after making confession he sacrificed the animal on the spot, and that had to be done in the north.

(15) This agrees with the first clause of the Baraitha now being discussed, whence it is deduced that the Baraitha is according to R. Eleazar b. R. Simeon.

(16) Where the knives were kept.

(17) V. Yoma (Sonc. ed.) 35b, and notes.

(18) Surely he does; hence the first Baraitha describing the bullock's position may well be according to him.

(19) Owing to his heavy duties on this day we spare him as much labour as possible. Therefore the bullock was stationed near the Hekal (the inner court), to save him carrying the blood a long way.

(20) That it agrees with Rabbi.

(21) The day's service commenced at cockcrow (before dawn) with the removal of a shovelful of ashes from the altar, which was placed at the east side of the slope leading to the altar.

(22) I.e., at daybreak. the earlier period still belonging to night.

(23) Here the sanctification was performed at the beginning of the day's service, in such a case R. Johanan rules as R. Eleazar b. R. Simeon. But if it is performed in the evening for the burning of the fats, which is the end of the previous day's’ service, he needs fresh ‘sanctification’ on the morrow.

(24) With the shovelful of ash.

(25) In order to remove the ash and make room for the fresh pile of wood (the first priest removed only one shovelful).

Talmud - Mas. Zevachim 20b

Now it is well according to Abaye who interprets it [R. Johanan's ruling] as agreeing with Rabbi, for Rabbi admits that the passing of the night does not nullify [in the interval between] cockcrow and morning; for this will then be according to Rabbi. But according to Raba, who interprets it as agreeing with R. Eleazar son of R. Simeon [only], but in Rabbi's opinion the passing of the night nullifies [even] from cockcrow until morning, with whom does this agree? If with Rabbi, then the passing of the night nullifies it; if with R. Eleazar son of R. Simeon, surely he said that he does not need sanctification even for ten days? — In truth, it agrees with R. Eleazar son of R. Simeon, the reference being to fresh priests.[1]

It was asked: Is going out [of the Temple court] effective [to invalidate] sanctification of hands and feet?[2] If you say that the passing of the night does not invalidate [it], that is because [the priest] did not cease [officiating], but since he ceases when he goes out, he turns his mind away from it;[3] or perhaps since it rests with him to go back, he does not turn his mind away from it? — Come and hear: If he sanctified his hands and feet and they were defiled,[4] he immerses them,[5] but he need not sanctify [them],[6] If they [his hands and feet] went out [from the Temple court],[7] they retain their sanctity! — If [only] his hands went out we are not in doubt; our doubt is where his whole body went out; what [is the law then]? — Come and hear: He whose hands or feet are unwashed must sanctify them at a service vessel within.[8] If he sanctified [them] in a service vessel without, or in an unconsecrated vessel within; or if he immersed in the water of a pit,[9] and officiated, his service is invalid.[10] Thus it is only because he sanctified [his hands] from a service vessel without; but if he sanctified [them] within and then went out, his [subsequent] service is valid![11] — [No:] Perhaps what is meant by ‘he sanctified [them] in a service vessel without’? That e.g. he stretched his hands without and sanctified them;[12] but if his whole body went out, you may [certainly] be in doubt. Said R. Zebid to R. Papa. Come and hear: If [the priest] went without the barrier of the wall of the Temple court, if [it was his intention] to tarry there, he needs immersion; if for a short while, he needs sanctification of hands and feet! — Said he to him: That means where he went out to ease himself at nature's call. But that is explicitly taught: He who eases himself needs immersion, and he who answers nature's call requires sanctification of hands and feet? — He [first] teaches [the general law] and then defines it.[13]

Come and hear: [For the services in connection with the red] heifer, R. Hiyya b. Joseph said: [The priest] must sanctify [himself] from a service vessel within and then go out;[14] whereas R. Johanan maintained: [He can sanctify himself] even without [the Temple], even in a profane vessel, even in a fire pot! — Said R. Papa. The [red] heifer is different; since all its services are without, going out does not disqualify it. If so, why must he sanctify [himself at all]? — We want it to be done like the services within.

It was asked: Is uncleanness effective in respect of sanctification of hands and feet?[15] If you say that going out does not invalidate [sanctification], that may be because the person remains fit; but here that the person is no longer fit [for service] he turns his mind from it.[16] Or perhaps, since he will be fit again, he is careful and does not turn his mind away from it? — Come and hear: If [the priest] sanctified his hands and his feet and they became unclean, he must immerse them, but need not [re-]sanctify them! — Where his hands [only] became unclean, we do not ask; our question is where his whole body was defiled. ‘His whole body’! surely I may deduce that he will turn his mind away from it, since he must wait for the setting of the sun?[17] — [The question arises where] e.g. he became unclean just before sunset! Come and hear: [For the service in connection with the red] heifer, R. Hiyya b. Joseph said: [The Priest] must sanctify [himself] from a service vessel within and then go out; whereas R. Johanan maintained: [He can sanctify himself] even without the Temple, even in a profane vessel, even in a firepot.

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(1) Who had not been ministering earlier in the night.

(2) To make it necessary to repeat it.

(3) Therefore he must repeat his lustrations when he returns.

(4) With an uncleanness which defiles them only, but not the whole body.

(5) Immersion in a ritual bath (מקוה).

(6) In the laver.

(7) The priest stood at the entrance and thrust his hands and feet without.

(8) Sanctification might be done either at the laver or from any service vessel v. infra; ‘within’ means within the Temple court.

(9) Though normally this cleanses.

(10) Immersion, even of the whole body, does not count as sanctification.

(11) For if that too were invalid, this law is superfluous, since he is standing without at the very moment of lustrations.

(12) Whilst standing within. Only then is it necessary to state this law.

(13) The Tanna first states the law about going out, and then defines the cases to which this law applies.

(14) The burning of the red heifer and the gathering of its ashes and mixing it with water, which are the services here referred to, were done outside Jerusalem.

(15) It is now assumed that the question is: if the priest's hands became unclean, without the rest of his body, must he resanctify them?

(16) Which nullifies sanctification.

(17) He does not become clean even after immersion until sunset.

Talmud - Mas. Zevachim 21a

Now in the case of the [red] heifer we defile him, for we learnt: They used to defile the priest who was to burn the heifer and then make him immerse, in order to combat the opinion of the Sadducees,[1] who maintained: It[s service] was performed [only] by [priests] who had experienced sunset![2] This proves that uncleanness does not invalidate it.[3] — The [red] heifer is different, since a tebul yom is not unfit for it. If so, why must he sanctify himself [at all]? — Because we want it similar to the [usual sacrificial] service.

It was asked: Can [the priest] sanctify his hands and feet in the laver?[4] [Do we argue,] the Divine Law states, [And Aaron and his sons shall wash . . .] thereat,[5] but not in it; or perhaps it means even in it? — Said R. Nahman son of Isaac, Come and hear: Or if he immersed in the water of a pit and officiates, his service is invalid. Hence [if he used] the water of the laver in a similar way to the water of a pit[6] and officiated, his service is valid? — No: it is particularly necessary for him [the Tanna] to teach about the water of a pit. lest you say: If he can bathe his whole body therein,[7] how much the more his hands and feet.[8]

R. Hiyya son of Joseph said: The water of the laver becomes unfit for the mattirin, as the mattirin [themselves], and for the [burning of the] limbs, as the limbs [themselves]. R. Hisda maintained: Even for the mattirin they become unfit only at dawn, as the limbs.[9] While R. Johanan maintained: Once the laver is sunk,[10] it may not be drawn up again.[11] Does this mean that it is not even fit for a night service?[12] Surely R. Assi said, reporting R. Johanan in Ilfa's name: If the laver was not sunk [into the pit] before evening, [the priest] may sanctify [himself] thereat for a night service, but he may not sanctify [himself] thereat on the morrow? — What is meant by ‘it may not be drawn up’? for a day service; but it is indeed fit for a night service. If so, this is identical with R. Hiyya b. Joseph [‘s view]?

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(1) V. Sanh. (Sonc.ed.) p. 353. n. 2.

(2) I.e., by priests upon whom the sun had set after their immersion, as in the case of the sacrificial service in general. The Rabbis however held that immediately after immersion (when he is called a tebul yom v. Glos) a priest was fit for the burning of the red heifer. V. Parah III, 7.

(3) Sc. the sanctification.

(4) By actually putting his hands and feet into it.

(5) Ex. XXX, 19. The Heb. means literally, from it.

(6) I.e., putting his hands and feet in the laver.

(7) If unclean, and such bathing constitutes valid immersion and makes him clean.

(8) But it is still possible that if he used the water of the laver in the same way. putting his hands and feet into it, his sanctification is invalid.

(9) The mattirin (q.v. Glos) are the sprinkling of the blood of animal sacrifices, and the burning of the fistful of meal of the meal-offerings; they are so called because they enable the sacrifices to be eaten or make them fit for the altar, and they must be done before sunset of the day on which the sacrifices are brought. Now the laver was sunk every day in a pit (v. supra 20a); if this laver was not sunk into it before sunset, its water is unfit on the morrow for ‘sanctification’ where the priest wishes to perform a mattir, just as the blood and the fistful of meal themselves become unfit for their purpose at sunset. Again, the limbs of the sacrifice must be burned before dawn of the day following its offering; if the laver is not sunk into the pit before dawn, its water is unfit for ‘sanctification’ on the following day for the service of burning the limbs. That is R. Hiyya b. Joseph's view. R. Hisda maintains that for the sprinkling of the blood too the water is unfit only if the laver was not sunk in the pit by dawn.

(10) Into the pit at sunset.

(11) Until dawn. It is now assumed that he means that even if a priest wishes to burn limbs during the night the laver cannot be drawn up, as this would render its water unfit.

(12) Viz., burning the limbs.

Talmud - Mas. Zevachim 21b

— They disagree as to a preventive measure in respect of sinking [the laver].[1] But surely R.Johanan said: If [the priest] sanctified his hands for the removal of the ashes, he need not sanctify [them again] on the morrow, because he has already sanctified [them] at the beginning of the service.[2] According to Raba who explains that this agrees with R. Eleazar son of R. Simeon, it is well: this [the present ruling] agrees with Rabbi.[3] But according to Abaye who explains that it agrees with Rabbi, Rabbi is self-contradictory, [for] why must he lower it there,[4] whereas here he must not lower it? — It means that he raises it[5] and then lowers it again.[6] If so, 'on the morrow he does not sanctify' — why so?[7] [The meaning is] that he need not sanctify,[8] which is to say that [the previous sanctification] is indeed fit for the mattirin. Then it is the same as R. Hisda['s ruling]?[9] — They disagree in respect of the regulation of lowering.[10]

An objection is raised: They neither saw him nor heard him until they heard the sound of the wood of the machine which Ben Kattin made for the laver, and then they exclaimed. 'It is time to sanctify hands and feet at the laver' .[11] Surely it means that he raised it,[12] and which proves that it was sunk [earlier]? — No: it means that he lowered it [now].[13] If he lowered it, would the sound be heard?[14] — He lowered it by the wheel.[15] Another version: He lowered it by means of its stone,[16] in order that the sound of it should be heard, so that they [the priests] might hear it and come. But there was Gebini the crier?[17] — They made two alarms; some heard the one and came, whilst others heard the other and came.

The [above] text [stated]: 'R. Jose son of R. Hanina said: You may not wash in a laver which does not contain sufficient [water] for the sanctification of four priests. for it says. That Moses and Aaron and his sons wash their hands and their feet thereat'.[18] An objection is raised: All vessels sanctify.[19] whether they contain a rebi'ith[20]

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(1) When R. Johanan rules that the laver must not be brought up for a service the following day, it is not because its water is unfit if it is not in the pit during any part of the night, but as a preventive measure, lest it is not lowered again before dawn, which would disqualify it. Hence R. Johanan does not say that the water is unfit, but merely that the laver must not be brought up.

(2) V. supra 20a. Thus the laver is drawn up before dawn, and R. Johanan does not add that it must be lowered again immediately before dawn.

(3) Who maintains that the passing of the night nullifies the previous sanctification, and all the more will it disqualify the water of the laver itself.

(4) I.e., why does he fear there that if he brings it up he will not lower it again.

(5) In the morning for the removal of the ashes.

(6) Although R. Johanan does not mention it, that is merely because he is discussing the sanctification of hands and not the regulations of the laver.

(7) Now that you explain that according to R. Johanan the night does not disqualify, why cannot he sanctify his hands on the morrow?

(8) Because he has already sanctified his hands for the night service. Thus he informs us that the passing of the night does not nullify the sanctification, this being in agreement with R. Eleazar.

(9) Now that you say that he does not bring it up because dawn is a disqualification, but that the night itself does not disqualify. R. Johanan's view is identical with R. Hisda's.

(10) In R. Johanan's opinion it must be done in the evening, so that when the priest comes to clean the ashes in the morning he will find it so, and thus remember to lower it again immediately before dawn. But R. Hisda holds that this is unnecessary, and it is sufficient to lower it just before dawn.

(11) When the priest who was to remove the ashes entered the Temple court to sanctify his hands and feet, he did not carry a light with him, but walked by the light of the altar fire. His fellow-priests in the adjoining chamber therefore neither saw nor heard him, until they heard the sound of the machine drawing up the laver from the pit, and then they knew that they themselves must prepare for the next service.

(12) From the pit. Hence until then it was in the pit, which contradicts R. Hisda's view that it was not lowered until dawn.

(13) They heard the sound of it being lowered.

(14) The wheel was unnecessary for this, as one could simply unfasten the rope by which it was held up, whereupon it would fall automatically.

(15) Though it was unnecessary, precisely in order that he might be heard.

(16) A stone used as a wheel or pulley.

(17) Who apprised the priests and others every morning when it was time for them to get up; v. Yoma 19b.

(18) V. supra 19b.

(19) The water placed in them, so that this water can be used by the priests for sanctifying their hands and feet.

(20) V. Glos.

Talmud - Mas. Zevachim 22a

or they do not contain a rebi'ith,[1] provided they are service vessels? — Said R. Adda b. Aha:[2] This means where one bales out from it.[3] But the Divine Law saith, ‘Thereat’?[4] — They should wash[5] is to include any service vessel.[6] If so, then a profane vessel too [should be fit]? — Said Abaye: You cannot say [that] a profane vessel [is fit], this being deduced from its base, a fortiori: If its base, which was anointed together with it [the laver], does not sanctify [the water poured into it].[7] is it not logical that a profane vessel, which was not anointed with it, does not sanctify?

And how do we know [that] its base [does not sanctify]? Because it was taught: R. Judah said: You might think that the base sanctifies, just as the laver sanctifies; therefore it says. Thou shalt also make a laver of brass, and the base thereof of brass.[8] I have made it alike in respect of brass , but not in respect of anything else. Mar Zutra the son of R. Mari said to Rabina: As for its base, [it does not sanctify] because it is not made for its inside [to be used]; will you say [the same of] a profane vessel, which is made for its inside?[9] Rather, ‘thereat’ excludes a profane vessel. If so, [it excludes] a service vessel too? — Surely the Divine Law included [it by writing] ‘they should wash’. And what [reason] do you see [for this choice]?[10] — The one [a service vessel] needs anointing like itself [the laver], while the other does not need anointing like itself.

Resh Lakish said: Whatever can make up [the prescribed quantity of] the water of a mikweh,[11] makes up the water of the laver;[12] but it does not make up to a rebi'ith.[13] What does this exclude? Shall we say, it excludes miry [liquid] clay?[14] then how is it meant? If a cow would bend and drink thereof,[15] it is [fit] even for a rebi'ith too;[16] while if a cow would not bend and drink thereof, it cannot make up even [the quantity of] a mikweh too! Again, if it is to exclude red insects,[17] [these are permitted] even in the mass,[18] for surely it was taught: R. Simeon b. Gamaliel said: You may perform immersion in whatever originates in the water; while R. Isaac b. Abdimi said: You may perform immersion in the eye of a fish![19] — Said R. Papa : It excludes the case where one added a se'ah and took out a se'ah. For we learnt: If a mikweh had exactly forty se'ah and one added a se'ah and took out a se'ah, it is fit. And Rab Judah b. Shila said in R. Assi's name in R. Johanan's name: Up to the greater part thereof.[20] R. Papa said: If one cut out a rebi'ith therein, one may bathe needles and hooks,[21] since it is derived from a valid mikweh.[22]

R. Jeremiah said in the name of Resh Lakish: The water of a mikweh is fit for the water of the laver.[23] Are we to say that it [the water of the laver] need not be ‘living’ water? Surely it was taught: [But its inwards and its legs shall he wash] with water,[24] but not with wine; ‘with water,’ but not with a mixture;[25] ‘with water’ includes any water,[26] and all the more [does it include] the water of the laver. Now what does ‘and all the more the water of the laver’ imply? Surely that it is ‘living’ water?[27] — No: it means, which is holy.[28] Is then its holiness an advantage? Surely the school of Samuel taught: [Only] water which has no special name [is fit],[29]

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(1) In that case it is certainly insufficient for four priests.

(2) Sh. M. emends: Ahabah.

(3) Tosaf. : the priest takes up water from the laver with a small vessel. This need not contain a rebi'ith, but the laver must contain the larger quantity. Rashi translates and explains differently.

(4) Rashi: which implies that one must wash from the laver only. Tosaf. : which implies that any other vessel used must be of the same size as the laver.

(5) Ex. XL, 32.

(6) ‘They should wash’ is superfluous, and is therefore regarded as an extension.

(7) To be used for this purpose. — This implies that the base itself could hold water.

(8) Ibid. XXX, 18.

(9) Surely not.

(10) For excluding the one and including the other; why not reverse it?

(11) V. Glos. A mikweh must contain not less than forty se'ahs water. Yet if it is short of this quantity, it can be made up with other liquids, as enumerated in Mik. VII, 1 q.v.

(12) If it contains insufficient for the lustrations of four priests.

(13) Which is required for the ordinary washing of the hands before eating food.

(14) Reading narok, as in Suk. 19b et passim. Edd. have here nadok, which Rashi translates, thin clay, such that can be poured from one vessel into another.

(15) If it is so loose that its presence in water would not deter a cow from drinking it.

(16) If the rebi'ith is partly made up of such miry clay, it is sufficient and valid for the ritual washing of the hands.

(17) Which originate in the water.

(18) Even if the whole mikweh consists of these, it is fit, whereas Resh Lakish permits them only to make up the prescribed quantity.

(19) A huge fish whose eye had dissolved in its socket.

(20) Any liquid other than water can sometimes make up the quantity and sometimes not. Thus: if the mikweh contains thirty nine se'ahs and another is added of a different liquid, it is not valid. But if it contains forty, and then a different liquid is added and a se'ah of water is removed, it remains fit. For it was fit without the added se'ah, and this se'ah becomes null (loses its identity) in the rest, and so the mikweh remains fit. Rab Judah says that it remains fit even if in this way one removes up to (but not including)the greater part of the water. But if one has a rebi'ith of water, adds a little of another liquid, and then removes the same quantity, it is not fit, because a rebi'ith is too little for the other liquid to lose its identity in it.

(21) If one cuts out a little hollow in the side of a full-sized mikweh and the water flows into it, you may purify these small objects in it, even though it is not freely joined to the larger mikweh.

(22) Lit., ‘Since it comes from the fitness of a mikweh’.

(23) Though the former is not ‘living’ (i.e. running) water, it may be drawn into the laver.

(24) Lev. I, 9.

(25) Two parts water and one part wine.

(26) Even non-running.

(27) For that is apparently its only superiority, and so the passage does not refer to the actual water of the laver, but means any living water.

(28) I.e all the more is the water of the laver (actual) fit, seeing that it is holy.

(29) For the washing of the sacrificial parts.

Talmud - Mas. Zevachim 22b

which excludes the water of the laver, which has a special name.[1] Hence it surely means such as is fit for the water of the laver,[2] which proves that it must be ‘living’ water? — It is a controversy of

Tannaim. For R. Johanan said: As for the laver, — R. Ishmael said: It is the water of a spring;[3] While the Sages maintain: It may be ordinary water.

AN UNCIRCUMCISED [PRIEST]. Whence do we know it? — Said R. Hisda: We did not learn this from the Torah of Moses our Teacher, but from the words of Ezekiel the son of Buzi: No alien, uncircumcised in heart and uncircumcised in flesh, shall enter into My sanctuary.[4] And how do we know that they profane the service?[5] — Because it is written , In that ye have brought in aliens, uncircumcised in heart and uncircumcised in flesh, to be in My sanctuary, to profane it, even My house, [when ye offer My bread, the fat and the blood].[6]

Our Rabbis taught: [It says.] Alien: you might think that this means literally an alien; therefore Scripture teaches, uncircumcised in heart. If so, why does Scripture call him ‘alien’? Because his actions are alien to his Father in Heaven.[7] Now, I know only [that] the ‘uncircumcised in heart’[8] [invalidates the sacrifice]; how do I know that the uncircumcised in flesh [does likewise]? Because the text states, ‘and uncircumcised in flesh.’ And they are both necessary. For if the Divine Law wrote [that] one uncircumcised in flesh [is disqualified]. I would say that the reason is because he is repulsive; but an uncircumcised in heart’ is not repulsive, and so he is not disqualified. And if we were informed about an ‘uncircumcised in heart’, I would say that the reason is that his heart is not toward Heaven, but [as for] an ‘uncircumcised in flesh’, whose heart is toward Heaven,[9] he is not [disqualified]. Thus both are necessary.

AN UNCLEAN [PRIEST] . . . IS DISQUALIFIED. The Elders of the South said: They learnt this only of [a priest] unclean through a reptile, but [as for] one unclean through a corpse, since [the headplate] propitiates in the case of a public sacrifice, it propitiates in the case of a private sacrifice.[10] If so, let it be deduced from one unclean through a corpse, a fortiori. [that] one unclean through a reptile too [does not invalidate the sacrifice]: if [the headplate] propitiates [in the case of] one unclean through a corpse, who must be besprinkled on the third and on the seventh [days of his defilement],[11] surely [it] propitiates [in the case of] one unclean through a reptile, who need not be besprinkled on the third and on the seventh [days]? — The Elders of the South hold that those who make atonement [the priests] are like those for whom atonement is made [the people]: as in the case of those for whom atonement is made, if they are unclean through a corpse [the headplate] does [propitiate], but if they are unclean through a reptile [it does] not,[12] so are those who make atonement: one unclean through a corpse is [included in the propitiatory effect of the headplate]. whereas one unclean through a reptile is not [included]. What do they [these Elders] hold? If they hold, you may not slaughter [the Passover] and sprinkle [its blood] on behalf of one who is unclean through a reptile,[13] why may the community not sacrifice in uncleanness: surely [it is a principle that] wherever an individual is relegated [to the second Passover], the community celebrates it in uncleanness? Rather, they hold that you do slaughter and sprinkle on behalf of him who is unclean through a reptile.

‘Ulla said: Resh Lakish[14] criticised the southern scholars: Now, whose power is greater, the power of those who make atonement, or the power of those for whom atonement is made? Surely the power of those for whom atonement is made.[15] Then if a priest who was unclean through a reptile cannot propitiate [officiate], though where the owners were defiled by a reptile they can send their sacrifices [to the Temple]; is it not logical that a priest who was defiled by a corpse should not be able to propitiate, seeing that if the owners were defiled by a corpse they cannot send their sacrifices?[16] — The Elders of the south hold: One who is unclean through a corpse can also send his sacrifices.[17] But it is written, If any man of you . . . shall be unclean [by reason of a dead body] . . . yet he shall keep the Passover [unto the Lord] in the second month [on the fourteenth day at dusk they shall keep it]?[18] — That is a recommendation.[19] But it is written, According to every man's

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(1) It is not called simply water, but the water of the laver.

(2) But not the actual water of the laver.
(3) I.e., running water.
(4) Ezek. XLIV, 9.
(5) I.e., make the sacrifice unfit.
(6) Ibid. 6.
(7) They estrange him from God.
(8) An apostate.
(9) For this is understood to refer to one whose brothers died through circumcision, so that he fears the operation, but would otherwise have it performed.
(10) V. Ex. XXVIII, 36-38: And thou shalt make a pale of pure gold . . . and it shall be upon Aaron's forehead, and Aaron shall bear the iniquity committed in the holy things . . . and it shall always be upon his forehead, that they may be accepted before the Lord. According to the Rabbis, this means that in virtue of the headplate a public sacrifice is ‘accepted’, i.e., valid, even if the whole congregation or all the officiating priests are unclean, and indeed must be offered at the very outset in such conditions, as the public sacrifice may not be postponed. This is technically called propitiating (making acceptable). The matter is further explained in the text.
(11) V. Num. XIX, 19.
(12) I.e., only when the whole or the majority of the nation is unclean through a corpse must the public sacrifice be brought.
(13) If an individual is unclean through a reptile and has not performed tebillah (q.v. Glos.), though he can do so and be clean in the evening, nevertheless the Passover may not be slaughtered on his behalf, and he must postpone his sacrifice for the second Passover. There is an opposing view in Pes. 90b.
(14) The original is ר"ל and it is not clear what it stands for. Bah. suggests. Resh Galutha, the Head of the Exile.
(15) As the text proceeds to shew: the owner of a sacrifice can send it to the Temple even when he is unclean through a reptile, whereas a priest cannot officiate in like circumstances.
(16) Because they will be unfit to partake of it in the evening. — Though sacrifices in general are mentioned, much of the present discussion refers more particularly to the Passover.
(17) E.g.. he was registered for a particular Passover-offering (this could be sacrificed only on behalf of people specially registered for it) and became unclean through a corpse: if he sent the sacrifice and had it slaughtered, he does not celebrate the second Passover a month later, though he cannot partake of the first.
(18) Num. IX, 10f. Thus he is relegated to the second month.
(19) Scripture orders him to be relegated. Yet if he does have it slaughtered at the first, he has fulfilled his obligation.

Talmud - Mas. Zevachim 23a

eating?[1] — That [too] is [only] a recommendation. Yet is it not indispensable?[2] Surely it was taught: [Then shall he and his neighbor next unto him take one] according to the number of [be-miksath] the souls:[3] this teaches that the Paschal lamb is not slaughtered save for those who are registered [numbered] for it. You might think that if he slaughtered it for those who were not registered for it, he should be as one who violates the precept, yet it is fit. Therefore it is stated, Ye shall make your count [takosu]:[3] it is reiterated ‘to teach that it is indispensable; and eaters are assimilated to registered [persons]![4] — The Elders of the south do not assimilate [them].[5] Yet even if they do not assimilate [them], there is still the same refutation: If a priest who was defiled by a reptile cannot propitiate, though if the owners were defiled by a reptile they can send their sacrifices at the very outset; is it not logical that a priest who was defiled through a corpse should not be able to propitiate, seeing that if the owners were defiled through a corpse they cannot send their sacrifices at the very outset?[6]

An objection is raised: [If the blood of a Passover-offering is sprinkled, and then it became known that it was unclean, the headplate propitiates; if the person became unclean, the headplate does not propitiate;] because they [the Sages] ruled: [In the case of] a nazirite one who sacrifices the Passover-offering, the headplate propitiates for the uncleanness of the blood, but the headplate does not propitiate for the uncleanness of the person. With what [was the person defiled]? Shall we say, With the uncleanness of a reptile? surely you maintain [that] you may slaughter [the Passover-offering] and sprinkle [its blood] on behalf of one who is unclean through a reptile! Hence it must refer to defilement by a corpse, yet it teaches, ‘The headplate does not propitiate’, which proves that if the owners were defiled, they cannot send their sacrifices![7] — No: if the owners were defiled through a corpse, that would indeed be so.[8] But the meaning here is that the priest was defiled by a reptile. If so, consider the last clause: If he was defiled with the ‘uncleanness of the deep’,[9] the headplate propitiates.[10] But surely R. Hiyya taught: They [the Sages] spoke of the ‘uncleanness of the deep’ in respect of a corpse alone. What does this exclude? Surely it excludes the ‘uncleanness of the deep’ caused by a reptile? — No: it excludes the ‘uncleanness of the deep’ of gonorrhoea.[11]

Again, as to what Rami b. Hama asked: As to the priest who propitiates with their sacrifices, is the ‘uncleanness of the deep permitted to him, or is the ‘uncleanness of the deep’ not permitted to him?[12] You may solve that the ‘uncleanness of the deep’ is permitted to him, for here we are treating of the priest?[13] — Rami b. Hama certainly disagrees [with the Elders of the south].[14]

Come and hear:[15] And Aaron shall bear the iniquity of the holy things:[16] now, what iniquity does he bear?

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(1) Ex. XII, 4. This implies that he must be fit to partake thereof.

(2) In the sense that the sacrifice offered in contravention of this law does not count at all, and the man must bring the second Passover.

(3) Ibid. 4.

(4) Just as the sacrifice is unfit if slaughtered for those who are not registered for it, so is it unfit if slaughtered on behalf of men who cannot partake of it, for the eaters are coupled with the registered persons in the same verse.

(5) Since only ‘number’ is repeated, but not ‘eating’.

(6) For the Elders of the south merely maintain that if they sent their sacrifices and had them slaughtered, they do not bring a second Passover. But they must of course admit that they must not send them in the first place. — The objection remains unanswered.

(7) In the sense that even if they do, they must still bring the second Passover.

(8) The headplate would propitiate.

(9) This is a technical term denoting the hidden uncleanness of a corpse which is now discovered for the first time. E.g., if he was in a house and it is subsequently learned that a corpse had been there; v. Pesahim 80b.

(10) And he is not liable to a second offering. This is a traditional law.

(11) A zab (gonorrhoeist) is unclean seven days, and the Passover-offering may not be offered on his behalf. Now, if the eve of Passover marks the seventh day of his uncleanness, he is in a state of doubt: if he does not discharge on that day, he will be clean in the evening; if he does discharge, he becomes unclean for a further seven days. Thus he too is unclean with the ‘uncleanness of the deep’, and R. Hiyya teaches that the headplate does not propitiate in his case.

(12) If the priest who offers the Passover sacrifice or the sacrifices of a nazirite on behalf of their owners was defiled with the ‘uncleanness of the deep’, does the headplate propitiate, so that the sacrifices are valid, or not?

(13) On the interpretation of the Elders of the south.

(14) He must interpret the Mishnah as referring to the uncleanness of the owners.

(15) This is a refutation of Rami b. Hama.

(16) Ex. XXVIII, 38. ‘Shall bear’ means shall make atonement for, i.e., shall make a sacrifice valid in spite of certain irregularities.

Talmud - Mas. Zevachim 23b

If the iniquity of piggul,[1] surely it is already said, it shall not be accepted?[2] If the iniquity of nothar,[3] surely it is already said, neither shall it be imputed [unto him that offereth it]?[4] Hence he bears nought but the iniquity of defilement, which is inoperative,[5] in opposition to its general rule, in the case of a community.[6] Now which uncleanness [is meant]? if we say, the uncleanness of a reptile, where has that been waived?[7] Hence it must mean uncleanness through a corpse, which proves that if the owners become unclean through a corpse they send their sacrifices. And of whom [is this said]? If of a nazirite, the Divine Law saith, And if any man die very suddenly beside him, etc![8] Hence it can only refer to one who is offering the Paschal lamb! — In truth it refers to [the uncleanness of] a reptile, yet uncleanness elsewhere [was waived].[9] Others make this deduction:[10] [The headplate makes atonement] only for the iniquity of the holy things, but not for the iniquity of those who hallow them.[11] Which uncleanness [is meant]? If we say, the uncleanness of a reptile? is then that inoperative in the case of a community? Hence it must surely be the uncleanness of a corpse, and yet only the iniquity of the holy things [is atoned for], but not the iniquity of those who hallow them? — No: in truth it means uncleanness through a reptile, yet uncleanness elsewhere [is waived].

[A PRIEST] SITTING. Whence do we know it? — Said Raba in R. Nahman's name: Scripture saith, [For the Lord thy God hath chosen him — the priest — out of all thy tribes,] to stand to minister [in the name of the Lord]:[12] I have chosen him to stand, but not to sit. Our Rabbis taught: ‘To stand to minister’ is a recommendation;[13] when it says [further], who stand [there before the Lord].[14] the Writ has repeated it, to make [standing] indispensable. Raba said to R. Nahman: Consider: one sitting is as a zar,[15] and profanes the service; then let us say: just as a zar is liable to death,[16] so is one who sits liable to death. Why then was it taught: But an uncircumcised [priest], an onen, and one sitting are not liable to death but are merely under an injunction [not to officiate]? — Because [a priest] lacking the [priestly] vestments and one whose hands and feet are not washed are two laws which come as one,[17]

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(1) V. Glos.

(2) Lev. XIX, 7.

(3) V. Glos.

(4) Ib. VII, 18. Text as emended by Rashi on the basis of Torath Kohanim. The edd. reverse the proof-texts, and Tosaf. defends their reading.

(5) Lit., ‘permitted’.

(6) If the whole community or the majority thereof is unclean, they sacrifice the Passover-offering in the first month, as usual, and are not relegated to the second month as an individual would be.

(7) In favour of a community — Scripture speaks only of uncleanness through a corpse.

(8) Num. VI, 9. Scripture proceeds to say that he must then bring certain sacrifices and re-commence his period of naziriteship, at the conclusion of which he brings the prescribed sacrifices on the shaving of his head. Thus whilst unclean he cannot bring the latter.

(9) Though the Scriptural permission to a community applies only to uncleanness through a corpse, yet since we find that same form of uncleanness is inoperative, it is logical to say that the propitiating powers of the headplate hold good in the case of uncleanness through a reptile.

(10) Which supports Rami b. Hama and refutes the Elders of the south.

(11) I.e., only when the sacrifice itself is defiled, but not when its owners or the priests — ‘those who hallow them’ — are unclean. This is deduced direct from Scripture, which speaks only of the ‘holy things’.

(12) Deut. XVIII, 5.

(13) I.e., this text alone would merely indicate that it is preferable that the priest shall stand.

(14) Ibid. XVIII, 7.

(15) For since he has not been chosen ‘to sit’, he is then like a zar (a lay-Israelite) who has not been chosen.

(16) For officiating.

(17) I.e., to teach the same thing. They too profane the service, and it is stated in Sanh. 83a that they are liable to death, and the same analogy might be drawn from each, viz., that those who profane the service are liable to death.

Talmud - Mas. Zevachim 24a

and two laws that come as one do not illumine [other cases].[1] And on the view that they do illumine [other cases], one who has drunk wine is a third case, and [when] three [laws come as one] all agree that they do not illumine [other cases].

ONE STANDING ON UTENSILS OR ON AN ANIMAL OR ON HIS FELLOW'S FEET, [THE SACRIFICES] ARE INVALID. Whence do we know it? — For the school of R. Ishmael taught: Since the pavement sanctifies[2] and the service vessels sanctify;[3] just as with the service vessels nothing may interpose between him [the priest] and the service vessels;[4] so with the pavement nothing must interpose between him and the pavement.

Now they are all necessary.[5] For if we were informed about vessels, I would argue that [standing on them disqualifies] because they are not flesh, but in the case of an animal, which is flesh, [standing on it does] not [disqualify]. And if we were informed about an animal, [the reason is] because it is not human, but as for his fellow, who is human, I would say [that standing on his feet does] not [disqualify]. Hence [they are all] necessary.

It was taught: R. Eliezer said: If one foot is on the utensil and the other on the pavement, one foot on the stone and the other on the pavement, we consider: wherever if the stone or the utensil be removed, he can stand on the other foot, his service is valid; if not, his service is invalid. R. Ammi asked: What if a [paving] stone become loosened and he stood on it?[6] If it is not his intention to fit it [in the pavement] there is no question, for it certainly interposes;[7] the question arises where it is his intention to fit it in: what then? Since it is his intention to fit it in, it is as though [already] fitted; or perhaps [we say], Now at all events it is separate? Rabbah Zuti[8] stated the question thus: R. Ammi asked: What if the stone became uprooted,[9] and he stood in its place? What is the question? [This:] When David sanctified [it], did he sanctify the upper pavement [only], or perhaps he sanctified [it] right to the nethermost soil?[10] Then let him ask about the whole of the Temple court?[11] — In truth, he is certain that he sanctified it to the nethermost soil, but this is his question: Is this a natural way of service,[12] or is it not a natural way of service? The question stands.

IF [THE PRIEST] RECEIVED [THE BLOOD] IN HIS LEFT HAND, IT IS DISQUALIFIED; R. SIMEON DECLARES IT FIT. Our Rabbis taught: [And the priest shall take of the blood of the sin-offering with his finger, and put it upon the horns of the altar]:[13] ‘with his finger he shall take’: this teaches that receiving must be done with the right hand; ‘with his finger he shall put’: this teaches that applying [the blood on the altar] must be done with the right hand.[14] Said R. Simeon: is then ‘hand’ stated in connection with receiving? Rather, [interpret it thus:] ‘with his finger he shall put’ teaches that the application must be with the right; [and] since ‘hand’ is not stated in connection with receiving, if he received [it] with his left [hand], it is fit.[15] Now as for R. Simeon, what will you? if he admits the gezerah shawah,[16] what does it matter if ‘hand’ is not written in connection with receiving?[17] While if he does not admit the gezerah shawah, what if ‘hand’ were written In connection with receiving? — Said Rab Judah: in truth, he does not admit the gezerah shawah, and this is what he means: Is then ‘right hand’ stated in connection with receiving? Since then ‘right hand’ is not stated in connection with receiving, if he received [it] with the left hand, [the service] is fit. Said Rabbah to him: If so, [the same applies] even to the application [of the blood on the altar] too?[18] Moreover, does not R. Simeon accept the gezerah shawah? Surely it was taught. R. Simeon said: Wherever ‘hand’ is stated, it refers to the right only; [wherever] ‘finger’ [is stated], it refers to the right only? — Rather said Raba: In truth he admits the gezerah shawah, and this is what he says: is then ‘hand’ stated in connection with receiving? Since not ‘hand’ but ‘finger’ is written, and [the blood] cannot be received with the finger,[19] therefore if he received it with the left [hand], it is fit. Said R. Sama the son of R. Ashi to Rabina: But it is possible to make a handle at the edge of the bowl[20] and receive [the blood]?[21] — Rather said Abaye:

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(1) For otherwise only one should be mentioned, and by analogy the other as well as all analogous cases, would be included.

(2) The priest, in that he may sacrifice there only, and not elsewhere. But v. next note.

(3) The blood that is caught in them. This is the reading of cur. edd. Sh. M. offers an alternative reading, which is preferable: since the pavement is sanctified, and the service vessels are sanctified.

(4) When he takes one for receiving the blood, nothing must be on his hands, e.g., gloves.

(5) The enumeration of vessels, an animal, and his fellow's feet.

(6) So that it moves about.

(7) It is not accounted part of the pavement.

(8) Lit., 'the small.'

(9) Entirely leaving the earth beneath it exposed.

(10) Lit., 'the soil of the deep'.

(11) What if the pavement is removed and the priests stand on the earth beneath?

(12) To stand on the earth beneath the paving stone.

(13) Lev. IV, 25.

(14) 'Finger' stands between 'take' and 'put' in the text, and so the Rabbis apply it to both; and it is stated below that 'finger' always means that of the right hand.

(15) It is now assumed that R. Simeon agrees that 'hand' means the right, but not 'finger'.

(16) Whereby it is deduced that 'hand' in connection with sacrifices means the right. The gezerah shawah is from a leper, where both 'hand' and 'finger' are written.

(17) 'Finger' is however written both here and in connection with a leper; and there it is definitely the right.

(18) Since right hand is not stated there either.

(19) The receiving vessel cannot be held by a finger only. Hence 'finger', which denotes the right one, must refer to the applying of the blood, but not to the receiving.

(20) In which the blood is caught.

(21) Holding it with the finger only.

Talmud - Mas. Zevachim 24b

They disagree [on the question] whether a text is to be interpreted with what precedes and with what follows it.[1]

Abaye said: The following [teaching] of R. Eleazar son of R. Simeon disagrees with his father's and with the Rabbis'. For it was taught, R. Eleazar son of R. Simeon said: Wherever 'finger' Is stated in connection with receiving,[2] if [the priest] varied the reception [of the blood],[3] it is unfit; if the application, it is fit. And wherever 'finger' is stated in connection with the application, if he varied the application, it is unfit; if the reception, it is fit. And where is 'finger' stated in connection with the application? — For it is written, And thou shalt take of the blood of the bullock, and put it upon the horns of the altar with thy finger;[4] and he holds: A text is interpreted with its precedent, but not with its ante-precedent, nor with what follows it. Rabbah b. Bar Hanah said in R. Johanan's name:[5] Wherever 'finger' and 'priesthood' are stated. they refer to the right only. It was assumed that we require both, as it is written. And the priest shall take of the blood of the sin-offering with his finger;[6] and it is learnt from a leper, where it is written, And the priest shall dip his right finger.[7] But surely 'priesthood' alone is written in connection with the taking of the fistful [of flour] yet we learnt: If [the priest] took the handful with his left [hand], is it unfit? — Said Raba: [He meant] either 'finger' or 'priesthood'. Said Abaye to him: Yet 'priesthood' is written in connection with the carrying of the limbs to the [altar] ascent, as it is written, And the priest shall offer the whole, and make it smoke on the altar,[8] and a master said: This refers to the carrying of the limbs to the ascent; yet we learnt: [The priest carries] the right foot [of the sacrifice] in his left hand with the inside of the skin outward? — When do we say [that] either 'finger' or priesthood' [implies the right], only in respect of [a service] which is indispensable to atonement, as in the case of a leper.[9] But priesthood is written in connection with receiving, which is indispensable to atonement, yet we learnt: IF HE RECEIVED [THE BLOOD] WITH HIS LEFT HAND, IT IS UNFIT; BUT R. SIMEON DECLARES IT FIT? — R. Simeon requires both.[10] Does then R. Simeon require both? Surely it was taught. R. Simeon said: Wherever ‘hand’ is stated, it refers to the right only; [wherever] ‘finger’ [is stated], it refers to the right only? — [Where] ‘finger’ [is stated] he does not require ‘priesthood’, [but] where ‘priesthood’ [is stated], he does require ‘finger’. Then what is the purpose of ‘priesthood’?[11] [To teach that they must be] in their priestly state.[12]

But ‘priesthood’ alone is written in connection with sprinkling, yet we learnt: IF HE SPRINKLED WITH HIS LEFT HAND, IT IS UNFIT, and R. Simeon does not disagree? — Said Abaye: He does disagree in a Baraitha, for it was taught: If [the priest] received with his left hand, it is unfit; but R. Simeon declares it fit. If he sprinkled with his left hand, it is unfit; but R. Simeon declares it fit.

Then as to what Raba said.[We draw an analogy of] hand’ ‘hand’ in respect of taking the fistful; ‘foot’, ‘foot’, in respect of halizah; ear’ ‘ear’ in respect of boring [the ear].[13] — Why is this necessary [in respect of the fistful], seeing that it can be deduced from Rabbah b. Bar Hanah's [exegesis]? — One [is required] for the taking of the fistful, and the other for the sanctification of the fistful.[14]

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(1) Simultaneously. R. Simeon holds that a text can be interpreted only with what follows; hence ‘finger’ refers to ‘and he shall put’, but not to ‘and he shall take’, which precedes. While the Rabbis hold that it goes with both.

(2) As in the present case. He holds that ‘finger’ here refers to the preceding ‘and he shall take’, as its literal meaning does imply.

(3) Receiving it with the left hand.

(4) Ex. XXIX, 12.

(5) Sh. M. reads: in the name of Resh Lakish.

(6) Lev. IV, 25.

(7) Ibid. XIV, 16.

(8) Ibid. I, 13.

(9) Whereas even if the limbs are not burnt at all, the efficacy of the sacrifice is unaffected.

(10) ‘Finger’ and ‘priesthood’.

(11) In connection with receiving, seeing that it is already written that this must be done by the sons of Aaron.

(12) In their priestly vestments.

(13) V. Men. 9b and 10a. Raba refers to Lev. XIV, 14, which deals with a leper's purification: And the priest shall take of the blood of the guilt-offering, and the priest shall put it upon the tip of the right ear of him that is to be cleansed, and upon the thumb of his right hand, and upon the great toe of his right foot. Raba teaches that the ‘right’ is mentioned in these cases in order to teach that when ‘hand’, ‘foot’ and ‘ear’ are written in connection with the taking of the fistful, the ceremony of halizah (q.v. Glos; v. also Deut. XXV, 9) and the boring of the ear of a slave who refuses to accept his freedom (v. Ex XXI, 5f) respectively, the right is meant in each case.

(14) The fistful was sanctified by being placed in a service vessel. We now learn that while this is done the vessel must be held in the right hand.

Talmud - Mas. Zevachim 25a

But according to R. Simeon, who does not require the sanctification of the fistful [at all], or on the view that R. Simeon does indeed require the sanctification of the fistful, yet he certainly holds that it is fit if done with the left,[1] what is the purpose of Raba's [analogy of] ‘hand’, ‘hand’? If in respect of the actual taking of the fistful, that is deduced from Rab Judah the son of R. Hiyya's [teaching]. For Rab Judah the son of R. Hiyya said, What is R. Simeon's reason? Scripture saith. It is most holy, as the sin-offering, and as the guilt-offering:[2] [this teaches:] If [the priest] comes to perform its service with his hand, he does so with the right hand, as in the case of a sin-offering; [if he comes] to perform the service with a vessel, he may do so with the left hand, as in the case of the guilt-offering?[3] — It is necessary only in respect of [a priest] who takes the fistful of a sinner's meal-offering: You might think, since R. Simeon said, [The reason is] that his sacrifice should not be adorned,[4] let it be fit too even if [the priest] takes the fistful with his left hand. Therefore [the text] informs us [that it is not so].

MISHNAH. IF THE BLOOD WAS POURED OUT ON TO THE PAVEMENT[5] AND [THE PRIEST] COLLECTED IT, IT IS FIT.

GEMARA. Our Rabbis taught: And the anointed priest shall take of the blood of the bullock:[6] [this means,] of the life blood, but not of the blood of the skin or of the draining blood;[7] 'of the blood of the bullock' [implies,] he is to receive the blood [direct] from the bullock.[8] For if you think that 'of the blood of the bullock' [is meant literally] as it is written, [viz.,] of the blood [indicating] even a portion of the blood [only], Surely Rab said: He who slaughters [the sacrifice] must receive all the blood of the bullock, for it says, And all the remaining blood of the bullock shall he pour out.[9] Hence 'from the blood of the bullock' means, he is to receive the blood [direct] from the bullock; for [the author of this exegesis] holds: You subtract, add, and interpret.[10]

The [above] text [stated]: Rab said: He who slaughters [the sacrifice] must receive all the blood of the bullock, for it says, 'And all the remaining blood of the bullock shall he pour out'. But surely this is written of the remainder [of the blood]?[11] — Since it is inapplicable to the remainder, for all the blood is not available [at the time],[12] apply it to receiving.

Rab Judah said in Samuel's name: He who slaughters must raise the knife upwards.[13] for it is said, 'And he shall take of the blood of the bullock,' but not of the blood of the bullock plus something else. And with what does he wipe the knife? — Said Abaye: With the edge of the bowl,[14] as it is written, Wipers [cleaners] of gold.[15]

R. Hisda said in the name of R. Jeremiah b. Abba: He who slaughters must let

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(1) For it is no worse than sprinkling, and in fact corresponds to it.

(2) Lev. VI, 10.

(3) V. supra 11a.

(4) A sinner's meal-offering has no oil or incense, and R. Simeon states the reason because it is unfitting that a sinner's offering should be given the same adornment as another sacrifice.

(5) Straight from the animal's neck.

(6) Lev. IV, 5.

(7) The life blood is the first blood that gushes out; the draining blood is that which follows.

(8) And not permit it to pour on to the pavement first; if he does, it is unfit.

(9) Ibid. 7.

(10) You may subtract a letter from one word and add it to another, where the context warrants it, and then interpret the text in accordance with this alteration. Thus here the partitive מ ('of' or 'from') is removed from מדם blood, and added to הפר the bullock, so that it reads: and he shall take the (not, of the) blood from the bullock.

(11) It refers to the pouring out of the remainder, and not to receiving at all.

(12) As some of it has already been sprinkled on the horns of the altar.

(13) So that none of the blood on the knife runs into the bowl.

(14) Taking care that the blood does not flow into it.

(15) Ezra 1, 10; E.V. bowls of gold. Abaye connects the Heb. kefore with kapper, to wipe away (whence its general meaning of to atone or forgive).

Talmud - Mas. Zevachim 25b

[the blood of] the jugular veins[1] run [straight] into the vessel. It was stated likewise: R. Assi said in R. Johanan's name: The jugular veins must see the air-space of the vessel.[2] R. Assi asked R. Johanan: What if one was receiving, and the bottom of the bowl split before the blood reached the air-space? is [an object in] the air, where it will not eventually come to rest, regarded as at rest, or not?[3] — Said he to him, We have learnt it: If a barrel lies beneath a spout, the water inside it and outside it is unfit; if one joined its mouth to the spout, the water inside it is fit, and the water outside it is unfit.[4] How now! He asked him about [an object in] the air, where it will not eventually come to rest, and he answered him about [an object in] the air where it will eventually come to rest?[5] — He asked him two [questions]: should you say that [an object in] the air where it will not eventually come to rest is not regarded as at rest, how about [an object in] the air where it will eventually come to rest?[6] That is how R. Joseph recited it. R. Kahana recited it that he asked him about a barrel,[7] and he answered him about a barrel. Rabbah recited it that he asked him about a barrel, and he solved [it] for him [from the case of] a bowl; [arguing thus,] do you not agree that in the case of the bowl, sprinkling [of blood] is unavoidable?[8]

We learnt elsewhere: If one places [there] one's hand or foot or vegetables leaves, in order that the water should flow into the barrel, it [the water] is unfit.[9] [If one placed there] leaves of canes or leaves of nuts, it is fit. This is the general rule: [If the water is conducted into the barrel by means of] anything which can become unclean, it is unfit; [by means of] anything which cannot become unclean, it is fit.[10] How do we know it? — Because R. Johanan said on the authority of R. Jose b. Abba: Scripture saith, Nevertheless a fountain or a cistern wherein is a gathering of water shall be clean:[11] its existence must be [effected] through purity.[12] R. Hiyya said in R. Johanan's name: This proves that the air-space of a vessel is as the vessel [itself].[13] Said R. Zera to R. Hiyya b. Abba: But perhaps It refers to a direct run [into the barrel]? — Fool! replied he: we learnt, ‘So that the water shall flow into the barrel.’[14] R. Hiyya b. Abba also said in R. Johanan's name: This Mishnah was taught on the testimony of R. Zadok. For we learnt: R. Zadok testified[15] that running water which is assembled by means of nut leaves is fit. There was such a case in Ahaliyya,[16] which was referred to the Sages in the Chamber of Hewn Stone,[17] and they declared it fit.

R. Zera said in the name of Rab:[18] If [the priest] slits the [sacrificial] bullock's ear and then receives its blood,[19] it is unfit, for it is said: And [the anointed priest] shall take of the blood of the bullock:[20] [this implies:] the bullock as it was before.[21] We have thus found [this law true of] sacrifices of higher sanctity;[22] how do we know [it of] sacrifices of lower sanctity? — Said Raba, it was taught: Your lamb shall be without blemish, a male of the first year:[23] [this teaches] that it must be without a blemish and a year old when it is slaughtered. How do we know [that it must be likewise] at the receiving [of the blood], the carrying, and the sprinkling? Because it says, ‘it shall be’, [teaching that] at all its stages [as a sacrifice] it must be without blemish and a year old.

Abaye raised an objection to him: R. Joshua said: [In the case of] all sacrifices prescribed in the Torah whereof as much as an olive of flesh or fat remained,[24] [the priest] sprinkles the blood? — Relate this to [the provision that it must be] a year old.[25] Yet is it possible for it to be a year old at the slaughtering, yet two years old[26] at the carrying and sprinkling? — Said Raba: This proves that [even] hours disqualify in the case of sacrifices.[27]

R. Ammi said in R. Eleazar's name: [In the case of the animal] being within [the Temple court] while its legs were without, if he cut off its legs and then slaughtered it, it is fit;[28]

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(1) Lit. ‘must place the jugular veins’.

(2) I.e., they must be directly over the receiving vessel, so that the blood pours straight into it.

(3) Here the blood is over the air-space of the receiving vessel. Yet it will not remain in the vessel when it falls into it. Do we nevertheless regard that blood as though it had actually been caught in the vessel and then spilled, in which case it can be collected and is fit, or as though it had poured from the animal's throat on to the ground, so that it is unfit?

(4) This treats of the water which was mixed with the ashes of the red heifer for lustration:this had to be ‘living’ (i.e., running) water, v. Num. XIX, 17: And for the unclean they shall take of the ashes of the burning of the purification from sin, and running (lit., ‘living’) water shall be put thereto in a vessel. In the present case water is running down a spout or channel, and below that spout, and at some distance from it, lies a barrel, which was not placed there in order to receive the water. If one now takes a vessel and holds it within the air-space of the barrel, or above the mouth of the barrel ('outside') and catches that water, it is unfit. Because had it been permitted to come to rest in the barrel it would have ceased to be running water; and so now too it lacks that status. Again, if the mouth of the barrel is flush with the spout, and one holds the vessel inside its air-space, the water thus gathered is unfit. If however one holds the vessel immediately beneath the spout, the water thus collected is fit, because it never entered the air-space within the barrel. (In general, in order for the water to be fit it must be collected directly as it runs in a service vessel specially placed there for that purpose.) — From this passage we see that once an object enters the air-space it is regarded as at rest.

(5) The water would normally enter the barrel and remain there.

(6) And he solved for him the latter question.

(7) Viz., this very law that has just been stated, of which he was ignorant.

(8) Some of the blood must spout through the air into the bowl. Now if an object in the air is not regarded as already at rest, then the blood has entered the bowl and not directly from the animal's throat but from the air, and should be unfit.

(9) Water was running down from a hillside, and one placed his hand etc. in order to direct it into a barrel, which had been placed there for the purpose of collecting the water. The water so collected is unfit for lustration; v. Parah VI, 4.

(10) A person's hand can become unclean; similarly vegetable leaves, if they are edible.

(11) Lev. XI, 36.

(12) Water must be collected for ritual cleansing purposes through an object which is itself clean, i.e., which cannot become unclean.

(13) When the water flows over the hand, it does not fall directly into the barrel but first spreads out over the air-space above it. If that airspace were not as the barrel itself, the water would be regarded as falling from the air into the barrel, not from the hand, and so would be fit.

(14) The Hebrew' does not imply to fall directly into it.

(15) V. 'Ed. Sonc. ed. pp. IX and XI.

(16) Horowitz, Palestine, p. 22, identifies it with Bait Ilu, near Jerusalem.

(17) In the inner court of the Temple, where the great Sanhedrim sat. V. also J.E. XII, 576.

(18) So Bek. 39b. Cur. edd. Rabbi.

(19) From the throat, in the usual way. He slit the ear immediately after slaughtering it, so that between the slaughtering and the reception of the blood it was a blemished animal.

(20) Lev. IV, 5.

(21) It must be in the same state when the priest receives the blood as it was before, viz unblemished.

(22) Such as the sin-offering, to which this text refers.

(23) Ex. XII, 5. This refers to the Passover-offering, which was a sacrifice of lower sanctity.

(24) By the time of sprinkling, the rest having been lost or defiled. There can be no greater blemish than this.

(25) At all its stages as a sacrifice it must be a year old, but it need not be without a blemish at all its stages.

(26) I.e., more than a year old.

(27) The age of a sacrifice is calculated exactly from the moment of birth, and even the least excess ('hours' means any short period, even minutes) disqualifies the animal. Thus it may reach the age limit at the moment of slaughtering and exceed it a moment afterwards.

(28) If the blood of a sacrifice passes without the Temple court before it is sprinkled, it is unfit. In this case, if one cut off the legs first, the blood that passed out (sc. that contained in the legs) did not mingle with that which remained within.

Talmud - Mas. Zevachim 26a

if he slaughtered and then cut off [the legs], it is unfit.[1] 'If he cut off [the legs] and then slaughtered [it], it is fit'? Surely he offers a blemished animal! — Say rather: if he cut off [the legs] and then received [the blood], it is fit; if he received [the blood] and then cut off [the legs] it is unfit. 'If he cut off [the legs] and then received [the blood] it is fit'? Surely R. Zera said: if one slits the ear of a firstling[2] and then receives its blood, it is unfit, because it says. 'And he shall take of the blood of the bullock', [implying,] the bullock as it was originally! — Said R. Hisda in Abimi's name: He cuts the limb as far as the bone.[3] 'If he received [the blood] and then cut, it is unfit': from this you may infer that the blood which is absorbed in the limbs is blood?[4] — [No:] perhaps [the unfitness is] on account of the fattiness.[5] Then you may infer from this that if the flesh of sacrifices of lower sanctity passes out [from the Temple court] before the sprinkling of the blood, it is unfit?[6] — [No:] perhaps [R. Ammi in R. Eleazar's name] referred to sacrifices of higher sanctity.

Our Rabbis taught: Sacrifices of higher sanctity are slaughtered on the north [side of the Temple court], and their blood is received on the north in service vessels. If he stood in the south, stretched out his hand to the north and slaughtered, his slaughtering is valid; if he [thus] received [the blood], his reception is invalid. If he projected his head and the greater part of his body [into the north side].[7] it is as though he had entered [the north] entirely. If [the animal] struggled and passed over into the south[8] and then returned, it is fit.[9] Sacrifices of lower sanctity are slaughtered [anywhere] within [the Temple court], and their blood is received in a service vessel within. If he stood without and stretched his hand within and slaughtered, his slaughtering is valid; if he received [the blood thus], his reception is invalid. If he projected his head and the greater part of his body within, he is not regarded as having entered. If it struggled[8] and went without and returned, it is unfit. This proves that sacrifices of lower sanctity whose flesh went without before the sprinkling of the blood are unfit! — [No:] perhaps this refers to the fat-tail, the lobe above the liver, and the two kidneys.[10]

Samuel's father asked Samuel: What if it [the animal] is within, while its feet are without?[11] — It is written, Even that they may bring them unto the Lord,[12] he replied, [which intimates] that the whole of it must be within. What if one suspended[13] [the animal] and slaughtered it? It is valid, he replied. You have erred, he observed, for the slaughtering must be ‘on the side’ [of the altar],[14] which provision is unfulfilled.[15] What if [the slaughterer] was suspended and slaughtered [thus]?[16] — It is invalid, he replied.[17] You have erred, said he; the slaughtering must be ‘on the side’ but the slaughterer need not be ‘on the side’. What if he suspended himself and received [the blood]? It is valid, he replied.[18] You have erred, observed he, for such is not the way of service.[19] What if he suspended [the sacrifice][20] and received [the blood]? — It is invalid, he answered. You have erred, he retorted: slaughtering must be ‘on the side’, but receiving need not be ‘on the side’.

Abaye said: In the case of sacrifices of higher sanctity[21] they are all invalid, except where he suspended himself and slaughtered.[22] In the case of sacrifices of lower sanctity, they are all valid, except where he suspended himself and received [the blood].[23] Said Raba: Why do you say that if he suspended [the animal] and received the blood it is valid in the case of sacrifices of lower sanctity? [Presumably] because the air-space of within is as within! Then in the case of sacrifices of higher sanctity too, the air-space of the north is as the north? — Rather said Raba: In the case of sacrifices of both higher and lower sanctity they are [all] valid, except in the case of sacrifices of higher sanctity, where he suspended [the animal] and slaughtered it,[24] and in the cases of sacrifices of both higher and lower sanctity, where he suspended himself and received [the blood].

R. Jeremiah asked R. Zera: What if he [the priest] is within and his locks [of hair] are without? — Said he to him, Have you not said that ‘even that they may bring them unto the Lord’ intimates that the whole of it [the animal] must come within? So here too, when they go in unto the tent of meeting[25] intimates, that the whole of him must enter the tent of meeting.

MISHNAH. IF [THE PRIEST] APPLIED IT [THE BLOOD] ON THE ASCENT,[26] [OR ON THE ALTAR, BUT] NOT OVER AGAINST ITS BASE;[27] IF HE APPLIED [THE BLOOD] WHICH SHOULD BE APPLIED BELOW [THE SCARLET LINE] ABOVE [IT]. OR THAT WHICH SHOULD BE APPLIED ABOVE, BELOW;[28] OR THAT WHICH SHOULD BE APPLIED WITHIN [HE APPLIED] WITHOUT, OR WHAT SHOULD BE APPLIED WITHOUT [HE APPLIED] WITHIN,[29] IT IS UNFIT, BUT DOES NOT INVOLVE KARETH.[30]

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(1) Because immediately it is slaughtered the blood of the legs is unfit (v. preceding note). and this is naturally mingled with the rest of the blood.

(2) Which was offered as a sacrifice. On 25b the text has ‘bullock’ instead of ‘firstling’.

(3) This does not constitute a blemish, and at the same time the cut prevents the blood below it, which is without the Temple court, from ascending and mingling with the blood above, which is within.
(4) So that kareth (q.v. Glos.) is incurred for its consumption. For if it did not rank as blood whilst absorbed in the limb (cf. Hul. 113a), it could not disqualify the other blood which is received and sprinkled.
(5) Which is absorbed in the blood. This fattiness counts as flesh, and it ascends and mingles with the blood which pours out from the neck and thus disqualifies it.
(6) Though it would certainly be carried out after the sprinkling, since it may be eaten anywhere in Jerusalem.
(7) He was standing almost in the middle of the court, on its south side, but so near to the line dividing north and south that he could easily stretch over to the other side.
(8) After being slaughtered.
(9) Because the disqualification of going out applies only to going out of the Temple.
(10) These were burnt on the altar, and therefore although part of sacrifices of lower sanctity they ranked as sacrifices of higher sanctity.
(11) May it be slaughtered thus at the outset?
(12) Lev. XVII, 5.
(13) In the air-space of the Temple court.
(14) Ibid. I, 11.
(15) ‘On the side’ implies on the ground.
(16) The animal being on the ground.
(17) Thinking that the two were analogous.
(18) Again thinking it analogous to the former.
(19) But slaughtering is not really part of the (priestly) service, since it may be performed by a zar.
(20) After having slaughtered it.
(21) In connection with which ‘on the side’ is stated.
(22) Because ‘on the side’ is written of the animal, but not of the slaughterer. Again, the blood must be received in the north, and he holds that the air-space of the north is not the north itself. Hence if he suspended himself and received the blood it is invalid.
(23) Here neither ‘north’ nor ‘on the side’ is mentioned. Therefore only the exception is invalid, because that is not the way of service.
(24) For the reason stated above.
(25) Ex. XXVIII, 43.
(26) Leading to the altar, instead of on the altar.
(27) The blood was to be sprinkled over against the base of the altar, which means on a side provided with a foundation. This excludes the south-east corner, which had no base (infra 53a).
(28) A scarlet line ran round the sides of the altar: some blood was to be applied above, and some below.
(29) ‘Within’ means on the inner altar; ‘without’, on the outer altar.
(30) For the eating of its flesh.

Talmud - Mas. Zevachim 26b

GEMARA. Samuel said: It is the flesh that is unfit, but its owners are forgiven.[1] What is the reason? — Because Scripture saith, And I have given it to you upon the altar to make atonement:[2] once the blood has reached the altar, the owners are forgiven. If so, the flesh too [should be fit]? — Scripture saith, ‘to make atonement’: I have given it for atonement, but not for any other purpose.[3]

Now this proves that he holds that [when blood is] not [applied] In its [proper] place, it is as [though applied] in its [proper] place.[4] Now we learned in another chapter: If [the priest] applied it [the blood] on the ascent, [or on the altar, but] not over against its base; if he applied [the blood] which should be applied below [the scarlet line] above [it], or that which should be applied above, below; or that which should be applied within [he applied] without, or what should be applied without [he applied] within: then if lifeblood[5] is still available, a fit [priest] must receive [it] a second time.[6] Now if you maintain that [when blood is] not [applied] in its [proper place], it is as though [applied] in its [proper] place, why must a fit [priest] receive [it] again? And should you answer, In order to permit the flesh for consumption; is there a sprinkling which makes no atonement yet permits the consumption of the flesh?[7] — Had a fit [priest] applied it [in the first place], that would indeed be so;[8] the circumstances here are that an unfit [priest] applied it [in the first place].[9] But let it constitute [complete] rejection.[10] For we learnt: But if any of these[11] received [the blood, intending to consume the flesh] after time or without bounds, and the life blood is [still] available, a fit [priest] must receive [it] a second time.[12] Thus, only if they received [the blood with that intention], but not if they sprinkled [it thus];[13] what is the reason? is it not because this effects [complete] rejection? — No: the reason is because it became unfit through an [illegitimate] intention. If so [the same should apply to] receiving? Moreover, does an [illegitimate] intention[14] disqualify it? Surely Raba said: An [illegitimate] intention is without effect save [when purposed] by one who is fit for the service and in connection with that which is fit for the service,[15] and in a place fit for the service![16] — Do not say, but not if they sprinkled it [thus]; ‘say rather, but not if they slaughtered it [thus]?[17] What does he inform us? that an [illegitimate] intention disqualifies? But we have learnt it: Therefore they[18] invalidate [the sacrifice] by an [illegitimate] intention [purposed at slaughtering]?[19] — This is what we are informed,[20] viz., that from receiving and onwards intention [on the part of an unfit priest] does not invalidate. What is the reason? As [that stated] by Raba.

An objection is raised: If [the priest] intends applying [the blood] which should be applied above [the line] below [it], [or what should be applied] below, above, immediately.[21] it is valid.[22] If he subsequently intended

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(1) They have fulfilled their obligation, and do not bring another offering.

(2) Lev. XVII, 11.

(3) Only in respect of atonement does Scripture intimate that the application of the blood on any part of the altar (since ‘altar’ is not further localised) is efficacious. But the fitness of the flesh is governed by its own peculiar laws.

(4) As far as the fitness of the flesh for consumption is concerned.

(5) The first blood which gushes out as the animal is slaughtered.

(6) For re-sprinkling. v. infra 32a.

(7) For this second sprinkling does not make atonement, since that was already effected by the first.

(8) No further application would be necessary.

(9) Hence the second application is needed even for making atonement.

(10) Since blood not applied in its proper place is as though applied in its proper place, then if an unfit priest does this it is as though he applied it in the proper place, which it is now assumed definitely invalidates the sacrifice, and it cannot be repaired.

(11) Sc. all who are unfit for any reason.

(12) Infra 32a.

(13) In which case there would be no remedy.

(14) On the part of an unfit priest.

(15) E.g., a meal-offering of wheat. This excludes the meal-offering of barley brought in connection with the ‘omer (q.v. Glos.), since barley was unfit for other meal-offerings.

(16) This excludes the case where the altar itself was mutilated.

(17) Because since even unfit priests are fit to slaughter (as are lay-Israelites too), their illegitimate intention disqualifies.

(18) Persons unfit to slaughter.

(19) Infra 31b.

(20) By stating ‘if any of these received the blood etc.’

(21) He intended applying it thus in the wrong place on the day of slaughtering, which is the proper time.

(22) If he eventually sprinkled the blood in the right place, for this illegitimate intention does not disqualify, v. Mishnah infra 36a.

Talmud - Mas. Zevachim 27a

[to consume it] without bounds, it is invalid, but does not involve kareth;[1] [if he intended consuming it] after time, it is invalid, and entails kareth. [If he intended sprinkling the blood in the wrong place] on the morrow, it is invalid; if he subsequently intended [to consume it] without bounds or after time, it is invalid, and does not involve kareth.[2] Now if you say that [blood] not [applied] in its [proper] place [on the altar] is as [though applied] in its [proper] place, is this [merely] invalid? Surely it is piggul![3] — Said Mar Zutra: Sprinkling which permits the consumption of the flesh can render [it] piggul; sprinkling which does not permit the consumption of the flesh[4] does not render [it] piggul.[5] R. Ashi said to Mar Zutra: Whence do you know this? [Assuredly] because it is written, And if any of the flesh of his peace-offerings be at all eaten on the third day . . . it shall be piggul [an abhorred thing, and the soul that eateth of it shall bear his iniquity:][6] [thus kareth is incurred] only where piggul causes [the prohibition of the flesh], which excludes this case,[7] where not piggul causes it but a different interdict is the cause. If so,[8] it should not be disqualified either? — Said R. Nahman b. Isaac: It is analogous to the intention of leaving [the blood] until the morrow, this being in accordance with R. Judah.[9]

Resh Lakish said: In truth, [the Mishnah means] UNFIT literally.[10] and [blood] not [applied] in its [proper] place is as [though applied in] its [proper] place,[11] yet there is no difficulty:[12] in one case he applied it in silence; in the other he applied it with an expressed intention.[13] We learnt: If he intended applying above [the line] what should be applied below [it], or below what should be applied above [etc.] as far as ‘It is analogous to the intention of leaving [the blood] until the morrow, this being in accordance with R.Judah.’[14]

R. Johanan said: Both cases[15] are where he sprinkles it in silence, and the wrong place is not as the right place; but the one is where life-blood is [still] available, while the other is where life-blood is not available.

We learnt: IT IS UNFIT, BUT DOES NOT INVOLVE KARETH. As for Resh Lakish, it is well: he rightly teaches. IT IS UNFIT, BUT DOES NOT INVOLVE KARETH.[16] But according to R. Johanan, why teach that it DOES NOT INVOLVE KARETH?[17] This is a difficulty. And according to Samuel, what is meant by IT DOES NOT INVOLVE KARETH?[18] — This is what [the Tanna] means: If he sprinkled [it thus] with an [illegitimate] intention, IT IS UNFIT, BUT DOES NOT INVOLVE KARETH.

Now as for R. Johanan, if the wrong place [on the altar] is not as the right place,[19] let it be as though [the blood] had been spilt from the [service] vessel on to the pavement, and so let him collect it?[20] — He agrees with the view that it must not be gathered. For R. Isaac b. Joseph said in R. Johanan's name: All agree, if [the priest] sprinkled the blood above which should be sprinkled above, or below which should be sprinkled below, but not in accordance with the regulations.[21] that he must not re-gather it.[22] They disagree only where he sprinkled below what should be sprinkled above, or above what should be sprinkled below: there R. Jose holds, He must not re-gather it; while R. Simeon maintains, He must re-gather it;

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[1] For eating it.

[2] Since it was already invalid through the first, a second illegitimate intention does not render it piggul.

[3] How can you say that if he intended applying it in the wrong place on the morrow it is only invalid? On the present hypothesis it is the same as though he had intended applying it in the right place on the morrow, and that should render it piggul. For the sprinkling of the blood on the altar constitutes, as it were, the altar's consumption, and just as an intention to consume the flesh after time makes it piggul, so should a similar intention to sprinkle the blood make it piggul!

[4] Where the blood is not sprinkled in its proper place.

[5] And, as Samuel stated, if the blood is not sprinkled on the proper place on the altar the flesh may not be eaten, though the sacrifice has made atonement.

[6] Lev. VII, 18; ‘shall bear his iniquity’ implies kareth.

(7) Sc. where the blood is not sprinkled in the proper place.

(8) That it does not constitute sprinkling in respect of an illegitimate intention.

(9) Who holds that the sacrifice then becomes invalid (infra 36a). In intending to sprinkle the blood in the wrong place on the morrow, he has also tacitly expressed his intention of leaving the blood until the morrow.

(10) Not only is the flesh unfit, but the whole sacrifice is invalid. He thus disagrees with Samuel.

(11) In this he agrees with Samuel.

(12) Caused by the text quoted by Samuel.

(13) The text adduced by Samuel, which intimates that the owners are forgiven, holds good where the priest sprinkled the blood in the wrong place, with no unlawful intention attending the sprinkling. While the Mishnah which states UNFIT, implying that the owners are not forgiven either, holds good where in addition to sprinkling it in the wrong place he intended consuming the flesh after time; and the Mishnah thus teaches that in such a case the sacrifice is unfit, but not piggul, since the sprinkling which was not in its proper place did not permit the consumption of the flesh.

(14) All the objections raised against Samuel are raised against Resh Lakish, since he too holds that the wrong place is as the right place.

(15) Our Mishnah which simply states that it is unfit, and the Mishnah in the next chapter, quoted supra 26b, which teaches that the blood must be re-sprinkled.

(16) He explains the Mishnah as referring to one who expressed an illegitimate intention. Therefore the Tanna must teach that kareth is not incurred in spite of this illegitimate intention.

(17) It is obvious that he does not incur kareth simply for sprinkling the blood in a wrong place.

(18) For he too explains the Mishnah as referring to where the priest is silent.

(19) So that it does not count as sprinkling at all.

(20) And re-sprinkle.

(21) E.g., with his left hand or with an illegitimate intention.

(22) For re-sprinkling. For since it was sprinkled in the proper place, there can be no further sprinkling

Talmud - Mas. Zevachim 27b

and our Mishnah agrees with the view that he must not re-gather it: But R. Hisda said in Abimi's name: All agree, if he sprinkled below what should be sprinkled above, that he does not re-gather it, and all the more if he sprinkled above what should be sprinkled below, since the blood above runs down below.[1] They disagree only where he sprinkled without what should be sprinkled within, or within what should be sprinkled without.[2] R. Jose holds, He must not re-gather it, and R. Simeon rules: He must re-gather it.

R. Nahman b. Isaac said: We have also learnt to the same effect. R. Judah said: [This is the law of the burnt-offering:] it is that which goeth up [on its firewood upon the altar all night unto the morning]:[3] here you have three limitations: It excludes [an animal] slaughtered at night; it excludes [an animal] whose blood was spilt; and it excludes [an animal] whose blood was carried out beyond the hangings: if any one [of these] ascended [the altar], it descends.[4] R. Simeon said: ‘Burnt-offering’: I only know [this] of a fit burnt-offering;[5] whence do I know to include one which was slaughtered at night, or whose blood was spilt, or whose blood passed without the hangings, or who[se flesh] spent the night [away from the altar], or who[se flesh] went out, or the unclean, or which was slaughtered [with the intention of burning its flesh] after time or without bounds, or whose blood was received and sprinkled by unfit [priests]; or whose blood was applied below [the scarlet line] when it should have been applied above, or above when it should have been applied below, or without when it should have been applied within, or within when it should have been applied without; or a Passover-offering or a sin-offering which one slaughtered for a different purpose,[6] — whence do we know [to include all these]? From the phrase, ‘the law of the burnt-offering,’ which intimates one law for all burnt-offerings, [viz.,:] that if they ascended, they do not descend. You might think that I include also a roba’ and a nirba’, ‘[7] one set aside [for an idolatrous sacrifice] or worshipped; a [harlot's] hire or the price [of a dog].[8] or a hybrid, or a trefah, or an animal calved through the cesarean section? The text however states ‘it is that’.[9] And why do you include the former and exclude the latter? I include the former, because their disqualification arose in the sanctuary, while I exclude the latter whose disqualification did not arise In the sanctuary. At all events, he teaches [the cases where] one sprinkled below what should be sprinkled above, or above what should be sprinkled below, and R. Judah does not disagree. What is the reason? Is it not because the altar has received it?[10] which proves that one cannot re-gather it.

R. Eleazar said: The inner altar sanctifies the unfit.[11] What does he inform us: We have learnt it: 'that which should be applied within' etc.? — If [I drew my information] from there [only], I would say that it applies only to blood, which is eligible for it;[12] but [if one threw] the fistful [of flour on the inner altar], which is not eligible for it at all,[13] I would say that it is not so. Hence he informs us [otherwise].[14]

An objection is raised: If strange incense[15] ascended the altar, it must descend, because only the outer altar sanctifies the unfit, in the case of such as are [otherwise] eligible for it.[16] Thus, only the outer one, but not the inner one? — Answer it thus: If strange incense ascended the altar, it must descend, for the outer altar does not sanctify the unfit save in the case of what is [otherwise] eligible for it; but the inner [altar sanctifies] both what is eligible and what is not eligible for it. What is the reason? One [the outer altar] is [but as the] pavement,[17] while the other [the inner altar] is a service vessel.[18] MISHNAH. IF ONE SLAUGHTERS THE SACRIFICE [INTENDING] TO SPRINKLE ITS BLOOD WITHOUT. OR PART OF ITS BLOOD WITHOUT; TO BURN ITS EMURIM[19] OR PART OF ITS EMURIM WITHOUT; TO EAT ITS FLESH OR AS MUCH AS AN OLIVE OF ITS FLESH WITHOUT, OR TO EAT AS MUCH AS AN OLIVE OF THE SKIN OF THE FAT-TAIL[20] WITHOUT. IT IS UNFIT, AND DOES NOT INVOLVE KARETH.[21] [IF HE SLAUGHTERS IT, INTENDING] TO SPRINKLE ITS BLOOD OR PART OF ITS BLOOD ON THE MORROW, TO BURN ITS EMURIM OR PART OF ITS EMURIM ON THE MORROW, TO EAT ITS FLESH OR AS MUCH AS AN OLIVE OF ITS FLESH ON THE MORROW, OR TO EAT AS MUCH AS AN OLIVE OF THE SKIN OF ITS FAT-TAIL ON THE MORROW, IT IS PIGGUL, AND INVOLVES KARETH.[22]

GEMARA. Now it was thought that the skin of the fat-tail

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(1) In any case; hence it is almost as though he sprinkled it below.

(2) 'Within' and 'without' means on the inner and the outer altars respectively.

(3) Lev. VI, 2.

(4) From the passage, 'which goeth up on its firewood upon the altar all night' the Rabbis deduce that once it ascends the altar it must not be taken down all night. But the three words in Hebrew which are rendered 'it is that which goeth up' are really superfluous, and therefore are interpreted as excluding three cases, as enumerated in the text, from the operation of this law.

(5) That if it goes up, it does not descend.

(6) Sc. as burnt-offerings.

(7) A male animal and a female animal respectively used for bestiality.

(8) Referring to Deut. XXIII, 19: Thou shalt not bring the hire of a harlot, or the price of a dog, into the house of the Lord thy God for any vow.

(9) Heb. zoth, a limitation excluding these.

(10) And thus sanctified it, in the sense that it cannot be collected for re-sprinkling.

(11) That if they ascend, they do not descend, though the Scriptural text refers only to the outer altar.

(12) For some blood, though that particular blood should not have been applied there.

(13) Flour is never burnt on the inner altar.

(14) That flour is not removed.

(15) The incense of a private and votive meal-offering. Scripture permits incense only at public sacrifices.

(16) V. infra 83b.

(17) It is an immovable unanointed erection of stone.

(18) It was moveable, and consecrated by anointing, like all other service vessels. Therefore its sanctity and sanctifying powers are greater.
(19) V. Glos.
(20) V. Gemara.
(21) Even if one actually eats it without.
(22) Even if one eats it in the proper time.

Talmud - Mas. Zevachim 28a

is as the fat-tail:[1] [then the difficulty arises:] surely he intends for man what is for the altar's consumption?[2] — Said Samuel, The author of this is R. Eliezer, who maintains that you can intend [with effect] for human consumption what is meant for the altar's consumption, and for the altar's consumption what is meant for human consumption.[3] For we learnt: If one slaughters a sacrifice [intending] to eat what is not normally eaten,[4] or to burn [on the altar] what is not normally burnt, it is fit;[5] but R. Eliezer invalidates [the sacrifice].[6] How have you explained it? as agreeing with R. Eliezer? Then consider the sequel:[7] This is the general rule: Whoever slaughters, receives, carries, and sprinkles [intending] to eat what is normally eaten or to burn [on the altar] what is normally burnt [after time etc.] . . . thus, only what is normally eaten, but not what is not normally eaten, which agrees with the Rabbis. Thus the first clause agrees with R. Eliezer and the final clause with the Rabbis? — Even so, he answered him.

R. Huna said: The skin of the fat-tail is not as the fat-tail.[8] Rabbah observed. What is R. Huna's reason? — The fat thereof [is] the fat-tail [entire],[9] but not the skin of the fat-tail.

R. Hisda said: In truth, the skin of the fat-tail is as the fat-tail, but we treat here [in the Mishnah] of the fat-tail of a goat.[10]

Now, all these [scholars] did not say as Samuel, [because] they would not make the first clause agree with R. Eliezer and the second clause with the Rabbis. They did not say as R. Huna, because they hold that the skin of the fat-tail is as the fat-tail. [But] why do they not say as R. Hisda? — Because what does [the Tanna of the Mishnah] inform us [on this view]? [Presumably] that the skin of the fat-tail is as the fat-tail![11] Surely we have learnt it: The skin of the following is as their flesh: the skin under the fat-tail?[12] And R. Hisda?[13] — It is necessary: You might think that only in respect of uncleanness does it combine, because it is soft;[14] but as for here, I would say [Scripture writes] [Even all the hallowed things of the children of Israel unto thee have I given them] for a consecrated portion,[15] which means, as a symbol of greatness,[so that they must be eaten] just as kings eat; and kings do not eat thus.[16] [Hence] I would say [that it is] not [as the flesh]; therefore he informs us [that it is].

An objection is raised: if one slaughters a burnt-offering [intending] to burn[17] as much as an olive of the skin under the fat-tail out of bounds, it is invalid, but does not involve kareth; after time, it is piggul, and involves kareth. Eleazar b. Judah of Avlas said on the authority of R. Jacob, and thus also did R. Simeon b. Judah of Kefar ‘Iccum say on the authority of R. Simeon: The skin of the legs of small cattle, the skin of the head of a young calf, and the skin under the fat-tail, and all cases which the Sages enumerated of the skin being the same as the flesh, which includes the skin of the Pudenda: [if he intended eating or burning these] out of bounds [the sacrifice] is invalid, and does not involve kareth; after time, it is piggul, and involves kareth.[18] Thus [this is taught] only [of] the burnt-offering.[19] but not [of] a sacrifice.[20] As for R. Huna, it is well; it is right that he specifies a burnt-offering.[21] But according to R. Hisda,[22] why does he particularly teach ‘burnt-offering’: let him teach ‘sacrifice’? — R. Hisda can answer you: I can explain this as referring to the fat-tail of a goat;[23] alternatively I can answer: Read ‘sacrifice’.[24]

IT IS UNFIT, AND DOES NOT INVOLVE KARETH etc. Whence do we know it? — Said Samuel: Two texts are written. What are they? — Said Rabbah: [And if any of the flesh of the sacrifice of his peace-offerings be at all eaten] on the third day: this refers to [an intention of eating the flesh] after time; it shall be piggul [an abhorred thing] refers to [an intention of eating the flesh] out of bounds; and the soul that eateth of it [shall bear his iniquity:][25] [only] one [involves kareth], but not two,[26] viz., after time, and excluding out of bounds. Yet say that 'and the soul that eateth of it' refers to out of bounds, and excludes after time? — It is logical that after time is graver, since [Scripture] commences with it. On the contrary, out of bounds is more likely [to be meant] since it is near it?[27] — Rather said Abaye: When R. Isaac b. Abdimi came,[28] he said: Rabbah[29] relies on what a Tanna taught. [Viz.;] When Scripture mentions the 'third [day]' in the pericope 'Ye shall be holy',[30] which need not be stated, since it has already been said, And if any of the flesh of his sacrifices be at all eaten on the third day etc.;

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(1) Even in respect of burning on the altar, so that in the case of lamb peace-offerings, the skin of the fat-tail, just as the fat-tail itself, is burnt on the altar 'entire' (v. Lev. III, 9).

(2) Which intention should not count at all.

(3) I.e., the intention counts.

(4) E.g., the emurim, which are burnt on the altar. He intended eating these after time or out of bounds.

(5) Because such an illegitimate intention concerning time or place does not count, seeing that the things could not be eaten or burnt at all.

(6) Infra 35a.

(7) The end of the present Mishnah, infra 29b.

(8) It is eaten, and not burnt on the altar. The difficulty therefore does not arise.

(9) Lev. III, 9.

(10) Which was not burnt on the altar; v. supra 9a.

(11) If the Mishnah treats of the fat-tail of a lamb, then on Samuel's interpretation we are informed that you can intend for human consumption what is meant for the altar's consumption; while on R. Huna's interpretation the Tanna informs us that the skin of the fat-tail is not as the fat-tail. But if it treats of the fat-tail of a goat, then the only thing that the Tanna can inform us is that its skin is regarded as itself in the sense that it is edible, because it is soft, and therefore counts as ordinary flesh.

(12) There must be at least as much as an olive of flesh before it can be defiled, and at least as much as the size of an egg before it can defile as nebelah (carrion. v. Lev. XI, 39f). If there is less than these standards, it can be made up by the skin under the fat-tail (Hul. 122a). Thus this teaches that this skin is as the fat-tail itself, and so the present teaching on R. Hisda's interpretation is superfluous.

(13) How does he answer this?

(14) And edible.

(15) Num. XVIII, 8.

(16) Though the skin is edible, yet kings would not eat it.

(17) Heb. להקטיר which generally refers to the burning of these parts (the emurim) which are always burnt on the altar, even in the case of peace-offerings.

(18) V. Hul. (Sonc. ed.) 132a, q.v. notes.

(19) Only there does an illegitimate intention in respect of the skin of the fat-tail disqualify the sacrifice, since the whole sacrifice is burnt.

(20) Unspecified, which would include peace-offerings.

(21) According to R. Huna, Scripture definitely teaches that the skin of the fat-tail is not counted as emurim. But there is no such teaching in respect of a burnt-offering: hence the present ruling can apply to a burnt-offering but not to other sacrifices.

(22) Who maintains that the skin of the fat-tail of all sacrifices is burnt along with it as emurim.

(23) In which case the reference is to an intention of eating it out of bounds or after time, not to burning it on the altar.

(24) Instead of burnt-offering.

(25) Lev. VII, 18; 'shall bear his iniquity' means that he incurs kareth.

(26) This follows from the sing. 'it'.

(27) The word mimennu, ('of it'), is in immediate proximity to the word piggul, which on the present exegesis extends the law to eating out of bounds.

(28) From Palestine to Babylon.

(29) Emended text. Printed edd: Rab.

(30) This is the name of the pericope or weekly reading commencing with Lev. XIX, 1. The verse alluded to is: And if it (the flesh of a sacrifice) be eaten at all on the third day, it is piggul (a vile thing); it shall not be accepted.

Talmud - Mas. Zevachim 28b

— if it is superfluous in respect of after time, apply it to out of bounds.[1] and the Divine Law expresses a limitation in connection with nothar:[2] But every one that eateth it shall bear his iniquity, which excludes [eating or intending to eat] out of bounds. Yet say that 'but every one that eateth it shall bear his iniquity' refers to out of bounds, and thus excludes nothar from kareth? — It is logical that nothar must be made to involve kareth, so that the meaning of 'iniquity', where it refers to [the intention of] eating after time, may be learned by analogy, since it is similar thereto in respect of Zab.[3] On the contrary, [eating] without bounds should be made to involve kareth, so that the meaning of 'iniquity', where it refers to [the intention of] eating after time, may be learned by analogy, since it is similar thereto in respect of Mikdash?[4] Rather said R. Johanan, Zabdi b. Levi taught: Kodesh is learned from kodesh. Here is written, Because he hath profaned the kodesh [holy thing] of the Lord; and that soul shall be cut off from the people;[5] and it is written elsewhere, [And if ought of the flesh of the consecration, or of the bread, remain unto the morning,] then thou shalt burn the nothar [remainder] with fire,' it shall not be eaten, because it is kodesh [holy]:[6] just as there, [kodesh is connected with] nothar, so here too [it is connected with] nothar, and the Divine Law expresses a limitation in connection with nothar: But every one that eateth it shall bear his iniquity, which excludes without bounds from kareth. And why do you interpret the long text[7] as referring to after time, and 'third' in the pericope 'Ye shall be holy' as referring to without bounds; perhaps I may reverse it?[8] — It is logical that the long text refers to after time, since the meaning of 'iniquity' is learned by analogy from nothar, and [after time] is similar thereto in respect of Zab. On the contrary, [say that] the long text refers to without bounds, and 'third' in 'Ye shall be holy' refers to after time: because it is similar thereto [Scripture] places it close by and excludes it?[9] — Rather said Raba: The whole is deduced from the long text. For it is written, '[But if any of the flesh be] at all eaten':[10] Scripture refers to two eatings, viz., eating by man and eating by the altar.[11] 'Of the sacrifice of his peace-offerings': as [parts of] the peace-offerings render piggul, and parts are rendered piggul, so [in sacrifices where there are parts which] render piggul and [parts which] are made piggul [the law of piggul applies].[12] 'Third' means after time. 'It shall not be accepted': as the acceptance of the valid [sacrifice], so is the acceptance of the invalid. And as the acceptance of the valid necessitates that all its mattirin be offered, so does the acceptance of the invalid necessitate that all its mattirin be offered.[13] 'Him that offereth': it becomes unfit in offering, but does not become unfit through [being eaten on] the third [day].[14] 'It': Scripture speaks of the sacrifice, and not of the priest.[15] 'It shall not be imputed':

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(1) While piggul mentioned in Lev. VII, 18 will definitely refer to the intention of eating after time, to which the whole verse is now understood to refer.

(2) V. Glos.

(3) Zab is a mnemonic, standing for zeman, (time) and bamah, (high place). — In both texts, viz., Lev. VII, 18 and Lev. XIX, 8 Scripture states that he who eats it 'shall bear his iniquity'; the meaning of 'iniquity is further clarified in the latter text by the addition, 'and that soul shall be cut off from his people', i.e., kareth. Now, on the present exegesis this latter verse may refer either to nothar or to eating without bounds, while the former text (Lev. VII, 18) definitely refers to the eating of the flesh before it is actually nothar and within bounds, after the illegitimate intention of eating it after time. Now, if the punishment of kareth in Lev. XIX, 8 is made to refer to nothar (owing to the word 'it' it can only refer to one), then we can argue that 'iniquity' in VII, 18 too means kareth, by analogy with 'iniquity' in Lev. XIX, 8. And the reason for drawing this analogy is that the two are alike in two respects: (i) Both are defects arising through time, nothar being the case where he actually eats the flesh after time, and Lev. VII, 18 refers to the illegitimate intention of eating after time. (ii) Both were forbidden not only in the Temple, but also in the High Places used before the Temple was built. For but for this similarity, the meaning of ‘iniquity’ in VII, 18 might be deduced from Ex. XXVIII, 38: And Aaron shall bear the iniquity committed in the holy things. There ‘iniquity’ refers to sacrificing in a state of uncleanness, which is forbidden by a negative injunction, but does not involve kareth, and so if an analogy were drawn with this verse, one would say that in Lev. VII, 18 too there is no kareth. But if Lev. XIX, 8 is made to refer to eating without bounds, this second analogy might indeed be drawn, since it lacks the two points of similarity, (a private sacrifice offered at a high place might be eaten anywhere) and accordingly nothing will indicate that ‘iniquity’ means kareth. So Rashi. Tosaf. explains that there was already a tradition that the meaning of ‘iniquity’ must be deduced by drawing an analogy between Lev. VII, 18 and XIX, 8. and not with Ex. XXVIII, 38. But for that very reason it is logical to make Lev. XIX, 8 refer to nothar, so as to justify the analogy through the two points of similarity.

(4) M = Mahshabah (intention); K = Kezath (a part or portion); D = Dam (blood). and SH = SHelishi (third). (i) Both after time and without bounds invalidate the sacrifice by mere intention. (ii) In both cases the illegitimate intention even in respect of a portion of the flesh only disqualifies. (iii) Both disqualify only if expressed during the service in connection with the blood (sprinkling) but not after. And finally (iv) the ‘third’ day is mentioned in connection with both. Uncleanness is dissimilar in respect of all these: (i) The flesh does not become unclean merely through the intention of defiling it. (ii) If a portion of the flesh is defiled, the rest remains clean. (iii) The flesh can be defiled after the sprinkling of the blood. And finally (iv) ‘third’ is not stated in connection with it as a superfluous word. But it is mentioned redundantly in connection with the others, as shewn above, so that an analogy (gezerah shawah) might be drawn.

(5) Lev. XIX, 8.

(6) Ex. XXIX, 34.

(7) Sc. Lev. VII, 18.

(8) And ‘third’ in Lev. XIX, 7 refers to after time, and it is that which is excluded from kareth.

(9) Because the intention to eat after time is similar to eating nothar, Scripture couples them, and expresses a limitation to shew that no kareth is involved, as otherwise we would think that kareth is involved in the former because it is similar to nothar.

(10) Lev. VII, 18.

(11) V. supra 13b. — The exegesis of the whole verse is irrelevant here, but as Raba quotes it he interprets the whole (Sh. M.).

(12) The blood of the peace-offerings is the vehicle through which piggul is effected, viz., if an illegitimate intention is expressed during one of the services connected with the blood, the flesh and the emurim are thereby rendered piggul. Just as this is so in the case of the peace-offerings, so does the law of piggul operate in the case of all sacrifices of which the same can be said. This excludes the meal-offerings of priests and of the anointed priest and of the drink-offerings. He treats the word ‘sacrifice’ in the text as alluding to other sacrifices too, which are thus assimilated to peace-offerings, since they are coupled with them.

(13) He understands ‘it shall not be accepted’, to refer to the sprinkling of the blood, which is the last of the mattirin, i.e., the services which make the sacrifice ‘accepted’, — valid. Thus he renders: this sprinkling shall not be accepted (valid), which implies that the sacrifice does not become piggul until the sprinkling, and if e.g., the blood is spilt and not sprinkled, the sacrifice is not piggul. The acceptance of the invalid means the stamping of the sacrifice as piggul, and this does not take place unless the mattirin are offered, as explained.

(14) Here he deduces that the sacrifice becomes piggul through an illegitimate intention, thus: the sacrifice becomes unfit only when he is actually offering it, viz., by then intending to eat thereof on the third day. But if he had no illegitimate intention at the actual offering, yet ate thereof on the third day, it does not become piggul retrospectively.

(15) Var. lec. the sacrificer. — Scripture does not mean that the priest is henceforth unfit to officiate, but that the sacrifice is unfit. Without this ‘it’ the text might mean: he that offereth (viz., the priest) shall not be accepted, i.e., shall henceforth be disqualified to officiate.

Talmud - Mas. Zevachim 29a

other intentions must not be mingled therein.[1] ‘An abhorred thing [piggul]’: this refers to [the intention of eating it] without bounds.[2] ‘It shall be’: this teaches that they combine with each other.[3]

‘And the soul that eateth of it’: one, but not two; and which is it? [the intention of eating it] after time, for the meaning of ‘iniquity’ is learnt from nothar, since it is similar to it in Zab.[4]

R. Papa said to Raba: According to you. how do you interpret ‘third’ in the pericope. ‘Ye shall be holy’?[5] — That is needed to teach [that the illegitimate intention must concern] a place which has a threefold function, viz., in respect of the blood, the flesh, and the emurim.[6] But I may deduce that from the earlier text, viz., ‘And if [it] be at all eaten’, since the Divine Law expresses it by the word ‘third’?[7] — Said R. Ashi: I reported this discussion before R. Mattenah, whereupon he answered me: If [I deduced it] from there, I would say: ‘Third’ is a particularization, and ‘piggul’ is a generalisation,[8] and so the generalisation becomes an addition to the particularization, and therefore other places are included too. Hence [the text in ‘Ye shall be holy’] informs us [that it is not so].

Our Rabbis taught: ‘And if any of the flesh of the sacrifice of his peace-offerings be at all eaten [on the third day]’: R. Eliezer said: Incline your ear to hear: Scripture speaks of one who intends eating of his sacrifice on the third day. Yet perhaps that is not so, but rather [Scripture speaks] of one who eats of his sacrifice on the third day? You can answer: After it has become fit, shall it then become unfit?[9] Said R. Akiba to him: Behold, we find that a zab and a zabah and a woman ‘who watches from day to day’ are presumed to be clean, yet since they have a discharge they undo [their cleanness];[10] hence you too need not wonder at this, that after [the sacrifice] has become fit it then becomes unfit. Said he to him: Lo, it says, ‘[unto him] that offereth’, [intimating that] it becomes unfit at the offering, but it does not become unfit on the third [day]. Yet perhaps that is not so, but it says, ‘him that offereth’, meaning the priest who offers it?[11] When it says ‘it’, [Scripture] speaks of the sacrifice, and does not speak of the priest. Ben ‘Azzai said: Why is ‘it’ stated? Because it is said, [When thou shalt vow a vow unto the Lord thy God,] thou shalt not delay to pay it:[12] You might think that also he who delays [the fulfilment of] his vow incurs [the sentence] ‘it shall not be accepted’: therefore it says, ‘it’: ‘it’ [piggul] is subject to ‘it shall not be accepted’, but he who delays his vow is not subject to ‘it shall not be accepted’. Others[13] say: ‘it shall not be imputed’ [teaches that] it becomes unfit through imputation [illegal intention], but does not become unfit through [being eaten on] the third [day]. Now, how does Ben ‘Azzai know that Scripture speaks of the sacrifice and not of the priest?[14] — I can say that he deduces it from [the exegesis of] the ‘Others’.[15] Alternatively, I can say [that he knows this] because it is written, [it] shall not be accepted, and ‘[it] shall not be accepted’ can only apply to the sacrifice.[16]

Now Ben ‘Azzai [deduces]: ‘it’ is subject to ‘it shall not be accepted’. but he who delays [the payment of] his vow is not subject to ‘it shall not be accepted’: [but] is this deduced from the present text? Surely it is deduced from [the text cited by] ‘Others’? For it was taught: Others say: You might think that a firstling which passed its [first] year[17] is

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(1) The animal is piggul only if this, sc. to eat it after time, was his only intention. But if he also expressed another which would disqualify the sacrifice without rendering it piggul, this intention negatives the other; cf. Mishnah on 27b and infra b.

(2) Since the intention of eating it after time has already been dealt with.

(3) He understands ‘it shall be’ to intimate that both these illegitimate intentions rank as one and combine. Thus, if he intended eating half as much as an olive after time and half as much as an olive without bounds (the standard of disqualification is an olive) the intentions combine to invalidate the sacrifice.

(4) V. notes supra 28b.

(5) For it is unnecessary in respect of after time, as stated supra 28a and b, while on Raba's present exegesis it is also irrelevant in respect of without bounds.

(6) It is disqualified only if he intends to eat it in a place where the blood is sprinkled, the flesh is eaten, and the emurim (q.v. Glos.) are burnt, e.g., without the Temple court. This excludes an intention to partake thereof in the hekal, since the flesh is not eaten, nor are the emurim burnt there. So Rashi. Tosaf. gives several other explanations.

(7) ‘Third’ intimates after time, and in the same verse without bounds is hinted at too, as already explained. Hence ‘third’ here can have that same significance as is now attributed to it in the pericope ‘Ye shall be holy’.

(8) I.e., ‘third’ indicates a place with that threefold function, while piggul is a general term denoting all places.

(9) Surely not. If it was sacrificed with the proper intention, and so was fit, surely it cannot become retrospectively unfit because he eats it on the third day.

(10) When a zab or a zabah (q.v. Glos.) cease to discharge, they must count seven consecutive clean days without any discharge. During this period they are presumed to be clean, yet a discharge within the seven days undoes the days which have already passed and they become retrospectively unclean for that time too, and they must count seven days anew. Similarly, according to Biblical law a niddah (q.v. Glos.) can cleanse herself seven days after her menstrual flow commenced. During the following eleven days, which are called the eleven days between the menses, she cannot become a niddah again, it being axiomatic that a discharge of blood in that period is not a sign of niddah, but may be symptomatic of gonorrhoea. A discharge on one or two days within the eleven renders her unclean for that period only, and if she has a ritual bath (tebillah) the following morning she is clean. Yet if she has another discharge on the same day after the ritual bath, she is retrospectively unclean for the whole day, and retrospectively defiles any human beings or utensils with which she came into contact. Should she experience three discharges on three consecutive days within that period she becomes unclean as a zabah; hence on the first and the second days she is called ‘one who watches from day to day’, to see whether she will be unclean for those days only, or as a zabah.

(11) He is henceforth unfit to officiate.

(12) Deut. XXIII, 22.

(13) ‘Others’ often refers to R. Meir, Hor. 13b.

(14) Seeing that he utilises ‘it’ for a different purpose.

(15) Since according to them ‘it shall not be imputed’ is necessary to teach that there is no unfitness through the sacrifice being eaten on the third day. Scripture obviously does not refer to the unfitness of the priest, for if it did, how could I think that he is unfit? Not he has done wrong but the eater.

(16) The Hebrew is not applicable to a priest.

(17) The firstling must be sacrificed within its first year. If it is not, its owner transgresses the injunction, Thou shalt not delay.

Talmud - Mas. Zevachim 29b

as dedicated animals rendered unfit,[1] and so unfit; therefore it says. And thou shalt eat before the Lord thy God . . . the tithe of thy corn . . . and the firstlings of thy herd and of thy flock;[2] the firstling is assimilated to tithe: as tithe does not become unfit through [being kept] from one year until the following, so the firstling does not become unfit through [being kept] from one year until the next? — It is necessary: You might think that this holds good only of a firstling, which is not subject to acceptance.[3] but [other] sacrifices which are subject to acceptance, I would say that they are not ‘accepted’.[4] Hence [‘it’] informs us [that it is not so].

Yet still it is deduced from elsewhere [viz.,] [Thou shalt not delay to pay it . . .] and it will be sin in thee, [which teaches,] but it will not be sin in thy offering?[5] — But we have interpreted this according to Ben ‘Azzai[6] [as teaching ‘and it will be sin in thee’, but it will not be sin in thy wife. For you might think that I can argue. Since R. Eleazar — others state, R. Johanan — said: A man's wife does not die save when money is demanded from him and he lacks it,[7] for it says. If thou hast not wherewith to pay, why should he take away thy bed from under thee?[8] she also dies on account of this sin of [violating the injunction] ‘Thou shalt not delay’; [hence Scripture] informs us [that it is not so].

‘Others say, "It shall not be imputed" [teaches that] it becomes invalid through imputation [intention], but it does not become invalid through [being eaten on] the third day.’ Now, how does R. Eliezer utilise this [text], ‘it shall not be imputed’? — He needs it for the teaching of R. Jannai. For R. Jannai said: How do we know that [illegal] intentions negative each other? Because it says, ‘it shall not be imputed’, [which means,] other [illegal] intentions shall not be mingled therewith.[9] R. Mari recited it [thus]: R. Jannai said: How do we know that he who purposes an [illegitimate] intention in respect of sacrifices is flagellated?[10] Because it says. Lo yehasheb.[11] Said R. Ashi to R. Mari: But it is a negative injunction not involving an action,[12] and one is not flagellated on account of a negative injunction which does not involve action? — This is according to R. Judah, he replied, who maintained: One is flagellated on account of a negative injunction which does not involve action.

MISHNAH. THIS IS THE GENERAL RULE: HE WHO SLAUGHTERS OR RECEIVES [THE BLOOD], OR CARRIES [IT] OR SPRINKLES [IT]. [INTENDING] TO EAT AS MUCH AS AN OLIVE OF THAT WHICH IS NORMALLY EATEN OR TO BURN [ON THE ALTAR] AS MUCH AS AN OLIVE OF THAT WHICH IS NORMALLY BURNT WITHOUT BOUNDS, [THE SACRIFICE] IS INVALID, BUT IT DOES NOT INVOLVE KARETH; [INTENDING TO EAT OR BURN] AFTER TIME, IT IS PIGGUL AND INVOLVES KARETH, PROVIDED THAT THE MATTIR[13] IS OFFERED IN ACCORDANCE WITH THE LAW.[14] HOW IS THE MATTIR OFFERED IN ACCORDANCE WITH THE LAW [APART FROM THAT]? IF ONE SLAUGHTERED IN SILENCE, AND RECEIVED, OR SPRINKLED, [INTENDING TO EAT THE FLESH] AFTER TIME; OR IF ONE SLAUGHTERED [INTENDING TO EAT] AFTER TIME, AND RECEIVED, WENT AND SPRINKLED IN SILENCE; OR IF ONE SLAUGHTERED, AND RECEIVED, WENT, AND SPRINKLED [INTENDING TO EAT] AFTER TIME; THAT IS OFFERING THE MATTIR IN ACCORDANCE WITH THE LAW. HOW IS THE MATTIR NOT OFFERED IN ACCORDANCE WITH THE LAW? IF ONE SLAUGHTERED [INTENDING TO EAT] WITHOUT BOUNDS, [AND] RECEIVED, WENT, AND SPRINKLED [WITH THE INTENTION OF EATING] AFTER TIME; OR IF ONE SLAUGHTERED [INTENDING TO EAT] AFTER TIME, [AND] RECEIVED, WENT, AND SPRINKLED [INTENDING TO EAT] WITHOUT BOUNDS; OR IF ONE SLAUGHTERED, RECEIVED, WENT, AND SPRINKLED [INTENDING TO EAT] WITHOUT BOUNDS; IF ONE SLAUGHTERED THE PASSOVER-OFFERING OR THE SIN-OFFERING FOR THE SAKE OF SOMETHING ELSE,[15] AND RECEIVED, WENT, AND SPRINKLED [INTENDING TO EAT THEM] AFTER TIME; OR IF ONE SLAUGHTERED [THEM, INTENDING TO EAT THEM] AFTER TIME, [AND] RECEIVED, WENT, AND SPRINKLED FOR THE SAKE OF SOMETHING ELSE; OR IF ONE SLAUGHTERED, RECEIVED, WENT, AND SPRINKLED FOR THE SAKE OF SOMETHING ELSE; IN THESE CASES THE MATTIR WAS NOT OFFERED IN ACCORDANCE WITH THE LAW.[16] [IF ONE INTENDED] TO EAT AS MUCH AS AN OLIVE WITHOUT BOUNDS [AND] AS MUCH AS AN OLIVE ON THE MORROW, [OR] AS MUCH AS AN OLIVE ON THE MORROW [AND] AS MUCH AS AN OLIVE WITHOUT BOUNDS;[17] HALF AS MUCH AS AN OLIVE WITHOUT BOUNDS [AND] HALF AS MUCH AS AN OLIVE ON THE MORROW; HALF AS MUCH AS AN OLIVE ON THE MORROW [AND] HALF AS MUCH AS AN OLIVE WITHOUT BOUNDS, [THE SACRIFICE] IS UNFIT, AND DOES NOT INVOLVE KARETH.[18] SAID R. JUDAH, THIS IS THE GENERAL RULE: WHERE THE INTENTION OF TIME PRECEDES THE INTENTION OF PLACE, [THE SACRIFICE] IS PIGGUL, AND INVOLVES KARETH; BUT IF THE INTENTION OF PLACE PRECEDES THE INTENTION OF TIME, IT IS UNFIT AND DOES NOT INVOLVE KARETH.[19] BUT THE SAGES MAINTAIN: IN BOTH CASES[20] [THE SACRIFICE] IS UNFIT AND DOES NOT INVOLVE KARETH. [IF ONE INTENDS] TO EAT HALF AS MUCH AS AN OLIVE [WITHOUT BOUNDS OR AFTER TIME] [AND] TO BURN HALF AS MUCH AS AN OLIVE [SIMILARLY]. IT IS FIT, FOR EATING AND BURNING DO NOT COMBINE.[21]

GEMARA. Ilfa said: The controversy is in respect of two services, but in the case of one service all agree that it constitutes a mingling of intentions.[22] But R. Johanan maintained: The controversy is in respect of a single service too. As for Ilfa, it is well: since the first clause treats of two services,[23] the second clause too[24] treats of two services. But according to R. Johanan, the first clause treats of two services and the second clause of one service?

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(1) Through a blemish.
(2) Deut. XIV, 23.
(3) The firstling does not come to make atonement, and therefore is not subject to ‘acceptance’.
(4) If delayed. i.e., that the vower has not duly fulfilled his vow and must bring another sacrifice.
(5) I.e., the offering does not become invalid.
(6) Emended text.
(7) The money which he robbed.
(8) Prov. XXII, 27; ‘thy bed’ is understood to mean ‘thy wife’.
(9) V. supra a top.
(10) As are all who violate a negative injunction.
(11) It shall not be imputed. But with a different vowelling this reads lo yahshob, he (the priest) shall not intend (to eat it after time), and thus this becomes a negative injunction.
(12) Talking is not considered an action.
(13) The enabler, i.e., the blood, through the sprinkling of which the sacrifice may be eaten.
(14) I.e., that no other illegitimate intention is expressed.
(15) As different sacrifices, whereby they are invalid, supra 2a.
(16) In all these cases there was an illegitimate intention which invalidated the sacrifice in addition to that which would render it piggul. Hence it is not piggul but only invalid, as already stated.
(17) The intentions being in that order.
(18) For the same reason as before.
(19) R. Judah holds that an invalidating intention does not negative a piggul intention if the latter is expressed first.
(20) Whatever the order.
(21) In intention.
(22) Even R. Judah agrees that where both intentions are expressed at the same service, the sacrifice is not piggul but merely unfit, even if the piggul intention preceded.
(23) As it is explicitly taught: IF ONE SLAUGHTERED [INTENDING TO EAT] AFTER TIME AND RECEIVED THE BLOOD ETC. WITHOUT BOUNDS.
(24) Sc. IF ONE SLAUGHTERED INTENDING TO EAT AS MUCH AS AN OLIVE ON THE MORROW AND AS MUCH AS AN OLIVE WITHOUT BOUNDS.

Talmud - Mas. Zevachim 30a

— Even so: the first clause treats of two services, while the second clause can refer to either one service or two services.

We learnt: SAID R. JUDAH: THIS IS THE GENERAL RULE: IF THE INTENTION OF TIME PRECEDED THE INTENTION OF PLACE, IT IS PIGGUL, AND INVOLVES KARETH. As for R. Johanan. it is well: hence he teaches, THIS IS THE GENERAL RULE.[1] But according to Ilfa, what is the implication of THIS IS THE GENERAL RULE? — That is indeed a difficulty.

We learnt elsewhere: [If one declares.] ‘This [animal] be a substitute for a burnt-offering, a substitute for a peace-offerings,’ it is a substitute for a burnt-offering [only]: this is R. Meir's view. Said R. Jose: If such was his original intention,[2] since it is impossible to pronounce both designations simultaneously, his declarations are valid.[3] But if, having declared, ‘This [animal] be a substitute for a burnt-offering,’ he declared as an afterthought, ‘This be a substitute for a peace-offerings,’ it is a burnt-offering. It was asked: What if [one declares,] ‘This [animal] be a substitute for a burnt-offering and a peace-offerings,’ [or] ‘[This animal be a substitute for] half [a burnt-offering] and half [a peace-offering]’? Said Abaye: Here R. Meir certainly agrees [with R. Jose]. Raba said: There is still the controversy. Raba said to Abaye: According to you who maintain that here R. Meir certainly agrees, Yet lo! slaughtering is analogous to half and half, yet they disagree?[4] — Said he to him: Do you think that shechitah counts only at the end? [No:] Shechitah counts from the beginning until the end , and our Mishnah means that he declared [that he cut] one organ [intending to eat the flesh] after time and the second organ [intending to eat it] without bounds.[5]

Yet surely kemizah[6] is analogous to halves, yet they disagree?[7] — There too it means that he burnt a fistful of the meal-offering [with the intention of eating] after time and a fistful of the frankincense [intending to eat] without bounds. Yet they disagree in respect of the fistful of a sinner's meal-offering, where there is no frankincense? — They do not disagree there. R. Ashi said: If you should say that they do disagree, they disagree in the steps.[8]

R. Shimi b. Ashi recited [the passage] as Abaye; R. Huna b. Nathan recited [it] as Raba. When R. Dimi came,[9] he said: R. Meir stated [his ruling] in accordance with the thesis of R. Judah, who maintained: Regard the first expression. For we learnt: R. JUDAH SAID, THIS IS THE GENERAL RULE: IF THE INTENTION OF TIME PRECEDED THE INTENTION OF PLACE, IT IS PIGGUL, AND INVOLVES KARETH.

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(1) This phrase is always regarded as including something not explicitly stated; according to R. Johanan then it includes the case of both intentions being expressed at one service.

(2) To declare it a substitute for both.

(3) V. Lev. XXVII, 33: He shall not inquire whether it be good or bad, neither shall he change it; and if he change it at all, then both it and that for which it is changed shall be holy. This is interpreted as meaning that if an animal is dedicated for a particular sacrifice, e.g., a peace-offerings, and then a second is substituted for it, both are holy, the second having exactly the same holiness as the first. Now R. Meir rules that if he declares it a substitute for two consecrated animals in succession, only the first declaration is valid, and the second is disregarded. But R. Jose maintains that if the second statement was not added as an afterthought but was part of the original intention, the whole is valid. Consequently, the animal is put out to graze until it receives a blemish, when it must be sold, and the money expended half for a burnt-offering and half for a peace-offering.

(4) When one slaughters the sacrifice with the intention of eating as much as an olive without bounds and as much as an olive after time, the second intention is not an afterthought cancelling the first, since both are possible; yet R. Judah regards the first statement only. This is analogous to making an animal a substitute for half a burnt-offering and half a peace-offerings, for here too both are possible. Now R. Meir who regards the first statement only in substitution agrees with R. Judah in our Mishnah, and therefore in the declaration in question too he should regard the first statement only.

(5) Shechitah consists of cutting across the two organs of the throat, viz., the windpipe and the gullet. Here R. Judah disagrees, because he regards them as two separate statements; but in a statement of ‘halves’ R. Judah (and R. Meir) would agree that the whole counts as one statement and that both parts are regarded. V. also Pes. (Sonc. ed.) p. 315, n. 3.

(6) V. Glos.

(7) If the priest takes the fistful of the meal-offering for burning on the altar while expressing the intention of eating as much as an olive after time and as much as an olive without bounds. There is the same controversy in Men. 12a between R. Judah and the Sages as here.

(8) As the priest took one step while carrying the fistful to the altar he declared his intention of partaking of the offering without bounds, and as he took another step, his intention of partaking thereof after time. Hence here also we have two separate statements.

(9) From Palestine to Babylon.

Talmud - Mas. Zevachim 30b

Said Abaye to him: Yet surely Rabbah b. Bar Hanah said in R. Johanan's name: When you bring R. Meir and R. Jose together, [you find that] they do not disagree.[1] But do they not disagree? Surely they do disagree? — They disagree in what they disagree, he answered him, and they do not disagree in what they do not disagree.[2] For R. Isaac b. Joseph said in R. Johanan's name: All agree that if he declared ‘Let this [sanctity] fall upon the animal and after that let that [sanctity] fall upon it,’ [the latter] does not fall upon it.[3] ‘Let this [sanctity] not fall upon it unless the other falls upon it [too],’ all agree that [the latter] does not fall upon it.[4] They disagree only where he declares, ‘[Let this animal be] a substitute for a burnt-offering, a substitute for a peace-offering.' R. Meir holds: Since he should have said, 'A substitute for a burnt-offering and a peace-offering.'[5] but said [instead], 'A substitute for a burnt-offering, a substitute for a peace-offering,' you may infer that he has indeed retracted.[6] And R. Jose?[7] — Had he declared, 'A substitute for a burnt-offering and a peace-offering,' I might have interpreted it, Half as a substitute for a burnt-offering and half as a substitute for a peace-offering;[8] therefore he declared, 'A substitute for a burnt-offering, a substitute for a peace-offerings,' to intimate that the whole should be a burnt-offering and the whole should be a peace-offerings![9] — Said he [R. Dimi] to him [Abaye]: He [Rabbah b. Bar Hanah] said that they do not disagree, but I maintain that they do disagree.[10]

'Ulla-others state, R. Oshaia — said: Perhaps our Babylonian colleagues know whether we learnt, 'As much as an olive . . . as much as an olive'; or did we learn, 'As much as an olive . . . and as much as an olive'?[11] [The point of the question is this:] Did we learn, 'As much as an olive . . . as much as an olive,'[12] but [if he declared,] '. . . As much as an olive . . . and as much as an olive,' all agree that it constitutes a mingling of intentions.[13] Or perhaps we learnt'. . . as much as an olive . . . and as much as an olive,' and this, in R. Judah's opinion, constitutes a detailed enumeration,[14] and all the more [if he declared]'. . . as much as an olive . . . as much as an olive?' — Come and hear, for Levi asked Rabbi: What if he intended eating as much as an olive on the morrow [after time] without bounds? Said he to him: That is indeed a question: it constitutes a mingling of intentions.[15] Thereupon R. Simeon b. Rabbi observed, is this not [taught in] our Mishnah: [IF HE INTENDED] TO EAT AS MUCH AS AN OLIVE WITHOUT, AS MUCH AS AN OLIVE ON THE MORROW; [OR] AS MUCH AS AN OLIVE ON THE MORROW, AS MUCH AS AN OLIVE WITHOUT;' [OR] HALF AS MUCH AS AN OLIVE WITHOUT, HALF AS MUCH AS AN OLIVE ON THE MORROW; [OR] HALF AS MUCH AS AN OLIVE ON THE MORROW. HALF AS MUCH AS AN OLIVE WITHOUT: IT IS INVALID, AND DOES NOT INVOLVE KARETH. Hence it follows that the other case[16] constitutes a mingling of intentions.[17] Nevertheless he asked me a profound question, he replied, though you say that it is [implied in] our Mishnah. Since I taught you both [cases], you find no difficulty.[18] But him I taught only one,[19] while he heard that the Rabbis read both versions [in the Mishnah]. Hence his doubt: was my teaching exact,[20] whereas their [additional case] constitutes a mingling of intentions;[21] or perhaps their [version] is exact,[22] whilst I had simply omitted [one case when I taught him], and just as I had omitted this instance, so had they omitted the other instance.[23] Now, which [case] did he teach him? If we say [that] he taught him: '. . . as much as an olive . . . and as much as an olive,' [surely] that is not an omission![24] Hence he taught him, 'As much as an olive . . . as much as an olive.'[25] Then let him ask about 'as much as an olive . . . and as much as an olive'?[26] — He reasoned: I will ask him one case from which I may infer both. For if I ask about 'as much as an olive . . . and as much as an olive,' it is well if he answers me that it is a comprehensive statement,[27] then all the more is it so [in the case of] 'as much as an olive on the morrow without'; but if he answers me that it is a detailed enumeration, then I will still have the question about 'as much as an olive on the morrow without'. If so,[the same objection can be urged] now too: it is well if he answered him that 'as much as an olive on the morrow without' constitutes a detailed enumeration, then all the more is it so in the case of 'as much as an olive and as much as an olive'. But if he answered him that it is a comprehensive statement, he would still have the question: [what about] 'as much as an olive and as much as an olive' ? — If so, he [Rabbi] would have shewn asperity:

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(1) For, as shewn anon, both reject the view that only the first statement is regarded. That being so R. Meir's ruling on substitution does not agree with R. Judah in our Mishnah.

(2) They disagree only in the case cited, where their controversy is explicitly stated. But they do not disagree on the general question whether a man's first statement only is to be regarded, for they both hold that a man's complete intention must be taken into account, the point at issue being what is his intention.

(3) If he declared, 'Let the sanctity of this animal, dedicated for a burnt-offering, fall upon this one as its substitute, and then let the sanctity of the other dedicated for a peace-offerings fall upon it', it is not seized with the sanctity of the second, for sanctity cannot fall upon an animal which already possesses it.

(4) Since he obviously intended the animal to assume both sanctities simultaneously.

(5) If he intended both.

(6) Having declared it a substitute for the one, he retracted and made it a substitute for the other. But retraction is not permitted, and therefore it retains the first sanctity only.

(7) Does he not allow this argument?

(8) In which case it could not be sacrificed at all.

(9) Erroneously thinking that then the animal itself could be offered (presumably, as whichever sacrifice he desired, when he actually came to sacrifice it). — Thus on the present interpretation R. Meir too does not disagree with R. Jose that you cannot regard only a man's first statement, which contradicts R. Dimi.

(10) Precisely on the point whether a man's first statement only is to be regarded.

(11) In the Mishnah, did the man state, ‘I declare my intention to eat as much as an olive without bounds, as much as an olive after time’, or, . . . and as much as an olive after time’?

(12) R. Judah regards this as two distinct (and to some extent self-contradictory) intentions, since they are not joined by ‘and’.

(13) Hence it is not piggul.

(14) Each is a separate statement, and there is no mingling of intentions. Hence R. Judah regards the first only.

(15) Even in R. Judah's opinion.

(16) Viz., where he declares both intentions in respect of the same piece.

(17) Why praise it then as a question worthy of asking?

(18) I taught you both versions, viz., that he declares, ‘as much as an olive . . . as much as an olive’; or ‘as much . . . and as much’, etc., and the controversy of R. Judah and the Rabbis applies to both. Hence, since the Mishnah teaches these, and not a twofold declaration in respect of the same piece, you rightly deduce that there obviously even R. Judah admits that we have a mingling of intentions.

(19) Which one is explained anon.

(20) Viz., that the controversy applies to one case only.

(21) In my opinion, so that they read this into the Mishnah incorrectly. If so, a twofold declaration in respect of the same piece certainly constitutes a mingling of intentions.

(22) The controversy applies to both.

(23) Viz., two declarations in respect of the same piece. Hence he was right to raise the question.

(24) For the case of ‘as much as an olive . . . as much as an olive’ follows a fortiori. If R. Judah holds that we have a detailed enumeration and no mingling of intentions even when the priest uses the copulative, how much more so when his statements are disjoined. Hence he would have understood that this too is included, but only this and no other, so that a twofold declaration in respect if the same piece would certainly be a mingling of intentions, and there would be no room for his question.

(25) Only on this assumption is there room for his question. This proves that the reading in the Mishnah is ‘as much as an olive . . . as much’ etc.

(26) According to the explanation above he was in doubt about that too.

(27) Sc. it is a mingling of intentions.

Talmud - Mas. Zevachim 31a

seeing that ‘as much as an olive and as much as an olive’ is a comprehensive statement, is there a question about ‘as much as an olive on the morrow without’![1]

It was stated: [If one declares, ‘I will eat] half [as much as] in olive after time, half an olive without bounds and half as much as an olive after time,’ — Said Raba: ‘Then the piggul awaked as one asleep’.[2] But R. Hamnuna maintained: This constitutes a mingling of intentions.[3] Raba said: Whence do I say it? Because we learnt: if one combines as much as an egg of an edible of first degree with as much as an egg of an edible of second degree, [the combination] ranks as first degree. If one separates them, each ranks as second degree.[4] But if one re-combined them, [the mixture] ranks as first degree. Whence [does this follow]? — Because the second clause teaches: If each falls separately on a loaf of terumah, they render it unfit; if they both fall [on it] simultaneously, they render it second degree.[5] But R. Hamnuna argues: There you had the requisite standard;[6] but here the standard is absent.[7]

R. Hamnuna said: Whence do I say it? — Because we learnt: An edible which was defiled by a principal degree of uncleanness, and [one] which was defiled by a derivative of uncleanness[8] combine with each other to defile according to the lesser of the two.[9] Surely that means even if [the standard quantity] is subsequently made up?[10] — [No:] perhaps [this holds good only] when one does not make up [the standard].

When R. Dimi came, he said: [When one declares his intention of eating] half an olive without bounds and half an olive after time and [another] half an olive after time, — Bar Kappara taught: It is piggul, [because the declaration in respect of] half an olive is of no effect as against [that in respect of] an olive.[11] When Rabin came, he said: [If one declares his intention of eating] half as much as an olive after time and [another] half an olive after time and half an olive without bounds, — Bar Kappara taught: It is piggul, [because the declaration in respect of] half an olive is of no effect as against [that of] an olive.[12] R. Ashi recited it thus: [If one declares his intention to eat] half an olive after time, and an olive, half without bounds and half after time,[13] — Bar Kappara taught: It is piggul, [because the declaration in respect of] half an olive is of no effect as against [that of] an olive.[14]

R. Jannai said: If one intended dogs to eat it on the morrow, it is piggul, because it is written, And the dogs shall eat Jezebel in the portion of Jezreel.[15] To this R. Ammi demurred: If so, if he intended fire to eat it on the morrow, is that too piggul, since it is written, A fire not blown by man shall eat [consume] him?[16] And should you say, That indeed is so, — surely we learnt, [IF HE INTENDED] TO EAT HALF AS MUCH AS AN OLIVE [ILLEGITIMATELY] AND TO BURN HALF AS MUCH AS AN OLIVE [ILLEGITIMATELY], IT IS FIT, BECAUSE EATING AND BURNING DO NOT COMBINE? — If he expressed [his intention] in terms of eating, that indeed would be so;[17] here [in the Mishnah] however he expressed it in terms of burning: [hence they do not combine,] because the term eating is one thing and the term burning is another.

R. Assi[18] asked: What if he intended as much as an olive to be eaten [illegitimately] by two men? Do we go by his intention, and there is the standard [of disqualification]; or do we go by the eaters, and there is not the standard? — Said Abaye, Come and hear: [IF HE INTENDED] TO EAT HALF AS MUCH AS AN OLIVE AND TO BURN HALF AS MUCH AS AN OLIVE [ILLEGITIMATELY]. IT IS FIT, BECAUSE EATING AND BURNING DO NOT COMBINE.

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(1) I.e., Rabbi would have replied with asperity, ‘Why, even the former case is a mingling of intentions; how much more so that which you ask’.

(2) Cf. Ps. LXXVIII, 65. — The first half, on finding as it were the last half, awakes from its slumber and combines with it. Thus he intends to eat as much as an olive after time; this renders it piggul and cannot be undone by the intention if eating half as much as an olive without bounds.

(3) Hence it is not piggul.

(4) A man who becomes unclean through contact with a corpse, and a sherez (‘creeping thing’) rank as principal (ab, lit., ‘father’) degree of uncleanness, and if a foodstuff comes into contact with them, it becomes unclean in the first degree; if that in turn comes into contact with another foodstuff, the latter is unclean in the second degree. The minimum standard of foodstuffs to defile is as much as an egg. Now, the first combination contains the standard quantity for defilement, and that in the first degree; hence the whole ranks as such. But if one divides the whole, each part contains less than the standard in the first degree; hence each part is second degree

(5) In hullin (non-sacred food) there is nothing below second degree, so that if second degree food touches hullin, the latter remains clean. In terumah (q.v. Glos.) there is a third degree, but it goes no further, and the terumah is then called unfit, but not unclean, since it cannot defile other terumah. Now, if each of these separated masses falls on terumah consecutively, the terumah is disqualified only, since neither mass contains as much of first degree to render it second. But if they both fall on it together, as much as an egg of first degree has touched it at the same moment, and therefore the terumah becomes unclean in the second degree, so that it can render other terumah unfit. This proves that the firsts in each combine, and the same is true here.

(6) In the first place there was one mass of the requisite standard; therefore the two masses recombine.

(7) There was never the complete standard by itself to render it piggul.

(8) ‘Derivative’ is another name for first degree.

(9) If each contains only half the standard. Thus the combination disqualifies terumah (rendering it third), but does not defile it (i.e., it does not render it second).

(10) Even if one adds a first degree edible to make up to the size of an egg, yet since the combination is only a second, that portion thereof which is first does not re-awake to combine with the addition.

(11) Since the two piggul intentions (viz., to eat after time) were consecutive.

(12) But only in this case. In the former case, however, when he declares his intention to eat half an olive without bounds and half an olive after time, these two intentions immediately combine, and his subsequent declaration that he will eat half an olive after time cannot upset the previous combination; hence it is not piggul. Thus we have a controversy between R. Dimi and Rabin as to Bar Kappara's teaching.

(13) Thus combining the latter two in his declaration.

(14) This goes further than R. Dimi's view. For here he actually combined the latter two intentions, and yet they are separated and the two intentions concerning after time recombined.

(15) II Kings IX, 10. This proves that eating by dogs is designated eating.

(16) Job XX, 26.

(17) They would combine.

(18) Emended text. Cur. edd: Ashi.

Talmud - Mas. Zevachim 31b

Hence if he intended to eat [half as much as an olive] and to eat [half as much as an olive] in a way similar to [the intention of] eating and burning, — and how is that possible? [that the two half olives] should be eaten by two men, — they would combine. This proves it.

Raba asked: What if he intended to eat as much as an olive within more than the time required for eating half [a loaf]?[1] Do we compare this to the eating of the All-High,[2] or do we liken it to human eating? — Said Abaye, Come and hear: [IF HE INTENDED] EATING HALF AS MUCH AS AN OLIVE AND BURNING HALF AS MUCH AS AN OLIVE, IT IS FIT, BECAUSE EATING AND BURNING DO NOT COMBINE. Thus only eating and burning; but eating and eating in a way similar to eating and burning combine, though burning requires more than the time for eating half [a loaf]![3] — [No:] perhaps it means in a big fire.[4]

[IF HE INTENDED] TO EAT HALF AS MUCH AS AN OLIVE AND TO BURN HALF AS MUCH AS AN OLIVE IT IS FIT. Thus only to eat and to burn; but [if he intended] to eat [what is fit for eating] and to eat what is not fit for eating[5] they combine. Yet surely the first clause teaches: [IF HE INTENDS] TO EAT WHAT IS NORMALLY EATEN [IT IS UNFIT]. Hence, only what is normally eaten, but not what is not normally eaten? — Said R. Jeremiah. This[6] is in accordance with R. Eliezer, who maintained [that] you can intend [with effect] for the altar's consumption what is meant for human consumption and for human consumption what is meant for the altar's consumption. For we learnt: If one slaughters the sacrifice [intending] to eat what is not normally eaten or to burn [on the altar] what is not normally burnt, it is fit; but R. Eliezer invalidates [it].[7] Abaye said: You may even say that it is according to the Rabbis; but do not deduce: But [if he intends] to eat [what is fit for eating] and to eat what is not normally eaten [it is fit]; deduce rather: But [if he intends] to eat [what is normally eaten] and to eat what is normally eaten[8] [it is invalid]. [Then] what does [the Tanna] inform us? if he informs us [the law concerning] what is normally eaten,[9] you can infer this from the first clause: [IF HE INTENDS TO EAT] HALF AS MUlch AS

AN Olive WITHOUT, HALF AS MUCH AS AN OLIVE ON THE MORROW, [HIS INTENTIONS] COMBINE. If [he informs us about intending] to eat and to burn,[10] you can infer this by deduction from the first clause, [viz.,] only [if he intends] to eat what is normally eaten, but not [if he intends to eat] what is not normally eaten. Then seeing that [intentions] to eat [what is normally eaten] and to eat what is not normally eaten do not combine, is it necessary [to teach about intentions] to eat and to burn [that they do not combine]?[11] — He needs [to teach about intending] to eat and to burn. For you might argue, Only there[12] [do they not combine], because his intention is not normal; but here, where [his intentions in respect of] each are normal,[13] I would say that they combine. Hence he informs us [otherwise].

CHAPTER III

MISHNAH. ALL UNFIT PERSONS[14] WHO SLAUGHTERED, THEIR SLAUGHTERING IS VALID, FOR SLAUGHTERING IS VALID [EVEN WHEN PERFORMED] BY LAY-ISRAELITES [ZARIM], AND BY WOMEN, AND BY SLAVES, AND BY UNCLEAN, EVEN IN THE CASE OF SACRIFICES OF HIGHER SANCTITY, PROVIDED THAT UNCLEAN [PERSONS] DO NOT TOUCH THE FLESH; THEREFORE THEY[15] INVALIDATE [THE SACRIFICE] BY AN [ILLEGITIMATE] INTENTION.

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(1) A loaf is the size of eight (according to Maim. six) eggs, and half a loaf constitutes the average meal. The eating of forbidden food in general is punishable only if as much as an olive thereof, which is the standard for punishment, is eaten in the time of an average meal.

(2) Sc. the consumption of the emurim on the altar. Naturally, this sometimes requires more time than the human standard, and therefore if this comparison is made his intention counts.

(3) Emended text (Rashi). ‘Eating and eating’ means an intention to eat half as much as an olive and another intention to eat half as much as an olive.

(4) Where it will be quickly consumed.

(5) For what he would burn (the emurim) is not fit for eating.

(6) The final clause.

(7) V. supra 28a for notes. In view of R. Eliezer's opinion it is necessary to state here that intentions in respect of eating and burning (human consumption and the altar's consumption) do not combine.

(8) I.e., two intentions in respect of two half standards.

(9) Viz., that they combine.

(10) That they do not combine. I.e., if the law is taught for its own sake, and not for the sake of a deduction.

(11) Surely not.

(12) When he intends to eat what is normally eaten and to eat what is not normally eaten.

(13) He intends to eat what is eaten, and to burn what is burnt, though not in the right time or place.

(14) As enumerated in the Mishnah supra 15b.

(15) These unfit persons.

BUT IF ANY OF THESE RECEIVED THE BLOOD [INTENDING TO EAT THE FLESH OR BURN THE EMURIM] AFTER TIME OR WITHOUT BOUNDS AND LIFE-BLOOD IS [STILL] AVAILABLE, A FIT [PRIEST] MUST RECEIVE [IT] A SECOND TIME. IF A FIT PERSON RECEIVED [THE BLOOD] AND GAVE [IT] TO AN UNFIT ONE, HE MUST RETURN IT TO THE FIT ONE. IF HE RECEIVED [THE BLOOD] IN HIS RIGHT HAND AND TRANSFERRED [IT] TO HIS LEFT, HE MUST RE-TRANSFER IT TO HIS RIGHT. IF HE RECEIVED [IT] IN A SACRED VESSEL AND POURED IT [THENCE] INTO A SECULAR [NON-SACRED] VESSEL, HE MUST RETURN IT TO THE SACRED VESSEL. IF IT SPILT FROM THE VESSEL ON TO THE PAVEMENT AND ONE COLLECTED IT, IT IS FIT. IF [THE PRIEST] APPLIED IT ON THE ASCENT [OR ON THE ALTAR], [BUT] NOT OVER AGAINST ITS BASE; [OR] IF HE APPLIED WHAT SHOULD BE APPLIED BELOW [THE SCARLET LINE] ABOVE [IT], OR WHAT SHOULD BE APPLIED ABOVE, BELOW; OR WHAT SHOULD BE APPLIED WITHIN [HE APPLIED] WITHOUT, OR WHAT SHOULD BE APPLIED WITHOUT, WITHIN[1] AND LIFE-BLOOD IS [STILL] AVAILABLE, A FIT [PRIEST] MUST RECEIVE [BLOOD] ANEW. GEMARA. ‘WHO SLAUGHTERED’ [implies] only if done, but not at the very outset.[2] But the following contradicts it: And he shall slaughter:[3] [this teaches that] slaughtering by a zar is valid,[4] for slaughtering by zarim, women, slaves, and unclean persons is valid, even in the case of most sacred sacrifices. Yet perhaps that is not so, but rather [it must be done] by priests? You can answer: Whence do you come [to propose this]? From the fact that it is said, And thou and thy sons with thee shall keep the priesthood in everything that pertaineth to the altar,[5] you might think that this applies to shechitah too. Therefore Scripture states, And he shall kill the bullock before the Lord; and Aaron's sons, the priests, shall present the blood:[6] from receiving onwards priesthood is prescribed, which teaches that shechitah by any person is valid![7] — The truth is that it [may be performed] even at the very outset too, but because [the Tanna] wishes to include unclean, who may not [slaughter] in the first place lest they touch the flesh,[8] he states, WHO SLAUGHTERED.

Is then [the slaughtering by] an unclean person well if it was done? The following, however, contradicts it: And he shall lay [his hands upon the head of the burnt-offering . . .] and he shall kill the bullock [before the Lord]:[9] as ‘laying’ must be [done] by clean [persons only], so must shechitah [be done] by clean [persons only]? — That is [only] a Rabbinical law.[10] Why does ‘laying’ differ? because it is written, before the Lord?[11] Yet surely ‘before the Lord’ is written of shechitah too? — It is possible to make a long knife and slaughter.[12] But in the case of ‘laying’ too, he can project his hands [into the Temple court] and lay?[13] — He holds that partial entry is designated entry.[14]

R. Hisda recited it reversely: And he shall lay . . . and he shall kill: as shechitah requires clean persons, so ‘laying’ requires clean persons. Why does shechitah differ? because it is written, ‘before the Lord’?

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[1] V. supra 26a for notes.

[2] I.e., if they slaughtered, it is valid; but we do not permit them to slaughter in the first place.

[3] Lev. I, 5.

[4] Since Scripture does not specify a priest.

[5] Num. XVIII, 7.

[6] Lev. I, 5.

[7] This implies at the very outset.

[8] And defile it.

[9] Ibid. I, 4f.

[10] By Scriptural law, however, shechitah may be done in the first place by unclean persons; hence their shechitah is valid, if performed, even by Rabbinical law. The exegesis is therefore to be understood as a mere support to the law, and not as its source.

(11) In the text just quoted. Since shechitah must be ‘before the Lord’ i.e., in the Temple court, ‘laying’ too must be done there, as shechitah immediately follows it. Hence unclean are excluded, since they may not enter the Temple court.

(12) The sacrifice, which is within, while he stands without.

(13) While his body is without.

(14) Even if his hands only enter the Temple court, it is as though he entered it entirely.

Talmud - Mas. Zevachim 32b

but ‘before the Lord’ is written in connection with ‘laying’ too? — He can project his hands within and lay [them on the bullock]. Then in the case of shechitah too, he can make a long knife and slaughter? — This agrees with Simeon the Temanite. For it was taught: And he shall kill the bullock before the Lord: the bullock [must be] before the Lord, but the slaughterer need not be before the Lord. Simeon the Temanite said: Whence do we know that the slaughterer's hands must be on the inner side of the slaughtered? From the text, And he shall slaughter the bullock before the Lord: he that slaughters the bullock [must be] before the Lord.[1]

‘Ulla said in the name of Resh Lakish: If an unclean person projects his hands within, he is flagellated, because it says, She shall touch no hallowed things, nor come into the sanctuary:[2] entry is assimilated to contact. As partial contact ranks as contact,[3] so partial entry is designated entry. R. Hoshaia raised an objection to ‘Ulla: If a leper whose eighth day fell on the eve of Passover[4] and who had a nocturnal discharge on that day,[5] and performed immersion,[6] — the Sages said: Though any other tebul yom[7] may not enter [the Levitical camp], this one does enter:[8] it is preferable that an affirmative precept which involves kareth[9] should come and override an affirmative precept which does not involve kareth.[10] Now R. Johanan said: By the law of the Torah[11] there is not even an affirmative precept in connection therewith, for it is said, And Jehoshaphat stood in the congregation of Judah and Jerusalem, in the house of the Lord, before the new court.[12] What does ‘the new court’ mean? That they introduced a new law there and ruled: A tebul yom must not enter the Levitical camp.[13] Now if you say that partial entry is called entry, how can he insert his hands for [the sprinkling of his] thumbs; in both cases there is an affirmative precept involving kareth?[14] — from your very refutation[15] [I can answer you], he replied: A leper is different. Since he was permitted in respect of his leprosy,[16] he was permitted in respect of his nocturnal discharge. R. Joseph observed: ‘Ulla holds [that] if the majority were zabin and they became unclean through the dead, since they are permitted in respect of their defilement, they are permitted in respect of their zibah.[17] Said Abaye to him, How can you compare? Uncleanness was permitted, but zibah was not permitted![18] Perhaps this is what you meant: If the majority are unclean through the dead and they become zabin, since they are permitted in respect of their uncleanness they are permitted in respect of their zibah? — Yes, he replied. Said he to him: Yet they are still not alike. [In the case of] a leper it is permitted,[19] [and] since it is permitted [in respect of leprosy], it is permitted [in respect of his nocturnal discharge]. But defilement is [merely] superseded: in respect of one[20] it was superseded, [while] in respect of the other [zibah] it was not superseded? — Said Raba to him: On the contrary, the logic is the reverse: [In the case of] a leper it is permitted: then it is permitted in respect of the one and not permitted in respect of the other. But uncleanness is superseded: What does it matter then whether it is superseded in one instance or whether it is superseded in two instances?

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(1) Reading we-shohet, and the slaughterer, for we-shahat, and he shall slaughter. Thus he holds that the slaughterer must be inside too.

(2) Lev. XII, 4.

(3) Since normally a man does not touch a thing with his whole body.

(4) When a leper was healed from his leprosy he waited seven days, performing immersion on the seventh, and brought his sacrifices on the eighth (v. Lev. XIV, 9f). When he brought these he was still not permitted to enter the Temple court (‘the camp of the Shechinah’ — divine Presence) but stood at the east gate (‘the gate of Nicanor’), whose sanctity was lower (it was regarded as ‘the Levitical camp’), while the priest, standing inside the Temple court, applied the blood and the oil to the thumb and the great toe of the leper (ibid. 14f).

(5) Before he had offered his sacrifices. One who suffered such a discharge might not enter even the Levitical camp.

(6) Again. Though be had performed immersion the previous day, that was on account of his leprosy, whereas now he performs it on account of his discharge.

(7) V. Glos.

(8) For his purification rites.

(9) Sc. the Passover-offering. He went through his purification rites so that he might eat of the Passover-offering in the evening, the eating of which is enjoined by an affirmative precept.

(10) Sc. that a tebul yom must not enter the Levitical camp. That is derived in Naz. 45a from, he shall be unclean; his uncleanness is yet upon him (Num. XIX, 13); since this is an affirmative statement, the injunction likewise counts as an affirmative precept. Its violation does not involve kareth.

(11) The Pentateuch.

(12) II Chron. XX, 5.

(13) Since this was an innovation, it is only Rabbinical, and as seen supra it was waived for the sake of the Passover-offering.

(14) An unclean person may not enter the Temple court on pain of kareth.

(15) Lit., ‘burden’.

(16) This is obvious, as Scripture ordains it, and it cannot be done in any other way but by inserting his hands (or thumbs) into the Temple court.

(17) For zab (pl. zabim, zabin), zibah v. Glos. If the majority of the community are unclean on the eve of Passover through the dead, they are permitted to offer the Passover-offering, as this uncleanness is inoperative (or superseded) in such circumstances. But if they are unclean as zabin, they may not offer. Now, if they were thus unclean, and then became unclean through the dead too, since they are permitted in respect of the latter, they are also permitted in respect of the former. This follows from ‘Ulla's answer.

(18) Though the uncleanness through the dead is permitted, yet since it came after zibah it cannot render that permitted too, for if it did it would create the absurd position that whereas zibah alone is not permitted, yet when defilement through the dead is added to it, it is permitted.

(19) To project his hands into the Temple court.

(20) Sc. defilement through the dead.

Talmud - Mas. Zevachim 33a

This proves that both[1] hold that uncleanness is [merely] superseded in the case of a community.[2]

Shall we say that the following supports him:[3] In all cases of laying [hands] I apply [the norm], shechitah must immediately follow laying, except this one,[4] which took place at the Nicanor Gate, because the leper might not enter therein[5] until the blood of his sin-offering and his guilt-offering was sprinkled on his account.[6] Now, if you say that partial entry is not designated entry, let him project his hands [into the Temple court] and lay [them on the sacrifice]?[7] — Said R. Joseph: This is in accordance with R. Jose son of R. Judah, who maintained: The north is at a distance [from the entrance].[8] Then let a small gate be made?[9] — Abaye and Raba both quoted [in reply]: All this [do I give thee] in writing, as the Lord hath made me wise by His hand upon me, even all the works of this pattern.[10] Others state [that] R. Joseph said: When one lays [hands], he must project his head and the greater part [of his body into the Temple court].[11] What is the reason? — We require [him to lay hands with] all his strength; therefore it cannot be done [otherwise].

What does [the Tanna] hold?[12] If he holds that the laying [hands on] the guilt-offering of a leper is a Scriptural requirement, and that [the law that] shechitah must immediately follow laying is Scriptural, then let him [the leper] enter [the Temple court] and lay [hands], since the Divine Law ordained it? — Said R. Adda b. Mattenah: It is a preventive measure, lest he prolong his route.[13] Others state [that] R. Adda b. Mattenah said: Laying of [hands on] the guilt-offering of a leper is Scriptural, but [that] shechitah must immediately follow laying is not Scriptural.[14]

An objection is raised: And he shall lay [his hands . . .] and he shall kill:[15] As ‘laying’ must be [done] by clean [persons only], so must shechitah be [done] by clean [persons only]. If, however, you say that it is not Scriptural, then it can be [done] by unclean persons too?[16] — Rather, reverse it: Laying of [hands on] the guilt-offering of a leper is not Scriptural, while [the law that] shechitah must immediately follow laying is Scriptural. [

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(1) Abaye and Raba.

(2) V. supra p. 163, n. 11, and Yoma 6b.

(3) ‘Ulla, that partial entry is designated entry.

(4) Laying of hands on the leper's guilt-offering.

(5) Into the Temple court.

(6) Hence the animal was brought to the Nicanor Gate, which had intentionally been left unsanctified to enable the leper to stand there, and he laid hands upon it; then it was led to the Temple court and slaughtered, and so these two actions had to be separated by a short interval.

(7) So here too shechitah could immediately follow laying.

(8) Sc. of the Temple court. V. supra 20a. The sacrifices of the leper had to be slaughtered at the north side of the altar, which was more than 22 cubits from the main entrance of the Temple court. Hence he could not possibly reach it from outside.

(9) On the north wall of the Temple court facing the altar, whereby the animal could be slaughtered immediately after his laying on of hands.

(10) I Chron. XXVIII, 19. Thus the Temple was designed by divine guidance, and nothing might be added to it.

(11) So that it would not be partial entry but complete entry, which is forbidden to the leper.

(12) When he rules that shechitah must always immediately follow laying save in the case of a leper.

(13) Lit., ‘take many steps’ — into the Temple court — more than is necessary for laying hands. This would not be covered by the Scriptural dispensation.

(14) Hence we cannot permit him to enter the Temple court.

(15) Lev. I, 4.

(16) Viz., by laying hands outside the Temple court, and then the sacrifice is led in and slaughtered.

Talmud - Mas. Zevachim 33b

Rabina said: It was stated[1] [only] in respect of flagellation.[2] When Rabin came, he said in the name of R. Abbahu: It was stated in respect of an unclean person who touched sacred flesh.[3] For it was stated: If an unclean person touches sacred flesh, Resh Lakish maintains: He is flagellated; R. Johanan said: He is not flagellated. Resh Lakish maintained [that] he is flagellated, [because it is written] She shall touch no hallowed thing.[4] But R. Johanan maintains that he is not flagellated, [for] that [text] is written in reference to terumah.[5] Now [does] Resh Lakish [maintain that] this text comes for this purpose? [surely] it is required as a forewarning against eating sacred flesh?[6] For it was stated: Whence do we derive a forewarning against eating sacred flesh? Resh Lakish says: [From the text,] ‘She shall touch no hallowed thing’. R. Johanan said, Bardela taught: It is derived from the expression ‘his uncleanness’ occurring here and in reference to [an unclean person's] entry into the sanctuary:[7] as there [Scripture] prescribes the penalty and gives a forewarning,[8] so here too [Scripture] prescribes the penalty and implies a forewarning![9] — [That] an unclean person who touched sacred flesh [is flagellated follows] from the fact that the Divine Law expressed this in terms of touching;[10] while a forewarning to one who eats [sacred flesh while unclean follows] from the assimilation of sacred flesh to the sanctuary.[11]

It was taught in accordance with Resh Lakish: ‘She shall touch no hallowed thing’: [this is] a forewarning in respect of eating. You say [that it is] a forewarning in respect of eating; yet perhaps it is not so, but rather in respect of touching? Therefore the text states, ‘She shall touch no hallowed thing, nor come into the sanctuary’: the ‘hallowed thing’ [sacred flesh] is assimilated to the sanctuary. As [the offence in connection with] the sanctuary is one which involves

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(1) That partial entry is designated entry.

(2) As ‘Ulla explicitly states. But it was not stated in respect of kareth, and therefore you cannot raise an objection from the law of a leper, who had a nocturnal issue where the penalty involved is kareth.

(3) And not in respect of partial entry at all — contra ‘Ulla.

(4) Lev. XII, 4. ‘She’ is a woman in childbirth, who is unclean, and she is forbidden to touch it by a negative command, which is punishable by flagellation.

(5) But not to sacrifices. And although sacrifices are more sacred than terumah, for contact with which flagellation is incurred, we do not deduce a fortiori that the same punishment is incurred for touching sacred flesh, as flagellation is not imposed as a result of an a fortiori deduction.

(6) In a state of bodily uncleanness.

(7) Eating sacred flesh whilst unclean (Lev. VII, 20): But the soul that eateth of the flesh of the sacrifice of peace-offerings, that pertain unto the Lord, having his uncleanness upon him, that soul shall be cut off from his people (i.e., kareth). Entering the sanctuary whilst unclean (Num. XIX, 13): Whosoever toucheth the dead, even the body of any man that is dead, and purifieth not himself — he hath defiled the tabernacle of the Lord — that soul shall be cut off from Israel; because the water of sprinkling was not dashed against him, he shall be unclean; his uncleanness is yet upon him.

(8) The forewarning is in Num. V, 3: That they (the unclean) defile not their camp.

(9) Thus Resh Lakish utilises the text for a different purpose.

(10) Since Scripture actually writes, She shall touch no hallowed thing.

(11) Scripture writes, She shall touch no hallowed thing, nor come into the sanctuary. Thus the two, being brought together in this way, are assimilated to each other. Hence this deduction is made: as the forewarning in respect of the sanctuary involves kareth, so the forewarning in respect of the ‘hallowed thing’ i.e., sacred flesh, is in respect of an action which involves kareth, viz., eating sacred flesh whilst unclean, for we do not find that an unclean person who touches sacred flesh incurs kareth. Nevertheless, since Scripture does use the expression ‘touch’, a forewarning in respect of touching too must be understood from this text.

Talmud - Mas. Zevachim 34a

the death penalty,[1] so the offence in connection with the hallowed thing is one which involves the death penalty. Now, if this treats of touching, is then the death penalty involved?[2] Hence it must treat of eating.

Yet it is still required in respect of an unclean person who ate the sacred flesh before the sprinkling [of the blood]? For it was stated: If an unclean person ate the sacred flesh before the sprinkling of the blood, Resh Lakish maintained that he is flagellated; while R. Johanan ruled that he is not flagellated. Resh Lakish maintained [that] he is flagellated, [for it is written,] ‘She shall touch no hallowed thing’, no distinction being drawn whether it is before sprinkling or after sprinkling. While R. Johanan ruled [that] he is not flagellated, as Bardela taught: ‘It is derived from the recurring expression, ‘his uncleanness’, and that is written after the sprinkling’![3] — If so,[4] let Scripture say, ‘[She shall not touch] a hallowed thing’; why state no hallowed thing?[5] Hence two things may be inferred from it.

The [above] text [stated]: ‘If an unclean person ate sacred flesh before sprinkling, Resh Lakish maintained: He is flagellated: while R. Johanan ruled: He is not flagellated.’ Abaye said: This controversy applies only to bodily uncleanness; but where the flesh is unclean, all rule that he is flagellated, because a Master said:[6] And the flesh [that toucheth any unclean thing shall not be eaten][7] is to include wood and frankincense; though these are not edible, yet Scripture includes them.[8] Raba said: The controversy is in respect of bodily uncleanness, but where the flesh is unclean[9] all agree that he is not flagellated. What is the reason? — Since we cannot apply to him the text, Having his uncleanness upon him, that soul shall be cut off,[10] you cannot apply to him the text, And the flesh that toucheth any unclean thing shall not be eaten. But a Master said, And the flesh includes the wood and the frankincense? — That is where they were sanctified in a vessel,[11] so that they become as though all their mattirin[12] had been performed. For we learnt: All which have mattirin [involve a penalty through defilement] once their mattirin have been offered;[13] whatever has no mattirin [involves a penalty through defilement] when it has been sanctified in a [service] vessel.[14]

It was stated: If one brings up the limbs of an unclean animal[15] on the altar, Resh Lakish maintained: He is flagellated; R. Johanan said: He is not flagellated. 'Resh Lakish maintained [that] he is flagellated', [for Scripture implies,] Only a clean animal [may be offered], but not an unclean one,[16] and one is flagellated on account of a negative injunction which is inferred from an affirmative precept. 'R. Johanan said, He is not flagellated', because one is not flagellated on account of a negative injunction which is inferred from an affirmative precept.

R. Jeremiah raised an objection: That may ye eat,[17] but not an unclean animal; and a negative injunction which is inferred from an affirmative precept ranks as an affirmative precept ?[18] — Said R. Jacob to R. Jeremiah b. Tahlifa: I will explain it to you: There is no disagreement at all about the limbs of an unclean [domesticated] animal; they disagree about a beast [of chase],[19] and it was thus stated: 'R. Johanan said: He transgresses an affirmative precept. While Resh Lakish said: He does not transgress anything.' 'R. Johanan said, He transgresses an affirmative precept', [for Scripture says,] [Ye shall bring your offering] of the cattle [behemah]: [this implies] only of the cattle, but not of the beast [of chase]; while Resh Lakish said, He does not transgress anything, [for] that [text] intimates that it is meritorious.[20]

Raba raised an objection: If it were said, '[When any man of you bringeth] an offering to the Lord,' cattle [behemah], I would agree that hayyah [beast of chase] is included in behemah, as in the verse, These are the animals [behemah] which ye may eat: the ox, the sheep, and the goat, the hart and the gazelle and the roebuck etc.[21] Therefore the text states, 'even of the herd or of the flock': of the herd or of the flock have I prescribed unto thee, but not a beast of chase [hayyah]. You might think [that] one must not bring [a hayyah], yet if one did bring [it] it is valid: for to what is this like? To a disciple whom his master bade, 'Bring me wheat' and he brought him wheat and barley, where he is not regarded as having flouted his orders, but as having added thereto[22] — and it is valid; therefore the text states, 'even of the herd or of the flock': of the herd and of the flock have I prescribed unto thee, but not a beast. To what is this like? To a disciple whom his master bade, 'Bring me naught but wheat' and he brought him wheat and barley. He is not regarded as having added to his words, but as having flouted them,

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(1) I.e., kareth.

(2) Surely not!

(3) For the forewarning is learned from the penalty, and the penalty of kareth is only incurred after the sprinkling, v. Men. 25b. — Returning to our subject, we see that Resh Lakish utilises the text for a different purpose.

(4) That the text is required for this purpose only.

(5) Expressed in Heb. by the addition of be-kol, ('all' or 'every'); the emphasis implies an additional teaching.

(6) Emended text (Bah).

(7) Lev. VII, 19.

(8) The exegesis is to shew that these can become unclean like an edible (though usually only an edible or a utensil can be defiled), and then the same law applies to them as to food. Now, flesh before sprinkling cannot be worse than these; if these involve flagellation, surely flesh before sprinkling does likewise.

(9) Var. lec.: The controversy is in respect of the uncleanness of the flesh, but in the case of bodily uncleanness etc. (Sh. M.).

(10) Ibid. 20. The text refers to bodily uncleanness, which supports the var. lec. — Kareth is not incurred before the sprinkling of the blood (p. 167, n. 5).

(11) The wood was removed from the altar in a service vessel, and the frankincense was sanctified in a censer. These, as the Talmud explains, are then in the same position as though all their ritual had been performed, and therefore are analogous to flesh after sprinkling.

(12) V. Glos.

(13) E.g., flesh, whose mattirin is the blood which by being sprinkled on the altar permits the flesh to be eaten.

(14) V. Me'il. 10a.

(15) E.g., of horses or camels.

(16) In the verse, Ye shall bring your offering of the cattle, even of the herd or of the flock (Lev. I, 2.). Thus Scripture specifies clean animals.

(17) Lev. XI, 3.

(18) And but for the special negative injunction which follows in the Scriptural text it would involve no flagellation.

(19) Animals are technically divided into behemah (domesticated animal) and hayyah (wild beast, lit., ‘living thing’). The former includes dogs, horses and camels; the latter includes the hart, deer and roebuck.

(20) To offer sacrifices of the cattle, whereas offering a beast of chase is voluntary and permissive. Nevertheless, though we have no affirmative precept forbidding it, anything unclean of either species may certainly not be offered, v. Men. 6a.

(21) Deut. XIV, 4f. The last three belong to the class of hayyah.

(22) And here too, since one need not offer a sacrifice at all, when one offers a hayyah he is as though adding to God's words.

Talmud - Mas. Zevachim 34b

— and it [the sacrifice] is invalid. This refutation of Resh Lakish is indeed a refutation.

AND IF ANY OF THESE RECEIVED etc. Resh Lakish asked R. Johanan: Does an unfit person render [the blood in the throat] a residue?[1] — Said he to him: There is no case of sprinkling rendering [the remaining blood] a residue,[2] save [where it is done with the illegal intention of] after time or without bounds, since it counts[3] in respect of piggul.[4] R. Zebid recited it thus: Resh Lakish asked R. Johanan: Does an unfit goblet [of blood] render [the remainder] a residue?[5] — Said he to him: What is your opinion about an unfit person himself? If an unfit person renders [the blood] a residue, then an unfit goblet too renders [the blood] a residue; if an unfit person does not render a residue, an unfit goblet too does not render a residue. R. Jeremiah of Difti recited it thus: Abaye asked Rabbah: Does one goblet render another rejected or a residue?[6] — Said he to him: It is the subject of a controversy between R. Eleazar son of R. Simeon and the Rabbis. For it was taught: Above it is stated, And the [remaining] blood thereof shall he pour out [at the base of the altar]; while below it is stated, And all the [remaining] blood thereof shall he pour out [at the base of the altar]:[7] How do we know that, if [the priest] received the blood of the sin-offering in four goblets and made one application [of blood] from each,[8] all [the rest] are poured out at the base [of the altar]? From the text, And all the [remaining] blood thereof shall he pour out [at the base of the altar]. You might think that, if he made the four applications from one goblet, all [the rest] are to be poured out at the base: therefore the text states, And the [remaining] blood thereof [etc].[9] How is this to be understood? [The remaining blood of] that [goblet] is poured out at the base,[10] but they [the other goblets] are poured out into the duct.[11] R. Eleazar son of R. Simeon said: Whence do we know that, if [the priest] received the blood of the sin-offering in four goblets and made the four applications from one goblet, all are poured out at the base? From the text, And all the [remaining] blood thereof shall he pour out [at the base of the altar]. Yet surely it is written, ‘And the remaining blood thereof shall he pour out etc.’? — Said R. Ashi: That is to exclude the residue [of the blood left] in the throat of the animal.

IF THE FIT PERSON RECEIVED [THE BLOOD] AND GAVE [IT] TO AN UNFIT ONE etc. Now, all these are necessary:[12] For if we were informed about an unfit person, I would say, what is an unfit person? An unclean [priest] who is eligible for public service;[13] but the left [hand] is not so.[14] And if we were informed about the left hand, that is because it is fit on the Day of Atonement,[15] but a secular [non-sacred] vessel is not so. While if we were informed about secular vessels, that is because they are eligible for sanctification; but as for the others, I would say that it is not so. Thus they are all necessary.

Now, let it be regarded as rejection?[16] — Said Rabina to R. Ashi: Thus said R. Jeremiah of Difti in Raba's name: This is in accordance with Hanan the Egyptian, who does not accept the law of rejection.[17] For it was taught: Hanan the Egyptian said: Even if the blood is in the cup he brings its companion and pairs it.[18] R. Ashi answered: When it lies in one's power [to rectify] the matter, it does not constitute rejection.[19] R. Shaya observed: Reason supports R. Ashi. [For] whom do you know to accept the law of rejection? R. Judah, as we learnt: Even more did R. Judah say: If the blood [of the he-goat to be sacrificed] was spilt, the [he-goat] which was to be sent away must perish;[20] if the [he-goat] which was to be sent away perished, the blood [of the other] must be poured out.[21] Yet we know him to rule that where it lies in one's power [to rectify the matter] there is no rejection. For it was taught, R. Judah said: He [the priest] used to fill a goblet with the mingled blood[22] and sprinkled it once against the base [of the altar].[23] This proves that where it lies in one's own hands, there is no rejection. This proves it.

[To turn to] the main text: ‘It was taught, R. Judah said: He [the priest] used to fill a goblet with the mingled blood, so that should the blood of one of them be spilt, the result is that this renders it valid. Said they to R. Judah: But surely it [the mingled blood] had not been received in a vessel?’ How do they know?[24] — Rather [they said to him]: perhaps it was not caught in a vessel?[25] I too, he answered them,

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(1) If he sprinkles the blood, can a fit person make the sacrifice valid by catching more blood from the animal's throat and sprinkling it? Or do we say, Once the unfit person has sprinkled the blood, what still remains in the throat is regarded as the residue of the blood, which cannot be used for sprinkling, and therefore the sacrifice is invalid? (The Mishnah speaks only of receiving the blood, not of sprinkling.)

(2) Emended text (Bah).

(3) Lit., ‘propitiates’.

(4) Since such sprinkling counts as sprinkling to render the sacrifice piggul, it also counts to render the rest of the blood a residue. But no other illegal sprinkling renders the remainder of the blood a residue.

(5) If the goblet containing the blood to be sprinkled was taken outside the Temple court, whereby it becomes unfit, and it was then sprinkled, does it render the remainder in the throat a residue?

(6) E.g., if the blood of a sin-offering was received in two goblets, and all the sprinklings were performed out of one, is the blood in the other regarded as the residue, which must be poured out at the foot of the altar (cf. Lev. IV, 7: and all the remaining blood of the bullock shall he pour out at the base of the altar)? Or do we say that by not using it he intentionally, as it were, rejected it, and therefore it is simply poured out into the duct or sewer in the Temple court which discharged its contents into the stream of Kidron?

(7) Lev. IV, 25. 30.

(8) Four applications of blood were made on the horns of the altar.

(9) But not all, which apparently contradicts the other text.

(10) Since it is the residue of what was actually sprinkled.

(11) Because one goblet renders another rejected.

(12) V. Mishnah.

(13) When the whole community is unclean, including the priests, they sacrifice the Passover-offering in that state.

(14) Therefore, if the priest transferred the blood into his left hand, it should be permanently invalid.

(15) The High Priest took the censer in his right hand and the spoon in his left.

(16) The blood was fit in the first place, but by taking it in the wrong hand or in a secular vessel it was rejected, and therefore should no more be fit.

(17) Viz., that once rejected it remains permanently so.

(18) Two he-goats were taken on the day of Atonement, one of which was sacrificed as a sin-offering, and the other was sent away-into the wilderness (the ‘scapegoat’), the function of each being decided by lot. The blood of the former was received in a cup or basin and sprinkled on the altar. Now, if the scapegoat died before the blood of the other was sprinkled, Hanan rules that we do not say that the blood is thereby rejected, and two other goats must be brought, but only one more is brought and paired up with the one already slaughtered. For other views that the blood is thereby rejected permanently (the two goats being interdependent) v. Mishnah Yoma 62a.

(19) Here it lies in his power to rectify the matter by transferring the blood.

(20) But not sent to Azazel, because the two are interdependent, and since a new animal must be brought for the first, as its blood was spilt before sprinkling, a new pair must be brought.

(21) And likewise two fresh animals brought. Thus in each case one is rejected because of the other, and remains so permanently.

(22) Of many Passover-offerings. Lit., ‘the blood of those which were mixed’.

(23) In case the blood of one of them would be spilt, this would make it valid.

(24) This is an interjection: how do the Rabbis, who raise this objection, know that it was not caught in a vessel?

(25) But poured straight from the animal's throat on to the ground. Rashi (in Pes. 65a): in that case sprinkling is of no avail. Tosaf.: sprinkling, if already performed, is efficacious, but such blood must not be taken up to the altar in the first place.

Talmud - Mas. Zevachim 35a

spoke only of that which was received in a vessel. And how does he himself know that? — The priests are careful; but as they work quickly [the blood] may be spilt.

But the draining-blood[1] is mixed with it?[2] — R. Judah is consistent with his view, for he maintained: The draining-blood is called blood.[3] For it was taught: The draining-blood is subject to a ‘warning;’[4] R. Judah said: It is subject to kareth.[5] But surely R. Eleazar said: R. Judah agrees in respect to atonement, that it does not make atonement, because it is said, For it is the blood that maketh atonement by reason of the life:[6] blood wherewith life departs is called blood;[7] blood wherewith life does not depart is not called blood? — Rather [reply]:[8] R. Judah is consistent with his view, for he maintained: Blood cannot nullify [other] blood.[9]

R. Judah said to them [the Sages]: On your view,[10] why did they stop up [the holes in] the Temple court?[11] — Said they to him: It is praiseworthy for the sons of Aaron [the priests] to walk in blood up to their ankles. But blood constitutes an interposition?[12] — It was moist, and did not constitute an interposition. For it was taught: Blood, ink, honey, and milk, if dry, interpose; if moist, they do not interpose.[13] But their garments become [blood-] stained, whereas it was taught: If his garments were soiled and he performed the service, his service is unfit? And should you answer that they raised their garments,[14] surely it was taught: [And the priest shall put on] his linen measure:[15] [that means] that it must not be [too] short nor too long?[16] — [They raised them] at the carrying of the limbs to the [altar] ascent, which was not a service.[17] Was it not? Surely it was taught: And the priest shall offer the whole, and burn it on the altar:[18] this refers to the carrying of the limbs to the ascent? — Rather, [they raised them] at the carrying of the wood to the [altar] pile, which was not a service. Nevertheless, how could they walk at the service?[19] — They walked on balconies.[20]

MISHNAH. IF ONE SLAUGHTERS THE SACRIFICE [INTENDING] TO EAT WHAT IS NOT NORMALLY EATEN, OR TO BURN [ON THE ALTAR] WHAT IS NOT NORMALLY BURNT, IT IS VALID; BUT R. ELIEZER INVALIDATES [THE SACRIFICE].[21] [IF HE SLAUGHTERS IT INTENDING] TO EAT WHAT IS NORMALLY EATEN AND TO BURN WHAT IS NORMALLY BURNT, [BUT] LESS THAN THE SIZE OF AN OLIVE, IT IS VALID. TO EAT HALF AS MUCH AS AN OLIVE AND TO BURN HALF AS MUCH AS AN OLIVE, IT IS VALID, BECAUSE [INTENTIONS CONCERNING] EATING AND BURNING DO NOT COMBINE.[22] IF ONE SLAUGHTERS THE SACRIFICE [INTENDING] TO EAT AS MUCH AS AN OLIVE OF THE SKIN, OR OF THE JUICE, OR OF THE JELLY,[23] OR OF THE OFFAL, OR OF THE BONES, OR OF THE TENDONS, OR OF THE HORNS, OR OF THE HOOFS, EITHER AFTER TIME OR OUT OF BOUNDS, IT IS VALID, AND ONE IS NOT CULPABLE ON THEIR

ACCOUNT IN RESPECT OF PIGGUL, NOTHAR, OR UNCLEANNESS.[24] IF ONE SLAUGHTERS SACRED ANIMALS[25] [INTENDING] TO EAT THE FETUS OR THE AFTERBIRTH WITHOUT, HE DOES NOT RENDER PIGGUL. IF ONE WRINGS [THE NECKS OF] DOVES, [INTENDING] TO EAT THEIR EGGS WITHOUT, HE DOES NOT RENDER [THEM] PIGGUL. ONE IS NOT CULPABLE ON ACCOUNT OF THE MILK OF SACRED ANIMALS OR THE EGGS OF DOVES IN RESPECT OF PIGGUL, NOTHAR, OR UNCLEANNESS.

GEMARA. R. Eleazar said: If [the priest] expressed a piggul intention in respect of the sacrifice, the fetus [too] becomes piggul;[26] [if he expresses a piggul intention] in connection with the fetus, the sacrifice does not become piggul.[27] If he expresses a piggul intention in respect of the offal, the crop becomes piggul; in respect of the crop, the offal does not become piggul.[28] If he expresses a piggul intention in respect of emurim,[29] the bullocks become piggul; in respect of the bullocks,[30] the emurim do not become piggul.[31] Shall we say that the following supports him:[32] And both agree that if he expressed an intention [of piggul] in connection with the eating of the bullocks and their burning, he has done nothing?[33] Surely then, if however he expressed an intention concerning the emurim, the bullocks become piggul? — No:

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(1) Tamzith denotes the last blood which slowly drains off the animal, contrad. to the life-blood, which gushes forth in a stream.

(2) Whereas 'lifeblood' is required for sprinkling.

(3) For the purposes of sprinkling.

(4) This is a technical designation for a negative injunction whose violation is punished by lashes. But it involves no kareth, as does the consuming of the life-blood (v. Lev. XVII, 10f).

(5) Just like life-blood. Hence it is also the same in respect to sprinkling.

(6) Lev. XVII, 11.

(7) And makes atonement.

(8) To the objection, 'But the draining-blood is mixed with it'.

(9) And there is certainly at least a little of the life-blood in this goblet of mixed blood, and that is sufficient for atonement.

(10) That they did not fill a goblet of mixed blood.

(11) On the eve of Passover they stopped up the holes through which the blood of the sacrifices passed out to the stream of Kidron.

(12) Between the pavement and their feet, whereas they had to stand actually on the pavement itself, supra 15b.

(13) When a person takes a ritual bath (tebillah), nothing must interpose between the water and his skin; if something does interpose, it invalidates the bath.

(14) I.e., they were short and did not reach down to the blood.

(15) E.V. garment, Lev. VI, 3.

(16) But reach exactly to the ground.

(17) And only then was it praiseworthy for the priests to walk up to their ankles in blood.

(18) Lev. I, 13.

(19) Sc. of the sprinkling of the blood.

(20) Projecting boards alongside the walls.

(21) V. supra 28a.

(22) The whole Mishnah refers to intentions of eating and/or burning after time or out of bounds.

(23) The sediments of boiled meat coagulated.

(24) If the sacrifice became piggul, nothar, or unclean, and a priest ate of the skin etc., he is not liable, since we do not designate his action eating, as these are not eaten.

(25) I.e., sacrifices. The Heb. (mukdashin) always refers to females.

(26) And he who eats the fetus incurs kareth, as for eating piggul.

(27) He holds that the fetus is an integral part of the sacrifice, being regarded, as it were, as a limb of its mother. Nevertheless, this intention does not render the sacrifice piggul, because it is not usually eaten. The fetus itself too does not become piggul, in accordance with the Mishnah.

(28) The offal is edible, but not the crop. Therefore an intention in respect of the latter is not efficacious; but an intention in respect of the former makes the whole piggul, including the crop.

(29) If he slaughtered the bullocks which are burnt intending to burn the emurim on the altar after time.

(30) Intending to eat of their flesh after time.

(31) Because it is the intention to eat what is not usually eaten. The bullocks themselves do certainly not become piggul.

(32) In his view that a thing can become piggul through something else, e.g., the fetus, the crop, and the flesh of the bullocks, though it cannot be the vehicle of rendering the sacrifice piggul.

(33) 'Both' refers to R. Simeon and the Rabbis, v. infra 43a. The present reference is to the bullocks which were to be burnt without, and they agree that if the priest expressed an intention during one of the blood services to eat of the bullocks on the morrow or to burn them as required in the ash-house on the morrow, his intention is of no effect, because his intention to eat does not count, since this is not normally eaten and his intention with regard to the burning does not count either, for only an intention that the altar should consume (expressing it so, but not 'burn') counts.

Talmud - Mas. Zevachim 35b

[deduce thus:] but if he expressed an intention concerning the emurim, the emurim themselves become piggul.[1]

Come and hear: The bullocks which are to be burnt and the he-goats which are to be burnt are subject to [the law of] sacrilege from the time they are consecrated.[2] Having been slaughtered, they are ready to become unfit through [the touch of] a tebul yom and one who lacks atonement,[3] and through being kept overnight [linah]. Surely that means, through the flesh being kept overnight; and you may infer from this [that] since being kept overnight renders it unfit, an [illegitimate] intention renders it unfit![4] — No: it refers to keeping the emurim overnight.[5] But since the second clause teaches: You trespass in the case of all when they are in the ash-house[6] until the flesh is dissolved, it follows that the first clause treats of keeping the flesh overnight? — What reason have you for supposing this: each refers to its particular case; the first clause treats of emurim, and the second of the flesh.

Rabbah objected: The following neither render nor are rendered piggul:[7] the wool on the head of lambs, and the hair of he-goats' beards, and the skin, the juice, the jelly, the offal, the crop, the bones, the tendons, the horns, the hoofs, the fetus, the after-birth, the milk of consecrated animals, and the eggs of doves; all of these neither render nor are rendered piggul, and one is not liable on their account in respect of piggul, nothar and uncleanness, and one who carries them up without is not liable. Does this not mean: They do not render the sacrifice piggul, and they are not rendered piggul through the sacrifice? — No: They do not render the sacrifice piggul, and they are not rendered piggul through themselves.[8] If so, when the sequel teaches, They neither render nor are rendered piggul, why this repetition?[9] — Yet [even] on your view, [when he teaches,] One is not liable on their account for piggul, why this repetition?[10] But [you must answer that] because he wishes to teach [about] nothar and defilement, he also teaches about piggul. So now too[11] [you can answer], Because he wishes to teach [about] one who carries them without, he also teaches: And all these neither render nor are rendered piggul.

Raba said: We too learnt thus:[12] IF ONE SLAUGHTERS SACRED ANIMALS [INTENDING] TO EAT THE FETUS OR THE AFTERBIRTH WITHOUT, HE DOES NOT RENDER PIGGUL. IF ONE WRINGS THE NECKS OF DOVES, [INTENDING] TO EAT THEIR EGGS WITHOUT, HE DOES NOT RENDER PIGGUL. Yet then he learns: ONE IS NOT CULPABLE ON ACCOUNT OF THE MILK OF SACRED ANIMALS OR THE EGGS OF DOVES IN RESPECT OF PIGGUL, NOTHAR, OR UNCLEANNESS. Hence [it follows that] one is culpable on account of the fetus and the after-birth?[13] Hence you must surely infer from this that in the one case it means through the sacrifice;[14] in the other, through themselves. This proves it.

We learnt elsewhere: And blemished animals;[15] R. Akiba declares blemished animals fit.[16] R. Hiyya b. Abba declared in R. Johanan's name: R. Akiba declares [them] fit only in the case of cataracts in the eye, since such are fit in the case of birds,[17] and provided that their consecration [for a sacrifice] preceded their blemish; and R. Akiba admits that a female burnt-offering must be [taken down], because that is tantamount to the blemish preceding its consecration.[18]

R. Zera objected: ‘One who offers them up without is not liable;’[19] but [if one offers up the flesh] of the mother, one is liable; and how is that possible? In the case of a female burnt-offering.[20] Now,it is well if you say that R. Akiba holds that if a female burnt-offering goes up, it does not come down: then this is in accordance with R. Akiba.[21] But if you say that [even] if it went up, it goes down, in accordance with whom is this? — Say: He who offers up [the flesh] of them without is exempt, hence [he who offers up] of the emurim of the mother, is liable. But he teaches, ‘of them’, and the mother is analogous to them?[22] — Rather say: He who offers up of their emurim without is exempt; hence [he who offers up] of their mother's emurim is liable.

MISHNAH. IF HE SLAUGHTERED IT WITH THE INTENTION[23] OF LEAVING ITS BLOOD OR ITS EMURIM FOR THE MORROW, OR OF CARRYING THEM WITHOUT, R. JUDAH DISQUALIFIES [IT], BUT THE SAGES DECLARE IT FIT. [IF HE SLAUGHTERED IT] WITH THE INTENTION OF SPRINKLING [THE BLOOD] ON THE ASCENT, [OR ON THE ALTAR] BUT NOT OVER AGAINST ITS BASE; OR OF APPLYING BELOW [THE LINE[24]] WHAT SHOULD BE APPLIED ABOVE, OR ABOVE WHAT SHOULD BE APPLIED BELOW, OR WITHOUT WHAT SHOULD BE APPLIED WITHIN,

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(1) But not the flesh.

(2) One must not misappropriate a consecrated animal (or anything set apart for sacred purposes, e.g., money consecrated to Temple use) for secular use, and if one does, he becomes liable to a trespass-offering (me'ilah).

(3) These defile its flesh, but do not make it unclean to enable it to communicate uncleanness to others, but only unfit. On lacking atonement v. p. 80, n. 2; on unfitness and uncleanness v. p. 155, nn. 3 and 4.

(4) Now, that cannot mean an illegitimate intention to eat the flesh on the morrow (which is tantamount to an intention to keep it overnight), for it has already been stated that this is of no account. Hence it must mean that an illegitimate intention to burn the emurim on the morrow renders the flesh piggul, which supports R. Eleazar.

(5) And you may infer that an intention to keep the emurim overnight renders the emurim piggul, but not the flesh.

(6) Where the flesh is burnt.

(7) An illegitimate intention in respect of them does not render the sacrifice piggul, nor do they become piggul themselves, as the Talmud proceeds to explain.

(8) A piggul intention in respect of themselves does not make them piggul.

(9) The same is taught at the beginning.

(10) Obviously, if they cannot become piggul, there can be no liability for same. Thus this is certainly a repetition, on any interpretation.

(11) On my interpretation.

(12) That the fetus and the placenta are rendered but do not render piggul.

(13) Which apparently contradicts the first clause.

(14) They can be rendered piggul through the rest of the sacrifice.

(15) If a blemished animal is taken up on to the altar, it must be taken down again; v. infra 84a.

(16) If taken up on to the altar, they are not taken down again.

(17) This blemish does not disqualify a bird at all, which is unfit only when it lacks a limb.

(18) An animal burnt-offering must be a male (Lev. I, 3). If a female is offered, it must be taken down, although a bird burnt-offering may be of any gender, because there can be no greater blemish than the forbidden sex.

(19) V. Baraitha supra; ‘them’ includes the fetus.

(20) For one who offers up the flesh of a peace-offering without is not liable (v. infra 112b). — A female must be meant since the fetus is discussed.

(21) Since it does not come down within, it involves liability without, the two being interdependent (v. infra 112a).

(22) 'Of them' means of course of their flesh, and so the deduction in respect of the mother must also refer to the mother's flesh.

(23) Lit., 'on condition'.

(24) Running along the middle of the altar.

Talmud - Mas. Zevachim 36a

OR WITHIN WHAT SHOULD BE APPLIED WITHOUT; [OR WITH THE INTENTION] THAT UNCLEAN [PERSONS] SHOULD CONSUME IT, [OR] THAT UNCLEAN [PRIESTS] SHOULD OFFER IT;[1] [OR] THAT UNCIRCUMCISED [PERSONS] SHOULD EAT IT, [OR] THAT UNCIRCUMCISED PERSONS SHOULD OFFER IT; [OR WITH THE INTENTION] OF BREAKING THE BONES OF THE PASSOVER-OFFERING, OR EATING THEREOF HALF-ROAST;[2] OR OF MINGLING THE BLOOD WITH THE BLOOD OF INVALID [SACRIFICES] IT IS VALID, BECAUSE AN [ILLEGITIMATE] INTENTION DOES NOT DISQUALIFY [A SACRIFICE] SAVE WHERE IT REFERS TO AFTER TIME OR WITHOUT BOUNDS, AND [IN THE CASE OF] A PASSOVER-OFFERING AND A SIN-OFFERING, [THE INTENTION TO SLAUGHTER THEM] FOR A DIFFERENT PURPOSE.

GEMARA. What is R. Judah's reason? — Said R. Eleazar, Two texts are written in reference to nothar. One text says, And ye shall let nothing of it remain until the morning,[3] and another text says, He shall not leave any of it until the morning.[4] Since one is superfluous in respect of [actual] leaving, apply it to the intention of leaving it.[5]

Now [does] R. Judah [hold] that this text comes for this purpose? Surely it is required for what was taught: 'And the flesh of the sacrifice of his peace-offerings for thanksgiving [shall be eaten on the day of his offering: he shall not leave any of it until the morning]': we have thus learnt that the thanks-offering is eaten a day and a night. How do we know [the same of] an exchange, an offspring, or a substitute?[6] — From the text, 'And the flesh'.[7] How do we know [the same of] a sin-offering and a guilt-offering? — Because it says, '[And the flesh of] the sacrifice [etc]'.[8] And whence do we know to include a nazirite's peace-offering[9] and the peace-offerings of the Passover-offering?[10] From the text, 'his peace-offerings'. Whence do we know [the same of] the loaves of the thanks-offering and a nazirite's loaves and the wafers?[11] Because 'his offering' is written; [and] to all of these I apply [the injunction], 'he shall not leave any of it until the morning'![12] — If so,[13] let Scripture write, 'lo tothiru';[14] why [write] 'lo yaniah'? [To teach that] since it is superfluous in respect of actual leaving, apply it to the intention of leaving.

Granted that this [reason] is satisfactory in respect of [the intention] to leave [the blood or the emurim], what can you say about [the intention] to carry [them] out? Moreover R. Judah's reason is based on logic.[15] For it was taught: R. Judah said to them [the Sages]: Do you not admit that if he left it [the blood or the emurim] for the morrow, [the sacrifice] is invalid? So also if he intended to leave it for the morrow, it is invalid! (And do you not admit that if he carried them without, it is invalid? So also if he intended to carry them without, it is invalid.)[16] — Rather, R. Judah's reason is based on logic.

Now, let R. Judah disagree in the other cases too?[17] — In which case should he disagree? In the case of [intending] to break the bones of a Passover-offering and eating thereof half-roast! does then the sacrifice itself become invalid?[18] [In the case of] the intention that unclean [persons] should eat it or that unclean [persons] should offer it! does then the sacrifice itself become invalid? [In the case of] the intention that uncircumcised persons should eat it or uncircumcised persons should offer it! is then the sacrifice itself invalidated?

Another version:[19] Does it entirely depend on him?[20] [As for the intention] to mingle its blood with the blood of invalid [sacrifices], R. Judah is consistent with his view, for he maintains that blood does not nullify [other] blood.[21] [As for the intention] to apply below what should be applied above, and above [what should be applied] below, — R. Judah is consistent with his view, for he maintains: Even what is not its place is also called its place.[22] Then let him disagree where he applied without what should be applied within, or within, what should be applied without? — R. Judah holds: We require a place which has a threefold function, [Viz.,] in respect of the blood, the flesh, and the emurim.[23]

Does then R. Judah accept that view? Surely it was taught: R. Judah said: [Scripture states, Thou shalt not sacrifice unto the Lord thy God an ox, or a sheep, wherein is a blemish, even any] evil thing:[24] here [Scripture] extends the law to a sin-offering which one slaughtered on the south [side of the Temple court], or a sin-offering whose blood entered within [the inner sanctum], [teaching that] it is invalid?[25] — But does then R. Judah not accept [this interpretation of] ‘third’?[23] Surely we learnt: R. Judah said: If one carried [the blood] within in ignorance, it is valid;[26] hence if [one did this] deliberately, it is invalid, and we have explained this as meaning where he made atonement.[27] Now if in that case, where he has actually carried it within, if he made atonement [therewith] it does [invalidate the sacrifice], but if he did not make atonement, it does not: how much the more so here, where he has merely intended?[28] — There is a controversy of two Tannaim as to R. Judah's view.

Now, does R. Judah hold that when one slaughters a sin-offering in the south

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(1) I.e., the blood or the emurim.

(2) Both of which are forbidden, Ex. XII, 9, 46.

(3) Ex. XII, 10.

(4) Lev. VII, 15. The first refers to the Passover-offering, the second to the thanks-offering. Both were peace-offerings, and therefore it need be stated for one only, and the other would follow.

(5) Thus Scripture forbids the intention, and therefore the intention disqualifies.

(6) The text has the plural. — If the animal originally set aside for the offering is lost, and another consecrated in its stead, and then the first is found, the second is called the exchange. ‘Offspring’: if the consecrated animal lambed or calved before it was sacrificed. For ‘substitute’ v. p. 22, n. 8. All three are sacrificed as thanks-offerings.

(7) ‘And’ is an extension.

(8) ‘The sacrifice’ is superfluous, for Scripture could say, And the flesh of his peace-offerings. Hence it is understood to include these other sacrifices.

(9) V. Num. VI, 14f. This, like an ordinary thanks-offering, was accompanied by loaves of bread.

(10) Rashi: the festival sacrifices (hagigah) which accompanied the Passover-offering on the eve of Passover. Tosaf. (supra 9a): a Passover remainder, i.e., an animal consecrated as a Passover-offering but not sacrificed as such.

(11) The Heb. denotes two different kinds of loaves.

(12) Thus R. Judah utilises the verse for a different purpose!

(13) If this is the only purpose of the text.

(14) ‘Ye shall not let any remain’. Tothiru (fr. hothir) is the verb used in Ex. XII, 10, and we would expect the same here.

(15) Not a Scriptural exegesis.

(16) Bracketed addition a var. lec.

(17) Enumerated in the Mishnah.

(18) Even if he actually breaks the bones or eats of it half-roast. Surely not, and so the intention does not invalidate it either.

(19) Other reasons why R. Judah does not dispute the other cases of the Mishnah.

(20) When he intends that unclean or uncircumcised should partake thereof or offer it up, he may not find such to carry out his intention. Hence his intention does not count.

(21) Supra 35a. Hence even if he did it, it would not invalidate the sacrifice.

(22) V. supra 27a.

(23) V. supra 29a.

(24) Deut. XVII, 1.

(25) Though this carrying without bounds is not in respect of a place that has that threefold function.

(26) V. infra 82a.

(27) The mere carrying of the blood into the inner sanctum, even deliberately, does not invalidate the sacrifice, but only its actual sprinkling (called 'making atonement') on the inner altar.

(28) The intention alone certainly does not disqualify it, and the reason must be because R. Judah accepts the interpretation of 'third' given supra 29a.

Talmud - Mas. Zevachim 36b

he is liable?[1] Surely it was taught, R. Judah said: You might think that if one slaughters a sin-offering in the south he is liable; therefore Scripture states, 'Thou shalt not sacrifice unto the Lord thy God an ox, or a sheep wherein is a blemish, even any evil thing': You can declare him liable for any evil thing,[2] but you cannot make him liable for slaughtering a sin-offering in the south? — There is a controversy of two Tannaim as to R. Judah's view.

R. Abba[3] said: Yet R. Judah admits that he [the priest] can subsequently render it piggul.[4] Said Raba: This is the proof, viz.: [a] piggul [intention made] before the sprinkling is nothing, yet the sprinkling comes and brands it as piggul.[5] Yet that is not so: there there was only one intention:[6] here there are two intentions.[7]

R. Huna raised an objection to R. Abba: [If the priest intended] applying [the blood] which should be applied above [the line] below [it], [or what should be applied] below, above, immediately, it is valid. If he subsequently intended [to consume it] without bounds, it is invalid, but does not involve kareth: [if he intended consuming it] after time, it is unfit, and one is liable to kareth on its account. [If he intended sprinkling the blood in the wrong place] on the morrow, it is unfit; if he subsequently intended [to consume it] without bounds or after time, it is unfit, and does not involve kareth.[8] This refutation of R. Abba is indeed a refutation.

R. Hisda said in the name of Rabina b. Sila: If he intended that unclean [persons] should eat it on the morrow,[9] he is liable.[10] Said Raba: This is the proof, viz., before sprinkling the flesh is not fit [for eating], and yet when he declares a [piggul] intention it becomes unfit.[11] Yet it is not so: there he will sprinkle [the blood] and [the flesh] will be fit; here [the unclean] are not fit at all.

R. Hisda said: R. Dimi b. Hinena was wont to say: One is liable for uncleanness in respect of unroast flesh of a Passover-offering and loaves of a thanks-offering of which no separation [for the priest] was made.[12] Raba said, This is the proof, viz.: It was taught, [But the soul that eateth of the flesh of the sacrifice of peace — offerings,] that pertain unto the Lord [having his uncleanness upon him, that soul shall be cut off from his people]:[13] this includes the emurim of lesser sacrifices in respect of uncleanness.[14] This proves that though they are not fit for eating at all, one is liable for uncleanness on their account. So here too, though they are not fit for eating, one is liable for uncleanness on their account. Yet it is not so: there the emurim of lesser sacrifices are fit for the Most-High;[15] which excludes unroasted flesh of the Passover-offering and the loaves of the thanks-offering of which no separation was made, which are fit neither for the Most-High nor for man. (Another version: Now the emurim are not fit! — Yet it is not so: these emurim are fit for their purpose, whereas these are not fit at all.)[16]

CHAPTER IV

MISHNAH. BETH SHAMMAI MAINTAIN: WITH REGARD TO ANY [BLOOD] WHICH IS TO BE SPRINKLED ON THE OUTER ALTAR, IF [THE PRIEST] APPLIED [IT] WITH ONE

SPRINKLING, HE HAS MADE ATONEMENT.[17] BUT IN THE CASE OF A SIN-OFFERING TWO APPLICATIONS [ARE INDISPENSABLE]; BUT BETH HILLEL RULE: IN THE CASE OF THE SIN-OFFERING TOO, IF [THE PRIEST] APPLIED IT WITH A SINGLE APPLICATION, HE HAS MADE ATONEMENT. THEREFORE IF HE MADE THE FIRST APPLICATION IN THE PROPER MANNER AND THE SECOND [WITH THE INTENTION TO EAT THE FLESH] AFTER TIME, HE HAS ATONED.[18] AND IF HE MADE THE FIRST APPLICATION [WITH THE INTENTION TO EAT THE FLESH] AFTER TIME AND THE SECOND WITHOUT BOUNDS, IT IS PIGGUL AND INVOLVES KARETH.[19] WITH REGARD TO ANY [BLOOD] WHICH IS SPRINKLED ON THE INNER ALTAR, IF [THE PRIEST] OMITTED ONE OF THE APPLICATIONS, HE HAS NOT ATONED; THEREFORE IF HE APPLIED ALL IN THE PROPER MANNER BUT ONE IN AN IMPROPER MANNER,[20] IT [THE SACRIFICE] IS INVALID, BUT DOES NOT INVOLVE KARETH.[21]

GEMARA. Our Rabbis taught: How do we know that if [the priest] made one application in the case of those [bloods] which are to be sprinkled on the outer altar, he has made atonement? From the text, And the blood of thy sacrifices shall be poured out.[22] Now, is this text required for that purpose? Surely it is needed for what was taught:

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(1) To flagellation, the usual punishment for violating a negative command. This follows since R. Judah includes slaughtering a sin-offering in the south in the Scriptural injunction quoted above.

(2) In Bek. 37a this is held to mean a patent blemish.

(3) Sh. M. emends: Raba.

(4) Where he intended leaving the blood for the morrow or carrying it without. Although R. Judah holds that he thereby disqualifies the sacrifice, yet if he intended at a subsequent service to eat the flesh after time, he renders it piggul. This is so in spite of the fact that generally speaking a piggul intention is operative only when there is no other disqualification, such as intending to eat it without bounds.

(5) Raba proves that the intention to leave the blood until the morrow is not the same as the intention to eat the flesh without bounds, which makes piggul impossible. For if, before sprinkling, the priest declares his intention of sprinkling the blood on the morrow, it does not render the sacrifice piggul, it being axiomatic that a sacrifice is not rendered piggul unless the mattirin (q.v.Glos.) have been properly offered. Nevertheless, if he subsequently sprinkles the blood properly, his previously declared intention is retrospectively valid and renders the sacrifice valid. Now, this intention was in effect an intention to leave the blood until the morrow, which in R. Judah's view disqualifies the sacrifice (though not rendering it piggul). This proves that we do not say, Since it did not become piggul at the outset it is disqualified through the intention of leaving the blood, and it cannot subsequently become piggul.

(6) Viz., to sprinkle the blood on the morrow, which is a piggul intention.

(7) Viz., first to leave the blood until the morrow, which disqualifies but does not render piggul, and then to eat the flesh after time.

(8) V. supra 26b for notes. The last clause definitely contradicts R. Abba.

(9) Which is after time.

(10) On account of piggul. We do not say that this is not an efficacious intention in respect of piggul since the unclean may not eat of it at any time.

(11) As piggul. This case is analogous.

(12) A thanks-offering was accompanied by forty loaves, four of which were taken off for the priest. Before that was done, the loaves might not be eaten; similarly, a Passover-offering might be eaten roast only. Nevertheless, an unclean person who partakes of them is liable on account of his defilement, though they could not be eaten even by a clean person.

(13) Lev. VII, 20.

(14) Though the lesser sacrifices were eaten by their owners, the emurim were burnt on the altar and thus ‘pertained unto the Lord’, and Scripture teaches that an unclean priest who eats these emurim incurs kareth.

(15) Viz., to be burnt on the altar.

(16) The bracketed addition is omitted in some MSS.

(17) The sacrifice is valid, though in the first place two applications are required.

(18) Since the first alone sufficed. — According to Beth Shammai this holds good of all sacrifices except a sin-offering, and according to Beth Hillel that too is not excepted.

(19) The second intention does not neutralise the first.

(20) I.e., with wrongful intention.

(21) Since one application is insufficient to make the sacrifice fit; — he holds that a sacrifice cannot be made piggul through a service which is incomplete in itself to make the sacrifice fit.

(22) Deut. XII, 27. — This implies a single pouring out.

Talmud - Mas. Zevachim 37a

Whence do we know that all blood must be poured out at the base [of the altar]?[1] From the text, And the blood of thy sacrifices shall be poured out against the altar! — He[2] deduces that from Rabbi's [inference]. For it was taught: Rabbi said: [Scripture writes,] And the rest of the blood shall be drained out [at the base of the altar].[3] Now, 'of the blood' need not be stated;[4] why then is it stated? Because we have learnt only that that blood which requires four applications must be poured out at the base;[5] whence do we know it of other blood? From the text, 'And the rest of the blood shall be drained out [at the base of the altar]'.[6]

Yet still, does it come for this purpose? It is required for what was taught: How do we know that if [the priest] poured out [the blood] which should be sprinkled,[7] he has fulfilled [his obligation]?[8] From the text, And the blood of thy sacrifices shall be poured out.[9] He holds as R. Akiba who maintained: pouring is not included in sprinkling, nor is sprinkling included in pouring.[10] For we learnt: If he recited the blessing for the Passover-offering, he thereby exempts the [festival] sacrifice; but if he recited the blessing for the sacrifice, he does not exempt the Passover-offering. This is the view of R. Ishmael. R. Akiba said: The former does not exempt the latter, nor does the latter exempt the former.[11]

Yet still, is it required for this purpose? [Surely] it is needed for what was taught, [viz.]: R. Ishmael said: From the text, But the firstling of an ox, or the firstling of a sheep, or the firstling of a goat [thou shalt not redeem; they are holy: thou shalt dash their blood against the altar, and shalt make their fat smoke for an offering made by fire],[12] we learn that a firstling must have its blood and its emurim presented at the altar. Whence do we know [it of] the tithe and the Passover-offering? Because it says, 'And the blood of thy sacrifices shall be poured out'? — He agrees with R. Jose the Galilean. For it was taught: R. Jose the Galilean said: [Thou shalt dash their blood against the altar, and shalt make their fat smoke]:[13] not 'its blood' is said, but 'their blood'; not 'its fat' is said, but 'their fat'.[14] This teaches concerning the firstling, the tithe [of animals], and the Passover-offering, that their blood and emurim must be presented at the altar.[15]

Now, does R. Ishmael utilise this text for both purposes?[16] — There is a controversy of two Tannaim as to R. Ishmael's view.[17]

As for R. Ishmael, who makes the whole verse refer to a firstling, it is well: hence it is written, And the flesh of them shall be thine.[18] But according to R. Jose the Galilean, who makes it refer to the tithe and the Passover-offering too, [surely] the tithe and the Passover-offering are eaten by their owners; what then is the meaning of 'And the flesh of them shall be thine'? — [The plural intimates,] whether it be whole or blemished,

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(1) If any blood is left over after the regulation sprinkling. — This is stated explicitly of the sin-offering only (Lev. IV, 18), and the Talmud now wishes to extend it to other sacrifices too.

(2) The author of the first deduction.

(3) Lev. V, 9.

(4) It is understood from the general context.

(5) Viz., the sin-offering.

(6) The two lines that follow in the original are a mere repetition, and are deleted by Sh. M.

(7) Some blood requires sprinkling (zerikah), i.e., from the distance: other requires pouring out (shefikah), i.e., the priest must stand at the side of the altar and pour the blood out.

(8) The sacrifice is valid.

(9) The plural indicates all sacrifices, even those for which zerikah is prescribed.

(10) Therefore where Scripture prescribes sprinkling, the sacrifice is not valid if the blood is merely poured out at the base. Hence he rejects the above interpretation, and so utilises the text for the purpose originally stated.

(11) In Pes. 121a it is explained that in R. Ishmael's opinion sprinkling (zerikah) is included in pouring (shefikah), but pouring is not included in sprinkling; whereas R. Akiba holds that neither is included in the other. Thus (as explained by Rashbam a.l.): Both R. Ishmael and R. Akiba hold that the blood of the Passover-offering must be poured out, i.e., the priest must stand quite close to the altar and gently pour the blood on to its base. But the blood of the festival-offering (hagigah) requires sprinkling, i.e., from a distance and with some force. Now R. Ishmael holds that if the latter is poured out instead of sprinkled, the obligation of sprinkling has nevertheless been discharged. Consequently, the blessing for the Passover-offering includes that of the festival-offering, since in both the blood may be poured on to the base of the altar. But if the blood of the Passover-offering is sprinkled, the obligation has not been discharged: consequently the blessing for the festival-offering, whose blood is normally sprinkled, does not exempt the Passover-offering. By the same reasoning we infer that in R. Akiba's view neither includes the other.

(12) Num. XVIII, 17.

(13) Ibid.

(14) Though the passage treats of the firstling only. The plural possessive suffix indicates that other sacrifices too are included in this law.

(15) These are the only sacrifices in connection with which it is not mentioned elsewhere, hence the plural is applied to them.

(16) Lit., ‘for this purpose and for that purpose’. Surely not! The reference is to ‘and the blood of thy sacrifices thou shalt pour out’, from which he learns that if the priest pours out blood which really should be sprinkled, he discharges his obligation. The author of that cannot be R. Akiba, for if it is, why does the blessing for the Passover-offering not exempt that of the festival sacrifice, since, as shewn supra, one is dependent on the other? Hence the author must be R. Ishmael; but he also interprets the same verse as intimating that the blood of the Passover-offering is to be poured, not sprinkled.

(17) Rashi: He who learns from this text that the blood of the Passover-offering is poured out, rejects the ruling that the benediction for the Passover-offering exempts that for the festival-offering, and holds that R. Ishmael does not disagree with R. Akiba on this matter, for now we cannot learn from the text that what should be sprinkled is also valid if poured out. He however who maintains that they do disagree, holds that the blood of the Passover must be sprinkled, not poured out, like a peace-offering. Nevertheless, the Passover-offering is the principal one, while the festival-offering is only subsidiary to it; therefore the benediction for the former exempts that of the latter, but not vice versa. Tosaf. strongly criticises this explanation, and offers others, none of which, however, are quite free from objections.

(18) Num. XVIII, 18. — ‘Thine’ means the priest's, to whom the firstling belongs. The Plural ‘them’ is then understood to mean the ox, sheep, and goat, enumerated in the preceding verse.

Talmud - Mas. Zevachim 37b

thus intimating that a blemished firstling is given to a priest, for which [teaching] we do not find [any other text] in the whole Torah.[1] And R. Ishmael?[2] — He deduces it from ‘it shall be thine’, [written] at the end [of the verse].[3]

It is well according to R. Jose the Galilean, who makes it refer to the tithe and the Passover-offering too: hence it is written, Thou shalt not redeem; they are holy,[4] [which intimates] ‘they’ are offered, but their substitutes are not offered.[5] And we learnt [even so]. The substitutes of a firstling or tithe — they themselves, their young, and the young of their young ad infinitum are as the firstling or tithe [respectively], and are eaten, when blemished, by their owners.[6] And we [also] learnt: R. Joshua said: I have heard [from my teachers] that the substitute of a Passover-offering is offered,[7] and that the substitute of a Passover-offering is not offered,[8] and I cannot explain it.[9] But according to R. Ishmael who makes the whole of it refer to a firstling, whence does he know that the substitute of tithe and the Passover-offering are not offered? — As for tithe, he learns similarity of law with a firstling from the fact that ‘passing’ is written in both cases.[10] As for the Passover-offering, [consider:] ‘lamb’ is explicitly written in connection with it; why then does Scripture write, If he bring a lamb for his offering?[11] To include the substitute of a Passover-offering after Passover, [intimating] that it is sacrificed as a peace-offering. You might think that it is likewise so before Passover, therefore Scripture writes, It [is the sacrifice of the Lord's Passover].[12]

Now, all these Tannaim who utilise this [text], ‘the blood of thy sacrifices shall be poured out’, for a different exegesis, how do they know this [law of the Mishnah that] WITH REGARD TO ANY [BLOOD] WHICH IS SPRINKLED ON THE OUTER ALTAR, IF [THE PRIEST] APPLIED [IT] WITH ONE SPRINKLING, HE HAS MADE ATONEMENT? — They hold as Beth Hillel who maintained: WITH REGARD TO THE SIN-OFFERING TOO, IF [THE PRIEST] APPLIED IT WITH A SINGLE APPLICATION, HE HAS MADE ATONEMENT; and we learn all the others from the sin-offering.[13]

BUT IN THE CASE OF A SIN-OFFERING TWO APPLICATIONS [ARE INDISPENSABLE]. R. Huna said, What is Beth Shammai's reason? — The plural form karnoth [horns] is written three times, denoting six [applications], [thus intimating that] four are prescribed while two [at least] are essential. But Beth Hillel [argue]: [The written forms are] karnath [singular] twice, and karnoth [plural] once,[14] which denotes four, implying that three [applications] are prescribed, while [only] one is essential. Yet say, that all are [only] prescribed?[15] We find no atonement without rite. Alternatively, this is Beth Hillel's reason: Both mikra [the version as read] and masoreth [the version as traditionally written] are effective: the mikra is effective in adding one [application], while the masoreth is effective in subtracting one.[16]

If so, [when Scripture writes] letotafath, letotafath, letotafoth,[17] which denotes four [compartments], [you can likewise argue that] both the mikra and the masoreth are effective: then five compartments should be necessary? — He[18] holds as R. Akiba, who said: Tot means two in Katpi,[19] and foth means two in Afriki.[20]

[Again] if so [when Scripture writes], ba-sukkath, ba-sukkath, ba-sukkoth,[21] [you may argue that] both the mikra and the masoreth are effective: then one should have five walls [for the tabernacle booth]?

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(1) The point of the question and answer is this: ‘Them’ obviously cannot mean the tithe and the Passover-offering, as R. Jose explains the plural in v. 17, since these belong to the owner. Nor can the plural here refer, in his view, to the ox, sheep, and goat, for in that case he could explain ‘their blood’ and ‘their fat’ similarly. Hence the difficulty, why is the plural used? The answer is, to intimate two categories of firstlings, whole and blemished.

(2) Whence does he know this?

(3) This repetition is to include the blemished firstling.

(4) Ibid.

(5) If one declares another animal a substitute for them, they are not offered, contrary to the general rule that the substitute is offered (together with the original) in exactly the same way as the original.

(6) But not sacrificed while they are whole.

(7) As a peace-offering, after Passover. — This is where the original is available for Passover.

(8) As a peace-offering, but must graze until it is blemished, when it is redeemed.

(9) For the explanation v. Pes. 96b.

(10) V. supra 9a.

(11) Lev. III, 7. — Scripture prescribes a lamb for a Passover-offering (Ex. XII, 5) which was in the nature of a peace-offering. Why then must Scripture also inform us that a lamb might be brought for a peace-offering? (The Talmud does not quote the exact wording, as keseb is not written in connection with the Passover-offering, but a lamb is prescribed, though a slightly different word (kebes) is used.)

(12) Ex. XII, 27. — ‘It’ (Heb. hu) is emphatic, and teaches that only the original animal dedicated for a Passover-offering is to be sacrificed, but not its substitute which is kept until after Passover. An animal would be proposed as a substitute if the first one was lost, and is subject to the laws stated here if the first one is refound in time to be sacrificed for its original purpose. If the first is not found until after the second has been offered, it becomes a Passover remainder’, and is sacrificed as a peace-offering after the festival.

(13) The case of the sin-offering itself is learnt infra.

(14) The reference is to Lev. IV, 25, 30, 34 q. v. The traditional reading in all cases is karnoth horns, but it is actually written karnath (קרנת singular) twice. Beth Shammai make the reading decisive, while Beth Hillel follow the written forms.

(15) In the first place, but are not essential, since Scripture does not repeat any of them to intimate that they are indispensable.

(16) Since the mikra implies six while the masoreth implies four, the implication of both is five; but as there are only four horns on the altar, the fifth must be regarded as a reiteration of one application, and hence it (i.e., one application) becomes indispensable; v. Sanh. (Sonc. ed.) p. 4b. q.v. notes.

(17) Frontlets. V. Ex. XIII, 16; Deut. VI, 8, XI, 18: — and it shall be . . . for frontlets between thine eyes. This is the law of tefillin (v. Glos.); the word is written twice defectively and once plene (in our version it is written only once defectively), but read plene in every case. From the two defective and one plene forms the Rabbis learnt that the tefillin of the head must consist of four compartments.

(18) The author of this interpretation of karnoth.

(19) Perhaps the Coptic language.

(20) The language of N. Africa or Phrygia in Asia Minor. Hence the word totafoth itself implies four, without recourse to its repetition.

(21) ‘In booths’: Ye shall dwell in booths seven days etc. (Lev. XXIII, 42-43). Here too it is written twice defectively and once plene, and the Rabbis learn that the number of walls required by a booth is four, in the same way that they learn that the tefillin must have four compartments.

Talmud - Mas. Zevachim 38a

— There, subtract one text[1] for the command itself,[2] and one for the covering,[3] so three are left. Then the [Mosaic] halachah[4] comes and diminishes the third [wall], fixing it at a hand-breadth.[5]

If so, [when Scripture states] Then she shall be unclean two weeks [shebu'ayim];[6] shib'im [seventy] [is actually written],[7] then [argue,] the mikra and the masoreth are both effective, and so she should have to spend forty-two days [in uncleanness]?[8] — There it is different, because it is written, as in her menstrual state.[9]

Now the Tanna [of the following Baraitha] adduces it [Beth Hillel's ruling] as follows: We-kipper [and he shall make atonement] is stated three times,[10] on account of the analogy [which might otherwise be drawn].[11] But surely we have an analogy to this effect:[12] blood is prescribed below [the red line],[13] and blood is prescribed above: as with the blood which is prescribed below, if one made a single application, he effects atonement;[14] so with the blood which is prescribed above, if one makes a single application, he makes atonement. Or you may reason in this direction: Blood is prescribed within,[15] and blood is prescribed without: as in the case of blood prescribed within, if [the priest] omits a single application his action is ineffective;[16] so in the case of the blood prescribed without, if he omits a single application his action is null. Then let us see to which it is comparable: You can draw an analogy between sacrifices offered on the outer altar,[17] but you cannot draw an analogy between [sacrifices offered on] the outer altar and [those offered on] the inner altar. Or, you might argue to the contrary: You may draw an analogy between sin-offerings whose blood is sprinkled on four horns [of the altar],[18] and let not the outer altar prove it,[19] which is not a sin-offering nor [is its blood sprinkled on the] four horns.[20] Therefore Scripture states ‘we-kipper’ three times, on account of the analogy [which might otherwise be drawn], [teaching]: ‘and he shall make atonement’ even though he sprinkled [the blood] only three times; ‘and he shall make atonement’ even though he sprinkled [it] only twice; ‘and he shall make atonement’ even though he sprinkled it but once.

But this is required for its own purpose?[21] Said Raba b. Adda: Mari explained it to me: Scripture says, and he shall make atonement . . . and he shall be forgiven: atonement and forgiveness are identical.[22]

Yet say [that] ‘and he shall make atonement’ [intimates] even if he made only three applications above [the red line] and one below; and he shall make atonement’ even if he made only two applications above and two below; ‘and he shall make atonement even if he did not apply [the blood] above but only below?[23] — Said R. Adda b. Isaac: If so, you annul the law of horns.[24] But if the Divine Law has ordained [it so], let them be annulled? — Said Raba: What thing is it that requires three? Surely the horns.[25] Yet say, ‘and he shall make atonement’ [teaches] even if he made only one application above and three below? — We do not find blood [applied] half above and half below. Do we not? Surely we learnt: He sprinkled thereof[26] once above and seven below? — That was done as mazlif [one swinging a whip].[27] What is a mazlif? — Rab Judah showed it by imitating the movements of a whipper. [Again, we learnt:] He[28] besprinkled the surface[29] of the altar seven times.

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(1) I.e., one of the five implied by the text.

(2) There must be at least one to state the law of sitting in booths.

(3) The booth must have a covering, which is governed by laws of its own.

(4) A law traditionally imputed to Moses at Sinai, but not stated in the Pentateuch.

(5) There was a Mosaic tradition that however many walls the sukkah required, one of these need be no more than a handbreadth in width.

(6) Lev. XII, 5.

(7) Though vocalized shebu'ayim.

(8) This figure is arrived at by taking a point midway between fourteen (days) and seventy.

(9) Ibid. E.V. as in her impurity. The menstrual state lasts seven days, hence the word must be understood as read, two weeks, which is fairly close to the menstrual state. But forty-two days of uncleanness bear no similarity at all to the menstrual state.

(10) In connection with the sprinkling of the blood of sin-offerings. Lev. IV, 26, 31, 35.

(11) That the omission of a single application invalidates the offering.

(12) I.e. to prove that the omission of any application does not invalidate the offering. Wherefore then is there any need of a verse to intimate this law?

(13) Which encompassed the altar at the middle of its height. — The blood of burnt-, peace- and trespass-offerings was sprinkled below it, infra 53a.

(14) As deduced supra 36b, 37a.

(15) I.e., to be sprinkled on the inner altar. Viz.: the blood of sacrifices offered on the Day of Atonement, and the sacrifices brought by the High Priest and the community for having sinned through ignorance.

(16) He does not make atonement.

(17) Lit., ‘you judge without from without.’

(18) Lit., ‘you judge a sin-offering and four horns from a sin-offering and four horns.’

(19) I.e., the burnt-offering, whose blood was sprinkled on the outer altar.

(20) Consequently, by this analogy one might deduce that the omission of an application invalidates the sin-offering.

(21) Surely in each of the three cases referred to (supra p. 192, n. 14). Scripture must state ‘and he shall make atonement’ to teach that each sin is atoned for by its respective sin-offering.

(22) Hence ‘and he shall make atonement’ is superfluous.

(23) Whence then is it known that atonement is effected even if no application at all was made?

(24) Whereas Scripture states that the blood must be applied on the horns of the altar, which of course were above the red line.

(25) Each ‘we-kipper’ makes one horn less necessary. Hence the threefold repetition diminishes them by three, leaving sprinkling on one essential; for in order to render effective the application of all the four below the line four texts would be required.

(26) Of the blood of the bullock sacrificed on the Day of Atonement.

(27) He did not aim above or below, but made the movement of swinging a whip.

(28) The High Priest, during the Atonement Day Service.

(29) Lit., ‘the pure’ (golden front).

Talmud - Mas. Zevachim 38b

Surely that means on the [upper] half of the altar, as people say, The noon-light shines, and so it is midday?[1] Said Raba b. Shila, No: [it means] on the [altar's] top surface [cleared] from ashes, for it is written, and the like of the very heaven for clearness.[2] But there is the remainder [of the blood]?[3] — The [pouring out of] the remainder [at the altar's base] is not essential.[4] But there is the remainder of inner sin-offerings,[5] which, according to one view is essential?[6] We mean in one and the same place.[7]

It was taught: R. Eliezer b. Jacob said: Beth Shammai maintain [that] two applications in the case of the sin-offering and one in the case of all [other] sacrifices permit [them for consumption] and may render them piggul;[8] Beth Hillel rule: One application [only] in the case of a sin-offering and one in the case of all [other] sacrifices permit [them for consumption] and may render them piggul. To this R. Oshaia demurred: If so, this [controversy] should be recited among the lenient rulings of Beth Shammai and the stricter rulings of Beth Hillel?[9] — Said Raba to him: When the question was [first] asked, it was whether [the sacrifice] was permitted,[10] so that Beth Shammai were stricter.

R. Johanan said: The three [final] applications of sin-offerings may not be made at night, and are made after [the owners’] death, while he who presents them without the Temple court is culpable.[11]

R. Papa said: In some respects [they are] as the first blood, while in others they are as the last:[12] [In respect of sprinkling them] without [the Temple court], at night, zaruth,[13] [the requirement of] a service-vessel, [sprinkling on] the horn, [with] the finger, washing,[14] and residue,[15] they are as the first blood. [In respect of] death, not permitting [the flesh], not rendering [it] piggul, and not entering within, they are as the last blood.[16]

R. Papa said: How do I know it?[17] — Because we learnt: If [the blood] spurted [direct] from the [animal's] throat on to the [priest's] garment, it does not need washing; from the horn or from the base [of the altar], it does not need washing. Hence, [if some] of [the blood] which was fit for the horn [spurted on the garment], it does need washing.[18] Then on your reasoning [you may argue, ‘If it spurted] from the base, it does not need washing; hence if some [of the blood] which was fit for the base[19] [spurted on the garment], it does need washing? [Yet surely] it is written, And if aught of the blood which is to be sprinkled [spurt] upon any garment, thou shalt wash that whereon it was sprinkled in a holy place,[20] which excludes this [residue], as the [blood] has already been sprinkled? [Hence you must say that] this is in accordance with R. Nehemiah, for we learnt: R. Nehemiah said: If one presented the residue of the blood without [the Temple court], he is liable.[21] But granted that you know R. Nehemiah [to rule thus] in respect of presenting [the blood without the Temple court], by analogy with the limbs and the fat pieces,[22] do you [however] know him [to rule thus] in respect of washing? — Yes,

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(1) This is to shew that the root tahor (pure) denotes half, as it is used for midday (actually, because then the sun shines in all its clarity and purity). And in this case it was hardly possible to avoid some of the blood falling below the line.

(2) Ex. XXIV, 10 — Heb. lo-tohar. This gives the word its usual meaning, and here it is interpreted, the cleared surface (on top).

(3) Which is poured out at the base of the altar. Thus part of the blood is applied above, and part is applied below.

(4) But we find no case of the essential sprinkling being partly above and partly below.

(5) I.e., the remainder which is poured out on the base of the outer altar, v. infra 47a.

(6) V. infra 52a. Thus the blood itself is applied on the upper part of the inner altar, while another portion of it, the remainder, is poured out at the base of the outer altar.

(7) There is no instance of the blood being poured partly above and partly below on the same altar.

(8) Only if a piggul intention is expressed during both applications does the sin-offering become piggul. For since both are essential, each sprinkling is only half a mattir (q.v. Glos.), through which one cannot render a sacrifice piggul.

(9) In the numerous controversies between these two schools Beth Shammai generally holds the stricter, Beth Hillel the more lenient view; the exceptions are enumerated in the Tractate ‘Eduyyoth, and the present controversy is not included. But in fact here too Beth Hillel are more severe, in that they rule that a piggul intention expressed during one application only renders the sin-offering piggul.

(10) If one application only was made.

(11) Though the first application is sufficient, the other three are not essential, and so might not be regarded as real sprinklings at all; nevertheless, they must not be done at night, in accordance with the general law that the blood must not be kept until the night. Again, if the owner of the sacrifice dies before its blood is sprinkled, the blood cannot be sprinkled and the sacrifice is burnt. But if the owner dies after the first application, which in itself rendered the sacrifice valid, the other three applications are made. And similarly since the sprinkling of these is deemed a valid sacrificial service, to sprinkle them without is to incur guilt.

(12) Lit., ‘some of them are as the beginning, and some of them are as the end.’ — The three final applications are governed in some respects by the laws appertaining to the first application; while in others they are regarded simply as the pouring out of the remainder of the blood.

(13) The ineligibility of a lay-Israelite (a non-priest, Heb. zar) to perform the sprinkling.

(14) If blood spurts on the priest's vestment after the first application, it must be washed in a holy place, just as if it had spurted before the first application. But if it spurts on to it after the four applications before the pouring out of the residue, it need not be so washed, as is shewn infra.

(15) If the blood of the sin-offering was received in four cups, and one application is made from each, the remaining blood in each counts as the residue, which is to be poured out at the base.

(16) (i) The three applications are made even after the owner's death, just as the residue would be poured out after all the applications. (ii) They do not permit the flesh, since this was permitted by the first application. (iii) If the first application was made in silence, and these with a piggul intention, they do not render the sacrifice piggul. Finally, (iv) if the first application was properly made, on the outer altar, and the blood for these applications was taken within, into the hekal (q.v. Glos.), the sacrifice does not become invalid, as it would be if the blood for the first application were so treated. For Scripture says, And no sin-offering, whereof any of the blood is brought into the tent of meeting (i.e. the inner sanctum, corresponding to the hekal) to make atonement in the holy place, shall be eaten; it shall be burnt with fire (Lev. VI, 23). With the first application, however, atonement is made, and so this blood is not brought ‘to make atonement’. — In all these respects the blood for the three applications is regarded as the residue, just as that which remains after all the applications.

(17) Referring to the requirement of washing in n. 3.

(18) The blood which is fit for the horn is that which is to be sprinkled upon it, even in the last three applications.

(19) I.e., the residue.

(20) Lev., VI, 20. E.V. and when there is sprinkled of the blood thereof upon any garment etc.

(21) Even in the case of the sin-offerings of the outer altar. Thus R. Nehemiah regards this as blood, and therefore it bears that status in respect to washing too. Hence this does not support R. Papa, as it is an individual view. The others, however, who rule that there is no liability, will also hold that no washing is required.

(22) Liability is incurred for presenting these outside the Temple court; though they are not blood. Hence the same may hold good of the residue, even if it should not bear the status of blood.

Talmud - Mas. Zevachim 39a

and [so] it was taught: The bloods which require the base[1] necessitate washing, and an [illegitimate] intention in connection with same is effective, and one who presents thereof without [the Temple court] is liable. The blood, however, which is poured out into the duct[2] does not necessitate washing, and an [illegitimate] intention in connection with same is not effective, and one who presents thereof without is exempt [from punishment]. Now, whom do you know to rule that one who presents thereof without is liable? R. Nehemiah: and he [also] rules [that] it necessitates washing and [that] an [illegitimate] intention in connection with the same is effective. But it was taught: [The pouring out of] the residue and the burning of the limbs [on the altar], which are not indispensable for atonement, are excepted, in that an [illegitimate] intention in connection with same is of no effect?[3] — That[4] was taught in reference to the [last] three applications of a sin-offering. If so, [why does it say] ‘which requires the base?’ [Surely] it is sprinkled on the horn [of the altar]? — Say, which is required for the base.[5] But then, what of ‘And an [illegitimate] intention in connection with same is effective’? Surely you said, ‘It does not permit [the flesh], it does not render [it] piggul, and does not enter within, as the last blood’? — Rather that [Baraitha] was taught in respect of the blood of the inner [sacrifices].[6] But in the case of the blood of outer [sacrifices] what [will you say]? he is exempt?[7] Then instead of teaching [about] the blood which is poured out into the duct, let [the Tanna] teach a distinction in that very case. [Thus:] This is said only of the blood of inner [sacrifices], but in the case of the outer sacrifices, he is exempt? — This is in accordance with R. Nehemiah, who maintained [that] one who presents the residue of the blood[8] without is liable, and so he [the Tanna] could not enumerate three instances of exemption corresponding to three instances of liability.[9]

Rabina said, ‘From the horn’ is meant literally, but ‘from the base’ means, from that which is fit for the base.[10] Said R. Tahlifa b. Gaza to Rabina: perhaps both mean [the blood] that is fit [etc.]?[11] — How is that possible: Seeing that you say that [even the blood] fit for the horn [does] not [necessitate washing], need one speak about the blood fit for the base? Hence ‘from the horn’ is meant literally, while ‘from the base’ means from that which is fit for the base.

ALL [BLOOD] WHICH IS SPRINKLED ON THE INNER ALTAR etc. Our Rabbis taught: Thus shall he do [with the bullock]; as he did [with the bullock of the sin-offering, so shall he do with this]:[12] Why is this stated? As a repetition of the [law of sprinkling], to teach that if [the priest] omitted one of the applications, he has done nothing.[13] I know this only of the seven applications,[14] which are indispensable in all cases; whence do we know [it] of the four applications? From the text, ‘So shall he do with this’.[15] ‘With the bullock’ means the bullock of the Day of Atonement[16]

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(1) I.e., the residue which must be poured out at the base.

(2) Blood which had become unfit was poured into a duct in the Temple court, whence it flowed out into the stream of Kidron.

(3) Cf. supra 13a bottom.

(4) Sc. the ruling that an illegitimate intention is effective.

(5) The ultimate residue is poured out at the base.

(6) It refers indeed, as hitherto assumed, to the residue, not to the three applications, but to the residue of sin-offerings presented at the inner altar, and in accordance with the view that that is indispensable (infra 52a); consequently it can render the sacrifice piggul.

(7) For presenting it without the Temple court.

(8) Even of the outer sin-offerings.

(9) The Baraitha enumerates three instances of liability and three of exemption (i.e., three instances where the residue bears the full status of blood, and three where it does not). But if the Tanna drew a distinction between the residue of inner sacrifices and that of outer sacrifices respectively, he could not maintain that parallelism.

(10) He refers to the Mishnah quoted supra 38b. For if it is meant literally, it is superfluous: seeing that the blood which spurts from the horn does not necessitate washing, it is surely obvious that that which spurts from the base does not necessitate washing. — Thus he answers the objection ‘then on your reasoning’ etc., which was raised against R. Papa's proof.

(11) Which interpretation, implying that there is blood fit for the horn, i.e., the three last applications, and yet it does not necessitate washing, would refute R. Papa!

(12) Lev. IV, 20. This treats of the sin-offering brought when the whole congregation sins, which was offered on the inner altar. The verse itself is apparently superfluous, since all its rites are described in detail.

(13) The sacrifice is invalid.

(14) Before the veil of the ark.

(15) This is yet another repetition. Since its implication of indispensability is not required in respect of the seven applications, it is transferred to the four applications on the altar.

(16) Teaching that its laws are the same as those which govern that bullock brought for the whole congregation's sin.

Talmud - Mas. Zevachim 39b

‘As he did with the bullock’ refers to the bullock of the anointed priest;[1] ‘the sin-offering’ refers to the goats of idolatry.[2] You might think that I include the festival goats and new-moon goats.[3] Therefore Scripture states, ‘[So shall he do] with this’.[4] And what [reason] do you see for including the former and excluding the latter? Since the Writ intimates extension and intimates limitation, I include the former, which make atonement for the known transgression of a precept: while I exclude the latter, which do not make atonement for the known transgression of a precept.[5] And [the priest] shall make atonement[6] — even though he had not laid hands [on the bullock]: and it shall be forgiven to them[7] — even though he had not poured out the residue.[8] And what [reason] do you see for invalidating [the sacrifice] in the case of sprinklings and validating [it] in the case of laying on [of hands] and the residue?[9] You can answer: I invalidate in the case of sprinklings, as they are indispensable elsewhere:[10] while I validate in the case of laying on [of hands] and the residue, which are not indispensable in all [other] cases.

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(1) Which is treated of in the previous section (Lev. IV, 3 seq.). This thus becomes a repetition, with the same implication that there too all the blood applications are essential.

(2) I.e., which were brought to atone for idolatry; v. Num. XV, 27 seq. which is applied to this case. The details of their rites are not explained there; by making the present text refer to them, we learn that their rites are the same as those prescribed here.

(3) To teach that their rites too are the same.

(4) But not with other sacrifices.

(5) The festival and new-moon sin-offerings made atonement for the inadvertent defiling of the Temple, of which the offender would not know at all (v. Shebu. 2a).

(6) Num. XV, 28.

(7) Ibid.

(8) Of the blood, on the outer altar.

(9) Why interpret the verse so that an omission of one of the sprinklings invalidates the sacrifice, while the omission of laying hands or pouring out the residue at the base of the outer altar, leaves it valid? Perhaps you should reverse it.

(10) Lit., ‘in all places.’ — The allusion is explained anon.

Talmud - Mas. Zevachim 40a

The Master said: ‘I know [it] only of the seven applications which are indispensable elsewhere.’ Where? — Said R. Papa: In the case of the [red] heifer and leprosy.[1]

‘How do we know [it] of the four applications? Because it is written, so shall he do’. Why do the seven applications differ? [presumably] because they are prescribed and reiterated? Then the four applications too are prescribed and reiterated?[2] — Said R. Jeremiah: This is necessary only according to R. Simeon. For it was taught: In the upper section ‘horns’ is written, [where] horn [would suffice] [which implies] two, and in the lower section ‘horns’ is written [instead of] horn, which implies four: this is R. Simeon's view.[3] R. Judah said: It is unnecessary, [for] surely it says, [which] is in the tent of meeting,[4] [intimating,] upon all which is mentioned in the tent of meeting.[5]

Now, how does R. Judah employ [the text], so shall he do?[6] He requires it for what was taught: As we have not learnt about laying on [of hands] and the residue of the blood in the case of the bullock of the Day of Atonement,[7] whence [then] do we know it? From the text, So shall he do.[8] But have we not learnt [it] of the bullock of the Day of Atonement? Surely you said, ‘"with the bullock" refers to the bullock of Atonement Day.’[9] — It is necessary: You might think that it applies only to a service which is indispensable for atonement;[10] but as for a service which is not indispensable for atonement, I would agree that it is not so.[11] Hence he informs us [otherwise].

Now, how does R. Simeon employ this [phrase] ‘in the tent of meeting’? — He utilises it [as teaching] that if the ceiling of the hekal was broken, [the priest] did not sprinkle.[12] And the other?[13] — [He deduces it] from ‘which is’.[14] And the other?[15] — He does not interpret ‘which is’ [as having a particular significance].

Abaye said: According to R. Judah too [the text] is required. You might think that it is analogous to laying [hands] and [pouring out] the residue of the blood, which are not indispensable in spite of being prescribed and reiterated; so you might argue that the four applications too are indispensable. Hence [the text] informs us [that it is not so].

[The Master said:] ‘"With the bullock" refers to the bullock of the Day of Atonement.’ In respect of which law? if [to intimate] that [the four applications] are essential, it is obvious, [since] ‘statute’ is written in connection with it?[16] — Said R. Nahman b. Isaac: This is necessary only on R. Judah's view, for he maintained: ‘Statute’ is written only in reference to the rites performed in the white vestments, within [the inner Sanctuary], [and it teaches] that if one rite was [wrongly] performed before another, [the High Priest] has done nothing;[17] but as for the rites performed in the white vestments without,if not performed in correct order,[18] what he has done is done.[19] Then I might argue, since their [prescribed] order is not indispensable, the sprinklings too are not indispensable. Hence [the text] informs us [otherwise].

To this R. Papa demurred: Can you say so?[20] Surely it was taught: And he shall make an end of atoning for the holy place, [and the tent of meeting, and the altar]:[21] if he atoned,[22] he made an end;[23] while if he did not atone, he did not make an end: this is R. Akiba's view. Said R. Judah to him: Why should we not interpret: If he made an end, he atoned, while if he did not make an end, he did not atone?[24] Rather said R. Papa: It[25] is required only in respect of [deductions from] the eth and [those relating to] the blood and the dipping.[26] ‘Eth’: R. Aha b. Jacob said: That is required only to teach that

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(1) The red heifer: This is the statute (hukkath) of the law . . . And Eleazar. . . shall . . . sprinkle of her blood toward the front of the tent of meeting seven times (Num. XIX, 2-4). Leprosy: This shall be the law of the leper in the day of his cleansing . . . And the priest . . . shall sprinkle of the oil with his finger seven times before the Lord (Lev. XIV. 2, 16). It is a general principle that where a law is designated ‘statute’ or introduced by ‘shall be’, denoting emphasis, it is indispensable.

(2) Why is an additional text required to shew that all the four applications are essential? The reiteration of the seven applications (according to the present exegesis) is pari passu a reiteration of the four.

(3) The upper and the lower sections are Lev. IV, 1-12, and Lev. IV, 13-21, dealing with the bullock of the anointed priest and the bullock of the whole congregation respectively. In the upper section: And the priest shall put of the blood upon the horns of the altar (v. 7). In the lower section: And he shall put of the blood upon the horns of the altar which is before the Lord (v. 18). The plural implies two in each case, and then by analogy the provisions of each are transferred to the other too, which gives the four horns for each. But this transference is made only because we have the repetition, which is thus necessary in R. Simeon's view.

(4) Lev. IV, 7, 18.

(5) I.e., upon all the horns which Scripture prescribed for the altar in the tent of meeting.

(6) Why this repetition?

(7) I.e., that laying hands and pouring out the residue at the altar's base are necessary. These are not prescribed in Lev. XVI, which treats of the Day of Atonement ritual.

(8) An extension which intimates that the bullock of the Day of Atonement requires these, since ‘with the bullock’ has been interpreted as referring to it.

(9) Which exegesis automatically teaches that the provisions of the passage, including the two under discussion, apply to it; what need then of the further words, ‘so shall he do’?

(10) Only those services are included, since Scripture adds, And the priest shall make atonement for them.

(11) Such are not included in the extension implied in the text. Laying hands and pouring out the residue at the altar's base are not essential for atonement.

(12) Because it is no longer the ‘tent’ (of meeting).

(13) R. Judah; whence does he know this?

(14) Which he regards as superfluous.

(15) R. Simeon: how does he interpret ‘which is’?

(16) Lev. XVI, 29: And it shall be a statute for ever unto you — which implies that all the prescribed rites are essential!

(17) His service is invalid.

(18) Lit., ‘one before the other.’

(19) It is valid; v. Yoma 60a.

(20) That R. Judah learns the indispensable character of the four sprinklings from the present text.

(21) Lev. XVI, 20.

(22) I.e., if he performed the rites which are essential for atonement in other cases, e.g., the four sprinklings on the altar and the seven sprinklings before the veil.

(23) He could end his service there, even if he did not pour out the residue of the blood at the base of the outer altar.

(24) I.e., the service is valid and atonement is made only if he made an end, having performed all the prescribed rites (v. Yoma 60b). Thus it is from this text that R. Judah deduces the indispensability of the prescribed rites, including the four applications.

(25) The text ‘with the bullock’.

(26) In connection with the anointed priest's bullock it is written: And the priest shall dip (eth) his finger in the blood, and sprinkle of the blood seven times before the Lord (Lev. IV, 6). ‘Eth’, which is the sign of the accusative, which is treated as an extension, as well as the phrases ‘he shall dip’ and ‘in the blood’ teach the number of additional laws about the sprinkling and dipping as anon. Through the present exegesis, that ‘with the bullock’ applies to the Atonement Day bullock, Scripture assimilates it to the bullock of the anointed priest, and so teaches that what is deduced from the ‘eth’ applies to this too.

Talmud - Mas. Zevachim 40b

if there is a wart on the finger it is fit.[1] ‘In the blood’ [teaches] that there must be sufficient blood for dipping at the outset.[2] ‘And he shall dip’ [teaches] but not sponge up.[3] Now it is necessary to write both ‘and he shall dip’ and ‘in the blood’.[4] For if the Divine Law wrote, ‘and he shall dip’ [only], I would say, even where there is insufficient for dipping in the first place; therefore the Divine Law wrote, ‘in the blood’. And if the Divine Law wrote ‘in the blood’ [only], I would say [that] he may even sponge it up; therefore the Divine Law wrote, ‘and he shall dip’.

What is the purpose of the altar of sweet incense?[5] — [To teach] that if the altar had not been consecrated by sweet incense, [the priest] did not sprinkle.[6]

It was taught in accordance with R. Papa: ‘Thus shall he do...as he did’: why does Scripture say, ‘with the bullock’? — To include the bullock of the Day of Atonement in respect of all that is prescribed in this passage: that is Rabbi's view.[7] Said R. Ishmael: It follows a fortiori:[8] if rites [of diverse sacrifices] were assimilated to each other even where the sacrifices are not the same,[9] Surely rites are assimilated to each other where the sacrifices are the same.[10] What then does Scripture intimate by [the phrase] ‘with the bullock’? This refers to the bullock brought for the community's unwitting transgression; while [the other] ‘with the bullock’[11] refers to the bullock of the anointed priest.[12]

The Master said: ‘If where the sacrifices are not assimilated to each other’. To what does ‘the sacrifices are not assimilated to each other’ allude? Shall we say, to the bullock of the Day of Atonement and the goat of the Day of Atonement?[13] Then [the argument] can be refuted: as for these, [their rites are similar] because their blood enters the innermost sanctum![14] Rather, it alludes to the community's bullock for unwitting transgression and the goats [sacrificed] on account of idolatry.[15] But [here too the argument] can be refuted: As for these, [their rites are the same] because they make atonement for the violation of a known precept?[16] Rather, it alludes to the community's bullock for unwitting transgression and the he-goat of the Day of Atonement, and this is what he means: If where the sacrifices are not the same, since one is a bullock and the other is a goat, yet the rites are alike as far as what is prescribed in their case is concerned,[17] then where the sacrifices are the same, this one being a bullock and the other being a bullock, it is surely logical

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(1) That is learnt from the eth: though the blood is taken up by the wart, yet it is fit.

(2) Sufficient must be caught in one vessel at the outset; but the blood must not be received in two vessels and poured together to make enough for that purpose.

(3) By wiping round the sides of the utensil.

(4) Emended text (Sh. M.)

(5) Ibid. 7. Seeing that ‘in the tent of meeting’ has been interpreted as intimating everything which was in the tent of meeting, why specify ‘the altar of sweet incense’?

(6) If this bullock was offered at a new altar, upon which incense had never yet been burnt, the priest did not sprinkle.

(7) Yalkut reads: that is R. Akiba's view.

(8) No text is necessary for this.

(9) Even where the sacrifices differed in certain respects.

(10) E.g., the Day of Atonement bullock and that brought for the sin of the whole community. These are similar, since they both belong to the same category.

(11) The phrase is repeated in the verse, q.v.

(12) Teaching that the same law applies to this as to the former, viz., that if one of the sprinklings is omitted, the sacrifice is invalid.

(13) These are not the same, being different animals, yet their rites of sprinkling etc. are the same.

(14) But the blood of the community's bullock did not enter the innermost sanctum.

(15) Whose rites are the same, as stated supra.

(16) V. Shebu. 2a.

(17) In the matter of sprinkling, which Scripture prescribes for both, they are alike. Both are sprinkled with the finger, on the horns of the altar, and before the veil. Thus they are alike in essence, not withstanding that the blood of one entered the inner sanctum while that of the other did not, and one requires eight sprinklings as against the other's seven.

Talmud - Mas. Zevachim 41a

that their rites shall be alike.[1] Then the [rites of the] Day of Atonement bullock are learnt from [those of] the bullock of the anointed priest, [insofar as the latter are deduced] from ‘eth’, ‘in the blood’ and the mention of dipping.[2] And [the rites of] the goat of the Day of Atonement are also learnt from [those of] the goats brought on account of idolatry, a fortiori.[3] But can that which is learnt through a hekkesh then in turn teach a fortiori?[4] — Said R. Papa: The Tanna of the School of R. Ishmael holds [that] that which is learnt through a hekkesh can in turn teach a fortiori.

‘"With the bullock" refers to the community's bullock for unwitting transgression.’ But that is written in the very text?[5] — Said R. Papa: Because he wishes that the community's bullock for unwitting transgression shall teach that the goats for idolatry require [the burning of] the lobe [above the liver] and the two kidneys [on the altar]; yet that is not prescribed in the actual passage on the community's bullock for unwitting transgress, but is learnt through a hekkesh; therefore ‘with the bullock’ is needed, to make it as though it were prescribed in the actual text, and thus it should not be a case of what is learnt through a hekkesh in turn teaching through a hekkesh.[6]

It was taught in accordance with R. Papa: ‘Thus shall he do [with the bullock] as he did’: why does Scripture [further] state, with the bullock? Because it is said, And they have brought their offering, an offering made by fire unto the Lord, [and their sin-offering before the Lord, for their error].[7] Now, ‘their sin-offering’ refers to the he-goats for idolatry, while ‘their error’ alludes to the community's bullock for unwitting transgression. [Hence when the text says] ‘their sin-offering . . . for their error’, the Torah intimates: Behold, you must treat their sin-offering as their [offering for] error.[8] But whence have you learned [the law in the case of] their [offering for] error? Was it not through a hekkesh?[9] Can then that which is learnt through a hekkesh in turn teach through a hekkesh? Therefore the text states, ‘[As he did] with the bullock’, which refers to the community's bullock for transgression; while [the other] ‘with the bullock’ alludes to the anointed priest's bullock.

The Master said: ‘"Their sin-offering" refers to the he-goats for idolatry.’ Deduce this[10] from the earlier verse,[11] for a master said, ‘"The sin-offering" is to include the he-goats of idolatry’?[12] — Said R. Papa, It is necessary. I might argue that [the force of this extension] applies only to the sprinklings,[13] which are prescribed in that very passage;

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(1) Such as the sprinklings before the veil and on the golden altar.

(2) V. supra 40a.

(3) If where the sacrifices are not the same, viz., the community's bullock for unwitting transgression and the goat of the Day of Atonement, the rites prescribed for both are alike, since Scripture does not explicitly say that those which they have in common, e.g., the sprinklings in the hekal, are different; then where the sacrifices are the same, e.g. the goat of the Day of Atonement and the goats of idolatry, their rites are surely alike.

(4) As here. For the rites of the anointed priest's bullock, insofar as these are deduced from ‘eth’, ‘in the blood’ and the mention of dipping, are transferred to the goats for idolatry only by a hekkesh (q.v. Glos.); then we make them in turn teach a fortiori that the same applies to the goats of the Day of Atonement.

(5) The whole passage deals with this.

(6) It is stated infra that the lobe above the liver and the two kidneys of the goats of idolatry are burnt on the altar, and that this is learnt through a hekkesh from the community's bullock of unwitting transgression. But there too Scripture does not explicitly state the law, which is learnt through a hekkesh from the anointed priest's bullock, where it is explicitly prescribed, and in the case of sacrifices it is stated infra 49b that what is learnt through a hekkesh cannot in turn teach through a hekkesh. Now, here we have in any case a hekkesh between the community's bullock and the anointed priest's bullock, since ‘as he did with the bullock’ has been interpreted as referring to the anointed priest's bullock, while the whole passage in which it occurs treats of the community's bullock. Hence when Scripture further reiterates this hekkesh by saying, ‘thus shall he do with the bullock’, which being superfluous is made to refer to the community's bullock, the effect of this repeated hekkesh is to make it as though the burning of the lobe and the kidneys were not derived through a hekkesh but explicitly prescribed. Hence one can no longer object that what is learnt through a hekkesh cannot teach through a hekkesh.

(7) Num. XV, 25.

(8) Viz., that the lobe and the kidneys of the former, as of the latter, must be burnt on the altar. This is a hekkesh deduction.

(9) V. p. 205, n. 5.

(10) That the lobe and kidneys of these must be burnt on the altar.

(11) Sc. Lev. VII, 19 which is now being discussed.

(12) Supra 39b. By this inclusion its rites are brought into line with those of the other sacrifices alluded to in that verse, and hence include the burning of the lobe and the kidneys on the altar.

(13) Teaching that the blood of the he-goats must be sprinkled in the same way as that of the community's bullock.

Talmud - Mas. Zevachim 41b

but [as for the burning of] the lobe and the two kidneys, which are not prescribed in that passage, I would say [that it is] not [intimated]. Therefore the text informs us [that it is not so].

R. Huna the son of R. Nathan said to R. Papa: But surely the Tanna states, ‘"with the bullock" includes the bullock of the Day of Atonement in respect of everything which is prescribed in the text’?[1] — It is a controversy of Tannaim. The Tanna of the Academy[2] includes it in this way, while the Tanna of the School of R. Ishmael includes it in that way.

The School of R. Ishmael taught: Why are the lobe and the two kidneys mentioned in connection with the anointed priest's bullock, but not in connection with the community's bullock for unwitting transgression? It may be compared to a king of flesh and blood who was angry with his friend, but spoke little of his offence, out of his love for him.[3]

The School of R. Ishmael also taught: Why is the ‘veil of the sanctuary’ mentioned in connection with the anointed priest's bullock, but not in connection with the community's bullock of unwitting transgression?[4] It may be compared to a king of flesh and blood against whom a province sinned — If a minority offended, his retainers remain [with them], but if the majority offend, his retainers do not remain [with them].[5]

THEREFORE, IF HE APPLIED ALL CORRECTLY, AND ONE INCORRECTLY, IT [THE SACRIFICE] IS INVALID, BUT DOES NOT INVOLVE KARETH. We learnt elsewhere: If [the priest] made a piggul intention at the [burning of the] fistful [of flour] but not at [the burning of the] incense,[6] [or] at the frankincense but not at the fistful, R. Meir says that it is piggul, and one is liable to kareth on its account;[7] but the Sages maintain: It does not involve kareth unless [the priest] makes a piggul intention for the whole mattir. R. Simeon b. Lakish commented: Do not say that R. Meir's reason is because he holds that you can make a [sacrifice] piggul in half a mattir. Rather the circumstances here are that [the priest] presented the fistful [on the altar] with a [piggul] intention, and the frankincense in silence. He [R. Meir] holds [that] when one does [a thing], he does it with his first intention.[8] How do you know it? — Because [the Tanna] teaches: THEREFORE IF HE APPLIED ALL CORRECTLY, AND ONE INCORRECTLY, IT [THE SACRIFICE] IS INVALID, BUT DOES NOT INVOLVE KARETH. Hence [if he applies] one correctly and all [the others] incorrectly, it is piggul. With whom does this agree? If with the Rabbis? Surely the Rabbis say [that] you cannot make piggul at half a mattir? Hence it must be R. Meir; now if R. Meir's reason is that you can make piggul at half a mattir, then even in the conditions which he teaches it is still piggul.[9] Hence it must surely be because he holds that when one does [a thing], he does it with his first intention. Said R. Samuel b. Isaac: In truth it agrees with the Rabbis, and what is meant by CORRECTLY? In the proper manner for piggul.[10] But since [the Tanna] teaches: THEREFORE, IF HE APPLIED ALL CORRECTLY, AND ONE INCORRECTLY, IT [THE SACRIFICE] IS UNFIT, BUT DOES NOT INVOLVE KARETH, it follows that INCORRECTLY means [in a manner] to make it fit?[11] — Said Raba: What does INCORRECTLY mean? — [With an intention of eating it] without bounds. R. Ashi said: [It means] under a different designation. Hence it[12] follows that if [the priest] did not do it [with an intention of consuming it] without bounds or under a different designation, one is liable?[13] — Because the first clause teaches, IT IS PIGGUL, AND ONE IS LIABLE TO KARETH ON ITS ACCOUNT, the second clause too teaches, IT IS UNFIT, AND DOES NOT INVOLVE KARETH.[14]

An objection is raised: When is this said?[15] In the case of blood that is presented on the outer altar.

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(1) Which implies that even the sprinklings are indispensable, whereas you say (supra 40a bottom) that only those laws which are deduced from ‘eth’ etc. are learnt in this way.

(2) This is the meaning of Be Rab as used here, and it refers to the anonymous statement introduced by ‘Our Rabbis taught'.

(3) In the same way God treats the community's offence more shortly, and leaves a number of details to be deduced rather than state them explicitly.

(4) Lev. IV, 6, speaking of the former, states, And the priest . . . shall sprinkle of the blood . . . in front of the veil of the sanctuary. But in IV, 17, which treats of the latter, Scripture merely mentions 'the veil' not the veil of the sanctuary.

(5) To shew his resentment he withdraws them. Thus where the whole community sins God, as it were, withdraws His holiness, and there is no sanctuary left.

(6) The burning of these two permits the meal-offering to be eaten. The two rites together therefore constitute the mattir (q.v. Glos.), and each is only half a mattir.

(7) If one eats of the offering.

(8) Hence his silence here is the equivalent of a piggul intention.

(9) Even if the first application is made in silence and the others with a piggul intention, it should be piggul.

(10) In a manner which will render it piggul. Thus: the first application with a piggul intention, and the others in silence.

(11) For silence could not be called' INCORRECTLY'.

(12) And since it is a sin-offering, it becomes invalidated (v. supra 2a) and consequently is not rendered piggul.

(13) I.e., if the second application was made in silence, it is piggul, which shews that we regard the second action as done with the same intention as the first. But that is R. Meir's view, not the Rabbis.

(14) CORRECTLY does mean in a proper manner for piggul whilst INCORRECTLY means with the intention of consuming it without bounds. Actually then even if he made the second sprinkling in silence it would not be piggul, but INCORRECTLY is taught for the sake of parallelism. For in the first clause, dealing with the outer sacrifices, he teaches IF HE APPLIED THE FIRST WITH THE INTENTION OF CONSUMING IT AFTER TIME, AND THE SECOND WITH THE INTENTION OF CONSUMING IT WITHOUT BOUNDS, IT IS PIGGUL AND INVOLVES KARETH. There, this second intention is particularly stated in order to teach that it does not nullify the first and free it from piggul, because since a single application permits it, a single application makes it piggul. For that reason he teaches in the second clause, dealing with the inner sacrifices, that here the second intention does nullify the first and free it from piggul, though this in truth need not be taught, since in any case, even if he remained silent at the second application, it would not be piggul, as the Rabbis do not hold that he makes the second application with the same intention as the first.

(15) That the sacrifice becomes piggul through one application.

Talmud - Mas. Zevachim 42a

But in the case of blood presented on the inner altar, e.g., the forty three [applications] of the Day of Atonement,[1] the eleven of the anointed priest's bullock, and the eleven of the community's bullock of unwitting transgression,[2] if he [the priest] declared a piggul intention whether at the first, the second, or the third,[3] R. Meir maintains [that] it is piggul and involves kareth; while the Sages say: It does not involve kareth unless [the priest] declares a piggul intention at the whole mattir. Incidentally he teaches, 'if [the priest] declared a piggul intention whether at the first, at the second, or the third,' and yet [R. Meir] disagrees?[4] — Said R. Isaac b. Abin: The circumstances here are e.g. that he declared a piggul intention at the shechitah, this being one mattir.[5] If so, what is the reason of the Rabbis? — Said Raba: Who are the Sages [in this passage]? R. Eleazar.[6] For we learnt: [With regard to] the fistful [of flour], the frankincense, the incense, the priest's meal-offering, the anointed priest's meal-offering, and the meal-offering of the libations, if [the priest] presented as much as an olive of one of these without [the Temple court], he is liable. But R. Eleazar[6] exempts [him] unless he offers the whole [without].[7] But surely Raba said: Yet R. Eleazar admits in the case of blood, for we learnt: R. Eleazar and R. Simeon maintain: From where he left off there he recommences![8] — Rather said Raba: It [the Baraitha] means e.g. where he declared a piggul intention at the first [applications], was silent at the second, and again declared a piggul intention at the third.[9] Now we might argue, If you claim that he acts with his original intention, why should he repeat his piggul intention at the third [applications]? Therefore he informs us [that we do not argue so].

To this R. Ashi demurred: Does he then teach [that] he was silent? Rather said R. Ashi: The circumstances here are e.g., that he declared a piggul intention at the first, second, and third. You might argue, If you think that whatever one does, one does with the first intention, why must he repeat his piggul declaration at each one? Therefore he informs us [that we do not argue so].

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(1) One application of the blood of the bullock above the red line and seven below (v. supra 38a bottom), and similarly with the blood of the he-goat, which gives sixteen. There were similar applications on the veil of the sanctuary, making thirty two. Further, four applications of the blood of both mixed together, on the four horns of the altar, and seven applications on the top of the altar, giving a total of forty-three.

(2) Seven on the veil and four on the altar.

(3) The first, second and third are the applications in the innermost sanctuary, on the veil, and on the golden altar respectively.

(4) Thus, if he declared this intention at the second application only, though not at the first, it is still piggul, though here he was certainly not continuing his first intention. Hence he must hold that one can render a sacrifice piggul at a portion of the mattir, which contradicts R. Simeon b. Lakish.

(5) Rashi: After the first blood applications the blood was accidentally spilt. A second animal is slaughtered, and the sprinkling is continued, starting with the second applications on the veil. Only here does R. Meir rule that it is piggul, since shechitah is a service complete in itself. Rashbam: At the shechitah the priest declared his intention to make the second blood applications after time. This explanation saves the introduction of a second animal.

(6) Emended text (Sh. M.); cur. edd. R. Eliezer.

(7) Thus even when he actually presents it without the Temple court, R. Eleazar holds that he is not liable, since it was done with a portion of the mattir only, which proves that it does not count as a service unless he completes the whole service. So here too, although shechitah is a service complete in itself, yet since this particular shechitah was merely to make up another shechitah (rendered necessary through the spilling of the blood), it is incomplete, and cannot render the sacrifice piggul.

(8) V. infra 110a and b. — Since he recommences from where he left off (where the blood was spilt; v. n. 2), this shews that what he did do is a complete service; hence it can become piggul thereby. This refutes Raba's explanation that the Sages in the Baraitha quoted supra are R. Eleazar.

(9) Only then does R. Meir rule it to be piggul, as he holds that the second applications in silence were made with the same intention as the first. So that 'whether at the . . . second or third' means whether he was silent at the third and declared a piggul intention at the second, or vice versa. But in both cases he had declared a piggul intention at the first.

Talmud - Mas. Zevachim 42b

But he teaches, 'whether . . . or'?[1] That is indeed a difficulty.

The Master said: 'R. Meir said, It is piggul, and involves kareth'.[2] But consider: one is not liable to kareth[3] until all the mattirin are offered, for a master said: As the acceptance of the valid, so is the acceptance of the invalid. As the acceptance of the valid necessitates that all its mattirin be presented, so does the acceptance of the invalid necessitate that all its mattirin be presented.[4] Now here he has [already] invalidated it [the sacrifice] by declaring an [illegitimate] intention within, so that it is as though he had not sprinkled [the blood] at all;[5] when therefore he sprinkles again in the hekal, he is merely sprinkling water?[6] — Said Rabbah: It is possible in the case of four bullocks and four he-goats.[7] Raba said: You may even say [that R. Meir rules thus] in the case of one bullock and one he-goat: it [the sprinkling] is efficacious in respect of its piggul status.[8]

[Do you say that there are] forty-three [sprinklings]?[9] Surely it was taught [that there are] forty-seven? The former agrees with the view that you mingle [the blood of the bullock and of the he-goat] for [sprinkling on] the horns; while the latter agrees with the view that you do not mingle [them] for [sprinkling on] the horns.[10] But it was taught [that] forty-eight [are required]? — One agrees with the view that [the pouring out of] the residue [at the base of the altar] is indispensable;[11] while the other agrees with the view that the residue is not indispensable.[12]

An objection is raised: When is this said?[13] In [the case of] the taking of the fistful, the placing in the vessel, and the carriage.[14] But when he comes to the burning [of the fistful and the frankincense], if he presents the fistful with a [piggul] intention and the frankincense in silence; or if he presents the fistful in silence and the frankincense with a [piggul] intention, — R. Meir declares it piggul, and it involves kareth; while the Sages rule: It does not involve kareth unless he declares a piggul intention in respect of the whole mattir. Now he teaches incidentally, [If he presents] ‘the fistful in silence and the frankincense with a [piggul] intention’, and yet they disagree![15] — Say ‘having already presented the frankincense with a [piggul] intention’. One [objection] is that that is the first clause. Moreover, it was indeed taught,[16] ‘and after that.’[17] That is indeed a difficulty.

MISHNAH. THESE ARE THE THINGS FOR WHICH ONE IS NOT LIABLE ON ACCOUNT OF PIGGUL: THE FISTFUL, THE INCENSE, THE FRANKINCENSE,

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(1) Implying alternatives: either at one or at the other.

(2) V. supra 42a.

(3) For eating thereof.

(4) V. supra 28b.

(5) Var. lec. omits ‘then . . . at all’.

(6) This is a difficulty on the view that R. Meir's reason is that one can make a sacrifice piggul at half a mattir. Granted that this is possible in the case of the fistful and the frankincense of a meal-offering, it is surely impossible in the case of sprinkling, for the reason stated. — ‘He is merely sprinkling water’ means that his sprinkling of the blood is just as though he were sprinkling water, since the sacrifice is already invalid.

(7) He declared a piggul intention during all the applications of the blood between the staves; then the blood was spilt, so that another animal was slaughtered. He sprinkled its blood on the veil (he would start there, and not repeat the first sprinklings between the staves; V. supra a) and the blood was again spilt. The same happened with the applications on the horns of the altar, and the same with the sprinklings on the top. Here then all the mattirin have been presented, and each counts as a real sprinkling because it is the blood of a different animal; consequently the first is piggul, while the same would hold good if he declared his piggul intention in connection with any of the other animals.

(8) If the Priest declares a piggul intention at the slaughtering, though he thereby invalidates the sacrifice, yet the following sprinklings are counted as the presenting of its mattirin. Thus they are obviously efficacious to stamp the animal as piggul, for otherwise an animal could not become piggul at slaughtering, whereas it is deduced supra 13a that it does. In the same way then R. Meir holds that when some of the sprinklings are done with a piggul intention, the subsequent sprinklings count as the presenting of the mattirin, so as to make the sacrifice piggul.

(9) Supra a top.

(10) But each is sprinkled separately, which gives an additional four, bringing up the number to forty-seven.

(11) Hence it is regarded as another sprinkling.

(12) V. supra 40b.

(13) That a meal-offering becomes piggul at one service.

(14) Where each service consists of a single act.

(15) R. Meir maintains that it is piggul. Here his second act was not done with the same intention as the first, since he was silent at the first. Hence R. Meir's reason must be because he holds that one can make the sacrifice piggul during half a mattir.

(16) In another Baraitha.

(17) He presented the frankincense with a piggul intention.

Talmud - Mas. Zevachim 43a

THE PRIESTS’ MEAL-OFFERING, THE ANOINTED PRIEST'S MEAL-OFFERING, THE BLOOD, AND THE DRINK-OFFERINGS THAT ARE BROUGHT SEPARATELY: THAT IS THE VIEW OF R. MEIR. THE SAGES MAINTAIN: ALSO THOSE THAT ARE BROUGHT WITH AN ANIMAL [SACRIFICE].[1] A LEPER'S LOG[2] OF OIL,[3] R. SIMEON MAINTAINED, DOES NOT INVOLVE LIABILITY ON ACCOUNT OF PIGGUL;[4] WHILE R. MEIR RULES: IT INVOLVES LIABILITY ON ACCOUNT OF PIGGUL, BECAUSE THE BLOOD OF THE

GUILT-OFFERING MAKES IT PERMITTED.[5] AND WHATEVER HAS AUGHT THAT MAKES IT PERMITTED,[6] WHETHER FOR MAN OR FOR THE ALTAR, INVOLVES LIABILITY ON ACCOUNT OF PIGGUL. [THE SPRINKLING OF] THE BLOOD OF THE BURNT-OFFERING PERMITS ITS FLESH FOR [BURNING ON] THE ALTAR, AND ITS SKIN TO THE PRIESTS. THE BLOOD OF THE BURNT-OFFERING OF A BIRD PERMITS ITS FLESH TO THE ALTAR. THE BLOOD OF THE SIN-OFFERING OF A BIRD PERMITS ITS FLESH TO THE PRIESTS. THE BLOOD OF THE BULLOCKS THAT ARE BURNT AND THE GOATS THAT ARE BURNT PERMITS THEIR EMURIM TO BE OFFERED [ON THE ALTAR]. R. SIMEON SAID: WHATEVER IS NOT [SPRINKLED] ON THE OUTER ALTAR, AS THE PEACE-OFFERING,[7] DOES NOT INVOLVE LIABILITY ON ACCOUNT OF PIGGUL.

GEMARA. ‘Ulla said: If the fistful [of the meal-offering], which is piggul, is presented on the altar, its piggul status leaves it:[8] seeing that it reduces others to [the state of] piggul, how much the more so itself. What does he mean?[9] — This is what he means: if it is unacceptable,[10] how can it reduce others to [the state of] piggul?[11]

What does he inform us?[12] If that it does not involve liability for piggul, Surely we have learnt it: THESE ARE THE THINGS FOR WHICH ONE IS NOT LIABLE ON ACCOUNT OF PIGGUL: THE FISTFUL, THE INCENSE, THE FRANKINCENSE, THE PRIESTS MEAL-OFFERING, THE ANOINTED PRIEST'S MEAL-OFFERING, AND THE BLOOD? — Rather, [he informs us] that if it ascended [the altar], it does not descend.[13] But we have learnt it: [Flesh] that is kept overnight, or that goes out [of its permitted boundaries], or which is unclean, or which was slaughtered [with the intention of being consumed] after time or without bounds, if it ascended [the altar], does not descend?[14] — Rather, [he informs us] that if it was taken down [from the altar],[15] it must be taken up [again]. But surely we have learnt:[16] Just as it does not descend once it had ascended, so it does not ascend after having descended![17] — That [Ulla's teaching] is only when the fire [of the altar] has taken hold of it.[18] But this too ‘Ulla has already stated once? For ‘Ulla said: They learnt this only where the fire had not taken hold of it; but if the fire had taken hold of it, it must go up [again]! — You might think that this holds good only of

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(1) If the sacrifice is made piggul and one eats these things enumerated here, he is not liable to piggul. E.g., if the priest took off the fistful with the intention of eating the remainder on the morrow, he thereby renders the whole sacrifice piggul; nevertheless he incurs no liability for eating the fistful itself. For piggul applies only to that which is permitted through something else (e.g., the rest of the meal-offering is ordinarily permitted for consumption through the taking of the fistful), whereas the fistful is not permitted through anything else. The same applies to the incense, the frankincense, and the others enumerated in the Mishnah. — Votive meal-offerings brought by ordinary priests and the statutory bi-daily offerings of the anointed priest (v. Lev. VI, 13 seq.) were wholly burnt on the altar without the rite of taking the fistful; thus they were not permitted by anything else. Drink-offerings could be brought separately or as an accompaniment to animal sacrifices. R. Meir rules that whether they are brought entirely by themselves, nothing else having been vowed, or they are brought actually as an addition to an animal sacrifice, but on the following day, they do not involve liability for piggul, because in that case they are not permitted through something else (the sacrificing of the animal), but through themselves. If however they are brought at the same time as the animal, they are permitted through the sacrificing of same, and therefore involve kareth. The Sages however maintain that even then we do not regard them as permitted through the animal sacrifice, since they could have been presented separately on the morrow.

(2) A liquid measure = 549.391338 cu. centimeters (J.E. art. ‘Weight — Measures’, Vol. XII. pp. 483 2 and 490, Table).

(3) Lev. XIV, 10, 15-18. The residue of this was consumed.

(4) If the priest rendered the guilt-offering which it accompanied piggul, one is not liable to kareth for consuming the oil. Though the efficacy of the oil rite is dependent on the prior application of the blood of the guilt-offering on the leper, nor may it be consumed unless the blood of the offering was duly sprinkled; nevertheless since the oil can be brought ten days after the offering, it is not regarded as permitted for consumption through it, and therefore does not involve kareth on account of piggul even when the oil is brought on the same day.

(5) Where it is brought on the same day, to which case R. Meir refers.

(6) As explained in n. 4, p. 213.
(7) Where the law of piggul is stated.
(8) The Talmud explains this anon.
(9) This reason is apparently why it should retain its status as piggul.
(10) If it is not fit for burning on the altar because it is piggul.
(11) And so, if one burns the fistful with the intention of consuming the remainder on the morrow, how can the meal-offering become piggul if we do not regard the burning of the fistful as a valid act, seeing that a sacrifice cannot become piggul unless its mattirin are offered (supra 42b)? Hence we must say that the fistful loses its piggul status, so that by its burning on the altar the mattirin are duly offered, and for that reason the remainder becomes piggul. This is then what he means: seeing that it is acceptable (a valid service) in point of making the rest fit to be piggul, it is surely acceptable in respect of itself!
(12) In respect of what law does it lose its piggul status?
(13) It loses its piggul status insofar that once it is taken up on to the altar it remains there, and we do not remove it as piggul.
(14) And this includes an instance of piggul.
(15) After having been placed on it.
(16) Emended text (Sh. M).
(17) Though it should not have been taken down in the first place:
(18) Then, even if it is taken down, it must be taken up again. Whereas the Baraitha refers to a case where the fire had not yet taken hold of it.

Talmud - Mas. Zevachim 43b

a limb, which is all one; but as for the fistful, which is divisible, I would say [that it is] not [so].[1] Therefore he informs us [otherwise]. R. Ahai said: Therefore, when half of the fistful, which is piggul, is lying on the ground, and half has been taken up on the wood-pile [on the altar], and the fire has taken hold of it, we must take up the whole of it, even at the very outset.

R. Isaac said in R. Johanan's name: If piggul, nothar, or unclean [flesh] is taken up to the altar, their forbidden status leaves them. Said R. Hisda: O author of this [statement]! Is then the altar a ritual bath of purification! — Said R. Zera: [This law applies] where the fire has taken hold of it.[2]

R. Isaac b. Bisna objected: Others[3] say: [When Scripture writes, But the soul that eateth of the flesh of the sacrifice of peace-offerings . . .] having his uncleanness upon him [that soul shall be cut off from his people],[4] [it implies] one whose uncleanness can leave him, thus excluding flesh, whose uncleanness cannot leave it.[5] But if this is correct,[6] surely the uncleanness does leave it, through the fire? — Said Raba: We mean, through a mikweh.[7] Is then a mikweh written [in the text]? — Rather said R. Papa: We are dealing with the flesh of peace-offerings, which is not eligible for presenting [on the altar].[8] Rabina said: ‘Having his uncleanness upon him’ implies, one whose uncleanness leaves him while he is yet whole; thus flesh is excluded, because uncleanness does not leave it while it is whole, but only when it is defective.[9]

[To turn to] the main text: ‘Having his uncleanness upon him’: Scripture speaks of uncleanness of the person. You say, Scripture speaks of uncleanness of the person: yet perhaps it is not so, but rather of uncleanness of the flesh? Here ‘having his uncleanness [upon him]’ is said; while elsewhere it says, his uncleanness is yet upon him:[10] as there Scripture speaks of uncleanness of the person, so here too Scripture speaks of uncleanness of the person. R. Jose said: Since the ‘holy things’ are mentioned, in the plural, whilst ‘uncleanness’ is stated in the singular, Scripture must refer to uncleanness of the person.[11] Rabbi said: ‘And eat’ [shews that] Scripture speaks of uncleanness of the person.[12] Others say: ‘Having his uncleanness upon him’ [implies] one whose uncleanness leaves him, thus excluding flesh, whose uncleanness cannot leave it.

A Master said: ‘Rabbi said: "And eat" [shews that] Scripture speaks of uncleanness of the person.’ How does this imply it?[13] — Said Raba, Every text which R. Isaac b. Abudimi, and every Mathnitha [Baraitha] which Ze'iri did not explain, are not explained. Thus did R. Isaac b. Abudimi say: Since the Writ commences in the feminine form and ends in the feminine, while [it employs] the masculine form in the middle, the Writ must speak of uncleanness of the person.[14]

‘A Mathnitha’?[15] — For it was taught: If the lighter ones were stated, why were the more stringent ones stated; and if the more stringent ones were stated, why were the lighter ones stated?[16] If the lighter ones were stated and not the more stringent ones, I would say: The lighter ones involve a negative injunction,[17] and the more stringent ones involve death;[18] therefore the more stringent ones are stated.[19] While if the more stringent were stated and not the lighter, I would say: The stringent ones involve culpability, but the lighter ones do not involve culpability at all; therefore the lighter ones are stated.

Now, what are the lighter ones and the more stringent ones? Shall we say [that] the lighter ones are the tithe, and the more stringent ones are terumah?[20] [Can you then say,] ‘I would say: The more stringent ones involve death’? Surely now it too involves death![21] Moreover, if it were not stated, would I say that it involves death? Surely it is sufficient for the conclusion to be as its premise?[22] Again if ‘the lighter ones’ mean uncleanness of a reptile, and ‘the more stringent ones’ uncleanness of a corpse,[23] to what then [does it refer]?[24] If to terumah? both involve death![25] Moreover, [can you say,] ‘Therefore the more stringent ones are stated, [to teach] that they involve a negative injunction [only]?’ but surely it involves death? Whilst if it refers to the eating of tithe,

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(1) Only the flour which has actually been burnt through must be taken up again, but not the rest.

(2) Then it belongs, as it were, to the altar.

(3) This usually refers to R. Meir; Hor. 13b.

(4) Lev. VII, 20.

(5) The Heb. we-tumatho ‘alaw might mean, having its uncleanness upon it, and thus imply that a clean person who partakes of the unclean flesh of a sacrifice incurs koreth. It is explained, however, that the phrase implies that the uncleanness is in force only now and that it can be raised; hence it must refer to the person, not to the flesh, which once unclean can never become clean again.

(6) That when unclean flesh is carried up to the altar and the fire takes hold of it, it loses its forbidden status.

(7) V. Glos.

(8) But is eaten; hence it can never become clean.

(9) I.e., when the fire has already partially destroyed it.

(10) Num. XIX, 13. Emended text.

(11) Sh. M.: Scripture writes, Whosoever . . . approacheth unto the holy things . . . having his uncleanness upon him, that soul shall be cut off from before Me (Lev. XXII, 3). Now there it cannot refer to the sacrifices, for in that case the plural, having their uncleanness upon them would be required. Hence it must refer to the person, and therefore the same is assumed here.

(12) Ibid. VII, 21. The verse reads: And when any one shall touch any unclean thing... and eat of the flesh of the sacrifice of peace-offerings. That verse obviously refers to uncleanness of the person, and thus it illumines the previous verse (v. 20), shewing that that too refers to the same.

(13) That the previous verse too refers to the same. Perhaps the previous verse treats of uncleanness of the flesh.

(14) The second verse (v. 21) writes: And when any one (Heb. nefesh, lit. ‘soul’, fem.) shall touch (Heb. tiga’, fem.) any unclean thing . . . and eat (we-akal, masc. instead of we-aklah, fem.) of the flesh of the sacrifice of peace-offerings, that soul shall be cut off (we-nikrethah, fem.). The preceding verse (v. 20) runs: But the soul (fem.) that eateth (fem.) of the flesh (masc.) . . . having his (or its) uncleanness upon him (or it) masc.), that soul shall be cut off (fem.) Since the suffixes of ‘uncleanness’ and ‘upon’ are masc., it might be assumed that they refer to ‘flesh’ which is masc. But when we see the same change of gender in the following verse, though that obviously refers to the uncleanness of the person, it is reasonable to say the same here. For Scripture has already treated of uncleanness of the flesh earlier in the section: And the flesh that toucheth any unclean thing, shall not be eaten; it shall be burnt with fire (v. 19). It continues with, And as for the flesh, any one that is clean may eat thereof, which indicates that unclean flesh is no longer being dealt with. Hence when it proceeds, But the soul that eateth . . . having his uncleanness upon him, it is logical to assume that uncleanness of the person is referred to, in suite of the change of gender.

(15) Which mathnitha required Ze'iri's explanation?

(16) This treats of the interdict of eating sacred food while personally unclean. By ‘lighter’ and ‘more stringent’ are meant food of lighter and of more stringent sanctities respectively. The Talmud explains anon which these are.

(17) Which is punishable by flagellation.

(18) At the hands of heaven.

(19) To shew that these too involve a negative injunction only.

(20) V. Lev. XXII, 6f: The soul that toucheth any such (unclean reptiles etc.) shall be unclean until the even, and shall not eat of the holy things, unless he bathe his flesh in water. And when the sun is down, he shall be clean; and afterwards he may eat of the holy things. These two verses are apparently contradictory, for the first implies that he may eat of the ‘holy things’ immediately after a ritual bath, even before sunset, while the second teaches that even after the ritual bath he must wait until sunset. Therefore the Rabbis (in Yeb. 74b) made the first refer to tithe, whose sanctity is lighter, and the second to terumah, whose sanctity is more stringent. Its greater stringency lies in the fact that a zar (a lay Israelite) may not partake of terumah, whereas he may partake of tithe. Scripture then goes on to say in v. 9: They (i.e. the priests) shall therefore keep My charge, lest they bear sin for it, and die therein, if they profane it. This is understood to mean that an unclean priest eating terumah is liable to death (v. n. 4.).

(21) Scripture does in fact teach that for partaking of terumah whilst unclean one is liable to death.

(22) This is a general principle: when one thing is learnt from another, a fortiori or a minori, it cannot go further than its premise. Now, if terumah were not stated, it could be learnt from tithe, a minori. But it could not involve a greater punishment than tithe, which is subject to a negative injunction only.

(23) I.e., ‘lighter’ and ‘more stringent’ apply not to the ‘holy things’ (the sacred food) but to the source of the priest's defilement. Both are enumerated in that passage, viz.: And whoso toucheth any one that is unclean by the dead . . . or whosoever toucheth any swarming thing (i.e. a reptile) Lev. XXII, 4-5.

(24) To the eating of which sacred food?

(25) Whether a priest is unclean in the one way or the other, he is liable to death for eating terumah.

Talmud - Mas. Zevachim 44a

[can you say,] ‘If the more stringent ones were not stated, I would say that the more stringent ones involve death’?[1] but Surely it would be derived from the uncleanness of a reptile, and it is sufficient for the conclusion to be as the premise![2] — Said Ze'iri: The ‘lighter ones are uncleanness of a reptile, while ‘the more stringent ones are uncleanness through a corpse, and this is what [the Tanna] means: If uncleanness of a reptile were stated, and tithe and terumah were enumerated, but uncleanness of a corpse were not stated, I would say: The lighter [defilement] involves a negative injunction in respect of the lighter [‘holy things’], and death in respect of the more stringent.[3] And since the lighter [defilement] involves death in respect of the more stringent [‘holy things’], the more stringent [defilement] too involves death in respect of the lighter [‘holy things’]. Therefore the more stringent [defilement] is stated.

WHATEVER HAS AUGHT THAT MAKES IT PERMITTED, WHETHER FOR MAN OR FOR THE ALTAR, INVOLVES LIABILITY ON ACCOUNT OF PIGGUL. Our Rabbis taught: . . . Or perhaps it includes only that which is similar to a peace-offering: as a peace-offering is distinguished in that it is eaten two days and one night, so all that may be eaten two days and one night [are included] .[4] How do we know that that which is eaten a day and a night [only, is also included]? Because Scripture saith, [And if any] of the flesh [of the sacrifice of his peace-offerings etc.],[5] [which includes] all whose remainder is eaten.[6] How do we know [that] a burnt-offering, whose remainder is not eaten, [is included]? Because Scripture says ‘the sacrifice’.[7] Whence do we know to include the bird-offerings and meal-offerings, until l can include a leper's log of oil? From the text, ‘which they hallow unto Me’: nothar is then learned from uncleanness, because ‘profanation’ is written in connection with both; and piggul is learned from nothar, because iniquity is written in connection with both.[8] Now, since it [Scripture] ultimately includes all things, why then are peace-offerings specified? To teach you: as a peace-offering is distinguished in that it has something which permits it both for man and for the altar, so everything which has something which permits it both for man and for the altar involves liability on account of piggul. [The sprinkling of] the blood of a burnt-offering permits its flesh for [burning on] the altar, and its skin to the priests. The blood of a bird burnt-offering permits its flesh for the altar. The blood of a bird sin-offering permits its flesh to the priests. The blood of the bullocks that are burnt and the goats that are burnt permits their emurim to be offered [on the altar]. And I exclude the fistful, the frankincense, the incense, the priests' meal-offering, the anointed priest's meal-offering, and the blood. R. Simeon said: As a peace-offering is distinguished in that it comes on the outer altar [for sprinkling], and it involves liability; so all that come on the outer altar involve liability on account of piggul; thus the bullocks which are burnt and the goats which are burnt are excluded; since they do not come on the outer altar, like the peace-offering, they do not involve liability.

The Master said: ‘That which is similar to a peace-offering’. What [sacrifice] is it? The firstling, which is eaten two days and one night! But how is this learnt? If by analogy? it can be refuted: as for a peace-offering, [it is subject to the law of piggul] because it requires laying [of hands], [the accompaniment of] drink-offerings [libations], and the waving of the breast and the shoulder?[9] Again if [it is learnt] from [the text], And if there be at all eaten [any of the flesh of the sacrifice of his peace-offerings on the third day . . . it shall be an abhorred thing] [piggul],[10] these are two generalisations which immediately follow each other?[11] — Said Raba: It is as they say in the West:[12] Wherever you find two generalisations close to each other, insert the specific proposition between them, and interpret them as a case of a generalisation followed by a specific proposition [and followed again by a generalisation].[13]

‘Until I include a leper's log of oil’. With whom does that agree? With R. Meir. For it was taught: A leper's log of oil involves liability on account of piggul: that is the opinion of R. Meir. Then consider the next clause: And I exclude the meal-offering of libations and the blood. This agrees with the Rabbis. For it was taught: The drink-offering which accompanies an animal [sacrifice] involves liability on account of piggul, because the blood of the sacrifice permits it to be offered [on the altar]: that is R. Meir's view. Said they to him: But a man can bring his sacrifice to-day and the drink-offering even ten days later! I too, he answered them, ruled [thus] only when they come together with the sacrifice! — Said R. Joseph: The author of this is Rabbi, who maintained [that] the applications of the leper's log of oil permit it,[14] and since its sprinklings permit it, its sprinklings render it piggul. For it was taught: You commit trespass in respect of a leper's log of oil until the blood is sprinkled; once the blood is sprinkled, you may not use it, and you do not commit trespass. Rabbi said: You commit trespass until its sprinklings are made. And both agree that it may not be eaten until its seven sprinklings and the applications on the thumbs are made.[15]

This was reported before R. Jeremiah, [whereupon] he exclaimed, That a great man like R. Joseph should say such a thing!

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(1) I.e., for eating tithe while unclean through a corpse one is liable to death.

(2) Hence as a negative injunction only is involved in eating tithe whilst unclean through a reptile, so it is likewise in eating tithe while unclean through the dead.

(3) As Scripture states.

(4) The law of piggul is stated in Scripture in reference to a peace-offering only. The present quotation, which is fragmentary, commences thus: You might think that only a peace-offering involves liability for piggul; how do we know that other sacrifices too are included in this law? Because Scripture says in reference to uncleanness: Speak unto Aaron and to his sons, that they separate themselves from the holy things of the children of Israel, which they hallow unto Me, and that they profane not My holy name (Lev. XXII, 2). This applies to all sacrifices, since the peace-offering is not specified, and an analogy is drawn anon between defilement and piggul, and thus other sacrifices too are included in the law of piggul. The passage then proceeds as in the text: perhaps only these sacrifices which are similar to a peace-offering are included etc., but not such sacrifices e.g., a sin-offering, or a thanks-offering, which are eaten only on the day they are sacrificed and the night following.

(5) Lev. VII, 18. This treats of piggul. 'Of the flesh' is superfluous, since Scripture could say, And if any of his peace-offerings, etc.; hence it is treated as an extension.

(6) The remainder after the fats etc. are burnt on the altar.

(7) In the text just quoted. That too is superfluous, and therefore extends the law to every sacrifice.

(8) Uncleanness, as quoted p. 219, n. 7; nothar: But every one that eateth it shall bear his iniquity, because he hath profaned the holy thing (same root as 'hallow') of the Lord (Lev. XIX, 8). As the interdict of defilement applies to all sacrifices, so does that of nothar. Then the scope of piggul is learnt from nothar, because 'iniquity' is written in connection with both: nothar, in the text just quoted; piggul: it shall be an abhorred thing (piggul), and the soul that eateth of it shall bear his iniquity (Lev. VII, 18): as the interdict of nothar applies to all sacrifices, so does that of piggul.

(9) Whereas a firstling does not require these.

(10) Lev. VII, 18. The E.V. has been slightly departed from so as to follow the exact order of the Hebrew, which comes under discussion. The Heb. for 'be at all eaten' is heakel yeakel, i.e., the infinitive of the verb followed by the finite form, which is the usual mode of expression. The Talmud now interprets the two forms as two generalisations (anything which is eaten), while 'peace-offerings' is a specific proposition. In that case it is a rule of exegesis that the generalisation includes everything which is similar in its general features (even if not in every detail) to the specific proposition. Hence the firstling is included, as generally speaking it is similar to the peace-offering, in spite of differing from it in several details.

(11) Whereas the exegetical rule applies to two generalisations which are separated by the specific proposition.

(12) Sc. Palestine, which lay to the west of Babylon.

(13) Hence the firstling would be included, but not sacrifices which are eaten one day only, since these differ even in the general features (the difference in length of time allowed for eating is an important one). Therefore recourse must be had to the other texts.

(14) V. Lev. XIV, 16 seq. Now, Rabbi agrees with the Rabbis that since the drink-offering can be brought after the animal sacrifice which it accompanies, the blood of the sacrifice cannot render it piggul. And when the Baraitha teaches that the log of oil can be piggul, it does not mean that the blood of the guilt-offering which the leper brings renders it piggul, but the sprinklings of the oil itself do effect this: i.e., if he sprinkles the oil with the intention of consuming the remainder after time.

(15) On trespass v. p. 176, n. 10. Now, the log of oil may not be consumed until the blood is sprinkled; therefore until then it is sacred, and if one does consume it, he commits trespass. When the blood has been sprinkled, the oil is Scripturally permitted to the priests, and this Tanna holds that whatever is permitted to the priests does not involve trespass even for a zar (lay Israelite). Nevertheless, by Rabbinical law its consumption is forbidden until the seven sprinklings of the oil. Rabbi holds that it is even Scripturally forbidden until then, and therefore it still involves trespass. But they both agree that it is forbidden by Rabbinical law until all its sprinklings have been made. — From this passage we see that Rabbi holds that the oil is permitted for consumption not by the blood of the sacrifice, but by its own sprinklings.

Talmud - Mas. Zevachim 44b

Lo, all agree that when the log comes separately,[1] its sprinklings permit it, and yet they do not render it piggul. For it was taught, A leper's log of oil involves liability on account of piggul, because the blood permits it for [sprinkling on] the thumbs: that is R. Meir's view. Said they to R. Meir: But a man can bring his guilt-offering now, and his log even ten days later! I too, he answered them, ruled [thus] only when it comes with the guilt-offering! — Rather said R. Jeremiah: In truth it agrees with R. Meir, but delete 'drink-offerings' from this passage. Abaye said: After all, you need not delete [it]. But he [first] teaches about the log which comes with the guilt-offering,[2] and the same applies to the drink-offering which comes with the sacrifice. And then he teaches about the drink-offering which comes separately,[3] and the same applies to the log which comes separately.

THE BLOOD OF THE BIRD SIN-OFFERING PERMITS ITS FLESH TO THE PRIESTS.

Whence do we know it?[4] — For Levi taught: [This shall be thine — the priest's . . .] every offering of theirs:[5] that is to include a leper's log of oil. I might think that the Divine Law wrote, reserved from the fire,[6] whereas this is not reserved from the fire;[7] therefore it informs us [that it is not so]. Even every meal-offering of theirs[8] includes the meal-offering of the ‘omer[9] and the meal-offering of jealousy.[10] I might think [that it is written,] And they shall eat these things wherewith atonement was made,[11] [whereas] the meal-offering of the ‘omer comes to permit [the new corn], while the meal-offering of jealousy comes to establish guilt; therefore [the text] informs us [that it is not so]. And every sin-offering of theirs[12] includes the sin-offering of a bird. I might think that it is nebelah;[13] therefore [the text] informs us [that it is not so]. And every guilt-offering of theirs[12] includes a nazirite's guilt-offering and a leper's guilt-offering. I might think that these come to qualify [them];[14] therefore [the text] informs us [that it is not so]. But it is explicitly written that a leper's guilt-offering [is eaten]?[15] Rather it is to include a nazirite's guilt-offering [teaching that it is like] a leper's guilt-offering. Which they may render[16] includes what is taken by robbery from a proselyte.[17] Shall be for thee:[16] it shall be thine even for betrothing a woman.[18]

It was taught, R. Eleazar said on the authority of R. Jose the Galilean:[19] If [the priest] declared a piggul intention in respect of a rite which is performed without,[20] he renders it piggul; in respect of a rite which is performed within,[21] he does not render it piggul. How so? If he stood without and declared, ‘Lo, I slaughter [this sacrifice intending] to sprinkle its blood to-morrow,’ he does not render it piggul because it is an intention [expressed] without concerning a rite which is performed within.[22] If he stood within and declared, ‘Lo, I sprinkle [the blood], intending to burn the emurim and pour out the residue[23] to-morrow,’ he does not render it piggul, because it is an intention [expressed] within concerning a rite which is performed without. If he stood without and declared, ‘Lo, I slaughter [this sacrifice intending] to pour out the residue to-morrow , or ‘to burn the emurim to-morrow,’ he renders it piggul, because it is an intention [expressed] without concerning a rite which is performed without. R. Joshua b. Levi said: Which text [teaches this]? As is taken from the ox of the sacrifice of peace-offerings.[24] What then do we learn from the ox of the sacrifice of peace-offerings?[25] [Scripture] however likens the anointed priest's bullock to the ox of the sacrifice of peace-offerings: as the ox of the sacrifice of peace-offerings [does not become piggul] unless its rites and its intentions are [done] on the outer altar,[26] so the anointed priest's bullock [does not become piggul] unless its intentions and its rites are [done] in connection with the outer altar. R. Nahman said in Rabbah b. Abbuha's name in Rab's name: The halachah is as R. Eleazar's ruling in the name of R. Jose. Said Raba:

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(1) I.e., when the leper brings it some days after his guilt-offering.

(2) That the blood of the guilt-offering can render it piggul, though he could have brought the log later.

(3) That this cannot become piggul.

(4) That its flesh may be eaten.

(5) Num. XVIII, 9.

(6) Ibid.

(7) No portion of it was burnt at all.

(8) Ibid.

(9) V. Glos., and Lev. XXIII, 10-14.

(10) V. Num. V, 12-15.

(11) Ex. XXIX, 33.

(12) Num. XVIII, 9.

(13) V. Glos. The bird-offering was killed by wringing its neck (Lev. I, 14-15), whereas ordinary shechitah (ritual killing) consists of cutting the windpipe and the gullet. — Nebelah of course may not be eaten.

(14) A nazirite's guilt-offering qualifies him to recommence his naziriteship after becoming unclean, while a leper's guilt-offering qualifies him to partake of holy food (v. Num. VI, 9-12, Lev. XIV, where the whole ceremony of purification is described). Thus they do not come to make atonement.

(15) Lev. XIV, 13: for as the sin-offering is the priest's, so is the guilt-offering.

(16) Num. XVIII, 9.

(17) If a man robs a proselyte, commits perjury in denying it, and then confesses, he must return what he robbed to the proselyte, plus a fifth, and also bring a guilt-offering. But if the proselyte died in the meantime and left no heirs, the principal and the fifth belong to the Priest (v. B.K. 110a), and this is taught by the present exegesis.

(18) Which was done with money or its value. — This last refers only to the robbery of a proselyte.

(19) Sh. M. deletes 'the Galilean'.

(20) I.e., in the Temple court.

(21) In the hekal.

(22) This passage deals with the bullocks and he-goats which were burnt, about which there is a controversy in the Mishnah. Their blood was sprinkled on the inner altar in the hekal.

(23) Both were done at the outer altar.

(24) Lev. IV, 10. This refers to the anointed priest's bullock, which was burnt. After describing its rites, including the removal of the fat, Scripture proceeds, (This shall be) as (the fat which) is taken etc.

(25) The rites of removing the fat etc. are exactly described: what then does Scripture teach?

(26) I.e., unless the intention to perform its rites or to eat the flesh after time is expressed in connection with and during the performance of a rite on the outer altar-since all its rites were on the outer altar.

Talmud - Mas. Zevachim 45a

[Do we need] a halachah [for the days of] the Messiah?[1] — Abaye answered: If so, we should not study the whole of 'The slaughtering of sacrifices'?[2] Yet we say, study and receive reward;[3] so in this case too, study and receive reward. [He replied] This is what I mean: Why [state] a halachah?[4] Another version: He replied, I mean, [Why state the] halachah?[5] MISHNAH. THE SACRIFICES OF HEATHENS[6] DO NOT INVOLVE LIABILITY ON ACCOUNT OF PIGGUL, NOTHAR, OR DEFILEMENT, AND IF [A PRIEST] SLAUGHTERS THEM WITHOUT [THE TEMPLE], HE IS NOT LIABLE: THAT IS R. SIMEON'S VIEW. BUT R. JOSE DECLARES HIM LIABLE.

GEMARA. Our Rabbis taught: You may neither benefit from the sacrifices of heathens,[7] nor do you commit trespass;[8] and they do not involve liability on account of piggul, nothar or defilement. And they [the heathens] cannot effect substitution;[9] and they cannot bring drink-offerings,[10] but their [animal] sacrifices require drink-offerings [to accompany them]: that is the view of R. Simeon.[11] Said R. Jose: I hold that a stringent view should be taken on all these matters,[12] because it is said of them, [Any man . . . that bringeth his offering . . .] unto the Lord.[13] This applies only to sacrifices of the altar;[14] but in the case of objects sacred to the Temple repair,[15] one does commit trespass. 'You may neither benefit nor do you commit trespass:' You may not benefit by Rabbinical law. 'Nor do you commit trespass,' because in respect of the trespass-offering identity of law is derived from the fact that 'sin' is written here and in the case of terumah:[16] while in respect to terumah 'the children of Israel' is written,[17] [which intimates,] but not [those of] heathens.

'And they do not involve liability on account of piggul, nothar or defilement.' What is the reason? — Because the scope of piggul is derived from nothar, since 'iniquity' is written in connection with both, and the scope of nothar is derived from defilement, because 'profanation' is written in connection with both; while in respect to defilement 'the children of Israel' is written,[18] [which intimates,] but not [those of] heathens.

'And they cannot effect substitution.' What is the reason? — Because substitution is assimilated to the tithe of cattle,[19] and cattle tithe is assimilated to corn tithe,[20] while 'the children of Israel' is written in connection with corn tithe,[21] [which intimates,] but not that of heathens. Can then that which is learnt through a hekkesh in turn teach through a hekkesh?[22] — Corn tithe is hullin.[23] That is well on the view that the teacher is the determining factor; but on the view that the taught is the determining factor, what can be said?[24] — Rather, cattle tithe is an obligation for which there is no fixed time, and as it is an obligation for which there is no fixed time, it is brought by Israelites, but not by heathens.[25]

'And they cannot bring drink-offerings.' Our Rabbis taught: [Scripture saith,] [All that are] home-born [shall do these things after this manner:][26] the home-born can bring drink-offerings but a heathen cannot bring drink-offerings. You might think then that his burnt-offering does not require a drink-offering;[27] therefore Scripture teaches, Thus [shall be done for each bullock etc.].[28]

'Said R. Jose: I hold that a stringent view should be taken on all these matters. This applies only to sacrifices of the altar etc.' What is the reason? — He holds that when [the scope of] trespass is derived from terumah, because 'sin' is written in connection with both, [it applies only to that which is] like terumah, whose holiness is intrinsic;[29] but not to the sanctity of the Temple repair, which is [but] monetary sanctity.[30]

Our Rabbis taught: If blood was defiled, and [the priest] sprinkled it unwittingly, it [the sacrifice] is accepted;

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(1) Since the Temple no longer stands there is no practical utility in this ruling, which can become effective only in the days of the Messiah, when the Temple is rebuilt.

(2) I.e., the present Tractate.

(3) Learning for its own sake is meritorious.

(4) While it is right to study the subject, the fixing of a halachah is unnecessary.

(5) Why state the accepted practice when sacrifices are obsolete? Apart from the slight verbal variants in the two versions as indicated by the square brackets, in the first version the Aramaic hilketha is used, in the second the Hebrew halachah is used.

(6) Their votive offerings to the Temple.

(7) Before the blood is sprinkled, just as is the case of all sacrifices.

(8) V. p. 176, n. 10.

(9) V. p. 22, n. 8. If the owner is a heathen, he cannot effect substitution in the sense of making the second animal holy.

(10) Unless they accompany an animal sacrifice. Whereas Israelites can do so (Men. 104b).

(11) Possibly 'that . . . R. Simeon' should be deleted.

(12) The sacrifices of heathens should be treated as stringently as those of Israelites.

(13) Lev. XXII, 18. In Hul. 13b this verse is made to include the sacrifices of heathens; thus these too are 'unto the Lord' just as those of Israelites, and therefore they must be treated with equal severity.

(14) I.e., unblemished animals, which will be sacrificed on the altar.

(15) This is the technical designation of anything which is dedicated to the Temple, whether it be a blemished animal which cannot be sacrificed or any other object; it is then used for some Temple purpose.

(16) Trespass: If a soul commit a trespass, and sin through ignorance in the holy things of the Lord (Lev. V, 15); terumah: Lest they bear sin for it (Ibid. XXII, 9).

(17) Ibid. 15: And they shall not profane the holy things of the children of Israel.

(18) Lev. XXII, 2: Speak unto Aaron and to his sons, that they separate themselves (when unclean) from the holy things of the children of Israel.

(19) Ibid. XXVII, 32f: And all the tithe of the herd or the flock . . . the tenth shall be holy unto the Lord. He shall not . . . change it etc. Thus substitution of sacrifices in general, to which the second verse refers, is made part of the law of substitution of tithe.

(20) Deut. XIV, 22: Thou shalt surely tithe all the increase of thy seed. The emphatic 'thou shalt surely tithe' is expressed in Heb. as usual by the repetition of the verb; this repetition is Talmudically interpreted as referring to two tithes, cattle-tithe and corn-tithe. Thus they are assimilated to each other by being included in the same text.

(21) Num. XVIII, 26: When ye take of the children of Israel the tithe which I have given you.

(22) It is only by analogy with corn-tithe that we learn that the law of cattle does not operate in respect of the cattle of heathens. Can that in turn teach that the law of substitution does not operate in respect of heathens' sacrifices?

(23) And only in the case of holy things is this exegesis not permitted.

(24) The 'teacher' is corn-tithe, which throws light on 'cattle-tithe', which is the 'taught'. Here the 'teacher' is hullin, whereas the ‘taught’ is holy: if the ‘teacher’ is the determining factor, then the ‘teacher’ is indeed hullin and the exegesis is permitted; but if the ‘taught’ is the determining factor, then the ‘taught’ is holy, and so that exegesis is not allowable.

(25) As they can bring only votive offerings. — They do not bring obligatory offerings for which there is a fixed time either e.g., the festival peace-offerings. Nevertheless this is not mentioned, since they can bring peaceofferings in general; but the law of cattle-tithe does not apply to them at all.

(26) Num. XV, 13. ‘These things’ refers to the rites enumerated in the preceding passage, which includes the bringing of drink-offerings.

(27) To accompany it, as does the burnt-offering of an Israelite.

(28) Ibid. 11. Thus Scripture makes the sacrifice, not the donor, the determining factor.

(29) Terumah itself is holy and must be treated as such, similarly the sacrifices of the altar.

(30) When an object is dedicated to the Temple repair fund, that object itself is sacred only in so far that it must be redeemed and the redemption money expended on sacred purposes. But when it is redeemed it loses its sanctity.

Talmud - Mas. Zevachim 45b

if deliberately, it is not accepted.[1] This was said only of a private sacrifice, but a public sacrifice, whether done unwittingly or deliberately, is accepted. But a heathen [‘s sacrifice], whether it is done unwittingly or deliberately, is not accepted. Now, the Rabbis stated the following in R. Papa's presence: With whom does this agree? Not with R. Jose, for if [it agrees with] R. Jose, surely he said: I hold that a stringent view should be taken on all these matters?[2] Said R. Papa to them: You may even say [that it agrees with] R. Jose: there it is different, because Scripture says, [that it may be accepted] for them [before the Lord]:[3] for them, but not for heathens. Said R. Huna the son of R. Nathan to R. Papa: If so, [when Scripture says,] [Speak unto Aaron and to his sons, that they separate themselves from the holy things of the children of Israel] which they hallow unto Me,[4] does that also mean: They, but not heathens?[5] — Rather said R. Ashi: Scripture says, ‘that it may be accepted for them’, whilst heathens are not subject to ‘acceptance’.

MISHNAH. THE THINGS WHICH DO NOT INVOLVE LIABILITY ON ACCOUNT OF PIGGUL,[6] INVOLVE LIABILITY ON ACCOUNT OF NOTHAR AND DEFILEMENT EXCEPT BLOOD. R. SIMEON DECLARES ONE LIABLE IN RESPECT OF ANYTHING WHICH IS NORMALLY EATEN, BUT THE WOOD, THE FRANKINCENSE AND THE INCENSE DO NOT INVOLVE LIABILITY ON ACCOUNT OF DEFILEMENT.

GEMARA. Our Rabbis taught: You might think that liability on account of defilement is incurred only in respect of that which has mattirin both for man and for the altar;[7] and that is logical: If liability on account of piggul is incurred only in respect of that which has mattirin both for man and for the altar, though it is fixed [invariable], and [is incurred] in one state of awareness, and was never permitted contrary to its general prohibition;[8] then surely it is logical that defilement involves liability only in respect of that which has mattirin both for man and for the altar, seeing that it requires a variable burnt-offering,[9] two states of awareness,[10] and is [sometimes] permitted in opposition to its general prohibition. Therefore Scripture wrote, [Speak unto Aaron and to his sons, that they separate themselves from the holy things of the children of Israel,] which they hallow unto Me.[11] You might think [that liability is involved] immediately;[12] therefore Scripture teaches, [Whoever he be . . .] that approacheth [unto the holy things . . . having his uncleanness upon him, that soul shall be cut off from before Me].[13] Now R. Eleazar said: Is then one who [merely] touches [the holy things] liable?[14] Why does it say ‘that approacheth’?[15] [To teach that] the Writ speaks of flesh which was made fit to be offered.[16] How so? If it has mattirin, [culpability is incurred] only when the mattirin have been offered; if it has no mattirin, [culpability is incurred] as soon as it is sanctified in a [sacred] vessel.

We have thus found [it of] defilement. How do we know [it of] nothar?[17] Identity of law with defilement is learnt from the fact that ‘profanation’ is written in both. Yet let us learn identity of law from piggul, because ‘iniquity’ is written in connection with both? — Reason asserts that we should learn it from uncleanness, because [they are alike in respect of] Gezel, [this being a] mnemonic.[18] On the contrary, one should learn it from piggul, because [it resembles it in the following points:] permissibility, the headplate, cleanness, time, that which is offered; and these are more numerous?[19] — Rather, it [is derived] from Levi's teaching. For Levi taught: How do we know that the Writ speaks of time disqualification too?[20] Because it says, That they profane not [My holy name]:[21]

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(1) Lit., ‘made acceptable’. The language is Biblical, cf. Lev. I, 4: and it shall be accepted for him to make atonement for him — i.e., the sacrifice effects its purpose. By Biblical law it is accepted in both cases, but the Rabbis penalized the priests by not permitting the flesh to be eaten when it was done deliberately.

(2) Thus he regards the heathen's sacrifice the same as an Israelite's sacrifice; then here too the same law should apply to both.

(3) Ex. XXVIII, 38. The passage refers to the wearing of the headplate by the High Priest, and teaches (according to the Talmudic interpretation) that in virtue of this wearing sacrifices are accepted, i.e., valid, even when the blood is defiled.

(4) Lev. XXII, 2.

(5) I.e., that unclean priests need not separate themselves from the sacrifices of heathens. — Surely R. Jose said that he takes a stringent view in all these matters?

(6) As enumerated in the Mishnah 42b seq.

(7) V. notes on Mishnah 42b.

(8) The sin-offering for eating piggul is fixed, and is the same for rich and poor alike — a lamb or a she-goat. It is incurred in one state of awareness, i.e., to be liable it is not necessary that one should know at first that it is piggul, then forget and eat it,and then become aware of it again, as it is in the case of defilement (v. note 2, p. 230). If only one ate it unwittingly, not having known at all that it was unclean, and then become aware of it, there is culpability. Again, the prohibition of piggul is never raised, even if all the sacrifices of the whole community had been rendered piggul, whereas in the case of uncleanness, if the whole community was in a state of uncleanness, the Passover-offering is brought and is eaten in that same state too.

(9) A wealthy man offers an animal-sacrifice; a poor man two doves; and a very poor man offers the tenth of an ephah of meal.

(10) For one to be culpable he must have known at first that it was unclean, then forgotten and eaten it, and then learn of its uncleanness again (Shebu. 4a).

(11) Lev. XXII, 2. The passage refers to uncleanness, and ‘which they hallow unto Me’ is an extension (being superfluous in itself), and therefore includes all hallowed things.

(12) As soon as it is dedicated liability is incurred for eating it in an unclean state.

(13) Ibid. 3.

(14) Surely not, for culpability is incurred only for eating (as in v. 4.)!

(15) Which implies mere touch.

(16) ‘Offered’ is the same root as ‘approacheth’;

(17) That there is liability even where there are no mattirin.

(18) G = Guf (body); Z =Zerikah (sprinkling); and L = hillul. Nothar and defilement are both intrinsic (i.e., bodily) disqualifications in the flesh, whereas piggul is disqualification through intention. Nothar and defilement do not disqualify through the sprinkling of the blood, whereas piggul does. And finally, hillul (profanation) is written in connection with nothar and defilement, but not in connection with piggul.

(19) (i) Nothar and piggul are never permitted in opposition to the general interdict, whereas defilement is. (ii) The headplate does not propitiate for these, though it does in the case of defilement (v. supra a bottom and note a.l.). (Though we are now discussing the uncleanness of the person, whereas the headplate propitiates only if the blood of the sacrifice is unclean, nevertheless it is true to say that the headplate does propitiate in a case of uncleanness.) (iii) Nothar and piggul are both clean. (iv) Both are disqualified through the time element, nothar because it was left until after the proper time, piggul because of an illegitimate intention in respect of after time. Finally, (v) they are both disqualifications in respect of the sacrifice, which is offered; whereas defilement is a disqualification of the priest, who offers it.

(20) Such as nothar.

(21) Lev. XXII, 2.

Talmud - Mas. Zevachim 46a

the Writ speaks of two modes of profanation, viz., the disqualification of nothar and the disqualification of defilement.[1]

EXCEPT BLOOD etc. Whence do we know it? — Said ‘Ulla, Scripture saith, [For the life of the flesh is in the blood,.] and I have given it to you [upon the altar to make atonement for your souls]:[2] [this teaches,] it is yours.[3] The school of R. Ishmael taught: ‘To make atonement’ [implies] but not for trespass. R. Johanan said: Scripture saith, it is [which intimates,] it is before atonement as after atonement: as there is no trespass after atonement,[4] so there is no trespass before atonement. Say, it is after atonement as before atonement: as it involves trespass before atonement,[5] so it involves trespass after atonement? — Nothing involves trespass once its function is performed. Does it not? But lo, there are the separated ashes?[6] — That is because the separated ashes and the priestly vestments[7] are [taught in] two texts which come for the same purpose,[8] and wherever two texts come for the same purpose, they do not illumine [other cases].[9] That is well according to the Rabbis who maintain that, [And Aaron . . . shall put off the linen garments . . .] and shall leave them there[10] teaches that they must be stored away.[11] But what can be said on the view of R. Dosa, who maintained [that] they are permitted to an ordinary priest, only that he [the High Priest] does not use them on another Day of Atonement? — Because the separated ashes and the beheaded heifer[12] are [taught in] two texts which come for the same purpose, and wherever two texts come for the same purpose, they do not illumine [other cases]. That is well on the view that they do not illumine; but what can be said on the view that they do illumine? — Two limitations are written:[13] here is written, [over the heifer] whose neck was broken;[14] while there it says, [And he shall take up the ashes . . .] and he shall put them [beside the altar].[15] Now, why do I need three texts in connection with blood?[16] One excludes it from trespass, another from nothar, and a third from defilement.[17] But no text is required for piggul for we learnt: Whatever has mattirin, whether for man or for the altar, involves liability on account of piggul: whereas blood is itself a mattir.

R. Johanan said: For what purpose is kareth stated three times in connection with peace-offerings?[18]

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(1) The two profanations are deduced from the fact that Scripture employs a longer form, yehallelu (profane) instead of yehallu.

(2) For it is — hu — the blood that maketh atonement by reason of the life. (Lev. XVII, 11).

(3) ‘Ulla said this in reference to trespass: ‘it is yours’ means that in respect of trespass it is treated as secular, and so involves no offering for misappropriation. The deductions by the school of R. Ishmael and R. Johanan which follow, point to the same conclusion. Thus we have three texts shewing that blood does not involve trespass; since three are unnecessary for this purpose, they are ultimately employed to teach that blood does not involve liability in respect of nothar, trespass, and defilement.

(4) After the blood has been sprinkled and atonement thereby made, there is no trespass in putting it to secular use, since it is no longer required for a sacred purpose.

(5) This would have to be assumed in default of a text to the contrary. R. Johanan of course does not deduce the contrary from the other texts.

(6) A shovelful of ashes was removed every day from the altar and placed at the east side of the altar, where they might not be used, though their function had already been performed, but left to become absorbed in their place.

(7) The four additional vestments worn by the High Priest when he entered the Holy of Holies on the Day of Atonement. On leaving it he removed them, and they might not be put to secular use. Both these cases are deduced from Scriptural texts.

(8) In both trespass is involved after their function has been fulfilled.

(9) For if they were to serve as an illustration for others, one only need be stated, and the other, together with other cases, would follow.

(10) Lev. XVI, 23.

(11) And not used. Thus there are two such instances.

(12) V. Deut. XXI, 9. The Rabbis deduce from the superfluous ‘there’ in the passage, and shall break the heifer's neck there in the valley (v. 4), that the heifer must be buried there and not put to any use.

(13) Sh. M. deletes ‘two’.

(14) Deut. XXI v. 6; lit. ‘the broken-necked’. The deduction is from the article ‘the’: only this animal whose function has been performed may still not be used, but no other similar sacred animal, i.e., one whose function has been performed, may not be used.

(15) Lev. VI, 3. Here too ‘them’ implies, only these ashes may not be used in such a case, but other sacred things may be used after their function has been performed.

(16) To shew that blood does not involve trespass. This is the completion of the answer to the question, ‘How do we know that blood does not create liability for nothar’ etc., as explained p. 231. n. 7.

(17) I.e., that blood does not involve culpability on account of these.

(18) V. Lev. VII, 20, 21; XXII, 3.

Talmud - Mas. Zevachim 46b

One to serve as a generalizations the second as a particularization,[1] and the third [is required] in respect of things which are not eaten.[2] And according to R. Simeon who maintained that the things which cannot be eaten do not involve liability on account of uncleanness, what does it include? — It includes the inner sin-offerings. You might think that since R. Simeon said, Whatever does not come on the outer altar, like peace-offerings, does not involve liability on account of piggul then it does not involve liability on account of uncleanness either. Hence [Scripture) informs us [that it is not so].

Said R. Simeon: That which is normally eaten etc.[3] It was stated, R. Johanan and Resh Lakish, R. Eleazar and R. Jose son of R. Hanina [are the pairs concerned in the following discussion], one of the former pair and one of the latter pair: One maintained: The controversy [in the Mishnah] refers to uncleanness of the flesh;[4] but in the case of personal uncleanness all agree that [the offender] is not flagellated. But the other maintained: As there is a controversy in the one case, so is there in the other. [Raba said, Logic supports the view that as there is a controversy in the one case, so is there in the other.][5] What is the reason? — Since the text, And the flesh that toucheth any unclean thing[6] is applicable to it, then the text having his uncleanness upon him[7] is applicable to it too.[8] That is how R. Tabyomi recited [this discussion]. R. Kahana recited [the views of] one of the former pair and one of the latter pair as referring to the final clause:[9] One maintained: The controversy refers to personal uncleanness, but in the case of uncleanness of flesh all agree that he is flagellated. While the other maintained: As there is a controversy in the one case, so is there in the other. Raba said, Logic supports the view that as there is a controversy in the one case, so is there in the other. What is the reason? — Since the text, ‘Having his uncleanness upon him’, is not applicable to it,[10] the text, ‘And the flesh that toucheth any unclean thing’ is not applicable to it. But surely a master said: ‘And the flesh’ is to include the wood and the frankincense?[11] — That is a mere disqualification.[12]

MISHNAH. THE SACRIFICE IS SLAUGHTERED FOR THE SAKE OF SIX THINGS: FOR THE SAKE OF THE SACRIFICE, FOR THE SAKE OF THE SACRIFICER, FOR THE SAKE OF THE [DIVINE] NAME, FOR THE SAKE OF FIRE-OFFERINGS, FOR THE SAKE OF A SAVOUR, FOR THE SAKE OF PLEASING, AND A SIN-OFFERING AND A GUILT-OFFERING FOR THE SAKE OF SIN. R. JOSE SAID: EVEN IF ONE DID NOT HAVE ANY OF THESE PURPOSES IN HIS HEART, IT IS VALID, BECAUSE IT IS A REGULATION OF THE BETH DIN, SINCE THE INTENTION IS DETERMINED ONLY BY THE CELEBRANT.[13]

GEMARA. Rab Judah said in Rab's name: [Scripture says, It is a burnt-offering, an offering made by fire, of pleasing savour unto the Lord].[14] ‘A burnt-offering’ [intimates that it must be slaughtered] for the sake of a burnt-offering, excluding [where it is slaughtered] for the sake of a peace-offering, in which case it does not [acquit the owner of his obligation]. ‘An offering made by fire’ [intimates that] it must be for the sake of an offering made by fire, excluding the charring of the meat,[15] which is not [valid]. ‘Savour’ [intimates that] it must be for the sake of a savour: this excludes the roasting of limbs [elsewhere] and bringing them up [on the altar], which is not [valid].[16] For Rab Judah said in Rab's name: If one roasted limbs and took them up on to the altar, they do not fulfil the requirements of ‘savour’. ‘Pleasing’ [intimates that] it must be for the sake of pleasing the Lord, for the sake of Him who spoke and called the world into existence.

Rab Judah said in Rab's name: If one slaughtered a sin-offering under the designation of a burnt-offering, it is invalid; [if one slaughtered it] under the designation of hullin, it is valid. R. Eleazar[17] said: What is Rab's reason? — And they shall not profane the holy things of the children of Israel:[18] ‘holy things’ profane ‘holy things’, but hullin does not profane holy things.[19]

Rabbah raised an objection: R. JOSE SAID: EVEN IF ONE DID NOT HAVE ANY OF THESE PURPOSES IN HIS HEART, IT IS VALID, BECAUSE IT IS A REGULATION OF THE BETH DIN. Thus it is only because he had no [purpose] in his heart at all; hence, if he intended it[20] for the sake of hullin, it is invalid? — Said Abaye to him: Perhaps [this deduction is to be made]: if he had no intention at all, it is valid and propitiates while if he intended it for the sake of hullin it is valid but does not propitiate.[21]

R. Eleazar said: If one slaughters a sin-offering for the sake of hullin,[22] it is valid; [if one slaughtered it] as hullin,[23] it is invalid.[24] This is as the question which Samuel asked R. Huna:

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(1) When anything is included in a generalization, and is then made the subject of a particularization, it throws light not only upon itself but upon everything included in the generalisation. Now Lev. XXII,3 (q.v.) is a generalization, including all ‘holy things’ and thus the peace-offering too. The latter is therefore singled out in Lev. VII, 20 to teach that as peace-offerings are of the ‘holy things’ of the altar, so does the ‘holy things’ in XXII,3 also mean those belonging to the altar, sc. sacrifices.

(2) E.g., the wood used on the altar and the frankincense. If one nevertheless ate these whilst unclean, he incurs kareth.

(3) As in the Mishnah, 45b, with slight variation. V. Rashi on the Mishnah.

(4) Hence of the wood and incense.

(5) Bracketed passage added by Sh. M.

(6) Lev. VII, 19.

(7) Ibid. 20.

(8) I.e., if the first text applies to wood and frankincense, then the second does too.

(9) I.e., to R. Simeon's exemption from liability.

(10) In the Rabbis’ view. — Before he said, ‘is applicable to it’, as he referred to R. Simeon's view.

(11) Supra 34a.

(12) The law disqualifying unclean wood and frankincense is only Rabbinical, this Biblical interpretation being a mere support.

(13) The priest who performs the service, and not the owner of the sacrifice. If the former intended it for a different purpose, it counts as a sacrifice so offered, notwithstanding that the owner intended it for its rightful purpose. — V. supra 2b for notes.

(14) Lev. I, 13.

(15) I.e., the intention to make roast pieces of flesh.

(16) Since the ‘savour’ is then not made on the altar.

(17) Sh. M.: Elai.

(18) Lev. XXII, 15.

(19) Cf. supra 3a, 5a.

(20) Lit. ‘if he had in his heart.’

(21) The owner is not acquitted of his obligation; cf. supra 2a.

(22) I.e., he knew that it was a sin-offering, and yet slaughtered it for the sake of hullin.

(23) Thinking that it was hullin.
(24) Since in his mind he was not engaged with sacrifices at all.

How do we know that when one is unaware engaged in sacrifices,[1] it [the sacrifice] is invalid? Because it says, And he shall kill the bullock before the Lord,[2] [which intimates] that the killing must be for the sake of the bullock.[3] We know this,[4] said he to him, [but] how do we know that [awareness] is indispensable?[5] Ye shall slaughter it with your will,[6] said he, [which teaches,] slaughter it with your knowledge.[7]

SINCE THE INTENTION IS DETERMINED ONLY BY THE CELEBRANT. Our Mishnah does not agree with the following Tanna. For it was taught, R. Eleazar son of R. Jose said: I have heard that the owner [of the sacrifice] renders [it] piggul![8] Raba said: What is R. Eleazar son of R. Jose's reason? Because Scripture says, Then shall he that offereth [his offering] present [unto the Lord etc.][9]

Abaye said: R. Eleazar son of R. Jose, R. Eliezer and R. Simeon b. Eleazar all hold that when one expresses an intention while another performs the act,[10] it is an [effective] intention. R. Eleazar son of R. Jose: this [view] that we have stated.[11] R. Eliezer: as we learnt: If one slaughters for a heathen, his shechitah is fit; but R. Eliezer declares it unfit.[12] R. Simeon b. Eleazar: as it was taught: R. Simeon b. Eleazar stated a general rule: That which is not fit to put away, and such is not [generally] put away, yet it did become fit to a certain person[13] and he did put it away, and then another came and carried it out, the latter is rendered liable through the former's intention.[14]

Now, both of them[15] agree with R. Eleazar son of R. Jose: if we say [thus] without, is there a question about within?[16] R. Eleazar son of R. Jose does not agree with the other two: perhaps he ruled thus only [in reference to] within, but not [in reference to] without.[17] R. Simeon b. Eleazar agrees with R. Eliezer: if we say [thus] in connection with the Sabbath, is there a question about idolatry?[18] R. Eleazar does not agree with R. Simeon b. Eleazar: perhaps you rule thus only in connection with idolatry, because it is similar to ‘within’;[19] but in the case of the Sabbath, the Torah interdicted only a considered labour.[20]

CHAPTER V

MISHNAH. WHICH IS THE PLACE [FOR THE RITES] OF SACRIFICES? THE SLAUGHTERING OF SACRIFICES OF THE HIGHER SANCTITY IS AT THE NORTH [SIDE OF THE ALTAR]. THE SLAUGHTERING OF THE BULLOCK AND THE HE-GOAT OF THE DAY OF ATONEMENT IS [DONE] AT THE NORTH, AND THE RECEPTION OF THEIR BLOOD IS [PERFORMED] WITH SERVICE VESSELS AT THE NORTH, AND THEIR BLOOD REQUIRES SPRINKLING BETWEEN THE STAVES [OF THE ARK], ON THE VEIL, AND ON THE GOLDEN ALTAR; [THE OMISSION OF] A SINGLE APPLICATION OF THESE INVALIDATES [THE CEREMONY]. THE RESIDUE OF THE BLOOD HE [THE PRIEST] POURED OUT ON THE WESTERN BASE OF THE OUTER ALTAR, BUT IF HE DID NOT POUR IT OUT, HE DID NOT INVALIDATE [THE SACRIFICE].

AS FOR THE BULLOCKS WHICH WERE BURNT[21] AND THE HE-GOATS WHICH WERE BURNT,[22] THEIR SLAUGHTERING IS [DONE] AT THE NORTH, AND THE RECEPTION OF THEIR BLOOD IS [DONE] AT THE NORTH, AND THEIR BLOOD REQUIRES SPRINKLING BETWEEN THE STAVES [OF THE ARK], ON THE VEIL, AND ON THE GOLDEN ALTAR;

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(1) He slaughters a sacrifice, but without such intention.

(2) Lev. I, 5.

(3) I.e., he must intend to kill a sacred animal as a sacrifice.

(4) Lit. ‘this is in our hands’.

(5) In the sense that the sacrifice is otherwise invalid. The text quoted may merely teach that intention is required, but not that the sacrifice is invalid in default thereof.

(6) Lev. XIX, 5. This is the literal translation. E.V.: Ye shall offer it that ye may be accepted.

(7) With the knowledge that it is a sacrifice. Thus this refutes the teaching of Lev. I, 5, and it shews that such awareness is indispensable.

(8) While the priest was performing its rites.

(9) Num. XV, 4. Lit. translation. Thus the owner is called ‘he that offereth’, and so is included in the text, neither shall it be imputed unto him that offereth it: it shall be an abhorred thing (piggul) — Lev. VII, 18: hence he can render the sacrifice piggul.

(10) Concerning which the intention is expressed.

(11) His ruling supra.

(12) The animal belonged to a heathen, and it is assumed that a heathen tacitly intends his animal to be slaughtered in honour of his deity, which makes it unfit for food. R. Eleazar maintains that it is unfit even though the act of shechitah is performed by a Jew, while the intention is performed by the heathen.

(13) He found a use for it.

(14) The passage refers to the Sabbath. V. Shab. 75b, 76a.

(15) R. Eliezer and R. Simeon b. Eleazar.

(16) Surely not. ‘Within’ means in the Temple; ‘without’, outside the Temple. Now, R. Eliezer and R. Simeon b. Eleazar stated their views in reference to a heathen and the Sabbath respectively (cases ‘without’ the Temple), and though the law of intention is not written in connection with these at all, they hold that where one man performs an act, another man's intention in reference thereto is effective. Then they will certainly hold the same in reference to sacrifices, where the disqualification of an illegal intention is actually written.

(17) By the same argument as in the preceding note.

(18) Surely not. Idolatrous acts of sacrifice involve culpability only when they are of the same nature as the acts performed in true sacrifice (Sanh. 60b). Hence it is natural that in respect to intention too they are similar.

(19) As in preceding note.

(20) I.e., culpability is involved only when one performs a real labour, and which he (or people in general) consider as such. Here, however, his action would not normally be considered carrying, and another man's intention cannot make it so.

(21) Sc. the bullocks brought as sin-offerings when either the whole community or the anointed priest sinned. These were not eaten by the priests but burnt without Jerusalem (Lev. IV, 12, 21; Yoma 68a).

(22) Sc. the he-goats brought for the sin of idolatry.

Talmud - Mas. Zevachim 47b

[THE OMISSION OF] A SINGLE ONE OF THESE APPLICATIONS INVALIDATES [THE SACRIFICE]. THE RESIDUE OF THE BLOOD HE [THE PRIEST] POURED OUT ON THE WESTERN BASE OF THE ALTAR; BUT IF HE DID NOT POUR IT OUT, HE DID NOT INVALIDATE [THE SACRIFICE]. BOTH OF THESE[1] WERE BURNT AT THE ASHPIT.[2] GEMARA. Yet let him [the Tanna] also teach [in the very first clause]. And the reception of their blood is [done] in a service vessel at the north? — Since there is the leper's guilt-offering,[3] whose blood is received in the hand, he omits it. Is it then not [received in a vessel]? Surely he teaches later on: As for a nazirite's guilt-offering and a leper's guilt-offering, their slaughtering is at the north, and the reception of their blood is [done] with a service vessel at the north?[4] — At first he thought that the blood was received in the hand, [and so] he omitted it.[5] But when he saw that it cannot be done adequately without a vessel [also being used], he re-included it. For it was taught: And the priest shall take [of the blood of the guilt-offering]:[6] You might think, with a vessel; but Scripture adds, and the priest shall put it [etc.]:[7] as the putting must be by the very priest himself, so the taking must be by the very priest himself. You might think that it is likewise for the altar:[8] Therefore Scripture states, For as the sin-offering so is the guilt-offering:[9] as the sin-offering requires a vessel [for the reception of the blood], so does the guilt-offering require a vessel. Thus you must conclude that two priests received the blood of a leper's guilt-offering, one in his hand and the other in a vessel. He who received it in a vessel went to the altar, and he who received it in his hand went to the leper.

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(1) The sin-offerings of the Day of Atonement and the other sin-offerings which were burnt.

(2) The place where the ashes of the outer altar were deposited.

(3) A sacrifice of higher sanctity.

(4) Infra 54b.

(5) The mention of the reception of the blood in the introductory clause.

(6) Lev. XIV, 14.

(7) Ibid.

(8) That the blood which is sprinkled on the altar too is not received in a vessel.

(9) Ibid. 13. This rendering follows the exact order of the Hebrew.

Talmud - Mas. Zevachim 48a

AS FOR THE BULLOCK AND THE HE-GOAT OF THE DAY OF ATONEMENT etc. Consider: the north [side of the altar] is written in connection with the burnt-offering, then let him teach [about] the burnt-offering first?[1] — Because this is deduced about the sin-offering by exegesis, he cherishes it more.[2] Then let him teach the outer sin-offerings [first]?[3] — Because the blood of these [which he does enumerate] enters the inner sanctuary, he cherishes it more.[4]

Now, where is the north written in connection with the burnt-offering? — And he shall kill it on the side of the altar northward.[5] We have thus found [it of] the flocks;[6] how do we know [it of] the herd? — Scripture saith, And [we] if his offering be of the flock:[7] the waw [and] continues[8] the preceding section, so that the [subject] above may be deduced from [that] below.[9] That is well on the view that you can learn[10] [the subject above from that below]; but on the view that you cannot learn [it thus], what can be said? For it was taught: And if any one sin etc.;[11] this teaches that one is liable to a guilt-offering of suspense on account of doubtful trespass:[12] that is R. Akiba's ruling. But the Sages exempt [him]. Surely then they disagree in this: one master holds that we learn [the subject above from that below],[13] while the other master holds that we do not learn it? — Said R. Papa: All agree that we do learn [thus], but this is the Rabbis' reason:[14] mizwoth[15] is employed here, and mizwoth is employed in connection with the sin-offering of forbidden fat:[16] as there it means a law whose deliberate infringement entails kareth and its unwitting infringement entails a sin-offering, so here too[17] [it is entailed only by] that whose deliberate infringement entails kareth, while its unwitting infringement involves a sin-offering.[18] And R. Akiba?[19] — As there it is fixed, so here it is fixed, thus excluding the sin-offering for the defilement of the sanctuary and its sacred objects [sacrifices], which is variable.[20] And the Rabbis?[21] — There is no semi gezerah shawah.[22] But R. Akiba too [surely admits that] there is no semi gezerah shawah? — That indeed is so; here, however, they differ in this: R. Akiba holds: ‘And if a soul’ is written, and the waw indicates conjunction with the preceding subject.[23] But [according to] the Rabbis too, surely it is written, And if a soul?[24] Shall we say that they differ in this: one master holds that a hekkesh is stronger; while the other master holds that a gezerah shawah is stronger?[25] — No: all agree that the gezerah shawah is stronger, but the Rabbis can answer you: the subject below is learnt from that above, that the guilt-offering must be [two] silver shekels in value,[26] so that you should not say: Surely the doubt cannot be more stringent than the certainty: as the certainty [of sin] requires a sin-offering [even] a sixth [of a zuz in value], so [for] the doubt a guilt-offering of a sixth [of a zuz] is sufficient.[27] Now, how does R. Akiba know this? — He deduces it from [the text,] And this is the law of the guilt-offering,[28] [which intimates that] there is one law for all guilt-offerings. That is well on the view that ‘law’ can be [so] interpreted; but on the view that ‘law’ cannot be so interpreted, whence does he derive [it]? — He derives [it] from the repetition of ‘according to thy valuation.’[29] [But] what can be said of the guilt-offering of a maidservant promised in marriage,[30] where according to thy valuation’ is not written? — He derives [it from] the repetition of ‘with the ram.’[31]

How do we know that a sin-offering requires the north? — Because it is written, And he shall kill the sin-offering in the place of the burnt-offering.[32] We have found [it of] slaughtering: how do we know [it of] receiving? Because it is written, And the priest shall take of the blood of the sin-offering.[33] How do we know that the receiver himself [must stand in the north]?[34] The text says, ‘And he shall take’, [which intimates,] he shall [be]take himself [to the place where the blood is received].[35] We have thus found [it as] a regulation; how do we know that it is indispensable?[36] — Another text is written, And he shall kill it for a sin-offering in the place where they kill the burnt-offering;[37] and it was taught: Where is the burnt-offering slaughtered? in the north: so this too[38] is [slaughtered] in the north.

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(1) V. infra 53b.

(2) I.e., the Tanna is more desirous of teaching the results of exegesis than what Scripture states explicitly, and therefore he gives them preference.

(3) V. infra 52b.

(4) It is more important in his eyes, and hence he teaches it first.

(5) Lev. I, 11.

(6) To which the text refers.

(7) Ibid. 10; and is expressed by the letter waw in Heb., punctuated we.

(8) Lit., ‘adds to’.

(9) When a passage commences with ‘and’, this conjunction links it with the previous portion, and a law stated in one applies to the other too. Here the subject above is the burnt-offering of the herd, and the subject below is that of the flock.

(10) By means of a conjunction waw.

(11) Lev. V, 17.

(12) V. Mishnah infra 54b. Now, the subject immediately preceding deals with the guilt-offering for putting sacred things to secular use (vv. 14-16), when the offender learns that he has definitely sinned. If one is in doubt whether he has offended, this text teaches that he must bring a guilt-offering of suspense (i.e., doubt). The doubt arises thus: Two things lie before a man, one of which he puts to secular use. Subsequently he learns that one of these was sacred, and he does not know which.

(13) And if any one sin introduces the law of the guilt-offering of suspense for doubtful sin. By learning the subject above from it, it follows that this is entailed by doubtful trespass too.

(14) For not doing so here.

(15) Lit. ‘commandments’: and if any one sin, and do any of the mizwoth (E.V. things) which the Lord hath commanded not to be done etc.

(16) Lev. IV, 27. Forbidden fat is not mentioned there, but ‘a sin-offering of forbidden fat’ is the usual designation in the Talmud for an ordinary sin-offering. The reason is because Ye shall eat neither fat nor blood (Lev. III, 17) is followed by Ch. IV, which deals with sin-offerings (Rashi in Sot. 15a). Asheri (in Ned. 4a) explains the reason because the most usual form of sinning thus is eating forbidden fat through having it in the house.

(17) Sc. the guilt-offering of suspense.

(18) I.e., a guilt-offering of suspense is brought only when one is in doubt whether he has committed an offence, which, if certainly committed, entails kareth or a sin-offering. But the secular misuse of sacred property does not involve a sin-offering, consequently one is not liable to a guilt-offering for doubtful trespass.

(19) How does he interpret this gezerah shawah?

(20) Lit., ‘ascends (in value) and descends’. — The ordinary sin-offering is fixed and the same for rich and poor alike. This gezerah shawah then teaches that a guilt-offering of suspense is incurred only for the doubtful violation of a law which, if definitely violated, involves a fixed sin-offering. But if one is doubtful whether he entered the Temple whilst unclean, he does not bring a guilt-offering of suspense, because if he were certain he would only be liable to a variable sacrifice (v. Lev. V, 1-10).

(21) What is their view on this?

(22) A gezerah shawah shews similarity in all respects, not in some only.

(23) As above.

(24) And it was stated above that all agree that the subject above is learnt from that below.

(25) The hekkesh or analogy arises from the waw, which couples both subjects. Thus apparently the Rabbis give preference to the gezerah shawah, while R. Akiba gives preference to the hekkesh (only one can be employed here, since they yield apparently contradictory results).

(26) The earlier passage reads: then he shall bring . . . according to thy valuations in silver by shekels . . . a guilt-offering (v. 15), which the Rabbis interpret as meaning not less than two shekels. The analogy therefore teaches that the guilt-offering of suspense in v. 18 must also have that value.

(27) Hence the hekkesh teaches otherwise.

(28) Lev. VII, 1.

(29) Heb. בערכך. It is repeated in Lev. V, 15 and Lev. V, 18, and this furnishes a gezerah shawah, which teaches that they must be of equal value in both cases.

(30) Ibid. XIX, 20-22.

(31) Ibid. V, 16 and XIX, 22.

(32) Ibid. IV, 24.

(33) Ibid 25. This is connected with the immediately preceding words, ‘in the place where they kill the burnt-offering.’ — ‘ Take’ means to receive the blood.

(34) And not in the south and stretch out his hand to the north. (A line — imaginary — demarcated the north and the south, and so it would be possible to stand on one side of the line — south — and receive the blood on the other — the north.)

(35) I.e., the north.

(36) That the sacrifice is invalid otherwise.

(37) Ibid. 33. This treats of a lamb brought by a prince (ruler) as a sin-offering.

(38) Sc. the sin-offering.

Talmud - Mas. Zevachim 48b

Do you then learn it from this verse? Is it not already stated, In the place where the burnt-offering is killed shall the sin-offering be killed?[1] why then has this[2] been singled out? To fix the place for it, so that if one did not slaughter it in the north, it is invalid.[3] You say it has been singled out for this purpose, yet perhaps it is not so, but rather [to teach] that this one [alone] requires the north,[4] but no other requires the north? Therefore it states, ‘And he shall kill the sin-offering in the place of the burnt-offering,’ thus constituting a general law in respect of all sin-offerings that they require the north. We have thus found [it true of] a prince's sin-offering, that it is both a recommendation and indispensable; we have also found it as a recommendation in the case of other sin-offerings; how do we know that it is indispensable [for other sin-offerings]? Because it is written in reference to both the lamb[5] and the she-goat.[6]

Then what is the purpose of ‘it’?[7] — That is required for what was taught: ‘It’ [is slaughtered] on the north, but Nahshon's goat was not [slaughtered] in the north.[8] And it was taught: And he shall lay his hand upon the head of the goat[9] includes Nahshon's goat, in respect of laying [hands]: that is R. Judah's view. R. Simeon said: It includes the goats brought on account of idolatry, in respect of laying [hands]. You might argue, Since they are included in respect of laying [hands], they are included in respect of the north. Hence we are informed [otherwise].

To this Rabina demurred: That is well on R. Judah's view; but what can be said on R. Simeon's?[10] — Said Mar Zutra son of R. Mari to Rabina: And is it well on R. Judah's view? [surely], where it is included, it is included, and where it is not included, it is not included?[11] And should you say, Had Scripture not excluded it, [its inclusion] would be inferred by analogy: if so, let laying [hands] itself be inferred by analogy? But [you must answer that] a temporary [sacrifice] can not be inferred from a permanent one,[12] so here too,[13] a temporary [sacrifice] cannot be inferred from a permanent one?[14] — Rather [it teaches this]: ‘It’ [is slaughtered in the north], but the slaughterer need not be in the north.[15] But [the law concerning] the slaughterer is deduced by R. Ahia's [exegesis]? For it was taught, R. Ahia said: And he shall kill it on the side of the altar northward’: why is this stated?

Because we find that the receiving priest must stand in the north and receive [the blood] in the north, while if he stood in the south and received [the blood] in the north it is invalid. You might think that this [slaughtering] is likewise. Therefore Scripture states, '[And he shall kill] it', [intimating that] 'it' must be in the north, but the slaughterer need not be in the north! — Rather [it teaches this]: 'It' [must be killed] in the north, but a bird does not need the north.[16] For it was taught: You might think that a bird-offering needs the north, and this is indeed logical: If [Scripture] prescribed north for a lamb, though it did not prescribe a priest for it,[17] is it not logical that it should prescribe north for a bird, seeing that it did prescribe a priest for it? Therefore 'it' is stated.[18] [No:] as for a lamb, the reason is because [Scripture] prescribed a utensil for it![19] — Rather, [it teaches this]: 'It' [must be killed] in the north, but the Passover-offering [need] not [be slaughtered] in the north. For it was taught, R. Eliezer b. Jacob said: You might think that a Passover-offering needs the north, and this is indeed logical: if [Scripture] prescribed the north for a burnt-offering, though it did not prescribe a fixed season for its slaughtering; is it not logical that it should prescribe the north for a Passover-offering, seeing that it did prescribe a fixed season for its slaughtering? Therefore 'it' is stated. [No:] as for a burnt-offering, the reason is because it is altogether burnt. [Then learn it] from a sin-offering.[20] As for a sin-offering, the reason is because it makes atonement for those who are liable to kareth! [Then learn it] from a guilt-offering. [No:] as for a guilt-offering, the reason is because it is a most sacred sacrifice! [And you] cannot [learn it] from all these[21] likewise, because they are most sacred sacrifices! — After all, it is as we said originally: 'It' [must be] in the north, but the slaughterer need not be in the north, and as to your difficulty, 'That is deduced from R. Ahia's exegesis', [the answer is that] it does not [really] exclude the slaughterer from the north,[22] but [is meant thus]: The slaughterer need not be in the north, [whence it follows that] the receiver must be in the north, 'The receiver'? Surely that is deduced from 'and he shall take,' [which we interpret] let him [be]take himself [to the north]? — He does not interpret 'and he shall take' as meaning 'let him [be]take himself,'[23]

We have thus found a recommendation that slaughtering a burnt-offering must be in the north, and a [similar] recommendation about receiving; how do we know that [the north] is indispensable in the case of slaughtering and receiving?[24] — Said R. Adda b. Ahabah, — others state, Rabbah b. Shila: [It is deduced] afortiori: If it is indispensable in the case of a sin-offering, which is [only] learnt from a burnt-offering,[25] surely it is logical that it is indispensable in the case of a burnt-offering, from which a sin-offering is learnt. [No:] As for a sin-offering, the reason is because it makes atonement for those who are liable to kareth! Said Rabina: This is R. Adda's difficulty:[26] Do we ever find the secondary more stringent than the primary?[27] Said Mar Zutra son of R. Mari to Rabina: Do we not?

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(1) Lev. VI, 18. This applies to all sin-offerings.

(2) The sin-offering brought by a prince.

(3) The repetition teaches this.

(4) Sc. that mentioned in Lev. IV, 33.

(5) Ibid.

(6) Ibid. 29.

(7) In verse 33 quoted supra: 'it' implies limitation, whereas all sin-offerings have been included.

(8) I.e., the sin-offerings brought at the consecration of the altar, which were not on account of sin at all; v. Num. VII, 12 seq.

(9) Lev. IV, 24. This refers to the prince's goat: instead of 'head of the goat', Scripture could say, 'its head'; the longer form is regarded as an extension.

(10) He does not include it in respect of laying hands: then a text is not required to shew that north does not apply to it.

(11) No text is necessary for this.

(12) Lit, (text as emended by Sh. M.) 'you do not learn the hour from generations' — You could not learn that Nahshon's goat required laying hands, by analogy with an ordinary sin-offering, because the former was a special ad hoc offering, whereas the ordinary sin-offering was for all time.

(13) In respect of north.

(14) So that in any case there is no reason for thinking that Nahshon's sin-offering required the north; why then is a text needed to exclude it?
(15) He can stand in the south near the boundary line, stretch out his hand, and slaughter it in the north.
(16) When its neck is wrung.
(17) It may be slaughtered by a zar.
(18) As a limitation.
(19) It must be slaughtered with a knife, whereas a bird merely has its neck wrung. Hence again there is no reason for thinking that a bird requires north, and therefore no need for a limitation.
(20) Which is not altogether burnt, yet requires the north.
(21) Sc. the burnt-offering, guilt-offering and sin-offering.
(22) For that is arrived at by R. Ahia's exegesis.
(23) Text as emended by Sh. M.
(24) In the sense that the sacrifice is otherwise invalid.
(25) Lit., ‘which comes from the strength of a burnt-offering’.
(26) In spite of the refutation, he employs this afortiori argument on account of the following difficulty.
(27) Although a sin-offering makes atonement for those liable to kareth, here it is only secondary to a burnt-offering, since ‘north’ is written primarily in connection with the latter.

Talmud - Mas. Zevachim 49a

Yet there is the [second] tithe, which itself can be redeemed, and yet what is purchased with the [redemption] money of tithe cannot be redeemed. For we learnt: If that which was purchased with the [redemption] money of the [second] tithe became defiled, it must be redeemed. R. Judah said: It must be buried![1] — There the sanctity is not strong enough to take hold of its redemption.[2]

Yet there is the case of a substitute: whereas [sacrificial] sanctity does not fall upon an animal with a permanent blemish, it [substitution] does fall upon an animal with a permanent blemish?[3] — [The sanctity of] a substitute is derived from a consecrated animal, while [that of] a consecrated animal comes from hullin.[4]

Yet there is a Passover-offering, which itself does not require laying [of hands], drink-offerings, and the waving of the breast and the shoulder; whereas its remainder[5] does require laying [of hands], drink-offerings, and the waving of the breast and the shoulder? — A Passover remainder[6] during the rest of the year is a peace-offering.[7]

Alternatively,[8] Scripture says, the burnt-offering, [which intimates,] it must be in its [appointed] place.[9]

How do we know that a guilt-offering requires the north? — Because it is written, in the place where they kill the burnt-offering shall they kill the guilt-offering.[10] We have thus found [it of] slaughtering; how do we know [it of] receiving? — [Because it is written,] And the blood thereof shall be dashed etc.[11] [which teaches that] the receiving of its blood too must be in the north.[12] How do we know [that] the receiver himself [must stand in the north]? — ‘And its blood’ [is written where] ‘its blood’ [alone] would suffice.[13] We have thus found it as a recommendation: how do we know that it is indispensable? — Another text is written, And he shall kill the he-lamb [in the place where they kill the sin-offering and the burnt-offering].[14]

Now, does that come for the present purpose? Surely it is required for what was taught: If anything was included in a general proposition, and was then singled out for a new law, you cannot restore it to [the terms of] its general proposition, unless the Writ explicitly restores it to [the terms of] its general proposition. How so? [Scripture saith,] And he shall kill the he-lamb in the place where they kill the sin-offering and the guilt-offering, in the place of the sanctuary; for as the sin-offering so is the guilt-offering: it is the priest's; it is most holy. Now, ‘as the sin-offering so is the guilt-offering’ need not be said.[15] Why then is ‘as the sin-offering so is the guilt-offering’ said? Because a leper's guilt-offering was singled out and made subject to a new law, viz., that in respect of the thumb of the hand, the big toe of the foot, and the right ear,[16] you might think that it does not require the presentation of [its] blood and emurim at the altar; therefore Scripture says, ‘as the sin-offering so is the guilt-offering’: as the sin-offering requires the presentation of [its] blood and emurim at the altar, so does a leper's guilt-offering require the presentation of blood and emurim at the ‘altar?[17] — If so,[18] let it be written in the latter [passage][19] and not in the former. Now, that is well if we hold that when anything is made the subject of a new law, it cannot be learnt from its general law,

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(1) Second tithe was a tithe of the produce which was to be taken to Jerusalem and eaten there by its owner. If it was too burdensome, he could redeem it, take the redemption money to Jerusalem, and expend it there (Deut. XIV, 22-27). — Thus according to R. Judah what was brought with the redemption money is stricter than the original tithe, for the original could be redeemed, whereas this cannot.

(2) An object must possess a certain degree of sanctity before it can be transferred to something else, whereas the sanctity of this is too light to permit such transfer. Hence R. Judah's ruling, though strict, arises out of the lesser, not the greater, sanctity of what is brought.

(3) If a man dedicates a blemished animal for a sacrifice, it merely receives monetary sanctity, and can be redeemed, whereupon it becomes hullin (q.v. Glos.) entirely, and may be put to any use, including shearing and labour. But if a man declares a blemished animal a substitute for a consecrated animal, it becomes holy, and must be redeemed, but when redeemed it may not be kept for shearing or service, but must be eaten (this is also the law where an animal without a blemish is dedicated for a sacrifice and then receives a blemish). Thus the sanctity of the substitute is greater than that of the original.

(4) A substitute receives sanctity because another animal has already been sanctified, whereas the originally consecrated animal receives it direct from hullin.

(5) V. supra 37b, p. 190, n. 7.

(6) Emended text (Sh. M.)

(7) And not a Passover-offering at all. Hence it is a different sacrifice and naturally governed by different laws.

(8) In reply to the question whence do we know that the north is indispensable in the case of a burnt-offering.

(9) The north is not only prescribed, but is also essential.

(10) Lev. VII, 1.

(11) Ibid. 2.

(12) Sh. M.: The waw (‘and’) joins the sentence to the preceding verse, and so the regulation concerning the place of killing applies to the receiving of the blood too. This second verse must be applied to receiving and not to sprinkling, since the blood was not sprinkled at the north.

(13) Rashi: the deduction is made from the eth (sign of the accusative) before ‘its blood’, which could be omitted. This is therefore regarded as extending the law to the receiver.

(14) Lev. XIV, 13. This treats of a leper's guilt-offering. The repetition of place shews that it is indispensable.

(15) For if it is to teach that it is slaughtered in the north, that follows from the first half of the verse. While if it teaches that the sprinkling of its blood and its consumption are the same as those of the sin-offering, that too is superfluous, since it is already covered by the general regulations prescribed for all guilt-offerings in Lev. VII, 1-10.

(16) V. Ibid. XIV, 14 seq. These rites are absent in the case of other guilt-offerings.

(17) This is the example: since a leper's guilt-offering was singled out for special treatment, the general laws of guilt-offerings could not apply to it without a text specifically intimating that they do. — Thus the text is utilised for this purpose, and not to teach that the north is indispensable.

(18) That that is its only purpose.

(19) In the passage on leprosy.

Talmud - Mas. Zevachim 49b

but its general law can be learnt from it: then it is correct.[1] But if we hold that neither can it be learnt from the general proposition, nor can the general proposition be learnt from it, then this [law][2] is required for its own purpose?[3] — Since [Scripture] restored it, it restored it.[4]

Mar Zutra son of R. Mari said to Rabina: Yet say, When Scripture restored it [to the general proposition] [it was only] in respect of the presentation of the blood and emmurim, since this requires priesthood;[5] but slaughtering, which does not require priesthood, does not require the north [either]?[6] — If so, let Scripture say, ‘for it is as the sin-offering’: why [state], ‘for as the sin-offering so is the guilt-offering’?[7] [To teach:] Let it be like the other guilt-offerings.[8]

Why must it be likened to both a sin-offering and a guilt-offering? — Said Rabina, It is necessary: if it were likened to a sin-offering and were not likened to a guilt-offering I would say, Whence did we learn [that] a sin-offering [is slaughtered in the north]? from a burnt-offering: thus that which is learnt through a hekkesh in turn teaches through a hekkesh.[9] Mar Zutra the son of R. Mari said to Rabina: Then let it be likened to a burnt-offering and not likened to a sin-offering? — Then I would say, [that elsewhere] that which is learnt through a hekkesh in turn teaches through a hekkesh;[10] and if you object, Then let it be likened to a sin-offering,[11] [I could reply:] It [Scripture] prefers to liken it to the principal rather than to the secondary.[12] Therefore it likened it to a sin-offering and it likened it to a burnt-offering, thus intimating that that which is learnt through a hekkesh does not in turn teach through a hekkesh.

Raba said: [It[13] is learnt] from the following, for it is written, As is taken off from the ox of the sacrifice of peace-offerings.[14] For what purpose [is this written]? if for the lobe of the liver and the two kidneys,[15] [surely] that is written in the body of the text![16] But because [Scripture] wishes to intimate that [the burning of] the lobe of the liver and the two kidneys of the he-goats [brought as sin-offerings] for idolatry shall be learnt by analogy from the community's bullock [for a sin-offering on account] of [sinning in] unawareness,[17] whereas this law is not explicitly stated in the passage on the bullock of unawareness, but is learnt from the anointed priest's bullock:[18] therefore ‘as is taken off’ is required, so that it might count as written in that very passage[19] and not as something which is learnt through a hekkesh and then in turn teaches through a hekkesh.[20] Said R. Papa to Raba: Then let [Scripture] write it in its own context,[21] and not assimilate [it to the anointed priest's bullock]?[22] — If [Scripture] wrote it in its own context, and did not teach it by assimilation, I would say, That which is learnt through a hekkesh can in turn teach through a hekkesh;[23] and if you object, Then let Scripture assimilate it?[24] [I could answer that Scripture] prefers to write it [explicitly] in its own context rather than to teach it through a hekkesh. Therefore [Scripture] wrote it[25] and assimilated it, in order to teach that that which is learnt through a hekkesh does not in turn teach through a hekkesh.

(Mnemonic: Hekkesh and gezerah shawah; kal wa-homer.)[26] [It is agreed that] that which is learnt through a hekkesh does not in turn teach through a hekkesh, [this being learnt] either by Raba's or by Rabina's [exegesis]. Can that which is learnt through a hekkesh teach through a gezerah shawah?[27] — Come and hear: R. Nathan b. Abtolemos said: Whence do we know that a spreading outbreak [of leprosy] in garments [covering the whole] is clean? Karahath [baldness of the back of the head] and gabbahath [baldness of the front] are mentioned in connection with garments, and also in connection with man:[28] just as in the latter, if [the plague] spread over the whole skin, he is clean;[29] so in the former too, if it spread over the whole [garment], it is clean. And how do we know it there?[30] Because it is written, [And if the leprosy . . . cover all the skin . . .] from his head even to his feet,[31] and [thereby] his head[32] is assimilated [through a hekkesh] to his feet:[33] as there, when it is all turned white, having broken out all over him, he is clean; so here too, when it breaks out all over him,[34] he is clean.[35] Said R. Johanan:[36] In the whole Torah we rule that whatever is learnt can teach, save in the case of sacrifices, where we do not rule that whatever is learnt can teach. For if it were so [that we did rule thus], let ‘northward’ not be said in connection with a guilt-offering, and it could be inferred from sin-offerings by the gezerah shawah of ‘it is most holy’.[37] Surely then its purpose is to teach that that which is learnt by a hekkesh does not in turn teach through a gezerah shawah.[38] But perhaps [we do not learn it there] because one can refute it: as for a sin-offering, [it requires north] because it makes atonement for those who are liable to kareth? — A superfluous ‘most holy’ is written.[39]

That which is learnt through a hekkesh teaches in turn by a kal wa-homer.[40]

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(1) The general law is that stated in VII, 1-10, while a leper's guilt-offering is singled out for a new law not in harmony with the general law, for whereas the blood of an ordinary guilt-offering is sprinkled on the altar, the blood of this is applied to the right thumb, right ear, and the great toe of the right foot. Now, if it were not stated in the general regulations on the guilt-offerings that it must be slaughtered in the north, but were stated here, this would come not under the preceding but under the following rule: if anything is included in a general proposition and is then singled out to teach a special regulation, this applies not only to the case where it is stated, but to the whole. Thus a leper's guilt-offering is included in the general guilt-offerings dealt with in VII, 1-10; when it is singled out here for slaughtering in the north, that applies to all guilt-offerings, and not only to itself. (The other rule with which we are now dealing holds good only when the new law is not in harmony with the general one, as explained at the beginning of the note.) Hence on this view it need not be stated in VII, 1-10 that it is killed in the north, as this would follow from XIV, 14 seq.; its repetition teaches that the north is indispensable.

(2) In VII, 1-10, that it is killed in the north.

(3) That it is killed in the north, for on the present view we could not learn all guilt-offerings from a leper's guilt-offering, even in respect of a law which is not in disharmony (sc. slaughtering in the north), since the latter is made the subject of one law which is in disharmony (sc. sprinkling on the right thumb etc.).

(4) Scripture restored a leper's guilt-offering to the general rule by saying, for as the sin-offering so is the guilt-offering, whence we know that it must be slaughtered in the north. ‘And he shall kill the he-lamb in the place where they kill the sin-offering and the burnt-offering’ (sc. in the north), written in the same verse, is thus mere repetition, and so teaches that the north is indispensable.

(5) It must be done by a priest. Hence the restoration to the general proposition shews that its emurim and some of the blood must be presented at the altar, in addition to its being applied to the right thumb etc.

(6) But for ‘and he shall kill’ etc. In that case it is not a repetition, and does not teach that it is indispensable.

(7) Why mention the guilt-offering, seeing that the whole passage deals with it?

(8) Sc. that it must be slaughtered in the north. Hence ‘and he shall kill’ etc. is a repetition.

(9) Therefore Scripture adds the burnt-offering, to shew that that is not so.

(10) I.e., there would be nothing in this text to shew the contrary.

(11) Which would positively prove it.

(12) The burnt-offering is the principal source of the law, since it is there that the north is specified, whereas the sin-offering is only a secondary source, since it is derived from the former.

(13) That a thing derived through a hekkesh cannot in turn teach through a hekkesh.

(14) Lev. IV, 10. This refers to the burning of the emurim of the anointed priest's bullock for a sin-offering.

(15) To intimate that these are burnt on the altar, as in the case of a peace-offering.

(16) It is explicitly stated in v. 9.

(17) As stated supra 41a.

(18) As stated supra 39b.

(19) Sc. dealing with the bullock of unawareness. It is so regarded because it is superfluous where it stands.

(20) Which therefore shews that such is inadmissible.

(21) Sc. in the section on the bullock of unawareness.

(22) Since an extra text is required in any case, let it be written explicitly in its own context.

(23) I.e., it would be possible to say so.

(24) Let Scripture teach it through a hekkesh, without writing it explicitly.

(25) In the passage dealing with the anointed priest.

(26) V. p. 31, n. 6.

(27) Thus: The law, which is stated in A, is applied to B by a hekkesh; can that then be applied to C, because there is a gezerah shawah between B and C? Similarly in the other cases that follow.

(28) Leprosy in man: Lev. XIII, 42f; in garments: ibid. 55. In connection with garments, karahath denotes leprosy on the inside (right) of the cloth; gabbahath on the front or outside thereof.

(29) Ibid. 12-13.

(30) That a karahath or gabbahath which spreads and covers the whole head is clean? For Lev. XIII, 12-13 refers to leprosy of the skin, not of the head; moreover, they differ in their symptoms. For the symptom of leprosy of the skin is that the hair turns white (ibid. v, 3, 12), whereas that of a karahath or gabbahath is that the hair turns yellow or reddish-white (ibid. 30, 42).

(31) Ibid 12.

(32) I.e., the leprosy of his head, such as a scale, or karahath or gabbahath.

(33) I.e., to the rest of the body.

(34) I.e., over his whole head or beard. — Emended text (Sh. M).

(35) Thus we first learn by a hekkesh that a karahath or gabbahath in human beings covering the whole head is clean, and then that same law is applied to garments by a gezerah shawah.

(36) In rebutting this proof.

(37) Which is stated of both the sin-offering (Lev. VI, 18) and the guilt-offering (VII, 1).

(38) For in fact the rule that what is learnt by a hekkesh cannot in turn teach by a hekkesh applies to sacrifices only, and it is now shewn that it cannot teach in turn through a gezerah shawah either. Whereas the passage quoted referred to a different subject, viz., leprosy, and there what is learnt through a hekkesh can teach in turn even through a hekkesh.

(39) In Num. XVIII, 9. Since this is superfluous, a gezerah shawah could be learnt even through the guilt-offering is dissimilar from the sin-offering. The fact that we do not do so proves that what is learnt by a hekkesh does not, in the case of sacrifices, teach in turn by a gezerah shawah.

(40) V. Glos.

Talmud - Mas. Zevachim 50a

[This follows] from what the school of R. Ishmael taught.[1]

That which is learnt through a hekkesh, can it teach through a binyan ab?[2] — Said R. Jeremiah: Let ‘northward’ not be written in connection with a guilt-offering, and it could be inferred from a sin-offering by a binyan ab.[3] For what purpose then is it written? Surely to intimate that that which is learnt through a hekkesh cannot in turn teach through a binyan ab. Yet according to your reasoning, let it be inferred from a burnt-offering by a binyan ab?[4] Why then is it not so inferred? Because you can refute it: as for a burnt-offering, [it requires the north] because it is altogether burnt. So in the case of a sin-offering too, you can refute it: as for a sin-offering, [it requires the north] because it makes atonement for those who are liable to kareth!

One cannot be learnt from one; [but] let one be learnt from [the other] two?[5] — From which could it be derived? [Will you say,] Let the Divine Law not write it in the case of a burnt-offering, and it could be derived from a sin-offering and a guilt-offering; [then you can argue,] as for these, [they require the north] because they make atonement. Let not the Divine Law write it in respect of a sin-offering, and let it be derived from the others; [then you can argue,] as for those, the reason is because they are males.[6] Let not the Divine Law write it in connection with a guilt-offering and let it be derived from the others; [then you can argue,] the reason is because they operate in the case of a community as in the case of an individual.[7]

That which is learnt by a gezerah shawah, can it in turn teach through a hekkesh? — Said R. Papa, It was taught: And this is the law of the sacrifice of peace-offerings . . . if he offers it for a thanksgiving:[8] [from this] we learn that a thanksgiving can be brought from tithe,[9] since we find that a peace-offering can be brought from tithe.[10] And how do we know [this of] a peace-offering itself? — Because ‘there’ is written in each case.[11] Said Mar Zutra the son of R. Mari to Rabina: But corn tithe is merely hullin?[12] — Said he to him: Who says[13] that which is learnt must be holy, and that which teaches must be holy?[14]

Can that which is learnt by a gezerah shawah teach by a gezerah shawah? — Said Rami b. Hama, It was taught: Of fine flour soaked [murbeketh]:[15] this teaches that the rebukah [soaked cake][16] must be of fine flour [soleth].[17] How do we know [the same of] halloth?[18] Because halloth is stated in both places.[19] How do we know it of rekikin [thin wafers]? Because mazzoth [unleavened bread] is written in connection with each.[20] Said Rabina to him: How do you know that he learns [the gezerah shawah of] mazzoth, mazzoth, from halloth; perhaps he learns it from oven-baked [cakes]?[21] Rather said Raba: It was taught: And its inwards, and its dung, [even the whole bullock] shall he carry forth [without the camp]:[22] this teaches that he carries it forth whole.[23] You might think that he burns it whole; [but] 'its head and its legs' is stated here, and 'its head and its legs' is stated elsewhere:[24] as there it means after cutting up,[25] so here too it means after cutting up. If so, as there it is after the flaying [of the skin],[26] so here too it means after the flaying? Therefore it says, 'and its inwards and its dung'. How does this teach [the reverse]? — Said R. Papa: Just as its dung is within it,[27] so must its flesh be within its skin. And it was [further] taught, Rabbi said: Skin and flesh and dung are mentioned here,

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(1) V. supra 41a.

(2) Analogy. This differs from a hekkesh, in that in a hekkesh Scripture intimates that there is a certain similarity between two subjects, whereas in a binyan ab (q.v. Glos.) the analogy is drawn from an inherent similarity between two subjects.

(3) For these are analogous, since both are brought on account of sin.

(4) For there it is explicitly stated, and the intermediate hekkesh is not required at all.

(5) Let Scripture intimate that the north is required for two of these, and the third could then be deduced from it.

(6) Whereas a sin-offering is a female.

(7) Burnt-offerings and sin-offerings might be brought on behalf of the whole community, as public sacrifices, just as by an individual. But a guilt-offering could only be brought by an individual. — This whole passage is a digression.

(8) Lev. VII, 11f.

(9) A man can vow a thanksgiving and stipulate that he will purchase it with the redemption money of second tithe (v. p. 246, n. 3).

(10) And the thanksgiving is included therein by a hekkesh.

(11) In connection with both a peace-offering and second tithe. Peace-offering: And thou shalt sacrifice peace-offerings, and shalt eat there (Deut. XXVII, 7); Tithe: And thou shalt eat before the Lord thy God, in the place which He shall choose to cause His name to dwell there, the tithe of thy corn — etc. Deut. XIV, 23. Thus the peace-offering is learnt by a gezerah shawah, and that is transferred to the thanksgiving by a hekkesh.

(12) V. Glos. Whereas the question is about cattle tithe, which is holy.

(13) The translation here is a paraphrase, and conveys the general sense.

(14) I.e., it is unnecessary for both to be holy, but only one. We wish to learn about a peace-offering, and that indeed is holy.

(15) Lev. VII, 12.

(16) I.e., a cake made of flour that is first boiled. This is the Talmudic interpretation of murbeketh.

(17) As opposed to kemah, a coarse meal.

(18) These are ordinary unleavened cakes.

(19) Rebukah: and halloth (E.V. cakes) mingled with oil, of fine flour soaked; halloth (one of the three kinds of unleavened bread brought with a thanksgiving): then he shall offer unleavened (mazzoth) cakes (halloth) mingled with oil (Ibid.) The word halloth in both places shews that both must be of fine meal.

(20) For halloth v. preceding note; rekikin: and unleavened wafers (rekike — construct form of rekikin-mazzoth). Thus we first learn by a gezerah shawah that halloth must be of fine flour, and then by a further gezerah shawah we learn from halloth that rekikin too must be of fine flour.

(21) Lev. II, 4: And when thou bringest a meal-offering baked in an oven, it shall be unleavened cakes (halloth mazzoth) of fine flour. Thus it can be learnt direct, without any intermediate gezerah shawah.

(22) Ibid. IV, 11f.

(23) For if it were cut up, how could he carry them out at once, which the text implies?

(24) Ibid. I, 8-9, 12-13.

(25) Since 'the pieces' are mentioned.

(26) This being explicitly ordered (I, 6).

(27) For it would be repulsive to take it out and burn it separately.

Talmud - Mas. Zevachim 50b

and skin and flesh and dung are mentioned elsewhere:[1] as there [it was burnt after] being cut up, but without flaying, so here too [it is burnt after being] cut up, but without flaying.[2]

Can that which is learnt by a gezerah shawah teach in turn by a kal wa-homer? — [It can, and we learn this by a] kal wa-homer: If [that which is learnt by] a hekkesh, which cannot teach by a hekkesh, as follows from either Raba's or Rabina's [proof], can teach by a kal wa-homer, which follows from what the school of R. Ishmael taught; then [what is learnt through] a gezerah shawah, which can [in turn] teach by a hekkesh, as follows from R. Papa, can surely teach [in turn] by a kal wa-homer! That is well according to him who accepts R. Papa's teaching; but what can be said on the view that rejects R. Papa's teaching? — Rather [this is the] kal wa-homer: if [what is learnt by] a hekkesh, which cannot [in turn] teach by a hekkesh, as follows either from Raba or from Rabina, can teach [in turn] by a kal wa-homer, which follows from what the school of R. Ishmael taught; then a gezerah shawah, which does teach by a gezerah shawah like itself, which follows from Rami b. Hama, can surely teach through a kal wa-homer.

Can that which is learnt by a gezerah shawah subsequently teach by a binyan ab? — The question stands.

Can that which is learnt by a kal wa-homer teach in turn by a hekkesh? — [Yes, and we learn this by a] kal wa-homer: if a gezerah shawah, which cannot be learnt from a hekkesh, as follows from R. Johanan's [dictum], can nevertheless teach by a hekkesh, in accordance with R. Papa; then a kal wa-homer, which can be learnt from a hekkesh, in accordance with the school of R. Ishmael, can surely teach by a hekkesh! That is well on the view that accepts R. Papa's [dictum], but what can be said on the view that rejects R. Papa's [dictum]? Then the question stands.

Can that which is learnt by a kal wa-homer teach in turn by a gezerah shawah? — [Yes, for this follows by a] kal wa-homer: if a gezerah shawah, which cannot be learnt from a hekkesh, in accordance with R. Johanan, can teach by a gezerah shawah, in accordance with Rami b. Hama; then is it not logical that a kal wa-homer, which can be learnt by a hekkesh, in accordance with the school of R. Ishmael, can teach by a gezerah shawah?

Can that which is learnt by a kal wa-homer teach in turn by a kal wa-homer? [Yes, for this follows from a] kal wa-homer: if a gezerah shawah, which cannot be learnt by a hekkesh, in accordance with R. Johanan, can teach by a kal wa-homer, as we have [just] said; then a kal wa-homer which can be learnt from a hekkesh, in accordance with the school of R. Ishmael, is it not logical that it can teach by a kal wa-homer? And this is a kal wa-homer derived from a kal wa-homer.[3] Surely this is a secondary derivation from a kal wa-homer?[4] — Rather, [argue thus: Yes, and this follows from a] kal wa-homer: if a hekkesh which cannot be learnt through a hekkesh, in accordance with either Raba or Rabina, can teach by a kal wa-homer, in accordance with the school of R. Ishmael;[5] then a kal wa-homer, which is learnt through a hekkesh, in accordance with the school of R. Ishmael, can surely teach through a kal wa-homer! And this is a kal wa-homer derived from a kal wa-homer.

Can that which is learnt by a kal wa-homer teach in turn through a binyan ab? — Said R. Jeremiah, Come and hear: If one wrung the neck [of a bird sacrifice] and it was found to be a terefah, R. Meir said: It does not defile in the gullet; R. Judah said: It does defile in the gullet.[6] Said R. Meir: It is a kal wa-homer: if the shechitah of an animal cleanses it, even when terefah, from its uncleanness,[7] yet when it is nebelah it defiles through contact or carriage; is it not logical that shechitah cleanses a bird, when terefah, from its uncleanness, seeing that when it is nebelah it does not defile through touch or carriage? Now, as we have found that shechitah which makes it [a bird of hullin] fit for eating,

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(1) In reference to the anointed priest's bullock. By ‘here’ he means in connection with the bullock and the he-goat of the Day of Atonement.

(2) Thus the result of one gezerah shawah is transferred by another gezerah shawah.

(3) Lit., ‘a kal wa-homer the son of a kal wa-homer’. Thus a kal wa-homer is based on the fact that a gezerah shawah teaches through a kal wa-homer, and that itself is learnt only through a kal wa-homer.

(4) Lit., ‘the grandson of a kal wa-homer’. Thus: A, which is learnt through a kal wa-homer, teaches B by means of a kal wa-homer; that it does so is learnt from the fact C. Now, even if C were directly stated, B would still be the derivative (lit., ‘son’) of the first kal wa-homer. Since however C itself is known only through a kal wa-homer, B becomes the secondary derivative (lit., ‘grandson’). That is so in the present case. Possibly, however, this is straining the powers of a kal wa-homer too far, and is inadmissible, in which case the problem remains unanswered.

(5) This itself is not the result of a kal wa-homer, but a tradition.

(6) A bird sin-offering was not slaughtered by the usual ritual method (shechitah), but had its neck wrung. If an ordinary bird of hullin, or any animal, is killed by any method other than shechitah, it becomes nebelah (carrion). The term terefah is applied to a bird or an animal which was ritually slaughtered, but which was found to be suffering from a disease or other physical defect which renders it forbidden as food. Now when a clean animal, i.e., one permitted for food, becomes nebelah, it defiles any person who touches it or even carries it without actually touching it. A clean bird which becomes nebelah does not defile thus, but only the person who eats it, i.e., when it enters his gullet. In the present instance the bird's neck was wrung; had it been hullin, it would have become nebelah, and defiled accordingly. When it is found to be terefah the sacrifice cannot be proceeded with, as the bird is unfit. R. Judah holds that it is the same, therefore, as hullin, and defiles as such. R. Meir, however, holds that since it was intended for a sacrifice when its neck was wrung, this was its correct method of slaughter, and so it does not defile,

(7) As is shewn in Hul. 128b — Through the shechitah it is freed from the uncleanness of nebelah.

Talmud - Mas. Zevachim 51a

cleanses it, when terefah, from its uncleanness; so wringing [the neck], which makes it [a bird sacrifice] fit for eating, cleanses it, when terefah, from its uncleanness.[1] R. Jose said: It is sufficient that it be like the nebelah of a clean [i.e., edible] animal, which is cleansed by shechitah, but not by wringing its neck.[2] Yet that is not so: even granted there that it is so, yet it is deduced from the shechitah of hullin.[3]

Can that which is learnt by a binyan ab teach by a hekkesh or by a gezerah shawah or by a kal wa-homer or by a binyan ab? — Solve one [of the questions] from the following: Why did they say that if the blood is kept overnight [on the altar] it is fit?[4] Because if the emurim are kept overnight they are fit.[5] Why are the emurim fit if kept overnight? Because the flesh is fit if kept overnight.[6] [Flesh that] goes out?[7] Because [flesh that] goes out is fit at the high place [bamah].[8] Unclean [flesh]? Because it was permitted in public service.[9] [The emurim of a burnt-offering intended to be burnt] after time? Because it propitiates in respect of its piggul status.[10] [The emurim of a burnt-offering intended to be burnt] out of bounds? Because it was likened to [the intention to burn it] after time. Where unfit [persons] received [the blood] and sprinkled it — in the case of those unfit persons who are eligible for public service.[11] Can you then argue from what is its proper way to that where the same is not the proper way?[12] — The Tanna relies on the extension indicated by This is the law of the burnt-offering.[13]

THE RESIDUE OF THE BLOOD etc. What is the reason? — Scripture saith, [And all the remaining blood of the bullock shall he pour out] at the base of the altar of burnt-offering [which is at the door of the tent of meeting];[14] [this intimates]: the one which you first meet.[15]

Our Rabbis taught: 'At the base of the altar of burnt-offering', but not at the base of the inner altar; 'at the base of the altar of burnt-offering': the inner altar itself has no base; 'at the base of the altar of burnt-offering': apply [the laws of] the base to the altar of burnt-offering.[16] Yet perhaps that is not so; rather [it intimates]: let there be a base to the altar of burnt-offering?[17] Said R. Ishmael [This would follow] a fortiori: if the residue [of the blood of the sin-offering], which does not make atonement, requires the base; then surely the sprinkling itself of the [blood of the] burnt-offering,[18] which makes atonement, requires the base![19] Said R. Akiba [too: This would follow] a fortiori: if the residue, which does not make atonement and does not come for atonement, requires the base; is it not logical that the sprinkling itself of the [blood of the] burnt-offering, which makes atonement and comes for atonement, requires the base? If so, why does Scripture state, 'at the base of the altar of burnt-offering'? To teach: apply [the laws of] the base to the altar of burnt-offering.

The Master said: 'At the base of the altar of burnt-offering, but not at the base of the inner altar.' Surely that is required for its own purpose?[20] — That is learnt from, which is at the door of the tent of meeting.[21]

'At the base of the altar of burnt-offering:

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(1) This argument is a binyan ab. Thus what was learnt by a kal wa-homer then teaches through a binyan ab.

(2) Since the argument is alternately based on an animal, the bird sacrifice cannot be clean where the animal would not be.

(3) The Talmud rejects R. Jeremiah's proof. Firstly, because R. Meir does not really learn it by a binyan ab, as might appear here, but from hekkesh, as stated infra 69b q.v. Yet even granted that he does learn it by a binyan ab, the premise (i.e., the teacher) is hullin, and if R. Papa's view is rejected even when what is to be learnt is sacred, nothing can be proved from the present instance (Rashi. Other commentaries explain differently).

(4) I.e., if it was taken up on the altar it is not taken down.

(5) Likewise in the same sense. Similarly the other cases mentioned.

(6) As two days were allowed for the eating of peace-offerings. Thus emurim are learnt by a binyan ab from the flesh, and these in turn teach by a binyan ab in respect of the blood.

(7) Why does such flesh not descend if this is taken up on the altar?

(8) Where sacrifices were offered before the building of the Temple (v. p. 82, n. 1.).

(9) V. p. 84, n. 7.

(10) The sprinkling of the blood is effective (technically 'propitiates') in making it piggul and involving kareth, just as though all its mattirin had been offered (v. supra 28b, p. 143, n. 1.). The emurim of piggul do not descend, once they ascended.

(11) E.g., an unclean priest, who is fit when the sacrifice is brought in uncleanness. — Only then does the blood not descend, once it ascended. This is apparently the meaning of the text, but in that case the question is left unanswered. Possibly, however, the second half is the answer; thus: Why does the blood not descend when unfit persons received or sprinkled it? Because it does not descend in the case of those unfit persons who are eligible for public service, i.e., unclean priests when the community is unclean.

(12) E.g., you argue that the emurim if kept overnight do not descend because the flesh if kept overnight is fit. But the flesh may be kept overnight, whereas the emurim may not. Similarly, when the Temple stood the flesh might not be taken out; whereas there were no boundaries at all in the case of the bamah.

(13) Lev. VI, 2. The verse teaches that all the burnt-offerings (i.e., even when they have the defects mentioned in the text) have one law, and do not descend once they have ascended. The arguments given are mere supports, though strictly speaking they cannot be sustained.

(14) Lev. IV, 7.

(15) As you enter from the door. This was the western base.

(16) The Bible contains five sections dealing with the sin-offering (Lev. IV), viz.: (i) The sin-offering of the anointed priest (vv. 1-12); (ii) that of the whole congregation (13-22); (iii) that of a ruler (22-26); (iv) the female goat of a common layman (27-32); and (v) the lamb of a common layman (32-35). The first two were offered on the inner altar;

the other three on the outer. Again, in reference to the first three Scripture states that the residue of the blood shall be poured out ‘at the base of the altar of burnt-offering’ (vv. 7, 18 and 25), whereas in connection with the remaining two the ‘base of the altar’ alone is mentioned. Here the Rabbis explain why Scripture specifies the altar of the burnt-offering in the first three. The first teaches that the residue is poured out at the base of the outer altar (i.e., the altar of burnt-offering), but not at the base of the inner altar, notwithstanding that the blood was sprinkled on the horns of the inner altar. The second is superfluous, since it is assimilated to the first (v. 20). Hence it teaches that only the outer altar was provided with a special base, but not the inner altar. The third too is superfluous, because firstly, if the residue of the blood of the inner sin-offerings is poured out at the base of the outer altar, obviously the blood of the outer sin-offerings will not be poured out at the base of the inner altar; and secondly, we have already learnt that the inner altar was not provided with a special base. Hence it intimates that the residue of the blood of all sacrifices whose blood is sprinkled on the altar of burnt-offering must be poured out at its base.

(17) Perhaps it does not teach anything concerning the residue of the blood, but that the two sprinklings of the blood of the burnt-offering must be made over against that part of the altar which had a special base; this would exclude the south-east horn, which had no base (v. infra 53b).

(18) Lit., ‘the beginning of the burnt-offering’.

(19) I.e., it must be sprinkled on the horns provided with a base, as in the preceding note. The rendering is not quite literal. Thus a special text would not be required, if its teaching were only as suggested.

(20) Viz., that the residue is to be poured out at the base of the outer altar; nevertheless, if he wishes to pour it out at the base of the inner altar, he should certainly be permitted, since this is more sacred. Though it has been deduced that the inner altar had no special base at all, that is only on the assumption that all three are superfluous; but if the first is required for the purpose of stating the law, then the second is required for the present limitation, and the third as in the text, leaving nothing to shew that the inner altar was not provided with a base.

(21) Which shews that the outer altar is meant; hence ‘of burnt-offering’ is superfluous.

Talmud - Mas. Zevachim 51b

apply [the laws of] the base to the altar of burnt-offering.’ For if you think that it is [meant literally] as written, why do I need a text in respect of the residue, seeing that [the pouring out of] the residue was performed without?[1] And should you say [that but for the text, I would argue] that it is indeed reversed:

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(1) On the outer altar as is expressly prescribed in connection with the two inner sacrifices ‘at the entrance of the tent of meeting’, verses 7 and 8. Obviously then the residue of the blood too would be poured out at the base of the same.

Talmud - Mas. Zevachim 52a

[the residue of] the inner [offerings] on the outer [altar], and [that of] the outer [offerings] on the inner [altar];[1] surely the inner altar had no base![2]

‘Yet perhaps that is not so; rather [it intimates]: let there be a base to the altar of burnt-offering! But is it written, ‘at the base of the burnt-offering’? surely it is written, ‘at the base of the altar of burnt-offering!’[3] — If ‘at the base of the burnt-offering’ were written, I would say [that it means] on the vertical [wall] of the base;[4] now that it is written, at the base of the altar of burnt-offering, it denotes on the roof [top] of the base.[5] [Thereupon] R. Ishmael said: For the roof of the base, why do I need a text? [this would follow] a fortiori: if the residue [of the blood of the sin-offering], which does not make atonement, requires the roof; then the sprinkling itself of [the blood of] the burnt-offering, which makes atonement, is it not logical that it requires the roof [of the base]? Said R. Akiba: If the residue [of the blood of the sin-offering], which does not make atonement and does not come for atonement, requires the roof of the base, is it not logical that the sprinkling itself of [the blood of] the burnt-offering, which makes atonement and comes for atonement, requires the roof of the altar? If so, why does Scripture state, ‘at the base of the altar of burnt-offering’? To teach: apply [the laws of] the base to the altar of burnt-offering.

Wherein do they differ?[6] — Said R. Adda b. Ahabah: They disagree as to whether [the pouring out of] the residue is indispensable. One master holds: It is indispensable, while the other master holds: It is not indispensable.[7] R. Papa said: All agree that the residue is not indispensable, but here they disagree as to whether the draining out of [the blood of] the bird sin-offering is indispensable or not:[8] one master holds that it is indispensable, while the other master holds that it is not indispensable.

It was taught in accordance with R. Papa: And all the remaining blood of the bullock shall he pour out at the base of the altar:[9] Why is 'the bullock' stated?[10] It teaches that the Day of Atonement bullock must have its blood poured out at the base:[11] that is the view of R. Akiba.[12] Said R. Ishmael: [This is inferred] a fortiori: if that whose blood does not enter within as a statutory obligation[13] needs the base, that whose blood enters within as a statutory obligation,[14] is it not logical that it needs the base? Said R. Akiba: If that whose blood does not enter the innermost sanctuary[15] either as a statutory obligation or as a regulation needs the base, that whose blood enters the innermost sanctuary as a statutory obligation, is it not logical that it needs the base? You might think that it is indispensable for it:[16] therefore it states, And he shall make an end of atoning,[17] which teaches, All the atoning services are [now] complete:[18] these are the words of R. Ishmael. Now an a fortiori argument can be made in respect of the anointed priest's bullock: If that whose blood does not enter within either as a statutory obligation or, as a regulation,[19] needs the base; that whose blood enters within both as a statutory obligation and as a regulation,[20] is it not logical that it needs the base?[21] You might think that it is indispensable for it; therefore Scripture says, 'And all the remaining blood of the bullock shall he pour out': the Writ transmutes it into the remainder of a precept[22] to teach you that [the pouring out of] the residue is not indispensable.[23]

Now, does R. Ishmael hold that the draining of [the blood of] the bird sin-offering is indispensable? Surely the school of R. Ishmael taught: 'And the rest of the blood shall be drained out': that which is left must be drained out,

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(1) I.e., the residue of the blood of the inner sin-offerings is to be poured out at the base of the outer altar, and vice versa.

(2) Hence it must be interpreted as stated.

(3) If it intimated that the sprinkling itself must be performed on that part of the altar which has a base (v. p. 259, n. 4). it could not refer to sin-offerings, whose blood was sprinkled on all the horns of the altar, including the south-east. Hence it would have to refer to the burnt-offering alone; but in that case Scripture should write, at the base of the burnt-offering, which would intimate that the blood of the burnt-offering must be sprinkled over against the base. The word 'altar' then becomes redundant.

(4) The base was a cubit high, the altar then being recessed one cubit; thus the base had a vertical wall of a cubit, and a top surface (roof) of a cubit.

(5) Which is hard by the altar itself.

(6) R. Ishmael and R. Akiba.

(7) R. Akiba holds the latter view; hence he emphasises that it does not come for atonement.

(8) V. Lev. V, 9: and the rest of the blood shall be drained out at the base of the altar.

(9) Lev. IV, 7. The text refers to the anointed priest's sin-offering.

(10) It is apparently superfluous, since the whole passage deals with it.

(11) 'The bullock', being superfluous, extends this law to another bullock.

(12) Emended text. Cur. edd. Rabbi.

(13) Sc. the anointed priest's bullock of sin-offering. Its blood is sprinkled on the inner altar, where it is sacrificed, but there is no statutory obligation for the offering at all, as he need not have sinned.

(14) The Day of Atonement bullock is a statutory offering, whether the High Priest had sinned or not.

(15) The Holy of Holies.

(16) Sc. the pouring out of the blood of the Day of Atonement bullock at the base.

(17) Lev. XVI, 20.

(18) I.e., all the services indispensable to atonement have by now been enumerated, and the pouring out of the blood at the base is not one of them.

(19) E.g., the blood of the ruler's he-goat or of a common layman's sin-offering: both were slaughtered at the outer altar, and their blood was poured out there.

(20) Viz., the blood of the anointed priest's bullock. Rashi proposes the deletion of ‘a statutory obligation’, since it has just been stated that it is not one. If it is retained, we must explain that it is called a statutory obligation only by comparison with the blood of other sin-offerings, which does not enter within at all.

(21) Since it can be inferred thus, the explicit Scriptural law to that effect is apparently superfluous and so might be interpreted as teaching that it is indispensable. Therefore he proceeds to shew that it is not indispensable.

(22) Scripture changed the form of expression here: for the other services (sc. the carrying and sprinkling) are ordered thus: and he shall take . . . and he shall sprinkle etc. The different grammatical form in this case shews that this pouring out is, as it were, not an integral part of the rite, but the remaining portion of it, which should be done, yet is not indispensable.

(23) And since this is given as R. Ishmael's view, it supports R. Papa's thesis supra.

Talmud - Mas. Zevachim 52b

but what is not left is not drained out?[1] — There is a controversy of two Tannaim as to R. Ishmael's opinion.

Rami b. Hama said: The following Tanna holds that [the pouring out of] the residue is indispensable. For it was taught: [This is the law of the sin-offering . . .] the priest that offereth it for sin [shall eat it]:[2] [this teaches,] only that [sin-offering] whose blood was sprinkled above [the red line],[3] but not that whose blood was applied below.[4] Say: whence did you come [to this]?[5] From the implication of what is said, And the blood of thy sacrifices shall be poured out [. . . and thou shalt eat the flesh],[6] we learn that if [the blood of] those [sacrifices] which need four applications was presented with one application [only], it has made atonement;[7] you might therefore think that also if the blood which should be sprinkled above [the red line] was sprinkled below, it makes atonement. And it is [indeed] logical: Blood is prescribed above,[8] and blood is prescribed below:[9] as the blood which is prescribed below does not atone if it is sprinkled above,[10] so also the blood which is prescribed above does not atone if it is sprinkled below. No: if you say [thus] in the case of the blood which should be sprinkled below, that is because it will not eventually [be applied] above;[11] will you say the same of the blood which should be sprinkled above, seeing that it will eventually [find its way] below?[12] Let the inner blood[13] prove it, which will eventually come without,[14] and yet if he applied it in the first place without, he did not make atonement. No: if you speak of the inner blood, that is because the inner altar does not complete it.[15] Will you say thus of the upper [blood], where the horns complete it?[16] [and] since the horns complete it, if he sprinkled it below, it is fit.[17] Therefore it says, ‘[The priest that offereth] it [for a sin-offering]’: that whose blood was sprinkled above, but not that whose blood was sprinkled below. Now, what is the meaning of ‘because the inner altar does not complete it’? Surely it must refer to the residue [of the blood]![18] Said Raba to him: If so, you could infer it a minori: if the blood of the inner sacrifices,[19] of which eventually the residue is obligatory without,[20] yet if presented without in the first place, he does not make atonement; then the blood which is to be sprinkled above, and is not eventually obligatory below,[21] is it not logical that if he applied it at the outset below he does not make atonement?[22] — Rather [the meaning is this]: Not the altar alone completes it, but also the veil[23] .

Our Rabbis taught: ‘And he shall make an end of atoning’: if he atoned, he made an end, while if he did not atone, he did not make an end: this is R. Akiba's view. Said R. Judah to him: why should we not interpret: If he made an end, he atoned, while if he did not make an end, he did not atone, which thus intimates that if he omitted one of the sprinklings his service is ineffective?[24] Wherein do they differ? — R. Johanan and R. Joshua b. Levi [disagree]. One maintains: They differ on the mode of interpretation.[25] The other maintains: They differ as to whether the [pouring out of the] residue is indispensable.[26] It may be proved that it was R. Joshua b. Levi who maintained that [the pouring out of] the residue is indispensable. For R. Joshua b. Levi said: On the view that the residue is indispensable he brings another bullock and commences within.[27] But does R.Johanan not hold this view?[28] Surely R. Johanan said: R. Nehemiah taught in accordance with the view that the residue is indispensable?[29] But you must say 'In accordance with the view', but not that of these Tannaim.[30] Then here too,[31] 'on the view' does not refer to that of these Tannaim.

MISHNAH. PUBLIC AND PRIVATE SIN-OFFERINGS (THESE ARE THE PUBLIC SIN-OFFERINGS:[32] THE HE-GOATS OF NEW MOONS AND FESTIVALS) ARE SLAUGHTERED IN THE NORTH, AND THEIR BLOOD IS RECEIVED IN A SERVICE VESSEL IN THE NORTH, AND THEIR BLOOD REQUIRES FOUR APPLICATIONS ON THE FOUR HORNS. HOW WAS IT DONE?

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(1) I.e., all the blood may be used in sprinkling so that nothing is left for draining. Hence draining cannot be essential and indispensable.

(2) Lev. VI, 18, 19. 'Offereth it for sin,' Heb. ha-mehatte, is understood to mean, who correctly performs all the rites (sprinkling) appertaining to a sin-offering; only then may he eat it.

(3) As is necessary for a sin-offering, V. p. 48, n. 1.

(4) The flesh may not be eaten.

(5) Why would you think that the flesh may be eaten even if the blood was not properly sprinkled, that you need a text to shew that it may not?

(6) Deut. XII, 27.

(7) Because 'shall be poured out' implies a single act.

(8) Viz., that of an animal sin-offering.

(9) That of a bird sin-offering; v. infra 64b.

(10) V. infra 66a.

(11) Hence when he sprinkles it above he is definitely performing it incorrectly.

(12) I.e. the residue. Hence when he sprinkles it below the line, he is only applying it where it would eventually come, and so he may make atonement. — Emended text (Sh. M).

(13) I.e., the blood of the inner sacrifices.

(14) The residue is poured out at the base of the outer altar. — Emended text.

(15) After the blood has been sprinkled on the inner altar there still remains an indispensable service to be performed.

(16) No indispensable rite remains to be performed after the blood was sprinkled on the horns of the altar.

(17) So we might argue.

(18) Viz., that its pouring out at the base of the altar is indispensable. This proves Rami b. Hama's assertion.

(19) I.e., the residue of the blood which is sprinkled on the inner altar.

(20) On the present hypothesis, and indispensable. The text is emended on the basis of Rashi.

(21) Though the blood will be poured out below, this is not essential for the efficacy of the sacrifice.

(22) The sacrifice is invalid, and the flesh may not be eaten. Why then is a Scriptural text necessary? Hence the premise of this argument, that the pouring out of the residue is essential, must be false!

(23) The blood must be sprinkled on the veil too.

(24) Lit., 'he has done nothing'. — For notes v. supra 40a.

(25) But not in law. Both hold that all the four applications are indispensable, and that the pouring out of the residue is not indispensable. R. Akiba holds that the conclusion (atoning) illumines the beginning (make an end), whence we learn that the completion depends on atonement, i.e., on the four applications. R. Judah however maintains that 'atoning' might merely mean a single application, therefore (to avoid this conclusion) the interpretation must be reversed, and the beginning made to illumine the end: only when he quite makes an end, having completed the four applications, does he atone.

(26) R. Akiba holds that it is not indispensable, and he interprets it thus: if he made atonement, i.e., performed all the rites for atonement as prescribed in that passage, he made an end. Thus the pouring out of the residue, which is not mentioned there, is not essential. R. Judah however interprets: Only when he made an end of all the rites, including those prescribed elsewhere (viz., the pouring out of the residue), did he make atonement.

(27) If the residue of the blood was spilt after the four applications, another bullock must be slaughtered, and its blood first sprinkled within, and then the residue poured out at the base of the outer altar. But he cannot simply pour out all the blood at the base, for then it is not a residue, whereas a residue is indispensable. — Thus R. Joshua b. Levi holds that there is a view that the pouring out of the residue is indispensable.

(28) That there is a teacher who maintains that it is indispensable.

(29) V. supra 42b.

(30) Viz., R. Akiba and R. Judah.

(31) In the case of R. Joshua b. Levi.

(32) Which need special mention here, for several have already been taught in the preceding Mishnah (supra 47a).

Talmud - Mas. Zevachim 53a

HE WENT UP THE ASCENT, TURNED TO THE SURROUNDING BALCONY,[1] AND PASSED ON [SUCCESSIVELY] TO THE SOUTH-EAST, THE NORTH-EAST, THE NORTH-WEST, AND THE SOUTH-WEST CORNERS. THE RESIDUE OF THE BLOOD HE POURED OUT AT THE SOUTHERN BASE. THEY WERE EATEN WITHIN THE HANGINGS,[2] BY MALE PRIESTS, PREPARED IN ANY FASHION,[3] THE SAME DAY AND NIGHT, UNTIL MIDNIGHT.

GEMARA. How did he do it?[4] — R. Johanan and R. Eleazar [disagree]. One maintained: He applied it within a cubit in either direction.[5] The other maintained: He applied it[6] with a downward movement on the edge of the horn. On the view of R. Eleazar son of R. Simeon who said that its [blood] is applied essentially on the very horn [of the altar],[7] there is no dispute at all.[8] They differ on Rabbi's view:[9] One master holds that a cubit in either direction is also against the horn; while the other master holds: Only at the edge, and no further.

An objection is raised: How was the blood of the public and the private sin-offerings applied? He went up the ascent, turned to the surrounding balcony, and passed on to the south-east horn, where he dipped his right finger — i.e., the index finger of his right hand — into the blood in the bowl, and supported it with his thumb on this side and his little finger on the other,[10] and applied it with a downward movement against the edge of the horn until all the blood on his finger was gone, and thus [he did] at every horn? — This is what he means: Its regulation is [that it be applied] at the edge; yet if he applies it within a cubit in either direction, we have no objection.[11]

What was [this allusion to] Rabbi and R. Eleazar son of R. Simeon? — As it was taught: The upper blood is applied above the scarlet line, and the lower blood is applied below the scarlet line: that is Rabbi's view. R. Eleazar son of R. Simeon said: This holds good only of a burnt-offering of a bird; but in the case of an animal sin-offering, its [blood] is applied essentially on the very horn.[12] R. Abbahu said: What is Rabbi's reason? Because it is written, And the altar shall be four cubits; and from the altar and upward there shall be four horns.[13] Now, was the altar [only] four cubits?[14] — Said R. Adda b. Ahaba: [It means,] And the place of the horns was four [cubits].[15] Did the horns occupy four cubits?[16] — Say rather: The limits of the horns were four [cubits].[17]

We learnt elsewhere: A scarlet line encompassed it about the middle, to distinguish between the upper and the lower bloods. Whence do we know it? — Said R. Aha b. R. Kattina, Because it said: That the net may reach halfway up the altar:[18] thus the Torah prescribed a barrier to distinguish between the upper and the lower bloods.

THE RESIDUE OF THE BLOOD etc. Our Rabbis taught: At the base of the altar[19] means the southern base. You say, the southern base; yet perhaps it is not so, but rather the western base, and the undefined is learnt from the defined?[20] You can answer: We infer his coming down the ascent from his exit from the hekal: as his exit from the hekal was to the nearest side, so his coming down the ascent was to the nearest side.[21]

It was taught, R. Ishmael said: In both cases[22] the western base [is meant]. R. Simeon b. Yohai said: In both cases the southern base [is meant]. As for him who maintains that both [were poured out] at the western base, it is well: he holds that the undefined is learnt from the defined.[23] But what is his reason who holds that the southern base [is meant] in both cases? — Said R. Assi: This Tanna maintains that the whole altar stood in the north.[24] Another version: The whole entrance stood to the south.[25]

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(1) Sobeb, a terrace or balcony which ran round the altar. He had to stand on the balcony because he applied the blood with his finger on the horns of the altar. For other sacrifices he stood on the pavement and dashed the blood from the vessel on to the altar.

(2) In the Tabernacle. These hangings corresponded to the walls of the Temple court.

(3) Roast or boiled.

(4) The application on the horn.

(5) He stood e.g. at the south-east corner and applied the blood either in the direction of south or east, but within a cubit from the actual corner; similarly with the other corners.

(6) Lit., performed the rites of the sin-offering; cf. supra 52b p. 263, n. 4. for this expression.

(7) Infra.

(8) The edge is certainly unnecessary, since anywhere within a cubit from the angle is the horn.

(9) Who holds that the blood may be applied above the line even not against the horn, v. infra.

(10) Like a balanced load. The reading adopted is that of Sh. M. Cur. edd. read: ‘with his thumb above and his little finger below’ — a rather difficult procedure.

(11) As this counts as an extension of the edge.

(12) V. supra 10a.

(13) Ezek. XLIII, 15.

(14) It was much larger.

(15) I.e., the horns occupied four cubits of the altar, since each was a cubit in length and breadth.

(16) Since each was a cubit in length, actually only two cubits of the length or the breadth of the altar were occupied by the horns.

(17) A distance of four cubits below the horns, i.e., as far down as the scarlet line, still ranked as the horns. Therefore Rabbi says that the upper blood, i.e., the blood which is sprinkled on the horn, can be sprinkled anywhere above the scarlet line.

(18) Ex. XXVII, 5.

(19) Lev. IV, 30.

(20) Of the blood of the inner sin-offering it is said, at the base of the altar of burnt-offering, which is at the door of the tent of meeting (ibid., 7). Now, as one entered from the door he came first to the western base: this is therefore regarded as defined, and the question is: Why not learn v. 30, where it is undefined, from v. 7, where it is defined?

(21) When he left the hekal with the residue of the inner blood, he poured it out at the western base, this being nearest to him. So also when he came down the ascent with the residue of the outer blood, after having applied the blood on the south-west corner he poured it out at the southern base, this being nearest to him.

(22) Sc. the inner and the outer sin-offerings.

(23) As in n. 3.

(24) I.e., to the north of the door of the hekal, and no part of the altar actually stood in front of the door; then the immediate side would be the southern. It may also mean that it stood in the north of the Temple court, five cubits of it facing the door, and one of these five cubits was the southern base, which one would face as he came out of the door.

(25) Of the altar. This is the same as the preceding.

Talmud - Mas. Zevachim 53b

The school of R. Ishmael taught in R. Simeon b. Yohai's ruling: In both cases the western base is meant;[1] and your token is:[2] Men pulled a man.[3]

MISHNAH. THE BURNT-OFFERING IS A SACRIFICE OF HIGHER SANCTITY. IT IS SLAUGHTERED IN THE NORTH, AND ITS BLOOD IS RECEIVED IN A SERVICE VESSEL IN THE NORTH; AND ITS BLOOD REQUIRES TWO APPLICATIONS, WHICH ARE FOUR.[4] IT HAD TO BE FLAYED, DISMEMBERED, AND COMPLETELY CONSUMED BY THE FIRE.

GEMARA. Why does he teach that the burnt-offering is a sacrifice of higher sanctity?[5] — Because 'it is most holy' is not written in its case.[6]

AND ITS BLOOD REQUIRES TWO APPLICATIONS [WHICH ARE FOUR]. How did he do it? — Rab said: He applied [the blood] and applied [it] again.[7] Samuel said: He made a single application in the shape of a Greek Gamma.[8]

This is a controversy of Tannaim: [And the priests . . . shall dash the blood round about the altar]:[9] You might think that he sprinkles it with a single sprinkling; therefore Scripture states, 'round about'. If 'round about', you might think that he must encompass it [with blood] like a thread; therefore Scripture states, 'And they shall dash'.[10] How then [is it done]? Its blood requires two applications in the shape of a Greek Gamma, which constitute four. R. Ishmael said: 'Round about' is said here, and 'round about' is said elsewhere:[11] as there it means four separate applications,[12] so here too it means four separate applications. If so, just as there [it means] four applications on the four horns, so here too it means four applications on the four horns? — You can answer: The burnt-offering needs the base,[13] whereas the south-east horn had no base. What was the reason? — Said R. Eleazar: Because it was not in the portion of the 'ravener'.[14] For R. Samuel son of R. Isaac said: The altar occupied a cubit in Judah's portion.[15] R. Levi b. Hama said in R. Hama son of R. Hanina's name: A strip issued from Judah's portion and entered Benjamin's portion,[16] whereat the righteous Benjamin grieved every day, wishing to possess it,[17] as it is said

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(1) Not southern, as above.

(2) To remember this.

(3) The school of R. Ishmael, representing many men, pulled the one man, R. Simeon b. Yohai, to the view of their master, R. Ishmael.

(4) The blood is sprinkled on the north-west and the southwest horns. The blood was not applied exactly on the edge, but spread further, so that all the four sides of the altar received some of it.

(5) Which he does not teach of sin-offerings and guilt-offerings, though they too are likewise.

(6) As it is of the others (v. Lev. VI, 18; VII, 1). Nevertheless the Tanna informs us that it is most holy, since it is altogether burnt. For those parts even of sacrifices of lesser sanctity which were burnt on the altar ranked as most holy.

(7) He applied it twice on each horn, one on each side of it.

(8) He dashed the blood against the edge and it spread on either side, forming an angle.

(9) Lev. I, 5.

(10) Which implies, from a distance, whereas to encompass it he would have to apply the blood directly with his finger round the sides of the altar.

(11) In reference to Aaron's sin-offering of consecration, Lev. VIII, 15.

(12) Lit., 'a separation and four applications'. — The applications had to be separate, since they were made on the four horns.

(13) Its blood must be sprinkled on the horns over against the base.

(14) Sc. Benjamin; cf. Gen. XLIX, 27: Benjamin is a wolf that raveneth.

(15) I.e., the width of one cubit along the eastern and the southern sides of the altar, but not reaching right to the ends thereof. Hence the south-east horn was in Judah's portion and this was not provided with a base.

(16) And on this strip was situated part of the Temple, including a portion of the altar.

(17) To have the honour that the whole Temple and everything in it might be in his portion.

Yearning for Him all day.[1] Therefore was Benjamin privileged to become a host to the Holy One, blessed be He, as it is said: And He dwelleth between his shoulders.[2]

An objection is raised: How was the burnt-offering of a bird sacrificed? He [the priest] pinched off its head close by its neck and divided it,[3] and drained out its blood on the wall of the altar.[4] Now if you say that it had no base, did he simply apply it in the air?[5] — Said R. Nahman b. Isaac: Perhaps they thus stipulated that the air-space should count as Benjamin's and the soil as Judah's.[6]

What does ‘it had no base’ mean? — Rab said: In the construction.[7] R. Levi said: In respect of blood.[8] Now Rab interpreted [the text just quoted]:[9] In his [Benjamin's] heritage shall the altar be built.[10] While Levi interpreted it: In his heritage shall the sanctuary be built, which means, a place sanctified for [the reception of] blood.[11]

Come and hear: The base ran along the whole of the north and the west sides, and extended one cubit into the south and one cubit into the east? — By ‘extended’ is meant in respect of blood.[12]

Come and hear: The altar was thirty-two [cubits] by thirty-two?[13] — This was the side length.[14]

Come and hear: Thus it was found that it overhung a cubit over the base and a cubit over the balcony?[15] — Say: a cubit corresponding to the base area and a cubit of the balcony.[16]

Come and hear: For Levi taught: How did they build the altar? They brought a frame thirty-two [cubits] square and one cubit deep; and they brought round smooth stones[17] of all sizes;[18] then they brought plaster, molten lead and pitch, melted them down and poured them in; and this was the place of the base. Then they brought a frame thirty cubits square and five cubits deep, and they brought smooth stones etc, [and this was the place of the balcony]. Then they brought a frame twenty-eight cubits square, and three cubits deep; and they brought smooth stones etc., and this was the place of the [wood] pile.[19] Then they brought a frame one cubit square, and they brought smooth round stones, of all sizes, and pitch and molten lead, melted them down, and poured them in, and this formed the horn; and similarly for each horn.[20] And should you answer

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(1) Deut. XXXIII, 12. E.V.: He (sc. God) covereth him (Benjamin) all day.

(2) Ibid. The significance of this is explained anon.

(3) By pinching through both organs, the windpipe and the gullet. In the case of a sin offering of a bird only one organ was pinched.

(4) And this was done on the south-east born; v. infra 64a.

(5) I.e., the blood would simply fall to the earth. Surely that was not permitted!

(6) Possibly there was a little ledge on that side, more than three hand-breadths from the ground, where it would not count as belonging to Judah, and on this ledge the blood fell and was thus sacred. Nevertheless, this ledge could not count as a base, where blood actually had to be poured out on the base.

(7) The base, which was a separate structure, did not reach under the south-eastern horn.

(8) The base did run along the whole length of the eastern side of the altar, but blood was not poured out nor applied in Judah's portion.

(9) ‘And he dwelleth between his shoulders.’

(10) Hence the base, which was the understructure and foundation of the altar, was omitted from that side which belonged to Judah.

(11) There was a base under the south-east horn, but it was not sanctified for the purpose, since it was not in Benjamin's portion.

(12) The blood could be poured out there, yet there was no actual construction.

(13) This implies that it was of equal length on all sides, whereas according to Rab it was a cubit short on the east and the south.

(14) Only the north and west sides were of this length; the other two sides were each a cubit less.

(15) V. infra 62b. This refers to the ascent, which joined the altar from the south, and thus implies that there was the base on the south.

(16) I.e., the cubit which would have been occupied by the base, had there been one on the south side.

(17) The original implies fresh from the ground.

(18) Lit., 'both large and small'.

(19) I.e., the top of the altar, where the wood for the fire was placed.

(20) Thus the base consisted of a complete square, which implies the inclusion of the south and the east sides too!

Talmud - Mas. Zevachim 54b

that he [subsequently] cut it away,[1] [surely] 'unhewn [whole] stones' are prescribed![2] — They placed a plank there, and then removed it.[3] For if you will not say thus, when R. Kahana said: The horns[4] were hollow, for it is written, And they shall be filled like the basins, like the horns of the altar,[5] here too [you may object that] the Divine Law prescribed 'whole stones'?[6] But [you must answer] that something was [first] placed there[7] and then removed; so here too, planks were [first] placed there and then removed.

Raba lectured: What is meant by the verse, [And he asked and said: 'Where are Samuel and David?'] And one said: 'Behold, they are at Naioth in Ramah':[8] What connection then has Naioth with Ramah? It means, however, that they sat at Ramah and were engaged with the glory [beauty] of the world.[9] Said they, It is written, Then shalt thou arise, and ascend unto the place [which the Lord thy God shall choose]:[10] this teaches that the Temple was higher than the whole of Eretz Israel,[11] while Eretz Israel is higher than all other countries. They did not know where that place was. Thereupon they brought the Book of Joshua.[12] In the case of all [tribal territories] it is written, 'And the border went down' 'and the border went up' 'and the border passed along',[13] whereas in reference to the tribe of Benjamin 'and it went up' is written, but not 'and it went down'.[14] Said they: This proves that this is its site. They intended building it at the well of Etam, which is raised, but [then] they said: Let us build it slightly lower,[15] as it is written, And He dwelleth between his shoulders.[16] Alternatively,[17] there was a tradition that the Sanhedrin[18] should have its locale in Judah's portion, while the Divine Presence[19] was to be in Benjamin's portion. If then we build it in the highest spot,[20] [said they,] there will be a considerable distance between them. Better then that we build it slightly lower, as it is written: 'And He dwelleth between his shoulders'. And for this Doeg the Edomite envied David,[21] as it is written, Because envy on account of Thy house hath eaten me up.[22] And it is written, Lord, remember unto David all his affliction; how he swore unto the Lord, and vowed unto the Mighty One of Jacob: 'Surely I will not come into the tent of my house, nor go up into the bed that is spread for me; I will not give sleep to mine eyes, nor slumber to mine eyelids; until I find out a place for the Lord, a dwelling-place for the Mighty One of Jacob. Lo, we heard of it as being in Ephrath; we found it in the field of the forest.'[23] 'In Ephrath' means in the Book of Joshua,[24] who [Joshua] was descended from Ephraim. 'In the field of the forest' alludes to [the territory of] Benjamin, as it is written, Benjamin is a wolf that raveneth.[25]

MISHNAH. THE PEACE-OFFERINGS OF THE CONGREGATION[26] AND THE GUILT-OFFERINGS (THESE ARE THE GUILT-OFFERINGS: THE GUILT-OFFERING FOR ROBBERY;[27] FOR TRESPASS;[28] FOR A BETROTHED BONDMAID;[29] A NAZIRITE'S GUILT-OFFERING;[30] A LEPER'S GUILT-OFFERING;[31] AND THE GUILT-OFFERING OF SUSPENSE)[32] ARE SLAUGHTERED IN THE NORTH, AND THEIR BLOOD IS RECEIVED IN A SERVICE VESSEL IN THE NORTH, AND THEIR BLOOD REQUIRES TWO SPRINKLINGS, WHICH CONSTITUTE FOUR. AND THEY ARE EATEN WITHIN THE HANGINGS,[33] BY MALE PRIESTS, PREPARED IN ANY MANNER, A DAY AND A NIGHT, UNTIL MIDNIGHT.

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(1) After the base was built, a cubit was cut away on the south side.

(2) Deut. XXVII, 6. Cutting away from the base would inevitably cut into the stones, so that they would not be whole.
(3) In the first mould planks were placed on the south and the east sides, a cubit from the edge, so that when the stones etc. were poured in, these strips would be left empty; subsequently they were removed.
(4) So emended by Sh. M.
(5) Zech. IX, 15. — That implies that the horns were hollowed out to form a receptacle.
(6) Whereas if the horns were hollowed or perforated after they were made, the stones would have to be cut into.
(7) Thin laths formed the hollow or channels before the stones etc. were poured into it, and these were not filled in.
(8) I Sam. XIX, 22.
(9) Connecting Naioth with na'eh, beautiful, glorious. The reference is to the Temple-they sought to determine its exact site.
(10) Deut. XVII, 8.
(11) Since one had to ‘ascend’ to it from wherever he might be.
(12) To study the topography of Eretz Israel.
(13) Cf. Josh. XV-XVIII.
(14) The border of other tribes ran in a southerly direction from the well of Etam, and the north as far as the well of Etam constituted Benjamin's boundary. Now, the boundaries of other tribes as they proceeded south from the well of Etam are described as going down, whereas the boundary of Benjamin as it proceeded to the well of Etam is described as going up. Hence the well of Etam must have been the highest spot of all. Rashi identifies the well of Etam with ‘the waters of Nephtoah’ (ibid. XVIII, 15.) V. also J.E. art. ‘Etam’.
(15) Sc. in Jerusalem.
(16) Deut. XXXIII, 12. ‘Shoulders’ but not ‘head’ implies that it should not be at the very highest point.
(17) An alternative reason why they did not build it at the well of Etam.
(18) The Supreme Court of seventy-one; v. Sanh. 2a. Its seat was in a special chamber (‘Chamber of Hewn Stone’) in the Temple court.
(19) The Temple.
(20) Lit., ‘if we raise it’.
(21) I.e., because David had thus decided the site of the Temple.
(22) Ps. LXIX, 10. E.V., ‘zeal for Thy house etc.’
(23) Ps. CXXXII, 2-6.
(24) Emended text (Aruk).
(25) Gen. XLIX, 27. Being a ‘wolf’, he would naturally be found in the forest
(26) The lambs offered on Pentecost, Lev. XXIII, 19.
(27) V. Lev. V, 20-25.
(28) V. p. 176, n. 10.; ibid 15f.
(29) V. ibid. XIX, 20 seq.
(30) A nazirite who became defiled through a corpse, v. Num. VI, 9 seq.
(31) At his purification, v. Lev. XIV, 12.
(32) V. p. 240, n. 8.
(33) V. supra 53a p. 266, n. 6.

Talmud - Mas. Zevachim 55a

GEMARA. How do we know that it requires the north? — As Raba son of R. Hanan[1] recited before Raba: And ye shall offer one he-goat for a sin-offering, [and two he-lambs of the first year for a sacrifice of peace-offerings]:[2] as a sin-offering requires the north, so [must] the peace-offerings of the congregation [be slaughtered] in the north. Said Raba to him: Now, whence do we learn this about a sin-offering? From a burnt-offering. Can then that which is learnt through a hekkesh teach in turn through a hekkesh?[3] — Rather, [said Raba], It follows from what R. Mari the son of R. Kahana recited: [Ye shall blow with the trumpets] over your burnt-offerings, and over the sacrifices of your peace-offerings:[4] as a burnt-offering was a sacrifice of higher sanctity, so were the public peace-offerings sacrifices of higher sanctity; as a burnt-offering [was slaughtered] in the north, so were the public peace-offerings [slaughtered] in the north.

Now, what is the purpose of the first hekkesh?[5] — [To teach that it is] like a sin-offering: as a sin-offering is eaten by male priests only, so are public peace-offerings [eaten] by male priests [only]. Said Abaye to him [Raba]: If so, when it is written in connection with a nazirite's ram: And he shall present his offering unto the Lord, one he-lamb of the first year without blemish for a burnt-offering, and one ewe-lamb of the first year without blemish for a sin-offering, and one ram without blemish for a peace-offering:[6] will you say that here too the Divine Law assimilated it to a sin-offering: as a sin-offering may be eaten by male priests only, so the nazirite's ram may be eaten by male priests only? — How compare: There, since it is written, And the priest shall take the shoulder of the ram when it is sodden, [. . . . this is holy, for the priest][7] it follows that the whole of it is eaten by its owner. But at least the shoulder that is sodden should be eaten by male priests only? — That is a difficulty. Alternatively [you can answer]: It[8] is called ‘holy’, but not ‘most holy’.[9] Then in respect of which law is it assimilated?[10] — Said Raba: [To teach] that if he shaves himself after one [sacrifice] of the three, he fulfils his duty.[11] MISHNAH. THE THANKS-OFFERING AND THE NAZIRITE'S RAM ARE SACRIFICES OF LESSER SANCTITY. THEY ARE SLAUGHTERED ANYWHERE IN THE TEMPLE COURT, AND THEIR BLOOD REQUIRES TWO SPRINKLINGS, WHICH CONSTITUTE FOUR; AND THEY ARE EATEN IN ANY PART OF THE CITY, BY ANY PERSON,[12] PREPARED IN ANY MANNER, THE SAME DAY AND THE NIGHT FOLLOWING, UNTIL MIDNIGHT. THE PARTS THEREOF WHICH ARE SEPARATED[13] ARE GOVERNED BY THE SAME LAW, SAVE THAT THESE ARE EATEN [ONLY] BY THE PRIESTS, THEIR WIVES, THEIR CHILDREN AND THEIR SLAVES.

GEMARA. Our Rabbis taught: And the breast of waving and the thigh of heaving shall ye eat in a clean place:[14] Said R. Nehemiah: Did they then eat the earlier [sacrifices][15] in uncleanness? Rather, ‘clean’ implies that it is [partially] unclean:[16] [thus it means,] clean from the defilement of a leper, but unclean with the uncleanness of a zab, and which place is that? The camp of the Israelites.[17] Yet say [that it means] clean from the defilement of a zab, yet unclean with the defilement of the dead, and which [place] is that? The Levitical camp?[18] — Said Abaye, Scripture saith, And ye shall eat it [the mealoffering] in a holy place:[19] ‘it’ [must be eaten] in a holy place, but another [need] not [be eaten] in a holy place, thus withdrawing it from the Camp of the Divine Presence into the Levitical Camp.[20] Then ‘in a clean place’ is written, which withdraws it into the camp of the Israelites. Raba said: ‘It’ [must be eaten] in a holy place but another [need] not [be eaten] in a holy place, withdraws it altogether;[21] then the Divine Law wrote ‘in a clean place’, [thereby] bringing it into the Israelites’ camp.[22] Yet say that it brought it into the Levitical camp?[23] — We bring it back into one [camp], not into two. If so, [you can] also [argue in respect of] withdrawing: we withdraw it from one, but not from two?[24] Moreover, it is written, Thou mayest not eat within they gates etc?[25] Rather, it clearly must be explained as Abaye.

MISHNAH. THE PEACE-OFFERING IS A SACRIFICE OF LESSER SANCTITY. IT MAY BE SLAIN IN ANY PART OF THE TEMPLE COURT, AND ITS BLOOD REQUIRES TWO SPRINKLINGS, WHICH CONSTITUTE FOUR; AND IT MAY BE EATEN IN ANY PART OF THE CITY, BY ANY PERSON, PREPARED IN ANY WAY, DURING TWO DAYS AND ONE NIGHT. THE PARTS THEREOF WHICH ARE SEPARATED ARE SIMILAR, SAVE THAT THESE ARE EATEN BY PRIESTS, THEIR WIVES, THEIR SONS, AND THEIR SLAVES.

GEMARA. Our Rabbis taught: And he shall kill it at the door of the tent of meeting . . . and he shall kill it before the tent of meeting . . . and he shall kill it before the tent of meeting:[26] this teaches that all sides [of the Temple court] are fit in the case of sacrifices of lesser sanctity,[27] and the north [side] a fortiori: if sacrifices of higher sanctity, which were not made fit [for slaughtering] on all sides, are fit on the north; is it not logical that sacrifices of lesser sanctity, which are fit on all sides, are fit in the north?[28] R. Eliezer said: The Writ comes specifically to declare the north fit.[29] For you might say, is not [the reverse] logical: If sacrifices of lesser sanctity, which are fit on all sides, yet their place is not fit for sacrifices of higher sanctity;[30] then sacrifices of higher sanctity, which are permitted in the north only, is it not logical that their [particular] place is not permitted for sacrifices of lesser sanctity? Therefore ‘the tent of meeting’ is stated.[31]

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(1) Emended text (Sh. M.)
(2) Lev. XXIII, 19.
(3) Surely not. V. supra 48a, 49b.
(4) Num. X, 10. It must mean the peace-offerings of the congregation, since private peace-offerings did not require the blowing of trumpets.
(5) Where it is assimilated to a sin-offering.
(6) Num. VI, 14.
(7) Ibid. 19, 20.
(8) The shoulder that is sodden.
(9) Therefore it cannot be like the sin-offering, which is ‘most holy’.
(10) Sc. the nazirite's ram to a sin-offering.
(11) At the termination of his vow a nazirite must bring three sacrifices, viz., a burnt-offering, a sin-offering, and a peace-offering. Yet if he brings only one and shaves, the prohibitions of a nazirite, such as drinking wine, are lifted, because it is written, And after that the nazirite may drink wine (v. 20), ‘after that’ meaning, according to the Rabbis, after he brings his peace-offering. Then the sin-offering is assimilated to the peace-offering to shew that the same applies to the former too.
(12) I.e., even by a zar.
(13) In the case of the thanks-offering, the thigh and breast, and four loaves out of the forty by which it is accompanied. In the case of the nazirite's ram, likewise the thigh and the breast, the boiled shoulder, one unleavened loaf and one unleavened wafer.
(14) Lev. X, 14.
(15) Those enumerated earlier in this passage, which treats of Aaron's consecration.
(16) Since Scripture writes ‘in a clean place instead of in a holy place,’ as in the preceding verse.
(17) Three ‘camps’ of lessening degrees of sanctity were recognised in the wilderness: (i) The camp of the Divine Presence, — the Tabernacle; (ii) the camp of the Levites — literally the Levitical camp which immediately surrounded the Tabernacle; and (iii) the camp of the Israelites, likewise literally, each tribe within the camp of his standard, v. Num. II. To these three corresponded the Temple, the Temple Mount, and the city of Jerusalem respectively. A leper was expelled from all three, a zab was not permitted in the first two, and permitted in the third. Hence this text teaches that it might be eaten anywhere in Jerusalem.
(18) Where a corpse might be taken. So that the flesh of this sacrifice may be eaten in the Temple Mount only, but not anywhere in Jerusalem.
(19) Lev. X, 13.
(20) Emended text (Sh. M.).
(21) This would imply that it need not even be eaten in the third camp, hence even outside Jerusalem.
(22) Hence it must be eaten within the walls of Jerusalem.
(23) Teaching that it must be eaten in the Temple Mount.
(24) When Scripture implies that it is not bound to be eaten in a particular place, say that one camp (that of the Divine Presence) is excluded, but not two.
(25) Deut. XII, 17. ‘Within thy gates’ means in the cities outside Jerusalem.
(26) Lev. III, 2, 8, 13. The three texts refer to the different animals brought as peace-offerings.
(27) As ‘before’ implies on any side.
(28) Thus in the view of this Tanna no text is necessary to shew that it can be slain in the north.
(29) Otherwise we would not know it.
(30) The latter cannot be slaughtered in any part of the Temple.
(31) Implying any part of same.

Talmud - Mas. Zevachim 55b

Wherein do they differ? — The first Tanna holds, Three texts are written:[1] one is for its own purpose, to intimate that the door of the tent of meeting is required;[2] the second is to permit the sides;[3] and the third is to invalidate the sides of the sides;[4] while no text is necessary for the north. Whereas R. Eliezer holds: One is for its own purpose, to intimate that the door of the tent of meeting is required; the second is to permit the north; and the third is to permit the sides; but no text is required in respect of the sides of the sides.

Why is ‘the door of the tent of meeting’ written in one case, whereas ‘before the tent of meeting’ is written in the others? — We are thereby informed of Rab Judah's teaching in Samuel's name. For Rab Judah said in Samuel's name: If a peace-offering is slaughtered before the doors of the hekal are opened, it is invalid, for it is said, ‘And he shall kill it at the entrance [opening] of the tent of meeting’: when it is open, but not when it is shut. It was stated likewise: Mar ‘Ukba b. Hama said in R. Jose son of R. Hanina's name: If one slaughtered a peace-offering before the doors of the hekal were opened, it is invalid, because it is said, ‘And he shall kill it at the entrance [opening] of the tent of meeting’: when it is open, and not when it is shut. In the West [Palestine] they recited it thus: R. Aha b. Jacob said in R. Ashi's name: If a peace-offering is slaughtered before the doors of the hekal are opened, it is invalid; in the Tabernacle,[5] [if it is slaughtered] before the Levites set up the Tabernacle or after the Levites take down the Tabernacle, it is invalid.

It is obvious that if it is shut, it is as though it were locked.[6] What if a curtain [shuts it off]? — Said R. Zera: That itself is made only for an open door.[7]

What of an elevation?[8] — Come and hear: For it was taught, R. Jose b. R. Judah said: There were two wickets in the knives’ recess and their elevation was eight cubits, in order that the whole of the Temple court might be made fit for the consumption of sacrifices of higher sanctity and the slaughtering of sacrifices of lower sanctity.[9] Does this not mean that [an elevation] eight [cubits high] stood before them [these wickets]?[10] — No: it means that they [themselves][11] were eight cubits high.

An objection is raised: All the gates there were twenty cubits high and ten cubits wide?[12] — The wickets were different.[13] But there were the sides?[14] — They were built at the corners.[15]

What about the space behind the place of the Mercy Seat [kapporeth]?[16] — Come and hear, for Rami son of Rab Judah said in Rab's name: There was a small passage way behind the place of the Mercy Seat, in order to make the whole Temple court fit for the consumption of most holy sacrifices and the slaughtering of minor sacrifices, and there were two such,[17] and thus it is written, And two le-par bar.[18] What does le-par bar mean? — Said Rabbah son of R. Shila: As one says, facing without [ke-lappe le-bar].

Rab Judah said in Samuel's name: Liability for uncleanness[19] is incurred

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(1) The ‘tent of meeting’ is repeated three times.

(2) I.e., as stated infra, the animal may be slain only when this door is open.

(3) One is not limited to the space directly in front of the door.

(4) I.e., chambers opening into the Temple court. These, even if sanctified, are unfit.

(5) When there was no door, but only an opening.

(6) The sacrifice then is certainly invalid.

(7) The curtain is hung there only because the door of the hekal is open and it is indecorous for the priests to look into the hekal while they are engaged on the sacrifice. Hence it counts as open, and the sacrifice is valid (Sh. Mek.).

(8) I.e., a raised construction, e.g., a beam or a board which shuts off the door while it is actually open.

(9) The ulam (v. Glos.) overlapped the hekal by 11 cubits on each side. Now, the sacrifices had to be slain in front of the hekal, corresponding to ‘before the tent of meeting’, and this would apparently not include the area directly in front of the overlap, in which there was a special recess for the knives. By means of wickets set in the ulam on either side the whole of the area facing the ulam, including the overlap, was thus made fit.

(10) Which proves that such leaves it technically open.

(11) The entrances to the wickets.

(12) Consequently the reference must be to the construction before the wickets.

(13) Since their purpose was only symbolic.

(14) Of the ulam, on the north and the south beyond the wickets. The area in front of these would not be made fit by the wickets.

(15) Diagonally, so that the space opposite them, viz., up to the north and the south walls of the Temple court, would still be technically 'before the door'.

(16) A space of eleven cubits between it and the western wall of the court (v. Mid. V, I); was that fit too?

(17) Emended text.

(18) E.V. 'at the precinct'. I. Chron. XXVI, 18. The M.T. reads this as one word: parbar.

(19) I.e., for entering the precincts of the Temple court in an unclean state.

Talmud - Mas. Zevachim 56a

only in respect of [an area] a hundred and eighty-seven cubits in length by a hundred and thirty-five in breadth. A Tanna recited before R. Nahman: The whole Temple court was a hundred and eighty-seven cubits in length by a hundred and thirty-five in breadth. Said he to him, Thus did my father say: Within such an area the priests entered, consumed the most holy and slaughtered the minor sacrifices there, and were liable for uncleanness. What does this exclude? Shall we say that it excludes the windows, doors and the thickness of the wall? Surely we learnt: The windows and the thickness of the wall are as within?[1] — Rather, it is to exclude the chambers.[2] But if they are built on nonsacred ground and open into sacred ground, surely we learnt: Their inside is holy? — That is by Rabbinical law [only] — And not by Scriptural law? Surely it was taught: How do we know that the priests may enter the chambers which are built on non-sacred ground and open into sacred ground, eat there the most holy sacrifices and the residue of the meal-offering?[3] Because it says, In the court of the tent of meeting they shall eat it:[4] Scripture permitted many courts for eating![5] — Said Raba: Eating is different.[6] But are they not [holy] in respect of uncleanness? Surely it was taught: The chambers built on non-sacred ground: priests may enter therein and eat there the most holy sacrifices; you may not slaughter minor sacrifices there,[7] and they involve culpability on account of uncleanness? — Did you not say, you may not slaughter?[8] then learn too, and they do not involve culpability.[9] [No:] as for [saying] you may not slaughter, it is well, [the reason being that] it [slaughtering] must be opposite the door, which it is not [in these chambers]. But why [should you learn] 'and they do not involve culpability'? — Yet on your view, [consider: when you say,] you may not slaughter, are we not discussing a case where the shechitah is opposite the entrance,[10] for if it is not, why is it necessary [to teach it]? Hence [you must admit that] although he would slaughter opposite the entrance, yet he teaches, 'You may not slaughter', because they are not sanctified. Then learn also, They do not involve culpability.

Now, do we not require the consumption to be facing the entrance? Surely R. Jose son of R. Hanina taught: There were two wickets in the knives' recess, and their elevation was eight cubits, in order to make the Temple court fit for the eating of most sacred sacrifices and the slaughtering of minor sacrifices? — Said Rabina: Delete 'eating' from this passage. But it is written, Boil the flesh at the door of the tent of meeting, and there eat it?[11] Temporary sacrifices are different.[12]

R. Isaac b. Abudimi said: How do we know that the blood is invalidated by sunset?[13] Because it says, It shall be eaten on the day that he offereth his slaughtering:[14] on the day that you slaughter, you can offer; on the day that you do not slaughter, you cannot offer.[15] But this text is needed

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(1) Sacred; hence these cannot be excluded.

(2) Flanking the Temple court.
(3) What is left after the fistful is separated and burnt on the altar.
(4) Lev. VI, 9.
(5) These correspond to the chambers under discussion. Since the most holy sacrifices may be eaten there, they must be sacred by Biblical law too.
(6) Eating is permitted because Scripture intimated it so.
(7) As these are the ‘sides of the sides’ (v. supra 53b), and not ‘before the tent of meeting’.
(8) Which proves that they are not holy.
(9) The text must be so amended.
(10) I.e., that the door of this chamber faces that of the knives’ recess, so that when both are open it is technically ‘at the door of the test of meeting’, and yet you may not slaughter there.
(11) Lev. VIII, 31.
(12) These sacrifices were not statutory ones, but specially commanded for the consecration of Aaron. They are not subject to the ordinary laws.
(13) It is unfit for sprinkling on the morrow.
(14) Ibid. VII, 16. Lit., translation. E.V.: his sacrifice.
(15) Sc. on the morrow. ‘Offering’ is essentially sprinkling.

Talmud - Mas. Zevachim 56b

for its own purpose?[1] — If so, let Scripture say, ‘It shall be eaten on the day of its slaughtering’: what is the purpose of ‘that he offereth’? Infer from it: on the day that you slaughter, you can offer; on the day that you do not slaughter, you cannot offer. Yet perhaps this is what the Divine Law means: If he [the priest] presents the blood on the same day, you may eat the flesh on the same day and on the next; while if he presents the blood on the morrow, you may eat the flesh on the morrow and on the day after? — If so, let Scripture write, ‘It shall be eaten on the day that he offereth’; what is the purpose of ‘his slaughtering’? Infer from it: On the day that you slaughter, you can offer: on the day that you do not slaughter, you cannot offer.

It was stated: If one intends [eating the flesh] on the evening of the third day,[2] Hezekiah said: It [the sacrifice] is fit; R. Johanan said: It is unfit. Hezekiah said: It is fit, seeing that it was not yet relegated to the fire.[3] R. Johanan said: It is unfit, seeing that it is rejected from eating.[4]

If one eats [the flesh] on the evening of the third day, Hezekiah maintained: He is exempt,[5] seeing that it was not yet relegated to the fire; R. Johanan maintained, He is culpable, seeing that it was rejected from eating. It was taught in accordance with R. Johanan: With regard to sacrifices which are eaten on the same day [only], an intention is effective in respect of their blood from sunset, and in respect of their flesh and their emurim, from dawn.[6] But as to sacrifices which are eaten two days and one night, an intention is effective in respect of their blood from sunset; in respect of their emurim, from dawn; and in respect of their flesh, from sunset on the second day.[7]

Our Rabbis taught: You might think that they [peace-offerings] may be eaten on the evening of the third day, and this is indeed logical. Some sacrifices are eaten on the same day, and others are eaten during two days; as those sacrifices which are eaten on the same day [only], the night follows them;[8] so also the sacrifices which are eaten during two days, the night follows them. Therefore it says, And if aught remain until the third day:[9] while it is yet day it may be eaten, but it may not be eaten on the evening of the third day. You might think that it is burnt immediately,[10] and this is logical: some sacrifices are eaten on the same day, and others are eaten during two days: as the sacrifices which are eaten on the same day, burning immediately follows eating;[11] so the sacrifices which are eaten during two days, burning immediately follows eating. Therefore it says, ‘On the third day it shall be burnt with fire’: you must burn it by day, but you must not burn it at night.

MISHNAH. THE FIRSTLING, TITHE[12] AND PASSOVER-OFFERING ARE SACRIFICES OF LESSER SANCTITY. THEY ARE SLAUGHTERED IN ANY PART OF THE TEMPLE COURT, AND THEIR BLOOD REQUIRES ONE SPRINKLING, PROVIDED THAT IT IS APPLIED OVER AGAINST THE BASE.[13] THEY DIFFERED IN THEIR CONSUMPTION [AS FOLLOWS]: THE FIRSTLING WAS EATEN BY PRIESTS [ONLY], WHILE THE TITHE MIGHT BE EATEN BY ANY MAN. AND THEY WERE EATEN IN ANY PART OF THE CITY, PREPARED IN ANY MANNER, DURING TWO DAYS AND ONE NIGHT. THE PASSOVER-OFFERING MIGHT BE EATEN ONLY AT NIGHT, ONLY UNTIL MIDNIGHT, AND IT MIGHT BE EATEN ONLY BY THOSE REGISTERED FOR IT,[14] AND IT MIGHT BE EATEN ONLY ROASTED. GEMARA. Which Tanna [rules thus]?[15] — Said R. Hisda, It is R. Jose the Galilean. For it was taught, R. Jose the Galilean said: Not 'its blood' is said, but 'their blood'; not 'its fat' is said, but 'their fat': this teaches concerning the firstling, tithe, and the Passover-offering, that their blood and emurim must be presented at the altar.[16]

How do we know [that it must be sprinkled] over against the base? — Said R. Eleazar: The meaning of 'sprinkling'[17] is learned from a burnt-offering.

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(1) To teach that a peace-offering is eaten on the day it is slaughtered and on the next day.

(2) The evening preceding the third day, i.e., after the two days permitted for its eating.

(3) If it remains until the evening of the third day it does not become nothar, to require burning, but only if it remains until the morning (v.v. 17). Hence the intention to eat it then, expressed at the sacrificing, does not invalidate it.

(4) It may not be eaten after the two days.

(5) From the penalty for eating nothar.

(6) If he intended sprinkling their blood after sunset, or eating their flesh or burning their emurim after the dawn of the morrow, his intention makes the sacrifice unfit.

(7) I.e., the evening of the third day.

(8) I.e., they are eaten on the night following.

(9) Lev. XIX, 6.

(10) At the end of the second day, after sunset.

(11) From the moment that it may no longer be eaten, it is to be burnt.

(12) Sc. of cattle; v. Lev. XXVII, 32.

(13) On a part of the altar which has a base under it. This excludes the east and south (v. supra 53b).

(14) By people who had previously registered themselves for that particular animal.

(15) The Mishnah enumerates the differences in their mode of consumption only. Whence it follows that they are alike in respect of sprinkling and presentation of emurim. Whose view is this?

(16) V. supra 37a for notes.

(17) Written in connection with the firstling and tithe.

Talmud - Mas. Zevachim 57a

And how do we know it of a burnt-offering itself? — Because it is written, At the base of the altar of the burnt-offering:[1] this proves that the statutory burnt-offering requires [sprinkling at] the base.[2] If so, just as there two applications which constitute four [are required], so here too, two applications which constitute four [are required]?[3] — Said Abaye: Why must 'round about' be written in connection with both a burnt-offering and a sin-offering?[4] That there might be two verses with the same teaching, and two verses with the same teaching do not illumine [other cases].[5] That is well on the view that they do not illumine; but on the view that they do illumine, what can be said? — The guilt-offering is a third,[6] and three certainly do not illumine.

THE FIRSTLING IS EATEN BY PRIESTS. Our Rabbis taught, How do we know that a firstling is eaten during two days and one night? Because it is said, And the flesh of them shall be thine, as the wave-breast and as the right thigh:[7] the Writ assimilated it to the breast and the thigh of a peace-offering:[8] as a peace-offering might be eaten during two days and one night, so may the firstling be eaten during two days and one night. And this question was asked of the Sages in the vineyard of Yabneh:[9] For how long may a firstling be eaten? Whereupon R. Tarfon replied: During two days and one night. Now a certain disciple was present, who had come to the Beth Hamidrash for the first time, by the name of R. Jose the Galilean. Master, said he to him, whence do you know this? My son, replied he, a peace-offering is a sacrifice of lesser sanctity, and a firstling is a sacrifice of lesser sanctity: as a peace-offering is eaten during two days and one night, so a firstling is eaten during two days and one night. Master, he objected, a firstling is the priest's due, and a sin-offering and a guilt-offering are the priest's dues;[10] [then let us argue,] as a sin-offering and a guilt-offering [may be eaten] during one day and one night, so a firstling [may be eaten] one day and one night? Said he to him: Let us compare the two objects, and then deduce one from the other:[11] as a peace-offering does not come on account of sin, so a firstling does not come on account of sin; [hence,] as a peace-offering is eaten two days and one night, so is a firstling eaten two days and one night. Master, he objected, Let us compare the two objects, and then deduce one from the other: a[12] sin-offering and a guilt-offering are priestly dues, and a firstling is a priestly due; as[12] a sin-offering and a guilt-offering cannot be brought as a vow or a freewill-offering,[13] so a firstling cannot be a vow or a freewill-offering:[14] [hence,] as a sin-offering and a guilt-offering are eaten one day and one night, so may a firstling be eaten one day and one night? R. Akiba then leaped [into the debate], and R. Tarfon withdrew. Said he [R. Akiba] to him, Behold, it says, ‘And the flesh of them shall be thine [etc.]’: the Writ assimilated them to the breast and thigh of a peace-offering: as a peace-offering is eaten two days and one night, so a firstling is eaten two days and one night. Said he to him: You have likened it to the breast and thigh of a peace-offering, but I might liken it to the breast and thigh of a thanks-offering: as a thanks-offering is eaten one day and one night, so a firstling is eaten one day and one night. Lo, he replied, it says, it shall be thine.[15] Now, ‘it shall be thine’ need not be stated; why then is it said? The Writ thereby prolonged the existence of a firstling.[16] When this discussion was reported to R. Ishmael, he said to them [those who reported it]: Go forth and say to Akiba, You have erred.[17] Whence do we learn this of the thanksoffering?[18] From a peace-offering.[19] Can then that which is learnt through a hekkesh teach in turn by a hekkesh?[20] Hence you must determine it not by the second version but by the first version.[21] Now, how does R. Ishmael employ this phrase, ‘it shall be thine’?[22] — It teaches that a blemished firstling is given to the priest, for which teaching we do not find [any other text] in the whole Torah. And R. Akiba?[23] — He learns it from ‘their flesh’, [which intimates,] whether it whole or blemished. And R. Ishmael?[24] — It means, the flesh of these firstlings.

Wherein do they differ?[25] — One master holds: [That which is inferred] from the subject itself and another does constitute a hekkesh; while the other master holds: It does not constitute a hekkesh.[26] On the view that it does not constitute a hekkesh, it is well: hence it is written, And so shall he do for the tent of meeting,[27] which [intimates]: As he sprinkles the blood of the bullock in the Holy of Holies once upward and seven times downward, so must he sprinkle in the hekal; and as he sprinkles the blood of the he-goat in the Holy of Holies once upward and seven times downward, so must he sprinkle in the Hekal. But on the view that it does constitute a hekkesh, what can be said?[28] — The localities only are deduced from one another.[29]

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(1) Lev. IV, 7.

(2) For in fact the altar was not used for the burnt-offering exclusively, the very sentence quoted treating of a sin-offering. Hence the verse must mean, at the base of the altar, as is done with a burnt-offering.

(3) Whereas the Mishnah says otherwise.

(4) Burnt-offering, Lev. I, 5: And he shall dash the blood round about against the altar; sin-offering, VIII, 15: And when it was slain, Moses took the blood, and put it upon the horns of the altar round about with his finger. ‘Round about’ implies on all four sides. Now, this could be said with reference to a burnt-offering only, and the other would be deduced from it.

(5) Hence the number of applications required by a firstling etc. cannot be deduced from a burnt-offering.

(6) Where ‘round about’ is said, Lev. VII, 2.
(7) Num. XVIII, 18. The text refers to firstlings.
(8) Since it was the breast and the thigh of a peace-offering which belonged to the priest.
(9) The famous town to the north-west of Jerusalem, seat of R. Johanan b. Zakkai's academy and Sanhedrin after the destruction of the Temple.
(10) Whereas a peace-offering belongs to its owner.
(11) I.e., let us first see to which the firstling is similar, and then learn from it.
(12) The words: ‘a sin-offering . . . as’ are best omitted with Ms. M.
(13) V. supra 2a, p. 2, n. 6. These sacrifices can be brought only when one has incurred them.
(14) It must actually be a firstling.
(15) Num. XVIII, 18. This reiterates the first half of the verse.
(16) It is correct to liken it to a thanksoffering rather than to a peace-offering, since we cannot permit a longer time for its consumption than the minimum of which we are certain. But the reiteration, ‘it is thine’, implies that it is thine for a longer time than you might otherwise think, and so it is permitted for two days, like a peace-offering.
(17) By likening it to the thanks-offering in the first place.
(18) That its breast and thigh belong to the priest. This is not stated explicitly.
(19) By means of a hekkesh.
(20) Surely not (v. supra 49b). Hence the thanksoffering in this case cannot throw light on the firstling.
(21) You must compare it in the first instance to a peace-offering, not to a thanksoffering.
(22) Why is it repeated?
(23) Whence does he know this?
(24) How does he explain the plural ‘their’? V. supra 37a, b for notes.
(25) It is a definite rule that what is learnt through a hekkesh does not teach through a hekkesh. Why then does R. Akiba adopt this exegesis here?
(26) Now, that a thanksoffering is eaten one day and one night is not inferred by a hekkesh but stated explicitly, Lev. VII, 15, while that its breast and thigh belong to the priest is inferred by a hekkesh. R. Ishmael holds that the fact that the priest may eat the breast and the thigh during one day and one night only must be regarded as an inference by a hekkesh, and therefore it cannot become the basis for another hekkesh (viz., as to the time permitted for the consumption of a firstling). R. Akiba however maintains that since the time permitted for the thanksoffering is explicitly stated, we do not regard the time allowed for the breast and thigh as the result of a hekkesh; hence it can become the basis for another hekkesh.
(27) Lev. XVI, 16.
(28) The passage treats of the ritual of the Day of Atonement. Scripture writes, And he shall take of the blood of the bullock, and sprinkle with his finger upon the ark-cover on the east; and before the ark-cover shall he sprinkle of the blood with his finger seven times (ibid. 14). ‘Upon’ and ‘before’ are understood to mean upward and downward respectively: thus, while it is explicitly stated that it is sprinkled seven times downwards, the number of upward sprinklings is not stated, and this is learnt by analogy (hekkesh) from the he-goat, where it says, And sprinkle it (otho) upon the ark-cover, and before the ark-cover (v. 15). There ‘it’ (otho) is held to indicate one sprinkling, while the number of downward sprinklings is not stated. The present text, and do with his (sc. the he-goat's) blood as he did with the blood of the bullock, teaches that both are sprinkled once upward and seven times downward, since an analogy is drawn between them. Now, each is written partly explicitly and partly inferred by a hekkesh, and then the same is applied to the hekal by means of a hekkesh. Now, if what is inferred partly from the subject itself and partly from another subject does not constitute a hekkesh, then the sprinklings in the hekal can rightly be inferred by a hekkesh from those in the Holy of Holies. But if it does, such inference is disallowed, since what is learnt by a hekkesh cannot teach by a hekkesh.
(29) This is not a case of what is learnt by a hekkesh teaching through a hekkesh, since the first refers to the animals, whereas the second refers to the localities.

Talmud - Mas. Zevachim 57b

Alternatively, [the sprinklings] without [in the Hekal] are directly inferred from [those] within [the Holy of Holies].[1]

On the view that it does not[2] constitute a hekkesh, it is well: hence it is written, Ye shall bring out of your dwellings [two] wave-loaves [of two tenth parts of an ephah etc]:[3] Now, 'ye shall bring' need not be said;[4] what then does 'ye shall bring' teach? Whatever you bring on another occasion[5] must be like this: as here a tenth [of an ephah] is used for hallah, so there[6] too a tenth is required for hallah. If so, as here two tenths are required, so there too two tenths are required? Therefore Scripture states, they shall be [of fine flour].[7] We have thus learnt ten [tenths] for leavened [loaves]. Whence do we know ten [tenths] for unleavened loaves? Because it says, With cakes of leavened bread [he shall present his offering with the sacrifice of his peace-offering for thanksgiving][8] [which intimates,] Bring an equal quantity of unleavened as of leavened.[9] But on the view that it constitutes a hekkesh, what can be said?[10] — 'Ye shall bring' is superfluous.[11]

THE PASSOVER-OFFERING IS EATEN ONLY [etc]. Which Tanna [rules thus]? — Said R. Joseph, It is R. Eleazar b. 'Azariah. For it was taught, R. Eleazar b. 'Azariah said, [And they shall eat the flesh] in the night[12] is stated here, whilst elsewhere it is stated, For I will go through the land of Egypt in that night:[13] just as there it means by midnight, so here too it means by midnight. Said R. Akiba to him: Yet surely it is already stated, [and ye shall eat it] in haste,[14] [implying] until the time of haste?[15] If so, what is taught by 'in that night'? You might think that it is like all [other] sacrifices, which are eaten by day: therefore it is stated 'in [that] night': it is eaten by night, but it may not be eaten by day. Said Abaye to him [R. Joseph]: How do you know that [the author of our Mishnah is] R. Eleazar b. 'Azariah, while [the law is] Biblical. Perhaps the law is Rabbinical only, [the reason being] to prevent transgression?[16] — If so, why state, ONLY UNTIL MIDNIGHT?[17] But it means, It is as the other laws;[18] as those are Biblical, so is this Biblical.[19] [

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(1) And not via the animals at all.

(2) Emended text (Bah, Sh. M.).

(3) Lev. XXIII, 17.

(4) The text could read: And ye shall present a new offering unto the Lord (v. 16) out of your dwellings etc.

(5) Lit., 'from another place'.

(6) Lit., 'as there . . . so here.' The hallah (unleavened loaf) brought on another occasion (v. n. 4) is referred to as 'here', as that is the actual subject being discussed.

(7) Ibid. For the interpretation of this v. Men. 78a top.

(8) Lev. VII, 13.

(9) The preceding verses read: Then he shall offer . . . unleavened cakes mingled with oil, and unleavened wafers spread with oil, and cakes mingled with oil. When this is followed by ' With cakes of leavened bread' etc., it yields a hekkesh, whence we learn that the weight of the former must be the same as that of the latter.

(10) The wave-loaves brought on Pentecost were made of a tenth of an ephah of flour, and they were leavened. Now, the thanksoffering was accompanied by four kinds of loaves; v. Lev. VII, 12-14. These included a set of leavened loaves (the other three kinds were unleavened), but neither the actual number of each kind nor their weight is stated. By means of a gezerah shawah the Talmud deduces that there were the loaves of each kind, and from the superfluous 'ye shall bring' it infers that the leavened loaves were each to be made of a tenth of an ephah (these are those brought 'on another occasion'), just like the two wave-loaves, so that ten tenths were required for all. Thus the number is not deduced by a hekkesh but by a gezerah shawah, which is regarded as being explicitly stated in the subject itself, while the weight is learned by a hekkesh (the superfluous 'ye shall bring'). Then the Talmud infers by another hekkesh that the weight of the unleavened loaves is the same (v. preceding note). The difficulty then is the same as the preceding on the number of sprinklings (v. p. 287, n. 3).

(11) Hence the fact that the loaves of the thanks-offering require a tenth of an ephah each is not regarded as an inference by a hekkesh, but as though it were explicitly stated.

(12) Ex. XII, 8.

(13) Ibid. 12.

(14) Ibid, 11.

(15) I.e., when they had to make haste to leave Egypt, which was in the morning.

(16) Possibly this Tanna holds that by Scriptural law it may be eaten until morning, yet he gives the limit of midnight so as to make sure that one will not transgress by eating it in the morning.

(17) He should state, And it is eaten until midnight.

(18) Lit., 'as there'. Sc. that it may only be eaten roast and by registered persons.

(19) Hence its author must be R. Eleazar b. 'Azariah.

Talmud - Mas. Zevachim 58a

CHAPTER VI

MISHNAH. IF SACRIFICES OF HIGHER SANCTITY ARE SLAUGHTERED ON THE TOP OF THE ALTAR, R. JOSE SAID: [THEY ARE] AS THOUGH THEY WERE SLAUGHTERED IN THE NORTH;[1] R. JOSE SON OF R. JUDAH SAID: FROM THE MIDDLE OF THE ALTAR SOUTHWARD IS AS SOUTH, FROM THE MIDDLE OF THE ALTAR NORTHWARD IS AS THE NORTH.

GEMARA. R. Assi said in R. Johanan's name: R. Jose maintained that the whole of the altar stood in the north.[2] What then does AS THOUGH [etc.] mean? You might think that we require [them to be slaughtered] on the side [of the altar].[3] which they were not. Hence he informs us [that it is not so]. Said R. Zera to R. Assi: If so, will you indeed say that R. Jose son of R. Judah holds that [the altar] is half in the north and half in the south?[4] And should you answer, That indeed is so; surely it was you who said in R. Johanan's name: R. Jose son of R. Judah admits that if he slaughtered them in a corresponding position on the ground,[5] they are unfit? — Said he to him, This is what R. Johanan said: Both of them inferred [their views] from the same text:[6] And thou shalt sacrifice thereon thy burnt-offerings, and thy peace-offerings:[7] R. Jose holds: The whole of it [the altar] is fit for [the slaughtering of] the burnt-offering,[8] and the whole of it is fit for peace-offerings. While R. Jose son of R. Judah holds: Divide it: half of it is for a burnt-offering, and half for a peace-offering. For if you think that the whole of it is fit for a burnt-offering, then seeing that the whole of it is fit for a burnt-offering, need it be said that the whole of it is fit for a peace-offering. And the other?[9] — It is necessary:[10] You might think that only a burnt-offering [is fit if slaughtered on the top of the altar]. since its room is cramped.[11] But as for peace-offerings, whose room is not cramped,[12] I would say that it is not so. Hence [the text] informs us [otherwise].

The [above] text [stated]: 'R. Assi said in R. Johanan's name: R. Jose son of R. Judah admits that if he slaughtered them in a corresponding position on the ground, they are unfit.' R. Aha of Difti asked Rabina: What does 'in a corresponding position on the ground' mean?[13] Shall we say, on the cubit of the base or the cubit of the terrace:[14] surely that is the altar itself? Moreover, what does 'on the ground' mean?[15] And if you say that he made a cavity in the ground[16] and slaughtered therein: would that be a [proper altar]? Surely it was taught: An altar of earth thou shalt make unto Me:[17] [this teaches] that it must be joined to the earth, that it must not be built over cavities or on rocks? — It means that he shortened it[18]

R. Zera said: Is it possible that this statement of R. Johanan[19] is correct, and yet we have not learnt it in the Mishnah?[20] So he went out, searched, and found it. For we learnt: They selected from there[21] sound fig-tree wood[22] to arrange the second pile for incense[23] by the south-west horn at a distance of four cubits from it northward; [sufficient wood was taken to make] about five se'ahs of coals,[24] and on the Sabbath, about eight se'ahs, because they placed there the two censers of frankincense for the shew-bread.[25] And what is the token?[26] — This agrees with R. Jose. For it was taught:

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(1) Hence valid.

(2) Supra 53a.

(3) Lev. I, 11.

(4) R. Zera assumed that R. Assi's statement was inferred from the Mishnah: since R. Jose rules that if it is slaughtered anywhere on the top of the altar, it is as though it is slaughtered in the north, it follows that the whole of the altar is in the north. But if this inference is correct, a similar deduction can be made with respect to R. Jose b. R. Judah.

(5) This will be explained anon.

(6) I.e., R. Johanan did not base his statement on the Mishnah, but on the Scriptural interpretation of these Rabbis.

(7) Ex. XX, 21.

(8) Hence the whole of the altar is in the north, since a burnt-offering must be slaughtered in the north (Lev. I, 11).

(9) How does he rebut this argument?

(10) To state that the whole of it is fit for a peace-offering.

(11) As it must be slaughtered in the north, there may not be enough room when there are many sacrifices; hence Scripture permitted the top of the altar too.

(12) They can be slaughtered anywhere in the Temple court.

(13) It cannot mean on the pavement at the side of the altar, for then there would be no difficulty on R. Assi's view. For even if the whole altar stood in the north, yet if one slaughtered on the west or east of it at some distance from the actual side, it would still be unfit, because it must be killed between the north side of the altar and the opposite wall of the Temple court; therefore this could not prove that R. Jose did not hold that half the altar was in the north and half in the south. Hence it must apparently mean, on the ground of the altar itself. Now, how is this possible?

(14) The altar' was recessed a cubit for the base and a cubit for the terrace (v. supra 54a).

(15) The top of the base or the terrace is not ‘on the ground’.

(16) Under the altar.

(17) Ex. XX, 21.

(18) It was decided to shorten the altar, and the northern half of it was thus left clear. Although it is still the side, the offerings slaughtered there are unfit, which proves that he holds that the altar is in the south, as there is no other reason for its unfitness.

(19) That R. Jose holds that the whole altar stood in the north.

(20) There must be some hint of it in the Mishnah.

(21) The wood-shed, in which the wood for the altar was kept.

(22) Not worm-eaten.

(23) At the side of the large wood-pile, on which the offerings were burnt, a smaller pile was made, whence three kabs of burning coals were taken every morning and evening for the inner altar, on which the incense was burnt.

(24) So that it should be easy to take the necessary quantity of live coals from it for the inner altar.

(25) This frankincense was burnt on the Sabbath, and on the outer altar, on this special pile. Therefore more coals were required (as the other incense still had to be burnt on the inner altar). V. Tam. II, 5.

(26) By which sign did the Sages rule that this second pile was in that particular spot?

Talmud - Mas. Zevachim 58b

R. Jose said: This is the token: whatever is taken [from] within to be placed without,[1] is placed as near as possible [to the inner altar]; and whatever is taken from without to be placed within, is taken from as near as possible [to the inner altar]. ‘Whatever is taken [from] within to be placed without’: What is it? If we say, the residue [of the blood], surely it is distinctly written thereof, [And all the remaining blood of the bullock shall he pour out] at the base of the altar of burnt-offering, which is at the door of the tent of meeting?[2] Further, as to whatever is taken without to be placed within’, what is it? If we say, the coals of the Day of Atonement, surely it is explicitly written thereof, And he shall take a censer full of coals of fire from off the altar before the Lord?[3] Rather, ‘whatever is taken within to be placed without’ means the two censers of the frankincense for the shewbread,[4] which we infer from the residue [of the blood];[5] and ‘Whatever is taken without to be placed within’ is the coals of every day.[6] which are inferred from the coals of the Day of Atonement. Now, what does he hold?[7] If he holds [that] the whole altar is in the south, he would have to carry it twenty-seven [cubits from the horn]?[8] And even if he holds that the sanctity of the hekal and that of the ulam are one,[9] yet he would have to carry it down twenty-two cubits?[10] And if he holds that it was half in the north and half in the south, he would have to bring it down eleven cubits?[11] And even if he holds that the sanctity of the hekal and that of the ulam are one, he would have to bring it down six cubits?[12] Hence it must surely be that he holds that the whole altar was in the north, and these four cubits are as follows: one cubit for the base, one for the terrace, one for the horns, and one for the feet of the priests; for should one go further than this, there would no more be the door.[13] Said R. Adda b. Ahabah:[14] This is in accordance with R. Judah. For it was taught. R. Judah said: The altar stood in the middle of the Temple court.[15] Now, it was thirty-two cubits [square], [of which] ten cubits faced the door of the hekal, and [it extended] eleven cubits on either side [thereof]. Thus the altar was exactly opposite the hekal. Yet even so, according to R. Judah he would have to bring it down eleven cubits? And even if he held that the sanctity of the hekal and that of the ulam are one, he would still have to bring it down six cubits? — Do you think that these four cubits include the cubit of the base and the cubit of the terrace? [No:] they are exclusive of the cubit of the base and the cubit of the terrace. Now, let us make this agree with R. Jose, and [assume] that [he too holds that] it stood in the centre?[16] — Because we know definitely that R. Judah holds that it stood in the middle.[17]

R. Sherabia said: This is in accordance with R. Jose the Galilean. For it was taught: R. Jose the Galilean said: Since it says. And thou shalt set the laver between the tent of meeting and the altar,[18] while another verse states, [And thou shalt set]

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(1) From the inner altar on to the outer altar.

(2) Lev. IV, 7. That is the nearest point to the inner altar. Why then must R. Jose give a general rule for this, when it is explicitly stated?

(3) Ibid. XVI, 12. ‘Before the Lord’ implies near the inner sanctum.

(4) They were taken on the Sabbath from the Table, which was within.

(5) They must be placed (presented) on the side facing the door, which is the nearest point.

(6) Which are taken from the second pile and placed on the inner altar. R. Jose thus teaches that they are taken from the side facing the door.

(7) When he states that this second pile is arranged four cubits from the horn northwards.

(8) The width of the door was ten cubits, five of which were in the north and five in the south, while the altar was thirty-two square. Now, deducting the five cubits which the door passed into the north, the nearest point to the door would thus be twenty-seven cubits from the opposite horn.

(9) Supra 14a.

(10) For then, as soon as he reaches a point opposite the door of the ulam he is ‘before the Lord’. As the door of the ulam was five cubits wider than that of the hekal on both sides (i.e., ten wider in all), five cubits can be deducted from the preceding calculation.

(11) For then there will be sixteen cubits in the south. The figure eleven is arrived at by deducting the five of the door from these sixteen.

(12) Deducting a further five cubits (cf. n. 5.) from the eleven.

(13) I.e., it would carry it beyond the line of the door. Thus we have a Mishnah in support of R. Johanan's statement regarding R. Jose.

(14) To refute this proof.

(15) I.e., half in the north and half in the south.

(16) Why insist that the author is R. Judah?

(17) Whilst we do not know R. Jose's opinion.

(18) Ex. XL, 7.

Talmud - Mas. Zevachim 59a

the altar of burnt-offering [before the door of the tabernacle of the tent of meeting].[1] [it follows that] the altar was at the door of the tent of meeting, while the laver was not at the door of the tent of meeting. Where then was it [the laver] placed? Between the ulam and the altar, slightly toward the south. Now what does he hold? If he holds that the whole altar stood in the south, let it be placed southward from the wall of the hekal, [for that would be] between the ulam and the altar? And even if he holds that the sanctity of the ulam and that of the hekal are one, let it be placed southward from the wall of the ulam, [for that would still be as] between the ulam and the altar? Or if he holds that half was in the north and half in the south, let it be placed southward from the wall of the hekal, between the ulam and the altar? And even if he holds that the sanctity of the ulam and that of the hekal are one, let it be placed southward from the wall of the ulam, this being between the ulam and the altar? Hence it must surely be that he[2] holds that the whole altar stood in the north. Then let it be placed between the altar and the hekal northward? — He holds that the sanctity of the hekal and ulam is identical.[3] Then let it be placed northward from the wall of the ulam, when it would be between the ulam and the altar? — Scripture saith, northward, which means that the north must be free from vessels.[4]

Which Tanna disagrees with R. Jose the Galilean?[5] — R. Eleazar b. Jacob. For it was taught: R. Eleazar b. Jacob said: ‘Northward’ [intimates] that the north must be free from everything, even from the altar:

Rab said, If the altar was damaged, all sacrifices slaughtered there are unfit. We have a text to this effect, but have forgotten it. When R. Kahana went up,[6] he found R. Simeon b. Rabbi teaching in R. Ishmael b. R. Jose's name: How do we know that all the sacrifices slaughtered at a damaged altar are unfit? Because it is said, And thou shalt sacrifice thereon thy burnt-offerings and thy peace-offerings:[7] now, do you then sacrifice on it?[8] Rather, [it means:] when it is whole, and not when it is defective. Said he: That is the text which eluded Rab. But R. Johanan maintained: In both cases they are unfit.[9] Wherein do they disagree? — Rab holds: Live animals cannot be [permanently] rejected; while R. Johanan holds: Live animals can be [permanently] rejected.[10]

An objection is raised. All the sacred animals which were before the altar was built,[11] and then the altar was built, are unfit.[12] [Now before] it was built, they were rejected ab initio?[13] — [Say] rather: before it was razed.[14] ‘[Before] it was razed?’ But they [the animals] would be too old![15] Rather [it means] [the animals which were consecrated] before the altar was damaged, and then the altar was damaged, are unfit![16] — Now, did you not emend it? Then read, which were slaughtered.[17] But surely R. Giddal said in Rab's name: If the altar was removed [from its place], the incense was burnt on its [the altar's] site?[18] — Even as Raba said, R. Judah agrees in respect of the blood,[19] so here too. Rab agrees in respect of the blood.[20]

What [statement of] R. Judah [is referred to]? — It was taught: The same day did the king hallow the middle of the court that was before the house of the Lord . . . because the brazen altar that was before the Lord was too little to receive the burnt-offering, and the meal-offering and the fat of the peace-offerings:[21] this is meant literally:[22] these are the words of R. Judah. Said R. Jose to him:

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(1) Ibid. 6.

(2) R. Jose the Galilean.

(3) So Rashi. The reading varies in different texts, v. Sh. M.

(4) And the laver is a vessel.

(5) Maintaining that the whole of it was in the south.

(6) To Eretz Israel.

(7) Ex. XX, 21.

(8) Surely not. The sacrifice was slaughtered at the side of the altar.

(9) All animals in a state of consecration while the altar was damaged are unfit, whether slaughtered while it was actually damaged, or after it was repaired.

(10) V. supra 12a. When the altar became damaged these animals were rejected, since they could not be sacrificed then. The controversy is whether this rejection is permanent or not.

(11) The altar in the second Temple.

(12) I.e., if they were consecrated before the altar was actually built.

(13) At the very moment that they were consecrated they were unfit, since there was as yet no altar, and in this case there is a view that the animals do not become permanently rejected, v. Kid. 7a.

(14) I.e., the animals consecrated before the altar in the first Temple was destroyed might not be offered when that in the second was built.

(15) By the time that that in the second was built.

(16) Even if slaughtered after it is repaired. This contradicts Rab who declares fit sacrifices offered after the altar had been repaired.

(17) Since you must emend the text in any case, emend it to: all the animals which were slaughtered while the altar was damaged.

(18) This refers to the inner altar, and it is assumed that the same applies to the outer altar. When it is removed it is as damaged, and so Rab is self-contradictory.

(19) The sprinkling of the blood requires an altar.

(20) His ruling applies only to incense, but he agrees that the blood must be sprinkled on a whole altar.

(21) I Kings VIII, 64.

(22) Lit., 'the words are as written'. — I.e., Solomon sanctified the whole of the pavement to serve as an altar, to permit the burning of the limbs, etc., upon it.

Talmud - Mas. Zevachim 59b

But surely it is said, A thousand burnt-offerings did Solomon offer upon that altar,[1] while of the Eternal House[2] it is said, And Solomon offered for the sacrifice of peace-offerings, which he offered unto the Lord, two and twenty thousand oxen,[3] and when you calculate the number of burnt-offerings and the number of cubits, the latter was larger than the former?[4] Rather, what does 'was too little to receive' mean? As one says to his neighbours. 'So-and-so is a dwarf', when he is unfit for [sacrificial] service.[5] But R. Jose says well to R. Judah?[6] — R. Judah is consistent with his view, for he maintained that the altar made by Moses was large. For it was taught: [And thou shalt make the altar of acacia wood.] five cubits long, and five cubits broad; [the altar shall be square]:[7] this is meant literally: these are the words of R. Jose. R. Judah said: 'Square' is stated here, and 'square' is stated elsewhere:[8] as there it was measured from the centre, so here it was measured from the centre. And how do we know [that it was so] there? — Because it is written, And the hearth[9] shall be twelve cubits long by twelve cubits broad, square. You might think that it was only twelve cubits square; when, however, it says, to[10] the four sides thereof, it teaches that the measurement was taken from the middle.[11] And R. Jose?[12] — The gezerah shawah refers to the height [of the altar]. For it was taught: And the height thereof shall be three cubits:[13] this is meant literally: these are the words of R. Judah. R. Jose said: 'Square' is stated here, and 'square' is stated elsewhere:[14] as there its height was twice its length, so here too [its height was] twice its length.[15] Said R. Judah to him: Is it possible that the priest stood on the altar, performing the service, whilst all the people saw him from without?[16] Said R. Jose to him: But surely it is stated, And the hangings of the court, and the screen for the door of the gate of the court, which is by the tabernacle and by the altar roundabout,[17] [which teaches that] as the tabernacle was ten cubits [high], so was the altar ten cubits [high]; and it says. The hangings for the one side were fifteen cubits.[18]

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(1) Ibid. III, 4. The altar referred to is the brazen one made in the days of Moses (cf. II Chron. I, 6).

(2) The Temple.

(3) Ibid. VIII, 63.

(4) Moses' altar was five cubits square. From these a cubit must be deducted on all sides for the horns, and a further cubit on all sides for the terrace where the priests walked. This left only one cubit square for the actual burning. Whereas in Solomon's altar the actual place for burning was twenty cubits square, according to R. Jose, which means four hundred times as large. If then the smaller altar could cope with a thousand animals, this larger one was surely more than enough for the number offered that day. Hence 'was too little to receive' etc. cannot be meant literally.

(5) I.e., instead of saying directly that for some reason he is unfit, he uses a euphemism and calls him a dwarf. Similarly here, the altar had become unfit for service, and that is delicately stated by saying that it was too small.
(6) His argument is sound. How then does R. Judah rebut it?
(7) Ex. XXVII. 1.
(8) Ezek. XLIII, 16, q.v. It is quoted in the text.
(9) I.e., the actual portion of the altar for burning.
(10) Lit. translation, not in as E.V.
(11) Interpreting 'to' as intimating that from one particular point there were twelve cubits in all directions, hence from the centre. Accordingly, Moses' altar was ten cubits square, not five, and when the two cubits on all sides are deducted (v. n. 11, p. 296) it was still six as against Solomon's twenty cubits square. The latter therefore would not be large enough for the extra work it had to do.
(12) How does he rebut this reasoning?
(13) Ex. ibid.
(14) In reference to the golden altar, Ex. XXX, 2: a cubit shall be the length thereof, and a cubit the breadth thereof; square shall it be; and two cubits shall be the height thereof.
(15) Hence, ten cubits.
(16) As would be the case if the altar were ten cubits high; this would not be seemly. — The text is emended in accordance with the Yalkut.
(17) Num. IV, 26.
(18) Ex. XXXVIII, 14. Rashi: it is now understood that they were fifteen cubits in height. Tosaf. objects that the whole context refers to the width, and accordingly emends: 'and the hangings were fifteen cubits,' omitting 'and it says' and 'for one side', this being a statement by R. Jose on their height, not a Biblical quotation.

Talmud - Mas. Zevachim 60a

What then is the meaning of 'And the height five cubits'?[1] From the [upper] edge of the altar to the top [of the hangings]. And what does 'and the height thereof shall be three cubits' mean? From the edge of the terrace to the top [of the altar]. And R. Judah?[2] — He relates the gezerah shawah to the breadth. Now according to R. Judah, surely the priest could be seen? — Granted that the priest could be seen, the service [sacrifice] in his hand could not be seen.

As for R. Judah. it is well: hence it is written, [did the king] hallow.[3] But according to R. Jose, what is the meaning of 'did hallow [the middle of the court]?'[4] — [He hallowed it] to set up the altar therein.[5]

As for R. Jose, it is well: hence it is written, '[was] little'.[6] But according to R. Judah, what is meant by 'little'?[7] — This is what it means: The altar of stones which Solomon made instead of the brazen altar was too small.

Wherein do they differ?[8] — One master holds: You learn without from without,[9] but you do not learn without from within.[10] While the other master holds: You learn a utensil from a utensil, but you do not learn a vessel from an edifice.[11]

Raba said: R. Judah admits in respect of the blood.[12] For it was taught. R. Judah said: He used to fill a goblet with the mingled blood, so that should the blood of one of them be spilt, it is found that this renders it fit.[13] But if you think that R. Judah holds that the whole of the Temple court was sanctified,[14] the precept has been already performed.[15] — [No:] perhaps that is because he holds that we require pouring out with man's force?[16] — If so, let us take it and pour it out in its place.[17] [No:] perhaps [that cannot be done] because he holds that the precept must be performed in the most fitting way.[18]

R. Eleazar said: If the altar was damaged, you cannot eat the remainder of the meal-offering on account of it, because it is said, And eat it without leaven beside the altar.[19] Now did they eat it then beside the altar?[20] Rather [it means]: when it is whole, and not when it is damaged.

We have found [it true of] the residue of the meal-offering. How do we know [it of] sacrifices of higher sanctity? — The implication of 'holy' [kodesh] is learnt by a gezerah shawah.[21] Whence do we know [it of] sacrifices of lesser sanctity? — Said Abaye: It is derived by R. Jose's exegesis. For it was taught: R. Jose stated three laws on the authority of

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(1) Ibid. XXVII, 18.

(2) How does he rebut this?

(3) He hallowed the pavement to serve as an altar.

(4) In which respect did he hallow it?

(5) For this purpose itself the pavement had to be hallowed.

(6) Not, 'was too little', as E.V. R. Jose understands the verse (I Kings VIII, 64) to mean that Solomon set up an altar of stones, because the brazen altar was unfit, and euphemistically called 'small'.

(7) Since according to him even the stone altar was not large enough, why state that 'the brazen altar . . . was too little'?

(8) Sc. R. Jose who learns the gezerah shawah of 'square' from the golden altar, and R. Judah who learns it from Ezekiel.

(9) The brazen altar and the Temple court were both 'without', i.e., not in the inner sanctum.

(10) Viz., from the golden altar, which was in the inner sanctum.

(11) Both the brazen altar and the golden altar were technically utensils, whereas Ezekiel's stone altar was a constructed edifice.

(12) That the blood could not be sprinkled on the pavement. He sanctified the pavement only in respect of the burning of the fats and the limbs.

(13) V. supra 34b.

(14) Even for the sprinkling of the blood.

(15) The very act of spilling constitutes sprinkling.

(16) I.e., intentionally done, and not accidentally spilt.

(17) As soon as the blood is received in a vessel, let it be poured out there and then.

(18) Which is to sprinkle the blood actually on the altar. Yet possibly, if he did intentionally pour it out on the ground, the rite would be valid.

(19) Lev. X, 12.

(20) It might be eaten anywhere in the Temple court.

(21) Lit., we learn 'holy', 'holy' (Emended text-Sh. M.). — The present text states, for it is most holy, and so the same law is applied to sacrifices of higher sanctity, which are likewise so designated. e.g.. Lev. VI. 18.

Talmud - Mas. Zevachim 60b

three elders, and the following is one of them: R. Ishmael said: You might think that a man can take up second tithe[1] to Jerusalem and consume it[2] there now-a-days.[3] and that would be logical: a firstling must be brought to the 'Place' ,[4] and tithe must be brought to the 'Place': as [the law of] firstling operates only whilst the Temple stands, so [the law of] tithe is valid only whilst the Temple stands. [No:] as for a firstling, the reason is because its blood and emurim must be presented at the altar![5] Let first-fruits prove it.[6] As for first-fruits, the reason is because they must be placed [before the altar]![7] Therefore it states, And thither shall ye bring your burnt-offerings. and your tithes . . . and the firstlings of your herd and of your flock:[8] this assimilates tithe to firstling: as [the law of] firstling is valid only whilst the Temple stands, so is tithe valid only whilst the Temple stands. Yet let us revert to the argument and learn it from the common characteristic?[9] — Because that can be refuted: the feature common to both is that each is connected with the altar.[10]

What does he hold?[11] If he holds that the first sanctity hallowed it for the nonce and for the future.[12] then even a firstling too [is thus]?[13] While if he holds that it did not hallow it for the future, there should be a question even about a firstling too? — Said Rabina: In truth he holds that it did not hallow it [for all time], but here we discuss a firstling whose blood was sprinkled before the Temple was destroyed, then the Temple was destroyed, and we still have its flesh.[14] Now its flesh is likened to its blood:[15] as its blood requires the altar, so does its flesh require the altar.[16] Then tithe comes and is learnt from a firstling.[17] But can then that which is derived by a hekkesh teach in turn by a hekkesh? — The tithe of corn is merely hullin. That is well on the view that the taught is the determining factor; but on the view that the teacher is the determining factor, what can be said?[18] — Blood and flesh are the same thing.[19]

When Rabin went up,[20] he reported this teaching[21] in R. Jeremiah's presence, whereupon he observed: The Babylonians are fools. Because they dwell in a land of darkness[22] they engage in dark discussions.[23] Have they not heard what was taught: During the dismantling [of the Tabernacle] on their travels,[24] sacrifices became unfit,[25] and zabin and lepers were sent out of their precincts.[26] Whereas another [Baraitha] taught: Sacrifices might be eaten in two places.[27] Surely then, the former refers to sacrifices of higher sanctity, and the latter to sacrifices of lesser sanctity?[28] — Said Rabina: Both refer to sacrifices of lesser sanctity, yet there is no difficulty:

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(1) V. p. 246, n. 3.

(2) Instead of redeeming it.

(3) I.e., after the destruction of the Temple. — He holds that the sanctity of Eretz Israel was not annulled thereby, and so one must still set aside tithes.

(4) The ‘Place’ par excellence — Jerusalem.

(5) Hence the law does not operate without a Temple and altar. But that would not apply to tithe.

(6) Which were brought only whilst the Temple stood, as it says, And he shall set it down before the altar of the Lord thy God (Deut. XXVI, 4) which implies that there must be an altar, though there was no blood or emurim to be presented thereat

(7) Hence at this stage there are no grounds for supposing that the law of tithe is valid only when the Temple is standing.

(8) Deut. XII, 6.

(9) Why is the foregoing hekkesh necessary? Though it cannot be learnt from either firstling or first-fruits, it could be learnt from their common feature, which is that both must be brought to Jerusalem and both are in force only as long as the Temple stands. Hence the same applies to second tithe, which shows this feature.

(10) The blood and emurim of a firstling must be presented at the altar, and first-fruits must be placed before the altar. But tithe is not connected with the altar in any way.

(11) When he assumes that the law is certain and obvious in respect of firstling, but not in respect of tithe.

(12) I.e., that the sanctity of the Temple was for all time, even after its destruction.

(13) Rashi: even a firstling should be brought to Jerusalem and eaten there, for on the view that its sanctity was for all time it was to be offered even after the Temple's destruction.

(14) Which no longer needs the altar; nevertheless it may not be eaten.

(15) Num. XVIII, 17f: Thou shalt dash their blood against the altar, and shalt make their fat smoke for an offering made by fire...and the flesh of them shall be thine. These, being written together, are assimilated to one another.

(16) In the sense that it may not be eaten when there is no longer an altar.

(17) That the same applies to it.

(18) For notes v. supra 45a.

(19) They are both parts of the same offering . Hence, when we say that the flesh requires the altar, just as the blood, this is not regarded as the result of a hekkesh, but as though the Biblical teaching concerning the blood naturally refers to the flesh too.

(20) To Palestine. Rabin and R. Dimi were two Rabbis who travelled backwards and forwards between Palestine and Babylon, acting as intellectual links between the academies of both.

(21) Viz., Abaye's statement that sacrifices become unfit through the altar being damaged, and its inference by R. Jose's exegesis.

(22) Babylonia is possibly so called on account of the Parsees (fireworshippers), who forbade the Jews to have any light in their dwellings on their (the Parsees’) festivals.

(23) They discuss laws without knowing their true meaning or derive them incorrectly.

(24) When the Tabernacle was dismantled and taken apart, which was when the Israelites were actually travelling.

(25) The flesh of sacrifices of higher sanctity might not be eaten, even if their blood had been sprinkled before the dismantling.

(26) The precincts which were permitted to them whilst the Israelites were encamped. Thus zabin were sent out of the Levitical camp, and lepers out of the camp of the Israelites (v. p. 276. n. 6).

(27) (i) Within their normally permitted boundaries, when the Tabernacle was up; and (ii) in any place, when they were actually travelling. This contradicts the former teaching.

(28) The latter may be eaten even when the Tabernacle is dismantled. At that time there would be no altar either, and that is certainly no better than when the altar stands but is damaged. This proves that sacrifices of lesser sanctity may be eaten when the altar is damaged, and thus contradicts Abaye Therefore R. Jeremiah called Abaye's teaching 'dark', i.e., incorrect.

Talmud - Mas. Zevachim 61a

The former agrees with R. Ishmael,[1] the latter with the Rabbis.[2] Alternatively, both treat of sacrifices of higher sanctity; but what does 'in two places' mean? Before the Levites set up the Tabernacle

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(1) Who assimilates the flesh to the blood; hence it may not be eaten.

(2) Who do not assimilate the flesh to the blood.

Talmud - Mas. Zevachim 61b

and after the Levites dismantled the Tabernacle.[1] You might argue that [in the latter case the flesh] became unfit through having gone out [of bounds].[2] Therefore he informs us [otherwise]. Yet say that that is indeed so? — Scripture saith, Then the tent of meeting shall set forward:[3] even when it has set forward[4] it is 'the tent of meeting.'[5]

R. Hisda[6] said in Rab's name: The altar at Shiloh was of stones. For it was taught. R. Eleazar b. Jacob said: Why is 'stones' stated three times?[7] One refers to that of Shiloh, another to that of Nob and Gibeon, and the third to that of the Eternal House.[8] R. Aha b. Ammi raised an objection: The fire which descended from heaven in the days of Moses[9] did not depart from the brazen altar until the days of Solomon.[10] And the fire which descended in the days of Solomon[11] did not depart until Manasseh came and removed it. Now if this is correct,[12] it should have departed earlier?[13] — He [R. Hisda in Rab's name] made his statement in accordance with R. Nathan. For it was taught, R. Nathan said: The altar at Shiloh was of brass; it was hollow, and filled with stones.[14] R. Nahman b. Isaac said: What does 'it did not depart' mean? It did not depart [disappear] into nothingness.[15] How was it? — The Rabbis said: It sent forth sparks.[16] R. Papa said: It took up its abode now here, now there.

We learnt elsewhere: And when the Children of the Exile went up [to Eretz Israel],[17] they added thereto[18] four cubits on the south and four cubits on the west, like a [Greek] gamma.[19] What is the reason? — Said R. Joseph: Because it [the first] was not sufficient. Said Abaye to him: If it was sufficient for the first Temple, when it is written, Judah and Israel were many, as the sand which is by the sea [shore] in multitude;[20] would it be insufficient for the second Temple. whereof it is written, The whole congregation together was forty and two thousand [etc.]?[21] — There [in the first Temple] the heavenly fire assisted them;[22] here [in the second Temple] it did not assist them.

When Rabin came [from Palestine], he said in the name of R. Simeon b. Pazzi: They added the pits [to its structure].[23] At first they had thought that an 'altar of earth' meant that it was to be closed in with earth.[24] But subsequently they held that drinking must be like eating.[25] and what does 'an altar of earth' mean? that it should be attached to the earth, not built on rocks

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(1) ‘Before the Levites set up the Tabernacle’ cannot be understood literally, but means whilst the Tabernacle was standing, this phrase merely being used in contrast to the second half. Thus the two places are: (i) within the normal precincts of the Tabernacle (within the ‘hangings’ — v. p. 266, n. 6) whilst it stood; and (ii) likewise within the normal precincts, but after the Tabernacle had been dismantled. The altar, however, was still standing.

(2) I.e. when the Tabernacle is dismantled, and the hangings are no longer there, the flesh should be regarded as having gone out of bounds, and so disqualified.

(3) Num. II, 17.

(4) Hence dismantled.

(5) It still retains its sanctity, in the sense that the flesh is not regarded as having gone out of bounds.

(6) Emended text (Sh. M). Cur. edd. Huna.

(7) Ex. XX, 22: And if thou make Me an altar of stone, thou shalt not build it of hewn stones; Deut XXVII, 5-6: And there shalt thou build . . . an altar of stones . . . Thou shalt build the altar of the Lord thy God of unhewn stones.

(8) The Temple at Jerusalem.

(9) V. Lev. IX, 24.

(10) Rashi: A pot was placed over it when they travelled, and the fire remained in its place. When Solomon built the Temple, this fire left the brazen altar and moved to the stone altar in the Temple.

(11) This same fire.

(12) That the altar at Shiloh was of stone.

(13) As soon as the stone altar was built at Shiloh, the fire should have departed from Moses’ brazen altar.

(14) The answer is not clear. Presumably it means that it was Moses’ brazen altar except that the hollow was filled with stones instead of earth.

(15) Lit., ‘in vain,’ ‘for no purpose.’ Until Solomon built the Temple the fire did not completely depart from Moses’ altar which was still in existence, for though it did move to the altar at Shiloh, some of it nevertheless remained on that of Moses.

(16) When the fat, etc., was burnt on the stone altar, sparks and flames shot out from the heavenly fire on the brazen altar, which was there too, on to the stone altar.

(17) I.e., when the Jews returned from Babylon.

(18) To the altar.

(19) The altar in the first Temple was twenty-eight cubits square overall, whilst that of the second Temple was thirty-two cubits. The addition would thus be a strip four cubits broad in triangular shape, like a Greek gamma thus:

(20) I Kings IV, 20. The bracketed word ‘shore’, not in the M.T., is found in some old Hebrew MSS.

(21) Ezra II, 64.

(22) To burn the sacrifices quickly.

(23) In Solomon's Temple there was a pit near the south-west of the altar, into which the altar libations were directly poured. But in the second Temple the altar was extended on the south and the west, so that the place of the pit was incorporated in it, and over against this extension on top of the altar they made holes for the libations to flow’ into the pit below.

(24) Not hollow or perforated in any way.

(25) As ‘eating’ (the consumption of the flesh) was on top of the altar itself, so must ‘drinking’ (the libations) be on top of the altar itself.

or over cellars.[1]

R. Joseph said: Is that not which was taught: And they set the altar upon its bases,[2] [which means] that they attained to its final measurements?[3] But surely it is written, And all this [do I give thee] in writing, as the Lord hath made me wise by His hand upon me, even all works of this pattern?[4] Rather said R. Joseph: They found a text and interpreted it:[5] Then David said: This is the house of the Lord God, and this is the altar of burnt-offering for Israel:[6] [this intimated that the altar was] like the house: as the house was sixty cubits [in length], so were there sixty cubits for the altar.[7]

As for the Temple, it is well, for its outline was distinguishable;[8] but how did they know [the site of] the altar? — Said R. Eleazar: They saw [in a vision] the altar built, and Michael the great prince standing and offering upon it. While R. Isaac Nappaha[9] said: They saw Isaac's ashes lying in that place.[10] R. Samuel b. Nahman said: From [the site of] the whole House they smelt the odour of incense, while from there [the site of the altar] they smelt the odour of limbs.

Rabbah b. Hanah said in R. Johanan's name: Three prophets[11] went up with them from the Exile: one testified to them about [the dimensions of] the altar; another testified to them about the site of the altar; and the third testified to them that they could sacrifice even though there was no Temple.[12] In a Baraitha it was taught, R. Eleazar b. Jacob said: Three prophets went up with them from the Exile: one who testified to them about [the dimensions of] the altar and the site of the altar; another who testified to them that they could sacrifice even though there was no Temple; and a third who testified to them that the Torah should be written in Assyrian characters.[13]

Our Rabbis taught: The horn, the ascent, the base and squareness are indispensable; the measurements of its length, breadth and height are not indispensable. How do we know it? — Said R. Huna, Scripture saith, ‘The altar’, and wherever ‘the altar’ is said it is indispensable.[14] If so, are the laver, according to Rabbi, and the terrace, according to R. Jose son of R. Judah, also indispensable, because it is written, And thou shalt put it under the karkob [ledge] round the altar beneath,[15] and it was taught: What was the karkob? Rabbi said: It was the laver; R. Jose son of R. Judah said: It was the terrace![16] — Yes [it is indeed so], for it was taught: On that day[17] the horn of the altar was damaged, and they brought a lump of salt and stopped it up. Not because it was [now] fit for service, but that it should not appear damaged, for every altar which lacks[18] a horn, ascent, base and squareness is invalid. R. Jose son of R. Judah said: The same applies to the terrace.

Our Rabbis taught: What was the karkob? [A strip] between one horn and another horn a cubit [in breadth], where the priests walked. Did then the priests walk between one horn and another? — Rather say: and there was [a strip of] a cubit where the priests walked.[19] But it is written, Under the karkob round it beneath, reaching halfway up![20] — Said R. Nahman b. Isaac: There were two, one for ornamental purposes, and the other for the priests, that they should not slip.[21]

‘The measurements of its length, breadth, and height are not indispensable.’ Said R. Mani: provided that it is not smaller than the altar made by Moses. And how much is that? — Said R. Joseph: One cubit [square]. They ridiculed him: [quoting the text, And thou shalt make the altar . . .] five cubits long, and five cubits broad![22] Said Abaye to him: perhaps the master meant the place of the pile?[23] — The master [sc. yourself], who is a great man, knows what I meant, he replied. Then he dubbed them[24]

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(1) But that did not exclude the possibility of its being hollow.

(2) Ezra III, 3.

(3) R. Joseph had once fallen sick, and on his recovery it was found that he had forgotten many of his earlier teachings and traditions. Here he states that his assertion that because the heavenly fire helped them a larger altar was unnecessary was incorrect, the real reason being as he proceeds to explain. — ‘They attained its final measurements’ means that it was revealed to the builders of the second altar (the ‘Men of the Great Assembly’) exactly which site was sacred for the altar, this knowledge having been withheld from Solomon when he built the first altar.

(4) I Chron. XXVIII, 19. ‘All this’ refers to the plans of the first Temple with all its appurtenances. Thus it had all been divinely revealed to Solomon too, which contradicts the former statement.

(5) The Men of the Great Assembly were guided by a text in their decision to enlarge the altar.

(6) Ibid. XXII, 1.

(7) An area of sixty cubits square was sacred for the altar, and they might build it anywhere within that. Nevertheless, they did not need it so large, and therefore they enlarged it merely according to their requirements.

(8) They could easily ascertain, from a study of the ruins, what had been sanctified for each part of the Temple.

(9) Or, the smith.

(10) According to legend Isaac was bound, and the substitute ram sacrificed, on the very site of the altar, and the ashes were still there.

(11) Haggai, Zechariah, and Malachi.

(12) Because the sanctity of the Temple had hallowed the spot for all time.

(13) I.e., the square form of Hebrew now in use. V. Sanh. (Sonc. ed.) p. 119. notes.

(14) The def. art. implies that only when it is exactly as specified (in the place where the def. art. is used) is it an altar. The horns: the horns of the altar (Lev. IV, 18); the base: the base of the altar (ibid. 30); squareness: the altar shall be four square (Ex. XXVII, 1); the ascent: in front of the altar (Lev. VI, 7)’ ‘in front’ being the ascent to the altar.

(15) Ex. XXVII, 5.

(16) Thus ‘the altar’ is written in connection with these.

(17) When ‘a certain man’ poured out the water of libation over his feet; v. Suk. 48b.

(18) This includes the case where they are damaged.

(19) There was a kind of trench between the ma'arakah, i.e., the place on the altar where the sacrifices etc. were burnt, and the edge of the altar. This trench was two cubits wide, including one cubit between the horns and one cubit where the priests walked (Rashi, as emended by Sh. M.).

(20) Ibid. XXXVIII, 4. Scripture states that the network grating around the sides of the altar was under the karkob. This implies that the karkob was on the wall of the altar; for if it was on the top surface, a grating on the sides could not be described as under it.

(21) There was an ornamental ledge on the side of the altar, and a trench on the top, to provide a firm foothold for the priests.

(22) Ex. XXVII, 1.

(23) Where the sacrifice was burnt. For of the five cubits two cubits had to be deducted on all sides for the strip between the horns and the pathway for the priests, leaving an area of one cubit square for the place of the pile.

(24) Who had ridiculed him.

Talmud - Mas. Zevachim 62b

‘the children of Keturah’.[1]

The sons of R. Tarfon's sister were sitting before R. Tarfon.[2] Thereupon he quoted: And Abraham took another wife, and her name was Johani.[3] Said they to him: ‘Keturah’ is written. Then he dubbed them ‘the children of Keturah’.[4]

R. Abin[5] b. Huna said in R. Hama b. Guria's name: The logs which Moses made[6] were a cubit long and a cubit broad, and their thickness was that of the instrument for levelling off the top of a se'ah.[7] R. Jeremiah observed: [It was measured] with a stumped cubit.[8] Said R. Joseph: Is not that which was taught: Upon the wood that is on the fire which is upon the altar:[9] [this intimates] that the wood must not project at all beyond the altar?[10]

We learnt elsewhere: There was an ascent at the south [side] of the altar, thirty-two [cubits] in length by sixteen cubits in breadth. Whence do we know it?[11] — Said R. Huna: Scripture saith, And he shall kill it on the side of the altar northward;[12] [this intimates] that the side must be in the north and the front in the south.[13] Yet say: the side in the north and the face in the north?[14] — Said Raba: Throw a man on his face.[15] Said Abaye to him: On the contrary, let the man sit upright? — It is written, [The altar shall be] rabua'.[16] But surely that is required [to teach] that it must be square? — Is then meruba' written?[17] And on your reasoning, is then rabuz written?[18] Rather, rabua' is written, which implies both,[19]

Now, a Tanna infers it from the following. For it was taught. R. Judah said: And the steps thereof shall look toward the east:[20] every turning which you take must be rightward to the east.[21] Yet say: must be leftward to the east?[22] — You cannot think so. For Rami b. Ezekiel recited: The sea which Solomon made 'stood upon twelve oxen, three looking toward the north, and three looking toward the west, and three looking toward the south, and three looking toward the east:[23] [this teaches that] every turning which you take must be to the right, eastward.[24] But that is required for its own purpose[25] — If so, why must 'looking toward' be repeated?[26]

R. Simeon b. Jose b. Lakunia asked R. Jose: Did R. Simeon b. Yohai maintain that there was a space between the ascent and the altar?[27] — And do you not maintain so? he replied. Surely it is said, And thou shalt offer thy burnt-offerings, the flesh and the blood:[28] [this intimates that] just as the blood requires throwing,[29] so does the flesh require throwing?[30] I assert that he stood at the side of the place of the pile and threw it, he answered.[31] Said he to him: When he threw, did he throw on to a burning pile or on to a pile that was not burning? Surely on to a burning pile, and there it would be impossible [to do otherwise].[32] R. Papa said: [It must be] like the blood. Just as [in the case of the] blood, the air-space above the pavement interposed, so [in the case of the] flesh, the air-space above the pavement interposed.[33]

Rab Judah said: Two small stairways branched off from the [major] ascent, by which one turned to the base and to the terrace. and these were separated from the altar by a hairsbreadth, because 'round about' is said.[34] Whilst R. Abbahu quoted rabua'[foursquare].[35] Now, both 'round about' and 'rabua'' must be written. For if the Divine Law wrote 'round about' [only].I would say that it can be circular; therefore the Divine Law wrote rabua'. Whilst if the Divine Law wrote rabua' [only], I would say that it could be long and narrow;[36] hence the Divine Law wrote 'round about'.[37]

We learnt elsewhere: The ascent and the altar were sixty-two [cubits]. But they were sixty four?[38] — Hence it is found that it overhung a cubit of the base and a cubit of the balcony.[39]

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(1) Gen. XXV, 4. You are indeed Abraham's descendants, but not his true Jewish descendants through Isaac and Jacob.

(2) In silence. So he misquoted a verse in order to evoke a comment.

(3) Ibid. I. The last word of course is wrong.

(4) Rashi: ignoramuses, who could not discuss halachah.

(5) Emended text (Sh. M.). Cur, edd. Abaye.

(6) Two logs were placed on the altar fire pile for the morning tamid (q.v. Glos.) and the evening tamid; v. Yoma 26b.

(7) A se'ah was a measure. In buying and selling corn this measure was filled, and the top or pile was levelled down by a stick, called a 'strike'. — Sh. M. observes that as the place of the pile itself on Moses' altar was only one cubit square, these logs must have been stood endways upon it, with wood chips between to assist the fire to catch on.

(8) I.e., rather shorter than a cubit. 'Aruch reads gerumah instead of gedumah, which reverses the meaning: with a generous cubit, i.e., slightly more than a cubit. This makes the difficulty that follows more plausible.

(9) Lev.I, 8.

(10) I.e. beyond the place of the pile. Rashi: why then must it be a stumped cubit; it could be exactly a cubit? Tosaf. and Sh. M.: how then can it be a 'generous' cubit? — The objection remains unanswered.

(11) That it had to be on the south side.

(12) Ibid. 11.

(13) Yerek, translated ‘side’ literally means ‘thigh’, hence the legs. Thus the altar must be like a man lying with his legs stretched northward and his face in the south. The side of the altar having this ascent would naturally be the front.
(14) Like a man sitting upright.
(15) It must be like a man lying face downward-hence the face in the opposite direction to the legs.
(16) E.V. ‘foursquare’. Ex. XXVII, 1. He connects rabua’ with raba’, to lie down, and interprets: the altar shall be like a man lying down.
(17) Which definitely means square and nothing else.
(18) Which equally means lying down and nothing else.
(19) Square and lying down.
(20) Ezek. XLIII, 17.
(21) The text refers to the altar, and is interpreted to mean that the altar must be so constructed that when the priest, standing by the altar, has to turn round the side, he will turn right, and go eastward. That is possible only if the ascent is at the south.
(22) Which would necessitate the ascent on the north.
(23) II. Chron. IV, 4.
(24) Since the order here is first north and then west, and when a man is facing the north, he must turn right in order to go to the west.
(25) To describe the position of the oxen.
(26) In each case. The word literally means ‘turning toward’, and the repetition is interpreted as in the text.
(27) The ascent did not come right up to the altar, but left a gap between.
(28) Deut. XII, 27.
(29) I.e., dashing against the altar.
(30) On to the altar. Consequently, a priest standing at the top of the ascent could not place the flesh on the altar, but had to throw it, which implies that there was a gap.
(31) This would not necessitate a gap.
(32) Since the wood was burning, the priest obviously could not go right up to it, but had to stand at a distance and throw it. But in that case, since it was impossible to do otherwise, no text would be required. Hence the text must teach that there was a gap between the ascent and the altar, not that there was one between the priest and the pile.
(33) Which would not be the case if he stood at the side of the pile.
(34) Which implies that it must be possible to encompass the altar itself, even if only by drawing a thread about it. But if the ascent actually joined the altar, this could not be done.
(35) Which likewise implies that the altar stood, unattached, as a square edifice.
(36) I.e., I could translate rabua’= rectangular, but not necessarily square.
(37) Implying that all its sides must be equal.
(38) Since each was thirty-two.
(39) Cf. supra 54a.

Talmud - Mas. Zevachim 63a

Rami b. Hama said: All the ascents had a gradient of one cubit in three,[1] except the ascent of the altar, which [rose one cubit] in three and a half cubits and a finger and a third, counting the little fingers.[2] MISHNAH. THE FISTFULS OF MEAL-OFFERINGS WERE TAKEN IN ANY PART OF THE TEMPLE COURT, AND THEY [THE MEAL-OFFERINGS] WERE EATEN WITHIN THE HANGINGS, BY MALE PRIESTS, PREPARED IN ANY MANNER, ON THE SAME DAY AND NIGHT, UNTIL MIDNIGHT.

GEMARA. R. Eleazar said: If the fistful of a meal-offering was taken in the hekal, it [the ceremony] is valid, for thus we find it in the removal of the censers.[3] R. Jeremiah raised an objection: And he shall take thence[4] [his fistful]:[5] [that means] from the place where the feet of the zar stand.[6] Ben Bathyra said: How do we know that if [the priest] took the fistful with his left [hand], he must return [the fistful] and take it with his right [hand]? Because it says, ‘thence’, [which means,] from the place whence he had already taken a fistful?[7] Some state that he [R. Jeremiah] raised the objection, and answered it himself; others state. R. Jacob[8] answered R. Jeremiah: Bar Tahlifa has explained it: Its purpose is only to declare the whole of the Temple court fit.[9] I might argue: Since a burnt-offering is a most holy sacrifice, and a meal-offering is most holy: as a burnt-offering requires the north, so does a meal-offering require the north. [Therefore the text informs us otherwise.] As for a burnt-offering, the reason is because it is altogether burnt?[10] — [Then learn it] from a sin-offering.[11] As for a sin-offering, the reason is because it atones for those who are liable to kareth? — [Then learn it] from a guilt-offering. As for a guilt-offering, the reason is because it is a blood sacrifice. And as for all these too, the reason is because they are blood sacrifices?[12] — Rather, [the text] is necessary. I might think, since it is written, And he shall bring it unto the altar . . .[13] and he shall take up therefrom his fistful:[14] as it must be brought near to the south-west horn,[15] so must the fistful be taken by the south-west horn. Hence [the text] informs us [that it is not so].

R. Johanan said: If a peace-offering is slaughtered in the hekal, it is fit, because it is said, And he shall kill it at the door of the tent of meeting.[16] and the adjunct cannot be stricter than the principal.[17] An objection is raised: R. Johanan b. Bathyra said: How do we know that if heathens surrounded the whole of the Temple court,[18] the priests enter the hekal and eat there the most holy sacrifices and the remainder of the meal-offering?[19] Because it says, In a most holy place[20] shalt thou eat thereof.[21] Yet why [is this text necessary]? Let us quote, In the court of the tent of meeting shall they eat it,[22] and the adjunct cannot be stricter than the principal?[23] — How compare: there [that we are dealing with] service, we say, Let the adjunct not be stricter than the principal, since a man can perform a service in the presence of his master. [But as for] eating, since a man cannot eat in the presence of his master.[24] we do not say, Let the adjunct not be stricter than the principal.

MISHNAH. THE SIN-OFFERING OF A BIRD WAS SACRIFICED[25] BY THE SOUTH-WEST HORN. NOW, IT WAS FIT [IF DONE] IN ANY PLACE, BUT THIS WAS ITS [PARTICULAR] PLACE.[26] THAT HORN SERVED FOR THREE THINGS BELOW, AND THREE THINGS ABOVE.[27] BELOW: FOR THE SIN-OFFERING OF THE BIRD, FOR THE PRESENTING [OF MEAL-OFFERINGS].[28] AND FOR THE RESIDUE OF THE BLOOD.[29] ABOVE: FOR THE POURING OUT OF WINE AND WATER, AND FOR THE BURNT-OFFERING OF A BIRD WHEN THE EAST WAS TOO MUCH OCCUPIED.[30] ALL WHO ASCENDED THE ALTAR ASCENDED BY THE RIGHT,

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(1) They rose one cubit in every three.

(2) Of which six go to a tefah (handbreadth). — As heavy limbs of animals had to be carried up on it, it had an easier gradient, nine cubits in thirty-two, which works out as in the text. (The translation adopts the marginal reading.)

(3) Twelve loaves, called Shewbread, were placed on the Table in the hekal, accompanied by censers of frankincense (v. Lev. XXIV, 5 seq.). When the censers were removed (a week after they were placed there), the Shewbread might be eaten by the priests. Thus the removing of the censers corresponded to the taking of the fistful, which likewise rendered the rest permitted; hence, as the former was done in the hekal, so was the latter valid if done in the hekal.

(4) E.V. thereout, but the Talmud understands the word to bear a local meaning.

(5) Lev. II, 2.

(6) The verse commences: And he (sc. the zar) shall bring it to Aaron's sons the priests; and continues, And he (sc. the priest) shall take thence etc. Hence ‘thence’ is interpreted, from the place where the zar is standing. This is now assumed to exclude the ulam and the hekal, where a zar might not enter.

(7) Thus it intimates that it is sometimes necessary to take the fistful twice, which is only possible in this case.

(8) Marginal emendation.

(9) ‘From the place where the feet of the zar stand’ teaches that the whole of the Temple court is fit for the ceremony, and all the more the hekal and the court of the priests, seeing that this was a priestly ceremony.

(10) But a meal-offering is not, and so there is no reason for supposing that it requires the north. What then is the need for a text to teach that it does not?

(11) Which is not altogether burnt, and yet requires the north.

(12) I.e., this reason would suffice apart from the others already stated.
(13) Lev. II, 8.
(14) Ibid. VI, 8.
(15) As is deduced infra.
(16) lbid. III, 2.
(17) Since it must be killed at the door of the tent of meeting, the tent of meeting (corresponding to the hekal) is obviously the principal place for it, while the Temple court is but an adjunct thereto.
(18) Shooting arrows and hurling missiles into it.
(19) Emended text (Sh. M.).
(20) Implying the hekal.
(21) Num. XVIII, 10.
(22) Lev. VI, 9.
(23) By the same argument as above: the ‘court’ is an adjunct to the ‘tent of meeting’ (the hekal); if it can be eaten in the former place, it can surely be eaten in the latter.
(24) Eating is for one's own benefit, and it may therefore be disrespectful to do it in the master's (here, God's) presence. — The hekal, being more sacred than the Temple court, is referred to as ‘in the Master's presence’.
(25) Lit., ‘made’, The Mishnah does not say ‘slaughtered’, as it was not slaughtered but had its neck wrung.
(26) The Gemara discusses what this means,
(27) ‘Below’ and ‘above’ refer to the scarlet line which encompassed the altar.
(28) Before their fistfuls were taken they were presented (‘brought near’) at this horn.
(29) Of the outer sin-offerings. These were sprinkled there.
(30) Its proper place was at the south-east horn, but if many animal burnt-offerings were being sacrificed there, this was offered at the south-west horn, above the line.

Talmud - Mas. Zevachim 63b

THEN THEY WENT ROUND [THE ALTAR][1] AND DESCENDED BY THE LEFT, EXCEPT FOR THESE THREE, WHO ASCENDED AND DESCENDED BY RETRACING THEIR STEPS.[2]

GEMARA. Whence do we know it? — Said R. Joshua, Scripture saith: He shall put no oil upon it, neither shall he put any frankincense thereon, for it is a sin-offering:[3] a sin-offering is designated a meal-offering.[4] and a meal-offering is designated a sin-offering: as a sin-offering requires the north, so does a meal-offering require the north;[5] and as a meal-offering [is presented] at the south-west horn, so is a [bird] sin-offering [offered] at the south-west horn.[6]

And how do we know this of the meal-offering itself? — Because it was taught: [The sons of Aaron shall offer it] before the Lord:[7] You might think, at the west [of the altar];[8] therefore it states, in front of the altar.[9] If [it is to be] ‘in front of the altar’, you might think, in the south; but Scripture says, ‘before the Lord’. How then was it done? He presented it at the south-west horn, opposite the edge of the horn, and that is sufficient. R. Eleazar said: You might think that he presents it on the west of the horn or the south of the horn; but you can rebut [this], [for] wherever you find two texts, one confirming itself and the other, whereas the second confirms itself but annuls the other, you abandon the one which confirms itself and annuls the other, and accept that which confirms itself and the other too. Thus, if you say ‘before the Lord’ [means] in the west, how can you confirm ‘in front of the altar’? But when you say, ‘in front of the altar’, means in the south, you confirm before the Lord as meaning the south[10] But how can you confirm this? — Said R. Ashi: This Tanna holds that the whole altar stood in the north.[11]

NOW. IT WAS FIT [IF DONE] IN ANY PLACE etc. What does this mean?[12] — Said R. Ashi, This is what it means: Any place is fit for its melikah, but this was the place for its sprinkling. We have thus learnt here what our Rabbis taught: If he nipped it by any part of the altar, it is valid; if he sprinkled its blood on any part [of the altar], it is valid. (If he sprinkled [the blood] but did not drain it out, it is valid)[13] provided that he applies some of the life blood[14] below the scarlet line. What does this mean?[15] — This is what he means: If he nipped it by any part of the altar, it is valid; if he drained the blood at any part of the altar, it is valid,

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(1) For whatever they had to do, e.g., sprinkle the blood or arrange the wood pile.

(2) By the left. V. Suk. 48b.

(3) I.e., they returned the same way as they came. (10) Lev. V, 11. This refers to a sinner's meal-offering brought in extreme poverty instead of a bird sin-offering.

(4) Since the latter can be a substitute for it.

(5) Rashi maintains that the text is faulty, because a bird sin-offering did not require the north, nor did a sinner's meal-offering. He conjectures as an emendation: as a (bird) sin-offering is invalid if offered under a different designation, so is a (sinner's) meal-offering invalid in similar circumstances. R. Hayyim in Tosaf. emends: as the blood of a bird sin-offering must be poured out at the base, so must a sinner's meal-offering be presented at the base.

(6) I.e., its blood is sprinkled there.

(7) Lev. VI, 7. This refers to a meal-offering, and ‘before the Lord’ means at the altar.

(8) Which faced the hekal, and so might appropriately be described as ‘before the Lord’.

(9) Ibid. ‘Front’ is the south, where the ascent ran.

(10) For variant reading v. Men. 19b.

(11) Hence the south of the altar ended opposite the door leading to the hekal, and so that too would be called ‘before the Lord’.

(12) It cannot be meant as it stands, for if it was fit in any place, why insist on a particular spot?

(13) Sh. M. deletes the bracketed passage.

(14) The first blood which gushes forth.

(15) This is apparently self-contradictory, as the first states that it is valid if sprinkled anywhere, and then states that it must be sprinkled below the scarlet line.

Talmud - Mas. Zevachim 64a

for if he sprinkled but did not drain out, it is valid,[1] provided that he applies some of the life blood below the scarlet line.

[THAT HORN SERVED FOR] THREE THINGS etc. FOR THE SIN-OFFERING OF THE BIRD, as we have stated.[2] FOR THE PRESENTING: for it is written, And he shall bring it near [i.e., present it] unto the altar.[3] FOR THE RESIDUE OF THE BLOOD: for it is written, And all the remaining blood thereof shall he pour out at the base of the altar.[4]

ABOVE: FOR THE POURING OF THE WINE AND THE WATER, AND FOR THE BURNT-OFFERING OF A BIRD WHEN THE EAST WAS TOO MUCH OCCUPIED. What is the reason?[5] — R. Johanan said: Because it is nearest to the ash deposit.[6] R. Johanan said: Come and see how great was the strength of the priests, for no part of birds is lighter than the crop and the feathers, yet sometimes the priest threw them more than thirty cubits.[7] For we learnt: He[8] took a silver pan [brazier] and ascended to the top of the altar, where he parted the coals to either side, [and] shovelled out some of the inner burnt coals; then he descended and reached the pavement. He turned his face toward the north, proceeded to the east of the ascent, a distance of ten cubits. There he heaped up the coals on the pavement three handbreadths away from the slope, at the site where they placed the crop and the feathers and the ashes of the inner altar and the candlestick.[9] But this would be more than thirty-one [cubits]?[10] — He does not count the place of the person.[11]

ALL WHO ASCENDED THE ALTAR etc. What is the reason?[12] — Said R. Johanan: In the case of libations,lest they become smoke-laden; and as to the burnt-offering of a bird, lest it perish through the smoke.[13] An objection is raised: When he came to make a circuit of the altar,[14] whence did he commence? From the south-east horn, [whence he successively passed to] the north-east, north-west, and south-west, and he was handed the wine to pour it out![15] — Said R. Johanan:

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[1] Thus it is valid even if he omits the draining altogether. Therefore it is certainly valid when he drains it anywhere by the altar.

[2] Supra 63b.

[3] Lev. II, 8. It was stated supra 63b that this means at the south-west of the altar.

[4] Ibid. IV, 30. It is stated supra 53a and 54a that this applies to the southern base.

[5] This implies that the proper place for the burnt-offering of a bird was the east; what then was the reason for this?

[6] The ashes which were placed every morning by the side of the altar, to the east of the ascent.

[7] When the bird was sacrificed by the south-west horn, he had to throw the crop and the feathers to the ash deposit, more than thirty cubits away. It requires great strength to throw anything that is very light a great distance,

[8] The priest who removed the ashes.

[9] V. Tam. I, 4.

[10] Rashi gives the exact calculation.

[11] That itself is responsible for one cubit.

[12] Why were these different?

[13] Of the burning wood and limbs. Hence the shortest route was taken.

[14] This refers to the High Priest, v. Tam. VII, 3.

[15] On to the altar. It is now assumed that he is given the wine when he commences the circuit, which shews that we are not afraid of the smoke.

Talmud - Mas. Zevachim 64b

He made the circuit on foot.[1] Raba observed: That indeed may be inferred, for it teaches, ‘and he was handed the wine to pour it out’, but it does not teach,’ He was told to pour it out’.[2] This proves it.

Our Rabbis taught: All who went up the altar ascended by the right and descended by the left ; they ascended by the east and descended by the west,[3] except those who went up for these three things:[4] they ascended by the west and descended by the west, ascended by the right and descended by the right. [You say] ‘by the right’; it is by the left?[5] — Said Rabina: Read ‘left’. Raba said: ‘Right’[6] means the right of the altar, while ‘left’[7] means the left of the person.[8] Then let him teach either both with reference to the altar or both with reference to the person? That is indeed a difficulty.

MISHNAH. HOW WAS THE SIN-OFFERING OF A BIRD SACRIFICED?[9] HE PINCHED OFF ITS HEAD CLOSE BY ITS NECK, BUT DID NOT SEVER IT, AND HE SPRINKLED ITS BLOOD ON THE WALL OF THE ALTAR; THE RESIDUE OF THE BLOOD WAS DRAINED OUT ON THE BASE. ONLY THE BLOOD BELONGED TO THE ALTAR, WHILE THE WHOLE OF IT BELONGED TO THE PRIESTS.

GEMARA. Our Rabbis taught: And he shall sprinkle of the blood of the sin-offering.[10] [that means] with the body of the sin-offering.[11] How is it done? He [the priest] grasps the head and the body [of the bird] and sprinkles [its blood] on the wall of the altar, but not on the wall of the ascent, nor on the wall of the hekal, nor on the wall of the ulam; and which [wall] is meant? The lower wall.[12] Yet perhaps it is not so, but rather on the upper wall, and that is indeed logical: if [the blood of] an animal sin-offering is [sprinkled] above, though [that of] an animal burnt-offering is [sprinkled] below: surely [the blood of] a bird sin-offering is [sprinkled] above, seeing that [that of] a bird burnt-offering is [sprinkled] above? Therefore it states, And the rest of the blood shall be drained out at the base of the altar,[13] [which intimates that it must be sprinkled on] a wall where the residue will drain down to the base, and which is that? The lower wall.[14] Yet let us [first] perform it above, and then below?[15] — Said Raba: Is then yamzeh [he shall drain] written? Surely yimmazeh [shall be drained] is written, which implies of its own accord.[16]

R. Zutra b. Tobiah said in Rab's name: How is the bird sin-offering pinched off? He grasps its two wings in two fingers, and its two legs in two fingers, stretches its neck over the width of his thumb and pinches it off. In a Baraitha it was taught: The bird is without:[17] he holds its wings in two fingers and its two legs with two fingers, stretches its neck over the width of two fingers, and pinches it off; and this was a difficult rite in the Temple. This and no other? Surely there were kemizah and hafinah?[18] — Say rather, this was one of the difficult rites in the Temple.

MISHNAH. HOW WAS THE BURNT-OFFERING OF A BIRD SACRIFICED? — HE [THE PRIEST] ASCENDED THE ASCENT AND TURNED TO THE SURROUNDING BALCONY,[19] WHENCE HE MADE HIS WAY TO THE SOUTH-EAST HORN. HE NIPPED ITS HEAD CLOSE BY THE NECK, AND SEVERED IT,[20] SAND DRAINED OUT ITS BLOOD ON TO THE WALL OF THE ALTAR. HE TOOK THE HEAD, TURNED THE PART WHERE IT WAS NIPPED TO THE ALTAR,[21] DRIED IT WITH SALT,[22] AND THREW IT ON TO THE [ALTAR-]FIRE.[23] THEN HE CAME TO THE BODY. REMOVED THE CROP, THE FEATHERS,[24] AND THE ENTRAILS THAT CAME FORTH WITH IT,[25] AND THREW THEM ON TO THE ASH DEPOSITORY. HE RENT [THE BODY], BUT DID NOT SEVER IT, YET IF HE DID SEVER IT, IT IS FIT. THEN HE DRIED IT [THE BODY] WITH SALT, AND THREW IT ON TO THE [ALTAR-] FIRE. IF HE DID NOT REMOVE THE CROP OR THE FEATHERS OR THE ENTRAILS WHICH CAME FORTH WITH IT, AND DID NOT DRY IT WITH SALT, OR MADE ANY OTHER DEVIATION THEREIN AFTER HE HAD DRAINED THE BLOOD OUT, IT IS FIT. IF HE SEVERED THE SIN-OFFERING[26] OR DID NOT SEVER THE BURNT-OFFERING, IT IS UNFIT. IF HE DRAINED OUT THE BLOOD OF THE HEAD, BUT NOT THE BLOOD OF THE BODY, IT IS UNFIT; THE BLOOD OF THE BODY, BUT NOT THE BLOOD OF THE HEAD, IT IS FIT. IF HE NIPPED A SIN-OFFERING OF A BIRD FOR THE SAKE OF SOMETHING ELSE;[27] IF HE DRAINED OUT ITS BLOOD FOR THE SAKE OF SOMETHING ELSE, OR FOR ITS OWN SAKE AND FOR THE SAKE OF SOMETHING ELSE,[28] OR FOR THE SAKE OF SOMETHING ELSE AND FOR ITS OWN SAKE, IT IS UNFIT. A BURNT-OFFERING OF A BIRD IS FIT [IN SUCH CIRCUMSTANCES]. SAVE THAT IT DOES NOT FREE ITS OWNER OF HIS OBLIGATION.[29]

IF A SIN-OFFERING OF A BIRD OR A BURNT-OFFERING OF A BIRD WAS NIPPED OR IF ITS BLOOD WAS DRAINED OUT [WITH THE INTENTION] TO EAT WHAT WAS NORMALLY EATEN OR TO BURN WHAT WAS NORMALLY BURNT WITHOUT BOUNDS, IT IS INVALID, BUT DOES NOT INVOLVE KARETH; AFTER TIME, IT IS PIGGUL AND INVOLVES KARETH, PROVIDED THAT THE MATTIR WAS OFFERED IN ACCORDANCE WITH THE REGULATIONS. HOW DOES HE OFFER THE MATTIR ACCORDING TO REGULATIONS? IF HE NIPPED IT IN SILENCE AND DRAINED THE BLOOD [WITH AN INTENTION OF] AFTER TIME; OR IF HE NIPPED IT [WITH AN INTENTION OF] AFTER TIME AND DRAINED THE BLOOD IN SILENCE; OR IF HE NIPPED IT AND DRAINED THE BLOOD [WITH AN INTENTION OF] AFTER TIME: IN THESE CASES HE OFFERED THE MATTIR ACCORDING TO REGULATION. HOW DOES HE NOT OFFER THE MATTIR ACCORDING TO REGULATION? IF HE NIPPED IT [WITH AN INTENTION OF] WITHOUT BOUNDS AND DRAINED THE BLOOD [WITH AN INTENTION OF] WITHOUT BOUNDS, OR IF HE NIPPED IT [WITH AN INTENTION OF] AFTER TIME AND DRAINED THE BLOOD [WITH AN INTENTION OF] WITHOUT BOUNDS; OR IF HE NIPPED IT AND DRAINED THE BLOOD [WITH AN INTENTION OF] WITHOUT BOUNDS;

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(1) He was not given the wine until he completed the circuit, the circuit being made merely to add dignity to the ceremony and to shew that he enjoyed privileges which the other priests lacked (Rashi and Sh. M.).

(2) Which would be the case if he already had the wine when he started.

(3) They ascended the stairway at its east side, since they would have to turn right, and had they ascended it by the west, they would have to cross the width of the ascent before they could do this. Similarly they descended by the west side of the stairway.

(4) Enumerated in the Mishnah.

(5) The west of the ascent was on the left side of a man facing the altar.

(6) In the second clause.

(7) In the first clause.

(8) Standing in front of the altar.

(9) Lit., ‘made’. V. p. 312, n. 2.

(10) Lev. V, 9. — It refers to a bird sin-offering.

(11) Not from a vessel.

(12) Below the red line.

(13) Ibid.

(14) For if he sprinkled it on the upper wall, it might drain on to the terrace, not on to the base.

(15) I.e., sprinkle the blood on the upper wall, and then drain out the rest on the lower.

(16) The blood must be so sprinkled that it will then naturally drain down on to the base.

(17) It is grasped face-downward to the palm of the hand, so that its nape is uppermost.

(18) The taking of the fistful of meal-offerings and the taking of the two hands full of incense on the Day of Atonement. These rites were done in a particular fashion, and both are described as difficult in Yoma 47b and 49b.

(19) V. supra 53a notes.

(20) By nipping both the windpipe and the gullet (Hul. 21b).

(21) He pressed it against the wall, to drain out the blood.

(22) By rubbing salt on the dripping head until it became dry.

(23) Of the burnt-offerings, which were being burnt on the altar.

(24) I.e., the skin opposite the crop, together with the feathers on it.

(25) Sc. with the crop, as he removed this.

(26) By nipping both organs of the throat.

(27) E.g., as a burnt-offering,

(28) He nipped it for its own sake and drained it for the sake of something else.

(29) V. supra 2a.

Talmud - Mas. Zevachim 65a

IF HE NIPPED A SIN-OFFERING OF A BIRD UNDER A DIFFERENT DESIGNATION AND DRAINED THE BLOOD [WITH AN INTENTION OF] AFTER TIME; OR IF HE NIPPED IT [WITH AN INTENTION OF] AFTER TIME AND DRAINED THE BLOOD UNDER A DIFFERENT DESIGNATION; OR IF HE NIPPED IT AND DRAINED THE BLOOD UNDER A DIFFERENT DESIGNATION: IN THESE CASES HE DID NOT OFFER THE MATTIR ACCORDING TO REGULATION. [IF HE INTENDED] TO EAT AS MUCH AS AN OLIVE WITHOUT BOUNDS [AND] AS MUCH AS AN OLIVE ON THE MORROW, [OR] AS MUCH AS AN OLIVE ON THE MORROW [AND] AS MUCH AS AN OLIVE WITHOUT BOUNDS; HALF AS MUCH AS AN OLIVE WITHOUT BOUNDS [AND] HALF AS MUCH AS AN OLIVE ON THE MORROW; HALF AS MUCH AS AN OLIVE ON THE MORROW [AND] HALF AS MUCH AS AN OLIVE WITHOUT BOUNDS, [THE SACRIFICE] IS UNFIT, AND DOES NOT INVOLVE KARETH. SAID R. JUDAH: THIS IS THE GENERAL RULE: WHERE THE [WRONGFUL] INTENTION OF TIME PRECEDES THAT OF PLACE, [THE SACRIFICE] IS PIGGUL, AND INVOLVES KARETH; BUT IF THE [WRONGFUL] INTENTION OF PLACE PRECEDES THAT OF TIME, IT IS UNFIT AND DOES NOT INVOLVE KARETH. BUT THE SAGES MAINTAIN: IN BOTH CASES [THE SACRIFICE IS] UNFIT AND DOES NOT INVOLVE KARETH. [IF ONE INTENDS] TO EAT HALF AS MUCH AS AN OLIVE [WITHOUT BOUNDS OR AFTER TIME] [AND] TO BURN HALF AS MUCH AS AN OLIVE [SIMILARLY]. IT IS FIT, FOR EATING AND BURNING DO NOT COMBINE.[1]

GEMARA. Our Rabbis taught: And [the priest] shall bring it [unto the altar]:[2] Why is this stated? Because it is said, Then he shall bring his offering of turtle-doves, or of young pigeons,[3] you might think that when he vows a bird [as a burnt-offering], he must give not less than two birds; therefore it states, 'And [the priest] shall bring it:' he can bring even one bird to the altar, Why is 'the priest' stated? To prescribe a priest for it.[4] For you might argue, is not [the reverse] logical? If a priest was not prescribed for a sheep.[5] though north was prescribed for it;[6] is it not logical that a priest is not prescribed for a bird, seeing that [Scripture] did not prescribe north for it? Therefore 'the priest' is stated, in order to prescribe a priest for it. You might think that he must nip it with a knife, and that is indeed logical: If [Scripture] prescribed a utensil[7] for shechitah, though it did not prescribe a priest for it; is it not logical that it prescribed a utensil for nipping, seeing that it prescribed a priest for it? Therefore it states, [And] the priest . . . shall pinch off [its head].[8] Said R. Akiba: Would you then think that a zar might approach the altar?[9] Why then is 'the priest' stated? To teach that the pinching must be done by the very priest himself.[10] You might think that he can pinch it off either above [the red line] or below [it]; therefore it states, 'and pinch off [its head], and make it smoke [on the altar]:' as haktarah [making it smoke] is [done] on the top of the altar, so is pinching [done] on the top of the altar.[11] 'And shall pinch off': Close by the nape [of the neck]. You say, close by the nape; yet perhaps it is not so, but rather by the throat?[12] It follows by logic: 'and shall pinch off' is stated here, and 'and shall pinch off' is stated elsewhere:[13] as there it is close by its neck, so here it is close by its neck. If so, just as there he pinches but does not sever it, so here too he pinches but does not sever it? Therefore it states, 'and shall pinch off [its head], and make it smoke': as [in] haktarah, the head is by itself and the body is by itself, so [after] pinching, the head is by itself and the body is by itself. And how do we know that the haktarah of the head is separate and that of the body is separate? Because it is said, 'And make it smoke': thus the burning of the body is ordered. How then do I interpret, [and the priest] shall make it smoke upon the altar?[14] Scripture [here] treats of the burning of the head.[15]

And the blood thereof shall be drained out on the side of the altar,[16] but not on the wall of the ascent, nor on the wall of the hekal. And which is it? The upper wall. Yet perhaps it is not so, but rather the lower wall; and that is indeed logical: if [the blood of] an animal burnt-offering is [sprinkled] below, though [that of] an animal sin-offering is [sprinkled] above; surely [the blood of] a burnt-offering of a bird is [sprinkled] below, seeing that [that of] a sin-offering of a bird is [sprinkled] below? Therefore it states, 'and shall pinch off... and shall burn . . . and the blood thereof shall be drained out': now, can you really think that after he has burnt it he returns and drains it?[17] Rather it is to tell you: as haktarah is [done] on the top of the altar, so is the draining out on the top of the altar. How did he do this? He ascended the ascent and turned to the terrace, whence he proceeded to the south-east horn. Then he pinched off its head close by the neck, severed it, and drained [some] of its blood on the wall of the altar. If he did it below his feet[18] even a cubit, it is fit.[19] R. Nehemiah and R. Eliezer b. Jacob maintained: It must essentially be done nought elsewhere but on the top of the altar. Wherein do they differ? — Abaye and Raba both said: They differ in respect of building a pyre on the terrace.[20]

THEN HE TOOK THE BODY etc. Our Rabbis taught: And he shall take away its crop with the feathers thereof:[21] that is the crop.[22] You might think that he cuts through with a knife and takes it;[23] therefore it states, 'with the feathers thereof': [hence] he takes the plumage together with it. R. Abba Jose b. Hanan said: He takes it [the crop] together with the craw.[24] The school of R. Ishmael taught: 'With the feathers thereof' [means] with its [very] own feathers,[25] [hence] he cuts it [round] with a knife like a skylight.[26]

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(1) V. supra 29b for the whole passage.

(2) Lev. I, 15. This refers to a bird burnt-offering, and is apparently superfluous, since the preceding verse states, Then he shall bring his offering etc. Hence Scripture should continue: 'And the priest shall pinch off its head by the altar.'

(3) Ibid. 14.

(4) Only a priest, and not a zar, must nip off its head.
(5) A sheep can be slaughtered by a zar, and the slaughtering of a sheep corresponds to the nipping of a bird.
(6) It must be slaughtered at the north side of the altar.
(7) Viz., a knife.
(8) The Priest himself, without the assistance of a utensil, as R. Akiba explains.
(9) For the bird-offering one had actually to ascend the slope of the altar and walk round the terrace (supra 64b); that would obviously not be permitted to a zar. An animal-offering, however, which could be slaughtered by a zar, was killed on the ground, and even at some distance from the altar.
(10) Not with a knife.
(11) The ‘top’ here means the upper half, above the red line.
(12) The front part of the neck.
(13) Lev, V, 8: and shall pinch off its head close by its neck, but shall not divide it asunder.
(14) Lev, I, 17. This apparently a repetition of v. 15.
(15) Hence each was separate.
(16) Ibid. 15.
(17) That is obviously impossible!
(18) Stooping down,
(19) Because the red line, which demarcated the upper part of the altar from the lower, was a cubit below the terrace.
(20) The first Tanna holds that this can be done, therefore the blood can be drained out even below the terrace. But R. Nehemiah and R. Eliezer b. Jacob hold that the haktarah must be done on the top of the altar itself; therefore the draining too must be done near there.
(21) Lev. I, 16.
(22) The Talmud translates the less familiar mur'ah by the more familiar zefek.
(23) Sc. the crop alone, without the skin and the feathers.
(24) The thick muscular stomach of birds.
(25) Not more than the feathers opposite the crop.
(26) He cuts the skin exactly opposite the crop, and then removes the crop, skin and feathers.

Talmud - Mas. Zevachim 65b

HE RENT IT. BUT DID NOT SEVER IT. Our Rabbis taught: And he shall rend it:[1] rending is by hand only, and thus it says, and he rent him as one would have rent a kid.[2]

IF HE DID NOT REMOVE THE CROP etc. Our Mishnah does not agree with R. Eleazar b. R. Simeon. For it was taught. R. Eleazar son of R. Simeon said: I have heard that one severs the sin-offering of a bird.[3] Wherein do they differ? — Said R. Hisda: They disagree as to whether the draining [of the blood] of the bird sin-offering is indispensable. The first Tanna[4] holds that it is indispensable, and since then he must drain out the blood, when he [also] severs [it] he performs the rites of a burnt-offering with the bird sin-offering.[5] Whereas R. Eleazar son of R. Simeon holds that the draining out of the bird sin-offering is not indispensable,[6] therefore he is merely cutting flesh.[7] Raba said: They differ about a delay at [the nipping of] the second organ in the case of a bird burnt-offering. The first Tanna holds that it does not invalidate [it], and though he does delay, he performs the rites of a burntoffering with a sin-offering; whereas R. Eleazar son of R. Simeon holds that it does invalidate [it], and since he delays, he is merely cutting flesh.[8] Abaye said: They differ as to whether [the cutting through of] the greater part of the flesh is indispensable. And they [Raba and Abaye] disagree in the same controversy as that of R. Zera and R. Samuel son of R. Isaac: One maintains that they [the first Tanna and R. Eleazar son of R. Simeon] disagree on whether delay at the second organ invalidates; and the other maintains that they disagree as to whether the [cutting of] the greater part of the flesh is indispensable.[9]

Now, this proves that in the first place we require [the cutting of] the greater part of the flesh?[10] — Yes, and it was taught likewise: How is the melikah of a bird sin-offering performed? He cuts through the spinal column and the nape, without the greater part of the flesh, until he reaches the gullet or the windpipe. When he reaches the gullet or the windpipe he cuts one organ, or the greater part thereof, together with the greater part of the flesh; and in the case of a burnt-offering, two [organs] or the greater part thereof.[11]

This was stated before R. Jeremiah.[12] Said he: Have they not heard what R. Simeon b. Eliakim said on the authority of R. Eleazar b. Pedath on the authority of R. Eleazar b. Shammu'a: R. Eleazar son of R. Simeon affirmed: I have heard that a bird sin-offering is severed, and what does he shall not divide it asunder[13] mean?

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(1) Ibid., 17.

(2) Jud. XIV, 6. There, of course, it was done by hand.

(3) In the sense that if both organs of the throat are nipped, it is not unfit. Our Mishnah states that it is.

(4) The Tanna of our Mishnah.

(5) For now the rites do not differ in any way, and it is stated infra 66a that such is unfit. Though the blood of the sin-offering is sprinkled below and that of the burnt-offering is sprinkled above the red line, that is not regarded as a sufficient distinction (Tosaf.).

(6) Whereas it is in the case of a burnt-offering.

(7) When he nips the second organ. By refraining from draining out the blood after this he makes it clear that he is not performing the rites of a burnt-offering.

(8) The shechitah of an animal consists of cutting through both organs of the throat, viz., the windpipe and the gullet; should a delay occur between these two organs, it is invalid, and the animal is nebelah (q.v. Glos.). The shechitah of a bird (of hullin) consists of cutting through one organ only (the second is optional), since that is sufficient to kill it. Now, a bird burnt-offering must have both organs pinched (which is the equivalent of cut) through, and this can be done without delay between the organs; but when one nips both organs of a bird sin-offering, delay is inevitable, owing to the particular manner in which the rite must be performed, as stated infra. The first Tanna holds that delay between the two organs in the case of a burnt-offering does not invalidate the sacrifice, because the nipping of the second organ is not really part of the shechitah at all. Hence when he nips both organs of a sin-offering, he performs the same rite as would be valid in the case of a burnt-offering, and therefore it (the sin-offering) is unfit. R. Eleazar b. R. Simeon holds that delay in the case of a burnt-offering does invalidate the sacrifice, and since delay is inevitable in the case of a sin-offering, it is obvious that he is not treating it like a burnt-offering.

(9) After the priest nips the first organ, he must also cut through the greater part of the flesh that surrounds it (v. infra), and this naturally makes a delay before the second organ inevitable. Abaye explains that all hold that a delay at the second organ of a burnt-offering invalidates the sacrifice, but they disagree as to whether the cutting through of the flesh in the case of a sin-offering is indispensable. The first Tanna holds that it is not indispensable, hence it is possible to nip both organs without a delay, and so it becomes like the rites of a burnt-offering and is therefore invalid. But R. Eleazar b. R. Simeon holds that this cutting through is indispensable; hence there must be a delay between the organs, and thereby it differs from a burnt-offering.

(10) Since they disagree on whether it is indispensable, it follows that it is certainly necessary.

(11) V. Hul. 21a. — By ‘cut’ is meant with his nail, not with a knife.

(12) Sc. the controversies of the amoraim on the points of difference between the first Tanna and R. Eleazar b. R. Simeon.

(13) Lev. I, 17.

Talmud - Mas. Zevachim 66a

He need not sever it.[1] Said R. Aha the son of Raba to R. Ashi: If so, when it is written in connection with a pit, [And if a man shall open a pit . . .] and not cover it,[2] does that too mean that he need not cover it? — How compare! There, since it is written, the owner of the pit shall make it good.[3] he is [obviously] bound to cover it. But here, consider: it is written, And [the priest] shall bring [offer] it [unto the altar],[4] [whereby] the Writ drew a distinction between a bird sin-offering and a bird burnt-offering. What then is the purpose of ‘he shall not divide it asunder’?[5] Infer from this that he need not sever it.[6]

IF HE DRAINED THE BLOOD OF THE BODY. Our Rabbis taught: A burnt-offering[7] [teaches that] even if he drained the blood of the body but did not drain the blood of the head [it is still a valid burnt-offering].[8] You might think that even if he drained the blood of the head, but not the blood of the body [it is valid]; therefore it states, 'it is'.[9] How does this imply it?[10] — Said Rabina: It is logical, for most of the blood is found in the body.[11]

CHAPTER VII

MISHNAH. IF A SIN-OFFERING OF A BIRD IS OFFERED[12] BELOW [THE RED LINE] WITH THE RITES OF A SIN-OFFERING[13] [AND] FOR THE SAKE OF A SIN-OFFERING, IT IS FIT. [IF IT IS OFFERED] WITH THE RITES OF A SIN-OFFERING, [BUT] IN THE NAME OF A BURNT-OFFERING; [OR] WITH THE RITES OF A BURNT-OFFERING [AND] IN THE NAME OF A SIN-OFFERING; OR WITH THE RITES OF A BURNT-OFFERING [AND] IN THE NAME OF A BURNT-OFFERING, IT IS UNFIT. IF HE OFFERS IT ABOVE [THE RED LINE]. [EVEN] WITH THE RITES OF ANY OF THESE,[14] IT IS UNFIT. IF A BURNT-OFFERING OF A BIRD IS OFFERED ABOVE, WITH THE RITES OF A BURNT-OFFERING [AND] IN THE NAME OF A BURNT-OFFERING, IT IS FIT; WITH THE RITES OF A BURNT-OFFERING [BUT] IN THE NAME OF A SIN-OFFERING, IT IS FIT[15] BUT DOES NOT FREE ITS OWNER OF HIS OBLIGATION.[15] [IF HE OFFERS IT] WITH THE RITES OF A SIN-OFFERING [AND] IN THE NAME OF A BURNT-OFFERING; [OR] WITH THE RITES OF A SIN-OFFERING [AND] IN THE NAME OF A SIN-OFFERING, IT IS UNFIT. IF HE OFFERS IT BELOW, [EVEN] WITH THE RITES OF ANY OF THESE,[16] IT IS UNFIT.

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(1) The foregoing controversies of the amoraim assumed that R. Eleazar merely meant that the sacrifice is not unfit if he does sever it, but that nevertheless he may not sever it in the first place. But on the present interpretation he differs from the first Tanna on the very law itself.

(2) Ex. XXI, 33.

(3) Ibid. 34.

(4) Lev. I, 15. This refers to the burnt-offering.

(5) In Lev. V, 8, referring to the sin-offering.

(6) In Hul. 21a R. Eleazar b. R. Simeon deduces from this 'shall bring it' that the priest must sever the neck of a burnt-offering by nipping both organs; and further, that in this respect Scripture draws a distinction between a burnt-offering and a sin-offering. Now, if 'he shall not divide it asunder' means that he may not sever it, then the distinction would merely justify us in saying that in the case of a burnt-offering he may sever it, but not that he must. Hence it must mean, he need not sever it, and then the distinction shows that he must sever a burnt-offering.

(7) Lev. I, 17.

(8) 'A burnt-offering' here is superfluous, since the context makes it perfectly clear. Hence it is interpreted to mean that it still counts as such even if something of its rites is omitted.

(9) This is emphatic, intimating that it must be done with the proper rites.

(10) Perhaps it is the reverse?

(11) Hence that it at least must be drained out.

(12) Lit., 'made' — I.e., its blood is sprinkled.

(13) Viz., nipping one organ only, and sprinkling and draining the blood.

(14) Enumerated above, i.e., even with the rites and in the name of a sin-offering.

(15) V. supra 2a.

(16) Cf. n. 3.

Talmud - Mas. Zevachim 66b

GEMARA. Wherein does he deviate?[1] If we say that he deviates in melikah?[2] Shall we then say that it does not agree with R. Eleazar son of R. Simeon, who said: I have heard that one severs a bird sin-offering? — But have we not explained that it does not agree with R. Eleazar son of R. Simeon?[3] — No:[4] [it means] that he deviates in the sprinkling.[5] That too is logical, since the sequel teaches, IF HE OFFERS IT ABOVE, EVEN WITH THE RITES OF ANY OF THESE, IT IS UNFIT, [which means] even with the rites of a sin-offering [and] in the name of a sin-offering. Now, wherein does he deviate?[6] If you say that he deviates in melikah, surely a master said: If he performed its melikah on any part of the altar, it is fit? Hence it must surely mean that he deviates in sprinkling, and since the second clause means in sprinkling, the first clause too means in sprinkling! — Why interpret it thus? Each is governed by its own circumstances.[7]

IF A BURNT-OFFERING OF A BIRD etc. Wherein does he deviate?[8] If we say, that he deviates in melikah,[9] then when he [the Tanna] teaches in the sequel:[10] 'All of these do not defile in the gullet,[11] and involve trespass';[12] shall we say that this does not agree with R. Joshua; for if it agreed with R. Joshua, surely he ruled [that] they do not involve trespass?[13] — Rather, [he deviated] in draining [the blood].[14] Then consider the subsequent clause: If one offered a burnt-offering of a bird below [the red line] with the rites of a sin-offering [and] in the name of a sin-offering. R. Eliezer maintains: It involves trespass; R. Joshua said: It does not involve trespass. Now, wherein did he deviate? If we say, in draining; granted that R. Joshua ruled [thus] where he deviated in melikah, did he rule [thus] in reference to draining?[5] , Hence it must mean, in melikah: then the first and the last clauses refer to melikah, while the middle clause refers to draining? — Yes: the first and the last clauses refer to melikah, while the middle clause refers to draining. MISHNAH. AND ALL OF THESE[15] DO NOT DEFILE IN THE GULLET[16] AND INVOLVE TRESPASS,[17] EXCEPT THE SIN-OFFERING OF A BIRD WHICH WAS OFFERED BELOW [THE RED LINE] WITH THE RITES OF A SIN-OFFERING [AND] IN THE NAME OF A SIN-OFFERING.[18] IF ONE OFFERED THE BURNT-OFFERING OF A BIRD BELOW WITH THE RITES OF A SIN-OFFERING [AND] IN THE NAME OF A SIN-OFFERING, R. ELIEZER MAINTAINED: IT INVOLVES TRESPASS;[19] R. JOSHUA RULED: IT DOES NOT INVOLVE TRESPASS.[20] SAID R. ELIEZER: IF A SIN-OFFERING INVOLVES TRESPASS WHEN [THE PRIEST], DEVIATED IN ITS NAME,[21] THOUGH IT DOES NOT INVOLVE TRESPASS WHEN [IT IS OFFERED] IN ITS OWN NAME, IS IT NOT LOGICAL THAT A BURNT-OFFERING INVOLVES TRESPASS IF HE DEVIATED IN ITS NAME, SEEING THAT IT INVOLVES TRESPASS [WHEN HE OFFERED IT] IN ITS OWN NAME?[22] NO, ANSWERED R. JOSHUA: WHEN YOU SPEAK OF A SIN-OFFERING WHOSE NAME HE ALTERED TO THAT OF A BURNT-OFFERING, [IT INVOLVES TRESPASS] BECAUSE HE CHANGED ITS NAME TO SOMETHING THAT INVOLVES TRESPASS; WILL YOU SAY [THE SAME] OF A BURNT-OFFERING WHOSE NAME HE CHANGED TO THAT OF A SIN-OFFERING, SEEING THAT HE CHANGED ITS NAME TO SOMETHING WHICH DOES NOT INVOLVE TRESPASS?[23]

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(1) When he offers a sin-offering with the rites of a burnt-offering.

(2) Nipping both organs, and thus severing it.

(3) Supra 65b. The same obviously applies here: What then is your difficulty?

(4) This Mishnah can be explained as agreeing even with him.

(5) Instead of first sprinkling some of the blood (v. Lev. V, 9), he drains out the whole of it, thus treating it like a burnt-offering (I, 15).

(6) Which rite does he perform above?

(7) The sequel, it is true, can only refer to a deviation in sprinkling, yet the first clause can still refer to a deviation in melikah.

(8) When he performs the rites of a sin-offering.

(9) He does not sever it.

(10) The next Mishnah, which is the sequel to this.

(11) V. p. 176. n. 10.

(12) V. p. 257. n. 1 and note on next Mishnah.

(13) If the melikah is not done properly.
(14) There R. Joshua agrees. For R. Joshua's reason, as stated infra, will not apply. (11) He did not, as already stated.
(15) Enumerated in the preceding Mishnah.
(16) V. p. 257. no. 1. Though they are unfit, the melikah frees them from the uncleanness of nebelah.
(17) v. p. 176, n. 10. If their rites were properly performed, they would no longer involve trespass, since they would be permitted to the priests, which is secular benefit. Since, however, they became unfit, and so were not permitted at any time, they retain the trespass, involving status which they possessed before they were offered. This applies even to a sin-offering, save for the exception which follows.
(18) Since that is fit, and there is a time when it is permitted to the priests; hence even a zar is not liable to trespass.
(19) For it is a burnt-offering, and at no time was it permitted to the priests.
(20) For it has become a sin-offering through all these deviations, and is permitted.
(21) For it is then unfit and not permitted to the priests.
(22) Since a burnt-offering must be altogether burnt, and is not permitted at any time.
(23) Surely not.

Talmud - Mas. Zevachim 67a

SAID R. ELIEZER TO HIM: LET SACRED SACRIFICES WHICH ARE SLAUGHTERED IN THE SOUTH AND IN THE NAME OF LESSER SACRIFICES[1] PROVE IT: FOR HE CHANGED THEIR NAME TO SOMETHING WHICH DOES NOT INVOLVE TRESPASS, AND YET THEY INVOLVE TRESPASS.[2] SO ALSO, DO NOT WONDER THAT IN THE CASE OF THE BURNT-OFFERING, ALTHOUGH HE CHANGED ITS NAME TO SOMETHING THAT DOES NOT INVOLVE TRESPASS, IT INVOLVES TRESPASS. NOT SO, REPLIED R. JOSHUA: IF YOU SAY THUS OF MOST SACRED SACRIFICES WHICH ARE SLAUGHTERED IN THE SOUTH AND IN THE NAME OF LESSER SACRIFICES, [THEY INVOLVE TRESPASS] BECAUSE HE CHANGED THEIR NAME TO SOMETHING WHICH IS PARTLY FORBIDDEN AND PARTLY PERMITTED;[3] WILL YOU SAY THE SAME OF A BURNT-OFFERING, WHERE HE CHANGED ITS NAME TO SOMETHING THAT IS ALTOGETHER PERMITTED?[4]

GEMARA. It was taught: R. Eliezer said to R. Joshua: Let a guilt-offering slaughtered in the north as a peace-offering prove it; though he changed its name, it involves trespass.[5] So need you not wonder that a burnt-offering involves trespass even though he changed its name. Said R. Joshua to him: No. If you say thus of a guilt-offering, where he changed its name but not its place,[6] will you say [the same] of a burnt-offering, where he changed its name and its place? Said R. Eliezer to him: Let a guilt-offering slaughtered in the south as a peace-offering prove it, where he changed its name and its place, yet it involves trespass. So need you not wonder that a burnt-offering involves trespass even though he changed its name and changed its place. No, replied R. Joshua. If you say [thus] of a guilt-offering, where [though] he changed its name and its place, he did not deviate in its rites; will you say [the same] of a burnt-offering, where he changed its name and its place and its rites? Thereupon he was silent. Said Raba: Why was he silent?[7] He could answer him: Let a guilt-offering which one slaughtered in the south, in the name of a peace-offering and with change of owner,[8] prove it, where he changed its name and its place and its rites,[9] and yet it involves trespass. Now, since he did not answer him thus, you may infer that R. Eliezer discerned R. Joshua's reason.[10] For R. Adda b. Ahabah said: R. Joshua maintained: If a bird burnt-offering was offered below with the rites of a sin-offering and in the name of a sin-offering, immediately he nipped one organ thereof it is transmuted into a bird sin-offering.[11] If so, a bird sin-offering which was offered above [the red line] with the rites of a burnt-offering [and] in the name of a burnt-offering, as soon as he nips one organ of it, let it be transmuted through the other organ into a bird burnt-offering? And should you say, That indeed is so,[12] surely R. Johanan said in R. Banna'ah's name: That is the tenor of the Mishnah.[13] Does that not mean, That is the tenor of the Mishnah, but no more?[14] — No: [it means,] that is the tenor of the whole Mishnah.[15] R. Ashi said: As for a bird burnt-offering offered below with the rites of a sin-offering [and] in the name of a sin-offering, it is well:[16] since the fitness of the latter requires one organ, whereas that of the former requires both organs, while a bird burnt-offering cannot be offered below, immediately he nips one organ, it is transmuted into a bird sin-offering. But when one offers a bird sin-offering above with the rites of a burntoffering [and] in the name of a burnt-offering, since a master said, Melikah is valid wherever it is done, immediately he nips one organ, it becomes unfit;[17] when therefore he nips the second organ, how can it be transmuted into a bird burnt-offering?[18]

The [above] text [stated]: ‘R. Adda b. Ahabah said: R. Joshua maintained: If a bird burnt-offering was offered below with the rites of a sin-offering [and] in the name of a sin-offering, immediately he nipped one organ thereof, it is transmuted into a bird sin-offering.’

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(1) Thus they were treated altogether like lesser sacrifices, both in name and in the place of slaughtering.

(2) For since they became unfit through being slaughtered in the south, the subsequent sprinkling does not permit them that they should no longer involve trespass.

(3) The flesh is permitted, but the emurim are forbidden and involve trespass.

(4) No part of a bird sin-offering is forbidden.

(5) Rashi: before the sprinkling of the blood, but not after, for then it is eaten by priests. Tosaf.: even after the sprinkling, as R. Eliezer holds that a guilt-offering slaughtered under a different designation is unfit and may not be eaten (supra 2a).

(6) He slaughtered it in the right place.

(7) Emended text (Sh. M.).

(8) I.e., in the name of a different person.

(9) Change of owner is equivalent to change of rites.

(10) Which applies only to a bird burnt-offering.

(11) For the latter requires one organ only. Hence immediately one organ is nipped, there is absolutely nothing to distinguish it from a sin-offering, and so it does turn into one before it can become unfit through having its rites incorrectly performed. This reason can only apply to a bird burnt-offering, for animal sacrifices require the cutting of both organs.

(12) And it is fit. On this hypothesis the Mishnah which states that it is unfit will not agree with R. Joshua.

(13) The Mishnah is to be understood as it is read.

(14) I.e., exactly as it reads, viz., that R. Joshua disagrees only where stated.

(15) That he disagrees in respect of both a burnt-offering and a sin-offering.

(16) That R. Joshua disagrees and holds that it is fit.

(17) For it was properly nipped (the wrong place not affecting it) as a sin-offering, but under a different designation, which renders it unfit (supra 2a).

(18) Hence here R. Joshua agrees with the Mishnah.

Talmud - Mas. Zevachim 67b

Come and hear. In the case of a sin-offering for one and a burnt-offering for the other,[1] if he [the priest] offered both above [the red line].[2] half is fit and half is unfit;[3] [if he offered] both below, half is fit and half is unfit;[3] [if he offered] one above and one below, both are unfit, for I assume that he offered the sin-offering above and the burnt-offering below.[4] Yet even granted that he did offer the burnt-offering below, let it be transmuted into a bird sin-offering?[5] Granted that R. Joshua ruled thus in the case of one man, did he rule so in the case of two men?[6]

Come and hear: In the case of a sin-offering and a burnt-offering and an unspecified [sacrifice] and a specified [sacrifice].[7] if he [the priest] offered all of them above,[8] half are fit and half are unfit;[9] [if he offered] all of them below, half are fit and half are unfit.[9] [If he offered] half of them above and half of them below, only the undefined [pair] are fit,[10] and they share them.[11] Thus, the defined ones are not [fit]. Yet why so? even granted that he offered the burnt-offering below, let it be transmuted into a sin-offering?[12] And should you answer, This does not agree with R. Joshua — can you say so? Surely we learnt:[13] If a woman declared, I vow a pair of birds if I give birth to a male child,[14] and she bore a male child, she must bring two pairs, one for her vow, and one for her statutory obligation. When she gives them to the priest, the priest must offer three above and one below.[15] If he did not do thus, but offered two above and two below, not having consulted her,[16] she must bring another bird and offer it above, [if both were] of the same species.[17] But if they were of two species,[18] she must bring two [birds].[19] If she defined her vow, she must bring another three birds [and offer them] above [the line], [if both were] of the same species; [if they were] of two species, she must bring four.[20] If she fixed [the time of] her vow,

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(1) After birth confinement a woman, if poor, brings two birds for a burnt-offering and a sin-offering (Lev. XII, 8). Now, two women had each brought one bird for a burnt-offering and a sin-offering respectively. Then they bought a brace together, appointed one bird for a sin-offering and one for a burnt-offering, as each required, and gave them to the priest.

(2) I.e., as burnt-offerings.

(3) What is offered in the right place is fit; the other is unfit.

(4) I.e., he may have done so.

(5) So that there should be no further liability to a sin-offering.

(6) Obviously not. For one woman's burnt-offering cannot acquit the other woman of her liability to a sin-offering.

(7) Rashi: Two women, A an B, each owed a bird burnt-offering and a bird sin-offering (e.g., on account of confinement). In addition A owed another bird burnt-offering and B another bird sin-offering (either on account of another confinement or on account of sin. Lev. V, 7-, each having brought so far one sacrifice only). Now, A and B accordingly bought three pairs of birds in conjunction. They took one of the pairs and appointed one bird a burnt-offering for A and one a sin-offering for B. The second pair they left unspecified, not stating which was a burnt-offering and which a sin-offering. The third they did specify, i.e., they appointed one for a burnt-offering and the other for a sin-offering, but did not state the owner of each. V. Kin. III, 3.

(8) As burnt-offerings.

(9) Cf. p. 331. n. 5. The women still owe the sacrifices which are now unfit.

(10) Since the owners did not define them, it depends on the priest.

(11) One sacrifice counting to each. V. ibid. 4.

(12) For since the owners were not specified, the answer given above obviously no longer applies.

(13) Emended text (Sh. M.); cur. edd. ‘Come and hear’.

(14) In addition to her statutory obligation.

(15) A sin-offering cannot be vowed. Hence the additional pair are both burnt-offerings, which makes three in all. These naturally must be offered above the red line.

(16) Why she brought two pairs. Thus he thought that both pairs were statutory obligations.

(17) If both pairs were turtle-doves or young pigeons.

(18) One pair were turtle-doves, and the other pair were young pigeons.

(19) One bird of one pair has become unfit, and the pair must be completed with a bird of the same species. Since we do not know which bird actually became unfit, she must bring another two, viz., a turtle-dove and a pigeon.

(20) When she vowed, she declared which birds she would bring, but subsequently forgot which she had vowed. Hence when she came to fulfil her vow, she needed two pairs for the vow alone, viz., a pair of turtle-doves and a pair of pigeons, to cover both contingencies, and in addition one pair of either on account of her statutory obligation, i.e., three pairs in all. She, however, had brought only two pairs of which the first was offered for her statutory obligation, while the second was left for her vow, and of that one bird became unfit. Therefore she now owes one bird of the same species to replace the unfit one, and a pair of the other species, in case it was the other species that she had vowed. But if the two pairs which she had brought were of different species, she must now bring four birds, all for burnt-offerings, because we do not know which species was offered second for the vow, and it is that species which must be completed. She cannot simply bring a pair of one species, for she does not know whether she owes one turtle-dove and two pigeons, or vice versa. Therefore she must bring two turtle-doves and two pigeons and declare: ‘Let one of these, of the species which I vowed, replace the one that became unfit, and let the second of that pair be another votive offering. And let the second pair cover the doubt of my definite declaration.’

Talmud - Mas. Zevachim 68a

she must bring another five birds [to be sacrificed] above, [if she had vowed] of one species; if of two, she must bring six.[1] If she gave them to the priest, but does not know what she gave; and the priest went and offered them, but he does not know how he offered them, she now requires four birds on account of her vow and two on account of her statutory obligation, and one sin-offering. Ben ‘Azzai said: Two sin-offerings. R. Joshua observed: This is the case where they [the Sages] said: When it is alive it has one voice, and when it is dead, it has seven voices![2] — Granted that R. Joshua ruled thus in respect of liberating it from trespass, did he rule thus in respect of converting it into an obligatory offering?[3] MISHNAH. [IN REGARD TO] ALL UNFIT PERSONS WHO PERFORMED MELIKAH, THE MELIKAH IS INVALID, AND THEY [THE SACRIFICES] DO NOT DEFILE IN THE GULLET.[4] IF HE [THE PRIEST] NIPPED [THEM] WITH HIS LEFT [HAND] OR AT NIGHT; IF HE SLAUGHTERED HULLIN WITHIN[5] OR A SACRIFICE WITHOUT [THE TEMPLE COURT]. THEY DO NOT DEFILE IN THE GULLET.[6] IF HE NIPPED WITH A KNIFE; OR IF HE NIPPED HULLIN WITHIN [OR] SACRIFICES WITHOUT;

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(1) If she vowed to bring the additional offerings at the same time as her statutory obligation, and then brought two pairs of birds to the priest, who offered them as above, she owes another five or six, as stated. For her vow made her liable to three burnt-offerings together, had she remembered what she had vowed. As she did not remember, she required five burnt-offerings in the first place, one for her statutory obligation, and four consisting of a pair of pigeons and a pair of turtle-doves, since she did not know which she owed. Now, what she has already brought does not count, for she does not know these were the birds which she had vowed. Nor can she simply bring another four on account of the vow, since these must be sacrificed at the same time as the statutory offering. Hence she must now bring five, one for the statutory offering and four on account of the vow, whilst the first which was sacrificed as her statutory obligation will count as a votive offering. If, however, she had vowed them of two species, she does not know which species she owes. Therefore she must bring six: viz., two turtle-doves and two pigeons on account of the doubt of what she had specified, and one turtle-dove and one pigeon. because the former had to be offered at the same time as her statutory obligation.

(2) If she gave the birds to the priest but does not know whether they were turtle-doves or pigeons, or a pair of each, and she does not know how the priest sacrificed them, whether all above or all below or half above and half below, perhaps she did not even fulfil her statutory obligation. For he may have sacrificed all above, so that she lacks a sin-offering; or all below, and she lacks a burnt-offering. She must then bring four birds for her vow, since she does not remember which of the two species she specified, and two for her statutory burnt-offering, viz., a turtle-dove and a pigeon, as possibly the first were all offered below, as sin-offerings, and now she requires a burnt-offering of the same species. Or perhaps the first were offered half above and half below, and she has fulfilled her obligation with the first pair offered. But as she had vowed to bring a burnt-offering at the same time and of the same species as the statutory burnt-offering, she must now bring a turtle-dove and a pigeon to cover this doubt. In addition, she must bring one sin-offering of whichever species she wishes, for perhaps the first were all offered below, and this will combine with the bird she brought as her burnt-offering. Though she has already brought the latter, yet the sin-offering need not be of the same species as the first, according to the Rabbis who disagree with Ben ‘Azzai, for they hold that it all depends on the sin-offering. Therefore, since she must bring two burnt-offerings, as explained, that of the same species as the sin-offering combines with it. But Ben ‘Azzai holds that it all depends on the first, i.e., a sin-offering must be brought of the same species as the first burnt-offering which was correctly offered for her statutory obligation. Now, perhaps all the first were offered above, in which case she has fulfilled this obligation, and so she must bring a sin-offering of the same species. As, however, she does not know which species this was, she must bring two sin-offerings, one of each. R. Joshua observes that this is similar to what the Rabbis said about a ram, that when it is alive it has one voice only, but when it is dead it has seven: i.e., the two horns are used for two trumpets (bugle-horns); out of the two legs two reed-pipes (flutes) are made; the skin is used for tabrets; the entrails for a lyre, and the guts for harps. In a similar way here too, when she vowed and did not know what she had specified, she merely required four birds and two for her statutory obligation. Whereas now that she has already brought four, she still needs another eight, four on account of her vow and four on account of her obligation; v. Kin. III, 6. — Since R. Joshua makes this comment, you may infer that he accepts these laws; hence the difficulty of 67b.

(3) Surely not! This is the answer to the difficulty: The burnt-offering is transmuted only in so far that it no longer involves trespass, but the deviation in its rites cannot turn it into a sin-offering to acquit its owner of his obligation for same.

(4) v. p. 257. n. 1. Although the melikah is invalid, it frees the birds from uncleanness. The reason is because they became unfit in the sanctuary, and the melikah is effective in that if they are taken up on to the altar, they are not removed. Therefore the birds are not regarded as nebelah.

(5) A bird of hullin, with ritual shechitah.

(6) Although there must be no shechitah (of birds of hullin) within, or of consecrated birds anywhere at all, yet these do not defile.

Talmud - Mas. Zevachim 68b

OR [IF HE SACRIFICED] TURTLE-DOVES BEFORE THEIR TIME OR PIGEONS AFTER THEIR TIME;[1] [OR A BIRD] WHOSE WING WAS WITHERED, [OR] BLIND IN THE EYE. [OR] WHOSE FOOT WAS CUT OFF, — [ALL THESE] DEFILE IN THE GULLET. THIS IS THE GENERAL RULE: ALL WHOSE UNFITNESS [AROSE] IN THE SANCTUARY[2] DO NOT DEFILE IN THE GULLET; IF THEIR UNFITNESS DID NOT ARISE IN THE SANCTUARY, THEY DEFILE IN THE GULLET.

GEMARA. Rab said: [If they were nipped with] the left [hand] or at night, they do not defile in the gullet; [by] a zar or [with] a knife, they do defile in the gullet. Why is the left [hand] different; [presumably] because it is fit on the Day of Atonement; and likewise night is fit in respect of [the burning of] the limbs and the fats;[3] then surely a zar too is fit for shechitah?[4] — Shechitah is not a [sacrificial] rite.[5] Is it not? Surely R. Zera said: Shechitah of the [red] heifer by a zar is invalid, and Rab observed thereon: [The reason is because] ‘Eleazar’ and ‘statute’ [are written in connection with it]?[6] — The [red] heifer is different, because it is of the holy things of the Temple repair. Does it not then follow a fortiori; if the holy things of the Temple repair require priesthood, surely the holy objects dedicated to the altar require priesthood? — Said R. Shisha the son of R. Idi: Let it be analogous to the inspection of [leprous] plagues, which is not a rite, and yet requires priesthood.[7] But let us learn it from the high places?[8] — One cannot learn from the high places.[9] Can one not? Surely it was taught: How do we know that if [flesh] which went out ascended [the altar], it does not descend? Because [flesh that] goes out is fit at the high places! — The Tanna relies on the text, This is the law of the burnt-offering.[10]

But R. Johanan maintained: [If a] zar [performed melikah] it does not defile in the gullet; [if melikah was done with] a knife, it does defile in the gullet. We learnt: [IN REGARD TO] ALL UNFIT PERSONS WHO PERFORMED MELIKAH, THE MELIKAH IS INVALID. As for R. Johanan, it is well: ALL includes a zar;[11] but according to Rab, what does ALL include? — It is surely to include [melikah with] the left [hand] and [at] night. [But] the left [hand] and night are explicitly taught? — He [the Tanna] teaches and then explains.[12] Come and hear: THIS IS THE GENERAL RULE: ALL WHOSE UNFITNESS [AROSE] IN THE SANCTUARY DO NOT DEFILE GARMENTS [WHEN THE FLESH OF THE BIRD IS] IN THE GULLET.[13] As for R. Johanan, it is well: ALL includes a zar. But according to Rab, what does it include?

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(1) Only fully grown turtle-doves or young pigeons might be sacrificed. Otherwise they are not eligible, and therefore it is as though he nipped hullin.

(2) Birds which were brought to the Temple court fit, and there became unfit.

(3) On the Day of Atonement the spoon containing incense was taken with the left hand. The limbs and fats of sacrifices were burnt at night. Thus in two instances the left hand and night are fit for service, and presumably for that reason he rules that even in the present case, though they are not fit, they free them from uncleanness.

(4) An animal sacrifice might be slaughtered by a zar.

(5) Whereas the taking of the spoon and the burning of the limbs are sacrificial rites.

(6) Cf. Num. XIX, 2.

(7) For notes v. supra 14b.

(8) Where a zar might perform melikah (v. infra 113a). By the same reasoning melikah by a zar even in the Temple should free the bird from defilement.
(9) Because by comparison with the Temple they were non-sacred.
(10) Lev. VI, 2. For notes v. supra 51a. He does not really learn it from the high places at all.
(11) It is a general principle that 'all' is an extension.
(12) First he states the law in general, and then he explains who are meant in the word ALL.
(13) 'Garments' is absent in the Mishnah.

Talmud - Mas. Zevachim 69a

— Yet even on your view, what does [the clause] IF THEIR UNFITNESS DID NOT ARISE IN THE SANCTUARY include?[1] Rather, the first clause includes shechitah of [bird] sacrifices within,[2] while the second clause includes melikah of hullin without.[3]

It was taught in accordance with R. Johanan: If a zar nipped it; or if an unfit person nipped it; or [if it was] piggul, nothar or [an] unclean [sacrifice].[4] it does not defile in the gullet.[5]

R. Isaac said: I have heard two [laws], one relating to kemizah[6] by a zar and the other to melikah by a zar: one descends and the other does not descend, but I do not know which is which.[7] Said Hezekiah: It is logical that [in the case of] kemizah it goes down, while [in the case of] melikah it does not go down. Why is melikah different? [presumably] because it was done at the high places?[8] [but] kemizah too was done at the high places? And should you say, There were no meal-offerings at the high places; then there were no bird[-offerings] at the high places [either].[9] For R. Shesheth said: On the view that there were meal-offerings at the high places, there were bird[-offerings] at the high places; on the view that there were no meal-offerings, there were no bird [-offerings]. What is the reason? [And sacrificed peace-offerings of oxen unto the Lord]:[10] offerings [implies,] but not birds; offerings [implies,] but not meal-offerings![11] — Say rather: There was no sanctification of a meal-offering in service vessels at the high places.[12]

IF HE NIPPED [THEM] WITH HIS LEFT [HAND] OR AT NIGHT etc. Our Rabbis taught: You might think that melikah, which is [done] within, defiles garments [when the flesh is] in the gullet;[13] therefore it states, [And every soul that eateth] nebelah [that which dieth of itself] [. . . he shall wash his clothes etc].[14] [But] this too is nebelah?[15] — Rather, it states 'terefah' [that which is torn of beasts]:[16] as terefah does not permit the forbidden, so everything which does not permit the forbidden [is included]: thus melikah, which is [performed] within, is excluded: since it permits the forbidden. it does not defile garments [when the flesh is] in the gullet.[17] Hence it includes melikah (Mnemonic: Kez Hefez)[18] of sacrifices without, and melikah of hullin both within and without: since they do not permit the forbidden, they defile garments [when the flesh is] in the gullet.

Another [Baraitha] taught: You might think that the shechitah of hullin within and [that of] sacrifices both within and without defile in the gullet: therefore nebelah is stated. But this too is 'nebelah'?[19] — Rather, therefore it states 'terefah': as terefah is the same within and without,[20] so all which are the same within and without [are included in this law]: thus the shechitah of hullin within and [that of] sacrifices within and without is excluded: since these are not the same within as without, they do not defile garments [when the flesh is] in the gullet. As for hullin, it is well: that is not the same within as without;[21] but sacrifices are unfit in both cases? — Said Raba: If shechitah without is effective in that it involves kareth,[22] shall it not be effective in cleansing it from [the defilement of] nebelah?[23] We have thus found [it of shechitah] without; how do we know [it of shechitah] within? — Because it is not the same within as without.[24] If so, when one performs melikah on sacrifices without, they too [should] not [defile], since within is not the same as without?[25] — Said R. Shimi b. Ashi: You infer that which does not make it fit from that which does not make it fit.[26] but you do not infer that which does not make it fit from that which does make it fit.[27] Do you not? Surely it was taught: How do we know that [if flesh] which went out ascended [the altar] it does not descend? Because [flesh] that goes out is fit at the high places? — The Tanna relies on the extension intimated in, 'This is the law of the burnt-offering'[28]

MISHNAH. IF ONE PERFORMED MELIKAH, AND IT [THE BIRD] WAS FOUND TO BE TEREFAH. R. MEIR SAID: IT DOES NOT DEFILE IN THE GULLET;

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(1) For the ALL of the first clause applies to that too.

(2) That such do not defile.

(3) That such do defile.

(4) I.e., if the flesh of a bird sacrifice became defiled after it was properly offered up.

(5) For only nebelah does this. — The ruling thus agrees with R. Johanan.

(6) V. GIos.

(7) Either a bird-offering nipped by a zar or a meal-offering whose kemizah was performed by a zar does not descend from the altar if it was taken up there.

(8) By a zar.

(9) Hence no melikah.

(10) Ex. XXIV. 5. This was before the erection of the Tabernacle, and so the equivalent of the high places.

(11) The Heb. is applicable to animals only.

(12) He holds that there were both bird- and meal-offerings at the high places. But whereas melikah by a zar in the Temple can be learnt from that of the high places (in so far, at least, that it does not descend), kemizah can not. For at the high places meal-offerings were not sanctified in service vessels, whereas in the Temple they were. That being so, when kemizah is performed by a zar it is unfit to that extent that even if taken up on to the altar, it must be taken down.

(13) I.e., after melikah done improperly the flesh defiles.

(14) Lev. XVII, 15.

(15) Since the melikah was not properly done and does not permit the eating of the sacrifice, the bird is like any other not killed by shechitah, hence nebelah.

(16) Ibid.

(17) The verse quoted is applied to the nebelah of a clean bird. Terefah is not interpreted literally, for reasons stated anon, but as a definition of nebelah, thus: only nebelah similar to terefah defiles. Now when a bird becomes terefah, that fact cannot possibly remove any prohibition to which it was subject. Similarly, only a nebelah which cannot remove a prohibition defiles. Now, melikah should render a bird of hullin nebelah, but a consecrated bird is thereby relieved of a prohibition, for whilst alive it could not be offered, whereas after melikah in the sanctuary it can be (i.e., its blood can be sprinkled on the altar, which is the essence of offering). Hence it does not cause the bird to defile garments even when it is improperly done, e.g., at night or with the left hand.

(18) A Mnemonic is a phrase consisting of a string of letters or words, as an aid to the memory. Here K = Kodashim (sacrifices); Z=behuz (without); H=Hullin; F=bifenim (within); Z = behuz.

(19) Since melikah is required for sacrifices, whilst hullin may not be slaughtered within at all, the birds so killed are nebelah!

(20) It is forbidden in both places.

(21) For hullin slaughtered without does not defile even when the shechitah does not permit it. e.g., if the bird is terefah.

(22) He who slaughters a sacrificial bird without the Temple incurs kareth. This proves that his act does count as shechitah.

(23) It certainly is. Hence the deduction from the word 'terefah' is necessary only in respect of hullin, but not in respect of sacrifices,

(24) Sh. M.: Since shechitah without involves kareth, whilst shechitah within does not, although it actually requires melikah.

(25) For melikah is proper within, but not without.

(26) I.e., you infer shechitah of sacrifices within from shechitah of sacrifices without; similarly, shechitah of hullin within from shechitah of hullin, when same is terefah, without. In all these cases shechitah does not make the bird permitted.

(27) Viz., from melikah of sacrifices within, which is the proper way.

(28) Lev. VI, 2. V. supra 51a for notes.

Talmud - Mas. Zevachim 69b

R. JUDAH SAID: IT DOES DEFILE IN THE GULLET. SAID R. MEIR: IT IS A KAL WA-HOMER: IF THE SHECHITAH OF AN ANIMAL CLEANSES IT, EVEN WHEN TEREFAH, FROM ITS UNCLEANNESS, YET WHEN IT IS NEBELAH IT DEFILES THROUGH CONTACT OR CARRIAGE; IS IT NOT LOGICAL THAT SHECHITAH CLEANSES A BIRD, WHEN TEREFAH FROM ITS UNCLEANNESS, SEEING THAT WHEN IT IS NEBELAH IT DOES NOT DEFILE THROUGH CONTACT OR CARRIAGE? NOW, AS WE HAVE FOUND THAT SHECHITAH, WHICH MAKES IT [A BIRD OF HULLIN] FIT FOR EATING, CLEANSES IT WHEN TEREFAH FROM ITS UNCLEANNESS; SO MELIKAH, WHICH MAKES IT [A BIRD SACRIFICE] FIT FOR EATING, CLEANSES IT WHEN TEREFAH FROM ITS UNCLEANNESS. R. JOSE SAID: IT IS SUFFICIENT FOR IT TO BE LIKE THE NEBELAH OF A CLEAN [PERMITTED] ANIMAL, WHICH IS CLEANSED BY SHECHITAH, BUT NOT BY MELIKAH.[1]

GEMARA. Now, does not R. Meir accept the principle of dayyo [it is sufficient]; Surely the principle of dayyo is biblical? For it was taught: How is a kal wa-homer applied? And the Lord said unto Moses: If her father had but spit in her face, should she not hide in shame seven days?[2] How much more should a divine reproof necessitate [shame for] fourteen days; but it is sufficient for that which is inferred by an argument to be like the premise![3] — Said R. Jose son of R. Abin: R. Meir found a text and interpreted it:[4] This is the low of the beast and of the bird.[5] Now, in which law is a beast similar to a bird and a bird to a beast? A beast defiles through contact and carriage, whereas a bird does not defile through contact or carriage; a bird defiles garments [when its flesh] is in the gullet, whereas a beast does not defile garments [when its flesh] is in the gullet. But it is to tell you: as in the case of a beast, that which makes it fit for eating makes it clean when terefah from its defilement; so in the case of a bird, that which makes it fit for eating[6] makes it clean when terefah from its defilement.

Then what is R. Judah's reason? — Said Rabbah, R. Judah found a text, and interpreted it:[7] [And every soul which eateth] nebelah or terefah[8] [. . , he shall wash his clothes etc.].[9] Said R. Judah: Why is ‘terefah’ stated? If ‘terefah’ can live, then surely ‘nebelah’ is already stated;[10] while if ‘terefah’ cannot live, it is included in nebelah?[11] Hence it is to include a terefah which one slaughtered, [and teaches] that it defiles.

If so, said R. Shisbi to him, when it is written, And the fat [heleb] of nebelah, and the fat of terefah [may be used for any other service, but ye shall in no wise eat it]:[12] there too let us argue: Why is terefah stated? If terefah can live, then surely nebelah is already stated; and if terefah cannot live, it is included in nebelah? Hence it is to include a terefah which one slaughtered, [and teaches] that its heleb is clean? Hence it follows that it defiles?[13] But surely Rab Judah said in Rab's name, whilst others say that it was taught in a Baraitha: And if there die of a beast:[14] some beasts defile, and some beasts do not. And which is it [that is excluded]? A terefah which was slaughtered! — Rather, [this is R. Shizbi's difficulty]: This terefah[15] is necessary in order to exclude an unclean animal,[16] [for it intimates:] only that in whose species there is terefah: hence this [an unclean animal] is excluded, since there is no terefah in its species.[17] Then here too[18] [say that] [the inclusion of terefah] excludes an unclean [forbidden] bird, since there is no terefah in its species?[19] [The exclusion of] an unclean bird is, in R. Judah's opinion, derived from nebelah. For it was taught. R. Judah said: You might think that the nebelah of an unclean bird defiles garments [when its flesh] is in the gullet. Therefore it states, Nebelah or terefah he shall not eat [to defile himself therewith]:[20] only that [defiles] whose interdict is on account of ‘do not eat nebelah’; hence this [an unclean bird] is excluded, since its interdict is not on account of ‘do not eat nebelah’, but on account of ‘do not eat unclean’.[21]

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(1) For notes v. supra 50b, 51a.

(2) Num. XII, 14.

(3) Since you argue from her father's reproof, even a Divine reproof does not necessitate a longer period of shame. As Scripture proceeds. ‘Let her be shut up without the camp seven days’, it is evident that this principle is Scriptural.

(4) He accepts the principle of dayyo, but his ruling is based on a text, which makes him disregard the principle in this instance.

(5) Lev. XI, 46.

(6) Sc. melikah, in the case of a bird sacrifice.

(7) Emended text (Sh. M.).

(8) E.V. that which dieth of itself or that which is torn of beasts. According to the Talmudic interpretation an animal which dies by any method other than the correct ritual one (shechitah) is called nebelah, even if it is ritually slaughtered, but there is a defect in the shechitah. Terefah denotes an animal which was properly slaughtered with shechitah, but was then found to have been suffering from certain diseases or organic disturbances. These are listed in Hul. 42a, where there is a controversy whether a terefah could have lived (for more than twelve months) or not. On the view that it could, it is regarded as having been alive until the shechitah; on the view that it could not, it is regarded as already dead (technically) even before the shechitah, in which case it is obviously the same as nebelah.

(9) Lev. XVII, 15.

(10) So that if the terefah dies of its disease before it is slaughtered, it is obviously included in nebelah.

(11) Even whilst alive. So Rashi. Tosaf. and Sh. M. explain differently.

(12) Ibid. VII, 24. The Talmud (Pes. 23a) interprets this to mean that the heleb of a nebelah is clean and does not defile.

(13) The Talmud interposes: since R. Shizbi objects thus, it follows that in truth such heleb is unclean and defiles.

(14) Ibid. XI, 39. Lit. translation. ‘Of’ is partitive, and is understood as a limitation. The verse continues: he that touches the carcass thereof shall be unclean until the evening.

(15) In the verse which he quotes.

(16) The heleb of an unclean (i.e., forbidden) animal does not defile.

(17) Only the heleb of an animal which can become terefah defiles. But an unclean animal, which cannot be eaten in any case, can never become terefah in a technical sense, and therefore its heleb does not defile.

(18) In the verse quoted by R. Judah (the Tanna), not Rab Judah, the amora.

(19) That is the conclusion of R. Shizbi's objection: Interpret the text thus, and the question returns. What is R. Judah's reason, after R. Meir proves the contrary?

(20) Lev. XXII, 8.

(21) Hence the former verse is left free for the interpretation stated above.

Talmud - Mas. Zevachim 70a

Let this too be derived from, ‘And the fat of nebelah’, [which intimates:] that whose interdict is on account of ‘do not eat the heleb of nebelah;’[1] hence this [the heleb of a forbidden animal] is excluded, since its interdict is not on account of ‘do not eat the heleb of nebelah’, but on account of uncleanness?[2] — Rather, this terefah[3] is required in order to include hayyah.[4] I might argue: Only that whose heleb is forbidden whilst its flesh is permitted [is included in this law]; hence a hayyah is excluded, since its heleb and its flesh are permitted.[5] Therefore [the word terefah] informs us [that it is not so].[6] Wherein[7] does an unclean [forbidden] animal differ?[8] [presumably] because its heleb is not distinct from its flesh?[9] but then the heleb of a hayyah is not distinct from its flesh?[10] Moreover, surely it is written, but ye shall in no wise eat it?[11] — Rather, said Abaye. Terefah[12] is needed for its own purpose.[13] lest you argue: Since an unclean [animal] is forbidden whilst yet alive, and a terefah is forbidden whilst yet alive:[14] as the heleb of an unclean [animal] is unclean [defiles], so is the heleb of a terefah unclean.[15] If so, this too[16] is required, lest you say: Since an unclean bird may not be eaten, and a terefah may not be eaten; as an unclean bird does not defile [garments, when the flesh is in the gullet], so a terefah too does not defile? Moreover, can terefah really be derived from an unclean animal:[17] an unclean animal enjoyed no period of fitness,[18] whereas a terefah enjoyed a period of fitness?[19] And should you answer, what can be said of a terefah from birth; yet of its kind this can be said.[20] — Rather said Raba: The Torah ordained, Let the interdict of nebelah come and fall upon the interdict of heleb; let the interdict of terefah come and fall upon the interdict of heleb.[21] And both are necessary. For if we were informed [this about] nebelah, [I would argue that the reason is] because it defiles;[22] but as for terefah, I would say that it does not [fall upon the interdict of heleb]. And if we were informed [this about] terefah. [I would say that the reason is] because its interdict dates from when it was alive; but as for nebelah, l would say that it is not so. Hence [they are both] necessary.

Now how does R. Meir employ this [word] terefah?[23] — He needs it to exclude shechitah which is within.[24] And R. Judah?[25] — Another ‘terefah’ is written.[26] And R. Meir?[27] — One excludes shechitah which is within, and the other excludes an unclean forbidden bird. And R. Judah?[28] — That is derived from nebelah.[29] And R. Meir: how does he employ this ‘nebelah’? — [To show that] the standard of eating [is required], viz., as much as an olive.[30] Yet let this be derived from the first text,[31] since the Divine Law expressed it in terms of eating? — One [text] is employed to shew that the standard of eating [is required for defilement], viz., as much as an olive; while the other intimates that this standard of eating must be within the time of eating half [a loaf].[32] I might argue, since this is anomalous,[33] let it defile even when it takes more than the time required for eating half [a loaf],[34] Hence [the text] informs us [otherwise].

Our Rabbis taught: And the heleb of nebelah, and the heleb of terefah. [may be used for any other service; but ye shall in no wise eat of it]: Scripture speaks of the heleb of a clean [permitted] animal.[35] You say, Scripture speaks of the heleb of a clean animal; yet perhaps it is not so, but rather of the heleb of an unclean animal? You can answer: [Scripture] declared [an animal] clean on account of its being slaughtered, and declared it clean on account of heleb:[36] as when it declared it clean on account of being slaughtered, it referred to a clean [permitted], but not an unclean [forbidden] animal;[37] so when it declared it clean on account of heleb, it referred to a clean, but not an unclean animal. Or argue in this wise: [Scripture] cleansed from nebelah,[38] and it cleansed from heleb:[39] as when it cleansed from nebelah, it was in the case of unclean, and not in the case of clean;[40] so when it cleansed from heleb, [it did so] in the case of unclean, not in the case of clean? Thus you must say,

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(1) Only that heleb does not defile.

(2) I.e., the whole animal is forbidden.

(3) In the verse quoted by R. Shizbi.

(4) A non-domestic animal, e.g., a deer, which may be eaten. The heleb of a hayyah is permitted; that of a behemah (a domestic animal, e.g., a sheep) is forbidden. The discussion hitherto has been about the heleb of a behemah.

(5) Therefore if a hayyah becomes nebelah, I would think that its heleb defiles, just as its flesh.

(6) For it teaches that the heleb of whatever is liable to become terefah, which includes hayyah, does not defile when nebelah.

(7) ‘Said he to him’ is deleted (Sh. M.).

(8) That you do not learn from this text that its heleb is clean and does not defile.

(9) Both are forbidden, and therefore you do not apply this text to it, since that implies that there is a distinction between them.

(10) Both being permitted. Hence you should not apply it to hayyah either.

(11) Lev. VII, 24. From this we infer anon that the heleb of a hayyah which is nebelah does defile. Hence the text cannot apply to it.

(12) In the verse quoted by R. Shizbi.

(13) To shew that the heleb of a terefah which died is clean.

(14) In the sense that shechitah cannot permit it.

(15) Hence the text teaches otherwise.

(16) Terefah in the text quoted by R. Judah.

(17) That you need a text to shew that it does not defile.

(18) Never at any time might it be eaten.
(19) Before it became terefah.
(20) Though that particular terefah was never fit, terefah in general was fit at one time.
(21) The text teaches that when one eats heleb of nebelah or terefah, he is liable not only on account of heleb but also on account of nebelah or terefah. For otherwise one might argue: since the interdict of heleb comes first, the other interdicts cannot apply to it at all.
(22) Which heleb does not. Hence it is logical that the interdict of nebelah, being greater in that respect, falls upon that of heleb.
(23) In the verse quoted by R. Judah.
(24) As stated supra 69a.
(25) How does he know that?
(26) Terefah is written in Lev. XVII, 15 and XXII, 8. Hence one is used for each.
(27) How does he utilise this second ‘terefah’?
(28) Whence does he derive the latter?
(29) As supra 69b bottom.
(30) One is not liable for eating nebelah unless he eats at least as much as an olive (this is the general standard for all forbidden food). The text intimates that this too is the smallest quantity which defiles.
(31) Lev. XVII, 15.
(32) One is not liable for eating unless he eats as much as an olive within the normal time for eating half a loaf, which is half a meal (Rashi: half a loaf is the size of four average eggs; Maim.: three average eggs). The text teaches that when a man eats the flesh of nebelah (of a bird), he does not defile his garments unless he eats as much as an olive within that time.
(33) There is no other case in Scripture where an article does not defile through contact, but only when it enters the gullet.
(34) Being unique in one respect, it might be unique in another.
(35) Teaching that its heleb does not defile as nebelah.
(36) Scripture decreed that when an animal is slaughtered (with shechitah) it does not defile; and that the heleb of nebelah does not defile.
(37) Even if an unclean animal is ritually slaughtered, it defiles.
(38) There is a case where nebelah does not defile.
(39) Heleb does not defile, as stated.
(40) An unclean (forbidden) bird does not defile (as nebelah) when it is in the gullet, whereas a clean bird does.

Talmud - Mas. Zevachim 70b

when you argue in the one way [the text] applies to clean, whilst when you argue in the other way it applies to unclean. Therefore it says, ‘terefah’. [which intimates,] the kind where there is terefah: then I might exclude the unclean, since there is no terefah in its kind,[1] but I will not exclude hayyah, since there is terefah in its kind. Scripture, however, teaches: ‘But ye shall in no wise eat of it’, [intimating that it refers to] that whose heleb is forbidden whereas its flesh is permitted; thus hayyah is excluded, since its heleb and its flesh are permitted.

R. Jacob b. Abba said to Raba: If so,[2] is it only the nebelah of a clean animal that defiles, whereas the nebelah of an unclean animal does not defile? — Said he to him: How many elders [scholars] of you have erred therein![3] the second clause[4] applies to the nebelah of an unclean bird.

R. Johanan said: Only unblemished [birds] did R. Meir declare clean,[5] but not blemished ones. While R. Eleazar maintained: [He ruled thus] even in the case of blemished ones. It was stated likewise: R. Bibi said in R. Eleazar's name: R. Meir declared blemished [birds] clean, even ducks and fowls.[6]

R. Jeremiah asked: What if one beheaded a goat?[7] What is the reason in the case of ducks and fowls? [Is it] because they are species of birds; but a goat is not of the same species as a heifer.[8] Or perhaps, it is of the species of cattle?[9] R. Dimi sat and recited this discussion. Said Abaye to him: Hence it follows that the beheaded heifer[10] is clean? — Yes, he replied: the School of R. Jannai said: ‘Forgiveness’[11] is written in connection therewith, as in the case of sacrifices.[12]

R. Nathan the father of R. Huna objected: ‘But ye shall in no wise eat of it’: I know [this law only of] heleb which may not be eaten but may be [otherwise] used.[13] How do we know [it of] the heleb of the ox that is stoned[14] and the beheaded heifer? — Because it says, All heleb [. . . ye shall not eat].[15] But if you think that the beheaded heifer is clean, could it be clean while its heleb is unclean?[16] Where one did indeed behead it, no text is required; it is required only where one slaughtered it.[17] Then let shechitah be efficacious in cleansing it from nebelah?[18] — The text is necessary only where it died.[19] Hence it follows that it was forbidden whilst yet alive?[20] — Yes.

R. Jannai observed: I have heard a time limit for it,[21] but have forgotten it; while our colleagues maintain: Its descent to the rugged valley, that renders it forbidden.

CHAPTER VIII

MISHNAH. ALL SACRIFICES WHICH BECAME MIXED UP WITH SIN-OFFERINGS THAT MUST BE LEFT TO DIE,[22] OR WITH AN OX THAT IS TO BE STONED,[23] EVEN ONE IN TEN THOUSAND, ALL MUST BE LEFT TO DIE. IF THEY WERE MIXED UP WITH AN OX WITH WHICH TRANSGRESSION HAD BEEN COMMITTED, E.G.[24] ,

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(1) There is no particular interdict of terefah since it is forbidden in any case.

(2) If you argue, ‘as when it cleansed from nebelah it was in the case of unclean and not in the case of clean’, which implies that the nebelah of a forbidden animal is clean.

(3) I am astonished that you (and presumably, your colleagues in the Academy — perhaps R. Jacob spoke on their behalf) — should so err.

(4) That to which he referred.

(5) After melikah, if they are terefah. The reason is because melikah is applicable to them.

(6) Which are not eligible sacrifices at all. For terefah too is not fit and yet R. Meir declares it clean.

(7) V. Deut. XXI, 1-9. Beheading’ instead of shechitah normally renders an animal nebelah, so that it defiles, but since it was prescribed for the heifer, it presumably does not defile. What, however, if he beheaded a goat instead of a heifer, and for the same purpose: is the goat nebelah or not?

(8) Hence it will defile. — A heifer is counted amongst the large cattle, while a goat belongs to the small; therefore they are regarded as different species.

(9) Behemah; v. p. 342, n. 9.

(10) V. Deut. XXI, I ff.

(11) Ibid. 8.

(12) Hence it is treated as such, and does not defile.

(13) As Scripture states, may be used for any other service. Only such heleb does not defile.

(14) V. Ex. XXI, 28f. All benefit of the ox was forbidden.

(15) Lev. VII, 23. This ref. adopts Sh. M.’s emendation of Rashi, and is the preceding verse. The marginal ref. is Lev. III, 17, which seems out of place. — ‘All’ is an extension and includes the heleb of these.

(16) Obviously not, and no verse would be necessary to teach it.

(17) After becoming forbidden whilst alive through being set aside for this purpose, it was slaughtered (with shechitah) instead of beheaded. Then a text is required to shew that its heleb does not defile.

(18) Though shechitah will not permit it, at least it should free it from defilement, since we find no instance of a slaughtered and clean (permitted) animal defiling.

(19) This retracts the preceding answer. It had died of itself before it was beheaded. Here its flesh does defile as nebelah, and the text teaches that its heleb does not defile.

(20) Since the question is asked in respect of a heifer which died, it follows that even before it was beheaded, whilst yet alive, all benefit thereof was forbidden, and that is why the question is asked concerning the heleb.

(21) When it becomes forbidden.

(22) I.e., which for some reason can neither be offered up nor revert to hullin, so that they must not be put to work, but must be kept until they die. They are as follows: (i) The young of a sin-offering which calved before it was slaughtered. (ii) One whose owner died. (iii) The substitute of a sin-offering (v. p. 22, n. 8). (iv) A sin-offering whose owner had already made atonement. E.g., it was lost, whereupon he dedicated another and sacrificed it, and then the original one was found. And (v) an animal consecrated before it was a year old, but which passed its first year before being sacrificed (Rashi, as marginally emended). In cur. edd. Rashi enumerates an animal found to be blemished after consecration as the fifth.

(23) V. Ex. XXI, 28.

(24) Lit., 'or'.

Talmud - Mas. Zevachim 71a

THAT HAD KILLED A MAN ON THE TESTIMONY OF ONE WITNESS OR OF ITS OWNER;[1] A ROBA OR A NIRBA';[2] OR AN ANIMAL SET ASIDE [FOR AN IDOLATROUS SACRIFICE] OR THAT HAD BEEN WORSHIPPED [AS AN IDOL]; OR THAT WAS [A HARLOT'S] HIRE, OR [A DOG'S] EXCHANGE;

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(1) So that it cannot be stoned.

(2) Animals used bestially: roba', a male with a woman, nirba', a female with a man.

Talmud - Mas. Zevachim 71b

OR THAT WAS KILAYIM;[1] OR TEREFAH; OR AN ANIMAL CALVED THROUGH THE CAESAREAN SECTION,[2] THEY MUST GRAZE UNTIL THEY BECOME UNFIT;[3] THEN THEY ARE SOLD, AND ONE BRINGS [A SACRIFICE] OF THE SAME KIND[4] AT THE PRICE OF THE BETTER OF THEM.[5] IF THEY WERE MIXED UP WITH UNBLEMISHED [ANIMALS] OF HULLIN,[6] THE HULLIN MUST BE SOLD FOR THE PURPOSE OF THAT KIND.[7] [IF] A SACRIFICE [WAS MIXED UP] WITH A SACRIFICE, BOTH BEING OF THE SAME KIND:[8] THIS ONE MUST BE OFFERED IN THE NAME OF WHOEVER IS ITS OWNER, AND THE OTHER MUST BE OFFERED IN THE NAME OF WHOEVER IS ITS OWNER.[9] [IF] A SACRIFICE [WAS MIXED UP] WITH A SACRIFICE, BOTH BEING OF DIFFERENT KINDS,[10] THEY MUST GRAZE UNTIL THEY BECOME UNFIT,[11] AND THEN ONE PURCHASES AT THE PRICE OF THE BETTER OF THEM [AN ANIMAL] OF EACH KIND,[12] AND BEARS THE LOSS OF THE EXCESS OUT OF HIS OWN POCKET.[13] IF THEY WERE MIXED UP WITH A FIRSTLING OR TITHE, THEY MUST GRAZE UNTIL THEY BECOME UNFIT, AND THEN ARE EATEN AS FIRSTLING OR TITHE.[14] ALL [SACRIFICES] CAN BE MIXED UP, EXCEPT THE SIN-OFFERING AND THE GUILT-OFFERING.[15]

GEMARA. What does EVEN mean?[16] — This is what he means: ALL SACRIFICES with which SIN-OFFERINGS THAT MUST BE LEFT TO DIE, E.G., AN OX THAT MUST BE STONED, BECAME MIXED UP, EVEN ONE IN TEN THOUSAND, MUST BE LEFT TO DIE.[17]

[But] we have already learnt it once: All which are forbidden to the altar, e.g., a roba' and a nirba', render [others] forbidden whatever their number?[18] — Said R. Kahana: I reported this discussion to R. Shimi b. Ashi, and he said to me: They are both necessary.[19] For if [we learnt] from there, I would say. That is only [where they are forbidden] to the altar;[20] but [where they are forbidden] to a layman, it is not [so].[21] While if [we learnt] from here, I would say that [this ruling applies] only to these, which are forbidden for any use; but as for the others, which are not forbidden for general use, it is not [so].[22] Thus they are both necessary.

But surely those which are not interdicted for all use are taught [in this Mishnah]?[23] — Does he teach by what number [they render all forbidden]?[24] Then let him teach the other, and we would not require this one? — He needs the remedy.[25]

But [those which are forbidden] to layman he also teaches; [there:] The following are themselves forbidden, and render [others] forbidden, whatever their number: Wine of nesek[26] and [animals of] idolatry?[27]

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(1) A hybrid, offspring of two heterogeneous animals, e.g., a goat and a sheep.

(2) These last two are included, though not implicated in sin, because the same law applies to them.

(3) I.e., blemished.

(4) As that which had thus been mixed up.

(5) None of these are eligible for sacrifices, yet a layman may make use of (though not eat) them; therefore they are not left to perish. At present, however, these animals cannot be used, since one of them is sacred, nor can they be redeemed (i.e., sold, and the money devoted to a sacrifice), for an unblemished consecrated animal cannot be redeemed. Hence they must be allowed to graze until they receive a blemish, when they are sold etc.

(6) One consecrated animal with either one or many of hullin.

(7) E.g., an animal consecrated for a peace-offering was mixed up with five of hullin, five of the six must be sold to people who owe a peace-offering. Thus all the six are now sacred and stand for the same purpose.

(8) E.g., both are peace-offerings or burnt-offerings, but belong to different owners.

(9) Rashi: the priest who offers it must declare, ‘Lo, this is for the sake of its owner’, without specifying a name. Tosaf, and Sh. M.: the priest says nothing at all about its owner, and then it is tacitly understood to be for its owner, whoever he is.

(10) E.g., a burnt-offering with a peace-offering.

(11) They cannot be offered themselves, because their rites of sprinkling and presenting the emurim are dissimilar.

(12) One for each sacrifice.

(13) The two animals, each of the value of the better of the first two, naturally involve a loss.

(14) The animals are redeemed, and other sacrifices bought with the redemption money. All those which were mixed up are eaten as firstling or tithe, i.e., they are subject to the same laws as these when blemished, which is that they must not be slaughtered in the public abattoirs (market) nor sold by weight.

(15) Because they are distinct, as explained in the Gemara.

(16) EVEN ONE IN TEN THOUSAND implies that the unfit are in the majority. But in that case it is all the more obvious that they cannot be sacrificed.

(17) This reverses the numbers.

(18) I.e., the smallest number of forbidden animals disqualify even the largest number with which they are mixed up. v. Tem. 28a. That is the same as our Mishnah.

(19) Emended text (Sh. M.).

(20) Lit., ‘to the All-high’.

(21) All those enumerated there are forbidden to the altar but not for general use, and so they can (and must) be redeemed. Here, however, they are completely forbidden, and cannot be redeemed. I would say therefore that we cannot be so strict as to rule that all must die, but that on the contrary the one (or few) is annulled by the many, and all are permitted. Hence the Mishnah informs us otherwise.

(22) This reverses the preceding argument. I would argue that we are stricter here, precisely because the interdict is greater.

(23) Sc. in the clause, IF THEY BECAME MIXED UP WITH AN OX etc. These are only forbidden as sacrifices, but not for general use.

(24) EVEN ONE IN TEN THOUSAND may apply only to what precedes, but not to what follows. Hence the other Mishnah is necessary.

(25) The other Mishnah only states that they cannot be sacrificed. Here he teaches what is to be done with them.

(26) V. Glos.

(27) If wine of nesek is mixed with other permitted wine, or animals which had been worshiped are mixed up with others, they are all forbidden for any use whatever.

Talmud - Mas. Zevachim 72a

— They are both necessary: for if [I learnt] from there, I would say. That applies only to hullin; but as for sacrifices, Let us not cause the loss of all of them.[1] While if [I learnt] from here, I would say. This applies only to sacred animals, because it is repulsive;[2] but as for hullin, where it is not repulsive, I would say that though they are forbidden for any use, let them be annulled by the majority. Thus [both] are necessary.

Now, let them indeed be annulled by the majority? And should you answer, They are important and cannot be annulled; that is well on the view that we learnt ‘whatever one is wont to count’; but on the view that we learnt ‘that which one is wont to count what can be said?[3] For we learnt: If a man has bundles of fenugreek of kil'ayim[4] of a vineyard,[5]

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(1) Since they are of greater (religious) value, let the forbidden animals be annulled by the larger number of consecrated ones.

(2) The slightest possibility of sacrificing a forbidden animal, though it be one in a thousand, is repulsive. Therefore they are all forbidden.

(3) This is explained anon.

(4) V. Glos.

(5) Cf. Lev. XIX, 19 and Deut. XXII, 9.

Talmud - Mas. Zevachim 72b

they must be burnt.[1] If they were mixed up with others,[2] and those again with others,[3] they must all be burnt: that is the view of R. Meir. But the Sages maintain: They are neutralized in a mixture of two hundred to one. For R. Meir used to say: Whatever one is wont to count renders [others] forbidden;[4] while the Sages maintain: Only six things forbid [the whole] — R. Akiba says: Seven — and they are as follows: The nuts of Perek, the pomegranates of Badan,[5] sealed casks [of wine], beetroot tops, cabbage stalks,[6] and Grecian gourds. R. Akiba adds the loaves of a householder.[7] Those which are subject to the law of ‘orlah[8] [render the mixture] ‘orlah;[9] and those which are subject to the law of kil'ayim of the vineyard, [render the mixture] kil'ayim of the vineyard. Now it was stated thereon: R. Johanan said: We learnt,[10] That which one is wont to count;[11] while Resh Lakish said: We learnt, Whatever one is wont to count.[12] Now, it is well according to Resh Lakish;[13] but according to R. Johanan, what can be said?[14] — Said R. Papa: This Tanna[15] is the Tanna who taught [the Baraitha] concerning the litra of dried figs, who maintained:

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(1) For they must not be used in any way. Burning is deduced from the word tikdash (E.V. forfeited) in the latter text, which is read tukad esh, ‘shall be burnt in fire’.

(2) Permitted bundles of the same.

(3) This clause is omitted in ‘Orlah III, 6 and Yeb. 81b.

(4) Lit., consecrated.’

(5) Perek and Badan are towns in Samaria N.E. of Shechem. In Yeb. 81b s.v. פרך Tosaf. renders the former by cracknuts.

(6) Beverages were made from these two.

(7) In connection with the neutralizing of leavened mixed up with unleavened bread before Passover, when the latter is required for the festival. All these were considered of particular importance, and could not be neutralized. In the last-mentioned a distinction is drawn between home-made loaves and the loaves of a baker, the latter being less important.

(8) V. Glos. They are the nuts, pomegranates and sealed casks of wine (made of grapes of ‘orlah).

(9) The whole comes under the law of ‘orlah.

(10) In R. Meir's ruling.

(11) Only such objects which are always counted cannot be neutralized, but not objects which are sometimes counted and sometimes sold in bulk.

(12) Even only occasionally. For further notes v. Yeb. (Sonc. ed.) 81b.

(13) For animals are sometimes sold singly and sometimes in lots (uncounted save by a general estimate).

(14) Let them indeed be neutralized.

(15) Of our Mishnah, and the Mishnah cited in the text.

Talmud - Mas. Zevachim 73a

Whatsoever is numbered [in selling], even [if its prohibition is] Rabbinical, cannot be neutralized, and how much the more when it is Biblical![1] For it was taught: If a litra of dried figs[2] was pressed on the top of a round jar, and he does not know in which jar it was pressed; or on the top of a cask, and he does not know in which cask; or on top of a 'beehive',[3] and he does not know in which, R. Meir maintains that R. Eliezer said: We regard the upper [layers] as if they are separated, and the lower ones neutralize the upper ones;[4] while R. Joshua ruled: If there were a hundred tops, they neutralize; if not, [all] the tops are forbidden, and the bottom layers[5] are permitted.[6] R. Judah maintained: R. Eliezer said: If there were a hundred tops, they neutralize; if not, [all] the tops are forbidden etc.; while R. Joshua ruled: Even if you have three hundred tops, they do not neutralize.[7] If he pressed it[8] in a round jar, and he does not know in which part of the jar he pressed it, whether in the north or in the south, all agree that it is neutralized.[9] R. Ashi said: You may even say [that it agrees with] the Rabbis: Living creatures are important, and cannot be neutralized.

Now, let us detach [them] one by one and say, whatever is detached,[10] is detached from the majority?[11] [You say,] 'detach [them]'! but that is kabua'

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(1) As in the instances which we are discussing.

(2) Of terumah (q.v. Glos.), which may not be eaten by a zar. Normally it is neutralized by one hundred times its quantity. By Biblical law terumah must be given only of corn, wine, and oil (v. Num. XVIII, 8; Deut. XVIII, 4); the Rabbis added fruit.

(3) A receptacle of that shape.

(4) Though only the top layer of each cask etc. is in doubt, for the bottom ones are certainly not terumah, we regard the top layers as if they were taken away from their place and dispersed among all the layers of all the casks. Hence, if there are a hundred layers in all against the one in doubt, it is neutralized and all are permitted.

(5) I.e., all but the top one.

(6) But you cannot count all the layers for neutralizing purposes, since they are not in doubt.

(7) For layers of figs are sold by number.

(8) The litra of figs.

(9) Because it may not be a complete layer, and is therefore not sold by number. — Hence our Mishnah agrees with R. Joshua. For further notes v. Bez. (Sonc. ed.) 3bff.

(10) Lit., 'separates'.

(11) This is a general rule: when one thing is detached from many, we assume that it was detached from what constituted the majority. Here the majority of the animals are fit for sacrifice; as we detach each one, we may assume that it was of the majority, and therefore it can be sacrificed. Only the last two will then remain forbidden.

Talmud - Mas. Zevachim 73b

and every [case of] kabua' is like half and half?[1] — Rather, [the difficulty is this]: Let us force them to scatter and then say, whatever is detached, is detached from the majority? — Said Raba: We fear lest [e.g.] ten priests come at the same time and offer them.[2] One of the Rabbis observed to Raba: If so, is the tray forbidden?[3] — [Rather the reason is] because [we fear] lest [e.g.] ten priests come and take them simultaneously.[4] Is that possible?[5] — Rather said Raba: The reason is because of kabua'.[6]

Raba said: Since the Rabbis ruled that we must not offer them, if one does offer, it [each animal] does not propitiate.[7] R. Huna b. Judah raised an objection to Raba: If a sin-offering was mixed up with a burnt-offering, or a burnt-offering with a sin-offering,[8] even one in ten thousand, all must die.[9] When is this? If the priest consulted [the authorities].[10] But if the priest did not consult [the authorities], and he sacrificed them [all] above,[11] half are fit and half are unfit;[12] below, half are fit and half are unfit. [If he sacrificed] one above and one below, both are unfit, for I assume [that] the sin-offering was offered above, and the burnt-offering below![13] — Said he to him:[14] This [my ruling] is in accordance with the view that live animals can be [permanently] rejected; the other is in accordance with the view that live animals cannot be [permanently] rejected.[15] But what about slaughtered animals regarding which all agree that they are [permanently] rejected,

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(1) This is a general rule in the Talmud: although the majority is always followed, that is only when the minority is not kabua’, fixed, settled in a certain place; otherwise it is equal to the majority; v. Sanh. (Sonc. ed.) p. 531, n. 4. Here, the forbidden animal being kabua’, is therefore equal to the majority.

(2) This is now assumed to mean that after they are detached and slaughtered one after the other, ten priests will sprinkle the blood of ten animals or present their emurim (these are the essential acts of offering) simultaneously. Now, where e.g. the ten constitute the majority, they may therefore be assumed to include the forbidden one.

(3) After each animal has been slaughtered in the presumption that it is permitted, can they now become forbidden when their emurim are on the tray, waiting to be presented at the altar? That is absurd.

(4) From the confused herd.

(5) Surely not. Since they are scattered, it is impossible for the priests to take them at the identical moment.

(6) If we permit this when they are scattered, the priests may come and take them one by one even when they are not scattered, which, as stated above, is forbidden.

(7) This is a technical expression to denote that the sacrifice is invalid, and the owner still remains liable to his obligation.

(8) This refers to birds. These cannot be left until they are blemished, as bird-offerings cannot be redeemed.

(9) Since we do not know now how each is to be sacrificed.

(10) He asked what he was to do.

(11) As burnt-offerings.

(12) And if there was one bird of each, he must bring another for a sin-offering; similarly when it is reversed.

(13) I.e., this is possible; v. Kin. I, 2 and III, 1. — Thus although the priest is forbidden to offer them in the first place, yet if he does, those offered properly are fit. The same then should apply here.

(14) Marginal emendation.

(15) v. p. 295, n. 7, 10.

Talmud - Mas. Zevachim 74a

yet we learnt, R. Eliezer said: If he offered the head of one of them, all the heads must be offered?[1] — He ruled in accordance with Hanan the Egyptian. For it was taught: Hanan the Egyptian said: Even if the blood is in the cup, he brings its companion and pairs it.[2]

R. Nahman said in the name of Rabbah b. Abbuha [in Rab's name]:[3] If a ring of idolatry[4] was mixed up with a hundred rings, and one of them fell into the Great Sea,[5] all are permitted, because we say: The one which fell was the one which was forbidden.[6] Raba raised an objection to R. Nahman: EVEN ONE IN TEN THOUSAND, ALL MUST BE LEFT TO DIE. Yet why so; let us say that the first which dies is the forbidden one? Said he to him: Rab ruled in accordance with R. Eliezer, for we learnt: R. Eliezer said: if he offered the head of one of them, all the heads may be offered.[7] But surely R. Eleazar[8] said: R. Eliezer permitted [them to be offered] only in twos,[9] but not singly? — I also meant in twos,[10] he replied.

Rab said:[11] If a ring of idolatry was mixed up with a hundred rings, and forty of them [were] detached to one place, and sixty to another: if one [was] detached from the forty, it does not forbid [others];[12] if one [was detached] from the sixty, it renders [others] forbidden. Why is one from forty different? [presumably] because we say, The forbidden [article] is among the majority? Then [in the case of] one from sixty too we must say, The forbidden [article] is in the majority?[13] Rather [this is what he said]: If the forty were all separated to one place, they do not render [others] forbidden;[14] [if] sixty [were detached] to one place, they render [others] forbidden.[15] When I stated this before Samuel, he said to me: Leave idolatry alone, for a doubt therein and a double doubt are forbidden for all time.[16]

An objection is raised: The doubt of idolatry is forbidden, but a double doubt is permitted. How so? If a goblet of idolatry fell into a storeroom filled with goblets, all are forbidden. If one of these was detached and mixed up with ten thousand, and from the ten thousand [one was detached into] ten thousand, they are permitted?[17] — It is a controversy of Tannaim. For it was taught, R. Judah said: pomegranates of Badan, however small their proportion, render [others] forbidden. How so? If one of them fell into ten thousand, and [one] of the ten thousand into [another] ten thousand, all are forbidden. R. Simeon b. Judah said on R. Simeon's authority: [If it fell] into ten thousand, they are forbidden; but [if one] of the ten thousand [fell] into three, and [one] of the three [fell] among others,[18] they are permitted .[19]

In accordance with whom did Samuel rule? If in accordance with R. Judah, it is forbidden even in the case of other interdicts?[20] If in accordance with R. Simeon, then even in the case of idolatry too [a double doubt] is permitted? And should you say, R. Simeon allows a distinction between idolatry and other interdicts; then when it was taught, ‘A doubt of idolatry is forbidden, but a double doubt is permitted,’ who is its author? it is neither R. Judah nor R. Simeon? — In truth [the author of this is] R. Simeon, and he permits in the case of idolatry too,[21] while Samuel agrees with R. Judah in one matter, but disagrees in another.[22]

The master said: ‘[If one] of the ten thousand [fell] into three, and [one]’ of the three [fell] among others, they are permitted.’

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(1) V. infra 77b. Though had the priest asked, we would have instructed him not to offer any.

(2) V. supra 34b.

(3) Sh. M. deletes ‘in Rab's name’.

(4) One which adorned an idol; all benefit thereof is forbidden, and it is not neutralized when it is mixed up with any number of others, all of which become forbidden (supra 71b).

(5) Probably the Mediterranean. Of course, the same applies, to any place where it is lost.

(6) We make this lenient assumption.

(7) Thus the first is assumed to have been the forbidden one.

(8) The amora.

(9) Where one is definitely not forbidden, and so we assume the same about the other.

(10) The remaining rings must be sold in twos.

(11) Marginal emendation: Rab Judah said in Rab's name.

(12) If it became mixed up with others. ‘Separated’ in the whole passage means accidentally.

(13) I.e., the remaining fifty nine.

(14) If these forty were mixed up with others, because we assume that the forbidden one is in the sixty. If they were not mixed up with others, they would remain forbidden, for the forbidden ring cannot be nullified in the majority, and even R. Eliezer permits a lenient assumption only where an article is lost or destroyed, as where the head of one of them is offered. Nevertheless, when the forty are mixed up with others, all are permitted, because now there is a double doubt concerning each ring: Firstly, the forty may not have contained the forbidden one at all; and secondly, even if they did, each one of the present mixed group may not be of the forty. Hence they are all permitted.

(15) Because we assume that the forbidden one is in the majority, and so now there is only a single doubt concerning each ring: whether it is the forbidden one or not. Therefore we must adopt a rigorous ruling.

(16) No matter how slight the doubt, it is always forbidden. Thus even in the case of forty they render others forbidden.

(17) This contradicts Samuel. — It is not clear why this second clause, ‘and from the ten thousand into ten thousand’ is necessary, for since a double doubt is permitted, when one of the storeroom is mixed up with the first ten thousand, the latter should be permitted. Sh. M. suggests that the first ten thousand are permitted, but they may not be all used simultaneously, for then we have only a single doubt, whether the one from the storeroom was the goblet of idolatry or not. (He rejects the explanation, given by Tosaf. in the next passage, that the second ten thousand is mentioned to shew that he who forbids, forbids even then, as inapplicable here since no view forbidding these is expressed in this Baraitha at all. Nevertheless, it is possible that the Baraitha is a fragment, the other half being lost even in Talmudic times, and so the Talmud cites it as a refutation of Samuel.)

(18) Lit., ‘into another place’.

(19) Rashi: both the first three and the others, because there is a double doubt in connection with both. Tosaf.: the first three may not all be enjoyed simultaneously (v. n. 2.). The number three is discussed anon.

(20) Since R. Judah's ruling does not refer particularly to idolatry.

(21) Emended text (Sh. M.).

(22) He agrees that a double doubt of idolatry is forbidden, but does not apply it to other interdicts, as does R. Judah.

Talmud - Mas. Zevachim 74b

Why are three different? [presumably] because there is a majority? Then [if it fell] among two, there is also a majority? — What does he mean by ‘three’? two together with itself. Alternatively, he agrees with R. Eliezer.[1]

Resh Lakish said: If a cask of terumah was mixed up with a hundred casks [of hullin], and one of them fell into the Salt Sea,[2] all of them become permitted, for we assume: The one which fell was the forbidden one.[3] Now, the rulings of both R. Nahman[4] and Resh Lakish are necessary. For if [we learnt] from R. Nahman's [ruling], I would say: It applies to idolatry only, because it has no remedy to permit it;[5] but in the case of terumah, which has a remedy,[6] I would say that it is not so.[7] While if [we learnt] from Resh Lakish, I would say: It applies only to a cask, whose fall is noticeable; but as for a ring, whose fall [loss] is not noticeable, I would say that it is not so.[8] Thus they are both necessary.

Rabbah said: Resh Lakish permitted only a cask, whose fall is noticeable, but not a fig.[9] But R. Joseph said: Even a fig: as its fall, so its removal [rise].[10]

R. Eleazar said: If a [closed] cask of terumah fell among a hundred casks, he opens one of them, removes therefrom the proportion of the mixture,[11] and drinks [the rest]. R. Dimi sat and reported this ruling. Said R. Nahman to him: We see here quaffing and drinking![12] Say rather: If one of them was opened,[13] he removes thereof the proportion of the mixture, and drinks.

R. Oshaia said: If a [sealed] cask of terumah was mixed up with a hundred and fifty casks, and a hundred of them were opened [accidentally], he removes from them the proportion of the mixture and drinks, but the rest are forbidden until they are opened [accidentally], [for] we do not say, The forbidden article is in the majority.[14]

A ROBA’ OR A NIRBA’ etc. As for all the others, it is well; [for their disqualification] is not perceptible;[15] but how is this [case of] terefah possible? if it is perceptible, let [the priest] come and remove it?[16] whilst if he cannot distinguish it, how does he know that [a terefah] was mixed up?[17] The school of R. Jannai said: The circumstances here are e.g., that [an animal] perforated by a thorn was mixed up with one attacked by a wolf.[18] Resh Lakish said: It was mixed up e.g. with a fallen animal. [You say,] ‘A fallen animal’? that too can be examined?[19] He holds [that] if it, stood up, it needs [observation for] twenty-four hours; if it walked, it needs examination.[20] R. Jeremiah said: E.g., it was mixed up with the young of a terefah, this being in accordance with R. Eliezer, who maintained: The young of a terefah cannot be offered at the altar.

All these [Rabbis] did not explain it as the school of R. Jannai, [because they hold that] you can distinguish [an animal] perforated by a thorn from one attacked by a wolf, [as the perforation of] the former is elongated, whereas [that of] the latter is round. They did not explain it as Resh Lakish, [for] they hold: If it arose, it does not need twenty-four hours; if it walked, it does not need examination. They did not explain it as R. Jeremiah, because they would not make it agree with R. Eliezer.[21]

[IF] A SACRIFICE [WAS MIXED UP] WITH A SACRIFICE, BOTH BEING OF THE SAME KIND etc. But [the sacrifice] requires laying on [of hands]?[22] — Said R. Joseph: It refers to sacrifices of women.[23] But not to men's sacrifices?

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(1) V. supra a, where it is stated that R. Eliezer permits the heads to be offered only in twos. Similarly here, the pomegranates can be used only in twos, and for that reason it must have fallen into at least three, so that there are four in all; otherwise, two could be used, while the third would be forbidden. (Rashi gives two explanations: this is the second, which is adopted by Tosaf. too, though Rashi favours the first.)

(2) The Dead Sea.

(3) Sc. that of terumah.

(4) V. supra a: he gives a similar ruling on a ring of idolatry.

(5) In itself; hence it would be too rigorous to say that they remain forbidden.

(6) The lot can be sold to a priest, to whom it is permitted.

(7) There is no need for this lenient assumption.

(8) A cask is a large object, and its loss is noticeable. Hence when the rest are permitted, one can see that it is because one fell out. But a ring is small and its loss out of a large number is not noticeable. Therefore it might be thought that if the rest are permitted, one will not know the reason and believe that they are all permitted, even if none fell out.

(9) Which is small. — Sh. M.: This is only if the fig was mixed up with less than a hundred, as otherwise it is neutralized in any case. But a closed cask is not neutralized by any number (supra 72b.).

(10) Just as you consider it sufficiently important to render all forbidden when it falls among other figs, so must its removal be considered sufficiently noticeable to render them all permitted.

(11) One cask is forbidden, while a hundred are permitted; hence the proportion of the forbidden is 1/101st part; this he must remove, and the rest is permitted, for an open cask can be neutralized (Sh. M. reads in Rashi: he must remove 1/100th part, not 1/101st part).

(12) If he is permitted to open the cask, how is this law, that a sealed cask can never be neutralized, possible?

(13) Accidentally.

(14) As Rab supra a. If we did say thus, we would assume the cask of terumah to be in the hundred, so that the other fifty are immediately permitted.

(15) Lit., ‘known’. Hence they can be mixed up with others.

(16) From the other animals. — It is perceptible when it is an outward form of terefah, e.g., if the skull was perforated. But then it is distinguishable from the other animals.

(17) If it is an internal form of terefah, so that it is not distinguishable from the others, how indeed does he know that it is terefah until it is slaughtered and examined?

(18) Both show marks of perforation, and so are indistinguishable; but the former is not terefah (unless the thorn penetrated right through the flesh into the interior of the animal, which it did not here), whereas the latter is (any animal attacked by a beast of prey is terefah).

(19) If it can get up and walk, it is entirely fit, as there is an opinion that in such a case one need not wait but can slaughter it immediately, and it need not even be examined after slaughter to see if there is a lesion of the vital organs, which would render it terefah. Hence it is merely necessary in the present instance to see which animals can walk.

(20) If the animal merely succeeded in rising, but could not walk, it must be kept to see if it can live twenty-four hours; if it is slaughtered before, it is terefah even if no internal lesion is discovered. But if it succeeded in walking, it can be slaughtered at any time, save that after slaughtering all the vital organs, e.g., the spinal cord, lungs, heart, etc, must be examined for injury (this is not required in the case of an ordinary animal); thus it is considered as a doubtful terefah and may not be offered. In this instance all the animals can walk, yet as there remains the doubt, none can be offered.

(21) His ruling is generally rejected, v. Shab. 130b, (Sonc. ed.) p. 653, n. 9.

(22) By its owner, whereas he is unknown.

(23) Which did not require it.

Talmud - Mas. Zevachim 75a

Abaye raised an objection to him: If an individual's sacrifice was mixed up with an individual's sacrifice, or a congregational sacrifice with a congregational sacrifice, or if an individual's sacrifice and a congregational sacrifice were mixed up, [the priest] must make four applications [of the blood] of each [sacrifice];[1] Yet if he made an application of each, he has fulfilled his obligation;[2] and if he made four applications from all,[3] it suffices. When is this said?[4] If they were mixed up alive; but if they were mixed up after being slaughtered,[5] he makes four applications for all of them; yet if he made one application, he fulfilled his duty. Rabbi said: We examine the application: if it contains sufficient for each,[6] it is fit; if not, it is unfit. Now, he teaches about an individual who is similar to the congregation: as the congregation [consists of] men, so the individual [means] a man![7] — Said Raba: And is it reasonable that this is correct [as it stands]? [Surely not,] for he teaches: When is this said? if they were mixed up alive; but not if they were mixed up when slaughtered. But what does it matter whether they are alive or slaughtered?[8] Rather, this is what he means: when is this said? If they were mixed up, when slaughtered, as if they were alive, [viz.,] the goblets [were mixed up]; but where one mingled [the blood in one goblet], [the priest] makes four applications for all of them; yet if he made one application on behalf of all, he has fulfilled his duty.[9]

‘Rabbi said: We examine the application: if it contains sufficient for each, it is fit; if not, it is unfit.’ Now does Rabbi hold this view? Surely it was taught: Rabbi said: According to R. Eliezer,

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(1) Cf. supra 52b.

(2) Cf. supra 36a: whatever is sprinkled on the outer altar, if the priest made one application thereof, he has atoned.

(3) Rashi: two for each sacrifice, i.e., four from one sacrifice, so that it can be regarded as two for each; similarly according to the explanations of Tosaf. and Sh. M.: this means where four sacrifices were mixed up, an individual's with an individual's and a congregational one with a congregational one, so that he makes one for each sacrifice. Sh. M. regards this as forced, and proposes an emendation: ‘and if he made two applications etc’.

(4) That in the first place four applications of each are necessary.

(5) So that their blood was mixed in one goblet.

(6) If he applied enough blood in this one application for two.

(7) Not only a woman.

(8) Even if they are slaughtered they may still require four applications from each, e.g., if the goblets were mixed up, but all the blood was not in one goblet.

(9) Hence the passage refers to slaughtered animals, laying of hands having already taken place before they were mixed up.

Talmud - Mas. Zevachim 75b

sprinkling, no matter how little, cleanses; sprinkling does not require a definite standard; sprinkling [is valid even if the mixture is] half fit and half unfit?[1] — He states [the law] according to R. Eliezer.[2] Alternatively, sprinkling [upon a person] is one thing, while a [blood] application is another.[3]

IF THEY WERE MIXED UP WITH A FIRSTLING OR TITHE etc. Rami b. Hama said: According to Beth Shammai, a firstling may not be given as food to menstruant women;[4] what about its substitute?[5] A firstling cannot be redeemed;[6] what about its substitute? A firstling cannot be weighed by the pound;[7] what about its substitute? — Said Raba: It was taught: A firstling and tithe, [even] when they became blemished, effect substitution.[8] and their substitute is like themselves.[9]

Rami b. Hama asked: If one dedicated a [blemished] firstling for the Temple repair,[10] can it be weighed by the pound?[11] Is the profit of hekdesh[12] of greater consideration, or is the degradation of the firstling[13] of greater consideration? — Said R. Jose b. Zebida, Come and hear: IF THEY WERE MIXED UP WITH A FIRSTLING OR TITHE, THEY MUST GRAZE UNTIL THEY BECOME UNFIT, AND THEN THEY ARE EATEN AS FIRSTLING OR TITHE. Surely that means that they are not weighed by the pound?[14] — R. Huna and R. Hezekiah, disciples of R. Jeremiah, said: How compare? There you have two sanctities and two bodies,[15] but here you have two sanctities[16] and one body.[17] To this R. Jose b. Abin demurred:[18] What if he said, 'Redeem me a firstling'[19] which he had devoted to Temple repair: Would we heed him?[20] — [If he says,] 'Redeem' — [surely] the Divine Law said that it must not be redeemed![21] — Rather said R. Ammi: Did he transmit ought save what he possessed?[22]

ALL [SACRIFICES] CAN BE MIXED UP etc. Why are a sin-offering and a guilt-offering different; [presumably] because one is a male and the other is a female? Then the same applies to a sin-offering and a burnt-offering? — There is the ruler's he-goat.[23] In the case of a guilt-offering too, there is the ruler's he-goat? — One has hair and the other has wool.[24] A Passover-offering and a guilt-offering too cannot be mixed up, for the former is a year old, while the latter is two years old? — There are the nazirite's guilt-offering and the leper's guilt-offering.[25] Alternatively, sometimes a year old looks like a two-year old, and sometimes a two-year old looks like a year old.

MISHNAH. IF A GUILT-OFFERING WAS MIXED UP WITH A PEACE-OFFERING, R. SIMEON SAID: THEY MUST BE SLAUGHTERED AT THE NORTH [SIDE OF THE ALTAR][26] AND EATEN IN ACCORDANCE WITH [THE LAWS OF] THE MORE STRINGENT OF THEM.[27] SAID THEY TO HIM: ONE MUST NOT BRING SACRIFICES TO THE PLACE OF UNFITNESS.[28] IF PIECES [OF FLESH] WERE MIXED UP WITH PIECES [OF FLESH], MOST SACRED SACRIFICES WITH LESSER SACRIFICES, [PIECES] THAT ARE EATEN ONE DAY WITH [THOSE] THAT ARE EATEN TWO DAYS AND ONE NIGHT, THEY MUST BE EATEN IN ACCORDANCE WITH [THE LAWS OF] THE MORE STRINGENT OF THEM.[29]

GEMARA. A Tanna recited before Rab: You must not purchase terumah with the money of seventh-year produce, because you diminish the time allowed for its consumption.[30] The Rabbis stated in Rabbah's[31] presence: This does not agree with R. Simeon, for if it agreed with R. Simeon, surely he maintained: One may bring sacrifices[32] to the place of unfitness. Said he to them: You may say that it agrees even with R. Simeon: That[33] is only when it was done,[34] but not at the very outset.[35] 'But not at the outset'? Abaye raised an objection to him:

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(1) V. infra 80a. This refers to the besprinkling of a man defiled through contact with the dead. It is assumed that the same applies to the sprinkling of the blood of a sacrifice, which proves that such does not require a definite quantity at all, and so contradicts Rabbi's present statement.

(2) But does not accept it himself.

(3) The same law does not apply to both.

(4) Bek. 33a.

(5) If another animal was proposed as its substitute, whereupon both receive the sanctity of a firstling: does the same law about menstruant women apply?

(6) So as to become hullin, while the redemption-money becomes sacred.

(7) When the priest sells it.

(8) In the sense that the substitute too is holy.

(9) Subject to the same laws.

(10) Lit., 'if one caused a firstling to be seized (with sanctity).' On 'Temple repair' v. p. 74. n. 7.

(11) Can it be sold by weight, or only by general computation? In the former case a higher price will be obtained, so that the Temple repair will benefit more.

(12) V. Glos.
(13) It is considered a degradation for a firstling to be treated exactly like hullin and sold by weight, for which reason it is normally forbidden. When other sacrifices become unfit and are redeemed, they are sold by weight in the public market, thereby fetching a higher price, because the money obtained, which is the redemption money, is used for hekdesh; this is not permitted in the case of a firstling, because the money goes to the priest. Here, however, that he dedicated it to hekdesh, it may be the same as other sacrifices. On the other hand, in the former instance the money is used for buying other animals for sacrifices, whereas here it is used for Temple repair only.
(14) When they are redeemed. Thus even the other sacrifices, which normally would be sold by the pound, are restricted on account of the firstling. This proves that the degradation of tithe is of greater consideration.
(15) The sacrifice and the firstling are two separate animals (bodies) and possess different sanctities; therefore you may not degrade the latter in order to obtain a higher price for the former.
(16) Viz., that of a firstling and that of Temple repair.
(17) Since the profit arises in the same body, it is possibly permitted, though the profit is utilised for a different purpose.
(18) What question is there at all: how can you think that we permit its degradation because it was dedicated?
(19) That it might become altogether hullin, to permit its shearing or being put to the plough etc.
(20) Surely not, though the Temple repair would profit thereby.
(21) That is forbidden by Biblical law, which obviously cannot be transgressed. But the prohibition of selling by weight is only Rabbinical and therefore it may possibly be waived (Rashi).
(22) A man can only give over what he possesses himself. Since the priest could not sell it by weight for his own use, he cannot empower the Temple repair fund to do so.
(23) V. Lev. IV, 22f.
(24) The guilt-offering is a male ram, which has wool. Hence it cannot be mixed up with a he-goat.
(25) Which are likewise a year old.
(26) The side prescribed for the slaughtering of a guilt-offering. Peace-offerings could be slaughtered on any side of the Temple court, supra 54b, 55a.
(27) I.e., as guilt-offerings, viz., during one day and one night only, within the Temple precincts, and by male priests. For a peace-offering v. supra 55a.
(28) For one of the sacrifices is a peace-offering, and is fit on the second day; we cannot therefore consign it to the place of unfitness, as is necessary in R. Simeon's ruling. Hence they must be left to graze until blemished.
(29) Here the Rabbis agree, as there is no alternative.
(30) In the seventh year, when nothing is left for the beasts in the field, this terumah will have to be destroyed, whereas if it had not been purchased with the money of seventh-year produce it could always be eaten. (The terumah itself was not of seventh-year produce, the latter being exempt from terumah or tithe.)
(31) Marginal emendation. Cur. edd. Raba's.
(32) Or, holy food in general which includes terumah.
(33) Sc. R. Simeon's ruling.
(34) As in the Mishnah: Since the animals were mixed up, there is no alternative.
(35) There is no need to purchase terumah at the outset, when it will have that effect.

Talmud - Mas. Zevachim 76a

And in all these the priests may deviate in their mode of eating, and eat them roast, stewed, or boiled; and they may season them with condiments of hullin or terumah: that is R. Simeon's ruling![1] — Leave the terumah of condiments, he replied, as it is [only] Rabbinical.[2]

He raised an objection: You may not purchase terumah with second-tithe money,[3] because you reduce its consumption;[4] but R. Simeon permits it? Thereupon he was silent.

When he [Abaye] came before R. Joseph, he said to him, Why did you not refute him from the following: You may not boil seventh-year vegetables in oil of terumah, in order not to bring sacred food[5] to the place of unfitness;[6] but R. Simeon permits it? — Said Abaye to him: Did I not refute him from this law of condiments, and he answered me, ‘Leave the terumah of condiments, as it is

[only] Rabbinical'? So here too [he would answer me]: The terumah of vegetables is [only] Rabbinical. If so,[7] he [the Tanna] should teach the reverse, [viz.,] vegetables of terumah with seventh-year oil? — And did I not raise the objection to him, and he answered me, It means where they were mixed together?[8] so here too [he could answer me] that they were mixed together.[9] If they were mixed together, what is the reason of the Rabbis?[10] — It is analogous to a guilt-offering and a peace-offering.[11] How compare? there it has a remedy, viz., in grazing;[12] whereas here it has no remedy in grazing.[13] This can only be compared to a piece [mixed up] with other pieces, where, since there is no remedy, they are eaten in accordance with [the laws of] the more stringent of them.[14] To this Rabina demurred: How compare? [when] a piece [is mixed up] with [other] pieces, it has no remedy at all; whereas this has a remedy in squeezing out![15] And R. Joseph?[16] — How shall we squeeze it out? If we squeeze it out well,[16] — seventh year produce is spoiled;[17] if we squeeze it a little, then after all it remains mixed up.[18]

He raised an objection to him: R. Simeon said: On the morrow he brings his guilt-offering together with the log [of oil] and declares: If this is a leper's [offering] this is his guilt-offerings and this is its log [of oil];

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(1) V. infra 90b. When he seasons it with terumah, he reduces the time for its consumption, as it is now limited to the time in which the sacrifice may be eaten; and yet R. Simeon permits it even at the outset.

(2) By Biblical law no terumah need be separated at all on condiments. Since it is only Rabbinical, we are not so strict.

(3) V. Deut. XIV, 22-26.

(4) Before it could be eaten anywhere, whereas now in Jerusalem only.

(5) Sc. terumah.

(6) Cf. n. 4, p. 363.

(7) If that is why R. Simeon is lenient.

(8) The oil and the vegetables were accidentally mixed together.

(9) Apparently Abaye answered that he had cited this in refutation of some other ruling (not stated here), and that this had been his reply. Consequently he did not cite it now, as he could give the same reply.

(10) In forbidding it.

(11) Which must be left to graze until they receive a blemish. So here too, the mixture of oil and vegetables must be left, rather than that we should reduce the time during which the terumah may be eaten.

(12) The animals will still be eaten, save that we must wait until they are blemished.

(13) If they may not be boiled together, the terumah is simply wasted altogether.

(14) Hence here too let the Rabbis permit them to be boiled together.

(15) The oil can be squeezed out of the vegetables.

(16) How does he answer this?

(17) The action of strong squeezing damages it.

(18) You cannot extract all the oil.

Talmud - Mas. Zevachim 76b

and if not, let this guilt-offering be a votive peace-offering.[1] That guilt-offering must be slaughtered in the north, and requires sprinkling on the thumbs,[2] laying [of hands], [the accompaniment of] drink-offerings, and the waving of the breast and the thigh; and it is eaten one day and one night.[3] — A man's repair is different.[4]

That is well of the guilt-offering; what can be said about the log [of oil]?[5] — He declares: [If I was not a leper,] let this log be a votive gift.'[6] But perhaps he was not a leper, and he must take off a fistful?[7] — He does take off a fistful. But perhaps he was a leper, and he requires seven sprinklings?[8] — He makes them. But it is defective?[9] — He brings a little more and replenishes it. For we learnt: If the log became defective before he poured it,[10] he replenishes it. But it [the fistful] must be burnt? — He does burn it [on the altar].[11] When? if after the seven sprinklings, it becomes a residue which was reduced between the taking of the fistful and the burning, and you may then not burn the fistful on its account;[12] while if before the seven sprinklings, [we have the exegetical rule:] Every offering whereof a portion has been consigned to the fire [of the altar] is subject to ‘Ye shall not make smoke [burn]’?[13] — Said R. Judah the son of R. Simeon b. Pazzi: He brings it up [on the altar] as mere fuel ‘[14] For it was taught, R. Eliezer said: ‘For a sweet savour’[15] you may not take it up [on the altar], but you may take it up

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(1) This refers to a case of doubtful leprosy. ‘On the morrow’ means on the eighth day, the morrow after the final seven days of purification; v. Lev. XIII-XIV. If the man had not actually been a leper he is not liable now to a guilt-offerings and therefore he stipulates that in that event it shall be a votive peace-offering.

(2) V. Lev. XIV, 14.

(3) Like a guilt-offering. Thus he may reduce the time of its consumption (for it may be a peace-offering, which can be eaten two days) even at the outset!

(4) There is no other way by which he can become clean.

(5) This is not a refutation of Raba, but a difficulty in R. Simeon's statement. The guilt-offering can be a votive peace-offering, if the man was not a leper; but what about the log of oil, to which he is not liable in that case?

(6) For oil could be brought by itself, without an animal sacrifice.

(7) If oil is votively brought, a fistful must be taken off and burnt on the altar; v. infra 91b.

(8) V. Lev. XIV, 16.

(9) As a fistful was removed, there is now less than a log, and that invalidates the rites.

(10) On to his left hand, v. ibid. 15.

(11) Then the residue may be consumed in any event. For if he was a leper, it may be consumed, as stated supra 44b. While if this is a votive offering, it is the same as the residue of any meal-offering, which of course is eaten (v. Lev. II,3).

(12) It may be a votive offering, in which case the sprinklings are not a purification rite but simply a lessening of the oil. Now, the fistful had already been taken, and thus between that act and the burning the residue was reduced, in which case the fistful may not be burnt, v. Men. 9b.

(13) V. Lev. II, 11. Here too, perhaps it was a votive offering, and so the burning of the fistful is a valid rite, in accordance with Lev. II, 2 q.v. When this burning has once been done, none of the residue may be burnt again on the altar. Now in this instance the sprinklings of the oil are equivalent to the burning on the altar of part of a meal-offering; hence just as that would be forbidden, so are the sprinklings forbidden.

(14) Not as a fistful whose burning is a necessary rite. Thus when he sprinkles the oil the priest declares: ‘If he was a leper’ (so that the burning of the fistful was not a rite and does not count, since it was not a votive offering, for only such requires it), ‘this is not a residue, and I sprinkle of the whole, not of the residue. While if he was not a leper’ (so that the burning of the fistful was a necessary rite), ‘let this not be accounted as ritual sprinkling but as merely pouring water on the altar’ (the equivalent of burning the fistful not as a rite, but as though one added fuel to the altar). So Rashi. According to this explanation, the Talmud speaks figuratively: in the difficulty it raises, ‘Ye shall not make smoke’ means that you must not sprinkle, while ‘he brings it up as mere fuel’ in the answer means that he simply pours it out as water. This is perhaps forced, while it is questionable whether this sprinkling is the exact equivalent of the ritual burning of the fistful. Tosaf. therefore explains that the passage is meant literally, this agreeing with R. Akiba who maintained that it is forbidden to burn ritually a fistful of the leper's log of oil; hence the difficulty, How can he burn this fistful, in case he was a leper? The answer is that he does not burn it ritually, but merely as fuel.

(15) Lev. II, 12.

for fuel.[1]

But there is the residue which is to be eaten, whereas we have this little more on whose account no fistful was taken?[2] — He redeems it.[3] Where does he redeem it? If within [the Temple court], then he brings hullin into the Temple court?[4] If without, it becomes unfit through having gone out?[5] — In truth, [he redeems it] within, but it is hullin automatically.[6]

Yet surely R. Simeon said: You cannot bring oil as a votive offering? — The repair of a man is different .[7]

R. Rehumi sat before Rabina, and stated in the name of R. Huna b. Tahlifa: Yet let him declare:[8] Let this guilt-offering be a suspensive guilt-offering?[9] You may infer from this[10] that the Tanna who disagrees with R. Eliezer and maintains that you cannot bring a suspensive guilt-offering votively is R. Simeon. Said he [Rabina] to him [R. Rehumi] Torah! Torah![11] You have confused lambs with rams![12]

MISHNAH. IF THE LIMBS OF A SIN-OFFERING WERE MIXED UP WITH THOSE OF A BURNT-OFFERING, R. ELIEZER SAID: HE MUST PLACE [THEM ALL] ON THE TOP [OF THE ALTAR], AND[11] REGARD THE FLESH OF THE SIN-OFFERING ON TOP AS THOUGH IT WERE WOOD.[13] BUT THE SAGES MAINTAIN: THEY MUST BECOME DISFIGURED, AND THEN GO OUT TO THE PLACE OF BURNING.[14]

GEMARA. What is R. Eliezer's reason? — Scripture saith, But they shall not come up for a sweet sovour on the altar:[15] ‘for a sweet savour’ you may not take it up [on the altar], but you may take it up as wood. And the Rabbis?[16] — The Divine Law expressed a limitation [in the word] ‘them’: ‘them’ you may not bring up [for a sweet savour] but only as wood; but not anything else.[17] And R. Eliezer? — Only [in respect of] ‘them’ have I included the ascent, making it like the altar, but not [in respect of] anything else.[18] And the Rabbis?[19] — You may infer both things from it.[20]

Our Mishnah does not agree with the following Tanna. For it was taught: R. Judah said: R. Eliezer and the Sages had no controversy about the limbs of a sin-offering which were mixed up with the limbs of a burnt-offering, [both agreeing] that they must be offered up; [if mixed up] with the limbs of a roba’ or a nirba’,[21] [both agree] that they must not be offered. Wherein do they differ? About the limbs of an unblemished burnt-offering which were mixed up with the limbs of a blemished [one]: there R. Eliezer maintains [that] they must be offered up [on the altar], and I regard the flesh of the blemished animal on top as mere wood; while the Sages say: They must not be offered up.

Now [according to] R. Eliezer, why are roba’ and nirba’ different: [presumably] because they are not eligible? A blemished animal too is not eligible?

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(1) These things which may not be taken up on the altar for ritual burning may be taken up as fuel.

(2) It may be a votive offering, of which a fistful must be taken for the altar, and only in virtue thereof is the rest permitted. Here he added a little after the fistful was taken, and so it was not permitted thereby. As it is mixed up with the rest, all is forbidden.

(3) He declares: ‘If he was not a leper, and this log is a votive offering, let the additional oil’ (which was not necessary for a votive offering) ‘be redeemed by this money.’

(4) As soon as he redeems it, it is hullin, and in the Temple court, whereas hullin may not be brought into the Temple court.

(5) The whole log, for it ranks as most holy, which becomes unfit when taken without.

(6) He does not actually bring hullin into the Temple court.

(7) It is permitted here, as there is no other way out.

(8) If he was not a leper.

(9) To atone for a sin doubtfully committed. For R. Eliezer holds that such can be offered voluntarily, since every man stands in doubt whether he has sinned or not. This is preferable to declaring it a peace-offering, as the former too may only be eaten one day, and so we would not reduce the time permitted for consumption,

(10) Since R. Simeon does not adopt this expedient.

(11) Where is your learning?

(12) A leper's guilt-offering must be a year old lamb, whereas a suspensive guilt-offering must be a two year old ram.

(13) It cannot be ritually burnt, but it can be regarded merely as fuel.

(14) They must be kept until they no longer look like flesh and then be taken out and burnt where all unfit flesh is burnt. But they cannot be regarded and treated simply as fuel.

(15) Lev. II, 22. As stated supra 76b, this means that no sacrifice may be ritually burnt (haktarah) on the altar after a portion thereof has already been so burnt.

(16) How do they rebut this?

(17) The two verses (ibid. 11, 12) read: No meal-offering, which ye shall bring unto the Lord, shall be made with leaven; for all leaven and all honey, ye shall not make smoke of it as an offering made by fire unto the Lord (lit. translation). As an offering of first-fruits ye may bring them unto the Lord; but they shall not come up for a sweet savour on the altar. Now, as stated supra 76b, the first verse is interpreted to mean that the ritual burning on the altar of anything whose haktarah was already done is forbidden, This is learnt from the apparently superfluous ‘of it’, and is made to include sacrifices in general, and not particularly honey or leavened bread. The second verse nevertheless teaches that they can be burnt simply as fuel. The Rabbis hold that ‘them’ in the second verse is a limitation: only those things enumerated in the preceding verse, viz., honey and leavened bread may not come up ‘for a sweet savour’ yet may come up as fuel; other things, however, which may not come up (as deduced from ‘of it’), may not come up at all.

(18) From the words, but they may not come up . . . to (lit. translation, not on as E.V.) the altar it is inferred that they may not even be placed on the ascent. R. Eliezer holds that ‘them’ teaches that only leavened bread and honey are so forbidden, but nothing else.

(19) Whence do they know this?

(20) The limitation of ‘them’ applies to everything that is implied in that verse; hence, as it teaches that things other than honey or leavened bread may not be brought up even as fuel, so it also teaches that they are not included in the interdict of the ascent.

(21) V. supra 71a.

Talmud - Mas. Zevachim 77b

— Said R. Huna: It refers to cataracts in the eye, and is in accordance with R. Akiba who maintained that if they ascended [the altar], they do not descend.[1] Granted that R. Akiba ruled thus if it was done; did he rule thus at the very outset?[2] — Said R. Papa: The circumstances here are, e.g., that they went up the ascent. If so, even when they are by themselves [they must be offered]?[3] — Rather, [this is] R. Eliezer's reason: The Divine Law expressed a limitation in, ‘There is a blemish in them; [they shall not be accepted:]’[4] only when there is a blemish in them shall they not be accepted, but when they are mixed up they are accepted. And the Rabbis?[5] — Only when the blemish is in them shall they not be accepted, but if their blemish has gone they are accepted. And R. Eliezer?[6] — [He derives it] from bam, bahem.[7] And the Rabbis? — They attribute no significance to[8] bam, bahem. If so, [how can R. Eliezer say,] ‘I regard’. Surely the Divine Law declared it fit?[9] — He says this to them on their ruling: In my opinion, the Divine Law declared it fit; but [even] on your view, you should at least admit that the flesh of a blemished animal is like wood, by analogy with the flesh of a sin-offering. And the Rabbis? — Here[10] it is repulsive;[11] there[12] it is not repulsive.

MISHNAH. [IF THE] LIMBS OF BURNT-OFFERINGS [WERE MIXED UP] WITH THE LIMBS OF A BLEMISHED [BURNT-OFFERING], R. ELIEZER SAID: IF [THE PRIEST] OFFERED THE HEAD OF ONE OF THEM, ALL THE HEADS ARE TO BE OFFERED; THE LEGS OF ONE OF THEM, ALL THE LEGS ARE TO BE OFFERED.[13] BUT THE SAGES

MAINTAIN: EVEN IF THEY HAD OFFERED ALL EXCEPT ONE OF THEM, IT GOES FORTH TO THE PLACE OF BURNING.

GEMARA. R. Eleazar said: R. Eliezer declared them fit only in twos, but not singly.[14] R. Jacob raised an objection to R. Jeremiah:[15] BUT THE SAGES MAINTAIN: EVEN IF THEY HAD OFFERED ALL EXCEPT ONE OF THEM, IT GOES FORTH TO THE PLACE OF BURNING?[16] — Said R. Jeremia b. Tahlifa, I will explain it for you: What does ONE mean? One pair.

MISHNAH. IF THE BLOOD WAS MIXED WITH WATER, IF IT RETAINS THE APPEARANCE OF BLOOD, IT IS FIT,[17] IF IT WAS MIXED WITH WINE, WE REGARD IT AS THOUGH IT WERE WATER.[18] IF IT WAS MIXED WITH THE BLOOD OF A DOMESTIC ANIMAL OR BEAST OF CHASE, WE REGARD IT AS THOUGH IT WERE WATER;

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(1) V. Bekh. 16a.

(2) That they may be taken up-surely not!

(3) According to R. Akiba, not only when they are mixed up with unblemished animals.

(4) Lev. XXII, 25. ‘Shall not be accepted’ intimates that they must not he presented on the altar.

(5) How do they interpret this?

(6) How does he know this?

(7) Scripture writes bam (in them) instead of bahem, as it does in the preceding phrase: ‘because their corruption is bahem (in them)’. The change in word suggests a double limitation, and so both are learnt from it. Var. lec.: Scripture writes bam, bahem, i.e., two limiting words.

(8) Lit., ‘they do not interpret’.

(9) If the text teaches that the limbs are fit to be burnt on the altar, how can you regard them as mere wood?

(10) In the case of a blemished animal.

(11) To burn it on the altar.

(12) The flesh of a sin-offering.

(13) Burnt on the altar. For I assume that the head or the legs already offered belonged to the blemished animal, and so all the rest are of the unblemished ones; v. supra 74a.

(14) V. supra 74a.

(15) Emended text (Sh. M.).

(16) Hence R. Eliezer must hold that this last one would be offered, which shews that they can be offered singly.

(17) For sprinkling.

(18) And if the blood would lose its appearance in that quantity of water, it is unfit. Similarly the following clauses.

Talmud - Mas. Zevachim 78a

R. JUDAH SAID: BLOOD CANNOT NULLIFY BLOOD.[1] IF IT WAS MIXED WITH THE BLOOD OF UNFIT [ANIMALS],[2] IT MUST BE POURED OUT INTO THE DUCT.[3] [IF IT WAS MIXED] WITH THE DRAINING BLOOD,[4] IT MUST BE POURED OUT INTO THE DUCT; R. ELIEZER DECLARED IT FIT. IF HE [THE PRIEST] DID NOT ASK BUT SPRINKLED IT, IT IS VALID.[5]

GEMARA. R. Hiyya b. Abba said in R. Johanan's name: We learnt this[6] only if the water fell into the blood; but if the blood fell into the water, each drop is nullified as it falls.[7] R. Papa observed: [But] it is not so in respect to covering, because there is no rejection in precepts.[8]

Resh Lakish said: If piggul, nothar and unclean [flesh] were mixed up together, and one ate them, he is not culpable, [for] it is impossible that one kind should not exceed the other and nullify it.[9] You may infer three things from this. You may infer [i]: Interdicts nullify each other. And you may infer [ii]: [The interdict of] taste in a greater quantity is not Scriptural.[10] And you may infer [iii]: A doubtful warning is not called a warning.

Raba raised an objection: If one made a dough of wheat and rice, if it tastes of corn, it is subject to hallah.[11] Now that is so even if the greater part is rice?[12] — [That is] by Rabbinical law [only]. If so, consider the sequel: A man can fulfil his duty thereby on Passover?[13]

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(1) Even if the added blood would cause the original blood to lose its appearance if the former were water, the mixture is still fit for sprinkling.

(2) E.g., with the blood of a roba' or a nirba' (v. supra 71a), or the blood of a sacrifice offered with the intention of eating the flesh after time or out of bounds.

(3) The duct or sewer in the Temple court which carried off the blood.

(4) V. p. 173, n. 6.

(5) Even according to the first Tanna.

(6) That if it retains the appearance of blood it is fit, which implies even where there is more water than blood.

(7) Lit., 'the first is nullified'. As each drop of blood falls into the water it is instantaneously nullified, so that even if eventually the mixture looks like blood, it is unfit for sprinkling.

(8) When one slaughters a bird or a beast of chase, he must cover its blood (Lev. XVII, 13). Now, even if this blood fell into water, if the whole looks like blood he must cover it, and we do not say that each consecutive drop was nullified. For though the first drop was indeed nullified, yet when so much has fallen in as to make the whole look like blood it regains its identity and combines with the rest, because where precepts are concerned a thing cannot be permanently rejected and made to lose its identity.

(9) Rashi:if one mixed as much as an olive of two of these (both from Rashi and Tosaf., it appears that 'and unclean flesh' should be deleted), as one chews them together there must be in each piece that he chews rather more of the one kind and less of the other. This lesser part is nullified in the greater and is technically added thereto, whilst the kind which it is, is naturally diminished thereby. This will happen with each piece that he chews, and as it is impossible to equalise them, one of the kinds has less than the standard (as much as an olive is the minimum to involve liability). Now, liability in general is not incurred unless a formal warning, called hathra'ah, is first given to the offender; this warning must be couched in precise terms, e.g., 'We warn you that for eating so-and-so you will incur such and such penalty.' In this instance such a precise warning is impossible, for if it is given on account of piggul, perhaps liability may be incurred on account of nothar, piggul being short of the standard. Hence only a doubtful warning can be given, and such is not accounted a warning. Tosaf. explains differently.

(10) If forbidden food is mixed even with a greater quantity of permitted food and communicates its taste to it, the whole is forbidden, (even if the former is subsequently removed). From Resh Lakish we learn that this interdict is not Scriptural and therefore does not involve flagellation. For if it were Scriptural, then even when one kind exceeds the other, yet since each imparts its taste to the other, there is the forbidden taste in the full standard, and the offender would be culpable.

(11) V. Glos. and Num. XV, 20. Only a dough of corn (which includes wheat but not rice) is subject to hallah.

(12) Hence the status conferred by taste is Scriptural, since hallah is a Scriptural law.

(13) As much as an olive of unleavened bread must be eaten on the first evening of Passover. This must be made of one of the five species of grain (wheat, barley, rye, oats and spelt), but not of rice, But if this dough counts as a wheat dough only by Rabbinical law, how can one fulfil his Scriptural obligation with it?

Talmud - Mas. Zevachim 78b

— Rather, [when] one kind [is mixed] with a different kind, [its status is determined] by taste; [when] one kind [is mixed] with the same kind, [its status is determined] by the greater part.[1]

Yet, [where] one kind [is mixed] with its own kind, let us determine [its status] as though it were one kind with a different kind.[2] For we learnt: IF IT WAS MIXED WITH WINE, WE REGARD IT AS THOUGH IT WERE WATER. Does that not mean [that] we regard the wine as though it were water?[3] — No: [it means that] we regard the blood as though it were water.[4] If so, he should state, [The blood] is nullified? Moreover, it was taught, R. Judah said: We regard it as though it were red wine if its appearance goes faint, it is valid; if not, it is invalid![5] — It is a controversy of Tannaim.[6]

For it was taught: If one immerses a pail containing white wine or milk, we decide by the excess. R. Judah said: We regard it as though it were red wine: if its appearance goes faint, it is valid; if not, it is invalid.[7]

But the following contradicts this: If one immersed a pail full of saliva, it is as though he had not immersed it.[8] [If it was full of][9] urine, we regard it as though it were water.[10] If it was filled with water of lustration,[11] the water [of the mikweh] must exceed the water of lustration.[12] Now, whom do you know to hold [that] we regard'? R. Judah;[13] yet he teaches that an excess is sufficient?[14] — Said Abaye: There is no difficulty:

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(1) Resh Lakish referred to the latter case. Hence inference [ii] is incorrect.

(2) Since an article cannot be nullified where its taste is distinguishable, even though it is the smaller part of the mixture, let us rule likewise even where its taste is not distinguishable because it is of the same kind.

(3) And if it would then still look like blood, it is fit. Now, in respect to appearance wine and blood may he regarded as of the same kind: this shews that the lesser is not nullified by the greater, but we regard the mixture as of two different kinds,

(4) And it is unfit, because it is nullified by the greater quantity of water.

(5) The passage is quoted in full anon. — This proves definitely that we consider it as a mixture of two different kinds.

(6) The Sages disagree with R. Judah, and Resh Lakish accepts their view,

(7) An unclean pail containing white wine or milk was immersed in a mikweh (ritual bath) for purification, and the water of the mikweh naturally filled it, The Sages maintain that if this exceeded the wine or milk (which is not readily distinguishable from the water), the latter is nullified, the whole is regarded as water, and the pail becomes clean. This is similar to the ruling of Resh Lakish. But R. Judah maintains that we regard it as though it were red wine: if there is so little of it that the water of the mikweh would make it go faint and lose the appearance of wine, the immersion is valid, and the pail becomes clean; otherwise it is invalid, and the pail remains unclean,

(8) The saliva is thick and interposes between the water of the mikweh and the pail. Hence the immersion is invalid, for there must not be any interposition.

(9) The bracketed words are absent from cur. edd., but were apparently contained in Rashi's edition.

(10) For it is in fact a kind of water, and immediately it makes contact with the water of the mikweh, it becomes part of the mikweh itself. For that reason it is not necessary for the water of the mikweh to exceed it.

(11) Running water mixed with the ashes of the red heifer, used for lustration (v. Num, XIX). Although it cleansed the unclean person upon whom it was sprinkled, it defiled a clean person with its touch.

(12) He must first pour out some of the water of lustration, so that when the pail is filled with the water of the mikweh, the latter exceeds what is left of the former. For although the latter too is water, owing to its sanctity and to its high degree of uncleanness it does not simply become part of the mikweh, but must be nullified by an excess.

(13) Only he rules that you regard a thing as though it were something else.

(14) If the mikweh water exceeds the water of lustration, the immersion is valid, and we do not regard the latter as though it were wine, as above.

Talmud - Mas. Zevachim 79a

The latter is his own view; the former is his teacher's.[1] For it was taught, R. Judah said on R. Gamaliel's authority: Blood cannot nullify [other] blood;[2] saliva cannot nullify saliva; and urine cannot nullify urine.[3]

Raba said: We are discussing a pail which is clean on the inside and unclean on the outside:[4] by law even a small quantity is sufficient,[5] and it was only the Rabbis who enacted a preventive measure,[6] lest one begrudge [the water] and not immerse it.[7] Since then we have an excess [of mikweh water], nothing else is required.[8]

Raba said: The Rabbis have said that taste [is the determining factor]; and the Rabbis have said [that we decide] by the majority; and the Rabbis have said that [we go] by appearance. [When] one kind [is mixed] with a different kind, taste [is the determining factor]. [When] one kind [is mixed] with the same kind, the greater part [determines its status]; and where there is appearance,[9] [we go] by looks.

Now, [Resh Lakish] disagrees with R. Eleazar. For R. Eleazar said: Just as precepts cannot nullify one another, so can interdicts not nullify one another.[10] Whom do you know to maintain that precepts cannot nullify one another? — It is Hillel. For it was taught: It was related of Hillel the Elder that he used to wrap them[11] together, for it is said, they shall eat it with unleavened bread and bitter herbs.[12]

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(1) His own view is the lenient one. — The interpretation of this whole passage follows Rashi, Tosaf. urges many objections to this, and gives a different interpretation based on an emended text.

(2) In respect to sprinkling; v. supra 35a.

(3) The saliva and the urine of a zab (q.v. Glos.), which are unclean, cannot be nullified by those of a clean person, which are clean, even though the latter exceed the former. This is a stringent view, and the similar stringent view above is likewise his teacher's ruling, not his own.

(4) E.g., the outside was defiled through unclean water. Such defilement is Rabbinical only, and leaves the inside clean.

(5) Even if a little water enters the pail, it becomes clean, since the inside is clean in any case. — A little must enter, so that we can be sure that it has run over the edge, which is unclean.

(6) I.e., they ruled that it must be properly immersed, with a considerable quantity of water inside.

(7) If he is permitted to immerse the outside only, he may wish to save the water of lustration for further use and not allow even a trickle of mikweh water to enter the pail.

(8) Raba explains that R. Judah generally agrees with his teacher's stricter ruling, but that here there is a particular reason for his more lenient ruling.

(9) Where taste is irrelevant, as e.g., in the case of a mikweh, as above.

(10) One forbidden thing cannot nullify another. Resh Lakish ruled supra 78a that forbidden things do annul one another.

(11) Sc. unleavened bread and bitter herbs and the paschal meat, the eating of which is obligatory on the first evening of Passover.

(12) Num. IX, 11, Thus he does not hold that the taste of one nullifies the other,

Talmud - Mas. Zevachim 79b

Our Rabbis taught: As to the shard of a zab and a zabah, the first and second time it is unclean, the third time it is clean. When is that? if one poured water into it; but if one did not pour water into it, it is unclean even the tenth time. R. Eliezer b. Jacob said: At the third time it is clean even if one did not pour water into it.[1] Now, whom do you know to maintain that one kind is not nullified by its own kind? R. Judah.[2] But the following contradicts it: If flax was spun by a niddah,[3] he who moves it is clean; but if it is damp, he who moves it is unclean, on account of the fluid of her mouth.[4] R. Judah said: One also who moistens it in water is unclean, on account of the fluid of her mouth,[5] even [if he washes it] many times![6] — Said R. Papa: Saliva is different, because it is incrusted.[7]

IF IT WAS MIXED WITH THE BLOOD OF UNFIT [ANIMALS], IT MUST BE POURED OUT INTO THE DUCT [etc.] Wherein do they differ? — Said R. Zebid: They differ as to whether a preventive measure is enacted in the Temple: one master holds that we enact a preventive measure, while the other master holds that we do not enact a preventive measure.[8] R. Papa said: All agree that we do enact a preventive measure, but here they disagree as to whether it is usual for the draining blood to exceed the life blood: one master holds that it is common, while the other master holds that it is not common.[9] As for R. Papa, it is well: for that reason he teaches, IF IT WAS MIXED WITH THE BLOOD OF UNFIT [ANIMALS]. IT MUST BE POURED OUT INTO THE DUCT; WITH THE DRAINING BLOOD, IT MUST BE POURED OUT INTO THE DUCT.[10] But according to R. Zebid, let him [the Tanna] combine them and teach them together?[11] — That indeed is a difficulty.

MISHNAH. [IF] BLOOD OF WHOLE [UNBLEMISHED] ANIMALS [WAS MIXED] WITH BLOOD OF BLEMISHED ANIMALS, IT MUST BE POURED OUT INTO THE DUCT. [IF] A GOBLET [WAS MIXED UP] WITH OTHER GOBLETS,[12] R. ELIEZER SAID: IF HE [THE PRIEST] OFFERED [SPRINKLED] ONE GOBLET, ALL THE GOBLETS ARE OFFERED;[13] BUT THE SAGES MAINTAIN: EVEN IF THEY OFFERED ALL OF THEM SAVE ONE, IT MUST BE POURED OUT INTO THE DUCT. IF [BLOOD] THAT IS SPRINKLED BELOW WAS MIXED WITH BLOOD THAT IS SPRINKLED ABOVE, R. ELIEZER SAID: HE MUST SPRINKLE [IT] ABOVE, AND I REGARD THE LOWER [BLOOD] ABOVE[14] AS THOUGH IT WERE WATER, AND THEN HE SPRINKLES AGAIN BELOW. BUT THE SAGES MAINTAIN: IT MUST BE POURED OUT INTO THE DUCT.[15] YET IF [THE PRIEST] DID NOT ASK BUT SPRINKLED [IT]. IT IS FIT.

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(1) The reference is to an earthen bed-chamber used by a zab or zabah, which was broken. The shard thereof, having absorbed their urine, contaminates through carriage, i.e., it defiles anyone who carries it even without actually touching it. Now, if one washed it (the pot) once or twice, it still remains unclean, because that does not suffice to expel the urine; but when one washes it a third time, the urine is held to have been washed out, and so it is clean. That however is only when the pot was washed by pouring water into it each time; if, however, not water but the urine of a clean person (which is ritually clean) was poured into it, this does not render it clean, because they are both of the same kind, viz., urine, and one kind cannot nullify the same kind. R. Eliezer b. Jacob holds that it does nullify, and therefore if it was washed three times, even by pouring the urine of a clean person into it, it is clean.

(2) Hence he must be the author of the first ruling in opposition to R. Eliezer b. Jacob.

(3) V. Glos.

(4) When flax is spun it is moistened with the moisture or saliva of one's mouth. Now, the saliva of a niddah defiles any person who moves it, e.g., when it is on an article, even if he does not touch it; but only as long as it is moist. This explains the passage.

(5) As this re-moistens the saliva.

(6) For the water does not wash it out. This contradicts his statement supra that three washings suffice.

(7) It becomes hardened in the flax and is difficult to remove.

(8) The first Tanna holds that a preventive measure is enacted in the loss of sacred flesh. Therefore, when the blood of a fit sacrifice is mixed with that of an unfit sacrifice or with the draining blood, although the latter may be insufficient to nullify the former, it must be poured out (and hence the sacrifice to which it belonged is declared unfit), as a preventive measure, lest one declare it fit even where the latter is sufficient to nullify the former. (Nevertheless, a preventive measure is not enacted where it is mixed with the blood of an animal or beast that is hullin, because hullin in the Temple court is rare.) R. Eliezer holds that we do not enact a preventive measure, for such would cause the unnecessary loss of sacred flesh. Therefore the mixture is fit for sprinkling unless the unfit blood is so much that if it were water, the fit blood would lose its appearance of blood.

(9) When it is mixed with the blood of an unfit animal (which may happen quite frequently), all, even R. Eliezer, agree that we enact a preventive measure, and the rule of the first part of the Mishnah applies. They disagree only where it is mixed with the draining blood: here R. Eliezer holds that a preventive measure is not enacted, since it is rare for the draining blood to exceed the life blood.

(10) These are taught as separate clauses because R. Eliezer agrees with one and disagrees with the other.

(11) As one clause: if it was mixed up with the blood of unfit animals or with the draining blood, it must etc. Only one clause is necessary, since R. Eliezer disagrees with both.

(12) The former containing blood of blemished animals, the latter blood of whole animals.

(13) We assume that the first offered was that of the blemished animal, so that the rest are fit.

(14) I.e., the blood which should be sprinkled below but was sprinkled above.

(15) They reject the view that we can regard the lower blood as water, and hold that you cannot deviate in the rites of same (by sprinkling it above) in order to sprinkle the upper blood.

Talmud - Mas. Zevachim 80a

[IF BLOOD] WHICH REQUIRES ONE APPLICATION [WAS MIXED] WITH BLOOD [ALSO] REQUIRING ONE APPLICATION,[1] IT [THE MIXTURE] SHOULD BE PRESENTED WITH ONE APPLICATION. [IF BLOOD] WHICH REQUIRES FOUR APPLICATIONS [WAS MIXED] WITH BLOOD REQUIRING FOUR APPLICATIONS,[2] THEY MUST BE PRESENTED WITH FOUR APPLICATIONS. [BLOOD] WHICH REQUIRES FOUR APPLICATIONS WITH THAT WHICH REQUIRES ONE APPLICATION, R. ELIEZER SAID: IT [THE MIXTURE] MUST BE PRESENTED WITH FOUR APPLICATIONS.[3] R. JOSHUA MAINTAINED: IT MUST BE PRESENTED WITH ONE APPLICATION.[4] SAID R. ELIEZER TO HIM: BUT LO, HE TRANSGRESSES THE [INJUNCTION] NOT TO DIMINISH [FROM GOD'S COMMANDMENT]! LO, HE TRANSGRESSES THE INJUNCTION NOT TO ADD [THERETO], R. JOSHUA COUNTERED.[5] THE INJUNCTION NOT TO ADD APPLIES ONLY WHERE IT IS BY ITSELF, REPLIED R. ELIEZER. THE INJUNCTION NOT TO DIMINISH APPLIES ONLY WHERE IT IS BY ITSELF, R. JOSHUA ANSWERED. MOREOVER, SAID R. JOSHUA, WHEN YOU MAKE [FOUR] APPLICATIONS YOU TRANSGRESS THE INJUNCTION NOT TO ADD, AND COMMIT A POSITIVE ACTION WITH YOUR OWN HANDS; WHEREAS WHEN YOU DO NOT MAKE [FOUR] APPLICATIONS YOU TRANSGRESS THE INJUNCTION NOT TO DIMINISH, BUT DO NOT COMMIT A POSITIVE ACTION WITH YOUR OWN HANDS.

GEMARA. R. Eleazar said: R. Eliezer declared them fit only in twos, but not singly.[6] R. Dimi raised an objection: BUT THE SAGES MAINTAIN: EVEN IF THEY OFFERED ALL OF THEM SAVE ONE, IT MUST BE POURED OUT INTO THE DUCT.[7] Said R. Jacob to R. Jeremiah b. Tahlifa: I will explain it to you: What does ONE mean? One pair.

Now, both are necessary.[8] For if it were stated in the former case, I would argue that only there does R. Eliezer rule thus, because his atonement was already made therewith,[9] but in the present instance he agrees with the Rabbis. While if it were stated in the present case, I would argue that only here do the Rabbis rule thus, but in the former instance they agree with R. Eliezer. Hence both are necessary.

We learnt elsewhere: In the case of a flask[10] into which a little water fell,[11] R. Eliezer said: He [the priest] makes two sprinklings;[12] but the Sages disqualify [it]. As for the Rabbis, it is well: They hold that we assume even distribution,[13] and sprinkling requires a [minimum] standard, and sprinklings do not combine.[14] But what does R. Eliezer hold? If he holds that there is no even distribution, what if he does sprinkle twice; perhaps he sprinkles [ordinary] water both times? — Rather, he holds that there is even distribution. Now, if he holds that sprinkling does not require a [minimum] standard, why must he sprinkle twice? — Rather, he holds that sprinkling does require a [minimum] standard. And if he holds that sprinklings do not combine, what if he does sprinkle twice? And even if sprinklings do combine, who can say that the standard is made up? — Said Resh Lakish: In truth he holds that there is even distribution, and sprinkling does require a [minimum] standard; but the case we discuss here is where one [standard quantity] was mixed up with another.[15] Raba said: In truth there is even distribution, and sprinkling does not require a standard; but the Rabbis penalised [him] so that he should not benefit thereby.[16] R. Ashi said: There is no even distribution, [therefore] he must sprinkle twice.[17]

An objection is raised: Rabbi said: According to R. Eliezer,[18] the sprinkling of any quantity purifies, sprinkling does not require a standard, sprinkling [is permissible if] half [the water] is fit and half is unfit.[19]

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(1) E.g., the blood of a firstling with that of tithe.

(2) E.g., the blood of a burnt-offering with that of a peace, or a guilt-offering.

(3) And I regard the superfluous three applications in respect of e.g. the firstling as though they were water.

(4) Because one must not make more applications than are necessary. On the other hand, even where four are required one suffices (supra 36b).

(5) V. Deut. IV, 2.

(6) V. supra 74a. Here too, the blood of two goblets must be presented each time together.

(7) V. p. 371, n. 1.

(8) The controversy of R. Eliezer and the Rabbis is taught here and supra 77b, q.v. in reference to limbs.

(9) The limbs were mixed up after the blood was sprinkled. Thus atonement (sc. sprinkling) was already made, and therefore R. Eliezer is lenient.

(10) Containing water sanctified for lustration; v. Num. XIX, 17 seq.

(11) Ordinary, unsanctified water.

(12) On an unclean person, whereby he becomes clean.

(13) Lit., 'there is thorough mixture' — we assume that a mixture is evenly distributed.

(14) The unsanctified water is regarded as evenly distributed in the sanctified. Therefore when he sprinkles, it lacks the minimum standard, since part of it is unfit. He cannot remedy this by sprinkling again, for sprinklings do not combine. (It is assumed that one sprinkling could not contain more than the minimum quantity required.)

(15) Both the unfit and the fit water each contained the minimum standard. Hence when he sprinkles the whole in two applications, he must sprinkle the required amount; v. Parah IX, 1.

(16) The Rabbis ordered two sprinklings instead of one so that we should not benefit by the addition of unfit water to be able to use this for more unclean persons than would otherwise have been possible.

(17) Sprinkling does not require a minimum standard. Now, in one sprinkling only all the water may be the unfit, since there is no even distribution. But in two this is impossible, for only a small quantity fell into it in the first place.

(18) That two sprinklings purify.

(19) This contradicts Resh Lakish.

Talmud - Mas. Zevachim 80b

Moreover, it was explicitly taught: If [blood] which is applied above was mixed with [blood] that is applied below, R. Eliezer said: He must sprinkle [it] above, and the lower [blood] acquits him.[1] But if you say that there is no even distribution, why does it acquit him? perhaps he sprinkled the upper [blood] below and the lower [blood] above? — The case we discuss here is where we have an excess of upper [blood], and he sprinkles above the quantity of the lower [blood] plus a little more.[2] But he teaches that the lower [blood] acquits him?[3] — [It counts] as the residue.[4]

Come and hear: If he [the priest] sprinkled [it][5] without asking.[6] R. Eliezer said: He must re-sprinkle above, and the lower [blood] acquits him?[7] — Here too the excess was upper [blood], and he sprinkles above the quantity of the lower blood plus a little more. But he teaches that the lower [blood] acquits him? — [It counts] as the residue.

Come and hear: If he sprinkled it above without asking,[8] both[9] agree that he must re-sprinkle below, and both [sprinklings] are credited to him![10] — Here too the excess was upper [blood], and he sprinkles above the quantity of the lower blood plus a little more. Yet surely he teaches: Both [sprinklings] are credited to him? — Does he then teach, 'Both agree [in this]'? Surely he teaches, 'Both are credited to him', this final clause thus agreeing with the Rabbis [only], who maintain that there is even distribution.

Come and hear: IF [BLOOD] WHICH REQUIRES ONE APPLICATION [WAS MIXED] WITH BLOOD [ALSO] REQUIRING ONE APPLICATION, IT [THE MIXTURE] SHOULD BE PRESENTED WITH ONE APPLICATION. Now, if you say that there is no even distribution, why should it be presented with one application? perhaps he sprinkles [the blood] of one [sacrifice] but not that of the other?[11] — It means, e.g., where one [minimum quantity] was mixed with another [minimum quantity].[12] [BLOOD] WHICH REQUIRES FOUR APPLICATIONS WITH [BLOOD] THAT REQUIRES FOUR APPLICATIONS?[13] There too it means that [the quantity for] four [applications] was mixed with [the quantity for] four [applications].[14] [BLOOD] WHICH

REQUIRES FOUR APPLICATIONS WITH [BLOOD] REQUIRING ONE APPLICATION?[13]

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(1) When he pours out the residue at the base of the altar, it counts as sprinkling for the burnt-offering.

(2) So that some of the upper blood must be properly sprinkled above.

(3) Whereas all the lower blood was perhaps sprinkled above: how then can the burnt-offering be made fit thereby?

(4) Of the sin-offering, which must be poured out at the base. The burnt-offering, however, does not become fit.

(5) Sc. the mixed blood.

(6) For had he asked, R. Eliezer holds that he would be bidden to sprinkle above first; v. infra 89a.

(7) Here too it is assumed that both sacrifices are thereby made fit.

(8) For had he asked, the Rabbis hold that he would be bidden to pour it out into the duct.

(9) The Rabbis and R. Eliezer.

(10) Thus both sacrifices are fit.

(11) And this does agree with R. Eliezer, since the next clause contains a controversy of R. Eliezer and the Rabbis.

(12) Sc. the minimum quantity for sprinkling (one application). When the Mishnah teaches that he must make one application it means one application on account of each separately.

(13) The same difficulty arises there too.

(14) Here too he must make four applications on behalf of each sacrifice.

Talmud - Mas. Zevachim 81a

And should you answer: Here too it means that [the quantity for] four [applications] was mixed with [the quantity for] one [application],[1] — if so: LO HE TRANSGRESSES THE INJUNCTION NOT TO ADD THERETO, R. JOSHUA COUNTERED: Whence have you here the injunction not to add thereto?[2] — Rather said Raba:[3] Where [the blood is] mixed together, they do not disagree; they disagree in respect of the goblets. R. Eliezer holds [the view that] ‘we regard’ [etc.], while the Rabbis reject [the view that] ‘we regard’ [etc.].[4]

Now, do they not disagree where [the blood itself] is mingled? Surely it was taught: R. Judah said: R. Eliezer and the Sages did not dispute about the blood of a sin-offering which was mixed with the blood of a burnt-offering, [both agreeing] that it must be offered [sprinkled];[5] [if it was mixed] with the blood of a roba’ or a nirba’,[6] [they agree that] it must not be offered. About what do they disagree? About the blood of an unblemished [animal] which was mixed with the blood of a blemished [animal]; there R. Eliezer maintains that it must be offered, whether [the blood itself is] mingled or whether the goblets [are mixed]; while the Sages say that it must not be offered![7] — R. Judah when teaching R. Eliezer's view relates it to both mixing [of the blood itself] and [to that of] the goblets; but the Rabbis[8] hold that they disagree about goblets [only].

Abaye said: They learnt this only of the beginning of the sin-offering and the burnt-offering;[9] but as to the end of the sin-offering and the beginning of the burnt-offering,[10] all agree that the place of the burnt-offering is the place of the residue.[11] Said R. Joseph to him: Thus did R. Judah say: The residue requires the projection.[12] And thus said Resh Lakish:[13] They learnt this only of the beginning of the sin-offering and the burnt-offering; but as to the end of the sin-offering and the beginning of the burnt-offering, all agree that the place of the burnt-offering is the place of the residue. Whereas R. Johanan-others say, R. Eleazar-said: There is still the controversy.[14]

R. Huna b. Judah raised an objection: They are holy:[15] [this teaches] that if it [the blood of a firstling] was mixed with the blood of other sacrifices, it must be offered [sprinkled]. Surely it speaks of the end of a burnt-offering and [the beginning of] a firstling;[16] and this proves that the place of the burnt-offering is the place of the residue? — No: it speaks of the beginning of the burnt-offering and that of the firstling. What then does it inform us?[17] that sacrifices do not nullify one another![18] [Surely] that is deduced from [the text]. And he shall take of the blood of the bullock and of the blood of the goat?[19] — It is a controversy of Tannaim: one deduces it from this text, and another deduces it from the other text.

Raba raised an objection: And Aaron's sons, the priests, shall present the blood, and dash the blood [round about against the altar]:[20]

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(1) Emended text (Sh. M.). Thus R. Eliezer means that four applications must be made in addition to the one, i.e., five in all.

(2) Since there is only sufficient for one application of the blood of the firstling, he certainly sprinkles the blood of the burnt-offering in the other applications, as is actually necessary; thus he does not add thereto.

(3) Sh. M. reads: Rabbah.

(4) The answers given above are now rejected. When it is taught that the lower blood acquits him, it means both as the residue of the upper blood and as the sprinklings of the lower, and the burnt-offering does become fit thereby. Again, when the Mishnah speaks of the mixture, it means even where a large quantity is mixed, and not the minimum quantity required. Nevertheless, this does not prove that R. Eliezer holds that there is even distribution, for all these cases refer not to the mixing of the blood (in one goblet) but to the mixing of the goblets. Here R. Eliezer rules that of each goblet sprinklings must be made above and below, the superfluous sprinklings being regarded as mere water; similarly, if a goblet containing the blood of a firstling is mixed up with another containing the blood of a burnt-offering, four applications must be made from each goblet. The Sages, however, refuse to regard such sprinklings, where they are superfluous, as mere water, and therefore all the blood must be poured out into the duct.

(5) For the Sages too accept the view that ‘we regard’ etc. (In this R. Judah disagrees with the Tanna of our Mishnah.)

(6) Cf. supra 71a.

(7) The interdict against sprinkling the blood of a blemished animal is contained in Lev. XXII, 25: there is a blemish in them; they shall not be accepted for you. R. Eliezer holds that this applies only where the blood is by itself, but not where it is mixed with that of a sound animal. Now, though R. Judah disagrees with the Tanna of the Mishnah in respect of the scope of the controversy, yet it may be assumed that they both agree that the controversy applies to the mingling of the blood as well as that of the goblets.

(8) Not the Sages who disagree with R. Eliezer, but the scholars who disagree with R. Judah's interpretation of the controversy; hence the anonymous Tanna of our Mishnah. (An anonymous teacher is often referred to as the Rabbis, because he generally represents the Rabbis in general where an opposing view is recorded in the name of an individual.)

(9) The controversy in the Mishnah holds good only at the beginning, i.e., if their blood was mingled before the sprinkling. Only then do the Sages disqualify it, as they reject the view that ‘we regard’ etc., and maintain that we may not sprinkle the blood of the burnt-offering above in order to make the sin-offering fit.

(10) Emended text Sh. M. — I.e., if the residue of the blood of the sin-offering, after it was sprinkled, was mixed with the blood of the burnt-offering before it was sprinkled.

(11) He sprinkles the blood on the wall of the altar below the scarlet line, and thence it drains down on to the base, whither the residue of the blood of the sin-offering should be poured. Thus this counts for both the initial sprinkling of the burnt-offering and the final pouring out of the residue of the sin-offering.

(12) Sc. the base, which projected from the altar. — It must not be poured on to the wall of the altar but directly on to the base. — Hence the Sages disagree even if the blood of the sin-offering had already been sprinkled.

(13) Emended text.

(14) Even in the latter instance.

(15) Num. XVIII, 17. The whole verse reads: But the firstling of an ox . . . thou shalt not redeem; they are holy. These last words are emphatic and imply that they retain their sanctity, and if their blood is mingled with other blood, it must still be offered. According to the Sages this must mean where it is mingled with lower blood, like itself, e.g., with that of a burnt-offering, but not that of a sin-offering.

(16) I.e., the blood of a burnt-offering after sprinkling was mixed with that of a firstling before sprinkling. (The residue of a firstling is not poured out on the base, and sprinkling completes its blood rites.)

(17) For in that case the text is apparently superfluous; since both bloods need sprinkling on the lower wall of the altar, it is obvious that they must be sprinkled even when they are mingled.

(18) If their blood mingles, even if the blood of one exceeds that of the other, the latter is not nullified.

(19) Lev. XVI, 18. Though the former exceeds the latter, it does not nullify it; v. Men. 22a, b.

(20) Lev. I, 5.

Talmud - Mas. Zevachim 81b

why is ‘blood’ repeated?[1] For one might think: I only know about a burnt-offering which was mixed up with its substitute,[2] for even [if they were mixed up] whilst alive, they must be offered. Whence do I know to include the thanksoffering and the peace-offering?[3] I include the thanksoffering and the peace-offering. because they can be brought as a votive or a freewill-offering.[4] like itself. Whence do I know to include the guilt-offering? I include the guilt-offering which requires four applications, like itself, Whence do I know [to include] a firstling, tithe, and the Passover-offering? Because it says, blood, blood.[5] Now surely that speaks of the end of the burnt-offering and [the beginning of] the firstling; whence you may infer that the place of the burnt-offering is the place of the residue? — No: it speaks of the beginning of the burnt-offering and [that of] the firstling. What then does he inform us? that sacrifices do not nullify one another! [Surely] that is deduced from [the text]. And he shall take of the blood of the bullock and of the blood of the goat? — It is a controversy of Tannaim: one deduces it from this text, and another deduces it from the other text.

Now, these Tannaim do not learn it from ‘and he shall take of the blood of the bullock and of the blood of the goat’, because they hold, You do not mingle [the blood] for [sprinkling] on the horns.[6] They do not learn it from the repetition of ‘blood’, because they do not attribute any significance to this repetition. But why do they not deduce it from ‘they are holy’?[7] — They hold [that] ‘they are holy’ [teaches:] ‘they’ are offered, but their substitute is not offered.[8] And the other?[9] — He deduces it from, Whether it be ox or sheep, it is the Lord's:[10] ‘it’ is offered, but its substitute is not offered.

Come and hear: If [the priest] sprinkled [it][11] above without asking, both agree that he must re-sprinkle [it] below, and both are accounted to him. Now does that not mean that [the blood of] a sin-offering and [that of] a burnt-offering were mixed, in which case as soon as he sprinkles above, it becomes a residue, yet he teaches, ‘both agree that he must re-sprinkle [it] below’, which proves that the place of the burnt-offering is the place of the residue? — When R. Isaac b. Joseph came,[12] he said: In the West[13] they said: The case we are discussing here is where e.g. [the blood of] an outer sin-offering was mixed with the residue of an inner sin-offering.[14] Said Abaye to him: Yet let the master say, ‘e.g., where it was mixed with a residue’?[15] perhaps this is what you would inform us: Even on the view that the residue[16] is indispensable,[17] yet if some of it is lacking it does not matter?[18] Said Raba Tosfa'ah[19] to Rabina: But we have explained that as meaning that the greater part was upper [blood], and he sprinkles above as much as there was of the lower [blood] plus a little more?[20] — That was only, he replied, on the hypothesis first stated that [the Mishnah treats of where the blood itself] was mingled, and in accordance with the thesis that there is no even distribution. But in our final conclusion [we hold that] they disagree where the goblets were mixed up.[21]

MISHNAH. IF [BLOOD] WHICH IS TO BE SPRINKLED WITHIN WAS MIXED WITH [BLOOD] THAT IS TO BE SPRINKLED WITHOUT, IT MUST BE POURED OUT INTO THE DUCT. IF [THE PRIEST] SPRINKLED WITHOUT AND THEN SPRINKLED WITHIN, IT IS VALID. [IF HE SPRINKLED] WITHIN AND THEN RESPRINKLED WITHOUT, R. AKIBA DECLARES IT UNFIT, WHILE THE SAGES DECLARE IT FIT. FOR R. AKIBA MAINTAINED: ALL BLOOD WHICH ENTERED THE HEKAL TO MAKE ATONEMENT IS UNFIT; BUT THE SAGES RULE: THE SIN-OFFERING ALONE [IS UNFIT]. R. ELIEZER SAID: THE GUILT-OFFERING TOO, FOR IT SAYS, AS IS THE SIN-OFFERING, SO IS THE GUILT-OFFERING.[22]

GEMARA. Now, let R. Eliezer disagree here too? — What should be done? Shall we [first] sprinkle without and then sprinkle within? [that cannot be done], [because] just as the upper [blood] must precede the lower, so must the inner precede the outer.

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(1) Rashi reads: How do we know that if the blood of a burnt-offering was mixed with the blood of another burnt-offering, or with the blood of a substitute (v. p. 22, n. 8), or with the blood of hullin, it must be offered (i.e., sprinkled)? Because it says, blood, blood (i.e., this repetition is an extension). I know it only of these, for even if these were mixed up whilst alive they must be offered. How do I know it even when it is mixed with the blood of a guilt-offering? etc.
(2) Sc. their blood was mixed. — From the verse I know that their blood must still be sprinkled.
(3) That the blood of a burnt-offering must be sprinkled even if it is mixed with these; similarly the other cases posited.
(4) V. supra 2b, p. 2, n. 6.
(5) The repetition teaches the inclusion of all these.
(6) Of the altar; supra 42b. Hence the blood of each must be stated, because they were taken separately, not mixed together, and so no inference can be made from the text about nullification.
(7) As the first Tanna does.
(8) A substitute of a firstling must be redeemed, but cannot be offered.
(9) The first Tanna: how does he know this?
(10) Lev. XXVII, 26. This refers to a firstling.
(11) The mingled blood.
(12) From Eretz Israel.
(13) Sc. Palestine, which lies to the west of Babylon.
(14) Emended text. After he sprinkles thereof above the red line, all the rest is the residue, which must be poured out at the base.
(15) Not particularly ‘the residue of an inner sin-offering’.
(16) Sc. of the inner sin-offering.
(17) It must be poured out at the base; otherwise the sacrifice is invalid.
(18) It is unnecessary for the whole of the residue to be poured out on the base. For here some of the residue will have been sprinkled above the line, and yet the sacrifice is valid when the rest is poured out at the base.
(19) Perhaps of Thospia. Neub. Geogr. p. 332: capital of the Armenian district Thospitis.
(20) And he applies it below as the residue of the sin-offering, not as the blood of the burnt-offering, which does not become valid. Hence even if it were explained as the mingling of the sin-offering and the burnt-offering, it would not prove that the place of the burnt-offering is the place of the residue, since the burnt-offering does not become fit. Why then must you explain it as meaning that the blood of a sin-offering and the residue were mingled?
(21) And unless it refers to a sin-offering and residue, this contradicts the opinion that the place of the burnt-offering is not the place of the residue.
(22) Lev. VII, 7. V. supra 10b for notes.

Talmud - Mas. Zevachim 82a

Then let us [first] sprinkle within and then sprinkle without? — Since the sin-offering and the guilt-offering become unfit if their blood enters within, he could not give a general ruling.[1]

FOR R. AKIBA MAINTAINED etc. Rab Judah said in Samuel's name: For example, to what may R. Akiba's ruling be compared? To a disciple who was mixing [wine] for his master with hot water,[2] when he [the master] said to him, Mix me [a drink]. With what?[3] he enquired. Are we not occupied with hot water? he replied; now then [I mean] with either hot or cold.[4] So here too: consider: we are discussing the sin-offering:[5] for what purpose then does the Divine Law write ‘sin-offering’?[6] [To teach:] I do not mean a sin-offering [alone], but all sacrifices.[7] To this R. Huna the son of R. Joshua demurred: Consider: all sacrifices are included in respect of scouring and rinsing; why then does the Divine Law write ‘sin-offering’?[8] Hence you may infer from this: only the sin-offering, but nothing else. This then can only be compared to a disciple who was mixing [a drink] for his master with either hot or cold water, when he said to him, Mix it for me with hot water only! — Rather, R. Akiba's reason is that ‘and every sin-offering’ is written where ‘[and] a sin-offering’ [would suffice].[9] For it was taught: ‘A sin-offering’: I know [this] only [of] a sin-offering; how do we know [it of] most sacred sacrifices [in general]? Because it says, ‘Every sin-offering’. How do we know [it of] lesser sacrifices? Because it says, ‘And every sin-offering’: this is the view of R. Akiba. Said R. Jose the Galilean to him: Even if you go on including all day, I will pay no heed to you.[10] Rather: ‘a sin-offering’: I only know [this of] a private sin-offering:[11] whence do we know [it of] a public sin-offering? Because it says, ‘Every sin-offering’. Again, I know it only of a male sin-offering: whence do I know [it of] a female sin-offering? Because it says. ‘And every’. It is just the reverse![12] — Rather, this is what he means: I only know [it of] a female sin-offering: whence do I know [it of] a male sin-offering? From the text, ‘And every sin-offering’.

Now, does R. Jose the Galilean hold that this text comes for this purpose? Surely it was taught, R. Jose the Galilean said: The whole passage speaks only of the bullocks which were to be burnt and the he-goats which were to be burnt, and its purpose is [i] to teach that when they are disqualified they must be burnt before the Temple; and [ii] to impose a negative injunction against eating them.[13] Said they to him: As to an [outer] sin-offering whose blood entered the innermost [sanctuary], whence do we know [that it is disqualified]? Said he to them: [From the verse,] Behold, the blood of it was not brought into the sanctuary within?[14] — He argues on R. Akiba's contention.[15]

MISHNAH. IF THE BLOOD OF A SIN-OFFERING WAS RECEIVED IN TWO GOBLETS AND ONE OF THEM WENT WITHOUT,[16] THE INSIDE ONE IS FIT.[17] IF ONE OF THEM ENTERED WITHIN,[18] R. JOSE THE GALILEAN DECLARES THE OUTER ONE[19] FIT;[20] BUT THE SAGES DISQUALIFY IT. SAID R. JOSE THE GALILEAN: IF THE PLACE WHERE AN INTENTION [DIRECTED TO IT] DISQUALIFIES, [VIZ.,] WITHOUT,[21] YOU DO NOT TREAT WHAT IS LEFT AS WHAT WENT OUT;[21] THEN THE PLACE WHERE AN INTENTION [DIRECTED TO IT] DOES NOT DISQUALIFY, [VIZ.,] WITHIN,[22] IS IT NOT LOGICAL THAT WE DO NOT TREAT WHAT IS LEFT[23] AS WHAT ENTERED WITHIN? IF IT ENTERED WITHIN TO MAKE ATONEMENT,[24] EVEN IF HE [THE PRIEST] DID NOT MAKE ATONEMENT,[25] IT IS UNFIT: THESE ARE THE WORDS OF R. ELIEZER. R. SIMEON SAID: [IT IS NOT UNFIT] UNLESS HE MAKES ATONEMENT. R. JUDAH SAID: IF HE TOOK IT IN UNWITTINGLY,[26] IT IS FIT. FOR ALL UNFIT BLOOD WHICH WAS PRESENTED AT THE ALTAR [I.E., SPRINKLED] THE HEADPLATE DOES NOT PROPITIATE,[27] SAVE FOR UNCLEAN [BLOOD]. FOR THE HEADPLATE PROPITIATES FOR THAT WHICH IS UNCLEAN, BUT DOES NOT PROPITIATE FOR WHAT GOES OUT.[28]

GEMARA. It was taught, R. Jose the Galilean said: It is a kal wa-homer: If the place where an intention [directed to it] disqualifies. [viz.,] without, the blood without does not disqualify that which is within;[29] then the place where an intention [directed to it] does not disqualify. [viz.,] within, is it not logical that the blood within does not disqualify that which is without? Said they to him, Lo, it says, [And every sin-offering] whereof any of the blood is brought [into the tent of meeting . . . shall be burnt with fire]:[30] [this implies,] even part of its blood. Said he to them: Then you now have a kal wa-homer in respect of [blood] that goes out; if the place where an intention [directed to it] does not disqualify [viz.,] within, yet the blood within disqualifies [the blood] without; where intention does disqualify, [viz.,] without, it is not logical that the blood without disqualifies [the blood] within? Said they to him: Lo, it says, whereof [any of the blood] is brought [into etc.]: that which enters within disqualifies, but that which goes out does not disqualify. Now, let intention [to sprinkle] within[31] disqualify, a fortiori: if though[32] blood without does not disqualify [the blood] within, yet intention without[33] disqualifies; then seeing that the blood within does disqualify the blood without, is it not logical that intention within disqualifies? Lo, it says: On the third day:[34]

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(1) That the blood should be sprinkled first within and then without, since this would not apply to these two. Therefore his view is not stated at all.

(2) Their wine was too strong to be drunk without dilution.

(3) Hot or cold water.

(4) As you were actually mixing wine with hot water, I had no need to say anything at all. Therefore when I told you to mix me a drink, I meant that it could be with either hot or cold water (Tosaf.).

(5) The whole section in Lev. VI, 19-23 q.v. treats of the sin-offering.

(6) Ibid. 23: And every sin-offering whereof any of the blood is brought into the tent of meeting to make atonement in the holy place (i.e., an outer sin-offering whose blood is sprinkled on the inner altar) shall not be eaten; it shall be burnt with fire.

(7) Interpreting: And even every sin-offering, although some sin-offerings must be brought within, and how much the more other sacrifices!

(8) Lev. VI, 21 states: But the earthen vessel wherein it (sc. the sin-offering) is sodden shall be broken; and if it be sodden in a brazen vessel, it shall be scoured and rinsed in water. The following verse states ‘it is most holy’ from which it is inferred infra 96b that the law of scouring and rinsing applies to all sacrifices. Hence at this stage (v. 22) we are already treating of all sacrifices; if then v. 23 is to apply likewise to all, Scripture should simply write: And that whereof any of the blood etc.

(9) Lit., ‘R. Akiba's reason is from sin-offering, and every sin-offering.’

(10) I reject your view that ‘and’ and ‘every’ are extensions which include other kinds of sacrifices, seeing that the passage speaks of sin-offerings only.

(11) For this section is followed by sections on the guilt-offering and the peace- and thanksofferings, which were private sacrifices.

(12) The usual sin-offering is a female, and no extension is needed to include it.

(13) This refers to the verse under discussion, which the Rabbis relate to an outer sin-offering whose blood was carried into the inner court, thereby disqualifying it. But R. Jose the Galilean relates it to an inner sin-offering, e.g., the bullock brought when the entire congregation sins in ignorance (v. Lev. IV, 13 f). Hence he interprets: And every sin-offering whereof any of the blood is (rightly) brought into the tent of meeting etc. shall not be eaten. Now this is superfluous in respect of a valid sacrifice, since it is explicitly stated in IV, 21: and he shall carry forth the bullock without the camp, and burn it. Consequently, the verse must mean that if it became unfit through going outside its legitimate boundary or through defilement, it must be burnt in front of the Birah (the Temple), and not carried ‘without the camp’. i.e., beyond the Temple Mount. Further, this prohibits the eating of its flesh by a negative injunction, violation of which involves flagellation (Lev. IV, 21 merely contains an affirmative precept, the disregard of which is not punished by flagellation). Thus R. Jose the Galilean does not relate this text to outer sin-offerings at all.

(14) Lev. X, 18; v. supra 10b.

(15) He personally holds that it refers to inner sin-offerings. But he argues that even on R. Akiba's view that it refers to outer sin-offerings, the extension of ‘and’ and ‘every’ must apply to sin-offerings likewise, not to other sacrifices.

(16) Sc. the Temple court.

(17) One can sprinkle the blood in it, and the sacrifice is valid.

(18) Into the hekal, the inner sanctum.

(19) I.e., the one that remained in the Temple court.

(20) For sprinkling.

(21) An intention at the shechitah to sprinkle the blood without the Temple court disqualifies the sacrifice. Yet if one actually carried one goblet without, we do not regard the other goblet as though it too had been carried without, for the first clause states, THE INSIDE ONE IS FIT.

(22) The intention to sprinkle the blood within, in the hekal, does not disqualify the sacrifice.

(23) V. p. 389, n. 7.

(24) If it was carried into the hekal for sprinkling.

(25) He did not actually sprinkle it.

(26) Not knowing that it was forbidden.

(27) Make it fit.

(28) v. supra 23b.

(29) As in the Mishnah.

(30) Lev. VI, 23.

(31) I.e., the intention to take the blood into the hekal.

(32) Lit., ‘where’.

(33) Sc. the intention to sprinkle the blood without.

(34) Lev. VII, 17.

Talmud - Mas. Zevachim 82b

[this teaches that the illegitimate intention must refer to] a place with a threefold function, [viz.,] in respect of blood, flesh, and emurim.[1]

Now, let an intention concerning without not disqualify [the sacrifice], a fortiori: if although the blood within disqualifies [the blood] without, an intention concerning within does not disqualify; then seeing that the blood without does not disqualify [the blood] within, is it not logical that an intention concerning without shall not disqualify? Therefore Scripture writes ‘third’, which means after time; while piggul means without bounds.[2]

Flesh which goes without becomes unfit; that which enters within, is fit. Now, logically it might be unfit. For if though the blood without does not disqualify [the blood] within, flesh which goes without becomes unfit; then since blood within does disqualify [blood] without, is it not logical that flesh which enters within shall be disqualified? Lo, it says, any of the blood: its blood [disqualifies],[3] but not its flesh. Then in that case you can argue a fortiori: if though the blood within disqualifies [the blood] without, flesh that enters within is fit; then since blood without does not disqualify [blood] within, is it not logical that flesh that goes without is fit? Lo, it says. Therefore ye shall not eat any flesh that is torn of beasts in the field:[4] once flesh passes without bounds, it is forbidden.[5]

Our Rabbis taught: [Behold the blood of it was not brought into the sanctuary] within:[6] I only know [it of] within;[7] how do we know [it of] the hekal? Because it says, into the sanctuary within.[8] Then let the ‘sanctuary’ be stated, but not ‘within’? — Said Raba: One comes and illumines the other,[9] this being analogous to the case of toshab and sakir. For it was taught: Toshab means one [a Hebrew slave] acquired in perpetuity; sakir, one purchased for a period of [six] years.[10] Now, let toshab be stated, but not sakir, and I would reason: if one acquired in perpetuity may not eat, how much more so one acquired only for a period of [six] years?[11] Were it so, I would say: Toshab is one purchased for a limited period, but one acquired in perpetuity may eat. Therefore sakir comes and teaches the meaning of toshab, that the latter is one purchased in perpetuity, while the former is one purchased for a period of [six] years, and [neither] may eat. Said Abaye to him, As for there, it is well: They are two persons, and though Scripture could write, A [slave] whose ear was bored may not eat,[12] and the other would be inferred a minori, yet Scripture [often] takes the trouble to write a thing which is derived a minori. But here, since it becomes unfit in the hekal, what business has the inner sanctuary?[13] — Rather said Abaye: It is required only [where the priest takes] a circuitous route.[14] Said Raba to him: But ‘entering’ is written in connection therewith?[15] — Rather said Raba: Whatever [the priest] intends [to carry into] the innermost sanctuary does not become unfit in the hekal.[16]

Raba asked: What if [the priest] carried the blood of the congregational bullock for forgetfulness or the he-goat for idolatry into the innermost sanctuary?[17] Do we say, [Scripture writes] ‘into the sanctuary within’; wherever we read ‘into the sanctuary’ we read ‘within’, and wherever we do not read ‘into the sanctuary’, we do not read ‘within’?[18] Or perhaps, it is not in its place.[19] Now, should you answer that it is not in its place, what if [the priest] sprinkled the blood of the bullock and that of the he-goat of the Day of Atonement on the slaves, then carried it out into the hekal,[20] and then took it in again?[21] Do we say, It is their place; or perhaps, once it has gone out, it has gone out?[22] Should you answer, Once it has gone out, it has gone out: What if he sprinkled their blood on the veil,

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(1) V. supra 29a.

(2) V. supra 28a and whole discussion there.

(3) When it is brought into the hekal.

(4) Ex. XXII, 30.

(5) ‘In the field’, is apparently superfluous. Hence it is interpreted as intimating that when flesh is found beyond its bounds (as a field, which has no barriers), it is a terefah (lit., torn of the beasts’), and forbidden.
(6) Lev. X, 28.
(7) I.e., only if the blood is taken into the innermost sanctuary is the sacrifice disqualified.
(8) The sanctuary corresponds to the hekal, which contained the Table and the Candlestick (v. Ex. XXV, 23. 31), and led into the Holy of Holies; cf. infra 83a.
(9) Only because ‘within’ is written do we know that ‘sanctuary’ means the hekal (for otherwise it is superfluous). But if ‘sanctuary’ alone were written, it might mean the innermost sanctuary.
(10) The reference is to Lev. XXII, 10: A toshab of a priest, or a sakir, shall not eat of the holy thing (i.e., terumah).
(11) For the former is more of the priest's chattel (v. ibid. 10) than the latter.
(12) V. Ex. XXI, 5 f.
(13) For, in order to get into the inner sanctuary it must pass through the hekal.
(14) E.g. he enters the innermost sanctuary by way of the roof or through upper chambers, avoiding the hekal altogether.
(15) Which implies that it becomes unfit only if he enters the innermost sanctuary in the usual way.
(16) This is intimated when Scripture states both ‘sanctuary’ and ‘within’. Hence if he changes his mind after carrying it into the hekal and takes it back, it remains fit.
(17) If the whole congregation sins through having forgotten a law a bullock must be sacrificed; for unwitting idolatry a he-goat is brought. The blood of these must be taken into the hekal, but not into the innermost sanctuary.
(18) Only where the sacrifice is disqualified when the blood is taken ‘into the sanctuary’ (i.e., the hekal), it is likewise disqualified when it is taken ‘within’ (the innermost shrine), but not otherwise.
(19) The text implies that when the blood is taken without bounds the sacrifice is disqualified, and that applies here too.
(20) To sprinkle the blood on the veil, as is necessary.
(21) Into the innermost shrine: this was no longer necessary.
(22) And must not be taken in again.

Talmud - Mas. Zevachim 83a

carried it out to the altar, and then carried it within? Here it is certainly the same place; or perhaps, we designate this carrying [going] out?[1] The questions stand over.

IF IT ENTERED WITHIN TO MAKE ATONEMENT. It was taught, R. Eliezer said: It is stated here, to make atonement in the holy place;[2] and it is stated elsewhere, And there shall be no man in the tent of appointment when he goeth in to make atonement in the holy place:[3] as there it means when he has not yet made atonement,[4] so here too it means when he has not yet made atonement.[5] R. Simeon said: It is stated here, ‘to make atonement’; and it is stated elsewhere, ‘And the bullock of the sin-offering, and the goat of the sin-offering, whose blood was brought in to make atonement’:[6] as there it means when he had [already] made atonement,[7] so here it means where he made atonement.[8] Wherein do they differ? — One master holds, You learn without from without,[9] but you do not learn without from within;[10] while the other master holds: You learn an animal from an animal, but you do not learn an animal from man.

R. JUDAH SAID etc. But if [the priest took it in] deliberately, it is disqualified; [when?] if he made atonement, or [even] if he did not make atonement? — Said R. Jeremiah, It was taught:[11] Since it is said, ‘And the bullock of the sin-offering, and the goat of the sin-offering, whose blood was brought in to make atonement in the holy place’; why is it [further] said, And he that burneth them [shall wash his clothes]?[12] (You ask, why is it further said, ‘And he that burneth them’? that is required for itself!)[13] — Rather [the question is] why is ‘sin-offering, repeated? Because we have only learnt that when the bullock and the he-goat of the Day of Atonement are burnt they defile garments; how do we know [the same of] other [sacrifices] which are burnt? — Because ‘sin-offering’ is repeated:[14] these are the words of R. Judah. R. Meir said: That [exegesis] is unnecessary.[15] Lo, it says, ‘And the bullock of the sin-offering and the he-goat of the sin-offering’: now, ‘to make atonement’ need not be stated;[16] why then is ‘to make atonement stated? It teaches that with all atoning sacrifices,[17] he that burns them [the sacrifices] defiles his garments. Whereas R. Judah does not understand ‘to make atonement’ in that way. What is the reason? Surely because he utilises it for a gezerah shawah.[18] CHAPTER IX

MISHNAH. THE ALTAR SANCTIFIES WHATEVER IS ELIGIBLE FOR IT.[19] R. JOSHUA SAID: WHATEVER IS ELIGIBLE FOR THE ALTAR FIRE DOES NOT DESCEND [THENCE] ONCE IT ASCENDED, BECAUSE IT IS SAID, THAT IS THE BURNT-OFFERING UPON ITS FIREWOOD:[20] AS THE BURNT-OFFERING, WHICH IS ELIGIBLE FOR THE ALTAR FIRE, DOES NOT DESCEND ONCE IT ASCENDED, SO WHATEVER IS ELIGIBLE FOR THE ALTAR FIRE DOES NOT DESCEND ONCE IT ASCENDED. R. GAMALIEL SAID: WHATEVER IS ELIGIBLE FOR THE ALTAR DOES NOT DESCEND ONCE IT ASCENDED, BECAUSE IT IS SAID: THAT IS THE BURNT-OFFERING UPON ITS FIREWOOD UPON THE ALTAR: AS THE BURNT-OFFERING, WHICH IS ELIGIBLE FOR THE ALTAR, DOES NOT DESCEND ONCE IT ASCENDED, SO WHATEVER IS ELIGIBLE FOR THE ALTAR DOES NOT DESCEND ONCE IT ASCENDED. R. GAMALIEL AND R. JOSHUA DIFFER ONLY IN RESPECT OF THE BLOOD AND LIBATIONS, R. GAMALIEL MAINTAINING THAT THEY MUST NOT DESCEND, WHILE R. JOSHUA MAINTAINS THAT THEY MUST DESCEND.[21] R. SIMEON SAID: IF THE SACRIFICE IS FIT WHILE THE LIBATIONS [WHICH ACCOMPANIED IT] ARE UNFIT; OR IF THE LIBATIONS ARE FIT WHILE THE SACRIFICE IS UNFIT; OR EVEN IF BOTH ARE UNFIT, — THE SACRIFICE MUST NOT DESCEND, WHILE THE LIBATIONS DO DESCEND.[22] [

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(1) V. Lev. XVI, 18 f: And he shall go out unto the altar that is before the Lord, and make atonement for it; and shall take of the blood of the bullock, and of the blood of the goat, and put it upon the horns of the altar round about. And he shall sprinkle of the blood upon it with his finger seven times. According to the Talmud this refers to the golden altar which was in the same portion as the veil. Hence ‘and he shall go out’ can only mean that he passes beyond the whole altar, i.e., he must not stand on the inner side of the altar, between it and the veil, but on the outer side, between it and the door. In the present instance he carried the blood back on the inner side of the altar; and the question is: as it is in the same portion as the veil, perhaps it does not disqualify it; or do we say that since Scripture designates going to the outer side of the altar ‘going out’ the inner side is ipso facto a separate place and disqualifies it?

(2) Lev. VI, 23.

(3) Ibid. XVI, 17.

(4) No man must be there when he is about to make atonement.

(5) The flesh is disqualified if the blood is taken into the hekal to make atonement, even if atonement was not made, i.e., the blood was not sprinkled there.

(6) Lev. XVI, 27.

(7) That is evident from the whole passage.

(8) Only then is the sacrifice disqualified.

(9) Viz., the law about the bullock whose blood must be sprinkled without from the man who is bidden to stay without.

(10) From the Day of Atonement sacrifice whose blood is rightly brought within.

(11) Emended text (Sh. M.).

(12) Ibid. 28.

(13) To teach that his garments are defiled.

(14) The second one being superfluous, it extends the law to all sin-offerings which are burnt.

(15) It is implied in the Biblical text itself.

(16) We already know from the context that that was its purpose.

(17) I.e., all those for whom atonement is made.

(18) Sc. as R. Simeon supra. Accordingly, the sacrifice is disqualified only if he did make atonement.

(19) I.e., anything which was appointed for the altar, even if it subsequently became unfit, is nevertheless sanctified by the altar in the sense that if laid upon it, it must not be removed.

(20) Lev. VI, 2.

(21) R. Joshua and R. Gamaliel disagree as to the meaning of ‘WHATEVER IS ELIGIBLE FOR IT’. R. Joshua holds that it means whatever is eligible for the altar fire, i.e., to be burnt on the altar, such as the limbs of a burnt-offering. Blood and libations, however, which are not meant for burning on the altar at all, must be taken down even laid on it. R. Gamaliel maintains that ELIGIBLE means in any capacity, and so if these ascended, they do not descend.

(22) R. Simeon agrees with R. Joshua where the libations accompany a sacrifice, and with R. Gamaliel where they come by themselves. His view is discussed below.

Talmud - Mas. Zevachim 83b

GEMARA. Only what is ELIGIBLE FOR IT, but not what is not eligible for it; what does this exclude?[1] — Said R. Papa: It excludes 'fistfuls'[2] which were not sanctified in a [service] vessel.[3] To this Rabina demurred: How does this differ from 'Ulla's [ruling]? For 'Ulla said: If the emurim of lesser sacrifices were laid [on the altar] before the sprinkling of their blood, they are not removed, [because] they have become the food of the altar![4] — The latter do not themselves lack a rite, while the former themselves lack a rite.[5]

R. JOSHUA SAID: WHATEVER IS ELIGIBLE FOR THE ALTAR FIRE etc. And R. Gamaliel too? Surely it is written, the burnt-offering upon its firewood? — That comes to teach that [limbs] which spring off [from the altar] must be replaced.[6] And the other;[7] how does he know that the [limbs] which spring off must be replaced? — He deduces it from whereto the fire hath consumed.[8] And the other?[9] — That is required [for teaching]: What was consumed as a burnt-offering you must replace, but you do not replace what was consumed as incense [ketoreth]. For R. Hanina b. Minyomi the son of R. Eliezer b. Jacob recited: [And he shall take up the ashes] whereto the fire hath consumed the burnt-offering on the altar: what was consumed as a burnt-offering you replace, but you do not replace what was consumed as incense. And the other?[10] — Do you then not learn automatically that we replace what was consumed as a burnt-offering?[11]

R. GAMALIEL SAID: WHAT IS ELIGIBLE etc. And R. Joshua too: surely upon the altar is written? — He requires that [as follows]: What does the Divine Law say? Whatever is eligible for its firewood, the altar sanctifies.[12] And the other?[13] — Another 'altar' is written.[14] And the other?[15] — One [is required] where it had a period of fitness,[16] while the other [text] is required where it had no period of fitness.[17] And the other?[18] — Since they are [now] unfit and the Divine Law included them,[19] there is no difference whether they had a period of fitness or did not have a period of fitness.

R. SIMEON SAID: IF THE SACRIFICE IS FIT etc. It was taught, R. Simeon said: [Scripture speaks of] a burnt-offering: as a burnt-offering comes on its own account, so all which come on their own account [are included]:[20] [hence] libations which come on account of a sacrifice are excluded. R. Jose the Galilean said: From the text, 'Whatsoever toucheth the altar shall be holy', I understand whether it is eligible [for the altar] or not eligible. Therefore Scripture states: [Now this is what thou shalt offer upon the altar: two] lambs:[21] as lambs are eligible [for the altar], so whatever is eligible [is included]. R. Akiba said: [Scripture states,] burnt-offering:[22] as a burnt-offering is eligible [for the altar], so whatever is eligible [is included]. Wherein do they differ? — Said R. Adda b. Ahabah: They differ about a disqualified burnt-offering of a bird: one master deduces [the law] from 'burnt-offering',[23] while the other master deduces it from 'lambs'.[24] Now, as to the one who deduces it from 'lambs', surely 'burnt-offering' [too] is written? — If 'lambs' were written while 'burnt-offering' were not written, I would think [that the law applies] even [if they became disqualified] while yet alive:[25] therefore the Divine Law wrote 'burnt-offering'.[26] And as to the one who deduces it from 'burnt-offering', surely 'lambs' is written? — If 'burnt-offering' were written while 'lambs' were not written, I would think [that the law applies] even [to] a meal-offering.[27] Therefore the Divine Law wrote 'lambs'.

Wherein do these Tannaim and the Tannaim of our Mishnah differ? — Said R. Papa: They differ in respect of fistfuls which were sanctified in a [service] vessel.[28] According to our Tannaim, they do not descend;[29] while according to the other Tannaim they descend.[30]

Resh Lakish said: With regard to a meal-offering which comes by itself,[31] all[32] of them hold that it does not descend; but according to R. Jose the Galilean and R. Akiba

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(1) On which both R. Joshua and R. Gamaliel will agree.

(2) Taken from meal-offerings; v. Lev. II, 2.

(3) These are not considered eligible at all, and even if laid on the altar they must be removed.

(4) Now, the fistfuls of a meal-offering correspond to the emurim of animal sacrifices; and the former are sanctified for the altar by being placed in a service vessel, while the latter are likewise sanctified by the sprinkling of the blood. Hence the same law should apply to both.

(5) Nothing more was to be done to the emurim themselves, and only the blood still required sprinkling. Whereas the fistfuls themselves should first have been placed in a service vessel.

(6) Because 'upon its firewood' implies that whatever has already become as firewood and is feeding the flames of the altar must remain as a burnt-offering; so that if anything springs off it must be put back.

(7) R. Joshua.

(8) Lev. VI, 3. That is superfluous, as it is obvious that the ashes are the result of the fire. Hence it is interpreted as intimating that whatever once fed the fire belongs to the altar, even if it jumped off.

(9) R. Gamaliel; how does he utilise that text?

(10) R. Joshua; how does he know this?

(11) If the text teaches that you must replace whatever sprang off, that obviously includes what was consumed as a burnt-offering. And at the same time, since the whole passage treats of the burnt-offering only, you cannot make it refer to incense.

(12) I.e., 'upon the altar' does not extend the law, as R. Gamaliel maintains, but intimates why whatever is eligible for the altar-fire must be replaced, viz., because the altar sanctified it.

(13) Where does he find the reason?

(14) Ex. XXIX, 37: Whatsoever toucheth the altar shall be holy.

(15) R. Joshua: what need is there of two texts?

(16) Before it became unfit, e.g., if it was kept overnight, taken out of bounds, or defiled.

(17) E.g., if it was slaughtered with an illegitimate intention.

(18) R. Gamaliel: whence does he know this?

(19) In the law that they must remain on the altar if laid thereon.

(20) In the law that if laid on the altar they must remain there.

(21) Ex. XXIX, 38. This immediately follows the text quoted.

(22) Ibid. 42. Rashi says that it is written in the present verse (38). In fact, it is absent in the M.T. in this verse, but found in the Samaritan Text; v. Sanh. (Sonc. ed.) p. 34a

(23) Hence it includes a burnt-offering of a bird too.

(24) Hence only animal sacrifices are included, but not a burnt-offering of a bird.

(25) E.g., if it had a cataract on the eye.

(26) Intimating that this law applies only from the time that it was fit to ascend as a burnt-offering (in Heb. 'ascend' — the altar — and 'burnt-offering' are the same word viz., 'olah). Yet the law still applies to animal sacrifices only.

(27) By interpreting 'olah that which ascends (v. preceding note), and so including everything that ascends the altar.

(28) But were subsequently disqualified.

(29) For they infer the law from 'its firewood' and 'on the altar' and these fulfil the conditions implied in these words, as they feed the fire and are brought on the altar.

(30) As they cannot be included in 'lambs' or 'burnt-offering'.

(31) It does not accompany an animal sacrifice.

(32) I.e., all except those whom he specifies. Similarly the other cases.

Talmud - Mas. Zevachim 84a

it does descend.[1] With regard to a meal-offering which accompanies a sacrifice, in the view of R.

Gamaliel and R. Joshua it does not descend,[2] while in the view of all [the others] it does descend. Libations which come by themselves,[3] in the view of all of them, descend, but in the view of R. Gamaliel and R. Simeon they do not descend. Libations which come together with a sacrifice, in the view of all of them, descend, and only in the view of R. Gamaliel do they not descend. That is obvious?[4] — He needs [to state this on account of] a meal-offering which comes by itself,[5] and in accordance with Raba. For Raba said: A man can vow a meal-offering of libations every day.[6] Then let [Resh Lakish] inform us [this law], as Raba?[7] — He needs [to state the law about] libations which come with a sacrifice, where he offers them [the libations] on the morrow or on some other day.[8] I might argue, Since a master said: And the meal-offerings thereof and their drink-offerings[9] [can be brought] at night; 'the meal-offerings thereof and their drink-offerings' [can be brought] on the morrow,[10] they are as drink-offerings [libations] which are brought by themselves, and R. Simeon admits that they do not descend. Hence he [Resh Lakish] informs us [that it is not so].

MISHNAH. THE FOLLOWING DO NOT DESCEND ONCE THEY ASCENDED: [FLESH] THAT IS KEPT OVERNIGHT, OR THAT GOES OUT [OF ITS PERMITTED BOUNDARIES], OR WHICH IS UNCLEAN, OR WHICH WAS SLAUGHTERED [WITH THE INTENTION OF CONSUMING SAME] AFTER TIME OR WITHOUT BOUNDS; OR IF UNFIT [PERSONS] RECEIVED AND SPRINKLED ITS BLOOD. R. JUDAH SAID: THAT WHICH WAS SLAUGHTERED AT NIGHT OR WHOSE BLOOD WAS SPILT OR WHOSE BLOOD PASSED WITHOUT THE HANGINGS,[11] IF IT ASCENDED, MUST DESCEND. R. SIMEON SAID: IT DOES NOT DESCEND; BECAUSE R. SIMEON MAINTAINED: IF ITS DISQUALIFICATION AROSE IN THE SANCTUARY, THE SANCTUARY[12] RECEIVES IT; IF ITS DISQUALIFICATION DID NOT ARISE IN THE SANCTUARY, THE SANCTUARY DOES NOT RECEIVE IT. THE DISQUALIFICATION OF THE FOLLOWING DID NOT ARISE IN THE SANCTUARY: A ROBA' AND NIRBA', ONE SET ASIDE [FOR AN IDOLATROUS SACRIFICE]; AN ANIMAL WORSHIPPED [IDOLATROUSLY]; [A HARLOT'S] HIRE; [A DOG'S] EXCHANGE; KIL'AYIM; TEREFAH; AN ANIMAL CALVED THROUGH THE CAESAREAN SECTION; AND BLEMISHED ANIMALS.[13] R. AKIBA DECLARED BLEMISHED ANIMALS FIT.[14] R.HANINA THE SEGAN[15] OF THE PRIESTS SAID: MY FATHER USED TO REPULSE BLEMISHED ANIMALS FROM OFF THE ALTAR. JUST AS THEY DO NOT DESCEND ONCE THEY ASCENDED, SO THEY DO NOT ASCEND IF THEY HAD DESCENDED. AND ALL OF THESE, IF THEY ASCENDED TO THE TOP OF THE ALTAR WHILST ALIVE, MUST DESCEND. IF A BURNT OFFERING WENT UP ALIVE TO THE TOP OF THE ALTAR, IT MUST DESCEND. IF ONE SLAUGHTERED IT ON THE TOP OF THE ALTAR, HE MUST FLAY IT AND DISMEMBER IT WHERE IT LIES.[16]

GEMARA. It was taught, R. Judah said: [This is the law of the burnt-offering:] it is that which goeth up [on its firewood upon the altar all night unto the morning]:[17] here you have three limitations. It excludes [an animal] slaughtered at night; [an animal] whose blood was spilt; and [an animal] whose blood passed out beyond the hangings: if any one of these ascended [the altar], it must descend. R. Simeon said: 'Burnt-offering': I only know this of a fit burnt-offering; whence do I know to include one which was slaughtered at night, or whose blood was spilt, or whose blood passed without the hangings, or [the flesh of] which spent the night [away from the altar], or went out, or the unclean, or which was slaughtered [with the intention of burning its flesh] after time or without bounds; or whose blood was received and sprinkled by unfit [persons]; or whose blood was applied below [the scarlet line] when it should be applied above, or above when it should be applied below; or without when it should be applied within, or within when it should be applied without; or a Passover-offering or a sin-offering which one slaughtered for a different purpose: whence do we know [to include all these]? From the phrase, 'the law of the burnt-offering', which intimates one law for all burnt-offerings [viz.,] that if they ascended, they do not descend. You might think that I also include a roba' and a nirba', one set aside [for an idolatrous sacrifice], or worshipped; a [harlot's] hire or the price [of a dog], or a hybrid, or a terefah or an animal calved through the caesarean section. Scripture, however, states: ‘it is that.’ And why do you include the former and exclude the latter? Since Scripture includes

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(1) As stated above.

(2) Since ‘upon its firewood’ and ‘on the altar’ are applicable to it.

(3) E.g., if one vows wine without a sacrifice.

(4) All this directly follows from their views stated above.

(5) I.e., to teach that a meal-offering can be brought alone.

(6) I.e., even without a sacrifice, which naturally would not be vowed so frequently.

(7) Explicitly, and not overlay it with all the other rulings.

(8) Not at the same time as the animal sacrifice.

(9) Num. XXIX, 6 et passim. ‘Their’ refers to the animal sacrifices.

(10) V. supra 8a.

(11) I.e., outside the Temple court.

(12) Here the altar.

(13) Cf. supra 71a and b.

(14) If they ascend, they do not descend.

(15) Chief of the priests and deputy High Priest; v. Sanh. (Sonc. ed.) p. 97, n. 1.

(16) Lit., ‘in its place’.

(17) Lev. VI, 2.

Talmud - Mas. Zevachim 84b

and excludes, I include the former, because their disqualification arose in the sanctuary, while I exclude the latter whose disqualification did not arise in the sanctuary.[1]

But R. Judah infers [the law] from the following: Why did they say that if blood is kept overnight it is fit? Because if the emurim are kept overnight they are fit. Why are the emurim fit if they are kept overnight? Because flesh is fit if kept overnight. [Flesh that] goes out? Because [flesh that] goes out is fit at the high place [bamah]. Unclean [flesh]? Because it was permitted in public service. [The emurim of a sacrifice intended to be burnt] after time? Because it propitiates in respect of its piggul status. [The emurim of a sacrifice intended to be burnt] out of bounds? Because it was likened to [the intention to burn it] after time. Where unfit [persons] received [the blood] and sprinkled it — in the case of those unfit persons who are eligible for public service. Can you then argue from what is its proper way to that where the same is not the proper way? — The Tanna relies on the extension indicated by, This is the law of the burnt-offering.[2]

R. Johanan said: If one slaughters an animal at night within[3] and offers it[4] without,[5] he is culpable:[6]

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(1) For notes v. supra 27b.

(2) Lev. VI, 2. For notes v. supra 51a.

(3) The Temple court.

(4) Lit., ‘carries up’ (its limbs).

(5) The Temple court; he offers it up by laying it on a stone or on an altar-like pile (v. Sifra on Lev. XVII, 6).

(6) On account of laying limbs sacrificially without, even according to R. Judah who maintained that if it ascended the altar it must still descend. Those which if laid on the altar do not descend certainly render the priest culpable if he lays them without, since these can be received by the altar(v. infra 111b).

Talmud - Mas. Zevachim 85a

let this not be less than slaughtering without and offering up [the limbs without[1]]. R. Hiyya b. Abin raised an objection: One who slaughters a bird within and offers it up without is not culpable; if he slaughtered [it] without and offered it up without, he is culpable. Yet let us say: Let it not be less than slaughtering and offering up without? — That is a refutation. Alternatively, The slaughtering of a bird within is mere killing.[2]

‘Ulla said: If the emurim of lesser sacrifices are laid [on the altar] before their blood is sprinkled, they do not descend, [because] they have become the food of the altar. R. Zera observed, We too learnt [likewise]: THAT . . . WHOSE BLOOD WAS SPILT OR WHOSE BLOOD PASSED WITHOUT THE HANGINGS: If you say there that if [the limbs or emurim] ascended they do not descend, though if he [the priest] should come to sprinkle, he has nothing to sprinkle;[3] how much more so here, seeing that if he comes to sprinkle, he has what to sprinkle! — [No:] relate this to a most sacred sacrifice.[4] But there is the Passover-offering, which is a lesser sacrifice?[5] — Relate this to [where it is slaughtered] under a different designation.[6]

We learnt: AND ALL OF THESE, IF THEY ASCENDED THE ALTAR WHILST ALIVE, MUST DESCEND. Hence [if they ascended] when slaughtered, they do not descend: surely that is so whether they are most sacred sacrifices or lesser sacrifices? — No: [deduce thus:] but if they are slaughtered, some of these must descend,[7] and some do not descend. But he teaches, AND ALL OF THESE. — That refers to whilst alive. That is obvious?[8] — In truth it refers to living animals which have a cataract in the eye, this being in accordance with R. Akiba who maintained that if these ascend they do not descend.[9]

How have you explained it? As referring to unfit [animals]! Then consider the final clause: IF A BURNT-OFFERING WENT UP ALIVE TO THE TOP OF THE ALTAR, IT MUST DESCEND. IF ONE SLAUGHTERED IT ON THE TOP OF THE ALTAR, HE MUST FLAY IT AND DISMEMBER IT WHERE IT LIES. But if it is unfit, can it be flayed and dismembered? Surely the Divine Law said: And he shall cut it into pieces,[10] ‘it’ [implies] a fit; but not an unfit [animal]? — The final clause refers to a fit [sacrifice]; and what does he [the Tanna] inform us?[11] that flaying and dismembering can be done on top of the altar. Then on the view that flaying and dismembering cannot be done on top of the altar, what can be said? — The case we discuss here is, e.g., where it had a period of fitness and then became disqualified,[12] this agreeing with R. Eleazar son of R. Simeon who maintained: Since the blood was sprinkled and the flesh had become acceptable[13] even for a single hour, he must flay it, and its skin belongs to the priests.[14] If so, when it was taught: ‘What does he do?[15] He takes down the inwards and washes them’, why should he do so?[16] — What then should we do? Offer [i.e. burn] them with their dung? ‘Present it now unto thy governor; will he be pleased with thee? or will he accept thy person?’[17] This is our difficulty: why must he wash them?[18] — So that if another priest chances upon them and does not know,[19] he will take them up.

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(1) Where one is culpable for each act separately.

(2) Not ritual slaughtering (shechitah), since it requires melikah (v. Glos.). For that reason he is not culpable. But when he slaughters an animal sacrifice at night, it does count as shechitah (since hullin may be slaughtered at night).

(3) Since the blood is spilt.

(4) The Mishnah may refer to most sacred sacrifices only, whose emurim are intrinsically holy even before the blood is sprinkled. Possibly, however, the same does not apply to lesser sacrifices, whose emurim are sacred only in virtue of the sprinkling of the blood.

(5) The Mishnah enumerates this too, and it is now assumed that this law applies even where its blood is spilt.

(6) As the Mishnah actually states. It does not apply, however, to the present instance.

(7) Sc. lesser sacrifices.

(8) Obviously they cannot remain there but must be brought down and slaughtered, and then they will be taken up again. If then this is not taught for the sake of the inference (viz., that all of these, if slaughtered, do not descend), it is altogether superfluous.

(9) V. supra 77b. The Mishnah thus informs us that they must descend, and even if subsequently slaughtered they may not re-ascend.

(10) Lev. I, 6.

(11) If it is fit, it obviously descends, since it will be taken up again.

(12) It refers indeed to a fit animal which ascended alive, but after it was slaughtered on top of the altar and its blood was sprinkled, it became disqualified; therefore it must be flayed and dismembered on top of the altar, for if it is taken down it may not be taken up again, since it was disqualified. And as to the objection that an unfit animal cannot be flayed, the answer is that it had a period when it was fit for flaying before it became disqualified.

(13) This is a technical term denoting that the flesh was now fit for its purpose.

(14) Even if it became unfit after the sprinkling of the blood. Though the flesh cannot be burnt on the altar but in the place of burning unfit sacrifices, the skin is not burnt with it but belongs to the priests. So here too, when it is on top of the altar it must likewise be flayed and dismembered.

(15) In this case where an animal ascended the altar whilst alive and it was slaughtered there.

(16) Seeing that they are unfit. For though these unfit animals must not be taken down, yet if they are, they may not be taken up again.

(17) Mal. I, 8. This is a protest against offering anything unseemly, and it is most unseemly to offer the inwards uncleaned.

(18) Since they must be taken down, after which they cannot go up again, let them be left as they are.

(19) That they are unfit.

Talmud - Mas. Zevachim 85b

And shall we arise and do a thing to priests whereby they may come to a stumbling block?[1] — Even so it is better, that Divine sacrifices should not lie like carrion.[2]

R. Hiyya b. Abba said: R. Johanan asked: If the emurim of lesser sacrifices were taken up before their blood was sprinkled, must they go down or not? Said R. Ammi to him: Then inquire about a trespass-offering?[3] — I do not ask about a trespass-offering, he replied, because sprinkling alone makes it subject to a trespass-offering; I only ask about [their] going down. And he [eventually] ruled that they do not go down and do not involve trespass.

R. Nahman b. Isaac recited it thus. R. Hiyya b. Abba said, R. Johanan asked: If the emurim of lesser sacrifices were taken up before their blood was sprinkled, do they involve a trespass-offering or not? Said R. Ammi to him: Then ask about [their] going down? I do not ask about going down, he replied, because they have become the food of the altar;[4] I ask only about a trespass-offering. And [eventually] he ruled: They do not go down and do not involve trespass.

THE DISQUALIFICATION OF THE FOLLOWING DID NOT ARISE IN THE SANCTUARY etc. R. Johanan said: Only in the case of cataracts in the eye did R. Akiba declare them fit, since such are fit in the case of birds, and provided that their consecration [for a sacrifice] preceded their blemish. And R. Akiba admits in the case of a female burnt-offering [that it must be taken down], because that is tantamount to the blemish preceding its consecration.[5]

R. Jeremiah asked: Is nirba' [a disqualification] in birds or is nirba' no [disqualification] in birds?[6] Do we say: [Ye shall bring your offering] of the cattle[7] excludes roba' and nirba': [hence] whatever is subject to [the disqualification of] roba' is subject to [the disqualification of] nirba'; and whatever is not subject to roba' is not subject to nirba'.[8] Or perhaps, sin has been committed with it?[9] — Said Raba, Come and hear: R. AKIBA DECLARED BLEMISHED ANIMALS FIT. Now, if this is correct,[10] let him also declare a nirba' fit,[11] since it is fit in the case of birds.[12] Hence infer from this [that it is not fit]. R. Nahman b. Isaac said: We too have learnt thus: With regard to a nirba', a bird set apart [for an idolatrous sacrifice], a bird worshipped, a [harlot's] hire, the price [of a dog], a tumtum[13] and a hermaphrodite, all of these defile garments when they are in the gullet.[14] This proves it.

R. HANINA THE SEGAN OF THE PRIESTS. What does he inform us? — I can say that he informs us of the actual fact.[15] Alternatively, what does HE REPULSED mean? Indirectly.[16]

JUST AS THEY DO NOT DESCEND IF THEY ONCE ASCENDED etc. ‘Ulla said: They learnt this only where the fire had not taken hold of it; but if the fire had taken hold of it, it must re-ascend. R. Mari recited this in connection with the first clause.[17] R. Hanina of Sura recited it in connection with the final clause:[18] With regard to the bones, tendons, horns and hoofs, if they are attached [to the animal], they ascend [the altar]; if they are severed [from the animal] they do not ascend.[19] Said ‘Ulla: They learnt this only where the fire had not taken hold of them; but if the fire had taken hold of them, they ascend.[20] He who recites it in connection with the final clause [holds that it applies] all the more to the first clause.[21] He however who recites it in connection with the first clause [maintains]: but as for the final clause, those things are not normally burnt [on the altar].[22]

MISHNAH. THE FOLLOWING IF THEY ASCENDED GO DOWN:[23] THE FLESH OF MOST SACRED SACRIFICES AND THE FLESH OF LESSER SACRIFICES; THE RESIDUE OF THE ‘OMER;[24] THE TWO LOAVES;[25] THE SHEWBREAD;[26] THE RESIDUE OF MEAL-OFFERINGS;[27] AND INCENSE.[28] THE WOOL ON THE HEADS OF LAMBS, THE HAIR OF HE-GOATS BEARDS; THE BONES, TENDONS, HORNS AND HOOFS, IF THEY ARE ATTACHED, GO UP, BECAUSE IT IS SAID, AND THE PRIEST SHALL MAKE THE WHOLE SMOKE ON THE ALTAR;[29] IF THEY ARE SEVERED [FROM THE ANIMAL], THEY DO NOT GO UP, FOR IT IS SAID, AND THOU SHALT OFFER THY BURNT-OFFERINGS, THE FLESH AND THE BLOOD, [UPON THE ALTAR OF THE LORD THY GOD]].[30]

GEMARA. Our Rabbis taught : And the priest shall make the whole smoke on the altar: this includes the bones, tendons, horns and hoofs. You might think, even if they were severed; therefore it states, ‘And thou shalt offer thy burnt-offerings, the flesh and the blood’. If [we had only the text] flesh and blood [to go by],

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(1) Surely we may not cause another priest to think that they are fit.

(2) Hence they must be washed.

(3) If one misappropriates sacred property to secular use he is liable to a trespass-offering. Normally when emurim are laid on the altar (after the sprinkling of the blood) they become the property of the altar, and anyone thus misappropriating them incurs a trespass-offering. Then let the question be asked: does the law of trespass apply if they were taken up before the sprinkling of the blood?

(4) V. supra a.

(5) For notes v. supra 35b.

(6) There is no question about roba’, as a male bird does not copulate with a woman.

(7) Lev. I, 2. ‘Of’ (Heb. מ) is partitive, and regarded as a limitation.

(8) So that it does not disqualify a bird.

(9) Hence it is disqualified.

(10) That nirba’ does not disqualify a bird.

(11) Sc. an animal, in the sense that it does not descend.

(12) Even to sacrifice such in the first place.

(13) An animal or bird whose genitals are covered up, so that its sex cannot be determined. — This passage refers to birds.

(14) V. p. 257, n. 1. This proves that nirba’ is a disqualification.

(15) What happened in such cases.

(16) Not openly, as this would seem to degrade sacrifices, but covertly. Lit., ‘as with the back of the hand’.

(17) The present Mishnah, referring to unfit animals.

(18) The next Mishnah.

(19) And if they did, they must be removed.

(20) Even if taken down.

(21) Because the first clause deals with things that are normally burnt on the altar.

(22) Therefore even if the fire had taken hold of them, they are taken down, since they have no connection with the altar at all.

(23) Because they do not belong to the altar at all.

(24) The ‘omer (q.v. Glos.) after it was waved; v. Lev. XXIII, 20 seq.

(25) V. Lev. XXIII, 15 seq.

(26) V. Ex. XXV, 30.

(27) V. Lev. II, 2 seq.

(28) Which must be burnt on the inner altar.

(29) Lev.I, 9.

(30) Deut. XII, 27.

Talmud - Mas. Zevachim 86a

you might have thought that one must remove the tendons and bones and lay [only] flesh on the altar; therefore it says, ‘And the priest shall make the whole smoke’. How are these text reconciled? If they are attached, they ascend; if they are severed, even if they are on the top of the altar, they must go down.

Which Tanna do you know to maintain that if they were severed, they must go down? It is Rabbi. For it was taught: ‘And the priest shall make the whole smoke on the altar’: this includes the bones, tendons, horns and hoofs, even if they were severed. How do then I interpret, ‘And thou shalt offer thy burnt-offerings, the flesh and the blood’? It is to teach you: Burnt pieces [flesh] of the burnt-offering you must replace [on the altar],[1] but you do not replace burnt tendons and bones. Rabbi said: One text states, ‘And the priest shall make the whole smoke on the altar’, thus extending [the law], while another text states, ‘And thou shalt offer thy burnt-offerings, the flesh and the blood’, thus limiting [it]. How do you reconcile them? If they are attached, they ascend; if they are severed, even if they are on the top of the altar, they descend.

IF THEY ARE SEVERED [FROM THE ANIMAL], THEY DO NOT GO UP etc. R. Zera said: They learnt this only if they were severed downwards;[2] but [if they were severed] upwards,[3] they come nearer to being burnt.[4] Even if they were severed?[5] — Said Rabbah: This is what he means: They learnt this only if they were severed after sprinkling;[6] but if they were severed before sprinkling, the sprinkling comes and makes them permitted [for general use], even to make from them a knife handle.[7] He holds as R. Johanan said on R. Ishmael's authority: ‘It shall be his’ [the priest's] is said of the burnt-offering, and ‘it shall be his’ is said of the guilt-offering:[8] as the bones of a guilt-offering are permitted, for even its flesh is permitted to the priests, so are the bones of a burnt-offering permitted. This must be redundant,[9] for if it is not redundant, you can refute [the deduction]: as for a guilt-offering, the reason is because its flesh is permitted.[10] [It is redundant, for] a superfluous ‘it shall be his’ is written.[11]

R. Adda b. Ahaba raised an objection: The bones of sacrifices involve trespass[12] before sprinkling, but do not involve trespass after sprinkling; whereas the bones of a burnt-offering always involve trespass?[13] — Say: Whereas those of a burnt-offering, if they were severed before sprinkling, involve trespass until the sprinkling; [if they were severed] after sprinkling, they always involve trespass.[14]

Now he [Rabbah] disagrees with R. Eleazar. For R. Eleazar said: If they were severed before sprinkling, they involve trespass; after sprinkling, one must not use them,[15] but they do not involve trespass.[16] MISHNAH. AND IF ANY OF THESE[17] SPRANG OFF FROM THE ALTAR[18] THEY ARE NOT REPLACED. SIMILARLY, IF A COAL SPRANG OFF FROM THE ALTAR, IT IS

NOT REPLACED. LIMBS THAT SPRANG OFF FROM THE ALTAR: IF BEFORE MIDNIGHT, MUST BE REPLACED, AND INVOLVE TRESPASS; AFTER MIDNIGHT, THEY ARE NOT REPLACED AND DO NOT INVOLVE TRESPASS. JUST AS THE ALTAR SANCTIFIES WHATEVER IS ELIGIBLE FOR IT, SO DOES THE ASCENT SANCTIFY WHATEVER IS ELIGIBLE FOR IT;[19] AND JUST AS THE ALTAR AND THE ASCENT SANCTIFY WHATEVER IS ELIGIBLE FOR THEM, SO DO VESSELS SANCTIFY.[20]

GEMARA. How is it meant? If they have substance,[21] then even after midnight too [let them be returned]; while if they have no substance, even before midnight too [they need] not [be returned]? — This holds good only

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(1) If they sprang off.

(2) Away from the burning pile. Then they do not go up, and if they did, they are removed. — They were placed on the altar, of course, whilst attached to the flesh.

(3) Springing nearer to the centre of the pile.

(4) They are not removed. — This passage is thus apparently based on the Mishnah . Tosaf. however points out that the Mishnah discusses whether they are to be placed on the altar at all, whereas this assumes that it was already there. Accordingly Tosaf. explains that it refers to the Baraitha just quoted, where the first Tanna maintains that the bones etc. are included even if they are severed.

(5) The meaning of this is doubtful, and Rashi assumes that there is a lacuna in the text. If the text is correct, the meaning would be: do you say that even if they were severed (upwards) they remain on the altar; surely the Mishnah teaches that only when attached do they ascend? Sh. M. quotes a variant reading: It was stated above: this includes the bones etc. even if they were severed. Said Rabbah: They learnt this only etc.

(6) Then they must descend, nevertheless they are still regarded as sacred, and must be so treated.

(7) I.e., they have no sanctity at all.

(8) Lev. VII, 7f.

(9) Lit., ‘free’, ‘disengaged.’ The form of exegesis just used, based on the fact that the same words are used of both, is called a gezerah shawah, and in such the word used as a basis of deduction must be entirely free for that purpose, being otherwise redundant.

(10) Hence its bones are too. Whereas the flesh of a burnt-offering must be burnt on the altar, and so its bones too may be forbidden.

(11) Scripture could write, the skin of the burnt-offering . . . shall be the priest's.

(12) V. p. 405, n. 8.

(13) This proves that they are always forbidden.

(14) Emended text (Sh.M.).

(15) By Rabbinical law.

(16) This agrees with R. Ishmael supra. When he quotes ‘it shall be his’ it must mean after sprinkling, for it is the sprinkling that permits the flesh (and so the bones too, on his view) to the priests.

(17) The unfit and bones etc. which if laid on the altar must not be removed.

(18) Through the heat.

(19) If laid on the ascent, it must not be removed.

(20) Sc. service-vessels — they sanctify what is placed in them.

(21) If these limbs are not burnt right through and the flesh is recognisable.

Talmud - Mas. Zevachim 86b

of hardened [limbs].[1]

Whence do we know it?[2] — Said Raba: One text states, [This is the law of the burnt-offering: it is that which goeth up on its firewood upon the altar] all night . . . and he shall burn thereon etc.[3] Whereas another text states, all night . . . and he shall take up the ashes.[4] How are these texts reconciled?[5] Divide it [the night]: half is for burning, and half for taking up [the ashes].[6] R. Kahana raised an objection: Every day he [the priest] takes up [the ashes][7] at cockcrow, or slightly before or slightly after. On the Day of Atonement, [he does this] at midnight; on festivals, at the first watch.[8] If then you maintain that [the altar must be cleared] from midnight [onwards], how may we advance it? — Said R. Johanan: From the implication of 'all night', do I not know that it is until the morning? Why then is 'unto the morning' stated? Add another morning to the morning of the night.[9] Therefore every day it is sufficient from cockcrow. On the Day of Atonement [it is done] at midnight, on account of the fatigue[10] of the High Priest.[11] On festivals when there were many sacrifices and so the Israelites came very early, [it was done] at the first watch, as the sequel teaches: and before cockcrow the Temple court was full of Israelites.

It was stated: If they sprang off[12] before midnight and he replaced them after midnight: Rabbah said:

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(1) The fire had hardened them and completely dried up all their natural moisture, yet had not turned them into charred coals.

(2) That the matter depends on midnight.

(3) Lev. VI, 2-5. The combination of these texts implies that 'all night' is meant in respect of burning.

(4) Ibid. 3. He assumes that 'and he shall take up the ashes' also means during the night, (i.e., 'all night'), since the whole verse reads: And the priest shall put on his linen garment . . . and he shall take up the ashes: as it does not say that he must don his linen garment in the morning, it is assumed that he did it at night and straightway took up the ashes. Thus this contradicts the implication of the first verse.

(5) Emended text (Sh.M.).

(6) The first half is for burning, and during this time the flesh is not considered completely consumed unless it has actually been turned into ashes. The second half is for clearing, in the sense that even before the flesh has actually become ashes but has merely reached the stage of hardness it is regarded as ashes. If, however, it still retains the softness of flesh, it is obviously not ashes, and must not be removed.

(7) A shovelful of ashes which were placed at the east side of the ascent.

(8) Yoma 20a. The night (roughly from 6 P.M. to 6 A.M.) was divided into three or four watches (the matter is debated in Ber. 3a). The end of the first watch would be about 9 or 10 P.M., two or three hours before midnight.

(9) The morning of the night is dawn, while the additional morning is any earlier hour when the priests might rise to commence the service, according to the exigencies of the day. Since this is not fixed, it can be put forward or deferred as may be necessary.

(10) Lit., 'weakness'.

(11) To enable him to rest after it until the morning burnt-offering. This assumes that the High Priest removed the ashes himself. Tosaf. however suggests that it may mean that the ashes were removed (by another priest) earlier to enable the wood pile to be arranged and likewise the other rites to be performed as early as possible, so that the High Priest could sacrifice the daily burnt-offering at dawn, before he was hungry and fatigued.

(12) Lit., 'separated'.

Talmud - Mas. Zevachim 87a

The second midnight consumes them.[1] R. Hisda said: The dawn consumes them. The scholars of the Academy said: What is R. Hisda's reason? If midnight, which does not establish linah,[2] establishes 'ikul;[3] then dawn, which establishes linah, surely establishes 'ikul. If they sprang off before midnight and he replaced them after dawn, — Rabbah said: The second midnight consumes them; R. Hisda said: They never reach 'ikul.[4] To this R. Joseph demurred: And who is to tell us that midnight establishes 'ikul [only when they are] on the top of the altar; perhaps it establishes 'ikul wherever they are? They sent from thence:[5] The law agrees with R. Joseph.[6] It was stated likewise: R. Hiyya b. Abba said: If they sprang off before midnight and were replaced after midnight, you may not use them, nor do you commit trespass on their account.[7] Bar Kappara taught likewise: If they sprang off before midnight and were replaced after midnight, they are not subject to trespass. R. Papa asked Abaye: Now, since they sent from there [that] the law agrees with R. Joseph, and R. Hiyya b. Abba said [the same], and Bar Kappara taught likewise, wherein do Rabbah and R. Hisda disagree? — In the case of fat [limbs], he answered him.[8]

Raba asked Rabbah: Is linah effective [when the limbs are] on the top of the altar, or is it not effective on top of the altar? — What are the circumstances: if we say that they [the limbs] did not descend,[9] surely since you say that even if they were kept overnight in the Temple court they do not descend,[10] can there be a question [when they are kept on] the top of the altar?[11] Rather [the question is] where they descended. Do we liken it to the Table, for we learnt: Even if they[12] are on the Table many days, it does not matter? Or perhaps we liken it to the pavement of the Temple court?[13] — Said he to him: Linah is not [effective when the flesh is] on the top of the altar. Did he accept [this ruling] from him or did he not accept it from him? — Come and hear. For it was stated: Limbs which spent the night in the Temple court, [the priest] can go on burning them all night;[14] if they were kept overnight on the top of the altar, he can always go on burning them.[15] If they descended: Rabbah said: They re-ascend; Raba said: They do not re-ascend.[16] This proves that he did not accept [the ruling] from him. This proves it.

JUST AS THE ALTAR SANCTIFIES etc. Our Rabbis taught: Whatsoever touches the altar [shall be holy]:[17] I know it only of the altar; how do I know [it of] the ascent? Because it says, the [eth] altar.[18] How do we know [it of] service vessels? Because it says: Whatsoever toucheth them shall be holy.[19]

Resh Lakish asked R. Johanan: Do the service vessels sanctify the disqualified? — We have learnt it, he replied: JUST AS THE ALTAR AND THE ASCENT SANCTIFY WHATEVER IS ELIGIBLE FOR THEM, SO DO VESSELS SANCTIFY![20] Said he, My question is whether they can be offered in the first place. But that too we have learnt:

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(1) They will not be assumed to reach the stage of hardness (v. supra 86b) until the following midnight; unless, of course, they are reduced to ashes before then.

(2) The status of flesh that is kept overnight. Midnight does not confer that status, and flesh that falls off after midnight is replaced on the altar.

(3) Lit. ‘burning,’ ‘consumption’. If the flesh is hard by midnight (v. supra 86b top) it is regarded as consumed, and if it springs off after that it is not replaced.

(4) Whenever they spring off, until they are actually ashes, they must be replaced, and involve trespass.

(5) Sc. from Palestine — The reference is to R. Eleazar (v. Sanh. 17b).

(6) His argument is correct. — Actually they did not give a ruling (Tosaf).

(7) They need not have been replaced, as they no longer belong to the altar. Hence they do not involve trespass; nevertheless, benefit from them is interdicted by Rabbinical law.

(8) Even when they harden they are not regarded as consumed (‘ikul), because their fat keeps them from becoming ashes. Only then do Rabbah and R. Hisda disagree as to their status. But in the case of ordinary flesh they agree that midnight establishes ‘ikul.

(9) But remained on the altar, away from the fresh wood pile for the new sacrifices.

(10) If placed on the altar after the night passed.

(11) Surely they do not descend.

(12) The loaves of the Shewbread.

(13) Hence it becomes unfit.

(14) But not after, for linah disqualifies them.

(15) They are never disqualified as long as they are there.

(16) Because linah disqualifies them, and so like all disqualified limbs they do not re-ascend once they descended.

(17) Ex. XXIX, 37.

(18) The reference is probably either to XXIX, 44: And I will sanctify the tent of meeting, and the altar; or to XXX, 26-28: And thou shalt anoint therewith . . . the altar of burnt-offering. In either case the preceding eth (which denotes the acc.) is regarded as an extension, thus including the ascent.

(19) Ibid. XXX, 29. ‘Them’ refers (among other things) to service vessels, which are spoken of in the preceding verses.
(20) The reference being to disqualified sacrificial parts. V. Mishnah notes.

Talmud - Mas. Zevachim 87b

[Or] where unfit [persons] received and sprinkled the blood.[1] Surely that means, where unfit [persons] received and sprinkled the blood.[2] — No: [it may mean] that unfit [persons] received it or unfit persons sprinkled the blood.[3]

The scholars asked:[4] Is the air-space above the altar as the altar, or not?[5] — Come and hear: JUST AS THE ALTAR SANCTIFIES SO DOES THE ASCENT SANCTIFY. Now, if you say that the airspace above the altar is not as the altar, then the air-space above the ascent too is not as the ascent; how then can one carry it up from the ascent to the altar, seeing that it is as having descended?[6] — He drags it.[7] But there was a gap between the ascent and the altar?[8] — When the greater part of it [the limb] is nearer the ascent, it is as though it were [on] the ascent, and when the greater part of it is nearer the altar,it is as though it were on the altar. Then from this you can solve Rami b. Hama's question, [viz.]: Is there a connective in [limbs which] ascend the altar or not?[9] Solve that there is a connective?[10] — That is no difficulty: Then solve it!

Raba son of R. Hanan demurred: If you say that the air-space above the altar is as the altar, how is it possible for a burnt-offering of a bird to be disqualified through an [illegitimate] intention; surely the altar has received it?[11] R. Shimi b. Ashi demurred: Why not? It is possible e.g., where he declared: Behold, I pinch it intending to take it off to-morrow [from the altar], then carry it up again and burn it.[12] (That is well according to Raba who maintained [that] linah is effective [when the sacrifice is] on top of the altar; but according to Rabbah who held that linah is not effective on top of the altar, his intention [certainly] does not count![13] — According to Rabbah too it is possible e.g. if he declared: Behold, I pinch it with the intention of taking it down before dawn and taking it up again after dawn.)[14] At all events, you can solve [the question] in the other direction, viz., that the air-space of the altar is as the altar,[15] for should you think that the air-space of an altar is not as the altar,

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(1) V. supra 84a.
(2) The ‘and’ (Heb. 7) being conjunctive. This implies that only then do they not descend once they ascended, which further implies that they may not ascend in the first place. Hence, if unfit persons received the blood (naturally, in a service vessel) whilst fit persons sprinkled it, they may ascend (be offered) in the first place, and that must be because the vessels sanctified the blood to permit its sprinkling at the outset.
(3) And we are informed that even then the limbs do not descend once they ascended, notwithstanding that they were disqualified by the sprinkling.
(4) Emended text (Sh.M.).
(5) If one suspends disqualified limbs above the altar, is it as though they are on the altar itself and must not be removed, or not?
(6) For if it is not as the ascent, when he lifts it up to carry to the altar it is as though he had taken it down, and we learnt that if it descended it must not re-ascend.
(7) Up to the altar without lifting it up from the ascent.
(8) V. supra 62b. And when the limbs reach the gap, they are as though taken down.
(9) If the smaller part of a limb springs off, is it considered as still attached to the whole, and so must be replaced, or not?
(10) For otherwise each portion of the limb becomes disqualified as it enters the gap between the altar and the ascent.
(11) The neck of a burnt-offering of a bird was pinched (v. Lev. I, 15) on top of the altar, i.e., in the air-space above the altar. Now if the priest actually kept it suspended in the air-space above the altar until the next day it would be fit then for ritual burning, for disqualified sacrifices do not descend once they ascended (i.e., even if linah does disqualify when the sacrifice is on the altar). Since then it is fit for burning on the morrow, why should the intention to burn it on the

morrow disqualify it, seeing that at the very moment that it is killed it is as though laid on the altar?

(12) This would be forbidden, as if it descended it does not re-ascend. Hence the intention too can disqualify it.

(13) For even if he kept it until the morrow on the top of the altar it would not be disqualified, so that if he took it down then he would still have to replace it. The intention to do this would certainly not disqualify it.

(14) If the sacrifice were actually on the ground at dawn it would be disqualified, and so the intention too disqualifies it.

(15) This is the conclusion of R. Shimi b. Ashi's argument: though R. Hanan's reasoning is faulty, yet one can argue in the reverse direction.

Talmud - Mas. Zevachim 88a

how may one sprinkle the blood of a disqualified sin-offering of a bird, as it has the status of having descended,[1] [and] how could one sprinkle the blood of other disqualified [sacrifices]?[2] — He contacts [the blood] [with the wall of the altar].[3] Is that haza'ah? it is draining; is that zerikah? it is pouring out;[4] moreover, is that the way of haza'ah and zerikah?[5] — Said R. Ashi: If he held it on top of the altar, that would indeed be so; the question arises where he [the priest] stands on the ground and suspends it [the blood] on a cane?[6] what then? The question stands over. MISHNAH. THE VESSELS FOR LIQUIDS SANCTIFY LIQUIDS,[7] AND THE MEASURES FOR DRY MATTER SANCTIFY DRY MATTER.[8] A LIQUID VESSEL DOES NOT SANCTIFY DRY MATTER, NOR DOES A DRY [MEASURE] SANCTIFY A LIQUID. IF HOLY VESSELS WERE PERFORATED AND THEY CAN BE USED FOR THE SAME PURPOSE AS WHEN WHOLE, THEY SANCTIFY [WHAT IS PLACED IN THEM]; IF NOT, THEY DO NOT SANCTIFY. AND ALL THESE SANCTIFY ONLY IN THE SANCTUARY.[9]

GEMARA. Samuel said: They learnt [this] only of the measures,[10] but the basins sanctified,[11] for it is said: Both of them filled with fine flour.[12] Said R. Aha of Difti to Rabina: But that was a moist meal-offering?[13] — He replied, The proof is from the dry parts thereof.[14] Alternatively, a meal-offering is dry in comparison with blood.[15]

Samuel said. The service vessels sanctified only when whole, full,[16] and through the inside.[17] Others state it: They sanctify only when whole, full, and within.[18] Wherein do they differ? — They differ in respect of the overflow of measures.[19] In a Baraitha it was taught: They sanctify only when full, whole, through the inside and within. R. Assi said in R. Johanan's name: They learnt this[20] only where he [the priest] does not intend to add thereto; but if he intends adding thereto, each portion becomes holy in turn.[21] It was taught likewise: [Both of them] filled [with fine flour]: ‘filled’ means complete.[22] Said R. Jose: When is that? When he does not intend to add [thereto]; but if he intends to add [thereto], each portion becomes holy in turn.

A LIQUID VESSEL DOES NOT SANCTIFY etc. Rab-others state R. Assi-said: They do not sanctify to be offered, but they sanctify [it] to be disqualified.[23] Others recite it in connection with the following: You may not bring meal-offerings, drink-offerings, and the meal-offering of an animal [sacrifice], or the first-fruits,[24] from a mixture;[25] and it goes without saying from ‘orlah and kil'ayim of the vineyard.[26] If one did bring [such], it is not sanctified. Said Rab — others state, R. Assi — : It is not sanctified to be offered, but it is sanctified to be disqualified.[27]

Our Rabbis taught: When holy vessels are perforated, you may not melt them[28] nor melt lead into them.[29] If they were damaged,[30] you may not repair them. If a knife was damaged, you may not smooth out the damage;[31] if it slipped out [of its haft], you may not replace it. Abba Saul said: There was a knife which caused terefoth[32] in the Temple, whereupon the priests decided by vote to hide it.

Our Rabbis taught: The priestly garments were not sewn but woven,[33] as it is said, of woven work.[34] If soiled, they might not be washed with natron[35] or with ahal.[36] But you may wash them in water?[37] — Said Abaye, This is what he means: If they [merely] needed water,[38] you may wash them [even] with natron or ahal.

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(1) If one pinched the bird on the altar with an illegitimate intention, it is disqualified; as soon as he lifts it in order to sprinkle the blood, it is as though he had taken it down from the altar, and such may not be taken up again. Hence the blood could not be sprinkled.

(2) According to R. Gamaliel who maintains that if the blood of disqualified sacrifices ascended the altar, it must not descend. But sprinkling is done from a distance, so that the blood passes through the air-space of the altar.

(3) Not from the distance.

(4) Haza'ah and zerikah are two words for sprinkling, the latter denoting a sprinkling with greater force than the former. — If he does not sprinkle the blood from the distance, it is not sprinkling at all.

(5) Even if this could be called sprinkling, it is certainly not the manner in which sprinkling is done.

(6) The above argument proves nothing. For when the man stands on the altar and holds the blood or the bird in his hand, the air-space is certainly as the altar itself, for the fact that he is standing on it gives the blood etc. the same status as though it were on the altar.

(7) E.g. the plates and basins for blood, wine and oil.

(8) There were two dry measures, an ‘issaron (tenth part of an ephah) and half an ‘issaron: the first was used for measuring all meal-offerings, while the second was used for the High Priest's daily morning and evening meal-offerings (v. Lev. VI, 12 seq.).-Rashi and Tosaf. give different reasons why the Mishnah speaks of liquid vessels and dry measures.

(9) The Temple court.

(10) Only the liquid measures, of which there were seven, do not sanctify dry matter. The reason is because these were only fit for measuring, and had been anointed (whereby they were sanctified) for this purpose only.

(11) Though meant primarily for liquids, they could also be used for meal.

(12) Num. VII, 13. ‘Both’ included a basin, which was normally used for liquids.

(13) V. ibid.: with fine flour mingled with oil for a meal-offering.

(14) Lit., ‘it is necessary only for the dry parts’. — Mingling could not be so thorough as to leave no dry parts at all, yet these too were sanctified by the basins.

(15) For which the basins were normally used.

(16) They must contain as much as is required, e.g., if flour for a meal-offering is placed in them, there must be at least an ‘issaron.

(17) But if flour is heaped up on the outside of a service vessel, it is not sanctified.

(18) Rashi: in the Temple court.

(19) When a measure is overfilled, so that there is a brim, the Rabbis disagree as to whether the overflow is sanctified (Men. 90a). He who maintains that only the inside sanctifies, holds that the overflow is not sanctified.

(20) That it sanctifies only when full.

(21) Lit., ‘the first, the first is holy’. Every little quantity is sanctified as it is poured into the vessel, and it remains sanctified even if it was not full eventually.

(22) Containing the necessary measure (v. n. 10, p. 416); only then is it sanctified.

(23) If meal is placed in a liquid vessel, it is sanctified in so far that if it is then carried out of the Temple court or touched by a tebul yom (q.v. Glos.), it is disqualified from being used henceforth for a meal-offering.

(24) I.e., which accompanied an animal sacrifice or the first-fruits.

(25) A mixture of terumah and hullin.

(26) V. Glos. and Deut. XXII, 9. A meal-offering or drink-offering can certainly not be brought from these, which are forbidden to all, including priests. But it may not be brought even from a mixture of terumah and hullin, which is permitted to priests, though priests consume the meal-offering, because what is brought must be permitted to all.

(27) It does not count simply as hullin but as sanctified meal which had become unfit, having been sanctified by the service-vessel in which it was placed, and therefore it must be burnt.

(28) I.e., melt the metal around the hole to close it up.

(29) For the same purpose.

(30) More extensively.

(31) I.e., if the edge is heavily notched it may not be re-ground.

(32) It frequently became slightly notched and was inadvertently used, thus making the sacrifices terefah. — Terefoth is used loosely for nebeloth.

(33) They were woven directly into garments, not first into cloth and then sewn together.

(34) Ex. XXVIII, 32.

(35) V. Sanh. (Sonc. ed.) p. 330, n. 5.

(36) A substance used as soap. — The reason for all these is that it savours of poverty to repair or cleanse them for Temple use.

(37) Surely not; that too savours of poverty and is moreover inefficient.

(38) Lit ,'if they were brought to water.' — i.e., they were only slightly soiled.

Talmud - Mas. Zevachim 88b

If they needed natron or ahal, you may not wash them even in water. Others maintain: You may not wash them at all,[1] because there is no poverty in the place of wealth.

Our Rabbis taught: The robe [me'il] was entirely of blue,[2] as it is said, And he made the robe of the ephod of woven work, all of blue.[3] How were its skirts [made]? Blue [wool], purple wool and crimson thread, twisted together, were brought, and manufactured into the shape of pomegranates whose mouths were not yet opened[4] and in the shape of the cones of the helmets on children's heads. Seventy two bells containing seventy two clappers were brought and hung thereon, thirty six on each side.[5] R. Dosa[6] said on the authority of Rabbi Judah: There were thirty six, eighteen on each side.

R. 'Inyani b. Sason said: As there is a controversy here, so is there a controversy in respect to leprous plagues.[7] For we learnt: The appearances of plagues, R. Dosa b. Harkinas said: They are thirty six; Akabia b. Mahalallel said: They are eighteen.[8]

R. 'Inyani b. Sason also said: Why are the sections on sacrifices and the priestly vestments close together?[9] To teach you: as sacrifices make atonement, so do the priestly vestments make atonement. The coat atones for bloodshed, for it is said, And they killed a he-goat, and dipped the coat in the blood.[10] The breeches atoned for lewdness, as it is said, And thou shalt make them linen breeches to cover the flesh of their nakedness.[11] The mitre made atonement for arrogance. How do we know it? — Said R. Hanina: Let an article placed high up[12] come and atone for an offence of hauteur. The girdle atoned for [impure] meditations of the heart, i.e., where it was placed.[13] The breastplate atoned for [neglect of] civil laws, as it is said, And thou shalt make a breastplate of judgment.[14] The ephod atoned for idolatry, as it is said, Without ephod there are teraphim.[15] The robe atoned for slander. How do we know it? — Said R. Hanina: Let an article of sound[16] come and atone for an offence of sound. The headplate atoned for brazenness: of the headplate it is written, And it shall be upon Aaron's forehead,[17] whilst of brazenness it is written, Yet thou hadst a harlot's forehead.[18]

But that is not so, for surely R. Joshua b. Levi said: For two things we find no atonement through sacrifices, but find atonement for them through something else,[19] and they are bloodshed and slander. Bloodshed [is atoned for] by the beheaded heifer,[20] while slander [is atoned for] by incense. For R. Hanania recited: How do we know that incense atones? Because it is said, And he put on the incense, and made atonement for the people.[21] And the school of R. Ishmael taught [likewise]: For what does incense atone? For slander: let that which is done in secret[22] come and atone for an offence committed in secret.[23] Thus slander contradicts slander, and bloodshed contradicts bloodshed? — There is no difficulty: bloodshed does not contradict bloodshed: In the one case the murderer is known,[24] in the other the murderer is unknown.[25] If the murderer is known, he is liable to death?[26] -It means [where he committed murder] deliberately, but was not warned.[27] Slander too does not contradict slander: Here it was done in secret;[28] there it was done in public.[29] [

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(1) Even if slightly soiled.

(2) Tekeleth, wool dyed with a peculiar blue, now no longer obtainable.

(3) Ibid. XXXIX. 22.
(4) Overripe pomegranates open up slightly.
(5) I.e., in front and behind.
(6) Sh.M. reads: Rabbi.
(7) Lit., ‘the appearances of plagues’.
(8) They disagree as to how many colours render these plagues leprous and unclean.
(9) Immediately after discussing the burnt-offering, meal-offering, sin-offering, and peace-offerings (Lev. VII), Scripture speaks of the priestly garments (VIII, 1 seq.)
(10) Gen. XXXVII, 31. This was a sign that later the coat would make atonement, even as dipping (Heb. tebillah, in later Hebrew denoting ritual immersion for purification) symbolised atonement.
(11) Ex. XXVIII, 42.
(12) On top of the head.
(13) It was placed at the level of the heart.
(14) Ibid., 15.
(15) Hos. III, 4. Where there is no ephod, there is the unatoned-for sin of teraphim (idols). — E.V.: without ephod or teraphim.
(16) Sc. the robe, which was fringed with bells.
(17) Ex. XXVIII, 38.
(18) Jer. III, 3.
(19) Lit., ‘from another place.’
(20) V. Deut. XXI, 1-9.
(21) Num. XVII, 12.
(22) None was present when the incense was offered.
(23) Slander is first related in private and then it spreads.
(24) Then the coat makes atonement, so that the whole community should not be divinely punished.
(25) Then the beheaded heifer makes atonement.
(26) And until he is executed the community is not forgiven.
(27) On ‘warning, (hathra'ah) v. p. 372, n. 1. He could not be executed in that case.
(28) Then the incense atones.
(29) Then the robe atones.

Talmud - Mas. Zevachim 89a

CHAPTER X

MISHNAH. WHATEVER IS MORE CONSTANT THAN ANOTHER TAKES PRECEDENCE OVER THE OTHER. THE DAILY OFFERINGS[1] PRECEDE THE ADDITIONAL OFFERINGS;[2] THE ADDITIONAL OFFERINGS OF THE SABBATH PRECEDE THE ADDITIONAL OFFERINGS OF NEW MOON;[3] THE ADDITIONAL OFFERINGS OF NEW MOON PRECEDE THE ADDITIONAL OFFERINGS OF NEW YEAR; FOR IT IS SAID, [YE SHALL OFFER THESE] BESIDE THE BURNT-OFFERING OF THE MORNING, WHICH IS FOR A CONTINUAL BURNT-OFFERING.[4]

GEMARA. Whence do we know it? [You ask] Whence do we know it: surely he [the Tanna] states the reason, viz., ‘BESIDE THE BURNT-OFFERING OF THE MORNING’? — Perhaps only the daily-offerings precede the additional offerings, because they are constant; how do we know that additional-offerings [precede] [less frequent] additional-offerings?[5] — Said R. Elai, Because Scripture states, Like these ye shall offer daily, for seven days:[6] [instead of] ‘these’, ‘like these’ [is written].[7] But this is required for its own purpose?[8] — If so,[9] let [Scripture] write, ‘These ye shall offer daily’.[10] If it wrote, ‘These ye shall offer daily for seven days’, I would think [that] these [are offered] in the seven days?[11] — ‘Daily’ is written.[12] Yet I might still interpret. These [ye shall offer] for the day,[13] but on the remaining days I could not know how many?[14] — Scripture says, Ye shall offer, [which implies] that all your offerings must be alike.[15] Abaye said: [We learn it] from that very text.[16] For if so,[17] let Scripture say 'beside the burnt-offering of the morning', and then be silent; why state, which is for a continual burnt-offering? To teach that that which is more constant takes precedence.[18]

MISHNAH. WHATEVER IS MORE SACRED THAN ANOTHER PRECEDES THAT OTHER. THE BLOOD OF A SIN-OFFERING PRECEDES THE BLOOD OF A BURNT-OFFERING,[19] BECAUSE IT PROPITIATES.[20] THE LIMBS OF A BURNT-OFFERING PRECEDE THE EMURIM OF A SIN-OFFERING,[21] BECAUSE IT [THE FORMER] IS ENTIRELY FOR [ALTAR] FIRES. A SIN-OFFERING PRECEDES A GUILT-OFFERING, BECAUSE ITS BLOOD IS SPRINKLED ON THE FOUR HORNS AND ON THE BASE.[22] A GUILT-OFFERING PRECEDES A THANKSOFFERING AND A NAZIRITE'S RAM, BECAUSE IT IS A SACRIFICE OF HIGHER SANCTITY. A THANKSOFFERING AND A NAZIRITE'S RAM PRECEDE A PEACE-OFFERING, BECAUSE THEY ARE EATEN ONE DAY [ONLY] AND REQUIRE [THE ACCOMPANIMENT OF] LOAVES. A PEACE-OFFERING PRECEDES A FIRSTLING, BECAUSE IT REQUIRES FOUR [BLOOD] APPLICATIONS, LAYING [OF HANDS]. DRINK-OFFERINGS, AND THE WAVING OF THE BREAST AND THE THIGH. A FIRSTLING PRECEDES TITHE, BECAUSE ITS SANCTITY IS FROM THE WOMB,[23] AND IT IS EATEN BY PRIESTS. TITHE PRECEDES BIRD[-OFFERINGS]. BECAUSE IT IS A SLAUGHTERED SACRIFICE,[24] AND PART OF IT IS MOST SACRED, [VIZ.,] ITS BLOOD AND EMURIM.[25] BIRDS PRECEDE MEAL-OFFERINGS, BECAUSE THEY ARE BLOOD SACRIFICES. A SINNER'S MEAL-OFFERING PRECEDES A VOTIVE MEAL-OFFERING, BECAUSE IT COMES ON ACCOUNT OF SIN. A SIN-OFFERING OF A BIRD PRECEDES A BURNT-OFFERING OF A BIRD; AND IT IS LIKEWISE WHEN HE DEDICATES THEM.[26]

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(1) Lit., 'continual' offerings — the daily burnt-offerings.

(2) Which were sacrificed on Sabbaths, Festivals, and New Moons.

(3) When the Sabbath and New Moon concurred, similarly the other cases.

(4) Num. XXVIII, 23. 'These' are the additional festival offerings, whilst 'beside the burnt-offering of the morning' implies that that had already been offered, having preceded the additional offerings.

(5) Since even the more frequent additional offerings are not really constant, perhaps we disregard their greater frequency.

(6) Ibid. 24.

(7) He interprets: like those which are mentioned in the preceding verse: as in those the more frequent take precedence, so in these (the festival additional-offerings) the more frequent take precedence.

(8) To teach that an additional offering must be brought every day of the festival.

(9) If that is its only purpose.

(10) Not 'like these.'

(11) I.e., the seven he-lambs specified in Num. XXVIII, 19 are not offered each day but spread over the seven days.

(12) Which precludes that interpretation.

(13) Sc. the first day.

(14) If Scripture did not write, like these.

(15) The offerings on each day (including the first) must be the same. Hence 'like' is unnecessary for that purpose, and so intimates precedence.

(16) Cited in the Mishnah.

(17) If its teaching applies only to the daily offerings.

(18) In all cases. For that reason 'continual' is emphasized.

(19) If both are ready for sprinkling at the same time.

(20) It makes atonement where kareth is involved.

(21) For burning.

(22) Whereas of the guilt-offering only two applications are made, and not on the horns; nor is the blood poured out on the base (Rashi).

(23) It is born sacred.

(24) Whereas a bird requires melikah; slaughtering is considered higher.

(25) Even in lesser sacrifices these possess the same sanctity as the most sacred sacrifices, since they belong to the altar. In the case of a bird only the blood possesses that sanctity, but there are no emurim.

(26) When a man dedicates the two birds (v Lev. V, 7) he first dedicates the one for sin-offering and then the one for burnt-offering.

Talmud - Mas. Zevachim 89b

GEMARA. How do we know these things? — Because our Rabbis taught: And a second young bullock thou shalt take for a sin-offering:[1] Now, if this comes to teach that there are two [sacrifices], surely it has already been said, And offer thou the one for a sin-offering, and the other for a burnt-offering.[2] What then is taught by, And a second young bullock thou shalt take for a sin-offering? For one might think that a sin-offering takes precedence over all the rites of a burnt-offering,[3] therefore it says. And a second young bullock thou shalt take for a sin-offering.[4] If [we had only the text] And a second young bullock [to go by], you might think that a burnt-offering precedes a sin-offering in all its rites: therefore it says, And offer thou the one for a sin-offering, and the other for a burnt-offering. How are these [to be reconciled]? The blood of a sin-offering takes precedence over the blood of a burnt-offering [in sprinkling], because it propitiates.[5]

THE LIMBS OF A BURNT-OFFERING etc. Yet why so? say that [only] the first application [of the blood of the sin-offering], which makes atonement, takes precedence, but not the rest?[6] — Said Rabina: Here we are treating of the Levites' sin-offering, and though it was like a burnt-offering,[7] the Divine Law ordered it to take precedence.[8] In the West [Palestine] they said: Since he commenced the applications [of the sin-offering], he completes [them].

It was asked: Regarding the blood of a sin-offering and the limbs of a burnt-offering, which of them takes precedence? Does the blood of a sin-offering take precedence, because it propitiates; or perhaps the limbs of a burnt-offering take precedence, because they are entirely [destined] for [altar] fires? — Come and hear: THE BLOOD OF A SIN-OFFERING PRECEDES THE BLOOD OF A BURNT-OFFERING; thus only the blood of a burnt-offering does it precede, but it does not precede the limbs of a burnt-offering. On the contrary, [infer] from the subsequent clause: THE LIMBS OF A BURNT-OFFERING PRECEDE THE EMURIM OF A SIN-OFFERING: thus only the emurim of a sin-offering do they precede, but they do not precede the blood of a sin-offering. Rather, no inference can be made from this.

It was asked: [As to] the blood of a burnt-offering and the emurim of a sin-offering, which of these takes precedence? Does the blood of a burnt-offering take precedence, because it comes in virtue of a sacrifice that is altogether burnt; or perhaps the emurim of a sin-offering take precedence, because they come in virtue of an atoning [sacrifice]? — Come and hear: THE BLOOD OF A SIN-OFFERING PRECEDES THE BLOOD OF A BURNT-OFFERING; thus, only the blood of a sin-offering precedes the blood of a burnt-offering, but the emurim of a sin-offering do not. On the contrary, [infer] from the subsequent clause: THE LIMBS OF A BURNT-OFFERING PRECEDE THE EMURIM OF A SIN-OFFERING: thus, only the limbs of a burnt-offering precede the emurim of a sin-offering, but the blood of a burnt-offering does not. Rather, no inference can be made from this.

It was asked: [As to] the blood of a burnt-offering and the blood of a guilt-offering, which takes precedence? Does the blood of a burnt-offering precede, because it comes in virtue of a sacrifice that is altogether burnt; or perhaps the blood of a guilt-offering precedes, because it makes atonement? — Come and hear: THE BLOOD OF A SIN-OFFERING PRECEDES THE BLOOD OF A BURNT-OFFERING; hence the blood of a guilt-offering does not. [No:] by right he [the Tanna] should have taught the blood of a guilt-offering [too], but because he wishes to teach in a later clause: THE LIMBS OF A BURNT-OFFERING PRECEDE THE EMURIM OF A SIN-OFFERING; for if he taught [that they precede] the emurim of a guilt-offering, I would argue: only the emurim of a guilt-offering do they precede, but they do not precede the emurim of a sin-offering;[9] for that reason he teaches about a sin-offering [only].

Come and hear: A SIN-OFFERING PRECEDES A GUILT-OFFERING; thus, only a sin-offering precedes a guilt-offering, but a burnt-offering does not. Surely that refers to the blood? — No: it refers to the emurim. This may be proved too, for he teaches. BECAUSE ITS BLOOD IS APPLIED, [and does not teach, Because it is applied].[10] This proves it.

A SIN-OFFERING PRECEDES etc. On the contrary, a guilt-offering should precede, because it has a fixed value?[11] — Even so, the greater number of altar [rites] is more important.

A GUILT-OFFERING PRECEDES A THANKSOFFERING etc. On the contrary, a thanksoffering and a nazirite's ram should take precedence, since they require loaves? — Even so, sacrifices of higher sanctity are more important.

A THANKSOFFERING AND A NAZIRITE'S RAM etc. On the contrary, a peace-offering should take precedence, since it is congregational as well as private?[12] — Even so [the fact that] they are eaten for one day only is more weighty.

It was asked: [As to] a thanksoffering and a nazirite's ram, which of these takes precedence? Does a thanksoffering take precedence, because it requires [the accompaniment of] four kinds of loaves;[13] or perhaps a nazirite's ram takes precedence, because other sacrifices[14] accompany it?[15] — Come and hear: This one precedes the other,[16] because the former requires four kinds of loaves, whereas the latter requires only two kinds of loaves.[17]

A PEACE-OFFERING PRECEDES A FIRSTLING etc. On the contrary, a firstling should take precedence, since its sanctity is from the womb and it is eaten by priests [only]? — Even so, the greater number of rites [connected with a peace-offering] are more important.

A FIRSTLING PRECEDES etc. On the contrary, tithe should take precedence, since it sanctifies what precedes it and what follows it?[18] Even so, sanctity from the womb is weightier.

TITHE PRECEDES BIRD-OFFERINGS etc. On the contrary, bird-offerings should take precedence, since they are most sacred? — Even so, the species of slaughtering is more important.

Rabina b. Shila said: If the emurim of lesser sacrifices are taken out[19] before the sprinkling of the blood, they are disqualified. Now, our Tanna supports this: BECAUSE IT IS A SLAUGHTERED SACRIFICE, AND PART OF IT IS MOST SACRED, [VIZ.,] ITS BLOOD AND EMURIM. As for emurim, it is well, [as] these are absent in birds; but blood at all events is present?[20] Surely then he informs us this: emurim are like blood: just as blood [is most holy] before sprinkling, so are emurim [most holy only] before sprinkling, and [only then] are they designated most sacred; and as blood is disqualified through being taken out, so are emurim disqualified through going out. Shall we say that the following supports him: If the flesh of lesser sacrifices was taken out before the sprinkling of the blood, R. Johanan says: It is fit; Resh Lakish maintains: It is disqualified. R. Johanan says [that] it is fit, since it must eventually be carried out [in any case].[21] Resh Lakish maintains [that] it is disqualified: it was not yet time for it to be carried out. Thus, they disagree only in respect of flesh, but not in respect of emurim![22] — [No:] in fact they disagree in respect of emurim too, but the reason that they disagree [explicitly] about flesh is to inform you how far Resh Lakish maintains his view,[23] that even flesh, which will eventually be carried out, he maintains that it was not yet time for it to be carried out.

Shall we say that it is dependent on Tannaim: [With regard to] emurim of lesser sacrifices which were taken out before sprinkling: R. Eliezer maintains: They do not involve trespass,[24]

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(1) Num. VIII, 8. This treats of the consecration of the Levites.
(2) Ibid. 12. He speaks of it as ‘already said’ although it comes later.
(3) As is implied in v. 13, where sin-offering is mentioned first.
(4) Which intimates that it is second to the burnt-offering in the performance of its rites.
(5) Whilst the limbs of the burnt-offering are burnt before the emurim of a sin-offering.
(6) For atonement is made with a single application, supra 38a.
(7) Since it was not on account of sin at all.
(8) Hence its precedence does not cease when atonement has been made, since here there was no atonement.
(9) Since a sin-offering is more sacred than a guilt-offering.
(10) If by SIN-OFFERING he meant the blood, he should say, because it is applied. Emended text.
(11) Not less than two shekels; v. Lev. V, 15: a ram . . . according to thy valuation in silver by shekels . . . for a guilt-offering. Shekels implies at least two, whereas a sin-offering may be of any value.
(12) Congregational (public) peace-offerings were offered on the Feast of Weeks, v. Lev. XXIII, 19, whereas these others were private sacrifices only.
(13) V. Lev. VII, 12f.
(14) Lit., ‘blood’.
(15) Sc. a sin-offering and a burnt-offering.
(16) Sc. the thanksoffering precedes the nazirite's ram.
(17) V. Num. VI, 15.
(18) If a man counts his cattle in order to tithe them, and declares the ninth and eleventh each as the tenth, in addition to the real tenth, they are all sanctified.
(19) Of the Temple court.
(20) Hence blood should not be mentioned, since in this respect birds are the same.
(21) As it is eaten anywhere in Jerusalem.
(22) Presumably R. Johanan too agrees that these are disqualified.
(23) Lit., ‘to inform you the strength of Resh Lakish’.
(24) V. p. 405, n. 8. — This is even after sprinkling, because sprinkling is now of no avail to make them subject to trespass.

Talmud - Mas. Zevachim 90a

and one is not culpable on their account in respect of piggul,[1] nothar,[2] or uncleanness.[3] R. Akiba maintains: They involve trespass, and one is culpable on their account for piggul, nothar, and defilement. Surely they disagree where they were taken in again,[4] and they disagree in this: one master [R. Eliezer] holds that they were disqualified by having been taken out, while another master holds that they were not disqualified by being taken out? — Said R. Papa: If they were taken in again, none disagree;[5] but here they disagree where they are still without,[6] and they disagree in this: one master holds [that] sprinkling is not effective for what is without,[7] while the other master holds [that] sprinkling is effective for what went out. But surely it was R. Papa who said:[8] If they are still without, none disagree;[9] they disagree only where they were taken in again? — That is only in connection with the Two Loaves, which are not part of the sacrifice itself; but since emurim are part of the sacrifice itself, they disagree where they are still without.

BIRD-OFFERINGS PRECEDE etc. On the contrary, meal-offerings should take precedence, since they are both congregational and private?[10] — Even so, the fact that they are blood sacrifices outweighs this.

A SINNER'S MEAL-OFFERING etc. On the contrary, a votive meal-offering should take precedence, since it requires oil and frankincense? — Even so, a sinner's meal-offering, which is brought on account of sin, is more important, since it makes atonement.

It was asked: [As to] the meal-offering of a sotah[11] and a votive meal-offering, which of these takes precedence? Does a votive meal-offering take precedence, because it requires oil and frankincense; or perhaps a sotah's meal-offering takes precedence, because it is brought to investigate sin? — Come and hear: A SINNER'S MEAL-OFFERING PRECEDES A VOTIVE MEAL-OFFERING: thus, only a sinner's meal-offering precedes a votive meal-offering, but a sotah's meal-offering does not! — [No:] does he then teach, because it makes atonement; [surely] he teaches, BECAUSE IT COMES ON ACCOUNT OF SIN, and this one [a sotah's meal-offering] too comes on account of sin.

Come and hear: This one precedes that one, because the former is of[12] wheat, while the latter is of barley.[13] Surely that means, a votive meal-offering [precedes] a sotah's meal-offering? — No: [it means that] a sinner's meal-offering [precedes] a sotah's meal-offering. Then infer it from the fact that the former makes atonement while the latter does not make atonement?[14] — What then: [it refers to] a votive meal-offering? Then infer it from the fact that the one [a votive meal-offering] requires oil and frankincense, while the other does not require oil and frankincense? Rather, he states one of two reasons.[15]

A SIN-OFFERING OF A BIRD PRECEDES etc. Whence do we know it? — For our Rabbis taught: And he shall offer that which is for the sin-offering first:[16] for what purpose is this stated? If to teach that it comes before the burnt-offering, surely it is already said, And he shall prepare the second for a burnt-offering?[17] This, however, furnishes a general rule for all sin-offerings, that they take precedence over all burnt-offerings which accompany them, [sc.] the bird sin-offering [precedes] the bird burnt-offering, the animal sin-offering [precedes] the animal burnt-offering, and even a bird sin-offering [precedes] an animal burnt-offering.[18] Therefore, [that] a bird sin-offering [precedes] a bird burnt-offering [is inferred from], And he shall prepare the second for a burnt-offering. An animal sin-offering [precedes] an animal burnt-offering, because the Divine Law intimated an extension;[19] a bird sin-offering [precedes] an animal burnt-offering, because this is a general rule.[20]

Come and hear: R. Eliezer said: Wherever a sin-offering is exchanged, the sin-offering [of a bird] takes precedence,[21] but here[22] the burnt-offering [of a bird] takes precedence.[23] Wherever it comes on account of sin, the sin-offering takes precedence; but here the burnt-offering takes precedence.[24] Wherever both [birds] come instead of one sin-offering, the sin-offering takes precedence; but here that they do not both come on account of one sin-offering,[25] the burnt-offering takes precedence?[26] — Said Raba: Scripture accorded it precedence in respect of designating it.[27]

Come and hear: Bullocks take precedence over rams, rams take precedence over lambs, lambs over he-goats.

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(1) Because they are as though blood had not been sprinkled for them, and so all their mattirin (q.v. Glos. and supra 29b, 43a) had not been presented.

(2) Because nothar applies only to what may be eaten within the prescribed period; this, however, may not.

(3) I.e.,if an unclean person eats them, he is not liable. For only what is permitted to clean persons involves liability on account of personal defilement, but what is not so permitted does not involve liability. Now emurim (which are burnt on the altar, and so not permitted even to clean persons) are nevertheless included, as is deduced by Scriptural exegesis, but only on a similar basis to flesh: as flesh involves culpability only after sprinkling, so the emurim. Sprinkling, however, is ineffective in respect of these emurim, and therefore they do not involve culpability.

(4) Before sprinkling, yet even then R. Eliezer maintains that sprinkling is of no avail, because taking them out had disqualified them.

(5) Sprinkling is certainly effective.

(6) At the time of sprinkling.

(7) Lit., ‘for what went out’ — and is still outside.

(8) In connection with the two loaves which were brought on Pentecost, if they were taken out of the Temple court between the slaughtering of the accompanying sacrifice and the sprinkling of its blood.

(9) Sprinkling is certainly of no avail.

(10) Sc. the meal-offerings which accompanied the ‘omer (sheaf of corn) and the Two Loaves; these were congregational (v. Lev. XXIII, 10-21). There were no public offerings of birds.

(11) A wife suspected of adultery, v. Num. V, 12-15.

(12) Lit., ‘comes from’.

(13) Wheat is superior to barley.

(14) Instead of because one is of wheat while the other is of barley.

(15) This answer must be given whatever you relate it to, and therefore it may well refer to a votive meal-offering and a sinner's meal-offering.

(16) Lev. V, 8.

(17) Ibid. 10.

(18) E.g. a woman after childbirth, who brings a year-old lamb for a burnt-offering, and a pigeon or a turtle-dove for a sin-offering.

(19) By the additional text.

(20) I.e., the law thus established applies to all sin-offerings and burnt-offerings.

(21) Where an animal sin-offering is prescribed in the first place, but Scripture permits it, when one is poor, to be exchanged for two birds of which one is for a sin-offering and one for a burnt-offering (e.g. when an unclean person enters the sanctuary, v. Lev. V, 1 seq.) the bird sin-offering takes precedence over the bird burnt-offering.

(22) In the case of a woman after childbirth to whom ‘here’ refers in the whole passage.

(23) Because she is liable to an animal burnt-offering, and in poverty she may bring two birds, one for a burnt-offering and another for a sin-offering, v. Lev. XII, 1 seq.

(24) As even the sin-offering is not on account of sin.

(25) In poverty she substitutes a bird burnt-offering for an animal burnt-offering, as a bird sin-offering was brought in any case, v. ibid. 6-8.

(26) This contradicts the Mishnah which teaches that a bird sin-offering takes precedence over an animal burnt-offering, whereas here she brings the animal burnt-offering before the bird sin-offering.

(27) One must first designate (i.e. dedicate) the animal (or bird) for the burnt-offering and then the bird for the sin-offering. But the latter is sacrificed first.

Talmud - Mas. Zevachim 90b

Does that not refer to those of the Festival?[1] — No: [it means those] of a votive offering:[2] bullocks precede rams, because their drink-offerings are larger;[3] and for the same reason rams [precede] lambs; [while] lambs [precede] he-goats because more [is offered] of them, [viz.,] the fat-tail.[4]

Come and hear: The bullock of the anointed priest precedes the congregation's bullock for inadvertent sin; the congregation's bullock for inadvertent sin precedes the bullock for idolatry; the bullock of idolatry precedes the he-goats of idolatry. [And this is so] not withstanding that the bullock of idolatry is a burnt-offering, whereas the he-goats of idolatry are sin-offerings? But why not deduce from the first clause: the congregation's bullock for inadvertent sin precedes the bullock of idolatry?[5] — We do not speak [of where both sacrifices are] of one kind: there a sin-offering [certainly] takes precedence. We speak of two kinds,[6] and yet here we find a burnt-offering preceding a sin-offering? — In the West [Palestine] they said in Raba b. Mari's name: The sin-offering of idolatry lacks an alef, as le-hattath is written.[7] Rabina said: In their case[8] ‘according to the ordinance’ is written.[9] Now that you have come to this, you may even say that [the preceding passage refers to] the bullocks of the Festival, [for] ‘after their ordinance’ is written in connection with them too.[10]

It was asked: [With regard to] a bird sin-offering, an animal burnt-offering, and tithe, which of these precede?[11] Shall the bird sin-offering come first? there is tithe, which must precede it! Shall tithe come first? there is the animal burnt-offering, which must precede it! Shall the animal burnt-offering come first? there is the bird sin-offering, which must precede it! — Here[12] they held that a slaughtered sacrifice is more important.[13] In the West they said: The superiority of an animal burnt-offering [over tithe] serves the bird sin-offering and advances it over that of tithe.[14] MISHNAH. ALL SIN-OFFERINGS IN THE TORAH PRECEDE GUILT-OFFERINGS,[15] EXCEPT A LEPER'S GUILT-OFFERING, BECAUSE IT COMES TO MAKE [A PERSON] FIT.[16] ALL GUILT-OFFERINGS OF THE TORAH MUST BE[17] TWO-YEAR OLDS AND [TWO] SILVER SHEKELS IN VALUE,[18] EXCEPT A NAZIRITES GUILT-OFFERING AND A LEPER'S GUILT-OFFERING: THESE MUST BE A YEAR OLD, AND NEED NOT BE [TWO] SILVER SHEKELS IN VALUE.[19] AS THEY TAKE PRECEDENCE IN BEING OFFERED, SO THEY TAKE PRECEDENCE IN BEING EATEN.[20] IN THE CASE OF A PEACE-OFFERING OF YESTERDAY AND A PEACE-OFFERING OF TO-DAY,[21] THAT OF YESTERDAY TAKES PRECEDENCE. IN THE CASE OF A PEACE-OFFERING OF YESTERDAY AND A SIN-OFFERING AND A GUILT-OFFERING OF TO-DAY, YESTERDAY'S PEACE-OFFERING TAKES PRECEDENCE: THAT IS R. MEIR’ S RULING. BUT THE SAGES MAINTAIN: THE SIN-OFFERING TAKES PRECEDENCE, BECAUSE IT IS A MOST SACRED SACRIFICE. AND IN ALL OF THESE, THE PRIESTS MAY DEVIATE IN THEIR MODE OF EATING, AND EAT THEM ROAST, STEWED OR BOILED, AND SEASON THEM WITH CONDIMENTS OF HULLIN OR OF TERUMAH: SO SAID R. SIMEON. R. MEIR SAID: ONE MAY NOT SEASON THEM WITH CONDIMENTS OF TERUMAH, SO AS NOT TO BRING TERUMAH TO UNFITNESS.[22] GEMARA. It was asked: That which is more constant and that which is more sacred,[23] which takes precedence? Does that which is more constant take precedence, because it is more constant; or does that which is more sacred take precedence, because it is more sacred? — Come and hear: The continual [burnt-]offerings precede the additional offerings.

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(1) Sc. Tabernacles; the he-goats were sin-offerings and the lambs were burnt-offerings, yet the lambs take precedence.

(2) And both are burnt-offerings.

(3) A bullock requires a drink-offering of three ‘esronim (pl. of ‘issaron, a tenth part of an ephah), a ram one of two, and a lamb one ‘issaron.

(4) Which in the case of a lamb is burnt on the altar as emurim, but not in the case of a he-goat; cf. Lev. III, 6-10 with 12-15. Though this passage refers to burnt-offerings, which are entirely burnt on the altar, yet the reason is valid, because it holds good of sacrifices in general.

(5) Instead of raising a difficulty from the final clause, cite the first clause to corroborate the Mishnah.

(6) Which is what the above-stated principle sets out to establish, that a bird sin-offering takes precedence over an animal burnt-offering.

(7) Heb. לחטת instead of לחטאת Num. XV, 24. This teaches that it is an exception and does not precede the burnt-offering.

(8) Sc. the offerings for idolatry.

(9) Ibid. This implies that they must be offered in the same order as they are prescribed, and the burnt-offering is mentioned there first.

(10) Ibid. XXIX, 33. There too the burnt-offerings are mentioned first. But in all other cases the sin-offering, even if it is only a bird, precedes.

(11) When we have the three together.

(12) In Babylon.

(13) Therefore tithe comes first, then the bird sin-offering and then the animal burnt-offering. The animal burnt-offering cannot come first, since Scripture expressly stated that it follows the sin-offering.

(14) Since the burnt-offering accompanies the sin-offering, the higher importance of the former over tithe, viz., that it is a most sacred sacrifice and is altogether burnt, invests the sin-offering with the same superiority over tithe. Hence the sin-offering must be sacrificed first, then the burnt-offering, and last of all tithe.

(15) Where a person was liable to both and brought them at the same time.

(16) To enter the Temple and partake of sacrifices. This invests it with greater importance.

(17) Lit., 'come'.

(18) According to thy valuation in silver by shekels (Lev. V, 15), denoting at least two, is written in connection with the guilt-offering for trespass; other guilt-offerings are inferred from it, v. supra 48a.

(19) For both a year-old animal is prescribed (Num. VI, 12; v. Lev. XIV, 10-12). Again, since Scripture decreed that the two-year old ram for the guilt-offerings must be worth two silver shekels, a year-old lamb would be worth less.

(20) This refers to all sacrifices, those enumerated in the preceding Mishnah too.

(21) I.e., the former animal was brought yesterday, but has not yet been offered. Or, one sacrificed yesterday and one to-day, but neither has yet been eaten.

(22) For should they become nothar, the condiments too might not be eaten, even if they could be separated from the flesh, because they absorbed the taste of that flesh, which is now forbidden.

(23) E.g. if we have the blood of the daily burnt-offering and that of a sin-offering for sprinkling: the daily burnt-offering is more constant, while the sin-offering is more sacred.

Talmud - Mas. Zevachim 91a

[Now this is so] notwithstanding that the additional offerings are more sacred![1] — [No:] does then the Sabbath affect the additional offerings and not affect the continual-offerings?[2]

Come and hear: The additional-offerings of the Sabbath precede the additional-offerings of New Moon! — Does then New Moon affect its own additional offerings and not affect the additional offerings of the Sabbath?

Come and hear: The additional offerings of New Moon precede the additional offerings of New Year, although New Year is holier! — Does then New Year affect its own additional offerings and not affect the additional offerings of New Moon?

Come and hear: Another reason: the blessing for wine is constant, while the blessing for the day is not constant, and of that which is constant and that which is not constant, that which is constant comes first.[3] [Now this is so] notwithstanding that the blessing for the day is holier![4] — Does then the Sabbath affect the blessing for the day and not affect the blessing for the wine?[5]

Come and hear, for R. Johanan said: The halachah is that one must recite the minhah [afternoon] service and then recite the additional service.[6] [Although the additional service is more sacred]![7] — Does then the Sabbath affect the additional service and not affect the minhah service?

Come and hear: IN THE CASE OF A PEACE-OFFERING OF YESTERDAY, AND A SIN-OFFERING AND A GUILT-OFFERING OF TO-DAY, YESTERDAY'S PEACE-OFFERING TAKES PRECEDENCE. Hence, if both are of to-day, the sin-offering and the guilt-offering take precedence, although a peace-offering is more constant![8] — Said Raba: You speak of what is common: we ask about what is constant, not about what is more common.[9] Said R. Huna b. Judah to Raba: Is then what is common not [the same as what is] constant?[10] Surely it was taught: I would exclude the Passover-offering, which is not constant, but I would not exclude circumcision, which is constant![11] — What does 'constant' mean? It is more constant in precepts.[12] Alternatively, circumcision is constant in comparison with the Passover-offering.[13]

It was asked: [If one thing is] constant and [another] non-constant, and [the priest] slaughtered the non-constant first, what is the law?[14] Do we say, since he slaughtered it, he must offer [i.e., sprinkle] it [first]; or perhaps he must give it to another to stir the blood until he offers the constant, and then offer the non-constant?[15] — Said R. Huna[16] of Sura,[17] Come and hear: IN THE CASE OF A

PEACE-OFFERING OF YESTERDAY, AND A SIN-OFFERING AND A GUILT-OFFERING OF TO-DAY, YESTERDAY'S PEACE-OFFERING TAKES PRECEDENCE. Hence if it were [a peace-offering] of to-day analogous to that of yesterday — and how could that be? if he slaughtered the peace-offering first — [the sprinkling of] the sin-offering and the guilt-offering would take precedence![18] — [No:] perhaps how [is the case of] a peace-offering of yesterday and a sin-offering and a guilt-offering of to-day meant? Where he slaughtered both.[19] Where, however, he did not slaughter both, there you have the question.

Come and hear: Another reason: the blessing for the wine is constant, whereas the blessing for the day is not constant, and of that which is constant and that which is not constant, that which is constant comes first![20] — Here too, since it [the wine] has arrived,[21] it is analogous to both having been slaughtered.

Come and hear, for R. Johanan said: The halachah is that one must recite the minhah [afternoon] service and then recite the additional service![22] — Here too, since the time for the minhah service has come, it is as though they were both slaughtered.

R. Aha the son of R. Ashi said to Rabina: Come and hear:[23] If he killed it[24] before midday, it is disqualified, because ‘at dusk’ is said in connection with it.[25] [If he killed it] before the [evening] tamid, it is fit, and one must stir its blood until he sprinkles the blood of the tamid![26] — The case we discuss here is where e.g. he first slaughtered the tamid.[27] Said R. Aha the elder to R. Ashi: The Mishnah too proves that, because it teaches, ‘until he sprinkles the blood of the tamid,’ but it does not teach, until he slaughters [the tamid] and sprinkles its blood. This proves it.

AND IN ALL OF THESE, THE PRIESTS MAY DEVIATE etc. What is the reason? — Scripture says, [Even all the hallowed things . . . unto thee have I given them] for a consecrated portion,[28] which means, as [a symbol of] greatness [so that they can be eaten] just as kings eat.[29]

MISHNAH. R. SIMEON SAID: IF YOU SEE OIL BEING SHARED OUT IN THE TEMPLE COURT,[30] YOU NEED NOT ASK WHAT IT IS, FOR IT IS THE RESIDUE OF THE WAFERS [REKIKIM] OF THE ISRAELITE'S MEAL-OFFERINGS[31] , OR OF THE LEPER'S LOG OF OIL.[32] IF YOU SEE OIL BEING POURED ON TO THE FIRES,[33] YOU NEED NOT ASK WHAT IT IS, FOR IT IS THE RESIDUE OF THE OIL OF THE WAFERS OF PRIESTS’ MEAL-OFFERINGS, OR OF THE ANOINTED PRIEST'S MEAL-OFFERING; FOR MEN CANNOT OFFER OIL [ALONE].[34] R. TARFON SAID: OIL CAN BE DONATED [BY ITSELF].

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(1) For they are brought on Sabbath and Festivals, whereas continual offerings are brought on week-days too.

(2) Just as it invests the former with greater sanctity, so it invests the latter too, seeing that we are now treating of the continual offering brought on the Sabbath.

(3) This explains why in Kiddush (Sanctification Benediction, recited at the beginning of every festival) the blessing over wine precedes that over the festival! — Whenever wine is drunk a blessing over it is required, whereas the blessing of sanctification is confined to festivals.

(4) Since the other is recited on week-days too.

(5) The sanctity of the latter too is enhanced when it is recited on the Sabbath or festival.

(6) V. supra 12a.

(7) Bracketed passage added by Sh.M.

(8) They are more common, since they can be brought at any time, whereas a sin-offering and a guilt-offering can be brought only when one is liable to them.

(9) A peace-offering is not legally more constant than a sin-offering, since one is not obliged to vow a peace-offering.

(10) Is not a thing regarded as more constant when it is more common?

(11) It is a general rule that one incurs a sin-offering for an inadvertent transgression which if committed deliberately would involve kareth. This however refers to negative injunctions (hence, sins of commission), not to positive commands; therefore, though deliberate neglect of the Passover-offering or circumcision involves kareth, unintentional neglect does not involve a sin-offering. In the present passage, however, it is sought to draw a distinction between the Passover-offering and circumcision, on the grounds that the latter is constant. Now actually it is no more constant than the former, since both are obligatory, and it is only more common (since circumcision takes place at any time, while the Passover-offering is sacrificed only for Passover), and yet it is called constant, which shews that the two are identical.

(12) It is more emphasized in Scripture, the word 'covenant' occurring thirteen times in connection with it.

(13) For the reason stated in n. 6. But a peace-offering is not so much more common than a sin- or a guilt-offering to rank as constant in comparison with it.

(14) Whose blood must be sprinkled first?

(15) The blood would have to be stirred to keep it from congealing.

(16) Sh.M. reads: R. Hanina.

(17) The great academy town on the river Sura, a branch of the Euphrates; v. Obermeyer Landschaft, pp. 283-287.

(18) R. Huna understands the Mishnah thus: If a peace-offering was brought yesterday but only killed to-day, while a sin-offering or a guilt-offering brought to-day is still waiting to be slaughtered, the blood of the peace-offering must be sprinkled before the other is slaughtered. For he holds that if the peace-offering too has yet to be slaughtered, the Mishnah would not rule that it takes precedence. Hence by inference, if both were brought to-day and the peace-offering was wrongly slaughtered first, the slaughtering of the sin-offering etc. must precede the sprinkling of the peace-offering. This proves that where one sacrifice is more sacred than another, and the latter was slaughtered first, the former must nevertheless be slaughtered, and its blood sprinkled, before that of the less sacred is sprinkled, and presumably the same applies where one sacrifice is more constant than the other.

(19) Though he wrongly slaughtered the peace-offering first, yet since it is yesterday's, he must sprinkle its blood first too. From this you could infer that if both were of to-day, he must sprinkle the blood of the sin-offering first.

(20) Although the non-constant actually preceded the other, since the sanctity of the day automatically commenced at nightfall. This is analogous to slaughtering the non-constant first; and as here the blessing for the wine must be recited first, by analogy the blood of the constant must be sprinkled first.

(21) We have the wine actually before us.

(22) Although the time for the additional service came first; v. p. 435, n. 6: the argument here is similar.

(23) Emended text (Sh.M.).

(24) The Passover-offering.

(25) Ex. XII, 6: And the whole assembly . . . shall kill it at dusk; lit., 'between the evenings'.

(26) This proves that when one sacrifice is sacrificed earlier than it should be, the sprinkling must nevertheless wait.

(27) Before sprinkling the blood of the Passover-offering.

(28) Num. XVIII, 8.

(29) Hence they can eat it as they like. Cf. supra 28a.

(30) To the priests, for food.

(31) V. Lev. II, 4. The oil was used in smearing the wafers.

(32) V. Ibid., XIV, 12 seq.

(33) I.e., being burnt on the altar. The 'fires' (Heb. ishim, pl. of isheh, generally rendered, 'an offering made by fire') are those of sacrifices or portions thereof (sc. the emurim) as they are burnt on the altar.

(34) Hence this oil must be the residue of oil used in a meal-offering.

Talmud - Mas. Zevachim 91b

GEMARA. Samuel said: According to R. Tarfon, when a man donates oil [by itself], he removes a fistful, burns it [on the altar], and its residue is eaten. What is the reason? — Scripture saith, [And when any one bringeth] a meal-offering:[1] this teaches that one can donate oil [by itself],[2] and that it [an offering of oil] is like a meal-offering: as a fistful is taken of a meal-offering and the rest is eaten,[3] so the oil: one takes a fistful off and the rest of it is eaten. R. Zera observed, We too have learnt thus: R. SIMEON SAID: IF YOU SEE OIL BEING SHARED OUT IN THE TEMPLE COURT, YOU NEED NOT ASK WHAT IT IS, FOR IT IS THE RESIDUE OF THE WAFERS [REKIKIM] OF THE ISRAELITES' MEAL-OFFERINGS OR OF THE LEPER'S LOG OF OIL . . . FOR MEN CANNOT OFFER OIL [ALONE]: hence it follows that on the view that it can be offered, it can be shared out![4] — Said Abaye to him: Then consider the next clause: IF YOU SEE OIL POURED ON THE FIRES, YOU NEED NOT ASK WHAT IT IS, FOR IT IS THE RESIDUE OF THE WAFERS OF PRIESTS' MEAL-OFFERINGS OR OF THE ANOINTED PRIEST'S MEAL-OFFERING, FOR MEN CANNOT OFFER OIL [ALONE]: hence it follows that on the view that it can be offered, the whole of it is a fire offering. Thus the first clause presents a difficulty on Abaye's view, while the last clause presents a difficulty on R. Zera's view. As for R. Zera, it is well: the first clause[5] refers to the residue, while the last clause refers to the fistful. But on Abaye's view there is a difficulty? — The first clause is taught on account of the last clause.[6] As for saying that a second clause it taught on account of a first clause, that is well; but does one teach a first clause on account of a second clause?[7] — Yes: they said in the West [Palestine]: The first clause is taught on account of the second clause.

Come and hear: Wine, in R. Akiba's view, is for the basins; oil, in R. Tarfon's view, is for the fires.[8] Now surely, since the whole of the wine is for basins, the whole of the oil is for burning?[9] — Why choose to say thus: each is conditioned by its own law.[10]

R. Papa said:[11] This is dependent on Tannaim: [When one donates] oil, he must bring not less than a log; Rabbi said: Three logs. Wherein do they differ? — The scholars stated before R. Papa: They differ as to whether [we say]: Judge from it and [all] from it; or, judge from it and place the deduction on its own basis.[12] The Rabbis hold: 'Judge from it and [all] from it': as a meal-offering can be donated, so can oil be donated; 'and [all] from it': as a meal-offering [requires] a log of oil,[13] so here too[14] a log of oil [is required]; and as a meal-offering, a fistful thereof is removed, and the rest is eaten, so the oil [alone], a fistful thereof is removed and the rest is eaten. And the other [learns] from a meal-offering: as a meal-offering is donated, so is oil donated; 'but place it on its own basis', viz., it is like a drink-offering [of wine]:[15] as a drink-offering consists of three logs,[16] so oil consists of three logs; and as the whole of a drink-offering is for basins, so the oil is altogether for the fires. R. Papa observed to Abaye: If Rabbi inferred it from a meal-offering, then all would agree that you judge from it and [all] from it. Rabbi, however, deduces it from 'home-born'.[17] Said R. Huna the son of R. Nathan to R. Papa: Can you say thus? Surely it was taught: 'A meal-offering': this teaches that oil [alone] can be donated? And how much? Three logs. Now, whom do you know to maintain [that it must be] three logs? Rabbi; yet he deduces it from a meal-offering! — If it was taught, it was taught, he replied.[18]

Samuel said: When one donates wine, he brings it and sprinkles it on the fires. What is the reason? Scripture saith, And thou shalt present for the drink-offering half a hin of wine, for an offering made by fire, of a sweet savour unto the Lord.[19] But he extinguishes [the fires]?[20] — Partial extinguishing[21] is not called extinguishing. But that is not so, for surely R. Nahman said in Rabbah b. Abbuha's name: If one removes a coal from the altar and extinguishes it, he is culpable? — That is when there is none but that [coal]. Alternatively, extinguishing as [part of] a religious rite is different.[22]

Come and hear, for R. Eliezer b. Jacob taught: Since Scripture authorized the taking up [of the ashes], you might think that one can extinguish [the embers] and take [them] up; but you must say that one may not extinguish![23] — There it is different, for one can sit and wait.[24]

Come and hear: Wine, in R. Akiba's view, is for the bowls; oil, in R. Tarfon's view, is for the fires.[25] Moreover, it was taught: The wine of a drink-offering is for the bowls. Yet perhaps it is not so, but rather for the fires? Say, he must not extinguish![26] — There is no difficulty: One agrees with R. Judah; the other with R. Simeon.[27] Are we to say that Samuel agrees with R. Simeon? Surely Samuel said: One may extinguish a lump of fiery metal in the street, that it should not harm the public,[28]

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(1) Lev. II, 1.

(2) The Heb. is קרבן מנחה of which קרבן (an offering) is superfluous, since מנחה itself denotes the offering, and moreover תקריב, bringeth, is of the same root as קרבן and implies it. Hence it is understood to include even an offering of oil alone, without flour. (מנחה, generally rendered meal-offering, simply means a gift, of anything, although it is usually applied to offerings of flour.)

(3) Ibid. 2f.

(4) R. Simeon maintains that one need not ask what it is, i.e., whether it is a meal-offering in itself, because such cannot be donated. Hence he who holds that it can be donated maintains that it might happen that such itself is shared out; whence it follows that it is not altogether burnt on the altar.

(5) Which implies that oil, when donated by itself, is shared out among the priests.

(6) For the sake of symmetry and parallelism. The first clause, IF YOU SEE OIL BEING SHARED OUT IN THE TEMPLE COURT, is irrelevant to the controversy as to whether oil can be donated or not, for even if it could be donated, it would still not be shared out to the priests and so this oil, which was being shared out to the priests could only be the residue, as the Mishnah explains, on all views. But it is taught merely as a parallel to the second clause referring to a fire-offering, where it is only on the view that oil cannot be donated that one need not doubt, for on the view that oil can be donated, one might doubt what this oil is, since a votive offering of oil too is burnt on the altar.

(7) It is logical that when one clause has already been taught, a second is added for the sake of parallelism. But is it logical that an earlier clause should be added, before there is anything which it can parallel?

(8) R. Akiba holds (Men. 104b) that wine can be offered by itself, but not oil. When such wine is offered, it is to be put in basins or beakers, as a drink-offering, but it is not sprinkled on the fires. R. Tarfon agrees in this; R. Akiba's name, however, is mentioned in contrast to the next clause, which is only according to R. Tarfon, since R. Akiba holds that oil alone cannot be donated.

(9) When such is offered by itself. This contradicts Samuel.

(10) Though the whole of the wine is for basins, the whole of the oil need not be for burning.

(11) Sh.M. deletes this.

(12) I.e., whether an analogy must be carried through on all points, so that the case deduced agrees throughout with the case from which the deduction has started; or whether the deduction won by analogy be regulated by the rules of the original case (Jast.).

(13) V. Lev. XIV, 10.

(14) When oil alone is donated.

(15) Which is donated by itself. It is more logical to liken it to a drink-offering than to the ordinary meal-offering of which oil is only a part.

(16) As deduced in Men. 73b.

(17) Num. XV, 13; V. Men. 73b.

(18) I must accept it.

(19) Ibid. 10. ‘For an offering made by fire’ implies that it is sprinkled on same.

(20) Whereas Scripture says, Fire shall be kept burning on the altar continually; thou shalt not extinguish it (Lev. VI, 6).

(21) This could only extinguish a little.

(22) When he sprinkles the wine, he performs a religious rite.

(23) The var. lec. is preferable: say, however, (it is written), thou shalt not extinguish it. — Thus one may not extinguish even in the performance of a religious rite.

(24) Until they go out.

(25) Thus wine is not for the fires.

(26) Cf n. 1.

(27) These scholars dispute in Shab. 41b about an unintentional act on the Sabbath: R. Judah forbids, while R. Simeon permits it. Here too, the extinguishing is unintentional: the Baraithas which rule that the wine may not be sprinkled on the fires agree with R. Judah; whereas Samuel agrees with R. Simeon.

(28) Metal does not really burn, but throws off fiery sparks when hot. The prohibition of extinguishing (on the Sabbath, to which this refers) does not apply in this case by Biblical law at all, save by Rabbinical law; hence where general damage may ensue the Rabbis waived their prohibition.

but not a burning piece of wood.[1] Now if you think that he agrees with R. Simeon, even that of wood too [should be permitted]?[2] — In respect to what is unintentional he holds with R. Simeon; but in the matter of work which is not needed per se,[3] he agrees with R. Judah.[4]

R. Huna said: If a drink-offering [of wine] was defiled, one must make a separate fire for it[5] and burn it, for it is said, And every [sin-offering] . . . in the holy place . . . it shall be burnt with fire.[6] It was taught likewise: If blood, oil, meal-offerings or drink-offerings were defiled, a separate fire is made for them, and they are burnt. Samuel said to R. Hana of Baghdad: Bring me ten people and I will teach you in their presence:[7] if drink-offerings were defiled, one makes a separate fire for them and burns them.

CHAPTER XI

MISHNAH. IF THE BLOOD OF A SIN-OFFERING SPURTED ON TO A GARMENT, IT MUST BE WASHED.[8] THOUGH SCRIPTURE SPEAKS ONLY OF [SIN-OFFERINGS] WHICH ARE EATEN, FOR IT IS SAID, IN A HOLY PLACE SHALL IT BE EATEN,[9] YET BOTH THOSE WHICH MAY BE EATEN AND THE INNER [SACRIFICES][10] NECESSITATE WASHING, FOR IT IS SAID, [THIS IS] THE LAW OF THE SIN-OFFERING:[11] THERE IS ONE LAW FOR ALL SIN-OFFERINGS. THE BLOOD OF A DISQUALIFIED SIN-OFFERING DOES NOT NECESSITATE WASHING, WHETHER IT HAD A PERIOD OF FITNESS OR DID NOT HAVE A PERIOD OF FITNESS. WHICH HAD A PERIOD OF FITNESS? ONE [WHOSE BLOOD] WAS KEPT OVERNIGHT, OR WAS DEFILED, OR WAS TAKEN OUT [OF THE TEMPLE COURT]. WHICH DID NOT HAVE A PERIOD OF FITNESS? ONE WHICH WAS SLAUGHTERED [WITH THE INTENTION OF EATING IT][12] AFTER TIME OR WITHOUT BOUNDS; OR WHOSE BLOOD WAS RECEIVED BY UNFIT PERSONS.

GEMARA. IF THE BLOOD OF A SIN-OFFERING SPURTED etc. If there is one law for all sin-offerings, even a bird sin-offering too [should be included]. Why then was it taught: You might think that the blood of a bird sin-offering requires washing; therefore it states, This is [the law of the sin-offering]?[13] — Said Resh Lakish on Bar Kappara's authority. Scripture saith, shall [the sin-offering] be slaughtered:[14] thus the Writ speaks [only] of those which are slaughtered.[15] Yet say rather that the Writ speaks [only] of those which are eaten, as it is written, ‘in a holy place shall it be eaten’, but not inner [sin-offerings]? — The Divine Law included [them by writing] ‘the law of’.[16] If so, even a bird sin-offering too [is included]? — The Divine Law expressed a limitation in ‘this is’. And why do you prefer it thus?[17] — It is logical to include animal inner sin-offerings, because: it is an animal; it is slaughtered in the north;[18] [its blood is] received in a vessel;

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(1) For that is Biblically forbidden.

(2) For though he intentionally extinguishes it, yet his work is not needed per se (v. n. 6.), and R. Simeon permits such.

(3) E.g., when one carries out a corpse on Sabbath into the street. He does not really want the corpse in the street, but merely wants it out of the house. Every case of extinguishing except that of a wick to make it easier for subsequent relighting, falls within this category, since with this exception extinguishing is always negative. R. Judah forbids such, and R. Simeon permits it.

(4) Hence he permits the unintentional extinguishing on the altar, but forbids the unintentional extinguishing of a burning piece of wood.

(5) On the pavement of the Temple court; but it must not be taken out.

(6) Lev. VI, 23. The accents are disregarded in this rendering. In Pes. 24b the verse is interpreted to mean that all sacrifices which must be eaten in the Temple court when fit, must be burnt in the same place if unfit; and the same applies to this wine.

(7) Probably a proverbial expression, denoting emphasis and certainty.

(8) Lev. VI, 20: And when there is sprinkled of the blood thereof upon any garment, thou shalt wash that whereon it was sprinkled in a holy place.
(9) Ibid. 19.
(10) The sin-offerings slaughtered in the inner sanctuary (hekal); these may not be eaten; v. Lev. IV, 1-12; 13-21.
(11) Ibid. VI, 18; this is the superscription of the present passage containing this law of washing.
(12) Or sprinkling its blood.
(13) 'This is' is a limitation, implying, only what is enumerated in the section.
(14) Ibid.
(15) I.e., with shechitah, whereas a bird requires melikah.
(16) One law for all.
(17) Why apply the extension to inner sin-offerings and the limitation to birds, and not the reverse?
(18) Rashi reads, and Bah emends accordingly: it is slaughtered; it requires the north.

Talmud - Mas. Zevachim 92b

[its blood is sprinkled on] the horn; with the finger; on the edge [of the horn]; and it is an offering made by fire.[1] On the contrary, include rather the bird sin-offering, because it is an outer [offering], like itself, and is eaten, like itself? — Those [points of similarity] are more.

R. Joseph said, Scripture saith, [The priest] . . . shall eat it:[2] this one shall he eat, but not another; thus the Writ excluded of those which are eaten.[3] Then what is the purpose of 'this is'?[4] — If not for 'this is' I would say that 'shall eat it' is the style of Scripture;[5] hence this informs us [otherwise][6]

Rabbah said, Scripture saith, and when there is sprinkled [yazzeh]: hence the Writ speaks of those which are sprinkled.[7] But surely we learnt: THOUGH SCRIPTURE SPEAKS OF [THE SIN-OFFERINGS] WHICH ARE EATEN?[8] — This is what [the Tanna] means: Although Scripture speaks of [the sin-offerings] which are eaten, that is only in respect of scouring and rinsing.[9] but in respect to washing, 'and when there is sprinkled [yazzeh]' is written.[10] If so, [instead of saying BOTH THOSE WHICH MAY BE EATEN AND THE INNER [SIN-OFFERINGS]. he should say. Both the inner [sin-offerings] and those which may be eaten?[11] — Learn, both the inner [sin-offerings] and those which may be eaten.

If so, the bird sin-offering too [is included]?[12] — The Divine Law expressed a limitation in 'this is'. If so, an outer [sin-offering] too is not [included]? — The Divine Law expressed an extension in 'the law of'. And why do you prefer it thus? — It is logical to include an animal sin-offering, because: it is an animal; it is slaughtered in the north; [its blood is] received in a vessel; [its blood is sprinkled on] the horn; with the finger; on the edge [of the horn]; and it is an offering made by fire. On the contrary, include the bird sin-offering, since it requires haza'ah, like itself?[13] — Those [points of similarity] are more.

R. Abin asked: What if one took the blood of a bird sin-offering within[14] by its neck?[15] Is its neck like a service vessel,[16] and so it [the sacrifice] is disqualified; or perhaps it is like an animal's neck, while the Divine Law said, [And every sin-offering], whereof any of the blood [is brought into the tent of meeting . . . shall be burnt with fire],[17] [implying] of its blood, but not of its flesh![18] — Come and hear: If it [the bird] struggled, entered within[19] and then returned,[20] it is fit. Hence, if, however, [the priest] took it in, it is disqualified.[21] Then according to your reasoning, when it is taught in connection with most sacred sacrifices, If it struggled and entered the south[22] and then returned, it is fit; [will you infer], but if he [the priest] carried it out [of the north into the south] it is disqualified?[23] Rather, this is required where it went without; so there too, it is required where it went without.[24]

R. Abin asked: What if the blood [of the bird-offering] poured out on to the pavement,[25] and one collected it? [Do we say that] the Divine Law merely did not demand[26] a service vessel,[27] and therefore one collects it and it is fit;[28] or perhaps, in its case the Divine Law actually disqualified a service vessel, and therefore one collects it, but it is disqualified?[29] — Said Raba, Come and hear: You might think that the blood of a bird sin-offering necessitates washing; therefore ‘this is’ is stated. Now, if you think that in its case the Divine Law actually disqualified a service vessel, I can infer this since it was disqualified in the air-space of a vessel![30] — Said R. Huna son of Joshua: [The text is necessary] where one presses the garment[31] to its neck.[32]

Levi asked Rabbi:[33] What if it spurted from one garment on to another garment?[34] [Do we say,] It was rejected from the first garment in respect of washing,[35] or not? — That is indeed a question, he replied. It does need washing, on either alternative: if one can collect [the blood] and it is fit [for sprinkling], then this is fit.[36] While if it is collected and disqualified,[37] I agree with R. Akiba who maintained [that] if it had a period of fitness and was then disqualified, its blood necessitates washing.

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(1) I.e , the emurim are burnt on the altar. The inner sin-offering has all these in common with the outer, whereas the bird sin-offering is unlike the outer in all these respects.

(2) Lev. VI, 19.

(3) ‘It’ sing., implies that the passage speaks only of one of the sin-offerings which may be eaten; hence the bird sin-offering is excluded.

(4) Since you already have a limitation in ‘it’.

(5) Not a limitation at all.

(6) Now that we know from ‘this is’ that a limitation is intended, ‘shall eat it’ teaches that the limitation concerns those which are eaten.

(7) Haza'ah, from which yazzeh is derived, is written only in connection with the inner sin-offerings, but not in connection with the outer sin-offerings, where zarak is written (both haza'ah and zerikah denote sprinkling, but the latter implies with more force than the former). Hence the Writ refers primarily to inner sin-offerings, and it is the outer sin-offerings which are included by ‘the law of’, implying one law for all.

(8) Which shews that it refers primarily to outer sin-offerings.

(9) V. Lev. VI, 21.

(10) Emended text (Sh.M.).

(11) The more obvious should be mentioned first, and according to Rabbah that is the inner sin-offering.

(12) If yazzeh shews that inner sin-offerings are primarily meant, the same should apply to a bird sin-offering, as this word is written in connection with it too.

(13) Sc. like the inner sin-offering.

(14) Into the hekal.

(15) Not in a service-vessel; but its neck was taken within and ipso facto the blood too. Is the sacrifice disqualified under the law forbidding the blood of an outer sin-offering to be taken within (v. Lev. VI, 23), or not?

(16) Since no service vessel is required in its case, the blood being sprinkled straight from the throat, the throat itself may take the place of a service vessel.

(17) Ibid., 23.

(18) Only when the blood alone is taken in, sc. in a service vessel, is the sacrifice disqualified, but not when it is taken in by means of the flesh.

(19) Into the hekal.

(20) I.e., its head was nipped near the hekal, and in its death struggles it entered therein.

(21) This assumes that only when it entered itself is it fit.

(22) The south side of the Temple court; it was killed in the north.

(23) Surely not, for no barrier divided the north from the south, to disqualify a sacrifice if its blood was carried from one into the other.

(24) Do not infer that if one carried it out it is unfit (that is obviously incorrect), but that if it struggled and went out of the Temple court, even if it returned, it is disqualified. Similarly, the bird remains fit only if it struggled and entered within; but if it struggled out of the Temple court, it is disqualified. No deduction, however, is to be made where one carried the bird within.

(25) Of the Temple court.
(26) Lit, ‘make it need.’
(27) The bird's throat counting as such.
(28) Just as when the blood of an animal-offering is spilt from the service vessel in which it was received.
(29) For sprinkling, for Scripture insisted that it must be sprinkled direct from the throat.
(30) As soon as the blood enters the airspace above the garment it is technically received in a vessel (a garment ranks as a utensil or vessel) and is disqualified for sprinkling. Consequently the garment need not be washed, for only blood fit for sprinkling necessitates washing. What need then is there of a text?
(31) Lit., ‘vessel.’
(32) So that the blood did not enter the air-space above the garment at all. Even then it need not be washed.
(33) Emended text (Sh.M.).
(34) This refers to the blood of an animal sin-offering.
(35) When it fell on the first garment it became unfit for sprinkling, since it must be washed out, and therefore the second garment does not need washing.
(36) Although it should be washed out of the first garment, yet as long as this was not done, it is fit for sprinkling, just as though it had fallen on to the pavement; and so fit blood spurted on to the second garment.
(37) For further sprinkling.

Talmud - Mas. Zevachim 93a

Rami b. Hama asked R. Hisda: What if it spurted on to an unclean garment?[1] R. Huna the son of R. Joshua observed: Since he asks thus, you may infer that he holds that if it had a period of fitness and was disqualified, its blood does not necessitate washing. [Nevertheless his question is:] is that only when they come consecutively, but not when they come simultaneously; or perhaps there is not difference?[2] — He [R. Hisda] replied: This is a controversy of R. Eleazar and the Rabbis, in accordance with Rabbah's view, and as explained by Abaye. For it was taught: R. Eleazar said: If the water of lustration[3] was defiled, it cleanses [an unclean person],[4] for lo, we sprinkle [the water of lustration] upon a niddah.[5] Now Rabbah observed: R. Eleazar said this in accordance with the thesis of R. Akiba, his teacher, who maintained that when the vessel [containing the water of lustration] is carried over an unclean place, it is as though it rested there.[6] For we learnt: If a man stood on the outer side of an oven, and a reptile was in the oven, and he put forth his hand to the window, took a flask, and carried it across the oven,[7] R. Akiba declares it unclean, while the Rabbis declare it clean. Now, they disagree in this: R. Akiba holds that it is as lying,[8] while the Rabbis hold that it is not as lying [thereon]. But Abaye raised an objection: [It was taught:] R. Akiba admits that in the case of sprinkling, if one carried it over an unclean earthen vessel or over an unclean couch or seat, it is clean,[9] for nothing defiles above as below[10] save as much as an olive of a corpse and other things which defile through overshadowing,[11] which includes a leprous stone![12] Rather said Abaye: All agree that it is not as though it lay thereon, but here they differ in this: R. Akiba holds that we enact a preventive measure, lest it lay thereon;[13] while the Rabbis hold that we do not enact a preventive measure. But R. Akiba admits in the case of sprinkling,[14] for since it has gone out, it has gone out.[15] Now, wherein do R. Eleazar and the Rabbis disagree?[16] — Said Abaye: They disagree as to whether we draw an analogy between previous defilement and contemporary defilement: one master holds that we draw an analogy,[17] and the other master holds that we do not draw an analogy.[18] Raba said: All hold that we do not draw an analogy; but here they disagree in this: R. Eleazar holds that sprinkling requires a [minimum] standard, and sprinklings combine; while the Rabbis hold that sprinkling does not require a [minimum] standard.[19]

THE BLOOD OF A DISQUALIFIED SIN-OFFERING etc. Our Rabbis taught: [And when there is sprinkled] of the blood thereof[20] [that means,] of the blood of a fit [sacrifice], but not of the blood of a disqualified [one].[21] R. Akiba[22] said: If it had a period of fitness and was [subsequently] disqualified, its blood necessitates washing; if it did not have a period of fitness and was disqualified ab initio, its blood does not necessitate washing. Whereas R. Simeon maintained: In both cases its blood does not necessitate washing. What is R. Simeon's reason? — ‘Thereof’ is written,[23] and ‘of the blood thereof’ is written:[24] one [excludes] where it had a period of fitness, and the other excludes where it did not have a period of fitness.[25] And R. Akiba?[26] — ‘Thereof’ excludes terumah.[27] R. Simeon, however, is consistent with his view, for he maintained: Lesser sacrifices do not necessitate scouring and rinsing, and how much the more terumah![28]

MISHNAH. IF [BLOOD] SPURTED [DIRECT] FROM THE [ANIMAL'S] THROAT ON TO A GARMENT, IT DOES NOT NECESSITATE WASHING; FROM THE HORN OR FROM THE BASE [OF THE ALTAR], IT DOES NOT NECESSITATE WASHING. IF IT POURED OUT ON TO THE PAVEMENT AND [THE PRIEST] COLLECTED IT, IT[29] DOES NOT NEED WASHING. ONLY BLOOD WHICH WAS RECEIVED IN A VESSEL AND IS FIT FOR SPRINKLING NECESSITATES WASHING.

GEMARA. Our Rabbis taught: You might think that, if [the blood] spurted from the throat on to the garment, it necessitates washing; therefore it states, ‘and when there is sprinkled [etc.]’: I ordered thee [to wash the garment] only when [the blood] is fit for sprinkling.[30] Another [Baraitha] taught: You might think that, if it spurted from the horn or from the base, it requires washing, therefore it states, ‘and when there shall be sprinkled’: that excludes this [blood], which was already sprinkled.

IF IT POURED OUT ON TO THE PAVEMENT etc.

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(1) Whereby the blood was defiled, and so disqualified for sprinkling. Do we regard it as though it were defiled before it touched the garment, and hence does not necessitate washing; or perhaps the defilement of the blood and the obligation to wash the garment came simultaneously?

(2) He asks only if it fell on an unclean garment; hence he holds that if the blood was defiled before it fell, thus having been fit and then become disqualified, it certainly does not necessitate washing. But his question is whether that is only where these came consecutively, i.e., first the blood was disqualified and then it spurted on to the garment; or does it hold good even when both are simultaneous?

(3) Running water mixed with the ashes of the red heifer; this was sprinkled on a person defiled through the dead as a purificatory rite; v. Num. XIX.

(4) Just as though it had not been defiled.

(5) If a niddah was defiled through the dead, thereby becoming doubly unclean, both as a niddah and as one defiled by the dead, we besprinkle her with the water of lustration, while she is still a niddah, and the subsequent immersion counts for both forms of uncleanness, since we do not find Scripture ordering her first to perform immersion as a niddah and then to be besprinkled and repeat her immersion on account of her defilement through the dead. Now, as the water of lustration touches her, it is defiled itself through contact with a niddah, and yet it cleanses her. Now the analogy is apparently faulty, for here the defilement of the water and its sprinkling upon the woman are simultaneous, whereas R. Eleazar speaks of a case where the water was defiled first. Rabbah proceeds to explain why R. Eleazar regards it nevertheless as a true analogy.

(6) And unclean.

(7) An oven stood near a wall, in which was a window with a flask containing water of lustration; inside the oven lay a reptile, which made it unclean. A man, standing on the outer side of the oven, took the flask from the window, and in taking it to himself naturally carried it above the oven, through the air-space.

(8) On the oven, and is therefore defiled by it.

(9) I.e.,if the water of lustration was sprinkled upon an unclean person, and in its passage passed over unclean vessels etc., it remains clean.

(10) Nothing defiles anything above, passing through its air-space, as when it is below, actually touching it.

(11) Lit. ‘tent’. This is a technical expression denoting defilement caused by the defiler being under the same covering (technically called a tent) as the defiled. E.g., everything in a room containing a corpse, or as much as an olive of a corpse, is unclean through being under the same covering as the corpse.

(12) All things, both animate and inanimate, smitten with leprosy, defile through overshadowing. — Now, an oven unclean through a reptile does not defile through overshadowing. Hence this contradicts Rabbah's statement that R.

Akiba holds there too that the air-space above an article defiles the water of lustration just as though it touched it.

(13) We declare this vessel unclean, lest one think that even if it actually lay on the oven it is still clean. Sh.M. emends: lest one lay it (thereon). — Thus the vessel (and, of course, its contents) are only Rabbinically unclean, but clean by Scriptural law.

(14) Where not the vessel but the water itself passed through the air-space of something unclean, as it was sprinkled.

(15) Since the water leaves the priest's hand as he sprinkles it, we need not fear that he will place the water on the oven.

(16) Above, when R. Eleazar draws an analogy with a niddah, which the Rabbis reject.

(17) Sc. R. Eleazar: he draws an analogy with niddah, where the defilement is contemporary, i.e., simultaneous(v. n. 10. p. 446).

(18) Therefore if water of lustration was defiled before, it does not cleanse. — Similarly, when blood of an animal sin-offering spurts on to an unclean garment, R. Eleazar will rule that it must be regarded as unclean (hence disqualified for sprinkling) even before it spurted, and therefore the garment need not be washed. The Rabbis, however, who reject this view, will rule that it must be washed. This then is the answer to Rami b. Hama's question, sc. that it is dependent on Tannaim.

(19) V. supra 80a. Now, the first sprinkling does not contain the minimum standard, and so does not count as sprinkling; nevertheless it is defiled when it falls on the niddah. Hence at the next sprinkling, which is to combine with the first, the first is already unclean. Therefore it is a case of previous defilement, and is completely analogous to sprinkling with defiled water of lustration. The Rabbis, however, maintain that sprinkling does not require a minimum standard, and so the first counts as sprinkling; hence defilement and sprinkling are simultaneous, and no inference can be drawn in respect of previous defilement. — The R. Eleazar here is R. Eleazar b. Shammu'a, a disciple of R. Akiba; the R. Eliezer supra 80a, who maintains that sprinkling does not require a minimum standard, is R. Eliezer b. Hyrcanus.

(20) Lev. VI, 20.

(21) ‘Thereof’ is a limitation.

(22) Marginal emendation, R. Jacob.

(23) In v. 22, after the law of scouring and rinsing in v. 21: Every male among the priests may eat thereof.

(24) These are two limitations.

(25) Marginal emendation.

(26) How does he explain the second limitation?

(27) If terumah is boiled in a pot, it does not need scouring and rinsing.

(28) Hence no limitation is required in respect of terumah.

(29) The garment on which it fell.

(30) I.e., received in a vessel.

Talmud - Mas. Zevachim 93b

Why do I need this too?[1] — He states the reason: What is the reason that IF IT POURED OUT ON TO THE PAVEMENT AND [THE PRIEST] COLLECTED IT, IT DOES NOT NEED WASHING? — Because ONLY BLOOD WHICH WAS RECEIVED IN A VESSEL AND IS FIT FOR SPRINKLING NECESSITATES WASHING.

FIT FOR SPRINKLING. What does this exclude? — It excludes the case where one received less than is required for sprinkling in one vessel and less than is required for sprinkling in another vessel.[2] For it was taught: R. Halafta b. Saul said: If he sanctified less than is required for sprinkling in one vessel, and less than is required for sprinkling in another vessel,[3] he has not sanctified it.[4] Now it was asked: How is it with blood? Is it a traditional law,[5] and we cannot learn from a traditional law,[6] or perhaps, what is the reason there? Because it is written,And a clean person shall take [hyssop,] and dip it in the water;[7] so here too it is written, And [the priest] shall dip [his finger] in the blood?[8] — Come and hear, for R. Zerika said in R. Eleazar's name: In the case of blood too he does not sanctify it.

Raba said, It was taught: And [the priest] shall dip:[9] but not sponge up; in the blood:[9] there must be sufficient blood for dipping from the beginning; [and sprinkle] of the blood:[9] of the blood specified in this passage.[10] Now, it is necessary to write both ‘and he shall dip’ and ‘in the blood’.[11] For if the Divine Law wrote ‘and he shall dip’ [only], I would say, even where there is insufficient for dipping in the first place; therefore the Divine Law wrote ‘in the blood’. And if the Divine Law wrote ‘in the blood’ [only], I would say that he may even sponge it up; therefore the Divine Law wrote, ‘and he shall dip’.[12] What does ‘of the blood specified in this passage’ exclude? — Said Raba: It excludes the [blood] remaining on his finger.[13] This supports R. Eleazar. For R. Eleazar said: The [blood] remaining on his finger is unfit.

Rabin son of R. Adda said to Raba: Your disciple said in R. Amram's name: It was taught: If [the priest] was sprinkling, and [the blood of] the sprinkling spurted out of his hand,[14] [and this happened] before he had sprinkled, it needs washing; after he had sprinkled, it does not need washing. Surely this is what he means: [If it happened] before he finished sprinkling, it needs washing; after he finished sprinkling, it does not need washing.[15] — No: this is what he means: before the sprinkling had left his hand, it necessitates washing; after it had gone forth from his hand, it does not need washing.[16]

Abaye raised an objection to him: When he finished sprinkling,[17] he wipes his hand on the body of the heifer.[18] Thus, only if he finished, but not if he had not finished![19] — Said he to him: When he finished, he wiped his hand on the body of the heifer; before he finished, he simply wiped his finger. Now, when he finishes, it is well: he wipes his hand on the body of the heifer, as it is said, And the flesh shall he burn in his sight, [her skin, and her flesh, and her blood . . . shall be burnt].[20] But on what does he wipe his finger?[21] — Said Abaye: On the edge of the bowl, as it is written, Wipers [cleansers] of gold.[22]

MISHNAH. IF [THE BLOOD] SPURTED ON TO THE SKIN, BEFORE IT WAS FLAYED, IT NEED NOT BE WASHED; [IF IT SPURTED] AFTER IT WAS FLAYED, IT MUST BE WASHED: THESE ARE THE WORDS OF R. JUDAH. R. ELEAZAR SAID: [IT NEED NOT BE WASHED] EVEN [IF IT SPURTED] AFTER IT WAS FLAYED. ONLY THE PLACE OF THE BLOOD NEEDS WASHING.[23] AND WHATEVER IS ELIGIBLE TO CONTRACT UNCLEANNESS,[24] AND IS FIT FOR WASHING, WHETHER A GARMENT, A SACK, OR A HIDE, MUST BE WASHED. THE WASHING MUST BE IN A HOLY PLACE;[25] THE BREAKING OF AN EARTHEN VESSEL MUST BE IN A HOLY PLACE; AND THE SCOURING AND RINSING OF A BRAZEN VESSEL MUST BE IN A HOLY PLACE.[26] IN THIS THE SIN-OFFERING IS MORE STRINGENT THAN [OTHER] SACRIFICES OF HIGHER SANCTITY.

GEMARA. How do we know it? — Because our Rabbis taught: [And when there is sprinkled of the blood thereof upon] a garment:[27] I know it only of a garment: whence do I know to include the skin, after it is flayed? Because it says, thou shalt wash that whereon it was sprinkled.[28] You might think that I include the skin [even] before it was flayed: therefore it states, ‘a garment’: as a garment is an article eligible to contract uncleanness, so everything that is eligible to contract uncleanness [is included]:[29] these are the words of R. Judah. R. Eleazar said: ‘A garment’: I know it only of a garment; whence do I know to include a sack

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(1) It is included in the first ruling.

(2) Then they were combined in one vessel, and some blood spurted on a garment; that garment does not need washing. Thus the Mishnah means. Only blood which was fit for sprinkling when it was received in a vessel; here, however, it was not fit then.

(3) This refers to the water of lustration, which was sanctified for its purpose by being mixed with the ashes of the red heifer.

(4) For he must sanctify as much as is required in one vessel.

(5) In the case of the water of lustration. — A traditional law is one handed down by tradition, and not Learnt directly or by inference from Scripture.

(6) In respect of other cases.

(7) Num. XIX, 18. The def. art. implies, in the water mentioned above, sc. the water sanctified for lustration; conversely it implies that the water when sanctified was sufficient for dipping, i.e., sprinkling.

(8) Lev. IV, 6.

(9) Ibid.

(10) This is explained anon.

(11) Emended text (Sh.M.).

(12) For notes v. supra 40b.

(13) He must not sprinkle with the blood left on his finger, but must dip his finger into the blood for each of the seven sprinklings.

(14) On to a garment. — This refers to inner sin-offerings.

(15) That implies that if blood which remained on his finger after one of the sprinklings spurted on to a garment, it must be washed. As a corollary, that remaining blood must be fit for sprinkling, for only such necessitates washing. Hence this contradicts R. Eleazar.

(16) I.e., he had dipped his finger into the blood: now, if this blood spurted off his finger before he had sprinkled it, it necessitates washing; if after, it does not, precisely because it is then the residue of the blood.

(17) The blood of the red heifer; v. Num. XIX, 4.

(18) For the blood must be burnt together with the body.

(19) Yet if he does not wipe it, he is using this blood for the next sprinkling-there were seven in all.

(20) Num. XIX, 5.

(21) Between the sprinklings. He cannot wipe it on the body, as he would soil his finger through hairs sticking to it.

(22) Ezra. 1, 10; cf. supra. 25a.

(23) But not the whole skin.

(24) V. discussion infra.

(25) In the Temple court.

(26) V. Lev. VI, 21: But the earthen vessel wherein it (sc. the flesh of a sin-offering) is sodden shall be broken; and If it be sodden in a brazen vessel, it shall be scoured, and rinsed in water.

(27) Lev. VI, 20.

(28) This is a repetition, and intimates extension.

(29) After a skin is flayed it can be put to use as it is, without further dressing; therefore if its owner expressly intended to use it thus, it is technically a utensil, and subject to defilement. Before it is flayed, however, it cannot be put to use, and cannot become unclean.

Talmud - Mas. Zevachim 94a

and all kinds of garments?[1] Because it says, 'thou shalt wash that whereon it was sprinkled'. You might think that I can include a skin after it was flayed? Therefore it says, 'a garment': as a garment is an article which contracts uncleanness, so everything which contracts uncleanness [is included].[2] Wherein do they differ?[3] — Said Abaye: They differ about a cloth less than three [fingerbreadths square].[4] He who says [that it must be] eligible, this too is eligible, for if [its owner] desires, he can intend it [for use]. But he who maintains, anything which contracts uncleanness, this at all events cannot contract uncleanness.[5] Raba said, They disagree over a garment which [its owner] intended to embroider.[6] He who maintains [that it must be] eligible, this too is eligible, for if [its owner] desires, he can abandon his intention. He however who maintains, anything which can contract uncleanness: now at all events it cannot contract uncleanness. Others state,[7] Raba said: They disagree about an [untrimmed] hide which he intended to trim.[8] He who maintains [that it must be] eligible, this too is eligible; he however who maintains, anything which can contract uncleanness, this however cannot contract uncleanness until he trims it. And it was taught even so: R. Simeon b. Menassia said: A hide which [its owner] intended trimming is clean[9] until he trims it.

ONLY THE PLACE OF THE BLOOD NEEDS WASHING. How do we know it? — For our

Rabbis taught: You might think that if [the blood] spurted on part of the garment, the whole garment must be washed. Therefore it states, ‘[thou shalt wash] that whereon it was sprinkled’: I ordered thee [to wash] only the place of the blood.

WHATEVER IS ELIGIBLE TO CONTRACT UNCLEANNESS. This anonymous teaching agrees with R. Judah.[10] AND FIT FOR WASHING excludes a vessel which requires scraping.[11]

WHETHER A GARMENT, SACKCLOTH, OR HIDE. Are we to say that a skin can be washed? But the following contradicts this: If dirt is upon it, one wipes it off with a rag; if it is of leather [skin], water is poured over it until it disappears.[12] — Said Abaye, There is no difficulty: one agrees with the Rabbis; the other agrees with ‘others’.[13] For it was taught: A garment and sackcloth are washed;[14] a vessel and a skin are scraped; others maintain: A garment, sackcloth, and skin are washed; while a vessel is scraped.

With whom does the following statement of R. Hiyya b. Ashi agree, [viz.:] I stood many times before Rab, and dabbed his shoes with water?[15] With whom? With the Rabbis.[16]

Raba observed: Does anyone maintain that skin is not washable? Surely it is written, And the garment, or the warp, or the woof, or whatsoever thing of skin it be, which thou shalt wash![17] Rather said Raba: The Scriptural text and our Mishnah refer to soft [skins], whereas they disagree about hard [skins].[18] But surely R. Hiyya b. Ashi said: I stood many times before Rab, and dabbed his shoes with water?[19] — They were of hard [leather], and [he acted] in accordance with the Rabbis.

Subsequently Raba said: My statement was incorrect. Are we to say that the text refers [only] to soft [skins]? Does it not refer [even] to foresters’ apparel which comes from overseas,[20] yet the Divine Law states that it must be washed?[21] Rather said Raba: Leprosy,[22] since it breaks out in the article itself, moistens it and softens it.[23]

Raba observed: If I have a difficulty, it is this:

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(1) Garments made of any materials. A garment usually was of wool.

(2) A garment contracts uncleanness whether its owner intends to use it or not; hence the hide, even after it is flayed, is not included, because it does not contract uncleanness, but can only be made to contract uncleanness, by the owner's intention to use it.

(3) What garment is merely eligible to become unclean, though at present it cannot become unclean?

(4) This is the smallest piece which counts technically as a ‘garment’. A smaller piece ranks as a garment only if the owner intends to use it.

(5) Without its owner's intention. Hence if the blood spurted on such a cloth, in R. Judah's opinion it must be washed, but not in R. Eleazar's.

(6) I.e., even a larger piece of cloth, but which has not yet been used, because its owner had expressed his intention to embroider it first. This counts as unfinished, and hence not a ‘garment’; nevertheless, if the owner expressly abandons his intention, it becomes a ‘garment’. Thus it is eligible, but cannot contract uncleanness at present.

(7) Marginal addition.

(8) ‘Uzba is anything used as a rug or mat or tablecloth; it is generally of hide, but sometimes of cloth. Now, if one intended to use it for such purpose, it immediately ranks as a utensil, even before it is trimmed, and hence can be defiled. But if he intended trimming it, it cannot become unclean until he either trims it or abandons his intention.

(9) I.e., it cannot become unclean.

(10) Though its author is not named, we know from the Baraitha that it is R. Judah's view. — When an individual's view is stated anonymously in the Mishnah, it is generally the halachah.

(11) E.g., a wooden vessel, whence it may be impossible to wash out the blood. This does not need washing at all but scraping.

(12) This treats of the Sabbath, when washing garments is forbidden as a prohibited labour. Dirt on a cushion may be wiped off with a cloth, but not with water, as this constitutes washing. Water, however, may be poured over skin, for that is not regarded as washing. Thus skin is not technically subject to washing.

(13) ‘Others’ generally refers to it. Meir; Hor: 13b.

(14) If the blood of a sin-offering spurts upon them.

(15) On the Sabbath.

(16) Who hold pouring water over skin (or leather) is not washing.

(17) Lev. XIII, 58.

(18) E.g., leather.

(19) It is now assumed that they were of soft leather.

(20) It was manufactured of hard leather.

(21) Scripture does not limit itself but writes, or whatsoever thing of skin it be.

(22) To which the passage refers.

(23) Any leather garment. — Hence the text refers even to hard leather; our Mishnah refers to soft; while the controversy is in respect of hard.

Talmud - Mas. Zevachim 94b

pillows and bolsters are soft, yet we learnt: ‘If it is of leather, water is poured over it until it disappears’?[1] — Rather said Raba: All washing without rubbing is not called washing. And as to R. Hiyya b. Ashi's statement, I stood many times before Rab and dabbed his shoes with water; dabbing is [permitted], but not rubbing. [Now, our Mishnah treats] either of soft [skins], and it agrees with all; or of hard ones, and it agrees with ‘others’. If so, [let water be poured] even [over] a garment too?[2] — In the case of a garment, soaking it [in water] constitutes its washing. Now, Raba is consistent with his view. For Raba said: If one threw a scarf into water, he is culpable;[3] if one threw linseed into water, he is culpable. As for a scarf, it is well, [as] he thereby washes it. But what is the reason In the case of linseed? And should you say, because he causes it to grow;[4] if so, the same applies to wheat and barley too?-This [linseed] emits mucus.[5] If so, the same applies to [undressed] hides?[6] — There he kneads.[7]

Raba lectured: It is permitted to wash a shoe on the Sabbath. Said R. Papa to Raba. But surely R. Hiyya b. Ashi said: I stood many times before Rab, and dabbed his shoes with water for him. Thus, only dabbing [is permitted], but not washing? Subsequently Raba appointed an interpreter before him and lectured:[8] What I told you was an error; but in truth, dabbing is permitted but washing is forbidden.

THE WASHING MUST BE IN A HOLY PLACE, etc. How do we know it?-Because our Rabbis taught: Thou shalt wash in a holy place:[9] from this we learn that the washing must be in a holy place.[10] How do we know that earthen vessels must be broken? Because it says, But the earthen vessel wherein it is sodden shall be broken.[11] How do we know that brazen vessels must be scoured and rinsed? Because it says, And if it be sodden in a brazen vessel, it shall be scoured and rinsed in water.[12]

IN THIS THE SIN-OFFERING IS MORE STRINGENT, etc. And is there nothing else:[13] surely there is the fact that its blood enters within?[14] — This refers to outer sin-offerings.[15] But outer sin-offerings too [have a peculiar stringency, viz.] if their blood entered within, they are disqualified? — This is in accordance with R. Akiba, who maintained: All bloods which enter the hekal to make atonement are disqualified.[16] Yet there is the fact that they make atonement for those who are liable to kareth? — This refers to the sin-offering for the ‘hearing of the voice’ or ‘oath of utterance’.[17] Yet there is the fact that they require four sprinklings? — This agrees with R. Ishmael who maintained: All blood requires four sprinklings. But there is the fact that [the sprinklings must be] on the four horns? — Yet on your reasoning, surely there are the horn, the finger, and the edge?[18] Rather, [the Tanna] mention one out of two or three stringencies.

MISHNAH. IF A GARMENT[19] WAS CARRIED OUTSIDE THE HANGINGS,[20] IT MUST RE-ENTER, AND IT IS WASHED IN A HOLY PLACE. IF IT WAS DEFILED WITHOUT THE HANGINGS[21] ONE MUST TEAR IT,[22] THEN IT RE-ENTERS, AND IS WASHED IN A HOLY PLACE. IF AN EARTHEN VESSEL WAS CARRIED OUTSIDE THE HANGINGS, IT RE-ENTERS AND IS BROKEN IN A HOLY PLACE. IF IT WAS DEFILED WITHOUT THE HANGINGS, A HOLE IS MADE IN IT, THEN IT RE-ENTERS AND IS BROKEN IN A HOLY PLACE. IF A BRAZEN VESSEL WAS CARRIED OUTSIDE THE HANGINGS, IT RE-ENTERS AND IS SCOURED AND RINSED IN A HOLY PLACE. IF IT WAS DEFILED OUTSIDE THE HANGINGS, IT MUST BE BROKEN THROUGH,[23] THEN IT RE-ENTERS AND IS SCOURED AND RINSED IN A HOLY PLACE.

GEMARA. To this Rabina demurred. [You say,] ONE MUST TEAR IT: Surely the Divine Law speaks of a ‘garment’, and this is not a garment?[24] — He leaves enough of it [untorn] to be used as an apron.[25] But that is not so, for surely R. Huna said: They learnt this[26] only if one did not leave enough to be used as an apron [untorn], but if one left enough to be used as an apron, it is [technically] joined?[27]

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(1) Supra in connection with the Sabbath.

(2) Why must the dirt be wiped off only with a rag?

(3) For washing on the Sabbath, to which this refers.

(4) In the water. Thus it is a form of sowing, and for this he is culpable.

(5) Thin threads of mucus ooze from these seeds when they are put into water, which fastens them together.

(6) From these too a mucus issues in water.

(7) When the mucus causes the linseed to stick together, it is a kind of kneading, for which he is culpable. But kneading is inapplicable to hides.

(8) The Rabbis gave their public lectures through interpreters (amora).

(9) Lev. VI, 20.

(10) Emended text (Sh.M.).

(11) Ibid. 21.

(12) Ibid.-In each case the question is: how do we know that these things must be done in a holy place? The answer is, by reading ‘in a holy place’ with what follows, as well as with what precedes, thus: and in a holy place shall the earthen vessel... be broken (and) a brazen vessel... be scoured and rinsed; v. Sifra a.l.

(13) In which the sin-offering is more stringent.

(14) In the inner sanctuary (hekal), which feature is absent from other most sacred sacrifices.

(15) Whose blood was not taken into the hekal.

(16) V. supra 81b.

(17) V. Lev. V, 1. 4 seq. — Kareth is not incurred for these even if they are committed deliberately.

(18) The blood of the sin-offering must be applied with the finger, on the horn, and on the edge of the horn. In all these too it is more stringent than other most sacred sacrifices.

(19) Which needed washing through the blood.

(20) I.e.,outside the Temple court.

(21) In which condition it cannot re-enter, because nothing unclean may be taken into the Temple court.

(22) It ceases to be a garment, and thereby ceases to be unclean.

(23) I.e.,a very large hole made in it. Metal vessels do not lose their uncleanness through a small hole.

(24) Scripture orders the garment to be washed, which implies that it must be a garment when it is washed.

(25) He does not tear it right across, but leaves the width of an apron (or duster) untorn. Since the greater part of it is torn it ceases to be unclean; nevertheless, since so much is left untorn, it is still technically a garment.

(26) That a garment loses its uncleanness when it is torn.

(27) And remains unclean.

Talmud - Mas. Zevachim 95a

Talmud - Mas. Zevachim 95a

That is by Rabbinical law [only].[1]

IF AN EARTHEN VESSEL WAS CARRIED OUTSIDE etc. But the Divine Law spoke of a ‘vessel’, and this is not a vessel? — The hole is only large enough for a little root.[2]

IF A BRAZEN VESSEL... IT MUST BE BROKEN THROUGH etc. But then it is not a vessel? — He hammers [the hole] together.[3]

Resh Lakish said: If the [priest's] robe became unclean,[4] one must take it in less than three [fingerbreadths] square at a time, and wash it, because it is said, That it [the robe] be not rent.[5] R. Adda b. Ahabah objected: Thick [garments] and soft [unwoven garments] are not subject to the law of three [fingerbreadths] square?[6] -They count, because of the parent [piece].[7]

But surely it requires seven substances, for R. Nahman said in Rabbah b. Abbuha's name: The blood of the sin-offering and the appearance of leprosy require seven substances; whereas it was taught: But that urine may not be taken into the Temple?[8]

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(1) As a preventive measure, lest one does not tear the greater part of it. but Scripturally it is clean, and here the Rabbis waived this measure in order that the precept of washing may be fulfilled.

(2) Of a plant to push through. That suffices to make it clean, but not deprive it of the status of a vessel.

(3) Having broken it through, whereby it became clean, he then hammers the hole together, which makes it a vessel again.

(4) Outside the Temple court.

(5) Ex. XXVIII, 32. Hence it cannot be torn, as the Mishnah states. Therefore less than three finger-breadths square of it must be insinuated into the Temple court at a time, as then it does not count as an unclean garment.

(6) They cannot be unclean unless they are three handbreadths square. Now, the robe was of thick cloth; why then cannot one take in three handbreadths square at a time?

(7) As they are not separate pieces, but part of the whole robe, even three finger-breadths square counts technically as a garment.

(8) This is a difficulty according to the Mishnah: A garment on which the blood of a sin-offering spurted, as well as a garment which showed symptoms of leprosy, which must also be washed, needs the application of seven substances to cleanse it, viz., tasteless saliva, the liquid exuded by crushed beans, urine, natron, lye, Cimolean earth, and ashleg (v. Sanh. Sonc. ed. p. 330). How then can it be washed in the Temple Court, seeing that urine must not be brought there?

Talmud - Mas. Zevachim 95b

And should you say that one mixes it in with the seven substances[1] and applies them all at once; surely we learnt: If they were not applied in their order,[2] or if they were all applied simultaneously, it is of no avail? And should you say that he mixes it up in one of the substances; but surely we learnt [that] he must rub the stain three times with each [substance]? — Rather, he mixes it up in tasteless saliva, for Resh Lakish said: There must be tasteless saliva with each one.

MISHNAH. WHETHER ONE BOILED THEREIN OR POURED BOILING [FLESH ETC.] INTO IT, WHETHER MOST SACRED SACRIFICES OR LESSER SACRIFICES, [THE POT] REQUIRES SCOURING AND RINSING. R. SIMEON SAID: LESSER SACRIFICES DO NOT NECESSITATE SCOURING AND RINSING.

GEMARA. Our Rabbis taught: [But the earthen vessel] which it is boiled in it.[3] I know it only when one boiled [the flesh] therein; how do I know it when one poured boiling [flesh] therein? Because it says, which [it is boiled] in it. [shall be broken].[4]

Rami b. Hama asked: What if one suspended [the flesh] in the air-space of an [earthen] oven?[5] Is the Divine Law particular about boiling and absorbing; or perhaps, [it is particular] about boiling [even] without absorbing?[6] — Said Raba, Come and hear: WHETHER ONE BOILED THEREIN OR POURED BOILING [FLESH] INTO IT![7] — We do not ask about absorbing without boiling;[8] we ask about boiling without absorbing: what is the law?-Come and hear, for R. Nahman said in Rabbah b. Abbuha's name: The Temple oven was of metal.[9] Now, if you think that [only] boiling and absorbing [necessitates] breaking, let it be an earthen one?[10] — Since there were the remainders of meal-offerings, which were baked in the oven, so that there is boiling and absorbing,[11] we must make it of metal.

A certain oven was greased with fat. [Thereupon] Raba b. Ahilai forbade for all time[12] the bread [baked therein] to be eaten even with salt, lest one come to eat it with kutah.[13] An objection is raised: One must not knead dough with milk, and if he does knead it, the whole loaf is forbidden, because it leads to sin.[14] Similarly, one must not grease an oven with fat, and if he does grease it, all the bread [baked therein] is forbidden until the oven is refired. This is a refutation of Raba b. Ahilai. [It is indeed] a refutation.

Rabina said to R. Ashi: Now since Raba b. Ahilai was refuted, why did Rab say: pots must be broken on Passover?[15] Rab maintained that there[16] a metal one is meant. Alternatively, it may be an earthen oven: this [the oven] is fired from the inside;[17] while the other [the pot] is fired on the outside. Then let us burn it [the pot] from within? — He would spare it, lest it break [burst].[18] Therefore a tiled pan,[19] since it is burnt from without,[20] is forbidden.[21]

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(1) The urine is not brought in separately, but mixed (lit. ‘swallowed’) with the other substances. Then it is not noticeable, and can be taken into the Temple.

(2) As enumerated in n. 11, p.458,

(3) Lev.VI, 21.

(4) Rashi: ‘shall be broken’ coming immediately after ‘in it’ indicated that every vessel shall be broken if anything of the sin-offering is absorbed in it, even if it had not actually been boiled in it. If boiling flesh is placed in the vessel, the vessel must absorb some of it.

(5) Thus boiling or cooking it.

(6) The flesh is thus cooked, but the oven absorbs nothing of it. Does Scripture mean that only a vessel in which it is boiled and which thereby absorbs some of it must be broken; or perhaps it must be broken even when it does not absorb?

(7) Thus even if one thing only happened to the vessel (i.e., it absorbed but was not used for actual boiling), it must be broken or scoured and rinsed. Presumably boiling without absorbing is the same.

(8) That obviously necessitates breaking, since absorption is the principal reason for the whole law. For after the time allowed for the consumption of this flesh, the absorbed matter becomes nothar (v. Glos.), which is forbidden, and it will impart its flavour to any other flesh that is subsequently boiled in it, unless it is scoured and rinsed. (Scouring and rinsing are not efficacious for earthen vessels, for which reason they must be broken.)

(9) It is assumed that the reason is that it should not have to be broken.

(10) For the flesh was not actually placed in the area, but cooked (or roasted) in it on a spit. — Their ovens were open on top.

(11) Baking is technically the same as boiling.

(12) Even if the oven should be fired and burnt through again.

(13) A preserve consisting of sour milk, bread-crusts and salt (Jast.). The bread of course receives the flavour of the fat, and must not be eaten with anything containing milk or a milk product.

(14) One might eat it with meat.

(15) For we see that greased ovens (these were generally of earth) can be refired and used, the heat expelling the traces of fat. Then let the pots too be subjected to fire, which would likewise expel the absorbed leaven (it was on account of the absorbed leaven that Rab forbade their use on Passover).

(16) The oven that could be refired.

(17) Which is efficacious to expel absorbed matter.

(18) Hence if he is told to burn it from within; he will burn it from without and think that enough.

(19) A kind of plaque made of tiles and upon which bread was baked.

(20) The coals being under it and the bread on top.

(21) For use on Passover.

Talmud - Mas. Zevachim 96a

Then why should the pots in the Temple be broken: let them be returned to the kiln?[1] — Said R. Zera: Because kilns are not permitted in Jerusalem.[2] Abaye retorted: And are then refuse heaps permitted in the Temple court?[3] [Abaye, however,] had overlooked what Shemaiah of Kalnebo[4] recited: The fragments of earthen vessels were swallowed up in their place.[5] Now, when R. Nahman said in Rabbah b. Abbuha's name, ‘The Temple oven was of metal’,let it be an earthen one, since It was heated within?[6] — Since the Two Loaves and the Shewbread[7] were baked in the oven and were sanctified in the oven, it became a service vessel, and we do not make earthen service vessels.[8]

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(1) Which would expel what they had absorbed.

(2) On account of the smoke.

(3) Sc. of broken potsherds.

(4) Kar-nebo, ‘the city of Nebo’, conjectured to be Borsippa, Funk, Monumenta, I, p. 299.

(5) Yoma 21a.

(6) And thus what it absorbed of the sacrifices would be expelled.

(7) V. Lev. XXIII, 15-17; Ex. XXV, 30.

(8) Offerings such as meal-offerings, loaves etc. were sanctified by being placed in service vessels. The Two Loaves and the Shewbread, however, were not placed in a service vessel, but were kneaded and shaped outside the Temple court, then brought in and baked in the oven. Thus the oven itself sanctified them, and ipso facto ranked as a service vessel.

Talmud - Mas. Zevachim 96b

And even R. Jose son of R. Judah said only that wooden ones [were permitted], but not earthen ones.[1]

R. Isaac the son of R. Judah used to attend Rami b. Hama[‘s lectures]. He left him and attended R. Shesheth[‘s lectures]. One day he [Rami b. Hama] met him, and observed: The noble[2] has taken us by the hand, and his scent has come into the hand![3] Because you have gone to R. Shesheth, you are like R. Shesheth![4] That was not the reason,he replied. Whenever I asked a question of you, you answered me from reason, [and] if I found a teaching[5] [to the contrary], it refuted.your answer. [But] when I ask a question of R. Shesheth, he answers it from a teaching, so that even if I find a teaching which refutes him, it is one teaching against another.[6] Said he to him: Ask me a question, and I will answer you in accordance with a teaching.[7] [Thereupon] he asked him: If one boiled [the sacrifice] in part of a vessel,[8] does it require scouring and rinsing, or does it not require [them]?[9] — It does not require them, he replied, by analogy with [the] spurting [of blood].[10] But it was not taught so, he protested?[11] — It is logical that it is like a garment, he replied; just as a garment needs washing only in the place of the blood,[12] so a vessel requires scouring and rinsing only in the place of boiling. How can you compare them, he objected: blood does not spread,[13] whereas boiling spreads.[14] Moreover It was taught: [The] spurting [of blood] is more stringent than scouring and rinsing, and scouring and rinsing are more stringent than spurting. Spurting is more stringent, since [the law of] spurting operates in respect to outer sin-offerings and inner sin-offerings, and it operated before sprinkling,[15] which is not so in the case of scouring and rinsing.[16] Scouring and rinsing are more stringent, in that scouring and rinsing are required for most sacred sacrifices and for lesser sacrifices; [again] if one boiled [the flesh] in part of a vessel, the whole vessel requires scouring and rinsing, which is not so in the case of spurting! — If it was taught, it was taught,[17] he replied. And what is the reason? Scripture says, And if it be boiled in a brazen vessel’, which means, even in part of a vessel.

WHETHER MOST SACRED SACRIFICES etc. Our Rabbis taught: [Scripture saith] A sin-offering:[18] I know it only of a sin-offering; how do I know it of all sacrifices? Because it says, it is most holy.[19] You might think that I include terumah; therefore it says, [Every male among the priests may eat] thereof, which excludes terumah[20] these are the words of R. Judah. R. Simeon said: Most holy sacrifices necessitate scouring and rinsing, [but] lesser sacrifices do not necessitate scouring and rinsing, because it is written, ‘It is most holy’: most holy sacrifices do [necessitate it], but lesser sacrifices do not. What is R. Judah's reason? — Since ‘thereof’ is necessary to exclude terumah, it follows that lesser sacrifices necessitate scouring and rinsing.[21] And R. Simeon?[22] — He can answer you: ‘Thereof’ Intimates what we said elsewhere.[23]

Now, does not terumah necessitate scouring and rinsing? Surely it was taught: You may not boil milk in a pot in which meat was boiled, and if one did, [the milk is forbidden] if it [the meat] could communicate its flavour [to it][24] If one boiled terumah in it, one must not boil hullin in it; and if one did, [the hullin is forbidden] if it [the terumah] could communicate flavour [to it]![25] — Said Abaye: This holds good[26] only in respect of what a master said, [viz.]: If one boiled [flesh] in part of a vessel, the whole vessel must be scoured and rinsed; but [in the case of] terumah only the part where it was boiled needs [scouring and rinsing]. Raba said: It holds good only in respect of what a master said: ‘[It shall be scoured and rinsed] in water’, but not in wine; ‘in water’, but not in a mixture:[27] this, however,[28] may be [scoured and rinsed] even in wine, even in a mixture. Rabbah b. ‘Ulla said: It holds good only in respect of what a master said: The scouring and rinsing must be in cold water;[29] this however is done in hot water.[30] That is well on the view that scouring and rinsing must be done in cold [water]; but on the view that the scouring is in hot water and the rinsing in cold,[31] what can be said?[32] , — There is the additional rinsing.[33]

MISHNAH. R. TARFON SAID: IF ONE BOILED [FLESH IN A POT] AT THE BEGINNING OF A FESTIVAL, HE CAN BOIL THEREIN DURING THE WHOLE FESTIVAL;[34] BUT THE SAGES MAINTAIN: UNTIL THE TIME OF EATING, SCOURING AND RINSING.[35] SCOURING [MERIKAH] IS AS THE SCOURING OF A GOBLET;[36] AND RINSING IS AS THE RINSING OF A GOBLET. SCOURING AND RINSING ARE DONE IN COLD [WATER].[37]

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(1) V. Suk. 50b.

(2) The alkafta or arkafta was a high Persian dignitary, v. Shebu. (Sonc. ed.) 6b.

(3) A proverbial taunt against those who cultivate high acquaintances, thinking that they are thereby ennobled themselves.

(4) You think that that will give you his reputation!

(5) A Mishnah or Baraitha.

(6) A controversy, and I may still adhere to the first.

(7) I will base my answer on logic, yet you will find a mathnitha to corroborate it.

(8) It was boiled with water, and so it could be boiled as it lay only in part of a vessel. Sh.M. explains that the other part of the vessel was not over the fire.

(9) Sc. the part in which the flesh was not boiled.

(10) When the blood spurts on part of a garment, only that part must be washed.

(11) We do not find a teaching to corroborate this, whereas you said that your answer could be corroborated.

(12) And that is explicitly taught in the Mishnah, supra 93b.

(13) There is no blood at all save where it can actually be seen on the garment.

(14) Even the part where the flesh does not lie absorbs some of it.

(15) Whether the blood be of an outer or an inner sin-offering, it necessitates the washing of the garment; also it applies to blood that spurts before it is sprinkled.

(16) Scouring and rinsing are required for outer sin-offerings only, which are eaten, since Scripture continues: Every male among the priests may eat thereof (Lev. VI, 22). For the same reason they are necessary only when the flesh is boiled after the sprinkling, for if boiled before the blood is sprinkled, it may not be eaten.

(17) I must accept it.

(18) Lev. VI, 18 q.v.; this introduces the law of scouring and rinsing, and therefore whatever this verse includes is included in the law of scouring and rinsing.

(19) Ibid. 22. It is explained anon that this includes not only most holy, but also lesser sacrifices.

(20) This limitation applies to all the laws of this section, including that of scouring and rinsing.

(21) For if they did not, then terumah, whose holiness is certainly less than theirs, would obviously not necessitate scouring and rinsing, and the Scriptural limitation would be superfluous.

(22) How does he rebut this?

(23) That only a fit sacrifice necessitates scouring and rinsing, but not an unfit one; v. supra 93a.

(24) If the pot had absorbed so much of the meat that it now would noticeably impart its flavour to the milk.

(25) As in the preceding note. Hence it must be made fit by scalding with boiling water, which expels the absorbed matter (this is called hag'alah), as otherwise whatever is subsequently boiled therein is forbidden to lay Israelites. It is assumed that hag'alah is the same as scouring and rinsing.

(26) This statement that terumah does not necessitate scouring and rinsing.

(27) Of wine and water.

(28) Sc. a vessel in which terumah was boiled.

(29) After hag'alah (v. n. 9, p. 463) is performed, which must be in boiling water, the vessels must be scoured and rinsed in cold water.

(30) I.e., hag'alah alone suffices.

(31) And that nothing else is required.

(32) For scouring in hot water is ordinary hag'alah, and terumah too necessitates that.

(33) Which ordinary hag'alah does not require.

(34) It need not be scoured and rinsed until the end of the festival.

(35) The Gemara explains the meaning of this.

(36) I.e., within and without. Grace after meals was recited over a goblet of wine, and this was first washed and rinsed within and without; v. Ber. 51a.

(37) Var. lec. scouring is in hot water and rinsing is in cold.

Talmud - Mas. Zevachim 97a

THE SPIT AND THE GRILLE[1] ARE SCALDED IN HOT WATER.[2] GEMARA. What is R. Tarfon's reason? — Because Scripture saith, And thou shalt turn in the morning, and go unto thy tents:[3] the Writ treats the whole [of the festival] as one morning.[4] To this R. Ahadboi b. Ammi demurred: Is there no piggul during a festival, and is there no nothar during a festival?[5] And should you say, that indeed is so; surely it was taught, R. Nathan said: R. Tarfon gave this ruling only.[6] Rather, [the reason is] as R. Nahman said in Rabbah b. Abbuha's name, viz.: Each day effects scalding for the previous one.[7]

BUT THE SAGES MAINTAIN: UNTIL THE TIME OF EATING etc. What does this mean? — Said R. Nahman in Rabbah b. Abbuhah's name: He must wait as long as [the sacrifice] may be eaten, and then scour and rinse it. Whence do we know this? — Said R. Johanan on the authority of Abba Jose b. Abba: It is written, ‘It shall be scoured and rinsed’;[8] and it is written, ‘Every male among the priests may eat’:[9] what does this proximity intimate?[10] He must wait as long as [the sacrifice] may be eaten, and then scour and rinse it.

SCOURING IS AS THE SCOURING OF A GOBLET; RINSING IS AS THE RINSING OF A GOBLET. Our Rabbis taught: Scouring and rinsing are [done] with cold [water]: these are the words of Rabbi; but the Sages maintain: Scouring is with hot [water], and rinsing is with cold. What is the reason of the Rabbis? — It is comparable to the cleansing [gi'ul] of heathen [vessels].[11] And Rabbi?[12] — He can tell you: I do not speak of hag'alah [scalding];[13] I speak of the scouring and rinsing after hag'alah. And the Rabbis? — If so,[14] let Scripture write either, ‘it shall be well scoured',or, 'well rinsed';[15] why say 'it shall be scoured and rinsed'? — To inform you [that] scouring is [done] with hot water[16] and rinsing is [done] with cold. And Rabbi? — If Scripture wrote, 'it shall be well scoured', I would say [that it requires] two scourings or two rinsings; therefore 'it shall be scoured and rinsed' is written to inform you that scouring must be as the scouring of a goblet, rinsing must be as the rinsing of a goblet.[17]

MISHNAH. IF ONE BOILED SACRIFICES AND HULLIN IN IT, OR MOST HOLY SACRIFICES AND LESSER SACRIFICES; IF THEY WERE SUFFICIENT TO IMPART THEIR FLAVOUR,[18] THE LESS STRINGENT MUST BE EATEN AS THE MORE STRINGENT OF THEM;[19] BUT THEY DO NOT NECESSITATE SCOURING AND RINSING;[20] AND THEY DO NOT DISQUALIFY BY TOUCH.[21] IF [AN UNFIT] WAFER TOUCHED A [FIT] WAFER,[22] OR AN [UNFIT] PIECE OF FLESH TOUCHED A [FIT] PIECE OF FLESH,[23] NOT THE WHOLE WAFER OR THE WHOLE PIECE OF FLESH IS FORBIDDEN; ONLY THE PART THAT ABSORBED [OF THE UNFIT] IS FORBIDDEN.

GEMARA. What does this mean?[24] — This is what it means: If they were sufficient to impart their flavour, the less stringent must be eaten as the more stringent of them, and they require scouring and rinsing,[25] and they disqualify by their touch.[26] If they were insufficient to impart their flavour, the less stringent need not be eaten as the more stringent, and they do not necessitate scouring and rinsing, and do not disqualify by their touch. Granted that they do not require [scouring and rinsing] as for most sacred sacrifices, yet they should require [them] as for lesser sacrifices? — Said Abaye: What does he mean by THEY DO NOT NECESSITATE? [As for] most sacred sacrifices; but they do necessitate [them] as for lesser sacrifices. Raba said: This is in accordance with R. Simeon, who maintained: Lesser sacrifices do not necessitate scouring and rinsing.

As for Raba, it is well: for that reason he [the Tanna] teaches, SACRIFICES AND HULLIN, OR MOST SACRED SACRIFICES AND LESSER SACRIFICES.[27] But on Abaye's explanation, why do I need two clauses?[28] — They are necessary. For if he taught SACRIFICES AND HULLIN [only] I would say, Only hullin can nullify sacrifices,[29] as they are not of the same kind; but in the case of MOST SACRED SACRIFICES AND LESSER SACRIFICES, it is not so.[30] And if he taught about MOST SACRED SACRIFICES AND LESSER SACRIFICES only, l would think that only sacrifices are strong enough to nullify other sacrifices; but hullin I would say is not [strong enough].[31] Thus both are necessary.

IF AN [UNFIT] WAFER TOUCHED A [FIT] WAFER etc. Our Rabbis taught: Whatever shall touch [. . . shall be holy];[32] you might think, even if it did not absorb; therefore it says, in the flesh thereof:[33]

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(1) On which flesh was roasted.

(2) V. n. 5. This makes them fit for further use.

(3) Deut. XVI,7. This means that the Israelite could return home on the morning after the festival.

(4) I.e., as one day. Since the reason for scouring and rinsing is that what is absorbed of the meat in the pot becomes nothar, it follows that it cannot become nothar from the beginning until the end of a festival, as it is all counted as one day.

(5) If one intends eating the sacrifice after its permitted period of two days, or if flesh is left over after two days, does it not become piggul or nothar, although it is still the festival?

(6) Sc. in respect of scouring and rinsing; but he admits that there can be piggul and nothar during a festival.

(7) Many peace-offerings were sacrificed during the festival, and the boiling of each day's sacrifice expels from the pot what it absorbed the previous day, and thus it does not become nothar.

(8) Lev. VI, 21.

(9) Ibid. 22.

(10) Lit., 'how is this?' — The second text immediately follows the first.

(11) In order to expel what they had absorbed. This requires heat, as Scripture says in this connection: Every thing that may abide the fire, ye shall make go through the fire, and it shall be clean (Num. XXXI, 23).
(12) Why does he not accept this argument?
(13) That certainly requires hot water.
(14) If Scripture meant that scouring and rinsing must follow hag'alah, for scouring is not hag'alah itself.
(15) Lit., shall be scoured, scoured, or, shall be rinsed, rinsed. For if scouring is not hag'alah, it is identical with rinsing (both being in cold water), and Scripture merely means that it must be rinsed twice. Then the same word should be used for each operation.
(16) I.e., it is hag'alah.
(17) I.e., once on the outside and once on the inside.
(18) If the pot had absorbed enough of the former to impart its flavour to the latter; or, if both were boiled together, if the former was sufficient to impart its flavour noticeably to the latter. — If they are both of the same kind, we regard them as though they were two different kinds.
(19) If lesser sacrifices and hullin were boiled, the hullin must be eaten within the precincts of Jerusalem, and for two days only. If lesser sacrifices and most holy sacrifices were boiled in it, the lesser sacrifices must be eaten in the Temple court, on the same day, and by male priests only.
(20) At the end of the shorter period allowed for the consumption of the more stringent, but only at the end of the longer allowed for the less stringent.
(21) If the less stringent became disqualified, they do not in turn disqualify any flesh that touches them.
(22) Of a meal-offering, v. Lev. II, 4.
(23) The latter in each case absorbing from the former.
(24) Why is it not scoured and rinsed at the end of the period allowed for the more stringent?
(25) Accordingly, i.e. at the end of the shorter time.
(26) If the more stringent were unfit while the less stringent were fit, the less stringent become disqualified too and in turn disqualify others just as the more stringent disqualified.
(27) To give an anonymous ruling in accordance with R. Simeon, viz., that lesser sacrifices do necessitate scouring and rinsing.
(28) Seeing that the same principle operates in both.
(29) When the latter do not communicate their flavour to the former.
(30) Even if the former do not impart their flavour to the latter, the whole must be treated with the stringency of the former.
(31) Even if the sacrifice does not impart its flavour to the hullin, the whole must he treated with the stringency of the former.
(32) Lev. VI, 20. ‘Holy’ means that it is subject to the same restrictions as the flesh of the sacrifice.
(33) Lit. translation.

Talmud - Mas. Zevachim 97b

[this intimates] that it must absorb [thereof] in its flesh. You might think that if it touched a part of a piece of flesh, the whole of it is unfit. Therefore it says, ‘[Whatever] shall touch’: only that which touches is unfit. How so? The part which absorbed is cut away. ‘[In] the flesh thereof’: but not the tendons, bones, horns or hoofs.[1] ‘Shall be holy’, to be as itself, so that if it [the sin-offering] is unfit, that [which touches it] becomes unfit; while if it is fit, it may be eaten [only] in accordance with its stringencies. Yet why so?[2] let the positive command[3] come and override the negative injunction![4] — Said Raba, A positive injunction does not override a negative injunction in the Temple. For it was taught: Neither shall ye break a bone thereof.[5] R. Simeon b. Menassia said: [This refers to] both a bone which contains marrow and a bone which does not contain marrow. Yet why so? let the positive injunction[6] come and override the negative injunction? Hence you can infer that a positive injunction does not override a negative injunction in the Temple. R. Ashi said: ‘Shall be holy’ is a positive injunction: thus there are a positive and a negative injunction,[7] and a positive injunction cannot override a positive and a negative injunction [combined].

We have thus found that a sin-offering sanctifies[8] [whatever touches it] through absorption; whence do we know it of other sacrifices? — Said Samuel on R. Eleazar's authority: [Scripture saith,] This is the law of the burnt-offering, of the meal-offering, and of the sin-offering, and of the guilt-offering, and of the consecration-offering, and of the sacrifice of peace-offerings.[9] ‘Of a burnt-offering’: as a burnt-offering requires a utensil,[10] so all require a utensil. What utensil is meant? If we say, a basin?[11] in respect of public peace-offerings too it is written, And Moses took half of the blood, and put it in basins![12] Rather, it means a knife.[13] And how do we know it of a burnt-offering itself? — Because it is written, And Abraham stretched forth his hand, and took the knife [to slay his son],[14] and there it was a burnt-offering, as it is written, And offered him up for a burnt-offering in the stead of his son.[15]

‘Of a meal-offering’: as a meal-offering may be eaten by male priests [only], so all may be eaten by male priests only. Which [are thus inferred]? If the sin-offering and the guilt-offering? [surely] it is explicitly written in connection with them, Every male among the priests may eat thereof![16] If public peace-offerings? that is deduced from a Scriptural extension, [viz.] In a most holy place shalt thou[17] eat thereof; every male may eat thereof:[18] this teaches that public peace-offerings may be eaten by male priests only! — It is a controversy of Tannaim:

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(1) These do not render the flesh that touches them ‘holy’.

(2) Why does the flesh of the fit sacrifice become unfit through absorbing of the unfit?

(3) Ex. XXIX, 33: and they shall eat those things wherewith atonement was made (sc. the flesh of the sacrifices).

(4) Forbidding the unfit to be eaten, e.g. in Lev. VI, 23 q.v. It is a general principle that a positive injunction overrides a negative injunction when the two are in conflict.

(5) Ex. Xli, 46. This refers to the Passover-offering.

(6) To eat the flesh (which includes marrow), sc. and they shall eat the flesh in that night (Ex. Xli, 8).

(7) Forbidding the flesh which absorbed the taste of the disqualified sacrifice.

(8) In the sense stated above.

(9) Lev. VII, 37. The enumeration of all these together with the single superscription ‘this is the law’ teaches that they are all assimilated to one another, and the Talmud proceeds to explain in which respect they are so assimilated.

(10) The Heb. keli denotes a vessel or a utensil.

(11) For receiving the blood; and this teaches that a peace-offering too needs a basin. That a burnt.offering requires a basin is inferred from Ex. XXIV, 5f, q.v.

(12) Ibid. 6. The blood was that of burnt-offerings and peace-offerings. Hence peace-offerings need not be inferred from burnt-offerings.

(13) A burnt-offering must be killed with a knife (a utensil) and not e.g. with a sharp piece of stone (unfashioned into a utensil), and the text intimates that the same applies to the others.

(14) Gen. XXII, 10.

(15) Ibid 13.

(16) Lev. VII, 6.

(17) Sc. Aaron.

(18) Num. XVIII, 10.

Talmud - Mas. Zevachim 98a

one infers it from this verse, and another infers it from the other.

‘Of a sin-offering’: as a sin-offering sanctifies through absorption, so all [sacrifices] sanctify through absorption.[1]

‘Of a guilt-offering’: as a guilt-offering, the foetus and after-birth inside it are not holy, so all [sacrifices], the foetus and after-birth inside them are not holy.[2] He holds that the young of sacrifices become holy when they come into existence,[3] and that we infer what is possible from what is not possible.[4]

'Of the consecration-offering': as the consecration-offering, the remainder thereof was burnt,[5] and there were no living animals among its remainder;[6] so all [sacrifices], their remainder is burnt, but living animals are not counted as remainder.[7]

'Of the . . . peace-offering': as [parts of] a peace-offering render piggul, and [parts] are rendered piggul, so [in] all [sacrifices] [where there are parts which] render piggul and [parts which] are made piggul [the law of piggul applies].[8]

It was taught in a Baraitha in R. Akiba's name: 'Of the meal-offering': as a meal-offering sanctifies through absorption,[9] so all [sacrifices] sanctify through absorption. Now, it is necessary for both 'meal-offering' and 'sin-offering' to be written.[10] For if we were informed [this about] a meal-offering, [I might say that was] because it is soft it absorbs; but [as for] a sin-offering, I would say [that it is] not [so]. And if we were informed about a sin-offering, [I might say] that is because it is solid;[11] but a meal-offering I would say is not so. Thus both are necessary.

'Of the sin-offering': as a sin-offering comes of hullin only, and by day, and [its rites must be performed] with his [the priest's] right hand; so every [sacrifice] comes of hullin only, by day, and [its rites must be performed] with his right hand. And how do we know it of a sin-offering [itself]? — Said R. Hisda, Scripture saith: And Aaron shall present the bullock of the sin-offering, which is his:[12] [that intimates that] it must be his,[13] and not the congregation's,[14] nor of tithe.[15] [That its rites must be performed] by day is inferred from: in the day that he commanded [etc.]?[16] That is stated unnecessarily. [That its rites must be performed] with his right hand is inferred from Rabbah b. Bar Hanah's [exegesis]? For Rabbah b. Bar Hanah said in the name of Resh Lakish: Wherever 'finger' and 'priesthood' are stated, the right hand only [must be used]?[17] That [too] is stated unnecessarily. Alternatively, he agrees with R. Simeon, who maintained: [Where] 'finger' [is stated], priesthood is not required;[18] [but where] 'priesthood' [is stated], 'finger' is required.[19]

'Of the guilt-offering': as the bones of a guilt-offering are permitted, so the bones of every [sacrifice] are permitted.[20]

Raba said: It is clear to me

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(1) This is the answer to the question, how do we know that all sacrifices sanctify through absorption? The rest of the discussion is really irrelevant here.

(2) A guilt-offering was a male, and so there could be no foetus or afterbirth inside it to be holy. From this we learn that the foetus and afterbirth in female sacrifices, e.g. peace-offerings and sin-offerings, are not holy. If then a foetus was found in a sacrifice after it was slaughtered, its heleb (fat) and kidneys are not burnt on the altar as emurim, as in the case of the sacrifice itself.

(3) I.e., when they are born, but not before.

(4) I.e., females from males, though in the latter case the foetus and after-birth are not holy because they do not exist.

(5) V. Lev. VIII, 32, which refers to the consecration-offering.

(6) The consecration-offering was a public sacrifice, and we do not find that two animals were dedicated for the purpose (v. next note), so that one should be a 'remainder'. Thus only flesh and bread were a remainder, and these alone were burnt.

(7) Whatever remains of a sacrifice after the time allowed for its consumption is burnt (as nothar). This, however, does not apply to a living remainder. E.g. if a man dedicated an animal for a sacrifice, lost it, dedicated a second, found the first and sacrificed one of them; similarly, if he dedicated two animals in the first instance, so that if one were lost the second would be sacrificed. The other is technically called a remainder, but this remainder is not burnt.

(8) V. supra 28b.

(9) For it is written, whatsoever toucheth them (sc. the meal-offerings) shall be holy (Lev. VI, 11).

(10) The same is written of the sin-offering.

(11) Since the flesh is thick, the grease penetrates deeply into it.

(12) Lev. XVI, 6. E.V. which is for himself.

(13) Purchased at his own expense.

(14) Not bought with public funds.

(15) It must not be an animal of tithe, which is sacred in its own right. Hence it must be hullin.

(16) Lev. VII, 38. This refers to all the sacrifices enumerated in the preceding verse; why then derive it from a sin-offering?

(17) And 'priesthood' is stated in connection with each of these sacrifices.

(18) To shew that the right hand is meant.

(19) Both are stated in connection with a sin-offering, but only priesthood is stated in connection with the others. Hence they must be inferred from a sin-offering.

(20) Supra 86a.

Talmud - Mas. Zevachim 98b

that if blood of a sin-offering is below and blood of a burnt-offering is above,[1] it requires washing.[2] Raba asked: What if blood of a burnt-offering is below and blood of a sin-offering is above? [Does a garment need washing] because of contact,[3] and here there is contact;[4] or perhaps the reason is on account of absorption, and here it did not absorb?[5] Subsequently he solved it, that it does not require washing.

Raba said: It is clear to me that blood on his garment interposes, but if [its owner] is a slaughterer, it does not interpose.[6] Grease on a garment interposes, but if [the owner] is a grease merchant, it does not interpose. Raba asked: What if there are blood and grease on a garment? [Why do you ask?] If he is a slaughterer, you can infer [that the immersion is ineffectual] because of the grease; and if he is a grease merchant, you can infer [that it is ineffectual] because of the blood. The question arises only where he is both; [do we say that] he does not object to one, but objects to two; or perhaps he does not object to two either? The question stands over.

CHAPTER XII

MISHNAH. A TEBUL YOM[7] AND ONE WHO LACKS ATONEMENT[8] DO NOT SHARE IN SACRIFICES FOR CONSUMPTION IN THE EVENING.[9] AN ONEN[7] MAY HANDLE [SACRED FLESH], BUT MAY NOT OFFER,[10] AND DOES NOT RECEIVE A SHARE FOR CONSUMPTION IN THE EVENING. MEN WITH BLEMISHES, WHETHER PERMANENT OR TRANSIENT, RECEIVE A SHARE AND MAY EAT [OF THE SACRIFICES]. BUT MAY NOT OFFER. WHOEVER IS NOT ELIGIBLE FOR SERVICE[11] DOES NOT SHARE IN THE FLESH;[12] AND HE WHO DOES NOT SHARE IN THE FLESH DOES NOT SHARE IN THE HIDES. EVEN IF ONE WAS UNCLEAN WHEN THE BLOOD WAS SPRINKLED BUT CLEAN WHEN THE FATS WERE BURNED [ON THE ALTAR], HE DOES NOT SHARE IN THE FLESH, FOR IT IS SAID: HE AMONG THE SONS OF AARON, THAT OFFERETH THE BLOOD OF THE PEACE-OFFERINGS, AND THE FAT, SHALL HAVE THE RIGHT THIGH FOR A PORTION.[13]

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(1) First blood of a sin-offering fell on a garment and then blood of a burntoffering fell upon it. — Only the former necessitates the washing of the garment.

(2) Since the blood of a sin-offering fell actually on the garment and soaked into it.

(3) With the blood of a sin-offering.

(4) The blood of the burnt-offering soaks into the material, and so the second blood does actually touch the garment.

(5) The blood of the sin-offering, for the material is already saturated with the other blood.

(6) An unclean garment must be immersed in a ritual bath (mikweh) for purification; the ceremony is called immersion.

Now, when immersion is performed, no foreign matter may interpose between the article to be purified and the water. Normally, blood is foreign matter, for a person objects to blood on his garment, and it interposes (rendering immersion ineffectual). A slaughterer, however, does not object to blood on his garment, and so it is not regarded as foreign matter and does not interpose.

(7) V. Glos.

(8) V. p. 80, n. 2.

(9) By which time they will be clean.

(10) I.e., perform the sacrificial rites, e.g., sprinkling.

(11) I.e., to perform the sacrificial rites.

(12) The Talmud discusses the obvious contradiction between this and the preceding statements.

(13) Lev. VII, 33. Thus he receives a portion only when he can offer both the blood (i.e., perform the sprinkling) and the fat, but not otherwise. Nevertheless, this text seems irrelevant, as it refers to the thigh only. Sh.M. substitutes, it shall belong to the priest that sprinkleth the blood of the peace-offerings (ibid. 14).

Talmud - Mas. Zevachim 99a

GEMARA. How do we know it? — Said Resh Lakish, Because Scripture saith, The priest that offereth it for sin shall eat it:[1] the priest who offers for sin[2] may eat; he who does not offer for sin, may not eat. Yet is this a general rule? surely there is the whole ward, which do not offer for sin, yet they eat?[3] — We mean he who is eligible to offer for sin. But lo, a minor is not eligible to offer for sin, yet he eats [thereof]? — Rather, what does ‘Shall eat it’ mean? He shall receive a share therein: he who is eligible to offer for sin, receives a share; he who is not eligible to offer for sin, does not receive a share.[4]

But surely one who is blemished is not eligible to offer for sin, yet he receives a share? — The Divine Law included a blemished [person] [in the privilege of sharing], viz., Every male among the priests. [may eat thereof].[5] which includes a [priest] with a blemish.[6] Yet say that ‘every male’ includes a tebul yom? — It is logical to include a blemished [priest], since he may eat. On the contrary, one should include a tebul yom, since he will be eligible in the evening?[7] — Nevertheless, he is not eligible at present. R. Joseph said:[8] Consider: what does ‘shall eat it’ mean? [Surely] shall share therein. Then let the Divine Law write ‘shall share therein’? why ‘shall eat therein’? That you may infer: he who is fit to eat, shares [therein]; he who is not fit to eat[9] does not share [in it].[10]

Resh Lakish asked: Is a share to be given to a blemished [priest] who is unclean? [Do we say,] Since he is not eligible [to perform the service] and yet the Divine Law included him, it makes no difference, for what does it matter whether he is unclean or blemished? Or perhaps, he who is fit to eat [when the sacrifice is offered] receives a share, [while] he who is not fit to eat does not receive a share? — Said Rabbah, Come and hear: A High Priest can offer [a sacrifice] as an onen, but he may not eat nor receive a share to eat in the evening.[11] This proves that one must be fit to eat [when the sacrifice is offered]. This proves it.[12]

R. Oshaia asked: Is a share of public sacrifices given to an unclean [priest]?[13] Do we say, the Divine Law saith, ‘The priest that offereth it for sin [shall eat it]’, and this one too can offer for sin;[14] or perhaps, he who is fit to eat receives a share, he who is not fit to eat does not receive a share?[15] — Said Rabina, Come and hear: A High Priest may offer [sacrifices] as an onen, but he may not eat, nor receive a share to eat in the evening. This proves that he must be fit to eat. This proves it.

AN ONEN MAY HANDLE [SACRED FLESH], BUT MAY NOT OFFER etc. An onen may handle [sacred flesh]? Surely the fol!owing contradicts it: An onen and one who lacks atonement need immersion for sacred flesh?[16] — Said R. Ammi in R. Johanan's name: There is no difficulty: here [in the Mishnah] he had performed immersion; there, he had not performed immersion. But what even if he did perform immersion: aninuth[17] returns to him?[18] for Rabbah son of R. Huna said:

If an onen performed immersion, his aninuth returns to him! — Rather, there is no difficulty: here he dismissed [it] from his mind;[19] in the other case he did not dismiss [it] from his mind. But inattention requires [sprinkling on] the third and the seventh [days]: for R. Justai son of R. Mathun said in R. Johanan's name: Inattention[20] requires sprinkling on the third and the seventh [days]![21] — There is no difficulty: In the one case he was careless about defilement of the dead;[22] in the other he was careless about defilement by a reptile.[23] Defilement of the dead is genuine defilement and requires sunset?[24] moreover, even terumah too [should require immersion]?[25] — Said R. Jeremiah: [This law holds good] when he declares, I was on my guard against anything that would defile me, but not against anything that would disqualify me.[26]

And is there half watchfulness? — Yes, and it was taught even so: If the basket was still on his head[27]

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(1) Ibid. VI, 19.

(2) I.e., sprinkles the blood and performs the priestly rites.

(3) The priests were divided into wards, which officiated in rotation, (v. Glos. s.v. Mishmar). Only one of the priests sprinkled the blood of a particular sacrifice, yet the whole of the ward to which he belonged would share it.

(4) A minor accordingly does not receive a share in his own right, but merely eats of another priest's share. — From this we learn that a tebul yom and one who lacks atonement do not receive shares.

(5) Lev. VI, 22.

(6) It is shewn infra 102a that he is included in respect of sharing, for it is explicitly stated elsewhere that he may eat, viz., He (sc. a blemished priest) may eat the bread of his God, both of the most holy, and of the holy (ibid. XXI, 22). No extension therefore would be required to shew that he may eat.

(7) Even to perform the sacrificial rites.

(8) In reply to your question that one should include a tebul yom.

(9) When it is actually offered.

(10) Hence it includes a blemished priest, who is fit to eat when it is sacrificed, but not a tebul yom, who will not be fit until the evening.

(11) When he ceases to be an onen.

(12) Hence an unclean blemished priest does not receive a share.

(13) The sacrifices having been offered by clean priests.

(14) For public sacrifices can be offered in uncleanness, if the whole congregation is unclean. Hence, though this priest could not sacrifice just then, yet in general he was eligible for public sacrifices.

(15) He is definitely not fit to eat, for a public sacrifice brought in uncleanness may not be eaten.

(16) Which they may not handle otherwise.

(17) The status of onen.

(18) Since aninuth lasts to the end of the first day.

(19) Sc. the care not to become unclean. He paid no attention to this, knowing that he could not officiate in any case.

(20) To ritual cleanness.

(21) From the day that he ceased to be watchful, for he may have been defiled through the dead on that day. Thus mere immersion is insufficient.

(22) He did not even take care to avoid that. Then he needs sprinkling on the third and the seventh days.

(23) But took care not to be defiled by the dead.

(24) Even after immersion the priest may not eat flesh of sacrifices until sunset, whereas only immersion is required above.

(25) He who is defiled by a reptile may not eat terumah without immersion, whereas immersion is required above only for eating sacred flesh (i.e., of sacrifices, whose sanctity is higher than that of terumah).

(26) ‘Defile’ means by Scriptural, ‘disqualify’ by Rabbinical law. The former requires sunset, but the latter requires immersion only. Also, the former disqualifies one in respect of terumah too, but not the latter.

(27) It is not clear to what ‘still’ refers. It is absent in Tosef. Toh. VIII, whence it is cited in the present passage.

Talmud - Mas. Zevachim 99b

and a shovel was in it, and he declared, ‘My mind was on the basket[1] but not on the shovel’, the basket is clean, but the shovel is unclean. But let the shovel defile the basket? — One utensil cannot defile another. Then let it defile its contents?[2] Said Raba: It means that he declared: ‘I guarded it from anything which might defile, but not from anything which might disqualify it.’[3] The matter was eventually reported[4] to R. Abba b. Memmel. Said he to them: Have they not heard what R. Johanan[5] said: He who eats terumah of the third degree may not eat [terumah again], but he may touch [terumah]?[6] This proves that the Rabbis raised eating to a high degree[7] but did not raise touch to a high degree.[8]

AND DOES NOT RECEIVE A SHARE FOR CONSUMPTION etc. He merely does not receive a share,[9] but may eat if he is invited? Surely the following contradicts it: An onen performs immersion and eats his Passover-offering in the evening, but [may] not [partake] of [other] sacrifices?[10] — Said R. Jeremiah of Difti: There is no difficulty: the former means on Passover [itself]; the latter, during the rest of the year. On Passover, since he may eat the Passover-offering, he may also eat other sacrifices; during the rest of the year, when he is not fit [for the former],[11] he is not fit [for the latter]. And what does ‘but [may] not [partake] of [other] sacrifices’ mean? But [may] not [partake] of [other] sacrifices of the whole year.

R. Assi said, There is no difficulty: In the one case the man died on the fourteenth [of Nisan] and was buried on the fourteenth; in the other [sc. our Mishnah], the man died on the thirteenth and was buried on the fourteenth,[for] the day of burial does not embrace the night [that follows] [even] by Rabbinical law.[12]

Which Tanna holds that [the law of] aninuth at night is Rabbinical [only]? — R. Simeon. For it was taught: [The law of] aninuth at night is Scriptural: these are the words of R. Judah. R. Simeon said: [The law of] aninuth at night is not Scriptural but of the rulings of the Scribes.[13] The proof is that they [the Rabbis] said: An onen performs immersion and eats his Passover-offering in the evening, but [may] not [partake] of [other] sacrifices.[14] Now, does R. Simeon hold [that the law of] aninuth at night is [only] Rabbinical? Surely it was taught, R. Simeon said: An onen may not send his sacrifices.[15] Now does that mean, even on Passover? — No, except the Passover-offering. But it was taught, R. Simeon said: [The designation] ‘Peace-offerings’ [shelamim] [indicates that] a man may bring [it] when he is whole [shalem][16] but not when he is an onen. How do I know to include the thanksoffering?[17] I include the thanksoffering, because it is eaten with rejoicing, like a peace-offering.[18] How do I know to include a burnt-offering? I include a burnt-offering. because it is brought as a vow or as a freewill-offering, like the peace-offering. How do I know to include a firstling, tithe, and the Passover-offering? I include firstling, tithe, and the Passover-offering because they are not brought on account of sin, like a peace-offering. How do I know to include the sin-offering and the guilt-offering? Because it says, ‘sacrifice’.[19] How do we know to include bird-[offerings], meal-offerings, wine, wood[20] and frankincense? Because it says, ‘his offering be shelamim’: all offerings which he brings, he brings when he is whole [shalem], but does not bring [them] when he is an onen. Thus at all events he includes the Passover-offering? — Said R. Hisda: The Passover-offering is mentioned en courant.[21] R. Shesheth said: What does the ‘Passover-offering’ mean? The Passover peace-offerings.[22] If so, it is identical with peace-offerings? — He teaches about peace-offerings which are brought on account of Passover, and he teaches about peace-offerings which are brought independently. For if he did not teach about the peace-offering which is brought on account of Passover, I would argue: Since it comes on account of the Passover-offering,[23] it is like the Passover-offering itself. Hence he informs us [that it is not so].

R. Mari said:

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(1) To guard it from defilement.

(2) Sc. the food or eatables in the basket.

(3) ‘Defile’ means to render an object unclean in the sense that it can render another object unclean (or disqualified) in turn; ‘disqualify’ means to render an object unfit for use on account of uncleanness, but that object cannot disqualify another object in turn; v Pes. (Sonc. ed.) p. 62 n. 2 for this and the rest of the passage

(4) Lit., ‘the matter was rolled about and reached’.

(5) Var. lec. Jonathan.

(6) His body becomes, as it were, unclean (or disqualified) in the third degree; he may not eat terumah again without immersion, nevertheless his touch does not render terumah unfit.

(7) They demanded a high standard of purity for eating.

(8) And so here too, when we learnt that an onen needs immersion, it means for eating, but not for touching.

(9) As a right.

(10) An onen may not eat the flesh of sacrifices (v. Lev. X, 19f). By Scriptural law a man is an onen on the day of death only, but not at night; the Rabbis, however, extended these restrictions to the night too. As, however, the Passover-offering is a Scriptural obligation, they waived their prohibition in respect of the night, and he may eat thereof. He is not unclean, but requires immersion to emphasize that until evening sacred flesh was forbidden to him, whereas now it is permitted.

(11) Obviously, since the Passover-offering can be eaten only on Passover.

(12) V. n. 2. That, however, applies only when the person died on the same day too; but if he was merely buried on that day, but died the previous day, there is no aninuth at all by night. Accordingly, the passage quoted (from Pes. 91b) treats of Passover itself, and not of the rest of the year.

(13) I.e., Rabbinical only. On Soferim (scribes) v. Kid. (Sonc. ed.) p. 79, n. 7.

(14) Whereas if the interdict were Scriptural, he could. not partake of the Passover-offering either.

(15) To be offered on his account.

(16) The very word for peace-offering, shelamim, indicates that a man must be whole (shalem, sing. of shelamim) — The verse discussed is Lev. III, 6: And if his offering for a sacrifice of peace-offerings etc.

(17) In the same limitation.

(18) V. Deut. XXVII, 7: And thou shalt sacrifice peace-offerings, and shalt eat there; and thou shalt rejoice before the Lord thy God. This precept to rejoice is fulfilled by the eating of either peace-offerings or thanks-offerings, which are called peace-offerings, v. Lev. VII, 11-12.

(19) Lit., ‘a slaughtering’. hence including every slaughtered sacrifice. (A bird was not slaughtered but nipped (melikah), which explains the question that follows.)

(20) One who donated wood brought a sacrifice along with it.

(21) Firstling tithe and the Passover-offering are generally mentioned together, and so it is mentioned here too. But actually it does not apply to the Passover-offering.

(22) When a large company shared in the Paschal lamb, an additional peace-offering (called hagigah) was brought and eaten before the Passover-offering.

(23) To remedy its inadequateness.

Talmud - Mas. Zevachim 100a

There is no difficulty:[1] in the one case the man died on the fourteenth and was buried on the fourteenth; in the other the man died on the thirteenth and was buried on the fourteenth. If the man died on the fourteenth and was buried on the fourteenth, the day of death embraces the night [that follows] by Scriptural law;[2] if the man died on the thirteenth and was buried on the fourteenth, [aninuth even on] the day of burial is [only] Rabbinical,[3] and it embraces the night [that follows only] by Rabbinical law.[4] Said R. Ashi to R. Mari: If so, when it is taught, R. Simeon said to him, The proof is that they [the Rabbis] said: An onen performs immersion and eats his Passover-offering in the evening, but [may] not [partake] of [other] sacrifices; let him [R. Judah] answer him: I speak to you of the day of death, [when one is an onen] by Scriptural law, whereas you tell me about the day of burial, [when aninuth is only] Rabbinical? That is a difficulty.

Abaye said, There is no difficulty: In the one case he died before midday [of the fourteenth]; in the other he died after midday. [If he died] before midday, when he had [as yet] no obligation of the Passover-offering, aninuth falls upon him; [if he died] after midday, when he is subject to the Passover-offering, aninuth does not fall upon him.[5] And how do you know that we differentiate between [death] before midday and [death] after midday? — Because it was taught: For her shall he defile himself:[6] this is obligatory; if he does not wish to, we defile him by force. Now, the wife of Joseph the priest happened to die on the eve of Passover, and he did not wish to defile himself, whereupon his brother priests took a vote and defiled him by force. But the following contradicts it: [He shall not make himself unclean for his father . . .] and for his sister [when they die]:[7] why is this stated?[8] [For this reason:] Behold if he[9] was on his way to slaughter the Passover-offering or to circumcise his son,[10] and he learnt that a near relation of his had died,[11] you might think that he may defile himself; hence you read,[12] 'he shall not make himself unclean'. You might think that just as he may not defile himself for his sister, so may he not defile himself for an unattended corpse:[13] therefore it states, 'and for his sister': he may not defile himself for his sister, but he must defile himself for an unattended corpse.[14] Hence you must surely infer that one holds good [where the person died] before midday, and the other where he died after midday.[15] Whence [does this follow]? Perhaps I can argue that in truth both refer to after midday, but one agrees with R. Ishmael and the other with R. Akiba. For it was taught: 'For her shall he defile himself': this is permissive; these are the words of R. Ishmael.[16] R. Akiba said: It is an obligation![17] — You cannot think so, for the first clause of that [Baraitha][18] was taught by R. Akiba. For it was taught, R. Akiba said: [He shall not come near to a body, [to] the dead.[19] 'Body' refers to strangers;[20] 'dead' refers to relations. 'For his father' he may not defile himself, but he must defile himself for an unattended corpse.[21] 'For his mother': [even] if he was [both] a priest and nazirite, only for his mother he may not defile himself, but he must defile himself for an unattended corpse. For his brother': [even] if he was [both] a High Priest and a nazirite, only for his brother he may not defile himself, but he must defile himself for an unattended corpse. 'And for his sister': why is this stated? If he was on his way to slaughter his Passover-offering or to circumcise his son, and he learnt that a near relation of his had died, you might think that he may defile himself; hence you read, 'he shall not make himself unclean'. You might think that just as he may not defile himself for his sister, so he may not defile himself for an unattended corpse; therefore it states, 'and for his sister': he may not defile himself for his sister, but he must defile himself for an unattended corpse.

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(1) R. Simeon is not self-contradictory.

(2) Hence he may not eat of the Passover-offering in the evening.

(3) He holds that by Scriptural law aninuth applies only to the day of death.

(4) And this Rabbinical law is waived in favour of the Passover-offering.

(5) In both cases the man died on the fourteenth, and R. Simeon holds that the aninuth of the following night is Rabbinical. Now, the obligation to sacrifice the Passover-offering commences at midday on the fourteenth. Consequently, if death took place before midday, aninuth preceded the obligation, and this prevents the obligation from becoming operative; therefore he does not eat the Passover-offering in the evening. But if the man died after midday, this person was already under the obligation, therefore he does eat the Passover-offering in the evening.

(6) Lev. XXI, 3. This refers to a priest, who may not defile himself for the dead, except for certain near relations, e.g., father and mother etc. 'Her' means an unmarried sister, and, according to the Rabbis, his wife ('his kin that is near to him,' v. 2).

(7) Num. VI, 7. This refers to a nazirite.

(8) If he may not defile himself even for his parents, it is obvious that he may not defile himself for his sister.

(9) Sc. one who was both a nazirite and a High Priest.

(10) So that he could partake of the Passover-offering, which may not be eaten by a man whose son is uncircumcised.

(11) Lit., 'that a dead had died unto him.'

(12) Lit., 'say'.

(13) Heb., meth mizwah, a corpse which it is a duty to bury. If any person, even a High Priest, comes across an unattended corpse, he must defile himself and attend to his burial.

(14) Thus it is taught here that he must not defile himself but sacrifice the Passover-offering, whereas the first Baraitha teaches that he must defile himself. An obvious difficulty arises here: the first Baraitha refers to a priest, who must defile himself for his near relations, whereas the second treats of a nazirite who is also a High Priest, who may not defile himself even for his relations. Sh.M. quotes a var. lec., according to which this second Baraitha, though interpreting a passage dealing with a nazirite, transfers its teaching to an ordinary priest; in which case there is a definite contradiction between the two.

(15) Cf. p. 479. n. 6.

(16) Hence the obligation to sacrifice the Passover-offering overrides this permission, and he may not defile himself.

(17) Yet there may be no difference between death before midday and death after midday.

(18) Which forbids him to defile himself.

(19) Num. VI, 6. E.V. to a dead body. R. Akiba however understands the Hebrew as two substantives.

(20) Lit., 'distant ones'.

(21) Since 'dead' refers to relations, v. 7 which enumerates these relations is superfluous; R. Akiba explains that each relation enumerated has a particular teaching.

Talmud - Mas. Zevachim 100b

Raba said: Both are meant after midday, yet there is no difficulty: in the one case it was before they had slaughtered [the Passover-offering] and sprinkled [its blood] on his account;[1] in the other it was after they had slaughtered and sprinkled on his account.[2] R. Adda b. Mattenah said to Raba: after they slaughtered and sprinkled on his account, what is done is done![3] — Said Rabina to him: The eating of the Passover-offering is indispensable, [which follows] from Rabbah son of R. Huna's [teaching]. Said [Raba] to him: Pay heed to what your master [Rabina] has told you [R. Adda b. Mattenah].[4]

What was Rabbah son of R. Huna's [teaching]? — It was taught: The day when one learns [of a near relation's death] is as the day of burial in respect of the laws of seven and thirty [days' mourning];[5] In respect of eating the Passover-offering it is as the day on which the bones [of one's parents] are collected.[6] In both cases[7] he performs immersion and eats [of] sacrifices in the evening. Now this is self-contradictory: You say, the day when one learns is as the day of burial in respect of seven and thirty [days' mourning], but in respect of eating the Passover-offering it is as the day when the bones [of one's parents] are collected; whence it follows that as for the day of burial, one may not eat even in the evening; and then you teach, in both cases he performs immersion and eats of sacrifices in the evening? Said R. Hisda: It is a controversy of Tannaim.[8] Rabbah son of R. Huna said: There is no difficulty. In the one case he learnt about his bereavement just before sunset, and similarly the bones of his dead were gathered just before sunset, and similarly his relation died and was buried just before sunset. In the other case [these things happened] after sunset.[9] 'After sunset'! but what has been has been![10] Hence you must surely infer from this that the eating of the Passover-offering is indispensable.[11]

R. Ashi said: What does 'both the one and the other' [mean]? It means that both on the day of hearing and on the day of gathering the bones, he performs immersion and eats of the sacrifices in the evening.[12] But this statement of R. Ashi is fiction. Consider: he [the Tanna] is discussing these;[13] then he should say, 'the one and the other.' Hence it surely follows that it is fiction.

Now, what is this controversy of Tannaim?[14] — For it was taught: For how long is he an onen on his account?[15] The whole day.[16] Rabbi said: As long as he is not buried.[17] What are we discussing? Shall we say, the day of death? does anyone reject the view that the day of death embraces the night following by Rabbinical law?[18] Moreover, 'Rabbi said: As long as he is not buried'; but if he was buried, he is permitted?[19] Does anyone reject [the implication of] And the end thereof as a bitter day?[20] — Said R. Shesheth: [We are discussing] the day of burial. To this R. Joseph demurred: Then when it is taught, He who learns about his bereavement, and he who gathers bones, performs immersion and eats in the evening; whence it follows that as for the day of burial, he may not even eat in the evening; with whom will it agree?[21] Rather, explain it thus: For how long is he an onen on his account? The whole of that day[22] and the [following] night. Rabbi said: That is only as long as he was not buried; but if he was buried, [it is the day] without the [following] night. Now, this was reported before R. Jeremiah, whereupon he observed: That a great man like R. Joseph should say thus! Are we to assume then that Rabbi is more lenient? Surely it was taught: How long is he an onen on his account? As long as he is not buried, even for ten days: these are the words of Rabbi; but the Sages maintain: He observes aninuth on his account only on that day itself! Rather, explain it thus: How long does he observe aninuth on his account? The whole of that day without the [following] night. Rabbi maintained: As long as he is not buried, it embraces the [following] night.[23]

Now, it was stated before Raba: Since Rabbi maintained that the day of burial embraces the [following] night by Rabbinical law,[24] it follows that the day of death embraces the [following] night by Scriptural law.[25] Does then Rabbi hold that aninuth at night is Scriptural? Surely it was taught: 'Behold, this day [etc].[26] I am forbidden by day yet am permitted at night;[27] but [future] generations will be forbidden both by day and by night':[28] these are the words of R. Judah. Rabbi maintained: Aninuth at night is not Scriptural but a law of the Scribes! — In truth, it is Rabbinical.[29]

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(1) Then they must not do so, for he has become an onen and Scripture disqualified him.

(2) The main thing that the Baraitha teaches then is that he partakes thereof in the evening.

(3) Why is he permitted to eat thereof in the evening, any more than of other sacrifices, seeing that his aninuth exempts him? On Abaye's explanation this difficulty does not arise. For he explains that the person died after midday, but before the offering was slaughtered on his behalf. Now, since the obligation to sacrifice preceded his aninuth and is therefore still in force, if he is forbidden to eat of it in the evening, he will refrain from sacrificing at all; therefore the Rabbis waived their prohibition. But there is nothing to fear if his relation died after the sacrifice was offered, and so he should still he forbidden.

(4) His answer is correct.

(5) One must observe deep mourning for seven days after the burial of a near relation, during which time he must not work, bathe, or wear his shoes. A lighter mourning is observed for thirty days after burial, such as not putting on new garments or attending festivities. If a person learns of such a relation's death within thirty days, he must observe the seven and the thirty days' mourning from the day that he learnt it.

(6) A man may eat of the Passover-offering on the evening following the day when his parents' bones were collected; v. Pes. 92a.

(7) This can only mean, on the day of burial or on the day that the bones are collected. It cannot mean on the day of hearing and on the day of collecting, for the reason explained anon.

(8) The two clauses represent the views of different Tannaim.

(9) He may eat of sacrifices, and all the more so of the Passover-offering, if his relation died etc. before sunset; hence the evening is the night following his aninuth, and he holds that in this respect the day does not embrace the night following even by Biblical law. He may not eat on the evening of burial where he died after sunset, so that it is not the evening following the day of burial, but the evening of burial itself (the corpse will be buried either that same evening or on the next day).

(10) How can you then differentiate between the Passover-offering and other sacrifices, seeing that sacrifices may not be eaten on the day of burial? That certainly should apply to the Passover-offering too.

(11) For that reason they permitted it in the evening, because neglect to eat of it entails kareth (v. Glos.).

(12) But not on the evening after burial.

(13) Sc. the two mentioned by R. Ashi.

(14) To which R. Hisda alluded above.

(15) To be forbidden to partake of sacrifices.

(16) This is now assumed to mean without the night following.

(17) V. Sem. IV, 14.

(18) Surely not!

(19) On the same day.

(20) Amos VIII, 10. From this the Rabbis deduce (M. K. 21a) that the interdict of aninuth lasts the whole day of death, even after burial.

(21) Both Rabbi and the Rabbis hold that the evening is permitted.

(22) Of burial.

(23) This then is the controversy alluded to by R. Hisda.

(24) Obviously by Rabbinical law only, for aninuth even on the day of burial itself is Rabbinical only.

(25) Just as aninuth on the day of death is Scriptural.

(26) Lev. X, 19. Aaron was explaining why he had not eaten of the sin-offering offered on the day of his consecration, viz., because he had lost two sons on that day.

(27) Since there were no other priests to eat thereof.

(28) Thus aninuth on the night following is Scriptural.

(29) Sc. the law of aninuth on the night after the day of death.

Talmud - Mas. Zevachim 101a

but the Sages made their law even stricter than Scripture.[1]

Our Rabbis taught: 'For so I am commanded'; 'as I commanded'; 'as the Lord hath commanded':[2] 'For so I am commanded' that they should eat it during their bereavement [aninuth]; 'As I commanded', when it happened;[3] 'As the Lord commanded', I did not bid you [to do this] on my own authority. But the following contradicts it: [The sin-offering] was burnt on account of aninuth, for which reason it is said, [And there have befallen me] such things as these?[4] — Said Samuel, There is no difficulty: one agrees with R. Nehemiah, the other with R. Judah and R. Simeon. For it was taught: They burnt it because of aninuth; therefore it is stated, 'such things as these': these are the words of R. Nehemiah. R. Judah and R. Simeon maintained: It was burnt because of defilement, for if because of bereavement, they should have burnt the three.[5] Another argument: they would have been fit to eat them in the evening.[6] Another argument: surely Phinehas was with them![7] Raba said: Both agree with R. Nehemiah, yet there is no difficulty: one refers to special ad hoc sacrifices, and the other to regular sacrifices.[8]

Now, how does R. Nehemiah explain these texts, and how do the Rabbis[9] explain these texts? — R. Nehemiah explains it thus: 'Wherefore have ye not eaten etc?'[10] 'Perhaps', said Moses to Aaron, 'its blood entered the innermost sanctuary?'[11] 'Behold, the blood of it was not brought [into the sanctuary within]', he answered. 'Perhaps it passed without its barrier?'[12] he suggested. 'It was in the sanctuary', he replied. 'And perhaps ye offered it in bereavement, and thus disqualified it?' 'Moses', replied he, 'did they, [my sons] offer it: I offered it?'[13] Thereupon he exclaimed, 'Behold, the blood of it was not brought within, and it was in the sanctuary,[14] then ye should certainly have eaten it, as I commanded, [viz.,] that they should eat it in their bereavement.' Said he to him: 'And there have befallen me such things as these, and if I had eaten the sin-offering to-day, would it have been pleasing in the sight of the Lord? perhaps you heard thus[15] only about the special sacrifices? For if [you would apply it] to the regular sacrifices, [you may argue] a minori from tithe, which is of lesser holiness,[16] [that it is not so]. For if the Torah said of tithe, which is of lesser holiness, I have not eaten thereof in my mourning,[17] how much the more does it apply to sacrifices, which are more holy?'[18] Forthwith, and when Moses heard that, it was pleasing in his sight.[19] He admitted [his error], and Moses was not ashamed [to excuse himself] by saying, 'I had not heard it', but said, 'I heard it and forgot.

How do R. Judah and R. Simeon explain these verses? — They explain it thus: 'Wherefore have ye not eaten the sin-offering': perhaps the blood entered the innermost sanctuary? 'Behold, the blood of it was not brought into the sanctuary within', he replied. Perhaps it passed without its barrier? It was in the sanctuary, was his answer. And perhaps ye offered it in bereavement, and thus disqualified it? Moses, replied he, did they offer it, that bereavement should disqualify? I offered it. And perhaps ye were negligent through your grief, and it was defiled? Moses, he exclaimed, am I thus in your eyes, that I would despise Divine sacrifices? ‘And there have befallen me such things as these’, and even many more, yet would I not despise Divine sacrifices. If then, said he, ‘behold, the blood of it was not brought within, and it was in the sanctuary, then ye should certainly have eaten it, as I commanded’, [viz.] that they should eat it in their bereavement! Perhaps you heard thus only of the night,[20] he suggested; for if [you would apply it to] the day, [you may argue] a minori from tithe, which is of lesser holiness, [that it is not so]. For if the Torah said of tithe, which is of lesser holiness, ‘I have not eaten thereof in my mourning’, how much the more does it apply to sacrifices, which are more holy! Forthwith, ‘and when Moses heard that,

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(1) Lit., ‘strengthened their words more than did Scripture.’ Thus, while Scripture prescribes aninuth only on the day of death, the Rabbis decreed aninuth on the day of burial and on the night following.

(2) Lev. X, 13. 18. 15. The first refers to the meal-offering, the second to the sin-offering, and the third to the peace-offering. These three were brought at the consecration of Aaron and his sons into the priesthood, and Moses ordered them to eat them, adding, For so I am commanded etc.

(3) Sc. the death of Nadab and Abihu. He then told them that they were still to eat the sacrifice.

(4) Sc. the death of my children. Now, Moses admitted that they had acted rightly (v. 19); evidently then he had not been instructed that they were to eat it in bereavement.

(5) Three he-goats were sacrificed, yet only one was burnt.

(6) R. Simeon holds that aninuth does not extend to the following evening by Scriptural law at all. And even R. Judah, who maintains that it does, admits that on that occasion it did not (supra 100b).

(7) He was not an onen, and could have eaten it. Hence the sin-offering must have become defiled, and on that account only was it burnt.

(8) Lit., ‘of the hour . . . of generations’. R. Nehemiah holds that the meal-offering was to be eaten in bereavement, as it is written, ‘for so I am commanded’. Now, that meal-offering was a special sacrifice, and was permitted by a special dispensation. The sin-offering, however, was the ordinary New Moon sin-offering (this happened on New Moon). Moses erroneously thought that what he had been told about the meal-offering also applied to the sin-offering, and was therefore angry that it was burnt. Aaron, however, pointed out that he might have been told only about the special meal-offering, and Moses then admitted that he was right.

(9) Sc. R. Judah and R. Simeon.

(10) Lev. X, 17.

(11) I.e., into the Hekal, in which case you rightly burnt it.

(12) I.e., outside the Temple court.

(13) He renders v. 19: And Aaron spoke unto Moses: Behold, have they this day offered their sin-offering etc.? Surely I offered it, and I, being the High priest, was permitted to do so.

(14) He thus renders v. 18.

(15) Sc. that I should eat in spite of my bereavement.

(16) Lit., ‘tithe, which is light’.

(17) Deut. XXVI, 14.

(18) Lit., ‘which is heavier’. Emended text (Sh.M.).

(19) Lev. ibid. 20.

(20) That the sacrifice is to be eaten on the night following the day of death.

Talmud - Mas. Zevachim 101b

it was pleasing in his sight’. He admitted his error, and Moses was not ashamed [to excuse himself] by saying, ‘I had not heard it’, but, ‘I heard it and forgot.’ But they should have kept it and eaten it in the evening? — It was accidentally defiled.[1]

As for the Rabbis, it is well: for that reason it is written, ‘[and if I had eaten the sin-offering] this day.’[2] But on R. Nehemiah's explanation, why [did he say] ‘this day’? — [He meant that it was] a statutory obligation of the day.[3]

As for R. Nehemiah, it is well: for that reason it is written, ‘Behold, this day [have they offered etc.]’[4] But according to the Rabbis, what is [the ‘significance of] ‘Behold, this day’?[5] — This is what he meant: Behold, have they offered?’ It was I who offered.[6]

The Master said: ‘Then the three should have been burnt.’ What were the three? — For it was taught: ‘And Moses diligently inquired for the goat of the sin-offering’:[7] ‘Goat’ alludes to Nahshon's goat;[8] ‘sin-offering’ refers to the sin-offering of the eighth day;[9] ‘[Moses] inquired’ refers to the goat of New Moon.[10] You might think that the three of them were burnt; therefore it says, ‘and, behold, it was burnt’: one was burnt, but three were not burnt — ‘Diligently inquired’: why these two enquiries?[11] He said to them: ‘Why is this sin-offering burnt, and these others lying?’[12] Now, I do not know which one [was burnt]. But when it says, ‘And He hath given it to you to bear the iniquity of the congregation’,[13] it follows that it was the goat of New Moon.[14]

They said well to him?[15] — R. Nehemiah is consistent with his view, for he maintained [that] bereavement did not disqualify ad hoc sacrifices.[16]

The Master said: ‘Then they should have eaten it in the evening.’ They said well to him? — He holds that [the law of] aninuth at night is Scriptural.[17]

‘Another argument: surely Phinehas was with them.’ They said well to him? — He agrees with R. Eleazar. For R. Eleazar said in R. Hanina's name: Phinehas was not elevated to the priesthood until he slew Zimri, for it is written, And it shall be unto him, and unto his seed after him, the covenant of an everlasting priesthood.[18] R. Ashi said: Until he made peace between the tribes, for it is said, And when Phinehas the priest, and the princes of the congregation, even the heads of the thousands of Israel that were with him, heard etc.[19] And as to the others too, surely it is written, ‘And it shall be unto him, and unto his seed after him’ [etc.]? — That is written as a blessing,[20] as to the other too, surely it is written, ‘And when Phinehas the priest heard’? — That was to invest his descendants with his rank.[21]

Rab said: Our teacher Moses was a High Priest, and received a share of the holy sacrifices, as it is said, It was Moses’ portion of the ram of consecration.[22] An objection is raised: ‘But was not Phinehas with them?’ Now if this is correct, let them argue, But was not our teacher Moses with them? Perhaps Moses was different, because he was engaged by the Shechinah,[23] for a master said: Moses ascended early in the morning and descended early in the morning.[24]

An objection is raised: He may eat the bread of his God both of the most holy, and of the holy:[25] if sacrifices of higher sanctity are stated, why are lesser sacrifices stated; and if lesser sacrifices are stated, why are sacrifices of higher sanctity stated? If lesser sacrifices were not stated, I would say, He may eat only of higher sacrifices, because they were permitted to a zar[26] and to them,[27] but he may not eat of lesser sacrifices. And if higher sacrifices were not stated I would say: He may eat only of lesser sacrifices, since they are lesser,[28] but not of higher sacrifices. For that reason both higher sacrifices and lesser sacrifices are stated. At all events he [the Tanna] teaches, Because they were permitted to a zar and to them: surely that means [to] Moses?[29] — Said R. Shesheth: No; it refers to the High Places [bamah], this agreeing with the view that a meal-offering could be offered at the High Places.[30]

An objection is raised: Who shut Miriam up?[31] If you say, Moses shut her up, surely Moses was a zar,

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(1) But not through negligence.

(2) He stressed that it was only during the day that he could not eat it, but he had intended to eat it that night.

(3) Could I eat the sin-offering, which is a statutory obligation for this day, and not a special sacrifice? (as supra a.)

(4) Meaning that it was a statutory and regular offering for that day. and therefore might not be eaten in mourning.
(5) It is apparently quite irrelevant.
(6) As supra a.
(7) Lev. X, 16.
(8) It was the first of Nisan, and the first day of the consecration ceremonies of the Tabernacle, when Nahshon sacrificed a goat on behalf of the tribe of Judah (Num. VII, 12-17; Seder ‘Olam).
(9) Of Aaron's consecration rites.
(10) Thus this verse is made to refer to three sacrifices, not to one.
(11) The emphatic ‘diligently’ is expressed in Hebrew, as usual, by the repetition of the verb, and hence understood to mean two enquiries.
(12) Waiting for the evening to be eaten: why did you not eat it during the day?
(13) Lev. X, 17.
(14) Which ‘bears the iniquity of the congregation’ by atoning for the defilement of the sanctuary and the sacrifices, Shebu. 2a.
(15) This reverts to the earlier part of the discussion. Surely the argument that all three should have been burnt, if it was on account of their bereavement, is sound!
(16) Such as the other two were.
(17) Hence they could not eat it in the evening either.
(18) Num. XXV, 13. This was spoken after he had slain Zimri: thus only then was the priesthood conferred upon him.
(19) Josh. XXII, 30; v. whole chapter for the controversy between the two and a half tribes in Transjordan and the rest of Israel, and how it was settled. This is the first time that Phinehas is spoken of as ‘the priest’; previously he is always referred to as ‘Phinehas the son of Eleazar the son of Aaron the Priest’. Thus Priesthood is ascribed to his forbears, but not to himself.
(20) He was informed that he would be invested with the priesthood, but it was not conferred upon him until later.
(21) Tosaf: a promise that all High Priests would be descended from him.
(22) Lev. VIII, 29.
(23) V. Glos.
(24) During the days preceding Revelation, when he ascended the mountain of Sinai and descended thence to the people.
(25) Lev. XXI, 22. This refers to a blemished priest, who may not officiate, yet may partake of the sacrifices.
(26) V. Glos. Though normally higher sacrifices might be eaten by male priests only, yet we do find an instance where they were permitted to a zar; the instance(s) is discussed anon. But a zar was never permitted to eat the priestly portions (viz., the breast and thigh) of lesser sacrifices. — Since then a zar may sometimes partake of higher sacrifices, it is logical that a blemished priest may always do so.
(27) Sc. the priests.
(28) Their sanctity is not so great.
(29) The only instance found of a zar eating of higher sacrifices was when Moses received the breast and thigh of the ram of consecration, which was a higher sacrifice. Thus Moses is counted as a zar, not as a priest
(30) Infra 113a. The meal-offering was a higher sacrifice, and when offered at the High Places (where a zar could officiate), after the handful had been burnt on the altar the remainder might be eaten by a zar, whereas in the Temple this belonged to the priests only.
(31) As a leper; v. Num. XII, 14 seq. Before she could be shut away, the symptoms had to be duly diagnosed as leprous.

Talmud - Mas. Zevachim 102a

and a zar cannot inspect plagues [of leprosy].[1] If you say that Aaron shut her away, Aaron was a relation, and a relation cannot inspect [leprous] plagues. Rather, the Holy One, blessed be He, bestowed great honour upon Miriam in that moment, and declared, I am a priest: I will shut her away, I will declare her a definite [leper], and I will free her. He teaches at all events, ‘Moses was a zar and a zar cannot inspect plagues’? — Said R. Nahman b. Isaac: The inspection of leprosy[2] is different, because Aaron and his sons are specified in that section.

An objection is raised: Elisheba[3] had five joys more than the other daughters of Israel:[4] her brother-in-law [Moses] was a king, her husband was a High Priest, her son [Eleazar] was Segan [deputy High Priest], her grandson [Phinehas] was anointed for battle,[5] and her brother [Nahshon] was the prince of his tribe; yet she was bereaved of her two sons. At all events he teaches, Her brother-in-law was a king: thus he was a king, but not a High Priest? — Emend, was also a king.

This is dependent on Tannaim: And the anger of the Lord was kindled against Moses.[6] R. Joshua b. Karhah said: A [lasting] effect is recorded of every fierce anger in the Torah,[7] but no [lasting] effect is recorded in this instance. R. Simeon b. Yohai said: A [lasting] effect is recorded in this instance too, for it is said, Is there not Aaron thy brother the Levite?[8] Now surely he was a priest? Rather, this is what He meant: I had said that thou wouldst be a priest and he a Levite; now, however, he will be a priest and thou a Levite. The Sages maintain: Moses was invested with priesthood only for the seven days of consecration. Some maintain: Only Moses' descendants were deprived of priesthood,[9] for it is said, But as for Moses the man of God, his sons are named among the tribe of Levi;[10] and it says, Moses and Aaron among His priests, and Samuel among them that call upon His name.[11] Why [add] 'and it says'?[12] — You might argue that [the first proof-text] is written for [future] generations,[13] hence it says, however, 'Moses and Aaron among His priests'.

Now, is then a [lasting] effect recorded of every fierce anger in the Torah? Surely it is written, And he went out from Pharaoh in hot anger,[14] and yet he said nothing to him? — Said Resh Lakish: He slapped him and went out. But did Resh Lakish say thus? Surely it is written, And thou shalt stand by the river's brink to meet him,[15] whereon Resh Lakish commented: [The Holy One, blessed be He, said to Moses,] He is a king, and thou must show him reverence;[16] while R. Johanan maintained: [God said to him:] He is a wicked man, therefore be thou insolent toward him? — Reverse it.[17]

R. Jannai said: Let the awe of kingship always be upon thee, for it is written, And all these thy servants shall come down unto me,[18] but he did not say it of [Pharoah] himself.[19] R. Johanan said: It may be inferred from the following: And the hand of the Lord was on Elijah; and he girded up his loins, and ran before Ahab.[20]

'Ulla said: Moses desired kingship, but He did not grant it to him, for it is written, Draw not nigh halom [hither];[21] 'halom' can only mean kingship, as it is said, [Then David . . . said:] 'Who am I, O Lord God . . . that Thou hast brought me halom [thus far]?[22] Raba raised an objection: R. Ishmael said: Her [Elisheba's] brother-in-law [Moses] was a king? — Said Rabbah b. 'Ulla:[23] He ['Ulla] meant, for himself and for his descendants.[24]

Does then 'halom' refer to [future] generations wherever it is written?[25] Surely it is written in connection with Saul, Is there yet a man come halom [hither],[26] yet only he [enjoyed kingship], but not his seed? — If you wish I can answer that there was Ish-bosheth.[27] Alternatively, Saul was different, for it [kingship] did not remain even with him.[28] This agrees with R. Eleazar's dictum in R. Hanina's name: When greatness is decreed for a man, it is decreed for him and for his seed unto all generations, for it is said: He withdraweth not His eyes from the righteous; but with kings upon the throne He setteth them for ever.[29] But if he becomes arrogant, the Holy One, blessed be He, abases him, for it is said [And they are exalted . . .] And if they be bound in fetters, and be holden in cords of affliction.[30]

MEN WITH A BLEMISH, WHETHER TRANSIENT. How do we know this?- Because our Rabbis taught: Every male [may eat of it]:[31] this includes men with a blemish. In which respect? If in respect of eating, surely it is said elsewhere, He may eat the bread of his God, both of the most holy, and of the holy?[32] Hence it means in respect of sharing.[33] Another [Baraitha] taught: 'Every male': this includes men with a blemish. In which respect? If in respect of eating, surely that is already stated [elsewhere]; if in respect of sharing, surely that [too] is already stated?[34] Hence [it is required] in respect of a man blemished from birth.[35] For I might think: I know it only of an unblemished [priest] who became blemished; how do I know it of a man blemished from birth? Therefore it says, ‘Every male’. Another [Baraitha] taught: ‘Every male’ includes a man with a blemish. In which respect? If in respect of eating, surely it is already stated; if in respect of sharing, surely it is already stated; if in respect of a man blemished from birth, surely it is already stated? For I might think: I know it only of a man with a permanent blemish; how do I know it of a man with a transient blemish? Therefore it says, ‘Every male’. Surely this should be reversed![36] — Said R. Shesheth: Reverse it. R. Ashi said: After all, do not reverse it, yet it is necessary. For I might argue,

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(1) V. Lev. XIII, 2.

(2) Lit., ‘the appearance of plagues’.

(3) Aaron's wife.

(4) On the day that the Tabernacle was erected.

(5) He was anointed as the deputy High Priest to lead in battle.

(6) Ex. IV, 14. The reason for God's anger was Moses’ extreme reluctance to go to Pharaoh.

(7) Wherever it is stated that God's anger was kindled, it left its mark in some way.

(8) Ex. IV, 14.

(9) But he remained a priest all his life.

(10) I Chron. XXIII, 24.

(11) Ps. XCIX, 6.

(12) Which implies that the first proof-text is insufficient.

(13) The first text deals with the status of the people then living, and for that reason Moses himself is not included. Thus it may not prove that he was a priest.

(14) Ex. XI, 8.

(15) Ibid. VII, 15.

(16) Surely then he would not have slapped him.

(17) Resh Lakish maintained that he was to be insolent toward him, and R. Johanan the reverse.

(18) Ibid. XI, 8.

(19) Out of respect for royalty, though he knew that Pharoah himself would eventually appeal to him (ibid. XII, 30 seq.)

(20) I Kings XVIII, 46. Thus he shewed him respect as a king, in spite of the strong opposition he had always displayed.

(21) Ex. III, 5.

(22) 11. Sam. VII, 18. ‘Halom’(thus far)there means the kingship.

(23) Emended text (Sh.M.).

(24) Moses desired royalty for himself and his descendants, but it was granted only for himself.

(25) For according to the answer just given, when God said to Moses, ‘Draw not nigh halom’, He meant that he could not enjoy kingship for future generations.

(26) 1. Sam. X, 22.

(27) His son, who did succeed him for a time.

(28) Even in his own lifetime it was torn from him. But originally it was decreed both for him and for his descendants, and he lost it only through his own instability.

(29) Job XXXVI, 7.

(30) Ibid. 8. This is their punishment if ‘they are exalted’, i.e., arrogant.

(31) Lev. VI, 11, 22; VII, 6. These refer to the meal-offering, the sin-offering, and the guilt-offering respectively. The Talmud now interprets each one.

(32) Ibid. XXI, 22.

(33) Blemished priests receive a share in their own rights.

(34) That is deduced from the first ‘every male’.

(35) Lit., ‘from the beginning’. — Emended text.

(36) One would include a non-permanent blemish sooner than a permanent one.

Talmud - Mas. Zevachim 102b

[he is] like an unclean [person]: as an unclean person may not eat-so long as he is not clean, so may this man not eat so long as he is not made whole;[1] hence it informs us [otherwise].

WHOEVER IS NOT ELIGIBLE etc. Is he not? surely a [priest] with a blemish is not eligible, yet he receives a share? Moreover [it implies that every] one who is eligible for service receives a share; lo, an unclean [priest] is eligible for the service in public sacrifices, and yet does not receive a share? — He means: who is fit to eat. Lo, a minor is fit to eat, yet does not receive a share? — He does not teach this.[2] Now that you have arrived at this, [you can say,] After all, it is as we first said:[3] if [your difficulty is] on account of an unclean [priest], he does not teach this;[4] and if [your difficulty is] on account of a [priest] with a blemish: a [priest] with a blemish was included by the Divine Law.[5]

EVEN IF ONE WAS UNCLEAN WHEN THE BLOOD WAS SPRINKLED BUT CLEAN WHEN THE FATS WERE BURNED, HE DOES NOT RECEIVE A SHARE. Hence, if he was clean when the blood was sprinkled but unclean when the fats were burned, he does receive a share. Our Mishnah does not agree with Abba Saul. For it was taught, Abba Saul said: He never receives a share unless he was clean from the time of the sprinkling of the blood until the time of the burning of the fats [inclusive], because it is said, He [among the sons of Aaron,] that offereth the blood of the peace-offerings, and the fat, [shall have the right thigh for a portion][6] this intimates that even [at] the burning of the fat too [cleanness] is required.

R. Ashi asked: What if he was defiled in between?[7] Do we require him [to be clean] at the sprinkling and at the burning, and [this condition] is fulfilled; or perhaps he must be clean from the time of the sprinkling until the time of the burning of the fats? The question stands over.

Raba[8] said: I have the following discussion as a tradition from R. Eleazar son of R. Simeon, which he stated in a privy. You can argue: If a priest, a tebul yom, came and demanded: Give me of an Israelite's meal-offering, that I may eat thereof,[9] one [the clean priest] can answer him: If I can repulse you from an Israelite's sin-offering, though you have a valid right[10] to your own sin-offering, surely I can repulse you from an Israelite's meal-offering, seeing that you have no valid right[10] in your own meal-offering.[11] [He can reply:] If you repulse me from an Israelite's sin-offering, that is because just as I have a great privilege, so have you a great privilege;[12] will you repulse me from an Israelite's meal-offering, where just as my own rights are weak, so are your rights weak? [He can answer:] Lo, it says, [And every meal-offering . . .] shall be the priest's that offereth it:[13] come, offer, and eat.[14]

[If the tebul yom demands:] Give me [a share] of an Israelite's sin-offering, that I may eat, he can reply: If I can repulse you from an Israelite's meal-offering, though I have no privileges in my own meal-offering, surely I can repulse you from an Israelite's sin-offering, seeing that I have great privileges in my own sin-offering. He can retort: If you can repulse me from an Israelite's meal-offering, where just as you have no privileges so have I no privileges: will you repulse me from an Israelite's sin-offering, where just as you have great privileges, so have I great privileges? He can answer: Lo, it says, The priest that offereth it for sin shall eat it:[15] come, offer it for sin, and eat!

If [the tebul yom] demands Give me [a share] of the breast and the thigh, that I may eat, he can reply: If I can repulse you from an Israelite's sin-offering, though you have great privileges in your own sin-offering, surely I can repulse you from a peace-offering, where your privileges are weak, since you have rights only to the breast and thigh thereof. He can retort: If you can repulse me from a sin-offering, where my rights are weak in respect of my wives and servants,[16] will you repulse me from the breast and thigh, where my rights are strong in respect of my wives and my slaves?[17] He can answer: Lo, it says, It shall be the priest's that sprinkleth the blood of the peace-offerings against the altar:[18] Come, sprinkle and eat. Thus the tebul yom departs, bearing his arguments on his head,[19] with an onen on his right and one who lacks atonement on his left.[20]

R. Ahai raised a difficulty: Let him [the tebul yom] demand:[21] Give me [a share] of a firstling, that I may eat. Because he [the clean priest] can answer: If I can repulse you from an Israelite's sin-offering, though my own privileges in a sin-offering are weak in respect to my wives and slaves, surely I can repulse you from a firstling, where I enjoy great privileges, as it is altogether mine. [He can answer:] If you have repulsed me from a sin-offering, where just as your privileges are weak so are my privileges weak, will you repulse me from a firstling, where just as your privileges are great, so are mine great? [He can retort:] Lo, it says, Thou shalt sprinkle their blood against the altar, and shalt make their fat smoke for an offering made by fire . . . and the flesh of them shall be thine:[22] come, sprinkle, and eat.[23] And the other?[24] — Refute it [thus]: Is it then written, And the flesh of them shall be the priest's who sprinkleth? Surely it is written, And the flesh of them shall be thine, which means even another priest's.[25]

Now, how might he [R. Eleazar son of R. Simeon] do this?[26] Surely Rabbah b. Bar Hanah said in R. Johanan's name: One may meditate [on learning] in all places, except in a bath-house and a privy? — It is different [when it is done] involuntarily.

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(1) I would say that Scripture includes only a man with a permanent blemish, because he can never be made whole. But one with a transitory blemish must wait.

(2) The Tanna does not in fact teach the converse that all who are fit to eat do share therein.

(3) Viz., whoever is not eligible for the service (not, not fit to eat).

(4) The Tanna merely teaches that whoever is not eligible for the service does not receive a share, but not the converse.

(5) Therefore he is an obvious exception.

(6) Lev. VII, 33.

(7) And was clean again by the time the fats were burned. — This question is asked on Abba Saul's view.

(8) Sh. M. emends: Rab.

(9) In the evening.

(10) Lit., ‘your strength is good... your strength is feeble’.

(11) A priest liable to a sin-offering, can offer it himself even when his ward (v. p. 473, n. 10) is not officiating, and the flesh and hide then belong to him. Nevertheless, when a tebul yom he has no share in an Israelite's sin-offering (i.e., of course, even when his own ward is officiating). On the other hand, a priest has no share even in his own meal-offering. since a priest's meal-offering is completely burnt (Lev. VI, 16); surely then he has no claim, when a tebul yom, to an Israelite's meal-offering.

(12) Just as I can offer my own sin-offering, so can you offer your own; obviously then I cannot claim any greater privileges in an Israelite's sin-offering.

(13) Lev. VII, 9.

(14) But as you cannot offer, being a tebul yom, you cannot eat either.

(15) Ibid. VI, 19.

(16) Even when I am clean and receive a share, my wives and slaves may not eat thereof.

(17) They may eat of my share.

(18) Ibid. VII, 14.

(19) Lit., ‘with his leniencies and stringencies on his head’ — his arguments have availed him nought, and he retires crestfallen.

(20) They too can be similarly repulsed.

(21) I.e., why did R. Eleazar b. R. Simeon not discuss the case where a tebul yom demands a share in a firstling?

(22) Num. XVIII, 17, 18. This refers to firstlings.

(23) Why then did R. Eleazar b. R. Simeon omit this? Actually a firstling was not given to the ward but to any individual priest, to whom the whole of it belonged. R. Ahai nevertheless suggests that the above argument shews that it cannot be given to a priest (e.g. a tebul yom) who at the time of giving is not fit to officiate. Since R. Eleazar b. R. Simeon omits this, it follows that he does not accept this view.

(24) R. Eleazar b. R. Simeon: why does he reject this argument?

(25) ‘Thine’ meaning the priesthood's in general.

(26) Sc. think of all this in a privy.

Talmud - Mas. Zevachim 103a

MISHNAH. WHENEVER THE ALTAR DOES NOT ACQUIRE ITS FLESH,[1] THE PRIESTS DO NOT ACQUIRE THE SKIN, FOR IT IS SAID, [AND THE PRIEST THAT OFFERETH] ANY MAN'S BURNT-OFFERING [EVEN THE PRIEST SHALL HAVE . . . THE SKIN]:[2] [THIS MEANS,] A BURNT-OFFERING WHICH COUNTS FOR A MAN.[3] IF A BURNT-OFFERING WAS SLAUGHTERED UNDER A DIFFERENT DESIGNATION, ALTHOUGH IT DOES NOT COUNT FOR ITS OWNER, ITS SKIN BELONGS TO THE PRIESTS. WHETHER [IT BE] A MAN'S BURNT-OFFERING OR A WOMAN'S BURNT-OFFERING, THE SKINS BELONG TO THE PRIESTS. THE SKINS OF LESSER SACRIFICES BELONG TO THEIR OWNERS. THE SKINS OF MOST SACRED SACRIFICES BELONG TO THE PRIEST, [AS CAN BE INFERRED] A MINORI: IF THEY ACQUIRE THE SKIN OF A BURNT-OFFERING, THOUGH THEY DO NOT ACQUIRE ITS FLESH; IS IT NOT LOGICAL THAT THEY ACQUIRE THE SKINS OF MOST SACRED SACRIFICES, WHEN THEY ACQUIRE THEIR FLESH? THE ALTAR DOES NOT REFUTE [THIS ARGUMENT], FOR IT DOES NOT ACQUIRE THE SKIN IN ANY INSTANCE.[4]

GEMARA. Our Rabbis taught: ‘Any man's burnt-offering’; this excludes a burnt-offering of hekdesh:[5] these are the words of R. Judah. R. Jose son of R. Judah said: It excludes a proselyte's burnt-offering.[6]

What is meant by, ‘This excludes a burnt-offering of hekdesh? — Said R. Hiyya b. Joseph: It excludes a burnt-offering derived from ‘left-overs’.[7] That is well on the view that ‘left-overs were devoted to public sacrifices; but what can be said on the view that ‘leftovers’ were devoted to private sacrifices?[8] — As Raba said [elsewhere], ‘The burnt-offering’ intimates, the first burnt-offering;[9] so here too’ ‘the burnt-offering’ intimates, the first burnt-offering.[10]

R. Aibu[11] said in R. Jannai's name: It excludes the case where one dedicates a burnt-offering to the Temple Repair:[12] Now, on the view that the sanctity of Temple Repair seizes [it] by Scriptural law, there can be no question; but even on the view that it does not seize [it] [by Scriptural law], that applies only to the flesh, but it does seize the skin.[13] R. Nahman in Rabbah b. Abbuha's name also said: It excludes a burnt-offering derived from ‘left-overs’. Said R. Hamnuna to R. Nahman: With whom does that agree? with R. Judah?[14] Surely he retracted [from his view]? For it was taught: Six were for votive [offerings], [viz.,] for burnt-offerings brought from [the proceeds of] left-overs, the skins of which [burnt-offerings] did not belong to the priests:[15] these are the words of R. Judah. Said R. Nehemiah — others say, R. Simeon — to him: If so, you have nullified the teaching of Jehoiada the Priest. For it was taught:[16] This teaching did Jehoiada the priest expound: It is a guilt-offering — he oweth a guilt-offering unto the Lord:[17] whatever comes in virtue of a sin-offering and a guilt-offering,[18] burnt-offerings are purchased therewith: the flesh belongs to the Lord,[19] while the skin belongs to the priests![20] — Said he to him:[21] Then how does the Master explain it? — I explain it as referring to one who dedicates his property [to Temple Repair], he replied, and it is in accordance with R. Joshua. For we learnt: If one dedicates his property, amongst which were animals eligible for the altar, both males and females, — R. Eliezer said: The males must be sold for the purpose of burnt-offerings, and the females must be sold for the purpose of peace-offerings,[22] whilst the money [obtained] for them, together with the rest of the estate, falls to the Temple Repair. R. Joshua said: The males themselves must be offered as burnt-offerings, and the females must be sold for the purpose of peace-offerings, and burnt-offerings be brought with the money [obtained] for them.[23] Now, even R. Joshua who maintains that a man divides his consecration,[24] that is only in respect of the flesh,[25] but the skin is seized [with the sanctity of Temple Repair].[26]

‘R. Jose son of R. Judah said: It excludes a proselyte's burnt-offering’. Said R. Simai b. Hilkai to Rabina: Is then a proselyte not a man?[27] — It excludes, replied he, a proselyte who died without heirs.[28]

Our Rabbis taught: ‘Any man's burnt-offering’: I know it only of a man s burnt-offering;[29] how do I know it of the burnt-offering of proselytes,[30] women, and slaves? Because it says, The skin of the burnt-offering,[31] [which is] an extension. If so, why does it say, any man's burnt-offering? [It intimates,] a burnt-offering which has freed a man [of his obligation], and [thus] excludes one which was slaughtered [with the intention of sprinkling its blood] after time or without bounds, [teaching] that the priests have no rights in its skin. You might think that I include[32] one which was slaughtered under a different designation, [for] since it does not free its owner,

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(1) E.g., if the sacrifice is disqualified before the blood is sprinkled, so that it was never fit for the altar.

(2) Lev. VII, 8.

(3) I.e., its owner has fulfilled his obligation thereby. Only of such does the skin belong to the priest.But if it is disqualified (v. n. 8, p. 496), its owner must bring another.

(4) You might say, Let the altar refute this argument, for the altar acquires the flesh of the burnt-offering but not its skin; similarly, then, the priests may acquire the flesh of most sacred sacrifices, but not their skins. This analogy, however, is faulty, for the altar has no right to the skin of any sacrifice, whereas the skins of burnt-offerings belong to priests.

(5) V. Glos; the meaning is explained anon.

(6) The skins of these do not belong to the priests.

(7) When a guilt-offering cannot be sacrificed, e.g., its owner died, it is left to graze until it is blemished. Then it is redeemed, and a burnt-offering is purchased with the redemption-money. This burnt-offering is sacrificed when there is a scarcity of other sacrifices (hence it was known as the sacrifice for ‘the altar's summer fruit’), and ranks as a public sacrifice; hence it was not ‘any man's burnt-offering’, and its skin did not belong to the priests.

(8) E.g., the heir of the dead man would bring it as a private sacrifice: why then should the skin not belong to the priest?

(9) V. Pes. 58b, Sonc. ed. p. 292.

(10) The def. art. in ‘the priest shall have the skin of the burnt-offering’ intimates that a particular one is meant, viz., an animal consecrated as such in the first place. A ‘left-over’, however, was originally consecrated for something else.

(11) Sh.M. emends: Ila.

(12) Lit., ‘one causes a burnt-offering to be seized (with sanctity) for the Temple Repair.’ — ‘Temple Repair’ is a technical term, denoting a thing dedicated for any Temple use except a sacrifice. This animal itself must be sacrificed.

(13) There are two views on the dedication of a sacrifice to Temple Repair (inferred from a discussion in Tem. 32a bottom, b): (i) This animal is seized with the sanctity of Temple Repair by Scriptural law. Consequently it must be redeemed (the redemption money going to the Temple Repair), and then sacrificed. On this view the skin is certainly not the priest's, for it is not ‘the burnt-offering of any man’, but one which belongs to Temple Repair. (ii) By Scriptural law this animal cannot be ‘seized’ with any other sanctity, since it already belongs to God. Yet even this view applies only to the flesh of the offering, which belongs to the altar; but as the skin does not belong to the altar in any case, it is ‘seized’ with the sanctity of Temple Repair, and does not belong to the priest.

(14) Who maintains anon that the skin of left-overs is the priest's.

(15) There were thirteen horn-shaped receptacles in the Temple for various funds. Six of these were for the purpose stated in the text.

(16) Marginal emendation: we learnt.

(17) Lev. V, 19. E.V. he is certainly guilty before the Lord. The present rendering, which gives the sense as it is understood here, viz., that the guilt-offering belongs to the Lord, contradicts Lev. VII, 7 q.v., and the text proceeds to reconcile the two verses.

(18) I.e., if the animals so dedicated cannot be offered as such for any reason; thus they are left-overs. They are left to graze until they are blemished, when they are redeemed, and other animals purchased for sacrifices, as explained.

(19) It is burnt on the altar.

(20) But not to the Lord. Now, R. Judah did not answer this, which shews that he accepted it and retracted from his view.

(21) Sc. R. Nahman to R. Hamnuna.

(22) If one consecrates an animal fit for the altar to Temple Repair, the animal must be sacrificed. Hence these animals must be sold to those who need them for sacrifices. This selling constitutes redemption, for R. Eliezer holds that everything consecrated for Temple Repair must be redeemed, if it cannot be used itself for that purpose, and the money goes to that fund.

(23) R. Joshua holds that when a man consecrates property without defining it, whatever is fit for the altar is meant to be sacrificed itself, and not redeemed. But at the same time, the whole of it must be for the altar, just as the whole of anything consecrated to Temple Repair belongs to the Temple Repair Fund. Consequently, males are sacrificed as burnt-offerings on behalf of the person who consecrated them, and not sold to another. Females, however, cannot be similarly sacrificed as peace-offerings, since only a portion of peace-offerings belong to the altar. Therefore they are sold for peace-offerings, and with the money males for burnt-offerings are bought, and the rest of the estate falls to Temple Repair.

(24) I.e., though he does not specify, he intends each thing for whatever it is fit, whether for the Temple Repair Fund or for the altar.

(25) I.e., the flesh of the animal belongs to the altar.

(26) Since skin could be consecrated to the Temple Repair Fund, it belongs to it now too, and not to the priests. This then is what we exclude above.

(27) Surely he is included in, ‘any man's burnt-offering’?

(28) An ordinary Jew cannot be without an heir, since he must have some relation, however distant. A proselyte, however, loses all relationship with his pre-conversion relations, and so may die without a legal heir. Hence the animal does not belong to ‘any man’ when it is sacrificed.

(29) That the skin belongs to the priests.

(30) Sh.M. (and apparently Rashi) delete ‘proselyte.’ Var. lec. heathens. — Sacrifices were accepted from non-Jews.

(31) ‘Burnt-offering’ is a repetition in the same verse.

(32) Among those whose skin does not belong to the priests. Var. lec. exclude — sc. from those whose skins belong to the priest — this is preferable.

Talmud - Mas. Zevachim 103b

the skin does not belong to the priests. Therefore it says, ‘the skin of the burnt-offering’, [which implies,] at all events. ‘The skin of the burnt-offering’: I know it only of the skin of a burnt-offering; how do I know it of the skin of most holy sacrifices? Because it says, [‘the skin of the burnt-offering][1] which he hath offered.’[2] You might think that I include lesser sacrifices too: therefore it states, ‘burnt-offering’: as a burnt-offering is a most sacred sacrifice, so all most sacred sacrifices [are included].[3] R. Ishmael said: ‘The skin of the burnt-offering’: I know it only of the skin of a burnt-offering. How do I know it of the skin of most sacred sacrifices? It is inferred by logic. If the priests have a right to the skin of a burnt-offering, though they have no right to its flesh, is it not logical that they have a right to the skin of [other] most sacred sacrifices, seeing that they have a right to their flesh? Let the altar refute it, for it has a right to the flesh and has no right to the skin? As for the altar, that is because it has no right to part thereof;[4] but in the case of priests who have a right to part thereof, you must say: since they have a right to part, they have a right to the whole.[5] Rabbi said: The text bears essentially only upon the skin of a burnt-offering.[6] For in every instance the skin follows the flesh. [Thus:] the bullocks that are to be burnt and the goats that are to be burnt are burnt and their skin with them. The sin-offering, guilt-offering, and public peace-offerings are the priestly dues: if they wish, they can flay them; if they do not so desire, they can consume them together with their skin.[7] Lesser sacrifices belong to their owners: if they desire, they can flay them; if they do not desire, they can eat them together with the skin. But of the burnt-offering it is said, And he shall flay the burnt-offering, and cut it into its pieces.[8] You might thus think that the priests do not acquire its skin; therefore it states, ‘even the priest shall have to himself the skin of the burnt-offering which he hath offered’; and this excludes a tebul yom, [one who lacks atonement],[9] and an onen. For you might think that these have no right to the flesh, which is eaten, but they have a right to the skin, which is not eaten:[10] therefore it states, it shall be his:[11] which excludes one who lacks atonement, a tebul yom, and an onen.

Now, let the first Tanna too deduce it by logic? — That which may be inferred a fortiori. Scripture takes the trouble of writing it [explicitly]. Now, how does R. Ishmael utilise this text, ‘which he hath offered’? — It excludes a tebul yom, one who lacks atonement, and an onen. But let him deduce that from ‘it shall be his’? — R. Ishmael is consistent with his view. For R. Johanan said on R. Ishmael's authority: ‘It shall be his’ is said in connection with a burnt-offering, and ‘it shall be his’ is said in connection with a guilt-offering: as there its bones are permitted, so here too its bones are permitted. This must be redundant, for if it is not redundant, it can be refuted: as for a guilt-offering, that is because its flesh is permitted! ‘It shall be his’ is a superfluous text.[12]

MISHNAH. ALL SACRIFICES WHICH BECAME DISQUALIFIED: [IF THIS HAPPENED] BEFORE THEY WERE FLAYED, THEIR SKINS DO NOT BELONG TO THE PRIESTS.[13] [IF IT OCCURRED] AFTER THEY WERE FLAYED, THEIR SKINS BELONG TO THE PRIESTS. SAID R. HANINA THE SEGAN OF THE PRIESTS:[14] NEVER IN MY LIFE HAVE I SEEN SKIN GO OUT TO THE PLACE OF BURNING.[15] R. AKIBA OBSERVED: WE LEARN FROM HIS WORDS THAT IF ONE FLAYS A FIRSTLING AND IT IS FOUND TO BE TEREFAH,[16] THE PRIESTS HAVE A RIGHT TO ITS SKIN. BUT THE SAGES MAINTAIN: ‘I HAVE NEVER SEEN’ IS NOT PROOF: RATHER, IT [THE SKIN] MUST GO FORTH TO THE PLACE OF BURNING.[17] GEMARA. [The preceding Mishnah teaches,] Whenever the altar does not acquire the flesh, the priests do not acquire the skin, [which implies,] even though the skin was stripped before the sprinkling [of the blood]. Who is the author of this? R. Eleazar b. R. Simeon, who maintained: The blood does not propitiate on behalf of the skin when it is by itself.[18] Then consider the second clause:[19] ALL SACRIFICES WHICH BECAME DISQUALIFIED: [IF THIS HAPPENED] BEFORE THEY WERE FLAYED, THEIR SKINS DO NOT BELONG TO THE PRIESTS; [IF IT OCCURRED] AFTER THEY WERE FLAYED, THEIR SKINS BELONG TO THE PRIESTS: this agrees with Rabbi, who maintained: The blood propitiates on behalf of the skin when it is by itself. Thus the first clause agrees with R. Eleazar b. R. Simeon, while the second clause agrees with Rabbi? — Said Abaye: Since the second clause agrees with Rabbi, the first clause too agrees with Rabbi; Rabbi however admits that flaying is not done before sprinkling.[20] Raba said: Since the first clause agrees with R. Eleazar b. R. Simeon, the second clause too agrees with R. Eleazar b. R. Simeon. What however is meant by ‘before flaying’

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(1) Sh.M. deletes this.

(2) This is superfluous, and therefore intimates: all sacrifices which a priest offers.

(3) But not others.

(4) As in the Mishnah: in no instance does the skin belong to the altar.

(5) To the skin of all most sacred sacrifices.

(6) And does not apply to or is not needed for any other sacrifices.

(7) I.e., the priests are not bound to flay the animals first. Obviously then the skin is theirs together with the flesh, and no text is required in respect of these.

(8) Lev. I, 6. Scripture does not state at this stage what is done with the skin.

(9) Rashak omits bracketed words.

(10) I.e., while they have no share in the flesh of other sacrifices, since they are not eligible to eat it when they are sacrificed, there seems no reason why they should not share in the skin of the burnt-offering.

(11) The literal translation of the text quoted is, the skin of the burnt-offering which he hath offered is the priest's; it shall be his. ‘It shall be his’ is emphatic; implying his only, and not any other priest's.

(12) Supra 86a q.v. notes. Thus he utilises ‘it shall be his’ for this purpose.

(13) But are burnt together with the flesh.

(14) V. p. 401, n. 4.

(15) Sc. after it was flayed.

(16) Though this disqualification occurred before it was even slaughtered.

(17) Since it was disqualified before it was flayed.

(18) If the flesh becomes disqualified after the animal is flayed, so that the sprinkling does not ‘propitiate’ on behalf of the flesh, i.e., it does not render the flesh permitted, it does not propitiate on behalf of the skin either, i.e., it does not permit the skin to the priests.

(19) Sc. the present Mishnah.

(20) Though the blood does propitiate on behalf of the skin by itself, he admits that it is very rare for the skin to be by itself when the blood is sprinkled, since the flaying is generally done afterwards, in order not to keep the blood so long. Hence the preceding Mishnah assumes that the skin was not stripped before the sprinkling. If, however, it was, the skin would belong to the priests, notwithstanding that the altar did not acquire its flesh.

Talmud - Mas. Zevachim 104a

and 'after flaying'? — Before it is eligible for flaying and after it is eligible for flaying [respectively].[1]

What is this allusion to Rabbi and R. Eleazar b. R. Simeon? — It was taught: Rabbi said: The blood propitiates on behalf of the skin by itself. But when it is together with the flesh and a disqualification arises in it, whether before or after the sprinkling, it is the same as itself.[2] R. Eleazar b. R. Simeon maintained: The blood does not propitiate on behalf of the skin by itself. And when it is together with the flesh and a disqualification arises in it before sprinkling, it is the same as itself; [if it arises] after the sprinkling, the flesh has been permitted for a short space of time, [and so] it is flayed, and the skin belongs to the priests.[3]

Shall we say that they differ on the same lines as R. Eliezer and R. Joshua? For it was taught: And thou shalt offer thy burnt-offerings, the flesh and the blood:[4] R. Joshua said: If there is no blood there is no flesh, and if there is no flesh there is no blood.[5] R. Eliezer said: The blood is [fit] even if there is no flesh, because it is said, And the blood of thy sacrifices shall be poured out [against the altar of the Lord thy God].[6] If so, why is it stated, And thou shalt offer thy burnt-offerings, the flesh and the blood? To teach you: just as the blood requires throwing,[7] so does the flesh require throwing.[8] Thus you learn that there was a space between the ascent and the altar.[9] Shall we say that he who maintains that it propitiates[10] agrees with R. Eliezer,[11] while he who maintains that it does not propitiate agrees with R. Joshua? — About the view of R. Eliezer there is no controversy at all.[12] They disagree in reference to R. Joshua. He who maintains that it does not propitiate holds as R. Joshua. While he who maintains that it does propitiate can tell you: R. Joshua rules thus only there, where there is no loss to the priests.[13] But as for the skin, which would entail a loss to the priests, even R. Joshua admits,[14] by analogy with a fait accompli.[15] For it was taught: If the flesh was defiled or disqualified,[16] or it passed without the curtains, — R. Eliezer said: He must sprinkle [the blood]; R. Joshua maintained: He must not sprinkle [the blood]. Yet R. Joshua admits that if he does sprinkle [it], it is accepted.[17]

SAID R. HANINA THE SEGAN OF THE PRIESTS etc. Did he not? Surely there are the bullocks which are burnt and the goats which are burnt?[18] — We do not speak of [what is burnt] in pursuance of their prescribed rites.[19] But what when [the sacrifice is disqualified] before it is flayed and before sprinkling?[20] — We refer to a stripped [skin].[21] But there is [a disqualification] after flaying and before sprinkling, according to R. Eleazar b. R. Simeon who maintained [that] the blood does not propitiate on behalf of the skin by itself?[22] — R. Hanina agrees with Rabbi.[23] Alternatively, you may even say that he holds as R. Eliezer b. R. Simeon: Rabbi admits that there was no flaying before sprinkling.[24] But there is [the case] where it is discovered terefah in its inwards?[25] — He holds that where it is found terefah in its inwards, it [the blood] propitiates. This may be proved too, for it teaches, R. AKIBA OBSERVED: WE LEARN FROM HIS WORDS THAT IF ONE FLAYS A FIRSTLING AND IT IS FOUND TO BE TEREFAH, THE PRIESTS HAVE A RIGHT TO ITS SKIN. This proves it. What then does R. Akiba inform us?[26] — He informs us this, [viz.,] that it is so even in the country.[27] R. Hiyya b. Abba said in R. Johanan's name: The halachah is as R. Akiba. But even R. Akiba ruled thus only where an expert had permitted it,[28] but not if an expert had not permitted it. [The Talmud however states:] The law agrees with the view of the Sages: [the flesh is buried and the skin is burnt].[29]

MISHNAH. BULLOCKS WHICH ARE BURNT AND GOATS WHICH ARE BURNT: WHEN THEY ARE BURNT IN PURSUANCE OF THEIR PRESCRIBED RITES, THEY ARE BURNT IN THE ASH DEPOSITORY, AND DEFlle GARMENTS;[30] BUT WHEN THEY ARE NOT BURNT IN PURSUANCE OF THEIR PRESCRIBED RITES,[31] THEY ARE BURNT IN THE PLACE OF THE BIRAH[32] AND DO NOT DEFILE GARMENTS.

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(1) I.e., before and after sprinkling. If it is disqualified before sprinkling, even after flaying, the skin does not belong to the priests. If it is disqualified after sprinkling, even though it was not yet flayed, the skin belongs to the priests.

(2) Sc. the flesh.

(3) Cf. supra 85a.

(4) Deut. XII, 27.

(5) If either is defiled, the other is unfit for its purpose.

(6) Ibid.

(7) I.e., dashing against the altar.

(8) On the altar.

(9) V. supra 62b.

(10) The blood propitiates on behalf of the skin after the flesh is disqualified. — Lit., ‘it (the skin) is propitiated’.

(11) That the blood is fit (and efficacious) even when there is no flesh.

(12) He certainly disagrees with R. Eleazar b. R. Simeon, since he holds that the blood can be sprinkled even if there is no flesh, and therefore it must be efficacious in permitting the skin.

(13) R. Joshua rules that if there is no flesh there is no blood only in the sense that the owner is not yet freed from his obligation and must bring another sacrifice. Thus this does not involve the priests in loss.

(14) That the sprinkling of the blood makes it available for the priests. since Scripture ordains that the skin belongs to the priest who offers it, and here the priests have offered it.

(15) As the text proceeds to explain. Sh.M. emends: with (flesh) that went out.

(16) By the touch of a tebul yom.

(17) Hence here in the same way the sprinkling permits the skin to the priests.

(18) Their skin was burnt too.

(19) There the burning of the skin (as of the whole animal) is part of the prescribed rites of that particular sacrifice. R. Hanina, however, spoke of sacrifices which were burnt through being disqualified.

(20) There all agree that the skin is burnt.

(21) Whereas in the case just quoted the animal was burnt without being flayed.

(22) So that it must be burnt.

(23) That the blood does propitiate in that case.

(24) V. supra 103b, p. 503, n. 3. R. Eleazar b. R. Simeon would certainly hold the same. Thus though theoretically the skin might be burnt by itself, in practice this never happened.

(25) This was disqualified before sprinkling and flaying, and it is now assumed that both Rabbi and R. Eleazar b. R. Simeon agree that the skin is burnt. (As this terefah would not be discovered until the skin was stripped, the skin would be burnt by itself.)

(26) Since R. Hanina rules thus of all sacrifices, why does R. Akiba tell us this particularly about a firstling?

(27) Lit., ‘borders’ — a technical term for all places outside Jerusalem. When a firstling becomes blemished, it is slaughtered and eaten outside Jerusalem just like hullin. But Scripture permits nothing else but eating, so that if it dies, the carcass must not be put to any use, but must be buried. If, however, it was found to be terefah (and so cannot be eaten), R. Akiba informs us that since this was discovered after it was flayed, the skin is permitted, just as the skin is permitted in similar circumstances in the Temple.

(28) Before a blemished firstling might be slaughtered for food it had to be examined by an expert, to make sure that the blemish was a permanent one and had not been deliberately inflicted.

(29) Presumably this means that the Talmud rejects the ruling of R. Hiyya b. Abba and rules in accordance with the Sages. Consequently, R. Akiba's inference, being based on R. Hanina's ruling, is likewise rejected. Hence if a firstling is found terefah after it is stripped, the whole of it is forbidden. The flesh is buried, not burnt, for only the flesh of sacrifices which had been brought to the Temple court and there disqualified is burnt. Rashi knows no reason why the skin is burnt, and suggests that 'the flesh . . . burnt' should altogether be deleted, and that we simply read: The law agrees with the Sages.

(30) The garments of those who burn it, v. Lev. XVI, 28.

(31) But because they had been disqualified.

(32) Lit., 'the Edifice.' V. Gemara.

Talmud - Mas. Zevachim 104b

IF THEY WERE CARRYING THEM[1] ON STAVES,[2] [AND] THOSE IN FRONT HAD PASSED WITHOUT THE WALL OF THE TEMPLE COURT WHILE THOSE IN THE REAR HAD NOT [YET] GONE OUT, THOSE IN FRONT DEFILE THEIR GARMENTS, WHILE THOSE IN THE REAR DO NOT DEFILE THEIR GARMENTS, UNTIL THEY GO OUT. WHEN BOTH GO OUT, BOTH DEFILE THEIR GARMENTS. R. SIMEON SAID: THEY DO NOT DEFILE [THEIR GARMENTS] UNTIL THE FIRE IS BURNING IN THE GREATER PART OF THEM.[3] WHEN THE FLESH IS DISSOLVED, HE WHO BURNS [IT] DOES NOT DEFILE HIS GARMENTS.[4]

GEMARA. WHAT IS THE BIRAH? — Said Rabbah b. Bar Hanah in R. Johanan's name: There is a place on the Temple Mount called 'Birah'. While Resh Lakish maintained: The whole Temple [House] is called Birah, for it is said, And to build the Birah [Temple], for which I have made provision.[5]

R. Nahman said in Rabbah b. Abbuha's name: There were three ash-pits. There was the large ash-pit in the Temple court: there they burnt most holy sacrifices and emurim of lesser sacrifices which had become disqualified. and the bullocks which were burnt and the goats which were burnt, which had become disqualified before sprinkling. There was a second ash-pit on the Temple Mount: there they burnt the bullocks which were burnt and the goats which were burnt, which had become disqualified after sprinkling. While [those which were burnt] in pursuance of their rites, [were burnt] without the three camps.[6] Levi recited: There were three ash-pits. There was the large ash-pit in the Temple court: there they burnt most holy sacrifices and emurim of lesser sacrifices which had become disqualified, and the bullocks which were burnt and the goats which were burnt, which had become disqualified either before or after the sprinkling. There was a second ash-pit on the Temple Mount: there they burnt the bullocks which were burnt and the goats which were burnt, which had become disqualified after they had gone out.[7] While [those burnt] in pursuance of their prescribed rites, [were burnt] without the three camps.

R. Jeremiah[8] asked: Is linah[9] effective in the case of the bullocks which are burnt and the goats which are burnt?[10] Do we say, linah is effective only in respect of flesh which can be eaten, but not in respect of these which cannot be eaten; or perhaps there is no difference? — Said Raba: This question was raised by Abaye, and I solved it for him from the following: And both agree that if he expressed an intention [of piggul] in connection with the eating of the bullocks and their burning, he has done nothing.[11] Surely then, since intention does not disqualify it, linah too does not disqualify it. — [No]: perhaps only intention does not disqualify it, but linah does disqualify it.

Come and hear: You trespass in respect of the bullocks which are burnt and the goats which are burnt from the time they are consecrated. Having been slaughtered, they are ready to become unfit through a tebul yom and one who lacks atonement, and through linah.[12] Surely that means, linah of the flesh? No, it means linah of the emurim.[13] But since the second clause teaches, You trespass in the case of all when they are in the ash-pit until the flesh is dissolved, it follows that the first clause treats of linah of the flesh? — What reason have you for supposing this? the second clause treats of the flesh, while the first clause treats of emurim.

Come and hear, for Levi recited: . . . which had become disqualified after they had gone out.' Does that not mean disqualification through linah? — No: it means disqualification through defilement or through going out.[14]

R. Eleazar asked: Is going out effective in respect of the bullocks that are burnt and the goats that are burnt?[15] Why does he ask?[16] — Said R. Jeremiah b. Abba: His question is asked on the view that 'it is not time yet for them to be carried out' [is a disqualification].[17] Do we say, that applies only to flesh which one is not eventually bound to carry out; but not to these, which must eventually be carried out; or perhaps here too [we argue that] it was not yet time for them to go out? — Come and hear, for Levi recited: 'which had become disqualified after they had gone out'. Does that not mean disqualification through going out? — No: it means disqualification through defilement or linah.[18]

R. Eleazar asked: What of the bullocks which were burnt and the goats which were burnt, if the greater part of them went out through the inclusion of the smaller part of a limb?[19] Do we cast this lesser part of the limb after its greater part, and that indeed has not gone out;[20] or perhaps we cast it after the greater part of the animal? — It is obvious that we do not disregard the greater part of the animal and regard the greater part of the limb! Rather [the question arises] where half of it went out, through the inclusion of the greater part of the limb. Do we cast this lesser part of the limb[21]

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(1) Sc. the bullocks or goats.

(2) In order to burn them in pursuance of their rites.

(3) Sc. of the sacrifices. Hence those who leave the animal before the greater part of the carcass is burning. do not defile their garments.

(4) If a person comes to engage in its burning when the flesh is already disintegrated through the fire, he does not defile his garments.

(5) 1. Chron. XXIX, 19.

(6) V. p. 276. n. 6. That was the third ash-pit.

(7) Of the Temple court.

(8) Sh.M. reads: Eleazar.

(9) V. Glos.

(10) Does linah disqualify them, as it does other sacrifices?

(11) V. supra 35a.

(12) V. supra 35b.

(13) Since these require burning on the altar (haktarah), linah certainly disqualifies them.

(14) It was carried out before the blood was sprinkled; this disqualifies it.

(15) V. preceding note: R. Eleazar asks whether this does disqualify them.

(16) Since they must eventually be carried out, why should he think that they are disqualified if this is done before the sprinkling of the blood?

(17) V. supra 89b.

(18) The Talmud means that when we ask about going out, we can argue that this may refer to linah, and vice versa.

(19) The greater part of the carcass was carried out, but it was the greater part only because it included the lesser part of a limb, the greater part of which was still within. Rashi: the question is whether that counts as going out, so that the men in front, who had carried that portion out (for the purpose of burning) defile their garments. Tosaf.: the question is whether (assuming that going out disqualifies). this must now be burnt within (v. supra).

(20) Hence the lesser part itself is regarded as still within, and consequently the greater part of the carcass has not gone out.

(21) Which remained within.

Talmud - Mas. Zevachim 105a

after its greater part and that indeed has gone out;[1] or perhaps we cast it after the animal? The question stands over.

Rabbah b. R. Huna recited [this passage] in reference to men. Thus: five men were engaged on it,[2] three had gone out and two were left [within]. What [is the law]? Do we follow the majority of those engaged on it;[3] or perhaps we go by the animal? The question stands over.

R. Eleazar asked: What if the bullocks which were burnt and the goats which were burnt were carried out and then brought back:[4] do we say, since they [the carcasses] went out, they are unclean; or perhaps, since they returned, they returned?[5] — Said R. Abba b. Memmel, Come and hear: IF THEY WERE CARRYING THEM ON STAVES, AND THOSE IN FRONT HAD PASSED WITHOUT THE WALL OF THE TEMPLE COURT WHILE THOSE IN THE REAR HAD NOT [YET] GONE OUT, THOSE IN FRONT DEFILE THEIR GARMENTS. WHILE THOSE IN THE REAR DO NOT DEFILE THEIR GARMENTS. UNTIL THY GO OUT. Now, if you should think that as soon as they go out, they [the garments] are defiled, then let those who are within also be defiled?[6] Said Rabina:[7] Now, is that logical?[8] Surely we require, and after that he may come into the camp,[9] which is absent. Then in which circumstances does R. Eleazar's question arise?[10] — Where they seized it with crooks.[11]

Our Rabbis taught: The bullocks [which are burnt], the [red] heifer, and the goat that is sent away:[12] he that leads [the last] away, he who burns them, and he who carries [the first-named] out [of the Temple court], defile their garments. They themselves, however, do not defile garments;[13] but they defile foodstuffs and liquids: these are the words of R. Meir. But the Sages maintain: The [red] heifer and the bullocks defile foodstuffs and liquids, [whereas] the goat which is sent away does not defile, because it is alive, and a live thing does not defile foodstuffs and liquids. As for R. Meir, it is well, [as his view] agrees with the teaching of the School of R. Ishmael. For the School of R. Ishmael taught: Upon any sowing seed which is to be sown:[14] as seeds, which will not ultimately defile with stringent uncleanness, require a qualification [heksher], so all which will not ultimately defile with stringent uncleanness require a qualification. Thus the carcass of a clean bird is excluded: since It will eventually defile with stringent uncleanness, it does not require a qualification.[15] But as for the Rabbis, if they accept the teaching of the school of R. Ishmael, even the goat that is sent away too [should defile]; while if they reject it, how do they know [that] the [red] heifer and the bullocks [defile foodstuffs]?[16] When R. Dimi came,[17] he said: In the West [Palestine] they said: They need a qualification for defilement from a foreign source.[18]

R. Eleazar asked: Can the bullocks which are burnt and the goats which are burnt defile foodstuffs and liquids within [the Temple court] as without?[19] When it lacks going out, is it as though it lacks an action,[20] or not? After he asked, he answered it: That which lacks going out is as though it lacked an action.[21]

R. Abba b. Samuel[22] asked R. Hiyya b. Abba: According to R. Meir, can as much as an olive of the nebelah of a clean bird defile?[23] When it is lying on the ground, there is no question.[24] When one has it in his mouth, there is no question.[25] The question arises when one is holding it in his hand.[26] [Do we say:] Since it was not yet taken [to his mouth], it is as though it lacked an action,[27] or not? [After he asked, he solved it]:[28]

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(1) And by adding this lesser part, the greater part of the animal has now gone out.

(2) In carrying out its carcass.

(3) Hence even those within are regarded as without.

(4) It is assumed that he asked whether the garments of the men who carried it out are defiled.

(5) And are regarded as not having gone out at all.

(6) For the defilement of garments depends on the going out of the carcass, not on that of the men (infra b). Hence those within do not defile their garments only because if the carcass is carried back within, even the garments of the men without remain clean.

(7) Rashi and BAH read: Raba.

(8) Do you really think that this proof is valid?

(9) Lev. XIV, 8. ‘After that’ means after he washes his garments, which were unclean. This shews that Scripture speaks of one who is without (he cannot come in otherwise), and only then does he defile his garments.

(10) According to this, it obviously depends on whether the men have gone out.

(11) While standing outside, the carcass having been carried out once and taken in again. Are the garments of these men (if they are not the same as those who carried it out the first time) unclean, or not?

(12) V. Lev. XVI, 21 seq.

(13) The carcasses do not defile any garments which they touch.

(14) Lev. XI, 37.

(15) The whole Scriptural passage reads: And if aught of their carcass (sc. of unclean ‘swarming things’ — sherazim) fall upon any sowing seed which is to be sown, it is clean. But if water be put upon the seed, and aught of their carcass fall thereon, it is unclean unto you. Thus ‘seed’ is a foodstuff which requires a ‘qualification’ to become unclean, viz., water must first fall upon it, and it must be touched by a sherez (q.v. Glos.). When it is unclean, it can in turn defile only eatables and liquids, but not human beings or utensils or garments; thus its defilement is said to be light, not stringent. The School of R. Ishmael deduces that only such require a ‘qualification’ before they defile; but those which will defile human beings etc. do not require any qualification. The carcass (nebelah, q.v. Glos.) of a clean bird (i.e., one permitted for food) defiles the garments of the person who eats it; therefore it does not require a ‘qualification’. Now, the red heifer, the goat that is sent away, and the bullocks which are burnt, will eventually defile garments; hence they do not need any qualification. and so defile even while they are alive.

(16) Seeing that Scripture speaks only of garments.

(17) V. p. 301. n. 7.

(18) The School of R. Ishmael meant that whatever will not eventually defile with stringent defilement needs a qualification from a foreign source, i.e., it must first touch a sherez or nebelah, whereas that which will eventually defile in this manner e.g. the red heifer, need not first touch a sherez or nebelah, but defiles foodstuffs and liquids automatically. Nevertheless, it must be such as is capable of defiling in general, and we find no instance of a living creature defiling.

(19) According to the foregoing, they defile foodstuffs because they defile with stringent defilement (sc. garments). But that is only

(20) Which is necessary before it can defile.

(21) Hence they do not defile foodstuffs within.

(22) Sh. M. emends: R. Abba b. Memmel.

(23) Foodstuffs and liquids. — There is no question on the view of the Rabbis, as they maintain that before anything can defile it must conform to the general laws which govern it, and as much as an olive of this nebelah can defile only when it is in a man's throat. R. Meir, however, holds that whatever can eventually defile with a stringent defilement need not be fit for defilement. Hence on his view the question arises,

(24) It certainly does not defile, for it may never reach the stage of stringent defilement, as perhaps none will take it in his mouth.

(25) It certainly does defile, for it has already reached that stage.

(26) And about to eat it.

(27) To render it capable of defilement.

(28) Sh.M. deletes bracketed words. Rashi reads: said he to him.

Talmud - Mas. Zevachim 105b

The fact that it was not yet taken [to his mouth] is not as though it lacked an action. He refuted him: Thirteen laws were stated on the nebelah of a clean bird, and this is one of them: It needs intention[1] and it does not need a qualification[2] and as much as an egg thereof defiles foodstuffs.[3] Surely this is in accordance with R. Meir? — No: it agrees with the Rabbis. But the first clause teaches, ‘it needs intention and it does not need a qualification[2] and whom do you know to hold thus? R. Meir. And since the first clause agrees with R. Meir, the second clause agrees with R. Meir? — Why say thus?

each is governed by its own conditions.[4] But the final clause teaches, Shechitah

when they go out: hence the question whether they defile foodstuffs whilst they are still within, just as when they are without. or melikah relieves it, when terefah, from its uncleanness:[5] now, whom do you know to hold this view? R. Meir, Then the first and the last clauses agree with R. Meir, while the middle clause agrees with the Rabbis? — Yes: the first and the last clauses agree with R. Meir, while the middle clause agrees with the Rabbis.

R. Hamnuna said to R. Zera: Do not sit down on your haunches until you have told me this law:[6] on R. Meir's view do we distinguish first and second [degrees of uncleanness][7] in the nebelah of a clean bird, or do we not distinguish first and second [degrees]? — Said he to him: Where a thing defiles a human being by touch, we distinguish first and second [degrees] in it; where it does not defile a human being by touch, we do not distinguish first and second [degrees] in it.[8]

R. Zera asked R. Ammi[9] b. Hiyya — others say, R. Abin b. Kahana: As to what was taught, When foodstuffs are joined by means of a liquid, they are united in respect of a light uncleanness, but are not united in respect of stringent defilement:[10] do we distinguish first and second [degrees] in their case, or do we not distinguish first and second [degrees] in their case? — Said he to him: Where a thing defiles a human being, we distinguish first and second [degrees] in it; where it does not defile a human being, we do not distinguish first and second [degrees] in it.

WHEN BOTH GO OUT. How do we know it? — Because our Rabbis taught: Elsewhere without three camps is said, whereas here without one camp [is prescribed]?[11] It is to teach you: immediately it has gone forth from the first camp, it defiles garments.[12]

And how do we know it in the case of that itself?[13] — Because our Rabbis taught . . . Even the whole bullock shall he carry forth without the camp:[14] [that means,] without the three camps. You say, without the three camps; yet perhaps it is not so, but rather, without one camp? — When it says in connection with the congregational bullock, without the camp,[15] which is superfluous, since it states, as he burned the first bullock,[16] that prescribes a second camp. When further ‘without the camp’ is stated in connection with the ashes,[17] which is superfluous. since it is already stated, where the ashes are poured out it shall be burnt,[18] it prescribes a third camp.[19]

Now, how does R. Simeon employ this ‘without the camp’?[20] — He requires it for what was taught: R. Eliezer said: ‘Without the camp’ is stated here, and ‘without the camp’ is stated elsewhere:[21] as here it means without the three camps, so there it means without the three camps; and as there it means on the east of Jerusalem,[22]

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(1) Before it can defile foodstuffs, one must intend to eat it, (though such eating is not permissible).

(2) For defiling; v. supra a.

(3) Now, if it is on the ground, it certainly does need qualification, since one may never eat it. On the other hand, if it is in one's mouth, it does not need intention. Hence it must mean that he is holding it in his hand, and yet only as much as an egg defiles, but not as much as an olive.

(4) One may agree with the Rabbis, and the other with R. Meir.

(5) I.e., if it is ritually killed with shechitah or melikah, but found to be terefah, it does not defile.

(6) I.e., do not sit down at all.

(7) V. Pes. Sonc. ed. p. 62, n. 2.

(8) Hence we do not count it here.

(9) Sh.M. reads: Abin.

(10) Rashi: ‘If two pieces of nebelah, each half an olive in size, are lying apart, but are joined by a liquid, this liquid unites them to enable them to defile any foodstuff which touches one of them, but does not unite them to deflle a human being in the same way. I do not know the reason for this differentiation.’ — As much as an olive of the nebelah of a clean animal (but not of a bird) defiles a man by contact.

(11) ‘Elsewhere’ means in the case of the bullock brought by the anointed priest or that brought when the whole congregation sins in ignorance; these were burnt without the camp (v. Lev. IV, 12, 21), and it is deduced anon that Scripture means without the three camps. Whereas ‘here’ in reference to the Day of Atonement it is said: And the bullock of the sin-offering, and the goat of the sin-offering . . . shall be carried forth without the camp, and they shall burn in the fire their skins etc. (Lev. XVI, 27). This implies that they are burnt immediately they leave the first camp. In fact, however, they are all alike, for Lev. XII, 21 is applied to the bullock of the Day of Atonement (v. supra 39a); hence the text is assumed to convey a different teaching, as the Gemara explains. — On the ‘three camps’, v. p. 276. n. 6.

(12) Sc. of those who are to burn it. But it is not burnt until it has left the three camps.

(13) Sc. that ‘elsewhere’ three camps are meant.

(14) Lev. IV, 12.

(15) Ibid. 21.

(16) Ibid. That itself implies without the camp.

(17) Ibid. VI, 4: and he shall carry forth the ashes without the camp.

(18) Ibid. IV, 12. This refers to the anointed priest's bullock, which as we already know was burnt without; hence it follows that the place of the ashes was without.

(19) Each superfluous ‘without the camp’ intimates an additional camp whence it must be carried out.

(20) Since he maintains that the garments are not defiled until the fire has caught hold of the greater part of the carcass.

(21) In connection with the red heifer, Num. XIX, 3.

(22) Ibid. 4: And Eleazar . . . shall sprinkle of her blood toward the front of the tent of meeting. The tent of meeting faced east, hence Eleazar would stand still further east and face west. Similarly in the days of the Temple the heifer would be burnt without Jerusalem on the east.

Talmud - Mas. Zevachim 106a

so here too it means on the east of Jerusalem.

And according to the Rabbis,[1] where did one burn them? — Even as it was taught: Where were they burnt? On the north of Jerusalem, without the three camps. R. Jose the Galilean said: They are burnt in the place of the ashes.[2] Raba observed: Who is the Tanna that disagrees with R. Jose the Galilean? — R. Eliezer b. Jacob. For it was taught: Where the ashes are poured out it shall be burnt: [this intimates] that ashes must be there [first]. R. Eliezer b. Jacob said: It intimates that the ground must slope down.[3] Said Abaye to him: Perhaps they disagree whether the ground must slope[4] ?

Our Rabbis taught: He who burns [the bullocks] defiles [his] garments, but he who kindles the fire does not defile [his] garments, nor does he who arranges the pile defile [his] garments. And what is the definition of ‘he who burns’? — He who assists at the time of the burning. You might think that also he [who assists] when they have already been reduced to ashes defiles [his] garments: therefore it states, [And he that burneth] them [shall wash his clothes]:[5] [when he burns] them they defile garments, but when they have become ashes they do not defile garments. R. Simeon said: [When he burns] them they defile [his] garments. but when the flesh is disintegrated they do not defile garments. Wherein do they disagree? — Said Raba: They disagree where it [the flesh] is completely charred.[6]

CHAPTER XIII

MISHNAH. HE WHO SLAUGHTERS AND OFFERS UP WITHOUT [THE TEMPLE COURT]. IS CULPABLE IN RESPECT OF SLAUGHTERING AND IN RESPECT OF OFFERING[7] R. JOSE THE GALILEAN MAINTAINED: IF HE SLAUGHTERED WITHIN AND OFFERED UP WITHOUT, [HE IS CULPABLE];[8] IF HE SLAUGHTERED WITHOUT AND OFFERED UP WITHOUT, HE IS NOT LIABLE, BECAUSE HE OFFERED UP ONLY THAT WHICH WAS UNFIT.[9] SAID THEY TO HIM: WHEN ONE SLAUGHTERS WITHIN AND OFFERS UP

WITHOUT, IMMEDIATELY HE CARRIES IT OUT, HE RENDERS IT UNFIT.[10]

AN UNCLEAN [PERSON] WHO EATS [OF SACRIFICES], WHETHER UNCLEAN SACRIFICES OR CLEAN SACRIFICES, IS CULPABLE. R. JOSE THE GALILEAN SAID: AN UNCLEAN PERSON WHO EATS CLEAN [SACRIFICES] IS CULPABLE, BUT AN UNCLEAN PERSON WHO EATS UNCLEAN [FLESH OF SACRIFICES] IS NOT CULPABLE. BECAUSE HE ATE ONLY THAT WHICH IS UNCLEAN. SAID THEY TO HIM: WHEN AN UNCLEAN PERSON EATS CLEAN [FLESH], IMMEDIATELY HE TOUCHES IT, HE DEFILES IT.[11] A CLEAN PERSON WHO EATS UNCLEAN [FLESH] IS NOT CULPABLE, BECAUSE ONE IS CULPABLE ONLY ON ACCOUNT OF PERSONAL UNCLEANNESS.[12] GEMARA. As for offering up. it is well: the penalty is written and the interdict[13] is written. The penalty, for it is written, And bringeth it not unto the door of the tent of meeting [. . . even that man shall be cut off from his people].[14] The interdict, for it is written, Take heed to thyself that thou offer not thy burnt-offerings [in every place that thou seest],[15] and in accordance with R. Abin's dictum in R. Eleazar's[16] name, vis.: Wherever ‘take heed’, ‘lest’, or ‘not’ is stated, it is nought but a negative command. But as for slaughtering, the penalty, it is true, is stated, for it is written, [What man soever . . . that killeth an ox . . .] and hath not brought it unto the door of the tent of meeting [. . . shall be cut off from among his people];[17] but whence [do we derive] the interdict? — Scripture saith, And they shall no more sacrifice their sacrifices [unto the satyrs etc].[18] That is required for R. Eleazar's dictum, viz.: How do we know that if one sacrifices an animal to Merculis[19] he is liable to punishment? Because it is written, ‘And they shall no more sacrifice their sacrifices unto the satyrs’. Since this is redundant in respect of normal worship, being derived from, How did these nations serve their gods?[20] apply it to abnormal worship [as being punishable]![21] — Said Rabbah: Read in this text, and they shall not sacrifice, and read in it, and they shall no more.[22]

But it is still required for what was taught: Thus far[23] it speaks of sacrifices which one consecrated when bamoth were forbidden and offered up when bamoth were forbidden,[24]

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(1) Who employ this verse for a different purpose, as above.

(2) Ashes from the altar must first be placed there, so that they are burnt ‘where the ashes are poured out.’ — It follows that the first Tanna does not require this.

(3) Lit., ‘poured out’, it must be a place where the ashes naturally pour down.

(4) Possibly R. Eliezer b. Jacob too admits that ashes must first be placed there, but he adds that the place must slope too. — Abaye's suggestion is unrefuted.

(5) Lev. XVI, 28.

(6) It is then disintegrated, yet not ashes. According to R. Simeon, a person who comes to assist in the burning at this stage does not defile his garments, whereas in the opinion of the Rabbis he does.

(7) A man who wantonly slaughters or offers up a sacrifice without the Temple (by ‘offering up’ is meant e.g. that he burns it on a block of stone — but v. Mishnah infra 108a — as one would burn it on the altar) incurs kareth. If he does these in ignorance, being unaware that they are forbidden, he is liable to a separate sin-offering on account of each action, as each counts as a distinct transgression.

(8) Bracketed words are added from the separate edition of the Mishnayoth.

(9) One is culpable for offering up without only when it was fit to be offered up within. But this was not, on account of having been slaughtered without.

(10) Even before he offers it up. Nevertheless he is liable; the same therefore applies when he slaughters without and offers up without.

(11) Even before he eats it, yet he is culpable.

(12) Cf. supra 43a.

(13) Lit., ‘the warning’.

(14) Lev. XVII, 9. This refers to sacrifices.

(15) Deut. XII, 13: ‘Every place that thou seest’ means outside the Temple. Thus one text intimates the penalty and another the interdict.

(16) Var. lec. Ilai's.
(17) Lev. XVII, 3f.
(18) Ibid. 7.
(19) Mercurius, a Roman divinity, identified with the Greek Hermes; also a statue or a way-mark dedicated to Hermes, the patron deity of the wayfarer.
(20) Deut. XII, 30.
(21) Hence sacrificing to Merculis, though not its normal worship (its normal worship consisted of throwing stones at it; v. Sanh. 60b). involves guilt. — Thus the text is required for this!
(22) I.e., this is really a double injunction, and the first, ‘they shall not sacrifice’, interdicts sacrificing without, this being the subject of the whole passage.
(23) The passage until this verse, and they shall no more sacrifice, i.e., Lev. XVII, 3-6.
(24) I.e., after the Tabernacle was erected. If, however, one consecrated an animal before the Tabernacle was erected, when bamoth were permitted, there is nothing as yet to shew that he is culpable if he slaughters it at a bamah after it is erected.

Talmud - Mas. Zevachim 106b

since their penalty is stated, [vis..] ‘and hath not brought it unto the door of the tent of meeting’ [etc.]. whilst whence do we know the interdict? ‘Take heed to thyself that thou offer not thy burnt-offerings [etc.].’ From here onward[1] it speaks of sacrifices which one consecrated when bamoth were permitted but offered when they were forbidden, for it is said, To the end that the children of Israel may bring their sacrifices which they sacrifice[2] [viz.,] sacrifices which I formerly permitted — in the open field:[2] this teaches you [that] he who sacrifices [slaughters] [at bamoth] when bamoth are forbidden, the Writ regards him as though he offered in the open field. ‘Even that they may bring them unto the Lord’:[2] this is a positive injunction.[3] Whence have we a negative injunction? From the text, ‘And they shall no more sacrifice [etc.]’[4] You might think that one is punished for it by kareth; therefore it states, This shall be a statute for ever unto them throughout their generations:[1] ‘this’ is their [statute]. but nought else is theirs![5] — Rather said R. Abin:[6] [We learn it] a minori: if [Scripture] interdicted where it did not punish [with kareth];[7] is it not logical that it interdicted where it punished [with kareth]?[8] Rabina observed to R. Ashi: If so, let a negative injunction not be stated in connection with heleb,[9] and it could be inferred a minori from nebelah:[9] if [Scripture] interdicted nebelah, where it did not punish [with kareth]; is it not logical that it interdicted heleb, seeing that it did punish [with kareth]. Then he came before Raba.[10] Said he to him: It could not be inferred from nebelah, because [the argument] can be refuted: As for nebelah, the reason is because it defiles.[11] [Nor can it be deduced] from unclean sherazim [reptiles], [because,] As for unclean sherazim, the reason is because a small portion defiles.[12] [Nor] from clean sherazim,[13] [because,] As for clean sherazim, the reason is because [the standard of] their interdict is very small.[14] [Nor] from ‘orlah and kilayim of the vineyard, [because,] As for ‘orlah and kilayim of the vineyard, that is because all benefit from them is forbidden.[15] [Nor] from shebi'ith,[16] [because,] As for shebi'ith, that is because it imposes its own status upon the money received for it.[17] [Nor] from terumah, [because,] As for terumah, that is because it is never exceptionally permitted.[18] [Nor can you deduce it] from all these because they are never permitted exceptionally.

Raba said: If I have a difficulty, it is this: When we learnt, The Passover-offering and circumcision are positive commands,[19] let us infer [a negative injunction in their case] from one who leaves [anything] over [of the Passover-offering]:[20] If Scripture interdicted in the case of one who leaves over, though it did not prescribe a penalty, is it not logical that it interdicted in the case of the Passover-offering and circumcision, where it did prescribe a penalty?[21] R. Ashi said: I reported this discussion in R. Kahana's presence. and he told me: [A negative injunction] cannot be inferred from leaving over, because [the argument] can be refuted: as for leaving over, that is because it cannot be repaired;[22] will you say [that there is a negative injunction] in the case of a Passover-offer, which can be repaired [if neglected]?[23]

But can you assume an interdict by inferring a minori? [For] even on the view that you can punish through inferring a minori, you cannot assume a formal prohibition by inferring a minori! — Rather, it is as R. Johanan said [elsewhere]. For R. Johanan said: ‘Bringing’ is inferred from ‘bringing’:[24] as in the latter case [Scripture] did not prescribe a penalty without formally interdicting, so in the former case [Scripture] did not prescribe a penalty without formally interdicting.

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(1) From Lev. XVII, 7.

(2) Ibid., 5.

(3) Though the inference is obviously that they may not bring them to the bamoth but only ‘unto the Lord’ (i.e. at the Tabernacle), yet since it is expressed affirmatively, the implied interdict counts as a positive injunction.

(4) ‘No more’ implies that hitherto it was permitted, but from now onwards it is forbidden.

(5) It is subject only to an affirmative and a negative precept, but not to kareth. — Thus the negative injunction applies to sacrifices which were consecrated when bamoth were permitted, but we have no explicit negative injunction in respect of those consecrated when bamoth were forbidden.

(6) Sh.M. and Bah emend: Abaye.

(7) Sc. where the sacrifice was consecrated when bamoth were permitted. As just stated, we have a negative injunction covering that case, but kareth is not involved.

(8) Sc. where the sacrifice was consecrated when bamoth were already forbidden.

(9) v. Glos.

(10) Rabina and R. Ashi were later than Raba. For that reason the text is amended to Abaye (v. n. 6.). Raba's contemporary.

(11) Whereas heleb does not defile.

(12) As much as a lentil defiles.

(13) Those which do not defile, e.g., a frog or an ant, but which are forbidden as food by a negative interdict,

(14) He who eats as much as a lentil is culpable; whereas no penalty is incurred for eating less than an olive size of heleb.

(15) Whereas heleb is only forbidden as food.

(16) For all these words v. Glos.

(17) Lit., ‘it seizes its money.’ — If shebi'ith is sold, the money is forbidden in the same way as itself. That does not apply to heleb, however.

(18) Lit., ‘it is not permitted out of its general (interdict).’ Terumah is always forbidden to unclean priests, whereas some heleb is permitted, viz., the heleb of a hayyah (non-domesticated animal, e.g.. deer).

(19) It is stated in Ker. 2a that one is liable to a sin-offering for the unintentional violation of all negative injunctions which if deliberately violated involve kareth. These two however, though entailing kareth, are positive precepts, and so their neglect does not necessitate a sin-offering.

(20) This is forbidden by a negative injunction: And ye shall let nothing of it remain until the morning (Ex. XII, 10).

(21) Hence, if such an argument is permissible, they should rank as subject to a negative injunction too. viz., not to neglect them.

(22) Once the flesh is left over, nothing can be done.

(23) By bringing an offering on the Second Passover (v. Num. IX, 9 seq.). Circumcision should be done on the eighth day; yet if not done then, it can be performed at any time subsequently. — Thus so far all the arguments against the assumption of an interdict a minori have been rebutted.

(24) A gezerah shawah between slaughtering and offering up is deduced, based on the fact that ‘bringing’ is written in connection with both: Slaughtering: What man soever . . . that killeth an ox . . . and hath not brought it unto the door of the tent of meeting; offering up: Whatsoever man . . . that offereth up a burnt-offering or sacrifice, and bringeth it not unto the door of the tent of meeting. — R. Johanan stated this exegesis with respect to another question (v. infra 107a), but the same applies here.

Raba said, It is as R. Jonah['s exegesis]. For R. Jonah said: 'There' is inferred from 'there':[1] as in the one case, [Scripture] did not prescribe a penalty without formally prohibiting, so in the other case [Scripture] did not punish without formally prohibiting.[2]

We have [now] found the case of those which should be burnt within, which were offered up without;[3] how do we know the case of those which should be burnt without,[4] which were offered up without?[5] — Said R. Kahana: Scripture saith, And thou shalt say unto them[6] [which means,] thou shalt say concerning those just mentioned.[7] To this Raba[8] demurred: Is it then written, 'concerning them': Surely 'unto them' is written?[9] Rather, it is as the School of R. Ishmael taught: 'And thou shalt say unto them' combines the sections.[10] R. Johanan said: 'Bringing' is inferred from 'bringing':[11] as there it refers to those [sacrifices] which must be burnt without, so here too it refers to those which must be burnt without. To this R. Bibi demurred: When we learnt, There are thirty-six offences in the Torah which entail kareth: surely there are thirty seven, for there are offering up [a sacrifice which should be burnt within] and offering up [a sacrifice which should be burnt without]?[12] That is indeed a difficulty.

Now, when we learnt: He who sprinkles some of the blood without, is culpable:[13] how do we know it?[14] — It is inferred from what was taught: Blood shall be imputed [unto that man]:[15] that is to include one who sprinkles [without]: these are the words of R. Ishmael. R. Akiba said: Or sacrifice[16] includes sprinkling. And how does R. Ishmael employ this [phrase] 'or sacrifice'? — To divide.[17] And whence does R. Akiba know to divide? — He infers it from, and bringeth it not [unto the door of the tent of meeting].[18] And R. Ishmael?[19] — He requires that ['it'] [for teaching:] One is culpable for [offering up] the whole [animal], but not for [offering up] an incomplete one.[20] And R. Akiba?[21] — He infers it from [the phrase] 'to sacrifice it'. And R. Ishmael? — One ['it'] is in respect of those [sacrifices] which which should be burnt within, which were made incomplete and offered up without; the other is in respect of those which should be burnt without, which one made incomplete and offered up without.[22] And it was taught even so: R. Ishmael said: You might think that if one made incomplete and offered up without what should be burnt within, he is culpable; therefore it says, 'to sacrifice it': one is culpable for [offering up] a whole [animal], but not for [offering up] an incomplete one. And R. Akiba?[23] — He holds that if one made incomplete and offered up without what should be burnt within, he is culpable.

And R. Akiba: How does he employ this [phrase], 'blood shall be imputed'? — It includes the shechitah of a bird.[24] And R. Ishmael? — He deduces it from, or that killeth.[25] And R. Akiba? — He can answer you: He requires that [to teach]: One is culpable for slaughtering [shechitah], but not for nipping [melikah].[26] And R. Ishmael? — He infers it from, This is the thing [which the Lord hath commanded].[27] For it was taught: [What man soever . . .] that killeth [an ox etc.]: I know it only of slaughtering an animal; how do I know [that] if one slaughters a bird [he is culpable]? Because it says, or that killeth.[28] You might think that I also include one who performs melikah, and that is indeed logical: if one is culpable for shechitah [of a bird], though this is not its correct rite within; is it not logical that one is culpable for melikah [without], seeing that that is its correct rite within? Therefore it states. 'This is the thing [etc.]'. And R. Akiba? — He can answer you: that is required for a gezerah shawah.[29]

Now, as to what we learnt: He who takes the fistful,[30] and he who receives the blood [of a sacrifice slaughtered without] is not liable: how do we know it? But whence would you infer that he is culpable?[31] — From shechitah.[32] As for shechitah, the reason may be because it invalidates a Passover-offering [when it is done] on behalf of such who cannot eat it![33] — Then infer it from sprinkling: as for sprinkling. the reason may be because a lay-Israelite is liable to death on its account![34]

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(1) Deut. XII, 14: There shalt thou offer up thy burnt-offerings, and there thou shalt do all that I command thee. ‘Do’ refers to all rites (including slaughtering) in connection with sacrifices.

(2) The ‘one case’ and ‘the other case’ are ‘offering up’ and ‘doing’ respectively (v. preceding note).

(3) Sc. those which were slaughtered within, so that they should have been burnt (i.e., haktarah) within.

(4) Sc. which were slaughtered without so that they could not be burnt within but without. ‘Burnt’ in this connection does not mean haktarah, but the burning of unfit sacrifices.

(5) That this too makes one liable. For it might be argued that there is no culpability here, since the animal could not be burnt within in any case.

(6) Lev. XVII, 8.

(7) Lit., ‘the near ones’. (Sh.M. reads: the preceding.) Lev. XVII, 3-7 deals with slaughtering without: vv. 8f treats of offering up without, and they commence with, ‘And thou shalt say unto them’ which implies, thou shalt say about them just mentioned, sc. those who slaughter without, that they are also culpable for offering up without.

(8) Sh.M. reads: Rabbah.

(9) I.e., אליהם (‘alehem), not עליהם (‘alehem).

(10) Sc. vv. 3-7 and vv. 8f. Hence the provisions of the latter section (sc. liability for offering up without) apply to those mentioned in the former (viz., those who slaughter without). — Though this exegesis too infers the law from the same phrase, the method of interpretation is different and retains the correct rendering of ‘alehem, unto them.

(11) V. supra 106b and p. 520, n. 3. Similarly here: as ‘bringing’ in the former section refers to one who slaughters without, so it does in the latter too.

(12) The thirty-six as enumerated include offering up without. Now in answer to the question, since they are all enumerated, why is the number stated? The Talmud says that it teaches that if one committed all of them in a single state of ignorance (not knowing that they are forbidden), he is liable to thirty-six sin-offerings. If, however, culpability for offering up without sacrifices which should be burnt without, is inferred by a gezerah shawah from those which should be burnt within, they constitute two separate offences and involve separate sin-offerings. But in that case they should be enumerated separately there too, and the number given is thirty-seven.

(13) I.e., even if he made one sprinkling only instead of four.

(14) For Scripture speaks only of slaughtering and offering up without, but not of sprinkling.

(15) Lev. XVII, 4.

(16) Ibid. 8; it refers to offering up without, and ‘or’ is regarded as an extension.

(17) To shew that one is liable for offering up without either a burnt-offering or any other sacrifice. Without ‘or’ you would assume that liability is incurred only for offering up both.

(18) ‘It’ is singular and so implies one.

(19) Does he not admit this exegesis?

(20) From which part is missing. The exact meaning of ‘whole’ and ‘incomplete’ is discussed anon.

(21) How does he know this?

(22) If ‘it’ were written once only, I would say that its implication applies only to those which should be burnt without. But as for those which should be burnt within, he is culpable even if he offers up only part, for when a single limb springs off the altar during the burning (haktarah), it must be replaced, which shews that haktarah applies even to part. (The general principle is that the performance of a rite without involves liability when it would count as a proper rite within.)

(23) Whence does he learn this?

(24) Though a bird sacrifice requires melikah, not shechitah, yet if it is slaughtered without (i.e., with shechitah), it involves liability.

(25) Ibid., 3.

(26) Thus both are necessary. For from the first I would conclude that even shechitah of a bird involves liability, and all the more melikah, since that is the correct way of sacrificing a bird. Hence the second teaches that only shechitah involves liability.

(27) Lev. XVII, 2. This is the superscription to the whole passage, and is emphatic, implying that the law is exactly as stated.

(28) This is superfluous, as Scripture could say, that killeth an ox . . . in the camp or without the camp.

(29) V. Ned. 78a; B. B. 120b.

(30) Of a meal-offering, without, and does not burn it.

(31) That you seek a text to shew that he is not.

(32) By analogy: as shechitah is a sacrificial rite and involves culpability if performed without, so it is the same with every sacrificial rite.

(33) V. supra 4a. But that obviously cannot apply to taking the fistful, or to receiving.

(34) For performing it. But he is not liable for the other rites.

Talmud - Mas. Zevachim 107b

— Infer it from both combined.[1] But if so,[2] let it not be stated in connection with sprinkling, which may be inferred from both [shechitah and offering up] combined. [Thus: when you say,] let it be inferred from shechitah, [you can argue], as for shechitah, the reason is because it is invalid in the case of the Passover-offering [when done] on behalf of such who cannot eat. Let it be inferred from offering up: As for offering up, the reason is because it applies to a meal-offering [too].[3] Then infer it from both combined? Rather, for that reason a text is written [to include sprinkling] to intimate that you may not infer from both combined.[4]

R. Abbahu said: If one slaughtered [a sacrifice] and sprinkled [its blood without]: according to R. Ishmael he is liable to one [sin-offering], [whereas] according to R. Akiba he is liable to two.[5] Abaye said: Even on R. Akiba's view, he is liable to one only, because Scripture saith, There thou shalt offer up thy burnt-offerings, and there thou shalt do all that I command thee:[6] Scripture thus ranked them as one ‘doing’ [rite].[7]

If one sprinkled and offered up [without], according to R. Ishmael he is liable to two [sin-offerings], [whereas] according to R. Akiba he is liable to one only.[8] Abaye said: Even on R. Akiba's view he is liable to two, that being the reason that Scripture divided them, [vis.] ‘There thou shalt offer-up . . . and there thou shalt do’. If one slaughtered, sprinkled, and offered up all agree that he is liable to two.

Our Rabbis taught: [Or that killeth it] without the camp.[9] You might think [that that means] without the three camps;[10] therefore it states, . . . or goat, in the camp.’[9] If [you thus stress] ‘in the camp’, you might think that [even] one who slaughters a burnt-offering in the south is culpable;[11] therefore it is stated, or that killeth it without the camp: as ‘without the camp’ is distinguished in that it is not eligible for the slaughtering of most sacred sacrifices or for the slaughtering of any sacrifice, so ‘in the camp’ means in a place which is not eligible for the slaughtering of any sacrifice: hence the south [side of the Temple court] is excluded, for though it is not fit for the slaughtering of most sacred sacrifices, it is eligible for the slaughtering of lesser sacrifices.

‘Ulla said: One who slaughters on the roof of the Hekal is culpable, since it is not eligible for the slaughtering of any sacrifice. To this Raba demurred: If so, let Scripture write, ‘in the camp or . . . without the camp’, and ‘unto the door of the tent of meeting’ will not be necessary; what is the purpose of ‘[and hath not brought it] unto the door of the tent of meeting’: surely it is to exclude the roof?[12] Now according to Raba, if that is so,[13] let [Scripture] write, ‘unto the door of the tent of meeting’ [only]: what is the purpose of ‘in the camp’ and ‘without the camp’?[14] Surely that is to include the roof?[15] — Said R. Mari: No: it includes [the case where] the whole of [the animal] is within, but its throat is without.[16] If its throat is without, it is obvious [that one is culpable]; [for] to what does the Divine Law object? to slaughtering without; and this is slaughtering without! — Rather, it includes [the case where] the whole of the animal is without, while its throat is within.[17]

It was stated: One who offers up nowadays.[18] R. Johanan maintained: He is culpable;[19] Resh Lakish said: He is not liable. R. Johanan maintained, He is culpable: The first sanctity hallowed it for the nonce and for the future. Resh Lakish said, He is not liable: the first sanctity hallowed it for the nonce, but did not hallow it for the future.[20]

Shall we say that they differ in the same controversy as that of R. Eliezer and R. Joshua? For we learnt: R. Eliezer said: [I have heard that] when they were building the Temple.[21] they made curtains for the Temple and curtains for the courts;[22] but that they built the Temple [walls] on the outside [of these curtains]. whereas they built the courts on the inside [of these curtains]. R. Joshua said: I have heard that they offered [sacrifices] though there was no Temple; and they ate most sacred sacrifices though there were no curtains, and lesser sacrifices and second tithe though there was no wall,[23] because the first sanctity hallowed it for the nonce and hallowed it for the future.[24] Hence it follows that R. Eliezer holds that it did not hallow it [for the future].[25] Said Rabina to R. Ashi: Whence [does this follow]? Perhaps all agree that the first sanctity hallowed it for the nonce and hallowed it for the future, and one master reported what he had heard, while the other master reported what he had heard. And should you say. What was the purpose of curtains, according to R. Eliezer? Simply for privacy.

It was stated: If one offers up [a limb] less than an olive [in size],[26] but the bone makes it up to an olive,[27] R. Johanan maintained: He is culpable; Resh Lakish said: He is not culpable. R. Johanan maintained, He is culpable: that which is attached to what ascends [the altar] is as what is ascends [in its own right]. Resh Lakish said, He is not liable: that which is attached to what ascends is not as what ascends.[28]

Raba asked: What if one offers up

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(1) Lit., ‘from between them’ — sc. shechitah and sprinkling, for the refutation that applies to one does not apply to the other. Their only common feature is that they are both sacrificial rites; hence the same law should apply to all other sacrificial rites.

(2) That such reasoning is permissible.

(3) But there is no sprinkling in a meal-offering.

(4) Scripture thus intimates that this reasoning is not permissible in the present instance, Hence it is also not permissible in respect of taking the fistful or receiving, and so no text is required to show that these do not involve liability.

(5) R. Ishmael infers liability for sprinkling from the phrase, ‘blood shall be imputed’. Now, this is actually written in connection with slaughtering: thus we have a single interdict covering both, and the same kareth is written in connection with both. Hence when he commits both in one state of ignorance, they rank as one offence, and render him liable to one sin-offering only. R. Akiba, however, infers it from ‘or a sacrifice’, which is written in reference to offering-up. Hence slaughtering and sprinkling are separate interdicts and involve separate sin-offerings.

(6) Deut. XII, 14,

(7) By enumerating ‘offer-up’ and ‘do’ separately, it follows that Scripture counts offering up as one act, and all other rites which are ‘done’ as another single act. Hence they involve one offering only. ‘Offer up’ means to burn on the altar. The other sacrificial rites (do) comprise slaughtering, receiving the blood and carrying it to the altar, and sprinkling.

(8) The reasoning is similar to that in n. 3, but reversed.

(9) Lev. XVII, 3.

(10) V. p. 276, n. 6. Only then is he culpable.

(11) Since it should be slaughtered on the north side of the Temple court; supra 53b.

(12) For the text implies, only he who does not bring it to the ‘tent of meeting’ (the Temple court) at all is liable, whereas he who slaughters on the roof has brought it.

(13) That ‘unto the door of the tent of meeting’ implies any part thereof.

(14) Scripture should simply say: What man soever . . . killeth an ox . . . and hath not brought it unto the door of the tent of meeting. This would shew that killing anywhere outside the Temple court makes one liable, while killing anywhere inside (e.g. on the roof, or a burnt-offering in the south) does not.

(15) As being a place of culpability.

(16) Even then one is culpable.

(17) Even then one is culpable.

(18) After the destruction of the Temple, when all offering up is without.
(19) If he does it deliberately he incurs kareth.
(20) V supra 60b. On the first view, Jerusalem is still 'the chosen place'; hence the present is technically a time when bamoth are forbidden, and so there is culpability.
(21) Sc. the second Temple, in the days of Ezra.
(22) Temporarily, until proper walls should be built.
(23) Around Jerusalem.
(24) Hence the sites were holy for their various purposes, though walls and curtains were lacking.
(25) For which reason temporary curtains were necessary to make the site which they enclosed holy.
(26) Sc. the flesh.
(27) If a bone springs off the altar while it is being offered within, it is not replaced; supra 85b; v. also p. 522, n. 8.
(28) Actually, only the flesh ascends, while the bone ascends too merely because it is attached to the flesh, R. Johanan, holds that the bone nevertheless counts as something which is itself offered up, and therefore in the present case one is culpable. Resh Lakish takes the reverse view.

Talmud - Mas. Zevachim 108a

the head of a pigeon. which is not as much as an olive, but the salt makes it up to an olive? Said Raba of Parzakia[1] to R. Ashi: Is not that the controversy of R. Johanan and Resh Lakish? — [No:] You may ask on R. Johanan's view, and you may ask on the view of Resh Lakish. You may ask on R. Johanan's view: R. Johanan gives his ruling only there, in respect of the bone, which is related to the flesh,[2] but not in the case of salt, which is not related to the flesh; [or perhaps, there is no difference]? You may ask on the view of Resh Lakish: Resh Lakish gives his ruling only there in respect of the bone, because if it parts from it [the flesh], there is no obligation to take it up [on the altar]; but not here, where if it parts, there is an obligation to take it up;[3] or perhaps, there is no difference? The question stands over.

R. JOSE THE GALILEAN SAID etc. Rabbi answered on behalf of R. Jose the Galilean: As for one who slaughters within and offers up without, the reason is because it had a time of fitness; will you say [the same] when one slaughters without and offers up without, where it never had a period of fitness? R. Eleazar son of R. Simeon answered on behalf of R. Jose the Galilean: As for slaughtering within and offering up without, that is because the sanctuary [the alter] receives it;[4] will you say [the same] when one slaughters without and offers up without, where the Sanctuary does not receive it ?[5] Wherein do they differ?[6] — Said Ze'iri: They differ in respect to slaughtering at night.[7] Rabbah said: They disagree where one received it [the blood] in a non-sacred vessel.[8]

AN UNCLEAN [PERSON] WHO EATS [OF SACRIFICES], WHETHER UNCLEAN SACRIFICES etc. The Rabbis say well to R. Jose the Galilean? — Said Raba: Where the [priest's] body [first] became unclean, and then the flesh became unclean, none disagree that he is liable, because personal defilement involves kareth. They disagree where the flesh [first] became unclean and then the [priest's] body became unclean : the Rabbis hold, We say miggo ['since']; whereas R. Jose the Galilean holds: We do not say miggo.[9] Now according to R. Jose, granted that we do not say miggo, yet let his personal uncleanness, which is graver, come and fall upon the uncleanness of the flesh?[10] — Said R. Ashi: How do you know that personal uncleanness is more stringent? Perhaps uncleanness of the flesh is more stringent, since it cannot be purified in a mikweh.[11]

MISHNAH. SLAUGHTERING [WITHOUT] IS MORE STRINGENT THAN OFFERING UP [WITHOUT], AND OFFERING UP [IS MORE STRINGENT] THAN SLAUGHTERING. SLAUGHTERING IS MORE STRINGENT, FOR HE WHO SLAUGHTERS [A SACRIFICE] ON BEHALF OF MAN[12] IS CULPABLE, WHEREAS HE WHO OFFERS UP TO A MAN IS NOT CULPABLE.[13] OFFERING UP IS MORE STRINGENT: TWO WHO HOLD A KNIFE AND SLAUGHTER [WITHOUT] ARE NOT CULPABLE, [WHEREAS] IF THEY TAKE HOLD OF A

LIMB AND OFFER IT UP, THEY ARE CULPABLE. IF ONE OFFERED UP, THEN OFFERED UP AGAIN, THEN OFFERED UP AGAIN,[14] HE IS CULPABLE IN RESPECT OF EACH [ACT OF] OFFERING UP: THESE ARE THE WORDS OF R. SIMEON. R. JOSE SAID: HE IS LIABLE ONLY TO ONE [SIN-OFFERING]. HE IS LIABLE ONLY WHEN HE OFFERS UP ON THE TOP OF AN ALTAR;[15] R. SIMEON SAID: HE IS LIABLE EVEN IF HE OFFERS UP ON THE TOP OF A ROCK OR A STONE.

GEMARA. Why is offering up to a man [without] different, that it is not culpable? [presumably] because unto the Lord is written![16] Then in the case of slaughtering too, surely 'unto the Lord' is written?[17] — There it is different, because Scripture saith, 'What man soever'.[18] 'What man soever' is written in connection with offering up too? — That is required for teaching that when two men offer up a limb, they are liable. If so, [say that] here too it is required for teaching that if two men hold the knife and slaughter, they are liable? — There it is different, because Scripture saith, that [man]:[19] [this implies,] one, but not two. If so, 'that [man]' is written in connection with offering up too? — That is required

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(1) V. supra 10b, p. 50, n. 5.

(2) Lit., 'which is of the kind of the flesh'.

(3) If the salt springs off the altar, the piece must be resalted, because it is written, neither shalt thou suffer the salt of the covenant of thy God to be lacking (Lev. II, 13).

(4) If after being taken out, it is taken in again and offered up on the altar, the altar receives it, and it is not taken down (v. supra 84a).

(5) If it is offered up on the altar after it was slaughtered without, it must be removed.

(6) Rabbi and R. Eleazer b. R. Simon.

(7) According to Rabbi, if one slaughtered a sacrifice within at night and then offered it up, he is not liable, since it never had a period of fitness, for a sacrifice slaughtered at night is unfit. According to R. Eliezer, he is culpable, for if it is laid on the altar, it does not descend.

(8) The sacrifice is immediately invalid, so it never had a period of fitness; nevertheless, the altar receives it.

(9) A clean person who eats unclean flesh is not liable to a sin-offering; an unclean person who eats clean flesh is liable. Now, in the latter case posited by Raba the flesh was already forbidden on account of its own uncleanness. Nevertheless the Rabbis hold that the interdict of personal uncleanness can fall upon the first and be added to it, because it is more comprehensive, as now not only is that piece forbidden to him, but all other pieces, and so we argue: since (miggo) he is interdicted in respect of other pieces, he is also interdicted through his personal uncleanness in respect of this piece too, though that is forbidden in any case. Consequently he is liable to a sin-offering. R. Jose does not accept this argument of miggo, and holds that since the flesh is already forbidden, his own uncleanness does not count at all, and he is not liable. If, however, he became unclean first, he was already forbidden to eat any flesh on pain of a sin-offering, simply because the flesh became unclean.

(10) As an additional interdict. For even if a more comprehensive interdict does not fall upon a less comprehensive one, that is only where both are of equal gravity. Here, however, personal uncleanness is more stringent, since it involves a sin-offering, whereas the uncleanness of the flesh does not.

(11) Whereas an unclean priest is cleansed in a mikweh.

(12) I.e., for lay consumption, not as a sacrifice.

(13) On account of offering up without, though this constitutes idolatry and he is culpable on that account.

(14) Each time part of the same animal. He offered them up in ignorance, but between each offering he became aware that it was forbidden, and then forgot.

(15) I.e., he must first build an altar without and then offer up upon it.

(16) Lev. XVII, 8f: Whatsoever man . . . offereth up a burnt-offering . . . and bringeth it not unto the door of the tent of meeting to sacrifice it unto the Lord, even that man shall be cut off from his people. 'Unto the Lord' shews that Scripture speaks of one who is offering to God, not to man, and only then does he incur kareth (or, a sin-offering if he acts in ignorance).

(17) Ibid. 3f: What man soever . . . killeth all ox . . . and hath not brought it unto the door of the tent of meeting, to present it as an offering unto the Lord.

(18) Heb. ish ish, lit., a man, a man', The repetition extends the law even to one who slaughters to a human being.
(19) Ibid. and that man shall be cut off from among his people.

Talmud - Mas. Zevachim 108b

in order to exclude one who acts in ignorance, under constraint, or in error.[1] If so, there too it is required in order to exclude one who acts in ignorance, under constraint, or in error? — 'That' is written twice.[2] Then what is the purpose of 'unto the Lord'?[3] — It is to exclude the goat that is sent away.[4]

OFFERING UP IS MORE STRINGENT etc. Our Rabbis taught: A man, a man[5] why this [repetition]? To include two who take hold of a limb and offer it up, [and it teaches] that they are liable. For I might argue, is not [the reverse] logical: if two who hold a knife and slaughter are not liable, though when one slaughters to a man he is liable; is it not logical that when two take hold [of a limb and offer it up] they are not liable, seeing that one who offers up to a man is not liable? Therefore 'a man, a man' is stated: these are the words of R. Simeon. R. Jose said: 'That [man]' implies one but not two. If so, why is 'a man, a man' stated? — [Because] Scripture employs human idiom.[6] And R. Simeon?[7] — He requires that for excluding one who acts in ignorance, under constraint, or in error. And R. Jose?[8] — [He infers that] from ha-hu [being written instead of] hu.[9] And R. Simeon? — He does not attribute any particular significance to[10] ha-hu [as opposed to] hu.

Now, according to R. Jose, since [in] this 'ish ish' the Torah employs human idiom, in the other ish ish too[11] [we must say that] the Torah employs human idiom; whence then does he know that one who slaughters to a man is liable? — He infers it from, blood shall be imputed unto that man, he hath shed blood: [this implies,] even one who slaughters to a man.[12]

IF ONE OFFERED UP, THEN OFFERED UP AGAIN etc. Resh Lakish said: The controversy is about four or five limbs, one master holds that the text, to sacrifice it, [which teaches that] a person is liable on account of a whole, but not on account of an incomplete one, is written in connection with the whole animal[13] the other master holds that it is written in connection with each limb.[14] But in the case of one limb,[15] all agree that he is liable to one [offering] only. But R. Johanan maintained: The controversy is about one limb; one master holds that if one offers up without [limbs] which were [first] burnt within and [thus] became incomplete, he is liable;[16] while the other master holds that he is not liable,[17] But in the case of four or five limbs, all agree that he is liable on account of each limb [separately]. Now, this disagrees with 'Ulla. For 'Ulla said: All agree that one is liable if he offers up without [limbs] which were burnt within and [thus] became incomplete. They disagree only where one offers up without [limbs] which were burnt without and [thus] became incomplete: there one master holds that he is not liable, while the other master holds that he is liable.[18] Others say, 'Ulla said: All agree that one is not liable if he offers up without [limbs] which were burnt without and [thus] became incomplete. They disagree only where one offers up without [limbs] which were burnt within and [thus] became incomplete: one master holds that he is not liable, while the other master holds that he is liable. Now, Samuel's father disagrees with 'Ulla's [view] in its first version. For Samuel's father said: In accordance with whom do we replace on the altar [limbs] that spring off? It is not in accordance with R. Jose.[19]

HE IS LIABLE ONLY WHEN HE OFFERS UP [ON TOP OF AN ALTAR] etc. R. Huna said, What is R. Jose's reason? — Because it is written, And Noah builded an altar unto the Lord.[20] R. Johanan said: What is R. Simeon's reason? — Because it is written, So Manoah took the kid with the meal-offering, and offered it upon the rock unto the Lord.[21] Now as to the other too, surely it is written, And Noah builded an altar unto the Lord? — That was merely for its elevation.[22] And as to the other too, surely it is written, So Manoah took [etc.]? — That was a temporary dispensation.

Alternatively, this is R. Simeon's reason, [viz.,] as it was taught: R. Simeon said: [There is] the altar [of the Lord] at the door of the tent of meeting,[23] but there is no altar at the bamah;[24] therefore if one offered up [without] on a rock or on a stone, he is liable. [‘He is liable’!] Surely he should say, [he] is excluded?[25] — This is what he means: Therefore if one offers up on a rock or on a stone when bamoth are forbidden, he is liable.

R. Jose son of R. Hanina asked: As to the horn, the ascent, the base and squareness, are these indispensable at the bamoth?[26] — Said R. Jeremiah to him. It was taught: The horn, the ascent, the base and squareness were indispensable at the great bamoth,[27] but were not indispensable at minor bamoth.[28]

MISHNAH

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(1) ‘In error’ means when he is led into error by another.

(2) Blood shall be imputed unto that man . . . and that man shall be cut off. Thus we have two limitations.

(3) Written in connection with slaughtering.

(4) On the Day of Atonement, Lev. XVI, 21. A man is not liable for slaughtering that without, because ‘unto the Lord’ implies that liability is incurred only when it could be sacrificed, and its rites performed, within.

(5) V. n. 2.

(6) Where this repetition is quite common.

(7) Does he not admit the implication of ‘that’?

(8) Whence does he know this?

(9) Both mean ‘that’, The longer form implies a further limitation.

(10) Lit., ‘he does not interpret’.

(11) Sc. in connection with slaughtering.

(12) That is implied in the emphatic ‘he hath shed blood’ — no matter to whom.

(13) One is liable only when he offers up the whole animal; therefore even if he offered up several limbs, he is liable to one offering only, viz., on account of the first, because the animal was still whole then.

(14) One is liable only when he offers up a whole limb, but not when he offers up part of a limb. Hence each limb imposes a separate liability.

(15) I.e., if a man offered up one limb in several portions consecutively.

(16) Because if such a limb springs off the altar, it must be replaced. This shews that it still requires haktarah after it has become incomplete, therefore when one offers it up without, performing haktarah there, he is liable. Consequently, each successive offering up of a portion of the same limb entails a separate sacrifice.

(17) Save for a whole limb. Therefore when he offers up the limb in several parts, he incurs one offering only.

(18) The latter holds that ‘it’ excludes less than the size of an olive, but not an incomplete limb.

(19) For if R. Jose held thus, then since they still require haktarah within, though when they spring off they are already incomplete, he should also hold that one is liable for offering up without limbs which were incomplete through having been burnt within. This proves that in the opinion of Samuel's father, R. Jose disagrees, and holds that one is not liable, even if he offers up without limbs which were incomplete through having been first burnt within.

(20) Gen. VIII, 20. This proves that only an altar makes the act one of offering up.

(21) Judg. XIII, 19.

(22) To facilitate the act of offering up, but not because an actual altar was necessary.

(23) Lev. XVII, 6.

(24) Only at the door of the tent of meeting was a proper altar required. But when bamoth were permitted, no proper altar was necessary, and one could sacrifice and offer up on a simple stone.

(25) ‘But there is no altar at a bamah’, obviously means when this is permitted. But one is not liable then for offering up without, and so he should have said, this excludes (from liability) one who offers up on a rock or on a stone.

(26) These were indispensable to the altar in the Tabernacle: v. supra 62a.

(27) Sc. at Nob and Gibeon; these were public bamoth.

(28) Sc. private bamoth, which individuals built for themselves.

Talmud - Mas. Zevachim 109a

. IF EITHER VALID SACRIFICES OR INVALID SACRIFICES HAD BECOME UNFIT WITHIN, AND ONE OFFERS THEM WITHOUT, HE IS LIABLE.[1] IF ONE OFFERS UP WITHOUT AS MUCH AS AN OLIVE OF A BURNT-OFFERING AND ITS EMURIM [COMBINED].[2] HE IS LIABLE.

GEMARA. Our Rabbis taught: [Whatsoever man . . .] that offereth up a burnt-offering:[3] I know it only of a burnt-offering; whence do I know to include the emurim of a guilt-offering, the emurim of a sin-offering, the emurim of most sacred sacrifices and the emurim of lesser sacrifices?[4] Because it says, '[or] sacrifice'.[5] Whence do we know to include the fistful, frankincense, incense, the meal-offering of priests, the meal-offering of the anointed priest, and one who makes a libation of three logs of wine or of water?[6] Because it says, 'And bringeth it not unto the door of the tent of meeting':[7] whatever comes to the door of the tent of meeting, you are liable on its account [if it is done] without. Again, I know it only of valid sacrifices; whence do I know to include invalid [ones], e.g., [a sacrifice] that is kept overnight, or that goes out, or is unclean, or which was slaughtered [with the intention of being eaten] after time or without bounds, or whose blood was received and sprinkled by unfit persons; or [whose blood] was sprinkled above when it should have been sprinkled below, or below when it should have been sprinkled above, or within instead of without, or without instead of within;[8] or a Passover-offering or a sin-offering which one slaughtered under a different designation? Because it says, 'And bringeth it not to sacrifice', [this teaches,] whatever is received at the door of the tent of meeting,[9] you are liable on its account without.

IF ONE OFFERS UP WITHOUT AS MUCH AS AN OLIVE OF A BURNT-OFFERING [AND ITS EMURIM] etc. Only [of] a burnt-offering and its emurim, but not [of] a peace-offering and its emurim.[10] We have thus learnt here what our Rabbis taught: A burnt-offering and its emurim combine to [make up the standard of] an olive, in respect of offering them up without, and in respect of being liable through them on account of piggul, nothar, and defilement.[11] As for offering-up. it is well: only a burnt-offering, because it is altogether burnt [kalil],[12] but not a peace-offering. What however is the reason for piggul, nothar, and uncleanness? Surely we learnt: All instances of piggul combine, and all instances of nothar combine:[13] thus the rulings on piggul are contradictory, and those on nothar are contradictory? — The rulings on piggul are not contradictory: one refers to piggul, the other refers to the intention of piggul.[14] Nor are the rulings on nothar contradictory: one refers to [actual] nothar, the other refers to such which were left over before the blood was sprinkled.[15] And who is the author of this? — R. Joshua. For it was taught: R. Joshua said: [In the case of] all the sacrifices of the Torah of which as much as an olive of flesh or an olive of heleb remains,

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(1) Because if such unfit sacrifices are placed on the altar within they are not removed.

(2) E.g. half as much as an olive of each.

(3) Lev. XVII, 8.

(4) That if one offers up these without, he is liable.

(5) Ibid. This is an extension.

(6) This is the smallest measure which constitutes a libation.

(7) Ibid. 9.

(8) 'Within' and 'without' here mean on the inner altar and on the outer altar respectively.

(9) I.e., whatever is not removed from the altar if placed thereon.

(10) The flesh and the emurim of a peace-offering do not combine to make up the standard of an olive.

(11) This is now assumed to mean that one is liable for eating as much as an olive of the flesh and the emurim combined when it is piggul or nothar, or if he is unclean.

(12) Hence no distinction is drawn between the flesh and the emurim, and they combine.

(13) Now, piggul and nothar apply both to the flesh and to the emurim of a peace-offering (v. supra 43a): hence the two should combine.

(14) If one eats half as much as an olive of the flesh of a peace-offering which is already piggul and the same quantity of its emurim, he is liable to a sin-offering. If, however, one slaughters a peace-offering with the intention of eating or burning half as much as an olive of the flesh and half as much as an olive of the emurim after time, it does not become piggul, because the flesh should be eaten and the emurim should be burnt, whereas an illegitimate intention of eating or burning renders a sacrifice piggul only when it is made in respect of what is eaten or burnt respectively. Such intentions do combine, however, in the case of a burnt-offering, since the whole of it is burnt.

(15) In the case of ordinary nothar the flesh and the emurim, even of a peace-offering, combine. It is different, however, in the following instance: The whole of the animal, except half as much as an olive of the flesh and the same of the emurim, was lost or destroyed before the sprinkling of the blood. Now, if this happened with a burnt-offering, we would have as much as an olive for the altar's consumption, and therefore the sprinkling is valid to render it nothar, in the sense that if it is left until after time and then eaten, it entails liability. In the case of a peace-offering, however, there is only half as much as an olive for the altar's consumption and the same for man's consumption: these do not combine to permit the sprinkling. If one did sprinkle, therefore, the sprinkling is not valid to render it nothar in the above sense. The same applies to defilement.

Talmud - Mas. Zevachim 109b

he sprinkles the blood. [If there remains] half as much as an olive of flesh and half an olive of heleb, he must not sprinkle the blood. But in the case of a burnt-offering, even [if there remains] half as much as an olive of flesh and half an olive of heleb, he sprinkles the blood, because the whole of it is entirely burnt. While as for a meal-offering, even if the whole of it is in existence, he must not sprinkle [the blood]. What business has a meal-offering [here]?[1] — Said R. Papa: [This refers to] the meal-offering of libations which accompanies the [animal] sacrifice.[2]

MISHNAH. AS FOR THE FISTFUL [OF FLOUR]. THE FRANKINCENSE, THE INCENSE, THE PRIESTS’ MEAL-OFFERING, THE ANOINTED PRIEST'S MEAL-OFFERING, AND THE MEALOFFERING OF LIBATIONS, IF [ONE] PRESENTED AS MUCH AS AN OLIVE OF ONE OF THESE WITHOUT, HE IS LIABLE. BUT R. ELEAZAR[3] RULES THAT ONE IS NOT LIABLE UNLESS HE PRESENTS THE WHOLE OF THEM [WITHOUT].[4] IN THE CASE OF ALL OF THESE, IF THEY WERE OFFERED WITHIN, BUT AS MUCH AS AN OLIVE WAS LEFT OVER AND ONE OFFERED IT WITHOUT, HE IS LIABLE.[5] IN THE CASE OF ALL OF THESE, IF THEY BECAME SLIGHTLY INCOMPLETE. AND ONE OFFERED THEM WITHOUT, HE IS NOT LIABLE.[6] ONE WHO OFFERS SACRIFICES TOGETHER WITH THE EMURIM WITHOUT,[7] IS LIABLE.[8]

GEMARA. Our Rabbis taught: If one burns as much as an olive of incense[9] without, he is liable; [if one burns] half a peras[10] within he is not liable. Now it was assumed that what does ‘not liable’ mean? A zar is not liable;[11] [then the difficulty arises] why so? Surely it is haktarah?[12] — Said R. Zera in R. Hisda's name in R. Jeremiah b. Abba's name in Rab's name: What does ‘not liable’ mean? The community is not liable.[13]

R. Zera said: If I have a difficulty, it is this, viz., Rab's statement thereon [that] here even R. Eleazar agrees; but surely R. Eleazar maintains that this does not constitute haktarah?[14] — Said Rabbah: In respect of haktarah in the Hekal none disagree.[15] They disagree only in respect of the haktarah within:[16] one master holds, ‘his hands full’ is particularly meant;[17] while the other master holds [that] ‘his hands full’ is not meant particularly. But surely, said Abaye to him, ‘statute’ is written in reference to haktarah within?[18] — Rather said Abaye: In respect of haktarah within, none disagree. They disagree only in respect of haktarah without: one master holds [that] we learn within from without; while the other master holds that we do not learn [within from without].[19]

Raba observed: Seeing that the Rabbis do not learn without from without, can there be a question of [learning] within from without?[20] To what is this allusion?[21] — To what was taught: You might think that if one offers up [without] less than an olive of the fistful [of flour] or less than an olive of emurim, or if one makes libations of less than three logs of wine or less than three logs of water, he is liable: therefore it states, ‘to sacrifice [do]’: one is liable for a complete [standard], but one is not liable for an incomplete one. Now, less than three logs nevertheless contains many olives, and yet the Rabbis do not learn without from without![22] — Rather said Raba: [The Mishnah applies to] where e.g., one appointed it

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(1) There is no blood to sprinkle in a meal-offering.

(2) If the flesh is lost while the meal-offering is in existence, the blood must not be sprinkled.

(3) So Sh.M.

(4) Because it is not valid within unless the whole of it is offered. The Rabbis, however, hold that even if as much as an olive is offered within it is valid, provided that the whole of it was available for offering.

(5) R. Eleazar agrees here, because this would have completed the offering within and made it valid.

(6) Since offering them within would not have been valid.

(7) I.e., he offers up the flesh, to which is attached the emurim.

(8) On account of the emurim.

(9) Emended text (Sh.M.).

(10) A peras (half a maneh) of incense was offered twice daily, morning and evening. ‘Half a peras’ means any quantity less than a peras.

(11) If a zar burns less than a peras within he is not liable, though only a priest is permitted to burn it.

(12) V. Glos. Even with that quantity; and, a zar who performs haktarah is liable.

(13) They have fulfilled their obligation, though it was less than the standard quantity prescribed.

(14) Why then is the community quit of its obligation?

(15) All agree that the daily haktarah in the Hekal is fulfilled with as much as an olive, because Scripture does not prescribe a quantity for this, the standard of a peras being Rabbinical only. Consequently R. Eleazar admits that if one burns as much as an olive of this without, he is liable; and for the same reason the community is quit of its obligation when as much as an olive is burnt within. Hence the Baraitha, which refers to the daily haktarah, agrees with all.

(16) On the Day of Atonement, which was done in the innermost sanctuary. There a definite quantity is prescribed, viz., ‘his hands full’ (Lev. XVI, 12).

(17) Not less, and the whole must be taken simultaneously. Hence less does not constitute haktarah on that occasion, and if one burns this without, he is not liable.

(18) Ibid. 34: And this shall be an everlasting statute unto you, to make atonement . . . once in the year. ‘Statute’ intimates that everything which is so designated must be carried out exactly as prescribed; further, it applies to all the rites enumerated in the chapter which are performed only ‘once in the year’, and hence includes haktarah within. How then can anyone maintain that ‘his hands full’ is not meant particularly?

(19) Abaye too explains that the Baraitha treats of haktarah of the Hekal, while the Mishnah treats of haktarah within. But his premises and reasoning are different. Thus: all agree that a complete haktarah, viz., ‘his hands full’ is indispensable within. They disagree where one burnt without the Temple as much as an olive of this incense that should have been burnt within, in the innermost sanctuary. One master holds that we learn within from without, i.e. the incense of the innermost sanctuary from the incense of the Hekal: just as one is liable for burning as much as an olive of the latter without, so is one liable for burning as much as an olive of the former without, although that same quantity burnt in its rightful place, sc. the innermost sanctuary, does not constitute haktarah. R. Eleazar, however, holds that we cannot make this inference, precisely because of the difference just noted, Hence when he burns it without he is not liable.

(20) Surely they would not make such an inference.

(21) Where do we find that they do not learn without from without?

(22) They do not say that since as much as an olive of incense burnt without entails liability. the same measure of wine or water offered as a libation without entails liability, though both of these are ‘without’, i.e., they are rightly offered on the outer altar. The author of this must be the Rabbis, since R. Eleazar holds that one is not liable even when he burns as much as an olive without. (It should be noted that ‘without’ in the present passage is used with two different meanings: (i) outside the Temple court altogether. where all offering is forbidden; and (ii) the outer altar in the Temple court, where the daily incense is burnt and the drink-offerings are made.)

in a vessel: one master holds that appointing in a vessel is an act that counts, while the other master holds that it is not an act that counts.[1]

Raba said: Now that we have said that there is a view that appointment through a vessel does not count, if one appointed six [logs] for a bullock[2] and removed four of them and offered them up without, he is liable, since they are fit for a ram.[3] If one appointed four [logs] for a ram and removed three of them and offered them up without, he is liable, since they are fit for a lamb. If they [the three logs] were slightly incomplete, he is not liable.[4]

R. Ashi said: The Rabbis do not learn nisuk,[5] from haktarah, though it is without from without; they do learn haktarah from haktarah, though it is within from without.[6]

IN THE CASE OF ALL OF THESE, IF THEY BECAME SLIGHTLY INCOMPLETE etc. It was asked: Does incompleteness without count as incompleteness, or does it not count as incompleteness?[7] Do we say, since it went out, it was disqualified; what is the difference then whether there is less or more?[8] Or perhaps, only when it goes out and is wholly existent [does it involve liability], but not when it is not wholly existent? — Said Abaye, Come and hear: R. ELEAZAR RULES THAT ONE IS NOT LIABLE UNLESS HE PRESENTS THE WHOLE OF THEM,[9] Rabbah son of R. Hanan objected to Abaye: Does the master solve it from R. Eleazar?[10] — I explicitly heard it from a master, he replied: the Rabbis disagree with R, Eleazar only when the whole of it is available; but if it is incomplete, they agree with him. Surely that means, [even] if it became incomplete without? — No: [only] when it became incomplete within.

Come and hear: IN THE CASE OF ALL OF THESE, IF THEY BECAME SLIGHTLY INCOMPLETE AND ONE OFFERED THEM WITHOUT, HE IS NOT LIABLE: does that not mean [even] where it became incomplete without? — No: [only] when it became incomplete within.

ONE WHO OFFERS SACRIFICES [etc.]. Why so? surely it interposes?[11] — Said Samuel: It means where he turns them over.[12] R. Johanan said: You may even say that he does not turn them over, but the author of this is R. Simeon who maintained: Even if one offers them up on a rock or on a stone, he is liable.[13] Rab said: One kind is not an interposition for the same kind.[14]

MISHNAH. IF THE FISTFUL OF A MEAL-OFFERING WAS NOT [YET] TAKEN, AND ONE OFFERED IT WITHOUT, HE IS NOT LIABLE.[15] IF ONE TOOK OFF THE FISTFUL, THEN REPLACED THE FISTFUL WITHIN IT, AND OFFERED IT WITHOUT, HE IS LIABLE.[16]

GEMARA, But why so? let the remainder nullify the fistful?[17] — Said R. Zera: Haktarah is stated in connection with the fistful, and haktarah is stated in connection with the remainder:[18] as in the case of the haktarah stated in connection with the fistful, one fistful does not nullify another;[19] so in the case of haktarah stated in connection with the remainder, the remainder does not nullify the fistful.

MISHNAH. AS FOR THE FISTFUL AND THE FRANKINCENSE, IF ONE OFFERED ONE OF THEM WITHOUT, HE IS LIABLE; R. ELIEZER RULES THAT HE IS NOT LIABLE UNLESS HE OFFERS THE SECOND [TOO].[20] [IF ONE OFFERED] ONE WITHIN AND THE OTHER WITHOUT,[21] HE IS LIABLE,[22] AS FOR THE TWO DISHES OF FRANKINCENSE,[23] IF ONE OFFERED ONE OF THEM WITHOUT, HE IS LIABLE; R. ELIEZER RULES THAT HE IS NOT LIABLE UNLESS HE OFFERS THE SECOND [TOO]. [IF ONE OFFERED] ONE WITHIN AND THE OTHER WITHOUT, HE IS LIABLE.

GEMARA. R. Isaac Nappaha[24] asked: Can the fistful permit a proportionate quantity of the remainder?[25] does it [the fistful] indeed permit, or does it merely weaken [the prohibition]?[26] — On whose view [is this question asked]? If on the view of R. Meir, who maintained, You can render a sacrifice piggul through half of the mattir,[27] it indeed permits it;[28] and if on the view of the Rabbis who maintained that you cannot render a sacrifice piggul through half of the mattir, it may neither permit nor weaken it?[29] — Rather, [the question is asked] on the view of R. Eliezer.[30] But R. Eliezer agrees with the Rabbis?[31] — Rather, [the question is asked] on the view of the Rabbis here:[32] does it permit, or does it weaken?[33] The question stands over.

MISHNAH. IF ONE SPRINKLES PART OF THE BLOOD WITHOUT,[34]

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(1) Both the Mishnah and the Baraitha treat of haktarah of the Hekal, where Scripture does not prescribe a fixed quantity. Therefore the Baraitha teaches that he is liable, and R. Eleazar agrees, as Rab stated. The controversy in the Mishnah arises where one appointed the whole peras that was to be burnt (by Rabbinical law) for its purpose by placing it in a vessel. R. Eleazar holds that this appointment is a substantial act, in the sense that if the priest does not burn it all in the Hekal it is not haktarah and the community is not quit of its obligation. Therefore one is not liable for burning it without unless he burns the whole of it. The Rabbis, however, hold that this appointing does not count at all, and so it is the same as any other incense.

(2) I.e., he put six logs of wine in a vessel, to be used for the drink-offering which accompanied the sacrifice of a bullock.

(3) This measure would suffice for a ram, and so he is culpable. If, however, appointment in a vessel counted as a substantial act, he would not be liable unless he offered up the whole six logs without.

(4) Because less than three logs are not fit for anything within.

(5) The act of offering libations.

(6) R. Ashi defends Abaye's explanation, and rebuts Raba's objection. — The text is emended.

(7) If the full standard was taken without (whereby it was immediately disqualified for use within), and then some of it was lost before he offered it up: does it count as incomplete or not?

(8) Since it is disqualified in any case, and yet one is liable for offering it without, he may also be liable when it becomes short without.

(9) Thus even if it is taken out whole, there is no liability unless it is offered whole.

(10) Surely not. For R. Eleazar holds that even if the whole is existent he is not liable unless he offers the whole, whereas the Rabbis hold that if the whole is existent one is liable when he offers as much as an olive. The question is asked on the view of the Rabbis.

(11) The flesh interposes between the fire and the emurim, and such would not constitute proper offering up within, for the emurim must lie directly on the fire.

(12) Sc. that the emurim lie on the fire.

(13) If even a proper altar is not necessary, it is certainly not necessary for the emurim to lie directly on the fire.

(14) Flesh is the same kind of matter as emurim, and therefore it does not count as an interposition.

(15) Because in that state it is not fit for offering within either.

(16) Because in that case, if it is offered within, it is valid; Men. 23a.

(17) Hence he should not be liable.

(18) Lev. II: 2: And he shall take thereout his handful . . . and ... shall make (it) smoke (we-hiktir). Ibid. 11: No meal-offering ... shall be made with leaven, for ye shall make no leaven, nor any honey, smoke (lo taktiru) as an offering made by fire unto the Lord. This is interpreted to mean that one must not burn (haktarah) any portion of the meal-offering whereof part is to be ‘an offering made by fire;’ hence it applies to the remainder, as part thereof (viz., the fistful) has been taken as ‘an offering made by fire’.

(19) Even if it exceeds it.

(20) Both must normally be offered before the remainder may be eaten (in the case of a votive meal-offering, to which this refers). Hence the two together are the mattir (v. Glos.), and R. Eliezer holds that one is liable only when he offers without the whole mattir.

(21) In this order.

(22) Because the second completes it, and had it been offered within, it would have permitted the consumption of the remainder.

(23) The burning of which permitted the eating of the Shewbread.

(24) Or, the smith.

(25) V. n. 6, p. 540. If one burned the fistful alone, stating that this was to permit part of the remainder (which he determined beforehand), while the other part was to be permitted by the frankincense, is the first part thus permitted?

(26) Does the fistful completely permit part, in which case this part is now permitted; or does it merely weaken the prohibition of the whole, while the frankincense finally removes it? in that case it will still be forbidden.

(27) If the priest declares a piggul intention at the burning of either the fistful or the frankincense, the offering is piggul.

(28) For a sacrifice can be rendered piggul only through a rite which completely permits it (or at least, a portion thereof), just as sprinkling completely permits an animal sacrifice. R. Meir then must certainly hold that the burning of the fistful permits part of the remainder,

(29) There is no proof that on their view the burning of the fistful either permits part or even weakens the prohibition of the whole.

(30) In our Mishnah: since he rules that one is not liable for burning that alone without, it may be that he holds that it permits part only.

(31) Sc. those who disagree with R. Meir, — I.e., the same difficulty that arises on the view of the Rabbis, sc. that they may hold that it neither permits nor weakens, arises on the view of R. Eliezer.

(32) In our Mishnah.

(33) Since they maintain that one is liable for burning the fistful alone without, they must regard the same within as a proper haktarah, even without the frankincense. Hence the question, in respect of what is it haktarah: is it in respect of permitting part, or in respect of weakening the whole?

(34) E.g., he made one application only; this holds good even in the case of the inner sin-offerings, where all the four applications are indispensable.

Talmud - Mas. Zevachim 110b

HE IS LIABLE. R. ELEAZAR SAID: ALSO HE WHO MAKES A LIBATION OF THE WATER OF THE FESTIVAL, ON THE FESTIVAL, WITHOUT, IS LIABLE.[1] R. NEHEMIAH SAID: IF ONE PRESENTED THE RESIDUE OF THE BLOOD[2] WITHOUT, HE IS LIABLE.

GEMARA. Raba said: R. Eleazar too agrees in the case of blood.[3] For we learnt: R. Eleazar and R. Simeon maintained: From where he left off, there he recommences.[4]

R. ELEAZAR SAID: ALSO HE WHO MAKES A LIBATION OF THE WATER OF THE FESTIVAL, ON THE FESTIVAL, WITHOUT, IS LIABLE. R. Johanan said on the authority of R. Menahem of Jotapata:[5] R. Eleazar ruled thus in accordance with the thesis of R. Akiba, his teacher, who maintained [that] the pouring of water [on the Feast of Tabernacles] is [required] by Scriptural law, For it was taught: R. Akiba said: And the drink-offerings thereof:[6] Scripture speaks of two drink-offerings, viz., the libation of water and the libation of wine.[7] Said Resh Lakish to R. Johanan: If so, just as there three logs [are required], so here too three logs [are required], whereas R. Eleazar speaks of THE WATER OF THE FESTIVAL?[8] [Again,] if so, just as there [there is liability] during the rest of the year, so here too [one should be liable] during the rest of the year, whereas R. Eleazar says [that one is only liable] ON THE FESTIVAL? He, however, had overlooked R. Assi's statement in R. Johanan's name. For R. Assi said in the name of R. Johanan on the authority of R, Nehunia of the valley of Beth Hauran:[9] Ten Saplings,[10] the Willow,[11] and the Water Libation are Mosaic laws from Sinai.[12]

Our Rabbis taught: One who makes a libation of three logs of water on the Feast [of Tabernacles], without, is liable. R. Eleazar said: If he drew it for the sake of the Feast, he is liable. Wherein do they disagree? — Said R. Nahman b. Isaac: They disagree as to whether a standard quantity of water is required.[13] R. Papa said: [

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(1) Special water libations on the altar were made during the Feast of Tabernacles. If one makes a libation without of the water specially drawn for this purpose, he is liable.

(2) Of these sin-offerings whose blood must be poured out at the base of the altar.

(3) He accepts the view in the Mishnah, though he disagrees in the case of frankincense.

(4) V. supra 42a. If the blood is accidentally spilt after the first application, a second animal is slaughtered, and the sprinkling is continued, starting with the second application. Thus the first application was effective, and therefore if it is made without, it entails liability.

(5) A fortress in Galilee.

(6) Num. XXIX, 31. This refers to the drinkofferings which accompanied the animal sacrifices on Tabernacles, R. Akiba stresses the plural ‘offerings’.

(7) Hence it is Scriptural, and since it is a Scriptural rite, one is liable for doing it without.

(8) If R. Eleazar based his view on R. Akiba's interpretation, then one should argue: since the rite is learnt from the plural form, ‘drink-offerings’, the two are alike, and there is no liability for less than three logs without. R. Eleazar, however, merely speaks of THE WATER OF THE FESTIVAL, which may, on one view, be one log (Suk. 48a).

(9) Or, Beth Haurathan. A town in a valley S.E. of Damascus, and a station for announcing the New Moon; cf. Ezek, XLVII, 18; R.H. 22b.

(10) The whole of a plantation fifty cubits square, containing at least ten saplings (the definition of ‘saplings’ is given in Shebi.I.) may be ploughed until the very end of the sixth year (the seventh is the Sabbatical year). In a plantation of older trees tilling must cease at least one month before.

(11) The circuits around the altar with a willow during the Feast of Tabernacles.

(12) Thus not only R. Akiba, but all the Rabbis agree that the Water Libation is Scriptural. As, however, this is a Mosaic tradition, and not directly indicated in Scripture, one is not bound by the analogy of the Wine Libation; hence three logs are not needed. — ‘He overlooked’ presumably means Menahem of Jotapata, and though R. Johanan cites both statements, the present one may be of later date, when he had rejected Menahem's view (Tosaf.).

(13) The first Tanna holds that it is, and so liability is incurred only for three logs, neither more nor less. R. Eleazar maintains that there is no standard: consequently, this condition of three logs holds good only if the water was specially drawn for libations in the vessel used for the purpose, which held three logs, whereby the vessel appointed the whole of the three logs (cf. supra a top). But if the vessel did not thus appoint it, one is liable even for less. (Tosaf. Rashi explains it otherwise.)

Talmud - Mas. Zevachim 111a

They disagree as to whether libations were offered in the wilderness.[1] Rabina said: They disagree as to whether we learn water libation from wine libation.[2]

Our Rabbis taught: One who makes a libation of three logs of wine without, is liable. R. Eleazar son of R. Simeon said: Provided that he [first] sanctified them in a [service] vessel. Wherein do they disagree? — Said R. Adda the son of R. Isaac: They differ about the overflow of measures.[3] Rabbah the son of Raba[4] said: They disagree as to whether libations were offered at the bamoth, and in the controversy of the following Tannaim. For it was taught: A private bamah does not require libations: these are the words of Rabbi. But the Sages maintain: It does require libations.[5] Now, these Tannaim [disagree on the same lines] as the following Tannaim. For it was taught: ‘When ye are come [etc.]’:[6] Scripture prescribes [the bringing of] libations at the great bamah. You say, at the great bamah: yet perhaps it is not so, but rather at a minor bamah?[7] When it says, into the land of your habitations, which I give unto you.[6] surely Scripture speaks of a bamah in use by all of you: these are the words of R. Ishmael. R. Akiba said: ‘When ye are come’ prescribes libations at a minor bamah. You say, at a minor bamah: yet perhaps it is not so, but rather at the great bamah? When it says, ‘into the land of your habitations,’ Scripture speaks of a bamah in use in all your habitations.[8] Now when you analyse the matter, [you find that] on R. Ishmael's view they did not offer libations in the wilderness, while on R. Akiba's they did offer libations in the wilderness.

R. NEHEMIAH SAID: IF ONE PRESENTED THE RESIDUE OF THE BLOOD WITHOUT, HE IS LIABLE. R. Johanan said: R. Nehemiah taught in agreement with the view that [the pouring out of] the residue is indispensable.[9] An objection is raised: R. Nehemiah said: If one offered the residue of the blood without, he is liable. Said R. Akiba to him: Surely [the pouring out of] the residue of the blood is [but] the remainder of a rite?[10] Let [the burning of] the limbs and the fat-pieces prove it, he replied, which is the remainder of a rite,[11] yet if one offers them up without, he is liable. Not so, said he, If you speak of [the burning of] the limbs and the fat-pieces, that is because it is the beginning of the service; will you say the same of the residue of the blood, which is the end of the service?[12] Now if this is correct,[13] let him answer him: This too is indispensable? That is indeed a refutation! But now that R. Adda b. Ahabah said: The controversy[14] is about the residue of the inner [sin-offering];[15] but all agree that [the pouring out of] the residue of the outer [sin-offering] is not indispensable, [you can answer thus]: R. Nehemiah spoke [in the Mishnah] of the residue of the inner [sin-offering]; whereas that [Baraitha] was taught in connection with the residue of the outer [sin-offerings].[16] If so, let him [R. Nehemiah] answer him: I spoke [only] of the residue of the inner [sin-offerings]? — Rather, he argued on R. Akiba's hypothesis.[17]

MISHNAH. IF ONE NIPS A BIRD[-OFFERING] WITHIN AND OFFERS IT UP WITHOUT, HE IS LIABLE; IF ONE NIPS IT WITHOUT AND OFFERS IT UP WITHOUT, HE IS NOT LIABLE.[18] IF ONE SLAUGHTERS A BIRD WITHIN AND OFFERS IT UP WITHOUT, HE IS NOT LIABLE.[19]

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(1) Both agree that no standard is required, and when the Tanna says three logs he is not exact, for the same applies even to less. (Tosaf. Rashi reverses it; both agree that there is a definite standard, and liability is incurred only for three, not for more or less.) The first Tanna holds that libations were offered in the wilderness. Now, Scripture states, When ye are come into the land of your habitations (sc. Eretz Israel) . . . and will make an offering by fire unto the Lord . . . then shall he that bringeth his offering present unto the Lord . . . wine for the drink-offering (Num. XV, 2 seq.). This implies that libations became obligatory only after they entered Eretz Israel. This cannot mean at the public bamoth, since these were the same as the Tabernacle in the wilderness, where libations were already offered. Hence it must mean at private bamoth, and in this respect it was a new obligation, since there were no private bamoth in the wilderness. At these private bamoth, however, there were no service vessels to sanctify the wine before use; hence the wine could not require special sanctification. For that reason the first Tanna maintains that even when private bamoth were subsequently forbidden, and wine and water for libations would first be sanctified in service vessels, yet if one made a libation without even of water not specially drawn and sanctified, he was liable, since there had been a time when unsanctified wine was used for libations. R. Eleazar, however, holds that libations were not offered in the wilderness. Hence ‘when ye are come’ etc. refers to the Tabernacle at Shiloh, where the wine was first sanctified. Therefore liability is incurred only for wine (or water) specially drawn and sanctified, since we find no instance of unsanctified wine being used.

(2) They agree that libations were offered in the wilderness; therefore the text must refer to private bamoth, where unsanctified wine was used. But this was only in the case of wine; water libations, however, were offered only at the public bamoth, and the water was first sanctified. The first Tanna holds that we learn water libation from wine libation: as liability is incurred for offering a libation without even of unsanctified wine, so is it incurred for water not specially drawn. R. Eleazar rejects this analogy and maintains that since only sanctified water was used in libations, liability is incurred only for same.

(3) The brim that floats above the actual vessel. Both hold that sanctification by a service-vessel is required; the Rabbis maintain that the overflow is sanctified, and therefore even if the three logs consisted of such overflow, one is liable, R. Eleazar holds that the overflow is not sanctified, and liability is incurred only for wine that was sanctified in the vessel itself.

(4) Emended text (Sh.M.). Cur. edd, Raba the son of Rabbah.

(5) R. Eleazar b. R. Simeon agrees with Rabbi that there were no libations at a private bamah, and so we never find them without prior sanctification; the ‘first Tanna agrees with the Sages that libations were offered at a private bamah, and these, of course, were not first sanctified.

(6) Numb. XV, 2.

(7) ‘Great’ and ‘minor’ mean public and private respectively.

(8) Hence, a private bamah.
(9) V. supra 42b. Therefore it is a service and entails liability if done without.
(10) And is not indispensable (v. supra 52a); hence it does not entail liability when done without.
(11) It is not indispensable, for the sprinkling of the blood alone is indispensable.
(12) Surely not.
(13) That R. Nehemiah holds that the pouring out of the residue of the blood is indispensable.
(14) Whether the pouring out of the residue is indispensable or not.
(15) The residue of the blood of sin-offerings which is sprinkled within, in the Hekal.
(16) R. Nehemiah admits that that is not indispensable; hence one who offers it without is not liable.
(17) I maintain that the pouring out of the residue is indispensable. But even if, as you say, it is not, let the burning of the limbs prove that one who offers it without is liable.
(18) Once he nips it without it is nebelah and not fit for offering up within. He is not liable for nipping it without, as stated supra 107a.
(19) Because by slaughtering it within, instead of nipping it, he disqualified it, and therefore it could not be offered up within.

Talmud - Mas. Zevachim 111b

IF ONE SLAUGHTERS [IT] WITHOUT AND OFFERS [IT] UP WITHOUT, HE IS LIABLE.[1] THUS ITS PRESCRIBED RITE WITHIN FREES HIM FROM LIABILITY [IF HE DOES IT] WITHOUT, WHILE ITS PRESCRIBED RITE WITHOUT FREES HIM FROM LIABILITY [IF HE DOES IT] WITHIN. R. SIMEON SAID: WHATEVER ENTAILS LIABILITY WITHOUT, ENTAILS IN SIMILAR CIRCUMSTANCES WITHIN WHEN ONE [SUBSEQUENTLY] OFFERS IT UP WITHOUT; EXCEPT WHEN ONE SLAUGHTERS [A BIRD] WITHIN AND OFFERS [IT] UP WITHOUT.[2]

GEMARA. Is this ITS PRESCRIBED RITE? Surely it is its inculpating rite?[3] — Learn, its inculpating rite.

R. SIMEON SAID etc. To what does he refer? If we say, to the first clause, [viz.] IF ONE NIPS A BIRD [SACRIFICE] WITHIN AND OFFERS [IT] UP WITHOUT, HE IS LIABLE; IF ONE NIPS [IT] WITHOUT AND OFFERS [IT] UP WITHOUT, HE IS NOT LIABLE; whereon R. Simeon observed [that] just as he is liable [when he nips it] within, so is he liable[4] [when he nips it] without, — then instead of [saying] WHATEVER ENTAILS LIABILITY WITHOUT, he should say, ‘whatever entails liability within’? And if [he means:] just as one is not liable [when he nips it] without, so is he not liable [when he nips it] within, — then he should say. Whatever does not entail liability without does not entail liability within?[5] Again if he refers to the second clause: IF ONE SLAUGHTERS A BIRD WITHIN AND OFFERS [IT] UP WITHOUT, HE IS NOT LIABLE; IF ONE SLAUGHTERS [IT] WITHOUT AND OFFERS [IT] UP WITHOUT, HE IS LIABLE; whereon R. Simeon observed: Just as one is not liable [when he slaughters it] within, so is he not liable [when he slaughters it] without, — then he should say, Whatever does not entail liability within does not entail liability without? Or again if [he means], just as he is liable [when he slaughters] without, so is he liable [when he slaughters it] within, — surely he teaches, EXCEPT WHEN ONE SLAUGHTERS [A BIRD] WITHIN AND OFFERS [IT] UP WITHOUT?[6] — Said Ze'iri: They disagree about the slaughtering of an animal at night, and this is what [the Mishnah] says: Likewise if one slaughters an animal at night, within, and offers it up without, he is not liable;[7] if one slaughtered [it] at night without and offered [it] up without, he is liable.[8] R. SIMEON SAID: WHATEVER ENTAILS LIABILITY WITHOUT, ENTAILS LIABILITY IN SIMILAR CIRCUMSTANCES WITHIN WHEN ONE [SUBSEQUENTLY] OFFERS [IT] UP WITHOUT,[9] EXCEPT WHEN ONE SLAUGHTERS [A BIRD] WITHIN AND OFFERS [IT] UP WITHOUT. Raba said: They disagree about receiving [the blood] in a non-sacred vessel, and this is what it says: Likewise, if one receives [the blood] in a non-sacred vessel within, and offers it up without, he is not liable;[10] if one receives [the blood] in a non-sacred vessel without and offers [it] up without, he is liable. R. SIMEON SAID: WHATEVER ENTAILS LIABILITY WITHOUT, ENTAILS LIABILITY IN SIMILAR CIRCUMSTANCES WITHIN WHEN ONE [SUBSEQUENTLY] OFFERS [IT] UP WITHOUT, EXCEPT WHEN ONE SLAUGHTERS [A BIRD] WITHIN AND OFFERS [IT] UP WITHOUT. And now that the father of Samuel son of R. Isaac recited: If one nips a bird within and offers [it] up without, he is liable; if he nips [it] without and offers [it] up without, he is not liable; but R. Simeon rules that he is liable: [you can say that] R. Simeon refers to that case, but read: Whatever entails liability [when it is sacrificed] within and offered up without, entails liability [when it is sacrificed] without.[11]

MISHNAH. AS FOR A SIN-OFFERING WHOSE BLOOD WAS RECEIVED IN ONE GOBLET, IF ONE [FIRST] SPRINKLED [THE BLOOD] WITHOUT AND THEN SPRINKLED [IT] WITHIN; [OR] WITHIN AND THEN WITHOUT, HE IS LIABLE, BECAUSE THE WHOLE OF IT WAS ELIGIBLE WITHIN. IF THE BLOOD WAS RECEIVED IN TWO GOBLETS AND ONE SPRINKLED BOTH WITHIN, HE IS NOT LIABLE; BOTH WITHOUT, HE IS LIABLE. [IF HE SPRINKLED] ONE WITHIN AND ONE WITHOUT,[12] HE IS NOT LIABLE; ONE WITHOUT AND ONE WITHIN, HE IS LIABLE ON ACCOUNT OF THE ONE WITHOUT, WHILE THE ONE WITHIN MAKES ATONEMENT.[13] TO WHAT MAY THIS BE COMPARED? TO A MAN WHO SET ASIDE [AN ANIMAL FOR] HIS SIN-OFFERING, THEN IT WAS LOST, AND HE SET ASIDE ANOTHER IN ITS PLACE; THEN THE FIRST WAS FOUND, AND [SO] BOTH ARE PRESENT. IF HE SLAUGHTERED BOTH OF THEM WITHIN, HE IS NOT LIABLE; BOTH OF THEM WITHOUT, HE IS LIABLE. [IF HE SLAUGHTERED] ONE WITHIN AND ONE WITHOUT, HE IS NOT LIABLE;[14] ONE WITHOUT AND ONE WITHIN, HE IS LIABLE ON ACCOUNT OF THE ONE WITHOUT,[15] WHILE THE ONE WITHIN MAKES ATONEMENT. JUST AS THE BLOOD RELIEVES ITS OWN FLESH, SO DOES IT RELIEVE THE FLESH OF ITS COMPANION [THE OTHER ANIMAL].[16]

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(1) Both for slaughtering (supra 107a) and for offering up (infra 119b).

(2) The Gemara discusses the meaning of this.

(3) There cannot be a prescribed rite of slaughtering a sacrifice without; rather, this slaughter is the act which inculpates one and makes him liable.

(4) For offering it up without.

(5) Emended text (Sh.M.).

(6) Which makes it obvious that he means something else, since this is stated as an exception.

(7) This would agree with R. Judah supra 84a, q.v., that an animal sacrifice slaughtered at night must be removed from the altar even if placed thereon. Hence it was not fit for offering up within, and so does not entail liability when it is offered up without. — Ze'iri assumes a lacuna in the Mishnah.

(8) Because in respect of slaughtering without night does not differ from day, since it was eligible to be brought the following day to the ‘door of the tent of meeting’.

(9) For he holds that when it is slaughtered within at night it is not removed from the altar (ibid.).

(10) Cf. n. 2. The same applies here.

(11) The exception will then refer to an inference that follows from R. Simeon's statement. For one might infer that whatever does not entail liability when it is sacrificed within and offered up without, e.g., if one sacrifices an unfit animal which was disqualified before it came to the Temple — e.g. one with which an unnatural crime had been committed — does not entail liability when sacrificed without and offered up without. An exception to this is the case of a bird; though it does not entail liability when slaughtered within and offered up without, it does entail liability when slaughtered without and offered up without.

(12) In that order.

(13) I.e., makes the sacrifice valid.

(14) For atonement was made with the first, and so the second was not eligible for slaughtering within. For a sin-offering can be brought only when one is liable; after the first was offered, the second was in the position of a sin-offering whose owner dies before it is sacrificed, and is henceforth unfit for sacrificing.

(15) Since it was eligible then.

(16) This refers to where he slaughtered both within. The sprinkling of the blood of the first relieves its flesh from liability to trespass (v. p. 405, n. 8.); it also relieves the flesh of the second from the same liability, though the second was unfit.

Talmud - Mas. Zevachim 112a

GEMARA. As for [sprinkling the blood] without and then sprinkling [it] within, it is well, because the whole of it was eligible within.[1] But [if he first sprinkled] within and then offered [it] up without, it is [but] the residue?[2] — This agrees with R. Nehemiah, who ruled: If one offers the residue of the blood without, he is liable. If it agrees with R. Nehemiah, consider the sequel: IF THE BLOOD WAS RECEIVED IN TWO GOBLETS: IF ONE SPRINKLED BOTH WITHIN, HE IS NOT LIABLE; BOTH WITHOUT, HE IS LIABLE. [IF HE SPRINKLED] ONE WITHIN AND ONE WITHOUT, HE IS NOT LIABLE. Surely R. Nehemiah maintained [that] if one offers the residue of the blood without, he is liable? — I will answer you: Which Tanna disagrees with R. Eleazar son of R. Simeon [and maintains that] one goblet renders the other rejected? It is R. Nehemiah.[3]

TO WHAT MAY THIS BE COMPARED? TO ONE WHO SETS ASIDE [AN ANIMAL FOR] HIS SIN-OFFERING, THEN IT WAS LOST, AND HE SET ASIDE ANOTHER IN ITS PLACE; THEN THE FIRST WAS FOUND [etc.] What is the purpose of [adding]. TO WHAT MAY THIS BE COMPARED?[4] — The author of this is Rabbi, who maintained: If [the first animal] was lost when [the second] was set aside, it must perish.[5] And this is what it means: This is only if [the first] was lost. If, however, one set aside two [animals for] sin-offerings as surety,[6] one of these was a burnt-offering from the very outset, in accordance with R. Huna's dictum in Rab's name, viz.: If a guilt-offering was transferred to pasture. and one then slaughtered it without a specified purpose, it is valid as a burnt-offering.[7] How compare: there, a guilt-offering is a male and a burnt-offering is a male; but a sin-offering was a female?[8] — Said R. Hiyya of Vastania:[9] It refers to a ruler's goat.[10]

CHAPTER XIV

MISHNAH. IF ONE SLAUGHTERED THE COW OF LUSTRATION[11] OUTSIDE ITS APPOINTED PLACE,[12] AND LIKEWISE IF ONE OFFERED WITHOUT THE SCAPEGOAT,[13] HE IS NOT LIABLE, BECAUSE IT SAYS, AND HATH NOT BROUGHT IT UNTO THE DOOR OF THE TENT OF MEETING,[14] [WHICH INTIMATES THAT FOR] WHATEVER IS NOT ELIGIBLE TO COME TO THE DOOR OF THE TENT OF MEETING, ONE IS NOT LIABLE ON ITS ACCOUNT. [AS FOR] A ROBA', A NIRBA', AN ANIMAL SET ASIDE [FOR AN IDOLATROUS SACRIFICE], AN ANIMAL WORSHIPPED [AS AN IDOL]. A [DOG'S] EXCHANGE, [A HARLOT'S] HIRE, KIL'AYIM, A TEREFAH, AN ANIMAL CALVED THROUGH THE CAESAREAN SECTION,[15] IF ONE OFFERED THESE WITHOUT, HE IS NOT LIABLE, BECAUSE IT SAYS, 'BEFORE THE TABERNACLE OF THE LORD: FOR WHATEVER IS NOT ELIGIBLE TO COME BEFORE THE TABERNACLE OF THE LORD, ONE IS NOT LIABLE ON ITS ACCOUNT. [AS FOR] BLEMISHED ANIMALS, WHETHER WITH PERMANENT BLEMISHES OR

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(1) When he sprinkled it without, Hence he is liable.

(2) Which should not entail liability.

(3) Emended text (Sh.M.). For the allusion v. supra 34b. Hence the blood in the second goblet, according to R. Nehemiah, is not even a residue, and therefore he is not liable.

(4) What does this analogy teach, for apparently the point is quite clear without it?

(5) Even if it had been found by the time that the second was sacrificed. (The Rabbis hold that in the latter case it does not perish, but must be left to graze until it receives a blemish, when it is redeemed, and a burnt-offering is brought for the redemption money. If they did not wait for it to become blemished, but sacrificed it as a burnt-offering, it is valid.

Therefore if one sacrificed it without he is liable, in the view of the Rabbis.)

(6) I.e.,in case one is lost, the other should be available,

(7) V. supra 5b. The same applies here, and so if one offers it without, he is liable (cf. the view of the Rabbis in n. 6, p. 550).

(8) Hence it was not fit for a burnt-offering.

(9) Or, Astunia (in cur. edd, Justinia), near Pumbeditha, v. Obermeyer, Landschaft, p. 229.

(10) Brought as a sin-offering (v. Lev. IV, 22 seq.). This was a male. If he set aside two, and the second is offered without, it entails liability.

(11) I.e., the red heifer, v. Num. XIX.

(12) Lit. 'vat', 'pit'.

(13) V. Lev. XVI, 21.

(14) Lev. XVII, 4.

(15) V. supra 71a for all these.

Talmud - Mas. Zevachim 112b

WITH TRANSIENT BLEMISHES, IF ONE OFFERS THEM WITHOUT, HE IS NOT LIABLE. R. SIMEON SAID: [IF ONE OFFERS] ANIMALS WITH PERMANENT BLEMISHES, HE IS NOT LIABLE; [IF ONE OFFERS] ANIMALS WITH TRANSIENT BLEMISHES, HE VIOLATES A NEGATIVE INJUNCTION. [WITH REGARD TO] TURTLEDOVES BEFORE THEIR TIME AND YOUNG PIGEONS AFTER THEIR TIME.[1] IF ONE OFFERED THEM WITHOUT, HE IS NOT LIABLE. R. SIMEON SAID: [IF ONE OFFERS] YOUNG PIGEONS AFTER THEIR TIME, HE IS NOT LIABLE; [IF HE OFFERS] TURTLEDOVES BEFORE THEIR TIME, HE VIOLATES A NEGATIVE INJUNCTION. [ONE WHO OFFERS] AN ANIMAL TOGETHER WITH ITS YOUNG [ON THE SAME DAY], AND [ONE WHO OFFERS] BEFORE TIME, IS NOT LIABLE.[2] R. SIMEON SAID: HE TRANSGRESSES A NEGATIVE INJUNCTION. FOR R. SIMEON MAINTAINED: WHATEVER IS ELIGIBLE TO COME LATER INVOLVES A NEGATIVE INJUNCTION, BUT DOES NOT INVOLVE KARETH.[3] BUT THE SAGES MAINTAIN: WHATEVER DOES NOT INVOLVE KARETH DOES NOT INVOLVE A NEGATIVE INJUNCTION. 'BEFORE TIME APPLIES BOTH TO ITSELF AND TO ITS OWNER.[4] WHAT IS BEFORE TIME AS APPLIED TO ITS OWNER? IF A ZAB OR A ZABAH, A WOMAN AFTER CHILDBIRTH,[5] OR A LEPER,[6] OFFERED THEIR SIN-OFFERING OR THEIR GUILT-OFFERING WITHOUT, THEY ARE NOT LIABLE; [IF THEY OFFERED] THEIR BURNT-OFFERINGS OR THEIR PEACE-OFFERINGS WITHOUT, THEY ARE LIABLE.[7] IF ONE OFFERS UP FLESH OF A SIN-OFFERING, OR FLESH OF A GUILT-OFFERING, OR FLESH OF MOST SACRED SACRIFICES, OR FLESH OF LESSER SACRIFICES, OR THE RESIDUE OF THE 'OMER,[8] OR THE TWO LOAVES, OR THE SHEWBREAD, OR THE REMAINDER OF MEAL-OFFERINGS; OR IF HE POURS [THE OIL ON TO THE MEAL-OFFERING], OR MINGLES [IT WITH FLOUR], OR BREAKS UP [THE MEAL-OFFERING CAKES], OR SALTS [THE MEAL-OFFERING], OR WAVES IT, OR PRESENTS [IT OPPOSITE THE SOUTH-WEST CORNER OF THE ALTAR], OR SETS THE TABLE [WITH THE SHEWBREAD], OR TRIMS THE LAMPS, OR TAKES OFF THE FISTFUL, OR RECEIVES THE BLOOD. — [IF HE DOES ANY OF THESE] WITHOUT, HE IS NOT LIABLE. NOR IS ONE LIABLE ON ACCOUNT OF ANY OF THESE ACTS ON ACCOUNT OF ZARUTH,[9] OR UNCLEANNESS, OR LACK OF [PRIESTLY] VESTMENTS,[10] OR THE NON-WASHING OF HANDS AND FEET.[11]

BEFORE THE TABERNACLE WAS SET UP BAMOTH WERE PERMITTED AND THE SERVICE WAS PERFORMED BY THE FIRSTBORN; AFTER THE TABERNACLE WAS SET UP BAMOTH WERE FORBIDDEN AND THE SERVICE WAS PERFORMED BY PRIESTS. MOST SACRED SACRIFICES WERE [THEN] EATEN WITHIN THE CURTAINS, AND LESSER SACRIFICES [WERE EATEN] ANYWHERE IN THE CAMP OF THE ISRAELITES.[12]

WHEN THEY CAME TO GILGAL,[13] BAMOTH WERE [AGAIN] PERMITTED: MOST SACRED SACRIFICES WERE EATEN WITHIN THE CURTAINS, AND LESSER SACRIFICES [WERE EATEN] ANYWHERE. WHEN THEY CAME TO SHILOH,[14] BAMOTH WERE [AGAIN] FORBIDDEN. [THE TABERNACLE] THERE HAD NO ROOF, BUT [CONSISTED OF] A STONE EDIFICE CEILED WITH CURTAINS, AND THAT WAS THE ‘REST’ [ALLUDED TO IN SCRIPTURE]:[15] MOST HOLY SACRIFICES WERE EATEN [THERE] WITHIN THE CURTAINS, AND LESSER SACRIFICES AND SECOND TITHE[16] [WERE EATEN] WHEREVER [SHILOH] COULD BE SEEN. WHEN THEY CAME TO NOB AND TO GIBEON,[17] BAMOTH WERE [AGAIN] PERMITTED: MOST HOLY SACRIFICES WERE EATEN WITHIN THE CURTAINS, AND LESSER SACRIFICES [AND SECOND TITHE][18] IN ALL THE CITIES OF ISRAEL. WHEN THEY CAME TO JERUSALEM, BAMOTH WERE FORBIDDEN AND WERE NEVER AGAIN PERMITTED,[19] AND THAT WAS THE ‘INHERITANCE’. MOST HOLY SACRIFICES WERE EATEN WITHIN THE CURTAINS,[20] AND LESSER SACRIFICES AND SECOND TITHE WITHIN THE WALL [OF JERUSALEM].

ALL SACRIFICES CONSECRATED WHILE BAMOTH WERE FORBIDDEN AND OFFERED WITHOUT WHILE BAMOTH WERE FORBIDDEN, INVOLVE A POSITIVE AND A NEGATIVE INJUNCTION,[21] AND ONE IS LIABLE TO KARETH ON THEIR ACCOUNT.[22] IF ONE CONSECRATED THEM WHILE BAMOTH WERE PERMITTED, BUT OFFERED THEM WITHOUT WHEN BAMOTH WERE FORBIDDEN, THEY INVOLVE A POSITIVE AND A NEGATIVE INJUNCTION, BUT ONE IS NOT LIABLE TO KARETH ON THEIR ACCOUNT.[23] IF ONE CONSECRATED THEM WHEN BAMOTH WERE FORBIDDEN, AND OFFERED THEM WHEN BAMOTH WERE PERMITTED, THEY INVOLVE A POSITIVE INJUNCTION,[24] BUT THEY DO NOT INVOLVE A NEGATIVE INJUNCTION. THE FOLLOWING SACRIFICES WERE OFFERED IN THE TABERNACLE:[25] SACRIFICES CONSECRATED FOR THE TABERNACLE: PUBLIC SACRIFICES WERE OFFERED IN THE TABERNACLE, AND PRIVATE SACRIFICES WERE OFFERED AT A BAMAH.[26] IF PRIVATE SACRIFICES WERE CONSECRATED FOR THE TABERNACLE, THEY MUST BE OFFERED IN THE TABERNACLE; YET IF ONE OFFERED THEM AT A BAMAH, HE IS NOT LIABLE.

WHEREIN DID THE MINOR BAMAH AND THE GREAT BAMAH DIFFER? [IN RESPECT OF] LAYING [OF HANDS]. SLAUGHTERING IN THE NORTH,

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(1) Turtledoves may be sacrificed only after they reach a certain stage; pigeons, only before. V. Hul. 22a.

(2) ‘Before time’ is explained anon. An animal may not be slaughtered together with its young on the same day (cf. Lev. XXII, 28). — In the whole passage the reference is to liability or otherwise for slaughtering without. R. Simeon too means that he has transgressed the negative injunction forbidding the slaughtering of sacrifices without, but is not liable.

(3) And therefore if one does it in ignorance, he is not liable to a sin-offering.

(4) Whether the animal (or bird) was not yet eligible, or whether its owner was not yet eligible or liable.

(5) Before the expiration of forty or eighty days; v. Lev. XII, 1-8.

(6) All these, within the period of their counting; v. Lev. XIV, 1-10; XV, 1-15; 25-30.

(7) Since these could have been offered as a votive offering within in their name. A sin-offering and a guilt-offering, however, cannot be offered votively.

(8) After the fistful is taken.

(9) I.e., the prohibition of a zar (a non-priest) to officiate in the Temple.

(10) The priest had to officiate in the special garments prescribed in Ex. XXVIII; if he did not wear them all whilst engaged in any of these, he incurs no liability.

(11) V. Ex. XXX, 17-21.

(12) V. p. 276, n. 6.

(13) After crossing the Jordan and entering the promised land; the Tent of Meeting was then set up at Gilgal, and it remained there during the fourteen years of conquering and allotting the country.

(14) After the fourteen years.

(15) Deut. XII, 9: For ye are not as yet come to the rest and to the inheritance, which the Lord your God giveth thee. When they arrived at Shiloh, they had come to that ‘rest’. The significance of this is discussed in the Gemara.
(16) Which was to be eaten ‘in the place which the Lord thy God shall choose’ (ibid. 18).
(17) After Shiloh, the Tabernacle was erected at Nob, and subsequently it was set up at Gibeon.
(18) ‘And second tithe’ is a var. lec.
(19) Even after the destruction of the Temple.
(20) In the place corresponding to within the curtains of the Tabernacle, viz., in the Temple court.
(21) Lev. XVII, 5: even that they may bring them unto the Lord; this is a positive injunction. Deut. XII, 13: Take heed to thyself that thou offer not thy burnt-offerings in every place that thou seest; this is the negative injunction, and is understood to apply to all sacrifices.
(22) Lev. XVII, 4: And hath not brought it unto the door of the tent of meeting . . . that man shall be cut off among his people.
(23) V. supra 106b.
(24) Having consecrated them when bamoth were forbidden, he was subject to the positive injunction, ‘even that they may bring them unto the Lord’, which means to the Tabernacle. By waiting until the Tabernacle was destroyed, which rendered this impossible, he transgressed that injunction.
(25) When it was at Gilgal, when bamoth too were permitted.
(26) If animals were consecrated for public or private sacrifices, and the place was unspecified, it is tacitly assumed that the former were meant for sacrifice in the Tabernacle (public sacrifices could be sacrificed only there), and the latter were meant for bamoth.

Talmud - Mas. Zevachim 113a

SPRINKLING ROUND ABOUT,[1] WAVING AND PRESENTING,[2] (R. JUDAH MAINTAINED: THERE WERE NO MEAL-OFFERINGS AT THE BAMAH). PRIESTHOOD, SACRIFICIAL VESTMENTS, SERVICE VESSELS, A SWEET ODOUR,[3] A LINE OF DEMARCATION FOR [THE SPRINKLING OF] THE BLOOD,[4] AND THE WASHING OF HANDS AND FEET.[5] BUT TIME, NOTHAR AND DEFILEMENT WERE ALIKE IN BOTH.[6]

GEMARA. What does OUTSIDE ITS APPOINTED PLACE mean? — Resh Lakish said: Outside the place which had been examined for it.[7] Said R. Johanan to him: But surely the whole of Eretz Israel had been thus examined?[8] Rather said R. Johanan: It means, e.g., that one slaughtered it within the wall of Jerusalem.[9] But let him explain it [as meaning] that he slaughtered it without the wall, but not opposite the door [of the Hekal], for R. Adda b. Ahabah said: If one did not slaughter it opposite the door [of the Hekal], it is disqualified for it is said, And he shall slay it . . . and sprinkle [of her blood toward the front of the tent of meeting]:[10] As the sprinkling must be opposite the door, so must its slaughtering be opposite the door? And should you answer that he [R. Johanan] does not assimilate [slaughtering to sprinkling], surely it was stated: (If one did not slaughter it opposite the door, R. Johanan maintained that it was disqualified, [because it says], And he shall slay. . . and sprinkle. Resh Lakish said: It is fit, [because it says, and she shall be brought forth’] without the camp and he shall slay.[11] And it was stated likewise:)[12] If one did not burn it opposite the door, — R. Johanan said: It is disqualified; R. Oshaia said: It is fit. R. Johanan said, ‘It is disqualified’, [because it says,] and he shall burn . . . and he shall sprinkle.[13] R. Oshaia said, ‘It is fit’, because Scripture saith, with her dung [pirshah] it shall be burnt: [that means, in] the place that she departs [poresheth] to death, there must she be burnt![14] — I will answer you: He [R. Johanan] proceeds to a climax:[15] it goes without saying that [if he slaughters it] without the wall [and not opposite the door] [it is disqualified], because he removed it further [from the Sanctuary]. But even [if he slaughtered it] within the wall, so that he brought it nearer, and I might argue that it is fit, he informs us [that it is not].

The master said: ‘Said R. Johanan to him, But surely the whole of Eretz Israel had been thus examined’. Wherein do they differ? — One master holds that the Flood descended in Eretz Israel;[16]

while the other master holds that it did not descend [there]. R. Nahman b. Isaac observed: Both interpret the same text, [Viz.:] Son of man, say unto her: Thou art a land that is not cleansed, nor rained upon in the day of indignation.[17] R. Johanan holds: Scripture speaks rhetorically:[18] O Eretz Israel, how art thou not clean; did then the rain [flood] descend upon thee in the day of indignation? While Resh Lakish holds that it bears its plain sense: Eretz Israel, thou art not clean, [for] did not the rain descend upon thee in the day of indignation?

Resh Lakish refuted R. Johanan: There were courtyards in Jerusalem built on a rock; beneath them was a hollow, on account of graves down in the depths.[19] There they brought pregnant women, and women who had given birth, and there they reared their children for [the service of] the [Red] Heifer.[20] And they brought oxen with doors on their backs;[21] the children sat on them and carried stone goblets,[22] which they filled [with water] and then returned to their place![23] — Said R. Huna, the son of R. Joshua: They were especially strict in the case of the [Red] Heifer.

R. Johanan refuted Resh Lakish: On one occasion they found [human] bones in the Wood Chamber,[24] and they desired to declare Jerusalem unclean. Whereupon R. Joshua rose to his feet and exclaimed: Is it not a shame and disgrace to us that we declare the city of our fathers unclean! Where are the dead of the Flood, and where are the dead of Nebuchadnezzar?[25] Since he said, ‘Where are the dead of the Flood?’ he surely meant that they had not been there [in Jerusalem]? — Then on your reasoning, had there been none of the slain of Nebuchadnezzar [there]?[26] Rather, they had been, but were removed; so here too[27] they had been [in Eretz Israel], but were cleared away. But if they were removed,

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(1) So that the blood touched the four sides of the altar.

(2) Sc. the meal-offerings, opposite the south-west corner of the altar.

(3) V. supra 46b.

(4) Whether it was to be sprinkled above or below.

(5) All these were required at the public bamah but not at a private one.

(6) The prohibition of eating the flesh after time and when unclean, or when it had been rendered piggul (v. Glos.) through the intention of eating it after time, operated at both.

(7) Examined to see that there was no hidden grave under it. Only in such a place might it be slaughtered.

(8) V. infra.

(9) Whereas it was to be slaughtered without, Num. XIX, 3.

(10) Ibid. 3f. This would correspond to opposite the door of the Hekal.

(11) Which implies anywhere outside the camp.

(12) Sh.M. deletes the bracketed passage.

(13) Actually the order is reversed: And Eleazar...shall sprinkle of her blood toward the front of the tent of meeting seven times, and he shall burn the heifer. This proximity denotes assimilation: the blood must be sprinkled and the flesh burnt in the same place. — Thus R. Johanan does assimilate two actions stated in proximity, and the same must apply to slaughtering and sprinkling. (Or, he states this explicitly, if the bracketed passage is retained in the text.)

(14) I.e., where her last death-struggles take place. In her struggles she may move away from the spot opposite the door of the Hekal.

(15) Lit., ‘he states, "it is not necessary".’

(16) So the bones of many dead sunk in the earth; hence it is not purified.

(17) Ezek. XXII, 24.

(18) Lit., ‘indeed wonders.’

(19) In case there were unknown graves below, the hollow prevented the defilement from striking upward and rendering unclean what was in the courtyard.

(20) These children, who would thus be rigidly guarded from defilement, besprinkled the priest who burnt the Red Heifer.

(21) These doors likewise interposed between the defilement of a possible lost grave and the children who sat on them. This was done when they left the courtyards and went to the Pool of Siloam to draw water for mixing with the ashes of the Red Heifer.

(22) A vessel of stone cannot become unclean.

(23) This proves that Eretz Israel was not regarded as clear of lost graves.

(24) Where the wood was kept for the altar.

(25) They are found elsewhere, but not here.

(26) Of course there were, as many were slain when he captured Jerusalem.

(27) In respect of the dead of the Flood.

Talmud - Mas. Zevachim 113b

then they were removed![1] — Granted that they had been cleared away from Jerusalem, they had not been cleared away from the whole of Eretz Israel.

Others state, Resh Lakish refuted R. Johanan: 'Where are the dead of the Flood; where are the dead of Nebuchadnezzar?' Surely then, since the latter were [in Eretz Israel], the former too were there? — Why say thus? each had its own state.[2]

Resh Lakish refuted R. Johanan: Whatsoever was in the dry land, died:[3] according to my opinion that the Flood descended to Eretz Israel, it is well: for that reason they died. But on your view, why did they die? — Because of the heat, in accordance with R. Hisda. For R. Hisda said: With hot passion they sinned, and by hot water they were punished. [For] here it is written, And the water cooled;[4] whilst elsewhere it is said, Then the king's wrath cooled down.[5]

Others state, R. Johanan refuted Resh Lakish: Whatsoever was in the dry land, died. On my opinion that the Flood did not descend to Eretz Israel, it is well: for that reason is it called dry land. But on your view, what is the meaning of 'dry land'? — The place which was originally dry land. And why does he specify 'dry land'?[6] — In accordance with R. Hisda. For R. Hisda said: In the generation of the Flood the decree [of destruction] was not decreed against the fish in the sea, because it says, 'Whatsoever was in the dry land died', but not the fish in the sea.

On the view that the Flood did not descend there, it is well: thus the re'em[7] stayed there. But on the view that it did descend, where did it stay?[8] — Said R. Jannai: They took the young [of the re'em] into the Ark. But surely Rabbah b. Bar Hanah said: I saw a sea re'em, one day old, which was as big as Mount Tabor. And how big is Mount Tabor? Forty parasangs.[9] Its neck, stretched out, was three parasangs; the place where its head rested was a parasang and a half. It cast a ball of excrements and blocked the Jordan! — Said R. Johanan: They took its head [only] into the Ark. But a master said: The place where its head rested was three parasangs? — Rather, they took the tip of its nose into the Ark. But surely R. Johanan said: The Flood did not descend in Eretz Israel?[10] — He explains [it thus] on the view of Resh Lakish. But the Ark plunged up and down?[11] — Said Resh Lakish: They tied its horns to the Ark.[12] But surely R. Hisda said: The people in the generation of the Flood sinned with hot passion, and with hot water they were punished?[13] — And on your view, how could the Ark travel [at all]?[14] Moreover, how did Og king of Bashan stand?[15] Rather, a miracle was performed for it [the water], and it was cooled at the side of the Ark.

Now according to Resh Lakish, even granted that the Flood fell upon Eretz Israel, surely, however, none [of the dead] were left there. For Resh Lakish said: Why was it [Babylon] called Mezulah? Because all the dead of the Flood were dumped [niztallelu] there? And R. Johanan said: Why was it called Shinar? Because all the dead of the Flood were shaken out thither [nin'aru lesham]? — Yet it was impossible that some should not have cleaved [remained]. R. Abbahu said: Why was it called Shinar? — Because it shakes out its wealthy men [mena'ereth 'ashirim].[16] But we see that there are [wealthy people there]? — They do not last three generations. R. Ammi said: He who eats earth of Babylon is as though he ate the flesh of his ancestors.[17] It has also been learnt likewise: He who eats earth in Babylon is as though he ate the flesh of his ancestors. Some say, It is as though he ate of abominations and creeping things.[18]

THE SCAPEGOAT. [Is it not eligible to come to the door of the tent of meeting?] Surely the following contradicts it: Or sacrifice [korban]:[19] I might understand even sacred things of the Temple Repair,[20] which are designated korban, as it says, And we have brought the Lord's korban [offering].[21] Therefore it states, and bringeth it not unto the door of the tent of meting: [the law applies only to] what is eligible to come to the door of the tent of meeting; hence sacred things of Temple Repair, which are not thus eligible,[22] are excluded.[23] I might think that I exclude these, which are not eligible, but I do not exclude the scapegoat that is sent away, which is eligible to come to the door of the tent of meeting:[24] therefore it states, [to sacrifice it] unto the Lord, which excludes the scapegoat, as that is not dedicated to the Lord? — There is no difficulty: the one means before the casting of lots;[25] the other means after the casting of lots. After the casting of lots too there is still the confession?[26] — Rather, said R. Mani, there is no difficulty: The one means before confession; the other means after confession.

A ROBA' AND A NIRBA'. But this too I may infer from 'unto the door of the tent of meeting'?[27]

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(1) In any case then Eretz Israel is free from lost graves.

(2) The latter had been in Eretz Israel, and cleared out, but the former were never there.

(3) Gen. VII, 22.

(4) Ibid. VIII, 1. E.V. abated.

(5) Est.VII, 10. In both cases the root שכך is used, giving them the same meaning, and proving that the water was hot when it descended. — This heat spread to Eretz Israel.

(6) Obviously all land where people lived was dry before the Flood.

(7) A huge animal, too large to enter the Ark.

(8) That it was able to survive the flood.

(9) A Persian mile, nearly four English miles. — This passage occurs in a series of 'tall' stories by Rabbah b. Bar Hanah related in B. B. 73a seq., which were probably veiled allegories on the political and social conditions of the time.

(10) Hence he needs no explanation at all.

(11) And this would cause the re'em to slip out and drown.

(12) To secure it.

(13) It would have been scalded.

(14) Since its seams were caulked with pitch, why did not the pitch dissolve in the hot water and leave the Ark unseaworthy?

(15) According to legend he was such a giant that he escaped from the Flood (Nid. 61b). Why wasn't he scalded by the hot water?

(16) People cannot be wealthy there.

(17) Who died there.

(18) V. Shab. 113b.

(19) Lev. XVII, 8.

(20) V. p. 74 n. 7.

(21) Num. XXXI, 50. The verse continues: of jewels of gold, armlets etc.; hence it obviously refers to sacred things of Temple Repair.

(22) Because only blemished animals can be consecrated for Temple Repair, and such are not eligible for a sacrifice.

(23) If one slaughtered these without as a sacrifice, he is not culpable.

(24) As we do not know which will be sacrificed and which will be sent away, until the lots are cast.

(25) To determine which shall be sacrificed and which sent away; V. Lev. XVI, 8. At that stage it is eligible to come to the tent of meeting.

(26) Which is made over that goat, v. ibid. 21. That was made within.

(27) Why does the Mishnah quote a different proof-text here?

As for a roba’ and a nirba’, it is well: It is conceivable [that the other proof-text is required] where one first consecrated them and then bestiality was committed with them.[1] But as for an animal set apart [for idolatrous worship] and an animal worshipped [as an idol], no man can forbid that which does not belong to him?[2] — This refers to lesser sacrifices, and in accordance with R. Jose the Galilean, who maintained that lesser sacrifices are their owner's property.[3] For it was taught: [If any one sin] and commit a trespass against the Lord [. . . then he shall bring his guilt-offering]:[4] this is to include lesser sacrifices, because they are his [the individual's] property:[5] this is the view of R. Jose the Galilean. Therefore [the second proof-text is required for] roba’ and nirba’, because immorality is involved.[6] [It is required for] a [harlot's] hire, the price [of a dog], kil'ayim, and an animal calved through the caesarean section, in the case of the young of consecrated animals [sacrifices]; [because] he holds: The offerings of sacred animals are sacred from birth.[7]

BLEMISHED ANIMALS . . . AN ANIMAL TOGETHER WITH ITS YOUNG etc. Now, they are all necessary.[8] For if he taught about blemished animals [only], I would say that the reason is that they are repulsive,[9] but as for turtledoves, which are not repulsive, I would say that they agree with R. Simeon. While if he taught about turtledoves, I would say that the reason is because they were not rejected after having been eligible; but as for blemished animals which were eligible but became rejected, I would say that R. Simeon agrees with the Rabbis.[10] And if he taught about these two, I would say that the reason is because their disqualification is intrinsic; but as for an animal and its young, where the disqualification comes from without,[11] I would say that the Rabbis agree with R. Simeon. Thus [all three] are necessary.

FOR R. SIMEON MAINTAINED etc. What is R. Simeon's reason? — Said R. Ela in the name of Resh Lakish: Because Scripture saith, Ye shall not do after all that we do here this day, [every man whatsoever is right in his own eyes]:[12] Moses spoke thus to Israel: When ye enter the [Promised] Land, ye shall offer votive [sacrifices],[13] but ye shall not offer obligatory offerings. Thus Gilgal in comparison with Shiloh was premature, and Moses said to them, Ye shall not do.[14] Said R. Jeremiah to R. Zera: If so,[15]

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(1) Now, when it was consecrated, it was fit to come to the door of the tent of meeting and therefore the text, ‘and hath not brought it’ etc. may not exclude this case; for the first text might mean that if an animal was eligible when it was consecrated and then one slaughtered it without, he is liable, even if it was not eligible when it was slaughtered; hence the Mishnah quotes the other proof-text, ‘to present it as an offering unto the Lord before the Tabernacle of the Lord’. This definitely excludes whatever is not actually fit to be offered.

(2) The Mishnah must mean that the animal had been set apart before it was consecrated, for once it is consecrated it belongs to God, and it cannot be forbidden by any man's act, viz., dedicating it for an idolatrous sacrifice or worshipping it. But in that case the first proof-text is sufficient.

(3) Hence they can be forbidden even after they are consecrated, and the Mishnah treats of such a case.

(4) Lev. V. 21. The trespass referred to is false repudiation of liability on oath.

(5) If one swears falsely that he did not vow a peace-offering, which is of lesser sanctity, he brings a guilt-offering. Though this law does not apply to sacred property (deduced from, ‘and deal falsely with his neighbour’ ibid.), the phrase ‘against the Lord’ shews that it does apply nevertheless even where there is an element of sanctity, viz., in the case of lesser sacrifices, and thus teaches that these count as the individual's property.

(6) For which reason they are disqualified even if bestiality is committed after they were consecrated.

(7) As stated above, the second proof-text is necessary only if the animals were eligible when consecrated, and in these that is possible only in the case of the young of consecrated animals, which were disqualified before birth by being promised as a harlot's hire or the exchange of a dog: when one came to sacrifice their mother, they would come to the door’ too. It cannot arise in the case of the animals themselves, for if they were consecrated and then given as a harlot's hire, this second act is invalid (Tem. 30b) and they remain fit. Whilst if they were first a harlot's hire and then consecrated, the law is deduced from the first proof-text. The same applies to the other cases, viz., kil'ayim etc. Again, if these young become sacred even before birth, the act of subsequently giving them as a harlot's hire etc. would not disqualify them, just as it does not disqualify the mother. Therefore he must hold that they are sacred only from birth. — Several words are omitted from the text, in accordance with Rashi and Sh.M.

(8) The controversy between R. Simeon and the Sages must be taught in all three instances.

(9) Therefore the Rabbis hold that he is not liable for slaughtering them without.

(10) That he is not liable.

(11) It is not intrinsic and only due to an accident of time, viz., that they are both slaughtered on the same day.

(12) Deut. XII, 8.

(13) Lit., 'which are right (or pleasing) in your eyes'.

(14) The Sifre applies the text to their first fourteen years in Eretz Israel, when the Tabernacle was at Gilgal. These years were spent in conquering and sharing the land, and so one could apply to them the words, for ye are not as yet come to the rest . . . which the Lord your God giveth thee (ibid. v. 9). This is what Moses said to them: At present, when we are travelling about with the Tabernacle and bamoth are forbidden, all sacrifices can be offered. But in the years of conquest and division, before ye are come to the 'rest', 'Ye shall not do after all that we do here this day,' viz., offer obligatory offerings, but only 'every man whatsoever is right in his eyes,' i.e., votive sacrifices. Thus the statutory offerings were premature at Gilgal, (and would have to wait until they came to Shiloh), and Moses forbids their sacrifice at the bamoth by a negative injunction, 'Ye shall not do.' From this E. Simeon infers that the premature sacrifice of all animals at the bamoth, i.e., before they become eligible, is forbidden by a negative injunction.

(15) That those at Gilgal are premature.

Talmud - Mas. Zevachim 114b

one should even be flagellated too?[1] Why did R. Zera say: Scripture transmuted it into a positive command?[2] — Perhaps that is only according to the Rabbis,[3] but in the view of R. Simeon, that indeed is so.[4] R. Nahman b. Isaac said: Within, at Gilgal, was like without in comparison with Shiloh.[5]

Rabbah said: R. Simeon's reason is as it was taught: R. Simeon said: How do we know that one who sacrifices his Passover-offering at a private bamah when bamoth were prohibited, violates a negative command? Because it is said, 'Thou mayest not sacrifice the Passover-offering [within one of thy gates]'.[6] You might think that it is also thus when bamoth were permitted;[7] therefore it is stated, 'within one of thy gates': I have told you [that he violates a negative injunction] only when all Israel enter through one gate.[8] Now when is this thus? If we say, after midday,[9] let him even incur kareth too![10] Hence It must surely mean before midday![11] — No: in truth it means after midday, but it means when bamoth were permitted. But surely he says, 'When bamoth were prohibited'? — He means when the bamah was forbidden for that [sacrifice], but permitted for another.[12]

BEFORE TIME etc. Are these then subject to guilt-offerings? — Said Ze'iri: Include a leper amongst them.[13]

THEIR BURNT-OFFERINGS AND THEIR PEACE-OFFERINGS. And are these subject to peace-offerings? — Said R. Shesheth: Learn a nazirite [in the Mishnah]. According to Ze'iri, the Tannaim [explicitly] included it:[14] according to R. Shesheth, the Tannaim did not include it.[15]

R. Hilkiah b. Tobi said: They learnt it[16] only [when he sacrifices it] for its own sake. But [if he sacrifices it] under a different designation[17] he is culpable, since it is eligible, under a different designation, within.[18] If so, let him also be culpable [when he slaughters it] for its own sake, since it was eligible, under a different designation, within? — It lacks abrogation.[19]

To this R. Huna demurred: Is there anything which [when slaughtered] for its own sake is not fit, yet [when slaughtered] under a different designation is fit?[20] — Is there not? Surely

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(1) Sc. one who slaughters an animal prematurely within. For the public bamah at the Tabernacle of Gilgal, which was the Tent of Meeting of the wilderness, naturally ranked as within, yet Scripture said ‘Ye shall not do’. — The transgression of a negative injunction is punished by flagellation.
(2) V. Hul. 80b. If, however, ‘Ye shall not do’ applies to such, we have a negative command.
(3) As they do not relate ‘Ye shall not do’ to premature slaughtering.
(4) One would be flagellated.
(5) It counts as without since obligatory sacrifices might not be offered there. Thus even R. Simeon admits that he is not flagellated, for now we find the negative injunction only in connection with slaughtering without, but not in connection with slaughtering within.
(6) Deut. XVI, 5.
(7) For even then private bamoth were permitted only for votive sacrifices, but not for obligatory sacrifices like the Passover-offering, which were sacrificed at the public bamoth.
(8) I.e., when there is a central sanctuary; but when bamoth were permitted there was no central sanctuary. The verse is understood thus: ‘Thou mayest not sacrifice the Passover-offering’ at a private bamah when all Israel enter through ‘one of the gates’.
(9) On the fourteenth of Nisan.
(10) And not merely flagellation, (v. n. 1.), since it can then be received within.
(11) When it is premature. Thus a sacrifice slaughtered prematurely without, under its correct designation, entails the violation of a negative prohibition.
(12) It was forbidden for the Passover-offering, but permitted for a burnt-offering and peace-offering (i.e., votive offerings). This then is what he means: You might think that this is so even when it (the Passover-offering) may be sacrificed at a bamah, viz., before midday, when it can be offered as a peace-offering; therefore it says, ‘in one of thy gates’. I have told . . . ‘at one gate ,viz., at the public bamah, to slaughter their Passover-offerings, which is after midday.
(13) I.e., ‘guilt-offering’ is mentioned only in connection with the leper, who is also enumerated. Rashi, in the Mishnah, deletes ‘leper’.
(14) Sc. leper, in the Mishnah.
(15) ‘Leper’ is absent in the version of the Mishnah, nevertheless it must be added, on the assumption that the text of the Mishnah is defective.
(16) That when a leper prematurely sacrifices his guilt-offering without he is not culpable.
(17) E.g., as a burnt-offering.
(18) For all sacrifices slaughtered under a different designation are fit, except the Passover-offering and the sin-offering.
(19) Before it can be eligible, its name as a guilt-offering must be abrogated, and as long as this was not done it is not eligible.
(20) For although all sacrifices slaughtered under a different designation are fit, that is surely only when they are fit if slaughtered for their own sake.

Talmud - Mas. Zevachim 115a

a Passover-offering, though not fit [if slaughtered] during the rest of the year under its own designation, is nevertheless fit [if slaughtered] under a different designation! — A Passover-offering during the rest of the year is a peace-offering.[1]

Shall we say that the following supports him [R. Hilkiah]? [It was taught:] You might think that I also exclude[2] a burnt-offering which is premature in relation to its owner,[3] or a nazirite's guilt-offering and a leper's guilt-offering;[4] therefore it says, an ox’, [implying] in all cases; ‘or lamb’, [implying, in all cases; or goat’, [implying] in all cases. Thus he omits a sin-offering. Now what are we discussing? If we say, [when it is sacrificed] in its time,[5] why particularly a guilt-offering; even a sin-offering too [entails liability]? Hence it must mean [when it is] not [sacrificed] in its proper time; and in which [case]? If we say, [when he sacrifices it] for its own sake, why is he liable for a guilt-offering?[6] Hence it must surely mean [when he sacrifices it] under a different designation![7] — In truth it means in the proper time and under a different designation, and this is in accordance with R. Eliezer, who maintained: We assimilate the guilt-offering to the sin-offering; and he teaches the derived case, and the same law applies to the principal case.[8]

Come and hear: You might think that I include a burnt-offering which is intrinsically premature[9] and a sin-offering [which is premature] either intrinsically or through its owners;[10] therefore it says, And hath not brought it unto the door of the tent of meeting’: Whatever is not eligible to come to the door of the tent of meeting, you are not liable on its account. But [the Tanna] omits a guilt-offering. Now what are we discussing? If we say, [when it is sacrificed] for its own sake, let him not be liable in the case of a guilt-offering too?[11] Hence it must surely mean [when one does] not [sacrifice it] for its own sake![12] — This agrees with R. Eliezer, who assimilates the guilt-offering to the sin-offering; and he teaches the principal case [the sin-offering], and all the more [does it apply to] the derived case.

Come and hear, for when R. Dimi came,[13] he said: The school of Bar Liwai taught: You might think that I also exclude a burnt-offering which is premature through its owner, and a nazirite's guilt-offering and a leper's guilt-offering [etc.]. Now, he [the Tanna] thus infers that one is liable, but I do not know how he infers it. Said Rabina: [The reference is:] ‘an ox’, in all cases; ‘a sheep’, in all cases; ‘a goat’, in all cases. But he omits a sin-offering. And what are we discussing [etc.]?[14] What difficulty is this?[15] Perhaps [it is to be explained] as you stated [in the previous discussion]? — Said R. Nahman [b. Isaac]: Because this teaching of the school of Bar Liwai contradicts what Levi taught, viz.: As to a nazirite's guilt-offering and a leper's guilt-offering, if one slaughtered them under a different designation they are valid, but do not free their owners of their obligations. If one slaughtered them before they were due from their owners, or if they were two years old when they were slaughtered, they are unfit.[16] [And R. Dimi answered:][17] There is no difficulty: In the one case [he slaughtered it] for its own sake; in the other it was not [slaughtered] for its own sake.[18]

R. Ashi pointed out a contradiction between our Mishnah and the Baraitha,[19] and he reconciled them; one means [where he slaughters it] for its own sake;[20] the other [where he does] not [slaughter it] for its own sake. Shall we say that this refutes R. Huna? — R. Huna can answer you: The case we discuss here is that of one who set aside two [animals for] guilt-offerings, as security,[21] so that one of them was a burnt-offering from the outset,

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(1) Hence when one slaughters it as such, he is slaughtering it for its own sake.

(2) From the implication of the text, ‘and hath not brought it unto the door’ etc.

(3) E.g. one brought by a leper or a woman after childbirth before they were fit.

(4) Disqualified for some other reason. — I might think that these do not entail liability when sacrificed without, since they were not eligible within.

(5) And for its own sake.

(6) Since it is not eligible within.

(7) Thus what is not fit within under its own designation is fit under a different designation.

(8) R. Eliezer maintains that a guilt-offering too is disqualified if slaughtered under a different designation, which he infers from the sin-offering (supra 10b), which is thus the principal instance of such disqualification. The Baraitha teaches that nevertheless when one slaughters it under a different designation without, he is liable. The reason is because even after he abrogated its name as a guilt-offering, he could still slaughter it within without any specific purpose, when it would count as a valid guilt-offering and free its owner of his obligation. Hence at the time that he slaughtered it without, under a different designation, it was fit for slaughtering within. The same law applies to the sin-offering too, this being the leading case of unfitness, as explained. This must be in accordance with R. Eliezer, because the Rabbis maintain that a guilt-offering is valid when slaughtered under a different designation. Hence it is fit to be received within, and no special text is necessary for shewing that he is culpable.

(9) E.g., if one sacrifices it before it is eight days old.

(10) E.g. a leper's and a nazirite's sin-offering, sacrificed before it is due. — I might think that if one sacrifices these without, he is liable.

(11) Since it is not eligible.

(12) Thus this supports R. Hilkiah and refutes R. Huna.

(13) V. p. 46, n. 1.

(14) The reasoning then follows as above. — The text is in some disorder, and the emendations of Sh.M. and Margin have been adopted.

(15) Why do you cite this to refute R. Huna?

(16) Hence, if slaughtered without under such conditions, they do not entail liability, in accordance with the general rule that what is unfit within does not entail liability without. Thus it contradicts the earlier teaching.

(17) Sh.M. deletes bracketed words.

(18) The school of Bar Liwai means that he is culpable if he slaughtered it under a different designation; while Levi teaches that they are unfit (and hence entail no liability without) when slaughtered for their own sake. (Accordingly, the two clauses of Levi's teaching do not deal with the same circumstances.) Now, since R. Dimi opposed these two Baraithas, he must have known that the former too applies where the guilt-offering is slaughtered prematurely, and thus it refutes R. Huna. (R. Huna presumably rejects this reasoning.)

(19) Our Mishnah states that one is not liable in the case of a leper's guilt-offering, whereas the Baraitha states that one is.

(20) Then he is not liable.

(21) In case one is lost, the other should be sacrificed.

Talmud - Mas. Zevachim 115b

this agreeing with R. Huna's dictum in Rab's name, viz.: If a guilt-offering was transferred to pasture and one then slaughtered it without a specified purpose, it is valid as a burnt-offering.[1]

ONE WHO OFFERS UP THE FLESH OF A SIN-OFFERING [. . . WITHOUT, IS NOT LIABLE]. Our Rabbis taught: How do we know that he who offers up the flesh of a sin-offering, or the flesh of a guilt-offering, or the flesh of most sacred sacrifices, or the flesh of lesser sacrifices, or the remainder of the ‘omer, or the two loaves, or the Shewbread, or the residue of meal-offerings, [without], is not liable? Because it says, ‘[Whatsoever man . . . that offereth] a burnt-offering’: as a burnt-offering is eligible for offering up,[2] so everything which is eligible for offering up [on the altar entails liability].[3] How do we know that also he who pours [the oil on the meal-offering], or mingles [it with flour], or breaks up [the meal-offering cakes], or salts [the meal-offering], or waves [it], or presents [it opposite the south-west corner of the altar], or sets the table [with the Shewbread], or trims the lamps, or takes off the fistful, or receives the blood, without, is not liable? Because it says, ‘that offereth a burnt-offering or sacrifice’: as offering up completes the service, so everything that completes the service [entails liability].[4]

BEFORE THE TABERNACLE WAS SET UP [etc.] R. Huna[5] son of R. Kattina sat before R. Hisda, and recited [the text], And he sent the young men of the children of Israel, [who offered burnt-offerings, and sacrificed peace-offerings of oxen unto the Lord].[6] Said he to him: Thus said R. Assi: And then they ceased.[7] Now, he thought to refute him from our Mishnah, when he heard him teach in R. Adda b. Ahaba's name: The burnt-offering[s] which Israel sacrificed in the wilderness did not require flaying and dismembering; whereupon he refuted him from a Baraitha, which had a bearing upon the whole [of his teaching]. For it was taught: Before the Tabernacle was set up bamoth were permitted and the service was performed by the firstborn, and all were eligible to be offered, viz., animals, beasts, birds, male and female, unblemished or blemished; clean, but not unclean;[8] and all offered burnt-offerings, and the burnt-offering[s] which Israel offered in the wilderness required flaying and dismembering; and gentiles are permitted to do thus in these days?[9] It is a controversy of Tannaim. For it was taught: And let the priests also, that come near to the Lord, sanctify themselves:[10] R. Joshua b. Karhah said: This intimated the separation of the first born.[11] Rabbi said: This intimated the separation of Nadab and Abihu.[12] On the view that this meant the separation of Nadab and Abihu, it is well: hence it is written, This is that the Lord spoke, saying.’ ‘Through them that are near unto Me I will be sanctified’.[13] But on the view that it meant the retirement of the firstborn, where was [this warning] indicated?[14] In the text, And there I will meet with the children of Israel; and [the Tent] shall be sanctified by My glory [bi-kebodi]:[15] read not bi-kebodi, but bi-kebuday [My honoured ones]:[16] this the Holy One, blessed be He, said to Moses, but they did not know [its meaning] until the sons of Aaron died.[17] When the sons of Aaron died, he [Moses] said to him: ‘Oh my brother! Thy sons died only that the glory of the Holy One, blessed be He, might be sanctified through them’.[18] When Aaron thus perceived that his sons were the honoured ones[19] of the Omnipresent, he was silent, and was rewarded for his silence, as it is said, And Aaron held his peace.[20] And thus it says of David, Be silent before the Lord, and wait patiently [hith-hollel] for Him:[21] though He casts down many slain [halalim] of thee, be silent before Him. And thus it was said by Solomon, [There is . . .] a time to keep silence, and a time to speak:[22] sometimes a man is silent and is rewarded for his silence; at others a man speaks and is rewarded for his speaking. And this is what R. Hiyya b. Abba said in R. Johanan's name: What is meant by the text, Awful is God out of thy holy places [mi-mikdasheka]?[23] Read not mi-mikdasheka but mimekuddasheka [through thy consecrated ones]: when the Holy One, blessed be He, executes judgment on His consecrated ones, He makes Himself feared, exalted, and praised.

[To return to the original discussion:] Yet the burnt-offering is a difficulty?[24] — It is a controversy of two Tannaim. For it was taught, R. Ishmael said: The general laws were stated at Sinai,[25] while the details were stated at the Tent of Meeting.[26] R. Akiba said: The general laws and the details were stated at Sinai, repeated in the Tent of Meeting, and a third time in the plains of Moab.[27]

The master said: ‘All were eligible to be offered’. How do we know this? — Said R. Huna, Because Scripture saith: And Noah builded an altar unto the Lord, and took of every clean animal [behemah] and of every clean fowl, [and offered burnt-offerings on the altar].[28] Animal [behemah] and fowl [bear] their plain meaning; beast [hayyah] is included in animal [behemah].

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(1) Supra 5b, 112a. Hence if he slaughtered one of these without as a burnt-offering (presumably, even before the other had been sacrificed as a guilt-offering), it counts as having been slaughtered for its own sake, and therefore he is liable.

(2) The whole of it is offered up on the altar.

(3) These, however, were eaten and not offered up on the altar.

(4) None of these do so, as they are followed by another rite. On the other hand, by the same reasoning he who offers libations or burns incense or the fistful removed from a meal-offering, without, is liable.

(5) Bah and Sh.M. emend: Hana.

(6) Ex. XXIV, 5. The ‘young men’ were the firstborn, not priests, and the occasion was when Moses built an altar at the foot of Mount Sinai (ibid. v. 4).

(7) This was the last time that the firstborn performed the sacrificial service, though it was nearly a year before the Tabernacle was set up.

(8) Only clean animals etc., i.e., those which may be eaten, could be offered.

(9) Non-Jews might still offer at bamoth ‘in these days’, after the building of the Temple.

(10) Ex. XIX, 22. This was immediately before Revelation, while the incident cited above took place immediately after Revelation.

(11) By ‘priests’ the firstborn are meant here, as it was they who ‘came near the Lord’ to perform sacrifices, and the verse now separated them and forbade them to approach the mountain.

(12) Not the firstborn but actual priests are meant, viz., Nadab and Abihu, who became priests at Sinai. — Thus Rabbi holds that henceforth only the children of Aaron might act as priests, while R. Joshua b. Karhah maintains that the service was still performed by the firstborn.

(13) Lev. X, 3. I.e., God had warned them previously, in the verse under discussion.

(14) The priests had never been warned.

(15) Ex. XXIX, 43.

(16) This requires only a change of punctuation.

(17) God intimated that when He would ‘meet with the children of Israel’, i.e., at the consecration of the Tabernacle, He would be sanctified through His honoured ones (the priests), but they did not understand the allusion.

(18) This is what God had meant. — Emended text (Sh.M.).
(19) Or, the favoured ones. Lit., 'the known ones'.
(20) Lev. X, 3. The reward was that God subsequently spoke specially to him, v. 8.
(21) Ps. XXXVII, 7.
(22) Ecc. III, 7.
(23) Ps. LXVIII, 36.
(24) For it states that it did require flaying and dismembering.
(25) E.g., an altar of earth thou shalt make unto Me, and shalt sacrifice thereon thy burnt-offerings, and thy peace-offerings (Ex. XX, 21).
(26) E.g., that the burnt-offering was to be flayed and cut up. Hence until the Tent of Meeting was set up, burnt-offerings were not flayed and dismembered.
(27) I.e., in Deuteronomy (v. Deut. I, 5).
(28) Gen. VIII, 20.

Talmud - Mas. Zevachim 116a

'Males and females, unblemished and blemished animals': this excludes an animal lacking a limb, which might not [be sacrificed]. For R. Eleazar said: How do we know that [an animal or bird] lacking a limb was forbidden to the children of Noah?[1] Because it says, 'And of every living thing of all flesh':[2] the Holy One, blessed be He, said to Noah: Bring [into the Ark] animal[s] whose chief limbs are alive.[3] But perhaps that was to exclude a terefah? — That is inferred from to keep seed alive.[4] That is correct on the view that a trefah cannot give birth; but on the view that a trefah can give birth, what can be said? — Surely Scripture said, '[to keep them alive] with thee': [this means] those that are like thee.[5] But perhaps Noah himself was trefah?[6] — 'Whole' [tamim] is written of him.[7] Perhaps that means, whole in his ways?[8] — 'Righteous' is written of him.[9] But perhaps [it means that he was] whole in his ways and righteous in his actions? — If you should think that Noah himself was trefah, could the Merciful One say to Noah, Take in [only] such as are like thee, [but] do not take in whole [animals]?[10] Now, since we infer it from 'with thee', what is the purpose of 'to keep seed alive'? — You might think that 'with thee' meant merely for companionship, [so they might be] even aged or castrated. Therefore ['to keep seed alive'] informs us [that it is not so].

[The master said:] 'Clean, but not unclean'. Were there then clean and unclean [animals] at that time?[11] — Said R. Samuel b. Nahmani in R. Jonathan's name: [It means] of those with which no sin had been committed.[12] How did he [Noah] know?[13] — As R. Hisda said. For R. Hisda said: He led them past the Ark; those which the Ark accepted were certainly clean; those which the Ark rejected were certainly unclean. R. Abbahu said: Scripture saith, 'And they that went in, went in male and female':[14] [that means,] that they went in of their own accord.[15]

The master said: 'And all offered burnt-offerings'. Only burnt-offerings, but not peace-offerings? Surely it is written, and sacrificed peace-offerings of oxen?[16] — Say rather, all offered burnt-offerings and peace-offerings. But it was taught: But not peace-offerings, save only burnt-offerings? — That is in accordance with the view that the Children of Noah did not offer peace-offerings.[17] For it was stated, R. Eleazar and R. Jose b. Hanina [disagree]. One maintained: The Children of Noah offered peace-offerings; while the other maintained: They did not. What is the reason for the view that the Children of Noah did offer peace-offerings? — Because it is written, And Abel, he also brought of the firstlings of his flock and of the fat [heleb] thereof.[18] What thing is it whose 'fat' [heleb] [only] is offered on the altar, but the whole of it is not offered on the altar? Say, that is a peace-offering. What is the reason of the view that the Children of Noah did not offer peace-offerings? — Because it is written, Awake, O north, and come, thou south:[19] [this means,] Awake, O people whose rites [were performed] in the north, and come, O people, whose rites [will henceforth be performed] in the north and the south.[20] But as to this master, surely it is written, 'of the fat thereof'? — That means, of their fat ones.[21] And as to the other master, surely it is written, ‘Awake, O north [etc.]’? — That refers to the ingathering of the exiles.[22]

But surely it is written, And Moses said: ‘Thou must also give into our hands sacrifices [zebahim] and burnt-offerings, that we may sacrifice unto the Lord our God?[23] — [He demanded] zebahim for food and burnt-offerings for sacrifice.[24] But surely it is written, And Jethro, Moses’ father-in-law, took a burnt-offering and sacrifices unto the Lord?[25] — That was written after the giving of the Torah [Revelation].[26] That is well on the view that Jethro came after Revelation; but on the view that Jethro came before Revelation, what can be said? For it was stated: The sons of R. Hiyya and R. Joshua b. Levi [disagree]: one [side] maintains: Jethro came before Revelation; while the other maintains: Jethro came after Revelation! — He who maintains that Jethro came before Revelation holds that the Children of Noah sacrificed peace-offerings.

This is a controversy of Tannaim: Now Jethro, the priest of Midian, heard:[27] what news did he hear that he came and turned a proselyte? R. Joshua said: He heard of the battle with the Amalekites, since this is immediately preceded by,[28] And Joshua discomfited Amalek and his people with the edge of the sword.[29] R. Eleazar of Modim[30] said: He heard of the giving of the Torah and came. For when the Torah was given to Israel the sound thereof travelled from one end of the earth to the other, and all the heathen kings were seized with trembling in their palaces, and they uttered song,[31] as it is said, And in his place all say: ‘Glory’.[32] They all assembled by the wicked Balaam and asked him: What is this tumultuous noise that we have heard: perhaps a flood is coming upon the world, for it says, The Lord sat enthroned at the flood? — The Lord sitteth as King for ever, he replied: the Holy One, blessed be He, has already sworn that He will not bring [another] flood upon the world.[33] Perhaps, they ventured, He will not bring a flood of water, yet He will bring a flood of fire, as it is said, For by fire will the Lord contend?[34] He has already sworn that He will not destroy all flesh, he assured them. Then what is the sound of this tumult that we have heard? He has a precious treasure in His storehouse, which was hidden by Him nine hundred and seventy-four generations before the world was created,[35] and He has desired to give it to His children, as it is said, The Lord will give strength unto His people.[36] Forthwith they all exclaimed, The Lord will bless His people with peace.[36]

R. Eleazar said: He heard about the dividing of the Red Sea, and came, for it is said, And it came to pass, when all the kings of the Amorites heard [. . . how that the Lord had dried up the waters of the Jordan before the children of Israel] ;[37] and Rahab the harlot too said to Joshua's messengers [spies]: For we have heard how the Lord dried up the water of the Red Sea.[38] Why is, ‘neither was there spirit in them any more written in the first text, whereas in the second it says, ‘neither did there remain [stand] any more spirit in any man’?

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(1) As sacrifices. ‘Children of Noah’ is a technical term denoting all people before the Revelation at Sinai, and all non-Israelites who did not accept the Torah after Revelation. In the present discussion even Israelites technically ranked as Children of Noah, until the laws of sacrifices as stated in Leviticus became operative.

(2) Gen. VI, 19.

(3) I.e., not missing. — Of these animals Noah subsequently sacrificed.

(4) Ibid. VII, 3. A terefah, however, cannot give birth, and so cannot keep seed alive.

(5) Not trefah.

(6) Perhaps he suffered from a disease or organic disturbance which in the case of an animal would render it trefah.

(7) Gen. VI, 9. E.V. whole-hearted.

(8) Modest and patient.

(9) Which includes that.

(10) That is obviously absurd.

(11) Before the Torah was given.

(12) Those which had mated only with their kind.

(13) Which were clean and which unclean.

(14) Ibid. VII, 16.
(15) In their respective pairs, seven of the clean and two of the unclean.
(16) Ex. XXIV, 5.
(17) V. n. 7, p. 571, on ‘the children of Noah’. But Ex. XXIV, 5 was after Revelation.
(18) Gen. IV, 4.
(19) S. S. IV, 16.
(20) The burnt-offering was slaughtered on the north side of the altar; the peace-offering, on any side. He renders: Awake, O nation who hitherto, as Children of Noah, could only sacrifice on the north side of the altar (hence, burnt-offerings) and now, by accepting the Torah, come as a people who can sacrifice in the north and the south. — Cf. Gen. Rab. XXII, 5 (Sonc. ed. p. 183.)
(21) Sc. the best.
(22) It is a summons to the north and the south to bring in their exiles.
(23) Ex. X, 25. This was said before Revelation, and since ‘burnt-offerings’ are specifically mentioned, ‘sacrifices’ must mean peace-offerings.
(24) The answer renders zebahim animals for slaughtering, not sacrifices.
(25) Ibid. XVIII, 12.
(26) Although it is written before. — It is a principle of exegesis that the Torah is not necessarily in chronological order (Pes. 6b).
(27) Ex. XVIII, 1.
(28) Lit., ‘since it is written at the side thereof’.
(29) Ibid. XVII, 13.
(30) The native place of the Hasmoneans, fifteen miles N. W. of Jerusalem.
(31) Of reverence to God.
(32) Ps. XXIX, 9. E.V. ‘and in His temple etc.
(33) For He could only be a King (over His creatures) for ever as long as mankind existed. Hence He could not destroy them.
(34) Isa. LXVI, 16.
(35) Cf. Gen. Rab. I, 10 (Sonc. ed. p. 10); Cant. Rab. V, 11 (Sonc. ed. p. 243 and n. 3. a.l.).
(36) Ps. ibid. 11. — The Torah is the strength of Israel.
(37) Josh. V, 1. As ‘heard’ here refers to the drying up of waters, it has a similar connotation in connection with Jethro.
(38) Ibid. II, 10.

Talmud - Mas. Zevachim 116b

— [She meant that] they even lost their virility. And how did she know this? — Because, as a master said, There was no prince or ruler who had not possessed Rahab the harlot. It was said: She was ten years old when the Israelites departed from Egypt, and she played the harlot the whole of the forty years spent by the Israelites in the wilderness. At the age of fifty she became a proselyte. Said she: May I be forgiven as a reward for the cord, window, and flax.[1]

The master said: ‘And gentiles are permitted to do thus in these days’. How do we know it? — Because our Rabbis taught: Speak unto the children of Israel:[2] the children of Israel are enjoined against [sacrifices] slaughtered without, but gentiles are not enjoined against [sacrifices] slaughtered without. Therefore each one may build himself a bamah and offer thereon whatever he desires. R. Jacob b. Aha said in R. Assi's name: It is forbidden to assist them or act as their agents.[3] Raba observed: Yet we may instruct them.[4] [This happened with] Ifra Hormiz, mother of King Shabur,[5] who sent an offering to Raba, with the request, Offer it up in honour of Heaven. Said Raba to R. Safra and R. Aha b. Huna: Go, fetch two young men [non-Jews] of like age, seek a spot where the sea has thrown up alluvial mud,[6] take new [unused] twigs,[7] produce a fire with a new flint, and offer it up in honour of Heaven. Said Abaye to him: In accordance with whom [do you give these instructions]? In accordance with R. Eleazar b. Shammua’? For it was taught, R. Eleazar b. Shammua’ said: As the altar must not have been used by a layman [for secular purposes], so the wood must not have been used by a layman. But surely R. Eleazar b. Shammua' admits in the case of a bamah?[8] For it was taught: One text says, So David gave to Ornan for the place six hundred shekels of gold by weight;[9] whereas it is written, So David bought the threshing-floor and the oxen for fifty shekels of silver;[10] how can these be reconciled? He collected fifty [shekels] from each tribe, which amounted to six hundred [in all]. Rabbi said on the authority of Abba Jose b. Dosethai: [He bought] the oxen, wood, and site of the altar for fifty, and [the site of] the whole Temple for six hundred. R. Eleazar b. Shammua' said: [He bought] the oxen, wood, and site of the altar for fifty, and [the site of] the whole Temple for six hundred,[11] for it is written, And Araunah said unto David: 'Let my lord the king take and offer up what seemeth good unto him; behold the oxen for the burnt-offering, and the threshing instruments [morigim] and the furniture of the oxen for the wood'.[12] And Raba? — He can answer you: There too they were new.[13]

What are morigim? — Said 'Ulla: A bed of turbel. What is a bed of turbel? — Said Abaye: 'A goat with hooks', with which the threshers thresh.[14] Abaye said: Which text [proves this meaning]? — Behold, I make thee a new threshing-sledge [morag] having sharp teeth; [thou shalt thresh the mountains etc.].[15]

Raba[16] read out [Scripture] to his son, and opposed texts to each other: It is written: 'So David gave to Ornan etc.'; whereas it is also written, 'So David bought etc.' How can these be reconciled? He collected fifty from each tribe, which totalled six hundred. Yet the texts are still contradictory, for there it was silver and here it was gold? — Say rather: He collected silver to the value [weight] of six hundred [shekels of] gold.

LESSER SACRIFICES WERE EATEN ANYWHERE IN THE CAMP OF THE ISRAELITES. R. Huna said: [This means,] wherever the Israelites were, but there was no camp.[17] R. Nahman refuted R. Huna: Were there no camps in the wilderness? Surely it was taught: Just as there were camps in the wilderness, so there was a camp in Jerusalem. From [the walls of] Jerusalem to the Temple Mount was the camp of the Israelites; from the Temple Mount to the Gate of Nicanor[18] was the Levitical camp; beyond that was the camp of the Shechinah, and that corresponded to [the place within] the curtains in the wilderness! — Say rather, wherever the camp of the Israelites was.[19] That is obvious? — You might say, it is disqualified through having gone out. Therefore he informs us [otherwise]. Yet say that it is indeed so? — Scripture saith, Then the tent of meeting shall set forward:[20] even when it sets forward, it is still the 'tent of meeting'.[21]

It was taught, R. Simeon b. Yohai said: Yet another place was there, [viz.] the Women's Court,[22] and no penalty was imposed on its account.[23] But at Shiloh there were only two camps. Which was absent? — Said Abaye:[24] It is logical that there was certainly the Levitical camp; for if you should think that there was no Levitical camp,

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(1) For hiding them in flax, and then letting them down by a cord through a window (ibid. 6, 15).

(2) Lev. XVII, 2.

(3) In sacrificing without.

(4) How to sacrifice.

(5) Of Persia.

(6) Which has dried and can he used as an altar.

(7) Or, chips. (10) He held that an altar must never have been used for a secular purpose; similarly the wood must not be fragments of utensils, and the flint etc. must likewise never have been used for secular purposes. Hence he told them to seek virgin soil caused by the drying of alluvial mud. — They would then instruct the young men how to offer the sacrifice.

(8) That the wood may have been used previously for something else.

(9) I Chron. XXI, 25.

(10) II Sam. XXIV, 24.

(11) On the present version the views of R. Eleazar b. Shammua' and Rabbi are identical. Sh.M. emends: 'How can these be reconciled? (He bought) the site of the altar (only) for fifty, and (the site of) the whole Temple for six hundred. Rabbi said on the authority of Abba Jose b. Dostai: He collected fifty shekels . . . (in all). R. Eleazar b. Shammua' said (continuing as in the text)'.
(12) Ibid. 22. Thus he took utensils that had already been used for a secular purpose, and used them as fuel for the altar. — As the Temple was not built until the reign of Solomon, the altar erected here by David was simply a bamah.
(13) They had never yet been used.
(14) 'Goat with hooks' was the name of a threshing sledge. It was a wooden platform (hence 'bed') studded underneath with sharp pieces of flint or with iron teeth (Jast.).
(15) Isa. XLI, 15.
(16) Sh.M. emends: Rahabah.
(17) This is now assumed to mean that one could eat lesser sacrifices even if he went out of the camp of the Israelites.
(18) The east gate of the Temple court.
(19) If they broke camp and pitched their camp elsewhere, a sacrifice which had been offered at the former site could be eaten in the new site.
(20) Num. II, 17.
(21) V. supra 61b. Hence the camps even in travelling are regarded as camps.
(22) This did not have the status either of the Temple Mount or of the Temple court.
(23) One was not punished for entering it whilst unclean.
(24) Emended text (Sh.M.). Cur. edd. Rabbah.

Talmud - Mas. Zevachim 117a

this would result in zabin and the unclean through the dead being sent out from one camp [only],[1] whereas the Torah said, That they defile not their camps:[2] [this intimates,] assign a camp for this one and a camp for that one.[3] Said Raba to him: What then? there was no camp of the Israelites![4] If so, zabin and lepers would be sent to the same place, whereas the Torah said, He [the leper] shall dwell alone,[5] [intimating] that no other unclean person may dwell with him? — Rather, there were all three camps after all; and what is meant by 'there were only two camps'? In respect of reception.[6] Hence it follows that in the wilderness the Levitical camp received [an involuntary homicide]? — Yes: and it was taught even so: Then I will appoint thee a place [whither he may flee]:[7] 'thee' [implies] in thy lifetime;[8] 'thee a place' [implies] in thy place;[9] 'whither he may flee': this teaches that they banished [a homicide] in the wilderness; whither did they banish him? To the Levitical camp. From this they deduced that if a Levite committed homicide, he was banished from one district to another;[10] and if he fled to his own [juridical] district,[11] his district receives him. Which text [teaches this]? — Said R. Aha the son of R. Ika: Because he must remain in his city of refuge:[12] [this implies,] in the city which has already provided him with refuge.[13]

WHEN THEY CAME TO GILGAL [etc.]. Our Rabbis taught: Whatever could be vowed or offered as a freewill-offering[14] could be offered at a bamah;[15] what could not be vowed or offered as a freewill-offering[16] could not be offered at a bamah. A meal-offering and [a sacrifice of] naziriteship[17] were offered at a bamah: these are the words of R. Meir. But the Sages maintain: Only peace-offerings and burnt-offerings were sacrificed on behalf of a private individual. R. Judah said: whatever the community and an individual offered in the Tent of Meeting in the wilderness[18] were offered in the Tent of Meeting at Gilgal.[19] What was the difference between the Tent of Meeting in the wilderness and the Tent of Meeting at Gilgal? [When] the Tent of Meeting in the wilderness [existed], bamoth were not permitted; [when] the Tent of Meeting at Gilgal [existed], bamoth were permitted, and one could offer on his bamah on the top of his roof[20] only burnt-offering[s] and peace-offerings. But the Sages maintain: whatever the community offered in the Tent of Meeting in the wilderness they offered in the Tent of Meeting at Gilgal. In both places[21] only burnt-offering[s] and peace-offerings were offered on behalf of a private individual. R. Simeon said: Even the community offered only Passover-offerings

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(1) Viz., the camp of the Shechinah, since both are permitted in the camp of the Israelites (Pes. 67a).

(2) Num. V, 3 q.v.; camps, plural.

(3) Each is sent into a different camp: he who is unclean through the dead is expelled from the camp of the Shechinah but permitted in the Levitical camp, whereas zabin are expelled from the Levitical camp too.

(4) So that every place outside the Levitical camp had no status at all, and was simply like a field, whither a leper too might repair.

(5) Lev. XIII, 46.

(6) An involuntary homicide took refuge in a city specially designated for that purpose (Ex. XXI, 13; Num. XXXV, 9 seq.). In the wilderness this function was served by the Levitical camp; when they came to Shiloh, the Levitical camp lost that function.

(7) Ex. XXI, 13.

(8) Sc. in Moses’ lifetime; hence, in the wilderness.

(9) ‘Thy’ sc. Moses’ — hence, the Levitical camp.

(10) All the forty-eight Levitical cities were cities of refuge. Hence, a Levite who committed involuntary homicide fled from his own city to another Levitical city.

(11) Having committed homicide elsewhere. Rashi however reads (and Sh. M. emends): and if he fled within his own district; and explains: if he fled from one quarter to another in his own city.

(12) Num. XXXV, 28.

(13) E.g., in the case of a homicide who fled to a city of refuge, and then again committed homicide in that city, he must remain in this same city. The same therefore applies to a Levite living in that city.

(14) V. supra 2b, p. 2, n. 6.

(15) I.e., at a private bamah, for statutory offerings were offered at the public bamah.

(16) Statutory offerings.

(17) These were both votive, since naziriteship itself was the result of a vow.

(18) I.e., all sacrifices.

(19) Which was a public bamah.

(20) I.e., at a private bamah.

(21) Sc. both at public and at private bamoth.

Talmud - Mas. Zevachim 117b

and statutory offerings for which there is a fixed time.

What is R. Meir's reason? — Because Scripture saith, Ye shall not do after all that we do here this day, [every man whatsoever is right in his eyes]:[1] Moses spoke thus to Israel: When ye enter the [Promised] Land,’ ye shall offer votive sacrifices, but ye shall not offer obligatory offerings;[2] [and] meal-offerings and [sacrifices of] naziriteship were votive sacrifices. And the Rabbis?[3] — There were no meal-offering[s] at the bamah [at all];[4] [and the sacrifices of] naziriteship were obligatory.[5]

Samuel said: They disagree about the sin-offering and the guilt-offering;[6] but all agree that the burnt-offerings and peace-offerings [of a nazirite] are votive sacrifices. Rabbah raised an objection: [The law of] the breast and thigh and the separation of the loaves of the thank-offering[7] operated at the great [public] bamah, but did not operate at a minor [private] bamah; but he [the Tanna] omits the sodden shoulder.[8] If you say that they disagree about the burnt-offering and the peace-offering, it is well: this agrees with the Rabbis. But if you maintain that they disagree [only] about the sin-offering and the guilt-offering, who is the author of this? Rather, if stated, it was thus stated: Samuel said: They disagree about the burnt-offering and the peace-offering; but all agree that the sin-offering and the guilt-offering are obligatory, and [so] they were not offered.

The master said: ‘But the Sages maintain: Whatever the community offered in the Tent etc.’ What is the reason of the Rabbis? — Scripture saith, Every man whatsoever is right in his eyes:[9] only a man may offer voluntary sacrifices and not obligatory ones; but a community can offer obligatory [sacrifices] too.

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(1) Deut. XII, 8.

(2) V. supra 114a.

(3) How do they refute this argument?

(4) For only animal sacrifices were permitted there.

(5) Since the vow of naziriteship merely meant abstention from wine, grapes, defilement, and cutting the hair. The sacrifices were then imposed upon the vower.

(6) Which a nazirite brought on the completion of his naziriteship.

(7) The breast and thigh of peace-offerings, and four loaves out of the forty which accompanied a thanksoffering, belonged to the priest.

(8) Of the nazirite's peace-offering ram, which likewise was a priestly due, Num. VI, 14, 19. This implies that this was not offered at a private bamah at all.

(9) Deut. XII, 8. This is the marginal emendation. The text quotes Judg. XVII, 6.

Talmud - Mas. Zevachim 118a

And R. Judah?[1] — He can answer you: ‘Whatsoever is right’ is written in reference to ‘in his eyes’,[2] but at the great bamah one could offer even statutory offerings. But surely ‘man’ is written, and does that not intimate that [only] a man may offer voluntary but not obligatory sacrifices?[3] — ‘Man’ is written to intimate that a zar is fit.[4] [The fitness of] a zar is deduced from, And the priest shall sprinkle the blood on the altar of the Lord [at the door of the tent of meeting]?[5] — You might say, it requires the sanctification of the firstborn, as originally:[6] hence it [‘man’] informs us [that it is not so].

The Sages are identical with the first Tanna?[7] — Said R. Papa: They differ as to whether libations were offered in the wilderness.[8]

The master said: ‘R. Simeon said etc’. What is R. Simeon's reason? — Because it is written, And the children of Israel encamped in Gilgal, and they offered the Passover-offering.[9] Now that is obvious?[10] Surely then this is what [the text] informs us: they offered only obligatory [sacrifices] similar to the Passover-offering,[11] but they did not offer [obligatory sacrifices] which were not like the Passover-offering.[12] And the other?[13] — It is required for R. Johanan's dictum. For R. Johanan said on R. Bana'ah's authority: An uncircumcised person received sprinkling.[14]

A Tanna recited before R. Adda b. Ahabah: The only difference between the great [public] bamah and the minor [private] bamah was [in respect of] Passover-offerings and obligatory-offerings which have a fixed time. Said he to him: in accordance with whom was this told to you? In accordance with R. Simeon, who maintained: The only difference between the great bamah and the minor bamah was [in respect of] Passover-offerings and obligatory offerings which have a fixed time; and you must make your teaching refer to a statutory burnt-offering,[15] as there is also a votive burnt-offering.[16] For if you would refer to sin-offerings, is there then a votive sin-offering?[17] Yet let him make it refer to an obligatory meal-offering, since there were habitin?[18] — He holds that there were no meal-offering[s] at the bamah.

WHEN THEY CAME TO SHILOH etc. Whence do we know it? — Said R. Hiyya b. Abba in R. Johanan's name: one text says, And she brought him unto the house of the Lord in Shiloh;[19] whereas another text says, And He forsook the Tabernacle of Shiloh, the tent which He had made to dwell among men, and it also says, Moreover He abhorred the tent of Joseph, and chose not the tribe of Ephraim.[20] How are these reconciled? It had no roof, but stones below and curtains above.[21]

MOST SACRED SACRIFICES [etc.] Whence do we know it? — Said [R. Eleazar in] R. Oshaia[‘s name]: Because Scripture saith, Take heed to thyself that thou offer not thy burnt-offerings in every place that thou seest:[22] You may not offer ‘in every place that thou seest’, but you may eat [the sacrifice] ‘in every place that thou seest’. Yet say: in every place that thou seest’ you may not offer,[23] but you may slaughter ‘in every place that thou seest’? — Said R. Jannai: Scripture saith, There shalt thou offer . . . and there thou shalt sacrifice.[24] R. Abdimi b. Hasa[25] said, Scripture saith,

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(1) How does he justify his view that an individual too could offer obligatory sacrifices at the public bamah?

(2) I.e., in reference to the private bamah, which one could erect wherever one chose.

(3) And if this does not apply to the public bamah too, why is ‘man’ written? Scripture should simply write, Whatsoever is right in his eyes, and since ‘in his eyes’ implies a private bamah, it is obvious that the limitation applies to an individual only, for the community did not sacrifice at a private bamah. Hence ‘man’ must teach that this limitation applies to the public bamah too.

(4) To officiate at a bamah.

(5) Lev. XVII, 6. The inference is: only ‘at the door of the tent of meeting’ must a priest sprinkle the blood; but at a bamah a zar (lay-Israelite) too could officiate.

(6) Though priests are not necessary, yet we require the firstborn, who officiated originally.

(7) The first Sages (referred to as the first Tanna) say that only peace-offerings and burnt-offerings were offered on behalf of an individual, which implies that the community could offer obligatory sacrifices; while the second Sages (referred to as ‘the Sages’) likewise maintain that whatever the community could offer at the Tent of Meeting in the wilderness, they could offer at the Tent of Meeting at Gilgal (which was a public bamah), but that a private individual could offer only peace-offerings and burnt-offerings both at a public and at a private bamah. Thus their views are identical.

(8) Supra 111a, q.v. The first Sages hold that libations were not offered in the wilderness, and therefore they merely teach that peace-offerings and burnt-offerings were permitted at the bamah. The second Sages hold that libations were offered in the wilderness, and so they teach: whatever the community had to offer in the wilderness, sc. libations, they also had to offer at Gilgal.

(9) Josh. V, 10. Cur. edd. read: And the children of Israel offered the Passover-offering in Gilgal.

(10) That they had to sacrifice the Passover-offering: why then does Scripture state it?

(11) I.e., those which must be offered at a fixed time.

(12) E.g., sin-offerings.

(13) The Rabbis: how do they explain the verse?

(14) If an uncircumcised person becomes unclean through the dead, he is besprinkled and becomes clean (v. Num. XIX, 17 seq.), and may then handle sacrifices. He learns this from the present text, ‘and they offered the Passover-offering’. Now, the majority of them had been uncircumcised in the wilderness (Josh. V, 5): according to the Talmud (Yeb, 71b) they were circumcised on the eleventh of Nisan (the first month); many of them were unclean through the dead, their parents having died in the wilderness right up to the time of their crossing the Jordan into Eretz Israel. If they had not been besprinkled whilst yet uncircumcised, they would not be clean, for two sprinklings were necessary, and if the first were on the eleventh, the second would be on the fifteenth (v. Num. a.l.), whereas they had to sacrifice on the fourteenth.

(15) Viz., the daily and additional burnt-offerings (v. Num. XXVIII-XXIX); these are the ‘obligatory offerings which have a fixed time’ which you mean, but the statutory sin-offerings of festivals could not be offered there.

(16) Which could be offered at a private bamah only.

(17) Surely not. For the passage must mean that apart from Passover-offerings R. Simeon includes only those obligatory offerings of which there were also votive offerings. For if he meant all obligatory offerings which have a fixed time, he should simply mention them, and not the Passover-offering at all, since that too is an obligatory offering with a fixed time. Hence this is what he means: The only difference between the public and the private bamoth was in respect of the Passover-offerings, which were offered at the former but not at all at the latter, while as for other sacrifices which were offered at both, the difference is that at the private bamah only votive offerings were offered, whereas at the public bamah statutory offerings which have a fixed time were also offered. — The text is emended; v. Marginal Gloss.

(18) A sort of cake (v. Lev. VI, 13 seq.; the actual word occurs in I Chron. IX, 31 where it is rendered, things that were baked on griddles). These were statutory daily offerings, and as there were also votive meal-offerings, these too fulfilled the conditions required by R. Adda b. Ahabah.

(19) I Sam. I, 24.
(20) Ps. LXXVIII, 60, 67. Thus it is called a ‘house’ in Samuel, but ‘tent’ in Psalms.
(21) Thus it partook partly of the nature of a house, and partly of the nature of a tent. — Cur. edd. add: ‘And that was the rest’: this is deleted by Sh. M.
(22) Deut. XII, 13. This means when they will have come to the rest’ (v. 9)’ sc. Shiloh, and ‘in every place that thou seest’ is understood to mean: in every place whence the Tabernacle at Shiloh can be seen.
(23) ‘Offer’ in its limited sense means to burn the emurim on the altar.
(24) Deut. XII, 14. Lit., ‘do’ (so E.V.). — Thus it must be ‘sacrificed’ (slaughtered) and ‘offered’ in the same place.
(25) Sh. M. emends: Hama.

Talmud - Mas. Zevachim 118b

‘And there was Taanath [the lamenting of] Shiloh’, which means the place which made whoever saw it mourn for the sacrifices which he ate there.[1] R. Abbahu said: Scripture saith,Joseph is a fruitful vine, a fruitful vine through the eye:[2] [this means,] let the eye which would not feed upon and enjoy that which did not belong to it,[3] be privileged to eat [of sacrifices] as far as it can see. R. Jose son of R. Hanina quoted: ‘And the desire of him that dwelt in hatred’:[4] [this means,] let the eye that did not desire to enjoy that which did not belong to it, be privileged to eat [sacrifices] among those that hated it.[5]

It was taught: When they said, [As far as the eye could] see, they meant: [from] wherever one could see [the Tabernacle] without anything interposing. R. Simeon b. Eliakim observed to R. Eleazar: Give me an example. Said he to him: E.g., the synagogue of Maon.[6]

R. Papa said: When they said, ‘see’, they did not mean that one must see the whole of it, but that one must see part of it. R. Papa asked: What of [a place whence] one could see [the Tabernacle] whilst standing, but not when sitting? R. Jeremiah asked: What [of a place where] if one stood on the edge of the valley one could see [it], but when he sat in the valley he could not see [it]? The questions stand over.

When R. Dimi came [from Palestine], he said: The Shechinah rested on Israel in three[7] places: in Shiloh, in Nob and Gibeon,[8] and in the Eternal House;[9] and in all of these it rested [on Israel] only in the portion of Benjamin, for it is said, He covereth him all day:[10] all ‘coverings’ will be nought elsewhere but in Benjamin's portion. Abaye went and told this to R. Joseph. Said he to him: Kaylil[11] had but one son, and he is not ‘finished’.[12] Surely it is written, And He forsook the tabernacle of Shiloh; and it is written, Moreover He abhorred the tent of Joseph, and chose not the tribe of Ephraim?[13] — Said R. Adda [b. Mattenah]: What is his difficulty? perhaps the Shechinah was in Benjamin's portion, while the Sanhedrin[14] was in Joseph's portion,[15] as we find in the Eternal House that the Shechinah was in Benjamin's portion, whereas the Sanhedrin was in Judah's portion? How compare? replied he. There the territories [of Judah and Benjamin] were contiguous; but were they contiguous here?[16] — They were indeed contiguous, even as R. Hama son of R. Hanina said:[17] A strip issued from Judah's portion and entered Benjamin's portion, and on this the altar was built. The righteous Benjamin grieved thereat every day, [wishing] to absorb it;[18] so here too a strip issued from Joseph's portion into Benjamin's portion, and that is the meaning of Taanath-Shiloh.[19]

This is a controversy of Tannaim: ‘He covereth him’; this alludes to the first Temple; ‘all the day’, to the second Temple; ‘and He dwelleth between his shoulders’, to the days of the Messiah.[20] Rabbi said: ‘He covereth him’, alludes to this world;[21] ‘all the day’, to the days of the Messiah; ‘and He dwelleth between his shoulders’, to the World to Come.

Our Rabbis taught: The duration of the Tent of Meeting in the wilderness was forty years less one; the duration of the Tent of Meeting at Gilgal was fourteen years, [viz.,] the seven [years] of conquest and the seven of division.[22] The duration of the Tent of Meeting at Nob and Gibeon [combined] was fifty-seven years. Thus for Shiloh was left three hundred and seventy less one.

‘The duration of the Tent of Meeting in the wilderness was forty less one.’ How do we know it? — Because a master said: In the first year[23] Moses made the Tabernacle; in the second the Tabernacle was set up, and Moses sent out the spies.

‘That of Gilgal was fourteen years, [viz.,] the seven [years] of conquest and the seven of division.’ How do we know it? — Because Caleb said: Forty years old was I when Moses the servant of the Lord sent me from Kadesh-barnea to spy out the land; and I brought him back word as it was in my heart; and it is written, and now, lo, I am this day fourscore and five years old.[24] How old was he when he crossed the Jordan? Seventy eight years;[25] and he said, ‘[I am this day] fourscore and five years old’: thus [you have] seven years for the conquest. And how do we know the seven years of division? — I can say, since the conquest took seven [years], the dividing too took seven years. Alternatively, because [otherwise] we cannot explain [the verse] In the fourteenth year after that the city was smitten.[26]

‘The Tent of Meeting at Nob and Gibeon lasted fifty-seven years. How do we know it? — Because it is written, And it came to pass, when he made mention of the ark of God, [that he fell from off his seat . . . and died].[27] Now it was taught: When Eli the priest died, Shiloh was destroyed and they repaired to Nob; when Samuel the Ramathite died, Nob was destroyed and they went to Gibeon. And it is written, And it came to pass, front the day that the ark abode in Kiriath-jearim, that the time was long, for it was twenty years; and all the house of Israel yearned after the Lord.[28] These twenty years [were made up as follows]: Ten years during which Samuel ruled alone,[29] one year that Samuel and Saul ruled [together],[30] two years that Saul reigned,[31] and the seven which David reigned [in Hebron],

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(1) Before the Tabernacle was destroyed. There is no such text in the Bible. Rashi suggests, and Sh.M. cites as a var. lec., Josh. XVI, 6: And the border turned about eastward unto Taanath-Shiloh. — He treats Taanath as an adjectival substantive, the lamenting of, from anah to lament (cf. ta'aniah in lsa. XXIX, 2: and there shall be mourning (ta'aniah), and explains it as in the text, and thus infers that sacrifices could be eaten wherever the Tabernacle at Shiloh could be seen.

(2) Gen. XLIX, 22. E.V. by a fountain. — Shiloh was in Ephraim's (i.e., Joseph's) territory.

(3) Potiphar's wife.

(4) Deut. XXXIII, 16. By a play on words סנה is connected with שנאה hatred. E.V.: And the good will of Him that dwelt in the bush. The verse refers to Joseph.

(5) Sc. in the territories surrounding Shiloh, which belonged to the other tribes whose ancestors had hated Joseph. — Presumably ‘as far as the eye could see’ would embrace the borders of these territories. — This interpretation, of course, is merely aggadic and is not the actual source of the law.

(6) In Judea. From there one would have an uninterrupted view of the Tabernacle at Shiloh — The text is emended.

(7) Marginal emendation; four.

(8) These were two separate places, but they are generally coupled, which probably explains why cur. edd. read ‘three’, treating these as one.

(9) The Temple in Jerusalem.

(10) Deut. XXXIII, 12. — This refers to Benjamin.

(11) Rashi suggests that this was the name of Abaye's father.

(12) That one son — Abaye — is but half-baked — he has not mastered his studies.

(13) Ps. LXXVIII, 60, 67. The comparison of these two verses shews that the Tabernacle was in Ephraim's portion, not Benjamin's.

(14) The religious and civil court; v. Sanh. 2a.

(15) He assumes that the Sanhedrin had its seat in or by the Tabernacle, and that the verses in Psalms refer to the forsaking by the Divine Presence (Shechinah) of this Sanhedrin.

(16) Did Joseph (Ephraim) and Benjamin have a common boundary at Shiloh?
(17) In reference to the Temple at Jerusalem.
(18) V. supra 53b.
(19) Josh. XVI, 6; v. supra. He now suggests that it means: (Benjamin's) mourning for Shiloh, that it was in Joseph's territory.
(20) On this view only the two Temples were in Benjamin's territory. but not the Tabernacles at Shiloh and elsewhere.
(21) Wherever the Shechinah rested in this world, i.e., in both Temples and in all Tabernacles, it was in Benjamin's territory.
(22) Dividing the land among the tribes.
(23) Of the Exodus.
(24) Josh. XIV, 7, 10. — 'This day' means when they started dividing the country.
(25) Since the spies were not sent out at the beginning of the second year, but some months later.
(26) Ezek. XL, 1. According to the Talmud ('Ar. 12a), this was a jubilee year, while the Release years (shemittoth) and Jubilee years did not commence until the land had been divided. The calculation is then as follows: The Temple was built four hundred and eighty years after the Exodus, which was four hundred and forty years after their entry into Eretz Israel. The Temple stood four hundred and ten years, making a total of eight hundred and fifty years from their entry until its destruction, which is thirty-seven Jubilees. Deducting fourteen years for conquest and division, as these did not count for Jubilee, we find that it was destroyed fourteen years before a Jubilee year, and therefore the fourteenth year after its destruction was a Jubilee year. (The Talmud deduces that this was a Jubilee year independently of this calculation.)
(27) I Sam. IV, 18. This refers to Eli the priest.
(28) Ibid. VII, 2. The Ark was placed in Kiriath-jearim when it returned from the land of the Philistines, where it had been four months.
(29) As judge.
(30) I.e., Saul ruled with the advice of Samuel. Sh.M. reads: the eleven years that Samuel ruled, and deletes one . . . together'.
(31) V. Ibid. XIII, 1. Rashi maintains that the first year, when he ruled with Samuel, is not counted.

Talmud - Mas. Zevachim 119a

for it is written, And the days that David reigned over Israel were forty years: seven years reigned he in Hebron, [and thirty and three years reigned he in Jerusalem].[1] Now of Solomon it is written, And he began to build . . . in the fourth year of his reign.[2] Thus three hundred and seventy less one was left for Shiloh.[3]

WHEN THEY CAME TO NOB AND GIBEON etc. How do we know it? — Because our Rabbis taught: For ye are not as yet come to the rest and to the inheritance, [which the Lord your God giveth thee]:[4] 'to the rest' alludes to Shiloh, 'inheritance' alludes to Jerusalem. Why does Scripture separate them?[5] In order to grant permission between one and the other.[6] Resh Lakish said to R. Johanan: If so,[7] let [the Mishnah] teach second tithe too?[8] — As for tithe, he replied, the implication of 'there' is derived from 'there' [written] in connection with the Ark:[9] since there was no Ark [at Nob and Gibeon],[10] there was no tithe either. If so, the Passover-offering and [other] sacrifices are the same, for we learn the meaning of 'there' [in their case][11] from 'there' [written] in connection with the Ark: since there was no Ark, these too were not [offered]? — Who has told you [this]? he replied: R. Simeon,[12] who maintained that even the community could only offer Passover-offerings and obligatory offerings which have a fixed time,[13] but obligatory offerings for which there was no fixed time might not be offered at either place. Now, animal tithe is an obligatory offering without a fixed time, and corn tithe is assimilated to animal tithe.

Hence it follows that in R. Judah's view [second tithe] is offered?[14] — Yes. For surely R. Adda b. Mattenah said: Second tithe and animal tithe were eaten in Nob and Gibeon [only], in R. Judah's opinion. Yet surely a birah [Divine residence] was required?[15] — Did not R. Joseph recite: There were three Divine residences, [viz.,] at Shiloh, [at] Nob and Gibeon,[16] and [at] the Eternal House? He [R. Joseph] recited it, and he explained it: [These were] in respect of second tithe, and in accordance with R. Judah.

WHEN THEY CAME TO JERUSALEM etc. Our Rabbis taught: For ye are not as yet come to the rest and to the inheritance: ‘rest’ alludes to Shiloh; ‘inheritance’, to Jerusalem. And thus it says, My inheritance is become unto Me as a lion in the forest; and it says, Is My inheritance unto Me as a speckled bird of prey?[17] this is R. Judah's opinion. R. Simeon said: ‘Rest’ alludes to Jerusalem; ‘inheritance’, to Shiloh, as it is said, This is My resting-place for ever; here will I dwell, for I have desired it; and it says, For the Lord hath chosen Zion; He hath desired it for His habitation.[18]

On the view that ‘rest’ alludes to Shiloh, it is well: hence it is written, ‘to the rest and to the inheritance’.[19] But on the view that ‘rest’ alludes to Jerusalem while ‘inheritance’ alludes to Shiloh, [Moses] should say, ‘to the inheritance and to the rest’? — This is what he said: Not only have ye not reached the ‘rest’ [Jerusalem]; you have not even reached the ‘inheritance’ [Shiloh].

The school of R. Ishmael taught: Both [words] allude to Shiloh;[20] R. Simeon b. Yohai said: Both allude to Jerusalem.[21] It is well on the view that ‘rest’ alludes to

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(1) I Kings II, 11.

(2) II Chron. III, 2. The period of Nob and Gibeon is calculated from the time that the Ark was taken to Kiriath-jearim until Solomon began building the Temple. Thus we have 20 and 33 (which he reigned in Jerusalem) and 4 =57.

(3) The Temple was consecrated four hundred and eighty years after the Exodus. The figure three hundred and sixty-nine is arrived at by deducting the forty years in the wilderness, the fourteen at Gilgal, and the fifty-seven of Nob and Gibeon.

(4) Deut. XII, 9.

(5) Why is each enumerated separately?

(6) For the text refers to the permissibility of bamoth at Gilgal, and teaches: until when may each man sacrifice what is ‘right in his own eyes’ (v. 8 — sc. at the bamoth)? until you come to the rest, i.e., to Shiloh, and then bamoth will be forbidden. Now, if they were to remain permanently forbidden, Scripture need say nothing more. By adding ‘and to the inheritance’ it intimates that when they come to Jerusalem bamoth will again be forbidden, and thus implies that they were permitted between the destruction of the Tabernacle at Shiloh and the consecration of the Temple in Jerusalem.

(7) That the time between — sc. when the Tabernacle was at Nob and Gibeon — was completely permitted.

(8) That it must be eaten at Nob and Gibeon only, seeing that the sanctity of Shiloh was completely departed.

(9) Tithe, Deut. XIV, 23: And thou shalt eat before the Lord thy God, in the place which He shall choose to cause His name to dwell there, the tithe of thy corn etc.; Ark, Ex. XL, 3: And thou shalt put there the ark of the testimony. The use of ‘there’ in both cases implies that they are connected.

(10) But first at Kiriath-jearim and then in the city of David.

(11) Deut. XII, 7: and there ye shall eat-this refers to the sacrifices enumerated in v. 6.

(12) The Mishnah which implies that second tithe might be eaten anywhere is in accordance with R. Simeon.

(13) For that reason he maintains that firstlings and animal tithes, which did not have a fixed time, were not brought there; and therefore it was unnecessary to bring corn tithe there either, since the two are assimilated. (Though the two are not really alike: whereas the law of firstling and animal tithe was not operative, and these could not be brought at Nob and Gibeon or anywhere else, second tithe need not be brought at Nob and Gibeon, but might be eaten anywhere.)

(14) I.e., it must be eaten only at Nob and Gibeon.

(15) They were to be eaten ‘before the Lord your God’, which implies a structure in the nature of a Temple or Tabernacle.

(16) Which are counted as one.

(17) Jer. XII, 8-9. In both verses ‘inheritance’ means Jerusalem.

(18) Ps. CXXXII, 14, 23.

(19) In correct chronological order.

(20) Yet even so, bamoth were permitted after the destruction of the Sanctuary at Shiloh, for he holds that they were permitted even after the destruction of the Temple at Jerusalem (cf. Meg. 10a).

(21) Hence bamoth were not forbidden until the Temple was built.

Talmud - Mas. Zevachim 119b

Shiloh [and] ‘inheritance’ to Jerusalem; or the reverse; hence it is written, ‘to the rest and to the inheritance’. But on the view that both allude to Shiloh or both allude to Jerusalem, he should say, ‘unto the rest and inheritance’?[1] That is a difficulty.

On the view that both allude to Shiloh it is well: ‘rest’ means when they rested from conquest, while [it is called] ‘inheritance’ because there they divided their inheritance, as it is said, And Joshua cast lots for them in Shiloh before the Lord; and there Joshua divided the land unto the children of Israel according to their divisions.[2] But on the view that both allude to Jerusalem, ‘inheritance’ is well, as it means the eternal inheritance; but why is it called ‘rest’? — It was the place where the Ark rested, as it is written, Arise, O Lord, unto Thy resting-place, Thou, and the ark of Thy strength.[3]

On the view that both allude to Jerusalem, but that [during the period of] Shiloh bamoth were permitted, it is well; hence it is written, So Manoah took the kid with the meal-offering, and offered it upon the rock unto the Lord[4] . But on the view that both allude to Shiloh, and bamoth were [then] forbidden, how [say], ‘and offered it upon the rock unto the Lord’?[5] — It was a special dispensation.[6]

The school of R. Ishmael taught as R. Simeon b. Yohai, who maintained: Both allude to Jerusalem. And your token is, One man attracted [many] men.[7]

ALL THE SACRIFICES etc. R. Kahana said: They learnt this[8] only of shechitah. But for offering up[9] one incurs kareth too. What is the reason? Because Scripture saith, And thou shalt say unto them[10] [which means,] thou shalt say concerning those just mentioned.[11] To this Rabbah demurred: Is it then written, ‘and thou shalt say concerning them’;[12] surely, ‘and thou shalt say unto them’ is written?[13] Moreover It was taught: R. Simeon stated four general rules about sacrifices: If he consecrated them when bamoth were forbidden and slaughtered and offered [them] up when bamoth were forbidden, without, they are subject to a positive and a negative injunction, and entail kareth. If he consecrated them when bamoth were permitted and slaughtered and offered [them] up when bamoth were forbidden, without, they are subject to an affirmative and a negative injunction, and do not entail kareth.[14] If he consecrated them when bamoth were forbidden, and slaughtered and offered them up without when bamoth were permitted, they are subject to an affirmative precept,[15] but not to a negative precept. If he consecrated them when bamoth were permitted and slaughtered and offered [them] up when bamoth were permitted, he is not liable to anything at all.[16]

AND THE FOLLOWING SACRIFICES . . . LAYING [OF HANDS] etc. Laying [of hands] [is not practised at a private bamah] because it is written . . . before the Lord, and he shall lay his hand.[17] Slaughtering in the north, because it is written, [And he shall kill it on the side of the altar] northward before the Lord.[18] [Blood] applications round about [the altar], because it is written, And he shall sprinkle the blood round about the altar [that is at the door of the tent of meeting].[19] Waving, because it is written, To wave it for a wave-offering before the Lord.[20] Presenting, because it is written, The sons of Aaron shall present it before the Lord, in front of the altar.[21]

R. JUDAH MAINTAINED: THERE WERE NO MEAL-OFFERINGS AT THE BAMAH. R. Shesheth said: On the view that there were no meal-offerings at the bamah, there were no bird [-offerings] [either]; on the view that there were meal-offerings at the bamah there were bird [-offerings] [also]. What is the reason? — [And sacrifice them for] sacrifices [zebahim]:[22] ‘zebahim’, but not meal-offerings; ‘zebahim’, but not bird [-offerings].

PRIESTHOOD, because it is written, And the priest shall sprinkle the blood [on the altar of the Lord at the door of the tent of meeting].[23]

PRIESTLY VESTMENTS, because it is written, [And they — the priestly vestments-shall be upon Aaron, and upon his sons . . .] to minister in the holy place.[24]

SERVICE VESSELS, because it is written, [The vessels of ministry], wherewith they minister in the sanctuary.[25]

A SWEET ODOUR, because it is written, A sweet savour unto the Lord.[26]

A LINE OF DEMARCATION FOR [THE SPRINKLING OF] THE BLOOD, because it is written, That the net may reach halfway up the altar.[27]

THE WASHING OF HANDS AND FEET, because it is written, And when they came near unto the altar, they should wash.[28]

Rami b. Hama said: They learnt it[29] only about sacrifices of the great bamah which were offered at the great bamah; but no demarcation was required for sacrifices of a minor bamah which were offered at the great bamah.[30] Rabbah raised an objection: [The laws of] the breast and the thigh, and the separation of the loaves of the thanksoffering, operated at the great bamah, but did not operate at a minor bamah![31] — Say, they are operative in connection with the sacrifices of the great bamah and are not operative in connection with the sacrifices of a minor bamah.[32]

Others say, Rami b. Hama said: They learnt it only when the great bamah [was essential],[33] but when minor bamoth [were permitted], even if one sacrificed at the great bamah, there was no demarcation. Rabbah raised an objection: [The laws of] the breast and the thigh and the separation of the loaves of the thanksoffering operated at the great bamah, but did not operate at a minor bamah? — Say, they operate when the great bamah [was essential], but did not operate when minor bamoth [were permitted].

Now, he disagrees with R. Eleazar, for R. Eleazar said: If one took a burnt-offering of a minor bamah within, its barriers receive it in respect of all things.[34]

R. Zera asked: If one took the burnt-offering of a private bamah

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(1) Not repeat ‘to’.

(2) Josh. XVIII, 10. Cur. edd. quote the text rather differently.

(3) Ps. CXXXII, 8. Cur. edd. quote: And it came to pass when the Ark rested, but there is no such text in the Bible.

(4) Judg. XIII, 19.

(5) This was simply a bamah, which was forbidden.

(6) That permitted him on that occasion.

(7) R. Simeon b. Yohai, an individual, won over the school of R. Ishmael to his view. Cf. supra 53b.

(8) That if one consecrated an animal when bamoth were permitted and offered it when they were forbidden, he does not incur kareth.

(9) On the altar, i.e., burning the emurim.

(10) Lev. XVII, 8.

(11) V. supra 107a. ‘Those just mentioned’ are those who consecrated the animal when bamoth were permitted and sacrificed them without when bamoth were forbidden (v. 7 is thus explained).

(12) Which would justify this command.

(13) In Hebrew the difference is in one letter only.

(14) This explicitly contradicts R. Kahana.
(15) I.e., he has violated an affirmative precept; similarly in the other cases.
(16) This last clause is obvious, and probably included merely for the sake of completeness. Tosaf. explains it thus: if one consecrated an animal for a burnt-offering, to be offered at the public bamah; even if he took it to the precincts of this bamah, and then took it out and sacrificed it at a private bamah, he is not liable.
(17) Lev. I, 3f. ‘Before the Lord’ implies at a public place of sacrifice; similarly the others.
(18) Ibid., 11.
(19) Ibid. 5. Hence ‘round about’ is required only at ‘tent of meeting’, I.e., at a public altar.
(20) Ibid. X, 15.
(21) Ibid. VI, 7. This is the reading according to Rashi.
(22) Ibid. XVII, 5. (10) Zebahim denotes sacrifices that are slaughtered (with shechitah). If, then, the word excludes meal-offerings, ipso facto it excludes bird-offerings, since these were killed with melikah, not shechitah.
(23) Lev. XVII, 6, excluding then a private bamah.
(24) Ex. XXVIII, 43. ‘In the holy place’ implies a public sanctuary, but not a private one.
(25) Num. IV, 12.
(26) Lev. I, 9.
(27) Ex. XXVII, 5. From this verse we learn that a line of demarcation is necessary (supra 53a); ‘the altar’ is a limitation, implying only the altar in the Tabernacle, which was a public sanctuary.
(28) Ex. XL, 32.
(29) That a line of demarcation was necessary at the public bamah.
(30) Emended text (Sh.M. and margin). ‘Sacrifices of the great bamah . . . of a minor bamah’ means those which were consecrated for sacrifice at a public or at a private bamah respectively. ‘No demarcation was required’ — their blood could be sprinkled above or below the line.
(31) Supra 117b. This implies that these laws operated whenever a sacrifice was offered at a great bamah, even if it had been consecrated for the small bamah. The same therefore should apply to the other laws which governed the great bamah.
(32) As explained in n. 8.
(33) I.e., when private bamoth were forbidden.
(34) If a burnt-offering which was consecrated for a private bamah was carried within the precincts of the public bamah, the barriers of the public bamah receive it, and all the laws of the public bamah apply to it. This proves that even sacrifices consecrated for a private bamah are governed by the laws of a public bamah in such circumstances. A further corollary is that the laws of the public bamah hold good at all times, whether private bamoth were permitted or forbidden. — Rashi explains here that R. Eleazar means that he took the burnt-offering within the precincts of the public bamah after it was slaughtered. His interpretation in Me'ilah 3a, however, assumes that it applies before its slaughter too.

Talmud - Mas. Zevachim 120a

within, and then took it out again, what is the law?[1] do we say, Since it has entered, the barriers [of the public bamah] have received it; or perhaps, since it has returned, it has returned?[2] — Is this not the controversy of Rabbah and R. Joseph? For we learnt: If sacrifices of higher sanctity were slaughtered in the south,[3] they are subject to trespass.[4] Now the [scholars] asked: If they ascended [the altar], must they be taken down? Rabbah maintained: They must be taken down; R. Joseph maintained: They must not be taken down![5] — The question arises on both Rabbah's and R. Joseph's views. The question arises on Rabbah's view, [for you can argue:] Rabbah rules thus only in respect of the altar, [for] what is eligible for it, it sanctifies,[6] and what is not eligible for it, it does not sanctify;[7] but the barrier may receive it even when it is not eligible for it. Or perhaps, there is no difference? The question arises on R. Joseph's view, [for you may argue:] R. Joseph rules thus only there, since it is one place;[8] but here, that they are two places,[9] it is not so. Or perhaps, there is no difference? The question stands over.

That which is certain to Rabbah in one direction and to R. Joseph in the opposite direction, was a question to R. Jannai. For R. Jannai asked: If the limbs of the burnt-offering of a private bamah ascended the altar[10] and were taken down, what is the law? If the fire has not taken hold of them, there is no question;[11] the question arises where the fire had taken hold of them: what then? The question stands over.

It was stated: As for night slaughtering at a private bamah, Rab and Samuel [disagree]. One maintains: It is valid; the other maintains: It is invalid.[12] Now, they disagree on R. Eleazar's [difficulty]. For R. Eleazar pointed out a contradiction between texts. It is written, And he said.’ ‘Ye have dealt treacherously; roll a great stone unto me this day’,[13] But it is written: And Saul said.’ ‘Disperse yourselves among the people, and say unto them: Bring me hither every man his ox, and every man his sheep, and slay them here, and eat; and sin not against the Lord in eating with the blood’. And all the people brought every man his ox with him that night, and slew them there.[14] One master answered: one [text] applies to hullin, the other to sacrifices.[15] The other master answered: One refers to the sacrifices of a great bamah,[16] the other refers to the sacrifices of a minor bamah.

It was stated: As for the burnt-offering of a private bamah, Rab maintained: It does not require flaying and dismembering; while R. Johanan said: It does require flaying and dismembering. Now, they disagree on R. Jose the Galilean[‘s dictum]. For it was taught, R. Jose the Galilean said: The burnt-offering[s] which the Israelites sacrificed in the wilderness[17] did not require flaying and dismembering, because flaying and dismembering were required only from [the erection of] the Tent of Meeting and onward. One master holds: From [the erection of] the Tent of Meeting and onward, there was no difference [in this respect] between the great bamah and the minor bamah; while the other master holds: At the great bamah, yes; at the lesser bamah, no.

It was taught in accordance with R. Johanan: In the [following] matters the great bamah differed from the minor bamah: Horn, ascent, base, and squareness [were required at] the great bamah; but there were no horn, ascent, base and squareness at a minor bamah.[18] There were a laver and its base at the great bamah, but there were no laver and base at a minor bamah. The breast and the thigh were [waved] at the great bamah, but there were no breast and thigh at a minor bamah. In the [following] matters the great bamah and a minor bamah were alike: shechitah was required at the great bamah and at a minor bamah; flaying and dismembering were required at the great and at the minor [bamoth]. Blood permitted, and rendered piggul[19] at the great and at a minor [bamoth]. [The laws of] blemishes and time[20] [operated] at the great and at a minor [bamah].

BUT TIME, NOTHAR AND DEFILEMENT WERE ALIKE IN BOTH. Our Rabbis taught: How do we know that time operates at a minor bamah as at a great bamah? For [you might argue:] the Torah ordered [flesh] that was kept overnight[21] to be burnt, and [flesh] that went out [of its permitted boundaries] to be burnt:[22] just as flesh which went out is fit at a [minor] bamah,[23] so [flesh] which was kept overnight is fit at a [minor] bamah. But does not [the reverse] follow from birds, a minori:

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(1) Does the law of a public bamah apply to it, so that it must be taken back and have its breast and thigh waved before the altar, or not? Here too Rashi explains that it was taken within after it was slaughtered.

(2) And is subject to the laws of a private bamah only.

(3) Instead of the north.

(4) V. p. 176, n. 10. We do not say that since they were slaughtered in the wrong place, it is as though they were simply killed unritually, when they cease to be subject to trespass.

(5) Emended text (Rashi and Sh.M.). Now, Rabbah who says that they must be taken down holds that these are not the same as other sacrifices which were disqualified in the Sanctuary, but as though they were killed unritually. Thus he holds that the barriers have not received them. Whereas R. Joseph, who rules that they must be taken down, holds that the barriers have received them.

(6) So that it must not be removed thence, once it is placed thereon.

(7) And since it is as though it were not ritually slaughtered (in his view), it is not eligible for it.

(8) It was slaughtered in the Temple court, after all.

(9) The public and the private bamoth.
(10) Of the public bamah. Rashi apparently explains that the question refers to a burnt-offering consecrated for sacrifices at a public bamah, which was slaughtered at a private bamah.
(11) They certainly must descend.
(12) Rashi reads: Rab says it is valid; Samuel says: It is invalid.
(13) I Sam. XIV, 33, q.v. As they were engaged in pursuit of the enemy, this could only have been in the nature of a private bamah, and his emphasis on ‘this day’ proves that the night was not valid for slaughtering.
(14) I Sam. XIV, 34. R. Eleazar leaves the difficulty unanswered.
(15) The text specifying ‘day’ applies to sacrifices, which must be slaughtered by day even at a private bamah.
(16) These must be sacrificed by day. — He would explain then that when Saul specified day, he referred to those who would wait until they could sacrifice at the public bamah.
(17) Before the Tabernacle was erected.
(18) V. supra 62a.
(19) The sprinkling of the blood permitted the flesh, while a piggul intention at the sprinkling rendered the sacrifice piggul.
(20) That a blemish disqualified an animal, and that there was a time limit for the eating of the flesh.
(21) I.e., nothar, flesh kept after its prescribed period.
(22) This is deduced in Pes. 82a q.v.
(23) Since it had no walls to define its boundaries.

Talmud - Mas. Zevachim 120b

if time disqualifies birds, though a blemish does not disqualify them;[1] is it not logical that time should disqualify the sacrifices of a minor bamah, seeing that a blemish does disqualify them? As for birds, the reason is because a zar is not fit in their case; but in the case of a minor bamah, where a zar is fit [to officiate], let time not disqualify. Therefore it states, And this is the law of the sacrifice of peace-offerings,[2] which makes time at a minor bamah the same as time at the great bamah.[3]

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(1) V. supra 116a.
(2) Lev. VII, 11.
(3) Sc. a disqualification. ‘This is the law’ etc. implies that all peace-offerings, wherever offered, are governed by the same law in respect of the contents of that passage. That passage (q.v.) deals with time, piggul, and defilement.

Talmud - Mas. Menachoth 2a

CHAPTER I

MISHNAH. ALL MEAL-OFFERINGS,[1] FROM WHICH THE HANDFUL WAS TAKEN UNDER ANY OTHER NAME THAN THEIR OWN,[2] ARE VALID, SAVE THAT THEY DO NOT DISCHARGE THE OBLIGATION OF THE OWNER,[3] WITH THE EXCEPTION OF THE SINNER'S MEAL-OFFERING[4] AND THE MEAL-OFFERING OF JEALOUSY.[5] AS TO THE SINNER'S MEAL-OFFERING AND THE MEAL-OFFERING OF JEALOUSY, IF THE HANDFUL WAS TAKEN THEREFROM UNDER ANY OTHER NAME THAN THEIR OWN, OR IF THEY WERE PUT INTO THE VESSEL, OR BROUGHT NIGH, OR BURNT UNDER ANY OTHER NAME THAN THEIR OWN, OR UNDER THEIR OWN AND ANOTHER NAME, OR UNDER ANOTHER NAME AND THEIR OWN, THEY ARE INVALID. HOW CAN THEY BE ‘UNDER THEIR OWN AND ANOTHER NAME’? IF OFFERED AS A SINNER'S MEAL-OFFERING AND AS A FREEWILL MEAL-OFFERING. AND HOW CAN THEY BE UNDER ANOTHER NAME AND THEIR OWN’? IF OFFERED AS A FREEWILL MEAL-OFFERING AND AS A SINNER'S MEAL-OFFERING.

GEMARA. Why does the Mishnah state SAVE THAT? It could have simply stated, ‘But they do not discharge the obligation of the owner’? — It teaches this: The owner's obligation is not thereby discharged, but the meal-offering itself is in each case valid, and it is therefore forbidden to make any further changes with regard to it.[6] This is in accordance with Raba, for Raba said, If a burnt-offering was slaughtered under any name other than its own, it is nevertheless forbidden to sprinkle its blood under any other name than its own. You may, if you wish, explain this by logical reasoning, or if you wish, by reference to a verse. ‘You may, if, you wish, explain this by logical reasoning’ — is it to be permitted, because a change has been made with regard to it, to go on making more and more changes? ‘Or if you wish, by reference to a verse’ — for it is written, That which is done out of thy lips thou shalt observe and do; according as thou hast vowed unto the Lord thy God, a freewill-offering.[7] ‘A freewill-offering’? It is a vow, is it not? Hence the verse is to be explained thus: if thou hast done according as thou hast vowed, then it is a votive offering; and if not it shall be a freewill-offering.

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(1) Cf. Lev. II, 2ff. The usual procedure in making a meal-offering consisted of the following four services: taking the handful out of the meal-offering, putting it into a vessel, bringing it nigh to the altar, and burning it. These services correspond respectively to the four main services in connection with animal sacrifices, viz., slaughtering, receiving the blood, bringing it nigh to the altar, and sprinkling it.

(2) Either declaring it to be a different offering, שינוי קדש e.g., while dealing with a meal-offering prepared on a griddle the officiating priest expressly declares that he is dealing with one prepared in a pan; or declaring it to be on behalf of a different person, שינוי בעלים e.g., while dealing with A's meal-offering the priest declares that he is dealing with it on behalf of B.

(3) And he must bring again the offering which he had undertaken to bring either by vow or of his free will.

(4) The meal-offering brought as a sin-offering by a person of poor means on the commission of any of the transgressions mentioned in Lev. V, 1-4.

(5) Brought by a woman suspected of adultery by her husband; cf. Num. V, 15. In these two cases the meal-offering, if brought under another name, is invalid.

(6) The expression ‘SAVE THAT’ in the Mishnah implies that in every other respect the meal-offering is a valid meal-offering.

(7) Deut. XXIII, 24.

Talmud - Mas. Menachoth 2b

And is it permitted to make any changes in respect of a freewill-offering?[1]

Must we say that our Mishnah is not in agreement with the view of R. Simeon? For it was taught: R. Simeon says, All meal-offerings, from which the handful was taken under any other name than their own, are valid, and they also discharge the obligation of the owner, since meal-offerings are unlike [animal] offerings. For if [the priest] takes the handful from a meal-offering prepared on a griddle[2] and expressly refers to it as one prepared in a pan.[2] [his intention is of no consequence]. for the preparation thereof clearly indicates that he is dealing with one prepared on a griddle. Or if he is dealing with a dry[3] [meal-offering] and expressly refers to it as mingled [with oil, his intention is of no consequence], for the preparation thereof clearly indicates that he is dealing with a dry [meal-offering]. But with [animal] offerings, it is not so; the same slaughtering is for all offerings, the same manner of receiving the blood for all, and the same manner of sprinkling for all.[4] This indeed presents no difficulty according to R. Ashi who said,[5] ‘Here he took the handful from that which was prepared on a griddle and referred to it as prepared in a pan, there he took the handful from a meal-offering prepared on a griddle and referred to it as a meal-offering prepared in a pan’,[6] for our Mishnah is a case where one meal-offering was referred to as another meal-offering. But what can be said according to the answers suggested by Rabbah and Raba? For should you accept the answer suggested by Rabbah namely, ‘Here the change was as regards the offering, there as regards the owner’,[7] [the difficulty of reconciling R. Simeon's view with that of our Mishnah remains, for] our Mishnah speaks of the change as regards the offering, since it reads, HOW CAN THEY BE UNDER THEIR OWN AND ANOTHER NAME’? IF OFFERED AS A SINNER'S MEAL-OFFERING AND AS A FREEWILL MEAL-OFFERING! And should you accept the answer suggested by Raba namely, ‘Here he took the handful out of a meal-offering and referred to it as [another] meal-offering, there he took the handful out of a meal-offering and referred to it as an animal-offering’,[8] [the difficulty also remains, for] our Mishnah speaks of a meal-offering being referred to as [another] meal-offering, since it reads, AND HOW CAN THEY BE ‘UNDER ANOTHER NAME AND THEIR OWN’? IF OFFERED AS A FREEWILL MEAL-OFFERING AND AS A SINNER'S MEAL-OFFERING! — It is clear then that according to Rabbah and Raba our Mishnah is not in agreement with R. Simeon.

Now I can point out a contradiction between the words of R. Simeon here and the words of R. Simeon elsewhere. For it has been taught: R. Simeon says, It is written, It is most holy, as the sin-offering, and as the guilt-offering,[9] that is, some [meal-offerings] are like the sin-offering, and some like the guilt-offering. The sinner's meal-offering is like the sin-offering, so that if [the priest] took the handful therefrom under any other name than its own, it would be invalid, as is the sin-offering [in such circumstances]; the freewill meal-offering is like the guilt-offering, so that if he took the handful therefrom under any other name than its own, it would remain valid. ‘And as the guilt-offering’, that is, as the guilt-offering is valid [even when offered under any other name than its own], but does not satisfy [the obligation of the owner], so the freewill meal-offering is valid but does not satisfy [the obligation of the owner]![10] — Rabbah answered, It is no contradiction: here the change was as regards the offering, there as regards the owner.[11] Thereupon Abaye said to him, But consider, since it is established by analogy that, according to Divine Law, a wrongful intention renders the offering invalid,[12] what difference does it make whether the change was as regards the offering or as regards the owner? — He replied, The rule of R. Simeon that the preparation thereof clearly indicates [the true nature of the offering] is founded on reason (for R. Simeon generally expounds the reasons of Scriptural law); therefore a wrongful intention which is not manifestly [absurd] the Divine Law declares capable of rendering an offering invalid, but a wrongful intention which is manifestly [absurd][13] the Divine Law declares incapable of rendering invalid.

(Mnemonic: a burnt-offering; he nipped off a burnt-offering; he drained; a sin-offering of a bird; Most Holy sacrifices; Lesser Holy sacrifices.)

In that case it should follow that if [the priest] nipped off the head of a burnt-offering of a bird above [the red line which went around the altar][14] under the name of a sin-offering of a bird, it discharges[15] [the owner], since the treatment thereof indicates plainly that it is a burnt-offering of a bird, for if it were a sin-offering of a bird he would have performed [the nipping] below [the red line]![16] — Do you think the sin-offering of a bird may not be performed above [the red line]? Surely a Master has stated that the nipping [of the sin-offering of a bird] may be performed at any place on the altar![17] Again, if he drained the blood of a burnt-offering of a bird above [the red line] under the name of a sin-offering of a bird, it should discharge [the owner], since the treatment thereof indicates plainly that it is a burnt-offering, for if it were a sin-offering he would have drained it below [the red line], and [would also have first] sprinkled [the blood upon the side of the altar]![18] —

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(1) Certainly not! v. Sifra on Lev. I, 9. Hence even though the original sacrifice has been varied (as here from a votive to a freewill-offering) it is forbidden to make any further changes with regard to it, just as it is forbidden to vary the freewill-offering.

(2) V. Ibid. II, 5, 7; and infra 59a and 63a.

(3) I.e., one not mixed with oil, e.g., a sinner's meal-offering, or the meal-offering of jealousy.

(4) R. Simeon apparently disagrees with our Mishnah on two points: (a) He makes no exception for the sinner's meal-offering and the meal-offering of jealousy, and (b) he declares that even though the meal-offering was treated under another name the owner has discharged his obligation.

(5) In answer to the contradiction pointed out between the two statements of R. Simeon, infra.

(6) Where the officiating priest does not mention ‘meal-offering’ but merely the vessel in which it has been prepared, referring to one kind as another, it is clear that his words are meaningless and are to be ignored, since the very preparation of the meal-offering contradicts him; hence the offering is in no wise affected thereby and it discharges the owner's obligation. On the other hand, where he refers to one meal-offering as another, as is clearly the case in our Mishnah, the offering is affected thereby, since he has expressed a wrongful intention in connection with a meal-offering, and it therefore does not discharge the owner's obligation.

(7) Where the change was expressed in respect of the kind of offering, e.g., a meal-offering prepared on a griddle being referred to as one prepared in a pan, the offering is not thereby invalidated, for it is clear to all that it is the former and not that which he declares it to be, and therefore counts in fulfilment of the owner's obligation. Where, however, the change was expressed in respect of the owner of the offering, the offering cannot discharge the true owner's obligation.

(8) In the former case the owner's obligation is discharged in spite of the variation in the kind of meal-offering, in the latter case it is not discharged.

(9) Lev. VI, 10.

(10) This latter statement of R. Simeon wholly agrees with our Mishnah, so that it is in conflict with the former statement of R. Simeon on two points; v. supra p. 3 n. 2.

(11) V. Supra p. 3 n. 5.

(12) In Lev. VI, 10, the meal-offering is equated with the animal sacrifices of the sin-offering and guilt-offering, and as a wrongful intention with regard to these sacrifices, whether in respect of the kind of sacrifice or of the owner, renders them invalid, so it should be with regard to the meal-offering too.

(13) I.e., where the actions of the officiating priest belie his expressed intention. In such a case his words cannot be taken seriously.

(14) Cf. Mid. III, 1.

(15) Lit., ‘render acceptable’.

(16) The rule is that the burnt-offering of a bird must be prepared above the red line (v. Zeb. 65a); the sin-offering of a bird, on the other hand, was usually prepared below the red line. Hence in spite of the priest's express intention to the contrary, the fact that he is nipping the bird above the red line clearly indicates that he is dealing with a burnt-offering, and the offering should count in fulfilment of the owner's obligation; nevertheless the established law is not so.

(17) Zeb. 63a. So that the treatment does not clearly mark the offering as a burnt-offering.

(18) The fixed routine in bird-offerings was (a) in the case of a burnt-offering: the head was nipped off but not severed from the body, the blood was drained at the side of the altar above the red line, then the whole bird was burnt on the altar; (b) in the case of a sin-offering: the head was nipped off and also not severed from the body, the blood was sprinkled upon the side of the altar, the rest of the blood was drained at the base of the altar, then the flesh was consumed by the priests.

Talmud - Mas. Menachoth 3a

It might be said that it is now being drained, the sprinkling having already taken place; and [as for its being drained above the red line], has not the Master stated that wherever upon the altar the blood was drained it is valid?

Again, if he sprinkled the blood of the sin-offering of a bird below [the red line] under the name of a burnt-offering of a bird, it should discharge [the owner], since the treatment thereof indicates plainly that it is a sin-offering of a bird, for if it were a burnt-offering of a bird he would have performed [the sprinkling] above [the red line], and would also have drained out the blood? — This is so.[1] But did he not say, 'Since meal-offerings are unlike [animal] offerings'? — Yes, unlike [animal] offerings, but not unlike bird-offerings.[2]

Again, if one slaughtered Most Holy sacrifices on the north side [of the altar] under the name of Lesser Holy sacrifices, they should discharge [the owners], since the treatment thereof indicates plainly that they are Most Holy sacrifices, for if they were Lesser Holy sacrifices, [the slaughtering] surely would have been performed on the south side! — No, the rule of the Divine Law is [that Lesser Holy sacrifices may be slaughtered] even on the south side, but not on the south side to the exclusion of the north.[3] For we have learnt: [The Lesser Holy sacrifices] may be slaughtered in any part of the Temple court.[4]

Again, if one slaughtered Lesser Holy sacrifices on the south side under the name of Most Holy sacrifices, they should discharge [the owners], since the treatment thereof indicates plainly that they are Lesser Holy sacrifices, for if they were Most Holy sacrifices, [the slaughtering] would surely have been performed on the north side! — It might be said that they really were Most Holy sacrifices but that [the slaughterer] had transgressed the law and slaughtered them on the south side. If so, in the case where a meal-offering prepared on a griddle was referred to as one prepared in a pan, it might also be said that the owner had vowed a meal-offering prepared in a pan and the priest when taking the handful therefrom [rightly] referred to it as prepared in a pan, for it was to be a meal-offering prepared in a pan, but he [the owner] had transgressed and brought one prepared on a griddle![5] — There, even though he had vowed a meal-offering prepared in a pan, if he brought it prepared on a griddle it must be treated as prepared on a griddle.[6] As we have learnt: If a man said, 'I take it upon myself to bring a meal-offering prepared on a griddle', and he brought one prepared in a pan; or if he said, 'a meal-offering prepared in a pan', and he brought one prepared on a griddle, what he has brought he has brought, but he has not discharged the obligation of his vow.[7] But perhaps he used the expression 'This';[8] as we have learnt: If he said, 'Let this [meal] be brought [as a meal-offering prepared] on a griddle', and he brought it [prepared] in a pan, or if he said, 'Let this [meal be brought as a meal-offering] prepared in a pan', and he brought it [prepared] on a griddle, it is invalid! —[9] According to the view of the Rabbis this would indeed be [a difficulty]; but we are arguing according to the view of R. Simeon, and R. Simeon holds that [in the first case] he has even discharged the obligation of his vow. Hence the description [of the meal-offering] by the particular vessel is of no consequence,[10] and it is immaterial whether he said 'Let this be' or 'I take it upon myself'.

Again, if one slaughtered a burnt-offering under the name of a sin-offering it should discharge [the owner], for the one[11] is a male animal and the other[12] a female![13] — Since there is the goat of the sin-offering of a ruler, which must be a male,[14] it is not so evident.[15] Then what can be said if he referred to it as a sin-offering of an individual?[16] Moreover, if one slaughtered the sin-offering of an individual under the name of a burnt-offering, it should discharge [the owner], since a sin-offering must be a female animal, and a burnt-offering a male! — It is covered by the tail.[17] This holds good in the case where one brought a ewe, but what can be said where one brought a she-goat?[18] — In truth people don't usually think of distinguishing between male and female animals.

Again, if one slaughtered the passover-offering under the name of a guilt-offering it should discharge [the owner], since the former must be in its first year whereas the latter must be in its second year! — Since there is the guilt-offering of the Nazirite and of the leper,[19] it is then not so certain. Then what can be said if he expressly referred to it as the guilt-offering for robbery or for sacrilege?[20] Moreover, if one slaughtered the guilt-offering for robbery or for sacrilege under the name of the passover-offering it should discharge [the owner], since the passover-lamb must be in its first year whereas the others must be in their second year! — In truth people don't usually distinguish between an animal in its first year and one in its second year, for an animal in its first year may sometimes look like one in its second year, and one in its second year may look like one in its first year.

Again. if one slaughtered a he-goat[21] under the name of a guilt-offering it should discharge [the owner], since the one[22] has wool and the other hair! — people might think that it[23] is a black ram.

Again, if one slaughtered a calf or a bullock under the name of the passover-offering or a guilt-offering it should discharge [the owner], since a calf or a bullock cannot serve as the passover-offering or as a guilt-offering![24] — This is indeed so;

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(1) That according to R. Simeon in such a case the owner counts the offering as the fulfilment of his obligation.

(2) I.e., a bird-offering like a meal-offering, although offered under a different name, discharges the obligation of the owner, for the treatment thereof clearly indicates the true nature of the sacrifice.

(3) Lit., ‘did it say, On the south side and not on the north?’ In contradistinction from the Most Holy sacrifices — the burnt-offering, the sin-offering, and the guilt-offering, which must be slaughtered on the north side of the altar only (v. Lev. I, 11; VI, 18; VII, 2). — Scripture does not specify any particular place for the slaughtering of the Lesser Holy sacrifices, and the implication clearly is that it may be slaughtered in any part of the Temple court.

(4) Zeb. 55a.

(5) And why does R. Simeon hold that in such a case the express intention is to be ignored? The text in cur. edd. is somewhat involved, and the reading of Sh. Mek. is followed.

(6) And therefore to refer to it as a meal-offering prepared in a pan is mere empty words.

(7) Infra 102b.

(8) So Sh. Mek, omitting the words, ‘to be brought prepared on a griddle and he brought it prepared in a pan’.

(9) Infra 102b. Consequently where the expression ‘this’ was used it cannot be offered as anything else. Now in the present case it might be thought that the priest when taking the handful therefrom and referring to it as a meal-offering prepared in a pan, refers actually to its true character, so that his expressed intention cannot be said to be idle talk.

(10) But it is the vessel in which the meal is actually put that decides the kind of meal-offering it is to be; so that what is put on a griddle cannot be anything else, and the priest's reference to it as something else is idle talk.

(11) Sc. the burnt-offering.

(12) Sc. the sin-offering.

(13) And it is evident to all that to refer to this animal as a sin-offering is idle talk, for it is a male animal.

(14) V. Lev. IV, 22f.

(15) For the burnt-offering that he is slaughtering might reasonably be taken to be the goat of the sin-offering of a ruler, particularly since he refers to it as a sin-offering.

(16) Which every one knows must be a female animal. The fact therefore that he is dealing with a male animal indicates clearly that his words are meaningless.

(17) So that the sex of the animal is not noticeable.

(18) Which has no tail, i.e., its tail does not cover fully its hind quarters. like a sheep, and its sex is easily noticeable.

(19) Which must also be in the first year, for כבש is prescribed, and the term כבש, sheep, signifies a lamb not more than one year old, whereas the term איל, ram, signifies a sheep in its second year and not more than two years old (v. Parah I, 3). V. Num. VI, 12; and Lev. XIV, 12.

(20) Which must be a sheep in its second year; v. Lev. V, 25 and 15.

(21) The he-goat of the sin-offering of a ruler.
(22) Sc. the sheep for the guilt-offering.
(23) Sc. the he-goat; since goats are usually dark in colour (cf. Rashi and Tosaf.).
(24) For these must be of the flock.

Talmud - Mas. Menachoth 3b

and by the term ‘animal offerings’[1] he meant the majority of animal-offerings. Raba answered:[2] It is no contradiction: here he took the handful out of a meal-offering and referred to it as [another] meal-offering, there he took the handful out of a meal-offering and referred to it as an animal-offering. Where one meal-offering was referred to as [another] meal-offering [it discharges the owner's obligation, for it is written,] And this is the law of the meal-offering:[3] there is but one law for all meal-offerings;[4] where a meal-offering was referred to as an animal-offering, [it does not discharge the owner's obligation, for it is written.] ‘And this is the law of the meal-offering’; but it is not written ‘of the animal-offering’. But did not the Tanna [R. Simeon] say, ‘For the preparation thereof clearly indicates [the true nature of the offering]’?[5] — He meant thus: Although the expressed statement[6] clearly does not [correspond with the actual offering] and consequently it should be invalid,[7] [yet it is not so, for it is written,] ‘And this is the law of the meal-offering’: there is but one law for all meal-offerings.[4] Then what is the meaning of the statement, ‘But with animal-offerings it is not so’?[8] — It means, in spite of the fact that the same manner of slaughtering is for all offerings, it is written, ‘And this is the law of the meal-offering’, and not ‘of the animal-offering’.

In that case, if one slaughtered a sin-offering brought on account of [eating] forbidden fat under the name of a sin-offering brought on account of [eating] blood, or under the name of a sin-offering brought on account of idolatry, or under the name of the sinoffering of the Nazirite or of the leper, it should be valid and also discharge [the owner], for the Divine Law says, This is the law of the sin-offering:[9] there is but one law for all sin-offerings![10] According to R. Simeon it is indeed so; and[11] as for the view of the Rabbis,[12] Raba said, If one slaughtered a sin-offering brought on account of [eating] forbidden fat under the name of a sin-offering brought on account of [eating] blood, or under the name of a sin-offering brought on account of idolatry, it is valid;[13] if [he slaughtered it] under the name of the sin-offering of the Nazirite or of the leper it is invalid, because with each of these there is a burnt-offering too.[14] R. Aha the son of Raba reports that it is invalid in every case, for it is written, And he shall slaughter it for a sin-offering.[15] that is, for that [particular] sin.[16]

R. Ashi answered, It is no contradiction: Here he took the handful out of that which was prepared on a griddle and referred to it as prepared in a pan, there he took the handful out of a meal-offering prepared on a griddle and referred to it as a meal-offering prepared in a pan.[17] Where what is prepared on a griddle is referred to as prepared in a pan, [it discharges the owner's obligation, for] the wrongful intention is in respect of the vessel used, and a wrongful intention in respect of the vessel used does not invalidate the offering. Where a meal-offering prepared on a griddle is referred to as a meal-offering prepared in a pan, [it does not discharge the owner's obligation, for] the wrongful intention is in respect of a meal-offering, and it is thereby rendered invalid. But did not the Tanna [R. Simeon] say, ‘For the preparation thereof clearly indicates [the true nature of the offering]’?[18] — He meant thus: Although the expressed statement clearly does not [correspond with the actual offering], and consequently it should be invalid,[19] [yet it is not so, for] the intention is in respect of the vessel and any wrongful intention in respect of the vessel does not invalidate the offering.[20] Then what is the meaning of the statement, ‘But with animal-offerings it is not so’?[21] — It means, in spite of the fact that the same manner of slaughtering is for all offerings, and the same manner of receiving the blood and sprinkling it for all offerings, the wrongful intention is in respect of the slaughtering and it is thereby rendered invalid.

R. Aha the son of Raba asked R. Ashi, Then why does R. Simeon say [that it discharges the owner's obligation] where a dry [meal-offering] was referred to as one mingled [with oil]?[22] He replied, [The intention was] for anything that is mingled.[23] If so, when referring [to a burnt-offering] as a peace-offering it might also be taken to mean anything that brings about peace![24] — There is no comparison at all! There the actual sacrifice is termed shelamim [peace-offering],[25] as it is written, He that offereth the blood of the shelamim,[26] which means, he that sprinkles the blood of the peace-offering;[27] but here, is the meal-offering ever referred to simply as belulah [mingled]?[28] It is written, And every meal-offering, mingled with oil [belulah ba-shemen] or dry;[29] it is indeed referred to as ‘mingled with oil’, but never as ‘mingled’ by itself.[30]

Now they all[31] do not adopt Rabbah's answer, for [they say], on the contrary, an intention which is manifestly [absurd] the Divine Law declares capable of rendering an offering invalid.[32] They also do not adopt Raba's answer, for they do not accept his interpretation of the verse, ‘And this is the law of the meal-offering’.[33] And they do not all adopt R. Ashi's answer because of the difficulty raised by R. Aha the son of Raba.[34]

That which is clear to Rabbah in one way[35] and is clear to Raba in the opposite way,[36] is a matter of doubt to R. Hoshaia. For R. Hoshaia put the question (others say, R. Hoshaia put the question to R. Assi): Where one referred to a meal-offering as an animal-offering

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(1) V. supra 2b: ‘Since meal-offerings are not like animal offerings’. In some cases, however, as in the last case stated, the express variation of the sacrifice is so absurd as to be absolutely ignored; and therefore the sacrifice serves to discharge the obligation of the owner.

(2) To reconcile the contradiction cited between the statements of R. Simeon, v. supra p. 4.

(3) Lev. VI, 7.

(4) I.e., all meal-offerings are regarded as one form of offering, and therefore when dealing with one kind of meal-offering to refer to it as another is of no consequence.

(5) Accordingly a meal-offering referred to as an animal-offering should be valid since the reference is apparently absurd.

(6) In the case where the priest expressly refers to a meal-offering prepared on a griddle as one prepared in a pan.

(7) For the view now held is that where the expressed intention is absurd on the face of it it most certainly renders the offering invalid, for otherwise it may be said that it is permitted to vary offerings.

(8) This statement originally was taken to mean that any variation in an animal-offering affects the owner in that his obligation is not discharged. Now, however, according to the interpretation suggested, the contrast with meal-offerings must give the result that any variation in animal-offerings discharges the owner's obligation since, after all, there is but one manner of slaughtering and one manner of sprinkling for all offerings.

(9) Lev. VI, 18.

(10) Consequently any variation regarding the kind of sin-offering should be of no consequence; wherefore then have we learnt that the sin-offering is thereby rendered invalid (Zeb. opening Mishnah)?

(11) The text is extremely doubtful and the suggested emendations are various each with different interpretations. The translation follows the text as suggested by Sh. Mek. in the margin, which is supported by MS.M. V. also commentaries of Birkath Hazebah (B.H.) and Z. Kodoshim (Z.K.)

(12) Who do not adopt the interpretation of And this is the law of the sin-offering.

(13) Although it does not count for the fulfilment of the owner's obligation (Rashi). It is valid, however, because each offering mentioned bears the name and true characteristic of the sin-offering.

(14) And it might be said that a sin-offering offered under the name of a burnt-offering is also valid, which is certainly not the law. According to another reading, the word בהדייהו is omitted, and the translation would be: ‘these are (sc. have the characteristics of) burnt-offerings’; i.e., the sin-offering of the Nazirite and of the leper do not, like all other sin-offerings, bring about atonement, but only serve to render the person fit to partake of that which he was forbidden heretofore, namely, to permit the Nazirite to drink wine, and the leper to enter the Temple and to partake of sacred food.

(15) Ibid. IV, 33.

(16) Heb. אותה translated ‘it’ is often interpreted by the Rabbis as the demonstrative pronoun ‘that’; i.e., he shall slaughter the offering for that particular sin.

(17) V. supra p. 3, n. 4.

(18) Accordingly a meal-offering prepared on a griddle and referred to as a meal-offering prepared in a pan should also be valid since the expressed intention is apparently absurd.

(19) V. supra p. 10, n. 5.

(20) So in MS. M. and Sh. Mek.

(21) V. supra p. 10, n. 6.

(22) The variation here is clearly not in respect of the vessel in which the meal-offering is put, but rather in respect of the meal-offering itself, and therefore the wrongful intention should invalidate the offering.

(23) But not necessarily a meal-offering; such an intention therefore could in no wise affect the offering.

(24) And not necessarily a peace-offering; such an intention therefore should not invalidate the sacrifice, nevertheless it is admitted by R. Simeon that with regard to animal offerings a wrongful intention does invalidate the sacrifice.

(25) שלמים. And nowhere in the Bible has this word any other connotation.

(26) Lev. VII, 33.

(27) V. Zeb. 98b.

(28) בלולה.

(29) Lev. VII, 10. בלולה בשמן.

(30) So that to refer to a dry meal-offering as mingled does not necessarily mean that it is intended to be a meal-offering mingled with oil, for this would have been expressly stated; it is regarded as empty words and the offering is not affected thereby.

(31) The Gemara, having argued fully upon the suggested answers of Rabbah, Raba and R. Ashi in reconciling the conflicting views of R. Simeon, now proceeds to explain why these three Rabbis cannot agree upon one answer.

(32) For otherwise it may be said that one may vary the services of the sacrifices.

(33) Ibid. VI, 7. For if they accepted this interpretation, they would also have to accept the similar interpretation of the verse in connection with the sin-offering, and there is no evidence to show that R. Simeon ever held such a view with regard to the sin-offering, namely, that if one slaughtered a sin-offering brought on account of eating forbidden fat under the name of the sin-offering of the Nazarite, it discharges the owner's obligation.

(34) For the answer given is not quite satisfactory, since the term ‘belulah’ by itself generally refers to a meal-offering mingled with oil.

(35) That a statement which is manifestly absurd with regard to the offering, as when the actions of the officiating priest belie his expressed intention, does not render the offering invalid; v. supra p. 5.

(36) That a statement which is manifestly absurd does render the offering invalid; v. supra p. 9, n.7.

Talmud - Mas. Menachoth 4a

, what would be R. Simeon's view? Is this the reason for R. Simeon's opinion, namely, that a wrongful intention which is manifestly [absurd] does not invalidate the offering, and here also the intention is manifestly [absurd]; or is it this, namely, it is written. And this is the law of the meal-offering,[1] but it is not written ‘of the animal-offering’? — He replied, We cannot fathom R. Simeon's mind, He[2] would not give Rabbah's answer because of Abaye's objection to it;[3] nor Raba's answer because of the objection from the verse, And this is the law of the sin-offering;[4] nor R. Ashi's answer because of the objection raised by R. Aha the son of Raba.

WITH THE EXCEPTION OF THE SINNER'S MEAL-OFFERING AND THE MEAL-OFFERING OF JEALOUSY. It is indeed clear with regard to the sinner's meal-offering, for the Divine Law terms it a sin-offering, as it is written, He shall put no oil upon it, neither shall he put any frankincense thereon; for it is a sin-offering.[5] But whence do we know it with regard to the meal-offering of jealousy? From the following which a Tanna recited before R. Nahman: The surplus of the meal-offering of jealousy was used for [public] freewill-offerings.[6] Whereupon he [R. Nahman] said to him, Well spoken, indeed! For the expression ‘iniquity’ is used with regard to it as well as with regard to the sin-offering;[7] and as the surplus of the sin-offering goes for [public] freewill-offerings,[8] so the surplus of the meal-offering of jealousy goes for [public] freewill-offerings. And again like the sin-offering; as the sin-offering Is invalid if offered under any other name than its own, so the meal-offering of jealousy is also invalid if offered under any other name than its own. In that case the guilt-offering should also be invalid if offered under any name other than its own, since one can infer it from the sin-offering by means of the common expression ‘iniquity’![9] — We may infer ‘iniquity’ from ‘iniquity’, but we may not infer ‘iniquity’ from ‘his iniquity’. But what does this [slight variation] matter? Was it not taught in the School of R. Ishmael that in the verses, And the priest shall come again,[10] and And the priest shall come in,[10] ‘coming again’ and ‘coming in’ have the same import [for purposes of deduction]? Moreover, one can infer ‘his iniquity’ [stated in connection with the guilt-offering] from ‘his iniquity’ stated in connection with ‘the hearing of the voice of adjuration’, where it is written, if he do not utter it, then he shall bear his iniquity.[11] — Indeed the inference [from the sin-offering] relates only to the surplus [that it shall go] for freewill-offerings. Should you, however, retort, Surely an inference cannot be restricted to one point![12] [I answer that] the Divine Law has expressly stated ‘it’ with regard to the sin-offering, as it is written, And he shall slaughter it for a sin-offering;[13] ‘it’ [namely, the sin-offering, if slaughtered] under its own name is valid but under any name other than its own is invalid, whereas all other offerings are valid whether offered under their own or under any other name. Then whence do we know that the sinner's meal-offering and the meal-offering of jealousy are invalid [if offered] under any name other than their own? — Why is it [that this is so][14] regarding the sin-offering? Because there is written, It is [a sin-offering].[15] With these, too, there is written, ‘It is’.[16] Then, with the guilt-offering we also find ‘It is’?[17] — That is stated after the burning of the sacrificial parts; as it was taught: But with regard to the guilt-offering the expression ‘It is’ is stated after the burning of the sacrificial parts. And if the sacrificial parts thereof were not burnt at all, it is valid[18] . Then what is the purpose of the expression ‘It is’ [in the case of the guilt-offering]? — It is required for the teaching of R. Huna in the name of Rab, viz., If a guilt-offering that was assigned to pasture[19] was slaughtered without any specified purpose, it is valid as a burnt-offering. That is so only if it was assigned to pasture, but if it was not so assigned it is not [valid], for the verse reads. It is [a guilt-offering],[17] that is it retains its status.[20] Rab said, If [the priest] took the handful from the meal-offering of the ‘Omer[21] under any name other than its own it is invalid,[22] for it is brought in order to render permitted [the new harvest] and it has not done so.[23] In like manner you may say with regard to the guilt-offering of the Nazirite

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(1) Lev. VI, 7.

(2) R. Hoshaia who put this question.

(3) V. supra p. 4.

(4) Ibid. VI, 18; v. supra p. 11.

(5) Ibid. V, 11. And as the sin-offering if offered under any other name than its own is invalid (v. Zeb. 2a). So it is also with the sinner's meal-offering.

(6) I.e., if a sum of money was set aside for the purpose of acquiring barley for the meal-offering of jealousy, and if in the meantime barley fell in price, the surplus money was to be put into the special collecting boxes in the Temple (v. Shek. VI, 1, 5). The accumulated money was expended in the purchase of animals for sacrifices which were offered as public freewill-offerings whenever the altar was ‘vacant’.

(7) So according to the text of MS.M. and Sh. Mek. In connection with the sin-offering it is written (Ibid. X, 17). And he hath given it to you to bear the iniquity of the congregation; and in connection with the meal-offering of jealousy it is written (Num. V, 15). Bringing iniquity to remembrance.

(8) V. Tem. 23b.

(9) For in connection with the guilt-offering there is also used the expression ‘iniquity’: Yet is he guilty and shall bear his iniquity (Lev. V, 17). Nevertheless it is established law that a guilt-offering offered under any other name than its own is valid.

(10) Ibid. XIV, 39 and 44. The reference is to the treatment of a leprous spot in the walls of a house. (v. Sifra a.l.).

(11) Ibid. V, 1, where a sin-offering is prescribed for the atonement.

(12) Lit., ‘there is no inference by halves; i.e., an inference cannot be drawn in respect of one law and not in respect of another law.

(13) Ibid IV, 33.
(14) Sc. that if offered under any other name than its own it is invalid.
(15) Ibid. 24.
(16) For the sinner's meal-offering v. Lev. V, 11 and for the meal-offering of jealousy v. Num. V, 15.
(17) Lev. VII, 5: And the priest shall burn them upon the altar . . . it is a guilt-offering. Accordingly if the guilt-offering was offered under another name it should be invalid.
(18) V. Pes. 59b, and Zeb. 5b. As the expression ‘it is’ refers only to the burning of the sacrificial parts it follows that the other services are valid even though performed under another name. Moreover to suggest that the burning of the sacrificial parts is invalid if performed under another name is out of the question, for the offering is valid without it.
(19) This was the usual course whenever an animal having once been set aside for a guilt-offering was no longer required for that purpose. e.g., where the owner who was to bring this guilt-offering died, or where the animal was lost and another was used in its stead and was later found. This animal was assigned to the care of a shepherd and put out in the field to pasture until it became blemished, when it might be redeemed and the money used for freewill burnt-offerings (Rashi).
(20) Sc. that of a guilt-offering until it is expressly assigned to pasture when it is destined for a burnt-offering.
(21) V. Ibid. II, 14 and XXIII, 10ff. Only after the offering of the ‘Omer on the sixteenth day of Nisan was it permitted to eat of the new harvest.
(22) I.e., the handful may not be burnt upon the altar, nor may the rest be eaten by the priests.
(23) Since it was offered under another name.

Talmud - Mas. Menachoth 4b

and the guilt-offering of the leper, viz., if one slaughtered them under any name other than their own they are invalid, for they are brought in order to render [the person] fit[1] and they have not done so. [An objection was raised:] We have learnt: ALL MEAL-OFFERINGS FROM WHICH THE HANDFUL WAS TAKEN UNDER ANY OTHER NAME THAN THEIR OWN ARE VALID, SAVE THAT THEY DO NOT DISCHARGE THE OBLIGATION OF THE OWNER, WITH THE EXCEPTION OF THE SINNER'S MEAL-OFFERING AND THE MEAL-OFFERING OF JEALOUSY. Now if the [above ruling of Rab] were correct, then it should have also stated ‘with the exception of the meal-offering of the ‘Omer’! — It only states those [meal-offerings] which are brought by an individual and not that which is brought by the whole community;[2] furthermore, it only states those which are brought by themselves and not that which accompanies an animal-offering;[2] furthermore, it only states those which are brought at no fixed time and not that which is brought at a fixed time.[2]

‘In like manner you may say with regard to the guilt-offering of the Nazirite and the guilt-offering of the leper, viz., if one slaughtered them under any name other than their own they are invalid, for they are brought in order to render [the person] fit and they have not done so’. [An objection was raised:] We have learnt: All animal-offerings that were slaughtered under any name other than their own are valid, save that they do not discharge the obligation of the owner, with the exception of the passover-offering and the sin-offering.[3] Now if [the above ruling of Rab] were correct, then it should have also stated with the exception of the guilt-offering of the Nazirite and the guilt-offering of the leper’, for they are brought in order to render [the person] fit and they have not done so! — Since there is also the guilt-offering for robbery and the guilt-offering for sacrilege which are brought for atonement,[4] [the Tanna] therefore could not have stated it absolutely.[5] Why is it that the guilt-offering of the Nazirite and the guilt-offering of the leper [if slaughtered under another name are invalid]? It is, is it not, because they are brought in order to render [the person] fit and they have not done so? Then with the other [guilt-offerings] too, it might be said, they are brought to make atonement and they have not done so! — R. Jeremiah answered, It is because we find that Scripture distinguishes between sacrifices that bring about atonement and those that render [the person] fit; those that bring about atonement are sometimes brought after death;[6] whereas those that render [the person] fit are never brought after death. As we have learnt:[7] If a woman had brought her sin-offering and then died, her heirs must bring her burnt-offering; but if she had first brought her burnt-offering and then died, her heirs need not bring her sin-offering.[8] R. Judah the son of R. Simeon b. Pazzi demurred: But are not sacrifices that render the person fit also brought after death? Surely we have learnt: If a man set apart money for his Nazirite offerings,[9] it is forbidden to make any other use of it, yet there would be no infringement of the law of sacrilege, since it may all be used for the purchase of peace-offerings.[10] If he died and the money was not yet apportioned [for the respective offerings], it all goes for freewill-offerings;[11] if it was apportioned, the price of the sin-offering must be cast into the Dead Sea[12] — no use may be made of it; yet [if one did] there would be no infringement of the law of sacrilege;[13] with the price of the burnt-offering a burnt-offering must be brought and the law of sacrilege applies to it; with the price of the peace-offering a peace-offering must be brought which must be eaten the same day[14] , but it does not require the Bread-offering.[15] Now are not the burnt-offering and the peace-offering of the Nazirite brought in order to render him fit and yet are brought after death? — Said R. Papa. This is what R. Jeremiah meant: We do not find an absolute offering,[16] serving to render the person fit, that can be brought after death, for as regards the Nazirite, the offering which serves to render him fit is not absolute,

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(1) The guilt-offering of a Nazirite, which was brought if during the period of his vow the Nazirite contracted uncleanness, rendered him fit to resume his Nazirite mode of life; cf. Num. VI, 12. The guilt-offering of the leper rendered him fit to partake of consecrated food.

(2) As is the case with the meal-offering of the ‘Omer; v. Lev. XXIII, 12.

(3) Which are invalid if slaughtered under any other name; Zeb. 2a.

(4) And from the above rule of Rab it is to be inferred that whatsoever is brought for atonement, even if offered under another name, is valid; v. infra.

(5) I.e., the Tanna could not have stated absolutely in the Mishnah ‘with the exception of the passover-offering, the sin-offering and the guilt-offering’, for the rule in the latter case is not general but varies according to the kind of guilt-offering.

(6) Sc. of the person for whom the atonement was to be made.

(7) Kin. II, 5; Kid. 13b.

(8) A woman after childbirth was enjoined to bring these two offerings: the burnt-offering for atonement, and the sin-offering in order to render her fit to partake of consecrated food; cf. Lev. XII, 6. It is clear from this Mishnah that only the sacrifice which brings atonement is brought after death.

(9) Viz., the burnt-offering, the sin-offering and the peace-offering; cf. Num. VI, 14.

(10) And peace-offerings are not subject to the law of sacrilege (except the sacrificial portions thereof after the sprinkling of the blood) since they are not regarded as consecrated property.

(11) This is a traditional ruling, referred to as a halachah given to Moses from Sinai, v. Nazir 25a.

(12) I.e., it must be disposed of so that no benefit whatsoever be derived from it by anybody, this being in accordance with the established law that a sin-offering whose owner had died must be left to die.

(13) Since the money is to be destroyed it cannot be said to be consecrated property and therefore cannot be subject to the law of sacrilege; cf. Me'il, 3a.

(14) I.e., not as the ordinary peace-offering which may be eaten during two days and one night, but as the Nazirite peace-offering which is limited to one day.

(15) Cf. Num. VI, 19. Since the Nazirite is dead the requirement regarding the Bread-offering, And he shall put them (sc. the loaves) upon the hands of the Nazirite, cannot be fulfilled; Me'il, 11a. Nazir 24b.

(16) I.e., an offering which is indispensable in every one of its parts and rites.

Talmud - Mas. Menachoth 5a

for a Master has said, If [the Nazirite] shaved [his head] after [the sacrifice of] any one of the three offerings, he has fulfilled his obligation.[1]

An objection was raised: If the guilt-offering of a leper was slaughtered under any name other than its own, or if the blood thereof was not put upon the thumb and great toe[2] [of the one to be cleansed], it may nevertheless be offered upon the altar, and it requires the drink-offerings;[3] but another guilt-offering is necessary in order to render him fit. This is indeed a refutation of Rab's view.[4]

R. Simeon b. Lakish said, If [the priest] took the handful from the meal-offering of the ‘Omer under any name other than its own, it is valid,[5] but the rest of it may not be eaten until another ‘Omer meal-offering has been brought and rendered it permitted. But surely, if the rest of it may not be eaten, how may it [the handful] be offered? It is written, From the liquor of Israel,[6] that is, from that which is permitted to Israel! — R. Adda b. Ahabah said, Resh Lakish is of the opinion that the prohibition of ‘out of time’ does not apply to the same day.[7]

R. Adda the son of R. Isaac raised an objection: Some conditions apply to bird-offerings which do not apply to meal-offerings, and some conditions apply to meal-offerings which do not apply to bird-offerings. Some conditions apply to bird-offerings: a bird-offering may be brought as a voluntary offering by two people jointly,[8] it is brought by those that lack atonement,[9] and an exception to the general prohibition is made for consecrated birds;[10] these, however, do not apply to meal-offerings. And some conditions apply to meal-offerings: a meal-offering requires a vessel,[11] it requires waving and bringing nigh,[12] it may be the offering of the community or of the individual;[13] these, however, do not apply to bird-offerings. Now if [the aforesaid view] were correct,[14] then with regard to meal-offerings it can also be said that an exception to the general prohibition was made for that which is consecrated, namely, in the case of the meal-offering of the ‘Omer![15] — Since the prohibition of ‘out of time’ does not apply to the same day, it is not regarded as a prohibition at all.[16]

R. Shesheth raised an objection: If the application of the oil[17] was performed before the application of the blood, he [the priest] must fill up the log of oil and must again apply the oil after applying the blood. If [the oil] was applied on the thumb and great toe before it was sprinkled seven times before the Lord, he must fill up the log of oil and must again apply it on the thumb and great toe after the oil has been sprinkled seven times. Now if you are right in saying that the prohibition of ‘out of time’ does not apply to the same day, why must [the priest] do it again? After all, what is done is done![18] — R. Papa answered, It is different with the rites of the leper since the expression ‘shall be’ is written with regard to them, as it is written, This shall be the law of the leper;[19] ‘shall be’ implies that it shall always be so.[20] R. Papa raised an objection: If his[21] sin-offering was [slaughtered] before his guilt-offering, one should not be appointed to keep stirring the blood[22] [until the guilt-offering had been brought], but the appearance [of the flesh] must be allowed to pass away and it must be taken away to the place of burning![23] But why does R. Papa raise this objection? Did not R. Papa say that the law is different with regard to the rites of a leper, since the expression ‘shall be’ is used with regard to them? — R. Papa had felt this difficulty: perhaps this law only affected what was a ‘service’, but slaughtering is no ‘service’;[24] now if [it is correct to say that] the prohibition of ‘out of time’ does not apply to the same day, then some one might keep stirring the blood [of the sin-offering] whilst the guilt-offering is being offered and then the sin-offering can be offered! — Rather said R. Papa, This is the reason for Resh Lakish's view: he is of the opinion that the daybreak[25] [of the sixteenth day of Nisan] renders [the new harvest] permitted. For both R. Johanan and Resh Lakish said, Even when the Temple was in existence

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(1) Nazir 45a.

(2) Cf. Lev. XIV, 17.

(3) V. infra 90b.

(4) For according to Rab whatsoever is brought to render the person fit, if offered under any other name than its own, is invalid, i.e., one may not proceed to burn it upon the altar.

(5) I. e., it may be offered upon the altar.

(6) Ezek. XLV, 15; referring especially to drink-offerings, but the Rabbis have inferred from this expression that whatsoever is forbidden to Israel may not be offered upon the altar.

(7) The prohibition of ‘out of time’, i.e., that the time has not yet arrived when the matter may be offered upon the altar, does not apply where this same matter will later on this very day be permitted to all Israel. Here, after the offering of another ‘Omer, the new harvest will be permitted to all.

(8) But a meal-offering cannot be brought by two persons jointly, for the expression ‘a soul’ (Lev. II, 1) i.e., an individual, is used in connection with it; v. infra 104b. In cur. edd. this reason is, expressly stated in the text.

(9) I.e., those who had suffered uncleanness, viz., a man or woman that had an issue, a woman after childbirth, and a leper, and who had done all that was necessary for their purification except to present their offering. The offering in each case was a bird-offering.

(10) Generally to nip off the head of a bird would render the whole bird nebelah, I.e. carrion, and forbidden to be eaten. Nevertheless this was the prescribed method for ‘killing bird-offerings, and the flesh was eaten by the priests.

(11) I.e., the handful taken out by the priest had to be put into a sacred vessel, whereas the nipping of the head of a bird had to be done with the priest's finger-nail.

(12) V. infra 60a.

(13) The meal-offering of the ‘Omer was brought on behalf of the whole community; bird-offerings, however, were brought only by individuals and never by the community.

(14) That if the meal-offering of the ‘Omer was offered under another name, the offering may be proceeded with, although the new harvest was still under the prohibition.

(15) For it is offered upon the altar although the new harvest is still forbidden. Consequently meal-offerings are similar to bird-offerings in that in each case there is an exception to a general prohibition.

(16) Hence one cannot speak of the offering of the ‘Omer, even though it was offered under another name, as an exception to a general prohibition, as there is really no prohibition at all.

(17) In the purification rites of a leper the following duties, inter alia, had to be strictly observed: first, the officiating priest must apply the blood of the guilt-offering on the tip of the right ear, the thumb of the right hand and the great toe of the right foot of the one to be cleansed; secondly, from the log (v. Glos.) of oil the priest must sprinkle seven times before the Lord; thirdly, he must apply oil on those parts on which the blood was previously applied. V. Lev. XIV, 14-19.

(18) For the priority of services is not vital and the fact that one service was performed out of its time should not matter in the least.

(19) Ibid. XIV, 2.

(20) Without any variation in the routine.

(21) Sc. the leper's.

(22) That it should not become congealed.

(23) I.e., the flesh of the sin-offering must be allowed to remain overnight, when the freshness would be gone, and then burnt. The fact that it must be burnt proves that whatever is offered ‘out of time’ is invalid, thus in conflict with Resh Lakish's view.

(24) Since it does not require the services of a priest but a layman may slaughter the sacrifice. V. Tosaf. s.v. שחיטה 1.

(25) Lit., ‘when the eastern sky has lit up’.

Talmud - Mas. Menachoth 5b

it was the daybreak that rendered [the new harvest] permitted.[1]

This view of Resh Lakish[2] was not expressly stated but was inferred from the following: We have learnt:[3] One may not offer[4] meal-offerings, first-fruits, or meal-offerings that accompany animal-offerings, before the ‘Omer;[5] and if one did so it is invalid. Neither may one offer these before the Two Loaves;[6] but if one did so it is valid. And R. Isaac said in the name of Resh Lakish. This rule[7] applies only [if the offering was brought] on the fourteenth or fifteenth day [of Nisan], but if brought on the sixteenth day[8] it would be valid. It is thus clear that he is of the opinion that the daybreak [of the sixteenth day of Nisan] renders [the new harvest] permitted.

Raba said, If [the priest] took the handful from the meal-offering of the ‘Omer under any name other than its own, it is valid, and the rest of it may be eaten; moreover there is no need of another ‘Omer meal-offering [to be brought in order] to render [the new harvest] permitted. For [Raba is of the opinion that] a wrongful intention does not affect the offering unless expressed by one fit for service, in respect of what is fit for service, and in the place that is fit for service. ‘By one fit for service’ — this excludes a priest with a physical-blemish; ‘in respect of what is fit for service’ — this excludes the ‘Omer meal-offering which is not fit for any other offering, for it is exceptional;[9] ‘and in the place that is fit for service — this excludes an altar which has become chipped.[10]

Our Rabbis taught: When it says in the next verse Of the herd[11] — which is unnecessary — it does so only to exclude a trefah[12] animal. But surely this can be arrived at by an a fortiori argument:[13] if a blemished animal which is permitted to man is forbidden to the Most High,[14] how much more is a trefah animal which is forbidden to man forbidden to the Most High! The fat and the blood [of the animal], however, can prove otherwise; for these are forbidden to man yet are permitted to the Most High. [And if you retort,] This is so of the fat and the blood since they emanate from that which is permitted,[15] but will you say the same of a trefah animal which is wholly forbidden? [I reply,] The rite of nipping off [the head of a bird-offering] which [would render the bird] wholly forbidden [to man] could prove otherwise: for it is forbidden to man yet is permitted to the Most High. [But you might retort,] This is so of the nipping since it is only rendered forbidden [to man] by this act which renders it consecrated;[16] the same, however, cannot be said of a trefah animal for it is not rendered forbidden by any act which renders it consecrated.[17] And if you reply to this, then [I say that] when it reads in the next verse ‘Of the herd’ — which is unnecessary-it does so only to exclude the trefah animal.

What was meant by ‘If you reply to this’?[18] — Rab said, Because one could reply that the ‘Omer meal-offering can prove otherwise: for it is forbidden to man yet permitted to the Most High. But this is so of the ‘Omer meal-offering as it renders the new produce permitted![19] — The [‘Omer meal-offering of the] Sabbatical year was meant.[20] But that surely renders the aftergrowth permitted? — [It is indeed the ‘Omer meal-offering of] the Sabbatical year [that is meant], but the view is in accordance with that of R. Akiba who said that the aftergrowth is forbidden in the Sabbatical year.[21] R. Aha b. Abba said to R. Ashi, Even according to R. Akiba's view one could refute the argument thus: This is so of the ‘Omer meal-offering since it renders permitted the new produce [of the Sabbatical year grown] outside the Land [of Israel][22] And even according to him who maintains that outside the Land [of Israel] the new produce is not forbidden by the law of the Torah, [one can refute the argument thus: This is so of the ‘Omer meal-offering,] since it serves to raise the prohibition that lies upon it.[23] R. Aha of Difti thereupon said to Rabina, If so, should not a trefah animal also be permitted to be offered as a sacrifice and so it would raise the prohibition [of trefah] that lies upon it?[24] -One could, however, refute the argument thus: This is so of the ‘Omer meal-offering since there is an express command that it shall be so.[25]

Resh Lakish said, One could reply that the case of the compounder of the incense can prove otherwise: for he is forbidden to man yet permitted to the Most High.[26] But the compounder is a person![27] — Say, rather, The compound forming the incense can prove otherwise: for it is forbidden to man[28] yet permitted to the Most High[28] But this is so of the compound forming the incense since there is an express command that it shall be so![29] Mar the son of Rabina said, One could reply that the Sabbath can prove otherwise: for it is forbidden to man yet permitted to the Most High.[30] But this is so of the Sabbath since an exception to the general prohibition is allowed to the layman in the case of circumcision![31] — Surely circumcision is not for the sake of the layman. It is a precept [of the Law]! — One could therefore say, This is so of the Sabbath since there is an express command that it shall be so![32]

R. Adda b. Abba said, One could reply that a garment of diverse kinds [of stuff][33] can prove otherwise: for it is forbidden to the layman yet permitted to the Most High.[34] But this is so of diverse kinds since an exception to the general prohibition is allowed to the layman in the case of the zizith![35] — Surely the zizith is not for the sake of the layman, it is a precept [of the Law]! — One could therefore say,

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(1) V. infra 68a. The restriction against partaking of the new harvest is lifted at the dawn of the sixteenth day of Nisan, before the offering of the ‘Omer. Consequently the handful, even though taken under another name, may be burnt upon the altar, for the new harvest is already permitted to all.

(2) That the daybreak of the sixteenth day of Nisan renders the new harvest permitted, even before the offering of the ‘Omer.

(3) Infra 68b.

(4) Of the new harvest.

(5) For only that which is permitted to Israel may be offered upon the altar; cf. Ezek. XLV, 15, and supra p. 20.

(6) Which were offered on Shabuoth, the Feast of Weeks. These are referred to as ‘a new meal-offering’. I.e., the first (wheaten) meal-offering of the new harvest; v. Lev. XXIII, 16, 17.

(7) That whatsoever is offered before the ‘Omer is invalid.

(8) Although the ‘Omer meal-offering had not yet been brought.

(9) In that it was brought of barley (and of bruised grain in contradistinction from the meal-offering of jealousy which was of barley meal) whereas all other meal-offerings consisted of wheat.

(10) Cf. Ex. XX, 21: And thou shalt slaughter upon it, implying that the altar shall be whole at the time of the service and not chipped. V. Zeb. 59a, and Hul. 18a.

(11) Lev. I, 3. In the preceding verse 2, the particle ‘of’ that precedes each of the classes of animals mentioned is utilized to exclude from sacrifices such animals as were used for irreligious or immoral purposes.

(12) V. Glos.

(13) And no verse therefore is required to teach that a trefah animal is unfit for a sacrifice.

(14) Sc. to be offered upon the altar.

(15) I.e., the whole of the animal is permitted to be eaten except for these parts.

(16) Sc. the nipping. It is with the rite of nipping that the bird becomes consecrated and so forbidden to a layman; before that it was permitted.

(17) For without consecration a trefah animal is forbidden to man. And so no verse is really necessary to exclude a trefah animal from being offered as a sacrifice.

(18) What reasoning could be adduced to refute the foregoing argument derived from the rite of nipping that it was found necessary to resort to the verse to exclude a trefah animal?

(19) Whereas a trefah animal does not render anything permitted.

(20) When there is no new produce to be rendered permitted, for in this year the fields were to rest and lie fallow (cf. Ex. XXIII, 10, 11). Hence the ‘Omer meal-offering of this year is on the same footing as any trefah animal in that neither can render anything else permitted; consequently by analogy with the ‘Omer meal-offering a trefah animal should be permitted as a sacrifice, and therefore the verse is necessary to exclude the trefah animal.

(21) V. Pes. 51b. The ‘Omer of this year therefore does not render anything permitted and is on all fours with a trefah animal.

(22) And so it is not on a par with a trefah animal which renders naught permitted.

(23) Sc. the prohibition of the new produce. If in the Sabbatical year a man were to eat of the remnants of the ‘Omer meal-offering, he would not be liable for eating of the new produce, for this prohibition has been raised by the offering of the ‘Omer, but would only incur guilt for eating of the produce of the Sabbatical year. V., however, Tosaf. s.v. שכן.

(24) And whosoever ate thereof would not be liable for eating what was trefah.

(25) The ‘Omer meal-offering must be brought from the new produce of the year, for that is the very essence of the precept; on the other hand, it is not essential that only a trefah animal shall be offered, any other animal would serve just as well.

(26) Cf. Ex. XXX, 34ff. Likewise it would be said that a trefah animal, though forbidden to man, is permitted to the Most High. Hence a verse is necessary to exclude a trefah animal.

(27) And how can it be said that he is permitted to the Most High?

(28) Cf. ibid. 37.

(29) But there is no express command to offer a trefah animal!
(30) I.e., work on the Sabbath is forbidden to the layman, yet it is permitted to offer thereon the prescribed sacrifices.
(31) Which may be performed on the Sabbath. On the other hand there are no exceptions to the general prohibition of trefah!
(32) For the Sabbath sacrifices can only be offered on the Sabbath.
(33) I.e., a texture blended of wool and linen; v. Lev. XIX, 19; Deut. XXII, 11.
(34) The High Priest whilst officiating in the Temple wore a girdle that was blended of wool and linen.
(35) Sc. the fringes; cf. Num. XV, 38ff; Deut. XXII, 12. It is permitted to attach fringes of wool to a linen garment, for the prohibition of diverse kinds of stuff does not apply to the precept of zizith.

Talmud - Mas. Menachoth 6a

This is so of the law of diverse kinds since there is an express command that it shall be so.[1] R. Shisha the son of R. Idi said, One could reply, Let the argument revolve and the inference be made from what is common to both. Thus, the argument, ‘This is so of the nipping since it is only rendered forbidden to man by this act which renders it consecrated’,[2] can be refuted by the argument, ‘The fat and the blood can prove otherwise’. And the argument, ‘This is so of the fat and the blood since they emanate from what is permitted’,[2] can be refuted by the argument, ‘The rite of nipping can prove otherwise’. And so the argument goes round; the characteristic feature of this case is not that of the other, and the characteristic feature of the other is not that of this case; but what they have in common is that each is forbidden to man yet permitted to the Most High. So I might have inferred that trefah, too, although it is forbidden to man, is permitted to the Most High.[3] But they have this also in common, have they not, that in each case there is an express command that it shall be so?[4] — R. Ashi therefore said, One could reply that the first proposition of the argument is unsound. Whence did you infer it[5] at the outset? From the case of a blemished animal. But the case of a blemish is different, since in that case [the priest] who offers [the sacrifice] is on the same footing as the [animal] offered.[6] Whereupon R. Aha the Elder said to R. Ashi, That which was extracted from the side of the mother's womb can prove otherwise: for in that case [the priest] who offers [the sacrifice] is not on the same footing as the [animal] offered,[7] nevertheless such an animal is permitted to man and forbidden to the Most High.[8] [And if the objection is raised:] But this is so only of that which was extracted from the side of the mother's womb since it is not holy as a firstling;[9] [I reply,] The case of an animal with a physical blemish can prove otherwise.[10] [And if this objection is raised:] But this is so only in the case of a blemish since in that respect [the priest] who offers [the sacrifice] is on the same footing as the [animal] offered, [I reply,] That which was extracted from the side of the mother's womb can prove otherwise. And so the argument goes round; the characteristic feature of this case is not that of the other, and the characteristic feature of the other is not that of this case; but what they have in common is that each is permitted to man yet forbidden to the Most High, then surely trefah, which is forbidden to man, is all the more forbidden to the Most High. But the others have this also in common, that in each case there is no exception to the general [prohibition]; will you say the same of the case of trefah seeing that it admits of an exception to the general [prohibition]?[11] Thereupon R. Aha the son of Raba said to R. Ashi, What is meant by saying that trefah admits of an exception to the general [prohibition]? Should you say that it refers to the rite of nipping off the head of the burnt-offering of a bird, [in which case the bird, although rendered trefah thereby,] is nevertheless permitted [to be offered] to the Most High; but this is also the case with physical blemishes, for a bird with a physical blemish is certainly permitted to be offered to the Most High, [for it has been said,][12] The unblemished state and the male sex are prerequisites only to sacrifices of cattle but not of birds! You would say then that it refers to the rite of nipping off the head of a sin-offering of a bird, [in which case the bird is] permitted to [be eaten by] priests; but surely the priests receive it from the table of the Most High![13] — Indeed the argument could be refuted thus, The others[14] have this further in common, for in each case the defect thereof is perceptible;[15] will you then say the same of the case of trefah seeing that its defect is not perceptible? The verse is therefore necessary [to exclude trefah].

And is the case of trefah[16] derived from here?[17] Surely it is derived from the verse, From the liquor of Israel,[18] that is, from that which is permitted to Israel; or from the verse, Whatsoever passeth under the rod,[19] which excludes a trefah animal since it cannot pass under![20] — All [three verses] are necessary; for from the verse, ‘From the liquor of Israel’, I should have excluded only those that were at no time fit[21] [for a sacrifice], just as ‘orlah[22] or diverse kinds in the vineyard;[23] but where it was at one time fit I would say that it is permitted [to be offered]. Scripture therefore states, ‘Whatsoever passeth under the rod’. And had Scripture only stated the verse, ‘Whatsoever passeth under the rod’, I should have excluded only those animals that were first rendered trefah and subsequently consecrated, as in the case of the Cattle Tithe;[24] but where it was consecrated first and subsequently it became trefah, since at the time when it was consecrated it was fit [for a sacrifice], I would say that it is permitted [to be offered], therefore all [three verses] are necessary. MISHNAH. WHETHER IT IS A SINNER'S MEAL-OFFERING OR ANY OTHER MEAL-OFFERING, IF A NON-PRIEST, OR [A PRIEST] THAT WAS IN MOURNING.[25] OR HAD IMMERSED HIMSELF DURING THE DAY.[26] OR WAS NOT WEARING THE [OFFICIAL PRIESTLY] ROBES,[27] OR WHOSE ATONEMENT WAS NOT YET COMPLETE.[28] OR THAT HAD NOT WASHED HIS HANDS AND FEET,[29] OR THAT WAS UNCIRCUMCISED[30] OR UNCLEAN, OR THAT MINISTERED SITTING,[31] OR STANDING UPON VESSELS OR UPON A BEAST OR UPON ANOTHER'S FEET,[32] HAD TAKEN THE HANDFUL THEREFROM IT IS INVALID. IF [A PRIEST] REMOVED THE HANDFUL WITH HIS LEFT HAND IT IS INVALID. BEN BATHYRA SAYS, HE MUST PUT [THE HANDFUL] BACK AND TAKE IT OUT AGAIN WITH THE RIGHT HAND. IF ON TAKING THE HANDFUL THERE CAME INTO HIS HAND A SMALL STONE OR A GRAIN OF SALT OR A DROP OF FRANKINCENSE IT IS INVALID;[33] FOR THEY HAVE RULED: IF THE HANDFUL WAS TOO MUCH OR TOO LITTLE IT IS INVALID. WHAT IS MEANT BY TOO MUCH? IF HE TOOK AN OVERFLOWING HANDFUL. AND ‘TOO LITTLE’? IF HE TOOK THE HANDFUL WITH THE TIPS OF HIS FINGERS ONLY.[34]

GEMARA. Why does the Mishnah state: ‘WHETHER IT IS A SINNER'S MEAL-OFFERING OR ANY OTHER MEAL-OFFERING’? Surely it should state, ‘Every meal-offering from which the handful was taken by a non-priest or a priest that was in mourning [etc.]’. — It was necessary [to state it so] according to R. Simeon's view. For it was taught: R. Simeon said, By right the sinner's meal-offering should require oil and frankincense, so that the sinner should have no advantage;[35] why then does it not require them? In order that his offering be not sumptuous. Also, by right an ordinary sin-offering[36] should require drink-offerings.[37]

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(1) That the High Priest's girdle shall be of wool and linen; cf. Ex. XXVIII.

(2) V. supra p. 24, nn. 1 and 2.

(3) Consequently the verse of Lev. I, 3 is necessary in order to exclude the trefah animal from sacrifice.

(4) But this is not the case with trefah; so that it would not have been possible to infer the trefah animal from the common features of the other two (sc. the fat and the blood and the rite of nipping), and therefore the verse is rendered superfluous.

(5) That a trefah animal might not be offered upon the altar.

(6) But this is not so with trefah, for a priest with a physical blemish is disqualified from offering sacrifices (cf Lev. XXI, 17ff). whereas a priest who is trefah, i.e., who suffers from a serious organic disease, is still qualified to officiate in the Temple; cf. Bek. 45b.

(7) A priest who at birth was extracted by a Caesarean operation from his mother's womb is considered fit to serve in the Temple, whereas an animal so extracted from the dam's womb is not fit for a sacrifice. V. Lev. XXII, 27 and Sifra thereon.

(8) And a trefah animal would a fortiori be forbidden to the Most High, since it is even forbidden to man; hence the verse excluding trefah is superfluous.

(9) Whereas an animal that was born a trefah is nevertheless holy as a firstling.

(10) For an animal that was born with a physical blemish, although holy as a firstling, is nevertheless not permitted to the Most High. The same therefore would be said of trefah, that although it is holy as a firstling it is forbidden to be offered.

(11) Accordingly it could be held that a trefah animal may be offered as a sacrifice.

(12) V. Kid. 24b.

(13) And with regard to the Most High it has been shown that there is also an exception to the general prohibition of physical blemishes in the case of birds.

(14) Sc. the animal that is blemished and that which has been extracted from the womb.

(15) For only an animal with a blemish exposed to the full view is declared to be unfit for sacrifice. Likewise an animal extracted from the side of its dam would be regarded as an object of curiosity, and so its peculiarity would soon be known to all. Trefah, on the other hand, is not always a perceptible taint, for it may be that only an internal organ has become affected.

(16) That it is not fit to be offered as a sacrifice.

(17) I.e., from Lev. I, 3; v. supra p. 23.

(18) Ezek. XLV, 15; v. supra p. 20.

(19) Lev. XXVII, 32, with reference to the Cattle Tithe, but the rule that is here derived is applied to all sacrifices; cf. Bek. 57a.

(20) A trefah animal, inasmuch as it cannot continue to live for more than twelve months (cf. Hul. 42a), is not deemed to possess vitality, and therefore cannot be said to pass of its own volition under the rod. Cf. however Rashi on Hul 136b where the suggestion is made that a trefah animal, e.g., one whose hind-legs were cut off above the knee-joint (v. l.c. 76a). on account of its defect cannot physically pass under the rod.

(21) E.g., an animal that was born trefah. According to Rabbinic interpretation the verse in Ezek. contains an allusion to ‘orlah and to diverse kinds in the vineyard, and these were at no time ever allowed for any purpose.

(22) Lit., ‘uncircumcised’. The fruit of newly-planted trees is during the first three years forbidden for all purposes. Cf. Lev. XIX, 23.

(23) V. Deut. XXII, 9.

(24) For the verse merely implies that a trefah animal, since it cannot pass under the rod, is not subject to the law of Cattle Tithe; but an animal consecrated as the tithe always remains consecrated even though it subsequently becomes trefah.

(25) Heb. אונן, a mourner while his dead relative is awaiting burial. Such a priest is forbidden to minister in the Temple, cf. Zeb. 16a.

(26) Heb. טבול יום; one who having suffered uncleanness has taken the ritual bath during the day but must now await sunset before he is deemed fully clean. He may not enter the Temple or minister therein.

(27) V. Zeb. 17b.

(28) One who, having suffered the uncleanness of leprosy or of an issue, has performed all the rites of purification but is not deemed fully clean until he has brought an offering as an atonement. V. Zeb. 19b.

(29) Every priest was obliged to wash his hands and feet from the Temple laver daily before taking part in the service. Cf. Ex. XXX, 19, 20.

(30) Whose brothers had died by reason of their circumcision.

(31) For it is written, To stand to minister (Deut. XVIII, 5.).

(32) The priest must stand on the floor and nothing should interpose between his feet and the floor of the Temple. V. Zeb. 24a.

(33) For the handful is not quite full since there is lacking flour to the extent of the volume of the stone or other substance that came up with it.

(34) Instead of extending his fingers over the palm of his hand, v. infra 11a.

(35) By being spared the cost of these ingredients.

(36) Lit., ‘a sin-offering (to be brought on account) of (eating forbidden) fat’. This is the usual example of a transgression involving a sin-offering.

(37) V. Num. XV, where are prescribed the quantities of flour and oil for the meal-offering and wine for the drink-offering which must accompany the burnt-offering and the peace-offering.

Talmud - Mas. Menachoth 6b

so that the sinner should have no advantage; why then are they not required? In order that his offering be not sumptuous. Now I might have thought that, since R. Simeon laid down the principle ‘So that his offering be not sumptuous’, it should be valid even where an unfit person took out the handful, we are therefore informed [that even according to R. Simeon it is invalid]. If so, there[1] too the Mishnah should have stated: ‘Whether it is an ordinary sin-offering or any other offering, if a non-priest or a priest that was in mourning received the blood . . . [it is invalid]’, and we would have explained that it was necessary [to be so stated] according to R. Simeon's view. But it is clear that the expression ‘all’ stated in that [Mishnah], since it is not followed by the term ‘except’, includes every offering;[2] then in our [Mishnah] too, had it stated ‘all’, inasmuch as it is not followed by the term except’, it would have included every offering![3] — It was indeed necessary [to be so stated]; for I might have thought that since we had established that the first Mishnah was not in accordance with the view of R. Simeon,[4] the second Mishnah also was not in accordance with the view of R. Simeon, we are therefore informed [that even according to R. Simeon it is invalid].

Rab said, If a non-priest took the handful [from the meal-offering], he should put it back again [and it is valid]. But have we not learnt, IT IS INVALID? — ‘IT IS INVALID means, it is invalid so long as he had not put it back again. If so, is not this identical with Ben Bathyra's view? — In the case where the handful is still here the Rabbis do not differ with Ben Bathyra at all;[5] they differ only where the handful is no longer here, the Rabbis maintaining that one may not bring other flour from one's house to make up [the tenth],[6] while Ben Bathyra maintains that one may bring other flour from one's house to make up [the tenth].[7] But then, how can Ben Bathyra say, HE MUST PUT THE HANDFUL BACK AND TAKE IT OUT AGAIN WITH THE RIGHT HAND?[8] He surely should have said, He should bring other flour from his house to make up [the tenth] and then take out the handful with the right hand! — Rather we must say that Rab said so according to Ben Bathyra.[9] But is not this obvious? — [No, for] one might have thought that Ben Bathyra declared it valid only [in the case where the handful was taken out] with the left hand, but not where it was taken out by any of the persons that are unfit;[10] he [Rab] therefore teaches us [that according to Ben Bathyra it is valid in all the cases]. But why [would the offering be valid where the handful was taken out] with the left hand? It is, is it not, because we find it[11] allowed in the service of the Day of Atonement? Then in the case of a non-priest too, we find that he was allowed to perform a service, namely, the slaughtering! — The slaughtering is not regarded as a service.[12] But is it not? Has not R. Zera said in the name of Rab: If a non-priest slaughtered the Red Cow it is invalid; and Rab had explained the reason for it, namely, because the expressions ‘Eleazar’ and ‘statute’ are used in connection with it?[13] — The case of the Red Cow is different, for it is in the category of things consecrated to the Temple treasury.[14] But is it not all the more so here? For if in regard to things consecrated to the Temple treasury the priest is essential, how much more so in regard to things consecrated to the altar![15] — R. Shisha the son of R. Idi said, It might be compared with the inspection of leprosy plagues, which is certainly not a Temple service, and yet requires a priest.[16] Why do we not prove [that a non-priest may perform a service] from the case of the high place?[17] Should you say, however, that we cannot prove it from the case of the high place;[18] but surely it has been taught: Whence do we know that [sacrificial portions] which had been taken out [of the Sanctuary], if brought up upon the altar must not come down again?[19] From the fact that at the high place what had been taken out was still valid to be offered![20] — The Tanna [there] really relies upon the verse, This is the law of the burnt-offering.[21]

Now we know this[22] only because Rab informed us of it, but otherwise we should have said that [where the handful was taken out] by one of those that are unfit, Ben Bathyra declares it to be invalid; but surely it has been taught: R. Jose son of R. Judah and R. Eleazar b. R. Simeon said, Ben Bathyra declares it valid even [where the handful was taken out] by one of those that are unfit! Moreover it has been taught: It is written, And he shall take his handful from there,[23] that is, from the place where the feet of the non-priest may stand.[24] Ben Bathyra says, Whence do we know that if he took the handful with the left hand, he should put it back again and then take it out with the right hand? Because the verse says, ‘And he shall take his handful from there’, that is, from the place from which he has already taken a handful.[25] Now since the verse does not specify [the causes why the handful should have been returned], then it is all the same whether [it was originally taken] with the left hand or [taken] by any one of those that were unfit? — Rather it is this that Rab teaches us, that if he had taken out the handful and had even hallowed it [by putting it into the vessel of ministry, it may nevertheless be put back again].[26] Rab thus rejects the view of the following Tannaim; for it was taught: R. Jose b. Yasian[27] and R. Judah the baker said, This[28] is so only where he had taken out the handful and had not yet hallowed it, but where he had also hallowed it it is invalid.

Others report [that this is what Rab teaches us], that only if he had taken out the handful it is [valid], but if he had also hallowed it, it is not [valid] — Rab thus agrees with the view of those Tannaim and rejects the view of the first Tanna.[29]

R. Nahman demurred: What is the view of those Tannaim? If they hold that the taking of the handful by persons unfit is regarded as a service, [then it should be invalid] even though it had not been put into a vessel?[30] And if they hold that the taking of the handful by persons unfit is not regarded as a service, then what does it matter even if it had been put into a vessel?[31] — Later, however, R. Nahman said, It is indeed regarded as a service, but the service is not complete until [the handful] has been put into a vessel.[32]

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(1) In Zeb., at the opening of Chap. II, 15b, the Mishnah states: ‘All offerings are invalid if a non-priest . . . received the blood’. That Mishnah, following the example of our Mishnah, should surely have specified the case of the sin-offering, thereby indicating that it was also in accordance with R. Simeon's view.

(2) Even the sin-offering and with this R. Simeon does in no wise disagree.

(3) Even the sinner's meal-offering. And so the original question stands: Why does not our Mishnah state ‘All meal-offerings . . . ‘?

(4) V. supra p. 4.

(5) All hold that the handful should be put back and taken out again by the proper person.

(6) The vessel, which held a tenth part of an ephah, in which, according to the view of the Rabbis, the meal-offering was consecrated. If after the consecration in this vessel the flour of the meal-offering had been diminished it at once becomes invalid.

(7) For he is of the opinion that it is the taking of the handful that renders the meal-offering consecrated and not merely the putting of the flour into the vessel.

(8) Since it is assumed that the handful is no longer here, how can Ben Bathyra say, ‘He must put it back’?

(9) I.e., Rab interpreted Ben Bathyra's ruling to apply not only to the case where the handful was taken out with the left hand but also to all the preceding cases enumerated in the Mishnah where the handful was taken out by a person unfit.

(10) Lit., ‘the other (cases of) unfit persons’.

(11) Sc. the left hand. On the Day of Atonement the High Priest used both hands in the course of the day's service; cf. M. Yoma 47a.

(12) For in no instance do we find that it was essential that the priest shall perform the slaughtering; v. Tosaf. supra 5a, s.v. שחיטה, 1.

(13) Cf. Num. XIX, 2, 3. Thus showing that the slaughtering must be performed by Eleazar i.e., by a priest and by none else, for the expression ‘statute’ indicates that that requirement is indispensable. Hence it is obvious that the slaughtering is considered a service of importance.

(14) The reason why the slaughtering of the Red Cow must not be performed by a non-priest is not that the slaughtering is a service, for there are no ‘services’ in regard to things consecrated to the Temple treasury; but it is an express decree of the Torah that it shall be performed by a priest.

(15) Nevertheless it is established that animals consecrated to the altar may be slaughtered by a non-priest. Hence we find that a service performed by a non-priest is allowed just in the same way as a service performed with the left hand; and the same equality should be upheld in the case of the handful taken from the meal-offering.

(16) Cf. Lev. XIII. And so it is with the slaughtering of the Red Cow: it is not a Temple service, nevertheless it requires a priest.

(17) For whenever the high places (i.e., private altars) were allowed-which was before the Tabernacle had been set up in the wilderness-non-priests were allowed to perform the services there (v. Zeb. 118a), so that Rab's statement is superfluous.
(18) Since at that time Aaron and his sons had not yet been consecrated for service; so that one cannot infer from the conditions prevailing at the high places that a non-priest may perform a service.
(19) V. Zeb. 84a.
(20) For there were no restrictions as to place in connection with a sacrifice offered at a high place. It is seen however, that a rule of law is actually inferred from the case of the high place.
(21) Lev. VI, 2. זאת תורת העולה i.e., there is one law for all offerings that are brought up upon the altar, for even though they have been rendered unfit, once they have been brought up upon the altar they must not come down again. The Heb, עולה, rendered ‘burnt-offering’, is from the root עלה, meaning ‘to come up’. The Tanna of the Baraitha certainly did not intend to draw the authority for the law stated from the case of the high place; he merely used it as a support for that law.
(22) That, according to Ben Bathyra, where an unfit person took the handful from the meal-offering, he should put it back again and the offering remains valid.
(23) Ibid. II, 2.
(24) I.e., the rite of taking the handful from the meal-offering may be performed anywhere in the Temple court, even in the space of eleven cubits, on the east side of the court, where laymen were allowed to stand (cf. Yoma 16b).
(25) But which was put back again, as it was not in accordance with the law.
(26) And it is valid according to Ben Bathyra.
(27) In cur. edd. ‘R. Jose b. Jose b. Yasian’. The repetition ‘Jose b.’ is no doubt due to a scribal error; it is not found in MS.M. nor in Rashi.
(28) That according to Ben Bathyra the handful may be put back again and another taken out.
(29) Who disagrees with R. Jose and R. Judah and who presumably holds that Ben Bathyra declares it valid even though it had already been put into a vessel of ministry.
(30) For it has already been rendered invalid by the service performed by the unfit person, and this can in no wise be remedied.
(31) Since what was performed by persons unfit is not regarded as a service, then even if it was put into a vessel of ministry by such persons it would still be of no consequence; it should therefore be put back again, and once again taken out by the proper person.
(32) So that the act of an unfit person will render invalid only if he performed a complete service; in this case by putting the handful which he had taken out into a vessel of ministry.

Talmud - Mas. Menachoth 7a

But[1] surely when he puts the handful back again into its place it thus becomes holy, consequently it should be invalid![2] — R. Johanan said, This proves that vessels of ministry hallow only [what has been put into them] intentionally.[3] It follows, however, that they do hallow [what has been put into them] intentionally.[4] But did not Resh Lakish enquire of R. Johanan, ‘Can unfit persons hallow what they [intentionally] put into vessels of ministry so that it should be permitted to offer it [upon the altar] in the first instance?’ and he replied. ‘They cannot hallow it’? — [He meant,] They cannot hallow it so that it should be permitted to be offered up, but they can hallow it so that [through their act] it is rendered invalid.[5]

R. Amram said,[6] We must suppose here that he put it back into a heaped up bowl.[7] Then how could he have taken out the handful originally [from this vessel]?[8] — Rather [say] he put it back into a brimful bowl. But surely when he took out the handful he left a hollow, so that when he puts it back again he puts it into the vessel, does he not? — He put it back on to the sides of the vessel and he then shook it so that it fell back of its own into the vessel; and it is the same as though it were put back by a monkey.[9]

R. Jeremiah said to R. Zera, Why not suggest that he put it back into a vessel which was upon the ground?[10] We can then infer from this[11] that one may take out the handful from a vessel which is upon the ground![12] — He replied, You are now touching upon a question that was raised by our [colleagues]. For Abimi was studying the Tractate Menahoth under R. Hisda. (But did Abimi even study under R. Hisda? Did not R. Hisda say, ‘Many were the blows that I received from Abimi upon the following subject: If [the Court] intend to announce [the sale of the property] daily, it must be done during thirty days; if only on Mondays and Thursdays, it must be done during sixty days’?[13] Abimi had forgotten this Tractate and so he went to R. Hisda that he might be reminded of it. Why did he not send for him, that he [R. Hisda] should come to him?[14] — He thought that in this way[15] he would make better progress.) R. Nahman once met him [Abimi] and asked him, ‘How does one take out the handful?’ He replied. ‘Out of this vessel’.[16] Said the other, ‘And may one take the handful out of a vessel that is upon the ground?’ He replied, ‘A priest has to lift it up’. ‘And how does one hallow the handful taken from the meal-offering?’ [asked R. Nahman]. He replied, ‘One should put it into this vessel’. ‘But may one hallow it by putting it into a vessel that is upon the ground?’ He replied. ‘A priest has to lift it up’. Said R. Nahman, ‘Then you require three priests’[17] He replied, ‘[I don't mind] if thirteen are required as with the Daily Sacrifice’.[18] He raised the following objection: [We have learnt:] This is the general rule: if one took out the handful or put it into the vessel or brought it nigh or burnt it, [intending] to eat a thing that it is usual to eat [outside its proper place] etc.[19] Now there is no mention here of lifting up [the vessel]! — The Tanna merely teaches the order of the various services.[20]

The question was put to R. Shesheth: May one take the handful from a vessel that is upon the ground? He answered, Go and see what is done within [the Temple]:[21] Four priests entered in, two having in their hands the two rows [of Shewbread] and two the two dishes [of frankincense]; and four priests went in before them, two to take away the two rows and two to take away the two dishes.

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(1) The words ‘if so even though he had not hallowed it’, inserted here in cur. edd., are obviously superfluous and are omitted by MS.M., and Sh. Mek.

(2) For when the non-priest puts back the handful he thereby completes the service, for it surely does not matter into which particular vessel of ministry he returns the handful, whether into another vessel or into the same vessel from which it was taken.

(3) In order to become hallowed. In this case, however, the unfit person puts the handful back again into the vessel out of which it was taken without intending it to become holy thereby.

(4) Even though it had been put in by a non-priest or by any other person that was unfit.

(5) Since it was intentionally put into a vessel of ministry by an unfit person for the purpose of hallowing it, the service has been completed by an unfit person, and so it is invalid and there can be no remedy. But is it quite different in-the case where the handful was put back into the vessel but not for the purpose of hallowing it thereby.

(6) This is the reason why the handful is not hallowed when put back into the vessel from which it was taken.

(7) For only that which is in the vessel of ministry is hallowed by the vessel and not that which is above it.

(8) Since he must take the handful from that which is in the vessel.

(9) I.e., it was put back into the vessel not directly by the act of man; it is therefore not hallowed. Cf. infra 100b.

(10) And that is the reason why it does not become hallowed.

(11) Since this suggestion is not made.

(12) And that likewise one may put the handful into a vessel of ministry that is upon the ground. (Z. Kod.).

(13) When the Court have valued the property of orphans and are proposing to sell it in order to meet the father's debts, they must announce the sale either daily for a period of thirty days, or on Mondays and Thursdays (these being the days when the Courts sat) for a period of sixty days. V. ‘Ar. 22a.

(14) Since R. Hisda was the pupil.

(15) By Abimi putting himself out so as to go to R. Hisda to study. Cf. Meg. 6b.

(16) At that moment there happened to be a vessel lying before them on the ground.

(17) One to hold the vessel containing the meal-offering, a second to hold the vessel into which the handful is to be put, and a third to take the handful out of the one and put it into the other. This number of priests was necessary as, it must be remembered, only the right hand was to be used in any service, and therefore one priest could not hold the two vessels, one in each hand. It was, however, possible for the one priest to hold both vessels, one after the other, so that only two priests would be necessary. V. Sh. Mek.

(18) V. Yoma 25a.

(19) Infra 12a.

(20) Which can all be performed by the same priest; the Tanna, however, did not intend to give the number of priests employed in each service. The words 'but not the order of the priests', found in cur. edd., are obviously a gloss, and are omitted in MS.M. and also in Sh. Mek.

(21) V. Infra 99b.

Talmud - Mas. Menachoth 7b

Now there is no mention here of lifting up [the table].[1] But was not the answer given in the former case that the Tanna merely stated the order of the services? Then in this case too [we can say that] he only states the order of the services![2] — Surely there is no comparison; there the Tanna does not state the number of priests, but here he does state the number of the priests. Now if [your contention were] right,[3] he certainly should have mentioned [the priest] who lifts up [the table]! This proves that one may take the handful from a vessel that is upon the ground. This indeed proves it.

Raba said, I am certain that one may take the handful from a vessel that is upon the ground, for we find that this was so at the taking away of the dishes [of frankincense].[4] Also that one may hallow the meal-offering by putting [the meal] into a vessel that is upon the ground, for we find that this was so at the setting down the dishes.[4] Raba however was in doubt, What is the law with regard to the hallowing of the handful? Are we to derive it from the meal-offering itself,[5] or from the [receiving of the] blood?[6] Later Raba decided that we must derive it from the [receiving of the] blood. But could Raba have said so? Surely it has been stated: If the handful was divided [and put] into two vessels, R. Nahman says, It is not hallowed; and Raba says, It is hallowed. Now if [the above decision] were right, then this too he should derive from the blood,[7] should he not? — Raba retracted from that opinion.[8]

Whence do we know that if the blood was divided [in separate vessels] it is not hallowed? — From the following which R. Tahlifa b. Saul learnt: If one mixed[9] less than the quantity required for sprinkling in one vessel and again less than the quantity required for sprinkling in another vessel, the mixing is not valid.[10] And the question was raised, How is it with regard to the blood?[11] Is that[12] a traditional law, and from a traditional law one may not draw any inferences; or is it so there[12] because it is written, And he shall dip it in the water,[13] then here also it is written, And he shall dip [his finger] in the blood?[14] And it was stated: R. Zerika said in the name of R. Eleazar, Even in the case of the blood it is not hallowed.[15]

Raba said, There has been taught [a Baraitha] also to this effect: It is written, And he shall dip,[16] but not wipe up;[17] in the blood,[16] that is, there must be at the very beginning sufficient blood [in the one vessel] for dipping; [and shall sprinkle] of the blood,[16] that is, of the blood spoken of in the context. And the expressions 'and he shall dip' and 'in the blood' are both necessary. For had the Divine Law only stated, 'And he shall dip'. I might have said that [it was valid] even though [the priest] had not received at the very beginning sufficient blood [in the one vessel] for dipping; it therefore stated, 'In the blood'. And had the Divine Law only stated, 'In the blood', I might have said that he may even wipe up [the blood]; it therefore stated, 'And he shall dip'. '[Of the blood], that is, of the blood spoken of in the context'. What does this exclude? — Raba said, It excludes the blood that is still clinging to the finger.[18] This supports R. Eleazar who said, The blood that is still clinging[19] to the finger is not valid [for sprinkling].

Rabin son of R. Adda said to Raba, Your pupils report that R. 'Amram raised [an objection from the following]: It was taught: If, while sprinkling, some blood dripped from his hand [on to a garment], if this happened[20] before he had made the sprinkling it must be washed,[21] but if after he had made the sprinkling it need not be washed. Presumably the meaning is: before he had finished the sprinkling, and after he had finished the sprinkling.[22] — No, the meaning is: if it happened before the blood had left his hand in an act of sprinkling it must be washed, but if after the blood had left his hand[23] it need not be washed.

Abaye raised an objection: [We have learnt:] When he had finished sprinkling[24] he wiped his hand on the cow's body. [Now] only when he had finished then did he [wipe his hand], but before he had finished he did not![25] — He replied. When he had finished he wiped his hand, before he had finished he wiped his finger only.[26] It is well [to say] ‘When he had finished he wiped his hand on the cow's body’, for it is written, And the cow shall be burnt in his sight;[27] but [to say] ‘Before he had finished he wiped his finger’ [is difficult], for on what would he wipe it?[28] — Abaye answered, On the edge of the basin, as it is written, Bowls of gold.[29]

But could R. Eleazar have said that?[30] Behold it has been stated: The meal-offering of the High Priest[31] R. Johanan says, is not hallowed [if brought] a half at a time. R. Eleazar says. Since it is offered a half at a time it is hallowed [if brought] a half at a time.

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(1) So as to avoid taking away the frankincense from a table that is standing upon the ground. Obviously then this does not matter at all. And it is to be observed that the services touching the frankincense and the Shewbread correspond with the services relating to the handful and the meal-offering in the following respects: the frankincense was taken away each week from the table, the handful was taken from of the meal-offering; frankincense was put upon the table each week, the meal for the meal-offering was put into a vessel of ministry. And just as the burning of the frankincense rendered the Shewbread permitted to be eaten, so the burning of the handful rendered the rest of the meal-offering permitted to be eaten, for each is described in the Torah as ‘a memorial’, cf. Lev. II, 2, and XXIV, 7.

(2) I.e., the main services; whereas lifting up is a service of little significance.

(3) That whatsoever is put into a vessel of ministry that is upon the ground is not thereby hallowed.

(4) v. p. 38, n. 5.

(5) And just as the other services in connection with the meal-offering may be performed in a vessel that is upon the ground, so the handful would be hallowed if put into a vessel that is on the ground.

(6) It has already been stated that the four main services in the procedure of a meal-offering, viz., taking out the handful, hallowing it by putting it into a vessel, bringing it nigh to the altar and burning it, correspond respectively to the four main services of animal sacrifices, viz., slaughtering, receiving the blood, bringing it nigh to the altar and sprinkling it. Now just as the blood of an animal-offering may not be received in a vessel that is on the ground (v. Lev. I, 5: And Aaron's sons, the priests, shall present the blood, and Sifra thereon), so the handful of the meal-offering may not be hallowed by putting it into a vessel that is upon the ground.

(7) And the blood of an animal-offering may not be received in two separate vessels (v. infra).

(8) And he subsequently accepted R. Nahman's view, namely that if the handful was divided and put into two vessels it is not hallowed.

(9) Lit., ‘sanctified’. The reference is to the mixing of the ashes of the Red Cow with water; cf. Num. XIX, 17.

(10) Even though subsequently the two quantities when combined in one vessel amounted to the required quantity. For the required quantity v. Parah XII, 5: ‘Sufficient for the tips of the hyssop stalks to be dipped therein and water sufficient to be sprinkled.’

(11) Sc. the blood of offerings which had to be sprinkled seven times within, i.e., upon the golden altar and towards the veil. The question is: May the priest receive the blood, say sufficient for four sprinklings in one vessel and sufficient for three in another vessel?

(12) Sc. the ruling in connection with the mixing of the ashes of the Red Cow.

(13) Num. XIX, 18. The use of the definite article, ‘in the water’, indicates that all the water must be in one vessel.

(14) Lev. IV, 6. Here too the definite article is used, ‘in the blood’.

(15) If the blood was received half in one vessel and half in another.

(16) Lev. ibid.

(17) The priest must dip his finger in the blood and not scrape up the blood from the sides of the bowl with his finger.

(18) The priest must dip his finger in the bowl of blood for each sprinkling and not sprinkle twice with one dipping. He must sprinkle each time of the blood that is mentioned in the context, that is of the blood in the bowl and not of the blood that is on his finger.
(19) Lit., 'the remnant'.
(20) Sc., the splashing of the blood on to the garment.
(21) Cf. Lev. VI, 20.
(22) I.e., if some blood had splashed on the garment at any time during the course of the seven sprinklings. e.g., after the second sprinkling but before the priest had dipped his finger into the bowl a third time, it must be washed, for the blood that fell upon the garment might well have been used for a further sprinkling; hence it is evident that blood still clinging to the finger is valid for sprinkling, contra R. Eleazar and Raba. On the other hand, if the blood fell on to the garment after the seven sprinklings had been performed, it does not require to be washed, for the blood could not have been used for sprinkling.
(23) I.e., after an act of sprinkling some blood that was still clinging to his finger fell upon the garment.
(24) Sc. the blood of the Red Cow seven times towards the Holy of Holies. V. Parah III, 9.
(25) For presumably the blood still clinging to his finger is valid for sprinkling, and therefore he need not wipe it away; contra R. Eleazar and Raba.
(26) I.e., between each sprinkling.
(27) Num. XIX, 5. After sprinkling the blood towards the Holy of Holies the priest would come down from the Temple mount, wipe his hand on the cow's body, and then the cow would be burnt in his presence.
(28) It surely cannot be suggested that after each of the seven sprinklings the priest must come down from the Temple mount and wipe his finger on the cow's body. Indeed if he did so the sprinkling that followed might be invalid, for some hairs of the cow's body might adhere to his finger. In cur. edd. there is an obvious gloss added in the text, but it has been struck out by all commentators. It is not found in MS.M.
(29) Ezra I, 10. The sprinkling bowls are here designated כפורי, which word is derived from the root כפר 'to wipe'; i.e., bowls on whose rim the priests used to wipe away the blood from their fingers.
(30) That if the blood was received half in one vessel and half in another, it is not hallowed thereby.
(31) V. Lev. VI, 13, 14. This meal-offering prepared on a griddle (hence חביתים from מחבת). consisting of a tenth part of an ephah of fine flour, was offered by the High Priest daily; half of it in the morning and half in the evening.

Talmud - Mas. Menachoth 8a

Now if he held that view, he would surely derive [the ruling in the case of the High Priest's meal-offering] from the blood![1] And should you say that R. Eleazar does not derive one case from another, but R. Eleazar has actually ruled: If the taking of the handful from the meal-offering was performed in the Temple,[2] it is valid, since we find that the taking away of the dishes [of frankincense was regularly performed there]![3] — He derives [the rules of] one meal-offering from another meal-offering,[4] but he does not derive [the rules of] a meal-offering from the blood.

But does he derive one meal-offering from another meal-offering? Surely it has been taught: If a loaf was broken before it[5] had been removed, the Shewbread is invalid, and [the priest] may not burn on account of it the dishes of frankincense; if a loaf was broken after it[5] had been removed, the Shewbread is invalid, but he may burn on account of it the dishes of frankincense. Whereupon R. Eleazar had said, [The expression 'after it had been removed'] does not mean that it[5] had actually been removed, but rather that the time for removing it had come about,[6] and although it had not yet been removed it is regarded as already removed. But why is this so?[7] Surely it ought to be regarded as a meal-offering which was found to be lacking before the handful had been taken therefrom![8] — That is really no difficulty, for in a meal-offering the handful is not separate,[9] whereas here [in the Shewbread] the handful[10] is separate. But this is a difficulty: surely this case ought to be on a par with the remainder of a meal-offering which was found to be lacking after the handful had been taken therefrom but before it had been burnt, in which case the handful may not be burnt! — There is, is there not, a difference of opinion about this?[11] R. Eleazar is of the same opinion as him who says that where the remainder of the meal-offering was found to be lacking after the handful had been taken therefrom but before it had been burnt, the handful may indeed be burnt.

The text [above] stated: ‘The meal-offering of the High Priest, R. Johanan says, is not hallowed [if brought] a half at a time. R. Eleazar says, Since it is offered a half at a time it is hallowed [if brought] a half at a time’. R. Aha said, What is R. Johanan's reason? Because the verse reads, For a meal-offering . . . half of it in the morning;[12] that is to say, he must bring a meal-offering[13] and then he shall divide it in halves.

An objection was raised: [We have learnt:] The meal-offering of the High Priest may not be brought in [two separate] halves, but he must bring a whole tenth and then divide it. And it has been taught: Had Scripture stated, ‘For a meal-offering a half’, I should then have said that he must bring a half tenth from his house in the morning and offer it, and a half tenth from his house in the evening and offer it; but Scripture states, ‘Half of it in the morning’, that is, he must offer half of the whole tenth![14] — This is only a recommendation.[15] Thereupon R. Gebiha of Bekathil said to R. Ashi, But is not the term ‘statute’[16] used in connection with it? — He replied: That merely indicates that he must bring the whole [tenth] from his house.[17]

But did R. Johanan actually say that?[18] Behold it has been stated: If a man set aside [in a vessel of ministry] a half tenth [of flour for his meal-offering][19] intending to add to it [to make up the tenth], Rab says, It is not hallowed; R. Johanan says, It is hallowed. Now if he held that view,[18] he would surely derive [the ruling in this case] from that of the High Priest's meal-offering.[20] Should you say, however, that R. Johanan does not derive one case from another, but R. Johanan has actually ruled: If a peace-offering was slaughtered in the Temple it is valid, for it is written, And he shall slaughter it at the door of the tent of meeting,[21] and surely the accessory cannot be more important than the principal![22] — It is different where he intended to add to it.[23] For it has been taught: It is written Full;[24] and full means nothing else but the whole amount. And R. Jose said, When is this so?[25] Only when there is no intention to make up [the full amount], but when there is an intention to make up [the full amount], then each part[26] [as it is put into the vessel of ministry] is hallowed.

Whose view does Rab[27] accept with regard to the High Priest's meal-offering? If you say R. Eleazar's, then he should surely derive [the ruling in the case of an ordinary meal-offering] from the High Priest's meal-offering.[28] And should you say that Rab does not derive one case from another, but Rab has actually said, A meal-offering is hallowed [even though it was put into the vessel of ministry] without oil, since we find it so in the case of the Shewbread;[29] without frankincense, since we find it so in the case of the drink-offerings;[30] without oil and without frankincense, since we find this in the case of the sinner's meal-offering?[31] — We must therefore say that Rab accepts R. Johanan's view.[32]

The text [above] stated: ‘Rab said, A meal-offering is hallowed [even though it was put into the vessel of ministry] without oil, since we find it so in the case of the Shewbread; without frankincense, since we find it so in the case of the drink-offerings; without oil and without frankincense, since we find it so in the case of the sinner's meal-offering’. Moreover the oil and the frankincense are hallowed [in the vessel of ministry] alone, one without the other: the oil [without the flour and the frankincense], since we find it so in the case of the log of oil of the leper;[33] and the frankincense [without the flour and oil], since we find it so in the case of the dishes of frankincense. But R. Hanina said,

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(1) And he would declare the meal-offering of the High Priest invalid if it was brought a half tenth at a time, just as it is invalid, according to R. Eleazar, if the blood of an animal offering was received in two vessels.

(2) The taking of the handful from the meal-offering was usually performed in the Temple court and not in the Temple proper.

(3) And the taking away of the dishes of frankincense was considered equal to the taking of the handful from the meal-offering (v. supra p. 38, n. 5).
(4) I.e., from the Shewbread which is regarded as a meal-offering.
(5) Sc. the two rows of loaves and the dishes of frankincense.
(6) I.e., at the seventh hour of the day (that is an hour after mid-day) on the Sabbath; v. Pes. 58a.
(7) That the frankincense may be burnt when a loaf was broken after the time for the removal of the Shewbread from the table had arrived.
(8) In which case the handful may not be burnt upon the altar; and here the Shewbread has not in fact been removed from the table. Since, however, the ruling is that the frankincense may be offered, it is evident that R. Eleazar does not derive one meal-offering from the other.
(9) I.e., the handful is not separate from the rest of the meal-offering, and until it has actually been taken out one cannot consider it as a handful.
(10) Sc. the dishes of frankincense. These stand apart from the bread, so that when the time for their removal has arrived one can well consider them as already having been removed.
(11) V. infra 9a.
(12) Lev. VI, 13.
(13) I.e., a whole meal-offering which must consist of a tenth part of an ephah of flour.
(14) Hence an objection against R. Eleazar.
(15) Lit., ‘for a precept’. I.e., it should be performed in this manner; nevertheless it is hallowed even though brought a half tenth at a time.
(16) lbid. VI, 15. The term ‘statute’ implies that there must be no infringement or variation of the prescribed rites.
(17) But as for hallowing in a vessel of ministry this may be done a half tenth at a time.
(18) That the High Priest's meal-offering is not hallowed if brought half at a time.
(19) The minimum quantity of flour for a meal-offering is one tenth part of an ephah.
(20) And as the High Priest's meal-offering is not hallowed, according to R. Johanan, if brought a half at a time, so it should be also with every meal-offering.
(21) Lev. III, 2.
(22) If the slaughtering may take place in the Temple court, how much more so in the Temple itself! Thus R. Johanan derives the slaughtering in the Temple from the slaughtering in the Temple court.
(23) In that case each part as it is put into the vessel of ministry is hallowed.
(24) Num. VII, 13: Both of them full of fine flour.
(25) That anything less than the whole amount is not hallowed.
(26) Lit., ‘the first, the first’.
(27) Who in the case of an ordinary meal-offering ruled that if only part of it was put into a vessel of ministry it was not hallowed.
(28) And just as the High Priest's meal-offering is hallowed in part (so according to R. Eleazar) so it should be with an ordinary meal-offering too. Nevertheless in the latter case Rab expressly said that it was not hallowed in part.
(29) Which is deemed to be a meal-offering and yet no oil went with it.
(30) Which accompanied most sacrifices, consisting of quantities of flour and oil for a meal-offering and wine for a libation, but no frankincense went with it. V. Ibid. XV, 1ff.
(31) V. Lev. V, 11, We thus see that Rab derives one case from the other by analogy.
(32) That the High Priest's meal-offering may not be hallowed a half at a time, just as Rab himself expressly ruled in connection with an ordinary meal-offering.
(33) Which was not accompanied by flour and frankincense; V. Lev. XIV, 10ff.

Talmud - Mas. Menachoth 8b

The one is not hallowed without the other.[1] Then according to R. Hanina why was the tenth measure anointed?[2] — To measure the sinner's meal-offering.[3] And why was the log measure anointed? — To measure the log of oil of the leper.

Samuel, too, is of the same opinion as Rab.[4] For we have learnt:[5] The vessels for liquids hallow liquids, and the measuring vessels for dry stuffs hallow dry stuffs; the vessels for liquids cannot hallow dry stuffs neither can the measuring vessels for dry stuffs hallow liquids. And Samuel had said, This applies only to the measuring vessels [for liquids], but the sprinkling bowls hallow also dry stuffs, for it is written, Both of them full of fine flour mingled with oil for a meal-offering.[6] R. Aha of Difti said to Rabina, But this meal-offering is moist![7] — He replied. It refers particularly to the dry parts of the flour.[8] Alternatively,[9] I may say, In comparison with blood a meal-offering [though mingled with oil] is regarded as dry stuff.

The text [above] stated: 'R. Eleazar said, If the taking of the handful from the meal-offering was performed in the Temple it is valid, since we find that the taking away of the dishes [of frankincense was regularly performed there]'.[10] R. Jeremiah raised an objection: It is written, And he shall take his handful from there,[11] that is, from the place where the feet of the non-priest may stand.[12] Ben Bathyra says, Whence do we know that if he took the handful with the left hand he should put it back again and then take it with his right hand? Because the verse says, 'And he shall take his handful from there', that is, from the place from which he has already taken a handful! — Some say that he [R. Jeremiah] raised the objection and he himself answered it [as stated below]. Others report that R. Jacob said to R. Jeremiah b. Tahlifa, I will explain it to you: That [verse] merely serves to teach us that [the rite of taking the handful] may be performed in any part of the Temple court; and you should not argue that since the burnt-offering is most holy and the meal-offering is most holy, therefore as the burnt-offering must be [slaughtered] on the north side [of the Temple court][13] so the meal-offering must be [attended to] on the north side. But surely the case of the burnt-offering is different, since it is wholly burnt![14] — Then [one could argue in the same way] from the sin-offering.[15] But surely the case of the sin-offering is different, since it atones for those [who committed an act inadvertently which, had they committed it wilfully, would have made them] liable to kareth![16] — Then [one could argue in the same way] from the guilt-offering.[15] Again the case of the guilt-offering is different, since it effects atonement by blood![17] Nor [could one argue in the same way] from all these [sacrifices taken together].[18] since all these [are different from the meal-offering since they] effect atonement by blood! — That [verse] is indeed necessary, for I might have thought that since it is written, And it shall be presented unto the priest, and he shall bring it unto the altar,[19] and [then it says] 'and he shall take out the handful',[20] therefore just as the meal-offering was brought unto the south-west corner of the altar[21] so the handful was to be taken out at the south-west corner of the altar; we are therefore taught[22] [that it may be performed in any part of the Temple court].

The text [above] stated: 'R. Johanan said, If a peace-offering was slaughtered in the Temple it is valid, for it is written, And he shall slaughter it at the door of the tent of meeting,[23] and surely the accessory cannot be more important than the principal!' An objection was raised: R. Judah b. Bathyra said, Whence do we know that, if the Temple court was surrounded by gentiles,[24] the priests may enter the Temple and eat there the most holy meat and the remainder of the meal-offerings? Because the verse says,

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(1) I.e., all the ingredients of the meal-offering must be put in together into the vessel of ministry.

(2) To render it consecrated as a vessel of ministry. The tenth measure was a vessel of ministry holding the tenth part of an ephah which was used for measuring the flour of a meal-offering. But as the flour by itself, without oil and without frankincense, is not hallowed when put into this measuring vessel, then it was obviously unnecessary to have anointed this vessel as a sacred vessel. The same argument applies to the log, a vessel of ministry used for measuring oil only.

(3) Which consisted of flour only, without oil and frankincense; v. Lev. V, 11.

(4) That the vessel of ministry hallows the flour alone without the other ingredients.

(5) Zeb. 88a.

(6) Num. VII, 13. It is evident that the sprinkling bowl (mentioned previously in this verse) hallowed the flour that was put into it.

(7) For it is mingled with oil. Hence there is no proof from this verse that the sprinkling bowl can hallow dry goods.

(8) Although the flour was mingled with oil, it is inconceivable that every particle of the flour was moistened; nevertheless all the flour was hallowed in this bowl, obviously because the sprinkling bowl can hallow dry goods.

(9) In cur. edd. there is found here a passage of several lines enclosed within brackets. It is not found in any MS., and has been struck out by all commentators as a gloss.

(10) V. p. 42, nn. 7 and 8.

(11) Lev. II, 2.

(12) V. supra p. 34, n. 7. It is, however, evident from this that the rite of taking the handful must be performed in the Temple court only, and not in the Temple, contra R. Eleazar. The teaching of Ben Bathyra which follows is merely the continuation of the Baraitha quoted but it does not affect the argument at all.

(13) Ibid I, 11.

(14) How then could one apply the same to the meal-offering?

(15) Which is also a most holy offering and must be slaughtered in the north.

(16) V. Glos.

(17) Cf. Lev. XVII, 11. The meal-offering, however, does not effect atonement by blood.

(18) By arriving at the points they all have in common, viz., they are all most holy, and all must be slaughtered on the north side of the Temple court. Similarly it would be said of the meal-offering, that the rite of taking the handful must be performed at the north side of the Temple court only!

(19) Ibid II, 8.

(20) This is the purport of verse (9) which follows: And the priest shall take off from the meal-offering the memorial thereof.

(21) V. infra 19b.

(22) By the verse And he shall take the handful from there (ibid 2).

(23) Lev. III, 2. V. supra 45, n. 2.

(24) And so it became dangerous to remain in the Temple court or to eat there consecrated meat.

Talmud - Mas. Menachoth 9a

In the most holy place shalt thou eat thereof.[1] Now why is the verse necessary to teach this? One could say, it is sufficient that it is written, In the court of the tent of meeting they shall eat it,[2] and the accessory surely cannot be more important than the principal![3] — With regard to acts of service, since a man would perform services in the presence of his master, we apply the principle ‘Surely the accessory cannot be more important than the principal’. But with regard to eating, since a man would not eat in the presence of his master, [it is permitted][4] only because the verse expressly says so, but had not the verse said so we would not have applied the principle ‘Surely the accessory cannot be more important than the principal’.

It was stated: If the meal-offering was mingled[5] outside the walls of the Temple court, R. Johanan says, It is invalid; Resh Lakish says, It is valid. ‘Resh Lakish says, it is valid’, for it is written, And he shall pour oil upon it, and put frankincense thereon, and then, And he shall bring it to Aaron's sons the priests; and he shall take thereout his handful;[6] hence from the taking of the handful begins the duty of the priesthood. This therefore teaches us that the pouring [of the oil upon the meal-offering] and the mingling [of the oil with the flour] are valid [even if done] by non-priests. Now since [the mingling] does not require the services of the priesthood, it likewise need not be performed within [the Temple court]. ‘R. Johanan says, it is invalid’, for since it must be prepared in a vessel [of ministry],[7] even though it does not require the services of the priesthood, it must nevertheless be performed within [the Temple court]. There is a Baraitha in support of R. Johanan's view; for it has been taught: If a non-priest mingled it it is valid; if it was mingled outside the walls of the Temple court it is invalid.

It was stated: If the meal-offering had diminished before the handful was taken from it, R. Johanan says, He may bring [flour] from his house to fill up the measure; Resh Lakish says, He may not bring [flour] from his house to fill up the measure. R. Johanan says, He may bring [flour] from his house to fill up the measure, for it is the taking of the handful that determines it [for a meal-offering].[8] ‘Resh Lakish says, He may not bring [flour] from his house to fill up the measure’, for it is the hallowing of the vessel that determines it [for a meal-offering].[9] R. Johanan then raised this objection against Resh Lakish: We have learnt: If the [oil in the] log was found to be lacking before it was poured out,[10] he may fill up the measure.[11] This is indeed a refutation.

It was stated: If the remainder of the meal-offering was found to be lacking between the taking of the handful and the burning thereof, R. Johanan says, He may burn the handful on account of it; Resh Lakish says, He may not burn the handful on account of it. According to R. Eliezer's view there can be no difference of opinion;[12] they differ only according to R. Joshua's view. For we have learnt:[13] If the remainder of the meal-offering became unclean or was burnt or lost, according to the rule of R. Eliezer[14] it is lawful [to burn the handful], but according to the rule of R. Joshua[15] It is unlawful. Now he who says it is unlawful [to burn the handful], clearly agrees with R. Joshua; but he who says it is lawful, [distinguishes the cases thus]: only in that case did R. Joshua say [that it was unlawful], since nothing [of the meat] remained available, but here where some [of the meal-offering] remained available, even R. Joshua admits [that it is lawful to burn the handful]. For it has been so taught: R. Joshua says, If of any animal-offering mentioned in the Torah there remained an olive's bulk of flesh or an olive's bulk of fat, one may sprinkle the blood; if there remained a half-olive's bulk of flesh and a half-olive's bulk of fat, one may not sprinkle the blood.[16] In the case of a burnt-offering, however, even if there remained a half-olive's bulk of flesh and a half-olive's bulk of fat, one may sprinkle the blood, since it is wholly burnt.[17] And in the case of a meal-offering, even though all of it remains, one may not sprinkle the blood.

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(1) Num. XVIII, 10.

(2) Lev. VI, 9.

(3) And if the most holy meat may be eaten in the Temple court, how much more so on the argument of R. Johanan in the Temple proper! Surely then no verse is necessary to permit this.

(4) To eat in the Temple proper.

(5) With the oil.

(6) Ibid. II, 1, 2.

(7) Or, according to the reading of MS.M and Sh. Mek., ‘since it is hallowed (by being put) in a vessel of ministry’.

(8) And so long as the handful has not been taken one may add to the flour of the meal-offering.

(9) And once it has been determined for a meal-offering, if it had diminished there is no remedy for it, and it is invalid.

(10) I.e., before the priest had poured the oil into the palm of his own left hand for the purification of the leper. cf. Lev. XIV, 15.

(11) V. Neg. XIV, 10. We thus see that the defective measure may be filled up even though it had already been hallowed in a vessel of ministry, contra Resh Lakish.

(12) For if where the remainder was lost entirely the handful may still be burnt, how much more so where only a part of the remainder was lacking!

(13) V. infra 26a, Pes. 77b.

(14) Who held (Pes. 77a) that the blood of the sacrifice may be sprinkled even though the meat is not available (either because it was rendered unclean or was burnt or lost); likewise with the meal-offering, he would hold that the handful may be burnt upon the altar even though the remainder is no longer available, and needless to say where only a portion of the remainder was wanting.

(15) Who held that where the meat of the sacrifice was not available it is not lawful to sprinkle the blood.

(16) For in order to sprinkle the blood there must remain a whole olive's bulk either of what may be eaten by man (i.e., the flesh) or of what may be consumed by the altar; (i.e., the fat).

(17) And both the flesh and the fat are burnt upon the altar; hence a half-olive's bulk of the one may be joined with a half-olive's bulk of the other.

Talmud - Mas. Menachoth 9b

How does the meal-offering come in here?[1] Said R. Papa, It refers to the meal-offering offered with drink-offerings.[2] For I might have said that, since it accompanies the animal-offering, it is deemed to be part of the animal-offering;[3] we are therefore taught [that it is not so]. And he who says it is unlawful [to burn the handful, what can he say to this]?[4] — Here [in the case of the meal-offering] it is different, for the verse says, And the priest shall offer up from the meal-offering the memorial thereof, and shall burn it upon the altar;[5] and the expression ‘the meal-offering’ implies that the meal-offering must be there in its entirety.[6] And [what does] the other[7] [say to this]? — He would say that the expression ‘from the meal-offering’ implies only that the meal-offering was once whole.[8] R. Johanan raised this objection against Resh Lakish. It was taught:[9] If a loaf was broken before it[10] had been removed, the Shewbread is invalid, and [the priest] may not burn on account of it[11] the dishes of frankincense; if a loaf was broken after it[10] had been removed, the Shewbread is invalid, but he may nevertheless burn on account of it the dishes of frankincense.[12] Whereupon R. Eleazar had said, [The expression ‘after it had been removed’] does not mean that it had actually been removed, but rather that the time for its removal had arrived, even though it had not yet been removed![13] — He replied, The author of that Baraitha is R. Eliezer.[14] He [R. Johanan] then said to him, I quote you an undisputed[15] Mishnah,[16] and you merely say that the author is R. Eliezer! If it is R. Eliezer, why does [the Baraitha] speak of only part [of the Shewbread] being broken, even if it were entirely burnt or lost he would also permit [the burning of the frankincense], would he not? — The other remained silent. And why did he remain silent? Surely he could have replied that it is different with the offering of the community,[17] for just as uncleanness is permitted for the community[18] so the diminution [of an offering] is also permitted for it! R. Adda b. Abaha said, This[19] proves that diminution is on a par with a physical blemish, and no [animal with a] physical blemish is permitted [even] for the community.

R. Papa was sitting reciting the above teaching[20] when R. Joseph b. Shemaiah said to him, Is it not the case that the dispute between R. Johanan and Resh Lakish refers also to the ‘Omer meal-offering which is a communal offering?[21]

R. Malkio said, One [Baraitha] teaches: The expression ‘of the fine flour thereof’[22] implies that if it had diminished, however little, it is invalid; and ‘of the oil thereof’.[22] implies that if it had diminished, however little, it is invalid. And another [Baraitha] teaches: The expression ‘of the meal-offering’[23] excludes the case where the meal-offering or the handful had diminished, or where nothing at all of the frankincense was burnt.[24] Now why are two verses necessary to exclude any diminution? Surely it must be that one refers to the case where the meal-offering had diminished before the handful was taken,[25] and the other to the case where the remainder had diminished between the taking of the handful and the burning thereof.[26] This then is a refutation of both views of R. Johanan, is it not? — No, one verse refers to the case where the meal-offering had diminished before the taking of the handful, in which case if he brings more [flour] from his house and makes up the measure it is [valid], otherwise it is not [valid]. The other refers to the case where the remainder had diminished between the taking of the handful and the burning thereof, in which case the remainder is forbidden to be eaten although he may burn the handful on account of it. For the question was raised: According to him who says that where the remainder had diminished between the taking of the handful and the burning thereof he may burn the handful on account of it, what is the position with regard to the eating of the remainder? — Ze'iri said, It is written, And that which is left [of the meal-offering],’ but not that which is left of the remainder. R. Jannai said, It is written, of the meal-offering,[27] that is, the meal-offering which was once whole.[28]

IF [THE PRIEST] TOOK THE HANDFUL WITH HIS LEFT HAND [IT IS INVALID]. Whence do we know this? — R. Zera said, The verse states, And he presented the meal-offering, and filled his hand therefrom.[29] Now I do not know which hand was meant, but when another verse states, And the priest shall take of the log of oil, and pour it into the palm of his own left hand,[30] [I know that] only here [‘hand’ means] the left hand, but elsewhere wherever ‘hand’ is stated it means the right.

But is not this expression required for its own purpose?[31] — ‘The left hand’ is mentioned once again.[32] But should I not apply here the principle: ‘a limitation followed by a limitation extends the scope of the law’?[33] — ‘The left hand’ is mentioned yet once again;[34] so that we may say that only here [‘hand’ means] the left hand, whereas elsewhere [‘hand’] cannot mean the left hand. perhaps I should say quite the contrary: just as here [‘hand’ means] the left hand so elsewhere [‘hand’ means] the left hand! — ‘The left hand’ is in fact stated four times: twice in the case of the poor man and twice in the case of the rich man.[35]

R. Jeremiah said to R. Zera. For what purpose is it written, Upon the thumb of his right hand and upon the great toe of his right foot?[36] —

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(1) How can one speak of the sprinkling of blood in connection with a meal-offering?

(2) Which accompanied most animal-offerings; cf. Num. XV, 4-10.

(3) And the blood of the offering may be sprinkled, even though all the flesh and the fat had gone, since the whole of the meal-offering that belongs to the animal-offering remains.

(4) Surely Resh Lakish admits this distinction in R. Joshua made by R. Johanan, for R. Joshua himself expressly differentiates so in the Baraitha quoted.

(5) Lev. II, 9.

(6) At the time of the burning of the handful; otherwise it may not be burnt.

(7) R. Johanan.

(8) I.e., at the time of the taking of the handful.

(9) V. supra p. 43.

(10) Sc. the dishes of frankincense.

(11) I.e., on behalf of the Shewbread that remained.

(12) Hence it is evident that if the remainder of the meal-offering had diminished between the taking and the burning of the handful — which corresponds to the diminution of the Shewbread between the taking away and the burning of the frankincense — one may nevertheless burn the handful; contra Resh Lakish.

(13) This is mentioned only incidentally as the continuation of the cited passage.

(14) According to whom the diminution, and even the entire destruction, of the remainder of the meal-offering does not prevent the burning of the handful upon the altar; v. supra.

(15) Lit. ‘whole’.

(16) [This is really a Baraitha but is nevertheless, as is frequently the case, designated Mishnah, v. Higger אוצר הברייתות I, p. 37ff].

(17) The Shewbread and the burning of the frankincense was a regular weekly service on behalf of the community. Cf. Lev. XXIV, 4-9.

(18) If the whole community of Israel or the greater part thereof became unclean it is then permitted to offer the communal sacrifices, e.g., the Daily sacrifice, in uncleanness. V. Pes. 77a.

(19) The fact that Resh Lakish remained silent and did not put forward the suggested answer.

(20) That Resh Lakish remained silent and did not distinguish between communal and private offerings.

(21) MS.M., Rashi and Sh. Mek. omit the word "Omer’, and the sense of R. Joseph's remark is that the dispute between R. Johanan and Resh Lakish related also to the Shewbread which is a communal meal-offering.

(22) Lev. II, 2. The amount of the flour of a meal-offering is fixed at a minimum of one tenth part of an ephah, and of oil at one log.

(23) Ibid. 3.

(24) But where some of the frankincense had been burnt upon the altar and then it was found to be wanting, the meal-offering is valid.

(25) In which case the meal-offering is invalid, for the deficiency cannot be made up by bringing more flour, contra R. Johanan.

(26) In which case the handful may not be burnt, again contra R. Johanan.

(27) Lev. II. 3.

(28) I.e., if at the time of the taking of the handful the remainder was intact, it is immaterial if later it was found to have diminished, and it may be eaten; R. Jannai accordingly is in conflict with Ze'iri. Rashi, however, gives another interpretation according to which R. Jannai is in agreement with Ze'iri: the meal-offering was once whole, i.e., at the time of the burning of the handful.

(29) Ibid. IX, 17.

(30) Ibid. XIV, 15, in reference to the purificatory rites of a leper.

(31) That only the left hand shall be employed and not the right, and one therefore cannot draw any conclusion or inference from this expression.

(32) Ibid. 16.

(33) Since ‘the left hand’ is stated twice, and inasmuch as each by itself serves as a limitation to exclude the right hand, the result is that the successive limitations actually amplify the law and include the right hand, that it, too, may be used in the purificatory rites of the leper.

(34) Ibid. 26. This third expression precludes the suggestion stated that the first two are to be regarded as limitation following limitation resulting in amplification, for if that were so this third expression would be superfluous.

(35) Lev. XIV, 14, 16, 26 and 27; the first two referring to the rites of a rich man that is being cleansed of his leprosy, and the latter two to those of a poor man. The result is therefore thus: the first expression ‘the left hand’ is required for its own purpose, the second to indicate that only here ‘hand’ means the left hand but not elsewhere, the third to preclude the suggestion that the first two are to be regarded as limitation following limitation, and the fourth to preclude the inference, suggested last, that wherever ‘hand’ is stated the left hand is meant.

(36) Ibid 17 and 28, with reference to the application of oil upon these parts, the former verse dealing with the case of the rich man and the latter with the poor man. In both cases, however, the passage is superfluous for in each verse appears the direction that the oil shall be applied on the place where the blood of the guilt-offering had been applied, and the latter, as expressly stated both in the case of the rich man and of the poor man (v. ibid. 14 and 25 respectively), was applied upon the thumb of the right hand and the great toe of the right leg. It must be observed that the thumb and the great toe are expressed in the Heb. by the same word בהן; thus the expression תעל בהן stated twice in this verse, is redundant.

Talmud - Mas. Menachoth 10a

One serves to permit [the application of the oil] upon the sides;[1] and the other to forbid it on the sides of the side.[2] And for what purpose are stated, Upon the blood of the guilt-offering, and, Upon the place of the blood of the guilt-offering?[3] — They are both necessary; for had the Divine Law only stated, upon the blood of the guilt-offering, I should have said that only if [the blood] was still there it is [valid], but if it had been wiped off it is not [valid]; the Divine Law therefore stated, ‘Upon the place of the blood of the guilt-offering’. And had the Divine Law only stated, ‘Upon the place etc.’, I should have said that it [the blood] must first be wiped off, but if it was still there it would be regarded as an interposition;[4] the Divine Law therefore stated, ‘Upon the blood of the guilt-offering’.

Raba said, Since there have been stated [with regard to the application of the oil] the expressions ‘Upon the blood of the guilt-offering’ and ‘Upon the place of the blood of the guilt-offering’, and moreover since with regard to the application of the blood the term ‘right’ is used, for what purpose then does the verse state, concerning the application of the oil upon the leper. ‘Upon the thumb of his right hand and upon the great toe of his right leg’, both in the case of the rich man and of the poor man?[5] — Raba therefore said,[6] The term ‘hand’ [is required for purposes of analogy] with ‘hand’ in respect of the taking out of the handful,[7] the term ‘leg’ with ‘leg’ in respect of halizah,[8] the term ‘ear’ with ‘ear’ in respect of ‘boring of the ear’.[9] Wherefore is ‘the left’ stated?[10] — R. Shisha the son of R. Idi answered, In order to rule out the use of the priest's right hand in the case of the leper; lest you argue as follows: if in the case where the left hand is not allowed the right hand nevertheless is, in the case where the left hand is allowed surely the right hand is allowed too.[11] And wherefore is ‘the left’ stated again?[12] — For the reason taught at the school of R. Ishmael: Any Biblical passage that was stated once, and then repeated, was repeated only for the sake of some new point contained therein.[13]

Rabbah b. Bar Hannah said in the name of R. Simeon b. Lakish, Wherever the words ‘priest’ and ‘finger’ are stated [in connection with a service of the Temple] they signify the right [hand] only. Now it was assumed that both these terms ‘priest’ and ‘finger’ were necessary [to signify this], as in the verse, And the priest shall take of the blood of the sin-offering with his finger,[14] and [there the finger of the right hand is meant for] it is inferred from the case of the leper where it is written, And the priest shall dip his right finger.[15] But there is the case of the taking of the handful, with regard to which only the word ‘priest’ is written, and yet we have learnt: IF [THE PRIEST] TOOK THE HANDFUL WITH HIS LEFT HAND IT IS INVALID! — Raba answered, It is either the word ‘priest’ or the word ‘finger’ [that is meant].[16] Thereupon Abaye said to him, Take the case of the bringing of the limbs [of the sacrifice] to the [altar] ascent, with regard to which the word ‘priest’ is written, as it is said, And the priest shall present the whole and burn it upon the altar,[17] and a Master said, This refers to the bringing of the limbs to the [altar] ascent,[18] and yet we have learnt:[19] The right [hind-]leg was carried in the left hand with the part covered with the skin outermost![20] — The rule [that the word] ‘priest’ or ‘finger’ [implies the right hand] we apply only to such services as would invalidate the atonement [by their omission].[21] Then take the case of receiving [of the blood in a vessel]; it is surely a service that would invalidate the atonement [by its omission], and yet we have learnt:[22] If [the priest] received the blood in his left hand, It is invalid; but R. Simeon declares it valid![23] — You raised this [difficulty] according to R. Simeon's view, did you not? But R. Simeon requires both terms.[24] Does then R. Simeon require both terms? Surely it has been taught: R. Simeon says. Wherever the term ‘hand’ is stated it signifies the right hand only, likewise the term ‘finger’ signifies the right finger only! — The term ‘finger’ does not require with it the term ‘priest’,[25] but the term ‘priest’ requires with it the term ‘finger’.[25] Why then is the term ‘priest’ stated at all?[26] [That he shall be clad] in the priestly robes.

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(1) Sc. of the thumb and of the great toe; for the Hebrew particle על may mean ‘close to’ as well as ‘upon’.

(2) I.e., the inner side of the thumb (facing the palm), and the lower side of the great toe (facing the ground).

(3) Ibid. 17 and 28. Surely one of them is superfluous (Rashi). According to Tosaf, the question is, Why the variation in the expressions; why in the second verse is ‘the place of’ added?

(4) For the oil must touch the body of the leper on the parts specified directly without any other substance interposing.

(5) The question is concerning the superfluous word ‘right’ stated with regard to the hand and the leg; for even if Scripture had omitted the word in each case we should still have known that the right hand and right leg were intended, either because the application of the blood was upon these limbs and the oil was to be applied upon the blood, or because of the original opinion expressed by R. Zera that ‘hand’ generally means the right hand. V. Tosaf. s.v. אמר.

(6) Raba on account of this last question abandons the conclusions of R. Zera that were derived from the expression ‘the left hand’ being stated four times, whereby the rule was established that ‘hand’ generally means the right hand and therefore the taking of the handful must be performed with the right hand, but proceeds to interpret anew all the expressions employed in this passage dealing with the purificatory rites of the leper.

(7) The word ‘hand’ is stated here in connection with the rites of a rich man (Lev. XIV, 17) and also in connection with the taking of the handful from the meal-offering (ibid IX, 17): as in the former case the right hand is meant for it is expressly stated so, so in the latter case, too, the right hand is meant.

(8) The word ‘leg’ is stated here in connection with the rites of the rich man (ibid. XIV, 17) and also in connection with the ceremony of halizah (the drawing off of the shoe, v. Deut. XXV, 5-10): as here the right leg is meant, so there too the right leg is meant.

(9) The word ‘ear’ is stated here in connection with the rites of the rich man (Lev. ibid.) and also in connection with the boring of the ear of an Israelite slave who desired to continue in servitude (v. Ex. XXI, 5, 6): as here the right ear is meant, so there too the right ear is meant.

(10) In Lev. Xlv, 16, in connection with the rites of the rich man: And the priest shall dip his right finger in the oil that is in his left hand. In the preceding verse (15) ‘the left hand’ is admittedly required for its own purpose, that the priest shall pour the oil into his left hand.

(11) Scripture therefore repeated ‘the left hand’ to indicate that the service shall be performed with the left hand only.

(12) Lev. XIV, 27, in connection with the rites of the poor man. This question applies to all the expressions used in connection with the rites of the poor leper.

(13) The new point being that the offerings for purification vary according to the means of the leper.

(14) Ibid. IV, 25.
(15) Ibid. XIV, 16. And as in this verse where both the expressions ‘priest’ and finger’ are stated the right must be used, so wherever these two expressions are found they imply the use of the right hand.
(16) I.e., the occurrence of either of these terms in connection with any service signifies that that service shall be performed with the right hand or with the right finger.
(17) Lev. I, 13.
(18) Cf. Zeb. 4a and elsewhere.
(19) Tamid 31b.
(20) Hence although the term ‘priest’ is used in connection with the service of ‘bringing nigh’, it nevertheless may be performed with the left hand!
(21) Whereas the service of ‘bringing nigh’ is not indispensable, for even if it were omitted, e.g., If the sacrifice was slaughtered close to the altar ascent so that there was no need for bringing the limbs to the altar, the atonement would not be impaired.
(22) Zeb. 15b. In cur. edd. before ‘we have learnt’ are inserted the following lines: ‘and with regard to which the term "priest" is stated, as it is written, And Aaron's sons, the priests, shall present the blood (Lev. I, 5), which refers to the receiving of the blood’. These lines are not found in any of the MSS. and apparently they were not in the text that was before Rashi. They are also omitted by Sh. Mek.
(23) Notwithstanding the expression ‘priest’ used in connection with the service, v. prec. n.
(24) Both the expressions ‘priest’ and ‘finger’ are necessary in order to signify the right hand.
(25) In order to signify the right finger.
(26) In a case where the term ‘finger’ is used the addition of the term ‘priest’ is of no significance whatsoever. This question and the answer which follows are omitted in all MSS.

Talmud - Mas. Menachoth 10b

Consider the case of the sprinkling [of the blood], with regard to which only the term ‘priest’ is used, yet we have learnt: If [the priest] sprinkled the blood with his left hand it is invalid; and R. Simeon does not differ! — Abaye answered, He does indeed differ in the Baraitha, for it was taught: If he received the blood in his left hand it is invalid, but R. Simeon declares it valid. If he sprinkled the blood with his left hand it is invalid, but R. Simeon declares it valid.

But then Raba's statement that the term ‘hand’ [is required for the purposes of analogy] with ‘hand’ in respect of the taking out of the handful,[1] is quite unnecessary, for it would have been inferred from the expression ‘priest’![2] — One [teaching] is required for the taking out of the handful and the other for the hallowing of the handful.[3] But according to R. Simeon who holds [according to one view] that the hallowing of the handful is not essential,[4] and even according to the other view that the hallowing of the handful is indeed essential but that it is valid if performed with the left hand, is not Raba's analogy by means of the common word ‘hand’ necessary? It cannot serve to indicate that the actual taking out of the handful [shall be performed with the right hand],[5] as this is already established by the teaching of R. Judah the son of R. Hiyya. For R. Judah the son of R. Hiyya said, What is the reason for R. Simeon's view?[6] Because the verse says, It is most holy as the sin-offering and as the guilt-offering;[7] that is to say, if [the priest] comes to perform the service with his hand[8] he must do so with his right hand as the sin-offering,[9] and if he comes to perform it in a vessel he must do so with his left hand as the guilt-offering![10] — It is only necessary with regard to the handful of the sinner's meal-offering; for I might have said that, since R. Simeon has expressed the view that his [the sinner's] offering shall not be sumptuous,[11] then even if the handful were taken out with the left hand it should be valid, we are therefore taught [by Raba's analogy that it must nevertheless be performed with the right hand].

IF ON TAKING THE HANDFUL THERE CAME INTO HIS HAND A SMALL STONE OR A GRAIN OF SALT

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(1) Namely that it shall be performed with the right hand; v. supra p. 56.
(2) The term ‘priest’ is used in connection with the taking ‘of the handful, and this alone, according to the view of the Rabbis as stated by Raba, indicates that the service must be performed with the right hand.
(3) Raba's analogy is required to teach that the hallowing of the handful, i.e., putting it into a vessel of ministry, must also be performed with the right hand.
(4) But that the handful taken out by the Priest may be carried directly to the altar and burnt thereon. V. infra 26a.
(5) Since R. Simeon does not accept the view that the term ‘priest’ by itself signifies the use of the right hand. V. supra p. 58.
(6) That the offering is valid even though the handful was not hallowed in a vessel of ministry.
(7) Lev. VI, 10, with reference to the meal-offering.
(8) I.e., he does not put the handful into a vessel of ministry, but places it on the altar directly from his hand.
(9) The sprinkling of the sin-offering — which corresponds to the burning of the handful of the meal-offering — must be performed with the right hand, since in connection therewith both the expressions ‘priest’ and ‘finger’ are employed.
(10) Sc. the guilt-offering of the leper with regard to which the left hand is expressly required. It is evident, however, from this teaching of R. Judah that any service that is performed with the hand, as the taking of the handful from the meal-offering, must be performed with the right hand; hence Raba's analogy is unnecessary.
(11) And therefore it must be offered without oil and frankincense; v. supra 6b.

Talmud - Mas. Menachoth 11a

OR A DROP OF FRANKINCENSE IT IS INVALID. Why are all these mentioned? — They are all necessary; for had [the Mishnah] only stated a small stone, [I should have said that it is invalid] because it is something that cannot be offered [upon the altar], but as for salt, since it is offered.[1] I would say that it does not render [the handful] invalid. And had the Mishnah stated salt only, [I should have said that it was invalid] because it is not prescribed to be brought with the meal-offering in the beginning, but as for frankincense, since it is prescribed to be brought with the meal-offering in the beginning, I would say that it does not render [the handful] invalid. We are therefore taught them all.

FOR THEY HAVE RULED: IF THE HANDFUL WAS TOO MUCH OR TOO LITTLE IT IS INVALID. Why is the reason given because it is too much or too little? Surely [it is invalid] because of the interposition?[2] — R. Jeremiah answered. It might have been at one side.[3] Abaye asked Raba, How is the handful taken? — He replied, As people usually take a handful.[4] He then raised the following objection against him: It was taught:[5] This one[6] is [for measuring] the span,[7] this one[8] [for taking] the handful,[9] this one[10] [for measuring] the cubit,[11] this one[12] is the finger,[13] and this one[14] the thumb![15] — It is used only in order to smooth the edge.[16] How then was it done? — R. Zutra b. Tobiah said in the name of Rab, He bends his three fingers until he reaches the palm of his hand and then takes the handful. [A Baraitha] has been taught to this effect: It is written, And he shall take out a full handful.[17] Now one might suppose that it should be overflowing, another verse therefore says, In his handful.[18] But from the verse, In his handful, one might suppose that it may be taken with the finger tips, it is therefore written, A full handful. How is it then to be? He should bend his three fingers over on to the palm of his hand and thus take the handful. In the case of a meal-offering prepared on a griddle or in a pan.[19] he must level it with his thumb on top and with his little finger below. And this was the most difficult service in the Temple. This, and none other? Was there not the nipping?[20] and the taking of ‘both hands full’?[21] — Render: And this was one of the most difficult services in the Temple.

R. Papa said, I have no doubt at all that the expression ‘a full handful’ means in the manner in which people usually take a handful.[22] But, asked R. Papa, what if he took out the handful with his fingertips,[23] or with the side [of his hand],[24] or [if he took it] from below upwards?[25] These questions remain undecided.

R. Papa said, I have no doubt at all that the expression ‘his hands full’[26] means in the manner in which people usually fill the hands.[27] But, asked R. Papa, what if he filled his hands with his finger tips, or with the sides,[28] or if he filled each hand separately and brought them together? — These questions remain undecided.

R. Papa raised the question: What if he stuck the handful to the side of the vessel?[29] Must it be put inside the vessel, which is the case here; or must it be put down inside the vessel, which is not the case here? — This remains undecided.

Mar b. R. Ashi raised the following question: What if he turned the vessel upside down and put down the handful on the bottom of the vessel?[30] Must it be put inside the vessel, which is the case here; or must it be put down in a normal manner,[31] which is not the case here? — This remains undecided.

MISHNAH. HOW SHOULD HE DO IT? HE SHOULD STRETCH OUT HIS FINGERS ON TO THE PALM OF HIS HAND. IF HE PUT IN TOO MUCH OF ITS OIL OR TOO LITTLE OF ITS OIL.[32] OR TOO LITTLE OF ITS FRANKINCENSE,[33] THE OFFERING IS INVALID.

GEMARA. What is meant by TOO MUCH OF ITS OIL? R. Eleazar said, If, for example, one set apart for it two logs of oil.[34] And why did he not suggest that ordinary [unconsecrated] oil or oil from another [meal-offering] was added to it? Should you, however, retort that [the addition of] ordinary [unconsecrated] oil or oil from another [meal-offering] would not render the offering invalid, then there is the objection (raised by R. Zutra b. Tobiah):[35] How can the ruling, that the sinner's meal-offering

Another interpretation is: he filled his hands with incense taken from the side of the vessel and not from the middle. is rendered invalid by the addition of oil,[36] ever be applied? If [you say that oil was especially set aside] for it — but it does not require any;[37] and if [you say that] ordinary [unconsecrated] oil or oil from another [meal-offering] was added to it — but you have now said that this would not render the offering invalid? And R. Eleazar [what does he say to this]?[38] — It is a case of ‘it goes without saying’; thus, it goes without saying that the offering is rendered invalid by the addition of ordinary [unconsecrated] oil or oil of another [meal-offering]; but in the case where a man set aside for it two logs of oil, since each [log separately] is suitable for the purpose. I would say that it is not invalid; he therefore teaches us [that it is invalid]. But whence does R. Eleazar know this? — Raba said, Our Mishnah presented a difficulty to him. Why does it use the expression. IF HE PUT IN TOO MUCH OF ITS OIL? It should have stated, ‘If he put in too much oil for it’. But its teaches us[39] that [it is invalid] even though he set aside for it two logs of oil.

IF HE PUT IN TOO LITTLE OF ITS FRANKINCENSE. Our Rabbis taught: If the frankincense had diminished until there remained one grain only, the offering is invalid; if there remained two grains, it is valid. So R. Judah. R. Simeon says. If there remained one grain, it is valid; if less than that it is invalid.

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(1) For after the handful was placed upon the altar salt was sprinkled over it.

(2) When there is a stone or some other substance included in the handful it interposes or separates between the flour and the fingers, and this renders it invalid. And even where the stone happens to lie in the middle of the flour and does not touch the fingers it is also invalid for it interposes between the flour and divides it into two!

(3) The stone might have been at the end of the handful i.e., near the thumb or the little finger, so that there is no question of interposition, but it is invalid only because the handful is too little, since there is lacking flour to the extent of the volume of the stone.

(4) Using all the fingers of the hand, even the little finger.

(5) V. Keth. 5b.

(6) The little finger.
(7) I.e., the distance from the tip of the little finger to the tip of the thumb of a spread hand. The span was the measure of the breastplate of the High Priest; v. Ex. XXVIII, 16.
(8) The finger next to the little one.
(9) This finger was the limit on the one end of the handful, the thumb limiting it at the other end; so that the little finger was not used in taking the handful, contra Raba.
(10) The middle finger.
(11) I.e., the distance from the tip of the middle finger to the point of the elbow.
(12) The fourth from the little finger.
(13) Which is used in the priestly service, as when the priest dips his finger in the blood for the sprinkling.
(14) The fifth from the little finger.
(15) Which was the subject of special rites in the purification ceremony of the leper.
(16) The little finger was to be employed only to smooth level the side of the handful so that none of the flour should appear to be bursting out; this levelling was also performed at the other end by the thumb. It is clear, however, that the actual handful was made up by bending the middle three fingers over the palm. In cur. edd. there appears here in the text an explanatory gloss which is not found in any MS., it is struck out by Sh. Mek.
(17) Lev. II, 2.
(18) Ibid. VI, 8: the meaning of this expression being that the flour shall be entirely within the handful, so that none should burst out at the ends or between the fingers.
(19) These meal-offerings were first baked into cakes, the cakes broken into pieces, and then the priest took out a handful. They were not, however, broken fine, and therefore when the handful was taken, particles of the cakes would be protruding on all sides; the thumb and little finger were then brought into operation so as to smooth the sides-an awkward and difficult manipulation.
(20) Nipping off the head of a bird-offering. (v. Lev. I, 15) was an act which required considerable skill; cf. Zeb. 64b.
(21) V. ibid. XVI, 12, where it is stated that the High Priest on the Day of Atonement took both hands full of incense and offered it in the Holy of Holies. The circumstances in which he took these were such as to render the taking a very difficult task. V. Yoma 49b.
(22) I.e., by inserting the side of the hand, held at an angle, into the flour and scooping up a handful.
(23) With the palm of his hand facing downwards he inserted his finger-tips and scooped up the flour little by little into the palm of his hand.
(24) By laying his hand, palm upwards, upon the surface of the flour and moving it to and fro he gradually scooped up a handful. Another interpretation is: he took the handful from the flour at the side of the vessel and not from the middle.
(25) He cupped his hand and pressed it, palm upwards, into the flour and thus took out a handful.
(26) Ibid. XVI, 12. V. supra n. 3.
(27) I.e., by cupping the hands, inserting them into the heap, drawing them towards each other, and taking out two hands full.
(28) By laying the hands flat, palms upwards, on the incense and heaping up the incense on them via the space between the thumb and the first finger.
(29) When putting back the handful to be hallowed in a vessel of ministry, the priest did not put it down in the bottom of the vessel but stuck it on the side of the vessel.
(30) The vessel was overturned and the handful was put down on the now concave base of the vessel.
(31) Lit, ‘in its ordered manner’.
(32) The amount of oil prescribed is one log (v. Glos.) for each tenth part of an ephah of flour.
(33) The prescribed amount of frankincense is one handful; v. infra 106b.
(34) And the oil was then mixed with the flour, so that to all appearances there are here two meal-offerings.
(35) The bracketed words are deleted by Sh. Mek.
(36) The sinner's meal-offering was to be without oil (v. Lev. V, 11); if any oil was put into it it is invalid, v. infra 59b.
(37) And therefore what was set aside for it does not become consecrated.
(38) Why then did he not suggest an addition of ordinary unconsecrated oil?
(39) The expression ‘TOO MUCH OF ITS OIL’ implies that a large quantity had been set aside for this meal-offering at the very beginning.

Talmud - Mas. Menachoth 11b

Talmud - Mas. Menachoth 11b

But have we not been taught [in another Baraitha]:[1] If the handful of frankincense had diminished, no matter how little, it is invalid?[2] — Render: If the [last] grain of frankincense had diminished, no matter how little, it is invalid. Alternatively I may say. One[3] [Baraitha] refers to the frankincense that was offered together with the meal-offering,[4] and the other to a separate offering of frankincense.[5]

R. Isaac b. Joseph said in the name of R. Johanan. In this matter there are three different views: R. Meir[6] holds that there must be a handful [of frankincense] at the outset[7] and also a handful in the end; R. Judah holds, a handful at the outset and two grains in the end; R. Simeon holds, a handful at the outset and one grain in the end. All these three [Rabbis] derived their opinions from the same verse, vis., And all the frankincense which is upon the meal-offering.[8] R. Meir is of the opinion that [the offering is invalid] unless there is present now all the frankincense that was prescribed to be offered with the meal-offering at the outset. R. Judah maintains that the expression ‘all’[9] implies even one grain, and the particle ‘eth’[10] adds to it another grain. R. Simeon, however, does not interpret the particle ‘eth’.[11]

R. Isaac b. Joseph also said in the name of R. Johanan. They[12] differ only with regard to the frankincense that is offered together with the meal-offering, but with regard to frankincense that is offered by itself, all agree that there must be a handful at the outset and a handful in the end. Therefore the words ‘which is upon the meal-offering’ are expressly stated to indicate that this is so[13] only [with regard to the frankincense] that is offered with the meal-offering, but not with regard to that offered by itself. R. Isaac b. Joseph further said in the name of R. Johanan, They[12] differ only with regard to the frankincense that is offered together with the meal-offering, but as for the frankincense offered in the dishes,[14] all agree that there must be two handfuls at the outset and two handfuls in the end.[15] Surely this is obvious![16] — You might have thought that since [the frankincense in the two dishes] is brought together with the Shewbread it is in the same category as that which is offered with a meal-offering; we are therefore taught [that it is not so].

This, however, is a matter of dispute between R. Ammi and R. Isaac Nappaha. One says, They[17] differ only with regard to the frankincense that is offered together with the meal-offering, but with regard to the frankincense offered by itself, all agree that there must be a handful at the outset and a handful in the end. The other says, Just as they differ in the former case so they differ in the latter case too.

IF HE PUT IN TOO LITTLE OF ITS FRANKINCENSE THE OFFERING IS INVALID. It follows, however, that if he put in too much, it is valid; but we have been taught. If he put in too much it is invalid? — Rami b. Hama answered, That was a case where he set apart two handfuls.[18]

Rami b. Hama also said, If a man set apart two handfuls [of frankincense], and one of them was lost before the taking of the handful [of flour, the offering is valid, for] they had not yet been appointed [for this meal-offering]; if [one was lost] after the taking of the handful, [the offering is invalid, for] they had already been appointed [for this meal-offering].[19]

Rami b. Hama also said, If he set apart four handfuls [of frankincense] for the two dishes, and two of them were lost before the taking away of the dishes,[20] [it is valid, for] they had not yet been appointed [for the Shewbread]; if [two were lost] after the taking away of the dishes, [it is invalid, for] they had already been appointed [for the Shewbread]. Wherefore was this case necessary? It is the same as the other! — You might have thought that, since in this case the handful is separate.[21] as soon as the time for its removal has arrived it is regarded as already removed;[22] we are therefore taught otherwise.

MISHNAH. IF HE TOOK THE HANDFUL[23] FROM THE MEAL-OFFERING [INTENDING] TO EAT THE REMAINDER OUTSIDE [THE TEMPLE COURT] OR AN OLIVE'S BULK OF THE REMAINDER OUTSIDE, OR TO BURN[24] THE HANDFUL OUTSIDE OR AN OLIVE'S BULK OF THE HANDFUL OUTSIDE, OR TO BURN ITS FRANKINCENSE OUTSIDE, THE OFFERING IS INVALID, BUT THE PENALTY OF KARETH[25] IS NOT INCURRED.[26] [IF HE INTENDED] TO EAT THE REMAINDER ON THE MORROW[27] OR AN OLIVE'S BULK OF THE REMAINDER ON THE MORROW, OR TO BURN THE HANDFUL ON THE MORROW OR AN OLIVE'S BULK OF THE HANDFUL ON THE MORROW, OR TO BURN ITS FRANKINCENSE ON THE MORROW,

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(1) The words ‘R. Simeon says’ are deleted by all commentators on the strength of Rashi's remark: ‘I believe that R. Simeon is the author of the statement’.

(2) There is here a contradiction between the views of R. Simeon, for the view expressed in the second Baraitha is also that of R. Simeon.

(3) The first quoted Baraitha which contains the dispute between R. Judah and R. Simeon.

(4) In which case the offering is valid as long as there remained one grain of frankincense.

(5) In which case there must be nothing less than a handful at all times.

(6) The anonymous author of our Mishnah.

(7) I.e., at the time of the taking of the handful of flour there must be in the vessel a handful of frankincense. This is admitted by all authorities; v. infra 106b.

(8) Lev. VI. 8, Heb. ואת כל.

(9) The expression כל ‘all’ is interpreted here, by R. Judah and R. Simeon, in the same sense as the Rabbinic כל שהוא ‘anything’, ‘aughtsoever’.

(10) את. Hence there must be left at least two grains.

(11) As having any particular significance apart from its grammatical use.

(12) R. Meir, R. Judah and R. Simeon.

(13) That a diminution of the frankincense does not invalidate the offering according to R. Judah and R. Simeon.

(14) V. infra 106b.

(15) I.e., there must be a handful of frankincense in each dish from the time that they are set upon the table up to the time they are removed to be burnt.

(16) Since there is here no Biblical term or expression, like כל, to indicate that a diminution of the prescribed quantity is allowed.

(17) R. Meir, R. Judah and R. Simeon.

(18) Which is an excessive amount and therefore invalid; anything more than one handful but less than two would be valid. According to another interpretation, it is valid where two handfuls were set apart, for each handful can serve separately for the purpose.

(19) And the amount of frankincense was excessive. Or it is invalid, according to the aforementioned view of R. Meir, because there is a diminution of the frankincense appointed for the offering.

(20) I.e., of frankincense which had remained on the table the past week and which were removed on the Sabbath and burnt upon the altar.

(21) For it is contained in dishes and stands apart from the rest of the offering.

(22) So that as soon as the time for the removal of the dishes of frankincense of the past week has come about (which is immediately after the offering of the Sabbath additional sacrifice), the frankincense that has been set apart may be regarded as already appointed for their purpose; and therefore it is invalid if thereafter a part of it was lost.

(23) The rule here stated applies equally well to each of the four main services of the meal-offering-taking out the handful, putting it into a vessel, bringing it nigh to the altar, and burning it.

(24) The wrongful intention must be in respect of those parts of the offering that are usually eaten, but the term ‘eat’ includes also what is ‘eaten’ by the altar, i.e., burnt thereon, in this case the handful and the frankincense. This is derived from the fact that in Lev. VII, 18 there is a duplicated expression for eating, האכל יאכל, thus referring to two kinds of eating.

(25) V. Glos.

(26) If a priest actually, ate the remainder or actually burnt the handful or the frankincense outside the Temple court.

(27) Which is ‘outside the proper time’, for a meal-offering must be eaten the same day and evening until midnight.

Talmud - Mas. Menachoth 12a

THE OFFERING IS PIGGUL,[1] AND THE PENALTY OF KARETH IS INCURRED. THIS IS THE GENERAL RULE: IF ONE TOOK THE HANDFUL OR PUT IT INTO THE VESSEL OR BROUGHT IT NIGH OR BURNT IT, [INTENDING] TO EAT A THING THAT IS USUAL TO EAT OR TO BURN A THING THAT IS USUAL TO BURN, OUTSIDE ITS PROPER PLACE, THE OFFERING IS INVALID BUT THE PENALTY OF KARETH IS NOT INCURRED; BUT IF [HE INTENDED THE LIKE] OUTSIDE ITS PROPER TIME, THE OFFERING IS PIGGUL AND THE PENALTY OF KARETH IS INCURRED; PROVIDED THAT THE MATTIR[2] WAS OFFERED ACCORDING TO ITS PRESCRIBED RITE.[3] HOW IS THE MATTIR OFFERED ACCORDING TO ITS PRESCRIBED RITE? IF HE TOOK OUT THE HANDFUL IN SILENCE, BUT PUT IT INTO THE VESSEL AND BROUGHT IT NIGH AND BURNT IT [INTENDING AT EACH SERVICE TO EAT THE REMAINDER] OUTSIDE ITS PROPER TIME; OR IF HE TOOK OUT THE HANDFUL [INTENDING TO EAT THE REMAINDER] OUTSIDE ITS PROPER TIME, BUT PUT IT INTO THE VESSEL AND BROUGHT IT NIGH AND BURNT IT IN SILENCE; OR IF HE TOOK OUT THE HANDFUL AND PUT IT INTO THE VESSEL AND BROUGHT IT NIGH AND BURNT IT [INTENDING AT EACH SERVICE TO EAT THE REMAINDER] OUTSIDE ITS PROPER TIME — SUCH IS A CASE WHERE THE MATTIR IS OFFERED ACCORDING TO ITS PRESCRIBED RITE.[4] HOW IS THE MATTIR OFFERED NOT ACCORDING TO ITS PRESCRIBED RITE? IF HE TOOK OUT THE HANDFUL [INTENDING TO EAT THE REMAINDER] OUTSIDE ITS PROPER PLACE, AND PUT IT INTO THE VESSEL AND BROUGHT IT NIGH AND BURNT IT [INTENDING AT EACH SERVICE TO EAT THE REMAINDER] OUTSIDE ITS PROPER TIME; OR IF HE TOOK OUT THE HANDFUL [INTENDING TO EAT THE REMAINDER] OUTSIDE ITS PROPER TIME, AND HE PUT IT INTO THE VESSEL AND BROUGHT IT NIGH AND BURNT IT [INTENDING AT EACH SERVICE TO EAT THE REMAINDER] OUTSIDE ITS PROPER PLACE; OR IF HE TOOK OUT THE HANDFUL AND PUT IT INTO THE VESSEL AND BROUGHT IT NIGH AND BURNT IT [INTENDING AT THESE SERVICES TO EAT THE REMAINDER] OUTSIDE ITS PROPER PLACE[5] — (SUCH IS A CASE WHERE THE MATTIR IS OFFERED NOT ACCORDING TO ITS RITE).[6] OR IF IT WAS A SINNER'S MEAL-OFFERING[7] OR A MEAL-OFFERING OF JEALOUSY.[7] AND HE TOOK THE HANDFUL THEREFROM UNDER ANY NAME OTHER THAN ITS OWN, AND PUT IT INTO THE VESSEL AND BROUGHT IT NIGH AND BURNT IT [INTENDING AT EACH SERVICE TO EAT THE REMAINDER] OUTSIDE ITS PROPER TIME; OR IF HE TOOK OUT THE HANDFUL [INTENDING TO EAT THE REMAINDER] OUTSIDE ITS PROPER TIME, AND PUT IT INTO THE VESSEL AND BROUGHT IT NIGH AND BURNT IT UNDER ANY NAME OTHER THAN ITS OWN; OR IF HE TOOK OUT THE HANDFUL AND PUT IT INTO THE VESSEL AND BROUGHT IT NIGH AND BURNT IT UNDER ANY NAME OTHER THAN ITS OWN — SUCH IS A CASE WHERE THE MATTIR IS OFFERED NOT ACCORDING TO ITS PRESCRIBED RITE.

[IF HE INTENDED],[8] TO EAT AN OLIVE'S BULK OF THE REMAINDER OUTSIDE ITS PROPER PLACE AND ANOTHER OLIVE'S BULK THEREOF ON THE MORROW, OR TO EAT AN OLIVE'S BULK THEREOF ON THE MORROW AND ANOTHER OLIVE'S BULK THEREOF OUTSIDE ITS PROPER PLACE, OR TO EAT A HALF-OLIVE'S BULK THEREOF OUTSIDE ITS PROPER PLACE AND A HALF-OLIVE'S BULK ON THE MORROW,[9] OR TO EAT A HALF-OLIVE'S BULK THEREOF ON THE MORROW AND AN HALF-OLIVE'S BULK OUTSIDE ITS PROPER PLACE,[9] THE OFFERING IS INVALID BUT THE PENALTY OF KARETH IS NOT INCURRED. R. JUDAH SAID, THIS IS THE GENERAL RULE: IF THE INTENTION ABOUT THE TIME PRECEDED THE INTENTION ABOUT THE PLACE, THE OFFERING IS PIGGUL AND THE PENALTY OF KARETH IS INCURRED; BUT IF THE

INTENTION ABOUT THE PLACE PRECEDED THE INTENTION ABOUT THE TIME, THE OFFERING IS INVALID BUT THE PENALTY OF KARETH IS NOT INCURRED.[10] BUT THE SAGES SAY, IN BOTH CASES THE OFFERING IS INVALID BUT THE PENALTY OF KARETH IS NOT INCURRED.

GEMARA. The question was raised: According to him who holds that if the remainder of the meal-offering had diminished in the time between the taking of the handful and the burning thereof he may nevertheless burn the handful on account of it; and we had established that that remainder may not be eaten[11] — [the question arises], can the burning of the handful have any effect [upon this remainder] that it should become piggul,[12] and that it should no more be subject to the law of Sacrilege or not?[13] — R. Huna said, Even according to R. Akiba who said that the sprinkling [of the blood] has an effect upon [the consecrated meat] that was taken out [of its prescribed bounds],[14] that is so only with regard to what was taken out, since it is entirely here but has become invalid only through some extrinsic cause,[15] but upon that which has diminished, which is an intrinsic defect, the burning surely can have no effect.[16] Thereupon Raba said, On the contrary,[17] even according to R. Eliezer who said that the sprinkling of the blood has no effect upon what was taken out, that is so only with regard to what was taken out, since it is no longer inside [the Sanctuary], but upon that which has diminished, since it is still inside [the Sanctuary], the burning surely can have an effect.

Raba said, How do [arrive at the above? Because we have learnt: IF HE TOOK THE HANDFUL FROM THE MEAL-OFFERING [INTENDING] TO EAT THE REMAINDER OUTSIDE [THE TEMPLE COURT]. OR AN OLIVE'S BULK OF THE REMAINDER OUTSIDE; and R. Hiyya when learning this Mishnah quoted, ‘IF HE TOOK THE HANDFUL FROM THE MEAL-OFFERING’, etc., but he did not include in it OR AN OLIVE'S BULK. Now why did he not include OR AN OLIVE'S BULK? Surely [because he assumed the Mishnah to be dealing with] the case where the remainder had diminished until there was only an olive's bulk left;[18] and since with regard to the services of putting the handful into a vessel, of bringing it nigh, and of burning it, [R. Hiyya] could not have stated

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(1) Heb. פיגול, lit., ‘an abomination’. This term piggul which also involves the penalty of kareth (v. Glos.) applies only to a wrongful intention concerning the time of the eating of the offering, in contradistinction from the wrongful intention concerning the place which merely renders the sacrifice פסול ‘invalid’, but which does not involve the penalty of kareth.

(2) Heb. מתיר; lit., ‘that which renders permissible’. This refers to the handful of flour and the frankincense of a meal-offering which, on being burnt, render the remainder permissible to be eaten. It also refers to the blood of an animal-offering which, on being sprinkled upon the altar, renders the meat thereof permissible to be eaten.

(3) I.e., there was no other imperfection or fault in the course of the services of the offering save the wrongful intention of ‘out of time’. If, however, there was some other fault during the course of the services, either before or after the wrongful intention of ‘out of time’, the offering is not piggul but merely invalid, and the penalty of kareth is not incurred by them that eat thereof. The Mishnah now proceeds to exemplify the two rules stated.

(4) For the only defect in this offering was the ‘out of time’ intention, even though it was expressed during the other services too.

(5) During one of these services, however, the intention was expressed of eating the remainder outside its proper time; thus in this offering there were two defects: the ‘out of time’ intention and the ‘out of place’ intention.

(6) This sentence is struck out by Sh. Mek., and it is not found in MS.M. and other MSS.

(7) These meal-offerings can also be rendered invalid by a wrongful intention concerning the nature of the offering. i.e., by treating the offering as if it were something else. V. supra 2a.

(8) During one service two wrongful intentions as exemplified in the Mishnah; and it is immaterial which intention was expressed first. This is in contradistinction from the foregoing cases of the Mishnah where two wrongful intentions were expressed during two services.

(9) In this case the two half-olive's bulks are reckoned together so as to invalidate the offering.

(10) This rule of R. Judah applies to two wrongful intentions expressed during two services as well as during one service.

(11) V. supra 9a and b.

(12) I.e., if while burning the handful the priest expressed the intention of eating this remainder (which in fact may not he eaten since it was found to be lacking) outside its proper time. This case may be put in the same category as where a wrongful intention was expressed concerning ‘a thing that it is not usual to eat’, which according to our Mishnah is not included in the law of piggul. On the other hand, since the burning of the handful is carried out according to law, it is in no wise different from the burning in any other meal-offering, and it can render the offering piggul.

(13) The general rule is that after the burning of the handful the remainder of the meal-offering is not subject to the law of Sacrilege since it is now permitted to the priests (Me'il I, 1); and therefore if a layman were to derive any enjoyment whatsoever from the remainder, he would not be liable to bring a guilt-offering for Sacrilege. In this case, however, since even after the burning of the handful, the priests are not permitted to eat the remainder, it might rightly be said that the law of Sacrilege still applies.

(14) It is also established law that after the sprinkling of the blood of the animal-offering the consecrated meat is no more subject to the law of Sacrilege, since it may now be eaten by the priests. This rule, according to R. Akiba, applies even to what was taken out of its bounds and which consequently may not be eaten; v. Me'il. 7a.

(15) By being taken out of its prescribed bounds; nothing however of the meat was lacking.

(16) It is therefore still subject to the law of Sacrilege.

(17) Raba is of the opinion that consecrated matter that was taken out of the Temple is a more serious matter than if it had diminished.

(18) This of course can be the case with the other services but not with the service of the taking of the handful, for if at the time of taking the handful the meal-offering had diminished it is invalid, and can in no wise be affected by any wrongful intention.

Talmud - Mas. Menachoth 12b

‘or an olive's bulk’,[1] he therefore did not state ‘or an olive's bulk’ even with regard to the service of taking out the handful. Nevertheless, he states in the later clause, THE OFFERING IS PIGGUL AND THE PENALTY OF KARETH IS INCURRED; hence, it is evident, that the burning [of the handful] has an effect [upon the diminished remainder]! Said to him Abaye. It is not so,[2] but the author is R. Eleazar; for we have learnt: If a man offered outside [the Temple court] an olive's bulk of the handful,[3] or of the frankincense,[3] or of the incense-offering.[4] or of the mealoffering of the priests.[5] or of the meal-offering of the anointed [High] Priest, or of the meal-offering offered with the drink-offerings, he is liable;[6] but R. Eleazar declares him exempt unless he offered the whole thereof. Since therefore the expression ‘or an olive's bulk’ cannot be stated in connection with the [burning of the] handful, this same expression ‘or an olive's bulk’ is not stated in connection with the remainder.[7] But if it is R. Eleazar, why is it stated[8] ‘[Intending] to burn the handful’? It should state, ‘[Intending] to burn the handful and the frankincense’! For we have learnt:[9] If a man offered either the handful or the frankincense outside [the Temple court], he is liable; but R. Eleazar declares him exempt unless he offered both! — It refers to the handful of the sinner's meal-offering.[10] And did the Tanna trouble to teach us the case concerning the handful of the sinner's meal-offering? — He did. And likewise when R. Dimi came [from Palestine] he reported in the name of R. Eleazar that it referred only to the handful of the sinner's meal-offering, and it was in accordance with R. Eleazar's view.

Later Raba said, What I said before was wrong. For it has been taught: The expression It is[11] implies that if one of the loaves was broken all are invalid. It follows however, that if one was taken out of the Sanctuary[12] those that are inside are valid. Now whom have you heard say that the sprinkling [of the blood] has an effect upon what was taken out?[13] [Obviously] it is R. Akiba, and yet it states that if one of the loaves was broken they are not [valid].[14] Thereupon Abaye said to him, Does [the Baraitha] expressly state ‘But if one was taken out [the others are valid]’? Perhaps the correct inference is: If one became unclean the others are valid, and that is because the [High Priest's] plate[15] renders it acceptable, whereas if one was taken out the others would not [be valid],[16] for the teaching is in accordance with R. Eleazar's view who maintains that the sprinkling of the blood has no effect upon what was taken out. And by right the Tanna [of the Baraitha] should have also stated the case where one [of the loaves] was taken out, but he only stated the case where one was broken to teach us that, even though it is still inside [the Sanctuary], the ‘burning’ has no effect upon it. According to R. Akiba, however, who said that the sprinkling of the blood has an effect upon what was taken out, the ‘burning’ likewise will have an effect upon that which had diminished.[17]

MISHNAH. [IF HE INTENDED] TO EAT A HALF-OLIVE'S BULK AND TO BURN A HALF-OLIVE'S BULK,[18] THE OFFERING IS VALID, FOR EATING AND BURNING CANNOT BE RECKONED TOGETHER.

GEMARA. Now the reason [why they cannot be reckoned together] is that [there was an intention] to eat and to burn, but it follows that where [there was the intention] to eat [what it is usual to eat] and also to eat what it is not usual to eat, they can be reckoned together;[19] but it has been stated earlier [in the Mishnah]: ‘[Intending] to eat a thing that it is usual to eat or to burn a thing that it is usual to burn’. Hence [a wrongful intention to eat] is of consequence only in respect of a thing that it is usual to eat, but not in respect of a thing that it is not usual to eat![20] — Said R. Jeremiah: The author [of our Mishnah] is R. Eliezer, who maintains that a wrongful intention to consume upon the altar what is usually eaten by man, or to eat what is usually consumed upon the altar is of consequence.[21] For we have learnt: If he took out the handful from the meal-offering [intending] to eat a thing that it is not usual to eat or to burn a thing that it is not usual to burn, the offering is valid; but R. Eliezer declares it to be invalid. Abaye said, You may even say that [this Mishnah] is in accordance with the view of the Rabbis, but you must not infer from it that where [there was the intention] to eat [a half-olive's bulk of what it is usual to eat] and to eat [the same of] what it is not usual to eat [they can be reckoned together], but rather infer this, that where the intention was to eat [a half-olive's bulk] and also to eat [the same of] a thing that it is usual to eat [they can be reckoned together].[22] What does it teach us?[23] We have expressly learnt this case in the earlier [Mishnah]: If he intended to eat an olive's bulk [of the remainder] outside its proper place and another olive's bulk thereof on the morrow, or to eat an olive's bulk thereof on the morrow and another olive's bulk thereof outside its proper place, or to eat a half-olive's bulk thereof outside its proper place and another half-olive's bulk thereof on the morrow, or to eat a half-olive's bulk thereof on the morrow and another half-olive's bulk thereof outside its proper place, the offering is invalid, but the penalty of kareth is not incurred.

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(1) For once it is assumed as a fact that after the taking out of the handful the remainder had diminished until there was only an olive's bulk left, then it is absurd to state ‘if he put the handful into a vessel (or brought it nigh, or burnt it) intending to eat the remainder or an olive's bulk of the remainder outside its proper time . . .’ for the two, the remainder and the olive's bulk, are identical. This being so, R. Hiyya for the sake of consistency omitted the expression ‘or an olive's bulk’ even in the case of the taking of the handful where this expression is indeed meaningful. The condition of the text both in the Gemara and in Rashi is very doubtful and at present most unsatisfactory. The translation is based on the interpretation of R. Meir and his son Rashbam, given in cur. edd. at the end of Chapter I, infra 13a.

(2) The reason why R. Hiyya omits ‘or an olive's bulk’ was not as suggested above by Raba, but because R. Hiyya stated the teaching in accordance with the view of R. Eleazar, v. Zeb. 109b.

(3) Of an ordinary meal-offering.

(4) Which was offered daily in the Temple, morning and evening.

(5) Every meal-offering of the priest was to be wholly burnt. So too was the meal-offering of the High Priest which he was to bring daily, known as חביתי כהן גדול. Likewise, the meal-offerings that were offered with the drink-offerings that accompanied most sacrifices (v. Num XV, 4ff) were wholly burnt.

(6) To the penalty of kareth; v. Lev. XVII, 8, 9.

(7) Hence, according to R. Eleazar, to burn only an olive's bulk of the handful is no ‘burning’, and an intention to do so outside its proper time expressed during another service (say, during the taking out of the handful) would not render the offering piggul. Accordingly one must omit the expression ‘or an olive's bulk’ from the first clause, which deals with a wrongful intention in connection with the burning of the handful, and for the sake of consistency the expression was omitted by R. Hiyya throughout.

(8) In the Mishnah as taught by R. Hiyya.

(9) Zeb. 110a.

(10) I.e., the Mishnah taught by R. Hiyya on the authority of R. Eleazar refers specifically to the sinner's meal-offering in which there was no frankincense at all, so that the ‘burning’ consists only of the burning of the handful.

(11) Lev. XXIV, 9: For it is most holy unto him; with reference to the Shewbread.

(12) In all MSS. the following is added here in the text: ‘or if one was rendered unclean’. So also Sh. Mek.

(13) For here it is said that the burning of the frankincense of the Shewbread-offering — which corresponds to the sprinkling of the blood of an animal-offering — has an effect upon what was taken out, insofar as the number of the loaves is considered complete, the result being that those loaves which remained inside are now permitted to be eaten.

(14) Hence, although the burning can have an effect upon what was taken out, it is admitted, even according to R. Akiba, that it can have no effect upon that which had diminished, and if one loaf was broken all are invalid, Raba thus agrees with R. Huna, and retracts his former view,

(15) Heb, ציץ: the High Priest's plate of pure gold worn on the forehead which had the power of propitiation (v. Ex. XXVIII, 36ff); i.e., it secured the Divine acceptance of the sacrifice even though the flesh or the blood or any other part thereof had become unclean.

(16) For the burning of the frankincense must be on behalf of the whole Shewbread, i.e., twelve loaves, and here there is not this number.

(17) Thus contrary to R. Huna's view.

(18) Each either outside the proper time or outside the proper place.

(19) E.g., if while taking the handful he intended to eat a half-olive's bulk of the remainder outside the Sanctuary and also to eat outside a half-olive's bulk of the handful (which is to be burnt and not eaten), these two intentions would be reckoned as one in respect of an olive's bulk and the offering would be invalid.

(20) Such an intention even in respect of a whole olive's bulk is of no consequence whatsoever; so that there can then be no question at all of reckoning this intention together with another in order to render the offering invalid.

(21) The handful is a thing that it is usual to burn upon the altar, and the remainder is a thing that it is usual to eat. Hence, according to R. Eliezer (v. infra 17a), a wrongful intention made in respect of a thing that it is not usual to eat or to burn renders the offering invalid and a fortiori if made partly in respect of a thing that it is usual to eat and partly in respect of a thing that it is not usual to eat.

(22) The one to be eaten outside its proper place and the other on the morrow. Our Mishnah, by inference, teaches that these intentions combine and the offering is invalid.

(23) From this point until the end of the chapter the text is very doubtful and in many parts obviously corrupt; as is indeed evident from the many bracketed lines and words. In fact the entire passage seems to have been taken over bodily from Zeb. 31b, and altered in parts so as to suit the context in our tractate; hence the confusion. V. Tosaf. s.v. אלא. The translation given is based entirely upon Rashi and upon the text that was apparently before him. V. also D.S. on this passage.

Talmud - Mas. Menachoth 13a

What further does our Mishnah teach us? If it suggests the inference that where there was the intention to eat [a half-olive's bulk of what it is usual to eat] and also to eat [a half-olive's bulk] of what it is not usual to eat they can be reckoned together — but you already know from the first clause;[1] and if [it teaches] that where there was the intention to eat and burn [a half-olive's bulk they cannot be reckoned together] — but you surely know this by inference from the preceding Mishnah: for if the intentions to eat [what it is usual to eat] and to eat what it is not usual to eat, cannot be reckoned together, is it then necessary to state that the intentions to eat and to burn [cannot be reckoned together]?[2] — Yes, it is necessary to state that the intentions to eat and to burn [cannot be reckoned together]; for you might have thought that only in that case[3] [the intentions cannot be reckoned together], for there is an intention there with regard to what is not proper.[4] but here,[5] since each intention relates to what is proper in each case, I might say that they should be reckoned together; — we are therefore taught [that they cannot be reckoned together].

CHAPTER II

MISHNAH. IF HE TOOK OUT THE HANDFUL [INTENDING] TO EAT THE REMAINDER OR TO BURN THE HANDFUL ON THE MORROW, IN THIS CASE R. JOSE AGREES THAT THE OFFERING IS PIGGUL[6] AND THAT THE PENALTY OF KARETH[6] IS INCURRED ON ACCOUNT THEREOF.[7] [IF HE INTENDED] TO BURN THE FRANKINCENSE THEREOF ON THE MORROW, R. JOSE SAYS, IT IS INVALID BUT THE PENALTY OF KARETH IS NOT INCURRED ON ACCOUNT THEREOF; BUT THE SAGES SAY, IT IS PIGGUL AND THE PENALTY OF KARETH IS INCURRED ON ACCOUNT THEREOF. THEY SAID TO HIM, HOW DOES THIS DIFFER FROM AN ANIMAL-OFFERING?[8] HE SAID TO THEM, WITH THE ANIMAL-OFFERING THE BLOOD, THE FLESH AND THE SACRIFICIAL PORTIONS ARE ALL ONE;[9] BUT THE FRANKINCENSE IS NOT OF THE MEAL-OFFERING.

GEMARA. Why does the Mishnah state, IN THIS CASE R. JOSE AGREES? — Because the Tanna wished to state the next clause: [IF HE INTENDED] TO BURN THE FRANKINCENSE THEREOF ON THE MORROW, R. JOSE SAYS, IT IS INVALID BUT THE PENALTY OF KARETH IS NOT INCURRED ON ACCOUNT THEREOF. Now you might have thought that the reason for R. Jose's opinion [in the last clause] was that a wrongful intention in respect of half the mattir does not render piggul[10] and that consequently [R. Jose] differs even in the first clause.

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(1) I.e., from the preceding Mishnah that these two intentions cannot combine; v. supra 12a.

(2) For if two ‘eatings’ cannot combine, surely ‘eating’ and ‘burning’ cannot!

(3) Where the intention was to eat outside the Sanctuary a half-olive's bulk of the remainder and a half-olive's bulk of the handful.

(4) I.e., to eat a thing that it is not usual to eat, sc. the handful.

(5) In our Mishnah where the intention is to eat of the remainder outside and to burn of the handful outside, each action being the proper practice.

(6) V. Glos.

(7) Should one eat it.

(8) For if one slaughtered an animal-offering intending to burn the sacrificial portions on the morrow the offering is certainly piggul. The same surely should be the case with the meal-offering, for the frankincense corresponds to the sacrificial portions of the animal-offering.

(9) Explained in the Gemara.

(10) The mattir (Heb. מתיר lit., ‘that which renders permissible’) of the meal-offering is the handful and the frankincense, for only after the burning of those two upon the altar is the remainder of the meal-offering rendered permitted to be eaten. It is now suggested that the reason for R. Jose's view in the second clause of our Mishnah is that a wrongful intention expressed during a service in respect of the frankincense, which is only half the mattir, is of no consequence. According to this principle, R. Jose should also hold in the first clause of our Mishnah that the offering is not piggul, since the wrongful intention was only in respect of the burning of the handful which is also only half the mattir.

Talmud - Mas. Menachoth 13b

We are therefore taught [that there he agrees].[1]

[IF HE INTENDED] TO BURN THE FRANKINCENSE THEREOF ON THE MORROW, R. JOSE SAYS, IT IS INVALID BUT THE PENALTY OF KARETH IS NOT INCURRED. Resh Lakish said, R. Jose laid down the principle that a ‘mattir cannot render piggul the other mattir.[2] So, too, you may say of the two dishes of frankincense of the Shewbread, that one mattir cannot render piggul the other mattir.[3] What is the point of ‘So, too, you may say’?[4] — You might have supposed that R. Jose's reason in the case of the frankincense [in our Mishnah] was that it was not of the same substance as the meal-offering,[5] but in the case of the two dishes of frankincense, since they each contain the same substance, you might have thought that one could render the other piggul; we are, therefore taught [that it is not so]. But how can you say that R. Jose's reason in the case of the frankincense is not ‘that it is not of the same substance as the meal-offering’? Surely it is expressly so stated in the last clause: THEY SAID TO HIM, HOW DOES THIS DIFFER FROM AN ANIMAL-OFFERING? HE SAID TO THEM, WITH THE ANIMAL-OFFERING THE BLOOD, THE FLESH AND THE SACRIFICIAL PORTIONS ARE ALL ONE; BUT THE FRANKINCENSE IS NOT OF THE MEAL-OFFERING![6] — The expression ‘IS NOT OF THE MEAL-OFFERING’ means, it is not dependent upon the [handful of the] meal-offering: for it is not right to say. as the handful is indispensable to the remainder-for so long as the handful has not been burnt the remainder may not be eaten-so it is indispensable to the frankincense; but in fact if he wishes he may burn this first and if he wishes he may burn that first.[7] And what do the Rabbis [say to this]? — [They hold that] we apply the principle. ‘a mattir cannot render piggul another mattir’, only to such a case as where [the mattirs] are not ordained to be in one vessel,[8] but where they are ordained to be in one vessel[9] they are regarded as one [mattir].

R. Jannai said, If a non-priest gathered up the frankincense,[10] it is invalid. Why? — R. Jeremiah said, This touches upon the law of ‘bringing nigh’.[11] He is of the opinion that ‘bringing nigh’ without even moving the feet is quite a proper act,[12] and [it is established that] if a non-priest brought it nigh, it is invalid.

R. Mari said, We have also learnt the same:[13] This is the general rule: If one took the handful or put it into the vessel or brought it nigh or burnt it [etc.]. Now it is clear that the taking of the handful corresponds to the slaughtering [of the animal-offering],[14] the bringing nigh [of the handful] to the bringing nigh [of the blood], the burning [of the handful] to the sprinkling [of the blood], but as to the putting [of the handful] into a vessel what [service] is he performing! Should you say that it corresponds to the receiving [of the blood], but surely there is no comparison between them, for there [the blood] comes in of itself [into the vessel], whereas here [the handful] is taken and put into the vessel. We must therefore say that, since it[15] can in no wise be omitted, it is an important service, and perforce is regarded as corresponding to the receiving [of the blood]; here, too, since it[16] can in no wise be omitted, it is an important service, and perforce is regarded as the ‘bringing nigh’! — It is not so, for in fact it[15] corresponds to the receiving of the blood; and as for your objection ‘There it comes in of itself, whereas here it is taken and put into the vessel’, I reply that, seeing that in both cases the subject is hallowed in a vessel, there can be no difference, surely, whether it comes into the vessel of itself or it is taken and put into the vessel![17]

MISHNAH. IF HE SLAUGHTERED THE TWO LAMBS[18] [INTENDING] TO EAT ONE OF THE [TWO] LOAVES ON THE MORROW, OR IF HE BURNT THE TWO DISHES [OF THE FRANKINCENSE INTENDING] TO EAT ONE OF THE [TWO] ROWS OF THE SHEWBREAD[19] ON THE MORROW, R. JOSE SAYS, THAT LOAF OR THAT ROW ABOUT WHICH HE EXPRESSED THE INTENTION IS PIGGUL AND THE PENALTY OF KARETH IS INCURRED ON ACCOUNT OF THEM, WHILE THE OTHER IS INVALID BUT THE PENALTY OF KARETH IS NOT INCURRED. BUT THE SAGES SAY, BOTH ARE PIGGUL AND THE PENALTY OF KARETH IS INCURRED ON ACCOUNT OF THEM.

GEMARA. R. Huna said, R. Jose maintains that if one expressed an intention which makes piggul in connection with the right thigh, the left thigh is not thereby rendered piggul.[20] What is the reason? You may say it is based upon a logical argument, or you may say it is based upon a verse. ‘You may say it is based upon a logical argument’, for surely the wrongful intention is not stronger than actual uncleanness! And if one limb became unclean is the whole unclean?[21] ‘Or you may say it is based upon a verse’, for it is written, And the soul that eateth of it shall bear his iniquity,[22] that is, of it[23] but not of any other part.

R. Nahman raised an objection against R. Huna from the following: ‘There is never the penalty of kareth incurred unless he expressed an intention which makes piggul with regard to an olive's bulk from both’.[24] Thus an olive's bulk from both, but not from one.[25] Now who is the author of this Baraitha? Should you say it is the Rabbis — but according to them even though [the intention was] in respect of one loaf only [both are piggul].[26] Obviously then it is R. Jose. Now if you say that they are regarded as one body [there],[27] then it is evident why they can be combined [here].[28]

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(1) For R. Jose's reason is not as suggested above, but as given by Resh Lakish infra; v. next note.

(2) R. Jose holds that in every offering in which there are two mattirs, a wrongful intention expressed during the service of one mattir with regard to the other mattir is of no consequence; thus an intention expressed during the burning of the handful (the first mattir) to burn the frankincense (the second mattir) on the morrow, would not render the offering piggul.

(3) The two dishes of frankincense are the mattirs of the Shewbread, for only after the burning of both dishes are the twelve loaves of the Shewbread permitted to be eaten by the priests. Now if a wrongful Intention was expressed during the burning of the one dish in respect of the other dish (e.g., to burn the other dish on the morrow), it is of no consequence.

(4) It is surely an obvious application of R. Jose's principle!

(5) The mattirs of the meal-offering, the handful and the frankincense, are of different substances, and it might therefore be said that only in such a case does R. Jose hold that a mattir cannot render piggul the other mattir, but not where the mattirs are alike as in the case of the Shewbread.

(6) And the meaning presumably is this: the blood and the sacrificial portions of an animal-offering all come from the one animal; the frankincense, on the other hand, is a different substance and does not come from the meal-offering.

(7) This then is the position of R. Jose: a mattir does not render piggul another mattir; yet, says R. Jose, there is a distinction between an animal-offering and a meal-offering. In the case of an animal-offering the blood and the sacrificial portions are one, so that they are not regarded as separate mattirs; and therefore if a wrongful intention was expressed during the sprinkling of the blood with regard to the burning of the sacrificial portions, this would render the offering piggul. On the other hand, in the case of the meal-offering, the handful and the frankincense are two separate mattirs, for they ate of different substances, and are independent of each other, for either may be offered before the other; therefore the principle of a mattir not rendering piggul another mattir will apply.

(8) E.g.. the two lambs offered at the Feast of Weeks; cf. Lev. XXIII, 19. These lambs are also mattirs, for by their slaughtering the ‘two loaves’ (ibid. 17) are rendered permissible unto the priests. This example is inserted in the text in brackets, but is wanting in MS.M., and has been struck out by Sh. Mek.

(9) The handful and the frankincense of a meal-offering were both originally in the same vessel.

(10) After the burning of the handful the frankincense was picked from the flour and then burnt upon the altar. V. Sotah 14b.

(11) For when the non-priest hands over the frankincense to the officiating priest he has certainly reduced the distance of ‘bringing nigh’, which being an essential service must be performed by the priest only, whereas here it was partly performed by the non-priest.

(12) Lit., ‘its name is bringing nigh’. Therefore even if the non-priest did not move his feet at all, but merely handed over the frankincense which he had gathered up to the priest, this action is sufficient to fulfil the requirements of the ‘bringing nigh’; and therefore if performed by a non-priest it is invalid.

(13) V. supra 12a. R. Mari desires to prove from this Mishnah that the gathering up of the frankincense is a vital service.

(14) For as the slaughtering separates the blood (i.e. the altar's portion) from the flesh (i.e., the priests’ portion), so the taking of the handful separates the handful (i.e., the altar's portion) from the remainder (i.e., the priests’ portion).

(15) Sc. the putting of the handful into the vessel.

(16) I.e., the gathering up of the frankincense.

(17) Thus between these two services there is at least a point in common, but the gathering up of the frankincense is in no wise comparable with either of these services, and therefore is not regarded as a vital service.

(18) Offered as peace-offerings on the Feast of Weeks, accompanied by two loaves as firstfruits; v. Lev. XXIII, 17,19. Throughout the whole of this chapter the expression ‘lamb’ refers to this special peace-offering.

(19) V. ibid. XXIV, 5ff.

(20) I.e., if a person while slaughtering the sacrifice expressed the intention of eating the right thigh outside the time prescribed for it, that thigh only is piggul and whosoever eats of it incurs the penalty of kareth, but the rest of the flesh of the animal is not piggul. R. Huna arrived at this by taking R. Jose's view expressed in our Mishnah to an extreme length; viz., just as each loaf is a separate body or entity and the wrongful intention with regard to one loaf will not affect the other, so is each limb a separate body and the wrongful intention with regard to one limb will not affect the other.

(21) Certainly not! Of course the limb spoken of here had been detached from the animal.

(22) Lev. VII, 18.

(23) Which was the subject of a wrongful intention.

(24) I.e., if the wrongful intention was in respect of both loaves, even though only to the extent of a half-olive's bulk of each loaf, they are both piggul and the penalty of kareth is incurred by them that eat thereof.

(25) I.e., if the wrongful intention was in respect of an olive's bulk of one loaf only, the other loaf would not be piggul.

(26) V. our Mishnah.

(27) I.e.,that two limbs (as the right and left thigh) are not regarded as separate entities but as one ‘body’ derived from the one animal; so that if a wrongful intention was expressed with regard to one limb both would be piggul, contra R. Huna.

(28) For the two loaves are, by reason of the form of the intention expressed (not ‘a half-olive's bulk from each loaf’, but ‘an olive's bulk from the two loaves’), also regarded as one entity. In our Mishnah, however, the two loaves are admittedly regarded as two separate entities, for they were in no wise combined in one, not even by the intention expressed.

Talmud - Mas. Menachoth 14a

But if you say that they are regarded as two bodies [there], why are they combined [here]?[1] The author of that [Baraitha] is Rabbi. For it was taught: If he slaughtered the lamb intending to eat a half-olive's bulk of the one loaf [on the morrow], and likewise [he slaughtered] the other lamb intending to eat a half-olive's bulk of the other loaf [on the morrow], Rabbi says, I maintain that this offering is valid. Now this is so only because he referred to two halves,[2] but had he referred to an olive's bulk of both [loaves] they would be combined.[3]

Whose ruling does Rabbi follow? If you say that of the Rabbis, but [according to them] even though the intention was in respect of one loaf only [both would be piggul]; and if you say that of R. Jose, then our original question confronts us again.[4] It must be that he follows the ruling of the Rabbis, but read not [in the above mentioned Baraitha] ‘unless he expressed an intention which makes piggul with regard to an olive's bulk from both’,[5] but rather ‘unless he expressed an intention which makes piggul with regard to an olive's bulk in both’,[6] even though the intention was only [in respect of an olive's bulk] of one [loaf]. He thus rejects the view of R. Meir who said, A wrongful intention expressed during the service of half the mattir renders the offering piggul; and he teaches us [that it is not so].

If so, why is this introduced by the expression ‘It must be’?[7] If, of course, you would have said that the author of that Baraitha meant from both [loaves] and in both [lambs],[8] adopting thus the view of R. Jose and rejecting the views of R. Meir[9] and the Rabbis,[10] the expression ‘It must be’ would be quite in order. But if you merely say that he adopted the view of the Rabbis, rejecting only the view of R. Meir, why then the expression ‘It must be’? Moreover R. Ashi had raised an objection [against R. Huna from the following]: Come and hear: Rabbi says in the name of R. Jose, If[11] [whilst performing a service outside][12] he expressed an intention which makes piggul in respect of another service which is performed outside, the offering is piggul, if in respect of another service which is performed inside, it is not piggul. Thus, if whilst standing outside he said, ‘Behold I am slaughtering with the intention of sprinkling the blood thereof on the morrow’, it is not piggul, for this is an intention expressed whilst serving outside in respect of a service performed inside. If whilst standing inside he said, ‘Behold I am sprinkling the blood with the intention of burning the sacrificial portions on the morrow', or, 'of pouring out the residue of the blood on the morrow', it is not piggul for this is an intention expressed whilst serving inside in respect of a service performed outside. If whilst standing outside he said, 'Behold I am slaughtering with the intention of pouring out the residue of the blood on the morrow', or 'of burning the sacrificial portions on the morrow', it is piggul; for this is an intention expressed whilst serving outside in respect of a service performed outside. Now [in the latter case] where the intention was of pouring out the residue of the blood, what is it that becomes piggul?[13] Should you say that it is the blood that becomes piggul,[14] but does the blood become piggul? Behold we have learnt:[15] For the following things the penalty of piggul is not incurred: viz., the handful, the frankincense, the incense-offering, the meal-offering of the priests, the meal-offering offered with the drink-offerings, the meal-offering of the anointed [High] Priest, and the blood![16] Obviously then it is the flesh that becomes piggul. Now if in that case where no intention was expressed with regard to the flesh at all R. Jose holds that it nevertheless becomes piggul, how much more so in this case where he actually expressed an intention with regard to the [flesh of the] offering![17] Moreover Rabina had raised an objection [against R. Huna] from the following: Come and hear: if he took out the handful intending to eat the remainder or to burn the handful on the morrow, in this case R. Jose agrees that the offering is piggul and that the penalty of kareth is incurred on account thereof. Now where the intention was to burn the handful, what is it that becomes piggul? Should you say that it is the handful that becomes piggul, but does the handful become piggul? Behold we have learnt: For the following things the penalty of piggul is not incurred: viz., the handful, etc. Obviously then it is the remainder that becomes piggul. Now if in that case where no intention was expressed with regard to the remainder at all

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(1) For if the two limbs which are derived from the one body are regarded as two entities so that the wrongful intention in respect of one will not affect the other, then the two loaves are a fortiori regarded as two entities and can by no means be combined in one merely by the form of intention expressed. Why then is it held that where the intention was in respect of an olive's bulk of the two loaves both are piggul?

(2) Lit., 'half', 'half'. I.e., the wrongful intention was expressed each time in respect of a half-olive's bulk only of the loaf, and therefore the two intentions cannot be combined to make the offering piggul.

(3) Thus identical with the view stated in the Baraitha quoted by R. Nahman.

(4) V. supra, beginning of 14a: 'But if you say... ', v. p. 83, n.9.

(5) I.e., from the two loaves. Heb. בשתיהן the fem. form referring to the loaves.

(6) I.e., in the course of the slaughtering of the two lambs. Heb. בשניהן the masc. form referring to the lambs. The wrongful intention which makes piggul must be expressed during the service of both lambs, which together form the mattir, i.e., that which renders the loaves permissible, and not during the slaughtering of one of the lambs which is only half the mattir. This clearly conflicts with R. Meir's view.

(7) Heb. לעולם, a dialectic term usually employed when a view is suggested rejecting all others.

(8) So that there must be an intention which makes piggul expressed during the slaughtering of both lambs and in respect of both loaves. This would be in accordance with R. Jose's view as stated in our Mishnah.

(9) Who maintains that a wrongful intention expressed during the slaughtering of one of the lambs, which is but half the mattir, renders piggul. This view is rejected by the statement in the Baraitha 'in both'.

(10) Who maintain that the wrongful intention expressed in respect of one loaf renders the other piggul too. This view is rejected by the expression 'from both'.

(11) This refers to the bullocks and the he-goats that were to be wholly burnt (Lev. IV, 1-12; 13-21; XVI, 3 and 5; Num. XV, 24). The procedure in these offerings (v. Zeb. V, 2) was as follows: the animals were slaughtered outside in the courtyard; the blood was sprinkled inside the Temple, i.e., on the veil and on the golden altar; the sacrificial portions, i.e., the entire beast, were burnt outside upon the outer altar; and the residue of the blood was poured out at the western base of the outer altar which stood in the Temple courtyard.

(12) In this passage the term 'outside' signifies outside the Temple building, i.e., in the Temple courtyard, and the term 'inside' within the Temple building.

(13) I.e., what portion of this offering must one eat in order to incur the penalty of kareth for eating piggul?

(14) So that if one were to eat the blood of this sacrifice in error one would be liable to bring two sin-offerings for the two counts of kareth, (a) for eating blood, and (b) for eating piggul.

(15) Zeb. 42b.

(16) I.e., if the offering was rendered piggul and one ate of the parts enumerated, the penalty of kareth is not incurred, for the law of piggul does not apply to that part of the offering which is the mattir, i.e., which renders other parts permissible. V. Zeb. 42b, 43a.

(17) Thus the piggul-intention expressed in connection with the right thigh will certainly render the left thigh also piggul-contra R. Huna. This sentence is found in the text in cur. edd., but it is wanting in MS.M. Sh. Mek. strikes it out as a gloss.

Talmud - Mas. Menachoth 14b

It nevertheless becomes piggul how much more so in this case where he actually expressed an intention with regard to the [flesh of the] offering! — Rather said R. Johanan, This is the reason for R. Jose's opinion:[1] Scripture regards [the two loaves] as one body and Scripture also regards them as two bodies. As one body-since one cannot be offered without the other; and as two bodies-since the Divine Law ordains that each [loaf] shall be prepared separately. Therefore if they were reckoned as one,[2] they are thereby united, since Scripture regards them as one body; if they were separated,[3] they remain thus separated, since Scripture regards them also as two bodies.

R. Johanan raised the following questions: What is the position if one expressed an intention which makes piggul in respect of the loaves of the thank-offering?[4] or in respect of the baked meal-offering?[5] — Thereupon R. Tahlifa the Palestinian recited to him the following teaching: You must say the same[6] of the loaves of the Thank-offering, and you must say the same of the baked meal-offering.

Our Rabbis taught: If during the slaughtering he intended to eat a half-olive's bulk [of the flesh after its prescribed time], and during the sprinkling [of the blood] he also intended to eat a half-olive's bulk [after its prescribed time], the offering is piggul, for the slaughtering and the sprinkling can be reckoned together as one.[7] Some explained that this applied only to the slaughtering and the sprinkling since they are both mattirin,[8] but not to the receiving and the bringing nigh; whilst others explained that this applied even to these services which are not consecutive,[9] and all the more to those services which are consecutive.[10]

This surely cannot be, for Levi has taught: The four services, viz., slaughtering, receiving, bringing nigh, and sprinkling cannot be reckoned together so as to render piggul! — Raba answered, There is no contradiction: the one[11] represents the view of Rabbi, the other the view of the Rabbis. For it was taught: If he slaughtered the lamb intending to eat a half-olive's bulk of the one loaf [on the morrow], and likewise [he slaughtered] the other lamb intending to eat a half-olive's bulk of the other loaf [on the morrow], Rabbi says, I maintain that this offering is valid. Said Abaye to him, perhaps Rabbi held that view only in the case of a [wrongful intention expressed during] half the mattir[12] in respect of half [the minimum quantity for] eating,[13] but he might not uphold that view in the case of [a wrongful intention expressed during] the whole mattir in respect of half [the minimum quantity for] eating?[14] Raba son of R. Hanan then said to Abaye, But if [as you say,] Rabbi holds that in the case of [a wrongful intention expressed during] the whole mattir in respect of half [the minimum quantity for] eating, [the offering is piggul], then he should declare the offering piggul even in the case of [a wrongful intention expressed during] half the mattir in respect of half [the minimum quantity for] eating, as a precautionary measure against the case of [a wrongful intention expressed during] the whole mattir in respect of half [the minimum quantity for] eating; for R. Jose adopts such a precautionary measure, and the Rabbis also adopt such a precautionary measure. ‘R. Jose adopts such a precautionary measure’, as we have learnt: [If he intended] to burn the frankincense thereof on the morrow, R. Jose says, it is invalid,[15] but the penalty of kareth is not incurred on account thereof; but the Rabbis say, it is piggul and the penalty of kareth is incurred on account thereof. ‘And the Rabbis also adopt such a precautionary measure’, as we have learnt: If he expressed an intention which makes piggul during the [burning of the] handful and not during the [burning of the] frankincense, or during the [burning of the] frankincense and not during the [burning of the] handful, R. Meir says, It is piggul and the penalty of kareth is incurred; but the Rabbis say, The penalty of kareth is not incurred unless the intention which makes piggul was expressed during the service of the whole of the mattir.[16] — He replied, There is no comparison between the cases. I grant you that there R. Jose declares invalid the case [where the wrongful intention was in respect] of the handful of frankincense as a precautionary measure against the case [where the wrongful intention was in respect] of the handful of the meal-offering;[17] and also that the Rabbis declare invalid the case [where the wrongful intention was expressed during the burning] of the handful as a precautionary measure against the case [where the wrongful intention was expressed during the burning] of the handful of the sinner's meal-offering;[18] and that they declare invalid the case [where the wrongful intention was expressed during the burning] of the frankincense as a precautionary measure against the case [where the wrongful intention was expressed during the burning] of the frankincense of the dishes.[18] And in the case of the lambs too,[19] they declare invalid the case [where the wrongful intention was expressed during the slaughtering] of one lamb as a precautionary measure against the case [where the wrongful intention was expressed during the slaughtering] of the other lamb too;[19] and they declare invalid the case [where the wrongful intention was expressed during the burning] of one dish of frankincense as a precautionary measure against the case [where the wrongful intention was expressed during the burning] of the other dish too.[20] In our case, however, is there ever a case of [a wrongful intention expressed during the service of] half a mattir in respect of half [the minimum quantity for] eating [that renders piggul], so that we should take here precautionary measures?[21] Indeed it stands to reason that this[22] is the explanation of the view of the Rabbis, for in the next clause [of that Mishnah][19] it states: The Rabbis, however, agree with R. Meir that if it was a sinner's meal-offering or a meal-offering of jealousy, and he expressed an intention which makes piggul during the burning of the handful, the offering is piggul and the penalty of kareth is incurred on account thereof, since the handful [alone] is the [entire] mattir. Now why was it necessary for this [last expression] to be stated? It is quite obvious, for is there then [in these cases] any other mattir? We must therefore say that it teaches us this: namely, the reason [why the Rabbis declare the offering invalid in the case where a wrongful intention was expressed during the burning] of the handful [of the ‘ordinary meal-offering] is that there is the handful of the sinner's meal-offering which is similar to it [and which is a real case of piggul].

MISHNAH. IF ONE OF THE [TWO] LOAVES[23] OR ONE OF THE [TWO] ROWS [OF THE SHEWBREAD] BECAME UNCLEAN, R. JUDAH SAYS, BOTH MUST BE TAKEN OUT TO THE PLACE OF BURNING, FOR THE OFFERING OF THE CONGREGATION MAY NOT BE DIVIDED.[24] BUT THE SAGES SAY, THE UNCLEAN [IS TREATED] AS UNCLEAN, BUT THE CLEAN MAY BE EATEN.

GEMARA. R. Eleazar said, They differ only [in the case where one loaf became unclean] before the sprinkling of the blood,[25] but [where it became unclean] after the sprinkling, all agree that the unclean one is treated as unclean and the clean one may be eaten. And [in the case where one became unclean] before the sprinkling, on what principle do they differ? — R. Papa said, They differ as to whether the [High Priest's] plate renders [the offering] acceptable [where] the eatable portions [had become unclean].[26] [

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(1) R. Huna's view is untenable, for it is accepted by all that a wrongful intention in respect of one limb certainly affects the other; nevertheless the case of the two loaves dealt with by R. Jose in our Mishnah is a special one, as R. Johanan proceeds to show.

(2) In the case where there was expressed an intention to eat one olive's bulk of the two loaves. This intention certainly reckoned the two loaves as one ‘body’ or entity, and therefore both are piggul, as stated in the Baraitha quoted supra p. 83 by R. Nahman.

(3) In the case where the expressed intention referred to one loaf only. The other loaf is not affected by this intention, as stated in the Mishnah.

(4) The thank-offering consisted of an animal-sacrifice and an offering of forty cakes, ten cakes of each of the four different kinds prescribed, v. Lev. VII, 12, 13. Now if during one of the services in connection with the animal-offering a wrongful intention was expressed with regard to the eating of the cakes of one kind, the question is: would R. Jose in this case also differ with the Rabbis and maintain that the other kinds of cakes are in no wise affected, or would he agree with them, seeing that all the kinds are rendered permissible by the offering of one sacrifice?

(5) The baked meal-offering consisted of either ten unleavened cakes or ten unleavened wafers (v. ibid II, 4), whilst according to R. Simeon it may consist of five cakes and five wafers; v. infra 63a. The question arises here according to R. Simeon's view: If a wrongful intention was expressed in respect of the cakes only or in respect of the wafers only, would R. Jose agree with the Rabbis that the other kind is also affected, seeing that only one handful was taken from this meal-offering on behalf of both kinds, or not?

(6) R. Jose in this case too differs with the Rabbis.

(7) It is regarded as though during one service an intention was expressed in respect of one whole olive's bulk.

(8) These services are alike in that each renders some part of the offering permissible: the slaughtering renders the blood permissible for sprinkling, and the sprinkling renders the flesh permissible to be eaten.

(9) Lit., ‘which are far apart from each other’.

(10) The order of the services is: slaughtering, receiving, bringing nigh, and sprinkling. Now if the first and the last services are reckoned together as one, how much more can those services which are consecutive be reckoned together!

(11) The Baraitha taught by Levi that services cannot be reckoned together.

(12) I.e., during the slaughtering of one of the two lambs which is only half of the mattir, for it is only the slaughtering of the two lambs which renders the two loaves permissible to be eaten.

(13) Sc. a half-olive's bulk.

(14) Indeed Rabbi would also agree that if an intention which makes piggul was expressed during the slaughtering of an ordinary offering (which is a whole mattir, v. supra n. 2) in respect of a half-olive's bulk of the flesh, and a similar intention was expressed during the sprinkling of the blood (which is also a whole mattir, ibid.), these intentions would be reckoned together to make the offering piggul.

(15) Strictly the offering should be valid for there is no piggul here; R. Jose, however, declares it invalid only as a precautionary measure, since this case is similar to a real case of piggul, namely, where the intention was to burn the handful of the meal-offering on the morrow.

(16) The offering, however, is invalid, as a precautionary measure against a real case of piggul where the burning of the handful of the meal-offering alone constitutes the whole mattir (as in the case of the sinner's meal-offering), or where the burning of the frankincense alone constitutes the whole mattir (as in the case of the frankincense of the Shewbread); v. infra 16a.

(17) Which is undoubtedly a real case of piggul; v. p. 89. n. 1.

(18) Which is a real case of piggul; v. supra p. 89, n. 2.

(19) infra 16a, Mishnah.

(20) Which is admittedly a real case of piggul.

(21) There is no such case, hence there is no ground for a precautionary measure.

(22) I.e., that in every case where the offering is declared to be invalid it is only as a precautionary measure against a case of absolute piggul which is similar to it.

(23) The two loaves offered with the two lambs on the Feast of Weeks; cf. Lev. XXIII, 19, 20.

(24) And if a part of the offering was rendered unfit for eating, as here on account of uncleanness, the whole may not be eaten.

(25) Or, in the case of the Shewbread-offering, before the burning of the dishes of the frankincense which corresponds to the sprinkling of the blood in an animal-offering.

(26) The High Priest's plate worn on the forehead had a propitiatory effect (v. Ex. XXVIII, 36-38), and if a part of the sacrifice became unclean the offering was nevertheless acceptable, and the sprinkling of the blood was deemed to he a valid sprinkling. The Rabbis and R. Judah differ as to what portions of the sacrifice are comprehended within the propitiating effect of the plate, whether it includes even those portions usually eaten by the priests (Heb. אכילות), or only those portions offered upon the altar (Heb. עולין), as the blood and the fat, and the frankincense.

Talmud - Mas. Menachoth 15a

The Rabbis are of the opinion that the plate renders [the offering] acceptable [even though] the eatable portions [had become unclean];[1] but R. Judah is of the opinion that the plate does not render [the offering] acceptable [where] the eatable portions [had become unclean].[2] Thereupon R. Huna the son of R. Nathan said to R. Papa, Behold the plate certainly renders [the offering] acceptable [where] the sacrificial portions [had become unclean], and yet they differ! For it has been taught: If one of the dishes of frankincense became unclean, R. Judah says, Both are offered in conditions of uncleanness, for an offering of the congregation may not be divided.[3] But the Rabbis say, The unclean is offered in conditions of uncleanness and the clean in cleanness. Moreover R. Ashi had raised an objection thus: Come and hear: R. Judah says, Even though one tribe only was unclean and all the other tribes were clean, [all the Passover-offerings] shall be offered in conditions of uncleanness, for the offering of the congregation may not be divided.[4] Now in this case, how does the principle of the plate rendering the offering acceptable apply?[5] Furthermore Rabina had raised an objection thus: Come and hear: IF ONE OF THE [TWO] ROWS [OF THE SHEWBREAD] BECAME UNCLEAN, R. JUDAH SAYS, BOTH MUST BE TAKEN OUT TO THE PLACE OF BURNING, FOR THE OFFERING OF THE CONGREGATION MAY NOT BE DIVIDED. BUT THE SAGES SAY, THE UNCLEAN [IS TREATED] AS UNCLEAN, BUT THE CLEAN ONE MAY BE EATEN. Now if that were so,[6] then it should have stated: ‘for the plate does not render [the offering] acceptable [where] the eatable portions [had become unclean]’. — R. Johanan therefore said, It is an accepted teaching in the mouth of R. Judah that the offering of the congregation may not be divided.[7]

MISHNAH. THE THANK-OFFERING[8] CAN RENDER THE BREAD PIGGUL BUT THE BREAD CANNOT RENDER THE THANK-OFFERING PIGGUL. THUS, IF HE SLAUGHTERED THE THANK-OFFERING INTENDING TO EAT A PART THEREOF ON THE MORROW, BOTH IT AND THE BREAD ARE PIGGUL; IF HE INTENDED TO EAT OF THE BREAD ON THE MORROW, THE BREAD IS PIGGUL BUT THE THANK-OFFERING IS NOT PIGGUL.

THE LAMBS[9] CAN RENDER THE BREAD PIGGUL BUT THE BREAD CANNOT RENDER THE LAMBS PIGGUL. THUS, IF HE SLAUGHTERED THE LAMBS INTENDING TO EAT A PART THEREOF ON THE MORROW, BOTH THEY AND THE BREAD ARE PIGGUL IF HE INTENDED TO EAT OF THE BREAD ON THE MORROW, THE BREAD IS PIGGUL BUT THE LAMBS ARE NOT.

GEMARA. Why is it?[10] Should you say it is because of R. Kahana's teaching, who said, Whence do we know that the cakes of the thank-offering are called ‘the thank-offering’? From the verse, He shall offer for the sacrifice of the thank-offering unleavened cakes.[11] Then the reverse should also be true.[12] This, however, is no difficulty, for the bread is referred to as ‘the thank-offering’, whereas the thank-offering is nowhere referred to as ‘the bread’. But when [the Mishnah] states: THE LAMBS CAN RENDER THE BREAD PIGGUL BUT THE BREAD CANNOT RENDER THE LAMBS PIGGUL, the question will be asked, Where do we find the bread ever referred to as ‘the lambs’? — It must be that this is the reason [for our Mishnah]: the bread is appurtenant to the thank-offering[13] but the thank-offering is not appurtenant to the bread; the bread is appurtenant to the lambs but the lambs are not appurtenant to the bread. Now both cases had to be stated [in our Mishnah]. For had it stated only the case of the thank-offering, I would have thought that only in that case is it held that an intention which makes piggul expressed in respect of the bread does not render the thank-offering piggul since they[14] are not dependent upon each other for the rite of waving,[15] but in the case of the lambs, since they[14] are dependent upon each other with regard to the rite of waving,[15] I would say that an intention which makes piggul expressed in respect of the bread would render the lambs piggul too.[16] Therefore [both cases] had to be stated.

R. Eleazar put this question to Rab: What is the law if he slaughtered the thank-offering intending to eat an olive's bulk of it and of its bread on the morrow?[17] Of course, as to whether the thank-offering becomes piggul thereby, I have no doubt at all [that it does not], for if where the intention was in respect of a whole olive's bulk of the bread the thank-offering does not become piggul, can there be any question where [the intention was in respect of an olive's bulk made up] of it and of the loaves? My question is as to whether the bread becomes piggul or not. Is the thank-offering to be reckoned with [the bread] so as to render the bread piggul or not? — He answered, In this case too, the bread is piggul but the thank-offering is not piggul. But why is this so? Surely one can apply here an a fortiori argument thus, if what helps to make the other piggul does not itself become piggul,[18] then surely what cannot even help to make the other piggul[19] does not itself become piggul! And do we apply an a fortiori argument of such a kind? Behold, it has been taught: It once happened that a man

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(1) Of course, there is no question at all that the unclean portions are forbidden to be eaten; for there is an express prohibition against it (Lev. VII, 19). They hold, however, that where one loaf became unclean the offering is acceptable, and the sprinkling is a valid sprinkling; consequently the other loaf is permitted to be eaten.

(2) And as the sprinkling is not valid, even the clean loaf may not be eaten. R. Papa apparently ignores the reason stated by R. Judah in our Mishnah, FOR THE OFFERING OF THE CONGREGATION MAY NOT BE DIVIDED, and submits quite a new argument for R. Judah's view.

(3) It is established law (Pes. 80a) that an offering of the congregation may be offered in conditions of uncleanness. And as the unclean dish of frankincense is offered in conditions of uncleanness, the other dish may be made unclean and offered together with the first. It is thus manifest that the reason for R. Judah's view is as stated here and also in our Mishnah, namely that the offering of the congregation may not be divided, and it has nothing whatever to do with the effectiveness of the plate, for we see that he put forward this reason in our Mishnah where it was suggested that R. Judah held that the plate does not render the offering acceptable where the eatable portions had become unclean, and he also gives this reason in the Baraitha quoted where he admits that the plate renders the offering acceptable where the sacrificial portions had become unclean.

(4) Where all the members of one tribe of Israel became unclean on the fourteenth day of Nisan, the day for the offering of the Passover-lamb, they are permitted, according to R. Judah, to offer the Passover-lamb in conditions of uncleanness; and since the offering of the congregation may not be divided, all the Passover-lambs are to be offered in conditions of uncleanness.

(5) There can be no question here of the plate rendering the offering acceptable for the plate exercises a propitiatory effect only where part of the offering became unclean but not where the person officiating became unclean. Again it is clear from this that the reason stated, ‘For the offering of the congregation may not be divided’, has nothing whatever to do with the propitiating effect or otherwise of the plate.

(6) That the reason for R. Judah's view is that the plate does not render the offering acceptable where the eatable portions had become unclean.

(7) In truth it has no relation to the propitiatory effect of the plate.

(8) The thank-offering consisted of an animal-offering and a bread-offering of forty cakes, ten cakes of each of the four different kinds specified; v. Lev. VII, 12, 13. The entire thank-offering had to be consumed on the same day of offering until midnight.

(9) Of the special peace-offering offered on the Feast of Weeks and accompanied by a bread-offering of two loaves as firstfruits, v. Lev. XXIII, 17-19. This peace-offering and the loaves had to be eaten on the same day of offering.

(10) That a wrongful intention which makes piggul expressed during the service of the thank-offering renders the bread piggul too.

(11) Ibid. VII, 12.

(12) I.e., a wrongful intention expressed in respect of the bread should also render the thank-offering piggul. Yet this is not the case.

(13) The slaughtering of the thank-offering renders the bread consecrated; so too does the slaughtering of the lambs at the Feast of Weeks.

(14) Sc. the animal-offering and the bread-offering.

(15) In the thank-offering the breast was waved before the Lord (Lev. VII, 30) but not in conjunction with the bread-offering; on the Feast of Weeks, however, the lambs were waved together with the loaves (ibid. XXIII, 20).

(16) And, on the other hand, had the Mishnah only stated the case of the lambs, I should have thought that only there is it held that an intention which makes piggul expressed in respect of the lambs renders the bread piggul too, since they are dependent upon each other for the rite of waving; but since this is not the case with the thank-offering and its bread I would say that an intention which makes piggul expressed in respect of the thank-offering does not render the bread piggul.

(17) I.e., the olive's bulk that he proposes to eat on the morrow is made up of a half-olive's bulk of the flesh of the offering and a half-olive's bulk of the bread.

(18) The half-olive's bulk of the thank-offering helps by combining with the half-olive's bulk of the bread to render the other, sc. the bread piggul, although the thank-offering does not itself become piggul thereby.

(19) Lit., 'which came to render piggul but did not actually make piggul'. The half-olive's bulk of the bread does not combine with the half-olive's bulk of the thank-offering to render the other (sc. the thank-offering) piggul.

Talmud - Mas. Menachoth 15b

sowed [with his own seeds] his neighbour's vineyard which was in the budding stage;[1] the case came before the Rabbis and they pronounced the seeds forbidden and the vines permissible. But why? Surely one could apply there [this kind of] a fortiori argument thus, If what makes the other forbidden[2] does not itself become forbidden, what may have made the other forbidden but did not do so[3] surely does not itself become forbidden![4] — There can be no comparison. There [with regard to diverse kinds] the Torah has forbidden[5] hemp and arum,[6] but other seeds are forbidden only Rabbinically; therefore he who transgressed the law was penalized by the Rabbis, and he who did not transgress the law was not penalized by the Rabbis.[7] In our case, however, one must certainly apply the a fortiori argument.[8]

Others refer the above argument to the case of the lambs thus: R. Eleazar put this question to Rab: What is the law if he slaughtered the lambs intending to eat an olive's bulk of them and of the bread [on the morrow]? Of course, as to whether the lambs become piggul thereby, I have no doubt at all [that they do not] for if where the intention was in respect of a whole olive's bulk of the bread the lambs do not become piggul, can there be any question where [the intention was in respect of an olive's bulk made up] of them and of the bread? My question is as to whether the bread becomes piggul or not. Are the lambs to be reckoned with [the bread] so as to render the bread piggul or not?-He answered, In this case too, the bread is piggul but the lambs are not. But why is this so? Surely one can apply here an a fortiori argument thus, If what helps to make the other piggul does not itself become piggul, then surely what cannot even help to make the other piggul does not itself become piggul! And do we apply an a fortiori argument of such a kind? Behold, it has been taught: It once happened that a man sowed [with his own seeds] his neighbour's vineyard which was in the budding stage, etc. But why? Surely one could apply there [this kind of] a fortiori argument thus, If what makes the other forbidden does not itself become forbidden, what might have made the other forbidden, but did not do so, does not itself become forbidden! — There can be no comparison. There [with regard to diverse kinds] the Torah has forbidden hemp and arum, but other seeds are forbidden only Rabbinically; therefore he who transgressed the law was penalized by the Rabbis, and he who did not transgress the law was not penalized by the Rabbis. In our case, however, one must certainly apply the a fortiori argument.

Now those who refer it[9] to the case of the thank-offering refer it all the more to the case of the lambs; but those who refer it to the case of the lambs maintain that it applies only to the case of the lambs since they[10] are dependent upon each other with regard to the rite of waving, but not to the case of the thank-offering since they are not dependent upon each other with regard to the rite of waving.

R. Abba the Younger stated the question thus, R. Eleazar enquired of Rab: What is the law if he slaughtered the lamb intending to eat an olive's bulk of the other on the morrow? Does ‘the other’ mean the [other] lamb, in which case there is no piggul at all;[11] or does it mean the bread, in which case [the bread becomes] piggul? — He answered, You have learnt it: If he slaughtered one of the lambs intending to eat a part of it on the morrow, that [lamb] is piggul and the other [lamb] is valid; if he intended to eat of the other [lamb] on the morrow, both are valid.[12] Hence it is clear that ‘the other’ means the other lamb. Perhaps [however in that Mishnah] he expressly said ‘the other lamb’.

MISHNAH. THE ANIMAL-OFFERING CAN RENDER THE DRINK-OFFERINGS PIGGUL[13] AFTER THEY HAVE BEEN HALLOWED IN THE VESSEL. SO R. MEIR. BUT THE DRINK-OFFERINGS CANNOT RENDER THE ANIMAL-OFFERING PIGGUL. THUS, IF HE SLAUGHTERED AN ANIMAL-OFFERING INTENDING TO EAT THEREOF ON THE MORROW, BOTH IT AND THE DRINK-OFFERINGS ARE PIGGUL; IF HE INTENDED TO OFFER THE DRINK-OFFERINGS ON THE MORROW, THE DRINK-OFFERINGS ARE PIGGUL BUT THE ANIMAL-OFFERING IS NOT.

GEMARA. Our Rabbis taught: For the drink-offerings of an animal-sacrifice the penalty of piggul is incurred, since the blood of the animal-offering renders them permissible to be offered [upon the altar].[14] So R. Meir. They said to R. Meir, Is it not the fact that a man may bring his animal-offering to-day and the drink-offerings thereof in ten days’ time?[15] He replied, I also only spoke of the case where they were brought together with the animal-offering. But[16] surely they may be transferred to another animal-offering![17] — Raba said, R. Meir is of the opinion that with the slaughtering they became appropriated [to this offering] like the cakes of the thank-offering.[18]

Our Rabbis taught: For the leper's log of oil[19] the penalty of piggul is incurred, since the blood of the guilt-offering renders it permissible to be applied to the thumb and the great toe.[20] So R. Meir. They said to R. Meir, Is it not the fact that a man may bring his guilt-offering to-day and the log of oil in ten days’ time? He replied, I also only spoke of the case where it was brought together with the guilt-offering. But surely it may be transferred to another [leper's] guilt-offering! — Raba said, R. Meir is of the opinion that with the slaughtering it became appropriated [to this guilt-offering] like the cakes of the thank-offering.

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(1) The sowing of seeds in a vineyard is expressly prohibited, cf. Deut. XXII, 9.

(2) Sc. the vines, on account of which the seeds are declared forbidden.

(3) Sc. the seeds, on account of which the vines would have been forbidden were it not for the reason stated infra in the Gemara.

(4) Nevertheless the seeds are forbidden and such an a fortiori argument is not applied.

(5) Of course in addition to the five kinds of grain (R. Nissim, Hul. X). V. however Sh. Mek. note 2.

(6) Of all seeds only these kinds are forbidden to be sown in a vineyard, for they ripen only after three years, and their seed does not perish in the ground but they leave roots behind them; moreover they grow in clusters like grapes. In the cur. edd. there is here quoted the Mishnah Kil. I, 5; but it is omitted in all MSS.

(7) So that in the above case where a man sowed seed in his neighbour's vineyard the prohibition involved was only a Rabbinic one, and the Rabbis penalized only him who transgressed their enactment but not the owner of the vineyard. Thus there is no place for the a fortiori argument, for even the seeds are not forbidden strictly but only as a penalty.

(8) Concerning piggul, v. supra p. 95 at end.

(9) Sc. Rab's answer to the question, namely that the offering combines with the bread to render the latter piggul.

(10) Sc. the bread and the offering. V. supra P. 95, n. 2.

(11) For, since the slaughtering of both lambs is the mattir, i.e., that which renders the loaves permissible, a wrongful intention expressed during the slaughtering of one lamb, which is only part of the mattir, in respect of the other part of the mattir, i.e., the other lamb, does not make piggul.

(12) Infra 16a.

(13) And whosoever partakes of the drink-offerings incurs the penalty of kareth on the ground of piggul. The drink-offerings consisted of prescribed quantities of flour and oil for the meal-offering and of wine for the libation; they accompanied most sacrifices (cf. Num. XV, 4-10).

(14) And it is established law: Whatsoever is rendered permissible (דבר שיש לו מתירין), whether for man or for the altar, by a certain rite is subject to the law of piggul. V. Zeb. 43a; Yoma 60a.

(15) Hence it is evident that the drink-offerings are not part of the offering and are not affected by any intention concerning them expressed during the slaughtering of the offering.

(16) In cur. edd. 'They said to him'. This is not found in the MSS. and is deleted by Sh. Mek.

(17) Consequently they cannot be rendered piggul through any intention expressed during the slaughtering of the animal-offering, since they are not specifically bound to that offering.

(18) And they may not be transferred to be used for another offering.

(19) Cf. Lev. XIV, 10ff. If therefore while slaughtering the leper's guilt-offering he intended to deal with the oil on the morrow, the latter becomes piggul, and whosoever partakes of it incurs the penalty of kareth.

(20) I.e., the oil may be applied only after the rites in connection with the blood of the guilt-offering have been performed. It is thus דבר שיש לו מתירין; v. supra p. 98,n. 4.

Talmud - Mas. Menachoth 16a

MISHNAH. IF HE EXPRESSED AN INTENTION WHICH MAKES PIGGUL [IN RESPECT OF THE REMAINDER] DURING THE [BURNING OF THE] HANDFUL AND NOT DURING THE [BURNING OF THE] FRANKINCENSE, OR DURING THE [BURNING OF THE] FRANKINCENSE AND NOT DURING THE [BURNING OF THE] INCENSE, R. MEIR SAYS, IT IS PIGGUL AND THE PENALTY OF KARETH IS INCURRED ON ACCOUNT THEREOF; BUT THE SAGES SAY, THE PENALTY OF KARETH IS NOT INCURRED UNLESS HE EXPRESSED THE INTENTION WHICH MAKES PIGGUL DURING THE SERVICE OF THE WHOLE OF THE MATTIR.[1] THE SAGES, HOWEVER, AGREE WITH R. MEIR THAT, IF IT WAS A SINNERS MEAL-OFFERING[2] OR A MEAL-OFFERING OF JEALOUSY,[2] AND HE EXPRESSED AN INTENTION WHICH MAKES PIGGUL DURING THE [BURNING OF THE] HANDFUL, IT IS PIGGUL AND THE PENALTY OF KARETH IS INCURRED ON ACCOUNT THEREOF, SINCE THE HANDFUL IS THE ENTIRE MATTIR. IF HE SLAUGHTERED ONE OF THE LAMBS[3] INTENDING TO EAT THE TWO LOAVES ON THE MORROW, OR IF HE BURNT ONE OF THE DISHES OF FRANKINCENSE[4] INTENDING TO EAT THE TWO ROWS [OF THE SHEWBREAD] ON THE MORROW, R. MEIR SAYS, IT IS PIGGUL AND THE PENALTY OF KARETH IS INCURRED ON ACCOUNT THEREOF; BUT THE SAGES SAY, THE PENALTY OF KARETH IS NOT INCURRED UNLESS HE EXPRESSED THE INTENTION WHICH MAKES PIGGUL DURING THE SERVICE OF THE WHOLE OF THE MATTIR. IF HE SLAUGHTERED ONE OF THE LAMBS INTENDING TO EAT A PART OF IT ON THE MORROW, THAT [LAMB] IS PIGGUL BUT THE OTHER [LAMB] IS VALID; IF HE INTENDED TO EAT OF THE OTHER [LAMB] ON THE MORROW, BOTH ARE VALID.

GEMARA. Rab said, The dispute[5] is only where he offered[6] the handful in silence and then the frankincense with the expressed intention, but where he offered the handful with the expressed intention and then the frankincense in silence, all agree that it is piggul, for everything that a man does [in silence] he does in accordance with his first resolve.[7] But Samuel said, There is still a dispute in that case too.[8]

Raba was once sitting and reciting this statement [of Rab], when R. Aha b. R. Huna raised against Raba the following objection: This[9] applies only to the service of taking the handful, or of putting it in the vessel or of bringing it nigh;[10] but if he had already reached the service of burning, and he offered the handful in silence and then the frankincense with the expressed intention, or if he offered the handful with the expressed intention and then the frankincense in silence, R. Meir says, It is piggul and the penalty of kareth is incurred on account thereof. The Sages say, The penalty of kareth is not incurred unless he expressed an intention which makes piggul during the service of the whole of the mattir. Now here is stated the clause: 'Or if he offered the handful with the expressed intention and then the frankincense in silence', and yet they differ![11] — Render: [Or if he offered the handful with the expressed intention] having already offered the frankincense in silence. But there are two objections to this: in the first place, it is identical with the first clause;[12] and secondly, it has been taught [in another Baraitha]: 'And then'![13] — R. Hanina explained that here there were two minds.[14]

Come and hear: This[15] applies only to offerings whose blood must be sprinkled upon the outer altar;[16] but in the case of offerings whose blood must be sprinkled upon the inner altar, as for example the forty-three sprinklings on the Day of Atonement,[17] or the eleven sprinklings of the bullock of the anointed High Priest,[18] or the eleven sprinklings of the bullock offered for the error of the community,[18] if [the priest] expressed an intention which makes piggul either during the first [sprinklings] or the second or the third,[19] R. Meir says, It is piggul and the penalty of kareth is incurred on account thereof. But the Sages say, The penalty of kareth is not incurred unless he expressed the intention which makes piggul during the service of the whole mattir.[20] Now here it states: 'If he expressed an intention which makes piggul either during the first [sprinklings] or the second or the third', and yet they differ![21] Should you, however, reply that there too there were two minds,[22] I grant you that this is satisfactory according to him who holds that the expression 'with a bullock'[23] means also 'with the blood of the bullock';[24] but what can be said according to him who holds that the expression 'with a bullock' excludes the blood of the bullock?[25] — Raba said, We must suppose here that he[26] expressed an intention which makes piggul during the first sprinklings, was silent during the second, and again expressed an intention which makes piggul during the third; in which case we say, If you accept the principle that whatsoever a man does [in silence] he does according to his first resolve, why then did he express again an intention which makes piggul during the third [sprinklings]? R. Ashi demurred, saying, Does [the Baraitha] actually state 'he was silent'? — Rather, said R. Ashi, We must suppose here that he expressed an intention which makes piggul during the first [sprinklings] and also during the second;[27] in which case we say, If you accept the principle that whatsoever a man does [in silence] he does according to his first resolve, why then did he again express an intention which makes piggul during the second [sprinklings]?[27]

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(1) V. supra p. 89, n. 2.

(2) Which is offered without frankincense; cf. Lev. V, 11 and Num. V, 15.

(3) Which is but half the mattir; for two lambs were offered as peace-offerings on the Feast of Weeks, along with a bread-offering of two loaves; v. Lev. XXIII, 17ff.

(4) Also half the mattir; for two dishes of frankincense were offered with the Shewbread. V. ibid. XXIV, 7.

(5) Between R. Meir and the Sages in our Mishnah.

(6) Lit., 'put it in' sc. the vessel, in readiness for the burning upon the altar. It must be remembered that the handful of flour was first burnt upon the altar and then the frankincense.

(7) And as his first resolve expressed during the offering of the handful was an intention of piggul-namely, of eating the remainder on the morrow — it is to be assumed that such was also his intention-though unexpressed during the offering of the frankincense.

(8) MS.M. adds: And so also said R. Johanan, There is still a dispute in that case too.

(9) The ruling that a wrongful intention expressed whilst dealing with the handful alone renders piggul.

(10) For each of these services is performed once only and that in connection with the handful, hence at each of these services the intention is in respect of the whole mattir; whereas the burning is performed twice, viz., the burning of the handful of flour and of the frankincense.

(11) Thus contrary to Rab's view.

(12) Where the first service was performed in silence, for it is immaterial whether that first service was the burning of the handful or of the frankincense.

(13) Although in the Baraitha cited by R. Aha the expression 'and' may be explained as meaning 'having already', this cannot be so in the other Baraitha which expressly states 'and then'.

(14) I.e., two Priests had performed the rites of the meal-offering, one burnt the handful of flour with an intention of piggul and the other burnt the frankincense in silence. In such a case the principle, 'Whatever a man does in silence he does in accordance with his first resolve', cannot apply; for this can only be said of one person but not of two.

(15) The law that a wrongful intention expressed during one single sprinkling of the blood renders the offering piggul.

(16) For since with these offerings one single sprinkling would effect atonement (v. Zeb. 36b) that sprinkling is accounted as the whole mattir and can therefore render piggul.

(17) Made up as follows: eight sprinklings (one above and seven below) between the staves of the ark, of the blood of the bullock, and likewise eight of the blood of the he-goat; these same sprinklings repeated in the Sanctuary upon the veil; four sprinklings of the blood of the bullock and of the he-goat when mixed together, i.e., one upon each of the four corners of the golden altar, and seven upon the cleansed surface (i.e. the top) of the golden altar. V. Yoma Ch. V.

(18) These are: the seven sprinklings of the blood towards the veil, and the four sprinklings, one upon each of the four corners of the altar. Cf. Lev. IV, 6,7 and 17, 18.

(19) The first, second and third sprinklings refer to the sprinklings of the blood in the Holy of Holies between the staves of the ark, towards the veil, and upon the altar respectively.

(20) I.e., during all the three sprinklings.

(21) The Sages holding that where the intention which makes piggul was expressed during the first sprinklings only, the others being performed in silence, the offering is not piggul. Apparently the principle, Whatsoever a man does in silence he does according to his first resolve, is not adopted; contra Rab.

(22) I.e., the sprinklings were performed by two High Priests, the High Priest who performed the first sprinklings having died immediately thereafter or The Master stated: ‘R. Meir says, It is piggul and the penalty having become unclean; in which case the sprinklings in silence by the second High Priest can have no reference to or bearing upon the resolve of the former High Priest.

(23) Lev. XVI, 3.

(24) If the High Priest, after having slaughtered the bullock, could not continue to serve, his successor continued the service, and was not required to begin all the services anew and slaughter another bullock for himself; for the verse, Herewith shall Aaron (sc. the High Priest) come into the holy place; with a bullock (ibid.) does not imply that the High Priest shall begin his service with a living bullock, but he may even take the blood of the bullock which was slaughtered by his predecessor. V. Yoma 49b.

(25) According to him the service can never be performed by two High Priests, for the successor must begin anew.

(26) The High Priest.

(27) ‘And also during the third’ — so in cur. edd. but wanting in all MSS. and struck out by Sh. Mek. The case is clearly one where the High Priest was silent during the third sprinklings; so that only a part and not the whole of the mattir was performed with an intention which makes piggul.

Talmud - Mas. Menachoth 16b

But does not the Baraitha state: Either. . .or?[1] — This is a difficulty. of kareth is incurred on account thereof’. Consider: the penalty of kareth is incurred only after all the mattirin[2] have been offered, for a Master has stated:[3] The expression ‘accepted’[4] suggests, as the acceptance of a valid offering so is the acceptance[5] of an invalid offering; that is to say, as the acceptance of a valid offering is effected only after all the mattirin have been offered, so the acceptance of an invalid offering is effected only after all the mattirin have been offered. Now in this case since he expressed a wrongful intention [when sprinkling] within,[6] he has thereby rendered it invalid, consequently when he later sprinkles in the Sanctuary it is as though he were sprinkling water![7] — Rabbah said, It can happen where four bullocks and four he-goats were used.[8] Raba said, You may even hold that there was only one bullock and one he-goat, but [the sprinklings] are acceptable in regard to the law of piggul.[9]

‘Forty-three [sprinklings]’. But we have been taught: Forty-seven! — This is no difficulty; one [Baraitha] accepts the view that for the sprinklings upon the horns of the altar they mix together [the blood of the bullock and the blood of the he-goat], whereas the other accepts the view that they do not mix them.[10] But we have been taught: Forty-eight?-This is no difficulty; one [Baraitha] accepts the view that the [pouring out of the] residue [of the blood] is an indispensable service,[11] whereas the other accepts the view that the [pouring out of the] residue is not indispensable.

The question was raised: What is the law if he expressed an intention which makes piggul at the bringing nigh [of the handful to the altar]?[12] R. Johanan said that the bringing nigh is like unto the taking of the handful;[13] but Resh Lakish said that the bringing nigh is like unto the burning.[14] Now Resh Lakish's view is clear, for there is also the bringing nigh of the frankincense; but what is the reason for R. Johanan's view? — Raba said, R. Johanan is of the opinion that any service which is not an absolute mattir[15] is regarded as a service complete in itself with regard to piggul.[16] Whereupon Abaye said to him, Behold the slaughtering of one of the lambs [on the Feast of Weeks] is a service which is not an absolute mattir,[17] and yet they differ! For we have learnt: IF HE SLAUGHTERED ONE OF THE LAMBS INTENDING TO EAT THE TWO LOAVES ON THE MORROW, OR IF HE BURNT ONE OF THE DISHES OF FRANKINCENSE INTENDING TO EAT THE TWO ROWS [OF THE SHEWBREAD] ON THE MORROW, R. MEIR SAYS, IT IS PIGGUL AND THE PENALTY OF KARETH IS INCURRED ON ACCOUNT THEREOF; BUT THE SAGES SAY, THE PENALTY OF KARETH IS NOT INCURRED UNLESS HE EXPRESSED THE INTENTION WHICH MAKES PIGGUL DURING THE SERVICE OF THE WHOLE OF THE MATTIR! — He replied, Do you imagine that the loaves are hallowed already in the oven? It is the slaughtering of the lambs that hallows them; and whatsoever serves to hallow is on the same footing as whatsoever serves to render permissible.[18]

R. Shimi b. Ashi raised an objection. It was taught: Others say, If he had in mind first the circumcised persons and then the uncircumcised, it is valid; if he had in mind first the uncircumcised persons and then the circumcised, it is invalid.[19] And it was established that they differ concerning half the mattir![20] — He replied, Do you think that the blood [of an animal-offering] is already hallowed in the throat? It is the knife [of slaughtering] that hallows it; and whatsoever serves to hallow is on the same footing as that which serves to render permissible.

Come and hear: This[21] applies only to the services of taking the handful, or putting it in the vessel or bringing it nigh; [but if he had already reached the service of burning etc.] Now ‘bringing nigh’ surely means bringing nigh for the purposes of burning, does it not?[22] — No, it means bringing nigh in order to put it in the vessel.[23] But if so, why is it stated [in this order] ‘putting it in the vessel or bringing it nigh’? It ought surely to have stated ‘bringing it nigh or putting it in the vessel’! — This is no difficulty, for you may render it thus.[24] But [it will be asked], why does it state ‘but if he had already reached the service of burning’? It ought to have stated ‘but if he had already reached the service of bringing nigh’![25] — This, too,is no difficulty, for since the bringing nigh is for the purposes of burning he refers to it as the burning. But [it will be asked], why does it state ‘and he offered’? It ought to have stated, ‘and he brought it nigh’![26] — This is indeed a difficulty.

If he burnt the size of a sesame seed of the handful intending to eat the size of a sesame seed of the remainder [on the morrow, and he repeated this again and again] until the handful was entirely [burnt up],[27] — in this case R. Hisda, R. Hamnuna and R. Shesheth differ. One holds that it is piggul, the other that it is invalid, and the third that it is valid. Now shall we say that he who holds that it is piggul is in agreement with R. Meir,[28] he who holds that it is invalid is in agreement with the Rabbis,[28] and he who holds that it is valid is in agreement with Rabbi?[29] — But is this so? perhaps R. Meir is of that opinion only there where he expressed [the intention which makes piggul] during a complete service,[30] but not here where he did not express [such an intention] during a complete service. Moreover, perhaps the Rabbis are of their opinion only there where he did not express an intention [which makes piggul] during the service of the whole mattir, but here where he actually expressed an intention [which makes piggul] during the service of the whole mattir [they would agree that] it is piggul. And again, perhaps Rabbi is of his opinion only there where he did not make up [the minimum quantity] later in the same service,[31] but here where he made up the quantity in the same service [he would agree that] it is invalid! — We must therefore say that he who holds that it is piggul holds thus according to all views; he who holds that it is invalid holds thus according to all views, and he who holds that it is valid holds thus according to all views. ‘He who holds that it is piggul holds thus according to all views’, for he maintains that that[32] is a way of eating as well as a way of burning.[33] 'He who holds that it is invalid holds thus according to all views', for he maintains that that[32] is a way of eating but not a way of burning, and it was as though [the handful of] the meal-offering had not been burnt at all.[34] 'And he who holds that it is valid holds thus according to all views', for he maintains that that[32] is a way of burning but not a way of eating.[35]

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(1) This implies that the intention which makes piggul was expressed only during one of the three sprinklings mentioned.

(2) מתירין pl. of מתיר, 'that which renders the offering permissible'; v. Glos. The penalty of kareth for eating piggul is not incurred unless the whole mattir was offered according to its prescribed rite except for the expressed intention which made it piggul. Thus where the mattir consists of a number of sprinklings, and at the first sprinklings there was expressed an intention which makes piggul, then it is essential, if the penalty of kareth is to apply, that the subsequent sprinklings be performed according to the prescribed rite.

(3) Zeb. 28b, 42b.

(4) Lev. XIX, 7 and XXII, 27; the former referring to an offering which has been made piggul and the latter to a valid offering.

(5) Regarding the liability for piggul.

(6) Sc. in the Holy of Holies between the staves of the ark, this being the first of the sprinkling services.

(7) The penalty of kareth cannot therefore be incurred; how then can R. Meir say that kareth is incurred in those circumstances? It must be observed that at first sight this same question could also be raised in the case where a piggul intention was expressed during the slaughtering or during the receiving of the blood, for since the offering is rendered invalid by that intention the subsequent sprinkling is no service, consequently the penalty of kareth cannot be incurred. Rashi, however, suggests this distinction: in this case the slaughtering or the receiving was performed entirely in sanctity, for the intention of piggul related to some subsequent service, whereas in the case of our text the sprinkling was not performed entirely in sanctity, for the intention of piggul related to the other sprinklings of this same service. V. also Rashi in Zeb. 42b, s.v. כי; and Tosaf. here s.v. כי.

(8) Where after the High Priest had sprinkled the blood of the bullock and of the he-goat in the Holy of Holies between the staves of the ark, the residue of the blood had spilt, so that it was necessary to slaughter another bullock and he-goat to obtain their blood for sprinkling in the Sanctuary. Again after the second sprinklings the residue of the blood had spilt and so another bullock and he-goat were once more slaughtered in order to perform the sprinklings upon the four corners of the altar. Once again owing to this same mishap, a fourth bullock and he-goat were slaughtered in order to perform the final sprinklings seven times upon the cleansed portion of the altar. In these circumstances the offering would be valid (v. Yoma 61a), for each of the sprinklings is considered as a separate service. Now if an intention which makes piggul had been expressed at the first sprinklings the offering would be piggul, for here the subsequent three sprinklings were admittedly in themselves valid and were not affected by the wrongful intention of the first sprinklings. In the normal case, however, where only one bullock and one he-goat had been used in the service, R. Meir would agree that, where an intention which makes piggul was expressed at the first sprinklings, the penalty of kareth cannot be incurred.

(9) Since the subsequent sprinklings had been performed without any further intention they are considered as vital services offered according to rule, and not as 'sprinklings of water'. The offering therefore is piggul.

(10) But the blood of the bullock and of the he-goat must each separately be sprinkled upon the four corners of the altar; hence an addition of four to the total number of sprinklings. V. Yoma 57b.

(11) The pouring out of the residue of the blood to the base of the altar, being an important service, is added to the number of the sprinklings, making thus a total of forty-eight. V. Yoma 60b.

(12) The service of bringing nigh to the altar applies both to the handful of flour and to the frankincense, so that it can be said that the bringing nigh of one is but half the mattir, and the dispute between the Sages and R. Meir would hold good here too.

(13) Which is a complete service, a whole mattir, for the handful was only taken from the flour but not from the frankincense.

(14) Of which there are two services: the burning of the handful and of the frankincense. And therefore the dispute between the Sages and R. Meir applies also to the service of bringing nigh.

(15) I.e., it can be dispensed with; the bringing nigh can in certain cases be dispensed with for the handful can be passed on from priest to priest till it reaches the altar (Rashi). Aliter: it does not render aught permissible; in this respect the service of bringing nigh is different from other services, for the receiving the blood of the animal-offering renders the sprinkling possible, and the sprinkling renders the flesh permissible (v. Sh. Mek. n. 4).

(16) And the ruling of the Sages that piggul does not apply to half a mattir does not apply here, since this service is not a mattir in the strict sense of the word.
(17) For it does not render aught permissible. V. supra n. 3.
(18) So that the slaughtering is on a par with an absolute mattir, and therefore the Sages hold that it is piggul only when the whole of this mattir (i.e., the slaughtering of both lambs) was affected by the wrongful intention.
(19) V. Pes. 62b. The Baraitha refers to the case of a person who, whilst slaughtering the Passover-lamb on behalf of a number of people, circumcised and uncircumcised, cut one organ of the animal's throat on behalf of one class of people and then the second organ on behalf of the other class too. The view here stated is introduced by the expression ‘Others say’, which usually represents the view of R. Meir; the Sages, however, differ.
(20) I.e., whether a wrongful intention expressed during the service of half the mattir can invalidate the offering or not; and here the cutting of the first organ is, as it were, but half the mattir. Now the mattir here spoken of, namely the slaughtering, is not an absolute mattir since it does not render aught permissible, and yet the Sages differ with R. Meir and hold that the wrongful intention in regard to half the mattir is of no consequence; contra Raba's interpretation of R. Johanan.
(21) That a wrongful intention expressed whilst dealing with the handful alone renders piggul. V. supra p. 101.
(22) And the Sages agree that a wrongful intention expressed during the bringing nigh renders piggul; contra Resh Lakish.
(23) Which is a complete service, for only the handful was put into a vessel and not the frankincense.
(24) And reverse the order of the Baraitha.
(25) For the service of bringing nigh is prior to the burning, and the Sages and R. Meir differ herein, too, according to Resh Lakish.
(26) For even if it is accepted, as suggested, that the term ‘burning’ includes the bringing nigh, when describing the service the Tanna of the Baraitha should have mentioned the first act thereof, namely the bringing nigh, and not the act of offering (lit., ‘the putting’ upon the altar, i.e., the burning).
(27) And so he did too with the frankincense.
(28) That an intention which makes piggul expressed during the service of a portion of the mattir — in this case during the burning of the size of a sesame seed of the handful and of the frankincense — renders the offering piggul. The Sages, however, in such a case declare the offering invalid.
(29) V. supra 14a where Rabbi holds the view that the two parts of the mattir cannot be reckoned together to affect the offering, where each intention was made in respect of less than the minimum quantity that constitutes eating, namely an olive's bulk.
(30) Viz., during the burning of the handful which, though but half of the mattir, for there is also the burning of the frankincense, is nevertheless a complete service.In this case only does R. Meir maintain that the offering is piggul.
(31) For in the case dealt with by Rabbi the piggul intention was expressed during the slaughtering of one lamb about a half-olive's bulk of one loaf and a similar piggul intention was expressed during the slaughtering of the other lamb about the same quantity of the other loaf.
(32) The taking of quantities the size of a sesame seed at a time.
(33) So that this case is no-different from the usual cases of piggul where during the burning of an olive's bulk of the handful there was an intention expressed to eat an olive's bulk of the remainder on the morrow.
(34) And therefore it is invalid.
(35) The burning in this manner is regarded as a normal burning of the handful, whereas the intention concerning the eating of the remainder is no intention in law so as to invalidate the offering.

Talmud - Mas. Menachoth 17a

The keen intellects of Pumbeditha[1] said, An intention which makes piggul expressed during one service of burning concerning another service of burning renders the offering piggul.[2] And this is so even according to the Rabbis who ruled that an intention which makes piggul expressed during the service of half the mattir does not render piggul, for that is their ruling only in the case where he expressed an intention [which makes piggul] about the remainder [of the meal-offering], the frankincense, however, remaining unaffected; but in this case where he expressed an intention [which makes piggul] about the frankincense, it is as though he had expressed the intention during the service of the whole mattir. Raba said, We have also learnt to the same effect: This is the general rule: If one took the handful or put it into the vessel or brought it nigh, or burnt it, intending to eat a thing that it is usual to eat or to burn a thing that it is usual to burn, outside its proper place, the offering is invalid but the penalty of kareth is not incurred; but if [he intended the like] outside its proper time, the offering is piggul and the penalty of kareth is incurred.[3] Now presumably the service of burning is similar to the other [services],[4] and as with the others [the intention which makes piggul may be] either concerning the eating [of the remainder] or concerning the burning [of the frankincense], so with the service of burning [the intention which makes piggul may be] either concerning the eating [of the remainder] or concerning the burning [of the frankincense]! — No; with the others the intention may be either concerning the eating or concerning the burning, but with the service of burning the intention can be only concerning the eating but not concerning the burning.

R. Menasiah b. Gadda was once sitting before Abaye and recited the following in the name of R. Hisda: An intention which makes piggul expressed during one service of burning concerning another service of burning does not render the offering piggul. And this is so even according to R. Meir who ruled that an intention which makes piggul expressed during the service of half the mattir renders piggul; for that is his ruling only where the intention expressed was concerning the remainder, since it is the handful that renders the remainder permissible; in this case, however, since the handful does not render the frankincense permissible,[5] it cannot make the offering piggul.[6]

Thereupon Abaye said to him, Tell me, Sir, was that [statement] in the name of Rab? He replied, Yes. And it has been so reported: R. Hisda said in the name of Rab, An intention which makes piggul expressed during one service of burning concerning another service of burning does not render the offering piggul.

R. Jacob b. Abba[7] said in the name of Abaye, We have also learnt the same: IF HE SLAUGHTERED ONE OF THE LAMBS INTENDING TO EAT A PART OF IT ON THE MORROW, THAT [LAMB] IS PIGGUL BUT THE OTHER [LAMB] IS VALID; IF HE INTENDED TO EAT OF THE OTHER [LAMB] ON THE MORROW, BOTH ARE VALID. Now what is the reason?[8] It is, is it not, because [the one lamb], not being the mattir of the other, cannot make the offering piggul by reason of an intention concerning [that other]?[9] — No, there the reason is because they are not joined in one vessel;[10] here, however, since they are joined in the one vessel, they are considered as one.[11]

R. Hamnuna said, The following was taught me[12] by R. Hanina and is equal in worth to me to all my studies: If he burnt the handful intending to burn the frankincense [on the morrow], [and] to[13] eat the remainder on the morrow, the offering is piggul. What is it that he teaches us? If he teaches us that an intention which makes piggul expressed during one service of burning concerning another service of burning renders the offering piggul, then he should [only] have said, If he burnt the handful intending to burn the frankincense [on the morrow]. And if he teaches us that an intention which makes piggul expressed during the service of half the mattir renders piggul, then he should have [only] said, If he burnt the handful intending to eat the remainder on the morrow. And if he teaches us both these rules, then he should have said, If he burnt the handful intending to burn the frankincense [on the morrow] and[14] to eat the remainder on the morrow! — R. Adda b. Ahabah said, Actually he is of the opinion that an intention which makes piggul expressed during one service of burning concerning another service of burning does not render piggul, and he holds also that an intention which makes piggul expressed during the service of half the mattir does not render piggul, yet in this case it is different since the wrongful intention has spread over the entire meal-offering.[15]

A Tanna once recited before R. Isaac b. Abba: If he burnt the handful intending to eat the remainder [on the morrow], all hold it to be piggul. But surely this is a matter of dispute?[16] — Rather render: All hold it to be invalid.[17] But could he not have corrected himself thus: It is piggul, that is, according to R. Meir? — The Tanna evidently was taught the ruling 'all hold', and he confused in his mind 'piggul' with 'invalid'; but he would not confuse 'it is [piggul]' with 'all hold'.[18]

CHAPTER III

MISHNAH. IF HE TOOK THE HANDFUL FROM THE MEAL-OFFERING INTENDING TO EAT[19] A THING THAT IT IS NOT USUAL TO EAT[20] OR TO BURN[19] A THING THAT IT IS NOT USUAL TO BURN,[21] THE OFFERING IS VALID; BUT R. ELIEZER DECLARES IT TO BE INVALID. IF HE INTENDED TO EAT[19] LESS THAN AN OLIVE'S BULK OF A THING THAT IT IS USUAL TO EAT, OR TO BURN[19] LESS THAN AN OLIVE'S BULK OF A THING THAT IT IS USUAL TO BURN, THE OFFERING IS VALID. IF HE INTENDED TO EAT[19] A HALF-OLIVE'S BULK AND TO BURN[19] A HALF-OLIVE'S BULK, THE OFFERING IS VALID, FOR EATING AND BURNING CANNOT BE RECKONED TOGETHER.

GEMARA. R. Assi said in the name of R. Johanan, What is the reason for R. Eliezer s view? Because the verse reads, And if any of the flesh of the sacrifice of his peace-offerings be at all eaten.[22] The verse here speaks of two 'eatings'. the 'eating' by man and the 'eating' by the altar, to inform you that as there can be a wrongful intention concerning what is usually eaten by man, so there can be a wrongful intention concerning what is usually 'eaten' by the altar; and furthermore, as there can be a wrongful intention concerning what is usually eaten by man in regard to man's eating thereof[23] and concerning what is usually 'eaten' by the altar in regard to the altar's 'eating' thereof, so there can be a wrongful intention concerning what is usually eaten by man in regard to the altar's 'eating' thereof[24] and concerning what is usually 'eaten' by the altar in regard to man's eating thereof. And why is this? Because the Divine Law expressed [the burning upon the altar] by the term 'eating'. And the Rabbis, [what would they say to this]? — The reason why the Divine Law expressed it by the term 'eating' was [to teach you]

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(1) V. Sanh. 17b. This title of honour was applied to 'Efah and Abimi, the sons of Rehabah the Pumbedithan.

(2) I.e., if during the burning of the handful of the meal-offering the officiating priest expressed the intention of burning the frankincense on the morrow, the offering is piggul.

(3) Supra 12a.

(4) Which are stated in this Mishnah in connection with the handful.

(5) For the frankincense is not dependent upon the burning of the handful; v. supra 13b, p. 80.

(6) Where the piggul intention was expressed during the burning of the handful concerning the frankincense.

(7) So in all MSS. and Sh. Mek.; in cur. edd. 'ldi'.

(8) That both are valid.

(9) Just as the burning of the handful, not being the mattir of the frankincense, cannot render the offering piggul by reason of a piggul intention concerning the latter.

(10) The two lambs, which are the two mattirs, are not united by any act or service, but are separate and distinct; and therefore one is not affected by the other.

(11) The handful and the frankincense are placed together in the same vessel, and so regarded as one mattir.

(12) Lit., 'I was made to swallow'.

(13) The word ולבונה ‘and the frankincense’, found in all edd. is wanting in the MSS. and is struck out by Sh. Mek. The translation in the text is based upon the text and interpretation of Rashi. Maim. apparently included the word ולבונה in the text, and the translation would read thus: If he burnt the handful intending to burn the frankincense on the morrow, and (then he burnt) the frankincense intending to eat the remainder on the morrow, the offering is piggul. V. Maim. Yad, Pesule Hamuk. XVI, 8; and also לקוטי הלכות on Men. a.l. by Israel Meir Hakohen.

(14) The ‘and’ however would be taken,’ as often, in the sense of ‘or’.

(15) Although each intention by itself would not render piggul, the two together affect the whole of the meal-offering and render it piggul.

(16) Between R. Meir and the Sages; and according to the latter it is not piggul since the intention was expressed during the service of half the mattir only.

(17) The Sages agree that such an intention renders the offering invalid.

(18) It is more probable that the Tanna confused in his mind פיגול with פסול ‘invalid’, rather than that he confused הרי הז ‘it is’ with דברי הכל’all hold’.

(19) On the morrow.

(20) E.g., the frankincense or the handful.

(21) E.g., the remainder of the meal-offering.

(22) Lev. VII, 18. Heb. אם האכל יאכל lit., ‘If eaten there shall be eaten’; hence the verse contemplates two kinds of eating.

(23) I.e., an intention expressed during the burning of the handful that what is usually eaten by man (sc. the remainder) shall be eaten by man beyond the time prescribed for the eating thereof. This intention renders the offering piggul. Similarly the intention that what is usually consumed by the altar shall be burnt upon the altar outside the prescribed time renders the offering piggul.

(24) I.e., the intention that what is usually eaten by man shall be burnt upon the altar outside the prescribed time also renders the offering piggul.

Talmud - Mas. Menachoth 17b

that it makes no difference whether the wrongful intention for the altar was expressed by the use of the term ‘eating’[1] or by use of the term ‘burning. Or [to teach you] that as for eating the quantity of an olive's bulk is essential,[2] so for the burning the quantity of an olive's bulk is essential. The term ‘eating’, however, always means in the usual manner.[3] And R. Eliezer? — If so, [he says], the Divine Law should have stated either he'akol he'akol[4] or ye'akel ye'akel;[5] why does it say he'akol ye'akel?[6] That you may infer two things therefrom.[7]

R. Zera said to R. Assi, If this[8] is the reason for R. Eliezer's view, then one should also incur the penalty of kareth? And should you say that this is indeed so, but you yourself have reported in the name of R. Johanan that R. Eliezer admits that one is not thereby liable to kareth! — He replied, Tannaim differ as to the real view of R. Eliezer; some say that it is invalid by Biblical law,[9] others that it is invalid by Rabbinical law only. For it was taught: If one slaughtered an animal-offering intending to drink its blood[10] on the morrow, or to burn its flesh[11] on the morrow, or to eat of the sacrificial portions[10] on the morrow, the offering is valid; but R. Eliezer declares it to be invalid. If he intended to leave some of its blood for the morrow, R. Judah declares it to be invalid. R. Eleazar said, Even in this case, R. Eliezer declares it to be invalid, and the Sages declare it to be valid. Now whose view does R. Judah adopt?[12] Do you say that of the Rabbis? But surely if in the case where the intention expressed is included under the term ‘eating’[13] the Rabbis declare the offering to be valid, how much more so in this case![14] It must therefore be that of R. Eliezer. And thereupon R. Eleazar had said, ‘Even in this case, R. Eliezer declares it to be invalid, and the Sages declare it to be valid’. Is not R. Eleazar identical with R. Judah? It must therefore be said that the difference between them is on the question of kareth. The first Tanna[15] is of the opinion that in the case of ‘leaving’[16] [R. Eliezer holds that] it is invalid only, but in the other cases[17] [R. Eliezer holds that] he is even liable to kareth; whereas R. Eleazar comes to tell us that in both these cases [R. Eliezer holds that] it is invalid only but the penalty of kareth is not incurred! — No, all are of the opinion that there is no penalty of kareth involved; but in this dispute there are three different views. The first Tanna is of the opinion that only in the other cases do they[18] differ,[19] but in the case of ‘leaving’ all[18] agree that it is valid. [

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(1) I.e., if the priest whilst taking the handful expressed the intention that the handful shall be ‘eaten’ by the altar on the morrow, the offering is piggul

(2) In order to render the intention effective so as to make the offering piggul.

(3) The handful to be burnt upon the altar and the remainder to be eaten by man; only in these cases is the intention of consequence.

(4) האכל האכל i.e., the repetition of the verb in the infinitive.

(5) יאכל יאכל, both in the finite mood.

(6) האכל יאכל, the first verb being in the infinitive and the second in the finite mood.

(7) (a) That for the burning there must be an intention in respect of an olive's bulk, and (b) that an intention to burn upon the altar what is eaten by man, or an intention that what is usually burnt on the altar shall be eaten by man, is of consequence.

(8) As given above, derived from the verse in Lev. VII, 18.

(9) In which case the penalty of kareth would be incurred.

(10) I.e., what is usually consumed by the altar to be eaten by man.

(11) I.e., what is usually eaten by man to be consumed on the altar.

(12) I.e., what is R. Judah's view in the first case where the intention expressed was to drink the blood on the morrow, etc?

(13) To drink and to burn upon the altar are acts included under the term ‘eating’.

(14) Where there was no intention of eating at all, but merely to leave the blood for the morrow.

(15) Sc. R. Judah. In cur. edd. ‘R. Judah’ is also found in the text; evidently an explanatory gloss.

(16) I.e., the second clause of the abovementioned Baraitha, where there was an intention of leaving over some of the blood for the morrow.

(17) I.e., those cases mentioned in the first clause of the abovementioned Baraitha, where there was an intention of drinking the blood on the morrow or burning the flesh on the morrow.

(18) R. Eliezer and the Sages.

(19) R. Eliezer holding that where there was an intention of burning on the morrow what is usually eaten, the offering is invalid by Rabbinical law, merely as a precautionary measure against an intention of burning on the morrow what is usually burnt, in which case the offering would be piggul by the law of the Torah.

Talmud - Mas. Menachoth 18a

R. Judah is of the opinion that only in the other cases do they differ, but in the case of ‘leaving’ all agree that it is invalid, the reason being that we must declare the offering invalid [in the case where the intention was in respect of leaving] part of the blood [for the morrow] as a precautionary measure against [an intention of leaving] all the blood [for the morrow], and [an intention of leaving] all the blood [for the morrow] renders the offering invalid by Biblical law. For it was taught:[1] Said R. Judah to them, ‘You would agree with me, would you not, that if he actually left [the blood] for the morrow the offering is invalid? Then even where he intended to leave it for the morrow it is also invalid’. R. Eleazar then comes to tell us that even in this case,[2] R. Eliezer declares it to be invalid and the Sages declare it to be valid.

Is then R. Judah of the opinion that in the case where there was an intention of leaving part of the blood for the morrow all agree that it is invalid? But it has been taught: Rabbi said, When I went to R. Eleazar b. Shammua’ to have my learning examined[3] (others say: To sound the learning of R. Eleazar b. Shammua’). I found there Joseph the Babylonian sitting before him. Now he [Joseph] was very dear to him.[4] He [Joseph] then said to him, ‘Master, what is the law if one slaughtered an offering intending to leave the blood for the morrow?’ ‘It is valid’, he replied. In the evening he again replied. ‘It is valid’. On the next morning he again replied. ‘It is valid’ — At midday he again replied. ‘It is valid’ In the afternoon he replied. ‘It is valid, but R. Eliezer declares it to be invalid’. Thereupon Joseph's face lighted up. Said to him [R. Eleazar], ‘Joseph, it seems to me that our traditions did not correspond until now’ — ‘Quite so, Master’, he replied. ‘quite so. For R. Judah had taught me the view that it was invalid; and when I sought out all his disciples so as to find a supporter of this view, I could not find any.[5] But now that you have taught me the view that it is invalid, you have thus restored to me what I had lost’. Thereupon the eyes of R. Eleazar b. Shammua’ streamed with tears and he exclaimed, ‘Happy are ye, O scholars, to whom the words of the Torah are so dear!’ He then applied to him [Joseph] the following verse: ‘O how I love thy law! It is my meditation all the day.[6] For it was only because R. Judah was the son of R. Ila'i, and R. Ila'i was the disciple of R. Eliezer that he [R. Judah] taught you the view of R. Eliezer.’ Now if it be assumed that [R. Judah] taught that all hold it is invalid, then what did he [Joseph] mean when he said ‘You have thus restored to me what I had lost’? He [R. Eleazar b. Shammua’] had only told him [in the end] that there was a difference of opinion in the matter![7] — What then would you say? That he [R. Judah] taught him ‘It is valid, but R. Eliezer declares it to be invalid’! If so, why the expression ‘For it was only because’?[8] We also learnt [from R. Eleazar b. Shammua’] that there was a difference of opinion in the matter! — We must indeed say that he [R. Judah] taught him that all hold it is invalid; but what did he [Joseph] mean by saying, ‘You have thus restored to me what I had lost’? He meant that he had brought the view ‘it is invalid’ to light.[9]

MISHNAH. IF HE DID NOT POUR IN [THE OIL],[10] OR IF HE DID NOT MINGLE IT, OR IF HE DID NOT BREAK UP [THE MEAL-OFFERING] IN PIECES,[11] OR IF HE DID NOT SALT IT,[12] OR WAVE IT,[13] OR BRING IT NIGH,[14] OR IF HE BROKE IT UP INTO LARGE PIECES,[15] OR DID NOT ANOINT IT[16] [WITH OIL], IT IS VALID.

GEMARA. What is meant by HE DID NOT POUR IN [THE OIL]? Shall we say that he did not pour in [any oil] at all? But Scripture has indicated that this is indispensable![17] — We must say therefore that it means, the priest did not pour in [the oil] but a non-priest did. If so, the next item HE DID NOT MINGLE IT, would also mean, the priest did not mingle it but a non-priest did; from which it follows that if it was not mingled at all it would be invalid,

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(1) V. Zeb. 36a.

(2) Where there was an intention of leaving over some of the blood for the morrow.

(3) Lit., ‘to drain my measures to the last drop’; i.e., to overhaul my studies and to have all matters of doubt cleared up.

(4) Heb. עַד לאחת, corresponding to the Aramaic לחדא=very much. (R. Nissim, in Tosaf. ad. loc. s.v. עַד). According to Rashi: ‘until one’, i.e., until they had reached the subject dealt with here; or, everything that R. Eleazar said was dear to Joseph and accepted by him unhesitatingly until they had reached this law, which he did not accept until the end.

(5) And I therefore thought that l must have been mistaken in my report of R. Judah since the other disciples of R. Judah had not heard of it.

(6) Ps. CXIX, 97.

(7) So that even the final reply of R. Eleazar b. Shammua’ did not correspond with the teaching Joseph had received from R. Judah. It must therefore be said that R. Judah had also taught his disciple Joseph that there was a difference of opinion in the matter, and so contrary to the premise set out at the beginning of this passage.

(8) For when R. Eleazar b. Shammua’ had remarked ‘For it was only because...’ he evidently meant to say that R. Judah had taught his disciple Joseph that particular view only out of admiration and reverence for his teachers, whereas in fact the law was not in accordance with that view. But as matters now stand the teachings of R. Eleazar b. Shammua’ and of R. Judah are identical.

(9) For until the final reply of R. Eleazar b. Shammua’ there was not even the vaguest hint that any Rabbi held the view that it is invalid; and this so disturbed Joseph that he was led to doubt the accuracy of his memory concerning R. Judah's teaching. The final reply of R. Eleazar b. Shammua’ gave him some measure of reassurance.

(10) The fixed procedure in the preparation of the meal- offering was: first some oil was poured in a vessel and the fine flour was then put in; then more oil was poured in and it was mingled with the flour. It was then baked into cakes and thereafter broken in pieces. The remainder of the oil was then poured on it, and the handful was taken therefrom. V. infra 74b. The first case of the Mishnah means that no oil was poured in at the end but it had all been poured in at first.

(11) Cf. Lev. II, 6. All meal-offerings which were baked before the taking out of the handful had to be broken up in pieces; v. infra 75b. In this case only an amount sufficient for the handful was broken up, but the rest remained unbroken (Rashi).

(12) Ibid. 13. Only the handful was salted but not the rest of the meal-offering(Bertinoro and Tosaf. Yom-tob; and cf. prec. n.). According to others: the handful was not salted by a priest but by a layman (Maim. and Tif. Yisrael; and cf. infra the Gemara's interpretation of the first item of our Mishnah).

(13) Sc. the ‘Omer meal-offering (ibid. XXIII, 11) or the meal-offering of suspicion (Num. V, 25). V. infra 61a.

(14) To the southwestern horn of the altar; cf. Lev. II, 8.

(15) Or, he broke it up too fine; v. Gemara infra 18b.

(16) Those cakes which were not mingled with oil but were, after baking, anointed with oil; cf. ibid. VII, 12.

(17) For the rite of pouring in oil is stated twice (Lev. II, 1 and 6), and whatsoever rite is repeated in connection with the meal-offering is accounted indispensable. V. infra 19b.

Talmud - Mas. Menachoth 18b

but we have learnt:[1] Sixty [tenths] can be mingled together[2] but not sixty-one. And when we were considering this [and it was asked], What does it matter if they cannot be mingled together? Have we not learnt: IF HE DID NOT MINGLE IT . . . IT IS VALID? R. Zera answered, Wherever proper mingling is possible the mingling is not indispensable, but wherever proper mingling is not possible the mingling is indispensable?[3] — Is this an argument? Surely this has its own meaning and that has its own meaning. The item HE DID NOT POUR IN means, the priest did not pour in [the oil] but a non-priest did; whereas the item HE DID NOT MINGLE IT means, it was not mingled at all.

OR IF HE BROKE IT UP INTO LARGE PIECES. But surely if where he did not break it up at all it is valid, is it then necessary to state [that it is valid if he broke it up into] large pieces? — The expression ‘LARGE PIECES’ really means many pieces.[4] Or, if you will, I may say that actually large pieces were meant, [nevertheless it had to be stated in our Mishnah]. For you might have thought that only there[5] [is it valid] since they retain the character of cakes, but [not] here[6] since they are neither cakes nor crumbs. We are therefore taught [that here,[6] too, it is valid].

Shall we say that our Mishnah[7] is not in agreement with R. Simeon? For it was taught: R. Simeon says, A priest who does not believe in the service has no portion in the priesthood,[8] for it is written, He among the sons of Aaron, that offereth the blood of the peace-offerings, and the fat, shall have the right thigh for a portion;[9] that is to say, if he believes in the service he has a portion in the priesthood, and if he does not believe in the service he has no portion in the priesthood. Now I know it only of this [service stated in the verse], but whence do I know it also of the fifteen services, viz., pouring in [the oil],[10] mingling, breaking it up, salting it, waving it, bringing it nigh, taking the handful, burning it, nipping off[11] [the head of a bird-offering], receiving [the blood], sprinkling it, giving the water to a woman suspected of adultery,[12] breaking the heifer's neck,[13] purifying the leper,[14] and raising the hands in blessing both within [the Temple] and without?[15] The verse therefore adds, ‘Among the sons of Aaron’, that is, all services that are entrusted to the sons of Aaron; and the priest who does not believe in it has no portion in the priesthood![16] — There is no difficulty, said R. Nahman. There[17] it deals with the meal-offering of a priest,[18] here with the meal-offering of an Israelite. In the case of the meal-offering of an Israelite, from which the handful must be taken, the duty of the priesthood begins with the taking out of the handful; we thus learn that the pouring in [of the oil] and the mingling are valid [even though performed] by non-priests. In the case of the meal-offering of a priest, from which the handful is not taken, the services of the priesthood are required from the very beginning. Thereupon Raba said to him, Just see, whence do we deduce that the rite of pouring in the oil applies also to the meal-offering of a priest? From the meal-offering of an Israelite,[19] do we not? Well, as there [the pouring in] may be performed by a non-priest, in this case too it may be performed by a non-priest! (Others have the following version. There is no difficulty, said R. Nahman. Here it deals with meal-offerings from which the handful is taken, there[20] with meal-offerings from which the handful is not taken.[21] Thereupon Raba said to him, Just see, whence do we deduce that the rite of pouring in the oil applies also to meal-offerings from which the handful is not taken? From those meal-offerings from which the handful is taken, do we not? Well then they must be like unto those from which the handful is taken, and as in the latter case [the pouring in] may be performed by a non-priest, here too it may be performed by a non-priest!) — Obviously, then, our Mishnah is not in agreement with R. Simeon.

What is the reason of the Rabbis?[22] — It is written, And he shall pour oil upon it, and put frankincense thereon. And he shall bring it to Aaron's sons the priests; and he shall take thereout his handful.[23] From the taking of the handful and onwards is the function of the priesthood; we thus learn that the pouring in [of the oil] and the mingling are valid [even though performed] by non-priests. And R. Simeon? — [He says,] The Scriptural expression ‘Aaron's sons

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(1) Infra 103b. The line quoted from this Mishnah is actually stated in the form of a question.

(2) In the one vessel with one log (v. Glos.) of oil.

(3) It is evident, therefore, that according to R. Zera our Mishnah teaches that the mingling can be dispensed with entirely, provided it were possible to do so if desired. Similarly the first case of our Mishnah would mean that no oil at all was poured in.

(4) I.e., he broke it up too small.

(5) In the case where the cakes were not broken up at all.

(6) Where they were broken up into a few large pieces.

(7) Which permits the rite of pouring in the oil to be performed by a non-priest.

(8) I.e., he is not entitled to a portion in the distribution of the priestly gifts. V. Hul. 132b.

(9) Lev. VII, 33.

(10) This and the following seven services relate to the various kinds of meal-offerings.

(11) lbid. I, 15; V, 8.

(12) Num. V, 24.

(13) Deut. XXI, 4.

(14) Lev. XIV, 1ff.

(15) For the priestly benediction, whether in the Temple at Jerusalem (ibid IX, 22) or in the synagogues in every town in Israel (Num. VI, 22ff.)

(16) It is clear, however, that R. Simeon counts the pouring in of the oil as a special service of the priests and which may not be performed by a layman, contrary to the view of our Mishnah.

(17) In the Baraitha taught by R. Simeon.

(18) From which no handful was taken but the whole meal-offering was burnt upon the altar. Cf. Lev. VI, 16.

(19) The rite of pouring in the oil over the flour is stated only in connection with the meal. offering of an Israelite, but it is extended so as to apply to all meal-offerings; v. infra 75a.

(20) In the Baraitha taught by R. Simeon.

(21) The meal-offering of a priest and also the meal-offering which accompanied most sacrifices; cf. Num. XV, 4ff.

(22) Who hold the view of our Mishnah.

(23) Lev. II,1,2.

Talmud - Mas. Menachoth 19a

the priests’ is to be interpreted as referring to what precedes as well as to what follows.[1] And is R. Simeon of the opinion that a Scriptural expression is to be interpreted as referring to what precedes as well as to what follows? But it has been taught: It is written, And the priest shall take of the blood of the sin-offering with his finger, and put it upon the horns of the altar.[2] ‘And... shall take.. . with his finger’, this teaches us that the taking [of the blood] shall be with the right hand only; ‘with his finger and put it’, this teaches us that the sprinkling shall be with [the finger of] the right hand only.

R. Simeon said, Is the expression ‘hand’[3] written in connection with the taking [of the blood]? Since the expression ‘hand’ is not written in connection with the taking [of the blood], if he took the blood with the left hand it is still valid. And Abaye said that they differ as to whether a Scriptural expression is to be interpreted as referring to what precedes as well as to what follows or not![4] — This rather is the reason for R. Simeon's view: It is written, And he shall bring it;[5] the term ‘and’ indicates conjunction with the preceding subject.[6] But is R. Simeon of the opinion that the term ‘and’ indicates conjunction with the preceding subject? Then consider this: It is written, And he shall slaughter the bullock before the Lord; and Aaron's sons, the priests, shall present the blood, and sprinkle the blood,[7] from which it is clear that only from the act of receiving[8] [the blood] and onwards is the function of the priesthood; we thus learn that the slaughtering may be performed by a non-priest. But according to R. Simeon, since the term ‘and’ indicates conjunction with the preceding subject, the slaughtering by a non-priest should not be permitted![9] Here it is different, for it is written, And he shall lay his hand[10] ... and he shall slaughter; and as the laying of the hands is performed by non-priests so the slaughtering may be performed by non-priests. Then should it not follow, as the laying of the hands must be performed by the owner [of the offering], so the slaughtering, too, shall be performed by the owner! — You cannot say that, as there is an a fortiori argument against it. For if the sprinkling which is the chief service of atonement is not performed by the owner, a fortiori the slaughtering which is not the chief service of atonement! And should you retort, But surely the possible is not to be inferred from the impossible![11] then [I say], the fact that the Divine Law enjoined with regard to the service on the Day of Atonement, And he shall slaughter the bullock of the sin-offering which is for himself,[12] indicates that elsewhere the slaughtering need not be performed by the owners.

Rab said, Wherever the expressions ‘law’ and ‘statute’ occur [in connection with any rites,] their purpose is only to indicate the indispensability [of those rites]. Now it was assumed that both expressions were necessary for this purpose, as in the verse, This is the statute of the law.[13] (Mnemonic: Nataz Yikmal.).[14] But is there not the case of the Nazirite,[15] where only the expression ‘law’ is used,[16] and yet Rab has said that the [absence of the] rite of waving[17] in the case of the Nazirite invalidates [the service]? — That case is different, for since there is written, so he must do,[18] it is as though the expression ‘statute’ were used. And is there _not the thank-offering, where only the expression ‘law’ is used,[19] yet we have learnt:[20] Of the four [kinds of cakes] of the thank-offering[21] the [absence of] one invalidates the others? — The case of the thank-offering is also different, since it has been placed side by side with the Nazirite in the verse, With the sacrifice of his peace-offerings for thanksgiving,[22] and the Master has taught[23] that the term ‘peace-offerings’ includes the peace-offerings of the Nazirite.

And is there not the case of the leper, where only the expression ‘law’ is used,[24] yet we have learnt:[23] Of the four kinds [used in the purification] of the leper[25] the [absence of] one invalidates the others? — That case is different, for since there is written, This shall be the law of the leper,[24] it is as though the word ‘statute’ were also written.[26]

And is there not the Day of Atonement, where only the expression ‘statute’ is used,[27] yet we have learnt:[23] Of the two he-goats of the Day of Atonement the [absence of] one invalidates the other? — Hence we must say that either the expression ‘law’ [by itself] or ‘statute’ [by itself indicates indispensability].

But with all other offerings only the expression ‘law’ is found,[28] and yet the rites [in each offering] are not indispensable![29] — We must therefore say that the expression ‘law’ requires with it the expression ‘statute’ [in order to indicate indispensability], whereas statute’ does not require with it ‘law’. But did not [Rab] say, The expressions ‘law’ and ‘statute’?[30] — He meant to say this: Even though the expression ‘law’ is used, only if there is also used the expression ‘statute’ is [indispensability implied], otherwise it is not so.

But in the case of the meal-offering only the expression ‘statute’ is used,[31] and yet Rab has stated, Every rite of the meal-offering which is repeated in another verse[32] is indispensable; which shows that only if it is repeated is it [indispensable], otherwise it is not![33] — That case is different, for the expression ‘statute’ relates only to the eating.[34]

And is there not the Shewbread, where [undoubtedly] the expression ‘statute’ relates only to the eating,[35] yet we have learnt:[36] Of the two rows [of the Shewbread] the [absence of] one invalidates the other, of the two dishes [of frankincense] the [absence of] one invalidates the other, of the rows and the dishes the [absence of] one invalidates the other? — Therefore [we must say that] even where [the expression ‘statute’] is used in connection with the eating [of the offering], it relates to all [the rites of that offering]; in that case,[37] however, it is different, for since it is written, Of the bruised corn thereof and of the oil thereof[38] [it is clear that only]

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(1) So that the rites prior to the taking of the handful, namely the pouring in of the oil and the mingling, must also be performed by the priests alone.

(2) Ibid. IV, 25. It is to be particularly observed that the expression ‘with his finger’ (which in conjunction with the term ‘priest’, according to Rabbinic interpretation, signifies the use of the right hand or of the finger of the right hand; v. supra 10a) is so placed in the middle of the verse that it might be said to refer to the rite of taking the blood which precedes, or to the rite of sprinkling which follows, or even to both.

(3) The expression ‘finger’ is here meant.

(4) The first Tanna holds that the expression ‘with his finger’ refers to what precedes as well as to what follows, and therefore both services must be performed with the right hand; whereas R. Simeon holds that ‘with his finger’ refers to what follows, namely the sprinkling, and therefore the taking of the blood may be performed even with the left hand.

(5) Lev. II, 2.

(6) And the former service (sc. the pouring in of the oil) is determined by the latter (sc. the taking of the handful); as the latter is performed by the priest only,so the former may be performed by the priest only. To reason the same with regard to the sin-offering thus: since the second service is introduced by the term ‘and’, therefore as the second service, sc. the sprinkling, must be performed with the right finger so the preceding service, sc. the receiving of the blood, shall also be performed with the right hand, is not admissible, for the two services of the verse are separated by the expression ‘with his finger’ (Rashi).

(7) Ibid. I, 5.

(8) Which is understood by the expression ‘present the blood’.

(9) For the services which follow the term ‘and’, namely the receiving and the sprinkling, may be performed by none other than priests.

(10) Lev. I, 4.

(11) Whereas the sprinkling is ‘impossible’, i.e., may not be performed by the owner, since that would be in direct conflict with the Scriptural precept, the slaughtering on the other hand is ‘possible’, i.e., may be, and therefore should be, performed by the owner.

(12) Ibid. XVI, 11.

(13) Num. XIX, 2.

(14) נתץ יקמל (he dashes and will pluck off), a mnemonic of the initial or characteristic letters of the cases adduced here in argument against Rab's principle.

(15) Cf. Num. VI, 2ff.

(16) Ibid. 21: This is the law of the Nazirite.

(17) Cf. Ibid. 19, 20.

(18) Ibid. 21.

(19) Lev. VII, 11.

(20) Infra 27a.

(21) Sc. leavened, cakes, unleavened cakes, wafers, and soaked cakes; cf. Lev. VII, 12, 13.

(22) Ibid. 13.

(23) Infra 27a.

(24) Ibid. XIV, 2.

(25) Sc. cedarwood, scarlet, hyssop, and two clean birds; cf. ibid. 4'

(26) For the expression 'shall be' also signifies indispensability.

(27) Cf. Ibid. XVI, 29.

(28) Cf. ibid. VII, 37: This is the law of the burnt-offering etc.

(29) E.g., the offering is valid even though the sacrificial portions of the guilt-offering were not burnt upon the altar (supra 4a). and the meal-offering even though it was not brought nigh unto the altar (supra 18a).

(30) It is clear that the expressions are on an equal footing and one is not more significant than the other.

(31) Cf. Lev. VI, 11.

(32) The meal-offering is dealt with primarily in Lev. II, and also in VI, 7-11.

(33) In spite of the fact that the expression 'statute' is used.

(34) As it is written (ibid. VI, 11): Every male among the children of Aaron shall eat of it, it is a perpetual statute. It cannot be taken as a general term indicating indispensability.

(35) For it is written (ibid. XXIV, 9): And they shall eat it in a holy place, for it is most holy unto him . . . by a perpetual statute.

(36) Infra 27a.

(37) Sc. of the meal-offering.

(38) Ibid. II, 16.

Talmud - Mas. Menachoth 19b

the bruised corn and the oil are indispensable, but no other thing is indispensable.[1]

[To turn to] the main text: 'Rab said, Every rite of the meal-offering which is repeated in another verse is indispensable. Samuel, however, said, The bruised corn and the oil are indispensable, but no other thing is indispensable.[2] Is it then suggested that according to Samuel even though the rite is repeated in another verse it is not indispensable?[3] — Rather [the position is this]: Wherever any rite is repeated in another verse it is certainly indispensable; they differ only as to [the effect of] the interpretation of the phrases 'his handful' and 'with his hand'. For it was taught: The phrases 'his handful'[4] and 'with his hand'[5] signify that he shall not use a measure for the taking of the handful.[6] Now Rab maintains that this too has been stated in another verse, as it is written, And he presented the meal-offering and filled his hand therefrom;[7] Samuel, however, says that we cannot derive a permanent law from a temporary enactment.[8]

Is Samuel then of the opinion that we cannot derive a permanent law from a temporary enactment? But we have learnt: The vessels for liquids hallow liquids, and the measuring vessels for dry stuffs hallow dry stuffs; the vessels for liquids cannot hallow dry stuffs, neither can the measuring vessels for dry stuffs hallow liquids.[9] And thereupon Samuel had said, This applies only to the measuring vessels [for liquids], but the sprinkling bowls hallow [also dry stuffs], for it is written, Both of them full of fine flour![10] — This case is different since the verse is repeated twelve times.[11]

R. Kahana and R. Assi said to Rab, But is not the bringing nigh [of the meal-offering to the altar] repeated in Scripture, nevertheless it is not indispensable?[12] — Where is it repeated? Because it is written, And this is the law of the meal-offering: the sons of Aaron shall bring it nigh before the Lord, [to the front of the altar]?[13] But surely that verse merely determines the place [whither it shall be brought]. As it has been taught: [If the verse had only stated,] 'Before the Lord', I might have thought that it meant on the west [side of the altar],[14] the verse therefore added, To the front of the altar.[15] And [if the verse had only stated,] To the front of the altar, I might have thought that it meant on the south side, the verse therefore stated, 'Before the Lord'. So what was the procedure? He brought it nigh unto the south-west corner opposite the point of the altar's horn, and that sufficed. R. Eliezer says, It is possible [to think that the meaning is] he can bring it nigh either to the west corner or to the south corner;[16] but you can answer, Wherever you find two texts, one self-confirmatory and confirming the words of the other, whereas the second is self-confirmatory but annuls the words of the other, we abandon the latter and accept the former. Thus when you emphasize ‘before the Lord’, i.e., on the west side [of the altar], you annul ‘to the front of the altar’, which is on the south side; but when you emphasize ‘to the front of the altar’, i.e., on the south side, you confirm ‘before the Lord’, which is on the west side. But how do you confirm it?[17] — R. Ashi said, This Tanna holds that the whole of the altar stood in the north.[18]

R. Huna demurred, But the salting [of the meal-offering] is not repeated in Scripture, nevertheless it is indispensable! For it has been taught: The verse, It is a covenant of salt for ever,[19] signifies that there is

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(1) It is evident that the expression ‘statute’ used in connection with the meal-offering is of no significance, seeing that it was found necessary to derive the teaching that the measures of the bruised corn and of the oil shall each be full, from the emphatic and indeed superfluous particles ‘thereof’ attached to each, and not by inferring it from the expression ‘statute’ (Rashi). According to Tosaf. (s.v. ושאני) the interpretation is: the fact that Scripture repeats here (v. 16) practically the same rite that is mentioned in v. 2, signifies that in this instance the expression ‘statute’ is of no significance.

(2) Even though the rite is repeated in another verse.

(3) Surely not; for what else could be the purpose of the repetition of that rite if not to indicate indispensability?

(4) Lev. II, 2.

(5) Ibid. VI, 8. So literally.

(6) From these two phrases we learn that the priest must take out the handful with his hand and may not use a measure which holds as much as a handful for the purpose.

(7) Ibid. IX, 17. This verse clearly repeats the injunction that the handful must be taken out with the hand; hence it is indispensable, and if it was taken with a measure it is invalid.

(8) The above verse referred to relates to the meal-offering brought by Aaron at his installation as High Priest, and the provisions stated with regard thereto are obviously temporary enactments only and not rules for all time. Hence, according to Samuel, if the handful was taken with a measure the offering is valid.

(9) Supra 8b; Zeb. 88a.

(10) Num. VII, 13, and frequently in the chapter. ‘Both’ refers to the silver dish and the silver sprinkling bowl mentioned previously in the verse in connection with the presentation of gifts and offerings by the Princes of the twelve tribes at the dedication of the altar. These vessels obviously hallowed the flour that was put into them; hence Samuel derives the rule for all time that a sprinkling bowl hallows also dry stuffs.

(11) With the presentation of each of the princes. This oft repeated rite was clearly intended for all times.

(12) As we have learnt in our Mishnah: OR (IF HE DID NOT) BRING IT NIGH . . IT IS VALID.

(13) Lev. VI, 7. This rite has already been stated previously: And he shall bring it nigh unto the altar (ibid II, 8).

(14) As this side of the altar faced the entrance of the Temple (wherein was the Holy of Holies) which was located in the west of the Temple court. V. fig. 1.

(15) I.e., the south, for here was the ascent leading up to the altar.

(16) So Tosaf. and Rashi in Sotah 14b. Here Rashi interprets: ‘both to the west . . . and to the south’.

(17) If the meal-offering is brought to the south side of the altar it can by no means be said to be ‘before the Lord’, i.e., opposite the entrance of the Temple which is on the west.

(18) Of the Temple court. So that the south side of the altar, being in fact nearest to the entrance of the Temple, is described as ‘before the Lord’. V. fig. 2.

(19) Num. XVIII, 19.

Talmud - Mas. Menachoth 20a

a covenant declared in regard to salt.[1] So R. Judah. R. Simeon says, Here it is said, It is a covenant of salt for ever, and there it is said, The covenant of an everlasting priesthood,[2] as it is impossible to conceive of sacrifices without the priesthood so it is impossible to conceive of sacrifices without salt![3] — R. Joseph answered, Rab agrees with the Tanna of our [Mishnah] who said, IF HE DID

NOT SALT IT . . . IT IS VALID. Thereupon Abaye said to him, Are you then suggesting that 'HE DID NOT POUR means he did not pour in [any oil] at all? It surely means that the priest did not pour in [the oil] but a non-priest did it; then here, too, it must be explained that the priest did not salt it but a non-priest did it.[4] — He replied, How can it even enter your mind that a non-priest shall draw near to the altar?[5] Alternatively, I can say, since with regard to [the salting] the expression 'covenant' is used, it is as though it were repeated in a verse.[6]

And is not [the salting actually] repeated in a verse? But it is written, And every offering of thy meal-offering shalt thou season with salt![7] — This verse is required for the following which had been taught: If the verse had stated, 'And every offering shalt thou season with salt', I would have concluded that it also applied to the wood and the blood,[8] since these are also termed 'offering';[9] the verse therefore adds meal-offering; thus as the meal-offering is distinguished in that other things are requisite for it,[10] so everything for which other things are requisite [must be seasoned with salt]. But I can argue: as the meal-offering is distinguished in that it renders something permissible,[11] so everything which renders something permissible [must be seasoned with salt]; I would thus include the blood since it renders something permissible![11] The verse therefore states, [Neither shalt thou suffer the salt . . . to be lacking] from thy meal-offering,[7] but not 'from thy blood'. I might conclude then that the whole meal-offering requires salting; the verse therefore states, offering, [signifying that] only what is offered[12] requires salting, but the whole meal-offering does not require salting. I know now that the handful [requires salting] but whence do I know to include the frankincense? I include the frankincense since it is offered with [the handful] in the same vessel. And whence do I know to include the frankincense that is offered by itself,[13] the frankincense that is offered in the dishes,[14] the incense-offering, the meal-offering of priests, the meal-offering of the anointed [High] Priest,[15] the meal-offering that is offered together with the drink-offerings,[16] the sacrificial parts of the most holy and the lesser holy sacrifices, the limbs of the burnt-offering [of an animal] and the burnt-offering of a bird? The verse therefore states, With all thine offerings thou shalt offer salt.[17]

The Master stated: 'I know now that the handful [requires salting], but whence do I know to include the frankincense? I include the frankincense since it is offered with [the handful] in the same vessel'. But have you not stated previously, 'As the meal-offering is distinguished in that other things are requisite for it'?[18] — This is what he meant: I might argue that the expression 'offering' is a general proposition and 'meal-offering' a particular item, so that we would have here a general proposition followed by a particular item, in which case the scope of the proposition is limited to the particular item specified, hence only the meal-offering [would require salting] but no other thing! The verse therefore added, With all thine offerings, which is another general proposition; so that we have now two general propositions separated from each other by a particular item, in which case they include only such things as are similar to the particular item specified: as the item specified[19] is clearly something for which other things are requisite, so everything for which other things are requisite [requires salting]. And what are the other things that are requisite for it? It is the wood.[20] So that everything [which requires] wood [must be seasoned with salt]. But perhaps it is the frankincense, so that I would include the blood since there go with it the drink-offerings![21] — The drink-offerings go rather with the burning of the sacrificial parts, for eating and drinking' [go together].[22] On the contrary atonement and joy [go well together]![23] — This is what was meant: the frankincense goes together [with the handful] in the same vessel, whereas the drink-offerings do not go together [with the blood] in the same vessel; the wood, on the other hand, just as it is essential for the meal-offering so it is essential for all offerings.[24] But I could argue thus: As the item specified[25] is clearly something for which other things are requisite and also renders aught permissible, so everything for which other things are requisite and which renders aught permissible [requires salting]; and in this way only the frankincense that is in the dishes [would be included] since it renders the Shewbread permissible, but no other offering! — Since the expression, 'From thy meal-offering' was necessary to exclude the blood,[26] it follows that everything else is included by [its similarity with the meal-offering in] one respect.

The Master stated: ‘[Neither shalt thou suffer the salt . . . to be lacking] from thy meal-offering, but not from thy blood’. But perhaps it is to be interpreted: From thy meal-offering, but not from thy sacrificial limbs![27] — It is more reasonable to include the limbs since (mnemonic: A. Sh. B. N. T. M. A.)[28] other things are requisite for them as for [the meal-offering], they are burnt by fire like it, they are treated outside like it,[29] they are subject to the law of nothar[30] like it, to the law of uncleanness like it and to the law of sacrilege like it,[31]

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(1) I.e., salt must not be omitted from any sacrifice.

(2) Ibid. XXV, 13.

(3) Hence it is clear that salting is indispensable even though it is not repeated in Scripture, thus contrary to Rab's principle.

(4) So that even the Tanna of our Mishnah is of the opinion that the salting cannot be dispensed with entirely.

(5) The suggestion that a non-priest salted the meal-offering cannot be entertained, since the salting took place at the head of the altar, and it is inconceivable that a non-priest would approach so near the altar.

(6) And so the salting is, according to Rab, indispensable; thus in agreement with R. Judah and R. Simeon of the foregoing Baraitha.

(7) Lev. II, 13; and the verse concludes: With all thine offerings thou shalt offer salt.

(8) That the wood which is burnt upon the altar must first be salted, likewise the blood before the sprinkling.

(9) Cf. Neh. X, 35: And we cast lots for the offering of wood. The blood can well be designated ‘offering’ since it is the chief part of the offering.

(10) Namely, wood for the burning of the handful of the meal-offering.

(11) The burning of the handful renders the remainder of the meal-offering permitted to be eaten; likewise the sprinkling of the blood renders the sacrifice permissible, i.e., the sacrificial portions to be burnt and the flesh to be eaten. The result of this argument would be that the blood would require salting since it is similar to the meal-offering in one respect (vis., it renders permissible), and all other offerings would require salting since they, too, are similar to the meal-offering in another respect (viz., for each wood is requisite), and only the wood is excluded. V. Rashi s.v. אי.

(12) Sc. the handful, The remainder of the meal-offering, however, does not require salting.

(13) As a separate offering, e.g., if a man said, ‘I vow to offer frankincense’; v. infra 106b. Whence do we know that this and all the other offerings mentioned, which are burnt upon the altar, must first be salted?

(14) With the Shewbread.

(15) Known as חביתי כהן גדול, the meal-offering prepared on a griddle (hence חביתין from מחבת) offered by the High Priest daily. Cf. Lev. VI, 13, 14.

(16) V. Num. XV, 4ff.

(17) Lev. II, 13.

(18) And by that argument the frankincense has already been included, since wood is required for the burning thereof; why then is the question raised again?

(19) Sc. the handful of the meal-offering which is burnt upon the altar.

(20) Which is essential for the burning of the offering upon the altar.

(21) The suggestion is that the expression ‘other things are requisite’ does not refer to the wood, but to any act or service that accompanies the offering, e.g., the burning of the frankincense that goes with the offering of the handful, and in the same way the drink-offerings that go with the sprinkling of the blood of animal-offerings.

(22) It is more logical to say that the drink-offerings go with the sacrificial parts, for in this way the ‘meal’ is complete, consisting of ‘eating’ (the burning of the sacrificial parts) and ‘drinking’ (the libation of the drink-offerings), rather than with the sprinkling of the blood.

(23) The drink-offerings, it is now argued, are closely associated with the sprinkling of the blood, for the joy at atonement which is brought about by the sprinkling is now expressed in the libations of wine.

(24) And therefore the relation of the frankincense to the handful is a closer one than that of the drink-offerings to the blood. The wood, too, is closely connected with the offering since without it the offering is not possible.

(25) Sc. the handful of the meal-offering.

(26) Which was similar to the meal-offering only in one respect (viz., each renders something permissible).

(27) I.e., the sacrificial limbs are not to be salted before being offered upon the altar.

(28) These are the initial or characteristic letters of the points in common between the meal-offering and the sacrificial limbs. It will be observed that the mnemonic contains seven letters whilst the Gemara enumerates but six points in common. Tosaf. explain that the seventh letter (א standing for אוכל 'a foodstuff') was a point too obvious to be mentioned. The last letter of this mnemonic, however, is wanting in MS.M.

(29) I.e., both the sacrificial limbs and the meal-offering are offered upon the altar that is outside in the Temple Court, whereas the blood in the case of certain offerings is sprinkled inside the Temple upon the veil and between the staves.

(30) Heb. נותר 'what is left over'. A person is liable if he eats of the meal-offering or of the sacrificial limbs outside the appointed time, or if he eats them whilst in a state of uncleanness. This is not so with regard to the blood.

(31) The law of sacrilege (i.e., the profane appropriation or use of sacred objects) does not apply to the blood. V. Yoma 60a.

Talmud - Mas. Menachoth 20b

On the contrary, it is more reasonable to include the blood since it renders something permissible like [the meal-offering][1] and is rendered invalid at sunset like it![2] — The others [the limbs] have more points in common.

The Master said: 'I would have concluded that it also applied to the wood and the blood since these are also termed "offering".' Whom have you heard express the opinion that the wood is termed 'offering'? It is Rabbi, is it not? But according to Rabbi it actually requires salting. For it was taught: The term 'offering'[3] signifies that one may offer wood as a freewill-offering. And how much must it be? Two logs. And it is written, And we cast lots for the offering of wood.[4] Rabbi says, The wood-offering is included under the term 'offering', and therefore it requires salting and also to be brought near[5] [the altar]. And Raba had said that according to Rabbi's view it is essential to take a handful out of the wood.[6] And R. Papa had said that according to Rabbi's view an offering of wood entails other wood too![7] — Strike out 'wood' from here.[8] Then what does the verse exclude? It surely cannot exclude the blood, for this is excluded by the expression 'from thy meal-offering'![9] —

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(1) The sprinkling of the blood renders the sacrifice permissible, just as the handful renders the rest of the meal-offering permissible to be eaten.

(2) The blood may not be sprinkled at night and if it remained overnight it is invalid, likewise with the handful of the meal-offering; whereas the sacrificial portions may be burnt throughout the whole night.

(3) Lev, II, 1. V. infra 106b.

(4) Neh. X, 35.

(5) To the south-western corner of the altar like the meal-offering.

(6) The wood must be cut up into small thin strips and a handful of these be taken and burnt upon the altar, like the handful of the meal-offering.

(7) As with every offering, wood from the Temple store is required for the burning of the offering, so here wood from the Temple store is required to burn the wood offered.

(8) I.e., from the argument in the passage stated by the Master,

(9) In the original Baraitha, supra p. 129, it will be seen that the first argument established that the expression 'meal-offering' excludes the blood and the wood. Later this Baraitha excluded the blood from another phrase of the verse 'from thy meal offering'. If now we strike out 'the wood' from the first argument then we are left in this position, that the Baraitha by the interpretation of two different expressions each time excludes the blood and nothing more.

Talmud - Mas. Menachoth 21a

Leave out 'the wood' and insert 'the drink-offerings' in its place. For it was taught: But the wine, the blood, the wood and the incense do not require salting. Who is the author of this Baraitha? If Rabbi, then the [inclusion of the] wood is a difficulty;[1] and if the Rabbis, then the [inclusion of the] incense is a difficulty.[2] — It is the following Tanna, for it was taught: R. Ishmael the son of R. Johanan b. Beroka says, Just as the particular item specified[3] is clearly something which can contract uncleanness,is consumed by fire and is offered upon the outer altar, so everything which can contract uncleanness, is consumed by fire and is offered upon the outer altar [requires salting]. Hence the wood is excluded since it cannot contract uncleanness, the blood and the wine are excluded since they are not consumed by fire, and the incense is excluded since it is not offered upon the outer altar.

Now this is so[4] clearly because the verse excluded the blood, but otherwise I should have said that the blood must be salted. Surely by salting it it loses the character of blood![5] For Ze'iri said in the name of R. Hanina, If blood was cooked [and then one ate of it], one does not thereby commit a transgression.[6] And Rab Judah said in the name of Ze'iri, If blood was salted [and one ate of it], one does not thereby commit a transgression.[7] Moreover Rab Judah on his own authority said, If the sacrificial limbs were roasted and then brought up [on the altar], they are no longer under the denomination of ‘a sweet savour’![8] — One might have thought that in compliance with the precept a little [salt] should be sprinkled therein, we are therefore taught [that it is excluded from this law].

The text [above stated]: ‘Ze'iri said in the name of R. Hanina, If blood was cooked [and then one ate of it], one does not thereby commit a transgression’. Raba was sitting reciting this statement, when Abaye raised against him the following objection: If a man coagulated blood[9] and ate it, or if he dissolved forbidden fat and gulped it down, he is culpable! — This is no difficulty, in the one case he coagulated it by the fire, in the other he coagulated it in the sun; if by the fire it will not resolve into its former state,[10] if in the sun it will do so. But even though [it was coagulated] in the sun should we not say that once it has been set aside it must remain so?[11] For did not R. Mani enquire of R. Johanan, ‘What is the law if one ate congealed blood?’ and he replied, ‘Once it has been set aside it must remain so’?[12] — He[13] remained silent. Then said [Abaye] to him, perhaps the one case deals with [the blood of] external[14] sin-offerings,[15] and the other[16] with [the blood of] internal[17] sin-offerings.[18] You have now, he exclaimed, reminded me of the law. For Rabbah said in the name of R. Hisda, If one ate the congealed blood of an external sin-offering, one is culpable, for the Divine Law says, And he shall take . . . and put it,[19] and such is fit for taking and putting [upon the horn of the altar]. If one ate [the congealed blood] of an internal sin-offering, one is not culpable, for the Divine Law says, And he shall dip . . . and sprinkle,[20] and such is not fit for dipping and sprinkling. And Rabbah on his own authority said, Even if one ate [the congealed blood] of an internal sin-offering one is culpable, since with external sin-offerings [blood] in such a condition is fit for the ritual purpose.[21] (Therefore, said R. Papa, If one ate the congealed blood of an ass one is culpable, since with external sin-offerings [blood] in such a condition is fit for the ritual purpose).[22]

R. Giddal said in the name of Ze'iri, Blood is regarded as an interposition,[23] whether it be moist or dry. An objection was raised: Blood, ink, honey and milk, if dry constitute an interposition; if moist, they do not constitute an interposition. — This is no difficulty, in one case [the blood] was viscid,[24] in the other it was not.

For what purpose does Scripture state, Thou shalt salt?[25] — For the following which was taught: [If the verse had only stated] ‘with salt’,[26] I might have thought that it meant tebonehu,[27] the verse therefore stated, Thou shalt salt. [And if the verse had only stated,] Thou shalt salt, I might have thought that it meant even with salt water, the verse therefore stated, ‘With salt’. Neither shalt thou suffer the salt to be lacking,[28] that is, bring that salt which has no Sabbath,[29] and that is the salt of Sodom. And whence do we know that if one cannot obtain the salt of Sodom one may bring salt of Istria?[30] Because the verse states, ‘Thou shalt offer’:[26] ‘Thou shalt offer’, whatever [salt] it is; ‘thou shalt offer’, from whatever place it comes; ‘thou shalt offer’, even on the Sabbath;[31] ‘thou shalt offer’, even in conditions of uncleanness.[31]

What is the meaning of tebonehu? — Rabbah b. ‘Ulla said, This is what was meant: I might have thought that one should heap the salt upon it as straw in clay. If so, said to him Abaye, it should have said yetabnenu![32] Rather said Abaye: I might have thought that one should pile up the salt like a building. If so, said Raba to him, it should have said yibnenu![33] Rather said Raba: I might have thought that it meant tebonehu. And what does tebonehu mean? R. Ashi explained: I might have thought that one should apply to it [salt] only to give it a taste,[34] just as the understanding,[35] the verse therefore stated, Thou shalt season. How should one do it? One takes the limb, spreads salt over it, turns it over and again spreads salt over it, and then offers it. Abaye said, And so, too, it should be done for [cooking meat in] the pot.[36]

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(1) Since according to Rabbi the wood like the meal-offering requires salting.

(2) For the principle enunciated by the Rabbis, namely that every offering for which other things (sc. wood) are requisite must be seasoned with salt, assuredly applies to the incense. V. supra p. 129.

(3) Sc. the meal-offering, expressly mentioned in Lev. II, 13.

(4) That the blood does not require salting.

(5) And is certainly not fit for sprinkling. ‘

(6) For once it has been cooked it has lost the character of blood.

(7) According to the principle that whatsoever is salted is counted as hot i.e., as roasted or cooked. V. Hul. 97b.

(8) And are not acceptable. Similarly cooked blood would not be acceptable.

(9) He rendered it into a solid mass by much cooking.

(10) So that it has lost entirely its character as blood, and therefore Ze'iri maintains that no transgression is committed when one eats thereof.

(11) I.e., once it has lost the character of blood during coagulation, it cannot again assume that character when melted down, on the principle that once a thing has been rejected it can no more be fit again.

(12) And whosoever eats thereof — it being assumed that the congealed blood was not of a consecrated animal-does not commit a transgression.

(13) Raba.

(14) I.e., sin-offerings whose blood must be applied to the horns of the altar which stood in the Temple Court.

(15) The blood of these sin-offerings, even though hardened in the sun, is still fit for its ritual purpose, and it still retains its character as blood. Likewise the blood of non-consecrated animals when hardened by the sun is also counted as blood, and therefore whosoever eats thereof commits a transgression.

(16) Ze'iri's case.

(17) I.e., sin-offerings whose blood must be sprinkled upon the veil and upon the golden altar, e.g., the bullocks and the he-goats which were to be wholly burnt, v. Lev. IV, ff.

(18) In this case the coagulated blood is absolutely unfit for its purpose. as is soon to be explained.

(19) Lev. IV, 30.

(20) Ibid. 6.

(21) It is therefore regarded as blood.

(22) This passage is omitted in all MSS.

(23) Blood adhering to the body interposes between the body and the water so that the immersion is not valid. For immersion to be valid no part of the body may be untouched by the water.

(24) And almost dry; it therefore interposes.

(25) Ibid. II, 13.

(26) Lev. II, 13.

(27) תבונהו. This word is explained in the text presently.

(28) Ibid. Heb. לא תשבית, the verb being interpreted as of the same root as שבת,

(29) I.e., is generated at all times and is cast up by the sea, both in winter and summer. This is identified with salt of Sodom, which is a fine sea salt.

(30) A town in Pontus where there were salt mines. This name is applied to all coarse rock salt.

(31) The offerings of the congregation may be brought on the Sabbath and in certain circumstances even in conditions of uncleanness. The salting of the offering is evidently a vital service and overrides the rules of Sabbath and of uncleanness.

(32) יתבננו (or יתבננו), denom. of תבן ‘straw’, meaning ‘to mix with straw’, ‘to put in much straw’, and then to apply a large quantity (of any substance)’.

(33) יבננו, implying building up row upon row.

(34) I.e., only a small quantity of salt, just a sprinkling in order to give it a taste.

(35) Just as the understanding gives ‘taste’ and distinction to man (Rashi). Or, that one might ‘understand’ that salt has been sprinkled on it (Aruch).
(36) I.e., the meat must be salted on both sides.

Talmud - Mas. Menachoth 21b

Our Rabbis taught: The salt which is upon the sacrificial limb is subject to the law of sacrilege,[1] but that which is upon the ascent or upon the head of the altar is not subject to the law of sacrilege.[2] R. Mattenah said, There is Scriptural authority for this, for it is written, And thou shalt present them before the Lord, and the priests shall cast salt upon them, and they shall offer them up for a burnt-offering unto the Lord.[3]

We have learnt elsewhere: [The Beth din ordained] concerning the salt and the wood [of the Temple stores] that the priests may use them freely.[4] Samuel said, They allowed this [use of salt] only for their offerings but not for eating. Now it was thought that ‘for their offerings’ meant for salting their [own] offerings,[5] and ‘for eating’ meant the eating of consecrated meat.[6] But surely if we provide them [with salt from the Temple stores] in order to salt the hides of the animal-offerings, shall we not provide them with salt to eat the consecrated meat? For it was taught: And so you find that salt was used in three places: in the salt chamber, on the ascent, and at the head of the altar. In the salt chamber where they used to salt the hides of animal-offerings;[7] on the ascent where they used to salt the sacrificial limbs; at the head of the altar where they used to salt the handful, the frankincense, the incense-offering, the meal-offering of the priests, the anointed [High] Priest's meal-offering, the meal-offering that is offered with the drink-offerings, and the burnt-offering of a bird! — We must therefore say that ‘for their offerings’ means for the eating of consecrated meat, and ‘for eating’ means the eating of unconsecrated food. Unconsecrated food! [you say], surely this is obvious, for how does it come to be there![8] — Although the Master stated:[9] ‘They shall eat[10] signifies that [if the remainder of the meal-offering is insufficient] they should eat with it unconsecrated food and terumah, so that it should be eaten after the appetite is satisfied’,[11] nevertheless we do not provide them with salt from the Temple.

Rabina said to R. Ashi, This indeed is most logical; for should you say that ‘for their offerings’ meant for salting their [own] offerings, so that [they are entitled to this] only because the Beth din granted them this concession, but had not the Beth din granted them this concession they would not be entitled to it, but surely if we provide the Israelites [with salt for their offerings], shall we not provide the priests too? For it was taught: I might have thought that if a man said, ‘I take upon myself to offer a meal-offering’, he must provide[12] the salt himself just as he must provide the frankincense himself. And the following argument [supports the contention]: It is enjoined that with a meal-offering there must be salt,[13] and it is also enjoined that with a meal-offering there must be frankincense; therefore just as the frankincense he must provide himself,[14] so the salt too he must provide himself. Or perhaps argue this way: It is enjoined that with a meal-offering there must be salt, and it is also enjoined that with a meal-offering there must be wood; therefore just as the wood is taken from the communal store[15] so the salt too is taken from the communal store. Let us then see to which it is most similar. We derive the law concerning a matter that is essential to all offerings from another matter which is essential to all offerings,[16] and let not the frankincense prove against this, since it is not a matter which is essential to all offerings. Or perhaps argue this way: we derive the law concerning a matter which is offered with the meal-offering in one vessel from another matter which is also offered with the meal-offering in one vessel[17] and let not the wood prove against this, since it is not a matter which is offered with the meal-offering in one vessel. Scripture therefore states [concerning the salt], it is a covenant of salt for ever,[18] and elsewhere [concerning the Shewbread] it says, It is on behalf of the children of Israel a covenant for ever;[19] as the one[20] was taken out of the supplies of the community, so the other[21] was also taken out of the supplies of the community! — Thereupon R. Mordecai said to R. Ashi, Thus said R. Shisha the son of R. Idi, It was necessary to be stated only according to Ben Bokri's view.[22] For we have learnt:[23] R. Judah said, Ben Bokri testified at Jabneh that a priest who paid the shekel[24] has committed no sin.[25] — Rabban Johanan b. Zakkai said to him, Not so, but rather a priest who did not pay the shekel has committed a sin.[26] The priests, however, used to expound the following verse to their advantage, And every meal-offering of the priest shall be wholly burnt; it shall not be eaten;[27] since the ‘Omer-offering and the Two Loaves and the Shewbread are ours, how can they be eaten?[28] But according to Ben Bokri, since they are not in the first instance liable to pay the shekel, when they do pay it they have surely committed a sin, for they have brought unconsecrated matter into the Temple! — They bring it and deliver it [whole-heartedly] to the public funds. Now[29] one might have thought that

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(1) And no profane use may be made of this salt. For the law of sacrilege (i.e., the misappropriation of property of the Sanctuary) v. Lev. V, 15, 16.

(2) And it may be used for ordinary purposes since it is no longer fit for any sacred purpose.

(3) Ezek. XLIII, 24. The salt which is upon the limb is, in this verse, stated to be part of the burnt-offering.

(4) Shek. VII, 7.

(5) I.e., the offerings which the priests offer on their own behalf may be salted with salt from the Temple stores.

(6) I.e., the priests may not use this salt at table when eating consecrated meat (e.g., the breast and the thigh) which they receive as their portion from the sacrifices.

(7) Which belonged to the priests.

(8) For it is forbidden to bring unconsecrated food into the Temple precincts (Rashi).

(9) Tem. 23a.

(10) Lev. VI, 9.

(11) I.e., in order to appease their hunger they should first eat some unconsecrated food or terumah (v. Glos.) outside the Temple Court, and then enter the Temple Court where they would finish their meal to satisfaction with the remainder of the meal-offering.

(12) Lit., ‘bring from his home’.

(13) Lit., ‘bring a meal-offering and bring salt’.

(14) For it is written, ibid. II, 1: And put frankincense thereon, and then it says in the next verse, And he shall bring it to the sons of Aaron.

(15) V. infra.

(16) Salt and wood are essential to all offerings.

(17) The salt and the frankincense were placed together with the handful of the meal-offering in one vessel.

(18) Num. XVIII, 19.

(19) Lev. XXIV, 8.

(20) Sc. the Shewbread, which was in the nature of an offering on behalf of the community of Israel.

(21) Sc. the salt for the offerings.

(22) According to Ben Bokri's view the priests did not contribute the shekel to the Temple funds and therefore were not entitled to any of the Temple's supplies; hence it was necessary for the Beth din to grant them a concession that they may use the Temple's supplies of wood and salt for their own offerings.

(23) Shek. I, 4.

(24) The annual contribution, corresponding to the half shekel ordained in the Torah (Ex. XXX, 13), paid before the first of Nisan by every Israelite towards the upkeep of the public offerings in the Temple.

(25) According to law a priest is not liable to pay the shekel, for the expression ‘every one that passeth among them that are numbered’ (Ex. ibid.) does not apply to the priests (or the Levites), since these were not numbered together with the rest of the tribes of Israel, but separately.

(26) The expression in the verse (v. prec. n.) is accordingly interpreted thus: Every one that passeth, that is, every one that passed through the Red Sea; among them that are numbered, that is, however they were numbered, whether separately or with the other tribes of Israel. Hence the priests are Biblically liable to pay the shekel.

(27) Lev. VI, 16.

(28) If the priests were liable to contribute the shekel to the Temple funds, out of which the three named public meal-offerings were provided, it would follow that these meal-offerings should be wholly burnt and not eaten by the priests; and this would be contrary to Scripture. Hence, the priests argued, they were not to pay the shekel.

(29) This continues the argument as given above ‘It was necessary to be stated only according to Ben Bokri's view’. V. supra p. 139, n. 7.

Talmud - Mas. Menachoth 22a

the Divine Law granted this privilege[1] only to Israelites since they have a [share in the] chamber, but not to the priests as they have no [share in the] chamber; we are therefore taught [that this is not so].[2]

Now as to wood, concerning which the Tanna is certain that it is taken from the public supplies, whence does he know it? From the following: I might have thought that if a man said, ‘I take upon myself to offer a burnt-offering’, he must provide the wood himself[3] just as he must provide the drink-offerings himself; the verse therefore states, On the wood that is on the fire which is upon the altar:[4] as the altar was [set up] out of the public funds so the wood and the fire shall also come out of the public funds. So R. Eleazar son of R. Simeon. R. Eleazar b. Shammua’ said, As the altar has not been used by a layman, so the wood and the fire shall not have been used by a layman. What is the [practical] difference between them? — The difference between them is [as to whether] new[5] [wood is necessary or not].

And [can it be said that] old wood is not [allowed]? But it is written, And Araunah said unto David, Let my lord the king take and offer up what seemeth good unto him: behold, the oxen for the burnt-offering, and the morigim[6] and the furniture of the oxen for the wood![7] — These were also new.

What are morigim?[6] — ‘Ulla said, It is a ‘turbel bed’,[8] And what is a ‘turbel bed’? — Rab Judah said, A ‘goat with hooks’,[9] wherewith the threshers thresh. Said R. Joseph, What is the Scriptural [evidence]? It is written, Behold, I make thee a new morag having sharp teeth; thou shalt thresh the mountains.[10]

MISHNAH. IF THE HANDFUL OF ONE MEAL-OFFERING WAS MIXED WITH THE HANDFUL OF ANOTHER, OR WITH A PRIEST'S MEAL-OFFERING,[11] OR WITH THE MEAL-OFFERING OF THE ANOINTED [HIGH] PRIEST,[11] OR WITH THE MEAL-OFFERING OFFERED WITH THE DRINK-OFFERINGS,[11] IT[12] IS VALID. R. JUDAH SAYS, IF [IT WAS MIXED] WITH THE MEAL-OFFERING OF THE ANOINTED [HIGH] PRIEST OR WITH THE MEAL-OFFERING OFFERED WITH THE DRINK-OFFERINGS, IT IS INVALID, FOR SINCE THE CONSISTENCY OF THE ONE[13] IS THICK AND THE CONSISTENCY OF THE OTHER[14] IS THIN, EACH ABSORBS FROM THE OTHER.[15] GEMARA. We have learnt elsewhere:[16] If the blood [of a sacrifice] was mixed with water and it still has the appearance of blood, it is valid.[17] If it was mixed with wine, it must be regarded as though it was water.[18] If it was mixed with the blood of [unconsecrated] cattle or of a wild animal, it must be regarded as though it was water. R. Judah says, Blood cannot neutralize blood.[19] R. Johanan said, Both[20] [derived their views by] expounding the same verse, viz., And he shall take of the blood of the bullock and of the blood of the goat.[21] Now it is well known that the blood of a bullock is more than the blood of a goat;[22] the Rabbis therefore conclude

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(1) The use of the Temple supply of salt for their offerings.

(2) But the Beth din expressly granted them this concession. V. Shek. VII, 7.

(3) Lit., ‘he must bring from his house’.

(4) Lev. I, 12.

(5) I.e., new wood which had never been used for any other purpose. R. Eleazar b. Shammua’ insists upon new wood, whereas the first Tanna allows even used wood.

(6) מוריגים V. infra.

(7) II Sam. XXIV, 22.

(8) **, a threshing sledge consisting of a wooden platform studded with sharp pieces of flint or with iron teeth (Jast.)
(9) V. A.Z. 24b (Sonc. ed., p. 122, n. 1).
(10) Isa. XLI, 15. It is evident from this verse that מורג is a threshing instrument.
(11) These meal-offerings are wholly burnt and therefore correspond to the handful of an ordinary meal-offering.
(12) Sc. the handful, as well as the other meal-offering.
(13) Sc, the handful of the ordinary meal-offering. It had one log of oil to the tenth of an ephah of flour.
(14) The High Priest's meal-offering required three logs of oil to the tenth of an ephah of flour; while for the meal-offering offered with the drink-offerings the mixture was one tenth of an ephah of flour and three logs of oil for a lamb, two tenths and four logs for a ram, and three tenths and six logs for a bullock.
(15) Both are therefore invalid; the handful because it sucked some oil from the other meal-offering so that it has had too much oil, and the other meal-offering because it has had too little oil.
(16) Zeb. 77b, Hul. 87b.
(17) For sprinkling upon the altar.
(18) And if an equal quantity of water when mixed with this blood would not alter the appearance of the blood, it is valid.
(19) So that the blood of a sacrifice, even though mixed in a considerably larger quantity of unconsecrated blood, still retains its identity and sacred character, and the mixture is valid for sprinkling. For R. Judah is of the opinion that in a mixture of like kinds, either liquids with liquids or solids with solids, one element cannot neutralize the other, irrespective of the quantities of each.
(20) I.e., the first Tanna (hereinafter referred to as ‘the Rabbis’) and R. Judah.
(21) Lev. XVI, 18, in connection with the service on the Day of Atonement. The priest had to mix the blood of both animals and sprinkle it upon the altar; cf. Yoma 53b.
(22) Nevertheless the goat's blood, whose quantity is considerably less than that of the bullock, has not ‘lost itself’ i.e., it has not become neutralized in the mixture, since Scripture expressly names each blood separately.

Talmud - Mas. Menachoth 22b

from this that in a mixture of things which are offered up one element cannot neutralize the other.[1] R. Judah, however, concludes from this that in a mixture of like kinds neutralization does not take place.

‘The Rabbis conclude from this that in a mixture of things which are offered up one element cannot neutralize the other’. But perhaps the reason [why one does not neutralize the other] is because here is a mixture of like kinds![2] — Had this[3] been merely a mixture of like kinds and not of things which are offered up, it would be as you say; but since it is here a mixture of things which are offered up,it is clear that the reason is that it is a mixture of things which are offered up, perhaps then [we can conclude from this that] only in a mixture of like kinds of things which are offered up [one element cannot neutralize the other]! — This is a difficulty.

‘R. Judah concludes from this that in a mixture of like kinds neutralization does not take place’. But perhaps the reason [why one does not neutralize the other] is because here is a mixture of things which are offered up! — Had this been merely a mixture of unlike kinds of things which are offered up, it would be as you say; but since it is a mixture of like kinds, it is clear that the reason is that here it is a mixture of like kinds. Perhaps then [we can conclude from this that] only in a mixture of like kinds of things offered up [one element cannot neutralize the other]! — This is a difficulty.

[An objection was raised.] We have learnt: R. JUDAH SAYS, IF [IT WAS MIXED] WITH THE MEAL-OFFERING OF THE ANOINTED [HIGH] PRIEST OR WITH THE MEAL-OFFERING OFFERED WITH THE DRINK-OFFERINGS, IT IS INVALID, FOR SINCE THE CONSISTENCY OF THE ONE IS THICK AND THE CONSISTENCY OF THE OTHER IS THIN, EACH ABSORBS FROM THE OTHER. But what does it matter if one does absorb from the other? The mixture here is of like kinds![4] —

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[1] E.g., the blood of two consecrated animals. On the other hand, if the blood of a consecrated animal was mixed with that of an unconsecrated animal or with water or wine, one would neutralize the other, according to the quantities of each.

[2] I.e., the blood of the goat mixed with the blood of the bullock.

[3] Sc. the case indicated in Lev. ibid.

[4] It is of no consequence even if the oil in the handful did absorb some of the oil from the other meal-offering, since the latter is not neutralized in the mixture; and therefore the handful cannot be reckoned to have had any addition in oil.

Talmud - Mas. Menachoth 23a

Raba answered, R. Judah is of the opinion that where an element is mixed with like kind and also with another kind, you must disregard the like kind as if it were not there, and the other kind, if more in quantity, will neutralize [the element].[1]

It was reported: If [the priest] poured oil on the handful taken from the sinner's meal-offering, R. Johanan maintains it is invalid; but Resh Lakish says, He should in the first instance wipe up with it the remains of the log of oil and then offer it.[2] But is it not written, He shall put no oil upon it, neither shall he put any frankincense thereon?[3] — That verse means that one should not apportion for it a quantity of oil as for the other [meal-offerings].[4]

R. Johanan raised an objection against Resh Lakish. It was taught: If a dry meal-offering was mixed with one mingled with oil, it may be offered up.[5] R. Judah says, It may not be offered up. presumably the handful of a sinner's meal-offering was mixed with the handful of a freewill meal-offering![6] — No, the meal-offering that is offered with a bullock or with a ram was mixed with the meal-offering that is offered with a lamb,[7] But this is expressly stated, viz., If the meal-offering that is offered with a bullock or with a ram was mixed with the meal-offering that is offered with a lamb, or if a dry meal-offering was mixed with one mingled with oil, it may be offered up. R. Judah says, It may not be offered up.[8] — One [clause] merely illustrates the other.

Raba raised the question: What is the law if oil was squeezed out of the handful on to wood?[9] Do we say that whatsoever is joined to the thing offered is like the offering itself,[10] or not? Rabina said to R. Ashi, Is not this question similar to the case disputed by R. Johanan and Resh Lakish? For it was reported: If a man offered up [outside the Temple court] a limb which was not as large as an olive but the bone brought it up to an olive's bulk, R. Johanan says, He is liable [to the penalty of kareth]; but Resh Lakish says, He is not liable. ‘R. Johanan says, He is liable’, because what is joined[11] to the thing offered is like the offering itself; ‘Resh Lakish says, He is not liable’, because what is joined to the thing offered is not like the offering! — The question can indeed be asked, both according to R. Johanan and according to Resh Lakish. It can be asked according to R. Johanan, for [it may be that] R. Johanan held that view only in regard to the bone, since it is of the same kind as the flesh, but not in regard to [the wood] for it is not of the same kind as the handful. And Resh Lakish, too, perhaps he held that view only in regard to the bone, since it can become separated,[12] and if separated there is no obligation to put it back, but not in regard to the oil[13] for it cannot be separated. Or perhaps these differences do not count! — The question remains unanswered.

MISHNAH. IF TWO MEAL-OFFERINGS FROM WHICH THE HANDFULS HAD NOT YET BEEN TAKEN WERE MIXED TOGETHER, BUT IT IS STILL POSSIBLE TO TAKE THE HANDFUL FROM EACH SEPARATELY,[14] THEY ARE VALID; OTHERWISE THEY ARE INVALID. IF THE HANDFUL [OF A MEAL-OFFERING] WAS MIXED WITH A MEAL-OFFERING FROM WHICH THE HANDFUL HAD NOT YET BEEN TAKEN, IT[15] MUST NOT BE OFFERED. IF, HOWEVER, IT WAS OFFERED, THEN THE MEAL-OFFERING FROM WHICH THE HANDFUL HAD BEEN TAKEN DISCHARGES THE OWNER'S OBLIGATION

WHILST THE OTHER FROM WHICH THE HANDFUL HAD NOT BEEN TAKEN DOES NOT DISCHARGE THE OWNER'S OBLIGATION. IF THE HANDFUL WAS MIXED WITH THE REMAINDER OF THE MEAL-OFFERING OR WITH THE REMAINDER OF ANOTHER MEAL-OFFERING, IT MUST NOT BE OFFERED; BUT IF IT WAS OFFERED IT DISCHARGES THE OWNER'S OBLIGATION.

GEMARA. R. Hisda said, Nebelah[16] meat is neutralized in ritually slaughtered meat,[17] since slaughtered meat cannot assume the character of nebelah meat;[18] ritually slaughtered meat is not neutralized in nebelah meat, since nebelah meat can assume the character of slaughtered meat, for when it has putrified the uncleanness thereof has gone.[19] But R. Hanina said, Whatsoever can become like the other is not neutralized, and whatsoever cannot become like the other is neutralized.[20] According to whose view [do they differ]?[21] It cannot be according to the view of the Rabbis, for they have said that only things which are offered up do not neutralize one another, but in a mixture of like kinds neutralization takes effect.[22] Neither can it be according to R. Judah, for

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(1) The case dealt with by R. Judah in our Mishnah is where the handful, which is made up of oil and flour, was mixed with one of the meal-offerings mentioned, which also contains oil. Now the oil in the handful is disregarded, so that the flour of the handful will neutralize the oil of the other meal-offering which it has absorbed, with the result that the handful has had too much oil and is therefore invalid.

(2) It is the proper thing, maintains Resh Lakish, to scrape up with the handful of the sinner's meal-offering any oil that may be found remaining in the log measure which had been used for some other meal-offering. Accordingly if he actually poured some oil on the handful it is certainly valid.

(3) Lev. V, 11.

(4) Before the taking of the handful. After that, however, he may add a little oil to it.

(5) This Tanna applies here the principle laid down by the Rabbis that things which are offered up do not neutralize one another; therefore in this mixture one is not affected by the other, and the whole is offered upon the altar.

(6) The former meal-offering being dry, and the latter mingled with oil. Now it is clear that the first Tanna permitted the offering of these meal-offerings only because he holds that things offered up when mixed together do not neutralize each other, so that each is considered as though it were by itself; where, however, oil was poured on to a dry meal-offering they would also declare it to be invalid, contra Resh Lakish.

(7) The meal-offering offered with a bullock or with a ram is called ‘dry’ as compared with that offered with a lamb, since the former had two logs of oil to each tenth of an ephah of flour, whereas the latter had three logs of oil to the same quantity of flour.

(8) Thus clearly showing that the second clause is a case quite different from the first, and ‘dry’ no doubt means the sinner's meal-offering which contains no oil at all.

(9) Consequently there would be too little oil in the handful.

(10) Since the wood with the oil on it will be later joined to the handful and together burnt on the altar it is as though the oil were still in the handful so that none of the oil can really be said to be lacking, consequently it is valid. V. Rashi and Tosaf. a.l. for further interpretations.

(11) Sc. the bone.

(12) I.e., the bone might spring off from the altar.

(13) According to the first interpretation of Rashi which has been adopted here it should read ‘the wood’, V. Sh. Mek. n. 6.

(14) There remained from each meal-offering a quantity sufficient for the taking of the handful that had not mixed with the other.

(15) Sc. the whole mixture.

(16) נבלה, an animal which had died a natural death or was slaughtered in any manner than that prescribed by Jewish ritual law. The carcass may not be eaten (Deut. XIV, 21), and it conveys uncleanness by carrying and by contact (Lev. XI, 39, 40).

(17) If a morsel of nebelah meat was confused with a large quantity of ritually slaughtered meat, it is neutralized in the mixture and is regarded as non-existent, so that whosoever touches this mixture in any part thereof remains clean.

(18) The latter conveys uncleanness, whilst the former does not; the mixture is therefore considered to be a mixture of different kinds (in view of the difference between them as to the law of uncleanness), so that the one is neutralized in the other according to all views.

(19) And if a morsel of ritually slaughtered meat was confused with a large quantity of nebelah meat, the whole is regarded as a mixture of like kinds and no neutralization takes place. Consequently if terumah (v. Num. XVIII, 8ff) produce were to be brought into contact with this mixture it would not be unclean of a certainty, but would always be considered to be in a state of doubtful uncleanness, since it might only have touched the morsel of slaughtered meat in the mixture. R. Hisda is of the opinion that it is the neutralizer, i.e., the substance which is in the majority in the mixture, which is to be considered; and if it is, or can become, like the substance which is about to be neutralized, the mixture is then considered to be a mixture of like kinds.

(20) R. Hanina is of the opinion that it is the substance which is about to be neutralized, i.e., the substance which is in the minority in the mixture, which is to be considered, and if it can become like the neutralizer, only then is the mixture considered to be a mixture of like kinds and neutralization does not take place.

(21) Sc. R. Hisda and R. Hanina.

(22) So that it is immaterial whether the nebelah meat can become like the slaughtered meat or vice versa, for even if the mixture is a mixture of like kinds neutralization takes effect.

Talmud - Mas. Menachoth 23b

R. Judah adopts the criterion of appearance,[1] and [by that criterion] in either case it would be a mixture of like kinds! — Rather it is according to R. Hiyya's view, for R. Hiyya taught: In a mixture of nebelah meat and ritually slaughtered meat neutralization takes place.[2] And whose view does R. Hiyya follow? It cannot be that of the Rabbis, for they have said that only things which are offered up do not neutralize one another, but in a mixture of like kinds neutralization takes effect.[3] Neither can it be that of R. Judah, for according to R. Judah in any mixture of like kinds neutralization does not take effect! — In fact he follows the opinion of R. Judah, for R. Judah laid down the rule that in a mixture of like kinds neutralization does not take effect only in that case where it is possible for one kind to become like the other, but where it is not possible for one kind to become like the other, there neutralization does take effect. And they differ in this point: R. Hisda holds that we must consider the neutralizer,[4] but R. Hanina holds that we must consider what is to be neutralized.[5]

We have learnt: IF TWO MEAL-OFFERINGS FROM WHICH THE HANDFULS HAD NOT YET BEEN TAKEN WERE MIXED TOGETHER, BUT IT IS STILL POSSIBLE TO TAKE THE HANDFUL FROM EACH SEPARATELY, THEY ARE VALID; OTHERWISE THEY ARE INVALID, Now in this case we see that when the handful is taken from one, whereby the rest becomes the remainder, this remainder does not neutralize the other meal-offering from which the handful has not yet been taken.[6] Whose view is represented here? It cannot be that of the Rabbis, for they have said that only things which are offered up do not neutralize one another;[7] but in a mixture of like kinds neutralization takes effect. Obviously it is the view of R. Judah. Now this is well according to him who holds that we must consider what is to be neutralized, for here what is to be neutralized[8] can become like the neutralizer,[9] seeing that when the handful will have been taken from the other meal-offering there will be a remainder like that of the first meal-offering.[10] But according to him who holds that we must consider the neutralizer, [it will be asked here,] Can the remainder ever become like that from which the handful has not yet been taken?[11] Are we to say then that our Mishnah is not in accordance with R. Hiyya [as interpreted by R. Hisda]? — It is to be explained there according to R. Zera's dictum; for R. Zera said,[12] ‘Burning’ is stated with regard to the handful,[13] and ‘burning’ is also stated with regard to the remainder;[14] therefore as in the case of the handful, concerning which the expression ‘burning’ is used, [it is established that] one handful cannot neutralize the other,[15] so too in the case of the remainder, concerning which the expression ‘burning’ is also used, the remainder cannot neutralize the handful.[16]

Come and hear: IF THE HANDFUL [OF A MEAL-OFFERING] WAS MIXED WITH A MEAL-OFFERING FROM WHICH THE HANDFUL HAD NOT BEEN TAKEN, IT MUST NOT

BE OFFERED. IF, HOWEVER, IT WAS OFFERED, THEN THE MEAL-OFFERING FROM WHICH THE HANDFUL HAD BEEN TAKEN DISCHARGES THE OWNER'S OBLIGATION, WHILST THE OTHER FROM WHICH THE HANDFUL HAD NOT BEEN TAKEN DOES NOT DISCHARGE THE OWNER'S OBLIGATION. We see then that the meal-offering from which the handful had not been taken does not neutralize the handful. Whose view is this? It cannot be that of the Rabbis, for they have said that only things which are offered up do not neutralize one another; but in a mixture of like kinds neutralization takes effect. Obviously it is the view of R. Judah. Now it is well according to him who holds that we must consider the neutralizer, for here the neutralizer[17] can become like that which is to be neutralized, seeing that every particle thereof is appropriate to be taken up in the handful.[18] But according to him who holds that we must consider what is to be neutralized, [it will be asked,] Can the handful ever become like the meal-offering from which the handful has not yet been taken? Are we to say then that our Mishnah is not in accordance with R. Hiyya [as interpreted by R. Hanina]?[19] — This too must be explained in accordance with R. Zera's dictum.

Come and hear: IF THE HANDFUL WAS MIXED WITH THE REMAINDER OF THE MEAL-OFFERING OR WITH THE REMAINDER OF ANOTHER MEAL-OFFERING, IT MUST NOT BE OFFERED; BUT IF IT WAS OFFERED IT DISCHARGES THE OWNER'S OBLIGATION. Now here the neutralizer cannot become like that which is to be neutralized, nor can what is to be neutralized become like the neutralizer,[20] nevertheless the remainder does not neutralize the handful. Whose view is this? It cannot be that of the Rabbis, for etc.! — R. Zera answered, ‘Burning’ is stated with regard to the handful, and ‘burning’ is also stated with regard to the remainder; as in the case of the handful, concerning which the expression ‘burning’ is used, [it is established that] one handful cannot neutralize the other, so too in the case of the remainder, concerning which the expression ‘burning’ is also used, the remainder cannot neutralize the handful.[21]

Come and hear: If one seasoned it[22] with cumin or with sesame seed or with any other kind of spice, it is fit;[23] for it is unleavened bread, only that it is called seasoned unleavened bread. Now it was assumed that there were more spices than unleavened dough. According to him, then, who holds that we must consider what is to be neutralized, it is well, for what is to be neutralized[24] can become like the neutralizer, seeing that when it becomes mouldy it is like the spices.[25] But according to him who holds that we must consider the neutralizer, [it will be asked,] Can the spices become like the unleavened bread?[26] — We are dealing here with the case where there was not so much spices; indeed the larger part was the unleavened bread, and therefore it is not neutralized. This too is to be inferred [from the words of the Baraitha], for it reads, ‘It is unleavened bread, only that it is called seasoned unleavened bread’[27] This is conclusive.

When R. Kahana went up [to Palestine] he found the sons of R. Hiyya sitting and discoursing as follows: If one divided a tenth[28]

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(1) V. supra 22a. Things that have the same appearance are regarded as of like kind; and nebelah meat and slaughtered meat would always be considered as of like kind, so that neutralization would not take effect.

(2) But only in one case, either where nebelah meat was confused with a larger quantity of slaughtered meat as R. Hisda would have it, or where slaughtered meat was confused with a larger quantity of nebelah meat as R. Hanina would have it.

(3) Whereas R. Hiyya holds that neutralization does take place in a mixture of nebelah meat and slaughtered meat, even though only in one case, v. prec. n.

(4) Sc. the substance which is in the majority in the mixture. If this substance can become like the substance which is in the minority, the mixture is deemed to be one of like kinds, and neutralization will not take place.

(5) Sc. the substance which is in the minority in the mixture. V. p. 147, n. 7

(6) It is certain that neutralization does not take place, for otherwise it would not be permitted subsequently (as stated in the Mishnah) to take the handful from the second meal-offering.

(7) The remainder, however, is not a thing that is offered up, consequently it should neutralize the other meal-offering, even though the mixture is of like kinds.

(8) Sc. the other meal-offering from which the handful has not yet been taken.

(9) Sc. the remainder of the meal-offering from which the handful has been taken.

(10) And it is deemed to be a mixture of like kinds and neutralization does not take place.

(11) Obviously it cannot. The mixture is therefore one of unlike kinds and neutralization should take effect, so that it should not be permitted subsequently to take the handful from the second meal-offering.

(12) Infra, and Zeb. 110a,

(13) Lev, II, 2.

(14) Lev. II, 10, For whatever offering has a portion thereof burnt upon the altar comes under the law of ‘ye shall not burn’.

(15) This is admitted even by R. Judah. V. supra p. 141.

(16) The effect of R. Zera's teaching is that the law of neutralization does not apply to any mixture of remainders and handfuls in any circumstances.

(17) Sc. the meal-offering from which the handful had not yet been taken.

(18) Consequently the mixture is deemed to be one of like kinds, and therefore neutralization does not take place. In cur. edd. this is added in the text. It is omitted in MS.M.

(19) This sentence is omitted in all MSS.

(20) Neutralization therefore should take effect.

(21) V. p. 149, nn. 1, 2 and 3.

(22) Sc. unleavened dough.

(23) To be used on the Passover night for fulfilling the command of eating unleavened bread.

(24) Here the unleavened dough.

(25) And it is no more unleavened bread.

(26) Of course not; consequently neutralization should take place and it should not be regarded as unleavened bread at all.

(27) Thus clearly showing that the main part is the unleavened bread and not the spices.

(28) The tenth part of an ephah of flour set aside for a meal-offering.

Talmud - Mas. Menachoth 24a

and put [the two halves] into the mixing vessel, and then a tebul yom[1] touched one of them, what would be the law?[2] Does the rule which we learnt that with consecrated things a vessel unites all that is therein,[3] apply only when they[4] are touching one another, but not when they do not touch one another; or perhaps this makes no difference? — Said he[5] to them, Did we learn, ‘a vessel joins’?[6] We learnt ‘a vessel unites’; that is, in all circumstances.[7]

If one placed another [half-tenth] between them, what is the law?[8] — He replied to them, [The rule is:] What stands in need of a vessel, the vessel unites; what does not stand in need of a vessel, the vessel does not unite.[9]

And what if a tebul yom inserted his finger between them?[10] — He replied: There is nothing other than earthenware vessels that can convey uncleanness through its air-space.[11]

He[5] then put to them this question: May the handful be taken from one [half] in respect of the other?[12] Is the principle of ‘[the vessel] uniting [its contents]’ Biblical or only Rabbinical?[13] — They answered him, We have not heard of that, but we have heard of a similar case; for we have learnt: IF TWO MEAL-OFFERINGS FROM WHICH THE HANDFULS HAD NOT YET BEEN TAKEN WERE MIXED TOGETHER, BUT IT IS STILL POSSIBLE TO TAKE THE HANDFUL FROM EACH SEPARATELY, THEY ARE VALID; OTHERWISE THEY ARE INVALID. Now where it is possible to take the handful [from each separately, it states that] they are valid. But why? The rest that is mixed together surely does not touch [the handful]?[14] — Raba, however, suggested that perhaps the masses were spread in the shape of a comb.[15]

What is then the ruling? Said Raba, Come and hear, for it has been taught: And he shall take up therefrom,[16] that is, from the whole; one may not therefore bring the tenth [divided] in two vessels and have the handful taken. It follows, however, that from one vessel which is like two vessels[17] the handful may be taken. Said Abaye to him, perhaps by ‘two vessels’ is meant, e.g., a kapiza-measure fixed in a kab-measure;[18] for although on top the contents are united, since the sides of the kapiza-measure form a partition below, one may not [bring the meal-offering therein]. And by one vessel which is like two vessels’ is meant, e.g., a hen trough,[19] in which the contents, although separated by a partition, are nevertheless in contact. But in this case where they are not in contact the question still remains.

R. Jeremiah raised this question: How is it where the vessel unites [the two half-tenths within] and there is a connection by water [with another half-tenth lying outside]?[20] Does the rule which we learnt that with consecrated things a vessel unites all that is therein,[21] apply to what is inside but not to what is outside; or perhaps since there is a connection it is united thereby?[22] And if you were to decide that since there is a connection it is united thereby, this further question will arise: How is it where there is a connection by water [with one of the halves inside the vessel] and the vessel unites [the halves that are therein], and then a tebul yom touched the part that was outside?[23] Does the rule which

tacles, since the sides of the inner receptacle separate the contents of the one we have learnt that with consecrated things a vessel unites all that is therein, apply only to the case where [the uncleanness] came into contact with what was inside but not where it came into contact with what was outside; or perhaps this makes no difference? — These questions remain undecided.

Raba raised the following question: What is the position if a tenth was divided into halves and one of the halves became unclean; afterwards these two halves were placed in the mixing vessel[24] and a tebul yom touched that [half] which was already unclean? Do we say that it is sated with uncleanness[25] or not? Said Abaye to him, Do we then say that a thing can be sated with uncleanness? Surely we have learnt:[26] If a sheet which had contracted midras[27] uncleanness

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(1) טבול יום, a person who, having been unclean, had immersed himself during the day and must await sunset before he is deemed fully clean. He suffers now only a slight degree of uncleanness; he is deemed to be unclean in the second degree and can affect with uncleanness terumah and consecrated things.

(2) Would the other part, not touched by the tebul yom, be unclean or not?

(3) And if only a part of the contents of the vessel becomes unclean, everything that is therein is unclean; v. Hag. III, 2; 20b.

(4) Sc. the contents of the vessel.

(5) R. Kahana.

(6) Which would imply that the contents of the vessel were in contact.

(7) Even when they are not in contact.

(8) I.e., after having divided a tenth into halves he added another half-tenth, placing it between the two previous halves, and then this extra half was touched by a tebul yom. The question is whether the other halves are affected with uncleanness or not.

(9) This extra half-tenth has no need of this vessel, and indeed could not be used together with the other halves in this vessel; consequently the other halves are not affected with uncleanness.

(10) Without having touched either the vessel or its contents.

(11) And therefore the contents of this vessel are clean.

(12) I.e., when taking the handful is it necessary to take some from each half, or may it be taken entirely from one half in respect of the whole vessel? It must be noted that there was no contact whatsoever between the two halves of the meal-offering.

(13) If the principle is Biblical then it is to be applied to all cases, even though the result would be one of leniency, as here with the taking of the handful. On the other hand, were it only Rabbinical, it would be applied only to such cases as would result in a stringent ruling, as in the case of uncleanness.

(14) For only the quantities sufficient for the taking of the handfuls stand apart by themselves, the remainders of each meal-offering being mixed together, so that the remainder of one meal-offering is entirely separate from the handful of that same meal-offering. Nevertheless the offering is valid, presumably because all parts are united by the vessel; thus proving that the principle of ‘uniting’ is Biblical.

(15) Like the teeth of a comb, joined at one end and separate at the other. In our Mishnah, the two meal-offerings were lying side by side and separated only at the ends wherefrom the handfuls might be taken. Where, however, the two halves were quite apart the question still remains.

(16) Lev. VI, 8.

(17) I.e., where the flour is divided into halves in the one vessel and there is no contact at all between them.

(18) I.e., the kab vessel was constructed with a kapiza vessel fixed in its hollow, the two forming in fact only one vessel but with two separate receptacles. The result is that when both receptacles are filled to the brim with the flour of a meal-offering there is no contact between the contents of the two recepfrom the other. And even if the flour was heaped up to cover the sides of the kapiza or inner vessel, so that ostensibly there is contact between the contents of both receptacles, it is still invalid, for the contact between the contents is not made in the vessel, but outside the vessel. Kapiza is a small measure; for kab v. Glos.

(19) I.e., a vessel separated into two divisions by a low bar placed at the bottom of the vessel (Rashi). According to Maim. the division of the bar is at the top only, so that the contents, although appearing divided, are really united below; v. Yad. Pesule ha-Mukdashim, XI, 22.

(20) There were two half-tenths in the vessel not in contact, and another half-tenth lying outside the vessel was connected by water (i.e., a pipe or conduit running from the vessel to the place where the outside half-tenth lay) with one of the halves inside the vessel. Now the other half-tenth that lay in the vessel and which was in no wise connected with the outside half-tenth was rendered unclean; and the question is whether or not the uncleanness can be passed on to the half-tenth that is lying outside in the following stages: first the uncleanness is passed on by reason of the uniting force of the vessel to the other half-tenth that is with it in the vessel, and then the latter passes on the uncleanness to what is lying outside by reason of the water connection.

(21) Hag. III, 2.

(22) And the half-tenth that is outside becomes unclean too,

(23) The question is whether in the reverse process, where the uncleanness is to be brought in from the outside into the vessel, the connection mentioned would serve as a link so as to convey the uncleanness within.

(24) And there was no contact between them. At this stage there is no doubt at all that the other half-tenth is not unclean, since at the time when one half-tenth contracted uncleanness it was not in the vessel with the other half-tenth.

(25) I.e., once it has been rendered unclean it cannot suffer any further uncleanness, so that the other half-tenth that is now with it in the vessel remains clean.

(26) Kel. XXVII, 9.

(27) Heb. מדרס. That degree of uncleanness arising when an unclean person, of those mentioned in Lev. XV, 4 and 25, lies or sits or treads upon or leans with the body against an object, provided that such object was fit and generally used for one of the above purposes.

Talmud - Mas. Menachoth 24b

was used as a curtain, it becomes free of midras uncleanness[1] but remains unclean by reason of contact with midras uncleanness. R. Jose said, What midras uncleanness has it touched? If, however, one that had an issue had touched it,[2] it would be unclean by reason of contact with one that had an issue.[3] At any rate, it says, if one that had an issue had touched it, it would be unclean, presumably even though [this contact was] subsequent [to the midras uncleanness], that is to say, it first had contracted midras uncleanness and then further uncleanness by reason of contact with one that had an issue. Now why is this? Should we not say it was sated with uncleanness?[4] — He replied, Whence do you know to say that this contact by one that had an issue was subsequent [to the midras uncleanness]? Perhaps it was prior to the midras uncleanness, so that it was a case of a graver uncleanness being imposed upon a lighter uncleanness.[5] Here, however, since at each [contact] there is only a light uncleanness, it is not so![6] One might prove it, however, from the subsequent [Mishnah] which reads: R. Jose agrees that where two sheets lay folded one above the other and one that had an issue sat upon them, the upper has contracted midras uncleanness, and the lower has contracted midras uncleanness and also uncleanness by reason of contact with midras uncleanness. Now why is this? Should we not say it was sated with uncleanness? — There they[7] come simultaneously, whilst here they come one after another.

Raba said, Where a tenth was divided [into halves] and one [half] was lost so that another was brought as a substitute, and then it was found again, and now all three [half-tenths] are in the mixing vessel — if that which had been lost became unclean, then it is united with the first half-tenth,[8] but not with the substituted half-tenth.[9] If the substituted half-tenth became unclean, then it is united with the first half-tenth but not with the lost half-tenth. If the first half-tenth became unclean, then it is united with each of the others.[10] Abaye said, Even if any one of the half-tenths became unclean, it is united with each of the others, since they all belong together.[11]

And so it is with regard to the taking of the handful. If the handful was taken from the half-tenth which had been lost, then what was left of it and the first half-tenth may be eaten[12] but not the substituted half-tenth. If it was taken from the substituted half-tenth, then what was left of it and the first half-tenth may be eaten but not the half-tenth which had been lost. If it was taken from the first half-tenth, then [what was left of it may be eaten but] the others may not be eaten.[13] Abaye said, Even though the handful was taken from any one half-tenth, the other two may not be eaten, since they all belong together.

R. Papa demurred, [You say that] what was left of it may be eaten, but one third of the handful has not been offered![14] R. Isaac the son of R. Mesharsheya also demurred, How may the handful be offered, is not one third thereof unhallowed? — R. Ashi answered, The taking of the handful rests with the mind of the priest, and clearly when the priest takes the handful he does so only in respect of a tenth.[15] [

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(1) Since it is no longer intended to be used for any of the purposes (specified in the prec. n.) which make it susceptible to midras uncleanness.

(2) Before it was used as a curtain. At this stage the sheet bears two kinds of uncleanness: midras uncleanness and the uncleanness from contact with one that had an issue.

(3) For as soon as it is used as a curtain the midras uncleanness vanishes and there remains now the uncleanness from contact with one that had an issue.

(4) And once it has contracted midras uncleanness it was no more susceptible to any further uncleanness.

(5) And it is admitted by all that a thing which had contracted a lighter uncleanness (i.e., one which can only convey uncleanness to foodstuffs and liquids) cannot be so sated with uncleanness as to preclude any graver uncleanness (i.e., one which can convey uncleanness even to men and vessels).

(6) For foodstuffs can only suffer light uncleanness. In our case, therefore, since the half-tenth has already contracted a light uncleanness it cannot suffer a further similar uncleanness.

(7) The two kinds of uncleanness.

(8) I.e., the half-tenth which had not been lost will also be unclean for these two originally formed the tenth.

(9) And this half remains clean; for at no time was it contemplated that what was lost and what was substituted for it should together make up the tenth.

(10) For the first half-tenth was intended to be taken in the first place together with what was lost, and subsequently with what was substituted for it, so that a relation was set up between the first half-tenth and each of the others, and therefore all are unclean.

(11) Lit., ‘members of the same narrow house’; i.e., they all were intended to be used for the one meal-offering.

(12) Since originally these two made up the tenth for the meal-offering.

(13) The first half-tenth was intended to go with each of the other half-tenths and, inasmuch as the handful can serve only in respect of one tenth, there is one half-tenth which has not been rendered permissible by the handful; and as it is not known which it is, both may not be eaten.

(14) Presumably when the handful was taken out and offered up it was intended to serve everything that was in the vessel, so that one third of the handful should not have been offered, since that represented the superfluous half-tenth. Consequently the handful must be regarded as having been incomplete so that what was left of it cannot be permitted to be eaten. The reading 'one third' in the text is supported by MS.M. and Sh. Mek. In cur. edd. the text states 'one sixth'; the meaning, however, is identical with the foregoing explanation, and is arrived at in this way. Since it is not known which of the two remaining half-tenths is the superfluous one which causes one third of the handful to be nullified, this result is therefore attributed in equal shares to each of the half-tenths, so that each is responsible for the nullification of one sixth of the handful,

(15) The third half-tenth is disregarded by the priest when he takes the handful; therefore, the residue of that half-tenth from which the handful was taken may be eaten, whilst the two remaining half-tenths may not, since we do not know which was the half-tenth disregarded by the priest. Quaere: where the priest expressly declared which half-tenth he disregarded and which he took account of, would the latter be permitted to be eaten? V. Likkute Halakoth. a.l.

Talmud - Mas. Menachoth 25a

MISHNAH. IF THE HANDFUL HAD BECOME UNCLEAN AND YET WAS OFFERED, THE PLATE[1] RENDERS IT ACCEPTABLE,[2] BUT IF IT HAD BEEN TAKEN OUT [OF THE TEMPLE COURT] AND WAS AFTERWARDS OFFERED, THE PLATE DOES NOT RENDER IT ACCEPTABLE; FOR THE PLATE ONLY RENDERS ACCEPTABLE THE OFFERING WHICH WAS UNCLEAN BUT NOT THAT WHICH WAS TAKEN OUT.

GEMARA. Our Rabbis taught: It is written, And Aaron shall bear the iniquity of the holy things.[3] What iniquity is it that it atones for? Should you say it is the iniquity of piggul[4] — but it has already been said, it shall not be accepted.[5] Should you say it is the iniquity of nothar[6] — but it has already been said, Neither shall it be imputed unto him.[7] Hence it atones for nothing other than the iniquity of uncleanness, since an exception to the general rule has been made for the community.[8] R. Zera demurred, Perhaps it is the iniquity of an offering having been taken outside [that the plate atones for], since an exception to the general rule had been made in the case of the high places?[9] — Abaye answered, It is written, That they may be accepted before the Lord,[10] that is, the iniquity committed before the Lord[11] [is atoned for by the plate], but not the iniquity of an offering having been taken outside.[12] R. Ela'a demurred, perhaps it is the iniquity of [a service being performed with] the left hand [that is atoned for by the plate], since an exception to the general rule has been made on the Day of Atonement?[13] — Abaye answered him, The verse states 'iniquity', that is, the iniquity that was incurred is set aside;[14] on the Day of Atonement, however, it is proper to serve with the left hand. R. Ashi answered thus, The verse says, 'The iniquity of the holy things', but not the iniquity of them that offer the offering.[15] R. Sima the son of R. Idi said to R. Ashi (others report: R. Sima the son of R. Ashi said to R. Ashi): perhaps it is the iniquity of a blemish in the offering [that is atoned for by the plate], since an exception to the general rule has been made in the case of bird-offerings, for a Master has said, The unblemished state and the male sex are prerequisite in animal-offerings but not in bird-offerings?[16] — He replied, It is for your sake that it is written, It shall not be accepted;[17] and also, For it shall not be acceptable for you.[18]

Our Rabbis taught: If the blood of an offering became unclean and yet was sprinkled inadvertently[19] it is acceptable, if deliberately it is not acceptable. This is the rule only with a private offering, but in the case of an offering of the community it is acceptable, whether inadvertently or deliberately. In the case of an offering by a gentile[20] [the rule is] whether inadvertently or deliberately, whether accidentally or intentionally,

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(1) The High Priest's plate of pure gold worn on the forehead (v. Ex. XXVIII 36-38). Its function was to secure the

Divine acceptance of a sacrifice which was offered although it had been rendered unclean.

(2) The meal-offering is valid and the remainder may be eaten.

(3) Ex. XXVIII, 38. This verse intimates that the High Priest's plate atones for some fault in connection with the offering.

(4) Heb. פיגול ‘abomination’, v. Glos. Here meaning: the intention expressed during one of the services of the sacrifice of eating the flesh thereof outside the prescribed place.

(5) Lev. XIX, 7. The text adopted in the translation is in accordance with the Sifra which is supported by Rashi (Pes. 16b s.v. אי זה) and Sh. Mek. But v. Tosaf. s.v. ונשא.

(6) Heb. נותר ‘left over’; v. Glos. Here meaning: the intention expressed during one of the services of the sacrifice of eating the flesh thereof outside the prescribed time.

(7) Ibid., VII, 18.

(8) A sacrifice on behalf of the community may be offered even in a state of uncleanness.

(9) Although the prohibition against taking out the offering was already in force at the Tabernacle in the wilderness (v. Pes. 82a) it did not apply later on when the Tabernacle was housed at Nob and at Gibeon, for then it was permitted for every individual to set up a high place or altar in any place and offer sacrifices there.

(10) Ex. XXVIII, 38.

(11) I.e., whilst the offering is within the Temple Court.

(12) An iniquity which is not committed ‘before the Lord’,

(13) When the High Priest performed service with his left hand too; v. Yoma 47a.

(14) Lit., ‘I have set it aside’. Now the uncleanness of an offering is admittedly a defect, but since it is of no consequence in the case of the community, such defect in the offering of an individual will be atoned for by the plate.

(15) The plate therefore cannot atone for the guilt of a service performed with the left hand, for that is the guilt of the officiating priest and such guilt is expressly excluded.

(16) Supra 6a, Hul. 23a, and elsewhere.

(17) Lev. XXII, 23.

(18) Ibid, 20. These verses indicate that under no circumstances are blemished animals acceptable for an offering.

(19) V. infra as to the meaning of ‘inadvertently’, whether it refers to the contracting of the uncleanness or the sprinkling.

(20) Gentiles were also allowed to offer either freewill- or votive-offerings; v. infra 73b.

Talmud - Mas. Menachoth 25b

it is not acceptable.

A contradiction was pointed out, for it was taught: For what guilt does the plate atone? For the blood or the flesh or the fat of an offering which became unclean, whether inadvertently or deliberately, whether accidentally or intentionally, whether in a private offering or in an offering of the community![1] — Said R. Joseph, There is no contradiction, for one[2] [Baraitha] states the view of R. Jose, the other the view of the Rabbis. For it has been taught: One must not set aside unclean produce as terumah[3] for clean produce; if one did so inadvertently the terumah is valid, but if deliberately the terumah is not valid.[4] R. Jose says, Whether one did it inadvertently or deliberately the terumah is valid.[5] But perhaps all that R. Jose said was that we do not penalize him; have you heard him say that the plate atones for [the uncleanness of] the eatable portions of the offering?[6] Has it not been taught: R. Eliezer says, The plate atones for [the uncleanness of] the eatable portions; but R. Jose says, The plate does not atone for [the uncleanness of] the eatable portions? You must reverse [the authorities and read thus]: R. Eliezer says, The plate does not atone for [the uncleanness of] the eatable portions; but R. Jose says, The plate does atone for [the uncleanness of] the eatable portions. But how can you reverse [the authorities]? Behold, it has been taught: I might have thought that [an unclean person who ate[7] of] the flesh of a sacrifice which had become unclean before the sprinkling of the blood would be culpable[8] on the ground of uncleanness,[9] it is therefore written, Every one that is clean shall eat the flesh; but the soul that eateth of the flesh of the sacrifice of peace-offerings, that pertain unto the Lord, having his uncleanness upon him, that soul shall be cut off from his people,[10] signifying that [the unclean person who eats of] what has been rendered permitted to those that are clean is culpable on account of uncleanness, but [the unclean person who eats of] what has not been rendered permitted to those that are clean[11] is not culpable on account of uncleanness. But perhaps it is not so, but rather it signifies that [the unclean person who eats of] what may now be eaten by those that are clean is culpable on account of uncleanness, but [the unclean person who eats of] what may not now be eaten by those that are clean[12] is not culpable on account of uncleanness, and so I would exclude those parts of the offering which had been left overnight and which had been taken out [of the Temple court], since they may not be eaten by those that are clean.[13] The verse therefore states, That pertain unto the Lord, an inclusive expression. I might then include the flesh that was piggul and that which was left over — but is not that which was left over identical with that which had been left overnight? Read therefore: [I might then include] the flesh that was piggul, that it shall be like that which was left over[14] — the verse therefore states, Of the sacrifice of peace-offerings, an exclusive expression. And why do you prefer to include the one class and exclude the other? Since the verse uses an inclusive and also an exclusive expression, I include those which were at one time permitted,[15] but I exclude those which were at no time permitted.[16] If you now ask, Why is [an unclean person] culpable on the ground of uncleanness for eating after the sprinkling of the blood flesh which had become unclean before the sprinkling?[17] [I reply], It is because the plate atones for it.[18] Now [one is culpable] only for that which became unclean but not for that which was taken out.[19] And whom have you heard say that where the offering had been taken out [of the Temple court] the sprinkling is of no effect? It is R. Eliezer[20] ; and yet it states [in the Baraitha] that the plate atones for [the uncleanness of] the eatable portions![21] — R. Hisda then said, There is no difficulty at all; for one [Baraitha] states the view of R. Eliezer,[22] the other the view of the Rabbis. But perhaps all that R. Eliezer said was that the plate atones for [the uncleanness of] the eatable portions; have you heard him say that we do not impose any penalty?[23] — Indeed we have, for just as we assumed that to be R. Jose's view[24] so we may assume it to be R. Eliezer's view too; for it has been taught: R. Eliezer says, Whether one [set apart unclean produce as terumah for clean produce] inadvertently or deliberately, the terumah is valid. But perhaps R. Eliezer said so[25] only in the case of terumah which is less grave; have you heard him say so in the case of holy things which are more grave? — Then to whom will you attribute that [Baraitha]?[26]

Rabina said, As to its uncleanness, whether [it was rendered unclean] inadvertently or deliberately, [the offering] is acceptable; but as to its sprinkling, if [it was sprinkled] inadvertently it is acceptable, but if deliberately it is not acceptable.[27] R. Shila said, As to its sprinkling, whether [it was sprinkled] inadvertently or deliberately it is acceptable; but as to its uncleanness,if [it was rendered unclean] inadvertently it is acceptable, but if deliberately it is not acceptable. And how does R. Shila explain the Baraitha which reads, ‘Which became unclean, whether inadvertently or deliberately’? — It means, it was rendered unclean inadvertently, and it was sprinkled either inadvertently or deliberately.

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(1) It is manifest that the plate effects atonement for uncleanness, even though deliberately caused, in the case of a private offering; thus in conflict with the first quoted Baraitha.

(2) The latter Baraitha.

(3) V. Glos.

(4) For the Rabbis penalized the one who acted deliberately in defiance of the law. As to the effect of this act, whether it is absolutely null and void or only that it does not render the rest of the produce permitted although what was set aside is terumah, v. Yeb. 89a.

(5) Accordingly the latter Baraitha which states that even if part of the offering was deliberately made unclean the plate atones for it represents the view of R. Jose.

(6) As opposed to the sacrificial portions, for the uncleanness of which all agree that the plate atones. For that is what the latter Baraitha, attributed to R. Jose, teaches when it says, inter alia, that the plate atones for the flesh which became unclean. But this view is not generally held, and on what grounds therefore do we attribute such a view to R. Jose?

(7) Before the sprinkling of the blood.

(8) Incurring the penalty of kareth.

(9) MS.M., reads: ‘I might have thought that (an unclean person who partook of the clean flesh of the offering) before the sprinkling of the blood would be liable on the ground of uncleanness.’ This reading is preferred by Rashi.

(10) Lev. VII, 19, 20.

(11) I.e., flesh of an offering before the sprinkling of the blood.

(12) Even though it had once been rendered permitted to them, as in the case where the flesh, having been rendered permitted after the sprinkling of the blood, became unfit subsequently by being left overnight or by being taken out of the Temple court.

(13) And therefore whosoever eats of such flesh whilst in a state of uncleanness does not incur the penalty of kareth.

(14) And whosoever eats of the offering that became piggul (v. Glos.) whilst in a state of uncleanness incurs the penalty of kareth, as is the case with the flesh that had been left overnight.

(15) Sc. the offering which had been left overnight or had been taken out of the Sanctuary after the sprinkling; for these had been rendered permitted with the sprinkling.

(16) Sc. the offering which was rendered piggul through a wrongful intention expressed at the sprinkling of the blood, in which case the offering was never rendered permitted.

(17) For that flesh was at no time permitted to be eaten; nevertheless one is liable for eating it whilst in a state of uncleanness, v. Zeb. 106a and Hul. 101a, for only piggul is excluded in the above Baraitha as being the only case of an offering at no time permitted.

(18) And the sprinkling of the blood is perfectly valid, so that the offering is ‘rendered permitted’, even though it may not be eaten, and therefore one is culpable.

(19) Thus if an unclean person ate, after the sprinkling, the flesh of the offering which had become unclean before the sprinkling he would be liable, but not if he ate after the sprinkling the flesh which had been taken out before the sprinkling, for in the former case the sprinkling is valid but not in the latter.

(20) V. Me'il. 6b.

(21) But according to the answer given above (‘Reverse the authorities’) R. Eliezer holds the opposite view!

(22) The Baraitha (p. 159) which teaches that the plate atones for the uncleanness deliberately caused even in a private offering represents the view of R. Eliezer, since therein is also taught that the plate atones for the uncleanness of the eatable portions, which is clearly R. Eliezer's view.

(23) I.e., that the plate secures atonement where one deliberately sprinkled the blood which had become unclean.

(24) From R. Jose's ruling in the case of terumah it was inferred that in all cases an act deliberately done in defiance of the law is valid and no penalty is to be imposed.

(25) That a wrongful act though deliberately done is nevertheless valid.

(26) Which teaches that even deliberately it is acceptable. It must be R. Eliezer.

(27) Rabina in this way explains away the contradiction between the two statements. The first Baraitha which states with regard to the private offering. ‘If inadvertently it is acceptable, if deliberately it is not acceptable’, deals with the sprinkling of the unclean blood. The second Baraitha which states that the plate atones for the blood which became unclean ‘whether inadvertently or deliberately’, obviously deals with the uncleanness; the sprinkling, however, would be acceptable only if done inadvertently.

Talmud - Mas. Menachoth 26a

Come and hear: It was taught: If the blood became unclean and It was sprinkled inadvertently, it is acceptable, if deliberately it is not acceptable![1] — It means, If the blood became unclean and it was sprinkled, whether it was sprinkled inadvertently or deliberately, if it was rendered unclean inadvertently it is acceptable, but if deliberately it is not acceptable.

MISHNAH. IF THE REMAINDER OF THE MEAL-OFFERING BECAME UNCLEAN OR WAS BURNT OR LOST, ACCORDING TO THE RULE OF R. ELIEZER[2] IT IS LAWFUL [TO BURN THE HANDFUL], BUT ACCORDING TO THE RULE OF R. JOSHUA[3] IT IS UNLAWFUL.

GEMARA. Rab said, That is so provided the whole of the remainder became unclean,[4] but not if only a part of it became unclean. Now it was assumed[5] that this provision applied only to the case where it became unclean but not to the case where it was burnt or lost.[6] But what could be [Rab's] view? If he holds that what is left thereof is something of consequence, then the same should be the case where it was burnt or lost. And if he holds that what is left thereof is of no consequence, but that in the case where it became unclean the reason[7] is that the plate atones [for the uncleanness of the eatable portions], then the same should be the case[7] even where the whole of the remainder [became unclean]! — Indeed he holds that what is left thereof is something of consequence, and as it is in the case where it became unclean, so it is where it was burnt or lost; the only reason, however, why [Rab] dealt with the case where it became unclean was that it was the first [mentioned in our Mishnah]. And so it was taught [in the following Baraitha]: R. Joshua says, If of any animal-offering mentioned in the Torah there remained an olive's bulk of the flesh or an olive's bulk of the fat, [the priest] may sprinkle the blood; if there remained a half-olive's bulk of the flesh and a half-olive's bulk of the fat, he may not sprinkle the blood. In the case of a burnt-offering, however, even if there remained a half-olive's bulk of the flesh and a half-olive's bulk of the fat, he may sprinkle the blood, since it is wholly burnt. And in the case of a meal-offering, even if all of it still remains, he may not sprinkle the blood.[8] How does the meal-offering come in here? R. Papa explained that it referred to the meal-offering offered with the drink-offerings. For one might have thought that since it accompanies the animal-offering it is deemed to be part of the animal-offering; we are therefore taught [that it is not so].

Whence do we know this?[9] — R. Johanan said in the name of R. Ishmael (while some trace the tradition further back to R. Joshua b. Hananiah), The verse says, And he shall burn the fat for a sweet savour unto the Lord;[10] hence [the blood is sprinkled on account of] the fat even if there is no flesh,[11] We thus know it of the fat, but whence do we know it of the caul of the liver and of the two kidneys?[12] — For it has been stated [in the abovementioned Baraitha], ‘And in the case of a meal-offering, even if all of it still remains, he may not sprinkle the blood’; that is, on account of the meal-offering he may not sprinkle the blood, but it is to be inferred that he may sprinkle on account of the caul of the liver or of the two kidneys. Whence do we know it? — R. Johanan explained on his own authority, It is written, ‘For a sweet savour,’ signifying that [the blood may be sprinkled on account of] everything that is offered up for a sweet savour.

And it was absolutely necessary for the verse to have written ‘the fat’ as well as "for a sweet savour’. For if only ‘the fat’ were written, I should have said that only on account of the fat [may the blood be sprinkled] but not on account of the caul of the liver or the two kidneys; the Divine Law therefore stated ‘for a sweet savour’. And if only ‘for a sweet savour’ were written, I should have said that even on account of the meal-offering [may the blood be sprinkled]; the Divine Law therefore stated ‘the fat’.[13]

MISHNAH. IF [HE DID] NOT [PUT THE HANDFUL] INTO A VESSEL OF MINISTRY[14] IT IS INVALID; BUT R. SIMEON DECLARES IT VALID, IF HE BURNT THE HANDFUL TWICE,[15] IT IS VALID.

GEMARA. R. Judah the son of R. Hiyya said, What is the reason for R. Simeon's view? It is written, It is most holy as the sin-offering and as the guilt-offering;[16] that is to say, if he is about to perform the service[17] with his hand,[18] he must do so with his right hand as the sin-offering; but if he is about to offer it in a vessel, he may do so with his left hand as the guilt-offering.[19] R. Jannai said,[20] Since he took the handful from a vessel of ministry he may offer it up and burn it even in his girdle and even in a potsherd. R. Nahman b. Isaac said, All agree that the handful must be sanctified.[21]

An objection was raised: If the fat, the limbs and the wood were brought up to be burnt [upon the altar] with the hand or with a vessel, with the right hand or with the left, they are valid. If the handful, the incense-offering and the frankincense were brought up [upon the altar] with the hand or with a vessel, with the right hand or with the left, they are valid. Is this not a refutation of the view of R. Judah the son of R. Hiyya?[22] — R. Judah the son of R. Hiyya could answer you: It is to be taken as separate cases thus, If [brought up] with the hand, it must be with the right hand only; if with a vessel, it may be either with the right hand or with the left.

Come and hear: If he took out the handful from[23] a vessel of ministry but neither sanctified it in a vessel of ministry nor offered it up to be burnt in a vessel of ministry, it is invalid. R. Eleazar and R. Simeon declare it valid if only it had been put into a vessel![24] — Render: After it had been put into a vessel.[25]

Come and hear: But the Sages say, The handful requires vessels of ministry; thus he takes out the handful from a vessel of ministry, sanctifies it in a vessel of ministry and offers it up to be burnt in a vessel of ministry. R. Simeon says, As long as he has taken out the handful from a vessel of ministry he may offer it and burn it not in a vessel of ministry and that suffices![26] — Render: As long as he has taken out the handful from a vessel of ministry and also sanctified it in a vessel of ministry he may offer it and burn it and that suffices.

Come and hear: If he took out the handful with his right hand and transferred it into his left hand, he should transfer it back again to his right hand. If while it was in his left hand

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(1) This obviously means that if the unclean blood was sprinkled deliberately it is not acceptable; contra R. Shila.

(2) Who holds (Pes. 77a) that the blood of a sacrifice may be sprinkled even though the flesh is not available (either because it became unclean or was burnt or lost); likewise the handful of the meal-offering may be burnt upon the altar even though the remainder is not available.

(3) Who holds that where the flesh was not available it is not lawful to sprinkle the blood; similarly here, where the remainder is not available it is not lawful to burn the handful.

(4) Then only does R. Joshua maintain that it is unlawful to burn the handful.

(5) Since Rab only dealt with the case where it became unclean.

(6) I.e., even though only a part of the remainder was burnt or lost R. Joshua still maintains that it is unlawful to burn the handful.

(7) That it is lawful to burn the handful.

(8) V. supra p. 51 and the notes thereon.

(9) That the blood may be sprinkled even though only an olive's bulk of the fat remained.

(10) Lev. XVII, 6.

(11) For the verse reads: And the priest shall sprinkle the blood . . . and burn the fat for a sweet savour, which clearly shows that the sprinkling is performed on account of the fat.

(12) That the blood may be sprinkled even though only these parts of the offering remained.

(13) The result is that the blood may be sprinkled on account of anything that is offered up for a sweet savour provided it is part of the animal like the fat.

(14) But the priest immediately emptied his handful upon the altar.

(15) I.e., he divided the handful into halves and burnt a half at a time.

(16) Lev. VI, 10, in reference to the meal-offering.

(17) I.e., burn the handful,

(18) Like the sin-offering whose blood is sprinkled with the finger of the right hand.

(19) The blood of which is dashed from the vessel against the altar, and such service, according to R. Simeon (v. Zeb. 24b), may be performed with the left hand, and in the case of the leper's guilt-offering must be performed with the left hand (v. Sh. Mek.).

(20) R. Jannai interprets R. Simeon's view as he understands it.

(21) I.e., it must be put into a vessel of ministry. All that R. Simeon permits is to take out the handful after it had been sanctified in a vessel of ministry and offer it with the hand upon the altar.

(22) This Baraitha evidently represents R. Simeon's view since it declares valid the offering of the handful with the hand, yet it also permits the use of the left hand; contra R. Judah.

(23) The word שלא ‘not’, found in cur. edd., is struck out by Sh. Mek. and is wanting in MS.M.

(24) Though not necessarily a vessel of ministry; contra R. Nahman.

(25) The meaning is, after the handful had been sanctified in a vessel of ministry the services which follow, as the bringing nigh and the burning, do not, according to R. Eleazar and R. Simeon, require a vessel.

(26) Contra R. Nahman.

Talmud - Mas. Menachoth 26b

he expressed the intention [of eating the remainder] outside the prescribed place or outside the prescribed time it is invalid, but there is no penalty of kareth; if[1] while it was in his right hand he expressed the intention [of eating the remainder] outside the prescribed place it is invalid but there is no penalty of kareth, but if [he intended to eat it] outside the prescribed time it is piggul and there is also the penalty of kareth. This is the opinion of R. Eleazar and R. Simeon. But the Sages say, As soon as he transferred it into his left hand the transfer rendered it invalid, the reason being that it still required sanctification in a vessel, and since it has been transferred into the left hand it is on the same footing as when the blood of an offering had poured out from the throat on to the ground and had been gathered up, in which case it is invalid.[2] Hence it is clear that according to R. Eleazar and R. Simeon the putting into the vessel of ministry is not essential. This surely refutes R. Nahman's view, and supports the view of R. Judah the son of R. Hiyya.[3] Is it also a refutation of R. Jannai's view?[4] — R. Jannai can answer, I am in agreement with the Tanna who taught the Baraitha concerning the burning [of the fat etc.], and the terms thereof are not to be taken as separate cases.[5]

IF HE BURNT THE HANDFUL TWICE IT IS VALID. R. Joshua b. Levi said, Twice but not more than twice. But R. Johanan said, Twice and even more than twice. What is the issue between them? — R. Zera answered, The issue between them is as to whether the handful may be less than the quantity of two olives’ bulk and whether the burning of a quantity less than an olive's bulk counts as an offering.[6] R. Joshua b. Levi is of the opinion that the handful may not be less than two olives’ bulk and also that the burning of a quantity less than an olive's bulk does not count as an offering;[7] but R. Johanan maintains that the handful may be less than the quantity of two olives’ bulk and that the burning of a quantity less than an olive's bulk counts as an offering.[8]

It was stated: From what time does the handful render the remainder permissible to be eaten? R. Hanina says, As soon as the fire has taken hold of it;[9] and R. Johanan says, Only when the fire has burnt the greater part of it. Rab Judah said to Rabbah b. R. Isaac, I will explain to you the reason for R. Johanan's view; for it is written, And lo, the smoke of the land went up as the smoke of a furnace,[10] and a furnace does not send up smoke until the fire has burnt up the greater part.[11]

Rabin b. R. Adda said to Raba, Your pupils report that R. Amram pointed out [the following difficulty]: It was taught: I only know that things that are usually offered by night, e.g., the limbs and the fat parts of the offering, may be offered up and burnt after sunset and are allowed to continue burning throughout the night; but whence do I know that things that are usually offered by day, e.g., the handful, the frankincense, the incense-offering, the meal-offering of the priests,the anointed High Priest's meal-offering and, the meal-offering offered with the drink-offerings, may also be offered up and burnt after sunset? — But have you not said, ‘Things that are usually offered by day’?[12] Say rather: at sunset,[13] — whence then do I know that these also are allowed to continue burning throughout the night? From the verse, This is the law of the burnt-offering,[14] an inclusive expression. Now if it is offered up at sunset it can hardly be possible that the fire will have burnt the greater portion of it [by sunset]![15] — This is no difficulty, for here [in the latter case] it deals with the handful being taken up, and there with it rendering the remainder permissible.[16] R. Eleazar reads [in the above]: ‘after sunset’, and explains it as referring to the pieces that have burst off the altar,[17] And so, too, when R. Dimi came [from Palestine] he explained it in the name of R. Jannai as referring to the pieces that had burst off the altar. But could R. Jannai have said so? Surely R. Jannai has said, Any part of the incense which had burst off the altar, even if it was a whole grain, may not be put back! Moreover, R. Hanina b. Minyomi taught at the school of R. Eliezer b. Jacob: It is written, Whereto the fire hath consumed the burnt-offering on the altar,[18] that is, you may put back unconsumed parts of the burnt-offering [if they had burst off the altar], but you must not put back unconsumed parts of the incense! — Omit ‘incense’.[19]

R. Assi said, When R. Eleazar was studying the laws of the meal-offering he raised the following question: How is it if he placed the handful [upon the altar] and then put the wood-pile on top of it?[20] Is this regarded as a way of burning or not? — This question remains undecided.

Hezekiah raised the question: How is it if he placed the limbs [of an offering upon the altar] and then put the wood-pile above them? [Shall we say,] since the Divine Law says, Upon the wood,[21] then they must actually be upon the wood; or, since there is another verse which reads, Whereto the fire hath consumed the burnt-offering on the altar,[22] he may do it either the one way or the other? — This, too, remains undecided.

R. Isaac Nappaha raised the question: How is it if he placed the limbs by the side of the wood-pile? Of course according to him who maintains[23] that ‘upon’ must be taken in its literal meaning, there can be no question here,

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(1) This passage is omitted in many MSS. The translation is based upon the text as emended by Sh. Mek.

(2) For did it not require sanctification in a vessel then the placing of the handful in the left hand would be regarded on the same footing as when the blood of an animal-offering had poured out from the vessel on to the ground, in which case all agree that it may be gathered up again and it is valid. Cf. Yoma 48a.

(3) For the Baraitha states that he must transfer it back again to the right hand which conforms with R. Judah's teaching that if the hand is used it must be the right hand only.

(4) For R. Jannai who allows the offering of the handful in a potsherd would surely allow it to be offered in the left hand, nevertheless this Baraitha insists upon its being transferred back again into the right hand.

(5) V. supra p. 166. According to that Baraitha it is permitted to offer the handful in the left hand.

(6) Lit., ‘there is a burning of less than an olive's bulk’.

(7) So that if the handful, which must not be less than two olives’ bulk, was divided equally into two parts there would be an olive's bulk for each burning, but this would not be so if it were divided into more than two parts.

(8) It is therefore immaterial whether it is divided into two or more parts.

(9) Even if only a part thereof.

(10) Gen. XIX, 28.

(11) And of the handful it is written והקטיר (Lev. II, 2), which would mean, and he shall cause the smoke (קיטור) to go up.

(12) And there can be no doubt at all that such may not be offered after sunset.

(13) I.e., just before sunset.

(14) Lev. VI, 2. ‘The law’ is a comprehensive and all-inclusive expression, and here teaches that one law applies to all things that are brought up on the altar.

(15) And if the handful has not been offered before the sunset of that day it becomes invalid; consequently, since it may be placed upon the altar just before sunset, as soon as the fire has taken hold of it it is deemed to be offered, which is contrary to R. Johanan.

(16) It is true that as soon as the fire has taken hold of it it is deemed to be offered, but only in the sense that it has been taken up and accepted by the altar as an offering on the same day before sunset, so that it is valid. But, maintains R. Johanan, it will only render the remainder permissible to be eaten when the fire has burnt the greater part of it.

(17) And these may be put back upon the altar throughout the night. The handful, however, had been placed on the altar before sunset.

(18) Ibid. VI, 3.

(19) From the Baraitha quoted by R. Amram according to which portions of incense which had burst off the altar may be put back.

(20) Normally the wood-pile is arranged upon the altar and the parts of the offering are put on top of the wood.

(21) Lev. I, 8: And Aaron's sons, the priests, shall lay the pieces . . . in order upon the wood . . . which is upon the altar.

(22) Ibid VI, 3, which verse shows that the burnt-offering was put actually upon the surface of the altar and not necessarily upon the wood.

(23) V. infra 96a.

Talmud - Mas. Menachoth 27a

for here is written, Upon the wood. The question arises only according to him who maintains that ‘upon’ may mean ‘near to’. How is it then? Do we also explain ‘upon’ here as ‘near to’; or perhaps, since the phrases ‘upon the wood’ and ‘upon the altar’ are in juxtaposition, as in the latter phrase ‘upon’ is taken in its literal meaning so in the former ‘upon’ is to be taken in its literal meaning? — This, too, remains undecided.

MISHNAH. OF THE HANDFUL THE [ABSENCE OF THE] SMALLEST PART INVALIDATES THE WHOLE.[1] OF THE TENTH[2] THE [ABSENCE OF THE] SMALLEST PART INVALIDATES THE WHOLE. OF THE WINE[3] THE [ABSENCE OF THE] SMALLEST PART INVALIDATES THE WHOLE. OF THE OIL[4] THE [ABSENCE OF THE] SMALLEST PART INVALIDATES THE WHOLE. OF THE FINE FLOUR AND THE OIL THE [ABSENCE OF] ONE INVALIDATES THE OTHER. OF THE HANDFUL AND THE FRANKINCENSE THE [ABSENCE OF] ONE INVALIDATES THE OTHER.

GEMARA. [OF THE HANDFUL THE ABSENCE OF THE SMALLEST PART INVALIDATES THE WHOLE.] Why is it so? — Because Scripture stated his handful twice.[5]

OF THE TENTH THE [ABSENCE OF THE] SMALLEST PART INVALIDATES THE WHOLE. Why? — Because it is written, Of the fine flour thereof,[6] [signifying that] if any part thereof was lacking it is invalid.

OF THE WINE THE [ABSENCE OF THE] SMALLEST PART INVALIDATES THE WHOLE. [Because it is written,] Thus.[7]

OF THE OIL THE [ABSENCE OF THE] SMALLEST PART INVALIDATES THE WHOLE. [As to the oil] of the drink-offerings, [because it is written], Thus, and of the freewill meal-offering, because it is written, And of the oil thereof,[6] [signifying that] if any part thereof was lacking it is invalid.

OF THE FINE FLOUR AND THE OIL THE [ABSENCE OF] ONE INVALIDATES THE OTHER, [Because it is written,] Of the fine flour thereof and of the oil thereof,[6] and further, Of the bruised corn thereof and of the oil thereof.[8]

OF THE HANDFUL AND THE FRANKINCENSE THE [ABSENCE OF] ONE INVALIDATES THE OTHER. [Because it is written,] With all the frankincense thereof,[9] and further, And all the frankincense which is upon the meal-offering.[10]

MISHNAH. OF THE TWO HE-GOATS[11] OF THE DAY OF ATONEMENT THE [ABSENCE OF] ONE INVALIDATES THE OTHER. OF THE TWO LAMBS[12] OF THE FEAST OF WEEKS THE [ABSENCE OF] ONE INVALIDATES THE OTHER. OF THE TWO LOAVES[13] THE [ABSENCE OF] ONE INVALIDATES THE OTHER. OF THE TWO ROWS[14] [OF THE SHEWBREAD] THE [ABSENCE OF] ONE INVALIDATES THE OTHER. OF THE TWO

DISHES[14] [OF FRANKINCENSE] THE [ABSENCE OF] ONE INVALIDATES THE OTHER. OF THE ROWS AND THE DISHES THE [ABSENCE OF] ONE INVALIDATES THE OTHER. OF THE TWO KINDS [OF CAKES] USED IN THE OFFERING OF THE NAZIRITE,[15] OF THE THREE KINDS USED FOR THE RED COW,[16] OF THE FOUR KINDS [OF CAKES] USED IN THE THANK-OFFERING,[17] OF THE FOUR KINDS [OF PLANTS] USED FOR THE LULAB,[18] AND OF THE FOUR KINDS USED FOR THE [PURIFICATION OF THE] LEPER,[19] THE [ABSENCE OF] ONE INVALIDATES THE OTHERS. OF THE SEVEN SPRINKLINGS [OF THE BLOOD] OF THE RED COW[20] THE [OMISSION OF] ONE INVALIDATES THE OTHERS. OF THE SEVEN SPRINKLINGS BETWEEN THE STAVES OF THE ARK,[21] AND OF THOSE TOWARDS THE VEIL AND UPON THE GOLDEN ALTAR,[22] THE [OMISSION OF] ONE INVALIDATES THE OTHERS. GEMARA. OF THE TWO HE-GOATS OF THE DAY OF ATONEMENT THE [ABSENCE OF ONE INVALIDATES THE OTHER — for the term ‘statute’ is used therewith.[23]

OF THE TWO LAMBS OF THE FEAST OF WEEKS THE [ABSENCE OF] ONE INVALIDATES THE OTHER — for the expression ‘shall be’ is used therewith.[24]

THE TWO LOAVES — for the expression ‘shall be’ is used therewith.[24]

THE TWO ROWS — for the term ‘statute’ is used therewith.[25]

THE TWO DISHES — for the term ‘statute’ is used therewith.[25]

THE ROWS AND THE DISHES — for the term ‘statute’ is used therewith.

THE TWO KINDS [OF CAKES] USED IN THE OFFERING OF THE NAZIRITE — for it is written, So he must do.[26]

THE THREE KINDS USED FOR THE RED COW — for the term ‘statute’ is used therewith.[27]

THE FOUR KINDS OF CAKES USED IN THE THANK-OFFERING — for [the thank-offering] has been placed side by side with the offering of the Nazirite, in the verse, With the sacrifice of his peace-offerings for thanksgiving,[28] and the Master said, Of his peace-offerings, includes the peace-offering of the Nazirite.[29]

THE FOUR KINDS USED FOR THE LEPER — for it is written, This shall be the law of the leper.[30]

THE FOUR KINDS USED FOR THE LULAB — for it is written, And ye shall take,[31] signifying the taking of them all. R. Hanan b. Abba said, This[32] was taught only in the case where he did not have them at all, but where he had them all one does not invalidate the other.[33] An objection was raised against him. It was taught: Of the four kinds used for the lulab two are fruit-bearing[34] and two are not;[35] those which bear fruits must be joined to those which bear no fruits and those which bear no fruits must be joined to those which bear fruits. And a man does not fulfil his obligation unless they are all bound in one band. And so it is with Israel's conciliation with God, [it is achieved] only when they are all in one band, as it is said, That buildeth his chambers in the heaven, and hath founded his band upon the earth.[36] — This is a matter of dispute between Tannaim. For it was taught: The lulab is valid whether it be bound with the others or not; but R. Judah says, If it is bound with the others it is valid, and if it is not so bound it is not valid. What is the reason for R. Judah's view? — He draws an analogy by means of the expression ‘taking’ used [both here and] also in connection with the bunch of hyssop:[37] as there the kinds must be bound in one bunch, so here they must be bound in one band. The Rabbis, however, do not draw this analogy by means of the expression ‘taking’. With whose view then would the following Baraitha agree? For it was taught: It is a meritorious act to bind the lulab with the other species; nevertheless if one did not bind it, it is valid! If with R. Judah's view, why then is it valid if one did not bind it? And if it agrees with the view of the Rabbis, why does it say ‘It is a meritorious act’?[38] — Indeed it agrees with the view of the Rabbis, and it is a meritorious act only on the principle of This is my God and I will beautify him.[39]

OF THE SEVEN SPRINKLINGS [OF THE BLOOD] OF THE RED COW, THE [OMISSION OF] ONE INVALIDATES THE OTHERS — for the term ‘statute’ is used therewith.[40]

OF THE SEVEN SPRINKLINGS BETWEEN THE STAVES OF THE ARK, AND OF THOSE TOWARDS THE VEIL AND UPON THE GOLDEN ALTAR, THE [OMISSION OF] ONE INVALIDATES THE OTHERS. As for the offerings of the Day of Atonement, because the term ‘statute’ is used therewith;[41] and as for the bullock offered when the anointed High Priest sinned in error, and the bullock offered when the whole community sinned in error, and the he-goats offered on account of the sin of idolatry, because of the following teaching: It is written, Thus shall he do with the bullock, as he did with the bullock of the sin-offering.[42] Wherefore is it written?[42] In order to repeat thereby the laws of the sprinkling,[43]

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(1) Lit., ‘the smaller part hinders the larger part’. The offerings mentioned must be absolutely whole, but if they were lacking even the smallest quantity they are invalid as offerings.

(2) The tenth of an ephah of flour prescribed for the meal-offering.

(3) Which formed part of the drink-offerings offered with most sacrifices, cf. Num. XV, 4ff: a half-hin for a bullock, a third-hin for a ram, and a quarter-hin for a lamb.

(4) Offered with the drink-offerings in the same quantity as prescribed for the wine (v. prec. n.), or the log of oil required for the freewill meal-offering.

(5) Cf. Lev. II, 2 and V, 12. This repetition signifies that it must be absolutely whole and that every part thereof is indispensable.

(6) Ibid. II, 2. This rule is derived from the superfluous suffix ה in the word, corresponding to the Eng. ‘thereof’.

(7) Num. XV, 11. The term ‘thus’ indicates that it must be offered in the manner prescribed without any variations whatsoever.

(8) Lev. II, 16. According to Rabbinic interpretation ‘bruised corn’ and ‘fine flour’ are identical save that the former is applied to the ‘Omer-offering. Hence there is a repetition of the items to indicate their indispensability.

(9) Lev. II, 2.

(10) Ibid. VI, 8.

(11) Ibid. XVI, 5.

(12) Ibid. XXIII, 19.

(13) Offered with the lambs on the Feast of Weeks, cf. ibid. 17.

(14) Cf. ibid. XXIV, 5ff.

(15) Unleavened leaves and unleavened wafers; v. Num. VI, 15.

(16) Cedar-wood, hyssop, and scarlet wool; v. ibid. XIX, 6.

(17) Unleavened cakes, unleavened wafers, cakes of soaked fine flour, and leavened cakes; v. Lev. VII, 12, 13.

(18) לולב, the palm-branch, which with the citron, the myrtle and the willow branches, was used in the Temple and Synagogue service on the Feast of Tabernacles; v. ibid. XXIII, 40.

(19) Cedar-wood, hyssop, and scarlet wool, and the two living birds; v. ibid. XIV, 6.

(20) Num. XIX, 4.

(21) Of the blood of the bullock and of the he-goat on the Day of Atonement; v. Lev. XVI, 14, 15.

(22) Of the blood of the abovementioned offerings (v. p. 172, n. 13) and also of the blood of the bullock offered when the whole community sinned in error (Lev. IV, 17,18). and of the bullock offered when the anointed High Priest sinned in error (ibid 6, 7).

(23) Lev. XVI, 34. The term ‘statute’ used in connection with any law or ceremony implies the absolute indispensability of the rites connected therewith.

(24) Ibid. XXIII, 17. The expression ‘shall be’ invariably indicates indispensability.
(25) Ibid. XXIV, 9.
(26) Num. VI, 21.
(27) Ibid. XIX, 2.
(28) Lev. VII, 13.
(29) V. infra 78a.
(30) Ibid. XIV, 2.
(31) Ibid. XXIII, 40. The Heb. ולקחתם is interpreted as though divided into two words: ולקח, ‘and he shall take’, and תם, ‘wholly’ ‘completely’; hence all the four kinds must be taken together.
(32) That the absence of any one kind invalidates the others.
(33) I.e., for the purposes of the precept they need not be taken bound together in one hand.
(34) The ethrog (the citron) and the lulab (the palm branch).
(35) The myrtle and the willow.
(36) Amos IX, 6. The people are founded and established on earth only when they are in one band — that is, when all the sections of the community are united, the righteous (the fruit-bearing) and the unrighteous (the non-fruit-bearing); this is symbolized by the taking and binding together in one band of the four species. It is evident therefore from this Baraitha that the four species must be bound together, contra R. Hanan.
(37) Used in the purification rites of the leper, v. Lev. XIV, 4.
(38) Since according to the Rabbis it is immaterial whether they are bound together or not.
(39) Ex. XV, 2. Thus it is a meritorious act generally to perform the precepts in the most beautiful manner possible.
(40) Num. XIX, 2.
(41) Lev. XVI, 34.
(42) Ibid. IV, 20. This verse is stated in connection with the bullock offered when the whole community sinned in error, and its purport apparently is to direct that the service of this offering be performed in the same manner as the offering of the anointed High Priest mentioned in the foregoing paragraph. On examination, however, it will be seen that this injunction is superfluous, since all the details of the service, as stated in connection with the foregoing offering, are repeated here in full.
(43) Thus rendering the sprinklings indispensable.

Talmud - Mas. Menachoth 27b

so that if one sprinkling was omitted the whole is invalid.[1]

Our Rabbis taught: If the seven sprinklings of the blood of the Red Cow were made under the name of some other [offering] or were not directed rightly,[2] they are invalid; but as for those [sprinklings which must be performed] inside[3] or [the sprinklings in the purification rites] of a leper,[4] if they were made under the name of some other [offering], they are invalid, but if they were not rightly directed, they are valid. But has it not also been taught, with regard to the sprinklings of the blood of the Red Cow, that if they were sprinkled under the name of another they are invalid, whilst if they were not rightly directed they are still valid? — Said R. Hisda, This is no difficulty; for one[5] [Baraitha] states the view of R. Judah and the other that of the Rabbis. For it was taught: If a man that lacked atonement[6] unwittingly entered the Temple court he is liable to bring a sin-offering, but if he entered deliberately he has incurred the penalty of kareth;[7] and, needless to say, this is so of a tebul yom[7] and others that were unclean. If a man that was clean overstepped the boundary[8] and entered the Temple he has thereby incurred forty [stripes]; and if he entered within the veil[9] or towards the front of the mercy-seat[10] he has thereby incurred death [at the hands of heaven]. R. Judah says, If he entered into the Temple or within the veil he has thereby incurred forty [stripes], and if he entered towards the front of the mercy-seat he has thereby incurred death. Wherein do they differ? — In the interpretation of the following verse: And the Lord said unto Moses, Speak unto Aaron thy brother, that he come not at all times into the holy place within the veil, towards the front of the mercy-seat which is upon the ark; that he die not.[11] The Rabbis[12] maintain that [against entering] into the holy place there is the prohibition ‘that he come not’,[13] and [against entering] within the veil or towards the front of the mercy-seat there is the warning ‘that he die not’; whereas R. Judah maintains that [against entering] into the holy place or within the veil there is the prohibition ‘that he come not’, and [against entering] towards the front of the mercy-seat there is the warning ‘that he die not’. What is the reason for this view of the Rabbis? — If the law is as R. Judah maintains, the Divine Law should only have stated ‘into the holy place’ and ‘towards the front of the mercy-seat’, but not ‘within the veil’, for I should have said, If for entering the holy place one incurs stripes, how much more so for entering within the veil! Why then did the Divine Law also state ‘within the veil’? That you might infer that there is the penalty of death for it. And R. Judah, [how does he reply to this]? — Had the Divine Law only stated ‘into the holy place’ and not’ within the veil’ I might have thought that by the expression ‘into the holy place’ only ‘within the veil’ was meant, so that [against entering] into the Temple there is not even a prohibition! And the Rabbis? — You could not possibly have thought so, since the entire Temple is referred to as ‘the holy place’, as it is written, And the veil shall divide unto you between the holy place and the most holy.[14] And what is the reason for R. Judah's view? — If the law is as the Rabbis maintain, the Divine Law should only have stated ‘into the holy place within the veil’, but not ‘towards the front of the mercy-seat’, for I should have said, If for entering within the veil one incurs death, how much more so for entering towards the front of the mercy-seat! Why then did the Divine Law also state ‘towards the front of the mercy-seat’? That you might infer that only [for entering] towards the front of the mercy seat is there the penalty of death, whereas [for entering] within the veil there is only a prohibition. And the Rabbis, [how do they reply to this]? — Indeed it was unnecessary, and the only reason why the Divine Law stated ‘towards the front of the mercy-seat’ in this verse was in order to exclude [from the prohibition] entering by the side.[15] As it was taught by a Tanna in the school of R. Eliezer b. Jacob: The verse, Towards the front of the mercy-seat on the east,[16] establishes the principle that wherever Scripture says ‘the front’ it means the east side. And R. Judah?[17] — [He says,] The verse should then have only stated [here] ‘the front’, why does it also state ‘towards’? To teach that ‘towards’ must be interpreted with exactness.[18] And the Rabbis? — [They say,] ‘Towards’ need not be interpreted exactly. Now[19] since R. Judah maintains that the expression ‘towards the front of the mercy-seat’ must be interpreted with exactness, similarly he would hold that the expression ‘and he shall sprinkle towards the front’ must also be interpreted exactly;[20] whilst the Rabbis hold that just as the one need not be interpreted exactly so the other need not be interpreted exactly.[21] R. Joseph, however, demurred, saying, Then according to R. Judah, if ‘towards’ must be interpreted exactly, ‘upon’[22] would also have to be interpreted exactly, would it not? And it would follow therefore that during the second Temple, inasmuch as there was no ark nor mercy-seat,[23] no sprinklings were to be made [on the Day of Atonement]! — Rabbah b. ‘Ulla answered, It is written, And he shall make atonement for the holy sanctuary,[24] that is, for the place that is sanctified for the holy sanctuary.[25]

Raba said, Both[26] state the view of the Rabbis, [yet here is no contradiction]

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(1) Lit., ‘he has done nothing’. It appears from Rashi that at this point in the text there followed a lengthy argument exactly as found in Zeb. 39a. The addition is also found in MS.M. and it reads as follows: I only know this of the seven sprinklings upon the veil, since whenever seven sprinklings are ordained it is established that the omission of one renders the whole invalid; but whence do I know this also of the four sprinklings upon the altar? Because Scripture says. So he shall do with this (Lev. IV, 20). The expression ‘the bullock’ (ibid.) includes the bullock of the Day of Atonement; the expression ‘as he did with the bullock’ (ibid.) includes the bullock offered by the anointed High Priest; and the expression ‘of the sin-offering’ (ibid.) includes the he-goats offered on account of the sin of idolatry. V. Rashi.

(2) In accordance with Num. XIX, 4, the blood of the Red Cow had to be sprinkled in the direction of ‘the entrance of the tent of meeting’.

(3) E.g., the offerings of the Day of Atonement or the sin-offering of the anointed High Priest.

(4) The officiating priest sprinkled of the oil that was in the palm of his hand seven times in the direction of the Holy of Holies; v. Lev. XIV, 16.

(5) The latter Baraitha.

(6) A person who had duly immersed after his uncleanness, had awaited sunset, but had not yet brought the prescribed offerings. Such a person still retains a slight measure of uncleanness.
(7) V. Glos.
(8) A non-priest was not permitted to enter into the Temple Hall beyond the first eleven cubits from the entrance on the east side. Cf. Yoma 16b.
(9) I.e., into the Holy of Holies.
(10) This is still further in the Holy of Holies; he stepped close to the mercy-seat which formed the cover for the Ark.
(11) Lev. XVI, 2.
(12) I.e., the first Tanna in the foregoing Baraitha whose view is expressed anonymously as being the general accepted view of the Rabbis.
(13) An ordinary prohibition for the transgression of which the punishment of forty stripes is incurred.
(14) Ex. XXVI, 33.
(15) I.e., any entry into the Holy of Holies not made in the ordinary way through the door on the east with the face looking westward; e.g., by breaking through the north wall or the south wall of the Holy of Holies and entering thereby, or by entering through the door on the east but with the face looking either northward or southward. For such an entry one would not incur any penalty.
(16) Lev. XVI, 14.
(17) Is not the expression ‘towards the front of the mercy-seat’ required to show that the east side was meant?
(18) The expression ‘towards the front of the mercy-seat’ is not stated (argues R. Judah) merely to indicate that the east side is meant, since for that purpose ‘the front’, without ‘towards’, would have been sufficient. Its true purpose is to teach that only for entering towards the front of the mercy-seat is the penalty of death at the hands of heaven incurred, but not for merely entering within the veil.
(19) The Gemara now proceeds to elaborate the answer proposed by R. Hisda supra that one Baraitha states the view of R. Judah and the other that of the Rabbis.
(20) And therefore if the blood of the Red Cow was not sprinkled quite in the direction towards the front of the Holy of Holies, it is invalid.
(21) And the sprinklings are valid even though made not quite in the proper direction.
(22) In connection with the sprinkling of the blood of the bullock on the Day of Atonement it is written, And he shall sprinkle with his finger upon the mercy-seat (Lev. XVI, 14); and therefore unless the sprinkling is made actually upon the mercy-seat it is invalid.
(23) According to tradition these were hidden away by Josiah (v. Yoma 52b), and so were not in use during the Second Temple.
(24) Lev. XVI, 33.
(25) The High Priest shall ‘make atonement’, i.e., sprinkle the blood on to the place sanctified for the ark.
(26) Sc. the two teachings which were shown above to be contradictory.

Talmud - Mas. Menachoth 28a

for in the one case [the priest] stood facing the west with his back to the east[1] and sprinkled, whereas in the other he stood facing the south with his back to the north[2] and sprinkled.

The Master said, ‘But as for those [sprinklings which must be performed] inside, or [the sprinklings in the purification rites] of a leper, if they were made under the name of some other [offering], they are invalid, but if they were not rightly directed, they are valid’. But it has been taught: Whether they were made under the name of some other [offering] or were not rightly directed, they are valid! Said R. Joseph: This is no contradiction; one Baraitha states the view of R. Eliezer, the other that of the Rabbis. R. Eliezer who likens the guilt-offering to the sin-offering[3] likens also the log [of oil of the leper] to the guilt-offering;[4] the Rabbis, however, do not liken one with the other.[5] But according to R. Eliezer is it permitted to deduce a law by analogy from another law which has itself been deduced by analogy?[6] — Raba therefore answered, Both teachings state the view of the Rabbis; one deals with the validity[7] [of the offering], whereas the other deals with the acceptance[8] [of the offering in fulfilment of the owner's obligation].

MISHNAH. OF THE SEVEN BRANCHES OF THE CANDLESTICK,[9] THE [ABSENCE OF] ONE INVALIDATES THE OTHERS. OF THE SEVEN LAMPS THEREOF, THE [ABSENCE OF] ONE INVALIDATES THE OTHERS. OF THE TWO PORTIONS OF SCRIPTURE IN THE MEZUZAH,[10] THE [ABSENCE OF] ONE INVALIDATES THE OTHER; INDEED EVEN ONE [IMPERFECT] LETTER CAN INVALIDATE THE WHOLE. OF THE FOUR PORTIONS OF SCRIPTURE IN THE TEFILLIN,[11] THE [ABSENCE OF] ONE INVALIDATES THE OTHERS; INDEED EVEN ONE [IMPERFECT] LETTER CAN INVALIDATE THE WHOLE. OF THE FOUR FRINGES,[12] THE [ABSENCE OF] ONE INVALIDATES THE OTHERS, SINCE THE FOUR TOGETHER FORM ONE PRECEPT. R. ISHMAEL SAYS, THE FOUR ARE FOUR SEPARATE PRECEPTS.

GEMARA. [OF THE SEVEN BRANCHES OF THE CANDLESTICK etc.] Why is it so? — Because the expression ‘shall be’ is used therewith.[13]

Our Rabbis taught: The candlestick had to be made from one mass and of gold; if it was made from scraps [of gold] it is invalid, but if made from any other metal it is valid. Now why is it invalid if made from scraps? It is, presumably, because Scripture says ‘beaten work’ and also ‘shall be’;[14] then when made from other metals too it should be invalid, should it not, since Scripture says, ‘of gold’ and also ‘shall be’? — The verse also says, Shall the candlestick be made, to include other metals. Perhaps it is to include scraps! — You cannot think so, for the expression ‘shall be’ refers to ‘beaten work’.[15] But does not the expression ‘shall the candlestick be made’ also refer to ‘beaten work’?[16] — Scripture stated, Of beaten work, Of beaten work, twice,[17] signifying that this condition is indispensable. But is it not also written, Gold, Gold, twice,[17] so that this too is indispensable? — What is this that you say? It is well if you hold that if made out of scraps it is invalid and if out of other metal it is valid, for then the repetition of the terms ‘gold’ and ‘beaten work’ is made use of in the exposition [which follows]. But if you hold that if made out of scraps it is valid and if out of other metals it is invalid, what use then will you make of the repetition of the terms ‘gold’ and ‘beaten work’?[18]

What is the exposition [referred to]? — It was taught: Of a talent of pure gold shall it be made, with all these vessels:[19] if made of gold it must be a talent [in weight], if not of gold it need not be a talent. Its cups, its knops, and its flowers:[20] if made of gold there must then be cups, knops and flowers, if not of gold there need be neither cups nor knops nor flowers. Perhaps I ought also to say, If made of gold there must then be branches, if not of gold there need be no branches! — That would be called a lamp.[21] And this was the work of the candlestick, beaten work of gold:[22] if of gold it must be beaten work, if not of gold it need not be beaten work. And what use is made of the [second] expression ‘beaten work’ in this last [verse]? — It serves to exclude the trumpets.[23] For it was taught: The trumpets had to be made [each] from one mass and of silver; if made from scraps [of silver] they are valid, if from other metals they are invalid. Now why are they invalid if made from other metals? presumably because it is written ‘of silver’[24] and also ‘shall be’;[24] then when made from scraps they should also be invalid, should they not, since it is written ‘beaten work’[24] and ‘shall be’? Scripture therefore stated in connection with the candlestick, It was beaten work,[22] ‘it’ [was beaten work] but not the trumpets.

Our Rabbis taught: All the vessels

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(1) This was the right and proper position for sprinkling the blood of the Red Cow, and it is valid even though the sprinklings were not quite in the direction of the Holy of Holies.

(2) In which case both the position of the priest who sprinkled the blood and the direction in which it was sprinkled were wrong, and therefore it is invalid.

(3) By reason of the juxtaposition of these two kinds of offering in one verse, Lev. VII, 7: As is the sin-offering so is the guilt-offering, the laws of each are placed on the same footing; and as the sin-offering is rendered invalid if any vital service was performed under any other name but its own, so it is with the guilt-offering too. V. Zeb. 10b.

(4) By the juxtaposition of the log of oil and the guilt-offering of the leper in one verse, ibid. XIV, 21, the further analogy is made: as the guilt-offering is rendered invalid by the performance of any of its vital services under another name (by analogy with the sin-offering, v. prec. n.), so it is too with the service of the sprinkling of the oil in the purification rites of the leper.

(5) So that the ruling in the latter Baraitha is in accordance with the view of the Rabbis.

(6) V. supra p. 179, nn. 7 and 8. It is absolutely disallowed to deduce any law in connection with holy things by the process of double analogy. Cf. Zeb. 49b.

(7) The latter Baraitha implied that the offering was valid, but only to this extent, that the remainder of the log of oil was thereby rendered permitted to the priests.

(8) The former Baraitha by ruling ‘they are invalid’ merely wished to convey that the sprinklings were not accepted in fulfilment of the leper's obligation; and therefore he is still prohibited from entering the camp of Israel and from eating consecrated food.

(9) Cf. Ex. XXV, 31ff.

(10) V. Glos. The two portions are: Deut. VI, 4-8, and XI, 13-21.

(11) V. Glos. The four portions are: Deut. VI, 4-8; XI, 13-21; Ex. XIII, 1-10 and 11-16.

(12) Cf. Num. XV, 38.

(13) Ex. XXV, 36: Their knops and their branches shall be of one piece with it.

(14) The term ‘beaten work’ implies hammered out of one piece, and since the expression ‘shall be’ is added in the verse, this condition of ‘beaten work’ is indispensable. The expressions used in this exposition are in Ex. XXV, 31: And thou shalt make a candlestick of pure gold: of beaten work shall the candlestick be made . . . its cup’, its knops and its flowers shall be of one piece with it.

(15) Thus ruling out the use of broken pieces.

(16) And therefore by reason of the general and comprehensive expression ‘shall the candlestick be made’ it should also be permitted if made out of broken pieces, or scraps of gold.

(17) Ibid. vv. 31 and 36.

(18) The force of the argument centres around the term ‘beaten work’ which is used four times in connection with the candlestick: twice in Ex. XXV (in vv. 31 and 36) and twice in Num: VIII, 4. If it is held that it is invalid if made out of scraps, then this term was stated twice to indicate that this condition was indispensable, and on two more occasions for the purposes given in the following exposition. If, however, it is valid if made out of scraps, then at least in one instance this term is superfluous. V. Sh. Mek a.l.

(19) Ex. ibid. 39.

(20) Ex. XXV, 31.

(21) But not a מנורה, a branched candlestick.

(22) Num. VIII, 4.

(23) Cf. ibid. X. 2ff. Thus the two silver trumpets need not be beaten work.

(24) Ibid.

Talmud - Mas. Menachoth 28b

which Moses had made were valid for him and valid also for future generations; the trumpets, however, were valid for him but invalid for future generations. What is the reason for the trumpets? Should you say because it is written, Make thee,[1] that is, for thyself only but not for future generations; then the verse, And make thee an ark of wood,[2] would also signify for thyself only but not for future generations.[3] But in fact the expression ‘thee’ [in the latter verse] means, according to one opinion,[4] of thine own, or according to another opinion, ‘I would have preferred it to come from thine own rather than from theirs’;[5] then here[6] too it means the same thing! — Here[7] it is different, since ‘thee’ is stated twice: ‘Make thee’ and ‘They shall be unto thee’.[8]

R. Papa the son of R. Hanin recited the following teaching before R. Joseph: The candlestick had to be made from one mass and of gold; if it was made of silver it is still valid; if of tin or lead or gasitron,[9] Rabbi declares it to be invalid, but R. Jose b. Judah declares it to be valid. If it was made of wood or of bone or of glass, all agree that it is invalid. Thereupon he said to him,[10] What can be the reason for this?[11] He replied, Both masters interpret [the verse] by the principle of 'general proposition and specification',[12] but they differ in this: one[13] concludes, as the thing specified is clearly a metal, so all metals are permitted; but the other concludes, as the thing specified is a valuable [metal], so only valuable [metals] are permitted.[14] Then said [R. Joseph] to him, Set aside your teaching in view of mine, for it has been taught: If vessels of ministry were made of wood, Rabbi declares them invalid, but R. Jose b. Judah declares them valid. In what do they differ? Rabbi interprets [the verse] by the principle of 'general proposition and specification', whereas R. Jose b. Judah interprets it by the principle of 'amplification and limitation'. Rabbi interprets the verse by 'general proposition and specification' thus, And thou shalt make a candlestick[15] is a general proposition, 'of pure gold' is a particular specification, 'of beaten work shall the candlestick be made' is another general proposition; we thus have two general propositions separated by a particular specification, in which case you may only include such things as are similar to the thing specified, and as the thing specified is clearly a metal so all metals are included. R. Jose b. Judah on the other hand interprets the verse by 'amplification and limitation' thus, 'And thou shalt make a candlestick' is an amplifying proposition, 'of pure gold' is a limitation, 'of beaten work shall the candlestick be made' is another amplifying proposition; we thus have two amplifying propositions separated by a limitation, in which case they include [well-nigh] everything. What do they include? Everything.[16] And what do they exclude? Earthenware.[17] On the contrary, Set aside your teaching because of mine! — You cannot say so,[18] for it was taught: If there was no gold available for it,[19] it may be made of silver, of copper, of iron, of tin or of lead. R. Jose b. Judah allows it even of wood. And another Baraitha also taught: A man may not make a house after the design of the Temple, or a porch after the design of the Temple porch, or a courtyard after the design of the Temple court, or a table after the design of the table [in the Temple], or a candlestick after the design of the candlestick [in the Temple]. He may, however, make one with five, six or eight [branches], but with seven he may not make one, even though it be of other metal.[20] R. Jose b. Judah says, He should not make one even of wood, for thus did the Hasmonean kings make it.[21] But [the Rabbis] said to him, Is any proof to be deduced from that? In fact it was made of iron bars which they overlaid with tin;[22] when they [the Hasmoneans] grew richer they made one of silver, and when they grew still richer they made one of gold.

Samuel said in the name of an old scholar, The height of the candlestick was eighteen handbreadths: three handbreadths for the base and the flower upon it,[23] two handbreadths plain,[24] one handbreadth for cup, knop and flower, again two handbreadths plain, one handbreadth for a knop out of which two branches come forth, one on each side, extending and rising to the same height as the candlestick, then one handbreadth plain, one handbreadth for a knop out of which two branches come forth, one on each side, extending and rising to the same height as the candlestick, then again one handbreadth plain, and one handbreadth for a knop out of which two branches come forth, one on each side, extending and rising to the same height as the candlestick, and then two handbreadths plain; there now remained[25] three handbreadths, in which space were three cups, a knop and a flower. The cups were like Alexandrian goblets,[26] the knops like Cretan apples, and the flowers like the blossoms around the capitals of columns. It will be found, therefore, that there were twenty-two cups, eleven knops, and nine flowers. Of the cups the [omission of] one invalidates the others, of the knops the [omission of] one invalidates the others, and of the flowers the [omission of] one invalidates the others; moreover, of the cups, the knops and the flowers, the [omission of] one kind invalidates the others. It is quite clear that there were twenty-two cups, for it is written, And in the candlestick were four cups,[27] and it is also written, Three cups like almond-blossoms in one branch, a knop and a flower;[28] so that its own four[29]

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(1) Ibid.

(2) Deut. X, 1.

(3) But this was not the case, for the same ark which Moses had made was used in the future generations.
(4) V. Yoma 3b.
(5) If only this were possible; but it is not since it is the duty of the whole community to provide it. In cur. edd. the expression ‘as though it were possible’ (the usual expression used when referring to God in anthropomorphic terms) is here inserted, but it is not found in any MS., and indeed it is quite unnecessary here.
(6) In the case of the trumpets.
(7) In the case of the trumpets.
(8) Num. X, 2.
(9) גסיטרון, prob. ** tin; perhaps of a special kind, as distinguished from צעין, ordinary tin.
(10) R. Joseph said to R. Papa.
(11) This distinction in R. Jose b. Judah, according to which it is valid if made of lead or of tin, but invalid if made of wood.
(12) V. infra.
(13) R. Jose b. Judah.
(14) Rabbi therefore excludes lead and tin, and also wood.
(15) Ex. XXV, 31.
(16) All substances, even wood.
(17) Since it is of little value. This Baraitha, according to which R. Jose allows all substances except earthenware, and Rabbi allows all metals, overrides the former Baraitha quoted by R. Papa.
(18) For according to R. Papa's teaching R. Jose does not allow wood, but this is in conflict with the two Baraithas which follow.
(19) Sc. the candlestick.
(20) Since the seven-branched candlestick of the Temple was permitted to be made of other metals too, and even of wood according to R. Jose b. Judah.
(21) Sc. the Temple candlestick, after they had retaken and purified the Temple.
(22) Many MSS. read: ‘with wood’.
(23) V. infra, p. 185, n. 6.
(24) I.e., without any ornamentation.
(25) In the central or main shaft of the candlestick.
(26) Which were wide at the top and tapered down towards the base.
(27) Ex. XXV, 34; the reference being to the central shaft.
(28) Ibid. 33.
(29) I.e., of the central shaft.

Talmud - Mas. Menachoth 29a

and the eighteen of the [six] branches make twenty-two. It is also clear that there were eleven knops, for the knops thereof implies two, and six of the [six] branches and the knop [from which the first pair of branches rose], and the knop [from which the second pair rose], and the knop [from which the third pair rose], thus making a total of eleven. But how do we arrive at nine flowers? Its own two and the six of the [six] branches make only eight? — R. Salmon said, It is written, Unto the base thereof, and unto the flowers thereof, it was beaten work.[1]

Rab said, The height of the candlestick was nine handbreadths. Thereupon R. Shimi b. Hiyya raised the following objection to Rab. We have learnt:[2] There was a stone before the candlestick in which were three steps; on this the priest stood to trim the lamps.[3] He answered, You, Shimi![4] I meant only from the point where the branches begin [to rise] and upwards.[5]

It is written, And the flowers, and the lamps and the tongs, of gold, of finished gold.[6] What is meant by ‘finished gold’? R. Ammi said, They finished up all Solomon's fine gold.[7] For Rab Judah said in Rab's name, Solomon had made ten candlesticks, and for each one he had used one thousand talents of gold; each had been cast in the furnace one thousand times so that it was reduced to one talent.[8] But surely it is not so, for it is written, And all King Solomon's drinking vessels were of gold, and all the vessels of the house of the forest of Lebanon were of pure gold; none were of silver; it was nothing accounted of in the days of Solomon![9] — We said Solomon's fine gold [was finished up]. And would it lose so much?[10] Surely it has been taught: R. Jose b. Judah said, It once happened that the candlestick which was used in the Temple was found to be larger than that made by Moses by a Gordian[11] golden denar; thereupon it was cast eighty times into the furnace so that it was brought down to a talent! — Since it had been made long ago it would remain in that condition.[12]

R. Samuel b. Nahmani said in the name of R. Jonathan, What is the meaning of the expression, 'Upon the pure candlestick'?[13] It signifies that its pattern came down from the place of purity.[14] Will you then say that the expression 'Upon the pure table'[15] also signifies that its pattern came down from the place of purity? One would rather say that 'pure' [in the latter case] implies that it can contract uncleanness; then [in the former case] too 'pure' implies that it can contract uncleanness? — [This does not follow at all,] for it is right to say so there [in regard to the table] because of Resh Lakish's exposition. For Resh Lakish said, What is the meaning of the expression 'upon the pure table'? It signifies that it can contract uncleanness. But is not [the table] an article of wood made to rest, and an article of wood made to rest cannot contract uncleanness? This proves that they used to lift it up and exhibit the Shewbread on it to those who came up for the festivals, saying to them, Behold, God's love for you![16] (Wherein is seen 'God's love for you'? — It is as R. Joshua b. Levi had stated. For R. Joshua b. Levi had stated, A great miracle was wrought in regard to the Shewbread, for at its removal it was as [fresh as when] it was set,[17] as it is written, To put hot bread in the day that it was taken away.)[18] But in this case [of the candlestick], to say that the term 'pure' implies that it can contract uncleanness is too obvious [and unnecessary], for it is a metal vessel and metal vessels certainly contract uncleanness! We must therefore say that its pattern came down from the place of purity.

It was taught: R. Jose b. Judah says, An ark of fire and a table of fire and a candlestick of fire came down from heaven; and these Moses saw and reproduced, as it is written, And see that thou make them after their pattern, which is being shown thee in the mount.[19] Will you then say the same [of the tabernacle], for it is written, And thou shalt rear up the tabernacle according to the fashion thereof which hath been shown thee in the mount![20] — Here it is written 'according to the fashion thereof', whilst there 'after their pattern'.[21]

R. Hiyya b. Abba said in the name of R. Johanan, The angel Gabriel had girded himself with a kind of belt[22] and demonstrated unto Moses the work of the candlestick, for it is written, And this was the work of the candlestick.[23]

A Tanna of the school of R. Ishmael stated, Three things presented difficulties to Moses, until the Holy One, blessed be He, showed Moses with His finger, and these are they: the candlestick, the new moon,[24] and the creeping things.[25] The candlestick, as it is written, And this was the work of the candlestick. The new moon, as it is written, This month shall be unto you the beginning of months.[26] The creeping things, as it is written, And these are they which are unclean.[27] Others add, Also the rules for slaughtering [beasts], as it is written, Now this is that which thou shalt offer upon the altar.[28]

OF THE TWO PORTIONS OF SCRIPTURE IN THE MEZUZAH THE [ABSENCE OF] ONE INVALIDATES THE OTHER; INDEED EVEN ONE [IMPERFECT] LETTER CAN INVALIDATE THE WHOLE. Is not this obvious?[29] — Rab Judah answered in the name of Rab, The law had to be taught in respect of the tittle of the letter yod.[30] And is not this, too, obvious?[31] — It had to be taught in regard to the other statement of Rab Judah in the name of Rab. For Rab Judah said in the name of Rab, Any letter that is not surrounded on all four sides by a margin of parchment is invalid.[32]

Ashian b. Nidbak said in the name of Rab Judah, If the inner [leg] of the letter he[33] was perforated, it is still valid; if the [right] leg was perforated it is invalid. R. Zera said, This was explained to me by R. Huna — and R. Jacob said, This too was explained to me by Rab Judah — as follows: If the inner [leg] of the he was perforated, it is still valid; if the [right] leg was perforated and there still remained thereof the size of a small letter,[34] it is valid; otherwise it is invalid.

It once happened to Agra, the father-in-law of R. Abba,

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(1) Num. VIII, 4. The flower (in the Heb. פרחה, in the sing.) in this verse is in addition to those mentioned in Ex. XXV, 31ff; hence there were nine. This extra flower was placed at the foot of the candlestick close to the pedestal.

(2) Tam. III, 9.

(3) And if the entire height of the candlestick was only nine handbreadths, then surely the priest had no need of stone or steps to reach it.

(4) Rab expresses surprise at his pupil Shimi who puts to him a question whose answer is only too obvious.

(5) And as this point was in the centre of the candlestick, there were nine handbreadths from it to the top, and similarly from this point to the base; so that Rab's view is entirely in accord with Samuel's supra.

(6) II Chr. IV, 21. The Heb. expression מכלות זהב, in E.VV. ‘perfect gold’, is very difficult; hence the suggestion in the Gemara.

(7) Deriving מכלות from כלה ‘to complete, exhaust, finish up’.

(8) This lavish and extravagant use of gold would naturally exhaust all his gold, however great his supply was.

(9) I Kings X, 21. It is evident that Solomon had an unlimited supply.

(10) By repeated refinings to be reduced from one thousand talents to one talent.

(11) Cur. edd. קורדיקני; v. Jast. s.v. גורדייני. The word is omitted in MS.M.

(12) I.e., since it had been well wrought and refined in Solomon's days, when centuries later it was cast eighty times into the furnace it would not then have lost very much.

(13) Lev. XXIV, 4.

(14) I.e., from Heaven. The pattern of the candlestick was shown by God unto Moses; v. infra.

(15) Ibid. 6.

(16) The table was therefore mobile and not regarded as a vessel made to rest; consequently it could contract uncleanness. It is right therefore that the term ‘pure’ in connection with the table should mean free from uncleanness.

(17) When the Shewbread was removed after having remained seven days upon the table it was as fresh as on the day when it was placed thereon.

(18) I Sam. XXI, 7. The Heb. חם ‘hot’ is interpreted as referring to the bread that was taken away, thus indicating that it was still fresh and hot.

(19) Ex. XXV, 40.

(20) Ibid. XXVI, 30.

(21) The latter expression signifies that a model or picture was actually shown to Moses, whereas the former expression signifies merely that the tabernacle was to be constructed in accordance with the instructions and directions received by Moses.

(22) After the manner of artificers who tie up their clothes with a belt or girdle when engaged upon delicate work so as not to be hampered in their work.

(23) Num. VIII, 4. The term ‘this’ implies that something was held up as a pattern or model to illustrate the instructions given.

(24) The proper observance of the first appearance of the new moon.

(25) The identification of the clean and unclean reptiles.

(26) Ex. XII, 2.

(27) Lev. XI, 29.

(28) Ex. XXIX, 38. And as the first act of the offering is the slaughtering the expression ‘this’ clearly refers to an actual demonstration unto Moses of the rules and regulations of slaughtering.

(29) That one imperfect letter can invalidate the whole. For the law insists upon perfect writing in Scrolls of the Law, tefillin, and mezuzah.

(30) I.e., even if the lower (according to Tosaf. ‘the upper’) stroke of the letter yod was missing, it is invalid.
(31) Since without the stroke it is no yod and it would not be recognizable as such.
(32) The letter must not be joined to or run into either the preceding or following letters, but must be surrounded by a blank margin of the parchment.
(33) I.e., the left or detached leg of the letter ה. It is referred to as inner for in early MSS. this leg was almost in the middle of the letter. Aliter: the inner space of the letter.
(34) I.e., the upper part of the leg was still joined to the roof of the letter, thus ה, so that it can be read as a he, although reduced in size.

Talmud - Mas. Menachoth 29b

that the [right] leg of the letter he in the word ha'am[1] had been severed by a perforation; whereupon he came to R. Abba who ruled that if there still remained thereof the size of a small letter it is valid, otherwise it is invalid.

It once happened to Rami b. Tamre, also known as[2] Rami b. Dikule, that the leg of the letter wow in the word wa-yaharog[3] had been severed by a perforation; whereupon he came to R. Zera who said, Go, fetch a child that is neither too clever nor too foolish; if he is able to read the word as wa-yaharog, it is valid; otherwise, the word is yaharog[4] and it is invalid.

Rab Judah said in the name of Rab, When Moses ascended on high he found the Holy One, blessed be He, engaged in affixing coronets to the letters.[5] Said Moses, ‘Lord of the Universe, Who stays Thy hand?’[6] He answered, ‘There will arise a man, at the end of many generations, Akiba b. Joseph by name, who will expound upon each tittle heaps and heaps of laws’. ‘Lord of the Universe’, said Moses; ‘permit me to see him’. He replied, ‘Turn thee round’. Moses went and sat down behind eight rows[7] [and listened to the discourses upon the law]. Not being able to follow their arguments he was ill at ease, but when they came to a certain subject and the disciples said to the master ‘Whence do you know it?’ and the latter replied ‘It is a law given unto Moses at Sinai’ he was comforted. Thereupon he returned to the Holy One, blessed be He, and said, ‘Lord of the Universe, Thou hast such a man and Thou givest the Torah by me!’ He replied, ‘Be silent, for such is My decree’.[8] Then said Moses, ‘Lord of the Universe, Thou hast shown me his Torah, show me his reward’. ‘Turn thee round’, said He; and Moses turned round and saw them weighing out his flesh at the market-stalls.[9] ‘Lord of the Universe’, cried Moses, ‘such Torah, and such a reward!’ He replied, ‘Be silent, for such is My decree’.

Raba said, There are seven letters which require each three strokes, and these are they: shin, ‘ayin, teth, nun, zayin, gimmel, and zadde.[10]

R. Ashi said, I have observed that scribes who are most particular add a vertical stroke to the roof of the letter heth,[11] and suspend the [inner] leg of the letter he. They add a vertical stroke to the roof of the letter heth, signifying thereby that He lives in the heights of the word.[12] And they suspend the [inner] leg of the letter he for the reason given in the following discussion. For R. Judah the patriarch asked R. Ammi, What is the meaning of the verse, Trust ye in the Lord for ever; for in Yah the Lord is an everlasting rock?[13] He replied, It implies that if one puts his trust in the Holy One, blessed be He, behold He is unto him as a refuge in this world and in the world to come. This, retorted the other, was my difficulty: why does the verse say in Yah and not Yah? The reason is as was expounded by R. Judah b. R. Ila'i. [Yah, he said,] refers to the two worlds which the Holy One, blessed be He, created, one with the letter he and the other with the letter yod. Yet I do not know whether the future world was created with the yod and this world with the he or this world with the yod and the future world with the he; but since it is written, These are the generations of the heaven and of the earth when they were created:[14] read not be-hibare'am,[15] when they were created, but be-he bera'am,[16] He created them with the he; hence I may say that this world was created with the he and the future world with the yod. And wherefore was this world created with the he? — Because it is like an exedra[17] and whosoever wishes to go astray[18] may do so. And wherefore is the [left] leg [of the he] suspended? — To indicate that whosoever repents is permitted to re-enter.[19] And why should he not re-enter by the same [way as he went out]? — Such an opportunity would not arise;[20] and this is consistent with Resh Lakish's view. For Resh Lakish said, What is the meaning of the verse, If it concerneth the scorners, He scorneth them, but unto the humble He giveth grace?[21] If a man comes to purify himself, they assist him; but if he comes to defile himself, they open the door for him. And wherefore has [the letter he] a coronet? — Because the Holy One, blessed be He, says, If a man repents I will set a crown upon him. And why was the future world created with the letter yod? — Because the righteous men therein are but few.[22] And why is its head bent low? — Because the righteous men therein hang their heads low, for the good deeds of one are not like [the good deeds of] the other.[23]

R. Joseph said, Rab gave two rulings in connection with scrolls [of the Law] but to each there is a refutation. The first is this: Rab said, If a scroll of the Law has two mistakes in every column it may be corrected, but if three, it must be hidden away. And the refutation [is from the following]. It was taught: If three it may be corrected, but if four it must be hidden away.

A Tanna taught: If there was one column free from mistakes it saves the whole scroll.[24] R. Isaac b. Samuel b. Martha said in the name of Rab, provided only the scroll was for the most part written correctly. Abaye asked R. Joseph, How is it if in that column there were three mistakes?[25] — He replied, Since it is permitted to correct them they are regarded as already corrected.

This rule[26] applies only when letters are missing, but when there are too many letters it does not matter.[27] And why is it not so when letters are missing?[28] — R. Kahana answered, Because it would look speckled.[29] Agra, the father-in-law of R. Abba, had a scroll in which there were additional letters, so he came to R. Abba who told him the law: This rule applies only when letters are missing,

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(1) העם, Ex. XIII, 3, in connection with the tefillin (Rashi).

(2) So in all MSS. and early edd. and so emended by Sh. Mek. Cur. edd. ‘the father-in-law of’.

(3) I.e., the initial waw in ויהרג (meaning ‘and he killed’), occurring in one of the Scriptural portions of the Tefillin, in Ex. XIII, 15.

(4) יהרג. Strictly speaking ייהרג which would be read as yehareg (meaning ‘will be killed’) and being followed by ‘the Lord’ would have a blasphemous connotation.

(5) These are the Taggin, i.e., three small strokes written on top of the letters שעטנזגץ in the form of a crown. V. infra Raba's statement, and note thereon.

(6) I.e., is there anything wanting in the Torah that these additions are necessary?

(7) Of R. Akiba's disciples.

(8) Lit., ‘so it has come to My mind’.

(9) R. Akiba died a martyr's death at the hands of the Romans during the Hadrianic persecution. V. Ber. 61b.

(10) שעטנזגץ. V. supra n. 2. There is diversity of opinion as to the proper placing of these strokes. V. Tosaf a.l. In the Scrolls of the Law used at the present time in Ashkenazic communities the form of ornamentation is this, e.g., ש.

(11) Here, too, there are diverse opinions as to the form. The word חטרי which has been translated in the text, following Rashi, by ‘add a vertical stroke’ from חוטרא, ‘a stick’, may also mean ‘make hump-like’, from חטרתא ‘the camel's hump’. The form of this letter in Scrolls of the present day is ח.

(12) The letter heth is the initial letter of the word חי, ‘He lives’, and the stroke or tower above indicates that the abode of the living God is on high.

(13) Isa. XXVI, 4. The latter half of the verse reads כי ביה ה צור עולמים and this is interpreted as meaning ‘for with Yah (i.e., with the letters yod and he) the Lord formed the worlds.’

(14) Gen. II, 4.

(15) בהבראם.

(16) בהי בראם.

(17) The world is like an exedra, i.e., closed on three sides and open on the fourth (v. B.B. 25a and b); and so, too, is the letter he. Hence it was most appropriate for this world to be created by the letter he.
(18) Sc. from the right path; i.e., to be rebellious.
(19) Through the small opening at the side.
(20) The repentant sinner requires encouragement and support, so that an additional entrance is made ready for him.
(21) Prov. III, 34.
(22) The letter yod is the smallest letter of the alphabet, and in shape its head droops downwards.
(23) So that each feels a certain sense of shame in the presence of the other.
(24) Even though in the other columns there are very many mistakes. Of course the mistakes have to he corrected.
(25) Is this column to be regarded as free from mistakes since the three mistakes in it may be corrected?
(26) That a scroll with four mistakes in each column must be hidden away.
(27) Since the additional letters can easily be erased.
(28) The missing letters can surely be inserted.
(29) The insertion of missing letters above the lines would make the whole look irregular.

Talmud - Mas. Menachoth 30a

but when there are additional letters it does not matter.

The other ruling of Rab is this: Rab said, He who is writing a scroll of the Law and has reached the end may finish off even in the middle of the column. And an objection is raised from the following: He who is writing a scroll of the Law and has reached the end may not finish off in the middle of the column as one does with other books, but he should reduce each line as he goes on until he reaches the end of the column! — Rab was referring to other books. But he says ‘a scroll of the Law’! — He meant the books of the Law.[1] But this cannot be so, for R. Joshua b. Abba cited R. Giddal who said it in the name of Rab, The words ‘in the sight of all Israel’[2] are to be written in the middle of the column! — He means the middle of the line.[3]

It was stated: The Rabbis say, [One may finish] even in the middle of the line;[4] but R. Ashi says, [One may finish] only in the middle of the line.[3] And the law is: Only in the middle of the line.

R. Joshua b. Abba cited R. Giddal who said it in the name of Rab, The last eight verses of the Torah must be read [in the Synagogue service] by one person alone.[5] Whose view is followed here? It surely is not R. Simeon's, for it was taught:[6] It is written, So Moses the servant of the Lord died there.[7] Now is it possible that Moses whilst still alive would have written, ‘So Moses . . . died there’? The truth is, however, that up to this point Moses wrote, from this point Joshua the son of Nun wrote. This is the opinion of R. Judah, or, according to others, of R. Nehemiah. Said R. Simeon to him, Can we imagine the scroll of the law being short of one letter? Is it not written, Take this book of the Law, and put it etc.?[8] We must say that up to this point the Holy One, blessed be He, dictated and Moses repeated and wrote, and from this point the Holy One, blessed be He, dictated and Moses wrote[9] with tears [in his eyes], as it says of another occasion, Then Baruch answered them, He pronounced all these words to me with his mouth, and I wrote them with ink in the book.[10] Must we then say that the view stated is not in accordance with R. Simeon?[11] — You may even say that it follows the view of R. Simeon, for since they differ [from the rest of the Torah] in one way, they differ in another.[12]

R. Joshua b. Abba again cited R. Giddal who said in the name of Rab, He who buys a scroll of the Law in the market is regarded as one that has seized a precept in the market, but he who writes it, him the Scripture regards as if he had received it at mount Sinai. R. Shesheth said, Even if he corrected but one letter he is regarded as if he had written it.

(Mnemonic ‘A.G.L.M.).[13] Our Rabbis taught: A man should use sheets [of parchment] which contain from three to eight columns; he should not use one which contains less columns or more.[14] And he should not put in too many columns[15] for it would look like an epistle, nor too few columns[16] for the eyes would wander;[17] but [the width of the column should equal] the word lemishpehothekem written three times.[18] If a man happened to possess a sheet with nine columns, he should not divide it [into two sheets of] three and six columns, but [into sheets of] four and five columns.[19] These rules apply only [to sheets] at the beginning [or in the middle] of the scroll, but at the end of the scroll even one verse or one column [may take up the whole sheet]. One verse! Surely you cannot mean that![20] — Say rather: One verse in one column.[21] The width of the margin below shall be one handbreadth, above three fingerbreadths, and between one column and the other the space of two fingerbreadths. In books of the Law[22] the margin below shall be three fingerbreadths, above two fingerbreadths, and between one column and the other the space of a thumb-breadth. Between each line there must be the space of a line, between each word the width of a letter, and between each letter a hairbreadth. A man should not reduce the size of the script on account of the margin above or below,[23] or on account of the space between one line and another, or the requisite space between one section and another. If [when almost at the end of a line] he has to write a word of five letters he must not write two letters in the column and three outside,

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(1) I.e., each of the first four books of the Torah may finish in the middle of a column, but the fifth book which would complete the scroll of the Law, Rab agrees, must be written in the form of a colophon gradually reducing the lines so as to reach the end of the column.

(2) These are the last words of the Torah.

(3) But at the end of the column. I.e., the last words in the last line of the column are written in the middle of the line.

(4) And also in the middle of the column (Rashi; but v. Sh. Mek. a.l.).

(5) These verses may not be divided into two portions to be read by two persons.

(6) B.B. 15a.

(7) Deut. XXXIV, 5.

(8) Ibid. XXXI, 26, said by Moses before he died. If then Moses did not complete the Torah he would not have referred to it as the book of the Law.

(9) But did not repeat the words as heretofore, because of his grief.

(10) Jer. XXXVI, 18. Baruch the scribe when writing down the Lamentations as spoken by Jeremiah did not repeat the words because of the grief they caused him.

(11) For since these verses were, according to R. Simeon, written by Moses they should in no wise be different from any other section in the Torah; accordingly it should be permitted to divide these verses into two portions.

(12) These verses have a special law since they were written in special circumstances.

(13) A mnemonic made up of the characteristic Hebrew letters of the rules which follow.

(14) As each sheet was sewn to the others it is advisable for the sake of utility not to have the seams too near or too far apart from each other.

(15) I.e., the maximum number of columns (8) in a small sheet.

(16) I.e., the minimum number of columns (3) in a large sheet.

(17) For the length of the line in each column would he unduly large and the eyes would stray so that the reader would be in doubt as to which line he must read next.

(18) למשפחותיכם. I.e., thirty letters.

(19) So as to make the sheets as far as is possible of similar width.

(20) Since it is necessary to end at the foot of the column, how is it conceivable to fill the whole sheet with one verse?

(21) I.e., the column may be made very narrow, perhaps with only one word on each line, or even enlarging the script, so as to fill up the whole column.

(22) חומשים, also written in scroll form but not intended to be used for the Synagogue service.

(23) The size of the script should be uniform in the column and should not be reduced on the first or last lines so as to obtain the proper marginal space above or below.

Talmud - Mas. Menachoth 30b

but three in the column and two outside.[1] If [when he has come to the end of the line] he has to ‘write a word of two letters, he may not insert it between the columns but must write the word at the beginning of the next line.

If [the scribe] omitted the Name of God [and had already written the next word], he should erase the word that was written and insert it above the line, and should write the Name upon the erasure. This is the opinion of R. Judah. R. Jose says, He may even insert the Name above the line. R. Isaac says, He may even wipe away[2] [the word that was written] and write [the Name in its place]. R. Simeon of Shezur says, He may write the whole Name above the line but not a part of it. R. Simeon b. Eleazar says in the name of R. Meir, He may write the Name neither upon an erasure nor upon a word that has been wiped away, neither may he insert it above the line. What must he do then? He must remove the whole sheet and hide it away.

It was stated: R. Hananel said in the name of Rab, The halachah is that he may insert the Name above the line. Rabbah b. Bar Hanah said in the name of R. Isaac b. Samuel, The halachah is that he may wipe away [the written word] and write [the Name in its place]. Why does not R. Hananel say that the halachah follows this Master,[3] and Rabbah b. Bar Hanah say that it follows the other Master?[4] — Because there is another reading which reverses the names.[5]

Rabin b. Hinena said in the name of ‘Ulla who had it from R. Hanina, The halachah is in accordance with R. Simeon of Shezur.[6] Moreover, wherever R. Simeon of Shezur stated his view the halachah is in accordance with it. In what connection was this ruling [of R. Hanina] stated? Should you say in connection with the above: ‘R. Simeon of Shezur says, He may write the whole Name above the line but not a part of it’; but since it has been reported in that connection that R. Hananel said in the name of Rab, The halachah is that he may insert the Name above the line, and that Rabbah b. Bar Hanah said in the name of R. Isaac b. Samuel, The halachah is that he may wipe away [the written word] and write [the Name in its place], if then [R. Hanina's ruling was stated in connection with the above Baraitha], he should have also stated his view [together with the others]![7] — Rather it was stated in connection with the following: ‘R. Simeon of Shezur says, Even if it[8] is five years old and is ploughing in the field it is still rendered clean by reason of the slaughtering of its dam’.[9] But since it was reported in that connection that Ze'iri said in the name of R. Hanina, The halachah follows R. Simeon of Shezur, if this were so then he also should have said it there![10] — Rather it was stated in connection with the following: At first it was held: If a man whilst being led out in chains [to execution] said, ‘Write out a bill of divorce for my wife’, it was to be written and also to be delivered to her.[11] Later they laid down that the same rule applied to one who was leaving on a sea journey or setting out with a caravan. R. Simeon of Shezur says, It also applies to a man who was dangerously ill. Or [it was stated] in connection with the following:[12] If the terumah[13] which had been separated from the tithe of demai[13] produce fell back into its place,[14] R. Simeon of Shezur says, Even on a weekday one need only ask [the seller] about it and eat it by his word.[15] But since it was reported in that connection that R. Johanan said, The halachah follows R. Simeon of Shezur in the case of ‘The dangerous ill man’ and in ‘The terumah separated from the tithe of demai produce’,[16] if this were so then he too should have said it there. — Rather it was stated in connection with the following: R. Jose b. Kippar says in the name of R. Simeon of Shezur, If Egyptian beans had been sown only for seed[17] and part of them had taken root before the New Year and part after the New Year, one may not then separate terumah and the tithes from one part on behalf of the other, for one may not separate terumah and tithes from new produce on behalf of the old or from old produce on behalf of the new. What then should one do? One should collect the whole crop into one heap [and then separate the terumah and the tithes from it], so that the new produce in the terumah or tithe would be deemed to be taken in respect of the new produce that is left in the heap, and the old produce in the terumah or tithe would be deemed to be in respect of the old produce that is left in the heap. But since it was reported in that connection that R. Samuel b. Nahmani said In the name of R. Johanan, The halachah follows R. Simeon of Shezur, if this were so, then he too should have said it there! — In fact, said R. Papa, it was stated in connection with the case of the ‘Chest’. R. Nahman b. Isaac said, It was stated in connection with the case of the ‘Wine’. R. Papa said

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(1) If therefore there is sufficient space for three letters he may write the word allowing two letters to encroach upon the margin; but if there is not sufficient space for three letters he must write the whole word in the next line.

(2) Whilst the ink is still moist. The writing upon such a surface would not be as clear and distinct as upon an erased surface.

(3) Sc. R. Jose.

(4) Sc. R. Isaac.

(5) I.e., the opinions assigned to R. Jose and R. Isaac are reversed; hence it was necessary when stating the halachah to report the actual decision.

(6) In Upper Galilee.

(7) I.e., with R. Hananel and Rabbah b. Bar Hanah.

(8) Sc. an animal which was extracted alive out of the womb after the slaughtering of its dam.

(9) Hul. 74b.

(10) I.e., if R. Hanina's ruling was stated in connection with the above quoted Mishnah then Rabin b. Hinena should also have stated his tradition of the halachah alongside with Ze'iri in Hul. l.c.

(11) Even though he gave no instructions that it was to be delivered to his wife. It is assumed that he intended it to be delivered to her but omitted to say so owing to his perturbed state of mind. Git. 65b.

(12) Demai IV, 1.

(13) V. Glos.

(14) I.e., it was mixed up with ordinary ‘common’ produce. The mixture now may be eaten only by priests and would have to be sold to the priest at a low price, so that the loss to the owner is considerable.

(15) In the special circumstances, because of the loss involved and the produce being demai (i.e., produce that had been bought from an ‘am ha-arez who was not trusted with regard to the separation of the tithes), the Rabbis permitted the owner to enquire of the seller about it and to rely upon his word if the seller assured him that he had separated the various dues. If this occurred on the Sabbath it would certainly be permitted to ask the seller about the produce and to rely upon his word, for the honour of the Sabbath (v. Dem. l.c.), but according to R. Simeon of Shezur this is permitted even on a weekday.

(16) Keth. 55a, and Hul. 75b.

(17) In which case they become subject to terumah and tithes from the moment they take root; v. R.H. 13b.

Talmud - Mas. Menachoth 31a

in connection with the ‘Chest’, for we have learnt:[1] A chest, say Beth Shammai, should be measured on the inside;[2] but Beth Hillel say, On the outside.[3] They agree, however, that the thickness of the legs and the thickness of the rim should not be included in the measurement. R. Jose says, They agree that the thickness of the legs and the thickness of the rim should be included, but that the space between them should not be included. R. Simeon of Shezur says, If the legs were a handbreadth high the space between them should not be included, but if less, it should be included in the measurement. R. Nahman b. Isaac said in connection with ‘Wine’, for we have learnt:[4] R. Meir says, Oil [when rendered unclean] is always unclean in the first degree.[5] The Sages say, Honey also. R. Simeon of Shezur says, Wine also. Are ‘we to infer that the first Tanna holds that it is not so with wine?[6] — Render: R. Simeon of Shezur says, [Only] wine.

It was taught: R. Simeon of Shezur related, Once my untithed produce got mixed up with tithed produce,[7] so I went and asked R. Tarfon about it and he advised me, Go and buy some [demai[8] produce] in the market and separate the tithes from it on behalf of the mixture too.[9] He[10] evidently was of the opinion that[11] the majority of ‘amme ha-arez[8] separate the tithes, so that in this case he would be taking the tithe from what is exempt [from the tithe by the law of the Torah] in respect of what is also exempt [by the Torah]. But why did he not advise him, Go and buy produce from a gentile?[12] — Because he holds that a gentile cannot own land in the land of Israel so fully as to release it from the obligation of tithe[13] so that he would be taking the tithe from what was subject [to tithe by the Torah] in respect of what was exempt.

Another version states: He advised him, Go and buy produce from a gentile. Evidently he was of the opinion that a gentile can own land so fully in the land of Israel as to release it from the obligation of tithe, so that in this case he would be taking the tithe from what is exempt [by the Torah] in respect of what is exempt too. And why did he not advise him, God and buy' [demai produce] in the market? — Because he holds that the majority of amme ha-arez do not separate the tithes.[14]

R. Yemar b. Shelemya sent the following question to R. Papa: Does the ruling of Rabin b. Hinena who cited 'Ulla in the name of R. Hanina, namely, that the halachah was in accordance with R. Simeon of Shezur; and moreover, that wherever R. Simeon of Shezur stated his view the halachah was in accordance with it, include that case where untithed produce got mixed up with tithed produce? He replied, It does. R. Ashi said, Mar Zutra told me that R. Hanina of Sura was puzzled at the question. It is obvious, said he;

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(1) Kel. XVIII, 1.

(2) To determine its capacity. If it can hold forty se'ahs liquid or two kors dry ware it is not susceptible to uncleanness, for it is no longer deemed to be a 'vessel'.

(3) I.e., the sides of the chest and the top and bottom are to be included in the measurement.

(4) Toh. III, 2.

(5) For with whatever grade of uncleanness a liquid came into contact, whether with a primary source of uncleanness or with what was unclean in the first or second degree, it will always be unclean in the first degree. Cf. Pes. 14b.

(6) Surely all agree that wine is a liquid and the above principle (v. prec. note) applies.

(7) And since the greater part of this mixture was tithed produce the whole is deemed by the law of the Torah to be tithed produce, and is not subject to any further tithe at all. It is, however, subject to tithe by Rabbinic law. The interpretation adopted here is the second given by Rashi, which is indeed preferred by him.

(8) V. Glos.

(9) Demai produce, too, is exempt from tithe by the law of the Torah (because we adopt the majority principle and the majority of 'amme ha-arez separate the tithes), but is subject to it only by Rabbinic law. It is therefore identical with the produce of the mixture.

(10) R. Tarfon.

(11) The words 'According to the law of the Torah a substance loses its identity when mixed in a larger quantity' found here in the text are omitted in all MSS., and are struck out here by Sh. Mek.

(12) Produce grown in a field belonging to a gentile is, it is assumed for the present, exempt by the law of the Torah from the tithe, but is subject to it only 'by Rabbinic law.

(13) The produce of his field is therefore subject to the tithe by the law of the Torah.

(14) So he would then be taking the tithe from what was subject to tithe by the law of the Torah in respect of what was exempt by the law of the Torah

Talmud - Mas. Menachoth 31b

for does it say 'Wherever he stated his view in the Mishnah'? It simply says, 'Wherever he stated his view'.

R. Ze'ira said in the name of R. Hananel who said it in the name of Rab, If a rent [in a scroll of the Law] extended into two lines [of the script] it may be sown together; but if into three lines it may not be sewn together.[1] Rabbah the younger said to R. Ashi, Thus said R. Jeremiah of Difti in the name of Raba: The rule that we have laid down, namely, that if it extended into three lines it may not be sewn together, applies only to old scrolls; but in the case of new scrolls it would not matter.[2] Moreover 'old' does not mean actually old, nor 'new' actually new, but the one means prepared with gall-nut juice[3] and the other means not so prepared. It is [permitted to sew it] only with sinews but not with thread.

R. Judah b. Abba raised the question: How is it if [the rent extended] between the columns[4] or between one line and another? — This remains unanswered.

R. Ze'iri said in the name of R. Hananel who cited it in the name of Rab, If a mezuzah[5] was written in lines consisting of two words each it is valid. The question was raised: How is it if the first line consisted of two words, the second of three, and the third of one word?[6] — R. Nahman b. Isaac answered, Certainly [it is valid], for it has merely been written like the song.[7] An objection was raised: If he wrote it like the song or the song like it, it is invalid! — That was taught in connection with a scroll of the Law.

It has also been reported: Rabbah b. Bar Hanah said in the name of R. Johanan (others say: R. Aha b. Bar Hanah said in the name of R. Johanan), If the mezuzah was written [in lines of unequal length consisting of] two words, three words, and one word, it is valid, provided it was not in the form of a tent, nor tail-like.[8]

R. Hisda said, The words, ‘above the earth’[9] must be [alone] in the last line. Some say [they must be written] at the end of the line, others say at the beginning. ‘Some say, at the end of the line’, for it is written, As the heaven is high above the earth.[10] ‘Others say, at the beginning’, as the heaven is far from the earth.[11]

R. Helbo said, I have seen R. Huna rolling up the mezuzah beginning at ‘one’ and finishing at ‘hear’;[12] moreover, he left [the space between] the sections closed.[13] An objection was raised: R. Simeon b. Eleazar said, R. Meir used to write [the mezuzah] on duksustus,[14] in the form of a column,

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(1) But the whole sheet of parchment must be removed.

(2) And no matter how far the rent extended, it may be sewn together again.

(3) In that case even though old it is strong, and will withstand any rent, and therefore it may be sewn together again. This is the interpretation according to Alfasi, Hil. Sef. Tor., and Maim. Yad, Sef. Tor. IX, 15. Rashi explains: if treated with gall-nut juice it becomes darkened and is at once regarded as old. A very difficult explanation.

(4) I.e., to such an extent that had it been in a column it would have gone beyond three lines of script. The question is whether it may be sewn together or not.

(5) V. Glos.

(6) The lines were of unequal length thus: **

(7) Sc. the song of Moses, Ex. XV. In the first column of the song the lines are of unequal length, v. Meg. 16b.

(8) The words in the consecutive lines must not increase in a regular order, that is, like a tent, narrow above and wide below thus: ** nor decrease in a regular order, that is, tapering off like a tail thus: ** V. Sh. Mek. notes 5 and 6.

(9) Deut. XI, 22; the last words in the mezuzah.

(10) Ps. CIII, 11. The penultimate line in the mezuzah ends with ‘the heaven’, so that if ‘above the earth’ were written at the end of the last line it would be seen that ‘the heaven’ is directly above ‘the earth’, in conformity with the expression in Psalms.

(11) And the furthest distance between these words is obtained by placing ‘the heaven’ at the end of the penultimate line and ‘the earth’ at the beginning of the last line.

(12) The opening line of the mezuzah is: Hear, O Israel: the Lord our God, the Lord is One (Deut. VI, 4): and as Heb. is written from right to left, it is clear therefore that R. Huna used to roll up the mezuzah beginning at the left with the word ‘one’ and finishing at the right with the word ‘hear’.

(13) I.e., he began the second passage in the mezuzah on the same line as that on which the first passage ended, allowing only a short blank space between the two passages.

(14) דוכסוסטוס. In making parchment it was the usual practice to split the thickness of the skin and divide it into two sheets, each sheet being treated and prepared. The parchment made from the inner sheet, i.e., the side next to the flesh of the animal, was regarded as the best quality (this was known as קלף, and that made from the outer sheet, i.e., the side next to the hair, was an inferior quality (this was known as דוכסוסטוס).

leaving a space above and a space below, and leaving [the space between] the sections open.[1] And I said to him, Master, what is the reason for this? And he answered, Because [the portions] are not close to each other in the Torah.[2] And R. Hananel said in the name of Rab that the halachah follows R. Simeon b. Eleazar. Now presumably [the halachah referred to the ruling] of leaving [the space between] the sections open? — No, it referred to the ruling of leaving a space [above and below]. And how much space must there be? — R. Menashya b. Jacob (others say: R. Samuel b. Jacob) said, The space taken up by the clasps of the scribes.[3]

Said Abaye to R. Joseph, And do you not hold that Rab's statement [of the halachah] referred to the leaving of the space [above and below]? But is it not the fact that Rab usually relies upon the practice of people, and the general practice is to leave [the space between] the sections closed?[4] For Rabbah said in the name of R. Kahana who had it from Rab, If Elijah were to come and say that halizah[5] may be performed with a covered shoe, he would be obeyed; [were he, however, to say] that halizah may not be performed with a sandal, he would not be obeyed, for the people have long ago adopted the practice [of performing it] with a sandal. R. Joseph, however, reported in the name of R. Kahana who had it from Rab, If Elijah were to come and say that halizah may not be performed with a covered shoe, he would be obeyed; [were he, however, to say] that halizah may not be performed with a sandal, he would not be obeyed, for the people have long ago adopted the practice [of performing it] with a sandal. And it was asked, What is the difference between them? And it was suggested that the practical difference between them was as to whether a covered shoe may be used in the first instance![6] — We must say therefore [that Rab's statement of the halachah referred] to the leaving of the space;[7] this proves it.

R. Nahman b. Isaac said, The precept is to leave [the space between the sections] closed, nevertheless if it was left open it is valid; for when R. Simeon b. Eleazar spoke of ‘leaving the space between the sections open’, he meant, even open.

Shall we say that the following supports his view? For it was taught:[8] Similarly, if scrolls of the Law or tefillin had worn out, one may not make out of them a mezuzah, for one may not bring down what is of a higher sanctity to a lower sanctity.[9] Now it follows that if it were permitted to bring down to a lower sanctity one would be allowed to make [a mezuzah out of tefillin or a scroll of the Law]; but how is this possible? Here the portions are closed but there they are open![10] — Perhaps [it would have been permitted] only to complete[11] [the mezuzah].

And if it were permitted to bring down what is of a higher sanctity to a lower sanctity, [you say that] one would be allowed to make [a mezuzah out of tefillin]? But it has been taught:[12] It is a law handed to Moses at Sinai that the [Scriptural portions in the] tefillin must be written on kelaf[13] and the mezuzah on duksustus.[13] Kelaf is the side [of the skin] next to the flesh, and duksustus is the side next to the hair![13] — This is only a recommendation. But it was taught: If one did otherwise, it is invalid! — That refers only to the tefillin. But it was taught that if one did otherwise in either case, it is invalid![14] — The two cases refer to the tefillin only, but in the one case he wrote the portions on that side of kelaf nearest to the hair, and in the other case

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(1) I.e., the second passage is begun on a fresh line, leaving blank the rest of the line in which the first passage ended.

(2) The two passages of the mezuzah are not consecutive in the Torah, the one comes from Deut. VI, 4-9 and the other from XI, 13-21. The second passage is therefore to be begun on a separate line.

(3) Clasps were used by scribes to prevent the sheets of parchment from rolling up.

(4) Accordingly Rab would certainly not have ruled that the space between the sections must be left open which is contrary to the general practice. Hence his ruling could only refer to the space to be left above and below.

(5) חליצה lit., ‘drawing off’ sc. the shoe; v. Deut. XXV, 5-9. The adopted practice was for the widow to take off a sandal from the foot of her brother-in-law. There was some doubt, however, whether the ceremony may be performed with a covered shoe instead of a sandal. Cf. Yeb. 102a.

(6) According to Rabbah's version it is not right nowadays to use a covered shoe for this ceremony in the first instance when a sandal is available, until there has been a definite ruling by Elijah that it is permitted. On the other hand, according to R. Joseph's version a covered shoe may be used nowadays even though a sandal is available, until we have a ruling to the contrary. It is thus evident that Rab relies upon the practice of the people.

(7) But on the question as to whether the space between the sections is to be left open or closed, Rab as usual follows the general practice, which is that it is to be closed.

(8) Shab. 79b.

(9) The mezuzah is deemed to be of a lesser sanctity since it contains only two Scriptural portions, whereas the tefillin contain four.

(10) For in the scroll of the Law the space after the שמע (i.e., Deut. VI, 4-9, the first passage in the mezuzah) is closed, and in the mezuzah it is to be left open. We must therefore say that R. Simeon b. Eleazar meant that it may even be left open, thus supporting R. Nahman's view!

(11) I.e., if a word or a line was missing in the mezuzah it would be permitted to patch it up with the same word or the same line cut out from the worn out scroll of the Law or from the tefillin, were it not for the general restriction against lowering the sanctity of a sacred object. But the space between the sections of the mezuzah must in fact be left open.

(12) Shab. 79b.

(13) V. supra p. 202, n. 5.

(14) Presumably the expression ‘in either case’ refers to the tefillin and the mezuzah, and we are here taught that any variation, e.g., writing the mezuzah on kelaf or the tefillin on duksustus, renders them invalid.

Talmud - Mas. Menachoth 32b

he wrote them on that side of duksustus nearest to the flesh.[1] Alternatively I can say that the ruling, ‘If one did otherwise in either case[2] [it is invalid]’, is dependent upon Tannaim. For it was taught: If one did otherwise in either case,[2] it is invalid; R. Ahai declares it valid on the authority of R. Ahai b. R. Hanina (others say, On the authority of R. Jacob b. R. Hanina).

Again, if it were permitted to bring down what is of a higher sanctity to a lower sanctity, [you say that] one would be allowed to make [a mezuzah out of tefillin]? But it must be written on ruled lines![3] For R. Minyomi b. Hilkiah said in the name of R. Hama b. Goria who said it in the name of Rab, A mezuzah that is not written on ruled lines is invalid. Moreover, R. Minyomi b. Hilkiah on his own authority said that [the rule for writing] the mezuzah on ruled lines is a law handed to Moses at Sinai! — Tannaim differ on this point, for it was taught: R. Jeremiah said in the name of our Master:[4] Tefillin and mezuzoth may be written from memory[5] and need not be written on ruled lines. The halachah[6] is: Tefillin need not be written on ruled lines, the mezuzah must be written on ruled lines, and both may be written from memory. What is the reason? — They are well known by heart.

R. Helbo said, I once saw R. Huna when he wished to sit down on a couch upon which lay a scroll of the Law, invert a vessel on the ground, place the scroll upon it, and then sit on the couch. For he was of the opinion that it was forbidden to sit on a couch upon which lay a scroll of the Law. This is at variance with the opinion of Rabbah b. Bar Hanah; for Rabbah b. Bar Hanah said in the name of R. Johanan, It is permitted to sit on a bed upon which lies a scroll of the Law. And if someone should whisper in your ear [seeking to contradict you] saying, It is related of R. Eleazar that once, while sitting on his bed, he remembered that a scroll of the Law lay on it, whereupon he slipped off and sat upon the ground, and it appeared as though he had been bitten by a serpent, [answer him that] there the scroll of the Law was actually lying upon the ground.[7]

Rab Judah said in the name of Samuel, If one wrote it[8] like a letter,[9] it is invalid. Why? — Because of the inference that is made by the expression ‘writing’, which is used here [in connection with the mezuzah] and also there in connection with the scroll.[10]

Rab Judah also said in the name of Samuel, If one hung it on a stick,[11] it is invalid. Why? Because it must be upon thy gates.[12] A Baraitha has also been taught to this effect: If one hung it on a stick, or attached it [to the wall] behind the door, it is a danger[13] and it is no fulfilment of the precept. The household of King Monobaz used to do so when staying at a hostel,[14] merely in remembrance of the mezuzah.

Rab Judah further said in the name of Samuel, The precept is to fix it within the space of the door.[15] Is not this obvious? Does not the Divine Law say, And upon thy gates?[16] — I might have thought that, since Raba stated that the [proper performance of the] precept is to fix it

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(1) And in either case it is invalid, for the Scriptural portions of the tefillin must be written only on the internal side of kelaf, i.e., the side nearest to the flesh, and any variation would render invalid. On the other hand the mezuzah may be written on any kind of parchment, kelaf or duksustus.

(2) I.e., both as regards the tefillin and the mezuzah.

(3) Whereas the Scriptural portions of the tefillin are not written on ruled lines, so that the portions of the tefillin cannot serve for the mezuzah.

(4) Rabbi(?)

(5) Lit., ‘not from the writing’; i.e., without a copy.

(6) I.e., the law which was given to Moses at Sinai; so Rashi Meg. 18b.

(7) And as an expression of his sorrow for the Scroll that was lying on the ground R. Eleazar also sat down on the ground. Had it, however, been on the bed, he would not have objected to anyone sitting on the same bed.

(8) Sc. the mezuzah. And so throughout this passage.

(9) I.e., it was written without having ruled the lines beforehand and without special care as to the spelling of the words (Rashi).

(10) In connection with the mezuzah it is written (Deut. VI,9): And thou shalt write them, and in connection with the Book of the Law it is written (Ex. XVII, 14): Write this for a memorial in the book; as the latter must be written with accuracy as to spelling and upon ruled lines, so the mezuzah too must be written with accuracy and upon ruled lines. Rashi also suggests the inference from the writing of’ a divorce (lit., ‘a book of divorcement, v. Deut. XXIV, 1), which must also be written with accuracy; but see Tosaf. s.v. כתבה.

(11) I.e., a stick was fastened to the door-post and the mezuzah was hung on the stick.

(12) Deut. VI, 9. It must be upon the actual door-post.

(13) For one might easily knock against it (Tosaf.).

(14) Since there is no obligation to affix mezuzoth to a temporary abode.

(15) I.e., upon that side of the door-post which faces the door but not upon the side which faces the street or the house within.

(16) Deut. VI, 9. It must be fixed on the side where the door shuts, which is on the inside of the framework of the door-post.

Talmud - Mas. Menachoth 33a

in the handbreadth nearest to the street, the further it is from the house the better, he therefore teaches us [that it is not so].

Rab Judah further said in the name of Samuel, If one wrote it on two sheets,[1] it is invalid. An objection was raised: It was taught: If one wrote it on two sheets and fixed it on the two door-posts, it is invalid. It follows, however, that if it was placed on one doorpost it is valid![2] — [The Baraitha] meant that it could be placed on two door-posts.[3]

Rab Judah further said in the name of Samuel, In the law of mezuzah one must be guided by the conclusiveness of the hinge. What is meant by ‘the hinge’? — R. Adda said, The sockets [for the pin of the hinge]. In what circumstances?[4] — For example, where there is a door between two houses, one house being for men and the other for women.[5]

The Exilarch once built a house and said to R. Nahman, ‘Fix the mezuzoth for me’; whereupon R. Nahman replied, ‘First put the door[-posts] in their places’.[6]

Rab Judah said in the name of Rab, If one fixed it in the manner of a bolt,[7] it is invalid. But this cannot be, for when R. Isaac b. Joseph came [from Palestine] he reported that all the mezuzoth in Rabbi's house were fixed in the manner of a bolt, and also that the door through which Rabbi used to enter the House of Study had no mezuzah! — This is no contradiction, for in the one case it was attached horizontally,[8] in the other it was bent at a right angle.[9] But this[10] too cannot be, for the door through which R. Huna used to enter the House of Study had a mezuzah! — That [door] was used more frequently [than the others]. And Rab Judah has said in the name of Rab that in the law of mezuzah one must decide upon the [door] most frequently used.[11]

R. Zera said in the name of R. Mattena who said it in the name of Samuel, The proper performance of the precept is to fix it at the beginning of the upper third of the door-post. But R. Huna said, It must be raised one handbreadth from the ground and it must be one handbreadth away from the lintel, otherwise the whole of the door-post is valid for the mezuzah. An objection was raised: It must be raised one handbreadth from the ground and it must be one handbreadth away from the lintel, otherwise the whole of the door-post is valid for the mezuzah. So R. Judah. R. Jose says, It is written, And thou shalt bind them,[12] and And thou shalt write them:[13] as the binding [of the tefillin] is high up,[14] so the writing must be placed high up.[15] Now according to R. Huna this is well, for he agrees with R. Judah; but with whom does Samuel agree? Neither with R. Judah nor with R. Jose! — R. Huna the son of R. Nathan answered, Indeed he agrees with R. Jose,

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(1) So Tosaf. and Asheri. According to Rashi: ‘in two columns’.

(2) Even though written on two sheets; contra Rab Judah.

(3) In the Baraitha cited, the two sheets were actually placed on one door-post, but it could have been placed on the two door-posts since there were separate sheets; thus it is in accordance with Rab Judah.

(4) Is one to be guided by the conclusiveness of the hinge.

(5) The mezuzah must be affixed to the right door-post as one enters the house; in this case, however, where one door communicates between two houses, whilst each house has its own door leading into the street, it is difficult to establish which house leads into the other, and on which door-post of this door is the mezuzah to be fixed. We are therefore taught the following test: that side of the door where the sockets for the door-pin are placed is considered to be the inside. Accordingly the mezuzah must be affixed to the right door-post as one enters that house on the inside of which the sockets are found.

(6) For only then arises the duty to fix the mezuzah.

(7) I.e., horizontally.

(8) In which case it is invalid.

(9) I.e., partly horizontal and partly vertical; like the thigh and the leg which form a right angle at the knee when sitting. In this case it is valid.

(10) The report that the door through which Rabbi used to enter the House of Study had no mezuzah.

(11) I.e., in a room which has more than one door the mezuzah must be affixed to that door which is most frequently used.

(12) Deut. VI, 8.

(13) Ibid. 9.

(14) At the top of the head; v. infra 37a.

(15) At the top of the door-post, close to the lintel.

Talmud - Mas. Menachoth 33b

for by ‘the beginning of the upper third’ he meant that as the furthest point, for one should not fix it lower than a third of the door-post away from the lintel.

Raba said, The proper performance of the precept is to fix it in the handbreadth nearest to the street. Why? — The Rabbis say, So that one should encounter a precept immediately [on one's return home]; R. Hanina of Sura says, So that it should protect the entire house.

R. Hanina said, Come and see how the character of the Holy One, blessed be He, differs from that [of men] of flesh and blood. According to human standards, the king dwells within, and his servants keep guard on him from without; but with the Holy One, blessed be He, it is not so, for it is His servants that dwell within and He keeps guard over them from without; as it is said, The Lord is thy keeper; the Lord is thy shade upon thy right hand.[1]

R. Joseph the son of Raba stated in his discourse in the name of Raba, If one set it deep in the door-post, to the depth of a handbreadth, it is invalid. Shall we say that the following Baraitha supports him? For it was taught: If one set it in the post [of the door] or if one added another frame,[2] and there was the depth of a handbreadth,[3] another mezuzah is necessary, but if less, no other mezuzah is necessary! — That [first clause of the Baraitha] refers to a door behind a door.[4] But this is expressly stated further on, [thus,] If there was a door behind a door and there was a depth of a handbreadth, another mezuzah is necessary, but if less, no other mezuzah is necessary! — This is merely stated as illustrating [the cases mentioned].

A Tanna taught: If a man set up a door-frame of [hollow] reeds, he may cut away a length of reed and place [the mezuzah in the hollow]. R. Aha the son of Raba said, This was taught only if he first set up the door-frame and then cut away a length of reed and placed [the mezuzah] therein; but if he first cut away a length [of the reed] and placed therein [the mezuzah] and then set up [the whole as a door-frame], it is invalid, because of the principle ‘Thou shalt make, but not [use] what is ready made’.[5]

Raba also said, Faulty[6] doors are exempt from mezuzah. What is meant by ‘faulty doors’? — In this R. Rehumai and Abba Jose differ; one says, Those that have no upper beam;[7] and the other says, Those that have no side-posts.[8]

R. Hisda said, An exedra[9] is exempt from mezuzah, since it has no door-posts. It follows, however, that if it had door-posts it would require a mezuzah, but surely [the posts] were made only as supports for the ceiling! — He meant to say this: even though it has door-posts it is exempt, for they were made only as supports for the ceiling. Abaye said, I have seen that the halls in the Master's house, although they have posts, have no mezuzoth. Obviously he was of the opinion that they serve only as supports for the ceiling. An objection was raised: A lodge,[10] an exedra, and a balcony, each requires a mezuzah! — The reference here is to the exedra of a school-house.[11] But the exedra of a school-house is a proper room, is it not? — We must say that the reference is to a Roman exedra.[12]

Rehabah said in the name of Rab Judah, An entrance-lodge requires two mezuzoth. What is meant by ‘an entrance-lodge’? — R. Papa the Elder said in the name of Rab, It is a lodge, with one door opening on to the courtyard and another leading to the dwelling-houses.

Our Rabbis taught: A lodge which leads into a garden and thence into an outhouse[13] is, according to R. Jose, considered as the outhouse.[14] But the Sages say, It is considered as the air space[15] [of the garden]. Rab and Samuel both said, If the door opens from the garden into the house,[16] there is no dispute at all that it requires a mezuzah, since it clearly admits into the house; they differ only where the door opens from the house into the garden,[17] the one maintaining that the outhouse is the main thing,[18] the other that the garden is the main thing.[19] But Rabbah and R. Joseph both said, If the door opens from the house into the garden[20] there is no dispute at all that it is exempt, since it is clearly the door for the garden; they differ only where the door opens from the garden into the house, the one maintaining that it serves for entering into the house,[21] the other that it was entirely

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(1) Ps. CXXI, 5. The mezuzah which is upon thy right hand protects the house.

(2) To the existing door-frame upon which there was already fixed a mezuzah.

(3) In the first clause, presumably this means that it was set in deep in the post to the depth of a handbreadth, and in the second clause this means that the thickness of the new frame was a handbreadth, so that the mezuzah on the original frame is now sunken in to the depth of a handbreadth.

(4) The post referred to in the first clause of the Baraitha was a post that served as the right door-post for two doors. Thus, through the first door one entered the house, and at right angles to this door and hard by it on the right there opened another door through which one entered into an inner room. If the thickness of this door-post was a handbreadth or more, then two mezuzoth are necessary, but if less, then one mezuzah serves for both doors. Similarly the framework spoken of in the second clause of the Baraitha refers also to this post, thus a jamb was added on each side of this door-post making the thickness of the whole more than a handbreadth. Another explanation is that the Baraitha refers to a small door that is made in a large door; if the width from the right edge of the small door to the right edge of the large door is a handbreadth or more, then each door requires a mezuzah; but if less, one mezuzah (i.e., the one on the doorpost of the large door) serves for both doors.

(5) The principle stated here, which is derived from the law of sukkah (v. Deut. XVI, 13) and of zizith (v. ibid. XXII, 12), where in both texts the expression ‘thou shalt make’ is used, is that one's duty is fulfilled only when the precept has been performed after the obligation for its performance has fallen due. In this case, however, the mezuzah was fixed to the door-post before the latter had been set in position and then there was no obligation for a mezuzah; therefore when later it is set in position the mezuzah is ‘ready made’ and cannot serve the purpose.

(6) ‘Semitic doors’ (R. Han. in Tosaf. ‘Erub. 11a, s.v. פתחי).

(7) Or ‘doors to a room which has no ceiling’. But v. Tosaf. a.l.

(8) Or ‘lintels’.

(9) A hall, closed on three sides and open on the fourth.

(10) The watchman's lodge at the entrance of a house.

(11) A hall having four walls but which do not reach to the roof.

(12) Which had sides only a few feet high and the rest of each side was made up of lattice-windows.

(13) Thus: Fig. 1 Fig. 2 The dispute is concerning that door which leads from the lodge into the garden.

(14) And requires a mezuzah.

(15) And does not require a mezuzah. This reading ‘as the air space’ is obviously the correct one and is supported by MSS. and Sh. Mek. Cur. edd. read ‘as the lodge’, which gives no sensible meaning.

(16) In the ensuing argument ‘house’, בית, stands for בית שער, the lodge; cf. Alfasi and Asheri, where the word בית is used at the beginning of the passage too. The interpretation as preferred by Rashi is as follows: if the hinges of the door in question are on the inside, so that the door opens inside (v. Fig. 1), this is conclusive evidence that the door belongs primarily to the lodge (v. supra p. 207), and therefore it requires a mezuzah. V. Rashi for other interpretations of this uncertain passage.

(17) I.e., the hinges are on the outside, so that the door opens outside into the garden (v. Fig. 2).

(18) This is R. Jose's view. He holds that the purpose of this door is not so much for the garden as for the outhouse which can be reached only through this door; and as the outhouse requires a mezuzah so does this door too require a mezuzah.

(19) The Sages’ view. It is therefore exempt from the mezuzah.

(20) V. p. 211, n. 8.

(21) Sc. the lodge. This is R. Jose's view.

Talmud - Mas. Menachoth 34a

made for the sake of the garden. Abaye and Raba decided in accordance with the views of Rabbah and R. Joseph, whilst R. Ashi decided in accordance with the views of Rab and Samuel, adopting the stricter ruling.[1] And the law is in accordance with the views of Rab and Samuel, adopting the stricter ruling.

It was stated: As for a staircase which leads from one room to an upper room,[2] R. Huna said, If it has but one door, it requires one mezuzah only, but if it has two doors, it requires two mezuzoth. R. Papa said, One can learn from R. Huna's dictum that a room that has four doors requires four mezuzoth. Is not this obvious? — It was necessary to be stated even though one [door] was mostly used.[3]

Amemar said, A door which is in the corner[4] requires a mezuzah. Thereupon R. Ashi said to Amemar, But it has no posts! — He replied, Here are its posts.[5]

R. Papa once came to Mar Samuel's house and saw there a door which had only one door-post, and that on the left side, to which was affixed a mezuzah. He said, Apparently this is in accord with R. Meir,[6] but might not R. Meir have said so only when [the post was] on the right side; did he say so when it was on the left side? What is [your authority for] this?[7] — It was taught: [Upon the doorposts of] thy house:[8] that is, upon the right side as you enter. You say, the right side, but perhaps it is not that but the left side? The verse therefore says, ‘Thy house’. How is this derived [from the verse]? Rabbah explained, ‘As you enter’ implies the right side, for when a man steps [into his house] he steps in with his right foot first. R. Samuel b. Aha quoting Raba b. ‘Ulla derived it in the presence of R. Papa from the following verse: And Jehoiada the priest took a chest, and bored a hole in the lid of it, and set it beside the altar, on the right side as one cometh into the house of the Lord; and the priests that kept the threshold put therein all the money that was brought into the house of the Lord.[9]

What is this view of R. Meir? — It was taught: A house that has only one door-post requires a mezuzah according to R. Meir; but the Sages exempt it. What is the reason for the Sages’ view? — Because it is written The door-posts.[10] And what is the reason for R. Meir's view? — It was taught: It is written ‘The door-posts’, and I know that the minimum of ‘door-posts’ is two; since, however, in the second portion[11] the verse also says the doorposts,[12] which is unnecessary, we have then an inclusive term following another inclusive term, and whenever an inclusive term follows another inclusive term its effect is to restrict;[13] Scripture has thus brought down the law to one door-post.[14] This is the argument of R. Ishmael. R. Akiba says, This is unnecessary; for it is written, Upon the lintel and on the two side-posts.[15] Now there was no need for Scripture to say. ‘two’; what then does it mean by ‘two’? It lays down the principle that wherever’ ‘door-posts’ are mentioned only one is meant unless the verse expressly says ‘two’.

Our Rabbis taught: It is written, And thou shalt write them.[16] It is possible to think that this means that one should write [the portion] upon the stones [of the house], therefore it uses the expression ‘writing’ here and the expression ‘writing’ there,[17] and as in the latter case it means upon a scroll so here it means upon a scroll. Or perhaps argue this way: it uses the expression ‘writing’ here and the expression ‘writing’ there,[18] as there it means upon the stones so here it means upon the stones. Let us then see to which [of the two] is this case most similar. We may infer the ‘writing’ which is intended as a precept for all times from the ‘writing’ which is also intended as a precept for all times, but we may not infer the ‘writing’ which is intended as a precept for all times from the ‘writing’ which is not intended as a precept for all times.[19] And [it[20] must be written with ink] as it says elsewhere, Then Baruch answered them, He pronounced all these words unto me with his mouth, and I wrote them with ink in the book.[21]

R. Aha the son of Raba said to R. Ashi, But the Divine Law says upon the door-posts,[22] and you say we must infer the ‘writing’ here from the ‘writing’ there [that it shall be written on a scroll]! [He replied,] The verse says, ‘And thou shalt write them’, which implies a perfect writing,[23] and then [place it] upon the door-posts. But since then it is written, ‘And thou shalt write them’,[24] wherefore do I need the analogy of the common expressions? — Without the analogy I should have said that one must write it upon a stone[25] and set it up upon the threshold [as the door-post], it therefore teaches us otherwise.

OF THE FOUR PORTIONS OF SCRIPTURE IN THE TEFILLIN, THE [ABSENCE OF] ONE INVALIDATES THE OTHERS; INDEED EVEN ONE [IMPERFECT] LETTER CAN INVALIDATE THE WHOLE. Is not this obvious?[26] — Rab Judah answered in the name of Rab, The law had to be taught in respect of the tittle of the letter yod. And is not this, too, obvious? — It was necessary to be taught in respect of the other statement of Rab Judah; for Rab Judah said in the name of Rab, Any letter that is not surrounded on all four sides by a margin of parchment is invalid.

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(1) I.e., accepting R. Jose's ruling. So that in all the circumstances stated a mezuzah is necessary.

(2) It was usual to place a door at the foot of the staircase or at the top so as to afford privacy to the tenants of the upper and lower floors. Sometimes a door was placed both at the foot and at the top of the staircase.

(3) All four doors, nevertheless, must be provided with mezuzoth.

(4) I.e., the door was placed in a corner of the room at an angle to each of the adjoining walls (see drawing). According to Asheri the meaning is that the whole of one wall was taken up by the door.

(5) The extremities of the two walls to which the door is attached form the door-posts.

(6) Who holds that a door which has only one door-post must, nevertheless, have a mezuzah.

(7) That the right side only was meant.

(8) Deut. VI, 9. Heb. ביתך ‘thy house’ is interpreted as ביאתך ‘thy entering’.

(9) II Kings XII, 10. Hence whatever is to be placed at the entrance of a house must be placed on the right side.

(10) Deut. ibid. The use of the plural implies a minimum of two.

(11) Inscribed in the mezuzah.

(12) Ibid. XI, 20.

(13) For here each expression by itself indicates plurality, and since it is repeated Scripture thereby intimates that the condition of plurality is no longer essential.

(14) That a door which has only one door-post requires a mezuzah.

(15) Ex. XII, 23.

(16) Deut. VI, 9.

(17) In the law of a bill of divorce; cf. ibid. XXIV, 1. So Rashi; Tosaf. suggest that the reference is to the scroll used in the case of a woman suspected of adultery, cf. Num. V, 23, or to the Book of the Law written by the king, cf. Deut. XVII, 18.

(18) With reference to the memorial of stones to be set up by the Israelites when they cross the Jordan, and upon which are to be written all the words of the law; cf. ibid. XXVII, 3ff.,

(19) The engraving upon the stones was an ordinance for that time only.

(20) The mezuzah as well as the bill of divorce and the other cases mentioned above in n. 3.

(21) Jer. XXXVI, 18.

(22) I.e., actually written upon the wood.

(23) The Heb. וכתבתם ‘and thou shalt write them’, is interpreted as though divided into two words: וכתב תם meaning, a perfect writing; and this is the case only when writing is applied with ink upon a scroll, for any writing with ink upon wood or stones would be imperfect and indistinct.

(24) Signifying that the writing must be upon a scroll.

(25) I.e., one must carve the words upon a stone, which would also be a perfect and distinct writing.

(26) V. supra 29a for this identical passage, p. 189 and the notes thereon.

Talmud - Mas. Menachoth 34b

Our Rabbis taught: It is written, Letotefeth, letotefeth, and letotafoth,[1] making four in all.[2] So R. Ishmael. R. Akiba says, There is no need of that interpretation, for ‘tot’ means two in Katpi[3] and ‘foth’ means two in Afriki.[4]

Our Rabbis taught: I might have said that one should write [the Scriptural portions] upon four pieces of parchment and put them in four compartments made out of four pieces of leather; the verse therefore says, And for a memorial between thine eyes:[5] one memorial I commanded you, but not two or three memorials. How then should one do? One should write them upon four pieces of parchment and put them in four compartments made out of one piece of leather.[6] If, however, one wrote them upon one parchment and put them in the four compartments,[7] that is sufficient. There must be a blank space between each [portion]. So Rabbi; but the Sages say, This is not necessary. They agree, however, that between each there must be a line or a thread.[8] And if the divisions [between the compartments] were not noticeable,[9] they are invalid.

Our Rabbis taught: How must one write them? The portions for the hand-tefillah[10] one should write upon one piece of parchment; if one wrote them upon four pieces of parchment and put them in one compartment that is still valid. They must, however, be fastened together,[11] for it is written, And it shall be for a sign unto thee upon thy hand[12] and as outside it is one sign, so inside, too, it must be one sign. This is the opinion of R. Judah. But R. Jose says, This is not necessary.[13] Moreover, said R. Jose, R. Judah Berabbi[14] concedes to me that if a man has no hand-tefillah but has two head-tefillahs, he may cover up one of them with a skin and place it [on his arm]. ‘Concede’, [you say,] but that is the very issue between them![15] — Raba answered, R. Jose's statement proves that R. Judah withdrew his opinion. Surely this cannot be, for R. Haninah sent [from Palestine] the following ruling in the name of R. Johanan: The hand-tefillah may be converted for use on the head but the head-tefillah may not be converted for use on the arm, for one may not bring down what is of a higher sanctity to a lower sanctity![16] — This is no difficulty, for one [ruling] refers to an old one[17] and the other to a new one.[18] And according to him who maintains that the mere designation [of a thing for a certain purpose] has a certain force,[19] [we must say that the owner] had made a reservation with regard to it from the very outset.[20]

Our Rabbis taught: What is the order [of the four Scriptural portions in the head-tefillah]? ‘Sanctify unto Me’[21] and ‘And it shall be when the Lord shall bring thee’[22] are on the right, while ‘Hear’[23] and ‘And it shall come to pass if ye shall hearken diligently’[24] are on the left. But there has been taught just the reverse? — Abaye said, This is no contradiction, for in the one case[25] the reference is to the right of the reader,[26] whereas in the other it is to the right of the one that wears them; the reader thus reads them[27] according to their order.[28]

R. Hananel said in the name of Rab, If a man reversed the order of the Scriptural portions, it is invalid. Abaye said, This is so

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(1) The word לטטפת (frontlets, i.e., the tefillin) occurs three times in the Torah, twice (Deut. VI, 8 and XI, 18) defectively written, לטטפת so that in each instance the word might be read in the singular, and once (Ex. XIII, 16) written plene, לטטפות, which indicates the plural number,’ thus making a total of four. It must be noted that this Talmudic statement does not agree with the Masoretic text, for לטטפות, written plene, is not to be found at all in our versions. V. Tosaf. s.v.לטטפת.

(2) Hence the rule that the tefillin worn on the head must be composed of four compartments, each containing a specified portion of Scripture.

(3) perhaps the Coptic language.

(4) The language of N. Africa.

(5) Ex. XIII, 9.

(6) This was constructed with the aid of a mould or frame over which the hide, flexible and moist, was tautly stretched and allowed to harden, thus assuming the required form.

(7) The four portions were written upon one long strip of parchment with large blank spaces between one portion and the other, and the parchment was so placed in the compartments that each portion occupied a separate compartment, and the blank spaces of the parchment corresponded with the spaces between the compartments.

(8) I.e., although the Sages do not insist upon the leaving of a blank space between one portion and the other, they nevertheless concede to Rabbi that each portion must be separated and marked off from the others at least by a thread.

Others explain: even when the four portions are in four separate compartments, each portion must be tied up with a thread. V. Sh. Mek. n. 4.

(9) Although consisting of four compartments they were so firmly united that the divisions were no longer noticeable from the outside.

(10) I.e., the tefillah (sing. of tefillin) that is put on the arm.

(11) Into one piece, either sewn together or joined together with glue.

(12) Ex. XIII, 9.

(13) Sc. to join the pieces of parchment into one.

(14) 'The eminent scholar' (Rashi). V. Nazir (Sonc. ed.) p. 64, n. 1.

(15) R. Judah maintaining that the hand-tefillah must be one inside as it is outside.

(16) The head-tefillah is deemed to be of a higher sanctity than that worn on the arm, since the former bears upon it two letters of the Name שדי 'Almighty', whereas the hand-tefillah bears only the last letter of this name; cf. infra 35b. In view of this ruling, then, how can it be said that both R. Judah and R. Jose agree that the head-tefillah may be converted for use upon the hand merely by covering it with a piece of leather?

(17) I.e., the head-tefillah had already been worn on the head, in which case its sanctity may not be lowered by converting it for use upon the arm.

(18) The tefillah had been made as a head-tefillah and also designated for that purpose but had not yet been worn; in that case it may be converted for use on the arm.

(19) V. Sanh. 47b, Meg. 26b, and Ber. 23b. The fact that it was intended to be used as a head-tefillah will debar it from being used upon the arm.

(20) Namely, that if he should require it for use as a hand-tefillah he will convert it to that use.

(21) Ex. XIII, 1-10.

(22) Ibid. 11-16.

(23) Deut. VI, 4-9.

(24) Ibid. XI, 13-21.

(25) In the first Baraitha.

(26) I.e., the person facing the one that wears the tefillin.

(27) When reading the portions from right to left (Rashi).

(28) Sc. as they are found in the Torah, and that is, the order as given in the first Baraitha (Rashi). According to R. Tam's interpretation of the first Baraitha, which states the order from the reader's point of view, the sections occupy the following places: 'Sanctify' is on the extreme right, to the left of it is 'And it shall be when the Lord shall bring thee', next to it is 'And it shall come to pass if ye shall hearken diligently', and on the extreme left is 'Hear'.

Talmud - Mas. Menachoth 35a

only [if he put] a portion that should be inside outside or what should be outside inside,[1] but if he put what should be inside also inside or what should be outside also outside,[2] it does not matter. Thereupon Raba said to him, Why is it that [the placing of] an inside portion outside or of an outside portion inside is not valid? It is, is it not, because that which should look out into the open does not do so, whilst that which should not look out into the open actually does so? Then, likewise, [the placing of] an outside portion also outside or an inside portion also inside [should also be invalid], since what should look out into the open on the right looks out on the left, and what should look out into the open on the left looks out on the right? We must rather say that there Is no such distinction.[3]

R. Hananel also said in the name of Rab, The underside[4] of the tefillin is a law given to Moses at Sinai. Abaye said, The duct[4] of the tefillin is also a law given to Moses at Sinai.

Abaye also said, The shin[5] of the tefillin is a law given to Moses at Sinai. The division [between the compartments] must reach as far as the stitches. But R. Dimi of Nehardea said, As long as it is noticeable it need not [reach as far as the stitches].

Abaye also said, The parchment [for the Scriptural portions] of the tefillin must be examined against a flaw, since we require the writing to be perfect and it would not be so [if it had a flaw]. But R. Dimi of Nehardea said, This is not necessary, for the pen[6] would detect [any flaw].

R. Isaac said, That the straps [of the tefillin] must be black is a law given to Moses at Sinai. An objection was raised: The tefillin must be tied with straps of the same [material as the tefillin themselves.][7] The straps may be either green or black or white; but they should not be red because it is repellent,[8] and also for another reason.[9] R. Judah said, It is related of one of R. Akiba's disciples that he used to tie his tefillin with strips of blue wool, and R. Akiba made no comment. But is it possible that that righteous man actually saw his disciple do so and he did not prevent him? They said to him, He certainly did not see him do so, for had he seen him he would not have allowed him. It is related further of Hyrkanos the son of R. Eliezer b. Hyrkanos that he used to tie his tefillin with strips of purple wool, and he [R. Eliezer] made no comment. But is it possible that that righteous man actually saw his son do so and he did not prevent him? They said to him, He certainly did not see him do so, for had he seen him he would not have allowed him. Now it is stated here, at all events, [that the straps may be] either green or black or white! — This is no contradiction, for here it speaks of the outside of the strap and there of the inside.[10] But if of the inside, how can it be repellent or give any ground for suspicion?[11] — It might sometimes become twisted.[12]

A Tanna taught: That the tefillin must be square is a law given to Moses at Sinai. R. Papa[13] said, [This refers to] the stitching[14] and the diagonal.[15] Shall we say that the following [Mishnah] supports this view? For we have learnt: If a man made his tefillin round, it is a danger[16] and it is no fulfilment of the precept![17] — R. papa said, That [Mishnah] deals with the case where they were made round like a nut.[18]

R. Huna said, As long as the surface of the sides[19] of the tefillin is whole they are valid. R. Hisda said, If two [sides][20] were split they are still valid; but if three, they are invalid. Said to him Raba, Your ruling that if two [sides] were split they are still valid is true only if [the rents were] not facing each other,[21] but if they were facing each other they are invalid. And even if they were facing each other [they are invalid] only if they were new[22] [tefillin], but if they were old it would not matter. Abaye asked R. Joseph, What is meant by new, and what by old? He replied, If when one stretches the leather it rebounds, it is old; otherwise it is new.

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(1) I.e., the portions of the first and second compartments or of the third and fourth had been interchanged.

(2) I.e., the portions of the second and third compartments (both inner portions) or of the first and fourth compartments (both outer portions) had been interchanged.

(3) And any change in the order of the portions will render the tefillin invalid.

(4) Each tefillah, it must be remembered, is in the form of a square leather box upon a base, that of the hand consisting of one compartment and of the head of four compartments. In order to obtain the necessary shape (usually in the form of a cube) a mould or frame is used over which the skin whilst moist and pliable is tautly stretched. On being removed from the frame the skin is cut around to an equal length on three sides, whilst on the fourth side there is left a long strip of skin which, after allowing for a projection on this fourth side in order to provide a loop or a duct through which the straps are passed, is bent under the whole box so as to form the underside or the base of the tefillah. After inserting the necessary texts into the several compartments the base is stitched carefully to the extremities of the box on three sides.

(5) The letter shin must be embossed on the right and left sides of the head-tefillah. The shin on the right side (when worn by the person) is of the usual shape, whilst the shin on the left side has four heads, thus **.

(6) At the time of writing the Scriptural portions.

(7) I.e., of leather; but not with strips of wool or silk or linen.

(8) For it might be said that the straps had been stained with the blood of a sore or a wound.

(9) The suspicion that the wearer of these tefillin had had relations with his wife during her period of menstruation, and the straps had consequently been dyed red with blood.

(10) R. Isaac only stated that the outside of the strap must be black; the inside, however, may be of any colour as stated in the Baraitha, except red.

(11) Since the inside of the strap is not seen.
(12) And the inside would be seen.
(13) According to MS.M., ‘Rab’. In the parallel passage in Meg. 24b, ‘Raba’. So Alfasi.
(14) The stitching of the underside to the box (v. supra p. 218, n. 6) must be done very carefully so that the box should remain a perfect square; thus the stitches should not be pulled too much for fear that the leather will become creased and so lose its correct shape. V. Tosaf. s.v. תפילין and also Tosaf. Meg. 24b, s.v. בתפרן
(15) I.e., it must be an exact square so that the diagonal should be one and two-fifths times the length of the side.
(16) For if he knocks against anything the round head-tefillah would pierce his skull.
(17) Meg. 24b.
(18) I.e., the underside was convex and oval and did not lie flat on the head. In that case only is there a danger, but not where the base is flat and only the box is made round like a cylinder.
(19) I.e., the external sides of the box, or the sides which form the divisions between the compartments.
(20) According to Maim. (v. Yad, Tef. III, 18 and Kesef Mishneh a.l.) the reference is to the stitching of the tefillin, and the rules are here stated where two or more stitches had snapped.
(21) Or: next to each other, i.e., in adjoining compartments.
(22) For it is evident that the leather was of an inferior quality.

Talmud - Mas. Menachoth 35b

Or else, if when one holds up the strap, [the box] hangs on to it,[1] it is new; otherwise it is old.

Abaye was once sitting before R. Joseph when the strap of his tefillin suddenly snapped. He thereupon asked R. Joseph, May one tie it together? He answered, The verse says, And thou shalt bind them,[2] signifying that the binding shall be perfect. R. Aha the son of R. Joseph asked R. Ashi, May one sew it together, turning the seam on the inside?-He answered, Go and see how the people act.[3]

R. Papa said, Curtailed straps[4] are still valid. But this is not correct; for since R. Hiyya's sons stated, Curtailed blue threads[5] are valid, and curtailed hyssop twigs[6] are valid, it is clear that only there [are they valid] since they are only accessories of precepts, but it is not so here, as [the straps] are accessories of holy things.[7] Apparently there is a fixed length [for the strap], what then is the minimum length? — Rami b. Hama said in the name of Resh Lakish, To the middle finger.[8] R. Kahana explained it, [To the middle finger] when bent, but R. Ashi explained it, [To the middle finger] when extended.

Rabbah used to tie the knot at the back of his head and allow [the straps] to fall straight down [over his shoulders].[9] R. Aha b. Jacob used to tie the knot and then plait [the straps] together. Mar the son of Rabina used to do according to our custom.[10]

R. Judah the son of R. Samuel b. Shilath said in the name of Rab, The knot[11] of the tefillin is a law given to Moses at Sinai. R. Nahman said, Their ornamentation should be on the outside.[12]

Once as R. Ashi was sitting before Mar Zutra the strap of his tefillin twisted round, whereupon Mar Zutra said to him, Is not the Master of the opinion that their ornamentation should be on the outside? He replied, [Yes, but] I did not notice it.

It is written,’ And all the peoples of the earth shall see that the name of the Lord is called upon thee; and they shall be afraid of thee.[13] It was taught: R. Eliezer the Great says, This refers to the tefillah of the head.[14]

And I will take away My hand, and thou shalt see My back.[15] Said R. Hana b. Bizna in the name of R. Simeon the Pious, This teaches that the Holy One, blessed be He, showed Moses the knot of the tefillin.

Rab Judah said, The knot of the tefillin should be placed high up,[16] so that Israel be high up and not low down. Moreover, it should face the front, so that Israel be in front and not behind.

R. Samuel b. Bidri said in the name of Rab (according to some, R. Aha Arika said it in the name of R. Huna, whilst according to others, R. Menashya said it in the name of Samuel), When must one recite the blessing over the tefillin? As soon as they have been put on. But this cannot be, for has not Rab Judah said in the name of Samuel that with regard to all precepts the blessing must be recited prior to the performance thereof? — Abaye and Raba both said, It means, from the time they have been put on until they have been tied.[17]

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(1) And does not snap.

(2) Deut. VI, 8. The Heb. וקשרתם ‘and thou shalt bind them’ is interpreted as two words, וקשר תם ‘the binding shall be perfect’, or ‘the binder (i.e., the strap) shall be perfect’; the strap must therefore be whole and not tied together with a knot.

(3) And the people are not in the habit of sewing the straps together again; it is therefore forbidden to do so (Rashi). According to R. Tam it is permitted since the people do sew the straps together.

(4) I.e., the straps which usually hang down after the head-tefillah has been placed upon the head, had been cut short and only stumps of them remained.

(5) Of the zizith, v. infra 38b.

(6) Used in the purification rites of a leper; cf. Lev. XIV, 4.

(7) The accessories of holy things are of a higher sanctity and are treated with greater stringency than the accessories of precepts; v. Meg. 26b.

(8) The reference evidently is to the length of the strap of the hand-tefillah, and the rule is that it must reach from the place that the tefillah is laid upon the arm to the middle finger (either bent or extended). So ‘Aruch, Maim., and Tosaf. According to Rashi the reference is to the length of the straps that hang down beyond the knot that is tied at the back of the head. And the answer given ‘To the first finger’, is explained by R. Kahana as that length corresponding to the greatest distance between the first and middle fingers, and by R., Ashi as that length corresponding to the greatest distance between the first finger and the thumb. The translation in the text follows the explanation of the ‘Aruch.

(9) At the back (Rashi); or, in front over the shoulders (Tosaf.).

(10) I.e., he used to let the straps hang down over his shoulders in front.

(11) I.e., the special shape of the knot of the head-tefillah which must resemble the letter daleth and of the hand-tefillah which must resemble the letter yod. These two letters, together with the letter shin that is embossed on the sides of the head-tefillah, form the Name שדי, Almighty.

(12) The letters formed by the knots of the tefillin should be clearly seen from the outside. Another explanation: that side of the straps which is polished black should be on the outside.

(13) Deut. XXVIII, 10.

(14) Since the head-tefillah contains the greater part of the Divine Name.

(15) Ex. XXXIII, 23. V. Ber. 7a.

(16) This, according to Rashi, refers to the position of the knot of the head-tefillah, which must be placed high up at the back of the head and not low down at the nape of the neck. Asheri cites R. ‘Amram Gaon that the reference here is to the position of the knot of the hand-tefillah, i.e., high up on the arm.

(17) For as long as they have not been tied the precept is not yet performed.

Talmud - Mas. Menachoth 36a

R. Hisda said, If a man spoke between the putting on of the [hand-] tefillah and the [head-] tefillah, he must make another blessing.[1] [Evidently] only if he spoke, he must [make another blessing], but not if he did not speak. But R. Hiyya the son of R. Huna sent [from Palestine] the following decision in the name of R. Johanan: Over the hand-tefillah one must say, ‘Blessed [art thou, O Lord our God, King of the universe,] who hast sanctified us by thy commandments and hast commanded us to put on the tefillin'. Over the head-tefillah one must say, Blessed . . . who hast sanctified us by thy commandments and hast given us command concerning the precept of the tefillin!' — Abaye and Raba both said, It means, if he did not speak [between one tefillah and the other] he must only recite one blessing, but if he did speak he must recite the two blessings.[2]

One taught: If a man spoke between [the putting on of] one tefillah and the other tefillah, he has committed a transgression and returns home on account of it from the battle line.[3]

One taught: When a man puts on the tefillin, he should put on first the hand-tefillah and then the head-tefillah, and when he takes them off, he should take off first the head-tefillah and then the hand-tefillah. Now it is right that when he puts them on he should put on first the one on the hand and then the one on the head, since it is written, And thou shalt bind them for a sign upon thy hand,[4] and then it says, And they shall be for frontlets between thine eyes;[4] but whence do we know that on taking them off he should first take off the one from the head and then the one from the hand? — Rabbah said, R. Huna explained it to me. The verse says, And they shall be for frontlets between thine eyes, that is to say, so long as they are 'between thine eyes' both shall be there.[5]

Our Rabbis taught: When must one recite the blessing over the tefillin?[6] At the time when it is proper to put them on.[7] Thus, if a man rises early to go out on a journey and is afraid his tefillin might get lost,[8] he should put them on, and as soon as the proper time arrives he should touch them[9] and recite the blessing over them. And until when must one keep them on? Until sunset. R. Jacob said, Until every foot has left the market.[10] But the Sages say, Until the time when people go to sleep. The Sages and[11] R. Jacob, however, admit that if a man took them off in order to enter a privy or a bath-house and in the meantime the sun had set, he has not to put them on again. R. Nahman said, The halachah agrees with R. Jacob, since R. Hisda and Rabbah b. R. Huna used to say the evening prayer while still wearing them.[12] Another version reads: R. Nahman said, The halacha does not agree with R. Jacob.[13]

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(1) When putting on the head-tefillah.

(2) As reported by R. Hiyya. So that in ordinary circumstances only one blessing is recited, namely at the putting on of the hand-tefillah, which blessing serves for the head-tefillah too. If, however, one interrupted with talk between one tefillah and the other then the second blessing must be recited before putting on the head-tefillah. So Rashi and Alfasi, but v. Tosaf. s.v. לא.

(3) In accordance with the Biblical injunction, 'What man is there that is fearful and fainthearted? let him go and return unto his house (Deut. XX, 8), which is explained by R. Jose as alluding to the man who is afraid because of his transgressions. V. Sot. 44a.

(4) Deut. VI, 8.

(5) This teaching, according to Rashi, is inferred from the fact that the verse uses in connection with the head-tefillah the expression 'and they shall be', which is in the plural. Accordingly the head-tefillah must never be alone upon the person; therefore it should be put on last and taken off first.

(6) If one has put them on before daybreak.

(7) That is, the time in the early morning when a man can see a friend of his at a distance of four cubits and recognize him. V. Ber. 9b.

(8) If he were to carry them in his hand.

(9) As though he were putting them on at that moment.

(10) I.e., after darkness has fallen.

(11) So in many MSS. and in Alfasi, and so Sh. Mek. Cur. edd. read '(admit) to R. Jacob'.

(12) Hence they are worn after sunset.

(13) But the halachah follows the first Tanna's view that the tefillin are to be taken off at sunset (Tosaf.).

Talmud - Mas. Menachoth 36b

But did not R. Hisda and Rabbah b. R. Huna say the evening prayer while still wearing them? — They certainly differ [from the above ruling].

And could Rabbah b. R. Huna have said so? Did not Rabbah b. R. Huna say that if it was doubtful whether darkness had already fallen or not, one should not take them off[1] nor put them on? Now it follows from this that if it were certain that darkness had fallen one would have to take them off! — This was stated with regard to the eve of Sabbath.[2] But what can be his view? If he holds that the night is a time for tefillin, then the Sabbath is also a time for tefillin, and if, on the other hand, he holds that the night is not a time for tefillin, then the Sabbath, too, is not a time for tefillin, since the same passage which excludes the Sabbath [from the wearing of tefillin] also excludes the night. For it was taught:[3] It is written, And thou shalt observe this ordinance in its season from day to day.[4] ‘Day’, but not night; ‘from day’, but not all days; hence the Sabbaths and the Festivals are excluded. So R. Jose the Galilean; but R. Akiba says, This ordinance refers only to the Passover-offering![5] — He derives it from the text from which R. Akiba derives it.[6] For it was taught: One might have thought that a man should put on the tefillin on Sabbaths and on Festivals, Scripture therefore says, And it shall be for a sign upon thy hand, and for frontlets between thine eyes,[7] that is, [only on those days] which stand in need of a sign [are tefillin to be worn], but Sabbaths and Festivals are excluded, since they themselves are a sign.[8]

R. Eleazar said, Whosoever puts on the tefillin after sunset transgresses a positive precept.[9] R. Johanan said, He transgresses a negative precept.[10] Shall we say that they differ in the principle stated by R. Abin in the name of R. Ila'a? For R. Abin said in the name of R. Ila'a, Wherever the expression ‘observe’, ‘lest’, or ‘do not’, is used it indicates a negative precept. One[11] therefore accepts R. Abin's principle while the other[12] does not! — No, all accept the principle stated by R. Abin in the name of R. Ila'a, but they differ in this point: one[12] maintains that the expression ‘observe’ when used in connection with a prohibition has the force of a negative precept and when used in connection with a command has the force of a positive precept; but the other[11] maintains that the expression ‘observe’ even when used in connection with a command has the force of a negative precept.

R. Eleazar also said, If one's purpose is to guard them it is allowed.[13] Rabina related, I was once sitting before R. Ashi when darkness had already fallen and he put on his tefillin;[14] so I said to him, ‘Is it my Master's purpose to guard them?’ ‘Yes’, he replied. I saw, however, that his purpose was not to guard them. He was of the opinion that that was the law,[15] but one should not rule so [in actual practice].[16]

Rabbah b. R. Huna said, A man must from time to time touch his tefillin;[17] this may be inferred by an a fortiori argument from the plate.[18] If of the plate, which contains the Divine Name only once, the Torah says, And it shall be always upon his forehead,[19] implying that his mind must not be diverted from it; how much more is this to apply to the tefillin which contain the Divine Name so many times!

Our Rabbis taught: Thy hand,[20] that is the left hand. You say it is the left hand, but perhaps it is the right! It is written, Yea, My hand hath laid the foundation of the earth, and My right hand hath spread out the heavens.[21] And it is also written, Her hand she put to the tent-pin, and her right hand to the workmen's hammer.[22] And it is also written, Why withdrawest Thou Thy hand, even Thy right hand? Draw it out of Thy bosom and consume them.[23]

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(1) If one was wearing the tefillin at the time.

(2) When Rabbah b. R. Huna agrees that the tefillin must be taken off by the time darkness has fallen, since Sabbath is not the proper time for the wearing of the tefillin.

(3) ‘Er. 96a.

(4) Ex. XIII, 10, literally translated.
(5) Of which the preceding verse speaks. And the expression ‘from day to day’ would be translated as ‘from year to year’.
(6) Rabbah b. R. Huna maintains that the night is a proper time for tefillin but the Sabbath is not, for only the latter is excluded in the verse.
(7) Ibid. 16.
(8) Of the relation of God to Israel. Cf. Ex. XXXI, 17.
(9) For the prohibition against wearing the tefillin at night is only inferred from the verse which states And thou shalt observe this ordinance... from day to day, thereby excluding the nights, and a prohibition derived from a positive precept has the force of a positive precept only.
(10) For the expression ‘observe’ indicates a negative precept.
(11) R. Johanan.
(12) R. Eleazar.
(13) To put on the tefillin (or, to keep them on, v. Sh. Mek, n. 1) after sunset, where the safety of the tefillin is concerned.
(14) According to MS.M., Alfasi, and Sh. Mek. the text should be: ‘And he was still wearing the tefillin.
(15) That the night is also the time for tefillin.
(16) Lest one falls asleep whilst wearing the tefillin.
(17) With his hand while wearing them. I.e., they must constantly be in his mind.
(18) The plate of gold worn by the High priest upon the forehead upon which were engraved the words: Holy to the Lord (Ex. XXVIII, 36).
(19) Ex. XXVIII, 38.
(20) Heb. ידך; in Ex. XIII, 9, and also in a number of other verses, in connection with the tefillin.
(21) Isa. XLVIII, 13. Here יד clearly means the left hand, in contradistinction from ימין, the right hand. This is also seen in the other verses quoted.
(22) Jud. V, 26.
(23) Psalms LXXIV, 11.

Talmud - Mas. Menachoth 37a

R. Jose ha-Horem[1] says, But we also find the right hand referred to as ‘hand’, for it is written, And when Joseph saw that his father was laying his hand, the right one![2] And the other? It is referred to as ‘the hand, the right one’, but never as ‘the hand’. R. Nathan says, All this is unnecessary, for since it is written And thou shalt bind them[3] and And thou shalt write them,[4] as writing is with the right hand so the binding shall be with the right hand, and if the binding is to be with the right hand then obviously [the hand-tefillah] must be put on the left hand. Whence does R. Jose ha-Horem learn that it must be put on the left hand? — He derives it from that same passage from which R. Nathan derives it. R. Ashi said, He derives it from thy hand,[5] which, being written with the letter he at the end, indicates the weaker hand. Thereupon R. Abba said to R. Ashi, perhaps it means, the stronger hand?[6] — He replied, Is it written with the letter heth?

This is further disputed by Tannaim. It was taught. Thy hand, written with the he, indicates the left hand. Others say, Thy hand, includes a man that has but the stump of the arm.[7] Another [Baraitha] taught: One that has no [left] arm is exempt from tefillin. Others say, ‘Thy hand’, includes a man that has but the stump of the arm.

Our Rabbis taught: A left-handed man puts his tefillin on his right hand for that is his left.[8] But it has also been taught that he must put it on his left hand which is also the left of all people! — The latter was taught of a person who is ambidextrous.

A Tanna in the school of Manasseh taught: Upon thy hand,[9] that is, on the biceps muscle; between thine eyes,[9] that is, on the skull. On what part? It was said in the school of R. Jannai, Where the skull of a babe is still tender.

Pelemo enquired of Rabbi, If a man has two heads on which one must he put the tefillin?' 'You must either leave',[10] he replied, 'or regard yourself under the ban'. In the meantime there came a man [to the school] saying, 'I have begotten a first-born child with two heads, how much must I give the priest?'[11] An old man came forward and ruled that he must give [the priest] ten sela's. But this is not so! For Rami b. Hama learnt: From the verse. The firstborn of man thou shalt surely redeem,[12] I might conclude that this would apply even when the firstborn was rendered trefah[13] within thirty days [of his birth]. Scripture therefore added,

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(1) There are a number of variants to this word, and the meaning is extremely doubtful. In cur. edd. החורם, the net-maker (Jast.); others read החרום, the flat-nosed, being called by this epithet either because of his physical deformity or, more probably, because of the teaching he reported concerning a firstling that was flat-nosed; v. Bek. 43b. Other variants are ההרם and החרם, possibly place-names.

(2) Gen. XLVIII, 17. This destroys the argument of the first Tanna.

(3) Sc. the Tefillin; Deut. VI, 8.

(4) Sc. the Mezuzah; ibid. 9.

(5) Ex. XIII, 16. ידכה, with superfluous 'he', is interpreted as יד כהה, the weaker hand.

(6) Interpreting ידכה as יד כח, for the letters he and heth are frequently interchanged since they resemble each other so closely in form and pronunciation.

(7) 'The weaker hand' meaning also the broken arm or amputated arm with but a stump left. The tefillin must be put on this stump.

(8) I.e., the weaker hand.

(9) Ex. XIII, 9.

(10) Sc. the school. Rabbi thought that this question was put merely from a desire to scoff at him.

(11) For his redemption. The fixed sum for redemption was five shekels (sela's in the Rabbinic tongue), cf. Num. XVIII, 16.

(12) Ibid. 15.

(13) Heb. טריפה, afflicted with a fatal organic disease This is R. Tam's interpretation; according to Rashi, the child was killed.

Talmud - Mas. Menachoth 37b

Howbeit,[1] limiting thereby [the general application]![2] — In this case it is different since the Divine Law declared [the law of redemption] to be governed by the expression 'per head'.[3]

The Master said, 'Upon thy hand, that is, on the biceps muscle'. Whence is this derived? — Our Rabbis taught: Upon thy hand, that is, the upper part of the hand.[4] You say it is the upper part of the hand, but perhaps it means actually upon the hand?[5] Since the Torah ordains that one must put tefillin upon the hand and also upon the head, as in the latter case it is to be upon the upper part of the head so in the former it is to be upon the upper part of the hand. R. Eliezer says, This is unnecessary; for the verse says, 'And it shall be for a sign unto thee upon thy hand', implying that the sign shall be unto thee but not unto others.[6] R. Isaac says, This too is unnecessary; for it is written, And ye shall lay up these My words in your heart . . . and ye shall bind them,[7] implying that it must be placed over against the heart.[8]

R. Hiyya and R. Aha the son of R. Ivia used to place it exactly over against the heart. R. Ashi was once sitting before Amemar. The latter had an injury on his arm and his tefillin were exposed;[9] whereupon R. Ashi said to him, Does not the Master hold 'it shall be for a sign unto thee but not unto others'? — That, he replied, was stated only to indicate the place, namely, where it is a sign unto thee only.[10]

Whence is it derived that it must be upon the upper part of the head? — Our Rabbis taught: ‘Between thine eyes’, that is, the upper part of the head. You say it is the upper part of the head, but perhaps it means actually between the eyes? It is written here, ‘Between thine eyes’, and it is written there, Nor make any baldness between your eyes for the dead;[11] as in the latter case it means the upper part of the head where baldness can be made, so in the former case too it means the upper part of the head where baldness can be made. R. Judah says, This is unnecessary; for since the Torah ordains that one must put tefillin on the hand and also on the head, as in the former case it is put on a place which can be declared unclean as a leprous spot by one symptom only,[12] so in the former case it must be put on a place which can be declared unclean as a leprous spot by one symptom only;[12] one must therefore rule out the place between the eyes where flesh and hair are to be found, [and so can be declared unclean by two symptoms,] either by [the appearance of] white hair or yellow hair.

OF THE FOUR FRINGES, THE [ABSENCE OF] ONE INVALIDATES THE OTHERS, SINCE THE FOUR TOGETHER FORM ONE PRECEPT. [R. ISHMAEL SAYS, THE FOUR ARE FOUR SEPARATE PRECEPTS.] What is the practical difference between the two?[13] — R. Joseph said, They differ in respect of a linen garment with [woollen] fringes.[14] Rabbah b. Abina said, They differ in respect of a five-cornered garment.[15] Rabina said, They differ in respect of R. Huna's dictum. For R. Huna said, If a man went out in the street on the Sabbath wearing a garment not provided with proper fringes as required by law, he is liable to a sin-offering.[16]

R. Shisha the son of R. Idi said, If a man cut off [one corner of] his garment,[17] he has gained nothing, for he has simply made it into a five-cornered garment.[18]

R. Mesharsheya said, If a man folded up his garment,[19] he has gained nothing, for it is regarded as spread out.[20] We have also learnt:[21] Water-skins that [have been pierced and] have been tied up again are not susceptible to uncleanness,[22] excepting those tied up with an Arab knot.[23]

R. Dimi of Nehardea said, If a man sewed together [the folded corners of] his garment,[24] he has gained nothing, for if he has no use for the corners he should cut them off and throw them away.[25]

R. ISHMAEL SAYS, THE FOUR ARE FOUR SEPARATE PRECEPTS. Rab Judah said in Samuel's name that the halachah agrees with R. Ishmael.[26] The halachah, however, is not in accordance with him.

Rabina was once walking behind Mar son of R. Ashi [in the street] on one of the Sabbaths preceding the Festival,[27] when suddenly a corner of [Mar's] garment with its fringe had torn away, but Rabina told him nothing about it. When he came home and Rabina told him that it had torn away there [in the street], he said, ‘Had you told me of it I should then and there have cast it off’.[28] But has not a Master said, Great is the dignity of man since it overrides a negative precept of the Torah?[29] — Rab b. Shabba explained it before R. Kahana

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(1) Ibid. Heb. אך, having a limiting force, and so excluding certain cases.

(2) Accordingly in the case of a child with two heads, since it cannot continue to live, the father should be exempt entirely from the payment of redemption money!

(3) Num. III, 47. Consequently as this child has two heads and is now living there must be a payment of ten sela's for his redemption.

(4) Sc. the muscle of the arm.

(5) I.e., the palm of the hand.

(6) And if actually put on the hand it would immediately be noticeable by all. It must consequently be put high up on the arm which part is usually covered with the sleeve.

(7) Deut. XI, 18.

(8) I.e., upon the muscle of the arm, at a point nearest the heart.

(9) For his coat had been cut away around the arm so as to give greater freedom to his injured arm.
(10) I.e., on the upper part of the arm. It need not, however, be at all times covered and hidden from view.
(11) Deut. XIV, 1.
(12) A leprous spot on any part of the body that is free from hair, as the hand, is deemed to be unclean by the appearance of white hairs therein (Lev. XIII, 3), whilst a leprous spot on any part covered with hair, as the head, is deemed to be unclean by the appearance of yellow hairs therein (ibid. 30).
(13) Since the first Tanna and R. Ishmael are agreed that the four fringes are indispensable.
(14) In ordinary circumstances such a garment may not be worn, save where the precept of zizith is concerned. Where, however, one fringe was missing, the entire precept, according to the first Tanna has gone, and the cloak is therefore forbidden as containing diverse kinds, wool and linen; but according to R. Ishmael it is permitted, since each fringe is a separate precept.
(15) A five-cornered garment must be provided with fringes (v. infra 43a), but they differ as to the number of fringes necessary; according to the first Tanna there must be four fringes only, since four make up the precept, whilst according to R. Ishmael each corner must have a fringe, since each fringe is a separate precept.
(16) For bearing an unnecessary burden on the Sabbath, since the fringes were not in accordance with the law. Now if the garment had only three fringes, according to the first Tanna the precept is not thereby fulfilled, hence by reason of R. Huna's dictum the fringes are regarded as an unnecessary burden on the Sabbath; but according to R. Ishmael, the precept is thereby performed, so that R. Huna's ruling would not apply to this case.
(17) Either he cut away a square piece at the corner, leaving behind two right-angled corners, thus making the garment five-cornered; or, he cut away one corner diagonally, leaving two obtuse-angled corners.
(18) Which must also be provided with fringes.
(19) I.e., he turned up each corner of the garment in order to render the garment exempt from fringes (and in the subsequent case of R. Dimi, he sewed down these corners) (Rashi 2); or, he folded the garment (and according to R. Dimi he sewed the fold) and inserted the fringes in the new corners formed by the fold (Rashi 2).
(20) And therefore even now it must be provided ‘with fringes in its corners.
(21) Kel. XXVI, 4.
(22) Since the knot is only temporary and will be untied, the water-skin is regarded even now as a pierced vessel, and is therefore not susceptible to uncleanness.
(23) For these remain so permanently.
(24) V. supra n. 4.
(25) But as long as the corners are not cut off the garment must be provided with fringes.
(26) With all the practical results that follow from that view, as stated above.
(27) For it was usual to preach on the laws of the Festival four Sabbaths before the Festival. V. Pes. 6a.
(28) For since the garment was not now properly provided with fringes (R. Ishmael's view not being accepted as law) it is regarded as an unnecessary burden carried on the Sabbath.
(29) And as it would be undignified for a man of his eminence to remove his garment in the street he is permitted to carry it on the Sabbath.

Talmud - Mas. Menachoth 38a

as referring to the prohibition, Thou shalt not turn aside.[1] Another version states that [Rabina] told him of it there [in the street]; whereupon [Mar] said to him, ‘Do you think that I am going to cast it off here? Has not a Master said, Great is the dignity of man since it overrides a negative precept of the Torah?’ ‘But has not Rab b. Shabba explained it before R. Kahana as referring to the prohibition, Thou shalt not turn aside?’ ‘Here also it is only a karmelith,[2] so that the prohibition is only Rabbinic.

CHAPTER IV

MISHNAH. THE [ABSENCE OF THE] BLUE [IN THE FRINGES] DOES NOT INVALIDATE THE WHITE, NEITHER DOES THE [ABSENCE OF THE] WHITE INVALIDATE THE BLUE[3] THE [ABSENCE OF THE] HAND-TEFILLAH DOES NOT INVALIDATE THE HEAD-TEFILLAH, NEITHER DOES THE [ABSENCE OF THE] HEAD-TEFILLAH

INVALIDATE THE HAND-TEFlllah.[4]

GEMARA. Must we say that our Mishnah is not in accordance with Rabbi? For it was taught: That ye may look upon it,[5] implies that the [absence of] one invalidates the other. So Rabbi. But the Sages say, The [absence of] one does not invalidate the other. What is the reason for Rabbi's view? — Because the text says, The corner,[6] [which implies that the fringes must be] of the same [colour] as that of the corner,[7] and it also says, A blue thread;[6] and then the Divine Law says. 'That ye may look upon it', that is, both must be there together as one. But the Rabbis [say]. 'That ye may look upon it', signifies each one by itself. Must we then say that [our Mishnah] is not in accordance with Rabbi? — Rab Judah answered in the name of Rab, You may even say that it follows Rabbi's view, for [our Mishnah deals here] only with the question of precedence. As it was taught: The [proper performance of the] precept is to insert[8] the white threads before the blue; but if a man inserted the blue before the white, it is indeed valid, but he has not fulfilled the precept. What is meant by 'has not fulfilled the precept'?

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(1) Sc. from the sentence which they shall declare unto thee, Deut. XVII, 11. I.e., the principle is that only a Rabbinic prohibition, though having for its sanction this verse in the Torah, can be set aside on account of man's dignity.

(2) כרמלית, an area which is neither a public nor a private domain, in which, however, it is forbidden to carry anything on the Sabbath by Rabbinic decree.

(3) There should be, according to law, four threads inserted in each of the four corners of the garment, two white and two blue (or, three white and one blue); nevertheless the absence of one colour is of no consequence provided there was the proper number of threads in all. Consequently it is valid if there were four blue threads, or four white threads.

(4) And if a man has only one tefilah (sing. of tefillin) he should put on that one.

(5) Num. XV, 39.

(6) Ibid. 38.

(7) As garments were usually of white linen, there must therefore be white threads as fringes.

(8) Or, to twine, v. Sh. Mek. n. 3. The white threads, as derived above from 'the corner', precede the blue in the verse.

Talmud - Mas. Menachoth 38b

Should you say it means that he has not fulfilled the precept of the white [threads] but has fulfilled the precept of the blue, but according to Rabbi the absence of one invalidates the other![1] — Rab Judah said in the name of Rab, It means that he has not fulfilled the precept and yet has performed the precept, for 'has not fulfilled the precept' only means that he has not performed the precept in the best way. This then explains the clause, NEITHER DOES THE WHITE INVALIDATE THE BLUE;[2] but how can one explain the other clause, THE BLUE DOES NOT INVALIDATE THE WHITE?[3] Moreover,[4] it has been reported: Levi once said to Samuel, Arioch,[5] you are not to sit down[6] until you explain to me the following: THE BLUE DOES NOT INVALIDATE THE WHITE, NEITHER DOES THE WHITE INVALIDATE THE BLUE.

What does it mean? — He answered, This refers to the fringes in a [white linen] garment; for it is proper to insert the white threads first, since Holy Writ says 'the corner', [signifying that the fringes] of the same [colour] as the corner [must be inserted first]; nevertheless, if one inserted the blue first it does not matter. Well, this explains. NEITHER DOES THE WHITE INVALIDATE THE BLUE, but how can one explain, THE BLUE DOES NOT INVALIDATE THE WHITE? — Rami b. Hama answered, The latter rule refers to a garment that is entirely blue, in which case it is proper to insert the blue threads first, since Holy Writ says 'the corner', [signifying that the fringes] of the same [colour] as the corner [must be inserted first]; nevertheless, if one inserted the white threads first it does not matter. Raba objected, Does then the colour affect the law?[7] — Raba therefore explained that [our Mishnah] refers to the curtailment of the threads; thus whether the blue [threads] were curtailed and the white remained or the white were curtailed and the blue remained, it does not matter. As the sons of R. Hiyya said, Curtailed blue threads are valid; curtailed hyssop twigs are valid. What is the minimum length of a curtailed thread? — Bar Hamduri stated in the name of Samuel, There must be sufficient to make a loop therewith. The question was raised: Does ‘sufficient to make a loop’ mean to make a loop of all the threads together,[8] or of each thread separately? — This remains undecided.

R. Ashi raised the question: How is it if [the curtailed threads] are so thick that one cannot make a loop with them, although had they been thinner one could have made a loop with them? — R. Aha the son of Raba answered R. Ashi, They are most certainly [valid], since the precept is all the more noticeable thereby.[9]

Who is the Tanna that disagrees with Rabbi?[10] — It is the Tanna of the following Baraitha. For it was taught: R. Isaac says in the name of R. Nathan who said it in the name of R. Jose the Galilean and who in turn said it in the name of R. Johanan b. Nuri, If a man has no blue threads he should insert all white threads.[11]

Raba said, You can infer from this[12] that one must make a knot after each joint;[13] for should you hold that this is not necessary, then how could the sons of R. Hiyya have said, Curtailed blue threads are valid, also curtailed hyssop twigs are valid? As soon as the upper knot[14] becomes loose it would all become undone![15] —

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(1) Since it is considered as though the precept of the white threads had not been fulfilled at all, this omission according to Rabbi impairs the validity of the blue; how then can it be said that if the proper precedence was not adhered to it it is still valid?

(2) I.e., even though the blue was inserted first it is not invalid.

(3) Which would mean apparently that even though the white was inserted first it is not invalid. But that is the proper order of precedence!

(4) In cur. edd. is inserted here an answer by Rami b. Hama which is actually given below. It is omitted here in all MSS. and by Sh. Mek.

(5) A title of dignity applied to Samuel the contemporary of Rab; probably a Persian adaptation of ‘judge’ (Jast.) V. Rashi here, and in Shab. 53a and also in Hul. 76b. V. also Kid. (Sonc. ed.) p. 189, n. 11.

(6) Lit., ‘sit on your legs’, with reference to their custom of sitting on the ground with their legs crossed under them.

(7) Once it is established that the white threads must be inserted first — established by reason of the fact that most garments were of white linen and the rule that the fringes similar in colour to the corner of the garment must be inserted first-this law stands and is not altered by reason of the colour of the garment.

(8) In which case the curtailed thread would have to be longer than where the loop was to be made by the curtailed thread by itself.

(9) For there is here the minimum length for curtailed threads, and moreover they are thicker and therefore more noticeable.

(10) I.e., whose view is put forward by the Sages in the Baraitha supra p. 233.

(11) For the omission of one colour does not prevent the use of the other. This Tanna clearly disagrees with Rabbi.

(12) From the statement of R. Hiyya's sons.

(13) Each fringe is in part wound around with thread (גדיל), and in part hangs loose (ענף). After the threads have been inserted in the hole at the corner of the garment and folded over double, one thread is taken and wound around the others, and after several windings a knot is made and then the windings begin over again. Each series of windings is called a joint (חוליא), and at the end of each joint a knot (קשר) is made to prevent the windings from becoming undone.

(14) I.e., the uppermost and first knot when holding up the garment by the fringe; or the last or nethermost knot when the garment is worn.

(15) Since a thread has snapped close to the last knot it would inevitably follow that this knot would become undone, and if there were no other knots at each joint, the entire fringe would become undone, in which case it certainly cannot be valid.

Talmud - Mas. Menachoth 39a

Talmud - Mas. Menachoth 39a

Perhaps [they said so only where] there were knots [after each joint].[1]

Raba also said, You can infer from this that the upper knot[2] is an ordinance of the Torah;[3] for should you say it is a Rabbinic ordinance,[4] then why was it necessary for the Torah to permit the insertion of [woollen] fringes in a [linen] garment?[5] One would have no doubt about it, for if one merely fastens together [two pieces] with one fastening[6] no connection is thereby formed![7] You can therefore infer from this that it is an ordinance of the Torah.

Rabbah son of R. Adda said in the name of R. Adda who said it in the name of Rab, If a thread had snapped at the top,[8] it is invalid. R. Nahman was sitting and repeating the above rule when Raba raised the following objection against him: This[9] applies only at the outset,[10] but later on[11] the remnants thereof and the curtailed threads thereof may be of any length whatsoever. Now what is meant by ‘remnants’ and what by ‘curtailed threads’? Presumably ‘remnant’ means that a part [of the thread] had broken off and a part had remained, and ‘curtailed’ means that [the thread] had entirely broken away![12] — No, both terms must be taken together thus, the remnants of the curtailed threads may be of any length whatsoever. Then it should have mentioned only ‘the curtailed threads’; why does it add ‘the remnants’? — It teaches us that there must be left a remnant of the curtailed threads sufficient to make a loop therewith.

Rabbah was sitting and reciting the following in the name of Rab: The thread that is used for winding is included in the number of threads.[13] Whereupon R. Joseph said to him, It was Samuel who said it and not Rab. It has also been reported: Rabbah b. Bar Hanah said, R. Josiah of Usha told me that the thread used for winding is included in the number of threads.

Rabbah again was sitting and reciting the following in the name of Samuel: If the greater part of the fringe[14] was wound around,[15] it is still valid. Whereupon R. Joseph said to him, It was Rab who said it and not Samuel. Indeed it has been reported: R. Huna b. Judah said in the name of R. Shesheth who said it in the name of R. Jeremiah b. Abba who in turn said it in the name of Rab, If the greater part of the fringe was wound around, it is still valid.

R. Hiyya the son of R. Nathan reports it as follows: R. Huna said in the name of R. Shesheth who said it in the name of R. Jeremiah b. Abba who said it in the name of Rab, If the greater part of the fringe was wound around, it is still valid. And even if only one joint[16] was made, it is valid. It is most becoming, however, for the fringe to be wound around[17] for a third [of its length] and the remaining two thirds [to hang loose] as locks.[18]

What is the minimum length of a joint? — It was taught: Rabbi says, [In a joint] the thread must be wound once, twice and a third time. It was taught: If a man wishes to make few,[19] he should not make less than seven, and if many, he should not make more than thirteen. If few, he should not make less than seven, to correspond to the seven heavens;[20] and if many, he should not make more than thirteen, to correspond to the seven heavens plus the six intervening spaces.

A Tanna taught: At the start one begins to wind with the white thread, since Holy Writ says ‘the corner’ [signifying that the thread] of the same [colour] as the corner [must be used first], and at the end one finishes the winding with a white thread, since what is holy we may raise [to a higher degree of sanctity] but not bring down.[21]

Once Rab and Rabbah b. Bar Hanah were sitting together when a man passed by wearing a garment entirely blue, to which were attached fringes

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(1) Where, however, there were no knots after each joint, a curtailed thread would render the whole invalid. Hence there is no proof that there must be a knot after each joint.
(2) Here Rashi suggests, either the last knot (as above) that is furthest from the garment at the end of all the windings, or (v. Tosaf. s.v. קשר) the first knot that is made as soon as the threads have been inserted in the corner of the garment.
(3) I.e., a law given to Moses at Sinai.
(4) But by Biblical law it is not necessary to tie the threads together, not even to the garment.
(5) This is established by the juxtaposition of the texts, viz., (Deut. XXII, 12) Thou shalt not wear a mingled stuff, wool and limen together, and (12) Thou shalt make thee twisted cords, intimating that the former prohibition is superseded by the precept of zizith.
(6) I.e., joining cloths of wool and of linen with a single stitch or knot.
(7) So that by merely threading the woollen strands through the linen garment there is no infringement of the law of ‘mixed stuffs’; hence there was no necessity for an express permission by Holy Writ.
(8) Close to the garment; the entire thread had thus broken away.
(9) That the fringes must be of a prescribed minimum length; cf. infra 41b.
(10) I.e., in the first instance when attaching the fringes to the garment.
(11) l.e., if at one time the fringes had been of the prescribed length, but had later been reduced.
(12) And yet it is valid, contra R. Nahman.
(13) To make up the requisite number of eight threads.
(14) Lit., ‘the blue’.
(15) Contrary to the prescribed requirement of two thirds hanging loose as locks, v. infra.
(16) חוליא, a section of the fringe around which a thread has been wound several times, and bounded at each end by a knot.
(17) This part is termed גדיל.
(18) Lit., ‘a branch’ ענף.
(19) Sc. joints; so Rashi and Maim. According to Nimukke Joseph the reference is to the number of windings in each joint.
(20) v. Hag. 12b. For the connection between the heavens and the zizith v. infra 43b.
(21) The white thread is deemed to be of a higher degree of sanctity since it is mentioned first in the text. The middle joint is wound round with the blue thread.

Talmud - Mas. Menachoth 39b

which were entirely wound around;[1] whereupon Rab remarked, A fine garment, but the fringes are not fine; but Rabbah b. Bar Hana said, A fine garment and fine fringes. Wherein do they differ? — Rabbah b. Bar Hana maintains, since Holy Writ says ‘twisted cords’[2] and also ‘thread’,[3] [the fringe] may be either [entirely] a twisted cord or [entirely] in loose threads. Rab, however, maintains that there must always be loose threads; but the expression ‘twisted cords’ is required only for the determination of the number of threads; for the expression ‘twisted cord’ would imply two threads,[4] but ‘twisted cords’[5] implies four; one must therefore twist them into a cord, but from the middle they must hang down in separate threads.[6]

Samuel said in the name of Levi, [White] woollen threads[7] fulfil[8] [the precept of fringes] in a linen garment. The question was raised: Would [white] linen threads[7] fulfil [the precept of fringes] in a woollen garment? Do we hold that only [white] woollen threads fulfil [the precept] in a linen garment, for since blue [woollen threads] fulfil [the precept in any garment][9] white [woollen threads] also fulfil the precept, but [white] linen threads cannot fulfil the precept in a woollen garment; or, we can argue, since it is written, Thou shalt not wear a mingled stuff, wool and linen together. Thou shalt make thee twisted cords,[10] accordingly it matters not whether woollen threads are put in a linen garment or linen threads in a woollen garment?[11] — Come and hear. Rehabah said in the name of Rab Judah, Woollen threads fulfil the precept in a linen garment and linen threads in a woollen garment; [blue] woollen threads together with [white] linen threads fulfil the precept in any garment, even [in a garment] of silk.

This differs from R. Nahman's view, for R. Nahman said, Silk garments are exempt from zizith. Raba raised the following objection against R. Nahman: It was taught: Garments of silk or of raw silk or of floss-silk must be provided with zizith![12] — That is merely a Rabbinic enactment. But then consider the next clause [of that Baraitha]: Woollen threads and linen threads fulfil the precept in every case.[13] Now if you say that it is so[14] by the law of the Torah then that is why diverse kinds are permitted for them; but if you say that it[14] is merely a Rabbinic enactment, how can it be that diverse kinds are permitted for them? — Render, either woollen threads or linen threads.[15] And that is indeed the more reasonable view to take, for it reads in the final clause [of that Baraitha]: These[16] fulfil the precept in a garment of the same material but not in a garment of a different material. Now if you say that it is merely a Rabbinic enactment, then that is why these fulfil the precept in a garment of the same material; but if you say that it is so by the law of the Torah, surely [according to the Torah] only wool and linen can discharge the obligation![17] — This is not a conclusive argument, for the text may be explained in accordance with Raba's argument. For Raba pointed out a contradiction: It is written, The corner,[18] [which implies that the fringes are to be of] the same kind [of material] as that of the corner, but it is also written, Wool and linen.[19] How are the texts to be reconciled? Wool and linen fulfil [the precept of zizith] both in garments of their own kind [of material] as well as in garments of a different kind, whereas other kinds of threads[20] fulfil the precept only in a garment of their own kind [of material], but not in a garment of a different kind [of material].

R. Nahman,[21] however, agrees with the view of the Tanna of the school of R. Ishmael. For a Tanna of the school of R. Ishmael taught: Since in the Torah the word ‘garments’ is used without being specified,[22] but in one particular case[23] Holy Writ specified ‘wool and linen’, the inference is that all garments are understood as being of wool or of linen.

Abaye said, This teaching of a Tanna of the school of R. Ishmael differs from that of another Tanna of the same school. For a Tanna of the school of R. Ishmael taught: By garment[23] I understand only a garment of [sheep's] wool; whence can I include garments of camel hair, of hare's hair, of goat's hair, or of raw silk or floss-silk or fine silk? Scripture therefore says, Or a garment.[24]

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(1) The entire fringe had been covered with windings of thread so that no part hung loose as the locks of hair. I.e., it was all גדיל and no ענף.

(2) Deut. XXII, 22. Heb. גדילים.

(3) Num. XV, 38. Heb. פתיל.

(4) For a twisted cord cannot be made of less than two threads.

(5) In the plural.

(6) Or: ‘that which is used for winding shall be of it’, i.e., the thread that is wound around the others is included in the number of threads.

(7) Together with the blue woollen threads.

(8) Lit., ‘discharge’. Sc. the garment of its obligation.

(9) For in every garment of whatever material blue threads must be inserted, and these blue threads, תכלת, must be of wool.

(10) Deut. XXII, 11, 12.

(11) The precept is always fulfilled thereby.

(12) Shab. 20b.

(13) Meaning apparently that if the blue threads are of wool and the white threads of linen they together fulfil the obligation of zizith in any silk garment.

(14) That silk garments must be provided with zizith.

(15) But the two kinds together would not be permitted to be used as fringes in a silk garment.

(16) Sc., threads of silk.

(17) For only wool and linen are mentioned in connection with the zizith; cf. Deut. XXII, 11, 12.

(18) Num. XV, 38.

(19) Cf. Deut. XXII, 11, 12, which shows that the fringes must be either of wool or of linen, whatever the material of the garment is.

(20) E.g., silk.

(21) Who maintains that silk garments require fringes only by Rabbinic ordinance, for according to the law of the Torah only garments of wool and of linen are subject to zizith.

(22) Cf. Num. XV, 38: That they make them fringes in the corners of their garments; or with reference to uncleanness by creeping things, Lev. XI, 32.

(23) With reference to plagues in garments, Lev. XIII, 47, 48.

(24) Ibid. 47: Whether it be a woolen garment or a linen garment; the conjunction ‘or’ includes other garments too as being subject to the law of plagues.

Talmud - Mas. Menachoth 40a

Our Rabbis taught: A linen garment is, according to Beth Shammai, exempt from zizith;[1] but Beth Hillel declare it liable.[2] The halachah is in accordance with Beth Hillel. R. Eliezer son of R. Zadok said, Is it not a fact that any one in Jerusalem who attaches blue threads [to his linen garment] causes amazement?[3] Rabbi said, If that is so, why did they forbid it?[4] Because people are not versed in the law.[5]

Raba son of R. Hanan said to Raba, Then let ten people insert it and let them go about in the market place and so the law will be made known to all![6] People will wonder at it all the more.[7] Then let it be announced at the public lecture! — It is to be feared that people will use imitation blue.[8] But it is no worse than if it were white![9] — Since one could use threads of the same material [as the garment], it is not [allowed to do otherwise];[10] this being in accordance with Resh Lakish's view, for Resh Lakish said, Wherever you find a positive precept and a negative precept [in opposition], if you can possibly observe both,[11] well and good, otherwise let the positive precept come and override the negative one. But it can be examined,[12] can it not? — Rather we apprehend that it may have been used for testing.[13] But it can be announced on public notices,[14] can it not? — And are we to rely upon public notices?[15] Whereupon Raba said, If

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(1) It is even forbidden to wear a linen garment that is provided with fringes on account of the prohibition of diverse kinds, linen and wool, which prohibition is not waived even for the performance of the law of zizith.

(2) For the prohibition of diverse kinds is waived by the precept of zizith, this being inferred by reason of the juxtaposition of the two texts; cf. Deut. XXII, 11 and 12.

(3) But it is not forbidden, thus contrary to Beth Shammai's view. Aliter: it causes amazement by reason of the flagrant transgression of the law, thus R. Eliezer b. R. Zadok is in conflict with Beth Hillel.

(4) Since it is not forbidden in law, why did Beth Shammai impose the restriction? Aliter: since Beth Hillel's view was accepted as the law, why should it create amazement in Jerusalem?

(5) And if it were permitted to wear diverse kinds in pursuance of the precept of zizith people might forget about the precept and would wear diverse kinds in all circumstances.

(6) That the prohibition of diverse kinds is waived only in pursuance of the precept of zizith.

(7) That pious men should be wearing garments of diverse kinds, wool and linen.

(8) קלא אילן, a vegetable blue dye, probably indigo, being an imitation of the genuine blue תכלת which is obtained from the blood of a mollusc. Now the prohibition of diverse kinds is waived only when woollen threads dyed with genuine blue are used, but not when they are dyed with imitation blue.

(9) The threads dyed with this imitation blue should be regarded as though not dyed at all, and it has been established that in the absence of blue threads ordinary white woollen threads may be used in their stead.

(10) Since genuine blue is unobtainable and in its place white threads are used, it is proper to use those threads which are of the same material as the garment, thus avoiding any clashing between precepts and obviating the one overriding the other; so that only white threads of linen may be used as fringes in a linen garment.

(11) By carrying out the positive precept without at the same time transgressing the prohibition, as here by attaching white threads of linen as fringes in a linen garment.

(12) Every blue thread can be subjected to a test so as to ascertain whether the blue dye is genuine or imitation; v. infra 42b. According to another interpretation given in Rashi, the purchaser of the blue thread can inspect the dye in the pan of the dyer in order to ascertain whether the dye is genuine or not.

(13) This thread of blue may be the testing thread, i.e., the thread that was dipped into the pan of dye in order to ascertain whether the dye had reached its proper strength and consistency, and it may not be inserted in a garment, for it is essential that the dyeing of the thread be prepared specifically for the purpose of zizith and not for testing purposes. According to the second interpretation (v. prec. n.): the inspection is of no avail, for the dyer may have drawn off a small quantity so as to test its colour and then have poured it back into the pan, which action renders the entire contents of the pan invalid for the zizith.

(14) Notifying all dyers that the testing thread may not be used in a garment. And according to the second interpretation: notifying all dyers that the quantity taken for the test may not be poured back into the pan.

(15) Some people may ignore these notices, either through inadvertence or deliberately.

Talmud - Mas. Menachoth 40b

in respect of leaven on the Passover Festival or in respect of the Day of Atonement which involve the penalty of kareth we rely upon public notices,[1] how much more so may we rely upon them here where only the transgression of a positive precept can be involved![2] — Rather, said Raba, I suggested the following explanation[3] and in the West it was similarly[4] reported in the name of R. ‘Zera: The apprehension is that the linen garment may have been torn within three fingerbreadths’ distance [from the hem] and it had been sewn together [with linen threads, and the threads were left hanging for the fringe],[5] and the Torah has said, ‘Thou shalt make[6] and not use what is ready made’.[7] R. Zera [it was reported,] removed [the fringes from] his linen garment.[8] Rab Zera said, It is also to be feared that one will use it as a night wrap.[9]

Raba also said, I stated the following and in the West it was similarly reported in the name of R. Zera: If the garment is made of cloth and the corners thereof of leather, it is subject to zizith; If the garment is made of leather[10] and the corners thereof of cloth, it is exempt. What is the reason? Because we consider the main part of the garment. R. Ahai, however, always decided according to the material of the corner.[11]

Raba said in the name of R. Sehora who said it in the name of R. Huna, If a man inserted fringes in the corners of a three-cornered garment and then added a fourth corner [and inserted a fringe therein], it is invalid, because of the rule ‘Thou shalt make, and not use what is ready made’.[12] An objection was raised: The pious men of old used to insert the zizith[13] as soon as three fingerbreadths of the garment had been woven![14] — Render: they used to insert the fringes as soon as the last three fingerbreadths had been reached.

Do we then always apply the rule ‘Thou shalt make, and not use what is ready made’? Surely R. Zera has said that if a man inserted fringes in a garment that was already provided with fringes,[15] it is valid![16] — Raba replied, Since one thereby transgresses the law of Thou shalt not add thereto,[17] the act done is not considered at all. R. Papa demurred: How do you know that this man's intention was to add [to the other fringes]? Perhaps it was to cancel the others, so that there was no transgression of ‘Thou shalt not add thereto’; accordingly the act done is considered an act.[18]

R. Zera said in the name of R. Mattena who said it in the name of Samuel, [A garment that is provided with] fringes does not come within the prohibition of diverse kinds,[19] and [it is the same] even though the garment was exempt from zizith. What is meant by ‘a garment exempt from zizith’? Does it mean a garment smaller than the prescribed measure? But it has been taught: A garment with which a child can cover his head and most of his body,

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(1) The decisions of the Sanhedrin concerning intercalation of the year whereby the year is deemed to be a leap year and thus postponing the Passover Festival for a month, or intercalation of the month whereby another day is added to the month and thus postponing the Day of Atonement (or any Festival that comes in the subsequent month) by one day, were announced to the public by means of notices and letters.

(2) For the use of the test thread (or the thread dyed from the quantity taken for testing) is but an infringement of a positive precept, for Holy Writ declares, That they make them fringes (Num. XV, 38), that is to say, the threads must be prepared specifically for the zizith.

(3) Why it is forbidden to insert the blue woollen threads in a linen garment.

(4) Lit., ‘in agreement with me’.

(5) So that when the garment is repaired it is already provided with part of the fringe, which is invalid for the precept.

(6) Deut. XXII, 12.

(7) Accordingly when threads of wool are added to the fringe the prohibition of diverse kinds applies and it is not waived by the precept since the precept is not properly performed.

(8) For the same reason as explained above by Raba.

(9) Which is exempt from zizith. And whenever the garment is used not in pursuance of the performance of the precept (e.g., if worn by night) one transgresses the prohibition of diverse kinds.

(10) And a leather garment is exempt from zizith.

(11) And the rule is just the reverse of that stated by Raba.

(12) A three-cornered garment is exempt from zizith, accordingly when the first three fringes were inserted there was no obligation for fringes, and when the obligation falls due, i.e. when the fourth corner is added, the fringes are found to be already made.

(13) Lit., ‘the blue’ (threads).

(14) As soon as a strip three fingers wide (the minimum size of a garment) had been woven they used to insert two fringes, one at each corner, and the other two fringes they inserted when the cloth was finished. Now it is clear that the obligation of fringes falls due only when the weaving is finished, nevertheless, it is taught here, that the first two fringes are deemed valid and are not regarded as ready made.

(15) A second fringe was inserted at each corner close to the existing fringe, and when all eight fringes were attached, the first set of four fringes were cut away.

(16) I.e., the second set of fringes satisfy the law, although when these fringes were inserted there was no obligation for them, since the first set of fringes had not yet been removed.

(17) Deut. XIII, 1. At the time when each fringe of the second set is inserted there is a transgression of this precept, so that the fringe so made is null and void, and therefore only when the first set is removed does the second set of fringes come into existence, Where, however, the fringes were inserted in a three-cornered garment, this act, not being an infringement of the law, is an act of consequence, and when a fourth corner is added and a fringe attached thereto, the first three fringes are disqualified as being ready made.

(18) Nevertheless R. Zera rules that the second set of fringes is valid even though it was ready made; thus in conflict with the principle laid down.

(19) And it may be worn by a person that is not subject to the law of zizith, e.g. a woman (R. Tam).

Talmud - Mas. Menachoth 41a

and in which a grown-up person would walk out for a moment, is subject to zizith; but if a child cannot cover with it his head and most of his body, even though a grown-up person might walk out in it for a moment, it is exempt. And so it is, too, in regard to diverse kinds. Now we pondered over this: What does the ruling ‘And so it is, too, in regard to diverse kinds’ signify? Can it mean: And so it is, too, in regard to the applicability of the prohibition of diverse kinds?[1] Surely we have learnt:[2] Diverse kinds may not be worn even for a moment! R. Nahman b. Isaac, however, explained, It means, And so it is, too, in regard to the insertion of fringes in a linen garment![3] — We must say that ‘a garment exempt from fringes’ means, a garment already provided with fringes in which one inserted [another set of fringes].[4] But has not R. Zera taught this once?[5] — One was stated as an inference from the other.[6]

Our Rabbis taught: A garment that was folded over is subject to zizith, but R. Simeon declares it to be exempt.[7] They are agreed, however, that if it was folded over and sewn down, it is subject to the law. Is not this obvious? — It is necessary to be stated where it was only fastened down with pins.[8]

Rabbah son of R. Huna once visited the house of Raba b. R. Nahman and saw that the latter was wearing a garment that was folded over, the fringes being inserted in the folded corners. It happened to become unfolded and the fringes were found to be above[9] [in the middle of the garment], whereupon Rabbah said to him, ‘Surely this is not the corner prescribed by the All-Merciful in the Torah!’ He at once cast off this garment and put on another. Thereupon Rabbah said to him, ‘Do you think that [the law of zizith] is an obligation incumbent upon the person? It is an obligation attaching to the garment;[10] go, therefore, and insert the fringes in it [in the proper manner]’.

Shall we say that the following supports his view?[11] [For it was taught]: The pious men of old used to insert the fringes as soon as three fingerbreadths of the garment had been woven?[12] — It is different with those pious men for they imposed upon themselves additional obligations.

His view[13] is at variance with the angel's view. For an angel once found R. Kattina wearing a linen wrap,[14] and he exclaimed, ‘Kattina, Kattina, a wrap in summer and a cloak[15] in winter, and what is to happen to the law of zizith?’ ‘And do you punish’, asked R. Kattina, ‘a person [who omits to perform] a positive precept?’ ‘In a time of wrath’, replied the angel, ‘we do’. Now if you hold that the law of zizith is an obligation incumbent upon the person then that is why one would incur guilt for not wearing a garment with fringes; but if you hold that it is an obligation attaching to the garment, then why [is any guilt incurred] seeing that these garments are exempt? What then do you hold? That it is an obligation incumbent upon the person? I grant you that the All — Merciful would punish one who wears [without fringes] a garment that is subject to fringes, but would the All-Merciful punish one who wears [without fringes] a garment that is not subject to it? — This is what [the angel] implied, ‘You find every excuse to free yourself from the law of zizith’.

R. Tobi b. Kisna said in the name of Samuel, The garments put away in a chest are subject to zizith.[16] Samuel, however, admits that where an old man made it for his shroud[17] it is exempt, for the Divine Law says, Wherewith thou coverest thyself,[18] and this is not intended for an ordinary covering. Nevertheless, when the time comes for its use we should insert fringes in it, on account of the injunction, Whoso mocketh the poor[19] blasphemeth his Maker.[20]

Rehabah said in the name of Rab Judah, If a garment was torn more than three [fingerbreadths’ distance from the corner], it may be sewn up, but if [torn] within three [fingerbreadths’ distance from the corner], it may not be sewn up.[21] It has been taught [in a Baraitha] to the same effect, viz., If a garment was torn more than three [fingerbreadths’ distance from the corner], it may be sewn up, but if [torn] within three [fingerbreadths’ distance from the corner], R. Meir says, It may not be sewn up; but the Sages say, It may be sewn up. And they are agreed that one may not fetch a piece of cloth, even a cubit square, which has fringes to it from another garment and tack it on to this garment.[22] And they are also agreed that the fringes may be taken out of another garment and put into this garment,

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(1) Namely, that a garment which is too small to cover a child but which might be worn by a grown-up person temporarily is not prohibited, although consisting of diverse kinds, wool and linen.

(2) Kil. IX, 2.

(3) And it is forbidden to insert the fringes in a linen garment that is too small to cover the head and the greater part of the body of a child. It is thus evident that a garment smaller than the prescribed measure, even though provided with fringes, comes within the prohibition of diverse kinds.

(4) The second set of fringes, although unnecessary, does not bring the garment within the prohibition.

(5) Supra 40b. Since each set is regarded as being in pursuance of the precept, it follows that the prohibition of diverse kinds does not apply.
(6) R. Zera stated one ruling only, namely the previous one, and this ruling here was inferred from it (Rashi). According to Tosaf. and Sh. Mek. it is just the reverse, i.e., the previous ruling was inferred from this one.
(7) For the garment might later become unfolded and spread out and the fringes will then be found to be in the middle of the garment, and not in the corner as required by law.
(8) In this case all agree that it is subject to zizith, since the pins fasten the parts firmly together, and there is little likelihood of the garment becoming unfolded.
(9) Lit., 'at his head'.
(10) And every garment of four corners in one's possession must be provided with fringes, and it is not sufficient that the garment one is wearing is provided with fringes.
(11) Of Rabbah b. R. Huna, that the zizith is an obligation attaching to the garment.
(12) Clearly because the obligation rests upon the garment as soon as it is made, for if it were a personal obligation the duty to insert fringes would arise only when the garment was about to be worn.
(13) V. p. 246, n. 8.
(14) Which was without fringes, since it was mainly used as a night wrap.
(15) A garment with rounded corners and so not subject to the law of zizith.
(16) For the obligation rests upon the garments, and as they are intended to be worn, they must be provided with fringes.
(17) Lit., 'for his honour'.
(18) Deut. XXII, 12:
(19) There is none so poor as the dead. So that no indignity be shown to the dead the fringes are inserted in the shroud. V. Ber. 18a, and Tosaf. Nid. 61b s.v. אבל.
(20) Prov. XVII, 5.
(21) According to Rashi and R. Gershom the garment had as yet no fringes to it. Now if a piece had torn away within three fingerbreadths' distance from the corner (the area within which it is proper to insert the fringes, v. infra), it may not be sewn together, for after the sewing a thread may be left hanging and, together with other threads, will be used for the fringe. But such a fringe is invalid since one of the threads was ready made and not inserted for the purpose of the fringe. According to R. Amram, Halakoth Gedoloth, and Nimmuke Joseph this garment had fringes to it but one corner with the fringe had torn off; now if the piece torn off was more than three fingerbreadths' distance on each side from the corner, i.e., the piece was three fingerbreadths square or more, it is still a garment and the fringe retains its character as a fringe, so that it may be sewn to the rest of the garment and the fringes are valid: If, however, the piece was less than three fingerbreadths square, it is no more a garment and the fringe is no more a fringe, consequently it may not be sewn to the rest of the garment so as to serve as a fringe, since the fringe had already lost its character as such.
(22) For the fringe would be ready made, and so invalid.

Talmud - Mas. Menachoth 41b

provided they are not cut.[1] You may well infer from this, may you not, that one may detach the fringes from one garment [for insertion] into another garment?[2] — Perhaps [it is permitted] only when the first garment was worn out.[3]

Our Rabbis taught: In a garment that is entirely blue [threads of] any colour fulfil [the precept of zizith], except imitation blue.[4] An objection was raised: Only threads of the same colour as the garment fulfil the precept; but in a garment that is entirely blue one should insert blue threads and threads of some other colour, except threads of imitation blue;[5] if, however, these were inserted, it is, nevertheless, valid![6] — R. Nahman b. Isaac said, This is no difficulty, for in the one case the garment had fringes, each consisting of four threads, and in the other it had fringes each consisting of eight threads.[7] You may well infer from this, may you not, that one may detach the fringes from one garment [for insertion] into another garment?[8] — Perhaps it had been done [in contravention of the law].[9]

It was stated: Rab said, One may not detach [the fringes] from one garment [and insert them] into another; but Samuel said, One may do so. Rab said, One may not kindle one light[10] from another light; but Samuel said, One may do so. Rab said, The halachah is not in accordance with R. Simeon's view concerning the dragging [of an object on the Sabbath]; but Samuel said, It is. Abaye said, In every case my Master [Rabbah] followed Rab's ruling, save in the above three cases in which he followed Samuel's ruling, namely, that one may detach the fringes from one garment [and insert them] into another, that one may kindle one light from another light, and that the halachah is in accordance with R. Simeon's view concerning the dragging [of an object on the Sabbath], for it was taught: R. Simeon says, A man may drag a bed, a chair or a bench on the Sabbath, provided he has no intention of making a groove.[11]

Rab Judah used to send [his garment with the fringes] to the fuller.[12] R. Hanina used to roll up the fringes into a ball.[13] Rabina used to sew them up.

Our Rabbis taught: How many threads must one insert? Beth Shammai say, Four;[14] but Beth Hillel say. Three. And how far must they hang down?[15] Beth Shammai say, Four [fingerbreadths]; but Beth Hillel say, Three. And as for the three [fingerbreadths] stated by Beth Hillel each must measure one fourth part of the handbreadth of an ordinary person. R. Papa said, The handbreadth of the Torah is equal to four times the width of the thumb, or six times the width of the little finger, or five times the width of the middle finger.[16]

R. Huna said, Four [threads] must be [inserted in the garment] within [the distance of] four [fingerbreadths from the corner], and they must hang down for four [fingerbreadths]. Rab Judah said, Three [threads] must be inserted within three [fingerbreadths from the corner], and they must hang down for three [fingerbreadths]. R. Papa said, The law is: Four [threads] must be inserted within three [fingerbreadths from the corner], and they must hang down for four [fingerbreadths].

Do we then hold that the fringes have a prescribed length, but I can point out a contradiction. It was taught: Zizith:[17] the word zizith means nothing else than something which hangs over; moreover zizith signifies any length whatsoever. And [this was established] long ago when the elders of Beth Shammai and of Beth Hillel went up into the upper chamber of Johanan b. Bathyra and decided that there was no prescribed length for the zizith; and so, too, that there was no prescribed length for the lulab.[18] Now this means, does it not, that there is no prescribed length at all for it? — No,

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(1) I.e., each thread is whole and intact (Rashi). This is too obvious, and Tosaf and Nimmuke Joseph are at a loss to suggest a satisfactory explanation.

(2) But it is a subject of dispute between Rab and Samuel, infra.

(3) But it is forbidden to remove the fringes from a garment that is in good condition in order to insert them into another garment, for this would be a disparagement of the precept.

(4) For the fringe must consist of two colours, threads of real blue and threads of another colour (usually white). Hence it is not permitted to have a fringe of real blue and imitation blue since they are both the one colour.

(5) V. p. 248, n. 6.

(6) Thus in conflict with the Baraitha which absolutely excludes imitation blue.

(7) The second Baraitha deals with the case where there were four threads already inserted in the garment, two of real blue and two of some other colour, and it was desired to insert four more threads of imitation blue. Now this is not permitted in the first instance (though if one did so it is valid), for this garment might be sold and the buyer, believing that all the blue threads are genuine, might remove two of the imitation blue threads and insert them into another garment, relying upon them as genuine blue threads, thus involving the transgression of the law of diverse kinds. (Second interpretation of Rashi.)

(8) Since the apprehension is that the imitation blue threads will be removed from this garment and put into another (v. prec. note), it is obvious that it is permitted to do so.

(9) Although it is not permitted to remove the fringes from one garment for insertion into another, the apprehension is that one might do so and in the circumstances of this case there might arise therefrom the transgression of a grave law.

(10) On the Feast of Hanukkah when lights are kindled for eight days.

(11) Although when dragging a heavy object over soft earth it is inevitable that a groove be made, which act is forbidden on the Sabbath, R. Simeon permits it as long as there was no intention of making the groove. V. Shab. 22a.

(12) And he had no fears lest the fuller damage the real blue threads and replace them with imitation blue threads.

(13) To protect them during washing.

(14) One must insert four threads in the hole at each corner of the garment and double them over in the middle, so that eight threads hang down.

(15) After making the necessary windings and knots in the form of a chain, the threads are left to hang loose; and it is established that the loose threads, called the פתיל or ענף, must be twice as long as the chain-like portion, called the גדיל. The dispute between Beth Shammai and Beth Hillel is, according to Rashi, in respect of the length of the פתיל, and according to R. Tam, in respect of the length of the גדיל.

(16) In MS.M.: 'five times and one third the (width of the middle) finger'; so too' R. Gershom, and Sh. Mek.

(17) Num. XV, 38.

(18) The palm-branch, לולב used on the Feast of Tabernacles. V. Lev. XXIII, 40.

Talmud - Mas. Menachoth 42a

there is no prescribed maximum length but there is a prescribed minimum length.[1] For if you will not say so, the ruling 'And so, too, that there was no prescribed length for the lulab' would also have to mean that there is no prescribed length at all for it, but we have learnt: A lulab which is three handbreadths in length, long enough to shake, is valid?[2] We must therefore say that it means, there is no prescribed maximum length for it but there is a prescribed minimum length; so here too, [with regard to the zizith] it means, there is no prescribed maximum length for it but there is a prescribed minimum length.

Our Rabbis taught: zizith: the word zizith means nothing else than something which hangs loose, for so it says, And took me by a lock [zizith] of mine head.[3] Abaye said, One must keep [the threads] separate, like the forelock of the gentiles.[4]

Our Rabbis taught If one attached the fringes to the tip [of the corner] or to the selvedge [of the garment],[5] it is valid; R. Eliezer b. Jacob declares it invalid in both cases. Whose view is adopted in the following statement of R. Giddal in the name of Rab: The fringes must hang over the corner,[6] for it is written, Upon the corners of their garments?[7] It is the view of R. Eliezer b. Jacob.

R. Jacob said in the name of R. Johanan, It[8] must be removed from the corner the distance of the first joint of the thumb. Now both R. Papa's teaching[9] and this teaching of R. Jacob are necessary. For from R. Papa's teaching I only know that it must be within three fingerbreadths' distance from the corner and not farther away than that, but the nearer it is [to the corner] the better; therefore R. Jacob's teaching was necessary. And from R. Jacob's teaching I only know that it must be away from the corner the distance of the first joint of the thumb and not nearer than that, but the farther away it is [from the corner] the better; therefore [both teachings] are necessary.

Rabina and R. Sama were once sitting before R. Ashi when R. Sama noticed that the [edges around the hole in the] corner of Rabina's garment had frayed and [the fringe] was now less than the distance of the first joint of the thumb away [from the corner], and he said to him, 'Does not my Master accept R. Jacob's teaching?' He replied, 'That rule was intended to apply only at the time when it was first made'. [R. Sama] became embarrassed, whereupon R. Ashi said to him, 'Do not be upset, for one of them[10] is equal to two of us'.

R. Aha b. Jacob used to take four threads, double them over, insert them through the garment, and then make them into a loop;[11] he was of the opinion that there must be eight threads in the [hole of the] garment, the same number as the threads which hang loose.[12] R. Jeremiah of Difti used to insert eight threads, which [when hanging down] made sixteen loose threads, but he did not make them into a loop. Mar the son of Rabina used to do it as we do now.[13]

R. Nahman once found R. Adda b. Ahabah inserting the threads [in a garment] and reciting the blessing ‘[Blessed art thou . . . and hast commanded us] to make the zizith’, whereupon he said, ‘What is this zizi that I hear?[14] Thus said Rab: When making the zizith no blessing is to be pronounced’.

After the death of R. Huna, R. Hisda came in [as head of the School] and pointed out the following contradictory teachings of Rab. Did Rab really say that when making the zizith no blessing was to be pronounced? Surely Rab Judah has stated in the name of Rab, Whence do we know that the zizith made by a gentile are invalid? Because it is said, Speak unto the children of Israel and bid them that they make them fringes;[15] the children of Israel shall make [the fringes], but not gentiles! But where is the contradiction here? — R. Joseph said, R. Hisda is of the opinion that a precept which may be performed by a gentile does not require a blessing when performed by an Israelite,[16] but a precept which may not be performed by a gentile requires a blessing when performed by an Israelite.[17]

Is this a general principle? But take the case of circumcision. This is permitted to be performed by a gentile, for it has been taught: In a town where there is no Israelite physician but there is a Cuthean[18] physician as well as a gentile one, circumcision should be performed by the gentile but not by the Cuthean. This is the opinion of R. Meir. But R. Judah said, It should be performed by the Cuthean but not by the gentile.[19] And yet when performed by an Israelite a blessing must be pronounced, for a Master has said,[20] He that performs the circumcision must say, ‘Blessed . . . who hast sanctified us by thy commandments, and hast given us command concerning the circumcision!’ — This question [by R. Hisda] concerns Rab, does it not? Surely Rab declares it[21] invalid! For it has been stated:[22] Whence do we know that circumcision performed by a gentile is invalid? Daru b. Papa said in the name of Rab, From the verse, And as for thee, thou shalt keep my covenant.[23] R. Johanan said, From the words, Must needs be circumcised,[24] that is, he who is circumcised shall circumcise.

The law concerning the sukkah[25] adds support [to R. Hisda's principle] while that concerning the tefillin refutes it. Thus, the sukkah is valid when made by a gentile, for it has been taught: A booth of gentiles, women, cattle, or Cutheans, or any manner of booth, is valid [as a sukkah], provided it was roofed according to law.[26] And when made by an Israelite no blessing is necessary, for it has been taught: When a man makes a sukkah for himself he must say, ‘Blessed art thou, O Lord our God, King of the universe, who hast kept us in life, and hast preserved us, and enabled us to reach this season’; and when he enters to sit in it he must say, ‘Blessed art thou, O Lord our God, King of the universe, who hast sanctified us by thy commandments, and hast commanded us to dwell in the sukkah’. But one never says, [Blessed . . . and hast commanded us] to make the sukkah. On the other hand, the law of tefillin is a refutation; for the tefillin are invalid when made by a gentile, for R. Hinena the son of Raba

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(1) The fringes may be as long as desired, but they must hang down for at least the length of four fingerbreadths.

(2) But if it is less than three handbreadths in length it is not valid; so that there is a prescribed minimum length for it. V. Suk. 29b.

(3) Ez. VIII, 3. Heb.בציצת.

(4) The forelock after being bound together was left to hang loose in separate strands of hair. So, too, with the fringes, after the necessary windings the threads must hang loose in separate strands.

(5) The closely woven binding at the edge of the garment so as to prevent ravelling.

(6) I.e., the fringes must be some distance away from the corner so that the threads hang over and strike the corner; and it is invalid if the fringes were attached to the actual corner, thus in agreement with R. Eliezer b. Jacob.

(7) Num. XV, 38.

(8) I.e., the hole in the garment through which the fringes are thread.

(9) Supra 41b, that the fringes must be inserted within three fingerbreadths' distance from the corner.

(10) Sc. scholars from Palestine, of whom Rabina was one.

(11) Having doubled over the threads he used to insert the looped end through the hole in the garment an inch or so and then pass the ends of the threads through this loop and pull tight, and in this manner the threads hung from the garment.

(12) So MS.M. and early editions, reading דבעינן for גדיל גדילים דליהוי. According to cur. text: the same as the number of threads that hang loose suggested by the terms 'twisted cord' and 'twisted cords' (v. supra p. 239).

(13) I.e., insert four threads so that there are eight threads hanging loose.

(14) Mockingly mispronouncing the word.

(15) Num. XV, 38.

(16) For the usual formula 'Blessed art thou, O Lord our God, King of the Universe, who hast sanctified us by thy commandments and hast commanded us . . .' does not apply since the commandment may be also performed by a gentile.

(17) And since gentiles may not make the fringes it follows that when an Israelite makes them a blessing must be pronounced; thus contradicting the former statement of Rab.

(18) The Cutheans, often called Samaritans, were one of the peoples settled in Samaria by the Assyrian king after the exile of the ten tribes. They adopted certain Jewish practices, particularly those based upon the written word of the Torah; cf. 2 Kings XVII, 2ff. Later, however, they were found to be worshipping a dove on Mount Gerizim; v. Hul. 6a.

(19) V. A.Z. 26b.

(20) Shab. 137b.

(21) Sc. circumcision by a gentile.

(22) A.Z. 27a.

(23) Gen. XVII, 9. Only one like Abraham, i.e., circumcised, may perform the circumcision.

(24) Ibid. 13. Heb. המול ימול can by a slight alteration of the vowels be rendered המול, 'he who is circumcised may circumcise', thus excluding gentiles.

(25) Heb. סכה, the booth set up at the Feast of Tabernacles in fulfilment of Lev. XXIII, 42.

(26) Suk. 8b.

Talmud - Mas. Menachoth 42b

of Pashrunia taught: A scroll of the Law, tefillin and mezuzoth written by a min,[1] a Cuthean, a gentile, a slave, a woman, a minor, or an apostate Jew,[2] are invalid, since it says, And thou shalt bind them . . . and thou shalt write them,[3] which indicates that those who 'bind' may 'write', but those who do not 'bind' may not 'write'. And yet when made by an Israelite no blessing is pronounced; for R. Hiyya the son of R. Huna sent the following decision in the name of R. Johanan: Over the hand-tefillah one must say, 'Blessed . . . who hast sanctified us by thy commandments and hast commanded us to put on the tefillin'. Over the head-tefillah one must say, 'Blessed . . . who hast sanctified us by thy commandments and hast given us command concerning the precept of the tefillin'. But one never says, '[Blessed . . . and hast commanded us] to make the tefillin!' — Indeed this is the true principle: Wherever a precept is completed by a single act,[4] e.g., circumcision, although it may be performed by a gentile, when an Israelite performs it he must pronounce a blessing; and wherever a precept is not completed by a single act, e.g., the tefillin,[5] although it may be made by a gentile, when an Israelite makes it he does not pronounce a blessing. And as regards the zizith they differ[6] in this: One holds that [the law of zizith] is an obligation resting upon the garment,[7] whilst the other holds that it is an obligation incumbent upon the person.[8]

R. Mordecai said to R. Ashi, You have had it reported so;[9] but we had it reported thus: Rab Judah said in the name of Rab, Whence do we know that the zizith made by a gentile is valid? Because it is said, Speak unto the children of Israel and bid them that they make them fringes;[10] others may make [the fringes] for them.

Rab Judah said in the name of Rab, If a man made [the zizith] from the fringes[11] of the cloth, or from sewing threads,[12] or from tufts[11] of the cloth, they are invalid;[13] but if he made them from a ball of thread they are valid.[14] When I repeated this before Samuel he said that even if he made them from a ball of thread they are invalid, because it is necessary that the weaving of the thread be done for this purpose. This, however, is a matter of dispute between Tannaim, for it has been taught:[15] If a man overlaid [the tefillin] with gold or covered them with the skin of an unclean animal, they are invalid;[16] if with the skin of a clean animal, they are valid, even though he did not prepare it for this specific purpose. Rabban Simeon b. Gamaliel says, Even if he covered them with the skin of a clean animal they are invalid, unless it had been prepared for this specific purpose.[17]

Abaye enquired of R. Samuel b. Rab Judah, How do you dye the blue thread? He replied, We take the blood of hillazon[18] together with other ingredients and put them all in a pot and boil them together. Then we take out a little in an egg-shell and test it on a piece of wool; and we throw away what remains in the egg-shell and burn the wool. One can infer three things from this: [i] that the dye used for testing is unfit;[19] [ii] that the dyeing must be for the specific purpose [of the precept]; and [iii] that the dye used for testing renders the rest unfit.[20] Are not the rules that the test quantity is itself unfit and that the dyeing must be for the specific purpose [of the precept] identical in meaning? — R. Ashi answered, One states the reason for the other, as much as to say: Why is the test quantity itself unfit? Because the dyeing must be for the specific purpose [of the precept]. This, however, is a matter of dispute between Tannaim, for it has been taught: The test quantity is itself unfit, for it says, All of blue.[21] So R. Hanina b. Gamaliel. But R. Johanan b. Dahabai says, Even the second dyeing[22] is valid, for it says, And scarlet.[23]

Our Rabbis taught: There is no manner of testing the blue thread;[24] it should therefore be bought only from an expert.[25] The tefillin can be tested,[26] nevertheless they should only be bought from an expert.[27] Scrolls of the Law and mezuzoth can be tested, and may be bought from anyone.[28]

Is there then no manner of testing the blue thread? But R. Isaac the son of R. Judah used to test it (mnemonic sign: with Ge Shem)[29] thus: He used to mix together liquid alum, juice of fenugreek, and urine

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(1) Heb. מין, a sectarian, or heretic. Idolatrous priests, whether Jews or gentiles (Rashi); v. Glos.

(2) Heb. מומר, 'a changed (Israelite)'; a Jew who neglects the practices without discarding the beliefs of Judaism.

(3) Deut. VI, 8, 9.

(4) Lit., 'comes to an end by the doing thereof'.

(5) For the performance of the precept of tefillin is not completed by the making but by the wearing of them.

(6) R. Nahman and R. Hisda as to whether one must pronounce a blessing when making the fringes.

(7) This is R. Hisda's view, and therefore as soon as the fringes are inserted in the garment that is the completion of the precept, so that it is necessary to make a blessing at the time.

(8) R. Nahman holds that the precept is performed only when the garment is worn, and therefore no blessing is pronounced when inserting the fringes.

(9) That fringes made by a gentile are invalid.

(10) Num. XV, 38. 'They' is taken impersonally, not necessarily the children of Israel.

(11) The fringes or tufts of the woven cloth were twisted into zizith, but were not attached to the cloth for this purpose.

(12) That were used in the sewing of the garment and the ends of which were left hanging from the garment.

(13) Since they were not attached to the garment as zizith.

(14) Even though the thread was not woven specifically for zizith.

(15) Git. 45b; Sanh. 48b.

(16) Cf. Shab. 108a: That the law of the Lord may be in thy mouth (Ex. XIII, 9), the tefillin should be made from that which is permissible for food.

(17) Similarly the first Tanna and Rabban Simeon b. Gamaliel would differ as to the necessity for weaving the threads specifically for the purpose of zizith.

(18) Heb. חלזון, a species of mollusc. V. Lewysohn, Zoologie des Talmuds, 280-285.

(19) For dyeing, and the wool dipped in it must be burnt, since it was not dyed for the purpose of the zizith.
(20) If it is poured back into the vessel with the dye.
(21) Ex. XXVIII, 31. The dyeing of the blue thread for the zizith should be the first use of the dye, i.e. nothing should have been dyed with this dye previously. Hence the quantity of dye used in testing is not valid for the zizith.
(22) I.e., even though something else has already been dyed with this dye.
(23) Lev. XIV, 4. Heb. שני תולעת is interpreted as שני תולעת 'the second use of the scarlet dye'. And so it is too with the blue dye.
(24) To ascertain whether it has been dyed with genuine or imitation blue.
(25) One who knows that vegetable blue or any other imitation blue is unfit for the purpose.
(26) To ascertain whether they have been made according to prescribed law and whether the Scriptural portions therein have been correctly written.
(27) One who knows that it is essential to prepare the leather specifically for the tefillin.
(28) Since it is not necessary that the parchment upon which they are written be prepared specially for the purpose.
(29) גשם being the initial letters of the ingredients used in the mixture for testing: ג for גילא (alum), ש for שבלילתא (fenugreek) and מ for מי רגלים (urine).

Talmud - Mas. Menachoth 43a

of a forty-day old child,[1] and soak [the blue thread] in it overnight until the morning; if the colour faded it is invalid,[2] but if not, it is valid. Moreover, R. Adda stated the following test before Raba in the name of R. 'Avira: One should take a piece of hard leavened dough of barley meal and bake it with [the blue thread] inside; if the colour improved[3] it is valid, but if it deteriorated it is invalid; and in order to remember this, think of the phrase 'a false change, a true change!'[4] — The statement 'There is no manner of testing the blue thread' refers to the test quantity.[5]

Mar of Moshke once obtained in the time of R. Ahai some blue thread; on testing it by the test submitted by R. Isaac the son of R. Judah its colour faded, but on testing it by R. Adda's test its colour improved. He was about to declare it invalid when R. Ahai said to him, This is neither genuine blue nor imitation blue! We must therefore say that one test[6] supplements the other thus: if the test of R. Isaac the son of R. Judah had been applied and the colour had not faded it is certainly valid, but if its colour had faded we should then test it by R. Adda's test by [baking it in] a hard piece of leavened dough; if its colour improved it is valid, but if it deteriorated it is invalid. A message was sent from there [Palestine] saying, The tests supplement each other.

R. Mani was most particular when buying [the blue thread]. in accordance with the restrictions of the above Baraitha;[7] whereupon a certain old man said to him, Those who long preceded you acted so, and they were successful in their business.

Our Rabbis taught: If a man bought a garment furnished with zizith from an Israelite in the market, the presumption is [that it is valid];[8] if he bought it from a gentile, who was a merchant, it is valid,[9] but if he was a private individual it is invalid.[10] And [this is so] not withstanding that they said, A man may not sell a garment furnished with zizith to a gentile unless he removed the zizith.[11] What is the reason for this? — Here it was explained, on account of a harlot.[12] Rab Judah said, It is to be feared that [an Israelite] might join him on the road and he might kill him.[13]

Rab Judah attached fringes to the aprons of [the women of] his household;[14] moreover, he used to say every morning the blessing ['. . . and hast commanded us] to enwrap ourselves with the fringes'. But since he attached [the fringes to the womens' garments], obviously he is of the opinion that it is a precept not dependent on a fixed time;[15] why then did he say the blessing every morning?[16] — He follows Rabbi's view; for it was taught: Whenever a man puts on the tefillin he should make a blessing over them, says Rabbi. But if so, at any time [of the day whenever he puts on the garment he should say the blessing]? — Rab Judah was a most decorous person and would not take off his cloak the whole day long. Then why [did he say the blessing] in the morning?[17] — That was when he changed from night clothes into day clothes.

Our Rabbis taught: All must observe the law of zizith, priests, Levites, and Israelites, proselytes, women and slaves. R. Simeon declares women exempt, since it is a positive precept dependent on a fixed time,[18] and women are exempt from all positive precepts that are dependent on a fixed time.

The Master said, ‘All must observe the law of zizith, priests, Levites, and Israelites’. Is not this obvious? For if priests and Levites and Israelites were exempt, then who would observe it? — It was stated particularly on account of priests. For I might have argued, since it is written, Thou shalt not wear a mingled stuff, wool and linen together, and [it is followed by,] Thou shalt make thee twisted cords,[19] . that only those who are forbidden to wear mingled stuff must observe the law of zizith, and as priests are permitted to wear mingled stuff[20] they need not observe [the law of zizith]; we are therefore taught [that they, too, are bound], for although while performing the service [in the Temple] they may wear [mingled stuff] they certainly may not wear it when not performing the service.

R. Simeon declares women exempt’. What is R. Simeon's reason? — It was taught: That ye may look upon it:[21] this excludes a night garment. You say it excludes a night garment, but perhaps it is not so, but it excludes rather a blind man's garment? The verse, when it says, Wherewith thou coverest thyself,[22] clearly includes a blind man's garment; how then must I explain the verse, That ye may look upon it? As excluding a night garment. And why do you choose to include a blind man's garment and to exclude a night garment?[23] include a blind man's garment since it is looked upon by others, whilst I exclude a night garment since it cannot be looked upon by others. And the Rabbis,

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(1) Or ‘that had been kept for forty days’.

(2) For it is not genuine blue.

(3) Lit., ‘changed for the better’.

(4) Where the change was for the worse, i.e., the colour deteriorated, it is spurious and is invalid; but where the change was for the better it is genuine and is valid.

(5) I.e., there is no manner of testing the blue thread so as to ascertain whether it was dyed in the vessel with the dye or in the quantity taken out as a test.

(6) Lit., ‘the teachings’ referring to the teachings of R. Isaac and R. Adda.

(7) That it should be bought only from an expert who knows the law.

(8) I.e., the blue thread in the zizith is deemed to be genuine.

(9) For the merchant would not risk his reputation as an honest dealer by passing off the imitation blue for the genuine.

(10) For the gentile may have dyed the thread himself, in which case it obviously could not have been dyed for the purpose of the precept.

(11) Nevertheless if one bought it from a gentile merchant it is valid, for it is almost certain that a Jew sold it to him.

(12) A gentile harlot, receiving this garment with the fringes from a gentile as hire, might spread an evil report against a Jew, producing the garment in support of her words.

(13) A Jewish wayfarer would unhesitatingly join the gentile on the way, believing him to be a Jew since he is wearing a garment with fringes, and would have no suspicion against him so as to guard himself against attack.

(14) For he held that women are also bound to wear zizith.

(15) For women must observe only those positive precepts that do not depend upon the time of the year or of the day for their performance; therefore by imposing the precept of zizith upon women Rab Judah obviously holds that night as well as day is the proper time for the fringes.

(16) Surely the blessing should be said only once, and that when the garment is put on for the first time.

(17) Which presumably means at dawn; he should, however, have recited the blessing even earlier than dawn, as soon as he rose.

(18) For the night is not the proper time for zizith.

(19) Deut. XXII, 11, 12.

(20) For the girdle which was part of the Priests' robes consisted of wool and linen.
(21) Num. XV, 39.
(22) Deut. XXII, 12.
(23) The verse surely is not required to include a blind man's garment; since they declare that a night garment is subject to zizith — for according to them the precept is not limited to time, a fortiori a blind man's garment is subject to zizith.

Talmud - Mas. Menachoth 43b

for what purpose do they use the expression 'Wherewith thou coverest thyself'? — They require it for the following Baraitha that was taught: Upon the four corners of thy covering;[1] four, but not three.[2] You say, 'four but not three', but perhaps it is not so, but rather 'four but not five'? The verse, when it says, 'Wherewith thou coverest thyself', clearly includes a five-cornered garment; how then must I explain the verse, 'Upon the four corners'? Four, but not three. And why do you choose to include a five-cornered garment and to exclude a three-cornered one? I include a five-cornered garment since five contains four, whilst I exclude a three-cornered garment since three does not contain four. And whence does R. Simeon know this? — He derives it from the word 'wherewith'.[3] And the Rabbis? — The word 'wherewith' [they say] does not convey any teaching.

And for what purpose do the Rabbis use the expression 'That ye may look upon it'? — They require it for the following teaching: ' That ye may look upon it, and remember', that is, look upon this precept and remember another precept that is dependent upon it, namely, the reading of the Shema'. As we have learnt: From what time in the morning may the Shema' be read? From the time that one can distinguish between blue and white.[4] Another [Baraitha] taught: 'That ye may look upon it, and remember', that is, look upon this precept, and remember another precept that is next to it, namely, 'the law concerning mingled stuffs, for it is written, Thou shalt not wear a mingled stuff, wool and linen together'. Thou shalt make thee twisted cords.[5] And another [Baraitha] taught: That ye may look upon it, and remember all the commandments of the Lord: as soon as a person is bound to observe this precept[6] he must observe all the precepts. This is in accordance with R. Simeon's view that [the zizith] is a precept dependent on time.[7] And another [Baraitha] taught: 'That ye may look upon it and remember all the commandments of the Lord': this precept is equal to all the precepts together.[8] And another [Baraitha] taught: 'That ye may look upon it and remember . . . and do them': looking [upon it] leads to remembering [the commandments], and remembering leads to doing them. R. Simeon b. Yohai says, Whosoever is scrupulous in the observance of this precept is worthy to receive the Divine presence, for it is written here, 'That ye may look upon it', and there it is written, Thou shalt fear the Lord thy God, and Him shalt thou serve.[9]

Our Rabbis taught: Beloved are Israel, for the Holy One, blessed be He, surrounded them with precepts: tefillin on their heads, tefillin on their arms, zizith on their garments, and mezuzoth on their door-posts; concerning these David said, Seven times a day do I praise Thee, because of Thy righteous ordinances.[10] And as David entered the bath and saw himself standing naked, he exclaimed, 'Woe is me that I stand naked without any precepts about me!' But when he reminded himself of the circumcision in his flesh his mind was set at ease. And when he came out he sang a hymn of praise concerning it, as it is written, For the Leader; [with stringmusic;] on the Eighth. A Psalm of David;[11] that is, concerning circumcision which was given eighth.[12]

R. Eliezer b. Jacob said, Whosoever has the tefillin on his head, the tefillin on his arm, the zizith on his garment, and the mezuzah on his doorpost, is in absolute security against sinning, for it is written, And a threefold cord is not quickly broken;[13] and it is also written, The angel of the Lord encampeth round about them that fear Him, and delivereth them.[14]

It was taught: R. Meir used to say, Why is blue specified from all the other colours [for this precept]? Because blue resembles the colour of the sea, and the sea resembles the colour of the sky, and the sky resembles the colour of [a sapphire, and a sapphire resembles the colour of][15] the Throne of Glory, as it is said, And there was under his feet as it were a paved work of sapphire stone,[16] and it is also written, The likeness of a throne as the appearance of a sapphire stone.[17]

It was taught: R. Meir used to say, Greater is the punishment for the [non-observance of the] white threads than for the [non-observance of the] blue threads [of the fringes].[18] This is to be illustrated by a parable. A king of flesh and blood gave orders to two servants; to one he said, ‘Bring me a seal of clay’, but to the other he said, ‘Bring me a seal of gold’; and they both failed in their duty and did not bring them. Now who is deserving of the greater punishment? Surely it is the one to whom the king said, ‘Bring me a seal of clay’, and who did not do so.

It was taught: R. Meir used to say, A man is bound to say one hundred blessings daily, as it is written, And now, Israel, what doth the Lord thy God require of thee?[19] On Sabbaths and on Festivals[20] R. Hiyya the son of R. Awia endeavoured to make up this number by the use of spices and delicacies.[21]

It was taught: R. Judah[22] used to say, A man is bound to say the following three blessings daily: ‘[Blessed art thou . . .] who hast not made me a heathen’,[23] ‘. . . . who hast not made me a woman’; and ‘ . . . who hast not made me a brutish man’. R. Aha b. Jacob once overhead his son saying ‘[Blessed art thou . . .] who hast not made me a brutish man’, whereupon he said to him, ‘And this too!’[24] Said the other, ‘Then what blessing should I say instead?’ [He replied,] . . . who hast not made me a slave’. And is not that the same as a woman?[25] — A slave

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(1) Deut. XXII, 12.

(2) I.e., a three-cornered garment is not subject to zizith.

(3) This word, being superfluous, includes a five-cornered garment within the law.

(4) As soon as one can distinguish the various threads of the zizith one may recite the Shema’; v. Ber. 9b. Thus one precept is made dependent upon the other. For the Shema’ v. Authorized P.B. p. 40.

(5) Deut. XXII, 11, 12.

(6) I.e., at the age of thirteen years and one day; in other words: whosoever is bound to keep the law of zizith must keep all the precepts of the Torah. Aliter: As soon as one is bound to observe this precept, i.e., at daybreak, one must observe all the other precepts of the day.

(7) And consequently women are exempt. According to the Rabbis, however, this principle does not hold good, for women, although bound to observe the law of zizith, are exempt from many laws.

(8) The numerical value of the letters of the word ציצית (90+10+90+10+400) is 600, which together with the eight threads and five knots of each fringe makes 613, which equals the number of precepts in the Torah.

(9) Deut. VI, 13. The word אתו ‘him’ or ‘it’ is common to both verses, and as in the latter verse it refers to the Lord, so too in the former; thus the observance of ‘it’ makes one worthy of looking upon ‘Him’.

(10) Psalms CXIX, 164. The reference is to these seven precepts: the four fringes, the two tefillin, and the mezuzah.

(11) Psalms VI,1.

(12) I.e., to be observed on the eighth day. Or, which was given as the eighth commandment in the Torah specifically to Israel, for the first seven commandments were given to the sons of Noah. V. Maharsha.

(13) Eccl. IV, 12. The reference is to the three precepts enumerated.

(14) Psalms XXXIV, 8.

(15) Supplied from Sh. Mek.

(16) Ex. XXIV, 10.

(17) Ezek. I, 26. And as God sits upon His Throne of Glory He is immediately reminded of the blue thread of the zizith worn by the Israelites, and bestows upon them blessings. Moreover, it is a mark of honour for Israel to wear upon their garments a thread which bears the colour of the Throne of Glory.

(18) For the white threads are easily obtainable, whereas the blue threads are not only difficult to obtain but very expensive.

(19) Deut. X, 12, The word מה ‘what’ is interpreted as though it were מאה ‘a hundred’. But see Tosaf. s.v. שואל.

[20] When in place of the usual prayer of eighteen benedictions there is a prayer of seven benedictions.

[21] For the enjoyment of which it is necessary to make a blessing.

[22] So in many MSS., in Hal. Ged. and Alfasi, and in the parallel passages in Jer. Ber. IX, 1, and Tosef. Ber. VII. Cur. edd. 'R. Meir'.

[23] So MS.M., Alfasi and Asheri, and so too in Tosef. Ber. l.c. Cur. edd. '. . . who hast made me an Israelite'.

[24] This blessing savours somewhat of conceit. Aliter: there is no reason to make this blessing since a brutish man is also bound by all the precepts.

[25] For with regard to the performance of precepts a woman and a slave are on the same footing; cf. Hag. 4a.

Talmud - Mas. Menachoth 44a

is more contemptible.[1]

Our Rabbis taught: The hillazon resembles the sea in its colour,[2] and in shape it resembles a fish; it appears[3] once in seventy years, and with its blood one dyes the blue thread; and therefore it is so expensive.

It was taught: R. Nathan said, There is not a single precept in the Torah, even the lightest, whose reward is not enjoyed in this world; and as to its reward in the future world I know not how great it is. Go and learn this from the precept of zizith. Once a man, who was very scrupulous about the precept of zizith, heard of a certain harlot in one of the towns by the sea who accepted four hundred gold [denars] for her hire. He sent her four hundred gold [denars] and appointed a day with her. When the day arrived he came and waited at her door, and her maid came and told her, 'That man who sent you four hundred gold [denars] is here and waiting at the door'; to which she replied 'Let him come in'. When he came in she prepared for him seven beds, six of silver and one of gold; and between one bed and the other there were steps of silver, but the last were of gold. She then went up to the top bed and lay down upon it naked. He too went up after her in his desire to sit naked with her, when all of a sudden the four fringes [of his garment] struck him across the face; whereupon he slipped off and sat upon the ground. She also slipped off and sat upon the ground and said, 'By the Roman Capitol,[4] I will not leave you alone until you tell me what blemish you saw in me. 'By the Temple',[5] he replied, 'never have I seen a woman as beautiful as you are; but there is one precept which the Lord our God has commanded us, it is called zizith, and with regard to it the expression 'I am the Lord your God' is twice written,[6] signifying, I am He who will exact punishment in the future, and I am He who will give reward in the future. Now [the zizith] appeared to me as four witnesses [testifying against me]'. She said, 'I will not leave you until you tell me your name, the name of your town, the name of your teacher, the name of your school in which you study the Torah'. He wrote all this down and handed it to her. Thereupon she arose and divided her estate into three parts; one third for the government,[7] one third to be distributed among the poor, and one third she took with her in her hand; the bed clothes, however, she retained. She then came to the Beth Hamidrash of R. Hiyya, and said to him, 'Master, give instructions about me that they make me a proselyte'. 'My daughter', he replied; 'perhaps you have set your eyes on one of the disciples?' She thereupon took out the script and handed it to him. 'Go', said he 'and enjoy your acquisition'. Those very bed-clothes which she had spread for him for an illicit purpose she now spread out for him lawfully. This is the reward [of the precept] in this world; and as for its reward in the future world I know not how great it is. Rab Judah said, A borrowed garment is exempt from zizith for the first thirty days, thereafter it is subject to it. So, too, it was taught in a Baraitha: He who stays at an inn in the Land of Israel or who rents a house outside the Land [of Israel] is, for the first thirty days, exempt from mezuzah, thereafter he is subject to it. But he who rents a house within the Land of Israel is bound to affix a mezuzah forthwith, in order to maintain the settlement in the Land of Israel.[8]

THE [ABSENCE OF THE] HAND-TEFILLAH DOES NOT INVALIDATE THE

HEAD-TEFILLAH. R. Hisda said, This was taught only when he has [both],[9] but if he has not [both, the absence of one will certainly] invalidate the other. They asked him, 'Do you still say this?' 'No', he replied; 'for can it be said that one who has not the wherewithal to perform two precepts should not even perform one?' What was his opinion before? — It was only a precaution lest he become negligent [in the precept].[10]

R. Shesheth said, Whosoever does not put on the tefillin transgresses eight precepts;[11] and whosoever has not zizith attached to his garment transgresses five precepts;[12] and every priest who does not go up to the platform[13] transgresses three precepts;[14] and whosoever has not a mezuzah on his door transgresses two precepts, namely, And thou shalt write them,[15] And thou shalt write them.[16]

Resh Lakish said, He who puts on the tefillin will live long, for it is written,

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(1) Or, 'nevertheless go on (including the blessing concerning the slave)', so as to make up the three blessings.

(2) Or 'its essence', i.e. its blood. V. Lewysohn, op. cit. p. 282.

(3) Lit., 'comes up', i.e., from the sea; so Rashi in San. 91a and Meg. 6a.

(4) A form of oath. According to Rashi: By the head of Rome (referring to the Emperor).

(5) Lit., 'the service' (of the Temple).

(6) Num. XV, 41. The expression is repeated in this verse.

(7) So that they should not hinder her in her purpose of being converted to Judaism.

(8) The rule that the tenant must fix the mezuzah will deter him from leaving the premises since he would not be permitted to remove it on leaving; v. B.M. 102a. Furthermore, even if he were to leave the premises the house would soon be let again because of the advantage of its having mezuzoth affixed.

(9) I.e., he possesses both tefillin; in that case the wearing of one is not dependent upon the other.

(10) And he will acquire only one tefillah since the use of one is itself a precept.

(11) For in each of the four Scriptural texts of the tefillin there is a twofold injunction, namely, to place the tefillin upon the hand and upon the head; hence the non-observance of this law involves the transgression of these eight commands. V. Rashi.

(12) The four precepts stated in Num. XV, 38 and 39, and the fifth in Deut. XXII, 12.

(13) To pronounce the priestly benediction.

(14) Cf. Num. VI, 23: On this wise ye shall bless the children of Israel; ye shall say to them, which contains two precepts, and the third in v. 27: So shall they put My name upon the children of Israel.

(15) Deut. VI, 9.

(16) Ibid. XI, 20.

Talmud - Mas. Menachoth 44b

The Lord upon them, they shall live, and altogether therein is the life of my spirit; wherefore recover Thou me, and make me to live.[1]

MISHNAH. THE [ABSENCE OF THE] FINE FLOUR AND THE OIL DOES NOT INVALIDATE THE WINE,[2] NEITHER DOES THE [ABSENCE OF THE] WINE INVALIDATE THEM. THE [OMISSION OF ONE OF THE] SPRINKLINGS [OF THE BLOOD] ON THE OUTER ALTAR DOES NOT INVALIDATE THE REST.[3]

GEMARA. Our Rabbis taught: It is written, And their meal-offering and their drink-offerings,[4] that is, you must first offer the meal-offering and then the drink-offering.[5] Rabbi says, It is written, A sacrifice and drink-offerings,[6] that is, you must first offer the sacrifice and then the drink-offering.[7] But [against] Rabbi [it will be asked]: Is it not written, 'And their meal-offering and their drink-offerings'? — That verse he requires for the teaching that their meal-offering and their drink-offerings may be offered at night and that their meal-offering and their drink-offerings may be offered even on the following day.[8] And [against] the Rabbis [it will be asked]: Is it not written, ‘A sacrifice and drink-offerings’? — That verse they require for Ze'iri's teaching; for Ze'iri said, The drink-offerings become hallowed only by the slaughtering of the animal-offering.[9] And does not Rabbi also require that verse for Ze'iri's teaching? And do not the Rabbis also require the other verse for the teaching that their meal-offering and their drink-offerings may be offered at night and that their meal-offering and their drink-offerings may be offered even on the following day?[10] — In truth this is the reason for the Rabbis’ view; it is written, A burnt-offering and a meal-offering.[11] And [against] Rabbi [then it will be asked]: Is it not written, A burnt-offering and a meal-offering? — Rather [this is the true position]: When the drink-offerings accompany the sacrifice all are agreed that the meal-offering is offered first and it is followed by the drink-offering, for it is written, ‘A burnt-offering and a meal-offering’. They only differ where they are offered as an offering by themselves; the Rabbis are of the opinion that just as when they accompany the sacrifice the meal-offering is offered first and then the drink-offering, so it is, too, when they are offered by themselves, namely, the meal-offering is offered first and then the drink-offering. Rabbi, however, distinguishes thus: only there [where they accompany the sacrifice does the meal-offering precede the drink-offering] for since the offering began with what is eaten[12] one should continue with what is eaten;[13] but where they are offered as an offering by themselves the drink-offering takes the first place, since the Psalm is sung [by the Levites] over it.[14]

THE [OMISSION OF ONE OF THE] SPRINKLINGS [OF THE BLOOD] ON THE OUTER ALTAR DOES NOT INVALIDATE THE REST. Our Rabbis taught: Whence do we know that any offering whose blood must be sprinkled on the outer altar effects atonement even if it is sprinkled with but one act of sprinkling? From the verse, And the blood of thy sacrifices shall be poured out against the altar of the Lord thy God.[15]

MISHNAH. THE [ABSENCE OF EITHER THE] BULLOCKS OR THE RAMS OR THE LAMBS DOES NOT INVALIDATE THE OTHERS.[16] R. SIMEON SAID, IF THEY HAD [MEANS ENOUGH FOR THE] MANY BULLOCKS BUT HAD NOT [MEANS ENOUGH FOR] THE DRINK-OFFERINGS, THEY SHOULD BRING ONE BULLOCK AND ITS DRINK-OFFERINGS AND SHOULD NOT OFFER THEM ALL WITHOUT DRINK-OFFERINGS.

GEMARA. Which bullocks and lambs are meant? Will you say those of the Feast [of Tabernacles]?[17] But there is written of them, After the ordinance,[18] After the ordinance![18] — We must therefore say that those of the New Moon and of Pentecost are meant, which are ordained in the Book of Numbers.[19]

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(1) Isa. XXXVIII, 16. The opening of this verse is interpreted in reference to the tefillin thus: They that hear upon them the name of the Lord (i.e. that wear the tefillin) shall live.

(2) The reference is to the drink-offerings which accompanied most important animal sacrifices; v. Num. XV, 4ff. The absence of one component part does not prevent the offering of the other.

(3) I.e., the omission of one sprinkling does not render the ceremony invalid, since the sacrifice is valid if the blood was sprinkled with but one act of sprinkling. V. Zeb. 36b.

(4) Ibid. XXIX, 18.

(5) In this passage ‘drink-offering’ (in the sing.) refers only to the wine libation.

(6) Lev. XXIII, 37.

(7) Which is to be followed by the meal-offering.

(8) Provided they were not hallowed in a vessel of ministry on the previous day. Cf. Tem. 14a.

(9) But before the slaughtering of the animal the drink-offerings designated for this sacrifice may be used for another.

(10) Since both the verses cited are required for the special teachings, neither can draw any inference therefrom as to the priority of the meal-offering over the drink-offering, or vice versa.

(11) Lev. XXIII, 37. Hence the meal-offering follows immediately after the animal-offering.

(12) Sc. solid food; i.e., the flesh of the sacrifice which is burnt upon the altar.
(13) Sc. the meal-offering. which is also solid food consumed by the altar.
(14) V. ‘Ar. 11a.
(15) Deut. XII, 27. The expression ‘poured out’ suggests one act of sprinkling.
(16) Each may be offered by itself in the absence of the others.
(17) On each day of this Festival bullocks and lambs were offered; v. Num. XXIX, 12ff.
(18) Ibid. 18 and 33. These terms imply precision and the indispensability of every item prescribed.
(19) The reference is to the Musaf or additional offerings of the New Moon and of Pentecost, consisting in each case of two bullocks, one ram and seven lambs; cf. ibid. XXVIII, 11 and 27.

Talmud - Mas. Menachoth 45a

And which rams are meant? Will you say those of the above occasions?[1] But only one ram is spoken of there![2] Or will you say those of Pentecost which are ordained in the Book of Leviticus?[3] But the expression ‘shall be’ is used with regard to them![4] — In truth those of Pentecost which are ordained in the Book of Leviticus are meant, and [the Mishnah] teaches that neither the [absence of the] rams which are ordained in Leviticus will invalidate the ram ordained in Numbers nor will [the absence of] the ram ordained in Numbers invalidate the rams ordained in Leviticus. Then [the position is this, is it not], that in regard to the bullocks even [though they are ordained in one passage the absence of] one does not invalidate the other;[5] whereas in regard to the rams the absence of what is ordained in one passage does not invalidate what is ordained in another passage, but of what is ordained in one passage the absence of one invalidates the other?[6] — The Tanna dealt with different conditions in each case.[7]

And in the day of the new moon it shall be a young bullock without blemish; and six lambs and a ram; they shall be without blemish.[8] Why does the text say, ‘A bullock’? It is because in the Torah it says, [Two] bullocks;[9] but whence do I know that if two are not to be found one must be brought? The text therefore says, ‘A bullock’. Again why does the text say. ‘Six lambs’? It is because in the Torah it says. Seven lambs;[9] but whence do I know that if seven are not to be found six must be brought? The text therefore says, Six lambs. And whence do I know that if six are not to be found five are to be brought, and if not five four, and if not four three, and if not three two, or even one? The text therefore says. And lambs according as his means suffice.[10] But since this is so,[11] why does the text say, ‘six lambs’? To indicate that we must make every effort to obtain as many as possible. And whence do I know that [the absence of] one invalidates the others?[12] Because the text says. They shall be.[13]

Thus saith the Lord God, In the first month, in the first day of the month thou shalt take a young bullock without blemish, and thou shalt offer it as a sin-offering in the sanctuary.[14] A sin-offering’? But surely it is a burnt-offering?[15] — R. Johanan said, This passage will be interpreted by Elijah in the future.[16] R. Ashi said, [It refers to] the special consecration-offering [to be] offered in the time of Ezra[17] just as it was offered in the time of Moses.[18] There has also been taught [a Baraitha] to the same effect: R. Judah says, This passage will be interpreted by Elijah in the future. But R. Jose said to him, [It refers to] the consecration-offering [to be] offered in the time of Ezra just as it was offered in the time of Moses. He replied, May your mind be at ease for you have set mine at ease.

The priests shall not eat of anything that dieth of itself [nebelah], or is torn [trefah], whether it be fowl or beast.[19] Is it only the priests that may not eat such but the Israelites may?[20] — R. Johanan said, This passage will be interpreted by Elijah in the future. Rabina said, It was necessary [to repeat this prohibition] for the priests, for I might have thought that since they are permitted [to eat] a bird-offering of which the head had been nipped off at the neck,[21] they are also permitted to eat nebelah and trefah; we are therefore told [that it is not so].

And so thou shalt do on the seventh day of the month for every one that erreth, and for him that is simple; so shall ye make atonement for the house.[22] 'Seven',[23] says R. Johanan, refers to a sin committed by seven tribes, even though they do not constitute the majority of the community.[24] 'New [moon]', that is, they decided a new law saying, [e.g.,] that fat is permitted.[25] 'For every one that erreth and for him that is simple', this teaches that they[26] are liable[27] only if the ruling [of the Beth din was made] in ignorance and the transgression [of the community] was committed in error.[28]

Rab Judah said in the name of Rab, That man is to be remembered for good, and Hanina b. Hezekiah is his name; for were it not for him the Book of Ezekiel would have been suppressed, since its sayings contradicted the words of the Torah. What did he do? He took up with him three hundred barrels of oil[29] and remained there in the upper chamber until he had explained away everything.

R. SIMEON SAID, IF THEY HAD [MEANS ENOUGH FOR] THE MANY BULLOCKS etc. Our Rabbis taught: It is written, And he shall prepare a meal-offering, an ephah for the bullock, and an ephah for the ram, and for the lambs according as his means suffice, and a bin of oil to an ephah.[30] R. Simeon asked, Is the quantity [of flour for a meal-offering] the same for bullocks as for rams?[31] But it signifies that if they had [means enough for] the many bullocks but had not [means enough for] the drink-offerings, they should bring one bullock and its drink-offerings and should not offer them all without drink-offerings. And if they had [means enough for]

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(1) As prescribed in the Book of Numbers; v. prec. note.

(2) Whereas our Mishnah speaks of rams in the plural.

(3) Which are offered with the two loaves; v. Lev. XXIII, 18: And ye shall offer with the bread seven lambs . . . and one young bullock and two rams; they shall be for a burnt-offering unto the Lord.

(4) V. prec. note. The expression 'shall be' invariably implies indispensability of every item and detail; thus conflicting with our Mishnah.

(5) And if one bullock was lost the other may nevertheless be offered.

(6) I.e., the two rams offered with the two loaves on Pentecost, ordained in Lev. XXIII, 18, are indispensable to each other, and one cannot be offered without the other.

(7) I.e., the position as described is quite correct, and the Tanna of our Mishnah was in no way concerned with the facts that the cases of the bullocks and of the rams were not on all fours.

(8) Ezek. XLVI, 6.

(9) Num. XXVIII, 11.

(10) Ezek. XLVI, 7.

(11) That less than the prescribed number of seven may be brought.

(12) I.e., if there were seven (or any lesser number of) lambs each one is indispensable and the absence of one of them would prevent the offering of the others. So Rashi; but v. Tosaf. s.v. ומנין, and Sh. Mek. n. 3.

(13) Ezek. XLVI, 6. This expression indicates indispensability

(14) Ezek. XLV, 18. The word וחטאת rendered in the versions 'and thou shalt purify' is understood as though it were read וחטאת 'and a sin-offering'.

(15) The special sacrifices of the New Moon were burnt-offerings, v. Num. XXVIII, 11.

(16) This means that it is beyond our power to reconcile this verse with the ordinance of the Torah and will be explained by Elijah the Prophet, the herald of the Messianic era, who is to make the truth known.

(17) V. Sh. Mek. n. 4.

(18) For on the eighth day of the consecration of the Sanctuary in the time of Moses, which coincided with the New Moon of Nisan, sin-offerings, and not the usual burnt-offerings, were brought. The prophet Ezekiel foretells a similar consecration of the Temple on the New Moon in the future, when in place of the usual burnt-offerings sin-offerings will be offered.

(19) Ezek. XLIV, 31.

(20) Surely not; for nebelah and trefah are expressly forbidden in the Torah to all Israelites, v. Deut. XIV, 21, and Ex. XXII, 30.

(21) Bird-offerings were not slaughtered in the usual manner but their heads were nipped off at the neck, v. Lev. I, 15.

After the application of the blood as prescribed, the priests were allowed to eat the flesh of the bird, although for profane purposes such nipping would render the bird nebelah.

(22) Ezek. XLV, 20.

(23) The expression בשבעה בחדש, 'on the seventh day of the month' is interpreted separately, שבעה meaning seven, and חדש the new moon.

(24) The reference is to the special sin-offering of a bullock brought on behalf of the community when the whole community or the greater part thereof or even the majority of the tribes had committed a sin by acting upon the erroneous ruling of the Beth din; v. Lev. IV, 13.

(25) Whereas the fat is forbidden by the Torah on penalty of kareth; v. Lev. VII, 25.

(26) Sc. the community.

(27) To bring the special sin-offering of a bullock.

(28) I.e., the people acted in accordance with the new ruling of the Beth din and actually ate forbidden fat.

(29) To serve him for lighting.

(30) Ezek. XLVI, 7.

(31) Of course not, for the quantity of flour for the meal-offering which accompanied the offering of a bullock was three tenths of an ephah whereas that which accompanied a ram was two tenths. V. Num. XV, 6, 9.

Talmud - Mas. Menachoth 45b

the many rams but had not [means enough for] the meal-offerings,[1] they should bring one ram and its meal-offering and should not offer them all without meal-offerings.

MISHNAH. THE [ABSENCE OF THE] BULLOCK,[2] OR THE RAMS, OR THE LAMBS OR THE HE-GOAT DOES NOT INVALIDATE THE BREAD-OFFERING,[3] NEITHER DOES THE [ABSENCE OF THE] BREAD-OFFERING INVALIDATE THEM. THE [ABSENCE OF THE] BREAD-OFFERING INVALIDATES THE LAMBS,[4] BUT THE [ABSENCE OF THE] LAMBS DOES NOT INVALIDATE THE BREAD-OFFERING. SO R. AKIBA. R. SIMEON B. NANOS SAID, IT IS NOT SO, BUT RATHER THE [ABSENCE OF THE] LAMBS INVALIDATES THE BREAD-OFFERING, WHILST THE [ABSENCE OF THE] BREAD-OFFERING DOES NOT INVALIDATE THE LAMBS; FOR SO WE FIND IT WAS THE CASE THAT WHEN THE ISRAELITES WERE IN THE WILDERNESS FOR FORTY YEARS THEY OFFERED THE LAMBS WITHOUT THE BREAD-OFFERING;[5] THEREFORE NOW TOO THEY MAY OFFER THE LAMBS WITHOUT THE BREAD-OFFERING. R. SIMEON SAID, THE HALACHAH IS ACCORDING TO THE WORDS OF BEN NANOS BUT THE REASON IS NOT AS HE STATED IT; FOR EVERY OFFERING STATED IN THE BOOK OF NUMBERS WAS OFFERED IN THE WILDERNESS, BUT NOT EVERY OFFERING STATED IN THE BOOK OF LEVITICUS WAS OFFERED IN THE WILDERNESS; HOWEVER, WHEN THEY CAME INTO THE LAND OF ISRAEL THEY OFFERED BOTH KINDS. WHY THEN DO I SAY THAT THE LAMBS MAY BE OFFERED WITHOUT THE BREAD-OFFERING? BECAUSE THE LAMBS RENDER THEMSELVES PERMISSIBLE.[6] AND [WHY DO I SAY THAT] THE BREAD-OFFERING MAY NOT BE OFFERED WITHOUT THE LAMBS? BECAUSE THERE IS NOTHING THAT RENDERS IT PERMISSIBLE.[7]

GEMARA. Our Rabbis taught: And ye shall present with the bread,[8] that is, as an obligation with the bread-offering;[9] seven lambs without blemish,[10] that is, even though there is no bread-offering. Then why does the verse say, 'With the bread'? To teach that there was no obligation to bring the lambs before there was the obligation to bring the bread-offering.[11] This is the view of R. Tarfon.[12] You might think that the lambs stated here[13] are the identical ones which are stated in the Book of Numbers;[14] but you must say that this is not the case, for when you come to the bullocks and the rams it is evident that they are not the identical ones;[15] but these[16] are brought on their own account, whilst those[17] are brought on account of the bread-offering.[18] It will thus be seen that those offerings stated in the Book of Numbers were offered in the wilderness but those stated in the Book of

Leviticus were not offered in the wilderness. Perhaps the bullocks and the rams [of the two Books] are not the identical ones, but the lambs are the identical ones?[19] — Since those [the former] are certainly different ones,[20] these [the latter] too are not the identical ones. And why must one say that the bullocks and the rams are different ones? perhaps the Divine Law meant to say, If it is so desired one bullock and two rams are to be offered or, if preferred, two bullocks and one ram? — Since the order is different[21] they must be other sacrifices.

THE [ABSENCE OF THE] BREAD-OFFERING INVALIDATES THE LAMBS. What is the reason for R. Akiba's view? — He infers the expression ‘they shall be’ [yiheyu][22] from the other expression ‘they shall be’ [tiheyenah]:[23] as in the latter case it refers to the bread-offering, so in the former it refers to the bread-offering. Ben Nanos, however, infers the expression ‘they shall be’ [yiheyu][22] from the other expression ‘they shall be’ [yiheyu]:[24] as in the latter case it refers to the lambs, so in the former it refers to the lambs. And why does not Ben Nanos infer [yiheyu] from tiheyenah, [and say:] as in the latter case it refers to the bread-offering so in the former it refers to the bread-offering? — One may infer yiheyu from yiheyu[25] but one may not infer yiheyu from tiheyenah. But what does this [variation] matter? Was it not taught in the school of R. Ishmael that in the verses, And the priest shall come again,[26] and And the priest shall come in,[27] ‘coming again’ and ‘coming in’ have the same import [for purposes of inference]? — That is permissible only where there is no identical expression [on which to base the inference], but where an identical expression exists, the inference must be drawn from the identical expression. And why does not R. Akiba infer yiheyu from yiheyu? — One should infer that [offering] which provides a gift to the priest from that which provides a gift to the priest.[28] but the others[29] are burnt-offerings. Alternatively I can say that they differ on the interpretation of this very verse: They shall be holy to the Lord for the priest.[30] R. Akiba maintains, What is it that is entirely for the priest? I should say, It is the Bread-offering. And Ben Nanos, [what does he say]? Does the verse say, ‘They shall be holy to the priest’? It says, ‘They shall be holy to the Lord for the priest’. What is it that is partly to the Lord and partly for the priest? I should say, It is the lambs. And R. Akiba [what does he say to this]? — Does the verse say, ‘They shall be holy to the Lord and for the priest’? It says, ‘To the Lord for the priest’. It is as stated by R. Huna, for R. Huna said, God[31] acquired it and granted it to the priest.

R. Johanan said, All agree

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(1) Lit., ‘their ephahs’.

(2) The animals here enumerated are the special offerings prescribed for Pentecost, cf. Lev. XXIII, 17-19; the bullock, the two rams and the seven lambs for burnt-offerings, and the he-goat for a sin-offering.

(3) I.e., the two loaves; cf. ibid. 17.

(4) Sc. the two lambs for peace-offerings; ibid. 19.

(5) For only flour from the Land of Israel was to be used for the Bread-offering and the ‘Omer-offering; v. infra 83b.

(6) The sprinkling of the blood of the lambs renders the sacrificial portions permissible for sacrifice and the rest of the flesh permissible to be eaten; thus the validity of the lambs is in no wise dependent on the bread-offering.

(7) For it is the slaughtering of the lambs that renders the bread-offering permissible to be eaten, so that in the absence of the lambs there is naught to render the bread-offering permissible.

(8) Lev. XXIII, 18.

(9) And one may not be offered without the other.

(10) Ibid.

(11) And this obligation only commenced when they entered the Land of Israel.

(12) In cur. edd. are added the words: ‘R. Akiba says’. They are not found in the parallel passage in the Sifra and in all extant MSS., and are struck out by Sh. Mek. V. Glosses of Strashun a.l.

(13) In Lev. ibid. where the verse reads: And ye shall present seven lambs . . . and one young bullock and two rams.

(14) Num. XXVIII, 27: Two young bullocks, one ram, and seven lambs.

(15) Since the number of each kind is different in each passage.

(16) Those animals stated in Numbers are offered as additional sacrifices and are not related to the bread-offering.

(17) Mentioned in Leviticus.
(18) And since the bread-offering was not offered in the wilderness the sacrifices stated in connection with it were similarly not offered in the wilderness.
(19) Since the number of lambs is seven in each passage.
(20) For the number of animals of each kind is different in the two texts.
(21) Cf. the verses of Lev. and Num. supra p. 274, nn. 8 and 9. The fact that in Lev. the seven lambs are stated in the verse before the bullock and the rams and in Num. after them signifies that they are not the identical ones.
(22) Lev. XXIII, 20: And the priest shall wave them with the bread of the firstfruits for a wave-offering before the Lord, with the two lambs; they shall be holy to the Lord for the priest. Now the expression ‘they shall be’ יהיו implies that the offering cannot be dispensed with, but the doubt is as to which offering is meant, whether the bread-offering or the two lambs.
(23) Ibid. 17: סלת תהיינה, they shall be of fine flour; this clearly refers to the bread-offering.
(24) Ibid. 18: יהיו. This expression clearly refers to the seven lambs and the other burnt-offerings.
(25) Being identical expressions.
(26) Ibid. XIV, 39 and 44. The reference is to the treatment of a leprous spot in the walls of a house.
(27) v. p. 275, n. 8.
(28) The two lambs for the peace-offerings provided a gift to the priest, for after the burning of the sacrificial portions the flesh was eaten by the priests, and so, too, did the two loaves, for they were entirely eaten by the priests.
(29) Sc. the seven lambs etc.
(30) Lev. XXIII, 20.
(31) Lit., ‘the Name’.

Talmud - Mas. Menachoth 46a

that if they were attached to each other the [absence of] one invalidates the other.[1] And what creates this attachment? — It is the slaughtering.[2]

‘Ulla reported that in the West [Palestine] the following question was raised: Does the waving[3] create any attachment or not? — But surely this can be solved from the foregoing statement of R. Johanan, for since R. Johanan said that the slaughtering creates the attachment, it follows that the waving does not! — That very statement of R. Johanan gave rise to doubts, viz., Was R. Johanan certain that the slaughtering creates an attachment and that the waving does not, or was he certain only about the slaughtering, but about the waving he was in doubt? — This remains undecided.

R. Judah b. Hanina said to R. Huna the son of R. Joshua, Behold, the verse, ‘They shall be holy to the Lord for the priest’, is written after the rite of waving, nevertheless Ben Nanos and R. Akiba differ![4] — But according to your view, too, [this same argument can be put forward, for is the verse written] only after the rite of waving and not after the slaughtering?[5] You have therefore no alternative but to say that [the rule contained in this verse][6] applies to the early stage of the offering,[7] and that the verse, ‘They shall be holy to the Lord for the priest’, is to be understood in the sense that later on they will be for the priest; then one can say the same here, too,[8] that only later on they will be for the priest.

And does the slaughtering create any attachment? But the following contradicts it, for it was taught: If a cake[9] broke[10] before [the thank-offering] had been slaughtered, he[11] should bring another cake and then the offering may be slaughtered. If the cake broke after [the thank-offering] had been slaughtered, the blood should be sprinkled[12] and the flesh may be eaten, but he has not fulfilled his vow; moreover the bread is invalid.[13] If the blood had already been sprinkled [and then the cake broke], he must give as the priestly offering[14] a whole cake in place of the broken one. If a cake had been taken outside[15] before [the thank-offering] had been slaughtered, it should be brought in again and then the offering may be slaughtered. If the cake had been taken outside after [the thank-offering] had been slaughtered, the blood should be sprinkled and the flesh may be eaten, but he has not thereby fulfilled his vow; moreover the bread is invalid. If the blood had already been sprinkled [and then the cake had been taken outside], he must give as the priestly offering a cake which had remained inside in place of that which had been taken outside.[16] If a cake had become unclean before [the thank-offering] had been slaughtered, he should bring another cake and then the offering may be slaughtered. If the cake had become unclean after [the thank-offering] had been slaughtered, the blood should be sprinkled and the flesh may be eaten, and he has also fulfilled his vow,[17] for the [High Priest's] plate renders acceptable the offering which became unclean; but the bread is invalid. If the blood had already been sprinkled [and then the cake became unclean], he must give as the priestly offering a clean cake in place of that which had become unclean. Now if one were to hold that the slaughtering creates an attachment [between the animal offering and the cakes], then surely when this attachment has already been created by the slaughtering and thereafter the cakes become invalid, the thankoffering should also be invalid,[18] should it not? — The thank-offering is a special case, for Holy Writ refers to it as a peace-offering,[19] and as peace-offerings are offered without any bread-offering so the thank-offering too may be offered without the bread-offering.

R. Jeremiah said, If you were to say that the waving creates an attachment, then it is clear that if the bread-offering was lost[20]

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(1) I.e., if the two loaves and the two lambs were together in the Sanctuary intended and ready for the Festival-offering, that fact attached them to each other; and therefore if one kind, either the loaves or the lambs, was lost, the remaining kind may not be offered, but must be taken away to be burnt.

(2) I.e., if the loaves were in the Sanctuary at the time of the slaughtering of the lambs they at once become attached to each other, and one may not be offered without the other.

(3) Which is prior to the slaughtering, for the two lambs were waved before the Lord whilst still living together with the two loaves, v. Lev. XXIII, 20.

(4) As to whether it is the lambs that may be offered in the absence of the loaves or vice versa, but one may certainly be offered without the other; it is evident, therefore, that the waving stated at the beginning of the verse in question creates no attachment whatsoever between the lambs and the loaves.

(5) This verse clearly relates to the time after the slaughtering, for only then can they be considered for the priest, and yet they differ as to which is indispensable; hence the argument could be adduced to prove that even the slaughtering does not create any attachment.

(6) Sc. that one may be offered without the other.

(7) Before the slaughtering.

(8) Viz., that the rule that one may be offered without the other relates only to the early stage of the offering, namely, before the waving, for the waving, it may be said, creates an attachment.

(9) For the four kinds of bread which accompanied the thank-offering v. Lev. VII, 22,23.

(10) The disqualifying effect of a broken loaf is derived according to Rashi from the Shewbread (v. Rashi).

(11) The offerer of the thank-offering.

(12) As an ordinary peace-offering and not as a thank-offering.

(13) I.e., none of the cakes may be eaten. V. Rashi.

(14) The priestly share of the bread-offering was one out of every ten cakes; moreover what he received had to be whole and not broken; v. infra 77b.

(15) Outside the walls of Jerusalem.

(16) When giving the tenth part to the priest the broken cake or what was taken outside or what was unclean must be included in the total, although these particular cakes may not be given to the priest.

(17) According to MS.M.: ‘He has not fulfilled his vow’, and omitting ‘for the plate . . . unclean’; so also in Tosef. Men. VIII. This text is preferred by Tosaf. s.v. משחטה, and by Sh. Mek.

(18) And the blood should not be permitted to be sprinkled even as a peace-offering.

(19) Cf. Lev. VII, 15.

(20) After the waving.

Talmud - Mas. Menachoth 46b

the lambs must be destroyed, and if the lambs were lost the bread must be destroyed. But if you were to say that the waving does not create an attachment, then in the case where the bread-offering and the lambs had been brought [into the Sanctuary] and after they had been waved together the bread was lost and other bread was brought in its place, the question would arise, must the second bread be waved or not? Of course, if it was the lambs that were lost [and other lambs were brought in their place], there is no question at all that [the second pair of lambs] must be waved.[1] The question can only arise when it was the bread that was lost. And again, according to Ben Nanos, who said that the lambs constitute the main part of the offering, this question cannot arise;[2] but it can only arise according to R. Akiba, who maintains that the bread constitutes the main part of the offering. And the question is, Shall we say that since the bread constitutes the main part of the offering, it[3] requires to be waved; or perhaps, since it is the lambs which render the bread permissible it does not require to be waved? — This must remain undecided.

Abaye said to Raba, Why is it that the two lambs[4] hallow the bread and [their absence] renders [the bread] invalid, whereas the seven lambs and the bullock and the rams[4] do not hallow the bread and [their absence] does not render [the bread] invalid? — He replied, It is because they have become attached to each other by the waving.[5] But take the case of the thank-offering, where [the animal-offering and the bread] are not attached to each other by any waving, and yet the one hallows the other and the [absence of] one invalidates the other! — Let us indeed compare it with the thank-offering, as the thank-offering is a peace-offering [and that alone hallows the bread] so here too it is the peace-offering [alone which hallows the bread].[6] But can we make this comparison? In that case[7] there are no other offerings with it, but here,[8] since there is another kind of offering that goes with it, both kinds should hallow [the bread]? — We should, however, compare this case with the ram of the Nazirite; as with the ram of the Nazirite, although there are other offerings that go with it,[9] it is the peace-offering only and nothing else that hallows the bread, so it is in this case too. And whence do we know this there? — Because it is written,[10] And he shall offer the ram for a sacrifice of peace-offerings unto the Lord, with the basket of unleavened bread,[11] which teaches us that the basket [of bread] comes as an obligation for the ram, and the slaughtering of the ram hallows it. Therefore, if it was slaughtered under the name of any other offering, the bread is not hallowed thereby.

Our Rabbis taught: If the Two Loaves were brought alone,[12] they must [none the less] be waved, and then their appearance must be spoilt,[13] and they must be taken away to the place of burning. But say what you will, if they[14] are brought to be eaten then let them be eaten, and if they are brought to be burnt then let them be burnt immediately! Wherefore is it necessary that their appearance be spoilt? — Rabbah answered, Actually they are brought to be eaten but [they are forbidden to be eaten] as a precautionary measure lest in the following year, when they have the lambs, they[15] might say, ‘Last year did we not eat the loaves without offering the lambs? We can do the same this year’, and they will not appreciate the fact that last year the loaves rendered themselves permissible because there were no lambs, but now that there are lambs it is the lambs that render them permissible.[16]

Rabbah said, Whence do I arrive at this view?[17] Because we have learnt:[18] R. Judah said, Ben Bokri testified at Jabneh that a priest who paid the shekel has committed no sin. Rabban Johanan b. Zakkai said to him, Not so, but rather a priest who did not pay the shekel has committed a sin. The priests, however, used to expound the following verse to their advantage, And every meal-offering of the priest shall be wholly burnt, it shall not be eaten.[19] Since the ‘Omer-offering and the Two Loaves and the Shewbread are ours, how can they be eaten?[20] Now what are the circumstances with regard to the Two Loaves referred to? If they are offered with the sacrifice then [the question will at once be asked], Do not the priests make a freewill-offering of a thank-offering and its loaves and also eat them?[21] It must be that they are offered by themselves, yet it says above, 'How can they be eaten?' We thus see that [when brought alone] they are brought to be eaten. But Abaye said to him, I maintain that it is a case when they are offered with the sacrifice, and as to your difficulty raised from the thank-offering and its loaves, [it is no difficulty at all], for the loaves of the thank-offering are nowhere referred to as a meal-offering, whereas the Two Loaves are referred to as a meal-offering,[22] for it is written, When you bring a new meal-offering unto the Lord.[23]

R. Joseph said, In fact they are brought to be burnt, but the reason why we do not burn them [immediately] is that we must not burn holy things on a Festival. But Abaye said to him, Where is the comparison? There[24] the precept is not to do so,[25] but here since it is the precept to do so they should be burnt [on the Festival], as is the case with the bullock and the he-goat offered on the Day of Atonement! — Rather, said R. Joseph, it is to be feared that later on [during the day] they might obtain lambs.[26] Said Abaye to him, This is very well [to delay the burning] as long as the time for the offering thereof continues,[27] but after that time they should be burnt, should they not? — The expression 'their appearance must be spoilt' indeed means that they must be kept as long as the time for the offering thereof continues.

Raba said, I maintain that they are brought to be eaten, [yet they are not eaten] because of the precautionary measure stated by Rabbah,[28] but [the law][29] is not derived from the passage adduced by him, but from a Scriptural verse. For I derive it, said Raba, from the following verse: Ye shall bring out of your dwellings two wave-loaves . . . for firstfruits unto the Lord.[30] As firstfruits are offered by themselves so the Two Loaves may also be offered by themselves; and it follows also, as the firstfruits are offered to be eaten so the Two Loaves also are offered to be eaten.

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(1) Together with the two loaves, for in the first place, it is the lambs which render the two loaves permissible to be eaten, and secondly, the rite of waving is stated primarily of the lambs; cf. Lev. XXIII, 20.

(2) For since the lambs are still here and have once been waved nothing further is required.

(3) Sc. the second bread, brought as a substitute for the first which was lost.

(4) Offered on the Feast of Weeks.

(5) The two lambs must be waved before the Lord together with the two loaves.

(6) Whereas the seven lambs, the bullock, and the rams are burnt-offerings.

(7) Sc. the thank-offering.

(8) With regard to the offerings of the Feast of Weeks.

(9) The Nazirite at the fulfilment of his period of consecration must bring a ram for a peace-offering as well as a male lamb for a burnt-offering and an ewe lamb for sin-offering, v. Num. VI, 14.

(10) So MS.M. and Sh. Mek. In cur. edd. 'For it was taught'.

(11) Ibid. 17.

(12) Where the two lambs were not available the loaves, according to R. Akiba, may be offered by themselves, since they constitute the main part of the Festival-offering.

(13) I.e., they must be kept overnight whereby they become invalid and then are burnt, for it is forbidden to destroy an offering that is still valid.

(14) Sc. the Two Loaves when brought without the lambs.

(15) Sc. the priests.

(16) But since the Two Loaves are in fact a valid offering they must not be destroyed unless they were first made invalid.

(17) That the Two Loaves even when brought by themselves without the lambs, are offered to be eaten.

(18) Shek. I, 4. V. supra p. 139 and the notes thereon.

(19) Lev. VI, 16.

(20) They argued that if they were to contribute the shekel for the public-offerings they would then have a share in the public-offerings, and as the priest's meal-offering must be burnt then it would follow that every meal-offering, e.g. the Shewbread, would be forbidden to be eaten, and this would be contrary to Scripture.

(21) And therefore the priests' argument 'How can they be eaten?' cannot apply to this case.

(22) And the meal-offering of priests must be wholly burnt, hence their argument from the Two Loaves.

(23) Num. XXVIII, 26.
(24) In the rule stated that holy things may not be burnt on a Festival. Cf. Shab. 23b.
(25) The holy thing was originally not intended for burning but for eating, but as it became invalid it was condemned to be burnt; that burning may not be carried out on the Festival.
(26) So that it is possible that later during the day the ceremony might be carried out in the manner ordained; it is therefore proper to delay the burning of the loaves as long as possible.
(27) I.e., so long as the evening daily sacrifice has not been offered (Rashi). After this, even if lambs were obtained they would not be offered.
(28) V. supra p. 281.
(29) That the Two Loaves are brought to be eaten even when offered by themselves.
(30) Lev. XXIII, 17.

Talmud - Mas. Menachoth 47a

Our Rabbis taught: The lambs of Pentecost hallow the bread only by their slaughtering. Thus, if they were slaughtered under their own name and their blood was sprinkled under their own name, the bread is hallowed thereby;[1] if they were slaughtered under another name and their blood was sprinkled under another name, the bread is not hallowed; if they were slaughtered under their own name but their blood was sprinkled under another name, the bread is hallowed and not hallowed. So Rabbi. R. Eleazar son of R. Simeon says, [The bread] always remains unhallowed unless [the lambs] were slaughtered under their own name and their blood was sprinkled under their own name.

What is the reason for Rabbi's view? — Because it is written, And the ram he shall offer by slaughtering it as a peace-offering unto the Lord, with the basket of unleavened bread,[2] that is to say, the slaughtering hallows [the bread]. And R. Eleazar son of R. Simeon? — The expression ‘he shall offer’ implies that he must perform all the rites of the offering.[3] And Rabbi? Is not the expression ‘he shall offer’ used? — Had the term ‘slaughtering’ been followed by ‘he shall offer’ I agree that the meaning would be as you say;[4] but now that it is written ‘he shall offer’ and then ‘slaughtering’, it clearly means, he shall offer it by the act of slaughtering. And R. Eleazar son of R. Simeon? Is not the expression ‘slaughtering’ used? — That is necessary for R. Johanan's teaching, for R. Johanan said, All[5] agree that the bread must be there at the time of the slaughtering.

What is meant by ‘hallowed and not hallowed’? — Abaye said, It is hallowed but not completely so. Raba said, It is hallowed but not permitted [to be eaten]. What is the practical difference between them?[6] — There is a difference between them as to whether redemption is effective; according to Abaye the redemption is effective, according to Raba it is not.[7] Now according to Raba there is clearly a difference of opinion between Rabbi and R. Eleazar son of R. Simeon;[8] but according to Abaye what difference is there between Rabbi and R. Eleazar son of R. Simeon?[9] — There is a difference between them as to whether it would become invalid if taken out [of the Sanctuary].[10]

R. Samuel b. R. Isaac enquired of R. Hiyya b. Abba: If the lambs of Pentecost were slaughtered under their own name but their blood was sprinkled under another name, may the bread be eaten or not? According to whose view does this question arise? If [you say] according to R. Eleazar son of R. Simeon, [then there is no question at all for] he holds that it is the sprinkling that hallows the bread.[11] And if [you say] according to Rabbi, [then there is also no question about it for] whether one accepts the interpretation of Abaye or of Raba [the bread] is hallowed but not permitted [to be eaten].[12] The question can arise only according to the view of the following Tanna. For the father of R. Jeremiah b. Abba taught: If the Two Loaves were taken out [of the Sanctuary] between the slaughtering [of the two lambs] and the sprinkling of their blood, and subsequently [the priest] sprinkled the blood of the lambs [and expressed at the time the intention of eating the flesh] outside the prescribed time, R. Eliezer says, The bread is not subject to the law of piggul[13] but R. Akiba says, The bread is subject to the law of piggul. And R. Shesheth said, Both these Tannaim agree with Rabbi that the slaughtering hallows the bread,[14] but R. Eliezer maintains his view that the sprinkling has no effect upon what was taken out,[15] and R. Akiba his that the sprinkling has an effect upon what was taken out.[16]

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(1) The bread, i.e., the Two Loaves, may now be eaten, and if taken out of the Sanctuary would become invalid.

(2) Num. VI, 17, literally translated. The reference is to the sacrifice brought by the Nazirite, but the law is the same for the lambs of Pentecost.

(3) Including the sprinkling of the blood.

(4) I.e., that in addition to the slaughtering there is also another essential act of offering, namely the sprinkling.

(5) Even R. Eleazar son of R. Simeon who maintains that the sprinkling is the principal service.

(6) For according to Abaye too, since it is not completely hallowed it certainly may not be eaten.

(7) The underlying principle is that whatever is consecrated only for its value (קדושת דמים) can be redeemed and its sanctity is thereby transferred to the money set aside for the purpose, whilst the thing itself becomes profane; but whatever is hallowed bodily (קדושת הגוף) cannot be redeemed. Now, dealing with Rabbi's view, according to Abaye since the bread is not completely hallowed it may be redeemed; according to Raba, however, it is hallowed entirely, and therefore the redemption is of no effect. The text adopted is that which is preferred by Rashi. In cur. edd. the opinions are reversed, thus according to Abaye the redemption is ineffective etc.

(8) For according to R. Eleazar son of R. Simeon the redemption is effective and according to Rabbi it is not.

(9) For both are of the opinion that the redemption is effective.

(10) According to Rabbi it would thereby become invalid but not so according to R. Eleazar son of R. Simeon.

(11) Consequently the bread has not been hallowed at all; obviously then it may not be eaten.

(12) V. supra n. 1.

(13) V. Glos.

(14) R. Akiba and R. Eliezer therefore both agree that the bread becomes invalid by being taken out.

(15) Consequently the bread remains invalid but is not affected by the piggul intention expressed during the sprinkling.

(16) For in as much as the invalidity of the bread is due to an external cause (it having been taken out of the Sanctuary) and not to any defect inherent in it, the sprinkling can affect it, and as the wrongful intention expressed during the sprinkling renders the offering piggul, it also renders the bread piggul.

Talmud - Mas. Menachoth 47b

For we have learnt:[1] If the sacrificial portions of the Less Holy offerings were taken out [of the Sanctuary] before the sprinkling of the blood of the offering, R. Eliezer says, They are not subject to the law of sacrilege,[2] and one is not liable on account of them for any transgression of the laws of piggul, nothar,[3] and uncleanness.[4] R. Akiba says, They are subject to the law of sacrilege, and one is also liable on account of them for any transgression of the laws of piggul, nothar, and uncleanness.[5] Now what is the position [in the aforementioned case[6] according to R. Akiba]? Shall we say that as the sprinkling performed with a piggul — intention renders the bread[7] piggul like the flesh of the offering,[8] so too, the sprinkling performed under another name will render the bread permissible;[9] or do we say so only where the result tends to stringency[10] but not where it tends to leniency?[11] R. Papa, however, demurred[12] saying, Why do you assume that they differ in the case where [the loaves] were still outside [the Sanctuary]? Perhaps in the case where they were still outside all agree that the sprinkling can have no effect upon what is outside;[13] but they differ only in the case where they were brought in again, R. Eliezer adopting Rabbi's view that the slaughtering hallows them, consequently they have become invalid by their having been taken outside, whereas R. Akiba adopts the view of R. Eleazar son of R. Simeon that the slaughtering does not hallow them, consequently they have not become invalid by their having been taken outside! — How can this be? It is well if you say that R. Akiba adopts Rabbi's view that the slaughtering hallows [the loaves], for then the slaughtering hallows them, and having been hallowed by the slaughtering they are rendered piggul by the sprinkling. But if you say that he adopts the view of R. Eleazar son of R. Simeon that the slaughtering does not hallow them, then [it will be asked,] Can the sprinkling performed with a piggul-intention hallow them?[14] Has not R. Giddal said in the name of Rab, A sprinkling performed with a piggul-intention does not bring within the law of Sacrilege nor does it take out of the law of Sacrilege; it does not bring within the law of Sacrilege-that refers to the sacrificial parts of Less Holy offerings;[15] nor does it take out of the law of Sacrilege — that refers to the flesh of Most Holy offerings?[16] — Was not R. Giddal's statement refuted?[17]

R. Jeremiah enquired of R. Zera: If the lambs of Pentecost were slaughtered under their own name and then the [Two] Loaves were lost, may the blood be sprinkled now under another name[18] so that the flesh be permitted to be eaten?[19] — He replied, Do you know of any offering which if offered under its own name is invalid but under another name is valid? But is there not? What of a Passover-offering offered before midday, which if offered under its own name is invalid[20] but under another name[18] is valid? — [He replied,] This is what I mean: Do you know of any offering which was at one time fit to be offered under its own name but was rejected[21] from being offered under its own name, and now if offered under its own name it is invalid but under another name it is valid? But what of the Passover-offering after midday?[22] — This is what I mean: Do you know of any offering which at one time was fit to be offered under its own name, and indeed was slaughtered under its own name, but was rejected from being offered under its own name, and now if offered under its own name it is invalid but under another name it is valid? But what of the thank-offering?[23] — It is different with the thank-offering for the Divine Law referred to it as a peace-offering.[24]

Our Rabbis taught: If the two lambs were slaughtered [accompanied] by four loaves,[25] two of them should be selected and waved[26]

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(1) Me'il. 6b, Zeb. 89b.

(2) Cf. Lev. V, 15. For the sprinkling, he maintains, has had no effect upon those portions that were taken out, so that they were not consecrated for the altar; consequently no guilt-offering is incurred by the one who derives enjoyment or use therefrom.

(3) V. Glos.

(4) Piggul does not apply to these sacrificial portions since they are already invalid, so that if a man were to eat of them he would not be liable to the penalty of kareth. So, too, if he were to eat of them whilst he was in an unclean state, or after they had been left over beyond the time prescribed for eating, he would not be liable.

(5) For the sprinkling has had an effect upon the sacrificial portions that were taken out of the Sanctuary.

(6) The case put by R. Samuel b. Isaac to R. Hiyya supra, as to the permissibility of the bread where the blood of the lambs was sprinkled under another name.

(7) According to R. Akiba, not withstanding that the bread is already invalid by having been taken out.

(8) Hence the bread is deemed to be affected in the same way as the flesh of the offering. The text adopted is that of many MSS. and Tosaf., reading בפיגול כבשר, and omitting the word ביוצא.

(9) Since the flesh of the offering is permissible in such circumstances, for all offerings even though slaughtered under another name are permitted to be eaten; v. Zeb. 2a.

(10) As in the case of piggul.

(11) Whereby the bread is rendered permitted.

(12) To the assumption that both R. Akiba and R. Eliezer accept Rabbi's view.

(13) Even R. Akiba would agree that the sprinkling can have no effect upon the bread that is still outside, for the bread cannot be regarded in the same category as the sacrificial portions of the offering, since these are part of the offering whereas the bread is something distinct and apart from it.

(14) And at the same time render them piggul! This surely cannot be.

(15) These normally are subject to the law of Sacrilege only after the sprinkling of the blood, but where the sprinkling was not validly performed these sacrificial portions are never subject to the law of Sacrilege.

(16) This is subject to the law of Sacrilege only until the sprinkling of the blood, for after the sprinkling the flesh is permitted to be eaten by the priests, and the principle is well established that whatsoever is permissible to the priests is not subject to the law of Sacrilege (cf. Me'il. 2a). Where, however, the sprinkling was not validly performed the flesh, not being permissible to the priests, remains for all time subject to the law of Sacrilege.

(17) His statement was indeed refuted, v. Me'il. 3b. The position is now that R. Papa's objection stands good, and so it is not known for certain according to whose view did R. Samuel b. Isaac raise his question.

(18) I.e., as an ordinary peace-offering. To sprinkle the blood under their own name as lambs of Pentecost would not render their flesh permitted for the two loaves are absolutely indispensable to the validity of the offering.

(19) For in the absence of the loaves the lambs can be regarded as peace-offerings.

(20) For the proper time to offer the Passover lamb is after midday on the fourteenth of the month of Nisan; cf. Ex. XII, 6.

(21) By reason of the loss of the loaves.

(22) Which was available at the proper time and yet if held over till after the festival and offered under its own name as a Passover-offering is invalid, but if offered as a peace-offering is valid. The text adopted here is that of MS.M., which agrees with that in Rashi and in Sh. Mek.

(23) If one of the cakes of the thank-offering was broken after the slaughtering of the animal, the blood is sprinkled as though it were a peace-offering, and not a thank-offering, and the flesh may be eaten; v. supra p. 278. Here then the thank-offering was slaughtered under its own name, was rejected from being offered under its own name, and yet is valid if offered under another name; contra R. Zera.

(24) Cf. Lev. VII, 15. And as the peace-offering is offered without the accompaniment of loaves, the thank-offering also may be offered under its own name even without the loaves. In other words the offering of the thank-offering as a peace-offering is not regarded as offering it under another name.

(25) Instead of the prescribed two loaves.

(26) It is an essential rite to wave the loaves with the lambs both before and after the slaughtering of the lambs; v. infra 61a.

Talmud - Mas. Menachoth 48a

and the other [two] may be eaten after redemption. The Rabbis who recited this in the presence of R. Hisda said, This surely does not agree with Rabbi's view,[1] for according to Rabbi who holds that the slaughtering hallows [the loaves], where can they be redeemed?[2] If they are [all taken] outside [the Sanctuary], and redeemed there, they[3] become at once invalid for having been taken out, for it is written, Before the Lord;[4] and if inside,[5] one is thus bringing unconsecrated food into the Sanctuary! Thereupon R. Hisda said to them, It is indeed in agreement with Rabbi's view and [the loaves] are actually redeemed inside [the Sanctuary], for they became unconsecrated of themselves.[6]

Rabina said to R. Ashi, But it has been taught that when they are redeemed they must be redeemed outside [the Sanctuary] only! — He replied, That [Baraitha] is clearly in agreement with the view of R. Eleazar son of R. Simeon,[7] for according to Rabbi they would at once become invalid on being taken out.

R. Aha the son of Raba said to R. Ashi, Shall we say that [in this Baraitha] we have a refutation of R. Johanan's view? For it was stated: If the thank-offering was slaughtered [accompanied] by eighty cakes,[8] Hezekiah said, Forty out of the eighty are hallowed; but R. Johanan said, Not even forty out of the eighty are hallowed![9] — Was it not also reported thereon that R. Zera said, All agree that where [the slaughterer] declared, 'Let forty out of the eighty be hallowed', they are hallowed? Then here, too, we will say that he declared, 'Let two out of the four be hallowed'.

R. Hanina of Tirta[10] recited before R. Johanan: If four lambs were slaughtered [on the Pentecost accompanied] by two loaves, two of the lambs should [first] be drawn to one side and their blood sprinkled under another name,[11] for if you do not decide to act in this way[12] you forfeit the last [pair of lambs].[13] Thereupon R. Johanan said to him, Should we bid a man, 'Arise and sin, so that you may thereby obtain a benefit'?[14] Surely we have learnt:[15] If the limbs of a sin-offering[16] were mixed with the limbs of a burnt-offering,[17] R. Eliezer says, Let them all be put above [upon the altar], for I regard the flesh of the sin-offering that is above as wood. But the Sages say, Their appearance must first be spoilt[18] and they must all be taken away to the place of burning. But why?[19] Should we not say, 'Arise and sin, so that you may thereby obtain a benefit'?[20] — We would say, 'Arise and sin with the sin-offering so that you may thereby obtain some benefit in regard to the sin-offering itself',[21] but we would not say, 'Arise and sin with the sin-offering so that you may thereby obtain a benefit in regard to the burnt-offering'.

And do we say it of one subject?[22] But it was taught:[23] If the lambs of Pentecost were slaughtered under another name, or if they were slaughtered either before or after the proper time,[24] the blood is to be sprinkled[25] and the flesh may be eaten. If [the Festival] was on the Sabbath, the blood must not be sprinkled;[26] if, however,

is valid and may be eaten', v. Zeb.[13] a; and the second pair of lambs will Serve for the Pentecost-offering together with the two loaves. it was sprinkled, the sacrifice is acceptable, but the sacrificial portions must be burnt after dark. But why? Should we not say, 'Arise and sin, so that you may gain an advantage'?[27] — We would say, 'Arise and sin on the Sabbath so that you may gain an advantage on the Sabbath',[28] but we would not say, 'Arise and sin on the Sabbath so that you may gain an advantage on a weekday'.

And do we not say it of two subjects?[29] But we have learnt:[30] If a barrel [of wine of terumah] was broken in the upper part of the winepress and in the lower part there was unclean [ordinary wine], R. Eliezer and R. Joshua agree that if a man can save a quarter [log] of it in cleanness he must save it;[31] but if not, R. Eliezer says,

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(1) But it agrees with the view of R. Eleazar son of R. Simeon who holds that it is the sprinkling that hallows the loaves, accordingly none of the loaves have as yet been hallowed, and therefore any two may be taken for the offering and the other two redeemed like all holy things consecrated for their value only.

(2) Two of these loaves have already been hallowed by the slaughtering of the lambs and two have not, and the latter are therefore to be redeemed. The difficulty, however, is as to the place of the redemption, since the hallowed loaves are not distinguished and separated from the others.

(3) The hallowed loaves.

(4) Lev. XXIII, 20.

(5) I.e., the redemption is to take place inside the Sanctuary and all four loaves are to be eaten inside, since it is not known which are the hallowed and which the redeemed loaves.

(6) There is no transgression committed here, for the loaves only become unconsecrated when already in the Sanctuary.

(7) Who maintains that the slaughtering of the lambs does not hallow the loaves, consequently, at any time before the sprinkling of the blood, two loaves can be selected to be hallowed for the offering, and the remaining two must be redeemed outside the Sanctuary.

(8) Instead of the prescribed forty.

(9) The foregoing Baraitha which states that two out of the four loaves are hallowed thus conflicts with R. Johanan's view.

(10) Obermeyer, Die Landschaft Babylonian, p. 185, identifies it with Tirastan in the region of Mahuza.

(11) These lambs may be eaten in accordance with the principle, 'Every offering offered under another name

(12) But sprinkle the blood of the first pair of lambs for the Pentecost-offering.

(13) The second pair of lambs would now be invalid and would be forbidden to be eaten, for since they were at one time fit to be offered under their own name, and indeed were slaughtered as such, but are now rejected, they cannot be valid if offered under another name. V. supra p. 288.

(14) I.e., in order to save two lambs, that they may be eaten, a sin is deliberately committed by offering a sacrifice under some other name.

(15) Zeb. 77a.

(16) That are consumed by the priests.

(17) That are burnt upon the altar.

(18) I.e., all the limbs must be kept overnight.

(19) Why should everything be burnt?

(20) One should commit the sin of burning the limbs of a sin-offering upon the altar for the sake of the limbs of the burnt-offering, so that the latter be rendered acceptable.

(21) And likewise with the lambs of Pentecost: a sin is committed by sprinkling the blood of the lambs under another name and the advantage is thereby gained that these lambs may be eaten.

(22) I.e., where both the sin committed and advantage gained relate to the same thing.

(23) Bez 20b; Naz. 28b.

(24) Sc. the Festival.

(25) Under another name.

(26) For since the offering is no longer on behalf of the community the services in connection therewith do not supersede the Sabbath laws.

(27) Let the sin of sprinkling the blood on the Sabbath be committed so as to gain the advantage of burning the sacrificial portions upon the altar after the Sabbath and then the flesh would be permitted to be eaten.

(28) I.e., the advantage gained must be enjoyed on the same day as the commission of the sin, as is the case with the lambs of Pentecost, v. supra, p. 290, n. 10.

(29) I.e., to sin in one thing so as to gain an advantage in another.

(30) Ter. VIII, 9; Pes. 15a.

(31) He must endeavour to obtain clean vessels so long as he can save a quarter log of the terumah wine, although in the meantime the terumah wine is flowing down and mixing with the unclean non-terumah wine, thereby rendering the entire mixture absolutely unfit.

Talmud - Mas. Menachoth 48b

Let it run down and become unclean, but he must not render it unclean with his own hands;[1] and R. Joshua says, He may even render it unclean with his own hands![2] — In that case it is different, since in any event it will become unclean.[3]

When R. Isaac came [from Palestine] he recited: If the lambs of Pentecost were slaughtered not according to the prescribed rite,[4] they are invalid; their appearance must be spoilt[5] and they must be taken away to the place of burning. R. Nahman said to him, You, Master, who compare [the lambs of Pentecost] with the sin-offering[6] recite that they are invalid, but a Tanna of the School of Levi who infers obligatory peace-offerings from freewill peace-offerings[7] recites that they are valid. For Levi taught:[8] And so with the peace-offerings of a Nazirite, if they were slaughtered not according to the prescribed rite, they are valid but they do not count in fulfilment of their owner's obligation; they may be eaten the same day and evening [until midnight], and they do not require any cakes nor the offering of the shoulder [to the priest].[9]

An objection was raised: If for the guilt-offering that requires a lamb of the first year[10] a sheep of the second year was offered, or for that which requires a sheep of the second year[11] a lamb of the first year was offered,it is invalid; its appearance must be spoilt and it must be taken away to the place of burning. But if the burnt-offering of the Nazirite, or of a woman after childbirth, or of a leper, was a sheep of the second year and it was slaughtered, it is valid.[12] This is the general principle: Whatsoever is valid for a freewill burnt-offering is also valid for an obligatory burnt-offering, and whatsoever is invalid for a sin-offering is also invalid for a guilt-offering except [when the offering was slaughtered] under another name![13] — The author of this Baraitha is the Tanna of the School of Levi.

Come and hear from the following which Levi taught: If the guilt-offering of the Nazirite[14] and the guilt-offering of the leper were slaughtered under another name, they are valid, but they do not count in fulfilment of the owner's obligation. If they were slaughtered before the time had arrived for the owner to offer them,[15] or if they were of the second year, they are invalid. Now if this were so,[16] he should then draw an inference from the peace-offering![17] — He infers peace-offering from peace-offering but he does not infer guilt-offering from peace-offering. But then if he infers peace-offering from peace-offering he should also infer guilt-offering from guilt-offering, viz., the guilt-offering of the Nazirite and of the leper from the guilt-offering for robbery and for sacrilege, and then the guilt-offering for robbery and for sacrilege from the guilt-offering of the Nazirite and of the leper![18] — R. Shimi b. Ashi answered, We infer what is offered not according to the prescribed rite from what is similarly offered not according to the prescribed rite,[19] but we do not infer what is offered not according to the prescribed rite from what is offered according to the prescribed rite.[20] Do we not? Surely it has been taught: Whence do we know that if what had been taken out [of its proper place] was later brought up upon the altar it must not come down again? From the fact that with regard to the high places what was taken out was still valid to be offered![21] —

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(1) By collecting the whole of the terumah wine in an unclean vessel; he must not deliberately render it unclean, in order to save the unclean non-terumah wine.

(2) Hence, according to R. Joshua, we bid a man to sin in respect of the terumah wine in order to benefit from the non-terumah wine.

(3) Lit., ‘it goes to uncleanness’. It is therefore not regarded as a sin to render unclean this terumah.

(4) I.e., under another name, as some other sacrifice. Aliter: instead of lambs of the first year those of the second year were offered.

(5) They should be allowed to remain overnight whereby they become invalid and then burnt, for it is not proper to destroy any sacrificial portions that are still valid.

(6) V. Lev. XXIII, 19; as the sin-offering is invalid if offered under another name (or, if the animal offered was over a year old), so it is with these lambs.

(7) As ordinary peace-offerings are valid even though offered under another name (or, if the animal offered was over the prescribed age), so it is with these obligatory peace-offerings of Pentecost.

(8) Nazir 24b; Tosef. Nazir IV.

(9) As would be the case were the offering accepted in fulfilment of the Nazirite's obligation (cf. Num. VI, 19). Now, although the peace-offering of the Nazirite is mentioned alongside with his sin-offering in verse 14 ibid., and one could conclude therefrom that the former, if offered not according to its prescribed rite, is invalid, Levi prefers to draw the inference between the identical kinds of offerings, namely from the freewill peace-offering to the obligatory peace-offering. Accordingly any obligatory peace-offerings, e.g., the Nazirite's peace-offering or the lambs of Pentecost, are valid even though offered not according to the prescribed rite, as is the case with freewill peace-offerings.

(10) That is, the guilt-offering brought by a Nazirite when rendered unclean, or the guilt-offering of a leper at his purification, in connection with which Holy Writ uses the expression כבש ‘a lamb’, i.e., of the first year; v. Parah I, 3.

(11) That is, the guilt-offering for robbery, or the guilt-offering for sacrilege, in connection with which the term איל ‘a ram’ is used, i.e., a sheep of the second year; v. Parah ibid.

(12) These obligatory burnt-offerings, although prescribed to be lambs of the first year, are nevertheless valid, for in the case of a freewill burnt-offering, if an older animal was offered in place of a younger one, the offering is valid. V. infra 107b.

(13) In which case if the offering was a sin-offering it would be invalid, but if a guilt-offering it would be valid. It will thus be seen that obligatory burnt-offerings are placed on the same footing as freewill burnt-offerings and are not compared with sin-offerings (although these are mentioned in the same verse as the obligatory burnt-offerings, cf. Lev. XIV, 19; Num. VI, 14); likewise obligatory peace-offerings are to be compared with freewill peace-offerings but not with sin-offerings; contra R. Isaac.

(14) Brought by the Nazirite who had been rendered unclean unwittingly during the continuance of his Nazirite vow. Cf. Num. VI, 12.

(15) In the case of the leper, before the period of seven days had elapsed from the beginning of his cleansing rites v. Lev. XIV, 8; and in the case of the Nazirite, before he had rendered himself clean, v. Num. VI, 12.

(16) That the Tanna of the school of Levi draws an inference from the freewill-offering to the obligatory offering.

(17) Thus, as the freewill peace-offering is valid even though a sheep of the second year was offered in place of the lamb of the first year that was vowed, so it should be with the obligatory guilt-offering.

(18) With the result that all guilt-offerings are valid whether the lamb offered was of the first year or of the second year.

(19) Thus the lambs of pentecost, when offered not according to their prescribed rite but e.g., under another name, are valid by inference drawn from the case of freewill peace-offerings, which are valid even though not offered according to their prescribed rite.

(20) I.e., that the guilt-offering of the Nazirite or of the leper should be valid when offered not according to its prescribed rite (e.g., if a sheep of the second year was offered), by inference from the guilt-offering for robbery or for sacrilege which according to the prescribed law must be a sheep of the second year.

(21) For the law of hallowed things being taken out does not apply to the high places (i.e., private altars) as there were no restrictions of place in regard to the sacrifices offered at the high places. V. supra p. 34, nn. 3 and 4. Now here is an instance of an act though not in accordance with the prescribed rite (sc. the offering upon the altar of what was taken outside the Sanctuary) being regarded as valid by inference from the high places where such an act is permitted.

Talmud - Mas. Menachoth 49a

That Tanna in fact relies upon the verse, This is the law of the burnt-offering,[1] which includes [all things that were brought up].

Rabbah b. Bar Hanah recited before Rab: If the lambs of Pentecost were slaughtered as rams,[2] they are valid, but they do not count to the owners[3] in fulfilment of their obligation; whereupon Rab said to him, They certainly count as such. Said R. Hisda, Rab's view is reasonable in the case where [the slaughterer] believing them to be rams slaughtered them as lambs, for then lambs were in fact slaughtered as lambs; but not where he believed them to be rams and slaughtered them as rams, for even a mistaken variation[4] is considered a variation. Rabbah, however, says: A mistaken variation is no variation.[5] Rabbah[6] said, I raised an objection against my own statement from the following: Priests who rendered the flesh in the Sanctuary piggul, if they did so deliberately, are liable to pay compensation.[7] It follows that if they did so unwittingly they are exempt. And in connection therewith it was taught: What they rendered piggul [although unwittingly] is nevertheless piggul. Now what were the circumstances [where the priest acted unwittingly]? If the priest knew that [the offering] was a sin-offering and treated it as a peace-offering,[8] then surely he was not acting unwittingly but deliberately! We must say, therefore, that he believed that it[9] was a peace-offering and treated it as though it were a peace-offering; and yet it has been taught: 'What they rendered piggul [though unwittingly] is nevertheless piggul', thus proving that a mistaken variation is considered a variation! — Abaye answered, I can still say that the priest knew that it was a sin-offering and treated it as a peace-offering, [and yet he was acting unwittingly] for he believed that it was permitted [to change the character of the sacrifice].

R. Zera raised an objection from the following:[10] R. Simeon says, All meal-offerings from which the handful was taken under some other name are valid, and also discharge the owner's obligation, since meal-offerings are unlike animal-offerings; for when the priest takes the handful from a meal-offering prepared on a griddle and refers to it as one prepared in a pan, [his intention is of no consequence], for the preparation thereof clearly indicates that it is a meal-offering prepared on a griddle. Or if he is dealing with a dry[11] meal-offering and refers to it as one mixed with oil, [his intention is of no consequence], for the preparation thereof clearly indicates that it is a dry meal-offering. But it is not so with animal-offerings: the same slaughtering is for all offerings, the same manner of receiving the blood for all, and the same manner of sprinkling for all. Now what are the circumstances? If the priest knows that it is in fact a meal-offering prepared on a griddle and yet when taking the handful refers to it as one prepared in a pan, then what does it matter that the preparation thereof clearly indicates the true nature of the offering? He has deliberately varied the offering, has he not? We must say, therefore, that he believes it[12] to be a meal-offering prepared in a pan and when taking the handful refers to it as such, but he is mistaken; now in this case only [is his intention of no consequence], since the preparation thereof clearly indicates the true nature of the offering, but in all other cases we say that a mistaken variation is considered a variation? — Abaye answered him, I can still say that the priest knows that it is in fact a meal-offering prepared on a griddle yet when taking the handful refers to it as one prepared in a pan, and as for the question, 'What does it matter that the preparation thereof clearly indicates the true nature of the offering?' [I answer that] Rabbah is consistent with his view, for Rabbah has said, only a wrongful intention which is not manifestly [absurd] does the Divine Law declare capable of rendering an offering invalid, but a wrongful intention which is manifestly [absurd] the Divine Law declares incapable of rendering invalid.[13]

MISHNAH. THE [ABSENCE OF THE] DAILY OFFERINGS DOES NOT INVALIDATE THE ADDITIONAL OFFERINGS,[14] NEITHER DOES [THE ABSENCE OF] THE ADDITIONAL OFFERINGS INVALIDATE THE DAILY OFFERINGS; MOREOVER OF THE ADDITIONAL OFFERINGS THE [ABSENCE OF] ONE DOES NOT INVALIDATE THE OTHER. EVEN THOUGH THEY[15] DID NOT OFFER THE LAMB[16] IN THE MORNING THEY MUST OFFER [THE LAMB] TOWARDS EVENING.[17] R. SIMEON SAID, WHEN IS THIS? ONLY WHEN THEY HAD ACTED UNDER CONSTRAINT OR IN ERROR, BUT IF THEY ACTED DELIBERATELY AND DID NOT OFFER THE LAMB IN THE MORNING THEY MAY NOT

OFFER [THE LAMB] TOWARDS EVENING. IF THEY DID NOT BURN THE INCENSE IN THE MORNING[18] THEY BURN IT TOWARDS EVENING. R. SIMEON SAID, THE WHOLE OF IT WAS BURNT TOWARDS EVENING,[19] FOR THE GOLDEN ALTAR WAS DEDICATED ONLY BY THE INCENSE OF SPICES,[20] THE ALTAR FOR THE BURNT-OFFERING ONLY BY THE DAILY OFFERING OF THE MORNING, THE TABLE ONLY BY THE SHEWBREAD ON THE SABBATH, AND THE CANDLESTICK ONLY BY [THE KINDLING OF] SEVEN LAMPS TOWARDS EVENING.

GEMARA. R. Hiyya b. Abin enquired of R. Hisda, If the community had not [means enough] for the Daily Offerings as well as for the Additional Offerings, which take precedence? But what are the circumstances? If you say that the reference is to the Daily Offerings required for to-day and the Additional Offerings also for to-day, then surely it is obvious that the Daily Offerings take precedence, for they are more frequent[21] and holy![22] We must therefore say, the reference is to the Daily Offerings required for the morrow and the Additional Offerings for to-day. Shall we say that the Daily Offerings take precedence for they are more frequent, or the Additional Offerings, since they are holy?[23] — He replied, But you have learnt it: THE [ABSENCE OF THE] DAILY OFFERINGS DOES NOT INVALIDATE THE ADDITIONAL OFFERINGS NEITHER DOES [THE ABSENCE OF] THE ADDITIONAL OFFERINGS INVALIDATE THE DAILY OFFERINGS; MOREOVER OF THE ADDITIONAL OFFERINGS THE[ABSENCE OF] ONE DOES NOT INVALIDATE THE OTHER. Now what are the circumstances? if you say that [both kinds of offerings] are available and it is only a question of precedence,[24] surely it has been taught: Whence do we know that no offering should be sacrificed prior to the Daily Offering of the morning? Because it is written, And he shall lay the burnt-offering in order upon it,[25] and Raba stated, ‘The burnt-offering’ implies the first burnt-offering.[26]

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(1) Lev. VI, 2. By interpreting עולה (rendered ‘burnt-offering’) as whatsoever is brought up’ from עלה ‘to go up’, the rule is established that whatsoever is brought upon the altar, although unfit, must not come down again. Accordingly the rule is not derived by inference from the case of the high places.

(2) The slaughterer believed and expressly declared that he was slaughtering rams (i.e., sheep of the second year).

(3) Sc. the community

(4) For the slaughterer did not know that they were in fact lambs of the first year.

(5) And the owners’ obligation is ‘thereby fulfilled.

(6) So MS.M. and also B.H. In cur. edd. ‘Raba’.

(7) To the owners who, owing to the priests’ wrongful intention, must now provide a fresh sacrifice. V. Git. 54b.

(8) By expressly declaring his intention of eating of the flesh of the offering for the next two days, which intention in a sin-offering renders piggul, for a sin-offering may be eaten the same day and night but no more.

(9) Sc. the sin-offering.

(10) V. supra 2b.

(11) I.e., one that is not mixed with oil, e.g., a sinner's meal-offering; cf. Lev. V, 11.

(12) Sc. the meal-offering prepared on a griddle.

(13) Where the priest's actions belie his expressed intention, obviously his words cannot be taken seriously, and they therefore cannot render the offering invalid.

(14) Offered on Sabbaths and on Festivals; cf. Num. XXVIII.

(15) Sc. the priests.

(16) Of the Daily Offering.

(17) I.e., the lamb for the evening Daily Offering is nevertheless to be offered.

(18) Cf. Ex. XXX, 7, 8; one half-maneh of incense was offered every morning and the other half-maneh every evening.

(19) I.e., the whole maneh.

(20) Consisting of one whole maneh offered towards evening; v. Gemara infra.

(21) For the one was offered daily whereas the other only on Sabbaths and Festivals.

(22) I.e., more holy. For on Sabbaths and Festivals the Daily Offering is offered prior to the Additional Offering. Aliter: ‘holy’ in that they are offered on a holy day.

(23) For these are to be offered on a holy day whereas the Daily Offerings are for the morrow, a weekday. Or, according to the first interpretation given on p. 297, n. 8: the Additional Offerings in this case are sacrificed prior to the Daily Offerings, since the former are offered to-day and the latter on the morrow.

(24) And by stating that one does not invalidate the other the Mishnah teaches us that any one may be offered first.

(25) Lev. VI, 5.

(26) The definite article, הָעֹלָה emphasizes the importance of this burnt-offering.

Talmud - Mas. Menachoth 49b

Obviously then there are not sufficient means [for the two kinds of offerings]; now if both are required for to-day how [can it be said that either the one or the other may be offered]? Surely what is more frequent and holy takes precedence![1] We must say, therefore, [that one is required] for the morrow, and yet it states, that [the absence of] one does invalidate the other, thus proving that they are on a par. Thereupon Abaye said to him, I can still say that [both kinds of offerings] are available and it is only a question of precedence and as for your objection that nothing should be offered prior to [the Daily Offering, I say that] that is only a recommendation.[2]

Come and hear: We have learnt:[3] There must never be less than six inspected[4] lambs in the chamber of lambs, sufficient for a Sabbath and the two Festival days of the New Year.[5] Now what are the circumstances? Shall I say that [lambs] are available, then surely many more are required for the Daily Offerings and the Additional Offerings![6] Obviously there are not sufficient lambs; we thus see that the Daily Offerings take precedence![7] — This is not so, for actually lambs are available [for all the offerings], but this is what [that Mishnah] says: There must never be less than six lambs, inspected four days before the slaughtering,[8] in the chamber of lambs. And the author [of that Mishnah] is Ben Bag Bag. For Ben Bag Bag says, Whence do we know that the lamb for the Daily Offering must be inspected four days before the slaughtering? Because it is written here, Ye shall observe to offer unto Me in its due season[9] , and there it is written, And ye shall keep it until the fourteenth day of the same month;[10] as in the latter case the lamb was inspected four days before the slaughtering,[11] so in the former case the lamb must be inspected four days before the slaughtering.

Rabina said to R. Ashi, Why six? Surely seven are necessary, for one must reckon also the lamb for the morning [Daily Offering] on Tuesday![12] And according to your argument, [retorted the other], are not eight necessary? For one must also reckon the lamb for the evening Daily Offering on Friday![13] — This is no difficulty, for [the Tanna] assumed that [the Friday evening Daily Offering] had been offered.

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(1) And that is the Daily Offering.

(2) But in fact offerings may be sacrificed before the morning Daily Offering.

(3) ‘Ar. 13a.

(4) I.e., examined and found free from all physical blemishes.

(5) When the three fall on consecutive days six lambs would be required for the Daily Offerings; v. ‘Ar. 13a.

(6) Actually twenty two lambs would be required for these three days, six for the Daily Offerings and sixteen for the Additional Offerings.

(7) Since all the six lambs are reserved for the Daily Offerings in preference to the Additional Offerings.

(8) This requirement was essential for the Daily Offerings only.

(9) Num. XXVIII, 2.

(10) Ex. XII, 6. In both these verses a form of the root שמר ‘to keep’ ‘observe’ is used.

(11) For the lamb was taken on the tenth of the month of Nisan and slaughtered on the fourteenth of the same month. Cf. ibid. 3,6.

(12) When the New Year falls on Sunday and Monday, the six inspected lambs would, it is true, serve for the Daily Offerings of the three days, namely the Sabbath, Sunday and Monday, but surely another lamb must be had in readiness for the morning Daily Offering on Tuesday, since there is no opportunity to obtain one during the preceding three days.

There is another reading: 'for the morning Daily Offering on Sunday'. The interpretation is similar but the assumption is that the New Year preceded the Sabbath and fell on Thursday and Friday.

(13) It being assumed that the evening offering on Friday had not yet been offered, consequently the number of lambs stated by the Tanna would have to include this lamb too.

Talmud - Mas. Menachoth 50a

At all events seven are necessary! — We must say that the Tanna [of that Mishnah] speaks in general,[1] and the expression 'sufficient for a Sabbath and the two Festival days of the New Year' serves merely as a mnemonic. This can indeed be proved [from the wording]; for it reads, 'Sufficient for a Sabbath', and not 'For the Sabbath and the two Festival days of the New Year'. This is conclusive.

EVEN THOUGH THEY DID NOT OFFER THE LAMB IN THE MORNING . . . R. SIMEON SAID THE WHOLE OF IT WAS BURNT TOWARDS EVENING, FOR THE GOLDEN ALTAR WAS DEDICATED ONLY BY THE INCENSE OF SPICES. Who speaks of dedication here? — A clause has been omitted and it really should read as follows: EVEN THOUGH THEY DID NOT OFFER THE LAMB IN THE MORNING, they must not offer the lamb towards evening. This is the rule only if the altar had not been dedicated,[2] but if the altar had once been dedicated, THEY MUST OFFER [THE LAMB] TOWARDS EVENING.[3] R. SIMEON SAID, WHEN IS THIS? ONLY WHEN THEY HAD ACTED UNDER CONSTRAINT OR IN ERROR, BUT IF THEY ACTED DELIBERATELY AND DID NOT OFFER THE LAMB IN THE MORNING THEY MAY NOT OFFER [THE LAMB] TOWARDS EVENING. IF THEY DID NOT BURN THE INCENSE IN THE MORNING THEY BURN IT TOWARDS EVENING. Whence is this derived? From the following which our Rabbis taught: It is written, And the second lamb thou shalt offer towards evening:[4] the second is to be offered towards evening but the first may not be offered towards evening. This is so only if the altar had not been dedicated, but if the altar had once been dedicated, even the first lamb may be offered towards evening. R. Simeon said, When is this? Only when they had acted under constraint or in error, but if they acted deliberately and did not offer the lamb in the morning they must not offer the lamb towards evening; if they did not burn the incense in the morning they burn it towards evening.

['If they did not offer the lamb in the morning, they must not offer the lamb towards evening'].[5] Is the altar to be idle because the priests have been remiss? — Raba explained, It means, They[6] must not offer it, but other priests should offer it. 'If they did not burn the incense in the morning, they burn it towards evening'. For since it is not so frequent,[7] and moreover it enriches,[8] it is therefore most dear to them and they would not be remiss about it.[9]

R. SIMEON SAID, THE WHOLE OF IT WAS BURNT TOWARDS EVENING, FOR THE GOLDEN ALTAR WAS DEDICATED ONLY BY THE INCENSE OF SPICES OFFERED TOWARDS EVENING etc. But it has been taught: Only by the incense of spices offered in the morning! — Tannaim differ on this point. Abaye said, It is more logical to accept the view of him who says, 'Only by the incense of spices offered towards evening', for it is written, Every morning when he dresseth the lamps he shall burn it,[10] and how can he dress [the lamps] in the morning If they were not kindled the previous evening?[11] But he who says, 'Only by the incense of spices offered in the morning', infers it from the altar for burnt-offering: as that was dedicated by the morning Daily Offering so the golden altar was dedicated by the incense of spices offered in the morning.

THE TABLE ONLY BY THE SHEWBREAD ON THE SABBATH. Does this mean to say that [the table] was not dedicated thereby,[12] but that it nevertheless hallowed it?[13] — It really teaches us that the dedication of the table and the hallowing [of the bread] was only on the Sabbath, as it reads in the last clause: AND THE CANDLESTICK ONLY BY [THE KINDLING OF] ITS SEVEN LAMPS TOWARDS EVENING.[14]

Our Rabbis taught: That was [the only case of] an offering of incense which was offered by an individual upon the outer altar, and it was a special ruling.[15] To what [does it refer]? — R. Papa said, [To incense-offering] by the princes [of the tribes].[16] Does this mean then that an individual may not offer [incense] upon the outer altar but he may upon the inner altar? And furthermore, that an individual may not offer incense upon the outer altar but the community may? Behold it was taught: One might think that an individual may make a freewill-offering [of incense] in the same manner[17] and offer it, for I would apply the verse, That which is gone out of thy lips thou shalt observe and do,[18] Holy Writ therefore says, Ye shall not offer strange incense thereon.[19] One might further think that an individual may not offer it since he does not offer the like as an obligation,

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(1) I.e., at all times of the year there must be six lambs in readiness, each inspected four days previously, so that whatever the circumstances there would always be sufficient lambs to last for three days. The expression used by the Tanna ‘sufficient for a Sabbath and the two Festival days of the New Year’ is merely a mnemonic suggesting the number six. To ensure that every day there would be at least six lambs inspected four days previously it was necessary at the dedication of the Temple, when sacrifices commenced, to have twelve lambs each inspected free from blemish four days previously. On the following day two lambs were taken from the twelve for the Daily Offering and two other lambs, inspected on this day, were added; and so regularly on subsequent days. After four days the lambs added on the first day belonged to the category of lambs inspected four days previously, and on the fifth day two more were added to this class and so on. So Rashi; but v. com. of R. Gershom and also Rashi's interpretation in ‘Ar. 13a and b.
(2) The altar had only recently been erected and sacrifices had not yet been offered thereon.
(3) Even though the morning offering had been omitted.
(4) Ex. XXIX, 39.
(5) V. Glosses of Bah, n. 1.
(6) Sc. those priests who had been negligent and had omitted to offer the morning offering.
(7) Incense was offered only twice daily whereas burnt-offerings were frequent all the day.
(8) Sc. the priest that offered the incense; v. Yoma 26a.
(9) And therefore even though it did happen that the priest had omitted to offer the morning incense, he may nevertheless offer the incense in the evening.
(10) Ibid. XXX, 7.
(11) Obviously then the candlestick was dedicated and inaugurated for use in the evening, and so it was too with the inauguration of the incense offering, for it is written (ibid. 8): And when Aaron lighteth the lamps towards evening he shall burn it.
(12) If the Shewbread was placed on the table on a weekday.
(13) But this is not correct for we have learnt (infra 100a) that the placing of the Shewbread on the table on a weekday does in no wise hallow the bread.
(14) And as the entire service of the Candlestick, i.e., the kindling of its lamps, was to be at its dedication in the evening, so the entire service in connection with the table, i.e., the hallowing of the bread, must be at its dedication on the Sabbath.
(15) Lit., ‘a decision for the hour’.
(16) Cf. Num. VII, 12ff.
(17) As the princes of the tribes did at the dedication of the altar.
(18) Deut. XXIII, 24.
(19) Ex. XXX, 9.

Talmud - Mas. Menachoth 50b

but the community may offer [incense as a freewill-offering] since it offers the like as an obligation,[1] Holy Writ therefore says, Ye shall not offer.[2] One might further think that [the community] may not offer it upon the inner altar but it may [offer it] upon the outer altar, Holy Writ therefore states, And the anointing oil and the incense of sweet spices for the holy place; according to all that I have commanded thee shall they do;[3] thus there is only offered that which is stated in the context! — R. Papa said, It is a case of ‘it goes without saying’; thus, it goes without saying that a community may not offer [incense] upon the outer altar, for we find no such case; similarly that an individual may not offer [incense] upon the inner altar, for we find no such case. But even an individual may not offer [incense] upon the outer altar, although we find that this was the case with the princes, for that was a special ruling.

MISHNAH. THE HIGH PRIEST'S GRIDDLE-CAKES[4] MUST NOT BE BROUGHT IN [TWO SEPARATE] HALVES, BUT HE MUST BRING A WHOLE TENTH AND THEN DIVIDE IT, OFFERING A HALF IN THE MORNING AND A HALF TOWARDS EVENING. IF THE [HIGH] PRIEST THAT OFFERED THE HALF IN THE MORNING DIED AND THEY APPOINTED ANOTHER PRIEST IN HIS STEAD, [THE SUCCESSOR] MAY NOT BRING A HALF-TENTH FROM HIS HOUSE, NEITHER [MAY HE USE] THE REMAINING HALF-TENTH OF THE FIRST [HIGH PRIEST], BUT HE MUST BRING A WHOLE TENTH AND DIVIDE IT, OFFERING ONE HALF AND LEAVING THE OTHER HALF TO PERISH. THUS THE RESULT IS THAT TWO HALVES ARE OFFERED AND TWO HALVES ARE LEFT TO PERISH. GEMARA. Our Rabbis taught: Had Scripture stated, ‘For a meal-offering a half’, I should then have thought that he must bring a half-tenth from his house in the morning and offer it and a half-tenth from his house in the evening and offer it; but Scripture states, Half of it in the morning,[5] that is, he must offer a half of the whole [tenth]. Thus he must bring a whole tenth and divide it, offering a half in the morning and a half towards evening. Where the half that was to be offered towards evening became unclean or was lost, I might say that he should bring a half-tenth from his house and offer it, Scriptures therefore states, And half thereof in the evening,[6] that is, he must offer a half of a whole [tenth]. Thus he must bring [another] whole tenth and divide it, offering one half and leaving the other half to perish; and so the result is that two halves are offered and two halves are left to perish. Where the High Priest that offered the half in the morning died and they appointed another High Priest in his place, I might say that he may bring a half-tenth from his house or that he may use the remaining half-tenth of the first [High Priest]. Scripture therefore states, ‘And half thereof in the evening’; he must offer a half of a whole [tenth]. Thus he must bring [another] whole tenth and divide it, offering one half and leaving the other half to perish; and so the result is that two halves are offered and two halves are left to perish.

A Tanna[7] recited before R. Nahman: As for the half left by the first [High Priest] and the half left by the second, their appearance must first be spoiled[8] and they are then taken away to the place of burning. Whereupon R. Nahman said to him, I grant you that the first[9] should be treated so, since it was once valid for offering;[10] but as for the second, why must its appearance first be spoiled? From the very outset it was intended for destruction, was it not?[11] He who told you this rule must be a Tanna of the School of Rabbah b. Abbuha who has said that even piggul[12] must have its appearance spoiled [before it is destroyed]. R. Ashi said, This rule may be even in accordance with the view of the Rabbis, for each half was valid for offering inasmuch as at the time when it was divided either the one half or the other half could have been offered.

It was stated: How did they prepare the High Priest's griddlecakes? — R. Hiyya b. Abba said in the name of R. Johanan, They were first to be baked [in an oven] and then fried;[13] R. Assi said in the name of R. Hanina, They were first to be fried and then baked. R. Hiyya b. Abba said, My view is more probable, for ‘tufine’[14] signifies ‘to be baked whilst still attractive’.[15] But R. Assi said, My view is more probable, for ‘tufine’ signifies ‘to be baked when already half-done’.[16] Indeed Tannaim differ with regard to it, for it was taught: ‘Tufine’ signifies ‘to be baked whilst still attractive’. Rabbi says, It signifies ‘to be baked when already half-done’. R. Dosa[17] says, It signifies ‘to be baked several times’.[18] He accepts the interpretation ‘half-done’ as well as the interpretation ‘attractive’.

We learnt elsewhere:[19] The kneading, the shaping and the baking of the High Priest's griddle-cakes were performed within [the Temple Court],[20] and they overrode the Sabbath. Whence is this derived?[21] — R. Huna said, Since tufine signifies ‘to be baked whilst still attractive’, if they were baked on the day before [the Sabbath] they would lose their freshness. R. Joseph demurred, Surely they could be preserved in herbs![22] In the School of R. Ishmael it was taught: It shall be prepared,[23] even on the Sabbath; ‘it shall be prepared’, even in uncleanness. Abaye said, The verse says, Of fine flour for a meal-offering daily,[24]

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(1) Sc. the daily incense-offering on behalf of the community.

(2) Ex. XXX, 9. The plural of the verb is used so as to refer to the whole community too.

(3) Ibid. XXXI, II.

(4) I.e., the מנחת חביתין or חביתי כהן גדול, a meal-offering prepared on a griddle offered by the High Priest daily, consisting of a tenth of an ephah of fine flour, half of which was offered in the morning and the other half in the evening. Cf. Lev. VI, 12ff.

(5) Lev. VI, 13. ‘Of it’ signifies that there is before us a whole tenth but that only a half of it is to be offered.

(6) Ibid. The inference is derived from the waw, ‘and’ at the beginning of this phrase, which is regarded as superfluous.

(7) V. Glos. (s. v. b).

(8) I.e., they should be kept overnight.

(9) I.e., the half left over by the first High Priest.

(10) It therefore may not be burnt until it becomes invalid by being left overnight when ‘its appearance becomes spoiled’.

(11) It should accordingly be destroyed at once.

(12) Which is invalid by the law of the Torah. For piggul v. Glos.

(13) On a griddle after being smeared with oil.

(14) Lev. VI, 14. תפיני is explained as a composite word.

(15) תאפינה נאה they must look fine at the time of baking, hence they must not be fried first for then they would be blackened somewhat by reason of the open griddle and the oil, and would not be so attractive.

(16) תאפינה נא: they must be half-done, i.e., fried in a griddle, before being baked.

(17) So in all MSS. and in the parallel passages and in R. Gershom; in cur. edd. ‘R. Jose’.

(18) תאפינה רבה. They must be baked once before the frying so that they should look attractive (נאה) at the time of baking, and also after the frying so that they should be half-done (נא) at the second baking. Var. lec. רכה. V. Rashi for other interpretations.

(19) Infra 96a.

(20) For the half-tenth measure, whereby the tenth of flour was divided, was anointed as a vessel of ministry, so that whatsoever was put into it was immediately hallowed and liable to be rendered invalid if taken out of the Temple Court.

(21) That the kneading etc. overrode the Sabbath.

(22) So as to retain their freshness.

(23) Lev. VI, 14.

(24) Ibid. 13.

Talmud - Mas. Menachoth 51a

they are thus like the meal-offering which accompanies the Daily Offering.[1] Raba said, The expression ‘on a griddle’ implies that they require the use of a vessel of ministry, and [that being so] if they were baked on the day before [the Sabbath] they would be invalid by being kept overnight.[2]

There has been taught a Baraitha which coincides with Raba's view. The expression ‘on a griddle’ implies that it[3] requires the use of a vessel of ministry. ‘With oil’ signifies that it must have much oil; yet I know not how much, argue therefore as follows: here it is written oil, and there in connection with the meal-offering accompanying the lambs[4] [of the Daily Offering] it is also written oil,[5] as there it has three logs [of oil] to the tenth so here it must have three logs to the tenth. Or perhaps I should argue thus: here it is written oil and there in connection with the freewill meal-offering it is also written oil,[6] as there it has only one log so here it should have only one log! Let us then see to which [of the two] is this case most similar. We may infer a meal-offering which is characterized by T.B.Sh.T.[7] — it is offered daily, is an obligation, and overrides the Sabbath and uncleanness — from another meal- offering which is also characterized by T.B.Sh.T, but we may not infer a meal-offering which is T.B.Sh.T. from another which is not T.B.Sh.T. Or perhaps I should argue thus: we may infer a meal-offering which is characterized by Y.G.L.[8] — it is an individual offering, brought on its own account, and requires frankincense — from another which is also characterized by Y.G.L., but we may not infer a meal-offering which is Y.G.L. from another which is not Y.G.L.! R. Ishmael the son of R. Johanan b. Beroka [therefore] said, It is written, Of fine flour for a meal-offering daily;[9] it is to be similar to the meal-offering which accompanies the Daily Offering; as that meal-offering has three logs of oil to the tenth, this too must have three logs to the tenth. R. Simeon says, Here much oil is required and there also in connection with the meal-offering accompanying the lambs [of the Daily Offering] much oil is required; as there it has three logs to the tenth so here too it must have three logs to the tenth. Or perhaps I should argue thus: here much oil is required, and there also in connection with the meal-offering accompanying the offering of bullocks and rams much oil is required,[10] as there it has two logs [of oil] to the tenth so here too it must have two logs to the tenth! Let us then see to which [of the two] is this case most similar. We may infer a meal-offering consisting of one tenth from another meal-offering also consisting of one tenth,[11] but we may not infer a meal-offering consisting of one tenth from a meal-offering consisting of two or three tenths.

Is not the above passage self-contradictory? It states at first, ‘"With oil" signifies that it must have much oil’, and then it states, ‘Here it is written, ‘"oil", and there in connection with the freewill meal-offering it is also written, "oil"’![12] — Abaye answered,[13] The Tanna of the clause, ‘"With oil" signifies that it must have much oil’, is R. Simeon, whilst he that argues otherwise by inference [from the freewill meal-offering] is R. Ishmael. R. Huna the son of R. Joshua said, The whole [of the anonymous part of the Baraitha] is by R. Ishmael the son of R. Johanan b. Beroka, and he argues thus: ‘With oil’ signifies that it must have much oil, for to establish merely that it requires oil no verse would be necessary, since the expression ‘on a griddle’ indicates that it shall be like any meal-offering prepared on a griddle. But perhaps it is not so, but that [‘with oil’] signifies merely that it requires oil, for had not Holy Writ stated ‘with oil’ I might have said that it shall be like the sinner's meal-offering![14] And then he said, Be it even so, that it signifies merely that it requires oil, but surely it can be argued by an inference[15] [that three logs are required]. He then argued by the inference[15] but could not prove his case;[16] whereupon he had to resort to the verse, ‘Of fine flour for a meal-offering daily’, as is expressly stated by R. Ishmael in his concluding remarks. Rabbah said, The whole [of the anonymous part of the Baraitha] is by R. Simeon and he argues thus: ‘With oil’ signifies that it must have much oil, for to establish merely that it requires oil no verse would be necessary since the expression ‘on a griddle’ indicates that it shall be like any meal-offering prepared on a griddle. But even without the expression ‘with oil’ I can arrive at the same conclusion by means of an inference. He thereupon argued by the inference but could not prove his case, so that he had to resort to the expression ‘with oil’. He then said, Let it be similar to the meal-offering accompanying the offering of bullocks or of rams;[17] but he rebutted this by saying, We may infer

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(1) Which certainly overrides the Sabbath.

(2) For whatsoever has been hallowed in a vessel of ministry becomes invalid if kept overnight.

(3) Sc. the High Priest's meal-offering.

(4) So MS.M. and Rashi; in cur. edd. ‘the drink-offering’, which was also part of the Daily Offering.

(5) Ex. XXIX, 40. The quantity of oil prescribed is a ‘fourth part of a hin’, i.e., three logs.

(6) Lev. II, 1. The quantity of oil is fixed at one log, v. infra 88a.

(7) תבשט. These are the initial letters of the features characterizing the High Priest's meal-offering, viz., תדיר-ת a regular daily offering’, באה חובה-ב ‘is obligatory’, שבת-ש and טומאה-ט ‘it overrides the Sabbath and the law of uncleanness’. The meal-offering accompanying the Daily Offering is also characterized in this manner; these features, however, are absent from the freewill meal-offering.

(8) יגל. So according to Sh. Mek.; cur. edd. יגיל. The High Priest's meal-offering can be characterized by the following features: י-יחיד ‘an individual offering’, ג-גלל עצמה ‘brought on its own account’ i.e., not accompanying another offering, and ל-לבונה ‘requires frankincense’. These features are present in the freewill meal-offering but are absent from the meal-offering which accompanies the Daily Offering.

(9) Lev. VI, 13.

(10) Cf. Num. XV, 4ff. The meal-offering which accompanied the offering of a ram consisted of two tenths of fine flour mingled with the third part of a hin (i.e., four logs) of oil, and that which accompanied the offering of a bullock of three tenths of flour mingled with half a hin (i.e., six logs) of oil.

(11) The meal-offering which accompanied the Daily Offering consisted of one tenth of fine flour which is not the case with the bullocks and rams; v. prec. n.

(12) The purpose of the inference, namely to establish that not more than the normal quantity of oil (i.e., a log) is required, is contradicted by the verse which indicates the requirement of much oil, i.e., more than the usual quantity.

(13) From here to the end of the passage until the next Mishnah the text is in a doubtful state and the MSS. vary considerably from the present text. V. Sh. Mek. where the text is extensively altered. The above translation is based entirely upon the text as in cur. edd. For the variants v. D.S. a.l.

(14) Which had no oil at all; cf. Lev. V, 11.

(15) From the meal-offering which accompanied the Daily Offering.

(16) By reason of the counter argument, namely, let the inference be drawn from the freewill meal-offering.

(17) I.e., granted that it must have more oil than the ordinary meal-offering, it might nevertheless be compared with the meal-offering which accompanied bullocks or rams where only two logs to the tenth are required.

Talmud - Mas. Menachoth 51b

a meal-offering consisting of one tenth etc.

MISHNAH. IF THEY DID NOT APPOINT ANOTHER PRIEST IN HIS STEAD, AT WHOSE EXPENSE WAS IT[1] OFFERED? R. SIMEON SAYS, AT THE EXPENSE OF THE COMMUNITY; BUT R. JUDAH SAYS, AT THE EXPENSE OF THE HEIRS; MOREOVER A WHOLE [TENTH] WAS OFFERED.[2]

GEMARA. Our Rabbis taught: If the High Priest died and they had not appointed another in his stead, whence do we know that his meal-offering must be offered at the expense of his heirs? Because it is written, And the anointed priest that shall be in his stead from among his sons shall offer it.[3] I might think that they offer it a half-[tenth] at a time,[4] Scripture therefore stated ‘it’, implying the whole [tenth] but not half of it. So R. Judah. R. Simeon says, It is a statute for ever,[3] this implies that it is offered at the expense of the community.[5] It shall be wholly burnt,[3] that is, the whole of it shall be burnt.[6]

Does then the verse, ‘And the anointed priest etc.’ serve the above purpose? Surely it is required for the teaching of the following Baraitha: It is written, This is the offering of Aaron and of his sons, which they shall offer unto the Lord in the day when he is anointed.[7] Now I might think that Aaron and his sons shall together offer one offering,[8] the text therefore states, ‘Which they shall offer unto the Lord’, Aaron shall offer his separately and his sons theirs separately.[9] [The expression] ‘his sons’ refers to the ordinary priests.[10] You say ‘the ordinary priests’: but perhaps it refers only to the High Priests?[11] When it says, ‘And the anointed priest that shall be in his stead from among his sons’, it has already spoken of the High Priest; how then must I interpret ‘his sons’? It must refer to the ordinary priests! — If so,[12] the verse should read, ‘And [if] the anointed priest [died], his sons in his stead shall offer’; why does the verse read ‘from among his sons’? You may thus infer both teachings.[13]

For what purpose does R. Simeon utilize the expression ‘it’?-He requires it for the following teaching: If the High Priest died[14] and they appointed another in his stead, [the successor] may not bring a half-tenth from his house neither [may he use] the remaining half-tenth of the first [High Priest].[15] But was not this rule derived from the expression ‘And half thereof’?[16] He bases no exposition upon the letter waw [‘and’].

And for what purpose does R. Judah utilize the expression a statute for ever’? — It means, a statute binding for all time. And what is the purpose of the expression, ‘It shall be wholly burnt’? — He requires it for the following which was taught: I only know that the former,[17] namely the High Priest's meal-offering, must be wholly burnt, and that the latter, namely the ordinary priest's meal-offering, must not be eaten; but whence do I know that what is said of the former applies also to the latter and what is said of the latter applies also to the former? The text therefore stated ‘wholly’ in each case for the purposes of analogy; thus, it is written here ‘wholly’ and it is written there ‘wholly’,[18] as the former must be wholly burnt so the latter must be wholly burnt, and as in the latter case there is a prohibition against eating it, so in the former case there is a prohibition against eating it.

Is then R. Simeon of the opinion that by the law of the Torah it[19] must be offered at the expense of the community? Surely we have learnt:[20] The Beth din ordained seven things and this was one of them.[21] [They also ordained that] if a gentile sent his burnt- offering from a land beyond the sea and also sent with it the drink-offerings,[22] they [the drink-offerings] are to be offered of his own means; but if he did not [send the drink-offerings], they are to be offered at the expense of the community. Similarly, if a proselyte died and left animal-offerings, if he also left the drink-offerings,[22] they are offered of his own means; but if he did not [send the drink-offerings], they are to be offered at the expense of the community.[23] It was also a condition laid down by the Beth din that if the High Priest died and they had not appointed another in his stead, his meal-offering shall be offered at the expense of the community![24] — R. Abbahu explained, There were two ordinances. By the law of the Torah it should be offered at the expense of the community; but when they[25] saw that the funds in the Chamber were being depleted[26] they ordained that it should be a charge upon the heirs. When they saw, however, that [the heirs] were neglectful about it, they reverted to the law of the Torah.

‘And concerning the Red Cow [they ordained] that the law of sacrilege does not apply to its ashes’.[27] Is not this the law of the Torah? For it was taught: It is a sin-offering:[28] this teaches that it is subject to the law of sacrilege; and ‘it’ implies that only it [the cow] is subject to the law of sacrilege

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(1) This daily meal-offering of the High Priest, during the interregnum.

(2) In the morning and also in the evening. This is the opinion of R. Simeon too, v. infra n. 7.

(3) Lev VI, 15.

(4) As their father the High Priest had done during his lifetime.

(5) The Heb. עולם ‘for ever’ is interpreted in the later Heb. sense of ‘world’, ‘people’, ‘the whole community’.

(6) None of it shall be left over to be eaten. Or better: a whole tenth shall be offered both morning and evening, thus agreeing with R. Judah's view in the Mishnah, v. supra n. 3.

(7) Lev. VI, 13.

(8) At their ordination.

(9) The sons offer their meal-offering at their ordination only, this is known as מנחת חינוך ‘the meal-offering of initiation’; whereas the High Priest must offer his daily, from the day that he is anointed and onwards.

(10) I.e., every priest at the commencement of his ministry must offer a meal-offering of initiation.

(11) I.e., the descendants of Aaron, those anointed High Priest.

(12) That the verse in question (And the anointed priest etc.) only serves to teach that the heirs of the High Priest must continue at their expense their father's daily meal-offering until the appointment of a successor.

(13) The rule given in the prec. note and also the rule that ordinary priests at their ordination shall offer a meal-offering.

(14) After he had offered the half-tenth for the morning meal-offering.

(15) But must bring a whole tenth from his house; this being derived from the term ‘it’.

(16) V. supra p. 304, n. 2, where this rule is derived from the letter wow which stands at the head of the phrase ומחציתה בערב.

(17) Cf. Lev. VI, 15.

(18) Cf. ibid. 16. In this verse as also in the preceding verse the expression כליל ‘wholly’ is used.

(19) Sc. the meal-offering of the High Priest.

(20) Shek. VII, 6.

(21) The law stated in the earlier Mishnah Shek. VII, 5.

(22) I.e., the money for the drink-offerings.

(23) Since a proselyte has no heirs.

(24) Evidently it was only an ordinance of the Beth din and not the law of the Torah.

(25) The Beth din.

(26) By reason of the frequent changes in the office of the High Priest, v. Yoma 9a.

(27) This too is one of the seven things ordained by the Beth din. Shek. VII, 7. For the law of sacrilege. i.e., the unintentional appropriation of the property of the Sanctuary, v. Lev. V, 15.

(28) Num. XIX, 9.

Talmud - Mas. Menachoth 52a

but its ashes are not subject to the law of sacrilege! — Said R. Ashi: There were two ordinances. By the law of the Torah only it [the cow] is subject to the law of sacrilege but not its ashes; but when they saw that people treated [the ashes] lightly and applied them to wounds, they ordained they should be subject to the law of sacrilege. When they saw, however, that people in doubtful cases of uncleanness would avoid the sprinkling,[1] they reverted to the law of the Torah.

Our Rabbis taught: The [money for the] bullock offered when the whole community sinned in error or for the he-goats offered on account of the sin of idolatry must be collected for the purpose.[2] So R. Judah. R. Simeon says, It must be taken from the funds[3] of the [Shekel] Chamber. But the reverse has been taught![4] Which of these was taught last?[5] Now the scholars argued before R. Ashi: Surely the former version was taught last for we already know that R. Simeon is concerned about possible neglect.[6] Whereupon R. Ashi said to them, You may even say that the latter version was taught last, because R. Simeon is concerned about possible neglect only in that case where they themselves receive no atonement by it, but where they themselves receive atonement thereby R. Simeon is not apprehensive about neglect.[7]

What is the decision? — Rabbah the Younger said to R. Ashi, Come and hear [the following teaching]: The verse, My food which is presented unto Me for offerings made by fire, of a sweet savour unto Me, shall ye observe to offer unto Me in its due season,[8] includes the bullock offered when the whole community sinned in error and the he-goats offered on account of the sin of idolatry, that these too are offered from the funds of the [Shekel] Chamber;[9] so R. Simeon.[10]

MOREOVER A WHOLE [TENTH] WAS OFFERED. R. Hiyya b. Abba said that R. Johanan had raised the question: Does it mean a whole tenth in the morning and a whole tenth in the evening, or a whole tenth in the morning and in the evening it was dispensed with? — Come and hear, said Raba, for we have learnt: The eighth bore the [High Priest's] meal-offering.[11] Now if it were so, that it was dispensed with in the evening, then it would sometimes happen that the eighth did not bear the [High Priest's] meal-offering, for example, at the time when the High Priest died and they did not appoint another in his stead. When the scholars repeated this in the presence of R. Jeremiah he exclaimed, These foolish Babylonians! because they dwell in a dark country they must say dark sayings![12] That Mishnah also states: The seventh bore the fine flour;[13] the ninth bore the wine.[12] Now were these never omitted? Surely it has been taught: Their meal-offering and their drink-offerings,[14] even at night; their meal-offering and their drink-offerings,[14] even on the following day.[15] We must say that the Tanna of that Mishnah is not concerned with the exception,[16] so here too he is not concerned with the exception.[17] When this was reported back again to Raba he remarked, They always report to them[18] any indiscreet saying of ours, our wise sayings they never report to them. Later Raba said, This too is one of our wise sayings, for the verse says, Of fine flour for a meal-offering daily,[19] it is like the meal-offering which accompanies the Daily Offering.[20]

What is the decision then?[21] R. Nahman b. Isaac said, Come and hear; for it was taught: A whole tenth was offered in the morning and a whole tenth in the evening.

R. Johanan said, There is a difference of opinion between Abba Jose b. Dosethai and the Rabbis. Abba Jose b. Dosethai says, He[22] must set aside for [his meal-offering] two handfuls of frankincense, one handful to be offered in the morning and the other in the evening. But the Rabbis say, He must set aside for it one handful, half to be offered in the morning and the other half in the evening. On what principle do they differ? — Abba Jose b. Dosethai maintains that we know of no case when half a handful was offered; but the Rabbis maintain that we know of no case when a tenth required two handfuls.[23]

R. Johanan raised the following question: If the High Priest died and they had not appointed another in his stead,

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(1) For fear that they might be making unnecessary use of the ashes and would be liable to bring a guilt-offering for their sacrilege.

(2) Lit., ‘in the beginning they collect them’. I.e., when the occasion arises it must be collected from the members of the community.

(3) I.e., from the funds of the community accumulated in the Temple treasury.

(4) In Hor. 3b, where R. Simeon's opinion here is ascribed to R. Judah, and vice versa.

(5) The later version of a statement is regarded as the more reliable since the author may have reconsidered and changed his view. Moreover it is necessary to arrive at the correct version in order to establish the halachah which would follow R. Judah's view.

(6) V. Mishnah supra where R. Simeon maintains that the High Priest's meal-offering is offered out of the funds of the community and not left to be offered by the heirs at their expense for fear of neglect. Accordingly here the more reliable view of R. Simeon would be that these offerings are also taken out of the funds of the community, which view agrees with the former version.

(7) The heirs of the High Priest in as much as they receive no atonement from the meal-offering might conceivably be neglectful about it, but there is no such fear of neglect by the members of the community where the offering is to effect atonement on their behalf.

(8) Num. XXVIII, 2.

(9) This is derived from the use of the plural ‘for offerings’ which includes other offerings to be offered like the Daily Offering from the funds of the Temple Treasury.

(10) This view of R. Simeon, derived from the verse, is undoubtedly the correct one and, as it corresponds with the former version, that version must have been taught last.

(11) Tamid 31b, where it is stated that thirteen priests were engaged in the sacrifice of the Daily Offering and all that accompanied it in the morning, and likewise in the evening.

(12) V. Pes., Sonc. ed., P 158, n. 1.

(13) The fine flour for the meal-offering and the wine for the drink-offering which accompanied the Daily Offering.

(14) Num. XXIX, 18.

(15) V. supra 44b. It can thus happen that the meal-offering and the drink-offerings were, for some reason, not offered during the day, in which case the seventh and ninth priest would not be required. And yet these are included in the list.

(16) Lit., ‘if’, i.e., with the exceptional case when part of the service was omitted. The Tanna merely states the number of priests engaged in the service and the function of each when in normal circumstances everything was in accordance with the manner prescribed.

(17) Although in fact the High Priest's meal-offering might very well be dispensed with in the evening in the circumstances of our Mishnah.

(18) To the Palestinian Rabbis.

(19) Lev. VI, 13.

(20) Which under no circumstances may be dispensed with; so it is, too, with the High Priest's meal-offering.

(21) Whose opinion is to prevail? Raba's or R. Jeremiah's?

(22) The High Priest in bringing daily for his meal-offering a tenth of fine flour which he divided and offered half in the morning and half in the evening.

(23) With the one meal-offering, notwithstanding the handfuls are offered one at a time.

Talmud - Mas. Menachoth 52b

must the quantity of frankincense, according to the view of the Rabbis,[1] be doubled or not? Should we say that since the quantity of flour has been doubled[2] the quantity of frankincense must also be doubled, or perhaps this is so only where it has been expressly stated[3] and not where it has not been expressly stated? And this question is also to be asked with regard to the quantity of oil,[4] both according to the view of the Rabbis and of Abba Jose b. Dosethai.

Come and hear: for we have learnt: The handful is specified in five cases.[5] Now if that were so,[6] there would sometimes be seven![7] — The Tanna is not concerned with the exception.[8]

R. Papa was sitting and reciting the above when R. Joseph b. Shemaiah said to him, ‘Is not the case of a man offering the handful outside the Sanctuary an exceptional case’,[9] and yet he reckoned it?

What is the decision then? — R. Nahman b. Isaac said, Come and hear: For it has been taught: If the High Priest died and they did not appoint another in his stead a whole tenth must be offered in the morning and a whole tenth in the evening. Two handfuls [of frankincense] must be set aside, one to be offered in the morning and one in the evening; and three logs of oil must be set aside, one log and a half to be offered in the morning and one log and a half in the evening. Now who is the author of this Baraitha? If you say it is the Rabbis, then it will be asked, Why is it that the quantity of frankincense is doubled and the quantity of oil is not? It must therefore be Abba Jose b. Dosethai who maintains that at all times the High Priest's meal-offering requires two handfuls of frankincense, so that neither the quantity of frankincense nor the quantity of oil has been doubled. And since according to Abba Jose b. Dosethai the quantity of oil is not doubled,[10] likewise according to the Rabbis the quantities of frankincense and of oil are not doubled.[11]

R. Johanan said, The halachah follows Abba Jose b. Dosethai.[12] But could R. Johanan have said so? Did not R. Johanan say that the halachah always follows the anonymous opinion of a Mishnah, and we have learnt: ‘The handful is specified in five cases’?[13] — Different Amoraim report R. Johanan's opinion differently.[14]

CHAPTER V

MISHNAH. ALL MEAL-OFFERINGS MUST BE OFFERED UNLEAVENED, WITH THE EXCEPTION OF THE LEAVENED CAKES OF THE THANK-OFFERING[15] AND THE TWO LOAVES [OF PENTECOST].[16] WHICH ARE OFFERED LEAVENED. R. MEIR SAYS, THE LEAVEN MUST BE TAKEN FROM [THE MEAL-OFFERINGS] THEMSELVES AND WITH THIS THEY ARE LEAVENED.[17] R. JUDAH SAYS, THAT IS NOT THE BEST WAY,[18] BUT [FIRST OF ALL] LEAVEN MUST BE BROUGHT AND PUT INTO THE MEASURING VESSEL AND THEN THE MEASURING VESSEL IS FILLED UP [WITH FLOUR]. BUT THEY SAID TO HIM, EVEN SO [IT IS NOT SATISFACTORY]; FOR IT WOULD BE SOMETIMES TOO LITTLE AND SOMETIMES TOO MUCH.[19]

GEMARA. R. Perida enquired of R. Ammi, Whence is it derived that all meal-offerings must be offered unleavened? — 'Whence?' you ask, [R. Ammi replied] but surely where this[20] is expressly stated[21] it is expressly stated, and where it is not expressly stated there is the general statement,

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(1) According to Abba Jose there is no doubt at all, for one never offers two handfuls at one time with one meal-offering.
(2) For a whole tenth of fine flour must be brought both in the morning and in the evening. Likewise a whole handful of frankincense must be brought morning and evening.
(3) In connection with the flour, v. supra 51b.
(4) The High Priest used to bring from his own house daily a tenth of fine flour and three logs of oil, which he divided and offered, half (i.e., a half-tenth of flour and one log and a half of oil) in the morning and half in the evening. During an interregnum, however, since the quantity of flour is doubled it might well be that the oil must also be doubled.
(5) V. infra 106b. The handful of frankincense which accompanied the High Priest's meal-offering is not included in that list since it was offered a half-handful at a time.
(6) That even the Rabbis hold that during an interregnum a whole handful was to be offered morning as well as evening.
(7) For although the two handfuls belong to the one offering, they should nevertheless be reckoned as two in the list; cf. the two handfuls of frankincense offered with the Shewbread which are reckoned as two in the list.
(8) I.e., with the case when the High Priest died. The Tanna merely listed five normal cases that happen daily or regularly.
(9) Likewise he should reckon the handful of frankincense offered morning and evening during an interregnum.
(10) The reason being no doubt that only that is doubled which is expressly so indicated in the Torah.
(11) For the same reason as given by Abba Jose, v. prec. note; thus solving the problem raised by R. Johanan.
(12) That the High Priest must offer with his meal-offering one handful of frankincense in the morning and another in the evening.
(13) V. p. 315, n. 6. But according to Abba Jose the number should be seven so as to include the two handfuls of the High Priest's meal-offering.
(14) Obviously R. Johanan could not have made both statements; some scholars report that he made only the former statement, namely, that the halachah follows Abba Jose, others that he made only the latter statement, that the halachah follows the anonymous Mishnah.
(15) The thank-offering was accompanied by an offering of forty cakes, thirty being unleavened and ten leavened, cf. Lev. VII, 12,13.
(16) V. ibid. XXIII, 17.
(17) I.e. a little flour is taken from the meal-offering, is mixed with water and is allowed to stand for some time until it becomes leavened, and this serves as yeast for leavening the rest of the meal-offering.
(18) For the yeast is too fresh and not sufficiently potent to leaven well the rest of the meal-offering.
(19) For if the yeast used was hard and compressed and of small bulk, there would be more than the usual quantity of flour in this meal-offering, and if, on the other hand, the yeast was of a thin consistency, taking up much space in the vessel, there would be less than the usual quantity of flour, and in either case the meal-offering would be invalid.
(20) That the meal-offering shall be unleavened.
(21) Cf. ibid. II, 4 and 5.

Talmud - Mas. Menachoth 53a

And this is the law of the meal-offering: the sons of Aaron shall offer it before the Lord in front of the altar . . . And that which is left thereof shall Aaron and his sons eat; it shall be eaten as unleavened bread![1] — He [R. Perida] said to him, As to the proper performance of the precept I have no doubt at all, I ask only whether it is indispensable.[2] But, said the other, even with regard to the question of indispensability there is written, It shall not be baked leavened,[3] but only unleavened.[4]

R. Hisda demurred, perhaps it means, 'It shall not be baked leavened', but only si'ur![5] — What si'ur is meant? If as defined by R. Meir, it is absolutely unleavened according to R. Judah. If as defined by R. Judah, it is absolutely leavened according to R. Meir. If as defined by R. Meir and following R. Meir's ruling. It is absolutely leavened, since one incurs stripes for [eating] it [on the Passover]! — What is meant is that [si'ur] as defined by R. Judah and following R. Judah's ruling.[6]

R. Nahman b. Isaac demurred, Perhaps it means, ‘It shall not be baked leavened’, but only halut![7] -What does halut mean? Soaked [in hot water]. But surely if [the meal-offering] must be offered soaked, it is expressly stated so,[8] and this[9] is not prescribed to be soaked! — Perhaps the meaning is: whatsoever is prescribed to be soaked must be offered soaked, but whatsoever is not prescribed to be soaked may be offered either soaked or unleavened!

Rabina demurred, Perhaps the verse, ‘It shall not be baked leavened’, merely imposes a prohibition upon the person, but [the meal-offering] does not become invalid thereby? Whence then is it derived?[10] — From the following teaching: One might think that ‘unleavened’[11] was only a recommendation, Holy Writ therefore stated, It shall be;[11] the verse thus laid it down as an obligation.

R. Perida enquired of R. Ammi, Whence is it derived that all meal-offerings, seeing that they were kneaded in lukewarm water,[12] must be specially watched lest they become leavened?[13] Shall we infer it from the Passover concerning which it Is written, And ye shall watch the unleavened bread![14] — He replied. In that very passage[15] It is written, it shall be unleavened,[11] that is, keep it so.[16] But have you not utilized this verse to indicate indispensability? — If for that alone Scripture would have used the expression ‘It is to be unleavened’; why ‘It shall be’? You may thus infer two things.

The Rabbis said to R. Perida, ‘R. Ezra, the grandson of R. Abtolos, who is the tenth generation from R. Eleazar b. ‘Azariah, who is the tenth generation from Ezra, is standing at the door’ — Said he to them, ‘Why all this [pedigree]? If he is a learned man, it is well; if he is a learned man and also a scion of noble ancestors, it is all the better; but if he is a scion of noble ancestors and not a learned man may fire consume him’. They told him that he was a learned man, whereupon he said, ‘Let him come in’. He at once saw that his [R. Ezra's] mind was troubled, so he began his discourse and said, I said unto the Lord, Thou art my Lord; my gratefulness is not with thee.[17] The congregation of Israel said to the Holy One, blessed be He, ‘Lord of the universe, Show Thy gratefulness unto me for making Thee known in the world’. He replied. ‘My gratefulness is not with thee, but with Abraham, Isaac and Jacob, who first made Me known in the world, as it is said, With the holy that are in the earth; they are the mighty ones in whom is all my delight.’[18] As soon as he [R. Ezra] heard the expression mighty’,[19] he began his discourse, saying, Let the Mighty One come and take vengeance for the sake of the mighty from the mighty by means of the mighty. ‘Let the Mighty One come’ — that is, the Holy One, blessed be He, as it is written, The Lord on high is mighty.[20] ‘And take vengeance for the sake of the mighty’ — that is, Israel, as it is written, They are the mighty ones in whom is all my delight. ‘From the mighty’ — that is, the Egyptians, as it is written, The mighty sank like lead in the waters.[21] ‘By means of the mighty’ — that is, the water, as it is written, Above the voices of many waters, mighty waters, breakers of the sea.[20] Let the beloved[22] the son of the beloved come and build the beloved for the Beloved in the portion of the beloved that the beloved may receive atonement therein. ‘Let the beloved come’ — that is King Solomon, as it is written, And He sent by the hand of Nathan the prophet, and he called his name Jedidiah [beloved of the Lord], for the Lord's sake.[23]

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(1) Lev. VI, 7, 9.

(2) That the meal-offering must be unleavened, and otherwise it would be invalid.

(3) Ibid. 10.

(4) R. Perida's question is therefore superfluous.

(5) שיאור ‘dough in the early stage of fermentation’. There is, however, a difference of opinion as to what stage is meant. According to R. Meir it is that stage when the surface of the dough has become pale; after that it is regarded as absolutely leavened. According to R. Judah it is the advanced stage when the surface of the dough has become wrinkled;

before that it is regarded as unleavened. V. Pes. 48b.

(6) According to R. Judah he who eats si'ur (as defined by him) is not liable to any punishment. Consequently it could be said that the meal-offering may be si'ur and not necessarily absolutely unleavened, hence R. Perida's question.

(7) חלוט ‘soaked or saturated with hot water’. The suggestion is that the meal-offering may be leavened provided it is not baked but only scalded in water.

(8) As in the case of the High Priest's meal-offering which is expressly prescribed to be soaked; cf. ibid. 14.

(9) Sc. the ordinary meal-offering. The verse therefore can only imply that a meal-offering must be unleavened.

(10) That meal-offerings must be unleavened or else they are invalid.

(11) Lev. II, 5.

(12) Infra 55a.

(13) They must be continually kneaded till the time of baking (Rashi).

(14) Ex. XII, 17; so according to Rabbinic interpretation. E.VV.: And ye shall observe the feast of unleavened bread.

(15) In connection with the meal-offering itself.

(16) I.e., guard it against its becoming leavened; v. Pes. 48b.

(17) Ps., XVI, 2.

(18) Ps. XVI, 3.

(19) Heb. אדיר, which word is used in all the following verses quoted.

(20) Ibid. XCIII, 4.

(21) Ex. XV, 10.

(22) Heb. ידיד, which word is used in all the verses quoted.

(23) II Sam. XII, 25.

Talmud - Mas. Menachoth 53b

‘The son of the beloved’ — that is, the son of Abraham, as it is written, What hath My beloved to do in My house?[1] ‘And build the beloved’ — that is, the Temple, as it is written, How lovely are Thy tabernacles![2] ‘For the Beloved’ — that is, the Holy One, blessed be He, as it is written, Let me sing of my Beloved.[3] ‘In the portion of the beloved’ — that is, Benjamin, as it is said, Of Benjamin he said, The beloved of the Lord shall dwell in safety by Him.[4] ‘That the beloved may receive atonement therein’ — that is, Israel, as it is written, I have given the dearly beloved of My soul into the hand of her enemies.[5] Let the good come and receive the good from the Good for the good. ‘Let the good come’ — that is, Moses, as it is written, And she saw that he was good.[6] ‘And receive the good’ — that is, the Torah, as it is written, For I give you good doctrine.[7] ‘From the Good’ — that is, the Holy One, blessed be He, as it is written, The Lord is good to all.[8] ‘For the good’ — that is, Israel, as it is written, Do good, O Lord, unto the good.[9] Let this come and receive this from This for this people. ‘Let this come’ — that is, Moses, as it is written, For as for this Moses, the man.[10] ‘And receive this’ — that is, the Torah, as it is written, And this is the Torah which Moses set.[11] ‘From This’ — that is, the Holy One, blessed be He, as it is written, This is my God and I will glorify Him.[12] ‘For this people’ — that is, Israel, as it is written, This people that Thou hast gotten.[13]

R. Isaac said, At the time of the destruction of the Temple the Holy One, blessed be He, found Abraham standing in the Temple. Said He, ‘What hath My beloved to do in My house?’[14] Abraham replied, ‘I have come concerning the fate of my children’ . . . Said He, ‘Thy children sinned and have gone into exile’. ‘Perhaps’, said Abraham, ‘they only sinned in error?’ And He answered, ‘She hath wrought lewdness’.[15] ‘Perhaps only a few sinned?’ ‘With many’,[15] came the reply. ‘Still’, he pleaded, ‘Thou shouldst have remembered unto them the covenant of circumcision’. And He replied, ‘The hallowed flesh is passed from thee.’[16] ‘Perhaps hadst Thou waited for them they would have repented’, he pleaded. And He replied, ‘When thou doest evil, then thou rejoicest!’[14] Thereupon he put his hands on his head and wept bitterly, and cried, ‘Perhaps, Heaven forfend, there is no hope for them’. Then came forth a Heavenly Voice and said, The Lord called thy name a leafy olive-tree, fair with goodly fruit:[17] as the olive-tree produces its best only at the very end,[18] so Israel will flourish at the end of time.

Because of the noise of the great tumult He hath kindled fire upon it, and its branches are broken.[17] Said R. Hinena b. Papa, Because of the noise of the words of the spies the branches[19] of Israel were broken; for R. Hinena b. Papa said, A grievous statement did the spies make at that moment when they said, For they ore stronger than we.[20] Read not ‘than we’, but ‘than He’;[21] as it were, even the Master of the House cannot remove His furniture from there.[22]

R. Hiyya b. Hinena demurred, Then why does the verse read ‘Because of the noise of the great tumult’? It should read, ‘Because of the noise of the great word’.[23] Rather [it must be interpreted thus]: The Holy One, blessed be He, said to Abraham, ‘I heard thy voice and will have compassion upon them.[24] I had said that they shall be subjected to four successive Empires,[25] each to endure the length of time that the four Empires together [actually lasted], but now each shall endure only the time alotted to it’. Another version: ‘I had said [that they shall be subjected to the four Empires] in succession, but now [they shall be subjected to the four] concurrently’.[26]

R. Joshua b. Levi said, Why is Israel likened to an olive-tree? To tell you that as the olive-tree loses not its leaves either in summer or in winter, so Israel shall never be lost either in this world or in the world to come. R. Johanan said, Why is Israel likened to an olive-tree? To tell you that just as the olive produces its oil only after pounding, so Israel returns to the right way only after suffering.

R. MEIR SAYS, THE LEAVEN MUST BE TAKEN FROM [THE MEAL-OFFERINGS] THEMSELVES AND WITH THIS THEY ARE LEAVENED etc. What is meant by SOMETIMES TOO LITTLE AND SOMETIMES TOO MUCH? — R. Hisda explained, If the yeast [used] was of a thick consistency, then there would be too much [flour in the meal-offering], and if it was thin, there would be too little.[27] But in any event only a tenth is measured![28] — Rabbah and R. Joseph both said that we must measure it according to its former state.[29] But one can surely take a little of the flour[30] and have it leavened outside, and then it can be brought back and kneaded with the rest [of the flour]! — It is to be feared that one might bring leaven from elsewhere.[31]

Our Rabbis taught: One may not leaven [the meal-offering][32]

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(1) Jer. XI, 15. Beloved here refers to Abraham, v. infra.

(2) Ps. LXXXIV, 2.

(3) Isa. V, 1.

(4) Deut. XXXIII, 12. The Temple was built in the territory of Benjamin.

(5) Jer. XII, 7.

(6) Ex. II, 2.

(7) Prov. IV, 2.

(8) Ps. CXLV, 9.

(9) Ibid. CXXV, 4.

(10) Ex. XXXII, 1.

(11) Deut. IV, 44.

(12) Ex. XV, 2.

(13) Ibid. 16.

(14) Jer. XI, 15.

(15) Ibid. The word המזמתה implies premeditated wickedness; cf. Ps. CXXXIX, 20.

(16) Jer. ibid. They attempted to disguise their circumcision.

(17) Ibid. 16.

(18) It is only after many years that the olive-tree bears fruit.

(19) I.e., the strength and glory of Israel.

(20) Num. XIII, 31.

(21) ממנו ‘than He’ instead of ממנו ‘than we’, a difference of pronunciation in the Oriental or Babylonian Massorah in order to distinguish between the third person masc. sing. and the first person plur.; v. Sot., Sonc. ed., p. 172, n. 1.

(22) Even God is powerless against them.

(23) I.e., מלה ‘word’ instead of המולה ‘tumult’.

(24) Interpreting המולה as חמלה ‘compassion’.

(25) The Babylonian, Persian, Grecian and Roman Empires.

(26) Some under one Empire and others under another.

(27) V. supra p. 317, n. 5.

(28) For when the measure is filled up with flour there is already yeast in the vessel; it is therefore immaterial how much is taken up by the yeast, so long as the measure is full.

(29) I.e., when it was flour. In measuring we must have regard to the amount of flour used in the yeast. From this standpoint there would be either too much or too little flour according to the consistency of the leaven.

(30) After a full tenth has been measured for the meal-offering.

(31) And not take it from the flour of the meal-offering, so that an onlooker might be led to believe that one may add to the meal-offering.

(32) I.e., the two loaves of Pentecost and the ten loaves of the Thank-offering, which must be leavened.

Talmud - Mas. Menachoth 54a

with apples. In the name of R. Hanina b. Gamaliel they said, One may do so. R. Kahana reports this in the name of R. Hanina b. Teradion. With whom will the following agree? For we have learnt:[1] If an apple [of terumah] was chopped up and put into dough so that it leavened it, the dough is forbidden.[2] Now with whom does this agree? Shall we say with R. Hanina b. Gamaliel and not with the Rabbis?[3] — You may even say that this agrees with the Rabbis too, for although it is not the finest leaven it is, however, an inferior leaven.[4]

R. Ela said, From no meal-offering is it more difficult to take out the handful than from the sinner's meal-offering.[5] R. Isaac b. Abdimi said, The sinner's meal-offering may be mixed with water[6] and it is valid. Shall we say that they differ in this: one[7] holds that we must measure [the handful] according to its present state,[8] and the other[9] holds that we must measure it according to its former state?[10] — No, both agree that we must measure it according to its present state, but they differ in this: one’ holds that dry[11] means, dry without oil, and the other[9] holds that dry means, dry without any kind [of liquid].

We have learnt there:[12] Calf's flesh[13] that had swelled[14] and the flesh[15] of an old beast that had shrivelled,[16] must be measured[17] according to their present state. Rab, R. Hiyya and R. Johanan read: ‘according to their present state’; whereas Samuel, R. Simeon b. Rabbi and Resh Lakish read: ‘according to their former state’.

An objection was raised: If a piece of calf's flesh which was not of the prescribed size[15] swelled so that it is now of the prescribed size until now it has been clean but from now onwards it is unclean![18] — It is only so Rabbinically. If so, consider the next clause: And so it is, too, with regard to the flesh of an offering that was piggul or nothur.[19] Now if you hold that this rule[20] is Scriptural then it can well apply to piggul and to nothar; but if you hold that it is only Rabbinical, it will be asked: Is one liable [to kareth] for [eating] what is regarded as piggul or nothar Rabbinically?[21] — Render: And so it is, too, with regard to the uncleanness of what is piggul or nothar.[22] For I might have said that since the uncleanness attaching to what is piggul or nothar is only a Rabbinic ordinance, the Rabbis would certainly not apply this rule[23] to that which is only a Rabbinic ordinance; we are therefore taught [otherwise].

Come and hear: If the flesh of an old beast which was of the prescribed size had shrivelled up so that it is now less than the prescribed size, until now it could have been unclean but from now onwards it remains clean![24] — Rabbah explained the position thus: If a [forbidden] thing was of the prescribed size but now it is not so, then it is not so;[25] and if at first it was not of the prescribed size and now it is, then it is so Rabbinically.[26]

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(1) Ter. X, 2.

(2) To be eaten by any but a priest, since the dough which was hullin and not terumah was leavened by an apple which was of terumah.

(3) For the Rabbis, i.e., the first Tanna of the Baraitha, hold that apples cannot leaven.

(4) It is spoilt or hard leaven, and although it is not the best thing to use for leavening the meal-offering, it certainly has a leavening effect upon the substance into which it has been put.

(5) Since it was without oil, the taking of the handful was a difficult operation indeed, for when taking out the handful of dry flour and then smoothing away the flour that is bursting between the fingers, much skill would be required in preventing the flour from slipping out of the hand.

(6) So as to make the taking out of the handful easier. The Torah prohibited only the application of oil.

(7) R. Isaac.

(8) The handful is to be taken out after the flour has been mixed with water, when it is easy to do so.

(9) R. Ela.

(10) The measure is to be a handful of flour only, and therefore if taken out after the flour has been mixed with water, it would contain either too much or too little flour according to the consistency of the mixture.

(11) Lev. VII, 10.

(12) ‘Uk. II, 8.

(13) Less than an egg's bulk.

(14) To an egg's bulk.

(15) An egg's bulk.

(16) To less than an egg's bulk.

(17) With regard to the laws of uncleanness. Foodstuffs, if of an egg's bulk in quantity, can become unclean and can convey uncleanness.

(18) I.e., it can become unclean since it is now the size of an egg; contra Resh Lakish and the others.

(19) This means, presumably, that if a piece of flesh that was piggul or nothar, and which was less than an olive's bulk (which is the minimum in regard to forbidden food), had swelled to the size of an olive's bulk and one ate it, the penalty of kareth would thereby be incurred, for we estimate a thing according to its present size. For piggul and nothar v. Glos.

(20) That we must consider everything according to its present size.

(21) Surely there is no penalty incurred, since by the law of the Torah there was not the prescribed bulk.

(22) It is a Rabbinical ordinance that consecrated flesh that was rendered piggul or nothar is unclean and conveys uncleanness to the hands; v. Pes. 85a. We are now taught that if piggul or nothar less than an egg's bulk had swelled to the size of an egg, it will render the hands unclean.

(23) V. p. 324, n. 14.

(24) Thus contrary to Resh Lakish and the others who maintain that we must measure everything in the condition in which it was before.

(25) I.e., it is no longer a forbidden thing since it is not of the prescribed size. The term ‘forbidden’ is used here in an extended sense to include ‘defilement’.

(26) By Rabbinical ordinance it is regarded as a forbidden thing.

Talmud - Mas. Menachoth 54b

They differ only in the case where it was at first of the prescribed size but it shrivelled up and then it swelled up again. One is of the opinion that with forbidden things there can be an absolute rejection of the prohibition,[1] but the other maintains that there can be no such absolute rejection.[2]

Is there anyone who maintains that with forbidden things there can be an absolute rejection of the prohibition? But we have learnt:[3] If an egg's bulk of foodstuff was left in the sun and shrank, likewise if an olive's bulk of a corpse, an olive's bulk of nebelah,[4] a lentil's bulk of a [dead] reptile, an olive's bulk of [consecrated flesh that was] piggul[4] or nothar,[4] and an olive's bulk of forbidden fat [shrank], they[5] are now clean, and one is not liable thereby[6] [to the penalties] for [eating] piggul or nothar or forbidden fat. If later they were left in the rain and swelled, they[5] become unclean and one is liable thereby[6] [to the penalties] for [eating] piggul or nothor or forbidden fat. This clearly refutes the view of him who says that with forbidden things there can be an absolute rejection of the prohibition! It is indeed a refutation.

Come and hear: One may give by number fresh figs [as tithe] in respect of pressed figs.[7] Now if you hold that we measure a thing in the condition in which it was before, it is well;[8] but if you hold that we measure in the condition in which it is now, then too much is given as tithe,[9] and it has been taught: If one gave too much tithe the produce is duly tithed but the tithe is unfit![10] — What then shall we say? That we measure in the condition in which it was before? But read the next clause: And [one may give] pressed figs by measure [as tithe] in respect of fresh figs.[11] Now if you hold that we measure In the condition in which it is now, then it is well;[12] but if you hold that we measure in the condition in which it was before, then too much is given as tithe?[13] — We are dealing here with the 'great terumah',[14] and the first clause as well as the second deals with the case of a man that is liberal.[15] If so, read the final clause: R. Eleazar son of R. Jose said, My father used to take ten pressed figs from the cake in respect of the ninety [fresh figs] in the basket. Now if we are dealing with the 'great terumah', why is 'ten' mentioned?[16] — We are really dealing here with the terumah of the tithe,[17] and it is in accordance with the teaching of Abba Eleazar b. Gomel. For it was taught: Abba Eleazar b. Gomel[18] says, It is written, And your heave-offering shall be reckoned unto you.[19] Scripture speaks of two heave-offerings,[20] one the 'great terumah' and the other the terumah from the tithe. Just as the 'great terumah' is set aside by estimate[21] and by intention,[22] so the terumah of the tithe is set aside by estimate

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(1) Resh Lakish and his colleagues maintain that when the forbidden thing shrivelled up to less than the prescribed quantity the prohibition thereof vanished completely, and, by the law of the Torah, cannot return even though the substance later swelled up to the prescribed size.

(2) R. Johanan and his colleagues hold that the prohibition has only been suspended temporarily.

(3) Toh. III, 4.

(4) V. Glos.

(5) The first four cases mentioned which relate to uncleanness.

(6) If one ate this shrunken olive's bulk of piggul or nothar or of forbidden fat.

(7) Thus ten fresh figs may be given as tithe in respect of ninety pressed figs.

(8) Accordingly the pressed figs are considered in the condition in which they were before, namely fresh; and therefore ten fresh figs would be the exact quantity for the tithe, whether we reckon the tithe by number or by capacity.

(9) For reckoning by capacity ten fresh figs would probably take up as much as one fifth of the capacity of ninety pressed figs.

(10) For the tenth part only is the tithe, the excess being untithed produce (tebel), and as the two are inextricably mixed up the whole is forbidden, even to Levite or priest, until it has been made fit by the proper separation.

(11) Thus one kab of pressed figs may be given as tithe in respect of nine kabs of fresh figs.

(12) For reckoning by capacity or weight one measure of dried figs is given in respect of the remaining nine measures of fresh figs.

(13) For one kab of dried figs would very likely be as much as two kabs when fresh.

(14) The first levy of the produce of the field given to the priest. V. Glos.

(15) Lit. 'with a kindly eye'. A generous owner would give one-fortieth, one less generous one-fiftieth, and a mean person one-sixtieth of his produce as terumah. The clauses of the Baraitha apply to a generous owner, accordingly the objection that too much is given cannot stand.

(16) The use of the numbers ten and ninety suggests that the offering is the tithe and not the terumah.

(17) The heave-offering of one tenth given to the priest by the Levite form the tithe he receives. V. Num. XVIII, 25ff.

(18) Var. lec. 'Gimel', 'Gamala' (so Git. 30b), and 'Gamaliel' (Aruch).

(19) Num. XVIII, 27.

(20) For the verse continues, As though it (the terumah of the tithe) were the corn of the threshing-floor (the 'great terumah'); thus the verse speaks of two terumoth.

(21) It was not necessary to measure out exactly the fiftieth part usually given for the terumah (Rashi). According to Tosaf. (s.v. ניטלת) it was not right to measure out the terumah but it should be given by estimate only.

(22) A man could mentally set aside one portion of a heap of produce as terumah and immediately eat of the rest.

Talmud - Mas. Menachoth 55a

and by intention; and just as the 'great terumah' should be given generously so the terumah of the tithe should be given generously.[1] But [there is yet a difficulty] from here, for R. Eleazar son of R. Jose said, My father used to take ten pressed figs from the cake in respect of the ninety [fresh figs] in the basket. Now if you hold that we measure in the condition in which it was before, it is well; but if you hold that we measure in the condition in which it is now, then too little is given [as tithe]![2] When R. Dimi came [from Palestine] he reported in the name of R. Eleazar that the case of the pressed figs is different since they can be boiled and so restored to their former condition.

Our Rabbis taught: One may give fresh figs[3] as terumah in respect of pressed figs in that place where it is the custom for figs to be pressed; but one may not give pressed figs as terumah in respect of fresh figs even in the place where it is the custom for figs to be pressed.

The Master stated: 'One may give fresh figs as terumah in respect of pressed figs in that place where it is the custom for figs to be pressed'. This is so, then, only where there is this custom, but not where there is no such custom. But what are the facts of the case? If there is a priest present, then why is this not allowed even where there is no such custom? Have we not learnt that wherever there is a priest present one must give the terumah from the choicest kind?[4] Obviously then there is no priest present.[5] Now read the next clause: 'But one may not give pressed figs as terumah in respect of fresh figs even in the place where it is the custom for figs to be pressed'. But if there is no priest present why is one not allowed to do so? Have we not learnt that where there is no priest one must give the terumah from that which is most durable?[6] Obviously then there is a priest present.[7] Must we then say that in the case of the first clause there is no priest present whilst in the case of the second clause there is a priest present? — Yes. In the case of the first clause there is no priest present but in the case of the second clause there is a priest present. Said R. Papa, You may infer from this that we endeavour to interpret [two clauses of] a passage by suggesting two sets of facts rather than suggest that they represent the views of two Tannaim.[8] MISHNAH. ALL MEAL-OFFERINGS MUST BE KNEADED WITH LUKEWARM WATER AND MUST BE WATCHED LEST THEY BECOME LEAVENED. IF ONE ALLOWED THE REMAINDER[9] TO BECOME LEAVENED ONE TRANSGRESSES A PROHIBITION, FOR IT IS WRITTEN, NO MEAL-OFFERING WHICH YE SHALL BRING UNTO THE LORD SHALL BE MADE LEAVENED.[10] ONE IS LIABLE FOR THE KNEADING AS WELL AS FOR THE SHAPING AND FOR THE BAKING.

GEMARA. Whence is this derived?[11] — Resh Lakish said, It is written, It shall not be baked leavened: their position,[12] that is, even their portion must not be baked leavened. And is this verse required for this purpose? But it is required for the following which was taught: Wherefore does the text say, It shall not

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(1) I.e., even more than a tenth, accordingly the previous objection that too much is given cannot stand.

(2) For when reckoning by weight the quantity set aside, sc. ten pressed figs, would be much less than a tenth.

(3) By number.

(4) V. Ter. II, 4. Accordingly the best (i.e., fresh figs) must be given to the priest, irrespective of custom.

(5) And therefore only dried figs which last longer should be set aside for the priest.

(6) In this case pressed figs.

(7) And therefore dried figs may not be given to the priest but only fresh ones, even though the priest will press them later on, for it is the custom to do so.

(8) For one could have answered that in each case no priest was available and the reason why in the second clause one is not allowed to set aside dried figs is that the Tanna of this Baraitha is of the opinion that in every case the best must be given as terumah, even in the absence of a priest. This indeed is the opinion of R. Judah; v. Ter. loc. cit

(9) I.e., what is left of the meal-offering after the handful has been taken out.

(10) Lev. II, 11. The prohibition of this verse refers to the meal-offering as a whole, i.e., before the taking out of the handful. That the remainder must not be leavened is derived from another verse; v. Gemara, infra.

(11) That the remainder must not be leavened. V. prec. note.

(12) Ibid. VI, 10. The Heb. may be translated: 'their portion shall not be baked leavened'.

Talmud - Mas. Menachoth 55b

be baked leavened? Has it not already stated, It shall not be made leavened?[1] From the verse, It shall not be made leavened, I might have said that one is liable only once for all [the works involved], Scripture therefore says, It shall not be baked leavened. Now baking was included in the general prohibition; why was it specifically mentioned? So that every other work shall be like it; thus as the work of baking is described as a specific work and one is liable solely on account of it, so I will include the work of kneading and of shaping and every other specific work, including also the work of smoothing[2] which is also a specific work, that one is liable on account of each alone! — We derive our rule from the expression 'their portion'.[3] Perhaps then the whole verse refers to this only![4] — If so [the prohibition] should have been, 'Their portion shall not be baked leavened'; why does Scripture say, It shall not be baked leavened: their portion? You can therefore infer both [prohibitions]. But perhaps the interpretation should be thus: for the baking which is expressly prohibited by the Divine Law one is liable once, but as for the other works one is only liable once for all of them! — This is a case of a subject which though included in a general proposition is specifically mentioned in order to teach us something concerning it, in which case what is specifically mentioned is not stated only for its own sake but to teach that the same affects the whole general proposition.[5] But perhaps I should say that the verse 'it shall not be made leavened' is a general [prohibition] and the verse 'It shall not be baked leavened' is a particular [prohibition]; we thus have a general rule followed by a specific particular, in which case the general rule is limited to the particular specified, so that only the baking is prohibited but no other work! — R. Aptoriki explained, Here the general rule and the specific particular are far away from each other,[6] and in every case where the general rule and the specific particular are far away from each other the principle relating to a general rule followed by a specific particular does not apply.[7]

R. Adda b. Ahabah (some say, Kadi) objected, Do you say that where the general rule and the specific particular are far away from each other the principle relating to a general rule followed by a specific particular does not apply? Surely it has been taught: It is written, And he shall slaughter it in the place where they slaughter the burnt-offering before the Lord; it is a sin-offering.[8] Now where is the burnt-offering slaughtered? On the north side;[9] this too is slaughtered on the north side. But do we derive it from here?[10] Is it not written, In the place where the burnt-offering is slaughtered shall the sin-offering be slaughtered?[11] Why then is the former verse[8] necessary? It serves to make the rule absolute,[12] namely, that if it was not slaughtered on the north side it is invalid. You say that it serves to make this rule absolute, but perhaps it is not so but teaches rather that this [sin-offering] must be [slaughtered] on the north side but no other[13] requires the north side! The text therefore states, And he shall slaughter the sin-offering in the place of the burnt-offering;[14] this establishes the rule that all sin-offerings must be slaughtered on the north side. Now this is the conclusion because the Divine Law has also written, And he shall slaughter the sin-offering, but without this verse I would have held that only this [sin-offering] requires the north side but no other requires the north side. And why? Is it not because this would be a case of a general rule followed by a specific particular, which would be governed by the principle relating to a general rule followed by a specific particular, notwithstanding that the two are far away from each other?[15] Thereupon R. Ashi demurred, Is this an instance of a general rule followed by a specific particular? It is an instance of a specific particular followed by a general rule,[16] in which case the general rule extends beyond the scope of the specific particular, and includes every [sin-offering][17] Rather the fact is that the Tanna's counter-argument was based upon the expression ‘it’;[18] and he argued thus: ‘perhaps it is not so but teaches rather that this [sin-offering] must be [slaughtered] on the north side but no other requires the north side’, since the Divine Law stated ‘it’.

Now that the general rule[19] is derived from the verse, ‘And he shall slaughter the sin-offering’, what does the term ‘it’ exclude? — (Mnemonic: Nahshon, the slaughterer, a bird, the Passover-offering.) It teaches that it must be on the north side, but Nahshon's he-goat[20] ‘was not [slaughtered] on the north side. For I might have thought that since the latter was included under the law of laying on of hands it was also included under the law requiring the north side; we are therefore taught [that it was not so]. And whence do we know that this was so concerning the laying on of hands?[21] — For it was taught: The verse, And he shall lay his hand upon the head of the he-goat,[22] includes also Nahshon's he-goat, for the requirement of the laying on of hands. So R. Judah. But R. Simeon says,

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(1) Ibid. II, 11.

(2) Sc. the surface of the dough with moist hands (Rashi). Others: cutting away a lump of dough sufficient for each loaf (R. Gershom); or, shaping the loaf (Maim.).

(3) Which expression, following immediately upon the prohibition ‘It shall not be baked leavened’, signifies that even the remainder shall not be baked leavened.

(4) I.e., that the remainder shall not be leavened. Whence then do we know that the meal-offering as a whole, before the taking out of the handful, is subject to this prohibition?

(5) The general prohibition ‘It shall not be made leavened’ includes every work in connection with the meal-offering, and certainly the baking, but the latter was specifically prohibited to teach that for the baking alone, as well as for any single work in connection with the meal-offering, one is liable.

(6) The former is stated in Lev. II, 11, whilst the latter in VI, 10.

(7) V. Pes. 6b.

(8) Lev. IV, 24, with reference to the sin-offering brought by a ruler.

(9) Cf. ibid. I, 11.

(10) That the sin-offering must be slaughtered on the north side of the altar.

(11) Ibid. VI, 18.

(12) The repetition of this rule establishes it as an obligation and absolutely indispensable.

(13) E.g., the communal sin-offerings offered on the Festivals. V. Sh. Mek. n. 3.

(14) Ibid. IV, 29.

(15) In VI, 18 the rule is stated with regard to sin-offerings generally whilst in IV, 24 it is stated with regard to the special case of a sin-offering of a ruler.

(16) For the specific case is stated before the general rule, v. prec. note.

(17) Accordingly the verse, And he shall slaughter the sin-offering (ibid. IV, 29), is rendered superfluous.

(18) Heb. אותו, ‘it’ to the exclusion of others. The third verse (Lev. IV, 29) was therefore necessary to extend the rule generally so as to include all sin-offerings.

(19) That all sin-offerings must be slaughtered on the north side.

(20) The he-goat offered as a sin-offering by Nahshon, the prince of the tribe of Judah, (and likewise by each of the princes of the other tribes, v. Num. VII, 12ff) at the dedication of the altar. This sin-offering was peculiar in that it was offered not in expiation of any sin committed.

(21) That Nahshon's he-goat required the laying on of hands before slaughtering.

(22) Lev. IV, 24, with reference to the sin-offering brought by a ruler. Other offerings of a he-goat are included in this verse by reason of the fact that ‘he-goat’ is expressly mentioned here instead of the more usual expression ‘upon its head’.

Talmud - Mas. Menachoth 56a

It includes the he-goats offered for the sin of idolatry for the requirement of the laying on of hands.[1] Rabina demurred, [saying], It is well according to R. Judah's view,[2] but what is to be said if R. Simeon's view is followed?[3] Thereupon Mar Zutra the son of R. Mari said to Rabina, But even according to R. Judah should we not say that that which is expressly included[4] is included, and that which is not included[5] is not included? And if you retort that without a verse to exclude it[5] you would have included it by virtue of the general principle,[6] then with regard to the requirement of laying on of hands Scripture should have been silent concerning it since it would have been included by virtue of the general principle. But [you would answer that] we may not derive [the regulations applicable, to] a temporary enactment[7] from a permanent law, then with regard to this,[5] too, we may not derive a temporary enactment from a permanent law![8] — This then is the interpretation: ‘It’ must be [slaughtered] on the north side but the slaughterer need not stand at the north side.[9] But is not this to be derived from R. Ahiyah's teaching? For it was taught: R. Ahiyah says, Wherefore does the text state, And he shall slaughter it on the side of the altar northward?[10] It is because concerning the receiving [of the blood] we know that [the priest] must stand on the north side and receive [the blood] on the north side, and if he stood on the south side and received [the blood] on the north side the offering is invalid;[11] now I might have thought that it is the same here [with regard to the slaughtering], Scripture therefore stated ‘it’, signifying that ‘it’ must be on the north side but the slaughterer need not stand on the north side![12] — Rather [then interpret it thus]: ‘It’ must be on the north side but [the killing of] a bird-offering need not be on the north side. For I might have argued [that this was essential] by an a fortiori argument from a lamb-offering thus: if [the slaughtering of] a lamb-offering, which does not require the services of a priest, must be performed on the north side, is it not right that [the killing of] a bird-offering, which requires the services of a priest, shall be performed on the north side? But surely [one can retort,] this is so[13] with a lamb-offering because it requires an instrument [for the slaughtering]![14] — Rather then [we must interpret it as follows]: ‘It’ must be on the north side, but the slaughtering of the Passover-offering need not be on the north side. But is not the [exclusion of the] Passover-offering derived from the teaching of R. Eliezer b. Jacob? For it was taught: R. Eliezer b. Jacob said, One might think that the Passover-offering requires slaughtering on the north side by reason of this a fortiori argument: if the slaughtering of a burnt-offering, which has no fixed time for the slaughtering, must be performed on the north side, is it not right that the slaughtering of the Passover-offering, which has a fixed time for the slaughtering thereof,[15] shall be performed on the north side? But surely [one can retort,] this is so[13] with a burnt-offering because it is wholly burnt! — One can argue the case from the sin-offering. But surely [one can retort that] this is so with the sin-offering because it effects atonement for those that are liable to the penalty of kareth! — One can argue the case from the guilt-offering. But surely this is so with the guilt-offering because it is a Most Holy offering.[16] And if one were to argue the case from all these offerings, [one could retort that] this is so with all these mentioned because they are all Most Holy offerings! — Rather [we must say that the interpretation] is indeed as stated previously: ‘It’ must be on the north side but the slaughterer need not be on the north side; and as for your objection ‘Is not this to be derived from R. Ahiyah's teaching?’ [I say that] R. Ahiyah comes [not to teach] that the slaughterer need not be on the north side; he teaches rather that, in contradistinction from the slaughterer who need not be on the north side,[17] the receiver of the blood must be on the north side. But is not this rule regarding the receiver of the blood derived from [the fact that Scripture states], ‘And he shall take’[18] and not ‘he shall take’?[19] — He [R. Ahiyah] does not base any exposition on the fact that Scripture states ‘And he shall take’ and not ‘he shall take’.

ONE IS LIABLE FOR THE KNEADING AS WELL AS FOR THE SHAPING AND FOR THE BAKING. R. Papa said, If a man baked [the meal-offering leavened], he has incurred stripes on two counts, once for shaping it [while leavened] and again for baking it.[20] But have you not said above[21] ‘As the baking is described as a specific work and one is liable solely on account of it’? — This is no difficulty, for in the one case he shaped it and also baked it,[22] but in the other case another shaped it and he baked it.[23]

Our Rabbis taught: If a firstling[24] was attacked with congestion, it may be bled in a place where no blemish would result, but it may not be bled in a place where a blemish would result.[25] So R. Meir. The Sages say, It may be bled even in a place where a blemish would result, provided that it is not slaughtered by reason of that blemish.[26] R. Simeon says,

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(1) V. infra 92b.

(2) For since he maintains that Nahshon's he-goat required laying on of hands just like an ordinary sin-offering, it would also have required slaughtering on the north side; therefore an express term was necessary in order to exclude the latter requirement.

(3) For according to him Nahshon's he-goat was different from ordinary sin-offerings, since it did not require laying on of hands, and presumably it did not require slaughtering on the north side; hence no term was necessary to exclude this.

(4) The rite of laying on of hands.

(5) The requirement of slaughtering on the north side.

(6) I.e., as all sin-offerings required slaughtering on the north side so this offering also required it.

(7) Sc. the offering of Nahshon's he-goat at the dedication of the altar.

(8) So that even according to R. Judah only that rite which was expressly stated as applying to Nahshon's he-goat did apply, but none other; hence slaughtering on the north side was not required for it; accordingly the term ‘it’ must be otherwise interpreted.

(9) He may stand on the south side and slaughter the animal which is on the north side by using a long knife for the purpose.

(10) Lev. I, 11.

(11) V. Zeb. 48a.

(12) So that the term ‘it’, stated in Lev. IV, 24, has not been satisfactorily interpreted.

(13) That slaughtering on the north side is essential.

(14) Whereas the killing of a bird sacrifice is performed by the priest nipping off the head with his thumb; cf. Lev. I, 15.

(15) It must be slaughtered on the eve of the Passover Festival on the fourteenth day of Nisan in the afternoon.

(16) Whereas the Passover-offering is of the Less Holy offerings.

(17) This is derived from the term ‘it’ (Lev. IV, 24) stated in connection with the sin-offering of a ruler.

(18) Ibid. IV, 25.

(19) The rule is derived from the superfluous waw ‘and’ (R. Gershom). According to Sh. Mek. the text should read: ‘From (the fact that Scripture states), And he shall take, which signifies, and he shall take himself’. I.e., the receiver of the blood shall betake himself to the place where he is about to receive the blood, namely, the north side. V. Zeb. 48a.

(20) The baking is regarded as a twofold work, as the completion of the work of shaping and as the baking proper.

(21) Supra p. 329.

(22) In this case he would not be liable on two counts for the baking, since he has already incurred liability for the shaping as a separate work. Only in this sense can the baking be described as a single and specific work.

(23) The other would then be liable for the shaping, whilst he would be liable for the baking which involves two counts, the baking proper and the completion of the shaping. V. however, Tosaf. s.v. אפאה, and com. of R. Gershom.

(24) The firstling, after Temple times, since it can no longer be offered, is given to the priest, but he is forbidden to slaughter it unless it is blemished. It is, however, forbidden to blemish a firstling or any consecrated beast.

(25) E.g., to bleed the firstling at the ear or lip would leave a scar or blemish.

(26) For otherwise it is to be feared that the owner would bleed it deliberately, although it was not suffering from congestion, in order to be allowed to slaughter it.

Talmud - Mas. Menachoth 56b

It may even be slaughtered by reason of that blemish.[1] R. Judah says, It may not be bled[2] even though it would otherwise die.[3]

R. Hiyya b. Abba said in the name of R. Johanan, All agree[4] that whosoever leavens [the meal-offering] after it was already leavened[5] is liable, for it is written, It shall not be made leavened,[6] and it is also written, It shall not be baked leavened.[7] And that whosoever castrates a beast after it was already castrated[8] is liable, for it is written, That which hath its stones bruised or crushed or torn off or cut, [. . . neither shall ye do thus in your land].[9] Now if one is liable for cutting how much more so for tearing off! [Wherefore is the latter mentioned?] To teach that one is also liable if one tears them away after they were already cut. They[4] only differ as to whether one may blemish a blemished animal. R. Meir says, It is written, There shall be no blemish at all therein;[10] but the Rabbis say, It is written, It shall be perfect to be accepted.[11] Against R. Meir [it will be objected], is there not written, 'It shall be perfect to be accepted'? — That would only exclude what was born blemished.[12] But what was born blemished is no better than a tree! — It excludes rather consecrated animals that have been rendered unfit [by reason of a blemish] and have been redeemed; for I might have argued that since these may not be sheared of their wool nor put to any labour it is also forbidden to inflict any further blemish upon them, we are therefore taught [that it is not so]. And against the Rabbis [it will be objected], is it not written, 'There shall be no blemish at all therein'? — That verse is necessary for the following teaching: It is written, 'There shall be no blemish at all therein': I gather from this that one may not inflict any blemish upon it, but whence do I know that one may not cause it to suffer a blemish indirectly,[13] [e.g.] that one may not place a lump of dough or a pressed fig upon its ear so as to tempt a dog to take it?[14] The text therefore says, 'No blemish at all'; not only does it say 'no blemish' but also 'no blemish at all'.[15]

R. Ammi said, If a man placed leaven upon the dough [of a meal-offering] and went and sat him down, and the dough became leavened of its own, he is liable for it, just as it is an act of work on the Sabbath.[16] But would one be liable for doing such an act of work as this on the Sabbath? Has not Rabbah b. Bar Hanah said

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(1) Since the bleeding was not intended to blemish the beast but merely to relieve it from its congestion, the blemish that results is regarded as accidental and the beast may be slaughtered on account of it; this being in accordance with R. Simeon's view that a result not intended is ignored; v. Shab. 133a.

(2) Even in a place from which no physical blemish would result for it is to be feared that in his anxiety to save the beast the owner would not be careful as to the place where he bleeds it and might do so even in a place from which a blemish would certainly result.

(3) V. Bek. 33b.

(4) I.e., R. Meir and the above Rabbis who differ concerning the propriety of blemishing a beast which is already blemished, for here the firstling is indeed blemished by reason of its congestion which would prove fatal if it were not bled.

(5) I.e., if one shaped or baked the dough of the meal-offering which had been made leavened by another person.

(6) Lev. II, 11.

(7) Ibid. VI, 10. Hence it is clear that for baking it leavened even after it had already been 'made' leavened one is liable.

(8) I.e., one man had wrenched the testicles away from the body and left them in the scrotum, and another came and cut them away entirely.

(9) Ibid. XXII, 24. The latter part of this verse is understood as a general prohibition against castration.

(10) Ibid. 21. Even though the beast is blemished there shall be no further blemish therein.

(11) Ibid. Only such as are fit for offering may not be blemished.

(12) And therefore was at no time holy. This certainly may be blemished.

(13) Lit., 'by other means'.

(14) And to bite its ear at the same time, thus causing a blemish.

(15) Including blemishes indirectly caused.

(16) E. g., if one placed meat on the coals on the Sabbath one would be liable for roasting, although the roasting was done of its own accord.

Talmud - Mas. Menachoth 57a

in the name of R. Johanan, If a man placed meat on coals [on the Sabbath] and also turned it over, he is liable, but if he did not turn it over he is not liable? — Raba answered; He meant to say, He is liable for it just as the act of roasting on the Sabbath.[1]

The text [above stated]: ‘Rabbah b. Bar Hanah said in the name of R. Johanan, If a man placed meat on coals [on the Sabbath] and also turned it over, he is liable, but if he did not turn it over he is not liable’. How is this to be understood? If I say that the meat would not have been roasted if he had not turned it over, then obviously [he is not liable if he did not turn it over]; and if it would have been roasted even though he had not turned it over, why then is he not liable [where he did not turn it over]? — It is necessary to be stated only for the circumstance where, had he not turned it over, it would have been roasted on one side only to the extent of that which was eaten by Ben Drusai,[2] but with turning it over it would have been roasted on both sides to that extent. Now we are here taught that whatsoever is done on one side only to the extent of that which was eaten by Ben Drusai is insignificant.

Raba said, If it had been [well] roasted[3] in one place the size of a dried fig, one would be liable.[4] Rabina said to R. Ashi, Is it then that only [if roasted] in one place [to the size of a dried fig] one is [liable], but not [if roasted] in two or three places?[5] But we have learnt: He who bores a hole, however small, is liable.[6] Now what can this mean? Will you say it means [a hole] in one place? But of what use can a tiny hole be? Obviously then it means [holes] in two or three places, [no matter how small], since they can be joined together.[7] — No, I still say it means a hole in one place, for it can serve as a keyhole.

Another version states: Raba said, Even if it had been roasted in two or three places [together making up the size of a dried fig, one would be liable]. Rabina said to R. Ashi, We have learnt in a Mishnah to the same effect: He who bores a hole, however small, is liable. Now what can this mean? Will you say it means a hole in one place? But of what use can a tiny hole be? It must mean [holes] in two or three places, [no matter how small,] since they can be joined together! — No, I still say it means a hole in one place, for it can serve as a keyhole.

Our Rabbis taught: Had Scripture only stated, Which ye shall bring unto the Lord shall not be made leavened,[8] I should have said that only the handful shall not be made leavened, but whence would I know [that this prohibition applies to] the whole meal-offering?[9] The text therefore added, ‘Meal-offering’.[8] And whence would I know that this applies to other meal-offerings too?[10] The text therefore stated, ‘Every meal-offering’.[8] ‘Which ye shall bring unto the Lord’ signifies what is valid, but not what is invalid;[11] hence they said, He who leavens a valid meal-offering is liable, but he who leavens what is invalid is not liable.

R. Papa enquired, What is the law if a man leavened the meal-offering and it was then taken out [of the Sanctuary], and afterwards he again leavened it?[12] [Shall I say,] since it has been taken out it has thereby become invalid, and consequently by leavening it thereafter he cannot be held liable for leavening what was already leavened; or perhaps I should say, since it has been leavened it cannot be affected by being taken out, and consequently by leavening it again he would be liable for leavening what was already leavened? This question remains undecided.

R. Mari enquired, What is the law if he leavened [the handful] at the head of the altar? Does not the Divine Law say, ‘Which ye shall bring’, and this has already been brought up;[13] or perhaps I should say, since it still requires to be burnt it is as though the act [of bringing] has not been completed? This question remains undecided.

And now that the general prohibition has been derived from ‘every meal-offering’, wherefore is the expression ‘which ye shall bring’[14] stated? — It is required for the following which was taught: Which ye shall bring includes the meal-offering which is offered with the drink-offerings, so that it too comes within the prohibition of leavening.[15] So R. Jose the Galilean. R. Akiba says, It includes the Shewbread, so that it too comes within the prohibition of leavening.[16] But is not the meal-offering which is offered with the drink-offerings prepared with fruit juice,[17]

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(1) I.e., the placing of leaven on dough, which is the whole act of leavening, is equivalent to placing meat on coals and turning it over for the other side to roast, which two acts together constitute the act of roasting.

(2) The name of a bandit who used to eat his food slightly done; gen. a third done.

(3) Cur. edd. add here: ‘on one side’. This is not found in MS.M. and is deleted by Sh. Mek.

(4) Even though it had not been turned over.

(5) Which together make up the size of a dried fig.

(6) Shab. 102b.

(7) To make one large hole. Similarly here, the parts roasted should be reckoned together so as to make up the size of a dried fig.

(8) Lev. II, 11.

(9) I.e., before the handful was taken out.

(10) For the prohibition is expressly stated in connection with a meal-offering prepared in a pan.

(11) E.g., if the meal-offering was taken out of the Sanctuary and thereby had become invalid or if it had become unclean.

(12) I.e., he performed another work with this dough which had already been leavened, e.g. he baked it.

(13) To the head of the altar before it was leavened.

(14) Which refers specifically to the handful only.

(15) For this meal-offering is different in that no part thereof is eaten but it is wholly burnt upon the altar; it was therefore necessary for this to be expressly included within the prohibition of leavening. On the other hand, the Shewbread does not come within this prohibition according to R. Jose, for he is of the opinion that the Shewbread was hallowed only when set upon the table and not before when the flour was measured out, for the measuring vessels for dry goods were not consecrated as vessels of ministry.

(16) R. Akiba maintains that the measuring vessels for dry goods were consecrated and so the flour was hallowed for a meal-offering (for such is the Shewbread) as soon as it was measured out; hence it comes within the prohibition of leavening.

(17) The meal-offering offered with the drink-offerings required a large quantity of oil, three logs to the tenth, and presumably no water was added to it; accordingly it cannot possibly become leavened.

Talmud - Mas. Menachoth 57b

and fruit juice cannot render aught leaven? — Resh Lakish answered that R. Jose the Galilean was of the opinion that it was permitted to mix the meal-offering which is offered with the drink-offerings with water.[1] But was not the [flour for the] Shewbread put into a measuring vessel for dry goods, and we know that R. Akiba is of the opinion that the measuring vessel for dry goods was not consecrated?[2] — Rabin[3] sent the following answer in the name of R. Johanan: That is, indeed, the proper construction of the teaching, but the authorities must be reversed: ‘Which ye shall bring’ includes the Shewbread, so that it too comes within the prohibition of leavening. So R. Jose the Galilean. R. Akiba says, It includes the meal-offering which is offered with the drink-offerings, so that it too comes within the prohibition of leavening.

R. Johanan is indeed consistent in his view, for R. Johanan has said that R. Jose the Galilean and one of the disciples of R. Ishmael — namely, R. Josiah-both hold the same view, For it was taught: It is written, And had anointed them and sanctified them.[4] R. Josiah says, The liquid-measures were anointed both inside and outside, while the dry-measures were anointed inside but not outside. R. Jonathan says, The liquid-measures were anointed inside but not outside, while the dry-measures were not anointed at all. This can be proved from the fact that they do not hallow [what was put into them], for it is written, Ye shall bring out of your dwellings two wave-loaves of two tenth parts of an ephah; they shall be of fine flour, they shall be baked with leaven, for firstfruits unto the Lord;[5] when are they appointed unto the Lord? Only after they have been baked.[6]

Wherein do they differ? In the interpretation of the word ‘them’.[7] R. Josiah maintains that the word ‘them’ excludes the outside of the dry-measure; but R. Jonathan holds that the dry-measure was not holy at all and no verse is necessary to exclude it; the word ‘them’ can thus serve to exclude only the outside of the liquid-measure.

And why did not [R. Johanan] say that R. Akiba and one of the disciples of R. Ishmael — namely R. Jonathan — both said the same thing?[8] — Because they do not agree entirely about the liquid-measures.[9]

R. Papa said to Abaye, Was not a bowl used [for the kneading of the Shewbread], and that was [a measuring vessel] for liquids?[10] — He replied, It might have been kneaded on a slab.[11] But if so, when R. Jonathan said ‘This can be proved from the fact that they do not hallow [what was put into them]’, [his colleague] could have retorted that it might have been measured out in an unconsecrated tenth measure![12] — [The two cases] cannot be compared; for with regard to the bowl, since the Divine Law did not expressly prescribe a bowl for the kneading, if it was kneaded on a slab it did not matter in the least; but with regard to the tenth measure, since the Divine Law directed that a tenth measure be made wherewith the flour might be measured, would one reject the consecrated tenth measure and measure with an unconsecrated tenth measure?

Our Rabbis taught: Whence is it derived that whosoever offers of the flesh of a sin-offering or of a guilt-offering, of the flesh of a Most Holy[13] or of a Less Holy offering, of the residue of the ‘Omer-offering, of the residue of the Two Loaves, of the Shewbread, or of the remainder of meal-offerings, transgresses a negative precept? Because the text states, For any leaven or any honey ye shall not burn of it as an offering made by fire unto the Lord,[14] signifying that any offering, if only a portion of it is offered upon the fire, comes under the prohibition of ye shall not burn.[15] But is any part of the Two Loaves or of the Shewbread offered upon the fire? Surely it has been taught: Thus the Two Loaves and the Shewbread are excluded[16] since no part of them is offered upon the fire! — R. Shesheth answered, It meant there that no part of them is actually offered upon the fire.[17]

It was reported: If a person brought up any of the abovementioned parts upon the ascent,[18] R. Johanan said, He is liable;[19] but R. Eleazar said, He is not liable. ‘R. Johanan said, He is liable’, for it was taught: The verse says, The altar:[20] I know this[21] only of the altar, whence do I know it of the ascent too? The text states: But they shall not come up for a sweet savour on the altar.[20] ‘R. Eleazar said, He is not liable’, because the verse says, Leaven and honey . . . as an offering of firstfruits ye may bring them unto the Lord;[20] only with regard to these[22] is it implied that the ascent is on a par with the altar, but with no other offering is it so.

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(1) It can therefore become leavened.

(2) V. infra 90a. Hence it cannot be subject to the prohibition of leavening since it was not hallowed as a meal-offering until set upon the table, for even the kneading need not have been in a vessel of ministry.

(3) So MSS., Rashi, and Sh.Mek. Cur. edd.: ‘R. Reuben’.

(4) Num. VII, 1. The reference is to the anointing of the altar vessels which were vessels for liquids.

(5) Lev. XXIII, 17.

(6) So that, although the flour must have been measured out in a measuring vessel, it was not hallowed ‘unto the Lord’ until after the baking in the oven of the Sanctuary.

(7) Heb. אותם. The suggestion is that this word signifies the essential part of the vessel, namely the inside only.

(8) Since R. Akiba and R. Jonathan both hold that the dry-measures were not consecrated.

(9) For R. Akiba maintains that the liquid-measures were anointed both inside and outside so as to hallow whatsoever was put inside them as well as what was on the outside; v. infra 90a.

(10) The kneading bowl, being a vessel of ministry, would assuredly have hallowed the loaves before they were put into the oven.

(11) Which was of leather and was not consecrated as a vessel of ministry.

(12) Just as the kneading was not done in the usual vessel of ministry, one can also say that the flour was measured out in an unconsecrated measure, and on that account the loaves were only hallowed at the baking and not before. Had they, however, been measured out in a consecrated measure they would have become hallowed forthwith.

(13) E.g., the two lambs offered on the Pentecost as peace-offerings. They would not include burnt-offerings which are wholly offered on the altar.

(14) Lev. II, 11. 'It is apparent that the expression 'of it', Heb. ממנו, is superfluous in the verse, and is interpreted therefore as the basis for the rule, that once the prescribed portion of an offering has been duly offered up on the altar the rest may not under any circumstances be burnt upon the altar.

(15) Accordingly each offering enumerated in this Baraitha is subject to the prohibition of 'ye shall not burn', since a portion of each has already been offered as an offering by fire on the altar. Thus, of the animal sacrifices the fat parts have been offered, of the meal-offerings the handfuls, of the Two Loaves the fat parts of the two lambs which accompanied them, and of the Shewbread the two dishes of frankincense.

(16) They are not to be 'presented' or brought near to the altar. V. infra 60b.

(17) In contradistinction from other offerings from which a handful is offered. Nevertheless since the offering consisted of the Loaves and the lambs or of the Shewbread and the frankincense, it is also true to say that part of the offering is offered upon the fire.

(18) The slope which leads to the altar.

(19) Just as if he had offered the part upon the altar.

(20) Lev. II, 12.

(21) That it is prohibited to burn the remainder of an offering whereof a part has been duly offered up.

(22) Limited by the pronoun 'them', אותם. The verse applies only to those offerings which are described as 'an offering of firstfruits', namely, the Two Loaves and the Firstfruits.

Talmud - Mas. Menachoth 58a

And to what purpose does R. Johanan employ the term 'them'? — He requires it for the following which was taught: One might think that an individual may make a freewill-offering [of two loaves] in the same manner and offer it; for I would apply the verse, That which is gone out of thy lips thou shalt observe and do,[1] the text therefore states, As an offering of firstfruits ye may bring, meaning only the community may bring them but not an individual.[2] One might further think that an individual may not offer them since he does not offer the like as an obligation, but the community may offer them [as a freewill-offering] since it must offer the like as an obligation, the text therefore states 'them'; only these are to be offered, namely, the Two Loaves which are with leaven and the offering of firstfruits which includes honey.

But was it then not permissible to offer the Two Loaves as a freewill-offering? Surely it has been taught: Since Scripture has stated any leaven,[3] why has it also stated any honey?[3] Or since it has stated any honey, why has it also stated any leaven? It is because there is a condition which applies to leaven but not to honey, and there is also a condition which applies to honey but not to leaven. Leaven admits of an exception in that it is permitted in the Temple but honey does not admit of any exception in the Temple. Honey is permitted to be used in the remainder of a meal-offering[4] but leaven is not permitted to be used in the remainder of a meal-offering. Therefore, since there is a condition which applies to leaven but not to honey, and there is a condition which applies to honey but not to leaven, Scripture had to state 'any leaven' and also 'any honey'. Now to what did it refer when it said 'Leaven admits of an exception in that it is permitted in the Temple'? No doubt to the Two Loaves, which may be offered as a freewill-offering![5] — No, said R. 'Amram; it referred to what was offered with them.[6] But then it is the same with the firstfruits, is it not?[7] For we have learnt: The pigeons that were upon the baskets [of firstfruits] were sacrificed as burnt-offerings, but those which the people carried in their hands they gave to the priests![8] — Those were only for adorning the firstfruits.[9]

Rami b. Hama enquired of R. Hisda, What is the law if one offered upon the altar the flesh of a sin-offering of a bird? Does the Scriptural rule[10] refer only to that offering of which a portion has been offered upon the fire, and of this no portion has been offered upon the fire; or [does it refer] to everything that is called an offering, and this too is called an offering? — He answered, [It refers to] everything that is called an offering and this too is called an offering.[11]

Tannaim differ on this point. R. Eliezer says, [The prohibition[12] refers only to] that offering of which a portion has been offered upon the fire; but R. Akiba says, [It refers to] everything that is called an offering. Wherein lies the difference between them? — R. Hisda said, In regard to the flesh of the sin-offering of a bird.[13] Rab said, In regard to the log of oil of a leper.[13] (For Levi taught: The expression 'every offering of theirs'[14] includes the log of oil of the leper.)[15]

Our Rabbis taught: Leaven . . . ye shall not burn.[16] From this I only know the rule[17] for the whole, but whence do I know it for a part thereof? Because the text states, Any leaven.[16] And whence do I know it for the mixture? Because the text states, For any leaven.[16] What does this mean?[18] — Abaye said, It means this: 'Leaven . . . ye shall not burn'. From this I only know the rule for an olive's bulk,[19] but whence do I know it for a half-olive's bulk?[20] Because the text states, 'Any leaven'. And whence do I know it for the mixture?[21] Because the text states, For any leaven'. Raba said, It means this: 'Leaven . . . ye shall not burn'. From this I only know the rule for the [whole] handful, but whence do I know it for half of the handful? Because the text states, 'Any leaven'. And whence do I know it for the mixture? Because the text states, 'For any leaven.

Wherein do they differ? — Abaye maintains that the handful may be less than two olives' bulk

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(1) Deut. XXIII, 24.

(2) For the verb תקריבו 'ye may bring', is in the plural.

(3) 'Any', Heb. כל need not have been stated in both cases, since whatever rule is derived from one (v. infra) would equally apply to the other.

(4) Cf. Hul. 132b.

(5) Upon the altar. For the Two Loaves which were brought as an obligation were not offered on the altar.

(6) I.e., the two lambs which were offered as an obligation together with the Two Loaves may also be offered as a freewill-offering upon the altar.

(7) For pigeons which were offered with the firstfruits may also be offered as a freewill-offering; hence it cannot be said that the rules concerning leaven do not apply to honey.

(8) Bik. III,5

(9) But were not offered as an obligation with the firstfruits.

(10) That what remains of the offering may not be burnt upon the altar.

(11) Cf. Lev. I, 14.

(12) That what remains of the offering may not be burnt upon the altar.

(13) Which is referred to as an offering (cf. Lev. I, 14 and XIV, 12) although none of it is burnt upon the altar.

(14) Num. XVIII, 9.

(15) This teaching of Levi is omitted in all MSS. and apparently was not in the text before Rashi. It is struck out here by Sh. Mek.

(16) Lev. II, 11.

(17) That it must not be burnt upon the altar leavened.

(18) What is meant by 'the whole' and 'the part'?

(19) Since this may be the whole handful.

(20) That this quantity is nevertheless reckoned as a 'burning' and therefore comes under the prohibition of 'ye shall not burn'.

(21) I.e., if the handful consisted of what was partly leavened and partly unleavened and the one was not distinguishable from the other.

Talmud - Mas. Menachoth 58b

Talmud - Mas. Menachoth 58b

and that the burning of a quantity less than an olive's bulk counts as an offering;[1] whereas Raba maintains that the handful may not be less than two olives’ bulk and that the burning of a quantity less than an olive's bulk does not count as an offering.

It was stated: If a man offered leaven and honey[2] upon the altar, he has incurred stripes, said Raba, once for offering leaven, again for offering honey, again for offering leaven in a mixture, and yet again for offering honey in a mixture. But Abaye said, He does not suffer stripes for the breach of a negative precept which includes a number of prohibitions.[3] Some say that he suffers stripes but once;[4] but others say that he does not suffer stripes at all,[5] since the negative precept is not as specific as that of ‘muzzling’.[6]

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(1) Hence one is liable for burning a half-olive's bulk of leaven upon the altar.

(2) In one mixture (Rashi). According to Tosaf. he offered some leaven, some honey, and a mixture of leaven and honey. Hence he suffers stripes four times.

(3) Accordingly he does not suffer stripes for offering the mixture, since the negative precept of the mixture (implied in the term ‘for any’ v. supra) includes prohibitions for the mixture of leaven and the mixture of honey. V. Tosaf. s.v. המעלה and אין.

(4) For the inclusive negative precept. In the case in question, therefore, he would suffer stripes three times, once for offering the leaven, again for the honey, and a third time for the mixtures.

(5) For the inclusive negative precept; so that he would suffer stripes but twice.

(6) Sc. the ox when treading the corn, Deut. XXV, 4. This is given as an example of a specific negative precept because it follows immediately upon the law concerning stripes, Deut. XXV, 1ff.

Talmud - Mas. Menachoth 59a

MISHNAH. SOME [MEAL-OFFERINGS] REQUIRE OIL AND FRANKINCENSE, SOME REQUIRE OIL BUT NOT FRANKINCENSE, SOME FRANKINCENSE BUT NOT OIL, AND SOME NEITHER OIL NOR FRANKINCENSE. THESE REQUIRE OIL AND FRANKINCENSE: THE MEAL-OFFERING OF FINE FLOUR,[1] THAT PREPARED ON A GRIDDLE, THAT PREPARED IN A PAN, THE CAKES AND THE WAFERS,[2] THE MEAL-OFFERING OF THE PRIESTS, THE MEAL-OFFERING OF THE ANOINTED HIGH PRIEST,[3] THE MEAL-OFFERING OF A GENTILE,[4] THE MEAL-OFFERING OF WOMEN,[5] AND THE MEAL-OFFERING OF THE ‘OMER.[6] THE MEAL-OFFERING OFFERED WITH THE DRINK-OFFERINGS[7] REQUIRES OIL BUT NOT FRANKINCENSE. THE SHEWBREAD REQUIRES FRANKINCENSE BUT NOT OIL. THE TWO LOAVES,[8] THE SINNER'S MEAL-OFFERING[9] AND THE MEAL-OFFERING OF JEALOUSY[10] REQUIRE NEITHER OIL NOR FRANKINCENSE.

GEMARA. R. Papa said, All [the meal-offerings] enumerated in the Mishnah must consist of ten [cakes].[11] He thus rejects R. Simeon's view who said, He may offer half in cakes and half in wafers;[12] and so he teaches us [that it is not so].

Our Rabbis taught: It is written, And thou shalt put oil upon it,[13] — upon it but not upon the Shewbread. For [without the verse] I would have argued by an a fortiori argument thus: if the meal-offering that is offered with the drink-offerings, which does not require frankincense, nevertheless requires oil, how much more does the Shewbread, which requires frankincense, require oil! The text therefore stated ‘Upon it’, — upon it shall be oil but not upon the Shewbread. [It is further written], And thou shalt lay frankincense upon it,[14] — upon it shall be frankincense but not upon the meal-offering offered with the drink-offerings. For [without the verse] I would have argued by an a fortiori argument thus: if the Shewbread, which does not require oil, nevertheless requires frankincense, how much more does the meal-offering offered with the drink-offerings, which requires oil, require frankincense! The text therefore stated, ‘Upon it’ — upon it shall be frankincense but not upon the meal-offering offered with the drink-offerings. Meal-offering[14] — this includes the meal-offering offered on the eighth day[15] [of consecration], so that it too required frankincense. It is[14] — this excludes the Two Loaves, so that they require neither oil nor frankincense.

The Master said, ‘Upon it shall be oil but not upon the Shewbread’. Might I not say, Upon it shall be oil but not upon the meal-offering of the priests? — It is more reasonable to include the meal-offering of the priests, since [like the meal-offering of the ‘Omer it consists of] a tenth [of an ephah],[16] [requires] a vessel of ministry,[17] is prepared outside,[18] [becomes unfit when] its appearance [is spoilt],[19] requires bringing near [to the altar],[20] and [is burnt upon] the fire [of the altar].[21] On the contrary it is more reasonable to include the Shewbread since [like the meal-offering of the ‘Omer it is an offering on behalf of] the community,[22] is obligatory,[22] [may be offered in] uncleanness,[23] is eaten,[24] [is subject to] piggul,[25] [and is offered] on the Sabbath![26] — The former is the more plausible since there is written, Any one.[27]

The Master said, ‘Upon it shall be frankincense but not upon the meal-offering offered with the drink-offerings’. Might I not say, Upon it shall be frankincense but not upon the meal-offering of the priests? — It is more reasonable to include the meal-offering of the priests, since [like the meal-offering of the ‘Omer it consists of] a tenth, is mixed [with a log of oil],[28] is brought [near the altar], [and is offered] by itself.[29] On the contrary it is more reasonable to include the meal-offering offered with the drink-offerings, since [like the meal-offering of the ‘Omer it is an offering on behalf of] the community,[30] is obligatory, [and may be offered in] uncleanness [and] on the Sabbath? — The former is the more plausible since there is written, Any one.[31]

‘Meal-offering-this includes the meal-offering offered on the eighth day [of consecration], so that it too required frankincense’. Perhaps it excludes it? — It is out of the question; if you say that it includes it, it is well,[32] but if you say that it excludes it, the expression is then superfluous, for surely we would not infer a temporary enactment from a permanent law!

‘It is — this excludes the Two Loaves, so that they require neither oil nor frankincense’. Might I not say that it excludes the meal-offering of priests? — It is more reasonable to include the meal-offering of priests, since [like the meal-offering of the ‘Omer it consists of] a tenth, [requires] a vessel [of ministry], is unleavened, [is offered] by itself, must be brought near [to the altar], [and is burnt upon] the fire [of the altar].[33] On the contrary,

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(1) Cf. Lev. II, 1. A promise of a meal-offering without further specification, entails the bringing of a tenth of an ephah of fine flour, together with oil and frankincense; they were mixed together and then the priest took out a handful from it and burnt it on the altar. This is the only individual meal-offering for which the Torah expressly prescribes oil and frankincense. The others enumerated in the Mishnah are derived by analogy from this meal-offering.

(2) Of the meal-offering baked in an oven, Lev. II, 4. It may consist either of ten unleavened cakes or ten unleavened wafers; v. Gemara.

(3) The daily meal-offering of the High Priest known as חביתי כהן גדול cf. Lev. VI, 13ff.

(4) All freewill-offerings may be accepted from gentiles, v. Shek. I, 5.

(5) I.e., when a woman offers a meal-offering of her free will.

(6) V. Lev. II, 14, and XXIII, 9-14.

(7) V. Num. XV, 4ff.

(8) Of Pentecost. V. Lev. XXIII, 17.

(9) Brought by a person of poor means as a sin-offering on the commission of any one of the transgressions mentioned in Lev. V, 1-4.

(10) Brought by a woman suspected by her husband of adultery; v. Num. V, 15.

(11) The first four meal-offerings mentioned in our Mishnah must each be baked into ten cakes, so that even the fourth kind of meal-offering, namely that baked in an oven, for which an alternative is allowed, must consist nevertheless either of ten cakes or of ten wafers, but not of five cakes and five wafers, contra R. Simeon. Another interpretation is: The meal-offerings enumerated in our Mishnah (as requiring both oil and frankincense) are ten in number, reckoning ‘THE CAKES AND THE WAFERS’ as two. According to R. Simeon, however, it must be reckoned as three, since the meal-offering baked in an oven may consist of either ten cakes or ten wafers or five cakes and five wafers.

(12) V. infra 63a and b.

(13) Lev. II, 15, with reference to the meal-offering of the ‘Omer.

(14) Ibid.

(15) Cf. Lev. IX, 4.

(16) Whereas each cake of the Shewbread was of two tenths of flour.

(17) Wherein to knead the meal-offering, at which time it was hallowed. The Shewbread, on the other hand, was not hallowed until it was baked in the oven of the Sanctuary.

(18) The offering is performed upon the altar in the Temple court, whereas the offering of the Shewbread, i.e., the setting of the loaves on the table, was performed in the Temple proper, in the היכל.

(19) An expression signifying that it must not be kept overnight, as it belonged to the Most Holy class of offerings. The Shewbread, however, was kept for seven days upon the table, from Sabbath to Sabbath,

(20) Which is not the case with the Shewbread.

(21) The priest's meal-offering was wholly burnt upon the altar, and from the ‘Omer-offering a handful was burnt; but no part of the Shewbread was burnt upon the altar.

(22) Which is not the case with the meal-offering of the priests.

(23) Every offering brought by the community as an obligation overrides the laws of uncleanness, cf. Pes. 76b. This is not so with the offering of an individual.

(24) The Shewbread and the remainder of the ‘Omer-offering were shared amongst the priests and eaten, whereas the priests’ meal-offering was wholly burnt.

(25) V. Glos. It is established law that every offering which is rendered permissible, either for the altar or for man, by a certain rite (the mattir, v. Glos.), is subject to the law of piggul. V. Zeb. 43a. The priests’ meal-offering, however, since it is wholly burnt is outside the scope of this rule.

(26) The ‘Omer-offering was brought even on the Sabbath (v. infra 63a), and the Shewbread was regularly offered, i.e., set, on the Sabbath; but no individual offering was brought on the Sabbath.

(27) Lev. II, 1. Lit., ‘a soul’, i.e., an individual. Since here in connection with the meal-offering of fine flour, where oil (as well as frankincense) is expressly prescribed, Scripture uses the term ‘any one’, it is inferred that every individual meal-offering requires oil (and also frankincense, v. infra). Hence the priests’ meal-offering is included.

(28) Whereas the meal-offering offered with the drink-offerings varied in quantity: one tenth for a lamb, two for a ram, and three for a bullock; and the quantities of oil also varied, the tenth of the lamb requiring to be mixed with three logs of oil, and each tenth of the ram and the bullock with two logs of oil. V. Num. XV, 4ff.

(29) The meal-offering offered with the drink-offerings did not require bringing near the altar; moreover it was not offered by itself but always accompanied an animal-offering.

(30) For it was offered as an obligation with the communal Daily Offerings, accordingly it overrode the rules of uncleanness and the laws of Sabbath.

(31) V. p. 349, n. 7.

(32) For otherwise, without the Scriptural direction, I should have thought that that meal-offering of consecration was without frankincense, as one could not apply the general law of the meal-offering to a particular temporary enactment.

(33) The Two Loaves, on the other hand, consisted of two tenths, had to be leavened, and were only hallowed when baked in the oven of the Sanctuary. They were not an offering by themselves but were brought together with the two lambs of Pentecost, and were subsequently eaten by the priests.

Talmud - Mas. Menachoth 59b

it is more reasonable to include the Two Loaves since [like the meal-offering of the ‘Omer] they are offered on [behalf of] the community, are obligatory, [may be offered] in uncleanness, are eaten, [are subject to] piggul, [may be offered] on the Sabbath, render aught permissible,[1] [require] waving, [must be from the produce of] the land [of Israel],[2] [are offered on a fixed] date,[3] [and must be offered from the] new [produce]; and here we have more points in common![4] — The former is the more plausible since there is written, Any one.[5]

MISHNAH. [A MAN IS] LIABLE BECAUSE OF THE OIL BY ITSELF AND BECAUSE OF THE FRANKINCENSE BY ITSELF.[6] IF HE PUT IN OIL, HE HAS RENDERED IT INVALID, BUT IF FRANKINCENSE, HE MUST PICK IT OFF AGAIN. IF HE PUT OIL ON THE REMAINDER, HE HAS NOT THEREBY TRANSGRESSED A NEGATIVE PRECEPT. IF HE PUT ONE VESSEL ABOVE THE OTHER VESSEL,[7] HE HAS NOT THEREBY RENDERED IT INVALID.

GEMARA. Our Rabbis taught: He shall put no oil upon it,[8] but if he put oil thereon he has made it invalid. I might also say, Neither shall he put any frankincense thereon,[8] but if he did, he has made it invalid, the text therefore states for a sin-offering.[9] I might then say that this is so with the oil too, the text therefore states it is.[8] But why do you declare it invalid if oil was put thereon and valid if frankincense was put thereon? I declare it invalid if oil was put thereon, since it cannot be picked off again, but I declare it valid if frankincense was put thereon, since it can be picked off again.

Raba son of R. Huna enquired of R. Johanan, How is it if he put upon it fine frankincense? Is it [valid if frankincense was put thereon] because it can be picked off again, but in this case it cannot be picked off again; or is it because it does not become absorbed,[10] and this too does not become absorbed? Come and hear: AND IF FRANKINCENSE, HE MUST PICK IT OFF AGAIN,[11] — Perhaps there are two reasons for it: firstly, that it does not become absorbed, and another reason is that it can be picked off again.[12]

Come and hear: ‘I declare it valid if frankincense was put thereon, since it can be picked off’! — Here again we can reply that there are two reasons for it.

How is it then? — R. Nahman b. Isaac answered, It was taught: If a man put frankincense upon the sinner's meal-offering or upon the meal-offering of jealousy, he must pick it off again and the meal-offering is valid. If before he had picked off the frankincense he expressed an intention [concerning an act to be performed] outside its proper time[13] or place, it is invalid but the penalty of kareth[14] is not incurred.[15] But if after he had picked off the frankincense[16] he expressed an intention [concerning an act to be performed] outside its proper place, it is invalid and the penalty of kareth is not incurred, but if outside its proper time, it is piggul[14] and the penalty of kareth is incurred.

Surely it should be regarded as rejected![17] — Abaye answered, Scripture still refers to it as a sin-offering.[18] Raba said, This represents the view of Hanan the Egyptian who does not consider anything as absolutely rejected. For it was taught: Hanan the Egyptian says, Even though the blood is still in the bowl he may, without casting lots, bring another goat and pair it with the other.[19] R. Ashi said, Whatsoever still remains in his power [to rectify] is never regarded as rejected.[20]

R. Adda said that R. Ashi's view is the more probable; for who is it that regards a matter as absolutely rejected? It is R. Judah, as we have learnt: Moreover, said R. Judah, if the blood[21] was poured out, the Scapegoat must be left to die;[22] and if the Scapegoat died, the blood must be poured out.[23] Nevertheless, in regard to a matter which is still in his power [to rectify], it has been taught: R. Judah says, A cup was filled with the mingled blood [that was spilt on the ground][24] and it was sprinkled in one action towards the base [of the altar].[25]

R. Isaac b. Joseph said in the name of R. Johanan, If a man put the minutest quantity of oil upon an olive's bulk of the [sinner's] meal-offering, he has thereby rendered it invalid. What is the reason? For ‘he shall not put’[26] implies the putting of any quantity, however little; whilst ‘upon it’[26] implies at least the minimum quantity.[27]

R. Isaac b. Joseph also said in the name of R. Johanan, If a man put an olive's bulk of frankincense upon the minutest quantity of the [sinner's] meal-offering, he has thereby rendered it invalid. What is the reason? Because it is written, He shall not give [any frankincense],[28] which signifies that there must be a quantity thereof worthy to be given. And as for the term ‘upon it’,

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(1) The ‘Omer rendered the new produce permissible to be eaten in the land of Israel, while the Two Loaves rendered it permissible to be used henceforth in the Temple.

(2) Whereas all other meal-offerings could be brought from produce grown outside Palestine.

(3) The ‘Omer on the sixteenth day of Nisan and the Two Loaves at Pentecost.

(4) As all these features are absent in the meal-offering of the priests the points in common between the ‘Omer-offering and the Two Loaves certainly outnumber those enumerated above as common between the ‘Omer-offering and the meal-offering of the priests.

(5) V. supra p. 349, n. 7.

(6) I.e., if he put either oil or frankincense upon the sinner's meal-offering or upon the meal-offering of jealousy.

(7) A vessel containing oil for frankincense was put over the one containing the sinner's meal-offering.

(8) Lev. V, 11, with reference to the sinner's meal-offering.

(9) Ibid. It is a valid sin-offering even though it has had frankincense put upon it.

(10) In the flour, as is the case with the oil.

(11) Evidently the main reason is that it can be picked off again; consequently where this is not possible, as in our case where the frankincense was ground fine, it would be invalid.

(12) And one reason is valid without the other so that even though it cannot be picked off again it is still valid since it is not absorbed in the flour.

(13) E.g., if during the taking out of the handful he intended to burn it outside its proper time or to eat of the remainder outside its proper time.

(14) V. Glos.

(15) For since the meal-offering is invalid by reason of the frankincense thereon the penalty for piggul cannot be incurred. V. supra 16b.

(16) And the meal-offering is valid once again. It is evident, therefore, that the sole reason why the addition of frankincense to the meal-offering does not render it absolutely invalid is that it can be picked off and so become valid once again.

(17) This is the text strongly supported by Tosaf. and for which there is MS. authority (v. Dik. Sof. a.l. n. 60), and the interpretation is as follows: Why is it taught in our Mishnah and in the Baraitha quoted in the Gemara that the frankincense may be picked off from the meal-offering? But surely, once the meal-offering has had frankincense put upon it, it became invalid and so absolutely rejected as a meal-offering! How then can it become valid after it had once been made invalid? Cf. the similar question in Zeb. 34b and the identical answers of Raba and R. Ashi. The text in cur. edd. reads: ‘Let it be regarded as though a cruse (of oil had been poured out over the meal-offering); wherefore then is it rendered invalid by any wrongful intention? Surely it has become absolutely rejected!’ And the interpretation is: why is it stated in the last-mentioned Baraitha that if a person expressed a wrongful intention with regard to the meal-offering whilst it had the frankincense upon it he has thereby rendered it invalid? But surely the wrongful intention cannot affect it since it has been already rejected as a meal-offering by reason of the frankincense that is upon it.

(18) Lev. V, 11. It is still valid as a sin-offering even after it has had frankincense upon it.

(19) Where the Scapegoat had died before the blood of the goat that was to be offered unto the Lord on the Day of Atonement had been sprinkled, the latter is by no means rejected as invalid so as to necessitate the bringing anew of two goats and to cast lots over them, but rather this blood becomes fit again for its purpose as soon as another goat is brought as a Scapegoat, v. Yoma 63b.

(20) Accordingly this meal-offering is not regarded as rejected as the frankincense can easily be picked off and so become valid once again.

(21) Of the goat that was to be offered inside unto the Lord.

(22) For it is absolutely rejected, and two goats must be brought anew.

(23) Yoma 62a.

(24) After all the Passover lambs had been slaughtered.

(25) The purpose being to render valid by this sprinkling any Passover-offering whose blood might have been spilt on the ground. V. Pes. 64a. Hence it is clear that a matter is not absolutely rejected provided it lies within one's power to set it right again.

(26) Lev. V,11.

(27) Namely an olive's bulk.

(28) Ibid. Usually translated He shall not lay thereon. The Heb. נתן ‘give’, however, is used, which verb in another context, Lev. XXII, 14, clearly implies something worthy to be given, at least an olive's bulk. V. Sh. Mek. n. 9.

Talmud - Mas. Menachoth 60a

it is an amplification following an amplification, and whenever an amplification follows another amplification it signifies limitation only.[1]

Others report it as follows: R. Isaac b. Joseph said that R. Johanan raised the following question, What is the law if a man put the minutest quantity of oil upon an olive's bulk of the [sinner's] meal-offering? Are we to say that in the putting [of oil] there must be the same quantity as the giving [of frankincense],[2] or not? The question remains unanswered.

IF HE PUT OIL ON THE REMAINDER. Our Rabbis taught: It is written, ‘He shall not put’, and ‘He shall not give’. I might think that these prohibitions refer to two priests,[3] the text therefore states ‘upon it’; thus the [prohibitions in the] verse clearly refer to the meal-offering itself and not to the priest. I might also think that he should not put one vessel above the other vessel, and that if he did so he has rendered it invalid, the text therefore states ‘upon it’, the verse clearly refers to the actual meal-offering.[4] MISHNAH. SOME [MEAL-OFFERINGS] REQUIRE BRINGING NEAR[5] BUT NOT WAVING,[6] SOME REQUIRE BRINGING NEAR AND ALSO WAVING, SOME REQUIRE WAVING BUT NOT BRINGING NEAR, AND SOME REQUIRE NEITHER BRINGING NEAR NOR WAVING. THESE REQUIRE BRINGING NEAR BUT NOT WAVING: THE MEAL-OFFERING OF FINE FLOUR,[7] THAT PREPARED ON A GRIDDLE, THAT PREPARED IN A PAN, THE CAKES AND THE WAFERS, THE MEAL-OFFERING OF THE PRIESTS, THE MEAL-OFFERING OF THE ANOINTED HIGH PRIEST, THE MEAL-OFFERING OF A GENTILE, THE MEAL-OFFERING OF WOMEN, AND THE SINNER'S MEAL-OFFERING. R. SIMEON SAYS, THE MEAL-OFFERING OF THE PRIESTS AND THE MEAL-OFFERING OF THE ANOINTED HIGH PRIEST DO NOT REQUIRE BRINGING NEAR, SINCE NO HANDFUL IS TAKEN OUT OF THEM, AND WHERE NO HANDFUL IS TAKEN OUT BRINGING NEAR IS NOT NECESSARY.

GEMARA. R. Papa said,[8] All [the meal-offerings] enumerated in the Mishnah must consist of ten [cakes]. What does he teach us?-He wishes to exclude thereby R. Simeon's view who said, He may offer half in cakes and half in wafers; and so he teaches us [that it is not so].

Whence is it derived?[9] — Our Rabbis taught:[10] Had [Scripture] stated, And thou shalt bring that which is made of these things unto the Lord, and he shall present it unto the priest and he shall bring it unto the altar,[11] I would have said that I learn from this that the handful alone required bringing near; but whence would I know this of the whole meal-offering?[12] The text therefore states ‘meal-offering’. And whence would I know this of the sinner's meal-offering? The text therefore states ‘the meal-offering’. But surely this could be derived by the following argument:[13] [Scripture] speaks of the offering of

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(1) The fact that the term ‘upon it’, which is an amplification signifying a minimum of an olive's bulk, is repeated indicates that in the second case, re frankincense, this minimum quantity is not essential.

(2) Namely at least an olive's bulk.

(3) But if the same priest put both oil and frankincense upon it he would only be liable once.

(4) The oil (or frankincense) must not be put actually upon the flour of the meal-offering and mixed with it, but it is of no consequence if the oil, being in a vessel, was placed over the meal-offering.

(5) I.e., to be taken by the priest to the south-west corner of the altar.

(6) The ceremony in which the priest put his hands under those of the person bringing the meal-offering and waved it to and fro before the altar; v. infra 61a Mishnah.

(7) For the explanation of the various kinds of meal-offerings v. foregoing Mishnah, supra p. 346 and notes thereon.

(8) For the two interpretations of this statement of R. Papa v. supra p. 347, n. 10.

(9) That the meal-offerings enumerated in our Mishnah require bringing near.

(10) The whole of the following Gemara till the next Mishnah is to be found in the Sifra, Lev. II, 8.

(11) The reference is to Lev. II, 8, and the verse in full reads: And thou shalt bring the meal-offering that is made etc.

(12) That the whole meal-offering must be brought near before the taking of the handful.

(13) That the sinner's meal-offering requires bringing near, so that "the" in the above verse is rendered superfluous.

Talmud - Mas. Menachoth 60b

a meal-offering as an obligation and it also speaks of the offering of a meal-offering as of free will: just as the freewill meal-offering requires bringing near, so the obligatory meal-offering requires bringing near. And [if it be objected that] this[1] is so of the freewill meal-offering since it requires both oil and frankincense,[2] then the meal-offering of a suspected adulteress can prove [the contrary].[3] And [if it be objected that] this is so of the meal-offering of the suspected adulteress since it requires waving, then the freewill meal-offering can prove [the contrary].[4] The argument thus goes round. The distinguishing feature of this [meal-offering] is not that of the other [meal-offering], and the distinguishing feature of the other [meal-offering] is not that of this one.[5] Their common features,[6] however, are that they are alike with regard to the taking of the handful and also with regard to bringing near; I will then also include the sinner's meal-offering, that since it is like unto them with regard to the taking of the handful it shall be like unto them also with regard to the bringing near. But [it will be objected that] there is yet another common feature, namely that the same offering is valid for the rich as for the poor, whereas in the case of the sinner's meal-offering the same offering is not valid for the rich as for the poor.[7] The text therefore [must] state ‘the meal-offering’. R. Simeon says, ‘And thou shalt bring’ — this includes the meal-offering of the ‘Omer, so that it too requires bringing near, as it is said, Ye shall bring the sheaf of the firstfruits of your harvest unto the priest.[8] ‘And he shall present it’ — this includes the meal-offering of a suspected adulteress, so that it too requires bringing near, as it is said, And he shall present it unto the altar.[9] But surely this could be derived by the following argument:[10] if the sinner's meal-offering, which does not require waving, nevertheless requires bringing near, how much more does the meal-offering of a suspected adulteress, which requires waving, require bringing near! But [if it be objected that] this[11] is so of the sinner's meal-offering since it is offered from wheat,[12] then the meal-offering of the ‘Omer can prove [the contrary].[13] And [if it be objected that] this is so of the meal-offering of the ‘Omer since it requires both oil and frankincense, then the sinner's meal-offering can prove [the contrary]. The argument thus goes round. The distinguishing feature of this [meal-offering] is not that of the other, and the distinguishing feature of that [meal-offering] is not that of this one. Their common features,[14] however, are that they are alike with regard to the taking of the handful and also with regard to bringing near; I will then also include the meal-offering of a suspected adulteress, that since it is like unto them with regard to the taking of the handful it shall be like unto them also with regard to the bringing near. But [it will be objected that] there is yet another common feature, namely that coarse flour is not valid in either case,[15] whereas in the case of the meal-offering of the suspected adulteress [only] coarse flour is valid. The text [must] therefore state, ‘And he shall present it’. R. Judah says, ‘And thou shalt bring’, includes the meal-offering of a suspected adulteress, so that it too requires bringing near, as it is said, And he shall bring her offering for her.[16] For the meal-offering of the ‘Omer, however, no verse is necessary,[17] since it can be inferred from the following argument: if the sinner's meal-offering, which does not require waving, requires bringing near, how much more does the meal-offering of the ‘Omer, which requires waving, require bringing near! But [if it be objected that] this is so of the sinner's meal-offering since it is offered of wheat, then the meal-offering of the suspected adulteress can prove [the contrary]. And [if it be objected that] that this is so of the meal-offering of the suspected adulteress since it is brought to discover guilt,[18] then the sinner's meal-offering can prove [the contrary].[19] The argument thus goes round. The distinguishing feature of this [meal-offering] is not that of the other, and the distinguishing feature of the other [meal-offering] is not that of this one. Their common features,[20] however, are that they are alike with regard to the taking of the handful and also with regard to bringing near; I will then include the meal-offering of the ‘Omer, too, that since it is like unto them in respect of the taking of the handful it shall be like unto them in respect of bringing near. And what objection can you now raise against this? R. Simeon, however, objects to it on this ground: there is yet another common feature, namely that those may happen frequently.[21] But R. Judah maintains that, on the contrary; this[22] is more frequent, whereas the others may never happen at all.

But perhaps the expression ‘And thou shalt bring’[23] serves rather to intimate that an individual may of his free will bring a meal-offering other than those mentioned in the context![24] And this can even be supported by the following argument: the community brings a meal-offering of wheat[25] as an obligation and it also brings a meal-offering of barley[26] as an obligation, then likewise an individual, since he brings a meal-offering of wheat of his free will, may also bring a meal-offering of barley of his free will. The text therefore states these:[23] only these that are mentioned in the context. But perhaps the expression ‘these’ serves only to signify that a person who says ‘I take upon myself to offer a meal-offering’ must bring the five kinds.[27] The text therefore states ‘of these’, implying that if he so wishes he may bring one only, and if he so wishes he may bring the five kinds.

R. Simeon says, The expression ‘the meal-offering’[23] includes other meal-offerings,[28] so that they too require bringing near. But I might say that it includes also the Two Loaves and the Shewbread, the text therefore states of these. And why do you prefer to include other meal-offerings and to exclude the Two Loaves and the Shewbread [rather than the reverse]?[29] include other meal-offerings since part thereof is put upon the fire of the altar,’ but I exclude the Two Loaves and the Shewbread since no part thereof is put upon the fire of the altar. But the meal-offering offered with the drink-offerings is put entirely upon the fire, is it not? Then I would say that it requires bringing near! The text therefore states, And he shall present it.[30] But have you not employed this expression for another purpose?[31] — [For that alone, Scripture could have stated] ‘And he shall present’, but it says, And he shall present it.[32] And why do you prefer to include other meal-offerings and to exclude the meal-offering offered with the drink-offerings [rather than the reverse]?

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(1) The rite of bringing near.

(2) Whereas the obligatory meal-offering, namely the sinner's meal-offering, requires neither oil nor frankincense; and that being so, it would also not require bringing near.

(3) This meal-offering requires neither oil nor frankincense and yet requires bringing near; the same would be said of the sinner's meal-offering.

(4) The freewill meal-offering does not require waving yet requires bringing near; the same could be said of the sinner's meal-offering.

(5) The rite of waving prescribed in the meal-offering of the suspected adulteress cannot be said to be the cause entailing the bringing near since this cause is not found with the freewill meal-offering. And, on the other hand, the need for oil and frankincense in the freewill meal-offering cannot be the cause entailing the bringing near since this cause is not found with the meal-offering of the suspected adulteress.

(6) Between the freewill meal-offering and the meal-offering of a suspected adulteress.

(7) The meal-offering brought as a sin-offering is prescribed only for a person in poor circumstances; a person of better means must bring a pair of doves, and a rich person a lamb, for a sin-offering. V. Lev. V, 6, 7, 11.

(8) Ibid. XXIII, 10, where the same expression ‘bring’ is used.

(9) Num. V, 25, where the same expression ‘present’ is used,

(10) That the meal-offering of a suspected adulteress requires bringing near, so that the verse which expressly includes it becomes superfluous.
(11) The rite of bringing near.
(12) Whereas the meal-offering of a suspected adulteress was of barley; cf. Num. V, 15.
(13) The ‘Omer meal-offering was of barley and yet required bringing near; the same would then be said of the meal-offering of a suspected adulteress.
(14) Between the ‘Omer meal-offering and the sinner's meal-offering.
(15) The sinner's meal-offering must be of fine flour of wheat and the ‘Omer meal-offering, although of barley, must also be fine and not coarse.
(16) Num. V, 15, where the same expression ‘bring’ is used.
(17) To teach that it requires bringing near. According to R. Judah the expression ‘And he shall present it’ is utilized later for another purpose; v. infra.
(18) To ascertain whether this woman committed adultery or not. The ‘Omer meal-offering, on the other hand, has no relation to sin.
(19) For it is not brought in order to discover sin but rather to atone for a sin committed, and yet requires bringing near; the same would be said of the meal-offering of the ‘Omer, namely, although it has no relation to any sin it requires bringing near.
(20) Between the sinner's meal-offering and the meal-offering of the suspected adulteress.
(21) Those two meal-offerings (v. p. 358, n. 6) may be offered quite frequently, whereas the ‘Omer meal-offering is offered but once a year, on the sixteenth day of Nisan.
(22) The ‘Omer meal-offering.
(23) Lev. II, 8.
(24) I.e., that an individual be allowed to offer a meal-offering of barley of his free will, for all the meal-offerings mentioned in the context are of wheat.
(25) The Two Loaves at Pentecost.
(26) The meal-offering of the ‘Omer.
(27) That are enumerated in this passage viz., the meal-offering of fine flour, that prepared on a griddle, that prepared in a pan, and that, baked in the oven which is of two kinds, of cakes and of wafers.
(28) Namely, the sinner's meal-offering, thus in agreement with the view of the first Tanna stated supra 60a, ad fin. The additional words in the text, e.g., ‘the meal-offering of a gentile and the meal-offering of women’ are not found in the MSS., or in the parallel passage in the Sifra, and evidently were not in the text before Rashi. They are struck out by Sh. Mek.
(29) Sc. the handful. And in this respect they are like those meal-offerings mentioned in the context.
(30) Lev. II, 8.
(31) Supra p. 357. The expression, as stated above, includes the meal-offering of a suspected adulteress.
(32) It is therefore the pronominal suffix ‘it’ which excludes this meal-offering that is offered with the drink-offerings.

Talmud - Mas. Menachoth 61a

I include other meal-offerings since they may be offered by themselves,[1] but I exclude the meal-offering offered with the drink-offerings since it may not be offered by itself. But the meal-offering of the priests and the meal-offering of the anointed High Priest are offered by themselves, are they not? Then I would say that they require bringing near! The text therefore states, ‘And he shall bring it near’, But surely this expression is required for its own sake, namely that [the meal-offerings mentioned in the context] require bringing near! — [For that alone Scripture could have stated] ‘And he shall bring near’, but it says, And he shall bring it near.[2] And why do you prefer to include other meal-offerings and to exclude the meal-offering of the priests and the meal-offering of the anointed High Priest [rather than the reverse]? I include the other meal-offerings since [like the meal-offerings stated in the context] part thereof is put upon the fire of the altar, they are offered by themselves, and part thereof[3] is eaten by the priests, but I exclude the Two Loaves and the Shewbread since no part thereof is put upon the fire of the altar, [I exclude] the meal-offering offered with the drink-offerings since it is not offered by itself, and [I exclude] the meal-offering of the priests and the meal-offering of the anointed High Priest since no part thereof is eaten by the priests.

And he shall take out:[4] I might think with a vessel; the text therefore states [elsewhere], And he shall take out therefrom with his handful;[5] as the taking out in the latter case is with his handful, so the taking out in the former is with his handful.

MISHNAH. THESE REQUIRE WAVING BUT NOT BRINGING NEAR: THE LOG OF OIL OF THE LEPER AND HIS GUILT-OFFERING,[6] THE FIRSTFRUITS ACCORDING TO R. ELIEZER B. JACOB, THE SACRIFICIAL PORTIONS OF AN INDIVIDUAL'S PEACE-OFFERINGS AND THE BREAST AND THIGH THEREOF, WHETHER THEY ARE THE OFFERINGS OF MEN OR OF WOMEN, BY ISRAELITES BUT NOT BY OTHERS;[7] THE TWO LOAVES AND THE TWO LAMBS OF PENTECOST. HOW IS IT PERFORMED? HE PLACES THE TWO LOAVES UPON THE TWO LAMBS AND PUTS HIS TWO HANDS BENEATH THEM AND WAVES THEM FORWARD AND BACKWARD AND UPWARD AND DOWNWARD, FOR IT IS WRITTEN, WHICH IS WAVED AND WHICH IS HEAVED UP.[8] THE WAVING WAS PERFORMED ON THE EAST SIDE[9] [OF THE ALTAR] AND THE BRINGING NEAR ON THE WEST SIDE. THE CEREMONY OF WAVING COMES BEFORE THAT OF BRINGING NEAR.[10] THE MEAL-OFFERING OF THE ‘OMER AND THE MEAL-OFFERING OF JEALOUSY REQUIRE BRINGING NEAR AND WAVING. THE SHEWBREAD AND THE MEAL-OFFERING WITH THE DRINK-OFFERINGS REQUIRE NEITHER BRINGING NEAR NOR WAVING.

R. SIMEON SAYS, THERE ARE THREE KINDS OF OFFERING WHICH [BETWEEN THEM] REQUIRE THREE RITES; TWO [OF THE THREE RITES] APPLY TO EACH KIND OF OFFERING, BUT THE THREE ARE WITH NONE. AND THESE ARE THEY: THE PEACE-OFFERING OF THE INDIVIDUAL, THE PEACE-OFFERING OF THE COMMUNITY[11] AND THE GUILT-OFFERING OF THE LEPER. THE PEACE-OFFERING OF THE INDIVIDUAL REQUIRES THE LAYING ON OF HANDS FOR THE LIVING ANIMAL AND WAVING[12] AFTER IT IS SLAUGHTERED, BUT IT DOES NOT REQUIRE WAVING FOR THE LIVING ANIMAL. THE PEACE-OFFERING OF THE COMMUNITY REQUIRES WAVING FOR THE LIVING ANIMAL AND ALSO AFTER IT IS SLAUGHTERED, BUT IT DOES NOT REQUIRE THE LAYING ON OF HANDS. THE GUILT-OFFERING OF THE LEPER REQUIRES THE LAYING ON OF HANDS AND ALSO WAVING FOR THE LIVING ANIMAL, BUT IT DOES NOT REQUIRE WAVING AFTER IT IS SLAUGHTERED.

GEMARA. Our Rabbis taught: And he shall offer it for a guilt-offering, and the log of oil, and shall wave them for a wave-offering;[13] this teaches us that they[14] are to be waved together. But whence is it inferred that it is valid even if each was waved separately? The text therefore states, And he shall offer it for a guilt-offering, and the log of oil, and shall wave.[15] Perhaps then they[14] should first be waved [together] and again be waved [separately]?[16] The verse clearly states, ‘For a wave-offering’, and not for wave-offerings. Before the Lord,[17] that is, on the east side of the altar.[18] But has it not been said, ‘Before the Lord:[19] perhaps this means on the west side’?[20] — I answer, That was said only of the meal-offering for it is designated a sin-offering, and a sin-offering requires the base of the altar,[21] whereas at the south-east corner there was no base;[22] here,[23] however, we certainly can speak of the east side as ‘before the Lord’.

THE FIRSTFRUITS ACCORDING TO R. ELIEZER B. JACOB. What is the teaching of R. Eliezer b. Jacob? — It was taught: And the priest shall take the basket out of thy hand:[24] this indicates that the firstfruits require waving; so R. Eliezer b. Jacob. What is the reason of R. Eliezer b. Jacob? — It is derived from the occurrence of the word ‘hand’ both here and in connection with the peace-offerings. Here it is written, ‘And the priest shall take the basket out of thy hand’, and there it is written, His[25] own hands shall bring the offerings.[26]

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(1) And in this respect it is like the meal-offerings mentioned in this context.

(2) The former general expression informs us of the requirement of bringing near, whilst the suffix ‘it’ excludes others from this ceremony.

(3) I.e., the remainder after the handful has been burnt.

(4) Lev. II, 9.

(5) Ibid. VI, 8.

(6) Brought by the leper on the day of his cleansing, cf. ibid. XIV, 10, 12.

(7) Explained in the Gemara, infra p. 364.

(8) Ex. XXIX, 27.

(9) According to Rashi this means, even on the east side, but it is all the better if performed on the west side which is the side nearest to the inner Sanctuary and thus best fulfils the expression ‘before the Lord’ used in connection with the waving (Lev. XIV, 12). According to Maim. it is to be performed on the east side only; v. Yad, Ma'aseh ha-Korbanoth IX, 7.

(10) In those offerings where both ceremonies must be performed.

(11) These are the two lambs of Pentecost.

(12) Sc. of the breast and thigh.

(13) Lev. XIV, 12.

(14) The log of oil and the lamb of the guilt-offering.

(15) Interpreting ‘and shall wave’ as referring to the last mentioned, namely the log of oil by itself.

(16) So as to fulfil both possible interpretations of the verse.

(17) Lev. XIV, 12.

(18) I.e., even on the east side, v. supra p. 361, n. 7.

(19) Ibid. VI, 7.

(20) V. supra 19b. It is clear therefore that the expression ‘before the Lord’ could well mean the west side.

(21) Where the residue of the blood of the sin-offering must be tossed.

(22) V. Mid. 35b. Accordingly ‘before the Lord’ in connection with the bringing near of the meal-offering must be interpreted as the south-west corner; west being essential on account of the base; and south also, so as to fulfil the requirement ‘to the front of the altar’ (Lev. VI, 7), since that is considered as the front of the altar, for there the ascent begins.

(23) In the case of the waving.

(24) Deut. XXVI, 4.

(25) Sc. the owner's.

(26) Lev. VII, 30, with reference to the waving of the breast and thigh of the peace-offering.

Talmud - Mas. Menachoth 61b

Just as here the priest [is stated], so there too the priest [is meant]; and just as there the owner [is referred to], so here too the owner [is required]. How is it to be done? The priest places his hand under the hands of the owner and waves.

And why does not [the Mishnah] say, ‘The firstfruits also according to R. Judah’? For it was taught: R. Judah says, And thou shalt set it down:[1] this refers to the rite of waving. You say that it refers to the waving, but perhaps it means literally ‘setting it down!’ As it has already said, And set it down, setting down [in the literal sense] has already been indicated. What then is the meaning of, ‘And thou shalt set it down’? It can only refer to the waving! — Raba answered, It is only because his[2] verse is stated earlier in the chapter.[3] R. Nahman b. Isaac answered, It is because his[2] knowledge was exceptional.[4]

THE SACRIFICIAL PORTIONS OF AN INDIVIDUAL'S PEACE-OFFERINGS AND THE BREAST AND THE THIGH THEREOF, WHETHER THEY ARE THE OFFERINGS OF MEN OR

OF WOMEN, BY ISRAELITES BUT NOT BY OTHERS. What does this mean? Said Rab Judah: It means this: WHETHER THEY ARE THE OFFERINGS OF MEN OR OF WOMEN these offerings require waving, but the rite of waving shall be performed by Israelites and not by women.[5]

Our Rabbis taught: The children of Israel may perform the rite of waving but not gentiles; the children of Israel may perform the rite of waving but not women. R. Jose said, Since we find that Scripture has distinguished between the offering of an Israelite and the offering of a gentile or of a woman with regard to the laying on of hands,[6] should we not also make this distinction with regard to the rite of waving?[7] No; for whereas there is good reason to make such a distinction with regard to the laying on of hands, by virtue of the fact that the laying on of hands must be performed by the owner of the offering,[8] is there any reason to make such a distinction with regard to the rite of waving, seeing that the priests [also] perform the waving?[9] Why then[10] does the text expressly state ‘the children of Israel’?[11] To teach that the children of Israel may perform the waving but not gentiles;[12] the children of Israel may perform the waving but not women.[13]

Another [Baraitha] taught: It is written, The children of Israel. I know from this that the children of Israel [perform the waving]; whence do I know to include also proselytes and freed slaves? The text therefore states, He that offereth.[14] Perhaps ‘he that offereth’ refers only to the priest! But since the verse states subsequently, His own hands shall bring the offerings,[15] the owners are already indicated. How is it then to be explained?[16] The priest places his hand under the hands of the owner and waves.

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(1) Deut. XXVI, 10.

(2) Sc. R. Eliezer b. Jacob's.

(3) Since R. Eliezer b. Jacob based his exposition on Deut. XXVI, 4, and R. Judah on v. 10, the Tanna of the Mishnah therefore only quoted R. Eliezer b. Jacob.

(4) Lit., ‘his strength was great’. Cf. ‘Er. 62b.

(5) A woman's peace-offering was waved by the priest on her behalf.

(6) For the offering of a woman or a gentile does not require the laying on of the hands, not even by proxy.

(7) That the offering of women or of gentiles shall not be waved at all, not even by a priest on their behalf.

(8) Personally and not by proxy; hence the rite of laying on the hands cannot apply to the offerings of women and gentiles as it is not proper for them to enter the Sanctuary for this purpose.

(9) So that in the case of women and gentiles the priest may act on their behalf.

(10) Seeing that as a result of the foregoing argument the offerings of women and gentiles require waving by the priest on their behalf.

(11) Lev. VII, 29, stated with reference to the rite of waving.

(12) Personally; the priest, however, waves it on their behalf.

(13) V. Dik. Sof. for a variant text that is inserted here. V. also Sh. Mek. n. 2.

(14) Lev. VII, 29, stated with reference to the rite of waving.

(15) Ibid. 30.

(16) The latter verse speaks of the owner himself performing the waving, whereas the previous verse, it has been suggested, refers to the rite as being performed by the priest. How are these verses to be reconciled?

How was it arranged?[1] The sacrificial portions were put upon the palm of the hand and the breast and thigh above them; and whenever there were cakes [to be waved] the cakes were always on top, Where [is this seen]?[2] — R. Papa said, At the consecration [of the priests].[3]

Why is it so?[4] Shall I say it is because it is written, The thigh of heaving and the breast of waving they shall put upon the fat of the fire-offering, to wave it for a wave-offering?[5] But is it not also written, He shall bring the fat upon the breast?[6] — Abaye answered, The latter refers to the manner in which the priest brings them from the slaughtering place and turns them over [into the hands of the priest that is about to wave them].[7] But is it not also written, And they put the fat upon the breasts?[8] — This refers to the handing over of these to the priest that is about to burn them.[9] These verses incidentally teach us that three priests are required [for this part of the service], as it is said, In the multitude of people is the king's glory.[10]

THE TWO LOAVES AND THE TWO LAMBS OF PENTECOST. Our Rabbis taught: [It is written,] And the priest shall wave then, upon [‘al] the bread of the firstfruits [for a wave-offering before the Lord upon [‘al] the two lambs].[11] I might think that he should put the lambs upon the bread, the text therefore states, Upon the two lambs.[11] If [I had only the expression] ‘upon the two lambs’ [to go by], I might think that he should put the bread upon the lambs, the text therefore states, ‘upon the bread of the firstfruits’. Now the verse is equally balanced and I know not whether the bread shall be upon the lambs or the lambs upon the bread; since, however, we find that in all cases the bread is on top, then here, too, the bread shall be on top. (Where was it so? — R. Papa said, At the consecration [of the priests].)[12] R. Jose b. ha-Meshullam says, The lambs shall be on top. And how can I explain, ‘Upon the two lambs’? to exclude the seven lambs.[13] Hanina b. Hakinai says, He must put the two loaves between the thighs of the lambs and wave them;[14] thus fulfilling both verses, the bread upon the lambs and the lambs upon the bread. Said Rabbi, Surely before a king of flesh and blood one would not do so,[15] how much less before the King of Kings, the Holy One, blessed be He! Therefore, he should put one beside the other and wave them. But we have to conform with [the expression] ‘al![16] — R. Hisda said to R. Hamnuna (others say, R. Hamnuna said to R. Hisda), Rabbi follows his general view that ‘al means ‘near to’; as it was taught: It is written, And thou shalt put pure frankincense ‘ai each row.[17] Rabbi says, ‘Al means near to’. You say that ‘al means ‘near to’; but perhaps it is not so but rather it signifies literally ‘upon’? Since it states, And thou shalt put a veil ‘al the ark,[18] conclude that ‘al means ‘near to’.

AND WAVES THEM FORWARD AND BACKWARD AND UPWARD AND DOWNWARD. R. Hiyya b. Abba said in the name of R. Johanan, FORWARD AND BACKWARD,[19] that is to Him unto Whom the [four] directions belong; UPWARD AND DOWNWARD, that is to Him unto Whom heaven and earth belong. In the West[20] it was taught as follows: R. Hama b. ‘Ukba said in the name of R. Jose b. R. Hanina, FORWARD AND BACKWARD, in order to keep off violent winds; UPWARD AND DOWNWARD, in order to keep off harmful dews.

R. Jose son of R. Abin said, This proves that even the dispensable rites of a precept[21] [when performed] ward off punishment, for the rite of waving is dispensable in the precept and yet it keeps off violent winds and harmful dews.

Rabbah said, Likewise with the lulab.[22] R. Aha b. Jacob used to swing it forward and backward, and hold it out and say, ‘An arrow in the eyes of Satan!’[23] But it is not proper to do so, for it is a challenge [to Satan] to contend with him.

Our Rabbis taught: The peace-offerings of the community require waving [also] after they are slaughtered, and the waving must be of them as they are.[24] So Rabbi. But the Sages say, Only of the breast and thigh. Wherein do they differ? — R. Hisda said to R. Hamnuna (others say, R. Hamnuna said to R. Hisda), They differ as to whether we say ‘Deduce from it and again from it’, or ‘Deduce from it and establish it in its own place’.[25] The Rabbis maintain the principle, ‘Deduce from it and again from it’. [‘Deduce from it’:] as the individual's peace-offering requires waving after it is slaughtered, so the peace-offerings of the community also require waving after they are slaughtered; and ‘again from it’: just as the waving there[26] is of the breast and thigh, so here it is also of the breast and thigh. Rabbi, however, maintains the principle ‘Deduce from it and establish it in its own place’. [‘Deduce from it’:] as the individual's peace-offering requires waving after it is slaughtered, so the peace-offerings of the community also require waving after they are slaughtered; and ‘establish it in its own place’: whereas there[26] the waving is of the breast and thigh only, here it is of them as they are, that is, as they are when alive.

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(1) For the waving.

(2) That the cakes were put on top.

(3) Cf. Lev. VIII, 26, 27. where it is expressly stated that the cakes were put on top.

(4) That the breast and thigh shall be placed above the sacrificial portions i.e., above the fat.

(5) Lev. X, 15.

(6) Ibid. VII, 30.

(7) So that now in the hands of the priest that waves them the breast and thigh are above the fat.

(8) Ibid. IX, 20.

(9) The priest that waved them when handing them to another priest to be burnt would naturally turn them over into that other priest's hands, so that now the fat would be on top.

(10) Prov. XIV, 28.

(11) Lev. XXIII, 20. The Heb. על usually connotes ‘upon’, but this term precedes ‘the bread’ and also ‘the two lambs’, hence the difficulty as to which was in fact ‘upon’ the other.

(12) V. supra p. 365, n. 8.

(13) The seven lambs brought as burnt-offerings with the bread (ibid. 18) were not waved with it.

(14) He must lay down the lambs on their sides, place the loaves between their legs, i.e., above the lower but beneath the upper leg, and thus wave them.

(15) It is most undignified to present the bread in this manner.

(16) Which usually means ‘upon’.

(17) Lev. XXIV, 7, with reference to the two rows of the Shewbread.

(18) Ex. XL, 3. The veil was not ‘upon’ the ark but ‘near to’ i.e., in front of it, Screening it off and serving as a partition between the holy place and the Holy of Holies.

(19) I.e., in all four directions.

(20) In Palestine.

(21) Lit., ‘the remainder of a precept’, i.e., those rites which even if omitted do not affect the validity of the service. Among such are the rites of laying on the hands and waving.

(22) The palm branch required for the Festival of Tabernacles must be waved in the same manner as the waving of the offering. viz., 10 the four directions and upward and downward.

(23) An expression of defiance, as if to say, ‘I defy you Satan!’ Or: ‘this is an arrow or weapon against your wiles, Satan!’ (R. Gershom).

(24) I.e., the whole of the slaughtered beast must be waved and not only the breast and thigh.

(25) Whenever a subject is inferred from another by means of analogy or by ‘the common features’ the question always arises as to the extent to which the inference must be carried. The rule ‘deduce from it and again from it’ clearly suggests that the two subjects must in the end be brought to absolute agreement on every point. On the other hand, ‘deduce from it and establish it in its place’ suggests that the inference is to be made with regard to one point only, and as for the rest each subject is regulated by the rules governing its other aspects.

(26) The individual's peace-offering.

Talmud - Mas. Menachoth 62b

R. Papa said, All accept the principle ‘Deduce from it and again from it’, but this is Rabbi's reason, namely, it[1] must be analogous with the rule there: and as in that case all that which is given as a gift to the priest [must be waved], so here also all that which is given as a gift to the priest [must be waved].[2] Rabina said, All accept the principle ‘Deduce from it and establish it in its own place’, but this is the reason of the Rabbis: It is written, Their peace-offerings,[3] which is an inclusive term.

R. SIMEON SAYS, THERE ARE THREE KINDS OF OFFERING WHICH [BETWEEN THEM] REQUIRE THREE RITES; TWO [OF THE THREE RITES] APPLY TO EACH KIND OF OFFERING, BUT THE THREE ARE WITH NONE. AND THESE ARE THEY: THE PEACE-OFFERING OF THE INDIVIDUAL, THE PEACE-OFFERING OF THE COMMUNITY AND THE GUILT-OFFERING OF THE LEPER, THE PEACE-OFFERING OF THE INDIVIDUAL REQUIRES THE LAYING ON OF HANDS FOR THE LIVING ANIMAL AND WAVING AFTER IT IS SLAUGHTERED, BUT IT DOES NOT REQUIRE WAVING FOR THE LIVING ANIMAL. THE PEACE-OFFERING OF THE COMMUNITY REQUIRES WAVING FOR THE LIVING ANIMAL AND ALSO AFTER IT IS SLAUGHTERED, BUT IT DOES NOT REQUIRE THE LAYING ON OF HANDS. THE GUILT-OFFERING OF THE LEPER REQUIRES THE LAYING ON OF HANDS AND ALSO WAVING FOR THE LIVING ANIMAL, BUT IT DOES NOT REQUIRE WAVING AFTER IT IS SLAUGHTERED. But [surely one could argue by the following] a fortiori argument that the peace-offering of the individual should require waving for the living animal: for if the peace-offering of the community, which does not require the laying on of hands for the living animal, requires waving for the living animal, how much more does the peace-offering of the individual, which requires the laying on of hands for the living animal, require waving for the living animal! — The Divine Law stated in connection with the peace-offering of the community the exclusive term ‘them’[4] in order to exclude the peace-offering of the individual. Again [one could argue by the following] a fortiori argument that the’ peace-offering of the community should require the laying on of hands: for if the peace-offering of the individual, which does not require waving for the living animal, requires the laying on of hands, how much more does the peace-offering of the community, which requires waving for the living animal, require the laying on of hands! — Said Rabina: There is a tradition that among the offerings of the community only two require the laying on of hands.[5] And again [one could argue by the following] a fortiori argument that the guilt-offering of the leper should require waving after it is slaughtered: for if the peace-offering of the individual, which does not require waving for the living animal, requires waving after it is slaughtered, how much more should the guilt-offering of the leper, which requires waving for the living animal, require waving after it is slaughtered! — The Divine Law therefore stated the exclusive term ‘it’[6] in connection with the peace-offering of the individual in order to exclude the guilt-offering of the leper.

Our Rabbis taught: If five persons brought one offering [jointly], one of them performs the rite of waving on behalf of them all. In the case of a woman, the priest waves [the offering] on her behalf. And so, too, if a person sent his offerings from across the seas, the priest waves them on his behalf.

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(1) The peace-offering of the community.

(2) Here the whole beast is a gift to the priest, whilst in the case of an individual's peace-offering only the breast and thigh ‘are given to the priest.

(3) Lev. VII, 34. with reference to the peace-offering of an individual. The use of the plural ‘peace-offerings’ signifies that even in another kind of peace-offering, namely that of the community, only the breast and the thigh are to be waved.

(4) Lev. XXIII, 20.

(5) And these are: the bullock offered when the whole community sinned in error and the Scapegoat on the Day of Atonement,

(6) Lev. VII, 30.

Talmud - Mas. Menachoth 63a

MISHNAH. IF A MAN SAID, ‘I TAKE UPON MYSELF [TO OFFER A MEAL-OFFERING] PREPARED ON A GRIDDLE’, HE MUST NOT BRING ONE PREPARED IN A PAN; IF ‘IN A PAN’, HE MUST NOT BRING ONE PREPARED ON A GRIDDLE. WHAT IS THE DIFFERENCE BETWEEN A GRIDDLE [MAHABATH][1] AND A PAN [MARHESHETH]?[2] THE PAN HAS A LID TO IT, BUT THE GRIDDLE HAS NO LID. SO R. JOSE THE GALILEAN. R. HANINA B. GAMALIEL SAYS, A PAN IS DEEP AND WHAT IS PREPARED THEREIN IS SPONGY,[3] A GRIDDLE IS FLAT AND WHAT IS PREPARED THEREON IS HARD.

GEMARA. What is R. Jose's reason?[4] Shall I say that marhesheth is so called because it is offered for the stirrings of the heart,[5] as it is written, My heart is stirred [rahash] by a goodly matter,[6] and mahabath because it is offered for the pratings of the mouth,[7] as people remark ‘He is prating’ [menabah nabuhe]?[8] But the reverse might just as well be said, namely, mahabath is so called because it is offered for the secrets of the heart, as it is written, Wherefore didst thou flee secretly [nahbetha],[9] and marhesheth because it is offered for the whispering [of the lips], as people remark ‘His lips were whispering [merahshan]’![10] — We must say that it is established so by tradition.[11]

R. HANINA B. GAMALIEL SAYS etc. The pan is a deep vessel, for so it is written, And all that is prepared in the pan;[12] the griddle is flat, for so it is written, And on the griddle.[12]

Our Rabbis taught: Beth Shammai say, If a man said, ‘I take upon myself [to offer] a marhesheth’,[13] [the vow] must stand over until Elijah comes. They are in doubt as to whether [these terms][12] refer to the vessel or to the pastry prepared therein. But Beth Hillel say, There was a vessel in the Temple called marhesheth, resembling a deep mould, which gave the dough that was put into it the shape of Cretan apples and Grecian nuts. Furthermore it is written, And all that is prepared in the pan and on the griddle;[12] we thus see that these terms refer to the vessels and not to the pastry prepared therein.

MISHNAH. [IF A MAN SAID,] ‘I TAKE UPON MYSELF [TO OFFER A MEAL-OFFERING BAKED] IN AN OVEN’, HE MUST NOT BRING WHAT IS BAKED IN A STOVE[14] OR ON TILES OR IN THE FIREPLACE OF THE ARABS.[15] R. JUDAH SAYS, IF HE SO WISHES HE MAY BRING WHAT IS BAKED IN A STOVE. [IF HE SAID,] I TAKE UPON MYSELF [TO OFFER] A BAKED MEAL-OFFERING’, HE MAY NOT BRING HALF IN CAKES AND HALF IN WAFERS.[16] R. SIMEON PERMITS IT SINCE BOTH KINDS BELONG TO THE SAME OFFERING.

GEMARA. Our Rabbis taught: Baked in the oven[17] — but not baked in a stove or on tiles or in the fireplaces of the Arabs. R. Judah says, Oven[18] is stated twice, in order to permit even what is baked in a stove. R. Simeon says, ‘Oven’ is stated twice, once to teach that it must be baked in an oven, and once that it is hallowed by the oven. But is R. Simeon of this view?[19] Surely we have learnt:[20] R. Simeon says, Accustom thyself to say, The Two Loaves and the Shewbread were valid whether made in the Temple court or in Beth Page![21] — Raba answered, Say rather, it should be consecrated for the oven.[22]

[IF HE SAID,] ‘I TAKE UPON MYSELF [TO OFFER] A BAKED MEAL-OFFERING’, HE MAY NOT BRING HALF IN CAKES etc. Our Rabbis taught: And when thou bringest,[17] that is, when thou bringest, doing so as a matter of free choice. An offering of a meal-offering:[17] R. Judah said, Whence do I know that if a man said, ‘I take upon myself [to offer] a baked meal-offering’, he may not bring half in cakes and half in wafers? Because the text states, ‘An offering of a meal-offering’: I spoke to thee of one offering but not of two or three offerings. Said to him R. Simeon,

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(1) מחבת.
(2) מרחשת.
(3) Heb. רוחשין, from the root רחש, ‘to move’, ‘vibrate’. ‘Every thing that is soft and spongy, because of the liquid contained therein, appears as though it were creeping and moving’ (Rashi on Lev. II, 7).
(4) For his view that the מרחשת, the pan, is covered with a lid and that the מחבת, the griddle, has no lid.
(5) I.e., sinful thoughts which are covered and hidden from all; accordingly the offering must be prepared in a covered vessel.
(6) Ps. XLV, 2. Heb. רחש which is also the root of מרחשת.
(7) I.e., sinful talk, like slander; as it is spoken openly without concealment the offering too must be prepared in an open vessel without a cover.
(8) מנבח נבוחי, which words resemble מחבת. There are many variants of these words in MSS., v. Rabbinowicz, Dik. Sof. n. 90.
(9) Gen. XXXI, 27. Heb. נחבאת which word resembles מחבת. Accordingly the מרחשת should be a covered vessel.
(10) מרחשן which word resembles מרחשת. Accordingly the מרחשת should be an open vessel.
(11) That the מרחשת is a covered vessel and the מחבת an open one.
(12) Lev. VII, 9.
(13) The expression used is ambiguous. He did not say ‘a meal-offering prepared in a marhesheth’; neither did he say ‘a marhesheth meal-offering’. By ‘marhesheth’ he might have meant to offer this kind of vessel to the Temple. (8) Marhesheth and Mahabath.
(14) A small oven only large enough for one pot to be placed on it.
(15) Improvised fireplaces of the Arabs, a cavity in the ground laid out with clay (Jast.).
(16) For the baked meal-offering either ten cakes or ten wafers must be offered, but not, e.g., five of one kind and five of the other.
(17) Lev. II, 4.
(18) Ibid. and in VII, 9.
(19) That the oven hallows the offering.
(20) Infra 95b.
(21) בית פאגי, a place outside the Temple court but within the walls of Jerusalem. V. infra 78b, P. 468, n. 6. Now if R. Simeon were of the opinion that the oven hallowed the offering, it would surely become invalid as soon as it was taken out of the Temple court! V. however, Tosaf. s.v. וכשרות, and Sh. Mek. n. 27.
(22) I.e., when setting aside the flour for this meal-offering one should expressly state that it is to be baked in the oven.

Talmud - Mas. Menachoth 63b

Is the term ‘offering’ stated twice in the verse?[1] ‘Offering’ is stated only once, and concerning it are mentioned cakes and wafers; so that if he so desires he may bring cakes or he may bring wafers or he may ‘bring half in cakes and half in wafers. He must mingle them [with oil] and the handful must be taken from the two [kinds].[2] If when taking the handful there came into his hand only one of the two [kinds], it is valid. R. Jose son of R. Judah says, Whence do I know that if a man said, ‘I take upon myself [to offer] a baked meal-offering’, he may not bring half in cakes and half in wafers? Because it is written, And every meal-offering that is baked in the oven, and every [meal-offering] that is prepared in the pan, and on the griddle, shall be the priest's that offereth it. And every meal-offering mingled with oil or dry, shall all the sons of Aaron have.[3] Just as the term ‘every’ in the latter cases refers to two distinct kinds,[4] so the term ‘every’ in the former case refers to two distinct kinds.[5]

And what can R. Judah [say]? R. Simeon is quite right in his argument![6] — [R. Judah] can reply, since the expression ‘with oil’[7] is stated twice in the verse it is as though the expression ‘offering’ had been repeated. And R. Simeon, [what would he say to this]? — Had not the expression ‘with oil’ been repeated I would have said that the offering must consist half of cakes and half of wafers, but not of cakes alone or of wafers alone; we are therefore taught [otherwise].

Is not the view of R. Jose son of R. Judah identical with that of his father? — There would be a difference between them in the case where one actually did so.[8]

CHAPTER VI[9]

MISHNAH. R. ISHMAEL SAYS, ON THE SABBATH[10] THE OMER[11] WAS TAKEN OUT[12] OF THREE SE'AHS[13] [OF BARLEY]. AND ON A WEEKDAY OUT OF FIVE. BUT THE SAGES SAY, WHETHER ON THE SABBATH OR ON A WEEKDAY IT WAS TAKEN OUT OF THREE SE'AHS. R. HANINA THE VICE-HIGH PRIEST[14] SAYS, ON THE SABBATH IT WAS REAPED BY ONE MAN WITH ONE SICKLE INTO ONE BASKET, AND ON A WEEKDAY IT WAS REAPED BY THREE MEN INTO THREE BASKETS AND WITH THREE SICKLES. BUT THE SAGES SAY, WHETHER ON THE SABBATH OR ON A WEEKDAY IT WAS REAPED BY THREE MEN INTO THREE BASKETS AND WITH THREE SICKLES.[15]

GEMARA. The opinion of the Rabbis is quite clear, for they hold that a tenth of the finest [flour] can be obtained out of three se'ahs, and therefore it is all one whether it was a Sabbath or a weekday. But what can be the opinion of R. Ishmael? If he holds that a tenth of the finest [flour] can be obtained only out of five se'ahs, then on a Sabbath too [five should be necessary]; and if it can be obtained out of three se'ahs then on a weekday too [three should be sufficient]! — Raba said, R. Ishmael is of the opinion that a tenth of the finest [flour] can be obtained out of five se'ahs without much labour, but with much labour out of three. On a weekday, therefore, it is taken out of five se'ahs, as this would give the best results;[16] but on the Sabbath it is better that [the Sabbath be profaned] by one work, namely sifting, [being repeated many times,][17] rather than by many works [being performed once only].[18]

Rabbah said, R. Ishmael and R. Ishmael the son of R. Johanan b. Beroka both hold the same view. For it was taught: If the fourteenth of Nisan fell on a Sabbath, one should flay the Passover-offering only as far as the breast:[19] such is the opinion of R. Ishmael the son of R. Johanan b. Beroka. But the Sages say, One should flay the whole of it. Now did not R. Ishmael the son of R. Johanan b. Beroka say there that where it is possible [to manage with a little] we must not trouble to do more on the Sabbath? Here, too, since it is possible [to manage with less] we must not trouble [to do more on the Sabbath]! Whence [do you know this]? Perhaps R. Ishmael only said so[20] here, since there is no disrespect to the offering. but there, since there is actual disrespect to the offering.[21]

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(1) To suggest that the cakes constitute a separate offering and the wafers a separate offering.

(2) The cakes and the wafers must be crushed fine and mixed together, then mingled with oil, and the handful taken from the mixture which contains the two kinds.

(3) Lev. VII, 9, 10.

(4) Viz., the marhesheth meal-offering and the mahabath meal-offering in the one case, and the dry meal-offering and the meal-offering mingled with oil in, the other case. There is no doubt at all that part of the one kind of meal-offering cannot combine with part of the other to constitute a valid offering.

(5) And the two kinds, cakes and wafers, cannot combine to constitute one offering.

(6) That the two kinds belong to the same offering since the term ‘offering’ is stated only once in the verse.

(7) Lev. II, 4.

(8) According to R. Jose son of R. Judah a baked meal-offering consisting partly of cakes and partly of wafers is absolutely invalid, just as the meal-offering would be invalid if brought partly dry and partly mingled with oil. According to the father, however, if a person brought cakes and wafers for his meal-offering it would be accepted as valid.

(9) In the separate editions of the Mishnah this chapter is inserted after chapter nine, which is indeed its proper place.

(10) I.e., if the second day of the Passover, which is the sixteenth day of Nisan, fell on a Sabbath. As the work in connection with the Omer involved the infringement of the laws of Sabbath, on the Sabbath therefore a smaller quantity of barley was used and fewer men employed.

(11) The tenth of an ephah of barley flour offered as a meal-offering. Cf. Lev. XXIII, 10ff.
(12) Lit., ‘came’.
(13) Which amount to one ephah. This quantity was sifted again and again so as to produce the tenth of choicest flour.
(14) Segan, v. Sanh., Sonc. ed., p. 97, n. 1.
(15) In order to give the matter greater publicity. V. Gemara.
(16) Since only the choicest of each se'ah would be taken.
(17) In order to obtain the finest out of the smaller quantity of three se'ahs.
(18) Since the extra two se'ahs would entail the infringement of many acts of works on the Sabbath, such as reaping, winnowing, cleaning, grinding, etc.
(19) I.e., sufficient only to take out from the lamb the sacrificial portions. Since the rest of the saying is only for the purpose of preparing the meat for the table it must be left over till the evening.
(20) That no more than is absolutely necessary may be done on the Sabbath.
(21) By leaving the carcass of the offering, partly flayed, hanging on the hook the whole day until nightfall.

Talmud - Mas. Menachoth 64a

I would say that he is in agreement with the Sages.[1] And, on the other hand, perhaps R. Ishmael the son of R. Johanan b. Beroka only said so there, since the requirements for the Most — High have been fulfilled,[2] so that there is no further need to profane the Sabbath; but here, since the requirements for the Most High have not yet been fulfilled,[3] so that there is a need to profane the Sabbath, I would say that he is in agreement with the Sages![4] — Said Rabbah, R. Ishmael and R. Hanina the Vice-High Priest both hold the same view. For we have learnt: R. HANINA THE VICE-HIGH PRIEST SAYS, ON THE SABBATH IT WAS REAPED BY ONE MAN WITH ONE SICKLE INTO ONE BASKET, AND ON A WEEKDAY IT WAS REAPED BY THREE MEN INTO THREE BASKETS AND WITH THREE SICKLES. BUT THE SAGES SAY, WHETHER ON THE SABBATH OR ON A WEEKDAY IT WAS REAPED BY THREE MEN INTO THREE BASKETS AND WITH THREE SICKLES. Now did not R. Hanina the Vice-High Priest say there that where it is possible [to manage with one] we must not trouble [more to work on the Sabbath]? Here, too, since it is possible [to manage with less] we must not trouble [to do more on the Sabbath]. Whence [do you know this]? Perhaps R. Ishmael only said so here, since there is no opportunity for making the matter public,[5] but there, since there is an opportunity for making the matter public,[6] I would say that he is in agreement with the Rabbis.[7] And, on the other hand, perhaps R. Hanina the Vice-High Priest only said so there, for after all, whether one man or three are employed, the service to the Most High is performed according to its prescribed rites, but here, since the service to the Most High is not performed according to its prescribed rites,[8] I would say that he is in agreement with the Sages![9] — Rather. said R. Ashi, R. Ishmael and R. Jose both hold the same view. For we have learnt: Whether [the new moon] was clearly visible or not, they may profane the Sabbath because of it.[10] But R. Jose says. If it was clearly visible they may not profane the Sabbath because of it.[11] Now did not R. Jose say there that wherever it is possible [to manage without them] we do not trouble [them to profane the Sabbath]? Here, too, since it is possible [to manage with less] we must not trouble [to do more on the Sabbath]. Whence [do you know this]? Perhaps R. Ishmael only said so here, since the reason ‘it will result that you will prevent them from coming in the future’ does not apply, but there, since the reason ‘it will result that you will prevent them from coming in the future[12] applies, I would say that he is in agreement with the Rabbis.[13] And, on the other hand, perhaps R. Jose only said so there, since the matter in question is no service to the Most High,[14] and moreover the Sabbath has not been overridden [by another service], but here, since it is a service to the Most High.[15] and the Sabbath has already been overridden [by other acts of work].[16] I would say that he is in agreement with the Rabbis.

It was stated: If a man slaughtered [on the Sabbath] two sin-offerings for the community when only one was necessary, Rabbah (others say. R. Ammi) said, He is liable[17] for the slaughtering of the second but not for the first, even though atonement was effected through the second offering.[18] and even though the first proved to be a lean animal.[19] But could Rabbah have really said so? Surely Rabbah has said, If a man had before him [on the Sabbath] two sin-offerings [for the community],[20] one beast being fat and the other lean, and he first slaughtered the fat beast and then the lean one, he is liable; if he first slaughtered the lean beast and then the fat one, he is not liable; and not only that but we even bid him [after he has slaughtered the lean one]. Go at once and fetch a fat one and slaughter it![21] — If you wish, you can say, Strike out the clause about the lean beast in the first statement; or if you prefer you may say, That first statement was taught by R. Ammi.

Rabina asked R. Ashi, What is the law if the first beast was found [after the slaughtering of the second] to be lean in its entrails?[22] Are we to decide the issue by his intention and this man certainly intended to do what was forbidden, or by his actual deed? — He replied; Is this not the case agreed upon by Rabbah and Raba? For it was stated: If a man heard that a child had fallen into the sea and he spread nets [on the Sabbath] to catch fish[23] and he caught fish, he is liable. If he spread nets to catch fish and he caught fish and also the child, Rabbah says, He is not liable; but Raba says, He is liable. Now only in that case says Rabbah that he is not liable, for since he heard [of this accident], we say that his intention was also concerning the child; but where he did not hear of it [Rabbah] would not [say that he was not liable].[24] Others say that he[25] answered him as follows: This is a matter of dispute between Rabbah and Raba. For It was stated: If a man had not heard that a child had fallen into the sea and he spread a net [on the Sabbath] to catch fish and he caught fish, he is liable. If he spread the net to catch fish and he caught fish and also the child, Rabbah says, He is not liable; but Raba says, He is liable. ‘Rabbah says, He is not liable’ because we decide the matter by his actual deed. ‘Raba says, He is liable’ because we decide the matter by his intention.

Rabbah said, If one fig was prescribed for a sick person[26] and ten men ran[27] and returned together bringing ten figs, they are all not liable, and [it is the same] even if they brought them one after the other, and even if the sick person had recovered after he had taken the first one.

Raba raised this question. If two figs were prescribed for a sick person and there happened to be two figs on two stalks[28] and also three figs on one stalk, which are we to bring? Should we bring the two figs as they only are required, or the three, for then there is less plucking? — Surely it is obvious that we should bring the three figs [on the one stalk].

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(1) That the whole must be flayed.

(2) By the removal and offering of the sacrificial portions.

(3) For it is more commendable to derive the tenth from a larger quantity, thereby obtaining the choicest.

(4) That in regard to the ‘Omer there is no distinction between the Sabbath and a weekday. But the Sages are satisfied that the choicest is obtainable even out of three se'ahs.

(5) For whether the ‘Omer is obtained out of five or three se'ahs the people will learn nothing of importance thereby.

(6) The employment of more persons in the service of the ‘Omer obviously gives the matter greater publicity and impresses immediately the mind of the people with the Rabbinic standpoint that the ‘Omer must be offered on the second day of the Passover irrespective of the day of the week, thus creating stronger opposition to the Sadducees who held that the ‘Omer must always be offered on a Sunday; v. infra 65a.

(7) That although one person would be sufficient three are to be employed to create greater publicity.

(8) For according to R. Ishmael the ‘Omer must be taken out of five se'ahs and not three in order to obtain the choicest flour.

(9) V. supra n.1.

(10) Any who saw the new moon may transgress the Sabbath limits to go and give evidence before the court of the appearance of the new moon. As the calendar was not fixed the evidence of witnesses was a matter of the greatest importance for the determination of the dates of the Festivals.

(11) As it is most probable that the members of the court themselves had also seen the appearance of the new moon, so that it would be unnecessary for any to profane the Sabbath for this purpose; R.H. 21b.

(12) For even when the new moon was not clearly visible to all, those who did see it might refrain from going to give their evidence believing that they were not justified in profaning the Sabbath on its account as others too might have seen the appearance of the new moon like themselves.

(13) That whatever the circumstances people should be encouraged to go and give their evidence.

(14) For it is no offering, neither is it an important need of the community since the new moon was seen clearly everywhere.

(15) To offer the choicest of five se'ahs.

(16) Viz., the reaping, winnowing, etc. of the three se'ahs.

(17) Since he acted in error, believing that he may slaughter any number of beasts on the Sabbath for the community, he is liable to bring a sin-offering.

(18) E.g., where the blood of the first beast was poured away after the second had been slaughtered, so that it was necessary in the end to use the blood of the second beast. In this case therefore it might be said that the slaughterer was not liable since in fact two beasts were necessary. On the other hand, when he slaughtered the second beast he had no reason to believe that the first would be unfit.

(19) Before the slaughtering of the second beast. It is a meritorious act to offer for a sacrifice a fine beast; cf. Mal. I, 8.

(20) And only one sin-offering was necessary.

(21) Thus contradicting Rabbah's previous statement that he is liable for slaughtering the fat beast after the lean one.

(22) When slaughtering the second beast he had no knowledge that the entrails of the first beast were lean and not fit to be offered, consequently the slaughtering of the second beast was undoubtedly a forbidden act. On the other hand, it might be said that he is not liable, since it was proved in the end that it was right to have slaughtered the second beast.

(23) An act forbidden on the Sabbath.

(24) And, therefore, in the case stated by Rabina, since he did not know of the unfitness of the first beast when he slaughtered the second, he is certainly liable according to all views.

(25) R. Ashi.

(26) For a sick person not only is it permitted to profane the Sabbath but it is even a meritorious act to do so.

(27) And profaned the Sabbath by plucking the figs.

(28) The stalks in either case were attached to the tree so that in any event it was necessary to transgress the Sabbath by breaking off the stalks from the tree. In the one case, however, two stalks would have to be broken off, whilst in the other case only one.

Talmud - Mas. Menachoth 64b

for even R. Ishmael only said so[1] in that case, since the less one uses[2] the less one reaps, but in this case, where the less one uses the more one has to pluck,[3] we should certainly bring the three [figs]. MISHNAH. THE PRECEPT OF THE ‘OMER IS THAT IT SHOULD BE BROUGHT FROM [WHAT GROWS] NEAR BY. IF [THE CROP] NEAR JERUSALEM WAS NOT YET RIPE, IT COULD BE BROUGHT FROM ANY PLACE. IT ONCE HAPPENED THAT THE OMER WAS BROUGHT FROM GAGGOTH ZERIFIN[4] AND THE TWO LOAVES FROM THE PLAIN OF EN SOKER.[4]

GEMARA. Why is this So?[5] — If you wish. I may say, Because it is written, Fresh corn shalt thou bring;[6] or if you wish, I may say, Because of the rule ‘One must not pass over [the first occasion for performing] the precept’.[7]

IT ONCE HAPPENED THAT THE ‘OMER WAS BROUGHT FROM GAGGOTH ZERIFIN. Our Rabbis taught: When the Kings of the Hasmonean house fought one another,[8] Hyrcanus was outside and Aristobulus within [the city wall]. Each day [those that were within] used to let down [to the other party] denars in a basket, and haul up [in return] animals for the Daily Offerings. An old man there, who was learned in Greek wisdom, spoke with them in Greek wisdom,[9] saying. ‘As long as they carry on the Temple service they will never be delivered into your hands’. On the morrow they let down denars in a basket and hauled up a pig. When it reached halfway up the wall, it stuck its claws into the wall, and the land of Israel was shaken over a distance of four hundred parasangs by four hundred parasangs. At that time they declared, ‘Cursed be the man who rears pigs and cursed be the man who teaches his son Greek wisdom!’ It was concerning this time [of siege] that we learnt: IT ONCE HAPPENED THAT THE ‘OMER WAS BROUGHT FROM GAGGOTH ZERIFIN AND THE TWO LOAVES FROM THE PLAIN OF EN SOKER. For when the time for the ‘Omer arrived they did not know from whence they could take it.[10] They at once proclaimed the matter, whereupon a deaf-mute came forward and pointed[11] with one hand to the roof and with the other to a cone-shaped hut. Then spake Mordecai,[12] ‘Is there anywhere a place by name Gaggoth Zerifin[13] or Zerifin Gaggoth?’ Thereupon they searched and found the place. When they should have brought the Two Loaves they did not know from whence they could take it. They at once proclaimed the matter, whereupon a deaf-mute came forward and put one hand on his eye and the other hand on the socket of the bolt. Then spake Mordecai,[12] ‘Is there anywhere a place by name En Soker[14] or Soker En?’ Thereupon they searched and found the place.

Once three women brought three pairs of doves to the Temple. One said, ‘It is for my zibah’; the other said, ‘It is for my yammah’; and the third said, ‘It is for my ‘onah’. Now they [the priests] thought that by zibah[15] [the woman] actually meant her flux, by yammah[16] her stream, and by ‘onah[17] her period, and therefore of each pair of doves, one bird was to be offered for a sin-offering and the other for a burnt-offering.[18] Then spake Mordecai, ‘Perhaps the one had been in danger by reason of her flux, the other had been in danger by reason of a sea journey,[19] and the third had been in danger by an infection of the eye,[20] and therefore all the doves were to be offered for burnt-offerings!’[21] Thereupon they enquired into the matter and found that it was so.

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(1) That on the Sabbath one must reap less for the ‘Omer.

(2) Lit., ‘eats’.

(3) For to obtain the two figs one must break off two stalks.

(4) These places are identified respectively with Sarafand near Lydda and Assaker near Nablus. V. Neub. Geog. pp. 81, 170.

(5) That the ‘Omer must be brought from barley growing near Jerusalem.

(6) Lev. II, 14. If the barley were brought from a distance it would lose its freshness on the way and would not be fit.

(7) And therefore the crops found growing outside Jerusalem should be used for the religious purpose.

(8) V. parallel passages in B.K. 82b (Sonc. ed. p. 469. and notes) and Sot. 49b (Sonc. ed. p. 268, and notes). V. also Graetz, Geschichte III, pp. 710ff on this passage.

(9) This old man was in Jerusalem and addressed his words of betrayal to the besiegers outside. ‘Greek wisdom’, according to Rashi means ‘gestures and signs’, but most probably it means the Greek language which was not understood by the people in the city.

(10) This was due to the devastation of the land round about Jerusalem by the hostile forces.

(11) Lit., ‘put’.

(12) A high Temple official who on account of his sagacity bore the name of Mordecai (Tosaf.). V. infra.

(13) A place-name whose literal meaning is ‘roofs, cone-shaped huts’.

(14) A place-name whose literal meaning is ‘eye, the socket of the bolt’.

(15) זיבה the usual term for an issue or flux. This woman had apparently suffered from an issue and now being cleansed was offering a pair of doves as her prescribed sacrifice. V. Lev. XV, 25ff.

(16) ימה an excessive flux, from ים ‘the sea’. Here, too, the doves were offered on her being cleansed of her issue.

(17) עונה ‘period’. The period of her seven clean days having been fulfilled she now offers a pair of doves as her prescribed sacrifice; v. ibid. 28, 29.

(18) Cf. ibid. 30.

(19) Taking ימה in its usual meaning ‘the sea’.

(20) עונה is thus interpreted as עינה ‘her eye’.

(21) For they were no doubt brought as freewill-offerings or in fulfilment of vows which the women vowed to bring on their delivery out of danger. In these circumstances the offerings were to be dealt with as burnt-offerings.

Talmud - Mas. Menachoth 65a

This is indeed what we have learnt: Petahiah was over the bird-offerings.[1] This same Petahiah was Mordecai; why was his name called Petahiah?[2] Because he was able to open matters and interpret them,' and he knew seventy languages.[3] But did not every member of the Sanhedrin know seventy languages? For R. Johanan said, None are to be appointed members of the Sanhedrin but men of wisdom, of good appearance, of fine stature, of mature age. men with a knowledge of sorcery and who know seventy languages, in order that the court should have no need of an interpreter![4] — Say, rather, that he used to mix together[5] expressions and explain them; and on that account it is written of Mordecai 'Bilshan'.[6]

MISHNAH. WHAT WAS THE PROCEDURE? THE MESSENGERS OF THE BETH DIN USED TO GO OUT ON THE DAY BEFORE THE FESTIVAL AND TIE THE UNREAPED CORN IN BUNCHES TO MAKE IT THE EASIER TO REAP. ALL THE INHABITANTS OF THE TOWNS NEAR BY ASSEMBLED THERE,[7] SO THAT IT MIGHT BE REAPED WITH MUCH DISPLAY. AS SOON AS IT BECAME DARK HE[8] CALLED OUT, 'HAS THE SUN SET'? AND THEY ANSWERED. 'YES.' HAS THE SUN SET'? AND THEY ANSWERED, 'YES.' WITH THIS SICKLE'?[9] AND THEY ANSWERED, 'YES'. 'WITH THIS SICKLE'? AND THEY ANSWERED, YES'. 'INTO THIS BASKET'? AND THEY ANSWERED, 'YES'. INTO THIS BASKET'? AND THEY ANSWERED. 'YES'. ON THE SABBATH HE CALLED OUT FURTHER, ON THIS SABBATH'? AND THEY ANSWERED. 'YES'. 'ON THIS SABBATH'? AND THEY ANSWERED. 'YES'. 'SHALL I REAP'?[10] AND THEY ANSWERED, REAP'. 'SHALL I REAP'? AND THEY ANSWERED, 'REAP'. HE REPEATED EVERY MATTER THREE TIMES, AND THEY ANSWERED, 'YES.' 'YES.' 'YES'. AND WHY WAS ALL THIS? BECAUSE OF THE BOETHUSIANS[11] WHO MAINTAINED THAT THE REAPING OF THE 'OMER WAS NOT TO TAKE PLACE AT THE CONCLUSION OF THE [FIRST DAY OF THE] FESTIVAL.

GEMARA. Our Rabbis taught.[12] 'On the following days fasting, and on some of them also mourning, is forbidden: From the first until the eighth day of the month of Nisan, during which time the Daily Offering was established, mourning is forbidden;[13] from the eighth of the same until the close of the Festival, during which time the date for the Feast of Weeks was re-established, fasting is forbidden.[14] 'From the first until the eighth day of the month of Nisan, during which time the Daily Offering was established, mourning is forbidden'. For the Sadducees used to say that an individual may of his own free will defray the cost[15] of the Daily Offering. What was their argument? — It is written, [said they]. The one lamb shalt thou offer in the morning and the other lamb shalt thou offer at dusk.[16] And what was the reply [of the Rabbis]? — It is written, My food which is presented unto Me for offerings made by fire, of a sweet savour unto Me, shall ye observe.[17] Hence all sacrifices were to be taken out of the Temple fund.[18]

'From the eighth of the same until the close of the Festival [of Passover], during which time the date for the Feast of Weeks was re-established, fasting is forbidden'. For the Boethusians held that the Feast of Weeks[19] must always be on the day after the Sabbath.[20] But R. Johanan b. Zakkai entered into discussion with them saying, 'Fools that you are! whence do you derive it'? Not one of them was able to answer him, save one old man who commenced to babble and said, 'Moses our teacher was a great lover of Israel, and knowing full well that the Feast of Weeks lasted only one day he therefore fixed it on the day after the Sabbath so that Israel might enjoy themselves for two successive days'. [R. Johanan b. Zakkai] then quoted to him the following verse, 'It is eleven days' journey from Horeb unto Kadesh-Barnea by the way of mount Seir.[21]

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(1) He was the officer in charge of the chest inscribed 'Bird-offerings' in the Temple. As the bird-offerings gave rise to complicated problems (v. Tractate Kinnim) he was chosen for his sagacity and profound understanding.

(2) The literal meaning of this name is 'The Lord has opened'.

(3) V. Shek., Sonc. ed., p. 18 notes.

(4) V. Sanh., Sonc. ed., p. 87.
(5) I.e., transfer the meanings of expressions from one sense to another; cf. supra in connection with Gaggoth Zerifin.
(6) Neh. VII, 7. The name בלשן is regarded as made up of בלל to mix, and לשן expression.
(7) On the night after the first day of the Passover.
(8) The reaper to the people assembled.
(9) I.e., shall I reap the corn with this sickle and into this basket?
(10) On the Sabbath.
(11) A sect in opposition to the Pharisees and often regarded as synonymous with the Sadducees. They held that the expression (Lev. XXIII, 11), ממחרת השבת, ‘the morrow after the Sabbath’, must be taken in its literal sense, the day following the first Saturday in Passover. The Pharisees, however, argued that the Sabbath meant here ‘the day of cessation from work’, i.e., the Festival of Passover. Accordingly the ‘Omer was to be offered on the second day of the Festival, and the reaping of the corn on the night preceding, at the conclusion of the first day of the Festival.
(12) V. Megillath Ta'anith, I.
(13) And needless to say that fasting is forbidden. V. Tosaf. s.v. אילין
(14) But mourning is permitted. So according to Rashi, Sh. Mek. and most MSS. In cur. ed. ‘mourning is forbidden’. V. Tosaf. s.v. מריש. Cf. also Ta'anith 17b.
(15) Lit., ‘may offer and bring’.
(16) Num. XXVIII, 4. The precept is stated in the singular, directed to the individual.
(17) Ibid. 2. The use of the pronoun ‘ye’ clearly imposes the obligation upon the community.
(18) Lit., ‘the offering of the Chamber’.
(19) Azereth, lit., ‘the closing’; the Feast of Weeks being regarded as the closing festival to Passover.
(20) l.e., on a Sunday, at the completion of seven full weeks from the offering of the ‘Omer which, according to them, was offered on a Sunday.
(21) Deut. I, 2.

Talmud - Mas. Menachoth 65b

If Moses was a great lover of Israel, why then did he detain them in the wilderness for forty years’? ‘Master’, said the other, ‘is it thus that you would dismiss me’? ‘Fool’, he answered, ‘should not our perfect Torah be as convincing as your idle talk! Now one verse says. Ye shall number fifty days.[1] while the other verse says, Seven weeks shall there be complete.[2] How are they to be reconciled?[3] The latter verse refers to the time when the [first day of the] Festival [of Passover] falls on the Sabbath,[4] while the former to the time when the [first day of the] Festival falls on a weekday.[5] (Mnemonic: R. Eliezer ‘numbers’; R. Joshua ‘counts’; R. Ishmael ‘from the ‘Omer’; R. Judah ‘below’.)[6] R. Eliezer says, This is not necessary, for Scripture says, Thou shalt number unto thee,[7] that is, the numbering depends upon the [decision of the] Beth din;[8] accordingly the Sabbath of the creation cannot be intended,[9] as the numbering would then be in the hands of all men.[10] R. Joshua says. The Torah says. Count days[11] and sanctify the new moon,[12] count days and sanctify the Feast of Weeks.[13] Just as in regard to the new moon there is something distinctive at the commencement [of the counting],[14] so with the Feast of Weeks there is something distinctive at the commencement [of the counting].[15]

R. Ishmael says. The Torah says. Bring the ‘Omer-offering on the Passover, and the Two Loaves on the Feast of Weeks. Just as the latter are offered on the Festival, and indeed at the beginning of the Festival, so the former, too. Is offered on the Festival, and indeed at the beginning of the Festival.[16] R. Judah b. Bathyra says. There is written ‘Sabbath’ below[17] and also ‘Sabbath’ above;[17] just as in the former case the Festival, and indeed the beginning of the Festival, is near [to the Sabbath].[18] so in the latter case, too, the Festival, and indeed the beginning of the Festival, is near [to the ‘Omer].[19]

Our Rabbis taught: And ye shall count unto you.[20] that is, the counting is a duty upon every one. On the morrow after the Sabbath,[20] that is, on the morrow after the Festival. Perhaps it is not so but rather on the morrow after the Sabbath of Creation. R. Jose b. Judah says, Scripture says, Ye shall number fifty days,[21] that is, every time that you number it shall not be more than fifty days. But should you say that the verse refers to the morrow after the Sabbath of Creation, then it might sometimes come to fifty-one and sometimes to fifty-two and fifty-three and fifty-four and fifty-five and fifty-six.[22] R. Judah b. Bathyra says. This is not necessary.

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(1) Lev. XXIII, 16.

(2) Ibid. 15.

(3) For the former verse speaks of counting fifty days irrespective of the completeness of the weeks, whereas the latter verse speaks of seven weeks complete, by which it is understood full weeks each commencing on a Sunday.

(4) In this case there are seven complete weeks.

(5) It is evident therefore that the Feast of Weeks may fall on any day of the week and not only on Sunday. On the motives underlying this controversy v. Lichtenstein HUCA VIII-IX. pp. 276ff and Finkelstein, The Pharisees, I. p. 115ff.

(6) And aid for remembering the various proofs adduced by the Rabbis mentioned.

(7) Deut. XVI, 9.

(8) For inasmuch as the Beth din fixed the date of the Festivals, it is left to them to inform the community the time from which to commence counting the days of the ‘Omer. Cur. edd. insert here the following gloss: For they know to interpret ‘the morrow after the Sabbath’ as the morrow after the Festival.

(9) In the expression ‘the morrow after the Sabbath’.

(10) Obviously no guidance would be necessary were the counting always to commence on the Sunday, after the Sabbath of Creation, i.e., the ordinary Sabbath of the week.

(11) Cf. the expression ‘a month of days’, Num. XI, 20.

(12) I.e., after counting twenty-nine days the thirtieth day should be sanctified as the new moon.

(13) Lev. XXIII, 15,16.

(14) Namely the new moon, for the twenty-nine days are counted from the first day of the new month.

(15) Namely the Festival of Passover. Now if the counting always commenced on Sunday, this distinctiveness would not always be evident, for sometimes the counting might commence on the seventeenth day of Nisan, and sometimes on the eighteenth, or on the nineteenth of that month. V. Tosaf. s.v.מה חדש. Cur. edd. insert here the gloss: And should you say that the Feast of Weeks always falls on the day after Sabbath, how would there be anything distinctive at its commencement?

(16) Save that in order to fulfil the expression ‘on the morrow after the Sabbath’ it must be offered on the second day of the Festival. If, however, it was to be offered always on a Sunday it might happen sometimes that it is offered at the end of the Festival; v. prev. note.

(17) Below, in respect of the Feast of Weeks, unto the morrow of the seventh Sabbath, Lev. XXIII, 16; and above, in respect of the ‘Omer, On the morrow after the Sabbath, ibid. 11.

(18) Since the Festival follows immediately the ‘Sabbath’. Here, of course, the word Sabbath signifies ‘week’, as the Festival must be at the end of seven complete Sabbaths or weeks.

(19) Thus the Festival of Passover is to immediately precede the ‘Omer; accordingly ‘Sabbath’ clearly means the Festival.

(20) Lev. XXIII, 15.

(21) Ibid. 16.

(22) Just as in that year when the Passover falls on a Sabbath and the counting, according to all views, begins on the Sunday, only fifty days are numbered from the second day of the Festival, so also in the other years when the Festival falls on a weekday only fifty days are to be numbered from the second day of the Festival. Now if it is held that the numbering must always begin on a Sunday, then as compared with the former year, the number of days from the second day of the Festival would be fifty-one, if the Festival fell on a Friday, or fifty-two if it fell on a Thursday, and so on.

Talmud - Mas. Menachoth 66a

for Scripture says, Thou shalt number unto thee,[1] that is, the numbering depends upon [the decision of] the Beth-din; accordingly the Sabbath of the Creation cannot be intended as the numbering would then be in the hands of all men.[2] R. Jose says. On the morrow after the Sabbath means on the morrow after the Festival. You say that it means on the morrow after the Festival, but perhaps it is not so, but rather on the morrow after the Sabbath of Creation! I will prove it to you. Does Scripture say, 'On the morrow after the Sabbath that is in the Passover week'? It merely says, 'On the morrow after the Sabbath'; and as the year is full of Sabbaths, then go and find out which Sabbath is meant.[3] Moreover, 'Sabbath' is written below,[4] and 'Sabbath' is written above; just as in the former case it refers to the Festival, and indeed to the beginning of the Festival, so in the latter case, too, it refers to the Festival, and indeed to the beginning of the Festival.[4] R. Simeon b. Eleazar says, One verse says. Six days thou shalt eat unleavened bread,[5] whereas another verse says, Seven days shall ye eat unleavened bread.[6] How are they to be reconciled?' [In this way:] you may not eat unleavened bread of the new produce the seven days. but you may eat unleavened bread of the new produce six days.[7] From the day that ye brought [the 'Omer of the waving]...shall ye number:[8] now I might think that the 'Omer must be reaped and offered [on the day stated], but the counting may begin whenever one wishes,[9] the text therefore also states, From the time the sickle is first put to the standing corn thou shalt begin to number.[10] But from [this verse], 'From the time the sickle is first put to the standing corn thou shalt begin to number', I might think that the 'Omer must be reaped and then one begins to count, but it is to be offered whenever one wishes, the text therefore states, From the day that ye brought [the 'Omer...shall ye number].[11] But from [this verse], 'From the day that ye brought', I might think that it must be reaped and offered and the counting begun all by day, the text therefore states 'Seven weeks shall there be complete;[12] and when do you find seven weeks complete? Only when you begin to count from the [previous] evening.[13] I might think, then, that it must be reaped and offered and the counting begun all by night, the text therefore, states, 'From the day that ye brought'. How is it to be then? The reaping and the counting must be on the [previous] night, but the bringing on the [following] day.[14]

Said Raba: All the above interpretations can be refuted, excepting those of the last two Tannaim of the first Baraitha and of the last two Tannaim of the second Baraitha,[15] which cannot be refuted, If [it were to be derived from] R. Johanan b. Zakkai's interpretation it can be refuted thus: Perhaps [the explanation of the conflicting verses is] as given by Abaye; for Abaye said, It is the precept to count the days and also the weeks.[16] If from R. Eliezer's and R. Joshua's interpretations it can be refuted thus: How do they know that it[17] refers to the first day of the Festival? It may refer to the last day of the Festival! R. Ishmael's and R. Judah b. Bathyra's interpretations cannot be refuted. If from R. Jose son of R. Judah's interpretation it can be refuted thus: Perhaps the fifty days excludes those six days![18] If from R. Judah b. Bathyra's interpretation[19] it can be refuted thus: How does he know that it[17] means' the first day of the Festival? Perhaps it means the last day of the Festival! R. Jose also realized this same difficulty, and he therefore added the second interpretation 'Moreover.

The [above] text [stated]: Abaye said, It is the precept to count the days and also to count the weeks. The Rabbis of the school of R. Ashi used to count the days as well as the weeks. Amemar used to count the days but not the weeks, saying, It is only in commemoration of Temple times.[20]

MISHNAH. THEY REAPED IT, PUT IT INTO THE BASKETS, AND BROUGHT IT TO THE TEMPLE COURT; THEN THEY PARCHED IT[21] WITH FIRE IN ORDER TO FULFIL THE PRECEPT THAT IT SHOULD BE PARCHED [WITH FIRE].[22] SO R. MEIR. BUT THE SAGES SAY, THEY FIRST BEAT IT WITH REEDS OR STEMS OF PLANTS THAT THE GRAINS SHOULD NOT BE CRUSHED,[23] AND THEN THEY PUT IT INTO A PIPE THAT WAS PERFORATED SO THAT THE FIRE MIGHT TAKE HOLD OF ALL OF IT. THEY SPREAD IT OUT IN THE TEMPLE COURT SO THAT THE WIND MIGHT BLOW OVER IT.[24] THEN THEY PUT IT INTO A GRISTMILL[25] AND TOOK OUT OF IT A TENTH [OF AN EPHAH OF FLOUR] WHICH WAS SIFTED THROUGH THIRTEEN SIEVES. WHAT WAS LEFT OVER WAS REDEEMED AND MIGHT BE EATEN BY ANY ONE; IT WAS LIABLE TO THE DOUGH-OFFERING[26] BUT EXEMPT FROM TITHES.[27] R. AKIBA DECLARES IT LIABLE BOTH TO THE DOUGH-OFFERING AND TO TITHES.

GEMARA. Our Rabbis taught: ‘Abib’:[28] this signifies fresh ears of corn; ‘parched with fire’: this teaches us that Israel used to parch it with fire in order to fulfil the precept ‘parched’. So R. Meir. But the Sages say,

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(1) Deut. XVI,9.

(2) V. supra p. 386. n. 8.

(3) Obviously then ‘the Sabbath’ means the Festival.

(4) V. supra p. 387 nn. 2,3 and 4.

(5) Ibid. 8.

(6) Ex. XII, 15.

(7) For after the offering of the ‘Omer, on the second day of the Festival, there are left six days of the Festival on which one may eat unleavened bread of the new produce; thus the verses are reconciled. If, however, the ‘Omer was always to be offered on a Sunday, then it would frequently happen that there would be less than six days from the offering of the ‘Omer to the end of the Festival.

(8) Lev. XXIII, 15, 16.

(9) On any day after the bringing of the ‘Omer.

(10) Deut. XVI, 9. From this verse it appears that the counting must begin immediately after the reaping and apparently even before the offering of the ‘Omer.

(11) We thus learn that the reaping and the offering of the ‘Omer and the commencement of the counting must all take place on the same day.

(12) Lev. XXIII, 15.

(13) Since the complete day consists of the day and the preceding night.

(14) And it is arrived at in this way: the reaping must clearly be before the counting, since it is written, ‘From the time that the sickle is put to the standing corn thou shalt begin to number’; and the counting must be at night because of the verse which says, ‘Seven weeks shall there be complete’. The counting. however, precedes the bringing of the ‘Omer, the verse ‘From the day that ye brought the ‘Omer shall ye number’ notwithstanding, as this verse does necessarily indicate precedence but rather that both shall take place on the same day.

(15) I.e., R. Jose in his second interpretation and R. Simeon b. Eleazar.

(16) Cf. P.B. p. 270ff. This is established by Abaye from the fact that one verse speaks of counting the days and the other of counting the weeks.

(17) The expression ‘Sabbath’. Granted that it cannot mean the ordinary Sabbath of the week, it may mean nevertheless the last day, and not necessarily the first day, of the Festival.

(18) For it might be said that the counting of the fifty days is to commence from the first Sunday in the Passover festival, exclusive of the six (or less) intervening days between the second day of the Festival and the Sunday.

(19) In the second Baraitha.

(20) He maintains that after the destruction of the Temple, when the ‘Omer is no longer offered, the counting is no absolute obligation; hence it is sufficient if only the days are counted.

(21) The whole ears of corn.

(22) Lev. II, 14.

(23) It was not threshed in the usual manner with flails as these would bruise the fresh and tender corn.

(24) In order to dry it.

(25) Which grinds very coarsely so that only the husk is separated from the grain.

(26) Cf. Num. XV, 18ff. Since at the time when dough becomes liable to the dough-offering, i.e. at the rolling out of the dough, it is no longer consecrated, it is therefore liable to the dough-offering.

(27) Since the obligation of tithes falls due at the last work in connection with the corn (i.e. the smoothing of the pile), and at that time the corn was still consecrated, it is therefore exempt from tithes.

(28) ‘Corn in the ear’. Lev. II, 14.

Talmud - Mas. Menachoth 66b

By koli[1] we do not mean [what is parched] over the fire but [what is parched] with something [intervening between the fire and the grain]. (Another version reads: By koli we understand what is parched in a vessel.)[2] How was it done then? There was there [in the Temple] a pipe for parching corn which was perforated like a sieve so that the fire might take hold of it on all sides. Corn in the ear, parched...crushed: now I know not whether the fresh ears of corn must be parched or the crushed grain must be parched;[3] but when the verse says ‘[parched] with fire’, it thus interrupts the subject.[4] Karmel [fresh corn] means, rak [tender] and mal [easily crushed].[5] In like manner[6] [we interpret the word in the following] verse: And there came a man from Baal-shalishah, and brought the man of God bread of the firstfruits, twenty loaves of barley, and fresh corn beziklono. And he said, Give unto the people that they may eat.[7] [Beziklono means]: He came and poured out for us, and we ate, and it was fine. And so, too, [when it says, Let us solace ourselves [nith'alsah] with loves,[8] [nith'alsah means:] Let us talk together and then let us go up [on the couch] and rejoice and revel in caresses. And so, too, [when] it says, The wing of the ostrich [ne'elasah] beateth joyously,[9] [ne'elasah means:] It carries [the egg], flies upwards [with it] and deposits it [in the nest]. And so, too, [when] it says, Because thy way is contrary [yarat] unto me,[10] [yarat means:] She [the ass] feared when she saw [the angel] and she turned aside. In the school of R. Ishmael it was taught: Karmel means, kar [rounded, and male [full].[11]

R. AKIBA DECLARES IT LIABLE BOTH TO THE DOUGH-OFFERING AND TO TITHES. R. Kahana said, R. Akiba used to say that the smoothing of the pile of [corn belonging at the time to] the Temple does not exempt it [from tithes].[12]

R. Shesheth raised the following objection: What did they do with what remained of those three se'ahs?[13] It was redeemed and could be eaten by any one; it was liable to the dough-offering but exempt from tithes. R. Akiba declares it liable both to the dough-offering and to tithes. But [the Sages] said to him, Let what is redeemed from the hand of the Temple treasurer prove the case,[14] for that is liable to the dough-offering yet is exempt from tithes. Now if it is right to say, [R. Akiba holds the view that] the smoothing of the pile of [corn belonging to] the Temple does not exempt [from tithes], then what was the point of their argument, it is just the same case?[15] Furthermore, R. Kahana b. Tahlifa raised an objection against R. Kahana's statement [from the following Baraitha]: R. Akiba declares it liable both to the dough-offering and tithes, for Temple money was only used for what was necessary![16] — Rather, said R. Johanan,it is an accepted teaching in the mouth of R. Akiba that Temple money was only used for what was necessary.[17]

Raba said, I am quite certain that the smoothing of the pile of [corn belonging at the time to] the Temple exempts it [from tithes], for even R. Akiba only declares it liable [to tithes] in that case alone, since Temple money was only used for what was necessary, but elsewhere [all agree that] the smoothing of the pile of [corn belonging to] the Temple exempts from tithes.

With regard to the smoothing of the pile of [corn belonging at the time to] a gentile there is a difference of opinion between Tannaim. For it was taught: One may give terumah from produce bought from an Israelite for other produce also bought from an Israelite, and from produce bought from a gentile for other produce also bought from a gentile,[18] and from produce bought from a Cuthean[19] for other produce also bought from a Cuthean, and from produce bought from any one of these for other produce also bought from any one of these.[20] So R. Meir and R. Judah. But R. Jose and R. Simeon say, One may give terumah from produce bought from an Israelite for other produce also bought from an Israelite, and from produce bought from a gentile for other produce bought from a Cuthean, and from produce bought from a Cuthean for other produce bought from a gentile, but one may not give terumah from produce bought from an Israelite for other produce bought from a gentile or a Cuthean, nor from produce bought from a gentile or a Cuthean for other produce bought from an Israelite.[21]

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(1) Heb. קלי. The reference is to the word קלוי in Lev. ibid. The text is in a very bad state here; v. the parallel passage in Sifra (ed.' Friedmann, p. 121-2) and notes thereon where all the parallel texts are collected and examined. V. also Dik. Sof. n. 9. The translation is based on the text as emended by Sh. Mek

(2) Heb. קליל: a receptacle of burnished bronze (Rashi).

(3) The term קלי 'parched' appears in the verse between two substantives, so that it is uncertain whether it refers to the preceding expression 'corn in the ear', in which case the fresh ears of corn must first be parched and then crushed, or to the subsequent expression 'crushed', in which case the corn must first be crushed and then parched.

(4) Hence it cannot refer to the subsequent expression but only to the one preceding, so that the fresh ears of corn must be parched.

(5) The Heb. כרמל is interpreted as two words: רך (by transposing the first two letters of the word) 'soft', 'tender', and מל 'brittle', 'easily crushed'.

(6) Lit., 'and thus it says'. Here follow some examples of interpretation of words by the method known as נוטריקון (stenographic or abbreviated), whereby any particular word is regarded as a combination of the initial or characteristic letters of the words in a sentence.

(7) II Kings IV, 42. The Heb. word בצקלונו (translated in the versions 'in his sack') is here expanded into the following sentence: בא ויצק לנו ואכלנוונוה

(8) Prov. VII, 18. The word נתעלסה is expanded into: נשא ונתן ונעלה ונשמח ונתחטא It must be noted that the letter 'sin' is often substituted for 'samech'; similarly the 'heth' for 'he'.

(9) Job XXXIX, 13. The word נעלסה is expanded into: נושא עולה ונתחטא V. Rashi. Jastrow, Dict. p. 449. translates 'He raises his wings and rises and enjoys himself'.

(10) Num. XXII, 32. Heb. ירט expanded into:יראה ראתה נתטה

(11) Heb. כר and מלא; the ears of corn must be quite ripe, each grain filling the husk. According to R. Gershom, Aruch and Rashi: Each ear must be full (מלא) of grain as a cushion (כר) is stuffed with feathers.

(12) When later the corn is acquired by an Israelite.

(13) That were reaped for the purposes of the 'Omer; v. Mishnah supra 63b.

(14) I.e., corn produced and grown by the Temple authorities. Such produce apparently even R. Akiba would agree is exempt from tithes when it is acquired by an Israelite.

(15) For just as R. Akiba declares the remainder of the 'Omer-offering liable to tithes he also declares any corn redeemed from the Temple treasurer liable, so that the proof adduced by the Sages in their argument fails in its purpose.

(16) I,e., the tenth for the 'Omer-offering. The remainder, however, was not covered by Temple money and was not regarded as consecrated hence it is subject to tithes. It follows, however, that if the corn was produced by the Temple authorities and the pile was smoothed whilst it still belonged to the Temple, it is exempt from tithes.

(17) R. Kahana's statement thus stands refuted.

(18) For R. Meir and R. Judah are of the opinion that a gentile cannot own property in the Land of Israel so fully as to release it from the obligation of tithe; so that produce bought from a gentile is liable to tithe even though at the time that the pile of corn was smoothed it belonged to the gentile.

(19) A member of one of the tribes that settled in the Northern Kingdom after the deportation of the Ten Tribes of Israel by the Assyrian king. Some of the peoples came from Cutha and so gave their name to the new settlers as a whole. They are also known as Samaritans. They accepted a form of semi-Judaism, and their status as Jews varied at different times.

(20) So that it is permitted to give terumah from produce bought from a gentile or a Cuthean for produce bought from an Israelite, or vice versa, for the smoothing of the pile belonging at the time to a gentile does not exempt it from tithes.

(21) For R. Jose and R. Simeon hold the view that produce which was finished and stacked into a pile and smoothed off whilst in the possession of a gentile or a Cuthean is exempt henceforth from tithes; and clearly what is exempt from tithe may not be given as tithe for other produce that is liable.

Talmud - Mas. Menachoth 67a

The rolling out of dough[1] belonging [at the time] to the Temple exempts it [from the dough-offering]. For we learnt:[2] If a woman dedicated her dough [to the Temple] before she had rolled it out, and redeemed it,[3] it is still liable to the dough-offering. If [she dedicated it] after she had rolled it out and then redeemed it, it is still liable. If she dedicated it before she had rolled it out and the Temple treasurer rolled it out, and afterwards she redeemed it, it is exempt, since at the time when dough becomes liable [to the dough-offering] it was exempt.

Raba, however, raised the question. What is the law if the dough when it was rolled out belonged to a gentile? We have indeed learnt:[4] If a man became a proselyte and he had dough that was already rolled out[5] before he became a proselyte he is exempt [from the dough-offering].[6] If [the dough was rolled out] after he became a proselyte, he is liable. If it is in doubt, he is liable. Now whose opinion is represented in this Mishnah? [Is it] the opinion of all? For even R. Meir and R. Judah who in that other case[7] declare it liable [to the tithe], in this case declare it exempt; [their argument being that] in the other cases Scripture stated ‘thy corn’ several times,[8] [each expression serving to exclude the corn of a gentile,] we thus have a limitation followed by a limitation, and wherever a limitation is followed by a limitation its purpose is nothing else but to include, so that even [the corn] of a gentile is liable [to tithe]; whereas in this case, since the expression ‘your dough’[9] is stated twice only, the one expression ‘your dough’ excludes the dough of a gentile, and the other expression ‘your dough’ excludes the dough that belongs to the Temple.[10] Or perhaps this Mishnah represents the opinions of R. Jose and R. Simeon only who in that other case declare it exempt, but according to R. Meir and R. Judah [the dough of a gentile would be liable to the dough-offering, for they] infer this case from the other case by reason of the common expression ‘the first’?[11] — May it be the will [of God], prayed Raba, that I behold [the answer to my question] in a dream! Afterwards Raba came to the conclusion that he who holds that the smoothing of the pile of corn belonging to a gentile exempts it [from tithes], also holds that the rolling out of dough belonging to a gentile exempts it [from the dough-offering]; and he who holds that the smoothing of the pile of corn belonging to a gentile does not exempt it, also holds that the rolling out of dough belonging to a gentile does not exempt it.

R. Papa raised the following objection against Raba: If a gentile [now a proselyte] set apart the firstling[12] of his ass, or the dough-offering,[13] he must be informed that he is exempt therefrom; his dough-offering may therefore be eaten by non-priests, and the firstling may be shorn and put to work. It follows, however, that the terumah [that he had set apart from his corn] is forbidden.[14] Accordingly this Tanna is of the opinion that the smoothing of the pile of corn belonging to a gentile does not exempt it [from tithes], and [yet he holds] that the rolling out of the dough belonging to a gentile exempts it [from the dough-offering]! Furthermore, Rabina raised the following objection against Raba: As to the dough-offering set apart by a gentile [now a proselyte] in the lands [of Israel], or his terumah outside the land [of Israel]. he must be informed that he is exempt therefrom; his dough-offering may therefore be eaten by non-priests, and his terumah would not render [the other produce into which it may fall] subject to the laws of terumah. It follows, however, that the terumah he set apart in the land [of Israel] is forbidden [to non-priests] and also renders [the other produce into which it may fall] subject to the laws of terumah. Accordingly this Tanna holds that the smoothing of the pile of corn belonging to a gentile does not exempt it [from tithes], and yet [he holds] that the rolling out of the dough belonging to a gentile exempts it [from the dough-offering]! — It is only so Rabbinically,[15] as a precautionary measure against men of wealth.[16]

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(1) At this moment the dough becomes liable to the dough-offering; cf. Num. XV, 18-21. If at that moment the dough belongs to the Temple it is exempt from the dough-offering, but if to a lay person it is liable.

(2) Hal. III, 3.

(3) And after she had redeemed it she rolled it out, so that at the time of rolling out it no longer belonged to the Temple.

(4) Hal. III, 6.

(5) Lit. ‘prepared’.

(6) For at the time of the rolling out the dough belonged to a gentile.

(7) In the matter of corn belonging to a gentile at the time when it becomes liable to the tithe, i.e., when the pile is smoothed off.

(8) In fact the expression ‘thy corn’ is stated three times viz., Deut. XII, 17; XIV, 23; and XVIII, 4, but one serves to exclude that which belongs to the Temple; each of the other two would serve to exclude that which belongs to a gentile.

(9) Num. XV. 20 and 21.

(10) So MS.M., Tosaf. and Sh. Mek. Cur. edd. read: The one expression ‘your dough’ teaches that there must be as much as your dough (v. Hul. 135b). and the other expression ‘your dough’ excludes the dough belonging to a gentile or to the Temple.

(11) ‘The first’ is stated with regard to the dough-offering. Num. XV, 20, and also with regard to the tithe of corn, Deut. XVIII, 4; therefore, as in the latter case the corn is liable to tithe even though at the time the obligation falls due it belongs to a gentile, so it is too with the dough-offering.

(12) I.e., he set apart a lamb as the redemption of the firstling of the ass; cf. Ex. XIII, 13. So Rashi, but v. Tosaf. s.v. עובד

(13) The firstling had been born while he was still a gentile; similarly the dough had been rolled out while he was still a gentile.

(14) To be eaten by non-priests, although at the time when he smoothed the pile he was a gentile. (5) I.e., of produce grown in the land of Israel.

(15) Strictly even his terumah is no terumah and may be eaten by non-priests, for the smoothing of the pile by the gentile exempts the corn from terumah and tithes; but it is forbidden by Rabbinic decree.

(16) Lit., ‘men of purses’, i.e., Jewish merchants who purchase large quantities of corn from Jews and non-Jews; and if what they purchase from non-Jews is exempt from terumah and tithes, they might hold that even what they purchase from Jews is also exempt. Another interpretation: they are men with large estates and in order to avoid giving large quantities as terumah and tithe they would arrange to dispose of the field temporarily to a gentile, so that the smoothing of the pile be done by the gentile, and thus be exempt from terumah and tithes.

Talmud - Mas. Menachoth 67b

Then the same should be said of the dough-offering, should it not?[1] — It is always possible [to avoid the dough-offering] by baking [quantities of dough each] less than five quarters of a kab and a little more[2] of flour. Then with the terumah, too, it is always possible [to avoid the terumah] by acting according to R. Oshaia's ruling; for R. Oshaia said, A man can resort to a device with his produce and bring it in [to his house] together with the chaff, so that his cattle may eat of it and it is exempt from the tithe; or he can bring it in by way of the roof or by way of a back enclosure![3] — In the latter case,[4] since it is done openly, he would be ashamed of it;[5] but in the former case[6] it is done in private and he would not be ashamed of it.[7]

MISHNAH. HE[8] THEN CAME TO THE TENTH, PUT IN OIL[9] AND ITS FRANKINCENSE, POURED IN THE OIL, MINGLED IT, WAVED IT, BROUGHT IT NEAR [TO THE ALTAR], TOOK FROM IT THE HANDFUL AND BURNT IT; AND THE REMAINDER WAS EATEN BY THE PRIESTS. AFTER THE OMER WAS OFFERED THEY USED TO GO OUT AND FIND THE MARKET OF JERUSALEM ALREADY FULL OF MEAL AND PARCHED CORN [OF THE NEW PRODUCE]; THIS, HOWEVER, DID NOT MEET WITH THE APPROVAL OF THE SAGES.[10] SO R. MEIR. R. JUDAH SAYS, THEY DID SO WITH THE APPROVAL OF THE SAGES.[11] GEMARA. And does not R. Judah apprehend lest one might eat of it? But I can point out a contradiction to this, for we have learnt: Judah says, One searches on the night [preceding] the fourteenth day [of Nisan], or[12] on the morning of the fourteenth, or[12] at the time for its removal.[13] But the Sages say, If a man has not searched etc.[14] — Rabbah answered, It is different with the new produce,

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(1) Even the dough that was rolled out by a gentile should also, Rabbinically, be subject to the dough-offering, for otherwise men might avoid the dough-offering by arranging that a gentile should roll out the dough.

(2) This is the minimum quantity of dough liable to the dough-offering. cf. ‘Er. 83b. ‘Ed. I, 2.

(3) Produce is not liable to the tithe unless (a) its preparation has been finished, i.e. it has reached that stage when the pile of grain has been smoothed off, and (b) it is brought, when finished, into the house or store-room in the usual manner, i.e., through the door. Otherwise it is not liable, and a man's cattle may eat of it at all times, and even the man himself may eat of it casually. In this case, therefore, the produce is not liable to the tithe at all, since it was brought into the house with the chaff, i.e., unfinished, or it was brought in in an unusual manner.

(4) Concerning terumah.

(5) To resort to the device mentioned above, for it would be obvious to all what his purpose was; hence in order to avoid giving terumah he would have to resort to the subterfuge of transferring the produce to a gentile that he should smooth the pile. The Rabbis therefore decreed that this act of the gentile should not exempt it from terumah.
(6) With regard to the dough.
(7) To bake the dough in small quantities; so that he would not have to resort to the subterfuge of transferring the dough to a gentile that he should roll it out in order to be exempt from the dough-offering.
(8) I.e., the person chosen for this service, not necessarily a priest, for only the taking out of the handful and the services subsequent thereto had to be performed by a priest.
(9) A part of the log of oil was first poured into the vessel and then the flour was put in, thereafter more oil was poured in and the whole was mingled together, and finally the remainder of the oil was poured in. V. infra 74b;
(10) For the produce that is now sold in the market must have been reaped before the offering of the ‘Omer, and this in most cases is forbidden, v. infra 70a; moreover, even if it was the produce of those fields that may be reaped before the offering of the ‘Omer, v. infra 71a, it is to be feared, according to R. Meir, that the people whilst reaping would eat of it.
(11) And it is not to be feared lest the people eat of it whilst reaping, since they are accustomed to abstain from the new produce until the offering of the ‘Omer.
(12) I.e., if he did not search for leaven on the first mentioned time he must search for it on the second time stated or the third.
(13) At the sixth hour of the fourteenth day. After this, however, he must not make the search for leaven, since it is to be feared that during his search if he finds any leaven he might eat it and so transgress the law. This view clearly contradicts that expressed by R. Judah in our Mishnah.
(14) Pes. 10b.

Talmud - Mas. Menachoth 68a

for since you have only permitted a man to pluck [the corn with the hand],[1] he would remember.[2] Said Abaye to him: This is satisfactory with regard to reaping, but what about the grinding and the sifting?[3] — This is really no difficulty, for the grinding could be done in a hand-mill, and the sifting on the back of the sieve. But what is to be said of irrigated fields where reaping is permitted, for we have learnt: One may reap [before the ‘Omer the corn] in irrigated fields in the plain, but one may not stack it?[4] — Abaye therefore answered thus, From the new produce a man is accustomed to abstain,[5] but from leaven he is not accustomed to abstain.[6] Said Raba, Is there only a contradiction between the views of R. Judah and not between the views of the Rabbis?[7] — Raba therefore answered, There is no contradiction between the views of R. Judah. as we have already answered;[8] and there is also no contradiction between the views of the Rabbis, for the sole purpose of his searching [for leaven] is in order to burn it, would he then eat of it?[9] R. Ashi said, There is no contradiction between the views of R. Judah, because our Mishnah speaks of MEAL AND PARCHED CORN.[10] But this statement of R. Ashi is beside the mark;[11] for this is very well when the corn has been parched, but what can be said for the time before the corn has been parched?[12] Should you say that here too the corn will only be plucked,[13] as Rabbah suggested above, then it will be asked, What is to be said in the case of an irrigated field where reaping is permitted? We must therefore say that R. Ashi's statement is beside the mark.

MISHNAH. AFTER THE ‘OMER WAS OFFERED THE NEW CORN WAS PERMITTED FORTHWITH; BUT FOR THOSE THAT LIVED FAR OFF[14] IT WAS PERMITTED ONLY AFTER MIDDAY. AFTER THE TEMPLE WAS DESTROYED R. JOHANAN B. ZAKKAI ORDAINED THAT IT SHOULD BE FORBIDDEN THROUGHOUT THE DAY OF THE WAVING.[15] R. JUDAH SAID, IS IT NOT SO FORBIDDEN BY THE LAW OF THE TORAH, FOR IT IS WRITTEN, UNTIL THIS SELFSAME DAY?[16] WHEREFORE WAS IT PERMITTED FOR THEM THAT LIVED FAR OFF IMMEDIATELY AFTER MIDDAY?[17] BECAUSE THEY KNOW THAT THE BETH DIN ARE NOT DILATORY THEREWITH.

GEMARA. Rab and Samuel both stated that when the Temple stood the offering of the ‘Omer rendered [the new corn] permitted, and when the Temple was no more the daybreak [of the sixteenth day] rendered it permitted. What is the reason for this? Because two expressions are written; it is written, Until ye have brought,[18] and also, Until this selfsame day.[18] How are they to be reconciled? The former refers to the time when the Temple stood, the other to the time when the Temple was no more. R. Johanan and Resh Lakish both stated that even when the Temple stood the daybreak [of the sixteenth day] rendered it permitted. But is it not written also, Until ye have brought? — This is only a recommendation.[19] [But have we not learnt:] AFTER THE ‘OMER WAS OFFERED THE NEW CORN WAS PERMITTED FORTHWITH?[20] — This, too, is only a recommendation. [And have we not learnt:] The ‘Omer rendered the new corn permitted throughout the land and the Two Loaves rendered it permitted in the Temple?[21] — This. too, is only a recommendation.

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(1) But not to reap it in the ordinary manner with a sickle.

(2) Not to eat thereof whilst plucking the corn.

(3) What restriction or change from the usual manner in these works is suggested to remind him that it is new produce with which he is working and so abstain from eating thereof?

(4) Infra 71a.

(5) For he has not eaten of it the whole year round.

(6) As he has been eating it until this day, he might forget himself and eat of it when he is forbidden so to do.

(7) Of course there is a contradiction between the views of the Sages! More correctly the contradiction is between the view of R. Meir, the opponent of R. Judah, in our Mishnah, according to which we must apprehend the danger of one eating of the new corn while reaping it, and the view of the Sages, also the opponents of R. Judah, in the Mishnah in Pes., according to which view a man, if he had not made any search for leaven before the Festival, must search for it during the Festival whenever he reminds himself of it, and there is no fear that he will eat any leaven that he finds.

(8) The answer suggested by Abaye.

(9) Of course not; hence there is no reason to be apprehensive.

(10) קמח קלי, and these are not fit to be eaten as they are, uncooked. Apparently PARCHED CORN in the Mishnah means meal prepared from parched ears of corn; so Rashi and R. Gershom. A variant of this expression in the Mishnah is קמח קלי ‘meal of parched corn’.

(11) ברותא; var. בדותא V. B.M., Sonc. ed., p. 47. n. 1.

(12) When the ears of corn are fit for eating.

(13) By the hand and not reaped, and this will serve as a reminder not to eat of it.

(14) Those that dwell outside Jerusalem and do not know whether the ‘Omer has already been offered or not.

(15) I.e., the day on which the ‘Omer was offered, which included the rite of waving, namely the sixteenth day of Nisan.

(16) Lev. XXIII, 14. R. Judah takes the view that the term ‘until’ is inclusive, accordingly the whole of this day is forbidden. R. Judah

(17) This question refers to Temple times. Perhaps the ‘Omer will not have been offered by midday, why then are those far off permitted immediately after midday?

(18) Lev. XXIII, 14.

(19) It is proper to abstain from the new corn until the offering of the ‘Omer, but there is no transgression if one did not observe this rule.

(20) But surely not before the offering of the ‘Omer.

(21) infra 68b.

Talmud - Mas. Menachoth 68b

But we have learnt: AFTER THE TEMPLE WAS DESTROYED R. JOHANAN B. ZAKKAI ORDAINED THAT IT SHOULD BE FORBIDDEN THROUGHOUT THE DAY OF THE WAVING. What is the reason? The Temple may speedily be rebuilt and people would then say, ‘Did we not eat last year [of the new corn] immediately at the daybreak [of the sixteenth day]? This year too we shall eat it [from the same time]’, but they will not realize that last year when there was

admits, however, that this was the law only after the destruction of the Temple, but during Temple times it was permitted immediately after the ‘Omer was offered. no ‘Omer-offering the daybreak rendered it permitted, but now that there is an ‘Omer-offering it is only the ‘Omer-offering that renders it permitted.[1] Now if it is only a recommendation to do so, would we impose a restriction on account of a recommendation only? — R. Nahman b. Isaac said that R. Johanan b. Zakkai ruled in accordance with the view enunciated by R. Judah who said that it[2] is forbidden by the law of the Torah, for it is written, ‘Until this selfsame day’, that is, until this very day itself, and he is also of the opinion that the expression ‘until’ is inclusive.[3] But does [R. Johanan b. Zakkai] concur with him [R. Judah]? Do they not in fact disagree? for we have learnt: AFTER THE TEMPLE WAS DESTROYED R. JOHANAN B. ZAKKAI ORDAINED THAT IT SHOULD BE FORBIDDEN THROUGHOUT THE DAY OF THE WAVING. R. JUDAH SAID, IS IT NOT SO FORBIDDEN BY THE LAW OF THE TORAH, FOR IT IS WRITTEN, UNTIL THIS SELFSAME DAY? — R. Judah misunderstood [the other's view]; he thought that R. Johanan b. Zakkai regarded the prohibition as Rabbinic, but in fact it was not so; he meant it as a prohibition by the law of the Torah. But does not our Mishnah say ‘ORDAINED’? — ‘ORDAINED’ means, he expounded [the verse] and established the law accordingly.

R. Papa and R. Huna the son of R. Joshua used to eat the new corn on the night of the sixteenth day which is really the beginning[4] of the seventeenth day, for they hold the view that the prohibition of the new corn outside the land [of Israel] is only Rabbinical[5] and that the doubt[6] need not be taken into account. The Rabbis of the school of R. Ashi used to eat it on the morning of the seventeenth, for they hold that the prohibition of the new corn outside the land of Israel is Biblical,[5] but that the ruling of R. Johanan b. Zakkai was only a Rabbinic ordinance; and this ordinance, they maintain, was intended to apply only to the actual day of the waving but not to the day of doubt.[7] Rabina said, ‘My mother told me that your father did not eat of the new corn until the night of the seventeenth which is the beginning of the eighteenth, for he is of the same opinion as R. Judah[8] and also takes into account the day of doubt’.

MISHNAH. THE ‘OMER RENDERED [THE NEW CORN] PERMITTED THROUGHOUT THE LAND, AND THE TWO LOAVES[9] RENDERED IT PERMITTED IN THE TEMPLE.[10] ONE MAY NOT OFFER MEAL-OFFERINGS,[11] FIRST-FRUITS, OR MEAL-OFFERINGS THAT ACCOMPANY ANIMAL OFFERINGS, BEFORE THE ‘OMER; AND IF ONE DID SO, IT WAS INVALID. NOR MAY ONE OFFER THESE BEFORE THE TWO LOAVES; BUT IF ONE DID SO IT WAS VALID.

GEMARA. R. Tarfon was sitting and asked this question: What [is the reason for the difference in law] between [what is offered] before the ‘Omer and [what is offered] before the Two Loaves?[12] Said Judah b. Nehemiah before him, No; you can say [that what is offered] before the ‘Omer [is invalid]. for the prohibition [of the new corn] does not admit of any exception to the private individual,[13] but can you say so [of what is offered] before the Two Loaves, seeing that the prohibition does admit of an exception to the private individual?[14] R. Tarfon remained silent, and at once the face of Judah b. Nehemiah brightened with joy. Thereupon R. Akiba said to him, ‘Judah. your face has brightened with joy because you have refuted the Sage; I wonder whether you will live long’ — Said R. Judah b. Ila'i, ‘This happened a fortnight before the Passover,[15] and when I came up for the ‘Azereth[16] festival I enquired after Judah b. Nehemiah and was told that he had passed away’.

R. Nahman b. Isaac said, According to the view of Judah b. Nehemiah,if drink-offerings [of wine], made from the first-fruits which ripened [before the ‘Omer], were offered before the ‘Omer, they are valid,[17] Is not this obvious?- [No.] for you might argue that only in that case[18] [is the offering valid], because the prohibition[19] admits of an exception to the individual, but not in this case where the prohibition does not admit of any exception; he therefore teaches us that it is all the more so in this case where there is no prohibition at all![20]

(Mnemonic: Order. In bud. Dung. Elephant.)[21] Rami b. Hama raised the question: Do the Two Loaves render permitted when not in the usual order?[22] What are the circumstances?-For instance, corn was sown [in the period] between the offering of the ‘Omer and the Two Loaves, and then the time of the offering of the Two Loaves and the [next] ‘Omer passed by. Shall we say that they [the Two Loaves] render permitted only in the usual order but not when not in the usual order, or that they render permitted even when not in the usual order? Rabbah said, Come and hear: The verse, And if thou bring a meal-offering of first-fruits.[23] refers to the meal-offering of the ‘Omer. Of what was it offered? Of barley. You say ‘of barley’. but perhaps it is not so but rather of wheat! Said R. Eliezer, The expression ‘in the ear’[24] is stated In regard to [the incidents in] Egypt, and the expression ‘in the ear’[23] is also stated [as an ordinance] for generations: just as ‘in the ear’ stated in regard to [the incidents in] Egypt referred to barley,[24] so ‘in the ear’ stated [as an ordinance] for generations refers to barley. R. Akiba said, We find that an individual must offer wheat as an obligation[25] and also barley as an obligation;[26] likewise we find that the community must offer wheat as an obligation and also barley as an obligation. Should you say. therefore, that the ‘Omer was offered of wheat, then we do not find a case when the community must offer barley as an obligation! Another explanation: Should you say that the ‘Omer was offered of wheat, then the Two Loaves would not be the first-fruits![27] Now if it is right to say that the Two Loaves render permitted even when not in the usual order, then why do you say that the Two Loaves would not be the first-fruits? It can happen that the ‘Omer is offered — of that corn which had taken root before the offering of the Two Loaves but after last year's ‘Omer, and the Two Loaves of that corn which had taken root before this year's ‘Omer[28] but after

of the ‘Omer and then the period of the Two Loaves. The question here raised is whether the corn is always permitted for meal-offerings after the passing of these two periods, irrespective of their sequence. or not. last year's Two Loaves!-Do you think

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(1) V. R.H. 36b.

(2) After the destruction of the Temple the new corn is forbidden the whole of the sixteenth day of Nisan by Biblical injunction.

(3) Of the terminus of the prohibition; so that the new corn is forbidden the whole of the sixteenth day and is only permitted on the following day.

(4) Lit., ‘light’.

(5) V. Kid. 37a.

(6) Owing to the absence of a fixed calendar the duration of a month varied between twenty-nine and thirty days; consequently the day that is regarded as the seventeenth of the month may really be the sixteenth, if the preceding month consisted of thirty days.

(7) Accordingly after daybreak on the seventeenth day the new corn is permitted.

(8) First that the prohibition of the new corn outside the land of Israel is Biblical, and secondly, that the prohibition during the day of the waving of the ‘Omer is also Biblical.

(9) Offered on the Feast of Weeks, cf. Lev. XXIII, 17.

(10) The new corn may henceforth be used for meal-offerings. The Two Loaves were to be the first offering from the new corn, as it is written, And ye shall present a new meal-offering unto the Lord, ibid. 16.

(11) Of new corn.

(12) Why is it that in the former case the offering is invalid and in the latter valid?

(13) For before the ‘Omer the new corn is forbidden to all without exception.

(14) For after the ‘Omer an individual may enjoy the new corn and the prohibition is restricted to the Temple only.

(15) Lit., ‘that time was half the period (of preparation) for the Passover’; the period of preparation for the Passover being thirty days. v. Pes. 6a.

(16) The Feast of Weeks, v. supra p. 385. n. 5.

(17) According to the reasoning advanced by Judah b. Nehemiah, that where the prohibition of the new corn admits of an exception to the individual whatsoever is offered before the prohibition has been absolutely raised is valid, these drink-offerings are certainly valid, for the prohibition of the new produce not only admits of an exception but does not apply at all, as it applies only to corn and not to fruits. It must now be observed that the FIRST-FRUITS mentioned In our Mishnah, which may not be offered before the ‘Omer, clearly refer to the species of corn that are included in the first-fruits and not to fruits.

(18) Sc. where meal-offerings are offered before the Two Loaves.

(19) Sc. of the new corn.

(20) For the new season wine or fruits are not prohibited before the ‘Omer.

(21) These are the four subjects of the questions raised by Rami b. Hama in this passage.

(22) In the ordinary course corn is sown some time before the offering of the ‘Omer, so that before the corn is permitted for use as meal-offerings (i.e., after the offering of the Two Loaves) the two periods affecting corn have passed by in the normal sequence, namely. first the period

(23) Lev. II, 14.

(24) Ex. IX, 31.

(25) In ordinary meal-offerings.

(26) In the meal-offering of a woman suspected of adultery; cf. Num. V, 15.

(27) The Two Loaves, termed ‘first-fruits’ (Lev. XXIII, 17), were intended to be the first meal-offering of wheat of the year. This, however, would not be the case if the ‘Omer were offered of wheat.

(28) It must here be assumed that wheat was sown at two periods during the one year; first, after the ‘Omer but

Talmud - Mas. Menachoth 69a

that we require [the Two Loaves] to be the first-fruits of any particular fruit?[1] [No.] we require them to be the first-fruits of the altar,[2] and in this case the altar has consumed of this year's produce.[3] Rami b. Hama raised the question. Do [the Two Loaves] permit what is in bud[4] or only what is in distinct formation?[5] What is meant by ‘in bud’ and what by ‘distinct formation’? Shall I say [that it means] the budding of the fruit and the distinct formation of the fruit? But surely if they permit [corn] which has only taken root, they will certainly permit fruits which are in bud or are distinctly formed! — Rather [we must say that it means] the budding of the leaves and the distinct formation of the leaves; and the question is: which of these stages corresponds to the taking root[6] [of corn]?-This remains unanswered.

before the Two Loaves; and a second time, after the Two Loaves. Now the wheat of the first sowing could be used for the next ‘Omer, and thereafter all the wheat of that sowing would be permitted, for it is now held that grain over which there have passed the two periods, even though not in the usual sequence (for here the Two Loaves passed by it first), is permitted; and the wheat of the second sowing would be used for the Two Loaves, which would truly be first-fruits, as this crop of wheat has not been used before. The fact the Tanna does not accept this position proves that the grain is not permitted unless the various periods pass by it in the proper sequence; so that, in the above case, the grain of the first sowing would not be permitted until after the Two Loaves had been offered; and as the wheat of this sowing was offered for the ‘Omer the offering of the Two Loaves would not be firstfruits.

Raba son of R. Hanan raised the question, Does the ‘Omer permit the wheat that is sown in the soil or not?- But what are the circumstances? If it took root,[7] we have learnt it; and if not, we have also learnt it. For we learnt: If they had taken root before the ‘Omer, the ‘Omer permits them; and if not, they are forbidden until the next [year's] ‘Omer.[8] — The case must be that one reaped [the wheat] and resowed [the grains] before the ‘Omer, and then the ‘Omer came and went by;[9] and the question is: may one take them[10] out and eat them, for they are regarded as though they were lying in a pitcher, and the Omer has rendered them permitted; or perhaps they have become assimilated to the soil?[11] Does the law of overreaching apply to it[12] or not?[13] — But what are the circumstances? Shall we say that he[14] said, ‘I cast therein six [measures of grain]’, and witnesses came forward and testified that he cast therein but five? But Raba has said, On account of any fraud in measure, weight or number, even though it is less than the standard of overreaching, one can retract![15] -The case must be that he[14] said, ‘I cast therein as much as was necessary’, but witnesses came forward and testified that he did not cast therein as much as was necessary. Now the question is this: does the law of overreaching apply to it, for it is as though it were lying in a pitcher;[16] or perhaps it has become assimilated to the soil?[17]

Is an oath taken concerning it or not?[18] Is it as though it were lying in a pitcher, so that it is regarded as movables and an oath must be taken on account of it; or perhaps it has become assimilated to the soil, so that it is regarded as land and no oath may be taken on account of it? — These questions remain unanswered. Rami b. Hama raised the question. What is the position with regard to the grains of wheat found in cattle dung or the grains of barley found in animal dung? — In what connection does this question arise? If you say in connection with their suffering food uncleanness, but we have learnt it: Grains of wheat found in cattle dung or grains of barley found in animal dung, even though one intended them as food, do not suffer food uncleanness; if one intended them as food for a child, they do suffer food uncleanness.[19] And if you say in connection with meal-offerings, but it is obvious [that they may not be used for this purpose]; Present it now unto thy governor; will he be pleased with thee? or will he accept thy person?[20] — The case can only arise where one gathered [these grains] and sowed them, and one now wishes to bring [out of the new growth] a meal-offering. Is it on account of repulsiveness [that they must not be used for meal-offerings], but when they have been sown their repulsiveness is gone;[21] or is it on account of their leanness,[22] and now, too, they are lean?-The question remains undecided.

Rami b. Hama raised the question. What is the law if an elephant swallowed an osier basket and passed it out with its excrement? In what connection does the question arise? If you say with regard to the annulment of its uncleanness,[23] but we have learnt it: All articles are rendered susceptible to uncleanness through intention.[24] and divest themselves of their uncleanness only by an act which changes them![25] -The case must be that it swallowed twigs and [the twigs when passed out] were made into an osier basket, and the question is: are [the twigs] regarded as ‘digested’ so that now [what is made from them is accounted]

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(1) And therefore as long as no corn of any particular sowing has been used in the Temple it is suitable for the Two Loaves as first-fruits.

(2) I.e., the first-fruits of the year's produce to be offered on the altar.

(3) For the wheat used for the ‘Omer was of this year's produce even though of an earlier sowing.

(4) I.e., only such fruits which were in bud at the time of the offering of the Two Loaves may be brought later by an individual as first-fruits, but not those which were not in bud at that time.

(5) Only the fruit which had shown a distinct shape at the time of the offering of the Two Loaves may be brought later as first-fruits, but not those which were only in bud then.

(6) Does the budding of the leaves correspond to the taking root of corn, or is it only the later stage vis., the formation of the leaves that corresponds to it?

(7) And the question is whether the growth is permitted by the ‘Omer or not.

(8) Infra 70a.

(9) Had the grain not been resown it would certainly have been permitted by the ‘Omer; it had been resown, however, a short while before the ‘Omer and it had not taken root at the time of the ‘Omer.

(10) Sc. the actual grains of wheat that were sown.

(11) And they are regarded now as a new growth, which will not be permitted until the next year's ‘Omer.

(12) Wheat sown in the soil.

(13) The general rule of overreaching is: If in any transaction an error is made which is less than a sixth of the value of the goods, the transaction must stand; if it is more than a sixth it is void; if exactly a sixth it is valid but the amount of error must be returned. V.B.M. 50b. It is, however, established (B.M. 56a) that the law of overreaching does not apply to land. The case under consideration is this: where a man undertakes to sow another's field with wheat, he having to supply the wheat, is the transaction one of land or of movables?

(14) Sc. the contractor.

(15) Where the goods are short either in measure, weight or number, one can retract even though the shortage is less than a sixth; v. B.M. 56b; Kid. 42b.

(16) And it is a transaction of movables.

(17) And as the law of overreaching does not apply to the soil it neither applies to the wheat sown.

(18) I.e., concerning the wheat that had been sown. It is established (B.M. 56a) that no oath is imposed concerning transactions of land; the question therefore is whether any claim concerning the wheat sown is regarded as one affecting land or not.

(19) Tosef. Toh. IX.

(20) Mal. I, 8.

(21) Accordingly the new growth may be offered as meal-offerings.

(22) Since the grains have passed through the digestive organs of the animal they are regarded as emaciated and dry, having lost all their sap; so that when sown they could only produce a meagre and lean crop, unsuitable for offerings.

(23) I.e.,the basket was unclean before it was swallowed, and it is suggested that now it should be regarded as clean, having divested itself of its uncleanness.

(24) The intention of a person to use an article in its present state for some purpose (even though the article normally serves another purpose and for that purpose the article is not yet complete) makes it susceptible to contract uncleanness. E.g.. a hide is normally used for the making of shoes, so that before it is made into shoes it will not contract uncleanness. If, however, a man intended to use the hide, as it is now, for a mattress or a table cover, it thereby becomes susceptible to contract uncleanness.

(25) An article that is already unclean loses its uncleanness only if its structure has changed; e.g.. if it is broken. (Kel. XXV, 9. Shab. 52b; Suk. 13b; Kid. 59a). In the case in question, since the basket is unchanged it still retains its uncleanness.

Talmud - Mas. Menachoth 69b

as a vessel made from cattle dung or from earth, which does not contract uncleanness, for the Master has stated, Vessels made from stone, from cattle dung or from earth do not contract uncleanness, either by Biblical or by Rabbinical law;[1] or perhaps they are not regarded as ‘digested’?[2] — But surely the question can be solved from the following statement of ‘Ulla which he reported in the name of R. Simeon b. Jehozadak: It once happened that wolves devoured two children beyond the Jordan and they discharged them through the excretory canal; and when the fact came before the Sages they declared the [excreted] flesh as clean![3] Flesh is different for it is tender. Then let it be solved from the next line: And they declared the [excreted] bones as unclean! — Bones are different for they are exceptionally hard.[4] R. Zera raised the question. What is the law with regard to wheat which fell from the clouds?-In what connection is the question raised? If [the question is raised as to its use] for meal-offerings, but why should it not be used? — It is raised in connection with the Two Loaves: [shall we say that] the Divine Law stated, Out of your dwellings.[5] to exclude what comes from outside the land [of Israel], but what comes from the clouds would be permitted; or perhaps Scripture restricted it exclusively [to what comes] out of your dwellings, so that what comes from the clouds would also not [be permitted]? But can it ever happen so?[6] Indeed yes, for there once came down [from the clouds] to Bar ‘Adi, the Arab, [a layer of wheat] the height of a handsbreadth[7] over an area of three parasangs.

R. Simeon b. Pazzi raised the question, What is the law if an ear of corn, which had reached a third of its growth before the ‘Omer, had been plucked out [before the ‘Omer] and was replanted after the ‘Omer when it increased its growth? Do we have regard to the stock [of the corn], and that was rendered permitted by the ‘Omer; or do we have regard to the increase, and that [will be permitted] only after next year's ‘Omer? — But surely the question can be solved from the following statement of R. Abbahu which he said in the name of R. Johanan: If a young shoot[8] laden with fruit was grafted on to an old tree, even if [the fruit had as a result] increased two hundredfold.[9] it is still forbidden.[10] Furthermore. R. Samuel b. Nahmani said in the name of R. Jonathan, If an onion was planted in a vineyard.[11] and the vineyard was later uprooted, even though [the onion had thereafter] increased two hundredfold, it is still forbidden?[10] -It was [those very rulings][12] which caused him to raise the question. Were those Rabbis[13] certain of the ruling that we have regard to the stock, and they would apply it to all cases whether it would lead to leniency[14] or stringency;[15] or perhaps they were in doubt about it, so that they applied it only to those cases which lead to stringency but not to those which lead to leniency? — This remains undecided. Raba raised the question. What is the position with regard to tithing? In what circumstances? Where, for example,

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(1) Shab. 58a. Cf. Kel. X, I.

(2) So that the basket can contract uncleanness.

(3) For it is regarded as digested. V. Ta'an. 22b.

(4) The question, however, still remains as regards ordinary articles that were swallowed and passed out again, whether they are to be regarded as digested or not.

(5) Lev. XXIII, 27, in connection with the Two Loaves.

(6) That wheat should fall from the clouds.

(7) The meaning and etymology of כיזבא(var. ניזבא, v. D.S.) is unknown.

(8) I.e., less than three years old, the fruit of which is ‘orlah(v. Glos.) and is forbidden; cf. Lev. XIX, 23ff.

(9) And generally ‘orlah is neutralized and nullified by such an increase. V. Pes. 48a.

(10) Since the increase is only an addition to the stock, no matter in what proportion it is to the stock, it will never nullify it. V. Ned. 57b. Hence it is seen that we have regard mainly to the stock.

(11) This has rendered the entire vineyard, the onion as well as the vines, forbidden as kil'ayim, ‘diverse kinds in the vineyard’; cf Lev. XIX, 19; Deut. XXII, 9.

(12) Sc. the ruling in each of the quoted statements

(13) Sc.R. Abbahu and R. Samuel b. Nahmani.

(14) As in the case put by R. Simeon b. Pazzi; for if we apply the rule that we have regard to the stock the result is that the corn is permitted by this year's ‘Omer.

(15) As in the cases quoted by these Rabbis, i.e., in respect of ‘orlah and kil'ayim.

Talmud - Mas. Menachoth 70a

the ears of corn were tithed by conjectural estimate and the rest was resown and had increased in growth.[1] And should you say that [in this case] we have no regard to the stock,[2] so that the increase must be tithed, the question will remain, What about the stock itself?[3] -Said to him Abaye, Wherein does this differ from ordinary wheat and barley?[4] — He replied. In those cases where the seed decays I have no doubt at all;[5] my question only refers to the case where what was sown does not decay.[6] What is then the position with regard to this? — But surely this can be solved from the following statement of R. Isaac which he said in the name of R. Johanan: If a litra[7] of onions was tithed[8] and then replanted, the tithe must again be taken from the whole [of the growth]![9] — In this case it is the usual manner of planting.[10] but in the former case that is not the usual manner of sowing.[11] R. Hanina b. Manyomi put the following to Abaye. What is the law with regard to the growth in a plant-pot that was not perforated?[12] — But surely if it is not perforated, it is not perforated![13] Perhaps you refer to an unperforated pot which was later perforated![14] -Here there is but one sowing and it has now become joined [to the earth] and is growing up,[15] whereas in the other case there were two sowings![16]

R. Abbahu raised this question. What is the law if an ear of corn, which had been in the pile when it was smoothed off,[17] had been replanted and designated [as terumah][18] when attached [to the soil]? Do we say that since it was in the pile when it was smoothed off it then became tebel,[19] and therefore when it is later designated [as terumah, even though attached to the soil], it is consecrated [as terumah]; or perhaps since it was replanted its tebel state has passed? — The Rabbis thereupon said to Abaye, If [we say] so,[20] then we find produce that is attached to the soil consecrated as terumah, and we have learnt: We do not find produce that is attached to the soil consecrated as terumah![21] — He replied. That was taught only in connection with the liability of death[22] [at the hands of Heaven] and the payment of the added fifth.[22] For if one plucked it[23] out and ate it, one has then eaten what was detached from soil; and if one bent down and ate it, that act runs counter to the acts of men.[24]

Wherein is this case[25] different from that which is stated in Ilfa's note-book, viz., As regards the eggs that were partly out-, side the carcass of a clean bird and partly inside,[26] the inside part[27] renders unclean whilst it is in the gullet the clothes [of him that eats it];[28] but the outside part does not render unclean whilst it is in the gullet the clothes [of him that eats it]!-What is not attached [to the soil] people sometimes eat in this [unusual] manner, but what is attached to the soil people do not eat in that manner.[29]

R. Tabyomi[30] b. Kisna said in the name of Samuel, If a man sowed diverse seeds in an unperforated plant-pot, it is forbidden. Said Abaye, It is well if he were to teach us that the man suffers the Rabbinic penalty of chastisement;[31] but what does he teach us by saying ‘It is forbidden’? That Rabbinically it is regarded as a sowing? Surely this we have already learnt: If a man set aside as terumah that which grew in an unperforated pot for that which grew in a perforated pot, [what has been set aside is accounted as] terumah, yet he must give the terumah afresh.[32]

MISHNAH. WHEAT, BARLEY, SPELT, OATS AND RYE ARE SUBJECT TO THE DOUGH-OFFERING; AND THEY CAN BE RECKONED TOGETHER.[33] THEY ARE FORBIDDEN [TO BE EATEN] AS NEW PRODUCE BEFORE THE ‘OMER,[34] AND THEY MAY NOT BE REAPED BEFORE THE PASSOVER.[34] IF THEY HAD TAKEN ROOT BEFORE THE ‘OMER, THE ‘OMER RENDERS THEM PERMITTED; OTHERWISE THEY ARE FORBIDDEN UNTIL THE NEXT YEAR'S ‘OMER.

GEMARA. A Tanna taught: Kusmin[35] [spelt] is a species of wheat;[36] shibboleth shu'al[37] [oats] and shipon[38] [rye] are species of barley. Kusmin

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(1) The question therefore is: Must that increase, over and above the stock that was resown, be tithed, or is it exempt by reason of the original tithing of the stock?

(2) For otherwise it would result in a lenient ruling exempting the increase from tithing.

(3) Must the stock which was resown be tithed again or not?

(4) Which have been tithed, nevertheless when sown the produce thereof must undoubtedly be tithed again.

(5) The growth must then certainly be tithed, even though the seed had been tithed before sowing, for the original seed has perished in the earth and now there is an entirely new growth.

(6) E.g., where the tithed ears of corn had been replanted and there is now a further increase upon them.

(7) A measure of capacity; the Roman libra, a pound.

(8) Lit., ‘prepared’; i.e., all the priestly dues were separated from it.

(9) I.e., both the stock and the increase. V. Ned. 57b. Similarly with the ears of corn, both the original ear and the increase must be tithed.

(10) Accordingly it must be tithed again.

(11) For the usual manner is to sow seeds and not to replant the ears of corn.

(12) It is assumed that the question is whether one may give as tithe produce grown in another unperforated pot for the produce grown in this unperforated pot. So Rashi and R. Gershom, but v. Sh. Mek. n. 3. It must be remembered that the produce grown in an unperforated plantpot is by Biblical law exempt from the tithe; cf. Demai V, 10.

(13) And both pots are strictly exempt from the tithe.

(14) And the question that he raises is whether one may give as tithe the earlier growth or the stock (i.e., which grew before the pot was perforated) for the later growth or the increase. If we say that we do not regard the stock as the main growth but that we must consider the increase too, then the latter (i.e., the later growth) must be tithed by law, so that the stock may not be given as tithe for the increase. On the other hand, if we regard the increase as the main growth then the entire growth, even the stock, must be tithed by law, and the one may therefore be given as tithe for the other. This question is, therefore, similar to that raised by Raba supra, when he enquired whether the ears of corn (i.e., the stock) when replanted had to be tithed or not. Var. lec. insert: He replied, Indeed so. Said he to him, Then it is the same question as that of Raba?-He replied.

(15) There was here but one sowing of seeds in the pot and no more, and with the perforation of the pot the entire growth now draws sustenance from the earth, so that it is right to regard the earlier and later growth as one for the purposes of tithing.

(16) In Raba's case, the ears of corn had been sown once, then tithed, and then resown. Consequently the stock and the increase are two distinct growths, hence the necessity of putting also this question.

(17) This is the stage when corn is subject to the duty of terumah, v. Ma'as. I, 6.

(18) V. Glos.

(19) I.e., subject to terumah and tithes; v. Glos.

(20) That it is consecrated as terumah even though attached to the soil.

(21) This is an established law though it is not found in any Mishnah or Baraitha, v. Marginal Gloss.

(22) If a non-priest deliberately eats terumah he incurs the penalty of death at the hands of Heaven, cf. Lev. XXII, 9; and if he eats it inadvertently, he must compensate the priest, adding thereto a fifth part of its value, cf. ibid.14. These laws, however, apply only to terumah that is detached from the soil. What is attached may still be terumah but the above penalties do not apply.

(23) Sc. the ear corn that was designated as terumah while still attached to the soil.

(24) Lit., ‘his mind is nullified by the side of every man’. It is not considered eating, and therefore does not involve any penalties. Punishment is incurred only when one eats forbidden foodstuffs in the normal way.

(25) Which does not regard the eating of corn which is still attached to the soil as an eating.

(26) E.g., the hen had died whilst in the act of laying the egg.

(27) I.e., if a person put his mouth into the carcass of the bird and from the inside ate the inner half of the egg. This unusual manner of eating is nevertheless considered eating.

(28) For the inside part is regarded as part of the carcass, and therefore whosoever eats it renders the clothes that he is wearing at the time unclean. This is the only kind of uncleanness that is stated in connection with the carcass of a clean bird; v. Sifra, Lev. XXII, 8.

(29) And if one did eat the corn whilst still attached to the soil it is not regarded as eating.

(30) MS.M. and Sh. Mek.: ‘R. Tobi’.

(31) For disobeying a Rabbinical ruling; since according to the Rabbis the sowing of seeds even in an unperforated pot is accounted as a sowing.

(32) Demai V, 10; Yeb. 89a; Kid. 46b.

(33) V. Gemara.

(34) So Rashi, R. Gershom, Tos. and Sh. Mek.; v. D.S. and notes ad loc. Cur. edd. transpose ‘OMER and ‘PASSOVER’ in this sentence.

(35) כוסמין.

(36) This was taught in connection with the dough-offering. If any dough consists of two different species of corn, each by itself not of sufficient quantity to be liable to the dough-offering, the two kinds will not combine to make the dough liable to the dough-offering. Wheat and kusmin, however, can be combined as they are both of the same kind. And so too with the others mentioned.

(37) שיבולת שועל.

(38) שיפון.

Talmud - Mas. Menachoth 70b

is gulba;[1] shipon is dishra;[1] shibboleth shu'al is foxtail.[2]

Only these[3] [are liable to the dough-offering]. but not rice or millet. Whence do we know it? — Said R. Simeon b. Lakish. It is deduced from the occurrence of the word ‘bread’ both here and in the law concerning unleavened bread; for it is written here, It shall be when ye eat of the bread of the land,[4] and it is written there,[5] The bread of affliction.[6] And whence do we know it there?[5] — Said Rash Lakish, and so it was taught in the School of R. Ishmael and also in the School of R. Eliezer b. Jacob: Scripture says, Thou shalt eat no leavened bread with it; seven days shalt thou eat unleavened bread therewith, even the bread of affliction;[6] with such grain as can come to the state of leaven a man fulfils his obligation[7] on the Passover; thus these are excluded, since they cannot come to the state of leaven but only to the state of decay.

AND THEY CAN BE RECKONED TOGETHER. A Tanna taught: Grain, flour and dough can be reckoned together. In what connection was this taught?R. Kahana said, In connection with the new produce.[8] R. Joseph said, In connection with leaven on the Passover.[9] R. Papa said, In connection with the Second Tithe, thus if one were to eat it[9] outside the wall [of Jerusalem] one would incur stripes. Raba said, In connection with food uncleanness, and it teaches us that grain and flour [in order to contract uncleanness] must be like dough: as the latter is every bit[10] a foodstuff so the former must be every bit a foodstuff.[11] And indeed it has been so taught: The grain of wheat, whether it is peeled or not, is reckoned together with other foodstuffs,[12] but the grain of barley is reckoned together with other foodstuffs[12] only when peeled but not when not peeled. But surely this is not so. For a Tanna of the School of R. Ishmael taught: It is written, Upon any sowing seed which is to be sown;[13] that is, seed such as men take out for sowing, namely wheat in its husk, barley in its husk, and lentils in their husks![14] — This is no difficulty; for the one speaks of fresh [seeds] whilst the other of dry [seeds].[15]

THEY ARE FORBIDDEN [TO BE EATEN] AS NEW PRODUCE BEFORE THE OMER.[16] Whence do we know it[17] -Said Resh Lakish, It is deduced from the occurrence of the word ‘bread’ both here and in the law concerning unleavened bread.[18]

AND THEY MAY NOT BE REAPED BEFORE THE PASSOVER.[16] Whence do we know it?[19] -Said R. Johanan. It is deduced from the occurrence of the word ‘first’ both here and in the law concerning the dough-offering.[20] What is meant by ‘[THEY ARE FORBIDDEN TO BE EATEN AS NEW PRODUCE] BEFORE THE ‘OMER’?-R. Jonah said, Before the reaping of the ‘Omer.[21] R. Jose b. Zabda said, Before the offering of the Omer.

We have learnt: THEY ARE FORBIDDEN [TO BE EATEN] AS NEW PRODUCE BEFORE THE OMER, AND THEY MAY NOT BE REAPED BEFORE THE PASSOVER. Now according to him who says ‘Before the offering of the ‘Omer’ it is evident why the two prohibitions are not stated together and taught as one;[22] but according to him who says ‘Before the reaping of the ‘Omer’, surely the two prohibitions should have been stated together and taught as one thus: They are forbidden [to be eaten] as new produce and they may not be reaped before the ‘Omer![23] — The fact is that if this dispute was reported it must have been reported in connection with the final clause [of Our Mishnah] which states, IF THEY HAD TAKEN ROOT BEFORE THE OMER, THE ‘OMER RENDERS THEM PERMITTED. What is meant by ‘BEFORE THE OMER’? R. Jonah said, Before the reaping[24] of the ‘Omer. R. Jose b. Zabda said, Before the offering[24] of the ‘Omer. R. Eleazar said

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(1) These are their names in Aramaic.

(2) Ears of corn with bushy spikes like a fox's tail.

(3) Sc. the kinds of grain enumerated in our Mishnah.

(4) Num. XV, 19.

(5) In connection with unleavened bread (mazzah).

(6) Deut. XVI, 3. And as only these five kinds of grain may be used for the unleavened bread, ‘the bread of affliction’, on the Passover, similarly only these kinds are liable to the dough-offering.

(7) By making unleavened bread therefrom.

(8) If one were to eat an olive's bulk of the new produce consisting of grain, flour and dough, one would be culpable.

(9) Cf. prev. note. mut. mut.

(10) Lit., ‘in its essence’.

(11) I.e, the grain must be peeled of its inedible husk, and the flour free from bran in order to contract food uncleanness.

(12) To make up the minimum quantity of an egg's bulk in order to contract food uncleanness. The husk of wheat, as it is edible, is counted with the grain, but that of barley is not. Indeed the husk of barley would even prevent the grain within from becoming unclean.

(13) Lev. XI, 37.

(14) V. Hul. 117b. Hence seeds in their husks are regarded as one entity for the purposes of food uncleanness.

(15) R. Ishmael speaks of fresh seeds, still moist, whose husks are edible, whereas the husks of dry seeds are inedible.

(16) V. supra p. 414, n. 5.

(17) That the prohibition of the new produce applies only to the five kinds of grain enumerated in our Mishnah.

(18) The word ‘bread’ occurs here with regard to the new produce (Lev. XXIII, 14: And ye shall eat neither bread nor parched corn) and also with regard to unleavened bread (Deut. XVI, 3: The bread of affliction). As the latter was to be made of these five kinds of grain only, so the prohibition of the new produce applies only to these five kinds.

(19) That the prohibition of reaping before the Passover applies only to the five kinds of grain enumerated in our Mishnah. It must be observed that this prohibition of reaping before the Passover is synonymous with the prohibition of reaping before the reaping of the ‘Omer, since reaping is a prohibited act on the Festival and immediately on the night after the first day of the Festival the reaping of the ‘Omer commenced.

(20) The word ‘first’ occurs here with regard to the reaping of the ‘Omer (Lev. XXIII, 10: The first of your reaping) and also with regard to the dough-offering (Num. XV, 20: The first of your dough). As the dough-offering applied only to these five kinds of grain so the prohibition of reaping before the ‘Omer applies only to these five kinds.

(21) But as soon as the ‘Omer was reaped, i.e., immediately on the morning after the first day of the Festival (for the ‘Omer was reaped at night at the termination of the Festival day v. supra p. 416, n. 7) it was permitted to eat the new produce, even before the offering of the Omer.

(22) For the two prohibitions are raised at different times, viz., that of reaping immediately after the reaping of the ‘Omer i.e., on the morning after the first day of the Festival, and that of eating the new produce only after the offering of the ‘Omer.

(23) So Rashi and some MSS. In cur. edd. ‘before the Passover’; v. Tosaf. s.v. מאי. The two prohibitions are raised at the same time viz., immediately after the reaping of the ‘Omer.

(24) So emended by Bir. Haz., thus in conformity with the report of the dispute stated above. Cur. edd. transpose ‘reaping’ and ‘offering’ in the respective views.

Talmud - Mas. Menachoth 71a

to R. Josiah his contemporary,[1] You are not to sit down[2] Until you have explained to me the following: Whence is it derived that the ‘Omer renders permitted that which has only taken root?[3] - [You ask whence? Surely it is derived from the expression ‘corn in the ear’,[4] from which it follows that there is that which is not yet in the ear[5] [which is permitted by the ‘Omer]. Perhaps [the inference is that there is] that which is not yet in the ear but which has reached a third of its growth [which is permitted by the ‘Omer![6] -Rather, said Samuel. [It is derived from the expression] ‘from the time you begin to put the sickle’,[7] from which it follows that there is that which is not yet fit for the sickle[5] [which is permitted by the ‘Omer]. But perhaps the inference is that there is that which is not yet fit for the sickle but which is at least fit for fodder [that is permitted by the ‘Omer]![6] -Rather, said R. Isaac, [It is derived from the expression] ‘to the standing corn.[7] from which it follows that there is that which is not yet standing corn[5] [which is permitted by the ‘Omer] — But perhaps the inference is that there is that which is not yet standing corn but which is at least in the grass stage [which is permitted by the ‘Omer]![6] -Rather. said Raba, [It is derived from the expression] ‘which thou sowest’,[8] that is from the time of sowing [it is permitted by the ‘Omer]. Said R. Papa to Raba, In that case, even though it had not taken-root [it should be permitted by the ‘Omer, should it not]?-He replied. You wise man,[9] it is written, In the field.[10]

MISHNAH. ONE MAY REAP [BEFORE THE ‘OMER THE CORN] IN IRRIGATED FIELDS[11] IN[12] THE PLAIN,[11] BUT ONE MAY NOT STACK IT. THE MEN OF JERICHO USED TO REAP [BEFORE THE ‘OMER] WITH THE APPROVAL OF THE SAGES,[13] AND USED TO STACK IT WITHOUT THE APPROVAL OF THE SAGES, BUT THEY DID NOT FORBID THEM.[14] ONE MAY REAP THE UNRIPE CORN[15] AND FEED CATTLE THEREWITH. SAID R. JUDAH, WHEN IS THIS SO? ONLY IF ONE HAD BEGUN TO REAP IT BEFORE IT HAD REACHED A

THIRD OF ITS GROWTH. R. SIMEON SAID, ONE MAY REAP IT AND FEED [CATTLE THEREWITH] EVEN AFTER IT HAS REACHED A THIRD OF ITS GROWTH. ONE MAY REAP ON ACCOUNT OF THE SAPLINGS[16] OR [IN ORDER TO MAKE AN OPEN SPACE] FOR THE MOURNERS[17] OR THAT THE BETH HAMIDRASH BE NOT HINDERED.[18] ONE MAY NOT BIND THEM[19] IN BUNDLES BUT THEY MUST BE LEFT IN SMALL HEAPS. THE PRECEPT[20] OF THE ‘OMER IS THAT IT SHALL BE BROUGHT FROM THE STANDING CORN;[21] IF THIS CANNOT BE FOUND IT MAY BE BROUGHT FROM THE SHEAVES. THE PRECEPT IS THAT IT SHALL BE BROUGHT FROM THE FRESH CORN;[22] IF THIS CANNOT BE FOUND IT MAY BE BROUGHT FROM THE DRY CORN. THE PRECEPT IS THAT IT SHALL BE REAPED BY NIGHT; IF IT WAS REAPED BY DAY IT IS VALID. MOREOVER IT[23] OVERRIDES THE SABBATH.

GEMARA. It was taught: R. Benjamin says, The verse says, When ye shall reap the harvest thereof, then shall ye bring the sheaf.[24] and following that it says, The first of your reaping unto the priest.[25] How is it to be explained? Thus, the field from which you may bring [the ‘Omer] you may not reap [before the ‘Omer]. but that field from which you may not bring[26] [the ‘Omer] you may reap [before the ‘Omer]. Perhaps I ought to say this: that kind of grain from which you may bring[27] [the ‘Omer] you may not reap [before the ‘Omer], but that kind from which you may not bring [the ‘Omer] you may reap [before the ‘Omer]! — You cannot say so on account of R. Johanan's teaching.[28]

THE MEN OF JERICHO USED TO REAP [BEFORE THE ‘OMER] WITH THE APPROVAL OF THE SAGES, AND USED TO STACK IT WITHOUT THE APPROVAL OF THE SAGES etc. Whom have you heard say that [in certain cases] they [the Sages] forbade them[29] and [in others] they did not forbid them? [Clearly it is R. Judah.[30] Is then R. Judah of the opinion that with regard to reaping [before the ‘Omer] the men of Jericho acted with the approval of the Sages? But it has been taught:[31] The men of Jericho did six things: three with the approval of the Sages and three without their approval. These they did with the approval of the Sages: they grafted palms the whole day.[32] they ‘rolled up’ the Shema’,[33] and they reaped before the ‘Omer. And these they did without the approval of the Sages: they stacked the corn before the ‘Omer, they permitted for use the branches of carob and sycamore trees which had been dedicated to the Temple,[34] and they made breaches in their gardens and orchards so as to allow the poor to [come in and] eat the fallen fruit on Sabbaths and Festivals in years of drought.[35] So R. Meir. Then said R. Judah to him, If they did them with the approval of the Sages then all people could do so! But they did both without the approval of the Sages, save that three they forbade them and three they did not forbid them to do. These they did not forbid them: they grafted palms the whole day. they ‘rolled up’ the Shema’, and they reaped and stacked before the ‘Omer. And these they forbade them:

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(1) An Amora of the third century. It is intended thereby to exclude the Tanna of that name who lived in the second century.

(2) Lit., ‘sit on your legs’ with reference to their custom of sitting on the ground with the legs crossed under them

(3) At the time of the ‘Omer. Even though the seed had not broken through the earth it is still rendered permitted by the ‘Omer.

(4) Lev. II, 14. This only shall be taken for the ‘Omer-offering, though what has not reached this stage is nevertheless permitted by the ‘Omer.

(5) I.e., which has only taken root.

(6) But that which has only taken root is not permitted by the ‘Omer.

(7) Deut. XVI, 9. This refers to the reaping of the ‘Omer.

(8) Ex. XXIII, 26. Although this is stated in connection with the Two Loaves the reference must be to that which was sown before the ‘Omer, for only such would be permitted for use in the offering of the Two Loaves. V. Rashi.

(9) סודני, a denominative of סוד — ‘a wisdom’, ‘secret’. According to Rashi and R. Gershom, a compound of Aliter: ‘a brewer’, which was R. Papa's occupation. cf. Pes. 113a.

(10) lbid. XXIII, 16. I.e., it has taken root in the field and has begun to germinate, and is not merely lying in the soil.

(11) For the corn grown in these fields is of an inferior quality and is not fit to be used for the ‘Omer, and it is established (Gemara infra) that what is not fit for the ‘Omer may he reaped before the ‘Omer. Moreover it is essential to reap the corn of these fields at the earliest opportunity for the standing corn cannot remain long in the field.

(12) In MS.M.: ‘AND IN THE PLAIN’; so too in the parallel passage in Pes. 11a. V. Tosaf. supra 68a, s.v.קוצרים

(13) For the fields around Jericho were artificially irrigated.

(14) Lit., ‘stay their hand’.

(15) שחת, corn in its earliest stage. often used as fodder.

(16) For the corn which grows among saplings, if left to remain too long in the field, would soon ruin the sapling; moreover this corn is not fit to be used for the ‘Omer. Another interpretation given by Rashi is that saplings are found to be growing in a corn field and it is necessary to reap the corn immediately before the prohibition of kil'ayim (diverse kinds) sets in.

(17) Where people assembled and blessings of consolation were recited in the presence of the mourners. V. Keth., Sonc. ed., p. 41, n. 5.

(18) If there is no room for the students in the Beth Hamidrash (House of Study) and it is necessary to clear a space in the field for them. In this case the reaping is for a religious purpose, and therefore permitted.

(19) Sc. the corn that may be reaped before the ‘Omer.

(20) I.e., the proper performance of the precept.

(21) So that the corn shall be reaped especially for the purpose of the ‘Omer-offering (לשמה); cf. Deut. XVI, 9.

(22) Cf. Lev. II, 14: ‘karmel’, which signifies seeds fresh and tender. V. supra 66b.

(23) Sc. the reaping of the ‘Omer. When the first day of the Festival fell on a Friday then the reaping of the ‘Omer was performed on the Friday night which is the Sabbath.

(24) Lev. XXIII, 10. This implies that it is permitted to reap before the ‘Omer.

(25) Ibid. This part of the verse implies that the ‘Omer shall be the first reaping and nothing shall be reaped before it.

(26) E.g.. an artificially irrigated field.

(27) Sc. barley.

(28) Supra p. 416. R. Johanan established that the prohibition of reaping before the ‘Omer applies to the five kinds of grain enumerated in the previous Mishnah, supra 70a.

(29) Sc. the men of Jericho.

(30) So that our Mishnah represents the view of R. Judah since it uses the expression ‘BUT THEY DID NOT FORBID THEM’.

(31) Pes. 56a.

(32) Of the fourteenth of Nisan. Although in all places work was forbidden after midday on the day before the Passover, the men of Jericho did not regard grafting as work to come within this prohibition.

(33) I.e., they recited the Shema’ (Deut. VI, 4-9) without making the necessary pauses. For the precise meaning of this v. Pes., Sonc. ed., p. 278-280.

(34) They maintained that only the stems of the trees had been dedicated; so that the branches which grew later on were permitted for use. They also held that no trespass-offering is due when one benefits from what grows upon that which was dedicated to the Temple. V. Pes. 56b.

(35) A man is forbidden to eat the fruit fallen from the tree on the Sabbath or on the Festival as a precautionary measure lest he climb up the tree and pluck it.

Talmud - Mas. Menachoth 71b

they permitted for use the branches of carob and sycamore trees which had been dedicated to the Temple. they made breaches in their gardens and orchards so as to allow the poor to [come in and] eat the fallen fruit on Sabbaths and Festivals in years of drought, and they gave pe'ah from vegetables;[1] and the Sages forbade them![2] -But according to your view, too, [this passage is difficult, for] it says ‘six things’ and it enumerates seven![3] You must therefore delete reaping from here.[4]

ONE MAY REAP THE UNRIPE CORN AND FEED CATTLE THEREWITH. We have learnt elsewhere:[5] These are the things which divide a field [into two] with respect to pe'ah:[6] a river, a pool, a private[7] or a public road,[8] a public or a private path that is in use both during the summer and the rainy season, fallow land or newly broken land, and a different kind of crop. If one reaped the unripe corn [as fodder, the part so reaped] divides the field.[9] So R. Meir; but the Sages say, This part does not divide the field[10] unless it was also ploughed up. Rabbah b. Bar Hanah said in the name of R. Johanan. R. Meir based his ruling on the principle enunciated by R. Simeon [in our Mishnah] who said, ONE MAY REAP IT AND FEED [CATTLE THEREWITH] EVEN AFTER IT HAS REACHED A THIRD OF ITS GROWTH. For he is of the opinion that any [cutting of] unripe corn[11] [for fodder] is no reaping.

Rabbah[12] was sitting and reciting this statement, when R. Aha b. Huna raised against Raba the following objection. It was taught: If locusts devoured [the crop in the middle of the field] or ants nibbled it or the wind broke it down, all agree that only if it was also ploughed up does it divide the field [in two]. but if it was not ploughed up it does not divide the field.[13] Who is meant by ‘all agree’! Obviously R. Meir.[14] Now it is intelligible if you say that the Mishnah quoted[15] , refers to unripe corn which had not reached a third of its growth and the Baraitha which states ‘that only if it was also ploughed up it divides the field and not if it was not ploughed up’ refers to unripe corn which had already reached a third of its growth.[16] But if you say that the Mishnah quoted also refers to that which had already reached a third of its growth, then [it will be asked,] If in that case,[17] where the reaping was done by man, R. Meir holds that it is no reaping, then surely it is so in this case![18] — Say, rather, that R. Meir based his ruling on the principle enunciated by R. Judah[19] [in our Mishnah] who said, WHEN IS THIS SO? ONLY IF ONE HAD BEGUN TO REAP IT BEFORE IT HAD REACHED A THIRD OF ITS GROWTH.

But perhaps you have heard R. Judah maintaining this view only when it is cut [as fodder] for cattle, but have you heard him say so[20] with regard to that which is cut [as food] for man? For if he were to say so then we should have three Tannaim differing in this matter![21] -The fact is that when R. Dimi came [from Palestine] he said, R. Meir based his ruling on the principle enunciated by his teacher R. Akiba, namely that even though [it was cut as food] for man it is no reaping.[22] For we have learnt: If a man reaped his field in separate stages.[23] leaving [unreaped] the unripe stems, R. Akiba says. He must give pe'ah from each [portion reaped]. But the Sages say, From one for all.[24] And Rab Judah has said that R. Akiba declares him liable [to give pe'ah from each portion] only where he reaps the field in stages for roasting.[25] but not where he reaps it in stages for storing.[26] But surely this is not so! For when Rabin came [from Palestine] he stated in the name of R. Johanan that R. Akiba declares him liable [to give pe'ah from each portion] even where he reaps it in stages for storing![27] —

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(1) I.e., they left the corner (pe'ah) of the vegetable plantation for the poor. The objection is that, since vegetables are by law not subject to pe'ah and since what is taken as pe'ah is exempt from the tithe, these vegetables would be eaten by the poor without being tithed.

(2) It will thus be seen that R. Judah reckons reaping before the ‘Omer among the things done without the approval of the Sages, contra our Mishnah.

(3) Reckoning reaping and stacking as separate items.

(4) For in fact reaping met with the approval of the Sages.

(5) Pe'ah II, 1.

(6) So that pe'ah must be given from the fields on each side.

(7) That is four cubits wide.

(8) That is sixteen cubits wide.

(9) For the cutting down of unripe corn as fodder is not regarded as reaping.

(10) The cutting of the unripe corn, they say, is the beginning of the reaping of this field, the remainder to be reaped only when the corn is fully ripe; consequently the part now reaped will certainly not he regarded as a division of the field.

(11) Whether or not it has reached a third of its growth.

(12) Better ‘Raba’; so in the Sulzbach ed.

(13) A Baraitha in Tosef. Pe'ah I.
(14) For R. Meir in the Mishnah quoted above differs from this view and, in that case, does not insist on the ploughing up of the part cut down. In this case, however, he accepts this view.
(15) Pe'ah II, 1.
(16) The position of R. Meir is then intelligible; where it has not reached a third of its growth (as in Mishnah quoted) the cutting thereof is no reaping and so constitutes a division in the field, and where it has reached a third of its growth (as in Baraitha quoted) the cutting thereof is a reaping, accordingly it is no division in the field, unless, of course, it was ploughed up.
(17) Pe'ah II, I.
(18) Where the corn was broken down by locusts or ants. This surely should not count as a reaping, yet the Baraitha states that all agree(!) that it is a reaping and so does not constitute a division in the field.
(19) Who clearly differentiates between the cutting of corn which has not yet reached a third of its growth, which is not considered reaping, and corn which has reached this stage, which is considered reaping. V. supra n.1.
(20) That the cutting of corn which has not reached a third of its growth is no reaping.
(21) For the first Tanna (in our Mishnah) expressly states that what is cut for cattle fodder is not considered reaping; R. Judah teaches that provided it has not reached a ‘third of its growth, even though it is cut as food for man, it is not considered reaping; and R. Simeon goes so far as to say that even though it has reached a third of its growth, and even though it is cut as food for man, it is still not considered reaping; thus there are three distinct views in our Mishnah. This position. however, is untenable, for it is established (Sanh. 25a) that whenever R. Judah says ‘when is this so?’ he merely aims at explaining the words of the foregoing Tanna; but here, as stated, R. Judah gives an independent opinion of his own.
(22) If it had not yet reached a third of its growth.
(23) I.e., he cuts only the ripe corn leaving the unripe corn for later; the field has thus a patchy or speckled appearance (נמר. ‘to give a speckled appearance’).
(24) Pe'ah III, 2.
(25) I.e., when the corn has not yet reached a third of its growth and the ears can only be eaten after roasting. Accordingly R. Akiba holds that the cutting of corn which has not reached a third of its growth, even though intended as food for man, is not considered reaping.
(26) I.e., when it is reaped after it has reached a third of its growth.
(27) Whereas,R. Meir agrees that the cutting of corn after it has reached a third of its growth is considered a reaping.

Talmud - Mas. Menachoth 72a

He [R. Meir] agrees with him[1] in the one case[2] but disagrees with him[1] in the other.[3]

ONE MAY REAP ON ACCOUNT OF THE SAPLINGS OR [IN ORDER TO MAKE AN OPEN SPACE] FOR THE MOURNERS OR THAT THE BETH HAMIDRASH [BE NOT HINDERED]. What is the reason?-The Divine Law says. [The first of] your reaping,[4] but not the [first of the] reaping for a religious purpose.[5] ONE MAY NOT BIND THEM IN BUNDLES BUT THEY MUST BE LEFT IN SMALL HEAPS. What is the reason?-Because so far as is possible we must not work [before the ‘Omer].[6] THE PRECEPT OF THE ‘OMER IS THAT IT SHALL BE BROUGHT FROM THE STANDING CORN. Our Rabbis taught: It is written, And when thou bringest a meal-offering of first-fruits:[7] what does this teach us?[8] Since the precept of the ‘Omer is that it shall be brought from the standing corn, whence should I know that if standing corn cannot be found it may be brought from the sheaves? The text therefore states ‘thou bringest’. Another explanation is: ‘Thou bringest’: since the precept is that it shall be brought from the fresh corn, whence should I know that if fresh corn cannot be found it may be brought from the dry corn? The text therefore states ‘thou bringest’. Another explanation is: ‘Thou bringest’: since the precept is that it shall be reaped by night, whence should I know that if it was reaped by day it is valid, and also that it overrides the Sabbath? The text therefore states ‘thou bringest’. ‘Thou bringest’, whatever it is;[9] ‘thou bringest’. from any place;[10] ‘thou bringest’, even on the Sabbath;[11] ‘thou bringest’, even in a state of uncleanness.[12]

IF IT WAS REAPED BY DAY IT IS VALID. But we have learnt: The whole night is valid for reaping the ‘Omer and for burning the fat and the limbs [of sacrifices on the altar]. This is the general rule: any commandment which is to be performed by day is valid during the whole of the day, and any commandment which is to be performed by night is valid during the whole of the night.[13] Now night and day are on a par, and just as that which is to be performed by day is not [valid] by night[14] so that which is to be performed by night is not [valid] by day![15] — Rabbah said, This is no difficulty, for one[16] represents Rabbi's view, the other[17] the view of R. Eleazar son of R. Simeon. For it was taught:[18] If [the priest] was standing and offering up the ‘Omer meal-offering and it became unclean, if there is another [available] he should be told, ‘Bring the other in its place’.[19] But if not, he should be told, ‘Be wise and keep silent’.[20] So Rabbi. But R. Eleazar son of R. Simeon says. In either case he is told, ‘Be wise and keep silent’, for the ‘Omer that was reaped not in accordance with its prescribed rite is invalid.[21]

Rabbah b. Bar Hanah said in the name of R. Johanan. The ruling of R. Eleazar son of R. Simeon is based upon the principle enunciated by R. Akiba, his father's teacher. For we have learnt: R. Akiba stated a general principle: Any work which can be done on the eve of the Sabbath does not override the Sabbath[22] Moreover, he [R. Eleazar son of R. Simeon] is of the same opinion as R. Ishmael who holds that the reaping of the ‘Omer is a religious duty. For we have learnt: R. Ishmael says,[23] Just as ploughing is optional.[24] so the harvest [referred to in the verse] is an optional one, excluding the harvesting of the ‘Omer, which is a religious duty.[25] Now[26] if we were to hold that if the ‘Omer was reaped not in accordance with its prescribed rite it is valid, wherefore does it override the Sabbath? Let it be reaped on the eve of the Sabbath![27] Since, however, it does override the Sabbath, one may infer that [he holds that] if it was reaped not in accordance with its prescribed rite it is invalid.[28]

But was not Rabbi a disciple of R. Simeon?[29] Surely it has been taught:[30] Rabbi said, When we were studying Torah at R. Simeon's [Academy] in Tekoa we used to carry up to him [on the Sabbath] oil and a towel from the courtyard to the roof, and from the roof to an enclosure, and from one enclosure to another enclosure, until we came to the fountain where we bathed![31] — He [Rabbi] concurs with the other teaching of R. Simeon. For it was taught:[32] R. Simeon said, Come and see how precious is a precept in its proper time! For the burning of the fat and limbs is valid the whole night, yet they did not wait until nightfall.[33]

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(1) R. Akiba.

(2) Where it had not reached a third of its growth, R. Akiba and R. Meir agree that the cutting thereof is not considered reaping.

(3) Where it had reached a third of its growth; R. Akiba maintains that the cutting is not considered reaping, but R. Meir maintains that it is.

(4) Lev. XXIII, 10.

(5) Reaping for a religious purpose is permitted even before the ‘Omer. This is a sufficient reason for reaping in order to make a clearing for mourners or for study-both religious purposes. As to reaping on account of the saplings the reason is that the corn growing among the saplings is unfit for the ‘Omer; or it might also be, even in this case, a religious purpose, namely, avoiding the transgression of the law of kil'ayim.

(6) Wherever possible the work should not be performed in the usual manner but some change should be introduced (R. Gershom).

(7) Lev. II, 14.

(8) The expression ‘thou bringest’ is repeated in this verse, obviously for some special teaching.

(9) Even sheaves.

(10) Even from fields far away from Jerusalem, although by the time it reaches the Temple it will be somewhat dried. V. supra 64b.

(11) The reaping of the ‘Omer may be performed on a Sabbath, i.e., when the first day of the Passover fell on a Friday.

(12) If the whole or the greater part of the community was unclean.

(13) Meg. 20b.
(14) E.g.. the time for slaughtering a sacrifice is by day, and if slaughtered by night it is invalid.
(15) How then can it be maintained that the reaping of the ‘Omer is valid if performed by day?
(16) Our Mishnah.
(17) The Mishnah in Meg. 20b.
(18) Yoma 7a.
(19) Even though the other is still unreaped, it should be reaped now by day and prepared for the ‘Omer-offering, and not offer the first which is unclean.
(20) And not publish the fact that the one offered was unclean.
(21) And the ‘Omer which is reaped by day is invalid. Hence it is preferable to offer the first which is unclean (for which mishap the High Priest's plate procures atonement v. Yoma ibid.) rather than another which is invalid at the outset.
(22) Shab. 130a.
(23) In commenting on the verse (Ex. XXXIV, 21): Six days shalt thou work, but on the seventh day thou shalt rest; in plowing time and in harvest thou shalt rest.
(24) As there is no ploughing which is considered a religious duty.
(25) And therefore may be performed on the Sabbath, Sheb. I, 4.
(26) This was the argument that led R. Eleazar son of R. Simeon to the above ruling.
(27) For according to R. Akiba's principle whatever can be done on the eve of the Sabbath does not override the Sabbath.
(28) And its time is strictly limited to the night which follows the first day of the Festival; accordingly it cannot be reaped earlier on the eve of the Sabbath nor by day.
(29) He certainly was, and he must have heard from his teacher the acceptance of R. Akiba ‘s principle. And as Rabbi holds that the time for reaping the ‘Omer is not strictly limited (for if it was not done by night it may be done by day), why does it override the Sabbath? It can surely be reaped before the Sabbath.
(30) Shab. 147b; ‘Er. 91a.
(31) For R. Simeon regards all roofs, or courtyards, or enclosures as constituting one single domain, and one may carry from one into the other articles that were kept in one of them when the Sabbath began. V. ‘Er. 89a.
(32) Pes. 68b.
(33) But the priests burnt the fat and the limbs of the Sabbath sacrifices on the Sabbath day, although the burning could have been postponed until nightfall. Similarly with the reaping of the ‘Omer, although it could be reaped earlier on the eve of the Sabbath, the precept is most precious when performed in its real time, namely on the Sabbath.

Talmud - Mas. Menachoth 72b

And did not R. Eleazar son of R. Simeon know of this [teaching of his father]?[1] — [He certainly knew of it] but in that case it is different for the slaughtering has already overridden the Sabbath.[2] And Rabbi? Is it not the fact that the slaughtering there has already overridden the Sabbath?[3] — Rather [we must say that] Rabbi is of the opinion that the reaping of the ‘Omer does not override the Sabbath. But does it not? But we have learnt: The Sages say, whether on the Sabbath or on a weekday it was taken out of three se'ahs![4] That is not in accordance with Rabbi's view. But we have learnt: The Sages say. Whether on the Sabbath or on a weekday it was reaped by three men into three baskets with three sickles![4] [That too is] not in accordance with Rabbi's view. But we have learnt: On the Sabbath he called out further, ‘On this Sabbath?’[5] — [That too is] not In accordance with Rabbi's view.

IF IT WAS REAPED BY DAY IT IS VALID. MOREOVER IT OVERRIDES THE SABBATH. Whom have you heard say that if it was reaped by day it is valid? Clearly it is Rabbi.[6] Yet it states, MOREOVER IT OVERRIDES THE SABBATH. Presumably it refers to the reaping [of the ‘Omer]. does it not?[7] — No, it refers to the offering [of the ‘Omer]. And the reaping does not [override the Sabbath]? Surely it has been taught:[8] Rabbi says. And Moses declared the appointed times of the Lord.[9] For what purpose is this stated?[10] Because we have learnt only of the daily offering and the Passover-offering [that they override the Sabbath and uncleanness]. since in its anointed time’ is stated in connection with them[11] — in its appointed time’, even on the Sabbath, ‘in its anointed time', even in uncleanness. Whence do we know it of the other offerings of the congregation? The text therefore states These shall ye offer unto the Lord in your appointed times.[12] Whence do we know to include the 'Omer and that which is offered with it,[13] and the Two Loaves and that which is offered with them?[14] The text therefore states, 'And Moses declared the appointed times of the Lord': this verse thus fixed 'the appointed time' for all of them.[15] Now for what [service is the Sabbath overridden]? Should you say for the offering, but the Two Loaves are not offered at all![16] Obviously then it is for the grinding and the sifting of the corn[17] and similarly in the case of the 'Omer for the reaping; thus it overrides the Sabbath. No, the 'Omer [overrides the Sabbath] for the act of offering,[18] and the Two Loaves for the baking;[18] for Rabbi is of the opinion that the oven[19] [of the Sanctuary] hallows them, so that had they been baked on the previous day they would, by being kept overnight, be now invalid.

But does Rabbi hold that the oven hallows them? Surely it was taught: The lambs of Pentecost hallow the bread[20] only by their slaughtering.[21] Thus if they were slaughtered under their own name and their blood was sprinkled under their own name, the bread is hallowed; if they were slaughtered under another name and their blood was sprinkled under another name, the bread is not hallowed; if they were slaughtered under their own name but their blood was sprinkled under another name, the bread is hallowed and not hallowed.[22] This is the opinion of Rabbi. R. Eleazar son of R. Simeon says, It is by no means hallowed unless [the lambs] were slaughtered under their own name and their blood was sprinkled under their own name![23] — R. Nahman b. Isaac answered, He[24] means that they are either determined or not determined.[25] CHAPTER VII

MISHNAH.[26] FROM THE FOLLOWING MEAL-OFFERINGS THE HANDFUL MUST BE TAKEN AND THE REMAINDER IS FOR THE PRIESTS: THE MEAL-OFFERING OF FINE FLOUR,[27] THAT PREPARED ON A GRIDDLE,[28] THAT PREPARED IN A PAN, THE CAKES AND THE WAFERS,[29] THE MEAL-OFFERING OF A GENTILE, THE MEAL-OFFERING OF WOMEN, THE MEAL-OFFERING OF THE 'OMER, THE SINNERS MEAL-OFFERING,[30] AND THE MEAL-OFFERING OF JEALOUSY.[31] R. SIMEON SAYS, FROM THE SINNERS MEAL-OFFERING BROUGHT BY PRIESTS THE HANDFUL IS TAKEN,[32] AND THE HANDFUL IS OFFERED BY ITSELF AND SO ALSO THE REMAINDER IS OFFERED BY ITSELF.

GEMARA. R. Papa said,[33] All [the meal-offerings] enumerated in the Mishnah must consist of ten [cakes]. What does he teach us?-He wishes to exclude thereby R. Simeon's view who said, He may offer half in cakes and half in wafers; and so he teaches us that it is not so.

AND THE REMAINDER IS FOR THE PRIESTS. Whence do we know this? — Whence? [you ask,] but surely where it is expressly stated it is expressly stated, and where it is not expressly stated there is the verse, And this is the law of the meal-offering: the sons of Aaron shall offer it... and that which is left thereof shall Aaron and his sons eat![34] — With regard to those which are brought from wheat I have no doubt,[35] I only ask it with regard to those brought from barley.[36] But even with regard to those brought from barley, surely [it is obvious that] the remainder is for the priests, since the handful is taken from them?[37] According to the view of the Rabbis[38] I have no doubt,[39] I only ask it according to the view of R. Simeon who maintains that there is a meal-offering from which the handful must be taken and yet [the remainder] may not be eaten, for we have learnt: R. SIMEON SAYS, FROM THE SINNER'S MEAL-OFFERING BROUGHT BY PRIESTS THE HANDFUL IS TAKEN, AND THE HANDFUL IS OFFERED BY ITSELF AND SO ALSO THE REMAINDER IS OFFERED BY ITSELF. Whence then do we know it? — Hezekiah said, From the verse, And every meal-offering, mingled with oil, or dry, shall all the sons of Aaron have.[40] And if this verse serves no purpose for meal-offerings of wheat mingled With oil[41] it should be applied to meal-offerings of barley mingled with oil,[42] and so, too, if this verse serves no purpose for dry meal-offerings of wheat[41] it should be applied to dry meal-offerings of barley.[43] But does this [verse] serve this purpose? Surely it is required for the following which was taught: How do we know that meal-offerings may not be set off against animal-offerings?[44]

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(1) He surely did, and in that case how could he argue from the fact that it overrides the Sabbath that the ‘Omer which was reaped not in accordance with the prescribed rite is invalid?

(2) The slaughtering of the Sabbath sacrifices has already overridden the Sabbath, and since the prohibition of Sabbath has once been overridden it is also permitted, for the sake of performing the precept at its earliest moment, to burn the fat and the limbs of the sacrifices on the Sabbath. With regard to the ‘Omer, however, the Sabbath prohibition has not been overridden, consequently it would not be proper to override the Sabbath for the reaping of the ‘Omer, but for the fact that it could not be reaped except in its proper time.

(3) How then could Rabbi infer the rule that the reaping of the ‘Omer overrides the Sabbath merely from the fact that the burning of the fat and the limbs was performed on the Sabbath?

(4) V. supra 63b.

(5) V. supra 65a.

(6) Supra 72a, where Rabbi ruled that if during the offering of the ‘Omer it became unclean, another ‘Omer may be reaped and offered.

(7) Whereas above it was concluded that according to Rabbi the reaping of the ‘Omer does not override the Sabbath.

(8) Pes. 77a.

(9) Lev. XXIII, 44.

(10) Seeing that all the Festivals are individually treated in that chapter.

(11) Cf. Num. XXVIII, 2 and IX, 2.

(12) Ibid. XXIX, 39. This verse concludes the section dealing with the additional offerings on Sabbath, New Moon and Festivals, and its purpose is to apply the expression ‘in its appointed time’ and the law derived therefrom to each of the offerings mentioned, as though it were explicitly stated with each.

(13) Viz., the lamb offered with the Omer as a burnt-offering; cf. Lev. XXIII, 12.

(14) Viz., the two lambs offered with the Two Loaves as peace-offerings; ibid. 19. Since these offerings are not mentioned in the section in Num. they would not come under the rule of ‘in its appointed time’.

(15) And it is as though ‘in its appointed time’ were expressly stated with the ‘Omer and the Two Loaves’, thereby implying that each overrides the Sabbath and uncleanness.

(16) For they are leavened, and nothing leavened may be offered on the altar; v. Lev. II, 11.

(17) Even though these acts can be performed before the Sabbath.

(18) Which act cannot be performed before the Sabbath; it therefore overrides the Sabbath.

(19) In which the Two Loaves are baked.

(20) I.e., the Two Loaves.

(21) But the baking in the oven presumably does not hallow the loaves.

(22) V. supra p. 283-4.

(23) V. supra p. 283.

(24) Rabbi.

(25) The hallowing by slaughtering referred to only means that the loaves are thereby determined for and assigned to the lambs slaughtered, so that if subsequently the lambs were lost these loaves could not be used with other lambs, and where the lambs were not slaughtered under their own name the loaves are not thereby determined for them but may be used with other lambs. The real hallowing of the loaves, however, is effected only by the baking in the oven of the Sanctuary.

(26) In the Wilna editions of this Tractate from 1886 onwards there is printed a second commentary of Rashi covering Chapters VII, VIII and IX. This commentary is undoubtedly the authentic Rashi, as is evidenced by the frequent quotations made by Tosaf. of the words of Rashi which are found only in this commentary. It is referred to hereinafter as ‘Rashi MS’. The other commentary formerly attributed to Rashi is spurious, and in all probability is to be ascribed to a pupil of R. Gershom. The similarity between this commentary and that of R. Gershom is most striking.

(27) From which the handful was taken after the flour was mixed with the oil.

(28) From this and also from the following three kinds the handful was taken after the cake was broken into pieces.

(29) Of the meal-offering baked in an oven which consisted either of ten unleavened cakes or ten unleavened wafers. V. Lev. 11,4.

(30) Brought by a poor person as a sin-offering on the commission of any one of the transgressions mentioned in Lev. V, 1-4.

(31) Brought by a woman suspected by her husband of adultery; v. Num. V,15.

(32) According to the first Tanna, however, no handful is taken out, for the whole of it is to be burnt upon the altar.

(33) For the interpretation of this passage, v. supra p 347. n. 10.

(34) Lev. VI, 7, 9.

(35) For this verse which declares that the remainder belongs to the priests deals specifically with meal-offerings of wheat.

(36) The ‘Omer-offering and the meal-offering of jealousy.

(37) For if the remainder did not fall to the priest but was to be burnt upon the altar, what was the point of taking out the handful?

(38) I.e., the first Tanna of our Mishnah; v. supra p. 431, n. 7.

(39) For it is clear that whenever the handful must be taken out the remainder belongs to the priests.

(40) Lev. VII, 10.

(41) For the verse previously quoted (ibid. VI, 9) already establishes the rule that all meal-offerings of wheat, mingled with oil or dry, belong to the priests.

(42) I.e., the ‘Omer-offering.

(43) I.e., the meal-offering of jealousy.

(44) I.e., instead of sharing each of the priestly portions of the offerings equally among the priests it is arranged that some priests shall receive only meal-offerings as their portion and others only portions of animal-offerings as theirs.

Talmud - Mas. Menachoth 73a

Because the text states, And every meal-offering that is baked in the oven...shall all the sons of Aaron have.[1] I might think that meal-offerings may not be set off against animal-offerings seeing that in a case of poverty they do not replace them,[2] but meal-offerings [I would say] may be set off against bird-offerings since in a case of poverty they do replace them;[2] therefore the text states, And all that is prepared in the pan — shall all the sons of Aaron have.[3] I might think that meal-offerings may not be set off against bird-offerings seeing that the latter are of the class of blood-offerings and the former of the class of cereal-offerings, but bird-offerings [I would say] may be set off against animal-offerings since both are of the class of blood-offerings; therefore the text states, And on the griddle...shall all the sons of Aaron have.[4] I might think that bird-offerings may not be set off against animal-offerings seeing that the preparation of the former is by hand whereas that of the latter is with a utensil,[5] but one kind of meal-offering [I would say] may be set off against another kind of meal-offering since the preparation of both is by hand; therefore the text states, And every meal-offering mingled with oil... shall all the sons of Aaron have.[6] I might think that the meal-offering prepared on a griddle may not be set off against that prepared in a pan nor that prepared in a pan against that prepared on a griddle, for what is cooked in the one[7] is soft and what is cooked in the other[8] is hard,[9] but one that is prepared on a griddle [I would say] may be set off against another that is also prepared on a griddle, and so, too, one that is prepared in a pan may be set off against another that is also prepared in a pan; therefore the text states, Or dry, shall all the sons of Aaron have.[10] I might think that sacrifices which are most holy[11] may not be set off against each other, but those which are less holy[12] may; therefore the text states, [Shall all the sons of Aaron have,] a man as well as his brother,[10] and [in proximity thereto], If he offers it for a thanksgiving:[13] just as most holy sacrifices may not be set off against each other, so also less holy sacrifices may not be set off against each other. ‘A man’ [signifies that] a man takes a share even though he has a physical blemish, but not a minor even though he is without blemish![14] -This teaching is derived from, the expression ‘every’.[15] But has not this expression been used for the teaching of R. Jose son of R. Judah?[16] -That [teaching of R. Jose son of R. Judah] is derived from the expression, ‘and every’.[17]

Rabina said, It[18] can be inferred from Levi's teaching, for Levi taught: [It is written,] Every offering of theirs, even every meal-offering of theirs, and every sin-offering of theirs, and every guilt-offering of theirs.[19] ‘Every offering of theirs’ includes the log of oil of the leper.[20] For I might have thought that [it shall not be the priest's since] the Divine Law expressly stated, reserved from the fire;[21] hence we are informed [that it is not so]. ‘Every meal-offering of theirs’ includes the meal-offering of the ‘Omer and the meal-offering of jealousy. For I might have thought that [these shall not be the priest's since] the Divine Law expressly stated, And they shall eat those things wherewith atonement was made,[22] whereas the one serves to render permitted[23] and the other to ascertain [the truth];[24] hence we are informed [that it is not so]. ‘Every sin-offering of theirs’ includes the sin-offering of a bird. For I might have thought that [it shall not be the priest's since] it is nebelah;[25] hence we are informed [that it is not so]. ‘Every guilt-offering of theirs’ includes the guilt-offering of the Nazirite and the guilt-offering of the leper. But with regard to the guilt-offering of the leper, is it not expressly stated, For as the sin-offering is the priest's so is the guilt-offering?[26] — Rather it includes the guilt-offering of the Nazirite, that it be like the guilt-offering of the leper. For I might have thought that [it shall not be the priest's since] it but serves to render permitted;[27] hence we are informed [that it is not so]. ‘which they may render unto Me’,[28] this is the [restitution for the] robbery committed on a proselyte.[29] [‘Shall be most holy] for thee and for thy sons’,[30] this teaches that it[31] is thine own and thy son's own, even to betroth a woman therewith.[32]

R. Huna said,

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(1) Lev. VII, 9,10. All priests shall receive a portion from the meal-offerings.

(2) V. Lev. V, 7, 11. The meal-offering does not take the place of an animal-offering in ordinary cases of poverty but only in extreme poverty, whereas the meal-offering replaces the bird-offering in ordinary poverty.

(3) Ibid. VII, 9,10. This insistence that every kind of meal-offering shall be distributed among the priests signifies that under no circumstances may one's portion in one offering be set off against another's portion in another offering.

(4) Ibid. And as this is unnecessary for meal-offerings apply it to blood-offerings.

(5) Bird-offerings had their heads nipped off by hand, animal-offerings were slaughtered with a knife.

(6) Ibid. 10.

(7) Sc. the pan, מרחשת.

(8) Sc. the griddle, מחבת.

(9) v supra 63a.

(10) Lev. VII, 10.

(11) As the meal-offering and the sin-offering.

(12) As the thank-offering and the peace-offering.

(13) Ibid. 12.

(14) V. Kid. 53a. We thus see that the verse adduced by Hezekiah is here interpreted for another purpose.

(15) Whereas Hezekiah's teaching is derived from the expression ‘meal-offering’.

(16) V. supra 63b.

(17) I.e., from the superfluous waw, ‘and’. The Baraitha, however, derives its teachings from the expression ‘every’, and Hezekiah from ‘meal-offering’.

(18) That the remainder of the ‘Omer-offering’ and of the meal-offering of jealousy (both of barley) is eaten by the priests.

(19) Num. XVIII, 9.

(20) That the remainder of the oil, after the necessary rites have been performed therewith (cf. Lev. XIV, l0f) shall be the priest's.

(21) Num. XVIII, 9. And the oil is not reserved from the fire since no part thereof is burnt on the altar fire.

(22) Ex. XXIX, 33. This verse implies that the remainder of an atoning offering only shall be eaten by priests.

(23) The ‘Omer renders permitted the new produce.

(24) The meal-offering of jealousy is to ascertain the truth about the woman's guilt.

(25) V. Glos. Since the bird-offering has not been slaughtered it might be said the priests may not eat it.

(26) Lev. XIV, 13.

(27) With the offering of his guilt-offering the Nazirite is now ‘fit to begin anew his period of separation which had been interrupted by involuntary defilement. And as it is not an atoning offering it might be said that it may not be eaten by priests.

(28) Num. XVIII, 9.

(29) This too belongs to the priest. V. B.K. 110a.

(30) Num. ibid.

(31) Sc. the restitution for the robbery committed on a proselyte.

(32) On the other hand, a priest may not betroth a woman with the portions that he receives from the sacrifices. V. Kid. 52b.

Talmud - Mas. Menachoth 73b

The peace-offerings of gentiles are to be treated as burnt-offerings.[1] This I can prove either by simple reasoning or by a verse from Scripture. Either by simple reasoning: because a gentile in his heart [devotes the offering entirely] to Heaven.[2] Or by a verse from Scripture: Which they will offer unto the Lord for a burnt-offering:[3] whatever they[4] offer shall be a burnt-offering.

R. Hama b. Guria raised an objection: If a gentile made a freewill-offering of peace-offerings and he gave them to an Israelite,[5] the Israelite may eat them;[6] if he gave them to a priest, the priest may eat them.[6] — Raba answered, It means this: if [he gave them to an Israelite] that the Israelite shall receive atonement thereby,[7] the Israelite may eat them; if [he gave them to a priest] that the priest shall receive atonement thereby, the priest may eat them.

R. Shisbi raised an objection: FROM THE FOLLOWING MEAL-OFFERINGS THE HANDFUL MUST BE TAKEN, AND THE REMAINDER IS FOR THE PRIESTS...THE MEAL-OFFERING OF A GENTILE![8] -R. Johanan answered, This is no difficulty; for one[9] represents the view of R. Jose the Galilean, the other[10] R. Akiba's view. For it was taught: [It would have sufficed had Scripture stated] a man,[11] why does it state ‘a man, a man’?[11] To include gentiles, that they may bring either votive or freewill-offerings like an Israelite. Which they will offer unto the Lord for a burnt-offering:[11] I only know [that they may offer] burnt-offerings, but whence [that they may offer] peace-offerings? The text states, Their vows.[11] And whence thank-offerings? The text states, Their free will-offerings.[12] And whence bird-offerings and meal-offerings[13] and offerings of wine and frankincense and wood? The text states, Any of their vows,[12] and not merely ‘their vows’; so too, Any of their freewill-offerings, and not merely ‘their freewill-offerings’. Why then does this text expressly state ‘a burnt-offering’? To exclude the Nazirite-offering.[14] This is the opinion of R. Jose the Galilean. R. Akiba says, Which they will offer unto the Lord for a burnt-offering: thus [they may offer] only burnt-offerings.

But is the law that a gentile is excluded from offering a Nazirite-offering derived from this teaching? Surely it is derived from the following teaching:[15] Speak unto the children of Israel and say unto them, When either man or woman shall clearly utter a vow, the vow of a Nazirite, to consecrate himself unto the Lord:[16] hence only the children of Israel can vow the vow of a Nazirite, but gentiles cannot vow the vow of a Nazirite!-From the former teaching I should only have said that they may not offer the Nazirite-offerings, but that the Nazirite vow does apply to them; [the latter passage] therefore teaches us [that it is not so].

In accordance with whose view is the following teaching which we have learnt: R. Simeon said, The Beth din ordained seven things and this was one of them: If a gentile sent his burnt-offering from a land beyond the sea and he also sent with it the drink-offerings[17] for it, those [drink-offerings] of his[17] are to be offered; but if he did not, they are to be offered at the expense of the community.[18] Shall we say that this teaching[19] agrees with R. Jose the Galilean and not with R. Akiba?-You may even say that it agrees with R. Akiba, for [he meant to say, They may offer] burnt-offerings and everything appertaining thereto.[20]

Who is the Tanna of the following Baraitha which the Rabbis taught:[21] Home-born:[22] the home-born brings drink-offerings,[21] but a gentile may not bring drink-offerings.I might then think that his burnt-offering does not require drink-offerings [to be offered with it]; the text therefore states, After this manner.[22] Now who is [the Tanna of this Baraitha]? It is neither R. Jose the Galilean nor R. Akiba! It is not R. Jose the Galilean for he says [that the gentile may offer] even wine[23] [for a drink-offering]; neither is it R. Akiba for he says [that he may offer] only a burnt-offering but nothing else! — If you wish,I can say it is R. Jose the Galilean; and if you wish, I can say it is R. Akiba. If you wish, I can say it is R. Jose the Galilean', but you must strike out the word 'wine' from that teaching.[24] 'And if you 'wish, I can say it is R. Akiba', for [he may offer] burnt-offerings and everything appertaining thereto.

R. SIMEON SAYS, FROM THE SINNER'S MEAL-OFFERING BROUGHT BY PRIESTS etc. Whence is it derived? — Our Rabbis taught: And it shall be the priest's as the meal-offering:[25] that is to say, the service thereof may be performed by [the priest] himself.[26] You say it signifies that the service thereof may be performed by [the priest] himself, but perhaps it is not so, but rather it signifies that the [remainder of the] sinner's meal-offering brought by a priest is permitted [to be eaten];[27] and as for the verse, And every meal-offering of the priest shall be wholly burnt; it shall not be eaten,[28] that refers to his[29] freewill meal-offering, but his obligatory meal-offering may indeed be eaten! The text therefore states, 'And it shall be the priest's as the meal-offering', thereby comparing his obligatory meal-offering with his freewill meal-offering; thus as his freewill meal-offering may not be eaten, so his obligatory meal-offering may not be eaten. But R. Simeon said, Is it written, 'And it shall be the priest's as his meal-offering'? It says, As the meal-offering; thereby comparing

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(1) No part thereof shall be eaten, but they must be wholly burnt. Likewise their meal-offerings must be wholly burnt.

(2) A gentile ignorant of the distinction between the various types of sacrifices, has but one intention in his mind, namely of offering it entirely to the Lord.

(3) Lev. XXII, 18.

(4) Sc. gentiles. This verse expressly includes the offerings of gentiles, v. infra.

(5) Presumably to offer them on his (the gentile's) behalf.

(6) They are treated as peace-offerings whose flesh is consumed by the owner-in this case the Israelite or priest but not the gentile, for a gentile may not eat consecrated meat-and not as burnt-offerings, contra R. Huna.

(7) I.e., if the Israelite had undertaken to offer peace-offerings he discharges his obligation with the peace-offerings given him by the gentile; accordingly he may eat the flesh thereof.

(8) Thus it is not wholly burnt; and so it is evidently with his peace-offerings.

(9) Our Mishnah which allows a gentile to bring meal-offerings and also other offerings.

(10) R. Huna who regards all the offerings of gentiles as burnt-offerings.

(11) Lev. XXII, 18. The word 'man' is repeated in the verse. The E.VV. render: Whosoever he be.

(12) Lev. XXII, 18.

(13) So in all MSS. and also in Tos. s.v. אי. Cur. edd. omit 'meal-offerings'.

(14) Since the law of the Nazirite does not apply to a gentile (v. infra) he cannot offer the offerings prescribed for the Nazirite.

(15) Naz. 61a.

(16) Mum. VI, 2.

(17) I.e., the money for the drink-offerings.

(18) Shek. VII, 6. V. supra 51b.

(19) Which permits the offering of drink-offerings by a gentile.

(20) Sc. the drink-offerings which accompany the burnt-offering. In most MSS., in the Aruch, Rashi MS., and Yalkut there is here used a rare word , אביזרא (var. אביזרהא) 'appertunances'. Cur. edd. read: חבירתה.

(21) Zeb. 45a; Tem. 3a.

(22) Num. XV, 13. This verse refers to the drink-offerings that must accompany the sacrifices.

(23) As a separate freewill-offering.

(24) Thus the gentile may bring every offering except the drink-offering of wine.

(25) Lev. V, 13. The verse refers to the sinner's meal-offering, i.e., the obligatory meal-offering; and the conclusion of the verse, that quoted in the text, according to Rabbinic interpretation, implies that the priest's obligatory meal-offering shall be like ‘the meal-offering’. The arguments which follow serve to elucidate the point of the comparison with ‘the meal-offering’.

(26) If a priest sinned and is obliged to offer a meal-offering, he may perform the service of his own meal-offering. The verse accordingly means: the priest's obligatory meal-offering shall be as the meal-offering of an Israelite; just as the priest performs the service for the latter so he may perform the service for his own meal-offering.

(27) Thus this verse informs us that the priest's obligatory meal-offering is like the meal-offering of an Israelite which is eaten by the priests after the handful has been taken out.

(28) Lev. VI, 16.

(29) Sc. the priest's.

Talmud - Mas. Menachoth 74a

the sinner's meal-offering brought by a priest with the sinner's meal-offering brought by an Israelite; thus as from the latter the handful is taken so from the former the handful must be taken. But you might [also say], Just as the handful is taken from the sinner's meal-offering brought by an Israelite the remainder may be eaten, so when the handful is taken from the sinner's meal-offering brought by a priest the remainder may be eaten; the text therefore states, ‘The priest's as the meal-offering’, that is to say, as regards what concerns the priest[1] it is like the [sinner's] meal-offering [brought by an Israelite], but as regards what concerns the altar-fire it is not like that meal-offering.[2] Accordingly the handful must be offered by itself and the remainder too must be offered by itself.

But is the rule that the service thereof[3] may be performed by [the priest] himself derived from this teaching? Surely it is derived from the following teaching: Whence can we learn that a priest is entitled to come and sacrifice his offerings at any time and on any occasion he desires?[4] Because the text states, And come with all the desire of his soul... and shall minister![5] — From this latter teaching I would have said that it[6] applied only to such offerings as are not brought on account of sin, but not to such as are brought on account of sin.[7] But is this[8] derived from here? Surely we know it from the following: The verse, And the priest shall make atonement for the soul that erreth, when he sinneth through error,[9] teaches us that the priest can make atonement for himself by his own service! — From this latter teaching I would have said that it applied only to such [offerings as are brought for a sin committed] in error, but not to such [as are brought for a sin committed] wilfully; we are therefore taught [that it applies to the latter too]. (And[10] is there any instance of [an offering brought for a sin committed] wilfully? — Yes, for example, wilfully taking a false oath.)[11]

Another [Baraitha] taught: R. Simeon says, From the sinner's meal-offering brought by a priest the handful is taken, and the handful is offered by itself and so also the remainder is offered by itself. R. Eleazar son of R. Simeon says, The handful is offered by itself and the remainder is scattered over the ash-heap. R. Hiyya b. Abba said that R. Johanan pondered over this: Which ash-heap is meant? If that which is on top,[12] then his view is identical with his father's;[13] and if that which is below,[14] then [it will be asked], Is there anything that is ever offered below?-Perhaps, said R. Abba, [it is different when it is intended] to go to waste. They — thereupon laughed at him, saying, Is there anything whose rite is[15] that it shall go to waste? — R. Abin's father taught as follows:[16] And every meal-offering of the priest shall be wholly burnt; it shall not be eaten:[17] l have compared it[18] [with the preceding High Priest's meal-offering] only in respect of eating[19] but in no other respect.[20] What can it mean?[21] — Abaye said, It means this:[22] ‘Every meal-offering of the priest...shall not be eaten’: that is his obligatory meal-offering;[23] ‘shall be wholly burnt’: that is his freewill meal-offering.[24] Thereupon Raba said to him, A sharp knife is dissecting the verse![25] Rather, said Raba, it means, ‘Every meal-offering of the priest shall be wholly burnt’: that is his freewill meal-offering; ‘it shall not be eaten’: that is his obligatory meal-offering.[26] Might I not say the reverse?[27] — It is more reasonable to include his freewill meal-offering,[28] since [like the High Priest's meal-offering] it is frequent,[29] It is not brought on account of sin, and it has a sweet savour.[30] On the contrary, it is more reasonable to include his obligatory meal-offering,[31] since [like the High Priest's meal-offering] it consists of one tenth[32] and is brought as an obligation! — Those[33] are more In number.

To what purpose do the Rabbis apply the verse And every meal-offering of the priest shall be wholly burnt; it shall not be eaten?[34] They require it for the following teaching: I only know that the former[35] must be wholly burnt, and the latter[36] shall not be eaten, whence do I know to apply what is stated of the one to the other and vice versa? The text therefore stated the word ‘kalil’ in each case for the purposes of analogy. It says in the former passage ‘kalil’ and in the latter also ‘kalil’, as in the former it means wholly burnt, so In the latter it means wholly burnt. And as in the latter passage the eating thereof is expressly forbidden by a prohibition, so in the former the eating is forbidden by a prohibition. Rabina raised this question, What is the law if a priest ate of the sacrificial portions of an offering? As regards the prohibition concerning non-priests

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(1) I.e., the taking out of the handful.

(2) For there is this distinction between them, the remainder of an Israelite's obligatory meal-offering is eaten, whereas the remainder of a priest's obligatory meal-offering must be burnt.

(3) Sc. of the priest's meal-offering.

(4) Even though he does not belong to that division of priests on duty at the time in the Temple.

(5) Deut. XVIII, 6, 7.

(6) The rule that the priest may sacrifice his own offerings.

(7) The former teaching, based on Lev. V, 13, is therefore necessary to state this rule even with regard to sin-offerings too.

(8) The rule that the priest may offer his own sin-offerings.

(9) Num. XV, 28.

(10) This passage in brackets is omitted in all MSS. and evidently was not in the text that was before Rashi. Sh. Mek. deletes it here.

(11) Denying the knowledge of any testimony; v. Lev. V. 1.

(12) I.e., the ash-heap which was in the middle of the altar.

(13) For by scattering it on the ash-heap it is equivalent to burning it on the altar, which is the view expressed by his father R. Simeon.

(14) I.e., the ash-heap on the ground by the side of the altar near the ascent.

(15) Lit., ‘that is offered’.

(16) This teaching supplies the answer to the question raised, for according to the following exposition Scripture impliedly states that the remainder shall go to waste on the ash-heap. Some, however, regard this passage as a separate teaching and in no way connected with the preceding, so that the preceding discussion remains with the difficulty.

(17) Lev. VI, 16. This verse follows upon the law concerning the High Priest's daily meal-offering (מנחת חביתין, the meal-offering of griddle-cakes) which was wholly burnt.

(18) Sc. the sinner's meal-offering brought by the priest.

(19) That neither may be eaten.

(20) For as regards the offering there is a distinction: the High Priest's meal-offering must be burnt on the altar whereas the remainder of the sinner's meal-offering brought by a priest is to be scattered on the ash-heap.

(21) This verse expressly says that it shall be wholly burnt, how then can it be suggested that the remainder shall be scattered?

(22) The fact that the verse states ‘shall be wholly burnt’ and also ‘shall not be eaten’ suggests, in order to avoid the redundancy, that it deals with two different kinds of priestly meal-offerings.

(23) Thus the sinner's meal-offering brought by a priest shall, like the High Priest's meal-offering, not be eaten; but, unlike the High Priest's meal-offering, the handful must be taken therefrom and the remainder scattered on the ash-heap.

(24) From which, as from the High Priest's meal-offering, the handful is not taken out.

(25) According to Abaye's interpretation the verse is broken up and the words are transposed, connecting the last words with the first part of the verse. This is unnatural and arbitrary.

(26) It must be observed that in essence Abaye and Raba both say the same thing; the only difference between them is as to the correct interpretation of the opening phrase ‘And every meal-offering of the priest’. If this refers to his obligatory meal-offering then it is necessary to transpose the order in the verse, as Abaye does; if to his freewill meal-offering, then the verse is interpreted as it stands, as Raba does. V. Rashba.
(27) Viz., that the obligatory meal-offering shall be wholly burnt without taking the handful therefrom, and that from the freewill meal-offering the handful shall be taken and the remainder scattered on the ash-heap. This objection is against both Abaye and Raba; v. prev. n. Cf. Tosaf. s.v. מאי; also Rashba.
(28) That it be like the High Priest's meal-offering in that the handful shall not be taken therefrom.
(29) It can be brought at any time at will, and the High Priest's meal-offering was offered daily, whereas the obligatory meal-offering was brought only on the commission of certain sins.
(30) For like the High Priest's meal-offering it was offered mingled with oil, and frankincense was also added, whereas the obligatory meal-offering was dry, without oil and frankincense. Another interpretation: the expression ‘a sweet savour’ is written in connection with the former but not with the latter.
(31) V. p. 441, n. 12.
(32) Whereas the freewill meal-offering may consist of any number of tenths of an ephah of fine flour, the only restriction being that there shall not be more than sixty tenths in one vessel.
(33) The points of resemblance between the freewill meal-offering and the High Priest's meal-offering.
(34) Since the Rabbis differ from R. Simeon and say that every meal-offering of a priest is to be wholly burnt without the handful being taken therefrom, to them the expression ‘it shall not be eaten’ is redundant in this verse.
(35) I.e., the passage dealing with the High Priest's meal-offering where it stated (Lev. VI, 15) ‘It shall be wholly burnt’, using the expression כליל; on the other hand, no express prohibition is stated against eating it.
(36) l.e., the verse dealing with the priest's meal-offering (ibid. 16), where it is expressly stated ‘It shall not be eaten’; on the other hand, in this verse Scripture does not expressly say ‘It shall be wholly burnt’; it only states ‘It shall be whole’,כליל

Talmud - Mas. Menachoth 74b

I have no doubt at all;[1] I ask the question only as regards the precept ‘It shall be wholly burnt’.[2] How is it then? — Said R. Aaron to Rabina, Come and hear: For it was taught: R. Eliezer says, The precept ‘It shall be wholly burnt’, wherever it applies, imports also a prohibition against eating.[3]

MISHNAH. THE MEAL-OFFERING OF THE PRIESTS,[4] THE MEAL-OFFERING OF THE ANOINTED HIGH PRIEST, AND THE MEAL-OFFERING THAT IS OFFERED WITH THE DRINK-OFFERINGS ARE [WHOLLY] FOR THE ALTAR AND THE PRIESTS HAVE NO SHARE IN THEM; WITH THESE THE ALTAR IS MORE PRIVILEGED THAN THE PRIESTS. THE TWO LOAVES AND THE SHEWBREAD ARE EATEN BY THE PRIESTS AND THE ALTAR HAS NO SHARE IN THEM; WITH THESE THE PRIESTS ARE MORE PRIVILEGED THAN THE ALTAR.

GEMARA. Are there no other cases?[5] But what about the burnt-offering? — There is the hide thereof which belongs to the priests. And what about the burnt-offering of a bird?-There are the crop and the feathers thereof.[6] And what about the drink-offerings? — They flow down into the pits.[7] What then does WITH THESE’ [signify]?[8] [It is] to exclude Samuel's ruling. For Samuel stated:[9] If a man makes a freewill-offering of wine, he must bring it and it is poured on the altar fire; [our Mishnah] therefore teaches us that it is poured into the pits. [Our Mishnah], however, supports [the other ruling of] Samuel, for Samuel stated,[10] If a man makes a freewill-offering of oil, the handful must be taken from it [and burnt upon the altar], and the remainder is eaten by the priests.

THE TWO LOAVES AND THE SHEWBREAD. Are there no other cases?[11] But what about the sin-offering of a bird?-There is the blood thereof [which was sprinkled upon the side of the altar]. And what about the log of oil of the leper?-There are the sprinklings.[12] What does ‘WITH THESE’ [signify]? [It is] to exclude the view of him who says that the Two Loaves, if brought alone,[13] must be burnt; our [Mishnah] therefore teaches us that with these the priests are always privileged.[14]

MISHNAH. ALL MEAL-OFFERINGS THAT ARE PREPARED IN A VESSEL[15] REQUIRE THREE APPLICATIONS OF OIL BEFORE THEY ARE MADE READY, VIZ., POURING, MINGLING AND PUTTING IN.[16] THE [BAKED] CAKES[17] WERE MINGLED[18] [WITH OIL]. SO RABBI. BUT THE SAGES SAY, THE FINE FLOUR [WAS MINGLED WITH OIL]. THE CAKES[19] REQUIRED MINGLING AND THE WAFERS[20] ANOINTING. HOW WERE THEY ANOINTED? IN THE FORM OF CHI.[21] AND THE RESIDUE OF THE OIL WAS CONSUMED BY THE PRIESTS.

GEMARA. What does it[22] exclude? — Said R. Papa, It excludes the meal-offering baked [in the oven].[23]

Our Rabbis taught: And if thy offering be a meal-offering prepared in the pan, it shall be made of fine flour with oil:[24] this[25] signifies that it requires the putting in of oil in the vessel [at the outset]. [The expressions] ‘thy offering’ [used here and] ‘thy offering’ [used there][26] establish an analogy:

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(1) The priest is certainly liable on account of the prohibition (Lev. XXII, 10) There shall no non-priest eat of the holy thing, for in regard to the portions that are to be burnt upon the altar the priest is in the same category as a non-priest.

(2) Does this precept, which is stated in connection with the meal-offering, apply to all offerings which are to be burnt or not?

(3) V. Mak. 18b. Hence the priest is liable on account of this prohibition too.

(4) Whether brought as a freewill or obligatory offering.

(5) Of offerings wholly consumed by the altar and in which the priests have no share.

(6) Which are cast away and not offered; thus the offering is not wholly burnt upon the altar.

(7) These were the pits under the altar into which the wine flowed after the libation; v. Suk. 49a. The drink-offerings therefore cannot be said to be consumed by the altar.

(8) Seeing that we know of no exceptions to the rule.

(9) Zeb. 91b. Samuel distinguishes between an offering of wine and of oil, since from the latter the handful can be taken but not from the former.

(10) V. p. 443, n. 9.

(11) Of offerings which are wholly consumed by the priests and in which the altar has no share.

(12) Sc. the seven sprinklings of the oil towards the curtain. Hence it was not wholly consumed by the priests. Aliter: the application of the oil to the ear etc. of the leper.

(13) When the two lambs of Pentecost were not available, v. supra p.280.

(14) For the Two Loaves are in all circumstances eaten by the priests.

(15) I.e., those prepared in a special vessel, as the griddle and the pan, but excluding those baked in the oven. V. Gemara.

(16) The manner of its preparation was this: some oil was first put in a vessel of ministry, the flour was then put in and the two were kneaded together. Later more oil was added which was mingled with the dough. It was then baked into a cake whereupon it was broken into pieces and again more oil was poured on it, and then the handful was taken from it.

(17) Of the meal-offering prepared on a griddle or that prepared in a pan or that baked in an oven.

(18) The prescribed mingling had to be performed after the meal-offering had been baked and broken into pieces.

(19) Of the meal-offering baked in the oven.

(20) Of the meal-offering baked in the oven.

(21) In the form of a cross like the Greek letter . V. Tosaf. infra 75a, s.v. כמין, where various other suggestions are made.

(22) Sc. the expression ‘THAT ARE PREPARED IN A VESSEL’.

(23) This meal-offering had only two applications of oil, putting in and mingling, but not the third of pouring oil on it after it was baked.

(24) Lev. II, 7.

(25) Sc. the expression סלת בשמן; lit., ‘fine flour on the oil’.

(26) Ibid.5, with reference to the meal-offering prepared on a griddle.

Talmud - Mas. Menachoth 75a

just as here there must be the putting in of oil in the vessel [at the outset], so there there must also be the putting in of oil in the vessel [at the outset]. And just as there there must be mingling and pouring, so here there must also be mingling and pouring.[1]

THE [BAKED] CAKES WERE MINGLED [WITH OIL]. SO RABBI. BUT THE SAGES SAY, THE FINE FLOUR [WAS MINGLED WITH OIL]. Our Rabbis taught: [The expression] ‘fine flour mingled with oil’ signifies that the fine flour was mingled [with oil]. But Rabbi says, The cakes were mingled, as it is said, Cakes mingled with oil.[2] They said to him, Is it not written in connection with the loaves of the thank-offering, Cakes [mingled with oil]?[3] Nevertheless it was not possible[4] to mingle the cakes [with oil] but only the flour![5] How was it[6] made ready? He put in oil into the vessel at the outset, put in [the flour], added oil to it and mingled them together; he then kneaded it, baked it, broke it in pieces, poured oil on it, and then took the handful from it. Rabbi says, The cakes were mingled, as it is said, ‘Cakes mingled with oil’. How was it made ready? He put in oil into the vessel at the outset, put in [the flour], kneaded it, baked it, broke it in pieces, added oil to it and mingled them together, again poured oil on it, and then took the handful from It.

This was indeed a sound argument that the Sages put to Rabbi.[7] What is the argument?Said R. Samuel son of R. Isaac, Since there was only one quarter log of oil, how could it be distributed among so many cakes?[8]

THE CAKES REQUIRED MINGLING [WITH OIL] AND THE WAFERS ANOINTING. Our Rabbis taught: It is written, ‘Cakes mingled [with oil]’,[9] but not wafers mingled with oil. For [without the Biblical direction] I might have argued by an a fortiori argument thus: if cakes which do not require anointing require mingling, wafers which require anointing should surely require mingling! The text therefore states, ‘Cakes mingled [with oil]’, but not wafers mingled with oil. [It is written,] ‘Wafers anointed [with oil]’,[9] but not cakes anointed with oil. For [without the Biblical direction] I might have argued by an a fortiori argument thus: if wafers which do not require mingling require anointing, cakes which require mingling should surely require anointing! The text therefore states ‘Wafers anointed [with oil]’, but not cakes anointed with oil. How is this implied? — Raba explained, Because [Scripture] should not have omitted to state at least once the expression ‘cakes anointed with oil and wafers mingled with oil’.[10]

HOW WERE THEY ANOINTED? IN THE FORM OF CHI. What is the meaning of ‘IN THE FORM OF CHI’?-Said R. Kahana, In the form of the Greek letter chi.[11]

Our Rabbis taught: If the meal-offering [baked in the oven] is composed half of cakes and half of wafers,[12] one must bring for it one log of oil and divide it, one half for the cakes and the other half for the wafers. The cakes are to be mingled [with oil] and the wafers anointed. One must anoint the wafer over the whole of its surface; and the residue of the oil is to be put into the cakes. R. Simeon son of Judah says in the name of R. Simeon, One must anoint it in the form of [the letter] chi; and the residue of the oil is consumed by the priests.

Another Baraitha taught: If wafers are brought as an offering by themselves, one must bring for them one log of oil and anoint them, repeating this again and again until all the oil in the log has been used up. R. Simeon son of Judah says in the name of R. Simeon, One must anoint them in the form of [the letter] chi, and the residue of the oil is consumed by the priests.

MISHNAH. ALL MEAL-OFFERINGS THAT ARE PREPARED IN A VESSEL[13] REQUIRE TO

BE BROKEN IN PIECES.

GEMARA. What does it exclude?-Said R. Papa, It excludes the Two Loaves and the Shewbread.[14]

Our Rabbis taught: Thou shalt break it in pieces . . . it is a meal-offering:[15] this includes all meal-offerings that they require to be broken in pieces. I might then say that it includes also the Two Loaves and the Shewbread; the text therefore states, ‘It’. And pour oil thereon, it is a meal-offering:[15] this includes all meal-offerings that they require oil to be poured on them. I might then say that it includes also the meal-offering baked in the oven; the text therefore states, ‘Oil thereon’. Perhaps I must thus exclude the cakes but not the wafers; the text therefore states, ‘It is’. How is this implied? Perhaps I should rather exclude the meal-offering of the priests!

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(1) With regard to the meal-offering prepared on a griddle Scripture mentions two applications of oil, the mingling and the pouring at the end; and with regard to that prepared in a pan Scripture only mentions the putting in of oil at the outset. On the strength of the analogy it is established that what is stated of the one applies to the other, thus both kinds require three applications of oil.

(2) Ibid. 4.

(3) Ibid. VII, 12.

(4) V. infra.

(5) Thus in spite of the express Biblical direction it was the flour that was mingled with oil and not the cakes.

(6) Sc. the meal-offering that was prepared in a pan or on a griddle.

(7) The text adopted is that of MS.M., R. Gershom, Tosaf. and Sh. Mek.; and the interpretation follows that suggested by Tosaf. sv. שפיר. V, Rashi. Cur. edd. read: What was the purport of the words ‘nevertheless it was not possible etc.’ which the Sages said to Rabbi?

(8) V. infra 89a. A half log of oil was prescribed for the thank-offering, half of this quantity being used for the ten soaked cakes, and the other half (i.e., a quarter log) for the ten cakes and the ten wafers. It would therefore be impossible to mingle ten baked cakes with less than a quarter log of oil, for baked cakes are porous and all the oil would soon be absorbed in a few cakes. Obviously then the mingling could only have been performed before the cakes were baked, i.e., mingling the oil with the flour. And so it was, according to the Sages, with all meal-offerings.

(9) Lev. II, 4.

(10) The fact that Scripture invariably speaks of cakes mingled with oil and wafers anointed with oil indicates that the manner of applying the oil is exclusive in each case.

(11) V. supra p. 445, n. 2.

(12) According to R. Simeon the meal-offering baked in the oven may consist of either ten cakes or ten wafers or five cakes and five wafers. V. supra p. 372.

(13) I.e., from which the handful is taken (Tif. Yisroel).

(14) These were not broken in pieces.

(15) Lev. 11,6.

Talmud - Mas. Menachoth 75b

— Rabbah explained, Which meal-offering is it that needs two expressions to exclude it?[1] You must say it is the meal-offering baked [in the oven].[2]

MISHNAH. THE MEAL-OFFERING[3] OF AN ISRAELITE WAS FOLDED INTO TWO AND THE TWO WERE FOLDED INTO FOUR,[4] AND IT WAS SEVERED[5] [AT EACH BEND]; THE MEAL-OFFERING OF PRIESTS WAS FOLDED INTO TWO AND THE TWO WERE FOLDED INTO FOUR, BUT IT WAS NOT SEVERED;[6] THE MEAL-OFFERING OF THE ANOINTED HIGH PRIEST WAS NOT FOLDED. R. SIMEON SAYS, NEITHER THE MEAL-OFFERING OF THE PRIESTS[7] NOR THE MEAL-OFFERING OF THE ANOINTED HIGH PRIEST WAS BROKEN IN PIECES, SINCE THE HANDFUL WAS NOT TAKEN FROM THEM, AND

WHENEVER THE HANDFUL IS NOT TAKEN [FROM THE OFFERING] IT IS NOT TO BE BROKEN IN PIECES. THEY MUST ALL BE BROKEN INTO PIECES THE SIZE OF AN OLIVE.[8] GEMARA. Our Rabbis taught: [It is written,] Thou shalt break.[9] From this expression I would say [that it must be broken] in two, the text therefore states, In pieces.[9] [From the expression] ‘in pieces’ I would say that it should be broken into crumbs, the text therefore states, ‘It’:[9] it[10] must be broken in pieces but not the pieces into further pieces. How then must it be done? The meal-offering of an Israelite was folded into two and the two into four, and it was severed [at each bend]; the meal-offering of priests and of the anointed High Priest were folded etc. But have we not learnt: [THE MEAL-OFFERING OF THE ANOINTED HIGH PRIEST] WAS NOT FOLDED?-Rabbah said, It means it was not folded into four but it was folded into two.

R. SIMEON SAYS, NEITHER THE MEAL-OFFERING OF THE PRIESTS NOR THE MEAL-OFFERING OF THE ANOINTED HIGH PRIEST WAS BROKEN IN PIECES. R. Joseph said, Over habiza[11] which contains pieces of bread the size of an olive the benediction is ‘... who bringest forth bread from the earth’. If it does not contain pieces of bread the size of an olive the benediction is ‘...who createst various kinds of food’. R. Joseph said, Whence do I know this? From the following teaching: If he[12] was standing and offering meal-offerings [in the Temple] in Jerusalem, he says, ‘Blessed art thou... who hast kept us in life and hast preserved us and enabled us to reach this season’. If he[13] took them to eat he says the benediction ... — who bringest forth bread from the earth’.[14] And we have learnt: THEY MUST ALL BE BROKEN INTO PIECES THE SIZE OF AN OLIVE.[15] Abaye said to him, Then according to the Tanna of the School of R. Ishmael who said, ‘He must crumble [the meal-offerings] until they have been reduced to the fineness of the flour of which they had been made’, it would not be necessary to say the benediction ‘who bringest forth’ —[16] And should you say that it is so, but it has been taught:[17] If a man gathered together crumbs from all of them[18] the size of an olive and ate them [on the Passover], if they were leavened he has thereby incurred the penalty of kareth,[19] but if unleavened he fulfils therewith his obligation on Passover![20] -We are dealing here[21] with the case where he pressed [the crumbs] into a compact mass.[22] In that case, consider the comment on the above teaching: ‘Provided he ate them[23] in the time it takes to eat half a loaf’.[24] Now if he pressed them into a compact mass it should have stated ‘he ate it’! — Rather we are dealing here with the case where the crumbs come from a large loaf.[25] What is the decision then?[26] R. Shesheth said, Even though the pieces of bread [in the habiza] are not the size of an olive, [one must say the benediction ‘who bringest forth’]. Raba said, This is so provided they still have the semblance of bread.[27]

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(1) Viz., ‘it’ and ‘thereon’.

(2) For it consists of two kinds, cakes and wafers; accordingly two expressions are required to exclude this meal-offering.

(3) I.e., each cake.

(4) Thus fulfilling the precept of breaking in pieces.

(5) So that the handful could be taken therefrom.

(6) Since the handful was not taken from it but it was wholly burnt.

(7) Sc. his freewill-offering, for according to R. Simeon from the priest's obligatory meal-offering the handful was taken.

(8) Reading פותתן. In the MSS., and also further in the Gemara and in Rashi, the reading is פתיתין, ‘All the pieces must be about the size of an olive’. The exact implication of this statement is doubtful and many interpretations have been suggested: (i) After the pieces have been folded and broken into four, they must be broken into eight, and then again into sixteen and so on until each piece is reduced to the size of an olive. This statement accordingly continues the view of the first Tanna in this Mishnah (R. Gershom and Rashi). (ii) This statement is the expression of R. Simeon's view, that the pieces must be broken many times until each is reduced to an olive's size, this in opposition to the first Tanna who maintained that the cake was broken into four pieces only (Rashi in MS.). (iii) Each cake must first be broken into pieces each about the size of an olive, and then the pieces must be folded into two and then into four (Maim. in Com. on Mishnah, and Bartinoro).

(9) Lev. II, 6.

(10) Sc. each one of the two pieces.

(11) חביצא, a dish of flour, honey and oil beaten in a pulp (Jast.).

(12) Sc. a priest who is offering his first meal-offering of the year. Another interpretation: An Israelite who is offering a meal-offering for the first time in his life.

(13) Sc. the priest.

(14) The benediction prescribed for bread.

(15) Hence over food containing pieces of bread the size of an olive one must say the benediction .. . — who bringest forth bread from the earth'.

(16) Since there are no pieces the size of an olive.

(17) V. Ber. 37b.

(18) Sc. from the five species of grain, v. supra p. 414 (Tosaf.).

(19) V. Glos.

(20) Thus crumbs when collected unto an olive's bulk are regarded as bread, consequently one must say over them the benediction 'who bringest forth'.

(21) In the 'Baraitha quoted from Ber.

(22) Making one piece the size of an olive.

(23) Sc. the crumbs.

(24) I.e., a Piece of bread equivalent in size to four eggs (according to Maim: three). The eating of the crumbs must not be spread out over a longer space of time.

(25) Since the whole loaf has not been reduced to crumbs but only a portion of it, the loose crumbs, even though each is less than an olive's bulk, are considered as of some worth, and when they make up an olive's bulk one must say over them the benediction 'who bringest forth'. Where, however, the entire cake is reduced to crumbs, as in the case of the meal-offering according to the view of the Tanna of the School of R. Ishmael, one would not have to say over them the benediction 'who bringest forth'.

(26) Regarding the saying of the benediction for bread over pieces less than the size of an olive.

(27) I.e., the pieces of bread have not been soaked too long in the mixture so as to be reduced to a pulp.

Talmud - Mas. Menachoth 76a

MISHNAH. ALL MEAL-OFFERINGS REQUIRE TO BE RUBBED[1] THREE HUNDRED TIMES AND BEATEN[2] FIVE HUNDRED TIMES. THE RUBBING AND THE BEATING APPLY TO THE GRAINS OF WHEAT. R. JOSE SAYS, TO THE DOUGH.[3] ALL MEAL-OFFERINGS CONSIST[4] OF TEN CAKES EACH, EXCEPTING THE SHEWBREAD AND THE GRIDDLE-CAKES OF THE HIGH PRIEST, WHICH CONSIST OF TWELVE CAKES EACH. SO R. JUDAH. BUT R. MEIR SAYS, THEY ALL CONSIST OF TWELVE CAKES EACH, EXCEPTING THE CAKES OF THE THANK-OFFERING AND OF THE NAZIRITE-OFFERING, WHICH CONSIST OF TEN CAKES EACH.

GEMARA. A Tanna taught: He must rub once and beat twice, then rub twice and beat thrice.[5] R. Jeremiah enquired, Is the [moving of the hand] to and fro counted as one [rubbing] or as two [rubbings]? — This is undecided.

THE RUBBING AND THE BEATING APPLY TO THE GRAINS OF WHEAT. R. JOSE SAYS, TO THE DOUGH. The question was asked: Does [R. Jose] mean to the dough and not to the grains of wheat; or does he mean to the dough too?-Come and hear, for it was taught: The rubbing and the beating apply to the grains of wheat. R. Jose says, The rubbing and the beating apply to the dough.[6]

ALL MEAL-OFFERINGS CONSIST OF TEN CAKES EACH, [EXCEPTING THE SHEWBREAD AND THE GRIDDLE-CAKES OF THE HIGH PRIEST], WHICH CONSIST OF TWELVE CAKES EACH.With regard to the Shewbread this is expressly stated.[7] With regard to the griddle-cakes of the High Priest this is inferred by the occurrence of the word 'statute' both here and in connection with the Shewbread.[8] But whence do we know that all other meal-offerings must consist of ten cakes each? — By inference from the cakes of the thank-offering: as these consist of ten cakes,[9] so [all meal-offerings] must consist of ten cakes. Perhaps the inference should be drawn from the Shewbread: as this consists of twelve cakes, so [all meal-offerings] must consist of twelve cakes! — It is more reasonable to draw the inference from the cakes of the thank-offering since they[10] [like the cakes of the thank-offering] are the offerings of an individual, are freewill-offerings, require oil, are rendered invalid if left overnight, and may not be offered on the Sabbath or in uncleanness.[11] On the contrary, it is more reasonable to draw the inference from the Shewbread for they [like the Shewbread] are most holy, require frankincense, consist entirely of unleavened cakes, and are brought on their own account![12] -Those[13] are more in number.

But if we hold the view that what is derived by a gezerah shawah[14] may be set up as a basis for further inference,[15] should we not then draw the inference from the griddle-cakes of the High Priest; just as these consist of twelve cakes[16] so [all meal-offerings] must consist of twelve cakes? — It is more reasonable to draw the inference from the cakes of the thank-offering for they[17] [like the cakes of the thank-offering] are the offerings of ordinary persons, are freewill-offerings, are not offered by halves, are subject to the law of piggul, and may not be offered on the Sabbath or in uncleanness.[18] On the contrary, it is more reasonable to draw the inference from the griddle-cakes of the High Priest for they [like the griddle-cakes of the High Priest] consist of one tenth, are hallowed by a vessel, are most holy, require frankincense, consist entirely of unleavened cakes, are brought on their own account, require bringing near, and are offered [in part] on the altar fire;[19] moreover these[20] are more in number! — It is preferable to infer an offering of ordinary persons from an offering of ordinary persons.[21]

R.MEIR SAYS,THEY ALL CONSIST OF TWELVE CAKES EACH. If he holds the view that what is derived by a gezerah shawah may be set up as a basis for further inference, then he infers [other meal-offerings][22] from the griddle-cakes of the High Priest, for these[23] are more in number. And if he holds the view that what is derived by a gezerah shawah may not be set up as a basis for further inference, then he infers [other meal-offerings] from the Shewbread, for he prefers to infer the [most] holy from the [most] holy. EXCEPTING THE CAKES OF THE THANK-OFFERING AND OF THE NAZIRITE-OFFERING, WHICH CONSIST OF TEN CAKES EACH. With regard to the cakes of the thank-offering this is expressly stated;[24] and with regard to the cakes of the Nazirite-offering [this is so] because the Master has said, ‘His peace-offerings’[25] includes the peace-offerings of the Nazirite.[26]

R. Tobi b. Kisna said in the name of Samuel, If for the cakes of the thank-offering one baked only four cakes [instead of forty],[27] it is sufficient. But are not forty necessary? — That is only as a meritorius act. But terumah has to be taken therefrom?[28] And should you say that a piece is taken from each cake as terumah, but the Divine Law expressly says ‘One’,[29] [meaning] that he may not take what is broken![30] - [The terumah] was taken therefrom during the kneading.[31]

An objection was raised: All meal-offerings which were made into too many or too few cakes are valid, excepting the Shewbread, the griddle-cakes of the High Priest, the cakes of the thank-offering and of the Nazirite-offering! — He

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(1) The grains of wheat must be rubbed with the hand in order that the husk be the more easily removed.

(2) Beating down with the fist (others: with the foot) on the grains.

(3) I.e., in the preparation of the dough it was necessary to rub it three hundred times and beat it five hundred times.

(4) I.e., shall be made up and baked into ten cakes.

(5) This process must be repeated one hundred times, thus there will have been three hundred rubbings and five hundred beatings.

(6) And not to the wheat. A variant reading in R. Jose is: The rubbing applies to the grains of wheat and the beating to the dough. So Bah. V. Maim. Com. on Mishnah.

(7) That there must be twelve cakes; v. Lev. XXIV,5.
(8) V. ibid. 9 and VI, 15.
(9) V. infra beginning of chap. VIII, p. 458.
(10) Sc. all other meal-offerings.
(11) Whereas the Shewbread is an obligatory offering of the community and therefore it overrides the laws of the Sabbath and of uncleanness, does not require oil, and is left on the table in the Temple the whole week.
(12) Whereas the cakes of the thank-offering belong to the less holy offerings and are not brought as an offering by themselves but as accompanying the animal-offering. They do not have any frankincense, and some of the cakes are leavened.
(13) The points of resemblance between the other meal-offerings and the cakes of the thank-offering.
(14) V. Glos.
(15) Heb. Binyan Ab (‘creation of a class’), an inference by analogy from a case explicitly stated in the Bible for all similar cases not specified in detail.
(16) This was arrived at by the gezerah shawah on the strength of the common expression ‘statute’ used of the Shewbread and of the griddle-cakes of the High Priest.
(17) Sc. all other meal-offerings.
(18) Whereas the griddle-cakes are the offering of the High Priest, brought as an obligation, and therefore override the Sabbath and uncleanness; they are offered half in the morning and half in the evening, and are not subject to the law of piggul (v. Glos.).
(19) Whereas the cakes of the thank-offering consist of many tenths of flour, they are hallowed only by the slaughtering of the animal sacrifice on whose account these cakes are brought, they do not require frankincense, a proportion of them is leavened, they do not require to be brought near to the altar, and no part thereof is offered upon the altar fire.
(20) Sc. the points of resemblance between the other meal-offerings and the griddle-cakes of the High Priest.
(21) I.e., other meal-offerings from the cakes of the thank-offering, rather than from the High Priest's meal-offering.
(22) That they shall consist of twelve cakes.
(23) V. supra n. 5.
(24) That these must consist of ten cakes of each kind; v. infra 77b.
(25) Lev. VII, 13, stated with reference to the thank-offering.
(26) Therefore like the thank-offering the cakes of the Nazirite-offering must consist of ten cakes; v. infra 78a.
(27) He baked only one cake of each of the four kinds prescribed (unleavened cakes, wafers, soaked cakes, and leavened cakes) instead of ten of each kind.
(28) From each set of ten cakes one cake was to be given to the priest as terumah.
(29) Lev. VII, 14.
(30) V. infra 77b.
(31) During the kneading of each kind a portion was taken as terumah and baked into a whole cake.

Talmud - Mas. Menachoth 76b

is in agreement with the view of the following Tanna,[1] for it was taught: All meal-offerings which were made into too many or too few cakes are valid, excepting the Shewbread and the griddle-cakes of the High Priest. Others say, Excepting also the cakes of the thank-offering and of the Nazirite-offering.

R. Huna said, If for the meal-offering baked in the oven one baked only one cake,[2] it is sufficient. Why? Because the word ‘unleavened’ is written defectively [in Scripture].[3] R. Papa demurred, is this so only because ‘unleavened’ is written defectively, but had ‘unleavened’ not been written defectively it would not be so? Behold with regard to the cakes of the thank-offering the word ‘unleavened’[4] is not written defectively, nevertheless R. Tobi b. Kisna said in the name of Samuel that if for the cakes of the thank- offering one baked only four cakes [instead of forty] it was sufficient! — That statement [of R. Tobi b. Kisna] is at variance with this.

MISHNAH. THE ‘OMER CONSISTED OF ONE TENTH [OF AN EPHAH OF FLOUR]

TAKEN FROM THREE SE'AHS;[5] THE TWO LOAVES CONSISTED OF TWO TENTHS TAKEN FROM THREE SE'AHS; AND THE SHEWBREAD CONSISTED OF TWENTY-FOUR TENTHS TAKEN FROM TWENTY-FOUR SE'AHS.

GEMARA. [THE ‘OMER etc.] Why so?-Since it was of the new produce and of barley,[6] a tenth of the finest flour could only be obtained out of three se'ahs.

THE TWO LOAVES CONSISTED OF TWO TENTHS TAKEN FROM THREE SE'AHS. Since it was of wheat, even though it was of the new produce, two tenths of the finest flour could be obtained out of three se'ahs.

THE SHEWBREAD CONSISTED OF TWENTY-FOUR TENTHS TAKEN FROM TWENTY-FOUR SE'AHS. Why so? — Since it was of wheat and of the old produce, one tenth of the finest flour could be obtained out of one se'ah.

Our Rabbis taught: In all meal-offerings if the number of tenths was increased or diminished,[7] it is invalid; if the number of se'ahs[8] was increased or diminished, it is valid.[9] MISHNAH. THE ‘OMER[10] WAS SIFTED THROUGH THIRTEEN SIEVES, THE TWO LOAVES THROUGH TWELVE, AND THE SHEWBREAD THROUGH ELEVEN. R. SIMEON SAYS, THERE WAS NO PRESCRIBED NUMBER FOR THEM,[11] BUT THEY BROUGHT FINE FLOUR AND SIFTED IT AS MUCH AS WAS NECESSARY, AS IT IS SAID, AND THOU SHALT TAKE FINE FLOUR AND BAKE IT:[12] [IT MAY NOT BE BAKED] UNTIL IT IS SIFTED AS MUCH AS IS NECESSARY.[13]

GEMARA. Our Rabbis taught: [It was sifted] through a fine sieve and then a coarse one, and again through a fine sieve and then a coarse one.[14] R. Simeon son of Eleazar says, There were thirteen sieves in the Temple, one on top of the other;[15] the uppermost retained the bran and the nethermost retained the fine flour.

R. SIMEON SAYS, THERE WAS NO PRESCRIBED NUMBER FOR THEM. Our Rabbis taught: Fine flour and bake it:[12] this teaches that fine flour was to be taken.[16] And how do we know that even grains of wheat may be brought?[17] The text therefore states and thou shalt take’, in any manner. I might think that this is so even in regard to all other meal-offerings;[18] therefore the text states, ‘It’. This is so here, having regard to sparing [expense]. What is meant by having regard to sparing’? — Said R. Eleazar, The Torah wished to spare Israel unnecessary expense.[19] Where is this indicated? For it is written, And thou shalt give the congregation and their cattle drink.[20] CHAPTER VIII

MISHNAH. THE THANK-OFFERING REQUIRED FIVE SE'AHS [OF FLOUR], JERUSALEM MEASURE, WHICH ARE SIX SE'AHS WILDERNESS MEASURE;[21] THIS BEING EQUIVALENT TO TWO EPHAHS (FOR AN EPHAH IS THREE SE'AHS) OR TO TWENTY TENTHS [OF AN EPHAH], TEN FOR THE LEAVENED CAKES AND TEN FOR THE UNLEAVENED.[22]

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(1) Samuel, in whose name R. Tobi b. Kisna reported the statement, accepts the view of the first Tanna in the following Baraitha.

(2) Instead of ten cakes.

(3) Lev. II, 4. The word מצת, being written defectively, i.e., without the waw, is interpreted as though it were in the singular.

(4) Lev. VII, 12. The word מצות is written plene and is obviously in the plural.

(5) In order to obtain one tenth of an ephah of the finest flour one whole ephah (three se'ahs equal one ephah) of barley was reaped, which was ground, sifted and resifted until reduced to a tenth. V. supra 63b.

(6) For there is more offal and bran in fresh corn than in dry, and so too there is more refuse in barley than in wheat.

(7) I.e., the prescribed number of tenths for the meal-offering which accompanied the animal offerings (three tenths for a bullock etc.) was increased or reduced (so Rashi MS. and Tosaf.). Another explanation is: the tenth measure was filled to overflowing, or it was not quite full.

(8) Out of which the ‘Omer, or the Two Loaves, or the Shewbread was taken.

(9) For Scripture only prescribes the quantity of flour to be offered but not the quantity of grain out of which the measure of flour was to be obtained.

(10) I.e., the flour for the ‘Omer-offering.

(11) Adopting the reading לא היה לחן קצבה, R. Simeon clearly refers to all that has been stated previously in this and in the preceding Mishnah; accordingly it was not essential to sift the flour in a prescribed number of sieves, or to take it out of a prescribed number of se'ahs, so long as fine flour was obtained (Bartinoro). In the separate editions of the Mishnah the reading is לא היה לה קצבה ; accordingly R. Simeon refers only to the number of siftings prescribed for the Shewbread (Rashi MS.).

(12) Lev. XXIV, 5.

(13) But it is immaterial through how many sieves the flour had passed.

(14) A coarse sieve (i.e., which has a netting of large meshes), when sifting the ground grain, lets through the flour and retains the bran, whilst a fine sieve retains the flour and lets through the fine dust only. Here the grain was sifted thirteen times, the first time in a fine sieve and the second time in a coarse one. The third time it was sifted again in the same fine sieve as before and the fourth time in the same coarse sieve as before; thus only two sieves were in use (R. Gershom and Rashi). According to Rashi MS. and Tosaf., thirteen sieves were used of various sizes, the last being the finest of all. On this interpretation the statement of R. Simeon son of R. Eleazar which follows merely elucidates the view of the first Tanna.

(15) The sieve below being of finer texture and of smaller meshes than the one above it.

(16) I.e., finely sifted flour was to be bought in the market for the purpose.

(17) And ground and sifted in the Temple.

(18) That they may buy wheat and grind it and sift it in the Temple. In this way much expense would be saved.

(19) V. Sifra on Lev. XIV, 36. As the Shewbread was a regular weekly offering it was permitted to buy wheat and have it prepared in the Temple so as to save expense.

(20) Num. XX, 8. The miracle of providing water for the Israelites in the wilderness was performed also out of consideration for the saving of the cattle. This last passage, ‘Where is this indicated... is omitted in all MSS.

(21) The measures which were used by the Israelites in the wilderness were later on, after the settlement in the Land of Israel, enlarged, so that the measure which was originally equal to six se'ahs was later regarded as being equal to five. In other words, each se'ah was increased by one fifth, which in Rabbinic parlance is called ‘a sixth from the outside’.

(22) Forty cakes were required for the thank-offering, ten leavened and thirty unleavened. The latter consisted of three kinds, ten cakes of each kind.

‘TEN FOR THE LEAVENED CAKES’, ONE TENTH FOR EACH CAKE; ‘AND TEN FOR THE UNLEAVENED. OF UNLEAVENED CAKES THERE WERE THREE KINDS: CAKES, WAFERS, AND SOAKED CAKES,[1] THUS THERE WERE THREE AND A THIRD TENTHS OF FLOUR FOR EACH KIND, THREE CAKES TO EVERY TENTH. BY JERUSALEM MEASURE THEY WERE THIRTY KABS,[2] FIFTEEN FOR THE LEAVENED CAKES AND FIFTEEN FOR THE UNLEAVENED. ‘FIFTEEN FOR THE LEAVENED CAKES’, ONE KAB AND A HALF FOR EACH CAKE; ‘AND FIFTEEN FOR THE UNLEAVENED’. OF THE UNLEAVENED CAKES THERE WERE THREE KINDS: CAKES, WAFERS, AND SOAKED CAKES, THUS THERE WERE FIVE KABS FOR EACH KIND, TWO CAKES TO EVERY KAB.

GEMARA. THE THANK-OFFERING REQUIRED FIVE SE'AHS [OF FLOUR]. JERUSALEM MEASURE etc. Whence do we know this?[3] — R. Hisda said, From the verse, The ephah and the bath shall be of one measure;[4] as the bath is three se'ahs so the ephah is three se'ahs. But whence do we know this of the bath? Shall we say, because it is written, That the bath may contain the tenth part of a homer?[5] Then the same is said of the ephah too, And the ephah the tenth part of a homer![6] But [you will say that the latter verse proves nothing as] we do not know how much the homer is, then the same applies to the former verse, since we do not know how much the homer is! — Rather it is derived from the following verse: And the set portion of oil, of the bath of oil, shall be the tenth part of a bath out of the cor, which is ten baths, even a homer; for ten baths are a homer.[7]

Samuel said,[8] They may not increase the measures[9] by more than a sixth, neither the coins by more than a sixth, and the profits [on necessary foods] must not exceed a sixth.[10] What is the reason [for his first statement]? If it be said that the market prices will rise [above due proportions on that account].[11] then [for the same reason] it should not [be permitted to increase] even by a sixth! And if it be said that it is so on the score of overreaching, so that the transaction be not annulled,[12] but surely Raba said, On account of any fraud in measure, weight or number, even though it is less than the standard of overreaching, one can retract.[13] And if it be said [that the reason why no more than a sixth may be added to weights is] that the dealer may not incur any loss,[14] [it will be retorted]. Is [then the whole purpose of the law that] he be guarded against loss? Is he not entitled to make any profit? ‘Buy and sell [at no profit] merely to be called a merchant!’ — Rather, said R. Hisda, Samuel found a Scriptural text and expounded it: And the shekel shall be twenty gerahs; twenty shekels, five and twenty shekels, ten and five shekels shall be your maneh.[15] Was then the maneh two hundred and forty denars?[16] But three things are to be inferred from this: it is to be inferred that the Temple maneh was doubled;[17] it is to be inferred that they may increase the measures[18] but that they may not increase them by more than a sixth; and it is to be inferred that the sixth is added ‘from the outside’.[19] Rabina said, This[20] may be proved from our Mishnah which states: THE THANK-OFFERING REQUIRED FIVE SE'AHS [OF FLOUR], JERUSALEM MEASURE, WHICH ARE SIX SE'AHS WILDERNESS MEASURE.[21] This obviously proves it.

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(1) Cf. Lev. VII, 12.

(2) I.e., the five se'ahs were equivalent to thirty kabs, for six kabs equal one se'ah.

(3) That an ephah is three se'ahs.

(4) Ezek. XLV, 11.

(5) Ibid. The homer is thirty se'ahs.

(6) Ibid. Hence there is no need to infer the ephah from the bath.

(7) Ibid. 14. The cor was known to be thirty se'ahs, thus this verse informs us that the bath was a tenth part of the cor, i.e., three se'ahs; and the ephah and the bath were of one measure (ibid. 11).

(8) V. B.B. 90a.

(9) Even though all the townspeople have agreed to the change.

(10) Lit., ‘he who profits must not profit more than a sixth’.

(11) For merchants, learning of the increase in the weights and measures of this town, will immediately raise the prices of commodities, and taking advantage of this will raise them higher than what is warranted by the change in the measures.

(12) It is established that in any transaction if an error is made which is more than a sixth of the value of the goods the transaction is void; if it is exactly a sixth, the transaction stands but the amount of error must be returned; if less than a sixth the transaction is valid and there is no redress. V. B.M. 50b. Now if weights and measures may be increased by more than a sixth, then traders who were ignorant of the increase and who sell their goods in the present measures at the former prices would be defrauded by more than a sixth, with the effect that all their dealings would be declared void. In order to obviate this the increase in weights and measures was limited to a sixth.

(13) V. supra 69a and B.B. 90a. Since in such cases one can retract even when the error was less than one sixth, nothing is gained by limiting the increase to a sixth.

(14) A dealer is allowed to make a profit of one sixth on a transaction. By limiting the increase to a sixth a dealer who sells his goods ignorant of the increase will at most lose his profit but will not suffer any loss.

(15) Ezek. XLV, 12.

(16) The maneh according to Ezekiel was 20 + 25 + 15 shekels = 60 shekels = 240 denars (one shekel = 4 denars), whereas elsewhere throughout the Talmud it is established that the maneh was 25 shekels = 100 denars.

(17) I.e., consisting of 200 denars.

(18) And also the value of coins.

(19) So as to add a sixth ‘from the outside’ the original was divided into five parts, and another part of equal value, making a sixth one, was added to it. Thus the maneh consisted of 240 denars.

(20) That the sixth was added ‘from the outside’.

(21) It is evident that the Jerusalem se'ah was made to equal one se'ah and a fifth of the wilderness se'ah, thus there was an increase of one fifth, which in Rabbinic parlance is ‘one sixth from the outside’.

Talmud - Mas. Menachoth 77b

MISHNAH. FROM EACH KIND [THE PRIEST] TOOK ONE TENTH PART AS TERUMAH,[1] AS IT IS SAID, AND OF IT HE SHALL PRESENT ONE OUT OF EACH OFFERING AS TERUMAH UNTO THE LORD.[2] ‘ONE’: [MEANS] THAT HE MAY NOT TAKE WHAT IS BROKEN. ‘OUT OF EACH OFFERING’-THAT EACH KIND OF OFFERING SHALL BE EQUAL,[3] [AND] THAT HE MUST NOT TAKE [THE TERUMAH] FROM THE ONE KIND OF OFFERING INSTEAD OF FROM ANOTHER.[4] IT SHALL BE THE PRIEST'S THAT SPRINKLETH THE BLOOD OF THE PEACE-OFFERINGS;[2] BUT THE REST WAS CONSUMED BY THE OWNER.

GEMARA. Our Rabbis taught: ‘And of it he shall present’: — of all of them joined together.[5] One: — that he may not take what is broken. Out of each offering: — that each kind of offering shall be equal. [and] that he must not take [the terumah] from the one kind of offering instead of from another. ‘As terumah unto the Lord’: but I know not how much it [must be]. I can, however, infer it by the following argument: it is written here ‘terumah’, and it is written there in connection with the terumah of the tithe ‘terumah’;[6] as there it is one part in ten, so here it is one part in ten. Or perhaps argue this way: it is written here ‘terumah’, and it is written there in connection with the first-fruits ‘terumah’;[7] as there there is no fixed measure, so here there is no fixed measure. Let us then see to which of the two is this case most similar. We may infer the terumah which is not followed by any other offering from that terumah which is not followed by any other offering,[8] but let not the firstfruits enter the argument since they are followed by other offerings.[9] Or perhaps argue this way: we may infer the terumah which must be eaten in a holy place from that terumah which must also be eaten in a holy place,[10] but let not the terumah of the tithe enter into the argument seeing that it may be eaten in any place. The text therefore stated here, Of it... as terumah unto the Lord,[11] and also there in connection with the terumah of the tithe, Of it as the terumah of the Lord,[12] for the purpose of gezerah shawah.[13]

We have thus learnt that the terumah must be one part in ten, but I know not of what measure shall the [leavened] cakes be. I can, however, infer it by the following argument: it is written here bread',[14] and it is also written in connection with the Two Loaves 'bread';[15] as there there was one tenth [of an ephah] for each loaf, so here there must be one tenth for each cake. Or perhaps argue thus: it is written here 'bread', and also there in connection with the Shewbread it is written 'bread';[16] as there there were two tenths for each loaf, so here there must be two tenths for each cake. Let us then see to which of the two is this case most similar. We may infer a meal-offering which is leavened and offered with an animal-offering[17] from another meal-offering which is leavened and is offered with an animal-offering,[18] but let not the Shewbread enter into the argument seeing that it is neither leavened nor offered with an animal-offering. perhaps argue this way: we may infer a meal-offering[19] which may be offered either of the produce of the Land [of Israel] or of that grown outside it, from the new or the old produce, from that meal-offering[20] which also may be offered either of the produce of the Land or of that grown outside it, from the new or the old produce; but let not the Two

offering of the produce and it was followed by the 'Great Terumah' and the various tithes. Loaves enter into the argument seeing that it must be offered of the new produce and of that grown in the Land. The text therefore stated, Ye shall bring out of your dwellings two wave-loaves.[21] Now the text need not have stated 'Ye shall bring';[22] why did it state 'Ye shall bring'? [To teach that] every other offering that you make of a similar kind[23] shall be like this; as in this case there was one tenth [for each loaf]. so [in the other case] there must be one tenth [for each cake]. Should we not [rather say]. as in this case there were two tenths in all, so here there shall be two tenths in all?[24] The text therefore stated, They shall be.[25]

We have now learnt that ten [tenths] are required for the leavened [cakes], but whence do we know that ten [tenths] are required for the unleavened [cakes]? The text therefore stated, With cakes of leavened bread;[26] thus one must bring unleavened [cakes] in the same measure as the leavened [cakes] — It is thus established that there were twenty tenths for the cakes of the thank-offering, ten for the leavened [cakes] and ten for the unleavened. I might think that the ten [tenths] for the unleavened [cakes] were all of one kind [of cake]; the text therefore stated, If he offer it for a thanksgiving, then he shall offer with the sacrifice of thanksgiving unleavened cakes mingled with oil, and unleavened wafers anointed with oil, and cakes mingled with oil of fine flour soaked.[27] Thus there were three and a third tenths for each kind, three cakes to every tenth; and thus there were forty cakes for the thank-offering. Four [cakes] were taken and given to the priest, and the rest was consumed by the owner.

The Master said, 'And of it he shall present, of all of them joined together'. Consider then the verse, And all the fat thereof shall he take off from it;[28] how can one apply here the ruling 'of all joined together'?[29] — [One must accept] the ruling of R. Hisda in the name of Abimi. For R. Hisda said in the name of Abimi, The flesh may not be cut up before the sacrificial portions have been taken off.[30]

The Master said, 'It is written here "terumah", and it is written there in connection with the terumah of the tithe "terumah".' Perhaps we should infer it from the terumah at Midian![31] — We may infer the terumah that is binding for all times from that terumah which is also binding for all times, and let not the terumah at Midian enter into the argument since it was not binding for all times. Perhaps we should infer it from the terumah stated in connection with the dough-offering![32] — A Tanna of the School of R. Ishmael taught: We may infer that matter in connection with which there is written, Of it... as terumah unto the Lord,[33] from that matter in connection with which there is also written, Of it as the terumah of the Lord;[34] hence the terumah of the dough-offering is excluded since there is not stated in connection therewith 'Of it as terumah unto the Lord'.

Raba raised this question: By [eating] the terumah of the cakes of the thank-offering does one incur the penalty of death [at the hands of heaven] or the liability of the added fifth or not?[35] Since it has been compared with the terumah of the tithe, then in this respect too it is like the terumah of the tithe; or perhaps the Divine Law has excluded [this terumah] by the expressions ‘therein’[36] and ‘the fifth part thereof’.[36] Does it render [other cakes into which it may fall] subject to the law of terumah[37] or not? — These questions remain undecided.

The Master said, The text therefore stated, ‘They shall be’. How is this[38] intimated in the text?

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(1) תרומה , here meaning a select portion, or gift.

(2) Lev. VII, 14.

(3) There must be an equal number of cakes, namely ten, of each kind.

(4) The priest shall not take two cakes from one kind and none from another.

(5) When the offering is about to be taken all the cakes must be together in one vessel.

(6) Num. XVIII, 26. The Levites were to offer a tenth part of the tithe which they had received from the people to the priest.

(7) Cf. Deut. XII, 17: ‘And the terumah of thy hand’, which expression, according to Rabbinic interpretation, refers to the first-fruits. There was no prescribed measure for the first-fruits, v. Pe'ah I, 1.

(8) The terumah from the cakes of the thank-offering and the terumah of the tithe given by the Levites were both final offerings.

(9) The offering of the first-fruits was the first

(10) The terumah of the cakes of the thank-offering and the offering of first-fruits must be eaten within the walls of Jerusalem.

(11) Lev. VII, 14.

(12) Num. XVIII, 26.

(13) V. GIos. As the offering from the tithe was one tenth so the terumah of the cakes must be one tenth.

(14) Lev. VII, 13.

(15) Ibid, XXIII, 17.

(16) Ibid. XXIV, 7.

(17) The cakes of the thank-offering are offered accompanying the animal-sacrifice and a part thereof is leavened.

(18) The Two Loaves are leavened and are offered with the two lambs on the Feast of Weeks.

(19) The cakes of the thank-offering.

(20) The Shewbread.

(21) Lev. XXIII, 17.

(22) For in the preceding verse (16) Scripture has already stated, Ye shall present a new meal-offering.

(23) I.e., when leavened cakes are offered; this includes the thank-offering.

(24) I.e., two tenths for the ten leavened cakes.

(25) Ibid. XXIII, 17. V. infra as to the derivation of the law from this expression.

(26) Ibid. VII, 13. In addition to, and in the same measure as, the unleavened cakes mentioned in the preceding verse (12) there must be leavened cakes.

(27) Ibid. 12.

(28) Ibid. IV, 19.

(29) For it is assumed that the flesh of the animal is already cut up before the fat is taken off. V., however, Tosaf. s.v.מאי

(30) Thus when the fat is taken off the animal is ‘joined together’.

(31) That portion of the spoil which was given to Eleazar the priest after the battle with the Midianites is described as ‘terumah’, and consisted of a five hundredth part. Cf. Num. XXXI, 28, 29.

(32) Cf. Num. XV, 19. The portion to be given as dough-offering is, according to the Rabbis, one twenty-fourth.

(33) Lev. VII, 14, with reference to the cakes of the thank-offering.

(34) Num. XVIII, 26, with reference to the terumah of the tithe.

(35) If a non-priest deliberately ate terumah of produce (either the great terumah or the terumah of the tithe) he would incur the penalty of death at the hands of Heaven, and if inadvertently he would be liable to make restitution and add a fifth to the repayment. The question raised is whether these rules apply to the cakes given to the priest as terumah from the thank-offering or not.

(36) Lev. XXII, 9 and 14 respectively. These expressions are used specifically

(37) And the entire mixture is forbidden to non-priests like the terumah of produce.

(38) That ten tenths are required for leavened cakes of the thank-offering.

Talmud - Mas. Menachoth 78a

— R. Isaac b. Abdimi said, Because it is written, They shall be.[1] Perhaps it means ten kapizas![2] — Raba answered, The verse speaks of tenths.

‘We have now learnt that ten [tenths] are required for the leavened [cakes], but whence do we know that ten [tenths] are required for the unleavened [cakes]? The text therefore stated, With cakes of leavened bread; thus one must bring unleavened [cakes] in the same measure as the leavened [cakes]’. But may that which has itself been inferred by a hekkesh[3] become the basis for another inference to be made from it again by a hekkesh?[4] -[The original rule was derived] from itself and [from] something else,[5] and [any rule derived] from itself and [from] something

of the terumah of produce, and the suffix in each case excludes every other terumah. else is not regarded as a hekkesh.[6] This is well according to him who does not regard this as a hekkesh, but what can be said according to him who regards this as a hekkesh?[7] — The expression ‘ye shall bring’ is an amplifying text.[8]

MISHNAH. THE CONSECRATION [MEAL-OFFERING][9] CONSISTED OF [UNLEAVENED CAKES] LIKE THE UNLEAVENED CAKES OF THE THANK-OFFERING. NAMELY CAKES, WAFERS, AND SOAKED CAKES. THE NAZIRITE MEAL-OFFERING[10] CONSISTED OF TWO THIRDS OF THE UNLEAVENED CAKES OF THE THANK-OFFERING. NAMELY CAKES AND WAFERS. BUT NOT SOAKED CAKES; THUS THERE WERE TEN KABS[11] BY JERUSALEM MEASURE. WHICH ARE SIX TENTHS AND SOMETHING OVER.[12]

GEMARA. Whence is it derived?[13] — Said R. Hisda in the name of R. Hama b. Guria, It is written, And out of the basket of unleavened bread that was before the Lord, he took one unleavened cake, and one oil-cake, and one wafer.[14] Now ‘cake’ means cake, and ‘wafer’ means wafer; but what is meant by ‘oil-cake’? Surely it means a cake soaked in oil. R. Awia demurred, perhaps it means a cake of oil![15] — Rather it is derived from the exposition of R. Nahman b. R. Hisda in the name of R. Tabla. [It is written,] This is the offering of Aaron and of his sons, which they shall offer unto the Lord in the day when he is anointed.[16] What do we learn in regard to ‘his sons’ from the offering ‘when he is anointed’? It is that the offering at the initiation [of the ordinary priest] shall be like the offering at the anointing [of the High priest]; as at the anointing [of the High priest] there was an offering of soaked cakes,[17] so at the initiation [of the ordinary priest] there was an offering of soaked cakes.[18]

R. Hisda said, When the High Priest is inaugurated into the service he requires two tenths of an ephah for offerings, one on account of his anointing[19] and the other on account of his initiation.[19] Mar son of R. Ashi[20] said, He requires three [tenths]. But they do not in fact differ, for the former refers to the case where he had already been serving in the Temple as an ordinary priest, and the latter to the case where he had not served in the Temple as an ordinary priest.[21]

THE NAZIRITE MEAL-OFFERING CONSISTED OF TWO THIRDS OF THE UNLEAVENED CAKES OF THE THANK-OFFERING. Our Rabbis taught: ‘His peace-offerings’[22] includes the peace-offering of the Nazirite, that it requires ten kabs [of flour], Jerusalem measure, and one quarter log of oil.[23] I might think that [it includes the Nazirite-offering] in regard to all that is mentioned in the passage,[24] the text therefore stated, Unleavened.[25] How is this implied? — R. Papa answered, [It[26] includes for the Nazirite-offering] only those kinds which are specified by the term ‘unleavened’, thus excluding the soaked cakes which are not specified by the term ‘unleavened’.[27] A Tanna of the School of R. Ishmael taught: ‘A basket of unleavened bread’[28] is a general statement, ‘cakes’ and ‘wafers’ are particular instances; we thus have a general statement followed by the enumeration of particular instances, in which case the scope of the general statement is limited to the particulars specified; thus only cakes and wafers, but nothing else.

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(1) Heb.תהיינה , written plene, with two ‘yods’. The ‘yod’ has the numerical value of ten, thus intimating in this verse ten tenths; and as this measure cannot possibly refer to the Two Loaves, for it is expressly stated in this verse that the Two Loaves consist of two tenths, it can only refer to the leavened cakes of the thank-offering, which were contemplated by the superfluous expression at the beginning of the verse ‘ye shall bring’, v. supra p. 463. V. Tosaf. s.v. אמר for a variant text and a further interpretation.

(2) A measure of capacity equal to half a kab.

(3) The rule that the ten leavened cakes of the thank-offering shall consist of ten tenths, a tenth for every cake, was established by a comparison (hekkesh,היקש v. Glos.) with the Two Loaves, intimated in the verse by the expression ‘ye shall bring’.

(4) Whereby it is sought to infer from the leavened cakes, by reason of the hekkesh implicit in vv. 12 and 13; that the unleavened cakes shall also consist of ten tenths. The rule is well established that in matters appertaining to sacrifice one may not draw an inference by a hekkesh from that which has itself been inferred by a hekkesh. V. Zeb. 49b.

(5) The original inference that the leavened cakes of the thank-offering shall consist of ten tenths, a tenth for every cake, was not entirely drawn from the case of the Two Loaves, inasmuch as the number of cakes, namely ten, is deemed to be expressly stated in connection with the leavened cakes of the thank-offering by virtue of the expression ‘they shall be’ (v. supra n. 3). Accordingly the leavened cakes supplied the rule that there must be ten cakes (i.e., derived ‘from itself’) and the Two Loaves supplied the rule that there must be a tenth for each cake (i.e., derived ‘from something else’); the result obtained is therefore not regarded as one obtained entirely by a hekkesh.

(6) Consequently from such a hekkesh other matters can be inferred.

(7) V. Zeb. 57a and Yoma 57a.

(8) This expression stated in connection with the Two Loaves is, as has been said supra p. 463, superfluous there, and has been interpreted as applying to the leavened cakes of the thank-offering; and as in this verse the measure of a tenth per cake is clearly intimated, it is established without a hekkesh that there must be ten tenths for the leavened cakes. Accordingly a further inference, namely in respect of the unleavened cakes, may be drawn from this.

(9) Offered at the consecration of Aaron and his sons in the priesthood, v. Lev. VIII, 26.

(10) Cf. Num. VI, 15.

(11) Which is two thirds of the fifteen kabs required for the unleavened cakes of the thank-offering.

(12) The kab was equivalent to two thirds of a tenth, accordingly ten kabs equalled six and two thirds tenths.

(13) That the consecration meal-offering consisted also of cakes soaked in oil.

(14) Lev. VIII, 26.

(15) I.e., a cake of congealed oil. The meaning and etymology of this word אנתא are both doubtful.

(16) Lev. VI, 13. This verse clearly points to some connection between the offering of ‘his sons’, i.e., the meal-offering brought by ordinary priests at their initiation into service, and that of Aaron ‘when he is anointed’ and which was offered daily by the High Priest.

(17) This is expressly stated, ibid. 14.

(18) And the consecration offering is identical with the initiation offering of the priests.

(19) As High Priest.

(20) In MS.M., Tosaf., and Sh. Mek.: Mar. b. Hiyya.

(21) In this case three offerings were necessary: one by reason of his initiation into the priestly service, the second by reason of his initiation into service as the High Priest, and the third by reason of his anointing as High Priest.

(22) Lev. VII, 15, stated in connection with the thank-offering.

(23) Since the Nazirite-offering consisted of two kinds of unleavened cakes only, it required the same quantity of flour used for these two kinds in the thank-offering, namely ten kabs, and the same quantity of oil used for these two kinds, namely one quarter log.

(24) That the Nazirite-offering should have also cakes soaked in oil.
(25) Num. VI, 15, in connection with the Nazirite-offering. This term implies the exclusion of soaked cakes.
(26) The expression ‘his peace-offerings’.
(27) This term describes the cakes and the wafers prescribed for the thank-offering, Lev. VII, 12; accordingly the unleavened cakes spoken of in the Nazirite-offering signify these same cakes.
(28) Num. VI, 15.

Talmud - Mas. Menachoth 78b

MISHNAH. IF A MAN SLAUGHTERED THE THANK-OFFERING WITHIN [THE TEMPLE COURT] AND THE BREAD THEREOF WAS OUTSIDE THE WALL [AT THE TIME]. THE BREAD IS NOT HALLOWED. IF HE SLAUGHTERED IT BEFORE [THE LOAVES] HAD BECOME CRUSTED IN THE OVEN, OR EVEN IF ALL EXCEPT ONE HAD BECOME CRUSTED, THE BREAD IS NOT HALLOWED.

GEMARA. What does ‘OUTSIDE THE WALL’ mean? — R. Johanan says, Outside the wall of Beth Page;[1] but Resh Lakish says, Outside the wall of the Temple court. ‘Resh Lakish says. Outside the wall of the Temple court’,for we must interpret ‘al in the sense of ‘near to’.[2] ‘R. Johanan says, Outside the wall of Beth page’, but [if it was] outside the wall of the Temple court it would be hallowed, for we need not interpret ‘al in the sense of ‘near to’.

But have they not differed in this matter once already? For we have learnt:[3] If a man slaughters the Passover-offering with leaven In his possession, he transgresses a negative command.[4] R. Judah says. Also [if he so slaughters] the daily offering.[5] Whereupon Resh Lakish said, He is never culpable unless the leaven belongs to him who slaughters or to him who sprinkles the blood or to any one of the members of the company,[6] and it is also with him in the Temple court;[7] but R. Johanan said, Even if it is not with him in the Temple court! — Both disputes are necessary. For if it were stated only there [in connection with the Passover-offering, I would say that] only there does R. Johanan [hold him culpable even though the leaven was not with him], for wherever it happens to be it is a prohibited matter,[8] but as regards the hallowing of the bread I would say that he concurs with Resh Lakish, that if it is within the Temple court it is hallowed, but if outside it is not hallowed. And if it were stated only here I would say that only here does Resh Lakish [insist that the bread in order to be hallowed must be within the Temple court], but there I would say that he concurs with R. Johanan [that he is culpable even though the leaven is not with him]. Hence both disputes are necessary.

There has been taught [a Baraitha] in accord with R. Johanan's view. If a man slaughtered the thank-offering within [the Temple court] and the bread thereof was outside the wall of Beth Page [at the time], the bread is not hallowed.

IF HE SLAUGHTERED IT BEFORE [THE LOAVES] HAD BECOME CRUSTED IN THE OVEN [...THE BREAD IS NOT HALLOWED]. Whence is this derived? — From the following which our Rabbis taught: With cakes of leavened bread he shall present:[9] this teaches that the bread is hallowed only if [the loaves] had become crusted in the oven[10] [before the slaughtering of the sacrifice]. ‘He shall present his offering with the slaughtering’:[11] this teaches that the bread is hallowed only by the slaughtering of the sacrifice.’ The slaughtering of the thank-offering’:[11] this teaches that if he slaughtered [the thank-offering] under the name of another offering, the bread is not hallowed.

Our Rabbis taught:[12] One fulfils one's obligation [on the Passover] with unleavened bread partially baked, and with unleavened bread prepared in a stewing pot. What is meant by ‘unleavened bread partially baked’? — Rab Judah explained in the name of Samuel, It is [any unleavened bread which] when broken has no threads dragging from it.

Raba said, And the same rule applies to the loaves of the thank-offering.[13] Surely this is obvious, for here the expression 'bread' is used and there too the expression 'bread' is used![14] — You might think that since the Divine Law stated, One,[15] intimating that he may not take what is broken, such[16] is regarded as broken;[17] he therefore teaches us [that it is not so].

It was stated:[18] If the thank-offering was slaughtered accompanied by eighty loaves,[19] Hezekiah ruled, Forty out of the eighty are hallowed;[20] and R. Johanan ruled, Not even forty out of the eighty are hallowed.[21] Said R. Zera, All agree that if he declared, 'Let forty out of the eighty be hallowed', they are hallowed; like- wise If he declared, 'The forty shall not be hallowed unless all the eighty are hallowed', they are not hallowed; they differ only where no specific statement was made: one Master[22] is of the opinion that his intention[23] was to ensure the prescribed number,[24] while the other Master[25] holds the view that his intention was to provide a large offering.[26]

Abaye said,[27] They differ as to whether vessels of ministry hallow in the absence of the [owner's] intention;[28] one Master is of the opinion that vessels of ministry hallow even in the absence of the [owner's] intention,[29] while the other Master holds the view that vessels of ministry do not hallow in the absence of the [owner's] intention.[30]

R.Papa said, All agree that vessels of ministry hallow in the absence of the [owner's] intention, but they differ only as to the knife; one Master[31] is of the opinion that the knife hallows just as any vessel of ministry, while the other Master[32] holds the view that it does not hallow like any other vessel of ministry, since it has no receptacle.

Others quote [R. Papa] in this form: R. Papa said, All agree that vessels of ministry only hallow with the [owner's] intention, but they differ as to the knife; one Master[31] holds that the knife is more efficacious than any other vessel of ministry, seeing that it hallows even though it has no receptacle;[33] whilst the other Master[32] holds that the knife is no more efficacious than any other vessel of ministry.

MISHNAH. IF HE SLAUGHTERED THE THANK-OFFERING [INTENDING TO EAT THEREOF] OUTSIDE ITS PROPER TIME[34] OR OUTSIDE ITS PROPER PLACE,[35] THE BREAD IS [NEVERTHELESS] HALLOWED.[36] IF HE SLAUGHTERED IT AND IT WAS FOUND TO BE TREFAH, THE BREAD IS NOT HALLOWED.[37] IF HE SLAUGHTERED IT AND IT WAS FOUND TO HAVE A BLEMISH, R. ELIEZER SAYS, THE BREAD IS [NEVERTHELESS] HALLOWED. BUT THE SAGES SAY, IT IS NOT HALLOWED. IF HE SLAUGHTERED IT UNDER ANOTHER NAME, AND SO, TOO, IF THE RAM OF THE CONSECRATION-OFFERING OR THE TWO LAMBS OFFERED AT PENTECOST WERE SLAUGHTERED UNDER ANOTHER NAME, THE BREAD IS NOT HALLOWED.

GEMARA. In accordance with whose view is the ruling in our Mishnah?-It is in accordance with the view of R. Meir; for it was taught: This is the general rule: If the disqualifying defect befell [the thank-offering] before the slaughtering, the bread is not hallowed; (if after the slaughtering, the bread is hallowed).[38] Thus if he slaughtered it [intending to eat thereof] outside its proper time or outside its proper place, the bread is hallowed; if he slaughtered it and it was found to be trefah, the bread is not hallowed.

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(1) A fortified suburb of Jerusalem (Jast.). It formed the boundary of the city, hence 'outside the walls of Beth Page' is identical with outside Jerusalem. V. Neubauer, Geog. 147-149. Maim. in his Com. on this Mishnah gives the interesting reading בית בגי, explaining it as the place close to the Temple mount where the meal-offerings were prepared and baked. He thus connects this word with בג , Dan. I, 5, meaning food.

(2) The expression על ‘al in the verse, With (‘al) cakes of leavened bread he shall present his offering (Lev. VII, 13) implies that the cakes must be near the sacrifices, i.e., with it in the Temple court.

(3) Pes. 63b.

(4) The prohibition is: Thou shalt not slaughter the blood of My sacrifice’ with (‘al) leavened bread (Ex. XXIII, 18 and XXXIV, 25).

(5) I.e., he slaughters the evening daily offering of the fourteenth of Nisan whilst having leaven in his possession. This is also prohibited, according to R. Judah, as being implied in the expression ‘My sacrifice’. V. Prec. n.

(6) Registered for this sacrifice.

(7) Resh Lakish holding that the term ‘al in the verse quoted (v. n. 3) must be taken in the sense of ‘near to’.

(8) Once the time for the removal of leaven has gone by.

(9) Lev. VII, 13. The additional words ‘his offering with the slaughtering’ are deleted by Sh. Mek. as anticipating the next interpretation; they are omitted by Rashi.

(10) For only then are the loaves regarded as לחם ‘bread’.

(11) Ibid.

(12) Pes. 37a.

(13) I.e., the loaves must already be baked as much as this in order to be hallowed by the slaughtering of the thank-offering.

(14) Cf. Lev. VII, 13 and Deut. XVI, 3. And surely what is regarded as bread for the Passover is regarded as bread for the thank-offering.

(15) Lev. VII, 14: And he shall present one out of each offering. V. supra p. 461.

(16) I.e., what is partially baked.

(17) Since it would fall to pieces when handled, and therefore is not regarded as sufficiently baked for the purposes of the thank-offering.

(18) Supra. 48a, ‘Er. 50a, Kid. 51a.

(19) Instead of the prescribed forty.

(20) All the eighty loaves, however, must be eaten in conditions of sanctity since is it not known which are the forty hallowed loaves.

(21) And the offerer has not thereby fulfilled his obligation.

(22) Hezekiah.

(23) In bringing eighty loaves.

(24) If for some reason it should happen that as many as forty loaves become unfit or are lost, the remaining loaves should replace them. At no time, however, was it ever intended that more than forty loaves should be offered with the thank-offering.

(25) R. Johanan.

(26) But this is not permissible, hence none of the loaves are hallowed.

(27) The text is somewhat uncertain and the reading adopted is that of Rashi and Sh. Mek. and of many MSS. Cur edd. add at the beginning of Abaye's words: ‘All agree that his intention was to provide a large offering’. Var. lec. to ensure the prescribed number’.

(28) The knife used for slaughtering the thank-offering is the vessel of ministry that hallows the loaves; but in this case as there are more than the prescribed number of loaves and there is no specific statement by the owner as to his intention, the question is whether the knife automatically hallows forty out of the eighty loaves or not.

(29) Hence forty loaves are hallowed; so Hezekiah.

(30) This is the view of R. Johanan. If it is assumed for the argument. as it is indeed stated in some texts (v. supra n. 9), that all hold that the owner's intention was to provide a large offering, then the expression שלא מדעת should be rendered ‘against the owner's intention’ and not ‘in the absence of the owner's intention.

(31) Hezekiah.

(32) R. Johanan.

(33) Accordingly it will also hallow even in the absence of the owner's intention.

(34) In this case the offering is piggul (‘rejected’, ‘abhorred’), and whosoever eats thereof incurs the penalty of kareth (v. Glos.).

(35) In this case the offering is invalid, and whosoever eats thereof incurs stripes but not the penalty of kareth.

(36) In accordance with the principle that if the offering first became invalid in the Temple at the time of the slaughtering the bread is hallowed. V. Gemara, and Zeb. 84a.

(37) For this defect obviously befell it before the slaughtering, in fact, before it was brought in the Temple.

(38) This is omitted in all the MSS., and is not found in Tosef. Men. VIII, whence this Baraitha is taken. The statement is in fact misleading for what it really means to imply is that if the disqualifying defect did not befall it before the slaughtering the bread is hallowed.

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If he slaughtered it and it was found to have a blemish, R. Eliezer says, The bread is hallowed; but R. Joshua says, It is not hallowed. So R. Meir. R. Judah said, R. Eliezer and R. Joshua do not dispute the ruling[1] that [if at the slaughtering there was an intention of eating thereof] outside its proper time the bread is hallowed,[2] or that if it was found to have a blemish the bread is not hallowed.[3] They differ only where [there was an intention of eating thereof] outside its proper place; in this case R. Eliezer says, The bread is hallowed; and R. Joshua says, It is not hallowed. R. Eliezer argued, Since [the intention to eat of the offering] outside the proper time is a disqualifying defect, and [the intention to eat thereof] outside the proper place is also a disqualifying defect: as in the former case the bread is nevertheless hallowed, so in the latter case. too, the bread is hallowed. R. Joshua argued, Since [the intention to eat of the offering] outside its proper place is a disqualifying defect, and a blemish in the animal is also a disqualifying defect: as in the latter case the bread is not hallowed, so in the former, too, it is not hallowed. R. Eliezer replied. I likened it to [the case where there was an intention to eat thereof] outside its proper time, but you likened it to the case of a blemish in the animal. Let us then see to which [of the two] is it more similar. If it is more similar to [the case where there was an intention to eat thereof] outside its proper time then we must infer it from this, and if it is more similar to the case of the blemish in the animal then we must infer it from this. And so R. Eliezer began to argue as follows: We may infer that which is a defect by reason of the intention from that which is also a defect by reason of the intention, but we may not infer that which is a defect by reason of the intention from that which is a defect by reason of a physical blemish. Thereupon R. Joshua began to argue as follows: We may infer a defect which does not involve the penalty of kareth from a defect which also does not involve the penalty of kareth,[4] and let not [the intention to eat of the offering] outside its proper time enter into the argument since it is a defect which involves the penalty of kareth. Moreover, we should infer it from [the slaughtering of the offering] under another name,[5] for this is a defect by reason of the intention and also does not involve the penalty of kareth. At this R. Eliezer was silent.[6]

Why is it, according to R. Meir's view, that where [the thank-offering] was slaughtered and was found to be trefah [the bread is not hallowed, for] the defect is regarded as having befallen it before the slaughtering, and that where it was slaughtered and was found to have a blemish [the bread is, according to the ruling of R. Eliezer, hallowed. for] the defect is not regarded as having befallen it before the slaughtering? — [It refers only to such blemishes as] a film over the eye.[7] and it agrees with R. Akiba who said that [in such cases] if they were brought up [on the altar] they must not be taken down. And the other?[8] — He will reply, It is only when [the blemish] affects the validity of [the animal] itself [as a sacrifice] that R. Akiba says that if they were brought up they must not be taken down, but he does not say so where it affects the hallowing of the bread.

It was stated: If a sin-offering was slaughtered [with the intention of performing a service or of eating thereof] outside its proper time and it was brought up [on the altar], it must not be taken down. If [it was slaughtered with the intention of performing a service or of eating thereof] outside its proper place and it was taken up, Rabbah[9] said, It must be taken down; but Raba[9] said, It must not be taken down. Rabbah evidently agrees with R. Joshua[10] and Raba with R. Eliezer;[11] but Raba retracted in favour of Rabbah's view seeing that R. Eliezer retracted in favour of R. Joshua's view. There are some, however, who say that although R. Eliezer retracted in favour of R. Joshua's view Raba did not retract in favour of Rabbah's view; for there [R. Joshua] convinced [R. Eliezer] by his argument: We should infer it from [the slaughtering of the offering] under another name; here, however, if we derive it from [the slaughtering of the offering] under another name, [we obtain the ruling that] if it was brought up it must not be taken down.[12]

IF HE SLAUGHTERED IT UNDER ANOTHER NAME, etc, R. Papa said, Our Tanna omits the ram of the Nazirite-offering which is frequent and deals with the ram of the Consecration-offering![13] And our Tanna? — He deals with the very first offering.[14]

MISHNAH. IF THE DRINK-OFFERINGS[15] HAD ALREADY BEEN HALLOWED IN A VESSEL WHEN THE ANIMAL-OFFERING WAS FOUND TO BE INVALID, IF THERE IS ANOTHER ANIMAL-OFFERING,[16] THEY MAY BE OFFERED WITH IT; BUT IF NOT, THEY ARE LEFT TO BECOME INVALID BY REMAINING OVERNIGHT.[17]

GEMARA. Ze'iri said, The drink-offerings are hallowed[18] only by the slaughtering of the animal-offering. Why is this? Because the verse says, Animal-offerings and drink-offerings.[19]

We have learnt: IF THE DRINK-OFFERINGS HAD ALREADY BEEN HALLOWED IN A VESSEL WHEN THE ANIMAL-OFFERING WAS FOUND TO BE INVALID, IF THERE IS ANOTHER ANIMAL-OFFERING, THEY MAY BE OFFERED WITH IT; BUT IF NOT, THEY ARE LEFT TO BECOME INVALID BY REMAINING OVERNIGHT, Now presumably it became invalid in the act of slaughtering?[20] — No, it became invalid in the act of sprinkling.[21] With whom [would this agree]?[22] [Shall I say only] with Rabbi, who ruled that where there are two acts[23] which [jointly] render the offering permissible, one can promote [to sanctity] even without the other? — You may even say that it agrees with R. Eleazar son of R. Simeon,[24] for we are dealing here with the case where the blood had been received in a bowl and was spilt.

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(1) Cur. edd. insert here: ‘that if he slaughtered it and it was found to be trefah the bread is not hallowed’. It is not found in the MSS. or in Tosefta Men. VIII. It is deleted here by Sh. Mek.

(2) For this is a case of piggul, and with piggul it is essential that the remaining services be regarded as validly performed, otherwise the penalty of piggul would not be incurred. Accordingly the bread is undoubtedly hallowed by the slaughtering.

(3) For the disqualifying defect must have befallen it before it came into the Temple.

(4) The offering of an animal with a physical blemish does not involve the penalty of kareth.

(5) In which case it is expressly stated in our Mishnah that the bread is not hallowed.

(6) I.e., he recognized in this last statement a convincing argument, and eventually acquiesced in R. Joshua's view that where there was an intention expressed at the slaughtering of the offering of eating thereof outside its proper place the bread is not hallowed.

(7) Or, ‘a cataract’. As this is but a minor defect, since it is not noticeable nor is it regarded as a defect in birds, it is accepted by the altar; consequently it is regarded as having befallen the offering in the Temple and the bread is therefore hallowed.

(8) So MS.M., Rashi MS. and Sh. Mek. The question is against R. Judah in his report of R. Eliezer's view, that where the animal is found after the slaughtering to have a blemish the bread is not hallowed. Why should not the bread be hallowed seeing that we are speaking of a minor blemish? In some texts the reading is ‘And R. Judah?’ and in others ‘and R. Joshua?’.

(9) So MS.M., Rashi MS. and Sh. Mek. Cur. edd. transpose ‘Rabbah’ and ‘Raba’ in the entire passage.

(10) Who in a similar case in connection with the thank-offering ruled that the bread was not hallowed, for he compared the slaughtering of an offering at which there was the intention of eating thereof outside its proper place with the offering of a blemished animal, and in the latter case even if it was brought up it must be taken down.

(11) Who considered the slaughtering at which there was the intention of eating thereof outside its proper place on the same footing as where there was the intention of eating thereof outside its proper time, and in the latter case all agree that if brought up it must not be taken down.

(12) For it is admitted by all that if a sin-offering was offered under another name and it was brought up upon the altar it must not be taken down again. V. Zeb. 84a.

(13) Which was only offered at the consecration of the Tabernacle in the wilderness. This is most strange on the part of the Tanna.

(14) The consecration-offering was the first offering that was accompanied by a bread-offering. The law, however, applies also to the ram of the Nazirite-offering. Aliter: the Tanna only mentions offerings of the community but not individual offerings.

(15) These include the wine as well as the meal-offerings which accompanied certain animal-offerings; v. Num. XV, 4ff.

(16) Which was slaughtered on this day too, but which had not been provided with the drink-offerings.

(17) Since they have been hallowed in a vessel of ministry. A variant reading is: ואם לנו יפסלו בלינה, ‘if they remained overnight, they are, by being kept overnight. rendered invalid’.

(18) And therefore become invalid if kept overnight or if taken outside the Sanctuary (Rashi MS.). Tosaf and Rashi (in cur. edd.) explain ‘hallowed’ to mean that they may not now be used for another offering.

(19) Lev. XXIII, 37. The drink-offerings are thus dependent upon and are hallowed by the animal-offering.

(20) Nevertheless the drink-offerings are hallowed, for the Mishnah states that in the absence of another animal-offering they must be kept overnight to be rendered invalid. Now since in this case the slaughtering of the animal-offering was invalid it obviously could not have hallowed the drink-offerings, but they must have been hallowed before the slaughtering, thus contrary to Ze'iri.

(21) And the drink-offerings were hallowed by the slaughtering.

(22) Viz., the view expressed that the slaughtering alone hallows the drink-offerings.

(23) Here the slaughtering and the sprinkling.

(24) Who maintains that both acts are essential for the hallowing of the drink-offerings;

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and R. Eleazar son of R. Simeon holds the same view as his father, who maintained that what was ready for sprinkling is regarded as sprinkled.[1]

The Master stated: ‘IF THERE IS ANOTHER ANIMAL-OFFERING, THEY MAY BE OFFERED WITH IT’. But has not R. Hisda ruled that oil which had been set apart for one meal-offering is invalid for another meal-offering? — R. Jannai answered, The Beth din make a mental stipulation about [the drink-offerings][2] that if they are required, they are required [and utilized for that offering]; but if not, they shall be utilized for another offering. If so, this should apply to oil too! — Oil is part of the meal-offering.[3] Should they not stipulate that they shall be non-holy?[4] — [No,] for it is to be feared that people will say that one may take out what has already been in a vessel of ministry for secular use.[5] But even now it is to be feared, is it not, that people might think that drink-offerings set apart for one offering may be used for another offering?[5] — Behold Mattitiah b. Judah taught [that the ruling of our Mishnah applies only] where the other animal-offering[6] had been slaughtered at the same time.[7] Then what would be the law where the other animal-offering had not been slaughtered at the same time? They [the drink-offerings] would be left to become invalid by remaining overnight, would they not? Then instead of teaching the final clause, BUT IF NOT, THEY ARE LEFT TO BECOME INVALID BY REMAINING OVERNIGHT, [the Tanna] could have drawn a distinction in that [first clause] thus: That is so[8] only where the other animal-offering had been slaughtered at the same time, but not where the other animal-offering had not been slaughtered at the same time! — That is just what [the Tanna] meant to say, That is so only where the other animal-offering had been slaughtered at the same time, but where the other animal-offering had not been slaughtered at the same time, [the drink-offerings] are invalid for they are regarded as though they had remained overnight.

But does R. Simeon[9] hold that the mental stipulation of the Beth din is effective? Behold R. Idi b. Abin stated in the name of R. Amram who cited R. Isaac who cited R. Johanan, The daily offerings which are not required for the community[10] are, according to R. Simeon, not redeemed unblemished;[11] but according to the Sages they are redeemed unblemished![12] — In that case it is different for there is the remedy of putting them to pasture.[13]

MISHNAH. THE YOUNG OF A THANK-OFFERING,[14] ITS SUBSTITUTE,[15] AND THE ANIMAL WHICH WAS SET APART IN THE PLACE OF THE THANK-OFFERING WHICH WAS SET APART AND WAS LOST,[16] DO NOT REQUIRE THE BREAD-OFFERING; FOR IT IS WRITTEN, AND HE SHALL OFFER WITH THE SACRIFICE OF THANK-OFFERING;[17] THE THANK-OFFERING REQUIRES THE BREAD-OFFERING, BUT ITS YOUNG, WHAT IS BROUGHT IN ITS PLACE, AND ITS SUBSTITUTE, DO NOT REQUIRE THE BREAD-OFFERING.

GEMARA. Our Rabbis taught: Why was It necessary for Scripture to say, He offers [it] for a thank-offering?[18] Whence is it derived that if a man had set apart a beast for a thank-offering and it was lost and he set apart another in its place, and then the first was found so that now both beasts are standing before him — whence [it is asked] is it derived that he may offer whichever of them he pleases and with it the bread-offering? Because the text states, He offers... for a thank-offering.[19] I might think that the other animal also requires the bread-offering; therefore the text says, He offers it,[19] implying one only[20] but not two. Thus the text has qualified it after including it.[21] Whence do I know that the young [of the thank-offering]. what was brought in its place, and its substitute, are also included that they too must be offered [as thank-offerings]? Because the text states, If... for a thank-offering.[22] I might think that they also require the bread- offerings; the text therefore says, Then he shall offer with the thank-offering; the thank-offering alone requires the bread-offering, but its young, what was brought in its place,[23] and its substitute, do not require the bread-offering.

R. Hanina sent the following ruling in the name of R. Johanan, This is so[24] only [if it is offered] after the atonement;[25] but if before the atonement, it also needs the bread-offering.[26] Now R. Amram pondered over this. To what [does the above ruling refer]? Shall I say to the case of the animal that was brought in the place of an obligatory thank-offering?[27] But we have already learnt it regarding the case [where it was offered] before the atonement, and also regarding the case [where it was offered] after the atonement![28]

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(1) Accordingly the moment that the blood had been received in a bowl in readiness for the sprinkling the drink-offerings become hallowed.

(2) This relates, of course, only to communal offerings. By ‘Beth din’ is meant here the Temple authorities, the priests.

(3) For the oil is mingled with the flour and becomes one with the meal-offering; hence, even before mingling, the oil is so closely related to the meal-offering that if the latter is for some reason invalid the oil cannot be used for any other offering.

(4) I.e., in the event of the drink-offerings not being utilized for the animal-offering they shall be permitted for secular use. Wherefore does our Mishnah state: BUT IF NOT, THEY ARE LEFT TO BECOME INVALID?

(5) For people will not be aware of the mental reservation of the Beth din.

(6) For which these drink-offerings are to be used.

(7) In this case people would assume that the drink-offerings had originally been intended for the other animal-offering.

(8) That the drink-offerings may be used for another animal-offering.

(9) For it had been said supra that our Mishnah was in agreement with R. Eleazar son of R. Simeon who adopted his father's view.

(10) There were always six lambs which had been examined and found free from blemish in readiness for the daily offerings, for although only two were required daily six were made ready in case of an emergency. Consequently on the last day of every year, i.e., on the twenty-ninth day of Adar, there were always four lambs left which were not required for the community. They could not be used as offerings, for from the first of Nisan lambs from the new stock only would be used. V. supra 49b.

(11) But they must be allowed to pasture until they become blemished when they may be redeemed. The fact that R. Simeon must resort to this measure indicates clearly that he holds that the mental stipulation of the Beth din with regard to the lambs, namely those that are not required shall be non-holy, is of no effect.

(12) For the mental stipulation of the Beth din is effective. V. Shebu. 11b.

(13) Until they become blemished when they can be redeemed. Only in such a case does R. Simeon hold that the mental stipulation of the Beth din is of no effect, but not in the case where there is no other remedy, as with the drink-offerings.

(14) A man consecrated a pregnant beast as a thank-offering and it later brought forth its young. The young must be offered as the same sacrifice as the mother-beast; v. Tem. III, 2.

(15) In which case both the consecrated beast and the substitute are holy. cf. Lev. XXVII, 10; and the latter must be offered as the same sacrifice as the former; v. Tem. l.c.

(16) And which was eventually found. It is immaterial which beast was offered, the other must also be offered as a thank- offering.

(17) Lev. VII, 12.

(18) Ibid. The expression ‘he offers it’ is entirely superfluous in the construction of this verse.

(19) Lev. VII, 12.

(20) I.e., only one of these two thank-offerings, either the original animal or what was brought in its place, requires the bread-offering.

(21) What was brought in place of the thank-offering is here included that it too must be offered as a thank-offering. but it is qualified in that it does not require a bread-offering.

(22) Ibid. The expression על , translated ‘for’, really signifies ‘with’, ‘in addition to’. I.e., others are also offered as thank-offerings in addition to the original animal.

(23) This item is redundant here, since it has already been established by virtue of the expression ‘he shall offer it’ that what was brought in the place of the thank-offering is exempt from the bread-offering.

(24) That the bread-offering is not required.

(25) I.e., the young or the substitute or what was brought in the place of the thank-offering is being offered now as a thank-offering after the original animal had been sacrificed and atonement effected thereby.

(26) So that if both animals are present, whichever is offered, whether the original thank-offering or its young or its substitute, needs the bread-offering.

(27) E.g.. if one vowed a thank-offering by using the expression ‘I take upon myself to offer a thank-offering’. In this case if the animal set apart for the offering was lost another must be brought in its place.

(28) In the foregoing Baraitha it is expressly taught that if the original thank-offering has not been sacrificed but both it and the substitute are present, whichever is offered requires the bread-offering; and if the one had already been sacrificed the other, it has also been taught, is exempt from the bread-offering. And this Baraitha deals with an obligatory thank-offering, for were it only a freewill thank-offering it would not be necessary to replace it if it were lost.

Talmud - Mas. Menachoth 80a

Shall I then say [it refers] to the case of what was brought in the place of a freewill thank-offering? But surely whether [it is offered] before the atonement[1] or after the atonement it certainly requires the bread-offering, for it is an additional thank-offering![2] Shall I then say [it refers] to the case of the young of a freewill thank-offering? But surely whether [it is offered] before the atonement or after the atonement it certainly does not require the bread-offering, for it is the surplus of the thank-offering?[3] — I must say [it refers] to the case of the young of an obligatory thank-offering; thus if [the young is offered] before the atonement it requires the bread-offering, but if after the atonement it does not require the bread-offering. What does he teach us? — That R. Johanan is of the opinion that a man may obtain atonement with the increase of consecrated things.[4]

Abaye also pondered over it in like manner.[5]

It has also been [expressly] stated: R. Isaac b. Joseph said in the name of R. Johanan, The animal that was brought in the place of a freewill thank-offering, whether [it is offered] before or after the atonement, requires the bread-offering, for it is an additional thank-offering. The young of a freewill thank-offering, whether [it is offered] before or after the atonement, does not require the bread-offering, for it is only the surplus of the thank-offering. The young of an obligatory thank-offering and what was brought in the place of an obligatory thank-offering.[6] if offered before the atonement, require the bread-offering; but if after the atonement, do not require the bread-offering.

Samuel said, Whatever in the case of a sin-offering must be left to die[7] in the case of a thank-offering does not require the bread-offering.[8] and whatever in the case of a sin-offering must be left to pasture[9] in the case of a thank-offering requires the bread- offering.

R. Amram raised the following objection: [It was taught]:[10] Why was it necessary for the text to say. 'He offers [it] for a thank-offering'? Whence is it derived that if a man set apart a beast for a thank-offering and it was lost and he set apart another in its place, and then the first was found so that now both beasts stand before him — whence [it is asked] is it derived that he may offer whichever of them he pleases and with it the bread-offering? Because the text states, 'He offers . . . for a thank-offering'. I might think that the other animal also requires the bread-offering; therefore the text states, 'He offers it', implying one only but not two. Now a sin-offering in such a case would certainly be left to pasture;[11] for we have learnt: If a man set apart an animal as his sin-offering and it was lost, and he set apart another in its stead, and then the first was found so that now both stand [before us]. one must be used for his atonement while the other must be left to die. So Rabbi. But the Sages say. No sin-offering may be left to die save only that which is found after its owner had obtained atonement [by another offering].[12] It follows, however, that [if it is found] before its owner had [otherwise] obtained atonement it must be left to pasture! — Samuel agrees with Rabbi who maintains that the animal which was lost at the time that a second was set apart must be left to die.[13] Then in what circumstances does it ever arise that the animal, according to Rabbi, must be left to pasture?[14] -In the case stated by R. Oshaia. For R. Oshaia said, If a man set apart two sin-offerings as security.[15] he obtains atonement by whichever animal he pleases [to offer], while the second must be left to pasture.[16] But surely a thank-offering in such a case would not require the bread-offering![17] — Rather Samuel agrees with R. Simeon who maintains that the five sin-offerings must be left to die.[18] But R. Simeon holds that under no circumstances [is a sin-offering] to be left to pasture![19] — Samuel too stated one rule [only]: Whatever in the case of a sin-offering must be left to die in the case of a thank-offering does not require the bread-offering. Then what does he teach us?[20] — [His purpose is] to reject R. Johanan's view; for [R. Johanan] ruled that a man may obtain atonement from the increase of consecrated things;[21] and [Samuel] teaches us that it is not so.

Rabbah[22] said, [Where a man said,] 'This [animal] shall be a thank-offering and these its loaves'. if the loaves were lost he may bring other loaves [for this thank-offering]; but if the thank-offering was lost he may not bring another thank-offering [for these loaves]. What is the reason? — The loaves are appurtenant to the thank-offering but the thank-offering is not appurtenant to the loaves.

Raba said, If a man set apart money [to purchase an animal] for a thank-offering

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(1) Sc. before the sacrifice of the original thank-offering.

(2) Lit., 'he is offering many thank-offerings'. Since the original is a freewill thank-offering there is no obligation to replace it if lost, accordingly what is brought in replacement is in fact another thank-offering, and as such certainly requires the bread-offering.

(3) Any accretion to the original thank-offering is accounted as surplus and, like the surplus of money that was assigned for the purchase of a thank-offering, does not require the bread-offering.

(4) And as the young may be used for the atonement it is deemed to be a thank-offering just as the mother-beast and therefore requires the bread-offering.

(5) And arrived at the same conclusion as R. Amram.

(6) So MSM. and other MSS., and Sh. Mek. The words 'and what was brought in the place of an obligatory thank-offering' are omitted in cur. edd., evidently wrongfully since the verb 'require' is governed by a plural subject.

(7) This is the ruling in the following five cases: (i) The young of a sin-offering; (ii) the substitute of a sin-offering; (iii) a sin-offering whose owner died; (iv) a sin-offering which was lost and its owner had obtained atonement with another;

and (v) a sin-offering more than a year old. The animal in these cases was locked up and starved to death.

(8) Thus the young of the thank-offering (or any of the other cases enumerated in the prec. n., with the exception of (v), for a thank-offering may be more than a year old) is offered as a thank-offering but does not require the bread-offering.

(9) Until it becomes blemished and is then redeemed. For the circumstance v. Gemara.

(10) V. supra p. 479 and notes.

(11) According to the view of the Sages infra. Nevertheless it is stated that in the case of a thank-offering no bread-offering is required, thus in conflict with the second part of Samuel's rule.

(12) Tem. 22b, Pes. 97a.

(13) Even though it was found again before the second animal was offered it must none the less be left to die, for it had been rejected as a sin-offering. Likewise a thank-offering in such circumstances would not require the bread-offering, thus in accordance with Samuel's rule.

(14) For Samuel ruled that whatever in the case of a sin-offering must be left to pasture etc.

(15) In case one is lost the other should be available for use.

(16) This is admitted by Rabbi, for only where the animal had been rejected as a sin-offering. on being lost, does Rabbi rule that it must be left to die, but not where both animals were from the outset available for the offering.

(17) For one merely stands to replace the other, and we have learnt that what was brought in the place of a thank-offering does not require the bread-offering. Accordingly Samuel's rule does not hold good.

(18) V. supra p. 482, n. 2. The fourth case would, according to R. Simeon, include the case where two sin-offerings were brought as security, so that the animal which had not been used must be left to die. A thank-offering in such a case would certainly not require the bread-offering, thus in conformity with Samuel's rule.

(19) How then can Samuel say, ‘Whatever in the case of a sin-offering must be left to pasture’?

(20) For all the cases implied in Samuel's rule have been expressly taught that they do not require the bread-offering.

(21) Hence, according to R. Johanan, the young of a thank-offering, if offered before atonement has been made by the mother-beast, would require the bread-offering.

(22) So Rashi and Sh. Mek., and so also in the parallel passage in Pes. 13b. In cur. edd. ‘R. Abba’. According to Sh. Mek. the two statements which follow are also by Rabbah.

Talmud - Mas. Menachoth 80b

and some was left over, he may bring with it the loaves. If [he set money apart] for the loaves of a thank-offering and some was left over, he may not bring with it the thank-offering. What is the reason? Shall I say it is R. Kahana's teaching? For R. Kahana said, Whence is it known that the’ loaves of the thank-offering are referred to as ‘the thank-offering’? From the verse, And he shall offer with the thank-offering unleavened cakes.[1] If so, the reverse should also be true, should it not?[2] -[No,] the loaves are referred to as ‘the thank-offering’ but the thank-offering is never referred to as ‘the loaves’.

Raba also said, If a man set apart [an animal for] his thank- offering and it was lost, and he set apart another in its stead and that too was lost, and he then set apart a third in its stead, and then the first [animals] were found so that now all three animals stand before us. — if he obtained atonement by the first animal, the second does not require the bread-offering[3] but the third does;[4] if he obtained atonement by the third, the second does not require the bread-offering but the first does;[5] if by the second, the other two do not require the bread-offering.[6] Abaye said, Even though he obtained atonement by any one of them the other two do not require the bread-offering. because each was replaced by the other.[7]

R. Zera said, And so it is, too, with regard to the sin-offering. Thus if a man set apart [an animal for] his sin-offering and it was lost, and he set apart a second animal in its stead and that too was lost, and then he set apart a third in its stead, and then the first [animals] were found so that now all three animals stand before us, — if he obtained atonement by the first animal, the second must be left to die[8] and the third must be left to pasture;[9] if he obtained atonement by the third animal, the second must be left to die and the first must be left to pasture; if he obtained atonement by the second animal, the other two animals must be left to die. Abaye said, Even though he obtained atonement by any one of them the other two animals must be left to die, because each was replaced by the other.

What is the point of saying ‘And so it is too’? [Is it not obvious?] — You might think that it applies only there [in the case of the thank-offering] for one might say that he is offering additional thank-offerings,[10] but not here [in the case of the sin-offering] for one cannot say that he is offering additional sin-offerings;[11] we are therefore taught [that so it is too with the sin-offering].

R. Hiyya taught: If a thank-offering was confused with its substitute and one of them died, there is no remedy for the other.[12] For what is he [the owner] to do? Should he offer the bread-offering with it? perhaps it is the substitute.[13] Should he not offer the bread-offering with it? Perhaps it is the original thank-offering. But if he had said, ‘Behold I take upon myself [to offer a thank-offering]’. he cannot do otherwise than bring it .[14] then let him bring another animal and the bread-offering [of a thank-offering] with it and declare, ‘If the surviving [animal] is the substitute, then let this be a thank-offering and this its bread-offering; and if the surviving [animal] is the [original] thank-offering, then let this be the bread-offering for it and this [animal] be as security’![15] — It must be that he had said, ‘Let this be [a thank-offering]’.[16]

(Mnemonic: The arguers, Martha, ‘Ulla, Shisha, Ashi, Damharia. — Hul[lin], SH[elamim], Surplus, Substitute, Outside, Hezekiah, Set apart a sin-offering. Security.)[17] The arguers[18] before Rabbi raised this question. Let him bring the bread-offering and declare, ‘If the surviving [animal] is the [original] thank-offering, let this be its bread-offering; but if not, let this be unconsecrated [bread]’! — He replied, May one bring unconsecrated food into the Sanctuary?[19]

Then let him bring another animal and the bread-offering and declare, ‘If the surviving [animal] is the substitute, let this [animal] be a thank-offering and this its bread-offering; and if the surviving [animal] is the [original] thank-offering, let this be the bread-offering for it and this [animal] be a peace-offering!’ — He replied. [This is no remedy] for then the time allowed for the eating of peace-offerings would be curtailed.[20]

Levi[21] suggested this to Rabbi, Let him bring another animal and the bread-offering and declare, ‘If the surviving [animal] is the substitute, let this [animal] be a thank-offering and this its bread-offering; and if the surviving [animal] is the [original] thank-offering. then let this be the bread-offering for it and this [animal] be the surplus of the thank-offering!’[22] — He replied. It seems to me that this man has no brains in his skull.

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(1) Lev. VII, 12.

(2) That the surplus of money assigned for the loaves should be used for the thank-offering.

(3) For the second animal which was brought to replace the first (which eventually was offered as a thank-offering) is regarded as the surplus of the thank-offering and therefore does not require the bread-offering.

(4) The third was brought to replace the second, but as the second was not offered the third cannot be regarded as the surplus of the thank-offering, but rather as an additional thank-offering which requires the bread-offering.

(5) The third animal (which was offered) replaced the second, hence the latter is now the surplus of the thank-offering; the first animal, however, was not at any time replaced directly by the third.

(6) For both the first and the third are directly connected with the second, and are now the surplus of that which was actually offered.

(7) So that even the third, which only indirectly replaced the first, is also exempt from the bread-offering.

(8) For the owner of this sin-offering has obtained atonement by another animal, accordingly this animal which is the surplus of the sin-offering must be left to die.

(9) For it is not directly connected with the first animal.

(10) Since a man may offer as many thank-offerings as he pleases and at any time.

(11) A sin-offering cannot be brought at any time as a freewill-offering; accordingly even in the first case where the atonement was made by the first animal the third animal should also be left to die.

(12) I.e., it must be left to die.

(13) And the bread-offering was not to be brought with the substitute. V. Mishnah, supra p 479.

(14) Lit., ‘there is no way of not bringing it’. By using this expression there is a personal obligation upon this man to bring the promised offering.

(15) And where an animal is brought together with the thank-offering as security against its loss it does not require the bread-offering.

(16) The use of this expression does not involve a personal obligation; hence it cannot be said that another animal is brought as security.

(17) It will be observed that from here until the next Mishnah eight suggestions are put forward which are introduced by different scholars. The mnemonic therefore consists of two parts; first the names of the various scholars and secondly a list of the subjects of the arguments. The text, however, is in a bad state; v. Sh. Mek. and Rabbinowicz D.S. a. l. n. 6. ‘The arguers’ (that is, Levi, v. next n.) put the first three questions ‘Damharia’ is not the name of a person but of the place where R. Dimi lived (v. p. 490. n. 2). חלש is an abbreviation of חולין and שלמים , meaning unconsecrated animals and peace-offerings respectively.

(18) Sc. Levi. When taking part in discussions in the College Levi was known by this appellation; v. San. 17b. When he discussed a matter privately with Rabbi he was simply spoken of as Levi (Rashi MS.).

(19) Certainly not. Hence the remedy suggested is unsatisfactory.

(20) As this additional animal is in a state of doubt whether it is a thank-offering or a peace-offering. its flesh would only be eaten the same day until midnight like a thank-offering. and what is left over would be burnt; yet if it were a peace-offering it would not have to be burnt then, since it may be eaten during two days and one night.

(21) V. supra p. 486, n. 8; v. however Tosaf s.v.אמר.

(22) Which is offered without the bread-offering.

Talmud - Mas. Menachoth 81a

May one at the very outset set apart [an animal] to be the surplus [of an offering]?[1]

R. Isaac b. Samuel b. Martha was sitting in the presence of R. Nahman, and while sitting there he said, Let him bring another animal and the bread-offering and declare, ‘If the surviving [animal] is the substitute, let this animal be a thank-offering and this its bread-offering; and if the surviving [animal] is the [original] thank-offering. let this be the bread-offering for it and this [animal] be the substitute [of the thank-offering]’! — He replied. Tell me, Sir; forty stripes on his shoulders, and [yet you] permit him [to do so]![2]

R. ‘Ulla was once ill, and Abaye and the other Rabbis came to visit him. While sitting there they said, If [the law] is in accordance with R. Johanan who ruled that [the bread] is hallowed even though it was outside the wall of the Sanctuary.[3] then let him bring the bread-offering and put it down outside the wall of the Sanctuary and let him declare, ‘If the surviving [animal] is the [original] thank-offering, then here is its bread-offering; and if not, let it be treated as unconsecrated [bread]’! — [This is no remedy] for there are four cakes which must be waved,[4] and what should one do? Should he [the priest] wave them outside [the Sanctuary]? But it is written Before the Lord.[5] Should he wave them inside? He is then bringing unconsecrated food into the Sanctuary. It is thus impossible to do so.

R. Shisha son of R. Idi demurred saying, If [the law] is in accordance with Hezekiah who ruled that forty out of the eighty cakes are hallowed,[6] let him bring another animal and with it eighty cakes and let him declare, ‘If the surviving [animal] is the [original] thank-offering. let this [animal] also be a thank-offering and here are eighty cakes for both [thank-offerings]; and if the surviving [animal] is the substitute, then let this [animal] be a thank-offering and this the bread-offering for it, and let forty out of the eighty cakes be hallowed!’[7] — [This is no remedy] for there would then be a curtailment of the eating of the forty cakes.[8]

R. Ashi said to R. Kahana, If [the law] is in accordance with R. Johanan who ruled[9] that where a man set apart a pregnant beast as a sin-offering and it then gave birth, his atonement may be made, if he so desires, with the mother-beast itself or, if he prefers. with her young, let him bring here a pregnant beast and wait until it gives birth and let him also bring eighty cakes and declare, 'If the surviving [animal] is the substitute, let it [the mother-beast] and its young be thank-offerings, and here are the eighty cakes for both of them; and if the surviving [animal] is the [original] thank-offering, let it [the mother-beast] also be a thank-offering, and here are eighty cakes for both, and this [the young] shall be the surplus of the thank-offering'![10] — He replied, Who can tell us [for certain] that the reason for R. Johanan's ruling[11] is that he is of the opinion that if a man were to reserve it [the young] it is accounted a reservation?[12] Perhaps [he holds] it is not accounted a reservation,[13] and this is the reason for R. Johanan's ruling, namely that he is of the opinion that a man may obtain atonement with the increase of consecrated things.[14]

Rabina once happened to be in Damharia[15] and R. Dimi son of R. Huna of Damharia suggested the following to Rabina, Let him bring [another] animal and say. 'Behold I take upon myself [to offer a thank-offering]' ,[16] and let him also bring a [third] animal and with it eighty cakes and declare, 'If the surviving [animal] is the substitute, let these two animals be thank-offerings and here are eighty cakes for both; and if the surviving [animal] is the thank-offering, then let that animal in respect of which I said, "I take upon myself [to offer a thank-offering]" also be a thank-offering, and here are the eighty cakes for those two [thank-offerings], and let the third animal be as security!' — He replied. The Torah says, Better it is that thou shouldst not vow, than that thou shouldst vow and not pay,[17] and you say that he should proceed to vow in the first instance?

MISHNAH. IF A MAN SAID. 'BEHOLD I TAKE UPON MYSELF [TO BRING] A THANK-OFFERING', HE MUST BRING BOTH IT AND ITS BREAD FROM WHAT IS UNCONSECRATED.[18]

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(1) Surely not.

(2) To designate an animal as a substitute for a consecrated one is a transgression of Lev. XXVII, 10 and involves the penalty of stripes. Surely then it would not be suggested as a remedy in our case to make this substitution in the first instance!

(3) At the time of the slaughtering of the thank-offering. V. supra 78b.

(4) This was the priest's portion from the bread-offering, one cake from each sort, which had to be waved together with the breast and thigh of the thank-offering.

(5) Lev. VII, 30. Although this is stated of the peace-offering it applies also to the thank-offering.

(6) Where a man brought eighty cakes with his thank- offering, Hezekiah maintained that forty of them are hallowed, the other forty being regarded as having been brought as security only. V. supra 78b.

(7) The cakes should be left outside the Sanctuary and only eight be brought within; so R. Gershom and Rashi. According to Rashi MS. the whole of the eighty cakes are to be brought into the Sanctuary, and there can be no objection to this on the ground that unconsecrated food is being brought into the Sanctuary for the additional forty cakes are deemed a security for the others and are of service to the hallowed cakes.

(8) According to another reading: of the four cakes. It is obviously necessary to give the priest eight cakes for there may be here two thank-offerings; but the priest, thinking that he is not entitled to more than four of them, for there may be here only one thank-offering, would only eat four and leave four; the owners, on the other hand, would not eat the remaining four cakes, and they would therefore be destroyed unnecessarily. Another interpretation: Clearly eight cakes are given to the priests, but it is possible that only four of them are holy; now if it happens that the priests are unable to consume all the eight cakes that same day. it may be that the remaining cakes, which have to be burnt, are the hallowed cakes, so that by giving the priests non-hallowed cakes to eat it may result in bringing hallowed cakes to destruction.

(9) Yeb. 78a, Tem. 25a.

(10) For which no bread-offering is required. The objection, stated supra, 'May one at the outset set apart an animal to be the surplus of an offering?’ cannot be raised here, for at the time that the animal was set apart the surplus. i.e., the young, was not yet brought into the world.

(11) That the atonement may be effected either by the mother-beast or by the young.

(12) The young of an animal that was consecrated pregnant can be reserved and appointed by the owner for any purpose or offering, for it is not considered as one entity with the mother-beast; consequently in the case of the sin-offering either animal may be offered for the atonement; likewise in a thank-offering, each animal when offered requires the bread-offering.

(13) Accordingly the young may not be used for any offering but it is one with the mother-beast, and when the latter is offered as a thank-offering the young becomes the surplus thereof and does not require the bread-offering.

(14) R. Johanan only ruled that either animal may be used for atonement, but after atonement has been effected with one animal, be it the mother-beast or the young. the other animal is regarded as the surplus thereof, and as such does not require the bread-offering when offered as a thank-offering.

(15) A town in the neighbourhood of Sura.

(16) By using this expression he assumes a personal obligation to bring the offering and must replace it by another if it died or was lost; thus it is usual in such a case to bring another animal with it as security.

(17) Eccl. V, 4. From this verse it is established that the best course is not to vow at all (cf. Hul. 2a). and indeed it is reprehensible to do so (cf. infra 109b). for a vow, i.e., when the expression ‘I take upon myself’ is used, may become most difficult of fulfilment, and so bring about sin.

(18) For everything that is obligatory must be brought from what is unconsecrated; v. infra 82a.

Talmud - Mas. Menachoth 81b

[IF HE SAID.] ‘THE THANK-OFFERING FROM WHAT IS UNCONSECRATED AND ITS BREAD FROM [SECOND] TITHE [MONEY]’. HE MUST BRING BOTH IT AND ITS BREAD FROM WHAT IS UNCONSECRATED.[1] [IF HE SAID,] ‘THE THANK-OFFERING FROM SECOND TITHE AND ITS BREAD FROM WHAT IS UNCONSECRATED’, HE SHALL BRING IT SO. [IF HE SAID,] ‘BOTH THE THANK-OFFERING AND ITS BREAD FROM SECOND TITHE’, HE SHALL BRING IT SO; BUT HE MAY NOT BRING IT FROM SECOND TITHE WHEAT BUT ONLY FROM SECOND TITHE MONEY.[2]

GEMARA. R. Huna said, If a man said, ‘Behold I take upon myself [to bring] the bread of a thank-offering’, he must bring a thank-offering and its bread. For what reason? Since this man knows full well that bread alone cannot be offered he obviously meant a thank-offering together with its bread, and when he said, ‘The bread of a thank-offering’ he merely stated the final words [of the vow].[3]

We have learnt: [IF HE SAID,] ‘THE THANK-OFFERING FROM SECOND TITHE AND ITS BREAD FROM WHAT IS UNCONSECRATED’, HE SHALL BRING IT SO. Now why is this so? Surely since he said, ‘Its bread from what is unconsecrated’, he ought to bring both it [the thank-offering] and its bread from what is unconsecrated![4] — There it is quite different, for since he had already said, ‘The thank-offering from Second Tithe’, [when he next said, ‘Bread from what is unconsecrated’] it is to be taken as though he had said, ‘Behold I take upon myself to bring the bread for So-and-so's thank-offering’.[5] If that is so, then in the first clause too which reads, [IF HE SAID,] ‘THE THANK-OFFERING FROM WHAT IS UNCONSECRATED AND ITS BREAD FROM SECOND TITHE MONEY, HE MUST BRING BOTH IT AND ITS BREAD FROM WHAT IS UNCONSECRATED, it should also be taken as though he had said, ‘Behold I take upon myself to bring the thank-offering[6] for So-and-so's bread’.[7] — How can you compare [the two]? Bread might very well be brought for another's thank-offering; but is a thank-offering ever brought for another's bread?[8]

Come and hear: If a man said, ‘Behold I take upon myself to offer a thank-offering without the bread’, or ‘an animal-offering without the drink-offerings’, they compel him to bring the thank-offering with the bread or the animal-offering with the drink-offerings. Now this is so only where he said, ‘a thank-offering’, but where he did not say ‘a thank-offering’,[9] he would not ‘[have to bring anything at all!][10] — [No.] it is just the same even though he did not say ‘a thank-offering’,[11] but since the Tanna wished to state the case of an animal-offering without the drink-offerings, when he could not have stated [the reverse, viz..] drink-offerings without an animal-offering,[12] he also stated the case of the thank-offering.[13]

Why is it so?[14] Surely this is a vow that carries with it its annulment![15] — The authority for this [view of our Mishnah], said Hezekiah, is Beth Shammai who maintain that one must always regard the first words [of a man's statement as binding].[16] For we have learnt:[17] If a man said, ‘I will be a Nazirite [and abstain] from dried figs and pressed figs’,[18] Beth Shammai say. He becomes a Nazirite;[19] but Beth Hillel say, He does not become a Nazirite.[20] R. Johanan said, You may even say that this is in accordance with Beth Hillel, [only we must suppose that the man] said, ‘Had I but known that one cannot vow in this manner[21] I should not have vowed in this manner but in that’.[22] What [then means], ‘They compel him’?[23] -That is if he wishes to change his mind now.

Come and hear: If a man said, ‘I take upon myself to bring a thank-offering without bread’, or ‘an animal-offering without the drink-offerings’, and when they said to him, ‘You must bring a thank-offering with the bread’ or ‘an animal-offering with the drink-offerings’. he replied, ‘Had I but known this I would not have vowed at all’, they compel him none the less and say to him, ‘Observe and hear’.[24] Now this is well according to Hezekiah,[25] but it surely presents a difficulty to R. Johanan![26] — R. Johanan will reply, That [Baraitha] undoubtedly represents Beth Shammai's view.

What is meant by ‘Observe and hear’?-Abaye said, ‘Observe’: bring the thank-offering, ‘and hear:’ bring its bread-offering. Raba said. ‘Observe’: bring the thank-offering with its bread-offering. ‘and hear’: be not in the habit of doing so.

[IF HE SAID.] ‘BOTH THE THANK-OFFERING AND ITS BREAD FROM SECOND TITHE’. HE SHALL BRING IT SO. ‘HE SHALL BRING IT SO!’ Is he then bound to bring it so?[27] — R. Nahman and R. Hisda explained, If he wishes he brings it [as he vowed]. and if not he need not bring it [as he vowed].[28]

BUT HE MAY NOT BRING IT FROM SECOND TITHE WHEAT BUT ONLY FROM SECOND TITHE MONEY. R. Nahman and R. Hisda both said, They taught this only of Second Tithe wheat,[29] but he may bring it from wheat bought with Second Tithe money.[30]

R. Jeremiah was sitting before R. Zera and recited as follows: They taught this only of Second Tithe wheat, but he may bring it from wheat bought with Second Tithe money. [R. Zera] said to him, Master, you say so; but I say that even from wheat bought with Second Tithe money he may not bring it.[31] And I will state my reason and I will state your reason. I will state your reason: Whence do you know this[32] of the thank-offering? From peace-offerings.[33]

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(1) For the bread is subsidiary to the thank-offering, and since he vowed to bring the thank-offering from what is unconsecrated that included the bread too, and his subsequent words are of no consequence.

(2) I.e., money which had been used for redeeming Second Tithe produce.

(3) But his intention was to offer a thank-offering too.

(4) For when he said ‘Bread from what is unconsecrated’, let it be taken as the final words of an unexpressed intention, so that he must bring both the thank-offering and the bread from what is unconsecrated. His opening words ‘the thank-offering from Second Tithe’ would be of no consequence. V., however, Tosaf s.v. אמאי .

(5) Lit. ‘to exempt So-and-so's thank-offering (from the bread-offering).’ This vow is binding, and he must bring the bread from what is unconsecrated, whether that other's thank-offering was of Second Tithe or of what was unconsecrated. So too in the case of our Mishnah, this man meant to offer bread from what was unconsecrated to exempt

his own thank-offering brought from Second Tithe from this obligation.
(6) Viz., the animal.
(7) Accordingly in our Mishnah he should be permitted to bring the thank-offering from what is unconsecrated and the bread from Second Tithe, as he had actually vowed.
(8) Of course not, for the bread is subsidiary to the thank-offering.
(9) But offered to bring the bread alone.
(10) Thus in conflict with R. Huna.
(11) I.e., by offering the bread of a thank-offering he is compelled to bring a thank-offering too.
(12) Since one may certainly offer drink-offerings without an animal-offering, cf. infra 107a.
(13) But even where he did not say ‘a thank-offering’ but only the bread-offering he is compelled to bring a thank-offering also, in accord with R. Huna.
(14) That where a man vowed to bring a thank-offering without the bread he must nevertheless bring the bread as well.
(15) Lit., ‘a vow and with it its opening’. This man's intention apparently was to bring the thank-offering alone, but realizing immediately that his promise of a thank-offering would also entail the bread-offering he immediately decided to annul his vow by adding the words ‘without bread’.
(16) Where a statement is made consisting of two parts, one inconsistent with the other, we recognize the first expression only and the other is to be disregarded. Here, therefore, as soon as the man said ‘I take upon myself to bring a thank-offering’, that constituted a binding vow, and his subsequent words ‘without the bread’ cannot nullify the effect of his opening words.
(17) Nazir 9a.
(18) This is nonsense for a Nazirite must abstain only from wine and grapes but not from figs.
(19) In the ordinary sense and must abstain from wine and grapes. Beth Shammai maintain that he is bound by his first expression ‘I will be a Nazirite’ and his subsequent words are disregarded.
(20) For this is a vow which carries with it its annulment. He purposely added the words ‘from dried figs. etc,’ in order to annul his vow of becoming a Nazirite.
(21) I.e., a thank-offering without the bread.
(22) A thank-offering with bread.
(23) Seeing that he has expressly indicated his intention that he meant to bring a thank-offering with bread.
(24) Deut. XII, 28.
(25) For like the previous Baraitha this Baraitha also adopts the view of Beth Shammai.
(26) This Baraitha surely cannot be reconciled with Beth Hillel's view; for since his vow is clearly annulled by his subsequent statement why should he be compelled to offer it?
(27) Lit., ‘is there no way of not bringing it (as he vowed)’. Surely if be brings what is unconsecrated it is all the better!
(28) But may bring it from what is unconsecrated.
(29) Sc. the original Second Tithe produce.
(30) Even though the wheat bad been bought in Jerusalem with Second Tithe money for ordinary purposes and not for the bread of a thank-offering.
(31) Except where the wheat was bought with Second Tithe money for the express purpose of the thank-offering, in which case our Mishnah clearly teaches that he may bring it from that.
(32) That it may be brought from Second Tithe money.
(33) Since we find the thank-offering referred to as peace-offerings. cf. Lev. VII, 13.

Talmud - Mas. Menachoth 82a

And in respect of peace-offerings [this is derived] from the expression ‘there’ stated [in connection with peace-offerings][1] and also in connection with the Second Tithe.[2] Then it follows, as peace-offerings are not brought from actual Second Tithe produce.[3] so the [bread of the] thank-offering may not be brought from actual Second Tithe produce; and wheat bought with Second Tithe money is not actual Second Tithe produce.[4] And I will state my reason: Whence do I know this of the thank-offering? From peace-offerings. And in respect of peace-offerings [this is derived] from the expression ‘there’ stated [in connection with peace-offerings] and also in connection with the Second Tithe. Then it follows, as peace-offerings are not of the same kind as Second Tithe, so the [bread of the] thank-offering may not be from that which is the same kind as Second Tithe;[5] thus excluding wheat bought from Second Tithe money[6] which is the same kind as Second Tithe.

R. Ammi said, If a man designated[7] Second Tithe money for a peace-offering, the peace-offering has not appropriated it.[8] Why? Because the sanctity of the peace-offering is not so potent that it can be imposed upon the sanctity of Second Tithe.

An objection was raised: If a man bought[9] a wild animal for a peace-offering or cattle for use as ordinary food,[10] the hide does not become unhallowed.[11] Does not this prove that the peaceoffering has appropriated it?[12] — Surely it has been stated in connection with this that Rab said, The peace-offering has not appropriated it; and what is meant by 'the hide does not become unhallowed'? It means this:-[The wild animal] does not come within the category [of peace-offerings] for its hide to become unhallowed.[13] And why is it so? — Rabbah answered. It is as if he bought[14] an ox for ploughing.[15]

It was stated: If a man designated Second Tithe money for a peace-offering, R. Johanan said, [The peace-offering] has appropriated it; R. Eleazar said, It has not appropriated it. According to R. Judah[16] who maintains that the [Second] Tithe is secular property they both agree that the peace-offering has appropriated it;[17] they differ only according to R. Meir[16] who maintains that the [Second] Tithe is sacred property. He who said that it has not appropriated it is in accord with R. Meir;[18] but he who said that it has appropriated it is of the opinion that since Second Tithe is usually offered[19] as peace-offerings, if a man designates [Second Tithe money for a peace-offering] the designation is binding.

An objection was raised: If a man designated Second Tithe money for a peace-offering, when he redeems it[20] he must add two fifths, one in respect of things consecrated and one in respect of Second Tithe![21] — Do you think that this teaching is the opinion of all? It is only the opinion of R. Judah.[22]

MISHNAH. WHENCE [IS IT DERIVED]THAT IF A MAN SAYS,'I TAKE UPON MYSELF [TO OFFER] A THANK-OFFERING', HE MAY BRING IT ONLY FROM WHAT IS UNCONSECRATED? BECAUSE IT IS WRITTEN, AND THOU SHALT SACRIFICE THE PASSOVER-OFFERING UNTO THE LORD THY GOD OF THE FLOCK AND THE HERD.[23] BUT IS NOT THE PASSOVER-OFFERING BROUGHT ONLY FROM THE LAMBS AND FROM THE GOATS? WHY THEN IS IT WRITTEN, OF THE FLOCK AND THE HERD? IT IS TO COMPARE WHATSOEVER IS BROUGHT FROM THE FLOCK AND THE HERD[24] WITH THE PASSOVER-OFFERING: AS THE PASSOVER-OFFERING IS OBLIGATORY AND OFFERED ONLY FROM WHAT IS UNCONSECRATED,[25] SO EVERYTHING THAT IS OBLIGATORY[26] MAY BE OFFERED ONLY FROM WHAT IS UNCONSECRATED. THEREFORE IF A MAN SAYS, 'I TAKE UPON MYSELF [TO OFFER] A THANK-OFFERING', OR 'I TAKE UPON MYSELF [TO OFFER] A PEACE-OFFERING', SINCE THESE ARE OBLIGATORY THEY MAY BE OFFERED ONLY FROM WHAT IS UNCONSECRATED. THE DRINK-OFFERINGS IN EVERY CASE[27] MAY BE OFFERED ONLY FROM WHAT IS UNCONSECRATED.[28] GEMARA. And whence do we know it[29] for the Passover-offering itself? — It was taught:[30] R. Eliezer said: A Passover-offering was ordained to be brought in Egypt and a Passover-offering was ordained for later generations; as the Passover-offering that was ordained in Egypt could be brought only from what was unconsecrated,[31] so the Passover-offering that was ordained for later generations may be brought only from what is unconsecrated. Said to him R. Akiba, Is it right to infer the possible from the impossible?[32] The other replied, Although it was impossible [otherwise]. it is nevertheless a striking argument and we may make an inference from it. Then R. Akiba put forward the following argument [in refutation]: This[29] was so of the Passover-offering ordained in Egypt since it did not require the sprinkling of blood and the offering of the sacrificial portions upon the altar;[33]

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(1) Deut. XXVII, 7. And thou shalt sacrifice peace-offerings and shalt eat there.

(2) Deut. XIV, 26: And thou shalt eat there. Thus by analogy it is established that peace-offerings may be brought from Second Tithe.

(3) For Second Tithe is taken from corn only, and so cannot actually be used for peace-offerings. What is meant is. of course, that the money obtained from redeeming Second Tithe produce may be used for buying animals for peace-offerings.

(4) Since the original Second Tithe wheat had already been redeemed with money.

(5) So that any Second Tithe wheat, even that which was bought with Second Tithe money, may not be used for the thank-offering. But he may buy with Second Tithe money wheat expressly for the thank-offering. V. p. 494. n. 5.

(6) For Second Tithe purposes but not for the thank-offering.

(7) Lit., ‘attached’.

(8) But he may use the money for another purpose.

(9) With Second Tithe money in Jerusalem.

(10) Neither purchase is proper, for wild animals may not be offered as peace-offerings, and cattle bought with Second Tithe money should be offered as peace-offerings only and not be slaughtered for a secular meal.

(11) It is assumed that this means that the hide of the wild beast must be sold and with the money a peace-offering must be offered. Similarly the hide of the cattle must be sold and the money received must be treated as Second Tithe money.

(12) I.e., the sanctity of the peace-offering rests upon the hide so that it must be sold and the money received must be spent on peace-offerings.

(13) In the usual way when cattle is bought with Second Tithe money and is offered as a peace-offering the hide becomes absolutely unhallowed and has neither the sanctity of the peace-offering nor the sanctity of Second Tithe. And likewise, if the sanctity of peace-offerings could apply to wild animals the hide thereof would also become absolutely unhallowed. Since, however, this is not the case, for the wild animal does not come within the category of peace-offerings, the hide does not become unhallowed, but it must be sold and the money received must be treated as Second Tithe money (Rashi MS. and Tosaf.).

(14) With Second Tithe money in Jerusalem.

(15) In which case the ox must be sold and the money received treated in the sanctity of Second Tithe.

(16) V. Kid. 24a, 52b.

(17) For the sanctity of the peace-offering immediately rests upon the secular property.

(18) For he holds that the sanctity of the peace-offering cannot rest upon sacred property.

(19) So MSS. reading קרב. Cur. edd. read קרי , ‘is referred to’.

(20) When a man redeems things consecrated or Second Tithe produce or Second Tithe money for other coinage he must add to the redemption money one fifth part of its value. For the former v.Lev.XXVII, 13, 15 and for the latter v. ibid. 31.

(21) It is thus quite evident that the sanctity of the peace-offering rests upon the Second Tithe money that was merely designated for a peace-offering, contrary therefore to R. Eleazar.

(22) Who regards the Second Tithe as secular property and therefore the sanctity of the peace-offering can rest upon it.

(23) Deut. XVI, 2.

(24) Sc. peace-offerings and thank-offerings.

(25) V. Gemara.

(26) I.e., in every case where the expression ‘I take upon myself’ was used, for this imposes a personal obligation for the fulfilment of the vow.

(27) Whether the expression ‘I take upon myself’ was used or not, and whether it was expressly stated that the drink-offerings be brought from Second Tithe or not.

(28) For the drink-offerings are wholly offered up, and whatsoever is wholly offered up may not be brought from Second Tithe (Tosaf).

(29) That it is to be brought only from what is unconsecrated.

(30) Yeb. 46a.

(31) For at that time the law of the Second Tithe had not been promulgated, and even later when this law was given it was not to come into force until the Israelites entered the Holy Land.

(32) The Passover-offering in Egypt could not possibly have been brought from Second Tithe (v. prec. n.) whereas that of future generations could.

(33) Since there was no altar in existence at that time.

Talmud - Mas. Menachoth 82b

will you say the same of the Passover-offering of later generations which requires the sprinkling of the blood and the offering of the sacrificial portions upon the altar?[1] The other replied. Behold it is written, And thou shalt keep this service in this month,[2] [signifying] that all the services of this month should be like this.[3]

[Now let us consider the view of] R. Akiba. If he holds that it is not proper to infer the possible from the impossible, then let him stand by that argument [in refutation];[4] and if he retracted it, and the only reason why he did not derive the law from the Passover-offering in Egypt was that refutation [which he raised], but surely [that can be countered by] the Passover-offering brought in the wilderness which proves [the reverse]![5] — He [R. Akiba] was arguing with R. Eliezer from his own standpoint. As for me, I hold that it is not proper to infer the possible from the impossible; but even from your point of view, that one may infer the possible from the impossible, there is surely this refutation: This was so of the Passover-offering in Egypt since it did not require the sprinkling of blood and the offering of the sacrificial parts upon the altar; will you say the same of the Passover-offering of later generations which requires the sprinkling of blood and the offering of the sacrificial portions upon the altar? To this, however, R. Eliezer replied. It is written, ‘And thou shalt keep’.

But should not R. Eliezer have replied that the Passover-offering brought in the wilderness proves the reverse?[6] — He [R. Eliezer] was arguing with R. Akiba from his own standpoint. As for me, I hold that it is quite proper to infer the possible from the impossible; and as for that refutation of yours, it can be countered by the Passover-offering brought in the wilderness which proves the reverse; but even from your point of view, that it is not proper to infer the possible from the impossible, [I reply that there is written.] ‘And thou shalt keep’.

But even now let him raise this objection![7] — R. Shesheth answered, This proves that no objections can be entertained against a hekkesh.[8] In the School garden[9] it was asked, May that which has itself been inferred by a hekkesh become the basis for another inference to be made from it again by a hekkesh?[10] — It is derived from the class, for all the Passover-offerings from one class.[11]

And whence does R. Akiba derive the law that the Passover- offering may be brought only from what is unconsecrated? — He derives it from the following teaching of Samuel in the name of R. Eliezer:[12] It is written, This is the law of the burnt-offering, of the meal-offering, and of the sin-offering, and of the guilt-offering, and of the consecration-offering, and of the sacrifice of peace-offerings.[13] ‘Burnt-offering’: as the burnt-offering requires a vessel, so all the other offerings require a vessel. (What [vessel] is it that is meant? Shall I say a basin?[14] But with regard to the peace-offerings of the congregation it is also written, And put it in basins![15] — Rather it means a knife.[16] And how do we know this of the burnt-offering itself? Because it is written, And Abraham stretched forth his hand, and took the knife to slay his son.[17] And there it was a burnt-offering, as it is written, And offered him up for a burnt-offering in the stead of his son.)[18] ‘Meal- offering’: as the meal-offering may be eaten only by the males of the priesthood, so all the other offerings may be eaten only by the males of the priesthood. (What [other offerings] are meant? It cannot be the sin-offering and the guilt-offering.

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(1) Like peace-offerings; and as peace-offerings may be brought from Second Tithe, so it should also be with the Passover-offering.

(2) Ex. XIII, 5.

(3) I.e., the Passover-offering of future generations offered in this month shall be like this one in that it be brought only from what is unconsecrated.
(4) Why then did he put forward another argument in refutation?
(5) For it required the sprinkling of blood and offering of the sacrificial portions upon the altar — for an altar had already been set up — nevertheless it was brought only from what was unconsecrated since as yet the law of Second Tithe had not come into force.
(6) Why did he find it necessary to adduce this verse ‘And thou shalt keep’?
(7) Even against the inference drawn from the verse ‘And thou shalt keep’ R. Akiba can put forward the objection that it is not right to infer the possible from the impossible.
(8) V. Glos. The inference drawn from this verse is by hekkesh or analogy.
(9) The garden where scholars of the academy used to congregate for general discussions, v. Kaplan, The Redaction of the Talmud, pp. 240ff. V. however Tosaf. s.v. ובתרביצא . Cf. the expression ‘ תרביצאי in Rashi Yoma 62b, s.v. ומוספין , and Zeb. 104a, s.v. והעור .
(10) For it is desired in our Mishnah to conclude by a hekkesh from the Passoverofferings of later generations that all obligatory offerings shall be brought only from what is unconsecrated; but this law with regard to Passover-offerings of later generations is itself inferred by a hekkesh from the Passover-offering in Egypt, and it is an established rule that in matters appertaining to sacrifice one may not draw an inference by a hekkesh from that which has itself been inferred by a hekkesh. V. Zeb. 49b.
(11) The Tanna of our Mishnah derives the law that the thank-offering must be brought only from what is unconsecrated by hekkesh from Passover-offerings in general, which include also the Passover-offering in Egypt.
(12) Zeb. 97b.
(13) Lev. VII, 37.
(14) For receiving the blood therein. This is expressly stated in connection with the burnt-offering, as it is written (Ex. XXIV, 5,6): And he sent the young men of the children of Israel who offered burnt-offerings . . . And Moses took half the blood and put it in basins.
(15) Ibid. 6. And in verse 5 it is written, And sacrificed peace-offerings.
(16) I.e., the instrument used for the slaughtering shall be something detached from the ground and not a flint or a reed that is attached to the ground (Rashi Zeb. 98a). Aliter: one must use a knife for the slaughtering and not kill the beast by tearing its organs with the hands as is the case with a bird-offering whose head is nipped by the priest with his finger.
(17) Gen. XXII, 10. The expression ‘and took’ implies something movable and not fixed.
(18) Ibid. 13.

Talmud - Mas. Menachoth 83a

for this[1] is expressly stated of them.[2] Neither can it be the peace-offerings of the congregation,[3] for this[1] is already deduced from the amplification of the following verse: In a most holy place shalt thou eat thereof; every male may eat thereof:[4] this teaches us that the peace-offerings of the congregation may be eaten only by the males of the priesthood! — Tannaim [hold different views] about it; some derive it[5] from this [passage] and some from that.)[6] ‘Sin-offering’: as the sin-offering renders holy [like itself] whatever has absorbed from it,[7] so all the other offerings render holy [like themselves] whatever has absorbed from them. ‘Guilt-offering’: as with the guilt-offering neither the foetus-sac nor the afterbirth is holy.[8] so with all other offerings neither the foetus-sac nor the afterbirth is holy. (He is of the opinion that the young of consecrated animals are themselves holy only when they come into being;[9] and also that it is quite proper to infer the possible from the impossible.)[10] ‘Consecration-offering’: as in the case of the consecration-offering the remainder was burnt[11] but the living animal that was left over was not burnt,[12] so in the case of all other offerings the remainder is to be burnt but the living animal that might be left over[13] is not to be burnt. ‘Peace-offerings’: as peace-offerings can make others[14] piggul and can also become piggul themselves,[15] so all the other offerings can make others piggul and can also become piggul themselves. In a Baraitha it was taught in the name of R. Akiba as follows: This is the law etc. ‘Meal-offering’: as the meal-offering renders holy [like itself] whatever has absorbed from it,[16] so all the other offerings render holy [like themselves] whatever has absorbed from them. (And this was necessary to be stated of the sin-offering as well as of the meal-offering. For had the Divine Law stated it only of the meal-offering [I would have said that this was so only of the meal-offering], because on account of its softness it could be absorbed, but I would not have said so of the sin-offering. And had the Divine Law only stated it of the sin-offering [I would have said that this was so only of the sin-offering], because on account of its fatness it could easily penetrate into the other matter, but I would not have said so of the meal-offering. Therefore both were necessary to be stated.) ‘Sin-offering’: as the sin-offering must be brought only from what is unconsecrated, and [must be sacrificed] by day, and [all the services in connection therewith must be performed] with the [priest's] right hand, so all the other offerings must be brought only from what is unconsecrated, and [must be sacrificed] by day, and [all the services in connection therewith must be performed] with the [priest's] right hand.[17] (And whence do we know this[18] of the sin-offering itself? — R. Hisda answered, Because it is written, And Aaron shall offer the bullock of the sin-offering which is his;[19] that is to say, it must come from his own means and not from the means of the community nor from the Second Tithe. Is not [the rule that offerings must be sacrificed] by day derived from [the verse], In the day that he commanded?[20] — It was indeed stated [above] to no purpose. Is not [the rule that all the services in connection therewith shall be performed with] the right hand derived from the following dictum of Rabbah b. Bar Hannah? For Rabbah b. Bar Hannah said in the name of Resh Lakish, Wherever the word ‘finger’ or ‘priest’ is used it signifies that the right hand only [shall be used]![21] — This too was stated [above] to no purpose.) ‘Guilt-offering’: as the bones of the guilt-offering are permitted for use,[22] so the bones of all other offerings are permitted for use.[23]

For what purpose does R. Akiba use the verse, And thou shalt sacrifice the Passover-offering?[24]

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(1) That only male priests may eat of the offering.

(2) Cf. Lev. VI, 22; VII, 6.

(3) Sc. the two lambs offered on the Feast of Weeks, cf. Lev. XXIII, 19.

(4) Num. XVIII, 10. The verse continues, It shall be holy unto thee; and the expression ‘holy’ includes the two lambs which are also described by the expression ‘holy’. cf. Lev. XXIII, 20.

(5) That the peace-offerings of the congregation. sc. the two lambs, may be eaten only by the male priests.

(6) From the expression ‘meal-offering’.

(7) This is based on Lev. VI, 20: Whatsoever shall touch the flesh thereof shall be holy. Thus if the flesh of a peace-offering absorbed aught of the sin-offering, the former must be treated in the same sanctity as the sin-offering; if the sin-offering was invalid the flesh of the peace-offering becomes invalid too; and if the sin-offering was fit the other is to be eaten under the same stringency as the sin-offering, i.e., within a holy place and during one day.

(8) For these cannot be found in the guilt-offering as it is a male animal.

(9) But whatever is found in the womb of a consecrated animal is not holy.

(10) I.e., to infer other offerings of female animals from the guilt-offering which must be a male animal.

(11) Cf. Ex. XXIX, 34.

(12) For no other animal was in fact set apart as a substitute for the consecration-offering.

(13) Where e.g., two animals were set apart for one offering as a measure of security, and one was left over, the latter was not burnt but was to be treated as the surplus of the offering; and so too with the young of an animal which had been consecrated pregnant.

(14) E.g.. the drink-offerings that are brought with the peace-offering or the bread with the thank-offering. V. supra 15a and b.

(15) The law of piggul (v. Glos.) is stated in Scripture only in connection with the peace-offerings, but by analogy it is extended to apply to all offerings.

(16) For also of the meal-offering as of the sin-offering it is written (Lev. VI, 11). Whatsoever toucheth them shall be holy.

(17) Thus we see R. Akiba deriving from ‘sin-offering’ the law that other offerings, including the Passover, cannot be brought except from what is unconsecrated.

(18) That it must be brought only of what is unconsecrated.

(19) Lev. XVI, 6.

(20) Ibid. VII, 38.

(21) V. supra 10a, and Hul. 22a.

(22) For profane purposes. Provided the bones are without marrow, v. Pes. 83a.

(23) The other items in this verse (ibid. 37) are interpreted by R. Akiba in the same way as R. Eliezer.

(24) Deut. XVI, 2. This verse is expounded in our Mishnah to teach that the thank-offering shall be brought only from what is unconsecrated; according to R. Akiba, however, this exposition is unnecessary, since he derives from the sin-offering the general rule that all obligatory offerings must be brought only from what is unconsecrated.

Talmud - Mas. Menachoth 83b

— He requires it for the following teaching of R. Nahman. For R. Nahman said in the name of Rabbah b. Abbuha,[1] Whence do we know that the surplus of the Passover-offering[2] is brought as a peace-offering? Because it is said, And thou shalt sacrifice the Passover-offering unto the Lord thy God of the flock and the herd.[3] But is not the Passover-offering brought only from the lambs and the goats? It means that the surplus of the Passover-offering is to be [utilized] for something which comes from the flock and from the herd.[4]

But is it[5] derived from this verse? Surely it is derived from the following teaching of Samuel's father: It is written, And if his offering for a sacrifice of peace-offerings [unto the Lord] be of the flock:[6] and Samuel's father said, This teaches that what comes [only] from the flock[7] shall be offered as peace-offerings! And again,is it derived from this [latter] verse? Surely it is derived from the following: It was taught:[8] Lamb;[9] this includes the fat tail of the Passover-offering.[10] When it says, If [he bring] a lamb,[9] it is to include the Passover-offering that has passed the age of one year[11] and the peace-offerings which are brought by virtue of the Passover-offering[12] for all the regulations of peace-offerings, viz., that they require the laying on of hands, the drink-offerings, and the waving of the breast and the thigh. Again, when it says, And if [his offering be] a goat.[13] this interrupts the subject [and thereby] teaches that in the case of a goat [the burning of] the fat tail [upon the altar] is not required![14] — There are three Scriptural texts;[15] one is required for [the Passover-offering] which has passed the age of one year and whose time [for offering][16] has also passed, another for that which has not passed the age of one year but whose time [for offering] has passed. and a third for that which has not passed the age of one year and whose time [for offering] has not passed.[17] And all [three texts] are necessary; for had [Scripture] taught us it only of that [Passover-offering] which had passed the age of one year and whose time [for offering] had also passed, I would have said that it was so[18] only in that case seeing that it was absolutely rejected [from being offered as a Passover-offering], but I would not have said so of that [Passover-offering] whose time [for offering] had passed but which had not passed the age of one year, since it is fit for the Second Passover.[19] And had [Scripture] taught us it only of that [Passover-offering] whose time [for offering] had passed but which had not passed the age of one year, I would have said that it was so[18] only in that case seeing that it was rejected [from being offered] for the first Passover, but I would not have said so of that [Passover-offering] whose time [for offering] had not passed and which had not passed the age of one year, since it is even fit for the first Passover. Hence [all texts] are necessary. CHAPTER IX

MISHNAH. ALL THE OFFERINGS[20] OF THE CONGREGATION OR OF THE INDIVIDUAL MAY BE OFFERED FROM [PRODUCE GROWN] IN THE LAND [OF ISRAEL] OR OUTSIDE THE LAND, FROM THE NEW [PRODUCE] OR FROM THE OLD, EXCEPTING THE ‘OMER-OFFERING AND THE TWO LOAVES, WHICH MUST BE OFFERED ONLY FROM THE NEW PRODUCE AND FROM [PRODUCE GROWN] IN THE LAND. ALL [OFFERINGS] MUST BE OFFERED FROM THE CHOICEST PRODUCE. AND WHICH IS THE CHOICEST? MICHMAS[21] AND ZANOHA[21] RANK FIRST FOR THE QUALITY OF THEIR FINE FLOUR; SECOND TO THEM IS HAFARAIM[21] IN THE VALLEY. THE [PRODUCE OF THE] WHOLE LAND[22] WAS VALID, BUT THEY USED TO BRING IT FROM THESE PLACES.

GEMARA. Our Mishnah is not in accordance with the following Tanna. For it was taught: If the ‘Omer-offering was offered from the old produce it is valid, and so, too, if the Two Loaves were offered from the old produce they are valid, save that the precept has not been duly performed; the ‘Omer-offering-for it is written, Thou shalt bring for the meal-offering of thy first-fruits.[23] that is, even from the store-room;[24] and the Two Loaves-for it is written, Out of your dwellings,[25] but not from [the produce grown] outside the Land; ‘Out of your dwellings’, even from the store-room. But has not a deduction already been drawn [from that expression]?[26] The verse reads, Ye shall bring.[27] even from the store-room. But is not this [latter expression] required to teach that every other offering that you make of a similar kind shall be like this![28] — If for this only the verse should have read, ‘Thou shalt bring’; why does it say, Ye shall bring? You can therefore draw two deductions therefrom. But is it not written, The first?[29] — That is only a recommendation.[30] But does it not say. New?[31] — That is required for [the following Baraitha] which was taught: R. Nathan and R. Akiba[32] said, If the Two Loaves were brought from the old produce they are none the less valid. How then am I to interpret the expression ‘new’? To signify that they shall be the first[33] of all meal offerings.[34]

Now they[35] differ only concerning the new produce.[36]

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(1) Pes. 70b; Zeb. 9a.

(2) E.g.. if a certain sum of money was put aside for the Passover-offering but it was not all expended. Or, if the animal set apart for the Passover-offering was lost and another was offered in its stead and later the original animal was found.

(3) Deut. XVI, 2.

(4) Sc. peace-offerings.

(5) That the surplus of the Passover-offering is offered as peace-offerings.

(6) Lev. III, 6. The expression ‘sacrifice of peace-offerings’ is obviously superfluous in this verse as the whole passage is dealing with the peace-offering.

(7) Sc. the Passover-offering.

(8) Pes. 96b, Zeb. 9a.

(9) Lev. III, 7. This word is superfluous for since the preceding verse speaks of an offering ‘of the flock’ and the subsequent passage of ‘a goat’, this passage must obviously be dealing with lambs.

(10) That it must be burnt together with the other sacrificial portions upon the altar. With all other offerings of sheep the fat tail is expressly stated to be burnt, hence it was necessary to include the Passover-offering.

(11) And so is unfit for its purpose, cf. Ex. XII, 5.

(12) I.e.,חגיגת ארבעה עשר the peace-offerings brought on the fourteenth day of Nisan as supplementary to the Passover-offering. These supplied the full meal for those members registered for the one Passover-offering, at the end of which the Passover-lamb was distributed, about an olive's bulk being given to each person. So Rashi MS. According to Rashi and Tos. the peace-offerings in the text are the surplus of the Passover-offering; v. Tosaf.s.v. ושלמים .

(13) Lev.III, 12.

(14) The ‘and if’ at the head of the passage is a disjunctive term, indicating that the provisions that apply to a lamb do not apply to a goat, unless expressly stated; and the fat tail is mentioned in connection with the former (v. 9) but not with the latter.

(15) The above three verses, viz., Deut. XVI, 2, Lev. III, 6, and ibid. 7, each informing us that the surplus of the Passover-offering must be offered as a peace-offering.

(16) Sc. the fourteenth day of Nisan.

(17) I.e., the lamb was set apart for a Passover-offering but was slaughtered before the Passover.

(18) That it is offered as a peace-offering.

(19) Observed on the fourteenth day of the second month (Iyar) by those who were prevented from keeping the first Passover either by reason of uncleanness or absence on a journey; v. Num. IX, 10ff.

(20) Sc. meal-offerings.

(21) So according to many MSS.; in cur. edd. these names are corrupt. All three are Biblical place-names; for Michmas (var: Machnis, Machmis) v. Ezra II, 27; for Zanoha (var: Zatha, Zinuha) v. Jos. XV, 34, 56; for Hafaraim (var. lec: ‘Afraim (cf. Ephrain in II Chron. XIII, 19). ‘Aforaim, Kufraim) v. Jos. XIX, 19.

(22) Lit., ‘all the lands’; i.e., the various districts in the Land of Israel.
(23) Lev. II, 14.
(24) Lit., ‘the upper-room’, ‘the attic’. I.e., produce from the previous year that has been stored up.
(25) Ibid. XXIII, 17.
(26) The expression ‘out of your dwellings’ is in the first place interpreted to exclude the produce grown outside Palestine, how then can it be interpreted a second time to include the old produce?
(27) Lev. XXIII, 17.
(28) V. supra p. 463.
(29) Both with regard to the ‘Omer-offering and the Two Loaves, Lev. II, 12 and XXIII, 10, respectively. The first clearly implies the new produce.
(30) Nevertheless if old produce was used it is valid.
(31) Ibid. XXIII, 16.
(32) According to Sh. Mek.: ‘R. Jacob’.
(33) Lit., ‘the newest’.
(34) I.e., no meal-offering of the new corn shall be offered before the offering of the Two Loaves, even though the latter are offered of the old produce.
(35) Sc. the Tanna of our Mishnah and the Tanna of the Baraitha quoted.
(36) I.e., whether only the new produce must be used or even the old is valid.

Talmud - Mas. Menachoth 84a

but as to the Land they do not differ at all, [for they both hold] that the ‘Omer-offering and the Two Loaves must be offered from the [produce of the] Land [of Israel] and not from [that grown] outside the Land. This view is clearly not in accord with that of the following Tanna. For it was taught: R. Jose son of R. Judah says, The ‘Omer-offering may be offered from [what is grown] outside the Land. How then am I to interpret the expression ‘when ye are come into the land’?[1] To signify that they were not bound to offer the ‘Omer-offering before they entered the Land. Furthermore, he is of the opinion that the [prohibition of the] new corn[2] outside the Land [of Israel] is Biblical; that the expression ‘your dwellings’[3] implies wherever you may be dwelling;[4] and that the expression ‘when ye are come into the land’ implies [that the prohibition comes into force only] at the time when you come [into the Land].[4] Now since [the prohibition of the new corn outside the Land of Israel] is Biblical, we may surely offer [the ‘Omer-offering therefrom].

We have learnt elsewhere:[5] Those who kept guard over the aftergrowths in the Sabbatical year[6] received their pay out of the terumath ha-lishkah.[7] Rami b. Hama pointed out the following contradiction to R. Hisda: We have learnt: ‘Those who kept guard over the aftergrowth in the Sabbatical year received their pay out of the terumath ha-lishkah’, but in contradiction to this we have also learnt:[8] For food.[9] but it must not be burnt!’[10] — He replied. ‘The Divine Law says, Throughout your generations,[11] and you are suggesting that it be dispensed with!’[12] ‘Am I suggesting’, retorted the other, ‘that it be dispensed with? [I say] it can be offered of last year's produce!’ — ‘It must be fresh.[13] and it is not so in that case’. ‘Then it can be offered of the fresh corn of last year's produce!’ — ‘The text says. Thou shalt bring . . . fresh.[13] that is, it must be fresh at the time of offering, and it is not so in that case. It was stated: R. Johanan said,[14] [It is written,] ‘Thou shalt bring . . . fresh’; R. Eleazar said,[14] [It is written.] The first of your harvest,[15] but not the end of your harvest.[16]

Rabbah raised the following objection:[17] The verse, And if thou bring a meal-offering of first-fruits.[18] refers to the meal-offering of the ‘Omer. Of what was it offered? Of barley. You say ‘of barley’; but perhaps it is not so but rather of wheat! Said R. Eliezer, The expression ‘in the ear’[19] is stated in regard to the incidents in Egypt, and the expression ‘in the ear’[18] is also stated as an ordinance for generations: just as ‘in the ear’ stated in regard to the incidents in Egypt referred to the barley, so ‘in the ear’ stated as an ordinance for generations refers to barley only. R. Akiba said, We find that an individual must offer wheat as an obligation and also barley as an obligation; likewise we find that the community must offer wheat as an obligation and also barley as an obligation. Should you say, then, that the ‘Omer was offered of wheat, we would not find a case when the community must offer barley as an obligation! Another explanation: Should you say that the ‘Omer was offered of wheat, then the Two Loaves would not be first-fruits! Hence the reason for it is that it must be first-fruits.[20] This is indeed a refutation.

We have learnt elsewhere:[21] First-fruits may be brought only from the seven species.[22] and not

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(1) Ibid. 10.

(2) Before the offering of the ‘Omer.

(3) Lev. XXIII, 14.

(4) Thus the prohibition of the new corn applies to the produce grown outside Palestine but comes into force only when Israel enter the Land.

(5) Shek. IV, 1; B.M. 118a.

(6) As there was no sowing in this year the spontaneous growth in the fields would in certain regions be guarded so as to bring from it the ‘Omer-offering.

(7) תרומת הלשכה, lit., ‘the offering of the chamber’; i.e., the funds contributed by the Shekel payers. V. Glos. s.v. terumah.

(8) Bek. 12b.

(9) Lev. XXV, 6.

(10) How then can the aftergrowth be used for the ‘Omer’-offering seeing that a handful thereof must be burnt?

(11) Ibid. XXIII, 14. I.e, this law was to continue in force for all time without interruption.

(12) Every Sabbatical year.

(13) Ibid. II, 14.

(14) It is for the following reason that’ the ‘Omer may not be offered from last year's produce.

(15) Ibid. XXIII, 10. Read קצירכם for קצירך.

(16) And by taking last year's produce for the ‘Omer one would be offering it at the time when the harvest (sc. last year's harvest) is already at its end.

(17) V. supra p. 405 and notes.

(18) Lev. II, 14.

(19) Ex. IX, 31.

(20) I.e., the Two Loaves must be offered of this year's produce at the time when the wheat is at the beginning of its harvest; likewise the ‘Omer-offering when the barley is at the beginning of its harvest; hence last year's produce is invalid. This argument is in accord with R. Eleazar and refutes R. Johanan's view.

(21) Bik. I, 3; Pes. 53a.

(22) For which the land of Israel was famed, viz., wheat, barley, grapes, figs, pomegranates, olives, and dates. V. Deut. VIII, 8.

Talmud - Mas. Menachoth 84b

from the dates in the hill-country nor from the produce in the valleys.[1] Said ‘Ulla, If one brought these they are not consecrated [as first-fruits].

Rabbah was once sitting and reciting this statement [of ‘Ulla] when R. Aha b. Abba raised the following objection against Rabbah: It is written, An offering of first-fruits.[2] this signifies that it[3] is to be the first of all meal-offerings; and so, too, it says, Also in the day of the first-fruits, when ye bring a new meal-offering unto the Lord in your feast of weeks.[4] I thus know that it[5] is to be the first[6] before [all the meal-offerings of] wheat; whence do I know that it is to be the first before [all meal-offerings of] barley?[7] Because the text repeats the word ‘new’;[8] and as this word is not required [twice] for [the teaching that it[5] is to be] the first before [all meal-offerings] of wheat, you may use it for [the teaching that it is to be] the first before [all meal-offerings] of barley. And whence do I know that it[5] shall be offered before the first-fruits?[9] Because the text states, And thou shalt observe the feast of weeks, even of the first-fruits of wheat harvest.[10] I thus know that it shall be offered before the first-fruits of the wheat harvest; but whence do I know that it shall be offered before the first-fruits of the barley harvest? Because the text states, And the feast of harvest, the first-fruits of thy labours which thou sowest in the field.[11] I thus know that it shall be before [the harvest] which thou sowest; whence do I know that it shall be before that which grew of itself? Because the text states, In the field.[11] I thus know that it shall be before that which grew in the field; but whence do I know that it shall also be before that which grew on the roof, or among ruins, or in a plant-pot, or in a ship?[12] Because the text states, The first-fruits of all that is in their land.[13] And whence do I know that it shall be before the drink-offerings [of the new fruits] and the new fruits of the tree?[14] Because it says here, The first-fruits of thy labours,[15] and it says there, When thou gatherest in thy labours out of the field;[16] as there it[17] includes the [fruits for the] drink-offerings and the fruits of the tree, so here it includes the drink-offerings and the fruits of the tree. Now it stated above 'that which grew on the roof, or among ruins, or in a plant-pot, or in a ship'![18] — This last clause refers to meal-offerings.[19] To this R. Adda b. Ahabah demurred, saying, But then it says in that same verse, Every one that is clean in thy house may eat thereof;[20] [so that it cannot refer to meal-offerings since] meal-offerings may be eaten only by the males of the priesthood! — R. Mesharsheya replied. There are two [ordinances in this] verse: Shall be thine,[21] and 'Every one that is clean in thy house may eat thereof'. How are they to be explained? The latter refers to the first-fruits and the former to meal-offerings. R. Ashi said, The entire verse speaks of meal-offerings, but the latter part refers to the [priestly portion of the] cakes of the thank-offering.[22]

There is also the following dispute [on the matter]. R. Johanan said, If one brought [these fruits],[23] they are not consecrated [as first-fruits]. But Resh Lakish said, If he brought them they are consecrated [as first-fruits], for they are considered in the same light as a lean beast that was offered for an offering.[24] Now Resh Lakish's view is clear, as he states his reason for it; but what is the reason for R. Johanan's view? — R. Eleazar replied. 'I saw R. Johanan in a dream, so [I am sure that] I will say an excellent thing. The verse says. Of the first,[25] but not all the first[-fruits];[26] it also says, From thy land,[25] but not from every part of thy land'.[27] And to what purpose does Resh Lakish apply this expression 'from thy land'? — He requires it for the exposition given in the following Baraitha: R. Gamaliel son of Rabbi says, The word 'land'[25] is stated here and the word 'land' is stated there;[28] as there it refers to the species for which the land was famed, so here it refers to the species for which the land was famed.[29] And the other?[30] — [For that exposition the expression] 'land' [is sufficient], but [there is also written] 'from thy land'.[31] And the other?[32] — He does not accept [as separate expositions] 'land' and 'from thy land'.

One [Baraitha] taught: A man may bring the produce grown on a roof, or among ruins, or in a plant-pot, or in a ship [as firstfruits], and also make the recital.[33] But another [Baraitha] taught: He may bring it but does not make the recital. Now according to Resh Lakish there is no contradiction between [the rulings concerning the produce grown on] a roof, for one[34] [Baraitha] speaks of the roof of a cave[35] and the other[36] of the roof of a house. Likewise there is no contradiction between [the rulings concerning what is grown among] ruins, for one[34] [Baraitha] speaks of ruins that have been tilled,[35] and the other of ruins that have not been tilled. Likewise there is no contradiction between [the rulings concerning what is grown in] a plant-pot, for one[34] [Baraitha] speaks of a perforated [pot] and the other of an unperforated [pot]. Likewise there is no contradiction between [the rulings concerning what is grown in] a ship, for one [Baraitha][36] speaks of a ship made of wood and the other[37] of a ship made of clay.[38]

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(1) For they are of inferior quality.

(2) Lev. II, 12. According to Rabbinic interpretation this refers to the Two Loaves and to the first-fruits; v. supra 58a.

(3) Sc. the offering of the Two Loaves; and so throughout this passage.

(4) Num. XXVIII, 26.

(5) Sc. the offering of the Two Loaves; and so throughout this passage.
(6) Lit., ‘the newest.’
(7) I.e., that no private offering of the new produce of barley (e.g.. the meal-offering of jealousy. cf. Num. V, 15) shall be offered before the Two Loaves, V. Rashi MS.
(8) Cf. Lev. XXIII, 16 and Num. XXVIII, 26.
(9) I.e., before the first-fruits of wheat.
(10) Ex. XXXIV, 22. Thus the offering of the Feast of Weeks, I.e., the Two Loaves, shall even be before the first-fruits of the wheat harvest.
(11) Ibid. XXIII, 16. ‘Thy labours which thou sowest’ includes the barley harvest.
(12) That the first-fruits gathered from the roof etc. shall not be offered before the Two Loaves.
(13) Num. XVIII, 13.
(14) I.e., that drink-offerings from the new crops of olives and grapes, and the fruits of the first-fruits (excluding the corn) shall not be offered before the Two Loaves.
(15) Ex. XXIII, 16.
(16) Ex. XXIII, 16. This refers to the feast of ingathering, Sukkoth, at the end of the agricultural year when everything is gathered in from the field.
(17) The expression ‘thy labours’.
(18) It was said that the produce grown on a roof etc. may be offered as first-fruits (save it may not be offered before the offering of the Two Loaves; v. supra p. 510, n.9); how much more is it permitted to offer as first-fruits that which grew on the hill-country or in the valleys! Thus ‘Ulla's view is refuted.
(19) I.e., that meal-offerings brought from produce grown on a roof etc. (although invalid as first-fruits, in accordance with ‘Ulla's view) may not be offered before the offering of the Two Loaves.
(20) Num. XVIII, 13.
(21) Ibid. This regulation implies only the males.
(22) Which may be eaten by every one of the priestly stock, males and females alike. V. Zeb. V, 7.
(23) Sc. the dates of the hill-country and the produce of the valley as first-fruits.
(24) Which undoubtedly is consecrated.
(25) Deut. XXVI, 2.
(26) Thus excluding all other kinds of fruit apart from the seven species enumerated in Deut. VIII. 8. V. supra p. 509, n. 6.
(27) Thus excluding the dates in the hill-country and the produce in the valleys.
(28) Deut. ibid.
(29) But among the seven species all fruits are valid as first-fruits, even those growing in the hill-country and in the valleys.
(30) What answer can R. Johanan give to this argument?
(31) This suggests another exposition, taking ‘from’ in a partitive sense, thus excluding inferior quality fruits.
(32) Resh Lakish.
(33) At the presentation of the first-fruits at the Sanctuary. V. Deut. XXVI, 5-11.
(34) The first Baraitha.
(35) This is regarded as land in the ordinary sense, and the produce thereof may be brought as first-fruits.
(36) The second Baraitha.
(37) The first Baraitha.
(38) What is grown in this ship is regarded as grown on land. V, however, Tosaf. s.v. כאן).

Talmud - Mas. Menachoth 85a

There is here, however, a difficulty for R. Johanan![1] — Tannaim [differ in this matter], for it was taught: A man may bring [as first-fruits] what [is grown] on a roof or among ruins[2] and also make the recital; but what [is grown] in a plant-pot and in a ship he may not bring at all.[3]

ALL [OFFERINGS] MUST BE OFFERED FROM THE CHOICEST PRODUCE etc. Johana[4] and Mamre[4] said to Moses, ‘Wouldst thou carry straw to Hafaraim?’[5] He answered them, ‘There is a common saying. "Bring herbs to Herbtown".’[6]

MISHNAH. ONE MAY NOT BRING [IT][7] FROM THE PRODUCE OF A MANURED FIELD[8] OR FROM AN IRRIGATED FIELD[9] OR FROM A FIELD STOCKED WITH TREES;[10] BUT IF ONE DID BRING IT [FROM THESE] IT WAS VALID. HOW WAS IT[11] PREPARED? IN THE FIRST YEAR IT WAS BROKEN UP AND IN THE SECOND YEAR IT WAS SOWN SEVENTY DAYS BEFORE PASSOVER; THUS IT WOULD PRODUCE FINE FLOUR IN ABUNDANCE. HOW WAS IT TESTED?[12] THE TEMPLE-TREASURER USED TO THRUST HIS HAND INTO IT; IF SOME DUST CAME UP IN [HIS HAND] IT WAS INVALID, UNTIL IT WAS SIFTED [ONCE MORE]. IF IT HAD BECOME MAGOTTY IT IS INVALID.

GEMARA. How WAS IT PREPARED? IN THE FIRST YEAR IT WAS BROKEN UP etc. The question was raised: What is meant by this? [Does it mean that] it was broken up in the first year and in the second year it was again broken up and then sown, or that it was broken up in the first year and in the second year it was sown without having been broken up again? — Come and hear: R. Jose said, They would have brought it[13] even from the wheat of Karzaim[14] and of Kefar Ahim[15] if only they had been nearer to Jerusalem;[16] since they may bring the ‘Omer-offering only from the fields in the south,[17] and which had been broken up for the purpose, for upon these fields the sun rises and upon these the sun sets.[18] How was [the field] prepared? In the first year it was broken up and in the second year it was ploughed twice, and it was sown seventy days before the Passover so that it might be close upon the [increasing strength of the] sun;[19] thus it would bring forth stalks one span long and ears two spans long. It was then reaped, bound into sheaves, threshed, winnowed, cleansed, ground, and sifted, and then brought to the Temple-treasurer. The Temple-treasurer would thrust his hand into it; if some dust came up in his hand he would say to him [who brought it]. ‘Go and sift it a second time’ — In the name of R. Nathan it is said, The Temple-treasurer used to smear his hand with oil and thrust it into the flour until he had brought up all the dust.[20] Now it expressly stated above, ‘[And in the second year] it was ploughed twice’![21] — But even as you would have it, [is not this Baraitha in conflict with our Mishnah]? For our Mishnah does not say ‘twice’,

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(1) For according to both Baraithas the produce grown on a roof etc, may be brought as first-fruits, yet R. Johanan holds that what is grown in the hill-country or in the valleys is not consecrated as first-fruits!

(2) I.e., on the roof of a cave, which is soil in its natural state, and among ruins that have been broken up and tilled. This is a superior growth to that grown in the hill-country or in the valley.

(3) For it is of inferior quality; and so too the fruits of the hill-country and in the valleys.

(4) They were the chief magicians in Egypt in the time of Moses. They are mentioned in Jewish literature also under the name of Jannes and Jambres. V. J. E. VIII, p. 71.

(5) So MS.M. and other MSS.; in cur. edd. ‘Afraim, v. note on this word in Mishnah, supra p. 506. Hafaraim was a town where apparently there was a plentiful supply of straw, and so it became proverbial to describe wasted efforts as ‘carrying straw to Hafaraim’. (Cf. to carry coals to Newcastle’). As Egypt was reputed to be a land of magic and sorcery these magicians thus taunted Moses when he performed his wonders before the Pharaoh.

(6) For all merchants flock there and the demand for herbs is great.

(7) Sc. the ‘Omer-offering or the Two Loaves (Rashi MS.). According to Tosaf., the reference is to all meal-offerings.

(8) For it is feared that the field might not have been sufficiently manured; or because the manure would impair the taste of the crops.

(9) For it may not have been sufficiently watered.

(10) And the crops are sown among the trees. The trees draw off the richness of the soil so that the crops are of a poor quality.

(11) Sc. the field, that it might produce an abundant crop of the finest quality.

(12) To ascertain whether the flour had been sufficiently sifted.

(13) Here apparently the reference is to all meal-offerings, notwithstanding the mention of the ‘Omer-offering later in this sentence, since wheat is expressly mentioned and wheat was not offered in the ‘Omer-offering but barley. On the other hand, it might very well be that the word ‘חיטי, translated wheat, is part of the name of the place, the whole being a compound place-name חיטי כרזיים V. Tosaf. s.v. אין.

(14) Var. lec. Barhaim (Tosef. IX). Karwaim (MS.M.). Probably It is the Kharazin mentioned in the N.T. (Matt. XI, 21, Luke X, 13). V. Neubauer Geographie p. 220.

(15) Var. Kefar Ahus (Tosef. ibid.). K. Ahis, K. Ahia (MSS.). The name is very likely a variant of Kefar Nahum, i.e., Capernaum. V. Neubauer p. 221.

(16) For it is not proper to let pass the opportunity of performing the precept, and as there could be found produce of a similar good quality in places nearer Jerusalem that must be used.

(17) Sc. of Palestine (Rashi). According to Tosaf fields on a hill-side facing south.

(18) I.e., the sun is shining on these fields for the greater part of the day.

(19) When the sun's rays would have a beneficial effect upon the sowing.

(20) For only the fine dust in the flour would adhere to his hand.

(21) From this Baraitha it is evident that our Mishnah must mean that the field was broken up (i.e., ploughed) even in the second year.

Talmud - Mas. Menachoth 85b

whilst this Baraitha expressly says ‘twice’! — This is no difficulty, for in the one case the field had been tilled[1] [in the first year], and in the other it had not been tilled. How is it then [with regard to our original question]?[2] — Come and hear, for it was taught: Half of [the field] was broken up and the other half sown, and [in the following year] half of it was broken up and the other half sown.[3]

R. Johanan said. The ‘Omer-offering was brought only from [the produce of] fields in the south of the Land of Israel, upon which the sun rises and upon which the sun sets. Half of the field was broken up while the other half was sown.[4]

It was taught: Abba Saul said, The ‘Omer-offering was usually brought from the [produce of the] valley of Beth Makleh.[5] which was an area that produced three se'ahs; it lay in the south and the sun rose upon it and the sun set upon it. Half of it was broken up while the other half was sown, and [in the following year] half of it was broken up and the other half was sown.

R. Hilkiah b. Tobi had a piece of land; one half he broke up and the other half he sowed, and [similarly in the following year] one half he broke up and the other half he sowed. It thus brought forth twofold, and he sold the wheat for fine flour.

IF IT HAD BECOME MAGGOTY IT IS INVALID. Our Rabbis taught: If the greater part of the fine flour became maggoty it is invalid; if the greater part of the wheat became maggoty it is invalid. R. Jeremiah enquired. Does it mean the greater part of each grain [of wheat],[6] or the greater part of the se'ah [of wheat]?[7] — The question remains undecided.

Raba raised this question. If a man consecrated [maggoty flour for a meal-offering] does he incur stripes for consecrating a blemished thing or not?[8] Since it is unfit for the offering it is like a blemished animal; or [shall we say that the prohibition of] a blemished thing applies only to animals? — The question remains undecided.

We have learnt elsewhere: Any wood in which was found a worm is unfit [to be burnt] upon the altar.[9] Samuel said, This was taught only [if found] in damp wood, but in dry wood it can be scraped away and [the wood] is valid. Raba raised the question. If a man consecrated it[10] does he incur stripes for consecrating a blemished thing or not? Since it is unfit it is like a blemished animal; or [shall we say that] the prohibition of a blemished thing applies only to animals? — This too remains undecided.

MISHNAH. TEKOA[11] RANKS FIRST FOR THE QUALITY OF ITS OIL. ABBA SAUL SAYS, SECOND TO IT IS REGEB[12] BEYOND THE JORDAN. THE [OIL OF THE] WHOLE LAND WAS VALID, BUT THEY USED TO BRING IT ONLY FROM THESE PLACES. ONE MAY NOT BRING IT FROM A MANURED FIELD[13] OR FROM AN IRRIGATED FIELD[13] OR FROM OLIVE-TREES[13] PLANTED IN A FIELD SOWN WITH SEEDS; BUT IF ONE DID BRING IT [FROM THESE] IT WAS VALID. ONE MAY NOT BRING ANFAKINON,[14] YET IF ONE DID BRING IT IT WAS VALID.[15] ONE MAY NOT BRING IT FROM OLIVE-BERRIES WHICH HAD BEEN SOAKED IN WATER OR PRESERVED OR STEWED; AND IF ONE DID BRING IT IT WAS INVALID.

GEMARA. And Joab sent to Tekoa and fetched thence a wise woman.[16] Why to Tekoa? — R. Johanan said, Because they were accustomed to olive oil, wisdom could be found among them.

Our Rabbis taught: And let him dip his foot in oil:[17] this refers to the territory of Asher which flowed with oil like a fountain. It is related that once the people of Laodicea were in need of oil; they appointed an agent[18] and instructed him, ‘Go and purchase for us a hundred myriad [manehs’] worth of oil’. He came first to Jerusalem and was told, ‘Go to Tyre’. He came to Tyre and was told, ‘Go to Gush Halab’.[19] When he came to Gush Halab he was told, ‘Go to So-and-so in that field’. [He went there] and found the man breaking up the earth around his olive trees. [The agent] said to him. ‘Have you a hundred myriad [manehs’] worth of oil that I require’? ‘Yes’, replied the other; ‘but wait until I finish my work’. He waited until the other had finished his work. After he had finished his work he threw his tools on his back and went on his way, removing the stones from his path as he went.[20] The agent thought to himself,[21] ‘Has this man really got[21] a hundred myriad [manehs’] worth of oil? I see that the Jews have merely made game of me’. As soon as he reached his home town that man's maidservant brought out to him a bowl of hot water and he washed his hands and his feet. She then brought out to him a golden bowl of oil and he dipped in it his hands and his feet, thus fulfilling the verse, ‘And let him dip his feet in oil’. After they had eaten and drunk the man measured out to the agent a hundred myriad [manehs’] worth of oil, and then asked, ‘Do you perhaps need any more oil?’ ‘I do, indeed’, replied the agent; ‘but I have no more money with me’. ‘Well, if you wish to buy more, take it, and I will go back with you for the money’, said the man. He then measured out for him another eighteen myriad [manehs’] worth of oil. It is said that he[22] hired every horse, mule, camel and ass that he could find in all the Land of Israel. When he reached his home town all the townspeople came out to meet him and applaud him. ‘Do not applaud me’, he said to them, ‘but this man, my companion. who measured out for me a hundred myriad [manehs’] worth of oil, and whom I still owe eighteen myriad [manehs]’. This illustrates the verse, There is that pretendeth himself rich, yet hath nothing; there is that pretendeth himself poor, yet hath great wealth.’[23] ONE MAY NOT BRING IT FROM A MANURED FIELD etc. But has it not been taught that one may not bring anfakinon

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(1) This is the case of our Mishnah, hence the Tanna of our Mishnah did not state ‘twice’, for since the field was tilled in the first year it was not necessary to plough it twice in the second year. The question, however, still remains whether according to the Tanna of our Mishnah it is necessary to plough it once in the second year before the sowing or not!

(2) V. prec. n. The most lucid interpretation of the entire passage is to be found in the commentary לחם משנה on Maim. Yad, Issure Mizbeah. VII, 4.

(3) Each year only half of the field was sown and the other half lay fallow, but the parts were reversed in alternate years, thus the half that lay fallow in the previous year was now sown, and the half that was sown then was now broken up. It is evident therefore that there was no breaking up of the field before the sowing. There is, however, a difference of opinion between the commentators as to whether it was necessary in the first year. i.e., at the outset when cultivating the field, to break up the whole field or only half.

(4) So MS.M. and Sh. Mek. This sentence is omitted in cur. edd.

(5) In the valley of Kidron; cf. Tosef. Men. X.

(6) But if only a small part of each grain had become maggoty it is still valid.

(7) I.e., if the greater part of the quantity of wheat intended for the meal-offering had become maggoty, even though there are in the mass many grains that have not been affected, the whole is invalid.

(8) For consecrating a blemished animal one incurs the penalty of stripes on five counts, v. Tem. 6b.

(9) Mid. II, 5.

(10) Sc. wood with worms.

(11) Cf. Amos I, 1; a city S.E. of Bethlehem (Neub. op. cit. p. 129). According to Graetz and Bacher, it is a town in Galilee.

(12) Probably Ragaba mentioned in Josephus, Ant. XIII, 15, 5.

(13) The olives grown here are of an inferior quality.

(14) אנפקינון (so MS.M.; cur. edd. אנפקטן is corrupt) = **, oil made of unripe olives. V. Gemara.

(15) In many MSS. and in the Mishnah edd. the reading is INVALID.

(16) II Sam. XIV, 2.

(17) Deut. XXXIII, 24.

(18) פולמוסטום Jast. suggests the reading אפימליטים, **. manager, commissioner. V. B.B., (Sonc. ed.) p. 617 n. 7.

(19) In Upper Galilee. Cf. Gischala mentioned by Josephus.

(20) This led the agent to believe that the man whom he was accompanying was not wealthy and that he certainly could not supply him with all the oil he required.

(21) Adopting’ the reading as in MS.M. אמר פולמוסרא לזה יש לו וכו.

(22) The agent. Lit., ‘that man did not leave out either a horse . . . which he did not hire’.

(23) Prov. XIII, 7.

Talmud - Mas. Menachoth 86a

and if one did bring it it was invalid, for it is only the sap [of the olive]? — R. Joseph answered, It is no difficulty; one teaching[1] represents the view of R. Hiyya, and the other represents the view of R. Simeon son of Rabbi. For R. Hiyya used to throw it[2] away, while R. Simeon son of Rabbi used to dip his food in it. And in order to remember this think of the saying. ‘The rich are parsimonious’.[3]

‘Six months with oil of myrrh.[4] What is oil of myrrh? — R. Huna b. Hiyya said, It is stacte.[5] R. Jeremiah b. Abba said, It is oil from olives not a third grown.

It was taught: R. Judah says. Anfakinon is the oil of olives not a third grown. And why is it used for smearing? Because it removes the hair and softens the skin.

ONE MAY NOT BRING IT FROM OLIVE-BERRIES WHICH HAD BEEN SOAKED IN WATER. Our Rabbis taught: Oil from olives which had been preserved or stewed or soaked in water, or oil from the olive dregs, or from foul smelling olives may not be brought, and if it was brought it is invalid.

Rabba raised the question, If a man consecrated it does he incur stripes for consecrating a blemished thing or not? Since it is unfit it is like a blemished animal; or [shall we say that] the prohibition of a blemished thing applies only to animals? — This question remains undecided.

MISHNAH. THERE ARE THREE [PERIODS OF GATHERING IN THE] OLIVES AND EACH CROP GIVES THREE KINDS OF OIL.[6] THE FIRST CROP OF OLIVES IS WHEN THE OLIVES ARE PICKED[7] FROM THE TOP OF THE TREE; THEY ARE POUNDED[8] AND PUT INTO THE BASKET[9] (R. JUDAH SAYS, AROUND THE BASKET);[10] THIS GIVES THE FIRST OIL. THEY[11] ARE THEN PRESSED WITH THE BEAM (R. JUDAH SAYS, WITH STONES);[12] THIS GIVES THE SECOND OIL. THEY[13] ARE THEN GROUND AND PRESSED AGAIN; THIS GIVES THE THIRD OIL. THE FIRST [OIL] IS FIT FOR THE CANDLESTICK AND THE OTHERS FOR MEAL-OFFERINGS. THE SECOND CROP IS WHEN THE OLIVES AT ROOF-LEVEL[14] ARE PICKED FROM THE TREE; THEY ARE POUNDED AND PUT INTO

THE BASKET (R. JUDAH SAYS, AROUND THE BASKET); THIS GIVES THE FIRST OIL. THEY ARE THEN PRESSED WITH THE BEAM (R. JUDAH SAYS, WITH STONES); THIS GIVES THE SECOND OIL. THEY ARE THEN GROUND AND PRESSED AGAIN; THIS GIVES THE THIRD OIL. THE FIRST [OIL] IS FIT FOR THE CANDLESTICK AND THE OTHERS FOR MEAL-OFFERINGS. THE THIRD CROP IS WHEN THE LAST OLIVES[15] OF THE TREE ARE PACKED IN THE VAT UNTIL THEY BECOME OVERRIPE;[16] THEY ARE THEN TAKEN UP AND DRIED ON THE ROOF, AND THEN POUNDED AND PUT INTO THE BASKET (R. JUDAH SAYS, AROUND THE BASKET); THIS GIVES THE FIRST OIL. THEY ARE NEXT PRESSED WITH THE BEAM (R. JUDAH SAYS, WITH STONES) THIS GIVES THE SECOND OIL. THEY ARE THEN GROUND AND PRESSED AGAIN; THIS GIVES THE THIRD OIL. THE FIRST [OIL] IS FIT FOR THE CANDLESTICK AND THE OTHERS FOR MEAL-OFFERINGS.

GEMARA. It was asked: Does the Mishnah read megargero or megalgelo?[17] — Come and hear, for it was taught: Olive oil,[18] that is, from the olive tree.[19] Hence they said, The first crop is when the fully ripe olives are picked[20] from the top of the tree; they are brought into the olive-press, are ground in a mill and put into baskets. The oil which oozes out is the first kind [of oil]. They are then pressed with the beam, and the oil which oozes out is the second kind. Then they are taken out [of the olive-press] and ground and pressed again; this gives the third kind. The first kind is fit for the candlestick and the others for meal-offerings. The same [procedure applies] to the second crop of olives. The third crop of olives is when the last olives of the tree are packed in the vat until they become overripe; they are then taken up on to the roof and dried in the same manner as dates, until the juice has run off. They are then brought into the olive-press, are ground in a mill and put into baskets; and the oil which oozes out is the first kind [of oil]. They are then pressed with the beam; and the oil which oozes out is the second kind. Then they are taken out [of the olive-press] and ground and pressed again; this gives the third kind. The first kind is fit for the candlestick and the others for meal-offerings. R. Judah says. The olives were not ground in a mill but pounded in a mortar; they were not pressed with the beam but with stones; and they were not put into the baskets but around the sides of the baskets.

Is not [the text itself of our Mishnah] self-contradictory? The statement THEY ARE POUNDED is in agreement with R. Judah whilst the statement PUT INTO THE BASKET is in agreement with the Rabbis! — This Tanna [of our Mishnah] agrees with R. Judah in one thing and disagrees with him in the other.

MISHNAH. As TO THE FIRST OIL OF THE FIRST CROP, THERE IS NONE BETTER THAN IT. THE SECOND OIL OF THE FIRST CROP AND THE FIRST OIL OF THE SECOND CROP ARE EQUAL. THE THIRD OIL OF THE FIRST CROP. THE SECOND OIL OF THE SECOND CROP. AND THE FIRST OIL OF THE THIRD CROP ARE EQUAL. THE THIRD OIL OF THE SECOND CROP AND THE SECOND OIL OF THE THIRD CROP ARE EQUAL. AS TO THE THIRD OIL OF THE THIRD CROP. THERE IS NONE WORSE THAN IT. BY RIGHT IT COULD BE INFERRED BY THE FOLLOWING ARGUMENT THAT MEAL-OFFERINGS SHOULD REQUIRE THE PUREST OLIVE OIL: IF THE CANDLESTICK, WHICH DOES NOT NEED [THE OIL] FOR EATING, REQUIRES PURE OLIVE OIL, HOW MUCH MORE DO MEAL-OFFERINGS, WHICH [NEED THE OIL] FOR EATING,[21] REQUIRE PURE OLIVE OIL! BUT THE TEXT STATES, PURE OLIVE OIL BEATEN FOR THE LIGHT,[22] BUT NOT ‘PURE OLIVE OIL BEATEN FOR MEAL-OFFERINGS.

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(1) Sc. the Baraitha which states that anfakinon is absolutely invalid.

(2) Sc. anfakinon, the sap of the olives.

(3) Thus informing us that it was R. Simeon, the son of the Nasi and a wealthy man, who would use it with his food. Cf. Hul. 46a.

(4) Esth. II, 12.

(5) סטכתא, oil of myrrh.

(6) Another interpretation is: There are three ways of making ready the olives and from each of them come three kinds of oil.

(7) Heb. מגרגרו from root גרגר= to pick single berries as soon as they ripen. According to the other interpretation the translation of this sentence would read: The first way of making ready the olives is this: the olives are allowed to become fully ripe. then they are pounded etc.

(8) In a mortar.

(9) And the oil oozes out and filters through the basket into the vessel below.

(10) The pounded olives are placed around the sides of the basket so that the oil when it oozes out does not mix with any solid matter but runs down the sides and filters through the bottom of the basket.

(11) Sc. the pounded olives.

(12) But not with the beam, for the heavy pressure of the beam would squeeze out the dregs with the oil.

(13) Sc. the olives after being pressed.

(14) I.e., the middle branches of the tree, whose fruits do not ripen as early as the fruit on the top branches. As olive-trees often grew near the houses it was even possible to pluck the olives from the middle branches while standing on the roof. According to the other interpretation mentioned supra p. 519, n. 6, the translation here would be: The second way of making ready the olives is this: The olives are allowed to become fully ripe on the rood-tops, then they are ground etc.

(15) I.e., those on the lowest branches which for lack of sun will never ripen on the tree. According to the other interpretation mentioned the rendering here would be: The third way of making ready the olives is this: the olives are packed etc.

(16) Lit., ‘become rotten’.

(17) מגרגרו or מגלגלו The question may be simply orthographical, and the two words really bear the same meaning. viz., to pick single fruits as soon as they ripen. Aliter: מגרגרו, to pick single berries; מגלגלו, to allow the olives to remain on the tree until they are fully ripe (cf. ביצה מגולגלת, a well-roasted egg) and then pick them.

(18) Ex. XXVII, 20.

(19) I.e., the olives must be fully ripe on the tree before being plucked.

(20) Heb. מגלגלו. V. notes on the Mishnah.

(21) I.e., for burning upon the altar, which is described as ‘eating’. cf. Lev. VI, 3.

(22) Ex. XXVII, 20.

Talmud - Mas. Menachoth 86b

GEMARA. ARE EQUAL! [But is this possible?] Have you not said, ‘The first kind is fit for the candlestick and the others for meal-offerings’?[1] — R. Nahman b. Isaac answered, The statement ARE EQUAL means that they are equal in respect of meal-offerings.[2]

BY RIGHT IT COULD BE INFERRED BY THE FOLLOWING ARGUMENT THAT MEAL-OFFERINGS etc. Our Rabbis taught:[It is written.] ‘Pure’; [and the expression] ‘pure’ means nothing else but clear.[3] R. Judah says. [It is written,] Beaten; [and the expression] ‘beaten’ means nothing else but pounded.[4] I might then think that this pounded oil is not valid for meal-offerings.[5] therefore the text states, And a tenth part of an ephah of fine flour mingled with the fourth part of a hin of beaten oil.[6] Why then did the text state, For the light?[7] — Out of regard to the sparing [of expense]. What is meant by ‘out of regard to the sparing’? — Said R. Eleazar, The Torah wished to spare Israel unnecessary expense.[8]

Command the children of Israel that they bring unto thee pure olive oil beaten for the light.[9] R. Samuel b. Nahmani said, ‘Unto thee’, but not unto Me, for I am not in need of light.

The table was on the north side and the candlestick on the south side.[10] R. Zerika said in the name of R. Eleazar, I am not in need of food and l am not in need of light.[11]

And for the house he made windows broad and narrow;[12] 'broad' without and 'narrow' within, for I am not in need of light.[13]

Without the veil of the testimony in the tent of meeting.[14] It is a testimony to mankind that the Divine Presence rests in Israel. For how can you say He[15] is in need of light, when the whole of the forty years that the Israelites travelled in the wilderness they travelled only by His[16] light! But it is a testimony to mankind that the Divine Presence rests in Israel. What is the testimony?Rab said, It was the western lamp[17] [of the candlestick] into which the same quantity of oil was poured as into the others,[18] yet he kindled the others from it and ended with it.[19]

MISHNAH. FROM WHENCE DID THEY BRING THE WINE?[20] KERUHIM[21] AND 'ATTULIM RANK FIRST FOR THE QUALITY OF THEIR WINE. SECOND TO THEM ARE BETH RIMMAH, BETH LABAN ON THE HILL. AND KEFAR SIGNA IN THE VALLEY. [WINE OF THE] WHOLE LAND WAS VALID BUT THEY USED TO BRING IT ONLY FROM THESE PLACES. ONE MAY NOT BRING IT FROM A MANURED FIELD OR FROM AN IRRIGATED FIELD OR FROM VINES PLANTED IN A FIELD SOWN WITH SEEDS;[22] BUT IF ONE DID BRING IT [FROM THESE] IT WAS VALID. ONE MAY NOT BRING WINE FROM SUN-DRIED GRAPES,[23] BUT IF ONE DID BRING IT IT WAS VALID. ONE MAY NOT BRING OLD WINE.[24] SO RABBI. BUT THE SAGES PERMIT IT. ONE MAY NOT BRING SWEET WINE[25] OR SMOKED WINE OR COOKED WINE, AND IF ONE DID BRING IT IT WAS INVALID. ONE MAY NOT BRING WINE FROM THE GRAPES OF THE ESPALIER, BUT ONLY FROM THE VINES GROWING FROM THE GROUND AND FROM WELL-CULTIVATED VINEYARDS. ONE DID NOT PUT [THE WINE] IN LARGE CASKS BUT IN SMALL BARRELS; AND ONE DID NOT FILL THE BARRELS TO THE BRIM SO THAT ITS SCENT MIGHT SPREAD.[26] ONE MAY NOT TAKE THE WINE AT THE MOUTH OF THE BARREL BECAUSE OF

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(1) Thus the second kind of oil of the first crop is not fit for the candlestick but only for meal-offerings, whereas the first kind of oil of the second crop is fit even for the candlestick!

(2) I.e., they are of equal quality. and if a man has to bring a meal-offering he may bring with it either kind of oil.

(3) I.e., the oil which oozes by itself from the olives without any pressure being applied.

(4) Sc. in a mortar, but not ground in a mill.

(5) For Scripture expressly says. Beaten (i.e. pounded) for the light. but for no other purpose.

(6) Ex. XXIX, 40.

(7) Seeing that beaten oil is valid also for meal-offerings.

(8) V. Sifra on Lev. XIV, 36. And since the meal-offering required a considerable amount of oil the Torah therefore ordained pure beaten oil only for the light.

(9) Lev. XXIV, 2.

(10) In the Sanctuary.

(11) This is demonstrated by the fact that God ordained the placing of the candlestick far away from the table; with human beings it is usual to place the lamp close to the table.

(12) I Kings VI, 4.

(13) The windows were thus constructed in a manner contrary to the usual practice to prove that God has no need of light.

(14) Lev. XXIV,3 with reference to the preparation and kindling of the candlestick.

(15) According to R. Tam the reference is to Aaron the priest; v. Tosaf s.v. מחוץ and Shab. 22b.

(16) V. p. 523, n. 13.

(17) I.e., the central lamp (for its wick was turned towards the west), according to the view that the candlestick was so placed that its branches extended to the north and to the south; or the second lamp counting from the east, assuming that the candlestick was so placed that its branches extended to the east and to the west. V. infra 98b.

(18) Sc. half a log. the quantity estimated to burn through the longest night.

(19) By the morning the oil in the lamps had burnt out and the priest came in and cleaned out the lamps, removing the old wicks and putting in new wicks, and pouring oil into them ready for kindling in the evening. The western lamp (v. supra n. 2). however, although it had no more oil than any of the other lamps, miraculously continued to burn the whole day long, so that when the lamps were to be kindled in the evening they were kindled from this one. The western lamp itself was then extinguished and cleaned out, a fresh wick put in, oil poured in, and then relit. Thus this lamp provided the fire for lighting the other lamps, and yet was the last to be cleaned out. This miracle testified to the Divine Presence in Israel.

(20) For the drink-offerings.

(21) The place names enumerated in this Mishnah admit of many variants and the suggested identifications are doubtful. According to Neubauer, Geographie p. 82ff, Keruhim = Coreae (in north of Judah), ‘Attulim = Kefer Hatla (north of Gilgal). Beth Rimmah and Laban = the present Beit Rima and Lubban (north-west of Jerusalem), and Kefar Signa = Sukneh (near Jaffa).

(22) As to the question of kil'ayim’. v. Com. of Rashba, a.l.

(23) הליסטון or אליסטון= **, a sweet wine made from grapes dried in the sun.

(24) i.e., which is more than a year old and its redness is not so sparkling.

(25) Made from a kind of sweet grapes. in contradistinction from grapes sweetened in the sun. Aliter: new wine, must.

(26) The scent would fill the space in the barrel above the wine and settle there, thus the wine would retain its scent. Were the barrel to be filled to the brim its scent would be lost as soon as it was opened.

Talmud - Mas. Menachoth 87a

THE SCUM, NOR THAT AT THE BOTTOM BECAUSE OF THE LEES; BUT ONE SHOULD TAKE IT ONLY FROM THE MIDDLE THIRD OF THE BARREL.[1] HOW WAS IT TESTED?[2] THE TEMPLE-TREASURER USED TO SIT NEARBY WITH HIS STICK[3] IN HIS HAND; WHEN THE FROTH BURST FORTH HE WOULD KNOCK WITH HIS STICK.[4] R. JOSE SON OF R. JUDAH SAYS, WINE ON WHICH THERE IS A SCUM IS INVALID, FOR IT IS WRITTEN, THEY SHALL BE UNTO YOU WITHOUT BLEMISH, AND THEIR MEAL-OFFERING;[5] AND THEY SHALL BE UNTO YOU WITHOUT BLEMISH, AND THEIR DRINK-OFFERINGS.[6] GEMARA. ONE MAY NOT BRING SWEET WINE OR SMOKED WINE OR COOKED WINE. AND IF ONE DID BRING IT IT WAS INVALID. But does not [the Mishnah] state in an earlier clause, ONE MAY NOT BRING WINE FROM SUN-DRIED GRAPES.[7] BUT IF ONE DID BRING IT IT WAS VALID? — Rabina answered, Combine them and learn them together.[8] R. Ashi answered, If the sweetness is by reason of the sun it is not nauseous, but if the sweetness is in the fruit itself it is nauseous.[9]

ONE MAY NOT BRING OLD WINE. SO RABBI. BUT THE SAGES PERMIT IT. Hezekiah said, What is the reason for Rabbi's view? Because the verse reads, For a lamb wine;[10] as a lamb [for an offering] may be only one year old, so wine may be only one year old. Then it should follow, should it not, that as a lamb that is two years old is invalid, so wine that is two years old is invalid? And should you say that it is indeed so, but it has been taught: One may not bring wine that is two years old, but if one did bring it it was valid. Now who is it that rules that one may not bring [old wine]? Obviously Rabbi; yet it says ‘But if one did bring it it was valid’! — Rather said Raba, this is the reason for Rabbi's view; it is written, Look not thou upon the wine when it is red.[11]

ONE MAY NOT BRING WINE FROM THE GRAPES OF THE ESPALIER etc. A Tanna taught: [It must come from] vineyards that are cultivated twice in the year.

R. Joseph once had a garden-plot which he used to give an extra hoeing and it produced wine that could take twice the usual amount of water.[12]

ONE DID NOT PUT [THE WINE] IN LARGE CASKS. A Tanna taught: [By BARRELS are meant] the medium-sized pitcher-shaped Lydian vessels.[13] They should not be put away in twos but singly.[14]

HOW WAS IT TESTED? THE TEMPLE-TREASURER USED TO SIT NEARBY WITH HIS STICK IN HIS HAND; WHEN THE FROTH BURST FORTH HE WOULD KNOCK WITH HIS STICK. A Tanna taught: When the froth of the lees burst forth the Temple-treasurer would knock with his stick. And why did he not say so?[15] — This supports R. Johanan. for R. Johanan said', In the same way as speech is beneficial to the spices[16] so is speech injurious to wine.

R. JOSE SON OF R. JUDAH SAYS etc., R. Johanan[17] raised the question. If a man consecrated it[18] does he incur stripes for consecrating a blemished thing or not? Since it is unfit it is like a blemished animal; or [shall we say that the prohibition of] a blemished thing applies only to animals? — This question remains undecided.

Our Rabbis taught: Rams [were brought] from Moab, lambs from Hebron, calves from Sharon, and doves from the Royal Mountain.[19] R. Judah said, One should bring lambs whose height was equal to their breadth.[20] Raba son of R. Shila said, What is the reason for R. Judah's view? — For it is written, In that day shall thy cattle feed, the broad lambs.[21]

It is written, I have set watchmen upon thy walls, O Jerusalem; they shall never hold their peace day nor night; ye that are the Lord's remembrancers, take ye no rest.[22] What do they say? — Raba son of R. Shila said. [They say,] Thou wilt arise and have compassion upon Zion.[23] R. Nahman b. Isaac said, [They say,] The Lord doth build up Jerusalem.[24] And what did they say before this?[25] — Raba son of R. Shila said, [They used to say.] For the Lord hath chosen Zion; He hath desired it for His habitation.[26] CHAPTER X

MISHNAH. THERE WERE TWO DRY-MEASURES IN THE TEMPLE: THE TENTH[27] AND THE HALF-TENTH.[28] R. MEIR SAYS, A TENTH, [ANOTHER] TENTH, AND A HALF-TENTH. FOR WHAT PURPOSE DID THE TENTH MEASURE SERVE? BY IT ONE USED TO MEASURE THE MEAL-OFFERINGS. ONE DID NOT MEASURE WITH A THREE-TENTHS MEASURE [THE MEAL-OFFERING] FOR A BULLOCK[29] OR WITH A TWO-TENTHS MEASURE [THE MEAL-OFFERING] FOR A RAM,[30] BUT ONE MEASURED THEM BY SO MANY TENTHS. FOR WHAT PURPOSE DID THE HALF-TENTH MEASURE SERVE? BY IT ONE USED TO MEASURE THE GRIDDLECAKES OF THE HIGH PRIEST[31] [WHICH WAS OFFERED] THE HALF IN THE MORNING AND THE HALF TOWARDS EVENING.

GEMARA. It was taught: R. Meir used to say. Wherefore does the text state, A tenth, a tenth for every lamb?[32] To teach you that there were two tenth measures in the Temple, one heaped[33] and the other level. With the heaped measure they used to measure all meal-offerings.

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(1) I.e., the barrel is pierced in its side in the middle and the tap inserted there; in this manner the wine drawn off is from the middle of the barrel.

(2) To ascertain whether the wine was of a good quality.

(3) A measuring stick (Rashi). A staff, the symbol of his authority (Tif. Yis.).

(4) As a sign that no more wine shall be drawn off, for the wine that follows is not so pure but is mixed with the lees (Maim.).

(5) Num. XXVIII, 19, 20. The meal-offering must also be free from blemishes, hence if the meal was maggoty it is invalid.

(6) Ibid, 31. The drink-offering shall also be free from blemish, hence if there is a scum on the wine it is invalid.

(7) Which is a sweet wine.

(8) Thus: one may not bring wine from sun-dried grapes or sweet wine etc., and if one did bring it it was invalid. According to Tosaf s.v. כרוך it was valid.

(9) And therefore invalid.
(10) Num. XXVIII, 14.
(11) Prov. XXIII, 31. Hence red wine is the choicest; but after one year the wine loses its redness and brightness.
(12) Usually wine was adulterated with water in the proportion of three parts of water to one of wine (cf. Shab. 77a); this wine could stand an admixture of water in the proportion of six parts of water to one of wine.
(13) Or ‘the medium-sized Lydian pitchers’. Cf. however Tosef. Men. IX, where it reads: The wine was not put in large casks or in small barrels but in medium-sized pitcher-shaped vessels.
(14) So that if one barrel turned bad none of the others would be affected.
(15) That the froth is now coming out and no more wine should be drawn from the barrel.
(16) During the preparation of the spices for the incense much talking was going on as this was considered beneficial for it. Cf. Ker. 6b.
(17) Sh. Mek. ‘Raba’; cf. supra p. 516.
(18) Sc. wine with scum.
(19) Lit., ‘the mountain of the King’. I.e., the hill-country of Judea. V. Git. (Sonc. ed.) p. 254. n. 4.
(20) According to another reading: שגביהן רחבים ‘whose backs are broad’.
(21) Isa. XXX, 23. So according to Talmudic exposition; in the E.V. in large pastures.
(22) Ibid. LXII, 6.
(23) Ps. CII, 14.
(24) Ps. CXLVII, 2.
(25) Sc. before the destruction of Jerusalem.
(26) lbid. CXXXII, 13.
(27) Sc. of an ephah. And so throughout.
(28) These were the two measuring standards used in the Temple for dry-stuffs; but of course there were many vessels of each size.
(29) Which consisted of three tenths of flour.
(30) Which consisted of two tenths.
(31) Cf. Lev. VI, 13ff.
(32) Num. XXVIII, 29.
(33) I.e., the vessel was actually less than a tenth and only when heaped did it amount to a tenth.

Talmud - Mas. Menachoth 87b

With the level measure they used to measure the griddle-cakes of the High Priest.[1] But the Sages said, There was but one tenth measure there, as it is said, And one tenth for every lamb.[2] Wherefore then does the text state, ‘A tenth, a tenth’? In order to include the half-tenth. Whence does R. Meir derive the half-tenth [measure]? — He derives it from [the expression], And one tenth.[3] And the Rabbis? — They base no exposition upon the letter waw [‘and’]. And for what purpose does R. Meir apply the verse, And one tenth for every lamb? — To teach that one should not measure with a three-tenths measure [the meal-offering] for a bullock or with a two-tenths measure [the meal-offering] for a ram. And the Rabbis?[4] They derive it from the dot[5] [above the word]. For it has been taught: R. Jose said, Wherefore is there a dot above the waw in the middle of the first ‘issaron[6] stated in connection with the offerings for the first day of the Feast [of Tabernacles]? [To teach] that one may not measure with a three-tenths measure [the meal-offering] for a bullock or with a two-tenths measure [the meal-offering] for a ram. And R. Meir? — He bases no exposition upon the dot [above the word].

FOR WHAT PURPOSE DID THE HALF-TENTH MEASURE SERVE? BY IT ONE USED TO MEASURE THE GRIDDLE-CAKES OF THE HIGH PRIEST. ‘ONE USED TO MEASURE’![7] But I can point out a contradiction, for we have learnt: The griddle-cakes of the High Priest must not be brought in [two separate] halves, but he must bring a whole tenth and then divide it![8] — R. Shesheth answered, The expression ‘MEASURE’ that is used is to be understood in the sense of divide.

Rami b. Hama enquired of R. Hisda, Was the half-tenth according to R. Meir a heaped measure or a level measure? (Mnemonic: Half; Griddle-cakes of the High Priest; Table).[9] But you might ask the same question according to the Rabbis? — [Indeed so, and] according to the Rabbis the question is as regards the tenth as well, Was it heaped or level? — He replied, From R. Meir's statement [in one case] we can understand the view of R. Meir [in the other]; and also from R. Meir's statement we can understand the view of the Rabbis. Thus since R. Meir stated that the tenth measure [used for measuring the meal-offering of the High Priest] was level, we know that the half-tenth measure[10] was also level; and since according to R. Meir [both measures were] level, according to the Rabbis too [they were both] level.

Rami b. Hama further enquired of R. Hisda, How were the griddle-cakes of the High Priest divided into cakes?[11] By hand or by a utensil? — Surely it is obvious that it was divided by hand, for should you say by a utensil, would one bring in scales [into the Temple]? But why not bring it in? — It is not proper to do so since it is stated in connection with the curses.[12]

Rami b. Hama further enquired of R. Hisda, Would the table hallow the handfuls[13] placed as a pile upon it or not? [Shall we say] since it hallows the Shewbread it would hallow the handfuls too; or it only hallows what is prescribed for it[14] but not what is not prescribed for it? — He replied, It would not hallow them. But this cannot be right, for did not R. Johanan say that according to the one who holds that two and a half handbreadths [of each cake] were turned up [at either end], it will be seen that the table hallowed everything that was on it to a height of fifteen handbreadths;[15] and according to the one who holds that two handbreadths [of each cake] were turned up [at either end], it will be seen that the table hallowed everything that was on it to a height to twelve handbreadths?[16] — He replied, It would not hallow them so far as being offered upon the altar is concerned,[17] but it would hallow them to the extent that they can become invalid.[18]

MISHNAH. THERE WERE SEVEN LIQUID-MEASURES IN THE TEMPLE: THE HIN,[19] THE HALF-HIN, THE THIRD-HIN, THE QUARTER-HIN, THE LOG, THE HALF-LOG, AND THE QUARTER-LOG. R. ELIEZER SON OF R. ZADOK SAYS, THERE WERE MARKINGS IN THE HIN MEASURE [INDICATING] THUS FAR FOR A BULLOCK, THUS FAR FOR A RAM, AND THUS FAR FOR A LAMB.[20] R. SIMEON SAYS, THERE WAS NO HIN MEASURE THERE AT ALL; FOR WHAT PURPOSE COULD THE HIN SERVE?[21] BUT THERE WAS AN ADDITIONAL MEASURE[22] OF ONE LOG AND A HALF BY WHICH ONE USED TO MEASURE [THE OIL][23] FOR THE MEAL-OFFERING OF THE HIGH PRIEST, A LOG AND A HALF IN THE MORNING AND A LOG AND A HALF TOWARDS EVENING. GEMARA. Our Rabbis taught: There were seven liquid-measures in the Temple: the quarter-log, the half-log, the log, the quarter-hin, the third-hin, the half-hin, and the hin. So R. Judah. But R. Meir says. [They were:] the hin, the half-hin, the third-hin, the quarter-kin, the log, the half-log, and the quarter-log. R. Simeon says, There was no hin measure there at all; for what purpose could the kin serve?

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(1) This meal-offering of the High Priest was not measured by the heaped measure, for when dividing it into halves the flour would certainly pour out on to the ground.

(2) Num. XXIX, 4.

(3) The additional waw, ‘and’, intimates another vessel, namely the half-tenth.

(4) Whence do they derive this last teaching.

(5) In the Masoretic text there is seen a dot above the second waw of the word ועשרון in Num. XXIX, 15. The dot points to an exposition connected with this word, namely that only the tenth shall be used as a measure even though it is necessary to measure three tenths as for the meal-offering for a bullock.

(6) Num. XXIX, 15. The word עשרון (tenth) is stated twice at the beginning of the verse, but the dot is placed over the waw in the first word.

(7) It is understood from this expression that the High Priest measured out a half-tenth in the morning and brought it to the Temple, and did likewise in the evening.

(8) Supra 50b.

(9) These are the subjects of the three questions put by Rami b. Hama to R. Hisda in the passage which follows.

(10) Also used in connection with the meal-offering of the High Priest, namely for dividing it into two.

(11) For it was baked into twelve cakes, six being offered in the morning and six in the evening. The question therefore is, Was the dough (according to Tosaf., the flour) divided into twelve equal parts by scales, or only by guesswork?

(12) That bread will be divided by weight; cf. Lev. XXVI, 26.

(13) Of frankincense, heaped up on the table and not put in the dishes. According to Tosaf. s.v. מהו (so, too, Maim.) the reference is to the handful of a meal-offering that was not put into a vessel of ministry but was placed in a heap on the table.

(14) Sc. the Shewbread which is to be placed directly on the table, whereas the frankincense is to be put in dishes which are to be set on the table.

(15) V. infra 96a. The cakes of the Shewbread were each ten handbreadths long, and the table, according to R. Judah, was five handbreadths wide. Now as the cakes were set lengthwise across the breadth of the table, two and a half handbreadths of the cake would overlap the table at each end. Accordingly this amount was turned up; then the second cake was placed upon it and likewise turned up at its ends and so on, so that the six cakes rose to a height of fifteen cubits (6 X 2 1/2) above the surface of the table.

(16) The table, according to R. Meir, was six handbreadths wide, thus only two handbreadths at each end of the cake, the amount that would be overlapping on either side, was turned up. The six cakes thus rose to a height of twelve handbreadths (6 X 2) above the table.

(17) The table would not hallow the frankincense put upon its bare surface to that extent that it is permitted to be burnt upon the altar.

(18) If taken out of the Sanctuary or if touched by a tebul yom (v. Glos.).

(19) A liquid-measure equal to twelve logs.

(20) So that it was not necessary to have a separate measure for a half or a third or a quarter of a hin.

(21) The measure of a hin was prescribed for use only once at the preparation of the anointing oil by Moses, cf. Ex. XXX, 24.

(22) To make up the seven measures.

(23) Sc. three logs of oil; cf. supra 51a.

Talmud - Mas. Menachoth 88a

What then can I put in its place?[1] But there was an additional measure there of a log and a half, by which one used to measure [the oil] for the griddle-cakes of the High Priest, a log and a half in the morning and a log and a half towards evening. They said to him, But there was there the half-log measure, and one could therefore measure it[2] with the half-log measure! He replied, In that case, even according to your view, there was no need for the half-log measure, for since there was there the quarter-log measure it was possible to measure it with the quarter-log! But the following rule was established in the Temple: The vessel that served for one measure did not serve for another measure.[3] R. Eliezer b. R. Zadok says, There were markings in the hin measure [indicating] thus far for a bullock, thus far for a ram, and thus far for a lamb.[4]

What is the difference between R. Meir and R. Judah? — R. Johanan said, There is a difference between them as regards the overflow of the measures. He who counts the measures from below upwards[5] is of the opinion that the overflow of the measures was also holy; for the All-Merciful gave unto Moses a quarter-log measure and instructed him to calculate [the larger measures] by including the overflow [of the smaller measure].[6] But he who counts the measures from the top downwards[7] is of the opinion that the overflow of the measures was not holy; for the All-Merciful gave unto Moses a hin measure and instructed him to calculate [the smaller measures] by excluding the overflow [of the larger measure].[8]

Abaye said, All [may be of the opinion] that the overflow of the measures was either holy or not holy, but they differ as to the meaning of the word ‘full’.[9] He who counts the measures from the top downwards maintains that the word ‘full’ implies that it may be neither less [than the prescribed measure] nor more.[10] But he who counts the measures from below upwards maintains that the word ‘full’ implies that it may not be less [than the prescribed measure], but if it is more it is still regarded as ‘full’.[11]

The Master said, ‘R. Simeon says, There was no hin measure there at all’. R. Simeon is surely quite right in his argument with the Rabbis. What can the Rabbis reply? — There was the hin measure used by Moses in the preparation of the anointing oil, as it is written, And of olive oil a hin.[12] Now one is of the opinion that since it was not necessary for later generations, it was only made for that occasion and thereafter hidden away, but the other is of the opinion that once it was put to a use it remained as a measure.

The Master said, ‘What then can I put in its place?’ But is it absolutely essential to substitute another? As Rabina said elsewhere: There is a tradition that among the offerings of the congregation only two require the laying on of hands;[13] similarly here there is a tradition that there were seven liquid-measures in the Temple.

R. ELIEZER SON OF R. ZADOK SAYS, THERE WERE MARKINGS IN THE HIN MEASURE. Does he not then accept the tradition of seven liquid-measures? — He does not. Alternatively I can say, By seven measures he understood seven measurings.[14]

MISHNAH. FOR WHAT PURPOSE DID THE QUARTER-LOG SERVE? [TO MEASURE] A QUARTER-LOG OF WATER FOR THE LEPER[15] AND A QUARTER-LOG OF OIL FOR THE NAZIRITE.[16] FOR WHAT PURPOSE DID THE HALF-LOG SERVE? [TO MEASURE] A HALF-LOG OF WATER FOR THE SUSPECTED WOMAN[17] AND A HALF-LOG OF OIL FOR THE THANK-OFFERING. WITH THE LOG ONE MEASURED [THE OIL] FOR ALL THE MEAL-OFFERINGS. EVEN A MEAL-OFFERING OF SIXTY TENTHS[18] REQUIRED SIXTY LOGS [OF OIL]. R. ELIEZER B. JACOB SAYS, EVEN A MEAL-OFFERING OF SIXTY TENTHS REQUIRED ONLY ONE LOG [OF OIL], FOR IT IS WRITTEN, FOR A MEAL-OFFERING, AND A LOG OF OIL.[19] SIX [LOGS][20] WERE REQUIRED FOR A BULLOCK. FOUR[21] FOR A RAM, AND THREE[22] FOR A LAMB; THREE LOGS AND A HALF FOR THE CANDLESTICK, A HALF-LOG FOR EACH LAMP.

GEMARA. Rabbi was sitting and raised this difficulty: Wherefore was the quarter-log measure anointed?[23] If [it was in order to hallow the quarter-log of water] of the leper,

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(1) To make up the seven liquid-measures.

(2) The log and a half of oil.

(3) It was thus not permissible to measure a half-log by filling twice the quarter-log measure, similarly to measure a log and a half by filling the half-log measure three times.

(4) This is the continuation of the Baraitha, and not the quotation from our Mishnah, v. Rashi.

(5) Sc. R. Judah, who enumerates the measures beginning from the smallest, the quarter-log.

(6) For when the smaller measuring vessel is filled to overflowing and is quickly poured out into ‘the larger vessel the latter vessel will take in also the overflow of the former. Accordingly the half-log measure was a little more than two full quarter-logs since it held the two quarter-logs plus the overflow of each. And so also with the larger measures.

(7) Sc. R. Meir, who enumerates the measures beginning with the largest, the hin.

(8) For when pouring from a larger vessel which is filled to overflowing into two smaller vessels, by the time the smaller vessels are filled the overflow of the larger will have run off. Hence the several measures were exact measures without the overflow.

(9) Stated in Num. VII, 13 in regard to the measures.

(10) Accordingly all the measures had to be determined with accuracy, and this could only be done by filling the largest measure, the hin, to the brim and carefully dividing it into halves and into quarters etc. Conversely, to fill the smaller vessel several times and pour it into the larger vessel would not give an accurate measure, for two full half-measures when poured into a larger vessel are more than one whole measure (Rashi MS.).

(11) Since the measures were calculated from the smallest they were a little more than the measure they represented; thus the half-log was a little more than two exact quarter-logs, for when pouring two quarter-logs into a large vessel there would be therein more than a half-log by reason of the froth that is formed (Rashi MS.). Tosaf. s.v. ומאן suggest the following interesting interpretation: It is agreed that the term ‘full’ precludes what is less than the prescribed measure, but as to what is more, he who maintains that the largest measure was given to Moses and was divided up into smaller measures, takes this as a symbol to exclude anything that is more than the measure, but he who maintains that the smallest measure was given to Moses and by increasing it the other measures were arrived at, takes it as a symbol that even what is more than the measure is still regarded as the full measure.

(12) Ex. XXX, 24.

(13) Supra 62b.

(14) I.e., seven markings in the hin measure.

(15) Cf. Lev. XIV, 5. One of the birds used in the purification rites of the leper was to be killed over running water in an earthen vessel. The quantity of water was determined by the Rabbis at one quarter-log, for in this quantity the blood of the bird would still be recognizable. V. Sot. 16b.

(16) For his cakes and wafers; v. Num. VI, 15.

(17) In the preparation of the bitter waters; cf. ibid. V, 17 and Sot. 15b.

(18) This was the maximum quantity of flour that might be brought as a meal-offering in a single vessel. Infra 103b.

(19) Lev. XIV, 21. Thus no matter how large the meal-offering was only one log of oil was necessary.

(20) Of oil and of wine, measured by the half-hin measure. The hin comprised twelve logs.

(21) Measured by the third-hin measure.

(22) Measured by the quarter-hin measure.

(23) All the Temple measures were anointed with the anointing oil and thereby consecrated, so that they could hallow whatever was put in them.

Talmud - Mas. Menachoth 88b

but that was outside [the camp];[1] and if [to hallow the quarter-log of oil] of the Nazirite,[2] but the bread-offering of the Nazirite was hallowed only by the slaughtering of the ram![3] — Said to him R. Hiyya. By it one measured the oil for the griddle-cakes of the High Priest, a quarter-log of oil for each cake.[4] Rabbi then applied to him the verse, The man of my counsel from a far country.[5]

FOR WHAT PURPOSE DID THE HALF-LOG SERVE? Rabbi was sitting and raised this difficulty: Wherefore was the half-log measure anointed? If [it was in order to hallow the water used] in the case of a suspected woman, but was it unconsecrated [water that was used]? Is it not written, Holy water?[6] And if [to hallow the half-log of oil] of the thank-offering, but the bread of the thank-offering was hallowed only by the slaughtering of the thank-offering![3] Said to him R. Simeon, Rabbi's son, By it [the priest] divided the oil for the Candlestick, a half-log for each lamp. Rabbi then exclaimed, O Lamp of Israel, it was so indeed.

R. Johanan said in the name of Rabbi, If a lamp had gone out,[7] both the oil and the wick have become unfit.[8] What must he do? He must clean it out, put in it fresh oil [and a fresh wick], and relight it.

R. Zerika was sitting and asked the following question, When he puts in fresh oil does he put in the same quantity of oil as at first, or only the quantity needed [for the remainder of the night]?[9] — It is obvious, said R. Jeremiah. that he puts in as much oil as at first, for should you say only the quantity needed [for the remainder of the night, the question will be asked]. How do we know how much is needed? But should you say that it[9] can be measured,[10] then there must have been not only seven measures but numerous measures? [R. Zerika] thereupon applied [to R. Jeremiah] the verse, And in thy majesty prosper, ride on, on behalf of truth and meekness and righteousness.[11] And so it has been stated: R. Abbahu said in the name of R. Johanan-others say, R. Abba said it in the name of R. Hanina who said it in the name of Rabbi — If a lamp had gone out, both the oil and the wick have become unfit. What must he do? He must clean it out, put in fresh oil as much as at first, [put in a fresh wick] and relight it.

R. Huna the son of Rab Judah said in the name of R. Shesheth: The lamp [at the top of each branch of the Candlestick] in the Temple was flexible.[12] He is of the opinion that the expressions 'a talent'[13] and 'beaten work'[14] apply to the Candlestick and also to the lamps; and since the latter had to be cleaned out, were they not flexible, they could not very well be cleaned out.

An objection was raised: How did he do it?[15] He removed [the lamps from the Candlestick] and put them in a cleansing mixture.[16] He then dried them with a sponge, put oil in them, and lit them![17] — He[18] agrees with the following Tanna, for it was taught: The Sages say, They did not move it [the lamp] from its place at all. Does this mean to imply that it could be moved if one wanted to do so? — Say rather, They could not move it from its place at all. Who are 'The Sages'? — R. Eleazar son of R. Zadok is meant. For it was taught: R. Eleazar son of R. Zadok says, There was a kind of thin plate of gold over [each lamp]; when cleaning out [the lamp the priest] used to press it down towards the mouth of the lamp,[19] and when putting oil in it he used to press it down towards the back of the lamp.[20]

And this matter is the subject of dispute between the following Tannaim. For it was taught: The Candlestick and the lamps were made out of the talent,[21] but the tongs and the snuff dishes were not made out of the talent. R. Nehemiah said, The Candlestick [only] was made out of the talent, but neither the lamps nor the tongs nor the snuff dishes were made out of the talent. Wherein do they differ? — In the exposition of the following verse. For it was taught: Of a talent of pure gold shall it be made;[22] we thus learn that the Candlestick was made out of the talent, but whence do I know that it included the lamps too? Because Scripture says, With all these vessels.[22] Then I might think that it included even the tongs and the snuff dishes; the text therefore states, It.[22] This is the opinion of R. Nehemiah. (But is there not here a contradiction between the two statements of R. Nehemiah?[23] — Two Tannaim differ as to R. Nehemiah's view.) R. Joshua b. Korha says, The Candlestick was made out of the talent, but neither the lamps nor the tongs nor the snuff dishes were made out of the talent. How then do I interpret the words 'with all these vessels'? That the vessels were of gold. But that they were of gold is expressly stated in the verses, And thou shalt make the lamps thereof seven; and they shall light the lamps thereof, to give light over against it. And the tongs thereof and the snuff dishes thereof, shall be of pure gold![24] — [The former verse] was stated only for the sake of the mouth of the lamp.[25] For I might have thought that since the mouth of the lamp becomes black the Torah has consideration for the money of Israel,

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(1) The water did not need to be hallowed for that purpose.

(2) I.e., the measuring vessel should hallow the oil and the oil when mixed with the bread should hallow the bread.

(3) But not before by the oil.

(4) For the six cakes that were offered in the morning one log and a half of oil was used, that is, a quarter-log for each cake. Similarly for the six cakes offered in the evening.

(5) Isa. XLVI, 11. R. Hiyya had come from Babylon to Palestine.

(6) Num. V, 17. As the water used was already consecrated, being taken from the laver, there was no need for a consecrated measuring vessel to hallow the water (Rashi MS. and Tosaf.).

(7) Each lamp was filled every evening with a half-log of oil which was estimated to burn through the night until the morning. In this case the lamp had accidentally gone out in the night.

(8) Lit., 'have become ashes'.

(9) That is the amount of oil left unburnt which was thrown out.

(10) The oil is placed in a measure before it is thrown out.

(11) Ps. XLV, 5. Cf. Shab. 63a where והדרך 'thy majesty' is interpreted as וחדדך 'thy sharpness, thy acumen'.

(12) Lit., separate parts'. The meaning is that although the whole Candlestick, including the lamps, was beaten (מקשה) out of one piece of gold, the ends of the branches which supported the lamps were made quite thin and flexible so that the whole lamp could be turned in any direction and thus be cleaned out well.
(13) Ex. XXV, 39. This word is omitted in MS.M.
(14) Ibid, 31, 36.
(15) I.e., how did the priest clean the lamps?
(16) Heb. אוהל, a mineral substance used for cleansing (Jast.). 'Among aloes' (Goldschmidt). According to Rashi: 'in the tent', i.e., in the Temple.
(17) It is evident from this Baraitha that the lamps could be removed from the Candlestick, which is contrary to R. Shesheth.
(18) R. Shesheth.
(19) Thus ejecting all burnt-out matter.
(20) Thus making a wide opening to receive the oil.
(21) The talent of pure gold used in the making of the Candlestick; cf. Ex. XXV, 39
(22) Ex. ibid.
(23) For above it was taught that according to R. Nehemiah the lamps were not made out of the talent.
(24) Ex. XXV, 37, 38.
(25) Where the flame is.

Talmud - Mas. Menachoth 89a

and therefore it may be made of any kind of gold; the verse therefore teaches us [that it, too, must be of pure gold].

A HALF-LOG OF OIL FOR THE THANK-OFFERING. It was taught: R. Akiba says, Why is the expression 'with oil' stated twice?[1] Had the verse stated 'with oil' once only, I should have said that it[2] was like all other meal-offerings in respect of the log of oil; but now that 'with oil' is stated twice, there is here an amplification following an amplification, and whenever an amplification follows an amplification it implies limitation. Thus the verse has [impliedly] reduced [the quantity of oil] to a half-log. But is there here an amplification following another amplification? There is only one amplification here![3] — Rather the argument is this: Had not the verse stated 'with oil' at all, I should have said that it was like all other meal-offerings in respect of the log of oil;[4] but now that 'with oil' is stated twice, there is here an amplification following an amplification. and whenever an amplification follows another amplification it implies limitation. Thus the verse has reduced [the quantity of oil] to a half-log. I might think that this half-log of oil was to be divided equally among the three kinds of cakes,[5] namely the cakes, the wafers, and the soaked cakes; but since the verse stated 'with oil' with the soaked cakes, which was quite unnecessary,[6] it thereby increased the quantity of oil for the soaked cakes. How then [was it divided]? A half-log of oil was to be brought and divided into halves, one half to be used for the cakes and wafers and the other half for the soaked cakes. Thereupon R. Eleazar b. Azariah rejoined. Akiba, even though you repeat the word 'with oil' the whole day long I shall not listen to you; but [the fact is that] the half-log of oil of the thank-offering, the quarter-log of oil of the Nazirite, and the eleven days between two periods of menstruation,[7] are laws delivered to Moses on Sinai.

WITH THE LOG ONE MEASURED [THE OIL FOR ALL MEAL-OFFERINGS]. Our Rabbis taught: It is written,[8] And one tenth [part of an ephah of fine flour] mingled [with oil for a meal-offering,] and a log [of oil].[9] This teaches that every tenth requires a log of oil. So the Sages. But R. Nehemiah and R. Eliezer [b. Jacob] say, Even a meal-offering of sixty tenths requires but one log, for it is said, For a meal-offering and a log of oil.[10] For what exposition do R. Nehemiah and R. Eliezer b. Jacob require the words 'And one tenth . . . mingled . . . and a log of oil'? — They require them for their own purpose; the Divine Law ordaining thereby that he must bring one tenth [for a meal-offering]. And the others?[11] — They say that for that purpose no verse is required. for since the

Divine Law ordained in the case of a leper of affluent means that he must bring three animal-offerings and three tenths [of flour for a meal-offering], here [in the case of a leper of poor means], since he brings but one animal-offering, only one tenth [is required for a meal-offering]. And the others?[12] — The verse is indeed necessary; for otherwise I might have said that, since the All Merciful has spared him expense by allowing him to bring a poor [man's] sacrifice, no meal-offering at all is to be brought! And the others?[13] — We do not find [they say] that he should be [exempt] entirely [from the offering].[14] And for what exposition do the Rabbis require the words ‘For a meal-offering and a log of oil’? — They need them to teach that whosoever makes a freewill-offering of a meal-offering shall bring nothing less than the quantity for which one log of oil is prescribed, and that is, one tenth. And the others?[15] — Both teachings [they say] can be derived [from these words].

SIX [LOGS] WERE REQUIRED FOR A BULLOCK, FOUR FOR A RAM, AND THREE FOR A LAMB. How do we know this?Because it is written, And their drink-offerings shall be half a hin of wine for a bullock.[16] And a hin has twelve logs, for it is written, And of olive oil a hin;[17] and it is also written, This [zeh] shall be a holy anointing oil unto Me throughout your generations.[18] the numerical value of zeh being twelve.[19]

THREE LOGS AND A HALF FOR THE CANDLESTICK, A HALF-LOG FOR EACH LAMP. Whence is this derived? — Our Rabbis taught: [It is written.] To burn from evening to morning:[20] provide it with its requisite measure so that it may burn from evening to morning. Another interpretation: ‘From evening to morning’: you have no other service that is valid from evening to morning save this[21] alone. And the Sages have calculated that a half-log of oil [will burn] from evening to morning. Some say that they calculated it by reducing [the original quantity of oil];[22] while others say that they calculated it by increasing it.[23] Those who say that they calculated it by increasing [the quantity of oil adopt the principle that] the Torah has consideration for the money of Israel;[24] and those who say that they calculated it by reducing it [adopt the principle that] there is no poverty in the place of wealth.

MISHNAH. ONE MAY MIX THE DRINK-OFFERINGS[25] OF BULLOCKS WITH THE DRINK-OFFERINGS OF RAMS,[26] OR THE DRINK-OFFERINGS OF LAMBS WITH THE DRINK-OFFERINGS OF OTHER LAMBS, OR THOSE OF AN INDIVIDUAL OFFERING WITH THOSE OF A COMMUNAL OFFERING,

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(1) Lev. VII, 12 with reference to the various cakes offered with the thank-offering.

(2) Sc. the thank-offering.

(3) For the words ‘with oil’ stated the first time are essential to teach that oil is required.

(4) Since we know of no meal-offering consisting of cakes and wafers that is brought without oil.

(5) The leavened cakes of the thank-offering required no oil.

(6) For from Lev. VI, 14 we already learn that soaked cakes required oil.

(7) Any discharge of blood during these intervening eleven days is deemed a flux (זיבה), and under no circumstances can it be accounted as menstrual blood (נידה). For full details v. Nid. 71b ff. V. Pes., Sonc. ed., p 422, n. 5.

(8) Cur. edd. insert. here: ‘with reference to the offering of a leper of poor means. This is clearly an explanatory gloss and is omitted in all MSS.

(9) Lev. XIV, 21.

(10) Ibid. No matter how large the meal-offering is only one log of oil is required.

(11) The Sages. Do they not agree that these words of the verse are necessary for their own purpose; how then can they interpret the verse otherwise so as to derive their teaching that for every tenth one log of oil is required?

(12) R. Nehemiah and R. Eliezer b. Jacob.

(13) The Sages.

(14) The Divine Law has reduced the number and cost of the offerings for a man of poor means, but by no means has it exempted him entirely therefrom.

(15) Do not R. Nehemiah and R. Eliezer b. Jacob agree that the verse is required for this last teaching; how then can they interpret the verse otherwise so as to derive therefrom their ruling that only one log is required for the meal-offering, no matter how large it is?

(16) Num. XXVIII, 14.

(17) Ex. XXX. 24.

(18) Ibid. 31. Heb. זה.

(19) ז = 7 and ה = 5. Thus it is established that the hin consists of twelve logs, for the log is the smallest unit of liquid measure mentioned in the Torah (Rashi).

(20) Ex. XXVII, 21.

(21) Sc. the kindling of the lights.

(22) Lit., 'from above downwards'. They first filled each lamp with a large quantity of oil and on finding in the morning that the lamp was still alight and that there was still oil in the lamp, they gradually reduced the quantity until they arrived at a half-log. This measure was found to be sufficient for the longest night of the winter; in the summer a thicker wick was used so that the oil was consumed more quickly.

(23) Lit., 'from below upwards'. They first filled the lamp with a small quantity of oil and on finding in the morning that it had burnt out, the next evening they increased the quantity of oil and so on until they arrived at the standard of the half-log.

(24) And to calculate by using the larger quantity of oil in the first instance entailed the waste of the oil that was still in the lamp by the morning.

(25) This term includes the meal-offering, i.e., the quantities of flour and oil, as well as the wine-offering. It is assumed for the present that the Mishnah is dealing with the meal-offerings.

(26) For the mixture of each meal-offering was of equal consistency, the meal-offering of the bullock consisting of three tenths flour and a half-hin (six logs) of oil, and that of a ram of two tenths flour and a third-hin (four logs) of oil, thus in each case there were two logs of oil to every tenth of flour. The meal-offering of a lamb, however, was of a thinner consistency, consisting of one tenth of flour and a quarter-hin (three logs) of oil.

Talmud - Mas. Menachoth 89b

OR THOSE OF [AN OFFERING OFFERED] TO-DAY WITH THOSE OF [AN OFFERING OFFERED] YESTERDAY;[1] BUT ONE MAY NOT MIX THE DRINK-OFFERINGS OF LAMBS WITH THE DRINK-OFFERINGS OF BULLOCKS OR OF RAMS.[2] IF AFTER EACH WAS MINGLED[3] BY ITSELF THEY WERE MIXED TOGETHER, THEY ARE VALID; BUT IF BEFORE EACH WAS MINGLED BY ITSELF [THEY WERE MIXED TOGETHER], THEY ARE INVALID. ALTHOUGH THE MEAL-OFFERING OF THE LAMB THAT WAS OFFERED WITH THE 'OMER WAS DOUBLED,[4] ITS DRINK-OFFERINGS WERE NOT DOUBLED.[5]

GEMARA. [ONE MAY MIX etc.]. I can point out a contradiction to this, [for it has been taught]: And he shall burn it:[6] [this intimates] that he shall not mix the fat portions [of one sacrifice] with the fat portions [of another]![7] -R. Johanan answered, [The Mishnah only] speaks of the case where they had been mixed.[8] BUT ONE MAY NOT MIX THE DRINK-OFFERINGS OF LAMBS WITH THE DRINK-OFFERINGS OF BULLOCKS OR OF RAMS; that is, even though they had been mixed they are not [valid].[9] But surely since it states in the next clause, IF AFTER EACH WAS MINGLED BY ITSELF THEY WERE MIXED TOGETHER, THEY ARE VALID, it follows that the first clause teaches [that they may be mixed together] in the first instance! — Abaye therefore answered, [The Mishnah] means to say this: One may mix the wine-offerings[10] together if the flour and oil[10] had already been mixed together.[11] But may not one mix the wine-offerings in the first instance?[12] But it has been taught: This rule[13] applies only to the flour and oil, but one may mix the wine-offerings![14] — Rather, said Abaye, If the flour and oil [of the two offerings] have already been burnt [upon the altar],[15] one may then mix the wine-offerings in the first instance.[16] If they have not yet been burnt, but they[17] have been mixed together, one may mix the wine-offerings;[18] but if they have not [been mixed together], one may not mix [the wine-offerings], for this might lead to the mixing of the flour and oil in the first instance.[19]

[ALTHOUGH THE MEAL-OFFERING OF] THE LAMB THAT WAS OFFERED WITH THE ‘OMER etc. Our Rabbis taught: And the meal-offering thereof shall be two tenth parts:[20] this teaches us that the meal-offering of the lamb that was offered with the ‘Omer was doubled. I might then think that as its meal-offering was doubled so its wine was also doubled; the text therefore stated, And the drink-offering thereof shall be of wine, the fourth part of a hin.[20] I might further think that its wine was not doubled since it was not mingled with the meal-offering, but its oil [I say] was doubled, seeing that it was mingled with the meal-offering; the text therefore stated, ‘And the drink-offering thereof’, thus intimating that all the drink-offerings thereof shall be the fourth part of a hin. How is this intimated in the verse? — R. Eleazar said, Because it is written we-niskah[21] and we read it we-nisko.[22] Now what is the explanation thereof? — The drink-offering of the meal-offering, [namely the oil,] shall be equal to the drink-offering of [the lamb, namely] the wine, and as of wine there was the fourth part of a hin so of oil there was the fourth part of a hin.

R. Johanan said, If the guilt-offering of a leper was slaughtered. under any name other than its own, it still requires the drink-offerings; for should you not say so, you would render it invalid.[23] R. Menashia b. Gadda demurred, In that case, if the lamb that is offered with the ‘Omer was slaughtered under any name other than its own, its meal-offering should nevertheless be doubled; for should you not say so, you would render it invalid.[24] Furthermore, if the daily morning-offering was slaughtered under any name other than its own, it should nevertheless require the offering of two logs of wood by a priest;[25] for should you not say so, you would render it invalid. And furthermore, if the daily evening-offering was slaughtered under any name other than its own, it should nevertheless require the offering of two logs of wood by two priests;[25] for should you not say so, you would render it invalid! — It is indeed so,[26] for[27] Abaye has said, He[28] stated but one of several cases. Raba[29] said, [It is not so.] for in the latter cases the offerings are burnt-offerings,

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(1) The drink-offerings may be offered many days after the offering of the animal. V. supra 15b.

(2) For the meal-offerings are of unequal consistencies and it is inevitable that the thicker mixture (sc. the meal-offering of the bullock or of the ram) should not absorb some of the thinner mixture (sc. the meal-offering of the lamb), accordingly both meal-offerings would be invalid, the former because it is too much and the latter because it is too little.

(3) Sc. the flour with the oil.

(4) Two tenths of flour instead of the usual one tenth. V. Lev. XXIII, 13.

(5) And it required only a quarter-hin (three logs) of oil and of wine.

(6) Lev. III, 11.

(7) Pes. 64b. Likewise one shall not mix the meal-offering which accompanies one sacrifice with the meal-offering which accompanies another sacrifice, even though the same kind of animal was offered in each case.

(8) But one may not mix them in the first instance.

(9) The text followed here is that of MS.M. (omitting אי הכי and taking the sentence as the continuation of R. Johanan's argument). So Sh. Mek. and also in the text quoted by Kesef Mishneh on Maim. Yad, Temidin u-Musafin X, 14.

(10) Of bullocks and rams.

(11) But not where the flour and oil of the two offerings had not been mixed together. And so, too, where the flour and oil of two dissimilar meal-offerings had been mixed together (e.g., the meal-offering of a bullock with that of a lamb), one may not mix the wine-offerings.

(12) In the case where the flour and oil of the two meal-offerings had not been mixed together.

(13) That one may not mix the drink-offering of a bullock with that of a lamb.

(14) Of bullocks and lambs in all circumstances, whether the flour and oil of the two offerings had already been mixed together or not.

(15) Even if they had never been mixed together.

(16) Even the wine-offering of a bullock or a ram with that of a lamb. This is the ruling embodied in the last quoted Baraitha.

(17) Sc. the meal-offerings of bullocks and rams, but not the meal-offerings of bullocks or rams and lambs. V. Glosses of R. Samuel Strashoun a.l., and Com. ‘Olath Shelomoh.

(18) In accordance with the ruling of the first clause of our Mishnah.

(19) And this would be a transgression of the verse And he shall burn it; v. supra p. 543.

(20) Lev. XXIII, 13.

(21) Lev. XXIII. 13. ונסכה ‘her drink-offering’, i.e., that of the meal-offering (מנחה being feminine in Heb.), namely the oil.

(22) ונסכו, ‘his drink-offering’, i.e., that of the lamb (being masculine), namely the wine.

(23) And it could not be offered at all; for it is not permissible to offer it as another offering since it was originally set apart as a guilt-offering, and to regard it as a freewill-offering is out of the question for a guilt-offering is only brought as an obligation; accordingly it can only be offered as the guilt-offering of a leper, and as such it requires drink-offerings (v. infra 90b).

(24) For it cannot be offered as another offering, and as the lamb of the ‘Omer it requires a double meal-offering.

(25) V. Yoma 26b.

(26) That in the other cases mentioned, besides that mentioned by R. Johanan, the offering must be offered according to all the prescribed rites, as though it had been slaughtered under its own name.

(27) So most MSS., reading והאמר instead of אלא אמר

(28) R. Johanan.

(29) So all MSS., and also according to Rashi and Tosaf. Cur. edd. ‘R. Abba’.

Talmud - Mas. Menachoth 90a

and if they are not admissible as the original obligatory burnt-offerings, they are nevertheless admissible as freewill burnt-offerings;[1] but here [in the case of the guilt-offering of a leper] if you do not regard it as the originally named [offering, it cannot be offered at all, for] there is no such thing as a freewill guilt-offering.

There has been taught [a Baraitha] that is in accord with R. Johanan: If the guilt-offering of a leper was slaughtered under any name other than its own, or if [the priest] did not apply some of the blood upon the thumb and great toe [of the leper], it is nevertheless offered upon the altar and it requires drink-offerings; but [the leper] must bring another guilt-offering to render him permitted.[2]

MISHNAH. ALL THE MEASURES IN THE TEMPLE WERE HEAPED EXCEPTING [THAT USED FOR] THE HIGH PRIEST'S [MEAL-OFFERING] WHICH INCLUDED IN ITSELF THE HEAPED MEASURE.[3] THE OVERFLOW OF THE LIQUID-MEASURES WAS HOLY, BUT THE OVERFLOW OF THE DRY-MEASURES WAS NOT HOLY. R. AKIBA SAID, THE LIQUID-MEASURES WERE HOLY, THEREFORE THEIR OVERFLOW WAS HOLY TOO; THE DRY-MEASURES WERE NOT HOLY, THEREFORE THEIR OVERFLOW WAS NOT HOLY. R. JOSE SAID. IT IS NOT ON THAT ACCOUNT BUT BECAUSE LIQUIDS ARE STIRRED UP[4] AND DRY-STUFFS ARE NOT. GEMARA. Who is [the author of our Mishnah]? Should you say R. Meir,[5] but according to him only one measure was heaped up. And should you say the Rabbis,[5] but according to them there was only one [tenth-measure] and that was levelled! — R. Hisda answered, Indeed it is R. Meir, but the expression ALL THE MEASURES’ means all the measurings.[6]

THE OVERFLOW OF THE LIQUID-MEASURES WAS HOLY. What is the point at issue between them? — The first Tanna is of the opinion that the liquid-measures were anointed both inside and outside,[7] but the dry-measures were anointed inside only but not outside. R. Akiba is of the opinion that the liquid-measures were anointed both inside and outside but the dry-measures were not anointed at all.[8] R. Jose is of the opinion that both [the liquid-measures and the dry-measures] were anointed inside only and not outside, but this is the reason [for the ruling of our Mishnah]: liquids are stirred up, and therefore the overflow comes from the inside of the vessel’, but dry-stuffs are not stirred up at all.

But even if [liquids are] stirred up, what does it matter? The man surely intends to hallow only that which he requires?[9] — Said R. Dimi b. Shishna in the name of Rab, This proves that vessels of ministry can hallow even without the [owner's] intention.[10] Rabina, however, said, I can still hold that vessels of ministry hallow only with the [owner's] intention, [nevertheless the overflow is deemed to be holy, for otherwise] it is to be feared that people will say that one may take out what has already been in a vessel of ministry for secular use.[11]

R. Zera raised the following objection: [We have learnt:][12] If he set the Shewbread and the dishes [of frankincense] on the day after the Sabbath and burnt the dishes of frankincense on the next Sabbath,[13] it is not valid.[14] What should he do? He should leave it until the following Sabbath,[15] for even if it remains many days on the table there is no harm. But why [is it allowed to be left for a longer period]? Might not people say, that one may allow holy things to remain in a vessel of ministry?[16] — You surely cannot point out a contradiction between [what is performed] inside[17] and [what is performed] outside;[18] [what is performed] inside not everybody is aware of, but [what is performed] outside everybody is aware of.[19]

We have learnt elsewhere:[20] The surplus of the drink-offerings was used for the altar's ‘dessert’.[21] What is meant by ‘the surplus of the drink-offerings’? — R. Hiyya b. Joseph said, It is the overflow of the measures. R. Johanan said, It is as we have learnt:[22] If a man had undertaken to supply fine flour at four [se'ahs a sela’][23] and the price subsequently stood at three [se'ahs a sela’], he must still supply it at four;[24]

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(1) Accordingly in the circumstances stated, neither the lamb of the ‘Omer would require a double meal-offering, nor the daily offerings the special offering of wood, since they could be offered as freewill burnt-offerings.

(2) To enter the camp of Israel, for he has not fulfilled his obligation with the first guilt-offering.

(3) This measure when filled level held as much as the others when heaped.

(4) When a liquid is being poured into a vessel what comes into the vessel last does not merely lie on the surface of what was poured in before it, but the entire liquid in the vessel is stirred up. Accordingly when the vessel is filled to overflowing, the overflow is not only of that liquid which was poured on the vessel after the vessel had been filled, but is also of the liquid displaced from the inside of the vessel; and as the latter has been hallowed in the vessel the overflow must of necessity be holy.

(5) V. supra 87a.

(6) I.e., whenever this one measure was used it was filled to a heap.

(7) Sc. the outer rim of the vessel. Hence the overflow as it passes over this rim becomes hallowed.

(8) But what was placed in them was hallowed by word of mouth. Accordingly only what was required for the man's purpose was thus hallowed, but not the overflow.

(9) And not the overflow. This question lies against all three Tannaim. V. Mishneh le-melek on Maim. Yad, Ma'ase Hakorb., II, 9.

(10) The overflow is automatically hallowed by the vessel even though the owner does not desire it.

(11) Because of this apprehension it was decreed that the overflow of liquids which comes from the inside of the vessel is holy.

(12) V. infra 100a; Yoma 29b.

(13) As is normally required.

(14) For the Shewbread must remain on the table for seven days, whereas here it remained there only for six days.

(15) I.e., for thirteen days.

(16) And so long as it is in a vessel of ministry it does not become invalid by being kept overnight or for any longer period.

(17) Sc. the arrangement of the Shewbread, which is performed inside the Temple where only priests entered.

(18) Sc. the measuring of the meal-offering, which is performed outside the Temple in the Temple court where all Israelites were permitted to enter.

(19) And there is ground for the apprehension.

(20) Shek. IV, 4; Keth. 106b.

(21) קיץ ‘summer fruit’; cf. II. Sam. XVI, 1, 2. These were the burnt-offerings offered after all the public and private offerings of that day had been offered so that the altar should not remain idle. V. Shebu., Sonc. ed., p. 50 n. 3.

(22) Shek. IV, 9; B.M. 57b.

(23) And he was paid by the Temple-treasurer a certain sum of money.

(24) For in regard to Temple matters the payment of money binds the contract even though the goods have not yet passed either actually or symbolically into the possession of the Temple.

Talmud - Mas. Menachoth 90b

if [he had undertaken to supply it] at three and the price subsequently stood at four, he must supply it at four,[1] for the Temple has always the upper hand. There has been taught [a Baraitha] which agrees with R. Hiyya b. Joseph and there has also been taught [a Baraitha] which agrees with R. Johanan. There has been taught [a Baraitha] which agrees with R. Hiyya b. Joseph, vis., What did they do with the overflow of the measures? If there was another animal-offering, it may be offered with it; and if it[2] had been kept overnight, it is thereby[3] rendered invalid. Otherwise[4] it is offered as ‘dessert’ for the altar. What is this ‘dessert’? Burnt-offerings; the flesh [is burnt] unto God, and the skins fall to the priests. There has also been taught [a Baraitha] which agrees with R. Johanan, viz., If a man had undertaken to supply fine flour at four [se'ahs a sela’] and the price subsequently stood at three [se'ahs a sela’], he must still supply it at four; if [he had undertaken to supply it] at three and the price subsequently stood at four, he must supply it at four, for the Temple has the upper hand. This [illustrates] what we have learnt: The surplus of the drink-offerings was used for the altar's ‘dessert’.

MISHNAH. ALL THE OFFERINGS OF THE CONGREGATION AND OF THE INDIVIDUAL REQUIRE DRINK-OFFERINGS[5] EXCEPT THE FIRSTLING, THE TITHE OF CATTLE, THE PASSOVER-OFFERING, THE SIN-OFFERING AND THE GUILT-OFFERING; BUT THE SIN-OFFERING AND GUILT-OFFERING OF THE LEPER REQUIRE DRINK-OFFERINGS.

GEMARA. Our Rabbis taught: [Since it is written,] And ye will make an offering by fire unto the Lord,[6] I might think that every offering that is offered upon the fire [of the altar] requires drink. offerings, hence even the meal-offering requires the drink-offerings; the text therefore added, A burnt-offering.[7] Whence do I know that peace-offerings [require drink-offerings]? Because the text added, A sacrifice.[8] And whence the thank-offering? Because the text added, Or a sacrifice.[9] I would then include also the firstling, the tithe of cattle, the Passover-offering, the sin-offering, and the guilt-offering; but the text stated, In fulfilment of a vow clearly uttered or as a freewill-offering:’[8] that which is offered in fulfilment of a vow or as a freewill-offering requires drink-offerings, but that which is not offered in fulfilment of a vow or as a freewill-offering does not require drink-offerings; the implication being to exclude the above.[10] I would then exclude also the obligatory offerings that are offered on account of the festival on the festival, namely the ‘appearance burnt-offerings[11] and the festival peace-offerings; but the text stated, Or in your appointed seasons:[8] whatever is offered on your appointed seasons requires drink-offerings; the implication being to include the above. I would then include the he-goats for sin-offerings.[12] since they are offered as an obligation on the festival; but the text stated, And when thou preparest a bullock for a burnt-offering.[13] Now the bullock was included in the general law,[14] why then was it singled out? To teach you that everything be compared with it: as the bullock is distinguished in that it may be offered either in fulfilment of a vow or as a freewill-offering, so everything that is offered either in fulfilment of a vow or as a freewill-offering [requires drink-offerings].[15] Wherefore did the text state, To make a sweet savour unto the Lord, of the herd or of the flock?[16] It is because it says ‘A burnt-offering’, and that, I would have said, included the burnt-offering of a bird; the text therefore stated, ‘Of the herd or of the flock’, [thereby excluding the burnt-offering of a bird]. So R. Josiah. R. Jonathan says, This is quite unnecessary, for the text stated, ‘A sacrifice’, and a bird-offering is no sacrifice.[17] Wherefore then did the text state, ‘Of the herd or of the flock’? It is because it is said previously, When any man of you bringeth an offering unto the Lord, ye shall bring your offering of the cattle, even of the herd and of the flock.[18] Now I might have thought that if a man said, ‘I take upon myself [to offer] a burnt-offering’, he must bring [one animal] from each of the two kinds; the text therefore stated here, ‘Of the herd or of the flock’: if he so desires he brings one [animal] or if he so desires two.

But why, according to R. Jonathan, is any verse necessary to teach this? Has he not said, ‘Unless the verse expressly states "together"’?[19] — It is necessary, for I might have said that

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(1) For in this case Temple matters are on a par with ordinary lay transactions, and therefore so long as the goods have not yet passed into the hands of the purchaser the contract is not binding. Now the extra se'ah of flour that is supplied to the Temple is deemed to be ‘the surplus of the drink-offerings’, for the flour was intended to be used for the drink-offerings, and is used for the altar's ‘dessert’.

(2) Sc. the overflow of the measures.

(3) Lit., ‘by being kept overnight’.

(4) If there is no other animal-offering available.

(5) These are the meal-offering of flour and oil and the wine-offering that accompanied the animal-offering.

(6) Num. XV, 3, with reference to the drink-offerings.

(7) Num. XV, 3. Only an animal-offering requires drink-offerings.

(8) Ibid., with reference to the drink-offerings.

(9) Ibid. The expression ‘or’ extends the scope of the law.

(10) For the firstling and the tithe of cattle etc. are obligatory offerings.

(11) The offerings to be offered by every Israelite on appearing at the Temple on the three great festivals. Cf. Deut. XVI, 16.

(12) I.e.,that the musaf or additional sacrifices of the festivals should require drink-offerings.

(13) Num. XV, 8.

(14) Laid down in v. 3: And ye will make an offering by fire, which includes everything that is offered by fire (Rashi MS.). Or expressly stated in the end of that verse: Of the herd or of the flock (R. Gershom, Tosaf.).

(15) This excludes the he-goats for the sin-offerings, since the sin-offering is an obligatory offering.

(16) Num. XV, 3.

(17) For the Heb. זבח is strictly an animal-offering to which the law of slaughtering זביחה applies; it therefore excludes a bird-offering which does not require slaughtering but nipping off the head.

(18) Lev. I, 2.

(19) Wherever in any law Scripture states two items, the two may be taken either together or separately, according to the other rules governing that law, unless Scripture expressly states ‘together’, as, e.g., in Deut. XXII, 10. The dispute between R. Josiah and R. Jonathan is stated primarily regarding the cursing of parents in Lev. XX, 9. V. Sanh. 85b and Hul. 78b. As the expression ‘together’ is not found in Lev. I, 2, one would have assumed at the outset that an offering of one kind alone was permissible.

Talmud - Mas. Menachoth 91a

since it is written there, And of the flock, it is as though the expression ‘together’ had been used.[1] Then according to R. Josiah who says that even though the expression ‘together’ is not expressly used it is interpreted as though ‘together’ had been used, a verse is surely necessary [to teach that both need not be brought]![2] — There is written, If his offering be a burnt-offering of the herd,[3] and there is also written, And if his offering be of the flock.[4] And the other?[5] — I might have thought that that was so only when a man expressly said so,[6] but when he did not say so expressly[7] [I would say that] he must bring from [each of] the two kinds; we are therefore taught [otherwise].

The Master stated: ‘And whence the thank-offering? Because the text added. Or a sacrifice’. But is not the thank-offering also a sacrifice?[8] — I might have thought that since it is accompanied by a bread-offering it does not require the drink-offerings.[9] But wherein does it differ from the Nazirite ram, which is accompanied by a bread-offering and yet requires the drink-offerings? — I might have thought that only there [where the bread-offering consists only] of two kinds[10] [are drink-offerings required] but [not] here [where] it consists of four kinds; we are therefore taught otherwise.

But the Divine Law should only have stated, In fulfilment of a vow clearly uttered or as a freewill-offering, and it need not have stated, A burnt-offering![11] — Had not the Divine Law stated, 'A burnt-offering'. I should have said that the expression 'and ye will make an offering by fire unto the Lord'[12] was a general proposition, 'in fulfilment of a vow clearly uttered or as a freewill-offering'[13] a specification, and 'to make a sweet savour'[13] another general proposition; we would thus have two general propositions separated by a specification, in which case everything that is similar to the matter specified would be included; and as the matter specified is distinguished in that it is an offering not brought [in atonement] for any sin, so every offering that is not brought [in atonement] for any sin [would require drink-offerings]. I would thus exclude [from drink-offerings] the sin-offering and the guilt-offering as they are brought [in atonement] for a sin, but I would include the firstling, the tithe of cattle, and the Passover-offering, as they are not brought [in atonement] for any sin;[14] the text therefore stated, A burnt-offering.[15] But now that [Scripture] has stated, A burnt-offering, what then is [there left] to be included by the general propositions and the specification? — [The inference from the specification is made thus:] As the matter specified is an offering which one is under no obligation to offer,[16] so every offering which one is under no obligation to offer [requires drink-offerings]; this includes [for drink-offerings] the young of consecrated animals[17] and their substitutes, the burnt-offering brought out of the surplus,[18] the guilt-offering condemned to pasture,[19] and all offerings that were slaughtered under any name other than their own.

Now that you have established that the term 'or' was inserted for an exposition,[20] was there any need for [the term 'or' in the expression] 'in fulfilment of a vow clearly uttered or as a free will-offering' to indicate disjunction? — It was necessary, for [without 'or'] I might have thought that unless one brought an offering in fulfilment of a vow and also a freewill-offering one would not have to bring drink-offerings; we are therefore taught that if one brings an offering in fulfilment of a vow alone one must bring drink-offerings, and so, too, if one brings a freewill-offering alone one must bring drink-offerings. This is quite in order according to R. Josiah.[21] but what need was there for that term according to R. Jonathan?[22] — It was necessary, for [without 'or'] I might have thought that if one brought an offering in fulfilment of a vow alone one must bring drink-offerings, and if one brought a freewill-offering alone one must bring drink-offerings, but if one brought an offering in fulfilment of a vow and also a freewill-offering it is sufficient if the drink-offerings are brought for one only; we are therefore taught [otherwise].

And what need was there for the term 'or' in the expression or in your appointed seasons'? — It was necessary, for [without it] I might have thought that that[23] was so only where one brought a burnt-offering in fulfilment of a vow and a freewill peace-offering or vice versa, but where one brought a burnt-offering and a peace-offering both in fulfilment of a vow or both as freewill-offerings, since there is only one class of offering here, viz., in fulfilment of a vow or freewill-offerings, it is sufficient if the drink-offerings for one only are brought; we are therefore taught [otherwise]. And what need was there for [the 'or' in] the verse, And when thou preparest a bullock for a burnt-offering or for a sacrifice?[24] — It was necessary, for [without it] I might have thought that that[23] was so only where one brought a burnt-offering and a peace-offering both in fulfilment of a vow or both as freewill-offerings, but where one brought two burnt-offerings one in fulfilment of a vow and one as a freewill-offering, or two peace-offerings one in fulfilment of a vow and one as a freewill-offering, since there is only one type of offering here, viz., the peace-offering or the burnt-offering, it is sufficient if the drink-offerings for one only are brought; we are therefore taught [otherwise].

And what need was there for [the 'or' in] the expression 'in fulfilment of a vow clearly uttered or for peace-offerings'?[25] — It was necessary, for [without it] I might have thought that that[26] was so only where one brought two burnt-offerings one in fulfilment of a vow and one as a freewill-offering, or two peace-offerings one in fulfilment of a vow and one as a freewill-offering, but where one brought two burnt-offerings each in fulfilment of a vow, or each as a freewill-offering, or two peace-offerings each in fulfilment of a vow or each as a freewill-offering, since there is only one type of offering here, viz., the burnt-offering or the peace-offering, it is sufficient if the drink-offerings for one only are brought; we are therefore taught [otherwise].

And according to R. Josiah what need was there for [the 'or' in] the expression 'of the herd or of the flock'?[27] — It was necessary. for [without it] I might have thought that that[26] was so only [where the two animals were] of two kinds,[28] but where they were both of one kind it is sufficient if the drink-offerings for one only are brought; we are therefore taught [otherwise].

And what need was there for the verse, So shall ye do for every one according to their number?[29] — [Without it] I might have thought that that[26] was so only [where the two animals were consecrated] one after the other, but where they were [consecrated] simultaneously[30] it is sufficient if the drink-offerings for one only are brought; we are therefore taught [otherwise].

BUT THE SIN-OFFERING AND THE GUILT-OFFERING OF THE LEPER REQUIRE DRINK-OFFERINGS. How do we know this? — Our Rabbis taught: And three tenth parts of an ephah of fine flour for a meal-offering:[31] this verse refers to the meal-offering that is offered with the animal-offering.[32] You say it refers to the meal-offering that is offered with the animal-offering, but perhaps it is not so but rather it refers to the meal-offering that is offered by itself! Since it says, And the priest shall offer the burnt-offering and the meal-offering,[33] you may be sure that the other verse [also] refers to the meal-offering that is offered with the animal-offering. But I still do not know whether it[34] requires a drink-offering [of wine] or not; the text therefore states, And wine for the drink-offering, the fourth part of a hin, shalt thou prepare with the burnt-offering or for the sacrifice, for each lamb.[35] The expression 'the burnt-offering' refers to the burnt-offering of the leper, 'the sacrifice' to the sin-offering of the leper, and 'or for the sacrifice' to the guilt-offering of the leper. But surely both [the sin-offering and the guilt-offering of the leper] can be derived from 'the sacrifice'![36]

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(1) For according to the construction of that verse the interpretation might well be that the words 'and of the flock' must be taken in addition to 'cattle', thus indicating that two animals must be brought for the offering, and that the intervening expression 'of the herd' is merely in apposition to 'cattle'. According to Tosaf. the suggestion that the expressions in this verse must be taken conjunctively is made by reason of the repetition of the particle מן 'of', in the verse.

(2) But R. Josiah actually utilizes the verse, which according to R. Jonathan signifies disjunction, for another purpose, namely to exclude bird-offerings.

(3) Lev. I, 3.

(4) Ibid. 10. Since each is dealt with separately it is obvious that each may be brought by itself.

(5) How can R.Jonathan suggest that both kinds were to be brought together seeing that each is dealt with alone in separate passages?

(6) E.g., 'I take upon myself to offer a lamb (or a bullock) for a burnt-offering'. In this case he expressly mentioned one animal.

(7) But simply said, 'I take upon myself to offer a burnt-offering'.

(8) The thank-offering is surely included under the term 'sacrifice', consequently the expression 'or' is rendered superfluous.

(9) For the bread-offering (cf. Lev. VII, 12, 13) would take the place of the drink-offerings.

(10) The bread-offering which accompanied the Nazirite's ram consisted of two kinds only, viz., unleavened cakes and unleavened wafers (cf. Num. VI, 15), whereas the thank-offering had two additional kinds of cakes, viz., soaked cakes and leavened cakes.

(11) For the burnt-offering would have been included since it is usually brought in fulfilment of a vow or as a freewill-offering. Moreover it was not necessary to state the burnt-offering in order to exclude the meal-offering for that is excluded by the expression ‘sacrifice’.

(12) Num. XV, 3.

(13) Num. XV, 3.

(14) Accordingly by the application of the principle of two general propositions separated by a specification we would have to include those offerings which were not quite similar to the specification, and therefore even what is not offered in fulfilment of a vow or as a freewill-offering (e.g. the firstling) would still require drink-offerings provided it was like the specification in this one respect, viz., that it was not offered in atonement for any sin.

(15) Ibid. The expression ‘a burnt-offering’ is also taken as a specification inserted between two general propositions, and it serves to exclude the firstling and the tithe.

(16) For the burnt-offering mentioned in the verse is clearly a freewill-offering.

(17) E.g., the young of a peace-offering.

(18) I.e., from the overflow of measures, v. supra 90a. According to another reading given in Rashi MS. and also found in R. Gershom: ‘the substitute of the burnt-offering’ (reading התמורות, for המותרות).

(19) I.e., when the guilt-offering was no longer required for its purpose as when the owner thereof had died. The animal was condemned to pasture until it became blemished when it was redeemed and the proceeds used for burnt-offerings. V. supra 4a.

(20) To indicate disjunction, namely that a burnt-offering of any one animal of the herd or of the flock requires drink-offerings.

(21) Who holds that in the absence of any disjunctive term the particular items would be taken together as one; accordingly the term ‘or’ is essential here.

(22) Since he holds that without any disjunctive term the items can be taken individually.

(23) That for each offering drink-offerings are required.

(24) Num. XV, 8.

(25) Num. XV, 8.

(26) That for each offering drink-offerings are required.

(27) Ibid. 3. The expression in general has been utilized by him to exclude bird-offerings, but what is the point of the disjunctive term ‘or’?

(28) E.g., a bullock and a sheep.

(29) Ibid. 12. This verse also implies that for each offering there must be the drink-offerings.

(30) And brought into the Temple at the same time.

(31) Lev. XIV, 10, in reference to the sacrifices brought by a leper of substantial means on the day of his purification. These animal-offerings consisted of three lambs, one for a burnt-offering, the other for a sin-offering, and the third for a guilt-offering.

(32) I.e., each of the three animal-offerings (v. prec. n.) was accompanied by a meal-offering of one tenth of an ephah of flour as a drink-offering.

(33) Ibid. 20. In this verse the meal-offering is clearly that which accompanies the burnt-offering as a drink-offering.

(34) Sc. each of the leper's animal-offerings.

(35) Num. XV, 5.

(36) Why are two separate expressions required?

Talmud - Mas. Menachoth 91b

For a Master has said, Whence do I know it of the sin-offering and of the guilt-offering?[1] Because the text states, The sacrifice.[2] — That is so[3] only where both offerings serve the same purpose.[4] but where the guilt-offering serves to qualify [the person] and the sin-offering to make atonement [for him][5] we require two separate expressions [to include both].

‘"The sacrifice" refers to the sin-offering of the leper’. Perhaps it refers to the sin-offering and guilt-offering of the Nazirite![6] — You cannot think of it, for it has been taught: It is written, And their meal-offering and their drink-offerings:[7] this verse refers to his[8] burnt-offering and his peace-offerings. You say it refers to his burnt-offering and his peace-offerings, but perhaps it is not so but rather it refers to his sin-offering;[9] the text therefore states, And he shall offer the ram for a sacrifice of peace-offerings.[10] Now the ram was included in the general statement of the law,[11] why then was it singled out here? That everything be compared with it: as the ram[12] is distinguished in that it may be offered either in fulfilment of a vow or as a freewill-offering, so everything that is offered either in fulfilment of a vow or as a freewill-offering [requires drink-offerings].[13]

‘The expression "the burnt-offering" refers to the burnt-offering of the leper’. Perhaps it refers to the burnt-offering of a woman after childbirth![14] — Abaye answered, The burnt-offering of a woman after childbirth[14] is derived from the latter part of the verse. For it was taught: R. Nathan says. ‘Lamb’[15] refers to the burnt-offering of a woman after childbirth, and ‘each’[15] to the eleventh of the cattle tithe.[16] And this, that the accessory should be more weighty than the principal,[17] we do not find elsewhere in the whole of the Torah. Raba said,[18] What case is there that requires three separate terms to include [its offerings]? You must say it is the case of the leper.[19]

What need was there for the expression ‘for a ram’?[20] — R. Shesheth said, It includes Aaron's ram.[21] But is not Aaron's ram derived from the expression ‘in your appointed seasons’?[22] — [No, for] I might have thought that that applied only to the offerings of the community but not to the offering of an individual. But wherein does it differ from the burnt-offering of a woman after childbirth?[23] — I might have thought that only [an individual offering] which has no fixed time[24] was included but not that which has a fixed time; the verse is therefore stated [to include Aaron's ram]. What need is there for the expression ‘or for a ram’?[25] — It includes the pallax.[26] This is quite in order according to R. Johanan who holds that it is a distinct species.[27] For we have learnt:[28] If a man [under an obligation to bring a lamb or a ram for his sacrifice] offered it [a pallax], he must bring for it the drink-offerings as for a ram, but he does not thereby discharge the obligation of his sacrifice. And R. Johanan said that the expression ‘or for in ram’ included the pallax. But according to Bar Padda who holds that he must bring [for it the drink-offerings as for a ram] and account for the possibilities,[29] for it is only a case of doubt, it will be asked, is a verse ever stated in order to include what is in a condition of doubt?[30] — This is obviously a difficulty according to Bar Padda. Thus shall it be done for each bullock, or for each ram, or far each of the lambs or of the kids.[31] Wherefore did the text state, ‘For each bullock’?[32] — It is because we find that Holy Writ distinguished between the drink-offerings of a ram and the drink-offerings of a lamb; and I might have thought that there should also be a distinction between the drink-offerings of a bullock and the drink-offerings of a calf; the text therefore stated, For each bullock.[33]

Wherefore did the text state, ‘Or for each ram’?[32] — It is because we find that Holy Writ distinguished between the drink-offerings of a sheep in its first year and those of one in its second year; and I might have thought that there should likewise be a distinction between the drink-offerings of a sheep in its second year and those of one in its third year; Scripture therefore stated, ‘Or for each ram’.[34] Wherefore did the text state, ‘Or for each of the lambs’?[35] — It is because we find that Holy Writ distinguished between the drink-offerings of a lamb and the drink-offerings of a ram; and I might have thought that there should likewise be a distinction between the drink-offerings of a ewe in its first year and those of a ewe in its second year; the text therefore stated, ‘Or for each of the lambs’.[36]

Wherefore did the text state, ‘Or of the kids’?[37] — It is because we find that Holy Writ distinguished between the drink-offerings of a lamb and the drink-offerings of a ram; and I might have thought that there should likewise be a distinction between the drink-offerings of a kid and those of an older goat; the text therefore stated, ‘Or of the kids’.

R. Papa said, Raba once tested us [with the following question]:

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(1) That if the Nazirite placed the hair of his head under the cauldron containing his sin-offering or his guilt-offering, instead of under the cauldron containing his peace-offering as is expressly stated in Scripture (Num. VI, 18), he has thereby fulfilled his obligation (Rashi). V. Nazir 45b. According to Tosaf. Whence do we know that the sin-offering and the guilt-offering are eaten the same day and the night until midnight? V. Zeb. 36a.

(2) Ibid. VI, 18. According to Tosaf. (v. prec. n.) the reference is to Lev. VII, 15. We thus see that the term ‘sacrifice’ includes both the sin-offering and the guilt-offering.

(3) That from the one expression ‘the sacrifice’ both the guilt-offering and the sin-offering can be derived.

(4) As in the case of the Nazirite; the guilt-offering brought by the Nazirite who had suffered uncleanness unwittingly serves to qualify him to resume his Nazirite vow, and the sin-offering brought at the completion of the Nazirite's vow serves to qualify him to resume a normal living, to drink wine and to cut his hair.

(5) As in the case of the leper; for the guilt-offering serves to qualify him that he may now join the congregation, and the sin-offering makes atonement for him, for the affliction of leprosy was regarded as a punishment for the seven sins enumerated in ‘Ar. 16a.

(6) Teaching us that these offerings require drink-offerings.

(7) Num. VI, 15.

(8) The Nazirite's.

(9) And the verse teaches that the sin-offering brought by the Nazirite at the completion of his vow requires drink-offerings; and so, too, the guilt-offering brought by the Nazirite after his involuntary defilement.

(10) Ibid. 17. The verse concludes: And the priest shall offer the meal-offering thereof and the drink-offering thereof.

(11) Cf. ibid. XV, 6, where drink-offerings are prescribed for a ram.

(12) Which is a peace-offering.

(13) Thus excluding the sin-offering and the guilt-offering which are obligatory offerings.

(14) I.e., that the lamb for a burnt-offering which she has to bring (v. Lev. XII, 6) requires drink-offerings.

(15) Num. XV, 5.

(16) V. Bek. 60a. Where a man who was counting his cattle one by one for the purpose of the tithe erred in his counting and called the ninth tenth, the tenth ninth, and the eleventh tenth, all three become holy: the ninth may only be consumed when it has suffered a blemish, the tenth becomes the tithe, and the eleventh must be offered as a peace-offering and with it also drink-offerings.

(17) For actual cattle tithe does not require the drink-offerings whereas the eleventh animal, which is only an ‘accessory’ or subsidiary to the cattle tithe does.

(18) In reply to the question that perhaps it refers to the burnt-offering of a woman after childbirth.

(19) Thus the verse in question which contains three inclusive terms can only refer to the case of the leper who requires three offerings: a burnt-offering, a sin-offering and a guilt-offering.

(20) Ibid. 6. The drink-offerings for a ram are already prescribed in Num. XXVIII, 12, 14.

(21) I.e., the ram offered by the High Priest on the Day of Atonement; cf. Lev. XVI, 3. This offering, the verse informs us, also requires drink-offerings.

(22) Num. XV, 3.

(23) Which is an individual offering, nevertheless it is included in this passage for drink-offerings. In the same way the expression ‘in your appointed seasons’ includes Aaron's ram, accordingly the expression ‘for a ram’ is superfluous.

(24) As the burnt-offering of a woman after childbirth.

(25) Num. XV, 6.

(26) Heb. פלגם from Greek ** (spec. a youth not yet arrived at adolescence), a sheep in its thirteenth month; in its first twelve months it is termed a ‘lamb’ and after thirteen months it is termed a ‘ram’. Thus the pallax is included that it shall have the same drink-offerings as for a ram.

(27) Hence it was necessary for Scripture to include it.

(28) Par. I, 3; Hul. 23a.

(29) Lit., ‘and stipulate’, by declaring: if the pallax is a ram then these drink-offerings are just right, but if it is a lamb then let that quantity which is required for a lamb be taken from these drink-offerings and let the remainder be regarded as a freewill-offering.

(30) Of course not, for the Divine Law could not have had any doubts about it.

(31) Ibid. 11.

(32) For its prescribed drink-offerings have already been stated previously in this passage.

(33) Signifying that whatever its age there is but one quantity of drink-offerings for an offering of the herd.

(34) I.e., whatever goes by the name ‘ram’ requires the drink-offerings as prescribed in this passage for a ram.
(35) V. p. 559. n. 8.
(36) I.e., there is but one quantity of drink-offerings for any animal among the lambs.
(37) Since we find kids included under the term ‘lambs’.

What is the quantity of drink-offerings for a ewe in its second year? And we answered him that this was clearly stated in a Mishnah:[1] [The seal inscribed with] ‘Kid’ signified drink-offerings for [offerings from] the flock, whether large or small, male or female, excepting rams.[2]

MISHNAH. NONE OF THE OFFERINGS OF THE CONGREGATION REQUIRE THE LAYING ON OF HANDS EXCEPT THE BULLOCK THAT IS OFFERED FOR THE TRANSGRESSION [BY THE CONGREGATION][3] OF ANY OF THE COMMANDMENTS, AND THE SCAPEGOAT.[4] R. SIMEON SAYS, ALSO THE HE-GOAT OFFERED FOR THE SIN OF IDOLATRY.[5] ALL THE OFFERINGS OF AN INDIVIDUAL REQUIRE THE LAYING ON OF HANDS EXCEPT THE FIRSTLING, THE CATTLE TITHE, AND THE PASSOVER-OFFERING. THE HEIR MAY LAY HIS HANDS [ON HIS FATHER'S OFFERING].[6] MAY BRING THE DRINK-OFFERINGS FOR IT, AND CAN SUBSTITUTE [ANOTHER ANIMAL FOR IT].[7]

GEMARA. Our Rabbis taught: None of the offerings of the congregation require the laying on of hands except the bullock that is offered for the transgression [by the congregation] of any of the commandments, and the he-goats offered for the sin of idolatry. So R. Simeon. But R. Judah says, The he-goats offered for the sin of idolatry do not require the laying on of hands. What then must I include in their place? The scapegoat. (But is it absolutely necessary to include [another in their place]? — Rabina answered, There is a tradition that among the offerings of the congregation there are two that require the laying on of hands.) R. Simeon said to him, Is it not the law that the laying on of hands must be performed by the owners [of the offering]? But on that[8] Aaron and his sons lay the hands![9] He replied, Even in that case [the laying on of the hands is performed by the owners] since Aaron and his sons obtain atonement through it.

R. Jeremiah said, They are indeed consistent in their views, for it has been taught:[10] And he shall make atonement for the most holy place.[11] this means the Holy of Holies;[12] and the tent of meeting.[11] this means the Holy place; and the altar,[11] this is to be taken in its usual sense; he shall make atonement,[11] this means the various Temple courts; and for the priests,[11] this is to be taken in its usual sense; and for all the people of the assembly,[11] this means the Israelites; he shall make atonement,[11] this means the Levites. They are all[13] declared alike in respect of one atonement, in that they obtain atonement through the scapegoat for other sins.[14] So R. Judah.[15] But R. Simeon says, Just as the blood of the he-goat that is offered within [the Holy of Holies] makes atonement for Israelites for all matters of uncleanness touching the Temple and the holy things thereof, so does the blood of the bullock make atonement for the priests for all matters of uncleanness touching the Temple and the holy things thereof; and just as the confession of sin pronounced over the scapegoat[16] makes atonement for Israelites for other sins, so does the confession of sin pronounced over the bullock[17] make atonement for priests for other sins.[18]

But according to R. Simeon [it will be asked]: Surely they are declared alike![19] — Yes. they are all declared alike in that they all obtain atonement, but each obtains atonement through its own [offering].[20] This means,[21] therefore, that, according to R. Judah, for transgressions of the laws of uncleanness touching the Temple and the holy things thereof Israelites obtain atonement through the blood of the he-goat that is sprinkled within [the Holy of Holies], and priests through Aaron's bullock,[22] and for other sins all obtain atonement through the confession over the scapegoat; according to R. Simeon, even for other sins priests obtain atonement through the confession pronounced over the bullock. And so it is stated in [the Tractate] Shebu'oth:[23] [For all other sins the scapegoat makes atonement] alike for Israelites, priests and the anointed High Priest. Wherein do Israelites differ from priests and the anointed High Priest? Only in that the blood of the bullock makes atonement for priests for the transgressions of the laws of uncleanness touching the Temple and the holy things thereof.[24] R. Simeon says, As the blood of the he-goat that is sprinkled within the

Holy of Holies makes atonement for the Israelites, so does the blood of the bullock make atonement for the priests; and as the confession of sin pronounced over the scapegoat makes atonement for the Israelites, so does the confession of sin pronounced over the bullock make atonement for the priests.

Our Rabbis taught: It is written, And the elders of the congregation shall lay their hands upon the head of the bullock:[25] this signifies that only the bullock requires the laying on of hands, but the he-goats offered for the sin of idolatry do not require the laying on of hands. So R. Judah. But R. Simeon says, [It signifies that] only the bullock requires the laying on of hands by the elders, but the he-goats offered for the sin of idolatry do not require the laying on of hands by the elders but by Aaron.[26] There is, however, [a Baraitha] which conflicts with the above, for it was taught: It is written, The live [goat]:[27] this signifies that only the live [goat] requires the laying on of hands, but the he-goats offered for the sin of idolatry do not require the laying on of hands. So R. Judah. But R. Simeon says, [It signifies that] only the live [goat] requires the laying on of hands by Aaron

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(1) Shek. V, 3.

(2) A man who required drink-offerings for his offering did not bring them from his own home but came to the Temple to the officer in charge of the seals, paid him money, and received from him a seal. On handing the seal to another officer who was in charge of the drink-offerings he would receive the necessary quantities of drink-offerings as indicated by the inscription on the seal. The seal inscribed with ‘Kid’ signified the drink-offerings for an offering from the flock. V. Shek. V, 4. Thus a ewe in its second year required the drink-offerings of a lamb.

(3) Who sinned in error by reason of an erroneous ruling of the Beth din; v. Lev. IV, 13-21.

(4) Ibid. XVI, 21.

(5) Where the congregation sinned in error by reason of an erroneous ruling of the Beth din in regard to idolatry; v. Num. XV, 24. Cf. Hor. 5b.

(6) Where the father died having already set aside a beast for his burnt-offering or peace-offering, and the heir is offering it on behalf of his father.

(7) I.e., if he substituted another animal for his father's offering, both animals are holy; v. Lev. XXVII, 10.

(8) Sc. the scapegoat.

(9) And not the owners, for the owners are the entire congregation.

(10) Yoma 61a, Shebu. 13b. Hul. 131b.

(11) Lev. XVI, 33. From this verse it is deduced that the High Priest effected atonement for the transgression of the laws of uncleanness in the Holy of Holies, in the Holy place etc. with the bullock and the he-goat, the former making atonement for priests who erred in this way and the latter for Israelites.

(12) I.e., if a person became unclean whilst in the Holy of Holies or in the Holy place and tarried there for the prescribed period (v. Shebu. 16b), or if he offered incense on the golden altar whilst unclean, or if he unwittingly entered the Temple courts whilst unclean.

(13) Priests, Levites and Israelites.

(14) I.e., for all sins except the transgression of the laws of uncleanness connected with the Temple.

(15) Thus according to R. Judah priests also obtained atonement through the scapegoat, consequently when they lay the hands on it they do so in the capacity of owners.

(16) Lev. XVI, 21; cf. Yoma 66a.

(17) Cf. Yoma 35b.

(18) According to R. Simeon, therefore, priests do not obtain any atonement through the scapegoat.

(19) For the last phrases of the quoted verse imply that all sections of the people, Israelites as well as priests, obtain atonement alike for other sins.

(20) For other sins, Israelites through the scapegoat and priests through the bullock.

(21) Heb. פירוש, so MS.M., and Sh. Mek. An unusual expression. The entire passage is an addition by the Saboraim (Sh. Mek.).

(22) I.e., the High Priest's bullock; v. Lev. XVI, 6.

(23) Shebu. 2b. So in MS.M. and Sh. Mek.; cur. edd. omit ‘in Shebu'oth’.

(24) Cur. edd. insert here: ‘This is the opinion of R. Judah’.

(25) Lev. IV, 15 with reference to the bullock offered when the congregation sinned in error by reason of an erroneous ruling of the Beth din.

(26) I.e., a priest.

(27) Ibid. XVI, 21 with reference to the scapegoat.

Talmud - Mas. Menachoth 92b

. but the he-goats offered for the sin of idolatry do not require the laying on of hands by Aaron but by the elders![1] — Thereupon R. Shesheth said, And do you think that the first [Baraitha] is correct? Has not R. Simeon laid down the rule that the laying on of hands must be performed by the owners?[2] But you must correct [the Baraitha] as follows: The bullock; this signifies that only the bullock requires the laying on of hands, but the he-goats offered for the sin of idolatry do not require the laying on of hands. So R. Judah. R. Simeon says. The live [goat]: this signifies that only the live [goat] requires the laying on of hands by Aaron, but the he-goats offered for the sin of idolatry do not require the laying on of hands by Aaron but by the elders. And this is really what R. Simeon said to R. Judah: The he-goats offered for the sin of idolatry [most certainly] require the laying on of hands, for if you have heard anything to the effect that they do not require the laying on of hands, you must have heard it only in regard to Aaron;[3] for they[4] were excluded by 'the live [goat]'.[5]

But according to R. Judah what need was there to exclude them[6] by a verse? Has not Rabina stated that there is a tradition that among the offerings of the congregation there are two that require the laying on of hands?[7] — It was merely an exercise in interpretation.[8]

Whence does R. Simeon derive the law that the he-goats offered for the sin of idolatry require the laying on of hands [by the elders]?[9] — He derives it from the following [Baraitha] which was taught:[10] And he shall lay his hand upon the head of the goat:[11] this includes Nahshon's goat[12] in respect of the laying on of hands. So R. Judah. But R. Simeon says. It includes the he-goats offered for the sin of idolatry in respect of the laying on of hands; for R. Simeon ruled that every sin-offering whose blood was brought within[13] required the laying on of hands.[14] Why is it stated [in this Baraitha], 'for [R. Simeon ruled etc.]'?[15] — It is merely an indication [of his view]. But perhaps it[16] includes the he-goat that is offered within [on the Day of Atonement]![17] — [What is included] must be like the he-goat of a ruler which makes atonement for the person who has knowledge of the transgression of the precept.[18]

But according to Rabina who said that there is a tradition that among the offerings of the congregation there are [only] two that require the laying on of hands, wherefore is a verse required [to include the he-goats offered for the sin of idolatry]?[19] — Both the verse and the tradition are necessary. For if [the law[20] were derived] from the verse alone I should have said that the peace-offerings of the congregation also [require the laying on of hands] — as indeed this question was raised in the chapter entitled 'All meal-offerings were offered unleavened',[21] against that Mishnah where R. Simeon stated, There are three kinds of offering which [between them] require three rites,[22] in the following terms: 'Surely the peace-offerings of the congregation should require the ceremony of the laying on of hands by the following a fortiori argument: if the peace-offerings of the individual which do not require waving for the living animals require the laying on of hands etc.'[23] — the tradition is therefore necessary.[24] And if it were derived from the tradition alone I should not have known which was [the other case],[25] the verse therefore informs us that it includes what is like the he-goat of a ruler which makes atonement for the person who has knowledge of the transgression of the precept.[26]

ALL THE OFFERINGS OF THE INDIVIDUAL REQUIRE THE LAYING ON OF HANDS EXCEPT THE FIRSTLING, THE CATTLE TITHE, AND THE PASSOVER-OFFERING. Our Rabbis taught: His offering,[27] [requires the laying on of hands], but not the firstling. For without this exposition I should have argued as follows: if the peace-offering which is not holy from the womb requires the laying on of hands, the firstling which is holy from the womb surely requires the laying on of hands! The text therefore stated, ‘His offering’, but not the firstling. ‘His offering’, but not the tithe. For without this exposition I should have argued as follows: if the peace-offering which does not sanctify what comes before it or what comes after it requires the laying on of hands, the tithe which sanctifies what comes before it and what comes after it[28] surely requires the laying on of hands! The text therefore stated, ‘His offering’, but not the tithe. ‘His offering’, but not the Passover-offering. For without this exposition I should have argued as follows: if the peace-offering which one is not bound to bring[29] requires the laying on of hands, the Passover-offering which one is bound to bring surely requires the laying on of hands! The text therefore stated, ‘His offering’, but not the Passover-offering. But surely all these arguments can be refuted: It is so with the peace-offering since it requires drink-offerings and also the waving of the breast and the thigh![30] — Indeed the verses are merely a support. But

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(1) This contradicts the view of R. Simeon as stated in the former Baraitha.

(2) Supra p. 561. And the owners of the he-goats offered by the congregation for the sin of idolatry are the elders of the congregation, yet R. Simeon states in the first Baraitha that the laying on of hands was to be performed by Aaron and not by the elders!

(3) I.e., that the he-goats offered for the sin of idolatry do not require the laying on of hands by Aaron, but they certainly require the laying on of hands by the elders.

(4) I.e., that the he-goats offered for the sin of idolatry do not require the laying on of hands by Aaron.

(5) Thus only on the scapegoat shall Aaron lay his hands but not on these goats. This is the proper inference. viz., the he-goats from the scapegoat; but one may not infer the he-goats from ‘the bullock’ (as was originally stated in the first Baraitha), for they are of different kinds.

(6) Sc. the he-goats offered for the sin of idolatry.

(7) I.e., two and no more. And the two, according to R. Judah, are: the scapegoat, and the bullock offered for the transgression of the congregation. V. our Mishnah.

(8) To interpret the verses in order to arrive at the traditional view as reported by Rabina. Aliter: R. Judah does not accept this tradition but arrives at that view by the exposition of verses.

(9) All that R. Simeon established above was that these goats do not require the laying on of hands by the priest, but whence does he derive it that it must be performed by the elders? Perhaps they do not require it at all?

(10) Supra 55b; Zeb. 48b.

(11) Lev. IV, 24. with reference to the he-goat offered by a ruler, i.e., a prince of a tribe, for a sin committed by him in error.

(12) Sc. the he-goat offered by each of the princes of the tribes at the dedication of the altar, called ‘Nahshon's goat’ because he, Nahshon b. Aminadab, the prince of Judah, was the first to bring his offering. Cf. Num. VII, 12.

(13) To be sprinkled upon the golden altar or upon the veil.

(14) And the blood of the he-goats offered for the sin of idolatry was sprinkled within, whereas the blood of Nahshon's goat was not.

(15) For the only two cases to which this rule applies are the he-goats offered for the sin of idolatry and the sin-offering of the anointed High Priest. How the former is here included for the rite of laying on of hands, and as for the latter, Scripture has expressly stated that it requires the laying on of hands (v. Lev. IV, 4); obviously then R. Simeon's rule is superfluous!

(16) Sc. the verse that prescribes the laying on of hands in the case of the he-goat brought by a ruler.

(17) Since its blood is sprinkled within the Holy of Holies it should require the laying on of hands, in accordance with R. Simeon's ruling.

(18) Whereas the he-goat of the Day of Atonement makes atonement for the transgression of the laws of uncleanness relating to the Temple and the holy things where the transgressor has no knowledge thereof. V. Shebu. 2a.

(19) Since R. Simeon is of the opinion that the laying on of hands must be performed by the owners, and therefore the laying of the hands by Aaron on the scapegoat is not a proper laying on of hands, inasmuch as Aaron is not the owner since he does not even obtain any atonement through it, then by virtue of the tradition the only two possible offerings of the congregation that require the laying on of hands are the bullock offered for the transgression of the congregation and the he-goats offered for the sin of idolatry. Hence the verse is superfluous!

(20) Sc. of laying on the hands in offerings of the congregation.
(21) Chap. V.
(22) Supra 61a.
(23) V. supra p. 369.
(24) That there are only two cases of laying on of hands among the offerings of the congregation.
(25) One offering of the congregation, namely the bullock offered for the transgression of the congregation, is expressly stated in Scripture as requiring the laying on of hands, but we should not know which was the other offering that required it, whether it was the he-goats offered for the sin of idolatry, or the he-goat of the Day of Atonement, or the peace-offerings of the congregation.
(26) Hence the he-goat of the Day of Atonement cannot be included, v. supra p. 566, n. 1; neither can the peace-offerings of the congregations be included as they do not make atonement at all.
(27) Lev. III, 1. The expression ‘his offering’ occurs seven times in the passage dealing with the peace-offering (Lev. 111, 1, 2, 6, 7, 8, 12, 14) and each is interpreted for some purpose in connection with the law of the laying on of hands. V. Sifra a.l. The basis for the interpretations in this passage is the definition of the word ‘offering’, which is defined as that which is made holy by a person of his own free will and which he offers as a gift to God to win His favour. Accordingly the firstling is excluded since it is holy from the moment it is born and not made holy by any person, moreover it is an obligatory offering and is not brought to win God's favour. The tithe and the Passover-offering are also excluded for the reason last stated.
(28) For if in the course of counting the animals for the purpose of the tithe the ninth was by error called the tenth, the tenth the ninth, and the eleventh the tenth, all three become holy. V. supra p. 558, n. 4 and Bek. 60a.
(29) Lit., ‘which is not (subject to the command of) arise and bring it’.
(30) And therefore it also requires the laying on of hands, but neither the firstling nor the tithe nor the Passover-offering require drink-offerings or the waving of the breast and thigh. Accordingly no verses are required to exclude these offerings as there are no valid reasons for including them.

Talmud - Mas. Menachoth 93a

what is the real purpose of these verses? — [To teach the following:] ‘His offering’ [requires the laying on of hands], but not the offering of another.[1] ‘His offering’, but not the offering of a gentile, His offering, this includes every owner of the offering for the rite of the laying on of hands.[2]

THE HEIR MAY LAY HIS HANDS. R. Hananiah recited the following teaching in the presence of Raba: The heir may not lay his hands [on his father's offering], and the heir cannot substitute [another animal for his father's offering].[3] [Raba said to him.] But we have learnt: THE HEIR MAY LAY HIS HANDS [ON HIS FATHER'S OFFERING]. MAY BRING THE DRINK-OFFERINGS FOR IT, AND CAN SUBSTITUTE [ANOTHER ANIMAL FOR IT]! Shall I then reverse it?[4] he asked. No, replied the other, for the teaching [quoted by you] is the view of R. Judah. For it was taught: The heir may lay his hands [on his father's offering], and the heir can also substitute [another animal for it]. R. Judah says. The heir may not lay his hands [on his father's offering], and the heir cannot substitute [another animal for it].

What is the reason for R. Judah's view? — It is written, His offering.[5] but not the offering of his father;[6] and he compares the inception of the consecration[7] with the termination of the consecration:[8] just as at the termination of the consecration the heir may not lay his hands [on his father's offering], so at the inception of the consecration the heir cannot substitute [another animal for his father's offering]. And what is the reason for the view of the Rabbis?[9] — It is written, And if he shall at all change,[10] this includes the heir;[11] and they compare the termination of the consecration with the inception of the consecration: just as at the inception of the consecration the heir can substitute [another animal for his father's offering], so at the termination of the consecration the heir may lay his hands [on his father's offering].

For what purpose do the Rabbis utilize the expression ‘his offering’?[12] — For the following: ‘His offering’ [requires the laying on of hands], but not the offering of a gentile. ‘His offering’, but not the offering of another. ‘His offering’, this includes every owner of the offering for the rite of the laying on of hands. And R. Judah?[13] — He does not hold the view that every owner of the offering is included for the rite of the laying on of hands. Alternatively, he may even hold [that view] but the offering of another and the offering of a gentile are excluded from one verse, hence two verses are at his disposal, one for the teaching that only ‘his offering’ [requires the laying on of hands] but not the offering of his father, and the other to include every owner of the offering for the rite of the laying on of hands.

And for what purpose does R. Judah utilize the expression ‘and if he shall at all change’? — He requires it in order to include a woman.[14] For it was taught: Since the whole passage[15] is stated in the masculine form, whence do we know[16] to include a woman? Because the text states, And if he shall at all change. And the Rabbis?[17] — They derive it by expounding the expression ‘and if’.[18] And R. Judah? — He bases no exposition on the expression ‘and if’.

MISHNAH. ALL MAY LAY THE HANDS ON THE OFFERING EXCEPT A DEAF-MUTE, AN IMBECILE, A MINOR, A BLIND MAN, A GENTILE, A SLAVE, AN AGENT, OR A WOMAN. THE LAYING ON OF HANDS IS OUTSIDE THE COMMANDMENT.[19] [ONE MUST LAY] BOTH HANDS ON THE HEAD OF THE ANIMAL; AND IN THE PLACE WHERE ONE LAYS ON THE HANDS THERE THE ANIMAL MUST BE SLAUGHTERED; AND THE SLAUGHTERING MUST IMMEDIATELY FOLLOW THE LAYING ON OF HANDS.

GEMARA. We understand a deaf-mute, an imbecile, or a minor being disqualified, because they do not know what they are doing; also a gentile, because it is written, The children of Israel:[20] [only they] may lay on the hands but gentiles may not lay on the hands. But why should a blind man be disqualified? R. Hisda and R. Isaac b. Abdimi [suggest different reasons]. One Says, It is because we deduce the laying on of hands [for all offerings] from the laying on of hands performed by the elders of the congregation.[21] And the other says, It is because we deduce the laying on of hands [for all offerings] from the laying on of hands performed on the ‘appearance’ burnt-offering.[22]

Why does not he that deduces the law from the ‘appearance’ burnt-offering rather deduce it from the elders of the congregation? —

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(1) A man may not lay his hands on his neighbour's offering even though he was instructed to do so on his behalf.

(2) I.e., every person that has a share in the offering must lay his hands on it.

(3) I.e., if he did so it is of no effect.

(4) And substitute ‘may’ for ‘may not’ and ‘can’ for ‘cannot’.

(5) Lev. III, 2: And he shall lay his hand upon the head of his offering.

(6) Thus the heir may not lay his hands on his father's offering.

(7) Viz., the substitution of another animal for the offering. This is an original act of consecration whereby a profane animal becomes holy.

(8) Viz., the laying on of hands. This is almost the last act with the consecrated animal, since the slaughtering must immediately follow the laying on of his hands.

(9) I.e., the first view in the above-mentioned Baraitha, quoted anonymously. In the parallel passage, Tem. 2a this is R. Meir's view.

(10) Lev. XXVII, 10.

(11) Thus the heir can effectively substitute another animal for his father's offering, and both animals become holy.

(12) This was interpreted by R. Judah to exclude the heir from the laying on of hands.

(13) Since he uses the expression ‘his offering’ to exclude the heir, he is then short of one of these expressions for the three foregoing teachings.

(14) I.e., that the law of substitution also applies to a woman.

(15) Concerning the law of substitution.

(16) Lit., 'what is our end'.
(17) How do they know that a woman can effectively substitute another animal for the offering?
(18) For the waw, 'and', is superfluous.
(19) Lit., 'the remnant of the commandment'. I.e., the laying on of hands may be omitted and yet the offering is valid, for the atonement is not dependent upon this act.
(20) Lev. I, 2.
(21) In connection with the bullock offered for the transgression of the congregation; cf. Lev. IV, 15. And as the elders of the congregation had to be free from every physical blemish, v. Sanh. 17a, hence the blind may not lay on the hands.
(22) I.e., the burnt-offering offered by every Israelite on appearing at the Temple on the three great Festivals; cf. Deut. XVI, 16. And as a blind man was exempt from the 'appearance' burntoffering. v. Hag. 2a, the inference may therefore be made that a blind man may not lay on the hands.

Talmud - Mas. Menachoth 93b

It is more proper to deduce the offering of an individual from another offering of the individual[1] rather than to deduce the offering of the individual from the offering of the congregation. And why does not he that deduces the law from the elders of the congregation rather deduce it from the 'appearance' burnt-offering? — It is only proper to deduce the offering for which the rite of laying on the hands is expressly prescribed[2] from that offering for which the rite of laying on the hands is also expressly prescribed;[3] but this is not the case with the 'appearance' burnt-offering, for that[4] is itself derived from the freewill burnt-offering. For a Tanna recited before R. Isaac b. Abba: And he presented the burnt-offering; and offered it according to the ordinance,[5] that is, according to the ordinance of a freewill burnt-offering; this teaches that the obligatory burnt-offering[6] requires the laying on of hands.

A SLAVE, AN AGENT, OR A WOMAN. Our Rabbis taught: His hand,[7] but not the hand of his slave; his hand,[8] but not the hand of his agent; his hand,[9] but not the hand of his wife. Why are all these required? — They are all necessary, for if the Divine Law had only stated once [the expression 'his hand']. I should have said that it only excluded the slave, since he is not subject to the commandments, but an agent, since he is subject to the commandments, and moreover a man's agent is like himself,[10] [I would say] may lay the hands [on his principal's offering]. And if only these two[11] had been stated [I should have said that the reason they are disqualified is that] they[11] are not as part of himself, but a man's wife, since she is as part of himself,[12] [I would say] may lay the hands [on her husband's offering]. Therefore [all three verses] are necessary.

THE LAYING ON OF HANDS IS OUTSIDE THE COMMANDMENT. Our Rabbis taught: And he shall lay his hand . . . and it shall be accepted for him [to make atonement for him].[13] Does the laying on of hands make the atonement? Does not the atonement come through the blood, as it is said, For it is the blood that maketh atonement by reason of the life?[14] This, however, informs you that if a man treated the laying on of the hands as outside the commandment[15] Scripture accounts it to him as though he has not obtained [the highest form of] atonement, but he has obtained atonement.[16]

The same was also taught with regard to the rite of waving. To be waved, to make atonement for him.[17] Does the waving make the atonement? Does not the atonement come through the blood, as it is said, For it is the blood that maketh atonement by reason of the life? This, however, informs you that if a man treated the waving as outside the commandment Scripture accounts it to him as though he has not obtained [the highest form of] atonement, but he has obtained atonement.

ON THE HEAD. Our Rabbis taught: [And he shall lay] his hand upon the head [of his offering],[18] but not his hand upon the neck;[19] his hand upon the head, but not his hand upon the back; 'his hand upon the head',but not his hand upon the breast. Why are all [the three verses] required? — They are all necessary, for if the Divine Law had only stated once [the expression ‘his hand upon the head,] I should have said that it only excluded the hand upon the neck, since it is not on the same plane as the head, but the [laying of the] hand upon the back, which is on the same plane as the head, I would say was not [excluded].[20] And if only these two[21] had been stated, [I should have said that] the reason [they are excluded] is that they are not included in the rite of waving, but the breast, since it is included in the rite of waving, I would say was not [excluded]. Therefore all [three verses] are necessary.

The question was asked: What if the hands were laid upon the sides [of the head]? — Come and hear, for it was taught: Abba Bira'ah taught in the School of R. Eleazar b. Jacob: The expression ‘his hand upon the head’ excludes the hand upon the sides of the head.

R. Jeremiah enquired, Would a cloth[22] be regarded as an interposition or not?[23] — Come and hear: But nothing shall interpose between him and the offering.[24]

BOTH HANDS. Whence do we derive it? — Resh Lakish said, Because the verse says, And Aaron shall lay both his hands.[25] Now actually there is written in the verse ‘his hand’,[26] and yet it says ‘both’, this establishes the rule that wherever ‘his hand’ is stated both [hands] are meant unless Holy Writ clearly specifies one.

R. Eleazar went and reported this statement in the Beth-Hamidrash,[27] but did not report it in the name of Resh Lakish. When Resh Lakish heard of it he was annoyed. Resh Lakish then said to him,[28] If it is as you say that wherever ‘his hand’ is stated both [hands] are meant, why did [Scripture] state at all ‘his hands’? He thus questioned him from twenty-four passages where ‘his hands’ occurs; e.g.. His hands shall bring,[29] his hands shall contend for him,[30] he guided his hands wittingly.[31] The other remained silent. When Resh Lakish's mind had been appeased he said to the other, Why do you not answer me that you mean the expression ‘his hand’[32] stated in connection with the rite of the laying on of hands. But is there not written, even with regard to the laying on of hands, And he laid his hands upon him, and gave him a charge?[33] — I refer to the laying on of hands in connection with an animal-offering.

AND IN THE PLACE WHERE ONE LAYS ON THE HANDS THERE THE ANIMAL MUST BE SLAUGHTERED; AND THE SLAUGHTERING MUST IMMEDIATELY FOLLOW THE LAYING ON OF HANDS. What does he mean by this?[34] — He means to say, In the place where one lays on the hands there the animal must be slaughtered because the slaughtering must immediately follow the laying on of hands.[35]

MISHNAH. THE RITE OF THE LAYING ON OF HANDS IS [IN CERTAIN RESPECTS] MORE STRINGENT THAN THE RITE OF WAVING. AND THE RITE OF WAVING IS [IN OTHER RESPECTS] MORE STRINGENT THAN THE RITE OF THE LAYING ON OF HANDS. [THE RITE OF THE LAYING ON OF HANDS IS MORE STRINGENT,] FOR ONE MAY PERFORM THE WAVING ON BEHALF OF ALL THE OTHER FELLOW-OWNERS BUT ONE MAY NOT PERFORM THE LAYING ON OF HANDS ON BEHALF OF ALL THE OTHER FELLOW-OWNERS. THE RITE OF WAVING IS MORE STRINGENT, FOR THE RITE OF WAVING TAKES PLACE IN OFFERINGS OF THE INDIVIDUAL[36] AND IN OFFERINGS OF THE CONGREGATION,[37]

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(1) Sc. the ‘appearance’ burnt-offering.

(2) Sc. the freewill-offering of the individual; v. Lev. I, 4.

(3) Sc. the bullock offered for the transgression of the congregation; ibid. IV, 15.

(4) I.e., that the ‘appearance’ burnt-offering requires the laying on of hands.

(5) Lev. IX, 16. The verse is dealing, according to Rashi, with the obligatory burnt-offering offered by Aaron on the

eighth day of his consecration (ibid. 2), but according to Tosaf. with the people's burnt-offering (ibid. 15). V. Bez. 20a.
(6) Which includes the ‘appearance’ burnt-offering.
(7) Lev. III, 2.
(8) Ibid. 8.
(9) Ibid. 13.
(10) V. Kid. 41b.
(11) The slave and the agent.
(12) V. Ber. 24a.
(13) Lev. I, 4.
(14) Ibid. XVII, 11.
(15) Lit., ‘remnants of the precept’. I.e., he omitted to perform this rite.
(16) By the sprinkling of the blood.
(17) Ibid. XIV, 21.
(18) This expression is stated three times in the chapter dealing with the peace-offering. viz., Lev. III, 2, 8, 13.
(19) I.e., the front of the neck.
(20) Hence a verse was necessary to exclude the laying of hands on the back of the offering.
(21) I.e., verses excluding the neck and the back.
(22) I.e., if a man wrapped a cloth round his hands and thus laid them on the head of the animal; or a cloth was covering the head of the animal and he laid his hands thereon.
(23) Is it regarded as a proper laying on of hands or not?
(24) When laying the hands upon the head of the offering. V. Yoma 36a and Tosef. Men. X.
(25) Lev. XVI, 21.
(26) The Heb. for ‘his hands’ is written defectively thus ידו and it might be read as ידו his hand.
(27) V. Glos.
(28) R. Eleazar.
(29) Lev. VII, 30.
(30) Deut. XXXIII, 7.
(31) Gen. XLVIII, 14.
(32) So MS.M., and so apparently in the text before Rashi; in cur. edd. ‘his hands’.
(33) Num. XXVII, 23, with reference to the appointment of Joshua as leader. Why did Scripture state here ‘his hands’ and not ‘his hand’?
(34) Since the slaughtering must follow the laying on of hands obviously then the animal would be slaughtered in the same place where the laying on of hands was performed in order to avoid any delay; hence the first statement is superfluous.
(35) For in Scripture ‘And he shall lay his hand’ (Lev. I, 4) is immediately followed by And he shall slaughter (ibid. 5).
(36) The waving of the breast and thigh of the peace-offering.
(37) The waving of the two lambs of Pentecost. V. supra 61a.

Talmud - Mas. Menachoth 94a

FOR LIVING ANIMALS AND FOR SLAUGHTERED ANIMALS, AND FOR THINGS THAT HAVE LIFE AND FOR THINGS THAT HAVE NOT LIFE;[1] BUT IT IS NOT SO WITH THE RITE OF THE LAYING ON OF HANDS. GEMARA. Our Rabbis taught: [It is written.] ‘His offering’, this includes every owner of the offering for the rite of the laying on of hands.[2] For [without this exposition] I should have argued as follows: if the rite of waving which has been extended to apply to slaughtered animals is restricted in the case of fellow-owners,[3] the rite of the laying on of hands which has not been extended to apply to slaughtered animals is surely restricted in the case of fellow-owners![4] The text therefore stated, ‘His offering’, to include every owner of the offering for the rite of the laying on of hands. But should not the rite of waving be extended even in the case of fellow-owners[5] [by the following] a fortiori [argument]: if the rite of the laying on of hands which has not been extended to apply to slaughtered animals is extended in the case of fellow-owners, is it then not logical that the rite of waving which has been extended to apply to slaughtered animals should be extended also in the case of fellow-owners? — [No,] because it is not possible to do so; for how should it be done? If you say. Let all wave it together.[6] there would then be an interposition.[7] And if you say, Let one first wave it and then the other, but the Divine Law speaks of one waving and not of many wavings.

But is the rite of the laying on of hands never applied to a slaughtered animal? Behold we have learnt:[8] Whenever the High Priest wished to burn the offering.[9] he used to go up the ascent, having the deputy [High Priest] at his right hand. When he had reached half way up the ascent, the deputy took him by the right hand and led him up. The first priest[10] handed to him the head and the hind-leg, and he laid his hands on them and threw them [upon the altar fire]. The second priest handed to the first priest the two fore-legs, and he gave them to the High Priest who laid his hands on them and threw them. The second priest then slipped away and departed. In this way[11] they used to hand to him the rest of the limbs of the offering, and he laid his hands on them and threw them. If he so desired he would only lay his hands on them while others threw them! — Abaye said, That was done there only out of respect for the High Priest's dignity.[12]

CHAPTER XI

MISHNAH. THE TWO LOAVES [OF PENTECOST] WERE KNEADED SEPARATELY AND BAKED SEPARATELY. THE [CAKES OF THE] SHEWBREAD WERE KNEADED SEPARATELY AND BAKED IN PAIRS. THEY[13] WERE PREPARED IN A MOULD; AND WHEN THEY WERE TAKEN OUT FROM THE OVEN THEY WERE AGAIN PUT IN A MOULD LEST THEY BECOME DAMAGED.

GEMARA. Whence do we derive it? — Our Rabbis taught: Two tenth parts of an ephah shall be in one cake,[14] this teaches that they were kneaded separately. And whence do we know that the Two Loaves were also [kneaded] in like manner? Because Scripture says. Shall be. And whence do we know that [the cakes of the Shewbread] were baked in pairs? Because the text states, And thou shalt set them.[15] Perhaps then the Two Loaves were also [baked] in like manner! Scripture therefore says. Them.[16] ‘But have you not already drawn a deduction from the word ‘them’?[17] — If for that purpose alone Scripture would have used the expression ‘and thou-shalt-set-them’;[18] why ‘and-thou-shalt-set them’? Two deductions may therefore be made.

Our Rabbis taught: ‘And thou shalt set them’, that is, in a mould. There were three moulds: [the Shewbread] was first put into a mould[19] while still dough; in the oven there was also a kind of mould; and when it was taken out from the oven it was put into a [third] mould lest it become damaged. But why was it not put back again in the first mould? — Because after the baking it would have swollen.[20]

It was stated: How did they fashion the Shewbread?

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(1) E.g., the waving of the cakes of the thank-offering.

(2) V. supra p. 568.

(3) I.e., only one performs the waving on behalf of the others.

(4) I.e., that one only should lay on the hands on behalf of the others.

(5) I.e., that every fellow-owner should wave the offering.

(6) By one fellow-owner placing his hands under the offering, another placing his under the hands of the first, a third placing his under the hands of the second and so on, thus all would wave the offering together.

(7) Since none but the hands of the first actually touch the offering.

(8) Tam. VII, 3 (33b).

(9) Cf. Yoma 14a.

(10) Of the nine priests to whose lot fell the service of the daily offering; v. Tam. III, 1 (30a) and IV, 3 (31b).

(11) I.e., each priest in turn handing the parts of the offering to the first priest who gave them to the High Priest.

(12) The laying on of the hands by the High Priest was introduced in order to distinguish his act of service from the usual service of the ordinary priest. The rite of the laying on of hands as ordained in the Torah, however, applied only to the living offerings.

(13) The cakes of the Shewbread.

(14) Lev. XXIV, 5.

(15) Ibid. 6. Heb. ושמת אותם. The word ‘them’ stated in connection with the setting of the cakes, i.e., the placing of the cakes in the oven for baking, signifies that the cakes were baked in pairs and not singly.

(16) Thereby excluding the Two Loaves.

(17) Viz., that the baking of the Shewbread shall be in pairs.

(18) Heb. ושמתם: the pronoun ‘them’ might have been added as a suffix to the verb.

(19) So as to obtain the required shape for the cakes, v. infra.

(20) And would not fit in the first mould.

Talmud - Mas. Menachoth 94b

R. Hanina said, Like a broken box.[1] R. Johanan said, Like a ship's keel.[2] According to him who says ‘like a broken box’, we clearly understand where the dishes [of frankincense] were placed,[3] but according to him who says ‘like a ship's keel’, where were the dishes placed?[4] — A special place was made for them.[5] Again according to him who says ‘like a broken box’, we clearly understand how the rods lay [on the sides of the cakes],[6] but according to him who says ‘like a ship's keel’, how could the rods lie [on the side of the cakes]?[7] — Projections were attached to them [on top].[8] Again according to him who says ‘like a broken box’, we clearly understand how the props supported the cakes,[9] but according to him who says ‘like a ship's keel’, how could the props support the cakes?[10] — They were made obliquely.[11] Now according to him who says ‘like a ship's keel’, we clearly understand the need for props,[12] but according to him who says ‘like a broken box’, what need was there for props? — [For otherwise] they might break by reason of the pressure of the [upper] cakes.[13] Again according to him who says ‘like a ship's keel’, it is clear that the props rested on the table,[14] but according to him who says ‘like a broken box’, where were the props placed?[15] Were they perhaps placed on the ground? — Yes. for R. Abba b. Memel said, According to him who says ‘like a ship's keel’, the props stood on the table, and according to him who says ‘like a broken box’, they stood on the ground.[16]

With which view agrees the statement of R. Judah that the cakes held up the props and the props held up the cakes? With the view [that the cakes were] like a ship's keel.[17]

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(1) I.e., in the shape of an open box with two of its sides, the front and the back, removed; in other words, each cake consisted of a base and two sides which rose perpendicularly, thus (Fig. 1).

(2) Lit., ‘a rocking ship’; i.e., like the sides of a ship which narrow downwards until the keel is reached. In like manner the side of each cake narrowed downwards until there was but a fingerbreadth between Fig. 1 them at the bottom; v-shaped. It also appears (v. Rashi) that each side of the cake tapered upwards almost to a point, thus (Fig. 2). The sides (s) rose upwards at an angle from the dotted lines.

(3) Viz., on the base of the topmost cake. Cf. infra 96a.

(4) As the two sides came almost to a point there was no base upon which the dishes of frankin- Fig. 2 cense might be placed.

(5) In the topmost cake there was made a projection or ledge of dough upon which the dishes were placed.

(6) V: infra 96a. There were twenty-eight rods each shaped like the half of a hollow reed, fourteen being used for one row of the Shewbread and fourteen for the other. And the cakes were arranged as follows: the nethermost cake stood on the table; three rods were placed above it, their ends resting on the perpendicular or rising sides of the cake and also in the grooves of the two upright props (v. infra p. 579, n. 1), and the second cake was placed on the rods. Three rods were similarly placed above the second, third and fourth cakes, but only two above the fifth, since it only had to bear the pressure of one single cake.

(7) For since the sides of each cake tapered upwards almost to a point (v. supra n. 3) there was certainly no place on the top for three rods; there might at most have been sufficient space for one rod, but no more.

(8) At the top of each side of the cakes projections, made of dough, were attached horizontally like arms, and upon these projections the rods lay.

(9) V. infra 96a. For each row of the Shewbread there were two props which stood upright on opposite sides of the table. Now if it is assumed that the sides of each cake rose up perpendicularly at the edge of the table, then the props which stood close to the table gave abundant support to the sides of the cakes so that they could bear the pressure of the upper cakes.

(10) For the props came into contact only with the top point of each side of the cakes, since only the top reached the edge of the table, and that contact obviously afforded very little support.

(11) From the props there jutted forth curved brackets to fit in the outer curve of the sides of the cakes. The sides of the cakes thus rested on these brackets.

(12) And brackets, since the cakes had no base.

(13) The props thus strengthened the sides of each cake to withstand the pressure of the cakes above it.

(14) Since the cakes were v-shaped there were obviously spaces underneath the sides of each cake; accordingly the bracket under the lowest cake rested on the Fig. 1 table, v. Fig. 1.

(15) As the sides of the cakes a=props: b=cakes: c=rods. were flush with the edge of the table there was no room on the table for the props.

(16) Fig. 2 illustrates the arrangement of a row of the Shewbread according to the view that the cakes were fashioned in the shape of a box broken at two sides; Fig. 1 illustrates the arrangement according to the view that they were in the shape of a ship's keel, v-shaped.

(17) For the curved sides of the cakes lay on the brackets and held them firm, whilst the brackets and props supported the cakes.

Talmud - Mas. Menachoth 95a

An objection was raised: There was in the oven [a mould] in the form of a bee-hive,[1] and it resembled a square plate![2] — Render: the top of it resembled a square plate.[3]

There is [a Baraitha] taught which agrees with the view that they were like a ship's keel. For it was taught: There were four golden props there which put forth branches on top like brackets, and these supported the cakes which resembled a ship's keel.

The question was raised: Was the Shewbread rendered invalid on the journeys,[4] or not? — R. Johanan and R. Joshua b. Levi [hold different views]. One said, it was rendered invalid. The other said, It was not rendered invalid. One said, It was rendered invalid, because it is written, As they encamp so they shall journey;[5] therefore as when they encamped it was rendered invalid by being taken outside [the curtains of the Tabernacle], so when they journeyed it was rendered invalid, since it was taken outside [the Tabernacle].[6] The other says, It was not rendered invalid, because it is written, And the continual bread shall remain thereon.[7] And the other? Is there not written, As they encamp so they shall journey? — This means quite the reverse: just as when they encamped it was not rendered invalid if it had not been taken outside [the Tabernacle], so when they journeyed it was not rendered invalid if it had not been taken outside.[8] And the other? Is there not written, And the continual bread shall remain thereon? — The fact is that when R. Dimi came [from Palestine] he reported as follows: As regards [the bread] that was still set [on the table] they do not differ,[9] they differ only regarding the bread that had been removed.[10] He who said, It was rendered invalid, [argued thus:] It is written, ‘As they encamp so they shall journey’: therefore just as when they encamped it was rendered invalid by being taken outside [the Tabernacle], so when they journeyed it was rendered invalid, since it was taken outside. But he who said, It was not rendered invalid, [argued thus:] It is written, Then the tent of meeting shall set forward;[5] thus even though they had set forth it was still the tent of meeting.[11] And the other? Is there not written, ‘As they encamp so they shall journey’? — It means quite the reverse; just as when they encamped it was not rendered invalid if it had not been taken outside [the Tabernacle], so when they journeyed it was not rendered invalid if it had not been taken outside. And the other? Is there not written, ‘And the tent of meeting shall set forward’? — That only comes to teach us the [order of the] standards.[12] And the other? — He derives [the order of the standards] from the verse, The camp of the Levites in the midst of the camps.[13]

An objection was raised: When [the Tabernacle] was dismantled for journeying consecrated things became invalid since they were outside [the Tabernacle]; none the less persons suffering from an issue and lepers were to be put outside their respective bounds.[14] Now this applies, does it not, also to the Shewbread? — No, [it applies to everything] except the Shewbread. But what is your view? If you hold that it is still the tent of meeting[15] then the consecrated things should also [not become invalid], and if you hold that it is no more the tent of meeting then even the Shewbread should [become invalid]! — Rather [the true position is] as reported by Rabin when he came [from Palestine]: One stated his view[16] in respect of [the Shewbread] that was still set [on the table], while the other stated his view[17] in respect of [the Shewbread] that had been removed, and so they do not differ at all.

Abaye said, This[18] proves that the Tabernacle could be dismantled for journeying at night,[19] for should you hold that the Tabernacle could not be dismantled for journeying at night, but it was taken to parts only in the morning, then why [did the consecrated things become invalid] on the ground of being taken outside the Tabernacle? Surely they became invalid by being kept overnight! Is not this obvious? Holy Writ expressly says, That they might go by day and by night![20] — I might have thought that that was so[21] only when they had already set out by day, but if they had not set out by day they would not set out at night; we are therefore taught [that it was not so].

I can point out a contradiction [to the above teaching].[22] [It was taught:][23] As soon as the curtains [of the Tabernacle] were folded up those that had an issue and lepers were permitted to enter [into the camp]! — R. Ashi said, This is no difficulty, for one [Baraitha][24] represents the view of R. Eliezer, the other the view of the Rabbis. For it was taught:[25]

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(1) I.e., perforated like a bee-hive (Tosaf.).

(2) in this mould the cake was baked (v. supra p. 577). It is evident, however, that the cake was not v-shaped, but had a square base, like the bottom of a box.

(3) But the sides narrowed downwards until they joined together; i.e., v-shaped.

(4) When the camp was about to break up and Israel was ordered to set forth on their journeys, the Tabernacle was dismantled Fig. 2 and its parts carried by the Levites. Now the only offering that was continually in progress a=props; b=cakes; c=rods. in the Tabernacle was the Shewbread, for every Sabbath fresh bread was set upon the table and the old bread which had stood for seven days on the table was removed and consumed by the priests. The question here is, whether the Shewbread was immediately rendered invalid on the dismantling of the Tabernacle or not.

(5) Num. II, 17.

(6) For the Tabernacle has now been dismantled.

(7) Ibid. IV, 7. I.e., even though the Tabernacle has been dismantled the bread is still holy.

(8) I.e., so long as it had not been removed from the table it was valid.

(9) That bread was certainly valid, for the last mentioned verse states that so long as the bread was on the table it remained in its sanctity.

(10) But which had not yet been consumed by the priests (Rashi). According to R. Gershom the reference is to the bread that was set before the Lord but which had for some reason or other been taken off the table at the time of the dismantling of the Tabernacle.

(11) And the bread remained in its sanctity.

(12) Sc. the arrangement of the camp and the order of the march.

(13) Num. II, 17.

(14) The leper was excluded from the whole camp, while those afflicted with issues were permitted to remain in the camp of Israel but were excluded from the Sanctuary proper and from the Levite encampment.

(15) Even though the Tabernacle has been dismantled.

(16) That it was not invalid.

(17) That it became invalid.

(18) The statement in the foregoing Baraitha that all consecrated things at the dismantling of the Tabernacle became invalid on the ground of being ‘outside’.

(19) I.e., if the cloud was lifted (which was the signal for the people to march onward, cf. Num. IX, 17ff) at night, the Tabernacle was immediately dismantled and the people straightway set forth on their journey and did not wait till the morning.

(20) Ex. XIII, 21.

(21) That they journeyed by night.

(22) Which stated that those afflicted with an issue and lepers were still excluded from the camp even when the Tabernacle was dismantled.

(23) Ta'an. 21b.

(24) The latter Baraitha.

(25) Pes. 67b.

Talmud - Mas. Menachoth 95b

R. Eliezer says, You might think that if those that had an issue and lepers had forced their way through and entered the Temple court at a time when the Passover-offering was being offered in uncleanness[1] — you might think that they are culpable, the text therefore stated, They shall put out of the camp every leper, and every one that hath an issue, and whosoever is unclean by the dead:[2] when those that are unclean by the dead are put out [of the Sanctuary], those that have an issue and lepers are put out [of their respective camps];[3] when those that are unclean by the dead are not put out, those that have an issue and lepers are not put out.[4]

MISHNAH. THE TWO LOAVES AND THE SHEWBREAD WERE ALIKE IN THAT THE KNEADING AND THE SHAPING WERE PERFORMED OUTSIDE [THE TEMPLE COURT], BUT THE BAKING INSIDE; AND IT[5] DID NOT OVERRIDE THE SABBATH. R. JUDAH SAYS, ALL THESE WORKS WERE PERFORMED INSIDE [THE TEMPLE COURT]. R. SIMEON SAYS, ACCUSTOM THYSELF TO SAY, THE TWO LOAVES AND THE SHEWBREAD WERE VALID WHETHER MADE IN THE TEMPLE COURT OR IN BETH PAGE.[6]

GEMARA. Is not this self-contradictory? You say, THE KNEADING AND THE SHAPING WERE PERFORMED OUTSIDE, which proves that the dry-measures were not hallowed,[7] and then you say, BUT THE BAKING INSIDE, which proves that the dry-measures were hallowed! — Said Raba: This question was raised by a hard man, who is as hard as iron,[8] namely R. Shesheth. But what is the difficulty? Perhaps the tenth [measure] does not hallow [whatsoever is put therein] whereas the oven does! Rather if a difficulty is to be pointed out it is the following: [You say,] BUT THE BAKING INSIDE, which proves that the oven hallows [whatsoever was baked in it], and then you say, IT DID NOT OVERRIDE THE SABBATH. The cakes would then become invalid by being kept overnight![9] Said Raba: This question was raised by a hard man, who is as hard as iron, namely R. Shesheth. R. Ashi said, But what is the difficulty? Perhaps ‘INSIDE’ means under the supervision of careful men.[10] This view of R. Ashi, however, is beside the mark. For take whichever view you will, if the baking required the supervision of careful men then the kneading and the shaping also required the supervision of careful men; and if the kneading and the shaping did not require the supervision of careful men, then the baking also did not require the supervision of careful men.[11] We must therefore say that R. Ashi's view is beside the mark.[12]

R. JUDAH SAYS, ALL THESE WORKS WERE PERFORMED INSIDE [THE TEMPLE

COURT] etc. R. Abbahu b. Kahana said, Both[13] derived their views from the same verse: And it is in a manner common, yea, though it were sanctified this day in the vessel.[14] R. Judah maintains that he[15] found [the priests] baking [the Shewbread] on a weekday and said to them, You are baking it on a weekday? But since it has been sanctified this day in the vessel[16] it will become invalid by being kept overnight![17] R. Simeon maintains that he found them baking it on the Sabbath and said to them, Should you not have baked it on a weekday? After all it is not the oven that hallows the bread but the table.[18] But how can it be said that he found them baking [the Shewbread]? Is it not written, So the priest gave him hallowed bread; for there was no bread there but the Shewbread that was taken from before the Lord?[19] — Rather it is this that he meant by 'in a manner common'. They said to him, There is no bread here but the Shewbread that has been taken from before the Lord. And he[15] replied, As to that bread there is no doubt at all,[20] for since it is no more subject to the law of sacrilege[21] it is in a manner common. But even that which has been sanctified this day in the vessel you may give him[22] to eat

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(1) I.e., if the greater part of the community were unclean by contact with a dead body.

(2) Num. V, 2.

(3) V. supra p. 582, n. 3.

(4) Likewise with regard to the entering into the camp by unclean persons during the time that the Tabernacle was dismantled: since those that are unclean by the dead are not put out at all (for they were only excluded from the Sanctuary and now there is no Sanctuary), lepers and those afflicted with issues are likewise not put out of the camp.

(5) Sc. the baking. Accordingly the loaves were baked before the Sabbath.

(6) V. supra p. 468, n. 6. R. Simeon holds that they may even be baked outside the Temple court.

(7) I.e., the tenth measure by which the flour was measured was not hallowed, hence it could not hallow the flour and therefore it was permitted to knead it outside the Temple court. Had it been hallowed by the measuring vessel, the flour would have become invalid as soon as it was taken outside.

(8) Cf. Ta'an. 4a: a scholar who is not as hard as iron is no real scholar.

(9) Since they were baked, and thereby hallowed, on the day before the Sabbath.

(10) Lit., 'in the place of careful men', i.e., priests; but not in the Temple court.

(11) But there is no valid reason for distinguishing between the baking and the other works.

(12) The position therefore is that the two clauses of our Mishnah cannot be reconciled but they are the conflicting opinions of different Tannaim (Tosaf.).

(13) R. Judah and R. Simeon.

(14) I Sam. XXI, 6. The Heb. חול usually meaning profane, common, non-holy, is taken in the sense of non-holy day, weekday.

(15) David.

(16) Sc. in the oven.

(17) It is therefore wrong to bake the Shewbread on a weekday.

(18) It could have been baked before the Sabbath and kept for the Sabbath, for it is not hallowed until it is set on the table.

(19) Ibid. 7.

(20) That it may be given to a non-priest to eat.

(21) In accordance with the rule laid down (Me'il. I, 1): The law of sacrilege does not apply to whatsoever is permitted to the priests.

(22) Sc. David.

Talmud - Mas. Menachoth 96a

for he is in danger of his life.[1] R. Judah and R. Simeon, however, differ as to the tradition.[2] And there is in fact evidence for this, for it reads: R. SIMEON SAYS, ACCUSTOM THYSELF TO SAY, THE TWO LOAVES AND THE SHEWBREAD WERE VALID WHETHER MADE IN THE TEMPLE COURT OR IN BETH PAGE. This proves it.[3] MISHNAH. THE KNEADING, THE SHAPING, AND THE BAKING OF THE HIGH PRIEST'S GRIDDLE-CAKES[4] WERE

PERFORMED WITHIN[5] [THE TEMPLE COURT], AND THEY OVERRODE THE SABBATH; THE GRINDING [OF THE CORN FOR IT] AND THE SIFTING DID NOT OVERRIDE THE SABBATH. R. AKIBA LAID DOWN THIS GENERAL RULE: ANY WORK THAT CAN BE DONE ON THE EVE OF THE SABBATH DOES NOT OVERRIDE THE SABBATH, BUT THAT WHICH CANNOT BE DONE ON THE EVE OF THE SABBATH OVERRIDES THE SABBATH.[6] ALL MEAL-OFFERINGS REQUIRE A VESSEL [OF MINISTRY FOR THOSE WORKS THAT ARE PERFORMED] WITHIN,[7] BUT DO NOT REQUIRE A VESSEL [OF MINISTRY FOR THOSE WORKS THAT ARE PERFORMED] OUTSIDE. THE TWO LOAVES WERE SEVEN HANDBREADTHS LONG AND FOUR WIDE AND THEIR HORNS[8] WERE FOUR FINGERBREADTHS. THE [CAKES OF THE] SHEWBREAD WERE TEN HANDBREADTHS LONG AND FIVE WIDE AND THEIR HORNS[8] WERE SEVEN FINGERBREADTHS. R. JUDAH SAYS, LEST YOU ERR [REMEMBER BUT THE WORDS] ZADAD YAHAZ.[9] BEN ZOMA SAYS, AND THOU SHALT SET UPON THE TABLE SHEW BREAD BEFORE ME CONTINUALLY:[10] ‘SHEWBREAD’ SIGNIFIES THAT IT SHALL HAVE ALL ITS SURFACES VISIBLE.[11] THE TABLE WAS TEN HANDBREADTHS LONG AND FIVE WIDE;[12] THE CAKES OF THE SHEWBREAD WERE TEN HANDBREADTHS LONG AND FIVE WIDE. EACH CAKE WAS PLACED LENGTHWISE ACROSS THE BREADTH OF THE TABLE, AND TWO AND A HALF HANDBREADTHS WERE TURNED UP[13] AT EITHER SIDE SO THAT ITS LENGTH FILLED THE ENTIRE BREADTH OF THE TABLE. THIS IS THE VIEW OF R. JUDAH. R. MEIR SAYS, THE TABLE WAS TWELVE HANDBREADTHS LONG AND SIX WIDE;[14] THE CAKES OF THE SHEWBREAD WERE TEN HANDBREADTHS LONG AND FIVE WIDE. EACH CAKE WAS PLACED LENGTHWISE ACROSS THE BREADTH OF THE TABLE, AND TWO HANDBREADTHS WERE TURNED UP AT EITHER SIDE; AND THERE WAS A SPACE OF TWO HANDBREADTHS BETWEEN [THE TWO SETS] SO THAT THE WIND COULD BLOW BETWEEN THEM.[15] ABBA SAUL SAYS, THERE THEY USED TO PUT THE TWO DISHES OF FRANKINCENSE PERTAINING TO THE SHEWBREAD. THEY SAID TO HIM, IS IT NOT WRITTEN, AND THOU SHALT PUT PURE FRANKINCENSE UPON [‘AL] EACH ROW?[16] HE REPLIED, BUT IS IT NOT WRITTEN, AND NEXT UNTO [‘AL] HIM SHALL BE THE TRIBE OF MANASSEH?[17]

THERE WERE THERE FOUR GOLDEN PROPS,[18] BRANCHED AT THE TOP, WHICH SUPPORTED THE CAKES, TWO FOR THE ONE ROW AND TWO FOR THE OTHER ROW. AND THERE WERE TWENTY-EIGHT RODS,[18] EACH [SHAPED] LIKE THE HALF OF A HOLLOW REED, FOURTEEN FOR THE ONE ROW AND FOURTEEN FOR THE OTHER ROW. NEITHER THE PLACING OF THE RODS NOR THEIR REMOVAL OVERRODE THE SABBATH, BUT [A PRIEST] USED TO ENTER ON THE DAY BEFORE THE SABBATH, DRAW OUT THE RODS, AND PLACE THEM[19] PARALLEL WITH THE LENGTH OF THE TABLE.[20] EVERY ARTICLE THAT STOOD IN THE TEMPLE WAS PLACED WITH ITS LENGTH PARALLEL WITH THE LENGTH OF THE HOUSE.[21]

GEMARA. ALL MEAL-OFFERINGS REQUIRE A VESSEL [OF MINISTRY FOR THOSE WORKS THAT ARE PERFORMED] WITHIN. Rabbi was asked, How do you know it? And he replied, Behold it is written, And he said unto me, This is the place where the priests shall boil the guilt-offering and the sin-offering, where they shall bake the meal-offering; that they bring them not forth in the outer court.[22] The meal-offering is placed alongside with the guilt-offering and the sin-offering; as the guilt-offering and the sin-offering require a vessel of ministry,[23] so the meal-offering also requires a vessel of ministry.

THE TABLE WAS TEN HANDBREADTHS LONG. R. Johanan said, According to him who says that two and a half handbreadths [of each cake] were turned up [at either side], it will be seen that the table could hallow [whatsoever was put upon it] to the height of fifteen handbreadths;[24] and according to him who says that two handbreadths were turned up [at either side] it will be seen that the table could hallow to the height of twelve handbreadths. But there were the rods![25] — The rods were sunken in.[26] But what was the purpose [of the rods]? To prevent the bread from becoming mouldy, was it not? But as now suggested the bread would still become mouldy![27] — It was raised a little.[28] Then that little [should also be taken into account]![29] — Since in all it did not amount to a handbreadth it was of no significance. But there were the dishes [of frankincense]![29] — They were placed in the bread[30] and rose to the same height as the bread. Then there were the corners![31] — The corners were bent inward and the bread rested upon them.

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(1) For David had been overcome by faintness by reason of his hunger, and in order to save life all laws may be superseded.

(2) As to whether or not the oven hallows whatsoever is baked in it.

(3) R. Simeon's expression clearly shows that he is referring to a tradition that he had received from his teachers.

(4) The meal-offering prepared on a griddle which was offered daily by the High priest, half of the tenth being offered in the morning and the other half in the evening. V. Lev. VI, 12-15.

(5) For the half-tenth measure by which the tenth was divided was, according to all views, a hallowed vessel, so that the flour became hallowed therein; hence it was necessary to knead it inside the Temple court.

(6) As the grinding and sifting can be done before the Sabbath they do not override the Sabbath, but the kneading, the shaping and the baking cannot be done before the Sabbath, for since the flour has already been hallowed in the half tenth measure the offering would become invalid if kept overnight; accordingly they override the Sabbath.

(7) Or: Every (work in connection with the) meal-offering that is prepared in a vessel of ministry must be performed within (the Temple court), but every work that is not prepared in a vessel of ministry may be performed outside.

(8) There is considerable doubt among the commentators as to what these horns were. According to Rashi and Bertinoro they were lumps of dough, four fingerbreadths long (in the Shewbread, seven), put on the four upper corners of the cake after the manner of the horns of the altar. For further suggestions v. Cohn J. Menachot (Mischnayot) Berlin, 1925 a.l.

(9) The consonants of these two words have the numerical values of 7, 4, 4 and 10, 5, 7, which correspond to the dimensions of the Two Loaves and the Shewbread respectively. The mnemonical words are meaningless.

(10) Ex. XXV, 30.

(11) Lit., ‘it shall have faces (on all sides)’. Another interpretation, based on the reading פינים is: it shall have corners, i.e., the horns mentioned above; v. supra p. 586, n. 5.

(12) For according to R. Judah the cubit consisted of five handbreadths, and the dimensions of the table are given in the Torah as two cubits long and one wide. Cf. Ex. XXV, 23.

(13) And stood perpendicularly; these were the sides of the cakes.

(14) For the cubit according to R. Meir consisted of six handbreadths.

(15) This free circulation of air between the two rows would prevent the cakes from becoming mouldy.

(16) Lev. XXIV, 7. The Heb. על generally means upon; thus the frankincense was to be put upon the bread.

(17) Num. II, 20. In this verse על clearly denotes ‘next to’, ‘by the side of’. Likewise, argues Abba Saul, in the case of the Shewbread על denotes by the side of and not upon.

(18) V. supra p. 579 and notes thereon.

(19) I.e., the rods were placed on the ground to lie parallel with the length of the table (Tosaf.).

(20) The rods were removed on the Friday, on the Saturday fresh cakes were set on the table without, however, putting the rods in their place, and in the evening after the Sabbath the rods were inserted between the cakes.

(21) I.e., east to west; e.g., the table.

(22) Ezek. XLVI, 20.

(23) For those services which are performed inside the Temple court, e.g., the cooking of the offering, which is expressly spoken of in this verse.

(24) As each cake was two and a half handbreadths high each row of six cakes rose to a height of fifteen handbreadths above the surface of the table.

(25) That were placed between the cakes; accordingly the six cakes rose to a greater height than fifteen handbreadths, for there must be added thereto five times the thickness of the rods.

(26) There were notches at the top of each cake and the rods were laid therein so that there was no intervening space between one cake and that above it.

(27) In spite of the rods, since there is no space between the cakes.

(28) The rod did not lie actually, as was assumed supra, upon the sides of the cake (v. diagram p. 580), but was raised above it, and the ends of the rod rested in the grooves of the upright props; accordingly the upper cake did not come into contact with the one below it, and the air could circulate freely between the cakes.
(29) It would make each row rise to a greater height than fifteen handbreadths.
(30) I.e., in the air-space of the top cake between the two perpendicular sides.
(31) Or ‘horns’, v. supra p. 586, n. 5.

Talmud - Mas. Menachoth 96b

But there was also the border of the table![1] — It is in accordance with the view of him who says that the border was underneath [the table].[2] But [what can be said] according to him who says that the border was above [the table]? — It slanted outwards so that the bread actually rested on the table. As was taught: R. Jose says, There were no props there at all but the border of the table supported the bread. But they said to him, The border was beneath [the table].

R. Johanan said, According to him who says that the border was beneath the table, it follows that a board which can be used on either side[3] is susceptible to uncleanness;[4] but according to him who says that the border was above the table,[5] there is still a doubt as to whether a board which can be used on either side [is susceptible to uncleanness or not].

It is evident [from the above] that the table was susceptible to uncleanness, but surely it is a wooden vessel made to rest, and a wooden vessel made to rest is not susceptible to uncleanness! For what reason? We require it to be like a sack:[6] just as a sack is movable both full and empty so everything that is movable both full and empty is susceptible to uncleanness![7] — The table, too, was movable both full and empty, in accordance with Resh Lakish's statement. For Resh Lakish said, What is the meaning of the verse, upon the clean table?[8] The inference is that it is susceptible to uncleanness. But why? It is a wooden vessel made to rest and cannot therefore contract uncleanness![9] It teaches that they used to lift it up and exhibit the Shewbread thereon to those who came up for the Festivals, saying to them, Behold the love in which you are held by God! This is in accordance with R. Joshua b. Levi; for R. Joshua b. Levi said, A great miracle was wrought in regard to the Shewbread: it was taken away as [fresh as] when it was set down, as it is written, To put hot bread in the day when it was taken away.[10]

But surely you can arrive at this[11] from the fact that it was overlaid [with gold]![12] For we have learnt:[13] If a table or a side-table[14] was damaged,[15] or was overlaid with marble,[16] yet room enough was left to set cups thereon,[17] it is still susceptible to uncleanness. R. Judah says, There must be room enough left to set portions [of food thereon]. Now if there was room enough left it is [susceptible] but if there was not room enough left it is not [susceptible].[18] And should you say that in the one case[19] the overlaying was fixed, whereas in the other it was not fixed;[20] but [it has been reported] that Resh Lakish enquired of R. Johanan, [Does it[21] apply only] to a fixed overlaying or also to an overlaying that is not fixed? And furthermore does it apply only to the case where the rims were also overlaid

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(1) It is assumed that the border was a rim or a ledge which rose above the table; accordingly the bread would have to be placed above this ledge, and as the border was one handbreadth wide each row of bread would then reach to a height of sixteen handbreadths above the table.
(2) The border was a frame which joined together the four legs of the table. The top of the table, however, was a flat board and not attached to the frame, so that either side of the board could have been used as the table top.
(3) Lit., ‘which can be turned over’. i.e., a flat board without rim or ledge on either side.
(4) For such was the top of the Sanctuary table, and that was susceptible to uncleanness, v. infra.
(5) Accordingly the table top could not have been reversed, but with its proper side up it formed a receptacle, and so it was susceptible to uncleanness.

(6) A wooden vessel in order to be susceptible to uncleanness must in the manner of its use be like a sack, for the two are mentioned together in one verse in respect of uncleanness (Lev. XI, 32).

(7) This would exclude wooden vessels not intended to be moved at all.

(8) Lev. XXIV, 6. V. supra 29a.

(9) So in MS.M., and in all the parallel passages; omitted in cur. edd.

(10) I Sam. XXI, 7. V. supra p. 287, n. 6.

(11) That the Sanctuary table was susceptible to uncleanness even though it was intended to rest in one place.

(12) This establishes it as a metal vessel, and metal vessels are susceptible to uncleanness even though made to rest, for they are not likened to a sack. (v. p. 590, n. 4).

(13) Kel. XXII, 1; Hag. 26b.

(14) דולבקי. V. Jast. s.v. דלפקי ‘(delphica, sub. mensa) a three-legged table used as a toilet table or a waiter, contrad. from שלחן (eating table)’.

(15) Damaged tables which can no longer be used for their original purpose are not susceptible to uncleanness.

(16) Stone vessels are not susceptible to uncleanness.

(17) I.e., part of the table was left undamaged or was not overlaid with marble, and that part could still be used for its original purpose.

(18) Thus if the entire table was damaged, or if it was entirely overlaid with marble, it is not susceptible to uncleanness; hence it is evident that we consider a vessel in regard to uncleanness according to the material of its overlaying.

(19) In the Mishnah quoted.

(20) The golden overlaying of the Sanctuary table was not fastened to it permanently but was removable, hence the table could not be regarded as a metal vessel.

(21) Sc. the teaching of the above-quoted Mishnah viz., that the material of the overlaying of a vessel is regarded for the purposes of uncleanness as the material of the vessel.

Talmud - Mas. Menachoth 97a

or also to the case where the rims were not overlaid? And he replied, It makes no difference whether the overlaying was fixed or the overlaying was not fixed; whether the rims were overlaid or the rims were not overlaid.[1] And should you further say that acacia wood,[2] being valuable, is not nullified [by the overlaying],[3] this would be quite in order according to Resh Lakish who said that they taught this[4] only of vessels of common wood[5] which come from overseas, but vessels of fine wood[6] are valuable and are not nullified [by the overlaying]. But what can one say according to R. Johanan who said that even vessels of fine wood are nullified [by the overlaying]? — One must therefore say that the table [of the Sanctuary] was different, for the Divine Law called it wood. For it is written, The altar was of wood, three cubits high, and the length thereof two cubits; and the corners thereof, and the length thereof, and the walls thereof were of wood; and he said unto me, This is the table that is before the Lord.[7] [The verse] begins with the altar and ends with the table! R. Johanan and R. Eleazar both said, While the Temple still stood the altar used to make atonement for a man, but now that the Temple no longer stands a man's table makes atonement for him.[8]

THERE WERE THERE FOUR GOLDEN PROPS etc. How do we know this? — R. Kattina said, For the verse says, And thou shalt make ke'arothaw, and kappothaw, and kesothaw, and menakiothaw, to cover withal.[9] Ke'arothaw are the moulds,[10] kappothaw the dishes,[11] kesothaw the props,[12] and menakiothaw the rods;[13] to cover withal: wherewith the bread was covered.[14]

Raba raised an objection. [We have learnt:] NEITHER THE PLACING OF THE RODS NOR THEIR REMOVAL OVERRODE THE SABBATH. Now if we were to hold [that the rods are enjoined] in the Torah, wherefore do they not override the Sabbath? Later, however, Raba said, What I said was not correct, for we have learnt: R. AKIBA LAID DOWN THIS GENERAL RULE: ANY WORK THAT CAN BE DONE ON THE EVE OF THE SABBATH DOES NOT OVERRIDE THE SABBATH. This,[15] therefore, in all probability did not override the Sabbath. For why [were the rods required at all]? So that the bread become not mouldy. But in this short time[16] it would not become mouldy. And so it has been taught: What was the procedure? He used to enter on the eve of the Sabbath, draw out the rods, and place them [on the ground] parallel with the length of the table. At the outgoing of the Sabbath he used to enter again, lift up the ends of one cake and insert the rods underneath it, and then lift up the ends of another cake and insert the rods underneath it. The four [middle] cakes each required three rods underneath them, the topmost cake required but two rods underneath it for there was no burden upon it, while the bottom cake required no rods at all for it stood upon the surface of the table.

We have learnt elsewhere:[17] R. Meir says, All cubit measurements in the Temple were [according to a cubit of] medium size,[18] excepting those of the golden altar, the horns, the sobeb,[19] and the base [of the outer altar][20] R. Judah says, The cubit used for the [Temple] building was of six handbreadths and that for the vessels was of five handbreadths.

R. Johanan said, Both derived their views from the same text: And these are the measures of the altar[21] by cubits — the cubit is a cubit and a handbreadth;[22]

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(1) In all the circumstances stated the vessel is determined by the material of its overlaying.

(2) Of which the table was made; Ex. XXV, 23.

(3) And despite the overlaying of gold it is still regarded as a wooden vessel.

(4) Sc. that the overlaying is all-important and that it determines the character of the vessel.

(5) אכסלגום Meaning and etymology doubtful; according to Jast.: **, woodcarrier, common wooden vessels’. According to Tosaf. it is the name of a place.

(6) מסמם. According to Jast.: ‘polished wood, prob. coral-wood’.

(7) Ezek. XLI, 22.

(8) When the poor are at his table.

(9) Ex. XXV, 29. The translation of these words: תקשותיו , and מנקיתיו in the E.VV. does not correspond with the Rabbinical interpretation which follows, hence they are left untranslated.

(10) Wherein the cakes were shaped; v. supra 94a.

(11) Wherein the frankincense was put; cf. Lev. XXIV, 7.

(12) V. supra 96a. קשותיו is thus derived from קשה, hard; for the props kept the cakes hard and firm so that they should not break.

(13) V. supra ibid. מנקיתיו is derived from נקי, clean; the rods, shaped like the half of a hollowed reed, allowed the free circulation of air between the cakes, and thus the cakes were kept clean and free from mouldiness.

(14) I.e., the rods lay over the cakes like a cover.

(15) Sc. the placing of the rods and the removal thereof.

(16) When the cakes stood without the intervening rods, i.e., between the removal of the rods on the eve of the Sabbath and the removal of the bread on the Sabbath at midday, or between the setting down of the fresh bread on the Sabbath and the insertion of the rods at the conclusion of the Sabbath.

(17) Kel. XVII, 10; ‘Er. 4b; Suk. 5b.

(18) I.e., of six handbreadths.

(19) Heb. סובב: the second terrace or ledge which ran round the altar upon which the officiating priests walked.

(20) For these the standard of the cubit was five handbreadths.

(21) Sc. the outer altar, i.e., the altar of the burnt-offering.

(22) I.e., the ordinary cubit, which measured six handbreadths, was one cubit and one handbreadth by the standard of the cubit spoken of in this verse, for the latter cubit measured only five handbreadths. And all the parts of the altar mentioned in this verse were measured by a cubit of five handbreadths.

Talmud - Mas. Menachoth 97b

the bottom shall be a cubit, and a cubit the breadth, and the border thereof by the edge thereof round about a span;[1] and this shall be the base of the altar.[2] ‘The bottom shall be a cubit’ refers to the base [of the altar]; ‘and a cubit the breadth’ refers to the sobeb; ‘and the border thereof by the edge thereof round about a span refers to the horns;[3] ‘and this shall be the base of the altar’ refers to the golden altar.[4] Now R. Meir maintained that [only] this[5] was measured by a cubit of five handbreadths but all the other vessels [in the Temple] were measured by a cubit of six handbreadths; whereas R. Judah maintained that like this [cubit] shall be all the cubits for the vessels.

It was assumed that it was the height from the base to the sobeb that was measured by a cubit of five handbreadths;[6] and the verse, ‘The bottom shall be a cubit and a cubit the breadth,’ meant to say that [the height][7] from the base [which rose up] one cubit to [the sobeb which was] one cubit wide was measured by a cubit of five handbreadths. [Let us now consider:] The height of the altar was in all ten cubits, six [cubits] being of five handbreadths each and four of six handbreadths each. Thus the height of the altar was fifty-four handbreadths, and the half thereof was twenty-seven handbreadths. [The distance] from the [top of the] horns down to the sobeb was twenty-four handbreadths, that is, three handbreadths less than half the height of the altar.[8] And we have learnt:[9] A red line went around the altar in the middle[10] to separate between blood that must be sprinkled above and blood that must be sprinkled below. How then could it have taught in connection with the burnt-offering of a bird that [the priest] went up the ascent, passed on to the sobeb and came to the south-eastern horn, nipped off the head close by its neck and divided it asunder, and drained out the blood on the altar wall, and that if he did it even one cubit's distance below his feet,[11] it was valid? He has then applied below, to the extent of two handbreadths, blood that must be applied above![12] — It must be said, therefore, that ‘the bottom shall be a cubit’ refers to the rebatement[13] [of the base], ‘a cubit the breadth’ to the rebatement [of the sobeb], and ‘the border thereof by the edge thereof round about’ to the rebatement [of the horns].[14] Accordingly the height of the altar was sixty handbreadths,[15] and the half thereof was thirty handbreadths.[16] [The distance] from the [top of the] horns down to the sobeb was twenty-four handbreadths, that is, six handbreadths[17] less than half the height of the altar. And therefore we have learnt: If he did it even one cubit's distance below his feet, it was valid.[18] How have you explained it? As referring to the rebatements. But how can you explain it as referring to the rebatements? Behold we have learnt: The altar was [at its base] thirty-two cubits long and thirty-two cubits wide. It rose up one cubit and receded one cubit:[19] this formed the base; thus there were left thirty cubits by thirty.[20] According to you, however, it should be thirty cubits and two handbreadths by thirty cubits and two handbreadths![21] And further we have learnt: It rose up five cubits and receded one cubit: this formed the sobeb; thus there were left twenty-eight cubits by twenty-eight.[20] According to you, however, it should be twenty-eight cubits and four handbreadths by twenty-eight cubits and four handbreadths! And should you say that since they[22] were less than one cubit [the Tanna] purposely omitted them, but we have learnt further: The place of the horns was one cubit on every side; thus there were left twenty-six cubits by twenty-six;[20] and according to you it should be twenty-seven by twenty-seven![23] — He was not exact [in his reckoning]. But we have learnt further: The place[24] on which the feet of the priests trod was one cubit on every side; thus there were left twenty-four cubits by twenty-four, the place for the altar fire.[20] According to you, however, it should be twenty-five by twenty-five! Should you say also here that he was not exact, but it is written, And the altar hearth shall be twelve cubits long by twelve broad, square.[25] Now you might say that it was only twelve cubits by twelve; but when it also says, In the four quarters thereof,[25] it teaches that one must measure from the middle twelve cubits in every direction![26] And should you say that originally[27] six [of the thirty-two cubits] were cubits of five handbreadths,[28] then the Temple court must have had more space, and we have learnt: The Temple court was in all a hundred and eighty-seven cubits long and a hundred and thirty-five cubits wide. From east to west it was a hundred and eighty-seven cubits: the place where the feet of the Israelites trod[29] was eleven cubits; the place where the feet of the priests trod[30] was eleven cubits; the altar was thirty-two cubits; between the porch[31] and the altar was twenty-two cubits; the Sanctuary was a hundred cubits, and eleven cubits behind the Holy of Holies![32] — You must therefore say that ‘the bottom shall be a cubit’ refers to the height [of the base], ‘a cubit the breadth’ to the rebatement [of the sobeb], and ‘the border thereof by the edge thereof round about’ refers to the height[33] [of the horns], but [as to the space taken up by the horns]

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(1) I.e., half a cubit.
(2) Ezek. XLIII, 13.
(3) These were blocks measuring one cubit each side which were placed upon the four corners of the altar. The measurement of a span stated in this verse in regard to the horns is explained as referring to the distance from the middle of each surface in every direction, i.e., the four quarters of every surface each measured a span by a span, therefore the whole of the surface was a cubit-square.
(4) I.e., the golden altar was also measured by the cubit of five handbreadths.
(5) Sc. the golden altar, which was placed in the category of Temple vessels; on the other hand the outer altar was regarded as a Temple building.
(6) Whereas the other parts of the altar were measured by a cubit of six handbreadths. The various parts of the altar and their measurements will be easily gathered from the adjoining diagram which represents one side of the altar. (See drawing). The numbers in the figure represent cubits: a=the base; b = wall of the sobeb; c = the sobeb; d = place for the altar fire, מַעֲרכה; e = the horns.
(7) Which was six cubits.
(8) In other words the sobeb was three handbreadths above the middle line of the altar.
(9) Mid. III, 1.
(10) I.e., twenty-seven handbreadths above the ground.
(11) I.e., he bent down low and drained out the blood of the offering against the wall of the sobeb upon which he stood.
(12) The blood of the burnt-offering of a bird must be applied above the red line, but by draining out the blood against the wall beneath his feet a cubit's distance down he has reached two handbreadths (taking the cubit to be five handbreadths) below the red line.
(13) Lit., ‘the drawing in’. The cubit of five handbreadths spoken of in this verse was used only for measuring the depth or width of each ledge or platform round the altar.
(14) I.e., the space taken up by the horns upon the altar surface.
(15) For the measurements of the other parts of the altar, save those parts mentioned in this verse, were by the cubit of six handbreadths.
(16) At which height from the ground ran the red line round the sides of the altar.
(17) Or one cubit.
(18) Since the draining of the blood was still performed in the upper part of the altar above the red line.
(19) On every side.
(20) Mid. III, 1.
(21) Since the rebatement or width of each ledge was measured by a cubit of five handbreadths.
(22) The four additional handbreadths.
(23) For the handbreadths that were not reckoned now amount to one whole cubit!
(24) On the top surface, beyond the horns, upon the altar.
(25) Ezek. XLIII, 16.
(26) I.e., each quarter of the top surface of the altar must measure twelve cubits by twelve, therefore the whole top surface must be twenty-four by twenty-four. And as this is the teaching of the verse it cannot be said that the measurement is not exact!
(27) At the construction of the altar.
(28) I.e., the last three cubits of each side of the base were of five handbreadths each, so that six of these cubits equalled five cubits of six handbreadths each; accordingly the length of each side was in reality thirty-one cubits.
(29) The court of the Israelites, at the entrance of the Temple court.
(30) The court of the priests.
(31) Heb. אולם, the entrance to the היכל, the Sanctuary.
(32) Lit., ‘the house of the mercy seat’; v. Mid. V, 1.
(33) So MS.M. and Sh. Mek., and such is the interpretation of Rashi. It is omitted in cur. edd.

Talmud - Mas. Menachoth 98a

it is immaterial whether the one or the other [cubit was used].[1] Accordingly the height of the altar was fifty-eight handbreadths,[2] and the half thereof was twenty-nine handbreadths. [The distance] from the [top of the] horns down to the sobeb was twenty-three handbreadths, that is, six handbreadths less than half the height of the altar. And therefore we have learnt: ‘If he did it even one cubit's distance below his feet, it was valid’. This may be proved too, for it is written, The bottom shall be a cubit, and a cubit the breadth.[3] This is conclusive.

How much is a cubit of medium size? — R. Johanan said, Six handbreadths. R. Jose b. Abin said, We have also learnt the same [in our Mishnah]: R. MEIR SAYS, THE TABLE WAS TWELVE HANDBREADTHS LONG AND SIX WIDE.[4]

It follows that there was a cubit larger than this![5] — There was, as we have learnt:[6] There were two cubits[7] in the Palace of Shushan,[8] one at the north-eastern corner and the other at the south-eastern corner. That at the north-eastern corner was longer than the cubit of Moses[9] by half a fingerbreadth, and that at the south-eastern corner was longer than the other by half a fingerbreadth; thus it was one fingerbreadth longer than the cubit of Moses. And why did they set up a large cubit[10] and a small one?[11] So that the workmen might receive [contracts of work] according to the measure of the smaller cubit and deliver [the work] according to the measure of the larger cubit, thereby avoiding any possible guilt of sacrilege.[12] And why two?[13] — One was for [work in] gold and silver[14] and the other was for building.[15]

We have learnt elsewhere: The eastern gate on which was portrayed the palace of Shushan.[16] What was the reason for this? — R. Hisda and R. Isaac b. Abdimi [offered different opinions]. One said, So that they be ever mindful whence they came;[17] the other said, So that the fear of the dominant power be ever before them.[18]

R. Jannai said, The fear of the dominant power[19] should ever be before you, as it is written, And all these thy servants shall come down unto me, and bow dawn unto me saying;[20] but he did not say so of [the king] himself.[21] R. Johanan derives it from the following verse: And the hand of the Lord was on Elijah; and he girded up his loins, and ran before Ahab to the entrance of Jezreel.[22]

And the leaf thereof for healing.[23] R. Hisda and R. Isaac b. Abdimi [each interpreted this verse]. One said, To loosen the mouth above;[24] the other said, To loosen the mouth below.[25] It has been [likewise] reported: Hezekiah said, To loosen the mouth of the dumb; Bar Kappara said, To loosen the mouth of barren women.

Our Rabbis taught: Had [Scripture] said, And thou shalt take fine flour and bake twelve cakes thereof . . . And thou shalt set them in two rows,[26] and not added, Six [in a row],[26] I would have said that one row may consist of four cakes and the other of eight; [Scripture] therefore said, Six [in a row]. Furthermore, had [Scripture] said, ‘In two rows, six in a row’, and it had not stated, ‘Twelve’, I would have said that there were to be three rows each of six cakes;[27] [Scripture] therefore said, ‘Twelve’. And further, had [Scripture] said, ‘Twelve’, and also, ‘In rows’, but not, ‘In two rows’, nor, ‘Six in a row’, I would have said that there were to be three rows each of four cakes; [Scripture] therefore said, ‘In two rows’ and ‘Six in a row’. Hence without these three expressions we should not have known [the proper practice]. And what was it? [The priest] used to set them in two rows each of six cakes. If he set one row of four and another of eight, he has not fulfilled the obligation. If he set two rows each of seven cakes, the top cake [of each row], says Rabbi, is regarded as though it was not. But does not the verse say, And thou shalt put upon [‘al] each row pure frankincense?[28] — R. Hisda said to R. Hamnuna (others say, R. Hamnuna said to R. Hisda): Rabbi consistently holds the view that ‘al means ‘by the side of’. As has been taught: Rabbi says, In the verse, And thou shalt put ‘al each row pure frankincense, the preposition ‘al has the sense of ‘by the side of’. You say it has the sense of ‘by the side of’, but perhaps it is not so but rather it means actually upon it! When it says, And thou shalt place the veil as a screen ‘al the ark,[29] you may learn from it that ‘al [generally] has the sense of ‘by the side of’.

EVERY ARTICLE THAT STOOD IN THE TEMPLE etc. Our Rabbis taught: Every article that stood in the Temple was placed with its length parallel with the length of the house, excepting the ark whose length was parallel with the breadth of the house.[30] So was it placed and so were its staves placed. What can this mean?[31] — It means as follows: So was it placed for so were its staves placed.[32] And whence do we know this[31] of the staves? — From the following [Baraitha] which was taught: And the staves were so long,[33] I might have thought that they did not reach the curtain;[34] the text therefore further states, [That the ends of the staves] were seen [from the holy place].[33] But if I had the verse, [That the ends of the staves] were seen, only to go by I might have assumed that they tore through the curtain and protruded outside; the text therefore states, But they could not be seen without.[33] How then [are we to understand the verse]?

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(1) I.e., whether the cubit was of five or of six handbreadths. Since the rebatement or width of the ledge of the base was measured by a cubit of six handbreadths and that of the middle ledge or sobeb by a cubit of five handbreadths, the altar space left by the horns would be twenty-six cubits and two handbreadths (or four handbreadths, according as one takes each side of the horn as one cubit of six handbreadths or of five respectively); and these extra handbreadths are not taken into account by the Tanna of the Mishnah.

(2) For the height of the several parts of the altar, with the exception of the one cubit the height of the base and the one cubit the height of the horns, was described by cubits of six handbreadths.

(3) Ezek. XLIII, 13. The structure of this verse is significant; in the opening part ‘cubit’ follows the article mentioned whereas in the latter part ‘cubit’ precedes it. The significance thereof is that in each case ‘cubit’ refers to a different dimension, in the former case to the height and in the latter to the width.

(4) And the table is described in the Torah (Ex. XXV, 23) as being two cubits long and one cubit wide. Now since R. Meir has taught supra p. 593 that all cubit measurements in the Temple were according to a cubit of medium size, it follows that the cubit of six handbreadths was the medium sized one.

(5) For the cubit of six handbreadths was only the medium sized one. Where do we find a larger, cubit in use?

(6) Kel. XVII, 9.

(7) Two cubit sticks were deposited there as standards.

(8) A chamber built above the eastern gate of the Temple; v. infra and Mid. I, 3.

(9) Which was six handbreadths.

(10) Sc. the two cubits deposited in the Palace of Shushan.

(11) Sc. the cubit of Moses. Why did they not adopt the cubit of Moses as the standard cubit for all purposes?

(12) I.e., benefiting from that which belongs to the Temple; cf. Lev. V, 15. By returning the completed work according to a larger measure than that which they had contracted to do they precluded the possibility of profiting from the Temple.

(13) Why have two measures each larger than the cubit of Moses?

(14) As this work was costly it was unfair to increase the standard cubit by more than half a fingerbreadth.

(15) For building work the standard cubit was increased by one whole fingerbreadth.

(16) Mid. I, 3.

(17) From the exile in Persia, and so would offer thanks to God at all times for their deliverance.

(18) It served to them as a constant reminder that they were still under Persian rule.

(19) Lit., ‘kingship’.

(20) Ex. XI, 8.

(21) Moses out of respect for the king did not say to him, ‘Thou shalt come unto me and bow down to me’, although he knew that that would eventually be the case.

(22) I Kings XVIII, 46. Out of respect for royalty the prophet Elijah acted as the king's runner and accompanied him on his journey.

(23) Ezek. XLVII, 12.

(24) I.e., to make the dumb speak. The interpretation is a play upon the word לתרופה, ‘for healing’, which is taken as a compound of להתיר פה ‘for loosening the mouth’.

(25) A euphemism for the womb.

(26) Lev. XXIV, 5, 6.

(27) The expression ‘six in a row’, following immediately after the two rows already stated, would be interpreted as referring to a third row of six cakes. There is a variant text found in MS.M., also given by Rashi, which reads: There was to be a third row of three cakes; i.e., only the two rows shall be of six cakes each, but other additional rows may be of less than six cakes.

(28) Lev. XXIV, 7. The preposition על translated ‘upon’, implies that the dish of frankincense must actually be upon the row of six cakes, i.e., nothing shall intervene between the dish of frankincense and the row proper.

(29) Ex. XL, 3. The veil was clearly put up as a screen before the ark, accordingly על cannot have the meaning of ‘upon’. From this verse Rabbi establishes his view that ‘al generally means ‘by the side of’.

(30) I.e., north to south.

(31) The staves actually pointed in the directions of east and west.

(32) Since the staves pointed eastward and westward and protruded at right angles to the length of the ark, it follows that the ark stood lengthwise from north to south.

(33) I Kings VIII, 8.

(34) Sc. the curtain that hung over the entrance to the Holy of Holies which was on the east side.

Talmud - Mas. Menachoth 98b

They pressed against the curtain and bulged out as the two breasts of a woman, as it is said, My beloved is unto me as a bundle of myrrh, that lieth betwixt my breasts.[1] But whence do we know that the staves lay along the breadth of the ark? Perhaps they lay along the length of the ark? — Rab Judah answered, Because in the space of one cubit and a half two men could not stand.[2] And whence do we know that four persons carried it?[3] — Because it is written, And the Kohathites[4] [which are at least] two, the bearers of the sanctuary[4] again two,[5] set forward.[4]

Our Rabbis taught: King Solomon made ten tables, as it is written, He made also ten tables and placed them in the Temple, five on the right side and five on the left.[6] If you were to say that five were on the right side of the [Temple] entrance[7] and five on the left side of the entrance, then we should have tables placed on the south side [of the Temple], but the Torah says, And thou shalt put the table on the north side.[8] You must therefore say that [the table] of Moses stood in the middle with five [tables] to the right of it and five to the left of it.[9]

Our Rabbis taught: King Solomon also made ten candlesticks, as it is written, And he made the ten candlesticks of gold according to the ordinance concerning them; and he set them in the Temple, five on the right hand and five on the left.[10] If you were to say that five were on the right side of the [Temple] entrance and five on the left side, we should then have candlesticks set on the north side [of the Temple], but the Torah says, And the candlestick over against the table on the side of the tabernacle towards the south.[11] You must therefore say that [the candlestick] of Moses stood in the middle with five [candlesticks] to the right of it and five to the left of it.

One [Baraitha] states that [the tables] stood in the inner half of the Sanctuary, whilst another [Baraitha] states that they stood in the inner third of the Sanctuary! — This, however, presents no difficulty, for the one [Baraitha][12] includes the Holy of Holies in the term ‘Sanctuary’, whilst the other[13] does not include the Holy of Holies in the term ‘Sanctuary’.[14]

Our Rabbis taught: [The tables] were placed [lengthwise] from east to west. So Rabbi. R. Eleazar son of R. Simeon says, From north to south. What is Rabbi's reason? — He derives it from the candlestick: as the candlestick stood [with its branches] towards east and west, so these stood from east to west. But whence do we know this of the candlestick itself? — Since of the western lamp[15] the verse says, Aaron shall order it . . . before the Lord,[16] it follows that all the others were not before the Lord; now if one were to assume [that the candlestick stood with its branches] towards north and south, all the lamps would then be before the Lord.[17] And what is the reason for the view of R. Eleazar son of R. Simeon? — He derives it from the ark: as the ark stood [lengthwise in the direction of] north and south, so these also stood [lengthwise] from north to south. And why does not Rabbi derive it from the ark? — One may infer [an object that stood] outside[18] from [another that stood] outside, but one may not infer [that which stood] outside from [that which stood] inside.[19] And why does not R. Eleazar son of R. Simeon derive it from the candlestick? — He maintains that even the candlestick stood [with its branches extending] towards north and south. But is it not written, Aaron and his sons shall order it . . . [before the Lord]?[20] — They were all made to face [the middle lamp].[21] For it has been taught:[22] The seven lamps shall give light in front of the candlestick;[23] this teaches that they were made to face the middle lamp. R. Nathan said, This shows that the middle one is specially prized.[24]

It is quite clear, according to him who said [that the tables stood lengthwise] from east to west, to see how the ten [tables][25] were placed in the twenty cubits;[26] but according to him who said [that they stood lengthwise] from north to south, how could the ten tables be placed in twenty cubits?[27] Furthermore,[28] how could the priests enter [the Holy of Holies]?[29] Furthermore, we would then have five tables on the south side![30] And further, where did the table of Moses stand?[31] — But according to your argument [this question could] also [be raised] against him who said [that they stood lengthwise] from east to west: Where did the table of Moses stand?[32] But in fact [there is no difficulty] for you have assumed, have you not, that they stood in one row? [In reality, however,] they stood in two rows.[33]

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(1) Cant. I, 13. As the staves bulged in the curtain they obviously pointed eastward.

(2) As the ark was one cubit and a half wide if, as suggested, the staves lay along the length of the ark, there would then have been only the space of one cubit and a half between the staves, and within this space two men could not have walked side by side carrying the ark.

(3) I.e., that two Levites walking side by side carried the ark in front and two behind. Perhaps only two persons carried it, one carrying the two ends of the staves on one side, and the other the two ends of the staves on the other side.

(4) Num. X, 21.

(5) Thus there were four Levites that carried the ark.

(6) II Chron. IV, 8.

(7) The entrance to the Temple was in the middle of the east side.

(8) Ex. XXVI, 35.

(9) They all stood, however, on the north side.

(10) II Chron. IV, 7.

(11) Ex. XXVI, 35.

(12) The latter.

(13) The former.

(14) The Sanctuary (lit., 'house') including the Holy of Holies was sixty cubits long, the first twenty cubits being taken up by the Holy of Holies and in the space of the next twenty cubits stood the tables. Now these latter twenty cubits were half the Sanctuary space (if one excludes from this term the Holy of Holies) or a third of the Sanctuary space (if one includes in that term the Holy of Holies).

(15) I.e., the second lamp from the eastern end.

(16) Ex. XXVII, 21; Lev. XXIV, 3.

(17) So that no one lamp could be said to be looking westwards any more than the others. Accordingly it must be concluded that the candlestick stood with its branches extended towards east and west.

(18) The Holy of Holies.

(19) The ark was within the Holy of Holies but the candlestick and the tables were outside in the Sanctuary.

(20) Which shows that only one lamp, 'it', was before the Lord, but if it is maintained that the candlestick stood with its branches extending to the north and to the south all the lamps alike would be before the Lord.

(21) Whilst the middle lamp alone faced the Holy of Holies.

(22) Meg. 21b.

(23) Num. VIII, 2.

(24) On Mondays, Thursdays and Sabbath afternoon, at least ten verses of the portion prescribed for the following

Sabbath were read by three persons; and as ‘the middle was specially prized’ the second reader was privileged to read four verses whilst the other two read three verses each. V. also Tosaf. s.v. שאמצעי.

(25) Each table being two cubits long and one cubit wide.

(26) I.e., the twenty cubits furthest from the entrance of the Sanctuary. It is assumed, for the present, that the ten tables were placed head to head in one long line, thus forming one table measuring twenty cubits by one cubit. Now although it is impossible to place lengthwise an object twenty cubits long in a space exactly twenty cubits long or wide, since there was more space available in the Sanctuary it was of small consequence if the table protruded a little beyond the twenty cubits allotted to it.

(27) For the Sanctuary was twenty cubits wide and the tables were placed parallel with the width of the Sanctuary.

(28) Assuming even that the tables would just fit in the width of the Sanctuary.

(29) I.e., the High Priest on the Day of Atonement. The tables formed a barrier across the entire width of the Sanctuary.

(30) In contravention of the Biblical ordinance. Cf. Ex. XXVI, 35.

(31) Which stood, according to the Baraitha quoted above p. 601, between the other tables. There was thus insufficient room for all eleven tables.

(32) If it was among the other tables then one table must have stood completely in the front half of the Sanctuary!

(33) Each row consisting of five tables and measuring ten cubits by one cubit. The table of Moses stood by itself between the two rows.

Talmud - Mas. Menachoth 99a

Then according to him who said [that they stood lengthwise] from north to south it is quite in order,[1] but according to him who said that they stood lengthwise from east to west [there is a difficulty]. Let us consider, how far away was the table[2] from the [north] wall? Two cubits and a half;[3] then there was one cubit [the width of the table] itself, two cubits and a half the space between the tables,[4] one cubit [the width of the table] itself,[5] again two cubits and a half the space between the tables,[6] and one cubit [the width of the table] itself, [in all ten cubits and a half]; thus the tables had encroached to the extent of half a cubit upon the south side [of the Sanctuary]! — You have assumed, have you not, that the table of Moses stood between the two rows of tables? But it was not so, it actually stood at the head of the two rows of tables,[7] whilst the latter stood lower down like pupils sitting before their master.

Our Rabbis taught: Solomon made ten tables; they set [the Shewbread], however, only on that made by Moses, as it is written, And the table whereon the Shewbread was.[8] Also Solomon made ten candlesticks; they lit, however, only that of Moses, as it is written, And the candlestick of gold with the lamps thereof, to burn every evening.[9] R. Eleazar b. Shammua’ says, On all the tables[10] they set [the Shewbread], as it is written, And the tables whereon was the shewbread;[11] and they lit all the candlesticks, as it is written, And the candlesticks with their lamps, that they should burn according to the ordinance before the Sanctuary, of pure gold.[12] R. Jose son of R. Judah says, They set [the Shewbread] only on that of Moses; but how do I explain the verse which says, ‘And the tables whereon was the Shewbread’?[11] These are the three tables that were in the Temple:[13] two stood inside the porch at the entrance of the House, the one of silver[14] and the other of gold. On the table of silver they laid the Shewbread when it was brought in, and on the table of gold they laid the Shewbread when it was brought out, since what is holy we must raise [in honour] but not bring down. And within [the Sanctuary] was a table of gold whereon the Shewbread lay continually.

Whence is it inferred that we may not bring down [what is holy]? — Rabbi said, From the verse, And Moses reared up the tabernacle, and laid its sockets, and set up the boards thereof, and put in the bars thereof, and reared up its pillars.[15] And whence is it inferred that we must raise up [in honour what is holy]? — R. Aha b. Jacob said, From the verse, Even the fire-pans of these men who have sinned at the cost of their lives, and let them be made beaten plates for a covering of the altar — for they are become holy, because they were offered before the Lord — that they may be a sign unto the children of Israel.[16] At first they were but accessories of the altar and now they are part of the altar itself.

Which thou didst break, and thou shalt put them in the ark.[17] R. Joseph learnt: This teaches us that both the tablets and the fragments of the tablets were deposited in the ark. Hence [we learn that] a scholar who has forgotten his learning through no fault of his[18] must not be treated with disrespect.[19]

(Mnemonic: Suppression, misdeed, forgets.)[20] Resh Lakish said: There are times

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(1) For the tables were almost completely on the north side of the Sanctuary, overstepping but slightly the middle line.

(2) Sc. the row of tables nearest the north wall.

(3) This space provided sufficient room for two persons to walk side by side, for the priests who attended to the Shewbread walked around the tables in pairs.

(4) I.e., between the north row of tables and the table of Moses.

(5) Sc. the table of Moses.

(6) I.e., between the table of Moses and the south row of tables.

(7) And was thus nearest to the Holy of Holies. Moreover, as the ground of the Temple sloped downwards from west to east, the table of Moses, being nearest the west side, was indeed on a higher elevation than the other tables.

(8) I Kings VII, 48. Only one table is mentioned for the Shewbread.

(9) II Chron. XIII, 11. Thus only one candlestick was burning every evening.

(10) I.e., sometimes on one table and sometimes on another.

(11) Ibid. IV, 19. This verse speaks of many tables used for the Shewbread.

(12) Ibid. 20.

(13) That were used in connection with the Shewbread. V. next Mishnah, infra p. 607.

(14) According to the next Mishnah it was of marble, but it had a bright appearance like silver. V. however, Tosaf. infra 99b s.v.אחד.

(15) Ex. XL, 18. Moses himself completed the erection of the Tabernacle, for since he had begun it it would have been a degradation had he allowed others to complete it. Aliter: the verse opens with the expression ‘reared up’ and concludes also with this same expression, thus signifying that what is holy must be ‘reared up’ and kept exalted and not brought down.

(16) Num. XVII, 3 (E. VV. XVI, 38).

(17) Deut. X, 2.

(18) Lit., ‘by reason of his misfortune’; i.e., through old age, sickness or trouble, but not through wilful neglect.

(19) Since even the broken pieces of the tablets were also treated with sanctity and were placed in the ark.

(20) These words form the subject matter of the following three teachings of Resh Lakish respectively.

Talmud - Mas. Menachoth 99b

when the suppression of the Torah may be the foundation of the Torah,[1] for it is written, ‘Which thou didst break’: The Holy One, blessed be He, said to Moses, ‘Thou didst well to break’![2]

Resh Lakish also said, A scholar who has committed a misdeed must not be reproached[3] publicly, for it is written, Therefore shalt thou stumble in the day, and the prophet also shall stumble with thee in the night,[4] that is to say, keep it dark,[5] like night.

Resh Lakish further said,[6] He who forgets one word of his study transgresses a negative precept, for it is written, [Only] take heed to thyself, and keep thy soul diligently, lest thou forget the things.[7] This being in accordance with the rule laid down by R. Abin in the name of R. Ila'a; for R. Abin said in the name of R. Ila'a, Wherever there occur in Holy Writ the expressions ‘take heed’,[8] ‘lest’, or ‘do not’, they are negative precepts. Rabina said, [He transgresses two negative precepts for] ‘take heed’ and ‘lest’ are two negative precepts. R. Nahman b. Isaac said, [He transgresses] three [negative precepts], for it is written, ‘[Only] take heed to thyself, and keep thy soul diligently, lest thou forget the things’. One might suppose that this is so even when he forgets it through no fault of his; the text therefore states, ‘And lest they depart from thy heart’:[7] Scripture thus speaks only of him who of set purpose puts them away from his heart. R. Dosethai son of R. Jannai said, One might further suppose that this is so even when his study has been too hard for him; the text therefore states, Only.[9]

R. Johanan and R. Eleazar both said, The Torah was given in forty days and the soul is formed in forty days:[10] whosoever keeps the Torah his soul is kept, and whosoever does not keep the Torah his soul is not kept. A Tanna of the School of R. Ishmael taught: It is like the case of a man who entrusted a swallow to the care of his servant and said to him, ‘Do you think that if you suffer it to perish I will take from you an issar[11] for its value? [No,] I will take your soul from you’.

MISHNAH. THERE WERE TWO TABLES INSIDE THE PORCH AT THE ENTRANCE OF THE HOUSE, THE ONE OF MARBLE[12] AND THE OTHER OF GOLD. ON THE TABLE OF MARBLE THEY LAID THE SHEWBREAD WHEN IT WAS BROUGHT IN, AND ON THE TABLE OF GOLD THEY LAID THE SHEWBREAD WHEN IT WAS BROUGHT OUT, SINCE WHAT IS HOLY WE MUST RAISE [IN HONOUR] BUT NOT BRING DOWN. AND WITHIN [THE SANCTUARY] WAS A TABLE OF GOLD WHEREON THE SHEWBREAD LAY CONTINUALLY. FOUR PRIESTS ENTERED, TWO BEARING THE TWO ROWS [OF THE SHEWBREAD] IN THEIR HANDS AND TWO BEARING THE TWO DISHES [OF FRANKINCENSE] IN THEIR HANDS; AND FOUR WENT IN BEFORE THEM, TWO TO TAKE AWAY THE TWO ROWS [OF THE SHEWBREAD] AND TWO TO TAKE AWAY THE TWO DISHES [OF FRANKINCENSE]. THOSE WHO BROUGHT THEM IN STOOD AT THE NORTH SIDE WITH THEIR FACES TO THE SOUTH, AND THOSE WHO TOOK THEM AWAY STOOD AT THE SOUTH SIDE WITH THEIR FACES TO THE NORTH.[13] THESE WITHDREW [THE OLD] AND THE OTHERS LAID DOWN [THE NEW], THE HANDBREADTH OF THE ONE BEING BY THE SIDE OF THE HANDBREADTH OF THE OTHER,[14] FOR IT IS WRITTEN, BEFORE ME CONTINUALLY.[15] R. JOSE SAYS, EVEN IF THESE [FIRST] TOOK AWAY [THE OLD] AND THE OTHERS LAID DOWN [THE NEW LATER ON], THIS TOO FULFILS THE REQUIREMENT OF CONTINUALLY’. THEY WENT AND LAID [THE OLD BREAD] ON THE TABLE OF GOLD THAT WAS IN THE PORCH. THE DISHES [OF FRANKINCENSE] WERE THEN BURNT AND THE CAKES WERE DISTRIBUTED AMONG THE PRIESTS.[16] IF THE DAY OF ATONEMENT FELL ON A SABBATH THE CAKES WERE DISTRIBUTED IN THE EVENING.[17] IF IT FELL ON A FRIDAY THE HE-GOAT OF THE DAY OF ATONEMENT[18] WAS CONSUMED IN THE EVENING.[19] THE BABYLONIAN [PRIESTS] USED TO EAT IT RAW FOR THEY WERE NOT FASTIDIOUS.[20]

GEMARA: It was taught: R. Jose says, Even if the old [Shewbread] was taken away in the morning and the new was set down in the evening there is no harm. How then am I to explain the verse, ‘Before me continually’? [It teaches that] the table should not remain overnight without bread.

R. Ammi said, From these words of R. Jose[21] we learn that even though a man learns but one chapter in the morning and one chapter in the evening he has thereby fulfilled the precept of ‘This book of the law shall not depart out of thy mouth’.[22]

R. Johanan said in the name of R. Simeon b. Yohai, Even though a man but reads the Shema’[23] morning and evening he has thereby fulfilled the precept of ‘[This book of the law] shall not depart’. It is forbidden, however, to say this in the presence of ‘amme ha-arez.[24] But Raba said, It is a meritorious act to say it in the presence of amme ha-arez.[25]

Ben Damah the son of R. Ishmael's sister once asked R. Ishmael, May one such as I who have studied the whole of the Torah learn Greek wisdom?[26] He thereupon read to him the following verse, This book of the law shall not depart out of thy mouth, but thou shalt meditate therein day and night.[27] Go then and find a time that is neither day nor night and learn then Greek wisdom.

This, however, is at variance with the view of R. Samuel b. Nahmani. For R. Samuel b. Nahmani said in the name of R. Jonathan, This verse is neither duty nor command but a blessing. For when the Holy One, blessed be He, saw that the words of the Torah were most precious to Joshua, as it is written, His minister Joshua, the son of Nun, a young man, departed not out of the tent,[28] He said to him, 'Joshua, since the words of the Torah are so precious to thee, [I assure thee,] 'this book of the law shall not depart out of thy mouth'!

A Tanna of the School of R. Ishmael taught: The words of the Torah should not be unto thee as a debt,[29] neither art thou at liberty to desist from it.[30]

Hezekiah said, What is the meaning of the verse, Yea, He hath allured thee out of the mouth of straits into a broad place, where there is no straitness?[31] Come and see that the manner of the Holy One, blessed be He, is not like that [of men] of flesh and blood. A man of flesh and blood allures another out of the ways of life into the ways of death;[32] but the Holy One, blessed be He, allures man out of the ways of death into the ways of life,[33] as it is written, 'Yea, He hath allured thee out of the mouth of straits', that is, out of Gehenna, whose mouth is narrow so that its smoke is stored up

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(1) The interruption of the study of the Torah for the performance of a religious act, e.g., to attend a funeral, is sometimes the fulfilment of the Torah and brings with it a reward (Rashi).

(2) God thus expressed His approval of Moses' action. There is here a play upon the words אשר שברת and ששברת(ljf) יישר.

(3) In the par. passage M.K. 17a the reading is 'placed under the ban'.

(4) Hos. IV, 5.

(5) Lit., 'cover it up'.

(6) Cf. Aboth IV, 9 (10).

(7) Deut. IV, 9.

(8) Or 'observe', or 'keep'. These expressions are the various meanings of the Heb. root שמר.

(9) A term limiting the application of the rule to special cases.

(10) I.e., forty days after conception the soul is implanted in the embryo. In MS.M.: 'the soul is given in forty days'.

(11) V. Glos.

(12) V. supra p. 605 n. 7.

(13) The priests thus stood facing each other separated only by the breadth of the table, for the table stood lengthwise from east to west.

(14) I.e., the taking away of the old bread and the placing of the new were almost simultaneous.

(15) Ex. XXV, 30. The Shewbread shall be before the Lord continually and at no time shall the table be without the bread.

(16) The cakes were shared out equally among the outgoing division of priests and the ingoing division, and were to be eaten during that day (i.e., on the Sabbath) and the night until midnight.

(17) I.e., at the conclusion of the Day of Atonement, and they could be eaten only during that night until midnight, for under no circumstances was the time for the eating extended.

(18) Num. XXIX, 11. This was the only offering (sc. the Musaf-offering) brought on the Day of Atonement whose flesh was consumed by the priests.

(19) After the fast and only until midnight. It was obviously eaten raw as it could not be cooked on the Sabbath.

(20) Lit., 'their minds (i.e. physical constitutions) were fine'.

(21) Who ruled that if the old Shewbread was on the table for some time in the morning and the new for some time in the evening, that can be said to be 'continually'.

(22) Jos. I, 8.

(23) The passage commencing 'Hear, O Israel' (Deut. VI, 4ff).

(24) Plur. 'of 'am ha-arez, v. Glos. Such a pronouncement might deter the common people from educating their children in the study of the Torah, seeing that the Scriptural precept is fulfilled by the twice daily recital of the Shema'.

(25) For they would argue thus: if merely for the recital of the Shema' twice daily the reward is offered: 'Then thou shalt make thy ways prosperous and then thou shalt have good success' (Jos. ibid.), how great shall be the reward for those that devote their whole time to the study of the Torah!

(26) Probably the study of Greek philosophy. V. supra 64b p. 381, where an imprecation is pronounced against those that learn Greek wisdom. V. Tosaf. l.c, s.v. ארור.

(27) Jos. ibid.

(28) Ex. XXXIII, 11.

(29) Which must be paid off, one's whole desire being to discharge the debt so as to be free from it.

(30) Cf. Ab. II, 16.

(31) Job. XXXVI, 16.

(32) Cf. Deut. XIII, 7 where the same expression is used of enticement into idolatry.

(33) I.e. — to the Torah which delivers from the fire of Gehenna.

Talmud - Mas. Menachoth 100a

within it.[1] And lest you say that as its mouth is narrow so the whole [of Gehenna] is narrow, the text therefore states, Deep and large.[2] And lest you say that it is not made ready for a king,[3] the text therefore states, Yea, for the king it is prepared.[2] And lest you say that there is no wood in it, the text therefore states, The pile thereof is fire and much wood.[2] And lest you say that this[4] is the sole reward [of the Torah], the text therefore states, And that which is set on thy table is full of fatness.[5]

IF THE DAY OF ATONEMENT FELL ON A SABBATH etc. Rabbah b. Bar Hanah said in the name of R. Johanan, They were not Babylonians but Alexandrians, but because [the Palestinians] hated the Babylonians they called [the Alexandrians] by the name of Babylonians.[6] It was likewise taught: R. Jose says, They were not Babylonians but Alexandrians, but because [the Palestinians] hated the Babylonians they called [the Alexandrians] by the name of Babylonians. Said to him R. Judah, May your mind be at ease for you have set mine at ease.[7]

MISHNAH. IF [THE PRIEST] SET THE SHEWBREAD ON THE SABBATH AND THE DISHES [OF FRANKINCENSE] ON THE DAY AFTER THE SABBATH, AND BURNT THE DISHES [OF FRANKINCENSE] ON THE [NEXT] SABBATH, IT IS NOT VALID,[8] AND ONE IS NOT LIABLE THEREBY FOR PIGGUL,[9] NOTHAR,[10] OR UNCLEANNESS.[10] IF HE SET THE BREAD AND THE DISHES [OF FRANKINCENSE] ON THE SABBATH AND BURNT THE DISHES OF FRANKINCENSE ON THE DAY AFTER THE SABBATH, IT IS NOT VALID, AND ONE IS NOT LIABLE THEREBY FOR PIGGUL, NOTHAR, OR UNCLEANNESS. IF HE SET THE BREAD AND THE DISHES [OF FRANKINCENSE] ON THE DAY AFTER THE SABBATH AND BURNT THE DISHES [OF FRANKINCENSE] ON THE [NEXT] SABBATH, IT IS NOT VALID.[11] WHAT SHOULD HE DO? HE SHOULD LEAVE IT UNTIL THE FOLLOWING SABBATH,[12] FOR EVEN IF IT REMAINS MANY DAYS ON THE TABLE THERE IS NO HARM.

GEMARA. We have learnt elsewhere:[13] The officer said to them, 'Go forth and see if the time for slaughtering[14] has arrived' — If it had arrived he[15] that saw it called out, 'It is daylight',[16] Mattithiah b. Samuel[17] said, [He that saw it called out,] 'The whole east is alight'. 'As far as Hebron?'[18] and he answered, 'Yes'. And why was all this[19] necessary? Because once when the light of the moon arose they thought that the east was already alight and slaughtered the daily offering, and they had to take it away to the place of burning. They[20] led the High Priest down to the place of immersion. This was the rule in the Temple: whosoever covered his feet[21] required an immersion, and whosoever made water required sanctification of hands and feet.[22]

The father of R. Abin learnt:[23] Not only this[24] but also the burnt-offering of a bird whose head was nipped off at night and the meal-offering from which the handful was taken at night must be taken away to the place of burning. This is quite right with regard to the burnt-offering of a bird since [what is done] cannot be undone, but with regard to the meal-offering surely he can put back the handful in its place and take it again when it is day! — He learnt it and he himself also gave the reason for it, namely, that vessels of ministry hallow [what is put in them] even outside the proper time.[25]

An objection was raised: Whatsoever is offered up by day[26] is hallowed by day, and whatsoever is offered up by night[27] is hallowed both by day and by night.[28] 'Whatsoever is offered up by day is hallowed by day', that is to say, by day only and not by night![29] — It does not become hallowed [by night] so as to be permitted to be offered up, but it does become hallowed so that it can now become invalid.[30]

R. Zera raised an objection: IF HE SET THE BREAD AND THE DISHES [OF FRANKINCENSE] ON THE DAY AFTER THE SABBATH AND BURNT THE DISHES [OF FRANKINCENSE] ON THE [NEXT] SABBATH, IT IS NOT VALID. WHAT SHOULD HE DO? HE SHOULD LEAVE IT UNTIL THE FOLLOWING SABBATH, FOR EVEN IF IT REMAINS MANY DAYS ON THE TABLE THERE IS NO HARM. Now if you accept the view that vessels of ministry can hallow even outside the proper time, then it should become hallowed and also invalidated![31] — Rabbah said, He who raised the objection, raised a valid one, but the father of R. Abin was quoting a Baraitha;[32] and we must say therefore that [the Tanna of that Baraitha] is of the opinion that the night is not considered 'out of time',[33] whereas the day is considered 'out of time'.[34] But after all

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(1) In order that the wicked be tormented there with fire and smoke.

(2) Isa. XXX, 33. The reference in the verse is to Gehenna.

(3) I.e., a disciple who once devoted himself to the study of the Torah but has now forsaken it.

(4) Deliverance from the fires of Gehenna, without further reward.

(5) Job XXXVI, 16.

(6) Using the name Babylonians as a term of abuse.

(7) R. Judah was of Babylonian descent and therefore welcomed this interpretation of his colleague whereby his fellow-countrymen were cleared from the charge of gluttony.

(8) Since the frankincense had not been left for a full week, from Sabbath to Sabbath, on the table. Moreover it cannot be left until the next Sabbath (i.e., for thirteen days), for the bread would become invalid after the first Sabbath, since it had been set on the table at the proper time.

(9) If during the burning of the frankincense the priest intended to eat of the bread outside its prescribed time, it does not become piggul ('that which is refused or rejected'), and whosoever eats of it does not incur the penalty of kareth (v. Glos.), for the burning of the frankincense (i.e., the mattir, v. Glos.) was not in order.

(10) Likewise the penalty of kareth is not incurred on the ground of nothar, i.e., for eating the bread after the time prescribed for its eating has elapsed, or uncleanness, i.e., for eating the bread whilst in a state of uncleanness, for the bread was at no time rendered permitted to be eaten.

(11) For both the bread and the frankincense must remain on the table from one Sabbath to another Sabbath.

(12) For thirteen days in all. As neither the bread nor the frankincense is hallowed until the incidence of the first Sabbath, it may be left until the second Sabbath.

(13) Tam. III, 2; Yoma 27b, 28a.

(14) Sc. the daily morning sacrifice.

(15) He that went up on the roof to watch for the first light of the morning.

(16) ברקאי, morning brightness, from ברק, lightning, shining light.

(17) He was one of the Temple officers, v. Shek. V, 1.

(18) Called out those that were down below in the Temple.

(19) To go up on the roof and keep watch for the first light of day.

(20) This part of the Mishnah continues the account of the service on the Day of Atonement.

(21) A euphemism for 'relieving oneself'.

(22) By washing them in the laver that was in the Temple; for further notes, v. Yoma, Sonc. ed., p. 131.

(23) This entire passage is also found in Yoma 29a.
(24) That the daily offering if slaughtered at night is to be burnt.
(25) And once the handful has been taken and put into a vessel of ministry it may not be put back and mixed with the remainder of the meal-offering.
(26) All animal-offerings.
(27) E.g. drink-offerings.
(28) The text adopted here is in accord with Sh. Mek. and several MSS.; Cur. edd. insert 'and whatsoever is offered up during the night is hallowed by night, and whatsoever is offered up both by day and by night is hallowed both by day and by night'.
(29) Thus proving that vessels of ministry hallow only in the proper time.
(30) If, e.g., it was touched by a person lacking the atonement offering for the completion of his purification, or it was taken out of the Temple precincts, or it was kept overnight. Accordingly it cannot be put back with the remainder of the meal-offering.
(31) The bread and frankincense should be hallowed by the table even when set thereon on a Sunday, and therefore after a full week, i.e., after midnight of the next Sunday, they should become invalid. How then can it be suggested that it be left for thirteen days?
(32) So that a way must he found to reconcile the present argument with it.
(33) For with regard to holy things the night following the day is included in, and is part of, the day, accordingly vessels of ministry can hallow by night as well as by day, save that the offering up may not be performed by night.
(34) That which is a day too soon or a day too late is certainly out of time, and the vessel of ministry cannot hallow it. In our Mishnah, therefore, where the bread and frankincense are set on the table six days too soon, they certainly cannot be hallowed then by the table. Only when the Sabbath arrives do they become hallowed and so may be kept for a full week thereafter.

Talmud - Mas. Menachoth 100b

when Sabbath eve[1] approaches let it then become hallowed and also invalidated![2] — Raba[3] said, We must assume that he had removed it before then.[4] Mar Zutra, or as some say, R. Ashi said, You may even assume that he had not removed it before then, since, however, he had set it down not in accordance with its prescribed rite[5] it is as though a monkey had set it.[6]

MISHNAH. THE TWO LOAVES WERE EATEN NEVER EARLIER THAN ON THE SECOND DAY[7] AND NEVER LATER THAN ON THE THIRD DAY. HOW IS THIS EXPLAINED? [NORMALLY] THEY WERE BAKED ON THE DAY BEFORE THE FESTIVAL[8] AND EATEN ON THE FESTIVAL, THAT IS, ON THE SECOND DAY. IF THE FESTIVAL FELL ON THE DAY AFTER THE SABBATH,[9] THEY WOULD BE EATEN ON THE THIRD DAY. THE SHEWBREAD WAS EATEN NEVER EARLIER THAN ON THE NINTH DAY AND NEVER LATER THAN ON THE ELEVENTH DAY. HOW IS THIS EXPLAINED? [NORMALLY] IT WAS BAKED ON THE DAY BEFORE THE SABBATH AND EATEN ON THE SABBATH [OF THE FOLLOWING WEEK], THAT IS ON THE NINTH DAY. IF A FESTIVAL FELL ON THE DAY BEFORE THE SABBATH,[10] IT WOULD THEN BE EATEN ON THE TENTH DAY. IF THE TWO DAYS OF THE NEW YEAR [FELL BEFORE THE SABBATH],[11] IT WOULD THEN BE EATEN ON THE ELEVENTH DAY. [THE BAKING] OVERRIDES NEITHER THE SABBATH NOR THE FESTIVAL. R. SIMEON B. GAMALIEL SAYS IN THE NAME OF R. SIMEON, SON OF THE DEPUTY [HIGH PRIEST], IT OVERRIDES THE FESTIVAL BUT NOT THE FAST-DAY.[12]

GEMARA. Rabina said, According to him who rules that offerings in fulfilment of a vow and freewill-offerings may not be offered on a Festival,[13] you should not say that Biblically they are allowed [to be offered] but the Rabbis forbade them only as a precautionary measure lest one defer [those offerings until the Festival],[14] but even Biblically they are not allowed [to be offered]; for the Two Loaves are obligatory for that day,[15] so that there is no reason to apprehend lest one defer [them until the Festival],[16] yet [our Mishnah] states: [THE BAKING] OVERRIDES NEITHER THE SABBATH NOR THE FESTIVAL.

CHAPTER XII

MISHNAH. IF MEAL-OFFERINGS AND DRINK-OFFERINGS BECAME UNCLEAN BEFORE THEY WERE HALLOWED IN A VESSEL [OF MINISTRY]. THEY MAY BE REDEEMED;[17] IF [THEY BECAME UNCLEAN] AFTER THEY WERE HALLOWED IN A VESSEL, THEY MAY NOT BE REDEEMED. BIRD-OFFERINGS, THE WOOD, THE FRANKINCENSE, AND THE VESSELS OF MINISTRY,[18] MAY NOT BE REDEEMED, FOR THE RULE OF REDEMPTION APPLIES ONLY TO [OFFERINGS OF] CATTLE.

GEMARA. Samuel said, Even though they[19] are clean they may be redeemed, for so long as they have not been hallowed in a vessel of ministry they are holy only as to their value, and whatsoever is holy as to its value may be redeemed. But have we not learnt [in our Mishnah] BECAME UNCLEAN? — The rule is the same even though they were not unclean, but because the Tanna wished to state the next clause, AFTER THEY WERE HALLOWED IN A VESSEL THEY MAY NOT BE REDEEMED, in which case even though they were unclean they still may not be redeemed, he therefore stated in the first clause, BECAME UNCLEAN.

IF [THEY BECAME UNCLEAN] AFTER THEY WERE HALLOWED IN A VESSEL, THEY MAY NOT BE REDEEMED.[20] But this is obvious, for they are holy in themselves! — It was necessary to be stated, for I might have argued that since what is blemished is described as unclean, then surely what is unclean should be like that which is blemished; and therefore as that which has become blemished may be redeemed even though it was holy in itself, so this too may be redeemed; we are therefore taught that the Divine Law did not describe what is blemished as unclean in that sense,[21]

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(1) Lit., ‘the night of the twilight (of the Sabbath eve)’, i.e. Friday night.

(2) Since the night is considered ‘in time’ as on the day itself, then the bread and the frankincense should become hallowed on the Friday night, and after seven full days, i.e., on the Sabbath morning after the second Friday night, the bread should become invalid. According to our Mishnah, however, the bread may be eaten the whole of the second Sabbath day until midnight!

(3) In MS.M. and in the parallel passage in Yoma: ‘Rabina’.

(4) The priest had removed the bread and the frankincense on the Friday just before the Sabbath set in and had replaced it at its proper time on the Sabbath.

(5) For it is out of time, being set down six days too soon.

(6) Hence the table will not hallow it as soon as the Sabbath eve approaches neither will the Sabbath day itself hallow it, but the priest will have to enter on the morrow, remove it and replace it anew, and only then will the table hallow it. Where, however, the handful was taken from the meal-offering at night and put into a vessel of ministry, since night is not considered ‘out of time’, the vessel will hallow it; v. Yoma (Sonc. ed.) p. 138 and notes.

(7) After the baking.

(8) The Feast of Weeks or Pentecost.

(9) The Two Loaves would then be baked on the Friday, since the baking does not override the Sabbath.

(10) The Shewbread would then be baked before the Festival, on Thursday.

(11) It would then be baked on Wednesday. The Festival of the New Year was generally kept two days, even in Palestine. V. R.H. 30b.

(12) The Day of Atonement. Where the Day of Atonement fell on a Friday the Shewbread was then baked on a Thursday.

(13) V. Bez. 20b.

(14) One would thus be accumulating work specially for the Festival; moreover the owner may be prevented by some unforeseen circumstance from offering them on the Festival and will then have failed in the fulfilment of his obligations.

(15) Sc. the Feast of Weeks.

(16) For they can in no wise be brought before the prescribed day.

(17) For an offering so long as it has not been hallowed in a vessel of ministry is holy only for its value, קדושת דמים and may be redeemed; once it has been hallowed in a vessel of ministry it becomes holy in itself, קדושת הגוף and may not be redeemed.

(18) So all MS.S. Cur. edd. add: After they have become unclean.

(19) Sc. meal-offerings and drink-offerings.

(20) So according to MS.M., Sh. Mek. and Z.K. This is a new passage introduced by a separate Mishnah heading.

(21) I.e., unclean after having been hallowed in a vessel of ministry.

Talmud - Mas. Menachoth 101a

for we do not find any case in which what has been hallowed in a vessel of ministry may be redeemed.[1]

Where do we find what is blemished described as unclean? — It has been taught: And if it be any unclean beast, of which they may not bring an offering unto the Lord:[2] this verse speaks of blemished animals, that they shall be redeemed. You say it speaks of blemished animals, that they shall be redeemed; perhaps it is not so, but actually it speaks of an unclean beast. When the verse says, And if it be of an unclean beast, then he shall redeem it according to thy valuation,[3] the unclean beast is already spoken of; what then am I to make of the verse, ‘And if it be any unclean beast’? The verse clearly speaks of blemished animals, that they shall be redeemed. I might suppose that they may be redeemed even though they have but a passing blemish; the text therefore states, ‘Of which they may not bring an offering unto the Lord’, [referring clearly to] such animals as may at no time be brought as an offering unto the Lord, but one must exclude from this verse animals which may not be brought to-day but which may be brought to-morrow.[4]

R. Huna b. Manoah raised an objection: BIRD-OFFERINGS, THE WOOD, THE FRANKINCENSE, AND THE VESSELS OF MINISTRY MAY NOT BE REDEEMED, FOR THE RULE OF REDEMPTION APPLIES ONLY TO [OFFERINGS OF] CATTLE. Now this is quite right with regard to bird-offerings, for they are holy in themselves, and the rule [of redemption] applies only to [offerings of] cattle; but why may not the wood,[5] the frankincense[5] and the vessels of ministry[6] be redeemed? It must be because the others[7] if still clean may not be redeemed,[8] and these[9] even though unclean are regarded as clean. For[10] wood and frankincense are no foodstuffs but are placed in the category of foodstuffs only by reason of sacred esteem.[11] Accordingly wood, so long as it has not been cut up into chips.[12] is not predisposed [to uncleanness]; and frankincense, so long as it has not been hallowed in a vessel of ministry, is similarly not predisposed [to uncleanness]; and as regards vessels of ministry, since they can be made clean by immersion in a mikweh,[13] [they are not regarded as unclean]! — No, I still maintain that the others even though clean may be redeemed, but these [may not be redeemed even when unclean] because they are scarce.[14] I grant you that frankincense and vessels of ministry are scarce, but surely wood is not scarce! — Even wood is scarce, in view of a Master's ruling that wood in which a worm is found is unfit for the altar.[15]

R. Papa said, Had Samuel heard of the following [Baraitha] which was taught: ‘If a man consecrated unblemished animals for the Temple treasury, they may be redeemed only for the altar,[16] since what is fit for the altar can never be released from the altar’,[17] he would have retracted [his statement].[18] But it is not so; [in fact] he had heard of [that Baraitha] and yet did not retract his statement. For did you not say above that because they[19] were scarce they may not be redeemed? Then in this case too, since blemishes which disqualify cattle are of frequent occurrence, for even a skin over the eye disqualifies, they[20] are undoubtedly scarce.

R. Kahana said, [If they[21] became] unclean they may be redeemed, but [if they are] clean they may not be redeemed. And so said R. Oshaia, [If they became] unclean they may be redeemed, [but if they are] clean they may not be redeemed. Some there are who say that R. Oshaia said, Even though [they are] clean they may be redeemed. R. Eleazar says. All [meal-offerings] may be redeemed if [they have become] unclean, and if [they are] clean they may not be redeemed, excepting the tenth part of an ephah of the sinner's meal-offering,[22] since the Torah has stated [in the one case] from his sin[23] and [in the other] for his sin.[24]

R. Oshaia said, I have heard that if a meal-offering was made piggul[25] it does not, according to R. Simeon,[26] convey fooduncleanness. For it has been taught:[27] ‘Orlah,[28] diverse kinds of the vineyard,[29]

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(1) For even an animal-offering, once it has been hallowed by a vessel of ministry, i.e., slaughtered, can in no wise be redeemed.

(2) Lev. XXVII, 11.

(3) Ibid. 27.

(4) When the blemish will have passed away.

(5) Which became unclean before it was hallowed in a vessel of ministry.

(6) Which became unclean.

(7) Meal-offerings and drink-offerings.

(8) Thus in conflict with Samuel's statement supra p. 617.

(9) Wood, frankincense and vessels of ministry.

(10) This sentence is omitted in MS.M. and other MSS., and is also deleted by Sh. Mek.

(11) The honour in which sacred things are held makes them fit to contract uncleanness even though according to ordinary standards they cannot contract uncleanness. V. Pes. 35a; Hul. 36b.

(12) And so fit to be used on the altar.

(13) V. Glos.

(14) And if they could be redeemed there might not be left sufficient for the Temple requirements.

(15) Supra 85b.

(16) I.e., they are to be sold for an offering.

(17) Cur. edd. add here: ‘For though they are consecrated for their value only they may not be redeemed, since they are clean’. This is an obvious gloss, and is not found in MS.M. nor in other MSS. and is deleted by Sh. Mek.

(18) That meal-offerings and drink-offerings may be redeemed even though they are still clean; v. supra p. 617.

(19) Wood fit for the altar, frankincense, and vessels of ministry.

(20) Animals free from all blemishes and so fit for the altar.

(21) Meal-offerings and drink-offerings.

(22) This may be redeemed even though still clean. According to R. Gershom: it may not be redeemed at all even though unclean.

(23) Lev. V, 6, 10.

(24) Ibid. 13. For the offences enumerated in Lev. V, 1-4 a rich man must bring for a sin-offering a she-lamb or a she-goat, a poor man two doves, and one in extreme poverty a meal-offering. But it is to be observed that concerning the first two Scripture uses the expression, וכפר עליו הכהן חטאתו And the priest shall make atonement for him from his sin, whilst concerning the latter Scripture says, וכפר עליו הכהן על חטאתו And the priest shall make atonement for him for his sin. From these variations of expression the Rabbis derived the law that if a rich man sinned and set apart money for his animal-offering and then became poor, he has only to bring doves or a meal-offering from a part of the money set aside (i.e., מחטאתו from the money set apart for his sin) and the remainder he may retain for himself. And on the other hand, if a poor man sinned and set apart money for his meal-offering and then became rich, he must add to the money set aside (i.e., על חטאתו for, in addition to, the money set apart for his sin), and bring the offering prescribed for a rich man, or if he brought a tenth of flour for his meal-offering, he must redeem it and add money to it in order to acquire a bird-offering or an animal-offering. Thus we see that this meal-offering is redeemed even though clean.

(25) E.g., while taking out the handful the priest expressed the intention of burning the handful or of eating the remainder outside the prescribed time.

(26) Who holds that whatsoever is forbidden for any kind of use cannot convey food-uncleanness.
(27) So MS.M.; cur. edd.: ‘We have learnt’. It is not found, however, in the Mishnah, but in Tosef. ‘Uk. III and Bek. 9b.
(28) V. Glos. This and all the others enumerated are forbidden for any kind of use.
(29) V. Deut. XXII, 9.

Talmud - Mas. Menachoth 101b

an ox condemned to be stoned,[1] the heifer whose neck was to be broken,[2] the birds of the leper,[3] the firstling of an ass,[4] and meat cooked in milk[5] — all these convey food-uncleanness.[6] R. Simeon says, All these do not convey food-uncleanness. R. Simeon, however, agrees that meat cooked in milk conveys food-uncleanness, for there was a time when it was permitted.[7] And R. Assi had said in the name of R. Johanan, What is the reason for R. Simeon's view? [Because it is written], All food therein which may be eaten;[8] [therefore], food which you may give others[9] to eat is termed food,[10] but food which you may not give others to eat[11] is not termed food. And the meal-offering which was made piggul is also a food which you may not give others to eat.[12] If that is so,[13] then meat cooked in milk [should convey food-uncleanness] by virtue of the fact that it is a food which you may give others to eat![14] For it has been taught:[15] R. Simeon b. Judah says in the name of R. Simeon, Meat cooked in milk is forbidden to be eaten but is permitted for use, for it is written, For thou art an holy people unto the Lord thy God. Thou shalt not seethe a kid in its mother's milk;[16] whilst elsewhere it is written, And ye shall be holy men unto Me; therefore ye shall not eat any flesh that is torn of beasts in the field; [ye shall cast it to the dogs].[17] Just as there it is forbidden to be eaten but is permitted for use,[18] so here too it is forbidden to be eaten but is permitted for use! — He gave one reason and yet another. For one thing it[19] is a food which you may give others to eat,[20] and besides even for [the Israelite] himself there was a time when it was permitted.[21]

An objection was raised [from the following]: R. Simeon says, There is nothar[22] which conveys food-uncleanness and there is also nothar which does not convey food-uncleanness. Thus if [the flesh of the offering] had remained overnight before the sprinkling of the blood, it does not convey food-uncleanness;[23] but if [it had remained overnight] after the sprinkling of the blood,[24] it conveys food-uncleanness. And an offering that had been made piggul, be it of the most holy or of the less holy offerings, does not convey food-uncleanness. But a meal-offering that had been made piggul conveys food-uncleanness![25] — This is no difficulty, for in the one case there was a time when it had been permitted,[26] whilst in the other[27] there was no time when it had been permitted. How is it that there was no time when it had been permitted? — Where [the grain] had been consecrated [for a meal-offering] while it was still growing. But one could have redeemed it![28] This of course presents no difficulty according to that version which gives R. Oshaia's view thus: If they became unclean they may be redeemed, but if they are clean they may not be redeemed. But according to the other version which gives as his view: Even though they are clean they may be redeemed, [then the question will be asked here,] one could have redeemed it! — [That is so but] the fact is that it had not been redeemed. But if one so desired one could have redeemed it, and we have heard R. Simeon say that whatsoever stands to be redeemed is as though it were redeemed. For it was taught:[29] The [Red] Cow[30] conveys food-uncleanness, since there was a time when it was permitted [to be eaten]. And Resh Lakish observed that R. Simeon used to say that the Red Cow could be redeemed even on its woodpile![31] — There is no comparison at all. The Red Cow can rightly be regarded as ready to be redeemed, for if another cow finer than this one is obtainable, it is a meritorious act to redeem it; but as regards meal-offerings, is there any meritorious act to redeem [what has been consecrated for a meal-offering]?[32]

But in the case where [a portion of the sacrifice] had remained overnight before the sprinkling [of the blood], there was a duty to sprinkle the blood, and if one so desired one could have sprinkled it, nevertheless the [Baraitha] states that it does not convey food-uncleanness![33] — We must assume that there was no time left during the day for the sprinkling [of the blood].[34] Then what would be the position where there was sufficient time left in the day [for the sprinkling]? It would convey food-uncleanness! If so, instead of teaching, ‘If [it remained overnight] after the sprinkling [of the blood] it conveys food-uncleanness’, [the Tanna] should have drawn a distinction in the very case itself[35] in the following terms: This[36] applies only where no time was left during the day [for the sprinkling of the blood], but if there was sufficient time left in the day [for the sprinkling] it conveys food-uncleanness![37] — That is just what [the Tanna] meant to teach: If [the portion of the sacrifice] had remained overnight before [the blood] was ready for the sprinkling,[38] it does not convey food-uncleanness; but if after [the blood] was ready for the sprinkling, it conveys food-uncleanness.[39] But in the case where an offering, either of the most holy or of the less holy kind, had been made piggul, there was a duty to sprinkle [the blood in the proper manner],[40]

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(1) V. Ex. XXI, 28. The ox had been slaughtered after it had been condemned to be stoned for killing a human being.

(2) V. Deut. XXI, 1ff. The heifer was slaughtered after it had been brought down to the rough valley, and as soon as it was brought down there it became forbidden for all purposes.

(3) Which had been slaughtered. V. Lev. XIV, 4.

(4) Which had been slaughtered for a gentile but was not quite dead yet; v. Hul. 117b, Sonc. ed., p. 648, n. 5. The firstling of an ass is before redemption forbidden for all purposes. V. Ex. XXXIV, 20.

(5) It is assumed for the present that this is also forbidden for all purposes. V. infra.

(6) If they had been rendered unclean, e.g. by a reptile, they can convey uncleanness to other foodstuffs by contact.

(7) For before the meat had been cooked in the milk, although it had been left to soak therein, both the meat and the milk were permitted to be eaten.

(8) Lev. XI, 34.

(9) Sc. gentiles.

(10) And conveys food-uncleanness.

(11) And what is forbidden for all uses may not be given away even to gentiles.

(12) For it must be burnt.

(13) That R. Simeon derives his view from the exposition of the verse quoted, and therefore what is permitted for use conveys food-uncleanness.

(14) I.e., according to R. Simeon.

(15) V. Hul. 116a.

(16) Deut. XIV, 21.

(17) Ex. XXII, 30.

(18) Since it may be cast to the dogs. And as it is one's duty to provide for one's animals this is accounted as a benefit.

(19) Sc. meat cooked in milk.

(20) And for that reason alone it conveys food-uncleanness.

(21) V. supra p. 621, n. 10. On the other hand, the other forbidden things enumerated were at no time permitted to be eaten, since a living animal is deemed to be forbidden until it has been ritually slaughtered.

(22) I.e., ‘that which remained’; the portion of a sacrifice that had not been eaten or sacrificed upon the altar within the time prescribed. It may not be eaten or put to any kind of use, but must be burnt.

(23) In this case the flesh of the sacrifice had never been permitted to be eaten, hence it is not regarded as a foodstuff.

(24) Accordingly the flesh was permitted to be eaten the same day after the sprinkling of the blood until midnight.

(25) This last ruling is contrary to R. Oshaia's ruling supra p. 620.

(26) The flour of the meal-offering had been permitted for food before it had been consecrated for the meal-offering, hence even though it is now piggul it still conveys food-uncleanness. This is the case dealt with by the Baraitha quoted.

(27) That dealt with by R. Oshaia.

(28) Accordingly there would have been a time when it was permitted for food.

(29) V. Hul., Sonc. ed., pp. 455-6.

(30) Even though it is forbidden for all purposes.

(31) I.e., even after it had been slaughtered upon the specially erected woodpile and is ready for burning it may be redeemed if a finer animal is obtainable.

(32) Of course not. Therefore it is not regarded as already redeemed.

(33) Obviously we do not accept the principle that whatever is in the condition ready to be sprinkled is considered as already sprinkled.

(34) I.e., the sacrifice was slaughtered almost at sunset, so that the blood could not possibly have been sprinkled in the proper time; accordingly the flesh was never permitted as food.

(35) Viz., where it had remained overnight before the sprinkling.

(36) That the sacrificial portion which remained overnight does not convey food-uncleanness.

(37) And it goes without saying that if it remained overnight after the sprinkling it conveys food-uncleanness.

(38) I.e., there was no time left in the day for the sprinkling.

(39) As there was time left in the day for the sprinkling it is regarded as already sprinkled; accordingly the flesh is considered as having been in the permitted state, and therefore conveys food-uncleanness.

(40) I.e., free from any intention that makes the offering piggul.

Talmud - Mas. Menachoth 102a

and if one so desired one could have sprinkled it properly, nevertheless [the Baraitha] states that it does not convey food-uncleanness. Now presumably the piggul-intention was expressed during the sprinkling![1] — No, the piggul-intention was expressed during the slaughtering.[2] Then what would be his ruling where the piggul-intention was expressed during the sprinkling? It would, as suggested, convey food-uncleanness. If so, instead of teaching ‘A meal-offering that had been made piggul conveys food-uncleanness, [the Tanna] should have drawn a distinction in [the case of the animal-offering] itself in these terms: This[3] applies only where the piggul-intention was expressed during the slaughtering, but if the piggul-intention was expressed during the sprinkling it conveys food-uncleanness! It was necessary [for the Tanna] to teach the case of the meal-offering that had been made piggul; for notwithstanding that the piggul-intention was expressed at the time of the taking of the handful, and the taking of the handful in the meal-offering corresponds to the slaughtering [in the animal-offering],[4] nevertheless the meal-offering conveys food-uncleanness, since there was a time when it was permitted in the beginning.[5]

R. Ashi said, I stated this argument before R. Nahman [and he said to me,] You may even say that the expression, ‘if it had remained overnight [before the sprinkling]’ shall be taken in the ordinary sense;[6] and, moreover, you may say that the piggul-intention was expressed during the sprinkling,[7] [and there is no difficulty at all],[8] for whilst we accept the principle ‘If he so desired he could have redeemed it’,[9] we do not accept the principle ‘If he so desired he could have sprinkled it’.[10]

An objection was raised [from the following]:[11] R. Joshua laid down this general rule: Whatsoever had a period of permissibility to the priests is not subject to the law of sacrilege,[12] and whatsoever had no period of permissibility to the priests is subject to the law of sacrilege. What is that which had a period of permissibility to the priests? That which remained overnight or became unclean or was taken out [of the Sanctuary].[13] And what is that which had no period of permissibility to the priests? Offerings that were slaughtered [while the intention was expressed of eating of the flesh thereof] outside the proper time or outside the proper place, or whose blood was received or sprinkled by those that were unfit.[14] It says here in the first part: ‘That which remained overnight or became unclean or was taken out’. Now this means, does it not, that it actually remained overnight,[15] and [yet it is considered as having had a period of permissibility to the priests by virtue of the fact that] here if one so desired one could have sprinkled the blood,[16] and [therefore] it states that it is not subject to the law of sacrilege? — No, it means that it is ready [to become disqualified] if taken out or made unclean.[17] But what would be the position where it had actually remained overnight?[15] It would be subject to the law of sacrilege, would it not?[18] Then instead of saying, ‘Whatsoever had a period of permissibility to the priests’ and ‘Whatsoever had no period of permissibility to the priests’ [the Tanna] should have said, ‘Whatsoever had been permissible to the priests is not subject to the law of sacrilege, and whatsoever had not been permissible to the priests is subject to the law of sacrilege![19] — The fact is, answered R. Ashi, that one cannot point out a contradiction between the ruling concerning the law of sacrilege and that concerning uncleanness. The law of sacrilege applies only to that which is holy and not to that which is not holy;[20] therefore once the holiness has departed[21] how can it revert? On the other hand, food-uncleanness applies only to that which is a foodstuff and not to that which is not a foodstuff; therefore where the blood has been sprinkled [the flesh of the offering] has thereby become a foodstuff and so conveys food-uncleanness, but where the blood has not been sprinkled[22] [the flesh of the offering] has not become a foodstuff and so does not convey food-uncleanness.[23]

An objection was raised [from the following]:[24] If a man brought a suspensive guilt-offering[25] and it became known to him that he had not sinned, if the animal was not yet slaughtered it may go forth and pasture among the flock.[26] This is the opinion of R. Meir. The Sages say

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(1) Before the sprinkling, however, the offering was still valid, and the blood was then ready to be sprinkled in the proper manner; the flesh therefore should convey food-uncleanness. As the Tanna does not rule so we are forced to the conclusion that whatever is ready for sprinkling is not considered as already sprinkled.

(2) So that there was never a time when the offering was in a permitted state.

(3) That an offering which had been made piggul does not convey food-uncleanness

(4) Cf. supra 13b. And it has been stated that where the piggul-intention was expressed during the slaughtering the flesh does not convey food-uncleanness.

(5) Before it was consecrated.

(6) Not as suggested above that ‘before the sprinkling’ meant that there was no time during the day for the sprinkling and ‘after the sprinkling’ that there was time in the day for the sprinkling, but the former expression means that the sprinkling had not actually taken place and the latter that it had actually taken place.

(7) Nevertheless the flesh of the offering does not convey food-uncleanness.

(8) In the apparent contradiction between the views of R. Simeon; for with regard to the Red Cow he applies the principle ‘Whatsoever stands to be redeemed is considered as redeemed’, yet with regard to the offering conveying food-uncleanness he does not apply the similar principle ‘Whatsoever stands to be sprinkled is considered as sprinkled’.

(9) For the redemption can be accomplished by word of mouth, and therefore even though not yet redeemed it is considered as already redeemed.

(10) For so long as the act of sprinkling has not been performed, the fact that it can be sprinkled if so desired dos not cause it to be regarded as already sprinkled.

(11) Me'il. 2a.

(12) I.e., the misappropriation of the property of the Temple, for which a guilt-offering is prescribed. Cf. Lev. V, 15f. That which had at some time been permitted to the priests, even though it is now no longer permitted, is not regarded as ‘the holy things of the Lord’ (ibid.), and the law of sacrilege does not apply to it.

(13) In these three cases the flesh had been permissible at some time, i.e., before it had been kept overnight or before it had become unclean or before it had been taken out.

(14) V. Zeb. 15b. In these cases the flesh of the offering had at no time been permissible since the offering was never valid.

(15) I.e., both the flesh and the blood of the offering had remained overnight, for the blood had not yet been sprinkled.

(16) And whatsoever is ready to be sprinkled is considered as already sprinkled; thus contrary to R. Nahman and R. Ashi.

(17) I.e., the blood has already been sprinkled, so that the flesh is perfectly valid now but may yet be rendered invalid if taken outside the Sanctuary or made unclean. This is Rashi's first interpretation, according to which the words וראויה ללין are to be omitted from the text. They are deleted by Sh. Mek. V., however, Rashi's second interpretation and Tosaf. s.v. לא.

(18) Since we do not accept the principle that whatsoever is ready to be sprinkled is considered as already sprinkled.

(19) The expression ‘a period of permissibility’ signifies a potential permissibility; i.e., there was the possibility of the offering becoming permissible if only the blood had been sprinkled, though in fact the blood had not been sprinkled and so the flesh had not become permissible. Since, however, it is now assumed that the blood had actually been sprinkled, so that the flesh had in fact become permissible to the priests, the Tanna should have used the expression, ‘Whatsoever had been permissible’. This last expression does not preclude the fact that the flesh is now no longer permissible to the priests for it has remained overnight; accordingly the difficulty raised by Tosaf. is disposed of. This interpretation follows the suggestion of R. Samuel Strashun, namely, that the question in the Gemara involves merely the omission of the word שעת from the rule stated by the Tanna.

(20) Lit., ‘is on account of the holiness or non-holiness (of the offering)’.

(21) As soon as the blood is ready to be sprinkled the holiness of the flesh of the offering is gone, since the principle is well-established that whatsoever is ready to be sprinkled is considered as already sprinkled. Cf. B.K. 76b.

(22) Even though the blood was ready to be sprinkled.

(23) The text of this last sentence in cur. edd. is profuse and redundant; the reading adopted is that of MS.M. and Sh. Mek.

(24) Ker. 23b.

(25) Heb. אשם תלוי. The guilt-offering brought by a person who is in doubt whether he has committed an act which must be atoned for by a sin-offering. This sacrifice is therefore merely suspensive until the doubt will be settled and the person will know whether he must bring a sin-offering or not.

(26) The animal is deemed to be non-holy and may join the flock.

Talmud - Mas. Menachoth 102b

, It must be left to pasture until it becomes blemished, when it shall be sold and its money spent on a freewill-offering. R. Eliezer says, It should be offered, for if it was not offered for this sin it can be taken as offered for some other sin.[1] If it became known to him [that he had not sinned] only after it was slaughtered, the blood must be poured out and the flesh burnt.[2] If the blood had already been sprinkled, the flesh may be eaten.[3] R. Jose says, Even if the blood was still in the basin, it should be sprinkled and the flesh eaten. And Raba had said that R. Jose adopted the principle stated by R. Simeon that whatsoever stands to be sprinkled is considered as already sprinkled![4] — Is that [indeed] the reason [for R. Jose's view]? [No]. In the West[5] it was said in the name of R. Jose b. Hanina that this is the reason for R. Jose's view: Vessels of ministry hallow what is invalid[6] so that it may be offered up in the first instance.

Said R. Ashi to R. Kahana: Since R. Simeon holds that whatsoever is ready to be sprinkled is considered as already sprinkled, then similarly [he holds that] whatsoever is ready to be burnt is considered as already burnt, consequently why should nothar[7] and the Red Cow convey food-uncleanness? They are but ashes,[8] are they not? — He replied, Sacred esteem renders them fit [to convey uncleanness]. Thereupon Rabina said to R. Ashi, I grant you that sacred esteem can have the effect of rendering the object itself invalid, but can it have the effect of rendering the object unclean so that it should transmit uncleanness up to the first and second degrees?[9] [For in that case] you could solve the question raised by Resh Lakish:[10] [If] the dry portion of a meal-offering[11] [becomes unclean], does it transmit uncleanness up to the first and second degrees or not? — Resh Lakish's question was [whether it was so] by the law of the Torah ‘[12] whereas we are speaking of [the uncleanness imposed] by the Rabbis.[13]

MISHNAH. IF A MAN SAID, ‘I TAKE UPON MYSELF [TO BRING A MEAL-OFFERING PREPARED] ON A GRIDDLE’, AND HE BROUGHT ONE PREPARED IN A PAN, OR ‘A MEAL-OFFERING PREPARED IN A PAN’, AND HE BROUGHT ONE PREPARED ON A GRIDDLE, WHAT HE HAS BROUGHT HE HAS BROUGHT,[14] BUT HE HAS NOT DISCHARGED THE OBLIGATION OF HIS VOW. BUT [IF HE SAID, ‘I TAKE UPON MYSELF] TO BRING THIS [MEAL] AS A MEAL-OFFERING PREPARED ON A GRIDDLE’, AND HE BROUGHT IT PREPARED IN A PAN; OR AS A MEAL-OFFERING PREPARED IN A PAN’, AND HE BROUGHT IT PREPARED ON A GRIDDLE, IT IS INVALID.[15] IF HE SAID, ‘I TAKE UPON MYSELF TO BRING TWO TENTHS IN ONE VESSEL, AND HE BROUGHT THEM IN TWO VESSELS, OR IN TWO VESSELS’, AND HE BROUGHT THEM IN ONE VESSEL, WHAT HE HAS BROUGHT HE HAS BROUGHT, BUT HE HAS NOT DISCHARGED THE OBLIGATION OF HIS VOW. BUT [IF HE SAID, ‘I TAKE UPON MYSELF TO BRING] THESE [TWO TENTHS] IN ONE VESSEL’, AND HE BROUGHT THEM IN TWO VESSELS, OR IN TWO VESSELS', AND HE BROUGHT THEM IN ONE VESSEL, THEY ARE INVALID.[16] IF HE SAID, 'I TAKE UPON MYSELF TO BRING TWO TENTHS IN ONE VESSEL' AND HE BROUGHT THEM IN TWO VESSELS, AND WHEN THEY SAID TO HIM, THOU DIDST VOW TO BRING THEM IN ONE VESSEL', HE STILL OFFERED THEM IN TWO VESSELS, THEY ARE INVALID;[17] BUT IF HE THEREUPON OFFERED THEM IN ONE VESSEL THEY ARE VALID. IF HE SAID I TAKE UPON MYSELF TO BRING TWO TENTHS IN TWO VESSELS', AND HE BROUGHT THEM IN ONE VESSEL, AND WHEN THEY SAID TO HIM, 'THOU DIDST VOW TO BRING THEM IN TWO VESSELS', HE THEREUPON OFFERED THEM IN TWO VESSELS THEY ARE VALID; BUT IF HE STILL KEPT THEM IN ONE VESSEL, THEY ARE RECKONED AS TWO MEAL-OFFERINGS WHICH HAVE BEEN MIXED.[18]

GEMARA. All the cases indeed had to be stated. For if the Tanna had only taught us the first cases[19] we should have said that the reason [why he has not fulfilled his obligation] was that he had promised a meal-offering prepared on a griddle and brought one prepared in a pan, but in the other cases,[20] where both[21] were meal-offerings prepared on a griddle or both were meal-offerings prepared in a pan, we should have said that he has even discharged the obligation of his vow; [hence those other cases were necessary to be stated]. And if he had only stated those cases we should have said that the reason for the ruling was that he had divided up the meal-offering, but in the former cases, where he had not divided up the meal-offering, we should have said that it was not so; therefore all the cases were necessary [to be stated].

Our Rabbis taught: What he has brought he has brought, but he has not discharged the obligation of his vow. R. Simeon says, He has even discharged the obligation of his vow.

TO BRING THIS [MEAL] AS A MEAL-OFFERING PREPARED ON A GRIDDLE. But it has been taught: The vessels of ministry have not hallowed them![22] — Abaye answered, They have not hallowed them to that extent that they may be offered [upon the altar], but they have hallowed them to the extent that they can become invalid.[23]

Abaye further said, This[24] has been taught

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(1) For R. Eliezer has already stated his view that a man may offer a suspensive guilt-offering every day. V. Ker. 25a.

(2) For it is now manifest that what was slaughtered was not an offering but an unconsecrated animal, and as it was slaughtered in the Temple court it must be destroyed.

(3) For at the time of the sprinkling this man required atonement and the offering was a valid offering, consequently its flesh may be eaten.

(4) We thus see that by this principle the flesh of the offering is deemed to be a foodstuff so that it may be eaten by the priests as soon as the blood was ready for sprinkling; but this is contrary to R. Ashi's contention.

(5) Palestine.

(6) Not what is actually invalid, but, as in the case in question, where the offering turned out to be unnecessary.

(7) V. Glos.

(8) For they are destined to be burnt.

(9) And the expression 'conveys food-uncleanness' obviously means that it transmits the uncleanness to another object, the latter becoming unclean in the second degree.

(10) V. Hul. 36a, Sonc. ed. p. 194ff; and Pes. 20a.

(11) I.e., that part of the meal-offering which was not moistened by the oil and so was not rendered susceptible to uncleanness in the usual manner by moistening by a liquid but only by sacred esteem.

(12) I.e., whether that which was deemed a foodstuff or that which was made susceptible to uncleanness only by sacred esteem, and which subsequently suffered uncleanness, can by the law of the Torah transmit the uncleanness to another foodstuff, so that if the latter were consecrated meat it would have to be burnt.

(13) The ruling that nothar and the Red Cow convey food-uncleanness is therefore only Rabbinic, and one would not

burn consecrated meat on account of such uncleanness.
(14) And it is regarded as a freewill meal-offering.
(15) Since the flour was designated for one meal-offering it may not be used for another.
(16) For where the meal-offering was brought in two vessels instead of in a single vessel, two handfuls are taken from the meal-offering instead of one, and moreover in each vessel the flour is less than the amount promised. And where it was brought in one vessel instead of in two vessels, only one handful is taken therefrom instead of two, and moreover the flour in this vessel is too much, for there should be in it one tenth and not two.
(17) In this case the offerings cannot be regarded as freewill-offerings seeing that when his attention was drawn to the terms of his vow he did not reply that what he was offering was a freewill-offering and not in fulfilment of his vow.
(18) And if each tenth is distinct so that the handful can still be taken from each by itself, they are valid. V. supra 23a. In the earlier case of this Mishnah, where he said, ‘Let two tenths be brought in two vessels’, and he brought them in one vessel, it must be assumed that the two tenths were so much mixed together that the handful could not have been taken from each by itself, and therefore they are invalid.
(19) Where a man promised to bring a meal-offering prepared on a griddle, and he brought one prepared in a pan, or vice versa.
(20) Where he promised to bring a meal-offering in one vessel and he brought it in two, or vice versa.
(21) Sc. what he had promised and what he had actually brought.
(22) The vessels in which the meal-offerings are put when brought to the Temple do not hallow the offerings, accordingly the meal-offering which had wrongfully been put into a pan could be transferred to a griddle, why then is it invalid?
(23) If they are taken out of the vessels assigned to them.
(24) That where a man vowed to bring this flour as a meal-offering prepared on a griddle and he brought it as a meal-offering prepared in a pan it is invalid.

Talmud - Mas. Menachoth 103a

only in the case where he determined [the kind of vessel] at the time of his vowing, but [where he determined the kind of vessel] at the time of his setting it apart,[1] it is not [invalid]; [for Scripture says,] According as thou hast vowed,[2] and not ‘according as thou hast set apart’.

This has also been stated: R. Aha b. Hanina said in the name of R. Assi who said it in the name of R. Johanan, This has been taught only in the case where he determined the kind of vessel at the time of his vowing, but [where he determined the kind of vessel] at the time of his setting it apart, it is not [invalid]; [for Scripture says,] ‘According as thou hast vowed’, and not ‘according as thou hast set apart’.

MISHNAH. IF A MAN SAID, ‘I TAKE UPON MYSELF TO BRING A MEAL-OFFERING OF BARLEY’, HE MUST BRING ONE OF WHEAT;[3] IF ‘OF COARSE MEAL’, HE MUST BRING IT OF FINE FLOUR; IF ‘WITHOUT OIL AND WITHOUT FRANKINCENSE’, HE MUST NEVERTHELESS BRING IT WITH OIL AND FRANKINCENSE; IF ‘HALF A TENTH, HE MUST BRING A WHOLE TENTH; IF A TENTH AND A HALF’, HE MUST BRING TWO. R. SIMEON DECLARES HIM EXEMPT, BECAUSE HE DID NOT MAKE HIS OFFERING IN THE MANNER IN WHICH PEOPLE USUALLY MAKE THEIR OFFERINGS.

GEMARA. But why is this? Here is a vow and also its annulment![4] — The view [expressed in our Mishnah], said Hezekiah, Is that of Beth Shammai who maintain that one must always regard the first words [of a man's statement as binding].[5] For we have learnt: [If a man said,] ‘I will be a Nazirite [and abstain] from dried figs and pressed figs’, Beth Shammai say, He becomes a Nazirite [in the ordinary sense];[6] but Beth Hillel say, He does not become a Nazirite.[7] R. Johanan said, You may even say that it is the view of Beth Hillel too, for [we assume that] the man added,’ Had I but known that one may not vow a meal-offering in this manner, I should not have vowed in this manner but in that’.

Hezekiah said, This[8] was taught only in the case where he said a meal-offering of barley', but where he said 'a meal-offering of lentils', he has not [to bring a meal-offering of wheat]. But let us consider: Hezekiah explained our Mishnah according to the view of Beth Shammai, did he not? But since Beth Shammai maintain that one must always regard the first words [of a man's statement] as binding then surely it is immaterial whether he said 'of barley' or 'of lentils'! — He abandoned that view.[9] But why did he abandon it? — Raba said, Because our Mishnah was to him difficult to understand. Why does it state 'a meal-offering of barley' and not 'of lentils'?[10] Obviously it is because of the man's error; now in regard to barley a man may err[11] but surely not in regard to lentils.[12]

R. Johanan, however, said, Even [if he said] 'of lentils',[13] But consider: R. Johanan explained our Mishnah in accordance with the view of Beth Hillel, did he not? And Beth Hillel's view is based upon the man's error; now [I grant you that] a man may err in regard to barley, but surely he would not err in regard to lentils![14] — He[15] said so only as the result of Hezekiah's argument. [For he reasoned with him thus:] Why did you abandon your view? Because our Mishnah does not state 'of lentils'. But it may be that [that was so obvious that] it was not even necessary to be stated! Thus not only where he said 'of lentils',in which case it can only be said that he is revoking his vow,[16] do we hold that we must adopt the first words [of his statement]; but even where he said 'of barley', in which case it might be said that he has erred,[17] we still say that we must adopt the first words [of his statement].

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(1) The man vowed to bring a meal-offering but did not specify the kind of vessel in which it was to be prepared, and only later when setting apart the flour for his meal-offering he mentioned the vessel in which it was to be prepared. If then he actually prepares it in a vessel different from that mentioned by him previously, it is still valid.

(2) Deut. XXIII, 24.

(3) Since all freewill meal-offerings must be brought of wheaten fine flour, to which oil and frankincense must be added. Cf. Lev. II, 1.

(4) For by the additional words 'of barley' he obviously meant to annul his expressed vow, since every one knows that only wheat may be offered as a meal-offering and not barley.

(5) Therefore as soon as he said, 'I take upon myself to bring a meal-offering', that constituted a binding vow, and his subsequent words 'of barley' cannot nullify the effect of his opening words.

(6) And he must abstain from wine and grapes. Cf. Num. VI, 1ff.

(7) Supra 81b; Nazir 9a.

(8) That he must bring a meal-offering of wheat.

(9) That our Mishnah represents the view of Beth Shammai. He accordingly accepts the explanation of R. Johanan.

(10) For according to Beth Shammai's view that a man is bound by his first words, then even though he added 'of lentils' he should also be liable to bring a meal-offering of wheat. The fact that our Mishnah implies a distinction between barley and lentils proves that Beth Shammai's view is not upheld.

(11) He genuinely believed that he may bring a meal-offering of barley, since there are in fact meal-offerings of barley, e.g., the meal-offering of jealousy (cf. Num. V, 15). His intention, however, was to bring a proper meal-offering, and therefore in place of the meal-offering of barley he must bring one of wheat.

(12) By adding 'of lentils' he obviously intended to revoke his promise, accordingly he is exempt, since we do not accept the view that a man is bound by his first words.

(13) He must bring a meal-offering of wheat.

(14) V. p. 633, n. 7.

(15) R. Johanan, in affirming that the ruling is applicable even though he said 'of lentils'.

(16) For no man would be so mistaken as to believe that he may bring a meal-offering of lentils, obviously then he is retracting his vow, and this he cannot do since he is already bound by his first words.

(17) For he believed that he could bring a meal-offering of barley. He therefore only intended a meal-offering of barley and since this cannot be brought he should be exempt entirely.

Talmud - Mas. Menachoth 103b

Ze'iri said, This[1] applies only where he said ‘a meal-offering’, but where he did not say ‘a meal-offering’[2] it is not so.[3]

R. Nahman was once sitting and reciting the above statement [of Ze'iri]. Thereupon Raba raised the following objections against R. Nahman: IF ‘OF COARSE MEAL’, HE MUST BRING IT OF FINE FLOUR. Is it not the case that he did not say ‘a meal-offering’? — No, he actually said ‘a meal-offering’. IF ‘WITHOUT OIL AND WITHOUT FRANKINCENSE’, HE MUST NEVERTHELESS BRING IT WITH OIL AND FRANKINCENSE. Is it not the case that he did not say ‘a meal-offering’? No, he actually said ‘a meal-offering’. IF ‘HALF A TENTH’, HE MUST BRING A WHOLE TENTH. Is it not the case that he did not say ‘a meal-offering’? — No, he actually said ‘a meal-offering’. If so, consider the next clause: IF ‘A TENTH AND A HALF’, HE MUST BRING TWO. But as soon as he said a meal-offering [of a tenth]’ he immediately was bound to bring a tenth, and when he added ‘and a half’ it is of no account![4] — The case must be that he said, ‘I take upon myself to bring a meal-offering of half a tenth and a tenth’; for as soon as he said ‘a meal-offering’ he immediately was bound to bring a tenth, when he added ‘half a tenth’ it was of no account, and when he finally said ‘a tenth’ he became bound to bring another tenth. If so, what can be the reason for the last statement: R. SIMEON DECLARES HIM EXEMPT, BECAUSE HE DID NOT MAKE HIS OFFERING IN THE MANNER IN WHICH PEOPLE USUALLY MAKE THEIR OFFERINGS?[5] — Raba answered, R. Simeon stated this according to the view of R. Jose who maintained that a man is bound by his last words too.[6]

MISHNAH. A MAN MAY OFFER A MEAL-OFFERING CONSISTING OF SIXTY TENTHS AND BRING THEM IN ONE VESSEL IF[7] A MAN SAID, I TAKE UPON MYSELF TO OFFER SIXTY TENTHS’, HE MAY BRING THEM IN ONE VESSEL. BUT IF HE SAID, I TAKE UPON MYSELF TO OFFER SIXTY-ONE TENTHS’, HE MUST BRING SIXTY IN ONE VESSEL AND THE ONE IN ANOTHER VESSEL; FOR SINCE THE CONGREGATION BRING ON THE FIRST DAY OF THE FEAST [OF TABERNACLES] WHEN IT FALLS ON A SABBATH SIXTY-ONE TENTHS [AS A MEAL-OFFERING],[8] IT IS ENOUGH FOR AN INDIVIDUAL THAT [HIS MEAL-OFFERING] BE LESS BY ONE TENTH THAN THAT OF THE CONGREGATION. R. SIMEON SAID, BUT SOME OF THESE [SIXTY-ONE TENTHS] ARE FOR THE BULLOCKS AND SOME FOR THE LAMBS, AND THEY MAY NOT BE MIXED ONE WITH THE OTHER![9] BUT THE FACT IS THAT UP TO SIXTY TENTHS THEY CAN BE MINGLED [IN ONE VESSEL].[10] THEY SAID TO HIM, CAN SIXTY BE MINGLED [IN ONE VESSEL] AND NOT SIXTY-ONE? HE ANSWERED, SO IT IS WITH ALL THE MEASURES PRESCRIBED BY THE SAGES: A MAN MAY IMMERSE HIMSELF IN FORTY SEAHS[11] OF WATER, BUT HE MAY NOT IMMERSE HIMSELF IN FORTY SE'AHS LESS ONE KORTOB.[11]

GEMARA. This question was asked before[12] R. Judah b. Ila'i: How do we know that if a man said, ‘I take upon myself to offer Sixty-one tenths’, he must bring sixty in one vessel and the one in another vessel? R. Judah b. Ila'i, the chief speaker on all occasions,[13] opened the discussion and said, Since we find that the congregation bring on the first day of the Feast [of Tabernacles] when it falls on a Sabbath sixty-one tenths, it is enough for an individual that [his meal-offering] be less by one tenth than that of the congregation. R. Simeon said to him, But some of these [sixty-one tenths] are for the bullocks and the rams and some for the lambs, with some the mixture is thick and with some it is thin,[14] some are mingled in the morning and some in the evening,[15] and they may not be mixed one with the other! Thereupon [R. Judah] said to him, You explain it. He replied, It is written, And every meal-offering mingled with oil or dry:[16] thus the Torah says, Bring a meal-offering that can be mingled [in one vessel]. To this he objected saying, Can sixty be mingled [in one vessel] and not sixty-one? He replied, So it is with all the measures prescribed by the Sages: a man may immerse himself in forty se'ahs [of water], but he may not immerse himself in forty se'ahs less one kortob; an egg's bulk of food can convey food-uncleanness, but an egg's bulk of food less one sesame seed cannot convey food-uncleanness; [a cloth that is] three handbreadths square is susceptible to midras-uncleanness,[17] but [that which is] three handbreadths square less one thread is not susceptible to midras-uncleanness. But what of it if they cannot be mingled? Have we not learnt:[18] If he did not mingle it it is valid? — R. Zera answered, Wherever mingling is possible the mingling is not indispensable, but wherever mingling is not possible[19] the mingling is indispensable.

R. Bibi said in the name of R. Joshua b. Levi, Once a mule belonging to the house of Rabbi died, and the Sages measured the blood that flowed out therefrom [to ascertain whether there was] a quarter-log.[20] R. Isaac b. Bisna raised an objection from the following: R. Joshua and R. Joshua b. Bathyra testified that the blood of carcasses was clean. Moreover R. Joshua b. Bathyra related that it once happened that wild asses were speared in the royal square for the lions, and the Festival pilgrims had to wade up to their knees in blood, and nothing was said to them about it! He[21] remained silent. Thereupon R. Zerika said to him, Why does not the Master give an answer? He replied, How can I answer? Behold R. Hanin has said, It is written, And thy life shall hang in doubt before thee:[22] this refers to one who buys grain from year to year;[23] and thou shalt fear night and day:[22] this refers to one who buys grain from week to week;[24] and shalt have no assurance of thy life:[25] this refers to one who has to rely upon the bread dealer.[26]

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(1) The ruling that we adopt the first words of a man's statement.

(2) But said, ‘I take upon myself of barley’. Aliter: He said, ‘I take upon myself a meal-offering-of (מנחת) barley’. In this case the word מנחת cannot stand by itself.

(3) But he is entirely exempt.

(4) Consequently he should only bring one tenth and not two.

(5) Since it is assumed that a man is bound by his first words, and this man in his opening words had made an offering in the proper manner.

(6) A man's whole statement must be considered, and as he said ‘a half tenth and a tenth’ it is undoubtedly an unusual offering and he is therefore entirely exempt. This view of R. Jose is to be found in Tem. 25b.

(7) This sentence is omitted in MS.M. and is deleted by Sh. Mek.

(8) On this day were offered (cf. Num. XXIX, 12ff) thirteen bullocks, each requiring three tenths of flour as a meal-offering, two rams, each requiring two tenths, and fourteen lambs, each requiring one tenth; thus 39 + 4 + 14 tenths 57. In addition there were two further tenths for the two lambs of the daily offering, and two more for the two lambs of the Sabbath Additional offering; thus making a total of 61.

(9) For the quantity of oil for the tenths varied; each tenth that accompanied the bullock or the ram required two logs of oil, hence the mixture was thick, whereas the tenth that was brought with each lamb required three logs of oil, thus making a thin mixture. Accordingly the sixty-one tenths were not all put in one vessel.

(10) With one log of oil, which according to R. Eliezer b. Jacob (supra 88a) is the amount prescribed for any number of tenths up to sixty. The Mishnah here accepts the view of R. Eliezer b. Jacob. But even according to the Rabbis it will be admitted that sixty tenths with a corresponding number of logs of oil cannot well be mingled together in one vessel (v. Rashi supra 18b s.v. ששים ואחד).

(11) V. Glos.

(12) Lit., ‘above’.

(13) A title given to R. Judah, also in Ber. 63b and Shab. 33b.

(14) V. supra n. 1.

(15) For not all the sixty-one tenths were offered at one time, since these included the tenth offered with the daily offering in the morning and that offered in the evening.

(16) Lev. VII, 10.

(17) V. Glos.

(18) Supra 18a.

(19) E.g., sixty-one tenths in one vessel with one log of oil.

(20) For a quarter-log of blood (which, it is estimated, when congealed is equal to an olive's bulk) of a carcass conveys uncleanness like the carcass itself; cf. ‘Ed. V, 1; VIII, 1.

(21) R. Bibi.
(22) Deut. XXVIII, 66.
(23) I.e., who has no fields of his own to cultivate but must purchase his provisions yearly.
(24) Lit., 'from Sabbath eve to Sabbath eve'.
(25) Deut. XXVIII, 66.
(26) For his daily needs.

Talmud - Mas. Menachoth 104a

And I[1] have to rely upon the bread dealer. How does the matter stand?[2] — R. Joseph answered, R. Judah was the Master [in regard to all matters of religious law] in the house of the Nasi,[3] and it was he that gave the above decision,[4] and it was in accordance with the law that he reported. For we have learnt:[5] R. Judah reports six instances of lenient rulings by Beth Shammai and stringent rulings by Beth Hillel.[6] Beth Shammai pronounce the blood of a carcass clean; but Beth Hillel pronounce it unclean. R. Jose son of R. Judah said, Even when Beth Hillel pronounced it unclean they said so only in respect of a quarter-log of blood, since it can congeal and amount to an olive's bulk.[7]

MISHNAH. ONE MAY NOT OFFER ONE [LOG], TWO, OR FIVE [LOGS],[8] BUT ONE MAY OFFER THREE, FOUR, SIX,[9] OR ANYTHING ABOVE SIX.[10]

GEMARA. The question was asked: Is the wine of the drinkofferings indivisible or not?[11] In what circumstances [does the question arise]? Where, e.g., a man brought five [logs of wine]. If you say that the wine of the drink-offerings is not indivisible, then four logs can be drawn off and offered, since that is the proper quantity for a ram, and the remaining log would be for a freewill-offering;[12] but if you say that it is indivisible, then these five logs may not be offered until the quantity is made up.[13] How is it then?

Abaye said, Come and hear: There were six [money chests] for freewill-offerings.[14] And to the question, What did they represent? the reply was given, They represented the surplus[15] of the sin-offering, the surplus of the guilt-offering, the surplus of the guilt-offering of the Nazirite, the surplus of the guilt-offering of the leper, the surplus of the bird-offerings, and the surplus of the sinner's meal-offering. Now if it were so,[16] then another money chest should have been prepared for the surplus of the drink-offerings? — Those[17] served only for freewill-offerings of the community,[18] whereas these[19] were quite frequent, and therefore the surplus of the drink-offerings of one man could be joined to that of another and could in this way be offered.[20]

Raba said, Come and hear: Home-born:[21] this teaches us that a man may offer wine for a drink-offering.[22] How much [must he bring]? Three logs. Whence do we know that if he desired to bring more he may do so? Because the text states, Shall be.[23] We might suppose that he may bring less, the text therefore states, After this manner.[24] Now what is meant by 'bring more'? Shall I say [it means the bringing of] four or six logs? But why are three logs admitted? [Surely] because that quantity is proper for a lamb! Then similarly four and six logs are proper for a ram and a bullock respectively?[25] Hence it must mean [the bringing of] five logs,[26] thus proving that the wine for the drink-offerings is not indivisible. This indeed proves it.

R. Ashi said, But we have not learnt so [in our Mishnah]! [For it states]: ONE MAY NOT OFFER ONE [LOG], TWO, OR FIVE [LOGS], BUT ONE MAY OFFER THREE, FOUR, SIX, OR ANYTHING ABOVE SIX. Now here five is stated alongside with two, therefore as two can under no circumstances be admitted for drink-offerings, so five cannot be admitted at all? — This does not necessarily follow; each follows its own rule.[27]

Abaye said, If you are able to prove that the wine of the drink-offerings is not indivisible, then it is not indivisible.[28] But if you prove that it is indivisible, then I am clear as to the law with regard to any number of logs up to ten,[29] but about eleven

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(1) Lit., ‘that man’. R. Bibi was in straitened circumstances and had difficulties in obtaining a living, consequently his mind was not at ease to concentrate on the question raised.

(2) Is a quarter-log of blood of a carcass unclean or not?

(3) Sc. Rabbi, in whose house the above incident about the mule occurred. Chronologically it is very difficult to accept that R. Judah b. Ila'i held a position in the household of R. Judah the prince (or Rabbi). V. however Tosaf. s.v. מוריינא.

(4) To measure the blood so as to ascertain whether there was a quarter-log or not.

(5) ‘Ed. V, 1; Shab. 77a.

(6) This is exceptional, for generally the school of Hillel follow the more lenient ruling.

(7) Which is the minimum quantity of carcass (נבילה) that conveys uncleanness.

(8) Of wine as a drink-offering. One may offer only such quantities as conform with the quantities prescribed for one or several of the specific animal-offerings, and these are: six logs for each bullock, four for each ram, and three for each lamb. Nowhere is such a quantity as one log, or two, or five prescribed.

(9) Corresponding to the wine-offering of a lamb, a ram, and a bullock respectively.

(10) Thus seven logs could be applied for the drink-offerings of one ram and one lamb, eight for two rams, nine for one bullock and one lamb, and so on.

(11) Where a certain quantity of wine is offered, is it to be regarded as one whole so that it must be offered together as one drink-offering, or may it be divided up and some taken for one offering and the remainder applied in any manner available for it?

(12) The remaining log would either be sold and the money obtained put into the chest of freewill-offerings or it would be added to two more logs and used as the drink-offering of the daily offering.

(13) I.e., he must bring another log so as to make up six logs, the quantity prescribed for a bullock.

(14) V. Shek. VI, 5, and infra 107b.

(15) I.e., if a certain sum of money had been set apart for an animal-offering and the price fell, the surplus money was put into a money chest and eventually was expended on burnt-offerings for the community. The offerings enumerated were each in some aspect different from the others, hence the surplus of each was kept in a separate chest.

(16) That the wine of the drink-offerings was not indivisible, and therefore in the case in question four logs, the quantity prescribed for a ram, could be drawn off and offered, and the remaining log would be for a freewill-offering.

(17) The surplus in each of the six cases enumerated.

(18) For the surplus money cannot be used for its original purpose.

(19) The surplus of the drink-offerings.

(20) For drink-offerings were offered at all times, even unaccompanied by an animal-sacrifice; accordingly the surplus of several offerings of wine could be combined and offered. There was therefore no need for a special chest in which to collect the surplus of each drink-offering.

(21) Num. XV, 13; with reference to the drink-offerings.

(22) Even though it is unaccompanied by an animal-offering.

(23) Ibid. XXVIII, 14: Half a hin of wine shall be for a bullock. The expression ‘shall be’ is superfluous and therefore serves to include a larger quantity than that prescribed. The reference might also be to Num. XV, 15.

(24) Ibid. 13.

(25) And surely no verse is required to include these quantities.

(26) And this quantity is expressly included by the verse. As to the procedure, four logs, the quantity prescribed for a ram, would be offered and the fifth would be a surplus.

(27) Two logs, admittedly, cannot under any circumstances be offered, but five may be offered in the manner already described, namely, four logs, being the drink-offering of a ram, are offered, and the remaining log is kept for a freewill-offering. Our Mishnah disallows the offering of five logs only in the first instance, for it is not proper to bring at the outset such a quantity as must inevitably lead to a surplus.

(28) Therefore any quantity above two logs may be offered.

(29) Thus offerings of one, two, or five logs may not be brought, but any other quantity, up to and including ten, may. V. supra p. 638, n. 13.

I am in doubt. How am I to regard it? Shall I say that the man intended to offer the drink-offerings of two bullocks,[1] and therefore these may not be offered until this quantity has been made up? Or [shall I rather say that] 'he intended to bring the drink-offerings of two rams and one lamb? [In other words, the question is:] Do we say that he meant to bring the drink-offerings corresponding to two quantities of one kind and one of the other or not?[2] The question remains unsolved.

MISHNAH. ONE MAY OFFER WINE[3] BUT NOT OIL. THIS IS THE OPINION OF R. AKIBA. BUT R. TARFON SAYS, ONE MAY ALSO OFFER OIL.[4] R. TARFON SAID, AS WE FIND THAT WINE WHICH IS OFFERED AS AN OBLIGATION[5] MAY BE OFFERED AS A FREEWILL-OFFERING,[6] SO OIL WHICH IS OFFERED AS AN OBLIGATION MAY BE OFFERED AS A FREEWILL-OFFERING. R. AKIBA SAID TO HIM, NO, IF YOU SAY SO OF WINE IT IS BECAUSE IT IS OFFERED BY ITSELF EVEN WHEN OFFERED AS AN OBLIGATION;[7] CAN YOU SAY THE SAME OF OIL WHICH IS NOT OFFERED BY ITSELF WHEN OFFERED AS AN OBLIGATION?[7] TWO [MEN] MAY NOT JOINTLY OFFER ONE TENTH; BUT THEY MAY JOINTLY OFFER A BURNT-OFFERING OR A PEACE-OFFERING, AND OF BIRDS EVEN A SINGLE BIRD.

GEMARA. Raba said, From the opinions of both we may infer that a man may offer every day the meal-offerings of the drink-offerings.[8] But is not this obvious? [No,] for I might have thought that in regard to the freewill meal-offering the Divine Law has specified but five kinds of meal-offerings[9] and no more; we are therefore taught that that is so only where [the kind of the meal-offering] was not expressed,[10] but where it was expressly stated[11] then it was so stated.

TWO [MEN] MAY NOT JOINTLY OFFER [ONE TENTH]. What is the reason? Shall I say because there is written, Bringeth?[12] But with the burnt-offering too there is written, Bringeth![13] But you will say that the reason this is so with the burnt-offering[14] is that there is written, Your burnt-offerings;[15] then with the meal-offering too there is written, And your meal-offerings![15] — The reason is that there is written in connection with [the meal-offering] the word 'soul'.[16] And so too it was taught in a Baraitha: Rabbi says, It is written, [Whosoever he be of the house of Israel] that bringeth his offering, whether it be any of their vows, or any of their freewill-offerings, which they bring unto the Lord:[17] thus every offering may be brought jointly, and the verse excluded only the meal-offering in connection with which the expression 'soul' is used.

R. Isaac said, Why is the meal-offering distinguished in that the expression 'soul' is used therewith? Because the Holy One, blessed be He, said, 'Who is it that usually brings a meal-offering? It is the poor man. I account it as though he had offered his own soul to Me'.

R. Isaac said, Why is the meal-offering distinguished in that five kinds of oil dishes[18] are stated in connection with it? This can be likened to the case of a human king for whom his friend had prepared a feast. As the king knew that [his friend] was poor, he said to him, 'prepare it[19] for me in five kinds of dishes so that I will derive pleasure from you'.

CHAPTER XIII

MISHNAH. [IF A MAN SAID], 'I TAKE UPON MYSELF TO BRING A TENTH', HE MUST BRING ONE [TENTH]; IF 'TENTHS', HE MUST BRING TWO [TENTHS]. [IF HE SAID,] 'I SPECIFIED [A CERTAIN NUMBER OF TENTHS] BUT I DO NOT KNOW WHAT NUMBER I SPECIFIED', HE MUST BRING SIXTY TENTHS[20] [IF HE SAID,] 'I TAKE UPON MYSELF TO BRING A MEAL-OFFERING', HE MAY BRING WHICHEVER KIND HE CHOOSES.[21] R.

JUDAH SAYS, HE MUST BRING A MEAL-OFFERING OF FINE FLOUR, FOR THAT IS THE PRINCIPAL MEAL-OFFERING. [IF HE SAID] A MEAL-OFFERING' OR 'A KIND OF MEAL-OFFERING', HE MUST BRING ONE [OF ANY KIND]; IF 'MEAL-OFFERINGS' OR A KIND OF MEAL-OFFERINGS', HE MUST BRING TWO [OF ANY ONE KIND]; [IF HE SAID,] 'I SPECIFIED [A CERTAIN KIND], BUT I DO NOT KNOW WHAT KIND I SPECIFIED', HE MUST BRING THE FIVE KINDS [IF HE SAID,] 'I SPECIFIED A MEAL-OFFERING OF [A CERTAIN NUMBER OF] TENTHS[22] BUT I DO NOT KNOW WHAT NUMBER I SPECIFIED, HE MUST BRING SIXTY TENTHS. BUT RABBI SAYS, HE MUST BRING MEAL-OFFERINGS [OF EVERY NUMBER] OF TENTHS FROM ONE TO SIXTY.[23] GEMARA. This[24] is obvious! — It was necessary to state the next clause: IF 'TENTHS', HE MUST BRING TWO [TENTHS]. But this too is obvious, for the minimum of 'tenths' is two! — It was necessary to state the following clause: [IF HE SAID,] 'I SPECIFIED [A CERTAIN NUMBER OF TENTHS] BUT I DO NOT KNOW WHAT NUMBER I SPECIFIED', HE MUST BRING SIXTY TENTHS.[25] Whose view is taught here? Said Hezekiah: It is not that of Rabbi, for Rabbi has said, HE MUST BRING MEAL-OFFERINGS [OF EVERY NUMBER] OF TENTHS FROM ONE TO SIXTY. R. Johanan said, You may even say that it sets forth the view of Rabbi, but [we must assume that] the man said, 'I specified [a certain number of] tenths but I had not determined them for one vessel', in which case he must bring sixty tenths in sixty vessels.[26]

[IF HE SAID.] 'I TAKE UPON MYSELF TO BRING A MEAL-OFFERING', HE MAY BRING WHICHEVER KIND HE CHOOSES, etc. A Tanna taught: It is because Holy Writ stated it first.[27] In that case, if a man said, 'I take upon myself to bring a burnt-offering'. he should have to bring a bullock,[28] since Holy Writ stated that

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(1) I.e., twelve logs.

(2) For the quantity is odd and unusual. V. Tosaf. 104a s.v. עד

(3) By itself, without it being accompanied by a meal-offering of flour and oil. As for the manner in which wine was offered, v. Zeb. 91b.

(4) A handful of the oil was taken and burnt upon the altar and the remainder was eaten by the priests.

(5) Viz., as the drink-offering which accompanied most animal-offerings.

(6) V. the exposition from the term 'home-born' supra p. 640.

(7) For the wine of the drink-offering was not mixed with anything, whereas the oil was mingled with the fine flour.

(8) I.e., the meal-offering of fine flour mingled with oil and the offering of wine, which accompany most animal-offerings, may be brought at any time as an entire and separate offering even without an animal-offering. The dispute between R. Akiba and R. Tarfon refers only to the offering of oil by itself, but certainly not to the offering of oil which is part of the meal-offering of the drink-offerings.

(9) In Lev. II, the following five kinds of meal-offerings are described: (i) the meal-offering of fine flour, (ii) the meal-offering prepared on a griddle, (iii) the meal-offering prepared in a pan, (iv) the meal-offering baked in the oven and made into cakes, and (v) that baked in the oven and made into wafers.

(10) Thus where a man pledged himself to bring a meal-offering without specifying the kind he was to bring he is bound to bring one of the five kinds described in the Torah.

(11) That he is offering the meal-offering of the drink-offerings.

(12) Lev. II, 1. The verb used is in the singular, signifying that the offering shall be brought by an individual and not by two persons jointly.

(13) Ibid. I, 3.

(14) That it may be brought jointly.

(15) Num. XXIX, 39. Here the plural pronominal suffix is used.

(16) Lev. II, 1. Heb. נפש. The term usually found with sacrifices is אדם or איש, man.

(17) Ibid. XXII, 18.

(18) Each of the five kinds of meal-offerings, v. supra p. 642, n. 2, is prepared with oil.

(19) Sc. the little that you possess.

(20) For this is the maximum size of the meal-offering of an individual; and therefore even if that which he promised was less it matters nought, for when bringing this quantity he should stipulate that what is over and above the amount he promised shall be reckoned as a freewill meal-offering.

(21) Of the five kinds of meal-offerings described in Lev. II. V. supra p. 642, n. 2.

(22) To be brought in one vessel.

(23) Since he had specified a certain number of tenths to be brought in one vessel it would not meet the case, according to Rabbi, were he to bring the maximum quantity, namely sixty tenths, in one vessel, for Rabbi is of the opinion that once a certain number of tenths have been determined for one vessel that vessel may contain neither more nor less than the number specified. Accordingly the only possible solution is to bring sixty meal-offerings, each containing a different number of tenths; in this way he will certainly have brought the meal-offering he specified.

(24) The first clause of the Mishnah.

(25) This is the correct interpretation of the text, following MS.M. and Z.K. In cur. edd. the clause: [IF HE SAID,] ‘I SPECIFIED etc.’ is erroneously placed — as a fresh quotation from our Mishnah introducing a new passage.

(26) Bringing one tenth in each vessel. For the only doubt here is as to the number of tenths, since he left the matter open whether he would bring them in one or more vessels; whereas in the last clause of our Mishnah the doubt is as to the correct number of tenths to be brought in one vessel.

(27) For this reason is the meal-offering of fine flour described by R. Judah as the principal meal-offering.

(28) Which is contrary to the law, v. infra.

Talmud - Mas. Menachoth 105a

first; and if ‘of the flock’, he should have to bring a lamb[1] since Holy Writ stated that first; and if ‘of the birds’, he should have to bring turtle-doves,[2] since Holy Writ stated them first. Wherefore then have we learnt: [If a man said,] ‘I take upon myself to bring a burnt-offering’, he should bring a lamb; but R. Eleazar b. Azariah says, [He may bring] a turtledove or a young pigeon?[3] And R. Judah does not differ there! — We must therefore say that it is accounted the principal meal-offering because it has no descriptive name.[4] But the Tanna gave as the reason ‘Because Holy Writ stated it first’! — This is what he meant to say. Which is the meal-offering described as ‘the principal one’ by virtue of the fact that it has no descriptive name? It is that which Holy Writ stated first.[5] But this is obvious, for [R. Judah] expressly mentioned the meal-offering of fine flour! — It is merely stated as a mnemonical sign.[6]

[IF HE SAID,] ‘A MEAL-OFFERING’ OR ‘A KIND OF MEAL-OFFERING’ etc. R. Papa raised the following question. What if he said ‘kinds of meal-offering’? [Shall I say that] since he said ‘kinds!.[7] he obviously meant two, and the term ‘meal-offering’ [is generic], since all meal-offerings are referred to as ‘meal-offering’, as it is written, And this is the law of the meal-offering?[8] Or [shall I rather say that] since he said ‘meal-offering’[9] he meant only one meal-offering, and by the expression ‘kinds of meal-offering’ he meant to imply, ‘Of the kinds of meal-offering I take upon myself [to bring] one meal-offering’? — Come and hear: [IF HE SAID,] ‘A MEAL-OFFERING’ OR ‘A KIND OF MEAL-OFFERING’, HE MUST BRING ONE [OF ANY KIND]. It follows, however, that [if he said] ‘kinds of meal-offering’ he would have to bring two! — Read the next clause: IF MEAL-OFFERINGS’ OR ‘A KIND OF MEAL-OFFERINGS’, HE MUST BRING TWO. It follows, however, that [if he said] ‘kinds of meal-offering’ he would have to bring only one! The truth is that we cannot decide from here.

Come and hear: [If he said,] ‘I take upon myself to bring a kind of meal-offerings’, he must bring two meal-offerings of the same kind. It follows, however, that [if he said] ‘kinds of mealoffering’ he would only have to bring one! — Perhaps the inference is this: [if he said] ‘kinds of meal-offering’, he must bring two meal-offerings of two kinds. But it has been taught otherwise: [If he said,] ‘I take upon myself to bring a kind of meal-offerings’, he must bring two meal-offerings of the same kind. But if he said, ‘I take upon myself to bring kinds of meal-offerings’, he must bring two meal-offerings of two kinds. If follows from this, that [if he said] ‘kinds of meal-offering’ he would have to bring only one! — Perhaps that [Baraitha] represents the view of R. Simeon who ruled that one may bring it[10] the half in cakes and the half in wafers; accordingly the expression ‘kinds of meal-offering’ refers to that meal-offering which may be of two kinds. According to the Rabbis, however, who ruled that one may not bring it the half in cakes and the half in wafers, he would then have to bring two meal-offerings of two kinds.[11]

[IF HE SAID,] ‘I SPECIFIED [A CERTAIN KIND] BUT I DO NOT KNOW WHAT KIND I SPECIFIED’. HE MUST BRING THE FIVE KINDS. Who is the Tanna that taught this?[12] — R. Jeremiah said, It is not R. Simeon; for according to R. Simeon who stated that he may bring it the half in cakes and the half in wafers,[13] even though R. Judah's view were accepted, that all meal-offerings consisted of ten cakes each,[14] he would have to bring fourteen meal-offerings because of the doubt.[15] Abaye said. You may even say that it is R. Simeon. for we have heard R. Simeon express the view that one may bring an offering and make conditions about it.[16] For it has been taught:[17] R. Simeon says. On the following day[18] he brings his guilt-offering and a log [of oil]

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(1) And not a goat.

(2) And not young pigeons.

(3) Infra 107a.

(4) The meal-offering of fine flour is invariably referred to as ‘the meal-offering’, whereas the others have a descriptive name attached to them, as the meal-offering prepared on a griddle, or in a pan, or baked in the oven.

(5) Namely, the meal-offering of fine flour.

(6) The Tanna of the Baraitha gave us a further help as an aid to the memory in order to remember that the principal meal-offering is the meal-offering of fine flour.

(7) In the plural.

(8) Lev. VI, 7.

(9) In the singular.

(10) Sc. the meal-offering baked in the oven; v. supra 63a.

(11) For the fulfilment of the expression ‘kinds of meal-offering’.

(12) That because of the doubt he must bring the five kinds of meal-offerings.

(13) I.e., the meal-offering baked in the oven must consist of ten pieces, but it may be made up partly of cakes and partly of wafers. v. supra 63a.

(14) As opposed to R. Meir's view that all meal-offerings must consist of twelve pieces each. V. supra 76a.

(15) For he would have to bring the eleven possible variations of the baked meal-offering, viz., ten cakes and no wafers, nine cakes and one wafer, eight cakes and two wafers, seven cakes and three wafers... no cakes and ten wafers, plus the three other kinds of meal-offering, a total of fourteen meal-offerings. According to R. Meir there are thirteen variations of the baked meal-offering, beginning with twelve cakes and no wafers, and so the total would be sixteen.

(16) And therefore, in the case of our Mishnah, he would only have to bring one baked meal-offering of ten cakes and one of ten wafers (in addition, of course, to the other three kinds of meal-offering) and declare, ‘If I had specified to bring it all in cakes, or all in wafers, then let the cakes or the wafers be offered in fulfilment of my vow and the others be a freewill-offering; and if I had specified to bring it partly in cakes and partly in wafers, then let that number of each kind which I had specified be offered in fulfilment of my vow and the rest be offered as a freewill-offering’.

(17) Tosef. Neziruth VI. The case dealt with is that of a Nazirite who was in doubt whether he was rendered unclean or not and also whether he was still a confirmed leper or not; and the Tanna of the Baraitha rules that he may eat consecrated food after sixty days. V. Tosaf s.v. למחרת.

(18) After sixty days have elapsed. Cf. Naz. 59b.

Talmud - Mas. Menachoth 105b

with it and says. ‘If I was a leper, then this is my guilt-offering and this the log of oil for it; but if not, let this be a freewill peace-offering’. And that guilt-offering must be slaughtered on the north side,[1] its blood must be applied upon the thumb and the great toe,[2] it requires the laying on of hands,[3] and drink-offerings,[3] and the waving of the breast and the thigh,[3] and it may be eaten by the males of the priesthood during that day and the following night [until midnight].[4] And[5] although the Master in [the Tractate] ‘The Slaughtering of Consecrated Animals’[6] has explained that ‘R. Simeon permitted a man to bring an offering and make conditions about it in the first instance only where there was no other possible way of making the man fit,[7] but in all the other cases[8] he permitted it only where it had actually been done but not in the first instance’, that distinction applies only to peace-offerings, since [the effect of the conditions expressed is] to reduce the time allowed for the eating,[9] and so consecrated food is rendered invalid [before its time]; but in the case of meal-offerings[10] he would permit it even in the first instance.

R. Papa said to Abaye, But according to R. Simeon who said that he may bring it the half in cakes and the half in wafers, he is then bringing one tenth out of two tenths and one log out of two logs![11] — [He replied,] We have heard R. Simeon express the view that if a man brought one tenth out of two tenths and one log out of two logs he has fulfilled his obligation.[12] But how does he take out the handful?[13] — He [takes one handful from the cakes and another from the wafers and] makes the following conditions and says. ‘If I had specified [a meal-offering] of cakes only or of wafers only, then the handful I have taken from the cakes should serve the cakes and the handful I took from the wafers should serve the wafers;[14] but if I had specified [originally a meal-offering] the half in cakes and the half in wafers, then the handful I have taken from the cakes should serve half for the cakes and half for the wafers, and the handful I have taken from the wafers should also serve half for the wafers and half for the cakes’. But surely he must take one handful from the cakes

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(1) Like the guilt-offering, which is a most holy offering.

(2) Like the guilt-offering of the leper.

(3) Like the peace-offering. The special rites peculiar to the guilt-offering as well as those peculiar to the peace-offering must be observed with this offering, as it is not known which it is.

(4) Like the guilt-offering.

(5) This sentence, as has already been pointed out by Sh. Mek., is an insertion of the Saboraim.

(6) This is the Talmudic title of Tractate Zebahim. V. Zeb. 76b.

(7) To eat consecrated meat; as in the case of the Nazirite who was in doubt as to his leprosy.

(8) As the case mentioned in Zeb. l.c. where a guilt-offering was confused with peace-offerings.

(9) Guilt-offerings may be eaten only on the day of the offering and the night following, whereas peace-offerings may be eaten during two days and one night. Where therefore a guilt-offering was confused with peace-offerings and each animal is taken and offered according to the restrictions of the two kinds of offerings, the flesh thereof would only be eaten during the shorter period and what was left over would be burnt perhaps unnecessarily.

(10) For all meal-offerings are alike in that they must be eaten the same day and the night following.

(11) For if this man's original vow was to bring a specified number of cakes and a specified number of wafers, his obligation would be, fulfilled only by combining the required number of cakes from the meal-offering of ten cakes with the required number of wafers from the meal-offering of ten wafers; and as each meal-offering consisted of one tenth of flour and one log of oil, he would thus be making up one offering from two offerings; and this is not allowed.

(12) I.e., if a man, in duty bound to bring one tenth of flour and one log of oil as a meal-offering, brought two tenths in separate vessels and two logs in separate vessels, and took the half from one and the half from the other, he has thereby fulfilled his obligation.

(13) From the meal-offering that is made up partly of cakes and partly of wafers, since in fact the cakes and the wafers are separate meal-offerings.

(14) One being in fulfilment of his vow and the other a freewill meal-offering.

Talmud - Mas. Menachoth 106a

and the wafers [mixed together].[1] whereas here he takes the handful from the cakes for the wafers and from the wafers for the cakes! — We have heard R. Simeon say that if when taking the handful there came into his hand only one of the two kinds he has fulfilled his obligation.[2] But what [is to be done] with the residue of the oil; for if he had originally specified [a meal-offering] the half in cakes and the half in wafers, the residue of the oil would be put into the cakes, but if he had originally specified [a meal-offering of] wafers the residue of the oil would be consumed by the priests?[3] — The opinion of R. Simeon son of Judah is followed. For R. Simeon son of Judah said in the name of R. Simeon.[3] He anoints them[4] in the form of the Greek letter Chi,[5] and the residue of the oil is consumed by the priests.[6]

R. Kahana said to R. Ashi, But should not the doubt include also the meal-offering offered with the drink-offerings;[7] for Raba has said, A man may offer every day the meal-offerings of the drink-offerings [which accompany animal-offerings]? — The doubt includes only that meal-offering (mnemonic: individual, by itself, frankincense, log, handful) which is brought by an individual but not that[8] which is brought by the community. The doubt includes only that which is brought by itself but not that[8] which is brought to accompany the animal-offering. The doubt includes only that which requires frankincense but not that[8] which does not require frankincense. The doubt includes only that which requires but one log of oil but not that[8] which requires three logs. The doubt includes only that from which the handful is taken but not that[8] from which the handful is not taken.

[IF HE SAID,] ‘I SPECIFIED A MEAL-OFFERING [OF A CERTAIN NUMBER] OF TENTHS’. Our Rabbis taught: [If a man said,] ‘I specified a meal-offering of [a certain number of] tenths and I determined them for one vessel,[9] but I do not know what number I specified’, he must bring a meal-offering of sixty tenths. This is the opinion of the Sages. But Rabbi says, He must bring meal-offerings of [every number of] tenths from one to sixty, that is, one thousand eight hundred and thirty [tenths].[10] [If he said,] ‘I specified [a certain number of tenths of a certain kind] but I do not know what kind I specified or what number I specified’, he must bring the five kinds of meal-offering each consisting of sixty tenths, that is, three hundred tenths. This is the opinion of the Sages. But Rabbi says, He must bring the five kinds of meal-offering, and of each kind every number of tenths from one to sixty, that is, nine thousand one hundred and fifty [tenths].[11]

What is the issue between them? — R. Hisda said, They differ as to whether or not it is permitted to bring unconsecrated food into the Sanctuary;[12] Rabbi holds that it is forbidden to bring unconsecrated food into the Sanctuary,[13] while the Sages hold that it is permitted.[14] Raba said. All hold that it is forbidden to bring unconsecrated food into the Sanctuary, but they differ as to whether or not it is permitted to mix the offering of obligation with the freewill-offering; the Sages holding that it is permitted to mix the offering of obligation with the freewill-offering,[15] while Rabbi holds that it is forbidden.

Abaye said to Rabba, According to the Sages who hold that it is permitted to mix the offering of obligation with the freewill- offering, should not two handfuls be taken therefrom?[16] — [He replied.] First one handful is taken and then another. But he would be taking the handful from the offering of obligation for the freewill-offering and from the freewill-offering for the offering of obligation! — He leaves it to the mind of the priest and says, ‘What the priest's hand takes up the first time[17] shall be [the handful] for the offering of obligation, and what it takes up the second time[18] shall be for the freewill-offering.’

But how are [the handfuls] to be burnt? If he burns the handful of the freewill-offering first, then how may he thereafter burn the handful of the offering of obligation; perhaps the entire meal-offering was his offering of obligation, consequently the remainder [of the meal-offering] has diminished [between the taking of the handful[19] and the burning thereof].[20] and a Master has stated[21] that if the remainder had diminished between the taking of the handful and the burning thereof the handful may not be burnt on behalf of it? And if he burns the handful of the offering of obligation first, then how may he thereafter burn the handful of the freewill-offering;

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(1) Where the meal-offering consists partly of cakes and partly of wafers the two kinds must be broken into pieces and mixed together and the handful taken from the mixture. V. supra 63b.

(2) Even though he took the handful from one kind in respect of the other kind.

(3) V. supra 75a.

(4) Sc. the wafers, in the offering consisting partly of cakes and partly of wafers.

(5) V. supra p. 445, n. 2.

(6) So that in either case the residue of oil is consumed by the priests.

(7) Accordingly where a man has forgotten the kind of meal-offering he offered he should because of the doubt also bring this meal-offering as a sixth kind.

(8) Sc. the meal-offering with the drink-offerings.

(9) V. supra p. 645, n. 3.

(10) This being the sum of the numbers from one to sixty.

(11) 1830 X 5 = 9150.

(12) But all agree that it is forbidden to mix together (i.e., bring in one vessel) the meal-offering that is brought as an obligation with the meal-offering that is brought as a freewill-offering.

(13) He therefore cannot bring sixty tenths in one vessel and declare that the quantity corresponding to the amount he specified shall be in fulfilment of his vow and the rest shall remain unconsecrated, since it is forbidden to bring unconsecrated food into the Sanctuary; neither can he say that the rest shall be a freewill-offering, since it is forbidden to mix the offering of obligation with the freewill-offering. The only solution, according to Rabbi, is to bring in sixty vessels meal-offerings of every number of tenths from one to sixty, and declare that the vessel which contains the quantity he specified shall be in fulfilment of his vow and all that which is in the other vessels shall be freewill-offerings.

(14) He therefore brings sixty tenths in one vessel and declares that what is over and above the amount he specified shall remain unconsecrated.

(15) He therefore brings sixty tenths in one vessel and declares that what is over and above the amount he specified shall be a freewill-offering.

(16) One for the offering of obligation and one for the freewill-offering.

(17) Lit., ‘now’.

(18) Lit., ‘at the end’.

(19) Sc. the first handful, which represents the offering of obligation.

(20) For one handful, that representing the freewill-offering, has already been burnt.

(21) Supra 8a, 9a.

Talmud - Mas. Menachoth 106b

perhaps the entire meal-offering was his offering of obligation, and any offering a portion of which had been put on the fire of the altar is subject to the prohibition ye shall not burn?[1] — R. Judah son of R. Simeon b. Pazzi replied, It[2] is burnt as wood, in accordance with a ruling of R. Eliezer. For it was taught: R. Eliezer says, [It is written,] They shall not come up for a sweet savour on the altar;[3] thus ‘for a sweet savour you may not bring it[4] up, but you may bring it up as wood.

R. Aha the son of Raba said to R. Ashi, Perhaps all hold that it is permitted to mix the offering of obligation with the freewill-offering, but they differ over R. Eliezer's ruling: the Sages accepting R. Eliezer's ruling[5] while Rabbi does not accept R. Eliezer's ruling![6] — He replied. If one could say that according to Rabbi it is permitted to mix the offering of obligation with the freewill-offering, and that Rabbi does not accept R. Eliezer's ruling, then he could bring sixty tenths in one vessel and one tenth in another vessel, bring the two into contact,[7] and take the handful from each.[8]

Raba said, All hold that it is permitted to mix the offering of obligation with the freewill-offering, moreover all accept R. Eliezer's ruling, but they differ on the same principles as those which underlie the dispute between R. Eliezer b. Jacob and the Rabbis. For we have learnt:[9] Even a meal-offering of sixty tenths required sixty logs [of oil]. R. Eliezer b. Jacob says. Even a meal-offering of sixty tenths required but one log [of oil], for it is written, For a meal-offering even a log of oil.[10] The Sages hold the same view as the Rabbis who[11] say that sixty logs are required for sixty tenths, one log for each tenth,[12] while Rabbi holds the same view as R. Eliezer b. Jacob who says that only one log is required. and therefore[13] we do not know whether to regard [the sixty tenths] as one meal-offering for which one log is sufficient or as two meal-offerings for which two logs are necessary.

R. Ashi said, They differ in the case of [one who vowed to bring] a small animal and brought a large one. The Sages hold that [one who vowed to bring] a small animal and brought a large one has fulfilled his obligation.[14] while Rabbi holds that he has not fulfilled his obligation. But they have already differed in this matter, for we have learnt: [If he said] ‘a small animal’ and he brought a large one, he has fulfilled his obligation; but Rabbi says, He has not fulfilled his obligation![15] — Both disputes were necessary For if the dispute had only been stated here, I should have said that only here do the Sages say [that by bringing a larger offering he has fulfilled his obligation] since in either case[16] only one handful [is offered], but in the other case, since there are more sacrificial portions [in a larger animal]. I might say that they agree with Rabbi [that he has not thereby fulfilled his obligation]. And if the dispute had only been stated there, I should have said that only there does Rabbi say [that he has not fulfilled his obligation, since there are more sacrificial portions], but in this case I might say that he agrees with the Sages; therefore [both disputes] were necessary.

(Mnemonic: Wood, Gold, Wine, Burnt-offering, Thank-offering, Ox.)[17] MISHNAH. [IF A MAN SAID,] ‘I TAKE UPON MYSELF TO OFFER [PIECES OF] WOOD’, HE MUST BRING NOT LESS THAN TWO LOGS. IF ‘FRANKINCENSE’, HE MUST BRING NOT LESS THAN A HANDFUL. THE HANDFUL IS SPECIFIED IN FIVE CASES: IF A MAN SAID, ‘I TAKE UPON MYSELF TO BRING FRANKINCENSE’. HE MUST BRING NOT LESS THAN A HANDFUL. IF HE OFFERED A MEAL-OFFERING HE MUST BRING A HANDFUL OF FRANKINCENSE WITH IT. IF A MAN OFFERED UP THE HANDFUL OUTSIDE [THE TEMPLE COURT] HE IS LIABLE.[18] THE TWO DISHES [OF FRANKINCENSE][19] REQUIRE TWO HANDFULS.

[IF A MAN SAID.] ‘I TAKE UPON MYSELF TO OFFER GOLD’, HE MUST BRING NOT LESS THAN A GOLDEN DENAR;[20] IF SILVER’, HE MUST BRING NOT LESS THAN A SILVER DENAR; IF ‘COPPER’. HE MUST BRING NOT LESS THAN [THE VALUE OF] A SILVER MA'AH.[20] [IF HE SAID.] ‘I SPECIFIED [HOW MUCH I WOULD BRING] BUT I DO NOT KNOW WHAT I SPECIFIED’. HE MUST BRING SO MUCH UNTIL HE SAYS. ‘I CERTAINLY DID NOT INTEND TO GIVE SO MUCH!’

GEMARA. Our Rabbis taught: Offering:[21] this signifies that one may offer wood as a freewill-offering. And how much must it be? Two logs. For so it is written, And we cast lots for the offering of wood.[22] Rabbi says, The wood-offering is included under the term ‘offering’. and therefore requires salt and also requires to be brought near [the altar].[23] Raba said, According to Rabbi's view the handful must be taken from the wood-offering.[24] R. Papa said, According to Rabbi's view the wood-offering requires other wood.[25]

IF ‘FRANKINCENSE’, HE MUST BRING NOT LESS THAN A HANDFUL. How do we know this? — Because it is written, And he shall take up therefrom his handful of the fine flour of the meal-offering and of the oil thereof, and all the frankincense.[26] The frankincense is thus compared with the taking up of the meal-offering: as the taking up of the meal-offering was a handful so the frankincense must consist of a handful.

Our Rabbis taught: [If a man said,] ‘I take upon myself [to bring an offering] for the altar’, he must bring frankincense, for nothing is offered entirely upon the altar but frankincense. [If he said,] ‘I specified an offering for the altar but I do not know what it was I specified’, he must bring of everything that is offered entirely upon the altar.[27] Is there nothing else?[28] But what about the burnt-offering? — There is the skin thereof which belongs to the priests. And what about the burnt-offering of a bird? — There are

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(1) Lev. II, 11. Once the prescribed portion of an offering has been duly offered upon the altar, the rest of that offering may not be burnt on the altar. How then may the second handful be burnt upon the altar?

(2) Sc. the second handful, that representing the freewill-offering.

(3) Lev. II, 12.

(4) Sc. the remainder of the offering from which a portion has been taken and already burnt.

(5) Accordingly sixty tenths are brought in one vessel, and when the second handful is about to be burnt, having already burnt the first handful, he declares, ‘If this vessel also contains a freewill-offering then this handful is rightly being burnt on its behalf, but if the contents of the vessel are entirely the meal-offering of obligation then this handful is being burnt merely as wood and not as an offering.’

(6) He cannot therefore bring sixty tenths in one vessel, since he could not burn the second handful, for he might be transgressing the prohibition of ye shall not burn.

(7) I.e., he should bring the two vessels near to each other so that the flour of the one should actually mix with the flour of the other.

(8) Accordingly he would first take the handful from the larger vessel containing the sixty tenths, and declare, ‘If I specified all these tenths for my meal-offering, then this is the handful for it; but if not, let this handful serve for the number of tenths specified for my meal-offering’. Then he would take the handful from the smaller vessel containing the single tenth and declare that it shall serve for the freewill meal-offering of the smaller vessel and also for the remaining tenths of the first vessel; and this would be quite in order, since the two vessels are in contact. As this solution is not put forward by Rabbi it must be that he is of the opinion that it is forbidden to mix in one vessel the meal-offering of obligation with the freewill-offering.

(9) Supra 88a.

(10) Lev. XIV, 21.

(11) In the cited Mishnah.

(12) He therefore brings sixty tenths with sixty logs and declares that as many tenths as make up his original vow, with the corresponding number of logs of oil, shall serve in fulfilment of his vow, and the remainder shall he a freewill meal-offering.

(13) If sixty tenths are brought in one vessel.

(14) And the same is the case where a man brings more tenths than he had vowed for his meal-offering.

(15) Supra 107b.

(16) Whether the meal-offering is large or small.

(17) A list of the six Mishnahs that follow (according to the division of the Mishnahs in the separate editions of the Mishnah) each commencing with the same formula: ‘I take upon myself to offer .

(18) To the penalty of kareth (v. Glos.). This ruling is apparently in accord with R. Eliezer's view that liability is incurred only if the entire handful of the meal-offering is offered outside; v. Zeb. 109b. Tosaf, however suggest that the handful spoken of here is not the handful of flour of the meal-offering but one of the handfuls of the two dishes of frankincense, and the ruling here is intended to refute R. Eliezer's view who maintains (Zeb. 110a) that liability is incurred only if the two handfuls of the frankincense were offered outside. Accordingly the expression ‘handful’ in this connection does not exclude an olive's bulk but signifies anything less than the two handfuls. V. Tosaf. s.v. המעלה.

(19) That were set on the table with the Shewbread.

(20) V. Glos.

(21) Lev. II, 1.

(22) Neh. X, 35.

(23) Like the meal-offering it must be brought to the south-western corner of the altar.

(24) The wood must be cut up into small thin strips and a handful taken and burnt upon the altar.

(25) As with every offering wood from the Temple store is taken in order to burn this wood-offering.

(26) Lev. VI, 8.

(27) He must bring, therefore, an offering of frankincense, a burnt-offering of cattle, a burnt-offering of birds, a wine-offering, and the meal-offering that is offered with the drink-offerings, for all these can in a less strict sense be described as offered entirely upon the altar; v. infra. The fact that this man specified an offering for the altar, and did not merely say ‘for the altar’, which would have implied frankincense alone, proves that in this case ‘for the altar’ is to be interpreted less strictly and therefore includes the above offerings.

(28) That is offered entirely upon the altar.

the crop and the feathers.[1] And what about the drink-offerings? — They flow down into the pits.[1] And what about the meal-offering that is offered with the drink-offerings? — Since there is the ordinary meal-offering which is eaten by the priests. It is therefore not definite.[2]

[IF A MAN SAID,] 'I TAKE UPON MYSELF TO OFFER GOLD', HE MUST BRING NOT LESS THAN A GOLDEN DENAR. Perhaps he meant a bar [of gold]! — R. Eleazar said, [We must suppose that] he said [gold] coin. Perhaps he meant small gold coins! — R. Papa said, Small gold coin is not usually made.

IF 'SILVER', HE MUST BRING NOT LESS THAN A SILVER DENAR. Perhaps he meant a bar [of silver]! — R. Eleazar said, [We must suppose that] he said [silver] coin. Then perhaps he meant small silver coin! — R. Shesheth said, It must be that in this place small silver coin was not current.

IF 'COPPER', HE MUST BRING NOT LESS THAN THE VALUE OF A SILVER MA'AH. It was taught: R. Eliezer b. Jacob said, He must bring not less than a small copper hook. What is it fit for?[3] — Abaye said, With it one could trim the wicks and cleanse the lamps.

Of iron it was taught: Others say, He must bring not less than a 'scarecrow'.[4] And how much is that? — R. Joseph said, One cubit square. Some report it thus: He must bring not less than one cubit square. What is it fit for? — R. Joseph said, For a scarecrow.

MISHNAH. [IF A MAN SAID,] 'I TAKE UPON MYSELF TO OFFER WINE', HE MUST BRING NOT LESS THAN THREE LOG.[5] IF 'OIL', HE MUST BRING NOT LESS THAN ONE LOG;[6] BUT RABBI SAYS, NOT LESS THAN THREE LOGS.[7] [IF HE SAID,] I SPECIFIED [HOW MUCH I WOULD OFFER] BUT I DO NOT KNOW WHAT QUANTITY I SPECIFIED', HE MUST BRING THAT QUANTITY WHICH IS THE MOST THAT IS BROUGHT ON ANY ONE DAY.[8] GEMARA. Our Rabbis taught: Home-born:[9] this teaches us that a man may offer wine as a freewill-offering. How much [must he bring]? Three logs. Whence do we know that if he desired to bring more he may do so? Because the text states, Shall be.[10] We might suppose that he may bring less, the text therefore states, After this manner.[9]

IF 'OIL'. HE MUST BRING NOT LESS THAN ONE LOG; BUT RABBI SAYS, NOT LESS THAN THREE LOGS. On what principle do they differ? — The scholars suggested to R. Papa. They differ as to whether we say, 'Deduce from it and again from it'. Or 'Deduce from it and establish it in its own place'.[11] The Rabbis[12] are of the opinion that we say, 'Deduce from it and again from it'. Thus ['deduce from it']: as one may offer a meal-offering as a freewill-offering, so one may offer oil; and 'again from it': as the meal-offering needs but one log [of oil], so the offering of oil needs but one log. Rabbi, however, is of the opinion that we say, 'Deduce from it and establish it in its own place'. Thus: as one may offer a meal-offering as a freewill-offering, so one may offer oil as a freewill-offering; and 'establish it in its own place': it shall be like the drink-offerings [of wine]: as the drink-offerings [of wine] require three logs, so the offering of oil requires three logs. Thereupon R. Papa said to them, If Rabbi derived it from the meal-offering [he would certainly have said that the minimum quantity was one log], for all are of the opinion that we say 'Deduce from it and again from it'. The fact is, however, that Rabbi derived it from the expression 'Home-born'.[13] R. Huna son of R. Nathan said to R. Papa. How can you say so?[14] Behold it has been taught: Offering:[15] this teaches us that a man may offer oil as a freewilloffering. And how much [must he bring]? Three logs. Now whom have you heard say, Three logs. It is only Rabbi; and yet he derives it from the expression 'offering'! — He replied, If it was taught, it was taught.[16]

[IF HE SAID,] ‘I SPECIFIED [HOW MUCH I WOULD OFFER] BUT I DO NOT KNOW WHAT QUANTITY I SPECIFIED’, HE MUST BRING THAT QUANTITY WHICH IS THE MOST THAT IS BROUGHT ON ANY ONE DAY. A Tanna taught: Like the first day of the Feast [of Tabernacles] when it falls on a Sabbath.[17]

MISHNAH. [IF A MAN SAID,] ‘I TAKE UPON MYSELF TO OFFER A BURNT-OFFERING,[18] HE MUST BRING A LAMB.[19] R. ELEAZAR B. AZARIAH SAID, [HE MAY BRING] A TURTLE-DOVE OR A YOUNG PIGEON. [IF HE SAID,] ‘I SPECIFIED A BEAST OF THE HERD[20] BUT I DO NOT KNOW WHAT IT WAS I SPECIFIED’, HE MUST BRING A BULL AND A BULL CALF. [IF HE SAID, ‘I SPECIFIED] A BEAST OF THE CATTLE[21] BUT I DO NOT KNOW WHAT IT WAS I SPECIFIED’, HE MUST BRING A BULL, A BULL CALF, A RAM, A HE-GOAT, A HE-KID. AND A HE-LAMB. [IF HE SAID,] ‘I SPECIFIED [SOME KIND] BUT I DO NOT KNOW WHAT IT WAS I SPECIFIED’,

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(1) For notes v. supra p. 443. nn. 6 and 7.

(2) To say that the meal-offering is an offering entirely for the altar.

(3) In the Temple.

(4) Lit., ‘keeping off the ravens’. An iron sheet studded with spikes that was placed on the Temple roof to prevent birds perching there. V. Mid. IV, 6. According to Aruch: an iron figure placed on the roof to scare the birds away. V. Tosaf. s.v. כליה.

(5) This being the smallest quantity of wine prescribed in the drink-offerings that accompanied the animal-offering. viz., three logs for a lamb.

(6) The minimum quantity of oil prescribed for a meal-offering.

(7) This being the minimum prescribed in meal-offerings that are offered with the drink-offerings.

(8) V: Gemara.

(9) Num. XV, 13; stated with reference to the drink-offerings.

(10) Ibid. 15.

(11) V. supra p. 368, n. 1.

(12) The first Tanna of our Mishnah.

(13) Ibid. 13. And just as it was deduced from this expression that wine may be offered by itself as a freewill-offering. Rabbi also derives therefrom that oil may similarly be offered as a freewill-offering. Accordingly wine and oil are to be on a par, and as wine requires a minimum of three logs so it is with oil too.

(14) That Rabbi derives the rule that oil may be offered as a freewill-offering from the drink-offerings and not from the meal-offering.

(15) Lev. II, 1; stated with reference to the freewill meal-offering.

(16) ‘I admit then that I am wrong.’

(17) On this day were offered thirteen bullocks, two rams, and eighteen lambs, v. Num. XXIX, 12ff; and as for each bullock were required six logs of wine and of oil, for each ram four logs; and for each lamb three logs, the total number of logs of wine, and similarly of oil, offered on this day was 140.

(18) Which must be a male animal.

(19) This is the least expensive animal that can be offered as a burnt-offering.

(20) בקר

(21) בהמה.

Talmud - Mas. Menachoth 107b

HE MUST ADD TO THESE A TURTLE-DOVE AND A YOUNG PIGEON.

[IF A MAN SAID,] ‘I TAKE UPON MYSELF TO OFFER A THANK-OFFERING OR A PEACE-OFFERING’,[1] HE MUST BRING A LAMB.[IF HE SAID,] ‘I SPECIFIED A BEAST OF THE HERD BUT I DO NOT KNOW WHAT IT WAS I SPECIFIED’, HE MUST BRING A BULL AND A COW, A BULL CALF AND A HEIFER. [IF HE SAID, I SPECIFIED] A BEAST OF THE

CATTLE BUT I DO NOT KNOW WHAT IT WAS I SPECIFIED’, HE MUST BRING A BULL AND A COW, A BULL CALF AND A HEIFER. A RAM AND A EWE, A HE-GOAT AND A SHE-GOAT, A HE-KID AND A SHE-KID, A HE-LAMB AND A EWE-LAMB.

[IF A MAN SAID,] ‘I TAKE UPON MYSELF TO OFFER AN OX. HE MUST BRING ONE WITH ITS DRINK-OFFERINGS TO THE VALUE OF A MANEH;[2] IF ‘A CALF’, HE MUST BRING ONE WITH ITS DRINK-OFFERINGS TO THE VALUE OF FIVE SELA'S; IF ‘A RAM’, HE MUST BRING ONE WITH ITS DRINK-OFFERINGS TO THE VALUE OF TWO SELA'S;[2] IF ‘A LAMB’, HE MUST BRING ONE WITH ITS DRINK-OFFERINGS TO THE VALUE OF ONE SELA’. IF HE SAID ‘AN OX VALUED AT ONE MANEH’, HE MUST BRING ONE WORTH A MANEH APART FROM ITS DRINK-OFFERINGS; IF A CALF VALUED AT FIVE SELA'S’. HE MUST BRING ONE WORTH FIVE SELA'S APART FROM ITS DRINK-OFFERINGS; IF ‘A RAM VALUED AT TWO SELA'S’, HE MUST BRING ONE WORTH TWO SELA'S APART FROM ITS DRINK-OFFERINGS; AND IF A LAMB VALUED AT ONE SELA’,’ HE MUST BRING ONE WORTH ONE SELA’ APART FROM ITS DRINK-OFFERINGS. [IF HE SAID, ‘I TAKE UPON MYSELF TO OFFER] AN OX VALUED AT A MANEH’, AND HE BROUGHT TWO TOGETHER WORTH A MANEH, HE HAS NOT FULFILLED HIS OBLIGATION. EVEN IF ONE WAS WORTH A MANEH LESS ONE DENAR AND THE OTHER ALSO WAS WORTH A MANEH LESS ONE DENAR. [IF HE SAID] ‘A BLACK ONE’ AND HE BROUGHT A WHITE ONE, OR A WHITE ONE’ AND HE BROUGHT A BLACK ONE, OR ‘A LARGE ONE’ AND HE BROUGHT A SMALL ONE, HE HAS NOT FULFILLED HIS OBLIGATION. [IF HE SAID] ‘A SMALL ONE’ AND HE BROUGHT A LARGE ONE, HE HAS FULFILLED HIS OBLIGATION; BUT RABBI SAYS, HE HAS NOT FULFILLED HIS OBLIGATION.

GEMARA. They[3] do not differ, for each rules according to the custom of his place.[4]

Our Rabbis taught: [If a man said,] ‘I take upon myself to offer a burnt-offering valued at a sela’ for the altar’, he must bring a lamb, for there is nothing else valued at a sela’ offered upon the altar save a lamb. [If he said,] ‘I specified [an offering valued at a sela’] but I do not know what it was I specified’, he must bring every kind of offering valued at a sela’ that is offered upon the altar.[5]

[IF HE SAID,] ‘I SPECIFIED A BEAST OF THE HERD BUT I DO NOT KNOW WHAT IT WAS I SPECIFIED’, HE MUST BRING A BULL AND A BULL CALF. But why? Let him bring a bull, for in any event [that should fulfil his obligation]![6] — This represents Rabbi's view, who maintains that [if a man offered to bring] a small animal and he brought a large one he has not fulfilled his obligation. If it is Rabbi's view here, then read the following clauses: [IF HE SAID, I TAKE UPON MYSELF TO OFFER] AN OX VALUED AT A MANEH’, AND HE BROUGHT TWO TOGETHER WORTH A MANEH, HE HAS NOT FULFILLED HIS OBLIGATION. EVEN IF ONE WAS WORTH A MANEH LESS ONE DENAR AND THE OTHER ALSO WAS WORTH A MANEH LESS ONE DENAR. [IF HE SAID] ‘A BLACK ONE’ AND HE BROUGHT A WHITE ONE, OR ‘A WHITE ONE’ AND HE BROUGHT A BLACK ONE, OR ‘A LARGE ONE’ AND HE BROUGHT A SMALL ONE, HE HAS NOT FULFILLED HIS OBLIGATION. [IF HE SAID] ‘A SMALL ONE’ AND HE BROUGHT A LARGE ONE, HE HAS FULFILLED HIS OBLIGATION; BUT RABBI SAYS, HE HAS NOT FULFILLED HIS OBLIGATION. It will then be that the first and last clauses represent Rabbi's view while the middle clauses represent the view of the Rabbis! — That is so, the first and last clauses represent Rabbi's view while the middle clauses represent the view of the Rabbis; and [the Tanna of the Mishnah] wished to tell us that this ruling [in the first part of the Mishnah] is really a matter of dispute between Rabbi and the Rabbis.[7]

We have learnt elsewhere:[8] There were six [money chests] for freewill-offerings.[9] What did they represent?[10] (Mnemonic: K.N.Z.P.Sh.’A.)[11] — Hezekiah said, They represented the six priestly groups;[12] and the Sages installed [six money chests] so that they should be at peace with each other.[13] R. Johanan said, Because of the abundant offerings [the Sages] installed [six] money chests so that the money became not mouldy.[14] Ze'iri said, They served for the offerings of a bull, a calf, a ram, a lamb, a kid and a goat;[15] this[16] being in accord with Rabbi who said that if a man offered to bring a small animal and he brought a large one he has not fulfilled his obligation. Bar Padda said, They served for the moneys of] bullocks,[17] rams,[18]

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(1) Which may be either a male or female animal.

(2) One maneh =25 sela's; one sela' = 4 denars. The prices mentioned for the various beasts are traditional, though there is a Biblical indication that the ram was to be worth two sela's in Lev. V, 15.

(3) R. Eleazar b. Azariah and the first Tanna.

(4) Both agree that the cheapest should be offered, but in the place where the first Tanna lived lambs were cheaper than pigeons, whereas in the town where R. Eleazar b. Azariah lived the reverse was the case.

(5) The fact that this man specified the offering and did not merely say 'an offering valued at a sela' for the altar' proves that he believed that others besides a lamb were included in the last expression. He must therefore bring a lamb, a meal-offering, and frankincense, each valued at a sela'.

(6) For even if he offered to bring a bull calf, the offering of a bull which is larger would surely fulfil his obligation!

(7) According to the Sages the offering of a bull alone in the first clause would suffice.

(8) Shek. VI, 5. V. supra 104a.

(9) There were in all thirteen money chests (שופרות, horn-shaped chests) in the Temple, seven bearing inscriptions indicating the kind of money that was to be put in them, while six were allocated for money for freewill-offerings. These were offered as burnt-offerings on behalf of the community and the skins fell to the priests.

(10) Why were six necessary for the purpose?

(11) So Sh. Mek. and Dik. Sof. a.l. These are the characteristic letters of the teachers who propose answers to this question.

(12) The priests were divided into twenty-four divisions (משמרות), each division serving in the Temple for one full week every half year. The division was sub-divided into six families or groups (בתי אבות). and each group was in service on one day in the week. On the Sabbath the whole division was called upon to do the service.

(13) For each priestly group there was a separate money chest for freewill-offering; so that whenever the altar was idle and the occasion thus arose for offering burnt-offerings, the money would be taken from that chest allotted to the group in service on that day, and the skins of the animals offered would be shared among the priests of that group. In this way altercation and strife between the priestly groups would be avoided.

(14) Which would be the case if all the money were to be placed in one chest.

(15) The money for these offerings was put into separate chests. E.g., if a man undertook to offer a bull for a burnt-offering, he would bring a maneh (this being the price of a bull, v. our Mishnah) and put it into the chest that bore the inscription 'bull'; the priests would then come and take the money from that chest, purchase a bull, and offer it.

(16) The need for six chests.

(17) If a bullock which had been set aside for a sin-offering of the community had been lost and another had been offered in its place, and afterwards it was found, it was left to pasture until it contracted a physical blemish when it was sold. The money so obtained was put into a chest specially set aside for this purpose.

(18) The money obtained on selling the ram of the guilt-offering for theft of for sacrilege when it was no longer required for that purpose (as in the circumstances described in the prec. n.) was put into a second chest.

Talmud - Mas. Menachoth 108a

lambs,[1] goats,[2] surplus moneys,[3] and the ma'ah.[4] They all do not agree with Hezekiah's answer, because there is no reason to apprehend any strife, since each [priestly group] served on its own day.[5] Neither do they agree with R. Johanan's answer, because there is no fear of the money becoming mouldy. Nor do they agree with Ze'iri's answer, because they do not wish to interpret it in accordance with the view of an individual.[6] Nor do they agree with Bar Padda's answer, [for why have a separate chest for] surplus moneys? Were not all the other moneys surplus moneys?[7] Moreover the ma'ahs went in the shekel [chamber]![8] For it was taught: Where did the surcharge go? Into the shekel [chamber]. So R. Meir. R. Eleazar says, Into the freewill-offering [chests]. Samuel said, They served for the surplus[9] of the sin-offering, the surplus of the guilt-offering,[10] the surplus of the guilt-offering of the Nazirite, the surplus of the guilt-offering of the leper,[11] the surplus of the sinner's meal-offering,[12] and the surplus of the tenth of an ephah of the High Priest's meal-offering.[13] R. Oshaia said, They served for the surplus of the sin-offering, the surplus of the guilt-offering, the surplus of the guilt-offering of the Nazirite, the surplus of the guilt-offering of the leper, the surplus of the bird-offerings, and the surplus of the sinner's meal-offering.[14] Why does not Samuel accept R. Oshaia's answer? — Bird-offerings have already been stated.[15] [Can it then be suggested that] R. Oshaia learnt that Mishnah and did not include bird-offerings? But we know that R. Oshaia learnt it and included bird-offerings! — One [chest] was for [the money for] the bird-offerings[16] and the other for the surplus money of the bird-offerings. And why does not R. Oshaia accept Samuel's answer? — Because he agrees with him who says that the surplus of the tenth of an ephah of the High Priest's meal-offering must be left to rot. For it was taught: The surplus of the meal-offering was for freewill-offerings, and the surplus of the meal-offering was left to rot. What does this mean? — R. Hisda said, It means this: The surplus of the sinner's meal-offering was for freewill-offerings, and the surplus of the tenth of an ephah of the High Priest's meal-offering was left to rot. Rabbah said, Even the surplus of the tenth of an ephah of the High Priest's meal-offering was for freewill-offerings, but [the Baraitha teaches that] the surplus of the cakes of the thank-offering was left to rot.

There is also the following dispute [on the matter]: As for the surplus of the tenth of an ephah of the High Priest's meal-offering. R. Johanan said, It was to go for freewill-offerings. R. Eleazar said, It was to be left to rot. An objection was raised: [We have learnt:] The surplus of [money set aside for] shekels is free for common use, but the surplus of [money set aside for] the tenth of an ephah, and the surplus of [money set aside for] the bird-offerings of men who had an issue, for the bird-offerings of women who had an issue, for the bird-offerings of women after childbirth, or for sin-offerings or guilt-offerings-their surplus is for freewill-offerings.[17] This refers, does it not, to the surplus of the tenth of an ephah of the High Priest's meal-offering? — No, it refers to the surplus of the sinner's meal-offering.[18]

R. Nahman b. R. Isaac said, The most reasonable view is that of him who holds that the surplus of the tenth of an ephah of the High Priest's meal-offering was left to rot. For it was taught: [It is written,] He shall put no oil upon it, neither shall he put any frankincense thereon; for it is a sin-offering.[19] R. Judah said, ‘It’ is called a sin-offering, but no other[20] is called a sin-offering; this teaches us that the tenth of an ephah of the High Priest's meal-offering is not called a sin-offering and that it requires frankincense. Now since it is not called a sin-offering the surplus thereof must be left to rot.

MISHNAH. [IF A MAN SAID,] ‘THIS OX SHALL BE A BURNT-OFFERING’, AND IT SUFFERED A BLEMISH,[21] HE MAY, IF HE SO DESIRES, BRING TWO WITH THE PRICE THEREOF. [IF HE SAID,] ‘THESE TWO OXEN SHALL BE A BURNT-OFFERING’, AND THEY SUFFERED A BLEMISH, HE MAY, IF HE SO DESIRES, BRING ONE OX WITH THE PRICE THEREOF. BUT RABBI FORBIDS IT.[22] [IF HE SAID,] ‘THIS RAM SHALL BE A BURNT-OFFERING, AND IT SUFFERED A BLEMISH, HE MAY, IF HE SO DESIRES, BRING A LAMB WITH THE PRICE THEREOF. [IF HE SAID,] ‘THIS LAMB SHALL BE A BURNT-OFFERING’. AND IT SUFFERED A BLEMISH, HE MAY, IF HE SO DESIRES, BRING A RAM WITH THE PRICE THEREOF. BUT RABBI FORBIDS IT.

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(1) The money obtained for the lamb which had originally been set aside for the guilt-offering of a Nazirite or of a leper was put into a third chest and not confused with the money obtained from the guilt-offerings that was placed in the second chest, for the latter guilt-offerings were brought in order to obtain atonement whilst the former were brought in order to render the person fit.

(2) Sc. the he-goats offered as sin-offerings on behalf of the community on the Festivals. The money obtained for these he-goats (in the circumstances described supra n. 1) was put into a fourth chest.

(3) Where a sum of money had been set aside for any of the offerings mentioned and the price of animals fell, the surplus money was put into a fifth chest set there for this purpose.

(4) A small silver coin, equal to the sixth part of a zuz or denar. This was the amount of surcharge (Heb. קולבון) which every Israelite had to add to his annual half-shekel contribution to the Temple as compensation to the Temple treasury for any loss incurred in exchanging the half-shekels into other coinage. These ma'ahs were put into a sixth chest and the money was expended on free-will burnt-offerings on behalf of the community.

(5) Hence one chest would have sufficed. And if on any day the altar was idle the priests serving on that day would draw money from the chest for burnt-offerings and benefit from the skins. This could equally happen to any priestly group on any day, so that there are no grounds for quarrels.

(6) Sc. Rabbi. According to the Sages the money for all offerings could be put into one chest and the priests would spend it on bullocks for burnt-offerings.

(7) V. supra nn. 1 to 4. All these come under the heading of surplus money.

(8) In accordance with the view of R. Meir, and not into the chest of freewill-offerings.

(9) Arising when money had been set aside for a particular offering and the price thereof fell.

(10) Sc. the guilt-offering for theft and the guilt-offering for sacrilege. These required a separate chest and could not be mixed with the moneys of other guilt-offerings, for the former were rams brought for atonement whilst the latter were lambs brought in order to render the person fit.

(11) The surplus money of the guilt-offering of the leper could not be mixed with that of the guilt-offering of the Nazirite, for the offering rites of the former differed greatly from the latter. The former offering required the application of its blood on the right thumb and right great toe of the leper whereas the latter did not; the former required drink-offerings whereas the latter did not, moreover the former rendered the leper clean to enter the camp, whereas the latter rendered the Nazirite fit to resume his Nazirite vow.

(12) This was exceptional, for the surplus of all other meal-offerings was used by the offerer for another meal-offering and was not used for communal freewill-offerings.

(13) Which the High Priest offered daily, half of it in the morning and half in the evening; v. Lev. VI, 13.

(14) V. Supra 104a.

(15) Among the seven chests reserved for special purposes was one whereon was inscribed ‘Bird-offerings’. V. Shek. VI, 5.

(16) Into this chest those who but needed an offering for the completion of their purification put their money for bird-offerings, and when evening came they could eat consecrated food, resting assured that the priests had of a certainty offered their bird-offerings during the day.

(17) Shek. II,5.

(18) Which was also a tenth of an ephah of fine flour.

(19) Lev. V, 11 referring to the sinner's meal-offering.

(20) Sc. the tenth of an ephah of the High Priest's meal-offering.

(21) It is no more fit for sacrifice but it must be sold and another burnt-offering brought with the price thereof.

(22) In the first instance; if, however, he did bring two, even Rabbi agrees that it is valid.

Talmud - Mas. Menachoth 108b

GEMARA. But have you not stated in the earlier [Mishnah]: [If a man said, ‘I take upon myself to offer] an ox valued at a maneh’, and he brought two together worth a maneh, he has not fulfilled his obligation? — It is different here where he said ‘THIS OX’, and it suffered a blemish.[1]

[IF HE SAID,] ‘THESE TWO OXEN SHALL BE A BURNT-OFFERING, AND THEY SUFFERED A BLEMISH, HE MAY, IF HE SO DESIRES, BRING ONE OX WITH THE PRICE THEREOF. BUT RABBI FORBIDS IT. Why?[2] — Because it is like the case where he vowed a large animal and he brought a small one.[3] For even though they have suffered a blemish.[4] Rabbi does not permit it in the first instance. Should he not then differ in the first case too?[5] — Rabbi indeed disagrees with the whole teaching, but he waited until the Rabbis had stated their view in full and then expressed his dissent. This can also be proved, for [the Mishnah] states: [IF HE SAID,] ‘THIS

RAM SHALL BE A BURNT-OFFERING’, AND IT SUFFERED A BLEMISH, HE MAY, IF HE SO DESIRES, BRING A LAMB WITH THE PRICE THEREOF. [IF HE SAID,] ‘THIS LAMB SHALL BE A BURNT-OFFERING’, AND IT SUFFERED A BLEMISH, HE MAY, IF HE SO DESIRES, BRING A RAM WITH THE PRICE THEREOF. BUT RABBI FORBIDS IT. This proves it.[6]

The question was raised: What is the rule where a different kind is brought for the original kind?[7] — Come and hear: [If a man said,] ‘This ox shall be a burnt-offering’, and it suffered a blemish, he may not bring a ram with the price thereof, but he may bring two rams with the price thereof. But Rabbi forbids it, for one may not mix them.[8] This proves it.[9] But if that is the case, why two [rams]? [They should also permit him to bring] one, since according to the view of the Rabbis, where the original offering suffered a blemish,[10] it makes no difference whether a large or a small animal [is brought with the price thereof]! — Two Tannaim differ as to the view of the Rabbis.[11]

‘Rabbi forbids it, for one may not mix them’. Now the reason [for Rabbi's view] is that one may not mix them, but if one were allowed to mix them it would be permitted;[12] but we have learnt: [IF HE SAID,] ‘THIS RAM SHALL BE A BURNT-OFFERING’, AND IT SUFFERED A BLEMISH, HE MAY, IF HE SO DESIRES, BRING A LAMB WITH THE PRICE THEREOF. [IF HE SAID,] ‘THIS LAMB SHALL BE A BURNT-OFFERING’, AND IT SUFFERED A BLEMISH, HE MAY, IF HE SO DESIRES, BRING A RAM WITH THE PRICE THEREOF. BUT RABBI FORBIDS IT.[13] — Two Tannaim differ as to the view of Rabbi.[14] As for unblemished animals,[15] [if a man vowed] a calf and he brought a bullock, or a lamb and he brought a ram, he has fulfilled his obligation. This is an anonymous teaching in accord with the view of the Rabbis.

HE MAY, IF HE SO DESIRES, BRING TWO WITH THE PRICE THEREOF etc. R. Menashya b. Zebid said in the name of Rab, This rule[16] applies only where the man said, ‘This ox shall be a burnt-offering’;[17] but if he said, ‘I take upon myself that this ox shall be a burnt-offering’, there is a definite obligation.[18] Perhaps he only meant: ‘I take upon myself to bring [this ox]’![19] — The fact is that if such a statement was at all made it was made in these terms: R. Menashya b. Zebid said in the name of Rab, This rule[20] applies only where the man said, ‘This ox shall be a burnt-offering’. or where he said, ‘I take upon myself that this ox shall be a burnt-offering’; but if he said, ‘I take upon myself that this ox or its value[21] shall be a burnt-offering’, there is a definite obligation.[22]

MISHNAH. IF A MAN SAID, ‘ONE OF MY LAMBS SHALL BE HOLY’, OR ‘ONE OF MY OXEN SHALL BE HOLY’, AND HE HAD TWO ONLY, THE LARGER ONE IS HOLY. IF HE HAD THREE, THE MIDDLE ONE IS HOLY. [IF HE SAID,] ‘I SPECIFIED ONE BUT I DO NOT KNOW WHICH IT WAS I SPECIFIED’, OR [IF HE SAID,] ‘MY FATHER TOLD ME[23] [THAT HE HAD SPECIFIED ONE] BUT I DO NOT KNOW WHICH IT IS’, THE LARGEST ONE AMONG THEM MUST BE HOLY.

GEMARA. [THE LARGER ONE IS HOLY.] We thus see that he that sanctifies sanctifies in a liberal spirit. Now turn to the next clause: THE MIDDLE ONE IS HOLY, which shows that he that sanctifies sanctifies in an illiberal spirit! — Samuel said, It means that we must take into account the possibility of the middle one also [being holy], for that shows a liberal spirit as compared with the smallest.[24] What then should [this man] do?[25] — Hiyya[26] b. Rab said, He must wait until the middle one suffers a blemish and then transfer its sanctity to the largest one.[27]

R. Nahman said in the name of Rabbah b. Abbuha, This[28] applies only where a man said, ‘One of my oxen shall be holy’. but if he said, ‘An ox among my oxen shall be holy’, then the largest among them is holy, for he meant thereby: the [finest] ox among my oxen.[29] But surely this is not right, for R. Huna b. Hiyya said in the name of ‘Ulla, If a man said to his fellow, ‘I sell you a house among my houses’, he may show him an attic [‘aliyyah]![30] Is it not because this expression implies the worst?[31]

— No; [‘aliyyah means] the finest of his houses.[32]

An objection was raised: If a man said, ‘An ox among my oxen shall be holy’, and so, too, if an ox belonging to the Sanctuary was confused with other [unconsecrated oxen], the largest one among them must be holy, and all the others must be sold to be used for burnt-offerings,[33] but the price thereof is free for common use? — This[34] refers only to the case where an ox belonging to the Sanctuary was confused with others.[35] But it says here ‘and so too’! — That refers only to the ruling that the largest one [must be holy].

A further objection was raised: If a man said, ‘I sell you a house among my houses’, and one [of his houses] fell down, he may show him the fallen house;[36] or if he said, ‘I sell you a slave among my slaves’, and one [of his slaves] died, he may show him the dead slave.

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(1) Since he specified the ox, as soon as it became unfit for sacrifice the obligation of his vow has come to an end, and he is not bound to replace it by another; accordingly when it is sold and another offering brought with the price thereof it need not be quite the same as the original offering.

(2) Why does Rabbi forbid it?

(3) For generally speaking two oxen, even though together only equal in price to one, are more profitable than one.

(4) So that the obligation of this man's vow has come to an end.

(5) Sc. the first clause of our Mishnah which reads: [IF A MAN SAID,] ‘THIS OX SHALL BE A BURNT-OFFERING’, AND IT SUFFERED A BLEMISH, HE MAY, IF HE SO DESIRES, BRING TWO WITH THE PRICE THEREOF. According to Rabbi this, too, should be forbidden, for it is like the case where a man vowed a small animal and he brought a large one.

(6) For the last clause of the Mishnah, viz., the offering of a ram with the price of the blemished lamb, is on all fours with the first clause, viz., the offering of two oxen with the price of the blemished one; and as Rabbi expressly differs with the Rabbis in the last clause, he obviously differs with them in the first clause too.

(7) Where, e.g., an ox which had been assigned for an offering had suffered a blemish, may one bring rams with the price of the blemished ox or not?

(8) Sc. the two meal-offerings which must accompany the two rams. Each meal-offering must be brought in a separate vessel, accordingly the present offering with its two meal-offerings is quite different from the original offering which required but one meal-offering.

(9) That one may bring a different kind (rams) with the price of the original blemished animal (the ox).

(10) And the obligation of this man's vow has then come to an end.

(11) And one Tanna is of the opinion that even according to the Rabbis it is forbidden in the first instance to bring a smaller animal with the price of the larger blemished animal.

(12) To bring a different kind of animal for an offering with the price of the blemished animal.

(13) Notwithstanding that the present offering and the original offering are alike in that each requires but one meal-offering.

(14) One Tanna maintains that Rabbi insists only upon the present and the original offering being alike in the number of vessels required for the accompanying meal-offering; but the other Tanna holds that Rabbi insists upon the animals being identical.

(15) Lit., ‘clean animals’. This is a continuation of the Baraitha quoted above in answer to the question that was raised.

(16) That with the price of the blemished ox he may bring two.

(17) For in truth the obligation of this man's vow came to an end when the ox suffered a blemish.

(18) To bring one burnt-offering. The use of the expression ‘I take upon myself’ imposes an obligation upon the man to bring the offering according to the terms of his vow which was here one burnt- offering and not two.

(19) With the emphasis upon ‘this’. Therefore if the ox became unfit that discharges his vow.

(20) That with the price of the blemished ox he may bring two.

(21) I.e., if the ox suffers a blemish and is sold.

(22) V. p. 668, n. 8.

(23) Before he died.

(24) Thus both the largest animal and the middle one might be the one that was sanctified, for each can be regarded as a liberal offering as compared with the smallest animal.

(25) In order to be allowed to use one of these two animals.

(26) So according to MSS. and Sh. Mek. Cur. edd. read: R. Hiyya.

(27) So that now the largest animal is the holy one without any shadow of doubt, for it was either holy in the first place or it has now become holy; on the other hand the middle one is now free for common use.

(28) That we must consider the possibility of the middle one also being holy.

(29) For so is the superlative degree expressed in Hebrew; cf. שיר השירים ‘the song of songs’, the finest song, קדש הקדשים, the holy of holies’, the most holy.

(30) As the subject matter of the sale. Heb. עלייה, ‘an upper room, an attic’.

(31) Similarly the expression ‘an ox among my oxen would imply the smallest animal, contrary to R Nahman.

(32) The word עלייה is here taken in the sense of ‘the finest’, ‘the most distinguished’.

(33) For we take into account the possibility of any one of the others being the holy one, thus contrary to R. Nahman who ruled that the expression an ox among my oxen’ definitely indicates the largest one.

(34) The ruling that all must be sold for burnt-offerings.

(35) But where a man said, ‘An ox among my oxen shall be holy’, there is no doubt at all that no other than the largest one was intended.

(36) As the one that was sold.

Talmud - Mas. Menachoth 109a

But why? Let us rather see which [house] it was that fell down, or which [slave] it was that died![1] — You are speaking, are you not, of a purchaser? But it is quite a different matter in the case of a purchaser, for the holder of a deed is always at a disadvantage.[2] And now that you have arrived at this answer, you may even say that ‘aliyyah[3] [means the attic, and] the worst [room was meant], for the reason that the holder of a deed is always at a disadvantage.

MISHNAH. [IF A MAN SAID,] ‘I TAKE UPON MYSELF TO OFFER A BURNT-OFFERING, HE MUST OFFER IT IN THE TEMPLE;[4] AND IF HE OFFERED IT IN THE TEMPLE OF ONIAS,[5] HE HAS NOT FULFILLED HIS OBLIGATION. [IF HE SAID,] ‘I TAKE UPON MYSELF TO OFFER A BURNT-OFFERING BUT I WILL OFFER IT IN THE TEMPLE OF ONIAS’. HE MUST OFFER IT IN THE TEMPLE,[6] YET IF HE OFFERED IT IN THE TEMPLE OF ONIAS HE HAS FULFILLED HIS OBLIGATION. R. SIMEON SAYS, SUCH IS NO BURNT-OFFERING. [IF A MAN SAID.] ‘I WILL BE A NAZIRITE’. HE MUST BRING HIS OFFERINGS[7] IN THE TEMPLE; AND IF HE BROUGHT THEM IN THE TEMPLE OF ONIAS HE HAS NOT FULFILLED HIS OBLIGATION. [IF HE SAID,] I WILL BE A NAZIRITE BUT I WILL BRING MY OFFERINGS IN THE TEMPLE OF ONIAS’. HE MUST BRING THEM IN THE TEMPLE, YET IF HE BROUGHT THEM IN THE TEMPLE OF ONIAS HE HAS FULFILLED HIS OBLIGATION. R. SIMEON SAYS, SUCH A ONE IS NOT A NAZIRITE.

GEMARA. [YET IF HE OFFERED IT IN THE TEMPLE OF ONIAS] HE HAS FULFILLED HIS OBLIGATION. But he has only killed the offering [and not sacrificed it]![8] — R. Hamnuna answered, It is regarded as though he said, ‘I take upon myself to offer a burnt-offering on the condition that I shall not be held responsible for it.[9] Whereupon Raba said to him, In that case will you also say the same of the final clause which reads: [IF HE SAID,] ‘I WILL BE A NAZIRITE BUT I WILL BRING MY OFFERINGS IN THE TEMPLE OF ONIAS, HE MUST BRING THEM IN THE TEMPLE, YET IF HE BROUGHT THEM IN THE TEMPLE OF ONIAS HE HAS FULFILLED HIS OBLIGATION, namely, that it is regarded as though he said, ‘I will be a Nazirite on the condition that I shall not be held responsible for the offerings’? But surely a Nazirite is not released [from his vow] until he has brought his offerings! — The fact is, said Raba, that this man merely intended to offer a gift[10] [to God], saying to himself, ‘If the Temple of Onias can serve my purpose, I will take the trouble [and offer it there]; but further than that[11] I cannot put myself out’. And with regard to the Nazirite vow, too, this man merely intended to exercise self-denial,[12] saying to himself, ‘If the Temple of Onias can serve my purpose, I will take the trouble [and bring the offerings there]; but further than that I cannot put myself out’. R. Hamnuna, however, says, With regard to the Nazirite it is as you say, but in the case of the burnt-offering his vow was intended to imply: ‘I will not be held responsible for it’.[13]

R. Johanan is also of the same opinion as R. Hamnuna; for Rabbah b. Bar Hanah said in the name of R. Johanan, [If a man said,] ‘I take upon myself to offer a burnt-offering but I will offer it in the Temple of Onias’, and he offered it in the Land of Israel,[14] he has fulfilled his obligation but he has incurred the penalty of kareth.[15] There has also been taught [a Baraitha] to the same effect: [If a man said,] ‘I take upon myself to offer a burnt-offering but I will offer it in the wilderness’,[16] and he offered it beyond the Jordan,[14] he has fulfilled his obligation but he has incurred the penalty of kareth.

MISHNAH. THE PRIESTS WHO MINISTERED IN THE TEMPLE OF ONIAS MAY NOT MINISTER IN THE TEMPLE IN JERUSALEM; AND NEEDLESS TO SAY [THIS IS SO OF PRIESTS WHO MINISTERED TO] ANOTHER MATTER;[17] FOR IT IS WRITTEN, NEVERTHELESS THE PRIESTS OF THE HIGH PLACES CAME NOT UP TO THE ALTAR OF THE LORD IN JERUSALEM. BUT THEY DID EAT UNLEAVENED BREAD AMONG THEIR BRETHREN.[18] THUS THEY ARE LIKE THOSE THAT HAD A BLEMISH:[19] THEY ARE ENTITLED TO SHARE AND EAT [OF THE HOLY THINGS]. BUT THEY ARE NOT PERMITTED TO OFFER SACRIFICES.

GEMARA. Rab Judah said, If a priest had slaughtered an animal to an idol,[20] his offering [in the Temple] is a sweet savour. R. Isaac b. Abdimi said, Where is there Scriptural proof for this? It is written, Because they ministered unto them before their idols, and became a stumblingblock of iniquity unto the house of Israel; therefore have I lifted up My hand against them, saith the Lord God, and they shall bear their iniquity,[21] and immediately afterwards it is written, And they shall not come near unto Me, to minister unto Me in the priest's office.[22] Thus only if they performed service [unto idols are they disqualified], but slaughtering is no service.[23]

It was stated: [If a priest had] inadvertently sprinkled blood[24] [to an idol]. R. Nahman says, His offering [in the Temple][25] is a sweet savour; but R. Shesheth says, His offering is not a sweet savour. R. Shesheth said, Whence do I derive my view? It is written, ‘And became a stumblingblock of iniquity unto the house of Israel’. Now this surely means either through stumbling or through iniquity; and ‘stumblingblock’ signifies an inadvertent act, and ‘iniquity’ a deliberate act![26] R. Nahman, however, says, It means a stumblingblock of iniquity.[27] R. Nahman said, Whence do I derive my view? From the following Baraitha which was taught: It is written, And the priest shall make atonement for the soul that erreth, when he sinneth in error:[28] this teaches us that the priest may make atonement for himself by his own sacrifice. Now how [did he minister unto the idol]? Will you say, by slaughtering before it? Then why does the verse speak of sinning in error? It is the same even though he sinned deliberately![29] It can only be that he ministered unto the idol by sprinkling before it.[30] R. Shesheth, however, can say. I still say by slaughtering before it, but it is not the same if he did so deliberately for he then became a priest to the idol.[31]

They[32] have indeed followed up these principles of theirs, for it has been stated: If a priest had deliberately slaughtered [an animal to an idol]. R. Nahman said, His offering [in the Temple] is a sweet savour; but R. Shesheth said, His offering is not a sweet savour. ‘R. Nahman said, His offering is a sweet savour — for he had not performed a service [before the idol].[33] ‘R. Shesheth said, His offering is not a sweet savour’ —

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(1) And if it was the best house that fell down or the best slave that died, only then should the purchaser suffer the loss, but not if it was not the best, for according to R. Nahman the terms of the transaction implied that the best was being sold.

(2) It is for the purchaser who has the deed of sale in his possession to prove that nothing but the best was the subject of the sale, otherwise it will be assumed that the worst was sold. With regard to offerings for the altar, however, it will always be assumed that the best was intended.

(3) In the case stated by R. Huna b. Hiyya in the name of ‘Ulla, supra p. 670.

(4) At Jerusalem.

(5) The Temple erected in the neighbourhood of Heliopolis in Egypt by Onias IV. who had fled from Palestine 164 B.C.E. It was modelled on the Temple in Jerusalem, and the regular system of sacrifices was established there. It was despoiled and suppressed by the Emperor Vespasian about the same time as the destruction of the Jerusalem Temple; v. Josephus Antiquities. XIII, 3ff.

(6) For by his opening words ‘I take upon myself to offer a burnt-offering’ there rests upon him an obligation to bring a burnt-offering.

(7) Lit., ‘he must shave’. This expression is used throughout for the offerings which the Nazirite brings on the completion of his vow when he shaves ‘his consecrated head’. V. Num. VI. 18.

(8) For what is slaughtered outside the Temple is not regarded as the sacrifice of the offering, consequently apart from the liability that is incurred for slaughtering outside the Temple he does not thereby fulfil the obligation of his vow.

(9) Since the Temple of Onias is not different from any other place outside the Temple, his saying ‘I will offer it in the Temple of Onias’ clearly implied that wherever the animal was slaughtered that was the fulfilment of his obligation. He is, of course, liable for slaughtering it outside the Temple.

(10) And he did not pledge himself to offer a burnt-offering at all; accordingly there does not arise here the prohibition of slaughtering a consecrated animal outside the Temple.

(11) I.e., to have to bring it to the Temple in Jerusalem. We must suppose that he was living far from the Land of Israel but near to the Temple of Onias.

(12) But there was no Nazirite vow at all.

(13) And consequently he is in this case culpable for slaughtering a consecrated animal outside the Temple.

(14) In Palestine, but not at the Temple in Jerusalem.

(15) For slaughtering a consecrated animal outside the Temple. For kareth v. Glos. He has, however, fulfilled his obligation and need not bring another burnt-offering to the Temple, for by his saying, ‘I will offer it in the Temple of Onias’ he implied that wheresoever the animal would be slaughtered that would be the fulfilment of his obligation. V. supra p. 672, n. 2.

(16) In which the Israelites journeyed and where the Tabernacle was erected by Moses.

(17) A euphemism for idolatry.

(18) II Kings XXIII, 9.

(19) Cf. Lev. XXI, 17ff.

(20) And he afterwards repented.

(21) Ezek. XLIV, 12.

(22) Ibid. 13.

(23) For even in the Temple it may be performed by non-priests.

(24) This is, of course, an act of service.

(25) On a subsequent occasion.

(26) Thus whether the service in honour of the idol was performed inadvertently (through stumbling) or deliberately (through iniquity) the priest is debarred for all time from offering sacrifices in the Temple.

(27) I.e., a deliberate act of service.

(28) Num. XV, 28. The apparently superfluous expression ‘when he sinneth in error’ is interpreted as referring to a priest who, having sinned by ministering to idols, is now offering his own sacrifice and making atonement for himself (for the whole passage refers to the sin of idolatry).

(29) For slaughtering is no service.

(30) And as he did so in error he may minister in the Temple. for the Baraitha teaches that he may offer his own sacrifice; thus in accord with R. Nahman's view.

(31) Notwithstanding that slaughtering is no service.

(32) R. Nahman and R. Shesheth.

(33) For slaughtering is no service.

Talmud - Mas. Menachoth 109b

for he had become a priest to idols. R. Nahman said, Whence do I derive my view? From the following which was taught: If a priest ministered before idols and repented, his offering is a sweet savour. In what circumstances [did he minister]? Will you say, inadvertently? Then what is the point of ‘and repented’? He has always been repentant![1] It must obviously be [that he ministered] deliberately. And further, if by sprinkling, then even though he repented it avails nought, for he had performed a service [before the idol]! It can only be by slaughtering [before it]. R. Shesheth, however, will say, I still maintain that he ministered inadvertently, and [the Baraitha] means to say as follows: If he had always been repentant, that is to say, when he ministered [before the idol] he ministered inadvertently, his offering [in the Temple] is a sweet savour; otherwise his offering is not a sweet savour.

If a priest had prostrated himself before an idol, R. Nahman said, His offering [in the Temple] is a sweet savour; and R. Shesheth said, His offering is not a sweet savour. If he had acknowledged an idol, R. Nahman said, His offering [in the Temple] is a sweet savour; and R. Shesheth said, His offering is not a sweet savour. Now all these disputes had to be stated. For if only the first[2] had been stated, I would have said that only there did R. Shesheth say [that his offering was not a sweet savour] since he had performed a service [before the idol], but where he had slaughtered [before the idol], since that was no service, I would have said that he agreed with R. Nahman. [Hence the latter dispute had to be stated.] And if the dispute regarding slaughtering had only been stated, [I would have said that only there did R. Shesheth say that his offering was not a sweet savour] since he had performed some service[3] [before the idol], but not where he had prostrated himself before the idol, for that was no service. Hence the latter had to be stated. And if the dispute regarding prostrating [before the idol] had only been stated, [I would have said that only there did R. Shesheth say that his offering was not a sweet savour] since he had done some act [before the idol], but not where he had merely acknowledged the idol, for that was a mere matter of words. Therefore all had to be stated.

NEEDLESS TO SAY [THIS IS SO OF PRIESTS WHO MINISTERED TO] ANOTHER MATTER.[4] Since it says here, NEEDLESS TO SAY [THIS IS SO OF PRIESTS WHO MINISTERED TO] ANOTHER MATTER, it follows that the Temple of Onias was not an idolatrous shrine. Our Tanna thus concurs with the view of him who said that the Temple of Onias was not an idolatrous shrine. For it was taught: In the year in which Simeon the Just died, he foretold them that he would die. They said to him, ‘Whence do you know it?’ He replied. ‘Every Day of Atonement there met me an old man, dressed in white and wrapped in white, who entered with me [into the Holy of Holies] and left with me; but this year there met me an old man, dressed in black and wrapped in black, who entered with me but did not leave with me’. After the Festival [of Tabernacles] he was ill for seven days and then died. Thereafter his brethren the priests forbore to pronounce the Name in the priestly benediction.[5] In the hour of his departure [from this life], he said to them, ‘My son Onias shall assume the office [of High Priest] after me’. His brother Shime'i, who was two years and a half older than he, was jealous of him and said to him, ‘Come and I will teach you the order of the Temple service. He[6] thereupon put upon him a gown,[7] girded him with a girdle, placed him near the altar, and said to his brethren the priests. ‘See what this man promised his beloved[8] and has now fulfilled: "On the day in which I will assume the office of High Priest I will put on your gown and gird myself with your girdle".’ At this his brethren the priests sought to kill him.[9] He fled from them but they pursued him. He then went to Alexandria in Egypt, built an altar there, and offered thereon sacrifices in honour of idols. When the Sages heard of this they said, If this is what happened [through the jealousy] of one[6] who had never assumed the honour,[10] what would happen [through the jealousy] of one who had once assumed the honour [and had been ousted from it]! This is the view of the events according to R. Meir. R. Judah said to him, That was not what happened, but the fact was that Onias did not accept the office of High Priest because his brother

Shime'i was two years and a half older than he. For all that Onias was jealous of his brother Shime'i and he said to him, ‘Come and I will teach you the order of the Temple service’. He[9] thereupon put on him a gown, girded him with a girdle, placed him near the altar, and said to his brethren the priests, ‘See what this man promised his beloved and has now fulfilled: "On the day that I will assume the office of High Priest I will put on your gown and gird myself with your girdle".’ At this his brethren the priests sought to kill him,[6] but he explained to them all that occurred. They thereupon sought to kill Onias; he fled from them but they pursued him. He fled to the King's palace,[11] but they pursued him there; and whoever saw him cried out, There he is, there he is. He thereupon went to Alexandria in Egypt, built an altar there, and offered thereon sacrifices in honour of God; for so it is written, In that day shall there be an altar to the Lord in the midst of the land of Egypt, and a pillar at the border thereof to the Lord.[12] When the Sages heard of this they said, If this is what happened [through the jealousy] of one[13] who had [at first] shunned the honour, what would happen [through the jealousy] of one who seeks the honour!

It was taught: R. Joshua b. Perahiah said, At first[14] whoever were to say to me ‘Take up the honour’,[15] I would bind him and put him in front of a lion; but now[16] whoever were to say to me, ‘Give up the honour’,[17] I would pour over him a kettle of boiling water. For [we see that] Saul [at first] shunned [the throne], but after he had taken it he sought to kill David.

Mar Kashisha son of R. Hisda said to Abaye. How does R. Meir[18] interpret that verse[12] adduced by R. Judah? — As in the following [Baraitha] which was taught: After the downfall of Sennacherib Hezekiah went out and found princes sitting in their golden carriages. He adjured them not to serve idols, as it is written, In that day there shall be five cities in the land of Egypt that speak the language of Canaan,[19]

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(1) For one who sinned in error has not transgressed the law that he should stand in need of repentance.

(2) Where the priest had sprinkled blood before the idol.

(3) Slaughtering, although not a priestly service, is indeed an essential service with regard to the offering.

(4) Sc. idolatry.

(5) V. Tosaf. Sot. 38a. s.v. הרי; and Yoma (Sonc. ed.) p. 196 n. 1.

(6) Shime'i.

(7) A light garment. ‘The easy dress worn in the house and, under the cloak, in the street, but in which it was unbecoming to appear in public’ (Jast.). According to Rashi: a leather gown.

(8) His wife.

(9) Onias.

(10) Of the High Priesthood. Lit., ‘went down to it’.

(11) The King's Mount, Har ha-Melek (Tur Malka) v. Git. (Sonc. ed.) p. 254, n. 4.

(12) Isa. XIX, 19.

(13) Onias.

(14) The translation of this passage follows the text as found in cur. edd. and as established by R. Kalonymos the father of R. Meshullam. There is, however, another text found in MS.M. and quoted by R. Gershom, Rashi and Tosaf. which reads: בתחילה כל האומר עולה או מנחה אני מטיל עליו קומקום של חמין: Whosoever pledges a burnt-offering or a meal-offering first (i.e., without having first set apart the animal or the flour for the purpose). I would pour over him a kettle of boiling water. The reason for this denunciation is that later this man might not find an animal or flour available for his purpose and his vow will therefore be left unfulfilled. This subject, however, is entirely out of place here.

(15) Lit., ‘go up to it’.

(16) Having taken a position of honour. R. Joshua b. Perahiah had been appointed to the position of Nasi, or President of the Sanhedrin, cf. Hag, 16a; he fled to Alexandria owing to Sadducee hostility but was recalled later by Simeon b. Shetah; v. Sot. 47a.

(17) Lit., ‘go down from it’.

(18) Who considers the Temple of Onias to have been an idolatrous shrine.

(19) Sc. the Hebrew tongue spoken in the land of Canaan.

Talmud - Mas. Menachoth 110a

and swear to the Lord of hosts.[1] Thereupon they went to Alexandria in Egypt, built an altar there, and offered thereon sacrifices in honour of God, as it is written, In that day there shall be an altar to the Lord in the midst of the land of Egypt.

One shall be called the city of Heres.[2] What is meant by The city of Heres? — As R. Joseph rendered it in Aramaic: The city of Beth Shemesh [the sun], which is destined to destruction, will be said to be one of them.[3] But whence do we know that Heres signifies the sun? For it is written, Who commandeth the sun [heres] and it riseth not.[4]

Bring My sons from far, and My daughters from the ends of the earth.[5] 'Bring My sons from far': R. Huna said, These are the exiles in Babylon, who are at ease[6] like sons. 'And My daughters from the ends of the earth': These are the exiles in other lands, who are not at ease,[6] like daughters.[7]

R. Abba b. R. Isaac said in the name of R. Hisda — others say, Rab Judah said in the name of Rab, From Tyre to Carthage the nations know Israel and their Father who is in heaven; but from Tyre westwards[8] and from Carthage eastwards[8] the nations know neither Israel nor their Father who is in heaven. R. Shimi b. Hiyya raised the following objection against Rab: Is it not written, For from the rising of the sun even unto the going down of the same My name is great among the nations; and in every place offerings are burnt and presented unto My name, even pure oblations?[9] — He replied. You, Shimi![10] They call Him the God of Gods.[11]

'And in every place offerings are burnt and presented unto My name'. 'In every place'! Is this possible? — R. Samuel b. Nahmani said in the name of R. Jonathan. This refers to the scholars who devote themselves to the study of the Torah in whatever place they are: [God says,] I account it unto them as though they burnt and presented offerings to My name. 'Even pure oblations': this refers to one who studies the Torah in purity; that is, one who marries a wife and afterwards studies the Torah.[12]

A song of Ascents. Behold, bless ye the Lord, all ye servants of the Lord, that stand in the house of the Lord in the night seasons.[13] What is the meaning of 'in the night seasons'? — R. Johanan said, This refers to the scholars who devote themselves to the study of the Torah at nights: Holy Writ accounts it to them as though they were occupied with the Temple service.

This is an ordinance for ever to Israel.[14] R. Giddal said in the name of Rab, This refers to the altar built [in heaven].[15] where Michael, the great Prince,[16] stands and offers up thereon an offering.[17] R. Johanan said, It refers to the scholars who are occupied with the laws of Temple service: Holy Writ imputes it to them as though the Temple were built in their days.

Resh Lakish said, What is the significance of the verse, This is the law for the burnt-offering, for the meal-offering, for the sin-offering, and for the guilt-offering?[18] It teaches that whosoever occupies himself with the study of the Torah is as though he were offering a burnt-offering, a meal-offering a sin-offering, and a guilt-offering, Raba asked, Why then does the verse say. 'For the burnt-offering, for the meal-offering'? It should have said, 'a burnt-offering, a meal-offering'! Rather, said Raba, it means that whosoever occupies himself with the study of the Torah needs neither burnt-offering, nor meal-offering, nor sin-offering, nor guilt-offering.[19]

R. Isaac said, What is the significance of the verses, This is the law of the sin-offering;[20] and This is the law of the guilt-offering?[21] They teach that whosoever occupies himself with the study of the laws of the sin-offering is as though he were offering a sin-offering, and whosoever occupies himself with the study of the laws of the guilt-offering is as though he were offering a guilt-offering.

MISHNAH. IT IS SAID OF THE BURNT-OFFERINGS OF CATTLE, AN OFFERING MADE BY FIRE OF A SWEET SAVOUR;[22] AND OF THE BURNT-OFFERINGS OF BIRDS, AN OFFERING MADE BY FIRE OF A SWEET SAVOUR;[23] AND OF THE MEAL-OFFERING, AN OFFERING MADE BY FIRE OF A SWEET SAVOUR:[24] TO TEACH YOU THAT IT IS THE SAME WHETHER A MAN OFFERS MUCH OR LITTLE, SO LONG AS HE DIRECTS HIS HEART TO HEAVEN.

GEMARA. R. Zera said, Where do we find a Scriptural reference to this? In the verse, Sweet is the sleep of a labouring man, whether he eat little or much.[25] R. Adda b. Ahabah said, In the following verse, When goods increase, they are increased that eat them; and what advantage is there to the owner thereof, [saving the beholding of them with his eyes]?[26]

It was taught: R. Simeon b. ‘Azzai said. Come and see what is written in the chapter of the sacrifices. Neither el[27] nor elohim[27] is found there, but only the Lord, so as not to give sectarians any occasion to rebel.[28] Furthermore, it is said of a large ox, ‘An offering made by fire of a sweet savour’; of a small bird, ‘An offering made by fire of a sweet savour’; and of a meal-offering, ‘An offering made by fire of a sweet savour’: to teach you that it is the same whether a man offers much or little, so long as he directs his heart to heaven. And lest you say, He needs it for food, the text therefore states, If I were hungry, I would not tell thee; for the world is Mine and the fulness thereof.[29] And it also says, For every beast of the forest is Mine, and the cattle upon a thousand hills. I know all the fowls of the mountains; and the wild beasts of the field are mine. Do I eat the flesh of bulls, or drink the blood of goats?[30] I did not bid you to sacrifice so that you should say, I will do His will that He may do my will.[31] You do not sacrifice for My sake, but for your own sakes, as it is written, Ye shall sacrifice it at your will.[32] Another interpretation is: ‘Ye shall sacrifice it at your will’: sacrifice it of your own free will, sacrifice it with the proper intention. As Samuel once enquired of R. Huna, Whence do we know that the offering is invalid if the act [of slaughtering] was performed incidentally?[33] [He replied,] Because it is written, And he shall slaughter the bullock,[34] thus teaching that the slaughtering should be intended for the bullock. Said the other, This we already know;[35] but whence do we know that this rule is indispensable? [He replied,] Because it is written, ‘Ye shall sacrifice it at your will’, that is to say, sacrifice it with the proper intention.[36]

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(1) Ibid. 18.

(2) Isa. XIX, 18.

(3) חרס has the meaning of ‘destruction’ and also ‘the sun’.

(4) Job IX, 7. Heb. חרס

(5) Isa. XLIII, 6.

(6) Lit., ‘whose minds are settled’. The Jews living in Babylon were for the most part less subject to persecution than their brethren in other lands.

(7) Woman's tranquil frame of mind is more readily disturbed by troubles than man's.

(8) Geographically this is difficult to understand, for westwards of Tyre is the Mediterranean Sea and eastwards of Carthage is that region which, according to the first part of this sentence, is inhabited by those people who recognize their Father who is in heaven. It has already been suggested by M. Schwartz, Dos Heilige Land, p. 274 that ‘westwards’ and ‘eastwards’ should be transposed. Cf. also Neubauer, Geographie. p. 294.

(9) Mal. I, 11.

(10) V. supra p. 186, n. 3.

(11) But they do not worship Him.

(12) So that he is undisturbed by impure thoughts.

(13) Ps. CXXXIV, 1.

(14) II Chron. II, 3. This verse implies that the altar-offerings will never cease.

(15) Cf. Hag. 12b.

(16) Israel's guardian angel; v. Dan. XII, 1. Cf. Yoma 77a.

(17) Sc. the souls of the righteous. V. Tosaf s.v. ומיכאל.

(18) Lev. VII, 37.

(19) The verse accordingly means: The Torah is for, i.e., in lieu of, the burnt-offering, the meal-offering, etc.: the study of the Torah makes atonement like the offering of sacrifice. Another interpretation: לעולה stands for לא עולה ‘no (need for) burnt-offering’; cf. Ned. 11a.

(20) Ibid. VI, 18.

(21) Ibid. VII, 1.

(22) Lev. I, 9.

(23) Ibid. 17.

(24) Ibid. II, 2.

(25) Eccl. V, 11. Heb. עובד is here given the meaning of ‘one who brings an offering’ (cf. Isa. XIX, 21) and the interpretation of the verse is: Sweet is the sleep of the man who brings an offering; be it little or much, he shall enjoy the reward thereof.

(26) Ibid. 10. The interpretation of the verse is: When offerings increase there are many priests that eat them; but what advantage is the abundance of offerings to the Holy One, the Owner of all, saving the beholding of the heart that prompts the offering?

(27) Heb. אל and אלהים, meaning God. For these terms are also used in connection with idols (Maharsha).

(28) By finding support in Scripture for their heretical belief in the plurality of deities.

(29) Ps. L, 12.

(30) Ibid. 10, 11, 13.

(31) The ritual of sacrifice was an ordinance of God which was to be performed not in order to obtain a reciprocal favour from Him, but simply because He had willed it so.

(32) Lev. XIX, 5.

(33) If, e.g., a man was handling a knife, when it accidentally fell from his hand and it slaughtered an offering.

(34) Ibid. I, 5.

(35) Lit., ‘this is in our hands’.

(36) Since we have two verses each directing that the slaughtering of the sacrifice must be intentional, this rule becomes indispensable, in accordance with the Rabbinic dictum: Wherever Scripture repeats an injunction in connection with holy things it is meant to be indispensable.

Talmud - Mas. Chullin 2a

C H A P T E R I

MISHNAH. ALL MAY SLAUGHTER,[1] AND THEIR SLAUGHTERING IS VALID, EXCEPT A DEAF — MUTE, AN IMBECILE OR A MINOR, LEST THEY INVALIDATE THEIR SLAUGHTERING; AND IF ANY OF THESE SLAUGHTERED WHILE OTHERS WERE STANDING OVER THEM, THEIR SLAUGHTERING IS VALID. STANDING OVER THEM, THEIR SLAUGHTERING IS VALID.

GEMARA. The expression ALL MAY SLAUGHTER [implies a right] in the first instance, yet the expression AND THEIR SLAUGHTERING IS VALID [implies merely a sanction] after the act![2] — R. Aha the son of Raba said to R. Ashi: Is it correct that the expression ‘ALL MAY . . .’ [implies a right] in the first instance? If so, [consider the Mishnah]: ‘All may change.[3] whether man or woman’; is that also a right in the first instance? Is it not written: He shall not alter it, nor change it, a good for a bad, or a bad for a good?[4] — No,[5] for there the Mishnah goes on to explain: ‘Not that a person is allowed to change, but only that, if he has changed, the change is effective and he receives forty stripes’.

Then, [consider this Mishnah]: ‘All may vow another's valuation and their valuation may be vowed by others, and they may vow another's worth and their worth may be vowed by others’;[6] is that also a right in the first instance? Is it not written: And if thou shalt forbear to vow, it shall be no sin in thee?[7] And it is further written: Better it is that thou shouldest not vow, than that thou shouldest vow and not pay.[8] And it has been taught: Better than both[9] is he who does not vow at all; this is the opinion of R. Meir. R. Judah says. Better than both[10] is he who vows and pays. Now, even R. Judah refers only to the case of one who says. ‘Behold, let this be a sacrifice’,

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(1) Sc. an animal or a bird according to the Jewish ritual.

(2) The expressions are apparently contradictory, for whereas in the former a direct permission is granted, in the latter it is only after the act that the slaughtering is considered valid. This contradiction is not attempted to be answered until p. 3 infra; meanwhile R. Aha questions the soundness of the implications.

(3) Sc. a consecrated beast for a common beast. Cf. Tem. 2a.

(4) Lev. XXVII, 10.

(5) The expression used, generally implying a right in the first instance, is in this particular case expressly limited.

(6) V. ‘Arak. 2a. The reference is to Lev. XXVII, which deals with the law of one who vows to offer to the sanctuary the value of any human being, which may include himself. The difference between ‘valuation’ and ‘worth’ is that the former term is applied to vows in the formula of which the word ערך — ‘valuation’ — is used. The amount in cases of valuation is fixed by the Torah.

(7) Deut. XXIII, 23. This verse implies that it is sinful, or at least not praiseworthy, to vow, as the quotation from Eccl. V, 4, as explained by the Baraitha, clearly shows.

(8) Eccl. ibid.

(9) Sc. one who vows and pays and one who vows and does not pay.

(10) Sc. one who vows and does not pay and who does not vow at all.

Talmud - Mas. Chullin 2b

but not to the case of one who says. ‘Behold, I take it upon me [to bring a sacrifice]’.[1]

Does then the expression ‘ALL MAY . . . ‘ never imply a right in the first instance? What then of the statements: ‘All must observe the law of Sukkah’,[2] and, ‘All must observe the law of Zizith’?[3] Do these not imply a duty in the first instance? — [No;] I do not say so of the expression ‘All must’.[4]

Then take this case: ‘All lay the hand [upon the head of the sacrifice], whether man or woman’. Does this not mean a duty in the first instance? Surely it is written: And he shall lay his hand . . . and it shall be accepted for him.[5] — The truth of the matter is: ‘ALL MAY . . . ‘ sometimes implies a right in the first instance and sometimes implies a sanction after the act. This being so, in the case of our Mishnah, why should you say that it is a right in the first instance and consequently raise a difficulty? Say, rather, it is a sanction after the act and there will be no difficulty. — He[6] replied: My difficulty is the expression. AND THEIR SLAUGHTERING IS VALID. Since it states, AND THEIR SLAUGHTERING IS VALID, which is obviously a sanction after the act, ALL MAY SLAUGHTER must be a right in the first instance, for otherwise why is it necessary to state the sanction after the act twice?

Rabbah b. Ulla said: This is the interpretation of the Mishnah. ALL MAY SLAUGHTER: even an unclean person [may slaughter] a common beast.[7] An unclean person [may slaughter] a common beast! Surely this is obvious![8] — What is meant is this: [An unclean person may slaughter] a common beast in connection with which the cleanness proper to hallowed things has been observed; and the Tanna is of the opinion that common things kept in the cleanness proper to hallowed things are regarded as hallowed. How does he [the unclean person] proceed [in slaughtering]? — He fetches a long knife and slaughters therewith so as to avoid touching the flesh [of the beast]. But in the case of consecrated beasts he should not slaughter lest he touch the flesh.[9] Nevertheless, if he did slaughter and declared: ‘I am certain that I did not touch the flesh’, his slaughtering is valid. EXCEPT A DEAF-MUTE, AN IMBECILE OR A MINOR: whose slaughtering even in the case of common beasts, and even after the act is invalid, lest[10] they pause, press or thrust.[11]

[Now on this interpretation, when the Mishnah continues:] AND IF ANY OF THESE SLAUGHTERED, to which [persons] does this statement refer? If we were to say it refers to a deaf-mute, an imbecile or a minor, [in that case], having just now dealt with these, [the Tanna] should have said: ‘And if they slaughtered’! And if it refers to an unclean person slaughtering a common beast,[12] surely you have said that he may slaughter even in the first instance! Or again, if it refers to an unclean person slaughtering a consecrated beast,[12] surely you have said that in his case it is sufficient if he said: ‘I am certain [that i did not touch the flesh]’! — [It refers to the latter case] when he is not present to be questioned.[13]

But is the law concerning an unclean person slaughtering a consecrated beast derived from [our Mishnah] here? Is it not derived from [that other Mishnah] there[14] which reads: If any of those who are unfit [for service in the Temple] slaughtered [a consecrated beast], the slaughtering is valid, for slaughtering is valid even if performed by them that are not priests or by women or by slaves or by unclean persons, and even if the beast was intended for a sacrifice of the highest grade;[15] provided that the unclean person does not touch the flesh? — Here [our Mishnah] is the source of the law; [the other Mishnah] there mentions the unclean person slaughtering consecrated animals only because it mentions all others who are unfit. If you wish, however, I can say. There is the source of the law, seeing that it is in the tractate which deals with consecrated things; [our Mishnah] here mentions the unclean person slaughtering consecrated beasts only because it mentions the unclean person slaughtering common beasts.

This unclean person of whom we speak, how did he become unclean? If we were to say that he became unclean by touching a corpse, [there is this difficulty]. The Divine law says: One slain with a sword,[16]

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(1) In the former case one who so vows is not liable to replace the animal if it is stolen or lost or has died, therefore if he has set aside the animal there is little fear that he will not fulfil his obligation; in the latter case the one who vows must supply an animal and is liable to replace it in all events, and there is therefore the danger of his not fulfilling his obligation. All vows of ‘valuation’ and of ‘worth’ come under this latter head; consequently the Mishnah quoted cannot possibly imply a right in the first instance.

(2) To dwell in booths during the feast of Tabernacles; v. Lev. XXIII, 42.

(3) The wearing of Fringes in accordance with Num. XV, 38ff.

(4) In these cases the Torah imposes a specific duty which can only mean in the first instance.

(5) Lev. I, 4.

(6) I.e., R. Ashi.

(7) Hullin, v. Glos.

(8) An Israelite was not required to observe the rules of levitical cleanness in connection with his ordinary food.

(9) This would make the beast unclean and unfit for a sacrifice.

(10) By doing any of the acts mentioned the slaughtering is invalid.

(11) V. p. 37, where the five rules to be observed with regard to slaughtering are enumerated and explained.

(12) And the Mishnah teaches that if others were standing over him his slaughtering is valid.

(13) As to whether he touched the flesh or not. The Mishnah therefore teaches that if others were standing over him while he slaughtered and saw that he did not touch the flesh his slaughtering is valid.

(14) Zeb. 31b.

(15) קדשי קדשים e.g. a burnt-offering.

(16) Num. XIX, 16.

Talmud - Mas. Chullin 3a

[signifying that] the sword has the same degree of uncleanness as the slain person.[1] The slaughterer therefore, being a primary source of uncleanness, would defile the knife, and the knife in turn would defile the flesh![2] — It must be that he became unclean through contact with a [dead] reptile.[3] If you wish, however, I can even say that he became unclean by touching a corpse, but he prepared[4] a reed haulm[5] and slaughtered therewith; for it has been taught: One may slaughter with any instrument, with a flint, with glass or with a reed haulm.[6]

Abaye said: This is the interpretation of the Mishnah. ALL MAY SLAUGHTER: even a Cuthean.[7] This applies only where an Israelite is standing over him; but if [an Israelite] is merely going in and out he may not slaughter. If, however, he did slaughter, one cuts off an olive's bulk[8] of the flesh and gives it to him; if he ate it, others may also eat of his slaughtering; if he did not eat it, others may not eat of his slaughtering.[9] EXCEPT A DEAF-MUTE, AN IMBECILE OR A MINOR: whose slaughtering, even after the act, is invalid, lest they pause, press or thrust.[10]

[Now on this interpretation, when the Mishnah continues:] AND IF ANY OF THESE SLAUGHTERED, to which persons does this statement refer? If we were to say it refers to a deaf-mute, an imbecile or a minor, [in that case], having just now dealt with these [the Tanna] should have said: ‘And if they slaughtered’! And if it refers to a Cuthean, surely you have said that if an Israelite is standing over him he may slaughter in the first instance![11] — This is a difficulty.

Said Raba, [But is it correct to state that], if an Israelite is going in and out [the Cuthean] has not the right [to slaughter] in the first instance? Have we not learnt: If one left a heathen in one's wine shop and an Israelite was going in and out [of the shop], the wine is permitted?[12] — Does it teach there ‘one may leave’? It says: ‘if one left’, which is only a sanction after the act. You can, however, derive it from this [Mishnah]: There is no need for the supervisor to sit and watch the whole time; even if he keeps going in and out, [the wine] is permitted![13]

Rather, said Raba, this is the interpretation of the Mishnah. ALL MAY SLAUGHTER: even a Cuthean. This applies only where an Israelite is going in and out [at the time]; but if [an Israelite] came and found that [the Cuthean] had slaughtered, one must cut off an olive's bulk of the flesh and give it to him; if he ate it, others may also eat of his slaughtering; if he did not eat it, others may not eat of his slaughtering. EXCEPT A DEAF-MUTE, AN IMBECILE OR A MINOR: whose slaughtering, even after the act, is invalid, lest he pause, press or thrust.

[Now on this interpretation, when the Mishnah continues:] AND IF ANY OF THESE SLAUGHTERED, to which persons does this statement refer? If we were to say it refers to a deaf-mute, an imbecile or a minor, [in that case], having just now dealt with these, [the Tanna] should have said: ‘And if they slaughtered’! And if it refers then to a Cuthean, surely you have said that though an Israelite is [merely] going in and out he may slaughter in the first instance![14] — This is a difficulty.

R. Ashi said: This is the interpretation of the Mishnah. ALL MAY SLAUGHTER: even an Israelite apostate.[15] In what respect is he an apostate? — In that he eats carrion[16] in order to satisfy his appetite.[17] [This holds good], provided the requirement of Raba is fulfilled; for Raba said: In the case of an Israelite apostate who eats carrion in order that he may satisfy his appetite,

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(1) The general principle is that unclean matter defiles anything which comes in contact with it, and that the thing so defiled becomes unclean in a lesser degree than that which defiled it. The interpretation of this verse, however establishes the exception that where a metal comes into contact with a corpse or with one who had touched a corpse the metal assumes the same degree of uncleanness as the corpse or the person who had touched the corpse, as the case may be.

(2) The knife would itself assume the same degree of uncleanness as the unclean person, and would thus be a primary source of uncleanness; the flesh touching the knife would then become unclean in the first degree.

(3) In this case the reptile is the primary source of uncleanness (אב הטומאה); the slaughterer by touching the reptile becomes unclean in the first degree (ראשון לטומאה) and cannot convey his uncleanness to the knife; for the rule is that anything which is unclean in the first degree can only defile foodstuffs or liquids but not other objects.

(4) Lit., ‘examined’, ‘tested’.

(5) This neither contracts nor conveys uncleanness.

(6) V. infra 15b.

(7) The Cutheans, often called Samaritans, were one of the peoples that were settled in Samaria by the Assyrian king after the exile of the ten tribes. They adopted certain Jewish practices particularly those based on the written word of the Torah. V.II Kings XVII, 24ff.

(8) The legal minimum to constitute ‘eating’.

(9) The argument is this: A Cuthean observes certain laws (including Shechitah) for himself but does not mind if he is the cause of others transgressing the laws, because he does not accept the prohibition: Thou shalt not put a stumbling block before the blind, Lev. XIX, 14, in its figurative sense but only in its literal meaning.

(10) V. supra p. 3, n. 6.

(11) Whereas the Mishnah declares the slaughtering valid only after the act.

(12) Cf. A.Z. 69a. There is no fear that the heathen handled the wine with an idolatrous intent or at all, and the wine is therefore permitted for use. It would follow therefore that in the case of Shechitah the Cuthean is to be trusted to slaughter in the first instance if there is an Israelite going in and out, in contradiction to Abaye's interpretation of our Mishnah.

(13) Cf. A.Z. 61a. This Mishnah clearly teaches that going in and out is sufficient supervision even in the first instance, which contradicts Abaye. V. previous note.

(14) Whereas our Mishnah on the latest interpretation demands for the valid slaughtering that an Israelite be standing over him the whole time, and even then it is valid only after the act.

(15) Mumar ‘an apostate’; hence generally, a non-conforming, non-observant Jew.

(16) Heb. נבלה; the meat of a dead animal that has not been ritually slaughtered.

(17) I.e., not in defiance of the law.

Talmud - Mas. Chullin 3b

one prepares the knife and gives it to him, and then we may eat of his slaughtering. But if the knife was not prepared and given to him he may not slaughter.[1] If, however, he did slaughter, the knife should be examined now; if it is found to be satisfactory, we may eat of his slaughtering; otherwise we may not eat of his slaughtering. EXCEPT A DEAF-MUTE, AN IMBECILE OR A MINOR: whose slaughtering, even after the act, is invalid, lest they pause, press or thrust.

[Now on this interpretation, when the Mishnah continues:] AND IF ANY OF THESE SLAUGHTERED, to which persons does this statement refer? If we were to say it refers to a deaf-mute, an imbecile or a minor, [in that case], having just now dealt with these, [the Tanna] should have said: ‘And IF THEY slaughtered’! And if it refers to an Israelite apostate, surely you have said that if a knife was prepared and given to him, he has the right to slaughter in the first instance! And if [on the other hand] a knife was not prepared for him, well then, if the knife is here it can be examined now, and if it is not here, what is the advantage if others were standing over him at the time? Perhaps he slaughtered with a notched knife![2] This is a difficulty. Rabina said: This is the interpretation of the Mishnah. ALL MAY SLAUGHTER: [that is to say], all who are qualified may slaughter, even though it is not known whether they are experienced or not: provided that we are satisfied that they are able to recite the rules of Shechitah.[3] But if we do not know whether they are able to recite the rules of Shechitah, they may not slaughter; if, however, they did slaughter, they are to be examined now. If they are able to recite the rules of Shechitah, one may eat of their slaughtering; otherwise one may not eat of their slaughtering. EXCEPT A DEAF-MUTE. AN IMBECILE OR A MINOR: whose slaughtering, even after the act,[4] is invalid, lest they pause, press or thrust.

Now on this interpretation, when the Mishnah continues] AND IF ANY OF THESE SLAUGHTERED. To which persons does this statement refer? If we were to say it refers to a deaf-mute, an imbecile or a minor, [in that case], having just now dealt with these, [the Tanna] should have said: ‘And if they slaughtered’! And if it refers to those who are not qualified,[5] surely you have said that it is sufficient if they are examined [after the slaughtering]! — [It must be] that they are not present to be examined.

Some there are who say: Rabina said: This is the interpretation of the Mishnah. ALL MAY SLAUGHTER: [that is to say], all who are experienced may slaughter, even though it is not known whether they are qualified or not. This applies only where they have slaughtered two or three times in our presence and were not overcome by faintness. But if they have not slaughtered two or three times in our presence, they may not slaughter, lest they are overcome by faintness. If, however, one of these did slaughter and said: ‘I am certain I was not overcome by faintness’, his slaughtering is valid. EXCEPT A DEAF-MUTE, AN IMBECILE OR A MINOR: whose slaughtering, even after the act, is invalid, lest they pause, press or thrust.

[Now on this interpretation, when the Mishnah continues:] AND IF ANY OF THESE SLAUGHTERED, to which persons does this statement refer? If we were to say it refers to a deaf-mute, an imbecile or a minor, [in that case], having just now dealt with these [the Tanna] should have said: ‘And if they slaughtered’! And if it refers to those who are not experienced, surely you have said that in such cases it is sufficient if they said: ‘I am certain I was not overcome by faintness’! [It must be] that they are not present to be questioned.[6]

Rabina and Rabbah b. Ulla do not interpret [the Mishnah] in the ways suggested by Abaye or by Raba or by R. Ashi, because the latter find a difficulty in interpreting the expression: AND IF ANY OF THESE SLAUGHTERED.

All do not agree with Rabbah b. Ulla's interpretation, because, according to the one version which suggested that [our Mishnah] here is the source of the rule,[7] on the contrary, [they say] that other [Mishnah] is the source of the rule, since it is in the tractate which deals with consecrated things; and according to the other version which suggested that the other [Mishnah] is the source of the rule but that [our Mishnah] here refers to the case of an unclean person slaughtering consecrated beasts merely incidentally because it deals with the case of an unclean person slaughtering a common beast,[8] [they say], the case of an unclean man slaughtering a common beast was unnecessary [to be taught] because [the correct view is that] common things kept in the cleanness proper to hallowed things are not considered hallowed.

All do not agree with Rabina's interpretation, because, according to the one version which ruled that only those qualified may slaughter, but not those unqualified, [they hold the principle that] the majority of those who slaughter are qualified;[9] and according to the other version which ruled that only those who are known to be experienced may slaughter but not those who are not so known, [they say] the danger of being overcome by faintness [in slaughtering] is too remote to be apprehended.

Raba does not agree with .Abaye's interpretation because of the objection which he raised.[10]

Abaye does not agree with Raba's interpretation because, in that other case[11] the heathen is not handling [the wine],[12] while in our case the Cuthean is handling [the beast].[13]

R. Ashi does not agree with either of these interpretations because he holds the view that the Cutheans were lion-proselytes.[14]

Abaye does not agree with R. Ashi's interpretation because he does not accept Raba's statement.[15]

The question, however, remains: Why does not Raba interpret the Mishnah in accordance with his own statement?[15] — Raba's interpretation merely follows up the argument of Abaye[16] but he himself does not accept it.

Our Rabbis taught: The slaughtering by a Cuthean is valid. This applies only where an Israelite was standing over him [at the time]; but if he [the Israelite] came and found that the Cuthean had already slaughtered, he cuts off an olive's bulk of the flesh and gives it to him; if he ate it, then we may eat of his slaughtering; if he did not, then we may not eat of his slaughtering. And so, too, if [the Israelite] found in the possession of a Cuthean

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(1) It is assumed that a non-observant Jew (as defined) would slaughter according to ritual if a knife was prepared and given to him, but he himself would not take the trouble to prepare it.

(2) Which would invalidate the Shechitah, v. infra 15b.

(3) שחיטה; the ritual method of slaughtering an animal.

(4) And even if they know the rules of Shechitah.

(5) The words ‘not qualified’, אין מומחין throughout this page refer to those of whom it is not known whether they are able to recite the rules of Shechitah or not. If they are absolutely unqualified their slaughtering is invalid even after the act (Tosaf.).

(6) Whether they were overcome by faintness in slaughtering or not.

(7) That an unclean person may slaughter a consecrated beast.

(8) That is a common beast prepared under conditions proper to hallowed things.

(9) It is therefore unnecessary to examine the slaughterer. Lit., ‘the majority of those who are found (engaged) at slaughtering’. V. Rashi on this statement, infra 22a.

(10) V. supra 3a.

(11) The statement quoted from A.Z. 61a. V. supra 3a.

(12) Therefore going in and out is considered sufficient supervision.

(13) Therefore going in and out is hot sufficient.

(14) Who were driven to conversion through fear of lions, v. II Kings XVII 24-29, and were therefore considered non-Jews.

(15) Which was the basis of R. Ashi's interpretation. V. supra 3a.
(16) Who did not agree with Raba's ruling in regard to a non-observant Israelite, and consequently had to interpret the Mishnah as dealing with a Cuthean.

Talmud - Mas. Chullin 4a

baskets of [slaughtered] birds, he cuts off the head of one of the birds and gives to him; if he ate it, then we may eat of his slaughtering; if he did not, then we may not eat of his slaughtering. Now Abaye emphasizes the first part of this statement, whereas Raba emphasizes the second part of the statement.[1] Abaye emphasizes the first part of the statement, [viz.] the reason [why the slaughtering of a Cuthean is valid is] that ‘an Israelite was standing over him at the time’, which implies that if the Israelite was merely going in and out it is not sufficient. Raba, on the other hand, emphasizes the second part of this statement, viz, the reason [why the prescribed test is necessary is] because ‘he came and found that [the Cuthean] had slaughtered’, which implies that if the Israelite was going in and out at the time it is in order.[2]

Now according to Abaye, is not the second clause difficult to explain?[3] Abaye will tell you. A person going in and out can also be described as one who came and found that he had slaughtered. And according to Raba, is not the first clause difficult to explain?[4] — Raba will say. A person going in and out is regarded as one who is standing over him.

‘And so, too, if [the Israelite] found in the possession of a Cuthean baskets of slaughtered birds, he cuts off the head of one of the birds etc.’. Is this a sufficient test? Perhaps it was only this one bird that he slaughtered properly? — R. Manasseh said, (Mnemonic: putting a knife on rams.)[5] This is a case where [the Israelite] put the basket under the lap of his garments [and took out a bird at random]. But perhaps the Cuthean had made a sign on the bird [by which he recognized it]? — R. Merharsheya said: It is a case where [the Israelite] has crushed the bird.[6] But may it not be that the Cutheans maintain that birds do not require Shechitah according to the law of the Torah?[7] — If you use this argument [you might ask:] Are the rules against pausing, pressing, thrusting, deflecting and tearing,[8] specifically written [in the Torah]? What you must therefore admit, is that, since they have adopted these rules, they certainly observe them;[9] so in our case, too, since they have adopted [Shechitah for birds], they certainly observe it.

Now, as to the observance or non-observance [by the Cutheans] of adopted unwritten customs, there are differences of opinion among Tannaim;[10] for it has been taught: The unleavened bread of a Cuthean may be eaten [on Passover] and an Israelite fulfils his obligation by eating of it on the [first night of] Passover.[11] R. Eliezer says. It may not be eaten, because they are not versed in the details of the precepts like an Israelite. R. Simeon b. Gamaliel says. Whatever precept the Cutheans have adopted, they are very strict in the observance thereof, more so than Israelites.

The Master said: ‘The unleavened bread of a Cuthean may be eaten, and an Israelite fulfils his obligation by eating of it on the [first night of] Passover’. Is not this obvious?[12] — [No.] You might say that they are not versed in the regulation of careful supervision;[13] he, therefore, teaches you [that an Israelite fulfils his obligation by eating of it.] ‘R. Eliezer says. It may not be eaten, because they are not versed in the details of the precepts like an Israelite’; for he is of the opinion that they are not versed in [the regulation of] supervision.[14] ‘R. Simeon b. Gamaliel says: Whatever law the Cutheans have adopted, they are very strict in the observance thereof, more so than Israelites’. Is not this view the same as that of the first Tanna?[15] — There is this difference between them, namely: A law which is written in the Torah but it is not known whether the Cutheans have adopted it. The first Tanna is of the opinion that, since it is a written law, even though we do not know whether they have adopted it, [we can rely upon them]. R. Simeon b. Gamaliel holds the view that only if they have adopted it can they be relied upon, but not otherwise. If this is so, why does R. Simeon b. Gamaliel say:

‘Whatever precept the Cutheans have adopted’? He should say: ‘If they have adopted it’.[16] This, rather, is the real difference between them, namely: An unwritten law which has been adopted by them.[17] The first Tanna is of the opinion that, since it is an unwritten law, even though they have adopted it, they do not [observe it]; R. Simeon b. Gamaliel holds the view that, since they have adopted it, they observe it.

The [above] text [stated]:[18] ‘Raba said: In the case of an Israelite apostate who eats carrion in order to satisfy his appetite, one prepares the knife and gives it to him, and then we may eat of his slaughtering’. What is the reason for this? — Because, since there is the possibility of permissible and forbidden [food][19] he would not leave what is permitted and eat what is forbidden. If so, [should we not argue in like manner] even where a knife is not prepared for him? — No, for he would not go to any trouble.[20]

Said the Rabbis to Raba. These is [a Baraitha] taught that supports your view, viz: The leavened bread[21] of transgressors[22] is, immediately after the Passover,

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(1) I.e., Abaye who supra 3a does not permit a Cuthean to slaughter in the first instance where the Israelite was merely going in and out, and Raba who does permit it, both find support for their respective views in the Baraitha cited.

(2) Without the need of a further test.

(3) For the second clause implies that if the Israelite were going in and out at the time, the slaughtering would be valid without the necessity of administering the olive's bulk of flesh.

(4) For the first clause implies that if the Israelite were not standing by, but merely going in and out, the slaughtering would not be valid unless the Cuthean ate of the flesh.

(5) A mnemonic of the three laws taught by R. Manasseh in this Tractate. ‘Putting’ refers to the law dealt with here: ‘where the Israelite put the basket . . . ‘ ‘Knife’ v. infra 31a. ‘Rams’ v. infra 51a.

(6) Thus obliterating any distinguishing sign that may have been on it.

(7) For the verse: Then thou shalt slaughter of thy herd and of thy flock . . . as I have commanded thee, Deut. XII 21, does not specifically mention birds.

(8) For the meaning of these five technical terms vide infra 9a and the notes.

(9) And we may rely upon them.

(10) Plural of Tanna.

(11) During the festival of Passover an Israelite must abstain from eating anything which is leavened, whereas on the first night of the festival there is an obligation to eat Mazzah, or unleavened bread, which has been carefully supervised and specially prepared for the festival, v. Pes. 400.

(12) Since it is permitted to be eaten, surely he thereby fulfils his obligation!

(13) And therefore one does not fulfil one's obligation by eating this Mazzah, even though it is unleavened.

(14) I.e., to guard the dough against becoming leavened. Var. lec., they are not well versed in (what constitutes) leaven. V. Rashi.

(15) For both Rabbis are of the opinion that it may be eaten.

(16) The expression ‘Whatever law’ includes even unwritten laws; for if it refers to written laws only, then R. Simeon b. Gamaliel, controverting the decision of the first Tanna, who specifically deals with a written law, namely. Mazzah, should have said: ‘If they have adopted it they are reliable’.

(17) E.g. the law relating to Shechitah.

(18) Supra p. 7.

(19) For it is at his disposal to slaughter according to ritual.

(20) To prepare the knife.

(21) Heb, חמץ Hamez, leavened bread, or any other matter containing leavened substance.

(22) Those who do not destroy all leavened bread before the passover, according to prescribed law (Exod. XII, 15), because of the loss it entails.

Talmud - Mas. Chullin 4b

permitted [to be eaten], because they exchange it [for non-Jewish bread].[1] Now, it was thought, that the author of this Baraitha was R. Judah, who holds that leavened bread which has remained over Passover is forbidden by Biblical law,[2] and yet the Baraitha says: It is permitted because they exchange it; thus one can prove the principle that a person would not leave what is permitted and eat what is forbidden. Is this really so? Perhaps the author [of the Baraitha] is R. Simeon, who holds that leavened bread which has remained over Passover is forbidden only by Rabbinic law,[2] and therefore st is only in connection with Rabbinic laws that a lenient view is taken, but not in connection with Biblical laws?[3] — Be it so, that the author is R. Simeon; but does [the Baraitha] say: Because I assume that they exchange it? It says: Because they exchange It,[1] .e, they certainly exchange it. It follows, therefore, that if in connection with Rabbinic laws [we say] a person would not leave what is permitted and eat what is forbidden, how much more so in connection with Biblical laws![4]

Can we say that the following [Baraitha] supports Raba's view? [For it was taught:] ‘All may slaughter, even a Cuthean, even an uncircumcised Israelite, even an Israelite apostate’. Now, what is meant by an uncircumcised Israelite? Shall I say it is one whose brothers have died as a result of circumcision? Surely such a one is a good Israelite![5] Clearly, then, it can only mean one who is opposed to the law of circumcision; and the Tanna is of the opinion that one who is opposed to one law is not regarded as one opposed to the whole Torah. Let us now read the last statement: ‘Even an Israelite apostate’. What is meant by an Israelite apostate? If it means one who is opposed to one particular law, then it is identical with [our interpretation of] an uncircumcised Israelite’.[6] It can only mean one who is opposed to this particular practice [Shechitah, and yet he is permitted to slaughter,] thus supporting Raba's view! — It is not so. Indeed, it might be said that one who is opposed to this particular practice [Shechitah] may not [slaughter], because since he constantly disregards it[7] he deems it legitimate;[8] but [by ‘Israelite apostate is meant] one who is an apostate in respect of idolatry, and the view expressed is in accordance with the view of R. ‘Anan, who said in the name of Samuel: In the case of an Israelite who is an apostate in respect of idolatry, we may eat of his slaughtering.

The text [above stated]: ‘R. ‘Anan said in the name of Samuel, ‘In the case of an Israelite apostate in respect of idolatry, we may eat of his slaughtering’; for so we find it written concerning Jehoshaphat, king of Judah, that he partook of the feast of Ahab,[9] as it is written: And Ahab slaughtered sheep and oxen for him in abundance, and for the people that were with him, and persuaded him to go up with him to Ramoth-gilead.[10]

But is it not possible that Ahab slaughtered but Jehoshaphat did not eat? — It reads: And he persuaded him. Perhaps he persuaded him with words? — Persuasion [in Scripture] never means with words. Is this so? Is it not written: If thy brother persuade thee?[11] — This verse also means, by eating and drinking. But is it not written: And thou didst persuade Me to destroy him without cause?[12] With reference to the Most High it is different.[13]

But is it not possible that he drank [wine] and did not eat [meat]? — But why distinguish and say that drinking [the wine is permitted]? Because you hold the view that one who is an apostate in respect of idolatry is not regarded as opposed to the whole Torah. The same then holds good with regard to eating [meat], for one that is an apostate in respect of idolatry is not regarded as opposed to the whole Torah? — How can you compare the two! With regard to drinking, the only ground for its prohibition is the law concerning the ordinary wine of gentiles,[14] and at that period[15] the ordinary wine of gentiles was not prohibited; but with regard to eating. I maintain that one that is an apostate in respect of idolatry is regarded as opposed to the whole Torah. — If you wish I can answer: It is not the custom of kings to drink without eating; and if you wish l can answer: It reads: And he slaughtered . . . and persuaded him,[16] which suggests: How did he persuade him? By giving him to eat of what he had slaughtered.

But perhaps it was Obadiah[17] who slaughtered the animals! — It reads: In abundance;[16] Obadiah could not have managed it all by himself.

Perhaps the seven thousand [righteous men] slaughtered, for it is written: Yet will I leave seven thousand in Israel, all the knees which have not bowed unto Baal![18] — These were in hiding because of Jezebel. But perhaps the servants of Ahab were righteous! — You cannot assume such a thing, for it is written: If a ruler hearkeneth to falsehood, all his servants are wicked.[19] But perhaps the servants of Jehoshaphat too were not righteous; therefore, that which was slaughtered by Ahab's men was eaten by Jehoshaphat's men, but that which was slaughtered by Obadiah was eaten by Jehoshaphat! — You cannot assume such a thing, for ‘if a ruler hearkeneth to falsehood all his servants are wicked’, it follows that if a ruler hearkeneth to the truth all his servants are righteous. But perhaps that which was slaughtered by Ahab's servants was eaten by Ahab and his men, but that which was slaughtered by Jehoshaphat's servants was eaten by Jehoshaphat and his men! —

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(1) And the leavened bread of non-Jews which remained over Passover is permitted to be eaten immediately after Passover, v. Pes. 28a. However, the transgressor himself, who made the exchange, may not eat it; for otherwise, the law forbidding any benefit to be derived from the Hamez of a Jew which has remained over Passover can be circumvented by exchanging it for the Hamez of non.Jews.

(2) V. Pes. 28aff for the dispute between R. Judah and R. Simeon.

(3) E.g, the law of nebelah, Deut. XIV, 21.

(4) For a prohibition specifically enacted in the Torah would be more strictly observed by the Cutheans than a Rabbinic law. The result is that Raba's view is supported by the Baraitha quoted whether the author of it is R. Judah or R. Simeon.

(5) One whose two brothers have died because of circumcision is not to be circumcised because of the danger to his life; he is, however, considered a good Jew.

(6) Which was interpreted to mean one who is opposed to the law of circumcision.

(7) Lit., ‘to trample it’, hence to treat with contempt.

(8) Therefore one cannot apply to him the principle: ‘He would not leave what is permitted and eat what is forbidden’, for to him an animal which has not been slaughtered according to ritual is still permitted.

(9) Ahab was an apostate in respect of idolatry and yet Jehoshaphat ate of his slaughtering.

(10) II Chron. XVIII, 2.

(11) Deut. XIII, 7.

(12) Job II, 3.

(13) In which case persuasion by eating and drinking is inapplicable.

(14) The ordinary wine of gentiles, about which it is not known whether it has been used for idolatrous purposes or not, was prohibited by the disciples of Shammai and Hillel in the first century C.E.

(15) Of Ahab and Jehoshaphat.

(16) II Chron. XVIII, 2.

(17) The God-fearing servant of Ahab, v. I Kings XVIII, 3.

(18) Ibid. XIX, 18.

(19) Prov. XXIX, 12.

Talmud - Mas. Chullin 5a

Jehoshaphat would not have kept himself aloof.[1] How do you know this? Shall l say because it is written: I am as thou art, my people as thy people?[2] If so, can [the following words]. ‘My horses as thy horses’, bear such a meaning?[3] You must therefore say that the meaning of the last phrase is: Whatever [burden] shall be on thy horses shall be on my horses;[4] then the first phrase too might mean: Whatever [burden] shall be upon thyself and upon thy men shall be upon myself and upon my men! — Rather it[5] is derived from this verse: Now the king of Israel and Jehoshaphat king of Judah sat each on his throne, arrayed in their robes, in a threshing floor, at the entrance of the gate of Samaria.[6] Now, what is meant by ‘threshing-floor’? Shall l say it is to be taken literally? But surely the entrance of the gate of Samaria was not a threshing-floor! It can only mean [that they sat together] as in the ‘threshing floor’ [the court room],[7] for we learnt: The Sanhedrin sat in the form of a semi-circular threshing-floor so that they might see one another.[8]

Can we say that the following supports his [R. ‘Anan's] view? It is written: And the ravens brought him[9] bread and flesh in the morning, and bread and flesh in the evening,[10] and Rab Judah explained this in the name of Rab that [the ravens brought the flesh] from Ahab's slaughterers![11] — Being a Divine command it is different.[12] What is meant by ‘the ravens’ [Orebim]? — Rabina said: It means actually ravens. R. Ada b. Manyomi, however, suggested to him: May it not mean two men whose names were Oreb, as we find it written: And they slew Oreb at the rock of Oreb, and Zeeb?[13] — He replied. Could it have happened that both were named Oreb? But perhaps they were so named after the town in which they lived? Just as it is written: And the Arameans had gone out in bands and had brought away captive out of the land of Israel a little maid.[14] Now the difficulty was pointed out; [first] the verse refers to this girl as a maid [na'arah][15] and then as little [ketannah],[16] and R. Pedath explained this to mean a little girl from the town of Na'aran![17] — If so, the verse should read Orebiim.[18]

Can we say that the following supports his [R. ‘Anan's] view? [For it was taught:] All may slaughter, even a Cuthean, even an uncircumcised Israelite, even an Israelite apostate.[19] Now, what is meant by an uncircumcised Israelite? Shall I say, it is one whose brothers have died as a result of circumcision? Surely such a one is a good Israelite! Clearly, then, it can only mean one who is opposed to the law of circumcision. Let us now read the last statement: ‘Even an Israelite apostate’. What is meant by an Israelite apostate? Shall I say it means one who is opposed to one particular law, then is not this the same as [the case of] an uncircumcised Israelite? Hence it can only mean one who is an apostate in respect of idolatry [and yet he may slaughter] , thus supporting R. ‘Anan's view! — No. I ‘might still maintain that an apostate in respect of idolatry may not [slaughter], for it has been said,[20] Grave is idolatry in that he who denies it is as if he accepts the whole Torah;[21] and by ‘Israelite apostate’ is meant one who is opposed to this particular practice [of shechitah]; [and yet such a one may slaughter] in accordance with Raba's view.[22]

An objection was raised: [It is written]. Of you,[23] but not all of you,[24] thus excluding an apostate. Of you, that is, among you [Israelites] does this distinction apply but not among other nations.[25] ‘Of the cattle’ includes persons who are [devoid of merit] like animals; hence [the Rabbis] have declared: One should accept sacrifices from the transgressors in Israel, so that they may be inclined to repent, but not from an Israelite apostate, or from one who offers a wine libation [to idols], or from one who profanes the Sabbath publicly. Now this [Baraitha] is self-contradictory. It says. ‘Of you, but not all of you, thus excluding an apostate’; and then it says: ‘One may accept sacrifices from the transgressors in Israel’! — This is no difficulty. The former statement refers to one who is opposed to the whole Torah,[26] while the latter statement refers to one who is opposed to one particular law. Consider now the last statement of the Baraitha: ‘But not from an Israelite apostate, or from one who offers a wine libation [to idols], or from one who profanes the Sabbath publicly’. What is meant by apostate in this statement? If it means one who is opposed to the whole Torah, then it is identical with the first statement;[27] and if it means one who is opposed to one particular law, then it is inconsistent with the middle statement. Of necessity this must be the meaning of the last statement: But not from an Israelite apostate for offering a wine libation [to idols] or for profaning the Sabbath publicly. This proves that one who is an apostate in respect of idolatry is regarded as opposed to the whole Torah; consequently R. ‘Anan's opinion is refuted. This is a conclusive refutation.

But is this rule[28] derived from the above? Surely it is derived from the following statement, which was taught:[29]

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(1) By having his own men slaughter for him; for this would give rise to mistrust in the mind of Ahab. Nevertheless

Jehoshaphat would not have eaten of Ahab's slaughtering had he been in doubt as to Ahab's observance of the law of Shechitah.

(2) I Kings XXII, 4. This verse suggests that the followers of the one king were as reliable in religious matters as the followers of the other king.

(3) It is surely impossible for these words to have any religious significance.

(4) Meaning: We shall bear the burden equally in the battle.

(5) That Jehoshaphat regarded Ahab as reliable in religious matters even though the latter served idols.

(6) I Kings XXII, 20.

(7) I.e., just as among the Sanhedrin there was trust and friendship between one another so also between Jehoshaphat and Ahab.

(8) V. Sanh. 36b (Sonc. ed.) p. 230, n. 10.

(9) I.e., Elijah.

(10) I Kings XVII, 6.

(11) Thus proving that the meat slaughtered by Ahab's men, though idolaters, was permitted.

(12) It may have been forbidden food, but God permitted it on that occasion. There is therefore no support from this verse for R. ‘Anan's view.

(13) Judg. VII, 25, hence we find a person named Oreb,

(14) II Kings V. 2. Heb. נַעֲרָה קְטַנָּה.

(15) I.e., a girl over the age of twelve years and one day.

(16) I.e., a girl under the age of twelve years and one day.

(17) V. I Chron. VII, 28. Thus showing that people were called after the name of the town in which they lived.

(18) Which would mean: Inhabitants of the town of Oreb.

(19) V. supra p. 14.

(20) V. Sheb. 29a (Sonc. ed.) p. 160, n. 9.

(21) And conversely, he who accepts it denies the whole Torah.

(22) Supra p. 13.

(23) Lev. I, 2: When any man of you bringeth an offering unto the Lord, ye shall bring your offering of the cattle.

(24) ‘Of’ has a partitive meaning, i.e, some of you but not all.

(25) From other nations all may bring offerings to the Temple.

(26) Therefore he is precluded from offering sacrifices.

(27) Why should it be repeated?

(28) Of not accepting sacrifices from apostates.

(29) V. Hor. 11a (Sonc. ed.) p. 78,

Talmud - Mas. Chullin 5b

Of the common people[1] excludes an apostate.[2] R. Simon b. Jose said in the name of R. Simeon: The verse: And doeth through error any of the things which the Lord his God hath commanded not to be done, and is guilty,[3] implies that only he who repents when he becomes conscious of his sin brings a sacrifice[4] for his error, but he who does not repent on becoming conscious of his sin does not bring a sacrifice for his error. And it was asked: What practical difference is there between them?[5] And R. Hamnuna replied: The difference between them lies in the case of one who, being an apostate in respect of the eating of forbidden fat, brings a sacrifice for having eaten blood [in error]![6] — [The rule is derived from both passages], but one[7] speaks of the sin-offering, while the other of the burnt offering;[8] and both are required. For if it were taught only in respect of a sin-offering, it would have been argued that the reason why he [the apostate] is precluded is because a sin-offering is brought for an atonement,[9] but a burnt-offering, being in the nature of a gift [to the Lord], we might say should be accepted from him. And on the other hand, if it were taught only in respect of a burnt-offering, it would have been argued that the reason why he is precluded is because there is no obligation on his part to offer it, but a sin-offering, being obligatory, we might say should be accepted from him. [Therefore both statements] are required.

But is it a general rule that whenever Scripture uses ‘cattle’[10] it implies contempt? But is it not written: Man and cattle. Thou preservest, O Lord,[11] and Rab Judah said in the name of Rab: This verse refers to those who are wise in understanding and conduct themselves humbly like cattle? — There is this difference; in the latter verse it reads: ‘Man and cattle’, but in our text it says, cattle by itself. But is it a general rule that whenever Scripture uses ‘Man and cattle’ it implies merit? But is it not written: And I will sow the house of Israel and the house of Judah with the seed of mail and with the seed of cattle?[12] — In this latter case Scripture clearly distinguishes between the two, referring to the seed of man separately and to the seed of cattle separately.

(Mnemonic: Niklaf[P]).[13] R. Hanan reported in the name of R. Jacob b. Idi, who reported in the name of R. Joshua b. Levi, who reported in the name of Bar Kappara, as follows: R. Gamaliel and his Court took a vote concerning the slaughtering by a Cuthean, and declared it invalid. Thereupon R. Zera suggested to R. Jacob b. Idi: May it not be that my Master heard this ruling only in the case where no Israelite was standing over him? — He retorted: This student is as one who has never studied the law![14] Where no Israelite was standing over him is it necessary to rule [that it is invalid]. Now, the question arises: Did R. Zera accept [the retort][15] or not? — Come and hear: R. Nahman b. Isaac reported in the name of R. Assi as follows: I saw R. Johanan eating the flesh of an animal slaughtered by a Cuthean. Even R. Assi ate of the flesh of an animal slaughtered by a Cuthean. Now R. Zera was astonished at this. Could it be that they[16] had not heard of this ruling [of the Court of R. Gamaliel], but had they heard of it they would have abided by it; or did they know of it but did not accept it? In the end R. Zera came to the conclusion: It is reasonable to suppose that they knew of it but did not accept it; for if you were to say that they had not heard of it, but had they known of it they would have accepted it, it is difficult [to understand] how it should come about that such righteous men should eat something forbidden. If the Holy One, Blessed be He, would not permit the beast of the righteous to sin in error.[17] how much less the righteous themselves!

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(1) Lev. IV, 27. The context of this verse is: And if anyone of the common people sinned through error . . . 28. Then he shall bring for his offering a goat.

(2) From whom no sin-offering may be accepted.

(3) Lev. IV, 22.

(4) I.e., a sin-offering.

(5) I.e., between the first Tanna and R. Simeon. According to either view, one who is rebellious or opposed to the laws of the Torah is precluded from offering a sacrifice.

(6) According to the first Tanna his sacrifice is not accepted because he is an apostate, whereas according to R. Simeon's view it is, for he is not an apostate in respect of that particular law for which he is bringing his sacrifice. It is clear, however, that the rule precluding an apostate from offering sacrifices is derived from the verse quoted in this Baraitha and not from the verse quoted above ‘Of you’.

(7) I.e., the second Baraitha which derived the rule from the phrase ‘of the common people’.

(8) A sin-offering was an obligatory sacrifice to be brought whenever certain sins were committed; a burnt-offering was brought voluntarily as a gift to the Lord.

(9) And an apostate is not worthy of atonement since he would sin again and again.

(10) The Gemara now deals with the statement quoted above: ‘Of the cattle’ includes such persons who are devoid of merit like animals.

(11) Ps. XXXVI, 7.

(12) Jer. XXXI, 27. V. Sot. 22a. The seed of man is explained as referring to the righteous, and the seed of cattle as referring to the ignorant common people.

(13) Lit., ‘peeled’. A mnemonic of the characteristic letters of the respective Rabbis in whose names the statement is reported. N = Hanan, K = Jackob, L = Levi, FP = Kappara.

(14) Aliter: This student thinks that men do not study the law.

(15) Of R. Jacob b. Idi (that it is forbidden to eat of the Cuthean's slaughtering even if an Israelite stands over him) and abide by it.

(16) R. Johanan and R. Assi.

(17) V. infra p. 28.

Talmud - Mas. Chullin 6a

Now, if you say that R. Zera did not accept [the retort of R. Jacob b. Idi], then he could have answered his query thus: In the one case there was an Israelite standing over [the Cuthean][1] but in the other case there was not.[2] You must therefore say that R. Zera accepted [the retort]. It stands proved.

For what reason did the Rabbis proscribe them? — Because of the following incident. R. Simeon b. Eleazar was sent by R. Meir to fetch some wine from among the Cutheans. He was met by a certain old man who said to him. Put a knife to thy throat, if thou be a man given to appetite.[3] Whereupon R. Simeon b. Eleazar returned and reported the matter to R. Meir who thereupon proscribed them. Why? — R. Nahman b. Isaac explained: Because they[4] found a figure of a dove on the top of Mount Gerizim and they worshipped it;[5] R. Meir therefore, consistent with his principle that the minority must be taken into consideration,[6] proscribed all Cutheans[7] because of this minority, and R. Gamaliel and his Court also held this principle.

What is the plain meaning of the above quoted text? — It refers to a pupil sitting before his master. For R. Hiyya taught: When thou sittest to eat with a ruler, consider well him that is before thee. And put a knife to thy throat, if thou be a man given to an appetite.[8] If the pupil knows that the master is capable of answering the question, then he may ask it; otherwise . . . Consider well him that is before thee. And put a knife to thy throat, if thou be a man given to appetite, and leave him.[9]

R. Isaac b. Joseph was sent by R. Abbahu to fetch some wine from among the Cutheans. He was met by a certain old man who said to him: ‘There are none here that observe the Torah’. R. Isaac went and reported the matter to R. Abbahu who reported it to R. Ammi and R. Assi; the latter forthwith[10] declared the Cutheans to be absolute heathens. In what respect [were they declared absolute heathens]? If in respect of their slaughtering [that it is invalid] and in respect of their wine [that it is] idolatrous, had not the Rabbis proscribed them [in these matters] from that [former incident]?[11] — The Rabbis had previously proscribed them but their decree was not accepted; R. Ammi and R. Assi came now and proscribed them and their decree was accepted.[12]

What was meant by declaring them absolute heathens? — Said R. Nahman b. Isaac: It meant that they have no longer the power to renounce or to transfer ownership.[13] For it has been taught:[14] An Israelite apostate who publicly[15] observes the Sabbath may renounce and transfer his ownership, but if he does not observe the Sabbath publicly he may not renounce and transfer his ownership, because the Rabbis said: An Israelite may transfer or renounce his ownership, whereas with a heathen this can only be done by renting [his property].[16] In what way [is ownership renounced]? One [Israelite] can say to another [Israelite]. ‘My ownership is acquired by you’, or, ‘My ownership is renounced in your favour’, and the latter has thereby acquired [the property] without the necessity of a formal acquisition.[17]

R. Zera and R. Assi happened to come to the inn of Yai. They were served with roasted eggs beaten up in wine. R. Zera did not eat it; R. Assi did. R. Zera asked R. Assi, ‘Master, are you not concerned about the admixture of demai’?[18] He replied: ‘I did not think of it’. Can it be, thought R. Zera, that the Rabbis have prohibited demai in a mixed state and that it should come about that R. Assi should eat prohibited food? Surely, if the Holy One, Blessed be He, would not permit the beast of the righteous to sin in error, how much less the righteous themselves! R. Zera thereupon went out, looked into the matter and found [the law].[19] For it was taught:[20] If one buys wine in order to pour it into muries[21] or into alontith,[22] or beans to make into grist, or lentils to make into groats, he must [tithe them], if they are demai;[23] it is needless to say so if they were certainly untithed. The mixtures themselves,[24] however, may be eaten [without tithing], because they are in a mixed state.

But did the Rabbis, then, not prohibit demai in a mixed state? Has it not been taught: If a man gives to his neighbour's wife[25] dough to be baked, or a dish to be cooked, [and also provides her with leaven and spices,] he need have no fear that the leaven and the spices used are Seventh Year produce or are untithed;[26] if, however, he said to her, ‘Make it with your own [ingredients]’, he must suspect that the leaven and spices used are Seventh Year produce or untithed?[27] — This last case is different for this reason: since he said to her, ‘Make it with your own [ingredients]’, it is as though he actually mixed it himself.[28] Rafram said: It is different with leaven and spices, since they are used primarily for seasoning, and seasoning never loses its distinctiveness.[29]

But do we not suspect an exchange?[30] Have we not learnt:[31] If a man gives to his mother-in-law [dough to be baked], he must tithe what he gives to her and what he takes from her,[32] because she is suspected of changing it if it is spoilt? — In this case the reason [for her changing it] is added, viz., R. Judah says. Because she desires the welfare of her daughter and feels shamed for her son-in-law.[33] [

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(1) In the case of R. Johanan and of R. Assi.

(2) For that was the ruling of the Court of R. Gamaliel.

(3) Prov. XXIII, 2. Meaning thereby: If you are an observing Jew abstain from using their wine.

(4) Those Cutheans living near Mount Gerizim.

(5) Aliter: They (the Rabbis) found among them a figure of a dove . . . which they worshipped.

(6) V. Yeb. 61b.

(7) Even those who do not reside by Mount Gerizim.

(8) Prov. XXIII, I, 2.

(9) I.e., if you are athirst for knowledge seek for yourself another teacher, but do not put your teacher to shame.

(10) Lit., ‘they did not move from there until they declared etc.’

(11) R. Meir had prohibited their wine and R. Gamaliel and his Court their slaughtering.

(12) It is not to be inferred that R. Ammi and R. Assi were greater than the earlier Rabbis. Rashi explains that in the days of these earlier Rabbis there was much intercourse with the Cutheans and it would have been a hardship for the people to have accepted their decree, while in the days of R. Ammi and R. Assi it was possible to enforce the restrictions.

(13) It was a Rabbinic institution for each of the residents of a block of tenements to which was attached a common courtyard to contribute before the Sabbath a portion of food towards a common dish, the food being then deposited in one of the tenements. By this act all the tenements were regarded as one common dwelling, and it was thus permitted to carry objects on the Sabbath from one tenement to another and across the courtyard. This is known as עירובי חצירות. If a resident forgot to contribute his portion, he had the remedy of renouncing on the Sabbath the ownership of his tenement in favour of the other residents. Such a course was only open to a Jew.

(14) V. ‘Er. 69b.

(15) Lit., ‘in the market’.

(16) And this could not be done on the Sabbath day.

(17) I.e., a kinyan, V. Glos.

(18) דמאי. Fruits and produce bought from an ‘am ha-ares in respect of which there is a doubt whether the proper tithes have been taken. The demai in this case was the wine, but it was mixed with the roasted eggs and other ingredients.

(19) Namely, that demai in a mixed state is not forbidden.

(20) So Marginal Gloss. Cur. edd.: We learnt.

(21) A pickle containing fish-hash and wine.

(22) V. A.Z. 30a. A mixture of old wine, clear water and balsam, used as a cooling drink in the bath-house.

(23) I.e., if bought from an ‘am ha-ares. V. Glos.

(24) I.e., if one bought from an ‘am ha-ares the mixture ready prepared.

(25) The wife of an ‘am ha-ares.

(26) We do not suspect that she has exchanged the leaven and the spices given to her for her own, which may be Seventh

Year produce or untithed. The produce of a field cultivated in the Seventh or Sabbatical Year was prohibited. V. Lev. XXV, 2ff.

(27) And he must tithe it, although it is in a mixed state.

(28) For the law regards him as having acquired the leaven and the spices before they were put into the mixture, therefore he must tithe it.

(29) Even in a mixture, and therefore he must tithe it.

(30) I.e., that she may have substituted her own ingredients for those given to her.

(31) Demai III, 6.

(32) For not only must he abstain from eating demai himself but he must avoid causing others to eat it.

(33) Normally a person is not suspected of exchanging, for, in the absence of any justifying circumstances, that would constitute stealing. A mother-in-law might well be tempted to make the exchange for the reason given by R. Judah.

Talmud - Mas. Chullin 6b

In all other cases, then, do we not suspect [an exchange]? Have we not learnt: If a man gives to his landlady [dough to be baked], he must tithe what he gives to her and what he takes from her, because she is suspected of changing it?[1] — In this case, too, she justifies herself by saying. Let the young student rather eat the fresh and I will eat the stale.[2]

But [otherwise], do we not suspect an exchange? Surely it has been taught: The wife of a haber[3] may assist the wife of an ‘am ha-arez[3] in grinding corn only when she[4] is in a state of uncleanness,[5] but not when she is in a clean state.[6] R. Simeon b. Eleazar says. Even when she is in a state of uncleanness she may not assist in grinding, because the other would offer her some corn to eat. Now, if it is said that the wife of an ‘am ha-ares is ready to steal [from her husband],[7] surely she is to be suspected of making an exchange! — In this case, too, she justifies herself by saying. The ox has a right to eat of what he threshes.

R. Joshua b. Zeruz, the son of R. Meir's father-in-law, testified before Rabbi that R. Meir ate a leaf of a vegetable in Bethshean[8] [without tithing it]; on this testimony, therefore, Rabbi permitted the entire territory of Bethshean.[9] Thereupon his brothers and other members of his father's family combined to protest, saying: The place which was regarded as subject to tithes by your parents and ancestors will you regard as free? Rabbi, thereupon, expounded to them the following verse: And he [Hezekiah] broke in pieces the brazen serpent that Moses had made; for unto those days the children of Israel did offer to it; and it was called Nehushtan.[10] Now, is it at all likely that Asa did not destroy it? Or that Jehoshaphat did not destroy it? Surely Asa and Jehoshaphat destroyed every form of idolatry in the world!

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(1) Demai III, 5,

(2) The exchange is made with a good intent.

(3) V. Glos.

(4) Sc. the wife of the haber.

(5) Because whenever she is in a state of uncleanness she is very careful not to handle food for fear of defiling it, and she will certainly not eat of it.

(6) For she may be tempted to eat of the corn, which is forbidden, being demai.

(7) And offer some to the wife of the haber.

(8) Scythopolis, in Galilee. R. Meir regarded it as territory outside Palestine, and therefore its fruits and vegetables were free from tithes; for the rule relating to tithing fruits and vegetables, being a Rabbinic injunction only, applied to Palestine proper.

(9) That the fruits and vegetables may be eaten without tithing.

(10) II Kings XVIII, 4.

Talmud - Mas. Chullin 7a

Talmud - Mas. Chullin 7a

It must therefore be that his ancestors left something undone whereby he [Hezekiah] might distinguish himself; so in my case, my ancestors left room for me to distinguish myself.

From this is to be learnt that whenever a scholar reports a decision [however strange it may sound], he should not be made to move [mezihin] from his tradition. Others say. He should not be rejected [maznihin]. And others say: He should not be regarded as arrogant [mazhihin]. Those who say. He should not be made to move from his tradition, base it on the verse. And the breastplate be not moved [yizzah] from the ephod.[1] Those who say: He should not be rejected, base it on the verse: For the Lord will not reject [yiznah] for ever.[2] And those who say. He should not be regarded as arrogant, base it on the following:[3] For we learnt: When the arrogant increased, disputes increased in Israel.[4]

To this, Judah, son of R. Simeon b. Pazzi, demurred: Is there anyone who holds the view that Bethshean was not part of Palestine? Is it not written: And Manasseh did not drive out the inhabitants of Bethshean and its towns, nor of Taanach and its towns?[5] — [When he raised his objection] there must have escaped his attention the statement of R. Simeon b. Eliakim who reported R. Eleazar b. Pedath in the name of R. Eleazar b. Shammu'a [as follows]: Many cities which were conquered by the Israelites who came up from Egypt[6] were not re-conquered by those who came up from Babylon,[7] for he held the view that the consecration of the Holy land on the first occasion [by Joshua] consecrated it for the time being but not for the future. They therefore did not annex these cities in order that the poor might have sustenance therefrom in the Seventh Year.[8]

R. Jeremiah said to R. Zera: But R. Meir ate a mere leaf [of a vegetable]![9] — He replied: He ate it from a bundle, and we have learnt: Vegetables which are usually tied in bundles [become due for tithing] on being tied up.[10]

But perhaps R. Meir forgot [to tithe it]? — [This cannot be.] Surely, if the Holy One, Blessed be He, would not permit the beast of the righteous to sin in error, how much less the righteous themselves! But perhaps he set aside from other produce the tithe due for this [Vegetable]! — One would not suspect a haber of setting aside the dues for the produce that is before us out of produce that is not before us.[11] But perhaps he had in mind to set aside the tithe from one end of the bundle, whilst he ate from the other end! — He replied: See how great a man testified concerning this![12]

What was the incident about the beast of the righteous? — Once, R. Phinehas b. Jair was on his way to redeem captives, and came to the river Ginnai. ‘O Ginnai’ , said he, ‘divide thy waters for me, that I may pass through thee’. It replied. ‘Thou art about to do the will of thy Maker; I, too, am doing the will of my Maker.[13] Thou mayest or mayest not accomplish thy purpose;[14] I am sure of accomplishing mine’. He said: ‘If thou wilt not divide thyself, I will decree that no waters ever pass through thee’. It, thereupon, divided itself for him. There was also present a certain man who was carrying wheat for the Passover, and so R. Phinehas once again addressed the river: ‘Divide thyself for this man, too, for he is engaged in a religious duty’. It, thereupon, divided itself for him too. There was also an Arab who had joined them [on the journey], and so R. Phinehas once again addressed the river, ‘Divide thyself for this one, too, that he may not say. "Is this the treatment of a fellow traveller?"’ It, thereupon, divided itself for him too.

R. Joseph exclaimed: How great is this man! Greater than Moses and the sixty myriads of Israel! For the latter [the sea divided itself] but once, whilst for the former thrice! May it not be, however, for the former also only once?[15] — Rather say. As great as Moses and the sixty myriads of Israel!

R. Phinehas happened to come to a certain inn. They placed barley before his ass, but it would not eat.

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(1) Ex. XXVIII, 28. Heb, יזח, which word is of the same root as מזיחין.

(2) Lam. III, 31. Heb. יזנח, which word is of the same root as מזניחין.

(3) V. Sot. 47a. Heb. זחוחי, which word is of the same root as מזחיחין.

(4) The difference between the versions is merely textual, each version supporting its reading by a verse from the Bible or by a passage from the Mishnah.

(5) Judg. I, 27.

(6) At the first settlement in Palestine under the leadership of Joshua.

(7) At the second settlement in Palestine under Ezra. The Holy land had to be consecrated a second time by the returning exiles, and therefore those towns which were not included in the re-consecration were not part of Palestine. Bethshean was one of the cities not included.

(8) The law of the Seventh Year did not apply to land outside Palestine; therefore, certain towns near the boundary of Palestine were purposely not included in the re-consecration of the land so that these might be cultivated even in the seventh year.

(9) This point destroys the basis of the preceding argument, for the eating of a snack, such as one leaf of a vegetable, is permitted even in Palestine without first tithing it. There is, therefore, no proof that Bethshean was regarded as being outside Palestine.

(10) And once the duty of tithing has arisen one may not eat even a snack. V. Ma'as. I, 5.

(11) Lit., ‘from that which is not brought near’. For there is a danger that the produce which is not before us, and upon which he relies, may have been destroyed at the time that he purports to set it aside as tithe, and he would therefore be eating untithed produce.

(12) R. Joshua b. Zeruz stated categorically that R. Meir did not tithe the vegetable, and a Rabbi of such eminence could certainly be relied upon in his testimony.

(13) By divine command all rivers flow to the sea. V. Eccl. I, 7.

(14) He may not succeed in redeeming the captives.

(15) It may be that R. Phinehas addressed the river on the second and third occasions merely to ensure that the waters should remain parted and not resume their natural course.

Talmud - Mas. Chullin 7b

It was sifted, but the ass would not eat it. It was carefully picked; still the ass would not eat it. ‘Perhaps’, suggested R. Phinehas, ‘it is not tithed’? It was at once tithed, and the ass ate it. He, thereupon, exclaimed, ‘This poor creature is about to do the will of the Creator, and you would feed it with untithed produce’!

But was it at all necessary [to be tithed]? Have we not learnt: He who buys [corn from an ‘am ha-ares] for sowing or for feeding animals, or flour for [preparing] hides, or oil for the lamp or for oiling vessels, need not tithe it because of demai?[1] — Surely there has been reported on this [Mishnah] the dictum of R. Johanan that this is so only if one bought the corn specifically for animals; but if one bought it originally for human consumption and later decided to give it to animals, it must be tithed![2] And so it has been taught in a Baraitha, viz., He who buys fruit in the market for eating and decides later to use it for animals, may not give it either to his own animal or to his neighbour's animal without first tithing it.

When Rabbi heard of the arrival of R. Phinehas, he went out to meet him. ‘Will you please dine with me’? asked Rabbi. ‘Certainly’, he answered. Rabbi's face at once brightened with joy;[3] whereupon R. Phinehas said: ‘You imagine that I am forbidden by vow from deriving any benefit from an Israelite. Oh, no. The people of Israel are holy. Yet there are some who desire [to benefit others] but have not the means; whilst others have the means but have not the desire,[4] and it is written: Eat thou not the bread of him that hath an evil eye, neither desire thou his dainties; for as one that hath reckoned within himself, so is he: Eat and drink, saith he to thee; but his heart is not with thee.[5] But you have the desire and also the means. At present, however, I am in a hurry for I am engaged on a religious duty; but on my return. I will come and visit you'. When he arrived, he happened to enter by a gate near which were some white mules. At this he exclaimed: 'The angel of death is in this house! Shall I then dine here'? When Rabbi heard of this, he went out to meet him. 'I shall sell the mules', said Rabbi. R. Phinehas replied: 'Thou shalt not put a stumbling block before the blind'.[6] 'I shall abandon them'. 'You would be spreading danger'. 'I shall hamstring them'. 'You would be causing suffering to the animals'. 'I shall kill them'. 'There is the prohibition against wanton destruction'.[7] Rabbi was thus pressing him persistently, when there rose up a mountain between them.

Then Rabbi wept and said. 'If this is [the power of the righteous] in their lifetime, how great must it be after their death'! For R. Hanina b. Hama asserted: The righteous are more powerful after death than in life, for it is written. And it came to pass, as they were burying a man, that, behold, they spied a band; and they cast the man into the sepulchre of Elisha; and as soon as the man touched the bones of Elisha, he revived and stood up on his feet.[8] Said R. Papa to Abaye: Perhaps [the restoration to life was] to fulfil Elijah's blessing, as it is written: Let a double portion of thy spirit be upon me![9] — He replied: If so, why has it been taught: He stood upon his feet but walked not to his home?[10] Wherein, then, was Elijah's blessing fulfilled? — As R. Johanan has said: He healed the leprosy of Naaman,[11] leprosy being the equivalent of death, as it is written: Let her not, I pray, be as one dead.[12]

R. Joshua b. Levi said: Why are they [mules] called yemim?[13] — Because they cast fear [emah][14] upon men. For R. Hanina has said: 'No one has ever consulted me for a case of a wound from a white mule and has recovered'. But do we not see people recovering from it? — 'I mean, never has the wound healed'. But do we not see cases where the wound has healed? — 'I am referring to [a wound inflicted by] a white-legged mule'.

There is none else beside Him:[15] R. Hanina said: Even sorcery.[16] A woman once attempted to cast a spell over R. Hanina.[17] He said to her, 'Try as you will, you will not succeed in your attempts, for it is written: There is none else beside Him'. Has not, however, R. Johanan declared: Why is sorcery called keshafim? Because it overrules [the decree of] the heavenly council?[18] — R. Hanina was in a different category, owing to his abundant merit.[19] R. Hanina further said: No man bruises his finger here on earth unless it was so decreed against him in heaven, for it is written: It is of the Lord that a man's goings are established.[20] How then can man look to his way?[21]

R. Eleazar said: The blood of a bruise atones like the blood of a burnt-offering. Raba added: It is only the blood of a second bruising of the thumb of the right hand that atones, and then only if it happened to one who was about to do a religious act.

It is related of R. Phinehas b. Jair that never in his life did he say grace over[22] a piece of bread which was not his own;[23] and furthermore, that from the day he reached years of discretion he derived no benefit from his father's table.

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(1) Demai, I, 3.

(2) The barley supplied to the ass was intended originally for mao, and therefore it had to be tithed.

(3) For R. Phinehas had the reputation of never having dined at another's table; v. infra.

(4) Though they felt constrained to extend an invitation to wayfarers.

(5) Prov. XXIII, 6, 7.

(6) Lev. XIX, 14.

(7) Based on Deut. XX, 19.

(8) II Kings XIII, 21. In his lifetime Elisha had to exert himself both by action and prayer in order to revive the dead (v. II Kings IV, 33-35), while after his death his mere touch revived a dead man; thus proving that the righteous are greater after death than in life.

(9) II Kings II, 9. And not because of the greatness of Elisha after death.

(10) The inference to be drawn from the Baraitha being that the restoration to life of the dead man was not due to Elijah's blessing, for in that case the dead man should have lived on for some time, but to the greatness of Elisha, who could not suffer the wicked to touch him after his death.

(11) V. II Kings V.

(12) Num. XII, 12,

(13) V. Gen. XXXVI, 24. Heb, ימים. The English versions translate the word ‘yemim’ by ‘hot springs’, but the traditional Jewish interpretation of the word is ‘mules’.

(14) Heb. אימה.

(15) Deut. IV, 35. R. Hanina having been quoted in the previous passage, the Gemara now deals with several other of his statements.

(16) I.e., not even by sorcery can one overrule His decree,

(17) Lit., ‘to take earth from under R. Hanina's feet’.

(18) I.e., the law of nature (Rashbo). The word כשפים is treated as an abbreviation, thus: Keshafim: Kahash, Famalia, Ma'alah. (Opposes the Council on High).

(19) Therefore God would not allow him to come to harm by sorcery.

(20) Ps. XXXVII, 23.

(21) Prov. XX. 24.

(22) Lit., ‘to break (bread)’.

(23) I.e., never accepted an invitation.

Talmud - Mas. Chullin 8a

R. Zera said in the name of Samuel: If one made a knife red-hot and slaughtered with it, the slaughtering is valid, because [the effect of] the sharp edge precedes [the effect of] the heat.[1] But, what about the sides [of the knife]?[2] — The cut opens wide.[3]

The following question was raised: If one made a spit red-hot and struck with it, is the resulting wound[4] to be regarded as a boil[5] or as a burning?[6] But what is the difference between the two?[7] Even as it has been taught: A boil and a burning, each is declared unclean within seven days by one of two symptoms: by white hair, or spreading.[8] Why, then, did the Torah deal with them separately? To teach you that they cannot unite one with the other.[9] And we have learnt: What is a boil, and what is a burning? A wound caused by wood, or stone, or olive-peat, or the hot springs of Tiberias, or any wound that is not caused by fire, including a wound caused by lead just taken from the mine, is a boil. And what is a burning? A burn caused by a live coal, or hot ashes, or boiling lime, or boiling gypsum, or any burn that is caused by fire, including a burn caused by water heated by fire, is a burning. And it was further taught: In the case of [a wound which is both] a boil and a burning, if the boil came first then the subsequent burning annuls the boil [and it is considered a burn]; but if the burning came first then the subsequent boil annuls the burn [and it is considered a boil]. Now the circumstances of our case are as follows: A man had a boil of the size of half a bean,[10] and was struck close to it with a red-hot spit, another wound of the size of half a bean resulting, [making the whole wound the size of a whole bean]. In such a case how [are we to consider the resulting wound]? Did the force of the blow take effect first, and the burn caused by the glowing heat that followed annul the effect of the blow, so that the whole wound is composed of a boil and a burning [each to the extent of half a bean] which do not unite [to make him unclean]? Or did the glowing heat take effect first, and the force of the blow that followed annul the effect of the glowing heat, and consequently the whole wound is composed of two boils [each to the extent of half a bean] which unite [to make him unclean]? Come and hear: R. Zera said in the name of Samuel: If one made a knife red-hot and slaughtered with it, the slaughtering is valid, because the effect of the sharp edge precedes the effect of the heat. It thus proves that the force of the blow precedes [the glowing heat]! — No; in the case of a sharp edge it is different.[11]

Come and hear: If one was struck with a red-hot spit, the resulting wound is regarded as a ‘burning by fire’.[12] It thus proves that the force of the blow precedes [the glowing heat]. — No; here too, the wound was made by a thrust with the point, which is a sharp edge.[13]

R. Nahman said in the name of Rabbah b. Abbuha: A knife which has been used in connection with idolatrous services[14] may be used for slaughtering, but it may not be used for cutting up meat — ‘It may be used for slaughtering’, for thereby one impairs [the value];[15] ‘but it may not be used for cutting up meat’, for thereby one enhances [the value],[16] Raba remarked: There are times when one may not slaughter with it, to wit, if the animal is at the point of death;[17] and there are times when one may cut up meat with it, to wit, if the meat was in large pieces intended for a present.[18]

But should not the prohibition thereof be considered on account of the forbidden fat?[19]

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(1) So that the throat is cut and not burnt.

(2) They would scorch the organs of the throat before the requisite amount had been cut through, and then the slightest scorching of the gullet would invalidate the slaughtering.

(3) Lit., ‘the place (or house) of slaughtering, i.e., the cut. The two sides of the cut spring apart as soon as the throat, which has been stretched taut, has been cut; therefore only the sharp edge touches the throat, but not the sides of the knife.

(4) Which turned into leprosy.

(5) Heb. שחין V. Lev. XIII, 18.

(6) Heb. מכוה V. Ibid. 24.

(7) I.e., in what case is it of consequence whether the wound is regarded as a boil or a burn. The text proceeds to discuss the law as to boils and burns and provides an illustration of such a case.

(8) The appearance of white hair ill the wound, and the wound spreading further on the skin, are the symptoms, in cases of a burning or a boil, by which one is declared unclean as a leper. V. Lev. XIII, 18-28. Furthermore, if these wounds remained stationary for seven days they are declared clean, whereas with other leprous wounds it is necessary to keep them under observation for a further seven days. V. Lev. XIII, 5.

(9) The minimum size of a leprous wound to be declared unclean is that of a bean. Leprous wounds of different classes cannot unite; e.g., a boil the size of half a bean next to a burning also the size of half a bean cannot unite to form together a leprous wound the size of a whole bean and make one unclean as a leper.

(10) This would not make him unclean as a leper.

(11) The sharp edge of a knife, being thin and pointed, cannot contain great heat; therefore only in such cases can it be said that the heat follows the blow, but not elsewhere.

(12) V. Lev. XIII, 24.

(13) And the case of a sharp edge is different, v. n. 1 .

(14) It is forbidden to derive any benefit or advantage from idolatry or from that which is connected with idolatry.

(15) A living animal is more useful and of more value than a slaughtered one; for, living, it may be used for breeding, for ploughing, and for food, but slaughtered, it has only its food value.

(16) For after slaughtering it becomes necessary to cut up the meat.

(17) By slaughtering an animal which is at the point of death one derives a gain, for otherwise it would have died and become carrion (which may not be eaten).

(18) In which case it has very little value if cut up in small pieces.

(19) Surely the knife should be forbidden to be used even for cutting up meat on account of the forbidden fat of carrion that it has absorbed in the past. This forbidden fat would now be imparted into the meat.

Talmud - Mas. Chullin 8b

— It was a new [knife]. If new, [it should not be prohibited at all, since] it is merely an appurtenance for the worship of idols, and appurtenances of idols, both according to R. Ishmael and R. Akiba,[1] are not forbidden till actually used in idol worship. — If you wish I can answer: It was used for cutting up wood for the idol;[2] or if you wish I can answer: It was an old knife which was cleansed in the fire.[3]

It was stated: If a man slaughtered with the knife of a Gentile, Rab says. He must pare (the flesh];[4] Rabbah b. Bar Hana[5] says: He need only rinse it. Shall we say that their difference lies in this: One holds the view that the throat is cold.[6] while the other holds the view that it is hot?[7] No. All hold the view that the throat is hot; therefore, he who says: ‘he must pare it’, is clearly understood, but he who says that he need only rinse it [argues thus]: while the organs [of the throat] keep on spurting out blood they will not absorb [any fat from the knife].[8]

Some there are who state as follows: All hold the view that the throat is cold; therefore, he who says: ‘he need only rinse it’.is clearly understood, but he who says that he must pare it [argues thus]: by reason of the pressure of the knife [the flesh] must absorb [to some extent].

A knife which was used for slaughtering an animal found to be trefah,[9] is the subject of a dispute between R. Aha and Rabina. One says, [It must be cleansed] with hot water;[10] the other says. [It may be cleansed even] with cold water.

The law is: Even with cold water. And if there is at hand a piece of cloth[11] wherewith to wipe [the knife], nothing more is required. Now what is the reason of the one who says that it must be cleansed with hot water? It is [is it not] because it absorbed forbidden fat?[12] If so, even after slaughtering an animal which is permitted to be eaten it should also require [cleansing with hot water] because it absorbed [the fat] of the limbs of a living animal?[13] — [It is not so;] for [the knife] absorbs [the fat] only when [the throat] is hot, and it becomes hot only at the end of the slaughtering when the animal is ritually permitted.

Rab Judah said in the name of Rab: A butcher requires three separate knives, one for slaughtering, one for cutting meat, and one for cutting away the [forbidden] fat. But why should he not use the same knife first for cutting meat and then for cutting fat? — It is forbidden to do so lest he cut with it the fat first and then the meat.[14] Well, even now, he might get them mixed! — No; since he must have two separate knives he will make a distinguishing mark on each.[15]

Again Rab Judah said in the name of Rab: A butcher requires two separate pails of water, one in which he washes the meat and one in which he washes the fat. But why should he not use the same pail for washing in it first the meat and then the fat? — It is forbidden to do so lest he wash in it the fat first and then the meat.[16] Well even now, he might get them mixed! — No; since he must have two separate pails he will make a distinguishing mark on each.

Amemar said in the name of R. Papa: One should not place the loins on top of other meat for fear that the fat [attached to the loins] will run and will be absorbed by the meat. If so, why not apprehend the same even when the loins lie in their natural position, namely, that the fat [upon the loins] will run and will be absorbed by the flesh [of the loins]? — There is a membrane underneath [the fat of the loins] which separates it [from the flesh of the loins]. But then,

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(1) V. A.Z. 51b. These Rabbis differ in the case of a newly made idol as to whether it is prohibited immediately or only after it has been worshipped; but in the case of appurtenances of idols they agree that these are not prohibited until actually used in worship.

(2) Therefore there is here no question of any forbidden fat.

(3) The knife was thus cleansed and all the forbidden fat removed from it.

(4) I.e., he must cut away from the parts of the throat which came into contact with this knife a thin layer of flesh because of the fat of forbidden foods that was absorbed in the knife and was now transmitted to the flesh.

(5) MS.M: Samuel.

(6) Lit.. ‘the place of slaughtering’, I.e., the throat at the time of slaughtering is not sufficiently hot to absorb much from the knife and, therefore, Rabbah b. Bar Hana maintains that rinsing of the flesh in water is sufficient.

(7) Rab's view. Therefore the flesh of the throat must be pared.

(8) Nevertheless, it is necessary to wash the flesh because of the forbidden fat that may have been on the surface of the knife.

(9) V. Glos.

(10) Before slaughtering another animal with it.

(11) Lit., ‘a shred of a curtain’.

(12) I.e., the fat of the trefah animal that had been slaughtered previously.

(13) The fat, as well as the flesh, of a living animal is forbidden, and therefore in the duration of the slaughtering before the requisite amount has been cut, the knife will have absorbed forbidden fat.

(14) Without first removing the fat from the knife. ‘Fat’ throughout the whole of this passage means forbidden fat.

(15) As regards the third knife, the knife for slaughtering, there is no fear that he will use it for any other purpose because of the danger of damaging or notching it.

(16) The danger is that particles of the fat will remain in the water and will adhere to any meat washed in the same water.

Talmud - Mas. Chullin 9a

is there not a membrane above [the fat]?[1] — [This membrane,] since it is handled by the butcher, crumbles away.

Again Rab Judah said in the name of Rab: A scholar must learn three things, viz.: writing, shechitah, and circumcision. R. Hanania b. Shelemia said in the name of Rab, He must also learn the art of forming the knot of the Tefillin,[2] the benedictions recited at the marriage ceremony,[3] and the art of binding the Zizith.[4] And the other [Rab Judah]? — [He says], These are frequent.[5]

Rab Judah stated in the name of Samuel: One may not eat of the slaughtering of any butcher who does not know the rules of shechitah. And these are the rules of shechitah:[6] [the rules as to] pausing,[7] pressing,[8] thrusting,[9] deflecting,[10] and tearing.[11] Why is it necessary to teach us this? Have we not learnt about each of these [elsewhere]? — It is only necessary for the case where one [not knowing the rules] slaughtered two or three times in our presence correctly. You might argue that since on those occasions he slaughtered correctly so now, too, he will slaughter correctly. It is therefore necessary to teach you that [he may not slaughter because,] since he does not know the rules, it may sometimes happen that he will pause or press, and will not know [that it is wrong to do so].

Again Rab Judah said in the name of Samuel: The butcher must examine the organs of the throat after slaughtering.[12] R. Joseph remarked: We have learnt the same [in a Mishnah]:[13] R. Simeon says. If one paused for the time taken to examine . . .[13] Now does it not mean the time taken to examine the organs [of the throat]? — Abaye replied: No; thus did R. Johanan say: It means the time taken for the Sage to examine [the knife]. If this is the meaning, then the rule would vary according to circumstances?[14] — Rather [the meaning is]: The time taken for a butcher [who is himself] a Sage to examine [the knife].

If one did not examine [the organs of the throat after slaughtering], what is the law? — R. Eliezer b. Antigonus ruled in the name of R. Eliezer son of R. Jannai: The animal is trefah[15] and may not be eaten. In a Baraitha it was taught: The animal is nebelah[15] and defiles one who carries it. On what principle do they differ? — On the principle laid down by R. Huna, who said: An animal while alive is presumed to be forbidden[16] [and, therefore, remains forbidden when dead] until it becomes known to you that it was ritually slaughtered; once ritually slaughtered, it is presumed to be permitted until it becomes known to you how it became trefah. The one[17] reasons thus: It is presumed to be forbidden, and now that it is dead [it is nebelah and therefore defiles].[18] The other[19] reasons thus: The presumption holds good[20] only in respect of the prohibition [to be eaten], but there is no presumption in respect of defilement.[21]

The text [above stated]: ‘R. Huna said: An animal while alive is presumed to be forbidden [and, therefore, remains forbidden when dead] until it becomes known to you that it was ritually slaughtered; once ritually slaughtered, it is presumed to be permitted until it becomes known to you how it became trefah’. Should he not [simply] have said: ‘Once ritually slaughtered it is permitted’?[22] — He teaches you this: That even if something happened to the animal to impair its status[23] [it is nevertheless permitted]. For example, the question which was put to R. Huna by R. Abba: If a wolf came and carried away the intestines [of a slaughtered animal], what is the law? [You ask] ‘carried away’! Then they are not here![24] — Rather, say: ‘and perforated the intestines’. ‘Perforated the intestines’! Then it is evident that the wolf did it! Rather say: ‘carried away the intestines and brought them back perforated’ — Now, what is the law? Are we to apprehend that the wolf inserted [its teeth] in a perforation that was there previously,[25] or not? — R. Huna replied: We do not apprehend that it inserted [its teeth] in a perforation.[26] [R. Abba] thereupon raised an objection [from the following Baraitha]: If one saw a bird nibbling at a fig or a mouse nibbling at a melon,

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(1) For all fat is enclosed in a membrane so that there can be no harm when placing the fat of the loins on top of other meat.

(2) V. Glos. When properly tied the knot in the Tefillin worn on the head forms the shape of the Hebrew letter Daleth and that of the letter Yod in the Tefillin worn on the hand.

(3) V. Keth. 8b.

(4) V. Glos.

(5) I.e., the latter three acquirements. These being matters of common knowledge, it is not the special duty of a scholar to learn them. According to another explanation. ‘these’ refers to the accomplishments enumerated by Rab Judah. A scholar should particularly acquire these arts because he will be frequently called upon to practise them.

(6) The infringement of any of these rules invalidates the shechitah and renders the animal nebelah (v. Glos.).

(7) Heb. שהייה. There should be no pause or interruption while the slaughtering is being performed. The knife should be kept in continuous motion, forward and backward, until the organs or the greater part of them are cut through. V. infra 32a.

(8) Heb. דרסה. The knife must be moved horizontally across the throat and must not be pressed downwards. V. infra 30b.

(9) Heb. חלדה. During the act of slaughtering the whole of the knife must be visible. If e.g., one thrust the knife into the side of the throat and thus cut the organs, the slaughtering would be invalid, since the knife would have been covered either by the organs or the skin of the throat. V. infra 32a.

(10) Heb. הגרמה. The slaughtering must be performed within a certain prescribed region in the throat of the animal. If the knife cut anywhere outside this region the slaughtering would be invalid. V. infra 18a.

(11) Heb. עיקור. Various interpretations have been suggested as to the meaning of this term. According to Rashi it means: tearing out the windpipe after having cut through the gullet; V. infra 32a. According to Halakoth Gedoloth it means: cutting through the organs after the windpipe has been dislocated or torn out of its position; v, infra 85a. According to Tosaf. s.v. כולהו it means: slaughtering with a notched knife, which tears and does not cut the organs. V. article by Dr. S. Daiches in Hazafeh vol. 12, pp. 255-8 where it is shown that the Halakoth Gedoloth in fact agrees with Rashi.

(12) To satisfy himself that they have been properly and sufficiently cut through.

(13) V. infra 32a.

(14) It would depend upon whether the Sage was close by or far away; in the latter case the time for examination must, of necessity, be longer than in the former case.

(15) V. Glos.

(16) Since it is not permitted to eat a limb or flesh cut off from a living animal. This being so, the animal retains its status of being forbidden food until we have definite proof that it has been properly slaughtered. Once, however, we know that an animal has been ritually slaughtered the presumption that it is permitted food will not be rebutted without proof that some internal defect has made it trefah.

(17) The Baraitha.

(18) Following the general rule that any dead animal which has not been ritually slaughtered is nebelah and therefore defiles.

(19) R. Eliezer son of R. Jannai.

(20) Lit., ‘we say’.

(21) R. Eliezer's argument is: The animal is now forbidden only because of the presumption which arose during its lifetime. Now, during its lifetime the animal was forbidden only to be eaten; it certainly could not defile. The effect, therefore, of the presumption can only be to render the animal forbidden to be eaten and not that it should defile.

(22) Why speak of a presumption at all?

(23) E.g., if some defect or disorder is now found in the animal, and there is a doubt whether it was there before the slaughtering or not, the animal is permitted because of the principle stated by R. Huna.

(24) If the intestines have been carried away we have no reason to apprehend that there was any defect in them.

(25) In which case the animal would be trefah.

(26) Because of the presumption that, once ritually slaughtered, the animal is permitted until it becomes known how it became trefah.

Talmud - Mas. Chullin 9b

one must apprehend that it was nibbling in a pre-existing hole![1] — He replied: How can you compare what is forbidden ritually with what is forbidden on account of possible danger to life! In the latter case we are certainly more apprehensive. Said Raba:[2] What difference is there? Whenever there arises a doubt concerning a prohibition based on danger to life the stricter view is preferred, and the same is the case with regard to a doubt in connection with a ritual prohibition! — Said Abaye to him, Is there then no difference between laws concerning danger to life and laws concerning ritual prohibitions? But let us see! Whenever there is a doubt regarding any object whether it is clean or unclean, if such doubt arose in a public place, it is deemed clean; but whenever there is a doubt regarding water that was left uncovered it is deemed to be forbidden.[3] He answered: In the case of uncleanness the rule is derived by analogy from the case of a woman suspected of adultery, viz., as [the doubt in connection with] the suspected woman can only occur in a private place.[4] so [every doubt in connection with] uncleanness must have occurred in a private place.[5]

R. Shimi raised an objection: [We have learnt:] If a weasel has a [dead] reptile in its mouth, and walks over loaves of terumah,[6] and it is doubtful whether the reptile came into contact with the loaves or not, they are deemed clean.[7] Yet in the case of water left uncovered, if there is any doubt about it, it is forbidden? — Here again, the rule [in the case of uncleanness] is derived by analogy from the case of a woman suspected of adultery, viz., as [the doubt in connection with] the suspected woman [relates to a person that] has understanding to be questioned about it,[8] so every doubt in connection with uncleanness must relate to such as have understanding to be questioned about it.[9]

Come and hear: If a man left uncovered a bowl [containing purification water][10] and came and found it covered, it is regarded as unclean, for I can say that an unclean person entered and covered it. If he left it covered and came and found it uncovered, and a weasel or, even a snake, according to R. Gamaliel[11] — could have drunk from it, or if dew fell on it during the night.[12] the water is invalid.[13] And R. Joshua b. Levi said: What is the reason for this?[14]

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(1) I.e., , a hole made by a snake in which it deposited poison; the fruit is, therefore, prohibited to be eaten on account of this danger.

(2) V. D.S. a.l. Cur. edd.: Said Raba to him (R. Huna).

(3) Laws relating to uncleanness come under the category of ritual prohibitions, while the rule concerning waters left uncovered belongs to the class of laws concerning danger to life. The danger in this case is that a snake may have drunk from the water.

(4) Where this woman has been in seclusion with her paramour. It is only in such cases that the suspicion is well founded and the woman must undergo the ordeal of the bitter waters, v. Num. V. 11ff. Seclusion with a paramour in a public place is not considered an act of infidelity.

(5) And it is only in such cases that the law regards the object as unclean, v. A.Z. 36b. It is thus only because of the analogy drawn from the case of the suspected woman that a doubt of uncleanness in a public place constitutes an exception to the general rule that wherever doubt arises in cases of ritual prohibitions, as well as danger to life, the law adopts the stricter view.

(6) V. Glos.

(7) Even though the doubt arose in a private place; v. Toh. IV, 2, ‘Ed. II, 7.

(8) The suspected woman could, if she so desired, answer the question whether she was defiled or not.

(9) And it is only in such cases that the law regards the person as unclean. Thus a further exception to the general rule is admitted in the case of a doubt regarding uncleanness arising in connection, with anything other than a human being. In the case of the weasel the loaves cannot be asked whether or not they have been defiled.

(10) V. Num. chap. XIX.

(11) R. Gamaliel holds the view that a snake also invalidates the purification water by drinking therefrom, because it spits back the water it drinks into the bowl, and this action invalidates the water because of the reasons given in n. 9, infra.

(12) And might have fallen into the water. V. MS.M. cur. edd. ‘into it’.

(13) But not unclean. V. Parah IX, 3, where it is taught that if a weasel drinks from purification water it becomes invalid, because the weasel, when drinking, laps up the water. Lapping or spitting invalidates the purification water either because it disturbs the water and it is considered as though the water were put to some work, or because by lapping or spitting the water drips back out of the mouth into the bowl, and it is regarded as though the water were poured out of another vessel into the original bowl, and this is not permitted, for according to the biblical injunction there must be living water in the bowl; v. Num. XIX, 17.

(14) That in the second case (where the bowl was found uncovered) the water is merely invalid, whereas in the first case (where the bowl was found covered) it is also regarded as unclean.

Talmud - Mas. Chullin 10a

Because it is the habit of reptiles to uncover [a vessel][1] but not to cover one.[2] (Or you might argue thus: the above decisions only apply to the cases mentioned, viz., where he left the bowl uncovered and came and found it covered, and where he left it covered and came and found it uncovered, but if he found it as he left it, [the water] is neither unclean nor invalid.)[3] Whereas, in the case of water left uncovered, if there is any doubt about it, it is forbidden.[4] This, therefore, proves that regulations concerning danger to life are more stringent than ritual prohibitions. It stands proved.

We have learnt elsewhere:[5] Three liquids are prohibited if left uncovered; water, wine and milk.[6] How long must they have remained [uncovered] to become forbidden? Such time as it would take a reptile to come forth from a place near by and drink. What distance is meant by ‘a place near by’? R. Isaac the son of Rab Judah explained: Such time as it would take a reptile to come Forth from under the handle of the vessel and drink therefrom. ‘And drink therefrom’! Then you see it![7] — Rather; And drink therefrom and return to its hole.

It was stated: If a man slaughtered with a knife[8] which was found afterwards to have a notch in it, R. Huna says, even if he broke bones with it the whole day long [after the slaughtering], the shechitah is invalid, because we apprehend that it became notched while cutting the skin [before actually cutting the throat]. R. Hisda, however, says that the shechitah is valid, because we assume that it became notched by a bone. Now R. Huna's opinion is clear, it being in accordance with the principle he laid down above;[9] but what is the reason of R. Hisda's opinion?- He reasons thus: A bone certainly notches [the knife], whereas the skin may or may not notch [the knife]; there is thus a doubt against a certainty, and a doubt cannot set aside a certainty.

Raba raised an objection [against R. Hisda], thereby supporting the opinion of R. Huna. [It was taught:] If a man immersed himself and came up,[10] and then there was found something adhering to his body,[11] even though he was using that particular substance all day long [after his immersion], it is not regarded as a proper immersion unless he can declare: ‘I am certain it was not upon me before [my immersion]’ — Now in this case, he certainly immersed himself, and there is a doubt whether the substance was or was not upon him [before his immersion], yet the doubt sets aside the certainty! — This case is different, for one can say: Let the unclean person remain in his [unclean] status, and assume that there has been no immersion. Well, then, in our case too, one can say: let the animal remain in its [forbidden] status, and assume that there has been no slaughtering? — Surely the animal is slaughtered before us. But, here too, surely this man has immersed himself before us! In the latter case, something has happened to impair [his immersion]. But in the former case, too, something has happened to impair [the slaughtering]! — No; the defect is in the knife but not in the animal.

An objection was raised: If one cut through the gullet[12] and then the windpipe was torn away from its position, the slaughtering is valid. If the windpipe was first torn away and then one cut through the gullet, the slaughtering is invalid. If one cut through the gullet and then the windpipe was found to be torn away, and it is not known whether it was torn away before or after the slaughtering — this was an actual case [brought before the Rabbis], and they ruled: Any doubt whatsoever arising about the slaughtering makes it invalid. Now what is the scope of this rule?[13] Does it not include the case mentioned above?[14] — No. It includes those cases where there is a doubt as to whether or not one paused or pressed [in the act of slaughtering].

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(1) Therefore, in the second case the alternatives are (a) the bowl might have been uncovered by a reptile or by a clean person — in either case the water remains clean; (b) it might have been uncovered by an unclean person which would make the water unclean. The chances being more in favour of the first alternative, the water is regarded as clean on the principle of following the majority.

(2) Therefore, in the first case, as the possibility of a reptile having covered the bowl is excluded, the only alternatives are that it was covered either by a clean person or by an unclean person; and as the one is not more probable than the other, the law adopts the stricter view and regards the water as unclean.

(3) This bracketed passage is omitted by Rashal, neither is it found in MS.M.

(4) On the ground of danger to life. In cases regarding uncleanness however, it is clear from the foregoing statements that the law does not always adopt the stricter view; v. n. 2.

(5) Ter. VIII, 4.

(6) It is feared that these liquids might have been poisoned by a snake or by other poisonous reptiles.

(7) According to the time limit here laid down, it is clear that a man who came at the end of this period would see the reptile at the vessel, if any reptile had come; and there would therefore be no doubt but that the liquids had been poisoned. If, on the other hand, no reptile is seen, it is clear that no reptile could have been there in his absence.

(8) It is assumed throughout the whole of this discussion that the knife was perfectly good at the beginning, i.e., it had been examined before the slaughtering and pronounced to be free from notches.

(9) V. supra p. 39.

(10) Out of the mikweh, the ritual bath of purification.

(11) This substance may have been adhering to his body before the immersion and interposed between the water and his flesh, to which case the immersion is invalid.

(12) The statement deals with the slaughtering of a bird, in which case it is sufficient to cut through one organ, either the windpipe or the gullet.

(13) Lit., ‘what does "whatsoever doubt about slaughtering" mean to include’.

(14) I.e., where after the slaughtering the knife was found to be notched.

Talmud - Mas. Chullin 10b

But what is the difference?[1] — In the latter cases the defect has arisen in the animal, whereas in the above mentioned case the defect has arisen in the knife but not in the animal.

The law is as R. Huna ruled[2] where he did not break up bones [with the knife after slaughtering]. And the law is as R. Hisda ruled[3] where he did break up bones. It follows that R. Hisda maintains his view even where no bones were broken up;[4] then the question is: how did the knife become notched? — You can say: It became notched through striking the bone of the neck.[5] There happened such a case[6] and R. Joseph declared as many as thirteen animals to be trefah. Now, whose view did he follow? Did he follow R. Huna's view [and so declared them all trefah,] including the first animal?[7] — No, he may have followed R. Hisda's view, and [so declared then, all trefah.] excepting the first animal.[8] If you wish, however, I can say that he followed R. Huna's view, because if he followed R. Hisda's view, then, since R. Hisda adopts a lenient view, why is it suggested that the knife became notched through striking the neck-bone of the first animal? Should we not say that it became notched through striking the neck-bone of the last animal?[9]

R. Aha the son of Raba told R. Ashi that R. Kahana required the knife to be examined after each animal that was slaughtered. Now, whose view did he adopt? Was it R. Huna's view, with the result that [if the knife were not examined between each animal that was slaughtered,] even the first animal would be trefah? — No. It was R. Hisda's view that he adopted,[10] and [he therefore required the knife to be examined after each animal so that] even those slaughtered after [the first] should be permitted. If this is so, should not the knife be examined by a Sage?[11] — [It is not necessary, for] one witness is believed in matters concerning ritual prohibition.[12] If so, it should never be necessary.[13] — Indeed, has not R. Johanan said that it is only out of respect to the Sage that it was ruled that one must present the knife to the Sage [for inspection]?

Whence is derived the principle which the Rabbis have adopted, viz.: Determine every matter by its status?[14] — R. Samuel b. Nahmani said in the name of R. Jonathan. It is derived from the verse: Then the priest shall go out of the house to the door of the house, and shut up the house seven days.[15] Now may it not have happened that, while he was going out, the leprous spot diminished in size?[16] [Yet we do not apprehend this] because we say: Determine every matter by its status.[17] R. Aha b. Jacob demurred to this: Perhaps the priest in going out of the house walks backwards so that he can see [the spot] as he is leaving![18] — Abaye retorted: There are two answers to your objection. In the first place, going out backwards is not a ‘going out’.[19] In the second place, what will you say when the leprous spot is behind the door?[20] And if you say that he opens up a window [in the door]; have we not learnt: In a dark house one may not open up windows to inspect the leprous spot?[21] — Said Raba to him, With regard to your statement that going out backwards is not a ‘going out’, the case of the High Priest on the Day of Atonement proves otherwise; for in that case, though it is written: And he shall go out,[22] we have learnt: The High Priest goes out and leaves as he entered.[23] And with regard to your reference to the statement that ‘in a dark house one may not open up windows to inspect the leprous spot’, this rule only applies when the leprosy has not yet been ascertained; but once the leprosy has been ascertained the matter is determined.[24]

A [Baraitha] was taught which is not in agreement with the view of R. Aha b. Jacob: [Since it is written,] ‘Then the priest shall go out of the house’, you might think that he may go to his own house and shut up [the affected house from there].[25] the verse therefore reads: ‘To the door of the house’. But if [we had only] ‘the door of the house’ to go by you might think that he may stand under the doorpost [of the affected house] and shut it up. The verse therefore reads: ‘Out of the house’, that is to say, he must go right out of the house. How is this done? He stands outside the doorpost and shuts it up. Moreover, whence do we know that if he went to his own home and shut it up [from there], or if he remained within the [affected] house and shut it up the shutting-up is valid? The verse therefore says. ‘And he shall shut tip the house’, implying that the shutting-up in whatever way effected [is valid].[26] And R. Ahab. Jacob?[27] —

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(1) Between these various cases of doubt. Why is it that in the case of the notched knife the slaughtering is valid, while in the cases where there is a doubt as to pausing or pressing in the act of slaughtering, it is invalid?

(2) That the slaughtering is invalid.
(3) That the slaughtering is valid.
(4) For otherwise there would be no dispute between them.
(5) Which can only be done after having first cut through the organs of the throat, by which time the slaughtering has been completed and therefore the slaughtering is not affected thereby.
(6) Where several animals were slaughtered without the knife being examined between each slaughtering, and after all the animals had been slaughtered the knife was found to be notched.
(7) For R. Huna apprehends that the notch may have arisen in the knife while cutting the skin of the first animal.
(8) For R. Hisda assumes that the notch was caused by striking the neck-bone after the animal had been duly slaughtered. It is therefore clear that at least the first animal had been properly slaughtered. On this view we must assume that the number of animals slaughtered was fourteen.
(9) And therefore all the animals should have been permitted.
(10) I.e., that we assume this notch to have been caused by the neck-bone of the first.
(11) Since according to R. Hisda the purpose of the examination is to render valid those animals slaughtered after the examination, then it becomes necessary for a Sage to examine the knife, for there is a rule that the inspection of the knife before the slaughtering must be by a Sage; v. infra p. 85.
(12) Therefore the slaughterer is trusted and his word is accepted when he examines the knife and pronounces it free from notches.
(13) Lit., ‘from the very beginning’. At no time should it he necessary to have the knife examined by a Sage since the slaughterer is trusted.
(14) In cases of doubt it is presumed, unless there is evidence to the contrary, that all things retain the same status which they were last known to have had.
(15) Lev. XIV. 38.
(16) And it may thus have become less than the minimum size of a bean required to render the house unclean, so that there would be no necessity to shut up the house at all, and the act of ‘shutting up’ is consequently invalid.
(17) And as the house has acquired the status of being unclean, it is presumed to remain so, and requires to be ‘shut up’.
(18) He can thus be certain that the spot has not diminished In size.
(19) For when Scripture says: ‘And he shall go out’, it implies going out in the normal way.
(20) In which case the spot would not be visible to the priest even though he walks out backwards.
(21) Neg. II, 3; Sanh. 92a.
(22) Lev. XVI, 18.
(23) I.e., walking backwards, facing the Holy of Holies; V. Yoma 52b.
(24) And then any means may be used, e.g, opening up a window, in order to confirm the existence of the leprosy.
(25) By means of a long rope attached to the door of the affected house.
(26) According to this Baraitha the suggestion of R. Aba b. Jacob seems untenable; for the Baraitha regards it valid even when the priest shut up the affected house from his own home, in which case it would be impossible for him to keep the leprous spot in view the whole time.
(27) How will he meet this objection?

Talmud - Mas. Chullin 11a

[The Baraitha refers to a case] where there was a row of men who reported that the leprous spot remained unaltered.[1]

Whence is derived the principle which the Rabbis have adopted, viz.: Follow the majority? Whence? [you ask]; is it not expressly written: Follow the majority?[2] — In regard to those cases where the majority is defined,[3] as in the case of the Nine Shops[4] or the Sanhedrin,[5] we do not ask the question. Our question relates to cases where the majority is undefined, as in the case of the Boy and Girl.[6] Whence then is the principle derived?

(Mnemonic: Zeman SHebah Mekanesh.[7] R. Eleazar said: It is derived from the head of a burnt-offering. The verse reads: And he shall cut it into its pieces,[8] which means, he shall cut it up into its pieces but not its pieces into [smaller] pieces. Now why do we not fear that the membrane which encloses the brain is perforated?[9] Is it not because we follow the majority?[10] But is this really so? Perhaps he splits open [the head] and examines the membrane, and as for the rule, ‘he shall cut it into its pieces but not its pieces into [smaller] pieces’, this only prohibits the cutting up of a limb into pieces but does not prohibit [the mere splitting open of a limb] so long as the parts remain joined![11]

Mar the son of Rabina said: It is derived from the rule concerning breaking the bones of the paschal lamb. The verse reads: And ye shall not break a bone thereof.[12] Now why do we not fear that the membrane which encloses the brain is perforated? Is it not because we follow the majority! But is this really so? Perhaps he places a burning coal upon the head, burns away the bone and examines the membrane; for it has been taught: He who cuts the sinews or burns away the bones [of the paschal lamb] has not transgressed the law of breaking the bones.[13]

R. Nahman b. Isaac said: It is derived from the law concerning the tail [of sheep]. The verse reads: The fat thereof, and the fat tail entire.[14] Now why do we not fear that the spinal cord is severed? Is it not because we follow the majority! And should you say. He can cut off the fat tail lower down?[15] Surely the Divine Law says [Which he shall take away] hard ‘by the rump bone’,[16] that is to say, hard by the place where the counselling kidneys[17] are seated![18] But perhaps he cuts open the fat tail and examines it; and as for [the law that] the fat tail be entire, this only prohibits the complete severing of it but does not prohibit cutting it open so long as it is still one piece![19]

R. Shesheth the son of R. Idi said: It is derived from the case of the heifer whose neck was to be broken. The Divine Law says: Whose neck was broken,[20] [which has been interpreted] to mean that [after the neck has been broken] the heifer must remain whole. Now why do we not fear that it has some defect which makes it trefah? Is it not because we follow the majority! And should you say. What does it matter [even if it is trefah]?[21] Surely it was taught in the school of R. Jannai: Forgiveness[22] is mentioned in connection therewith as with sacrifices![23]

Rabbah b. Shila said: It is derived from the case of the Red Cow. The Divine Law says. And he shall slaughter it . . . and he shall burn it,[24] which signifies, just as for the slaughtering the animal must be whole, so for the burning it must be whole. Now why do we not fear that it is trefah? Is it not because we follow the majority? And should you say. What does it matter [even if it is trefah]? Surely the Divine law calls it a sin-offering![25]

R. Aha b. Jacob said: It is derived from the case of the Scapegoat.[26] The Divine Law says. And he shall take the two goats, which implies that the two shall be alike in all respects,[27] Now why do we not fear

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(1) The report being passed along the line up to the priest.

(2) Ex. XXIII, 2. This is the traditional interpretation of the verse by the Rabbis. In the English versions it is rendered: to turn aside after a multitude to pervert justice.

(3) Lit., ‘that is before us’; i.e., the number constituting the majority can be easily ascertained.

(4) V. Pes. 9b. Where if in a particular neighbourhood there are nine shops which sell ritually slaughtered meat and a tenth which sells trefah meat, any meat found in that neighbourhood is kosher or permitted, it being presumed to have come from the majority, i.e., one of the nine shops.

(5) V. Sanh. 40a. The Great Sanhedrin was the supreme court of the Jews and consisted of seventy-one Judges; the Small Sanhedrin was an inferior court and consisted of twenty-three Judges. In each case the decision of the majority of the Judges was the decision of the court.

(6) Where a boy who is a minor marries his deceased brother's wife who is also a minor, in accordance with the law of Levirate marriage laid down in Deut. XXV, 5, the marriage is valid, and we do not fear that one of them may prove to be sterile, in which case, the purpose of the levirate marriage having failed, the marriage would be unlawful as coming within the prohibited degrees. The reason is that we follow the majority, and the majority of people are not sterile. V.

Yeb. 61b, and 111b.

(7) This mnemonic is formed by taking a characteristic letter from each of the names of the Rabbis who are quoted in the following passages. The Hebrew letters form three words which may be translated: Time brings profit.

(8) Lev. I, 6. The animal was cut up into limbs and these were offered on the altar whole, but it was not permitted to cut up a limb into smaller pieces.

(9) This defect, as well as the other defects mentioned in these passages, would make the animal trefah and consequently unfit for a sacrifice. The sacrifice of the burnt-offering is nevertheless valid, in spite of the fact that it was not possible to cut open the head and examine the membrane by reason of the prohibition against cutting up a limb.

(10) And the majority of animals are not trefah.

(11) Since in the way suggested it is possible to examine the animal as to any defect there is no proof from here that we follow the majority.

(12) Ex. XII, 46.

(13) V. Pes. 84b. This suggestion thus fails to prove our principle.

(14) Lev. III, 9. The fat tail of a sheep or ram in cases of sin-offerings or peace-offerings was offered in one whole mass upon the altar.

(15) I.e., below the point of partition where the spinal cord branches off into three minor cords, one extending into the right thigh, the second into the left thigh, and the third continuing straight on into the tail. If any one of these minor cords is severed the animal does not become trefah. V. infra 45b. It is therefore suggested that the fat tail should be cut off below the point of partition, in which case even if the cord is severed in the tail it is of no consequence.

(16) Lev. III, 9.

(17) Cf. Ber. 61a, where it is stated that the function of the kidneys is to give counsel.

(18) Which is above the point of partition.

(19) Since it is possible to examine the tail in the manner suggested, there is no proof from this case that we follow the majority.

(20) Deut. XXI, 6. After the breaking of the neck the heifer was immediately buried whole and on no account was it permitted to cut up the carcass.

(21) Since it was not a sacrifice in the ordinary sense of that term.

(22) Deut. XXI, 8: Forgive, O Lord, Thy people Israel.

(23) Therefore, just as a trefah animal was unfit for a sacrifice, so the heifer, if trefah, was unfit for the purpose. It is to be noted that R. Shesheth's argument succeeds in proving the principle of following the majority. This is also the case with the arguments used in the following passages, with the possible exception of R. Mari's argument. V. infra p. 51, n. 6.

(24) Num. XIX, 3, 5.

(25) Ibid. 9. And therefore like all sacrifices the Red Cow may not be trefah.

(26) Lev. XVI, 7. On the Day of Atonement two goats were required, one to be a sacrifice unto the Lord and the other, the Scapegoat, to be sent away to Azazel (ibid. 8), i.e., it was taken into the wilderness where it was hurled down a steep mountain. Lots were cast to decide which goat was to be for the Lord and which for Azazel.

(27) This interpretation suggests that the goat for Azazel may not be trefah, just as the goat which was for the Lord clearly may not be trefah. This, however, would seem to be superfluous as the reason why it may not be trefah is stated subsequently. The words, ‘that the two shall be alike in all respects’ are omitted in MS.M.

Talmud - Mas. Chullin 11b

that one of them is trefah?[1] Is it not because we follow the majority! And should you say, What does it matter [even it if is trefah]? Surely it has been taught: The lot cannot determine [the goat] for Azazel unless it is fit to be for the Lord![2] And should you say: It can be examined?[3] Surely we have learnt: Before it reached half way down the mountain it was already broken into pieces![4]

R. Mari said: It is derived from the case of one that smiteth his father, or his mother,[5] for which offence the Divine law prescribes death. Now why do we not fear that the person struck may not have ben his father? Is it not because we follow the majority, and a woman cohabits with her husband more often [than with a stranger]? But perhaps [the law applies] only to the case where the father and mother were locked up in prison![6] — Even so there is no guardian against unchastity.[7]

R. Kahana said: It is derived from the case of a murderer, for whom the Divine law prescribes death. Now why do we not fear that the victim may have been trefah?[8] Is it not because we follow the majority! And should you say: We can examine the body? [This is not allowed because] it would thereby be mutilated! And should you say: Since a man's life is at stake, we should mutilate the body? Surely there is always the possibility that there was a hole [in the victim] in the place [where he was stuck] by the sword.[9] Rabina said: It is derived from the law concerning witnesses who are found to be zomemim,[10] in connection with whom the Divine Law says. Then shall ye do unto him, as he had purposed [to do unto his brother].[11] Now why do we not fear that the person against whom they gave false evidence [that he committed a capital offence] is trefah?[12] Is it not because we follow the majority! And should you say. We can examine him now? Sure]y it has been taught: Beribbi[13] said: If the person [against whom their evidence was directed] has not been executed they are put to death; if he has been executed they are not put to death![14]

R. Ashi said: It is derived from the law of Shechitah itself;[15] for the Divine Law says [in effect]. Slaughter and eat. Now why do we not fear that there is a hole [in the gullet] in the place where It was cut through?[16] Is it not because we follow the majority!

R. Ashi added: I put forward this argument to R. Kahana — others say: R. Kahana put forward this argument to R. Shimi — and he replied: perhaps the law is that where it is possible to ascertain the facts we must do so; it is only where it is impossible to ascertain the facts that we follow the majority.[17] For if you do not accept this [argument], then the question will be asked: Did R. Meir, who is of the opinion that the minority must be taken into consideration, always abstain from eating meat? And if you reply that this indeed was the case, then it will be asked:

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(1) l.e., the one which was to be sent to the wilderness. It was obviously impossible to examine it as to any defects, since it was sent away alive.

(2) In other words, though only one of the goats was offered as the sacrifice to the Lord, it was necessary for both goats to be such as might have been sacrificed to the Lord; it follows therefore that neither goat might be trefah.

(3) After being sent away.

(4) Yoma 67a.

(5) Ex. XXI, 15.

(6) Where his mother conceived him and where it would be impossible for the mother to have intercourse with strangers.

(7) So that the offence of striking a father is made punishable only by reason of the principle of following the majority. This answer, however, is omitted in MS.M; if it is omitted. R. Mari's argument stands disproved.

(8) A person afflicted with a fatal organic disease, for whose killing a person is not punishable as a murderer.

(9) The murderer may have killed the victim by striking him in a place where he was already suffering from a fatal wound, and in so doing removed all traces of the previous wound. In such a case it is clear that no amount of post mortem examination would show that the victim was trefah; hence it is proved that we follow the majority.

(10) A technical term for a particular form of perjury. Cf, Deut. XIX, 16ff and Mak, chaps 1. The punishment meted out to these false witnesses is the sentence which the court had pronounced upon the person who was found guilty on the strength of their false evidence. This law, as will be seen from the subsequent statement, does not apply where the sentence has in fact been carried out.

(11) Deut. XIX, 19.

(12) Cf, p. 51, n. 7.

(13) l.e., a prominent scholar, or as Rashi suggests in Mak. 5 b a teacher of that name. V.J. E. III, p. 52.

(14) V.M ak. 5b. The position is this: if the person against whom the witnesses testified has been executed the witnesses are not punished at all, and if he has not been executed then it is not possible to examine him as to whether or not he is a trefah; hence it is proved that we follow the majority.

(15) The basic law of Shechitah, which is that one may eat an animal which has been ritually slaughtered.

(16) And therefore the slaughtering should not be valid because the animal may have been trefah.

(17) Lit., ‘where (it is) possible, it is possible; where impossible, impossible’. Although in the cases previously quoted, it is true that the majority principle is adopted, it is not to be enlarged into a general principle, for in each of those cases it was impossible to ascertain the true facts; where, however, it is possible to do so one should not follow the majority.

Talmud - Mas. Chullin 12a

What about the meat of the paschal lamb and of other sacrifices?[1] You are therefore obliged to say [that R. Meir's view is]: where it is possible to ascertain the facts[2] one must do so, and only where it is impossible to ascertain the facts does one follow the majority. Our view then is the same: Where it is possible to ascertain the facts we must do so, and only where it is impossible to do so do we follow the majority.

R. Nahman said in the name of Rab: If [a man] saw another slaughtering, and he watched him from beginning to end, he may eat of the slaughtering; otherwise he may not eat of the slaughtering. What are the circumstances of the case? If he knows that the slaughterer is conversant [with the rules of shechitah], then why is it necessary to watch over him? If he knows that the slaughterer Is not conversant [with the rules at all], then the case is obvious![3] Again, if he does not know whether the slaughterer is conversant [with the rules] or not, then should not the principle that ‘the majority of those who slaughter[4] are qualified’ apply?[5] For has it not been taught: If [a man] found a slaughtered chicken in the market, or if he said to his agent. ‘Go and slaughter [an animal]’, and subsequently found it slaughtered, it is presumed to have been ritually slaughtered? This proves that we apply the principle that ‘the majority of those who slaughter are qualified’; in our case, too, should we not apply this principle? — The actual facts of our case are that he knows that the slaughterer is not conversant [with the rules at all] and that the latter has cut one of the organs [of the throat] in his presence properly [according to ritual]. Now it might be said: since he has cut the one organ properly [he will cut] the other just as well; Rab therefore teaches us [that we may not assume such to be the case, because it might just as well be] that it happened merely by chance that he cut the one organ properly but in the cutting of the other he might pause or press.

R. Dimi b. Joseph put to R. Nahman the following questions: If [a man] said to his agent: ‘Go and slaughter [an animal]’, and he subsequently found it slaughtered, what [is the law]? — He replied: It is presumed to have been ritually slaughtered. If [a man] said to his agent: ‘Go and set aside the terumah’,[6] and he subsequently found it set aside, what [is the law]? — He replied: It is not presumed to have been validly set aside as terumah. [He thereupon contended:] What is your opinion? If you hold that there is a presumption that an agent carries out his instructions, then apply it also to the case of terumah;[7] and if you hold that there is no presumption that an agent carries out his instructions, then even in the case of shechitah it should not be presumed! — He replied: If you will measure out for it a kor of salt [I will then explain it to you].[8] Actually there is no presumption at all that an agent carries out his instructions; now in the case of shechitah, even if we take into account the possibility that a stranger, having overheard the instructions, went and slaughtered [the animal], there is no harm, because of the principle that ‘the majority of those who slaughter are qualified’; whereas in the case of terumah if we take into account the possibility that a stranger, having overheard the instructions, went and set aside the terumah [it would be invalid] for he would have done so without the consent of the owner, and [the law is that] if one sets aside terumah without the consent of the owner the terumah is not valid.[9]

Shall we say that the principle, ‘The majority of those who slaughter are qualified’, is the issue between the following Tannaim? For it has been taught: If [a man] lost his kids or his chickens and subsequently found them slaughtered. R. Judah forbids them [to be eaten], but R. Hanina the son of R. Jose the Galilean permits them [to be eaten]. Said Rabbi: R. Judah's view is acceptable [to me] in the case where they [the kids or chickens] were found on a rubbish heap,[10] and R. Hanina's view is acceptable [to me] in the case where they were found in a house. May we not assume that the issue between them is the above principle; one [R. Hanina] accepts the principle that ‘the majority of those who slaughter are qualified’, and the other [R. Judah] does not accept this principle? — R. Nahman b. Isaac replied: It is not so. Both accept the principle that ‘the majority of those who slaughter are qualified’, and if [the lost kids and chickens were found] in a house, both agree that they are permitted [to be eaten]; and furthermore, if [they were found] on a public rubbish heap, both agree that they are forbidden; the issue between them is only in the case where [the were found] on the rubbish heap of a private house: one [R. Judah] is of the opinion that a man is wont to cast a nebelah on to the rubbish heap in his house, while the other [R. Hanina] is of the opinion that a man is not wont to cast a nebelah on to the rubbish heap in his house.[11]

The Master stated: ‘Said Rabbi, R. Judah's view is acceptable [to me] in the case where they [the kids or chickens] were found on a rubbish heap’. Now what kind of rubbish heap is meant? Shall I say. A public rubbish heap? But you have said above that both agree that in such a case they are forbidden [to be eaten]! It must then be a rubbish heap of a private house. Now consider the next statement [of Rabbi]: ‘And R. Hanina's view is acceptable [to me] in the case where they were found in a house’. What is meant by ‘in a house’? Shall I say: In the house itself? But you have said above that in such a case both agree that they are permitted [to be eaten]! It must then be on the rubbish heap of a private house. Is there not then a contradiction between these two statements of Rabbi? —

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(1) Did he likewise abstain therefrom? This is inconceivable, for it is a positive duty to eat the meat of the paschal lamb and of certain other sacrifices!

(2) By carefully enquiring into the case, taking into account even the minority.

(3) That the slaughtering is invalid unless some reliable person was watching him all the time.

(4) Lit., ‘who have to do with slaughtering’.

(5) It would therefore be unnecessary to watch over him at all; v. supra 3b.

(6) V. Glos.

(7) The terumah would then be valid by reason of this presumption.

(8) As a reward for my labour! A facetious remark, generally used when about to explain to some person a subtle distinction between two cases. Kor is a measure of capacity.

(9) V. Ter. I, 1, and Git 23b.

(10) The fact that they were found on a rubbish heap is an indication that they were unfit to be eaten, probably nebelah.

(11) Therefore, whatsoever is found on a private rubbish heap is permitted to be eaten.

Talmud - Mas. Chullin 12b

This is what he [Rabbi] meant to say: The view of R. Judah is acceptable to R. Hanina the son of R. Jose the Galilean in the case where they were found on a public rubbish heap; for the latter differs from R. Judah only in the case where they were found on the rubbish heap of a private house, but agrees with him if they were found on a public rubbish heap. And the view of R. Hanina is acceptable etc.[1]

EXCEPT A DEAF-MUTE. AN IMBECILE OR A MINOR, LEST THEY INVALIDATE THEIR SLAUGHTERING. It does not say: ‘Lest they have invalidated’, it says. LEST THEY INVALIDATE; this, said Raba, proves that one may not give them [even] common[2] beasts [to slaughter] in the first instance.[3]

AND IF ANY OF THESE SLAUGHTERED WHILE OTHERS WERE STAN DING OVER THEM, THEIR SLAUGHTERING IS VALID. Who is the author of this statement [which suggests] that one does not require to have the intention to slaughter according to ritual?[4] — Raba answered, It is R. Nathan. For Oshaia, junior of the collegiates,[5] learnt: If one threw a knife intending to thrust it into a wall, and [in its flight] it slaughtered an animal in the usual way. R. Nathan declares the slaughtering valid; but the Sages declare it invalid. And [Oshaia] having learnt this [Baraitha] added that the halachah was in accordance with R. Nathan's view. But do we not require a forward and backward motion [in slaughtering]?[6] — There was here a forward and backward motion[7] in the usual way.

R. Hiyya b. Abba reported that R. Johanan raised the following question: Does the law recognize the [expression of the] intention of a minor or not?[8] — Said R. Ammi to R. Hiyya. He might as well have put the question in regard to the act [of a minor].[9] Why did he not put the question in regard to the act [of a minor]? [Presumably] because we have learnt that the law recognizes the act [of a minor as sufficient evidence of his intention]; for the same reason he need not have put the question in regard to the [expression of the] intention of a minor, because we have learnt that the law does not recognize the [expression of the] intention [of a minor as sufficient evidence of his intention]! For we have learnt:[10] Acorns or pomegranates or nuts which children hollowed out in order to measure sand therewith, or which they fashioned Into scales, are susceptible to uncleanness,[11] because the law recogn[7] zes the act [of a minor as sufficient evidence of his intention]

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(1) These last words are omitted in MS.M., and it would also seem 1hat Rashi did not have them in his text, if they are to remain in the text they should be expanded thus: And the view of R. Hanina is acceptable to R. Judah in the case where they were found in a house, for the latter only differs from it. Hanina in the case where they were found on the rubbish heap of a private house, but agrees ‘with him if they were found in a house.

(2) Hullin, v. Glos.

(3) Even when others are prepared to stand and watch over them they may not slaughter in the first instance, for they are liable at any moment to infringe the rules of shechitah.

(4) For the Tanna, in holding that the slaughtering of (inter alia) an imbecile is valid when others were standing over him, clearly is of opinion that the intention to slaughter according,o ritual is not essential, since an imbecile is incapable of forming such an intention.

(5) Or, as others interpret, Oshaia Ze'ira of Haberya, v. Ta'an., Sonc. ed., p. 124, n. 2.

(6) V. infra 30b and Tosef. Hul. I, 4 and 5. In this case there was only a forward motion of the knife.

(7) The knife in its flight cut the throat in a forward motion, it then struck the wall, and in its rebound cut the throat again, now in a backward motion.

(8) The question refers to cases where the legal status of a thing is determined by the intention formed in relation thereto. It is not here disputed that it is sufficient if the necessary intention was formed by a minor; the question asked is: what evidence does the law require before it is satisfied that the minor has in fact formed the necessary intention? Is a minor's statement as to his intention sufficient evidence of that intention? Throughout this discussion Rashi's interpretation has been followed; v. however Tos. s.v. ותיבעי.

(9) I.e., whether the law is satisfied as to the existence of any particular intention on the part of a minor when that expressed intention is evidenced by some unequivocal act on his part.

(10) Kel. XVII, 15.

(11) All articles are rendered susceptible to uncleanness by the intention to use them for some purpose. Here the intention of the children is clearly seen from their act of hollowing out the nuts.

Talmud - Mas. Chullin 13a

hut not [the mere expression of] his intention. — He replied. He certainly did not put the question in regard to the mere [expression of the] intention [of a minor]. What he asked was whether his intention[1] could be inferred from his act.[2] For example: there stood [an animal intended for] a burnt-offering on the south side [of the altar], and the minor brought it to the north side and slaughtered it there. Should we say that since he brought it to the north side and slaughtered it there [it is clear that] he had the proper intention,[3] or should we rather say that he did not find a convenient place [in the south]?[4]

But has not R. Johanan already expressed his view in such a case? For we have learnt:[5] If [a man] took his fruit up to the roof in order to keep it free from maggots and dew fell upon it, it does not come within the rule of 'if water be put'.[6] If, however, he had the Intention [that the dew should fall upon it] it comes within the rule of 'if water be put'. If it was taken up by a deaf-mute, an imbecile or a minor, it does not come within the rule of 'if water be put', even though they had the intention [that the dew should fall upon it], because the law recognizes the act of a minor but not [mere] intention. And R. Johanan explained that this rule only applies where they[7] did not turn the fruit over, but if they did turn the fruit over it comes within the rule of 'if water be put'.[8] The question [R. Johanan] put was this: Was this rule[9] laid down by the Torah or only by the Rabbis?[10] R. Nahman b. Isaac gives this version [of the foregoing argument]. R. Hiyya b. Abba said that R. Johanan put this question: Does the law recognize the act of a minor [as sufficient evidence of his expressed intention] or not? Said R. Ammi to R. Hiyya. He might as well have put the question in regard to the [expression of the] intention [of a minor]. Why did he not put the question in regard to the [expression of the] intention [of a minor]? Because we have learnt that the law does not recognize the [expression of the] intention of a minor [as sufficient evidence of his intention]; for the same reason he need not have put the question in regard to the act of a minor because we have learnt that the law recognizes the act of a minor [as sufficient evidence of his expressed intention]! — The question [R. Johanan] put was this: Is this rule laid down by the Torah or only by the Rabbis? — And [R. Johanan himself] solved [it]: The act of a minor [as sufficient evidence of his unexpressed intention] is recognized even by the Torah; [the mere expression of] his intention is not recognized even by the Rabbis;[11] the [unexpressed] intention of the minor evidenced from his act is not recognized by the Torah but only by the Rabbis.

Samuel put the following question to R. Huna: Whence do we know that an act performed incidentally in connection with sacrifices[12] is invalid? — [He replied,] Because it is written: And he shall slaughter the bullock,[13] thus teaching that the slaughtering should be intended for a bullock. Thereupon Samuel said: This we already know;[14] but whence do we know that this rule is indispensable?[15] — He replied: It is written: Ye shall slaughter it at your will,[16] that is to say, slaughter it intentionally.[17]

MISHNAH. THAT WHICH IS SLAUGHTERED BY A GENTILE[18] IS NEBELAH[19] AND DEFILES BY CARRYING.[20]

GEMARA. It is nebelah only but it is not prohibited for all other purposes. Who is the authority for this view? — R. Hiyya b. Abba in the name of R. Johanan replied: It cannot be R. Eliezer, for were it R. Eliezer [it should also be prohibited for all other purposes] since he maintains that the thoughts of a gentile are usually directed towards idolatry.[21]

R. Ammi said that the Mishnah is to be interpreted thus: THAT WHICH IS SLAUGHTERED BY A GENTILE IS NEBELAH, but [that which is slaughtered] by a min[22] is presumed to be intended for idolatry.[21] We thus learnt here what our Rabbis have taught: That which is slaughtered by a min [is regarded as] intended for idolatry, his bread as the bread of Cutheans,[23] his wine as wine used for idolatrous purposes, his scrolls of the Law as books of soothsayers,[24] his fruit as tebel.[25] Some add, even

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(1) I.e., where he did not express it.

(2) In cases where the intention was unexpressed but the act was evidence thereof.

(3) Sacrifices of the highest grade had to be slaughtered on the north side of the altar; v. Zeb, chap. V. Furthermore, every act in connection with any sacrifice had to be intended for the particular sacrifice.

(4) So that the slaughtering of the animal may have been performed on the north side not because he knew that it was necessary to slaughter a burnt-offering there but because he found the place more convenient.

(5) Maksh, VI, 1.

(6) Lev. XI, 38. From this verse the law is derived that produce becomes susceptible to uncleanness only after it has been made wet by water or other liquids specified in Maksh. VI, 4. It is provided, however, that the owner must have applied the water to the produce intentionally, or, at least, that the presence of the water on the produce was acceptable to him. V. Maksh. I, 1.

(7) I.e., the deaf-mute, the imbecile or the minor.

(8) Their turning over the fruit shows that they intended the dew to fall on the other side of the fruit too. It must be assumed, however, that they did not expressly state their Specific purpose, for if they did, it would not be necessary for R. Johanan to teach this, for it is obvious that their act is conclusive evidence of their expressed intention. Here is a clear case of an act which, though not conclusive, might well serve to indicate the minor's intention; yet R. Johanan ruled that the law was satisfied with such evidence of intention.

(9) Viz., that the law recognizes the unexpressed intention of a minor where it can be inferred from his act.

(10) If the rule is Biblical then it would be applied in all cases, even where the effect of such application would produce a more lenient result; e.g., in the case of the burnt-offering mentioned above, the result of applying the rule would be to declare the sacrifice valid. If, however, the rule was only laid down by the Rabbis, it would only be applied in such cases where the effect of such application would produce a more stringent result; e.g, in the case of the fruit on the roof, the result of applying the rule would be to regard the fruit as susceptible to uncleanness.

(11) And therefore the expression of his intention is ignored in all cases, even where the effect would produce a more stringent result.

(12) E.g., a person while handling a knife unintentionally slaughters a consecrated animal.

(13) Lev. I, 5.

(14) Lit., ‘that is in our hand’.

(15) I.e., that if the proper intention was absent 1he sacrifice is invalid even after the act.

(16) Lev. XIX, 5.

(17) Since we have two verses each directing that the slaughtering of a consecrated animal must he accompanied by the proper intention the rule becomes indispensable, in accordance with the Rabbinic dictum: wherever Scripture repeats an injunction it is meant to be indispensable.

(18) Even though the slaughtering was performed according to ritual and in the presence of an Israelite, the animal is regarded as nebelah and may not he eaten; but also, like nebelah, it may be used for any other purpose.

(19) V. Glos.

(20) V. Lev. XI, 40.

(21) And it is established law that no use or benefit may he derived from anything connected with idolatrous worship.

(22) Heb. מין pl. מינים. A Jew or a gentile who is devoted to the worship of idols, or who acts as priest unto idols, V. Glos.

(23) The bread of Cutheans (i.e., Samaritans) was forbidden to be eaten. V. Sheb. VIII, 10: He who eats the bread of a Cuthean is as one who eats the flesh of swine.

(24) Which serve for idolatrous purposes. V. Git. 45b: A scroll of the Law written by a min must be destroyed by fire.

(25) Produce from which there have not yet been separated the tithes and the priestly dues, and which may not he eaten on penalty of death at the hands of Heaven.

Talmud - Mas. Chullin 13b

his children as bastards. And the first Tanna?[1] — He holds that he would not allow his wife to prostitute herself.

The Master stated above: ‘THAT WHICH IS SLAUGHTERED BY A GENTILE IS NEBELAH’. But perhaps he is a min? — R. Nahman in the name of Rabbah b. Abbuha answered: There are no minim among the gentiles. But we see that there are! Say: The majority of gentiles are not minim. For he accepts the opinion expressed by R. Hiyya b. Abba in the name of R. Johanan: The gentiles outside the land [of Israel] are not idolaters; they only continue the customs of their ancestors.

R. Joseph b. Minyomi stated in the name of R. Nahman: There are no minim among the idolatrous nations.[2] Now, to what would this rule apply? Do you say to shechitah? But surely, if what is slaughtered by a min who is an Israelite is prohibited, it goes without saying that what is slaughtered by a gentile min is prohibited! Do you then say it applies to the law of ‘casting down into a pit’?[3]

But surely, if a min who is an Israelite may be cast down, it goes without saying that a gentile min may be cast down! R. ‘Ukba b. Hama said: The rule applies to the matter of accepting sacrifices from them. For it has been taught:[4] Of you,[5] but not all of you, thus excluding an apostate. ‘Of you’, that is to say, among you [Israelites] is a distinction drawn but not among the gentiles.[6] But are you correct in this? Perhaps this is the meaning [of the Baraitha]: As regards Israelites, you may accept sacrifices from the righteous but not from the wicked, but as regards gentiles you may not accept sacrifices from them at all?[7] — You cannot entertain such a view, for it has been taught: [It would have sufficed had Scripture stated], a man,[8] why does it state, ‘a man, a man? To include gentiles, that they may bring either votive or freewill-offerings like an Israelite.

AND DEFILES BY CARRYING. Is not this obvious? Since it is nebelah [it follows that] it defiles by carrying! Raba answered: This is the interpretation. This animal defiles by carrying, but there is another [similar] case where the animal even defiles [men and utensils that are] in the same tent.[9] Which is that? It is the case of an animal slaughtered as a sacrifice to idols. This then is in accordance with the view held by R. Judah b. Bathyra.[10] Some report this statement as follows: Raba answered: This is the interpretation. This animal defiles by carrying, and there is another case which is similar to this one in that the animal [there too] only defiles by carrying but does not defile [men and utensils that are] in the same tent. Which is that? It is the case of an animal slaughtered as a sacrifice to idols. This then is not in agreement with R. Judah b. Bathyra. For it has been taught: R. Judah b. Bathyra said: Whence do we know that sacrifices unto idols defile [men and utensils that are] in the same tent? From the verse: They joined themselves also unto Baal-Peor and ate the sacrifices of the dead[11] as a dead body defiles [men and utensils that are] in the same tent so also do sacrifices unto idols.

MISHNAH. IF ONE SLAUGHTERED BY NIGHT,[12] LIKEWISE IF A BLIND MAN SLAUGHTERED. THE SLAUGHTERING IS VALID. GEMARA. The expression ‘IF ONE SLAUGHTERED’ implies that the slaughtering is valid only after the act but it does not imply a right in the first instance.[13] Now is not this contradicted [by the following statement]: At all times one may slaughter,[14] by day or by night, and [in all places,] whether on the rooftop or on top of a ship?[15] — R. Papa answered [that in the latter case] the man slaughters to the light of a torch. R. Ashi added. This is supported by the context, for in the latter case night and day are in juxtaposition,[16] whereas in the Mishnah night and a blind man are in juxtaposition.[17] This is conclusive.

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(1) What is his view about the children?

(2) I.e., the law does not regard a gentile mill as a min.

(3) V. A.Z. 26a and b: Minim, betrayers and apostates may be endangered and need not be delivered from danger, whereas idolaters and Jewish shepherds of small cattle are not to be endangered, though one is not obliged to deliver them from danger. The expression ‘cast down into a pit’ is synonymous with ‘endangering life’.

(4) V. supra p. 19.

(5) Lev. I, 2.

(6) I.e., sacrifices may he accepted from all gentiles without exception.

(7) And so when the Baraitha states that no distinction is made among the gentiles it is entirely negative, i.e., on no account and in no circumstances may sacrifices be accepted from gentiles.

(8) Lev. XXII, 18. The verse, translated literally, reads: A man, a man of the children of Israel . . . that bringeth his offering etc. It is suggested that the repetition of ‘a man’ extends the law to include such persons other than those contemplated in the ordinary meaning of the verse; in this case, gentiles.

(9) V. Num. XIX, 14: This is the law, when a man dieth in a tent, every one that cometh into the tent, and everything that is in the tent shall be unclean seven days. The rule laid down in this verse has been extended by the Rabbis to include a person or thing which is directly over (and thus forming a tent over) the unclean object.

(10) V. infra.

(11) Ps. CVI, 28.

(12) In the dark.

(13) And the reason is because it is to be feared that the slaughterer will not be able to ascertain whether he has sufficiently cut through the organs of the throat.

(14) This expression implies a right in the first instance to do so.

(15) Although we learnt (infra 41a) that one may not slaughter and allow the blood to run into the sea or vessel, lest it be said the slaughtering was an act of idolatrous worship to the deity of the sea, or that it was being collected for an idolatrous purpose, here, where the slaughtering is performed on the roof top and the blood collected in a vessel, there is no such apprehension, for it was collected in a vessel merely to avoid fouling the roof. Similarly where the blood is allowed to run into the sea from the top of the ship it is done merely to avoid fouling the top of the ship.

(16) Suggesting that the distinction is merely one of time but not necessarily that the slaughtering is done in the dark.

(17) Implying that the darkness of the night is intended, corresponding with the darkness of a blind man.

Talmud - Mas. Chullin 14a

MISHNAH. IF A MAN SLAUGHTERED ON THE SABBATH OR ON THE DAY OF ATONEMENT, NOTWITHSTANDING HE IS GUILTY AGAINST HIS OWN LIFE,[1] THE SLAUGHTERING IS VALID.

GEMARA. R. Huna said that Hiyya b. Rab in an exposition [on this Mishnah] said in the name of Rab that the animal was nevertheless forbidden to be eaten that same day.[2] The colleagues thereupon suggested that [the reason for this decision was that] the view [expressed in the Mishnah] was that of R. Judah. Now where does R. Judah express such a view? — R. Abba said, in the matter of ‘Readiness’.[3] For we have learnt: One may cut up [on the Sabbath] pumpkins for beasts or a carcass[4] for dogs. R. Judah says. It is forbidden to do so[5] if the animal was not dead on the eve of the Sabbath, for then it would not belong to that class of things set in readiness for the Sabbath.[6] This therefore shows that since it was not set in readiness on the eve of the Sabbath [for that particular use] it is forbidden [to be so used on the Sabbath]; so, too, in the case of our Mishnah, since the animal was not set in readiness on the eve of the Sabbath [for food] it is forbidden [to be so used on the Sabbath]. Thereupon Abaye said to him: What a comparison! In the case quoted the animal was originally set in readiness to serve for human food but now it merely serves for dog's food, whereas in the case of our Mishnah the animal was originally set in readiness to serve for human food and now too it serves for human food![7] — [He replied.] You are assuming that a living animal is intended for food; in reality it is intended for breeding purposes. If so, why is it permitted, on this view of R. Judah, to slaughter an animal on a festival?[8] — R. Abba then replied. The truth of the matter is that a living animal is intended both for breeding purposes and for food. If it is slaughtered,[9] this act proves that it was intended originally to serve for food; if it is not slaughtered,[9] it proves that it was intended originally for breeding purposes.[10] But surely R. Judah does not hold bererah![11] Whence do we know this? Shall we say from the following [Baraitha] wherein it is taught: If a man bought wine from the Cutheans[12] he may say. ‘Let two logs which I intend later to set aside be terumah,[13] ten first tithe,[14] nine second tithe’,[15] and then, after redeeming [this latter tithe with money], he may drink it. This is the opinion of R. Meir. R. Judah. R. Jose and R. Simeon do not allow this?[16] —

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(1) For breaking the Sabbath the offender is put to death by stoning, cf. Exod. XXXI, 14-15 and Num. XV. 35; and for profaning the Day of Atonement he incurs the heavenly punishment of Kareth (v. Glos.) in accordance with Lev. XXIII, 30.

(2) Even if he desires to eat it raw.

(3) Heb. הכנה. The rule adopted by R. Judah is that such things which on the eve of the Sabbath were not set in readiness or intended for the purpose which they actually serve on the Sabbath are forbidden to be so used on the Sabbath. They are mukzeh (v. Glos.), set apart, not counted on for use. This rule is based on Ex. XVI, 5, and applies particularly to fruit which fell from the tree on the Sabbath and also to an animal slaughtered on the Sabbath. In these cases neither the fruit nor the animal can be said to have been set in readiness for food on the Sabbath since on the eve of the Sabbath the fruit was still on the tree and the animal was still alive; v. Bez. 2b.

(4) Even though the animal died on the Sabbath.

(5) Sc. to cut up the carcass.

(6) Since on the eve of the Sabbath the animal was still alive and so was not set in readiness for food, it is forbidden to be so used (i.e., for food) on the Sabbath (Shab. 156b).

(7) It should therefore be permitted on the Sabbath.

(8) Since the animal on the eve of the festival was kept for breeding purposes it is clearly mukzeh on the festival, and therefore forbidden. Nevertheless the law is established beyond all doubt that one may slaughter an animal on a festival.

(9) At a time when it is permitted so to do.

(10) And so in the case of our Mishnah, since the animal was not slaughtered before the Sabbath, it is clear that the owner intended to keep it for breeding purposes, accordingly it is mukzeh and therefore forbidden to be eaten on the Sabbath.

(11) Heb. ברירה, retrospective designation, i.e., the legal effect resulting from an actual selection or disposal of things previously undefined as to their purpose. It is applied in our case thus: the purpose of a living animal is uncertain, but the subsequent use of the animal will define its purpose retrospectively. Unless we hold that the animal was definitely intended for food on the eve of the Festival it would be forbidden, according to R. Judah's view, to slaughter it and eat it on the Festival.

(12) Also called Samaritans. V. supra p. 5, n. 6. It was doubtful whether the Cutheans were wont to set aside the terumah (v. next note) and other dues or not, and therefore it was necessary when purchasing wine or other produce from them to set aside the various dues. The circumstances of this case are as follows: A man has bought 100 logs (a liquid measure) of wine from the Cutheans and has got no other vessels wherein to set aside the dues; or the case may be that it is the eve of Sabbath and there is not sufficient time wherein to set aside the dues before the Sabbath begins.

(13) An offering to be given to the priest. The amount to be so given 15 not specified in the Torah but it was the general practice to offer two per cent of the produce. V. Glos.

(14) This tithe had to be given to the Levite.

(15) This tithe had to be consumed by the owner in Jerusalem. The Torah permits the redemption of this tithe with money, which money must be spent in Jerusalem; cf. Deut. XIV, 25. In the present case the circumstances do not prevent the owner from redeeming this tithe with some .money that he may possess.

(16) It is assumed that the issue between these Rabbis relates to bererah. It must be remembered that the wine named as dues is not actually separate from the rest, and R. Meir, holding bererah, argues that when this purchaser subsequently sets aside the various dues, either after the Sabbath or when he acquires sufficient vessels, it is deemed that that which is now set aside is identical with that which was originally named, and there is no fear at all that this person has drunk any of the wine which was consecrated as dues. The other Rabbis, including R. Judah, apparently do not hold bererah, and therefore forbid this procedure on the ground that it is not established retrospectively that that which this person now separates as dues is identical with that which was previously named, and it is to be feared that he may have drunk of the wine consecrated as dues.

Talmud - Mas. Chullin 14b

[This case is quite different for] there the reasoning is expressly stated, viz., They said to R. Meir: Do you not agree that if the cask were to break the result would be that this person has from the outset been drinking untithed wine?[1] To this [R. Meir] replied: When it breaks . . . ![2] Rather we can derive it,[3] from the teaching of Ayyo. For Ayyo taught: R. Judah says that a person cannot conditionally reserve for himself two contingencies simultaneously.[4] [He may declare that] if a Sage comes to the east his ‘erub[5] at the east should serve him,[6] and if to the west his ‘erub at the west should serve him; but on no account [may he make such conditions] in the event of two Sages coming one to this side and the other to that side. Now it was argued. Why is it that in the event of two Sages coming one to this side and the other to that side that he may not make conditions? It is, is it not, because bererah is not held?[7] Then even in the event of the Sage coming [to one side only], either to the east or to — the west, he should not be allowed to make conditions. [for the very same reason] that bererah is not held? And R. Johanan had explained that [in the latter case] the Sage had already arrived.[8]

Rather said R. Joseph:[9] It is the view of R. Judah expressed in the matter of ‘Vessels’. For we have learnt: Whatsoever vessels, which may be moved on the Sabbath, fragments thereof[10] may likewise be moved on the Sabbath, provided they can perform aught in the nature of work,[11] e.g., fragments of a kneading trough that can be used for stopping the bung-hole of a cask, or fragments of a glass for covering the mouth of a flask. R. Judah says: Provided they can perform aught in the nature of their former work, e.g., fragments of a kneading trough that can have porridge poured into them, or fragments of a glass that can have oil poured into them. Now according to R. Judah [they are permitted to be moved] only if they can perform aught in the nature of their former work, but not if they can perform aught in the nature of some other work. This, therefore, shows that since they were not set in readiness on the eve of the Sabbath for that particular work, it is forbidden [to use them for such purpose on the Sabbath]; so, too. In the case of our Mishnah, since the animal was not set in readiness on the eve of the Sabbath for food, it is forbidden [to be so used on the Sabbath]. Thereupon Abaye said to him: What a comparison! There we are dealing with something that was originally a vessel and is now a fragment of a vessel, which is a case of nolad[12] and consequently forbidden; whereas here [in our Mishnah] we are dealing with something that was originally [intended for] food[13] and now, too, is [intended for] food, it is therefore the same foodstuff merely more defined.[14] And we have already ascertained that according to R. Judah, where the foodstuff is the same but more defined it is permitted.[15] For we have learnt:[16] One must not press fruit [on the Sabbath] in order to extract the juice, and even if the juice oozed out by itself it is forbidden.[17] R. Judah says. If [the fruits were intended] to be eaten, the juice which oozed out is permitted,[18] but if [they were kept only] for their juice, that which oozed out by itself is forbidden. [R. Joseph replied:[19] But] has it not been stated in connection therewith: Rab Judah said in the name of Samuel that R. Judah accepts the opinion of the Rabbis in the case of baskets of olives and grapes?[20] Now the reason for this is clear, namely, since these fruits are usually kept for pressing one would always be inclined to do so at all times. Similarly it must be said [here in the case of our Mishnah], since an animal is usually kept for slaughtering one would always be inclined to do so.[21] — [Abaye replied]. Indeed, the whole argument is based upon Rab's original statement, is it not? And Rab has stated that R. Judah was in conflict with the Rabbis even in the case of baskets of olives and grapes![22]

Rather said R. Shesheth b. Idi, It is the view of R. Judah expressed in the matter of ‘Lamps’. For it has been taught: A new lamp may be moved [on the Sabbath] from place to place but not an old one;[23] so according to R. Judah. But perhaps we are to understand R. Judah's view only in case of mukzeh on account of nauseousness,[24] but are we to understand that it applies also to cases of mukzeh in consequence of a ritual prohibition? — Yes, indeed, for it has been taught: R. Judah says,

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(1) And it is because of the possibility of such an event happening that R. Judah and his colleagues prohibit this procedure and not because they do not hold bererah.

(2) I.e., R. Meir regards such a possibility too remote to be taken into consideration.

(3) That R. Judah does not hold bererah.

(4) This is explained anon.

(5) According to Sabbath law no person is allowed to go on the Sabbath beyond two thousand cubits from the boundaries of his town. If, however, he desires to go further, he must make an ‘erub, i.e., he deposits on the eve of Sabbath some food, enough for two meals, at a spot at the limit of the prescribed two thousand cubits’ distance. This spot is regarded in law as his temporary abode and he may then go two thousand cubits beyond it. Having, however, gained two thousand cubits in one direction he forfeits his right of movement in any other direction outside the town boundaries. It is obvious that a person can make only one ‘erub and place it in that direction in which he intends to go. It is, however, provided for, in the event of a person being undecided as to which direction he will take on the Sabbath, that he may place a conditional ‘erub in each direction, and on the Sabbath when he makes his decision the ‘erub in the particular direction chosen will be effective.

(6) In order that he be enabled to attend the lecture of the Sage on the Sabbath which will be held at some place more than two thousand cubits beyond the boundaries of his town.

(7) In the case of a conditional ‘erub recourse must be had to the principle of bererah. For when each ‘erub is placed, it is not known which is to be effective; it is only when the decision is made on the Sabbath that a particular ‘erub is determined retrospectively to be the one intended to be effective from the outset.

(8) The latter case therefore does not come within the purview of bererah since it is actually known and determined before the Sabbath which ‘erub is effective by the arrival of the Sage. All that remains is for this person to ascertain this fact. This Baraitha, however, clearly proves from the first clause that R. Judah does not hold bererah; hence the suggestion of R. Abba that the view in the Mishnah corresponds with that of R. Judah in the matter of ‘Readiness’ can no longer be maintained.

(9) In answer to the first question: Where does R. Judah express the view which accords with that of our Mishnah.

(10) Even if the vessel was broken on the Sabbath.

(11) That they might still be regarded as vessels and not as potsherds.

(12) Heb, נולד ‘born, created’. An object which is Produced, and only becomes available for a particular use, on a festival or on the Sabbath, may not be so used on that day.

(13) For it is established according to R. Judah that an animal while living is kept in order to be slaughtered and used as food, for otherwise it would be forbidden to slaughter an animal on the Festival.

(14) Lit., ‘broken off’, separated and distinct. Consequently the animal should be Permitted to be eaten even when slaughtered on the Sabbath.

(15) For it is not a case of nolad.

(16) Shab. 143b.

(17) It is a precautionary measure lest one will press the fruit deliberately for the sake of its juice on the Sabbath, which would constitute a breach of one of the main classes of work prohibited.

(18) R. Judah does not regard the juice which oozed out of the fruit as nolad, i.e., something new issuing from the fruit, but as the fruit itself in a more particular and defined form.

(19) The statement which follows is a counter argument against Abaye, and it further attempts to show that the view of R. Judah in the Mishnah quoted corresponds with the view of our Mishnah.

(20) For these fruits are usually kept for pressing, and it is only with such, other fruits as pomegranates and mulberries that R. Judah adopts a lenient view.

(21) And therefore the animal is forbidden to be eaten on the Sabbath for fear that one might deliberately slaughter it on the Sabbath.

(22) In which case also, R. Judah maintains a lenient view. Accordingly a similar view should be adopted in our Mishnah; so that the original question remains open: Why, according to R. Judah, is the animal forbidden to be eaten on the Sabbath?

(23) A new earthenware lamp before being used for lighting might well be used for other purposes, but an old lamp having already had oil poured into it for lighting would rarely be used for another purpose — it would be nauseating to do so — and so would be regarded in law as mukzeh (set apart, not counted on for use), and consequently forbidden to be moved. This same reasoning applies to our Mishnah: since the animal was not slaughtered before the Sabbath it certainly was not counted on as food for the Sabbath; it is therefore mukzeh and forbidden to be eaten.

(24) As in the case of an old lamp which has been used for lighting. In the case of our Mishnah, however, the animal is mukzeh in consequence of a ritual prohibition.

Talmud - Mas. Chullin 15a

All metal lamps[1] may be moved on the Sabbath, excepting a lamp that has been alight on this Sabbath.[2] But perhaps it might be suggested that in the latter case the law is exceptional since [the lamp] has been put away by the hand of man![3] Rather said R. Ashi: It is the view of R. Judah expressed in the matter of ‘Cooking’. For it has been taught: If a man cooked food on the Sabbath inadvertently, [even] he himself may eat of it,[4] but if deliberately, he may not eat of it:[5] so R. Meir. R. Judah says: If inadvertently, he may eat of it only after the termination of the Sabbath,[6] but if deliberately, he may never eat of it.[7] R. Johanan ha-Sandlar[8] says: If inadvertently, it may be eaten after the termination of the Sabbath by others only but not by himself, but if deliberately, it may never be eaten, neither by him nor by others.[9] But may we not explain [the Mishnah] to be the case of a deliberate act and so in accord with R. Meir's view? — This cannot be, for [in our Mishnah,] Sabbath and the Day of Atonement are stated in juxtaposition, suggesting that as on the Day of Atonement the one who slaughtered may on no account eat of it whether he acted inadvertently or deliberately,[10] so on the Sabbath he may not eat of it whether he acted inadvertently or deliberately.[11] But how can you explain [the Mishnah] to be a case of inadvertence and in accord with R. Judah's view? Does it not read: NOTWITHSTANDING HE IS GUILTY AGAINST HIS OWN LIFE?[12] — This is the interpretation: NOTWITHSTANDING HE IS GUILTY AGAINST HIS OWN LIFE had he acted deliberately, since in our case he has acted inadvertently, the slaughtering is valid. But may we not explain the Mishnah in accordance with R. Johanan ha-Sandlar who holds the view that whether he acted inadvertently or deliberately he may never eat of it? — Nay, for R. Johanan ha-Sandlar discriminates between him and others after the termination of the Sabbath, whereas the Tanna of our Mishnah states: THE SLAUGHTERING IS VALID, without discriminating between him and others.

A Tanna recited before Rab: If a man cooked food on the Sabbath inadvertently, even he himself may eat of it, but if deliberately he may not eat of it. Rab thereupon bade him to keep silent. Now why did Rab silence him? Was it because Rab accepts the view of R. Judah and the Tanna was reciting the teaching in accordance with R. Meir's view? [Is he then justified,] because he himself accepts R. Judah's view, in bidding one who recites according to R. Meir's view to keep silent? Moreover, is it true to say that Rab accepts R. Judah's view? Has not R. Hanan b. Ammi reported that whenever Rab laid down the rule to his disciples he would rule according to R. Meir's view, but whenever he lectured at the public session he would expound the law according to R. Judah's view because of the ignorant masses present?[13] And if you will say that this Tanna was reciting the teaching in the presence of Rab at the public Session?[14] — Would then the public pay attention to the Tanna? They would pay attention to the Amora![15] — R. Nahman b. Isaac answered that the Tanna recited before Rab the case of slaughtering, thus: If a man slaughtered on the Sabbath inadvertently, he himself may eat of it, but if deliberately, he may not eat of it. Whereupon [Rab] said to him, You are inclined, no doubt, to accept R. Meir's view; but even so, R. Meir adopts a lenient view only in the case of cooking, inasmuch as the food could indeed be chewed raw;[16] but not in case of slaughtering, since the animal could not be eaten raw.[17] But then our Mishnah is a case of slaughtering and [it has been remarked above that] R. Huna said that Hiyya b. Rab in an exposition [on the Mishnah] in the name of Rab said that the animal was nevertheless forbidden to be eaten that same day, and furthermore that the colleagues thereupon suggested that the view expressed was that of R. Judah. Now does it not follow, therefore, that R. Meir would permit it to be eaten [that same day]?[18] — R. Meir only permits it in such circumstances

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(1) Even old ones.

(2) I.e., when the Sabbath began this lamp was alight, and so it immediately became mukzeh in consequence of the law prohibiting the moving of a lighted lamp for fear of extinguishing it, and it remains mukzeh the whole of the Sabbath.

(3) The mukzeh in this case is brought about by the definite act of man, that is, when he lights the lamp; whereas in our Mishnah the mukzeh comes of itself with the commencement of the Sabbath. In this latter case it is suggested that the mukzeh is not so strict, and if by some means it comes about that the animal is fit for eating it should be permitted.

(4) Immediately on the same day.

(5) Nor anybody else on the Sabbath.

(6) He and also others, but only after the lapse of such time as would be taken to cook the food, so that no benefit be derived from cooking on the Sabbath.

(7) Though others may eat of it after the Sabbath.

(8) The sandal maker; or, the Alexandrian. He was a disciple of R. Akiba.

(9) It is suggested that in our Mishnah the slaughtering was done inadvertently, nevertheless the animal is permitted to be eaten only after the Sabbath, thus being entirely in agreement with R. Judah's view.

(10) For it is a day of fasting.

(11) According to R. Meir, however, if he acted inadvertently he may eat of it immediately on the Sabbath.

(12) The death penalty is incurred only when one acts deliberately.

(13) Because of these, Rab would teach the stricter view, i.e., R. Judah's, merely as a precautionary measure.

(14) And for this reason Rab silenced him.

(15) Sc. Rab's Amora. The official speaker attached to a school or synagogue who expounded aloud to the public what the Rabbi said to him in brief and in a low voice.

(16) So that not only is there no infringement of the Sabbath laws, since the cooking was done inadvertently, but there is not even the prohibition of mukzeh since whilst raw it was also fit for food.

(17) I.e., whilst alive; so that it would be prohibited on the ground of mukzeh.

(18) In contradiction to what has just been stated in the name of Rab as to the view of R. Meir.

Talmud - Mas. Chullin 15b

as when there was an invalid in the house on the eve of the Sabbath.[1] If that be so, then why does R. Judah forbid it? — It must be the case of an invalid who recovered [on the Sabbath].[2]

The above view[3] agrees with the statement of R. Aha b. Adda in the name of Rab, (others say, with the statement of R. Isaac b. Adda in the name of Rab), viz., If a man slaughtered [an animal] on the Sabbath for an invalid,[4] it may not be eaten by a healthy person, but if a man cooked food on the Sabbath for an invalid, it may be eaten by a healthy person. What is the reason? — In the latter case the food could be eaten raw, in the former the animal could not be eaten raw.[5]

R. Papa[6] stated: In certain cases even when a man-slaughtered [for an invalid on the Sabbath], it may be eaten [by a healthy person], e.g., where the invalid was ill already on the eve of the Sabbath.[7] And in certain cases even when a man cooked [for one who fell ill on the Sabbath], it may not be eaten [by a healthy person], e.g., where a pumpkin was plucked [out of the ground on the Sabbath and cooked].[8]

R. Dimi of Nehardea said: The law is that where a man slaughtered on the Sabbath for an invalid,[9] [the meat] may be eaten raw by a healthy person. What is the reason? — Inasmuch as one cannot have even an olive's bulk of meat without slaughtering [the animal], it is clear that the slaughtering was done for the sake of the invalid. But where a man cooked on the Sabbath for an invalid,[9] it [the food] may not be eaten by a healthy person, for [otherwise] it is to be feared lest a greater amount will be cooked on account of the healthy person.

MISHNAH. IF ONE SLAUGHTERED WITH [THE SMOOTH EDGE OF] A HAND SICKLE,[10] WITH A FLINT OR WITH A REED, THE SLAUGHTERING IS VALID. ALL MAY SLAUGHTER; AT ALL TIMES ONE MAY SLAUGHTER; WITH ANY IMPLEMENT ONE MAY SLAUGHTER, EXCEPTING A SCYTHE,[11] A SAW, TEETH[12] OR A FINGER NAIL,[13] SINCE THESE STRANGLE.[14]

GEMARA. The expression ‘IF ONE SLAUGHTERED’ implies that the slaughtering is valid only after the act but it does not imply a right in the first instance. Now this view is reasonable in the case of a hand sickle, for it is always to be feared lest one will slaughter with the other edge;[15] but is it right to say that one may not slaughter with a flint or reed in the first instance? Is there not an obvious contradiction from the following [Baraitha]: With any implement one may slaughter.[16] with a flint, with glass or with a reed haulm? — It is no contradiction, for the latter statement refers to [a reed or flint] that is detached [from the ground], whereas our Mishnah refers to [a reed or flint] that is attached [to the ground]. For R. Kahana reported: If one slaughtered with an implement that was attached to the ground. Rabbi declares the slaughtering invalid; but R. Hiyya declares it valid. And even R. Hiyya declares it valid only after the act, but there is no right to do so in the first instance.[17]

Now what is the position? [Our Mishnah is] in agreement with R. Hiyya and the slaughtering is valid only after the act! Then what of the following which was taught: With any implement one may slaughter,[16] whether it be detached or attached, whether the knife be on top and the throat below, or the knife below and the throat on top? Who can be the author [of this Baraitha]? It can be neither Rabbi nor R. Hiyya: If R. Hiyya, the slaughtering is valid only after the act but not in the first instance; if Rabbi, such slaughtering is invalid even after the act! — In truth, the author is R. Hiyya and he is [indeed] of the opinion that such[18] slaughtering is permitted even in the first instance; and as to the reason why the dispute is reported with regard to the validity of such slaughtering after the act it is in order to demonstrate the [strong] view of Rabbis.[19] If this be so, what of our Mishnah which reads: IF ONE SLAUGHTERED, implying that it is valid only after the act but not a right in the first instance, who can be the author thereof? It can be neither Rabbi nor R. Hiyya; if R. Hiyya, the slaughtering should be permitted even in the first instance; if Rabbi, it is always invalid even after the act! — In truth, the author [of the Baraitha] is R. Hiyya who holds that such slaughtering is permitted even in the first instance; and as to our Mishnah, which reads: IF ONE SLAUGHTERED, the author of it is Rabbi. But is not Rabbi then contradicting himself?[20] — There is no contradiction; for in the one case[21] the implement had always been so attached [by nature], whereas in the other case[22] the implement was first loose and subsequently attached. Whence do you know that a distinction is to be drawn between that which was always attached and that which was first loose and subsequently attached? — From the following [Baraitha] which was taught: If one slaughtered with a wheel,[23] the slaughtering is valid; with an implement that was attached to the ground, the slaughtering is valid; if one inserted a knife into a wall and slaughtered, [moving the throat of the animal to and fro across the knife], the slaughtering is valid; if there was a sharp flint jutting from the wall, or a reed growing of itself, and one slaughtered therewith, the slaughtering is invalid.

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(1) In the case of an invalid an animal, even alive, is always regarded as set aside for food, for in such circumstances it is permitted to slaughter it on the Sabbath, in accordance with the Rabbinic dictum: the duty of saving life supersedes the Sabbath laws.

(2) And the animal was slaughtered after the invalid had recovered. Mukzeh of course does not apply, since on the eve of Sabbath the animal was set in readiness for food for the invalid. The difference of opinion between R. Meir and R. Judah is, therefore, only with regard to the breaking of the Sabbath by the slaughterer inadvertently; according to the latter he is to be penalized for his inadvertent act, whilst according to the former he is not.

(3) Sc. the explanation by R. Nahman b. Isaac as to why Rab bade the Tanna to keep silent, which introduced the distinction between foodstuffs which can be eaten raw and those which cannot.

(4) Who fell ill on this Sabbath.

(5) For although there is no infringement of the Sabbath laws, since the work was done for the invalid, there is, however, in the case of slaughtering the prohibition of mukzeh involved.

(6) MS.M. Raba.

(7) There is here neither the profanation of the Sabbath, since the slaughtering was for the invalid, nor mukzeh, since the invalid was already ill before the Sabbath.

(8) It is forbidden to be eaten because of mukzeh, since on the eve of the Sabbath the pumpkin was still attached to the ground. Cf. however Tosaf ad loc.

(9) Who was ill already on the eve of the Sabbath.

(10) An implement with two cutting edges, one being smooth and the other serrated.

(11) An implement with indentations.

(12) Attached to the jaw bone of a dead animal.

(13) Attached to the person.

(14) These implements do not cut but tear the organs of the throat and consequently strangle the animal. In the case of the finger-nail it is prohibited because it is attached to the person. V. infra 16a.

(15) Which is serrated and so invalidates the slaughtering.

(16) Even in the first instance.

(17) Accordingly our Mishnah is in agreement with R. Hiyya's view.

(18) I.e., slaughtering with an implement which is attached to the ground.

(19) That the slaughtering is invalid even after the act.

(20) In the Mishnah Rabbi maintains that slaughtering with an implement attached to the ground is valid after the act, yet in dispute with R. Hiyya he declares such slaughtering absolutely invalid.

(21) In dispute with R. Hiyya, where Rabbi declares the slaughtering invalid.

(22) In our Mishnah, where Rabbi declares the slaughtering valid after the act.

(23) A knife was fixed to the wheel so that it cut the throat of the animal whilst the wheel revolved.

Talmud - Mas. Chullin 16a

Now is there not a contradiction here?[1] — This proves that there is a distinction between that which was always attached and that which was first loose and subsequently attached.[2] This is proved.

The Master said: ‘If one slaughtered with a wheel, the slaughtering is valid’. But was it not taught [in another Baraitha] that the slaughtering is invalid? — It is no contradiction, for the former [Baraitha] deals with a potter's wheel,[3] whereas the latter with a wheel turned by water.[4] If you wish, however, I can say that in both [Baraithas] the wheel was turned by water, and yet there is no contradiction, for in the former case it was turned by the first onrush[5] [of the water], whereas in the latter case it was turned by the subsequent onrush [of the water]. And this [distinction] is in agreement with R. Papa's statement, who said that if a man bound his neighbour and turned on to him a jet of water so that the victim died, he is culpable. What is the reason? — It [the water jet] is, as it were, his arrow wherewith the victim has been attacked. But this is [the law] only [in the case] where [the victim was killed] by the first onrush[6] of the water, but not [where he was] killed by the subsequent onrush[7] of the water, for then the act was but the indirect cause of the death.

Rab was once sitting behind R. Hiyya whilst R. Hiyya was before Rabbi, when Rabbi, in session, expounded the following: Whence is it derived that the slaughtering must be performed with a detached implement? From this verse: And he took the knife to slay.[8] Rab then asked R. Hiyya: What can he mean? — He replied: It is just idle talk![9] But does he not adduce a verse? — The verse merely serves to show the enthusiasm of Abraham.[10]

Raba stated: I have no doubt at all that in the law concerning idolatry, an object which was first loose and subsequently attached to the ground is regarded as detached. For Rab[11] has ruled that if a man worshipped his own house,[12] it thereby becomes forbidden [to be used for any purpose]. Now if you were to hold that such an object is to be regarded as attached, wherefore is the house forbidden? Is it not written, [Ye shall surely destroy. . .] their gods upon the mountains,[13] but not the mountains which are themselves their gods?[14] In the law concerning the susceptibility of plants to become unclean,[15] it is the subject of dispute between Tannaim.[16] For we have learnt:[17] If one inverted a dish and placed it upon a wall in order that the dish might be washed [by the rainwater, and the rainwater subsequently ran off the dish on to foodstuffs], the rule of ‘if water be put’ applies.[18] If, however, it was placed in order that the wall might not be damaged, [and the rainwater ran off the dish on to the foodstuffs], the rule of ‘if water be put’ does not apply.[19] Now is there not an inconsistency here? The first clause reads: ‘If. . . in order that the dish might be washed, the rule of "if water be put" applies’. It follows, however, that if one placed it in order that the wall might be washed, [and the rainwater subsequently fell on the foodstuffs], the rule of ‘if water be put’ does not apply. Yet the second clause reads: ‘If it was placed in order that the wall might not be damaged, the rule of "if water be put" does not apply’. It follows, however, that if it was placed in order that the wall might be washed [and the rainwater subsequently fell on the foodstuffs], the rule of ‘If water be put’ applies. — R. Eleazar replied. You must break up [this Mishnah], for he who taught the first clause could not have taught the second![20] R. Papa, however, answered: Indeed, the whole was taught by one Tanna, but the first clause deals with the wall of a cave,[21] whereas the second clause deals with a built-up wall. Accordingly, the Mishnah is to be read thus: If one inverted a dish and placed it upon a wall in order that the dish might be washed, the rule of ‘if water be put’ applies; from which it follows that if one placed it in order that the wall might be washed, the rule of ‘if water be put’ does not apply. Now this is stated only in the case of a cave wall; but in the case of a built-up wall the law is: if one placed it in order that the wall might not be damaged, the rule of ‘if water be put’ does not apply; from which it follows that if one placed it in order that the wall might be washed, the rule of ‘if water be put’ applies.

Raba now raised the question:

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(1) Between the second and last statements of this Baraitha.

(2) In the second clause the implement was first loose and subsequently attached to the ground, in which case the slaughtering is valid, whilst in the last clause it was always so attached by nature, and so the slaughtering is invalid.

(3) A wheel turned by the hand of the potter, in which case the slaughtering is valid. It is suggested, however, that even in the case of a potter's wheel the slaughtering is valid only if the throat was cut by the first revolution of the wheel. The subsequent revolutions are not directly referable to the human act. V. comment of R. Jonah on Ber.; end of chap. VIII.

(4) The slaughtering in this case is invalid for it is essential that there should be man power in the act of slaughtering. V. infra 31a and Deut. XXVII, 7.

(5) The water having been released by man, the slaughtering of the animal is directly referable to the act of man and is therefore valid.

(6) In this case the victim was placed close to the water outlet and the murderer then released the water jet, which in its first spurt inundated the victim.

(7) Here the victim was placed some distance away from the water outlet, so that the act of releasing the water jet was not the immediate and direct cause of death, for death came about only later on when the water actually reached the victim.

(8) Gen. XXII, 10. This verse certainly suggests that the knife used was a detached implement.

(9) Lit., ‘a vav carved on wood’, i.e., something unintelligible and indistinct like a line drawn on a rough piece of wood. He meant to say that Rabbi was not to be taken seriously, for R. Hiyya is of the opinion that it is not essential for the slaughtering to be performed with a detached implement.

(10) Abraham took a knife with him merely because he was in doubt whether he would find on the holy mountain a suitable implement wherewith to slaughter his sacrifice.

(11) So Bah.; cur. ed: ‘A master said’.

(12) A house consists of materials originally loose which were subsequently built up and attached to the ground.

(13) Deut. XII, 2.

(14) This verse proves that whatever is attached cannot become prohibited, even if it is itself an object of idolatrous worship.

(15) From the verse in Lev. XI, 38: If water be put upon seed, and aught of their carcass fill thereon, it is unclean unto you, is derived the rule that produce or foodstuffs, in order to be rendered capable of becoming unclean, must first be made wet by water or other specified liquids (v. Maksh. VI, 4). So that the rule should apply, that is, that the produce should become susceptible to uncleanness, it is necessary that: (a) the water should have been applied purposely, or (b) the presence of the water on the foodstuff should have afforded pleasure or should have been acceptable at some time to the owner, or (c) where the water on the foodstuff was not acceptable, the presence of this same water on some other object should have previously afforded pleasure, provided that such object was loose or detached.

(16) Whether what was first loose and subsequently attached is to be regarded as attached or not. V. R. Eleazar's view infra.

(17) Maksh. IV, 3.

(18) This case would come under rule (c) in note 5 supra.

(19) Because here the rainwater is in no wise acceptable; cf. rule (b).

(20) I.e., this Mishnah contains the different opinions of two Tannaim.

(21) I.e., a wall so formed by nature, as opposed to a wall built up from loose materials.

Talmud - Mas. Chullin 16b

In the law concerning slaughtering, how are we to regard an implement which was first loose and subsequently attached? Come and hear: If there was a sharp stone jutting from the wall, or a reed growing of itself, and one slaughtered therewith, the slaughtering is invalid![1] — It is dealing here with the wall of a cave. Indeed the context proves this, for it puts ‘wall’ in juxtaposition with ‘a reed growing of itself’.[2] This is proved.

Come and hear: If one inserted a knife into a wall and slaughtered, the slaughtering is valid! — This case is different because one would not allow the knife to remain fixed [to the wall].[3] Come and hear: [If one slaughtered] with an implement that was attached to the ground, the slaughtering is valid![4] — perhaps this clause is defined by the subsequent clause [of this Baraitha, thus]: What is meant by ‘an implement that was attached’? A knife, which clearly would not remain fixed permanently.[5]

The Master said: ‘If one inserted a knife into a wall and slaughtered, the slaughtering is valid’. Said R. ‘Anan in the name of Samuel: This is the law provided the knife was on top and the throat of the animal below.[6] If, however, the knife was below and the throat of the animal on top, [the slaughtering is invalid], for it is to be feared that the head might press down heavily upon the knife.[7] But does not the aforementioned[8] [Baraitha] read: ‘Whether the knife be below and the throat on top or the knife on top and the throat below’? — R. Zebid answered: The cases are to be interpreted each in its own way, thus: ‘Whether the knife be below and the throat on top’, where [the knife is] loose;[9] ‘or the knife on top and the throat below’, where [the knife is] attached. R. Papa answered, [The Baraitha deals] with [the slaughtering of] a bird which is of light weight.[10]

R. Hisda stated in the name of R. Isaac, (others report that it was taught in a Baraitha) viz., Five rules have been laid down in connection with a reed haulm:[11] (i) One must not slaughter with it, (ii) One must not perform circumcision with it. (iii) One must not cut flesh with it, (iv) One must not pick the teeth with it. (v) One must not cleanse oneself with it.

‘One must not slaughter with it’. But has it not been taught: One may slaughter with any implement, with flint, with glass or with a reed haulm? — R. Papa answered: [This Baraitha deals] with simuna of the marshes.[12]

‘One must not cut flesh with it’. R. Papa used to cut with it the entrails of fish, for they are transparent.[13] Rabbah son of R. Huna used to cut with it the flesh of chicken, for it is tender.[14]

‘One must not cleanse oneself with it’. But is it not indeed [prohibited to do so] because of what a Master said viz., Whosoever cleanses himself [after an evacuation] with a material that is inflammable tears away the ligaments [of the anus]?[15] R. Papa answered: We must say [that the Baraitha deals with] the cleansing of the opening of a wound.

ALL MAY SLAUGHTER; AND AT ALL TIMES ONE MAY SLAUGHTER. ALL MAY SLAUGHTER, that is to say, everything must be slaughtered,[16] including birds.[17]

AT ALL TIMES ONE MAY SLAUGHTER. Who is the Tanna who holds this view? Rabbah replied: It is R. Ishmael. For it has been taught: [It is written] When the Lord thy God shall enlarge thy border, as He hath promised thee, and thou shalt say: ‘I will eat flesh’ . . .[18] This verse, says R. Ishmael, is stated specially in order to permit the Israelites to eat flesh at will.[19] For in the beginning they were forbidden to eat flesh at will,[20] but on entering the land of Israel they were permitted. But, now they are exiled, it might be said that they should revert to the former restriction; the Mishnah therefore teaches us: AT ALL TIMES ONE MAY SLAUGHTER. To this R. Joseph demurred, [In the first place,] why does the Mishnah read: AT ALL TIMES ONE MAY SLAUGHTER? It should read, ‘At all times one may slaughter and eat the flesh’![21] And in the second place, why were they forbidden in the beginning? [Surely] because they were near to the Sanctuary.[22] And why were they permitted subsequently? [Similarly] because they were far away from the Sanctuary.

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(1) It is suggested now that the stone was at some time inserted into the wall; nevertheless the slaughtering is said to be invalid, thus proving that such an implement is to be regarded as attached.

(2) Indicating that in each case it was so attached by nature.

(3) Lit., 'he does not abandon it'. It was attempted to prove from this clause that whatever was loose and subsequently attached is regarded as loose; but it fails because it deals only with the case of a knife, which could not have been intended to be attached permanently. Other things, however, which could be thought of as attached permanently might be regarded as attached.

(4) This clause deals with an implement which was loose but was subsequently attached, v. supra p. 75, n.6.

(5) The slaughtering is therefore valid. The question put by Raba remains unanswered.

(6) And the slaughterer moved the head to and fro across the knife.

(7) This would invalidate the slaughtering; v. p. 37, n. 8.

(8) Supra p. 74.

(9) In this case the slaughterer holds the knife beneath the throat of the animal and cuts upwards.

(10) There is, therefore, no fear of the head pressing heavily on to the knife. According to R. Papa, both cases of the Baraitha deal with a knife which is attached.

(11) In all the following cases there is the danger of splinters breaking away from the reed and penetrating into the matter which is being cut, causing thereby damage or hurt. In the case of slaughtering it is feared that a splinter will perforate the gullet of the animal, thus invalidating the slaughtering.

(12) A species of reed which is smooth and hard. With such reeds there is no fear of splinters breaking off.

(13) And any splinter that might be lodged in them would easily be seen.

(14) So that there is no fear of splinters, for no pressure is necessary in cutting the flesh of a chicken.

(15) V. Shab, 81a. The teacher no doubt had in mind such materials as wood or twigs which if used for cleansing oneself might easily cause the injury mentioned.

(16) The word הכל 'all, everything', might just as well be taken as the object of the sentence, thus: One must slaughter everything.

(17) For in no passage in the Torah is shechitah ever mentioned in connection with birds. There is even the view that according to Biblical law birds need not be slaughtered at all. V. infra 27b.

(18) Deut. XII, 20.

(19) Lit., 'of desire'. I.e., on entering the Holy Land the Israelites would be permitted to slaughter animals at will and eat the flesh without having recourse to sacrifices.

(20) When the Israelites were in the wilderness they were not permitted to slaughter and eat flesh at will. The animal had first to be offered up as a sacrifice, v. Lev. XVII, 3 and 4.

(21) Seeing that the main point of the teaching is the permission to eat flesh at will.

(22) Lit., 'tabernacle'. It was therefore within reach of anyone who desired to eat meat to bring the animal as a sacrifice and to receive the meat for his own use after the blood and the fat had been offered upon the altar.

Then is there not all the more reason [for them to be permitted] now that they are even further away from the Sanctuary![1]

Rather said R. Joseph: The Tanna of our Mishnah is R. Akiba. For it has been taught: [It is written] If the place which the Lord thy God will choose to put his name there be too far from thee, then thou shalt slaughter of thy herd and of thy flock.[2] This verse, says R. Akiba, is stated specially in order to prohibit the flesh of a stabbed animal. For in the beginning the Israelites were permitted to eat the flesh of a stabbed animal,[3] but on entering the land of Israel they were forbidden. But now that they are in exile it might be said that they should revert to their former license, the Mishnah therefore teaches us: AT ALL TIMES ONE MAY SLAUGHTER.[4]

Wherein do they differ? — R. Akiba maintains that at no time was it ever forbidden to eat flesh at will. R. Ishmael maintains that at no time was it ever permitted to eat the flesh of a stabbed animal. Now according to R. Ishmael the verse: And he shall slaughter the bullock,[5] is of significance; but according to R. Akiba what is the purpose of 'And he shall slaughter'?[6] [In the case of] consecrated animals, the law is different. Again, according to R. Ishmael the verse. Shall flocks and herds be slaughtered for them?[7] is of significance; but according to R. Akiba why does the verse read 'be slaughtered for them'? It should rather read 'be stabbed for them'! — The stabbing of animals constituted their slaughtering. Again, according to R. Ishmael we can understand what we learnt: If a man slaughtered [a wild animal or a bird] and it became nebelah[8] under his hand, or if he stabbed it, or he tore away [the organs of the throat], there is no obligation to cover the blood.[9] But according to R. Akiba, wherefore is there no obligation to cover the blood?[10] — Since stabbing became prohibited it is regarded as an unlawful [slaughtering].[11] Now according to R. Akiba, who maintains that at no time was it ever forbidden to eat flesh at will, the significance of the verse. Howbeit as the gazelle and as the hart is eaten, so shalt thou eat thereof; [the unclean and the clean may eat thereof alike].[12] is evident; but according to R. Ishmael [the verse is incomprehensible], for was the gazelle or the hart ever permitted to be eaten at all?[13] — When the Divine Law prohibited [the eating of flesh at will it was] only the flesh of an animal that was fit for a sacrifice but not [the flesh of] a wild animal that was not fit for a sacrifice.

R. Jeremiah raised the following question: What was the law regarding portions of meat of stabbed animals that were brought into the land of Israel by the Israelites?[14] But then, at what period could this Question have arisen? Should you say during the seven years of conquest? Behold! They were permitted to eat unclean things, for it is written: And houses full of all good things,[15] and R. Jeremiah b. Abba stated ill the name of Rab that even bacon was permitted! Can there then be any question regarding the flesh of a stabbed animal? — The question could have arisen only after this period.[16] If you wish, however, I can say that the question refers to the seven years' period of conquest, and it would have arisen, [since it might be argued] that when permission was granted it was only with regard to the spoil taken from the idolaters but not their own [stabbed meat]! The question remains unanswered.

Raba remarked: You have interpreted the clause: ALL MAY SLAUGHTER, and so too the clause: AT ALL TIMES ONE MAY SLAUGHTER, but how do you interpret the final clause: WITH ANY IMPLEMENT ONE MAY SLAUGHTER? Should you say it means: whether with a flint or a glass or a reed haulm, [there is this difficulty]. Behold it is in juxtaposition with the other clauses [in our Mishnah]; if their the other clauses deal with the subjects that may slaughter,[17] this also must deal with the subjects that may slaughter; and if the others deal with the subjects that are to be slaughtered, this also must deal with the subjects that are to be slaughtered! — Rather said Raba [interpret the Mishnah thus]: ALL MAY SLAUGHTER [is stated twice],[18] one to include a Cuthean and the other to include an Israelite apostate. AT ALL TIMES ONE MAY SLAUGHTER, whether by day or by night, whether on the roof top or on the top of a ship. WITH ANY IMPLEMENT ONE MAY SLAUGHTER, with a flint or a glass or a reed haulm.

EXCEPTING A SCYTHE AND A SAW. The father of Samuel made a notch in a knife and sent it[19] [up to palestine], and also on another occasion he made a notch and sent it up; whereupon the authorities sent back word to him: We have been taught in the Mishnah: A SAW.[20]

Our Rabbis taught:

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(1) Consequently it is unnecessary for the Tanna of our Mishnah to teach us that it is permitted to slaughter at will.

(2) Deut. XII, 21.

(3) נחירה, generally denoting stabbing at the throat. In the wilderness the Israelites were permitted to eat the flesh of an animal no matter how it was killed, because the injunction to slaughter according to ritual was not intended to be effective until they had entered the land of Israel.

(4) I.e., for all times in the future one must slaughter in order to eat meat.

(5) Lev. I, 5. Apparently the Israelites in the wilderness were commanded to slaughter according to ritual.

(6) This verse was apparently meaningless to the Israelites in the wilderness since according to R. Akiba they were permitted to kill an animal in any manner whatsoever.

(7) Num. XI, 22.

(8) I.e., became ritually unfit by unskillful slaughtering. e.g., by pausing or pressing in the act of slaughtering. V. Glos.

(9) From Lev. XVII, 13, is derived the law that the obligation to cover the blood applies only to such slaughtering which permits the flesh to be eaten. V. infra 85a.

(10) Inasmuch as stabbing was the ordinary form of killing an animal practised by the Israelites in the wilderness, and the law for covering the blood was made known to the Israelites also in the wilderness, it is difficult to understand, according to R. Akiba, why there should be exemption from covering the blood when such a mode of slaughtering is adopted nowadays.

(11) Therefore there is no need to cover the blood in such cases.

(12) Deut. XII, 22. The meaning of the verse is: Just as now, in the wilderness, it is permitted to eat the gazelle and the hart even in a state of uncleanness, so will it be the practice with all unconsecrated animals on entering the land of Israel.

(13) For according to R. Ishmael the Israelites in the wilderness were permitted to eat only sacrificial meat, and since the gazelle and the hart were not permitted to be offered as sacrifices, it follows that these animals could never have been eaten. The comparison therefore in the verse is meaningless.

(14) This question is based on the view of R. Akiba and is purely an academic question as to what was the position at that particular period in history. Cf. however, comment of Asheri a.l.

(15) Deut. VI, 11.

(16) I.e., during the following seven years when the land was being divided among the tribes, and during which period the concessions of the Torah did not obtain.

(17) I.e., rules as to who may slaughter and with what implements. The first and second clauses, however, do not deal with such matters. These two clauses deal rather with that which has to be slaughtered. V. supra 16b.

(18) In the Mishnah supra 15b and in the opening Mishnah of this tractate supra 21.

(19) To enquire from the authorities in Palestine on the law concerning a notch in the knife.

(20) I.e., only such notches like the teeth of a saw render the knife unfit for slaughtering.

Talmud - Mas. Chullin 17b

A knife with many notches must be regarded as a saw; with but one notch, if it is ogereth,[1] it may not be used; if it is mesakseketh,[2] it may be used. What is meant by ogereth and what is meant by mesakseketh? — Ogereth, said R. Eleazar, is a notch with two edges; mesakseketh, a notch with but one edge. Why is it that if the notch has two edges [the knife is invalid]? [presumably] because the first edge will cut [the skin and flesh] and the second edge will tear [the organs]. Then, even if the notch has but one edge it should likewise be said. The sharp edge of the knife will cut [the skin and flesh] and the notch will tear [the organs]! — [The reference is to a notch] that is at the top of the knife.[3] But even so, when the knife is moved forward [the edge of the notch] cuts [the skin and flesh] and when it is drawn back it tears [the organs]! — [The reference is where the slaughterer] moved [the knife] forward but did not draw it back.[4]

Raba stated: There are three rules with regard to the knife: (i) if it has an ogereth, one may not slaughter with it, and if one did the slaughtering is invalid; (ii) if it has a mesakseketh, one may not slaughter with it in the first instance, but if one did the slaughtering is valid; (iii) if its edge is uneven,[5] one may slaughter with it even in the first instance. R. Huna the son of R. Nehemiah asked R. Ashi: Did you teach us in the name of Raba that a knife with a mesakseketh is unfit for use? Is it not well known that Raba said: A knife with a mesakseketh is fit for use? — It is no contradiction, for in the one case [the slaughterer] moved the knife forward and backward[6] but in the other case he moved the knife forward but not backward.[7] R. Aha the son of R. Awia asked R. Ashi: What if the edge of the knife resembles an awn?[8] — He replied: Would that we were given such meat to eat![9]

R. Hisda said: Whence do we learn from Scripture that it is necessary to examine the slaughtering knife? From the verse: And slaughter with this and eat.[10] But is it not obviously necessary so to do, seeing that if the gullet is perforated the animal is trefah?[11] — We mean: [Whence do we learn from Scripture that] it is essential that the knife be examined by a Sage?[12] But surely has not R. Johanan said that the ruling that one must present the knife to a Sage for examination was laid down only out of respect to the Sage? — The rule is actually Rabbinic; and the verse adduced is merely a support.

In the West[13] the knife is usually examined by the light of the sun.[14] In Nehardea it is usually examined with water.[15] R. Shesheth used to examine it with the tip of his tongue. R. Aha b. Jacob used to examine it with a hair. In Sura it was said: Seeing that it is to cut flesh it must be examined with flesh.[16] R. Papa ruled: It must be examined with the flesh of the finger and with the fingernail, and the examination must be of the three edges [of the knife].[17] Rabina said to R. Ashi: R. Sama the son of R. Mesharsheya told us in your name that you said to him in the name of Raba that it must be examined with the flesh and the nail on the three edges. R. Ashi replied: I said: ‘With the flesh and the nail’, but not, ‘on the three edges’. Another version reads: R. Ashi replied: I said: ‘With the flesh and the nail on the three edges’, but not ‘in the name of Raba’.

Rabina and R. Aha the son of Raba were sitting before R. Ashi when a knife was brought to R. Ashi for examination. He thereupon asked R. Aha to examine it, who did so with the flesh of his finger and with his finger nail, on the three edges of the knife. ‘Well done!’ said R. Ashi. R. Kahana held a similar view.

R. Yemar said: It must be examined with the nail and the flesh but not on the three edges. For did not R. Zera say in the name of Samuel[18] that if one made a knife red-hot and slaughtered with it the slaughtering is valid, because the effect of the sharp edge precedes the effect of the heat; and the question was raised as to the sides of the knife, and the answer was given that the cut opens wide? Then in this case, too, we should also say that the cut opens wide.[19]

R. Huna son of R. Kattina said in the name of R. Simeon b. Lakish. In three matters the law regards a notch as of consequence: (i) A notch in the bone of the paschal lamb;[20] (ii) A notch in the ear of a male firstling;[21] (iii) A notch in any organ which, if blemished, invalidates a sacrifice.[22] R. Hisda adds: (iv) Also a notch in the slaughtering knife. And [why does not] the other [teacher include this last]? — Because he does not deal with unconsecrated matters. In all these cases the notch is measured by the standard of a notch which renders the altar unfit.

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(1) Heb. אוגרת from the root אגר, ‘to gather, to take in’, i.e., to catch or intercept the finger-nail as it passes along the edge of the knife.

(2) Heb. מסכסכת; so MS.M., cur. edd. מסוכסכת; from the root סכסך, ‘to entangle’.

(3) So that the part of the knife which has this one-edged notch will merely cut the skin and perhaps also the flesh, but the organs will be properly cut by the rest of the knife which is not notched.

(4) There is therefore no possibility of the notch having come into contact with the organs at all.

(5) Lit., ‘it rises and descends’.

(6) The slaughtering is then invalid.

(7) In which case the slaughtering is valid.

(8) I.e., the edge of the knife is rough, though without notches. According to the Alfasi: the knife is so sharp that it resembles an awn.

(9) I.e., of an animal slaughtered with such a knife.

(10) I Sam. XIV, 34. With this, i.e., a knife prepared and examined according to law.

(11) And a knife with a notch will most certainly perforate and tear the gullet.

(12) And this apparently is derived from the verse quoted.

(13) I.e., Palestine.

(14) In order to detect any notches; either by holding up the knife to the light of the sun or by watching the shadow of the knife on the ground.

(15) Either by passing the sharp edge of the knife across a smooth surface of water, the presence of a notch being detected by the ripple caused; or by allowing a drop of water to trickle down the edge of the knife, when any notch would impede the course of this drop of water.

(16) I.e., with the soft flesh of the finger or, as R. Shesheth did, with the tip of the tongue.

(17) I.e., the sharp edge, and also the sides of this edge must be examined.

(18) V. supra, 8a. (p. 32) and notes.

(19) It is therefore unnecessary to examine the side edges of the knife, for these cannot come into contact with the flesh since the cut opens wide apart.

(20) A notch or cut made in the bone of the paschal lamb is a transgression of the law: Neither shall ye break a bone thereof. Ex. XII, 46.

(21) This is regarded as a blemish and renders the animal unfit for a sacrifice. Consequently this firstling may be slaughtered and used for ordinary purposes. The same would apply to a notch in any other organ besides the ear (v. Bek. 36a).

(22) This refers to such blemishes which are only to be found in female animals and which are not included in class (ii). E.g., if the female genital organs were defective.

Talmud - Mas. Chullin 18a

And what is the size of a notch which renders the altar unfit?[1] — Such a notch as would catch the finger-nail [when passed over it].

An objection was raised. It was taught: What size of notch renders the altar unfit? R. Simeon b. Yohai says: The size of a handbreadth; R. Eliezer b. Jacob says: The size of an olive. — This is no objection, for ‘the opinions in this [Baraitha] refer to an altar of cement, whereas here we are dealing with an altar of stones.[2]

R. Huna said: A slaughterer who does not present his knife[3] to a Sage for examination is to be placed under the ban. Raba said: He is to be removed [from his vocation], and it is to be announced publicly that his meat is trefah. Now these Rabbis do not disagree; for the former deals with the case where the knife on examination was found to be satisfactory,[4] whereas the latter deals with the case where it was not found to be satisfactory. Rabina said that where the knife was not found to be satisfactory the meat is to be soiled with dung so that it may not even be sold to gentiles.

There was a case of a slaughterer who did not present his knife for examination to Raba b. Hinena. The latter thereupon put him under the ban, removed him [from his] vocation and announced publicly that his meat was trefah. Mar Zutra and R. Ashi happened to call on the said Raba b. Hinena who said to them, ‘Would you, Masters, look into this case, for there are small children dependent on him’? R. Ashi examined the knife[5] and found it satisfactory; he thereupon declared him fit again [to act as slaughterer]. Mar Zutra then said to him: ‘Are you not concerned at all in overruling this Sage’?[6] — R. Ashi replied. ‘We were only carrying out his instructions’.

Rabbah son of R. Huna said: One may slaughter in the first instance with a loose tooth or a loose finger-nail. But have we not learnt: EXCEPTING A SCYTHE, A SAW, TEETH OR A FINGERNAIL, SINCE THESE STRANGLE? — As regards teeth there is no contradiction, for Rabbah's statement deals with a single [tooth], whereas our Mishnah deals with two [teeth];[7] and as regards a finger-nail there is no contradiction, for Rabbah's statement deals with a nail that is detached from the finger, whereas our Mishnah deals with a nail that is attached to the finger.[8]

MISHNAH. IF ONE SLAUGHTERED WITH A SCYTHE,[9] MOVING IT FORWARD ONLY, BETH SHAMMAI DECLARE THE SLAUGHTERING INVALID, AND BETH HILLEL DECLARE IT VALID. IF THE TEETH OF THE SCYTHE WERE FILED AWAY IT IS REGARDED AS AN ORDINARY KNIFE.

GEMARA. R. Hiyya b. Abba said in the name of R. Johanan. Even when Beth Hillel declared the slaughtering valid they intended thereby to teach that the animal was to be regarded as clean and not a nebelah, but as for eating it they certainly held that it was forbidden.[10] R. Ashi said: This is supported by the context, for it reads in the Mishnah: BETH SHAMMAI DECLARE THE SLAUGHTERING INVALID, AND BETH HILLEL DECLARE IT VALID; but it does not read: Beth Shammai forbid it[11] and Beth Hillel permit it! But according to your argument, should not the Mishnah read: ‘Beth Shammai declare it unclean and Beth Hillel declare it clean’? The fact is that the expressions ‘declare valid and invalid’ and ‘permit and forbid’ are synonymous.

MISHNAH. IF ONE SLAUGHTERED [BY CUTTING] AT THE [TOP] RING[12] [OF THE WINDPIPE] AND LEFT A HAIR'S BREADTH OF ITS ENTIRE CIRCUMFERENCE [TOWARDS THE HEAD]. THE SLAUGHTERING IS VALID. R. JOSE SON OF R. JUDAH SAYS, IF ONLY THERE WAS LEFT [TOWARDS THE HEAD] A HAIR'S BREADTH OF THE GREATER PART OF ITS CIRCUMFERENCE,[13] [THE SLAUGHTERING IS VALID]. GEMARA. Rab and Samuel both agree that the law is in accordance with the view of R. Jose son of R. Judah.[14] Howbeit, R. Jose son of R. Judah said this only with regard to the top ring, since [the cartilage] surrounds the windpipe entirely, but he did not say this with regard to the other rings.[15] But does he not hold such a view with regard to the other rings? Surely it has been taught: R. Jose son of R. Judah says.

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(1) Cf. Zeb. 59a.

(2) In this case the altar must be perfectly smooth for it is written: Thou shalt build the altar of the Lord thy God of whole stones. Deut. XXVII, 6.

(3) Lit., ‘to turn’ (the slaughtering knife on all sides).

(4) He is, therefore, to he put under the ban in accordance with the rule: The Court excommunicates a person for lack of respect to a Rabbi; Ber. 29a.

(5) On the instructions of Raba b. Hinena.

(6) Lit., ‘the elder’ Sc. Raba b. Hinena.

(7) In which case the slaughtering is invalid, even though the teeth are detached from the animal, because of the notch that must of necessity be between one tooth and the other.

(8) The slaughtering is therefore invalid in accordance with the view of Rabbi, supra 15b.

(9) A scythe has a serrated edge but the points all run in the one direction, to wit, the handle. Therefore by moving the scythe forward the points glide over the throat without tearing.

(10) Only as a precautionary measure lest the slaughterer makes both a forward and backward motion, in which case the edges of the scythe would certainly tear the throat.

(11) To be eaten.

(12) V. Gemara. The reference is to the cricoid cartilage which forms a complete ring around the trachea or windpipe, as opposed to the other rings of the trachea which are incomplete. Lit., ‘from within’, i.e., beginning at the ring and proceeding upwards or downwards. This top ring of the windpipe is regarded in this Mishnah as the uppermost limit of the prescribed area within which the slaughtering may be performed.

(13) I.e., after cutting the greater part of the top ring the slaughterer slipped the knife outside the ring towards the head and completed the slaughtering there. It is nevertheless valid according to R. Jose b. R. Judah, since in slaughtering it is not essential to cut through more than the greater part of the organ.

(14) Accepting the principle that the greater portion of anything is regarded as the whole.

(15) Which do not completely surround the windpipe but are connected by a mucous substance. These rings, therefore, being incomplete, are not regarded as the proper place for slaughtering. Accordingly Rab and Samuel hold that the slaughtering can only be performed by cutting either in the top ring or between the other rings. This is Rashi's interpretation. There are other interpretations suggested by Rashi and Tosaf. q.v.

Talmud - Mas. Chullin 18b

If one slaughtered by cutting in the other rings, although they do not surround the whole of it, yet since they surround the greater part of the windpipe, the slaughtering is valid. Any deflection [of the knife outside the top ring] invalidates the slaughtering. R. Hanina b. Antigonos testified that a deflection is permitted! — R. Joseph answered that R. Jose son of R. Judah gave both rulings,[1] but Rab and Samuel agreed with one and not with the other.[2] But do they not say: ‘he did not say this etc.’? — They mean to imply: the halachah is in accordance with the view of R. Jose son of R. Judah with regard to the top ring, but the halachah is not in accordance with his view with regard to the other rings.[3]

When R. Zera went up [to palestine] he ate there of an animal [which was slaughtered in that part of the throat] which was regarded as a deflection by Rab and Samuel.[4] He was asked, ‘Are you not from the place of Rab and Samuel’?[5] — He replied: ‘Who taught it [in the name of Rab and Samuel]? Was it not Joseph b. Hiyya?[6] Well, Joseph b. Hiyya took traditions from everyone’![7] When R. Joseph [b. Hiyya] heard of this he was annoyed and said: ‘What! I take my traditions from every one! Indeed, I received my traditions from Rab Judah who recited in his statements of tradition even the doubt as to his authorities. As in the following statement: "Rab Judah said in the name of R. Jeremiah b. Abba (and I am in doubt whether he reported it in the name of Rab or in the name of Samuel): Three ordinary persons may declare a firstling permitted for use where there is no specialist available"’.[8]

But does not R. Zera accept the rule: [When a person arrives in a town] he must adopt the restrictions of the place which he has left and also the restrictions of the place he has entered?[9] — This rule applies only when one travels from town to town in Babylon, or from town to town in the land of Israel, or from the land of Israel to Babylon, but when one travels from Babylon to the land of Israel, inasmuch as we are subject to their authority,[10] we must adopt their customs. R. Ashi said: You may even hold that the rule applies when one travels from Babylon to the land of Israel, but only when such a person intends to return; R. Zera, however, had no intention to return [to Babylon]. Abaye remarked to R. Joseph. The Rabbis who came from Mahuza[11] report in the name of R. Nahman that this deflection[12] is permitted. He replied: Every river has its own course.[13]

R. Simeon b. Lakish held that [if the windpipe was cut] at the top of the thyroid cartilage[14] the slaughtering was valid. R. Johanan thereupon exclaimed: Too bold! Indeed, too bold![15]

R. Papi reported in the name of Raba: If the knife reached the arytenoid cartilages,[16] the slaughtering is invalid. The question was raised: Does ‘reached’ mean that it actually touched [the cartilages] as in the verse: And he fell upon him and slew him;[17] or does it mean that it came close to but did not touch [the cartilages], as in the verse: And the angels of God met him?[18] — It was stated:

R. Papa said in the name of Raba: If the knife cut through the arytenoid cartilages leaving part of them [on the side of the head], the slaughtering is valid. Amemar b. Mar Yanuka said: I was once standing in the presence of R. Hiyya the son of R. Awia and he told me that if the knife cut through the arytenoid cartilages leaving part of them [on the side of the head], the slaughtering is valid. Rabina said to R. Ashi, R. Shaman of Sikara[19] told me that Mar Zutra once happened to come to our town and ruled that if the knife cut through the arytenoid cartilages, leaving part of them [on the side of the head], the slaughtering is valid. Mar son of R. Ashi said: If the knife reached the arytenoid cartilages the slaughtering is valid; if, however, [the knife cut through the arytenoid cartilages,] leaving part of them [on the side of the head] the slaughtering is invalid.[20]

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(1) (a) That it is sufficient if only the greater part of the top ring is cut; and (b) that the slaughtering may be performed in the other rings too.

(2) They accepted the first ruling (a), but not (b); v. preceding note.

(3) ‘He did not say this’ means, his view in this respect is of no consequence, as the halachah is not according to him (Rashi).

(4) I.e., the cut was made in one of the incomplete rings of the windpipe, which according to Rab and Samuel is no slaughtering.

(5) And therefore within their jurisdiction.

(6) I.e., R. Joseph who reported supra the views of Rab and Samuel. Aliter: (They said,) Joseph b. Hiyya (Rashi).

(7) I.e., he is unreliable as regards the source of his traditions.

(8) The first born male of cattle was sacred and had to be offered as a sacrifice; if, however, it had a permanent defect it could then be slaughtered and eaten by Priests. It was for an expert to decide whether a particular defect was or was not permanent. If, however, the defect was obviously permanent and no expert was available, it is ruled that three lay men could come together and declare the first born animal permitted for use.

(9) And in R. Zera's home town people, in point of fact, abstained from the flesh slaughtered in the manner mentioned, if not on account of Rab and Samuel's ruling, then as a matter of stringency; v. Tosaf s.v. יוסף.

(10) Particularly with regard to the fixing of the Calendar. V. however, Tosaf. s.v. כיון.

(11) A large Jewish town situated on the Tigris.

(12) I.e., if the windpipe was cut in any of the other rings. This slaughtering is invalid according to Rab and Samuel.

(13) I.e., every place has its own usages.

(14) Which is far beyond the cricoid cartilage; lit., ‘helmet’, ‘turban’. In human beings this is commonly known as the Adam's apple.

(15) Or: ‘O, my brother-in-law! My brother-in-law!’ R. Simeon b. Lakish had married R. Johanan's sister, v. B.M. 84a.

(16) Lit., ‘wheat grains’; two small triangular cartilages at the top of the larynx situated on either side in front of the cricoid.

(17) I Kings II, 46. Heb. ויפגע. Accordingly the term פגע in the question would mean actual contact; i.e., the knife cut through the cartilages leaving part of them on the side of the head.

(18) Gen. XXXII, 2. In this verse, too’ the verb פגע is used, but clearly in the sense of ‘coming up to but not touching’. Accordingly even though the knife did not touch these cartilages, since it cut quite close to them, the slaughtering is invalid (Rashi). Tosaf., however, interprets the expression ‘coming up to but not touching’ as actually cutting beyond or above the cartilages, but where the knife cut through them the slaughtering would be valid. V. Tosaf. s.v. אי.

(19) So according to MS.M.; in cur. edd. Subra or Sukhra. A village near Mahuza.

(20) According to the interpretation of Tosaf. (v. supra p. 92, n.7) this statement of Mar b. R. Ashi must be reversed thus: If the knife reached the cartilages (i.e., cut beyond or above them) the slaughtering is invalid, but if it cut through them the slaughtering is valid. This view is also accepted by Maim. in Yad, Shechitah, III, 12.

Talmud - Mas. Chullin 19a

But the law is: [If the windpipe was cut] at or below the point where the thyroid cartilage narrows,[1] the slaughtering is valid. This then corresponds with [the aforementioned view that] if the knife cut through the arytenoid cartilages, leaving part of them [on the side of the head the slaughtering is valid].

R. Nahman held that the slaughtering was valid [if the windpipe was cut] at or below the point where the thyroid cartilage narrows. R. Hanan son of R. Kattina asked R. Nahman: But whose view do you adopt? It is neither the view of the Rabbis nor that of R. Jose son of R. Judah [of our Mishnah]![2] — He replied. I know no Hillak and no Billak;[3] I only know a tradition. For R. Hiyya b. Abba, said in the name of R. Johanan (some read: R. Abba b. Zabda said in the name of R. Hanina, and others read: R. Jacob b. Idi said in the name of R. Joshua b. Levi). At or below the point where the thyroid cartilage narrows the slaughtering is valid.

R. Joshua b. Levi also said: That which is regarded as a deflection by the Rabbis[4] is permitted by R. Jose b. Judah, and that which is regarded as a deflection by R. Jose b. Judah[5] is permitted by R. Hanina b. Antigonos.[6] Is not this obvious? — You might have thought that the statement of R. Hanina b. Antigonos refers to that of the Rabbis;[7] we are therefore taught that it does not. But perhaps it does? — If so, it should read: ‘He testified concerning it [that it was permitted]’.[8]

The law is in accordance with the view of R. Hanina b. Antigonos, since R. Nahman agrees with him.

R. Huna said in the name of R. Assi: They differ[9] only where the slaughterer cut[10] two thirds [of the windpipe in the top ring] and then the last third above it;[11] for the Rabbis hold the view that all the slaughtering must be within the top ring and R. Jose son of R. Judah holds the view that the greater portion is equal to the whole. But in the case where the slaughterer first cut a third above the top ring and then the other two thirds in it, all are of the opinion that the slaughtering is invalid; because at the moment when the life escapes[12] the greater portion should have been cut in the ritual manner[13] and this was not the case here. Said R. Hisda to him: On the contrary, the Master might just as well say the opposite thus: They differ[9] only where the slaughterer first cut a third above the top ring and then the other two thirds in it-according to R. Jose son of R. Judah it is analogous with the case where half the windpipe was mutilated[14] [before the slaughtering], and according to the Rabbis [it is to be distinguished thus:] in the latter case [the mutilation was] in the prescribed area for slaughtering,[15] whereas in our case [the cutting of the first third] was outside the prescribed area for slaughtering. But where the slaughterer first cut two thirds [in the top ring] and then the last third above it, all are of the opinion that the slaughtering is valid, for we have learnt [in a Mishnah]: The greater part of an organ is equivalent to [the whole of] it![16] R. Joseph said to him: Who can tell us that the rule there concerning the greater portion is not the view of R. Jose son of R. Judah? It might indeed be the [individual] opinion of R. Jose son of R. Judah! — Abaye interposed: Are you suggesting that wherever it is held that a majority is sufficient it is the individual opinion of R. Jose son of R. Judah? — He replied. I mean that the view that a majority is sufficient in matters concerning shechitah [is the individual opinion of R. Jose son of R. Judah], for we know that the Rabbis hold a different view.

Another version of the above reads as follows: R. Huna said in the name of R. Assi: They differ only where the slaughterer first cut a third above [the top ring] and then the other two thirds in it — according to R. Jose son of R. Judah it is analogous with the case where half the windpipe was mutilated [before the slaughtering] and according to the Rabbis [it is to be distinguished thus:] in the latter case [the mutilation was] within the prescribed area for slaughtering, whereas in our case [the cutting of the first third] was outside the prescribed area for slaughtering. But in the case where the slaughterer first cut two thirds [in the top ring] and then the last third above it, all are of the opinion that the slaughtering is valid, for we have learnt: The greater part of an organ is equivalent to [the whole of] it. To this R. Hisda demurred: Who can tell us that the rule there concerning the greater portion is not the view of R. Jose son of R. Judah? It might indeed be the [individual] opinion of R. Jose son of R. Judah! Said R. Joseph to him: Are you suggesting that wherever it is held that a majority is sufficient it is the individual opinion of R. Jose b. Judah? — He replied: I mean that the view that a majority is sufficient in matters concerning shechitah [is the individual view of R. Jose b. R. Judah], for we know that the Rabbis hold a different view.

If a slaughterer first cut a third [of the windpipe] outside the prescribed area, another third within it, and the last third outside it,[17] R. Huna said in the name of Rab that the slaughtering was valid; Rab Judah said in the name of Rab that the slaughtering was invalid. ‘R. Huna said in the name of Rab that it was valid’, because at the moment when the life escaped he was cutting in the ritual manner. ‘Rab Judah said in the name of Rab that it was invalid’, because the greater portion of the cutting must be in the ritual manner, and this was not the case here.

If a slaughterer first cut a third [of the windpipe] within the prescribed area, another third outside it and the last third within it Rab Judah said in the name of Rab that the slaughtering was valid. When this case was put to R. Huna, he said that the slaughtering was invalid. Rab Judah heard of this and became annoyed, saying: ‘When I say invalid he says valid, and when I say valid he says invalid!’ R. Huna then said: ‘He is rightly annoyed. In the first place, he heard the decision from Rab himself and I did not; and in the second place, in this case the greater portion of the cutting was in the ritual manner’. Thereupon R. Hisda said to him, ‘Do not withdraw your decision,

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(1) Lit., ‘slants downwards’.

(2) For according to the Rabbis the slaughtering must be performed entirely within the large ring, and according to R. Jose b. R. Judah at least the greater part of the slaughtering must be in the large ring, whereas R. Nahman permits the slaughtering at the thyroid cartilage which is completely above the large ring.

(3) Fictitious names for any person (similar to our ‘Tom, Dick and Harry’). V. Sanh. 98b. According to a view in Rashi the interpretation is: I know of no opinion which insists on severing (= Heb. חילק) the top ring completely (i.e., the view of the Rabbis in the Mishnah), nor of any opinion which insists on rending (= Heb. בילק) the greater portion of it (i.e., the view of R. Jose b. R. Judah) etc. . . . V. Aruch s.v. חלק VI.

(4) I.e., the least cutting of the windpipe above the top ring.

(5) I.e., the cutting of half or more of the windpipe above the top ring.

(6) V. supra p. 90.

(7) With the result that even according to R. Hanina b. Antigonos the slaughtering would be invalid if the whole of the windpipe was cut above the top ring.

(8) The fact that R. Hanina b. Antigonos testifies ‘that a deflection . . . indicates that he refers to deflection in general, for were he to refer to the deflection contemplated by the Rabbis he would have testified in these words: ‘concerning it’.

(9) The Rabbis and R. Jose b. R. Judah.

(10) שחט, Lit., ‘he slaughtered according to ritual manner’.

(11) Heb. הגרים, Lit., ‘he deflected by cutting outside the prescribed area’.

(12) This occurs as soon as the larger Portion of the windpipe has been cut through; i.e., during the cutting of the middle third.

(13) Lit., ‘in (the manner of) shechitah’, that is within the prescribed area.

(14) V. infra 28a. In the case of a bird, which, according to law only requires one of the organs to be cut, if half the windpipe was mutilated before the slaughtering by reason of an accident, and a person cut just a fraction more of the windpipe according to ritual, the slaughtering is valid, although when the life escaped the greater part had not been cut in the ritual manner. In our case, therefore, the cutting outside the prescribed area should be regarded as a mutilation of the windpipe, so that when the greater part of the windpipe is cut immediately afterwards the slaughtering should be valid.

(15) And as such mutilation is not considered a defect it is as though the animal were not affected, and when the life escapes the greater part of the windpipe is severed within the prescribed area.

(16) Therefore whatever is done to the windpipe after the greater portion of it has been cut through is of no consequence and cannot affect the already valid slaughtering. V. infra 27a.

(17) Lit., ‘he deflected, he slaughtered and deflected’.

Talmud - Mas. Chullin 19b

because if you do you defeat your decision in the first case. For there your reason for declaring it valid was that the life escaped at the time that he was cutting within the prescribed area; it follows then that in this case it should be invalid, because here the life escaped at the time that he was cutting outside the prescribed area'.

When R. Nahman once happened to come to Sura he was asked: What is the law if a slaughterer first cut a third of the windpipe within the prescribed area, another third outside it, and the last third within it? — He replied: Is not this the case that was taught by R. Eleazar b. Manyomi? For R. Eleazar b. Manyomi said: Where the cutting of the organ is like a zigzag,[1] the slaughtering is valid. But perhaps this decision applies only to a slaughtering entirely within the prescribed area? 'Within the prescribed area'! But this goes without saying [that the slaughtering is valid]! — Indeed no. For you might have thought that there must be an open cut,[2] and here it is not so; we are therefore taught [that it is not essential].[3]

(Mnemonic: Bakad.)[4]

R. Abba was once sitting behind R. Kahana whilst R. Kahana was before Rab Judah, when R. Kahana asked: What is the law if a slaughterer first cut a third [of the windpipe] within the prescribed area, another third outside it and the last third within it? — Rab Judah answered: The slaughtering is valid. And what is the law if a slaughterer first cut a third [of the windpipe] outside the prescribed area, another third within it, and the last third outside it? — He replied: The slaughtering is invalid. And what is the law if a slaughterer cut the windpipe in an existing gash?[5] — He replied: The slaughtering is valid. And what is the law if a slaughterer cut the windpipe terminating in an existing gash [in the windpipe]?[6] — He replied: The slaughtering is invalid. R. Abba then went and reported these decisions to R. Eleazar, and the latter went and reported them to R. Johanan. R. Johanan asked: Wherein lies the difference? — He [R. Eleazar] replied, [The case] where one cut the windpipe in an existing gash is the same as when a gentile began the slaughtering and an Israelite finished it;[7] and [the case] where one cut the windpipe terminating in an existing gash is the same as when an Israelite began the slaughtering and a gentile finished it.[8] Whereupon R. Johanan exclaimed: Gentile, gentile![9] Raba said: He was right in exclaiming. Gentile, gentile! For, in that case, [where the gentile finished the slaughtering.] the decision[10] is reasonable, because the Israelite should have cut [at least] the greater portion and this he did not do, with the result that life escaped at the hand of the gentile. In this case, however, [where there is a gash in the windpipe,] he has indeed cut as much as he could, what difference, therefore, can there be whether he cuts in a gash or cuts terminating in a gash?

MISHNAH. IF ONE CUT AT[11] THE SIDE [OF THE NECK], THE SLAUGHTERING IS VALID; IF ONE NIPPED OFF[12] [THE HEAD] FROM THE SIDE OF THE NECK, THE NIPPING IS INVALID; IF ONE CUT AT THE BACK OF THE NECK. THE SLAUGHTERING IS INVALID; IF ONE NIPPED OFF [THE HEAD] FROM THE BACK OF THE NECK, THE NIPPING IS VALID. IF ONE CUT AT THE FRONT OF THE NECK. THE SLAUGHTERING IS VALID; IF ONE NIPPED OFF [THE HEAD] FROM THE FRONT OF THE NECK. THE NIPPING IS INVALID. FOR THE WHOLE OF THE BACK OF THE NECK IS THE APPROPRIATE PLACE FOR NIPPING, AND THE WHOLE OF THE FRONT OF THE NECK IS THE APPROPRIATE PLACE FOR SLAUGHTERING. IT FOLLOWS, THEREFORE, THAT THE PLACE WHICH IS APPROPRIATE FOR SLAUGHTERING IS INAPPROPRIATE FOR NIPPING, AND THE PLACE WHICH IS APPROPRIATE FOR NIPPING IS INAPPROPRIATE FOR SLAUGHTERING.

GEMARA. What is meant by THE BACK OF THE NECK?[13] Does it mean the actual back of the neck? If so, why is it, that only if one slaughtered there it is invalid? If one nipped there it would also be invalid, for in the Divine Law it is stated: Close to the back of its neck,[14] but not the actual back of the head! — THE BACK OF THE NECK really means [the region] close to the back of the neck, and this is indicated in the subsequent clause which reads: FOR THE WHOLE OF THE BACK OF THE NECK IS THE APPROPRIATE PLACE FOR NIPPING.[15] Whence do we know this? — From the following statement. Our Rabbis taught: 'Close to the back of its neck', that is to say, the region which overlooks the back of the neck, as it is written: And they dwell clue to me;[16] and it is also written: For they have turned unto Me the back of the neck and not the face.[17] Why another verse? — Because you might argue that [so long as] we do not know the true meaning of the back of the neck we cannot know what is meant by [the region] which is close to it. Therefore come and hear: It is written: 'For they have turned unto Me the back of the neck and not the face'; thus clearly showing that the back of the neck is directly opposite the face.

The sons of R. Hiyya said: This is the proper method for nipping: [the priest] twists the organs of the throat around to the back of the neck and then nips off [the head].[18] Some read, 'may twist'; others, 'must twist'. It is more reasonable, however, to adopt the reading, 'may twist'. Why? — For the Mishnah reads: IF ONE CUT AT THE BACK OF THE NECK, THE SLAUGHTERING IS INVALID; IF ONE NIPPED OFF [THE HEAD] FROM THE BACK OF THE NECK, THE NIPPING IS VALID.

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(1) Lit., 'like a comb'. The line of slaughtering is zigzagged like the teeth of a comb.

(2) I.e., cut in one place with a clean cut.

(3) The position therefore is that the question put to R. Nahman cannot be decided with certainty from the teaching of R. Eleazar b. Manyomi.

(4) A mnemonic, lit., 'in a jug' — omitted in many MSS. — consisting of the characteristic letters of the names of the Rabbis mentioned in the following passage: R. Abba, R. Kahana and R. Judah.

(5) I.e., the upper half of the windpipe was already mutilated and the slaughterer merely placed the knife in the gash and continued to cut.

(6) In this case the lower half of the windpipe was already mutilated and the slaughterer cut the windpipe until he came to the gash.

(7) In which case the slaughtering is valid, for that part of the windpipe severed by the gentile is of no consequence.

(8) In which case the slaughtering is invalid.

(9) Meaning: The analogy with the case of a gentile performing part of the slaughtering is not correct.

(10) That the slaughtering is invalid.

(11) Lit., 'from within', cf. supra p. 89, n.3.

(12) Heb. מלק, 'to nip off, to rend'. This is the method prescribed by the law for killing a pigeon or a turtle dove consecrated for a sacrifice. The officiating priest breaks with his finger-nail the neckbone, the spinal cord and the surrounding flesh, and also one (in the case of a sin-offering) or both (in the case of a burnt-offering) of the organs of the throat. V. infra 21aff.

(13) Heb. ערף: strictly the second cervic vertebra, rendered in the LXX by Gr. **, which has this meaning. V. article by S. Daiches in Expository Times; Vol. XXXIX p. 426.

(14) Lev. V, 8. This verse prescribes the method for nipping off the head of a bird.

(15) In this clause THE BACK OF THE NECK cannot mean the second cervic vertebra for one could not reasonably refer to it in such terms as: THE WHOLE OF THE BACK OF THE NECK. It must mean, therefore, the whole region close to and in front of the back of the neck.

(16) Num. XXII, 5.

(17) Jet. II, 27.

(18) Intending to sever the organs first and then the neckbone.

Talmud - Mas. Chullin 20a

Now if you adopt the reading. 'must twist', then why is it that only if one nipped off [the head] there it is valid? Even if one slaughtered there [it would] also [be valid].[1] You can, therefore, prove from this that the correct reading is, ‘may twist’; and as for our Mishnah the case is that the organs were not twisted around, [and therefore the slaughtering is invalid].

R. Jannai said: Let these young men receive the refutation of their view. For our Mishnah reads: IT FOLLOWS, THEREFORE, THAT THE PLACE WHICH IS APPROPRIATE FOR SLAUGHTERING IS INAPPROPRIATE FOR NIPPING. AND THE PLACE WHICH IS APPROPRIATE FOR NIPPING IS INAPPROPRIATE FOR SLAUGHTERING. Now what does this rule exclude? presumably the case where one twisted the organs around to the back of the neck![2] — Rabbah b. Bar Hannah said: It is not so, but it excludes the use of a tooth or a finger-nail.[3] But is not a tooth or a finger.nail expressly stated [to be invalid for slaughtering]?[4] — Rather, said R. Jeremiah, it excludes the act of moving to and fro.[5] This is well, however, according to the one who holds that to move [the fingernail] to and fro whilst nipping is not allowed; but according to the one who holds that it is allowed, how is it to be explained? — The sons of R. Hiyya agree with him who holds that to move the fingernail to and fro whilst nipping is not allowed.

R. Kahana said: The precept of nipping requires pressing [with the finger-nail] downward; and this is the proper method. Now R. Abin thought this to mean that if he pressed with his finger-nail downward it is [valid], but if he moved it to and fro it is not [valid]. Whereupon R. Jeremiah said to him: But surely, to move the finger-nail to and fro whilst nipping is most certainly allowed![6] And as for the words: ‘This is the proper method’, read instead, ‘This also is a proper method’.

R. Jeremiah said in the name of Samuel: Whatsoever part of the front of the neck is valid for slaughtering, the corresponding part on the back of the neck is valid for nipping. It follows, no doubt, that what is invalid for slaughtering is invalid for nipping. Now what does this exclude? Can it exclude the case where the organs of the throat had been torn loose?[7] Surely not! For Rami b. Ezekiel has taught: The fact that the organs of the throat have been torn loose is not a defect in a bird.[8] — R. Papa said: It excludes the head.[9] ‘The head’! But this is obvious! For the Divine law enjoins. Close to the back of its neck.[10] but not on the head! — By ‘head’, he meant the slope of the head;[11] and the case is as follows: he commenced to nip at the slope of the head and, moving [his finger-nail] gradually downwards, ended the nipping below.[12] This view is in agreement with that stated by R. Huna in the name of R. Assi. For R. Huna said in the name of R. Assi: If one cut a third [of the windpipe] outside the prescribed area [for slaughtering] and then cut two thirds within it, the slaughtering is invalid.[13]

R. Aha the son of Raba said to R. Ashi: This dictum of Rami b. Ezekiel, namely, the fact that the organs have been torn loose is not a defect in a bird, can be maintained only by him who holds that according to the law of the Torah birds do not require shechitah; [

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(1) Since the organs would have been cut first.

(2) In which case the slaughtering would be valid and the nipping invalid. This case, therefore, exemplifies the first clause of the rule stated, the second clause being added merely for the sake of completeness.

(3) The finger-nail is essential in nipping whereas one is not permitted to slaughter with a finger-nail attached to the person. As to whether it is permitted to nip off the head with the teeth or not, v. Tosaf. ad. loc. This case, as explained, exemplifies the second clause of the rule stated.

(4) V. supra 15b.

(5) Such movement of the finger.nail, it is assumed, invalidates the nipping, whereas it is essential to do so with the knife in the case of slaughtering. Accordingly the first clause of the rule in our Mishnah is the important one.

(6) For so long as any particular act is not expressly excluded by the law, the more the nipping is made to resemble the slaughtering the better.

(7) And implying that just as the slaughtering in such a case is invalid so presumably also the nipping.

(8) Either for slaughtering or for nipping; but v. infra.

(9) For it is a place invalid for slaughtering as well as for nipping.

(10) Lev. V, 8.

(11) I.e., the lower part of the head which slopes down towards the neck.

(12) Although the nipping was concluded within the proper region, i.e., at the back of the neck, it is nevertheless invalid according to Samuel.

(13) V. supra 19a

Talmud - Mas. Chullin 20b

but according to the one who holds that birds do require shechitah by the law of the Torah,[1] then it must also be held that the tearing loose of the organs is a defect. R. Ashi retorted: On the contrary, the reverse argument is the more reasonable. Thus, according to him who holds that birds do require shechitah by the law of the Torah,[1] it can well be argued that he[2] was expressly informed that the tearing loose of the organs [in the case of birds] was not a defect. Furthermore, even according to him who obtains this result by analogy with cattle,[3] it can nevertheless be argued that as regards the tearing loose of the organs [he was informed that][4] birds are to be different from cattle.[5] But, according to the one who holds that birds do not require shechitah by the law of the Torah but only by Rabbinic enactment, and the Rabbis obviously derived this rule only by a comparison with cattle, surely then [birds] should be compared with cattle in all respects! — Rabina answered: Rabin b. Kissi told me that the dictum of Rami b. Ezekiel, namely, the fact that the organs have been torn loose is not a defect in a bird, is to be applied only to the case of nipping, but in the case of slaughtering it is certainly a defect. But did not R. Jeremiah report in the name of Samuel: ‘Whatsoever part of the neck is valid for slaughtering the corresponding part on the back of the neck is valid for nipping’, and from which followed [the corollary] viz., What is invalid for slaughtering is invalid for nipping?[6] — This is at variance [with the teaching of Rabin b. Kissi].

Ze'iri said: If the neckbone of an animal was broken together with the major portion of the surrounding flesh, the animal is nebelah forthwith.[7] R. Hisda said: We have also learnt the same: If one nipped off [the head of a consecrated bird] with a knife, the carcass, whilst in the gullet, renders clothes unclean.[8] Now if you were to say that [in Ze'iri's case] the animal is merely trefah, should not the knife in this case have the effect of removing [from this bird] the uncleanness of nebelah,[9] inasmuch as nipping with a knife is tantamount to slaughtering?[10] — It is so,[11] I say, because the slaughtering is not in accordance with ritual. Why? — R. Huna says: Because he thrusts [whilst cutting the organs].[12] Rabbah[13] says: Because he presses [the knife downwards]. Now he who says: ‘Because he thrusts’, wherefore does he not say: ‘Because he presses [the knife downwards]? — He is of the opinion that to move the finger-nail to and fro whilst nipping is allowed.[14] And he who says: ‘Because he presses [the knife downwards]’, wherefore does he not say: ‘Because he thrusts’? — He argues thus: What is meant by ‘thrusting’?[15] Clearly [any cutting where the knife is] covered, just like a weasel which is covered[16] by the foundations of a house; in our case, however, the knife is visible.[17] Raba said: If there is any difficulty [in connection with Ze'iri's statement] it is this: Why proceed with the nipping if it is already dead?[18] Abaye thereupon said to him, You can raise the same difficulty in the case of the burnt-offering of a bird which requires both organs to be nipped through, thus: Why proceed with the nipping if it is already dead?[19] — He replied: In this latter case, he does so merely to carry out the precept of severance.[20] If so, the skin, too, [should be severed!][21] — The rule is: Whatever is indispensable in the slaughtering is indispensable in the precept of severance, and whatever is not indispensable in the slaughtering is not indispensable in the precept of severance.[22] But what of the lesser portion[23] of each organ, which is not indispensable in the slaughtering, nevertheless according to the ruling of the Rabbis is indispensable in the precept of severance? — Read, therefore, Whatever comes within the purview of slaughtering comes within the precept of severance and whatever does not come within the purview of slaughtering does not come within the precept of severance.[24]

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(1) In this case,’Torah’ means the oral law which Moses received on mount Sinai.

(2) Sc. Moses during his stay on the mountain.

(3) By reason of the juxtaposition of the words ‘cattle’ and ‘birds’ in Lev. XI, 46: This is the law of cattle and of birds, the result is obtained that birds require shechitah. V. infra 27b.

(4) V. Rashi.

(5) It was only in the main principle of shechitah that the comparison was made, but it was not to be extended to include all the rules ‘and regulations of shechitah.

(6) This dictum precludes any possible distinction between nipping and slaughtering, and whatever is a defect in the one is a defect in the other.

(7) And conveys uncleanness from this moment, as it is regarded already as dead; although the animal still shows sign of life by movements and jerks.

(8) I.e., whilst a person is eating an olive's bulk of it, even if he did not touch it, as when it was thrust into his mouth, he becomes unclean and so do also the clothes that he is wearing at the time. This unusual and unique form of conveying uncleanness is found only in connection with the carcass of a clean bird, and is derived by Rabbinic interpretation from Lev. XVII, 15 and XXII, 8. The other modes of conveying uncleanness, e.g., by contact or by carrying, do not apply to the carcass of a bird.

(9) In accordance with the Rabbinic dictum, infra 228b: A trefah animal that has been ritually slaughtered does not convey any uncleanness.

(10) For after the neckbone has been cut through the subsequent cutting of the organs is akin to slaughtering.

(11) That the bird conveys uncleanness of the gullet and is not rendered clean by the slaughtering.

(12) For ‘thrusting’ v. supra p. 37, n. 9. Here the cervical vertebrae close up and cover the knife as soon as it has cut through the neckbone, and there is therefore a ‘thrusting’. According to R. Gershom and Tosaf. it is invalid because he is cutting the neck from back to front.

(13) So MS.M. and R. Gershom. In current editions ‘Raba’.

(14) There is, therefore, in this case no pressure upon the organs.

(15) Heb. חלדה, derived from חולדה, a weasel which burrows into the ground and is covered by earth.

(16) Lit., ‘which dwells’.

(17) So that it does not come within the law of ‘thrusting’.

(18) For in nipping one must sever the neckbone and also the organs, but if in the first stage of the nipping the bird is already dead then why continue with it?

(19) For as soon as the first organ is severed the bird is certainly dead; hence the slaughtering of a bird is valid even if only one organ has been cut through. V. infra 27a.

(20) V. infra 21b, in contradistinction from the sin-offering of a bird which must not be severed, cf. Lev. V, 8.

(21) But this has never been suggested to be the law.

(22) Slaughtering is valid even if the skin at the throat had been removed by some other means before the slaughtering.

(23) I.e., that portion which remains after the greater portion has been cut through.

(24) The term ‘slaughtering’ applies to the organs of the throat; therefore, even the lesser portion of the organs comes within the purview of slaughtering. On the other hand, the skin of the throat is outside the scope of the slaughtering, for the slaughtering would be valid even though the skin of the throat had been removed.

Talmud - Mas. Chullin 21a

But after all does not the original objection stand?[1] — Raba answered: Read [in the text]. ‘This is what he does: He [the priest] cuts [with his finger-nail] the spinal cord and the neckbone without cutting through the major portion of the surrounding flesh’.[2] When R. Zera went up [to palestine] he found R. Ammi sitting and reciting the above statement [of Ze'iri], and at once put to him the question: Why proceed with the nipping if it is already dead? He was astounded for a moment,[3] but then replied. Read [in the text]. This is what he does: He cuts [with his finger-nail] the spinal cord and the neckbone without cutting through the major portion of the surrounding flesh. The same is taught [in the following Baraitha]: How must he [the priest] nip off [the head] of the sin-offering of a bird? He cuts [with his finger-nail] the spinal cord and the neckbone without cutting through the major portion of the surrounding flesh, until he reaches the gullet or the windpipe. On reaching the gullet or the windpipe he cuts through one of them or the major portion of one of them, and then cuts through the major portion of the surrounding flesh. In the case of a burnt-offering he cuts through both, or the major portion of both, of these organs. Who is the author of this [Baraitha]? Is it the Rabbis?[4] Surely they hold that both organs must be severed! Is it R. Eleazar son of R. Simeon?[4] Surely he holds that the major portion only of both organs [shall be cut through]! — Interpret it thus: 'Both organs' — that is, according to the view of the Rabbis; 'or the major portion of both organs' — that is, according to the view of R. Eleazar son of R. Simeon. If you wish, however, I can say that the whole [Baraitha] is in accordance with the view of R. Eleazar son of R. Simeon, and as to the term 'both organs' it means that both organs appear to be severed.[5]

Rab Judah said in the name of Samuel: If [in a human being] the neckbone and the major portion of the surrounding flesh was broken, the body immediately defiles[6] [men and vessels that are] in the tent. And if you will contend: But was not the incident of Eli a case where the neckbone was broken without the major portion of the surrounding flesh having been cut?[7] [I reply that] in the case of old age it is different, for it is written: And it came to pass when he made mention of the ark of God, that he fell off his seat backward by the side of the gate, and his neck broke and he died; for he was an old man and heavy.[8]

R. Samuel b. Nahmani said in the name of R. Johanan. If one ripped up a human being as one does a fish, the body immediately defiles [men and vessels that are] in the tent. R. Samuel b. Isaac added: provided [he was ripped up] along the back.

Samuel said: If one split an animal into two, it is immediately nebelah.

R. Eleazar said: If the thigh was removed and the cavity was noticeable, the animal is [immediately] nebelah. What is the meaning of 'And the cavity was not[8] ceable'? — Raba replied: It means that when the animal is crouching there appears to be something missing.

We have learnt elsewhere:[9] If their[10] heads have been cut off, even though their limbs move convulsively, they are unclean[the convulsions being] but similar to the convulsive movements of the lizard's tail [after it has been cut off].[11] What is meant by 'Have been cut off'? — Resh Lakish said, [It means] actually cut off; R. Assi said in the name of R. Mani, [It means severed in the sense] as the head of the burnt-offering of a bird is severed. Whereupon R. Jeremiah asked R. Assi: Do you mean 'as the head of the burnt-offering of a bird is severed' according to the view of the Rabbis,[12] and so you do not disagree at all; or do you mean 'as the head of the burnt-offering of a bird is severed' according to the view of R. Eleazar son of R. Simeon,[13] and so you do disagree? — He replied: I mean, 'as the head of the burnt-offering of a bird is severed' according to the view of R. Eleazar son of R. Simeon, and so we disagree. Some there are who read [the above passage thus]: Resh Lakish said: It means actually cut off; R. Assi said in the name of R. Mani, [It means severed in the sense] as the head of the burnt-offering of a bird is severed according to the view of R. Eleazar son of R. Simeon, [and that is.] cut off to the extent of the greater portion of both organs.

What is [this dispute between] the Rabbis and R. Eleazar son of R. Simeon? — It was taught: It is written: And he shall prepare the second for a burnt-offering, according to the ordinance.[14] This means, according to the ordinance prescribed for the sin-offering of an animal. You say it means, 'according to the ordinance prescribed for the sin-offering of an animal'; but perhaps it is not so, but rather, according to the ordinance prescribed for the sin-offering of a bird! [This cannot be], for when it says. And he shall bring it near,[15] the verse thereby draws a distinction between the sin-offering of a bird and the burnt-offering of a bird. How then must I interpret the verse: 'According to the ordinance'? [It must mean,] according to the ordinance of the sin-offering of an animal. Thus, as the sin-offering of an animal must be brought

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(1) Raba's original objection against Ze'iri's statement viz., Why proceed with the nipping if the bird is already dead? V.

supra n. 1.

(2) And as long as the major Portion of the surrounding flesh has not been cut the bird is not regarded as dead.

(3) Dan. IV, 16.

(4) V. infra.

(5) I.e., according to R. Eleazar son of R. Simeon a substantial portion of the organs must be cut so that it would appear as though both organs were severed, although in reality only the major portion of each has been actually cut through.

(6) For the meaning of ‘defilement in the tent’ v. supra p. 62, n. 2.

(7) There is no mention in the verse of the flesh of the neck being torn, and nevertheless he is referred to as dead.

(8) I Sam. IV, 28.

(9) Ohol. I, 6.

(10) Either the heads of those reptiles that convey uncleanness (Rashi and R. Gershom); or the heads of cattle and birds (Tosaf.).

(11) These movements are clearly no signs of life, since the tail is here absolutely severed from the body.

(12) I.e., that both organs of the throat must be severed. Accordingly, this view is substantially the same as that of Resh Lakish.

(13) I.e., that only the greater portion of the organs must he severed.

(14) Lev. V, 10.

(15) Ibid. I, 15. This verse deals with a freewill burnt-offering of a bird, and the fact that the pronoun ‘it’ is expressly stated serves to indicate that this sacrifice must be dealt with differently from others of the same class.

Talmud - Mas. Chullin 21b

only from unconsecrated animals,[1] [must be sacrificed] by day, and [all the services in connection therewith must be performed] with the [priest's] right hand, so, too, the burnt-offering of a bird must be brought only from unconsecrated birds, must be sacrificed by day, and, [all the services in connection therewith must be performed] with the [priest's] right hand. But then it should follow that just as in the former case [one has only to cut] the greater portion of both organs,[2] so in the latter case [one has only to nip off] the greater portion of both organs? There is, therefore, another text which reads: And he shall nip off . . . and he shall burn it,[3] from which one can draw the following conclusion: as for the purposes of burning the head must be separate from the body,[4] so, too, in nipping the head shall be made separate from the body.[5] R. Ishmael says: ‘According to the ordinance’ means, according to the ordinance prescribed for the sin-offering of a bird; thus, as the nipping of the head of the sin-offering of a bird must be done close to the back of the neck, so, too’ the nipping of the head of the burnt-offering of a bird must be done close to the back of the neck.[6] But then it should follow, should it not, that as in the former case one must nip through only one organ without severing the other,[7] so in the latter case one must nip through only one organ without severing the other? It is, therefore, written: And he shall bring it near.[8] R. Eleazar son of R. Simeon says: ‘According to the ordinance’ means, according to the ordinance of the sin-offering of a bird; thus, as in the latter case

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(1) I.e., from the common herd but not from those animals that had been purchased with Second Tithe money.

(2) For slaughtering does not require more than this, v. infra 27a.

(3) Lev. I, 15.

(4) For the expression, ‘And he shall burn it’ is repeated in this passage (vv. 15 and 27), indicating that there must be two separate burnings, one of the head of the bird and the other of the body.

(5) I.e., both organs must be absolutely severed. It is this opinion expressed here anonymously which has been repeatedly referred to previously as the view of the Rabbis.

(6) This inference is necessary, since the Law does not specify in the case of a freewill burnt-offering of a bird the place where the nipping must be done.

(7) For in connection with the sin-offering of a bird the Torah adds: And he shall not divide it asunder (Lev. I, 17). Therefore the priest is not allowed to nip off any more than is necessary to render the bird valid i.e., one organ.

(8) The pronoun it specifically distinguishes the freewill burnt-offering of a bird from other similar sacrifices.

the priest sprinkles the blood whilst holding the head and the body in his hand, so in this case, too, he sprinkles the blood whilst holding the head and the body in his hand. (What can this mean?[1] — It means this: Just as in the latter case he sprinkles the blood whilst the head is still attached to the body,[2] so, too, in the case of the burnt-offering of a bird he sprinkles the blood whilst the head is still attached to the body.) But then it should follow, should it not, that just as in the former case only one organ shall be severed, so here, too, only one organ shall be severed? It is, therefore, written: ‘And he shall bring it near’.[3] Now it may be asked against the first Tanna: since he derives the rule[4] from the verse: ‘And he shall nip off . . . and he shall burn it’, what need is there for the verse: ‘And he shall bring it near’?[5] — Without the verse: ‘And he shall bring it near’, he would have interpreted, ‘According to the ordinance’, to mean, according to the ordinance of the sin-offering of a bird;[6] and as to the verse: ‘And he shall nip off . . . and he shall burn it’, he would have explained it thus: as the burning [of the sacrifice is performed] upon the top of the altar, so shall [the draining of the blood following] the nipping be performed upon the upper part of the altar wall.[7] But now that the Divine Law states: ‘And he shall bring it near’, [this verse therefore serves to distinguish in every respect the burnt-offering of a bird from the sin-offering of a bird, and from the verse: ‘And he shall nip off . . . and he shall burn it’] he can derive this too.[8]

Whence do we know that the sin-offering of an animal must be brought only from unconsecrated animals?[9] — R. Hisda answered: From the verse: And Aaron shall offer the bullock of the sin-offering which is his;[10] [that is to say], it must come from his own means and not from the money of the community nor from Second Tithe.

Is not [the rule that sacrifices may only be offered] by day inferred from the verse: In the day that he commanded?[11] — It is indeed stated [above] to no purpose.

Is not [the rule that all the services in connection therewith must be performed] with the right hand derived from the following dictum of Rabbah b. Bar Hannah; for Rabbah b. Bar Hannah declared in the name of R. Simeon b. Lakish. Wherever the word ‘finger’ or ‘priest’ is employed it signifies that the right hand only [shall be Used].[12] — And the other?[13] [He is of the opinion that the word] ‘priest’ requires [with it the word] ‘finger’ [in order that the above rule may apply], though [the word] ‘finger’ does not require [with it the word] ‘priest’.[14]

Whence do the first Tanna and R. Eleazar son of R. Simeon[15] derive the Jaw [that the nipping in the case of the burnt-offering of a bird shall be] close to the back of the neck?[16] — They derive it from the fact that nipping is prescribed in both cases.[17]

MISHNAH. [THE AGE] WHICH QUALIFIES TURTLE DOVES [FOR SACRIFICE] DISQUALIFIES PIGEONS, AND [THE AGE] WHICH QUALIFIES PIGEONS [FOR SACRIFICE] DISQUALIFIES TURTLE DOVES. AT THE PERIOD WHEN THE NECK FEATHERS BEGIN TO GLISTEN IN EITHER KIND THEY ARE DISQUALIFIED. GEMARA. Our Rabbis taught: Turtle doves are qualified [for sacrifice] when fully grown, but not when small; pigeons are qualified [for sacrifice] when small, but not when fully grown. It follows, therefore, that the age which qualifies turtle doves for sacrifice disqualifies pigeons, and the age which qualifies pigeons for sacrifice disqualifies turtle doves.

Our Rabbis taught: The expression, turtle doves,[18] implies fully grown birds, but not small. For [without the Biblical direction] I would have argued by an a fortiori argument thus:

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(1) This conclusion cannot be accepted, for there is no authority which insists that the priest shall hold the head and body of the bird in his hand whilst sprinkling the blood.

(2) For it is written: And he shall not divide it asunder (Lev. I,17).

(3) Lev. I, 25. The term ‘it’ implies a distinction, with the result that in the case of the burnt-offering of a bird the second organ must also be cut, though not severed, in order to conform with the rule that the head be attached to the body. Hence the view of R. Eleazar b. R. Simeon, frequently mentioned previously, that the greater portion of both organs must be cut, but no more.

(4) That both organs of the throat shall be severed in the case of the burnt-offering of a bird.

(5) Which also serves to prove the same rule, v. p. 108, n. 8.

(6) Which was dealt with in the preceding passage in Scripture. The result would then be that even in the case of the burnt.offering of a bird only one organ shall be severed.

(7) On the other hand, the draining of the blood following the nipping of the sin-offering of a bird must be carried out upon the lower half of the altar wall. V, Zeb. 64b. In all other respects, however, the burnt-offering of a bird shall be like unto the sin.offering of a bird.

(8) (a) That the blood of the bur1it.offering shall be drained upon the upper part of the altar wall; and (b) that both organs of the throat in the case of the burnt-offering shall be absolutely severed.

(9) V. supra p. 107.

(10) Lev. XVI, 6.

(11) Lev. VII, 38. The rule contained in this verse, namely, that sacrifices may only be offered by day, applies to all the sacrifices enumerated in the preceding verse. Wherefore is it necessary to derive the burnt-offering of a bird from the sin-offering of an animal?

(12) V. Men. 10a. And in the passage dealing with the burnt-offering of a bird there is written: And the ‘priest’ shall bring it near, Lev. I, 17.

(13) The first Tanna of the foregoing Baraitha. What was his opinion?

(14) Cf. Men. 10a. The first Tanna in our Baraitha is in agreement with this view, and since in connection with the burnt.offering of a bird the word ‘finger’ is not found, he is obliged to derive the rule of ‘right hand’ from the analogy.

(15) The first Tanna utilizes the analogy for comparing the burnt-offering of a bird with the sin-offering of an animal; and R. Eleazar b. R. Simeon, although comparing the burnt.offering of a bird with the sin-offering of a bird, utilizes the analogy in order to obtain the result that the head of the bird must remain attached to the body.

(16) Which R. Ishmael (supra) derives from the above mentioned analogy.

(17) The inference being that the place for nipping is the same in all cases.

(18) Lev. I, 14.

Talmud - Mas. Chullin 22b

If pigeons which are disqualified for sacrifice when fully grown are nevertheless qualified when small, turtle doves which are qualified when fully grown should surely be qualified when small! It is, therefore, written: ‘turtle doves’, to indicate that only the fully grown are qualified for sacrifice, but not the small. Young pigeons implies small birds, but not fully grown. For [without the Biblical direction] I would have argued by an a fortiori argument thus: If turtle doves which are disqualified for sacrifice when small are nevertheless qualified when fully grown, pigeons which are qualified for sacrifice when small should surely be qualified when fully grown! It is, therefore, written, young pigeons, to indicate that only the small are qualified for sacrifice, but not the fully grown. Where is this indicated in the verse? — Raba explained: Because Scripture should not have omitted to state at least once [the expression], ‘Of young turtle doves or of pigeons’.[1] But I will now say that pigeons, inasmuch as in the Divine Law they are always preceded by the epithet ‘young’, are qualified for sacrifice only when small, and not when fully grown; whereas turtle doves [I submit] may be offered either when fully grown or even when small! — [Turtle doves must be placed under conditions] similar to pigeons; thus, just as pigeons are qualified [for sacrifice] only when small and not when fully grown, so turtle doves are qualified [for sacrifice] only when fully grown and not when small.[2] Our Rabbis taught: One might conclude that all turtle doves [that are not small] and all pigeons [that are not fully grown] are qualified for sacrifice; it is, therefore, written: Of the turtle doves,[3] implying that some, but not all, turtle doves are qualified. [Similarly, it is written.] Of the young pigeons,[3] implying that some, but not all, pigeons are qualified. Hence, there is excluded [from either kind] those whose neck feathers begin to glisten.[4] When do turtle doves first become qualified for sacrifice?[5] When their wing plumage becomes golden. And when do pigeons become disqualified?[6] When their neck feathers begin to glisten. Jacob Karha learnt: When do pigeons first become qualified?[7] As soon as the limbs have absorbed [ye'ale'u][8] the blood. He reported this passage and also explained [the word ye'ale'u by reference to the verse.] Her young ones also suck up [ye'ale'u] blood.[9] When is this?[10] — Abaye answered: If when a feather is plucked out there flows blood [it is an indication that the limbs have absorbed the blood].

R. Zera put the following question: What is the law if a man said: ‘Behold, I undertake to offer for a burnt-offering either [a pair] of turtle doves or [a pair] of pigeons’, and he brought a pair of each kind, both pairs, however, being at the stage when the neck feathers were beginning to glisten?[11] If this stage is a period of doubt,[12] then in this case he at all events fulfils his obligation; but if it is a distinct intermediate stage,[13] then he does not fulfil his obligation. — Raba said: Come and hear: ‘Hence there is excluded[14] from either kind those whose neck feathers begin to glisten?’ Now if you say that it is an intermediate stage, it is well.[15] But if you say that it is a period of doubt, [it will be asked]: Surely a verse cannot serve to exclude a condition of doubt![16] —

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(1) The fact that ‘young’ always precedes ‘pigeons’ establishes the proposition that pigeons are qualified for sacrifice only when small.

(2) The conditions are that in each kind there shall obtain a qualifying as well as a disqualifying age.

(3) Lev. I, 14. ‘Of’, Hebrew מן has a partitive significance.

(4) At this stage turtle doves would be regarded as too small, and pigeons as already fully grown.

(5) I.e., when are they regarded as fully grown?

(6) That they are no longer regarded as small.

(7) It surely cannot be that as soon as they are hatched they are fit to be sacrificed!

(8) Heb. יעלעו.

(9) Job XXXIX, 30.

(10) I.e., how can one ascertain whether the limbs have already absorbed the blood?

(11) The translation here is based upon the interpretation of Maharam, q.v.

(12) I.e., whether a bird at this period is to be regarded as small or fully grown. If the former, then he has fulfilled his obligation by offering the pair of pigeons; and if the latter, by offering the pair of turtle doves. Therefore, by offering a pair of each kind he certainly fulfils his obligation.

(13) Lit., ‘a (special) species’. I.e., a period in which the bird is neither regarded as small nor fully grown.

(14) By the verse in Lev. I, 14: Of the turtle doves or of the young pistons. V. supra.

(15) To say that the verse expressly excludes this intermediate stage in each kind.

(16) The Divine Law could not have been in doubt as to the exact stages in the development of birds.

Talmud - Mas. Chullin 23a

The verse is required to exclude birds that have suffered an unnatural crime or that have been worshipped.[1] For since it is written: For their corruption is in them, there is a blemish in them,[2] and a Tanna of the school of R. Ishmael taught: Wherever ‘corruption’ is mentioned it means either sexual perversion or idolatry — sexual perversion: for it is written: For all flesh had corrupted his way upon earth;[3] idolatry: for it is written: Lest ye corrupt yourselves and make you a graven image[4] — it might well be argued that whatever is rendered unfit for sacrifice by reason of a blemish will similarly be rendered unfit by reason of sexual perversion or idolatry, and, on the other hand, whatever is not rendered unfit for sacrifice by reason of a blemish will not be rendered unfit by reason of sexual perversion or idolatry, with the result that birds, inasmuch as they are not rendered unfit for sacrifice by reason of a blemish[5] — for a Master said:[6] The unblemished state and the male sex are prerequisites only to sacrifices of cattle but not of birds — will likewise not be rendered unfit by reason of sexual perversion or idolatry! The verse therefore teaches us [that they are excluded].

R. Zera put the following question: What is the law if a man said: ‘Behold, I undertake to offer for a burnt-offering either a ram or a lamb’, and he brought a pallax?[7] Of course according to R. Johanan the question does not arise, since he holds that it is a distinct species.[8] For we have learnt:[9] If a man [under an obligation to bring a lamb or a ram as a sacrifice] offered a pallax, he must bring for it libations as for a ram,[10] but he does not thereby discharge the obligation of his sacrifice. And R. Johanan said that the verse. Or a ram,[11] included a pallax. The question, however, does arise according to the view of Bar Padda,

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(1) These birds may not be offered as sacrifices. The suggestion, therefore, that the verse Purports to exclude such birds whose neck feathers begin to glisten, is now abandoned.

(2) Lev. XXII, 25. From which is derived the rule that animals ‘corrupt’ or blemished are not acceptable for sacrifice.

(3) Gen. VI, 12. This verse refers to the sexual perversion of the generation.

(4) Deut. IV, 16.

(5) Minor blemishes do not disqualify a bird for sacrifice though a major blemish e.g., the loss of a limb, does.

(6) V. Kid. 24b.

(7) A sheep in its first twelve months is called a ‘lamb’, after thirteen months it is termed a ‘ram’, in its thirteenth month it is known as a pallax. Heb. פלגס, from Greek **, specifically a youth not yet arrived at adolescence, below the age of eighteen years.

(8) Consequently he will not have discharged his obligation.

(9) Par. I, 3; Men. 91b.

(10) The wine libations and offerings of meal which were brought with the sacrifice varied in quantity according to the animal offered. For a bullock it was necessary to bring three tenths of an ephah meal and one half of a hin wine; for a ram two tenths meal and one third of a hin wine; for a lamb one tenth meal and one quarter of a hin wine.

(11) Num. XV, 6 which prescribes the libations for a ram. The word ‘or’, Heb. או, being superfluous, is employed to extend the rule contained in this verse so as to include the pallax. Now it is evident that R. Johanan, by his interpretation that the verse purports to include the pallax, holds that it is a distinct species; for were it indeed a case of doubt he surely would not have explained the verse as purporting to include a condition of doubt! Cf. supra. p. 113, n. 3.

Talmud - Mas. Chullin 23b

who holds that he must bring [for it libations as for a ram] and account for the possibilities.[1] The question therefore is: must he account only for the possibility of it being either a ram or a lamb but not of it being a distinct species.[2] or must he also account for the possibility of it being a distinct species and declare that if it is a distinct species all the libations shall be regarded as a freewill-offering?[3] The question remains undecided. R. Zera put the following question: What is the law if a man said: ‘Behold, I undertake to bring [ten] cakes of a Thankoffering[4] either leavened or unleavened’, and he brought siur?[5] According to whose definition of siur does the question arise? If [he brought] that siur as defined by R. Meir, and [the question is asked] according to R. Judah's ruling about it, then it is undoubtedly unleavened! And if [he brought that siur] as defined by R. Judah and [the question is asked] according to R. Meir's ruling about it, then it is clearly leavened! Again if [he brought that siur] as defined by R. Meir and [the question is asked] according to R. Meir's ruling about it, then it is evidently leavened, since one is liable to stripes [for eating it on the Passover]! Indeed, the question arises on R. Judah's definition [of siur] and according to R. Judah's ruling about it; thus, is it a condition of doubt, then in our case he at all events fulfils his obligation;[6] or is it a distinct state,[7] then he does not fulfil his obligation? But has not R. Huna said that if a man said: ‘Behold, I undertake to offer the cakes of a Thank-offering’, he must bring a Thank-offering as well as the cakes? Now in our case, since there is imposed upon this person the duty of bringing a Thank-offering as well as the cakes, he does not know whether he must regard these [cakes of siur] as leavened and so bring for the rest unleavened cakes, or as Unleavened and so bring leavened cakes [among the others]![8] — The question could only arise where a man said: ‘Behold, I undertake to bring [ten] cakes, [either leavened or unleavened] in order to release So-and-so from this obligation in his Thank-offering'.[9] Even so, that other person does not know whether to regard these [cakes of siur] as leavened and bring the unleavened himself, or to regard these as unleavened and bring the leavened himself![10] — The question only arises in the case where he did not say. 'In order to release', and the point is this: Has this person fulfilled his obligation or not?[11] — The question remains undecided.

MISHNAH. [THE METHOD OF KILLING] WHICH RENDERS THE RED COW[12] VALID RENDERS THE HEIFER[13] INVALID, AND THE METHOD WHICH RENDERS THE HEIFER VALID RENDERS THE RED COW INVALID. GEMARA. Our Rabbis taught: The Red Cow is rendered valid by slaughtering and invalid by breaking its neck; the Heifer is rendered valid by breaking its neck and invalid by slaughtering. It follows, therefore, that [the method of killing] which renders the Red Cow valid renders the Heifer invalid, and the method which renders the Heifer valid renders the Red Cow invalid. But should not the Red Cow be rendered valid by breaking its neck by the following a fortiori argument? Thus, if the Heifer which is not rendered valid by slaughtering is nevertheless rendered valid by breaking its neck, the Red Cow which is rendered valid by slaughtering should surely be rendered valid by breaking its neck!

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(1) Lit., 'and stipulates'. By declaring: (a) if it is a ram then the quantity of libations offered is correct; (b) if it is a lamb then such amount as is required for a lamb shall be taken from this quantity, and the remainder shall be treated as a freewill libation offering. A third possibility would have to be accounted for if one were to take into consideration the possibility of it being a distinct species, in which case the declaration would be in addition to the two possibilities already stated; (c) if it is a distinct species and therefore no libations are necessary, then the whole of the libations offered shall be treated as a freewill-offering.

(2) Consequently in the circumstances of R. Zera's case the person will have discharged his obligation.

(3) With the result that in R. Zera's case the person will not have discharged his obligation.

(4) V. Lev. VII, 12 and 13, where it is prescribed that with a thank-offering one had to bring four kinds of cakes, viz., unleavened cakes mingled with oil, unleavened cakes smeared with oil, unleavened cakes of fine flour saturated in oil and leavened cakes. At present it is assumed that the man's obligation was merely to bring ten cakes, and by bringing cakes made from siur (v. next note), the question arises whether or not he has fulfilled his obligation.

(5) V. Pes. 48b. In the matter of siur there are two disputes between R. Meir and R. Judah. (a) As to the definition of siur: R. Meir says. It is dough the surface of which has already become pale (which indicates that fermentation has already begun); R. Judah says. It is dough the surface of which has become wrinkled (which is some time after it has turned pale). (b) As to the law of siur: R. Meir says that whosoever eats siur (as defined by him) on the Passover is liable to stripes; R. Judah says that whosoever eats siur (as defined by him) on the Passover is not liable to any punishment. Moreover, siur as defined by R. Judah is regarded by R. Meir as leavened, and whosoever eats of it on the Passover is liable to the punishment of Kareth; and on the other hand, siur, as defined by R. Meir is regarded by R. Judah as unleavened, and one may eat it on the Passover:

(6) For it is either leavened or unleavened.

(7) I.e., a definite stage in the process of fermentation, at which time the dough is neither leavened or unleavened.

(8) The difficulty that is raised by R. Huna's statement is this. The original assumption that this man's obligation ended with the bringing of the cakes cannot stand, for according to the law as stated by R. Huna he must bring all the forty cakes that accompany the thank-offering as well as the thank-offering itself. Consequently this man is in a dilemma, for even if it were accepted that siur is a condition of doubt, his position is no better, since he does not know what other cakes he must now bring.

(9) In this case the man has no other obligation than to bring ten cakes and therefore he would be fulfilling his obligation if it were held that siur was a condition of doubt.

(10) The purpose of this man's promise is to release that other person from part of his obligation; but since the other cannot avail himself of these cakes, for he does not know what other cakes he must bring, this man's purpose has not been achieved and consequently his obligation has not been discharged.

(11) Here the man undertakes to add ten cakes to his friend's thank-offering. The other person is in no way affected by this promise, for he must bring the full complement of cakes with his thank-offering, and the only Point that has to be considered is whether this man has fulfilled his own obligation by bringing these cakes of siur or not.

(12) V. Num. XIX.
(13) V. Deut. XXI.

Talmud - Mas. Chullin 24a

The verse, therefore, says: And he shall slaughter it,[1] and in addition [the law is stated to be] a statute,[2] in order to indicate that it is rendered valid only by slaughtering and not by breaking its neck.

But is it established that whenever ‘statute’ is written [in connection with a law] one may not apply to it an a fortiori argument? But what of the Day of Atonement ln connection wherewith statute’ is written,[3] nevertheless, it was taught: [Upon which the lot fell for the Lord,] and it shall determine it for the sin-offering,[4] implies that only the lot can determine it for the sin-offering, but designation[5] cannot determine it for the sin-offering. For [without this Biblical direction] I would have argued by an a fortiori argument thus: If offerings which are not consecrated by lot are nevertheless consecrated by designation,[6] an offering which is consecrated by lot should surely be consecrated by designation! It is therefore written: ‘And it shall determine it for the sin-offering’, to indicate that the lot only can determine it for a sin-offering, but designation will not determine it for a sin-offering. Now this is so, only because it is written in the Divine Law, ‘And it shall determine it for the sin-offering’, but without this verse one would have applied the a fortiori argument![7] — The Divine Law excluded all others when it stated in connection with the Heifer, ‘Whose neck was broken’,[8] indicating that only this shall have its neck broken, but no other.

And should not the Heifer be rendered valid by slaughtering by the following a fortiori argument? Thus, if the Red Cow which is not rendered valid by breaking its neck is nevertheless rendered valid by slaughtering, the Heifer which is rendered valid by breaking its neck should surely be rendered valid by slaughtering! The verse states: And they shall break the neck,[9] and also, ‘Whose neck was broken’, thus emphasizing that the Heifer is rendered valid only by breaking its neck and not by slaughtering.[10]

MISHNAH. [THE DISABILITY] WHICH DOES NOT DISQUALIFY[11] PRIESTS DISQUALIFIES LEVITES, AND [THE DISABILITY] WHICH DOES NOT DISQUALIFY LEVITES DISQUALIFIES PRIESTS.

GEMARA. Our Rabbis taught: priests are disqualified by reason of a bodily blemish,[12] and not by reason of age; Levites are disqualified by age[13] and not by bodily blemish. It follows, therefore, that [the disability] which does not disqualify priests disqualifies Levites, and [the disability] which does not disqualify Levites disqualifies priests. Whence do we know this? — From the following Baraitha. Our Rabbis taught: It is written: This is that which pertaineth unto the Levites.[14] Now what does this teach us? From the verse: And from the age of fifty years they shall return [from the service of the work],[15] we know that Levites are disqualified by age. Now I might have argued [by an a fortiori argument] that they are disqualified by bodily blemish too; thus, if priests who are not disqualified by age are nevertheless disqualified by bodily blemish, Levites who are disqualified by age should surely be disqualified by bodily blemish! It is therefore written: ‘This is that which pertaineth unto the Levites’, that is to say, this[16] only disqualifies Levites, but nothing else disqualifies them. Now I might also have argued [by an a fortiori argument] that priests are disqualified by age too; thus, if Levites who are not disqualified by bodily blemish are nevertheless disqualified by age, priests who are disqualified by bodily blemish should surely be disqualified by age! It is therefore written: ‘Which pertaineth unto the Levites’, and not ‘unto the priests’. I might further have supposed that this rule[17] [as regards Levites] obtains even at Shiloh and at the permanent House;[18] It is, therefore, written: To do the work of service and the work of bearing burdens,[19] that is to say: ‘I ordained this rule only when the work was that of bearing burdens upon the shoulder'.[20]

One verse says: From twenty and five years old and upward;[14] and another verse says: From thirty years old and upward.[21] Now one cannot accept the age of thirty[22] because of the verse which mentions twenty-five, and one cannot accept the age of twenty-five because of the verse which mentions thirty. How are these verses to be reconciled? Thus: at the age of twenty-five [the Levite enters the service] for training, and at the age of thirty he performs service. Hence the dictum: If a student does not see a sign of blessing [progress] in his studies after five years, he never will. R. Jose says, [After] three years, for it is written: That they be trained three years.[23] And that they be taught the learning and the tongue of the Chaldeans.[24] And the other, [how does he explain these latter verses]? — He would say that the Chaldean language is an exception, for It is easy [to master].[25] And the other, [R. Jose]? — He would say that the Temple service is an exception, for its rules are difficult.[26]

Our Rabbis taught: A priest, from the time that he has grown two hairs[27] until he grows old, is qualified for service; a bodily blemish, however, disqualifies him. A Levite, from thirty years old until fifty years old, is qualified for service; and becomes disqualified by age. This law [of the Levite], however, applied only at the Tent of Meeting in the wilderness; but at Shiloh or at the Permanent House they were only disqualified because of their voices.[28] Said R. Jose: Where is this indicated in any verse? —

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(1) Sc. the Red Cow; Num. XIX, 3.

(2) Ibid. 2: This is the statute of the law.

(3) Cf. Lev. XVI, 29: And it shall be a statute for ever unto you.

(4) Ibid. 9. The usual translation is. And he (sc. the priest) shall offer it for a sin-offering. The Rabbis, however, take 'the lot' as the subject of this sentence, and so derive from this verse the rule that it is the lot which decides the animal for the sacrifice.

(5) I.e., merely naming or specifying by word of mouth which goat shall be for the sacrifice and which shall be sent away.

(6) E.g., when a Pair of doves is offered, one of them for a sin-offering and the other for a burnt-offering (cf. Lev. XII, 8; XIV, 22), it is not the lot that determines them for their respective offerings, for even after the casting of lots they can be changed over; but it is the express designation of the owner that determines them.

(7) Although the law in connection with the Day of Atonement is stated to be a statute. This being so, the a fortiori argument should be applied in our Mishnah, with the result that the Red Cow be also rendered valid by breaking its neck.

(8) Deut. XXI, 6.

(9) Ibid. 4.

(10) This is the reading of MS.M.; v. Rashi. In cur. edd. only one verse is quoted in this final answer; v. Rashal. The injunction 'to break the neck' is repeated to indicate that this is the only method of killing the Heifer and no other is admissible. This answer is therefore in accordance with the accepted Rabbinic dictum: Wherever Scripture repeats an injunction it is meant to be indispensable.

(11) From taking part in the Temple service.

(12) V. Lev. XXI, 17.

(13) For they are qualified for service only from the age of thirty to fifty.

(14) Num. VIII, 24.

(15) Ibid, 25.

(16) Sc. age.

(17) That Levites are disqualified by age.

(18) I.e., the Temple at Jerusalem where the service of the Levites was to sing in the choir and to guard the doors of the Temple.

(19) Ibid. IV, 47.

(20) The disqualification of Levites by age was, therefore, effective only from the service of the Tabernacle in the wilderness, where their duties consisted of dismantling the entire Tabernacle and bearing the various parts on their shoulders.

(21) Ibid. IV, 23.

(22) I.e., as the proper age for commencing service.

(23) Dan. I, 5.

(24) Ibid. 4.

(25) Therefore in three years one ought to expect good results.

(26) Because of the numerous details that had to be mastered; and, therefore, in such a case even R. Jose admits that five years are necessary.

(27) These refer to the pubic hairs which indicate maturity and generally appear in males at the age of thirteen years and one day, and in females at the age of twelve years and one day.

(28) I.e., when they lost their voices and thus could no longer sing in the Temple choir.

Talmud - Mas. Chullin 24b

It is written: And it came to pass when the trumpeters and singers were as one to make one loud sound.[1]

'Until he grows old'. Until when is this? — R. Ila'a said in the name of R. Hanina: Until he begins to tremble.[2]

We have learnt elsewhere[3] If a man [who was unclean] by reason of a seminal emission, immersed himself [in a mikweh] but did not first urinate, when he does urinate he [again] becomes unclean.[4] R. Jose says: If he was ill or elderly he [again] becomes unclean, but if he was young and healthy he is clean.[5] How long [is one regarded as young and healthy]? — R. Ila'a said in the name of R. Hanina: As long as one is able to stand on one foot and put on and take off one's shoe. It was said of R. Hanina that at the age of eighty years he was able to stand on one foot and put on and take off his shoe. R. Hanina said: The warm baths and the oil with which my mother anointed me in my youth have stood me in good stead in my old age.

Our Rabbis taught: He whose beard is fully grown is qualified to act as the representative of a community,[6] to descend before the Ark[7] and to pronounce the priestly benediction.[8] When does he [the priest] become qualified for Temple service? When he produces two hairs. Rabbi says: I say, only when he is twenty years old. R. Hisda asked: What is Rabbi's reason? — Because it is written: And they appointed the Levites from twenty years old and upward to have oversight of the work of the house of the Lord.[9] And the other Tanna? He maintains that 'to have oversight' is quite a different matter.[10] But is not this verse stated in connection with the Levites?[11] — One must accept the statement of R. Joshua b. Levi. For R. Joshua b. Levi said: In twenty-four passages the priests are referred to as Levites, and the following is an example: And the priests the Levites the sons of Zadok.[12]

Our Rabbis taught: It is written: Any man of thy seed throughout their generations . . . [let him not approach to offer];[13] hence R. Eliezer derived the rule that a minor is not qualified for service even though he is without bodily blemish. When does he become qualified for service? When he has grown two hairs. His brother priests, however, would not permit him to take part in the service until he was twenty years old. Some say that this [Baraitha] agrees with the view of Rabbi, for he maintains that [under the age of twenty years] there is no legal disqualification whatsoever, not even by Rabbinic enactment.[14] Others say that Rabbi's view is that [under the age of twenty years] one is disqualified by Rabbinic enactment, and that this [Baraitha], however, agrees with the view of the Sages; for they maintain that [under the age of twenty years] there is a restriction only in the first instance, but if he did serve, the service would be valid.[15]

MISHNAH. THAT WHICH CANNOT BE RENDERED UNCLEAN IN EARTHENWARE

VESSELS CAN BE RENDERED UNCLEAN IN ALL OTHER VESSELS, AND THAT WHICH CANNOT BE RENDERED UNCLEAN IN ALL OTHER VESSELS CAN BE RENDERED UNCLEAN IN EARTHENWARE VESSELS.

GEMARA. Our Rabbis taught: The air-space of an earthenware vessel can be rendered unclean, but the outside of it cannot. The air-space of all other vessels cannot be rendered unclean, but the outside of them can. It follows, therefore, that that which cannot be rendered unclean in earthenware vessels can be rendered unclean in all other vessels, and that which cannot be rendered unclean in all other vessels can be rendered unclean in earthenware vessels. Whence do we know this? — From [the following Baraitha] which our Rabbis taught: It is written: And every earthen vessel into which [toko] any of them falleth,[16] that is to say, even though it does not actually touch the vessel.[17] You say: ‘Even though it does not actually touch’, but perhaps it is not so but only if it actually touches the vessel! R. Jonathan b. Abtolmos said: There is used the word ‘toko’[18] in connection with the vessel conveying uncleanness, and also the word ‘toko’[19] in connection with the vessel receiving uncleanness; therefore, just as ‘toko’, used in connection with the vessel conveying uncleanness, means, ‘even though it does not actually touch’, so, too, ‘toko’, used in connection with the vessel receiving uncleanness, means, ‘even though it does not actually touch’.[20] But whence do we know this in the former case? — R. Jonathan said: The Torah has declared the contents of an earthenware vessel [to be unclean]

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(1) II Chron. V, 13. This verse shows that the singers in the Temple were chosen because they were able to sing ‘as one’ and could ‘make one loud sound’. Such voices as would introduce a discordant note in the choir were eliminated.

(2) I.e., his hands and feet shake because of old age.

(3) Mik. VIII, 4.

(4) For it is possible that when he suffered the emission not all the semen was ejaculated, but there might have remained some drops in the passage of his organ, which, when he urinates after his immersion, would pass out with the urine and make him unclean again. Cf. Lev. XV, 16.

(5) These would have ejaculated the semen completely, whereas a sick or elderly person would not; only the latter, therefore, would again become unclean after urinating.

(6) Heb. שליח צבור, lit., ‘messenger of the congregation’. This usually connotes the person who acts as the reader of the congregation in conducting the prayers. Since, however, the subsequent words, ‘descend before the Ark’, clearly refer to the function of the reader, the representative of the community would mean, therefore, the warden or person appointed to attend to the affairs of the community. Cf. R. Gershom and Rashi.

(7) V. preceding note.

(8) Lit., ‘to lift up his hands’. Of course, provided he is a priest. V. Num. VI, 22-27.

(9) Ezra III, 8.

(10) It is conceded that a Levite under the age of twenty years would not be appointed to supervise the work.

(11) How, then, can this verse be adduced in support of the rule concerning the priests?

(12) Ezek. XLIV, 15. The term ‘Levites’ in this verse means descendants of the tribe of Levi, or it might mean ‘attendants’ (Rashi).

(13) Lev. XXI, 17. The Heb., איש, ‘a man’, excludes a minor.

(14) The statement of Rabbi, supra, ‘I say, only when he is twenty years old’, is therefore to be interpreted to correspond with this Baraitha; i.e., under the age of twenty years he is not legally disqualified, hut, as the Baraitha states: ‘His brother priests would not permit him to take part in the service’.

(15) Accordingly, the view of the Sages, supra, is to be qualified in the light of this Baraitha. ‘From the time that he produces two hairs he is qualified’, i.e., if he did serve the service would he valid, but he would not be allowed to serve in the first instance, as the Baraitha continues, ‘His brother priests would not permit him to take part in the service.’

(16) Lev. XI, 33. Heb. תוכו, ‘in it’, i.e., in its air-space.

(17) I.e., even though the reptile does not come into contact with the vessel, but is merely suspended in the air-space, the vessel becomes unclean.

(18) Ibid. Whatsoever is in it (toko) shall be unclean, i.e., foodstuffs in the air-space of the earthen vessel become unclean from the vessel.

(19) Ibid. And every earthen vessel into which (toko) any of them falleth.

(20) So that an earthenware vessel will receive uncleanness from a reptile which is suspended in its air-space, even though there has been no contact; and will also convey uncleanness, if itself unclean, to foodstuffs that are in its air-space.

Talmud - Mas. Chullin 25a

even though it is filled with mustard seed.[1] R. Ada b. Ahabah asked Raba: Should not an earthenware vessel be rendered unclean [by contact] from the outside by the following a fortiori argument: If all other vessels which are not rendered unclean through their air-space are nevertheless rendered unclean from the outside, an earthenware vessel which is rendered unclean through its air-space should surely be rendered unclean from the outside? — He replied: The verse reads: And every open vessel, which has no covering close-bound upon it, is unclean.[2] Now what kind of vessel is it to which uncleanness comes first through its opening? You must say: It is an earthenware vessel.[3] And [the verse teaches that] if it has no covering close-bound upon it is unclean, but if it has a covering close-bound upon it it is clean.[4]

And should not all other vessels be rendered unclean through their air-space by the following a fortiori argument: If an earthenware vessel which is not rendered unclean from the outside is nevertheless rendered unclean through its air-space, all other vessels which are rendered unclean from the outside should surely be rendered unclean through their air-space? — The verse says: In it[5] [toko], meaning the air-space of this[6] [can suffer uncleanness] but the air-space of no other [can suffer uncleanness]. But have we not already interpreted these [terms] toko for other purposes?[7] Indeed, four expositions may be derived from ‘toko’, by reason of ‘toko-tok’, ‘toko-tok’:[8] one [is required] for [the rule of] the text itself;[9] another for the analogy;[10] and again another for [the rule that] the air-space of this [vessel can suffer uncleanness], and not the air-space of any other [vessel]; and again another for [the rule that] the air-space of this [vessel can suffer uncleanness], and not the air-space [of another vessel] which is within the air-space [of this vessel];[11] hence even a rinsable vessel[12] is a protection [against uncleanness].

[One might argue that] all other vessels should not be rendered unclean [by contact] from the outside, but only by contact from the inside, by the following a fortiori argument: If an earthenware vessel which is rendered unclean through its air-space is nevertheless not rendered unclean from the outside, all other vessels which are not rendered unclean through their air-space should surely not be rendered unclean from the outside! — The verse therefore reads: And every open vessel, which has no covering close-bound upon it, is unclean,[13] that is to say, only with regard to this[14] [is the distinction made, namely,] if it has no covering close-bound upon it it is unclean, and if it has a covering close-bound upon it it is clean; whereas all other vessels, whether they have or have not a covering close-bound upon them, are unclean.[15] MISHNAH. THAT WHICH CANNOT BE RENDERED UNCLEAN IN WOODEN ARTICLES CAN BE RENDERED UNCLEAN IN METAL ARTICLES, AND THAT WHICH CANNOT BE RENDERED UNCLEAN IN METAL ARTICLES CAN BE RENDERED UNCLEAN IN WOODEN ARTICLES.

GEMARA. Our Rabbis taught: Unfinished wooden articles can be rendered unclean, but flat wooden articles cannot;[16] unfinished metal articles cannot be rendered unclean, but flat metal articles can. It follows, therefore, that that which cannot be rendered unclean in wooden articles can be rendered unclean in metal articles, and that which cannot be rendered unclean in metal articles can be rendered unclean in wooden articles. The following wooden articles are regarded as unfinished: whatever still requires to be smoothed, or adorned with designs, or planed, or trimmed round, or polished with [the skin of a] tunny-fish. Whatever still lacks the base or the rim or the handle can be rendered unclean, but whatever still requires to be hollowed out cannot be rendered unclean. ‘Whatever still requires to be hollowed out’! But this is obvious![17] — It is necessary to be mentioned for the following case: where one hollowed out of [a block which was intended to hold] a Kab only as much as would hold a Kapiza.[18] The following metal articles are regarded as unfinished: whatever still requires

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(1) All the mustard seeds in the vessel are rendered unclean, even those which are in the center of the vessel. Now these latter become unclean only because they are in the air-space of an unclean earthenware vessel. It cannot be suggested that the seeds which touch the side of vessel convey uncleanness to those next to them, one seed conveying uncleanness to the other, and so on as far as the seeds in the center of the vessel, for the following reasons: (a) no foodstuff less than the size of an egg can convey uncleanness; (b) one foodstuff cannot convey uncleanness to another foodstuff; and (c) with unconsecrated food uncleanness can at the most be extended to the second degree, but no further. In our case, therefore, the vessel, being unclean in the first degree, would convey uncleanness by contact to the seeds next to it, and these would be unclean in the second degree and could not pass on the uncleanness to others even by contact.

(2) Num. XIX, 15.

(3) The fact that the verse specifically mentions ‘open’ suggests immediately that it is dealing with an earthen vessel which has a special rule concerning its ‘opening’ i.e., its air-space, for no other vessel can be rendered unclean or can convey uncleanness through its air-space.

(4) Hence it is proved that an earthenware vessel cannot be rendered unclean from the outside.

(5) Lev. XI, 33. Heb. תוכו, the air-space.

(6) Sc. an earthenware vessel.

(7) For the purposes of the analogy, v. supra 24b ad fin, p. 123.

(8) Actually the word ‘toko’ is mentioned twice in Lev. XI, 33, but it would have served the purpose of the text if in each case the word ‘tok’ was used. The addition to each word indicates further exposition.

(9) Viz., that the air-space of un unclean earthenware vessel should render unclean foodstuffs or liquids which are within it.

(10) V. supra p. 123, n.5.

(11) I.e., if a vessel containing foodstuffs or liquids is suspended in the airspace of an earthenware vessel in such a way that the rim of the inner vessel is above the rim of the outer vessel, and a reptile is suspended in the airspace between the two vessels, then the contents of the inner vessel are not unclean, for they are not regarded as being within the air-space of the earthenware vessel, but only within the air-space of a vessel which is itself within the air-space of the earthenware vessel. The inner vessel, in other words, is a protection against the uncleanness reaching its contents, and for this reason, viz., since a vessel-even one which can be rendered unclean by contact from the outside — cannot be rendered unclean if it comes within the air-space of an unclean earthenware vessel (v. Pes. 20a), its contents will be protected from uncleanness.

(12) I.e., all vessels except earthenware vessels. The former are called rinsable because, if unclean, they can be rendered clean by being rinsed in the waters of a mikweh.

(13) Num. XIX, 15.

(14) I.e., an earthenware vessel.

(15) It follows therefore that all other vessels can be rendered unclean from the outside, seeing that the fact that these vessels have a covering close-bound upon them is no protection.

(16) For wooden vessels do not contract uncleanness unless they contain a cavity.

(17) For it is merely a flat piece of wood.

(18) A small measure equal to three logs; a Kab is a measure that holds four logs. In this case, since the wood was to be hollowed out in order to hold a Kab it is regarded as unfinished as long as this had not been done.

Talmud - Mas. Chullin 25b

to be smoothed, or adorned with designs, or planed, or trimmed round,[1] or hammered out. Whatever still lacks the base or the rim or the handle, cannot be rendered unclean, but whatever only requires the lid can be rendered unclean.

Why is there a difference between the one and the other?[2] — R. Johanan said: Because these [metal vessels] are made for occasions of honour.[3] R. Nahman said: Because they are expensive,[4] What practical difference is there between them? — Bone vessels.[5] And indeed R. Nahman is consistent in his view, for R. Nahman said: Bone vessels are regarded on the same footing as metal vessels. It appears then that bone vessels can be rendered unclean![6] — It is so; for it was taught: R. Ishmael, the son of R. Johanan b. Beroka says. What does the following verse teach us: And everything made from goats . . . ye shall purify?[7] To include anything made from goats, either from the horns or from the hoofs. And whence do we know [that articles made from the horns or the hoofs] of other animals or beasts [are included]? From the words, 'And everything made'. Why, then, is it written: 'From goats'? To exclude [articles made from] birds.[8]

MISHNAH. WHEN BITTER ALMONDS ARE SUBJECT TO TITHING SWEET ALMONDS ARE EXEMPT, AND WHEN SWEET ALMONDS ARE SUBJECT TO TITHING BITTER ALMONDS ARE EXEMPT.

GEMARA. Our Rabbis taught: Small bitter almonds are subject to tithing, but the large are exempt;[9] large sweet almonds are subject to tithing, but the small are exempt.[10] R. Ishmael b. R. Jose says in the name of his father: Both[11] are exempt. Others have the reading: Both[12] are subject to tithing. R. Ila'a said that R. Hanina ruled in Sepphoris in accordance with the view of him who maintains that both are exempt. But according to him who maintains that both are subject to tithing [it will be asked]: What use can be made of large bitter almonds? — R. Johanan answered: They can surely be sweetened by [roasting in] the fire!

MISHNAH. TAMAD[13] BEFORE IT HAS FERMENTED MAY NOT BE BOUGHT WITH SECOND TITHE MONEY[14] AND RENDERS A MIKWEH INVALID;[15] AFTER IT HAS FERMENTED IT MAY BE BOUGHT WITH SECOND TITHE MONEY AND DOES NOT RENDER A MIKWEH INVALID.[16]

BROTHERS WHO ARE PARTNERS [IN THEIR INHERITANCE], WHEN THEY ARE LIABLE TO PAY THE AGIO,[17] ARE EXEMPT FROM THE CATTLE TITHE,[18] AND WHEN THEY ARE LIABLE TO THE CATTLE TITHE,[19] THEY ARE EXEMPT FROM THE AGIO.[20]

GEMARA. Who is the author of our Mishnah? It is neither R. Judah nor the Rabbis! For we have learnt: If a man made Tamad putting in a certain measure of water, and he subsequently found the same measure of liquid, he is exempt from tithing it.[21] R. Judah however, makes him liable.[22] Now who is the author [of our Mishnah]?[23] If the Rabbis, then even though it has fermented [it should not be purchasable with Second Tithe money], and if R. Judah, then even though it has not fermented at all [it should be purchasable with Second Tithe money]! — R. Nahman said, in the name of Rabbah b. Abbuha,

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(1) Reading לכרכב; so MS.M. and also the 'Aruch. In cur. edd. לכרכר, which, according to Rashi, means 'to adorn with figures'.

(2) Why is it that unfinished metal articles cannot be rendered unclean whereas unfinished wooden articles can?

(3) Since metal vessels are reserved for use on special occasions they would not serve the purpose unless they were absolutely finished in all detail and decoration.

(4) And they would not realize their price unless they were finished in every detail.

(5) These are expensive but are not used on special occasions of honour; consequently, according to R. Johanan unfinished bone vessels can be rendered unclean, but according to R. Nahman they cannot.

(6) Where is it indicated in the Torah?

(7) Num. XXXI, 20.

(8) E.g., articles made from the claws of birds. These cannot be rendered unclean and therefore the law of purification does not apply.

(9) The test is edibility; therefore, large hitter almonds are exempt from tithing because they are not edible, whereas the small bitter ones before they are fully ripened are edible and so subject to tithing.

(10) In the case of sweet almonds, the small ones are exempt from tithing for they are not yet fully ripe.

(11) I.e., both sweet and bitter almonds when small are exempt from tithing (Rashi). According to R. Gershom and Tosaf the meaning is: Bitter almonds both large and small are exempt from tithing.

(12) I.e., both sweet and bitter almonds when large are subject to tithing (Rashi). According to A. Gershom and Tosaf. the meaning is: Bitter almonds both large and small are subject to tithing.

(13) תמד. An inferior wine made by steeping the kernels and skins of grapes in water, or by pouring water on to the lees of wine.

(14) Before fermentation has taken place it is merely water, and water may not be bought with Second Tithe money, v. ‘Er. 27b.

(15) A mikweh (i.e., a ritual bath) must be filled with waters which flow directly from a river or a stream or with rainwater, but not with waters which have been drawn from the rlver into vessels. An admixture of three logs or more of drawn water into a mikweh which does not contain the requisite amount of water (i.e., 40 se'ah) renders the mikweh invalid for all time. But an admixture of wine into a mikweh does not render it invalid.

(16) For it is regarded as wine.

(17) Heb. קלבון from Greek **. This was a small coin which every person had to add to his annual contribution of a half-shekel to the Temple in order to compensate the Temple Treasury for the loss it might sustain on exchanging the half-shekel for other coinage. It was not permissible for two people to evade this additional payment by combining and paying one shekel between them. On the other hand, this law of agio was relaxed in favour of a person who paid the half-shekel on behalf of another by way of gift to that other person; and therefore, if a father paid a whole shekel on behalf of his two sons by way of gift to them, he was not liable to pay any agio at all. In the case of our Mishnah the circumstances are that the brothers had divided the inheritance on the death of their father and subsequently entered into partnership; consequently each one must pay the agio when contributing his half-shekel even though they pay one whole shekel jointly, in the same way as when two people pay together one whole shekel.

(18) Cf. Lev. XXVII, 32. In Bek. 56b it is laid down that cattle born to partnership stock is exempt from the tithe.

(19) I.e., if they had never divided the inheritance. In this case it is held that cattle born to the partnership stock is subject to the tithe, for it is deemed in law to be the deceased father's stock.

(20) Since the inheritance had never been divided the combined contribution of one shekel which they make is regarded as a payment made by a father by way of gift in respect of his two sons, and in these circumstances they are exempt from the agio. V. p. 128, n. 7.

(21) For it is regarded as water, even though its taste may be that of wine, since there is here no increase in the mixture. V. Ma'as. V, 6. It is assumed for the present that such considerations, as to whether the mixture has fermented or not, are of no consequence.

(22) For it is regarded as fruit juice.

(23) It is assumed that the Tamad of our Mishnah had not 1ncreased at all but the whole of it measured exactly the same as the quantity of water that was put in.

Talmud - Mas. Chullin 26a

Their dispute[1] referred only to the case where it had fermented; and our Mishnah, therefore, is in accordance with R. Judah's view.[2] R. Jose b. Huna also reported that their dispute referred only to the case where it had fermented. R. Nahman further said in the name of Rabbah b. Abbuha: If a man bought Tamad with Second Tithe money and it subsequently fermented, that which he has purchased is Second Tithe.[3] Why is this? — Because it now appears that from the outset it was fruit [juice].[4] But [cannot the same argument be applied to] our Mishnah, which teaches that only if it had fermented [is it purchasable with Second Tithe money] but that if it had not fermented it is not [purchasable with Second Tithe money]? For it might be argued that had he let it stand it would have fermented?[5] — Rabbah answered [that our Mishnah deals with the case] where he let some of it stand in a glass and it did not ferment. Raba, however, said that the author of our Mishnah was R. Johanan b. Nuri. For we have learnt: If a Kortob[6] of wine fell into three logs less a Kortob of water, the mixture having the colour of wine, and the whole of this mixture fell into a [deficient] mikweh, it does not render the mikweh invalid.[7] If a Kortob of milk fell into three logs less a Kortob of water, the mixture having the colour of water, and the whole of this mixture fell into a [deficient] mikweh, it does not render it invalid.[7] But R. Johanan b. Nuri says: It all depends upon the colour.[8] Now did not R. Johanan b. Nuri lay down the rule that we must determine every mixture by its colour? Then in the case of our Mishnah, too, one ought to determine the mixture by its colour, and the taste[9] and colour of the mixture is that of water.[10]

The above view[11] differs from that of R. Eleazar. For R. Eleazar said: All[12] agree that one may not set aside other [Tamad] as tithe for this [Tamad], unless this had already fermented. It is clear, then, that he [R. Eleazar] is of the opinion that the dispute [between R. Judah and the Rabbis] refers only to the case where it has not fermented; and when R. Judah said that he was liable to tithe it, he only meant [that he must set aside] some of it [as tithe] for the whole, but not that he may set aside other [Tamad as tithe for this], for then[13] he might be setting aside that which is subject to tithing [as tithe] for that which is exempt, or that which is exempt [as tithe] for that which is subject to tithing.[14]

Our Rabbis taught: Tamad before it has fermented

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(1) Between R. Judah and the Rabbis.

(2) For only R. Judah holds the view that fermented Tamad is regarded as wine juice, consequently it may be purchased with Second Tithe money. Unfermented Tamad, however, even R. Judah admits is but water. It should be noted that there is an alternative answer possible, namely, that the dispute between the Rabbis and R. Judah concerned unfermented Tamad, and accordingly our Mishnah would follow the view of the Rabbis. R. Nahman, however, did not suggest this, for then R. Judah's view would be unintelligible as it is inconceivable that he would bold that unfermented Tamad should be regarded as wine juice (Rashi).

(3) I.e., a valid substitution has been effected, so that now the Tamad must be treated with the sanctity due to Second Tithe, and the original Second Tithe money, now in the hands of the vendor, has no sanctity whatsoever.

(4) Even though at the time of purchase there was no semblance of wine juice in the Tamad.

(5) It should therefore be regarded at all times as wine juice, even before it has actually fermented, and consequently it should not render a mikweh invalid.

(6) A small liquid measure equal to 1/64 of a log.

(7) For there is not here the minimum quantity of drawn water (three logs) necessary to render the mikweh invalid.

(8) So that in the first case the mixture would not render the mikweh invalid, but in the second case it would. V. Mik. VII, 5; Mak. 3b.

(9) In some MSS. this word is omitted and it is apparently superfluous, but v. Tosaf. ad loc.

(10) Before fermentation. Consequently it is not purchasable with Second Tithe money and it also renders a mikweh invalid. R. Nahman, however, who does not decide the mixture by its colour but by its potency to ferment in the future, follows the view of the first Tanna.

(11) Of R. Nahman which he reported in the name of Rabbah b. Abbuha concerning the dispute between R. Judah and the Rabbis.

(12) Even R. Judah agrees with the Rabbis.

(13) Since the one kind of Tamad might ferment later on and the other might not.

(14) And in either case the act is of no effect in law, with the result that in the former instance the priest, and in the latter the owner, will be eating tebel i.e., untithed produce.

Talmud - Mas. Chullin 26b

can be rendered clean by bringing it into contact with the water [of a mikweh];[1] after it has fermented it cannot be rendered clean by bringing it into contact with the water [of a mikweh]. Raba remarked: This rule applies only if the Tamad was made with water that was clean and it subsequently became unclean, but not if the water was unclean from the outset. R. Gabiha of Be-Kathil[2] went and reported this statement to R. Ashi and raised this question: Why does not the rule apply if the water was unclean from the outset? Is not the reason because we say that the water, being heavy, will sink to the bottom of the vessel, whilst the fruit [skins] being light will float on the surface of the water, and consequently the contact made with the waters [of the mikweh] will be of no effect? If so, is not the same reasoning to be applied to the case where the water was first clean and subsequently became unclean? You must, therefore, say that in this case they mix well together;[3] then in the former case, too, we should say that they mix well together.[4]

MISHNAH. WHEN THERE IS A POWER TO SELL[5] THE FINE IS NOT PAYABLE,[6] AND WHEN THE FINE IS PAYABLE THERE IS NO POWER TO SELL.

GEMARA. Rab Judah said in the name of Rab. This is R. Meir's opinion, but the Rabbis say that the fine is payable even when there is a power to sell.[7] For it has been taught: The power to sell applies to a minor from the age of one day until the time she has grown two hairs,[8] but the fine is not payable; from the time that she has grown two hairs until maturity[9] the fine is payable but there is no power to sell. Thus R. Meir; for R. Meir used to say. 'When there is a power to sell the fine is not payable, and when the fine is payable there is no power to sell'. But the Rabbis say: In the case of a minor, from the age of three years and one day until maturity, the fine is payable. 'The fine is payable!' [you say]; but is there not also a power to sell? — Render: The fine is payable and there is also a power to sell.

MISHNAH. WHEN THERE IS THE RIGHT OF REFUSAL[10] THERE CAN BE NO HALIZAH,[11] AND WHEN THERE CAN BE HALIZAH THERE IS NO LONGER THE RIGHT OF REFUSAL.

GEMARA. Rab Judah said in the name of Rab: This is R. Meir's opinion, but the Rabbis say that there is a right of refusal even when there can be halizah.[12] For it has been taught: Until what age can a daughter refuse? Until she has grown two hairs. Thus R. Meir, but R. Judah says. Until the dark hairs appear in abundance over the white [skin].[13]

MISHNAH. WHEN THE SHOFAR IS BLOWN[14] THERE IS NO HABDALAH[15] SERVICE, AND WHEN THERE IS THE HABDALAH SERVICE THE SHOFAR IS NOT BLOWN. THUS, IF A FESTIVAL FALLS ON THE DAY BEFORE THE SABBATH THE SHOFAR IS BLOWN[16] BUT THERE IS NO HABDALAH SERVICE;[17] IF IT FALLS ON THE DAY FOLLOWING THE SABBATH THERE IS HABDALAH SERVICE[18] BUT THE SHOFAR IS NOT BLOWN.[19] WHAT IS THE FORM OF THE HABDALAH BENEDICTION?[20] 'WHO MAKEST A DISTINCTION BETWEEN HOLY AND HOLY'.[21] R. DOSA SAYS, 'WHO MAKEST A DISTINCTION BETWEEN THE MORE HOLY AND LESS HOLY DAY'.[22]

GEMARA. How was the shofar blown then?[23] — Rab Judah said: A teki'ah[24] was blown, which in the end was converted into a teru'ah.[25] R. Assi said: A teki'ah was blown, and then a teru'ah all in one breath. R. Assi instituted the custom in Huzal[26] in accordance with his view.

An objection was raised from the following Baraitha: If a festival fell on the day before the Sabbath, a teki'ah was blown but no teru'ah. Now does not this mean that no teru'ah was blown at all? — It is not so; but Rab Judah interprets [this Baraitha] in accordance with his view, and R. Assi interprets it in accordance with his view. Rab Judah interprets it in accordance with his view thus, 'But no teru'ah', that is to say, not separately, but the teki'ah was converted into a teru'ah. R. Assi interprets it in accordance with his view thus, 'But no teru'ah', that is to say, not with a second breath, but all in one breath.

IF IT FALLS ON THE DAY FOLLOWING THE SABBATH . . . ['WHO MAKEST A DISTINCTION BETWEEN HOLY AND HOLY']. At what part [of the Habdalah service] is this [formula] said? — Rab Judah said: At the conclusion.[27] R. Nahman also said: At the conclusion. R. Shesheth the son of R. Idi said: Even at the beginning. The law, however, is not in accordance with his view.

R. DOSA SAYS, ‘WHO MAKEST A DISTINCTION BETWEEN THE MORE HOLY AND THE LESS HOLY DAY’. The law, however, is not in accordance with his view.

R. Zera said: If a festival falls in the middle of the week one must say [in the Habdalah service]: ‘Who makest a distinction between holy and profane, between light and darkness, between Israel and other nations, between the seventh day and the six working days’. Why is this?[28] — He is merely enumerating the ‘distinctions’.[29]

CHAPTER II

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(1) V. Bezah 17b and Pes. 34a. Water that has become unclean can be rendered clean by pouring it into a stone vessel and lowering it into a mikweh, so that the water in the vessel touches (lit., ‘kisses’) the water of the mikweh and becomes one with the latter. Now Tamad before fermentation is regarded as water and therefore can be rendered clean in this way. Other liquids, however, once unclean, can never be rendered clean, and therefore fermented Tamad, being regarded as wine, cannot be rendered clean in this way.

(2) V. A.Z. 22a (Sonc. ed.) p. 112, n. 1.

(3) I.e., the water and the grape skins; so that there is nothing actually interposing when the contact is made between the waters of the mikweh and the Tamad.

(4) The result is that no distinction can be drawn between the cases; accordingly Tamad before fermentation can always be rendered clean, whether it was made originally with unclean water or originally with clean water and it subsequently became unclean.

(5) A father, according to Ex. XXI, 7, has the power to sell his daughter as a maidservant during her minority, i.e., until she attains the age of twelve years and one day.

(6) V. Ex. XXI, 15-16, and Deut. XXII, 28-29. A fine of 50 shekels was payable by the person who seduced or violated a na'arah, technically a girl between the ages of twelve years and one day and twelve years and six months.

(7) I.e., the fine is payable even though the girl was a minor. V. Keth. 40b.

(8) These refer to the pubic hairs which generally appear on a girl at the age of twelve years and one day, whereupon she becomes a na'arah.

(9) Or, adolescence. This is reached by a girl when she has attained the age of twelve years and six months.

(10) A fatherless girl whose mother or brother gave her away in marriage, even with her consent, can at any time during minority ‘refuse’ the continuance of the marriage, and in this way break the marriage bond without the necessity of a bill of divorce.

(11) A girl who, during her minority, has become a widow even though she is childless cannot be subject to the ceremony of Halizah (v. Glos.) with regard to her brother-in-law. V. Deut. XXV, 5-10.

(12) I.e., there is a right of refusal even after the age of twelve years.

(13) V. Nid. 52a.

(14) It was the custom in Talmudic times to blow the shofar on the eve of the Sabbath or of the festival before the sacred day commenced, so that the community might cease work and prepare for the sacred day.

(15) Heb. הבדלה, ‘distinction’, ‘separation’. A benediction recited over a cup of wine at the termination of the Sabbath or of the festival.

(16) Before the commencement of the Sabbath, in order to make known to the public that all work must cease, even such as was permitted on the festival e.g. cooking.

(17) The rule is that no Habdalah service is recited at the termination of a sacred day, if that day is immediately followed by a day more sacred. Thus, there will be no Habdalah service at the termination of a festival if it is immediately followed by the Sabbath.

(18) In order to distinguish between the greater sanctity of the Sabbath and the lesser sanctity of the festival.

(19) Since there is no need to warn people to abstain from work for they have been at rest the whole of the Sabbath day.

(20) At the termination of the Sabbath that is immediately followed by a festival.

(21) V. P.B., p. 231.

(22) The Sabbath being referred to as the more holy and the festival as the less holy day.

(23) Sc. at the conclusion of a festival that is immediately followed by the Sabbath. There must have been some slight difference on this occasion, when the purpose of the shofar was to warn People to abstain from such work as was permitted on the festival, in order to distinguish it from the blowing of the shofar at every Sabbath eve which served to warn people to cease work absolutely.

(24) Heb. תקיעה, a blast on the shofar of one prolonged note.

(25) Heb. תרועה, a series of rapid short blasts.

(26) Near Nehardea.

(27) Whereas at the beginning of the Habdalah prayer of formula used is: ‘who makest a distinction between holy and profane’. V. P.B. loc. cit.

(28) I.e., why should one include in the benediction the distinction ‘between the seventh day’ etc., seeing that the occasion is a midweek festival and not the Sabbath?

(29) Which are to be found in the Torah; cf. Lev. X, 10 Gen. I, 4; and Lev. XX, 26.

Talmud - Mas. Chullin 27a

MISHNAH. IF A MAN CUT[1] ONE [OF THE ORGANS OF THE THROAT][2] IN THE CASE OF A BIRD, OR BOTH ORGANS IN THE CASE OF CATTLE, THE SLAUGHTERING IS VALID. THE GREATER PART OF AN ORGAN IS EQUIVALENT TO [THE WHOLE OF] IT. R. JUDAH SAYS, HE MUST CUT THROUGH THE JUGULAR VEINS. [IF ONE CUT] HALF OF ONE ORGAN IN THE CASE OF A BIRD, OR ONE AND A HALF ORGANS IN THE CASE OF CATTLE, THE SLAUGHTERING IS INVALID. [IF A MAN CUT] THE GREATER PART OF ONE ORGAN IN THE CASE OF A BIRD, OR THE GREATER PART OF EACH ORGAN IN THE CASE OF CATTLE, THE SLAUGHTERING IS VALID.

GEMARA. ‘IF A MAN CUT’ implies that the slaughtering is valid only after the act but that one is not permitted to do so in the first instance. [This would mean that] to cut both organs in the case of cattle is not sufficient in the first instance. Indeed, how much further can one go on cutting? — If you wish I can say that the expression ‘IF ONE CUT’ refers to the clause, ONE ORGAN IN THE CASE OF A BIRD; alternatively it refers to the clause, THE GREATER PART OF AN ORGAN IS EQUIVALENT TO [THE WHOLE OF] IT.[3]

(Kemash)[4] R. Kahana said: Whence do we know that slaughtering must be performed at the neck? From the verse: And he shall slaughter [we-shahat] the bullock,[5] that is to say, he shall cleanse [hat] it [from blood] in the place where it bends down [shah].[6] And whence do we know that hat means to cleanse? — From the verse: And he shall cleanse [we-hitte] the house;[7] or, if you wish, from the verse: Cleanse me [tehatte'eni] with hyssop and I shall be clean.[8] perhaps [it should be performed] at the tail? — the word shah, we say, implies, bent down, of something that is usually erect,[9] but that [sc. the tail] is always bent down. Perhaps [it should be performed] at the ear?[10] — It is necessary to obtain the life blood. Perhaps one should keep on cutting [the ear] until one reaches the life blood!

Moreover,[11] whence would we know the rules against pausing, pressing, thrusting, deflecting, and tearing? [We must therefore say that] we know them by tradition; then the rule that slaughtering must be performed at the neck is also derived from tradition. What then does this verse teach us? — That one may not cut the animal into two.[12]

R. Yemar said: We can derive it from the verse: And thou shalt slaughter [we-zabahta][13] that is to say, one must break [hat] it in the place where [the blood] flows [zab].[14] And whence do we know that hat means to break? — From the verse: Fear not neither be dismayed [tehath].[15] perhaps [it should be performed] at the nose?[16] — The word zab implies to flow by reason of a cut, but that [sc. the nose] flows of its own. Perhaps [it should be performed] at the heart! Moreover, whence would we know the rules against pausing, pressing, thrusting, deflecting, and tearing? [We must therefore say that] we know them by tradition; then the rule that slaughtering must be performed at the neck is also derived from tradition. What then does this verse teach us? — That one may not cut the animal into two.

The school of R. Ishmael taught: It is written: And he shall slaughter [we-shahat];[17] read not we-shahat but we-sahat, meaning, one shall cleanse [hat] it [from blood] in the place where it utters Sound [sah].[18] Perhaps [one should perform it] at the tongue? — It is necessary to obtain the life blood. Perhaps one should keep on cutting until one reaches the life blood! Moreover, whence would we know the rules against pausing, pressing, thrusting, deflecting, and tearing? [We must say] therefore [that] we know them by tradition; then the rule that slaughtering must be performed at the neck is also derived from tradition. What then does this verse teach us? — That One may not cut the animal into two.

A Tanna derives it from the following Baraitha: R. Hiyya said: Whence do we know that slaughtering must be performed at the neck? From the verse: And Aaron's sons, the priests, shall lay in order the pieces, [the head and the fat].[19] Now it was quite unnecessary for the verse to add ‘the head and the fat’. Why is it written: ‘the head and the fat’? Are not the head and the fat included in ‘the pieces’? Why are they mentioned separately? [For this reason]; since it is written: And he shall flay the burnt-offering and cut it [into its pieces].[20] I would have thought that only such limbs as must be flayed are included [in the pieces];[21] whence would I learn to include also the head which is already severed?[22] It is therefore written explicitly. [And he shall cut it into its pieces,] with its head and its fat and he shall lay them in order.[23] Now since the Tanna speaks of the head as severed, it is evident that slaughtering must be performed at the neck. Why does the Tanna open his argument with, ‘And the head and the fat’,[24] and conclude with, ‘Its head and its fat’?[25] — This is what he means. Whence would I learn to include the head which is already severed? From the verse: ‘And the head and the fat’. Then for what purpose do I require the verse,[26] ‘Its head and its fat’? — For the purpose shown in the following Baraitha: Whence do I know that the head and the fat precede all limbs [on the altar]? From the verse: Its head and its fat, and he shall lay them in order.[27]

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(1) Lit., ‘slaughtered’.

(2) There are two main organs in the throat which are considered for the purpose of slaughtering and they are (i) the windpipe or the trachea, and (ii) the foodpipe or the gullet or oesophagus.

(3) Thereby suggesting that in such cases the slaughtering is valid only after the act.

(4) A mnemonic (probably with the meaning ‘to wither’) consisting of the characteristic letters of the names of the Rabbis whose statements follow.

(5) Lev. I, 5. Heb. וישחט.

(6) I.e., the neck. The Hebrew word שחט is divided into component parts thus: שח, to bend, and חט, to cleanse.

(7) Lev. XIV, 52. Heb. וחטא.

(8) Ps. LI, 9. Heb. תחטאני .

(9) E.g. the neck.

(10) The ear is sometimes bent down and sometimes erect.

(11) I.e., even if it were accepted that the rule that to slaughter one must cut the neck is derived from the verse adduced, this further question confronts us: Whence would we derive the rules . . .? V. Tosaf. s.v. ותו.

(12) Heb. גיסטרא. This prohibition is implicit in the word וישחט i.e., cleanse the animal from its blood by cutting the main organs of the throat and no more. Others interpret גיסטרא. to mean, ‘to cut with force’; the verse is therefore taken as a direct prohibition against chopping the neck or pressing the knife downwards while slaughtering, on this interpretation the rule against pressing has a Biblical basis, v. Rashi.

(13) Deut. XII 21. Heb. וזבחת.

(14) I.e., at the neck. The Heb. זבחת is divided into component parts thus: זב, to flow, and חת, to break.

(15) Deut. 1, 21. Heb. תחת, be broken in spirit, be dismayed.

(16) From which there flows mucus.

(17) Lev. I, 5.

(18) I.e., at the neck. The word וישחט is interpreted as וסחט which being divided into component parts would give: סח, to talk, to utter sound, and חט, to cleanse.

(19) Ibid. 8.

(20) Ibid. 6.

(21) To which the ordinance 'And he shall lay them in order' applies.

(22) For as soon as the two or throat have been cut the head is to all intents and purposes ed, and therefore the ordinance of flaying the animal does head (cf. Zeb. 85b); consequently as the head is not flayed the the pieces in order would not apply to it.

(23) Lev. I, 12.

(24) From verse 8.

(25) From verse 12.

(26) Var. lec., (v. Rashi) 'and as to the verse' etc., all this being the continuation of R. Hiyya's Baraitha.

(27) Indicating by the order of the words in this verse that the head and the fat ate offered before all other things upon the altar.

Talmud - Mas. Chullin 27b

And why did the Divine Law mention the fat in the first verse?[1] — For the purpose shown in the following Baraitha: How does he offer it? He covers the throat with the fat and thus offers it upon the altar; and in this way there is glory given to the Most High.

Another Tanna derives it from the following Baraitha: It is written: This is the law of cattle and of birds.[2] Now in which law [of the laws of uncleanness] are birds and cattle treated alike. On the one hand the carcass of cattle conveys uncleanness by contact or by carrying whereas the carcass of a bird does not. On the other hand the carcass of a bird whilst in the gullet renders clothes unclean[3] whereas the carcass of cattle does not. In which respect then are birds and cattle alike? In this respect: As cattle [are rendered clean] by slaughtering, so birds [are rendered clean] by slaughtering. But it should follow, should it not, that as in the case of cattle the greater part of both organs must be cut, so in the case of birds the greater part of both organs must be cut? The verse therefore reads: This [is the law].[4] R. Eliezer says: In which respect are birds and cattle alike? In this: As birds are rendered fit at the neck,[5] so cattle are rendered fit at the neck.[6] But then it should follow, should it not, that as in the case of birds [the nipping is done] close to the back of the neck, so in the case of cattle [the slaughtering should be done] close to the back of the neck? The verse therefore reads. And he shall nip off its head close to the back of its neck but shall not divide it asunder,[7] that is to say, its head shall be [nipped off] close to the back of its neck but the head of no other shall be [cut] close to the back of its neck.[8] And how does R. Eliezer interpret the word 'this'? — Without 'this', I would have argued that as in the case of birds only one organ [is severed], so in the case of cattle only one organ [shall be cut]; the Divine Law therefore states. This [is the law].[9]

Bar Kappara taught: It is written: This is the law of cattle and of birds [and of every living creature that moveth in the waters].[9] This verse has interposed birds between cattle and fishes. Now one cannot say that [in the case of birds] both organs of the throat must be cut, for they are, on the one hand, grouped with fishes. And one cannot say that none of the organs are to be cut, for they are, on the other hand, grouped with cattle. How is this to be explained? — They are rendered fit by the cutting of one organ.[10]

Whence do we know that fish do not require to be ritually slaughtered? Shall I say from the verse: If flocks and birds be slain for them, will they suffice them? or if all the fish of the sea be gathered together for them, will it suffice them?[11] which implies that the mere gathering [of fishes] is sufficient?[12] But if so, with regard to quails, of which it is written: And they gathered the quails,[13] can it similarly be said [that the mere gathering is sufficient and] that no slaughtering is necessary? Have you not said [above], 'And one cannot say that none of the organs are to be cut for they are grouped with cattle'? — In the latter verse 'gathering' is not written in the same verse which mentions slaughtering for others, but in the former verse 'gathering' [in the case of fishes] is written in the same verse which mentions slaughtering for others.[14]

A Galilean travelling lecturer expounded: Cattle were created out of the dry earth and are rendered fit by the cutting of both organs; fish were created out of the water and are rendered fit without any ritual slaughtering; birds were created out of the alluvial mud and are therefore rendered fit by the cutting of one organ. R. Samuel of Cappadocia said: You can prove this from the fact that birds have scales on their legs like the scales of fishes.

He[15] put to him this further question: One verse says. And God said: Let the waters bring forth abundantly the moving creature that hath life, and let birds fly above the earth,[16] from which it would appear that birds were created out of the water; but another verse says. And the Lord God formed out of the ground every beast of the field and every bird of the air,[17] from which it would appear that they were created out of the earth? — He replied: They were created out of the alluvial mud. He thereupon noticed his disciples looking at each other with surprise. ‘You are no doubt displeased’, said he, ‘because I brushed aside my opponent with a straw. The truth is that they were created out of the water but they were brought before Adam only in order that he might name them’.[18] Others say that he replied to the [Roman] general in accordance with the latter view, but to his disciples he gave the first explanation.[19] since they [birds] are mentioned in connection with the expression: And He formed.[20]

Rab Judah said in the name of R. Isaac b. Phinehas: Birds do not require to be slaughtered ritually by the law of the Torah, for it is written: And he shall pour out the blood thereof,[21] that is to say, the mere pouring out of the blood is sufficient [to render the bird fit]. But if so, should not the same be said of wild beasts too?[22] — No, for wild beasts have been compared [by Biblical analogy] with consecrated animals that have become unfit [for sacrifice].[23] Well, then, birds have also been compared with cattle in the following verse: This is the law of cattle and of birds.[24] — Surely there is also the verse: He shall pour out the blood thereof![25] But why do you choose to apply the latter verse to birds rather than to wild animals? — It is more reasonable to do so since [birds] are mentioned last.[26]

(Mnemonic: ‘It became nebelah’. ‘Blood’. ‘Nipping’.)[27] An objection was raised: If a man slaughtered [a wild animal or a bird] and it became nebelah under his hand, or if he stabbed, or if he tore away the organs of the throat [of a wild animal or a bird], he is exempt from covering the blood. Now if you were right in holding that birds do not require to be ritually slaughtered by the law of the Torah, then stabbing is all the slaughtering that is required for them, consequently there is surely an obligation to cover the blood! — You are assuming that the above [Mishnah] deals with a bird; in fact it deals with the case of a wild animal only.[28]

Come and hear: If a man slaughtered, even though he requires the blood for use, he must nevertheless cover it. But what should he do [so that he may use the blood]? He should either stab it or tear away the organs.

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(1) I.e., in verse 8. For ‘the pieces’ generally include all the limbs; now the head had to be specifically mentioned for the reason given in the text, but why was it necessary to mention the fat?

(2) Lev. XI. 46. The passage deals with the laws of uncleanness of the carcasses of animals.

(3) V. supra p. 103, n. 1.

(4) I.e., only with regard to the general principle of shechitah are cattle and birds alike, but not with regard to all the detailed rules of slaughtering.

(5) I.e., a consecrated bird is rendered fit for sacrifice by nipping off its head at the neck.

(6) By slaughtering there. This Tanna accordingly proves from this verse that to slaughter one must cut the neck.

(7) Lev. V, 8.

(8) But only at the front of the neck.

(9) Ibid. XI, 46. ‘This’ suggests limitation, I.e., not all the laws of this case shall apply to others.
(10) Compromising between the requirements of cattle and of fish.
(11) Num. XI, 22.
(12) To render them fit without any ritual slaughtering.
(13) Ibid. 32.
(14) Since this verse mentions slaughtering with regard to cattle and gathering with regard to fishes it is apparent that the Torah refers to the practice that is proper in each case.
(15) A Roman general put the following question, amongst others, to R. Johanan b. Zakkai (according to Rashi, to Rabban Gamaliel). V. Bek. 5a.
(16) Gen. I, 20.
(17) Ibid. II, 19.
(18) The answer is that the former verse (I. 20) refers to the substance out of which birds were created, whereas the latter verse (II, 19) merely informs us that birds as well as all other creatures were brought to Adam that he might name them.
(19) That the verses are reconciled by the suggestion that birds were created out of the alluvial mud.
(20) Consequently this verse (Gen. II, 19), also deals with the substance out of which birds were created and not merely with the subject of naming the creatures. Therefore, to reconcile these verses the correct answer is, as originally suggested, that they were created out of the alluvial mud. V. Rashi.
(21) Lev. XVII, 13.
(22) For in the verse quoted are mentioned birds and wild beasts.
(23) V. infra 285, whence it is concluded that wild animals must be ritually slaughtered.
(24) Lev. XI, 46. And therefore on the strength of this analogy it should be held that birds should be ritually slaughtered like cattle.
(25) Which clearly indicates that no particular form of slaughtering is necessary.
(26) The law derived from the words: And he shall pour out the blood thereof, would most likely refer to that which immediately precedes these words in the verse, i.e., birds.
(27) A mnemonic indicating the subject matter of the three statements which follow.
(28) Which is rendered fit only by slaughtering, and therefore if one stabbed the beast to death there is no obligation to cover the blood.

Talmud - Mas. Chullin 28a

Now presumably this statement refers to [the slaughtering of] a bird whose blood he would require for [destroying] the flax worm?[1] — No, it refers to [the slaughtering of] a wild animal whose blood he would require for dyeing purposes.[2]

Come and hear: If one nipped off [the head of a consecrated bird] with a knife, the carcass, whilst in the gullet, renders clothes unclean.[3] Now if you were right in holding that birds do not require to be ritually slaughtered by the law of the Torah, then, granting that as soon as its neckbone and spinal cord have been sundered the bird is trefah,[the subsequent cutting of the organs with] the knife should at least have the effect of rendering the carcass free from the uncleanness of nebelah?[4] — He [R. Isaac b. Phinehas] accepts the view of the Tanna in the following Baraitha: R. Eleazar ha-Kappar Beribbi[5] says: What does the verse: Howbeit as the gazelle and as the hart is eaten [so shalt thou eat there of][6] teach us? What do we learn from the gazelle and the hart? Indeed, ‘it comes as a teacher but turns out to be a pupil’;[7] we must put the gazelle and the hart on the same footing as consecrated animals which have been rendered unfit for sacrifice. Thus, as the latter must be ritually slaughtered so the gazelle and the hart must also be ritually slaughtered. Birds, however, need not be ritually slaughtered by the law of the Torah, but only by Rabbinic enactment. Who is the Tanna who disagrees with this view of R. Eleazar ha.Kappar? — It is Rabbi. For it has been taught: Rabbi says. The verse: And thou shalt slaughter . . . as I have commanded thee,[8] teaches us that Moses was instructed concerning the gullet and the windpipe; concerning the greater part of one of these organs [that must be cut] in the case of a bird, and the greater part of each in the case of cattle.

ONE ORGAN IN THE CASE OF A BIRD. It was stated: R. Nahman says. Either the gullet or the windpipe; whilst R. Adda b. Ahabah says. Only the gullet and not the windpipe. ‘R. Nahman says. Either the gullet or the windpipe’, for the Mishnah says ONE ORGAN, that is, any one. R. Adda b. Ahabah says: Only the gullet and not the windpipe’, for ‘ONE ORGAN’ means the vital one.[9]

(Mnemonic: He cut. Half of each. The windpipe. Mutilated. The sin-offering of a bird.) An objection was raised: If a man cut the gullet [of a bird] and afterwards the windpipe was torn away.[10] the slaughtering is valid. If the windpipe was torn away and he then cut the gullet, the slaughtering is invalid. If he cut the gullet and the windpipe was found to be torn away, and it is not known whether it was torn away before or after the slaughtering — this was an actual case [which came before the Rabbis] and they ruled: Any doubt whatsoever arising about the slaughtering makes it invalid. Now there is no mention here at all of the cutting of the windpipe![11] — It is because the windpipe is more liable to be torn away.[12] Come and hear: If a man cut half of each organ in the case of a bird, the slaughtering is invalid; needless to say this is so in the case of cattle. R. Judah says. In a bird he must cut through the gullet and the jugular veins.[13] — It is because the gullet lies close to the jugular veins.[14]

Come and hear: If a man cut half of the windpipe and paused for the length of time required for another slaughtering, and then finished it, the slaughtering is valid,[15] presumably this passage deals with a bird, and ‘finished it’ means, finished cutting the windpipe?[16] — No, it deals with cattle, and ‘finished it’ means, finished the entire slaughtering.[17]

Come and hear: If half of the windpipe was mutilated and a man cut a fraction more and finished it, the slaughtering is valid. Presumably this deals with a bird, and ‘finished it’ means, finished cutting the windpipe? — No, it deals with cattle, and ‘finished it’ means, finished cutting the gullet.

Come and hear: How must he [the priest] nip off the head of the sin-offering of birds? He must cut [with his finger.nail] the spinal cord and the neckbone, but must not cut the major portion of the surrounding flesh before he reaches the gullet or the windpipe. On reaching the gullet or the windpipe he cuts one, or the greater portion of one, organ and then the major portion of the surrounding flesh; and in the case of a burnt-offering both, or the greater portion of both, organs and then the major portion of the surrounding flesh.[18] This is a refutation of R. Adda b. Ahaba's view![19] It is a refutation.

What has been decided about the matter? ‘What has been decided’ [you ask]! Surely it is as you have stated.[20] — [No] but it might be said that in that case the law is different, since there is [the breaking] of the spinal cord and neckbone.[21] What then is the law? — Come and hear: A duck belonging to Raba's house was found with its neck smeared with blood.[22] Said Raba: How shall we deal with it?

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(1) This clearly proves that birds must be ritually slaughtered by the law of the Torah; hence where they were not ritually slaughtered there would be no obligation to cover the blood and so it might be used for any purpose.

(2) Heb. לכא. Probably ‘lac’, a red resinous substance used as a dye.

(3) V. supra 20b.

(4) In accordance with the Rabbinic dictum: The carcass of a trefah animal when ritually slaughtered does not render anything unclean. V. supra p. 103.

(5) V. supra p. 52, n. 4.

(6) Deut. XII, 22. This verse deals with consecrated animals that have become unfit for a sacrifice by reason of a blemish.

(7) A proverbial saying. The suggestion here is that the gazelle and the hart were apparently mentioned in the verse in order to elucidate the law with regard to consecrated animals that have become unfit (i.e., to act the teacher), but in reality it is the law with regard to The latter which throws light on the position concerning the gazelle and the hart (i.e., it is now the pupil).

(8) Deut. XII. 22.

(9) Lit., 'the distinct one' i.e., the gullet. It is the vital organ because the slightest perforation in it will render the animal trefah, but this is not so with regard to the windpipe.

(10) I.e., it had become detached from its articulation in the larynx.

(11) In any clause such as this: If he cut the windpipe and afterwards the gullet was torn away, the slaughtering is valid; presumably because the cutting of the windpipe alone would not render the animal valid, contra R. Nahman.

(12) And therefore the case quoted refers to the tearing away of the windpipe, as this is most usual.

(13) In order to let the blood run out, since a bird is often roasted whole without being cut up. The first Tanna only disagrees with R. Judah on this point about the jugular veins, but apparently all hold that it is only the cutting of the gullet that renders the bird fit, contra R. Nahman.

(14) Hence it is usual when cutting the jugular veins to cut the gullet too. The law, however, would be the same if the windpipe were cut with the jugular veins.

(15) For the cutting of the first half of the windpipe is not reckoned as part of the slaughtering, since even if half of the windpipe was mutilated by an accident the subsequent cutting of the remainder of the windpipe would be valid; therefore whatever fault occurs at this stage of the cutting is of no consequence.

(16) Hence by the cutting of the windpipe only the slaughtering is valid, contra R. Adda b. Ahaba.

(17) By cutting both organs.

(18) V. supra 21a.

(19) For the Baraitha expressly states that for nipping one may cut either organ. Presumably this is so in the case of slaughtering too.

(20) That the rule as stated with regard to nipping will apply likewise to slaughtering.

(21) I.e., in the case of nipping, where the spinal cord and neckbone are broken, it is admitted that one may cut any one organ and it would be sufficient, but with regard to slaughtering it might be held that the cutting of the windpipe only would not be sufficient.

(22) It was therefore necessary to examine the organs of the throat against any perforation of the gullet or laceration of the windpipe.

Talmud - Mas. Chullin 28b

If we first slaughter it and then examine the organs [it is of no avail, for] it might have been slaughtered in the very place where there was a perforation [in the gullet]. If we first examine it and then slaughter it [it is also of no avail, for] has not Rabbah taught that the gullet cannot be examined from the outside but only from the inside?[1] His son, R. Joseph, said to him: We could first examine the windpipe and then cut it,[2] and thereafter the gullet can be turned inside out and examined.[3] Raba exclaimed. My son Joseph is as versed in the laws concerning what is trefah as R. Johanan![4] This proves that [the Mishnah] when it says ONE ORGAN, means either the one or the other.

R. JUDAH SAYS, HE MUST CUT THROUGH THE JUGULAR VEINS. R. Hisda said that R. Judah deals with the case of a bird only, [and his reason is] because it is often roasted whole,[5] but in the case of cattle, since the animal is usually cut up into limbs, it is not necessary [to cut the jugular veins]. Shall we say that the reason for R. Judah's ruling is on account of the blood? Surely we have learnt: R. JUDAH SAYS: HE MUST CUT[6] THROUGH THE JUGULAR VEINS? — Say: He must pierce[7] the jugular veins. Why then does it say: HE MUST CUT? — Because he must pierce them at the time of the ritual cutting. Come and hear: The jugular veins must be ritually cut; so R. Judah. — Say: 'The jugular veins must be pierced at the time of the ritual cutting; so R. Judah'.

Come and hear: They said to R. Judah: 'Since the jugular veins were referred to only for the purpose of drawing out the blood, what does it matter whether they are cut ritually or not?' It is evident,is it not, that R. Judah is of the opinion that they must be cut ritually? — This is what they said to him, 'What does it matter whether one pierces them at the time of the ritual cutting or not?' He, however, is of the opinion that if [the jugular veins are] pierced at the time of the ritual cutting, the blood, being warm, will flow freely, but after the ritual cutting the blood will not flow so freely, for it is already cold.

R. Jeremiah raised the question: According to R. Judah, what would be the law if one paused or pressed downwards whilst cutting the jugular veins?[8] — A certain old man answered him: This is what R. Eleazar has said (others read: A certain old man said to R. Eleazar: This is what R. Johanan has said): They may be pierced with a thorn and are thus rendered valid.[9]

[A Baraitha] was taught in accordance with R. Hisda's view, viz., If a man cut ritually half of each organ in a bird the slaughtering is invalid; it is needless to say so in the case of cattle. R. Judah says. In a bird he must cut through ritually the gullet and the jugular veins.

HALF OF ONE ORGAN IN THE CASE OF A BIRD etc. It was stated: Rab said: An exact half[10] is equivalent to the greater portion; R. Kahana said: An exact half is not equivalent to the greater portion. 'Rab said: An exact half is equivalent to the greater portion', because what the Divine Law instructed Moses was: 'Thou shalt not leave the greater portion [uncut]'. 'R. Kahana said: An exact half is not equivalent to the greater portion', because what the Divine Law instructed Moses was: 'Thou shalt cut the greater portion'.

(Mnemonic: A half. Kattina. The windpipe. Mutilated.) We have learnt: [IF A MAN CUT] HALF OF ONE ORGAN IN THE CASE OF A BIRD. OR ONE AND A HALF ORGANS IN THE CASE OF CATTLE. THE SLAUGHTERING IS INVALID. Now if you say that an exact half is equivalent to the greater portion, why is the slaughtering invalid? Has he not cut here the greater portion? — [It is invalid only] by Rabbinic ruling as a precaution lest he should cut less than an exact half.[11]

R. Kattina said: Come and hear: If he divided it[12] into two equal parts, both parts are unclean, because it is impossible to make an exactly equal division.[13] It follows, however, that if it were possible to make an exactly equal division both parts would be clean. Now if you say that an exact half is equivalent to the greater portion, why would both parts be clean? When you turn to one part you must regard it as the greater portion [and therefore unclean], and when you turn to the other part you must regard it as the greater portion [and therefore also unclean]? — R. Papa answered: There cannot be two greater portions in one vessel![14]

Come and hear: If a man cut half of the windpipe and paused

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(1) The gullet or oesophagus has two principal coats, the outer or muscular coat being red and the inner or mucous coat pale or whitish. A perforation would not be noticeable in the outer coat but only in the inner coat.

(2) And this in itself would be sufficient to render the slaughtering valid.

(3) I.e., the inner coat of the gullet can be examined.

(4) v. infra 50a and 95b.

(5) It is therefore necessary to cut these veins in order to allow the blood to flow out.

(6) Lit., 'slaughter'. I.e., ritually, since they are an intrinsic part of the slaughtering, and not merely cut for the purpose of allowing the blood to run out.

(7) With any instrument and not necessarily the slaughtering knife; the sole purpose being to allow the blood to flow.

(8) I.e., do they require ritual cutting? It is quite apparent that R. Jeremiah had not heard of R. Hisda's statement supra, for otherwise this question would not arise.

(9) For the piercing of these veins does not form part of the slaughtering and therefore it is of no consequence if one paused or pressed whilst cutting them.

(10) Lit., 'half on half'.

(11) By the law of the Torah the slaughtering in this case would be valid; the carcass therefore is not regarded as nebelah and will not render anything unclean.

(12) Sc. an unclean earthenware stove. An earthenware vessel, once unclean, can in no wise be rendered clean and must be broken (V. Lev. XI, 35). There must not remain one whole piece larger than half of the original vessel, for then the greater Part of the vessel is whole and would retain the uncleanness.

(13) Since one must necessarily be larger than the other, and it is not known which is the larger piece, both pieces remain unclean.

(14) In this case therefore, since each half must clearly be treated on the same footing, each must be considered as a half and no more, with the result that each half is clean. In the case of shechitah however, the two parts of the organ are not treated on the same footing, for we are only concerned with the part that is cut; hence we may regard the exact half which is cut as equivalent to the greater portion, with the result that the slaughtering is valid.

Talmud - Mas. Chullin 29a

for the length of time required for another slaughtering and then finished it, the slaughtering is valid. Now if you say that an exact half is equivalent to the greater portion then here the animal is already trefah![1] — You are assuming, are you not, that the Baraitha is dealing with cattle? Indeed it deals with a bird, and whichever view you take the result is the same. For if an exact half is equivalent to the greater portion then he has cut here the greater portion;[2] and if an exact half is not equivalent to the greater portion then he has done nothing at all [which would render the slaughtering invalid].[3]

Come and hear: If half of the windpipe [of a bird] was mutilated and a man cut a fraction more and finished it, the slaughtering is valid. Now if you say that an exact half is equivalent to the greater portion, then was it not already trefah [before the slaughtering]? — Raba answered: With regard to the law of trefah it is different, for there [all agree that] we require such a greater portion as is perceptible to the eye.[4] Thereupon Abaye said to him: But is there not here an a fortiori argument: If in the law concerning trefah, notwithstanding that [in certain cases] the slightest defect will render an animal trefah, nevertheless whenever we do require a greater portion we insist upon a greater portion that is perceptible to the eye, how much more in the law concerning shechitah, where no slaughtering is valid without the greater portion having been cut, should we insist upon a greater portion which is perceptible to the eye? — Rather say [thus]: All are of the opinion that an exact half is not equivalent to the greater portion, and when the dispute between Rab and R. Kahana was reported it was only in connection with the passover sacrifice. Thus: If the community of Israel was exactly equally divided, half being clean and half unclean, Rab said that an exact half was equivalent to the greater portion;[5] R. Kahana said that an exact half was not equivalent to the greater portion.[6] And what is the reason for Rab's view in that case?[7] — For it is written: If any man of you shall be unclean by reason of a dead body,[8] signifying that only an individual is obliged to postpone [his passover sacrifice on account of uncleanness] but not a community.[9]

THE GREATER PART OF ONE ORGAN IN THE CASE OF A BIRD. Has not the Tanna already taught this: THE GREATER PART OF AN ORGAN IS EQUIVALENT TO [THE WHOLE OF] IT? — (Mnemonic: Hakesh; Pashah.)[10] R. Hoshaia answered: One clause refers to unconsecrated animals, the other clause to consecrated animals. And they are both necessary. For had he taught the rule only in connection with unconsecrated animals I should have said that only there is the greater portion of the organ sufficient since the blood is not required for any purpose, but in the case of consecrated animals, since the blood is required for a special purpose.[11] I should have said that the greater portion of the organ was not sufficient but that the whole organ must be cut? — [Hence the rule had to be stated in connection with consecrated animals.] And if he taught the rule only in connection with consecrated animals I should have said that only there [is the greater portion of the organ necessary], since the blood is required for a special purpose, but in the case of unconsecrated animals, since the blood is not required for any purpose. I should have said that half of the organ was sufficient. Hence both are necessary.

Which clause refers to unconsecrated animals and which to consecrated animals? — R. Kahana said: It is reasonable to say that the first clause refers to unconsecrated animals and the second to consecrated animals. Why? Because the Mishnah opens with, IF A MAN CUT [ONE ORGAN IN THE CASE OF A BIRD]'; now if you were to say that the first clause refers to consecrated animals it should open with, 'If one nipped'.[12] You say, therefore, that the second clause refers to consecrated animals! but then why does it state, 'THE SLAUGHTERING IS VALID'; it should state, 'The nipping is valid'? This is no real difficulty, for one can say that because the Tanna mentioned 'cattle' last, he therefore stated: THE SLAUGHTERING IS VALID. But [this argument is conclusive:] for since it,[13] the first clause, clearly refers to the case of a bird, if you were to say that it refers to consecrated birds, the Tanna ought to have stated: 'If one nipped'.[14]

R. Shimi b. Ashi said: It can be proved that the first portion [of the Mishnah] deals with unconsecrated animals from this clause, viz., ONE ORGAN IN THE CASE OF A BIRD. For if you were to say that the first portion deals with consecrated animals.[the question would be raised:] What about the burnt-offering of a bird which requires both organs [to be cut]?[15] You therefore say that the second portion of the Mishnah deals with consecrated animals; but then [the same question will be raised upon the clause which reads]. THE GREATER PART OF ONE ORGAN IN THE CASE OF A BIRD, viz., What about the burnt-offering of a bird which requires both organs [to be cut]? — THE GREATER PART OF ONE ORGAN really means the greater part of each organ, and strictly the Mishnah should have stated: 'The greater part of both'; since, however, there is the case of the sin-offering of a bird, for which one organ is sufficient, the Tanna stated the clause ambiguously.[16]

R. Papa said: It can be proved that the first portion [of our Mishnah] deals with unconsecrated animals from this clause: R. JUDAH SAYS, HE MUST CUT THROUGH THE JUGULAR VEINS. The Rabbis, however, disagree. Now if you say that the first portion deals with unconsecrated animals it is well, but if you were to say that it deals with consecrated animals, why do the Rabbis disagree [with the view of R. Judah]? Is not the whole purpose of the slaughtering [of consecrated animals] for the sake of obtaining the blood?[17]

R. Ashi said: It can be proved that the latter portion[18] [of the Mishnah] deals with consecrated animals from the following statement: If one slaughtered two animals[19] Simultaneously, the slaughtering is valid. And this expression, 'If one slaughtered', clearly implies that the slaughtering is valid only after the act, but that there is no right to slaughter thus in the first instance. Now if you say that this latter portion [of the Mishnah] deals with consecrated animals, then it is evident why there is no right to slaughter thus in the first instance. For R. Joseph learnt: It is written: Thou shalt slaughter,[20] [to teach] that two persons shall not slaughter one sacrifice; and also, 'Thou shalt slaughter it', [to teach] that one person shall not slaughter two sacrifices [simultaneously]. And R. Kahana said that this exposition was based upon the Kethib which is: Thou shalt slaughter it. Now if you were to say that the latter portion [of the Mishnah] deals with unconsecrated animals, then surely there is a right to slaughter thus even in the first instance!

Resh Lakish is also of the opinion that the first clause [of our Mishnah] deals with unconsecrated animals whilst the second deals with consecrated animals. For Resh Lakish said: Since our Mishnah teaches us, THE GREATER PART OF AN ORGAN IS EQUIVALENT TO [THE WHOLE OF] IT, what need is there for the further statement, THE GREATER PART OF ONE ORGAN IN THE CASE OF A BIRD. OR THE GREATER PART OF EACH ORGAN IN THE CASE OF CATTLE? It is necessary because we have learnt elsewhere:[21] When they brought unto him [sc. the High priest on the Day of Atonement] the Daily Sacrifice, he made an incision[22] but another [priest] completed the slaughtering for him. Now from this Mishnah I might have thought that if another had not completed the slaughtering it would have been invalid; our Mishnah therefore teaches us. [IF A MAN CUT] THE GREATER PART OF ONE ORGAN IN THE CASE OF A BIRD, OR THE GREATER PART OF EACH ORGAN IN THE CASE OF CATTLE. THE SLAUGHTERING IS VALID.[23]

The Master said: ‘I might have thought that if another had not completed the slaughtering it would have been invalid.’

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(1) For it is assumed for the present that an animal which requires the cutting of both organs was being slaughtered, and the pause, occurring as it does after the greater portion of the windpipe has been cut (for that is the equivalent of an exact half according to Rab), renders it trefah, and no subsequent slaughtering could render it valid.

(2) And this in the case of a bird is sufficient to render the slaughtering valid.

(3) And his having cut half of the windpipe is of no consequence for the bird would not be rendered trefah thereby; v. infra 44a-b.

(4) So that an exact half even though equivalent in law to the greater portion, would not be sufficient to render trefah.

(5) Therefore those members of the community who are unclean, regarded i11 law as a majority, will sacrifice the paschal offering in its due season, even though they are all in a state of uncleanness.

(6) So that those who are unclean must postpone their paschal offering until the following month in accordance with Num. IX, 2-14; v. Pes. 79a.

(7) Seeing that elsewhere the exact half is not considered equivalent to the greater portion.

(8) Ibid. 10.

(9) Half of the community cannot be regarded as individuals and are therefore not obliged to postpone their sacrifice.

(10) A mnemonic (meaning perhaps ‘Strike’, ‘Pull out’) consisting of the characteristic letters of the names of the Rabbis whose dicta follow.

(11) For sprinkling upon the altar.

(12) Nipping is the only method prescribed by the Torah for slaying a consecrated bird.

(13) Which opens with השוחט, ‘IF A MAN CUT’.

(14) Thus proving that the first clause deals with unconsecrated birds.

(15) So that it would not be correct for the Mishnah to state generally that one organ in the case of a bird was sufficient, for this would not be taking into account the case of a burnt-offering of a bird, where both organs must be severed. V. supra 21a.

(16) The expression may mean either the greater portion of one organ, to meet the case of the sin-offering of a bird, or the greater portion of each organ, to meet the case of the burnt-offering of a bird.

(17) Even the Rabbis would concede that in the case of consecrated animals one should cut the jugular veins in order to obtain as much blood as possible for sprinkling upon the altar.

(18) I.e., the Mishnah which follows infra 30b, which is the continuation of the last clause of our Mishnah.

(19) Lit., ‘two heads’.

(20) Lev. XIX, 5. The traditional reading (קרי Kere) of the Hebrew is תזבחוהו [תזבחהו] ‘Ye shall slaughter it’, but the traditional spelling (כתיב, Kethib) is תזבחהו, ‘Thou shalt slaughter it’. R. Joseph's exposition is based upon the Kethib, laying special emphasis upon the subject ‘thou’ and upon the object ‘it’, each of which excludes the plural.

(21) Yoma 31b.

(22) I.e., he cut the greater part of each organ and no more.

(23) This latter clause was therefore stated with regard to consecrated animals.

Talmud - Mas. Chullin 29b

But if this were so, then a [vital] service would have been performed by another, and it has been taught: The entire service of the Day of Atonement must be performed by the High Priest alone! — This is rather what he meant: I might have thought that [if another had not completed the slaughtering] it would have been invalid by decree of the Rabbis, (for it might have been argued that the Rabbis declared [the slaughtering] invalid);[1] our Mishnah therefore teaches us. [IF A MAN CUT] THE GREATER PART OF ONE ORGAN IN THE CASE OF A BIRD, OR THE GREATER PART OF EACH ORGAN IN THE CASE OF CATTLE, THE SLAUGHTERING IS VALID. But now that it is established that there is not even a Rabbinic decree against it, wherefore is it necessary [for another] to complete the slaughtering? — It is meritorious to complete it.[2]

Resh Lakish said in the name of Levi the Elder: The term shechitah applies only to the last stage of the slaughtering. R. Johanan said: The term shechitah applies to the entire process of slaughtering from beginning to end. Raba remarked: All agree that where a gentile cut the first organ of the throat and an Israelite the second, the slaughtering is invalid, for the animal has already been rendered trefah by the hand of the gentile.[3] Furthermore all agree that in the case of a burnt-offering of a bird, where the priest nipped the first organ below[4] [the red line] and the second organ above it, the nipping is invalid,[5] for by nipping the first organ below he has already done to this offering all that is prescribed for a sin-offering of a bird. The dispute arises only where a person cut the first organ[6] outside [the Sanctuary] and the second inside [the Sanctuary]. According to the one who says that the term shechitah applies to the entire process of slaughtering from beginning to end, he would in this case be liable.[7] But according to the one who says that the term shechitah applies only to the last stage of the slaughtering, he would not be liable. Rabbah b. Shimi said to him: But the Master (that is R. Joseph) did not say so. For [he said that] even where a person cut the first organ[8] outside the Sanctuary and the second inside he would also be liable,[9] because he has done to this offering outside the Sanctuary such an extent of service as would render the sin-offering of a bird valid [if performed inside the Sanctuary]. Rather [the dispute arises only] where a person cut the lesser portion of the organ outside [the Sanctuary] and completed it inside. According to the one who says that the term shechitah applies to the entire process of slaughtering from beginning to end, he would in this case be liable. But according to the one who says that the term shechitah applies only to the last stage of the slaughtering, he would not be liable.

R. Zera raised this objection: All who take part in the service of the Red Cow, either at the beginning or at the end, render their garments unclean.[10] And if they do any other work at the same time,[11] they render it [the Red Cow] invalid. If any invalidating defect befell it during the slaughtering it does not render unclean the garments worn by those who, either before or after the [occurrence of] the defect, took part in any service in connection with it.[12] If the defect occurred during the sprinkling [of the blood], the Red Cow renders unclean the clothes worn by those who took part in any service before the defect, but it does not render unclean the clothes worn by those who took part in any service after the defect. Now if you say that the term shechitah applies to the entire process of slaughtering from beginning to end, then the Tanna should have drawn a distinction even in the slaughtering; thus: If any invalidating defect befell it during the slaughtering, it renders unclean the clothes worn by those who took part in any service before the defect,[13] but not the clothes worn by those who took part in any service after the defect! — Raba replied: You are alluding, are you not, to a defect which invalidated the slaughtering? But that is quite a different matter! For it is now apparent that there never was a valid slaughtering![14] But, said Raba, if I have any difficulty [about this Mishnah] it is this: According to the one who says that the term shechitah applies only to the last stage of the slaughtering, the Tanna might have drawn a distinction even where the slaughtering of the Red Cow was entirely according to ritual, as in the case where two persons slaughtered it;[15] in which case, the first does not render his clothes unclean but the second does! — R. Joseph thereupon interposed. You are suggesting, are you not, the case of two persons slaughtering one sacrifice? Away with this suggestion! For I have learnt: It is written: Thou shalt slaughter, [to teach] that two persons shall not slaughter one sacrifice; also: Thou shalt slaughter it, [to teach] that one person shall not slaughter two sacrifices [simultaneously].[16] And R. Kahana had said that this exposition was based upon the Kethib which is: Thou shalt slaughter it. Whereupon Abaye said to him: Was there not reported in conjunction with this exposition the dictum of Rabbah b. Bar Hana in the name of R. Johanan, namely, that the opinion expressed was that of R. Eleazar son of R. Simeon

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(1) MS.M. omits bracketed words.

(2) In order to obtain as much blood as possible.

(3) For if the cutting of the first organ is considered an act of shechitah the slaughtering here is invalid because it has been done by a gentile (v. supra 13a); and if it is not considered an act of shechitah then it can only be regarded as a mutilation of the organ, a defect which renders the animal trefah and any subsequent slaughtering invalid.

(4) There was a red line running horizontally along the wall of the altar and the blood had to be sprinkled either above or below this line according to the particular sacrifice offered. With regard to a consecrated bird the priest, immediately after the nipping, (which in the case of a burnt-offering had to be performed whilst the priest was standing on the circuit round the altar which was above the red line) had to allow the blood to drain by pressing the neck of the bird against the wall of the altar, below the red line in the case of a sin-offering, and above it in the case of a burnt-offering. V. Zeb. 64b-65a.

(5) And even according to Resh Lakish who holds that the term ‘nipping’ does not apply to the nipping of the first organ it is invalid here, for he has done to a burnt-offering all that is prescribed for the sin-offering, namely, the nipping of one organ above the red line.

(6) Of a consecrated bird (Rashi); of a consecrated beast (Tosaf.).

(7) To the punishment of Kareth for slaughtering unconsecrated animals outside the Temple court, v. Lev. XVII, 4.

(8) V. p. 154, n. 6.

(9) Even according to Resh Lakish.

(10) I.e., the garments worn by them whilst performing the service, in accordance with Num. XIX. 7, 8, and 10.

(11) E.g., if he cut a cabbage whilst he was slaughtering the Red Cow.

(12) The reason being that so long as it has not been validly slaughtered it can in no wise be regarded as the Red Cow, and therefore all the rules of uncleanness stated in connection with it do not apply.

(13) For up to the moment of the occurrence of the defect there was a valid shechitah, since this term, according to R. Johanan, applies even to the first stage of the slaughtering, so that the Red Cow should render unclean the clothes worn by those who took part in any service before the occurrence of the defect.

(14) Not even before the occurrence of the defect.

(15) One commenced the slaughtering and the other finished it.

(16) V. supra p. 152, n. 6.

Talmud - Mas. Chullin 30a

[who was often] quoted anonymously, whereas the Rabbis are of the opinion that two persons may slaughter one sacrifice?[1] Moreover, even adopting the view of R. Eleazar son of R. Simeon, the Tanna might have drawn a distinction in the case where only one person slaughtered it but he wore two different garments while slaughtering;[2] in which case the first garment is clean and the second unclean. The truth of the matter[3] is that the Tanna dealt only with those circumstances where the Red Cow was in fact rendered invalid, but not where everything was done entirely according to ritual.

R. Idi b. Abin raised this objection: [We have learnt: If a man slaughtered the paschal lamb whilst having leaven in his possession] during the festival[4] under its own name,[5] he has not incurred guilt; under the name of another,[6] he has incurred guilt. And we argued upon it as follows:[7] ‘This is so only because it was slaughtered under the name of another, but if it were slaughtered under no specific name [it follows that] no guilt would have been incurred. But why is no guilt incurred? Is not the paschal lamb at any time of the year [save on the eve of Passover] regarded as a peace-offering?[8] Will not then this [Mishnah] prove the rule[9] that for a paschal lamb [to become valid as a peace-offering] at any other time of the year its name must first be repealed. R. Hiyya b. Gamada said: It was suggested by the whole assembly[10] that the circumstances of the case were these: The owners of this paschal lamb were rendered unclean by a corpse, so that they had to postpone the offering of the paschal lamb until the Second Passover;[11] hence [if this lamb was slaughtered during the first Passover] under no specific name it would certainly be regarded [as slaughtered] under its own name’.[12] Now, only in this particular case must [the name of the paschal lamb] be repealed [before it is valid as a peace-offering], but in no other case is repeal necessary.[13] This is right if you were to say that the term shechitah applies to the entire process of the slaughtering from beginning to end, for then the paschal lamb is rendered invalid at the beginning of the slaughtering,[14] [and therefore no guilt is incurred]. But if you say that the term shechitah applies only to the last stage of the slaughtering, then as soon as the person commenced to slaughter it, it can no longer be intended to serve as[15] the paschal lamb.[16] and as he continues to slaughter he is really slaughtering a peaceoffering[17] [consequently, he should incur guilt!] Thereupon Abaye answered him, Granted that this lamb can no longer serve as a paschal lamb, but its price can serve this purpose![18] And should you say that [in order to sell a consecrated animal] it must be placed[19] [before the priest] and appraised. [I reply that] we have learnt:[20] If one cut both, or the greater portion of both organs, and the animal still moves convulsively, it is regarded as alive for all purposes.

Rab Judah said in the name of Rab, ‘If one cut the throat in two or three places the slaughtering is valid. But when I reported this statement to Samuel he said to me, "We must have a wide open cut[21] and it is not so here."’ Resh Lakish is also of the opinion that there must be a wide open cut. For Resh Lakish taught. Whence do we know that shechitah implies a wide open cut? From the verse: Their tongue is a sharpened arrow, it speaketh deceit.[22]

R. Eleazar raised an objection. [We have learnt,] If two persons held a knife and slaughtered, even if one cut higher up and the other cut lower down [in the neck], the slaughtering is valid.[23] Now why is this so? There is not here a wide open cut! — R. Jeremiah answered: Our Mishnah deals with the case of two persons holding one knife.[24] Thereupon R. Abba said to him: If so, let us consider the comment upon this Mishnah, viz.: ‘And there is no fear that one will render the animal trefah on account of the other.’ Now if you say that it deals with the case of two knives and two persons [each holding a knife], then [the comment is] most proper. For you might have said that we must apprehend lest they come to rely one upon the other, and neither the one nor the other will cut the required greater Portion [of the organs]; we are therefore informed that there is no fear of this. But if you say that it deals with the case of two persons holding one knife, then why the comment, ‘And there is no fear that one will render the animal trefah on account of the other’? It should rather read: ‘And there is no fear that one will cause the other to press upon the throat![25] — R. Abin said: Then read: ‘And there is no fear

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(1) So that, according to the view of the Rabbis, Raba's original objection stands, viz., ‘The Tanna should have drawn a distinction in the case where two persons slaughtered it’. V. supra p. 256 and notes.

(2) E.g., while he was slaughtering the Red Cow another person came, removed the slaughterer's coat and placed another coat on him. If therefore we were to say that the term shechitah applies only to the last stage of the slaughtering then the coat which was removed before the end of the slaughtering would not be unclean.

(3) To meet the difficulty raised by Raba.

(4) The proper time for slaughtering the paschal lamb was on the eve of the Passover festival and it is enjoined in Ex. XXIII, 18, that at the time of slaughtering the paschal lamb — and indeed at the time of slaughtering any sacrifice during the Passover festival (v. Pes. 63a) there must be no leaven in one's possession. In our case the circumstances were these: A lamb was originally set apart for the paschal offering but was lost, and another was offered as a sacrifice in its place. Subsequently, the original lamb was found and is now being offered on the festival as a sacrifice.

(5) I.e., as a paschal lamb. As such it is invalid, since it is not being offered in its proper time, and therefore the prohibition of Ex. XXIII, 18, will not apply.

(6) E.g., as a peace-offering. As such it is a valid sacrifice, except that guilt will be incurred under Ex. XXIII, 18.

(7) v. Pes. 64a.

(8) Ibid. 70b and Zeb. 9a.

(9) Although in Pes. 73b this rule is a subject of dispute among the scholars.

(10) חבורה, ‘fellow’, ‘associate’, v. Glos.

(11) On the fourteenth day of the second month (Iyar) in accordance with Num. IX. 11.

(12) I.e., as a paschal lamb, since it was intended to serve as the paschal lamb to be offered on the Second Passover.

(13) So that in ordinary circumstances the slaughtering of the paschal lamb during the Passover Festival would be regarded as a valid peace.offering.

(14) For although it is not slaughtered under the specific name of the paschal lamb it is nevertheless considered as such, and inasmuch as the first act of the slaughtering renders it invalid, since it is not being slaughtered at the proper time, no guilt is incurred.

(15) Lit., ‘it has been rejected from’,

(16) I.e., as the paschal lamb for the Second Passover, for it could not be kept till then as it is partly slaughtered.

(17) In accordance with the rule now established that whatever cannot, or is not, intended to serve as a paschal lamb is regarded as a peace-offering. And the fact that when the slaughtering was commenced the lamb was still intended for the paschal-offering is of no consequence, for according to Resh Lakish it is only the last stage of the slaughtering which is the decisive factor.

(18) For the animal can be sold even now before the slaughtering has been completed, and the money it fetched could be used for purchasing the paschal lamb for the Second Passover, so that the first lamb at no time ceases to serve as a paschal lamb.

(19) This rule is derived from Lev. XXVII, 11 and 12. The implication is that the animal must be able to stand, i.e., living, when it is being valued by the priest.

(20) This teaching is not found in any Mishnah but it might be inferred from the Mishnah, infra, 117b. V. Tosaf s.v. והתנן.

(21) Since the organs of the throat are tightened in preparation for the slaughtering, if they are cut in one place there will be a wide open cut, but if cut in several places none of the cuts will open wide; hence the slaughtering is invalid (Rashi). Accordingly a wide open cut is synonymous with a single cut. V. however Tosaf ad loc. for other interpretations.

(22) Jer. IX. 7. Heb. חץ שחוט, lit., ‘an arrow thrust as in a slaughtering’. i.e., the cut in slaughtering should be wide open like the thrust of an arrow.

(23) V. infra, 30b. It is assumed for the present that there were two knives in use and each person held a knife and cut in a different part of the throat.

(24) They hold the knife in a slanting direction, one holding the handle and the other the head of the knife, and in this way one would be cutting the organs high up towards the head and the other lower down towards the body of the animal. There is, however, only one cut made.

(25) When two persons hold one knife the only danger is that they might not pull simultaneously, and therefore undue pressure would be exerted upon the organs.

Talmud - Mas. Chullin 30b

that one will cause the other to press upon the throat’.

R. Abin raised an objection. It was taught: If a man cut the gullet low down and the windpipe high up or the gullet high up and the windpipe low down, the slaughtering is valid. But why? There is not here a wide open cut?[1] — He raised the objection but answered it himself thus: The cutting in this instance was slanting,[2] like the cut of a writing reed.

An ox was once slaughtered, its throat having been cut in several places, and R. Nahman b. Samuel b. Martha came and obtained some of the choicest meat of this animal. Whereupon R. Zera said to him, You have [by your action] taught us. Master, that our Mishnah deals with the case of two knives and two persons.

Rab Judah said in the name of Rab: If a man thrust the knife between the two organs and cut them,[3] the slaughtering is invalid. If he thrust it underneath the skin, the slaughtering is valid. [What does he teach us?] Have we not learnt this already: ‘Or, if he thrust the knife underneath the second organ and cut it,[4] R. Jeshebab says: The animal is nebelah; R. Akiba says: It is trefah’?[5] — From that Mishnah, I might have argued that only there [is the slaughtering invalid] because he cut the organs from below upwards, which is not the usual way of slaughtering, but where he cut the organs from above downwards, which is the usual way of slaughtering. I might have said that the slaughtering was proper; he therefore teaches us [that it is not valid].

‘Underneath the skin the slaughtering is valid’. ‘In the school of Rab it was said that underneath the skin it was doubtful [whether the slaughtering was valid or not]. The question was raised: According to the view of the school of Rab that ‘underneath the skin’ was a doubtful case, what would be the law if a man thrust the knife underneath a rag,[6] or underneath the entangled wool?[7] The question is undecided. R. Papa put the question: What is the law if he placed the knife under cover [on cutting] the lesser portions of the organs?[8] This question too is undecided.

MISHNAH. IF A MAN SLAUGHTERED TWO ANIMALS[9] SIMULTANEOUSLY, THE SLAUGHTERING IS VALID. IF TWO PERSONS HELD THE KNIFE AND SLAUGHTERED. EVEN IF ONE CUT HIGHER UP AND THE OTHER CUT LOWER DOWN [IN THE NECK]. THE SLAUGHTERING IS VALID.[10] IF HE CHOPPED OFF THE HEAD WITH ONE STROKE, THE SLAUGHTERING IS INVALID.[11] IF, WHILST CUTTING.[12] HE CUT THROUGH THE NECK WITH ONE STROKE. THE SLAUGHTERING IS VALID PROVIDED THE KNIFE EXTENDED THE WIDTH OF A NECK.[13] IF. WHILST CUTTING, HE CUT THROUGH TWO NECKS[14] WITH ONE STROKE, THE SLAUGHTERING IS VALID. PROVIDED THE KNIFE EXTENDED THE WIDTH OF A NECK.[13] THESE PROVISIONS APPLY ONLY TO THE CASE WHERE THE SLAUGHTERER MOVED THE KNIFE FORWARD AND NOT BACKWARD, OR BACKWARD AND NOT FORWARD; BUT IF HE MOVED THE KNIFE TO AND FRO, HOWEVER SMALL IT WAS, EVEN IF IT WAS A LANCET, THE SLAUGHTERING IS VALID.

GEMARA. [IF HE CHOPPED OFF THE HEAD WITH ONE STROKE THE SLAUGHTERING IS INVALID]. Whence do we know this? — Said Samuel: From the verse: Their tongue is a sharpened arrow. It speaketh deceit.[15] A Tanna of the school of R. Ishmael taught: It is written: And he shall slaughter [we-shahat].[16] and ‘we-shahat’ means nothing else than ‘And he shall draw’, as in the verse: Beaten [shahut] gold,[17] and as it is also written: ‘Their tongue is a sharpened [shahut] arrow, it speaketh deceit’. Why the second verse? You might have said that ‘gold shahut’ really means ‘gold woven in threads’;[18] therefore, come and hear: It is written: ‘Their tongue is a sharpened [shahut] arrow’.[19]

Raba examined[20] [the head of] an arrow for R. Jonah b. Tahlifa, and the latter slaughtered with it a bird in its flight. Perhaps there was a thrust?[21] — We saw

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(1) It being assumed that there were two separate cuts.

(2) There was, however, only one cut.

(3) He first cut the lower organ under cover of the upper one, and then cut the upper one.

(4) After having cut the first organ in the ordinary way he placed the knife underneath the second organ and cut it from below upwards.

(5) At all events whether the animal is nebelah or trefah the slaughtering is invalid. V. infra 32a.

(6) Which was wrapped round the neck of the animal.

(7) Which covers the necks of sheep.

(8) I.e., he had already cut the greater portion of each organ in the ordinary way, and had he stopped at this, the slaughtering would certainly be valid; but he now placed the knife under cover on cutting the remaining portion of each organ. So Rashi, but v. Tosaf. s.v. החליד.

(9) Lit., ‘heads’.

(10) It might also mean: One held the top end of the knife and the other the bottom end, v. supra 30a.

(11) This is the classic example of דרסה, ‘pressing’. i.e., cutting with a downward thrust of the knife, and not moving it horizontally to and fro.

(12) I.e., whilst drawing the knife horizontally across the neck.

(13) V. Gemara.

(14) Of two animals lying side by side.

(15) Jer. IX, 7. Heb. חץ שחוט. As the arrow moves horizontally in its flight, so in slaughtering one must move the knife horizontally to and fro.

(16) Lev. I, 5. ושחט.

(17) I Kings X, 16. שחוט, lit., ‘drawn out’, ‘thinned out’, ‘beaten’.

(18) From חוט. ‘a thread’.

(19) In this verse שוחט can only be explained in the sense of ‘drawn along’. ‘moved horizontally’.
(20) To see that it was absolutely free from notches.
(21) ‘ The arrow might have entered the side of the neck and cut the organs whilst the external skin was intact; this would be a case of חלדה, (‘thrusting’), and would render the slaughtering invalid.

Talmud - Mas. Chullin 31a

that the feathers on the front of the neck were also cut. But what about covering the blood? And should you say that he covered the blood [where it fell on the ground, this is not sufficient], for R. Zera taught in the name of Rab: He who slaughters [a bird or a wild beast] must place dust underneath [the blood] and dust above it, for it is written. And he shall cover it with dust [be-’afar];[1] it does not say ‘afar’ but ‘be-’afar’.[2] in order to teach that he who slaughters [a bird’ or a wild beast] must place dust underneath [the blood] and dust above it. — He prepared the soil of the entire valley [for this purpose].[3]

IF, WHILST CUTTING, HE CUT THROUGH THE NECK WITH ONE STROKE . . . [PROVIDED THE KNIFE EXTENDED THE WIDTH OF A NECK]. R. Zera said: The width of a neck and also beyond the neck. The question was raised: [Does he mean] the width of a neck and another width of a neck beyond the neck, so that the knife is two necks long, or [does he mean to say] the width of a neck and also a little beyond the neck? — Come and hear: IF, WHILST CUTTING, HE CUT THROUGH TWO NECKS WITH ONE STROKE, THE SLAUGHTERING IS VALID PROVIDED THE KNIFE EXTENDED THE WIDTH OF A NECK. Now what is the meaning of THE WIDTH OF A NECK? Can it mean the width of a neck and no more? But if when slaughtering one animal we require the knife to be the width of a neck and also beyond the neck, can it possibly be said that when slaughtering two animals the width of a neck by itself is sufficient? Obviously, it must mean, the width of a neck beyond the two necks[4] [which are being slaughtered]. This, therefore, proves that [R. Zera means] there must be the width of a neck beyond the neck.

THESE PROVISIONS APPLY ONLY TO THE CASE WHERE HE MOVED THE KNIFE FORWARD AND NOT BACKWARD . . . HOWEVER SMALL IT WAS, EVEN IF IT WAS A LANCET, THE SLAUGHTERING IS VALID. R. Manasseh said: The Mishnah refers to a lancet which has no projections.[5] R. Aha, the son of R. Awia, asked R. Manasseh: What is the law if one used a needle [for slaughtering]? — He replied: A needle rends[6] [the flesh]. What if one used a shoemakers’ awl? — He replied: We have learnt it in our Mishnah: HOWEVER SMALL IT WAS. Surely this includes the shoemakers’ awl! — No, it refers to a lancet. But a lancet is expressly mentioned later? — No; it is merely explanatory; thus: HOWEVER SMALL IT WAS, namely: A LANCET. And this is logical too. For if you say that it includes a shoemakers’ awl, then [it will be asked]. If a shoemakers’ awl is allowed, what need is there to mention a lancet? [But this indeed would be no difficulty, because] it is necessary to mention a lancet; for you might have thought that the Rabbis would prohibit the use of a lancet even without projections as a precaution lest one use a lancet with projections. [The Mishnah] therefore teaches us [that this is not prohibited].

MISHNAH. IF A KNIFE FELL DOWN AND SLAUGHTERED [AN ANIMAL], EVEN THOUGH IT SLAUGHTERED IT IN THE PROPER WAY. THE SLAUGHTERING IS INVALID, FOR IT IS WRITTEN, AND THOU SHALT SLAUGHTER . . . AND THOU SHALT EAT.[7] THAT IS TO SAY, THAT WHICH THOU DOST SLAUGHTER MAYEST THOU EAT.

GEMARA. Now this is so only because it fell down [of itself], but if one threw it [and it slaughtered an animal], the slaughtering would be valid, notwithstanding there was no intention [to slaughter according to ritual]. Who is the Tanna that holds that the intention to slaughter [according to ritual] is not essential? — Raba said: It is R. Nathan. For Oshaia, junior of the collegiate school,[8] learnt: If one threw a knife intending to thrust it into a wall and in its flight it slaughtered an animal in the proper way. R. Nathan declares the slaughtering valid; the Sages declare it invalid. Having reported this, he added that the halachah was in accordance with R. Nathan's view. But has not Raba stated this before [in connection with the following Mishnah]? For we have learnt: ‘And if any of these slaughtered while others were standing over them, their slaughtering is valid’.[9] And it was asked: Who was the Tanna that held that the intention to slaughter [according to ritual] was not essential? And Raba answered: It was R. Nathan! — [Both statements] are necessary. For if he only stated it there [I should have said that only there the slaughtering was valid] because they[10] at least intended to cut, but here since there was no intention to cut [at all] I should have said that it was not valid. And if he only stated it here [I should have said that only here the slaughtering was valid] because it [the act] emanated from a person of sound mind, but there, since it emanated from a person of unsound mind, I should have said that it was not valid. [Both statements] are therefore necessary.

It was stated: If a menstruous woman[11] accidentally immersed herself,[12] Rab Judah says in the name of Rab: She is permitted to have intimate relations with her husband,[13] but is forbidden to eat terumah; R. Johanan says: She is not even permitted to have intimate relations with her husband. Raba said to R. Nahman, against Rab's view that she is allowed intimacy with her husband, but is forbidden to eat terumah, [I would put the question:] If you have permitted her that which entails the penalty of kareth,[14] surely you will permit her that which entails only the penalty of death at the hands of Heaven![15] — He replied: Intimacy with her husband is a ‘common’[16] thing, and in the case of common things the intention is not essential.[17] Whence do you know this? — From the following Mishnah which we learnt: If a wave containing forty se'ah [of water] was detached [from the sea] and fell upon a man or upon vessels [that were unclean], they are now clean.[18] Presumably a man is on the same footing as vessels, and as vessels have no intention so a man need have no intention.[19] But is this so? Perhaps we are dealing with the case of a man who was sitting and waiting for the wave to become detached!

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(1) Lev. XVII. 23. Heb. בעפר, lit., ‘in dust’.

(2) The preposition ב, ‘in’, signifies that the blood shall he in earth, i.e., entirely covered with earth above and below, or between two layers of earth.

(3) He broke up the soil in the whole valley in readiness for receiving the blood or he found the soil already broken up and expressed his intention of using the soil for this purpose (Rashi).

(4) I.e.,the knife must be three necks long.

(5) Lit., ‘horns’. The projection or point would pierce the organs during the slaughtering thus rendering it invalid.

(6) A needle, even when moved to and fro, tears the organs and does not cut them; hence the slaughtering is invalid.

(7) Deut. XII, 21.

(8) V. supra p. 56.

(9) Supra 2a. This passage refers (inter alia) to the slaughtering by a deaf-mute, an imbecile, or a minor, who are incapable of forming an intention to slaughter according to ritual.

(10) The deaf-mute, the imbecile or the minor.

(11) In this case whose period of uncleanness had passed and she but required ritual immersion in a mikweh or in the sea in order to be allowed to resume intimate relations with her husband.

(12) E.g., she fell from a bridge into the sea. V. infra.

(13) Lit., ‘she is clean, to her home’, a euphemistic expression.

(14) The penalty for having sexual intercourse with a menstruous woman is Kareth, i.e., excision, being cut off. V. Lev. XX. 18.

(15) This being the penalty for eating terumah in an unclean state. Death at the hands of Heaven is less severe than Kareth, for the latter is a punishment to the offender and to his seed as well, whereas the former only affects the offender himself.

(16) Heb. חולין. i.e., common, ordinary, unconsecrated matter, as opposed to terumah and consecrated matter.

(17) I.e., the intention to perform a particular act which renders it permitted is not essential.

(18) They have thus received a ritual immersion. Forty se'ah is the minimum amount of water to constitute a mikweh. V.

Mik. V, 6.
(19) He need not immerse himself for the specific purpose of being rendered clean.

Talmud - Mas. Chullin 31b

And [on the contrary] vessels are to be on the same footing as a man, and as a man is capable of forming an intention so in the case of vessels a man must form an intention for them.[1] But should you ask: If we are dealing with the case of a man who was sitting and waiting, why is it at all necessary to be taught?[2] [I reply that] you might have disallowed [this immersion] as a precautionary measure lest he immerse himself in a torrent of rainwater;[3] or you might have disallowed immersion at the edge[4] [of the wave] as a precaution, lest it be thought that immersion is also allowed in the arch[4] of the wave. We are therefore taught that no precautionary measures are necessary. And whence do we know that immersion is not allowed in the arch of the wave? — From [the following Baraitha] which was taught: Immersion is allowed at the edge [of the wave] but not in the arch of the wave, for immersion is not allowed in mid-air.

Whence then do we derive the rule that in the case of common things the intention is not essential? — From [the following Mishnah] which we learnt: If fruits had fallen into a channel of water and a person whose hands were unclean stretched out his hands and took them, his hands have become clean,[5] and the rule of 'if water be put'[6] does not apply to the fruits. But if his purpose was to wash his hands, his hands have become clean and the rule of 'if water be put' applies to the fruits.[7]

Raba raised an objection against R. Nahman. [We have learnt:] If a man immersed himself to render himself fit to partake of common food and had this purpose in view, he is forbidden to partake of the Second Tithe.[8] Now this is so only because he had this purpose in view, but if he did not have this purpose in view he may not [partake even of common food]![9] — [He replied,] This is what it means: Even though he had the purpose in view to render himself fit to partake of common food he is forbidden to eat Second Tithe. He raised this further objection: If he immersed himself but did not have any purpose in view, it is as if he had not immersed himself.[8] Presumably it means: It is as if he had not immersed himself at all?[9] — No, it means: It is as if he had not immersed himself for Second Tithe but he has certainly immersed himself for common food. Now he [Raba] thought that R. Nahman merely intended to point out a possible refutation; he accordingly went and searched, and found [the following Baraitha]: If he immersed himself and had no purpose in view, he is fit to eat common food but not Second Tithe.

Abaye said to R. Joseph. Shall we say that this [last Baraitha] is a refutation of R. Johanan's view?[10] — He replied. R. Johanan will concur with the view expressed by R. Jonathan b. Joseph. For it was taught: R. Jonathan b. Joseph says: It is written: And it shall be washed [the second time].[11] Now what does 'the second time' teach us? We must compare the washing on the second occasion with the washing on the first occasion; as the latter must be intentional[12] so the washing on the second occasion shall be intentional.[13] But then it should follow, should it not, that as the washing on the first occasion must be by order of the priest, so shall the washing on the second occasion be by order of the priest? It is therefore written: 'And it shall be clean', in all circumstances.[14]

But did R. Johanan really say this? Surely R. Johanan has stated that the halachah is always in accordance with the view of an anonymous Mishnah. And we have learnt: IF A KNIFE FELL DOWN AND SLAUGHTERED [AN ANIMAL]. EVEN THOUGH IT SLAUGHTERED IT IN THE PROPER WAY, THE SLAUGHTERING IS INVALID. And we argued the point thus: 'This is so only because it fell down [of itself], but if one threw it [and it slaughtered an animal], the slaughtering would be valid, notwithstanding there was no intention [to slaughter according to ritual]'. And we asked: 'Who is the Tanna that holds that the intention to slaughter [according to ritual] is not essential?' And Raba said: 'It is R. Nathan'![15] — With regard to shechitah even R.

Jonathan b. Joseph[16] would concede [that the intention is not essential]; for inasmuch as the Divine Law has expressly laid down that an act performed incidentally in connection with consecrated animals is invalid,[17] it follows that with regard to ‘common’ things the intention is not essential. And the Rabbis?[18] — [They will say:] Granted that with regard to ‘common’ animals It is not essential to have the intention to slaughter [according to ritual], but it is essential to have an intention to cut. In this matter, said Raba, R. Nathan triumphed over the Rabbis. For is there ever written: ‘And thou shalt cut?’ It is written: ‘And thou shalt slaughter’.[19] Therefore, if it is essential to have the intention to cut, it is also essential to have the intention to slaughter [according to ritual], and if it is not essential to have the intention to slaughter [according to ritual], then it is not even essential to have the intention to cut.

How did it happen that the menstruous woman accidentally immersed herself? Shall we say that another woman pushed her [into a mikweh] and she thus immersed herself? But surely the intention of the other woman is a perfect intention! Moreover, [in such a case] she would even be allowed to eat terumah! For we have learnt:[20] If a woman was a deaf-mute or an imbecile or blind or not conscious [and she immersed herself], provided there were present women of sound mind to prepare everything for her, she may eat terumah! — R. Papa said: According to R. Nathan [it happened thus:] She fell from a bridge;[21] according to the Rabbis [it happened thus:] She went down [into the sea] to cool herself.[22]

Raba said: If a person while slaughtering the Red Cow, slaughtered at the same time another animal, according to all views the Red Cow is invalid.[23]

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(1) So that the result would be that for all matters, animate or inanimate, even for ‘common’ matters, a specific intention is essential.

(2) It is obvious that he is rendered clean, for he had the requisite intention, since he was looking forward to being immersed by the wave!

(3) Running down the mountain side. Immersion in such torrent is unlawful, v. Mik. V. 5 and Toh. VIII, 9.

(4) Where a wave breaks over land it is established (Tosef. Mik. IV) that one may immerse a vessel at the extreme end of the wave where it touches the ground, but not in the middle of the wave where it is arched above the ground; for it is essential that at the time of immersion the water must be touching the ground, and not suspended in mid-air.

(5) Even though he had no intention of washing his hands. This Mishnah clearly proves that with regard to ‘common’ food the intention is not essential.

(6) Lev. XI, 38. The application of the rule ‘if water be put’ means that the food has been rendered susceptible to uncleanness. Since the fruits became wet accidentally they are not thereby rendered susceptible to uncleanness; v. supra p. 77, n. 5.

(7) Since the water affords pleasure to this man for washing his hands, it will render the fruits susceptible to uncleanness. V. supra, loc. cit.

(8) Hag. 18b.

(9) Presumably because the intention was wanting. Hence it is essential to have the proper intention even with regard to common food.

(10) Who stated above that the accidental immersion of a menstruous woman will not render her clean even for ‘common’ matters, whereas the above mentioned Baraitha states that an immersion without any special intention is valid with regard to ‘common’ food.

(11) Lev. XIII, 58. It is laid down that a garment containing a leprous spot must be locked away for seven days, and on the seventh day must be examined by a priest. If it is then found that the spot has remained stationary and has not spread over a greater surface, the garment must then be washed and locked away for a further seven days, at the end of which period it must be examined again by the priest. If it is now found that the infection has left, the garment must be washed a second time (here meaning: the ritual immersion in a mikweh) and it is then declared to be clean.

(12) For it is written, ibid. 54. Then the priest shall command that they wash etc. The washing must be done at the express command of the priest.

(13) Hence this Tanna holds that the immersion must be intentional, even in respect of common matters, and so is in agreement with R. Johanan.

(14) I.e., even though the immersion was not carried out by the order of the priest, provided it was intentional, the garment becomes clean.

(15) The halachah, therefore, should be in accordance with this anonymous Mishnah, namely, that the intention to slaughter according to ritual is not essential; but this is contrary to R. Johanan's view.

(16) And likewise R. Johanan.

(17) V. supra p. 59.

(18) Who declared the slaughtering invalid where a person threw a knife and it happened to slaughter an animal, supra p. 165.

(19) Deut. XII, 21.

(20) Nid. 13b.

(21) Into the sea and thus immersed herself. This corresponds with R. Nathan's view that with regard to shechitah there is not even required the intention to cut or to deal with the animal at all. Here the woman did not even have the intention to be in the water.

(22) She intended to be in the water but not to immerse herself ritually; corresponding to the view of the Rabbis that with regard to shechitah there must be the intention to cut, but not necessarily the intention to slaughter according to ritual.

(23) V. supra p. 155: ‘If they do any other work at the same time, they render it invalid.’

Talmud - Mas. Chullin 32a

If another animal was [accidentally] slaughtered with it, according to R. Nathan, the Red Cow is invalid[1] and the other animal valid;[2] according to the Rabbis, the Red Cow is valid[3] and the other animal invalid.[4] This is surely obvious! — It was necessary to state the clause, 'If another animal was [accidentally] slaughtered with it' in order to set forth R. Nathan's view. For I might have said that the Divine Law [when it] said: And he shall slaughter it,[5] implying 'it' but not it and another, referred to the slaughtering of two Red Cows simultaneously; but to slaughter a 'common' animal with it, I might have said, would not render it invalid. We are therefore taught [otherwise]. If, while slaughtering the Red Cow, he cut at the same time a pumpkin, according to all views the Red Cow is invalid. If a pumpkin was [accidentally] cut whilst the Red Cow was being slaughtered, according to all views the Red Cow is valid. MISHNAH. IF THE KNIFE FELL[6] AND HE PAUSED [IN THE SLAUGHTERING IN ORDER] TO LIFT IT UP, IF HIS COAT FELL DOWN[6] AND HE PAUSED TO LIFT IT UP, IF HE SHARPENED THE KNIFE AND GREW TIRED[6] AND ANOTHER CAME AND SLAUGHTERED — [IN EACH CASE] IF THE PAUSE WAS FOR THE LENGTH OF TIME REQUIRED FOR SLAUGHTERING, THE SLAUGHTERING IS INVALID. R. SIMEON SAID, [IT IS INVALID] IF THE PAUSE WAS FOR THE LENGTH OF TIME REQUIRED FOR EXAMINING[7] [THE KNIFE].

GEMARA. What is meant by THE LENGTH OF TIME REQUIRED FOR SLAUGHTERING? — It means, said Rab, the of time required for slaughtering another animal.[8] R. Kahana and R. Assi asked Rab: Is the test in the case of a beast to be the length of time required for slaughtering another beast, and in the case of a bird the length of time required for slaughtering another bird; or is the test always the length of time required for slaughtering a beast even in the case of a bird? — Rab answered: 'I was not on such intimate terms with my uncle[9] as to ask him this'.

It was stated: Rab said: In the case of a beast the test is the length of time required for slaughtering a beast, and in the case of a bird the length of time required for slaughtering a bird. Samuel said: The test even in the case of a bird is the length of time required for slaughtering a beast. So, too, when R. Abin came [from Palestine] he reported R. Johanan's opinion that the test even in the case of a bird is the length of time required for slaughtering a beast. R. Hanina said, [The Mishnah means] the length of time required for fetching another animal and slaughtering it. Fetching! Why he might fetch an animal from anywhere! Then you have made the test to vary [with the circumstances of each case]![10] — R. Papa explained. The difference between them[11] is as regards an animal that is ready for casting.[12] In the West it was reported in the name of R. Jose son of R. Hanina: [The Mishnah means] the length of time required to lift up, lay on the ground and slaughter, in the case of small animals,[13] a small animal, and in the case of large animals,[14] a large animal.

Raba said: If one spent the whole day slaughtering [one animal] with a blunt knife, the slaughtering is valid. Raba raised the question: Are several [short] pauses to be combined?[15] But surely this can be solved from his preceding statement![16] — No, for there he did not pause at all. R. Huna the son of R. Nathan raised this question: What if he paused whilst cutting the lesser portion of the organs?[17] — This remains undecided.

R. SIMEON SAID, [IT IS INVALID] IF THE PAUSE WAS FOR THE LENGTH OF TIME REQUIRED FOR EXAMINING [THE KNIFE]. What is the meaning of THE LENGTH OF TIME REQUIRED FOR EXAMINING? — R. Johanan said: It means the length of time required for a Sage to examine [the knife]. But this test would vary with the circumstances of each case![18] — It means the length of time required for the slaughterer, himself a Sage, to examine [the knife].

MISHNAH. IF A MAN FIRST CUT THE GULLET AND THEN TORE AWAY[19] THE WINDPIPE, OR FIRST TORE AWAY THE WINDPIPE AND THEN CUT THE GULLET; OR IF

HE CUT ONE OF THESE ORGANS AND PAUSED[20] UNTIL THE ANIMAL DIED; OR IF HE THRUST THE KNIFE UNDERNEATH THE SECOND ORGAN AND CUT IT[21] — [IN ALL THESE CASES] R. JESHEBAB SAYS, THE ANIMAL IS NEBELAH; R. AKIBA SAYS, IT IS TREFAH. R. JESHEBAB LAID DOWN THIS RULE IN THE NAME OF R. JOSHUA: WHENEVER AN ANIMAL IS RENDERED INVALID BY A FAULT IN THE SLAUGHTERING IT IS NEBELAH; WHENEVER AN ANIMAL HAS BEEN DULY SLAUGHTERED BUT IS RENDERED INVALID BY SOME OTHER DEFECT IT IS TREFAH. R. AKIBA [ULTIMATELY] AGREED WITH HIM.

GEMARA. IF A MAN FIRST CUT THE GULLET etc. AND R. AKIBA AGREED WITH HIM. A contradiction was pointed out. We have learnt: The following defects render cattle trefah:

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(1) Even though his mind was not taken away from the slaughtering of the Red Cow it is invalid; because it is written: Num. XIX, 3. And he shall slaughter it, which means, ‘it by itself’, and not another animal with it.

(2) For according to R. Nathan no intention whatsoever is required in order to render the slaughtering of an unconsecrated animal valid.

(3) The Rabbis hold that whatever is done unintentionally or accidentally whilst slaughtering the Red Cow will not affect the validity of the Red Cow, for the slaughterer's mind will not have been taken away from the Red Cow.

(4) Because according to the Rabbis the intention is essential even when slaughtering an unconsecrated animal.

(5) Num. XIX, 3.

(6) I.e., after he had commenced slaughtering.

(7) Or, according to Maim., for examining the organs to see whether they have been cut sufficiently.

(8) And not, as might have been thought, merely the length of time required for completing the slaughtering of the animal on which he had started.

(9) I.e., R. Hiyya, who was the uncle and teacher of Rab.

(10) For a longer pause would be allowed where the animal had to be fetched from a long distance than if it had to be fetched from a place nearby; so that the pause which would render invalid one animal would not render invalid another animal.

(11) I.e., between R. Hanina and R. Johanan (Rashi). According to Rambam the words, ‘The difference between them is’, are to be omitted; R. Papa then merely interprets R. Hanina's view.

(12) Lit., ‘one which stands to be cast’. According to R. Johanan the pause which renders invalid is the length of time required for slaughtering, but according to R. Hanina it is the length of time required for casting the animal on the ground Plus the time required for slaughtering it.

(13) I.e., sheep and goats.

(14) I.e., oxen.

(15) If while slaughtering an animal he paused several times, but on each individual occasion the time was not of the length required to invalidate the slaughtering, are the times of the various pauses to be reckoned together so as to constitute a pause long enough to invalidate the slaughtering?

(16) For it is presumed that in the course of a day's slaughtering there must have been many short pauses.

(17) I.e., he paused after he had cut through the greater portion of each organ. Had he ceased slaughtering at this stage and gone away there is no doubt that the slaughtering would be valid; it is only the continuation of the slaughtering after a long pause that gives rise to the difficulty.

(18) For it is dependent upon whether or not a Sage is available.

(19) This is a case of עיקור, ‘tearing away’ the organ from the larynx. V. supra 9a, p. 37, n. 11.

(20) This is a case of שהייה, ‘pausing’, discussed fully in the preceding Mishnah and Gemara.

(21) This is a case of חלדה, ‘thrusting’, discussed fully supra, 30b.

Talmud - Mas. Chullin 32b

If the gullet was pierced, or the windpipe severed![1] — Raba answered: There is no contradiction. In the one case he first cut [the gullet] and then tore away [the windpipe]; in the other case he first tore away [the windpipe] and then cut the gullet. Where he first cut [the gullet] and then tore away [the windpipe] we regard it as a fault in the slaughtering,[2] but where he first tore away [the windpipe] and then cut [the gullet] we regard it as invalidated by some other defect.[3] R. Aha b. Huna raised the following objection against Raba: [It was taught:] If he first cut the gullet and then tore away the windpipe, or first tore away the windpipe and then cut the gullet, the animal is nebelah! — Render [the second clause] thus: [Or if he tore away the windpipe] having already cut the gullet. He retorted. There are two arguments against this. First, it is now identical with the first clause; and secondly, it expressly says. ‘And he then cut’. — Rather, said Raba: It[4] must be interpreted thus: The following defects render the animal prohibited, some as nebelah and some as trefah. Then why does it not include also the case of Hezekiah? For Hezekiah taught: If one cut an animal into two it is nebelah [forthwith].[5] And also the case of R. Eleazar? For R. Eleazar taught: If the thigh of an animal was removed and the cavity was noticeable it is nebelah [forthwith].[5] — It includes such nebelah only as does not convey uncleanness whilst alive, but not such nebelah as conveys uncleanness whilst alive.[6] R. Simeon b.) Lakish suggested.[7] In the one case he cut [the windpipe] in the place where it was already lacerated; in the other case he did not cut [the windpipe] in the place where it was already lacerated. Where he cut it in the place where it was already lacerated we regard the animal as invalidated by a defect in the slaughtering;[8] but where he did not cut it in the place where it was already lacerated we regard the animal as invalidated by some other defect. But did R. Simeon b. Lakish really say this? Surely R. Simeon b. Lakish has said that if the lung was pierced after he had cut the windpipe [but before he had cut the gullet], the slaughtering was valid.[9] This proves, does it not, that [once the windpipe has been cut] the lung is regarded as though placed in a basket?[10] Here also we should say, should we not, that [once the windpipe has been lacerated] it is regarded as though placed in a basket?[11] — Rather, said R. Hiyya b. Abba in the name of R. Johanan. There is no contradiction. There[12] [the Mishnah represents the view of R. Akiba] before he retracted, here after he retracted; that Mishnah,[12] however, was allowed to stand.[13]

The text above stated: ‘R. Simeon b. Lakish said: If the lung was pierced after he had cut the windpipe [but before he had cut the gullet], the slaughtering is valid’. Raba said: This decision of Resh Lakish applies only to the lung because the vitality of the lung is entirely dependent upon the windpipe, but it does not apply to the intestines.[14] R. Zera demurred. Saying Since you declare [the animal] permissible wherever a defect occurred [after cutting one organ], what difference does it make whether the defect was in the lung or in the intestines? R. Zera, however, must have withdrawn his objection. For R. Zera had put the following question: What is the law if the intestines were perforated after the first organ but before the second organ [was cut]?[15] Is the first organ to be reckoned together with the second in order to render the animal clean, and not nebelah, or not?[16] And we replied: Was not this question similar to that put by Ilfa, viz., What is the law if a foetus put forth its foreleg [out of the womb of its dam] after the first organ but before the second organ [was cut]?[17]

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(1) This is the opening Mishnah of Chap. III, infra 42a. It is there stated that if the windpipe was severed the animal is merely trefah, whereas in our Mishnah, if the slaughterer tore away (i.e., severed) the windpipe, the animal is stated to be nebelah by R. Jeshebab, and R. Akiba ultimately also concurred.

(2) This is the case of our Mishnah, and the animal is nebelah.

(3) This is the case of the Mishnah in Chap. III, and the animal is merely trefah, since it was rendered invalid actually before the commencement of the slaughtering.

(4) The Mishnah infra 42a.

(5) V. supra 21a.

(6) In the cases of Hezekiah and R. Eleazar the animal is at once regarded as nebelah for all purposes even though the animal still shows signs of life by the convulsive movements of its limbs.

(7) To reconcile the contradiction pointed out at the beginning of the discussion between our Mishnah and the Mishnah in Chap. III.

(8) The animal is therefore nebelah.

(9) For as soon as the windpipe has been cut the slaughtering has been completed with regard to it; hence any defect which occurs subsequently in any organ which is directly connected with or attached to the windpipe is of no consequence.

(10) And any lesion of the lung now will not affect the validity of the animal.

(11) With the result that the animal has virtually only one organ fit to be slaughtered and it must therefore be nebelah.

(12) Chap. III Mishnah I. Infra 42a.

(13) Even though its decision had been overruled.

(14) I.e., if the intestines had been pierced after the windpipe, but before the gullet had been cut, the animal would be forbidden to be eaten, for the intestines are dependent upon and connected with the gullet and this has not yet been cut.

(15) After the windpipe, for that is always the first organ to be cut, but before the gullet had been cut (Rashi); v. however Tosaf. ad loc.

(16) The effect of slaughtering, it must be remembered, is twofold: (a) the animal is permitted to be eaten, and (b) it is not nebelah; and, it is suggested, in order that the slaughtering be valid each organ must serve this twofold purpose. In our case, however, whereas the cutting of the first organ tends to produce this twofold effect the cutting of the second organ does not, for the defect that has occurred in the intestines before the cutting of the second organ has already precluded (a); the slaughtering therefore should be invalid absolutely. On the other hand, it might be argued that the slaughtering should be effective at least with regard to (b), since this purpose is common to both organs.

(17) It is established law (v. infra 68ff.) that the embryo within the womb of its dam is rendered fit for food by the valid slaughtering of the dam; if, however, part of the embryo protruded out of the womb before the slaughtering, such part will not be rendered fit for food by the valid slaughtering of the dam, although it will be rendered clean by such slaughtering. The question here raised is whether or not the slaughtering of the dam will render clean that part which protruded out of the womb after the first organ had been cut. The argument is similar to that in the preceding note. For the slaughtering of the first organ serves a twofold purpose, namely, to render the limb which protruded later clean and also fit for food, whereas the slaughtering of the second organ serves only the single purpose of rendering the limb clean. The question therefore is. Can the first organ be reckoned together with the second in order to effect the purpose common to both, namely, to render the limb clean?

Talmud - Mas. Chullin 33a

Is the first organ to be reckoned together with the second in order to render [the foreleg] clean, and not nebelah, or not? Now the question put [by R. Zera] was only as to whether or not the animal was to be regarded as clean, and not nebelah, but [admittedly] it is forbidden to be eaten.[1] R. Aha b. Rab said to Rabina: It may very well be that R. Zera did not withdraw his objection at all,[2] but he merely formulated his question from the point of view of Raba,[3] though he himself did not agree with it.

R. Aha b. Jacob said: One may conclude from the ruling of R. Simeon b. Lakish that an Israelite may be invited to partake of the intestines, but not a gentile. Why is this? — Because to an Israelite everything depends upon the slaughtering;[4] therefore, since here the animal has been properly slaughtered he may partake of the intestines. To the gentile, however, everything depends upon the death of the animal[4] [and not upon the slaughtering], for even stabbing would be sufficient; therefore the intestines [of an animal slaughtered by an Israelite] would be regarded as a limb [cut off] from a living animal.[5]

R. Papa said: ‘As I was Sitting before R. Aha b. Jacob I thought of putting the question to him: Is there anything which is permitted to an Israelite and forbidden to a gentile? But I did not ask him this, for I said to myself: "He has himself suggested the reason for it"’.

There was taught [a Baraitha] which contradicts the view of R. Aha b. Jacob: ‘If a person desires to eat the meat of an animal before it has actually died, he may cut off an olive's bulk of flesh from around the throat, salt it well, rinse it well, wait until the animal expires,[6] and then eat it. Both Israelite and gentile may eat it in this way’. This [Baraitha] on the other hand Supports the view of R. Idi b. Abin. For R. Idi b. Abin said in the name of R. Isaac b. Ashian: If a person wishes to be in good health he should cut off an olive's bulk of flesh from around the throat, salt it well, rinse it well, wait until the animal expires, and then eat it. Both Israelite and gentile may eat it in this way.

MISHNAH. IF A MAN SLAUGHTERED CATTLE OR A WILD BEAST OR A BIRD AND NO BLOOD CAME FORTH, THE SLAUGHTERING IS VALID AND IT MAY BE EATEN BY HIM WHOSE HANDS HAVE NOT BEEN WASHED,[7] FOR IT HAS NOT BEEN RENDERED SUSCEPTIBLE TO UNCLEANNESS BY BLOOD. R. SIMEON SAYS, IT HAS BEEN RENDERED SUSCEPTIBLE TO UNCLEANNESS BY THE SLAUGHTERING.[8]

GEMARA. Now this is so only because no blood came forth, but if blood did come forth [it follows that] it may not be eaten by one with unwashed hands. But why? Are not [unwashed] hands unclean in the second degree and that which is unclean in the second degree cannot render ‘common’ food unclean in the third degree? — But whence do you gather that we are dealing with common food? — For it reads [in the Mishnah]. OR A WILD BEAST, and if it is dealing with consecrated animals [it is unintelligible, for] is there such a thing as a consecrated wild beast?[9] Furthermore, if it is dealing with consecrated animals, can it be said that the slaughtering is valid where no blood came forth? The whole purpose [of the slaughtering] is to obtain the blood![10] Furthermore, if [it is dealing] with consecrated animals, can it be said that in the case where blood did come forth it would render [the animal] susceptible to uncleanness? Surely R. Hiyya b. Abba has said in the name of R. Johanan: ‘Whence do we know that the blood of consecrated animals cannot render anything susceptible to uncleanness? From the verse: Thou shalt poor it out upon the earth as water,[11] which implies that blood which is poured out as water can render susceptible to uncleanness, but blood which is not poured Out as water cannot’. Furthermore, if [it is dealing] with consecrated animals, can it be said that where no blood came forth the animal would not be rendered susceptible to uncleanness? Surely it would be susceptible to uncleanness because of its sacred esteem, for it is established that sacred esteem will render [consecrated] matter susceptible to uncleanness![12] R. Nahman said in the name of Rabbah b. Abbuha: Here [in our Mishnah] we are dealing with unconsecrated animals that were bought [in Jerusalem] with Second Tithe money, and the ruling is not in accordance with R. Meir's view. For we have learnt,[13]

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(1) But this cannot be reconciled with the objection he raised against Raba. It is therefore right to say that R. Zera withdrew his objection.

(2) For he is of the opinion that any defect that occurs to any limb in the course of the slaughtering will not affect the validity of the slaughtering, and the animal would even be fit for food.

(3) According to Raba's view who stated above that Resh Lakish's ruling did not apply to the case where the intestines were pierced after the cutting of the first organ, the question arises: Would the animal be free from the uncleanness of nebelah or not?

(4) In order that the animal may be fit for food.

(5) For by the cutting of the organs only the animal is not absolutely dead, and at this stage the intestines are regarded, according to R. Simeon b. Lakish, as having been taken out from the living(!) animal and placed in a basket; hence they are forbidden to a gentile as a limb cut off from a living animal.

(6) V. Sanh. 63a. Sonc. ed., p. 430.

(7) Lit., ‘with unclean hands’. Hands that have not been washed are regarded by the Rabbis as unclean in the second degree. There is no fear here of the hands defiling the meat for the reason stated in the Mishnah, namely, that the flesh of the animal has not been made wet by water or blood or any other liquid, in conformity with the rule laid down in Lev. XI, 38.

(8) Since the slaughtering renders the animal fit for food it will likewise render it, as a food, susceptible to uncleanness without the necessity of water or other liquid to moisten it.

(9) Wild beasts, like the gazelle and the hart, were not permitted to be offered as sacrifices.

(10) For it must be sprinkled upon the altar, v. supra 29a.

(11) Deut. XII, 24.

(12) V. Pes. 35a. The very sanctity of consecrated things renders them susceptible to uncleanness without the necessity of any moistening by water.

(13) V. Par. XI, 5.

Talmud - Mas. Chullin 33b

Whatsoever requires immersion in the waters [of a mikweh] by decree of the Scribes[1] will [through contact] render consecrated food unclean,[2] and terumah invalid,[3] but will leave common food or Second Tithe unaffected: so R. Meir. The Sages however regard Second Tithe to be affected.[4] R. Shimi b. Ashi demurred: Is it really so? Perhaps the Sages differ with R. Meir only on the question of eating[5] this Second Tithe, but there is no dispute between them on the question of coming into contact with the Second Tithe or of eating common food![6] And here [in our Mishnah] it is a question of coming into contact, for it reads: AND MAY BE EATEN BY HIM WHOSE HANDS HAVE NOT BEEN WASHED, and this might very well mean that we are dealing with the case of one person feeding another?[7] — Rather, said R. Papa, here [in the Mishnah] we are dealing with hands that were unclean in the first degree, and the ruling is in accordance with the view of R. Simeon b. Eleazar. For it was taught: Hands which are unclean in the first degree can in no wise affect common food.[8] R. Simeon b. Eleazar says in the name of R. Meir, Hands which are unclean in the first degree can affect common food, and hands which are unclean in the second degree can affect terumah.[9] Does this mean to say that hands which are unclean in the first degree can affect common food only and not terumah? — Indeed no; it means, hands which are unclean in the first degree can affect even common food, but hands which are unclean in the second degree can affect terumah only but not common food. But is it possible for hands to be unclean in the first degree? — Yes. For we have learnt: If a person put his hands into a house stricken with leprosy, his hands become unclean in the first degree: so R. Akiba. The Sages however say, His hands become unclean in the second degree.[10] Now all accept the principle that an entry by part of the person only is no entry,[11] and the dispute between them is the extent of uncleanness imposed by the Rabbis upon the hands as a precaution against the entry of the whole person. One [R. Akiba] says that the Rabbis imposed upon the hands the same degree of uncleanness as upon the person himself;[12] but the Sages say that they imposed upon the hands the usual degree of uncleanness attached to hands.[13]

But why do we not say that the ruling [in our Mishnah] accords with R. Akiba,[14] who also holds that hands can be unclean in the first degree? — Because it may be that R. Akiba says so[15] only with regard to terumah or consecrated food, since these are to be treated with strictness, but with regard to common food [he would agree that] they are unclean only in the second degree. But even so, be they unclean only in the second degree, have we not learnt that according to R. Akiba, whatever is unclean in the second degree can render common food unclean in the third degree?[16] For we have learnt:[17] On that same day[18] R. Akiba expounded: It is written: And every earthen vessel, [whereinto any of them falleth, whatsoever is in it] shall be unclean [yitma].[19] Now there is not written tame[20] but yitma,[21] which signifies that it will make others unclean. This teaches that a loaf which is unclean in the second degree will [by contact] render common food[22] unclean in the third degree? — Perhaps this is the law only with regard to such uncleanness as declared by the Torah but not with regard to such uncleanness as decreed by the Rabbis.[23] R. Eleazar said in the name of R. Hoshaia, Here [in our Mishnah] we are dealing with unconsecrated animals that were kept in the cleanness proper to consecrated things,[24] and the ruling is not in accordance with R. Joshua's view. For we have learnt:[25] R. Eliezer says. He who eats [food unclean in] the first [degree becomes unclean in the] first degree; [if it was unclean] in the second degree, [he becomes unclean in] the second degree; and [if it was unclean in] the third degree, [he becomes unclean in] the third degree. R. Joshua says, [He who eats food unclean in] the first or second degree [becomes unclean in] the second degree; [if it was unclean in] the third degree. [he becomes unclean in] the second degree with regard to consecrated things only,[26] but not with regard to terumah.[27] This[28] applies only to common food kept in the cleanness proper to terumah. And so only in the case of common food kept in the cleanness proper to terumah [is there a third degree of uncleanness], but not in the case of common food kept in the cleanness proper to consecrated things, for he [R. Joshua] is of the opinion that in that latter case there cannot be a third degree of uncleanness.[29]

Why should we not say that our Mishnah deals

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(1) Those cases enumerated in Shab. 13b for which the Rabbis decreed uncleanness in the second degree.

(2) The general principle is that unclean matter defiles anything which comes in contact with it and that the thing so defiled becomes unclean in a lesser degree than that which defiled it. Further it has been laid down that uncleanness in common food extends to the second degree, in terumah (v. Glos.) to the third degree, and in consecrated food to the fourth degree. The last degree of uncleanness in each category is itself unclean but cannot impart uncleanness and is called פסול, 'invalid'. As we are dealing with uncleanness in the second degree it will naturally render consecrated food unclean in the third degree.

(3) As the terumah is unclean in the third degree it cannot impart further uncleanness, and is therefore termed פסול

(4) Lit., 'they forbid in the case of Second Tithe'. Presumably the Second Tithe becomes unclean in the third degree by contact with that which was unclean in the second degree. On this assumption our Mishnah can be interpreted as dealing with animals bought with Second Tithe money.

(5) I.e., the Sages forbid a person whose hands are unwashed to eat Second Tithe.

(6) For all agree that a person with unwashed hands may eat common food and touch Second Tithe.

(7) Since the Mishnah does not say 'And one whose hands have not been washed may eat it', it is to be inferred that even a person with unwashed hands may feed another. And on the other hand, where the animal has been moistened by the blood, it may not be eaten by one whose hands are unwashed and similarly one with unwashed hands may not feed another. Hence the Mishnah forbids the touching of Second Tithe by one who is unclean in the second degree, which is contrary to all views.

(8) To render it unclean in the second degree.

(9) And make the terumah unclean in the third degree.

(10) Yad. III, I.

(11) Therefore the person himself is not rendered unclean, and on the same principle his hands too should not be rendered unclcan. The Rabbis, however, decreed that the latter be unclean as a precautionary measure against it being said: If hands when brought into a house stricken with leprosy remain clean, the body too should be clean!

(12) A person who enters a house afflicted with leprosy is rendered unclean in the first degree; v. Lev. Xlv, 46.

(13) I.e., uncleanness in the second degree.

(14) The Talmud endeavours to establish wherever possible the ruling of an anonymous Mishnah in accordance with the view of R. Akiba for it was by his direction and on his authority that the Tannaitic teachings were collected.

(15) That hands can be unclean in the first degree.

(16) Our Mishnah therefore would be in ent1re accord with R. Akiba.

(17) Sot. 27b, and Pes. 182.

(18) The day on which R. Eleazar b. 'Azariah was appointed head of the College. V. Ber. 28b.

(19) Lev. XI, 33. Heb. יטמא.

(20) טמא, meaning, 'it is unclean'.

(21) יטמא And R. Akiba argued that this word should not be read as yitma, for then it has the same meaning as tame, but should be read as yetamme, meaning, 'it shall render others unclean'. R. Akiba accordingly interprets the verse thus: If a dead reptile is suspended in the air-space of an earthenware vessel, the latter is thereby rendered unclean in the first degree, and whatever foodstuffs are in the vessel are unclean in the second degree; and since the text states יטמא in connection, with the latter it means that they will render others unclean in the third degree.

(22) For the verse contemplates every sort of food, common or consecrated.

(23) The uncleanness attached to unwashed hands is a Rabbinic enactment. It is suggested that, being merely Rabbinic in origin, the law with regard thereto is not so rigid, and so would not render others unclean in the third degree.

(24) It was not unusual for many to eat their ordinary food in the same strictness regarding the laws of uncleanness as applied to consecrated food, in order that whenever partaking of consecrated food they would be accustomed to the rules of cleanness appertaining thereto.

(25) Toh. II, 2.

(26) I.e., he would render consecrated food unclean in the third degree and the latter in turn could render other consecrated food unclean in the fourth degree.

(27) I.e., he would not by contact render terumah unclean in the third degree (i.e., invalid); he is nevertheless forbidden in his condition of uncleanness to eat terumah, v. infra.

(28) That with common food there can be a third degree of uncleanness.

(29) For he holds that the determ1nat1on to treat common food with the cleanness proper to consecrated food is of no effect; our Mishnah, therefore, which deals with an animal kept in the cleanness proper to consecrated animals, will agree with R. Eliezer but not with R. Joshua.

Talmud - Mas. Chullin 34a

with unconsecrated animals kept in the cleanness proper to terumah and so it will be in accord with R. Joshua? — This cannot be, for our Mishnah speaks of the meat [of the animal], and if you say that it deals with [an animal kept in the cleanness proper to] terumah [it is unintelligible, for] is there such a thing as meat of terumah?[1] You therefore say it deals with [an animal kept in the cleanness proper to] consecrated animals; [but it is likewise difficult, for] is there such a thing as a consecrated wild beast?[2] — One might m[1] stake meat for meat,[3] but one could not mistake meat for produce.[4]

Ulla said: ‘My colleagues say that the Mishnah deals with unconsecrated animals kept in the cleanness proper to consecrated animals, and the ruling is not in accordance with R. Joshua's view. But I say that it is in accordance with R. Joshua's view, for he merely states the stronger case:[5] not only in the case of common food kept in the cleanness proper to consecrated food, which is of greater sanctity, is there a third degree of uncleanness, but even in the case of common food kept in the cleanness proper to terumah there is also a third degree of uncleanness’.

Who is meant by ‘my colleagues’? — It is Rabbah b. Bar Hana. For Rabbah b. Bar Hana said in the name of R. Johanan, On what lines did the discussion between R. Eliezer and R. Joshua run? Thus: R. Eliezer said to R. Joshua. We find [in one instance] that the eater is more unclean than the unclean food [he has eaten], for the carcass of a clean bird does not defile by ordinary contact[6] and yet whilst in the gullet it renders the clothes unclean. Should we not then generally regard the eater at least in the same degree of uncleanness as the unclean food [that he has eaten]? And R. Joshua, [what would he reply to this]? — We must not draw any conclusions from the case of the carcass of a clean bird, for it is an anomaly. But argue thus: We find that the unclean food is more unclean than the eater thereof, for foodstuffs [can become unclean] from an egg's bulk [of unclean food], whereas the eater [of unclean food does not become unclean] unless he has eaten the size of two eggs thereof.[7] Surely, then, we cannot generally regard the eater as unclean as the food? And R. Eliezer? — We must not draw any conclusions as to the degree of uncleanness from the specific quantities [required in each case]. Furthermore, according to your own argument, you are consistent when you say that he who eats food unclean in the first degree becomes unclean in the second degree; but why should he who eats that which is unclean in the second degree become likewise unclean in the second degree? — Said R. Joshua to him, Do we not find that foodstuffs unclean in the second degree can render other foodstuffs unclean in the second degree through the medium of a liquid?[8] He [R. Eliezer] retorted, [Yes] but that liquid also becomes unclean in the first degree.[9] For we have learnt: The [degree of uncleanness] which renders terumah invalid[10] will [by contact] render liquids unclean in the first degree, with the exception of a tebul yom.[11] Furthermore, why should he who eats that which is unclean in the third degree become unclean in the second degree? To this R. Joshua replied: I, too, only said so in the case of [common food kept in the cleanness proper to] terumah since [it has been taught that] whatsoever is considered clean for terumah

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(1) Certainly not. Hence our Mishnah cannot refer to food kept in the cleanness of terumah.

(2) Of which the Mishnah also speaks.

(3) Therefore, as a proper precaution against the time when he must eat consecrated meat (i.e., the flesh of a sacrifice) a person would keep all the meat in his house, even the meat of a wild beast, in the cleanness proper to consecrated meat.

(4) Terumah is an offering of produce and not of meat, so that a priest would eat his ordinary produce in a state of cleanness in order to be so accustomed for terumah, but not his meat. The latter therefore cannot be regarded in law as anything else than ordinary meat even though the owner actually keeps it in the cleanness proper to terumah.

(5) Lit., 'it is not necessary', 'it goes without saying'.

(6) Lit., 'externally'. For the unique law with regard to the uncleanness of a clean bird v. supra p. 103, n. 1.

(7) Lit., 'the quantity of half of half a loaf', equivalent to the size of two eggs. V. 'Er. 82b.

(8) If food unclean in the second degree comes into contact with other food which has moisture or a liquid upon it, the latter food will be rendered unclean in the second degree. Strictly the process is this: the unclean food renders the liquid or moisture unclean in the first degree (v. infra) and the latter renders the second food unclean in the second degree.

(9) So that according to your argument one who eats that which is unclean in the second degree should become unclean in the first degree! Of course R. Joshua never intended to make any inference from the liquid in that case, for he concedes that liquids are exceptional as they so readily contract uncleanness, but only from the foodstuff. (Rashi). V. however Tosaf. ad loc.

(10) I.e., the second degree of uncleanness.

(11) I.e., one who immersed himself in a mikweh in the daytime but technically does not become clean until after sunset. He is regarded in the condition of unclean in the second degree and therefore renders terumah invalid, but unlike others which are unclean in the second degree, he does not by his contact render liquids unclean in the first degree. V. Par. VIII, 7.

Talmud - Mas. Chullin 34b

is considered unclean for consecrated things.[1]

R. Zera said in the name of R. Assi who reported it in the name of R. Johanan who reported it in the name of R. Jannai: He who eats common food kept in the cleanness proper to consecrated food which was unclean in the third degree, becomes himself unclean in the second degree with regard to consecrated things [only]. R. Zera now raised this objection before R. Assi: [It was taught above].[2] '[If it was unclean in] the third degree. [he becomes unclean] in the second degree with regard to consecrated things only, but not with regard to terumah. This applies only to common food kept in the cleanness proper to terumah'. And so only in the case of common food kept in the cleanness proper to terumah [is there a third degree of uncleanness], but not in the case of common food kept in the cleanness proper to consecrated things.[3] — He replied: He merely stated the stronger case.[4] But has it not been stated [above in the name of R. Johanan]: 'I, too, only said so in the case of [common food kept in the cleanness proper to] terumah'?[5] — Amoraim disagree as to R. Johanan's view.

Ulla said: He who eats common food kept in the cleanness proper to terumah which was unclean in the third degree becomes unfit to eat terumah. What does he teach us? We have already been taught above: '[If it was unclean in] the third degree, [he becomes unclean] in the second degree with regard to consecrated things only but does not become unclean in the second degree with regard to terumah. This applies only to common food kept in the cleanness proper to terumah'. Now it says that [with regard to terumah] he does not become unclean in the second degree, but presumably [he becomes unclean] in the third degree.[6] — From this passage I might have thought that he neither becomes unclean in the second degree nor in the third degree, but merely on account of the fact that with regard to consecrated things he becomes unclean in the second degree does it also say with regard to terumah he does not become unclean in the second degree; he [Ulla] therefore teaches us [that he does become unclean in the third degree].

R. Hamnuna raised this objection against Ulla: [We have learnt]:[7] Common food, unclean in the first degree, is itself unclean and renders unclean;[8] that which is unclean in the second degree renders invalid[8] but not unclean; and that which is unclean in the third degree may be eaten [even if it is] a pottage containing ingredients of terumah.[9] Now if you are right in saying that [he who eats common food kept in the cleanness proper to terumah which was unclean in the third degree] becomes unfit to eat terumah, would we then allow [a priest] to eat that which renders him unfit [for eating terumah]?[10] — He replied. Drop the question of the pottage containing ingredients of terumah

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(1) V. infra 35a and Hag. 18b. Accordingly common food kept in the cleanness proper to terumah that was unclean in the third degree is deemed to be unclean in the second degree with regard to consecrated things; hence whosoever eats it becomes unclean in the second degree with regard to consecrated things. And this is nothing strange, as we find that foodstuffs unclean in the second degree can render others, too, unclean in the second degree through the medium of a liquid. Now it is evident from these final words of R. Joshua that when he stated above in the original Baraitha, ‘This applies only to common food kept in the cleanness proper to terumah’, he thereby definitely intended to deny the existence of a third degree of uncleanness in common food kept in the cleanness proper to consecrated things; for if he stated it merely as his explanation for the ruling he gave, namely, that he who ate common food unclean in the third degree became unclean in the second degree (which would be identical with the final words of R. Joshua as given here), then R. Eliezer's final question ‘Furthermore, why etc.’ is unintelligible, as he already knew R. Joshua's reason. It is therefore established that Rabbah b. Bar Hana, who reported this discussion, was of the opinion that according to R. Joshua there could be no third degree of uncleanness in the case of common food kept in the cleanness proper to consecrated things; and this view corresponds with that attributed by Ulla to ‘My colleagues’. See Rashi and Tosaf. ad loc.

(2) Supra 33b, p. 182.

(3) This statement clearly contradicts R. Assi's view as reported by R. Zera.

(4) V. p. 183, i.e., it is so obvious that there is a third degree of uncleanness in the case of common food kept in the cleanness proper to consecrated things that it need not even be mentioned.

(5) So that we have contradictory statements each reported in the name of R. Johanan as to the true view of R. Joshua.

(6) And being unclean in the third degree he surely is unfit to eat terumah, hence what is the point of Ulla's teaching?

(7) Toh. II, 3.

(8) The terms ‘unclean’ and ‘invalid’ are here used in a specific and technical sense; the former signifying, ‘that which is itself unclean and will also by contact defile other food’, the latter signifying, ‘that which is itself unclean but will not defile other food’.

(9) This common food, since it contains ingredients of terumah, must have been kept in the cleanness proper to terumah (v. Rashi and Tosaf. ad loc.), and although unclean in the third degree may nevertheless be eaten by a priest.

(10) In the first place it is wrong for a priest at any time to render himself unclean, v. Yoma 80b; and in the second place the priest is definitely forbidden to eat the terumah contained in the pottage, for as soon as he partakes of the pottage he is rendered unfit for terumah.

Talmud - Mas. Chullin 35a

because in the time it takes to eat half a loaf there is not consumed an olive's bulk [of terumah].[1]

R. Jonathan said in the name of Rabbi, He who eats terumah which is unclean in the third degree is forbidden to eat terumah,[2] but is permitted to touch it. It is truly necessary to have this statement of R. Jonathan as well as Ulla's. For from Ulla's statement above I should have thought that the ruling applied only to the case of common food kept in the cleanness proper to terumah, but in the case of real terumah [I might have said that] he is even forbidden to touch it; it is therefore necessary to have R. Jonathan's statement. And from R. Jonathan's statement alone I should have thought that the ruling applied only to the case of real terumah, but in the case of common food kept in the cleanness proper to terumah [I might have said that] he is even permitted to eat it; therefore both statements are necessary.

R. Isaac b. Samuel b. Martha was sitting before R. Nahman and said: He who eats common food kept in the cleanness proper to consecrated things which was unclean in the third degree is clean, and he may eat consecrated food, for the only thing which will render consecrated food unclean in the fourth degree is real consecrated food[3] [which was unclean in the third degree].

Rami b. Hama raised an objection. [It has been taught above]: ‘[If it was unclean in] the third degree, [he becomes unclean] in the second degree with regard to consecrated things only, but does not become unclean in the second degree with regard to terumah. This applies only to common food kept in the cleanness proper to terumah’. Now why should this be so? This [food which is unclean in the third degree] is not real consecrated food?[4] — He replied. Drop the question of terumah, since what is considered clean for terumah may yet be considered unclean for consecrated things.[5] Whence do you gather this? — From [the following Mishnah] which we learnt: The clothes of an ‘am ha-arez[6] are regarded as midras[7] for the pharisees;[8] the clothes of the pharisees are regarded as midras for those who eat terumah; the clothes of those who eat terumah are regarded as midras for those who partake of consecrated food. Thereupon Raba raised this point: You are dealing, are you not, with midras uncleanness? But the law as to midras uncleanness is quite exceptional,

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(1) A person is liable for eating an olive's bulk of terumah whilst being in a state of uncleanness only if it has been consumed within the time normally taken to eat half a loaf of the size of four eggs. In this pottage, however, the admixture of terumah is of so small a quantity that in the above-mentioned time he will certainly not have consumed an olive's bulk of terumah. This being the case, this pottage would not be kept in the cleanness proper to terumah; it is simply common food, hence it cannot be rendered unclean in the third degree.

(2) Until he will have rendered himself clean by immersion in a mikweh. The statements of R. Jonathan and Ulla really amount to the same thing, save that the former deals with actual terumah and the latter with common food kept in the cleanness of terumah.

(3) E.g., sacrificial meat or the loaves of a Thank-offering, but not common food kept in the cleanness proper to consecrated things and most certainly not common food kept in the cleanness proper to terumah.

(4) Nevertheless, it is said, that one who eats it is not only unfit for eating consecrated food but is even unclean in the second degree!

(5) So that terumah which is unclean in the third degree is considered unclean in the second degree with regard to consecrated food, and therefore he who eats it is certainly unfit to eat consecrated food.

(6) V. Glos.

(7) Heb. מדרם. The degree of uncleanness arising when an unclean person of those mentioned in Lev. XV, 4 and 25 sits or treads upon or leans with the body against an object, provided that it is usual to treat the object in such a way. The object then suffers midras uncleanness and can through contact render men and vessels unclean.

(8) Here meaning those who eat their ordinary food in a state of levitical cleanness.

Talmud - Mas. Chullin 35b

for it is feared that his wife when in a menstruous condition sat upon these clothes;[1] with regard to produce, however, the rule[2] does not apply.[3] — R. Isaac on the other hand says that the rule[2] applies to the case of produce too.

R. Jeremiah of Difti raised this objection: Do you say that the rule applies to the case of produce too? Surely we have learnt: If [an ‘am ha-arez] said: ‘I have set aside in this [barrel of terumah w[1] ne] one quarter log for a consecrated purpose’, he is believed, and the terumah does not render the consecrated wine unclean.[4] Now if you are right in saying that [the rule that] what is considered clean for terumah may yet be considered unclean for consecrated things [applies to the case of produce too], should not the terumah [in this barrel] render the consecrated wine unclean? — He replied: You are dealing, are you not, where the unclean is together [with the clean]? But in such cases the law is exceptional, for since he is believed with regard to the consecrated portion he is to be believed also with regard to the terumah portion.

R. Huna b. Nathan raised this objection: [We have learnt:] Common food which is unclean in the second degree renders [by contact] common liquids unclean [in the first degree], and renders those who eat terumah unfit. If it is unclean in the third degree. It renders consecrated liquids unclean [in the first degree], and renders those who eat consecrated food unfit. This applies only to common food kept in the cleanness proper to consecrated things![5] — This is a subject of dispute between Tannaim.[6] For it was taught: Common food kept in the cleanness proper to consecrated food is treated as common food.[7] R. Eleazar son of R. Zadok says. It is treated as terumah, that is, two stages are unclean and one stage invalid.[8]

R. SIMEON SAYS, IT HAS BEEN RENDERED SUSCEPTIBLE TO UNCLEANNESS BY THE SLAUGHTERING. R. Assi said that R. Simeon was of the opinion that only the slaughtering renders an animal susceptible to uncleanness but not the blood.[9] Shall we say that the following interpretation supports his view? [We have learnt:] R. SIMEON SAYS. IT HAS BEEN RENDERED SUSCEPTIBLE TO UNCLEANNESS BY THE SLAUGHTERING. It means, does it not, by the slaughtering and not by the blood? — No, it means, even by the slaughtering. Come and hear: R. Simeon said to the Rabbis, ‘Is it the blood that renders the animal susceptible to uncleanness? Surely it is the slaughtering’! — This is what he said to them: ‘Is it only the blood which renders the animal susceptible to uncleanness? Surely the slaughtering also renders it susceptible to uncleanness!’

Come and hear: [We have learnt:] R. Simeon says: The blood of a dead [animal][10] does not render foodstuffs susceptible to uncleanness.[11] Now it is to be inferred from this, is it not, that the blood of a slaughtered animal will render foodstuffs susceptible to uncleanness? — No, the inference to be drawn is that the blood of a slain[12] animal will render foodstuffs susceptible to uncleanness. Then what is the law with regard to the blood of a slaughtered animal? [Will you say that] it does not render foodstuffs susceptible to uncleanness? If so, he [R. Simeon] should rather have stated his view with regard to the blood of a slaughtered animal,[13] and it would have been self-evident with regard to the blood of a dead animal! — It was necessary for him to state his view with regard to the blood of a dead animal,[13] for I might have argued: What is the difference whether a human being or the angel of death slays it?[14] It was therefore necessary to state it.

Come and hear: [It was taught:] R. Simeon says: The blood from a wound [in an animal] does not render foodstuffs susceptible to uncleanness. Is not the inference from this that the blood of a slaughtered animal renders susceptible? — No, the inference to be drawn is that the blood of a slain animal renders susceptible. Then what is the law with regard to the blood of a slaughtered animal? [Will you say that] it will not render foodstuffs susceptible to uncleanness? If so, he should rather have stated his view[13] with regard to the blood of a slaughtered animal, and it would have been self-evident with regard to the blood from a wound! — It was necessary for him to state his view with regard to the blood from a wound, for I might have argued: What difference can there be [with regard to the blood] whether the animal was slain completely or partially?[15]

Why is it that the blood of a slain [animal] will render foodstuffs susceptible to uncleanness? Because it is written: And drink the blood of the slain.[16] Then the same should be the case with the blood of a slaughtered animal, for it is written: Thou shalt pour it out upon the earth as water?[17] — The latter verse is stated in order to permit for general use the blood of consecrated animals which were rendered unfit [for sacrifice].[18]

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(1) This being a frequent and common source of uncleanness, greater precaution is therefore necessary with regard to consecrated things, so that clothes which are deemed clean for terumah may yet be deemed unclean for consecrated purposes.

(2) That whatsoever is deemed clean for terumah may yet be deemed unclean for consecrated things.

(3) For otherwise even clean terumah should render consecrated food unclean!

(4) V. Hag. 24b where it is taught that the word of an ‘am ha-arez is accepted with regard to the cleanness of consecrated wine at all times of the year, but with regard to the cleanness of terumah wine only at special seasons in the year. Where however consecrated wine is mixed together with terumah wine (as here), the ‘am ha-arez is believed with regard to the cleanness of the entire barrel at all times of the year.

(5) Toh. II, 6. This Mishnah clearly teaches that even common food kept in the cleanness proper to consecrated food (and not only real consecrated food) which was unclean in the third degree renders consecrated food unclean in the fourth degree, contra R. Isaac.

(6) R. Isaac will accept the view of R. Eleazar b. R. Zadok of the following Baraitha.

(7) And there does not exist with regard to it a third degree of uncleanness.

(8) I.e., the first and second degrees of uncleanness are each unclean, for each can still pass on its uncleanness, but the third degree is only invalid for it cannot pass on its uncleanness.

(9) I.e., the blood of a slaughtered animal will in no circumstances render any foodstuff susceptible to uncleanness.

(10) Which died a natural death (Rashi). Tosaf. suggests that it refers to the blood of a human corpse.

(11) Maksh. VI, 6.

(12) I.e., killed, but not according to the ritual method of slaughtering.

(13) That it cannot render foodstuffs susceptible to uncleanness.

(14) And if R. Simeon holds that the blood of an animal killed by a man will render foodstuffs susceptible to uncleanness then he would surely hold the same with the blood of an animal that died a natural death, in other words, slain by the angel of death.

(15) The law should be the same with regard to the blood whether it comes from an animal completely slain, i.e., dead, or partially slain, i.e., wounded.

(16) Num. XXIII, 24. The use of the verb, ‘drink’, in connection with blood signifies that it is regarded like other liquids and therefore will render foodstuffs susceptible to uncleanness.

(17) Deut. XII, 16. This verse suggests that blood is accounted as water.

(18) By reason of a blemish and have been redeemed; they are now regarded as common food, and their blood may be put to general use like water, except that it may not be eaten.

Talmud - Mas. Chullin 36a

For I might have argued that since it is forbidden to shear the wool [of these consecrated animals] or to put them to any work,[1] the blood would have to be buried [and not be used for any purpose]; we are therefore taught that it is not so.

A Tanna of the school of R. Ishmael taught: The verse: ‘And drink the blood of the slain’, excludes blood which comes out in a gush[2] from rendering seeds susceptible to uncleanness.

Our Rabbis taught: If a man while slaughtering splashed blood on to a pumpkin.[3] Rabbi says: It becomes thereby susceptible to uncleanness. R. Hiyya says: It is a matter of doubt. R. Oshaia remarked: Since Rabbi says that it is susceptible to uncleanness and R. Hiyya says that it is a matter of doubt, on whose view should we rely? Let us then rely upon the view of R. Simeon who has stated that only slaughtering will render [an animal] susceptible to uncleanness but not the blood.[4]

R. Papa said: It is agreed by all that where the blood remained [on the pumpkin] from the beginning [of the slaughtering] unto the end there is no dispute, for all hold it is rendered thereby susceptible to uncleanness.[5] The dispute arises only where the blood was wiped off between the cutting of the first and second organs; Rabbi holds that the term shechitah applies to the entire process of slaughtering from beginning to end, so that here the blood [upon the pumpkin] is considered as the blood of a slaughtered animal; R. Hiyya, however, holds that the term shechitah applies to the last act of the slaughtering only, so that here the blood [upon the pumpkin] is considered as blood from a wound. And what did he mean by saying: ‘It is a matter of doubt’? He meant, The matter hangs in doubt until the end of the slaughtering, that is to say, if the blood is still upon the pumpkin at the end of the slaughtering it will render it susceptible to uncleanness, otherwise it will not. But then what did R. Oshaia mean by saying: ‘Let us then rely upon the view of R. Simeon’? [Are they not at variance, for] according to R. Simeon blood does not render foodstuffs susceptible to uncleanness and according to R. Hiyya it does? — They are nevertheless in agreement where the blood was wiped off [during the slaughtering] for according to this Master it will not render susceptible to uncleanness and so too according to the other Master. The opinion therefore of

Rabbi on this point stands alone, and [it is established that] the opinion of one [authority] does not prevail over the [agreed] opinion of two.

R. Ashi said: The expression, ‘It is a matter of doubt’, means that it will never be settled; for R. Hiyya was in doubt, in the case where the blood was wiped off during ‘the slaughtering, whether the term shechitah applies to the entire process of slaughtering from beginning to end or only to the last act of slaughtering, so that by saying: ‘It is a matter of doubt’, he meant that it must not be eaten and yet it must not be burnt.[6] But then what is meant by the suggestion, ‘Let us then rely upon the view of R. Simeon’? [Are they not at variance, for] R. Simeon holds that blood does not render foodstuffs susceptible to uncleanness, whereas R. Hiyya is in doubt about it? — They are nevertheless in agreement in their views regarding ‘burning’, for they are both of the opinion that it is not to be burnt. The opinion of Rabbi therefore on this point stands alone, and the opinion of one Rabbi will not prevail over the [agreed] opinion of two.[7]

R. Simeon b. Lakish raised the following question: [If] the dry portion of a meal-offering[8] [were to become unclean], would it transmit uncleanness up to the first and second degrees or not? Is the conception of sacred esteem effectual only to the extent of rendering it invalid but not of enabling it to transmit uncleanness up to the first and second degrees or is there no such distinction? R. Eleazar said: Come and hear: [It is written]. All food therein which may be eaten, [that on which water cometh, shall be unclean],[9] that is to say, food which has been moistened by water is susceptible to uncleanness, but food which has not been moistened by water is not. — Are you suggesting then that R. Simeon b. Lakish does not accept the rule that food must first be moistened by water?[10] — Indeed the question that R. Simeon b. Lakish raised was as ‘follows: Is [food rendered susceptible to uncleanness by] sacred esteem on the same footing as food moistened by water or not? And R. Eleazar suggested an answer on the basis of the superfluous verses, arguing thus: Since it is written: But if water be put upon the seed,[11] what need is there for the verse: ‘All food therein which may be eaten, [that on which water cometh]’?

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(1) V. Bek. 15a.

(2) I.e., the life-blood which spurts out during the killing of the animal. The phrase, ‘blood of the slain’, is interpreted as referring only to such blood as flows from the animal after it has been slain, i.e., after the life-blood has been run out, but not to the stream of blood which spurts out during the act of killing, at which time the animal is still alive. So Rashi Ker. 22a, q.v. and Tosaf. here s.v. ודם. But see Rashi here s.v. פרט. This ruling, says Tosaf., does not apply to the case of an animal ritually slaughtered.

(3) Of terumah.

(4) So that R. Simeon and R. Hiyya are more or less of the same view, and this view of the two Rabbis would prevail over the individual view of Rabbi.

(5) For it is the blood of a slaughtered animal.

(6) Where the blood had been wiped away from the terumah foodstuff (v. supra p. 192, n. 4) before the end of the slaughtering and then the foodstuff came into contact with uncleanness, Terumah which has been rendered unclean, may not be eaten, has has to be burnt.

(7) In the ed. are added these words: ‘This is what he means: In such a case as this it is a matter of doubt; therefore it must not be eaten nor must it be burnt’. These words are an obvious addition and are unnecessary and Rashi also declares them to be without purpose.

(8) I.e., that part of the flour which was not moistened by the oil. The question raised by R. Simeon h. Lakish is whether or not consecrated food, not moistened by water or any other liquid but rendered susceptible to uncleanness by reason of sacred esteem, is on all fours with ordinary food rendered susceptible to uncleanness by means of water or other liquids.

(9) Lev. XI, 34.

(10) In order to be susceptible to uncleanness. It is specifically so ordained in the Torah.

(11) Ibid. 38.

Talmud - Mas. Chullin 36b

Talmud - Mas. Chullin 36b

It serves, does it not, to exclude sacred esteem?[1] — Not at all. One verse[2] states the rule with reference to uncleanness emanating from a corpse, the other verse with reference to uncleanness emanating from a dead reptile. And it is necessary to have both verses. For if the rule were stated only with reference to uncleanness emanating from a corpse. [I should have said that] in that case only was it necessary for the food to be first moistened by water, [for the law regarding corpse uncleanness is not so rigorous], inasmuch as a lentil's bulk of a corpse will not convey uncleanness; but with regard to reptile uncleanness, inasmuch as a lentil's bulk of a dead reptile will convey uncleanness,[3] might have said that it was not necessary for the food to be first moistened by water. And on the other hand, if the rule were stated only with reference to uncleanness emanating from a reptile. [I should have said that] in that case only was it necessary for the food to be first moistened by water, [for the law regarding reptile uncleanness is not so rigorous], inasmuch as a reptile does not render a person unclean for seven days; but with regard to corpse uncleanness, inasmuch as a corpse will render a person unclean for seven days. I might have said it was not necessary for the food to be moistened by water. Both verses are therefore necessary.

R. Joseph raised this objection: R. SIMEON SAYS, IT HAS BEEN RENDERED SUSCEPTIBLE TO UNCLEANNESS BY THE SLAUGHTERING, presumably SUSCEPTIBLE TO UNCLEANNESS means that [when unclean] it would transmit uncleanness up to the first and second degrees. But why? It is not food moistened by water?[3] — Abaye replied: It was ordained by the Rabbis that it [the slaughtering] shall have the same effect [upon the animal] as though it had been moistened by water.[4]

R. Zera said: Come and hear: [It was taught:] If a man gathered grapes for the wine press. Shammai says, they are susceptible to uncleanness;[5] but Hillel says, they are not. Eventually Hillel acquiesced in the view of Shammai.[6] But why? It is not food mo[6] stened by water?[7] — Abaye replied: It was ordained by the Rabbis that it [the grape juice] shall have the same effect [upon the grapes] as though they had been moistened by water.

R. Joseph thereupon said to Abaye. 'When I cited our Mishnah, IT HAS BEEN RENDERED SUSCEPTIBLE TO UNCLEANNESS BY THE SLAUGHTERING, you replied that it was ordained that it [the slaughtering] shall have the same effect as though there was a moistening by water, and when R. Zera cited another case you also replied that it was ordained that it [the grape juice] shall have the same effect as though there was a moistening by water. [You might then just as well answer] the question raised by R. Simeon b. Lakish and say that it was ordained that it [sacred esteem] shall have the same effect as though there was a moistening by water!' — He replied: Do you think that R. Simeon b. Lakish raised the question as to whether it[8] was to be held in a state of doubt or not? He raised the question as to whether it was to be committed to the flames or not![9]

It follows that the conception of sacred esteem is indicated in the Torah;[10] where? Shall I say in the verse: And the flesh that toucheth any unclean thing shall not be eaten?[11] Now what rendered this flesh susceptible to uncleanness? Shall I say it was the blood? [But this cannot be] for R. Hiyya b. Abba reported in the name of R. Johanan: Whence do we know that the blood of a consecrated animal does not render food susceptible to uncleanness? From the verse: Thou shalt not eat it, thou shalt pour it out upon the earth as water,[12] which teaches that blood which is poured out as water renders food susceptible to uncleanness, but blood which is not poured out as water does not.[13] Was it then the other liquid[14] found in the slaughter-house that rendered the flesh susceptible to uncleanness? [But this also cannot be the case] for R. Jose b. Hanina taught that the liquids in the slaughterhouse [of the Temple court] are not only clean but will not even render any food susceptible to uncleanness. Moreover you cannot suggest that this passage refers to the blood only, for it speaks of liquids![15] You must therefore say that [this verse proves that] the flesh was rendered susceptible to uncleanness by sacred esteem! But perhaps the verse is to be explained as suggested by Rab Judah in the name of Samuel! For Rab Judah said in the name of Samuel: It might refer to the case where a cow consecrated for a peace-offering was passed through a stream[16] and slaughtered immediately after, so that the water was still dripping from it![17] Rather it is to be proved from the latter part of the verse: And as for the flesh,[18] which serves to include wood and frankincense.[19] Now are wood and frankincense edible [so as to be in the same category as foodstuffs]? It must therefore be that sacred esteem puts them in the same category as foodstuffs and renders them susceptible to uncleanness. So in all cases sacred esteem will render foodstuffs susceptible to uncleanness.

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(1) That it does not render consecrated food susceptible to uncleanness to the same extent as water does but only in so far as to render it invalid.

(2) Verse 38. Actually this verse also speaks of the uncleanness of a reptile, but as it is unnecessary for this purpose, in view of v. 34, it is taken to refer to the uncleanness of a corpse.

(3) It is here stated nevertheless that by the mere slaughtering, without moistening by water or other liquid, food can transmit uncleanness to the first and second degrees; the same, it is suggested, is the case with sacred esteem, thus providing the answer to the question raised by R. Simeon b. Lakish.

(4) Consecrated meat, however, in this condition would not be condemned to be burnt, for it is unclean merely by Rabbinic and not by Biblical law.

(5) For the grapes have been moistened by the juice which oozed from them. Strictly this juice should not render anything susceptible to uncleanness, for the owner had no desire nor did he look forward with eagerness for it; Shammai, however, as a precautionary measure, puts this case on a par with the case where the juice was acceptable to the owner, when it is agreed by all that the juice would certainly render food suscept1ble to uncleanness.

(6) V. Shab. 25a.

(7) For the juice since it is undesirable cannot be said to have satisfied the requirement of the law.

(8) Sc. consecrated fond which came into contact with this unclean consecrated food which had been rendered susceptible to uncleanness by sacred esteem.

(9) In other words R. Simeon b. Lakish desired to know whether by biblical law sacred esteem enabled consecrated food to transmit uncleanness, so that the food so rendered unclean would be condemned to be burnt.

(10) For R Simeon b. Lakish has no doubt at all that consecrated food which was unclean, having been rendered susceptible to uncleanness by sacred esteem, must be burnt.

(11) Lev. VII, 19.

(12) Deut, XII, 24.

(13) And the blood of consecrated animals is required for sprinkling upon the altar.

(14) Sc. water,

(15) In the plural, referring to blood and water.

(16) This was usually done in order that the hide of the animal be the more easily flayed.

(17) The flesh was thus rendered susceptible to uncleanness in the ordinary way, i.e., by water.

(18) Lev. VII, 19.

(19) That each is capable of being rendered unclean like ordinary foodstuffs,

Talmud - Mas. Chullin 37a

Now[1] the question [to R. Simeon b. Lakish] is this: Is the conception of sacred esteem effectual to the extent only of rendering the matter invalid but not of enabling it to transmit uncleanness up to the first and second degrees, or is there no such distinction? The question remains undecided.

MISHNAH. IF A MAN SLAUGHTERED A DYING ANIMAL,[2] R. SIMEON B. GAMALIEL SAYS. [THE SLAUGHTERING IS INVALID] UNLESS IT JERKED ITS FORELEG AND ITS HIND LEG. R. ELIEZER SAYS, IT IS SUFFICIENT IF IT SPURTED [THE BLOOD]. R. SIMEON SAID. IF A MAN SLAUGHTERED [A DYING ANIMAL] BY NIGHT AND EARLY THE FOLLOWING MORNING FOUND THE SIDES [OF THE THROAT] FULL OF BLOOD, THE SLAUGHTERING IS VALID. FOR THIS PROVES THAT IT SPURTED [THE BLOOD], WHICH IS SUFFICIENT ACCORDING TO R. ELIEZER'S VIEW. THE SAGES SAY, [THE

SLAUGHTERING IS INVALID] UNLESS IT JERKED EITHER ITS FORELEG OR ITS HIND LEG, OR IT MOVED ITS TAIL TO AND FRO; AND THIS IS THE TEST BOTH WITH REGARD TO LARGE AND SMALL ANIMALS.[3] IF A SMALL ANIMAL STRETCHED OUT ITS FORELEG [AT THE END OF THE SLAUGHTERING]. BUT DID NOT WITHDRAW IT, [THE SLAUGHTERING] IS INVALID. FOR THIS WAS BUT AN INDICATION OF THE EXPIRATION OF ITS LIFE.[4] THESE RULES APPLY ONLY TO THE CASE OF AN ANIMAL WHICH WAS BELIEVED TO BE DYING. BUT IF IT WAS BELIEVED TO BE SOUND, EVEN THOUGH IT DID NOT SHOW ANY OF THESE SIGNS, THE SLAUGHTERING IS VALID.

GEMARA. How do you know that a dying animal [which was slaughtered][5] is permitted to be eaten? (But why should you assume that it is forbidden? Because it is written: These are the living things which ye may eat,[6] that is to say, that which can live you may eat, but that which cannot live you may not eat, and a dying animal cannot live.)[7] [We know it from here.] Since the Divine Law ordains that nebelah[8] is forbidden to be eaten, it follows that a dying animal is permitted; for if you were to say that a dying animal is forbidden, [then it will be asked:] if it is already forbidden whilst still alive, is there any doubt after death?[9] But perhaps the term nebelah includes a dying animal![10] This cannot be, for it is written: And if any beast, of which ye may eat, die, he that touches the carcass [nebelah] thereof shall be unclean until the even,[11] that is to say, when it is dead the Divine Law terms it nebelah, but whilst still alive it is not termed nebelah.[12] But perhaps [the term] of nebelah, I still maintain, includes the dying animal,[13] but whereas the animal is still alive [one who partakes of it transgresses] a positive law,[14] after death [one who partakes of it transgresses] a prohibition [as well]![15] Rather we must derive it from here. Since the Divine Law ordains that trefah[16] is forbidden to be eaten, it follows that a dying animal is permitted; for if you were to Say that a dying animal is forbidden, [then it will be asked:] if a dying animal which is not physically deficient is forbidden, is there any doubt about a trefah?[17] But perhaps the term trefah includes a dying animal, [yet trefah was expressly prohibited] to teach that one [who partakes thereof] transgresses a positive law as well as a prohibition![18] If so, wherefore does the Divine law expressly prohibit nebelah? For if while the animal is yet alive one [who partakes of it] transgresses a positive law as well as a prohibition, is there any doubt after death? But perhaps the term nebelah includes a trefah and also a dying animal, and the law now provides that one [who partakes of a dying trefah animal after its death] transgresses two prohibitions and one positive law![19] — Rather derive it from here. It is written: And the fat of that which dieth of itself [nebelah], and the fat of that which is torn of beasts [trefah], may be used for any other service, but you shall in no wise eat of it.[20] And a Master said: For what purpose is this stated?[21] The Torah says: Let the prohibition of nebelah come and be superimposed upon the prohibition of fat, and likewise let the prohibition of trefah come and be superimposed upon the prohibition of fat.[22]

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(1) I.e., having established that the conception of sacred esteem is Biblical to the extent of burning the consecrated foodstuffs that have been rendered unclean on its account.

(2) I.e., an animal which is dangerously sick. It is feared that the animal might have died before the slaughtering was completed, hence it is necessary to ascertain, by means of the tests of vitality suggested, that the animal was still alive up to the end of the slaughtering.

(3) By ‘large animals’ is meant oxen, by ‘small animals’ sheep and goats.

(4) And not a sign of vitality. In the case of large animals such a movement would be regarded as a sign of vitality; v. Gemara.

(5) Even though it jerked its limbs after the slaughtering.

(6) Lev. XI, 2.

(7) So there is good reason for holding that a dying animal, even if slaughtered, may not be eaten. The first question therefore remains.

(8) V. Glos. The prohibition is stated in Deut. XIV, 21.

(9) Since generally a nebelah is in a lingering dying condition previous to its death. So that the ‘law prohibiting nebelah would be superfluous.

(10) Therefore he who partakes of a dying animal (even if ritually slaughtered) transgresses the implied prohibition of Lev. XI, 2, and also the express prohibition of Deut. XIV, 21.
(11) Lev. XI, 39.
(12) The position now is that it is proved that a dying animal is permitted, for if forbidden then the prohibition of nebelah is superfluous.
(13) I.e., a dying animal is forbidden, and yet the prohibition of nebelah is not superfluous.
(14) For the contravention of a prohibition implied by a positive law is regarded as an infringement of a positive commandment.
(15) I.e., one transgresses the express prohibition of Deut. XIV, 21, and also the positive law (i.e., the implied prohibition) of Lev. XI, 2.
(16) V. Glos. The prohibition is stated in Ex. XXII, 30.
(17) So that the verse prohibiting trefah would be superfluous.
(18) The positive law of Lev. XI, 2, and the prohibition of Ex. XXII, 30.
(19) The positive law (i.e., the implied prohibition) with regard to a dying animal derived from Lev. XI, 2, and the prohibition of trefah from Ex. XXII, 30, and of nebelah from Deut. XIV, 21.
(20) Lev. VII, 24.
(21) I.e., the latter part of the verse: But you shall in no wise eat of it. There is a general prohibition of all fat in Lev. III, 17.
(22) So that one who eats the fat of a trefah transgresses two prohibitions (sc. the prohibition of fat and the prohibition of trefah), and likewise one who eats the fat of a nebelah.

Talmud - Mas. Chullin 37b

Now if you were to say that the term trefah includes a dying animal, the Divine Law then should have ordained: ‘And the fat of nebelah may be used for any other service[1] and the fat of trefah you shall in no wise eat’. And I should have argued that if while the animal is yet alive the prohibition of trefah[2] is superimposed upon the prohibition of the fat,is there any question of this after death?[3] But since the Divine Law expressly stated nebelah in the verse, it follows that the term trefah does not include a dying animal.[4] Mar son of R. Ashi demurred: Perhaps in truth the term trefah does include a dying animal. And if you ask: Why then does the Divine Law expressly state nebelah.? [I reply,] It refers only to a case of nebelah which was not preceded by the animal being in a dying state, as in the case where the animal was [suddenly] cut into two![5] — Even in that case it is impossible for the animal to have died without first being in a dying state for the short while, before the greater portion of the animal had been cut through. Alternatively I can argue thus: If it is so,[6] the verse should have stated: ‘And the fat of nebelah and of trefah’. Wherefore is the word ‘fat’ repeated? [To teach you that] in this case [sc. trefah] there is no distinction between the fat and the flesh,[7] but there is another in which there is a distinction between the fat and the flesh, and that is the case of a dying animal.[8]

Alternatively we can derive it[9] from the following: [It is written,] Then said I, ‘Ah Lord God! behold my soul hath not been polluted for from my youth up even till now have I not eaten of that which dieth of itself [nebelah], or is torn of beasts [trefah]; neither came there abhorred flesh into my mouth’.[10] [And it has been interpreted as follows:] ‘Behold my soul hath not been polluted’, for I did not allow impure thoughts to enter my mind during the day so as to lead to pollution at night. ‘For from my youth up even till now have I not eaten of nebelah or trefah’, for I have never eaten of the flesh of an animal concerning which it had been exclaimed: ‘Slaughter it! Slaughter it’![11] ‘Neither came there abhorred flesh into my mouth’, for I did not eat the flesh of an animal which a Sage pronounced to be permitted.[12] In the name of R. Nathan it was reported that this means: I did not eat of an animal from which the priestly dues[13] had not been set apart. Now if you say that the flesh of a dying animal [which was slaughtered] is permitted to be eaten, then in this lay the pre-eminence of Ezekiel,[14] but if you say that it is forbidden to be eaten, wherein lay the pre-eminence of Ezekiel?

What do you call ‘a dying animal’? — Rab Judah said in the name of Rab: If when it is made to stand it does not remain upstanding, [it is a sign that it is dying]. R. Hanina b. Shelemia said in the name of Rab, [And this is so] even if it can bite logs of wood.[15] Rami b. Ezekiel said: Even if it can bite tree trunks. This was the version taught in Sura; in Pumbeditha, however, it was taught as follows: What do you call ‘a dying animal’? — Rab Judah said in the name of Rab: If when it is made to stand it does not remain upstanding, [it is a sign that it is dying], even though it can bite logs of wood. Rami b. Ezekiel said: Even though it can bite tree trunks.

Samuel once met Rab's disciples and asked them: ‘What did Rab teach you with regard to [the signs of] a dying animal’? — They replied: ‘This is what Rab said:

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(1) This part of the verse is necessary to teach that the forbidden fat of a nebelah will not render anything unclean. V. Pes. 23a

(2) This means here a dying animal, since it is assumed for the present that the term trefah includes a dying animal.

(3) Thus rendering nebelah in this verse superfluous.

(4) The position therefore is that a dying animal is permitted when slaughtered, and the fat of a trefah animal is forbidden by two prohibitions, and so too the fat of a nebelah (which means here, an animal which died a natural death and not because of some physical defect).

(5) It died instantaneously and was at no time in that state when it could be said to be ‘dying’. Cf. supra p. 199, n. 4.

(6) That a dying animal is forbidden when slaughtered.

(7) For both are forbidden to be eaten, and there are two prohibitions since it has been taught that the prohibition of trefah can he superimposed upon the prohibition of fat.

(8) Only the fat is forbidden to be eaten but not the flesh.

(9) That the flesh of a dying animal which was slaughtered may be eaten.

(10) Ezek. IV, 14.

(11) I.e., the flesh of a dying animal, which was slaughtered with all haste before it died. Ezekiel could not have meant ordinary nebelah for this is expressly forbidden in the Torah.

(12) Some doubt arose with regard to the animal and the Rabbi after due consideration declared it to be fit for food.

(13) l.e., the shoulder, the two checks and the maw. V. Deut. XVIII, 3.

(14) In that he abstained from eating it even though it was permitted.

(15) It is still regarded as dying, since it cannot remain standing.

Talmud - Mas. Chullin 38a

It is an adequate sign of vitality if it lows or excretes or moves its ear’. He thereupon remarked: ‘Does Abba[1] really require the moving of the ear?[2] I am of the opinion that whatever movement [the animal makes], provided it is not a movement brought about by the expiration of its life, [is a sufficient sign of vitality]’. And what are the movements brought about by the expiration of life? — Said R. ‘Anan: Mar Samuel explained it to me thus: If its foreleg was bent and it stretched it out — this is a movement brought about by the expiration of life; if its foreleg was outstretched and it bent it — this is a movement not brought about by the expiration of life. But what does he teach us? We have learnt it [already]: IF A SMALL ANIMAL STRETCHED OUT ITS FORELEG [AT THE END OF THE SLAUGHTERING] BUT DID NOT WITHDRAW IT, IT IS INVALID, FOR THIS WAS BUT AN INDICATION OF THE EXPIRATION OF ITS LIFE. Now it follows from this, does it not, that if it did withdraw it, it is valid? — No. From our Mishnah I might have concluded that only if its foreleg was bent and it stretched it out and then bent it again it is valid, but not if it was first outstretched and it merely bent it; he therefore teaches us [that this latter is a sufficient sign of vitality].

An objection was raised: [It was taught:] R. Jose said: R. Meir used to say that the lowing of an animal while it was being slaughtered was not a sign of vitality. R. Eliezer son of R. Jose reported in the name of R. Jose. Even if it excreted or moved its tail to and fro it is not a sign of vitality. Is there not here a contradiction in regard to lowing and also in regard to excreting? — In regard to lowing there is no contradiction because in the one case[3] the noise was loud and in the other case[4] the noise was faint. And also in regard to excreting there is no contradiction for in the one case[4] the animal discharged excrement feebly and in the other case[3] it discharged vigorously.

R. Hisda said: [It has been reported that] the indications of vitality which the Rabbis require must occur at the end of the slaughtering. But ‘at the end of the slaughtering’, [I say], really means the middle of the slaughtering, and it excludes only the case where the indications occur at the beginning of the slaughtering.[5] R. Hisda added: Whence do I know this? From [our Mishnah] which we learnt: IF A SMALL ANIMAL STRETCHED OUT ITS FORELEG BUT DID NOT WITHDRAW IT, IT IS INVALID. Now when did it do so? Shall I say at the end of the slaughtering? How long then must it continue to live?[6] We must, therefore, say that it did so in the middle of the slaughtering. Raba thereupon said to him, Indeed [I maintain that] it must do so at the end of the slaughtering, for I am of the opinion that if the animal did not do so at the end of the slaughtering one may be certain that life had expired some time previously.

R. Nahman b. Isaac said: The indications of vitality which [the Rabbis] require may occur at the beginning of the slaughtering. R. Nahman b. Isaac added: Whence do I know this? From [our Mishnah] which we have learnt: R. SIMEON SAID, IF A MAN SLAUGHTERED [A DYING ANIMAL] BY NIGHT AND EARLY THE FOLLOWING MORNING FOUND THE SIDES [OF THE THROAT] FULL OF BLOOD, THE SLAUGHTERING IS VALID, FOR THIS PROVES THAT IT SPURTED [THE BLOOD], WHICH IS SUFFICIENT ACCORDING TO R. ELIEZER'S VIEW. And Samuel explained that the Mishnah referred to the sides of the throat.[7] Now if you say that the indication of vitality may occur at the beginning of the slaughtering, it is well; but if you say that it must occur at the end of the slaughtering, [then why is the slaughtering valid?] it might have spurted the blood only at the beginning of the slaughtering![8] But perhaps the spurting of blood indicates a greater measure of vitality![9] — But is it greater? Have we not learnt: R. ELIEZER SAYS, IT IS SUFFICIENT IF IT SPURTED [THE BLOOD]? — It is a measure of vitality less than that required by Rabban Gamaliel[10] but greater than that required by the Rabbis. Rabina said: Sama B. Hilkia told me that the father of Bar Abubram (others read: the brother of Bar Abubram) raised this question: But is it [the spurting of blood] greater than that required by the Rabbis? Does it not read in the Mishnah, THE SAGES SAY, [THE SLAUGHTERING IS INVALID] UNLESS IT JERKED EITHER ITS FORELEG OR ITS HIND LEG? Now with whom do the Sages argue? With R. Simeon b. Gamaliel? Then they should have said: ‘If only it jerked’.[11] Clearly therefore they are arguing with R. Eliezer. Now if you say that it [the spurting of blood] is a greater measure of vitality [than that required by the Sages], why [do they say] UNLESS?[12]

Raba said: The indications of vitality which the Rabbis require must occur at the end of the slaughtering.[13] Raba added: Whence do I know this? From [the following Baraitha] which was taught: [It is written,] When a bullock,

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(1) I.e., Rab, whose real name was Abba Arika. According to Rashi, however, Abba was a title of honour given to Rab; but see Tosaf. s.v. אצטריך

(2) The jerking of the ear is indeed too great a degree of vitality to expect in a dying animal.

(3) The statement by Rab. Lowing loudly or excreting vigorously is according to Rab a sufficient sign of vitality.

(4) The Baraitha just quoted.

(5) In which case the slaughtering is invalid because the animal had probably expired before the completion of the slaughtering.

(6) Is it then reasonable to say that the stretching out of the foreleg by a small animal after the slaughtering(!) is insufficient?

(7) In the Mishnah ‘THE SIDES’ might also mean ‘the walls of the slaughter-house’, and if this were the meaning, then it would not be difficult to ascertain on the following morning at what stage of the slaughtering the spurting of blood occurred; for if it happened at the beginning of the slaughtering when the animal had more vitality the blood would be found higher up on the wall or further away from the animal than if it occurred in the middle of the slaughtering. On the other hand, according to Samuel's interpretation of the Mishnah there are obviously no means of ascertaining at what stage in the slaughtering the animal spurted blood.

(8) And this would not be a sufficient indication of vitality.

(9) It is therefore suggested that spurting even if it occurs at the beginning of the slaughtering is sufficient, whereas all other indications must occur either in the middle or at the end of the slaughtering.

(10) Who requires a movement of both the foreleg and the hind leg. It is to be noted that in our text of the Mishnah the author of this view is R. Simeon b. Gamaliel and not Rabban Gamaliel, though in many MSS. the reading in the Mishnah is also Rabban Gamaliel

(11) The word, ‘unless’, implies that the requirement or test suggested is stricter than that stated in the preceding passage. Now if the Sages are less stringent than R. Gamaliel they should merely have said: ‘If only it jerked’ etc.

(12) They should have said: ‘If only’.

(13) I.e., even after the slaughtering has been completed the animal must struggle and show signs of vitality.

Talmud - Mas. Chullin 38b

[or a sheep, or a goat, is brought forth, then it shall be seven days under the dam].[1] ‘Or a sheep’ — this excludes[2] a cross-breed. ‘Or a goat’ — this excludes a goat looking like a lamb. ‘Is brought forth’ — this excludes that which was extracted from the side.[3] ‘It shall be seven days’ — this excludes an animal which is too young. ‘Under the dam’ — this excludes an orphan. Now what is meant by ‘an orphan’? Does it mean that the mother-beast brought forth its young and died immediately after? Must it then continue to live on for ever! Or, again, does it mean that the mother-beast died and immediately after the young was brought forth?[4] But this would be excluded from the words, ‘Is brought forth’. It can only mean that the one expired at the same moment that the other came into life. Now if you say that the mother-beast must show signs of life after bringing forth,[5] it is therefore necessary to employ a verse in order to exclude this case [of an orphan]; but if you say that it need not show signs of life after bringing forth,[6] why then is a verse employed to exclude this case? It surely is excluded from the words, ‘Is brought forth’!

Raba said: The law is as stated in the following Baraitha: ‘If a small animal stretched out its foreleg and did not withdraw it, the slaughtering is invalid; [but if it did withdraw it, it is valid.][7] These rules apply only to the foreleg, but with regard to the hind leg the rule is that whether it stretched it out but did not bend it, or bent it but did not stretch it out, it is valid. Moreover all this applies to a small animal, but with regard to a large animal the rule is that whether it was the foreleg or the hind leg, whether it stretched it out but did not bend it or bent it but did not stretch it out, it is valid. With regard to a bird, even if it merely twitched its wing[8] or flapped its tail, it is a sufficient sign of vitality’. What does he [Raba] teach us? Surely these rules are all implied in our Mishnah: IF A SMALL ANIMAL STRETCHED OUT ITS FORELEG BUT DID NOT WITHDRAW IT, IT IS INVALID, FOR THIS WAS BUT AN INDICATION OF THE EXPIRATION OF ITS LIFE. Now it is clear that this applies to the foreleg and not to the hind leg to a small animal and not to a large animal![9] — It was necessary for him to teach it with regard to a bird, which is not stated in our Mishnah. MISHNAH. IF A MAN SLAUGHTERED A BEAST FOR A HEATHEN,[10] THE SLAUGHTERING IS VALID; R. ELIEZER DECLARES IT INVALID.[11] R. ELIEZER SAID, EVEN IF ONE SLAUGHTERED A BEAST WITH THE INTENTION THAT A HEATHEN SHOULD EAT OF THE MIDRIFF[12] THEREOF, THE SLAUGHTERING IS INVALID, FOR THE THOUGHTS OF A HEATHEN ARE USUALLY DIRECTED TOWARDS IDOLATRY. R. JOSE EXCLAIMED, IS THERE NOT HERE AN A FORTIORI ARGUMENT? FOR IF IN THE CASE OF CONSECRATED ANIMALS, WHERE A WRONGFUL INTENTION CAN RENDER INVALID, IT IS ESTABLISHED THAT EVERYTHING DEPENDS SOLELY UPON THE INTENTION OF HIM WHO PERFORMS THE SERVICE,[13] HOW MUCH MORE IN THE CASE OF UNCONSECRATED ANIMALS, WHERE A WRONGFUL INTENTION CANNOT RENDER INVALID, DOES EVERYTHING DEPEND SOLELY UPON THE INTENTION OF HIM WHO

SLAUGHTERS!

GEMARA. These Tannaim[14] accept the view of R. Eliezer son of R. Jose. For it has been taught: R. Eliezer son of R. Jose says: I am informed that the owners can render the sacrifice piggul.[15] The first Tanna, however, is of the opinion that only if we heard him [the heathen] express an [idolatrous] intention [with regard to the animal] does it become invalid but not otherwise, for we do not say that the thoughts of a heathen are usually directed towards idolatry; whereas R. Eliezer is of the opinion that even if we did not hear him express an [idolatrous] intention [it is invalid], for we say that the thoughts of a heathen are usually directed towards idolatry. And R. Jose comes to say that even if we heard him express an [idolatrous] intention [it does not become invalid], for we do not hold that one man's wrongful intention should affect another's acts.[16]

According to another version they[17] differ even in the case where we heard him [the heathen] express an [idolatrous] intention [with regard to the animal]. The first Tanna is of the opinion that the view that one man's wrongful intention may affect another's acts, applies only as regards acts performed inside [the Temple],[18] but not outside,[19] and we cannot draw any inference as to acts performed outside from acts performed inside;

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(1) Lev. XXII, 27.

(2) As being unfit for a sacrifice. The limitation is implied in the superfluous word, ‘or’.

(3) I.e., by means of the Caesarean section.

(4) I.e., extracted from the womb or side of the mother-beast.

(5) And similarly in the case of slaughtering, the slaughtered animal must struggle on and show signs of life at least for one moment after the slaughtering.

(6) Consequently the only possible exclusion by reason of the expression ‘under the dam’ is the case where the young was brought forth after the mother-beast had died, i.e., extracted out of the womb.

(7) This is added in the tent by Shittah Mekubezeth, v. Marginal Gloss.

(8) According to another reading. ‘blinked its eye’.

(9) And it being an anonymous Mishnah, the law is obvious as stated therein!

(10) The gentile being the owner of the beast.

(11) Because it was no doubt intended to be used by the heathen for an idolatrous purpose.

(12) The diaphragm, an insignificant portion of the animal not usually consumed. It is intended that the rest of the animal be consumed by a Jew.

(13) The wrongful intention of the owner or offerer of the sacrifice would not render the sacrifice invalid, provided the person who performed the sacrificial acts had the proper intention with regard thereto. V. Pes. 46a.

(14) Sc. the first Tanna and R. Eliezer, but obviously not R. Jose.

(15) I.e., the owner, on whose behalf the priest performs the sacrificial acts, can by his wrongful intent render the sacrifice invalid, i.e., render it פגול. V. Glos.

(16) In other words, it is the wrongful intention only of the one who performs the service that can affect its validity.

(17) I.e., the first Tanna and R. Eliezer.

(18) I.e., the acts in connection with the offering of a sacrifice.

(19) I.e., the slaughtering of a beast to idolatry.

Talmud - Mas. Chullin 39a

whereas R. Eliezer holds that we may draw this inference — outside services from inside services.[1] And R. Jose comes to say that even as regards acts performed inside we do not hold that one man's wrongful intention should affect another's acts.

It was reported: If one slaughtered a beast with the intention [expressed during the slaughtering] of sprinkling the blood or burning the fat unto idols, R.Johanan says. The beast is forbidden for all purposes; Resh Lakish says. It is permitted.[2] ‘R. Johanan says it is forbidden’, because he accepts the principle: ‘a wrongful intention expressed during one service with regard to another service is of consequence [even in connection with idolatry]’, for one must draw an analogy between acts performed inside[3] and acts performed outside. ‘Resh Lakish says: it is permitted’, because he does not accept the principle, ‘a wrongful intention expressed during one service with regard to another service is of consequence [in the case of idolatry]’, for one must not draw any analogy between acts performed inside and acts performed outside. Now they are consistent in their views, for it was also reported: If one slaughtered [a sin-offering] under its own name with the intention [expressed at the time of slaughtering] of sprinkling the blood under the name of another sacrifice, R. Johanan says, it is invalid; Resh Lakish says. It is valid. ‘R. Johanan says it is invalid’, because he accepts the principle, ‘a wrongful intention expressed during one service with regard to another service is of consequence’, [even in this case], for we derive it from the case of piggul.[4] ‘Resh Lakish says it is valid’, because he does not accept [in this case] the principle, ‘a wrongful Intention expressed during one service with regard to another service is of consequence’ for we may not derive it from the case of piggul. And it was necessary [for both disputes to be reported]. For if this dispute[5] only was reported. I should have said that only here does Resh Lakish maintain his view, because we must not draw an inference as to acts performed outside from acts performed inside, but where each is a service performed inside he would no doubt concur with R. Johanan [that we derive one from the other]. And if the other dispute[6] only was reported, I should have said that only there does R. Johanan maintain his view, but in this case he would no doubt concur with Resh Lakish. It was therefore necessary [that both disputes be reported].

R. Shesheth raised an objection. We have learnt: R. JOSE EXCLAIMED, IS THERE NOT HERE AN A FORTIORI ARGUMENT? FOR IF IN THE CASE OF CONSECRATED ANIMALS, WHERE A WRONGFUL INTENTION CAN RENDER INVALID, IT IS ESTABLISHED THAT EVERYTHING DEPENDS SOLELY UPON THE INTENTION OF HIM WHO PERFORMS THE SERVICE. HOW MUCH MORE IN THE CASE OF UNCONSECRATED ANIMALS, WHERE A WRONGFUL INTENTION CANNOT RENDER INVALID. DOES EVERYTHING DEPEND SOLELY UPON THE INTENTION OF HIM WHO SLAUGHTERS! Now what is meant by the assertion that in the case of unconsecrated animals a wrongful intention will not render invalid? Shall I say it means that in no wise will it render invalid? Then how is it possible for the prohibition of that which has been slaughtered to idols ever to take effect?[7] Obviously it means a wrongful intention expressed during one service with regard to another service, and the Mishnah is to be interpreted thus: ‘If in the case of consecrated animals, where a wrongful intention expressed during one service with regard to another service renders them invalid, it is established that everything depends solely upon the intention of him who performs the service, how much more in the case of unconsecrated animals, where a wrongful intention expressed during one service with regard to another service does not render them invalid, does everything depend solely upon the intention of him who slaughters’! Now the assertion with regard to services performed inside [namely, consecrated animals] contradicts Resh Lakish,[8] and the assertion with regard to services performed outside [namely, unconsecrated animals] contradicts R. Johanan.[9] I grant however, that as far as Resh Lakish is concerned, the assertion with regard to services performed inside presents no real difficulty, for one view[10] he expressed before he learnt [the interpretation of the Mishnah] from [his master]. R. Johanan, and the other after he learnt it from R. Johanan. But [the assertion with regard to] services performed outside clearly contradicts R. Johanan! — After raising this objection he [R. Shesheth] answered it thus: [The Mishnah] refers to the four principal services,[11] and the passage must be read as follows: If in the case of consecrated animals, where a wrongful intention[12] expressed in the course of any one of the four principal services renders them invalid, it is established that everything depends solely upon the intention of him who performs the service,

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(1) So that by analogy, even in the case of acts performed outside the Temple, the owner should be in the position to affect by his wrongful intention the act of another.

(2) Even to be eaten, v. Tosaf. A.Z. 34b s.v. רשב״ל.

(3) I.e., temple service. As to sacrifices it is established that if one, whilst performing one act of the sacrifice, expressed a wrongful intention in relation to another act thereof, the sacrifice would be invalid. E.g., if a person, whilst slaughtering the sacrifice, expressed the intention, of sprinkling the blood after the time prescribed for it, the sacrifice is piggul.

(4) פגול. Strictly a sacrifice is rendered piggul (‘abhorred’) if the officiating priest expressed an intention during one of the four principal services (v. infra) of performing another principal service, or of eating the sacrificial meat, at the improper time. V. Lev. VII, 18, and Zeb. II, 2. According to R. Johanan any wrongful intention expressed in this manner will have the effect of invalidating the sacrifice.

(5) Concerning the slaughtering of an animal with the intention of sprinkling the blood unto idols.

(6) Concerning the slaughtering of a sin-offering with the intention of sprinkling the blood under the name of another offering.

(7) Since even the expressed intention of slaughtering unto idols is of no consequence. And this prohibition is clearly established, v. A.Z. 32b.

(8) For the Mishnah asserts that any wrongful intention (not only a piggul intention) in connection with the sacrifice renders it invalid; contra Resh Lakish.

(9) For the Mishnah states that in the case of unconsecrated animals a wrongful intention expressed during one service with regard to another service does not render it invalid; contra R. Johanan.

(10) I.e., his own view.

(11) Of every sacrifice, viz., slaughtering, receiving the blood, carrying it forward to the altar, and sprinkling it. If in the course of one of these services the priest intended to eat the sacrificial meat at the improper time the sacrifice is piggul (Rashi). According to R. Gershom, Rashba and others, the meaning is: If in the course of the slaughtering he intended to perform one of the following services at the improper time, namely, to receive the blood, or to carry it forward, or to sprinkle it, or to burn the fat, the sacrifice is piggul. V. ראש יוסף ad loc.

(12) Sc. of eating the flesh of the sacrifice beyond the time prescribed.

Talmud - Mas. Chullin 39b

how much more in the case of unconsecrated animals, where a wrongful intention renders them invalid only if expressed in the course of any one of two services,[1] does everything depend solely upon the intention of him who slaughters!

[The following Baraitha] was taught in support of the view of R. Johanan: If a person [an Israelite] slaughtered an animal with the intention [expressed during the slaughtering] of sprinkling the blood or burning the fat unto idols, it is regarded as a sacrifice unto the dead.[2] If he slaughtered it and afterwards expressed his intention — this was an actual case which occurred in Caesarea and the Rabbis expressed no opinion with regard to it, neither forbidding nor permitting it. R. Hisda explained. They did not, forbid it in deference to the view of the Rabbis,[3] and they did not permit it in deference to the view of R. Eliezer.[4] But how do you know this? perhaps the Rabbis maintain their view only there [in our Mishnah] because we did not hear him [sc. the idolater] express any intention at all, but here since we heard him express an intention [after the slaughtering, even the Rabbis will admit that it is invalid, for] his last act proves what he had in mind at the beginning.[5] Or you might argue thus: Perhaps R. Eliezer maintains his view only there [in our Mishnah], because it deals with a heathen, and he is of the opinion that the thoughts of a heathen are usually directed towards idolatry, but here since we are dealing with an Israelite it would not be right to say that his last act proves what he had in mind at the beginning.[6] — Rather, said R. Shizbi, [explain thus]: They did not permit it in deference to the view of R. Simeon b. Gamaliel.[7] Which statement of R. Simeon b. Gamaliel is meant? Shall I say it is his statement on the subject of Divorce? For we have learnt: If a person in good health said: ‘Write a bill of divorce to my wife’, it is held that he merely intended to tease her.[8] And there actually happened a case where a person of good health said: ‘Write a bill of divorce to my wife’, and he immediately went up to the roof and fell down from it and was killed,[9] and R. Simeon b. Gamaliel ruled: If he threw himself down, the divorce is valid, but if the wind pushed him over, the divorce is not valid. And the following argument ensued: Does not the case stated contradict [the given ruling]?[10] — [And the reply was,] There is an omission [in the text] and it should read thus: If his last act proves what he had in mind at the beginning, the divorce will be valid. And there actually happened a case where a person in good health said: ‘Write a bill of divorce to my wife’, and he immediately went up to the roof and fell down from it and was killed, and R. Simeon b. Gamaliel ruled: If he threw himself down, the divorce is valid;[11] but if the wind pushed him over, the divorce is not valid![12] — Perhaps this case is different for he actually said: ‘Write [the bill of divorce].’[13] Rather, said Rabina: It was in deference to the view of R. Simeon b. Gamaliel in the following case. For it was taught: If a person assigned in writing his estate, which included slaves, to another, and the latter said: ‘I do not want them’, they [sc. the slaves] may nevertheless eat terumah,[14] if their second master[15] was a priest. R. Simeon b. Gamaliel says. As soon as that person[15] has said: ‘I do not want them’, the heirs at once become the legal owners of them.[16] And the following argument ensued: Would the first Tanna regard the assignee as the legal owner even if he stands and objects?[17] Whereupon Rabbah (others say: R. Johanan) explained. If he[15] objected from the outset, all agree that he has not acquired them; likewise if he remained silent at first,[18] but subsequently objected, all agree that he has acquired them. The dispute arises only where the assignor transferred the estate through a third party[19] to the assignee, and the latter was silent at first but subsequently objected to it. The first Tanna is of the opinion that by his silence he has acquired them, and his subsequent objection merely signifies that he has changed his mind. R. Simeon b. Gamaliel is of the opinion that his last act proves what he had in mind at the beginning,[20] and the reason he did not object at the outset was because he, no doubt, said to himself, ‘Why should I object before they came into my possession?’

Rab Judah said in the name of Samuel that the halachah is in accordance with the view of R. Jose.[21]

Certain Arabs once came to Zikonia[22] and gave the Jewish butchers some rams to slaughter, saying: ‘The blood and the fat shall be for us,[23] while the hide and the flesh shall be yours’. R. Tobi b. R. Mattena sent this case to R. Joseph and asked. ‘What is the law in such a case as this?’ He sent back saying: ‘Thus has Rab Judah said in the name of Samuel: The halachah is in accordance with the view of R. Jose’.[24]

R. Aha the son of R. Awia asked R. Ashi: According to the view of R. Eliezer,[25] what would be the law if a heathen gave a zuz[26] to a Jewish butcher?[27] — He replied: We must consider the case; If he [the idolater] is a powerful man whom the Israelite cannot put off [by returning his zuz], then the animal is forbidden;[28] but if he is not [a powerful man], the Israelite would be able to say to him, [Strike] your head against the mountain![29]

MISHNAH. IF A MAN SLAUGHTERED [AN ANIMAL] AS A SACRIFICE TO MOUNTAINS.[30] HILLS, SEAS, RIVERS, OR DESERTS, THE SLAUGHTERING IS INVALID.

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(1) I.e., slaughtering and sprinkling of the blood. These two services are the only services referred to in the Bible in connection with sacrifices to idols; the former in Ex. XXII, 19, the latter in Ps. XVI, 4.

(2) And forbidden for all purposes.

(3) I.e., the first Tanna of our Mishnah, who does not hold the view that the thoughts of an idolater are usually directed towards idolatry. In this case, it is suggested, he will hold that all the acts performed before the actual expression of an intention towards idolatry are not regarded as intended for idolatry.

(4) Who holds that the thoughts of a heathen and, it is suggested here, also of a Jew who slaughters to an idol, are usually directed towards idolatry.

(5) That the slaughtering was, without doubt, intended for idolatry.

(6) For it is not conclusive that because after the slaughtering he expressed an intention for idolatry this intention was present at the time of slaughtering.

(7) Who is of the opinion that a man's subsequent act reveals what he had in mind at the beginning.

(8) And it is no divorce even though the bill was handed to the wife, because no instructions were given to deliver it to the wife; v. Git. 66a. In the case of a person who was dangerously ill, however, the law is that if he merely said: ‘Write a bill of divorce to my wife’, without adding. ‘And deliver it to her’, the divorce would be valid.

(9) The bill of divorce however, was written and delivered to the wife before death took place.

(10) For the rule as given does not admit of any such distinction.

(11) For his subsequent suicidal act is a conclusive proof that his mind was unsettled from the outset, and so the divorce is valid as in the case of a person dangerously ill; v. p. 212, n. 4.

(12) This proves that R. Simeon b. Gamaliel is of the opinion that a man's subsequent act is indicative of what was in his mind at the beginning.

(13) And it might well be inferred that he intended the bill to be delivered to his wife, this intention no doubt being present in his mind at the time he gave instructions to write the bill of divorce. But in the case of idolatry, there is no possible inference to be drawn from subsequent conduct as to this man's earlier act.

(14) For the assignment is operative in spite of the protestations of the assignee, so that the slaves being now members of a priest's household may eat terumah (v. Glos.) in accordance with Lev. XXII, 11.

(15) The assignee.

(16) And the slaves may not eat terumah if ‘he heirs are not priests.

(17) Surely not!

(18) And accepted the deed of assignment.

(19) The deed was handed to a third party for acceptance on behalf of the assignee, and in the latter's presence.

(20) Viz., that he had no intention of accepting the slaves.

(21) Of our Mishnah, that everything depends solely upon the intention of the slaughterer, and the intention of the owner will not affect the slaughtering.

(22) A place near Pumbeditha. Obermeyer p. 234.

(23) To be used for idolatrous purposes.

(24) The rams are therefore permitted to be eaten, because the intention of the Arab owners cannot affect the slaughtering.

(25) Of our Mishnah, who holds that even if a small portion of the animal belongs to a heathen the entire animal would be forbidden because of the idolatrous thoughts of the heathen.

(26) A coin, v. Glos.

(27) To receive meat for that amount from the animal which was to be slaughtered by the Jew.

(28) For the heathen has an Interest in the animal to the value of a zuz.

(29) Lit., ‘behold thy head and the mountain’, i.e., ‘either take back your zuz or do without it’. This being the case, the animal is permitted to be eaten whether the Israelite actually returns the money to the heathen or provides him with meat.

(30) Lit., ‘in the name of’.

Talmud - Mas. Chullin 40a

IF TWO PERSONS HELD ONE KNIFE AND SLAUGHTERED [AN ANIMAL], ONE INTENDING IT AS A SACRIFICE TO ONE OF THESE THINGS AND THE OTHER FOR A LEGITIMATE PURPOSE, THE SLAUGHTERING IS INVALID.

GEMARA. It is only invalid but it is not regarded as a sacrifice of the dead.[1] I will point out a contradiction. [It was taught:] If a man slaughtered [an animal] as a sacrifice to mountains, hills, seas, rivers, deserts, the sun, the moon, the stars and planets. Michael the Archangel, or a small worm, it is regarded as a sacrifice of the dead![2] — Abaye explained. It is no difficulty. Here [in our Mishnah] he declared it to be a sacrifice to the mountain itself,[3] but there he declared it to be a sacrifice to the deity of the mountain.[4] There is indeed support for this view, for [in the Baraitha quoted] they are all stated together with ‘Michael the Archangel’.[5] This is conclusive.

R. Huna stated: If his neighbour's beast was lying in front of an idol, then as soon as he has cut one of the organs of the throat he has thereby rendered it prohibited.[6] He is evidently in agreement with the dictum of Ulla reported in the name of R. Johanan viz.. Although the Rabbis have declared that he who bowed down to his neighbour's beast has not rendered it prohibited, nevertheless if he performed on it an act[7] [of idolatrous worship], he has thereby rendered it prohibited.

R. Nahman raised this objection against R. Huna, [It was taught:] If a person [inadvertently] slaughtered on the Sabbath a sin-offering outside [the Temple Court] as a sacrifice to an idol, he is liable to three sin-offerings.[8] Now if you say that as soon as he has cut one organ only he has rendered it prohibited, then he should not be liable on account of slaughtering outside,

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(1) For then it would not only be invalid but even forbidden for all uses and purposes; v. A.Z. 29b.

(2) V. Ps. CVI, 28.

(3) Mountains and other inanimate things the works of nature cannot, according to Deut. XII, 2, be in law regarded as idols; v. A.Z. 45a. Hence sacrifices unto them are not sacrifices unto idols, and therefore the animal is not forbidden for use; it is however forbidden to be eaten since it has the appearance of idol worship.

(4) I.e., the spirit or angel of the mountain etc. This is real idolatry and the animal which is slaughtered as a sacrifice is absolutely forbidden.

(5) Thus indicating that it is the spirit or godhead of the mountain that is intended to be the object of worship, just as in the case of Michael it is an angel or spirit that is referred to.

(6) The principle is that a person cannot render prohibited that which belongs to another merely by word of mouth but only by an act. It goes without saying that a man's own beast would be prohibited by this act.

(7) As e.g. by pouring wine between its horns. V. A.Z. 54a.

(8) (i) For breaking the Sabbath, (ii) for slaughtering a consecrated animal outside the Temple court, and (iii) for slaughtering unto idols.

Talmud - Mas. Chullin 40b

for it is as though he were cutting earth?[1] — R. Papa answered: We are dealing here with a sin-offering of a bird, so that all [the prohibitions] arrive simultaneously.[2] But let us consider! R. Huna based his statement, did he not, upon Ulla's view? But Ulla refers to any act, however slight![3] — Rather [assume that] he expressly declared that he intended to worship the idol only at the completion of the slaughtering.[4] If this is the case, why only ‘a sin-offering’? It could have dealt with any offering![5] — Rather, said Mar Zutra in the name of R. Papa: We are dealing here with the case where half of the windpipe [of the sin-offering of a bird] was mutilated, and this person merely added to it the smallest cut,[6] thereby completing [the slaughtering]; and now all [the prohibitions] arrive simultaneously.

R. Papa remarked: Had not R. Huna specifically mentioned one organ’, [the above Baraitha of the] ‘Sin-offering’ would never have presented any difficulty, for the expression ‘an act’ [used by Ulla] could mean a complete act [of idolatrous worship].[7] R. Papa further remarked: Had not R. Huna expressly said: ‘his neighbour's animal’, [the above Baraitha of the] ‘Sin-offering’ would not have presented any difficulty. Why? Because a man can only render prohibited [even by his slightest act] that which belongs to him, but not that which belongs to others.[8] Is not this obvious? — It is not, for I might have said that since he received atonement through it it is regarded as his own; he therefore must state it.

(Mnemonic Na ‘A.Z.)[9] R. Nahman, R. ‘Amram and R. Isaac stated: A person cannot render prohibited[10] that which does not belong to him. An objection was raised: [It was taught:] If a person [inadvertently] slaughtered on the Sabbath a sin-offering outside [the Temple court] as a sacrifice to an idol, he is liable to three sin-offerings. And we interpreted this Baraitha as referring to a sin-offering of a bird ,[11] half of whose windpipe was mutilated. Now the reason [for the ruling] is because it is a sin-offering of a bird in which case all [the prohibitions] arrive simultaneously.

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(1) For as soon as it becomes prohibited on account of idolatry i.e., after the cutting of the first organ, it is no longer regarded as consecrated, therefore the prohibition against slaughtering consecrated animals outside the Temple court does not arise. And although it has been taught above (supra 29b), that even where only one organ of a consecrated animal was slaughtered outside the sanctuary there is liability under this head, that is so only where the second organ was cut within, and the animal thus retained its sanctity from beginning to end, so that there was all the time a proper slaughtering. In our case, however, once it is forbidden on account of idolatry it is no longer sacred; it is, as it were, a clod of earth, and there is no proper slaughtering.

(2) For the cutting of one organ outside the sanctuary in the case of a sin-offering of a bird renders one liable (v. supra 29b); therefore all the Prohibitions arrive simultaneously, i.e., after the cutting of the first organ.

(3) And not necessarily the cutting of one whole organ; accordingly the prohibition under the head of idolatry takes effect before the others, consequently the prohibition for slaughtering outside the sanctuary cannot arise.

(4) When all the prohibitions arrive simultaneously. The Baraitha therefore need not be limited to a sin-offering of a bird but can refer to a sin-offering of cattle.

(5) If the slaughterer intended to worship the idol only at the completion of the slaughtering, why did the Tanna of the Baraitha limit his case to a sin-offering, which is distinctive in that it does not belong to the slaughterer (i.e., the offerer) but to the priests? He could have dealt with any offering, even a peace-offering which belongs to the offerer, and yet he would be liable on the three counts, since he intended to worship the idol only at the completion of the slaughtering, when the three prohibitions arise simultaneously. Since the Tanna limited his case to a sin-offering it is clear that the slaughterer intended to worship the idol at the beginning of the slaughtering, and the reason why the three prohibitions are incurred is because he cannot render prohibited by his idolatrous intent another's animal (sc. the sin-offering, which is the priests’) with a slight act but only with a complete act. The Baraitha is thus in conflict with R. Huna who ruled that a slight act of idolatry (sc. the cutting of only one organ) renders another's animal prohibited. (Rashi's second interpretation.)

(6) And this small cut, although a slight act, constitutes the complete slaughtering.

(7) I.e.,the complete slaughtering. As R. Huna expressly mentions ‘one organ’ (which is something incomplete), and he bases his view upon Ulla's statement, it is evident that Ulla refers to the slightest act of idolatrous worship.

(8) And a sin-offering belongs to the priests, save that the owner receives atonement through it.

(9) Lit., ‘he stuck in’. The characteristic letters of the names of the three Rabbis, the authors of the following statement.

(10) Even by a complete act.

(11) By reason of the fact that the Baraitha speaks of a sin-offering and not of any other offering; for, granted that it could not have dealt with a peace-offering, as this offering is his, it could have dealt with a burnt-offering.

Talmud - Mas. Chullin 41a

but with regard to other sacrifices it would not be so. If then you say that a person cannot render prohibited that which does not belong to him, why must [the Baraitha] be interpreted a referring to the sin-offering of a bird? It can just as well refer to the sin-offering of an animal?[1] — Since he receives atonement through it it is regarded as his own.[2]

Come and hear: IF TWO PERSONS HELD ONE KNIFE AND SLAUGHTERED [AN ANIMAL], ONE INTENDING IT AS A SACRIFICE TO ONE OF THESE THINGS AND THE OTHER FOR A LEGITIMATE PURPOSE, THE SLAUGHTERING IS INVALID![3] — We must suppose that he[4] had a share in it.

Come and hear: If a person rendered unclean [another's food], or if he mixed terumah [with another's common food], or if he offered unto an idol [another's wine], then if he did so inadvertently, he is not liable [for the damage], but if deliberately, he is liable?[5] — We must suppose also here that he had a share in it.

This[6] is disputed by Tannaim. [It was taught:] If a gentile offered the wine of an Israelite as a libation, even though not in the presence of an idol, he has rendered it prohibited.[7] R. Judah b. Bathyra and R. Judah b. Baba declare it permitted for two reasons, first because a wine libation is offered only in the presence of the idol, and secondly, because he [the owner] can say to the gentile. ‘You have no right to render my wine prohibited against my will’ — R. Nahman, R. ‘Amram and R.

Isaac, however, will say that[8] even the Tanna who holds that a person can render prohibited that which does not belong to him maintains this view only in the case of a gentile, but [not in the case of an Israelite, for] the Israelite merely intended to vex his fellow.[9]

Come and hear: IF TWO PERSONS HELD ONE KNIFE AND SLAUGHTERED [AN ANIMAL], ONE INTENDING IT AS A SACRIFICE TO ONE OF THESE THINGS AND THE OTHER FOR A LEGITIMATE PURPOSE, THE SLAUGHTERING IS INVALID! — We must suppose that he was an Israelite apostate.[10] Come and hear: If a person rendered unclean [another's food], or if he mixed terumah [with another's common food], or if he offered unto an idol [another's wine], then if he did so inadvertently, he is not liable [for the damage], but if deliberately, he is liable? — We must suppose also here that he was an Israelite apostate.

R. Aha the son of Raba asked R. Ashi: What is the law if an Israelite, [about to slaughter another's beast as a sacrifice to idols], was warned against it and he accepted the warning?[11] — He replied: You speak, do you not, of one who has surrendered himself to death? Surely no one is more of an apostate than he![12]

MISHNAH. ONE MAY NOT SLAUGHTER [IN SUCH MANNER THAT THE BLOOD RUNS] INTO THE SEA.[13] OR INTO RIVERS, OR INTO VESSELS;[13] BUT ONE MAY SLAUGHTER INTO A POOL OF WATER. OR WHEN ON BOARD SHIP ON TO THE BACKS OF VESSELS.[14] ONE MAY NOT SLAUGHTER AT ALL INTO A PIT;[15] YET A PERSON MAY DIG A PIT IN HIS OWN HOUSE FOR THE BLOOD TO RUN INTO. IN THE STREET, HOWEVER, HE SHOULD NOT DO SO LEST HE APPEAR

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(1) For the slaughtering of a sin-offering to idols does not render it prohibited at all according to the view of these Rabbis, since a sin-offering belongs to the priests; consequently the offering remains consecrated, and the slaughterer therefore is liable to three sin-offerings as stated. For although he does not render the beast prohibited, he himself is nevertheless liable for his idolatrous worship.

(2) He can therefore render it prohibited; this being so, the prohibition of slaughtering outside the sanctuary would not arise. The Baraitha therefore can only refer to the case of a sin-offering of a bird and in the circumstances stated above.

(3) This clearly proves that a Person can render prohibited that which does not belong to him.

(4) Sc. the one who by his intention rendered the animal invalid, or, in the subsequent case, who rendered the food of another unclean or unfit.

(5) The damage in each case is not discernible in the object itself, and this in law does not create any liability. By Rabbinic law, however, a person who caused this sort of damage deliberately was held liable to make good the loss. In this case his liability to pay will in no wise be affected by reason of the fact that he will suffer the death penalty on account of idolatrous worship. V. Cit. 52b.

(6) Whether or not a man can render prohibited what is not his.

(7) This Tanna is of the opinion that a person can render prohibited that which belongs to another.

(8) Although it must perforce be maintained that R. Huna's view cannot be reconciled with that of R. Judah b. Baba.

(9) But not to offer it unto idols.

(10) Sc. the one who rendered the animal invalid by his intention. An apostate Jew has certainly idolatry in his mind, and therefore like a gentile he would render prohibited even that which belonged to another.

(11) Would he render prohibited that which belonged to another or not? Would he, by his acceptance of the warning and acting in defiance thereof be considered as an Israelite apostate?

(12) By accepting the warning he has exposed himself to death (cf. Sanh. 41a), so that he is a renegade and therefore, like a gentile, would render prohibited that which belonged to another.

(13) This might be thought to be an act of idolatrous worship to the deity of the sea or of the river; and where the blood is collected in a vessel it might appear as though it were being kept for an idolatrous purpose.

(14) Even though the blood falls off from the vessel into the sea; for it is clear to all that this is done merely to avoid fouling the ship.

(15) For it was the custom of heretics to slaughter so.

Talmud - Mas. Chullin 41b

TO FOLLOW THE WAYS OF THE HERETICS.[1]

GEMARA. ONE MAY NOT SLAUGHTER INTO THE SEA. Why is it that a person may not slaughter into the sea? It is, is it not, because it might be said that he is slaughtering to the deity of the sea? Then is it not the same when a person slaughters into a pool of water, for it might be said that he is slaughtering to the image [reflected in the water?] — Raba answered: This was taught only regarding turbid water.[2]

ONE MAY NOT SLAUGHTER AT ALL INTO A PIT, YET A PERSON MAY DIG A PIT etc. Have you not just said that one may not slaughter into a pit at all? — Abaye answered: The first clause refers to a pit in the street. Said to him Raba: Since the final clause reads: IN THE STREET, HOWEVER, HE SHOULD NOT DO SO, it follows that the first clause does not refer to [a pit in] the street! — Raba therefore answered: This is the interpretation: ONE MAY NOT SLAUGHTER AT ALL INTO A PIT. But if a person desires to keep his yard clean, what should he do? He should prepare a place close to the pit and slaughter there, and the blood may be allowed to trickle down into the pit. IN THE STREET, HOWEVER, HE SHOULD NOT DO SO LEST HE APPEAR TO FOLLOW THE WAYS OF THE HERETICS. A Baraitha was taught which supports Raba's view: If a person was travelling on a ship and there was no place on the ship where he might slaughter, he may stretch out his hand over the side of the ship and slaughter there, and the blood is allowed to trickle down the sides of the ship [into the sea]. A person may not slaughter at all into a pit; but if he desires to keep his yard clean what should he do? He should prepare a place close to the pit and slaughter there, and the blood is allowed to trickle down into the pit. In the street, however, he should not do so, for it is written: Neither shall ye walk in their statutes,[3] if he did so, there must be an enquiry concerning him.[4]

MISHNAH. IF A MAN SLAUGHTERED [AN UNCONSECRATED ANIMAL OUTSIDE THE TEMPLE COURT] DECLARING IT TO BE[5] A BURNT-OFFERING OR A PEACE-OFFERING OR A GUILT-OFFERING FOR A DOUBTFUL Sln[6] OR THE PASSOVER-OFFERING OR A THANK-OFFERING, THE SLAUGHTERING IS INVALID;[7] R. SIMEON. HOWEVER, DECLARES IT VALID.[8] IF TWO PERSONS HELD ONE KNIFE AND SLAUGHTERED [AN UNCONSECRATED ANIMAL OUTSIDE THE TEMPLE COURT], ONE DECLARING IT TO BE ONE OF THE ABOVE AND THE OTHER INTENDING IT FOR A LEGITIMATE PURPOSE, THE SLAUGHTERING IS INVALID. IF A MAN SLAUGHTERED [AN UNCONSECRATED ANIMAL OUTSIDE THE TEMPLE COURT] DECLARING IT TO BE A SIN-OFFERING OR A GUILT-OFFERING[9] OR A FIRSTLING OR THE TITHE [OF CATTLE] OR A SUBSTITUTE OFFERING. THE SLAUGHTERING IS VALID.[10] THIS IS THE RULE: IF ONE SLAUGHTERED AN ANIMAL DECLARING IT TO BE A SACRIFICE WHICH CAN BE BROUGHT EITHER AS A VOTIVE OR A FREEWILL-OFFERING IT IS INVALID, BUT IF HE DECLARES IT TO BE A SACRIFICE WHICH CANNOT BE BROUGHT EITHER AS A VOTIVE OR A FREEWILL-OFFERING IT IS VALID.

GEMARA. IF ONE SLAUGHTERED . . . DECLARING IT TO BE A BURNT OFFERING etc. Can a guilt-offering for a doubtful sin be brought as a votive or as a freewill-offering? — R. Johanan answered. The author of this view is R. Eliezer, who maintains that a person can offer a guilt-offering for a doubtful sin daily.

Can the passover-offering be brought as a votive or as a freewill-offering [at any time]? Is not its time fixed?[11] — R. Oshaia answered, It is different with the passover-offering, for it may be set aside for this purpose at any time during the year.[12]

R. Jannai said: The Mishnah refers only to unblemished animals, but in the case of blemished animals everybody knows [that it cannot be an offering].[13] R. Johanan, however, says that it refers even to blemished animals, for he might sometimes cover up the blemish and it would not be noticeable.

IF ONE SLAUGHTERED . . . DECLARING IT TO BE A SIN-OFFERING. R. Johanan said: The Mishnah refers only to the case where he [the slaughterer] was not obliged to bring a sin-offering, but where he was obliged to bring a sin-offering it might be said that he is slaughtering the animal as his sin-offering.[14] But he did not say. 'I declare it to be my sin-offering'? — R. Abbahu answered: We must suppose that he said: 'I declare it to be my sin-offering'.[15]

A SUBSTITUTE OFFERING. R. Eleazar said: The Mishnah refers only to the case where he did not have a consecrated animal at home, but where he had a consecrated animal at home it might be said that he has just now substituted this animal for it.[14] But he did not say. 'I declare it to be a substitute for the consecrated animal I have at home'? — R. Abbahu answered: We must suppose here also that he said: 'I declare it to be a substitute for the consecrated animal I have at home.'[16]

THIS IS THE RULE. What does it include? — It includes the burnt-offering of a Nazirite.[17] For you might have said that [everyone knows that] he has not vowed to be a Nazirite [so that his words are meaningless];[18] it is therefore included, because it is possible that he vowed in secret [to become a Nazirite].

IF HE DECLARES IT TO BE A SACRIFICE WHICH CANNOT BE BROUGHT EITHER AS A VOTIVE OR FREEWILL-OFFERING IT IS VALID. What does this include? — It includes the burnt-offering of a woman after childbirth.[19] R. Eleazar said: This is so only when he has no wife, but if he has a wife it might be said that he is slaughtering it [for a burnt-offering] on her behalf.[20] But he did not say. 'I declare it to be the burnt-offering of my wife'? — R. Abbahu answered: We must suppose that he said: 'I declare it to be the burnt-offering of my wife'. Is not this obvious?

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(1) Or: 'to confirm the heretics (i.e., minim) in their ways'. (Rashi).

(2) An image would not then be discernible in the water; it is therefore permitted.

(3) Lev. XVIII, 3.

(4) For he may be a min (a heretic) and his bread and wine would be forbidden to be eaten by Jews.

(5) Lit., 'in the name of'.

(6) Heb. אשם תלוי. The guilt-offering brought by a person who is in doubt whether he has committed an act which must be atoned for by a sin-offering. This sacrifice is merely suspensive until the doubt will be settled and it will be known whether this person must bring a sin-offering as well or not.

(7) The sacrifices enumerated here can be vowed or offered as freewill-offerings at all times; the onlooker therefore might suppose that the slaughterer has just now consecrated the animal for the particular offering mentioned and would believe that it is permitted to slaughter a consecrated animal outside the sanctuary. For this reason the Rabbis declared the slaughtering invalid.

(8) He is of the opinion that it should not be prohibited merely for appearance sake. V. however, Tosaf. ad loc.

(9) Lit., 'a guilt-offering for a certain (sin)'.

(10) The sin-offering and the guilt-offering cannot be offered at all times either as a votive or a freewill-offering, but are incumbent upon, and can only be brought by those who have committed a sinful act. These as well as the firstling (v. Deut. XIV, 23), the tithe (v. Lev. XXVII, 32) and the substitute offering (ibid. 10) are sacrifices of which the public are generally aware. Now as the public have no knowledge of this sacrifice to which the slaughterer refers it is obvious to all that he is not speaking the truth, so that there is no fear that an onlooker would receive a false impression.

(11) For the eve of the Passover.

(12) So that this man may be slaughtering now the animal which he has set apart for his paschal-offering, obviously not as the Passover-offering but as a peace-offering. And since it is being slaughtered outside the sanctuary the onlooker would receive a wrong impression.

(13) And the slaughtering would be valid, as no one would pay any attention to the words of the slaughterer.

(14) And the slaughtering would be invalid.

(15) In that case only is the slaughtering invalid; but where he did not use this formula or where it was known that he was not obliged to bring a sin-offering, his words are meaningless and the slaughtering is valid.

(16) Here too, only in this case is the slaughtering invalid, but not where it was generally known that he had no consecrated animal in his home.

(17) Cf. Num. VI. 14. Even though it was not known that he was a Nazirite the slaughtering is invalid.

(18) V. p. 223, n. 2.

(19) Cf. Lev. XII. 6. The slaughtering in this case is valid.

(20) And the slaughtering would be invalid.

Talmud - Mas. Chullin 42a

— No, for you might say that if his wife had given birth to a child it would be known to all,[1] he therefore teaches us [that the slaughtering in this case is invalid] for it is possible that she had a miscarriage.[2]

CHAPTER III[3]

MISHNAH. THE FOLLOWING [DEFECTS][4] RENDER CATTLE TREFAH: [I] IF THE GULLET WAS PIERCED;[5] [II] OR THE WINDPIPE SEVERED; [III] IF THE MEMBRANE OF THE BRAIN WAS PIERCED; [IV] IF THE HEART WAS PIERCED AS FAR AS THE CAVITY THEREOF; [V] IF THE SPINE WAS BROKEN AND THE CORD SEVERED;[6] [VI] IF THE LIVER WAS GONE AND NAUGHT REMAINED; [VII] IF THE LUNG WAS PIERCED, [VIII] OR WAS DEFICIENT (R. SIMEON SAYS, PROVIDED IT WAS PIERCED AS FAR AS THE MAIN BRONCHI); [IX] IF THE ABOMASUM,[7] [X] OR THE GALL-BLADDER, [XI] OR THE INTESTINES WERE PIERCED; [XII] IF THE INNER[8] RUMEN[7] WAS PIERCED, [XIII] OR THE GREATER PART OF THE OUTER[8] COVERING TORN (R. JUDAH SAYS, IN A LARGE ANIMAL IF IT WAS TORN TO THE EXTENT OF A HANDBREADTH, AND IN A SMALL ANIMAL IF THE GREATER PART OF IT WAS TORN); [XIX] IF THE OMASUM[7] [XV] OR RETICULUM[7] WAS PIERCED ON THE OUTSIDE;[9] [XVI] IF THE ANIMAL FELL FROM THE ROOF; [XVII] IF MOST OF ITS RIBS WERE FRACTURED; [XVIII] OR IF IT WAS CLAWED[10] BY A WOLF (R. JUDAH SAYS, SMALL CATTLE [ARE TREFAH] IF CLAWED BY A WOLF, LARGE CATTLE IF CLAWED BY A LION; SMALL FOWL IF CLAWED BY A HAWK, LARGE FOWL IF CLAWED BY A FALCON).[11] THIS IS THE RULE: IF AN ANIMAL WITH A SIMILAR DEFECT COULD NOT CONTINUE TO LIVE,[12] IT IS TREFAH.

GEMARA. R. Simeon b. Lakish said: Where do we find in the Torah an allusion to trefah? — Where [you ask]? Is it not written: Ye shall not eat flesh that is torn of beasts [trefah] in the field?[13] The question was: Where do we find in the Torah the view that a trefah animal cannot continue to live? For from the last clause of the Mishnah, THIS IS THE RULE: IF AN ANIMAL WITH A SIMILAR DEFECT COULD NOT CONTINUE TO LIVE, IT IS TREFAH, it follows that a trefah animal cannot continue to live. Where then do we find it in the Torah? — It is written: These are the living things which ye may eat,[14] that is, that which can continue to live[15] you may eat, but that which cannot continue to live you may not eat; hence a trefah animal cannot continue to live.[16] And as to the one who holds the view that a trefah animal can continue to live, [it will be asked]: where do we find this view indicated [in the Torah]? — It is indicated in the verse: These are the living things which ye may eat, for it means, these living things you may eat but other living things you may not eat; hence a trefah animal can continue to live. And for what purpose does the first teacher use the word ‘these’? — He requires it for the following exposition of a Tanna of the school of R. Ishmael. For a Tanna of the school of R. Ishmael expounded: The verse: These are the living things which ye may eat, indicates that the Holy One, blessed be He, took hold of one of each species of animal, showed it to Moses and said to him, ‘This you may eat and this you may not eat’. But does not the second teacher also require this word for the exposition of the Tanna of the school of R. Ishmael? — Indeed, he does. Where then is it indicated [in the Torah] that a trefah animal can continue to live? — It is indicated in the exposition of another verse also by a Tanna of the school of R. Ishmael. For a Tanna of the school of R. Ishmael expounded: It is written: Between the living thing that may be eaten and the living thing that may not be eaten;[17] here are indicated the eighteen defects [which render an animal trefah and] which were communicated to Moses on Mount Sinai.

But are there no more?[18] But what about Basegar,[19] and the seven statements [reported by the Amoraim]?

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(1) And since it is not known that his wife gave birth to a child his words would not be taken seriously, and the slaughtering should be valid.

(2) And this fact might not be known to all. It is to be noted that Rashi omits the statements of R. Eleazar and R. Abbahu from the Gemara, although he arrives at the same conclusions by logical argument.

(3) For the proper understanding of this chapter and its anatomical details it is recommended that the reader consult some text book on animal anatomy. The following works are recommended: Bailliere's Atlas of the Ox, S. Sisson, The anatomy of the Domestic Animals (an excellent and most comprehensive work), I. L. Katzenelsohn, Ha-Talmud we-Hokmath ha-Refuah (in Hebrew, a brilliant study of the anatomy and medicine in the Talmud in the light of modern knowledge), J. Preeus, Biblisch Talmudische Medizin, O. Charnock Bradley, The Structure of the Fowl.

(4) Each of these eighteen defects are explained and commented upon with great detail in the Gemara.

(5) By ‘pierced’ is meant a puncture or perforation of an organ though naught of its substance is missing.

(6) The fracture of the spine is not a defect by itself; the defect here is that the cord has been severed and this is usually caused by a fracture of the spine.

(7) These are the four stomachs common to all ruminants. The food first passes into the Rumen, כרס, thence into the Reticulum, בית הכוסות, thence into the Omasum, המסס, and finally into the stomach proper or the Abomasum, קיבה.

(8) For the meanings of ‘inner’ and ‘outer’ v. infra 50b.

(9) I.e., but not where the two are joined together.

(10) Heb. דרוסה, lit., ‘trodden’; in its technical sense it means ‘struck by the fore-paw or claw of a beast or bird of prey whereby poison is discharged and enters the body of the victim’.

(11) Or: vulture.

(12) For twelve months.

(13) Ex. XXII, 30.

(14) Lev. XI, 2.

(15) I.e., is a living thing.

(16) For since a trefah may not be eaten, it is not a living thing, i.e., it cannot continue to live for twelve months.

(17) Lev. XI, 47.

(18) Than the eighteen cases enumerated in our Mishnah.

(19) A mnemonic (meaning perhaps ‘under lock’) formed by the characteristic letters of the four cases of trefah which follow, thus: ב from בהמה, ס from חסרון, ג from גלודה, and ר from חרותה.

Talmud - Mas. Chullin 42b

Of course to the Tanna of our Mishnah this is no difficulty, for he merely mentioned some[1] [defects], whilst those which he omitted to mention he intended to include under the general head, THIS IS THE RULE. But against the Tanna of the school of R. Ishmael who expressly mentions the number eighteen, it will be asked: Are there no more? Is there not [also]: An animal whose hind leg was cut off above the knee-joint is trefah?[2] — He [the Tanna of the school of R. Ishmael] concurs with the view expressed by R. Simeon b. Eleazar that [the wound] could be cauterized and the animal could recover.[3] Granted, however, that it could be cauterized and the animal could recover, but are we not arguing upon the view of the Tanna of the school of R. Ishmael? And he is of the view that a trefah animal can continue to live![4] — Rather [say]. He concurs with R. Simeon b. Eleazar who [indeed] declares [that in such a case the animal is] permitted.[5] But is there not the case of a deficiency of the spine? For we have learnt: What is considered a deficiency of the spine?[6] Beth Shammai say. If two vertebrae were missing; Beth Hillel say: If only one was missing. And Rab Judah said in the name of Samuel that their views are the same with regard to trefah.[7] — The [piercing of the] omasum and the reticulum which you reckon as two cases you ought to reckon as one, so that you may exclude one and add this[8] in its place. But is there not the case of an animal which was stripped of its hide?[9] — He concurs with the view of R. Meir that it is permitted. But is there not the case of an animal whose lungs were shrivelled up?[10] — Who is it that includes the [piercing of the] gall-bladder in the list of defects? It is R. Jose b. R. Judah. You should therefore exclude[11] the case of the gall-bladder and insert the case of the shrivelled lungs in its place.

But are there not the following seven statements [which should be included]? (i) R. Mattena said: If the top of the femur slipped out of its socket, the animal is trefah;[12] (ii) Rakish b. Papa said in the name of Rab: If one kidney was diseased it is trefah,[13] Further we have learnt: If the spleen was gone the animal is permitted.[14] But R. ‘Awira said in the name of Raba: This was taught only in the case where the spleen was gone, but (iii) if the spleen was pierced it is trefah;[15] (iv) Rabbah b. Bar Hana said in the name of Samuel: If the greater part of the organs of the throat was torn away, it is trefah.[16] And further Rabbah son of R. Shila said in the name of R. Mattena who reported in the name of Samuel,[17] (V) If a rib was dislodged from its socket, or (vi) if the greater part of the skull was shattered, or (vii) if the greater part of the membrane[18] which covers the greater portion of the rumen [was torn], it is trefah! — The eight cases of piercing[19] [enumerated in the Mishnah] you ought to reckon under one head; so that by eliminating seven cases you can insert these seven statements in their stead. If so, you ought also to reckon under one head the two cases of severing;[20] consequently there is one short of the number. Moreover, R. ‘Awira's case is also a case of piercing, is it not?[21] —

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(1) For although in the Mishnah the Tanna enumerates eighteen cases of trefah, he does not, however, expressly state the number eighteen.

(2) v. infra 76a.

(3) It is therefore not trefah according to R. Simeon b. Eleazar.

(4) So that the fact that the animal could recover has no bearing on the question whether or not it is trefah.

(5) V. Tosef. Hul. III. According to Rashba (Adreth), Hiddushin, Yeb. 120b the statement ‘because (the wound) could be cauterized’, given in Tosef. as the reason for R. Simeon b. Eleazar's ruling, is an intrusion from Yeb. 120b. The correct reading on his view is simply R. Simeon b. Eleazar declares (the animal) permitted and when the Gemara here quotes R. Simeon b. Eleazar's reason the reference is to the case dealt with in Yeb. and not to that of an animal whose hind legs were cut off. V. however, Rashi.

(6) V. Ohol. II, 3. A complete spine of a corpse will render unclean men and vessels that are in the same ‘tent’ or under the same roof, but if it is incomplete it will only convey uncleanness by contact or by carrying, but will not render unclean men and vessels that are in the same ‘tent’.

(7) I.e., according to Beth Shammai if two vertebrae of the spine of an animal were missing it is trefah, and according to Beth Hillel, even if only one was missing.

(8) This case of the deficiency in the spine.

(9) Which is trefah according to the Rabbis, v. infra 54a.

(10) I.e., shrivelled up and hardened because of fright caused by man. This is also trefah, v. infra 55b.

(11) From the eighteen cases of trefah in the court of R. Ishmael's school.

(12) Provided that the ligaments were destroyed, v. infra 54b.

(13) v. infra 55a.

(14) Infra 54a.

(15) Only it pierced in the thick part, v. infra 55b.

(16) I.e., the greater part of the circumference of one of the organs of the throat was violently torn away from its connection on top, even though it is still attached in part. V. infra 44a. According to R. Hananel: The organs of the throat were separated from each other.

(17) v. infra 52a and b.

(18) The parietal peritoneum. V. however infra 50b and 52b.

(19) The piercing of the gullet, the membrane of the skull, the heart, the lung, the abomasum, the intestines, the rumen, and the omasum and reticulum. The gall-bladder has been excluded supra.

(20) The severance of the windpipe and of the spinal cord.

(21) So that it would be included with the others under the general head of ‘piercing’. The position now is that there are only sixteen cases of trefah.

Talmud - Mas. Chullin 43a

You have no other alternative but to say that the two cases[1] which were excluded above must now be added.

Ulla said: Eight types of [defects as] trefah were communicated to Moses on Mount Sinai: If [an organ was] pierced, or severed, or gone, or deficient, or torn, or [if the animal was] clawed, or fell [from a height], or if [a limb was] fractured. This clearly excludes disease [of the kidneys] mentioned by Rakish b. Papa.[2]

Hiyya b. Rab said: There are eight cases of trefah included under the head of piercing.[3] If you say there are nine [enumerated in the Mishnah], you must remember that the piercing of the gall-bladder is the ruling of R. Jose son of R. Judah only. For it was taught: If the abomasum or the intestines were pierced it is trefah. R. Jose son of R. Judah says: Even if the gall-bladder was pierced.

(Mnemonic: The halachah. The colleague. An olive's bulk. The gall-bladder. The gizzard). R. Isaac son of R. Joseph said in the name of R. Johanan: The halachah follows the view of R. Jose son of R.Judah.

R. Isaac son of R. Joseph further said in the name of R. Johanan: What was the reply of the colleagues of R. Jose son of R. Judah? [They said: It is written,] He poureth out my gall upon the ground,[4] nevertheless Job continued to live! He retorted: You may not quote miraculous deeds [in support of an argument]. Otherwise you might as well ask, it is written: He cleaveth my reins asunder and doth not spare;[4] could he then continue to live on? You must therefore admit that a miracle is an exceptional case; [and the whole treatment of Job was miraculous] for it is written: Only spare his life,[5] and so here[6] a miracle is an exceptional case.

R. Isaac son of R. Joseph further said in the name of R. Johanan: The halachah follows the view of him who says: ‘an olive's bulk’.[7] But did R. Johanan really say this? Did not R. Johanan[8] say that the halachah was in accordance with the ruling of an anonymous Mishnah? And we have learnt: IF THE LIVER WAS GONE AND NAUGHT REMAINED. Now it follows that if aught remained, even less than an olive's bulk, it is permitted! — Amoraim differ as to R. Johanan's view.[9] R. Isaac son of R. Joseph further said in the name of R. Johanan: If the gall-bladder was pierced but the liver completely closed up [the hole], it is permitted.

R. Isaac son of R. Joseph further said in the name of R. Johanan: If the [muscular covering of the] gizzard was pierced but the inner lining was intact, it is permitted. The question was raised: What is the law if the inner lining was pierced but the muscular covering was intact? — Come and hear: R. Nahman taught: If one [coat of the gizzard] was pierced but not the other, it is permitted.

Rabbah said: The gullet has two coats, the outer red and the inner white; if one was perforated but not the other, it is permitted. Why was it necessary to state that the outer coat was red and the inner white? — To teach that if these coats interchanged, it is trefah.[10] The question was raised: What is the law if both coats were pierced, one hole, however, not coinciding with the other? — Mar Zutra said in the name of R. Papa: In the gullet this would be permitted, but in the gizzard it would be trefah. R. Ashi demurred: The contrary should be the rule; as the gullet contracts and expands when [the animal] eats or bellows, it may sometimes happen that one hole will coincide with the other,[11] whereas the gizzard is at rest and the holes will always remain where they are.[12] R. Aha the son of R. Joseph said to R. Ashi: We have indeed received the tradition in the name of Mar Zutra who reported in the name of R. Papa as you have suggested it.

Rabbah further said: A membrane which was formed in consequence of a wound in the gullet is no membrane.[13] Rabbah further said: The gullet cannot be examined from the outside but only from the inside. For what purpose is this stated?

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(1) I.e., the case of an animal whose hind leg was cut off, and the case of the animal which was stripped of its hide.

(2) It is evident that Ulla regards as trefah only those defects which are traumas and excludes such defects caused by internal disorder or degeneration of an organ.

(3) I.e., those enumerated in our Mishnah, v. p. 229, n. 5. Hiyya b. Rab hereby definitely excludes R. ‘Awira's case of the perforation of the spleen.

(4) Job. XVI, 13.

(5) Ibid. II, 6. The afflictions of Job were such as in ordinary cases would prove fatal but in his case it was ordained that, whatever sufferings befall him, his life was to be spared.

(6) With reference to the gall.

(7) I.e., if there remained of the liver an olive's bulk, although the rest of the liver had been removed or had wasted away, the animal is permitted. V. infra 46a.

(8) In the ed. the reading is, ‘Rabbah b. Bar Hana said in the name of R. Johanan’, but the first named Amora is omitted in many MSS.; v. D.S.

(9) R. Isaac b. Joseph the author of our statement is of the opinion that the principle laid down by R. Johanan was not to be applied generally, and certainly would not apply to the case of an anonymous Mishnah which is contradicted by another anonymous Mishnah, as here our Mishnah, supra 42a, is contradicted in its ruling with regard to the liver by the Mishnah which follows, infra 54a.

(10) I.e., if it was found that the inner coat of the gullet was red and the outer white, the animal or bird is trefah.

(11) And it should be trefah, for it must be remembered that the two coats of the gullet are but loosely connected by submucous fibers, and therefore the coincidence of the holes is quite probable.

(12) And so it should be permitted.

(13) I.e., it is no protection and it is trefah.

Talmud - Mas. Chullin 43b

— For the case of [an animal] about which there arose a doubt whether it was clawed or not.[1] There once came, before Rabbah, the case [of a bird][2] about which there arose a doubt whether it was clawed or not, and he was about to examine the gullet[3] from the outside when Abaye said to him, ‘Did you not say: Master, that the gullet cannot be examined from the outside but only from the inside’? Rabbah at once turned it inside out and examined it and found upon it two drops of blood, so he declared it trefah. Rabbah, however, [by his action] merely wanted to test the acumen of Abaye.

Ulla said: If a thorn was impacted in the gullet, there is no fear that it pierced it through.[4] (Mnemonic: Clawed. Pieces. In the knife. Uncleanness). But why, according to Ulla, is this case different from that of [an animal] about which there arose a doubt whether it had been clawed or not?[5] — Ulla is of the opinion that we are not apprehensive for [an animal] about which there arose a doubt whether it had been clawed or not.[6] And why is it different from the case of ‘two pieces of fat one being forbidden fat and the other permitted fat’?[7] — In that case the forbidden [piece of fat] is clearly established, but here the prohibition is not clearly established.[8] And why is it different from the case of the man who slaughtered with a knife which was found afterwards to have a notch in it?[9] — In that case there had arisen a flaw in the knife.[10] And why is it different from the case of a doubt concerning uncleanness which occurred in a private domain which is regarded as unclean? — But according to your own argument it is analogous, is it not, with the case of a doubt concerning uncleanness which occurred in a public domain which is regarded as clean? — In truth the law [concerning uncleanness is exceptional for it] is derived by analogy from the case of a woman suspected of adultery.[11]

A certain Rabbi was once sitting before R. Kahana and recited as follows: The ruling of Ulla applies only to the case where it [the thorn] was found [in the cavity of the gullet], but where it was impacted [in the wall of the gullet] it is to be feared [that it actually pierced the gullet, and it is therefore trefah]. R. Kahana thereupon said to his disciples, ‘Do not pay any attention to this Rabbi. The ruling of Ulla was stated concerning a thorn that was impacted in the gullet; for if it were merely found [in the cavity of the gullet] it would not be necessary for Ulla to state it, since all beasts that pasture in the open field eat thorns.’

It was reported: As regards the pharynx,[12] Rab says: The slightest perforation therein [will render the animal[13] trefah]; Samuel says, [It is trefah only if] the greater portion [of its circumference was severed]. Rab said: ‘The slightest perforation’, because he regards it as being within the area prescribed for slaughtering;[14] Samuel said: ‘The greater portion’, because he does not regard it as being within the area prescribed for slaughtering. What is considered to be the pharynx? — Mari b. Mar ‘Ukba said in the name of Samuel: That part of the gullet which, when cut, opens wide is the pharynx, but that part which, when cut, remains as it was is the gullet proper. R. Papi remarked: But the Master (that is, R. Bibi b. Abaye) did not say sob but thus: That part of the gullet which, when out, remains as it was is the pharynx, but that part which, when cut, closes up is the gullet proper.[15] Jonah[16] said in the name of Zera, [It is that part where] deglutition [takes place]. And what is its extent? — R. ‘Awia answered: It is less than [the length of] a grain of barley but more than a grain of wheat.

An ox belonging to the family of R. ‘Ukba was slaughtered, the slaughtering having been commenced at the pharynx and completed in the gullet proper. Said Raba, ‘I will impose the restriction implied in Rab's view as well as the restriction implied in Samuel's view and will declare it trefah. ‘The restriction of Rab's view’ — for Rab said that the slightest perforation therein [would render the animal trefah]. But [if you will ask,] does not Rab hold that it is within the area prescribed for slaughtering? [In that respect I rule] in accordance with Samuel's view that it is not within the area prescribed for slaughtering. And [if you will further argue,] does not Samuel hold that it is trefah only if the greater portion of its circumference was severed? [In that respect I am] in accordance with Rab's view that the slightest perforation therein will render the animal trefah’. Meanwhile the case was circulated till at last it was laid before R. Abba. He said to his disciples, ‘The ox should have been permitted — whether one accepted the view of Rab or of Samuel.[17] Go, tell the son of Joseph b. Hama[18] to pay the owner the value of the ox’.[19] Mar the son of Rabina said: I can adduce a passage which would confute this dictum of Raba's foes.[20] For it has been taught: ‘The halachah is always in accordance with the ruling of Beth Hillel. Nevertheless one who desires to adopt the view of Beth Shammai may do so, and one who desires to adopt the view of Beth Hillel may do so. One who adopts the view of Beth Shammai only when they incline to leniency, and likewise the view of Beth Hillel only when they incline to leniency, is a wicked person.

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(1) As in the circumstances mentioned infra 53b, when it is necessary to examine the gullet for any red patches or drops of blood. This examination can only be carried out by inspecting the inner coat of the gullet which is white; but it is useless to inspect the outer coat, since it is red, and a drop of blood would not be discernible thereon.

(2) So Tosaf. Rashi: or an animal. Cf. next note.

(3) After the slaughtering. V. supra 282.

(4) And the animal is permitted, for the piercing of one coat only of the gullet does not render the animal trefah. The text might also be translated: There is no fear that the wound caused by the perforation had healed, so that there is here only a membrane formed over the wound, which as stated above, is no protection.

(5) In this, as in all the other cases of doubt, the stricter view is adopted, whereas Ulla here adopts a lenient view.

(6) To declare it trefah because of the doubt. This is also the view of Rab, infra 53a.

(7) If a person ate one of these two pieces, not knowing which, he is liable to bring a guilt-offering for this doubt, אשם תלוי.

(8) For it may be that the thorn never pierced the gullet at all.

(9) Where, according to R. Huna, whose view is accepted as law, the slaughtering is invalid, although it is a case of doubt only; v. supra 10a, b.

(10) The knife now is definitely unsatisfactory, and the doubt is whether it was in this condition during the slaughtering or not. In Ulla's case, however, the thorn may not have pierced through the gullet at all.

(11) V. supra 9b. One cannot therefore draw any inferences from it either one way or the other.

(12) תורבץ הושט. Lit., ‘the forecourt of the gullet’, i.e., the pharynx.

(13) Or bird.

(14) It is therefore, like the gullet itself, rendered trefah by the slightest perforation.

(15) The circular fibers on the internal plane of the muscular coat of the gullet cause it to contract when cut, but these are not found in the pharynx.

(16) V. Beth Joseph in Tur Yoreh Deah c. 20, where it is suggested that ‘Jonah’ means a dove and the statement in the text refers to the pharynx of a dove and is to be rendered: ‘As to a dove, Zera said etc.’; this is most probable in view of the statement of R. ‘Awia as to its extent.

(17) It is permitted according to Rab because he says it is within the region prescribed for slaughtering, and according to Samuel because only the severance of the greater portion of its circumference is, in his view, a defect.

(18) I.e., Raba.

(19) Raba was liable to make good the loss occasioned by his wrong decision. Cf. Sanh. 6a.

(20) An euphemism for Raba himself.

Talmud - Mas. Chullin 44a

One who adopts the view of Beth Shammai only when they incline to strictness and likewise the view of Beth Hillel only when they incline to strictness, [is a fool and] to such an one applies the verse: But the fool walketh in darkness.[1] But one must either adopt the view of Beth Shammai in all cases, whether they incline to leniency or strictness, or the view of Beth Hillel in all cases, whether they incline to leniency or strictness’. Now is not this statement self-contradictory? At first it says: ‘The halachah is always in accordance with the ruling of Beth Hillel’, and immediately after it says: ‘Nevertheless one who desires to adopt the view of Beth Shammai may do so’? — This is no difficulty. The latter statement relates to the practice before the Heavenly Voice[2] was heard, whilst the former states the law as it is after the Heavenly Voice was heard. Or, you may even say that the latter statement too was made after the Heavenly Voice was heard. [and yet there is no contradiction], for that statement is the view of R. Joshua who exclaimed: We pay no attention to a Heavenly Voice! Nevertheless the question remains?[3] — R. Tabuth said: He [Raba] acted entirely in accordance with Rab's view. For when Rami b. Ezekiel arrived [from palestine] he stated: ‘Don't pay any heed to the laws transmitted to you by my brother Judah in the name of Rab; for thus said Rab: The Sages prescribed the limits in the gullet’.[4] Now since he said that the Sages prescribed the limits [in the gullet], it follows that the pharynx is not within the region prescribed for slaughtering; nevertheless, [Rab ruled that] the slightest perforation therein [will render the animal trefah].[5] How far on top?[6] — Said R. Nahman: As far as [the last] hand grip.[7] And how far below? — R. Nahman said in the name of Rabbah b. Abbuha: As far as that part where it is villous.[8] But this cannot be, for Rabina said in the name of Geniba on the authority of Rab that the [last] handbreadth of the gullet close to the rumen was the inner rumen. Now [if you say: ‘as far as that part where it is villous’,] one would then actually be cutting the rumen![9] — Render thus: The [first] handbreadth in the rumen close to the gullet is the inner rumen.[10] Alternatively, you may say that Rab was referring to an ox in which the villous portion is found higher up.[11]

R. Nahman said in the name of Samuel: If the pharynx was entirely detached from the jaw,[12] [the animal] is valid. And our Tanna confirms this, for we have learnt: If the lower jaw was removed, [the animal] is valid.[13] R. Papa demurred, saying: But is this not a case of [throat] organs being torn away?[14] — And does not this statement of the Mishnah, 'If the lower jaw was removed, [the animal] is valid', present the same difficulty to R. Papa? — No, the Mishnah does not present any difficulty to R. Papa because in the one case [the organ] was torn away forcibly,[15] whilst in the case [of the Mishnah the jawbone] was merely carved away.[16] Against Samuel, however, the difficulty remains! — Do not read 'entirely', but rather 'the greater portion'. But has not Samuel himself said that if the greater portion of [the circumference of] the pharynx was severed it is trefah?[17] — There it was lacerated, but here it merely came away.[18] But has not Rabbah b. Bar Hana said in the name of Samuel that if the greater part of the [circumference of the] organs of the throat was torn loose the animal is trefah? — R. Shisha the son of R. Idi answered: In that case the organs were forcibly torn loose.[19]

OR THE WINDPIPE SEVERED. It was taught: How much of the windpipe must be severed? The greater part of it. And what is meant by 'the greater part of it'? — Rab says,

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(1) Eccl. II, 14.

(2) V. 'Er. 13a: 'A Heavenly Voice was heard, saying: The law is always in accordance with Beth Hillel'.

(3) Against Raba for adopting the strict side of Rab's view and the strict side of Samuel's view.

(4) I.e., the furthermost limits of the gullet, above and below (v. Tosaf.) within which the slaughtering may be performed.

(5) Despite the fact that it is outside the region prescribed for slaughtering. Raba thus accepted Rab's view in its entirety.

(6) I.e., how far does the region of slaughtering extend in the gullet?

(7) I.e., up to the last three or four fingerbreadths of the gullet towards the head (Rashi). According to Hal. Ged. and Alfasi the text means 'the grip of two fingers', which means either two fingerbreadths, or what can be gripped by two fingers, placing one finger on each side of the gullet, in other words, one fingerbreadth.

(8) Presumably the beginning of the rumen, the mucous membrane of which is covered with minute processes, resembling hair, known as villi.

(9) And this surely is no valid slaughtering.

(10) It is so called because it is enclosed between the ribs.

(11) Extending into the last handbreadth of the gullet.

(12) It must be observed that from the Talmudic viewpoint, as implied in this passage, the pharynx which is a continuation of the gullet, is attached to the lower jaw-bone and to the flesh around it. Accordingly, Samuel teaches that even if the pharynx was entirely detached from its moorings, i.e., torn away both from the jaw-bone and the surrounding flesh so that the gullet now hangs loose, the animal is still valid. As for the difficulty of reconciling this viewpoint with present day knowledge of anatomy v. Katzenelsohn, op. cit. pp. 125-127.

(13) V. infra 54a. With the removal of the lower jaw-bone (and presumably the surrounding flesh with it) the organs of the throat would hang loose, nevertheless the animal is valid, thus in accord with Samuel.

(14) עיקור, one of the conditions which render the slaughtering invalid and is in itself a defect according to Rashi. V. Tosaf. s.v והאיכא.

(15) In the case of עיקור the organ was torn away entirely, from the jawbone and the flesh, in which case the animal is unfit.

(16) But the organ was still attached to the flesh, in which case it is valid.

(17) Whereas here Samuel states that if the greater portion of the pharynx was torn loose from its moorings it is still valid. The text adopted here is that of MS.M. which is also given by Ban in his Glosses. Cur. edd. omit this question and the answer which follows.

(18) Where the organ merely came away from its moorings to the extent of the greater part of its circumference, but in no wise was there any laceration or trauma in the organ, it is still valid; but where the actual body of the organ was severed it is trefah.

(19) By reason of a violent wrench the organ was torn loose and remained attached only by some thin strands of its tissue in a few places. In this case it is trefah, for the attachments in these places are meager and would not hold the organ in Position. On the other hand, Samuel speaks of the case in which the organ came away but not with violence, so that even though the greater part of its circumference on top was detached, what remains is firm and could hold the organ in its place; so he rules the animal still valid.

Talmud - Mas. Chullin 44b

The greater part of the outer circumference [of the windpipe].[1] Others say [in the name of Rab]: The greater part of the inner circumference.[2] An animal with its windpipe severed was brought before Rab. He set about to examine it on the basis of the greater part of the outer circumference; whereupon R. Kahana and R. Assi said: ‘But you have taught us, Master, to examine it on the basis of the greater part of the inner circumference!’ Rab therefore sent the case to Rabbah b. Bar Hana and he examined it on the basis of the greater part of the inner circumference. He permitted it and actually bought from the meat of the animal to the value of thirteen common istirae.[3] But was he right in doing so? Has it not been taught: ‘If a Sage has declared aught unclean his colleague may not declare it clean, or if he has declared aught forbidden his colleague may not permit it’? — This case is different for Rab did not declare it forbidden.[4] And why did he eat of it seeing that a Sage had to make a decision with regard to it? Behold it is written: Then said I, ‘Ah Lord God! behold my soul hath not been polluted; for from my youth up even till now have I not eaten of that which dieth of itself or is torn of beasts; neither came there abhorred flesh into my mouth’.[5] And it has been interpreted as follows: ‘Behold my soul hath not been polluted’, for I did not allow impure thoughts to enter my mind during the day, so as to lead to pollution at night. ‘For from my youth up even till now have I not eaten of that which dieth of itself or is torn of beasts’, for I have never eaten of the flesh of an animal of which it had been exclaimed: ‘Slaughter it! Slaughter it!’ Neither came there abhorred flesh into my mouth, for I did not eat the flesh of an animal which a Sage declared to be permitted. It was reported in the name of R. Nathan that this means: I did not eat of an animal from which the priestly dues had not been set apart! — This applies only to a matter which was declared to be permitted as the result of a logical argument; Rabbah b. Bar Hana, however, relied upon his tradition.[6] But, in any case, there is the suspicion?[7] And it has been taught: A judge who decided an issue declaring the one party entitled to a thing and the other disentitled, or who pronounced aught to be unclean or clean, or forbidden or permissible, likewise witnesses who gave evidence in a law suit, these may [in law] buy the matter that was in dispute, but the Sages have said: ‘Keep aloof from anything hideous or from whatever seems hideous’! — This applies only to matters which are bought by appraisement;[8] in this case, however, the selling by weight is proof against suspicion. As in the following instance. Raba once declared an animal, a doubtful case of trefah, to be permitted and then bought some of the meat. Whereupon the daughter of R. Hisda[9] said to him, ‘My father once permitted a firstling[10] but would not buy of its meat’! To which he replied: ‘This [suspicion] applies only in the case of a firstling since it may be sold only by appraisement;[11] in my case, however, the selling by weight is proof against suspicion. What other suspicion can there be? That I receive a choice piece? But every day I am given the choicest meat’.

R. Hisda said: Who is a scholar?[12] He who would declare his own animal trefah.[13]

R. Hisda further said: To whom does this verse apply: He that hateth gifts shall live?[14] To him who would declare his own animal trefah.

Mar Zutra gave the following exposition in the name of R. Hisda: He who studies Scripture and the Mishnah, and attends the lectures of the scholars,[15] and would declare his own animal trefah, of him it is written: When thou eatest the labour of thy hands, happy shalt thou be, and it shall be well with thee.[16] R. Zebid said: He is worthy of inheriting two worlds: this world and the world to come; ‘Happy shalt thou be’, in this world; ‘and it shall be well with thee’, in the world to come.

Whenever R. Eleazar was sent a gift from the house of the Nasi[17] he would not accept it, and whenever he was invited out to dine he would not go, for he used to say: ‘[It seems that] you[18] don't want me to live, for it is written: "He that hateth gifts shall live"’. Whenever R. Zera was sent a gift he would not accept it but whenever he was invited out to dine he would go, for he used to say,

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(1) Lit., ‘the greater portion of its thickness’. It must be remembered that the trachea or windpipe is a cylindrical membranous tube, stiffened and held open by a series of many cartilaginous rings. These rings of cartilage are incomplete in part of their circumference, being about one third filled in by fibrous tissue. It is evident, therefore, that the greater part of the outer circumference which includes the thickness of the cartilage would not necessarily be also the greater part of the inner circumference.

(2) Lit., ‘the greater part of the cavity of the windpipe’.

(3) Silver coins (staters). ‘Common’ i.e., provincial coins as opposed to Tyrian coinage.

(4) Rab came to no decision in the case.

(5) Ezek. IV, 14. V. supra p. 201 and notes.

(6) Received from his teachers, that the inner circumference of the windpipe must be examined. Where a master relies upon a tradition he may overrule a decision of a colleague. V. Tosaf. s.v. היכי.

(7) That he was given meat at a cheaper price in return for declaring the animal permissible, so that he appears to be receiving a reward or monetary advantage for deciding a case (Rashi).

(8) I.e., such things as are bought and sold by a general estimation of their weight or an approximate assessment of their value without resorting to the usual practice of weighing or measuring. Only in such a case is there ground for suspicion.

(9) She was the wife of Raba, cf. B.B. 12b.

(10) After the destruction of the Temple a firstling was permitted to be slaughtered and eaten by priests only if it had a physical blemish which would have rendered it unfit for a sacrifice. It was therefore necessary for a Rabbi to examine the blemish and give a ruling on it.

(11) V. Bek. 31a. The meat of a firstling was not permitted to be sold by weight in the butcher's shop but only by an approximate estimation of its value.

(12) To whom a lost object is to be restored on his identifying it by general impression without mentioning any special distinguishing marks; cf. B.M. 24a (Tosaf).

(13) When there has arisen a doubt with regard to it.

(14) Prov. XV, 27.

(15) This sequence is different from the current ed, but is based on many MSS. and on Alfasi; cf. Ber. 47b.

(16) Ps. CXXVIII, 2.

(17) נשיא. ‘price’, the Patriarch Judah II.

(18) Lit., ‘the Master’, the Nasi.

Talmud - Mas. Chullin 45a

‘They are honoured by [inviting] me’.

Rab Judah said in the name of Rab: If the windpipe was perforated [with many holes] like a sieve, they are reckoned together in order to make up the greater part.[1] R. Jeremiah raised an objection It was taught: If there was one long hole in the skull, or even if there were many small holes in it, in either case the hole or holes are computed to make up the measure of a hole the size of a [surgeon's] drill.[2] We therefore see that if the measure is that of a hole the size of a drill, several small holes are reckoned together so as to make up this measure; similarly we ought to say here, inasmuch as the measure[3] is that of a hole the size of an issar,[4] that several small holes shall be reckoned together to make up a hole the size of an issar? — He [R. Jeremiah] obviously overlooked the dictum of R. Helbo which he reported in the name of R. Hama b. Guria on the authority of Rab: Holes with loss of substance are reckoned together to make up the measure of a hole the size of an issar, but holes without any loss of substance are reckoned together to make up the greater part [of the circumference].[5]

Rabbah b. Bar Hana said in the name of R. Joshua b. Levi: If a strip [of the windpipe] was removed its space[6] is computed to make up a hole the size of an issar.

R. Isaac b. Nahmani enquired of R. Joshua b. Levi: What is the law if the windpipe was perforated like a sieve? — He replied: They have said: Holes with loss of substance are reckoned together to make up the measure of a hole the size of an issar, but holes without any loss of substance are reckoned together to make up the greater part [of the circumference].

What is the test in the case of a bird?[7] — R. Isaac b. Nahmani said: It was explained to me by R. Eleazar thus: It[8] must be cut out[9] and placed over the opening of the windpipe; if it covers the greater part of the windpipe, the bird is trefah, but if not, it is permitted. R. Papa said: And in order to remember this [test] think of a sieve.[10]

R. Nahman said, if the windpipe was lacerated in the shape of a door,[11] it is trefah if an issar can pass through it horizontally.[12]

Rab said, if the windpipe was slit lengthwise it is permitted, provided there remained intact at least one ring[13] at the top and one ring at the lower end. When this was reported to R. Johanan he exclaimed: Why a ring? Why does Rab insist upon a ring? I would rather say: It is permitted — provided there remained a portions no matter how little, intact at the top and at the lower end. When this same ruling was reported to R. Johanan in the name of [the Babylonian] R. Jonathan he exclaimed: Our Babylonian friends know full well how to interpret the law!

R. Hiyya b. Joseph recited in the presence of R. Johanan: The whole of the neck is the appropriate place for slaughtering — that is, from the large ring[14] to the nethermost lobe of the lung. Raba said: ‘The nethermost lobe’ really means the uppermost lobe,[15] for I hold [that the appropriate place for slaughtering is] the entire extent of the neck observed at the time when the animal is grazing. But on no account may the organs [of the throat] be stretched [by force]. R. Hanina (others say: R. Hanania) enquired: What is the law if the animal of its own accord stretched its neck?[16] It is undecided.

R. Johanan and R. Simeon b. Lakish were once sitting together and the following was established:[17] If one stretched the organs of the throat of an animal by force and slaughtered in the extended part, the slaughtering is invalid. If the windpipe was pierced below the breast it is considered as if the lungs [were pierced].[18]

Our Rabbis taught: What counts as the breast?[19] It is that portion which looks down upon the ground; on top[20] it extends as far as the neck, and below as far as the rumen. Two ribs from the two sides, on this side and on that, are cut away with it.[21] This is the breast which is to be given to the priests.

IF THE MEMBRANE OF THE BRAIN WAS PIERCED. Rab and Samuel both said: If the outer membrane[22] only was pierced, even though the inner was not, [it is trefah]. Others say [that Rab and Samuel both said: It is not trefah] unless the inner membrane was [also][23] pierced. R. Samuel b. Nahmani said: And in order to remember this think of the bag in which the brain lies.[24] Rabbah b. Bar Hana said in the name of R. Joshua b. Levi: The same is to be observed with the stones.[25]

R. Simeon b. Pazzi said in the name of R. Joshua b. Levi on the authority of Bar Kappara: All the marrow that is within the cranium is regarded as the brain; from the point at which it begins to elongate it is counted as the spinal cord. At what point does it begin to elongate? — Said R. Isaac b. Nahmani: It was explained to me by R. Joshua b. Levi: there are two

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(1) I.e., the holes are considered as being adjacent and in a line, and if then it appears that the greater portion of the circumference of the windpipe is severed the animal is trefah.
(2) And if the hole is of the size of a surgeon's drill the skull will no longer convey uncleanness to men or vessels that are in the same ‘tent’ or under the same roof; V. Ohol. II, 3.
(3) Where the windpipe was perforated, as distinct from where it was merely severed. V. infra 54a.
(4) A coin, the Roman as, one twenty-fourth part of a denar.
(5) And Rab Judah was referring to holes without any loss of substance.
(6) I.e., its area.
(7) If there were several holes in it with loss of substance, or if a strip of the windpipe was removed. The measure of an issar obviously cannot apply to a bird too, since the entire width of its windpipe does not amount to an issar.
(8) Sc. the portion of the windpipe that is perforated with several holes, including even the solid substance between the holes (Rashi).
(9) Lit., ‘he rolls it up’.
(10) Which is a cavity covered over by a network of small holes; here too the portion perforated must be placed over the cavity of the windpipe.
(11) I.e., a Portion of the windpipe was cut around on three sides but attached on the fourth side (Rashi). According to Alfasi and Maim., ‘The windpipe was perforated from side to side’, i.e., there were two holes in the windpipe exactly opposite each other. It is to be observed that ‘like a door’ is not found in MS.M. nor in the text of Alfasi. Moreover there is considerable doubt whether this case refers to a bird or cattle. V. commentaries.
(12) V. Tosaf. s.v. כדי and Kesef Mishnah on Maim. Yad, Hil. Shech. III, 24.
(13) Or: ‘one section consisting of three rings’.
(14) Sc. the cricoid ‘cartilage.
(15) It is clear that the top lobe of the lung is meant but the description of it will vary according to the position of the animal. If the animal is suspended by its hind legs the top lobe is really the nethermost.
(16) And the animal was slaughtered in that extended portion of the neck.
(17) Lit., ‘the matter emanated from them’.
(18) And the slightest perforation will render the animal trefah.
(19) From all peace-offerings the breast as well as the thigh was presented to the priest; cf. Lev. VII, 34.
(20) This is the better text, so found in Tosef Hul. IX and in many MSS.; so also in Maim. In cur. edd. the directions are reversed.
(21) According to Rashi, one rib is to be cut away on each side; however, in the Tosef. loc. cit. and in Maim. it is expressly stated that two ribs must be cut away on each side. So too R. Hananel, v. Tosaf. ad loc.
(22) I.e., the dura mater, the inner membrane being the pia mater.
(23) V. Asheri and R. Nissim ad loc.
(24) This is a mnemonic for remembering the second opinion, namely, that the inner membrane is the vital one. There is a play upon the word חייתא, which means ‘life’ and also ‘a bag’.
(25) I.e., the testicles of an animal are also invested by two coverings, an inner and outer membrane, like the brain.

Talmud - Mas. Chullin 45b

bean shaped protuberances[1] that lie at the entrance of the cranium; whatsoever lies on the inside of these protuberances is regarded as within [the cranium] and whatsoever lies on the outside of these protuberances is regarded as outside [the cranium]. As to that which lies directly opposite these protuberances, I know not how to regard it. It is the more reasonable view, however, to regard it as within [the cranium]. R. Jeremiah once examined the skull of a bird and found these two bean shaped protuberances at the entrance of the cranium.

IF THE HEART WAS PIERCED AS FAR AS THE CAVITY THEREOF. R. Zera raised the question: Does it mean as far as the small cavity[2] or as far as the large cavity? Thereupon Abaye said to him: Why are you in doubt? Have we not learnt: R. SIMEON SAYS, PROVIDED IT WAS PIERCED AS FAR AS THE MAIN BRONCHI? And this was explained by Rabbah b. Tahlifa in the name of R. Jeremiah b. Abba on the authority of Rab to mean that it [the lung] must be pierced as far as the large bronchus![3] — He replied: There is no comparison at all! There it says: AS FAR AS THE MAIN BRONCHI,[4] that is the center into which the bronchial tubes converge, but here it says: AS FAR AS THE CAVITY THEREOF; what does it matter whether it is the large or small cavity?[5]

As to the aorta,[6] Rab says: The slightest perforation therein [will render the animal trefah]; Samuel says, [It is trefah only if] the greater portion [of its circumference was severed]. What is the aorta? Said Rabbah b. Isaac in the name of Rab: It is the artery[7] which runs along the [chest] walls. The walls? But that is absurd! Rather it is the artery which runs in the groove between the lungs.[8]

Amemar said in the name of R. Nahman: There are three main vessels, one leads to the heart,[9] the other to the lungs[10] and the third to the liver;[11] the one that leads to the lungs is counted as the lungs,[12] the one that leads to the liver is counted as the liver,[13] but with regard to the one that leads to the heart there is the abovementioned dispute [between Rab and Samuel]. Mar b. Hiyya reports a different version: The one that leads to the lungs is counted as the liver, the one that leads to the liver is counted as the lungs, but with regard to the one that leads to the heart there is the above-mentioned dispute [between Rab and Samuel]. R. Hiyya b. Joseph went and reported Rab's view to Samuel. Said Samuel: If this is what Abba[14] said, then he knows nothing about defects in animals.

IF THE SPINE WAS BROKEN. Our Rabbis taught: Rabbi says: The greater part of the circumference of the spinal cord must be severed. R. Jacob says: Even if it was only pierced [the animal is trefah]. Rabbi, however, decided cases according to the view of R. Jacob. R. Huna said: The halachah is not in accordance with R. Jacob's view. What is meant by ‘the greater part’? — Rab said: It means the greater part of the circumference of the membrane[15] [which envelops the cord]. Others say [in the name of Rab]: It means the greater part of the circumference of the medulla.[16] Now those who say: ‘the greater part of the circumference of the medulla’, will certainly hold [that the severance of] the greater part of the circumference of the membrane [renders the animal trefah]; but as for those who say: ‘the greater part of the circumference of the membrane’, what would be their view if the greater part of the circumference of the medulla [was severed]? — Come and hear: Niwli said in the name of R. Huna, ‘The greater part’ of which the Rabbis spoke means the greater part of the circumference of the membrane, for the actual medulla is of no consequence.[17]

R. Nathan b. Abin was once sitting before Rab and was examining the spinal cord for any severance of the greater part of the circumference of the membrane and also for any severance of the greater part of the circumference of the medulla; whereupon [Rab] said to him: If the greater part of the circumference of the membrane is intact [no further examination is necessary, for] the actual medulla is of no consequence.

Rabbah b. Bar Hana said in the name of R. Joshua b. Levi: If [the medulla] liquified, [the animal] is unfit; [likewise] if softened, it is unfit. What is meant by ‘liquified’ and by ‘softened’? ‘Liquified’ means that it flows out as from a jug; ‘softened’ means that it cannot stand upright. R. Jeremiah asked: What is the law if it cannot stand upright because of its [abnormal] heaviness? It is Undecided. In the school of Rab it was taught: If it softened, the animal is unfit, but if part wasted away[18] the animal is still fit. The following objection was raised: R. Simeon b. Eleazar said: If part of the spinal substance of an animal wasted away it is trefah. — That was a case where the substance had softened. But surely this is not right,[19] for Levi was once sitting in the public baths when he saw a man shaking his head incessantly[20] and exclaimed: ‘Ah, this man's brain has wasted away’. Now he meant to imply, did he not, that he could not continue to live? — No, said Abaye; he meant to imply that he could not procreate.

How far does the spinal cord extend?[21] — Rab Judah said in the name of Samuel: Up to the interval between the branch nerves.[22] As R. Dimi b. Isaac was intending to go to Be Huzai[23] he came to Rab Judah and said: ‘Would the Master indicate to me the position of these intervals?’ ‘Go’, he replied: ‘fetch me a kid and I will show them to you’. He brought them a fat kid so Rab Judah said to him, ‘In this they are too deeply sunken in and are not distinguishable’. He then brought him a lean kid and Rab Judah said to him, ‘In this they protrude too much[24] and are not distinguishable. But come’, said he, ‘and I will teach you the traditional law. Thus said Samuel, [The severance of the cord in any part] up to the first interval[25] is trefah, in the third interval it is permitted, as to the second interval I do not know’.

R. Huna son of R. Joshua raised the point:

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(1) I.e., the occipital condyles which articulate the cranium to the first vertebra.

(2) I.e., the atrium; the large cavity being the ventricle.

(3) Abaye would therefore suggest that even in the case of the heart the hole must reach as far as the main or large cavity, i.e., the ventricle.

(4) Lit., ‘the house (or center) of the bronchial tubes’.

(5) In either case it is trefah.

(6) Heb. קנה הלב ‘the artery of the heart’.

(7) Lit., ‘the fat’. The aorta was regarded as composed of fat by reason of its whiteness.

(8) I.e., the mediastinal cavity.

(9) The aorta.

(10) The trachea or windpipe.

(11) The vena cava inferior.

(12) And the slightest perforation therein will render the animal trefah.

(13) So that it is trefah only if it was gone entirely.

(14) I.e.. Rab. V. supra p. 202, n. 5.

(15) And it is trefah even though the medulla or spinal tissue is intact and has not been affected at all.

(16) If it is severed to this extent it is trefah even though the membrane which envelops the cord is intact.

(17) Lit., ‘neither raises nor lowers’. For a discussion of this passage in the light of medical science v. Katzenelsohn, op. cit. pp. 132-3.

(18) And a cavity was formed (Rashi). V. Alfasi.

(19) To say that a wasting away of part of the spinal cord leaves the animal valid.

(20) Or ‘who struck his head’ (Aruch).

(21) I.e., at what point does the vitality of the spinal cord cease so that any severance of the cord beyond that point would be of no consequence.

(22) Heb. בין הפרשות, ‘between the partings’, i.e., that part of the cord between the pairs of nerves that branch off from the cord (Rashi, first interpretation). It must be observed that the spinal cord is a long, almost cylindrical rod of nerve tissue accommodated in the vertebral canal, and it extends from the skull to about the middle of the sacrum (the bone at the lower end of the spine and is wedged in between the hip bones). At intervals along the entire length of the cord are given off pairs of spinal nerves (thirty-seven in number, classified as eight cervical, thirteen thoracic, six lumbar, five sacral, and five coccygeal) which break up into branches, and these again into smaller ones until almost every tissue in the body is reached. These spinal nerves (called in the text ‘branch nerves’: Heb. פרשות) as they emerge from the vertebral canal are at once concealed in muscles and are not visible, with the exception of the first three sacral nerves which are visible and soon unite to form the sacral plexus from which proceeds the sciatic nerve, the largest nerve in the body. Accordingly the intervals between the branch nerves spoken of in the text will refer to the length of spinal cord between the first pair of sacral nerves and the second, and between the second pair and the third. The significance of Samuel's statement is that any severance of the cord below the interval is of no consequence and the animal is valid.

(23) The modern Khuzistan.

(24) And the hip bones press hard on the nerves so that they are hardly noticeable.

(25) The first interval is that portion of the spinal cord between the branching off of the first sacral nerve and the second, the second interval between the second and third sacral nerves, and the third interval after the third sacral nerve.

Talmud - Mas. Chullin 46a

Is ‘up to’ inclusive[1] or not?[2] R. Papa raised the point: If you say that ‘up to’ is not inclusive, what is the law then [if the spinal cord was severed] at the point where the nerves branch off?[3] R. Jeremiah raised the point: If you say that ‘up to’ is inclusive, what is the law then if the branch nerve itself[4] [was severed]? — Come and hear: ‘The branch nerve is accounted as flesh.’[5] Presumably this refers to the first and second branch nerves, does it not? — No, it refers to the third.[6]

In a bird, says R. Jannai, [the vitality of] the cord extends as far as [the point opposite] the lower extremity of the wings.[7] R. Simeon b. Lakish says: As far as the point opposite the [beginning of the] wings. Ulla said: I was once standing before Ben pazzi when a bird was brought to him for examination. He had examined [the spinal cord] as far as the point opposite the [beginning of the] wings when he was sent for by the Nasi, whereupon he arose and went away. Now I did not know whether [his leaving at this point was] because he did not consider it necessary to examine it any further or only out of respect for the Nasi.

IF THE LIVER WAS GONE AND NAUGHT REMAINED. It follows, however, that if aught remained, even though less than an olive's bulk, it is permitted; but we have learnt: If the liver was gone, provided there remained an olive's bulk thereof, it is permitted![8] — R. Joseph said: There is no contradiction; the one [Mishnah] represents the view of R. Hiyya and the other the view of R. Simeon b. Rabbi. For R. Hiyya used to throw it away,[9] whilst R. Simeon b. Rabbi would eat it.[10] And in order to remember this, think of the saying: ‘the rich are parsimonious’.[11]

An army once was stationed at pumbeditha. Rabbah and R. Joseph fled the town and were met on the way by R. Zera, who said to them, ‘Fugitives! Remember the olive's bulk of which the Rabbis spoke must be found in the region of the gall-bladder’. R. Adda b. Ahaba said: It must be found in the most vital place.[12] Therefore, said R. Papa, there must be one olive's bulk in the region of the gall-bladder and another in the most vital place.

R. Jeremiah enquired: What is the law if the olive's bulk was [not found in one place but was] obtained by collecting it? or if there only remained of the liver a long, thin strip? R. Ashi asked: What is the law if that which remained of the liver was flattened? These questions remain undecided. R. Zerika enquired of R. Ammi, What is the law if the liver was [for the most part] torn away from its connections though [in parts] it was still attached to the diaphragm? — He replied: In this case of the liver being torn loose I see no difficulty at all, for as to the one who says, there must be an olive's bulk in the region of the gall-bladder, it is so here, and as to the one who says there must be an olive's bulk in the most vital part, that, too, is here.

IF THE LUNG WAS PIERCED. Rab, Samuel and R. Assi say: The outer membrane[13] [must be pierced]; others say [that they said], The inner membrane. R. Joseph b. Manyomi said in the name of R. Nahman, In order to remember this think of the rose-coloured coat in which the lungs lie.[14] It is clear[15] that if the outer membrane was pierced, but not the inner one, [the animal is permitted, for] the inner membrane is a sufficient protection; this being in accordance with Raba's decision, for Raba ruled: That if the outer membrane of the lung was peeled off

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(1) So that the severance of the cord in the first interval is trefah.

(2) And the severance of the cord in the first interval is also a matter of doubt as in the second interval.

(3) I.e., the point in the cord where the first pair of sacral nerves is given off.

(4) I.e., the first sacral nerve (Rashi).

(5) And any severance thereof is of no consequence.

(6) This entire passage has been dealt with in accordance with Rashi's first interpretation. For other interpretations see Rashi and the Commentaries. V. also Glosses of J. H. Dunner on this passage and Katzenelsohn op. cit. pp. 114, 134-7, 280, 282.

(7) V. Tosaf. a.l. and Asheri for meaning of ‘extremity of wings’. It might mean either the extremity of the articulation of the humerus (i.e., the bone of the upper arm) to the scapula (i.e., the shoulder blade), or the extremity of the entire wing as it lies on the body of the bird, V. Commentaries.

(8) Infra 54a.

(9) I.e., where there did not remain of the liver an olive's bulk he regarded the animal as trefah.

(10) Lit., ‘dipped it’ in sauce; i.e., he regarded it as permitted even though there did not remain an olive's bulk of the liver. V. Rashi, however, for another interpretation suggesting the reverse.

(11) Indicating that it was R. Simeon b. Rabbi, son of the Nasi, and a wealthy person, who permitted it.

(12) I.e., where the liver is attached to the diaphragm (by the falciform ligament); others interpret, where the liver is reflected on to the right kidney (by the suprarenal ligament).

(13) Lit., ‘the upper’ i.e., the membrane which envelops the lungs; v. Katzenelsohn op. cit. p. 139.

(14) This refers to the inner membrane or the pinkish coat which invests the pulmonary substance (the parenchyma pulmonis). R. Nahman is of the opinion that the inner is the vital membrane, and this must be pierced in order to render the animal trefah.

(15) This argument follows the second version that the inner membrane is the vital one.

Talmud - Mas. Chullin 46b

, so that now the lung resembles a red date, it is permitted. [The only question is,] if the inner membrane was pierced, but not the outer one, will the latter afford sufficient protection or not? R. Aha and Rabina disagree, one maintains that it does not afford sufficient protection, the other that it does. The law is that it does afford sufficient protection, and this is in agreement with the decision of R. Joseph. For R. Joseph said: If the lung produces a sound [when inflated] and the source of the sound can be located, we must place over that spot a feather or a straw or spittle; if it stirs[1] the animal is trefah, otherwise it is permitted. If the source cannot be located, we must take a basin of luke warm water and put the lung therein. (The water must not be too hot, for then the lungs would shrivel up, nor too cold, for then they would harden; but it must be luke-warm.) We then inflate the lung; if it bubbles it is trefah, otherwise it is permitted, for then it is certain that the inner membrane only has been perforated, but not the outer one, and the sound is caused merely by the air vibrating between the two membranes.

(Mnemonic: A date. Red. Dry. Scabs.)

The text [stated above]: ‘Raba said: If the outer membrane of the lung was peeled off, so that now the lung resembles a red date, the animal is permitted’. Raba further said: If a portion of the lungs turned red, the animal is permitted, but if the whole turned red, it is trefah. Rabina said to Raba, Why is it that where a portion only turned red it is permitted? It is, is it not, because it will eventually recover [its normal colour]? Then surely where the whole turned red it should also be permitted because it will eventually recover [its normal colour]. For it was taught: With regard to other creeping and crawling things[2] [one would not be liable for causing them an injury on the Sabbath] unless the wound bled.[3] Should you argue and say that we ought to compare our case with the case of the ‘Eight species of creeping things’, about which it has been taught: [One is liable for desecrating the Sabbath by injuring these creatures] if only the blood collected in one spot, though there was no bleeding at all, then I would contend that even if only a portion of the lungs had turned red the animal should be trefah.[4] There is therefore no difference.[5]

Raba further said: If a portion of the lungs became dry [the animal] is trefah. To what extent? — R. Papi said in the name of Raba, [It is so dry] that it crumbles with the nail. Is this view only in accord with the opinion of R. Jose b. ha-Meshullam? For we have learnt: What is meant by ‘dried’?[6] That is does not bleed when pierced. R. Jose b. ha-Meshullam says, [It is so dry] that it crumbles with the nail![7] — You can even say that our view is in accord with the opinion of the Rabbis, [but there is, however, this distinction to be drawn]. In the case of the ear of a firstling, inasmuch as it is constantly exposed to wind, it will not recover;[8] whilst in the case of the lungs, since they are not exposed to wind, they will recover.[9]

Raba further said: If the lungs were covered with scabs or with black patches or with patches of various colours,[10] it is permitted.

Amemar said in the name of Raba, We may not compare cysts with each other.[11]

Raba further said: If two lobes of the lungs adhere to each other [by fibrous tissue], no examination thereof can avail[12] [to render the animal permitted]. This is so, however, only if the lobes were not adjacent,[13] but if they were adjacent [it is permitted, for] this is their natural position.[14]

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(1) Heb. מבצבץ 'to bubble', strictly applied to water. The expression is terse and applies to all three, and the meaning is: if the straw or feather flutters, or the water bubbles, the animal is trefah, for this is an indication that there is here a perforation and the air is escaping through it.

(2) I.e., not of those species enumerated in Lev. XI, 29 and 30.

(3) But any other wound caused, though quite red, if it does not bleed, is not regarded as an injury; hence there is no liability for causing such a wound on the Sabbath. Likewise the fact that the lungs have turned red, even completely red, is not to be regarded as an injury or trauma; accordingly it should not render the animal trefah.

(4) The argument is: If the collection of the blood into one place as a result of a blow is technically an injury, and one who inflicts such a blow desecrates the Sabbath, the reason can only be because in all probability the skin will break, and eventually the blood will flow. It should then likewise be held in our case that the animal is trefah even though only a portion of the lung turned red, for the skin will break eventually and there will be a perforation of the lungs.

(5) And in either case-whether the whole or only part of the lungs turned red-it is permitted (Rashi, Alfasi and Maim). R. Hananel and R. Tam hold that in either case it is trefah.

(6) V. Bek. 37a, where it is taught that if the ear of a firstling dried up it is a blemish; and the Mishnah proceeds to define the term 'dried'.

(7) This is a greater degree of dryness than that mentioned by the first Tanna, which, being stated anonymously, was the general opinion of the Rabbis.

(8) And therefore it is regarded as a blemish even though the ear has not become quite dry and brittle.

(9) Accordingly it is trefah only when it is so dry that it crumbles with the finger nail.

(10) Of course only such colours as do not render trefah, v. infra.

(11) If after slaughtering an animal there is found on the lung a burst cyst (on such a part of it as is not usually handled by the slaughterer) but it is not known whether the cyst had burst before the slaughtering, in which case the animal would be trefah, or after the slaughtering, in which case the animal would be permitted, we may not lance another cyst which happens to be on the same lung and compare the two, with the object that if they now resemble each other the animal will be permitted, for it is held that a burst cyst would present a different condition both in colour and in general appearance at different times.

(12) It is trefah, because every adhesion is caused by the presence of a perforation beneath it (Rashi), or because an adhesion will ultimately cause a perforation when it breaks away (Tosaf.).

(13) E.g., if the first lobe was attached to the third lobe.

(14) This being so the adhesion will act as a firm and effective covering over the underlying perforation, and is therefore permitted; so according to Rashi. The view of Tosaf. is that, the lobes being adjacent, there is no apprehension that the adhesion will snap and cause a perforation.

Talmud - Mas. Chullin 47a

Raba further said: If two cysts are contiguous, no examination thereof can avail.[1] If one cyst appears like two,[2] we must take a thorn and burst it; if [the mucous] runs from one into the other, it is clear that there is here only one cyst, and it is permitted, but if not, there are here two distinct cysts [which are contiguous], and it is trefah.

Raba further said: The lungs have five lobes,[3] three on the right side and two on the left [that is, when held up with] the front facing the examiner.[4] If there was one lobe missing or one too many, or if the number of lobes was transposed,[5] the animal is trefah.

There once was brought before Meremar [a pair of lungs with] an additional lobe. R. Aha who was sitting at the entrance [of Meremar's house] asked [the butcher as he was leaving], ‘What did he say about it’? He replied: ‘He declared it to be permitted’. ‘Then take it in to him again’, said R. Aha. Whereupon Meremar said: ‘Go, tell him that sits at the door that the law is not in accordance with Raba in the case of an additional lobe’. This is the rule, however, only if the additional lobe was in line with the other lobes, but if it was interjacent between the lungs,[6] it is trefah.

There once was brought before R. Ashi [a pair of lungs that had] an interjacent lobe. He was about to declare it trefah when R. Huna Mar b. Awia said to him, But all beasts that pasture in the open field have this[7] [interjacent lobe], and it is called by butchers ‘the little rose-lobe’,[8] This is the rule, however, only if it is found in front,

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(1) Raba is of the opinion that where two or more cysts are contiguous they must have been caused by an underlying perforation.

(2) I.e., there appears a dividing line in the cyst.

(3) This does not take into account the main or diaphragmatic lobe which in Hebrew is אומא, as distinguished from אונה, the other lobes.

(4) I.e., when the animal is suspended after the slaughtering by its hind legs ventrally towards-the examiner.

(5) I.e., there were two lobes on the right side and three on the left.

(6) Or anywhere else on the lungs not in line with or in the range of the other lobes.

(7) MS.M. and a number of other MSS. add: ‘And others say: All goats that pasture in the open field have it’. V. Tosaf. ad loc.

(8) So called on account of its thinness like the petal of a rose, and also because of its pinkish colour.

Talmud - Mas. Chullin 47b

but if it is found on the back of the lungs, even though it is as small as a myrtle leaf, it is trefah.

Rafram said: If the lung was like wood, it is trefah. Some explain, [like wood] in colour; others, [like wood] in touch. The former say: ‘in colour’, meaning thereby that when distended it is pale [like wood]; but the others say: ‘in touch’, meaning thereby that it is hard [like wood], or, as some say, that it is quite smooth and has no fissures marking the lobes.[1]

Raba said: If [the lung was] blue it is permitted, if black like ink it is trefah; for R. Hanina said: Black [blood] is [in reality] red blood which has turned black by disease.[2] If green[3] it is permitted, in accordance with R. Nathan; if red it is also permitted, in accordance with R. Nathan. For it was taught: R. Nathan said: ‘I once came to a coastal town and was approached there by a woman who, having circumcised her first son and he died and her second son and he also died, brought her third son to me. I saw that the child was red so I said to her, "My daughter, wait until the blood will become absorbed in him". She accordingly waited and thereafter circumcised her child and he lived and was named Nathan the Babylonian after me. On another occasion when I went to Cappadocia I was approached by a woman who, having circumcised her first son and he died and her second son and he also died, brought her third son to me. I saw that the child had a greenish colour; I examined him and found that he was anaemic, without blood for circumcision. I said to her, "My daughter, wait until the blood will circulate more freely in the child". She accordingly waited and thereafter circumcised her child and he lived and was named Nathan the Babylonian after me'.

R. Kahana said: If [the lung] resembles liver[4] it is permitted, if it resembles meat[5] it is trefah; and in order to remember this, think of the verse: Flesh that is torn of beasts [trefah] in the field.[6]

R. Sama, son of Raba, said: If the lung resembles cuscuta or the crocus or [the yolk of] an egg, it is trefah. But what is meant by the statement above, 'If green it is permitted'? — That it resembles the leek in colour.[7]

Rabina said: If there is an obstruction[8] in the lung, we must fetch a knife and cut open the obstruction. If there is found there an accumulation of pus, then it is clear that the obstruction was caused by the pus, and it is therefore permitted. If there is no pus, we must then place over the obstruction a feather or spittle; if it stirs, it is permitted,[9] otherwise it is trefah.

R. Joseph said: A membrane which had formed on the lungs in consequence of a wound is not a proper membrane.[10]

R. Joseph further said: If the lung produces a sound [when inflated] and the source of the sound can be located, we must place over that spot a feather or a straw or spittle; if it stirs it is trefah, otherwise it is permitted. If the source cannot be located, we must then take a basin of luke-warm water and put the lung therein. (The water must not be too hot, for then the lungs would shrivel up, nor too cold, for then they would harden; but it must be luke-warm.) We then inflate the lung; if it bubbles it is trefah, otherwise it is permitted, for then it is clear that the inner membrane only has been perforated, but not the outer one, and the sound is caused merely by the air vibrating between the two membranes.[11]

Ulla said in the name of R. Johanan: If the substance of the lung [decayed so that it] tosses about as [water] in a jug, it is permitted. Evidently he is of the opinion that a deficiency of substance within an organ is not considered a defect. R. Abba raised this objection against Ulla. We have learnt: IF THE LUNG WAS PIERCED OR WAS DEFICIENT. Now what does 'DEFICIENT mean? Should you say it means a deficiency from the outside, but that would be identical with 'pierced'.[12] It must mean therefore a deficiency within, thus proving that a deficiency within is considered a defect! — No; it really means a deficiency from the outside and as for your objection that it would then be identical with pierced, [I say that] it is stated in the Mishnah only on account of R. Simeon's view. For he said: PROVIDED IT WAS PIERCED AS FAR AS THE MAIN BRONCHI. Now this is his view only where there is a hole without any loss of substance, but where there is a hole with loss of substance even R. Simeon would agree.[13]

Once when R. Hananiah was in R. Nathan and all the great men of that age came to visit him. There was then brought in to him [R. Hananiah] a lung whose substance [had decayed and] was tossing about within as [water] in a jug, and he declared it to be permitted.

Raba said: Provided, however, the bronchial tubes within were intact. R. Aha, son of Raba, asked R. Ashi, How would we know it? — He replied: We take a glazed earthen basin, [pierce the lung] and pour it out into the basin, if there are seen any white streaks it is trefah,[14] but if not, it is permitted.

R. Nahman said: If the substance of the lung decayed[15] within but the entire external covering was intact, it is permitted. It was taught likewise: If the substance of the lung decayed within but the entire external covering was intact, it is permitted, even though [the cavity within] would hold a quarter log. If the womb of an animal was gone,

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(1) There are many variants in the text of this passage; the translation, however, follows the text as found in MS.M. and other MSS. V. D.S. V. also Alfasi.

(2) V. Nid. 19a. Hence black is a symptom of decay and disease.

(3) Heb. ירוקה. This may mean either green or yellow. From the second anecdote of R. Nathan (v. infra) it would seem that yellow is intended, for this would very likely be the colour of the anaemic child; but v. p. 255, n. 1.

(4) I.e., hepatization — a consolidation of the lungs resulting in a liver-like solidification; this occurs in pneumonia.

(5) I.e., carnification — a state of certain organs in which the tissue becomes changed so as to resemble flesh.

(6) Ex. XXII, 30. Suggesting that if it is like flesh it is trefah.

(7) ירוקה therefore means green and not the various shades of yellow, for these are trefah. V. p. 254, n. 3.

(8) So that when the lungs are inflated some part will not distend.

(9) For this indicates that the air can penetrate.

(10) It does not form a strong and effective protection over the wound; it will most certainly break and it is therefore trefah.

(11) V. supra 46b.

(12) And in that case it would be unnecessary to state it expressly in the Mishnah.

(13) That it is trefah even though the perforation does not extend as far as the main bronchi.

(14) The white streaks are particles of the bronchial tubes which have been destroyed within.

(15) It is difficult to distinguish this case from that of Ulla supra, and indeed Maim, regards both statements as one. Rashi, however, distinguishes between the two cases and interprets this statement of R. Nahman thus: If the lung was depleted. i.e., a cavity was formed within but the rest of the pulmonary substance was sound etc.

Talmud - Mas. Chullin 48a

it is permitted. If the liver of an animal was wormy — this was an actual case about which the people of Assia[1] made enquiry when they came up to Jabneh on each of the Three Festivals.[2] On the third time the Rabbis declared it to be permitted. R. Joseph b. Manyomi said in the name of R. Nahman: If the lung adheres to the chest wall there is nothing to be feared;[3] if, however, there is an eruption of ulcers [on the lung close to the adhesion] there is grave fear with regard to it.[4] Mar Judah said in the name of Abimi, In either case there is grave fear with regard to it. What must we do about it? — Said Raba, Rabin b. Shaba explained it to me that we must take a knife with a fine edge and separate [the lung from the chest wall]; if there is a taint upon the wall then we assume that the adhesion was caused by the wall [and the animal is permitted], but if not, we assume that it was caused by the lung and it is trefah.[5] R. Nehemiah b. R. Joseph applied the test of putting it in luke-warm water.[6]

Mar Zutra, son of R. Huna the son of R. Papi, said to Rabina, Do you report the test of R. Nehemiah the son of R. Joseph in connection with the above case? We report it in connection with Raba's case, for Raba said: If two lobes of the lungs adhere to each other [by fibrous tissue], no examination thereof can avail to render the animal permitted. R. Nehemiah the son of R. Joseph, however, used to apply the test of putting the lungs in luke-warm water. R. Ashi demurred: But what is the point of it? In our case the test is reasonable, for we could thereby assume that the disorder was caused by the wall, in which case the animal would be permitted; but in that case [of Raba, what is the point of the test?] If this lobe is found to be perforated the animal is trefah, and if the other lobe is found to be perforated it is also trefah.[7] But did R. Nahman really say this?[8] R. Joseph b. Manyomi surely said in the name of R. Nahman, If the lung was pierced but the perforation was covered up by the [chest] wall, it is permitted! — There is no contradiction: in the latter case the adhesion was formed in that part where by natural development they [sc. the lung and the chest wall] are in contact with each other, whereas in the former case the adhesion was not formed in that part where they are in contact by nature. And at what point is it that by natural development they are in contact with each other? — At the point where the lung is divided into lobes.[9]

The text [above stated]: ‘R. Joseph b. Manyomi said in the name of R. Nahman, If the lung was pierced but the perforation was covered up by the [chest] wall, it is permitted’. Rabina added, provided it had grown into the flesh.[10] R. Joseph asked Rabina, And what would be the law if they had not intergrown? It would [presumably] be trefah, and obviously because we assume that the lung is perforated. But if this be so, even where they had intergrown it should also [be trefah]; for it has been taught: [A man whose privy member] is pierced is unfit,[11] because the flow [of semen] is sluggish [and it does not fertilize]. If the hole had closed up he is fit, for he can procreate. This is an instance where the unfit can in the course of time return to fitness?[12] Now what is excluded by ‘this’? presumably such a case as the above?[13] — No. It only excludes the case of a membrane which had formed on the lungs in consequence of a wound, for it is not a [sound] membrane.[14] R. ‘Ukba b. Hama demurred: Had the wall above [the perforation of the lung] also been pierced it would be trefah, [would it not]? Why then does not the Tanna of our Mishnah include [in the list of defects] ‘the perforation of the wall’? — But even as you will have it, [you are also faced with this type of question]. For R. Isaac b. Joseph said in the name of R. Johanan that if the gall-bladder had been pierced and the liver had completely closed up [the hole] it was permitted. [Now you should ask:] Had the liver above [the hole in the gall-bladder] also been pierced it would be trefah, [would it not]? Why then does not the Tanna of our Mishnah include also ‘the perforation of the liver’? It is obvious, however, that the Tanna does not include the perforation of an organ which is not trefah per se. Here, too, the Tanna does not include that which is not trefah per se.[15]

Rabbah b. Bar Hana enquired of Samuel, ‘What is the law if there was an eruption of ulcers [on the lungs]’? — He replied: ‘It is permitted’. ‘I also said so’, said the other, ‘but the students were hesitant about it,for R. Mattena stated, [If the boils are] full of pus it is trefah; if full of clear water it is permitted’.[16] ‘That statement’, replied Samuel, ‘was made with regard to the kidneys’.

R. Isaac b. Joseph was walking behind R. Jeremiah in the butchers’ market and they noticed certain lungs with ulcers. Thereupon he [R. Isaac] said to R. Jeremiah, ‘Master, would you care to buy of this meat’?[17] He replied: ‘I have no money’. ‘I can get it on credit for you’, he said .[18] The other answered: ‘Why should I put you off’?[19] Whenever such a case as this came before R. Johanan he would always send it to R. Judah son of R. Simeon, and the latter on the authority of R. Eleazar son of R. Simeon always ruled that it was permitted; though he [R. Johanan] himself did not hold that view’.[20]

Raba related, ‘When we were walking behind R. Nahman in the leather dealers’ market

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(1) V. Sanh., Sonc. ed., p. 151, n. 1.

(2) V. Yeb., Sonc. ed., p. 862, n. 12.

(3) That this adhesion was caused by a perforation in the lung, for it is more likely that the chest wall attracted the lung.

(4) For it is manifest that the lung was the cause of the adhesion, which no doubt arose by reason of a perforation.

(5) In the current ed. are added the words, ‘Even though the air does not escape therefrom’. In most MSS. these words are omitted and are obviously superfluous. V. Glos. of Bah.

(6) I.e., where there was found a degeneration in the chest wall to which the lung had adhered, the lung would have to be examined by being placed in a basin of luke-warm water; if the water bubbles — a sign that the air was escaping — it would be trefah.

(7) And there certainly was a perforation in one of the lobes for only that could have caused the adhesion. Of course the reason why the water does not bubble is that a membrane had formed over the perforation.

(8) That where it is definitely established that the lung was perforated — e.g., if there was an eruption of ulcers around the adhesion — it is trefah even though the chest wall securely and firmly covers up the perforation.

(9) I.e., at the top of the chest where the thoracic cavity narrows.

(10) I.e., there was a symphysis of the lung with the intercostal muscles.

(11) I.e., he may not marry an Israelitish woman; V. Deut. XXIII, 2.

(12) Yeb. 76a.

(13) I.e., an animal which has been rendered unfit by reason of a perforation in the lung will never revert to fitness, even though it has grown into the flesh between the ribs; contra R. Nahman.

(14) But it does not exclude the case of the lung, which, though perforated, has intergrown with the flesh between the ribs.

(15) And the perforation of the chest wall is not a defect per se, but only because it no longer affords a secure and effective covering to the perforation in the lung.

(16) And ulcers are sores full of pus.

(17) R. Isaac wished to know whether R. Jeremiah regarded an animal with an ulcerated lung trefah or not.

(18) Reading אקפך; so MS.M.

(19) Lit., 'what shall l do for you?'

(20) He neither declared it permitted nor would he forbid it.

Talmud - Mas. Chullin 48b

(others say: In the public place of the scholars), we noticed lungs covered with large tumors and he [R. Nahman] said nothing about it'. R. Ammi and R. Assi were once passing through the market place of Tiberias when they saw lungs covered with large and hard lumps, and they said nothing to them [the butchers] about it.

It was stated: If a needle was found in the lungs, R. Johanan, R. Eleazar and R. Hanina declare the animal permitted; R. Simeon b. Lakish, R. Mani b. Patish and R. Simeon b. Eliakim declare it trefah. Shall we say that they disagree upon the following law viz., The latter hold that a deficiency within[1] [the lung] is considered to be a defect, whereas the former hold that it is not a defect? — No. All hold that a deficiency within is not a defect, but they disagree in this: the former assume that it entered [the lung] via the bronchus,[2] whereas the latter assume that it pierced [some organ] before it entered.[3]

A needle was once found in a portion of the lung and it was brought before R. Ammi. He was about to declare it permitted when R. Jeremiah (others say: R. Zerika) raised the following objection against him: [We have learnt:] IF THE LUNG WAS PIERCED OR WAS DEFICIENT. Now what does deficient mean? Should you say it means a deficiency from the outside, but that would be identical with 'pierced'. It must mean therefore a deficiency within, thus proving that a deficiency within is considered a defect.[4] The case was then sent to R. Isaac Nappaha, who was also about to declare it permitted when R. Jeremiah (others say: R. Zerika) raised the following objection against him: [We have learnt:] IF THE LUNG WAS PIERCED OR WAS DEFICIENT. Now what does 'deficient' mean? Should you say it means a deficiency from the outside, but that would be identical with 'pierced'. It must therefore mean a deficiency within, thus proving that a deficiency within is considered a defect. The case was then sent back to R. Ammi and he now declared it trefah; whereupon his students said to him, But the Rabbis[5] have declared it permitted. He replied: They permitted it because they saw good grounds for permitting it,[6] but what grounds have we for permitting it? perhaps if the entire lung was before us we should have found it perforated!

Now the reason [for declaring it trefah] was that the entire lung was not before us, but if it were before us and was without perforation it would be permitted. But has not R. Nahman stated that if one of the bronchial tubes was perforated it is trefah?[7] — That is so only where the perforation [in the bronchial tube] lies next to another [bronchial tube].[8] But has not R. Nahman taught that if in the colon an intestine was perforated in that part where it lies next to another [intestine, it is permitted, for] the latter affords a covering? — R. Ashi replied: Are you comparing defects with each other? Amongst the various defects we cannot say that this resembles that; for an animal may be cut in one place and die, and in another place and live.

A needle was once found in the large bronchus. The case was brought before those Rabbis[9] who in the previous case[10] ruled that it was trefah; but they neither forbade nor permitted it. They did not permit it, by reason of their aforementioned view; yet they did not forbid it, because, since it was found in the large bronchus, it most probably[11] entered it [via the windpipe].

A needle was once found in a portion of the liver. Mar, son of R. Joseph, was about to declare [the animal] trefah when R. Ashi said to him, Sir, and if it were found in the flesh [of the animal] would you also declare it trefah?[12] Rather, said R. Ashi, We must see: if the head[13] of the needle is outside [the liver it is trefah, for] it must have pierced [the internal organs] and entered; but if the head is inside [it is permitted, for] it must have entered via the vein![14] This is the rule, however, only in the case of a large needle, but in the case of a fine needle there is no difference whether the head was outside [the liver] or inside,[15] for it is always to be assumed that it pierced [the internal organs] before it entered. And why is this case different from that of a needle which was found

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(1) In this case the needle would corrode the tissues of the lungs, thus forming a deficiency within.

(2) And therefore need not have pierced any of the internal organs; for the needle, it is assumed, passed down the trachea and entered directly, via the bronchus, into the lungs.

(3) These are of the opinion that the needle was swallowed by the animal together with its food and it passed down into the alimentary passages. The needle therefore must have pierced one of these, either the oesophagus or one of the stomachs, and made its way into the lungs.

(4) And around the needle there must have set in decay due to corrosion, which eventually formed a deficiency within.

(5) R. Johanan, R. Eleazar and R. Hanina supra.

(6) As they had the entire lungs before them and saw that there was no perforation in them. The needle therefore could only have entered via the bronchus.

(7) And in our case the needle, conceding even that it came directly via the bronchus, must have pierced one of the bronchial tubes to be found, as indeed it was, in the tissue of the lungs.

(8) I.e., the perforation is at the point where the bronchial tubes branch out. The adjacent tube cannot cover up firmly the hole in this tube as its wall is hard and cartilaginous, whereas elsewhere the tissue of the lung would stop up the perforation.

(9) Sc. R. Mani, Resh Lakish and R. Simeon.

(10) Where the needle was found in the substance of the lungs.

(11) So Rashi. Lit., ‘say’.

(12) Surely not. The perforation of the flesh or of the liver is not a defect.

(13) I.e., the thick head or knob of a pin or nail. It is assumed that a pin in the body would always travel point first and therefore if the point is turned inwards within an organ it must have entered that organ from the outside.

(14) Probably the ductus choledocus. The needle in all probability passed down into the alimentary passage, into the intestines, and thence into the liver via this duct, without piercing any organ. V. Katzenelsohn, pp. 180-183.

(15) In either case it is trefah.

Talmud - Mas. Chullin 49a

in the thick wall of the reticulum, where it is held that if [it protruded only] on one side[1] it is permitted, but if [it protruded] on both sides it is trefah? [Why do we not suggest the test,] ‘Let us see whether the head of the needle is on the outside or on the inside [of the reticulum]’?[2] — I will tell you: in that case since [the reticulum] contains food and drink, it is likely that the food and the drink drove it in.[3]

A needle was once found in the portal vein of the liver. Huna Mar the son of R. Idi declared the animal trefah, whilst R. Adda b. Manyomi permitted it. The case was taken to Rabina for his opinion and he said: ‘Take away the cloaks of those who declare it trefah’.[4]

A date stone was found in the gall-bladder. Said R. Ashi, ‘When we were at the school of R. Kahana he told us that in such a case it is certain that it entered via the portal vein, for although it cannot pass through [easily], it is likely that it was forced through by the movements [of the animal]’. This is so, however, only in the case of a date stone, but an olive stone would most certainly pierce[5] [an internal organ].

R. Johanan said: Why is the lung called reah? — Because it makes the eyes bright.[6] It was asked: Is this so when one eats it [as it is], or only when one uses it medicinally?[7] — Come and hear: R. Huna b. Judah stated that the price of a goose was one zuz, but a goose's lung was four zuzim. Now should you say that when one eats it as it is [it makes the eyes bright], why then should not one buy [the goose] for a zuz and eat also the lungs thereof? It obviously means that when used medicinally [it has this effect].

If the lung was found perforated in a part which is usually handled by the butcher, do we attribute it [to the handling] or not? R. Aha[8] b. Nathan says we do; Mar Zutra the son of R. Mari says we do not. The law is that we do attribute it.[9] R. Samuel the son of R. Abbahu said: ‘My father, one of the heads of the Assemblies[10] under Rafram, said that we do attribute it [to the handling]’. This was reported to Mar Zutra the son of R. Mari, but he would not accept it; whereupon R. Mesharsheya said: It is reasonable to accept the view of my grandfather,[11] since we also attribute a perforation to a wolf.[12] With regard to a worm[13] [found on the lung],there is a difference of opinion between R. Joseph b. Dosai and the Rabbis. One holds that it wormed its way through [the lung] before the slaughtering,[14] the other that it wormed its way through after the slaughtering. The law is that it wormed its way through after the slaughtering[and so it is permitted].

R. SIMEON SAYS, PROVIDED IT WAS PIERCED AS FAR AS THE MAIN BRONCHI. Rabbah b. Tahlifa explained in the name of R. Jeremiah b. Abba, provided it was pierced as far as the large bronchus. R. Aha b. Abba was sitting before R. Huna and recited: R. Maluk said — in the name of R. Joshua b. Levi, The halachah is in accordance with R. Simeon. Whereupon he [R. Huna] said to him, You are quoting Maluk of Arabia, are you not? But he said that the halachah was not in accordance with R. Simeon! When R. Zera went up [to palestine] he found R. Bibi sitting and reciting as follows: R. Maluk said in the name of R. Joshua b. Levi, The halachah is in accordance with R. Simeon. Whereupon he [R. Zera] said to him, ‘By your life! I, R. Hiyya b. Abba and R. Assi happened to be in the town where R. Maluk lived and we asked him, "Did the Master say that the halachah was in accordance with R. Simeon"? And he replied: "I said that the halachah was not in accordance with R. Simeon"’. He [R. Bibi] then said to him [R. Zera], And what tradition have you got in the matter? He replied: Thus said R. Isaac b. Ammi on the authority of R. Joshua b. Levi, The halachah is in accordance with the view of R. Simeon. The halachah, however, is not in accordance with the view of R. Simeon.[15]

IF THE ABOMASUM WAS PIERCED. R. Isaac b. Nahmani said in the name of R. Oshaia, It was the practice of the priests to permit the fat which is on the abomasum [to be eaten], thus agreeing with the view of R. Ishmael which he reported in the name of his ancestors. And in order to remember this,[16] [think of the saying], ‘Ishmael the priest favours the priests’.[17] Where do we see this?[18] — For it was taught; [it is written], On this wise ye shall bless the children of Israel.[19] R. Ishmael said: We observe here a blessing for Israel at the mouth of the priests, but we know of no blessing for the priests themselves; when the verse adds: And I will bless them,[20] it means to say that, the priests bless Israel, and the Holy One, blessed be He, blesses the priests. R. Akiba said: We observe here a blessing for Israel at the mouth of the priests but not from the Almighty; when the verse therefore adds: And I will bless them, it means to say that the priests bless Israel, and the Holy One, blessed be He, approves of it. But whence does R. Akiba derive that the priests also receive a blessing? — R. Nahman b. Isaac said: From the verse: And I will bless them that bless thee.[21] In what respect then does R. Ishmael favour the priests? — In that he establishes in the one verse the blessing of the priests side by side with the blessing of Israel.

What is this opinion of R. Ishmael which he reported in the name of his ancestors? — It was taught: The fat that covereth the inwards[22]

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(1) It only pierced the inside coat of the reticulum.

(2) And if the head of the pin was embedded in the inner wall of the reticulum with its point protruding into the cavity of the reticulum, according to the foregoing argument it should also be trefah, for in all probability the pin entered from outside having first pierced some internal organ.

(3) Even head first into the wall of the reticulum. Therefore so long as it has not pierced both walls it is permitted.

(4) For they are liable in damages if on their ruling the animal was destroyed as trefah.

(5) It is therefore regarded like a needle. But v. Tosaf. s.v. אבל.

(6) There is here a play upon words: ריאה, 'the lungs', and מאירה, 'makes bright'.

(7) I.e., when prepared with other ingredients and applied to the eyes.

(8) V. Marginal Gloss., cur. edd. Adda.

(9) To the handling of the butcher, and the animal is therefore permitted.

(10) Heb. Kallah. The general assembly of Babylonian students v. B.B., Sonc. ed., p. 60, n. 7.

(11) I.e., R. Ahab. Nathan.

(12) v. supra 9a; where a wolf ran off with the lungs and brought them back perforated the holes are attributed to the teeth of the wolf and the animal is permitted.

(13) This parasite had wormed its way through the lung and had perforated the outer membrane.

(14) Accordingly the lung was perforated before the slaughtering and it is therefore trefah.

(15) This is the final ruling of the Gemara.

(16) Lit.,'and thy sign'.

(17) R. Ishmael was a Priest and he always took a lenient view in any matter which affected priests.

(18) That R. Ishmael rules in favour of the priests.

(19) Num. VI, 23.

(20) Ibid. 27.

(21) Gen. XII, 3.

(22) Lev. III, 3. All fat that was offered upon the altar is forbidden to be eaten.

Talmud - Mas. Chullin 49b

etc., includes the fat upon the intestines;[1] this is the view of R. Ishmael. R. Akiba says: It includes the fat upon the abomasum.

Now this is in conflict with the following: [It is written,] And all the fat that is upon the inwards:[2] this, says R. Ishmael, teaches: as the fat upon the inwards [is characteristic in that it] is covered with a membrane which can be easily peeled off, so all fat [which is to be forbidden] must be covered with a membrane which can be easily peeled off.[3] R. Akiba says: It teaches: as the fat upon the inwards [is characteristic in that it] is an even layer, and is covered with a membrane which can be easily peeled off, so all fat [which is to be forbidden] must be an even layer, and covered with a membrane which can be easily peeled off![4] — Rabin sent this answer in the name of R. Johanan: That is, indeed, the proper construction of the latter Baraitha but [the authorities in] the former [Baraitha] must be reversed. But why do you choose to reverse the authorities in the former rather than in the latter Baraitha? — The position is different in the latter [Baraitha] for a it contains the argument 'As . . . so', it is clear, precision was intended.[5] If so, why does it say above 'thus agreeing with the view of R. Ishmael'? It ought to be 'thus agreeing with the view of R. Akiba'?[6] — R. Nahman b. Isaac answered: He [R. Ishmael] reported the decision in the name of his ancestors, though he himself did not accept it.

Rab said: Clean[7] fat can stop up[8] [a perforation], unclean fat cannot.[9] R. Shesheth said: Either can stop up [a perforation]. R. Zera asked: What of the fat of a wild beast?[10] Did he [Rab] mean the expression ‘clean fat can stop up’ to be taken strictly, and as the fat of this is clean [it can stop up a perforation]? Or did he thereby merely imply the reason, namely, that it clings fast, and as this does not cling fast [it cannot stop up a perforation]? — Abaye said to him, What is your difficulty? Though it is permitted to be eaten it obviously does not cling fast.[11]

There came before Raba the case of a perforation that was stopped up by unclean fat. Said Raba, What have we to fear? After all R. Shesheth has ruled that even unclean fat can also stop up; and moreover, ‘The Torah doth spare the money of an Israelite’.[12] Whereupon R. Papa said to Raba, But on the other hand, there is Rab's view [to the contrary]; and moreover, it is a question involving a prohibition of the Torah,[13] and you say: ‘The Torah doth spare the money of an Israelite’!

Manyomin, a pottery dealer, once left uncovered a pot of honey. He came to Raba [to enquire about it], and Raba said: What have we to fear? In the first place, we have learnt: Three liquids are prohibited if left uncovered,[14] viz., water, wine and milk; and all other liquids are permitted.[15] In the second place, ‘The Torah doth spare the money of an Israelite’. Whereupon R. Nahman b. Isaac said to Raba, But on the other hand, there is the view of R. Simeon [to the contrary]; and moreover, it is a question of possible danger to life,[13] and yet you say: ‘The Torah doth spare the money of an Israelite’! (Where have we learnt the view of R. Simeon? — In the following Baraitha: These five liquids are not prohibited if left uncovered: brine, vinegar, oil, honey and muries.[16] R. Simeon says: Even these are prohibited if left uncovered. Indeed, added R. Simeon, I once saw at Zaidan[17] a snake drinking brine! To which the Rabbis retorted: That was a foolish snake, and one cannot adduce a proof from fools!) He then said to him,[18] You must at least admit that I am right with regard to brine,[19] for whenever R. Papa, or R. Huna the son of R. Joshua, or any of the other Rabbis had some liquid that had been left uncovered they would pour it into brine.[20] But, replied the other, you must at least admit that I am right with regard to honey [that it is forbidden], for R. Simeon b. Eleazar is in agreement with him [R. Simeon]; as it has been taught: Similarly, R. Simeon b. Eleazar would prohibit honey [that had been left uncovered].

R. Nahman said: Fat which lies helmet-like [upon the organ] cannot stop up a perforation. What is meant? — Some say, the nodules of fat of the rectum; others say, the pericardium.

Raba said: I heard two decisions of R. Nahman, one about the fat [upon the abomasum] called Himza and the other about the fat [upon the abomasum] called Bar Himza; one stops up a perforation and the other does not, but I do not know which does and which does not. R. Huna b. Hinena and R. Huna the son of R. Nahman said: Bar Himza stops up a perforation, while Himza does not. R. Tabuth said: In order to remember this, think of the saying: ‘the position of the son is better than that of the father’.[21] What is Himza? and what is Bar Himza? — Come and hear: For R. Nahman remarked: They [in Palestine] eat it;

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(1) I.e., the fat that is upon the duodenum (v. infra 93a) is included within the prohibition. But the fat upon the abomasum is permitted according to R. Ishmael. Thus R. Ishmael favours the priests.

(2) Ibid.

(3) According to this definition the prohibition includes the fat that is upon the abomasum and also the fat upon the duodenum, thus contradicting the preceding statement of R. Ishmael that the fat upon the abomasum is permitted.

(4) The fat which is upon the abomasum is not spread evenly over it but is attached to it in lumps; so, too, the fat upon the intestines. The prohibition therefore does not include these.

(5) Since in this Baraitha the argument is based upon the respective definitions which these Rabbis suggest of the fat that is upon the in wards, it is obvious that the Rabbis were exact and precise in their language, and it is out of the question to say that the authorities here are to be reversed.

(6) The authorities in the former passage having been reversed, it is R. Akiba who permits the fat upon the abomasum and not R. Ishmael.

(7) The expressions ‘clean’ and ‘unclean’ in this passage mean ‘permitted’ and ‘forbidden’ respectively.

(8) I.e., can effectively stop up a perforation in the organ to which this fat is naturally so attached. E.g., the fat upon the intestines, being permitted, would effectively stop up a perforation of the intestine beneath it.

(9) E.g., the fat which covers the inwards, being forbidden, would not effectively stop up a perforation of an internal organ.

(10) In the wild beast all fat is permitted, even the fat which covers the inwards. The question therefore is, according to Rab, would the fat which covers the inwards stop up a perforation.

(11) It therefore cannot stop up effectively any perforation.

(12) Cf., Lev. XIV, 36 and the Sifra thereon. V. Rashi.

(13) We should therefore adopt the stricter view.

(14) It is feared that a snake may have drunk from these liquids and deposited its poison therein. V. supra 10a.

(15) A snake, it is said, has no liking for any other liquids but these three, v. Ter. VIII, 4.

(16) מורייס, a kind of pickle containing fish-hash and wine.

(17) Sidon or Bethsaida.

(18) Raba to R. Nahman b. Isaac.

(19) That there is no fear with regard to it even though it was left uncovered, contra R. Simeon.

(20) And they would use the brine because the pungency of the brine would overcome and render harmless any poison that might have been in the liquid.

(21) V. Shebu. 48a. Bar means ‘the son of’. Here the Bar Himza is more effective in stopping up a perforation than the actual Himza itself.

Talmud - Mas. Chullin 50a

surely for us [Babylonians] it should at least be effective to stop up a perforation![1] Now concerning the fat that is upon the greater curvature [of the abomasum] there is no dispute at all that it is forbidden. The dispute is only concerning the fat that is upon the lesser curvature.[2] (Others report: Concerning the fat that is upon the lesser curvature there is no dispute at all that it is permitted; the dispute is only concerning the fat that is upon the greater curvature.)[3]

This[4] accords with the statement of R. Awia in the name of R. Ammi who said: One must scrape away a little from the surface [of the fat upon the lesser curvature].[5] R. Jannai likewise said in the name of an elder, One must scrape away a little from the surface thereof. R. Awia said: ‘I was once present before R. Ammi and [I saw that] they gave him this fat to eat after having scraped away a little from the surface thereof, and he ate it’. The attendant of R. Hanina was standing in attendance before him when R. Hanina said to him, ‘Scrape away a little from the surface thereof and give me the fat to eat’. As he saw his attendant hesitating, he said to him, ‘You are evidently a Babylonian, so you had better cut it off entirely and throw it away’.

It was taught: R. Simeon b. Gamaliel says: If there was a perforation in the intestines but it was stopped up by mucus, it is permitted. What is this mucus? — It is the viscous substance of the intestines which is removed by great pressure. The Following statement R. Abba's colleague — i.e., R. Zera — learnt from R. Abba[6] (others say: R. Zera's colleague — i.e., R. Abba — learnt from R. Zera): R. Abba the son of R. Hiyya b. Abba said: Thus said R. Hiyya b. Abba in the name of R. Johanan: The halachah is in accordance with the view of R. Simeon b. Gamaliel in the matter of ‘Trefah’ and the halachah is in accordance with the view of R. Simeon in the matter of ‘Mourning’. ‘The halachah is in accordance with the view of R. Simeon b. Gamaliel in the matter of Trefah’, as we have stated it above.[7] But what is this matter of ‘Mourning’ [concerning which the halachah is in accordance with the view of R. Simeon]? — It has been taught: In the first three days of mourning he who arrives from a place nearby counts the days of mourning with the others;[8] [if he arrives] from a far place he must count the days of mourning for himself.[9] After these [three days], even if he arrives from a place nearby, he must count the days of mourning for himself. R. Simeon says: Even on the seventh day he who arrives from a place nearby counts the days of mourning with the others. A certain Rabbi said: ‘I pray that I be granted to go up [to Palestine] and learn the law from the mouth of the Master’.[10] When he came he found R. Abba the son of R. Hiyya b. Abba and asked him, ‘Did the Master say that the halachah was in accordance with the view of R. Simeon b. Gamaliel in the matter of Trefah’? — He replied: ‘Indeed, I said that the halachah was not in accordance with his view. ‘And what about the halachah being in accordance with the view of R. Simeon in the matter of Mourning’? — He replied, ‘There is a dispute about this. For it has been stated: R. Hisda said: The halachah is [in accordance with R. Simeon's view]; R. Johanan also said that that was the halachah. R. Nahman, however, said: The halachah is not [in accordance with R. Simeon's view]. The halachah[11] is not in accordance with the View of R. Simeon b. Gamaliel in the matter of Trefah, but the halachah is in accordance with the view of R. Simeon in the matter of Mourning, for Samuel has taught: In matters of mourning the law is always in accordance with him who states the more lenient view.

R. Shimi b. Hiyya said: We may compare defects in the intestines.[12] The intestines of an animal were brought before Raba [containing perforations]. He compared them [with other perforations that he now made] but they did not appear alike; whereupon his son R. Mesharsheya came and handled them,[13] and they now appeared like the others.[14] He [Raba] said to him, ‘Whence did you know to do this’? — He replied: ‘Think of the number of hands that had handled [the original perforations] before they were brought to my Master’! He exclaimed: ‘My son is versed in the laws concerning trefah like R. Johanan’![15]

R. Johanan and R. Eleazar both said: We may compare defects in the lungs. Raba said: This is allowed only in the same lung, but we may not compare the defect in one lung with the defect in the other lung.[16] The law, however, is that the defect in one lung may be compared with the defect in the other lung, the small[17] with the small and the large with the large, but not the large with the small nor the small with the large.

Abaye and Raba both said: We may compare defects in the windpipe. R. Papa said: This is allowed only in the same group[18] [of cartilaginous rings], but we may not compare the defect in one group with the defect in another group [of rings in the same windpipe]. The law, however, is that the defect in the cartilaginous portion of one group may be compared with the defect in the cartilaginous portion of another group; likewise the defect in the membranous portion[19] of one group with the defect in the membranous portion of another group, but we may not compare the defect in the cartilaginous portion with the defect in a membranous portion, nor the defect in the membranous portion with the defect in a cartilaginous portion.

Ze'iri said: If the rectum was perforated it is permitted, for the hips support it, [and close up the perforation]. How much must be mutilated? R. Ila'i said in the name of R. Johanan, Where it is joined [to the hips] only the destruction of the greater part thereof [will render trefah]; where it is not so joined even the slightest perforation [will render trefah]. When the Rabbis reported this statement to Raba in the name of R. Nahman he exclaimed: Have I not told you not to hang on him [R. Nahman]

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(1) This remark of R. Nahman indicates that Bar Himza, which, as stated above, is effective to stop up a perforation, must be the fat which is upon the lesser curvature of the abomasum. For, as immediately follows in the text, it is only this fat (sc. that upon the lesser curvature) which the Palestinians permit themselves to eat and which R. Nahman maintains should at least serve for us to stop up a perforation. The second version in the text (infra) has no bearing upon this remark of R. Nahman. V. Rashi.

(2) The dispute between the Palestinians and the Babylonians revolves about the views of R. Akiba and R. Ishmael (stated supra 49a) as to what constitutes forbidden fat. In this respect it must be remembered that the fat upon the greater curvature of the abomasum is well-nigh flat and lies almost as an even layer upon the abomasum, consequently it is forbidden according to all views, whereas the fat upon the lesser curvature does not lie in an even layer. Now the

Palestinians accepted the view of R. Akiba, that the condition of the fat lying as an even layer is an essential characteristic in the definition of forbidden fat, and this being so they permit the fat that is upon the lesser curvature. The Babylonians, on the other hand, accepted the view of R. Ishmael and consequently forbid this fat.

(3) According to this version all accept the view of R. Akiba that only the fat that lies as an even layer is forbidden; consequently the fat on the lesser curvature is permitted. But the issue between the Babylonians and the Palestinians is as to whether the fat upon the greater curvature is to be regarded as an even layer or not. According to the former it is so, hence it is forbidden; according to the Palestinians it is not so, hence it is permitted.

(4) Sc. the view stated in the first version.

(5) Only the surface of this fat is forbidden as it has been in close proximity to the fat that covers the inwards, which is forbidden. The rest of this fat, however, is allowed to be eaten according to the Palestinian view, and R. Ammi was a Palestinian.

(6) R. Abba, son of R. Hiyya b. Abba, not to be confused with R. Abba mentioned first (Rashi).

(7) That where a perforation in the intestines was stopped up by the viscous substance attached thereto it is permitted.

(8) V. M.K. 21b. A man who was not more than a day's journey away from home when the death of a near relative occurred and who returned to his home within the first three days of the mourning, joins the other mourners in the counting of the Shib'ah, or the traditional seven days of mourning, and his period of mourning comes to an end at the same time as that of the others.

(9) I.e., he must count seven full days of mourning from the time that he arrives, though the other mourners have almost completed their period of mourning.

(10) R. Abba the son of b. R. Hiyya.

(11) This is the final ruling of the Gemara.

(12) I.e., we may compare a perforation found in the intestines concerning which there is a doubt whether it existed before the slaughtering, in which case the animal would be trefah, or it was made after the slaughtering, in which case it is permitted, with a perforation made in that same organ after the slaughtering. If the two perforations are alike in appearance the animal is permitted, for it is clear that they both were made after the slaughtering.

(13) Sc. the newly made perforations.

(14) He therefore declared the animal to be permitted.

(15) V. supra 28b.

(16) I.e., even in the lungs of one animal one may not compare a defect in the right lung with a defect in the left lung, or vice versa.

(17) I.e., the defect in the lungs of a small animal, e.g. sheep or goat, with the defect in the lungs of another small animal: so R. Hananel and first explanation of Rashi. Another suggestion in Rashi is: the defect in the main lobe of one lung with the defect in the main lobe of the other lung, and the defect in the small lobes of one lung with the defect in the small lobes of the other lung.

(18) A section consisting of three rings.

(19) This includes the membranous substance between each of the rings as well as the posterior portion of each ring, for the rings of cartilage are incomplete in part of their circumference, being about one-third filled in by fibrous tissue.

Talmud - Mas. Chullin 50b

empty vessels?[1] Thus said R. Nahman, Where it is joined [to the hips] even if the whole was gone, provided there remained a portion thereof which can be covered by a hand-grasp, it is permitted. How much is this? — A bitra in an ox.[2]

IF THE INNER RUMEN WAS PIERCED. Rab Judah reported in the name of Rab that Nathan b. Shila, chief slaughterer in Sepphoris, testified before Rabbi in the name of R. Nathan as follows: ‘What is the inner rumen? It is the sania dibi’.[3] R. Joshua b. Karha also said that it is the sania dibi. R. Ishmael said: It is the entrance of the rumen.[4] R. Assi said in the name of R. Johanan, It is a narrow part in the rumen but I don't know which it is. Said R. Nahman b. Isaac, The rumen has fallen into the well.[5] R. Aha b. ‘Awa said in the name of R. Assi, It [the above-mentioned narrow part] is that portion of the rumen where it begins to taper down [to join with the gullet]. R. Jacob b. Nahmani said in the name of Samuel, It is that part of the rumen which has no downy lining. R. Abina said in the name of Geniba on the authority of Rab: The last handbreadth of the gullet adjoining the rumen is the inner rumen. In the West [Palestine] it was said on the authority of R. Jose b. Hanina, The entire rumen is the inner rumen. And what is the outer rumen? It is the membrane[6] which covers the greater part of the rumen.[7] Rabbah son of R. Huna said: It is the mafra'ta.[8] What is the mafra'ta? R. Awia said: It is that part of the rumen which is exposed when the butcher tears open the abdomen.[9] In Nehardea they acted on the view of Rabbah son Of R. Huna. R. Ashi asked Amemar, But what about all the other views? — He answered: They are all included in the view of Rabbah son of R. Huna. But what about the view of R. Assi in the name of R. Johanan? — He answered: It has already been explained by R. Aha son of R. Awia.[10] And what about the view of R. Abina and of those in the West? — He answered: These are obviously at variance [with the view of Rabbah son of R. Huna].

R. JUDAH SAYS, IN A LARGE ANIMAL etc. R. Benjamin b. Japhet reported in the name of R. Eleazar, LARGE does not mean a large animal nor SMALL a small one, but the meaning is: If it was torn to the extent of a handbreadth but this was not the greater portion [of the rumen, it is trefah], and this is what the Mishnah teaches us by stating IN A LARGE ANIMAL TO THE EXTENT OF A HANDBREADTH; and if the greater portion was torn but it was not the extent of a handbreadth, [it is trefah], and this is what the Mishnah teaches us by stating IN A SMALL ANIMAL THE GREATER PORTION OF IT.[11] But it is obvious, is it not, that where the greater portion was torn, though it was not the extent of a handbreadth, [it is trefah]? — It was only necessary to be stated with regard to such a case as where the laceration [extended over the greater portion but it] would have made up a handbreadth had it only been torn a little more, for then you might have said that it was not trefah until the extent of a handbreadth was torn; he therefore teaches [that it is not so].

Geniba said in the name of R. Assi: If a circular hole was cut out [in the rumen having a diameter] of a sela', it is trefah, for then if you were to stretch out [the circumference thereof] it would amount to a handbreadth. R. Hiyya b. Abba said: Geniba explained it to me on the bridge of Nehardea thus: A hole [having a diameter] of a sela' is permitted; if it is more than a sela' it is trefah. What, for example, is a hole larger than a sela'? — Said R. Joseph. A hole through which three date stones with some of the fruit attached[12] could pass with pressure, or easily without any fruit thereon.

IF THE OMASUM OR RETICULUM WAS PIERCED. Our Rabbis taught: Where a needle was found impacted in the thick wall of the reticulum, if it had protruded only on one side[13] it is permitted. but if it had protruded on both sides it is trefah. If there was found on it a spot of blood

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(1) I.e., do not attribute to R. Nahman absurd views.

(2) בטרא or בטדא. According to Rashi it means, 'one fingerbreadth'; according to Alfasi and Tosaf. (supra 44a) 'four fingerbreadths'.

(3) סניא דיבי, lit., 'disliked by wolves'. It is a certain part at the top of the rumen which is described by this term. For an exhaustive discussion on this passage v. Katzenelsohn op. cit. pp. 186-189.

(4) Lit., 'the stomach of the rumen'. 'Stomach' was frequently used by ancient doctors to describe the entrance to an organ, viz., 'mouth', 'entrance'.

(5) I.e., the matter is far from clear, for R. Johanan has suggested some portion which he cannot identify or locate.

(6) Lit., 'the flesh'.

(7) I.e., the peritoneum.

(8) מפרעתא from root פרע 'to tear open'.

(9) I.e., the anterior half of the rumen.

(10) That it is that portion of the rumen where it begins to taper, and that is included in the anterior half of the rumen.

(11) Either the one measure or the other measure, whichever is the smaller, will render the animal trefah.

(12) I.e., with some of the fruit attached to the stone.

(13) I.e., it had only pierced the inner coat of the reticulum.

Talmud - Mas. Chullin 51a

it is certain that [the perforation occurred] before the slaughtering;[1] but if there was not found on it a spot of blood [it is permitted,[2] for] it is certain that [the perforation occurred] after slaughtering. If the top of the wound was covered with a crust it is certain that the wound occurred at least three days before the slaughtering;[3] if it was not covered with a crust then the burden of proof lies upon the claimant.[4] Why is this case different from all other cases of perforation of an organ, where the Master declares it to be trefah even though there was not a drop of blood [around the perforation]? — In those cases there was no object to which the blood could cling; here, however, since a needle is impacted [in the reticulum], had it pierced it before the slaughtering some blood would surely have clung to it.

R. Safra said to Abaye: ‘Has my Master seen that scholar who came from the West and who goes by the name of R. ‘Awira? For he relates that once there came before Rabbi the case of a needle found impacted in the thick wall of the reticulum and which protruded only on one side and he declared it trefah!’ Abaye thereupon sent for this scholar, but he would not come; so Abaye went to him. He found him on the roof and he called out, ‘Would you come down Sir’? He would not come down; Abaye then went up to him and said: ‘Would you tell me the actual facts of that case?’ He replied. ‘I am in charge of the assemblies[5] to His Excellency the Great Rabbi,[6] and as R. Huna of Sepphoris and R. Jose the Mede were sitting with him there came before Rabbi the case of a needle found impacted in the thick wall of the reticulum. It protruded only on one side, but when Rabbi turned it over he found, on the outside [directly above the needle], a spot of blood, so he declared it to be trefah, saying: "If there was no wound there[7] whence came the spot of blood"’? Abaye exclaimed: You caused me a great deal of trouble [all for nothing]! It is expressly stated in our Mishnah, IF THE OMASUM OR RETICULUM WAS PIERCED ON THE OUTSIDE.[8]

IF [THE ANIMAL] FELL FROM THE ROOF. R. Huna said: If a person left an animal on the roof and when he returned he found it on the ground below, we do not apprehend any lesion of the Internal organs.[9] A goat belonging to Rabina was on the roof and through the sky-light saw some peeled barley below. It jumped and fell down from the roof to the ground. He [Rabina] came before R. Ashi and enquired. Was the reason for R. Huna's statement, ‘If a person left an animal on the roof, and returned and found it on the ground we do not apprehend a lesion of the internal organs’, that it had something to hold on,[10] but in this case it had nothing to hold on; or was it that it estimated the distance,[11] so that here too it estimated the distance? — He replied. The reason was that it estimated the distance; so that here too it estimated the distance [and it is therefore permitted].

A ewe belonging to R. Habiba was seen dragging along its hind legs. Said R. Yemar, It is suffering from a hip disease.[12] Rabina demurred, perhaps its spinal cord is severed? It was thereupon examined and was found to be as Rabina had thought. Nevertheless the law is in accordance with the view of R. Yemar, for a hip disease is a common disorder, whereas the severance of the spinal cord is not common.

R. Huna said: In the case of rams that attack each other we do not apprehend any lesion of the internal organs, for although they groan with pain the whole time, [we say] it is merely a fever that has taken hold of them. But if they were thrown to the ground we certainly apprehend a lesion of the internal organs. R. Manasseh said: In the case of rams, stolen by thieves,[13] we do not apprehend any lesion of the internal organs. Why? Because when they [the thieves] throw them [over the fence] they throw them in such a manner that they fall on their hips, so that they should run on ahead of them. But it they returned them [by throwing them back over the fence], we certainly apprehend a lesion of the internal organs.[14] This is so, however, only if they returned them on account of fear, but if they returned them by way of repentance they would make proper repentance.[15]

Rab Judah said in the name of Rab: If a man struck an animal [with a stick] upon the head and the blow reached as far as the tail, or if [he struck it] upon the tail and the blow reached as far as the head, [so that in either case the stick came down] upon the entire length of the backbone, we do not apprehend any lesion of the internal organs. If, however, the stick came to an end in the middle of the backbone, we apprehend a lesion of an internal organ;[16] likewise, if the stick had nodes, or if he struck the animal across the back, we must apprehend a lesion of an internal organ.

R. Nahman said: [The passage of the young through] the womb cannot cause a lesion of the internal organs. Said Raba, to R. Nahman: There is [a Baraitha] taught[17] that supports you, viz., ‘A boy, one day old.

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(1) And it is trefah.

(2) Even though the needle protruded on both sides, since there is no blood clinging to it, the animal is permitted. V. Maim. Yad, Shech, VI, 12; also Asheri a.l. and gloss thereto.

(3) So that the sale of this animal, if transacted in these three days, is null and void and the purchaser is entitled to a refund of his money.

(4) There is here a doubt whether the wound occurred before or after the animal had passed from the vendor to the purchaser, and it is for the purchaser who is suing for the return of the purchase money to prove his case, namely, that the animal was already trefah at the time of the sale.

(5) מפטיר כנסיות, ‘Janitor at the meetings of scholars’, Jast.

(6) I.e., R. Judah Ha-nasi, the Patriarch (Rashi). More probably ‘Great Rabbi’ is a title of dignity when speaking of the head of the Academy. So, too, the term לעילא is evidently a title of honour ‘His Excellency’; cf. the parallel Heb. expression, למעלה, in Men. 103b. (Glosses of S. H. Dunner).

(7) I.e., if the needle had not penetrated both walls of the reticulum.

(8) And in the case in question there was sufficient evidence that the needle had pierced both coats of the reticulum.

(9) It may be slaughtered immediately and there is no necessity to examine all the internal organs.

(10) And so by clinging to the wall it breaks its fall and it is not so severe. In this case, however, where the goat jumped through the skylight, there were no walls to which it might have clung; accordingly we must apprehend a lesion of the internal organs.

(11) And considered it safe for a jump, and therefore there is no fear of any injury to any of the internal organs.

(12) A cramp of the hip-joint, sciatica. The animal however is permitted.

(13) Which are thrown over the fence of the enclosure on to the ground.

(14) For they care not how the animal falls to the ground.

(15) So that when returning them they would take every precaution not to injure the animals.

(16) particularly an injury to the spinal cord.

(17) Nid. 43b.

Talmud - Mas. Chullin 51b

can convey uncleanness by reason of an issue’. Now if there was any ground to fear [that the passage through the womb might cause] a lesion of the internal organs, then [surely he should not convey such uncleanness, for] the rule of the verse should be applied here: Out of his flesh,[1] but not by reason of an accident![2] — It may be dealing there with the case of a child that was extracted from the side of his mother.[3]

Come and hear: A calf that was born on a festival may be slaughtered [the same day] on the festival![4] — Here, too, we must suppose that it was extracted from the side.

Come and hear: ‘But they agree[5] that if the firstling was born [on the festival] with a blemish, it is of the class of things designated for food’. Now should you say that this too was extracted from the side, [this cannot be since] a firstling extracted from the side has no sanctity! For R. Johanan has stated. R. Simeon admits[6] that with regard to consecrated animals it [sc. an animal extracted from the side] has no sanctity whatsoever! — We must suppose in this case[7] that it planted its hoofs on the ground.[8] R. Nahman further said: In the slaughter-house[9] we do not apprehend any lesion of the internal organs. An ox once fell and the noise of its groaning was heard. [When it was slaughtered] R. Isaac b. Samuel b. Martha came and bought of the choicest portions of its meat. Thereupon the Rabbis asked him, Whence do you know this?[10] — He replied. Thus said Rab, The animal [whilst falling] plants its hoofs firmly [on the ground] until it actually reaches the ground.

Rab Judah said in the name of Rab: If the animal [after a fall] stood up, it need not be kept alive for twenty-four hours, but it certainly must be examined [against an internal injury].[11] If it actually walked, there is no need for any examination. R. Hiyya b. Ashi said: In either case it must be examined. R. Jeremiah b. Aba said in the name of Rab, If it stretched out its fore-leg to stand, even though it did not stand, [it is as though it had stood]; or if it moved its hind leg to walk, even though it did not walk, [it is as though it had walked]. R. Hisda said: If it made an effort to stand, even though it did not stand, [it is as though it had stood]. The law is: If it accidentally fell from the roof and stood up but did not walk, it must be examined [against an internal injury], but it need not be kept alive for twenty-four hours; if it walked, it needs no examination.[12]

Amemar said in the name of R. Dimi of Nehardea: The examination of which the Rabbis have spoken in the case of a fall must be carried out in the region of the intestines.[13] Mar Zutra said to him, We rule on the authority of R. Papa that an examination must be carried out on all the internal organs. Huna Mar the grandson of R. Nehemiah enquired of R. Ashi, What about the organs of the throat? — He replied. These organs are unaffected[14] by a fall.

Rab Judah said in the name of Samuel: Where a bird was thrown with force upon water it is sufficient if it swam the length of its body.[15] This is so, however, only if it swam upstream,[16] but if it swam downstream,[17] clearly the current of the water carried it along. If the waters were still then it matters not.[18] And if twigs were strewn upon the water and the bird overtook them,[19] then it has obviously overtaken them [by moving of its own accord]. If a sheet was stretched taut [and a bird fell down upon it], we must apprehend an injury to the internal organs; if it was not stretched taut, we do not apprehend an injury. Likewise if the sheet was folded double,[20] [even though it was stretched taut] we do not apprehend any injury. [If a bird was caught in its flight] by a closely knotted net, we must apprehend an injury to the internal organs; if it was not closely knotted, we do not apprehend any injury. [If a bird fell] on flax[21] tied up in bundles, we must apprehend an injury; on the sides of the bundles we do not apprehend any injury. On bundles of reeds, we must apprehend an Injury. On flax which was pounded and corded, we do not apprehend any injury; on flax which was pounded but not corded, we must apprehend an injury. On flax stalks which contain seed vessels, we must apprehend an injury because of the knots. On coarse tow, we must apprehend an injury; on fine tow, we do not apprehend any injury. On dried bark, we must apprehend an injury; but on crushed bark, we do not apprehend any injury. On sifted ashes, we must apprehend an injury;[22] but on unsifted ashes, we do not apprehend any injury.

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(1) Lev. XV, 2.

(2) V. Zabin II. 2. Any issue in a person caused by an accident or injury does not produce the uncleanness which normally results from an issue. Now if there is any apprehension that a child, whilst passing through the womb, might suffer an injury, he should not then convey uncleanness by reason of his issue, for it might have been caused by an accidental injury in birth.

(3) By a Caesarean operation, the child not having passed through the womb.

(4) V. Bez. 6b. The prohibition of mukzeh does not apply, for the dam as well as its young were designated for food on the Festival, v. supra 14a. There is evidently no apprehension whatsoever of an internal injury caused during calving.

(5) Those Tannaim, who in Bez. 26b differ in the case where a firstling became blemished on the festival whether or not it belongs now to that class of food designated for the festival, agree in this case, where the firstling was born with a blemish on the festival, that it may be slaughtered and eaten on the festival, because it was never at any moment of its life forbidden.

(6) V. Nid. 400. There is a dispute there between R. Simeon and the Rabbis on the question whether a child that had been extracted from the side of its mother by means of an operation is to be regarded as a child ‘born’, entailing all those conditions of uncleanness upon the mother as stated in Lev. XII, or not. They are, however, in agreement with regard to consecrated animals, that an animal so extracted has no sanctity whatsoever, for it is expressly prohibited as a sacrifice by the interpretation of Lev. XXII. 27; v. supra 38b.
(7) The case adduced from Bez. 26b supra.
(8) In an attempt to stand. This is a sufficient indication that it has not sustained an internal injury at birth; v. infra.
(9) When the animal is cast on to the ground for the slaughtering.
(10) That there is no apprehension whatsoever of any lesion to an internal organ caused by the fall.
(11) It may be slaughtered immediately but the organs that might have been affected by the fall, e.g., the spinal cord and also the ribs and the intestines, must be examined for any injury.
(12) According to Asheri the ruling in the text does not form part of the Gemara. Rashal deletes the passage.
(13) The intestines and the various stomachs must be examined for any perforation or laceration.
(14) Lit., ‘hardened against’. Therefore no examination of these organs are necessary where the animal sustained a fall.
(15) This corresponds to walking in the case of cattle. There is no longer any fear that the bird was injured Internally and it may be slaughtered immediately
(16) Lit., ‘from below upwards’.
(17) Lit., ‘from above downwards’. In this case there is no indication that it moved of its own accord.
(18) In whichever direction it moved, it is permitted.
(19) Even though it only moved downstream.
(20) A sheet which is folded cannot be stretched quite taut, and therefore it would not cause any injury to the bird.
(21) The reason generally in all these cases is that if the substance is hard or closely packed, a bird falling thereon would sustain internal injuries, but if the pile is soft or loose, the bird would not sustain any injuries.
(22) For when it is piled up in a heap it cakes and hardens and would cause an injury to the bird.

Talmud - Mas. Chullin 52a

On fine sand, we do not apprehend any injury; but on coarse sand, we must apprehend an injury. Likewise on dust of the wayside, we apprehend an injury.[1] On straw, if tied in bundles, we must apprehend an injury; but if loose, we do not apprehend any injury. On wheat, or on similar grain, we must apprehend an injury; on barley, or on similar grain, we must apprehend an injury.[2] On all kinds of pulse,[3] except fenugreek,[4] we must apprehend a lesion of the internal organs. On chick-peas, we do not apprehend any lesion of the internal organs; but on lentils, we must apprehend such an injury. This is the rule: on such things as slip away from each other,[5] we do not apprehend any lesion of the internal organs; but on things which do not slip away from each other, we must apprehend a lesion of the internal organs.

If [a bird was] glued,[6] R. Ashi permits it[7] and Amemar forbids it. If it was glued by one wing only, all agree that it is permitted.[8] They disagree only where [it was glued] by both wings. He that forbids it gives as his reason, How can it keep aloft? But he that permits it says: It can keep aloft in the air by the movement of its wings at the joints.[9] Others report as follows: If [it was glued] by both wings, all agree that it is forbidden. They disagree only where [it was glued] by one wing only. He that permits it gives as his reason, It can very well fly with one wing. But he that forbids it says. Since it cannot fly with the one wing [which is glued] it cannot fly with the other [which is free]. The law is: If both wings [were glued to the board], it is forbidden,[10] if one wing only [was glued], it is permitted.

IF MOST OF ITS RIBS WERE FRACTURED. Our Rabbis taught: This is meant by ‘most of its ribs’: Either six on each side [were fractured] or eleven on one side and one on the other side.[11] Ze'iri added, provided [in each case the fracture was] in that half of the rib nearest the spine. Rabbah b. Bar Hana said in the name of R. Johanan, [We are dealing only] with the large ribs which are filled with marrow. Ulla reported that Ben Zakkai taught: If most of the ribs on one side[12] were dislocated, or if most of the ribs on both sides were fractured, [the animal is trefah]. R. Johanan said: Whether the ribs were dislocated or fractured, [the animal is trefah] only if most of the ribs on both sides [were dislocated or fractured].

Rab said: If a rib together with its vertebra was dislocated, the animal is trefah.[13] R. Kahana and R. Assi asked Rab, What if the rib on each side of the vertebra was dislocated but the vertebra remained firm in its place? — He replied. Then you are speaking of an animal cut asunder![14] But is not Rab's case too the case of an animal cut asunder?[15] — Rab was speaking of the dislocation of a rib only without the vertebra. But did he not expressly say: ‘A rib together with its vertebra’? — He meant, A rib with half of its vertebra. It follows then that R. Kahana and R. Assi were speaking of the case where the ribs [on each side of the vertebra were dislocated] but the vertebra remained firm; would Rab then have replied to them, ‘Then you are speaking of an animal cut asunder’? Has not Ulla reported that Ban Zakkai taught: If most of the ribs on one side were dislocated, or if most of the ribs on both sides were fractured, [the animal is trefah]?[16] — He will say: In that case [of Ulla] the ribs were not opposite each other,[17] but in this case the ribs were opposite each other.[18] But did not R. Johanan say that most of the ribs on both sides must either be fractured or dislocated? And in speaking of most of the ribs on both sides it cannot be otherwise but that at least one rib was dislocated opposite the other![19] — There [in the case of R. Johanan] only the rib, but not the facet, [was dislocated], but here [in the case put by R. Kahana and R. Assi] the rib together with its facet[20] [was dislocated]. But if so, is not this case identical with Rab's own statement?[21] — They had not heard of Rab's statement. Then why did they not ask him [about the dislocation of one rib together with its facet] as in the statement of Rab? — They thought, Let us rather ask him one question which would give us the answer to two. For if we were to ask him about [the dislocation of] one rib [with its facet] we would have had satisfaction only if he had answered that it was trefah, since this same ruling would apply with even greater force to the case of the dislocation of two ribs; but had he answered that it was permitted we would still have been in doubt as to two ribs.[22] But even now when they ask him about the dislocation of two ribs [with their facets] the same difficulty presents itself, does it not? For only if he had answered that it was permitted would they have had satisfaction, since this same ruling would apply with even greater force to the case of the dislocation of one rib, but had he answered that it was trefah they would still have been in doubt as to one rib? — They thought, In that case he would have been annoyed and would have replied. Seeing that the dislocation of one rib [with its facet] renders the animal trefah can there be any question about two?[23] But did they not actually ask him [about the dislocation of two ribs], nevertheless he was not annoyed?[24] — His answer: ‘Then you are speaking of an animal cut asunder’, is the expression of his annoyance.[25]

Rabbah son of R. Shila said in the name of R. Mattena on the authority of Samuel: If a rib was dislodged from its socket,[26] or if the greater portion of the skull was shattered, or if the greater portion of the membrane which covers the greater part of the rumen [was torn] — in each case [the animal] is trefah.

‘If a rib was dislodged from its socket’. I can point out a contradiction to this. [For we have learnt]:

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(1) This too hardens and forms into lumps.

(2) In MS.M. this clause is omitted; in other MSS. the reading is, ‘We do not apprehend any injury’. As the text stands, it is difficult to understand why this clause was not included together with wheat.

(3) E.g., beans or peas. These are smooth and slippery and cannot be piled up into a solid mass.

(4) Or: linseed.

(5) I.e., which are smooth and round and so could not form a hard mass.

(6) By its wings to a board to prevent it from flying away.

(7) If in an attempt to fly it fell down together with the board to the ground.

(8) For it could at least keep itself aloft in the air by its other wing which is free.

(9) Since only the tips of its wings are glued to the board the bird can in a restricted way jerk its wings at the joints and thus keep aloft.

(10) Unless after its fall it stood up and walked.

(11) The animal has twenty-two large ribs each filled with marrow, eleven ribs on each side. Twelve at least of these ribs must be fractured in order to render the animal trefah.

(12) I.e., six ribs.

(13) Even though it is certain that the spinal cord has not been injured.

(14) And it would be nebelah forthwith, v. supra 21a.

(15) Since a rib together with its vertebra has been dislocated the corresponding rib on the other side of that vertebra has also been loosened, hence the animal is virtually divided into two.

(16) So that at least six ribs must be dislocated in order to render the animal trefah. Rab surely would not have said that where only two ribs were dislocated the animal is virtually cut asunder, and is nebelah!

(17) I.e., each of the ribs was dislocated from a different vertebra, but no two ribs were dislocated from the same vertebra.

(18) I.e., the ribs on either side of the same vertebra were dislocated.

(19) For there are but eleven ribs on each side and twelve must be fractured or dislocated in order to render the animal trefah; hence the ribs on either side of at least one vertebra were dislocated.

(20) Lit., ‘the pestle with the mortar’.

(21) For, as we have explained: Rab also was dealing with the dislocation of a rib plus half of its vertebra. i.e., its facet, and he ruled that it was trefah; why then did R. Kahana and R. Assi enquire of Rab as to the dislocation of two ribs and their facets? That would surely be trefah!

(22) They therefore asked him concerning the dislocation of two ribs with their facets.

(23) So that they would have known from the tone of Rab's answer the law about the dislocation of one rib.

(24) Although Rab had already taught that the dislocation of one rib with part of its vertebra i.e., its facet renders the animal trefah.

(25) And this answer of Rab conveyed to them also the information that the dislocation of one rib together with its facet is trefah.

(26) According to Rashi only the rib, but not its facet, was dislodged; according to R. Tam the facet was also dislodged. V. Tos. s.v. נעקרה.

Talmud - Mas. Chullin 52b

‘What is considered a deficiency of the spine? Beth Shammai say. If two vertebrae were missing; Beth Hillel say: If only one was missing’. And Rab Judah said in the name of Samuel that their views are the same with regard to rendering the animal trefah![1] — Here we are speaking of a rib [being dislodged] but not the vertebra and there of a vertebra [being dislodged] but not the rib. I can well understand a rib [being dislodged] without its vertebra but how can it happen that the vertebra [should become dislodged] without [dislodging at the same time] the ribs?[2] — It can happen below at the loins.[3] R. Oshaia raised the question, Why is not this dispute[4] included in the list of differences[5] wherein Beth Shammai adopt the more lenient view and Beth Hillel the stricter view? — Raba answered. Because the dispute arose originally with regard to the law of uncleanness and in this respect Beth Shammai hold the stricter view.[6]

‘If the greater portion of the skull was shattered’. R. Jeremiah asked: Does it mean the greater portion of the height of the skull or the greater portion of its circumference?[7] This remains undecided.

‘If the greater portion of the membrane which covers the greater part of the rumen [was torn]’. R. Ashi asked: Does it mean that the greater portion was torn or that it was gone? But you can surely answer this from our Mishnah which reads: IF THE INNER RUMEN WAS PIERCED OR THE GREATER PART OF THE OUTER COVERING WAS TORN. And this was interpreted by the scholars in the West [palestine] on the authority of R. Jose b. Hanina thus: The entire rumen is the inner rumen. And what is the outer rumen? It is the membrane which covers the greater part of the rumen![8] — Was not this question raised on the statement of Samuel? But R. Jacob b. Nahmani has reported in the name of Samuel that it [sc. the inner rumen] is that part of the rumen which has no downy lining.[9] IF IT WAS CLAWED BY A WOLF. Rab Judah said in the name of Rab: In the case of cattle from the wolf and upwards,[10] and in the case of birds from the hawk and upwards. What does this exclude? Should you say it excludes the cat, surely we have expressly learnt: IF IT WAS CLAWED BY A WOLF![11] And should you further say that the Mishnah merely wishes to teach that a wolf can claw even large cattle,[12] surely [this is not so, for] our Mishnah adds: R. JUDAH SAYS. SMALL CATTLE IF CLAWED BY A WOLF, AND LARGE CATTLE IF CLAWED BY A LION. And should you further say that R. Judah differs [from the view of the first Tanna],[13] surely [it is not so, for] R. Benjamin b. Japhet has stated in the name of R. Ila'a[14] that the sole purpose of R. Judah's statement was merely to explain [the words of the first Tanna but not to dissent therefrom]! — Do you point out a contradiction between one authority and another![15] If you wish, however, I can say that it [the Mishnah] indeed excludes the cat [and yet R. Judah's statement was necessary], for you might have said [the reason why the Mishnah mentions the wolf was because] it was the more common occurrence;[16] he therefore teaches us [that it is not so].

R. ‘Amram said in the name of R. Hisda: Goats and lambs [are trefah] if clawed either by a cat or a marten, birds if clawed by a weasel. An objection was raised: The clawing by a cat or a hawk or a marten [does not render trefah] unless the claw actually penetrated into [the abdominal] cavity.[17] Now it follows from this that the clawing itself is of no consequence! But how do you explain this? Is the clawing by a hawk of no consequence? Surely we have learnt: IF CLAWED BY A HAWK! — This is no difficulty, for the statement [of our Mishnah] refers to birds [being clawed], whereas the statement [of the Baraitha] refers to goats and lambs; but against R. Hisda [this Baraitha] is indeed an objection! — He [R. Hisda] concurs with the view of the following Tanna. For it was taught: Beribbi[18] said: Only in that case when no one was present to save [the attacked animal] did the Rabbis say that the clawing [by a cat] was of no consequence.[19] but when some one was present to save [the attacked animal] the clawing [by a cat] is of consequence.[20] Do you then hold that when no one is present to save [the animal], the clawing [by a cat] is of no consequence? But it once happened that a hen belonging to R. Kahana was being pursued by a cat and it ran into a room. The door shut in the face of the cat so that [in its fury] it struck the door with its paw. There were then found on it five spots of blood![21] — When the attacked animal tries to save itself it is the same as when others are present to save it. But [does not this incident contradict the view of] the Rabbis?[22] — They maintain that it has venom, but the venom does not burn.[23] Others report the passage thus:[24] The author of that Baraitha is Beribbi.[25] For it was taught: Beribbi said: Only in that case when there was some one present to save [the attacked animal] did the Rabbis say that the clawing [by a cat] was of consequence, but when no one was present to save [the attacked animal] the clawing by a cat is of no consequence. Do you then hold that when no one is present to save [the animal] the clawing [by a cat] is of no consequence? But it once happened that a hen belonging to R. Kahana was being pursued by a cat and it ran into a room. The door shut in the face of the cat so that [in its fury] it struck the door with its paw. There were then found on it five spots of blood! — When the attacked animal tries to save itself it is the same as when others are present to save it.

R. Kahana enquired of Rab:

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(1) V. supra 42b. It is here taught that only the removal of a vertebra renders the animal trefah, but not the dislodgement of a rib.

(2) For as soon as the vertebra is removed the ribs on each side of it are dislodged and fall apart.

(3) In the lumbar region where there are vertebrae but no ribs.

(4) Between Beth Shammai and Beth Hillel as to what deficiency in the backbone would render the animal trefah; according to the former two vertebrae must be missing, and according to the latter only one. Thus Beth Shammai clearly hold the more lenient view.

(5) In ‘Ed. IV.

(6) For they hold that the backbone of a corpse will still convey uncleanness to men and vessels in the same ‘tent’ although one vertebra thereof was missing.

(7) I.e., does the greater portion refer to the length of the skull commencing from the eyes rising upwards towards the top of the head, or to the width of the skull, i.e., the distance from ear to ear? (R. Gershom).

(8) According to the interpretation of the scholars in the West the Mishnah expressly teaches that if the greater portion of the membrane was torn, it is trefah.

(9) The Mishnah according to Samuel does not deal with the membrane at all, but only with the actual rumen; it cannot therefore throw any light on the elucidation of Samuel's statement here.

(10) I.e., the Mishnah does not mean a wolf exclusively, but it means any other beast of prey which is larger and fiercer than the wolf. The same is the intention of the Mishnah in the case of birds.

(11) And this clearly excludes the cat.

(12) It is argued that the wolf was expressly stated not in order to exclude the cat but to teach that the clawing by a wolf can render even a large cattle, e.g., an ox, trefah. Small cattle however, e.g., sheep, can be clawed even by a cat.

(13) The first Tanna being of the opinion that a wolf can claw even large cattle.

(14) In MS.M. as well as in Rashi the reading is ‘R. Eleazar’.

(15) Rab does not agree with the view expressed above in the name of R. Ila'a but holds that R. Judah expressed a dissenting view, the first Tanna being of the opinion that the clawing by a wolf would render trefah even large cattle. Now it might have been inferred from this that the clawing by a cat would render trefah small cattle, e.g., sheep and goats; Rab therefore expressly teaches us that a cat is absolutely excluded, and its clawing is of no consequence.

(16) But not to imply that the clawing by a cat is of no consequence.

(17) And pierced an internal organ. Accordingly the claw is on a par with a thorn or a needle, but it does render trefah solely by the clawing and the poisonous discharge that follows.

(18) V. supra 22b.

(19) As stated in the cited Baraitha.

(20) The presence of a rescuer infuriates the cat so that it becomes fiercer in its attack and discharges its venom. R. Hisda concurs with this view, and only in these circumstances does he maintain that the clawing by a cat renders trefah.

(21) I.e., five red spots of venom were found on the door. This indicates that the cat discharges venom in its attack, even though no one was present to save the victim.

(22) The Rabbis who differ from the view of Beribbi maintain that the clawing by a cat is of no consequence under any circumstances. The question is then, How will they explain away the presence of the venom on the door, which indicates that a cat does discharge venom in its attack?

(23) The discharged venom does not destroy any of the organs.

(24) In answer to the objection raised above against R. Hisda from the Baraitha quoted.

(25) But R. Hisda is of the opinion that in all circumstances the clawing by a cat renders trefah. And he maintains hat the Tanna of our Mishnah also concurs with this view.

Talmud - Mas. Chullin 53a

Is the clawing by a cat of consequence[1] or not? — He replied: Even the clawing by a weasel is of consequence. And is the clawing by a weasel of consequence or not? — He replied. Even the clawing by a cat is of no consequence. And is the clawing by a cat or by a weasel of consequence or not? — He replied: The clawing by a cat is of consequence but the clawing by a weasel is not. Now there is really no contradiction between these replies. For when he said: ‘Even the clawing by a weasel is of consequence’, he meant with reference to birds; and when he said: ‘Even the clawing by a cat is of no consequence’, he meant with reference to large sheep; and when he said: ‘The clawing by a cat is of consequence but the clawing by a weasel is not’, he meant with reference to kids and lambs.

R. Ashi asked: Is the clawing by the other[2] unclean birds of consequence or not? — R. Hillel said to R. Ashi: When we were at the school of R. Kahana he taught us that the clawing by the other unclean birds was of consequence. But have we not learnt: SMALL FOWL IF CLAWED BY A HAWK?[3] — It means, the clawing by a hawk is of consequence upon other [birds even as large] as itself, while the clawing by other birds is of consequence only upon others smaller than themselves. Others say that it means, the clawing by a hawk is of consequence upon others even larger than itself, while the clawing by other birds is of consequence only upon others as large as themselves.

R. Kahana said in the name of R. Shimi b. Ashi: The clawing by a fox is of no consequence. But this is not so? For when R. Dimi came [from palestine] he related that there once happened a case where a ewe-lamb was clawed by a fox at the baths of Beth Hini,[4] and when the case was brought to the Sages they ruled that the clawing was of consequence! — R. Safra answered: In that case it must have been a cat [and not a fox]. Others report it thus: R. Kahana said in the name of R. Shimi b. Ashi, The clawing by a fox is of consequence. But this is not so? For when R. Dimi came [from Palestine] he related that there once happened a case where a ewe-lamb was clawed by a fox, and when the case was brought to the Sages they ruled that the clawing was of no consequence! — R. Safra answered: It must have been a dog [and not a fox].

R. Joseph said: We have it on tradition that the clawing by a dog is of no consequence.

Abaye said: We have it on tradition that clawing is only with the fore-leg, thus excluding the hind leg; that clawing is only with the claws, thus excluding the teeth; that the clawing must be intentional, thus excluding an unintentional act;[5] and that the clawing must be by a living animal, thus excluding the clawing by a dead animal.[6] But since you have already said it must not be unintentional, is it then at all necessary to say that it must not be by a dead animal? — It is indeed necessary for the case where the animal struck with its claw and it was immediately amputated. Now you might have thought that it discharges the poison at once when it strikes with the claw, we therefore learn that it discharges the poison only when it withdraws the claw.[7]

Rabbah son of R. Huna said in the name of Rab: If a lion had entered amidst oxen and later there was found a nail [from a lion's claw] lodged in the back of one of them, there is no fear that the lion had clawed it. Why? Because although most lions attack with their claws there are a few that do not; moreover, all that do claw do not usually lose a nail, therefore the fact that this ox has a nail lodged in its back suggests that it had rubbed itself against a wall.[8] On the contrary, we should argue thus: Although most oxen rub themselves against a wall there are a few that do not; moreover, all that do rub themselves against a wall do not usually find a nail lodged in their backs, therefore the fact that this ox has a nail lodged in its back suggests that it was clawed by a lion! — One can argue this way and one can argue that way; therefore as there is a doubt whether [the ox] had been clawed or not[9] [it is permitted, for] Rab is consistent in his view that we are in no way apprehensive of an animal about which there is a doubt whether it has been clawed or not. Abaye said: This is the rule only when the nail was actually there [protruding from the back of the ox], but if there was found the mark of the nail [of a claw upon the back], we are certainly apprehensive about it. And even when the nail was actually there this rule[10] applies only if the nail was moist [with blood], but if it was dry it is quite usual for it to fall loose.[11] And even when the nail was moist the rule applies only to a single nail, but if there were two or three nails [upon the back of the animal] we are apprehensive about it; provided, however, they were in the shape of a paw.

It was stated: Rab says: We are in no way apprehensive of fan animal] about which there is a doubt whether it has been clawed or not; Samuel says. We are apprehensive about it.[12] Now all agree as to the following: if there was a doubt whether it [the lion] entered [among the cattle] or not, we may assume that it did not enter. If there was a doubt whether [an animal had been clawed] by a dog or by a cat, we may assume that it was a dog.[13] If it [the lion] entered, and quietly lay down among the cattle, we may assume that it became friendly with them. If it broke the head of one, we may assume that its fury has thereby been assuaged.[14] If the lion was roaring and the cattle were lowing, we may assume that they are trying to frighten

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(1) So as to render the clawed animal trefah.

(2) Besides the hawk and the falcon which are mentioned in the Mishnah.

(3) Apparently the clawing by other birds is of no consequence.

(4) East of Caesarea, v. Horowitz, I.S. Palestine p. 131.

(5) E.g., where the animal accidentally fell down upon cattle and its claws entered the body of the victim.

(6) Presumably the dead animal had fallen upon cattle and its claws had struck the victim.

(7) So that if the claw had been amputated before it had been withdrawn from the victim, the latter is not trefah, for at the time when the poison is discharged the limb was already dead.

(8) It is so rare an occurrence for a lion to lose a nail while attacking with its claw, that it is much more probable to suggest that the animal got the nail lodged in its back from having scratched itself against a wall in which this nail protruded.

(9) In the current ed. there are added the words: ‘We must place it on its former status’. These words are omitted in MS.M., and are evidently redundant. V., however, Glosses of Samuel Strashun.

(10) That we are in no wise apprehensive about it, so that it is permitted.

(11) From the claw during the act of clawing.

(12) And it is trefah.

(13) The clawing of a dog being of no consequence (supra), the animal is permitted.

(14) And there is no fear for the others. It must be assumed, however, that this was the first victim of the lion.

Talmud - Mas. Chullin 53b

each other.[1] Their dispute arises only where the lion was silent and they were lowing; one [Samuel] is of the opinion that this is an indication that it has already attacked them, whereas the other [Rab] is of the opinion that they are lowing out of fear only.

Amemar said: The law is that we must be apprehensive of [an animal] about which there was a doubt whether it had been clawed or not. Whereupon R. Ashi said to Amemar, But what about Rab's view? — He replied: I have not heard of it, by which I mean to say. I don't agree with it. Or else I can say that Rab withdrew his opinion in favour of Samuel's. For it once happened that a basket of [live] birds, about which there was a doubt whether they had been clawed or not, was brought before Rab. He thereupon sent it to Samuel, who at once strangled the birds and threw them into the river. Now if you were to say that Rab had not retracted his view, then why did he not permit them? But you hold, do you not, that Rab had retracted his view; why then did he not himself forbid them? Rather [what you must say is that] it happened in the town where Samuel lived.[2] Why did he need to strangle them? He could have thrown them alive into the river? — They would then fly away.[3] And why did he not keep them alive for twelve months?[4] — One might fall into sin on account of them.[5] And why did he not sell them to gentiles? — They might re-sell them to Israelites. And why did he not strangle them and throw them on to the dung heap? Then you might just as well ask: Why did he not throw them to the dogs? [The answer] rather [is that] he wanted to make known to all this prohibition.

A duck belonging to R. Ashi went among the reeds and emerged with its neck smeared with blood. Said R. Ashi: We hold, do we not, that wherever there is a doubt whether the animal was clawed by a dog or by a cat it may be assumed that it was clawed by a dog? Here, too, there being a doubt whether it was injured by a reed or clawed by a cat, it may be assumed that it was injured by a reed.[6]

The sons of R. Hiyya said: The examination of which the Rabbis have spoken in the case of ‘clawing’,[7] must be carried out in the region of the intestines.[8] R. Joseph said: This statement of the sons of R. Hiyya was made long ago by Samuel, for Samuel said in the name of R. Hanina b.

Antigonos. The examination of which [the Rabbis] have spoken in the case of clawing, must be carried out in the region of the intestines. Ilfa raised the question: Are the organs of the throat affected by clawing or not? — R. Zera said. The question raised by Ilfa was answered long ago by R. Hanan b. Raba, for R. Hanan b. Raba said in the name of Rab, The examination of which the Rabbis have spoken in the case of clawing, must be carried out over all the internal organs, including even the organs of the throat.

Ilfa raised the question: How much of the organs of the throat must be torn loose [in order to render the animal trefah]? — R. Zera said: The question raised by Ilfa was answered long ago by Rabbah b. Bar Hana, for Rabbah b. Bar Hana said in the name of Samuel, If the greater part [of the circumference] of the organs of the throat was torn loose [from its connection on top], the animal is trefah.

R. Ammi asked: What is the law if decay set in [as a result of clawing]? — R. Zera said: The question raised by R. Ammi was answered long ago by Rab Judah, for Rab Judah said in the name of Rab, In the case of clawing [the animal is not trefah] unless the flesh in the region of the intestines became red. If the flesh decayed it is to be regarded as though it were gone entirely.[9] What is meant by ‘decayed’? — R. Huna the son of R. Joshua said: It is all such flesh as is scraped away by the surgeon in order to leave only healthy flesh. R. Ashi said: When we were at the school of R. Kahana there was brought before us a lung which when laid down lay firm, but when lifted up decomposed and fell to pieces, and we declared it to be trefah, in accordance with the view of R. Huna the son of R. Joshua.[10]

R. Nahman said: In the case of a thorn [the animal is not trefah] unless it penetrated into the [abdominal] cavity;[11] in the case of clawing, unless the flesh in the region of the intestines became red. R. Zebid reported thus: In the case of clawing, [the animal is not trefah] unless the flesh in the region of the intestines became red; and if [clawed in the region of] the organs of the throat, unless the organs themselves became red.

R. Papi reported that R. Bibi b. Abaye raised this question:

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(1) And the lion has not yet attacked the cattle.

(2) Rab did not wish to interfere where Samuel had jurisdiction. This incident therefore does not prove that Rab had retracted his view. V. Rashi.

(3) And might then be caught and sold to Jews as permitted birds.

(4) In accordance with the principle, laid down infra 58a, if these birds live through this period it is a certain indication that they are not trefah.

(5) For in the course of this period it might be forgotten that these birds were being kept under a test, and they might be taken and slaughtered.

(6) So that the examination is limited to the organs of the throat and need not be carried out in the region of the intestines (v. infra). For a fuller explanation of the practical result that arises from this view v. R. Nissim a.l.

(7) Where there was a doubt about an animal whether it had been clawed or not (or, according to Tosaf., even if it was certain that the animal was clawed), it must be examined for any red spots, for these indicate the presence of poison injected into the flesh by the claw.

(8) I.e., the back, the flanks and the abdominal region.

(9) And where the absence of the flesh would render the animal trefah, so also would the decaying of the flesh (Rashi). According to Maim. Yad, Shechitah V, 9, it means here that the decay of any flesh as the result of clawing is always regarded as trefah.

(10) Who laid down the principle that any organ which has decayed or decomposed must be regarded as missing. Here, therefore, it is regarded as though the lung was missing and the animal is trefah.

(11) If, however, the thorn penetrated into the abdominal cavity the animal is trefah, and no examination of the internal organs will be of avail; for a perforation of the intestines would not be noticeable even on examination.

Talmud - Mas. Chullin 54a

With regard to the gullet, as the slightest perforation [is sufficient to render the animal trefah], so too is the slightest indication of clawing; but with regard to the windpipe, since [it is established that] there must be a hole the size of an issar,[1] what is the law as to the clawing thereof? — After raising this question he himself answered it thus: In either organ the slightest indication of clawing [will render the animal trefah]. Why? Because the poison gradually burns away more and more.

R. Isaac b. Samuel b. Martha was sitting before R. Nahman and recited: The examination of which the Rabbis have spoken in the case of clawing, must be carried out in the region of the intestines. Thereupon R. Nahman said to him, 'By God! Rab used to rule [that an examination must be made of all the internal organs] from the pan to the hips'. Now what is 'the pan'? Is it the pan of the fore-limb?[2] But then this view would be identical with [that mentioned above] 'in the region of the intestines'.[3] It must mean, therefore, from the pan of the brain to the hips.[4]

When R. Hiyya b. Joseph went up [to Palestine] he found R. Johanan and R. Simeon b. Lakish stating their view, namely, that the examination of which [the Rabbis have] spoken in the case of clawing, must be carried out in the region of the intestines. He thereupon said: 'By God! Rab used to rule [that an examination must be made of all the internal organs] from the pan to the hips'. Resh Lakish retorted: 'Who is this Rab? Who is this Rab? I know him not'. Said R. Johanan to him, 'Do you not remember that disciple who attended the lectures of the Great Rabbi and of R. Hiyya, and, by God! all the years during which that disciple sat before his teachers[5] I remained standing! And in what [do you think] he excelled? He excelled in everything!'[6] Immediately Resh Lakish exclaimed: Verily that man is to be remembered for good! For in his name has the following dictum been reported, viz., If, after slaughtering, [the windpipe] was found to be torn loose,[7] the animal is permitted, for it is impossible to have cut through an organ that had been torn loose.[8] R. Johanan, however, said: He should compare it.[9] R. Nahman said: The rule [of Rab] holds good only if the slaughterer did not grasp the organs [when slaughtering], but if he did grasp the organs, [the slaughtering is invalid, for] then it is possible to cut through an organ that had been torn loose.

THIS IS THE RULE. What cases does it include? — It includes the Seven Statements.[10]

The members of the house of Joseph the fowler used to kill beasts by striking them on the sciatic nerve. When they came to enquire[11] of R. Judah b. Bathyra, he said to them, 'May we then add to the list of defects [which render an animal trefah]? We accept only those enumerated by the Rabbis'. The members of the house of R. Papa b. Abba the fowler used to kill beasts by striking them on the kidney. When they came to enquire[11] of R. Abba, he said to them, 'May we then add to the list of defects? We accept only those enumerated by the Rabbis'. But do we not see that the beast dies [from the blow]? It is established [beyond doubt] that if salves were applied, it would live.

MISHNAH. AND THE FOLLOWING [DEFECTS] DO NOT RENDER CATTLE TREFAH: IF THE WINDPIPE WAS PIERCED, OR SLIT LENGTHWISE;[12] (TO WHAT EXTENT MAY IT BE DEFICIENT? R. SIMEON B. GAMALIEL SAYS, UP TO AN ITALIAN ISSAR).[13] IF PART OF THE SKULL BROKE OFF BUT THE MEMBRANE OF THE BRAIN WAS NOT PIERCED; IF THE HEART WAS PIERCED BUT NOT AS FAR AS THE CAVITY THEREOF; IF THE SPINE WAS BROKEN BUT THE CORD WAS NOT SEVERED; IF THE LIVER WAS GONE BUT AN OLIVE'S SIZE THEREOF REMAINED; IF THE OMASUM AND RETICULUM WERE PIERCED ON THE INSIDE;[14] IF THE SPLEEN WAS GONE, OR THE KIDNEYS, OR THE LOWER JAW-BONE.[15] OR THE WOMB; IF THE LUNG WAS SHRIVELLED UP BY AN ACT OF GOD.[16] IF AN ANIMAL WAS STRIPPED OF ITS HIDE, R. MEIR DECLARES IT VALID BUT THE RABBIS DECLARE IT INVALID.

GEMARA. It was reported: R. Johanan says. The former Mishnah, ‘The following [defects] render cattle trefah’, is to be emphasized; R. Simeon b. Lakish says. This Mishnah, ‘AND THE FOLLOWING [DEFECTS] DO NOT RENDER CATTLE TREFAH’, is to be emphasized. What is the real issue between them? — It is R. Mattena's case. For R. Mattena ruled: If the top of the femur slipped out of its socket, the animal is trefah — Now R. Johanan who said that the former Mishnah, namely, ‘The following [defects] render cattle trefah’, was to be emphasized. argues thus: The Tanna stated various defects and finally added: ‘This is the rule’.

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(1) V. next Mishnah.

(2) I.e., the shoulder-blade or scapula.

(3) For it includes all the internal organs, the lungs and the liver, and these are the organs comprehended within the expression ‘from the scapula to the hips’.

(4) And this would include the organs of the throat too.

(5) I.e., as an advanced student Rab was permitted to sit at the lectures.

(6) Aliter: ‘What kind of man was he? He was a man in everything’.

(7) And it is doubtful whether it was torn loose before or after the slaughtering.

(8) The fact that the organ has been cut in the proper manner proves that it was torn away only after the slaughtering.

(9) Lit., ‘he should bring and compare’. I.e., he should make another cut in this same windpipe, and if the cuts resemble each other the animal would be trefah, for it is evident that just as the second cut so the first cut too was made in an organ that had already been torn loose.

(10) V. supra 42a and b.

(11) To ascertain whether the slaughtering of an animal so struck would be valid or not.

(12) But none of ‘its substance was missing; V. supra 45a

(13) A coin, the Roman as, a twenty-fourth part of a denar.

(14) I.e., the perforation was in that part where one organ lies close to the other without any space intervening. The food therefore would only pass from one organ into the other and could in no way cause an infection of the internal organs.

(15) The organs of the throat, however, remained intact attached to the muscles of the throat.

(16) Lit., ‘by the hands of heaven’. I.e., sclerosis of the lung, here caused by a fright through an act of nature, by thunder or by lightning.

Talmud - Mas. Chullin 54b

He saw, however, that R. Mattena's case might be admitted [as a trefah] under the clause ‘This is the rule’,[1] for it is well nigh similar to a case where the entire organ was gone, he therefore taught: ‘The following [defects] render cattle trefah’, emphasizing that only the following render cattle trefah, but the defect stated by R. Mattena does not render the animal trefah. R. Simeon b. Lakish who said that this Mishnah, namely, ‘AND THE FOLLOWING [DEFECTS] DO NOT RENDER CATTLE TREFAH’, was to be emphasized, on the other hand, argues thus: The Tanna stated various defects and finally added: ‘This is the rule’. He saw, however, that R. Mattena's case might not be admitted [as a trefah] under the clause ‘This is the rule’, for it is not quite the same as when an organ is pierced or severed or gone entirely, he therefore taught: THE FOLLOWING [DEFECTS] DO NOT RENDER CATTLE TREFAH, emphasizing that only the following do not render an animal trefah, but the defect stated by R. Mattena does.

The text [stated above]: ‘R. Mattena ruled: If the top of the femur slipped out of its socket, the animal is trefah’. Raba, however, ruled that it was permitted; though if the ligaments were severed it is trefah. The law is: Even if the ligaments were severed it is permitted, unless they had decayed.[2]

TO WHAT EXTENT MAY IT BE DEFICIENT? etc. Ze'iri said: ‘You, who have never seen the size [of an Italian issar], may take instead as a standard the size of a Gordian denar,[3] which is equal in size to the small peshita, current among the small coins of Pumbeditha’. R. Hana, the money-changer, said: ‘Once there stood before me Bar Nappaha who asked me for a Gordian denar with which to measure a defect. I wanted to rise before him but he would not allow me, saying. "Sit down, my son, sit down. Craftsmen are not allowed to rise before scholars whilst they are engaged in their work"’.[4] But are they not? Surely we have learnt: All craftsmen must rise before them,[5] enquire after their welfare and greet them, ‘Our brethren from such and such a place, ye are welcome’. — R. Johanan said: Before them they must rise but not before scholars. Thereupon R. Jose b. Abin remarked: Come and see, how precious is a precept when performed in its due season! for they [craftsmen] must rise before these but not before scholars! But whence do you gather this? Perhaps [they are shown respect] so as not to put a stumblingblock in their way for the future![6]

R. Nahman said: An exact sela’ is regarded as more than a sela’; likewise an exact issar is regarded as more than an issar.[7] This shows that R. Nahman is of the opinion that ‘up to’ is not inclusive.[8] Raba raised an objection against R. Nahman. We have learnt: A string which hangs over from the texture of a bed, [that is of any length] up to five handbreadths, is clean.[9] Presumably if it was exactly five handbreadths it would be regarded as less![10] — No. Exactly five would be regarded as more.[11] Come and hear: If it was from five up to ten handbreadths in length, it is unclean. Presumably if it was exactly ten handbreadths long it would be regarded as less.[12] — No. Exactly ten would be regarded as more.

Come and hear: Small earthenware vessels, or the bottoms or sides [of broken earthenware vessels] that can stand without support.

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(1) Which clause was added for the sole purpose of including other defects not specifically mentioned.

(2) In which case the animal would be trefah.

(3) Name of a gold denar coined by one of the Roman emperors by that name.

(4) I.e., whilst working for others (Rashi). According to Tosaf., however, it may mean that even when they are engaged in their own work they need not stand up.

(5) Sc. those Jews who came to Jerusalem bringing with them the offering of firstfruits to the Temple. V. Bik. III, 3.

(6) For if they were not shown respect when they came, they might refrain from coming again in the future. But it is certainly not the case, as was suggested by R. Jose b. Abin, that their action is more commendable than the study of the Torah.

(7) Wherever the Rabbis fixed the standard of measure, either a sela’, as in the case of a deficiency in the skull or a deficiency in the rumen, or an issar, as in our Mishnah, they intended to convey that where the measure was exactly the size of the standard fixed it was always to be regarded as more than the standard, with all the results consequent thereto.

(8) For when our Mishnah says: UP TO AN ITALIAN ISSAR, It means that up to that size is a deficiency permitted, but the deficiency of an exact issar, being regarded as more than an issar, would render the animal trefah.

(9) V. Kelim XIX, 2. If the bed was rendered unclean, this piece of string which has not yet been cut away from the texture of the bed would not be unclean, for it is insignificant. If, however, it was more than five handbreadths in length it would be unclean, for it would then be of some use — indeed, with this length of string they used to tie up the Passover lambs and hang up the beds. If it was more than ten handbreadths in length it would be clean, for it is considered independent from the texture, and hence cut away from it, and it is established law that a string by itself cannot be rendered unclean.

(10) I.e., less than five handbreadths and it would be clean; thus proving that ‘up to’ is inclusive.

(11) I.e., more than five handbreadths and it would be unclean; for ‘up to’ is exclusive.

(12) And unclean; v. p. 298, n. 6.

Talmud - Mas. Chullin 55a

[can contract uncleanness if they can now hold] enough oil to anoint a limb of a child,[1] [provided that, when unbroken, these vessels could hold any amount] up to a log. Presumably what could hold exactly a log would be regarded as holding less![2] — No. Exactly a log would be regarded as holding more.[3] Come and hear: If [these vessels, when unbroken, could hold anything] from a log up to a se'ah, [their remnants must now be capable of holding] one quarter log. Presumably what holds exactly a se'ah would be regarded as holding less! — No. Exactly a se'ah would be regarded as holding more.[3] Come and hear: If [these vessels, when unbroken, could hold anything] from one se'ah up to two se'ahs, [their remnants must now be capable of holding] one half log. Presumably what holds exactly two se'ahs would be regarded as holding less! — No. Exactly two se'ahs would be regarded as holding more.[4] But it has been taught: If the vessel, when unbroken, could hold exactly a log it must be regarded as holding less, or if exactly a se'ah it must be regarded as holding less, or if exactly two se'ahs it must be regarded as holding less.[5] — [It must be said that] there [and in all cases] the stricter view is adopted.[6] For R. Abbahu reported in the name of R. Johanan: All standards fixed by the Rabbis are to be applied strictly except the size of a bean, the standard for stains,[7] which is to be applied leniently. And there is, indeed, a support for this ruling; for the following has been taught as a comment [upon that Mishnah]:[8] If it was exactly five handbreadths long it is regarded as more, but if it was exactly ten handbreadths long it is regarded as less.[9]

IF THE SPLEEN WAS GONE. R. ‘Awira said in the name of Raba: This was taught only if it was gone, but should it have been pierced it would be trefah. R. Jose b. Abin (others say: R. Jose b. Zabida) raised this objection. We have learnt: Whatsoever is cut off from the embryo within the womb [of the animal and left inside] may be eaten,[10] but whatsoever is cut off from the spleen or kidneys [of the animal itself and left inside] may not be eaten. It follows, however, that the animal itself is permitted![11] — No; the law is that the animal itself is also forbidden, but only because the Tanna stated in the first clause that it[12] may be eaten did he state in the second clause too that it[12] may not be eaten.[13] Alternatively, I can say: Pierced is one thing but cut another.[14]

IF THE KIDNEYS WERE GONE. Rakish b. Papa said in the name of Rab, If one kidney was diseased it is trefah. In the West it was said: Provided the infection extended

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(1) Whatsoever cannot hold this quantity is not regarded as a receptacle and the law of uncleanness does not apply. On the question whether or not this minimum quantity is essential in an unbroken earthenware vessel, v. Tosaf. a.l. and the commentaries on this Mishnah in Kelim II. 2.

(2) I.e., less than a log; and the standard of ‘enough oil to anoint a limb of a child’ would apply, thus proving that ‘up to’ is inclusive. Log and se'ah are Heb. measures both of liquids and of solids.

(3) And the standard stated in the next clause would apply.

(4) And in order to be able to contract uncleanness the minimum capacity of a remnant of a vessel which, when unbroken, held more than two se'ahs is one whole log. V. Kelim II, 2.

(5) It is evident from this Baraitha that ‘up to’ is always inclusive.

(6) The conclusion therefore is that the expression ‘up to’ sometimes is and sometimes is not inclusive. If, in any context, a matter up to a certain measure is permitted (as in the case of our Mishnah supra 54a), the strict view must be adopted and ‘up to’ will not be inclusive. But, on the other hand, if any matter up to a certain measure is forbidden, or is capable of being rendered unclean, the strict view must again be adopted and ‘up to’ will be inclusive.

(7) If a woman observes a blood stain, the size of a bean, on her under-clothes she becomes unclean, for the stain might be the blood of menstruation. If the stain is exactly, or less than, the size of a bean, she would not be unclean, for she may set it down to the blood of a louse; v. Nid. 58b. The reason for this leniency is because the law relating to stains is merely Rabbinic.

(8) In Kelim XIX, 2. V. supra p. 298, n. 6.

(9) In each case the string is rendered unclean because we adopt throughout the stricter ruling, so that in the first case of this Baraitha ‘up to’ is not inclusive but in the second case it is.

(10) When the animal is slaughtered subsequently. V. infra 68a.

(11) Even though its spleen was cut, which is presumably very much the same as when pierced; thus refuting R. ‘Awira's ruling.

(12) Sc. the actual part that was cut off.

(13) But the animal itself is also trefah by reason of this mutilation of its spleen.

(14) I.e., the law is different in each case. Where the whole or part of the spleen has been removed the animal is permitted, but where it has pierced it is trefah according to R. ‘Awira. This is a difficult distinction to accept, and indeed it is omitted in many MSS. V. Marginal Gloss and notes on this passage in D.S.

Talmud - Mas. Chullin 55b

up to the hilum [of the kidney]. Where is this? — At the white [calyces in the middle of the kidney] which are immediately below the loins. R. Nehuniah said: I enquired of all those who decide questions of trefah in the West and they told me that the law was in accordance with the ruling of Rakish b. Papa, but that the law was not in accordance with the ruling of R. ‘Awira. This[1] is so, however, only if it [the spleen] was pierced in the flat part, but if it was pierced in the thick part it is trefah. And if there remained [of the spleen] the thickness of a golden denar [that had not been pierced], it is permitted.

It was said in the West: Whatsoever is considered a defect in the lung is not a defect in the kidney, for a perforation is a defect in the lung and is not a defect in the kidney; and of course, whatsoever is not considered a defect in the lung is not a defect in the kidney. R. Tanhuma demurred: Is this a fast rule? But take the case of pus, which [if found] in the lung is not considered a defect, but in the kidney is considered a defect. And indeed, take the case of clear water which [if found] in either organ is not a defect.[2] Rather said R. Ashi: Do you compare defects with each other? Amongst the various defects we cannot say that this resembles that; for an animal may be cut in one place and die, and in another place and live.[3] Now this ruling, that if filled[4] with clear water it is permitted, applies only if the water was pellucid, but if it was turbid it is trefah. And the ruling, that if filled with pellucid water it is permitted, applies only if the water was not fetid, but if it was fetid it is trefah.

If the kidney diminished in size,[5] down to a bean in the case of small cattle, or down to a medium sized grape in the case of large cattle, [it is trefah].[6]

(IF THE LOWER JAW-BONE WAS GONE. R. Zera said: The Mishnah teaches [that it is permitted] only where the animal can continue to live by the stuffing and the pushing of food [into its gullet], but if it cannot continue to live by the stuffing and the pushing of food [into its gullet] it is trefah.)[7]

IF THE WOMB WAS GONE. A Tanna taught: ‘Em, tarpahath, and shalpuhith, are all one and the same thing.[8]

IF THE LUNG WAS SHRIVELLED UP[9] BY AN ACT OF GOD IT IS PERMITTED. Our Rabbis taught: What is harusah?[9] If its lung was shrivelled up; if by an act of God it is permitted, but if by the act of man[10] it is trefah. R. Simeon b. Eleazar says: Even by other creatures. It was asked: Does he [R. Simeon b. Eleazar] refer to the first clause,[11] thus making the law more lenient, or does he refer to the second clause,[12] thus making it more strict? — Come and hear: It was taught: If it was shrivelled up by an act of man it is trefah. R. Simeon b. Eleazar says: Even by other creatures [it is also trefah].

Rabbah b. Bar Hana was once travelling through a desert when he came upon certain rams whose lungs were all shrivelled up.[13] He went and enquired about them at the college, and was told the following: In summer one must take white glazed basins, fill them with cold water, and leave the lungs therein for a period of twenty-four hours; if they return to their normal state it is a sign that it was caused by an act of God, and they are permitted, otherwise they are trefah. In winter one must take dark[14] glazed basins, fill them with warm water, and leave the lungs therein for a period of twenty-four hours; if they return to their normal state they are permitted, otherwise they are trefah.

IF AN ANIMAL WAS STRIPPED OF ITS HIDE. Our Rabbis taught: If it was stripped of its hide, R. Meir declares it valid, but the Rabbis declare it invalid. Long ago Eleazar the scribe and Johanan b. Gudgada had testified that an animal stripped of its hide was invalid. R. Simeon b. Eleazar said that R. Meir had retracted his view. It would follow, therefore, that according to R. Simeon b. Eleazar R. Meir did dispute the law of an animal stripped of its hide [with the Rabbis]. But Surely it has been taught: R. Simeon b. Eleazar said: There was never any dispute between R. Meir and the Rabbis in the case of an animal stripped of its hide, for it is certainly invalid. Moreover, R. Oshaia, the son of R. Judah the spice-dealer, had testified before R. Akiba on the authority of R. Tarfon, that an animal stripped of its hide was invalid. But if there remained thereof the size of a sela', it was permitted! — R. Nahman b. Isaac answered that the words, 'There was never any dispute', meant that R. Meir did not persist in the controversy.[15]

The Master stated: 'If there remained thereof the size of a sela' it was permitted'. Where must this be? — Rab Judah said in the name of Samuel: Along the entire backbone. It was asked: Does this mean, a long thin strip [along the entire backbone], so that when rolled up it would be the size of a sela', or does it mean, [a strip] the width of a sela' along the entire backbone? — Come and hear, for R. Nehorai explained it on the authority of Samuel to mean, [a strip] the width of a sela' along the entire backbone. Rabbah b. Bar Hana said, [There must be the size of a sela'] at the top of every joint. R. Eleazar b. Antigonos said in the name of R. Eleazar b. R. Jannai, At the navel. R. Jannai son of R. Ishmael raised this question: What if the skin along the entire backbone was gone but all the rest of it remained, or if the skin at the navel was gone but all the rest of it remained, or if the skin at the top of each joint was gone but all the rest of it remained? — This remains undecided.

Rab said: Any [remnant of] skin anywhere [the size of a sela'] saves [the animal from being declared trefah], except the skin around the hoofs.[16] But R. Johanan said: Even the skin around the hoofs saves [the animal from being declared trefah]. R. Assi enquired of R. Johanan, 'Would the skin around the hoofs save [the animal from being declared trefah]?' — He replied: 'It would'. 'But', retorted the other, 'you, our teacher, have taught us, "In the following cases the skin is accounted as flesh: . . . the skin around the hoofs"'.[17] — He replied: 'Do not weary me [with your arguments], for I taught that as the opinion of an individual.[18] For it was taught:[19] If a man slaughtered a burnt-offering purposing to burn an olive's bulk of the skin from under the fat tail[20] at the improper place, the sacrifice is invalid, and he is not liable to the punishment of Kareth,[21] but [if he purposed to burn it] at the improper time, it would be piggul,[21] and he would be liable to the punishment of Kareth. Eliezer b. Judah of Ibelaim[22] stated in the name of R. Jacob, similarly R. Simeon b. Judah of Kefar 'Ikus[23] stated in the name of R. Simeon, [If a man while slaughtering a burnt-offering purposed to burn] either the skin around the hoofs, or the skin of the head of a young calf,[24] or the skin from under the fat tail, or any of the skins which were enumerated by the Sages in connection with the law of uncleanness when they stated that 'In the following cases the skin is as the flesh'[25]

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(1) That R. 'Awira's ruling is not accepted.

(2) This question is unintelligible, and Rashi is at a loss to explain it. The fact that this is clearly implied in the second ruling which followed as a matter of course makes this statement meaningless; but v. Tosaf a.I. It seems that the entire passage is corrupt. R. Gershom comments upon this line, but on the other hand does not seem to have had the second ruling in his text. A very likely original text is to be found in the Alfasi on this passage, q.v.

(3) And consequently some defect may not be accounted trefah in the lung and yet be trefah in the kidney.

(4) Sc. the lung or the kidney.

(5) The kidney shrivelled up or wasted away by disease; this is known as Bright's disease.

(6) So Maim. and Asheri; but v. Hal. Ged.

(7) The whole of this paragraph is omitted in most MSS. Asheri remarks that the law stated in this passage is based on the authority of the Geonim, so that it is clear that it did not form part of the text of the Gemara. Rashal deletes it from current ed.

(8) אם, טרפחות, שלפוחית. They all mean the womb or matrix.

(9) Heb. חרותה, 'engraved, wrinkled or shrunken'.

(10) A person frightened the animal either with a stick or by slaughtering another animal in its presence (Alfasi).

(11) I.e., a fright caused by other creatures, e.g., the roaring of a lion, would come under the category of an act of God, and would be permitted.

(12) That it is in the same category as the act of man, and it would be trefah.

(13) But it was not known whether the lungs were shrivelled up by an act of God or by the act of man.

(14) Or: 'copper basins', and in the former case earthenware basins'.

(15) But finally agreed with the view of the Rabbis.

(16) I.e., the skin of the nethermost limb of either the fore-legs or the hind legs; v. infra 122a. This skin is quite tender and is regarded as flesh and not as hide; consequently such skin would not save the animal from being declared trefah.

(17) V. infra 122a. The skin being tender conveys uncleanness like the flesh.

(18) The opinion in the Mishnah quoted agrees with the second opinion in the following Baraitha, but is not the accepted law.

(19) Zeb. 282.

(20) According to this view this is the only skin that is regarded as flesh.

(21) V. Glos.

(22) Abel in the neighbourhood of Sepphoris; v. Klein Beitrage, p. 28.

(23) A variant for Ketar Acco in lower Galilee.

(24) I.e., only so long as it sucks from the dam.

(25) V. infra 122a.

Talmud - Mas. Chullin 56a

meaning to include the skin of the pudenda[1] at the improper place, the sacrifice would be invalid, and he would not be liable to the punishment of Kareth, but at the improper time it would be piggul, and he would be liable to the punishment of Kareth.

MISHNAH. THE FOLLOWING [DEFECTS][2] RENDER BIRDS TREFAH: IF THE GULLET WAS PIERCED, OR THE WINDPIPE SEVERED; IF A WEASEL STRUCK[3] [THE BIRD] ON THE HEAD IN SUCH A PLACE AS WOULD RENDER IT TREFAH;[4] IF THE GIZZARD OR THE INTESTINES WERE PIERCED. IF IT FELL INTO THE FIRE AND ITS INTERNAL ORGANS WERE SCORCHED AND THEY[5] TURNED GREEN, IT IS INVALID, BUT IF THEY REMAINED RED IT IS VALID. IF ONE TROD UPON IT OR KNOCKED IT AGAINST A WALL OR IF AN ANIMAL TRAMPLED UPON IT,[6] AND IT STILL JERKS ITS LIMBS, AND IT REMAINED ALIVE AFTER THIS FOR TWENTY-FOUR HOURS, AND IT WAS THEREAFTER SLAUGHTERED, IT IS VALID.

GEMARA. Rab, Samuel and Levi say: One should insert the finger into the mouth [of the bird and press upon the upper palate] and apply this test:[7] if the brain substance oozes [through the hole in the skull] it is trefah, but if not it is permitted. This is well, however, only according to him who says[8] that unless the lower membrane of the brain has also been pierced [it would not be trefah]; but according to him who says that [it is trefah] even if only the upper membrane and not the lower had been pierced, we ought to be apprehensive of this test for it might well be that the upper membrane has been pierced and the lower has not.[9] — If it were so, that the upper membrane had been pierced, then the lower on account of its tenderness would most certainly break[10] [by reason of the pressure of the finger].

Ze'iri said: No test is of any avail against [the bite of] a weasel because its teeth are fine. But what does it matter if its teeth are fine? — R. Oshaia corrected: Because its teeth are fine and curved.[11] When he [Ze'iri] went up to Nehardea he sent back word saying. 'That statement which I made before you was wrong. Verily, it has been reported in the name of R. Simeon b. Lakish that one may examine [the membrane of the brain against the bite of] a weasel with the finger but not with a nail,[12] but R. Johanan had said: Even with a nail'. Now they differ upon the same principles as in the controversy between R. Judah and R. Nehemiah. For one used to make the test with the finger and the other used to make the test with a needle. Said he who made the test with the finger to him who made the test with a needle, 'How long will you go on wasting the money of Israel'![13] Replied he who made the test with a nail to him who made the test with the finger. 'And how long will you go on feeding Israel with nebelah'! Nebelah? But it has been ritually slaughtered! Rather [say] trefah, for the membrane of the brain might have been pierced.[14]

It can be proved that it was R. Judah who used to make the test with the finger, for it has been taught:[15] R. Simeon b. Eleazar says in the name of R. Judah. One may examine [the membrane of the brain against the bite of] a weasel with the finger but not with a nail. If the bone [of the skull] was broken, even though the membrane of the brain had not been pierced, [it is trefah]. It is indeed proved — But is there not a contradiction in this very [Baraitha]? It first says: 'One may examine [the membrane of the brain against the bite of] a weasel with the finger but not with a nail', which shows clearly that the examination is adequate, and then it says. 'If the bone [of the skull] was broken even though the membrane of the brain had not been pierced [it is trefah]', which shows clearly that the examination is of no avail! — The latter statement refers to a water bird for it has no membrane. 'It has no membrane'! Is this possible? — Rather, it means, its membrane is so fine [that the examination is of no avail]. R. Nahman said to R. 'Anan: 'Did you not tell us, Master, that Samuel used to make the test with the finger and would declare the bird permitted?[16] And our colleague Huna also reported that Rab used to make the test with the finger and declare it permitted. But surely Levi has taught. The defects enumerated by the Sages in the case of cattle equally apply [wherever possible] to birds; there is, however, this addition in the case of birds, namely: If the bone [of the skull] was broken even though the membrane of the brain has not been pierced!' — He replied: 'The latter [defect] refers only to a water bird, for it has no membrane'. 'It has no membrane'! Is this possible? — Rather, it means, its membrane is very fine.

A hen belonging to R. Hana was sent to R. Mattena, for the bone of its skull had been broken but the membrane of the brain had not been pierced; and he declared it to be permitted. He [R. Hana] remarked: But Levi has taught: The defects enumerated by the Sages in the case of cattle equally apply to birds; there is, however, this addition in the case of birds, namely: If the bone of the skull was broken even though the membrane of the brain has not been pierced! — He replied: That [defect] refers only to a water bird for it has no membrane. 'It has no membrane'! Is this possible? — Rather, it means, its membrane is very fine. R. Shizbi used to examine [the membrane of the brain of a bird] by the light of the sun. R. Yemar used to examine it with water.[17] R. Aha b. Jacob used to examine it

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(1) Sc. the skin of the female genitalia. This was not expressly stated but had to be included by inference because the Baraitha deals with a burnt-offering which is a male beast.

(2) As a general rule it is accepted that all those defects which render cattle trefah will likewise render birds trefah, v. infra, the dictum of Levi. The Tanna of this Mishnah therefore enumerates only those defects which apply exclusively to birds, except for three or four defects for which there are special reasons for their repetition; v. Rashi.

(3) This must mean that the weasel struck it with its teeth and not with its fore-paw, for then it would have to be considered under the defect of 'clawing'; v. supra 52bff.

(4) I.e., in that part of the skull under which is situated the membrane of the brain.

(5) I.e., those organs which are naturally red, e.g., the heart or the liver or the gizzard. On the other hand, a scorching of those organs which are normally greenish yellow, e.g. the intestines, would render the bird trefah only if they turned red.

(6) In these three cases there is grave fear that it sustained a lesion of the internal organs as in the case of a fall, v. supra 51aff.

(7) In the case of a bird struck on the head by a weasel in order to ascertain whether the membranes of the brain have been pierced or not.

(8) V. supra 450.

(9) So that even though nothing of the brain substance exudes it might nevertheless be trefah because of the perforation of the upper membrane. Accordingly the test stated is not reliable.

(10) One may therefore be certain that if nothing of the brain substance exudes the upper membrane has not been pierced.

(11) And the hole in the skull would not coincide with the hole in the membrane, so that even in the membrane of the brain were pierced, the bone of the skull that is immediately above it would prevent any of the brain substance from escaping.

(12) The test with a nail (or a needle or a straw, cf. infra) is a delicate operation. The bone of the skull must first be removed and the nail must be passed gently over the surface of the membrane of the brain. If anything catches or holds up the nail in its course it indicates a perforation and it is trefah. The danger in this operation is that the man whilst making this test might inadvertently pierce the membrane with the nail, and he would then have to declare the bird trefah, though it was not really trefah, thus occasioning loss unto the Israelite.

(13) By reason of the danger demonstrated in the preceding note.

(14) And the test with the finger is of no avail since the teeth of a weasel are fine and curved; v. supra. p. 306, n. 6.

(15) Tosef. Hul. III.

(16) It nothing of the brain substance escaped, although there is an obvious hole or crack in the skull.

(17) He would first empty the brain matter out of the membrane and then would fill the latter with water; if the water leaked out it is evident that it had been pierced and it would be trefah. Another method of testing by water is to pour water into the hole of the skull and after a few moments to pour it out into a basin; if the water now appears milky it is a clear indication that some of the brain matter as escaped and mixed with this water, and it would be trefah on account of the perforation of the membrane.

Talmud - Mas. Chullin 56b

with a straw of wheat.[1]

R. Shizbi said: Our geese are regarded as water birds.[2]

IF IT FELL INTO THE FIRE. R. Johanan said on the authority of R. Jose b. Joshua: The size of the green patch [on any of the internal organs required to render a bird trefah] is the same as the size of the hole. Just as a hole, however small, [renders trefah], so does a green patch, however small, [render trefah]. R. Joseph, son of R. Joshua b. Levi, asked R. Joshua b. Levi: What is the law if that part of the liver which lies in front of the entrails turned green? — He replied: It would be trefah. But, retorted the other, it should not be worse than if the liver was gone?[3] — Raba answered: Since the part of the liver which lies in front of the entrails has turned green, one can be certain that the bird had fallen into the fire and its internal organs had been scorched; it is therefore trefah.

R. Joshua b. Levi had a hen which he sent to R. Eleazar ha-Kappar Beribbi.[4] He replied. They[5] are still green; and he declared it permitted. But we have learnt: IF THEY TURNED GREEN IT IS INVALID! — They said: IF THEY TURNED GREEN IT IS INVALID, only with regard to the gizzard, the heart, or the liver[6] There is also a Baraitha that supports this, viz., With regard to which organs did they state the rule [that if they turned green it was invalid]? Only with regard to the gizzard, the heart, or the liver.

R. Isaac b. Joseph had a hen which he sent to R. Abbahu.[4] He replied. They[5] have turned red; and he declared it trefah. But we have learnt: IF THEY REMAINED RED IT IS VALID! — He replied, [The rule is:] If organs which are normally red turned green, or organs which are normally green turned red [it is trefah]; for they said: IF THEY REMAINED RED IT IS VALID, only with regard to the heart, the gizzard, or the liver.

R. Samuel b. Hiyya said in the name of R. Mani: If organs which are normally red turned green [on the hen falling into the fire], but after being cooked turned again to red, it is valid. Why? For it was merely the smoke that had entered into them [and had discoloured them temporarily]. R.

Nahman b. Isaac remarked: Then we too can say likewise: If organs which are normally red did not turn green [on the hen falling into the fire], but after being cooked were found to have turned green, it is invalid. Why? Their shame has only now been brought to light![7] Therefore, said R. Ashi, one should not eat [a hen that had fallen into the fire] without first cooking the internal organs.[8] But this is not right, for we do not assume any taint [without cause].[9]

IF ONE TROD UPON IT OR KNOCKED IT AGAINST A WALL . . . IT IS VALID. R. Eleazar b. Antigonos said in the name of R. Eleazar son of R. Jannai: In each case the bird must be examined.[10]

MISHNAH. AND THE FOLLOWING [DEFECTS] DO NOT RENDER BIRDS TREFAH: IF THE WINDPIPE WAS PIERCED OR SLIT LENGTHWISE; IF A WEASEL STRUCK IT ON THE HEAD IN SUCH A PLACE AS WOULD NOT RENDER IT TREFAH;[11] IF THE CROP WAS PIERCED (RABBI SAYS, EVEN IF IT WAS GONE); IF THE ENTRAILS PROTRUDED [FROM THE BODY] BUT WERE NOT PIERCED; IF ITS WINGS WERE BROKEN, OR ITS LEGS; OR IF ITS FEATHERS WERE PLUCKED OUT. R. JUDAH SAYS, IF ITS DOWN[12] WAS GONE IT IS INVALID.

GEMARA. Our Rabbis taught: It is related of R. Simai and R. Zadok that when they were on their way to Lydda in order to intercalate the year they spent the Sabbath at Ono,[13] and they ruled concerning the womb as Rabbi concerning the crop. It was asked: Does it mean, they ruled that if the womb was gone it was forbidden.[14] and they also ruled, like Rabbi, that if the crop was gone it was permitted? Or, does it mean, they ruled that if the womb was gone it was permitted just as Rabbi rules concerning the crop, but in the case of the crop they do not agree with Rabbi's ruling?[15] — It remains undecided.

Rabbah, others say R. Joshua b. Levi, said: The top of the crop is regarded as the gullet.[16] Where is this? — R. Bibi b. Abaye said: It is that part of the crop at which point it begins to elongate.[17]

IF THE ENTRAILS PROTRUDED. R. Samuel b. R. Isaac said: The Mishnah refers only to the case where they were not twisted[18] [when put back], but if they were twisted [when put back] it would be trefah, for it is written: Hath He not made thee and established thee?[19] which implies that the Holy One, blessed be He, created in man every organ on its foundation,[20] so that if any one organ is twisted man cannot live. It was taught: R. Meir used to expound this verse as follows: Hath He not made thee and established thee? [Israel is] a community[21] wherein all [classes] are to be found: out of them come their priests, out of them their prophets, out of them their princes, out of them their kings, as it is written: Out of them shall come forth the corner-stone, out of them the stake etc.[22]

A gentile[23] once saw a man fall from the roof to the ground so that his belly burst open and his entrails protruded. [The gentile] thereupon brought the son [of the victim] and by an optical illusion made out as if he slaughtered him in the presence of the father.[24]

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(1) V. supra p. 307, n. 1.

(2) And are to be declared trefah if only the bone of the skull had been broken, because the membrane is so very fine.

(3) In which case it would be permitted.

(4) The hen had presumably fallen into the fire.

(5) Sc. the intestines.

(6) I.e., in respect of those organs only which are normally red.

(7) The symptoms of scorching have only now appeared, but it is certainly trefah.

(8) For the symptoms might appear in the organs only after the cooking.

(9) So that as long as there are no evident symptoms of scorching we must not assume any taint in the condition of the bird.

(10) I.e., even where it continued alive for twenty-four hours it must nevertheless be examined in order to ascertain that the spinal cord has not been severed.

(11) l.e., in any part of the head not immediately above the brain. For the meaning of ‘struck’ v. 2upra p. 305, n. 7.

(12) I.e., the soft and fine feathers which are close to the body of the bird.

(13) A village about three miles to the north of Lydda, mentioned in Ezra II, 33. Its modern name is Kefr Ana.

(14) MS.M. reads ‘permitted’. This reading is preferred by Tosaf. s.v. איבעיא.

(15) The question is really this: Did they make two decisions, one affecting the womb and the other the crop, or did they only make one decision and that with regard to the womb?

(16) So that the slightest perforation there would render the bird trefah.

(17) Lit., ‘all that stretches with it’, i.e., with the oesophagus. It refers to the point at which the crop begins to taper and to form into the tube of the oesophagus.

(18) Because this would cause a deterioration and finally a perforation of the intestines (Tosaf.)

(19) Deut. XXXII. 6. Heb. ויכוננך.

(20) Heb. כונניות, ‘fixed on a basis’, ‘foundations’.

(21) Lit., ‘a city’.

(22) Zech. X. 4.

(23) Lit., ‘an Aramean’. In MS.M. ‘A Roman’; so also in Alfasi.

(24) The purpose of this trick was to horrify him so terribly as to cause him to take in a deep breath and draw in his entrails, thus they would be replaced without the aid of the hand of man.

Talmud - Mas. Chullin 57a

The father became faint, sighed deeply and drew in his entrails; whereupon his belly was immediately stitched up.

IF ITS LEGS WERE BROKEN. A basket full of birds, each bird having its legs broken,[1] was brought before Raba. He examined each at the juncture of the tendons and declared them to be permitted.

Rab Judah said in the name of Rab: If the fore-leg of an animal was dislodged,[2] it is permitted; if the femur of an animal was dislodged, it is trefah; if the femur of a bird was dislodged, it is trefah; if the wing of a bird was dislodged, it is trefah, for we apprehend that the lung has been pierced. Samuel said: It should be examined.[3] R. Johanan also said: It should be examined.

Hezekiah stated: A bird has no lungs. R. Johanan said: It has [lungs] and they are like rose petals situated immediately beneath the wings. What is meant by, ‘A bird has no lungs’? Does it mean that it has no lungs at all? But we see that it has! And should it mean that any defect therein would not render trefah? Surely Levi has taught: The defects enumerated by the Sages in the case of cattle apply also to birds, with this addition in the case of birds, namely: If the bone [of the skull] was broken even though the membrane of the brain has not been pierced! — We must therefore say that the statement ‘It has no lungs’ means that they are in no wise affected, whether the bird falls down [from the roof] or is scorched [in the fire]. Why is it so? — R. Hannah answered: Because they are protected by most of the ribs. But surely since R. Johanan has said that it has [lungs] and they are like rose petals situated immediately beneath the wings, it follows that Hezekiah was of the opinion that it has no [lungs] at all! — In truth, it has been said in the West in the name of R. Jose, son of R. Hanina, ‘It is evident from the statement of Beribbi[4] that he knew nothing of fowls’.

R. Huna said in the name of Rab: If the femur of a bird was dislodged, it is permitted. Rabbah, son of R. Huna, said to R. Huna, ‘But the Rabbis who came from Pumbeditha reported the statement of Rab Judah in the name of Rab thus: If the femur of a bird was dislodged it is trefah’! — He replied: ‘My son, every river has its own course’.[5]

R. Abba once went and found R. Jeremiah b. Abba examining [a bird] at the juncture of the tendons.[6] Said R. Abba, ‘Why does the Master go to all this trouble? Has not R. Huna reported in the name of Rab: If the femur of a bird was dislodged it is permitted?’[7] — He replied. ‘I know only of the following Mishnah: If the hind legs of an animal were cut off below the knee-joint it is permitted, above the knee joint it is trefah; similarly, if the juncture of the tendons was gone it is trefah.[8] And Rab has said: The same is the law in the case of a bird’.[9] ‘Then is there not here a contradiction between the two statements of Rab?’ — He [R. Jeremiah] remained silent. The other thereupon suggested. ‘Perhaps he [Rab] makes a distinction in law between a limb dislodged and a limb cut off’?[10] — He [R. Jeremiah] then said: ‘And you merely suggest this distinction in Rab! Rab has expressly said so: If the femur [of a bird] was dislodged it is permitted, but if cut off it is trefah. And be not amazed at this! For if the animal is cut in one place it will die, and if cut in another place it will live’!

When R. Abba went up [to Palestine] he found R. Zera sitting and reciting as follows: R. Huna said in the name of Rab: If the femur of a bird was dislodged it is trefah. R. Abba said to him, ‘By your life! Since the day you left [Babylon] to go up here[11]

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(1) אנקורי. According to Jast. ‘a bird with traces of bites or wounds on its legs’. Rashi gives as a second explanation of this word, which he quotes as the view of the Geonim, viz., ‘black birds with white spots on their heads’.

(2) In all these cases of dislodgement of a limb it must be assumed that the ligaments were destroyed, so Rashi and Tosaf.

(3) I.e., the lung must be inflated, and if no air escapes from it it is permitted.

(4) A title of honour, applied to Hezekiah.

(5) Meaning that every district has its own customs and usages. Rab indeed was of the opinion that if the femur of the bird was dislodged it was permitted, but where the practice obtained, as in Pumbeditha, to regard it as trefah, Rab would not interfere with or overrule the prevailing custom. This, however, gave rise to the belief that Rab also held it to be trefah.

(6) The femur of this bird had been dislodged and he was therefore examining the bird in order to ascertain that the juncture of the tendons was unaffected.

(7) And we are not concerned about the juncture of the tendons as to whether it has been affected or not.

(8) Infra 76a.

(9) I.e., if the juncture of the tendons in a bird was gone or destroyed it would be trefah.

(10) Where the limb was dislodged and detached from the body, although the juncture of the tendons is now gone entirely, the animal is permitted, but where the limb was cut on the juncture of the tendons it would be trefah, for the constant pain of this injury would affect the general condition of the animal.

(11) R. Zera had also left Babylon some time before R. Abba in order to continue his studies in Palestine.

Talmud - Mas. Chullin 57b

we had an opportunity of asking R. Huna about this and he told us. If the femur of a bird was dislodged it was permitted. Moreover, I once found R. Jeremiah b. Aba sitting and examining [the femur of a bird) at the juncture of the tendons, and I put to him the question. "Does not the Master concur with the view reported by R. Huna in the name of Rab that if the femur of a bird was dislodged it was permitted"? and he replied. "I know only of the Mishnah: If the hind legs of an animal were cut off below the knee joint it is permitted, above the knee joint it is trefah; similarly, if the juncture of the tendons was gone it is trefah. And Rab has said. The same is the law in the case of a bird". I then said to him, "Then is there not here a contradiction between the two statements of Rab"? At this he remained silent, and I thereupon suggested: "Perhaps Rab makes a distinction in law between a limb dislodged and a limb cut off"? And he replied, "And you merely suggest this distinction in Rab! Rab has expressly said so: If the femur [of a bird] was dislodged it is permitted, but if cut off it is trefah". Now what further traditions have you about it’? — [He replied,] ‘Thus said R. Hiyya b. Ashi in the name of Rab. If the femur of a bird was dislodged it is trefah’. So, too, did R.

Jacob b. Idi say in the name of R. Johanan. If the femur of a bird was dislodged it is trefah. And R. Jacob b. Idi further said: Had R. Johanan been present there when the leading scholars[1] ruled that it was permitted, he would not have raised a voice against it.[2] For R. Hanina reported in the name of Rabbi: If the femur of a bird was dislodged it is permitted. Indeed, R. Hanina once had a hen the femur of which had become dislodged and he brought it to Rabbi, and the latter declared it to be permitted. Thereupon R. Hanina preserved it in salt and used it to demonstrate the law to the pupils: 'This did Rabbi permit to me, this did Rabbi permit to me'.

The law, however, does not rest with any of the above views [that declare it to be permitted], but it is as stated in the following incident:[3] R. Jose b. Nehorai asked R. Joshua b. Levi, 'How large must a hole in the windpipe be [in order to render the animal trefah]?' He replied. 'We have learnt it as a clear statement in our Mishnah, viz., Up to an Italian issar'. The other retorted: 'But there was a lamb in our neighbourhood in whose windpipe there was a [large] hole and they inserted in it a tube of reed and it recovered'! He rejoined. 'And can you rely upon this? Is not the law widespread in Israel that if the femur of a bird is dislodged it is trefah? Nevertheless it is related that R. Simeon b. Halafta had a hen whose femur was dislodged, and they prepared for it a tube of reed [as a support] and it recovered! You can only suggest in explanation [that it recovered] within twelve months[4] [of the injury], so in the former case too you must say [that it recovered] within twelve months [of the injury].

It was said of R. Simeon b. Halafta that he was an experimenter in all things. Indeed he once made an experiment to disprove R. Judah's view. For we have learnt: R. JUDAH SAYS, IF ITS DOWN WAS GONE IT IS INVALID. Now R. Simeon b. Halafta once had a hen whose down was gone entirely. He put it into the oven, having first wrapped it in the [warm] leather apron used by bronze workers, and it grew feathers even larger than the original ones. But perhaps R. Judah maintains that a trefah can improve?[5] — Surely not in that very physical blemish which rendered it trefah! For here it grew feathers even larger than the original ones.[6] Why was he called an experimenter? — R. Mesharsheya said: It is written: Go to the ant, thou sluggard; consider her ways and be wise: which having no chief, overseer, or ruler, provideth her bread in the summer.[7] He [R. Simeon b. Halafta] said: I shall go and find out whether it is true that they have no king. He went at the summer solstice,[8] and spread his coat over an ant-hill. When one [ant] came out he marked it, and it immediately entered and informed the others that shadows had fallen,[9] whereupon they all came forth. He then removed his coat and the sun beat down upon them. Thereupon they set upon this ant and killed it.[10] He then said: It is clear that they have no king, for otherwise they would surely have required to obtain royal sanction![11] R. Aha, son of Raba, said to R. Ashi: But perhaps the king was with them, or they had royal authority,[12] or it was during an interregnum [when they were under no law], as it is written: In those days there was no king in Israel: every man did that which was right in his own eyes![13] Rather must you take the word of Solomon for it.

R. Huna said: The test for a trefah is twelve months.[14] An objection was raised. It was taught: The test for a trefah is that it cannot bring forth young.[15] R. Simon b. Gamaliel says. If it improves in health it is certainly[16] fit, if it wastes away it is certainly trefah. Rabbi says: The test for a trefah is thirty days. But they said to him: Is it not a fact that many continue to live for two or three years?[17] — Tannaim differ in this, for it was taught: If in the skull there was one long hole or if there were many small holes in it — in either case the hole or holes are computed to make up the measure of a hole the size of a [surgical] drill.[18] R. Jose b. ha-Meshullam said: It happened at 'Ain Ibl[19] that a person had a hole in his skull and they put over it a plaster of a gourd-shell and he recovered. But R. Simeon said to him: Do you mean to prove your case from that? It happened in the summer months but when winter set in he died.[20]

R. Aha b. Jacob said: The halachah is that a trefah animal can bring forth young and can also improve.

Amemar said: As to the eggs of a bird that was [rendered] trefah.

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(1) Lit., ‘collegiates’.

(2) Lit., ‘he would not have moved’.

(3) Cf. infra: ‘The law is widespread in Israel that if the femur of a bird is dislodged it is trefah’.

(4) I.e., it was only a temporary recovery and could not continue to live for full twelve months after the injury, for the principle is well established that a trefah cannot continue to live for twelve months after the injury.

(5) R. Judah would hold that it is not unlikely for an animal though trefah to improve temporarily in its physical condition.

(6) Inasmuch as the loss of its feathers was the cause of the bird being regarded trefah it surely would not now increase its plumage.

(7) Prov. VI, 6-8.

(8) Lit., ‘at the cycle of Tammuz’, i.e., the quarter of the year following June 21 st, the summer solstice.

(9) For ants shun the fierce heat of the sun and only venture forth in the shade.

(10) For having deceived them.

(11) For the execution of the delinquent ant.

(12) I.e., they acted within the law which provides that one that deceives others shall be put to death.

(13) Jud. XVII, 6.

(14) If an animal about which there arose a doubt whether it was trefah or not continued to live twelve months — or according to Rabbi, infra, thirty days — it certainly was not trefah.

(15) This does not mean to say that if it cannot bring forth young it is certainly trefah, for this may be due to various causes; but it means that if it does bring forth young it is certainly not trefah (Tosaf.).

(16) Lit., ‘it is known’.

(17) The objection against R. Huna is that none of the teachers in this Baraitha mention the test period of twelve months.

(18) V. supra 45a.

(19) ‘Ain Ibl North West of Saffed. Klein's N.B., p. 41.

(20) The man did not, as R. Jose imagined, live on for years. He did not live full twelve months, for as soon as the winter set in he died. It is therefore indicated in this Baraitha that a trefah cannot live through a winter and a summer, i.e., twelve months, thus agreeing with R. Huna.

Talmud - Mas. Chullin 58a

those of the first set are forbidden[1] but the subsequent ones are permitted, for they are the product of two causes.[2] R. Ashi raised this objection against Amemar. [We have learnt:] But they agree[3] that the egg of a bird that was trefah is forbidden because it developed in what was forbidden.[4] — In that case the bird was fertilized through friction in the dust.[5] But why did he not reply that the egg was of the first set? — Because if so it should have said ‘it was finished’ and not ‘it developed’.[6] But then what of [the following Baraitha]. It was taught: R. Eliezer says. The calf of a cow which was trefah may not be offered as a sacrifice upon the altar; R. Joshua says: It may. Now what are the circumstances of the case in which they differ? It must be, surely, that the animal was first rendered trefah and then impregnated,[7] R. Eliezer maintaining that the product of two causes is prohibited, and R. Joshua maintaining that it is permitted. This being so, why do they differ as to its validity for sacred purposes? Why do they not rather differ as to its validity for ordinary purposes? — In order to set forth the view of R. Joshua, that it is valid even for sacred purposes. But why do they not differ as to its validity for ordinary purposes so as to set forth the view of R. Eliezer, that it is invalid even for ordinary purposes? — It is preferable to set forth the view which shows leniency. Nevertheless they agree that the egg of a bird which was trefah is forbidden, if the bird was fertilized through friction in the dust, for then the egg is the product of one cause.

R. Aha accepts the view of R. Aha b. Jacob[8] and accordingly reports the statement of Amemar as we have stated it above.[9] Rabina, however, does not accept the view of R. Aha b. Jacob, and therefore reports the statement of Amemar in this form: Amemar said: As to the eggs of a bird about which there arose a doubt whether it was [rendered] trefah or not, those of the first set must be held over; if the bird continues to lay eggs[10] then these are permitted, but if not these are forbidden. R. Ashi raised this objection against Amemar. [It was taught]: But they agree that the egg of a bird that was trefah is forbidden because it developed in what was forbidden![11] — He replied: That refers to the egg of the first set. If so, it should have said ‘it was finished’ and not ‘it developed’.[12] — Read then, ‘it was finished’. But what of [the Baraitha] which was taught: R. Eliezer says. The calf of a cow which was trefah may not be offered as a sacrifice upon the altar; R. Joshua says: It may. Now what are the circumstances of the case in which they differ? It must be, surely, that the animal was first impregnated and then became trefah.[13] R. Eliezer maintaining that the embryo is part of its mother,[14] and R. Joshua maintaining that the embryo is not part of its mother. This being so, why do they differ as to its validity for sacred purposes? Why do they not rather differ as to its validity for ordinary purposes? — In order to set forth the view of R. Joshua. But why do they not differ as to its validity for ordinary purposes so setting forth the view of R. Eliezer? — It is preferable to set forth the view which shows leniency. Nevertheless they agree that the egg of a bird that was trefah beyond doubt, is forbidden, if it was one of the first set, because it is part of the body [of the bird].[15] The law is: In a male twelve months is a criterion, and in a female, if it cannot bring forth young.[16]

R. Huna said: All invertebrates cannot live for twelve months. Said R. Papa: We can infer from R Huna's statement, having regard to Samuel's statement, namely, that a cucumber which became wormy in its growth was forbidden,[17]

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(1) I.e., those that were in the bird at the time that it was rendered trefah.

(2) The egg is the product of the hen which is forbidden and the cock which is permitted; and it is held that the product of two causes, one of which is prohibited and the other permitted, is permitted.

(3) R. Eliezer and R. Joshua; although they differ concerning the calf of a cow that was trefah, v. infra; so Rashi. According to Tosaf (s.v. ושוין) Beth Shammai and Beth Hillel are in agreement here, although they differ concerning the egg of a bird that was nebelah; v. ‘Ed. V, 1.

(4) And no distinction is made between the eggs of the first set and of the subsequent sets; presumably the egg is forbidden in every case, contra R. Huna.

(5) Parthenogenesis: thus the egg is the product of the hen alone; and as the hen is trefah all the eggs that it produces would be forbidden.

(6) With regard to the eggs of the first set it should have used the term ‘finished’, for these commenced to form before the hen was rendered trefah. ‘Developed’ implies the entire forming and fashioning of the egg.

(7) For in this case only is the calf regarded as the product of two combined causes, i.e., of the cow which is trefah and of the bull which is permitted. Where the cow was already with young when it became trefah the calf, according to all views, would be forbidden, since it was rendered trefah together with its dam.

(8) V. supra 57b, that an animal even though trefah can continue to bring forth young, and similarly a bird even though trefah can continue to lay eggs.

(9) That there is a distinction made between the eggs of the first set, i.e., those laid immediately after the bird was rendered trefah, and those of subsequent sets.

(10) This according to Rabina is an indication that it is not trefah.

(11) Thus proving that a bird that was trefah can lay eggs.

(12) V. p. 317, n. 9.

(13) It cannot be otherwise, for according to the view now held an animal which is trefah can no more become pregnant.

(14) Lit., ‘is a thigh of’. And when the cow was rendered trefah the embryo was at the same time rendered invalid.

(15) And so was rendered trefah simultaneously with the mother bird.

(16) So that if a male or female animal has continued to live for twelve months after the day on which a doubt arose about it, or if a female animal has brought forth young, there is no longer any doubt about it and it is permitted.

(17) From Lev. XI, 41 is derived the law that only such worms and creeping things as have crawled upon the earth are forbidden to be eaten, but those that generated in fruit and vegetables and had never crawled upon the ground are permitted. In this case of Samuel, since the cucumber is in the course of growth and has not yet been plucked up from the ground, the worms found crawling in it are deemed to be crawling upon the ground and are therefore forbidden.

Talmud - Mas. Chullin 58b

that dates which were kept in a vessel [and which became wormy][1] are permitted after twelve months.[2]

Rab said: No gnat lives a complete day, and no fly lives a complete year. R. Papa said to Abaye. But there is a popular story, ‘For seven years the she-gnat quarrelled with the he-gnat. Said she to him, "I was once watching a resident of Mahza bathing in the sea, and when he came out and wrapped himself in a sheet you came and settled down on him and sucked his blood, but you did not tell me of it"’. — He replied: If as you suggest [that it is to be taken literally], behold that other popular saying. ‘A weight of sixty minas of iron is suspended on the gnat's proboscis’.[3] Is this possible? How much does the whole [gnat] weigh? Obviously it speaks of their minas,[4] so in the previous saying it speaks of their years.[4]

We have learnt elsewhere:[5] An animal that has five legs or only three is considered with blemish.[6] R. Huna said: This was stated only of a fore-leg that is wanting or too many, but if a hind leg is wanting or too many it is even trefah. Why? Because every addition [of a limb] is deemed equal to the loss [of the limb].[7]

An animal having two sania dibi[8] was brought before Rabina, and he declared it trefah because of R. Huna's principle. If, however, they run into each other it would be permitted.[9]

A tube running from the reticulum to the omasum was once found in an animal. R. Ashi was about to declare it trefah when R. Huna Mar b. Hiyya said to him, But all animals that feed in the open fields have this tube! A tube running from the reticulum to the rumen was once found in an animal. R. Ashi was about to declare it permitted when R. Oshaia said to him, Did you weave them all in one web?[10] Where it has been expressly stated[11] it has been stated, but where it has not been expressly stated it has not been stated.[12]

Nathan b. Shila, chief slaughterer in Sepphoris, testified before Rabbi: If two sets of intestines issue concurrently from the [abomasum of the animal].[13] it is trefah; in a bird, however, [an abnormality] such as this would b permitted.[14] This is the rule only if they emerge from two separate parts [of the abomasum], but if they emerge from the same place [in the abomasum] and coalesce within a fingerbreadth,[15] it is permitted. R. Ammi and R. Assi differ; one says they must be fused into one; the other says they need not be fused into one. Now it is well according to him who says that they must be fused into one, for that would be the meaning of the phrase ‘within a fingerbreadth’;[16] but according to him who says that they need not be fused into one, what does ‘within a fingerbreadth’ mean? — It means, [that they are in fact fused into one] in the last fingerbreadth below.[17]

R. JUDAH SAYS, IF ITS DOWN WAS GONE IT IS INVALID. R. Johanan said that R. Judah and R. Ishmael both taught the same rule.[18] R. Judah we have just quoted. R. Ishmael we find in the following Mishnah: The down is to be reckoned[19] [with the flesh]. Raba said: Perhaps it is not so? It may be that R. Judah said so only with regard to the law of trefah, for there is nothing else to protect [the bird], but in respect of the law of piggul he would agree with the Rabbis.[20] And, on the other hand, it may be that R. Ishmael said so only with regard to the law of piggul, but in respect of the law of trefah he would hold that it at no time afforded any protection.[21]

MISHNAH. IF AN ANIMAL SUFFERED FROM CONGESTION OF THE BLOOD, OR WAS OVERCOME BY FUMES OR BY THE COLD, OR IF IT ATE OLEANDER[22] OR HENS’ DUNG, OR IF IT DRANK NOXIOUS WATER, IT IS PERMITTED. IF IT ATE POISON OR WAS BITTEN BY A SNAKE, IT IS NOT FORBIDDEN AS TREFAH BUT IT IS FORBIDDEN AS A DANGER TO LIFE.

GEMARA. Samuel said: If it swallowed asafoetida it is trefah. Why? Because it will perforate the internal organs. R. Shizbi raised the following objection. It was taught: If an animal suffered from congestion of the blood, or was overcome by fumes, or if it ate oleander or hens' dung, or if it drank noxious water, or if it swallowed crowfoot, asafoetida or pepper, or if it ate poison, it is permitted. If it was bitten by a snake or a mad dog, it is not forbidden as trefah but is forbidden as a danger to life. Is there not here a contradiction in the matter of asafoetida,[23] and also in the matter of poison?[24] — In the matter of asafoetida there is no contradiction, because one[25] speaks of the drops of asafoetida and the other[26] of the leaves.[27] And in the matter of poison there is also no contradiction, because cine[26] speaks of poison for animals[28] and the other[29] of poison for man. But if it is only a poison for animals then it is the same as oleander? — It mentions two kinds of poison. What is crowfoot? — Rab Judah said,

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(1) But it is not known whether the worms entered the dates whilst yet in growth or only after they were plucked from the tree.

(2) l.e., if twelve months have elapsed since the dates were picked from the tree. Worms found then in the dates are certainly permitted, for they could not possibly have crawled in the fruit whilst it was yet on the tree, since they could not have existed for so long.

(3) I.e., its sting is virulent. Amino is a weight equivalent to a hundred zuz.

(4) I.e., according to their ideas of weight and time.

(5) Bek. 40a.

(6) And is unfit for a sacrifice. But it is not trefah, and therefore may be slaughtered for general use.

(7) The abnormal addition of a limb or organ is treated in law as if both the abnormal and also the normal limb or organ were gone. So that if in the absence of a certain limb the animal would be trefah, it would likewise be trefah if there were two of those limbs. (Rashi).

(8) Lit., 'disliked by wolves'. A popular name for the inner rumen; v. supra 50b.

(9) For it is really one stomach divided into two bags.

(10) I.e., you cannot bring all cases under one category.

(11) That such a tube is usually found in animals that pasture in the open field.

(12) In such cases it is regarded as an abnormal addition and is trefah in accordance with R. Huna's principle supra.

(13) From two parts of the abomasum. This is the interpretation of Rashi and R. Gershom. Alfasi and Maim. interpret quite differently. According to them the passage deals not with a double set of intestines but with an appendix that branches off the main intestines.

(14) For it is not uncommon to find two sets of intestines in a bird. V. Rashi.

(15) I.e., they have not been separate for more than a fingerbreadth. The word וכלין, generally translated 'and they end', may be derived from the root כלל which means to merge into one, to coalesce. The dispute between R. Ammi and R. Assi which follows arises from the meaning given by each to this word; v. Hal. Ged. ed. Hildesheimer, p. 538.

(16) I.e., within the space of a finger breadth they become fused into one.

(17) At the entrance of the rectum. This is Rashi's interpretation; v. R. Nissim a.l.

(18) Namely, that the down of a bird is regarded on the same footing as the skin on an animal.

(19) So as to make up an olive's size. The reference is to Toh. I, 2, and, according to Rashi and the present text of the Gemara is to be explained as follows: If the priest, whilst nipping off the head of a sin-offering of a bird, expressed the intention of eating an olive's bulk of it at the improper time, and this olive's bulk was made up partly of the flesh and partly of the down of the bird, it would be piggul (v. Glos.), and he would be liable to the penalty of Kareth. In MS.M. and in the old editions, as evidenced by the views of R. Gershom, Tosaf., R. Samson and others, there are found the words 'the law of uncleanness' in place of the words in our text 'the law of piggul'. The interpretation accordingly is as follows: R. Ishmael holds that the down is to be reckoned together with the flesh so as to make the size of an egg — this being the minimum size — in order to convey uncleanness. In other words the down is deemed to be a foodstuff as the flesh.

(20) That the down is not deemed to be a foodstuff.
(21) And therefore if the down was gone it is of no consequence and it would still be permitted.
(22) This and the other herbs mentioned in this passage, as asafoetida, crowfoot, succory, are species of plants some of which exude poisonous juices while others have poisonous leaves.
(23) Between the ruling of this Baraitha and that of Samuel.
(24) Between the ruling of this Baraitha and that of our Mishnah.
(25) Sc. Samuel.
(26) Sc. the Baraitha.
(27) The leaves, not being poisonous, will not affect the animal that eats them.
(28) As the poison in question has no injurious effect upon man, the Baraitha therefore teaches that the animal that took it is still valid.
(29) Sc. our Mishnah.

Talmud - Mas. Chullin 59a

It is the root of succory.

R. Judah said: He who eats three tiklas[1] of asafoetida on an empty stomach will shed his skin. R. Abbahu said: It actually happened with me when I once ate one tikla of asafoetida; and, indeed, had I not sat in water,[2] I should have lost my skin. I thus applied to myself the verse: Wisdom preserveth the life of him that hath it.[3]

R. Joseph said: He who eats sixteen eggs, forty nuts and seven caperberries, and drinks one quarter of a log of honey [in one meal] on an empty stomach, in the summer months,[4] snaps his heart strings[5] asunder.

There came before the Resh Galutha[6] a young deer whose hind legs were broken. Rab examined it in the region of the juncture of the tendons and declared it to be permitted. He was about to eat a portion of it grilled.[7] when Samuel said to him, ‘Master, have you no fears lest it has been bitten by a snake’. ‘Then, what is the remedy’? he asked. ‘Let it be put into an oven and it will expose itself’. It was immediately put into an oven and it fell to pieces. Samuel applied to Rab the verse: There shall no mischief befall the righteous,[8] and Rab applied to Samuel the verse: No secret troubleth thee.[9]

MISHNAH. THE CHARACTERISTICS[10] OF CATTLE AND OF WILD ANIMALS ARE STATED IN THE TORAH. THE CHARACTERISTICS OF BIRDS ARE NOT STATED, BUT THE SAGES HAVE SAID, EVERY BIRD THAT SEIZES ITS PREY[11] IS UNCLEAN. EVERY BIRD THAT HAS AN EXTRA TOE,[12] A CROP, AND A GIZZARD THAT CAN BE PEELED,[13] IS CLEAN. R. ELIEZER, SON OF R. ZADOK SAYS, EVERY BIRD THAT PARTS ITS TOES[14] IS UNCLEAN. OF LOCUSTS: ALL THAT HAVE FOUR LEGS, FOUR WINGS, LEAPING LEGS, AND WINGS COVERING THE GREATER PART OF THE BODY, [ARE CLEAN]. R. JOSE SAYS, IT MUST ALSO BEAR THE NAME LOCUST’. OF FISHES: ALL THAT HAVE FINS AND SCALES ARE CLEAN. R. JUDAH SAYS, THERE MUST BE [AT LEAST] TWO SCALES AND ONE FIN. THE SCALES ARE THOSE [THIN DISCS] WHICH ARE ATTACHED TO THE FISH, THE FINS ARE THOSE [WINGS] BY WHICH IT SWIMS. GEMARA. Our Rabbis taught: The following are the characteristics of cattle: Every beast that parteth its hoof etc.[15] If an animal chews the cud one may be certain that it has no upper teeth and it is therefore clean. Is this a general rule? Behold the camel chews the cud and has no upper teeth and yet is unclean! — The camel has canines. But the young camel has not even canines![16] Furthermore, the rock-badger and the hare chew the cud, nevertheless they have upper teeth and are unclean! Now are teeth mentioned at all in the Torah? — Rather this is the meaning of the passage: If an animal has no upper teeth[17] one may be certain that it chews the cud and parts the hoof, and it is therefore clean. But one can examine its hoofs? — We must suppose that its hoofs were cut off. And this accords with R. Hisda's statement, for R. Hisda said: If a man was walking in the desert and found an animal with its hoofs cut off, he should examine its mouth; if it has no upper teeth he may be certain that it is clean, otherwise he may be certain that it is unclean; provided, however, he recognizes the camel. But the camel has canines! — Read, provided he recognizes the young camel. You admit then that there is the young camel [which is the exception to the rule]. But there might well be other species similar to the young camel? — That should not enter your mind. For a Tanna of the school of R. Ishmael taught: It is written: The camel because it cheweth the cud.[18] The Ruler of the universe knows that there is no other beast that chews the cud and is unclean except the camel; therefore the verse particularly stated 'it'. R. Hisda further said: If a man was walking in the desert[19] and found an animal with its mouth mutilated, he should examine its hoofs; if they are parted he may be certain that it is clean, but if not he may be certain that it is unclean; provided, however, he recognizes the swine. You admit then that there is the swine [which is the exception to the rule]. But there might well be other species similar to the swine? — That should not enter your mind. For a Tanna of the school of R. Ishmael taught: It is written: And the swine because it parteth the hoof.[20] The Ruler of the universe knows that there is no other beast that parts the hoof and is unclean except the swine; therefore the verse particularly stated 'it'. R. Hisda further said: If a man was walking in the desert and found an animal with its hoofs cut off and its mouth mutilated, he should examine its flesh; if it runs crosswise[21] he may be certain that it is clean, but if not he may be certain that it is unclean; provided however, he recognizes the 'arod.[22] You admit then that there is the 'arod [which is the exception to the rule]. But there might well be other species similar to the 'arod? — There is a tradition that there are not. Where should he examine the flesh? — Abaye (others say: R. Hisda) said: Under the rump.

THE CHARACTERISTICS OF WILD ANIMALS. Our Rabbis taught: The following are the characteristics of wild animals . . . But surely the wild animal is included under cattle with regard to the characteristics [of cleanness]![23] — R. Zera said,

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(1) A tikla is a weight equal to half a shekel.

(2) In order to cool himself of the fever.

(3) Eccl. VII, 12.

(4) Lit., 'at the summer solstice'. V. supra 57b, p. 316, n. 2.

(5) It probably means he overtaxes his stomach by such gross excesses in eating.

(6) ריש גלותא, the Exilarch.

(7) Or, 'raw'.

(8) Prov. XII, 21.

(9) Dan. IV, 6.

(10) I.e., the features which distinguish an animal as clean. Throughout this passage until the end of this chapter the terms clean and unclean mean permitted to be eaten and forbidden respectively.

(11) Heb. דורס, to tread or attack with the claws. Here it has a special and technical meaning and various interpretations have been suggested: (i) a bird which seizes prey in flight without alighting upon the ground (R. Gershom); (ii) a bird which holds down the prey with its claws whilst it pecks away with its beak to eat it (Rashi and Maim.); (iii) a bird which eats its prey whilst it still lives and does not wait until it dies (Tosaf. s.v. הדורס p. 61a).

(12) I.e., a toe behind, the hallux. According to R. Nissim it means that the middle toe in front is longer than the others.

(13) The inner bag or lining of the gizzard can with ease be separated from the outside muscular portion.

(14) I.e., whenever it perches on a bar or rope it divides its toes evenly, two toes on each side.

(15) Deut. XIV, 6. Lev. XI, 3.

(16) It should therefore be clean, seeing that it chews the cud and has no upper teeth, not even canines!

(17) Sc. the incisors of the upper jaw. The absence of the upper incisors and canines is a characteristic of all ruminants. The camel forms the exception to this order for it has canines in both jaws.

(18) Lev. XI, 4.

(19) Lit., 'on the way'.

(20) Lev. XI, 7.

(21) I.e., the muscles at the rump under the tail run in a crisscross fashion, one series of muscles running downward and another running transversely.

(22) עָרוד, v. Job XXXIX, 5, where it is translated as the wild ass. It is certainly a forbidden animal.

(23) The same characteristics which distinguish the clean cattle also distinguish the clean wild animals. Indeed, Lev. XI, 2 expressly mentions the wild animal in the same verse with cattle.

Talmud - Mas. Chullin 59b

[It must be distinguished from cattle] in order that its fat be permitted to be eaten.[1] And it should read thus: The following are the characteristics of wild animals whose fat is permitted: All that have horns and [sharp pointed] hoofs. R. Dosa says — Those that have horns need not be examined as to their hoofs, but those that have [sharp pointed] hoofs must still be examined as to their horns. And the Keresh,[2] though it has but one horn, is permitted. But is this a general rule? Behold the goat has horns and [sharp pointed] hoofs, nevertheless its fat is forbidden! — We mean horns that are rounded.[3] But are not the horns of an ox rounded, yet its fat is forbidden? — We mean horns that are notched.[4] But are not the horns of the goat notched, nevertheless its fat is forbidden?[5] — We mean horns that are forked.[6] But the horns of the deer[7] are not forked, nevertheless its fat is permitted! — We mean horns that are pointed.[8] Therefore, if its horns are forked, there is no question at all about it.[9] But if they are not forked, we then require them to be rounded and pointed and also notched, and the notches must run one into the other. This indeed is the doubt in connection with the Karkuz goat.[10]

Once there was taken out of a Karkuz goat belonging to the Resh Galutha a basketful of fat. R. Ahai forbade it, but R. Samuel the son of R. Abbahu ate of it, and applied to himself the verse: A man's belly shall be filled with the fruit of his mouth.[11] They sent word from there[12] saying: The law accords with R. Samuel the son of R. Abbahu, nevertheless give heed to the opinion of R. Ahai for he enlightens the eyes of the exile.

‘And the Keresh, though it has but one horn, is permitted’. Rab Judah said: The Keresh is the deer of Be-Ila'i,[13] the Tigris is the lion of Be-Ila'i.[13] R. Kahana said: There is a distance of nine cubits from one ear to the other ear of the lion of Be-Ila'i. R. Joseph said: The hide of the deer of Be-Ila'i is sixteen cubits long.

The Emperor once said to R. Joshua b. Hananiah, ‘Your God is likened to a lion, for it is written: The lion hath roared, who will not fear? The Lord God hath spoken, who can but prophesy?[14] But what is the greatness of this? A horseman can kill the lion’! He replied: ‘He has not been likened to the ordinary lion, but to the lion of Be-Ilai'i!’ ‘I desire’, said the Emperor, ‘that you show it to me’. He replied: ‘You cannot behold it’. ‘Indeed’, said the Emperor, ‘I will see it’. He [R. Joshua b. Hananiah] prayed and the lion set out from its place. When it was four hundred parasangs distant it roared once, and all pregnant women miscarried and the walls of Rome fell. When it was three hundred parasangs distant it roared again and all the molars and incisors of man fell out; even the Emperor himself fell from his throne to the ground. ‘I beseech you’, he implored, ‘pray that it return to its place’. He prayed and it returned to its place.

Another time the Emperor said to R. Joshua b. Hananiah, ‘I wish to see your God’. He replied: ‘You cannot see him’. ‘Indeed’, said the Emperor,

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(1) The fat of cattle, such as was offered upon the altar in Temple times, is forbidden to be eaten, v. supra 49b, whereas the fat of wild animals is permitted; hence it is essential to distinguish between the two species.

(2) קרש, a kind of antelope.

(3) Heb. כרוכות. Horns consisting mainly of tubes which are very close together and near the root are encircled by variable rings, as in the case of the ox. (Rashi and Aruch).

(4) Heb. חרוקות, in other texts חדוקות, meaning rough, full of notches.

(5) It must be now assumed that ‘notched’ is the only characteristic feature necessary for the purpose and that roundness is no longer essential.

(6) Heb. מפוצלות, forked and branched like antlers (Rashi); or, bent or hooked at the end (Tosaf.).

(7) Heb. צבי, usually translated ‘deer’; according to Rashi, however, it cannot be the deer because the deer has certainly forked horns. Possibly the pronghorn antelope is meant.

(8) Heb. חדורות, or הדורות, meaning ‘rounded and cylindrical’; in other texts חדודות, ‘pointed’. The latter reading is adopted by Aruch and preferred by Rashi.

(9) Lit., ‘there is neither judgment nor judge’, i.e., it is certainly a wild animal.

(10) According to Lewysohn, Zoologie des Talmuds, p. 126, it is the gazelle. The Aruch adopts the reading כרבין, which would be the name of a place, v. Neub. Geog. p. 393. The doubt in connection with this goat is that it has all the characteristics that distinguish the horns of wild animals except that the notches do not run into each other (Tosaf.); it has all the characteristics of wild animals save that it bears the name ‘goat’ (Rashi).

(11) prov. XVIII, 20. By virtue of his learning and the traditions he received from his teachers he was able to enjoy to the full the fat of this animal.

(12) Sc. Palestine.

(13) A forest of this name (Rashi). V. Lewysohn, op. cit. p. 70. According to Jastrow it refers to the mountains of interior Asia, v. Dict. p. 520.

(14) Amos III, 8.

Talmud - Mas. Chullin 60a

‘I will see him’. He went and placed the Emperor facing the sun during the summer solstice and said to him, ‘Look up at it’. He replied: ‘I cannot’. Said R. Joshua, ‘If at the sun which is but one of the ministers that attend the Holy One, blessed be He, you cannot look, how then can you presume to look upon the divine presence’!

On another occasion the Emperor said to R. Joshua b. Hananiah, ‘I wish to prepare a banquet for your God’. He replied: ‘You could not undertake it’. ‘Why’? ‘Because his attendants are too numerous’. ‘Indeed, I will do it’. ‘Then go and prepare it on the spacious banks of Rebitha’.[1] He [the Emperor] spent the six months of summer in making preparations when a tempest arose and swept everything into the sea. He then spent the six months of winter in making preparations when rain fell and washed everything into the sea. ‘What is [the meaning of] this’? asked the Emperor. ‘They are but the sweepers and sprinklers that march before him’! ‘In that case’, said the Emperor, ‘I cannot do it’.

The Emperor's daughter once said to R. Joshua b. Hananiah, ‘Your God is a carpenter, for it is written: Who layeth the beams of His upper chambers in the waters.[2] Ask him to make for me a spool!’ He replied: ‘Very well’. He prayed for her and she was smitten with leprosy. She was then removed to the open square of Rome and was given a spool. (For so it was the custom in Rome, whoever was smitten with leprosy was given a spool and removed to the open square, and was given skeins to wind, so that people may see them and pray for their recovery). One day as R. Joshua was passing he saw her sitting in the open square of Rome and winding the skeins on to the spool. He remarked: ‘My God has given you a beautiful spool’! She said: ‘I pray you, ask your God to take back what He has given me’. He replied: ‘Our God grants a request, but [when granted] never takes it back’.

Rab Judah said: An ox has a large belly, large hoofs, a large head and a long tail; an ass has just the reverse. What is the point of this? — For commercial transactions.[3]

Rab Judah further said: The bullock which Adam sacrificed had but one horn in its forehead, as it is said: And it shall please the Lord better than a bullock that hath horns [makrin] and hoofs’.[4] But does not makrin imply two horns? — R. Nahman said: Mkrn is written.[5]

Rab Judah further said: The bullock which Adam sacrificed had fully developed horns before it had hoofs,[6] as it is said: ‘And it shall please the Lord better than a bullock that hath horns and hoofs’; the verse first says: ‘that hath horns’ and then ‘hoofs’. This supports R. Joshua b. Levi, who said: All the animals of the creation were created in their full-grown stature, with their consent, and according to the shape of their own choice, for it is written: And the heaven and the earth were finished, and all the host of them[7] read not zeba'am[8] but zibyonam.[9]

R. Hanina b. Papa expounded: May the glory of the Lord endure for ever; let the Lord rejoice in His works![10] This verse was said by the Angel of the Universe.[11] For when the Holy One, blessed be He, enjoined after its kind[12] upon the trees, the plants applied unto themselves an a fortiori argument, saying: ‘If the Holy One, blessed be He, desired a motley growth, why did He enjoin "after its kind" upon the trees? Moreover, is there not here an a fortiori argument? If upon trees which by nature do not grow up in a motley growth the Holy One, blessed be He, enjoined "after its kind", how much more so does it apply to us’! Immediately each plant came forth after its kind. Thereupon the Angel of the Universe declared: ‘May the glory of the Lord endure for ever: let the Lord rejoice in His works!’

Rabina propounded the question: If a man grafted one plant on to another,

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(1) The name of a river; v. however, Neub. Geog. p. 277-8, where it is suggested that the correct text is ‘on the shore of the Great Sea’. V. D.S.

(2) Ps. CIV, 3.

(3) I.e., one who is about to purchase an ox or an ass should look for these particular qualities in the ox and the reverse in the ass.

(4) Ps. LXIX, 32. Heb. מקרין; so according to traditional reading. The verse alludes to the sacrifice offered by Adam.

(5) מקרן The word is written defectively without the ‘yod’, and this suggests the peculiarity of a single horn, as the word may be read מקרן

(6) Which is just the reverse of the natural development in the bullock. Since the full-grown animal was brought forth from the ground (Gen. I 24) in an upright stature (v. infra) its horns obviously appeared first and then its hoofs.

(7) Gen. II, 1.

(8) צבאם, ‘the host of them’.

(9) צביונם. The three ideas of the text are suggested by the slight variations and different meanings of the originals word צבאם: (i) from the root נצב, meaning upstanding, full-grown; (ii) from צבי, meaning desire, consent; and (iii) from צביון meaning pleasure, choice. V. R.H. 11a.

(10) Ps. CIV, 31.

(11) The angel Metatron, v. Tosaf. ad loc.

(12) Gen. I, 11. This phrase is stated in connection with the trees but not with plants.

Talmud - Mas. Chullin 60b

what would be the law according to the view of R. Hanina b. Papa?[1] Since ‘after its kind’ is not expressly stated with regard to plants one should not be liable; or, seeing that the Lord approved of their action, it is regarded as if ‘after its kind’ were expressly stated [and one would be liable]. The question remains undecided.

R. Simeon b. Pazzi pointed out a contradiction [between verses]. One verse says: And God made the two great lights,[2] and immediately the verse continues: The greater light . . . and the lesser light. The moon said unto the Holy One, blessed be He, ‘Sovereign of the Universe! Is it possible for two kings to wear one crown’? He answered: ‘Go then and make thyself smaller’. ‘Sovereign of the Universe’! cried the moon, ‘Because I have suggested that which is proper must I then make myself smaller'? He replied: 'Go and thou wilt rule by day and by night'. 'But what is the value of this'? cried the moon; 'Of what use is a lamp in broad daylight'? He replied: 'Go. Israel shall reckon by thee the days and the years'. 'But it is impossible', said the moon, 'to do without the sun for the reckoning of the seasons, as it is written: And let them be for signs, and for seasons, and for days and years'.[3] 'Go. The righteous shall be named after thee[4] as we find, Jacob the Small,[5] Samuel the Small,[6] David the Small',[7] On seeing that it would not be consoled the Holy One, blessed be He, said: 'Bring an atonement for Me for making the moon smaller'. This is what was meant by R. Simeon b. Lakish when he declared: Why is it that the he-goat offered on the new moon is distinguished in that there is written concerning it unto the Lord?[8] Because the Holy One, blessed be He, said: Let this he-goat be an atonement for Me for making the moon smaller.

R. Assi pointed out a contradiction [between verses]. One verse says: And the earth brought forth grass,[9] referring to the third day, whereas another verse when speaking of the sixth day says: No shrub of the field was yet in the earth.[10] This teaches us that the plants commenced to grow but stopped just as they were about to break through the soil, until Adam came and prayed for rain for them; and when rain fell they sprouted forth. This teaches you that the Holy One, blessed be He, longs for the prayers of the righteous. R. Nahman b. Papa had a garden and he sowed in it seeds but they did not grow. He prayed; immediately rain came and they began to grow. That, he exclaimed, is what R. Assi had taught.

R. Hanan b. Raba said: The shesu'ah[11] is a specific creature that has two backs and two spinal columns. Was Moses a hunter or an archer? This refutes those who maintain that the Torah was not divinely revealed.[12] R. Hisda said to R. Tahlifa b. Abina, 'Go, write down the words for "hunter"[13] and "archer"[14] in your homiletic note-book and explain them so'.

It is written: The five lords of the Philistines: the Gazite and the Ashdodite, the Ashkelonite, the Gittite and the Ekronite; also the Avvim.[15] The verse says five but enumerates six! — R. Jonathan said: Their overlords[16] were five in number. R. Hisda said to R. Tahlifa b. Abina, 'Write down the word for "overlord"[16] in your homiletic notebook and explain it so'.

This interpretation differs from Rab's view, for Rab had declared that the Avvim originally came from Teman.[17] There is also a Baraitha in support of this, viz., The Avvim originally came from Teman, and were named Avvim because they laid waste ['iwwethu][18] their home. Another interpretation: They were named Avvim because they longed for ['iwwu][19] many gods.

A further interpretation: They were named Avvim because whosoever looked at them was seized with trembling ['awwith].[20] R. Joseph said: Every one of them had sixteen rows of teeth.

R. Simeon b. Lakish said: There are many verses which to all appearances ought to be burnt[21] but are really essential elements in the Torah. [E.g.] It is written: And the Avvim that dwelt in villages as far as Gaza.[22] In what way does this concern us? Inasmuch as Abimelech adjured Abraham saying: Thou wilt not deal falsely with me, nor with my son, nor with my son's son,[23] the Holy One, blessed be He, said: Let the Kaphtorim come and take away the land from the Avvim, who are philistines, and then Israel may come and take it away from the Kaphtorim.[24] Similarly you must explain the verse: For Heshbon was the city of Sihon the King of the Amorites, who had fought against the former King of Moab.[25] In what way does this concern us? Inasmuch as the Holy One, blessed be He, had commanded Israel: Be not at enmity with Moab,[26] He therefore said: Let Sihon come and take away the land from Moab and then Israel may come and take it from Sihon. This, indeed, explains the saying of R. Papa, 'Ammon and Moab were rendered clean [unto Israel] through Sihon'.[27]

Hermon the Sidonians call Sirion and the Amorites call it Senir.[28] A Tanna taught: Senir and

Sirion are mountains in the land of Israel; this verse, however, teaches us that every one of the nations of the world went and built for itself a large city naming it after a mountain of the land of Israel, thus teaching you that even the mountains of the land of Israel are dear to the nations of the world.

In another instance it is written: And as for the people, he removed them city by city.[29] In what way does this concern us? — In order that his brothers be not called strangers.[30]

THE CHARACTERISTICS OF BIRDS ARE NOT STATED. Are they not? But it has been taught: [It is written,] The eagle,[31]

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(1) The expression ‘after its kind’ suggests separateness and so implies a prohibition against grafting one kind on to another. Since, however, this is not expressly stated with reference to plants, but they acted so merely of their own accord, it is doubtful therefore whether there is with regard to plants an implied prohibition against grafting.
(2) Gen. I, 16.
(3) Ibid. 14.
(4) Righteous men shall be named ‘the Small’ after the moon which was reduced to become the small luminary.
(5) Cf. Amos VII, 2: How shall Jacob stand? for he is small.
(6) A renowned Tanna of the first century, called ‘the Small’ on account of his humility.
(7) Cf. I Sam. XVII, 14: And David was the youngest (smallest).
(8) Num. XXVIII, 15: And a he-goat for a sin-offering unto the Lord. These words, ‘unto the Lord’, are not found in connection with sacrifices on other festive seasons.
(9) Gen. I, 12.
(10) Gen. II, 5.
(11) V. Deut. XIV, 7. According to Rabbinic tradition the word השסועה, which in the E.V. is translated as ‘cloven’, is the name of a specific creature with the Peculiarities here stated.
(12) For Moses could not of his own knowledge have described the various animals mentioned in the Torah, nor could he have known so well the nature of them all.
(13) קניגי from Gr. **, a hunter.
(14) בליסטרי from ‘ballistarius’, one who attends to the catapult, an archer. R. Tahlifa was advised to note these words as foreign words.
(15) Josh. XIII, 3.
(16) ארונקי (there are many variations: MS.M. אדודנקי; Aruch אדנדקי; Musafia אדונקי) meaning chiefs, overlords. The etymology of the word is doubtful, v. Jast. and Aruch.
(17) They were not indigenous to Philistia but came from Teman (a region in the country of Edom) and settled with the Philistines.
(18) There is here a play upon the words עוים, Avvim, and עותו or, as in some texts, עוו, which means they destroyed or laid waste.
(19) אוו, they desired.
(20) עוית, convulsions.
(21) In many MSS. are added the words ‘like the books of Miram’ or’ of minim’, i.e., heretics. These words were obviously struck out by the censor from the Present editions. As to ‘Miram’, v. Jastrow Dict. s.v. המירם, p. 355.
(22) Deut. II, 23.
(23) Gen. XXI, 23.
(24) The Israelites, being bound by the oath of Abraham not to molest the Philistines, indirectly, however, gained possession of their land by dispossessing the Kaphtorim who had vanquished the Philistines.
(25) Num. XXI, 26.
(26) Deut. II, 9.
(27) I.e., Israel by defeating Sihon indirectly got possession of the land of Ammon and Moab. V. Git. 38a; Sanh. 94b.
(28) Ibid. III, 9.
(29) Gen. XLVII, 21.
(30) For now the Egyptians too were rendered homeless, and were themselves strangers in the cities wherein Joseph had

settled them.

(31) Lev. XI, 13 and Deut. XIV, 12. Heb. נשר, usually translated ‘eagle’, but the griffon vulture or great vulture is probably intended. It must be observed that the identification of the various birds dealt with in this chapter is extremely doubtful and the suggestions made are merely tentative; v. Tosaf. infra 63a, s.v. נץ. For the most part the identifications of Lewysohn, discussed in his work, Die Zoologie des Talmuds, have been adopted.

Talmud - Mas. Chullin 61a

which implies, as the eagle is peculiar in that it has neither an extra toe nor a crop, its gizzard cannot be peeled, it seizes prey and eats it, and is unclean, so all that have the like characteristics are unclean.[1] [It is also written,] Turtle doves,[2] which implies, as the turtle dove has an extra toe and a crop, its gizzard can be peeled, it does not seize prey and eat it, and is clean, so all that have the like characteristics are clean![3] — Abaye answered: They were not expressly stated in the Torah but were inferred by the Scribes.

R. Hiyya taught: A bird that has one characteristic [of cleanness] only, is clean,[4] since it obviously is not of the same species as the eagle; for you may not eat the eagle as it has no characteristics [of cleanness], but whatsoever has one characteristic you may eat. But let us rather infer [the rule][5] from turtle doves thus: As turtle doves have the four [characteristics of cleanness], so all birds must have the four [characteristics]! — If so, why does the Divine Law specify all the other Unclean birds?[6] But let us infer it[7] from these [unclean birds specified in the Torah] thus: As these have three [characteristics of cleanness] and yet we may not eat them, so we may not eat all birds that have three [characteristics], (and a fortiori if it has but two [characteristics] or only one [characteristic of cleanness])![8] — If so, why does the Divine Law specify the raven?[9] Surely if we may not eat those that have three [characteristics of cleanness] it goes without saying [that we may not eat] those that have only two [characteristics]!

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(1) For they certainly belong to the species of the eagle. Any other bird, however, that has one or more than one characteristic of cleanness is clean, provided it is not one of the other species of unclean birds specified in the Torah.

(2) E.g., Lev. I, 14, as fit for sacrifice.

(3) The propositions in this Baraitha are inferred from the interpretation of words in the Torah and are regarded as implicit in the Torah, thus contradicting our Mishnah which declares that the characteristics of birds are not stated in the Torah.

(4) A fortiori if it has more than one characteristic of cleanness; provided, however, it is not one of the other species of unclean birds specified in the Torah.

(5) Sc. R. Hiyya's.

(6) For not one of them has all the four characteristics of cleanness, and it would be obvious that they are unclean.

(7) That one characteristic of cleanness alone is not sufficient.

(8) The bracketed passage is rightly omitted in MS.M.

(9) Heb. עורב. It has only two characteristics of cleanness, and according to the foregoing argument it would most certainly be unclean. For the specific two characteristics v. Tosaf. infra 62a, s.v. מפני.

Talmud - Mas. Chullin 61b

But let us infer [the rule][1] from the raven thus: As it has two [characteristics of cleanness] and yet may not be eaten, so all that have two [characteristics] may not be eaten! — If so, why does the Divine Law specify the peres[2] and the ‘ozniah?[3] Surely if we may not eat those that have two [characteristics of cleanness] it goes without saying [that we may not eat] those that have only one [characteristic]! Then let us infer [the rule] from the peres and the ‘ozniah! — If so, why does the Divine Law specify the eagle? For if we may not eat those that have one [characteristic of cleanness] it goes without saying that we may not eat those that have none [of the characteristics of cleanness]! The inference must therefore be: You may not eat the eagle because it has none [of the characteristics of cleanness], but whatsoever has one [characteristic] you may eat.

Now this is the result only because the Divine Law specified the eagle, but had it not done so we should have inferred it[4] from the peres and the ‘ozniah. But they, the peres and the ‘ozniah, are two texts, separately stated, which teach the same thing, and one may not draw any conclusions from two verses which teach the same thing![5] — There is a tradition that the characteristic [of cleanness] of the one is not that of the other.[6] But consider. There are twenty-four species of unclean birds [mentioned in the Torah].[7] Now it is inconceivable that the one characteristic of cleanness of each of these two species does not recur among the others, so that it is a case of two verses which teach the same thing![8] — There is a tradition that there are twenty four species of unclean birds and that there are four characteristics of cleanness. The same three characteristics circulate among all. Twenty [species] have each these three characteristics, the raven has two [of these characteristics], and the peres and the ‘ozniah have each one characteristic, but the characteristic of one is not that of the other.[9] You might then have said: Let us infer the rule from that one;[10] the Divine Law therefore specified the eagle to teach you that you may not eat the eagle as it has none of the characteristics of cleanness, but whatsoever has one characteristic you may eat. Why then does the Divine Law specify turtle doves?[11] — R. ‘Ukba b. Hama answered: Only with regard to sacrifices.[12]

R. Nahman said,

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(1) As to the required number of characteristics to stamp the bird clean.

(2) Heb. פרס, ‘the gier eagle’ or ‘the bearded vulture’. This and the osprey (v. next note) have each one characteristic of cleanness only.

(3) Heb. עזניה, ‘the osprey’ or ‘the sea eagle’.

(4) That one characteristic of cleanness alone is not sufficient.

(5) For if these were intended as specimens only, and that all others with similar characteristics were to be inferred therefrom, the Torah need only have stated one of them. The fact that two verses are stated, or two specimens given, suggests that the rule is limited to the particular specimens given.

(6) So that these two do not teach quite the same thing for they each have a different characteristic of cleanness.

(7) V. infra 63a.

(8) So that we could not have inferred from either of them that a bird with only one characteristic of cleanness was unclean; hence the specification of the eagle in the Torah becomes superfluous.

(9) One of these two, either peres or the ‘ozniah, is unique in that it alone possesses the fourth characteristic of cleanness.

(10) With the result that every bird that has one characteristic of cleanness — whichever characteristic that may be, for we do not know what is this unique fourth characteristic — would be forbidden.

(11) Since it has been concluded that a bird with only one characteristic of cleanness is permitted the specification of turtle doves in the Torah is rendered superfluous, and indeed contradictory, for it suggests the possession of all the four characteristics of cleanness as the criterion.

(12) Namely, that only doves, of all the clean birds, are allowed for sacrifice. The Tanna in the Baraitha, supra 62a, stated turtle doves solely to set forth, by contrast with the eagle, the four characteristics of cleanness.

Talmud - Mas. Chullin 62a

To one who is familiar with these birds[1] and their nomenclature any bird that has one characteristic [of cleanness] is clean; but to one who is not familiar with these birds and their nomenclature any bird that has one characteristic [of cleanness is unclean],[2] but that which has two characteristics [of cleanness] is clean; provided he recognizes the raven.[3] The raven only, and no other! Surely it has been taught: It is written: Raven,[4] that is the actual raven; after its kind, that, says R. Eliezer, includes the zarzir.[5] They said to R. Eliezer: But the men of Kefar Tamratha in Judah used to eat it, because it has a crop![6] He replied: They shall indeed have to account for it in the future. Another version reads: ‘After its kind’, that, says R. Eliezer, includes the white senunith.[7] They said to R. Eliezer: But the men of Upper Galilee eat it, because its gizzard can be peeled![6] He replied: They shall indeed have to account for it in the future![8] Rather say, [provided he recognizes] the raven and all its kind.

Amemar said: The law is that every bird that has one characteristic [of cleanness] is clean, that is, if it does not seize prey.[9] R. Ashi said to Amemar: But what about the [above] statement of R. Nahman? — He replied: I have not heard of it, by which I mean to say: I do not agree with it. For what is there to fear? That it might be either the peres or the ‘ozniah? But neither of these are found in inhabited regions.

Rab Judah said: A bird which scratches is permitted for use in the purification rite of a leper;[10] and this is the white senunith about which R. Eliezer and the Sages argued. Amemar said: As to the white-bellied [senunith] there is no dispute that it is permitted; they differ only about the green-bellied kind, which R. Eliezer forbids and the Rabbis permit, and the law rests with R. Eliezer. Mar Zutra reports this passage as follows: As to the green-bellied senunith there is no dispute that it is forbidden; they differ only about the white-bellied kind, which R. Eliezer forbids and the Rabbis permit, and the law rests with the Rabbis. Now according to the version which reports the dispute [between R. Eliezer and the Rabbis] about the white-bellied kind it is right that it says above ‘the white senunith’.[11] But according to the other version which reports the dispute about the green-bellied kind, why is ‘the white senunith’ mentioned? — In order to exclude the black kind which nests in [eaves of] houses.[12]

Rehabah said in the name of Rabbi[13] Judah: The tasil[14] is disqualified [for sacrifice] as a turtle dove but is not disqualified as a young pigeon.[15] Dazife[14] and the turtle doves of Rehabah[14] are not disqualified as turtle doves but are disqualified as young pigeons. R. Daniel son of R. Kattina raised an objection. [We have learnt:] All birds

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(1) I.e., the peres and the ‘ozniah. These are the only unclean birds that have only one characteristic of cleanness.

(2) For it might be of the species of the peres or ‘ozniah.

(3) The raven is the only unclean bird that has two characteristics of cleanness.

(4) Lev. XI, 15.

(5) Heb. זרזיר, the starling.

(6) And this is not one of the two characteristics of cleanness of the raven. V. Tosaf. ad. loc.

(7) Heb. סנונית לבנה, the white-bellied swallow, a species of raven; v. next note.

(8) According to R. Eliezer, therefore, the species ‘raven’ includes other birds as the swallow and starling, consequently in the statement of R. Nahman it should be necessary for a man to recognize all those birds that are included within the species ‘raven’.

(9) According to Rashi the meaning is, so long as it does not seize prey and it has in addition one characteristic of cleanness it is clean. According to Tosaf. (s.v. והוא) the fact that it does not seize prey is the only characteristic of cleanness that it need Possess.

(10) Cf. Lev. XIV. On the day of his cleansing the leper was required to take two living clean birds for Purification. The type of bird that scratches is not precluded, i.e., it is regarded as clean. The epithet ‘scratch’ is applied to a bird perhaps by reason of it peculiar beak, possibly the fissirostral birds, i.e., that have the beak broad and deeply cleft.

(11) Supra in the statement of R. Eliezer.

(12) This type of swallow is certainly forbidden.

(13) Usually Rab Judah, v. Bez., Sonc. Ed., p. 54, n. 9.

(14) These are various species of doves; their identification is very doubtful. Cf. Lewysohn, Zoologie des Talmuds, pp. 203-205.

(15) V. supra 22a.

Talmud - Mas. Chullin 62b

render invalid the waters of purification[1] except the dove, because it sucks up the water.[2] Now if it were [as you say], it should read ‘Except the dove and the tasil’? — R. Zera answered: The latter sucks up the water and spits it back,[3] whereas the former sucks up without spitting.

Rab Judah said: Zuzinian[4] doves are fit for the altar; and they are identical with the doves of Rehabah. An objection was raised. [We have learnt:][5] Hyssop,[6] but not Greek hyssop, nor Kohalith[7] hyssop, nor Roman hyssop, nor wild hyssop, nor any kind of hyssop which bears a special name![8] — Abaye said: Everything which prior to the giving of the Torah had various names, and we find that the Torah is particular about it,[9] then those kinds that bear a special name are invalid. These doves, however, did not have various names prior to the giving of the Torah,[10] Raba said: These Zuzinian doves are called simply [‘doves’] in their locality.

Rab Judah said: Karze[11] which are found among the rushes are permitted, but those found among cabbages are forbidden. Rabina added: And we scourge [him that eats them] for [eating] winged creeping things.[12]

Rab Judah further said: Zarda[13] is permitted but barda[13] is forbidden; and in order to remember this think of the expression, ‘Keep aloof [bar] from it’.[14] As to marda[15] there is a doubt. R. Assi said: There are eight birds regarding which there is a doubt, viz., Huba, huga, suga, harnuga, tushlami, marda, kohilna, and bar nappaka.[16] What is the doubt about them? — [It is this]. One of the characteristics of clean birds is that the gizzard can be peeled, and one of the characteristics of unclean birds is that the gizzard cannot be peeled, but in the case of these [eight] the gizzard can only be peeled with a knife.[17] But was there not a case of a duck belonging to Mar Samuel, the gizzard of which could not be peeled, so it was left in the sun, and as soon as it became soft it peeled easily?[18] — In that case as soon as it became soft it peeled easily with the hand, but here even after it has been softened it can only be peeled with a knife.

Abaye said: The moor-cock is one of the eight cases of doubt, for it is the mardu.[19] R. Papa said: The moor-cock is forbidden but the moor-hen is permitted, and in order to remember this think of the rule, ‘An Ammonite [is debarred] but not an Ammonitess’.[20] Meremar stated in an exposition: The moor-hen is forbidden because it was seen to seize prey and eat it, and this is girutha.[21]

Rab said: Shabur androfata[22] is permitted, piruz androfata[22] is forbidden; and to remember this think of ‘the wicked piruz’.[23] R. Huna said: Bunia[24] is permitted, parwa[24] is forbidden, and to remember this think of ‘Parwa the magician’.[25]

R. Papa said: The mardu which stands erect and eats is permitted, that which bends down and eats is forbidden, and to remember this think of the verse: Thou shalt bow down to no other god.[26]

Samuel said: The ‘wine drinker’[27] is forbidden, and to remember this think of the law ‘Those that have drunk wine are unfit for service’.[28]

Samuel further said: The ‘wine mixer’[29] is forbidden,

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(1) If they had drunk therefrom. All birds, excepting doves, when drinking do not suck up the water but raise it in their beaks, and it is inevitable that some water should not run out of the beak and, in this case, drip back again into the bowl of purification water. This dripping would render the purification water invalid, because the water is thereby disturbed and it is considered as if it were put to some work. V. supra 9b.
(2) And no water drips back into the bowl. Par. IX, 3.
(3) Spitting renders the purification water invalid. V. Par. loc. cit.
(4) Probably the name of some place, v. Neub. Geog. p. 396. But v. Lewysohn, op. cit., p. 204.
(5) Neg. XIV, 6; Par. XI, 7; Suk. 13a.
(6) Num. XIX, 6. Hyssop was required to be used in the rites in connection with the Red Cow.
(7) A species of hyssop from the place Kohalith (so Maim. and Jast.). Others, ‘stibium hyssop’ or ‘blue hyssop’.
(8) Likewise it should be held that doves which bear a special name, as here, should not be allowed upon the altar for sacrifice, contra Rab Judah.
(9) I.e., the Torah nowhere refers to it by its special name.
(10) The various types of doves going under different names were not known before the giving of the Torah, hence the Torah contemplated all doves.
(11) A species of locust, so Rashi: but v. Tosaf. s.v. כרזי, according to whom birds and not locusts are spoken of here. V. Lewysohn, op. cit., p. 297.
(12) Lev. XI, 23.
(13) This and the following names are all names of birds. For suggested identifications v. Lewysohn, op. cit., p. 187: צרדא, the linnet, ברדא, the white jay, and מרדא or מרדו, the moor-cock, respectively.
(14) בר, the first syllable of the name ברדא, means ‘keep aloof’, thus hinting that one must keep away, from ברדא, for it is forbidden.
(15) V. p. 339, n. 21.
(16) Possibly the crested lark, the lark, the wren, the mountain chaffinch, the wood lark, the moor-hen, the black woodpecker, and the partridge respectively. V. Lewysohn. It must be pointed out that these identifications are extremely doubtful. The suggestions can hardly be more than guesses.
(17) They posses, however, the other three characteristics of cleanness.
(18) It is thus seen that even in the case of permitted birds it is sometimes difficult to peel the gizzard.
(19) A variant of marda mentioned supra.
(20) Is precluded from entering the community of Israel; cf. Deut. XXIII, 4. V. Yeb. 69a. The implication here is that the moor-cock is a forbidden species, whilst the moor-hen is not. V. Tosaf. s.v. תרנגולתא.
(21) V. infra 109b.
(22) The parrot, according to Lewysohn; androfata being the Gk. term **, ‘talking like a man’. Shabur might be the domesticated kind (שבור, broken in), and piruz the wild kind (from פרז to break through).
(23) Possibly a reference to the Sassanide king piruz (457-484) under whom the Jews suffered terrible persecutions.
(24) The penguin and the sea mew respectively.
(25) V. Yoma 35a.
(26) Ex. XXXIV, 14. The kind that bends down to eat is forbidden.
(27) שתיא חמרא possibly the redwing thrush.
(28) V. Sanh. 22b and 83a.
(29) V. next note.

Talmud - Mas. Chullin 63a

the ‘daughter of the wine mixer’[1] is permitted, and to remember this think of the saying: ‘The position of the son is better than that of the father’.[2]

Rab Judah said: The shakitna[3] with the long legs and red body is permitted, and to remember this think of murzama;[4] that with the short legs and red body is forbidden, and to remember this think of the law, ‘The dwarf is unfit’;[5] and that with the long legs and green body is forbidden, and to remember this think of the rule, ‘If they turned green it is invalid’.[6]

Rab Judah said: The shalak[7] is the bird that catches fish out of the sea; the dukifath[8] is so called because its crown appears double. There is also [a Baraitha] taught to this effect : The dukifath is so called because its crown appears double, and it was this bird that brought the shamir to the Temple.[9] Whenever R. Johanan used to see the shalak he would exclaim: Thy judgments are like the great deep,[10] and whenever he used to see an ant he would exclaim: Thy righteousness is like the mighty mountains.[10] Amemar said: Lakni[11] and batni[11] are permitted; as for shaknai[11] and batnai,[11] wherever it is the custom to eat them they are permitted. and wherever it is not the custom to eat them they are forbidden. But is it a matter of custom?[12] — Indeed it is; nevertheless, there is no difficulty. The former custom obtains in that place where the peres and the ‘ozniah are not found,[13] whereas the latter custom obtains in that place where the peres and the ‘ozniah are found.

Abaye said: Kua.[14] and kakuai[14] are forbidden, but kaku'atha[14] is permitted; in the West [palestine], however, one would incur stripes [for eating it], and it is called by them tahwatha.

Our Rabbis taught: The tinshemeth.[15] is the bawath[16] among the birds. You say: ‘the bawath among the birds’, but perhaps it is not so but rather ‘the bawath among the reptiles’? — You can reply: Go and derive it by one of the thirteen exegetical principles by which the Torah is interpreted, namely, ‘The meaning of a passage is to be deduced from its context’. Now what does the passage deal with? Birds; then this too is a bird.

It was likewise taught with regard to reptiles: The tinshemeth is the bawath among reptiles.[17] You say: ‘the bawath among reptiles’, but perhaps it is not so but rather ‘the bawath among the birds’? — You can reply: Go and derive it by one of the thirteen exegetical principles by which the Torah is interpreted, namely, ‘The meaning of a passage is to be deduced from its context’. Now what does the passage deal with? Reptiles; then this too is a reptile. Abaye said: The bawath among the birds is the bat, and the bawath among the reptiles is the mole.

Rab Judah said: Ka'ath[18] is the sea crow, raham[19] the sherakrak [vulture]. R. Johanan said: Why is it called raham? Because when the raham comes mercy [rahamim][20] comes to the world. R. Bibi b. Abaye said, provided it perches upon something and cries ‘sherak-rak’. There is a tradition that if it settles upon the ground and hisses, the Messiah will come at once, for it is said: I will hiss for them[21] and gather them.[22] R. Adda b. Shimi said to Mar the son of R. Iddi: Did not [a raham] once settle upon a ploughed field and commence to hiss when a stone fell upon it and broke its head? That one was a liar,[23] he replied.

Our Rabbis taught: Raven[24] signifies the raven, every raven includes the raven of the valley, after its kind includes the raven that moves ahead of the doves.

The Master said: Raven signifies the raven. But is it here before us?[25] — Render, Raven signifies the black raven, as it is said: His locks are curled and black as a raven.[26] ‘The raven of the valley’ is the white spotted raven,[27] as it is said: And the appearance thereof is deeper than the skin[28] that is, as the sunlight that appears deeper than the shadow. ‘The raven that moves ahead of the doves’. R. Papa said: Read not ‘that moves ahead of the doves’, but ‘whose head resembles that of a dove.[29]

Our Rabbis taught: The nez[30] is the hawk, after its kind includes the bar hiria. What is the bar hiria? — Abaye said: It is the falcon.

R. Hisda said: The hasidah[31] is the white stork. And why is it called hasidah? Because it shows kindness [hasiduth] to its companions. The anafah[32] is the heron. And why is it called anafah? Because it quarrels [mean'efeth] with its companions.

R. Hanan, son of R. Hisda, stated in the name of R. Hisda, who reported in the name of R. Hanan, son of Raba, on the authority of Rab, There are twenty-four unclean birds [enumerated in the Torah]. Where? In Leviticus[33] there are only twenty enumerated, and in Deuteronomy[34] there are but twenty-one! And should you say that the da'ah[35] mentioned in Leviticus, but not in Deuteronomy, should be added to the list, even then there would only be twenty-two! — He replied: Thus did your mother's father report in the name of Rab, The words ‘after its kind’,[36] stated four times, represent four more birds. Then there would be twenty-six? — Abaye answered: The da'ah and the ra'ah[37] are one and the same. For should you say that they are two distinct birds

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(1) מזגא חמרא and בת מזגא חמרא; possibly the lapwing and the stock pigeon respectively.

(2) V. supra 49b.

(3) The flamingo.

(4) מורזמא, a kind of flamingo which was known to be permitted.

(5) V. Bek. 45b.

(6) V. supra 56a.

(7) Lev. XI, 27. Heb. שלך, the cormorant.

(8) Ibid. 19. Heb. דוכיפת. The name is interpreted by its component parts viz., הודו ‘its crown’ and כפות ‘tied together, doubled’. In the versions it is translated as the hoopoe; most probably it is the wood grouse.

(9) V. Git. 68b. שמיר a minute worm which tradition relates could cut through the hardest stone.

(10) Ps. XXXVI, 7. God's righteousness extends to the tiny ant so that its food is always ready and constant as the mighty mountains; whereas his judgments reach the rapacious cormorant so that it must search for its food out of the depths of the sea (Rashi).

(11) The pelican, the gannet, the bustard and the black gannet respectively. Lewysohn, op. cit. pp. 184-5.

(12) It is surely a matter of law; they are either permitted or forbidden.

(13) As shaknai and batnai are birds each possessing only one sign of cleanness they are permitted so long as there is no fear of an any confusion with the peres or the ‘ozniah; cf. supra 62a.

(14) According to Lewysohn: the large screech owl, the small screech owl, and the owl respectively.

(15) Lev. XI, 18. Heb. תנשמת, listed among the forbidden birds. The tinshemeth is also mentioned as one of the forbidden creeping things in v. 30.

(16) באות, the night-bird (noctua), the owl, from the root בות, to pass the night’ Others באות, ‘ugly, repulsive’. According to Rashi it is the bat. V. infra dictum of Abaye.

(17) probably the mole.

(18) Lev. XI, 18. Heb. קאת.

(19) Ibid. Heb. רחם.

(20) רחמים, i.e., rain.

(21) אשרקה, onomatopoeic word in imitation of sound sherakrak.

(22) Zech. X, 8.

(23) It should not thus have prematurely indicated the coming of the Messiah, and so it was punished. Aliter: ‘it was an impostor’, i.e., it was not a raham (R. Gershom).

(24) Lev. XI, 15.

(25) The fact that the Tanna speaks of the raven without adding any descriptive epithet suggests that he was alluding to a particular kind. Which then did he mean?

(26) Cant. V, 11.

(27) The magpie.

(28) Lev. XIII, 25. The descriptive phrase ‘in the valley’ is appropriately applied to the white spotted raven, for whatsoever is bright always appears to be deeper, ‘in the valley’, than that which is dark.

(29) The cuckoo.

(30) Ibid. XI, 16. Heb. נץ.

(31) Ibid. 19. Heb. חסידה.

(32) Lev. XIII, 19. Heb. אנפה, from root אנף ‘to be angry, to quarrel’.

(33) Ibid. XI, 13ff.

(34) Deut. XIV, 12ff.
(35) Heb. דאה Lev. XI, 14. As will be seen at the end of this passage the Heb. names דאה, ראה, איה and דיה are all different appellations of one bird. Generally identified with the vulture, v. Lewysohn op. cit. p. 167.
(36) Lev. XI, 24, 15, 16, and 19.
(37) Heb. ראה, Deut. XIV, 13.

Talmud - Mas. Chullin 63b

then consider this: seeing that the purport of Deuteronomy is to add to the laws, why is it that here [in Leviticus] it mentions the da'ah but there [in Deuteronomy] only the ra'ah and not the da'ah? You must therefore hold that the ra'ah and the da'ah are one and the same. But for all that there are still twenty-five? — Abaye answered: Just as the ra'ah and the da'ah are one and the same, so, too, are the dayyah and the ayyah.[1] For should you say that they are two distinct birds then consider this: seeing that the purport of Deuteronomy is to add to the laws, why is it that here [in Leviticus] the words ‘after its kind’ are appended to the ayyah but there [in Deuteronomy] these words are appended to the dayyah? You must therefore hold that the ayyah and the dayyah are one and the same. But since the ayyah and the dayyah are one and the same why are they both stated? — For the reason given in the following Baraitha: Rabbi says: It is sufficient when I read the ayyah, why then is the dayyah mentioned? So as not to give skeptics cause for criticism, for you might call it the ayyah and they the dayyah, or you the dayyah and they the ayyah; therefore it is written in Deuteronomy, The ra'ah, the ayyah and the dayyah after its kind.[2]

An objection was raised. It was taught: Why was the list repeated [in Deuteronomy]? Cattle because of the shesu'ah,[3] and birds because of the ra'ah.[3] Now presumably, just as in the case of cattle a new species is added to the list, so too in the case of birds a new species is added![4] — No, in the former case a new species is added, but in the latter the addition is merely explanatory.[5]

This view[6] [of R. Hisda] differs from that of R. Abbahu,[7] for R. Abbahu taught. The ra'ah is the same as the ayyah: wherefore is it called ra'ah? Because it can see [roah] very keenly, for so it is said: That path no bird of prey knoweth, neither hath the eye of the ayyah seen it.[8] And a Tanna [has also] taught: It [the ayyah] stands in Babylon and espies carrion in the land of Israel. But since [according to R. Abbahu] the ra'ah and the ayyah are one and the same, it would follow then that the da'ah is not the same as the ra'ah and [this being so] why is it that here [in Leviticus] the da'ah is mentioned but there [in Deuteronomy], the purport of which is to add to the laws, the da'ah is not mentioned? You must therefore hold that the da'ah, the ra'ah and the ayyah are all one and the same. But then since the ra'ah and the ayyah are one and the same, it would follow that the dayyah is not the same as the ayyah, and [this being so] why is it that here [in Leviticus] the words ‘after its kind’ are appended to the ayyah whereas there [in Deuteronomy] these words are not added to the ayyah but to the dayyah? It must therefore be said that the da'ah, the ra'ah, the ayyah and the dayyah are all one and the same.[9]

It was taught: Issi b. Judah says: In the East there are one hundred unclean birds all of the species of ayyah.

Abimi the son of R. Abbahu learnt: There are seven hundred species of [unclean][10] fishes, eight hundred species of [unclean] locusts, but the species of [unclean] birds are innumerable. But there are only twenty-four species of [unclean] birds! — Rather [say], The species of clean birds are innumerable.

It was taught: Rabbi says. It is well known to Him who spake and the world came into being that the unclean animals are more numerous than the clean, therefore did Scripture enumerate the clean. It is also well known to Him who spake and the world came into being that the clean birds are more numerous than the unclean, therefore did Scripture enumerate the unclean. What is the point of this teaching? — It sets forth the idea, also expressed by R. Huna in the name of Rab (others say: R. Huna in the name of Rab on the authority of R. Meir), viz., A teacher should always teach his pupil succinctly.[11]

R. Isaac said: For the eating of clean birds we rely upon tradition.[12] A hunter is believed when he says. ‘My master transmitted to me that this bird is clean’. R. Johanan added. provided he was familiar with birds and their nomenclature. R. Zera enquired: Does ‘master’ mean a master in learning or in hunting? — Come and hear, for R. Johanan added: ‘provided he was familiar with birds and their nomenclature’. Now if it means a master in hunting it is well, but if it means a master in learning, I grant you that he would have learnt their nomenclature, but would he actually know them [so as to recognize them]? You must therefore say it means a master in hunting; this is proved.

Our Rabbis taught: One may buy eggs from gentiles in any place and need have no fear lest they are of birds that were nebelah or trefah. But perhaps they are of unclean birds? — Samuel's father answered. [We must suppose the case to be that] he says, ‘It is of such and such a bird’, which is clean.[13] Why is it not sufficient [for the gentile] to say, ‘It is of a clean bird?’ — In that case he might be evasive.[14] And why not test [the egg] by the characteristics [stated by the Rabbis]? For it has been taught: ‘Characteristics which distinguish the eggs [of clean birds] are the same as those which distinguish [clean] fish’. (But how can you say ‘as those which distinguish [clean] fish’, since the Divine law states fins and scales? — Say rather: As those which distinguish

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(1) Both the איה and the דיה are mentioned in Deut. XIV, 13, but in Lev. only the former is mentioned.

(2) Deut. XIV, 13. The Torah thus stated all the appellations whereby the bird is known.

(3) Which is not mentioned in Lev. For shesu'ah, v. supra 60b.

(4) So that the ra'ah is a bird quite distinct from the da'ah.

(5) The Torah merely indicates the various names by which this bird is designated.

(6) That there are only twenty-four unclean birds.

(7) For since he (R. Abbahu) says that the ra'ah is identical with the ayyah, and in the conclusion he holds that all four — ayyah, dayyah, ra'ah and da'ah — are different names of one and the same bird, it is evident that according to him there are not twenty-four birds enumerated in the Torah. The argument in the Gemara at the outset presupposes the acceptance by R. Abbahu of R. Hisda's view, but the conclusion shows that he cannot agree with it.

(8) Job XXVIII, 7.

(9) And R. Abbahu consequently does not accept the statement reported by R. Hisda.

(10) In the MS.M. ‘unclean’ is actually in the text. Cf. Tosaf. s.v. עופות V. Bah's note on Rashi a.l.

(11) Lit., ‘in a short way’.

(12) We may rely upon a tradition, handed down from generation to generation through reliable channels, that any particular bird is clean.

(13) Read וטהור i.e., the gentile names a bird which is known to be clean; v. D.S. a.l. and infra 64a.

(14) For when questioned about it the gentile could always evade the issue by naming other clean birds unfamiliar to the Jew.

Talmud - Mas. Chullin 64a

fish roe.) And these are the characteristics which distinguish the eggs [of clean birds]: All that are arched and rounded, with one end broad and the other end narrow, are clean. Those that are broad at both ends or narrow at both ends are unclean. Those with the white outside and the yolk in the center are clean, those with the yolk outside and the white in the center are unclean; if the white and the yolk are mixed up, one may be certain that it is a reptile's egg? — This[1] must be resorted to only where the eggs were broken.[2] But they can still be examined by the position of the yolk and white? — They were beaten up in a dish. But is it then permissible to purchase such from them [gentiles]? Surely it has been taught: One may not sell to a gentile the egg of a bird that was trefah,[3] unless it was beaten up in a dish. For this reason one may not buy from them eggs beaten up in a dish![4] — Rather, said R. Zera: The distinguishing characteristics [of the eggs of clean birds] do not rest on Biblical authority.[5] For should you not hold this, then when R. Assi stated ‘There are eight birds about which there is a doubt’,[6] it could rightly be asked: Why not examine their eggs;[7] you must therefore say that the characteristics do not rest on Biblical authority. To what purpose then were they stated above? To teach the following: If both ends [of the egg] were broad, or both narrow, or if the yolk was outside and the white in the center, it is certainly unclean; if, however, one end was broad and the other narrow, and the white outside and the yolk in the center, and if, in addition, the gentile says. ‘It is of such and such a bird’, which is clean, he may be relied upon, but without this express statement he may not be relied upon,[8] for there is the raven's egg which resembles that of a dove.

The Master said: ‘If the white and the yolk are mixed up, one may be certain that it is a reptile's egg’. For what reason is this stated so?[9] — R. ‘Ukba b. Hama answered: To teach that if [the embryo within was] developed and [the shell] perforated, then a lentil's bulk thereof would convey uncleanness. Rabina demurred, saying: Perhaps it is a serpent's egg![10] — Rather, said Raba, It is to teach that if [the embryo within was] developed, whosoever eats it would incur stripes for [eating] creeping things that crawl upon the earth.[11] If so, why [do we argue about the egg] of an unclean bird? Even of a clean bird [there is also this prohibition]! For it has been taught: [The verse,] And every creeping thing that creepeth upon the earth,[12]

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(1) The necessity that the gentile name the bird.

(2) And it is no longer possible to examine the egg by the external characteristics.

(3) For fear that he will re-sell it to a Jew.

(4) For in all probability the eggs were of a bird that was rendered trefah and were sold by a Jew to this gentile.

(5) And we may not rely upon them.

(6) Supra p. 340.

(7) And the shape of the egg of each bird would decide whether the bird was clean or not, according to the above-mentioned distinguishing signs.

(8) And the egg is unclean, for the characteristics by themselves are not absolutely reliable.

(9) I.e., why does it not say simply ‘it is unclean’.

(10) Which does not convey uncleanness at all.

(11) Cf. Lev. XI, 41. The Baraitha therefore stated ‘it is a reptile's egg’ to inform us of the appropriate prohibition that must be declared to the transgressor as a warning before he commits the offence, in order to render him liable to stripes.

(12) Ibid.

Talmud - Mas. Chullin 64b

includes [in its prohibition] chicks that have not yet opened their eyes![1] — This [latter] prohibition is only Rabbinic[2] and the verse adduced is merely a support.

Our Rabbis taught: The exudation of eggs is permitted.[3] Addled[4] eggs may be eaten by those who are not squeamish.[5] If there was found on it a spot of blood, the blood must be thrown away and rest [of the egg] may be eaten. R. Jeremiah said: This is so, provided it was found upon the knot.[6] Dosthai, the father of Aptoriki, taught: This rule[7] applies only if [the spot of blood was] found on the white,[8] but if found on the yolk the whole egg is forbidden, for the decay has spread over the entire [egg].[9] R. Gebiha of Be-Kathil[10] said to R. Ashi, A Tanna once recited this statement before Abaye in just the reverse form,[11] but Abaye corrected him so as to make it agree with the above.

Hezekiah said: Whence do we know that the egg of an unclean bird is prohibited by the Torah? Because it is written: And the bath ha-ya'anah.[12] Now has the ya'anah a daughter? It can only mean the egg of an unclean bird.[13] But perhaps this is its actual name?[14] — This cannot be, for it is written: The daughter of my people is become cruel, like the ye'enim[15] [ostriches] in the wilderness.[16] But on the other hand it is written: I will make a wailing like the jackals, and a mourning like the benoth ya'anah [ostriches].[17] — There it means, as the ya'anah mourns for its young. But there is also written: And benoth ya'anah [ostriches] shall dwell there![18] — It means as the ya'anah dwells with its young. But there is also written: The beasts of the field shall honour Me, the jackals and the benoth ya'anah [ostriches],[19] and if you were to say that it[20] refers to the egg, [it will be asked.] Can an egg sing hymns [unto the Lord]? — Indeed both ya'anah and bath ya'anah are [found] written, but in this particular instance it is different, since the scribe has divided the word into two; (and since the scribe has divided it

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(1) Bez. 6b.

(2) Not biblical, hence one would not incur stripes for eating it.

(3) I.e., if clean eggs were boiled with unclean eggs, all the eggs being in the shell, the former are permitted and are not rendered unfit through the sweating or exudation of juices from the unclean eggs, for it is insignificant and negligible (Rashi and R. Gershom). Another interpretation is: Eggs driven out by a blow and not laid by the hen; i.e., abortive eggs, (so Tosaf., Aruch and Hal. Ged.).

(4) Eggs upon which the hen has brooded but out of which no chicks can develop.

(5) Lit., ‘whose soul (or appetite) is good’. It is suggested that a fastidious person eating it would incur stripes on account of the prohibition, Ye shall not make yourselves detestable, Lev. XI. 43. (Torath Hayyim).

(6) It is quite likely that the cicatricula or blastoderm, i.e., the disc of cells appearing as a whitish patch on the yolk of the egg, is meant, from which alone the embryo is formed. According to Rashi and many early commentators, however, the reference is to the stringy portion in the white of the egg, the chalaza, which was formerly supposed to be the male sperm.

(7) That the blood must be removed and the rest of the egg is permitted.

(8) According to Rashi it means, upon the knot or stringy portion of the white.

(9) I.e., the blood must have spread from the white to the yolk (Rashi). V. Tosaf. ad loc. and R. Nissim on this passage.

(10) On the Tigris, N. of Bagdad; v. Obermeyer p. 143ff.

(11) I.e., if the spot of blood was found on the yolk the blood must be removed, and the rest of the egg may be eaten, but if found on the white the whole egg is forbidden.

(12) Lev. XI, 16. Heb. בת היענה lit., ‘the daughter of the ya'anah’. Generally translated ‘the ostrich’.

(13) I.e., the verse teaches first that the ostrich (ya'anah) is an unclean bird, and secondly, that the egg (bath, ‘daughter’) of an unclean bird is forbidden.

(14) A compound name, Bath ha-ya-anah, or bath ya'anah.

(15) Heb. יענים a form of plural of our word יענה. Hence it is clear that this bird is named ya'anah and not, by a compound name, bath ha-ya'anah.

(16) Lam. IV, 3.

(17) Micha I, 8. בנות יענה is the plural of בת יענה; evidently a compound name.

(18) Isa. XIII, 21.

(19) Ibid. XLIII. 20.

(20) Sc. the term bath.

Talmud - Mas. Chullin 65a

into two words it proves that it is two distinct terms).[1] But according to this will you also say that Chedarlaomer.[2] seeing that the scribe has divided it into two, is two distinct names? — I reply, in the latter case it is true that he has divided the word into two but he has not separated them on two lines,[3] but here he has even separated them on two lines.[4]

BUT THE SAGES HAVE SAID, EVERY BIRD [THAT SEIZES ITS PREY IS UNCLEAN]. It was taught: Rabban Gamaliel says, [If a bird] seizes prey and eats it, one may be certain that it is unclean; if it has an extra toe, and a crop. and its gizzard can be peeled. one may be certain that it is clean.[5] R. Eleazar son of R. Zadok says: A cord is stretched out for it, and if [when perched on it] it divides its toes evenly, two on each side, it is a clean bird, but if it places three toes on one side and one on the other, it is an Unclean bird. R. Simeon b. Eleazar says: Every bird which catches food [thrown to it] in the air is unclean. (But does not the zipparta catch food in the air?[6] — Abaye answered: It means, catches food and eats it in the air.)[7] Others say: Those that dwell with unclean birds are unclean, those that dwell with clean birds are clean. According to whom is this rule? Is it only according to R. Eliezer? For it was taught: R. Eliezer said: Not for nothing did the zarzir follow the raven but because it is of its kind![8] — It might even be according to the Rabbis too, for we speak here of those that dwell with and also resemble [unclean birds].[9]

OF LOCUSTS: ALL THAT HAVE . . . [AND WINGS COVERING THE GREATER PART OF THE BODY]. What is meant by THE GREATER PART? — Rab Judah said in the name of Rab, It means the greater part of the length [of the body]. Others say [in the name of Rab]. The greater part of the girth [of the body]. R. Papa said: We therefore require the [wings to cover the] greater part of the length, as well as the greater part of the girth of the body.

Our Rabbis taught: If it has no [leaping legs] now but will grow them later on, as in the case of the zahal,[10] it is permitted. R. Eliezer son of R. Jose says. [The verse], Which have leaping legs,[11] includes those that have none now but will grow them later on. What is the zahal? — Abaye answered: It is the iskera.[10] Our Rabbis taught: Even those of them ye may eat, the arbeh after its kind,[12] etc. The ‘arbeh’ is the gobai,[13] the ‘sol'am’ is the vashon,[13] the ‘hargol’ is the nippol,[13] and the ‘hagab’ is the gadian.[13] Wherefore does the verse add ‘after its kind’ to each? To include the zipporeth keramim, the Jerusalem yohana, the ‘arzubia and the razbonith respectively. In the school of R. Ishmael it was taught: [In this verse] we have a number of general propositions and a number of particular instances.[14] Thus, the arbeh is the gobai, ‘after its kind’ includes

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(1) The bracketed passage is omitted in MS.M.

(2) Gen. XIV. 1. In many texts of the Torah, particularly those based on Occidental or Palestinian tradition, this name is written as two words, thus כדר לעמר

(3) I.e., it is not permissible to end one line with כדר and commence the next line with לעמר.

(4) Ending one line with בת and commencing the next with היענה. Evidently these words have each a specific connotation, and בת refers to the egg.

(5) Rashi adds, provided it does not seize prey, so that the bird has all the four characteristics of cleanness.

(6) עפרתא a small bird supposed to be the humming bird. It was generally recognized as permitted.

(7) Whereas the humming-birds, although they catch food thrown to them in the air, eat it only after they have put it upon the ground (Rashi).

(8) Species associate with species, and according to R. Eliezer the zarzir (the starling) is unclean because it is found always in the company of ravens.

(9) And this criterion would be accepted by the Rabbis too.

(10) A species of locust born without leaping legs but these grow in the course of time.

(11) Lev. XI. 21. There is in this verse a vital difference between the Kethib (the actual written text) and the Kere (the traditional reading). According to the former the rendering of the verse is, ‘Which have no leaping legs’, and according to the latter, ‘which have leaping legs’. R. Eliezer b. Jose interprets the verse on the basis of the were and the Kethib, viz., those that have none (Kethib) now but have them (Kere) later on are permitted.

(12) Lev. XI, 22. This verse specifies four varieties of locusts that are clean, viz., arbeh, sol'am, hargol, and hagab, and each is identified here by a more popular name. In the verse each is followed by the phrase ‘after its kind’, which serves to include the various types of each particular species. The identifications suggested are purely tentative and for the most part are based on Lewysohn, Zoologie des Talmuds, p. 286ff.

(13) These have been identified as the migratory locust, the bald locust, the green grasshopper, and the cricket respectively.

(14) Each ‘after its kind’ is regarded as a general proposition, and each named variety a specification; moreover at the head of the verse there is also a general proposition (‘These ye may eat’, Lev. XI, 21) which serves as such for each of the specifications. Hence we may argue on the principle of ‘generalisation and specification’ for each of the four specifications. V. infra p. 66a top.

Talmud - Mas. Chullin 65b

the zipporeth keramim. Now from this I know to include all types that are not bald,[1] but whence would I learn to include even those that are bald? The verse therefore states the ‘sol'am’ which is the nippol [the bald locust], and ‘after its kind’ [stated with it] includes the ushkaf.[2] I would now include all types whether they are bald or not, provided they are tailless,[3] but whence would I learn to include even those that have a tail? The verse therefore adds the hargol which is the rashon,[4] and ‘after its kind’ [stated with it] includes the karsefeth[5] and the shahlanith.[5] I would now include all types, whether bald or not, and whether tailless or not, provided they are not long-headed,[6] but whence would I learn to include even those that are long-headed? I say, you can derive them from the general principle underlying these three classes. Thus, the distinctive feature of the arbeh[7] is not that of the hargol, neither is the distinctive feature of the hargol that of the arbeh, and the distinctive feature of each of these two is not that of the sol'am, neither is the distinctive feature of the sol'am that of either of these two. The characteristics, however, which are common to all are: each have four legs, four wings, leaping legs, and wings covering the greater part of the body; hence we may include all types that have four legs, four wings, leaping legs, and wings covering the greater part of the body. But has not the zarzur also four legs, four wings, leaping legs, and wings covering the greater part of its body? Will you also say that it is permitted?[8] The verse therefore adds the ‘hagab’, that is to say, all must go by the name of hagab.[9] Then will you say that if it goes by the name of hagab [it is permitted] even though it has none of the abovementioned characteristics? The Verse therefore states ‘after its kind’,[10] to teach that every one must have all the abovementioned characteristics.

R. Ahai asked: But in the case of those [mentioned in the verse] none are long-headed.[11] Should you, however, suggest that as long as they are all alike in that they each have the four abovementioned characteristics, an analogy may be drawn and no objection can be raised, in that case the hargol need not have been mentioned, for since it has these four characteristics it could have been derived from the arbeh and the sol'am. But you would certainly object to this on the ground that they are tailless [and the hargol is not]; then here also you must object on the ground that none of them are long-headed. — Rather said R. Ahai [argue thus]: The Divine Law need not have stated ‘sol'am’ for it could be derived from the ‘arbeh’ and the ‘hargol’. Indeed, what objection could you raise? That the arbeh is not bald [and the sol'am is]? But the hargol is [also] bald. Or, that the hargol has a tail [and the sol'am has not]? But the arbeh is [also] tailless. Why then did the Divine Law state sol'am? Since it is of no purpose unto itself it can serve [to include all] those that are long-headed.

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(1) Lit., ‘that comes and has no baldness’. The class of locust comprehended under arbeh and its kind is distinctive in that none of them have any baldness at the top of the head. According to Aruch: ‘they have no protuberance above the head’.

(2) Which is likewise bald.

(3) For the varieties of arbeh and sol'am are peculiar in that they have no tails.

(4) Which has a tail.

(5) Which also have tails.

(6) All types mentioned until now have short heads.

(7) The arbeh, it must be remembered, is not bald and has no tail, the hargol is bald and has a tail, and the sol'am is bald but has no tail.

(8) The zarzur was known as an unclean species.

(9) This qualification excludes the zarzur which is not known as a hagab.

(10) After the term hagab.

(11) How than can we include those that have long heads?

Talmud - Mas. Chullin 66a

Wherein is there a difference between the Tanna of the school of Rab[1] and the Tanna of the school of R. Ishmael? — In the long-headed species.[2] The Tanna of the school of Rab maintains, [The verse] Which have leaping legs[3] . . . [ye may eat] is a general proposition, ‘arbeh’, ‘sol'am’, ‘hargol’, and ‘hagab’,[4] are specifications; we thus have a general proposition followed by several specifications, in which case the scope of the general proposition is limited to the particulars specified. Accordingly, those of the same kind [as those specified] are [included], but those not of the same kind are not [included], that is, we include all those that resemble those specified in every respect.[5] The Tanna of the school of R. Ishmael on the other hand, maintains, Which have leaping legs . . . [ye may eat], is a general proposition; ‘arbeh’, ‘sol'am’, ‘hargol’, and ‘hagab’, are specifications; ‘after its kind’[4] is a further general proposition; we thus have two general propositions separated from each other by several specifications, which include such things as are similar to the particulars specified; accordingly we include all that are similar to those specified even in one respect only.

But the first general proposition is not analogous in scope with the other general proposition! For the first general proposition — ‘which have leaping legs’ — implies, if it has [leaping legs] one may eat it,[6] but otherwise one may not eat it; whereas the second general proposition — ‘after its kind’ — implies that only those that have the four characteristics [are permitted]! — The Tanna of the school of R. Ishmael nevertheless interprets texts of this kind[7] by the principle of ‘general propositions and specifications’. Indeed, the dictum which is expressed frequently, that the Tanna of the school of R. Ishmael interprets texts of this kind by the principle of ‘general propositions and specifications’, emanates from here.

The Master said: ‘Will you say that if it goes by the name of hagab [it is permitted] even though it has none of the abovementioned characteristics? The verse therefore states: ‘after its kind’, to teach that every one must have all the abovementioned characteristics’. But if it has not all the characteristics, whence could it have been inferred [that it is permitted]? Does not the Divine Law specify arbeh and hargol?[8] — It would indeed be as you say had not sol'am been stated, but now that sol'am is actually stated, and serves to include all that are long-headed, it might also be suggested that it shall include every variety, [even those that have but the slightest resemblance to those specified];[9] he therefore teaches us [that this is not so].

Why is it that there [in the first Baraitha] the sol'am is identified with the rashon, and the hargol with the nippol, and here [in the Baraitha of the Tanna of the school of R. Ishmael] the sol'am is identified with the nippol, and the hargol with the rashon? — Each Tanna states the appellation by which each is recognized in his locality.[10]

OF FISHES: ALL THAT HAVE FINS AND SCALES. Our Rabbis taught: If it has no [fins and scales] now but grows them later on, as the sultanith[11] and the ‘afian,[12] it is permitted; if it has them now but sheds them when drawn out of the water, as

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(1) I.e., the author of the first Baraitha, supra p. 352. The Baraitha is a quotation from the Sifra debe Rab, hence the author of it is called a Tanna of the school of Rab.

(2) According to the Tanna of the school of R. Ishmael, whose process of interpretation is set forth in the text below, the result is that sol'am and hagab are each rendered superfluous for their own sakes, i.e., the varieties they represent would have been inferred by the principle of ‘two general propositions separated from each other by specifications’. These terms are therefore utilized for the following purposes: the former to permit the long-headed species, and the latter to forbid the zarzur, v. supra 65b. According to the Tanna of the school of Rab, however, each particular specification can include only those equal to it in every respect, and as none of the specified types are long-headed the result is that the long-headed species of locusts are forbidden.

(3) Lev. XI, 21.

(4) Ibid. 22.
(5) Lit., ‘in two respects’; (i) that have the four characteristics mentioned, and (ii) that are not long-headed (Maharsha).
(6) Irrespective of whether or not it possesses all the other characteristics.
(7) I.e., texts which contain two general propositions, the scope of one being wider than the other. V. Zeb. 4b.
(8) And each of these shows all the four characteristics.
(9) Namely, that have only one of the four characteristics.
(10) But each Tanna refers to the same variety of locust.
(11) A species of small fishes, possibly ‘the sprat’. V. Lewysohn, Zoologie des Talmuds, p. 260.
(12) Perhaps ‘the sardine’.

Talmud - Mas. Chullin 66b

the colias, scomber, swordfish, athrias and tunny, it is permitted.

We have learnt elsewhere:[1] All [fishes] that have scales have also fins, but there are some that have fins but no scales. Those that have fins and scales are clean, but those that have fins and no scales are unclean. But consider, we rely upon scales, the Divine Law then should have stated scales only [as the distinguishing mark] and not fins! — Had the Divine Law only stated scales and not fins I might have said that the word for scales [Kaskasim][2] meant fins, and even unclean fishes [would have been permitted]; the Divine Law therefore stated fins as well as scales. But even now that the Divine Law states fins as well as scales, whence do we know that the term Kaskasim means [the scales that cover the fish like] a garment? — Because it is written: And he was clad with kaskasim [a coat of mail].[3] This being so, the Divine Law need not have stated fins at all but only scales[4] [kaskasim]! — R. Abbahu said, and so it was taught in the school of R. Ishmael, [It is stated in order] to make the teaching great and glorious.[5]

Our Rabbis taught: Since the verse[6] stated that you may eat that which has fins and scales, I would have inferred that you may not eat that which has not; and since the verse[7] stated that you may not eat that which has not fins and scales, I would have inferred that you may eat that which has. Why then are both verses stated? To teach that he[8] infringes a positive as well as a negative command.[9] Why does Scripture state, These ye may eat of all that are in the waters?[10] Because [without this verse] I should have argued thus: since Scripture has permitted [to eat the creeping things of the water[11] in two verses], in one verse expressly and in the other impliedly,[12] then just as when it expressly permitted them it referred only to those that were in [the water of] vessels, so, too, when it impliedly permitted them it permitted only those that were in vessels. Whence should I have known that one may bend down and swallow without any hesitation even those found in cisterns, ditches, or caverns? It is therefore written: These ye may eat of all that are in the waters.

Where does Scripture permit those [creeping things] found in [the water of] vessels?[11] In the verse: These ye may eat of all that are in the waters . . . [in the seas and in the rivers], which signifies that [those creeping things found] in the seas and in the rivers, if they have [fins and scales) you may eat, and if they have not [fins and scales] you may not eat, whereas all those found in [the water of] vessels you may eat, even though they have not [fins and scales]. But perhaps [I ought to say that] those found in vessels you may not eat at all, even though they have [fins and scales]! — You cannot say so, for it is written: And all that have not fins and scales in the seas and in the rivers, of all that swarm in the waters . . . [they are a detestable thing unto you!],[13] which signifies that [those found] in the seas and in the rivers, if they have not [fins and scales], you may not eat, whereas [those found] in vessels, even though they have not [fins and scales], you may eat. Perhaps [I ought to argue thus], ‘In the waters’[14] is a general proposition[15] ‘in the seas and in the rivers’ is a specification; we thus have a general proposition followed by a specification, in which case the scope of the general proposition is limited to the particulars specified; hence only with regard to those found in the seas and in the rivers [are the distinguishing marks of fins and scales essential], but not with regard to those found in gutters and trenches![16] — ‘In the waters’, is repeated thus stating another general proposition. But here these two general propositions follow one another![17] — Rabina said, [It is to be interpreted] as said in the West, viz., Wherever you find two general propositions that follow one another

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(1) Nid. 51a.

(2) Heb. קשקשים.

(3) I Sam. XVII, 5. The same word Kaskasim is here used to describe the coat of mail as being made of scales or thin plates of metal.

(4) For there is now no longer any room for doubt since the verse from Sam. clearly indicates the true meaning of kaskasim, namely scales.

(5) Isa. XLII, 21. Strictly then ‘fins’ need not have been stated in the verse at all but was written only in order to remove any possible doubt or misunderstanding regarding kaskasim.

(6) Lev. XI, 9.

(7) Ibid. 10.

(8) Who eats a fish that has no fins and scales.

(9) I.e., the express prohibition of Lev. XI, 10, and the implied prohibition of v. 9, which has the force of a positive precept.

(10) Ibid. 9. As this verse concludes with ‘them ye may eat’, the opening words are indeed superfluous.

(11) Even though they have not fins and scales.

(12) V. infra 67a the dispute between R. Aha and Rabina.

(13) Ibid. 10.

(14) Ibid. 9.

(15) Implying that all that are in the waters require fins and scales.

(16) So that all creeping things found in gutters and in trenches, and a fortiori those found in standing water as e.g. in cisterns, are permitted. This being so, the previous exposition of v. 9 which establishes that all creeping things found in cisterns etc. are permitted is rendered superfluous.

(17) And are not separated by any specified particulars.

Talmud - Mas. Chullin 67a

you insert the subsequent specification between them and treat the whole as if it were two general propositions separated by the specification. [Now the argument here will run as follows:] ‘In the waters’ is a general proposition, ‘in the seas and in the rivers’ is a specification, ‘in the waters is another general proposition; we thus have two general propositions separated by the specification, in which case they include such things as are similar to the particulars specified. Therefore, as the particulars specified clearly indicate running water, so everything to be included must be found in running water. What does it include? It includes gutters and trenches, namely, that [all creeping things found therein] are subject to the restriction.[1] And what does it exclude? It excludes cisterns, ditches and caverns, namely, that [whatsoever found therein] is free from all restriction. But perhaps [I ought to say], as the particulars specified clearly refer to water contained in the ground, so everything to be included must be found in water contained in the ground! What does it include? It includes cisterns, ditches and caverns, namely, that [whatsoever found therein] is subject to the restriction. And what does it exclude? It excludes vessels, [namely, that whatsoever found therein is free from all restriction]. — If this were right, then what does the previous exposition of the verse: These ye may eat [of all that are in the waters], teach us?[2]

A Tanna of the school of R. Ishmael taught: Since there is written in this verse: In the waters . . . in the waters [without any specification of particulars between them], it must not be interpreted by the principle of ‘general proposition and specification’ but rather by the principle of ‘amplification and limitation’.[3] Thus, ‘In the waters’ is an amplifying proposition, ‘in the seas and in the rivers’ is a limitation, ‘in the waters’ is another amplifying proposition; we thus have two amplifying propositions separated by a limitation, in which case [well-nigh] everything is to be included. What does it include? It includes gutters and trenches, namely, that [whatsoever found therein] is subject to the restriction. And what does it exclude? It excludes cisterns, ditches and caverns, namely, that [whatsoever found therein] is free from all restriction. But perhaps I ought to say: What does it include? It includes cisterns, ditches and caverns, namely, that [whatsoever found therein] is subject to the restriction. And what does it exclude? It excludes vessels [namely, that whatsoever found therein is free from all restriction]! — If this were right, then what does the previous exposition of the verse: These ye mat eat [of all that are in the waters], teach us?[2] And why should I not accept the reverse argument?[4] — Because of the view expressed by R. Mattithiah. For R. Mattithiah b. Judah taught: Why do you prefer to conclude that [creeping things found in] cisterns, ditches and caverns, are free from all restriction, but [those found in] gutters and trenches are under the restriction? I say that [those found in] cisterns, ditches and caverns, are free from all restriction because the water therein is as it were, enclosed as in vessels, whereas [those found in] gutters and trenches are under the restriction since the water thereof can in no wise be regarded as enclosed in vessels.

In which verse is it[5] implied and in which express? — R. Aha and Rabina differ. One says: The verse which treats of those that have [fins and scales][6] indicates the express permission, but that which treats of those that have not [fins and scales][7] indicates the implied permission. The other says: The verse which treats of those that have not [fins and scales] indicates the express permission, but that which treats of those that have [fins and scales] indicates the implied permission. What is the reason of him who holds that the verse which treats of those that have [fins and scales] indicates the express permission? — He would say: It is from this verse that we derive the permission [for the creeping things found] in vessels.[8] And what is the reason of him who holds that the verse which treats of those that have not [fins and scales] indicates the express permission? — He would say: It is this verse which suggests the true interpretation of the other, for from the other verse alone I might have argued [that those found] in vessels, even though they have [fins and scales], you must not eat.[9]

R. Huna said: A man should not pour beer [into a vessel] at night, and strain it through twigs, for fear that a worm [from the beer] might drop on to the twigs and thence fall into the vessel, and he would [if he swallowed the worm with the beer] infringe the law of Every creeping thing that creepeth upon the earth.[10] If so, even [when he pours it directly] into the vessel we should apprehend lest the worm drop on to the side of the vessel and then fall into the vessel! — That would be the natural way of things.[11] Whence do you know [to make such a distinction]? — From [the following Baraitha] which was taught: Whence should I have known that one may bend down and swallow without any hesitation even those found in cisterns, ditches and caverns? It is therefore written: ‘These ye may eat of all that are in the waters’. Now perhaps these creeping things had at some time previously crawled to the edge [of the cistern] and had fallen back [into the cistern] .You must therefore say that that would be the natural way of things; then here, too, we say that that is the natural way of things. R. Hisda said to R. Huna, There is [a Baraitha] taught that supports your contention: [The verse,] ‘And every creeping thing that creepeth upon the earth [is a detestable thing; it shall not be eaten]’, includes insects found in liquids that have been passed through a strainer. The reason [then that they are forbidden] is because they had passed through a strainer, but had they not passed through a strainer they would be permitted.[12]

Samuel said: A cucumber which became wormy

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(1) That is, they must have fins and scales in order to be permitted.

(2) For even without the exposition of this verse, it is now suggested that the creeping things found in the water of vessels are free from the restriction of fins and scales. This verse therefore serves to indicate the line of argument that is to bc adopted in the interpretation of the general propositions and specifications, namely, that only the creeping things found in running water, e.g. in gutters and trenches, are restricted to the qualification of fins and scales, but those found in cisterns, ditches and caverns, are permitted in all circumstances.

(3) For the logical basis of interpretation of these two principles and the differences between them, v. Rashi s.v. במים במים and Shebu., Sonc. ed., p. 12, n. 3, and Sanh., p. 301, n. 1.

(4) For the argument by the principle of amplification and limitation is to a certain extent arbitrary, for on what ground should one thing be excluded rather than the other? Consequently the last argument ra1sed in the text by way of objection could well be adopted, and as for the rejoinder, ‘what does the verse: These ye may eat of all that are in the waters, teach us’? it would refer to creeping things found in gutters and trenches, and would reach us that even these would be free from the restriction of fins and scales. On the other hand, it would be said that the scope of the amplification would be extended to bring creeping things found in cisterns etc. under the restriction! This hypothetical reasoning is, however, nullified by the analytic argument of R. Mattithiah below.

(5) Sc. the permission to eat all creeping things found in the water of vessels even though they have not fins and scales.

(6) V. 9.

(7) V. 10.

(8) V. supra, p. 357. This verse clearly suggests that the qualification of fins and scales applies only to creatures found in the seas and in the rivers, as is stated explicitly in the verse, and not to creatures found in the water of vessels.

(9) V. supra, p. 357.

(10) Lev. XI, 41. If the worm had crawled upon the twigs it would be regarded as having crawled upon the earth, and consequently included in the prohibition of this verse. On the other hand the law is clearly established, supra, that worms found in any liquid in any vessel are permitted.

(11) And would not be regarded in law as having crawled out of the water; it is therefore permitted.

(12) For there is nothing to suggest that the insects had crawled upon the earth.

Talmud - Mas. Chullin 67b

during its growth is forbidden because of the prohibition of Every creeping thing that creepeth upon the earth.[1] Shall we say that there is [a Baraitha] that supports his view? For one [Baraitha] teaches: [The verse,] ‘[Every creeping thing that creepeth] upon the earth’, excludes mites found in lentils, bugs in pea pods, and insects in dates and dried figs.[2] Another [Baraitha], however, teaches: The verse: ‘Every creeping thing that creepeth upon the earth’, includes insects found in the roots of the olive and of the vine.[3] Now presumably each [Baraitha] speaks of [insects found in] the fruit, and [yet there is no contradiction between them, for] the latter [Baraitha] refers to fruit during growth, whereas the former to fruit no longer growing![4] No. In either case the fruit was in the course of growth, nevertheless there is no contradiction, for the former [Baraitha] refers to [insects found in] the actual fruit[5] whereas the latter to [insects found in] the stock of the tree. Indeed there is proof [for this distinction], for it reads [in the latter Baraitha], ‘Insects found in the roots of the olive and of the vine’. This is conclusive.

R. Joseph raised the following questions: What is the law if the insect left the fruit[6] and immediately died?[7] or if part of the insect left the fruit?[8] or if it was in mid-air?[9] These questions remain undecided.

R. Ashi raised these questions, What if the insect moved [from the inside of a date] to the outside? or to the top of the datestone? or if it moved from one date to another [that was sticking to it]? These questions also remain undecided.[10] R. Shesheth[11] the son of R. Idi said: Parasites[12] are forbidden, because they come from outside.[13] R. Ashi demurred, saying: If they come from the outside then they should surely be found in the excretory passages![14] Others report this passage thus: R. Shisha the son of R. Idi said: Parasites are permitted, because they are generated within. R. Ashi said: Of course this is so, for if they come from the outside they should surely be found in the excretory passages! The law is: Parasites are forbidden because they might enter through the nostril whilst the animal is asleep.[15]

Maggots[16] [found under the skin] of animals are forbidden, of fish are permitted. Rabina once said to his mother, ‘Let me swallow these [maggots with the fish] and I shall eat them’. R. Mesharsheya, son of R. Aha, asked Rabina, Why is this case different from what was taught [in the following Baraitha]: [The verse], And their carcasses ye shall have in detestation,[17] includes maggots of cattle?[18] — He replied: There is no comparison between the two. Cattle are [in a forbidden state until] rendered permitted by slaughtering, and since these maggots had not been rendered fit by slaughtering, they always remain in the forbidden state. Fish, on the other hand, are [always in a permitted state, for they are] permitted by the mere taking up; the maggots therefore generated in a permitted state.

Our Rabbis taught: Goeth upon the belly[19] means the snake, ‘whatsoever’ includes the earthworm, and all that are like unto it. ‘Upon all fours’ means the scorpion, ‘whatsoever’ includes the beetle and all that are like unto it. ‘Hath many feet’ means the centipede, ‘whatsoever’ includes all that are like unto it and all that resemble the latter.

It was taught: R. Jose, son of the Damascene, says: The leviathan[20] is a clean fish,[21] for it is written: His scales are his pride,[22] and it is also written: ‘Sharpest potsherds are under him’.[23] ‘Scales’, these are the scales that cover him; ‘sharpest potsherds are under him’, these are the fins wherewith he propels himself.

CHAPTER IV

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(1) Lev. XI, 41. V. supra 58a.

(2) I.e., these insects may be eaten together with the fruit.

(3) And they are forbidden.

(4) I.e., worms found in fruit while still upon the tree are forbidden, but those found in plucked fruit are permitted. This distinction supports Samuel's view.

(5) And these would not he regarded as crawling upon the ground even though the fruit is still in the course of its growth, contra Samuel.

(6) That had already been plucked off the tree.

(7) But it did not actually crawl upon the ground. May it be eaten or not? The question is, Is movement an essential in this prohibition or not?

(8) E.g., the head of the insect had already touched the ground and actually moved upon it although the body was still in the fruit.

(9) I.e., the insect fell out of the fruit and was swallowed before it reached the ground.

(10) It must be assumed in these and in the preceding questions that the insect generated spontaneously in the fruit itself and that it had never before been outside the fruit.

(11) MS.M.: R. Shisha.

(12) Found in the lungs and in the liver of cattle (Rash), or found in fish (Tosaf.).

(13) They had previously crawled upon the earth but were swallowed by the animal with its food.

(14) I.e., in one of the organs of the alimentary canal.

(15) And thus found their way through the respiratory passages into the lungs.

(16) Possibly ‘the gadfly’. V. Lewysohn, Zoologie des Talmuds, p. 318.

(17) Lev. XI, 11.

(18) Presumably the same prohibition should also apply to maggots found in fish.

(19) Ibid. 42. The verse, which is here interpreted part by Part, reads as follows: Whatsoever goeth upon the belly, and whatsoever goeth upon all fours, or whatsoever hath many feet, even all creeping things that creep upon the earth, then, ye shall not eat.

(20) Cf. Job XL, 25ff. A fish reserved by God for a feast for the righteous in the world to come, v. B.B. 74b.

(21) For it has fins and scales, the marks of a clean fish, although Biblically it is referred to as a serpent, cf. Isa. XXVII, 1.

(22) Job XLI, 7.

(23) Ibid. 22.

Talmud - Mas. Chullin 68a

MISHNAH. IF AN ANIMAL WAS IN DIFFICULT LABOUR AND THE FOETUS PUT FORTH ITS FORE-LIMB AND WITHDREW IT WITHIN,[1] IT MAY BE EATEN.[2] IF IT PUT FORTH ITS HEAD, THOUGH IT WITHDREW IT WITHIN, IT IS CONSIDERED AS BORN.[3] WHATSOEVER IS CUT OFF FROM THE FOETUS WITHIN THE WOMB [AND LEFT INSIDE] MAY BE EATEN, BUT WHATSOEVER IS CUT OFF FROM THE SPLEEN OR KIDNEYS [OF THE ANIMAL AND LEFT INSIDE] MAY NOT BE EATEN.[4] THIS IS THE RULE: THAT WHICH IS FROM THE BODY OF THE ANIMAL IS FORBIDDEN, BUT THAT WHICH IS NOT FROM THE BODY OF THE ANIMAL IS PERMITTED.

GEMARA. Rab Judah said in the name of Rab: The actual limb [that was put forth] is forbidden. Why? Because the verse says. Ye shall not eat any flesh in the field torn of beasts [trefah],[5] which implies that any flesh that had got beyond its bound is forbidden.[6] [An objection was raised.] We have learnt: IF AN ANIMAL WAS IN DIFFICULT LABOUR AND THE FOETUS PUT FORTH ITS FORE-LIMB AND WITHDREW IT WITHIN, IT MAY BE EATEN. Presumably [IT MAY BE EATEN] refers to the actual limb! — No, it refers to the foetus [that is within]. If it refers to the foetus, why does [the Tanna] say AND WITHDREW IT? Even if it did not withdraw it [the foetus would be permitted]! — Indeed the law is the same even though it did not withdraw it within, but because he stated in the second clause. IF IT PUT FORTH ITS HEAD, THOUGH IT WITHDREW IT WITHIN, IT IS CONSIDERED AS BORN, he says also in the first clause AND WITHDREW IT. But what does the second clause teach us? That as soon as the head emerged it is considered as born? But we have learnt it elsewhere:[7] ‘Who is considered a firstborn for the right of inheritance[8] and not for the priest?[9] He that was born after a premature child the head of which had even emerged alive, or after a nine-months child the head of which had emerged dead’.[10] Now this is so because the head [of the nine-months child] had emerged dead, but had it emerged alive then the child that was born after this would not be considered a firstborn, even for the right of inheritance![11] Should you, however, say that [there] it was taught with regard to man, and [here] it is taught with regard to beasts, because we could not apply the principle as established in the case of beasts to man, inasmuch as there is no ante-chamber in beasts,[12] neither could we apply the principle as established in the case of man to beasts, inasmuch as the face of a human being is a principal feature;[13] surely we have expressly learnt it [even with regard to beasts], viz., If part of the afterbirth emerged [before slaughtering the dam] it may not be eaten,[14] for it[15] is a token of birth in the case of woman and also a token of birth in the case of beasts. Now if you were to say that the withdrawal of the limb within, which is stated in the first clause [of our Mishnah], is to be particularly stressed,[16] it is well; for then we could say that the second clause was stated on account of the first clause. But if you say that neither the first nor the second clause is to be particularly stressed [for any special teaching], then why are they stated at all? — It is not so, for, in point of fact, [IT MAY BE EATEN] refers to the actual foetus [and not to the limb], but as R. Nahman b. Isaac had said [elsewhere]: It would not have been necessary to mention [the withdrawal of the limb within] except in so far as it affects the part where it is cut off, likewise we may say here. It was only stated in so far as it affects the part where it is cut off.[17]

Come and hear: If an animal was in difficult labour and the foetus put forth its fore-limb and withdrew it within, and then the dam was slaughtered, it may be eaten. If the dam was slaughtered, and then it withdrew it within,[18] it may not be eaten. If it put forth its fore-limb and it was immediately cut off, and then the dam was slaughtered, that which is outside[19] is unclean,[20] and also forbidden [to be eaten], but that which is inside is clean,[21] and permitted. If the dam was slaughtered and then [the limb] was cut off,

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(1) Before the slaughtering of the animal. The animal, however, was slaughtered before the foetus was born.

(2) V. Gemara. The general principle is that with the slaughtering of an animal everything that is within it, e.g., a foetus, is rendered permitted. The Gemara, however, argues as to the effect of the slaughtering upon the limb which was put out of the womb prior to the slaughtering.

(3) And is not rendered permitted by the slaughtering of the animal.

(4) V. supra 55a. The spleen and the kidneys are specifically mentioned since a lesion of these organs does not render the animal trefah.

(5) Ex. XXII, 30.

(6) The implication is in the phrase in the field, i.e., any flesh that had gone out of its precincts or bounds, e.g., consecrated meat of a sin-offering outside the sanctuary, or meat of a peace-offering outside the walls of Jerusalem, or, as here, an embryo outside the womb, is forbidden like trefah.

(7) Bek. 46a, where this principle is established. It is therefore inappropriate to say that the first clause is stated on account of a second clause which is itself unnecessary.

(8) To be entitled to a portion in the inheritance twice as much as any one of his brothers. Deut. XXI, 17.

(9) I.e., that the father is not obliged to redeem this child from the priest by payment of five shekels, the prescribed money of redemption; cf. Num. XVIII, 16.

(10) The distinction is this: with regard to the law of inheritance the Torah contemplates a viable firstborn child, a child on whose death the parent would have to go into mourning (derived by the Rabbis by interpreting ראשית אונו, Deut. XXI, 17, ‘the beginning of his strength’, as ‘the beginning of his mourning’). With regard to the law of the redemption of the firstborn, however, it was intended to apply to ‘whatsoever openeth the womb’, Ex. XIII, 2, whether the child born was living or not.

(11) Thus establishing the principle that with the emergence of the head the child is deemed born.

(12) I.e., the forepart of the female genitals. So that as soon as the head emerges from the womb of the beast and sees the light of day it is forthwith regarded as born.

(13) And therefore with the emergence of the head the human being is deemed born.

(14) V. infra 77a. For it may be that the head of the foetus was contained in that part of the afterbirth which emerged, in which case the foetus would be regarded as born and would not be rendered permitted by the subsequent slaughtering of the dam, and the afterbirth which belongs to it would likewise be forbidden.

(15) The emergence of the afterbirth.

(16) To teach that in such circumstances even the limb which had emerged is rendered permitted by the slaughtering of the dam.

(17) Thus: if the limb had been withdrawn into the womb, then only that part which had actually emerged would have to be cut off as forbidden meat; but if it had not been withdrawn, then the limb which had emerged plus a little more of that which is within would have to be cut away as forbidden meat.

(18) I.e., the dam was slaughtered whilst the limb of the foetus protruded from its womb, but immediately after the slaughtering the limb was withdrawn into the womb.

(19) I.e., the limb that had been cut off.

(20) For a limb cut off from the living animal is a source of uncleanness like nebelah; v. infra 128b.

(21) The rest of the foetus is rendered permitted by the slaughtering of its dam and likewise free from uncleanness, and it does not suffer any uncleanness by reason of its contact with this limb, because it is a living animal, and a living animal cannot contract uncleanness.

Talmud - Mas. Chullin 68b

the flesh[1] is [unclean] like that which had touched nebelah:[2] so R. Meir. But the Sages say: It is unclean like that which had touched a slaughtered trefah animal.[3] Now it says in the first clause, ‘If the foetus put forth its fore-limb and withdrew it within, and then the dam was slaughtered, it may be eaten. Presumably [‘it may be eaten’] refers to the actual limb! — No, it refers to the foetus. But if it refers to the foetus, [how can we explain] the next clause which reads: ‘If the dam was slaughtered and then it withdrew it within, it may not be eaten’? If it refers to the foetus, why is it forbidden? — As R. Nahman b. Isaac had said [elsewhere]: It would not have been necessary to mention it except in so far as it affects the part where it is cut off; we may say the same here: It was only stated in so far as it affects the part where it is cut off.[4] But surely this is not so. For when Abimi came from Be Huzai[5] he brought with him the following teaching: ‘If [the foetus] withdrew the hoof[6] within, you may eat, and if it withdrew two hoofs[6] within, you may eat'. Presumably this means, if it withdrew the hoof within, you may eat the hoof! — No, it means, if it withdrew the hoof within, you may eat the foetus. But if it refers to the foetus, why does it state 'if it withdrew [the hoof]'? Even if it did not withdraw it [the foetus would be permitted]! — R. Nahman b. Isaac said: It would not have been necessary to mention [the withdrawal of the hoof within] except in so far as it affects the part where it is cut off.[7] But since two texts are adduced here,[8] presumably one teaches that the actual limb [is permitted] and the other the rule with regard to the place where [the limb is] cut off.[9] — No. One teaches the rule with regard to the place where it is cut off[10] and the other teaches that a foetus with uncloven hoofs that is in the womb of the cow [is permitted] even according to the view of R. Simeon. For the ruling of R. Simeon,[11] that an animal with uncloven hoofs that was brought forth by a cow is forbidden, applies only to the case where it came forth into the world, but where it was still within the womb of the dam it is permitted.

Ulla said in the name of R. Johanan: The actual limb is permitted. Whereupon Rab Judah said to Ulla: 'But both Rab and Samuel have said that the actual limb is forbidden'! He replied: 'Would that I had of the dust of Rab and Samuel! I would fill my eyes with it!'[12] Nevertheless thus said R. Johanan: Everything was included in the general rule of the verse: Ye shall not eat any flesh in the field torn of beasts [trefah].[13] But since Scripture expressly mentioned the case of the sin-offering namely that if it was taken out of its bounds and also brought in again it is forbidden, it is clear that only in the case of a sin-offering is this so, but in all other cases if they got back within their bounds they would be permitted.[14]

An objection was raised. It is written: Ye shall not eat any flesh in the field torn of beasts [trefah]. Why does the verse add [trefah]? [for this reason.] Since we find that Second Tithe or Firstfruits, if they were taken out of their bounds, and were brought in again they are permitted; now we might have thought that in this case,[15] too, that is also the law, the verse therefore adds, trefah. How is this derived from the verse? Rabbah said: It is like trefah; just as a trefah animal, once it has been rendered trefah, can never be permitted, so also flesh which had got out of its bounds can never be permitted again![16] This is indeed a refutation of Ulla's view. The Master said: 'Since we find that Second Tithe or Firstfruits, if they were taken out of their bounds, etc.' Where do we find this? From the following verse: Thou mayest not eat within thy gates the tithe of thy corn, etc.,[17] that is to say, only within thy gates thou mayest not eat them, but if they were taken out [of Jerusalem] and brought in again, they are permitted.

Those in the West report it[18] in this version: Rab says: The emergence of a limb is regarded as the birth of that limb;[19] R. Johanan says: The emergence of a limb is not regarded as the birth of that limb.[20] What is the actual difference between them?[21] — Whether to render forbidden the lesser portion of the limb that was within or not.[22]

The question was raised: According to him who says that the emergence of a limb is not regarded as the birth of that limb, what would be the law if the foetus first put forth one fore-limb and withdrew it within, and then the other fore-limb and withdrew it within, [and then other parts of its body and withdrew them within,] and so on until, all in all, the greater portion of the foetus had emerged? Are we to say that here it is obvious that the greater portion of the foetus has emerged [and it is deemed fully born], or since each part had been withdrawn within it remains withdrawn? And if you were to accept the view that since each part had been withdrawn within it remains withdrawn, it will further be asked,[23] what would be the position if the foetus put forth a fore-limb and it was cut off, then another fore-limb and it was cut off [and so with the other limbs] until the greater portion of the foetus had been cut off? Are we to say that it is obvious that the greater portion has emerged [and it is deemed fully born], or perhaps we should say [it is deemed born] only when the greater portion of the foetus emerged at one time? — Come and hear. [We have learnt:]

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(1) Of the foetus and of the dam.

(2) As the limb that protruded was not affected by the slaughtering of the dam, it is unclean like nebelah, and renders unclean by contact the rest of the foetus as well as the flesh of the dam.

(3) The Sages hold that the limb that protruded is to this extent affected by the slaughtering that it has thereby been rendered clean and is not a source of uncleanness like nebelah. This is on all fours with the case of a trefah animal which, if slaughtered, is thereby rendered clean and is not regarded as nebelah. Nevertheless according to Rabbinic decree, the flesh of a slaughtered trefah animal would render consecrated things unclean by contact, v. infra 73a.

(4) So that the ruling in the second clause 'It may not be eaten' only means that a little more than the part which protruded may not be eaten but the rest of the foetus may.

(5) The modern Khuzistan.

(6) These words are in Deut. XIV, 6: And every beast that parteth the hoof, and cleaveth the cleft into two hoofs . . . in the beast, ye may eat, from which is derived the general law that the foetus within the dam is rendered permitted by the slaughtering of the dam. The interpretation is: And every beast . . . in the beast, ye may eat; the hoof . . . in the beast, ye may eat; and two hoofs . . . in the beast ye may eat. That is, if the foetus put forth two hoofs (i.e., two legs) and then withdrew one within, the latter would be permitted by the slaughtering of the dam but not the other which remained protruding. If, however, both hoofs were withdrawn within, both would be permitted.

(7) And the Baraitha reported by Abimi informs us that if the foetus withdrew the hoof within, one may even eat the part where the hoof was subsequently cut off, though, of course, not the hoof itself. Likewise, if the foetus withdrew its two hoofs within, one may even eat the part where each hoof was cut off.

(8) The expressions 'the hoof' and 'two hoofs'; v. p. 368, n. 9.

(9) I.e., if the limb was withdrawn within, even the limb itself would be permitted; and if the limb was not withdrawn within, then the part where it was subsequently cut off would be permitted. As far as the part where the limb is cut off is concerned there should be no difference in law whether it put forth one or two hoofs, so that there would be no need of two texts to permit it in both cases.

(10) I.e., only if the limb was withdrawn within would the part where it was subsequently cut off be permitted.

(11) V. Bek. 6b.

(12) Such was his veneration for these two scholars.

(13) Ex. XXII, 30. The general proposition is that anything that gets out of its prescribed bounds (i.e., into the field) is forbidden. V. supra p. 365 n. 6.

(14) The verse in Lev. X, 18 clearly demonstrates that the flesh of a sin-offering if taken out beyond the Temple precincts is rendered unfit and must be burnt, whether or not it was once again brought into the Temple precincts. Now it must be remembered that the case of the sin-offering is just one of the instances implied in Ex. XXII, 30, so that it need not have been expressly mentioned (v. supra p. 365, n. 6). The fact that it is stated suggests that in a particular respect it is different from other cases of 'out of bounds', and that is, that in this case even if it were brought back within its bounds it would be of no avail and the flesh would still have to be burnt. On the other hand, in all other eases of this class, the fact that it has been brought in again within bounds would be an effective remedy.

(15) The case of the limb of a foetus which protruded from the womb.

(16) Even though it had been brought back within bounds.

(17) Deut. XII, 17.

(18) The dispute between Rab and R. Johanan as to whether or not the actual limb which had emerged but which is now withdrawn is rendered permitted by the slaughtering of the dam.

(19) Lit., 'there is birth to limbs'. And the slaughtering of the dam would not render this limb permitted even through it was drawn in within the womb at the time of the slaughtering.

(20) So that if the limb was within the womb at the time of the slaughtering it would be rendered permitted.

(21) Between the first version of the dispute and the second version (Rashi). According to the Alfasi the question is: What is the practical issue between Rab and R. Johanan? For according to the version in the West, even R. Johanan agrees that the part of the limb which had emerged is forbidden. V. Asheri a.l.

(22) l.e., the greater portion of a limb emerged but a little of it remained inside. There will in this case be a difference of view as to the opinion expressed by Rab according to the first or second version. According to the second version Rab maintains that the emergence of a limb is regarded as the birth of that limb, similarly be would hold that the emergence of the greater portion of a limb is reckoned as the birth of that entire limb, hence even the lesser portion of the limb which had never emerged would not be rendered permitted by the slaughtering of the dam. According to the first version this lesser portion would be rendered permitted, for it is only the actual part of the limb which had emerged that is forbidden. According to Alfasi, the law as to the lesser portion of the limb that remained within is the issue between Rab and R. Johanan.

(23) And this even according to him who maintains that the emergence of a limb is deemed to be the birth of that limb.

Talmud - Mas. Chullin 69a

THIS IS THE RULE: WHAT IS FROM THE BODY OF THE ANIMAL IS FORBIDDEN, BUT WHAT IS NOT FROM THE BODY OF THE ANIMAL IS PERMITTED. Now what does the term NOT FROM THE BODY include?[1] Surely it includes such a case as the above![2] — No. It includes a foetus with uncloven hoofs which is in the womb of the cow. And [it is permitted even] according to R. Simeon. For although R. Simeon ruled that an animal with uncloven hoofs which was brought forth by a cow is forbidden, that is so only where it came forth into the world, but where it was still in the womb of the dam it is permitted.

R. Hanania propounded the question: What if the foetus [in the womb of an animal consecrated as a peace-offering] put forth its fore-limb into the Temple court?[3] For [it might be argued,] since the Temple court is the bounds for consecrated animals it would also be the bounds for this[4] [sc. the foetus]; or it is not the bounds for this [foetus], for the bounds of the foetus are the womb of its dam! Whereupon Abaye said to him: But you might have raised this question with regard to consecrated animals which are holy in a minor degree in Jerusalem.[5] Nevertheless you did not raise the question with regard to consecrated animals which are holy in a minor degree, because it is clear that the bounds of the foetus are the womb of its dam; then in the previous question too we must say that the bounds of the foetus are the womb of the dam.[6]

Ilfa raised this question: What is the law if a foetus put forth its fore-limb [out of the womb of its dam] after the first [throat] organ but before the second organ [was cut]? Is the first organ to be reckoned together with the second in order to render it [the fore-limb] clean so that it be not nebelah or not?[7] — Raba answered: Certainly it must be so reckoned; for if the [cutting of the] first organ followed by the [cutting of the] second organ has the effect of rendering [the animal] permitted to be eaten, then surely it has the effect of rendering [the limb] clean so that it be not nebelah![8]

R. Jeremiah raised the question: Are we concerned at all about its offspring?[9] What are the circumstances of the case? If we say that it covered a normal cow, then why is this question raised only with regard to this animal which has a limb forbidden on account of its protrusion [prior to the slaughtering of the dam]? Indeed it might be raised with regard to the more general case of an animal that was taken out [alive from the womb of the slaughtered dam]. For R. Mesharsheya said: According to him who maintains that we must take into account the seed of the male[10] if an animal that had been taken out [alive from the womb of the slaughtered dam] covered a normal cow there is no remedy for the offspring?[11] — The question can be considered only in the case where it covered a cow which, like itself,[12] had been taken out [alive from the womb of the slaughtered dam]. What [then is the position of the offspring]? Do we say that each limb [of the progenitors] produces the identical limb [in the offspring], so that here it[13] must be cut off but the rest is permitted; or do we hold that the seed is mixed up?[14] Subsequently he [R. Jeremiah] said: It is obvious that the seed is mixed up, for otherwise the blind should produce a blind offspring, and the crippled a crippled offspring. We therefore must say that the seed is mixed up, but the question that was raised was really this: an ordinary animal is the product of the forbidden fat and of the blood [of the sire],[15] nevertheless it is permitted, then here also it should be permitted;[16] or perhaps we only permit the product of two prohibited substances but not of three?[17] But according to whom is it?[18] According to R. Meir there are the prohibitions of the forbidden fat and of the blood but not of the protruded limb,[19] and according to R. Judah there is indeed the prohibition of the protruded limb but not of the forbidden fat. For it was taught: The law of the sciatic nerve[20] applies also to a foetus, and the fat [of the foetus] is forbidden. So R. Meir. R. Judah says: It does not apply to a foetus, and the fat [of the foetus] is permitted![21] — We must therefore say that the outcome [of prohibited causes] is to be disregarded, and it is certainly permitted; and the question put, was really this: May one drink the milk [of this particular animal]?[22] After all the milk of all animals is very much like a limb taken away from the living animal, nevertheless it is permitted, likewise in this case [it should be permitted]; or perhaps [we ought to distinguish this case, for] in all other cases the prohibition can be remedied by slaughtering, but in this case it cannot.[23] This must remain undecided.

WHATSOEVER IS CUT OFF, etc. Whence do we know this? — For it is written: And every beast that parteth the hoof . . . in the beast, [it ye may eat];[24] this includes the foetus. If so,[25] one ought to be able to make it a substitute for a consecrated animal. How is it then that we have learnt: ‘One cannot make a limb a substitute for a consecrated foetus, or a foetus for a consecrated limb, or a limb or a foetus for a whole [consecrated animal], or a whole animal for either of these’?[26] Rather it is derived from the expression: And every . . . in the beast,[27] which includes the foetus. If so, even if part of the spleen or of the kidneys of the animal was cut away [and left inside] it should also be permitted, wherefore have we learnt, ‘WHATSOEVER IS CUT OFF FROM THE FOETUS IN THE WOMB [AND LEFT INSIDE] MAY BE EATEN, BUT WHATSOEVER IS CUT OFF FROM THE SPLEEN OR THE KIDNEYS [OF THE ANIMAL AND LEFT INSIDE] MAY NOT BE EATEN’? — The verse adds: It [ye may eat], that is, when ‘it’[28] is whole [ye may eat everything found therein] but not when part is wanting. But then according to this, if one slaughtered an animal and found therein a sort of dove the latter should be permitted, wherefore has R. Johanan stated: ‘If one slaughtered an animal and found therein a sort of dove it is forbidden to be eaten’?

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(1) For it cannot apply only to the case where a limb of the foetus was cut off, as that case is expressly stated earlier in the Mishnah.

(2) I.e., where a small portion only of the foetus remained within the womb, although the greater part of the foetus had been cut off limb by limb as each emerged, it is still permitted.

(3) I.e., while the sacrifice was being slaughtered within the precincts of the Temple court the foetus put forth a limb out of the womb into the space of the Temple court.

(4) And therefore even the limb that protruded would be rendered permitted by the slaughtering of the dam for it had not gone out beyond the bounds of the Temple court.

(5) E.g., where the foetus in the womb of an animal consecrated for a peace-offering put forth a limb out of the womb in Jerusalem, and withdrew it within, and subsequently the dam was slaughtered in the Temple court. Now according to him who maintains that even though the limb was withdrawn within at the time of the slaughtering the limb is nevertheless forbidden, the question here is, would the slaughtering of the dam render permitted even the limb that had emerged previously, since the limb had not got beyond the bounds prescribed for the eating of the flesh of a peace-offering, or not?

(6) So that the limb would not be rendered permitted by the slaughtering of the dam.

(7) For when cutting the first organ, at which time the limb had not yet protruded, the effect of that cutting was twofold, (a) to render the limb of the foetus clean, and (b) to render it permitted to be eaten; but at the cutting of the second organ, at which time the limb had already protruded, the only possible effect of that cutting was to render _the limb clean (v. infra 72a). Since the effects produced by the cutting of each organ are not equal, the question arises whether the first organ can be reckoned together with the second in order to produce the effect common to both, viz., that the limb be rendered clean. V. supra p. 176, n. 1.

(8) The answer is this: if only the question of rendering the limb clean is considered it is immaterial whether the foetus put forth its limb before or after or in the course of the slaughtering. Therefore the effect of cutting both organs must be to render the limb clean. The fact that at the time of the cutting of the first organ it was possible that the entire foetus, including this limb, might have been rendered permitted to be eaten, and that this became impossible because of the putting forth of the limb, can be ignored. The argument is an a fortiori argument because it is well established that less is required to render an animal clean than is required to render it permitted to be eaten.

(9) This foetus, which had put forth a limb during the slaughtering of its dam, was taken out of the womb alive. Consequently the whole of it is permitted to be eaten, and strictly without first being slaughtered as it has already been rendered permitted by the slaughtering of its dam, except for that limb which would remain forbidden always. In the course of time it was mated with a cow and begot a calf. The question therefore is, whether the limb of the calf corresponding to the forbidden limb of its sire is also forbidden or not.

(10) v. infra 79a. The meaning is that the creation of each offspring is directly attributable half to the female dam and half to the male sire.

(11) Because from the maternal side it requires to be slaughtered, but from the paternal side it does not; hence the offspring is considered, notionally, as half slaughtered, and nothing now can be done to it to remedy this state.

(12) The cow, too, had one limb forbidden on account of it having protruded at the time of the slaughtering of its dam (Tosaf.).

(13) I.e., the limb which corresponds to the forbidden limb of the male sire; or, according to Tosaf., of its progenitors, v. Maharam.

(14) I.e., the seed represents all the organs of the male as one whole, and cannot be distributed into separate parts, each part to represent a distinct organ; consequently the offspring being the product of a sire which has a forbidden limb is entirely forbidden.

(15) For it is held that every part of the body is a contributory factor in the act of procreation, including also the two forbidden substances in the animal body, viz., the blood and the fat.

(16) Even though in the case of this offspring there is an additional prohibited factor, viz., the forbidden limb of the male sire.

(17) Namely, that in a foetus taken out alive from the womb of its slaughtered dam after it had protruded a limb, there are inherent three prohibitions, viz., that of the blood, of the forbidden fat, and of the protruded limb.

(18) I.e., according to whom are there three prohibitions.

(19) For according to R. Meir, v. infra 74a, even the foetus that was within the womb at, the time of the slaughtering of its dam is not rendered permitted thereby, consequently there is no particular prohibition attached to it on account of the limb that protruded.

(20) V. infra 89b, Cf. Gen, XXXII, 33.

(21) Infra 74b, 94b, Tos. Hul. VII.

(22) Which as a foetus had put forth a limb out of the womb during the slaughtering of its dam and was afterwards extracted from the womb.

(23) For the prohibition of the protruded limb can in no manner be removed.

(24) Deut. XIV, 6. The interpretation is, every beast in a beast, i.e., the foetus in the womb of its dam, is permitted by the slaughtering of the dam.

(25) That the foetus is referred to biblically as a ‘beast’.

(26) Tem. 10a. Cf. Lev. XXVII, 10, where the term ‘beast’ is also used and on this account the law is established that a foetus or a limb is precluded from the law of substitution.

(27) Deut. ibid. The implication is that everything found in the beast is permitted.

(28) Sc. the slaughtered animal.

Talmud - Mas. Chullin 69b

— That [which is found within the animal] must have cloven hoofs [in order to be permitted], but this is not the case here. But then according to this, an animal with uncloven hoofs found in the womb of a cow should be forbidden.[1] — Surely the following teaching of the school of R. Ishmael was taught in the school of R. Simeon b. Yohai,[2] viz. The verse states: The hoof . . . in the beast, ye may eat.[3]

R. Shimi b. Ashi said: In truth it is as was suggested originally,[4] and as for your difficulty from [the Mishnah], ‘One cannot make a limb a substitute etc.’, [the answer is that] that is the opinion of R. Simeon who compares the law of Substitution to the law of Cattle Tithe,[5] so that just as the law of cattle tithe does not apply to limbs or a foetus[6] so also the law of substitution does not apply to limbs or a foetus. Whence do you know this?[7] — Because we have learnt:[8] R. Jose said,[9] Is it not the case that, in connection with animal offerings, if one said: ‘Let the foot of this animal be a burnt-offering’, the whole is a burnt-offering? Similarly, if one said: ‘Let the foot of this animal be a substitute for that [consecrated animal]', the whole animal should become consecrated as a substitute. Now with whom does R. Jose argue thus?[10] Do you say with R. Meir and R. Judah? But they do not hold this view.[11] Surely it was taught: I might have thought that if one said: 'Let the foot of this animal be a burnt-offering', the whole would become a burnt-offering, it is therefore written: All that any man giveth of such unto the Lord shall be holy,[12] that is, of such' shall be holy, but not the whole of it. But I might have thought that the whole animal is unconsecrated,[13] it therefore says: 'shall be', that is, it shall remain in its former status. What is to be done? The animal must be sold for the purpose of burnt-offerings and the money realised is ordinary unconsecrated money except for the value of this limb. So R. Meir and R. Judah. R. Jose and R. Simeon, however, say: Whence do we know that if one said: 'Let the foot of this animal be a burnt-offering', the whole is a burnt-offering? Because it is written, shall be, which suggests that the whole of it is holy.[14] With whom then does R. Jose argue [in the first case]? Is it with R. Meir and R. Judah? But they do not hold this view. It therefore can only be with R. Simeon. — It need not be so, for R. Jose argues on the basis of his own independent view.[15]

MISHNAH. IF AN ANIMAL WAS IN DIFFICULT LABOUR WITH ITS FIRST YOUNG, ONE MAY CUT OFF EACH LIMB [As IT COMES OUT] AND THROW IT TO THE DOGS.[16] IF THE GREATER PORTION CAME FORTH[17] IT MUST BE BURIED,[18] AND THE DAM IS EXEMPT FROM THE LAW OF THE FIRSTLING.[19]

GEMARA. It was stated: If a third [of the firstling] came forth and was [immediately] sold to a gentile, and then another third came forth,[20] R. Huna says: It is holy. Rabbah says: It is not holy. R. Huna says it is holy, because he maintains that the holiness is retrospective, so that as soon as the greater portion has come forth it becomes evident that it was holy from the first,[21] and he who purchased has purchased nothing at all. Rabbah, however, says it is not holy, because he maintains that the holiness is prospective,[22] so that he who purchased has made a valid purchase. They are indeed consistent in their views, for it was also stated: If a third [of the firstling] was extracted from the side and two thirds came forth normally through the womb, R. Huna says. It is not holy, Rabbah says: It is holy. R. Huna says it is not holy, for he maintains his principle that the holiness is retrospective, and here when the greater part first came forth, it had not entirely passed through the womb.[23] Rabbah, however, says it is holy, because he maintains his principle too, that the holiness is prospective, and here the greater part had come forth through the womb.[24] Now both disputes had to be [reported]. For if we had learnt only this dispute, we might have said that only here does R. Huna hold [that the holiness is retrospective], for [if he were to hold otherwise][25] he would be tending to leniency;[26] whereas in the other dispute since [he would by such a view' be] tending to stringency, I might say that he would agree with Rabbah.

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(1) But this is permitted according to all opinions, even according to R. Simeon, v. supra 68b.

(2) This is probably the correct meaning of the line which involves a slight alteration of the text, but the emendation is supported by MS.M. V. Yoma 59a, Zeb. 53b, 119b. Cur. edd.: A Tanna of the school of R. Ishmael taught like R. Simeon b. Yohai.

(3) In this verse Deut. Xlv, 6, the terms 'hoof and 'hoofs' are both employed, and the interpretation suggested is that an animal with one hoof, i.e., which has uncloven hoofs, or an animal with hoofs, i.e., which has cloven hoofs, if found in the beast, may be eaten.

(4) That the term 'beast' includes the foetus also.

(5) Cf. Lev. XXVII, 32. According to those Rabbis, however, who do not agree with R. Simeon, the law is clear that a foetus can be rendered a substitute for a consecrated animal.

(6) Since the verse: Lev. ibid. 'whatsoever passeth under the rod' cannot apply to these.

(7) That the opinion expressed in the Mishnah quoted from Tem. 10a, 'One cannot render a limb a substitute etc.' is that of R. Simeon.

(8) Tem. 10a.

(9) R. Jose is of the opinion that a limb can be made a substitute for a consecrated animal and supports his view by the argument he sets forth in the text.

(10) The opinion preceding R. Jose's with which R. Jose differs is expressed anonymously.

(11) I.e., the view stated in the premise of R. Jose's argument. It is evident from the form of his argument that his disputant would concede the law assumed in the premise.

(12) Lev. XXVII, 9.

(13) Save that the owner must redeem the limb by paying into the Temple treasury a sum of money equal to the value of the limb.

(14) Heb. יהיה, 'shall be', a term redundant in the verse. The exposition is that even where part only of the animal was consecrated, the whole 'shall be holy'.

(15) And it is not to be assumed that his premise was conceded by others. R. Jose merely bases his argument upon his own interpretation of verses.

(16) For it is not holy as a firstling until it has been born, i.e., when at least the greater portion of it had emerged.

(17) I.e., at the same time, v. Gemara.

(18) And may not be put to any use.

(19) I.e.,the young which she bears hereafter will not be considered a firstling. This rule, according to Rashi, refers to both clauses of the Mishnah, but according to Maim. only to the second.

(20) So that now the greater portion of the firstling has been born.

(21) I.e., at the beginning of the delivery it was holy, so that the gentile purchaser could acquire no rights therein.

(22) I.e., at the beginning of the delivery no holiness attached to it, and the gentile purchaser of the first third has made a valid purchase. Consequently this firstling even when it is fully born is not holy because of the share which the gentile has in it. Cf. Num. III, 13, and Bek. I, 2.

(23) According to R. Huna it is simultaneous with the birth of the greater part of the young that the holiness attaches. If therefore at this moment there is some cause which prevents the holiness from attaching, the young will never be deemed holy. In this case the holiness does not attach because the first part of the young was extracted from the side and did not pass normally through the womb. Cf. Ex. XIII, 2 'Whatsoever openeth the womb'.

(24) Even though this occurred only at the end of delivery, the firstling is holy.

(25) Sc. that the holiness is prospective.

(26) Since the young would not be deemed holy as a firstling.

Talmud - Mas. Chullin 70a

And if we had Garnet only the other dispute, we might have said that only there does Rabbah hold [that the holiness is prospective], whereas in this dispute I might say that he would agree with R. Huna. Therefore both [disputes] had to be [reported].

[An objection was raised]. We have learnt: IF AN ANIMAL WAS IN DIFFICULT LABOUR WITH ITS FIRST YOUNG, ONE MAY CUT OFF EACH LIMB [AS IT COMES OUT] AND THROW IT TO THE DOGS. Presumably this means, each limb is cut off and left where it is.[1] Now if you hold that the holiness is retrospective then it [sc. each limb] ought to be buried![2] — No, the meaning is that each limb is cut off and thrown [to dogs]. But where each limb was cut off and left there, you would hold, would you not, that it must be buried? If so, why does the Tanna state in the second clause, IF THE GREATER PORTION CAME FORTH[3] IT MUST BE BURIED? He should have made a distinction in the first case, thus: This holds good only where each limb was cut off and thrown [to the dogs], but where each limb was cut off and left there, it must be buried![4] — This is actually what is meant: This holds good only where each limb was cut off and thrown [to the dogs], but where each limb was cut off and left there, it is considered as if the greater portion came forth [at the same time], and must be buried. Raba raised the question: Do we apply the principle of 'the greater part' to limbs or not?[5] What are the circumstances of the case? Should you suggest the following case, namely, that the greater part [of the young] came out [of the womb] and this included the lesser part of a limb, the question therefore being: Are we to reckon this lesser part of the limb, which is outside, together with the greater part of its limb,[6] or with the greater part of the young?[7] — But it is obvious that we do not ignore the greater part of the young and take into consideration the greater part of the limb! Rather the case must be as follows: half of the young came out and this included the greater part of a limb; the question therefore is: Are we to reckon the lesser part of the limb which is inside together with the greater part of the limb,[8] or not? — Come and hear. [We have learnt:] IF THE GREATER PORTION CAME FORTH IT MUST BE BURIED. Now what is meant by 'the greater portion'? Does it mean actually the greater portion [of the young]? But surely we have learnt before now the principle that the greater part is like the whole! It would mean therefore that only half came out but it included the greater part of a limb![9] — No, the fact was, that the greater part [of the young] came out and it included the lesser part of a limb, and [the Mishnah] teaches us that we must not ignore the greater part of the young and consider the greater part of the limb.[10] Raba raised these questions: What is the law if one wrapped it up[11] in bast, or in a garment, or in its afterbirth? [You ask] 'In its afterbirth'? But that is the normal condition! — Render, ln the afterbirth of another animal. What if She[12] wrapped it up and got hold of it and brought it out? But what are the circumstances?[13] If [you say] it came out with the head first, then it has thereby 'opened the womb'. Rather it must be that it came out with the legs first.[14] What if a weasel [inserted its head into the womb and] took the foetus into its mouth and thus extracted it? [You ask] 'And thus extracted it'? Then it has brought it forth![15] — Render thus: What if the weasel took the foetus into its mouth, extracted it thus, inserted its head again into the womb and spewed it out therein, and then the foetus came forth of its own?[16] What is the law if one joined two wombs [of two animals] to each other and the foetus issued from the one womb and entered the other?[17] Shall we say that it[18] exempts only its own [dam from the law of the firstling] but it does not exempt another [animal] or perhaps it exempts also another animal? — These questions remain undecided.

R. Aha raised this question: What is the law if the walls of the womb opened wide [and the foetus fell out if it]? Is it the air space of the womb that renders the firstling holy, — a condition which exists in our case, or is it the contact with the womb that renders the firstling holy — a condition which is absent in our case? Mar son of R. Ashi raised this question: What if the walls of the womb were torn away? [You ask] Torn away? Then there is no womb here at all![19] It means: What if the walls of the womb were torn away and it now rested on the neck of the young?[20] Can [the womb only] render holy when it is in its natural place and not when it is out of its place, or even when out of its place it can also render holy? R. Jeremiah put this question to R. Zera: What if the walls of the womb were peeled?[21] He replied: You are touching upon a question which we have already discussed. For R. Zera had raised this question (others say: R. Zera had put this question to R. Assi): What is the law if what was left [of the womb] was more than what was gone, but the young passed through the part that was gone;[22] or if what was gone was more than what was left but the young passed through that part that was left of it?[22] Now I was in doubt only in such a case as where what was gone [of the womb] was more than what was left, for there at least something was left of it. But in the case where the walls of the wombs were entirely peeled I have no doubt at all.[23]

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(1) And even though there may be before us a number of limbs which together would make up the greater part of the young, each may nevertheless be thrown to the dogs, apparently because the holiness is not retrospective, contra R. Huna.

(2) For as soon as the greater part is collected together it appears retrospectively that this firstling was holy from the beginning, and, being dead, it must therefore be buried.

(3) Which implies at the same time.

(4) And it would not have been necessary to teach us that where the greater part of the young came forth in one mass it must be buried.

(5) Is the lesser part of a limb always to be reckoned with the greater part thereof or not?

(6) In which case, when we subtract this lesser part of a limb from that which has come out and reckon it together with the rest of that limb which is within the womb, the result is that the greater portion of the young has in law not emerged and is not deemed fully born; consequently it may be cut up for dogs, for there is no holiness upon it.

(7) And the young would be regarded now as fully born, and would at once be holy as a firstling.

(8) So that it would be regarded as if the greater part of the young had emerged and would therefore be deemed fully born.

(9) And the Mishnah teaches us that in such a case the lesser part of the limb, which is inside, is to be counted with the rest of the limb, and thus render the young fully born.

(10) Even though the greater portion of the limb is still within the womb, the lesser portion, however, having emerged, is reckoned with the rest of the young that has emerged, so that the young is now deemed fully born.

(11) The foetus was wrapped up in one of these articles and was thus extracted from the womb of its dam but no part of the foetus came into direct contact with the womb. Now it is the womb that renders the firstling holy, for throughout the Torah the firstling is described as that which ‘openeth the womb’ (e.g., Ex. XIII, 2). The question raised by Raba is this: must there be actual contact between the foetus and the womb when the foetus is being delivered, and otherwise it would not be regarded holy as a firstling, or is it sufficient that it passes through the womb although it makes no direct contact?

(12) The subject of the verb used is feminine whereas in the first question of Raba it is masculine. According to Rashi it refers to the woman who assists the delivery. She wrapped her hands around the foetus and thus extracted it so that there was no contact between the foetus and the womb of its dam. Tosaf. report a textual variant on the authority of R. Hananel; instead of אחזתו ‘she got hold of it’ the reading is אחותו ‘his sister’. The interpretation, accordingly, is this: there were twins within the womb, one male and the other female, and at the time of delivery it so happened that the female wrapped around and covered the male, so that there was no actual contact between the male twin and the womb.

(13) V. next note.

(14) The question ‘What are the circumstances?’ refers, according to Rashi, to all the cases raised by Raba, and the exposition is as follows: It certainly cannot be thought of that the garment etc. was wrapped around the foetus whilst it was still in the womb of its dam, as it is hardly possible to do so; some part therefore of the foetus must have emerged. Now it cannot be the head, for then the question could not arise, since by the emergence of the head it is deemed fully born, and so holy as a firstling. It can only be, therefore, that the legs of the foetus had emerged and then the whole of it was wrapped up. According to the variant text adopted by Tosaf. (v. n. 2) and the interpretation suggested, this question of the Gemara refers only to the last question of Raba, and the exposition is as follows: If the head of the female twin came out first, then the male cannot in any circumstance be deemed holy as a firstling, for it had not ‘opened the womb’ but was born second. It must be, therefore, that the legs of the female twin came out first, and these were wrapped around the head of the male, so that, were it not for the question of direct contact with the womb, the male twin, being born first, by virtue of the emergence of its head, would he deemed a firstling.

(15) Since it was not brought forth naturally but was extracted by the weasel it would not he holy as a firstling (R. Gershom). According to Rashi the position is identical with the first case stated by Raba.

(16) And the question is whether it would be holy as firstling when later it is delivered naturally from the womb of its dam.

(17) When the foetus leaves the womb of the second animal, would the latter thereby be exempt from the law of the firstling, so that what it next bears would not be deemed holy as a firstling, or not?

(18) A firstling emerging from a womb.

(19) It being assumed that the womb was gone before the young emerged, in which case there is no doubt at all that it is not holy as a firstling.

(20) During a difficult delivery the young had wrenched away the entire womb of its dam and had emerged with it upon its neck.

(21) The meaning of this is very doubtful. Rashi suggests two interpretations: (i) the inner membrane of the womb had peeled away. i.e., the whole of the womb was intact except that it had been reduced in thickness by the removal of a layer of its substance; (ii) the whole of the womb within had been destroyed but the external edges remained intact. The Aruch suggests, (iii) the whole of the womb was intact but the external edges were cut away.

(22) In each case the young was located in the forepart of the womb which constitutes but the smaller part of the womb; in the first case, however, only the forepart was gone but the rest remained intact, whereas in the second case only the forepart remained intact but the rest was gone.

(23) That the firstling which passed through this mutilated womb is not holy. It must be pointed out that with regard to these questions the Rabbis of old already recognised that they were purely of academic interest and in no wise did they consider the actual occurrence of such cases as probable or even possible. V. Tosaf. Ketub. 4b s.v. עד, and also Tosaf. Yeb. 102b s.v. ומי.

Talmud - Mas. Chullin 70b

MISHNAH. IF A FOETUS HAD DIED WITHIN THE WOMB OF ITS DAM AND THE SHEPHERD PUT IN HIS HAND AND TOUCHED IT, HE IS CLEAN, WHETHER IT WAS A CLEAN OR UNCLEAN ANIMAL.[1] R. JOSE THE GALILEAN SAYS, IF IT WAS AN UNCLEAN ANIMAL HE WOULD BE UNCLEAN, AND IF IT WAS A CLEAN ANIMAL HE WOULD BE CLEAN.

GEMARA. What is the reason of the first Tanna's view? — R. Hisda said: It is an a fortiori argument; for if the dam [when slaughtered] has the effect of rendering [the foetus] permitted to be eaten then surely [whilst alive] it will at least have the effect of rendering it clean so that it be not nebelah.[2] We find that this is so of clean animals; whence do we know it of unclean animals? — From the verse: And if any beast die,[3] that is, an unclean animal, of which ye may eat,[3] that is, a clean animal. The unclean animal is equated with the clean: as the foetus within a clean animal is clean so the foetus within an unclean animal is also clean.

And what is the reason for the view of R. Jose the Galilean? — R. Isaac said: It is written: And whatsoever goeth upon its paws among all beasts that go on all fours, [. . . whoso toucheth their carcass shall be unclean],[4] that is, whatsoever goeth upon unparted hoofs within the living beast I have declared to be unclean unto you. This being so, even an animal with unparted hoofs [found dead] in the womb of a [living] cow should also be unclean, for it is of those that go upon unparted hoofs within the beast! — [The verse refers to those] that go upon unparted hoofs within the beasts that go on four [hoofs], but this is a case of one that goes upon unparted hoofs within a beast that goes on eight[5] [hoofs]. Then a cow found in the womb of a camel should not be unclean,[6] for it is a case of one that goes upon eight [hoofs] within a beast that goes on four! — ‘Goeth’ [might have been written, but there is actually written], whatsoever goeth, thus including the case of a cow found in the womb of a camel.[7] Then an animal with unparted hoofs found in the womb of an animal also with unparted hoofs[8] should be unclean,[9] for it is a case of one that goes upon four [hoofs] within a beast that goes on four! — For this purpose R. Hisda's a fortiori argument might be applied.[10] To this R. Ahadboi b. Ammi demurred: Then the pig within the womb of a sow should not be unclean,[11] for it is a case of one that goes upon eight hoofs within a beast that also goes upon eight! — R. Nahman b. Isaac therefore said, [R. Jose's view is derived] from the following verse: If anyone touch any unclean thing, whether it be the carcass of an unclean beast, or the carcass of unclean cattle, or the carcass of unclean creeping things.[12] [Now it will be asked:] Does the carcass of unclean cattle alone render unclean but not that of clean cattle? What is it then?[13] It is the young [within the womb]; in unclean animals it is unclean, and in clean animals clean. But since this has been derived from the verse adduced by R. Nahman b. Isaac, to what purpose do I put the verse stated by R. Isaac? — Were it not for the verse stated by R. Isaac, I might have said that the entire verse [adduced by R. Nahman b. Isaac] is employed for the purpose of Rabbi's teaching;[14] he therefore teaches us otherwise.[15]

It was taught: R. Jonathan said: I said to Ben ‘Azzai: We have learnt that the carcass of clean cattle conveys uncleanness, that the carcass of unclean cattle conveys uncleanness, and that the carcass of unclean wild animals conveys uncleanness; but we have not learnt it about the carcass of clean wild animals. Whence do we know it? Said he to me: It is written: Whatsoever goeth upon its paws among all beasts that go on all fours.[16] Said I to him: The verse does not say: ‘all beasts’, it says ‘among all beasts’, and this clearly deals with the rule concerning animals that go upon unparted hoofs found within the beasts.[17] Said he to me: And what does Ishmael say in this matter? Said I to him: It is written: And if any cattle die,[18] that is unclean cattle, ‘of which ye may eat’, that is clean cattle. And we have learnt that wild animals are included under the term ‘cattle’, and cattle are included under the term ‘wild animals’. Hence clean wild animals would come under ‘clean cattle’, unclean wild animals under ‘unclean cattle’,

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(1) The terms ‘clean’ and ‘unclean’ referring to animals mean such species as are permitted or forbidden to be eaten respectively.

(2) For the basis of this a fortiori argument v. supra p. 374, end of n. 1.

(3) Lev. XI, 39.

(4) Ibid. 27. The term ‘goeth upon its paws’ is interpreted by the Rabbis as referring to an animal that has single or undivided hoofs; and ‘among all beasts’ is interpreted literally ‘in the living beast’, thus referring to the unclean foetus in the womb of the living beast.

(5) I.e., four parted hoofs.

(6) And should not render him that touches it unclean. But R. Jose holds that in all cases the foetus within the womb of an unclean animal is unclean.

(7) That it is unclean.

(8) The dam, however, wag a permitted animal as it was born of a clean animal.

(9) I.e., should render unclean.

(10) V. supra; if the slaughtering of the dam renders the foetus permitted to be eaten it surely renders it clean!

(11) Nor render one unclean.

(12) Lev. V, 2.

(13) In which there is implied a distinction between the carcass of clean cattle and that of unclean cattle.

(14) V. infra 72a. Since the verse Lev. V. 2, adduced by R. Nahman b. Isaac, is required for Rabbi's exposition, the only guiding rule in the law of uncleanness of beasts is that contained in Lev. XI, 39, where by reason of the analogy implied in that verse clean and unclean cattle are placed on the same footing.

(15) For since R. Isaac has dealt with Lev. XI, 27, whereby he has drawn a distinction between clean and unclean cattle, R. Nahman b. Isaac is now free to employ Lev. V, 2, in order to draw a further distinction between them as regards the foetus, so therefore only a portion of this latter verse is employed for Rabbi's exposition.

(16) Lev. XI, 27. The verse continues: whose toucheth their carcass shall be unclean; hence all beasts even clean beasts convey uncleanness. Throughout this passage the Heb. terms חיה and בהמה are translated literally and according to their strict meaning, the former connoting undomesticated animals and is translated ‘wild animals’ or ‘beasts’, the latter connoting domesticated animals and is translated ‘cattle’.

(17) V. supra, the exposition of R. Isaac.

(18) Lev. XI, 39.

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unclean cattle under ‘unclean wild animals’, and clean cattle under ‘clean wild animals’. He then said to me these very words: Alas for Ben ‘Azzai, that he did not attend upon R. Ishmael.

Whence do we infer that wild animals are included under the term ‘cattle’? — For it is written: These are the cattle which we may eat: the ox, the sheep [and the goat,] the hart, and the gazelle, and the roebuck.[1] How is this to be explained? It must be that wild animals are included under the term ‘cattle’. Whence do we infer that cattle are included under the term ‘wild animals’? — For it is written: These are the wild animals which ye may eat; among all the cattle that are on the earth, whatsoever parteth the hoof.[2] How is this to be explained? It must be that cattle are included under the term ‘wild animals’. Now,[3] clean wild animals come under ‘cattle’ with regard to the characteristics [of cleanness].[4] Unclean wild animals come under ‘unclean cattle’ with regard to the prohibition of ‘interbreeding’.[5] unclean cattle come under ‘unclean wild animals’ with regard to the following teaching of Rabbi. For it was taught: Rabbi says: It is sufficient when I read in the verse, [the carcass of an unclean] beast,[6] why then are cattle also stated? To deduce the following: It says here unclean cattle,[6] and there also unclean cattle;[7] just as there it refers to the eating of holy food while unclean, so here it refers to the eating of holy food while unclean.[8] Clean cattle come under ‘clean wild animals’ with regard to ‘formation’.[9] For we have learnt: If a woman miscarried [and brought forth] something resembling cattle or a wild animal or a bird, whether it be a clean or unclean species, if it was a male she must observe[10] [the periods prescribed] for a male, and if it was a female she must observe [the periods prescribed] for a female; if its sex was not known she must observe [the periods prescribed] both for a male and for a female.[11] So R. Meir. The Sages say:

Whatsoever has not the human form is not considered a child.[12] According to the Rabbis what need is there for that verse?[13] — It serves entirely for Rabbi's exposition.[14]

MISHNAH. IF THE FOETUS OF A WOMAN DIED WITHIN THE WOMB OF ITS MOTHER AND THE MIDWIFE PUT IN HER HAND AND TOUCHED IT, THE Mldwlfe IS RENDERED UNCLEAN FOR SEVEN DAYS, BUT THE MOTHER IS CLEAN UNTIL THE FOETUS COMES OUT.

GEMARA. Rabbah said: Just as an unclean object that has been swallowed cannot render unclean,[15] so a clean object that has been swallowed cannot be rendered unclean.[16] Whence do I learn that an unclean object that has been swallowed cannot render unclean? — For it is written: And he that eateth of the carcass of it shall wash his clothes.[17] Does this not hold good even though he ate of it a short while before sunset? And yet the Torah says that he becomes clean.[18] Perhaps there it is different, for the reason is that it is no longer fit for a stranger![19] Now according to R. Johanan it is well,[20] for he says: For either purpose[21] [it is nebelah] until it becomes unfit for a dog.[22] But according to Bar Padda who says, [It is nebelah] for conveying the graver uncleanness until [it becomes unfit] for a stranger, and for conveying the lighter uncleanness until [it becomes unfit] for a dog, the reason might well be that it is no longer fit for a stranger![23] — Even so, granted that it is not fit for a stranger if it was swallowed in his presence, it is, however, fit for a stranger if swallowed not in his presence.[24]

We have thus learnt that an unclean object that has been swallowed [cannot render unclean]; whence do we learn that a clean object that has been swallowed [cannot be rendered unclean]? — By an a fortiori argument. If an earthenware vessel that is covered with a closely fitting lid, which cannot prevent the unclean matter that is in it from conveying uncleanness,[25] (for a Master has stated, uncleanness that is closed up[26] breaks through upwards to the sky), nevertheless protects any clean matter that is within it from becoming unclean,[27]

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(1) Deut. XIV, 4, 5, under the heading ‘cattle’, בהמה, are specified the ox and the sheep and also the hart and the gazelle and the latter two are of the class חיה, ‘wild animals’.

(2) Lev. XI, 2,3. A literal translation of the verse. The term חיה at the head of the verse signifies the class of animals spoken of, and among that class, forming a section thereof, are mentioned cattle to which these rules apply. Hence it is apparent that cattle are included under the term ‘wild animals’.

(3) Since it is established that the term ‘cattle’ includes wild animals and the term ‘wild animals’ includes cattle, the Gemara proceeds to apply these rules and to derive practical results therefrom.

(4) V. supra 59a. The characteristics of cleanness of animals are expressed in the Torah only in connection with ‘cattle’.

(5) The prohibition of breeding diverse kinds (Lev. XIX, 19) applies to all animals, whether clean or unclean; nevertheless in the Torah it is expressly stated only in connection with ‘cattle’.

(6) Lev. V, 2: If anyone touch any unclean thing whether it be the carcass of an unclean beast or the carcass of unclean cattle . . . and be guilty. In atonement for the guilt committed Scripture prescribes the bringing of a sin-offering, the nature of which varies according to the means of the sinner.

(7) Ibid. VII, 21: And when any one shall touch any unclean thing . . . or unclean cattle . . . and eat of the flesh of the sacrifice . . . that soul shall be cut off from his people.

(8) Thus it is established by Rabbi that the guilt implied in the verse is that of a person who, forgetting his uncleanness, partakes of sacrificial meat or enters the Sanctuary. This argument of Rabbi is based on the assumption that the term ‘cattle’ is superfluous, but this is so only if it is held that cattle are included under the term ‘wild animals’; v. Sheb. 7a.

(9) In the story of the Creation the expression ‘formed’ is used both in the creation of man (Gen. II, 7) and in the creation of wild animals (ibid. 19), but not in the creation of cattle. From the similarity of expression is derived a similarity of law, namely, that if a woman miscarried, bringing forth a human form or something resembling an animal, she is unclean as after a childbirth. Now this law should not have applied to cattle (i.e., an abortion resembling cattle) were it not for the principle that the term ‘wild animals’ includes cattle.

(10) Cf. Lev. XII. On the birth of a male the mother must observe seven days of uncleanness and thirty-three days of purification, and on the birth of a female fourteen days of uncleanness and sixty-six days of purification.

(11) The stricter aspect of each is applied to the mother, viz., fourteen days of uncleanness (as if it were a female) and only twenty-six days of purification (as if it were a male, and the total of days must not exceed forty).

(12) And the mother is not obliged to observe the laws of uncleanness as after the birth of a human child. V. Nid. 21a.

(13) The Rabbis of our Mishnah who maintain that the dead foetus within the womb, either of a clean or unclean animal, is clean, must apply to some other purpose that verse which R. Nahman b. Isaac adduced (Lev. V, 2: If anyone touch any unclean thing, etc. supra p. 386) in support of the view of R. Jose the Galilean, that the dead foetus within the womb of an unclean animal is unclean.

(14) Since the expression ‘unclean’ as stated of cattle is required for Rabbi's exposition, this same expression is also stated of wild animals for the sake of uniformity. The text, however, of this last question is doubtful. The MS.M. and Tosaf. a.l. have the following reading: הניחא לר מאיר אלא לרבנן מאי איכא למימר. And the interpretation is this: It is well according to R. Meir (for he has introduced a specific rule in the law of childbirth on the basis of the principle that the term ‘wild animals’ includes cattle). But what can be said from the point of view of the Rabbis who differ from R. Meir? (In which case is this principle applied?)

(15) E.g., the dead foetus (that is ‘swallowed’ or enclosed) in the womb of its mother does not render the mother unclean; v. our Mishnah.

(16) E.g., if a person swallowed a clean ring and subsequently entered a room where_ a corpse lay, the ring would not become unclean though he himself is rendered unclean; v. infra.

(17) Lev. XI, 40; the verse adds: And be unclean until the even, i.e., until sunset.

(18) He is not rendered unclean again immediately after sunset by reason of the unclean nebelah food that is still undigested within him, because of the rule that unclean food that has been swallowed cannot render unclean.

(19) From Deut. XIV, 21: Ye shall not eat nebelah, thou mayest give it to the stranger, is derived the rule that only that is deemed nebelah which is in the condition fit to be eaten by a stranger. Since this food has been swallowed, even if vomited out, it is no more fit for a stranger, hence it is not deemed nebelah and therefore does not render him unclean after sunset.

(20) And the principle that an unclean object that has been swallowed cannot render unclean is indeed to be derived from the above quoted verse.

(21) Whether to convey the graver uncleanness, i.e., to render men and vessels unclean or to convey the lesser uncleanness, i.e., only to render foodstuffs unclean.

(22) And as the undigested food if vomited out would be fit for a dog it should, according to R. Johanan, render the eater unclean immediately after sunset, nevertheless the Divine Law declares him clean obviously because unclean matter that has been swallowed cannot render unclean.

(23) So that what this man has eaten is no longer accounted as nebelah and that is the reason why he is not rendered unclean immediately after sunset, but not because it is unclean matter that has been swallowed.

(24) So where a person swallowed whole a morsel of nebelah without chewing it a moment before sunset and yet he is declared clean immediately after sunset, although the morsel if ejected again is fit to be eaten by a stranger who has not seen it in the mouth of another, the reason can only be that it is swallowed uncleanness and so cannot render unclean.

(25) E.g., if within an earthenware vessel that was covered with a tightly fastened lid there was an olive's bulk of a corpse, whosoever comes under the same roof as this vessel is rendered unclean, for the unclean matter being compressed in a close space bursts, as it were, the sides of the vessel and the uncleanness breaks through upwards and downwards. Cf. Ohol. VII, 1, XIV, 6.

(26) Compressed in a grave or shut up in a box. Provided in all these cases that there was no space to the extent of a cubic handbreadth above the unclean matter.

(27) Cf. Num. XIX, 15; and V. supra 25a.

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how much more so in the case of a man, who prevents the unclean matter that is in him from rendering him unclean, that he should protect the clean matter that is in him from becoming unclean! But perhaps that is so only in the case of an earthenware vessel, since it cannot render unclean by its outside;[1] will you then say that it is so also in the case of a man who can convey uncleanness from the outside? — Are we dealing with the outside? No, on the contrary, we are dealing with the inside, and [with regard to the inside of] an earthenware vessel [the Jaw] is more strict, since it can convey uncleanness by its air-space.[2]

We have thus learnt the law regarding uncleanness swallowed from above,[3] but whence do we know that it is so even when the uncleanness was swallowed' from below?[4] — From the following a fortiori argument. If in the upper part of the body where no decomposition [of food] takes place [the fact that it is swallowed] prevents [the unclean matter from conveying uncleanness], how much more so In the lower part where the actual decomposition takes place! But decomposition takes place below only if the food comes from above! — Even so, the fact that decomposition takes place below is a stronger point.[5]

We have now learnt the law regarding uncleanness swallowed by man, but whence do we know it with regard to uncleanness swallowed by an animal? — From the following a fortiori argument. If in the case of man, who is capable of conveying uncleanness whilst alive, the fact that it is swallowed prevents [the unclean matter from conveying uncleanness], how much more so is it in the case of animals, which are incapable of conveying uncleanness whilst alive, that the fact that it is swallowed prevents [the unclean matter within from conveying uncleanness]! But perhaps that is so only with regard to man since he must tarry a prescribed period in a house stricken with leprosy;[6] will you then say that it is so also with regard to animals which need not tarry a prescribed period in a house stricken with leprosy?[7] — In respect of what things, do you say, that an animal need not tarry the prescribed period in a house stricken with leprosy? It is [obviously] in respect of those things that are laden upon it. But for such things man too need not tarry within![8] For we have learnt: If a person entered a house stricken with leprosy carrying his clothes over his shoulders and his sandals and rings in his hands,he and they become unclean forthwith. If he was clothed in his garments, his sandals on his feet, and his rings on his fingers, he becomes unclean forthwith but they remain clean until he tarries there the length of time required for eating half a loaf[9] of wheaten bread, but not barley bread, reclining and eating it with a condiment.[10]

Raba said: But we have learnt both these rules.[11] We have learnt the rule concerning swallowed unclean matter, and we have learnt the rule concerning swallowed clean matter. Concerning swallowed unclean matter we have learnt the following Mishnah:[12] If a person swallowed an unclean ring,[13] he must immerse himself[14] and thereafter may eat terumah;[15] if he vomited it forth [after this immersion], it is still unclean and has rendered him unclean.[16] And concerning swallowed clean matter we have learnt the following Mishnah:[12] If a person swallowed a clean ring, entered a tent wherein lay a corpse, was sprinkled [with purification waters] the first time and the second time,[17] immersed himself, and then vomited it forth, it remains as it was before![18] — Rabbah had in mind the case where a person swallowed two rings, one clean and the other unclean, [and he teaches that] the unclean ring will not render the clean ring unclean.[19]

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(1) Since with regard to earthenware vessels the laws of uncleanness have in certain respects been relaxed, it is also reasonable to hold that any clean matter that is 'swallowed up' or enclosed within an earthenware vessel is protected from uncleanness.

(2) Which is not the case with man. So that the a fortiori argument is of even greater force, for if an earthenware vessel, which can be rendered unclean and also convey uncleanness through its air-space, has the power of protecting the clean object that is enclosed in it from becoming unclean, surely man ought to protect the clean object that he has swallowed from becoming unclean!

(3) I.e., through the mouth.

(4) Ie., the unclean matter was inserted into the body from below via the rectum. It must be, says Rashi, that it was inserted by a tube so that the unclean matter did not come into direct contact with the body of the person. It must further be explained that this action was performed a little before sunset as above.

(5) In the argument; so that the a fortiori reasoning holds good.

(6) In order that the clothes that he is wearing be also rendered unclean. This rule is derived from the fact that Lev. XIV, 46 states: He that goeth into the house . . . shall be unclean until the even, whereas the next verse (Lev. XIV, 47) states: And he that lieth in the ‘house shall wash his clothes; and he that eateth in the house shall wash his clothes. This presupposes that a longer stay in the house renders also the clothes worn by the person unclean. Since therefore the law of uncleanness in this respect with regard to man is not so severe, one would reasonably suppose that uncleanness emanating from a swallowed unclean object would not affect man.

(7) For in the case of an animal laden with goods that enters a house stricken with leprosy both the animal and the goods are immediately rendered unclean.

(8) For articles laden upon a person as a burden and not worn as clothes are also rendered unclean forthwith.

(9) I.e., one meal. A loaf equal in size to eight eggs (according to Maim. six eggs) is held to be sufficient for two meals in connection with ‘Erub.

(10) Neg. XIII, 9. Accordingly the a fortiori argument is valid to prove that an unclean object swallowed by an animal cannot convey uncleanness.

(11) What then is the point of Rabbah's teaching?

(12) Mik. X, 8.

(13) It was rendered unclean by reason of its having been brought into contact with a corpse in which case the ring, being of metal, assumed the same degree, and not a lesser degree, of uncleanness as the corpse itself, v. supra 3a.

(14) Because he was rendered unclean by contact with the ring before swallowing it.

(15) But he is not rendered unclean by the unclean ring, that is, in his body, thus proving that a swallowed unclean matter cannot render unclean.

(16) For it must have touched his person as it was vomited forth.

(17) On the third and seventh day of his uncleanness respectively. Cf. Num. XIX, 19.

(18) I.e., clean; thus proving that a swallowed clean matter cannot contract uncleanness. For had the ring suffered uncleanness when the man entered under the same roof as the corpse, at which time the ring was swallowed within him, it would not now when vomited forth be clean, for the immersion and purification of the man could be of no avail in regard to the ring.

(19) This is a special case which could not so readily have been inferred from the cases stated in the above quoted Mishnahs. For it might have been suggested that the reason for the ruling in those two cases was that the contact between the ring and the person was made in the secret parts of the body, and such contact is not accounted as contact in order to contract or convey uncleanness. In the case, however, where two rings were swallowed and both now lie in the secret parts, the argument of secret contact cannot apply for it is as though they are together in a chest when one would certainly render the other unclean. Rabbah, however, by stating his view that even in the case of two rings one cannot render the other unclean, strikingly informs us that the ground for the rulings in the Mishnah is that the matter is swallowed and for that reason it cannot contract or convey uncleanness. V. Tosaf. s.v. כי.

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But is not the case of the foetus and the midwife [of our Mishnah] similar to two rings,[1] nevertheless the foetus renders the midwife unclean? — Rabbah replied,[2] It is different in the case of the foetus because it must eventually come out![3] Raba retorted: The foetus, [you say] must eventually come out; and must not the ring also eventually come out? — Raba therefore replied: The ‘Pumbedithans’ (by which R. Joseph is meant) know the reason for it.

For R. Joseph said in the name of Rab Judah who said it in the name of Samuel: This uncleanness [of the midwife] was not imposed by Biblical law but by decree of the Scribes. Why is it said ‘was not imposed by Biblical law but by decree of the Scribes’? — So that you should not say that our Mishnah agrees [only] with R. Akiba who holds that a [dead] foetus whilst yet in the womb of its mother is unclean;[4] for indeed it is even in accordance with R. Ishmael who holds that the [dead] foetus whilst yet in the womb of its mother is clean, yet here the uncleanness [to the midwife] was imposed by Rabbinic decree. Why? — R. Hoshaia said: As a precaution lest the foetus protrude its head beyond the ante-chamber.[5] Then this should apply to the mother too![6] — The mother would feel it.[7] Then she might tell the midwife of it?[8] — She is too distraught.

Where do we find the respective views of R. Ishmael and R. Akiba? — It was taught: The verse: And whosoever toucheth in the open field . . . [a dead body],[9] excludes the dead foetus whilst yet in the womb of its mother:[10] so R. Ishmael. R. Akiba says: It includes the stone that covers the grave and the stones that support it.[11] And R. Ishmael? — The [uncleanness of the] covering stone and supporting stones is established by tradition.[12] And R. Akiba? — He maintains that the [dead] foetus whilst yet in the womb of its mother is unclean.[13] Whence does he [R. Akiba] derive this[14] from the Torah? — R. Oshaia answered: It is written: Whosoever toucheth a dead body in a human body.[15] Now what can a dead body in a human body refer to? You must say it refers to a [dead] foetus in the womb of its mother. And R. Ishmael?[16] — He requires this verse to establish the law that a quarter log of blood that issued from a dead body conveys uncleanness. For it is written: Whosoever toucheth a dead body [or] the life element of man.[17] Now what is the life element of a man that renders unclean? You must say, it is a quarter log of blood.[18] R. Akiba, on the other hand, adheres to his view that a quarter log of blood that issued from two corpses will render unclean [men and vessels that are] in the tent.[19] For it was taught: R. Akiba says: Whence do I know that a quarter log of blood that issued from two corpses renders unclean [men and vessels that are] in the tent? From the verse: He shall not go in to any dead bodies,[20] which suggests one quantity [of blood] from two corpses.

MISHNAH. IF AN ANIMAL WAS IN DIFFICULT LABOUR AND THE FOETUS PUT FORTH ITS FORE-LIMB AND A PERSON IMMEDIATELY CUT IF OFF AND THEN SLAUGHTERED THE DAM, THE FLESH [OF THE FOETUS][21] IS CLEAN. IF HE SLAUGHTERED THE DAM FIRST AND THEN CUT IF OFF, THE FLESH[22] IS UNCLEAN LIKE THAT WHICH HAD TOUCHED NEBELAH: SO R. MEIR. BUT THE SAGES SAY, IT IS UNCLEAN[23] LIKE THAT WHICH HAD TOUCHED A SLAUGHTERED TREFAH [ANIMAL];[24]

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(1) For both the foetus and the hand of the midwife are together ‘swallowed’ within the womb of the mother.

(2) Read with var. lec. ‘Rabbi can reply to you’ v. D.S.

(3) And therefore is not regarded as swallowed.

(4) Accordingly the midwife, is by Biblical law rendered unclean by reason of contact with the foetus, for a swallowed unclean matter can convey uncleanness; the mother, however, remains clean because the uncleanness touches her in her secret parts and this does not render her unclean.

(5) In which case, according to all views, the midwife would become unclean by Biblical law, for the foetus is by the protrusion of its head regarded as born.

(6) I.e., this Rabbinic decree should apply also to the mother, to render her unclean.

(7) Whether the head of the foetus has emerged or not.

(8) She might warn the midwife that the head of the foetus has already emerged into the ante-chamber.

(9) Num. XIX, 16.

(10) The expression in the open field suggests that the uncleanness is exposed and not concealed or shut up as in the case of the foetus.

(11) That these too render a person unclean for these are usually to be seen ‘in the open field’. The Heb. terms are גולל and דופק. According to Rashi, the former means the upper board and the latter the side boards of the coffin. The translation in the text follows the interpretation of these terms suggested by Tosaf. V. Keth. 4b s.v. עָד; and Nazir, Sonc. ed., p. 202, n. 5.

(12) The verse (Num. XIX, 15) therefore, according to him, serves to exclude the foetus, since there is a tradition that accounts for the uncleanness of the covering stone and supporting stones.

(13) And as R. Akiba does not regard the uncleanness of the covering stone and supporting stones as established by tradition he derives it expressly from the above verse.

(14) Sc. that the dead foetus whilst yet in the womb of its mother is unclean.

(15) Num. XIX, 13. A literal translation of the verse. The Heb. נפש, usually translated ‘soul’ or ‘life’ often means ‘body’.

(16) Does not the interpretation of this latter verse contradict his view?

(17) Num. XIX, 13. Such is the translation of the verse according to R. Ishmael. נפש here means the blood which is the life element in man; cf. Lev. XVII, 14, Deut. XII, 23.

(18) The loss of this quantity of blood is regarded as the loss of vital blood, for this quantity is the minimum necessary for maintaining life in a human being. Log is a liquid measure equal to the capacity of six eggs.

(19) Consequently no verse is required to indicate that a quarter log of blood from one corpse renders unclean.

(20) Lev. XXI, II. The plural נפשות ‘bodies’, indicates at least two, whereas מת ‘dead’, being in the singular, indicates a single quantity of blood equal to the quantity necessary for maintaining life, i.e., a quarter log.

(21) It will not be rendered unclean from contact with the protruded limb because it is in the womb and is part of a living animal and it is established law that a living animal cannot contract uncleanness. V. supra 68a bot.

(22) Of the foetus as well as the animal itself. V. supra 68b top.

(23) Rabbinically and only in respect of consecrated animals.

(24) V. Gemara.

Talmud - Mas. Chullin 72b

FOR JUST AS WE FIND THAT THE SLAUGHTERING OF A TREFAH ANIMAL RENDERS IT CLEAN, SO THE SLAUGHTERING OF THE ANIMAL SHOULD RENDER THE [PROTRUDING] LIMB CLEAN. R. MEIR REPLIED TO THEM, NO, FOR WHEN YOU SAY THAT THE SLAUGHTERING OF A TREFAH [ANIMAL] RENDERS IT CLEAN YOU ARE CONCERNED WITH [THE ANIMAL] ITSELF, BUT CAN YOU SAY THAT IT WILL RENDER CLEAN THE LIMB WHICH IS NOT PART OF [THE ANIMAL] ITSELF? [BUT] WHENCE DO WE LEARN THAT THE SLAUGHTERING OF A TREFAH ANIMAL RENDERS IT CLEAN? [OUGHT WE NOT RATHER TO ARGUE THUS,] AN UNCLEAN ANIMAL MAY NOT BE EATEN, AND TREFAH ALSO MAY NOT BE EATEN; THEN JUST AS SLAUGHTERING DOES NOT RENDER AN UNCLEAN ANIMAL CLEAN[1] SO SLAUGHTERING SHOULD NOT RENDER A TREFAH ANIMAL CLEAN? NO. YOU MAY STATE THIS OF AN UNCLEAN ANIMAL FOR AT NO TIME WAS IT FIT [FOR SLAUGHTERING]; CAN YOU ALSO STATE THIS OF A TREFAH ANIMAL WHICH HAD A TIME WHEN IT WAS FIT[2] [FOR SLAUGHTERING]? AWAY WITH THIS ARGUMENT THAT YOU HAVE PUT FORWARD! FOR WHENCE WOULD WE KNOW THIS OF AN ANIMAL THAT WAS BORN TREFAH FROM THE WOMB?[3] [SUBSTITUTE THEREFORE THIS ARGUMENT]: NO. YOU MAY STATE THIS OF AN UNCLEAN ANIMAL SINCE IT BELONGS TO THE CLASS TO WHICH SLAUGHTERING DOES NOT APPLY; CAN YOU ALSO STATE THIS OF A TREFAH ANIMAL WHICH BELONGS TO THE CLASS TO WHICH SLAUGHTERING DOES APPLY? [ACCORDINGLY], THE SLAUGHTERING OF A LIVE EIGHT MONTHS’ BIRTH DOES NOT RENDER IT CLEAN, SINCE TO ITS KIND SLAUGHTERING DOES NOT APPLY.[4] GEMARA. Wherefore [is the foetus rendered unclean]? It has made covert contact with uncleanness[5] and covert contact with uncleanness does not render [that which was clean] unclean. Shall we then say that R. Meir here too asserts his view?[6] For we have learnt:[7] ‘If a piece of cloth three handbreadths square [that had contracted midras uncleanness][8] was divided, it is free from midras uncleanness[9] but is unclean by reason of its contact[10] with midras uncleanness. So R. Meir.[11] And we have learnt further:[12] R. Jose said: What midras uncleanness has it touched? But, [it is admitted,] if one that had an issue touched it, it would now be unclean by reason of its contact with one that had an issue’![13] Surely there has been reported in connection with the above the following statement of Ulla viz., They[14] stated their views only in respect of a cloth three handbreadths square that was divided, but if a piece of cloth three finger-breadths square was cut away from a large garment [that had contracted midras uncleanness], [all agree that] it is rendered unclean [by virtue of contact] with the rest [of the garment] at the moment that it was severed from the rest.[15] Here too, it will be said that it [sc. the foetus] is rendered unclean [by virtue of contact] with the limb at the moment that it is severed from the limb![16] Rabina said: A garment is not intended for cutting up but a foetus is, and whatsoever is intended for cutting up

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(1) This is the conclusion arrived at by the Rabbis from the interpretation of Lev. XI, 26. V. Sifra on this verse.

(2) I.e., before it was rendered trefah.

(3) According to the argument that has been submitted it would follow that an animal that was born trefah is not rendered clean by slaughtering, but this is not the case; hence that argument fails.

(4) An eight months' birth is not a viable animal and therefore slaughtering does not apply to it, for it is not within the category of cattle or sheep.

(5) Lit., 'uncleanness in secret parts'. The only contact made by the foetus with the unclean limb is at the point where the two are joined but where subsequently they will be cut away from each other, and that contact is covert and not exposed.

(6) That covert contact with uncleanness does convey the uncleanness. The author of our anonymous Mishnah is R. Meir, hence the introduction of R. Meir into this argument; cf. Sanh. 86a.

(7) Kel. XXVII, 20.

(8) I.e., a person suffering with a discharge from his body had put his full weight upon this cloth, e.g., by sitting or standing upon it or by leaning against it. Cf. Lev. xv, 4. And whatever has been thus rendered unclean by מדרם 'pressure', provided it was not less than three handbreadths square, will render unclean men and vessels.

(9) Being less than three handbreadths square it can no longer render men or vessels unclean, but it can render foodstuffs or liquids unclean provided it was not reduced in size to less than three finger-breadths square.

(10) The only contact is at the line in the undivided cloth along which it was subsequently cut, but there the contact was not exposed.

(11) The words 'So R. Meir' are not found in the Mishnah cited; cf. Kel. ibid.

(12) So MS.M. What follows is the continuation of the cited Mishnah; cur. edd. 'it was taught'.

(13) If a person that had an issue stood upon it with his bare feet, this cloth would have contracted uncleanness on two grounds', viz., because of the pressure and also by reason of direct contact. Now when the cloth is divided and is thereby reduced to less than the minimum size required for midras uncleanness this uncleanness will have disappeared and the cloth will no longer render men and vessels unclean; it will, however, be capable of rendering foodstuffs and liquids unclean by reason of the additional uncleanness brought about by the contact which still remains, provided, of course, it was not reduced to less than three finger-breadths square.

(14) Sc. R. Meir and R. Jose.

(15) Lit., 'from its father', i.e., from the stock or rest of the material. The cloth, all agree, is unclean by reason of contact with midras uncleanness; for contact there was inasmuch as it is almost impossible to cut away a portion of cloth from the garment without the two coming into contact if only at the moment that they are being severed; and moreover the contact was exposed contact.

(16) I.e., the same reasoning applies to the severing of the foetus from the limb so that even R. Jose would agree that it is unclean by reason of the said contact.

Talmud - Mas. Chullin 73a

is already accounted as cut up.[1] According to whom is this teaching? [Is it only] according to R. Meir? For we have learnt: vessels that have very long handles which are to be cut down need be immersed only as far as the measure[2] [that has been determined]. R. Judah[3] says: The whole of it must be immersed! — You can even say that [the teaching of our Mishnah] is in accordance with the view of the Sages, for a mass of foodstuffs is always to be regarded as separated into parts and [the parts] as touching each other. Now according to Ulla it is well that [the Mishnah] states: AND THEN CUT IT OFF,[4] but according to Rabina why does it state, AND THEN CUT IT OFF?[5] — Since it states, in the first clause, AND CUT IT OFF, it states in the second clause too, AND THEN CUT IT OFF.

BUT THE SAGES SAY, IT IS UNCLEAN LIKE THAT WHICH HAD TOUCHED A SLAUGHTERED TREFAH ANIMAL. But does a slaughtered trefah animal render anything unclean? It does indeed, as stated by Samuel's father. For Samuel's father stated: A trefah animal that was slaughtered renders holy things unclean.[6]

FOR JUST AS WE FIND THAT THE SLAUGHTERING OF A TREFAH [ANIMAL] RENDERS IT CLEAN, SO THE SLAUGHTERING OF THE ANIMAL SHOULD RENDER THE

[PROTRUDING] LIMB CLEAN. It was taught: R. Meir said to them, But what was it that rendered this limb clean, so that it be not nebelah? Was it not the slaughtering of its dam? Then it should also render it permitted to be eaten! They replied: It is often the case that an act has a greater effect upon that which is not part of itself than upon that which is part of itself; for we have learnt: 'Whatsoever is cut off from the foetus within the womb [and left inside] may be eaten, but whatsoever is cut off from the spleen or the kidneys [of the animal and left inside] may not be eaten.[7] What does this mean? — Raba, others say Kadi,[8] replied: There is an omission here, and this is the real teaching. R. Meir said to them, But what was it that rendered this limb clean so that it be not nebelah? Was it not the slaughtering of its dam? Then it should also render it permitted to be eaten! They replied: The case of a trefah [animal] proves otherwise, for the slaughtering renders it clean, so that it be not nebelah, and yet does not render it permitted to be eaten. He retorted: It is not so. For when you say that the slaughtering of a trefah [animal] renders it clean, you are concerned with [the animal] itself; but can it render clean the limb which is not part of [the animal] itself? They replied: It is often the case that an act has a greater effect upon that which is not part of itself than upon that which is part of itself; for we have learnt: Whatsoever is cut off from the foetus within the womb [and left inside] may be eaten, but whatsoever is cut off from the spleen or the kidneys [of the animal and left inside] may not be eaten.

There is [also a Baraitha] taught which expressly states it so. R. Meir said to them, But what was it that rendered this limb clean so that it be not nebelah? They replied: The slaughtering. Then, said he, it should also render it permitted to be eaten. They replied: The case of a trefah [animal] proves otherwise, for the slaughtering renders it clean, so that it be not nebelah, and yet does not render it permitted to be eaten. He retorted: When you say that the slaughtering of a trefah [animal] renders it clean or [that the slaughtering of an animal renders clean] the limb that hangs loose,[9] you are concerned with [the animal] itself; but can it render clean the [limb of the] foetus which is not part of [the animal] itself? They replied: It is often the case that an act' has a greater effect upon that which is not part of itself than upon that which is part of itself; for we have learnt: Whatsoever is cut off from the foetus within the womb [and left inside] may be eaten, but whatsoever is cut off from the spleen or the kidneys [of the animal and left inside] may not be eaten.

R. Simeon b. Lakish said: Just as they[10] differ with regard to the [limb of the] foetus so they differ with regard to loose limbs.[11] R. Johanan said: They differ only with regard to the limb of the foetus, but with regard to a loose limb of the animal all agree that at the slaughtering it is accounted as detached.[12] R. Jose b. Hanina said: What reason does R. Johanan suggest for the view of the Rabbis?[13] — In this case [of the foetus] there is a remedy for it by withdrawal [into the womb],[14] but in that case [of the loose limb] there is no remedy for it by withdrawal.

An objection was raised. R. Meir said to them: It is not so. When you say that the slaughtering of a trefah [animal] renders it clean, or [that the slaughtering of an animal renders clean] the loose limb, you are concerned with [the animal] itself, but can it render clean the [limb of the] foetus which is not part of the animal itself?

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(1) So that the contact between the limb and the foetus in our Mishnah cannot be said to be covert.

(2) But that part of the handle which is to be cut away need not be immersed, for it is regarded as already cut away.

(3) The reading in the text, 'So R. Meir; but the Sages say' has been corrected so as to correspond with the text in Mikv. X, 5 from where the Mishnah is quoted. It is true, however, that the first opinion, although reported anonymously, is that of R. Meir.

(4) For then only, i.e., at the moment that the limb is being severed from the foetus, does the foetus contract uncleanness by virtue of contact with the unclean limb.

(5) Even though it had not been cut off it is, according to Rabina, considered as already severed and the foetus would be rendered unclean by its contact.

(6) So according to Maim. Yad, Aboth Hatumah, II, 8. According to Rashi (infra 123b) a trefah consecrated animal that was slaughtered still renders unclean.

(7) Supra 68a.

(8) Aliter: ‘as the case may be’, i.e., some introduce other persons.

(9) V. infra 127b where it is established that if an entire limb of an animal was torn away but not completely severed and the animal was subsequently slaughtered, the slaughtering has the effect of rendering this limb clean, so that it be not regarded as a limb detached from a living animal which is, like nebelah, a source of uncleanness that renders men and vessels unclean.

(10) Sc. R. Meir and the Sages in our Mishnah.

(11) According to R. Meir the slaughtering of the animal will not render the hanging limb clean, but according to the Sages it will.

(12) Lit., ‘the slaughtering brings about the falling off’. The slaughtering has no effect upon it, for the limb is regarded as having already become detached or having already fallen away from the animal prior to the slaughtering, and is therefore unclean like nebelah.

(13) I.e., the Sages in the Mishnah.

(14) V. supra 68b where R. Johanan maintains that the limb of a foetus that had been withdrawn into the womb before the slaughtering of the dam is rendered permitted to be eaten by the slaughtering.

Talmud - Mas. Chullin 73b

Now this is all well according to R. Simeon b. Lakish, for then he [R. Meir] would be arguing from their point of view.[1] For according to my view, [says R. Meir] there is no difference between the limb of the foetus and the loose limb of the animal; they are both alike. But according to R. Johanan this is a difficulty![2] — We must therefore say that if [the dispute was] reported it was reported as follows: R. Simeon b. Lakish said: Just as they differ with regard to the [limb of the] foetus so they differ with regard to loose limbs. R. Johanan said: They differ only with regard to the limb of the foetus, but with regard to the loose limb of the animal all agree that at the slaughtering it is not accounted as detached.[3] R. Jose b. Hanina said: What reason does R. Johanan suggest for R. Meir's view? — One[4] is part of the animal but the other is not.

R. Isaac b. Joseph said in the name of R. Johanan, All agree that at death [the limb] is accounted as detached,[5] and that at the slaughtering it is not accounted as detached. What is [the subject that is] spoken of? If you say the limb of the foetus, surely there is a difference of opinion with regard to it![6] And if you say the loose limb of the animal, but we have already learnt it both of death and also of slaughtering! We have learnt it of death [in the following Mishnah]: If the animal died, the flesh [that was hanging loose] must be made susceptible [to contract uncleanness],[7] but the limb [that was hanging loose] conveys uncleanness as the limb of a living animal and not as the limb of a dead animal [nebelah]:[8] so R. Meir.[9] We have also learnt it of slaughtering [in the following Mishnah]: If the animal was slaughtered, they[10] have been rendered susceptible [to contract uncleanness] by the blood: so R. Meir. R. Simeon says: They have not been rendered susceptible [to contract uncleanness]![9] — From this [last Mishnah] I might have thought that ‘rendered susceptible’ referred only to the [loose] flesh.[11] But does it not say: ‘They have been rendered susceptible’?[12] — It might have been thought [that ‘they’ refers to] flesh that hangs loose from the animal and also to flesh that is severed from the limb.[13] And why is one more certain than the other?[14] — I might have argued that, since it conveys the graver uncleanness as long as it is with the whole [limb],[15] it does not require to be rendered susceptible [to uncleanness]. We are therefore taught [that it does].[16]

R. Joseph said: Hold fast to the ruling of R. Isaac b. Joseph,[17] for Rabbah b. Bar Hana is in agreement with him. For it was taught: The verse: Ye shall not eat any flesh that is torn of beasts in the field,[18] includes [within its prohibition] any limb or flesh that hangs loose from cattle, wild beasts, or birds at the time of slaughtering. But Rabbah b. Bar Hana added in the name of R. Johanan,

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(1) R. Meir contends that even if his opponents’ view, namely, that the slaughtering of the animal renders the limb that hangs loose clean, were right (which he does not admit), the conclusion drawn from it cannot be sustained.

(2) The statement of R. Johanan, namely, that it is agreed by all that the limb that hangs loose is not rendered clean by the slaughtering, is clearly contradicted by the passage quoted.

(3) And the limb is rendered clean by the slaughtering, although it is not thereby permitted to be eaten.

(4) Sc. the loose limb in contrast with the protruding limb of the foetus.

(5) If a limb was hanging loose from an animal and the animal died, this limb is not regarded unclean as nebelah i.e., as part of the carcass, but rather unclean as a limb that had been detached from a living animal. And the difference between the two is this: a portion of nebelah the size of an olive will render unclean, whereas a portion severed from a limb that had become detached from a living animal will not, for only when the limb is complete in its entirely with flesh, bones and veins, will it render unclean, and not otherwise.

(6) Between R. Meir and the sages as to the effect of the slaughtering upon it.

(7) By first being made wet by water or moistened by any of the other liquids specified by the Rabbis (v. Mak. XI, 4). Cf. Lev. XI, 38.

(8) Thus proving that at death the limb is accounted as detached since it is regarded as the limb of a living animal. It will, accordingly, only convey uncleanness when complete; v. supra n 2.

(9) Infra 127b.

(10) I.e., the flesh and the limb that were hanging loose from the animal. The fact that they require to be rendered susceptible to uncleanness clearly proves that they are themselves clean by reason of the slaughtering, hence it is evident that at the slaughtering the loose flesh and limbs are not considered detached.

(11) But not to a complete limb that was hanging loose. In the latter case it might be held by R. Meir that the limb is itself a source of uncleanness, and as such does not require to be rendered susceptible by moistening, inasmuch as at the slaughtering it was accounted as detached; it was therefore necessary for R. Johanan to teach that all agree that the limb is itself clean, for at the slaughtering the limb is not accounted as detached.

(12) In the plural: thus clearly referring to something else besides the loose flesh.

(13) I.e., flesh which was cut away from the limb after the slaughtering, which limb was hanging loose at the time of the slaughtering.

(14) Why was it necessary for the Tanna to refer expressly to flesh that was severed from a limb? In what way is it to be distinguished from flesh that hangs loose from the animal?

(15) Lit., ‘by its father’. For a whole limb renders unclean men and vessels, like nebelah.

(16) For once the flesh has been severed from the limb it can no more convey the graver uncleanness; consequently it must be rendered susceptible to uncleanness in accordance with the principle laid down in Nid. 51a, and infra 121a.

(17) That all agree that at the slaughtering the limb is not accounted as detached; in other words the slaughtering of the animal has an effect upon the loose limb, even to the extent of rendering it permitted to be eaten.

(18) Ex. XXII, 30.

Talmud - Mas. Chullin 74a

In such cases there is only the mere precept to keep aloof.[1]

R. Joseph was sitting before R. Huna and recited as follows: Rab Judah said in the name of Rab: He who eats this[2] incurs a flogging. Thereupon a certain Rabbi said to him [R. Huna], pay no attention to him [R. Joseph], for thus said R. Isaac b. Samuel b. Martha in the name of Rab: He who eats it does not incur a flogging. R. Huna then said, upon whom should we rely? Thereupon R. Joseph turned his face away [in anger] and remarked: What is the difficulty? I was speaking of the death [of the animal] when the limb is accounted as detached,[3] but he was speaking of the slaughtering when the limb is not accounted as detached.[4]

Raba said: Whence is derived the rule of the Rabbis that at death a loose limb is accounted as detached and at the slaughtering it is not accounted as detached? From the verse. And upon whatsoever any of them, when they are dead, doth fall, it shall be unclean.[5] Now what does this verse exclude? Should you say it excludes [creeping things] whilst they are alive, but these are expressly excluded by the words ‘of their carcass’![6] It clearly teaches that at death the limb is accounted as detached but not at the slaughtering. R. Adda b. Ahaba said to the Raba, But the verse deals with creeping things?[7] — He replied: Since it[8] serves no purpose in the case of creeping things to which slaughtering does not apply, you may refer it to cattle. But it is indeed necessary [with regard to creeping things to teach] that they must be ‘as at death’, that is, they convey uncleanness only when moist but not when dry. — The expression, ‘when they are dead’, occurs twice.[9] R. Hisda said: They differ only with regard to the limb of a live[10] foetus, but with regard to the limb of a dead foetus all agree that at the slaughtering the limb is accounted as detached. Rabbah however said: As they differ in the one case so they differ in the other also.

THE SLAUGHTERING OF A LIVE EIGHT MONTHS’ BIRTH . . . [FOR TO ITS KIND SLAUGHTERING DOES NOT APPLY]. But has it not been taught: The slaughtering of a live eight months’ birth could prove [otherwise], for even though slaughtering applies to its kind, the slaughtering does not render it clean? — R. Kahana answered, [It means that] through its dam slaughtering applies to its kind.[11] And our Tanna? — He does not consider as a refutation [the fact that slaughtering applies to it] through its dam. But that Tanna who does consider this a refutation, whence does he derive the rule that the slaughtering of a trefah [animal] renders it clean? — He derives it from the exposition of Rab Judah in the name of Rab. For Rab Judah said in the name of Rab, (others say: It was so taught in a Baraitha), It is written: And if there dieth of the beasts, [he that toucheth the carcass thereof shall be unclean,][12] that is to say, some of the beasts convey uncleanness and some do not, and which are they?[13] They are trefah [animals] which have been slaughtered.

R. Hoshaia raised this question, What is the law if a person put his hand into an animal's womb and slaughtered therein a living nine months’ foetus?[14] This can be asked according to R. Meir's view and also according to the Sages’ view. According to R. Meir the question is this, perhaps when R. Meir contended that an animal which was extracted [alive from the womb] must itself be slaughtered he referred only to an animal which came forth [alive] into the world, but whilst within the womb of its dam the slaughtering of it would not render it permitted.[15] And on the other hand, perhaps [it is permitted] even according to the view of Rabbis, for the Divine Law permits [the foetus] by [the slaughtering of any two out of] four organs![16] — R. Hananiah said: Come and hear. [We have learnt:] WHENCE WOULD WE KNOW THIS OF AN ANIMAL THAT WAS BORN TREFAH FROM THE WOMB?[17] Now if it can be said [that the slaughtering of the foetus in its dam's womb renders it valid], then this also had a time when it was fit [for slaughtering], for a man might put his hand into the womb and slaughter it there [before it was rendered trefah]! — Raba said to him, Render: ‘an animal that was formed[18] trefah from the womb’, and this would be the case when, e.g., it has five legs.[19]

MISHNAH. IF A MAN SLAUGHTERED AN ANIMAL AND FOUND IN IT AN EIGHT MONTHS FOETUS, EITHER LIVING OR DEAD, OR A DEAD NINE MONTHS FOETUS, HE NEED ONLY TEAR IT OPEN[20] AND LET THE BLOOD FLOW OUT.[21] IF HE FOUND IN IT A LIVING NINE MONTHS’ FOETUS IT MUST BE SLAUGHTERED,[22] AND HE WOULD THEREBY INCUR THE PENALTY FOR [INFRINGING THE LAW OF] ‘IT AND ITS YOUNG’:[23] SO R. MEIR. BUT THE SAGES SAY, THE SLAUGHTERING OF ITS DAM RENDERS IT PERMITTED.[24]

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(1) But there is no prohibition in the Torah even against the eating of this limb; as the foregoing verse is merely an indirect support for the Rabbinic restriction. It is obvious, therefore, that at the slaughtering the limb is not accounted as detached.

(2) Sc. the limb that was hanging loose at the time of the slaughtering of the animal.

(3) Consequently whosoever eats this limb incurs a flogging provided he was warned beforehand by the appropriate prohibition, namely, against eating a limb detached from a living animal, but not against eating nebelah.

(4) In which case there is merely the precept to keep aloof.

(5) Lev. XI, 32. The particular use of the Heb. יפול 'fall' in connection with במותם, lit., 'on their death', suggests the teaching that only death causes the falling off of the limb but not the slaughtering.
(6) Ibid. 37.
(7) To which slaughtering does not apply; how then can the rule about slaughtering be excluded by inference from this verse?
(8) Sc. the expression במותם, which is manifestly stated in order to exclude the slaughtering.
(9) Ibid. 31 and 32. One teaches the rule that only creeping things that are moist can convey uncleanness, and the other the exclusion of slaughtering.
(10) Since to its kind, i.e., living animals, slaughtering applies.
(11) For by the slaughtering of the dam the foetus within the womb is rendered permitted to be eaten as if it were itself slaughtered, so that one could say that slaughtering applies to its kind.
(12) Lev. XI, 39. A literal rendering of the verse.
(13) That do not convey uncleanness.
(14) It was subsequently delivered by the dam.
(15) And it is all the more so according to the Sages, since they maintain that slaughtering does not apply to a foetus.
(16) I.e., the slaughtering either of its own two organs of the throat or of the two organs of the throat of its dam will render the foetus permitted. And it is all the more so according to R. Meir, since he is generally of the opinion that slaughtering applies to a foetus.
(17) Which was never fit for slaughtering, since from birth is was a trefah.
(18) I.e., from the very beginning of the development of the embryo it was trefah, e.g. it was formed with five legs which renders it trefah, cf. supra 58b.
(19) The additional leg being a hind leg in which case the animal is trefah. Such a defect existed in the animal from the time that it was formed in the womb.
(20) It does not require to be slaughtered ritually for it has already been rendered permitted by the slaughtering of its dam.
(21) The blood is forbidden like the blood of its dam, but, unlike its dam, all its fat is permitted; v. infra 75a.
(22) R. Meir who is the author of this view contends that with the completion of nine months of pregnancy the foetus, if it is living, is deemed a separate being and is not rendered permitted by the slaughtering of the dam. The Sages, however, who dispute with him maintain that the nine months' living foetus is deemed a separate animal only on birth, but as long as it is within the womb it is part of the dam and is rendered permitted by the slaughtering of the dam.
(23) If he slaughtered it on the same day as its dam. V. Lev. XXII, 28.
(24) Lit., 'clean'.

Talmud - Mas. Chullin 74b

R. SIMEON SHEZURI SAYS: EVEN IF IT IS FIVE YEARS OLD AND IS PLOUGHING THE FIELD, THE SLAUGHTERING OF ITS DAM RENDERS IT PERMITTED. IF HE RIPPED OPEN THE DAM AND FOUND IN IT A LIVING NINE MONTHS FOETUS, IT MUST BE SLAUGHTERED, SINCE ITS DAM HAS NOT BEEN SLAUGHTERED.

GEMARA. R. Eleazar said in the name of R. Oshaia: They argued about it [the foetus] only with regard to slaughtering. What does this exclude? — It excludes the fat[1] and the [sciatic] nerve.[2] What fat is meant? Is it the fat of the foetus? But is there not a dispute with regard to it? For it was taught:[3] The law of the sciatic nerve applies also to a foetus, and the fat [of the foetus] is forbidden: so R. Meir. R. Judah says: It does not apply to a foetus, and the fat [of the foetus] is permitted. And R. Eleazar had said in the name of R. Oshaia that their dispute referred to a living nine months' foetus, R. Meir ruling according to his principle[4] and R. Judah according to his! And if it means the fat of the [sciatic] nerve, but is there not also a dispute about it? For it was taught:[3] One must trace the sciatic nerve as far as it goes and must cut away the fat thereof at its roots: so R. Meir. R. Judah says: One need only peel off the [fat at the] top[5] [of the hip-bone]![6] — If indeed it was reported, it must have been reported as follows: R. Eleazar said in the name of R. Oshaia: They argued about it only with regard to the matters that affect the eating thereof,[7] thus excluding the prohibitions of interbreeding[8] and ploughing with it.[9]

R. Simeon b. Lakish said: He who permits the fat [of the foetus] permits its blood, and he who forbids its fat forbids its blood. R. Johanan says: Even he who permits its fat forbids its blood. R. Johanan raised this objection against R. Simeon b. Lakish: We have learnt: HE NEED ONLY TEAR IT OPEN AND LET THE BLOOD FLOW OUT![10] — R. Zera said: He [R. Simeon b. Lakish] only meant to say that one would not be liable to the penalty of Kareth.[11] Whose view are we considering? R. Judah's,[12] are we not? But let it be accounted no more than the blood that oozes out; has it not been taught: With regard to the blood that oozes [out of the animal after the slaughtering] there is only a formal prohibition;[13] R. Judah says: There is the penalty of Kareth? — R. Joseph, the son of R. Salla the pious, explained it in the presence of R. Papa: R. Judah interprets the expressions, 'blood' and no manner of blood;[14] hence, whenever one would be liable [to the penalty of Kareth] for the life blood one would also be liable for the blood that oozes out, and whenever one would not be liable for the life blood[15] one would not be liable for the blood that oozes out.

The question was raised: May one redeem[16] [the firstling of an ass] with a lamb extracted [out of the ewe's womb]?[17] According to R. Meir's view there is no question at all; for since he declares that it must be slaughtered, it is obviously an ordinary lamb. The question only arises according to the view of the Rabbis[18] who maintain that the slaughtering of its dam renders it clean. Now what is the law? Since they maintain that the slaughtering of its dam renders it clean, it is to be regarded as meat in a basket,[19] is it not? Or [shall we say] since it runs to and fro, we apply to it the term lamb?[20] — Mar Zutra says: We may not redeem with it; R. Ashi says: We may. R. Ashi said to Mar Zutra, 'How do you arrive at your view? You no doubt deduce it from the word 'lamb' used here[20] and also in the verse dealing with the paschal lamb;[21] then it should follow, just as there the lamb must be a male, without blemish, of the first year,[21] so here too it must be a male, without blemish, of the first year'. [Mar Zutra replied,] 'The repetition of: Thou shalt redeem,[20] extends the scope of the law'.[22] [Said R. Ashi] 'If, as you say, namely, that the repetition of, 'Thou shalt redeem', extends the scope of the law, then everything [should be allowed]'.[23] [Mar Zutra replied:] 'If that were so, of what use to you is the inference made by the term lamb'?[24]

The question was raised: Do we reckon here the first and second degree of uncleanness or not?[25] R. Johanan said: We do reckon here the first and second degree of uncleanness;[26] R. Simeon b. Lakish said: We do not reckon here the first and second degree of uncleanness,[27] for it is regarded as a nut that rattles in its shell.

R. Simeon b. Lakish raised this objection against R. Johanan. We have learnt:[28] The flesh is unclean like that which had touched nebelah: so R. Meir. But the Sages say: It is unclean like that which had touched a slaughtered trefah [animal]. Now according to my view that they [the foetus and the dam] are one body, it is clear, for it [the foetus] was rendered susceptible [to contract uncleanness] by the blood of its dam;[29] but according to you [it will be asked:] whereby was it rendered susceptible to uncleanness? — He replied: By the slaughtering, and it is in accordance with R. Simeon's view.[30]

R. Johanan raised this objection against R. Simeon b. Lakish. If it[31] waded through a river it has thereby become susceptible to uncleanness, and if it next passed through a cemetery it has thereby become unclean. Now according to my view that they are two separate beings, it is clear that only if it had thus become susceptible to uncleanness [by passing through a river] it becomes [unclean], but if it had not thus become susceptible to uncleanness it is not [unclean]. But according to your view that they are one body [it is difficult, for surely] it had long ago become susceptible to uncleanness by the blood of its dam![32] —

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(1) The term 'fat' used here denotes that fat (heleb) which is forbidden in an ordinary animal, v. Lev. VII, 25.

(2) I.e., the fat and the sciatic nerve of the foetus are forbidden as in an ordinary animal, and there is no dispute about these (Rashi). According to R. Gershom, all agree that the fat and the nerve of the foetus are permitted.

(3) Infra 92b.

(4) That a living nine months' foetus is deemed an animal proper and must itself be slaughtered.

(5) But the remaining fat in the region of the nerve is permitted.

(6) The text of this passage is undoubtedly corrupt, for the whole argument about the fat-first the question as to what fat is meant, and secondly the dispute about the fat in the region close to the sciatic nerve — is entirely irrelevant to our subject. It is clear that the passage has been inserted here erroneously, and its proper place is infra 92b where it is actually found. Rashi submits the following emendation: Omit 'what fat is meant? Is it the fat of the foetus?' and also the entire passage beginning with 'And if it means . . .' This emendation is to a large measure supported by MS.M. V. Tosaf s.v. חלבו.

(7) I.e., whether one may or may not eat it without slaughtering, and whether its fat and its sciatic nerve are forbidden or not.

(8) Cf. Lev. XIX, 19.

(9) Yoked together with an animal of a different species. Cf. Deut. XXII, 10. These prohibitions, it is agreed by all, apply (so Rashi; according to R. Gershom: do not apply) to an animal that was extracted out of the womb.

(10) This refers to an eight months' foetus whose fat is permitted according to all views and yet the blood is forbidden and must be allowed to flow out.

(11) For eating the blood thereof. Only in this sense did Resh Lakish use the term 'permit'. For Kareth v. Glos.

(12) For it is R. Judah who permits the fat.

(13) Which carries with it the penalty of a flogging only.

(14) Lev. VII, 26. The term 'blood' alone would mean the life blood, but the expression no manner of blood' includes even the blood that oozes out of the animal after the slaughtering.

(15) As none of the blood of a foetus is regarded as life blood, hence none of its blood comes under the prohibition.

(16) Cf. Ex. XIII, 13.

(17) It must be assumed that this extracted lamb was of less worth than the firstling ass, for otherwise the question does not arise, since one may always redeem it with anything that is its worth (Rashi).

(18) The Sages in the Mishnah.

(19) And we may not redeem the firstling of an ass with meat of a slaughtered animal (if less than its worth, v. n. 4); v. Bek. 120.

(20) Ex. XIII, 13.

(21) Ibid. XII, 5. And just as a lamb which had been extracted from the ewe's womb is unfit for the paschal offering or any offering, it is likewise not fit for redeeming the firstling of an ass.

(22) To include those that are blemished or female or older than yearlings as fit to redeem with them.

(23) Even the lamb extracted from the ewe's womb.

(24) This inference therefore excludes the lamb extracted from the ewe's womb, whereas the repetition of 'Thou shalt redeem' includes those that are blemished or females or older than yearlings.

(25) I.e., where the dam was slaughtered, carrying in its womb a living nine months' foetus, and the dam was rendered unclean, the question arises: Does the foetus assume the same degree of uncleanness as the dam, or one degree less?

(26) The foetus and dam are two separate entities; the former would therefore be unclean in one degree less than the latter.

(27) The foetus and the dam are one entity so that the foetus assumes the same degree of uncleanness as its dam.

(28) Supra 720.

(29) For when part of a foodstuff has been moistened by one of the prescribed liquids the whole is rendered susceptible to contract uncleanness; here therefore the foetus, as part of its dam, is rendered susceptible to uncleanness by virtue of the moistening of the flesh about the throat of the dam by the blood of the slaughtering.

(30) V. supra 33a. As the slaughtering is also effective for the foetus the latter is thereby rendered susceptible to uncleanness.

(31) An animal extracted alive out of the slaughtered dam's womb.

(32) At the slaughtering of its dam.

Talmud - Mas. Chullin 75a

Talmud - Mas. Chullin 75a

It was a dry slaughtering,[1] and this ruling is not in accordance with R. Simeon's view.

Who is the Tanna that taught: ‘If it waded through a river it has thereby become susceptible to uncleanness and if it next passed through a cemetery it has thereby become unclean’?[2] — R. Johanan said: It is R. Jose the Galilean. For it was taught: R. Simeon b. Eleazar says in the name of R. Jose the Galilean: It contracts food uncleanness,[3] and needs to be rendered susceptible [to contract uncleanness]. The Sages say,[4] It does not contract food uncleanness, for it is a living being, and whatsoever lives cannot contract food uncleanness.

R. Johanan is indeed consistent in his view, for R. Johanan had also said that R. Jose the Galilean and Beth Shammai held the same view.[5] R. Jose the Galilean expressed it [in the Baraitha we quoted] above. Beth Shammai expressed it [in the following Mishnah]:[6] For we learnt: When do fish contract uncleanness? Beth Shammai say: As soon as they have been caught.[7] Beth Hillel say: Only when they are dead. R. Akiba says: From the moment that they cannot live. What is the difference between them?[8] R. Johanan replied: A fish that is struggling.[9] R. Hisda raised the question: What is the law if such defects as [render an animal] trefah occurred in fish?[10] This question can be asked both according to him who holds that a trefah animal can continue to live [for twelve months or more] and also according to him who holds that a trefah cannot continue to live. According to him who holds that a trefah can continue to live this question can be asked, for perhaps this is so[11] only in the case of animals whose vital force is considerable but not in the case of fishes whose vital force is slender.[12] And according to him who holds that a trefah cannot continue to live this question can also be asked, for perhaps this is so[13] only in the case of animals, since to its kind slaughtering applies,[14] but not to the case of fishes, since slaughtering does not apply to its kind![15] — It remains undecided.

If an animal cast forth an abortion, the fat thereof, says R. Johanan, is as the fat of an animal.[16] R. Simeon b. Lakish says: It is as the fat of a wild beast.[17] R. Johanan said: The fat thereof is as the fat of an animal, because [the coming into] the world[18] renders it [an animal].[19] R. Simeon b. Lakish said, [The fat thereof is] as the fat of a wild beast, because [the fulfilment of] the months [of pregnancy] is [also] essential in order to render it [an animal].

Others report it thus: Where the months of pregnancy had not been fulfilled [there is no doubt at all that] it is of no consequence.[20] They differ only in the case where a person put his hand into the womb of an animal, tore away some fat from the living nine months’ foetus within, and ate it. R. Johanan says: This fat is as the fat of [an animal], because the [fulfilment of the] months [of pregnancy] alone renders it [an animal]. R. Simeon b. Lakish says: It is as the fat of a wild beast, because the [fulfilment of the] months [of pregnancy] coupled with the [coming into the] world renders it [an animal].

R. Johanan raised this objection against R. Simeon b. Lakish. [It was taught:] Just as ‘the fat and the two kidneys’ referred to in the case of the guilt-offering precludes that of a foetus,[21] so wherever [‘fat’ is stated] it precludes that of a foetus. Now according to my view, [says R. Johanan], it is right that the verse finds it necessary to preclude it;[22] but according to you, why is it necessary to preclude it?[23] — He replied: I derive my view from this very passage.[24]

Others report it as follows: R. Simeon b. Lakish raised this objection against R. Johanan. [It was taught]: Just as ‘the fat and the two kidneys’ referred to in the case of the guilt-offering precludes that of a foetus, so wherever [‘fat’ is stated] it precludes that of a foetus. Now according to my view, [says R. Simeon b. Lakish,] it is right that the Divine Law precluded it;[25] but according to you, why should it not be offered [upon the altar]? — He replied: It is like an animal which has not reached the prescribed age.[26] R. Ammi said: If a person slaughtered a trefah animal and found in it a nine months’ living foetus, according to him who forbids [the other[27] without slaughtering] it is permitted,[28] and according to him who permits [the other without slaughtering] it is forbidden.[29] Raba said: Even according to him who permits [the other without slaughtering] it is permitted, for the Divine Law permits [the foetus] by [the slaughtering of any two out of] four organs.[30]

R. Hisda said: If a person slaughtered a trefah animal and found in it a nine months’ living foetus,

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(1) No blood flowed out at the time of the slaughtering so that not even the dam was rendered susceptible to contract uncleanness. The act of slaughtering alone, according to this Tanna, does not render the animal susceptible to uncleanness, contra R. Simeon.

(2) In other words, that a living animal can contract uncleanness.

(3) This living animal, extracted out of the slaughtered dam's womb, would be rendered unclean, like an ordinary foodstuff, if it came into contact with uncleanness.

(4) In Tosef. Hul. IV, ‘Rabbi says’.

(5) That living animals can contract uncleanness.

(6) ‘Uk. III, 8.

(7) Even though they still live.

(8) Between R. Akiba and Beth Hillel (R. Gershom), or between R. Akiba and Beth Shammai (Tosaf.).

(9) I.e., in the throes of death and could not live even if put back into the water. According to Beth Hillel it cannot contract uncleanness; according to R. Akiba, it can. (R. Gershom). V. however Tosaf. s.v. מאי.

(10) Are fish rendered susceptible to contract uncleanness as soon as they have sustained a physical injury which in an animal would render it trefah or not? This question obviously arises only according to R. Akiba's view supra.

(11) Sc. that a trefah can continue to live.

(12) It might therefore be said that a fish, considering its low state of vitality the moment it sustains a physical injury is regarded as dead and is susceptible to contract uncleanness.

(13) Sc. that a trefah cannot continue to live and so might be regarded as dead.

(14) Since slaughtering applies to animals and a trefah cannot be slaughtered it might well be regarded as dead, but this is not so in the case of fishes.

(15) In MS.M. and according to the text before Rashi the reading is: since to its kind the rules of trefah apply . . . since the rules of trefah do not apply to its kind’. Shittah Mekubbezeth.

(16) And is forbidden to be eaten under the penalty of Kareth, v. Lev. VII, 25.

(17) I.e., the fat is as the flesh, and he who eats it is liable for infringing the prohibition of nebelah, (Deut. XIV, 21) which only involves a flogging but not Kareth. The prohibition of fat does not apply to that of a beast of chase.

(18) Lit., ‘air’.

(19) The abortion is therefore regarded as an animal with all the restrictions attached thereto.

(20) I.e., the fat of such foetus is certainly not forbidden as fat.

(21) The guilt-offering had to be a male animal, hence the fat mentioned with regard to it which was to be offered upon the altar (cf. Lev. VII, 3, 4) cannot include that of a foetus found in the womb of the animal offered.

(22) Since for all purposes the fat of a nine months’ living foetus is like that of an ordinary animal.

(23) Seeing that the fat thereof is not regarded as the fat of an animal.

(24) From the fact that the law expressly excludes the fat of the foetus from sacrificial rites R. Simeon b. Lakish concludes that such fat is in no wise deemed fat.

(25) For it is not like ordinary fat.

(26) Which in the first seven days of its life, though in every respect an animal, may not be offered as a sacrifice (cf. Ex. XXII, 29). Likewise with the fat of the foetus, although it is regarded as fat in every respect, it is nevertheless forbidden for sacrificial purposes.

(27) The nine months’ living foetus found in the womb of a slaughtered animal; v. supra, the Mishnah 740.

(28) By its own slaughtering; for it is a separate being, unaffected by its dam.

(29) Even if it was itself slaughtered; for slaughtering does not apply to it. And it is not permitted by its dam since the dam was a trefah.

(30) I.e., either the two organs of its dam or its own two organs, for the foetus is rendered permitted either by its own slaughtering or by the slaughtering of its dam.

it needs to be slaughtered and is subject to the [priests' dues of the] shoulder, and the two cheeks, and the maw.[1] If it died [without being slaughtered], it is clean and does not convey uncleanness by carrying.[2] Thereupon Rabbah said to him: The ruling 'it needs to be slaughtered' obviously follows R. Meir's view, whereas the ruling 'it is clean and does not convey uncleanness by carrying' obviously follows the Rabbis' view! — But according to your argument, you could raise this same objection against R. Hiyya; for R. Hiyya taught: If a person slaughtered a trefah [animal] and found in it a nine months' living foetus, it needs to be slaughtered and is subject to the [priests' dues of the] shoulder, and the two cheeks, and the maw. If it died, it is clean and does not convey uncleanness by carrying. The ruling 'it needs to be slaughtered', follows R. Meir's view, whereas the ruling 'it is clean and does not convey uncleanness by carrying' follows the Rabbis' view! — This is no difficulty at all, for R. Hiyya deals with the case where it was found dead [in the dam's womb].[3] This is, however, a difficulty for you.[4] — He replied: It is no difficulty for me either, for the Divine Law permits [the foetus] by [the slaughtering of any two out of] four organs.[5]

When R. Zera went up [to Palestine] he found R. Assi sitting and reciting the above statement [of R. Hisda]. 'Well spoken!' said R. Zera; 'R. Johanan also said so'. Are we to infer that R. Simeon b. Lakish disagrees with [R. Johanan]? — Some say: He was waiting and was silent; and others say: He was drinking and was silent.[6]

R. SIMEON SHEZURI SAYS, EVEN IF IT IS FIVE YEARS OLD . . . Is not his view identical with that of the first Tanna? — R. Kahana replied: The difference between them is where it stood upon the ground.[7]

R. Mesharsheya said: According to him who maintains that we must take into account the seed of the male, if an animal which had been extracted alive [out of the womb of its dam] covered a normal cow, there is no remedy for the offspring.[8] Abaye, said: All agree that if the animal which was extracted alive [out of the womb of its dam] had uncloven hoofs it is permitted.[9] Why? Because everything extraordinary people remember very well.[10] Others report it thus: Abaye said: All agree that if this animal with uncloven hoofs was extracted [alive out of the womb of its dam] which also was with uncloven hoofs and had been extracted [out of the womb of its dam], it is permitted. Why? Because a case with two extraordinary conditions people remember very well.

Ze'iri said in the name of R. Hanina: The halachah is in accordance with R. Simeon Shezuri. Indeed R. Simeon Shezuri permitted [without slaughtering] its young and the offspring of its young and so on unto the end of all time. R. Johanan said: It alone is permitted [without slaughtering] but its young is forbidden.

Adda b. Habu had an animal that had been extracted [alive out of the slaughtered dam's womb]. It was attacked by a wolf,[11] so he came to R Ashi who advised him to slaughter it [immediately]. But, argued Adda, did not Ze'iri say in the name of R. Hanina that the halachah was in accordance with R. Simeon Shezuri? And indeed R. Simeon Shezuri permitted [without slaughtering] its young and the offspring of its young and so on unto the end of all time. Moreover, even R. Johanan disagreed only regarding its young but not regarding itself![12] — He replied, R. Johanan merely stated [what he thought to be] the view of R. Simeon Shezuri.[13] But did not Rabin, son of R. Hanina, say in the name of Ulla on the authority of R. Hanina that the halachah was in accordance with R. Simeon of Shezuri? Moreover, is it not an established rule that wherever R. Simeon Shezuri stated his view[14] the halachah is in accordance with him? — He replied: I accept the following view. For R. Jonathan said: The halachah accords with R. Simeon Shezuri only in the case of 'The dangerously ill person' and in the case of 'The terumah separated from the tithe of demai produce'. The case about the dangerously ill person is as we have learnt: At first it was held: If a man whilst being led out in chains [to execution] said: ‘Write out a bill of divorce for my wife’,it was to be written and also to be delivered to her.[15] Later they laid down that the same rule applied also to one who was leaving on a sea journey or setting out with a caravan.[16] R. Simeon Shezuri says: It also applies to a man who was dangerously ill.[16] And the case about the terumah separated from the tithe of demai produce is as we have learnt: If the terumah that had been separated from the tithe of demai produce fell back into its place,[17] R. Simeon Shezuri says, even on a weekday one need only ask him [sc. the seller] about it and eat it by his word.[18] [

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(1) V. Deut. XVIII, 3.

(2) Since it has been rendered clean by the slaughtering of its dam. ‘Carrying’ even without contact is one of the methods by which a carcass can convey uncleanness. It must be observed that the other method of conveying uncleanness, namely, by contact, is not excluded here.

(3) And in this case it is admitted by R. Meir that the slaughtering of the dam renders the foetus that is within it clean. Accordingly the teaching of R. Hiyya is entirely in agreement with R. Meir.

(4) For R. Hisda did not explain that he was dealing with a foetus that had died in the womb.

(5) The ruling therefore entirely follows the Rabbis’ view since they hold that the foetus is permitted either by its own slaughtering or that of its dam.

(6) It is not known whether Resh Lakish disagreed or not, for R. Assi had left the room whilst R. Johanan was lecturing and Resh Lakish had not as yet commenced to argue with R. Johanan either because, as some say: Resh Lakish was in the habit of allowing him to finish his remarks without interruption, or because, as others say: Resh Lakish was drinking water at the time and therefore remained silent.

(7) Lit., ‘it made an impression of its parted feet on the ground’. According to the first Tanna, i.e, ‘The Sages’ in our Mishnah, since this animal goes about the fields like normal animals, it has been decreed by the Rabbis that it must be ritually slaughtered, for not everyone would know of the peculiarity of this animal to distinguish it from normal animals.

(8) V. supra 69a. As the offspring from the maternal side requires to be slaughtered but not from the paternal side, it is regarded as half slaughtered, and to continue the slaughtering now is of no avail because of the long pause between the beginning of the slaughtering, i.e., at birth, and now. This state in the animal could not arise if we accept the rule that the law permits the foetus either by its own slaughtering or by the slaughtering of its dam. V. however, Tosaf. ad loc.

(9) By the slaughtering of its dam even though it walks about in the field, and even according to the view of the Sages in our Mishnah.

(10) All people would take notice of this beast on account of its abnormality, and would remember all the peculiarities in connection with it.

(11) And it was dying (Rashi). There was no question at all whether or not it was to be considered trefah, but only whether it was necessary to have it slaughtered or not; v. Tosaf. ad loc.

(12) Why then was it necessary to have the beast slaughtered?

(13) Though he himself was not in agreement with it.

(14) Cur. edd. add ‘in the Mishnah’, but it is incorrect in view of the passage in Men. 31b. q.v.; v. Marginal Gloss.

(15) Even though he gave no instructions that it was to be delivered to his wife. It is assumed that he intended it to be delivered to her but omitted to say so owing to his perturbed state of mind.

(16) Git. 65b.

(17) I.e., was mixed up with the ordinary ‘common’ produce. The mixture now is permitted to be eaten by priests only, so that the loss to the owner is considerable.

(18) In these special circumstances because of the loss involved, and since we are dealing with demai produce, i.e., produce that had been bought from an ‘am ha-arez or one who was not trusted with regard to the separation of the tithes, the Rabbis permitted the owner to enquire of the seller about it, and if the seller assured him that he separated the various dues he may rely upon his word. If this occurred on the Sabbath it would certainly be permitted to rely upon the seller's word for the honour of the Sabbath, but according to R. Simeon Shezuri this is permitted even on a weekday. V. Dem. IV, 1.

Talmud - Mas. Chullin 76a

MISHNAH. IF THE HIND LEGS OF AN ANIMAL WERE CUT OFF BELOW THE JOINT,[1] IT IS PERMITTED; IF ABOVE THE JOINT,[2] IT IS TREFAH. SO TOO IF THE JUNCTURE OF THE TENDONS[3] WAS GONE, [IT IS TREFAH]. IF THE BONE WAS BROKEN BUT THE GREATER PART OF THE FLESH [AROUND THE FRACTURE] REMAINED, IT IS RENDERED CLEAN BY THE SLAUGHTERING;[4] OTHERWISE IT IS NOT RENDERED CLEAN BY THE SLAUGHTERING.

GEMARA. Rab Judah said in the name of Rab who reported it in the name of R. Hiyya, BELOW means below the joint, and ABOVE means above the joint, and the joint referred to is the joint which is sold together with the head.[5] Ulla said in the name of R. Oshaia: It is that joint which is clearly distinguishable in the camel.[6] Ulla said to Rab Judah, ‘According to me, holding as I do that it is that joint which is clearly distinguishable in the camel, it is right that the Mishnah also states: SO, TOO, IF THE JUNCTURE OF THE TENDONS WAS GONE.[7] But according to you, why does it state, SO, TOO, IF THE JUNCTURE OF THE TENDONS WAS GONE?’[8] — He replied: ‘[It teaches that the animal is trefah] whether the bone was gone and the juncture of the tendons remained, or the juncture of the tendons was gone and the bone remained’. ‘But the Mishnah expressly states WERE CUT OFF’?[9] — He [Rab Judah] was silent [and did not reply]. But when he [Ulla] had left, Rab Judah said to himself, ‘Why did I not answer him thus: BELOW means below the joint, but ABOVE means above the juncture of the tendons?’[10] Later he said: ‘And did I not suggest an answer to him? but he retorted that the Mishnah expressly states: WERE CUT OFF. Then to this suggestion, too, [he would have retorted, that] the Mishnah expressly states: ABOVE THE JOINT.[11]

R. Papa reported the passage thus: Rab Judah said in the name of Rab who reported it in the name of R. Hiyya, BELOW means below the joint and the juncture of the tendons, and ABOVE means above the joint and the juncture of the tendons. So, too, if the juncture of the tendons was gone [it is trefah]; and the actual joint meant is that [which was referred to in the statement] of Ulla in the name of R. Oshaia.[12] But is it possible to conceive of such a case, namely, that if the limb were cut off higher up the animal would live [and it would be permitted], and if it were cut off lower down the animal would die?[13] — R. Ashi retorted: Are you comparing defects with one other? Amongst the various defects we do not say that this resembles that; for one may cut the animal in one place and it will die and in another place and it will live.

And this is the extent of the juncture of the tendons — Rabbah said in the name of R. Ashi,[14] That part with is off the bone.[15] Rabbah son of R. Huna said in the name of R. Ashi: That part which is on the bone.[16] Raba the son of Rabbah son of R. Huna said in the name of R. Assi: That part which is above the heel.[17]

A certain Rabbi was sitting before R. Abba and recited: It is that part which is on the heel; whereupon R. Abba said: Pay no attention to him, for thus said Rab Judah: It is that part which the butchers strike;[18] and this corresponds with the view reported by Raba the son of Rabbah son of R. Huna in the name of Rab Judah.

Rab Judah said in the name of Samuel: The juncture of the tendons of which the Rabbis spoke, is the place where the tendons converge. And how far does it extend? — A certain Rabbi, whose name was R. Jacob, said: When I was at the school of Rab Judah, he said to us: Accept from me the following ruling which I heard from a great man, that is Samuel, viz., The juncture of the tendons of which they spoke is the place where the tendons converge, and it extends from the place where the tendons converge up to the place where they part. How much is this? — Abaye said: Four finger-breadths in an ox. What is the extent in small cattle? — Abaye[19] said: Where the tendons bulge it is part of the juncture, but not where they are sunken in; where they are hard it is part of the juncture but not where they are soft; where they are large it is part of the juncture but not where they are small; where they are white it is part of the juncture but not where they are not white.

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(1) Lit., ‘from the joint downward’. V. Gemara.

(2) Lit., ‘from the joint upward’.

(3) I.e., the Achilles Tendon, the name given to the aggregated tendons in the distal part of the tibia. V. Gemara.

(4) And is even permitted to be eaten.

(5) The term ארכובה used in the Mishnah means ‘joint’, there is however a difference of opinion in the Gemara as to which joint is intended. It must be remembered that the hind limb is made up of four divisions of bones. First there is the hip, the skeleton of which is formed by the innominate bones (קטלית); then the thigh, formed by the femur (ירך or קולית) and patella (ארכובה העליונה the knee-joint); then the leg, formed by the tibia (שוק) and the fibula (in the ox it is very rudimentary and is represented by a fibrous cord only); and finally the hind foot which corresponds to the human foot and consists of the tarsus (ארכובה הנמכרת עם הראש), metatarsus and four digits. The tendons of the muscles behind the tibia are combined into one, termed the ‘Achilles Tendon’, and are attached to the heel or tuber calcis; this is what is meant by ‘the juncture of the tendons’ or צומת הגידין. According to Rab Judah the ארכובה of our Mishnah is the hind foot, all that part below the tarsus, which is usually sold with the head as offal; v. Diagram at end of Tractate.

(6) V. Bek. 42a. The joint referred to is the patella or knee-joint which lies between the lower extremity of the femur and the upper extremity of the tibia, and not, as Rab Judah says, the tarsus.

(7) Although we are taught that if the leg was cut off below the knee-joint it is permitted, nevertheless if the juncture of the tendons was gone, which is below the knee-joint, it is trefah.

(8) For if the leg was cut off at any point above the tarsus it is trefah, it is certainly so if cut at the juncture of the tendons, which is above the tarsus.

(9) Which obviously means that that part of the limb was absolutely severed, and the bone and the tendons were gone.

(10) And so it was also necessary for the Mishnah to teach the law if the leg was cut at the juncture of the tendons.

(11) Which means immediately above the joint and not above the juncture of the tendons.

(12) I.e., the knee-joint. And the law according to Rab Judah is this: If the leg was cut off at any point below the knee-joint and the tibia, which includes the juncture of the tendons, the animal is permitted; if cut off at any point above the knee-joint, i.e., in the femur, it is trefah. In the tibia it would be trefah only if the leg was cut off at the juncture of the tendons, but if cut off at any point in the tibia above this juncture it would be permitted. Accordingly Rab Judah is in agreement with Ulla's view.

(13) This position is most illogical.

(14) In MS.M., ‘R. Assi’.

(15) The aggregated tendons of the leg are at their lower extremity attached to the tuber calcis (ערקומא or heel bone), they run upwards along the leg, first adhering to the tibia for a short distance and then separating from the bone and expanding into the muscles of the leg. According to Rabbah the most vital part of the juncture is from the point where it separates from the bone until it expands into the leg muscles. V. Diagram at end of Tractate.

(16) I.e., where it adheres to the tibia. According to Asheri the extent here meant is the whole of the distance that it adheres to the tibia and further also until it expands into the leg muscles.

(17) I.e., from the tuber calcis up to the point where it expands. This is the greatest extent of all.

(18) When commencing to flay the animal, or when about to porge the meat; it is immediately above the tuber calcis.

(19) This amud contains no footnotes.

Talmud - Mas. Chullin 76b

Mar son of R. Ashi said: Where they are transparent though not white [it is part of the juncture of the tendons].

Amemar said in the name of R. Zebid: It consists of three tendons, one thick and two thin. If the thick one was severed [it is trefah, for] the greater part of its structure has gone; and if the thin ones were severed [it is trefah, for] the greater number [of tendons] has gone. Mar son of R. Ashi reports the above in favour of leniency thus: If the thick one was severed [it is permitted, for] there remains the greater number of tendons, and if the thin ones were severed [it is permitted, for] there remains the greater part of its structure.

In birds the juncture consists of sixteen tendons; if one was severed, it is trefah. Mar son of R. Ashi said: I was once standing before my father when there was brought to him a bird which he examined and found therein only fifteen tendons. One, however, appeared different from the others, so he split it and found that it was composed of two tendons; [he therefore declared it to be permitted.]

Rab Judah said in the name of Rab: With regard to the juncture of the tendons, if the greater part [was severed, it is trefah]. What is meant by ‘the greater part’? The greater part of any one of them. When I stated this in the presence of Samuel he said to me, ‘Consider, there are three [tendons], are there not? Even if one was entirely severed there still remain two’! Now the reason is because there still remain two; but if there did not remain two it would not [be permitted]. This clearly is in conflict with the view of Rabbanai. For Rabbanai stated in the name of Samuel: If of the juncture of the tendons there only remained as much as the thread of a woolen cloak, it is permitted.

Others say: By ‘the greater part’ is meant the greater part of each. [tendon].[1] When I stated this in the presence of Samuel he said to me, ‘Consider, there are three [tendons], are there not? [Even if the greater part of each was cut] there still remains one third of each one’.[2] This accordingly supports the view of Rabbanai. For Rabbanai stated in the name of Samuel: If of the juncture of the tendons there only remained as much as the thread of a woolen cloak, it is permitted.

IF THE BONE WAS BROKEN etc. Rab said, [Where the fracture was] above the joint,[3] if the greater part of the flesh remained,[4] both[5] are permitted, and if not both are forbidden. [Where the fracture was] below the joint, if the greater part of the flesh remained, both are permitted, and if not the limb is forbidden[6] but the animal is permitted. Samuel said: Whether the fracture was above or below the joint, if the greater part of the flesh remained, both are permitted, and if not the limb is forbidden but the animal is permitted. R. Nahman demurred saying: According to Samuel's view people will remark, ‘A limb thereof is thrown on to the dung-heap and yet the animal is permitted’![7] Whereupon R. Aba son of R. Huna said to R. Nahman: Even according to Rab's view[8] people will remark, ‘A limb thereof is thrown on to the dung-heap and yet the animal is permitted!’ — He replied. I mean this, people will remark, ‘A vital[9] limb of the animal is thrown on to the dung-heap and yet the animal is permitted’!

They sent word from there [Palestine]: The law agrees with Rab's view.[10] They later sent word: The law agrees with Samuel's view. And yet another time they sent word: The law agrees with Rab's view; moreover, the limb conveys uncleanness by carrying. R. Hisda raised this objection. It was taught: It is not so. When you say that the slaughtering of a trefah animal renders it clean, or [that the slaughtering of an animal] renders the limb that hangs loose clean, you are concerned with [the animal] itself; but can it render clean the [limb of the] foetus which is not part of [the animal] itself?[11] Thereupon Rabbah said to him: Why go searching for objections? You could raise an objection from a Mishnah which we have learnt: If the animal was slaughtered they[12] are rendered susceptible [to contract uncleanness] by the blood [of the slaughtering]: so R. Meir. R. Simeon says: They are not rendered susceptible to uncleanness![13] — He replied, [The objection from] that Mishnah can be rejected as indeed we rejected it above.[14]

When R. Zera went up [to Palestine] he found R. Jeremiah [b. Abba] sitting and reciting the above statement [of Rab]. R. Zera thereupon remarked: ‘Well spoken! So, too, did Arioch[15] teach it in Babylon’! But who is Arioch? It is Samuel, is it not? But does he not disagree [with Rab]? — Samuel retracted his opinion in favour of Rab's.

Our Rabbis taught: Where the bone was broken and it protruded outside, if the skin and flesh cover the greater part of it, it is permitted; otherwise it is forbidden. What is meant by ‘the greater part of it'? — When R. Dimi came [from Palestine] he reported in the name of R. Johanan that it means, the greater part of its thickness.[16] Others say: It means, the greater part [of the flesh] that surrounds it.[17] R. Papa said: We therefore require the greater part of its thickness [to be covered by flesh], as well as the greater part [of the flesh] that surrounds it [to be intact].

Ulla said in the name of R. Johanan: The skin is like the flesh.[18] R. Nahman said to Ulla: Why does not the Master rather say that the skin is to be reckoned with the flesh [to make up the required amount]?[19] Does not [the above Baraitha] state 'skin and flesh'? — He replied: We interpret [that Baraitha] to mean, either skin or flesh.

Others report this as follows: Ulla said in the name of R. Johanan: The skin is to be reckoned together with the flesh [to make up the required amount]. R. Nahman said to Ulla: Why does not the Master rather say that the skin merely completes the [required amount of] flesh, adopting the stricter interpretation?[20] — He replied: I only know of the following incident. At the house of R. Isaac there was a young pigeon [whose leg was broken], and the skin, if reckoned together with the flesh, [covered up the greater part of the fracture]. The case was brought before R. Johanan and he declared it to be permitted. Thereupon R. Nahman retorted: You are speaking of a young pigeon! but the case of a young pigeon is quite different, because its skin is tender.

[The case of a fracture which was covered for the most part with flesh and] tender sinews came before Raba. Said Raba: What have we to fear? In the first place, R. Johanan has declared that in respect of the sinews which later will become hard

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(1) And then only is it trefah.

(2) Which together make up one whole tendon; and so should be permitted.

(3) The joint spoken of in our Mishnah.

(4) Covering the fracture.

(5) I.e., the animal as well as the limb.

(6) Since it hangs loose from the animal it is not rendered permitted by the slaughtering of the animal.

(7) This surely cannot be right.

(8) In the case where the fracture occurred below the joint and the greater part of the surrounding flesh was gone.

(9) That is, where the fracture was above the joint.

(10) It will be seen that the only point of difference between Rab and Samuel is in the case where the fracture was above the joint and the greater part of the flesh around the fracture was gone. According to Rab both the limb and the animal are forbidden, whilst according to Samuel the animal is permitted even though the limb is forbidden.

(11) In this Baraitha it is admitted by all that a limb that hangs loose from the animal is rendered clean by the slaughtering of the animal. How then can it be said that it conveys uncleanness by 'carrying'?

(12) I.e., the loose limb and the pieces of flesh that hang loose from the animal.

(13) The dispute is only with regard to their being rendered susceptible to contract uncleanness in the future, but both agree that the limb itself does not convey uncleanness. V. infra 127b; supra 73b.

(14) V. supra 73b. It was there suggested that that Mishnah does not deal with a loose limb at all but only with pieces of flesh that hang loose from the limb or from the animal itself.

(15) A title of dignity applied to Samuel, the contemporary of Rab. It is probably a Persian adaptation of 'judge' (Jastrow). V. Kid., Sonc. ed., p. 189, n. 11. V. also Rashi here, and in Men. 38b.

(16) Sc. of the bone; i.e., only a small part of the surface of the fracture was exposed whereas the greater part was covered by the flesh and skin.

(17) I.e., the greater part of the flesh around the fracture was whole and not lacerated. Even though the entire surface of the fracture had projected and was exposed, it would be permitted.

(18) The skin is considered an adequate covering over the fracture even though all the flesh underneath the skin was gone.

(19) I.e., that the covering over the fracture shall consist half of skin and half of flesh, but not as was suggested entirely of skin.

(20) I.e., if the greater portion which surrounds the fracture consists for the most part of flesh but there is a little skin which completes the required amount, only then would it be permitted, but not where it consisted half of flesh and half of skin.

people may be counted in to partake thereof in the Passover-offering.[1] Secondly, ‘the Torah doth spare the money of Israel’. Whereupon R. Papa said to Raba: But on the other hand there is the view of R. Simeon b. Lakish,[2] and moreover it is here a question involving a prohibition of the Torah,[3] and you say: What have we to fear? — He [Raba] remained silent. But why did he remain silent? Has not Raba himself declared that the law agrees with R. Simeon b. Lakish only in those three cases?[4] — In this case it is different, for R. Johanan retracted his view in favour of that of R. Simeon b. Lakish, for he said: ‘Do not worry me [with any more of your arguments] for I regard that Mishnah as the opinion of an individual’.[5]

There once came to Abaye the case where the bone was broken and had protruded outside, and a fragment thereof had broken off. He held the case over three Festivals.[6] Thereupon R. Adda b. Mattena said [to the owner of the animal:] Go and put the case to Raba the son of R. Joseph b. Hama, whose knife is sharp.[7] He took it to him and Raba said: Let us see, [the Baraitha] taught, ‘If the bone was broken and protruded outside’. What does it matter to me whether a portion had fallen away or it was all there?[8]

Rabina enquired of Raba: What is the law if the [required amount of] flesh was scattered[9] [around the fracture], or was in shreds, or had decomposed? — R. Huna the son of R. Joshua replied: Any flesh [that has decomposed so] that the surgeon must scrape it away [is to be regarded as gone entirely].

The question was raised: What is the law if the flesh [that covered the fracture] was perforated, or had peeled off [the bone], or was slit, or the inner layer[10] [of flesh close to the bone] was gone? — Come and hear. ‘ulla said in the name of R. Johanan: The skin is as good as the flesh![11] — Perhaps there the skin holds its own place.[12]

R. Ashi said: When we were at the school of R. Papi he enquired of us: What is the law if some of the flesh around the fracture was cut away in a circle like a ring?[13] And I suggested an answer from the following statement of Rab Judah in the name of Rab, ‘I enquired about this of scholars and doctors and they said: One should make incisions around the edges of the flesh with a bone and it will then heal up, but [not with] an iron instrument [for it] would case inflammation’. R. Papa said: Provided the bone was firmly attached to it.[14]

MISHNAH. IF A PERSON SLAUGHTERED AN ANIMAL AND FOUND IN IT AN AFTERBIRTH, HE WHO IS NOT FASTIDIOUS MAY EAT IT.[15] IT DOES NOT CONTRACT UNCLEANNESS,[16] EITHER FOOD UNCLEANNESS OR THE UNCLEANNESS OF NEBELAH. IF HE INTENDED TO EAT IT, IT CAN CONTRACT FOOD UNCLEANNESS BUT NOT THE UNCLEANNESS OF NEBELAH.[17] IF PART OF THE AFTERBIRTH EMERGED [BEFORE THE SLAUGHTERING OF THE DAM], IT MAY NOT BE EATEN;[18] FOR IT[19] IS A SIGN OF BIRTH IN A WOMAN AND ALSO A SIGN OF BIRTH IN AN ANIMAL. IF AN ANIMAL WHICH WAS WITH YOUNG FOR THE FIRST TIME CAST FORTH AN AFTERBIRTH, IT MAY BE THROWN TO DOGS;[20] BUT IN THE CASE OF A CONSECRATED ANIMAL IT MUST BE BURIED.[21] IT MAY NOT BE BURIED AT CROSS-ROADS OR HUNG ON A TREE, FOR THESE ARE AMORITE PRACTICES.[22]

GEMARA. Whence do we know it?[23] — [From the following.] Our Rabbis taught: The verse: Whatsoever . . . in the beast, that shall ye eat,[24] includes the afterbirth. I might say that even if part of it came forth [out of the womb it is also permitted], the verse therefore states ‘that’, ‘that’ [shall ye eat] but not the afterbirth. But let us consider, [it is accepted that] there can be no afterbirth without young, why then is any verse necessary [to exclude an afterbirth that had come forth]?[25] — Indeed the verse is merely a support.

IT DOES NOT CONTRACT UNCLEANNESS. R. Isaac b. Nappaha raised this question: What is the position with regard to an ass's skin which was seethed?[26] In what respect [does the question arise]? If in respect of food uncleanness, we have learnt it;

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(1) One fulfils one's obligation by eating these sinews of the Passover offering, for being now tender they are regarded as flesh; v. Pes. 84a.

(2) That these sinews are not regarded as flesh since in a short time they will become hard and uneatable.

(3) Whether the animal is trefah or not.

(4) Except in three cases mentioned in Yeb. 36a, where the view of R. Simeon b. Lakish prevails, the law always accords with the opinion of R. Johanan against that of R. Simeon b. Lakish. In this dispute therefore Raba was right in ignoring the view of R. Simeon b. Lakish.

(5) V. Pes. 84a. R. Johanan originally held that whatsoever was edible now was considered flesh, and based his view on the Mishnah infra 122a, ‘The skin of the head of a tender calf is considered flesh’, although when the calf grows up this skin will harden and become inedible. Subsequently R. Johanan changed his view and ruled that the skin of the head of a tender calf does not contract uncleanness since it hardens later on. When confronted by R. Simeon b. Lakish with the above quoted Mishnah he replied that he did not adopt the ruling of that Mishnah since it was merely the opinion of an individual Rabbi. V. supra 55b, and infra 122a.

(6) To discuss the law with those Rabbis who assembled for the purpose of listening to festival discourses. V. Yeb., Sonc. ed., p. 862, n. 12.

(7) I.e., he is capable of acute logical reasoning.

(8) Since the greater part of the fracture is covered up by flesh and skin it is permitted.

(9) Does such flesh afford a sufficient protection over the fracture or not?

(10) Lit., ‘the lower third’.

(11) If the skin itself can serve as a sufficient covering how much more so the skin with two thirds of the thickness of the flesh!

(12) I.e., the skin adheres firmly to the bone so that it is a firm covering, whereas in the last question the flesh was not attached to the bone (Rashi and R. Gershom). According to R. Hananel and R. Tam the text is רירית ‘fibers’, and not דידיה, and the meaning is that the skin was attached to the bones by fibrous tissue.

(13) Can such a deficiency heal up or not?

(14) Sc. the flesh. In that case it will eventually heal up.

(15) For it has been rendered permitted by the slaughtering of the animal. Heb. נפש היפה, lit., ‘a good soul; i.e., one who is not squeamish.

(16) If it came into contact with unclean matter, for it is not regarded as a foodstuff.

(17) I.e., if the animal died the afterbirth is not deemed part of the carcass and will not convey uncleanness as nebelah.

(18) For it may have contained the head of the foetus which would then be regarded as born, and the afterbirth which belongs to it would not be rendered permitted by the slaughtering of the animal.

(19) Sc. the emergence of the afterbirth.

(20) It is in no wise regarded sacred as a firstling for, in the first place, it might have contained a female young which is not sacred; and even if we assume that it did contain a male young, there is the further possibility that it was a male young of a species of animals different from its dam (נדמה, v. Gemara infra) which also is not sacred. Hence the greater probability is that it was not a sacred young.

(21) For the young, whether male or female, of a consecrated animal is sacred; and being dead, must be buried and not put to ally use.

(22) These were superstitious practices whereby, it was believed, the animal would be prevented from any further miscarriages. Such heathen superstitions are forbidden in Ex. XXIII, 24: Ye shall not do as they do.

(23) That the afterbirth found in an animal is permitted.

(24) Lev. XI, 3.

(25) Since the part of the afterbirth which emerged may have contained the greater part of the foetus, in which case it is deemed fully born, it is obvious that the slaughtering will not render it permitted.

(26) I.e., boiled for a long time. Is it regarded as a foodstuff or not?

Talmud - Mas. Chullin 77b

and if in respect of the uncleanness of nebelah, we have also learnt it. As to food uncleanness it was taught: A skin or an afterbirth cannot contract food uncleanness; if the skin was seethed or the afterbirth intended to be eaten, it can contract food uncleanness. As to the uncleanness of nebelah it was taught: It is written, [He that toucheth] the carcass thereof,[1] but not its skin or its bones or its sinews or its horns or its hoofs. And Rabbah son of R. Hana had said that [the verse] was only necessary [to exclude these] when they were stewed in a pot![2] — Indeed [the question was raised] in respect of food uncleanness, but the law might be different in the case of an ass's skin since it is loathsome.

IF PART OF THE AFTERBIRTH EMERGED. R. Eleazar said: The rule [in the Mishnah] applies only to the case where there was no foetus within,[3] but where there was a foetus within we have no apprehension that it contained another foetus.[4] R. Johanan said: Whether there was a foetus within or not, we apprehend another foetus. But this surely is not so, for R. Jeremiah has declared that R. Eleazar adopts a stricter view[5] [than R. Johanan]! — Indeed if it was reported it must have been reported as follows: R. Eleazar said: The rule [in the Mishnah] applies only to the case where it[6] was not attached to the foetus,[7] but where it was attached to the foetus we do not apprehend another foetus. R. Johanan said: We are guided by the rule that there can be no afterbirth without a foetus; but where it[6] contained a foetus, whether it was attached to the foetus or not, we do not apprehend another foetus. This now accords with the dictum of R. Jeremiah that R. Eleazar adopted a stricter view.[8]

There is [a Baraitha] taught in support of R. Eleazar's view,[9] viz., If a woman brought forth an abortion which resembled a beast or a wild animal or a bird, and there was an afterbirth too, if the afterbirth was attached to it we do not apprehend another foetus;[10] but if it was not attached to it, I must impose upon this woman the restrictions of two births, for I may suppose that the foetus of this afterbirth as well as the afterbirth of this foetus had dissolved.[11]

IF AN ANIMAL WHICH WAS WITH YOUNG FOR THE FIRST TIME CAST FORTH AN AFTERBIRTH [IT MAY BE THROWN TO DOGS]. Why? — R. Ika the son of R. Ammi said: Because the majority of animals give birth to something which is holy as a firstling whereas a minority of animals give birth to something which is not holy as a firstling, to wit, a nidmeh.[12] Now all animals that bear young bear half males and half females;[13] add therefore the minority of nidmeh to the half females, with the result that the males constitute a minority.[14]

BUT IN THE CASE OF A CONSECRATED ANIMAL IT MUST BE BURIED. Why? — Because the majority [of young born by a consecrated animal] is holy.[15]

IT MAY NOT BE BURIED AT CROSS-ROADS. Abaye and Raba both stated: Whatever is done for medicinal purposes is not prohibited as Amorite practices, and whatever is not done for medicinal purposes is prohibited as Amorite practices. But has it not been taught that a tree which casts its fruit may be painted with red paint or laden with stones? Now it may be laden with stones so that

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(1) Lev. XI, 39.

(2) For otherwise they certainly would not be regarded as foodstuffs.

(3) I.e., in that part of the afterbirth which still remained inside the womb there was not found a foetus or any signs of one; this being so, and because of the principle that there can be no afterbirth without a foetus, the foetus must have been in that part of the afterbirth which had emerged so that it was thereby born; hence the afterbirth is forbidden.

(4) I.e., there is no reasonable ground to assume that in that part of the afterbirth which had come out there was another foetus, and that this afterbirth belonged to it, so that this afterbirth belonging to a born foetus would be forbidden. We assume rather that this afterbirth belongs to the foetus that is found within it, and which has not yet come out of the womb, so that the afterbirth is permitted.

(5) Whereas according to the terms of the above dispute R. Eleazar adopts the more lenient view.

(6) Sc. the afterbirth.

(7) In this case, even though there is a foetus in that part of the afterbirth which is still within the womb, the afterbirth is forbidden, for since this foetus is not attached to the afterbirth, there is the possibility of there having been another foetus in that part of the afterbirth which had come out and had dissolved, and this afterbirth belongs to it.

(8) For where that part of the afterbirth that was still inside the womb contained a foetus but was not attached to it, according to R. Eleazar we must take into consideration the possibility of there having been another foetus within it, whereas according to R. Johanan we do not; hence R. Eleazar adopts the stricter view.

(9) That there is a distinction between an afterbirth that is attached to the foetus and one that is not so attached.

(10) This woman therefore would be clean if no blood issued from her womb, for the bringing forth of these animal-like abortions is not accounted a birth, in accordance with the view of the Rabbis that whatsoever has not the form of man is not accounted a birth (v. Nid. 21a and Tosaf. a.l.). If these animal-like abortions were accounted a birth she would be unclean even though no blood issued from the womb, v. Rashi on Lev. XII, 2.

(11) Because of the possibility of the presence of another foetus, perhaps a female one which had dissolved, in this afterbirth, this woman would have to observe the period of uncleanness as for the birth of a female, i.e., fourteen days; but, on the other hand, there may not have been another foetus at all, and the afterbirth in fact belongs to this animal-like abortion, and inasmuch as an animal-like abortion is not accounted a birth, she therefore would not have the advantage of any period of purity at all. V. Lev. c. XII.

(12) Heb. נדמה 'like, similar to'; e.g. a ewe which gave birth to what looked like a kid, or a goat which gave birth to what looked like a lamb. This is not holy as a firstling, v. Bik. II, 5.

(13) And a female is not holy as a firstling.

(14) And since we do not take the minority into consideration the foetus is not holy and may be thrown to the dogs.

(15) For the young of a consecrated animal, whether male or female, is holy, save for the case of a nidmeh.

Talmud - Mas. Chullin 78a

its [productive] strength be weakened,[1] but why may it be painted with red paint?[2] — The purpose is that people will observe it and pray for its recovery. As it was taught: [It is written:] And he shall cry: Unclean, unclean,[3] that is to say, he shall make known [his affliction] to his fellow men that they may pray for him. Likewise, he upon whom a calamity has befallen should make known [his trouble] to his fellow men that they may pray for him. Rabina said: According to whom is it that we suspend a cluster [of dates] on a tree [which casts its fruit]?[4] — It is in accordance with the above Tanna.

CHAPTER V

MISHNAH. [THE LAW OF] IT AND ITS YOUNG[5] IS IN FORCE BOTH WITHIN THE LAND OF ISRAEL AND OUTSIDE IT, BOTH DURING THE EXISTENCE OF THE TEMPLE AND AFTER IT, IN RESPECT OF BOTH UNCONSECRATED AND CONSECRATED ANIMALS. THUS, IF ONE PERSON SLAUGHTERED AN ANIMAL AND [ANOTHER][6] ITS YOUNG, BOTH ANIMALS BEING UNCONSECRATED, [AND THEY SLAUGHTERED THEM] OUTSIDE THE SANCTUARY, THEY ARE BOTH VALID,[7] BUT [HE WHO SLAUGHTERED] THE SECOND INCURS FORTY STRIPES.[8] IF BOTH ANIMALS WERE CONSECRATED [AND THEY WERE SLAUGHTERED] OUTSIDE THE SANCTUARY, [HE WHO SLAUGHTERED] THE FIRST INCURS THE PENALTY OF KARETH,[9] BOTH ANIMALS ARE INVALID, AND EACH INCURS FORTY STRIPES.[10] IF BOTH ANIMALS WERE UNCONSECRATED [AND THEY WERE SLAUGHTERED] INSIDE THE SANCTUARY, BOTH ANIMALS ARE INVALID,[11] AND [HE WHO SLAUGHTERED] THE SECOND INCURS FORTY STRIPES.[12] IF BOTH ANIMALS WERE CONSECRATED [AND THEY WERE

SLAUGHTERED] INSIDE THE SANCTUARY, THE FIRST IS VALID AND [HE WHO SLAUGHTERED IT IS] NOT CULPABLE, BUT [HE WHO SLAUGHTERED] THE SECOND INCURS FORTY STRIPES,[12] AND IT IS INVALID.[13] IF [THE FIRST ANIMAL WAS] UNCONSECRATED AND [THE SECOND] CONSECRATED [AND THEY WERE BOTH SLAUGHTERED] OUTSIDE THE SANCTUARY, THE FIRST IS VALID AND [HE WHO SLAUGHTERED IT IS] NOT CULPABLE, BUT [HE WHO SLAUGHTERED] THE SECOND INCURS FORTY STRIPES AND IT IS INVALID. IF [THE FIRST WAS] CONSECRATED AND [THE SECOND] UNCONSECRATED [AND THEY WERE BOTH SLAUGHTERED] OUTSIDE THE SANCTUARY, [HE WHO SLAUGHTERED] THE FIRST INCURS THE PENALTY OF KARETH AND IT IS INVALID, AND THE SECOND [ANIMAL] IS VALID, AND EACH INCURS FORTY STRIPES.[14] IF [THE FIRST WAS] UNCONSECRATED AND [THE SECOND] CONSECRATED [AND THEY WERE BOTH SLAUGHTERED] INSIDE THE SANCTUARY, THEY ARE BOTH INVALID, AND [HE WHO SLAUGHTERED] THE SECOND INCURS FORTY STRIPES.[12] IF [THE FIRST WAS] CONSECRATED AND [THE SECOND] UNCONSECRATED [AND THEY WERE BOTH SLAUGHTERED] INSIDE THE SANCTUARY, THE FIRST ANIMAL IS VALID AND [HE WHO SLAUGHTERED IT IS] NOT CULPABLE, BUT [HE WHO SLAUGHTERED] THE SECOND INCURS FORTY STRIPES[12] AND IT IS INVALID. IF [THE FIRST WAS SLAUGHTERED] OUTSIDE THE SANCTUARY AND [THE SECOND] INSIDE, BOTH BEING UNCONSECRATED ANIMALS, THE FIRST IS VALID AND [HE WHO SLAUGHTERED IT IS] NOT CULPABLE, BUT [HE WHO SLAUGHTERED] THE SECOND INCURS FORTY STRIPES AND IT IS INVALID. IF [THE FIRST WAS SLAUGHTERED] OUTSIDE THE SANCTUARY AND [THE SECOND] INSIDE, BOTH BEING CONSECRATED ANIMALS, [HE WHO SLAUGHTERED] THE FIRST INCURS THE PENALTY OF KARETH, EACH INCURS FORTY STRIPES,[15] AND BOTH ANIMALS ARE INVALID. IF [THE FIRST WAS SLAUGHTERED] INSIDE THE SANCTUARY AND [THE SECOND] OUTSIDE, BOTH BEING UNCONSECRATED ANIMALS, THE FIRST IS INVALID AND [HE WHO SLAUGHTERED IT IS] NOT CULPABLE, BUT [HE WHO SLAUGHTERED] THE SECOND INCURS FORTY STRIPES[16] AND IT IS VALID. IF [THE FIRST WAS SLAUGHTERED] INSIDE THE SANCTUARY AND [THE SECOND] OUTSIDE, BOTH BEING CONSECRATED ANIMALS, THE FIRST IS VALID AND [HE WHO SLAUGHTERED IT IS] NOT CULPABLE, BUT [HE WHO SLAUGHTERED] THE SECOND INCURS FORTY STRIPES[16] AND IT IS INVALID.

GEMARA. Our Rabbis taught: Whence do we know that the law of ‘It and its young’ applies to consecrated animals? Because the verse states: When a bullock or a sheep or a goat is brought forth . . . [thenceforth it may be accepted for an offering],[17] and there immediately follows the verse: And whether it be an ox or a sheep, ye shall not kill it and its young both in one day,[18] thus indicating that the law of ‘It and its young’ applies to consecrated animals. Perhaps then it applies only to consecrated animals and not to unconsecrated animals! — [This cannot be, for] the word ‘ox’ interrupts the subject matter.[19] Perhaps then it applies to unconsecrated animals only and not to consecrated animals! — Since it is written: ‘And . . . an ox’, the conjunction ‘and’ connects it with the previous subject. It should then follow, should it not, that as a hybrid cannot be a consecrated animal, so the law of ‘It and its young’ should not apply to a hybrid? Wherefore has it been taught: The law of ‘It and its young’ applies to a hybrid[20] and to a koy?[21] And [there is] also [this difficulty] for it is written here, sheep, and Raba has declared,

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(1) For its excessive fertility was no doubt the cause for it casting its fruits. This is therefore not regarded as a superstitious practice.

(2) Is this not an Amorite practice?

(3) Lev. XIII, 45.

(4) And we do not regard it as a superstitious practice.

(5) Lev. XXII, 28; the penalty for the infringement of this prohibition is forty stripes. Whether the prohibition applies only to the cow or ewe and her young or also to the bull or ram and his young, is a question disputed in the Gemara infra.

(6) It is assumed for the sake of clarity that one person slaughtered the dam and another the young. The law would be the same, however, if both animals were slaughtered by the same person; moreover, it is immaterial whether the dam was slaughtered first and then the young or vice versa.

(7) Even though there has been a transgression of the prohibition.

(8) For the infringement of the prohibition of ‘It and its young’.

(9) The penalty prescribed for slaughtering a consecrated animal fit for a sacrifice outside the Temple court, V. Lev. XVII, 4. For Kareth v. Glos. He who slaughtered the second animal is not liable to this penalty for what he slaughtered, though consecrated, was not fit for a sacrifice at the time, since its dam had been slaughtered previously on the same day.

(10) The first for infringing, the law against slaughtering consecrated animals outside the Sanctuary; for, although it has, been said that he is liable to the penalty of Kareth, if he was warned before the commission of the act that he would be liable to the punishment of stripes, he would suffer that punishment (so according to the view of R. Akiba in Mak. 13b); and the second for the infringement of the prohibition of ‘It and its young’.

(11) V. Kid. 57b. Unconsecrated animals slaughtered inside the Sanctuary are thereby rendered invalid, but he who slaughtered them has not incurred the penalty of stripes, for the prohibition thereof is not expressly stated in the Torah, but is deduced from the verse in Deut. XII, 21.

(12) V. p. 433, n. 4.

(13) For it is this day unfit for a sacrifice and comes under the class of מחוסר זמן, lit., ‘wanting in age’, ‘out of time’, either too young or for some other reason temporarily disqualified.

(14) v. p. 433, n. 6.

(15) V. p. 433, n. 6.

(16) For the infringement of the prohibition of ‘It and its young’.

(17) Lev. XXII, 27. This verse obviously refers to consecrated animals.

(18) Ibid. 28.

(19) If this law referred only to consecrated animals which is the subject matter of the preceding verse: Scripture should not have repeated the words ‘ox or sheep’ since these are mentioned in the preceding verse The fact that the words ‘ox or sheep’ are repeated indicates that the law applies generally.

(20) The product of a ewe and a he-goat. If one slaughtered this offspring and its dam one would be culpable.

(21) כוי a permitted animal, about which the Rabbis were undecided whether it was to be classed in the category of cattle or of wild beasts. Probably a cross between a goat and some species of gazelle. V. infra 79b and 80a.

Talmud - Mas. Chullin 78b

This[1] verse establishes the rule that wherever ‘sheep’ is stated the hybrid is excluded! — Since the verse states ‘or’,[2] it includes the hybrid. But is not ‘or’ necessary to indicate disjunction?[3] For I might have thought that one is not culpable unless one kills an ox and its young and also a sheep and its young, it[4] therefore teaches us [that it is not so]! — Disjunction is indicated in the expression ‘its young’.[5] But it[4] is still necessary for the following [teaching]. It was taught: Had Scripture stated: ‘An ox and a sheep and its young [ye shall not kill]’. I would have said that one is not culpable unless one kills an ox and a sheep and the young of any one of them; the text therefore says. And whether it be an ox or a sheep, ye shall not kill it and its young. Now presumably [this teaching] is derived from the expression ‘or’! — No, it is derived from the expression ‘it’ [and its young’]. This is well according to the Rabbis — who regard ‘it’ as superfluous;[6] but according to Hananiah who does not regard ‘it’ as superfluous, whence would he derive the principle of disjunction? — No verse is necessary to indicate disjunction for he concurs with the view of R. Jonathan. For it was taught: For any man that curseth his father and his mother [shall surely be put to death]:[7] from this I know only [that he is liable for cursing] his father and his mother;[8] [if he curses] his father and not his mother, or his mother and not his father, whence do I know [that he is liable]? Because it also says. His father and his mother he hath cursed;[7] that is, he has cursed his father, he has cursed his mother:[9] so R. Josiah. R. Jonathan says. It may imply both together or each separately, unless the verse expressly states ‘together’.[10]

What is this dispute between Hananiah and the Rabbis? — It was taught: The law of ‘It and its young’ applies to the female parent only and not to the male.[11] Hananiah says: It applies both to the male and female parent. What is the reason of the Rabbis? — It was taught: I might have said that the law of ‘It and its young’ applies to both male and female parents; there is, however, an argument against this, viz., there is a prohibition here[12] and there is also a prohibition with regard to ‘The dam with the young’;[13] just as the prohibition of ‘The dam with the young’ applies only to the female parent and not to the male, so the prohibition here applies only to the female parent and not to the male. But [it will be retorted] it is not so; for you may say this[14] of ‘The dam and its young’, since [it has this distinctiveness, in that] the law does not place upon the same footing birds that are at one's disposal and birds that are not at one's disposal;[15] can you then say this of ‘It and its young’, seeing that [it has not this distinctiveness, for] the law places upon the same footing beasts that are at one's disposal and beasts that are not at one's disposal?[16] The verse therefore states ‘it’,[17] that is, it refers to one [parent] and not to both. Since therefore Scripture discriminates [between the parents]. I am justified in applying the above argument, viz., there is a prohibition here and there is also a prohibition with regard to ‘The dam with the young’, just as the prohibition of ‘The dam with the young’ applies only to the female parent and not to the male, so the prohibition here applies only to the female parent and not to the male! And if you desire to say [anything against this, I submit the following]: [The expression] ‘its young’ relates to that parent to whom the young clings;[18] thus excluding the male parent to whom the young does not cling! (What is meant by. ‘But if you desire to say anything against this’? — If you say that ‘it’[19] indicates the male parent. I therefore submit another argument: The expression ‘its young’ relates to that parent to whom the young clings; thus excluding the male parent to whom the young does not cling.)

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(1) The verse in Deut. XIV, 4 (Rashi); or in Ex. XII, 5 (Tosaf.).

(2) In Lev. XXII, 28. Heb. או. This word is shown to be superfluous and it therefore serves to include the hybrid.

(3) That the verse means either the ox and its young or the sheep and its young.

(4) Sc. the word or.

(5) The fact that its young and not their young is stated clearly suggests the young and only one of the aforementioned animals, either the ox or the sheep.

(6) V. infra.

(7) Lev. XX, 9.

(8) For the verse states את אביו ואת אמו, and presumably the vav (‘and’) is conjunctive, implying both parents.

(9) For at the beginning of the verse: ‘that curseth’ is in immediate proximity to ‘his father’, and at the end of the verse: ‘he hath cursed’ is in immediate proximity to ‘his mother’; thus showing that he who curses either parent is liable.

(10) I.e., the vav is either disjunctive or conjunctive according to the established law; for when Scripture intends the vav as a conjunction, the word ‘together’, יחדו is added; e.g., Thou shalt not plough with an ox and an ass together (Deut. XXII, 10).

(11) I.e., one may slaughter on the same day the male parent and its young, for we do not regard the seed of the male as of consequence, v. infra.

(12) The prohibition of ‘It and its young’.

(13) Deut. XXII, 6: If a bird's nest chance to be before thee in the way, in any tree or on the ground, with young ones or eggs, and the dam sitting upon the young, or upon the eggs, thou shalt not take the dam with the young.

(14) I.e., you may make this distinction in the law between the male and female parent.

(15) For the law of ‘The dam with the young’ applies only to birds that ‘chance to be’ before one in the way, i.e., free and wild, but not to birds that are at one's disposal, ready at hand, i.e., captive birds; v. infra 138b.

(16) For the law of ‘It and its young’ undoubtedly applies to all beasts whether met with by chance on the way or confined within one's close.

(17) Lev. XXII, 28. It, being in the singular, clearly applies to one parent only.

(18) Sc. the dam.

(19) Heb. אותו, lit., ‘him’.

Talmud - Mas. Chullin 79a

According to Hananiah, however, [the implication of the verse is this]: It says: 'it', which indicates the male parent, and it also says: 'its young', which relates to that parent to whom the young clings; hence it is clear that the law applies both to the male and female parent.

R. Huna b. Hiyya said in the name of Samuel: The halachah[1] is in accordance with Hananiah's view. Moreover, Samuel is consistent in his opinion. For we have learnt: R. Judah says. The offspring of a mare, even though their sire was an ass, are permitted [to interbreed];[2] but the offspring of a she-ass may not [interbreed] with the offspring of a mare. But Rab Judah had stated in the name of Samuel that this was the view of R. Judah only. who maintained that we do not take into consideration the seed of the male parent,[3] the Sages however say. All mules are one kind. Who is meant by the 'Sages'? It is Hananiah, who maintains that we must take into consideration the seed of the male parent; accordingly the one is the offspring of a mare and an ass-stallion and the other is the offspring of a she-ass and a horse, but they are both one kind.[4]

The question was raised: Was R. Judah certain that we do not take into consideration the seed of the male parent or was he in doubt about it? What practical difference would this make? — On the question of permitting the offspring[5] to breed with the [species of the] dam. If you say that he [R. Judah] was certain of it, then the offspring is permitted to breed with the [species of the] dam; but if you say that he was in doubt about it, then it is forbidden for the offspring to breed with the [species of the] dam.[6] What [is to be said about this]? — Come and hear. R. Judah says. All the offspring of a mare, even though their sire was an ass, are permitted to interbreed. Now what are the circumstances of the case? If you say that the sire of this offspring was an ass-stallion and of that also an ass-stallion; then was it necessary to state this?[7] You must therefore say that the sire of this offspring was a horse and of that an ass-stallion,[8] and [R. Judah] declares that they may interbreed, hence is it clear that he [R. Judah] was certain about it![9] — It is not so. I still say that the sire of this offspring was an ass-stallion and of that also an ass-stallion, and as to your retort, 'Was it necessary to state this?' [I reply that] you might have argued that the horse in the one copulates with the ass in the other, and the ass in the one copulates with the horse in the other;[10] he therefore teaches us [that it is not so].

Come and hear: R. Judah says: If a mule was on heat it may not be mated with a horse or an ass, but only with one of its own kind. Now if you say that [R. Judah] was certain about it, why may it not be mated with the species of its dam? — Because we know not the species of its dam. But it says 'Only with one of its own kind'![11] — It means this: It may not be mated with any kind of horse[12] or any kind of ass, because we do not know its true species.[13] Then let us examine it by the following signs? For Abaye has stated: If its voice is harsh, it is the offspring of a she-ass; if its voice is shrill, it is the offspring of a mare. And R. Papa has stated: If its ears are long and its tail short, it is the offspring of a she-ass; if its ears are short and its tail long, it is the offspring of a mare! — We must suppose here that it was dumb and mutilated.[14]

What has been decided then? — Come and hear: R. Huna the son of R. Joshua said: All agree that the offspring is forbidden to breed with the dam. Hence it is clear that [R. Judah] was in doubt about it. This proves it.

R. Abba said to his servant, 'When you harness the mules to my carriage see that they are very like each other[15] and then harness them'. This shows that he is of the opinion that we do not take into consideration the seed of the male parent;[16]

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(1) So MS.M. Cur. edd., the law is הלכתא.

(2) Or 'be yoked together'. V. Kil. VIII, 4.

(3) I.e., it is the female parent only which determines the species of the offspring, irrespective of the species of the sire; therefore, the offspring of a mare may not interbreed with the offspring of a she-ass. For the prohibition, cf. Lev. XIX. 19.
(4) Since each is the offspring of a horse and an ass, whether the one is a mule and the other a hinny, they may interbreed. The fact that Samuel gives this view of Hananiah as that of the Sages proves that he accepts it as the halachah.
(5) Lit., ‘fruit’, Heb. פרי in MS.M. the word is פרד, ‘mule’. The question is whether a mule, the offspring of a mare and an ass-stallion, may breed with a mare.
(6) Since from the aspect of the male parent the offspring is an ass, it may not interbreed with a mare.
(7) Since the offspring are alike, in that each is half horse on the maternal side and half ass on the paternal side, they may certainly interbreed, whether we take into consideration the seed of the male parent or not.
(8) In each case, however, the dam was a mare.
(9) That we do not take into consideration the seed of the male parent; that is to say, it is only the female parent that determines the species of the offspring, and the species of the sire is immaterial.
(10) Since each offspring is half horse and half ass, it might be argued that in copulation the half horse in the one unites with the half ass in the other, and vice versa, hence there is breeding of diverse kinds which would be forbidden.
(11) And if we do not know the species of its dam with what kind can this mule be mated?
(12) Whether thoroughbred or mule.
(13) But if the species of the dam were known this mule could be mated with one of that species.
(14) I.e., it could not utter any sound and its tail and ears were cut off. It is therefore impossible to examine the mule by the abovementioned criteria.
(15) In the matter of ears and tail.
(16) For if we did take into account the seed of the male he would not have been so meticulous about the mules that were to be harnessed since each is part horse and part ass.

Talmud - Mas. Chullin 79b

and also that the [aforementioned] signs are [reliable by] Biblical law.[1]

Our Rabbis taught: [The law of] ‘It and its young’ applies to a hybrid and a koy.[2] R. Eliezer says. To a hybrid, the offspring of a goat and a ewe, the law of ‘It and its young’ applies; to a koy, the law of ‘It and its young’ does not apply. R. Hisda said: What is the koy about which R. Eliezer and the Rabbis differ? It is the offspring of a he-goat and a hind.[3]

What are the circumstances? If you suggest that a he-goat covered a hind and [the hind] gave birth to a young, and then one slaughtered the dam and its young; but [this cannot be, for] R. Hisda has also stated that all agree that if the dam was a hind and its young [the offspring of] a he-goat, one is not culpable [for slaughtering the dam and its young on the same day], for the Divine Law says: a sheep . . . and its young,[4] and not ‘a hind and its young’. And if you suggest that a hart covered a she-goat and it gave birth to a young and then one slaughtered the dam and its young; but [this, too’ cannot be, for] R. Hisda has further stated that all agree that if the dam was a she-goat and its young [the offspring of] a hart, one is culpable, for the Divine Law says ‘a sheep’; and as for the expression ‘its young’. [it implies any offspring] whatever it is![5] — Indeed, the circumstances are these: a he-goat covered a hind and [the hind] gave birth to a female young; this female young also gave birth to a young, and then one slaughtered the female young and its young [on the same day]. Now the Rabbis are of the opinion that we take into consideration the seed of the male parent, and that the term ‘sheep’ includes even that which is a sheep in part only.[6] R. Eliezer, on the other hand, holds that we do not take into consideration the seed of the male parent, nor do we say that the term ‘sheep’ includes that which is a sheep in part only.[7] Why not say that they differ on the issue whether or not we take into consideration the seed of the male parent, as is the dispute between Hananiah and the Rabbis?[8] — If they were to differ on that issue only. I might have said that in the above case even the Rabbis would agree [that the law of ‘It and its young’ does not apply], for we do not say that the term ‘sheep’ includes that which is a sheep in part only; he therefore teaches us [the above dispute].[9]

Consider then the following case. We have learnt:[10] A person may not slaughter a koy on a festival, and if he did slaughter it he may not cover up its blood.[11] Now of what [koy] are we speaking here? If you suggest that a he-goat covered a hind and it gave birth [to the koy], then both according to the Rabbis and R. Eliezer he may slaughter it [on the festival] and cover up its blood, for the law [of covering up the blood] applies to deer and even to that which is deer in part.[12] And if you suggest that a hart covered a she-goat and it gave birth [to the koy], then according to the Rabbis he may slaughter it [on the festival] and cover up its blood,[13] and according to R. Eliezer he may slaughter it [on the festival] and need not cover the blood![14] — Indeed, the fact was that a hart covered a she-goat, but the Rabbis are undecided whether or not we must take into consideration the seed of the male parent.[15]

It follows, does it not, that since the Rabbis are undecided on this point. R. Eliezer has no doubts at all about it?[16] Consider then the following case. It was taught: The law of The shoulder and the two cheeks and the maw[17] applies to a koy and to a hybrid. R. Eliezer says. A hybrid, the offspring of a goat and a ewe, is subject to these dues; a koy is not subject to these dues. Now of what [koy] are we speaking here? If you suggest that a he-goat covered a hind and it gave birth [to the koy], then the view of R. Eliezer that it is not subject [to these dues] is clear, for he is of the opinion that we do not say that the term ‘sheep’ includes that which is a sheep in part only.[18] But according to the view of the Rabbis, granting that they hold that the term ‘sheep’ includes even that which is a sheep in part only, it is clear therefore that there is certainly no obligation to give him[19] one half [of the dues][20] and even as regards the other half[21] he could say to him, ‘Bring proof that we take into consideration the seed of the male parent and then you shall have it’. And if you suggest that a hart covered a she-goat, then according to the Rabbis it is perfectly clear, for by ‘subject’ they meant [subject] to half the dues. But according to R. Eliezer it ought to be subject to the whole of the dues![22] — Indeed the case was that a hart covered a she-goat and it gave birth [to the koy], but R. Eliezer is undecided whether or not we must take into consideration the seed of the male parent. But if the Rabbis are undecided about it and R. Eliezer too is undecided, wherein do they differ? —

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(1) I.e., they may be relied upon in a case of doubt which involves a Biblical law. This opinion therefore would solve the question raised in B.M. 27a, whether the identification marks in a lost article are legally valid by Biblical or merely by Rabbinic law (Rashi).

(2) The offspring of a goat and a deer; V. supra p. 436, n. 2. It must be remembered that in connection with the law of ‘It and its young’, the Torah expressly states: Whether it be an ox or a sheep, which includes the goat but excludes the deer and all wild animals.

(3) I.e., it is a hybrid and not a species of animal. Throughout this passage the hind denotes the female deer and the hart the male.

(4) Lev. XXII, 28.

(5) Even though its sire was of a different species.

(6) The female young, therefore, by reason of its sire, is partly a sheep, and the law of ‘It and its young’ applies to it.

(7) The female young is a hind, taking exclusively after its dam and so the law of ‘It and its young’ does not apply to it.

(8) Viz., whether the law of ‘It and its young’ applies to the male parent and its young or not; V. supra 78b. According to R. Eliezer it does not apply and according to the Rabbis it does.

(9) Introducing a second issue, namely, whether or not the term ‘sheep’ includes a sheep in part.

(10) Bez. 8a.

(11) V. Lev. XVII, 13. The law of covering up the blood after slaughtering applies to wild animals and fowls only. A koy, therefore, since it is part goat and part deer, may not be slaughtered on a festival for there is no absolute duty in regard to it to cover up its blood.

(12) For it is undisputed that the seed of the female parent is of vital consideration, and since the dam is a hind the law of covering up the blood will certainly apply to its young, even though its sire might have been a goat. Even according to the Rabbis who maintain that we must take into consideration the seed of the male parent, in this case a goat, there is the obligation to cover up the blood of the offspring. for this law is a positive obligation and will certainly apply to that part of the offspring which represents the deer element in it, and since it applies to part it must apply to the whole too, for the deer and goat elements are indistinguishable in it (v. Tosaf. a.l.).

(13) Since they take into consideration the seed of the male parent this koy has a ‘deer’ element in it, consequently its blood must be covered up.

(14) Since he ignores the seed of the male parent the offspring in this case is entirely a goat and the law of covering up the blood does not apply to it. Both according to the Rabbis and R. Eliezer there is no doubt about the covering up of its blood, hence it may be slaughtered on a festival.

(15) They therefore take the stricter view in every ease where this consideration arises. On the one hand, they say, the law of ‘It and its young’ will apply to it, and on the other hand, it is forbidden to be slaughtered on a festival, because of the doubt as to the covering up of its blood.

(16) R. Eliezer is convinced in his view that the seed of the male is of no consequence.

(17) Deut. XVIII, 3: And this shall be the priests’ due from the people, from them that slaughter any slaughtering, whether it be ox or sheep, that they shall give unto the priest the shoulder, and the two cheeks, and the maw. It is clear that this law does not apply to a wild animal, as a deer.

(18) Moreover, according to R. Eliezer, this koy is entirely a deer for he holds that we ignore the seed of the male parent.

(19) Sc. The priest.

(20) The koy on account of its female parent, which is a hind, is certainly exempt as to half the dues; and by ‘subject to dues’ the Rabbis at most meant, subject to half the dues.

(21) That half of the dues which represents the male parent, i.e., the goat.

(22) For since, according to R. Eliezer, the seed of the male parent is to be ignored, this koy is entirely a goat, and is therefore subject to the whole of the priests dues.

Talmud - Mas. Chullin 80a

They differ in this: whether or not the term ‘sheep’ includes that which is a sheep in part only. The Rabbis maintain that the term ‘sheep’ includes even that which is a sheep in part only, whereas R. Eliezer maintains that the term ‘sheep’ does not include that which is a sheep in part only. Therefore,[1] said R. Papa, with regard to the law of covering up the blood and also with regard to the [priests’] dues [the koy spoken of] can only be [the offspring of such interbreeding] as where a hart covered a she-goat.[2] — For both the Rabbis and R. Eliezer are undecided whether we must take into consideration the seed of the male parent or not; but they differ as to whether the term ‘sheep’ includes that which is a sheep in part only or not. With regard to the law of ‘It and its young’ the dispute can arise both where a he-goat covered a hind and where a hart covered a she-goat. The dispute in the case where a he-goat covered a hind is as to [whether there is any] prohibition[3] [or not], the Rabbis holding that it may be that we ought to take into consideration the seed of the male parent, [in which case it is a part sheep], and since we say that the term ‘sheep’ includes even that which is a sheep in part only, it is therefore forbidden;[4] whilst R. Eliezer maintains that even though we do take into consideration the seed of the male parent, [in which case it is a part sheep], we do not say that the term ‘sheep’ includes that which is a sheep in part only; [and it is therefore permitted]. In the case where a hart covered a she-goat the dispute is as to [whether] stripes [are inflicted or not]; the Rabbis holding that even though we take into consideration the seed of the male parent, since we say that the term ‘sheep’ includes even that which is a sheep in part only, we therefore inflict stripes upon him; whilst R. Eliezer maintains: There is only a prohibition but stripes cannot be inflicted. ‘There is only a prohibition’, perhaps we do not take into consideration the seed of the male ‘parent and therefore this is a proper sheep; ‘but stripes cannot be inflicted’, for it may be that we ought to take into consideration the seed of the male parent [so that it is only a part sheep], and we do not say that the term ‘sheep’ includes that which is a sheep in part only.

Rab Judah said: A koy is a separate creature[5] but the Rabbis have not decided whether it belongs to the class of wild animals or cattle. R. Nahman said: A koy is a wild ram. Tannaim also differ about it, for it was taught: A koy is a wild ram. Others say: It is the offspring of a he-goat and a hind. R. Jose says. A koy is a separate creature but the Rabbis have not decided whether it belongs to the class of wild animals or cattle. R. Simeon b. Gamaliel says. It is a species of cattle and the house of Dushai used to breed herds and herds of them.

R. Zera said in the name of R. Safra who reported it in the name of R. Hamnuna: Forest goats[6] are fit for the altar.[7] He is of the same view as R. Isaac who said. Scripture has enumerated ten species of animals [that may be eaten], and no more.[8] Now since these [forest goats] are not reckoned among the wild animals mentioned, it follows that they are of the species of goats.[9]

R. Aha b. Jacob demurred, [saying]. Perhaps we should say that ‘the hart and the gazelle [etc.]’[10] are particular terms, and every beast[10] is a general proposition [which includes these particulars]. hence we have an enumeration of particulars followed by a general proposition in which case the scope of the proposition extends beyond the kinds specified. Thus there are many [animals that may be eaten although not enumerated in the Torah]! — If so, what is the purpose of the enumeration of all these particulars?

R. Aha the son of R. Ika demurred, [saying:] Perhaps they [the forest goats] are included within the class Akko.[11] R. Aba the son of Raba said to R. Ashi (others say: R. Aha the son of R. Awia said to R. Ashi). Perhaps they are included within the class Teo[11] or Zemer.[11] R. Hanan said to R. Ashi: Amemar permitted the fat of these [forest goats to be eaten].[12]

Abba the son of R. Minjamin b. Hiyya enquired of R. Huna b. Hiyya. What is the law with regard to [the offering of] these forest goats upon the altar? — He replied. It was only with regard to the wild ox[13] that R. Jose disagreed with the Rabbis, for we have learnt: The ‘wild ox’ is a species of cattle. R. Jose says. It is a species of wild animal. [And their arguments are these:] the Rabbis maintain, since the Targum[14] renders [Teo as] ‘the wild ox’, it is certainly a species of cattle, whereas R. Jose maintains, since it is reckoned together with the other species of wild animals it is a species of wild animal; but these [forest goats], according to all views, belong to the species of goats. R. Aha the son of R. Ika demurred: Perhaps they are included within the class Akko! Rabina said to R. Ashi: Perhaps they are included within the class Teo or Zemer. R. Hanan[15] said to R. Ashi: Amemar permitted the fat of these [to be eaten].

THUS, IF ONE PERSON SLAUGHTERED etc. R. Oshaia said: Our entire Mishnah is not in agreement with R. Simeon.[16] Whence do you gather this? — For it reads: IF BOTH ANIMALS WERE CONSECRATED [AND WERE SLAUGHTERED] OUTSIDE THE SANCTUARY, HE WHO SLAUGHTERED THE FIRST INCURS THE PENALTY OF KARETH, BOTH ANIMALS ARE INVALID, AND EACH INCURS FORTY STRIPES. Now let us consider. We know that according to R. Simeon a slaughtering which does not render [the animal] fit is no slaughtering.[17]

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(1) Since they are all undecided whether or not the seed of the male parent is taken into consideration and their point of dispute is as to the significance of the term ‘sheep’ to include, that which is sheep in part only.

(2) Accordingly the aforementioned Baraitha which teaches that a koy may not be slaughtered on a festival agrees with the view of the Rabbis. For the obligation to cover up the blood of this koy, the offspring of a hart and a she-goat, arises only by reason of the male element in it, and since this is a matter of doubt one may not slaughter it on a festival. It is indeed possible to explain that the koy spoken of in that Baraitha is the offspring of a he-goat and a hind, so that the view expressed therein would agree with that of R. Eliezer, since he is of the opinion that what is only part deer is not subject to the law of covering up the blood. It is preferable, however, to establish the Baraitha in accordance with the view of the majority. And so, too, the koy that is the subject of dispute between R. Eliezer and the Rabbis with regard to the priests’ dues is also the offspring of a hart and a he-goat; the Rabbis holding that this koy is subject to half the dues by virtue of the female element in it, but as to the other half, the priest can make no claim to it, for it may be that we should take into consideration the seed of the male parent in which case the priest is not entitled at all to that half. R. Eliezer, on the other hand, holds that this koy is entirely exempt from dues, for it may be that we ought to take into consideration the seed of the male parent, in which ‘case it is only a sheep in part by virtue of the female element in it, and according to R. Eliezer a part sheep is not included in the term ‘sheep’. Their dispute cannot be explained satisfactorily in any other manner, for if the koy were the offspring of a he-goat and a hind, in that case even the Rabbis would declare it wholly exempt from dues, since it has a ‘sheep’ element in it only on account of the male parent, and it may be that we do not take into consideration the seed of the male.

(3) To slaughter the koy and its dam both on the same day.

(4) If a person however, did slaughter both on one day, he would not suffer stripes for it, for the warning which must precede the wrongful act is in this case dubious, since the act might not have been prohibited at all.

(5) I.e., a distinct species of animal and not a hybrid, the offspring of a deer and a goat, as assumed above.

(6) Rashi: goats of the Lebanon.

(7) For a sacrifice, for they belong to the class of cattle and not wild animals. Only cattle were allowed as offerings upon the altar but not wild animals.

(8) Cf. Deut. XIV. 4, 5: These are the beasts which ye may eat: the ox, the sheep and the goat, the hart and the gazelle and the roebuck, and the wild goat (אקן) and the pygarg and the wild ox (תאו) and the chamois (זמר). These verses enumerate all the cattle and wild beasts that may be eaten.

(9) And are therefore fit for sacrifices.

(10) Ibid. 5, 6.

(11) V. p. 446, n. 4.

(12) For he regarded them as a species of wild animal.

(13) This is the traditional identification of תאו.

(14) V. Aramaic version of Onkelos ibid. 5.

(15) So Bah. Cur. edd.: R. Nahman.

(16) Whose view is soon given.

(17) Lit., ‘its name is not slaughtering’. Any act of slaughtering which does not for any reason whatsoever effect the ritual fitness of the animal to be eaten is not considered in the eye of the law a slaughtering. Any such act would not be a transgression of the prohibition of ‘It and its young’, for Scripture speaks of ‘slaughtering’ in this connection.

Talmud - Mas. Chullin 80b

Accordingly as the first [animal] was merely killed[1] the second is acceptable [as an offering] within, and he [who slaughtered it] should also incur the penalty of Kareth. Moreover, it reads: IF BOTH ANIMALS WERE UNCONSECRATED [AND WERE SLAUGHTERED] INSIDE THE SANCTUARY, BOTH ANIMALS ARE INVALID, AND [HE WHO SLAUGHTERED] THE SECOND INCURS FORTY STRIPES. Let us consider. We know that according to R. Simeon a slaughtering which does not render [the animal] fit is no slaughtering. Accordingly the first [animal] was merely killed; why then should [he who slaughtered] the second have incurred forty stripes? Further, it reads: IF BOTH ANIMALS WERE CONSECRATED [AND WERE SLAUGHTERED] INSIDE THE SANCTUARY, THE FIRST IS VALID AND HE [WHO SLAUGHTERED IT IS] NOT CULPABLE, BUT HE WHO SLAUGHTERED THE SECOND INCURS FORTY STRIPES AND IT IS INVALID. Let us consider. We know that according to R. Simeon, a slaughtering which does not render [the animal] fit is no slaughtering. Now the slaughtering of a consecrated animal is [by itself] a slaughtering which does not render [the animal] fit, for so long as the blood has not been sprinkled the flesh is not permitted to be eaten. Why is it then that [he who slaughtered] the second has incurred forty stripes? and why is it invalid?[2] Indeed you may conclude that it is not in agreement with R. Simeon. Is it not obvious it is so? — It was only necessary [to have said it] on account of the clause dealing with the slaughtering of consecrated animals. For you might have submitted that the slaughtering of a consecrated animal is [by itself] a slaughtering which renders fit, for if one were to stab the animal and sprinkle its blood, the flesh would not thereby be permitted to be eaten, whereas if one were to slaughter it, the flesh would thereby be permitted to be eaten, consequently it is a slaughtering which renders the animal fit. He therefore teaches us [that it is not so].

Should he[3] not have incurred stripes also on account of the prohibition of ‘out of time’?[4] For it was taught: Whence do we know that [the offering of] a bullock or a sheep that has any disqualifying defect is a transgression of the prohibition of ‘It shall not be accepted’? From the verse: Either a bullock or a lamb that hath anything too long or too short . . . it shall not be accepted,[5] implying, that [the offering of] a bullock or a sheep that has a disqualifying defect is a transgression of the prohibition of ‘It shall not be accepted’.[6] — He [the Tanna in our Mishnah] only reckons the prohibition of ‘It and its young’, but not other prohibitions. Surely it is not so! For is not the slaughtering of a consecrated animal outside the Sanctuary another prohibition nevertheless he reckons it? For it says. IF BOTH ANIMALS WERE CONSECRATED [AND WERE SLAUGHTERED] OUTSIDE THE SANCTUARY, [HE WHO SLAUGHTERED] THE FIRST INCURS THE PENALTY OF KARETH, AND EACH INCURS FORTY STRIPES. The second one, I grant you, on account of the prohibition of ‘It and its young’; but why does the first one incur forty stripes if not on account of the prohibition of slaughtering consecrated animals outside the Sanctuary? — Wherever there is no prohibition of ‘It and its young’ he then reckons other prohibitions, but wherever there is a prohibition of ‘It and its young’ he does not reckon other prohibitions. R. Zera answered: Leave alone the prohibition of ‘Out of time’, for Scripture

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(1) Since the slaughtering of a consecrated animal outside the Sanctuary, although involving the penalty of Kareth, is not regarded as a slaughtering but a killing, its young may be slaughtered on the same day; consequently the second consecrated animal was fit for a sacrifice, and he who slaughtered it outside the Sanctuary should indeed have incurred Kareth.

(2) As the slaughtering of the first animal was no slaughtering, the second is not under the disability of מחוסר זמן, ‘too young’, and it is valid for sacrifice, and he who slaughters it most certainly does not incur stripes.

(3) The one who slaughtered the second consecrated animal in the Sanctuary.

(4) Since one animal has been slaughtered the second is ‘out of time’ and unfit for a sacrifice on that day, and he who slaughters as a sacrifice that which is unfit for a sacrifice incurs the penalty of stripes. V. Tem. 6b.

(5) Lev. XXII, 23.

(6) For which the penalty of stripes is incurred.

Talmud - Mas. Chullin 81a

has stated it in the form of a positive command. How is this? For the verse says. From the eighth day and henceforth it may be accepted,[1] that is from the eighth day only, but not before; it is therefore a negative precept derived from a positive command which has only the force of a positive command.[2] But is not this verse required for R. Aptoriki's exposition? For R. Aptoriki pointed out a contradiction between verses. The verse says: It shall be seven days under the dam,[1] accordingly on the night [following the seventh day] it is valid; and then it continues: From the eighth day and henceforth it may be accepted,[1] that is only from the eighth day and henceforth but not on the night [following the seventh day]. How is this [to be reconciled]? On the night [following the seventh day] it is fit for consecration, but on the [eighth] day it is acceptable [as an offering]! — There is another verse to the same effect, viz., Likewise shalt thou do with thine oxen and thy sheep; [seven days it shall be with its dam; on the eighth day thou shalt give it Me].[3]

R. Hamnuna said: R. Simeon used to say that the law of ‘It and its young’ does not apply to consecrated animals. Why? For since R. Simeon has stated that a slaughtering which does not render [the animal] fit is no slaughtering, the slaughtering of consecrated animals is [by itself] a slaughtering which does not render [the animal] fit.[4] Raba raised the following objection: If two persons slaughtered a dam and its young [on the same day], both being consecrated animals, outside the Sanctuary, [he who slaughtered] the second, says R. Simeon, has transgressed a negative command. For R. Simeon used to say: For [slaughtering outside the Sanctuary] any [consecrated] animal which is fit to be brought [as a sacrifice] at a later time, there is a negative command[5] but not the penalty of Kareth. The Sages, however, say: Where there is no penalty of Kareth there is neither [the transgression of] a negative command. Now upon this was raised the following difficulty: [You say,] Where both were consecrated animals and they were slaughtered outside, [he who slaughtered] the second has transgressed a negative command [and nothing more]? But surely, the first animal is merely regarded as 'killed' and the second would therefore be acceptable [as a sacrifice] within; consequently he [who slaughtered it] should also incur the penalty of Kareth![6] Whereupon Raba (others say: Kadi)[7] answered: There is an omission here, and this is how it should read: If both animals were consecrated add [were slaughtered] outside [the Sanctuary]: according to the Rabbis, [he who slaughtered] the first incurs the penalty of Kareth, and the second [animal] is invalid but he [who slaughtered it] is not culpable;[8] and according to R. Simeon, both incur the penalty of Kareth.[9] If both animals were consecrated and [were slaughtered], the first outside and the second inside [the Sanctuary], — according to the Rabbis, [he who slaughtered] the first has incurred the penalty of Kareth, and the second [animal] is invalid and he [who slaughtered it] is not culpable;[10] according to R. Simeon, the second animal is valid.[11] If the first [was slaughtered] inside and the second outside [the Sanctuary]: according to the Rabbis the first animal is valid and he [who slaughtered it] is not culpable, and the second is invalid and he [who slaughtered it] is likewise not culpable;[12] according to R. Simeon, he who slaughtered the second has transgressed a negative command.[13] Now if you are to assume that [according to R. Simeon] the law of 'It and its young' does not apply to consecrated animals, then why [is it stated that] he who slaughtered the second has transgressed a negative command and no more? He should also have incurred the penalty of Kareth! — Rather, said Raba. This is what R. Hamnuna meant to say. The punishment of stripes for the [transgression of the] law of 'It and its young' does not apply to consecrated animals.[14] Why? For in as much as the flesh is not permitted to be eaten so long as the blood has not been sprinkled, [the warning that is given to the slaughterer] while he is slaughtering is a dubious warning, and a dubious warning is no warning.[15]

Raba is consistent in this view of his. For Raba said: If the dam was an unconsecrated animal and the young a peace-offering, and a man slaughtered first the unconsecrated animal and later [on the same day] the peace-offering, he is not culpable.[16] If he first slaughtered the peace-offering and then the unconsecrated animal, he is culpable.[17] Raba also said: If the dam was an Unconsecrated animal and the young a burnt-offering, it goes without saying that if a man first slaughtered the unconsecrated animal and later [on the same day] the burnt-offering, he is not culpable;

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(1) Lev. XXII, 27.

(2) The prohibition of 'out of time', e.g., where the animal is not eight days old or where its dam was slaughtered on this same day, is modified in the Torah by the remedy stated, namely, keep it until it is eight days old, or slaughter it on the following day; hence the usual penalty for the transgression of a prohibition does not apply here (Rashi); v. infra 141a. Tosaf. interprets thus: the Torah has expressly singled out the disqualification of 'out of time' from all the other disqualifications stated in Scripture for which the usual penalty of stripes is in force, and has declared that the transgression of this prohibition is accounted as the none fulfilment of a positive precept.

(3) Ex. XXII, 29

(4) V. supra p. 448.

(5) At present, however, it is 'out of time' or temporarily unfit, e.g., by reason of the slaughtering of the dam this same day. The negative command is indicated in Deut. XII. 8. V. Zeb. 114a.

(6) For according to R. Simeon the slaughtering of the dam in this case, in as much as it does not render the flesh thereof permitted to be eaten, is no slaughtering; consequently the young is fit for sacrifice and he who slaughters it outside the Sanctuary incurs the penalty of Kareth.

(7) Aliter: 'as the case may be'; i.e., introducing respectively other persons.

(8) He has not incurred Kareth since it could not have been offered this day in the Sanctuary.

(9) Since the slaughtering of the first animal was no slaughtering the second was fit to be offered this day in the

Sanctuary, accordingly the penalty of Kareth is incurred even in respect of the second animal.

(10) He is not liable for slaughtering it outside the Sanctuary since it was not fit to be offered within on the same day. It must he observed that the Tanna of this Baraitha does not take into consideration the transgression of the law of ‘It and its young’.

(11) For the slaughtering of the first animal was no slaughtering and the second animal was thus permitted to be slaughtered this day in the Sanctuary.

(12) V. p. 451, n. 4.

(13) Kareth, however, is not incurred, for since the slaughtering of the first was a valid and proper slaughtering the second was not fit to be offered this day within the Sanctuary.

(14) The reason being that the slaughtering of the first animal, having been performed according to all its rites, renders the second animal ‘out of time’, so that the slaughtering of the latter is no slaughtering and the punishment of stripes not incurred thereby (Rashi).

(15) Rashi suggests the deletion from the text of the last passage (from ‘Why’ to ‘warning’) on the ground that the argument is misleading and erroneous. For the reason why stripes are not incurred is not because of the dubious warning but simply because the slaughtering is no slaughtering (v. prec. n.). V. however Tosaf. supra 80b, s.v. שחיטה.

(16) For slaughtering ‘it and its young’, as the warning at the time of the commission of the wrongful act, i.e., when slaughtering the peace-offering, is a dubious warning, for if the blood of this sacrifice will not later be sprinkled upon the altar, the slaughtering is no slaughtering and no wrongful act will have been committed. This statement is obviously only in accordance with R. Simeon's view.

(17) The warning in this case before the slaughtering of the unconsecrated animal is a certain warning, for by the act of slaughtering alone the law is transgressed.

Talmud - Mas. Chullin 81b

but even if he first slaughtered the burnt-offering and later [on the same day] the unconsecrated animal, he also is not culpable, because the first slaughtering was not a slaughtering such as renders the animal fit for food.[1] R. Jacob, however, said in the name of R. Johanan. The consumption [of sacrifices] upon the altar is deemed ‘eating’. Why? Because it is written: And if any of the flesh of the sacrifice of his peace-offerings be at all eaten;[2] the verse speaks of two ‘eatings’, the eating by man and the ‘eating’ by the altar.

MISHNAH. IF A PERSON SLAUGHTERED [AN ANIMAL] AND IT WAS FOUND TO BE TREFAH, OR IF HE SLAUGHTERED [IT AS AN OFFERING] TO IDOLS. OR IF HE SLAUGHTERED THE RED COW,[3] OR AN OX WHICH WAS CONDEMNED TO BE STONED,[4] OR A HEIFER WHOSE NECK WAS TO BE BROKEN,[5] R. SIMEON SAYS. HE DOES NOT THEREBY TRANSGRESS [THE LAW OF ‘IT AND ITS YOUNG’];[6] BUT THE SAGES SAY, HE DOES. IF A PERSON SLAUGHTERED [AN ANIMAL] AND IT BECAME NEBELAH UNDER HIS HAND, OR IF HE STABBED IT,[7] OR TORE AWAY [THE ORGANS OF THE THROAT]. HE DOES NOT THEREBY TRANSGRESS THE LAW OF IT AND ITS YOUNG.[8]

GEMARA. R. Simeon b. Lakish said: They said so[9] only where the person slaughtered the first animal to idols and the second for his table [needs],[10] but if he slaughtered the first animal for his table [needs] and the second to idols he is [certainly] not culpable [on the ground of ‘It and its young’] for he suffers the heavier penalty.[11] Whereupon R. Johanan said to him: Why, even school children know that! But [I say that] sometimes even where he slaughtered the first animal for his table [needs] and the second to idols he is culpable [on the ground of ‘It and its young’], if, for example, he was warned of the prohibition of ‘It and its young but not of idolatry.[12] R. Simeon b. Lakish, however, maintains, since if he had been warned [of idolatry] he would not be culpable [on account of ‘It and its young’],[13] then even if he had not been warned of idolatry he is likewise not culpable [on account of ‘It and its young’].

They[14] are indeed consistent in their views. For when R. Dimi came [from Palestine] he reported as follows:[15] He who committed inadvertently[16] an act which, if he had committed it wilfully, would have been punishable with death or with stripes, and [the act committed is punishable also with] something else,[17] R. Johanan says, he is liable,[18] but R. Simeon b. Lakish says, he is not liable. 'R. Johanan says, he is liable', for he had not been warned [of the major penalty];[19] 'R. Simeon b. Lakish says, he is not liable', for since if he had been warned [of the major penalty] he would not be liable, so, too, if he had not been warned of it he is also not liable. Now both [disputes] are required.[20] For if only this [dispute] were reported I might have said that only here does R. Simeon b. Lakish assert his view,[21] but there I should have said that he is in agreement with R. Johanan. And if the other dispute only were reported I might have said that only there does R. Johanan assert his view, but here I should have said that he is in agreement with R. Simeon b. Lakish. Both disputes therefore had to be reported.

[Do you say that according to R. Simeon the slaughtering of] the Red Cow is a slaughtering which does not render it fit [for food]? Surely it has been taught: R. Simeon says. The Red Cow contracts food uncleanness.[22] since it had a period of fitness [to be used for food].

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(1) For a burnt-offering must be entirely burnt upon the altar, consequently according to R. Simeon the slaughtering of a burnt-offering is no slaughtering for it does not render the flesh permitted to be eaten.

(2) Lev. VII, 18. Lit., the verse reads: And if eaten there shall be eaten of the flesh, etc. The repetition of the word 'eaten' indicates the two modes of consumption of a sacrifice, one by man and the other by the altar. Hence the slaughtering of a burnt-offering is a slaughtering, inasmuch as it renders the flesh fit to be eaten', i.e., burnt, by the altar.

(3) Lit., 'the cow of purification'. V. Num. XIX.

(4) For goring a human being. V. Ex. XXI, 28.

(5) V. Deut. XXI, 4.

(6) The slaughtering in any of the above cases is no slaughtering since the animal is not thereby rendered permitted to be eaten, consequently he does not transgress the law of 'It and its young'.

(7) At the throat.

(8) This is admitted by the Sages for in these cases there was either no slaughtering at all or the slaughtering was defective.

(9) I.e., the statement of the Sages that he who slaughters an animal to idols can thereby transgress the law of It and its young.

(10) In which case he suffers stripes for transgressing the law of It and its young and is also put to death for sacrificing unto idols; for these two penalties are incurred by him by different acts, death for slaughtering the first animal, and stripes for the second.

(11) Since he incurs both penalties by the one act, viz., the slaughtering of the second animal to idols, he would only suffer the heavier penalty, namely, death.

(12) In this case he would not suffer the death penalty since he had not been warned of the prohibition of idolatry; he therefore suffers stripes by virtue of the law of It and its young.

(13) For then he would suffer the major penalty, namely, death.

(14) R. Johanan and R. Simeon b. Lakish.

(15) V. Keth. 34b.

(16) I.e., he had not been warned beforehand of the wrongful act he was about to commit.

(17) E.g., the payment of money.

(18) To make the money payment.

(19) And so there is no death penalty, and therefore he pays.

(20) Both the dispute here which involves the consideration of the death penalty (by virtue of slaughtering to idols) and stripes (by virtue of the law of 'It and its young'), and the dispute in Keth. l.c., where the death penalty or stripes and a money payment are considered.

(21) That stripes are not inflicted. For since there arises out of the act of slaughtering a consideration of the death penalty, the penalty of stripes, being a minor penalty and of the same character as the major penalty in that they are both corporal punishments, is set aside absolutely, even though in the circumstances for want of the requisite warning the death penalty cannot be inflicted. In the other case however where the penalties involved are of two distinct characters, the one being corporal, i.e., death or stripes, and the other a monetary payment, even R. Simeon b. Lakish would agree that if the major penalty of death or stripes did not apply for want of the necessary warning, the minor penalty of payment would apply.

(22) I.e., its flesh will become unclean by contact with a carcass, for it is regarded as a permissible foodstuff. Rashi raises the interesting question. Why is there any consideration here about the flesh of the Red Cow contracting uncleanness? Surely it conveys uncleanness without having first come into contact with a carcass, cf. Num. XIX, 7, 8, 10. He suggests therefore the following circumstances: A morsel of the flesh of the Red Cow was covered over on all sides by less than an egg's bulk of dough, but together the flesh and the dough make up an egg's bulk, which is the minimum quantity for a foodstuff to contract or to convey uncleanness (v. however Tosaf. B.K. 77a, s.v. פרה). If then it is held that the flesh of the Red Cow is deemed a foodstuff, then the entire bulk will be rendered unclean by contact, say, with a carcass, and will convey uncleanness to other foodstuffs. If, on the other hand, it is not deemed a foodstuff this built cannot suffer uncleanness, and whatever foodstuffs come into contact with it will likewise not be rendered unclean, since they did not make any direct contact with the flesh of the Red Cow which is covered up on all sides with dough; v. Ker. 21b. V. however, Tosaf. supra 81b, s.v. פרה.

Talmud - Mas. Chullin 82a

And R. Simeon b. Lakish said: R. Simeon Used to say that the Red Cow may be redeemed[1] even on its woodpile![2] — R. Shamman b. Abba therefore suggested in the name of R. Johanan. ‘The Red Cow’ is not [part] of our Mishnah.

[Do you also say that the slaughtering of] the heifer whose neck was to be broken is a slaughtering which does not render it fit for food? Surely we have learnt: If the murderer was found before the heifer's neck was broken, it is set free to pasture among the herd![3] — R. Simeon b. Lakish therefore said in the name of R. Jannai. ‘The heifer whose neck was to be broken’ is not [part] of our Mishnah. But could R. Jannai have said so? Did not R. Jannai say. ‘I have heard a time limit for it,[4] but have forgotten it; but our colleagues maintain: Its descent to the rugged valley renders it forbidden’?[5] Now if this is so, it can be answered that there[6] it was before it was taken down to the rugged valley and here[7] after it was taken down! — R. Phinehas the son of R. Ammi replied. We report the statement[8] in the name of R. Simeon b. Lakish.[9]

R. Ashi said. When we were at R. Papi's this difficulty was raised. Did R. Simeon b. Lakish really say so?[10] But it has been reported: From what time are a leper's birds forbidden?[11] R. Johanan said: From the moment of the slaughtering.[12] R. Simeon b. Lakish said: From the moment they are taken.[13] And we explained that the reason for the view of R. Simeon b. Lakish was that he derived it by analogy from the word ‘taking’, used here[14] and also in connection with the heifer whose neck was to be broken![15] — Rather [say thus]: R. Hiyya b. Abba said in the name of R. Johanan. ‘The heifer whose neck was to be broken’ is not [part] of our Mishnah.[16]

MISHNAH. IF TWO PERSONS BOUGHT A COW AND ITS YOUNG, HE WHO BOUGHT FIRST SHALL SLAUGHTER FIRST; BUT IF THE SECOND FORESTALLED HIM HE HOLDS HIS ADVANTAGE. GEMARA. R. Joseph said: What we have learnt [in our Mishnah] is with regard to the rights [of each].[17] A Tanna taught: If the second forestalled him he is sharp and gains an advantage; sharp in that he cannot now transgress the law, and gains an advantage in that he eats meat [to-day].[18]

MISHNAH. IF A PERSON SLAUGHTERED A COW AND THEN TWO OF ITS CALVES, HE INCURS EIGHTY STRIPES.[19] IF HE Slaughtered ITS TWO CALVES AND THEN THE COW. HE INCURS FORTY STRIPES.[20] IF HE SLAUGHTERED IT AND THEN ITS CALF AND THEN THE CALF'S OFFSPRING, HE INCURS EIGHTY STRIPES.[21] IF HE SLAUGHTERED IT AND THEN ITS CALF'S OFFSPRING AND THEN THE CALF, HE INCURS FORTY STRIPES.[22] SYMMACHOS, IN THE NAME OF R. MEIR, SAYS, HE INCURS EIGHTY STRIPES.

GEMARA. Why is this so?[23] Does not the Divine Law say. ‘It and its young’, but not ‘its young and it’? — You cannot hold this, for it was taught: [It is written.] ‘It and its young’; from this I only know it and its young, whence would I know that [the slaughtering of] the young and [then] its dam [is also prohibited]? From the fact that the verse says: Ye shall not slaughter,[24] two persons are indicated; thus, if one slaughtered the cow, another its dam, and a third its young, the last two are culpable.

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(1) I.e., even after it had been slaughtered upon the specially erected woodpile and is ready for burning (cf. Num. XIX, 5), it may be redeemed if e.g. a finer animal can be obtained. It would then be permitted to be eaten; hence it is always deemed fit for food, for R. Simeon is of the opinion that whatsoever is capable of being redeemed is counted as if it were redeemed.

(2) V. Tosef. Par. VI. The slaughtering of the Red Cow is therefore deemed a slaughtering which renders it fit for food.

(3) And when slaughtered is permitted to be eaten. V. Sot. 470.

(4) As to what time in its rites does it become forbidden.

(5) V. Deut. XXI, 4. Before its descent, however, it is permitted.

(6) The Mishnah in Sotah 47a where it is permitted to pasture among the herd.

(7) Our Mishnah where it is held that the slaughtering thereof does not render it fit for food.

(8) That ‘the heifer whose neck was to be broken’ does not form part of our Mishnah.

(9) But he did not say it in the name of R. Jannai; hence the difficulty is removed.

(10) That ‘the heifer’ was not to be included in our Mishnah since the slaughtering thereof renders it fit for food.

(11) The birds prescribed for the purification rites of a leper, v. Lev. XIV, 4, one of which was to be slaughtered and the other to be set free. It is established that these birds are forbidden for every use; V. Kid. 56b.

(12) The slaughtered bird then becomes forbidden for all time. The other that is set free also becomes forbidden from that moment until the time that it is set free (cf. Lev. XIV. 7)’ so Tosaf. Kid. 57a, s.v. משעת.

(13) I.e., set aside for the purpose.

(14) Lev. XIV, 4: ולקח.

(15) Deut. XXI, 3. ולקחו. The analogy is, just as the heifer, as soon as it was taken for the purpose, is rendered forbidden for all uses, so it is, too, with the birds of the leper. It is clear therefore that R. Simeon b. Lakish is of the opinion that the slaughtering of the heifer will not render it permitted for food.

(16) It was R. Johanan who made the statement originally and not R. Simeon b. Lakish.

(17) But from the religious point of view it is immaterial who slaughters first or which animal is slaughtered first.

(18) Whereas the other may not slaughter his animal until the next day.

(19) For the prohibition of ‘It and its young’ has been infringed twice, for the slaughtering of each calf is an infringement of the law.

(20) It is only by the slaughtering of the cow that the law is infringed, and that is only one forbidden act.

(21) The prohibition has in this case been infringed twice.

(22) With the slaughtering of the cow and its calf's offspring no law has as yet been infringed, but when the calf itself is slaughtered there is an infringement from two aspects, for it is the young of the cow and also the dam of its offspring. The Rabbis however maintain that for this one act, for which there was but one warning, he incurs the penalty of stripes once only. For the view of Symmachos v. Gemara.

(23) That the law is infringed even where the young was slaughtered first and then the dam.

(24) Lev. XXII, 28. The plural of the verb indicates that two persons are culpable, one for slaughtering the dam and the other for slaughtering the young. Now this is of significance only where three animals were slaughtered and where the young was slaughtered first (V. Rashi). The Torah thereupon rules that both he who slaughtered its dam and he who slaughtered its offspring have transgressed the prohibition.

Talmud - Mas. Chullin 82b

But is not this verse required for its own purpose? — For that, it might have said: ‘Thou shalt not slaughter’; why. ‘Ye shall not slaughter’? But this too is required for its own purpose, is it not? For if the Divine Law said: ‘Thou shalt not slaughter’. I might have thought that only one person [if he slaughtered both, is culpable], but not two.[1] The Divine Law therefore says. Ye shall not slaughter, even two may not slaughter. — If so, the Law might have said: ‘They shall not be slaughtered’;[2] why. Ye shall not slaughter? To teach you two things.[3]

IF HE SLAUGHTERED IT AND THEN ITS CALF'S OFFSPRING etc. Abaye enquired of R. Joseph: What is the reason of Symmachos? [Is it that] he holds that if a man during a spell of forgetfulness ate two olives’ bulk of forbidden fat he is liable to two sin-offerings?[4] And by right this view [of Symmachos] should have been recorded elsewhere,[5] but it is recorded here[6] to show you to what length the Rabbis will go, for the Rabbis exempt him [from an additional penalty] even in a case of separate prohibitions?[7] Or is it that he holds that if a man during a spell of forgetfulness ate two olives’ bulk of forbidden fat he is only liable to one sin-offering, but here[6] the reason is that there are two separate prohibitions?[8] — He replied: Yes. He holds that if a man ate two olives’ bulk of forbidden fat during a spell of forgetfulness he is liable to two sin-offerings. Whence [do you gather this]? — From the following: It was taught: If a person sowed diverse kinds, diverse kinds, he incurs stripes.[9] Now what is meant by ‘he incurs stripes’? Should you say it means, he incurs the penalty of stripes once, but this is obvious; moreover, why does it repeat ‘diverse kinds, diverse kinds’? It must therefore mean, he incurs stripes twice. And what would be the circumstances of the case? Should you say [he sowed diverse kinds twice] one after the other, and there were two warnings, but we have already learnt this elsewhere: If a nazir[10] drinks wine the whole day long, he incurs only one penalty; if he is warned, ‘Do not drink’, ‘Do not drink’, and he drinks, he is liable for each [warning].[11] Clearly, then, [he sowed diverse kinds twice but] simultaneously[12] and there was only one warning.[13] Now who is the author of this statement? Should you say it is the Rabbis who differ with Symmachos, but surely, if in that case [in our Mishnah] where there are separate prohibitions the Rabbis exempt [the wrongdoer from an additional penalty], how much more so in this case. Hence it is, no doubt, Symmachos![14] — No. I maintain it is the Rabbis,[15] but they incidentally teach us something else, that there are two sorts of ‘diverse kinds’. They thus reject the view of R. Josiah, who said: [A man is not guilty] until he sows wheat, barley and grape kernels with one throw of the hand; for they teach us that if a man sowed wheat and grape kernels or barley and grape kernels he is also guilty.[16]

Come and hear: If a person ate an olive's bulk [of the sciatic nerve] of this [thigh] and another olive's bulk of the other [thigh].[17] he has incurred eighty stripes. R. Judah says: He has only incurred forty stripes.[18] Now what are the circumstances of the case? If you say [that he ate them] one after the other and there were two warnings, then what is R. Judah's reason [for saying that he has incurred forty stripes]? Is not the warning [with regard to each] dubious?[19] And we have learnt that according to R. Judah a dubious warning is no warning. For it was taught: If he struck one and then struck the other,[20] or if he cursed one and then cursed the other, or if he struck then, both simultaneously,[21] or if he cursed them both simultaneously, he is liable. R. Judah Says. If simultaneously, he is liable;[22] if one after the other, he is not liable.[23] Obviously then the case is [that he ate them][24] together and there was only one warning. Now whose view is expressed by the first Tanna? Should you say that of the Rabbis who differ with Symmachos, but Surely if there [in our Mishnah] where there are separate prohibitions the Rabbis exempt [the wrongdoer from an additional penalty], how much more so in this case.[25] Hence it is, no doubt, that of Symmachos![26] — No. I maintain [that he ate them] one after the other [and that there were two warnings], and [that the view expressed by the first Tanna is that of] the Rabbis. [The statement however expressed above by] the Tanna [in the name of R. Judah] agrees with the view of another Tanna who declares, also in the name of R. Judah, that a dubious warning is a warning. For it was taught: And he shall let nothing of it remain until the morning; and that which remaineth of it until the morning ye shall burn with fire.[27]

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(1) I.e., if one slaughtered the dam and another its young the law has not been infringed.

(2) לא ישחטו; neither by one person nor two persons.

(3) First that the prohibition applies where the animals were slaughtered by two persons, and secondly that whichever was slaughtered first, with the slaughtering of the second the law is infringed.
(4) Similarly, had be been warned beforehand of the prohibition of forbidden fat, so that he acted deliberately, he would incur the penalty of stripes twice. Accordingly, Symmachos would hold that even in the first clause of our Mishnah where a man slaughtered two calves (a permitted act) and then its dam, he would incur the penalty of stripes twice. And even though a distinction might be drawn between the above cases cited and the last clause of our Mishnah where Symmachos' opinion is actually recorded, viz., in the latter case the one act of slaughtering involves the transgression of two distinct prohibitions, namely 'It and its young'. 'It and its dam', each entailing the penalty of stripes, whereas in the above cases cited the act that is repeated involves the transgression of one prohibition only, namely, the prohibition of forbidden fat or in the first clause of our Mishnah the prohibition of 'It and its dam' — this distinction Symmachos does not regard as vital.
(5) In those cases where there is a transgression of one prohibition only, as in the case of the forbidden fat supra, or in the case of the first clause of our Mishnah.
(6) Sc. in the final clause of the Mishnah.
(7) Lit., 'separate bodies'. I.e., there are two separate animals and in respect of each a distinct prohibition is transgressed.
(8) And therefore here he incurs the penalty of stripes twice.
(9) V. Lev. XIX, 19. Apparently he sowed diverse kinds of seeds on two occasions.
(10) One who has taken a nazirite vow to abstain from wine, to avoid contact with a corpse and to allow the hair to grow long; v. Num. VI.
(11) Naz. 420. We thus see there is a separate liability for the same act, however much repeated, provided there was a warning each time.
(12) I.e., sowing diverse kinds with his right hand and also with his left hand.
(13) Or even successively if there was only one warning (Tosaf.).
(14) We learn from this the view of Symmachos that if a person ate two olives' bulk of forbidden fat in one spell of forgetfulness he is liable to two sin-offerings.
(15) And there were two warnings. Although the case is obvious it was stated for a special purpose.
(16) I.e., that wheat and grape kernels alone constitute 'diverse kinds' and so also barley and grape kernels, contra R. Josiah.
(17) V. infra 92a and 96a. Each olive's bulk of the sciatic nerve was taken from the same animal, but one from the right thigh and the other from the left.
(18) He is of the opinion that the prohibition applies only to one thigh.
(19) For R. Judah is in doubt as to which thigh the prohibition applies; hence the warning with regard to the eating of each of them is dubious, for each one may be the one that is permitted, consequently he should be exempt entirely from stripes.
(20) If a woman did not wait three months after separation from her husband by divorce, immediately married again, and after seven months gave birth to a son, there is always a doubt as to the paternity of the child. It may be a nine-months' child by the first husband or a seven-months' child by the second. This child, when grown up, struck one of his mother's husbands and then struck the other. The warning at the time of striking each one is a doubtful one, for when considering each one individually there is a doubt as to whether he is his father or not; it is nevertheless regarded as a proper warning and the son would be liable to the death penalty for striking or cursing his father (cf. Ex. XXI, 15, 17).
(21) Striking one with his right hand and the other with his left.
(22) Here the warning at the time of striking is a certain warning, for he is certainly striking one who is his father.
(23) For the warning at each striking is a dubious one and R. Judah is of the opinion that such is no warning.
(24) I.e., the sciatic nerve of each thigh. In this case the warning is certain for one is the prohibited nerve.
(25) That he should not be liable to eighty stripes.
(26) Thus establishing the opinion of Symmachos as interpreted by R. Joseph.
(27) Ex. XII, 10. This law refers to the Passover offering.

Talmud - Mas. Chullin 83a

Scripture here came and provided a positive precept as a remedy for[1] the [disregarded] prohibition to indicate that the prohibition is not punishable by stripes: so R. Judah.[2] R. Jacob says. This is not the reason,[3] but because it is a prohibition which involves no action [in the contravention thereof], and any prohibition which involves no action [in the contravention thereof] is not punishable by stripes.[4]

Come and hear: If a person ate two sciatic nerves from the two [right] thighs of two animals, he has incurred eighty stripes. R. Judah says: He has only incurred forty stripes. Now what are the circumstances of the case? If you say [that he ate them] one after the other and that there were two warnings, then what is the reason of R. Judah who says that he has incurred forty stripes and no more? Obviously then [he ate them] together and there was only one warning. Now whose view is expressed by the first Tanna? If you say that of the Rabbis who differ with Symmachos, but surely if there [in our Mishnah] where there are separate prohibitions the Rabbis exempt [the wrongdoer from an additional penalty], how much more so in this case. Hence it is, no doubt, that of Symmachos! — No. I maintain [that he ate them] one after the other; but when you ask, ‘Then what is R. Judah's reason?’[5] [I reply that] in this case one was not as much as an olive's bulk.[6] For it has been taught: If a person ate [the whole of] it but it was not as much as an olive's bulk, he is liable. R. Judah says, [He is not liable] unless it was as much as an olive's bulk.[7]

MISHNAH. AT FOUR PERIODS IN THE YEAR HE WHO SELLS A BEAST TO ANOTHER MUST INFORM HIM, I SOLD TO-DAY ITS DAM TO BE SLAUGHTERED’, OR. ‘I SOLD TO-DAY ITS YOUNG TO BE SLAUGHTERED’,[8] NAMELY, ON THE EVE OF THE LAST DAY[9] OF THE FEAST [OF TABERNACLES], ON THE EVE OF THE FIRST DAY OF PASSOVER, ON THE EVE OF PENTECOST, AND ON THE EVE OF THE NEW YEAR; ACCORDING TO R. JOSE THE GALILEAN, ALSO ON THE EVE OF THE DAY OF ATONEMENT, IN GALILEE.[10] R. JUDAH SAYS, THIS IS SO, ONLY WHEN THERE WAS NO INTERVAL,[11] BUT IF THERE WAS AN INTERVAL. HE NEED NOT INFORM HIM. YET R. JUDAH AGREES THAT IF HE SOLD THE DAM TO THE BRIDEGROOM AND THE YOUNG TO THE BRIDE, HE MUST INFORM THEM OF IT, FOR IT IS CERTAIN THAT THEY WILL EACH SLAUGHTER [THEIR BEAST] ON THE SAME DAY. AT THESE FOUR PERIODS A BUTCHER CAN BE COMPELLED TO SLAUGHTER A BEAST AGAINST HIS WILL; EVEN IF THE OX WAS WORTH A THOUSAND DENARS[12] AND THE PURCHASER HAS ONLY [PAID] A DENAR,[13] THE BUTCHER IS COMPELLED TO SLAUGHTER IT. THEREFORE IF THE ANIMAL DIED, THE LOSS FALLS UPON THE PURCHASER.[14] AT OTHER TIMES OF THE YEAR IT IS NOT SO,[15] THEREFORE IF THE ANIMAL DIED, THE LOSS FALLS UPON THE SELLER.

GEMARA. A Tanna taught: If he did not inform him, he [the Purchaser] may go and slaughter it without any hesitation whatsoever.

R. JUDAH SAYS, THIS IS SO . . . [IF HE SOLD THE DAM TO THE BRIDEGROOM], etc. Why does he particularly state THE DAM TO THE BRIDEGROOM and THE YOUNG TO THE BRIDE? — He incidentally tells us that it is the proper thing for the bridegroom's family to make[16] [greater festivities] than the bride's family.

AT THESE FOUR PERIODS, etc. But he [the purchaser] has not drawn it into his possession?[17] — R. Huna answered: We must assume that he had done so. If so, why [does it say] in the last clause, AT OTHER TIMES OF THE YEAR IT IS NOT SO; THEREFORE IF THE ANIMAL DIED THE LOSS FALLS UPON THE SELLER? But he has already drawn [the animal] into his possession?[18] — R. Samuel son of R. Isaac answered: In fact he had not drawn it into his possession, but here the case was that the seller had transferred [a portion to the purchaser] through a third party. Now at these four periods it is an advantage for him [to have meat],[19] and it is an established rule[20] that one may act to another's advantage in his absence; whereas at other times of the year it is a disadvantage for him[21] and one may not act to another's disadvantage save in his presence. R. Eliezer answered in the name of R. Johanan that at these four periods the Rabbis adopted the Biblical law.

For R. Johanan has said: By Biblical law, [the payment of] money confers title. Why then was it decreed that only meshikah[22] confers title? As a precautionary measure, lest he [the vendor] say to him [the purchaser]. ‘Your wheat was burnt in the loft’.[23]

MISHNAH. THE ‘ONE DAY’[24] MENTIONED IN CONNECTION WITH THE LAW OF ‘IT AND ITS YOUNG’ MEANS THE DAY AND THE NIGHT PRECEDING IT.[25] THIS WAS EXPOUNDED BY R. SIMEON B. ZOMA: THE EXPRESSION ‘ONE DAY’ IS MENTIONED IN CONNECTION WITH THE CREATION[26] AND ALSO IN CONNECTION WITH THE LAW OF ‘IT AND ITS YOUNG’. AS THE ‘ONE DAY’ MENTIONED IN CONNECTION WITH THE CREATION MEANS THE DAY AND THE NIGHT PRECEDING IT, SO TOO THE ‘ONE DAY’ MENTIONED IN CONNECTION WITH THE LAW OF ‘IT AND ITS YOUNG’ MEANS THE DAY AND THE NIGHT PRECEDING IT.

GEMARA. Our Rabbis taught: This was expounded by R. Simeon b. Zoma: Since the whole passage deals only with the laws concerning consecrated animals,[27] and with regard to consecrated matters [a day means] the day and the night following it,[28] I might have thought that here also it is the same, it is therefore written here ‘one day’ and also ‘one day’ in connection with the Creation, as the ‘one day’ mentioned in connection with the Creation means the day and the night preceding it, so, too, the ‘one day’ mentioned in connection with the law of ‘It and its young’ means the day and the night preceding it.

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(1) Lit., ‘after’.

(2) But were it not for the remedial act provided for by Scripture the infringement of this prohibition would entail stripes, even though the warning in this case is a dubious one, for whenever warned the offender could reply. ‘It is still night and I have yet time to eat it’.

(3) Lit., ‘not of the same denomination’. That is not the reason why the transgression of this prohibition is not punishable by stripes.

(4) V. Mak. 4b, 16a, and elsewhere.

(5) That he only incurs forty stripes.

(6) The sciatic nerve of one animal was as much as an olive's bulk but not that of the other. (See Rashi.) According to R. Judah, therefore, he only incurs forty stripes. According to the Rabbis, however, if a man ate the entire sciatic nerve, even though in all it was not as much as an olive's bulk, being a distinct entity, he is liable. The Rabbis therefore hold that in the above case he incurs eighty stripes.

(7) Tosef. Hul. VII; Tosef. Mak. III.

(8) It is presumed that on these special days animals would be slaughtered on the day that they are bought, so as to have meat prepared for the Festival that is on the following day. This information is necessary in order to avoid the slaughtering of the dam and its young on the same day

(9) The last day of the Feast of Tabernacles was regarded as a festival by itself and was observed with special celebrations and feasting. On the eve of the commencement of the Feast of Tabernacles, Israelites are usually preoccupied with the erection of ‘booths’ and would not find time for purchasing and slaughtering animals.

(10) Where it was the custom to indulge in much feasting, including meat dishes, before the Fast.

(11) Of a day between the sale of one animal and the other; i.e., both were sold on the same day.

(12) A coin. V. Glos.

(13) The purchaser had already paid a denar to buy a denar's worth of meat.

(14) Lit., ‘it has died to the purchaser’. He cannot demand the return of his denar or claim meat to that value.

(15) For the mere payment of money does not, according to Rabbinic enactment, effect an irrevocable sale.

(16) Lit., ‘to trouble’. Accordingly the larger animal, the dam, is sold to the bridegroom's family.

(17) Why should the purchaser bear any of the loss since he has not become the legal owner of his portion? V. n. 7.

(18) So that the purchaser has acquired legal ownership of his portion; consequently he must bear any loss.

(19) In honour of the Festival.

(20) Kid. 23a and elsewhere.

(21) To spend money on meat.

(22) משיכה, lit., ‘drawing’ into one's possession, thereby obtaining ownership.

(23) Were the purchaser to be regarded as the owner of the goods upon the payment of the purchase money even though the goods had not left the vendor's possession, the latter would not trouble to save them if they caught fire. The Rabbis therefore decreed that the ownership should not pass until there had been a meshikah by the purchaser, for then the purchaser would usually carry away the goods with him.

(24) Lev. XXII, 28.

(25) If therefore a man slaughtered the dam at night, he may not slaughter its young the whole of the following day. On the other hand, if he slaughtered the dam during the day, he may as soon as the night sets in slaughter the young.

(26) Gen. I, 5; where it reads: And there was evening and there was morning, one day.

(27) For in the preceding verse (Lev. XXII, 27) it reads: And thenceforth it may be accepted for an offering made by fire unto the Lord.

(28) For in connection with the eating of sacrificial meat it is written (ibid. VII, 15). It shall be eaten on the day of his offering; he shall not leave any of it until the morning. Thus it may be eaten the whole of the night following the day.

Talmud - Mas. Chullin 83b

Rabbi says: One day means a special day, on which an announcement [with regard to ‘It and its young’] must be made. Hence [the Rabbis] have said: At four periods of the year he who sells a beast to another must inform him [of the sale of its dam or of its young].

CHAPTER VI

MISHNAH. THE [LAW OF] COVERING UP THE BLOOD[1] IS IN FORCE BOTH WITHIN THE [HOLY] LAND AND OUTSIDE IT, BOTH DURING THE EXISTENCE OF THE TEMPLE AND AFTER IT, IN RESPECT OF UNCONSECRATED [ANIMALS OR BIRDS] BUT NOT CONSECRATED [BIRDS].[2] IT APPLIES [ONLY] TO WILD ANIMALS AND BIRDS, WHETHER THEY ARE AT ONE'S DISPOSAL OR NOT.[3] IT APPLIES ALSO TO A KOY, FOR IT IS AN ANIMAL ABOUT WHICH THERE IS A DOUBT.[4] IT MAY [THEREFORE] NOT BE SLAUGHTERED ON A FESTIVAL; AND IF IT WAS SLAUGHTERED [THEREON] ONE MAY NOT COVER UP ITS BLOOD.[5]

GEMARA. Why does it not apply to consecrated [birds]? Is it because of R. Zera's teaching? For R. Zera said: He who slaughters [a bird or a wild animal] must place dust underneath [the blood] and dust above it, for it is written: He shall pour out the blood thereof, and cover it with dust [be-’afar];[1] it does not say ‘’afar’ but ‘be-’afar’;[6] this is to indicate that he who slaughters must place dust underneath [the blood] and dust above it. And here [in the case of consecrated birds] this is not possible; for how should he do it? If he were to place [dust upon the altar] and decide to leave it there,[7] he is thereby adding to the structure [of the altar], and it is written: All this, (said David, do I give thee) in writing, as the Lord hath made me wise by His hand upon me![8] And if he does not decide to leave it there, then it is an interposition![9] But granted that it is not possible [to place dust] underneath [the blood], surely it is possible [to place dust] above it, why then should he not cover it up? Has it not been taught: R. Jonathan b. Joseph says: If a man slaughtered a wild animal and then he slaughtered cattle, he is exempt from covering up the blood; if he slaughtered cattle and then a wild animal he must cover up the blood?[10] — [The reason is] because of R. Zera's principle. For R. Zera stated: Wherever proper mingling is possible the mingling is not indispensable, but wherever proper mingling is not possible the mingling is indispensable.[11] And why should he not scrape away the blood [from off the altar] and cover it up? Have we not learnt: The blood which spurted out and that which is upon the knife must also be covered up?[12] It is clear therefore that he must scrape it away and cover it up; here too he should scrape it away [from off the altar] and cover it up? — If it was [a bird] consecrated for sacrifice[13] it would indeed be so, but here [in our Mishnah] we are speaking of a bird consecrated for the Temple treasury.[14]

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(1) V. Lev. XVII, 13.

(2) I.e., the sin- or burnt-offerings of birds.

(3) I.e., whether they are wild or domesticated. This is in contradistinction from the law of ‘Letting the mother bird go’ (Deut. XXII, 7). V. infra 138b.

(4) Whether it is a kind of cattle or a kind of wild animal. V. supra p. 436, n. 2.

(5) Because of its doubt one may not desecrate the festival by covering up its blood if it had been slaughtered.

(6) V. supra p. 163, n. 1. Heb. בעפר

(7) Lit., ‘renounce it’, so that it becomes part of the altar.

(8) I Chron. XXVIII, 19.

(9) Interposing between the blood of the bird sacrifice and the altar, and this would disqualify the service.

(10) Although in this case there is no dust beneath the blood of the wild animal, for it lies above the blood of the cattle, it must nevertheless be covered up on top. Likewise the blood of a bird sacrifice upon the altar should have to be covered up on top.

(11) V. Men. 103b. It has been taught that one may not bring a meal offering consisting of sixty-one ‘esronim (plural of ‘issaron, the tenth part of an ephah) in one vessel for it cannot be mingled thoroughly with the prescribed log of oil. Now although it is established that the meal-offering is valid even though the flour and oil had not been mixed, it must, declared R. Zera, be in the condition in which it could be mixed if so desired, but if it cannot be mixed the meal-offering, is invalid. This principle of R. Zera is applied here: the requirement of placing dust underneath the blood can be dispensed with so long as it is possible to do so if desired, but in the case of a consecrated bird, where it is not permissible to place dust upon the altar underneath the blood, this requirement becomes indispensable.

(12) Infra 87b.

(13) Lit., consecrated for the altar’. E.g., a sin-offering of a bird, which may be eaten by priests after the sacrificial rites had been performed with it. In this case the blood of the sacrifice, after it has been drained out on the altar, must be scraped away and covered up.

(14) Lit., ‘for the repair of the House’, i.e., for the general purposes of the Temple. As the slaughtering of this bird does not render it fit to be eaten, for it is forbidden for all purposes, the slaughtering is no slaughtering (v. supra 80a bot., the opinion of R. Simeon), consequently the law of covering up the blood does not apply.

Talmud - Mas. Chullin 84a

And why should he not redeem it[1] and then cover up [its blood]? — Because [in order to redeem a consecrated living thing] it must be stood up and appraised [by the priest].[2] According to whom is this teaching? If according to R. Meir, who said that all[3] [consecrated living things] are subject to the law of standing up whilst being appraised, but he holds, does he not, that a slaughtering which does not render fit [for food] is a proper slaughtering?[4] And if according to R. Simeon, who said that a slaughtering which does not render fit for food is no slaughtering, but he holds, does he not, that not all[5] are subject to the law of standing up whilst being appraised? — R. Joseph answered: The Tanna of our Mishnah is Rabbi who incorporates the views of both these Tannaim: with regard to a slaughtering which does not render fit [for food] he adopts the view of R. Simeon, and with regard to the law of standing up whilst being appraised he adopts the view of R. Meir. Alternatively, you may say, the entire Mishnah is in conformity with the views of R. Simeon, but it is different here, for the verse reads: And he shall pour out . . . and cover it,[6] implying that the law [of ‘covering up’] applies only to that case which requires pouring out and covering up, but not to this case which requires pouring out, redeeming and covering up. And now that you have adopted this argument, you might even say that our Mishnah refers also to birds consecrated for sacrifice,[7] for the law [of ‘covering up’] applies only to those that require pouring out and covering up, but not to those that require pouring out, scraping away [from off the altar] and covering up.

Mar son of R. Ashi said, [The reason[8] is because] Scripture says. Any wild animal or bird,[9] and just as it cannot refer to a consecrated wild animal[10] so it cannot refer to a consecrated bird. But [I might say] just as the law refers to wild animals none of which can be consecrated,[11] so it only refers to those birds which cannot be consecrated, hence I would exclude turtle doves and young pigeons since they can be consecrated![12] — This cannot be, for it is likened to the wild animal, and just as in the case of wild animals you make no distinctions, so in the case of birds you ought not to make any distinctions.[13]

Jacob the Min[14] said to Raba: It is established that the term ‘cattle’ includes wild animals with regard to the characteristics [of cleanness];[15] should I not say then that the term ‘wild animal’ includes cattle with regard to the law of covering up [the blood]? — He replied. To [confute] such as you the verse says: Thou shalt pour it out upon the earth as water,[16] and as water does not require to be covered up, so [the blood of] cattle does not require to be covered up. If so, one should be allowed to immerse [unclean things] in it![17] — Scripture says. Nevertheless a fountain or a cistern, any gathering of water shall be clean;[18] only these [render clean], but any other [liquid] does not. Perhaps this [verse] only excludes other liquids which are not described as water, but blood, since it is described as water, should be allowed [for purposes of immersion]! — There are two limiting qualifications, viz., ‘a fountain’ of water and ‘a cistern’ of water.[19] Perhaps both [these limitations] serve to exclude other liquids, one excluding liquids in a running state and the other liquids when collected! — There are three limiting qualifications, viz., ‘a fountain’ of water, ‘a cistern’ of water, and ‘any gathering of water’.[20]

Our Rabbis taught: [It is written,] who taketh in hunting.[21] I only know from this [that the law applies to] that which is taken in hunting, whence would I know that it also applies to such as are always taken hunting,[22] e.g., geese and fowl? The text therefore adds a hunting; the law thus applies to all cases. Why then does Scripture say. ‘Who taketh in hunting’? The Torah teaches a rule of conduct, that a person should not eat meat except after such preparation as this.[23]

Our Rabbis taught: When the Lord thy God shall enlarge thy border, as He hath promised thee, and thou shalt say: I will eat flesh.[24] The Torah here teaches a rule of conduct, that a person should not eat meat unless he has a special appetite for it. I might think that this means that a person should buy [meat] in the market and eat it, the text therefore states: Then thou shalt kill of thy herd and of thy flock.[25] I might then think that this means that he should kill all his herd and eat and all his flock and eat, the text therefore states: ‘Of thy herd’, and not all thy herd; ‘of thy flock’ and not all thy flock. Hence R. Eleazar b. ‘Azariah said: A man who has a maneh[26] may buy for his stew a litra[27] of vegetables; if he has ten maneh he may buy for his stew a litra of fish; if he has fifty maneh he may buy for his stew a litra of meat; if he has a hundred maneh he may have a pot set on for him every day. And [how often for] the others?[28] From Sabbath eve to Sabbath eve. Said Rab: We must defer to the opinion of the Elder.[29] R. Johanan said: Abba[30] comes from a healthy family, but as for us,[31] whosoever amongst us has a penny in his purse should hasten with it to the shop-keeper. R. Nahman said: As for us,[32] we must even borrow to eat.

The lambs are for thy clothing:[33] of the fleece of your own lambs should be your clothing. ‘And the goats the price of the field’:[33] a person should always sell his field and buy goats rather then sell his goats and buy a field. ‘And there will be goats’ milk enough’:[34] it is enough for a person to sustain himself with the milk of the goats and lambs in his home. ‘For thy food, for the food of thy household’:[34] your own sustenance comes first, before the sustenance of your household. ‘And life for thy maidens’:[34] Mar Zutra the son of R. Nahman said: Discipline your maidens[35] in the way of life;[36] hence the Torah teaches a rule of conduct that a parent should not accustom his son to flesh and wine.

R. Johanan said,

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(1) So that it becomes permitted to be eaten.

(2) V. Lev. XXVII, 11, 12. The living thing when being redeemed must be able to stand up while it is being valued by the priest, but here the bird is already dead.

(3) I.e., animals that have been consecrated for sacrifice but have become unfit by reason of a physical blemish as well as those consecrated for the Temple treasury.
(4) Accordingly the blood must be covered up, even though it is not fit for food by virtue of its not having been redeemed.
(5) But only those consecrated for sacrifice.
(6) Lev. XVII, 13.
(7) So that our Mishnah exempts all consecrated birds from the law of covering up the blood.
(8) Why consecrated birds are exempt from the law of ‘covering up’.
(9) Lev. XVII, 13.
(10) For no wild animal of whatever kind or species is fit for sacrifice.
(11) Lit., ‘none of its species can be consecrated’.
(12) I.e., that the law of covering up the blood should not apply to turtle doves and young pigeons even though they are unconsecrated.
(13) All kinds must be alike; nevertheless it is established that the law refers only to those that are unconsecrated.
(14) V. Glos.
(15) By which we distinguish the cattle and the wild animals that are permitted to be eaten; v. supra 71a.
(16) Deut. XII, 24.
(17) In blood, since it is likened to water.
(18) Lev. XI, 36.
(19) The word ‘water’ is to be taken with each of the preceding nouns, and it is to be regarded as if it were expressly stated after each, thus serving to exclude all liquids, even blood.
(20) Two limitations serve to exclude all liquids whether in a running state or collected in a vessel; the third limitation excludes blood.
(21) Lev. XVII, 13. The verse literally reads: Who taketh in hunting a hunting of wild animal or bird.
(22) I.e., which are domesticated and within one's house.
(23) I.e., after toilsome preparation, and only as a rare luxury, for otherwise one would soon be reduced to poverty.
(24) Deut. XII, 20.
(25) Ibid. 21.
(26) A coin equal to one hundred zuz. V. Glos.
(27) A measure of capacity; v. Glos.
(28) I.e., the above mentioned persons of lesser means.
(29) Sc. R. Eleazar b. ‘Azariah. He is termed ‘the Elder’ because on his appointment as head of the Academy he suddenly turned grey-haired, cf. Ber. 282.
(30) Sc. Rab.
(31) Who are not so healthy and strong as those of former generations.
(32) Our generation which is still weaker than that of R. Johanan.
(33) Prov. XXVII, 26.
(34) Ibid. 27.
(35) I.e., the household.
(36) In thrift and moderation, so that they be content with the simple needs of life.

Talmud - Mas. Chullin 84b

Whoso wishes to become rich should engage in [the breeding of] small cattle.[1] R. Hisda said: Why the expression. The young [‘ashteroth] of thy flock?[2] Because they enrich [me'asheroth] their owners.

R. Johanan also said: Rather [drink] a cupful of witchcraft than a cupful of lukewarm water; that is so only if it is in a metal vessel, but in an earthenware vessel it does no harm. Moreover, even in a metal vessel we say [it is harmful] only if no spice roots were thrown into it, but if some spice roots were thrown into it it does no harm. Moreover, even if no spice roots were thrown into it we say [it is harmful] only if the water had not been boiled, but once it had boiled it can do no harm. R. Johanan also said: If a person is left a fortune[3] by his parents and wishes to dissipate it, let him wear linen garments, use glassware, and engage workmen and not be with them. ‘Let him wear linen garments, especially of Roman linen;[4] ‘use glassware’, especially white glass;[5] ‘and engage workmen and not be with them’, [especially to work with] oxen, which can cause much damage.[6]

R. ‘Awira used to give the following exposition (sometimes quoting it in the name of R. Ammi and sometimes in the name of R. Assi): What is the meaning of the verse: Well is it with the man that dealeth graciously, that ordereth his affairs rightfully?[7] A man should always eat and drink less than his means allow, clothe himself in accordance with means, and honour his wife and children more than his means allow, for they are dependent upon him and he is dependent upon ‘Him who spake and the world came into being’.

R. ‘Ena lectured at the entrance of the Exilarch's house, viz., If a person slaughtered [a bird] on the Sabbath for an invalid, he must cover up its blood.[8] Whereupon Rabbah said: He is talking nonsense; remove from him his Amora.[9] For it has been taught: R. Jose says. A koy may not be slaughtered on a festival, and if it was slaughtered its blood may not be covered up, by reason of the following a fortiori argument: If circumcision which in a case of certainty overrides the Sabbath[10] yet in a case of doubt does not even override the festival,[11] the covering up of the blood which even in a case of certainty does not override the Sabbath will surely not override the festival in a case of doubt![12] They said to him: But the sounding of the Shofar in the provinces could prove otherwise,[13] for even though in a case of certainty it does not override the Sabbath yet it does override the festival in a case of doubt.[14] R. Eleazar ha-Kappar Beribbi[15] raised this objection against the argument [of R. Jose]: You may say so of circumcision since it is not allowed on the night of a festival;[16] will you then say the same of the covering up of the blood which is allowed on the night of a festival? (R. Abba said: This is one of the instances about which R. Hiyya had said: ‘I have no objection to raise against it’, but R. Eleazar ha-Kappar Beribbi did find an objection.) Now it actually was stated above, ‘The covering up of the blood which even in a case of certainty does not override the Sabbath’. To what does the ruling that the covering up of the blood even In a case of certainty does not override the Sabbath refer? No doubt, to the case where one slaughtered on the Sabbath for an invalid![17] But perhaps [it refers to the case] where one transgressed and slaughtered![18] — It must be under similar conditions as circumcision: as circumcision does not involve the transgression of a precept[19] so the case of the covering up of the blood must not have involved the transgression of a precept.[20]

‘They said to him: But the sounding of the Shofar in the provinces could prove otherwise, for even though in a case of certainty it does not override the Sabbath yet it does override the festival in a case of doubt’. What is this case of doubt? Is it the doubt whether the day is a Holy day or a weekday? But surely, if it [the sounding of the Shofar] overrides a certain Holy day, is there any question about a doubtful Holy day?[21]

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(1) V. Tosaf. s.v. הרוצה.

(2) Deut. VII, 13. There is here a play upon the words: עשתרות and מעשרות R. Hisda's interpretation of this expression suggests the reason for this opinion of R. Johanan.

(3) MS.M. adds: Gotten by usury.

(4) Which are very expensive (Rashi); or, which are of inferior quality (R. Gershom).

(5) Which is both expensive and fragile.

(6) Both to the oxen and the crops.

(7) Ps. CXII, 5.

(8) For since it is permitted to slaughter on the Sabbath for a person who is dangerously ill, it is suggested that everything in connection with the slaughtering is permitted, even the covering up of the blood.

(9) Aliter: ‘let his tongue be pulled out. That he shall no more lecture. אשתומא ‘confusion’, ‘an amazing statement’; cf. Dan. IV, 16. For Amora v. Glos. Another reading, quoted by Rashi and R. Gershom and supported by MS.M., is:

אי דשמא קאמר. ‘If he says so in his own name remove etc.’.

(10) If the eighth day is a Sabbath, the child is circumcised on the Sabbath, for the rite of circumcision overrides the laws of Sabbath. V. Shab. XIX, 5.

(11) If a child was born at twilight there is a doubt as to the correct day for circumcision, and the child is circumcised on the ninth day; should this day happen to be a festival the circumcision is postponed to the tenth day. V. Shab. ibid.

(12) Sc., a koy.

(13) It is established law that if Rosh Hashanah happened to fall on Sabbath the Shofar was blown in the Temple (or, in Jerusalem — Maim.) but not in any other place in the land of Israel. V. R.H. 29b.

(14) For although only males and not females are bound to sound the Shofar it is nevertheless held that a tumtum, i.e., a person of doubtful sex, must sound the Shofar; thus it is seen that a case of doubt overrides the festival restriction.

(15) V. supra p. 52, n. 4.

(16) For the rite of circumcision may not be performed at night, cf. Lev. XII, 3.

(17) Where the Sabbath had already been set aside for the slaughtering which was permitted for the sake of the invalid, nevertheless it is not set aside for covering up the blood. Thus R. ‘Ena stands refuted.

(18) I.e., where the slaughtering was performed on the Sabbath for the sake of a healthy person. In that case only is it forbidden to cover up the blood, but where the slaughtering was permitted it would also be permitted to cover up the blood.

(19) Lit., ‘(is an act) of free choice’.

(20) I.e., the slaughtering was a permissible act, for it was done for an invalid.

(21) Accordingly this is no case of doubt at all, for whether the day be a Holy Day or a weekday one may sound the Shofar thereon. V. Jer. Bez. I, 3.

Talmud - Mas. Chullin 85a

Rather the case of doubt is whether the person [that is sounding the Shofar] is a man or a woman.[1] R. Jose however [does not regard this as a refutation for he] is of the opinion that even a woman[2] may sound [the Shofar on the Festival]. For it was taught: The sons of Israel lay on [their hands upon the head of the sacrifice][3] but the daughters of Israel do not lay on their hands. R. Jose and R. Simeon say. Daughters of Israel lay on their hands of free choice.[4] Rabina said: Even the argument of the Rabbis can be refuted thus: You may say so of the sounding of the Shofar,[5] since in the Temple in a case of certainty it overrides the Sabbath,’[6] will you say likewise of the covering up of the blood which in no Circumstances [overrides the Sabbath]?

‘R. Eleazar ha-Kappar Beribbi raised this objection against the argument [of R. Jose]. You may say so of circumcision since it is not allowed on the night of a festival.’ Is it only on the night of a festival that it is not allowed but on other nights it is allowed?[7] — Render thus: You may say so of circumcision since it is not allowed by night as by day;[8] will you say likewise of the covering up of the blood which is allowed by night as by day? R. Abba said: This is one of the instances about which R. Hiyya had said: ‘I have no objection to raise against it’, but R. Eleazar ha-Kappar Beribbi did find an objection.

MISHNAH. IF A PERSON SLAUGHTERED [A WILD ANIMAL OR A BIRD] AND IT WAS FOUND TO BE TREFAH. OR IF HE SLAUGHTERED IT UNTO IDOLS, OR IF HE SLAUGHTERED THAT WHICH WAS UNCONSECRATED INSIDE THE SANCTUARY OR THAT WHICH WAS CONSECRATED OUTSIDE, OR IF HE SLAUGHTERED A WILD ANIMAL OR A BIRD THAT WAS CONDEMNED TO BE STONED[9] — R. MEIR SAYS THAT HE IS BOUND [TO COVER UP THE BLOOD]. BUT THE SAGES SAY THAT HE IS EXEMPT.[10] IF HE SLAUGHTERED [A WILD ANIMAL OR A BIRD] AND IT BECAME NEBELAH UNDER HIS HAND OR IF HE STABBED[8] T[11] OR TORE AWAY [THE ORGANS OF ITS THROAT], HE IS EXEMPT FROM COVERING UP [THE BLOOD].

GEMARA. R. Hiyya b. Abba said in the name of R. Johanan. Rabbi approved of R. Meir's view[12] in connection with the law of ‘It and its young’ and stated it in the Mishnah[13] as the view of ‘the Sages’, and he approved of R. Simeon's view in connection with the law of covering up the blood and stated it in our Mishnah as the view of ‘the Sages’. What is the reason for R. Meir's view with regard to the law of ‘It and its young’? — R. Joshua b. Levi answered: He derives it by an inference made from the term ‘slaughtering’, used both here[14] and in connection with the slaughtering of consecrated animals outside [the Sanctuary];[14] as in the latter case a slaughtering which does not render [the animal] fit for food[15] is deemed a slaughtering, so here [in connection with It and its young] a slaughtering which does not render [the animal] fit for food is deemed a slaughtering. And what is the reason for R. Simeon's view? — R. Mani b. Pattish answered: He derives it by analogy from the verse: And slay the beasts and prepare the meat,;[16] as there the slaughtering rendered [the animals] fit for food,[17] so here the slaughtering must render [the animal] fit for food. Why does not R. Meir infer it by analogy from ‘And slay the beasts’? — One may infer ‘slaughtering’ from ‘slaughtering’, but one may not infer ‘slaughtering’ from ‘slaying’. But what does this [variation] matter? Was it not taught in the school of R. Ishmael that in the verse: And the priest shall come again.[18] And the priest shall come in,[18] the expression ‘coming again’ and ‘coming in’ have the same import [for purposes of deduction]?[19] — This [variation] is [of no consequence] only where there is no alternative analogy based on identical expressions, but where there is an alternative analogy based on identical expressions we must then make the inference from the identical expressions. And why does not R. Simeon infer it by analogy from the law of consecrated animals slaughtered outside the Sanctuary? — One may infer by analogy unconsecrated animals from unconsecrated animals, but not unconsecrated from consecrated. And [is this not an objection against] R. Meir? — [No, for] does not the law of ‘It and its young’ apply also to consecrated animals? It was on account of this [reply] that R. Hiyya [b. Abba] said that Rabbi approved of R. Meir's view in connection with the law of ‘It and its young’ and stated it in the Mishnah as the view of ‘the Sages’. What is the reason for R. Meir's view with regard to the law of covering up the blood? — R. Simeon b. Lakish answered: He derives it by an inference made from the term ‘pour out’[20] used both here and in connection with consecrated animals slaughtered outside the Sanctuary; as in the latter case a slaughtering which does not render [the animal] fit for food is deemed a slaughtering, so here [in connection with covering up the blood] a slaughtering which does not render fit for food is deemed a slaughtering. And [is not this against] R. Simeon? — [No, for] it is written: That may be eaten.[21] And R. Meir?[22] — It serves to exclude unclean birds [from the law of covering up the blood]. And R. Simeon?[22] — Why is it that an unclean bird is excluded? Because it may not be eaten; then a trefah too may not be eaten.[23] It was on account of this [reply] that R. Hiyya [b. Abba] said that Rabbi approved of R. Simeon's view in connection with the law of covering up the blood and stated it in our Mishnah as the view of ‘the Sages’.

R. Abba said,

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(1) l.e., a tumtum; he may nevertheless sound the Shofar on the Festival. V. supra p. 474, n. 3.

(2) To whom the precept of sounding the Shofar does not apply at all.

(3) V. Lev. I, 2, 4.

(4) V. Hag. 16b. They may do so if they so desire, and it would not be deemed as ‘doing work’ with a consecrated beast. Likewise a woman may sound the Shofar on the New Year even though she is not obliged to do so.

(5) That a person of doubtful sex may sound the Shofar on the Festival thus overriding the restrictions of the Festival.

(6) V. supra p. 47, n. 2.

(7) It is written (Lev. XII, 3), ‘And in the eighth day’, that is, during the day but not at night.

(8) As the rite may not be performed at all times it is reasonable that a case of doubt shall not override a festival.

(9) Either because it had killed a human being or because an unnatural crime had been committed upon it; cf. Lev. XX. 15. 16.

(10) In each of these cases the slaughtering does not render the animal or bird fit and permitted to be eaten, hence it is no slaughtering (adopting R. Simeon's view), and the law of covering up the blood does not apply.

(11) At the throat.

(12) That a slaughtering which does not render fit for food is deemed a slaughtering.
(13) V. Mishnah supra 81b.
(14) V. Lev. XXII, 28: Ye shall not slaughter it and its young, and XVII, 3: That slaughtereth in the camp.
(15) For a consecrated beast slaughtered outside the Sanctuary may not be eaten.
(16) Gen. XLIII, 16.
(17) For the meat was eaten by Joseph and his brethren.
(18) Lev. XIV, 39 and 44. The reference is to the treatment of leprosy in a house.
(19) For the deductions inferred from these expressions v. Sifra on these verses and Rashi ‘Erub. 51a s.v. ושב.
(20) V. Lev. XVII, 13: He shall pour out the blood thereof and cover it with dust; and also v. 4: He hath poured out blood, with reference to a consecrated animal slaughtered outside the Sanctuary.
(21) Ibid. v. 13. This implies that the law of covering up the blood applies only to those that may be eaten.
(22) How does he explain away the foregoing argument?
(23) And so it should be exempt from covering up the blood, a ruling which contradicts R. Meir.

Talmud - Mas. Chullin 85b

Not for all things did R. Meir say that a slaughtering which does not render [the animal] fit for food is deemed a slaughtering. Indeed R. Meir would agree that such a slaughtering does not render [the animal] permitted to be eaten. Similarly, not for all things did R. Simeon say that a slaughtering which does not render [the animal] fit for food is no slaughtering. Indeed R. Simeon would agree that such a slaughtering renders [the animal] clean so that it be not nebelah.

The Master stated: ‘Not for all things did R. Meir say that a slaughtering which does not render [the animal] fit for food is deemed a slaughtering. Indeed R. Meir would agree that such a slaughtering does not render [the animal] permitted to be eaten’. Is not this obvious? Would a trefah [animal] be permitted [to be eaten] by its slaughtering? — It was only necessary to be stated concerning the case where one slaughtered a trefah animal and found in its womb a living nine months’ foetus. Now I might have argued, since R. Meir maintains that a slaughtering which does not render [the animal] fit for food is deemed a slaughtering, that the slaughtering of its dam should serve for it too, and it should not require slaughtering; he therefore teaches us [that it is not so]. How could you have thought so? Does not R. Meir hold that a living animal extracted [out of its slaughtered dam's womb] requires slaughtering?[1] — This[2] was necessary to be stated since Rabbi agrees with R. Meir [in one matter] and with the Rabbis [in another]. He agrees with R. Meir that a slaughtering which does not render [the animal] fit for food is deemed a slaughtering. And he agrees with the Rabbis that the slaughtering of its dam renders it[3] permitted. Now since the Rabbis hold that the slaughtering of its dam renders it permitted, then [in this case, too, where the dam was a trefah I would say that] the slaughtering of the dam should serve for it too and it should not require slaughtering; he therefore teaches us [that it is not so].

‘Not for all things did R. Simeon say that a slaughtering which does not render [the animal] fit for food is no slaughtering. Indeed R. Simeon would agree that such a slaughtering renders the animal clean so that it be not nebelah’. Is not this obvious? For Rab Judah reported in the name of Rab, (others say. It was so taught in a Baraitha.) It is written: And if there dieth of the beasts, [he that toucheth the carcass thereof shall be unclean],[4] that is to say, some beasts convey uncleanness and some do not; and which are they [that do not convey uncleanness]? They are trefah animals which have been slaughtered![5] — It was only necessary to be stated concerning the case where one slaughtered an unconsecrated animal which was a trefah in the Temple Court. For it was taught: If one slaughtered a trefah animal, or if one slaughtered an animal and it was found to be trefah, both being unconsecrated, in the Temple Court, R. Simeon permits to derive benefit therefrom,[6] but the Sages forbid it.[7] Now I might have argued, since R. Simeon holds that one is permitted to derive benefit therefrom, that there was no slaughtering at all, consequently it is not even rendered clean that it be not nebelah; he therefore teaches us [that it is not so].

R. Papa said to Abaye. Is R. Simeon of the opinion that unconsecrated [animals slaughtered] in the Temple Court are [forbidden] Biblically?[8] — He replied: Yes, he is. For we have learnt:[9] R. Simeon says: Unconsecrated [animals which were slaughtered] in the Temple Court must be burned by fire; so, too, a wild animal that was slaughtered in the Temple Court.[10] Now, if you say that they are forbidden Biblically, we therefore forbid wild animals on account of cattle;[11] but if you say that they are forbidden Rabbinically, it is indeed difficult. For was not the reason for [the Rabbis forbidding cattle] that one might not fall into the error of eating consecrated food outside the Sanctuary? This in itself is a precautionary measure; shall we come and superimpose a precautionary measure upon a precautionary measure?[12] The flax of R. Hiyya was infested with worms, and he came to Rabbi [for advice]. Rabbi said to him, ‘Take a bird and slaughter it over the tub of water,[13] so that the worms will smell the blood and depart’. But how was he permitted to do so?[14] Surely it has been taught: If a man slaughtered, even though he requires the blood for use, he must nevertheless cover it up. What then should he do [so that he may use the blood]? He should either stab it or tear away the organs![15] — When R. Dimi came [from Palestine] he reported that he [Rabbi] said to him [R. Hiyya], ‘Go and make it trefah [and then slaughter it]’. When Rabin came [from Palestine] he reported that he said to him, ‘Go and stab it [at the throat]’. Why does not he who says that he told him ‘Go and make it trefah’, accept the other view that he told him ‘Go and stab it’? If you say because he [Rabbi] is of the opinion that by Biblical law a bird does not require to be slaughtered, and therefore stabbing is all the slaughtering that is required,[16] but [this cannot be, for] it has been taught: Rabbi says. The verse: And thou shalt slaughter . . . as I have commanded thee,[17] teaches us that Moses was instructed concerning the gullet and the windpipe, that the greater part of one of these organs in the case of birds and of both organs in the case of cattle [is required]? —

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(1) And if this is so where its dam was permitted to be eaten by the slaughtering, a fortiori where the dam was a trefah.

(2) Sc. the dictum of R. Abba.

(3) Sc. the animal which had been extracted alive out of the slaughtered dam's womb.

(4) Lev. XI, 39.

(5) V. supra 74a.

(6) Since the animal is trefah and the slaughtering thereof does not render it permitted to be eaten there was no ‘slaughtering’ in the Temple Court; hence one may derive a benefit from the carcass.

(7) Kid. 582.

(8) This appears to be R. Simeon's view from the foregoing argument. For if he were to hold that an unconsecrated animal slaughtered in the Sanctuary may be eaten according to Biblical law, but was forbidden by Rabbinic enactment because of the apprehension that people, seeing one eat the flesh of such an animal outside the Sanctuary, might be misled in believing that one may eat consecrated meat outside the Sanctuary — then there is no valid reason to differentiate (v. supra) between the slaughtering that renders the animal fit for food and the one that does not (i.e., the slaughtering of a trefah animal), since even in the latter case there is the apprehension that people will believe that one may derive benefit from a consecrated beast that was unfit (i.e., blemished or trefah).

(9) Tem. 33b.

(10) Although it is clear to all that the wild animal slaughtered in the Sanctuary is unconsecrated for there can be no consecrated wild animals.

(11) A statement made in anticipation of the alternative view which follows, for strictly both kinds are forbidden by the same Biblical text.

(12) To forbid wild animals on account of cattle. Surely not. One must therefore conclude that the prohibition is Biblical.

(13) Wherein the flax was soaking.

(14) To slaughter a bird and not cover up its blood.

(15) v. supra 27b.

(16) Consequently the law of ‘covering up’ applies to stabbing.

(17) Deut. XII, 21.

Talmud - Mas. Chullin 86a

This is a case of ‘it goes without saying’. It goes without saying that [the advice]. ‘Go and stab it’ [is good] for in that case there is no slaughtering at all.[1] But against [the advice]. ‘Go and make it trefah’, one might argue and say that a slaughtering which does not render fit for food is nevertheless deemed a slaughtering, consequently its blood must be covered up; he therefore teaches us as R. Hiyya b. Abba [reported above].[2]

And why does not he who says that Rabbi told him, ‘Go and stab it’, accept the other view that he told him, ‘Go and make it trefah’? Should you say because he [Rabbi] is of the opinion that a slaughtering which does not render fit for food is deemed a slaughtering. [this cannot be, for] R. Hiyya b. Abba reported in the name of R. Johanan that Rabbi approved of R. Simeon's view in connection with the law of covering up the blood and therefore stated it in our Mishnah as the view of ‘the Sages’![3] — This is a case of ‘it goes without saying’. Thus, it goes without saying [that the advice] ‘Go and make it trefah’ [is good], for a slaughtering which does not render the animal fit for food is no slaughtering. But against [the advice] ‘Go and stab it’ one might argue and say that by Biblical law a bird does not require to be slaughtered, and stabbing is all the slaughtering that is required, consequently the blood must be covered up; he therefore teaches us [that this cannot be so because of the verse] ‘As I have commanded thee’.[4]

How came it that his flax was infested with worms? Did not Rabin b. Abba (others say. R. Abin b. Shabba) declare that from the time that the people of the Exile[5] came up [to Palestine][6] there ceased to be [in Palestine] shooting stars, earthquakes, storms and thunders, their wines never turned sour and their flax was never blighted; and the Rabbis set their eyes upon R. Hiyya and his sons?[7] — Their merits benefitted the whole world but not themselves. Even as Rab Judah said in the name of Rab: Every day a Heavenly Voice goes forth and proclaims, ‘The whole world is provided with food only on account of my son Hanina,[8] while my son Hanina is satisfied with one kab[9] of carob fruit from one Sabbath eve to the other’.

MISHNAH. IF A DEAF-MUTE, AN IMBECILE OR A MINOR SLAUGHTERED WHILE OTHERS WATCHED THEM, ONE[10] MUST COVER UP THE BLOOD; BUT IF THEY WERE ALONE. ONE NEED NOT COVER IT UP.[11] SIMILARLY WITH THE LAW OF ‘IT AND ITS YOUNG’: IF THESE SLAUGHTERED WHILE OTHERS WATCHED THEM, IT IS FORBIDDEN TO SLAUGHTER AFTER THEM [THE YOUNG];[12] BUT IF THEY WERE ALONE. R. MEIR PERMITS TO SLAUGHTER AFTER THEM [THE YOUNG]. BUT THE RABBIS FORBID IT; THEY AGREE, HOWEVER. THAT IF A PERSON DID SLAUGHTER [AFTER THEM], HE HAS NOT INCURRED FORTY STRIPES.[13]

GEMARA. As to the Rabbis why is it that in the first clause they do not dissent and in the second clause they do?[14] — Because in the first clause, if they were to say that the blood must be covered up, people might think that the slaughtering was a valid one and would even eat of what they slaughtered. Then in the second clause too, since the Rabbis say that it is forbidden to slaughter [the young] after them, people might think that the slaughtering was a valid one and would even eat of what they slaughtered! — In the second clause people would say that he does not need any meat.[15] Then in the first clause, too, people might say [that he is covering up the blood] only to keep his yard clean? — Could this be said if he slaughtered on a dunghill? or could this be said if he came to ask for a ruling?[16] — But according to your own argument, even in the case of the second clause, what would you say if he came to ask for a ruling?[17] Rather we must say that the Rabbis differ with the whole teaching [of the Mishnah], but they merely waited until R. Meir had completely stated his case and then they expressed their dissent.

Now as to the view of the Rabbis, it is clear that they apply [in a case of doubt] the stricter rule; but what is the reason for R. Meir's ruling? — R. Jacob stated in the name of R. Johanan that, according to R. Meir, one would be culpable for [eating] nebelah [if one were to eat] of their slaughtering.[18] Why is it?R. Ammi answered: Because in the majority of cases what they do is bungled. R. Papa said to R. Huna the son of R. Joshua (others say: R. Huna the son of R. Joshua said to R. Papa). Why in the majority of cases? The same would be the result if [this were so] only in a minority of cases, for since R. Meir takes into account the minority, by adding the minority to the presumption[19] the majority is shaken? For we have learnt: If a child was found by the side of dough with a piece of dough in his hand, R. Meir declares it clean but the Rabbis declare it unclean, because it is a child's nature to meddle.[20] And we asked. What is R. Meir's reason? [And the answer was given,] He is of the opinion that most children meddle but a minority do not; now this dough is presumed to be clean,[21]

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(1) And its blood most certainly does not require to be covered up.

(2) That Rabbi is of the opinion that a slaughtering which does not render the animal fit for food is no slaughtering.

(3) V. supra 85a.

(4) From which Rabbi derived the rule that birds require to be slaughtered; hence he holds that the obligation is Biblical.

(5) Babylon.

(6) The reference is not to the return under Ezra as is clear from the context.

(7) I.e., the cessation of these plagues was due to the merit of R. Hiyya and his sons; v. Suk. 20a. How then could it have happened to R. Hiyya himself that his flax was infested with worms?

(8) I.e., R. Hanina b. Dosa renowned for his piety and austere living, v. Ta'an. 24b and 25a.

(9) A measure of capacity, v. Glos.

(10) I.e., any one of those who watched them slaughter.

(11) For the slaughtering by these unfit persons is no slaughtering and therefore the blood need not be covered up.

(12) On the same day; or the dam if the young was slaughtered first.

(13) Since there is a doubt whether the slaughtering by the deaf-mute etc. was a slaughtering or not.

(14) According to the Rabbis one ought to cover up the blood, even though these unfit persons were alone when they slaughtered, because of the doubt as to their slaughtering, just as they rule in the final clause.

(15) And that is why he abstains from slaughtering but not because he is forbidden so to do.

(16) For if Beth din were to rule that he must cover up the blood then clearly he would believe that the slaughtering of the deaf-mute etc. was valid.

(17) Here too, if forbidden by Beth din to slaughter the young after them, he will certainly regard the slaughtering of the first animal valid.

(18) And one would suffer stripes on account of it, because it is not a matter of doubt but a certainty that their slaughtering is bad so that the animal is nebelah.

(19) V. supra 9a: a living animal is presumed to be forbidden until it is definitely ascertained that it has been validly slaughtered. Here, therefore, even if it were held that the majority of children do not bungle what they undertake to do, there is however a minority of some who do, and this, coupled with the presumed prohibition of the animal, would carry more weight than the majority, and their slaughtering would be invalid. The question therefore is: why was it necessary to hold that the majority of children bungle what they do?

(20) Toh. III, 8; Nid. 18b; Kid. 80a. According to Rashi the interpretation is this: it is quite certain that this child has touched the dough, for he holds some in his hand, and since it is the habit of most children to meddle and play about among refuse and unclean things, this child in all probability was unclean and so rendered the rest of the dough unclean. Tosaf. interpret thus: it is quite certain that this child was unclean for he is always being fondled by women and by menstruant women too, and since it is the habit of most children to meddle with dough, this child in all probability touched the dough and so rendered it unclean. The less probable view, by taking the minority into consideration, would be to say that this child did not himself touch the dough but a piece was given to him by some person.

(21) As long as we do not know for certain that it has been rendered unclean.

Talmud - Mas. Chullin 86b

therefore by adding the minority to the presumption the majority is shaken! — If they said in a case of doubt concerning uncleanness that it is clean,[1] will they also say in a case of doubt concerning a prohibition that it is permitted?[2]

Rabbi decided a case according to the view of R. Meir, and Rabbi also decided a case according to the view of the Rabbis. Now which was the later decision?[3] — Come and hear [it from the following incident]. R. Abba the son of R. Hiyya b. Abba and R. Zera were standing in the open square in Caesarea at the entrance of the Beth-Hamidrash. R. Ammi came out and found them standing there and said,'Have I not told you that during sessions at the House of Study you shall not stand outside? There may be someone within who is in difficulty about a matter and there might be a disturbance'.[4] Thereupon R. Zera went in [to the House of Study] but R. Abba did not. Now inside they were sitting and considering the question. Which was the later decision? R. Zera said to them, '[What a pity] you did not let me ask that old man[5] about this. He might have heard something about this from his father [R. Hiyya b. Abba] and his father from R. Johanan, for R. Hiyya b. Abba used to revise his study in the presence of R. Johanan every thirty days'. What has been decided about the matter? — Come and hear it from the message which R. Eleazar had sent to the Exile,[6] 'Rabbi decided in accordance with R. Meir'. Now had he not decided according to the Rabbis too? It must be, therefore, that this[7] was the later decision. This proves it.

MISHNAH. IF A PERSON SLAUGHTERED A HUNDRED WILD ANIMALS IN ONE PLACE, ONE COVERING SUFFICES FOR ALL; IF [HE SLAUGHTERED] A HUNDRED BIRDS IN ONE PLACE, ONE COVERING SUFFICES FOR ALL; IF [HE SLAUGHTERED] A WILD ANIMAL AND A BIRD IN ONE PLACE, ONE COVERING SUFFICES FOR BOTH. R. JUDAH SAYS. IF HE SLAUGHTERED A WILD ANIMAL HE SHOULD COVER UP ITS BLOOD AND THEN SLAUGHTER THE BIRD [AND COVER IT UP ALSO].

GEMARA. Our Rabbis taught: [The expression] wild animal[8] includes all wild animals, whether many or few; [the expression] bird[8] includes all birds, whether many or few. Hence they said: If a person slaughtered a hundred wild animals in one place, one covering suffices for all; if [he slaughtered] a hundred birds in one place, one covering suffices for all, if [he slaughtered] a wild animal and a bird in one place one covering suffices for both. R. Judah says: If he slaughtered a wild animal he must [first] cover up its blood and then slaughter the bird, for it is written: Any wild animal or bird.[9] They replied. But it also says. For as to the life of all flesh, the blood thereof is all one with the life thereof.[10] What did they mean by this reply? This is what the Rabbis meant: Is not the particle 'or' required to show disjunction?[11] And R. Judah? — He derives the principle of disjunction from the expression the blood thereof.[12] And the Rabbis? — They say that the expression 'the blood thereof' means [the blood] of many,[13] as it is written: For as to the life of all flesh, the blood thereof is all one with the life thereof.

R. Hanina said: R. Judah agrees that with regard to the Benediction he has only to say one Benediction.[14] Rabina asked R. Aha the son of Raba (others say: R. Aha the son of Raba asked R. Ashi). In what way is this different from the incident concerning Rab's disciples? For R. Berona and R. Hananel, the disciples of Rab, were sitting at a meal and R. Yeba the elder was waiting on them. They said to him, 'Let us say the Grace [after meals]', and immediately after they said to him, 'Pass [the cup of wine] that we may drink'. Thereupon R. Yeba said to them, 'Thus said Rab: As soon as a man says "Let us say the Grace", it is forbidden to drink wine.'[15] In this case, too, since he must first attend to the covering up of the blood he is bound to say another Benediction![16] —

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(1) Relying on the minority taken in conjunction with the presumption.

(2) Where the doubt involves a prohibition R. Meir would not permit it by the argument of a minority in support of a presumption. In point of fact, however, there is here a majority principle that supports the presumption, since the majority of children bungle what they do.

(3) His later decision would be the more reliable, since it may be assumed that he recognized his error after the first decision and now ruled differently.

(4) But had you been inside you would have been able to clear up the matter.
(5) Sc. R. Abba the son of R. Hiyya b. Abba.
(6) Babylonia.
(7) The ruling in accordance with R. Meir's view that it is permitted to slaughter an animal after that its dam or its young had been slaughtered by a deaf-mute or a minor.
(8) Lev. XVII, 13.
(9) Ibid. The particle ‘or’ indicates that the law of ‘covering up’ applies to each one separately even though both were slaughtered at one time.
(10) Ibid. 24.
(11) For without ‘or’ it might have been said that the law of ‘covering up’ does not apply unless a wild animal and a bird were slaughtered.
(12) I.e., the blood of each must be covered up.
(13) For in the context, ‘the blood thereof’ refers to the blood of all flesh.
(14) I.e., the Benediction which is said over slaughtering. Although in this case the slaughtering has been interrupted by the covering of the blood he should not repeat the Benediction.
(15) Without first saying a Benediction over it, for it is obvious that he has abandoned all thought of drinking more wine by his desire to say the Grace after meals.
(16) For he has diverted his mind from the slaughtering and is occupied with covering the blood.

Talmud - Mas. Chullin 87a

There is no comparison [between the two]. For there it is impossible to drink and say Grace simultaneously.[1] but here it is possible to slaughter with one hand and to cover up the blood with the other.[2]

MISHNAH. IF A PERSON SLAUGHTERED AND DID NOT COVER UP THE BLOOD. AND ANOTHER PERSON SAW IT, THE OTHER MUST COVER IT UP. IF HE COVERED IT UP AND IT BECAME UNCOVERED, HE NEED NOT COVER IT UP AGAIN. IF THE WIND COVERED IT UP,[3] HE MUST COVER IT UP AGAIN. GEMARA. Our Rabbis taught: [It is written,] He shall pour out . . . and cover it:[4] that is, he who poured out the blood shall cover it up. If he slaughtered and did not cover it and another person saw it, whence do we know that the other person must cover it up? It therefore says: Therefore I said unto the children of Israel,[5] this is a warning to all the children of Israel.

Another [Baraitha] taught: He shall pour out . . . and cover it: that is, with that with which he poured it out he shall cover it.[6] He must not cover it with his foot, so that precepts be not treated with contempt by him.

Another [Baraitha] taught: ‘He shall pour out . . . and cover it’: that is, he who poured it out shall cover it up. It once happened that a person slaughtered but another anticipated him and covered up the blood, and R. Gamaliel condemned the latter to pay ten gold coins.[7]

The question was raised: Was this the reward for [being deprived of the performance of] the commandment or for [being deprived of] the Benediction? But where would there be any practical difference [between these two views]? In the case of the Grace after meals.[8] If you say that it was the reward for [being deprived of the performance of] the commandment, then here there is also but one [commandment]; but if you say that it was the reward for [being deprived of] the Benediction, then here the reward should be forty gold coins. What is the answer then? — Come and hear from the following incident. A certain min[9] once said to Rabbi, ‘He who formed the mountains did not create the wind, and he who created the wind did not form the mountains, for it is written: For, lo, He that formeth the mountains and createth the wind’.[10] He replied. ‘You fool, turn to the end of the verse: The Lord, [the God] of hosts, is His name’. Said the other: ‘Give me three days’ time and I will bring back an answer to you'. Rabbi spent those three days in fasting; thereafter, as he was about to partake of food he was told. 'There is a inn waiting at the door'. Rabbi exclaimed, 'Yea they put poison into my food.'[11] Said he [the min]. 'My Master, I bring you good tidings; your opponent could find no answer and so threw himself down from the roof and died'. He said: 'Would you dine with me?' He replied. 'Yes'. After they had eaten and drunk, he [Rabbi] said to him, 'Will you drink the cup of wine over which the Benedictions of the Grace [after meals] have been said, or would you rather have forty gold coins?' He replied: 'I would rather drink the cup of wine'. Thereupon there came forth a Heavenly Voice and said: The cup of wine over [which] the Benedictions [of Grace have been said] is worth forty gold coins. R. Isaac said: The family [of that min] is still to be found amongst the notables of Rome and is named 'The family of Bar Luianus

IF HE COVERED IT UP AND IT BECAME UNCOVERED [HE NEED NOT COVER IT UP AGAIN]. R. Aha the son of Raba said to R. Ashi: In what way is this different from the obligation to return lost property? For the Master has said,' Thou shalt return'[12] implies even a hundred times![13] — He replied. In that case there is no limiting qualification, but here there is written a limiting qualification, [namely]: And he shall cover it.[14]

IF THE WIND COVERED IT UP [HE MUST COVER IT UP AGAIN]. Rabbah b. Bar Hana said in the name of R. Johanan: This is the rule only if it had become uncovered, but if it had not become uncovered he need not cover it up. But what should it matter even if it had become uncovered? Has not the precept suffered a disability?[15] — R. Papa answered: This proves that the law of disability does not apply to precepts.[16] And why is it different from the following which was taught: If a person slaughtered and the blood was absorbed in the earth he must nevertheless cover it up?[17] — In that case there were traces of it visible.[18]

MISHNAH. IF THE BLOOD BECAME MIXED WITH WATER AND IT STILL HAS THE COLOUR OF BLOOD, IT MUST BE COVERED UP. IF IT BECAME MIXED WITH WINE, [THE WINE] IS TO BE REGARDED AS THOUGH IT WAS WATER.[19] IF IT BECAME MIXED WITH THE BLOOD OF CATTLE[20]

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(1) Therefore the expressed desire to say the Grace intimates that the meal is definitely at an end, so that if anything more is brought to the table there must be made over it a special Benediction.

(2) And he need not have diverted his mind from the slaughtering at all for both can be done simultaneously.

(3) And it became uncovered. V. Gemara.

(4) Lev. XVII, 13.

(5) Ibid. 14.

(6) I.e., with the hand.

(7) For depriving the slaughterer of the reward that would have been his had he covered the blood.

(8) Which consists of four Benedictions.

(9) So MS.M. (v. Glos.). Cur. ed: a Sadducee.

(10) Amos IV, 13.

(11) Ps. LXIX, 22. Rabbi thought that it was that same min who had argued with him three days previously. Var. lec. add: 'At last it was found that it was not the same but another min'.

(12) Deut. XXII, 1.

(13) v. B.M. 31a.

(14) 'It' implies once only.

(15) By having been once discharged. For had it not become uncovered there would be no further obligation to cover it up, hence by the first covering up the precept has been fulfilled and so discharged.

(16) V. Suk. 33a.

(17) In other words, the blood was covered up by the earth as by the wind in our Mishnah, yet the Baraitha teaches that he must cover it up.

(18) But where the blood had entirely been absorbed in the ground and no traces were visible there is no obligation to cover it up.

(19) And if there was in the mixture that quantity of wine which, had it been water, would not have changed the appearance of the blood, it must then be covered up.

(20) Which does not require to he covered up.

Talmud - Mas. Chullin 87b

OR WITH THE BLOOD OF A WILD ANIMAL,[1] IT IS TO BE REGARDED AS THOUGH IT WAS WATER. R. JUDAH SAYS, BLOOD CANNOT NEUTRALIZE BLOOD.[2] THE BLOOD WHICH SPURTED OUT AND THAT WHICH IS UPON THE KNIFE MUST ALSO BE COVERED UP. R. JUDAH SAYS, WHEN IS THIS THE CASE? WHEN THERE IS NO OTHER BLOOD BUT THAT; BUT WHEN THERE IS OTHER BLOOD BESIDES THIS, IT NEED NOT BE COVERED UP.

GEMARA. We have learnt elsewhere:[3] If the blood [of a sacrifice] became mixed with water and it still has the colour of blood, it is valid.[4] If it became mixed with wine, it must be regarded as though it was water. If it became mixed with the blood of [unconsecrated] cattle or of a wild animal, it must be regarded as though it was water. R. Judah says: Blood cannot neutralize blood. R. Hiyya said in the name of R. Johanan: This ruling[5] applies only to the case where the water fell into the blood,[6] but where the blood fell into the water each drop became neutralized [as it fell into the water].[7] R. Papa said: But it is not so with regard to the law of ‘covering up’, for the law of disability does not apply to precepts.[8]

Rab Judah said in the name of Samuel: As long as it[9] is of a reddish colour it makes atonement,[10] it renders susceptible to uncleanness,[11] and it must be covered up. What does he teach us? We have learnt it with regard to its validity for atonement and we have also learnt it with regard to the obligation of covering up’! — The statement that it renders susceptible to uncleanness, was necessary. But even that statement [is unnecessary], for if it is blood it renders susceptible to uncleanness, and if it is water it renders susceptible to uncleanness! — It was only necessary to be stated for the case where it [the blood] was mixed with rain water.[12] But even in the case of rain water since it was collected [in a vessel] and poured [into the blood] it was surely intended for the purpose! — It was necessary only in the case where they were mixed without human effort.[13] R. Assi of Neharbel[14] says. It refers to the thin blood.[15] R. Jeremiah of Difti said: He[16] incurs the penalty of Kareth, but only if there was an olive's bulk.[17] In a Baraitha it was taught: It[18] renders unclean [men and vessels that are] in the tent, but only if there was a quarter [log].[19]

We have learnt elsewhere:[20] All liquids[21] that issue from a corpse are clean excepting blood. As long as it[18] has a reddish colour it will render unclean [men and vessels that are] in the tent. [Do you say then that] the liquids that issue from a corpse are clean? But I can point out a contradiction, for we have learnt:[22] The liquids that issue from a tebul yom[23] are like the liquids which he touches:

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(1) Either the blood of a wild animal which had been obtained by the opening of a vein (Rashi) or the blood of a forbidden wild animal (Maim.).

(2) Even if there was only the minutest quantity of the blood of a wild animal mixed with the blood of cattle, the former is not neutralized nor loses its identity in the mixture, but the whole mixture must be covered up; for R. Judah is of the opinion that in a mixture of like kinds one element can never neutralize the other, no matter in what proportion they are to each other.

(3) Zeb. 87b.

(4) For sprinkling upon the altar.

(5) That in a mixture of blood and water, if the appearance of the whole is like blood it is valid.

(6) For then each drop of water as it falls into the blood becomes neutralized and is lost; and only when so much water falls into the blood so that the whole mixture assumes the appearance of water is it rendered invalid.

(7) And even if there fell into the water so large a quantity of blood as to give to the whole the appearance of blood, it is unfit for its purpose; for as each drop fell into the water it became neutralized and immediately lost its validity for the purposes of ritual sprinkling, and it cannot regain it even though the whole mixture has the colour of blood.

(8) The obligation of ‘covering up’ was only suspended but not discharged, consequently if the whole has the appearance of blood the obligation attaches to it.

(9) Blood which was mixed with water.

(10) When sprinkled upon the altar,

(11) I.e., if it fell upon foodstuffs; cf. Lev. XI, 38.

(12) Lit., ‘the tamad (the mixture of water and lees) was made with rain water’, a phrase from the argument in B.B. 97a. Rain water cannot render foodstuffs susceptible to uncleanness except where it was intended for some purpose or use, a reservation which does not apply to blood.

(13) Sc. the blood and the rain water. In this case, therefore, as the rain water by itself cannot render susceptible to uncleanness, only if the mixture has the colour of blood will it render susceptible to uncleanness.

(14) Nehar Bil, east of Bagdad.

(15) צללתא When blood congeals there settles at the base a clear watery liquid. This liquid will only render susceptible to uncleanness if it has the colour of blood.

(16) Who eats of this thin blood.

(17) Of normal blood in addition to this clear blood. So Rashi and Tosaf. The statement however is strangely expressed for the net result is that for drinking this thin watery blood by itself one does not incur the penalty of Kareth. V. Torath Hayyim a.l.; also Responsa of Hatham Sofer, Yoreh Deah 70.

(18) Sc. this thin watery blood if it issued from a corpse.

(19) Cf. n. 4.

(20) This is no Mishnah although it is introduced by the usual Mishnaic expression in. It is found in Tosef. Ohol. IV, and Tosaf. Maksh. III.

(21) E.g., tears and the milk from a woman's breast.

(22) T.Y. II, 1.

(23) A person who has immersed himself in a mikweh in the daytime but technically does not become clean until after sunset. He is regarded as unclean in the second degree.

Talmud - Mas. Chullin 88a

neither the one nor the other conveys uncleanness. As for all others that are unclean, whether they suffer light or grave uncleanness, the liquids that issue from them are like the liquids they touch: both are unclean in the first degree, excepting the liquid which is a primary source of uncleanness.[1] Now what is meant by ‘light or grave uncleanness’? Presumably ‘light uncleanness’ means that of a [dead] reptile[2] or of a man that has a flux, and ‘grave uncleanness’ that of a corpse![3] — No; ‘light uncleanness’ is that of a reptile, and ‘grave uncleanness’ is that of a man that has a flux.[4] And why is it that [the liquids[5] that issue from] a man that has a flux the Rabbis decreed [to be unclean] but [the liquids that issue from] a corpse the Rabbis did not decree [to be unclean]? — [The liquids that issue from] a man that has a flux, since people do not keep away from him,[6] the Rabbis decreed [to be unclean], but [the liquids that issue from] a corpse, since people keep away from it, the Rabbis did not decree [to be unclean].

THE BLOOD THAT SPURTED OUT AND THAT WHICH IS UPON THE KNIFE etc. Our Rabbis taught: The expression. And he shall cover it,[7] teaches that the blood which spurted out and that which is upon the knife must be covered up. R. Judah said: When is this the case? When there is no other blood but that, but when there is other blood besides this, it need not be covered up. Another Baraitha taught: The expression. ‘And he shall cover it’, teaches that the whole of the blood must be covered up; hence, they said, the blood which spurted out and that which remains about the sides [of the throat] must also be covered up. R. Simeon b. Gamaliel said: This is so only if he did not cover up the life blood, but if he covered up the life blood, this need not be covered. Wherein do they differ? — The Rabbis maintain that ‘the blood thereof’[7] means the whole of its blood; R. Judah maintains that ‘the blood thereof’ implies even part of its blood; and R. Simeon b. Gamaliel maintains that ‘the blood thereof’ means the vital[8] blood.

MISHNAH. WITH WHAT MAY ONE COVER UP [THE BLOOD] AND WITH WHAT MAY ONE NOT COVER IT UP? ONE MAY COVER IT UP WITH FINE DUNG, WITH FINE SAND, WITH LIME, WITH A POTSHERD OR A BRICK OR AN EARTHENWARE STOPPER [OF A CASK] THAT HAVE BEEN GROUND INTO POWDER. BUT ONE MAY NOT COVER IT UP WITH COARSE DUNG OR COARSE SAND, NOR WITH A BRICK OR AN EARTHENWARE STOPPER [OF A CASK] THAT HAVE NOT BEEN GROUND INTO POWDER; NOR MAY ONE TURN A VESSEL OVER IT.[9] R. SIMEON B. GAMALIEL LAID DOWN THE RULE: ONE MAY COVER IT WITH ANYTHING IN WHICH PLANTS WOULD GROW; BUT ONE MAY NOT COVER IT WITH ANYTHING IN WHICH PLANTS WOULD NOT GROW.

GEMARA. What is meant by FINE SAND? — Rabbah b. Bar Hanah said in the name of R. Johanan. Such as the potter does not need to crush. Some there are who apply this statement to the second clause, viz., BUT ONE MAY NOT COVER IT UP WITH COARSE DUNG OR COARSE SAND. What is meant by COARSE SAND? — Rabbah b. Bar Hanah said in the name of R. Johanan. Such as the potter needs to crush. What is the difference between these two versions? — Where it is not absolutely necessary [to crush it],[10] as it crumbles [with the hand].

Our Rabbis taught: ‘And he shall cover it’. I would have thought that he may cover it with stones or turn a vessel over it, the verse therefore adds ‘with dust’. Then I only know dust, whence would I know to include fine dung, fine sand, crushed stones, crushed potsherds, fine scraps of flax,

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(1) E.g. the semen of all men as well as the spittle, urine, and the discharge of a man that has a running issue.

(2) E.g., the urine found in a dead reptile.

(3) A corpse is regarded as the gravest form of uncleanness because it is the generator of a primary source of uncleanness, אבי אבות הטומאה — ‘the father of a primary source of uncleanness’. Now this Mishnah teaches that the liquid that issues from a corpse is unclean and conveys uncleanness, thus contrary to the previous teaching.

(4) But the liquids (excepting blood) that issue from a corpse are clean.

(5) I.e., , those that are not primary sources of uncleanness e.g., tears, blood from a wound, woman's milk.

(6) For he is a living person and people may not know that he is suffering from a discharge.

(7) Lev. XVII, 13.

(8) Lit., ‘special’, ‘distinct’.

(9) In the Mishnah ed. Lowe there is added here: Nor cover it with stones.

(10) Lit., ‘it needs and does not need (to be crushed)’. According to the first version since it does not require to be crushed because it crumbles with the hand, it may be used for covering; according to the second version since it must be crushed even if only with the hand it may not be used for covering.

Talmud - Mas. Chullin 88b

fine sawdust, lime, or a potsherd or a brick or an earthenware stopper [of a cask] that have been ground into powder? The text therefore says: ‘And he shall cover it’. Then I might also include even coarse dung, coarse sand, crushed metal vessels,[1] or a brick or stopper that have not been ground into powder, or flour, bran or coarse bran. The text therefore says, ‘with dust’. And why do you prefer to include the one and exclude the other? Since the verse includes some and excludes others, I include those that are a kind of dust[2] and exclude those that are not a kind of dust. Perhaps I should argue thus, ‘And he shall cover it’ is a general proposition, ‘dust’ is a specified particular, we thus have a general proposition followed by a specified particular, in which case the scope of the proposition is limited by the particular specified, that is, dust only but nothing else! — R. Mari replied. Here it is a general proposition complemented by a specified particular,[3] and a general proposition complemented by a specified particular is not to be interpreted by the same rule as a general proposition followed by a specified particular.

R. Nahman son of R. Hisda expounded. One may only cover up [the blood] with that which if sown would produce growth.[4] Raba remarked: This is an absurdity! Said R. Nahman b. Isaac to Raba: Wherein lies its absurdity? I told it him, and l derived it from the following Baraitha: If a person was travelling through a desert and can find no dust wherewith to cover up [the blood], he may grind a golden denar to powder and cover it up therewith.[5] If a person was travelling on a ship and has no dust wherewith to cover up [the blood], he may burn his garment and cover up with the ashes thereof. Now this is clear concerning the burning of a garment and covering up therewith, for we find that ashes are referred to as dust;[6] but whence do we know this of a golden denar? — R. Zera answered: It is written: It hath dust of gold.[7]

Our Rabbis taught: One may cover up [the blood] only with dust: so Beth Shammai. But Beth Hillel say. We find ashes referred to as dust, for it is written: And for the unclean they shall take of the dust of the burning [of the purification from sin].[8] Beth Shammai, however, say. It [sc., ashes] might be referred to as ‘the dust of the burning’ but it is never referred to as ‘dust’ simply.

A Tanna taught: To these they added coal dust,[9] stibium, stone dust.[10] Some add, even orpiment.

Raba said: As a reward for our father Abraham having said: I am but dust and ashes,[11] his descendants were worthy to receive two commandments: the ashes of the [Red] Cow, and the dust [used in the ceremony] of a woman suspected of adultery.[12] Why does he not reckon also the dust used for the covering up of the blood? — Because that is only the perfection of the commandment but it is of no advantage [to the performer].[13]

Raba also said: As a reward for our father Abraham having said,

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(1) For these can in no wise be included within the term ‘dust’.

(2) For in all the former examples plants can grow, accordingly they are included in the term dust.

(3) Lit., , ‘which needs the specified particular’. The general proposition of the verse is in itself insufficient, for it would even include a covering such as the turning of a vessel over the blood. Hence the specification was required to complement and thereby elucidate the implication of the general proposition by indicating that only such dust was intended for covering as mixes with blood and absorbs it. For another instance of the application of this principle of exegesis v. Bek. 19a.

(4) This would exclude hard and dry earth which cannot produce any growth.

(5) The fact that he must resort to such an expedient proves that the hard stony ground of the desert may not be used for covering.

(6) Cf. Num. XIX, 17. The two Heb. terms אפר ‘ashes’ and עָפר ‘dust’ are similar in sound and might very well be interchanged as in the verse referred to.

(7) Job. XXVIII, 6.

(8) V. p. 495, n. 5.

(9) I.e., slag; or perhaps soot.

(10) Lit., ‘the scraps from chiselling’.

(11) Gen. XVIII, 27.

(12) Cf. Num. V, 17.

(13) For the slaughtered animal is permitted even though the blood had not been covered up. In each of the other commandments there is a blessing and benefit bestowed: the dust used in the ceremony of a woman suspected of adultery serves to remove all suspicion and to restore peace and confidence between husband and wife, and the ashes of the Red Cow serve to cleanse the unclean (cf. Num. XIX).

Talmud - Mas. Chullin 89a

I will not take a thread or a shoe-strap,[1] his descendants were worthy to receive two commandments: the thread of blue,[2] and the strap of the tefillin.[3] Now as for the strap of the tefillin, [the blessing bestowed on its account] is clear, for it is written: And all the peoples of the earth shall see that the name of the Lord is called upon thee; and they shall be afraid of thee,'[4] and it has been taught: R. Eliezer the Great says: This refers to the tefillin worn upon the head.[5] But what [is the blessing bestowed on account] of the thread of blue? — It has been taught:[6] R. Meir says. Why is blue singled out from all the varieties of colours? Because blue resembles the colour of the sea, and the sea resembles the colour of the sky, and the sky resembles the colour of a sapphire, and a sapphire resembles the colour of the Throne of Glory, as it is said: And they saw the God of Israel and there was under His feet as it were a paved work of sapphire stone;[7] and it is also written: The likeness of a throne as the appearance of a sapphire stone.[8]

R. Abba said: Grave indeed is theft that has been consumed, for even the perfect righteous cannot make amends for it, as it is said: Save only that which the young men have eaten.[9]

R. Johanan said in the name of R. Eleazar son of R. Simeon. Wherever you find the words of R. Eleazar the son of R. Jose the Galilean in an Aggadah make your ear like a funnel.[10] [For he said: It is written,] It was not because you were greater than any people that the Lord set His love upon you and chose you.[11] The Holy One, blessed be He, said to Israel, I love you because even when I bestow greatness upon you, you humble yourselves before me. I bestowed greatness upon Abraham, yet he said to Me, I am but dust and ashes;[12] Upon Moses and Aaron, yet they said: And we are nothing;[13] upon David, yet he said: But I am a worm and no man.[14] But with the heathens it is not so. I bestowed greatness upon Nimrod, and he said: Come, let us build us a city;[15] upon Pharaoh, and he said: Who is the Lord?[16] Upon Sennacherib, and he said: Who are they among all the gods of the countries?[17] upon Nebuchadnezzar, and he said: I will ascend above the heights of the clouds;[18] upon Hiram king of Tyre, and he said: I sit in the seat of God, in the heart of the seas.[19] Raba, others say R. Johanan, said: More significant is that which is said of Moses and Aaron than that which is said of Abraham. Of Abraham it is said: I am but dust and ashes, whereas of Moses and Aaron it is said: And we are nothing.[20]

Raba, others say R. Johanan, also said: The world exists only on account of [the merit of] Moses and Aaron; for it is written here: And we are nothing, and it is written there [of the world]: He hangeth the earth upon nothing.[21]

R. Ila'a said: The world exists only on account of [the merit of] him who restrains himself in strife, for it is written: He hangeth the earth upon belimah.[22] R. Abbahu said: On account of [the merit of] him who abases himself,[23] for it is written: And underneath are the everlasting arms.[24]

R. Isaac said: What is the meaning of the verse: Indeed in silence speak righteousness; judge uprightly the sons of men?[25] What should be a man's pursuit[26] in this world? He should be silent. Perhaps he should be so with regard to the words of the Torah? It says therefore, ‘Speak righteousness’. Perhaps then he is to become arrogant? It says therefore, ‘Judge uprightly[27] the sons of men.

R. Ze'ira, others say Rabbah b. Jeremiah, said: One may cover up [the blood] with the dust[28] of a ‘condemned city’.[29] Why is this? Is it not forbidden for all uses?[30] — Ze'iri answered: It can only refer to the earth[31] of its soil; for the verse. And thou shalt gather all the spoil of it into the midst of the broad place thereof and shalt burn with fire,[32] applies only to that which requires to be gathered and burned; but that which requires to be dug up and then gathered and burned is excluded.[33] Raba said: The [performance of] precepts is not accounted as a personal benefit.[34]

Rabina was sitting and reciting the above statement [of Raba]; whereupon R. Rehumi raised this objection against Rabina. [It was taught:][35] A man may not blow [on the New Year] a shofar which has been used for idolatrous purposes. Now presumably if he did blow it he will not have fulfilled his obligation! — No. If he did blow it he has fulfilled his obligation. A man may not take [on the Festival] a lulab[36] which has been used for idolatrous purposes. Presumably if he did take it he will not have fulfilled his obligation! — No. If he did take it he has fulfilled his obligation. But it has been taught: If he sounded it he has not fulfilled his obligation; if he took it he has not fulfilled his obligation! — R. Ashi answered: There is no comparison at all. There[37]

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(1) Gen. XIV, 23.
(2) On the fringes of the garments; cf. Num. XV, 38.
(3) Commonly translated phylacteries, v. Glos.
(4) Deut. XXVIII, 20.
(5) Men. 35b. Hence the tefillin inspire awe upon all people.
(6) Men. 43b.
(7) Ex. XXIV, 10.
(8) Ezek. I, 26. And whenever God sits upon His Throne of Glory He immediately thinks of the blue thread of the fringes worn by Israel, and bestows upon them blessings.
(9) Gen. XIV, 24. Abraham could not restore or make good that which had been wrongfully eaten by the young men.
(10) To receive the teaching; like the funnel or hopper at the top of the mill to receive the grain.
(11) Deut. VII, 7.
(12) Gen. XVIII. 27.
(13) Ex. XVI, 8. So according to Rabbinic interpretation. E.V. ‘and what are we’.
(14) Ps. XXII, 7.
(15) Gen. XI, 4.
(16) Ex. V, 2.
(17) II Kings XVIII, 35.
(18) Isa. XIV, 14.
(19) Ezek. XXVIII, 2.
(20) Their humility was greater than that of Abraham.
(21) Job XXVI. 7; Heb. בלימה; interpreted as two words: בלי ‘without’ מה ‘anything’. The world exists because of those who regard themselves as nothing, like Moses and Aaron who said of themselves, ונחנו מה. And we are nothing.
(22) ‘Restraint’. בלימה is connected with the root בלם, ‘to close up, to restrain’.
(23) Makes himself as if he were non-existent.
(24) Deut. XXXIII, 27. Those who are underneath (the humble and the lowly) are the arms (support) of the world.
(25) Ps, LVIII, 2.
(26) האמנם ‘indeed’, is homiletically associated with אומנות ‘occupation, pursuit’.
(27) מישרים ‘uprightly’ is associated with מישור ‘evenness’, i.e., not exalted nor haughty.
(28) It is assumed that the ashes of this city which had (according to the Law) been destroyed by fire is meant.
(29) A city whose citizens were enticed to serve idols. V. Deut. XIII, 23ff.
(30) For it is written: And there shall cleave nought of the devoted thing to thine hand, ibid. 18.
(31) Lit., ‘to the dust of its dust’. But not to the ashes of the holocaust.
(32) Deut. XIII, 17.
(33) And is permitted for use.
(34) Hence the use of a forbidden thing for the purpose of the fulfilment of a precept cannot be deemed an enjoyment or use of that thing. Accordingly one may cover up the blood with the ashes of a condemned city.
(35) R.H. 28a.
(36) The palm branch which together with the citron, myrtle branches and willow branches had to be ‘taken’ on the First of Tabernacles. Cf. Lev. XXIII, 40.
(37) In the case of the lulab and the shofar, if they are not as large as the minimum size fixed, the former four handbreadths and the latter, a little more than a handgrasp, they are invalid.

Talmud - Mas. Chullin 89b

a minimum size is prescribed, and since it has been used for idolatry it is regarded as though the size were diminished,[1] whereas here the more broken up it is the better it is for covering up.[2]

CHAPTER VII

MISHNAH. [THE PROHIBITION OF] THE SCIATIC NERVE[3] IS IN FORCE BOTH WITHIN THE HOLY LAND AND OUTSIDE IT, BOTH DURING THE EXISTENCE OF THE TEMPLE AND AFTER IT, IN RESPECT OF BOTH UNCONSECRATED AND CONSECRATED [ANIMALS]. IT APPLIES TO CATTLE AND TO WILD ANIMALS, TO THE RIGHT AND LEFT HIP, BUT IT DOES NOT APPLY TO BIRDS BECAUSE THEY HAVE NO SPOON-SHAPED HIP.[4] IT ALSO APPLIES TO A FOETUS. R. JUDAH SAYS, IT DOES NOT APPLY TO A FOETUS. AND ITS[5] FAT IS PERMITTED. BUTCHERS ARE NOT TRUSTWORTHY WITH REGARD TO THE [REMOVAL OF THE] SCIATIC NERVE:[6] SO R. MEIR. THE SAGES SAY, THEY ARE TRUSTWORTHY WITH REGARD TO IT AS WELL AS WITH REGARD TO THE [FORBIDDEN] FAT.

GEMARA. IN RESPECT OF . . . CONSECRATED [ANIMALS]. But is not this obvious? Surely because one consecrated the animal the prohibition of the nerve has not thereby vanished![7] And if you were to say that [our Tanna] is of the opinion that nerves impart a taste [to the meat], and [he teaches us] that the prohibition of a consecrated animal can be superimposed upon the prohibition of the nerve,[8] then the Tanna should have said: ‘The prohibition of [eating] consecrated meat applies to the nerve too’! — Rather we must say that he is of the opinion that nerves do not impart a taste, [and he thus teaches us[9] that] in regard to [the sciatic nerve of] a consecrated [animal] there is only the prohibition of the nerve but not the prohibition of consecrated things.[10] But does our Tanna hold that nerves do not impart a taste? Surely we have learnt: If a thigh was cooked together with the sciatic nerve it is forbidden if it imparts a taste[11] [into the thigh]! — Rather we must suppose that he is dealing with the young of consecrated animals.[12] And he is of the opinion that it [sc. the prohibition of the sciatic nerve] applies to a foetus, and also that the young of a consecrated animal is holy even when in its dam's womb; accordingly the prohibition of the nerve and the prohibition of consecrated things come into force simultaneously.[13] But how can you suggest that the Mishnah is dealing with a foetus? Surely since in a subsequent clause it says. IT ALSO APPLIES TO A FOETUS, it is obvious that the first clause is not dealing with a foetus! — This is what he means: This[14] is indeed a matter of dispute between R. Judah and the Rabbis. But how can you say that both [prohibitions] come into force simultaneously? Surely we have learnt:[15] By reason of uncleanness contracted from the following sources the Nazirite must shave [his head]:[16] a corpse, an olive's bulk of [the flesh of] a corpse etc. Now the question was asked: If he must shave [his head] on account of an olive's bulk of [the flesh of] a corpse, then surely he must shave [his head] for the whole corpse! And R. Johanan answered that it was necessary [to mention the corpse itself] only for the case of an abortion whose limbs were not yet knit together by nerves.[17]

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[1] Lit., ‘broken up’ and reduced below the minimum; this in accordance with the Rabbinic dictum: Whatsoever is to be destroyed is deemed destroyed forthwith.

[2] And the use of the forbidden ashes for the fulfilment of a precept cannot be considered a use in accordance with Raba's dictum.

[3] Gen XXXII, 33. In the whole of this chapter the sciatic nerve is often referred to as ‘the nerve’.

[4] The muscles upon the hip bone (or femur) of a bird lie flat and are not raised and convex like those of cattle. In cattle the entire hip is very much like the back of a spoon or like a club. This feature is expressly specified in the prohibition, כף הירך, the spoon of the thigh, i.e., ‘the convex prominence of the thigh’. Gen. ibid.

[5] The fat of the foetus; or, according to others, the fat surrounding the sciatic nerve.

[6] For it entails hard and careful work, and it is doubtful whether the butcher would follow it up in all its ramifications;

consequently one may not rely upon him.

(7) The prohibition of the sciatic nerve attached to the animal the moment it was born.

(8) So that one who eats the sciatic nerve of a consecrated animal would incur stripes on two counts, first for eating the sciatic nerve which is expressly prohibited whether it is edible or not, and secondly for eating ‘flesh’ (for nerves are edible as flesh) of a consecrated animal.

(9) In stating that the law of the sciatic nerve applies to consecrated animals.

(10) For the nerve is inedible and is not accounted as flesh.

(11) I.e., if the thigh that was cooked was not sixty times greater than the forbidden nerve; for the Rabbis have estimated that if there were more than sixty parts of permitted matter as against one part prohibited, the latter cannot impart a flavour unto the former. From this Mishnah, however, it is apparent that nerves do impart a taste; and as it is (infra 96b) in the same chapter as our Mishnah it was taught presumably by the same Tanna.

(12) E.g. the young of a peace-offering which is consecrated the moment it was formed, even while in its dam's womb. At this same moment the prohibition of the sciatic nerve attaches to it.

(13) I.e., the moment the foetus was formed within the dam's womb.

(14) Whether the prohibition of the sciatic nerve applies to a foetus or not.

(15) Naz. 49b.

(16) If he was rendered unclean during the continuance of the Nazirite vow. Cf. Num. VI, 9ff.

(17) In which case the abortion, even though in the whole of it there is not an olive's bulk of flesh, would render the Nazirite unclean.

Talmud - Mas. Chullin 90a

Hence [it is possible for] the prohibition of consecrated things to come into force first![1] — Notwithstanding that the prohibition of consecrated things comes into force first, the prohibition of the nerve can be superimposed upon it, for its prohibition is binding even upon the sons of Noah.[2] Whom did you hear maintain this view?[3] R. Judah, is it not? But our Mishnah cannot be in agreement with R. Judah, for it reads IT APPLIES TO CATTLE AND TO WILD ANIMALS, TO THE RIGHT AND LEFT HIP![4] — This Tanna [of our Mishnah] agrees with him [R. Judah] on one point[3] and disagrees on the other point. But perhaps you heard R. Judah apply this argument only to the case of an unclean animal since it is forbidden by a prohibition only;[5] but have you heard him apply it also to consecrated things for which there is a penalty of Kareth?[6] — Rather it must be that we are dealing with the case of a firstling which is consecrated only [when it comes forth out of] the womb.[7] Alternatively, you may say that the young of consecrated animals are themselves consecrated only when they come into being.[8]

R. Hiyya b. Joseph said: They taught this only concerning consecrated animals that may be eaten,[9] but with regard to consecrated animals that are not eaten[10] the prohibition of the nerve does not apply. But R. Johanan said: The prohibition of the nerve applies both to consecrated animals that may be eaten and to those that are not eaten. Said R. Papa: There is really no dispute between them, for the one refers to the question of stripes[11] whereas the other refers to the question of offering it.[12] Others report R. Papa's statement thus: There is really no dispute between them, for the one refers to the removal thereof[13] whereas the other refers to the offering up of it.[14] R. Nahman b. Isaac said: They disagree about offering it up.[15] For it was taught: And the Priest shall burn the whole upon the altar,[16] this includes bones, nerves, horns and hoofs. I might think that [it is so] even if they were severed,[17] the text therefore states: And thou shalt offer thy burnt-offerings, the flesh and the blood.[18] But since it is written ‘the flesh and the blood’, I might think that one must first cut away the nerves and bones and then offer the flesh upon the altar, it is therefore written: ‘And the priest shall burn the whole upon the altar’. How [are these verses to be reconciled]? If they[19] are still attached [to the limb], they may be offered up; if they are severed, even if they are already on the top of the altar, they must come down.[20]

Now which Tanna have you heard say that if they were severed [and offered up] they must come down? It is Rabbi. For it has been taught: ‘And the priest shall burn the whole’, this includes bones, nerves, horns and hoofs, even if they are severed. And how do I explain the verse: ‘And thou shalt offer thy burnt-offerings, the flesh and the blood’? With reference to those portions which have jumped off [the altar]; thus, only half-burnt flesh you may replace [if it had jumped off the altar], but you may not replace half-burnt nerves and bones. Rabbi says: One verse reads: ‘And the priest shall burn the whole’, which includes [everything], whilst another verse reads: ‘And thou shalt offer thy burnt-offerings, the flesh and the blood’, which excludes [everything else]. How [are the verses to be reconciled]? Thus if they[19] are still attached [to the limb], they may be offered up; if they are severed, even if they are on the top of the altar, they must come down. And the Rabbis? — They maintain that when they are still attached [to the limb] no verse is necessary to include them, for they are on the same footing as the head of a burnt-offering;[21] consequently the verse is only necessary to include them when severed. And Rabbi? — [He says,] as regards the permitted parts which are still attached [to the limb, I admit that]

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(1) For as soon as the embryo is formed it is consecrated by reason of the consecration of its dam whereas the prohibition of the sciatic nerve only comes into force later when the network of nerves is firmly knit together.

(2) Where the later prohibition is comprehensive in that it is binding upon a large class of people it can be superimposed upon an existing prohibition which is less comprehensive in its application.

(3) That the prohibition against eating the sciatic nerve is binding upon the sons of Noah. (V. infra 100b).

(4) Whereas R. Judah holds that only the nerve of one thigh (the right) is prohibited.

(5) V. n. 5. Inasmuch as the existing prohibition (sc. that of an unclean animal) is only punishable by stripes a further prohibition (sc. that of the sciatic nerve) can be superimposed.

(6) In certain circumstances e.g. if consecrated meat is eaten in a state of uncleanness. The penalty therefore being so severe, no further prohibitions can be superimposed.

(7) The prohibition of the sciatic nerve applies only to a firstling since this prohibition and the prohibition of consecrated things attach simultaneously, but it does not apply to other consecrated animals for they are consecrated even while a foetus in the womb, so that the prohibition of the sciatic nerve cannot be superimposed later.

(8) I.e., as soon as they are born, and not as was assumed previously in the embryonic state. The prohibition of the sciatic nerve, however, came into force earlier when it was a foetus in the womb.

(9) E.g., peace-offerings, and sin-offerings.

(10) I.e., burnt-offerings.

(11) R. Johanan meant that the prohibition applies in that he who eats it incurs stripes.

(12) R. Hiyya b. Joseph meant that the prohibition does not apply and it may be offered up upon the altar. R. Gershom interprets just the reverse: R. Hiyya b. Joseph teaches that he that eats it does not suffer stripes, and R. Johanan teaches that it may not be offered upon the altar.

(13) According to R. Hiyya b. Joseph the prohibition does not apply, that is, it need not be removed from the thigh before offering up the animal upon the altar.

(14) According to R. Johanan the prohibition applies, i.e., if the nerve was extracted it may not be offered separately upon the altar.

(15) Even together with the thigh. According to R. Hiyya b. Joseph this may be done, and according to R. Johanan it may not. In many MS.S. the reading in the text is: ‘They disagree about the removal of it’; i.e., according to R. Hiyya b. Joseph it need not be removed, according to R. Johanan it must. It seems that before Rashi both texts were in the Gemara. V. D.S. a.l.

(16) Lev. I, 9.

(17) I.e., even if the nerves and bones were cut away from the flesh they must be offered separately upon the altar.

(18) Deut. XII, 27. The flesh and blood only shall be offered up but not nerves and bones.

(19) Sc. the nerves and bones.

(20) They may not be offered separately, and if offered up they must be taken down from the altar.

(21) The head of a burnt-offering had to be offered up whole upon the altar although it contains many bones; likewise every complete limb may be offered although it contains bones and nerves.

Talmud - Mas. Chullin 90b

no verse is necessary to include them, but a verse is necessary to include the [forbidden] sciatic nerve when still attached [to the thigh]. And the Rabbis? — [They say,] It is written: 'From the liquor of Israel',[1] that is, from that which is permitted to Israel. And Rabbi? — [He says,] It is on the same footing as the [forbidden] fat and blood.[2] And the Rabbis? — [They say,] These are on a different footing, since with regard to these there is an express command.[3]

R. Huna said: The sciatic nerve of a burnt-offering must be cut away [and thrown] on to the ash-heap.[4] Said to him R. Hisda: O master of this [teaching]! Is it written: 'Therefore the altar shall not consume'? It is written: Therefore the children of Israel do not eat.[5] And R. Huna? — [He maintains,] It is written: 'From the liquor of Israel', that is, from that which is permitted to Israel.

An objection was raised from the following: The sciatic nerve of a peace-offering[6] must be swept into the channel,[7] that of a burnt-offering must be offered up. Presumably this means, it must be offered up and burnt! — No, it means, it must be offered up and then cut away. But if he must cut it away why is it necessary to offer it up? Because it is written: Present it now unto thy governor.[8] There was taught a Baraitha which supports R. Huna, viz., The sciatic nerve of a peace-offering must be swept into the channel, and that of a burnt-offering must be cut away [and thrown] on to the ash-heap.

We have learnt there:[9] 'There was an ash-heap in the middle of the altar and sometimes there were on it about three hundred kor[10] [of ashes]'. Said Raba: It is an exaggeration. 'They gave [the lamb which was to be] the Daily Offering to drink from a cup of gold'.[11] Said Raba: It is an exaggeration. R. Ammi said: The Torah, the prophets, and the Sages sometimes spoke in exaggerated terms. The Sages spoke in exaggerated terms as in the cases we have just quoted. The Torah spoke in exaggerated terms as in the verse: The cities are great and fortified up to heaven.[12] The prophets spoke in exaggerated terms as in the verse: So that the earth rent with the sound of them.[13]

R. Isaac b. Nahmani said in the name of Samuel: In three places the Sages spoke in exaggerated terms, namely, about the ash-heap, the vine, and the curtain. About the ash-heap as we have quoted above. About the vine, we have learnt:[14] A golden vine stood at the entrance to the Temple trained over posts, and whosoever presented a leaf or a berry or a cluster[15] would bring it and hang it thereon. R. Eleazar b. R. Zadok said: It once happened that three hundred priests were appointed to clear it.[16] About the curtain we have learnt:[17] R. Simeon b. Gamaliel said in the name of R. Simeon the Deputy [High-priest]: The curtain was a handbreadth thick and was woven on seventy-two strands, and each strand consisted of twenty-four threads; 'its length was forty cubits and its breadth twenty cubits, and was made up out of eighty-two myriads [of threads].[18] They used to make two every year; and three hundred priests were required to immerse it.[19]

TO THE RIGHT AND LEFT HIP. Our Mishnah does not agree with R. Judah, for it was taught: R. Judah says: It only applies to one [hip], and reason decides in favour of the right [hip].[20] It was asked: Was R. Judah certain about it and by 'reason' he meant the reasoned interpretation of the Torah, or was he in doubt about it and by 'reason' he meant the probable meaning? — Come and hear: It was taught: The bones and nerves [of the Paschal lamb] and also [the flesh] that was left over must be burnt on the sixteenth day.[21] And we argued upon it as follows: What nerves are meant? If you say, the nerves in the flesh,[22] then why does he not eat them? And if they happened to be left over, then they came under the heading of [flesh] 'that was left over'? And if you say, the nerves of the throat, but surely since they are not like flesh he may throw them away.[23] And R. Hisda suggested: It can only refer to the sciatic nerve, and the Tanna adopts the view of R. Judah who said that it only applies to the one hip. Now if you say that he was in doubt about it,[24] it is well;[25] but if you say that he was certain about it,[24] then he should eat the permitted one and throw away the forbidden one! — R. Ika b. Hanina said: Indeed I maintain that he was certain about it, but here we must suppose that they[26] were first distinguished but subsequently were mixed up.[27]

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(1) Ezek. XLV. 15; with reference to the drink-offering. The inference is that whatsoever is forbidden to Israel may not be offered upon the altar, hence under no circumstances can the forbidden sciatic nerve be offered upon the altar.

(2) Which though forbidden to an Israelite are offered upon the altar; so it is, too, with the forbidden nerve.

(3) For the essential part of the sacrifice is the offering of the fat and the blood upon the altar.

(4) Which was in the middle of the altar on to which the priest used to pile up the ashes of the burned sacrifices.

(5) Gen. XXXII, 33.

(6) It is obvious that the Tanna is referring to the nerve of such consecrated meat as was eaten within the Temple precincts; the peace-offering, however, could be eaten anywhere within the city of Jerusalem. Accordingly Rashi prefers to strike out, ‘peace-offering’ and substitute ‘sin-offering or guilt-offering’, for the meat of these could only be eaten by the priests within the Sanctuary. If ‘peace-offering’ is to be retained, Rashi and Tosaf. offer the suggestion that it refers to the eating by the priests either of their own peace-offerings or of the priestly dues of the ‘breast and thigh’ portions, and these the priests usually ate within the Sanctuary. MS.M. reads: ‘Peace-offering or sin-offering or guilt-offering’.

(7) The water-channel which ran through the Temple courtyard; v. Mid. III, 2.

(8) Mal. I, 8. An expression generally used whenever it is considered improper to offer any particular thing upon the altar. A limb which has been cut up for the removal of the sciatic nerve does not present a fine appearance, and it is therefore suggested that the limb must first be brought up whole upon the altar and while on the altar the nerve must be removed from it.

(9) Tam. II, 2, 28b.

(10) A measure of capacity equal to 30 se'ah.

(11) Tam. III, 4, 30a.

(12) Deut. I, 28.

(13) I Kings I, 40.

(14) Mid. III, 8; 36a.

(15) I.e., gold in any of these shapes.

(16) Of the enormous amount of gold that had accumulated on the vine.

(17) Shek. VIII, 5; Tam. 29a and b.

(18) Var. lec. ‘it was made by eighty-two maidens’; or ‘the cost of it was eighty-two myriads of denars’.

(19) If it became unclean. The number three hundred, here as well as in the previous cases, is clearly an exaggeration.

(20) Tosef. Hul. VII; Pes. 83b.

(21) Of the month of Nisan; i.e., it must be burnt after the Festival and not on the Festival (cf. Shab. 24b).

(22) Which are tender like flesh.

(23) And it is not necessary to burn them.

(24) As to which hip contains the forbidden sciatic nerve.

(25) That both must be left over and both burnt because of the doubt, for one (sc. the permitted one) must certainly be burnt as nothar i.e., consecrated flesh kept longer than the period prescribed for its consumption.

(26) The sciatic nerves of the right and left hips.

(27) So that the doubt arose through their having been mixed up but not because R. Judah was in doubt which one was forbidden and which permitted.

Talmud - Mas. Chullin 91a

R. Ashi said: It can only refer to the fat thereof.[1] For it was taught: The fat thereof is permitted, but Israel being a holy people have treated it as forbidden.[2] Rabina said: It can only be explained according to the statement of Rab Judah in the name of Samuel. For Rab Judah said in the name of Samuel: It[3] consists of two nerves, the inner, next the bone is forbidden and one is liable[4] on account of it; the outer next to the flesh is forbidden but one is not liable on account of it.[5]

Come and hear: If a person ate an olive's bulk [of the sciatic nerve] of this [thigh] and another olive's bulk [of the sciatic nerve] of the other [thigh],[6] he has incurred eighty stripes. R. Judah says: He has only incurred forty stripes. Now if you say that he was certain about it, then it is well;[7] but if you say that he was in doubt about it, then the warning [with regard to each] was dubious, and we have heard that according to R. Judah a dubious warning is no warning. For it was taught: If he[8] struck one and then struck the other, or if he cursed one and then cursed the other, or if he struck them both simultaneously, or if he cursed them both simultaneously, he is liable [to the death penalty]. R. Judah says: If simultaneously he is liable; if one after the other, he is not liable![9] — This Tanna [who expressed the view of R. Judah] is in agreement with that other Tanna who declares, also in the name of R. Judah, that a dubious warning is a warning. For it was taught: And ye shall let nothing of it remain until the morning; [and that which remaineth of it until the morning ye shall burn with fire].[10] Scripture here came and provided a positive precept as a remedy for the [disregarded] prohibition to indicate that the prohibition is not punishable by stripes: so R. Judah.[11] R. Jacob says: This is not the reason for it, but because it is a prohibition which involves no action [in the contravention thereof], and any prohibition which involves no action [in the contravention thereof] is not punishable by stripes.

Come and hear! If a person ate two [sciatic] nerves from two thighs of two animals, he has incurred eighty stripes. R. Judah says: He has only incurred forty stripes. Now since it says: ‘From two thighs of two animals’ it is obvious that the prohibited one of each is intended;[12] and the case was necessary to be stated in order to set forth R. Judah's view;[13] it follows therefore that he was certain about it.[14] This stands proved. But if he [R. Judah] was certain about it why does he incur forty stripes and no more? Surely he should incur eighty! — We must suppose here that [in one alone] there was not as much as an olive's bulk. As it has been taught: If a person ate it and [the whole of] it was not as much as an olive's bulk, he is nevertheless liable [to stripes]. R. Judah says, [He is not liable] unless there is as much as an olive's bulk of it.

And what is the reason?[15] — Raba said: The verse says: The thigh,[16] this implies the right thigh. And the Rabbis? — [They would say,] That [verse indicates that the prohibited nerve] is the one that is spread over the whole of the thigh, [namely, the inner one] but not the outer one.[17] R. Joshua b. Levi said. [The reason[18] is this,] The verse says. As he wrestled with him,[19] [which suggests] as when a person locks another [in his arms] and his [right] hand reaches the hollow of that other's right thigh.[20]

R. Samuel b. Nahmani said: He appeared to him[21] as a heathen, and the Master has said: If an Israelite is joined by a heathen on the way he should let him walk on his right.[22] R. Samuel b. Aha said in the name of Raba b. Ulla in the presence of R. Papa: He appeared to him as one of the wise, and the Master has said: Whosoever walks at the right hand of his teacher is uncultured.[23] And the Rabbis? [They say,] He [the angel] came from behind and dislocated both [thighs]. And how do these Rabbis interpret the verse: ‘As he wrestled with him’? — They interpret it as in the other statement of R. Joshua b. Levi. For R. Joshua b. Levi said, [This verse] teaches that they threw up the dust of their feet to the Throne of Glory, for it is written here, ‘As he wrestled [behe'abko] with him’ and it is written there. And, the clouds are the dust [‘abak] of his feet.[24]

R. Joshua b. Levi also said: Why is it [the sciatic nerve] called gid ha-nasheh?[25] Because it slipped away [nashah] from its place and rose up; for so it is said: Their strength hath slipped away, they are become as women.[26]

R. Jose b. R. Hanina said: What is the meaning of the verse: The Lord sent a word unto Jacob and it hath lighted upon Israel?[27] ‘The Lord sent a word unto Jacob’, that is the [injury to his] sciatic nerve; ‘and it hath lighted upon Israel’, for the prohibition thereof has spread throughout Israel.

R. Jose b. R. Hanina also said: What is the meaning of the verse: And slaughter the animals and prepare the meat?[28] ‘And slaughter the animals’, that is, uncover for them the place that has been slaughtered;[29] ‘and prepare the meat’, that is, remove the sciatic nerve in their presence: this is in accordance with the view that the sciatic nerve was prohibited to the sons of Noah.

And Jacob was left alone.[30] Said R. Eleazar: He remained behind for the sake of some small jars.[31] Hence [it is learnt] that to the righteous their money is dearer than their body; and why is this? Because they do not stretch out their hands to robbery.[32]

And there wrestled a man with him until the breaking of the day.[33] Said R. Isaac: Hence [it is learnt] that a scholar should not go out alone at night.[34] R. Abba b. Kahana said, [You can derive it] from the verse,

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(1) I.e., the fat around the sciatic nerve. In the Baraitha the term 'nerves' means this fat.

(2) Consequently it is left over from the Paschal lamb, but since by the law of the Torah it may be eaten it must therefore be burnt as nothar.

(3) Sc. the sciatic nerve.

(4) To stripes.

(5) The outer one therefore must be left over; yet it must also be burnt as nothar, since according to Biblical Law it is permitted.

(6) I.e., he was warned against eating the nerve of the right thigh and was also separately warned against eating the nerve of the left thigh of the same animal (v. supra 82b).

(7) He has incurred stripes for eating the nerve of the right thigh and the warning with regard to it was a warning against a certain prohibition.

(8) One in doubt as to which of two men is his father struck first one and then the other. V. supra 82b and notes thereon, p. 461.

(9) For the warning with regard to each one when taken separately is a dubious warning, which is no warning, hence he is not liable.

(10) Ex. XII. 10. V. supra p. 462.

(11) It is evident from this that R. Judah is of the opinion that a dubious warning — as here, for the offender can always render the warning futile by replying, 'I have yet time to eat' — is a proper warning, for the only reason here why the punishment of stripes is not inflicted is that the remedial measure provided by the Torah weakens the force of the prohibition.

(12) I.e., the right thigh of each animal, for otherwise it would have been sufficient to speak of the two thighs of the one animal.

(13) That even though both are prohibited, for each is the nerve of the right thigh, he has incurred only forty stripes and no more. V. infra.

(14) For if R. Judah were in doubt as to which was the prohibited thigh the punishment of stripes could not be inflicted at all.

(15) For R. Judah's view that only that of the right thigh is prohibited.

(16) Gen. XXXII, 33.

(17) V. supra, the statement of Rab Judah in the name of Samuel, p. 000.

(18) V. p. 509, n. 6.

(19) Gen. XXXII. 26.

(20) So it was with Jacob, and it was his right thigh only that was injured.

(21) The angel appeared to Jacob.

(22) A.Z. 25b. The Israelite should have his right hand nearest to the heathen so as to protect himself the more easily against a sudden attack from the heathen. So did Jacob act too; and the angel injured that thigh of Jacob which was nearest to him, i.e., the right thigh.

(23) Jacob regarding the angel as a scholar took his place at the left hand of the other and so was injured in his right thigh, the side nearest to the angel.

(24) Nahum I, 3.

(25) גיד הנשה.

(26) Jer. LI, 30. The verb used is נשתה from נשה, to slip away, to fail.

(27) Isa. IX, 7.

(28) Gen. XLIII. 16.
(29) To convince the sons of Jacob that the slaughtering was according to ritual.
(30) Ibid. XXXII, 25.
(31) He had already taken across that which he had (ibid. 24), but he must have returned for some small vessels.
(32) And whatever they acquire by their toil and honest dealing is therefore very dear to them.
(33) Ibid. XXXII. 25.
(34) For Jacob was in danger only during the night, but with the break of day the danger was past.

Talmud - Mas. Chullin 91b

Behold he winnoweth barley tonight in the threshing floor.[1] R. Abbahu said, [You can derive it] from the verse: And Abraham rose early in the morning, and saddled his ass.[2] The Rabbis say, [You can derive it] from the verse: Go now, see whether it is well with thy brethren, and well with the flock.[3] Rab says, [You can derive it] from the verse: And the sun rose upon him.[4]

R. Akiba said: I once asked R. Gamaliel and R. Joshua in the meatmarket of Emmaus where they had gone to buy a beast for the wedding feast of R. Gamaliel's son: It is written: And the sun rose upon him. Did the sun rise upon him only? Did it not rise upon the whole world? R. Isaac said: It means that the sun which had set for his sake now rose for him. For it is written: And Jacob went out from Beer-Sheba, and went toward Haran.[5] And it is further written: And he lighted upon the place.[6] When he reached Haran he said [to himself], ‘Shall I have passed through the place where my fathers prayed and not have prayed too?’ He immediately resolved to return, but no sooner had he thought of this than the earth contracted and he immediately lighted upon the place. After he prayed he wished to return [to where he was], but the Holy One, blessed be He said: ‘This righteous man has come to my habitation; shall he depart without a night's rest?’ Thereupon the sun set.

It is written: And he took of the stones of the place;[6] but it is also written: And he took the stone![7] — R. Isaac said: This tells us that all the stones gathered themselves together into one place and each one said: ‘Upon me shall this righteous man rest his head’. Thereupon all [the stones], a Tanna taught, were merged into one.

And he dreamed, and behold a ladder set up on the earth.[8] A Tanna taught: What was the width of the ladder? Eight thousand parasangs. For it is written: And behold the angels of God ascending and descending on it.[8] At least two were ascending and two descending, and when they met each other [on the ladder] there were four; and of an angel it is written: His body was like the Tarshish,[9] and we have a tradition that the Tarshish is two thousand parasangs long.[10] A Tanna taught: They ascended to look at the image above[11] and descended to look at the image below. They wished to hurt him, when Behold, the Lord stood beside him.[12] R. Simeon b. Lakish said: Were it not expressly stated in the Scripture, we would not dare to say it. [God is made to appear] like a man who is fanning his son.[13]

The land whereon thou liest, [to thee will I give it, and to thy seed].[12] What is the greatness of this?[14] — Said R. Isaac: This teaches us that the Holy One, blessed be He, rolled up the whole of the land of Israel and put it under our father Jacob, [to indicate to him] that it would be very easily conquered by his descendants.[15]

And he said: Let me go, for the day breaketh.[16] [Jacob] said to him, ‘Are you a thief or a rogue[17] that you are afraid of the morning?’ He replied: ‘I am an angel, and from the day that I was created my time to sing praises [to the Lord] had not come until now’. This[18] supports the statement of R. Hananel in the name of Rab. For R. Hananel said in the name of Rab: Three divisions of ministering angels sing praises [to the Lord] daily; one proclaims: Holy, the other proclaims: Holy, and the third proclaims: Holy is the Lord of hosts.[19] An objection was raised: Israel are dearer to the Holy One, blessed be He, than the ministering angels, for Israel sing praises to the Lord every hour, whereas the ministering angels sing praises but once a day. (Others say: Once a week; and others say: Once a month; and others say: Once a year; and others say: Once in seven years; and others say: Once in a jubilee; and others say: Once in eternity.) And whereas Israel mention the name of God after two words, as it is said: Hear, Israel, the Lord[20] etc., the ministering angels only mention the name of God after three words, as it is written: Holy, holy, holy, the Lord of hosts.[19] Moreover, the ministering angels do not begin to sing praises in heaven until Israel have sung below on earth, for it is said: When the morning stars sang together, then all the sons of God shouted for joy![21] — It must be this: One [division of angels] says: Holy; the other says: Holy, holy; and the third says: Holy, holy, holy, the Lord of hosts. But is there not the praise of 'Blessed'?[22]

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(1) Ruth III, 2. Naomi was certain that Boaz would not leave the threshing floor that night, for since he was working late into the night he would not go out alone at night on his homeward journey.

(2) Gen. XXII, 3. Abraham did not set out at night even though in this case he was accompanied by Isaac and two young men.

(3) Ibid. XXXVII, 14. 'And see', i.e., at a time when one can see, namely, during the day.

(4) Ibid. XXXII, 32. Only then did Jacob go on his way but not earlier.

(5) Gen. XXVIII, 10.

(6) Ibid. 11.

(7) Ibid. 18. The contradiction is that one verse speaks of 'stones' in the plural, whereas the other speaks of 'the stone'.

(8) Ibid. 12.

(9) Dan. X, 6. תרשיש usually translated 'beryl' or some other precious stone. According to Rabbinic tradition it is the name of a sea which extends for two thousand parasangs (Persian miles). V. Jonah I, 3. Rashi (on Dan. ibid.) identifies it with the sea of Africa; probably the Mediterranean Sea.

(10) So that if four angels were to be at the same time on one rung of the ladder it would have to be eight thousand parasangs wide.

(11) V. Ezek. I, 10. Around the Throne of Glory was the likeness of four living creatures, one being the likeness of a man, and according to Rabbinic tradition the likeness of man was the image of Jacob.

(12) Gen. XXVIII. 13.

(13) To protect him from the heat of the sun; so God stood over Jacob to protect him from the envy of the angels.

(14) Of the promise to give Jacob the land on which he lay, which would be four cubits at most!

(15) As the four cubits of ground upon which he lay.

(16) Gen. XXXII, 27.

(17) קוביוסטוס, a kidnapper (Rashi); a gambler (Tosaf.).

(18) That angels sing praises, or that they are limited to an allotted time for song (Tosaf.).

(19) Isa. VI, 3.

(20) Deut. VI, 4.

(21) Job XXXVIII, 7. The morning stars are Israel who are likened to the stars, and the sons of God are the angels. The objection therefore is: How then can it be said above that a division of ministering angels sing: Holy (is) the Lord of hosts, thus mentioning the name of God after one word?

(22) Blessed-be the-glory-of the-Lord Ezek. III, 12. In this song of praise by the angels the name of God is mentioned after two words.

Talmud - Mas. Chullin 92a

— ‘Blessed’ is recited by the Ophanim.[1] Or you may say: Since permission has once been granted it is granted.[2]

Yea, he strove with an angel, and prevailed; he wept, and made supplication unto him.[3] I know not, who prevailed over whom. But when it says. For thou hast striven with God and with men and hast prevailed,[4] I know that Jacob became master over the angel. He wept and made supplication unto him![5] I know not who wept unto whom. But when it says: And he said: Let me go,[6] I know that the angel wept unto Jacob. ‘For thou hast striven with God and with men’: Said Rabbah: He intimated to him that two princes were destined to come from him: the Exilarch in Babylon and the Prince in the Land of Israel;[7] this was also an intimation to him of the exile.

And in the vine were three branches.[8] R. Hiyya b. Abba said in the name of Rab: These are the three men of excellence that come forth in Israel in every generation; sometimes two are here [in Babylon] and one is in the land of Israel, and sometimes two are in the land of Israel and one is here. And the Rabbis set their eyes upon Rabbana ‘Ukba and Rabbana Nehemiah, the sons of Rab's daughter. Raba said: These are the three princes[9] of the nations who plead in Israel's favour in every generation.

It was taught: R. Eliezer says: The ‘vine’ is the world, the ‘three branches’ are [the patriarchs] Abraham, Isaac and Jacob; ‘and as it was budding its blossoms shot forth’,[10] these are the matriarchs; ‘ad the clusters thereof brought forth ripe grapes’,[10] these are the tribes. Thereupon R. Joshua said to him: Is a man shown [in a dream] what has happened? Surely he is only shown what is to happen! Therefore, I say: The ‘vine’ is the Torah, the ‘three branches’ are Moses, Aaron and Miriam; ‘and as it was budding its blossoms shot forth’, these are [the members of] the Sanhedrin;[11] ‘and the clusters thereof brought forth ripe grapes’, are the righteous people of every generation. R. Gamaliel said: We still stand in need of the Modiite, for he explains the verse as referring to one place.[12] For R. Eleazar the Modiite[13] says. The ‘vine’ is Jerusalem, the ‘three branches’ are the Temple, the King and the High priest; ‘and as it was budding its blossoms shot forth’, these are the young priests; ‘and the clusters thereof brought forth ripe grapes’, these are the drink-offerings. R. Joshua b. Levi interprets it in regard to the gifts [bestowed by God upon Israel]. For R. Joshua b. Levi said: The ‘vine’ is the Torah, the ‘three branches’ are the well, the pillar of smoke, and the manna;[14] ‘and as it was budding its blossom,s shot forth’, these are the first fruits;[15] ‘and the clusters thereof brought forth ripe grapes’, these are the drink-offerings.

R. Jeremiah b. Abba said: The ‘vine’ is Israel, for so it is written: Thou didst pluck up a vine out of Egypt.[16] The ‘three branches’ are the three Festivals on which Israel go up [to the Temple] every year. ‘And as it was budding’: the time Is come for Israel to be fruitful and to multiply, for so it is written: And the children of Israel were fruitful, and increased abundantly.[17] ‘Its blossoms shot forth’: the time is come for Israel to be redeemed. for so it is written: And their lifeblood is dashed against My garments, and I have stained all My raiment.[18] ‘And the clusters thereof brought forth ripe grapes’: the time is come for Egypt to drink the cup of staggering. And this is in accordance with what Raba had said: Why are three cups mentioned in connection with Egypt?[19] One [refers to the cup] which she drank in the days of Moses; the other to that which she drank in the days of Pharaoh-Necho;[20] and the third to that which she is destined to drink together with all the nations. R. Abba said to R. Jeremiah b. Abba: When Rab expounded [this verse] in an Aggadic lecture he expounded it as you have done.

R. Simeon b. Lakish said: This people [Israel] is like unto a vine: its branches are the aristocracy, its clusters the scholars, its leaves the common people, its twigs those in Israel that are void of learning. This is what was meant when word was sent from there [Palestine]. ‘Let the clusters pray for the leaves, for were it not for the leaves the clusters could not exist'.[21]

So I bought her [wa-ekreha] to me for fifteen pieces of silver [and a homer of barley, and a half-homer of barley].[22] Said R. Johanan in the name of R. Simeon b. Jehozadak: The word 'Kirah'[23] must mean 'buying',[24] for so it is written: In my grave which I bought [karithi] for me.[25] 'For fifteen': that is the fifteenth day of Nisan when Israel was redeemed out of Egypt. 'Pieces of silver': these are the righteous, for so it is written: He has taken the bag of silver with him.[26] 'And a homer of barley and a half-homer of barley:'[27] these are the forty-five righteous men on account of whom the world continues to exist. But I know not whether thirty of them are here [in Babylon] and fifteen in the land of Israel, or thirty in the land of Israel and fifteen here [in Babylon]; but when the verse says. And I took the thirty pieces of silver and cast them into the treasury, in the house of the Lord,[28] I know that thirty [righteous men] are in the land of Israel and fifteen here. Said Abaye: Most of them are to be found in the synagogue under the side chamber.[29] And I said to them: If ye think good, give me my hire; and if not, forbear. So they weighed out for my hire thirty pieces of silver.[30] Said Rab Judah: These are the thirty righteous men among the nations of the world[31] by whose virtue the nations of the world continue to exist. Ulla said: These are the thirty commandments[32] which the sons of Noah took upon themselves but they observe three of them, namely,

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(1) Not by the ministering angels but by the Ophanim, a higher rank of angels forming part of the Throne of Glory; cf. Ezek. I.

(2) I.e., once they have mentioned the name of God after three words they may thereafter mention it as often as it occurs, even when it occurs after two words or even after one word.

(3) Hosea XII, 5.

(4) Gen. XXXII, 29.

(5) Hosea XII, 5.

(6) Gen. XXXII, 27.

(7) The heads of Jewry in Babylon and Palestine, the latter being designated as 'Gods' for they were ordained as judges and leaders, the former as men.

(8) Ibid. XL, 10.

(9) Angels (Rashi).

(10) Gen XL, 10.

(11) The supreme council of Israel.

(12) I.e., to the various institutions in Jerusalem.

(13) Of Modiim, near Jerusalem, the ancient home of the Maccabean family.

(14) These gifts of water (cf. Num. XXI, 16ff), protection by clouds, and food were bestowed by God upon Israel during their wanderings in the wilderness because of the merits of Miriam, Aaron and Moses respectively.

(15) The reference is to the gift of a fertile land which yielded abundant fruits from which the first ripe fruits were offered.

(16) Ps. LXXX, 9.

(17) Ex. I, 7.

(18) Isa. LXIII, 3. The word נצה, 'its blossom' is interpreted as נצחם, 'their strength, lifeblood'.

(19) The word cup occurs three times in the one verse: Gen. XL, 11. For the cup as a symbol of calamity, cf. Isa. LI, 17: The cup of staggering.

(20) When Egypt was defeated by the Babylonians, cf. Jer. XLVI, 2, 13.

(21) Every class is essential to the well-being of the community.

(22) Hos. III. 2. The entire verse is here homiletically expounded, phrase by phrase. ואכרה from the root כרה, to buy.

(23) כירה the noun formed from the above root.

(24) Lit., 'selling, sale'; here it means a transaction by buying and selling.

(25) Gen. L, 5: כריתי also from the root כרה.

(26) Prov. VII, 20. V. Sanh. 96b where this verse is interpreted as referring to the righteous in Israel.

(27) A homer (in Talmud Kor) consisted of thirty se'ah; so that the verse speaks of thirty units (se'ah) plus fifteen units.

(28) Zech. XI, 13. Thus the thirty righteous are always to be found in the house of the Lord, sc. Palestine.

(29) I.e., most of the righteous men in Palestine. The reference is unknown.

(30) Ibid. 12.

(31) [MS.M. omits 'among the nations of the world'.]

(32) [These are comprised in the seven Noahide precepts. For reference v. Ronsberg Glosses.]

Talmud - Mas. Chullin 92b

(i) they do not draw up a kethubah document for males,[1] (ii) they do not weigh flesh of the dead in the market,[2] and (iii) they respect the Torah.

IT DOES NOT APPLY TO BIRDS, [BECAUSE THEY HAVE NO SPOON-SHAPED HIP]. But we see that they have it? — They have it indeed, but it is not convex.[3] R. Jeremiah raised the question. What if a bird happened to have it convex, or if an animal happened to have it [flat and] not convex? Do we consider the particular creature by itself, or do we consider the class to which it belongs? — It is undecided.

IT ALSO APPLIES TO A FOETUS. Samuel said: The ruling: ITS FAT IS PERMITTED, is agreed to by all. What fat? Should you say, that of a foetus, but this is a matter of dispute. For it has been taught:[4] It[5] applies to a foetus, and its[6] fat is forbidden: so R. Meir. R. Judah says: It does not apply to a foetus, and its[6] fat is permitted. And R. Eleazar said in the name of R. Oshaia: They differ in the case of a nine months' fetus which was [extracted] alive [from its dam's womb]; R. Meir therefore ruling according to his principle[7] and R. Judah according to his.[8] And should you say, the fat of the nerve, but there too there is a dispute about it. For it has been taught: As to the sciatic nerve, one must follow it up as far as it goes and must cut away the fat thereof at its source;[9] so R. Meir. R. Judah says: One merely cuts it away from off the cap of the bone![10] — In truth, it refers to the fat of the nerve; Samuel however agrees that according to R. Meir it is forbidden by Rabbinic decree. For it has been taught: Its fat is permitted, but Israel being a holy people have regarded it as forbidden.[11] And presumably the author [of this Baraitha] is R. Meir who maintains that by the law of the Torah it is permitted but is forbidden by Rabbinic decree! But whence this? Perhaps it is R. Judah, but according to R. Meir it is forbidden even by the law of the Torah! — You cannot think of this; for it has been taught: As to the sciatic nerve, one must follow it up as far as it goes, and its fat is permitted. Now whom have you heard say that it is necessary to 'follow it up?' R. Meir; and here it expressly says, its fat is permitted.[12]

R. Isaac b. Samuel b. Martha said in the name of Rab: The Torah forbade only the branch nerves of it.[13] Ulla said, [Although] it is like wood the Torah makes one liable for it.[14] Abaye said: The view of Ulla is the more probable, for R. Shesheth said in the name of R. Assi. The veins in fat are forbidden but one is not liable [to the penalty of Kareth] on account of them. It is evident therefore that the Divine Law forbade the fat but not the veins, likewise the Divine Law forbade the nerve but not the branch nerves.

[To turn to] the main text. 'R. Shesheth said in the name of R. Assi: The veins in fat are forbidden but one is not liable on account of them'. The veins in the kidney are forbidden but one is not liable on account of them. As to the white substance of the kidney[15] there is a difference of opinion between Rabbi and R. Hiyya, one forbids it and the other permits it . Rabbah used to scrape it all away.[16] R. Johanan also used to scrape it all away. R. Assi used to cut away only the surface thereof.[17] Abaye said: The view of R. Assi is the more probable, for R. Abba said in the name of Rab Judah on the authority of Samuel,

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(1) Although they are suspected of indecent practices and sodomy they do not go to that length of writing a 'marriage' deed for the purpose. כתובה here means a marriage deed; for specific meanings v. Introduction to Keth., Sonc. ed., p.

XI, n. 1.

(2) Although they eat human flesh they do not sell it openly in the market. Rashi also suggests: They do not sell the flesh of an animal that had not been slain but had died a natural death.

(3) The muscles around the upper part of the hip bone of a bird are flat and not rounded and raised like a ball. V. supra p. 500, n. 2.

(4) V. supra 74b; Tosef. Hul. VII.

(5) Sc. the prohibition of the sciatic nerve.

(6) Sc. of a foetus.

(7) R. Meir holds that a nine months' foetus which was extracted alive out of the womb is not rendered permitted by the slaughtering of its dam but must be slaughtered itself and is in every respect like an ordinary animal, hence its fat is forbidden and also the sciatic nerve.

(8) R. Judah maintains that this foetus is permitted by the slaughtering of its dam, and the whole of it may be eaten, the fat as well as the sciatic nerve.

(9) Wherever the fat is found, in all its ramifications.

(10) I.e., only that fat which is in close proximity to the nerve must be cut away, and this only for appearance sake, since strictly the whole of the fat is permitted.

(11) Pes. 83b and supra 91a.

(12) Accordingly R. Meir's view is that strictly by the law of the Torah it is permitted, but it is only forbidden by Rabbinic decree. This then was the purport of Samuel's teaching.

(13) Only the nerves that branch off the main sciatic nerve are prohibited, for these are tender and could impart a flavour into the substance that is cooked with it, but the actual sciatic nerve is hard like wood and is not forbidden.

(14) But the branch nerves are permitted. As to whether or not they are prohibited Rabbinically v. Tosaf. s.v. כוותיה.

(15) Which is in the middle of the kidney but goes deep into the actual kidney.

(16) Even that which is deep in the kidney.

(17) I.e., only that portion which is in the middle of the kidney but not that which is covered up by the kidney.

Talmud - Mas. Chullin 93a

Fat that is covered with flesh is permitted. It is evident therefore that the Divine Law spoke of that which is 'upon the loins'[1] and not of that which is in the loins; likewise here, the Divine Law spoke of that which is 'above the kidneys'[1] and not of that which is in the kidneys.

[To revert to] the above text. 'R. Abba said in the name of Rab Judah on the authority of Samuel: Fat that is covered with flesh is permitted'. But this cannot be, for has not R. Abba also said in the name of Rab Judah on the authority of Samuel that the fat which is under the loins is forbidden?[2] Abaye answered: An animal whilst alive has its limbs dislocated.[3] Even as R. Johanan said: 'I am no butcher nor the son of a butcher, but I remember this statement that was generally quoted in the Beth-Hamidrash, "An animal whilst alive has its limbs dislocated"'.

R. Abba said in the name of Rab Judah who said it in the name of Samuel: The fat which is upon the omasum and reticulum is forbidden and one is liable to the penalty of Kareth on account of it; this is the fat that is 'upon the in wards'.[4]

R. Abba further said in the name of Rab Judah who said it in the name of Samuel: The fat which is upon the innominate bone[5] is forbidden and one is liable to the penalty of Kareth on account of it; this is the 'fat which is upon the loins'.

R. Abba also said in the name of Rab Judah who said it in the name of Samuel: The small veins in the fore-limb are forbidden. Said R. Safra: You Moses![6] Does the Divine Law forbid the eating of meat? — Raba replied: You Moses! Does the Divine Law allow the eating of blood? But if it [the fore-limb] was cut and salted it may even [be cooked] in a pot.[7]

Rab Judah said in the name of Samuel: [The fat upon] the first cubit of the intestines must be scraped away; this is the fat upon the intestines.[8] Rab Judah said: The veins[9] in the rump are forbidden.

There are five veins[9] in the loins, three on the right side and two on the left. Each one of the three veins branches into two, and each one of the two veins branches into three. The practical importance of this is that if one removes then, while the flesh is still warm they will slip out easily, otherwise one must follow them up [to this number].

Abaye (others say: Rab Judah) said: There are five[10] veins, three are forbidden on account of fat and two on account of blood. The veins in the spleen, in the loins and in the kidneys are forbidden on account of fat; those in the fore-limb and in the cheeks on account of blood.[11] What is the practical difference here? — Those forbidden on account of blood, if cut up and salted may be eaten; but the others have no remedy at all.

R. Kahana (others say: Rab Judah) said: There are five membranes, three are forbidden on account of fat, and two on account of blood; that of the spleen, the loins, and the kidneys is forbidden on account of fat; that of the testicles and of the brain on account of blood.

R. Judah b. Oshaia was once scraping [the fat from] the spleen for Levi the son of R. Huna b. Hiyya, and was cutting away [the fat] only at the upper end,[12] whereupon the latter said to him, ‘Go lower down too’. When his father came and found him doing this, he said: Thus said your mother's father (that is, R. Jeremiah b. Abba) in the name of Rab: The Torah forbade only [the fat] at the top.[13] But this surely cannot be, for R. Hamnuna reported that a Tanna taught: The membrane which is upon the spleen is forbidden but one is not liable on account of it. Now what can this mean? If it means, [the fat] which is at the top, then why is one not liable on account of it? It must therefore mean the fat over the whole [of the spleen]! — He replied: If it was so taught then it was taught.[14]

[To revert to] the main text. ‘R. Hamnuna reported, that a Tanna taught: The membrane which is upon the spleen is forbidden but one is not liable on account of it’. The membrane which is upon the kidney is forbidden but one is not liable on account of it. But it has been taught: One is liable on account of it![15] — With regard to the spleen there is no contradiction because the latter ruling refers to the fat which is at the top and the former to that which is not at the top. And with regard to the kidney there is no contradiction because the latter ruling refers to the upper membrane[16] and the former to the lower membrane.

As to crushed[17] testicles [there is a dispute between] R. Ammi and R. Assi, one forbids them and the other permits them. He who forbids them [argues thus]:

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(1) In connection with sacrifices, e.g., Lev. III, 4. The prohibition of fat applies only to such fat as was burnt in a sacrifice on the altar.

(2) Although this fat is covered by the loins.

(3) When the animal is in motion its limbs and muscles slip away from their normal positions and are temporarily dislocated. Consequently the fat under the loins is not always covered with flesh, and it is therefore forbidden.

(4) Referred to frequently in Scripture in connection with sacrifices, e.g., Lev. III, 3.

(5) I.e., the hip-bone. According to Rashi the text refers to the sacrum. V. Katzenelsohn, p. 269, n. 2.

(6) A title of honour; or a form of oath, ‘By Moses’! Cf. Bezah 38b.

(7) The veins in the fore-limb are forbidden only on account of the blood contained in them; if therefore the meat was cut up and the veins cut too, it is permitted for all purposes.

(8) About which there was a dispute between R. Akiba and R. Ishmael, v. supra 49b.

(9) These ‘veins’ or stringy fibers are forbidden as fat and are included in the prohibition of fat.

(10) I.e., there are five places where the veins are prohibited, either because of fat or of blood.

(11) The arteries of the neck, i.e., the carotid arteries, are certainly forbidden because of their blood; here however only the minor veins are reckoned.

(12) At the thick part, i.e., the area of attachment to the rumen.

(13) Lit., ‘on the breast’; i.e., the membrane which lies over the thick part of the spleen.

(14) But I shall not alter my opinion on account of it. V. Rashi Nid. 23b s.v. אי תניא תניא.

(15) Both with regard to the spleen and the kidney.

(16) This is absolutely forbidden and entails the penalty of kareth.

(17) According to others, the testicles had been torn away and were lying loose in the scrotum.

Talmud - Mas. Chullin 93b

since they will never recover, they are to be considered as a limb torn loose from the living animal. And he who permits them [argues thus]: since they do not rot there is obviously vitality in them. And the former? — He maintains that they do not rot only because the outside air does not penetrate into them. And the latter? — He maintains that they do not recover only because emaciation has set in. R. Johanan said to R. Shaman b. Abba: Crushed testicles are permitted, but you must not eat them for it is written: Forsake not the teaching of thy mother.[1]

Mar son of R. Ashi said: The testicles of a kid[2] that is not yet thirty days old, are permitted without having to peel off the membrane; thereafter, if they contain semen they are forbidden,[3] if they do not contain semen they are permitted. How does one know this? — If there are red streaks [in the membrane], they are forbidden;[4] I if there are no red streaks, they are permitted.

As to [dark red] meat, testicles, and the arteries [of the neck], there is a dispute between R. Aha and Rabina. (In any law of the Torah [whenever there is a dispute between them], Rabina always adopts the lenient view and R. Aha the strict view, and the law is always in accordance with Rabina's view thus tending towards leniency; excepting in these three cases, where R. Aha adopts the lenient view and Rabina the strict view, and, the law is in accordance with R. Aha's view and thus tending towards leniency.) As to dark red meat[5] if it was cut up and salted, it is even permitted [to be cooked] in a pot; if it was thrust on a spit [and held over the fire], the blood would easily flow out; if it was placed on the coals, in this there is a dispute between R. Aha and Rabina: one says that they [the coals] would draw out the blood, and the other says that they would cause [the meat] to contract.[6] The same rules apply to the testicles, and also to the arteries [of the neck].

If a head was put on hot ashes[7] and it was made to stand up upon the open cut of the neck, the blood would then flow out and it is permitted; if it was placed upon its side, the blood would become clotted and it is forbidden; if it was made to stand up upon its nostrils and something was thrust into them,[8] it is permitted; otherwise it is forbidden. Some there are who say, [If it was made to stand up] upon its nostrils or upon the cut of the neck, the blood would flow out; if it was placed upon its side and it was pierced with something it is permitted, otherwise it is forbidden.

[To revert to] the above text:[9] Rab Judah said in the name of Samuel, ‘It[10] consists of two nerves, the inner,[11] next to the bone, is forbidden, and one is liable on account of it, the outer,[11] next to the flesh, is forbidden, but one is not liable on account of it’. But it was taught that the inner is nearer the flesh! — R. Aha explained in the name of R. Kahana, [That is so further on] where it is embedded in the flesh. But it was taught that the outer is nearer the bone! — Rab Judah answered: That is so only [at the part] where the butchers cut it open.[12]

It was stated: If a butcher was found to have overlooked forbidden fat, even only as much as a barley grain, says Rab Judah, [he is punishable]. R. Johanan says, [Only if he overlooked] as much as an olive's bulk. R. Papa said: They do not disagree, for here it is a question of punishing him with stripes,[13] and there of removing him.[14] Mar Zutra said, [If there was found] as much as a barley grain in one place or as much as an olive's bulk scattered in two or three places [he is punishable].[15] The law is: in order to punish him with stripes [he must have overlooked] as much as an olive's bulk, and in order to remove him even if [he overlooked] only as much as a barley grain.[16]

BUTCHERS ARE NOT TRUSTWORTHY etc. R. Hiyya b. Abba said in the name of R. Johanan. Later they held that they were to be trusted.[17] R. Nahman exclaimed: Have the generations become more virtuous? — At first they [the Sages] held the view of R. Meir[18] and so they were not to be trusted, but later they held the view of R. Judah.[19]

Others report this with reference to the last clause, THE SAGES SAY, THEY ARE TRUSTWORTHY WITH REGARD TO IT AS WELL AS WITH REGARD TO THE [FORBIDDEN] FAT. R. Hiyya b. Abba said in the name of R. Johanan: Later they held that they were not to be trusted. R. Nahman said: Today they are to be trusted. Have the generations then become more virtuous? — At first they [the Sages] held the view of R. Judah, and later they held the view of R. Meir; and as long as people still remembered the view of R. Judah, they were not to be trusted, but now that R. Judah's view has been forgotten they are to be trusted.

AS WELL AS WITH REGARD TO THE [FORBIDDEN] FAT. But who has mentioned the forbidden fat at all? — This is what he [R. Meir] said: They are not trustworthy with regard to it nor with regard to the forbidden fat. But the Sages say: They are trustworthy with regard to it as well as with regard to the forbidden fat.[20]

MISHNAH. ONE MAY SEND TO A GENTILE A THIGH IN WHICH THERE IS YET THE SCIATIC NERVE, BECAUSE ITS PLACE IS KNOWN.[21]

GEMARA. Only a whole thigh one may [send] but not if it was cut up.[22] But what are the circumstances? If we are speaking of a place where they do not proclaim it,[23]

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(1) Prov. I, 8. R. Shaman came from Babylon where the rule was not to eat them because of the difference of opinion between R. Ammi and R. Assi.

(2) Or any other young animal.

(3) If the membrane has not been removed because of the blood it contains.

(4) V. p. 522, n. 7.

(5) Caused by a blow which the animal received while alive and the blood was congested in this spot; v. Marginal note. [Aliter: meat pickled in vinegar.]

(6) So that the blood would not flow out and it is therefore forbidden.

(7) In order to remove the hair the more easily.

(8) To keep clear the passage in the nostrils so as to allow the blood to run out freely.

(9) Inserted by Bah. V. Supra 91a.

(10) Sc. the sciatic nerve.

(11) The great sciatic nerve is derived from the lumbosacral plexus and as it emerges from the pelvis it descends first behind the hip joint and then behind the femur in the thigh. It gives off branches to the muscles behind the femur, but its longest branch is the common peroneal. The ‘inner’ is probably the great sciatic nerve, and the ‘outer’ the common peroneal.

(12) When they are about to ‘porge’ the meat. There the outer nerve is near to the bone.

(13) In that case he must have overlooked at least an olive's bulk of fat. In addition to stripes he is barred from trading as a butcher (R. Nissim). ‘Stripes’ here is not that ordained by the Torah but corporal punishment inflicted for disobeying a Rabbinic law, i.e., Makkath Marduth, stripes for rebellion. (cf. Yoreh Deah, LXIV, 21).

(14) From trading as a butcher. This is so even though he only overlooked as much as a barley grain of fat.

(15) It is not clear what is to be his punishment, removal from his trade or stripes. V. however Rashal. a.l.

(16) [He is however reinstated on undertaking never to repeat the offence. V. דברי חמודות on Asheri a.l.]

(17) With regard to the sciatic nerve (Tosaf.).

(18) That the sciatic nerve must be removed with all its roots; and as this entailed much trouble the butchers were not be trusted for it.

(19) That only the upper surface of the nerve must be removed; for this all butchers were trustworthy.

(20) This paragraph is not found in MS.M.

(21) We need not apprehend lest another Jew, seeing the gentile receiving the thigh from this Jew, will assume that the nerve had been removed and will buy it from the gentile, because it can easily be seen whether the nerve has been removed or not.

(22) I.e., a portion of the thigh. This is the inference from our Mishnah which states A THIGH, implying a whole thigh.

(23) Sc. that an animal was found to be trefah. This is the custom where all the butchers are Jews. Where the practice of announcing it is not in vogue, there Jews are not allowed to buy meat from gentiles under any circumstances, for the Jewish butchers may have disposed of the trefah animal to a gentile and did not trouble to make this fact known.

Talmud - Mas. Chullin 94a

then one should be allowed to send it even though it was cut up, for no [Jew] would buy it from him. And if we are speaking of a place where they do proclaim it,[1] then one should not be allowed to send even an entire thigh,[2] for he [the gentile] will cut it up and sell it! — If you wish I can say that it is a place where they do proclaim it, and if you wish I can say that it is a place where they do not proclaim it. If you wish, I can say that it is a place where they do proclaim it , [and yet there is nothing to fear] because the cutting up [of the thigh] by a gentile is recognizable.[3] ‘And if you wish, I can say that it is a place where they do not proclaim it’, [and yet it is forbidden to send a portion] lest he should give it to the gentile in the presence of another Israelite.[4] Alternatively, I can say, [it is forbidden] because he thereby deceives him,[5] and Samuel holds that it is forbidden to deceive people even gentiles.

This view of Samuel was not expressly stated but was inferred from the following incident. Samuel was once crossing on a ferryboat and he said to his attendant, ‘Reward the ferryman’. He rewarded him, but [Samuel] became angry. Why was he angry? — Abaye said: Because he [the attendant] had a trefah hen and he gave it to the ferryman representing it as one that was ritually slaughtered. Raba said: Because he [Samuel] told him to give him [the gentile] anpaka[6] to drink, and he gave him mixed wine to drink.[7] And what if it was only inferred? — Because according to him who says that he gave him a trefah hen, it can be said [that Samuel was angry with his attendant] for keeping with him [a forbidden thing].[8] And according to him who says that he told him to give him anpaka, it can be said [that Samuel was angry] because anpaka really means unmixed wine.[9]

It was taught: R. Meir used to say: A man should not urge his friend to dine with him when he knows that his friend will not do so.[10] And he should not offer him many gifts when he knows that his friend will not accept them. And he should not open [for a guest] casks of wine which are to be sold by the shopkeeper,[11] unless he informs [the guest] of it. And he should not invite him to anoint himself with oil[12] if the jar is empty. If, however, the purpose is to show the guest great respect, it is permitted. But surely this cannot be right. For Ulla once came to Rab Judah's house and the latter opened up for him casks that were later to be sold by the shopkeeper! — He must have informed him of this fact. Or if you wish, I can say that the case of Ulla is different, for he was so dear to Rab Judah that he would have opened for him even those that were not [to be sold by the shopkeeper].

Our Rabbis taught: A man should not go to the house of a mourner[13] with a bottle in which the wine shakes about;[14] neither should he fill it with water because he thereby deceives him. If, however, there is a large assembly[15] present, it is permitted.

Our Rabbis taught: A man should not sell to his neighbour shoes made of the hide of an animal which died, [representing them] as made of the hide of a living animal which was slaughtered, for two reasons: first, because he is deceiving him, and secondly, because of the danger.[16] A man should not send to his neighbour a barrel of wine with oil floating at the mouth of it.[17] It once happened that a man sent his friend a barrel of wine, and there was oil floating at the mouth of the barrel. He went and invited some guests to partake of it. When they came and he found that it was only wine he went and hanged himself.[18] The guests may not give from what is set before them to the son or daughter of the host, unless they have the host's permission to, do so. It once happened that a man in a time of scarcity invited three guests to his house and he only had three eggs[19] to set before them. When the child of the host entered, one of the guests took his portion and gave it to him, the second guest did likewise, and so did the third. When the father of the child came and saw him stuffing one [egg] in his mouth and holding two in his hands, he [in rage] knocked him to the ground so that he died. When the child's mother saw this she went up to the roof and threw herself down and died. He too went up to the roof and threw himself down and died. R. Eliezer b. Jacob said: Because of this three souls in Israel perished. What does he [R. Eliezer b. Jacob] tell us? — It means that the whole story was related by R. Eliezer b. Jacob.

Our Rabbis taught: If a man sends to his friend a whole thigh he need not remove beforehand the sciatic nerve; if [he sends it] cut up he must remove beforehand the sciatic nerve. To a gentile, however, whether he sends it cut up or whole, he need not remove beforehand the sciatic nerve. And for two reasons they said, a man should not sell to a gentile animals that have become nebelah or trefah:[20] first because he is deceiving him,[21] and secondly because he in turn might sell it to another Israelite. A man should not say to a gentile. ‘Buy for me meat with this denar’, for two reasons:

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(1) So that on any day when no proclamation about trefah has been made Jews may buy meat without hesitation from gentiles.

(2) Unless the nerve had been removed beforehand, for the gentile might cut it up in portions and sell it to Jews, and when cut up it is no longer easy to ascertain whether the nerve has been removed or not.

(3) A whole thigh, therefore, may be sent but not a portion of one.

(4) Although in this place it is not the practice for Jews to buy meat from gentiles, in this particular case where the Jew sees the gentile receiving the meat, even if only a portion, from his fellow Jew, he might buy it and assume that the nerve had been removed.

(5) Lit., ‘steals his mind’, i.e., creates a false impression upon him. The gentile would be delighted in the thought that his Jewish friend is sending him meat fit for his own table, and would be the more grateful to him, whereas in reality the meat sent was not fit for his own table as the nerve had not been removed therefrom, and so the gratitude of the gentile will have been falsely earned.

(6) אנפקא, a form of the word אנבג (v. Jast. s.v.), strictly, a small cup the capacity of one fourth of a log, cf. B.B. 58b. A popular term also for strong, unmixed wine.

(7) And the gentile thought it was unmixed wine.

(8) And not because he deceived the gentile.

(9) And by giving mixed wine he disregarded the orders of Samuel. Hence his anger.

(10) He is merely gaining the gratitude of his friend through something which he had no intention of doing. This is the reason in all the cases mentioned.

(11) It was not unusual for a private person when about to open a barrel of wine for his table to make arrangements with a shopkeeper to dispose of that which is left after the meal; a necessary arrangement, for once the barrel has been opened the wine will in a very short time turn sour. To open up a barrel of wine for a guest without informing him of the arrangement with the shopkeeper is taking credit for something one has not merited.

(12) Knowing full well that his friend will not do so.

(13) It was the custom to drink wine at the house of a mourner, and over each cup of wine certain Benedictions and appropriate words of consolation to the mourners were recited; v. Keth. 8b. The visitors would come bringing with them bottles of wine; and one must not deceive people by coming with a bottle filled with water or only half-filled with wine.

(14) I.e., it contains only a little wine and therefore shakes about in the bottle.

(15) חבר עיר Lit., ‘an assembly of the city’. If this man also wishes to show his respect to the mourners among the large gathering of people and he cannot afford to bring wine he may adopt this deception, for the motive justifies the means. [Aliter: a town scholar, vocalizing חבר; i.e., if there is a scholar among the visitors and the man wishes to show his respect to the scholar present, cf. Meg. (Sonc. ed.) p. 164, n. 1.]

(16) As the animal may have died through the bit of a serpent and the hide of the animal may thereby have become contaminated.

(17) Leading him to believe that the whole barrel contains oil.

(18) Because of shame, for he had nothing else prepared to set before his guests.

(19) So Bah. Cur. edd. as (the size of) three eggs.

(20) Without informing him of this fact.

(21) For a gentile when buying meat of a Jew believes that he is buying the meat of an animal that has been ritually slaughtered, and it is forbidden to take advantage of his ignorance and to pass on to him trefah meat.

Talmud - Mas. Chullin 94b

first because of the violent ones among them,[1] and secondly because they might sell him meat of a nebelah or trefah animal.

The Master said: ‘To a gentile, however, whether [he sends it] cut up or whole, he need not remove beforehand the sciatic nerve’. But what are the circumstances? If we are dealing with a place where they do proclaim it,[2] then in the case where it has been cut up why [do you say,] he need not remove beforehand the sciatic nerve? [Is it not to be feared that,] since no proclamation was made, people will buy from him? Obviously then we are dealing with a place where they do not proclaim it. Consider now the middle clause which reads: ‘For two reasons, they said, a man should not sell to a gentile animals that have become nebelah or trefah: first because he is deceiving him, and secondly because he in turn might sell it to another Israelite’. If, as you say, we are dealing with a place where they do not proclaim it, then surely no one would buy from him. Obviously then we are dealing with the place where they do proclaim it.[3] Consider now the final clause which reads: ‘A man should not say to a gentile. "Buy for me meat with this denar", for two reasons: first because of the violent ones among them, and secondly because they might sell him meat of a nebelah or trefah animal’. Now if, as you say, it is a place where they do proclaim it, then surely if there happened a trefah it would have been proclaimed.[4] Obviously then we are dealing with the place where they do not proclaim it; so that the position is: The first and last clauses deal with a place where they do not proclaim it, whilst the middle clause deals with a place where they do proclaim it! — Abaye answered: It is so. The first and last clauses deal with a place where they do not proclaim it, but the middle clause deals with a place where they do proclaim it. Raba answered: The whole [Baraitha] deals with a place where they do proclaim it; and in the first and last clauses the case was that a proclamation had been made [this day],[5] but in the middle clause the case was that no proclamation had been made.[6] R. Ashi answered: The whole [Baraitha] deals with a place where they do not proclaim it;[7] but the ruling in the middle clause[8] is merely a precautionary measure lest he sell it to the gentile in the presence of another Israelite.[9] What is the form of the proclamation? — R. Isaac b. Joseph said: ‘Meat has fallen into our hands for the army’.[10] And why not proclaim, ‘Trefah meat has fallen into our hands for the army’? — They would not then buy it. Are we not then deceiving them? — No. They are deceiving themselves.[11] As in the following incident. Mar Zutra the son of R. Nahman was once going from Sikara[12] to Mahuza, while Raba and R. Safra were going to Sikara; and they met on the way. Believing that they had come to meet him he said: ‘Why did the Rabbis take this trouble to come so far [to meet me]?’ R. Safra replied: ‘We did not know that the Master was coming; had we known of it we should have put ourselves out more than this’. Raba said to him, ‘Why did you tell him this; you have now upset him’? He replied: ‘But we would be deceiving him otherwise’. ‘No. He would be deceiving himself’.[13]

A butcher once said to his fellow,

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(1) Who would keep the denar for themselves and at the same time force the butcher to supply them with meat to the value of a denar without payment.

(2) That this day a trefah animal was supplied to the gentile. On that day Jews would refrain from buying meat from the gentile. For the form of the proclamation v. infra.
(3) But for some unaccountable reason no proclamation was made on this day, so that there is the danger of Jews buying trefah meat from the gentiles without being aware of the fact.
(4) Since there was no proclamation on this day then the Jew should have no hesitation in sending the gentile to buy meat for him.
(5) So that all know that this day the gentile has been supplied with trefah meat.
(6) Although such a proclamation should have been made.
(7) So that generally Jews would not buy meat from gentiles for they are supplied with trefah meat and no announcement is made of this fact.
(8) Sc. that it is forbidden to sell to a gentile nebelah or trefah.
(9) Who, on seeing the gentile receiving it from the Jew and not knowing that it is trefah, would permit himself to buy it from the gentile. In the first clause, however, we do not apprehend this, for there it refers to a private transaction, where a Jew sends a thigh to the gentile, and it is not likely that any other Jew would know of this; hence there is no reasonable ground for imposing a precautionary measure. On the other hand, the Tanna of our Mishnah does feel the necessity for such a measure. V. Rashi.
(10) Sc. the gentiles. In towns where Jews mainly settled, it was not unusual to find that the only gentiles in the town were the soldiers of the army who were stationed there.
(11) For they do not take the trouble to enquire whether the meat is trefah or not.
(12) Near Mahuza.
(13) Thinking that they had specially come to meet him.

Talmud - Mas. Chullin 95a

‘If only you had been on good terms with me, I would have given you a portion of the fatted ox which I had prepared yesterday!’ He replied: ‘I did eat of the choicest meat’. ‘Where did you get it?’ asked the other. ‘That gentile who bought [the animal from you] gave me a portion’, he replied. Said the other, ‘I did indeed prepare two, but that one became trefah’. Said Rabbi, Are we to prohibit all the meat stalls [today] because of that fool who acted improperly?[1] Rabbi here is consistent with his principle, for he said: Where the meat stalls [kept by gentiles are supplied with meat by] Israelite butchers, any meat found in the possession of the gentile[2] is permitted. Some there are who give this version: Rabbi said: ‘Are we to prohibit all the meat stalls because of that fool who wanted to annoy his fellow’?[3] Now the only reason is because he wanted to annoy his fellow, but where there was no such intention [all the meat stalls would be] forbidden. Surely it was taught: Rabbi says: Where the meat stalls [kept by gentiles are supplied with meat by] Israelite butchers, any meat found in the possession of the gentile is permitted! — Here it is different, for the forbidden meat is clearly established.[4]

Rab said: Meat which had disappeared from sight[5] is forbidden.[6] An objection was raised. Rabbi says: Where the meat stalls [kept by gentiles are supplied with meat by] Israelite butchers, any meat found in the possession of the gentile is permitted![7] — It is different where it is found in the possession of the gentile.[8]

Come and hear: If there were nine meat shops, all of them selling ritually slaughtered meat and one shop selling carrion, and a man bought meat from one of them but he does not know from which of them he bought, it is forbidden because of the doubt;[9] but if meat was found,[10] one goes after the majority.[11] — Here too [we must suppose] that it was found in the hand of a gentile.

Come and hear: We have learnt: If one found[10] [raw] meat in the city one must determine [the meat] according to the majority of butchers; if it was cooked meat one must determine it according to the majority of the people that eat meat.[12] And should you say that here too [we must suppose] that it was found in the hand of a gentile, [then why is it said.] ‘If it was cooked one must determine it according to the majority of the people that eat meat’? Let us see whether the gentile has it in his possession or the Israelite![13] — Here we must suppose that he [the finder] was standing by and kept his eye on it all the time.[14]

Come and hear: [We have learnt:] If meat was found within the borders,[15] if it was an entire limb it is deemed to be nebelah,[16] but if it was a cut [from a limb] it is permitted.[17] And should you say that here too we must suppose that he [the finder] stood by keeping his eye on it all the time, then why is it deemed to be nebelah in the case of an entire limb?[18] — Is not this intended [as an objection] against Rab's teaching? But with regard to it there has been reported: Rab said: It is permitted only in so far as it is not deemed to be nebelah,[19] Levi however said, it is permitted to be eaten.

This rule of Rab[20] was not expressly stated but was inferred from the following incident. Rab was once sitting by the ford of the Ishtatith Canal[21] when he saw a man

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(1) Since the meat sold in all the stalls, even those kept by gentiles, is supplied by Jewish butchers, the Jews have accustomed themselves to buying meat from gentile stalls without hesitation. The improper act of this man surely will not have the effect of altering the status quo so as to place a restriction upon all stalls kept by gentiles!

(2) I.e., on his stall.

(3) We assume therefore that he lied to his fellow merely in order to annoy him, but that he did not actually sell the gentile trefah meat.

(4) He had definitely sold trefah meat to this gentile, and he might have done so to others too, therefore all the meat on the stalls kept by the gentiles is forbidden.

(5) Even if one lost sight of it or turned one's back on it for a moment.

(6) For it might have been exchanged for trefah meat.

(7) Here the meat was not kept in sight by the Jew the whole time, nevertheless it is permitted.

(8) The gentile has had this meat in his care all the time, and since all the meat supplied to him is ritually slaughtered, for no Jew would supply him with trefah meat to sell in the market, it is permitted. Where, however, nobody was in charge of it, it is forbidden, for a raven might have carried it away and brought back trefah meat from elsewhere.

(9) Because of the principle that everything prohibited which has a fixed place (kabua’) among things permitted, is not deemed as a minority among the majority, but rather as in the proportion of half to half. In this case therefore the meat, bought from one of the shops amongst which that shop which sells carrion has its place fixed and determined, is forbidden, for the doubt with regard to this meat is even.

(10) Presumably in the market place, and evidently it had disappeared from sight.

(11) And the meat is permitted for the majority of shops sell ritually slaughtered meat.

(12) Maksh. II, 9. If the majority of butchers, or in the case of cooked meat if the majority of people that eat meat, are Jews, the meat found may be eaten.

(13) And this would easily determine the doubt, for if the gentile has it then it is forbidden for presumably he has cooked it. The case must therefore be that the meat was found on the ground and not in the possession of anyone, nevertheless it is permitted, contra Rab.

(14) From the moment that it fell from the owner.

(15) Of the Land of Israel but outside Jerusalem.

(16) For whenever an animal becomes nebelah it is usually cut up into limbs and thrown away.

(17) Shek. VII, 6. It is to be assumed, of course, that the majority of butchers in the town are Jews. Nevertheless it is permitted even though it was lost and presumably out of sight.

(18) After all the meat had only accidentally fallen from the owner and was not thrown away as nebelah.

(19) I.e., it does not defile, but on no account may it be eaten since it had not been kept in sight the whole time.

(20) That meat which had even for one moment disappeared from sight is forbidden.

(21) [Near Sura, v. Obermeyer, p. 300.]

Talmud - Mas. Chullin 95b

washing the head [of an animal in the water]. It fell out of his hand, so he went and fetched a basket, threw it [into the water] and brought up two heads. Said Rab, ‘Is this what usually happens?’[1] And he forbade him both [heads]. Thereupon R. Kahana and R. Assi said to Rab, ‘Are only forbidden [heads] found here and not permitted ones?’[2] He replied. ‘The forbidden ones are more frequently found’. But what if it was only inferred?[3] — It was a jetty frequented mostly by gentiles. Indeed you may be certain of this from his reply: ‘The forbidden ones are more frequently found [here]’.[4]

According to this how could Rab eat meat?[5] — You may say [that he ate meat] soon [after the slaughtering], so that he did not lose sight of it; or only if it was wrapped up and sealed, or if it bore some distinguishing mark. Thus Rabbah son of R. Huna used to cut up [the meat] in the shape of a triangle.

Rab was once going to his son-in-law R. Hanan when he saw a ferry-boat coming towards him. Said he to himself: When the ferry-boat comes to meet one it is a good omen.[6] As he came to the door he looked through the crack of the door and he saw the meat of an animal hanging up. He then knocked at the door and everybody came out to meet him, even the butchers too. Rab however did not take his eyes off [the meat] and said to them: ‘If that is how [you look after things], then you are giving my daughter's children forbidden meat to eat’. And Rab did not eat of that meat. But why? If because of meat that had disappeared from sight, but here he did not lose sight of it; and if because of the omen,[7] but Rab himself has said: An omen which is not after the form pronounced by Eliezer,[8] Abraham's servant, or by Jonathan[9] the son of Saul, is not considered a divination![10] — [The reason is that] it was a meal of free choice[11] and Rab would not partake of a meal of free choice.

Rab used to regard a ferry-boat as a sign. Samuel a [passage in a] book,[12] and R. Johanan [a verse quoted] by a child. During the lifetime of Rab, R. Johanan used to address him thus in his letters: Greetings to our Master in Babylon! After Rab's death R. Johanan used to address Samuel thus: Greetings to our colleague in Babylon! Said Samuel to himself, ‘Is there nothing in which I am his master’? He thereupon sent [to R. Johanan] the calculations for the intercalation of months for sixty years. Said [R. Johanan], ‘He only knows mere calculations’. So he [Samuel] wrote out and sent [R. Johanan] thirteen camel loads[13] of questions concerning doubtful cases of trefah. Said [R. Johanan], ‘It is clear that I have a Master in Babylon; I must go and see him’. So he said to a child, ‘Tell me the [last] verse you have learnt’. He answered: ‘Now Samuel was dead’.[14] Said [R. Johanan], ‘This means that Samuel has died’. But it was not the case; Samuel was not dead then, and [this happened] only that R. Johanan should not trouble himself.[15]

It was taught: R. Simeon b. Eleazar says: Although a house or a child or a marriage must not be used for divination, they may be taken as a sign.[16] R. Eleazar added: Provided it was established so on three occasions,[17] for it is written: Joseph is not, and Simeon is not, and ye will take Benjamin away; upon me all these things come.[18]

R. Huna enquired of Rab: What if [pieces of meat were] strung together?[19] — He replied: Don't be a fool; if strung together it is certainly a distinguishing sign. Others report this as follows:[20] R. Huna said in the name of Rab, If pieces of meat were strung together this is regarded as a distinguishing sign.

R. Nahman[21] of Nehardea once came to R. Kahana at Pum Nahara[22] on the eve of the day of Atonement when they saw ravens dropping [from their beaks] pieces of liver and kidneys. Said [R. Kahana] to the other, pick them up and eat them, for to-day that which is permitted is more common.[23]

R. Hiyya b. Abin once lost the large intestine of an animal amongst a stack of barrels [and subsequently found it] and he came to enquire about it of R. Huna. ‘Have you a distinguishing mark on it'? asked [R. Huna]. 'No', he replied. 'Would you be able to recognize it [by general impression]? 'Yes', he replied. 'Then you may go and take it.'

R. Hanina Hoza'ah[24] once lost a side of meat [and subsequently found it]. He came to R. Nahman who said to him, 'Have you a distinguishing mark on it?' He replied: 'No'. 'Would you be able to recognize it?' He replied: 'Yes'. 'Then you may go and take it'.

R. Nathan b. Abaye once lost a ball of blue wool.[25] He came before R. Hisda who said to him, 'Have you a distinguishing mark on it?' He replied: 'No'. 'Would you be able to recognize it'? He replied: 'Yes'. 'Then you may use it'.

Raba said: At first I thought that [identification by] a distinguishing mark was more reliable than [identification by] general impression,[26] since we must return a lost article [to anyone who mentions] a distinguishing mark on it,

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(1) On losing one thing to find two.

(2) The second head might very well have been a permitted one which had previously fallen into the river.

(3) This incident clearly shows Rab's view as stated above (p. 533, n. 9).

(4) Which can only be explained by the fact that the place was frequented mostly by gentiles. In other districts, however, both heads might have been permitted, even though they had been out of sight for some time. Thus Rab's principle cannot be definitely inferred from this incident.

(5) Since it would be forbidden if only it was, for one moment, out of sight.

(6) Lit., 'it will be a good day in there', i.e., at the place where he proposed to go.

(7) Which he had expressed about the ferry-boat coming towards him.

(8) Cf. Gen. XXIV, 14.

(9) Cf. I Sam. XIV, 9, 10.

(10) In the sense that is forbidden by Lev. XIX, 26. In the two cases mentioned the action to be taken was entirely dependent upon the happening of a certain event, and this is prohibited. But to interpret a certain event as an omen either for good or evil, is not prohibited.

(11) As opposed to a meal in fulfilment of a religious precept.

(12) If the ferry-boat was coming towards one, or if a passage selected at random from a book or the verse quoted by a child was of a happy nature, — each was regarded as a good omen for a successful venture.

(13) Reading גמלי. According to R. Han.: גוילי, 'parchment scrolls'.

(14) I Sam. XXVIII, 3.

(15) To go to Babylon to visit Samuel.

(16) If a man's first undertaking immediately after a great day in his life, such as the building of a house, the birth of a child or his marriage, proves to be successful, he may regard it as suspicious and as a prognostic of success, and may view cheerfully all future undertakings of a similar nature. If, on the other hand, it proves to be unsuccessful, he should in the future view similar undertakings with apprehension. To place implicit faith and absolute reliance upon the outcome of the first undertaking is forbidden by the Torah as augury and divination (v. Lev. XIX, 26). One may, nevertheless, regard it as an indication of the future.

(17) I.e., he met with a sequence of three successes or three reverses.

(18) Gen. XLII, 36.

(19) And the entire string of meat had disappeared for a moment from sight.

(20) Not as a question put by R. Huna but as a definite statement of the law.

(21) MS.M. R. Hanan.

(22) On the Tigris.

(23) For much meat was eaten on the eve of the Day of Atonement in preparation for the fast, v. supra 83a, and therefore any meat found, or carried away by ravens, would in all probability be meat that was ritually slaughtered.

(24) Of Hozae, the modern Khuzistan.

(25) Which was prepared for use in the Zizith (cf. Num. XV, 38). The blue dye was very scarce and every precaution had to be taken to guard against imitations and spurious kinds.

(26) Lit., ‘impression of the eye’.

Talmud - Mas. Chullin 96a

whereas we do not return it [to anyone who recognizes it] by mere general impressions.[1] But now, having heard the above decisions, I maintain that [identification by] general impression is the more reliable. For should you not say so, how is it that a blind man is permitted [to cohabit] with his wife, or all people with their wives at night? It is only by recognition of the voice; so in all cases general impression [is reliable]. R. Isaac, son of R. Mesharsheya said: You may know it from this too; for if two witnesses were to come and say: ‘So-and-so who has this or that distinguishing mark killed a person’,[2] we should not put him to death, but if they were to say: ‘We recognize him’, we would put him to death. R. Ashi said: You may also know it from this; for if a man were to say to his messenger. ‘Call So-and-so who has this or that distinguishing mark’, there is a doubt whether he would know him or not, but if he [the messenger] is able to recognize him, when he sees him he would certainly know him.

MISHNAH. WHEN A PERSON REMOVES THE SCIATIC NERVE HE MUST REMOVE ALL OF IT.[3] R. JUDAH SAYS, ONLY SO MUCH AS IS NECESSARY TO FULFIL THE PRECEPT OF REMOVING IT.[4] IF A PERSON ATE AN OLIVE'S BULK OF THE SCIATIC NERVE, HE HAS INCURRED FORTY STRIPES. IF HE ATE THE WHOLE OF IT AND IT WAS NOT AS MUCH AS AN OLIVE'S BULK, HE IS NEVERTHELESS LIABLE.[5] IF HE ATE AN OLIVE'S BULK OF IT FROM ONE THIGH AND ANOTHER OLIVE'S BULK OF IT FROM THE OTHER THIGH, HE HAS INCURRED EIGHTY STRIPES. R. JUDAH SAYS, HE HAS INCURRED ONLY FORTY STRIPES.[6]

GEMARA. Bar Piuli was standing in the presence of Samuel and was porging[7] a side of meat. He was only cutting away the surface [of the nerve], so Samuel said to him, ‘Go down deeper; had I not seen you, you might have given me forbidden meat to eat’. He was alarmed at this, and the knife fell out of his hand. Said Samuel to him, ‘Be not alarmed, for he who taught you this taught you according to the view of R. Judah’. R. Shesheth said: That part which Bar Piuli had removed, is according to R. Judah forbidden by the Torah. Then it follows, does it not, that the part which he [Bar Piuli] did not remove, is according to R. Judah forbidden Rabbinically? If so, according to whose view was he [Bar Piuli] taught this?[8] — R. Shesheth therefore said: That part which Bar Piuli had removed, is [according to R. Meir][9] forbidden by the Torah, but that part which he did not remove, is forbidden Rabbinically, only according to R. Meir, for according to R. Judah it is permitted even Rabbinically.[10]

IF A PERSON ATE AN OLIVE'S BULK OF THE SCIATIC NERVE etc. Samuel said: The Torah forbade only that part [of the nerve] which is on the spoon,[11] for it is written: Which is upon the spoon of the thigh.[12] R. Papa said: This [statement of Samuel] is the subject of dispute between Tannaim; for it was taught: If a person ate [the whole of] it and it was not as much as an olive's bulk, he is nevertheless liable. R. Judah Says, [He is not liable] unless it was as much as an olive's bulk. What is the reason of the Rabbis? — Because it is a complete entity in itself.[13]

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(1) But only to a scholar, cf. B.M. 23b.

(2) These witnesses do not claim to know the murderer except that he had certain distinguishing marks.

(3) This is the view of R. Meir, supra 92b, that one must follow up the tracks of the nerve in all its ramifications.

(4) It is sufficient if one removes the upper part of the nerve, i.e., that part which is visible at the hip-joint.

(5) Although the minimum quantity for constituting eating is an olive's bulk, where the thing prohibited by the Torah is in its entirety less than the size of an olive, e.g., an ant, one incurs the penalty for eating the whole of it.

(6) Because the Prohibition according to R. Judah applies only to one thigh, the right thigh.

(7) I.e., removing the sciatic nerve from the thigh.

(8) Lit., 'he who taught him according to whose view did he teach him'? For it is clear that the whole of the nerve must be removed if only by Rabbinic injunction. The question therefore is: Whose view did Bar Piuli adopt by cutting away only the surface?

(9) So MS.M., and also according to Bah's gloss. This is also the view of R. Judah.

(10) So that Bar Piuli acted entirely in accordance with R. Judah's view.

(11) The muscles at the proximal end of the thigh are rounded and convex like the back of a spoon. Only that part of the sciatic nerve which runs in these muscles, says Samuel, is prohibited.

(12) Gen. XXXII, 33. V. supra, p. 500, n. 2.

(13) And this was prohibited by the Torah even though the whole of it is not as large as an olive.

Talmud - Mas. Chullin 96b

And what does R. Judah [say to this]? — The term 'eating' is used in connection therewith.[1] And the Rabbis? — The term 'eating' is to teach that if it [the sciatic nerve] consisted of four or five olives' bulk and he ate thereof the size of one olive, he is liable.[2] And R. Judah? — That is derived from the expression. 'Which is upon the spoon of the thigh'.[3] And the Rabbis? — This verse is required for Samuel's teaching, for Samuel said: The Torah forbade only that part [of the nerve] which is on the spoon. And R. Judah? — It is written 'the thigh', that is, the entire thigh.[4] And the Rabbis? — That is to indicate that the prohibited nerve is the one that is spread over the whole of the thigh, [namely the inner one], and not the outer one;[5] but of course only [so much of it is prohibited as is] upon the spoon. But is not the expression 'spoon' required to teach that [the prohibition of the sciatic nerve] does not apply to birds as they have not a spoon-shaped hip? — The word 'spoon' is written twice [in the verse].[6]

MISHNAH. IF A THIGH WAS COOKED TOGETHER WITH THE SCIATIC NERVE AND THERE WAS SO MUCH [OF THE NERVE] AS TO IMPART A FLAVOUR [TO THE THIGH], IT IS FORBIDDEN. HOW DOES ONE MEASURE THIS? AS IF IT WERE MEAT [COOKED] WITH TURNIPS.[7] IF THE SCIATIC NERVE WAS COOKED WITH OTHER NERVES[8] [IN A BROTH] AND IT CAN STILL BE RECOGNIZED,[9] THEN IT DEPENDS WHETHER IT IMPARTED A FLAVOUR OR NOT;[10] BUT IF IT CAN NO LONGER [BE RECOGNIZED] THEN ALL [THE NERVES] ARE FORBIDDEN;[11] AND AS FOR THE BROTH IT DEPENDS WHETHER IT [THE SCIATIC NERVE] IMPARTED A FLAVOUR OR NOT. AND SO IT IS WITH A PIECE OF NEBELAH, OR A PIECE OF AN UNCLEAN FISH. THAT WAS COOKED TOGETHER WITH OTHER PIECES OF FLESH [OR FISH]: IF IT CAN STILL BE RECOGNIZED, THEN IT DEPENDS WHETHER IT IMPARTED A FLAVOUR OR NOT; AND IF IT CAN NO LONGER [BE RECOGNIZED]. THEN ALL PIECES ARE FORBIDDEN; AND AS FOR THE BROTH IT DEPENDS WHETHER IT[12] IMPARTED A FLAVOUR OR NOT.

GEMARA. Samuel said: This [ruling of our Mishnah] applies only to the case where they were cooked together,[13] but if they were roasted together one may then cut away [the meat] and eat it until one reaches the nerve.[14] But Surely this is not so, for did not R. Huna say that if a kid was roasted together with its forbidden fat it is forbidden to eat even of the tip of its ear?[15] —

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(1) And the minimum quantity for constituting 'eating' is an olive's hulk.

(2) For it might have been thought that only the eating of the whole of it renders one liable to stripes.

(3) I.e., for eating the portion which is upon the spoon of the thigh, even though it is not the whole, one is liable, provided always it consisted of an olive's bulk.

(4) And the prohibition applies even to that part which is not upon the spoon, contra Samuel.

(5) V. supra 93b.

(6) Ibid., XXXII, 33.

(7) If when meat and turnips are cooked together, in the same proportions as here the nerve and the thigh respectively, the meat imparts its flavour to the turnips, then the thigh would be forbidden on account of the taste of the forbidden nerve. It is estimated by the Rabbis that meat cannot impart its taste to any substance that is cooked with it if the latter is sixty times as large in bulk as the meat.

(8) Which are not forbidden.

(9) It must then be removed, and the only consideration is with regard to the flavour thereof that has remained in the pot.

(10) Lit., '(it is forbidden only) if it imparted a flavour'. I.e., whether the other nerves were sixty times as large in bulk as the forbidden nerve or not. In the former case they would be permitted, in the latter they would not.

(11) For each nerve might be the forbidden sciatic nerve.

(12) Sc. the forbidden piece.

(13) In cooking the flavour extracted spreads equally in the whole pot.

(14) The heat of the fire dries up and constricts the nerves so that no flavour or essence is spread in the meat, and therefore the entire meat is permitted save for the nerve itself.

(15) It is here evident that by roasting the essence is carried throughout the whole meat.

Talmud - Mas. Chullin 97a

It is different with fat for it spreads [throughout the flesh]. Is it then forbidden in the case of fat? But Surely Rabbah b. Bar Hana has related a case which came before R. Johanan at the synagogue of Ma'on of a kid that was roasted with its fat, and on enquiring of R. Johanan he ruled that one may cut away [the meat] and eat it until one reaches the fat! — That was a lean kid.[1] R. Huna b. Judah suggested that it was the case of a kidney roasted with its fat, and he [R. Johanan] declared it to be permitted.[2] Rabin son of R. Ada said: It was the case of a kilkith[3] that was found in a pot of stew, and on enquiring of R. Johanan he ruled that a gentile cook should taste it.[4]

Raba said: In the past the following was always a difficulty to me. It was taught: In a pot wherein meat had been cooked a person may not boil milk, and if he did boil [milk] therein, it depends whether the pot imparted a flavour [to the milk] or not.[5] [In a pot wherein] terumah[6] food [had been cooked] a person may not cook common food, and if he did cook [common food] therein, it depends whether the pot imparted a flavour [to the common food] or not. Now in the case of terumah it is clear, for a priest could taste the food;[7] but in the case of meat and milk who may taste it?[8] But now that R. Johanan ruled that we can rely upon a gentile cook, in this case too we could rely upon a gentile cook.

Raba also said, [In certain cases] the Rabbis ruled that the test whether or not it imparts a flavour applies, and [in other cases] the Rabbis ruled that one may rely upon a [gentile] cook,

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(1) And it had little fat; or the fat of a lean animal would not spread (Tosaf.).

(2) For the forbidden fat of the kidney could not penetrate the kidney by reason of the strong membrane which separates them.

(3) A small fish that may not be eaten; probably the stickleback.

(4) To ascertain whether the flavour of the fish is discernible in the stew. The cook's opinion, even though he is a gentile, would be relied upon only so long as he is ignorant of the issue that is involved.

(5) V. supra p. 540, n. 4.

(6) V. Glos.

(7) For to a priest both terumah and common food are permitted. He therefore could taste the common food to ascertain whether it contains any flavour of the terumah food which had previously been cooked in this pot.

(8) For if one actually imparts a flavour into the other then it is forbidden to everyone, even only to taste thereof.

Talmud - Mas. Chullin 97b

and yet [in other cases] the Rabbis ruled that the test is sixty [to one]. Therefore we say, where substances of different kinds, each kind being permitted by itself, were mixed together, the test is whether or not one imparts a flavour to the other;[1] and if one of the substances was forbidden[2] then we rely upon the opinion of a gentile cook. Where substances of like kind were mixed together, in which case it is impossible to discern whether one imparts a flavour to the other; or where substances of different kinds, one of which was forbidden, were mixed together, and no [gentile] cook is available, then the test is sixty [to one].[3]

In the house of the Exilarch, sides of meat were once salted with the sciatic nerve in them. Rabina declared them to be forbidden, whilst R. Aha son of R. Ashi[4] declared them to be permitted. When this case was put to Mar son of R. Ashi he said: My father declared them to be permitted. Then said R. Aha son of R. [Ashi] to Rabina: What is the reason for your view? Is it not Samuel's dictum that whatsoever is salted is counted as hot[5] and whatsoever is preserved is counted as cooked?[6] But [remember,] did not Samuel say. This ruling [of our Mishnah] applies only to the case where they were cooked together, but if they were roasted together one may then cut away [the meat] and eat it until one reaches the nerve? And should you say that the term counted as hot' means hot as when cooked, surely [this cannot be, for] since he said: 'whatsoever is preserved is counted as cooked', it follows that [in the first clause 'counted as hot' means] hot as when roasted![7] This is indeed a difficulty.

R. Hanina said: When measuring[8] one should measure the broth, the sediments, the pieces, and the pot.[9] Some say: The actual thickness of the] pot must be taken into account;[10] but others say: Only that which is absorbed in the pot is to be taken into account.[11]

R. Abbahu said in the name of R. Johanan. As regards all things prohibited by the Torah[12] one should measure them as though they were onions or leeks.[13] R. Abba said to Abaye: Why not measure as though they were pepper or spices, in which case the flavour would not become neutralized even in a thousand-fold? — He replied: The Rabbis have estimated that among forbidden substances there is none that can impart a stronger flavour than onions or leeks.

R. Nahman said: The [sciatic] nerve [is neutralized] in sixty-fold, but the nerve itself is not to be included to make up this number.[14] The udder is neutralized in sixty-fold, but the udder itself is to be included.[15] An egg[16] is neutralized in sixty-fold, but the egg itself is not to be included. R. Isaac the son of R. Mesharsheya said: But the udder itself is forbidden,[17] and if it fell into another pot it renders [the contents] forbidden.

R. Ashi said: When we were at R. Kahana's the question was put before us: When measuring, should one measure [the prohibited substance] itself or only the essence which exuded from it?[18] — It is obvious, surely, that one should measure the substance itself, for if only the essence which exuded from it, [the question arises,] How do we know [how much it is]? — But if so, if it[19] subsequently fell into another, pot it should not render [the contents] forbidden?[20] — Since R. Isaac the son of R. Mesharsheya had said that the udder itself was forbidden, the Rabbis declared it to be as a piece of nebelah.[21]

'An egg is neutralized in sixty-fold, but the egg itself is not to be included [to make up this number']. R. Idi b. Abin said to Abaye. Can it be said that it imparts a flavour?[22] but people usually say: 'As the mere water of eggs'! — He replied: We are dealing here

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(1) E.g., where terumah was mixed with common food the mixture is permitted to a priest, and he could taste it and give his opinion as to whether the terumah does impart a flavour in the common food, in which case the mixture is forbidden to all save priests, or does not, in which case the mixture is permitted to all.

(2) E.g., where one of the substances was flesh of an unclean animal, or where both substances separately are permitted but when mixed are forbidden to all, e.g., milk food mixed with meat.

(3) I.e., the flavour of the forbidden substance is neutralized and lost if the bulk of the permitted substance is sixty times as large as the bulk of the forbidden substance.

(4) So in cur. edd. In MS.M.: R. Aha b. Rab. Most probably it should be: R. Aha b. Raba, who was a contemporary of Rabina and R. Ashi.

(5) If two substances, one permitted and the other forbidden, were salted together they are regarded as having been roasted (or cooked? v. infra) together.

(6) If substances were preserved in vinegar and in spices for at least twenty-four hours they are regarded as having been cooked together.

(7) And therefore meat salted together with the sciatic nerve is permitted just as if it was roasted with it; so that Rabina's view cannot be upheld.

(8) To ascertain whether the permitted substance is sixty times as much as the forbidden substance or not.

(9) All these should be included to make up the sixty-fold as against the forbidden substance.

(10) One should reckon the volume of the thickness of the pot as well as the quantity of meat and broth etc. in order to make up the required sixty-fold.

(11) The absorption of the pot is considered to be the difference in the weight between the raw flesh and the flesh when cooked.

(12) Except the sciatic nerve, for which the standard is ‘meat and turnips’, v. our Mishnah.

(13) If by substituting onions or leeks for the amount of the forbidden substance the taste of the onions or leeks could be felt in the rest of the stew of the pot, the contents of the pot would be prohibited on account of the forbidden substance, which evidently imparts its flavour so that it can be felt. This method was resorted to before the standard of sixty-fold was fixed.

(14) I.e., there must be sixty times the volume of the forbidden nerve.

(15) If an udder which was not emptied of its milk was cooked together with meat, the entire contents of the pot would be forbidden unless there was in the pot sixty times as much as the milk of the udder. (The quantity of milk in the udder is regarded as equal to the volume of the udder). Now the udder can also be included to make up this sixty-fold since it is not the udder that is forbidden but only the milk contained in it. In other words, there must be in the pot fifty-nine times the quantity of the udder; v. infra 109a.

(16) Of an unclean bird which was boiled with eggs of clean birds. V. infra.

(17) Even though the pot contained sixty times the quantity of the udder, in which case everything else in the pot is permitted, the udder itself is forbidden, for the meat in the pot imparted its flavour into it.

(18) For the actual forbidden substance has now been removed from the pot, and the question is only with regard to the essence that exuded from it.

(19) Sc. any forbidden substance which was cooked with sixty times as much permitted food and which when taken out subsequently fell into another pot of meat which did not contain the sixty-fold. According to Tosaf. this question deals specifically with the case of the udder mentioned above.

(20) For the essence and flavour of the forbidden substance has entirely exuded and has become neutralized and nullified in the first pot, consequently it cannot render forbidden any other foodstuff.

(21) The neutralization in the first pot only came about gradually, so that before there was the necessary sixty-fold it was forbidden; accordingly the forbidden substance is always regarded as a piece of nebelah which renders forbidden the contents of any and every pot into which it fell.

(22) I.e., an egg when cooked with others imparts a flavour in them.

Talmud - Mas. Chullin 98a

with an egg which contained a chicken,[1] but not with an egg of an unclean bird.

He raised an objection against him. [It was taught:] If clean eggs were cooked with unclean eggs and the latter can impart a flavour in the others, they are all forbidden![2] — Here, too, we must suppose that they contained in them chickens. Why then are they called ‘unclean’? — Since they contain chickens they are called ‘unclean’. But surely since the following clause [deals with eggs containing chickens, for it reads]. ‘If eggs were cooked together and in one of them was found a chicken, and this one can impart its flavour into the others, all are forbidden’, it follows that the first clause deals with eggs which do not contain chickens! — The one clause is merely explanatory of the other thus: ‘If clean eggs were cooked with unclean eggs and the latter can impart a flavour in the others, all are forbidden; as for instance, if they were cooked together and in one of them was found a chicken'. This indeed stands to reason. For if you assume that the first clause deals with eggs that have no chickens in them, seeing that the exudation of eggs that have no chickens in them can render forbidden, is it necessary to teach this in the case where they had chickens in them? — This is not a conclusive argument. It may be that the second clause was stated to make clear the first: lest you might think that the first clause deals with eggs that have chickens in them, leaving us to infer that if they had no chickens in them all the eggs would be permitted, he therefore adds the second clause which deals with eggs that have chickens in them, which shows that the first clause speaks of eggs that have no chickens in them, and even so render the others forbidden.

An olive's bulk of [forbidden] fat once fell into a pot of meat.[3] R. Ashi intended to include in the measuring [all the meat] that was absorbed in the [sides of the] pot, whereupon the Rabbis said to R. Ashi: Has it absorbed only that which is permitted and not that which is forbidden?[4]

A half an olive's bulk of [forbidden] fat once fell into a pot of meat. Mar the son of R. Ashi intended to measure it by the standard of thirty-fold,[5] whereupon his father said to him, 'Have I not told you not to treat lightly the standard measures [even in matters which are forbidden only] by Rabbinic ruling? Moreover, R. Johanan has declared that half the legal quantity [of a forbidden matter] is forbidden by the law of the Torah'.[6]

R. Shaman b. Abba said in the name of R. Idi b. Idi b. Gershom who said it in the name of Levi b. Perata who said it in the name of R. Nahum who said it in the name of R. Biraim who said it in the name of a certain old man whose name was R. Jacob, as follows: Those of the Nasi's house said: A forbidden egg[7] among sixty eggs[8] renders them all forbidden, a forbidden egg among sixty-one eggs renders them all permitted. Thereupon R. Zera said to R. Shaman b. Abba: Look, you are stating a definite point at which they are permitted, whereas the two greatest men of the day did not give a definite ruling on this matter. For R. Jacob b. Idi and R. Samuel b. Nahmani both reported in the name of R. Joshua b. Levi that a forbidden egg among sixty eggs rendered them all forbidden, and a forbidden egg among sixty-one eggs rendered them all permitted. And when the question was put to them: Does 'sixty-one' include it [the forbidden egg] or exclude it? they were unable to give a definite answer; and you seem to be so certain of it! It was stated: R. Helbo said in the name of R. Huna: With regard to a [forbidden] egg [cooked with permitted ones], if there were sixty besides this one they are forbidden, but if there were sixty-one besides this one they are permitted.

A certain man once came before R. Gamaliel the son of Rabbi [with his case].[9] Said [R. Gamaliel]: Did not my father [permit such a case] by the standard of forty-seven-fold? Then I might just as well be satisfied with forty-five-fold.[10]

A certain man once came before R. Simeon the son of Rabbi [with his case]. I said [R. Simeon]: Did not my father [permit such a case] by the standard of forty-five-fold? Then I might just as well be satisfied with forty-three-fold.

A certain man once came before R. Hiyya [with his case].[9] Said [R. Hiyya]: But there is not here thirty-fold! The reason then [why he declared it forbidden] was because there was not thirty-fold, but if there was thirty-fold could we then adopt this standard?[11] — R. Hanina answered: It was merely an exaggerated expression.[12]

R. Hiyya b. Abba said in the name of R. Joshua b. Levi who said it in the name of Bar Kappara: All prohibited substances of the Torah are [neutralized] in sixty-fold.[13] Thereupon R. Samuel son of R. Isaac said to him: Master, do you say so? But R. Assi stated in the name of R. Joshua b. Levi who said it in the name of Bar Kappara. All prohibited substances of the Torah are [neutralized] in a hundred-fold. Now both derived their views from 'the cooked shoulder', as it is written: And the priest shall take the cooked shoulder.[14] And it was taught. ‘Cooked’

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(1) The exudation from the egg is of no consequence, it is as mere water, but that of the chicken within the egg is of consequence.

(2) Tosaf. Terum. IX.

(3) Which was cooking on the fire.

(4) For if it is to be assumed that the meat in the pot has been diminished by the absorption in the pot, then the bulk of fat has likewise been diminished. In fact one should not take into consideration the absorption of the pot at all, and the measuring must take into account only the visible contents of the pot.

(5) Since there was not the minimum legal quantity (i.e., an olive's bulk, v. Yoma 73b) of forbidden fat, he was inclined not to insist on the sixty-fold standard, but was prepared to permit the meat in the pot even though it was only thirty times as much as the fat.

(6) The sixty-fold standard must be adhered to even though there was only half an olive's bulk of the forbidden substance, for, according to R. Johanan, even this quantity is forbidden by the Torah, v. Yoma 73b. The minimum legal quantity of an olive's bulk is necessary only to render the offender liable to stripes.

(7) I.e., an egg in which a chicken had developed. So throughout this passage.

(8) All the other eggs being, of course, permitted ones.

(9) Viz., a half-olive's bulk of a forbidden substance was cooked with permitted food.

(10) Since in this and in the following cases the amount of forbidden substance was less than the minimum legal quantity, the standard of sixty-fold is not rigidly adhered to but smaller standards e.g., of forty-seven-fold, forty-five-fold and forty-three-fold would suffice to render the mixture permitted. According to another interpretation in Rashi the reverse decision is arrived at thus: ‘My father did not adopt a standard of forty-seven-fold, shall I then permit by the standard of forty-five-fold’? The case, accordingly, was of an entire olive's bulk that was cooked with permitted food.

(11) Surely not.

(12) What he meant to say was that there was no question of neutralization in this case for there was not even thirty-fold!

(13) Provided the taste of the forbidden substance can no longer be felt in the mixture, for so long as the taste can be felt it will not become neutralized (Rashi). V. however Tosaf. s.v. כל.

(14) Num. VI, 19. The shoulder of the ram of the Nazirite's sacrifice was given to the priests to be eaten by priests only, but the rest of the sacrifice was consumed by the owners.

Talmud - Mas. Chullin 98b

implies that it must be whole.[1] R. Simeon b. Yohai says. ‘Cooked’ implies that it must have been cooked together with the ram. Now in fact both[2] agree that it must be cooked with the ram, but [they differ in the following]: one holds that it must first be cut away and then cooked,[3] and the other holds that it must first be cooked and then cut away.[4] Alternatively, I can say, all agree that it must first be cut away and then cooked, but [they differ in this]: one[5] holds that it must be cooked together with the ram [in the same pot], and the other holds that it must be cooked in a separate pot. Now according to the first version from either view and according to the second version from the view of R. Simeon b. Yohai [can the required standard be derived].[6] He who holds the sixty-fold standard maintains that the flesh and bone [of the shoulder] must be measured against the flesh and bone [of the ram], and the latter is sixty times as much as the former. But he who holds the hundred-fold standard maintains that only the flesh [of the shoulder] must be measured against the flesh [of the ram] and the latter is a hundred times as much as the former.[7]

But can one derive the standard from the above? Surely it has been taught: This[8] is a case of a substance being permitted even though it has absorbed a forbidden substance.[9] Now what does ‘this’ exclude? Presumably it excludes every other substance which has absorbed any matter forbidden by the Torah?[10] — Abaye answered, [The exclusion] was necessary only according to R. Judah who maintains that [in all other cases] homogeneous substances cannot neutralize each other; hence we are taught that here they do neutralize each other.[11] But why does he not infer the rule from here?[12] — Because the Divine Law has expressly stated: And he shall take of the blood of the bullock and of the blood of the goat,[13] which shows that though they are both [mixed up] together one does not neutralize the other. But why do you prefer to infer [the rule of non-neutralization of homogeneous substances] from this [verse] rather than from the other?[14] Because that is an anomaly,[15] and one cannot draw any inferences from an anomaly. If so, how may we infer [the rule of neutralization] in hundredfold or in sixty-fold from it?[16] — Forsooth, do we infer leniency from it? We infer a restriction, for according to the rule of the Torah a substance is neutralized in a bare majority [of other substances].[17]

Raba answered: [The exclusion][18] was necessary with reference to the rule that the taste[19] [of a forbidden substance] is [treated] as the substance itself. Now as this [sc. the taste] is forbidden in the case of consecrated matter, we are therefore taught that here[20] it is permitted.[21]

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(1) The inference from the word ‘cooked’ is obscure (Rashi).

(2) The first Tanna and R. Simeon b. Yohai.

(3) The first Tanna maintains that the shoulder must be cut away from the ram and then cooked in the same pot as the ram. And the term ‘whole’ implies that the shoulder must in no wise be cut up in pieces. So Rashi; according to Tosaf. s.v. מר, this is the opinion of R. Simeon b. Yohai.

(4) R. Simeon b. Yohai maintains that the shoulder must be cut away only after the whole ram has been cooked. According to Tosaf. this is the opinion of the first Tanna.

(5) R. Simeon b. Yohai.

(6) Either the sixty-fold or hundred-fold standard. It must be observed that in the case of the ram of the Nazirite sacrifice resort must be had to the principle of neutralization and it must be assumed that the essence and flavour of the shoulder, which is forbidden to all but priests, is nullified by the rest of the flesh of the ram, for otherwise the Nazirite, an Israelite, would not be allowed to partake of the flesh of the ram since it must be cooked together with the shoulder according to both views in the first version, or according to the view of R. Simeon b. Yohai in the second version.

(7) For the shoulder consists in the greater part of bone and has but little flesh on it, and the Rabbis have estimated that if taken bulk for bulk the ram would be only sixty times as much as the shoulder, but if only the proportion of the flesh is considered it will be found that the ram is one hundred times as much as the flesh of the shoulder.

(8) Sc. the ram of the Nazirite sacrifice.

(9) I.e., the forbidden shoulder.

(10) I.e., that neutralization does not take place. So that the principle of neutralization either in sixty-fold or in a hundred, fold cannot be derived from here.

(11) Even though the shoulder and the rest of the ram are homogeneous substances. One can however derive from here the principle of neutralization with regard to heterogeneous substances.

(12) Why does not R. Judah infer from the case of the ram of the Nazirite sacrifice that in all cases homogeneous substances can neutralize each other?

(13) Lev. XVI, 18. The blood of the goat, although mixed with the blood of the bullock and though considerably less in quantity than the blood of the bullock, nevertheless retains its identity and is not neutralized by the latter, obviously because they are homogeneous substances and cannot neutralize each other.

(14) I.e., from the case of the ram of the Nazirite sacrifice. The inference from this case would be that even homogeneous substances can neutralize each other.

(15) In that the Torah allows at the outset the neutralization of a forbidden substance, contrary to all Rabbinic dicta. V. Bez. 4b.

(16) In respect of heterogeneous substances according to R. Judah, or in respect of all substances according to the Rabbis. V. supra p. 549, n. 5.

(17) But for the inference from the ram of the Nazirite, we should have acted in accordance with the Biblical principle, ‘Decide the issue according to the majority’, based on Ex. XXIII, 2. One may infer conditions of stringency (namely, that there must be sixty times or a hundred times the quantity of the prohibited substance) even from an anomaly.

(18) In the statement ‘This is a case of a substance etc.’.

(19) Even though the taste is barely perceptible and is certainly less than one sixtieth or one hundredth part of the entire mixture. (Rashi, but see Tosaf. ad loc.).

(20) Sc. in the case of the ram of the Nazirite sacrifice.

(21) Likewise with regard to unconsecrated matter the taste is neutralized either in sixty-fold or in hundred-fold.

Talmud - Mas. Chullin 99a

Why then does he not infer the rule from this?[1] — Because the Divine Law has expressly stated with regard to the sin-offering. Whatsoever shall touch the flesh thereof shall be holy,[2] that is to say, [it shall be] as [the sin-offering] itself.[3] If the latter is ritually unfit to be eaten, the other[4] is also unfit, and if it is permitted, the other[4] is also permitted to be eaten but only under the conditions of stringency as [the sin-offering] itself.[5] But why do you prefer to infer it[6] from this [verse] rather than from the other?[7] — Because that is an anomaly, and one cannot draw any inferences from an anomaly. If so, how may we infer [the rule of neutralization] in hundred-fold or in sixty-fold from it? — Forsooth, do we infer leniency from it? We infer a restriction, for according to the rule of the Torah a substance is neutralized in a bare majority [of other substances].[8]

Rabina said: The [exclusion] was necessary only in regard to the side of the cut; for generally it is said that the side of the cut is forbidden[9] but here it is permitted.[10]

R. Dimi was sitting and reciting this statement [of R. Samuel b. R. Isaac][11] when Abaye said to him: Are then all forbidden substances of the Torah neutralized only in hundred-fold? Surely we have learnt:[12] With regard to what did they say that every [substance of terumah] which leavens, or flavours, or is mixed with [common food], must be treated with stringency? It is with regard to homogeneous substances. [And with regard to what did they say that every substance of terumah which leavens etc.] must be treated with leniency as well as with stringency? It is with regard to heterogeneous substances. And in the next clause it reads: With regard to heterogeneous substances there is leniency as well as stringency — thus if crushed beans [of terumah] were cooked with lentils [of common food] and they impart a flavour [to the lentils], the whole is forbidden, whether there was so little [of the beans] as to be neutralized in a hundred and one or not.[13] If they do not impart a flavour [to the lentils] they are permitted, whether there was so little [of the beans] as to be neutralized in a hundred and one or not.[14] Now in the case where there was not so little [of the beans] as to be neutralized in a hundred and one, is it not to be assumed [that there was little enough to be neutralized] in sixty?[15] —

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(1) Sc. from the case of the ram of the Nazirite sacrifice which is also consecrated matter; and the inference would be that even consecrated matter is neutralized in sixty-fold or hundred-fold.

(2) Lev. VI, 20. I.e., whatsoever shall have absorbed from the flesh of the sin-offering, however minute, must be treated as the sin-offering itself, for the taste or essence of the sin-offering can never be neutralized.

(3) V. Pes., (Sonc. ed.,) p. 212 and notes.

(4) That which has absorbed from the sin-offering.

(5) V. Zeb. 97b. The sin-offering could be eaten only by the males of the priesthood, within the hangings of the Sanctuary, the same day and the evening following until midnight. With regard to other sacrificial meat less stringent regulations obtained. From this verse, quoted in the text, is derived the rule that a consecrated substance can never be neutralized. Hence an inference from the ram of the Nazirite to the contrary cannot be made.

(6) Sc. the rule that consecrated matter can never be neutralized, for the taste thereof is as the substance itself.

(7) V. supra p. 550, n. 8.

(8) V. supra p. 550, n. 1, 2 and 3.

(9) V. supra 68b. Whenever a matter is partly permitted and partly forbidden and it is necessary to separate these parts, when they are cut away from each other the surface of the cut on the side of the permitted part which was in contact with the forbidden part must be pared off.

(10) So that when the shoulder is cut away from the rest of the ram there is no necessity to pare off the surface of the cut.

(11) Supra p. 548.

(12) V. ‘Orlah II, 6, 7.

(13) This is the standard quantity for neutralizing terumah in any mixture, derived from Num. XVIII, 29; cf. Sifre on that verse. The rule here is one of stringency for even though there were a hundred and one times as much lentils as the beans of terumah, the mixture is forbidden because of the flavour that is still perceptible.

(14) This is a rule of leniency in that the standard of a hundred and one is not insisted upon in the case where the flavour of the terumah substance is not perceptible. This lenient rule applies only to a mixture of heterogeneous substances, but in the case of a mixture of homogeneous substances conditions of stringency always obtain; and in order that a mixture of homogeneous substances be permitted, two conditions are essential, first the absence of any flavour of the terumah substance, and secondly the requisite standard of a hundred and one; v. infra.

(15) And in such a case the mixture would be permitted provided that the flavour of the terumah substance was not perceptible. Hence it is evident that the standard of neutralization where the flavour is not perceptible is sixty-fold, contra R. Dimi who quoted R. Samuel b. R. Isaac.

Talmud - Mas. Chullin 99b

No, [it could be neutralized] in a hundred.[1] But surely since the first clause deals with neutralization in a hundred the second deals with neutralization in sixty![2] For it reads in the first [clause as follows]: With regard to homogeneous substances there is always stringency — thus if wheaten leaven [of terumah] fell into wheaten dough [of common food], and there was sufficient of it to leaven the dough,[3] it is forbidden, whether there was so little of the leaven as to be neutralized in a hundred and one or not. If there was not so little of the leaven as to be neutralized in a hundred and one, it is forbidden, whether it could leaven the dough or not.[4] Can it then be said that both the first and second clauses are [alike in that neutralization takes place only] in a hundred?[5] — No, the first clause deals with neutralization in a hundred and one,[6] whereas the second clause deals with neutralization in a hundred.[7] Why is it then, where there were a hundred and one times [the quantity of the forbidden leaven], even though it can still leaven the dough, that it is not neutralized?[8] He [R. Dimi] remained silent. Said [Abaye] to him: Perhaps it is different with leaven for leaven is very sharp! Said [R. Dimi] to him: You have now reminded me of that statement of R. Jose son of R. Hanina, viz., Not all standards are alike,[9] for in the case of brine the standard of neutralization is almost two hundred. For we have learnt:[10] [Where unclean fish was pickled together with clean fish, if in a barrel holding two se'ahs there was the weight of ten zuz Judean measure (which is five sela's Galilean measure)] of unclean fish, the brine thereof is forbidden. R. Judah says. [It is forbidden if there was] a quarter log [of unclean brine] in two se'ahs[11] [clean brine]. But has not R. Judah said that homogeneous substances cannot be neutralized? — It is different with brine for it is only the moisture[12] [of the fish].

HOW DOES ONE MEASURE THIS? R. Huna said: As if it were meat [cooked] with turnip-heads.[13] Our Mishnah is not in agreement with the following Tanna, for it was taught: R. Ishmael the son of R. Johanan b. Beroka says that nerves cannot impart a flavour.[14]

A man once came in before R. Hanina,[15] and R. Judah b. Zebina was sitting at the doorstep [of R. Hanina's house]. When the man came out he [R. Judah] asked him, ‘How did he [R. Hanina] decide’? ‘He permitted it unto me’, he replied. ‘Then go in again to him’, [said R. Judah b. Zebina]. Thereupon [R. Hanina] said: ‘ Who is this that worries me so. Go, tell him who is sitting at the doorstep that nerves cannot impart any flavour’.

When a person [with such a case] came to R. Ammi he would always send him to R. Isaac b. Halob who used to rule that it was permitted on the authority of R. Joshua b. Levi, although he [R. Ammi] himself was not of that opinion.

The law is: Nerves cannot impart a flavour.

IF THE SCIATIC NERVE WAS COOKED WITH OTHER NERVES etc. Why is it not neutralized in the larger quantity [of other nerves]?[16] —

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(1) So that in the case of a mixture of heterogeneous substances and in the absence of any flavour from the forbidden substance the standard of neutralization of a hundred (instead of a hundred and one) would be adopted as sufficient.

(2) Since it has been clearly laid down that a mixture of homogeneous substances is always to be treated with stringency, which is not the case with heterogeneous substances, and since in the case of a homogeneous mixture, in the absence of a perceptible flavour, a standard of a hundred would be adopted as sufficient to render the mixture permitted, it follows that with regard to a mixture of heterogeneous substances even this standard would not be required, but a standard of sixty-fold would be regarded as sufficient.

(3) This is identical with the expression ‘and it imparts a flavour in the dough’.

(4) If, however, there was not sufficient of the leaven to serve for the dough, and there was the standard of a hundred and one, the mixture would be permitted even though it consisted of homogeneous substances. It is assumed, for the present, that by ‘the standard of a hundred and one’ is meant a hundred parts of the permitted substance to one part of the forbidden substance.

(5) This cannot be, for neutralization in connection with heterogeneous substance is of a lenient character and presumably a standard of sixty-fold would be sufficient.

(6) In other words the assumption that ‘the standard of a hundred and one’ meant a hundred parts of one to one part of the other was erroneous, for by ‘the standard of a hundred and one’ is meant a hundred and one parts of the permitted substance to one part of the other.

(7) V. supra p. 55 2, n. 4.

(8) Surely the flavour of the leaven would not be perceptible if there were a hundred and one times as much dough as leaven.

(9) The standard of neutralization varies according to the nature of the forbidden substance.

(10) V. Ter. X, 8. Ten zuz is one part in nine hundred and sixty of two se'ahs (one se'ah is twenty-four logs; one log is two litras; one litra is one hundred zuz).

(11) I.e., a proportion of one in one hundred and ninety-two. (One se'ah is six kabs, and one kab is four logs). If, however, the proportion of the substances was less than this (e.g., if the forbidden substance was one in two hundred), the mixture would be permitted, even though the substances are of like kind.

(12) As it is forbidden only by Rabbinic injunction R. Judah allows neutralization with regard to it.

(13) Or ‘turnip roots’ (Tosaf.). V. supra p. 540, n. 1.

(14) And if cooked with meat it need only be removed and the meat is permitted, for the nerve is as dry as wood and cannot impart a flavour. According to our Mishnah even though the nerve has been removed the meat would be forbidden because of the flavour of the nerve.

(15) With the case where the sciatic nerve was cooked together with meat.

(16) In the case where the sciatic nerve was not recognizable.

Talmud - Mas. Chullin 100a

It is different with the case of a separate entity.[1]

AND SO IT IS WITH A PIECE OF NEBELAH etc. Why is it not neutralized in the larger quantity [of the other substances in the mixture]? Now this is well according to him who says that the expression ‘whatsoever one is wont to count’[2] was used;[3] but according to him who says that the expression ‘[only] that which one is wont to count’[4] was used, what shall we say? — It is different with a whole piece since it is suitable to be offered to guests.[5] Now both cases were necessary to be stated [in the Mishnah]. For if we were taught only the case of the [sciatic] nerve, [we should have said that it is not neutralized] because it is a specific entity, but this is not so with the case of a piece [of meat]; and if we were taught the case of a piece [of meat we should have said that it is not neutralized] because it is a piece suitable to be offered to guests, but this is not so with the case of the [sciatic] nerve. Therefore both cases were necessary [to be stated].

Rabbah b. Bar Hana stated in a public lecture: A piece of nebelah[6] or a piece of an unclean fish[6] will not render forbidden [the mixture in which it is] until it imparts a flavour to the broth, in the sediments and in the pieces [of the stew]. Rab thereupon appointed an Amora[7] who stated as follows: As soon as it [the piece of nebelah] imparted its flavour to one piece that piece[8] itself is rendered [forbidden] like nebelah,[9] and it[8] in turn renders all the other pieces forbidden[10] for they are of like kind. R. Safra said to Abaye. Consider, Rab's ruling agrees, does it not, with the opinion of R. Judah who maintained that homogeneous substances cannot neutralize each other [in a mixture]? Why then [does he declare], ‘As soon as it imparted its flavour’? Surely even if it did not impart any flavour to it[8] it would also [render the entire contents of the pot forbidden]?[11] — He replied: We are dealing here with the case where he straightway removed it.[12] Raba replied,

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(1) Since it is complete in itself it will not be neutralized in any quantity, however large.

(2) In M. ‘Orlah III, 6, 7 in the list of substances which are not neutralized in any quantity, however large.

(3) All things which a man might sell by number, even though this is not the invariable practice with regard to them for a man might sell them by weight or by bulk too, are not neutralized in any quantity. Pieces of meat, too, a man might sell by number, and therefore would come within the category of substances which do not become neutralized in a larger quantity.

(4) Whatsoever is more comprehensive than that. According to the former teaching neutralization is not permitted in the case of objects which are regarded as of sufficiently high commercial value to be sold in units rather than in bulk. According to the latter teaching neutralization is permitted in all cases except those where the objects are of such high value as not to be sold save by counting single units. Those things, however, which are sold by weight as well as by number would be neutralized in the larger mixture, v. Yeb. (Sonc. ed.) p. 551, n. 11. The question therefore remains, why is not the piece of nebelah neutralized in the larger mixture?

(5) Being a piece suitable for presentation it will never lose its identity or be neutralized in any quantity, however large.

(6) Which was recognizable in the mixture and so was removed therefrom. The only consideration being the essence or flavour that exuded from it.

(7) ‘Speaker’, ‘interpreter’; the person who attended upon the lecturer for the purpose of expounding at length and in popular style the main points of the discourse given to him by the latter.

(8) Sc. the piece which was first in the pot together with the piece of nebelah before the other pieces were put in, or the piece which was nearest the piece of nebelah and which therefore absorbed most of the essence of the latter.

(9) Since it was not sixty times as large as the piece of nebelah.

(10) Even though the other pieces in the pot were as much as sixty times the volume of the piece of nebelah plus the one next to it.

(11) For the forbidden substance is of the same kind as the rest of the contents of the pot.

(12) The piece of nebelah as well as the broth in the pot was removed before the other pieces were put in, leaving behind only one piece. If this piece therefore which remained contains the flavour of the nebelah, it is then regarded as nebelah itself and will render forbidden the pieces which are subsequently put in with it.

Talmud - Mas. Chullin 100b

You may even say that he did not remove it at once, but this is a case of one kind being mixed with a like kind and also with a different kind,[1] and wherever one kind is mixed with a like and also with a different kind you must disregard the like kind as if it were not present, and if the different kind is more [than the forbidden substance] it will neutralize it.[2]

MISHNAH. IT[3] APPLIES TO CLEAN ANIMALS BUT NOT TO UNCLEAN.[4] R. JUDAH SAYS, EVEN TO UNCLEAN ANIMALS. R. JUDAH ARGUED, WAS NOT THE SCIATIC NERVE PROHIBITED FROM THE TIME OF THE SONS OF JACOB, AND AT THAT TIME UNCLEAN ANIMALS WERE STILL PERMITTED TO THEM?[5] THEY REPLIED, THIS LAW WAS ORDAINED AT SINAI BUT WAS WRITTEN IN ITS PROPER PLACE.[6]

GEMARA. Is R. Judah of the opinion that a prohibition can be superimposed upon an existing prohibition?[7] Surely it has been taught: R. Judah says: I might have thought that the carcass of an unclean bird whilst in the gullet should render clothes unclean,[8] the verse therefore reads: That which dieth of itself or is not of beasts he shall not eat to defile himself therewith,[9] that is to say, this[10] applies only to that [carcass] which bears the prohibition of eating nebelah but not to that which does not bear the prohibition of eating nebelah but the prohibition of eating what is unclean![11] Should you, however, say that he [R. Judah] is of the opinion that nerves do not impart a flavour, so that in the case [where one ate the nerve] of an unclean animal there is only the prohibition of the nerve but not the prohibition of [eating] what is unclean;[12] but are we right in assuming that R. Judah is of the opinion that nerves do not impart a flavour? Behold it has been taught: If a person ate the sciatic nerve of an unclean animal, R. Judah declares that he has incurred guilt twice;[13] but R. Simeon holds that he has not incurred guilt at all?[14] — In truth he [R. Judah] is of the opinion that nerves do impart a flavour, but he also holds that it [sc. the prohibition of the sciatic nerve] applies to a foetus too, so that the prohibition of the nerve and the prohibition on account of uncleanness come into force simultaneously.[15] But how can you assume [that R. Judah holds] it applies to a foetus? Behold we have learnt: It[16] also applies to a foetus; but R. Judah says: It does not apply to a foetus. And its fat is permitted! — That is so only with regard to a clean animal concerning which the Divine Law declares: Everything . . . in the beast ye may eat,[17] but with regard to an unclean animal the prohibition of the nerve applies. But again how can you assume that both [prohibitions] come into force simultaneously? Behold we have learnt:[18] By reason of uncleanness contracted from the following sources the Nazirite must shave [his head]: a corpse, an olive's bulk of [the flesh of] a corpse, [etc.] And the question was asked: If he must shave [his head] on account of an olive's bulk of a corpse, then surely he must shave [his head] on account of an entire corpse! But R. Johanan answered that it was only necessary [to mention the corpse itself] for the case of an abortion whose limbs were not yet knit together by nerves. Hence we see that the prohibition of uncleanness comes first![19] — Notwithstanding the fact that the prohibition of uncleanness comes first the prohibition of the nerve can indeed be superimposed, because this latter prohibition is binding even upon the sons of Noah.[20] And this is precisely implied [in the teaching of the Mishnah]: R. JUDAH ARGUED, WAS NOT THE SCIATIC NERVE PROHIBITED FROM THE TIME OF THE SONS OF JACOB, AND AT THAT TIME UNCLEAN ANIMALS WERE STILL PERMITTED TO THEM?

The [above] text [stated]: ‘If a person ate the sciatic nerve of an unclean animal, R. Judah declares that he has incurred guilt twice;

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(1) For the mixture consists of nebelah (a forbidden substance), other pieces of meat (permitted substances of like kind as nebelah), and broth and spices (permitted substances of a different kind).

(2) If then the first permitted piece absorbed the flavour of the forbidden piece, although we may disregard all the other pieces in the pot as being of like kind, we must nevertheless be satisfied, in order that the mixture be permitted, that the broth contains sixty times as much as the forbidden piece plus the first permitted piece, which, as we have seen, is regarded as the nebelah itself.

(3) The prohibition of the sciatic nerve.

(4) So that if a person were to eat the sciatic nerve of an unclean animal he would not incur guilt on account of the nerve, though he would be liable on account of eating meat of an unclean animal (provided, of course, it is held that nerves are considered as meat).

(5) The sciatic nerve when first prohibited (cf. Gen. XXXII, 33) applied to all animals, clean as well as unclean, for in the patriarchal epoch there was no distinction between the clean and unclean, all were permitted. And the prohibition as it was then continued in force even subsequent to the giving of the Torah at Sinai when the distinction was made between clean and unclean beasts.

(6) The prohibition was first promulgated at Sinai but was merely recorded in the Torah in connection with the incident of Jacob's strife with the angel (Gen. XXXII, 25ff) which provided the reason for the subsequent prohibition.

(7) For R. Judah states in the Mishnah that it applies EVEN TO UNCLEAN ANIMALS, by which he no doubt meant to imply that he who eats the nerve of an unclean animal incurs guilt on two counts, viz., for eating the sciatic nerve and for eating of an unclean animal.

(8) The carcass of a bird does not render unclean by the usual media of contact or carrying; its only defiling effect is that it renders unclean the clothes of the person who eats of it, and only while he is in the act of swallowing it.

(9) Lev. XXII, 8. In the Sifra and in Nid. 42b this verse has been interpreted as referring to the carcass of a bird.

(10) I.e., this peculiar and unique form of defilement; v. supra II, 5.

(11) V. Nid. 42b. It is thus evident that the prohibition of nebelah cannot be superimposed upon the pre-existing prohibition of an unclean bird

(12) The sciatic nerve of an unclean animal is only forbidden qua nerve and not as unclean meat, for the nerve is tasteless and hard as wood.

(13) Obviously because by eating the nerve he has also eaten of the meat of an unclean animal.

(14) Pes. 22a.

(15) I.e., at the time of the formation of the embryo in the womb. As both prohibitions come into force simultaneously one is liable for the transgression of both.

(16) Sc. the prohibition of the sciatic nerve. V. supra folio 89b.

(17) Deut. XIV, 6. Every part of the foetus that is within the womb of the dam may be eaten, the nerve as well as fat: so according to R. Judah. This verse applies only to clean beasts, i.e., those which may be eaten, but not to unclean beasts.

(18) V. supra 89b.

(19) For the abortion is forbidden as an unclean animal before the formation of the nerves.

(20) Where the later prohibition is more stringent in that it applies to a larger number of people than the existing prohibition, it can be superimposed upon the latter. And the sciatic nerve (as stated by R. Judah in the Mishnah) was forbidden to all the sons of Noah, for it was declared forbidden even before the giving of the Torah at Sinai to the sons of Jacob who at that time were deemed sons of Noah.

Talmud - Mas. Chullin 101a

but R. Simeon holds that he has not incurred guilt at all’. But whatever you think is the opinion of R. Simeon [there is always a difficulty]! If he holds that one prohibition can be superimposed upon a pre-existing prohibition, then he should have incurred guilt on account of the nerve too; and if he holds that one prohibition cannot be superimposed upon a pre-existing prohibition, then he should have incurred guilt on account of uncleanness, for that came first;[1] and if he holds that nerves do not impart a flavour,[2] then he should have incurred guilt [at least] on account of the nerve! — Raba answered: In truth he holds that nerves do not impart a flavour, but it is different in that case[3] for the verse says: Therefore the children of Israel eat not the sciatic nerves,[4] that is, the nerve is forbidden but the flesh permitted; this case therefore must be excluded since the nerve would be forbidden and the flesh forbidden too.[5] Rab Judah said in the name of Rab: If a person ate the sciatic nerve of a nebelah he has, according to R. Meir, incurred guilt twice; but the Sages hold that he has incurred guilt once only.[6] The Sages, however, agree with R. Meir that if a person ate the sciatic nerve of a burnt-offering or of an ox that was condemned to be stoned he would have incurred guilt twice.[7]

Who is this authority[8] who holds that a comprehensive prohibition alone cannot be superimposed upon an existing prohibition whereas a comprehensive prohibition which also imposes a graver penalty can? — Raba said: It is R. Jose the Galilean. For we have learnt: If a person that was unclean ate either unclean or clean consecrated food, he is liable.[9] R. Jose the Galilean says: If a person that was unclean ate clean consecrated food he is liable, but if he ate unclean consecrated food he is not liable, for he has only eaten what was unclean.[10] They replied to him: Even where he that was unclean ate what was clean, as soon as he touched it he has rendered it unclean![11] [Now it was asked thereon]: The Rabbis have surely replied well to R. Jose the Galilean? And Raba explained that where the person was rendered unclean and only later the meat was rendered unclean, all agree that he is liable,[12] for the prohibition involving the penalty of kareth came first.[13] They differ only where the meat was first rendered unclean and later the person became unclean.[14] The Rabbis adopt the principle of a comprehensive prohibition, arguing thus: Since he[15] would now be liable[12] for [eating] any piece of [consecrated] food that was clean he is also liable for [eating] a piece that was unclean. R. Jose the Galilean does not adopt the principle of a comprehensive prohibition, for he does not accept the argument ‘since’. But according to R. Jose the Galilean, even though he holds that the comprehensive prohibition which involves only a light penalty cannot [be superimposed upon an existing prohibition], surely the comprehensive prohibition which involves a graver penalty ought to be superimposed upon the prohibition with the light penalty! And what is [the gravity] here? It is in respect of the uncleanness of the person, since it involves the penalty of kareth! — R. Ashi replied: But who shall say that it is in respect of the uncleanness of the person that the gravity lies, perhaps the gravity is in respect of the uncleanness of the meat, since it can never be rendered clean by [immersion in] a mikweh?[16]

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(1) Namely, while it was still an embryo in the womb before the formation of the nerves; v. supra n. 1.

(2) And consequently he is not liable for eating the meat of an unclean animal.

(3) In the case of an unclean animal.

(4) Gen. XXXII, 33.

(5) And this was not intended by the verse. Hence the sciatic nerve of an unclean animal is not forbidden qua nerve; neither is it forbidden as part of an unclean animal, for R. Simeon is of the opinion that nerves are tasteless and hard as wood.

(6) For the prohibition of nebelah, which only comes into force when the animal has died, cannot be superimposed upon the already existing prohibition of the sciatic nerve, even though the later prohibition is more comprehensive than the first, in that it applies to every part of the animal.

(7) The prohibition of a burnt-offering or of an ox condemned to be stoned (for having killed a human being, cf. Ex. XXI, 28) can be superimposed upon the existing prohibition of the sciatic nerve, for in the first place it is more comprehensive than the existing prohibition in that it applies to every part of the animal, whereas the existing prohibition applied only to the nerve, and secondly, it imposes a graver restriction, for now the sciatic nerve of the animal is forbidden for all purposes (אסור בהנאה) whereas before it was only forbidden to be eaten.

(8) The opinion expressed above as that of ‘the Sages’.

(9) To the penalty of kareth (cf. Lev. VII, 20, 21) if he did so deliberately, or to bring a sin-offering if he did so inadvertently.

(10) And for eating consecrated food that was unclean there is only the penalty of stripes but not kareth.

(11) And yet he is liable. V. Zeb. 106a.

(12) V. p. 60, n. 4.

(13) As soon as a person has become unclean he is precluded from eating consecrated food under the penalty of kareth, and this restriction enforced by the penalty of kareth is not removed even if the consecrated meat has subsequently become unclean.

(14) When consecrated meat is rendered unclean all are precluded from eating it under the penalty of stripes, and if subsequently a person becomes unclean he is still precluded from eating the unclean meat but now under the penalty of kareth; moreover, the restriction in his ease now is comprehensive in that he is now precluded from all consecrated food, clean as well as unclean.

(15) Sc. the person that is unclean.

(16) Whereas the unclean person would become clean after immersion in a ritual bath (מקוה). The position therefore is that although R. Jose maintains generally that a comprehensive prohibition cannot be superimposed upon an existing prohibition there is no reason to suppose that he would hold this view in respect of a comprehensive prohibition involving a graver restriction. Thus he is in agreement with the view of ‘the Sages’ supra.

Talmud - Mas. Chullin 101b

And does R. Jose the Galilean hold the view that a comprehensive prohibition cannot [be superimposed upon an existing prohibition]? Behold it has been taught: If the Day of Atonement happened to fall on the Sabbath and a person inadvertently did work thereon, whence do we know that he is guilty for each separately?[1] Because it is written: It is a sabbath,[2] and also: It is the day of atonement;[3] so R. Jose the Galilean. R. Akiba says: He has only incurred guilt once.[4] — Rabin sent [from Palestine the following message] in the name of R. Jose son of R. Hanina: The construction of the teaching is as stated save that the authorities must be reversed.[5] R. Isaac b. Jacob b. Giori sent the following in the name of R. Johanan: According to the view of R. Jose the Galilean, now that we have reversed the authorities, if a person being unaware that it was the Sabbath but knowing full well that it was the Day of Atonement [did work thereon] he is liable,[6] if [he did so] knowing full well that it was the Sabbath but being unaware that it was the Day of Atonement, he is not liable. What is the reason [for this distinction]? — Abaye answered: The Sabbath is fixed and determined from all time, but the Day of Atonement is determined by the Beth Din.[7] Said Raba to him: But in fact both [prohibitions] set in simultaneously! — Rather explained Raba:[8] It was a time of religious persecution,[9] and they sent word from there [Palestine] that the Day of Atonement of that year should be observed on a Sabbath.[10] When Rabin came and also all those who came down [from Palestine to Babylon], they explained it as Raba did.

R. JUDAH ARGUED, WAS NOT THE SCIATIC NERVE FORBIDDEN FROM THE TIME OF THE SONS OF JACOB? etc. It was taught: [The Rabbis] said to R. Judah: Does it say [in the Torah], ‘Therefore the children of Jacob eat not’? Surely it says: Therefore the children of Israel eat not.[11] Now they were first styled the children of Israel only at [the giving of the law at] Sinai; therefore [we must say that] the law [of the sciatic nerve] was given at Sinai, but was written in its present place to indicate the reason why it was prohibited. Raba raised an objection against this. It is written: And the sons of Israel carried Jacob their father![12] — That was after the incident.[13] R. Aha the son of Raba said to R. Ashi: Then it should be prohibited from that time[14] onwards, should it not? — He replied: Was the Torah given at various times? And that time[15] was neither the time of the incident nor the time of the giving of the Law.[16]

Our Rabbis taught: The [prohibition of eating a] limb [severed] from a living creature applies to cattle, wild beasts and to birds, whether they be clean or unclean: so R. Judah and R. Eleazar; but the Sages say: It applies only to the clean animals. Said R. Johanan: Both views were inferred from the same verse, viz., Only be steadfast in not eating the blood, for the blood is the life;

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(1) And must bring two sin-offerings, i.e., for breaking the Sabbath and also for profaning the Day of Atonement.

(2) Lev. XXIII, 3.

(3) Ibid. 27. Here the prohibitions of the Sabbath and of the Day of Atonement come into force simultaneously, i.e., on the Friday evening after sunset; nevertheless R. Jose regards the person guilty for transgressing both prohibitions. Now if R. Jose were to hold that a comprehensive prohibition or one that involves a graver penalty can be superimposed upon an existing prohibition, then it is clear to understand his view here with regard to simultaneous prohibitions; since whichever of the two prohibitions were to set in first the other could be superimposed. For the Sabbath involves a graver penalty than that of the Day of Atonement (the former death and the latter kareth); and, on the other hand, the prohibition of the Day of Atonement is more comprehensive than that of the Sabbath (on the Sabbath only work is prohibited whilst on the Day of Atonement eating is also prohibited). If, however, R. Jose were to hold that a comprehensive prohibition or one that involves a graver penalty cannot be superimposed upon an existing prohibition, what is his reason here for holding that two prohibitions can come into force simultaneously?

(4) Tosef. Ker. II.

(5) And it was R. Jose who said that the offender had only incurred guilt once; for according to R. Jose in no circumstances can a prohibition be superimposed upon another prohibition, whether both come into force simultaneously or the later one is a comprehensive prohibition or one that involves a graver penalty.

(6) To bring a sin-offering for breaking the Sabbath inadvertently.

(7) It is therefore considered as if the Sabbath set in first, so that the prohibition of the Day of Atonement cannot be superimposed upon the existing prohibition of the Sabbath. Consequently the only prohibition that enters into consideration is that of the Sabbath, and if a person did work knowing full well that it was the Sabbath, he is not liable to bring a sin-offering, for no offering may be brought for a deliberate transgression.

(8) The original statement of R. Isaac b. Jacob had no reference to the opinion of R. Jose the Galilean, but dealt with a special ease that arose because of religious persecution.

(9) And the observance of the Day of Atonement in its proper time was proscribed.

(10) Although that day was not the correct date of the Day of Atonement. Consequently any breach of the sanctity of that day can only be considered as a transgression of the Sabbath but not as a transgression of the Day of Atonement.

(11) Gen. XXXII, 33.

(12) Ibid. XLVI,5. The reference is to the children of Jacob carrying their father to Egypt; thus they are styled 'the children of Israel' before the giving of the Law at mount Sinai.

(13) When Jacob wrestled with the angel, after which incident God changed his name from Jacob to Israel.

(14) I.e., from the time that they were first designated 'children of Israel', that is, when Jacob was taken to Egypt.

(15) V. p. 563, n. 8.

(16) A particular law could have been ordained either generally at the giving of the Law at Sinai, or specially, even before Sinai, at the occurrence of the event that gave rise to that law, but at no other period.

Talmud - Mas. Chullin 102a

and thou shalt not eat the life with the flesh.[1] R. Judah and R. Eleazar hold that where you are forbidden the blood [of an animal] you are also forbidden the limbs severed therefrom, and as you are forbidden the blood of unclean animals[2] you are also forbidden the limbs severed therefrom. The Sages, however, maintain: It is written: 'And thou shalt not eat the life with the flesh', but the flesh alone [you may eat]; therefore, where you are permitted the flesh [of the animal] you are forbidden the limbs severed therefrom, but where you are not permitted the flesh [of the animal] you are not forbidden the limbs severed therefrom.[3]

Why is the verse necessary to explain R. Judah's view? Surely the prohibition of the 'limb' can be superimposed upon the prohibition of uncleanness, since the prohibition of the former applies even to the sons of Noah![4] — Indeed this is so, and the verse is necessary only to explain R. Eleazar's view.

It has been taught likewise: The [prohibition of the] limb of a living creature applies to cattle, wild beasts and birds, either clean or unclean, for it is written: 'Only be steadfast in not eating the blood etc.', that is to say, where you are forbidden the blood you are also forbidden the limbs severed therefrom, and where you are not forbidden the blood of an animal[5] you are not forbidden the limbs severed therefrom: so R. Eleazar. The Sages say. It applies only to clean animals, for it is written: 'Thou shalt not eat the life with the flesh, but the flesh alone [you may eat]; therefore, where you are permitted the flesh you are then forbidden the limbs' severed therefrom, but where you are not permitted the flesh you are then not forbidden the limbs severed therefrom. R. Meir says: It applies only to clean cattle. (Mnemonic: Samuel, Shila, Shimi). Rabbah b. Samuel said in the name of R. Hisda or, as some say: R. Joseph; others say. Rabbah b. Shila said in the name of R. Hisda or, as some say. R. Joseph; and others say: Rabbah b. Shimi said in the name of R. Hisda or, as some say. R. Joseph: What is the reason for R. Meir's view? Because the verse reads: Thou shalt kill of thy herd and of thy flock.[6]

R. Giddal said in the name of Rab: The dispute[7] refers only to an Israelite, but as for a descendant of Noah all agree that he is warned against [eating the limb of] unclean as well as clean animals. It has been taught likewise: As to the limb of a living creature a descendant of Noah is warned against [eating] it, whether it be of a clean or unclean animal, whereas an Israelite is warned only against [eating] the limb of a clean animal. Some read 'of a clean one' '[8] and it is in accordance with R. Meir's view; but others read 'of clean ones',[9] and it is in accordance with the view of the Sages.

R. Shizbi said: We have also learnt it [in the following Mishnah].[10] If a person ate a limb [severed] from it[11] whilst alive, he does not suffer forty stripes; and the slaughtering thereof does not render it clean.[12] Of whom is this said? Should you say of an Israelite, but is it not obvious that the slaughtering does not render it clean? It could only have been said of a descendant of Noah,[13] and this proves that it is forbidden to him. R. Mani b. Pattish pointed out a contradiction between the first clause and the second clause[14] and resolved it thus: The first clause speaks of an Israelite, but the second clause of a descendant of Noah.

Rab [Judah] said [in the name of Rab]:[15] The [prohibition of a] limb severed from a living creature requires [at least] an olive's bulk, because the expression ‘eating’[16] is used with regard to it. R. ‘Amram raised an objection [against this]. [We have learnt:] If a person ate a limb from it[17] whilst alive, he does not suffer forty stripes; and the slaughtering thereof does not render it clean. Now if you were to hold that there must be an olive's bulk, then guilt is established because of eating an olive's bulk [of what is unclean]?[18] — As R. Nahman suggested elsewhere that there was only a little flesh but the sinews and bones [combined to make up the olive's bulk], so here too, we must say that there was only a little flesh but the sinews and bones [combined to make up the olive's bulk].[19]

Come and hear from the following statement of Rab:

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(1) Deut. XII, 23. This verse contains two prohibitions: against eating blood and against eating the limb of a living creature, for the latter part of the verse is interpreted as: Thou shalt not eat the flesh whilst the animal is still alive.

(2) V. M. Ker. V, 1.

(3) But of course there is the prohibition of the flesh of an unclean animal.

(4) V. supra 100b. The sons of Noah were forbidden to eat the limb of a living animal, cf. Gen. IX, 4. This was one of the seven commandments imposed upon them. Cf. Sanh. 56a.

(5) E.g. the blood of fish and of locusts.

(6) Deut. XII, 21. This verse precedes the law of the limb of a living animal (verse 23) and as it expressly mentions herds and flocks wild beasts and birds are excluded.

(7) Between R. Eleazar, the Sages, and R. Meir.

(8) In the feminine singular, which refers to cattle only and excludes wild beasts and birds.

(9) In the masculine plural, so as to include every living creature that is clean.

(10) Toh. I, 3.

(11) Sc. an unclean bird, i.e., one that is forbidden to be eaten.

(12) I.e., does not render it permitted to be eaten. ‘Clean’ cannot mean here ‘free from defilement’ because no uncleanness whatsoever is attached to the carcass of a bird that is forbidden to be eaten.

(13) And the implication is that even after the slaughtering the descendant of Noah is not permitted to eat of it until it ia quite dead, for otherwise he would be eating the limb of a living animal and this is forbidden to him.

(14) For the first clause implies that the prohibition of a limb severed from a living creature does not apply to unclean animals since it rules that he who eats it does not suffer stripes, whereas the inference from the second clause is that the limb of an unclean living animal is forbidden. V. prec. n.

(15) So MS.M.

(16) An olive's bulk is the minimum amount to constitute ‘eating’.

(17) Sc. an unclean bird, i.e., one that is forbidden to be eaten.

(18) For which he would incur stripes, quite apart from any consideration regarding the limb of a living creature.

(19) This would not involve the prohibition of flesh of an unclean animal since there must be an olive's bulk of flesh excluding bones and sinews; on the other hand, a limb consisting of flesh, bones and sinews, in all the size of an olive, is subject to the prohibition of a limb severed from a living creature.

Talmud - Mas. Chullin 102b

If a person ate a clean bird whilst it was yet alive, however small it was [he is liable],[1] if dead, only if it was as large as an olive's bulk.[2] [If he ate] an unclean bird, whether alive or dead, however small it was, [he is liable].[3] — Here too we must suppose there was only a little flesh but the sinews and bones [combined to make up the olive's bulk].[4]

Come and hear: [It was taught]:[5] If a person took a [clean] bird, the whole of which was not as large as an olive's bulk, and ate it, Rabbi holds that he is not liable,[6] and R. Eleazar son of R. Simeon declares him liable. R. Eleazar son of R. Simeon said: Is there not here an a fortiori argument? If he is liable for a limb thereof,[7] surely he is liable for the whole of it! If he strangled it and ate it, all agree that there must be as much as an olive's bulk [in order to render him liable].[8] Now their disagreement is only on this point, viz., one holds that [an animal even] whilst alive stands to be dismembered into limbs,[9] and the other holds that whilst alive it does not stand to be dismembered into limbs;[10] but thus far they are agreed, namely, that [in the case of a limb] the size of an olive's bulk is not necessary! — Said R. Nahman, [it is a case where] there was only a little flesh but the sinews and bones [combined to make up the olive's bulk].[11] But is there such a creature, the whole of which does not carry an olive's bulk of flesh and yet in one limb there is as much as an olive's bulk made up of a little flesh and sinews and bones? — R. Sherebia replied: Yes, it is the kallanitha.[12] Consider then the final clause. It reads: 'If he strangled it and ate it, all agree that there must be as much as an olive's bulk [in order to render him liable]'. Is not the kallanitha an unclean bird? and Rab has stated, [If a person ate] an unclean bird, whether alive or dead, however small it was,[he is liable]! — What was meant was a [clean] bird like the kallanitha.

Raba said: If you can find authority for saying that Rabbi holds, an intention with regard to foodstuffs is of consequence,[13] then if a person intended to eat this bird[14] limb by limb but actually ate it whole, he is liable.[15] Said to him Abaye: Is there anything which if another were to eat, that other would not be liable,[16] and if this person were to eat he would be liable? — He replied: Each man is considered according to his intention with regard to it.

Raba also said: If you can find authority for saying that R. Eleazar son of R. Simeon holds, an intention with regard to foodstuffs is of consequence, then if a person intended to eat the bird[14] dead[17] and he ate it alive, he is not liable. Said to him Abaye: Is there anything which if another were to eat, that other would be liable, and if this person were to eat he would not be liable? — He replied: Each man is considered according to his intention with regard to it.

R. Johanan said: The verse: Thou salt not eat the life with the flesh,[18] refers to a limb [severed] from a living creature; and the verse: Ye shall not eat any flesh in the field, that is trefah [torn of beasts],[19] refers to flesh [severed] from a living creature and also to flesh of a trefah animal. R. Simeon b. Lakish said: The verse: 'Thou shalt not eat the life with the flesh', refers to a limb [severed] from the living creature and also to flesh [severed] from a living creature; and the verse: ' Ye shall not eat any flesh in the field, that is trefah [torn of beasts]', refers to flesh of a trefah animal. If a person ate a limb [severed] from a living creature and also flesh [severed] from a living creature,[20] according to R. Johanan he is liable twice,[21] and according to R. Simeon b. Lakish he is liable but once.[22] If a person ate flesh [severed] from a living creature and also flesh of a trefah animal, according to R. Simeon b. Lakish he is liable twice, and according to R. Johanan he is liable but once. If a person ate a limb [severed] from a living creature and also flesh of a trefah animal, according to both he is liable twice. A contradiction was pointed out from the following:

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(1) He is liable for transgressing the prohibition of a limb of a living creature, for the eating of the entire bird alive is certainly equivalent to the eating of a limb severed from the living bird. It is apparent, therefore, that Rab does not insist upon the minimum quantity of an olive's bulk with regard to this prohibition, thus contradicting his own previous statement.

(2) He is liable for eating nebelah for which there must be the minimum quantity of an olive's bulk.

(3) Because it is a complete entity expressly prohibited by the Torah, and one is liable for it no matter how small it is. Cf. Mak. 13a.

(4) The expression 'however small it was' refers to the amount of flesh, but actually a whole olive's bulk was eaten which included the sinews and bones,

(5) Tosef. A.Z. IX.

(6) pot the law concerning the limb of a living animal refers specifically to a limb and does not include the entire living creature.

(7) Even though the whole limb was not as large as an olive's bulk. This is not disputed by Rabbi, hence the objection is apparent against Rab.

(8) As the prohibition here is that of nebelah, the minimum quantity of an olive's bulk is essential,

(9) So that the prohibition of a limb of a living creature attaches to the animal whilst yet whole, and if a man eats an entire living creature he has certainly eaten a limb of a living creature as comprehended within the prohibition. In fact he has eaten many such limbs, nevertheless he is liable but once since presumably he received only one warning. This is the view of R. Eleazar b, R. Simeon.

(10) The prohibition of a limb of a living creature only comes about when the limb is actually severed from the body; such is the opinion of Rabbi.

(11) The expression ‘the whole of which was not as large as an olive's bulk’ refers to the flesh only, but with the bones and sinews there certainly was as much as an olive's bulk.

(12) A thin and scraggly bird. According to Levysohn, Zoologie des Talmuds, p. 183, a species of gull, probably the blue-footed gull.

(13) Lit., ‘its name is an intention’,

(14) I.e., a bird the whole of which was not as large as an olive's bulk.

(15) Since this person had expressed his intention to eat the bird limb by limb the prohibition of the limb of a living creature attaches forthwith, and he would be liable even though he ate it whole.

(16) So long as that other person had expressed no intention with regard to it.

(17) It is evident from the expressed intention that the bird was not to be dismembered whilst alive; therefore the prohibition of the limb of a living creature does not apply to it.

(18) Deut. XII, 23. I.e., thou shalt not eat a limb whilst there is yet life in the flesh. The word נפש, ‘nefesh’ (soul) in the verse refers to an entire limb, for once a limb is gone it cannot return or be replaced just as when the soul is gone.

(19) Ex. XXII, 30. The interpretation is, flesh in the field i.e., cut away from its place in the living animal, or flesh of a trefah animal, ye shall not eat.

(20) At one meal and the offender was only given one warning.

(21) For the transgression of two prohibitions, since each prohibition is derived from separate verses. ‘Liable’ throughout this passage means liable to the penalty of stripes unless expressly stated otherwise.

(22) For both these prohibitions are derived from the same verse.

Talmud - Mas. Chullin 103a

If a person ate a limb [severed] from a living animal that was trefah, R. Johanan says: He is liable twice; but R. Simeon b. Lakish says: He is liable but once. I grant that this is right according to R. Johanan, but according to R. Simeon b. Lakish this is a difficulty, is it not?[1] — R. Joseph answered, It is no difficulty, for one case deals with one animal and the other case with two animals. In the case of two animals[2] he is liable twice [according to both views], but in the case of one animal[3] they differ.

On what principle do they differ in the case of one animal? — Abaye said: It is a case where the animal was rendered trefah as soon as the greater part of it had come forth [out of the womb]. One [R. Johanan] holds that an animal [even] whilst alive stands to be dismembered into limbs, so that the prohibitions of trefah and of the limb from a living creature come Into force simultaneously. The other [R. Simeon b. Lakish] holds that an animal whilst alive does not stand to be dismembered into limbs, so that the prohibition of the ‘limb’ [when it does arise][4] cannot be superimposed upon the [already existing] prohibition of trefah.

Alternatively, you may say, all agree that an animal whilst alive does not stand to be dismembered into limbs, but they differ whether or no the prohibition of the limb [severed from a living creature] can be superimposed upon the [existing] prohibition of trefah. One [R. Johanan] holds that the prohibition of the limb can be superimposed upon the [existing] prohibition of trefah;[5] and the other [R. Simeon b. Lakish] holds that the prohibition of the ‘limb’ cannot be superimposed upon the [existing] prohibition of trefah.

Alternatively, you may say, all agree that an animal whilst alive stands to be dismembered into limbs,[6] but in this case the animal was rendered trefah later on [and not at birth], and they differ whether or no the prohibition of trefah can be superimposed upon the [existing] prohibition of the limb. One [R. Johanan] holds that it can be superimposed;[7] and the other [R. Simeon b. Lakish] holds that it cannot.[8]

Raba said: It is a case where the person tore away a limb from the living animal and thereby rendered it trefah.[9] One [R. Johanan] holds that an animal whilst alive does not stand to be dismembered into limbs, so that the prohibitions of trefah and of the 'limb' come into force simultaneously. The other [R. Simeon b. Lakish] holds that an animal [even] whilst alive stands to be dismembered into limbs, so that the prohibition of trefah cannot be superimposed upon the [existing] prohibition of the 'limb'.

R. Hiyya b. Abba said in the name of R. Johanan: If a person ate forbidden fat [which was torn away] from a living animal, which was trefah, he is liable twice.[10] Whereupon R. Ammi said to him: And why do you not say thrice? Indeed l say [in the name of R. Johanan that he is liable] thrice. And it has been reported: R. Abbahu said in the name of R. Johanan: If a person ate forbidden fat [torn away] from a living animal, that was trefah, he is liable thrice.

On what principle do they differ? — The animal in this case was rendered trefah as soon as the greater part of it had come forth [out of the womb]. Now he who says [he is liable] thrice, is of the opinion that an animal [even] whilst alive stands to be dismembered into limbs, so that the prohibitions of the forbidden fat, of the limb [from a living creature], and of trefah come into force simultaneously;[11] but he who says [he is liable] twice, is of the opinion that an animal whilst alive does not stand to be dismembered into limbs, so that there are [present from the time of birth] the prohibitions of the forbidden fat and of trefah, and the prohibition of the limb [from a living creature] cannot be superimposed upon them.

Alternatively, you may say, all agree that an animal whilst alive does not stand to be dismembered into limbs, but they differ whether or no the prohibition of the limb [from a living creature] can be superimposed upon the [existing] prohibitions of the forbidden fat and of trefah. One holds that it can be superimposed upon them, and the other holds that it cannot.

Alternatively, you may say, all agree that an animal [even] whilst alive stands to be dismembered into limbs, but in this case the animal was rendered trefah later on [and not at birth], and they differ whether or no the prohibition of trefah can be superimposed upon the prohibition of the limb [from a living creature]. One holds it can be superimposed,[12] just as it is the case with the forbidden fat, for a Master has said: The Torah has expressly indicated that the prohibition of nebelah can be superimposed upon the prohibition of forbidden fat, and that the prohibition of trefah can be superimposed upon the prohibition of forbidden fat.[13] The other, however, maintains that it [sc. the prohibition of trefah] can indeed be superimposed upon the prohibition of forbidden fat inasmuch as there is an exception

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(1) For it is agreed by all that where the two prohibitions are derived from separate verses, as here, the offender is liable twice.

(2) I.e., he ate a limb severed from a living animal and also flesh taken from another animal which was trefah.

(3) I.e., he ate a limb severed from a living animal that was trefah.

(4) I.e., when it was actually dismembered.

(5) Since the prohibition of the limb severed from a living creature is a grave restriction for it applies to the sons of Noah. V. supra 100b and 102a.

(6) Consequently the prohibition of the 'limb' came into force at the birth of the animal.

(7) For R. Johanan is of the opinion that a prohibition can always be superimposed upon an existing prohibition.

(8) The prohibition of trefah can only come into force after the animal has been slaughtered when the prohibition of the limb of a living animal has gone.

(9) E.g., he cut off the leg of a living animal above the knee-joint, v. supra 76a, and he ate it.

(10) Although he has infringed three prohibitions, (i) of forbidden fat, (ii) of fat (i.e., a limb) taken from a living animal, and (iii) of trefah, he is only liable for two; v. infra.

(11) I.e., at the moment of birth these three prohibitions came into force, for whilst a fetus within the womb the whole of its fat was permitted; v. supra 69a. V. however, Tosaf. s.v. דאיסור.

(12) And liability is incurred for each of these three prohibitions.

(13) V. supra 37a, and Zeb. 70a.

Talmud - Mas. Chullin 103b

to its general [restriction],[1] but it cannot [be superimposed] upon the prohibition of the 'limb' inasmuch as there is no exception to its general [restriction].

When R. Dimi came [from Palestine] he reported that R. Simeon b. Lakish put the following question to R. Johanan: What is the law if he divided it outside?[2] and he replied: He is not liable. And what if he divided it inside [his mouth]?[3] and he replied: He is liable.

When Rabin came [from Palestine] he reported as follows: If he divided it outside he is not liable. If he divided it inside [his mouth], R. Johanan says, he is liable; R. Simeon b. Lakish says, he is not liable. 'R. Johanan says he is liable', because his gullet has derived enjoyment from an olive's bulk. 'R. Simeon b. Lakish says he is not liable', because there must enter in his stomach [at one time] the full amount that constitutes 'eating', and this is not the case here. (But [it will be asked], according to R. Simeon b. Lakish, how can it ever happen that one [who eats an olive's bulk of the limb] should be liable?[4] — R. Kahana suggested: In the case [where he ate] a small bone.)[5] R. Eleazar however said: Even if he divided it outside he is also liable, because the fact that it is not consumed in one whole does not render it an incomplete act.[6]

R. Simeon b. Lakish said: The quantity of an olive's bulk of which they [the Rabbis] have spoken does not include that which is between the teeth.[7] R. Johanan said: It includes even that which remains between the teeth. Said R. Papa: As to that which remains between the teeth they certainly do not disagree,[8] they disagree only as to that which remains in the palate and tongue. One [R. Johanan] maintains [that he is liable], since his gullet has derived enjoyment from a whole olive's bulk; the other [R. Simeon b. Lakish] maintains [that he is not liable, because] there must enter his stomach the full amount which constitutes 'eating'.

R. Assi said in the name of R. Johanan: If a person ate one half-olive's bulk [of a forbidden substance] and vomited it forth, and then[9] ate another half-olive's bulk, he is liable. Why? Because his gullet has derived enjoyment from an olive's bulk.[10]

R. Eleazar enquired of R. Assi: What is the law if a person ate one half-olive's bulk [of a forbidden substance], vomited it forth and then ate it once again? [Let us see], what was his real question? If the question was whether it [sc. what has been vomited forth] is considered as digested food or not, then he might have put the question with regard to a complete olive's bulk;[11] and if the question was whether we regard [eating from the enjoyment of] the gullet or [from the enjoyment of] the stomach, then he might have solved this himself from R. Assi's statement above?[12] — R. Assi had forgotten the tradition [he had received from R. Johanan], and R. Eleazar came and reminded him of it in the following manner:[13] 'Why speak of another half-olive's bulk?[14] The Master could have dealt with the same [half-olive's bulk], by which two results would have been established, viz., we would have learnt from if that it [sc. what is vomited forth] was not considered as digested food, and we would also have learnt from it that [one is liable if only] the gullet had derived enjoyment from an olive's bulk'. He remained silent and made no reply at all. Thereupon he [R. Eleazar] said to him, 'O wonder of the generation! Did you not often say this[15] before R. Johanan and he agreed with you saying: "His gullet has in fact derived enjoyment from an olive's bulk"'?

C H A P T E R V I I I

MISHNAH. EVERY KIND OF FLESH IS FORBIDDEN TO BE COOKED IN MILK;[16] EXCEPTING THE FLESH OF FISH AND OF LOCUSTS; AND IT IS ALSO FORBIDDEN TO PLACE UPON THE TABLE [FLESH] WITH CHEESE,[17] EXCEPTING THE FLESH OF FISH AND OF LOCUSTS.

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(1) For the whole of the fat of a wild animal is permitted.
(2) A person took an olive's bulk from a limb that had been severed from a living animal, divided it into halves outside, i.e., before putting it into his mouth, and then swallowed each half separately. In connection with other prohibited substances this raises no doubt at all, for so long as he consumed the required quantity, namely an olive's bulk, within the time it takes to eat a half-loaf, he is deemed to have eaten the requisite amount and he is liable; v. Yoma 80b. With regard to the limb severed from the living animal, however, since it is exceptional in that the required quantity may be made up of bones and sinews to which no prohibition applies elsewhere, it might be said that this whole quantity must be eaten at one time.
(3) And swallowed each half separately.
(4) For one does not usually swallow an olive's bulk in one whole; one cuts it up with the teeth so that it enters the stomach in separate parts, and this according to R. Simeon b. Lakish does not constitute ‘eating’.
(5) According to Rashi, the patella, which has but a moiety of flesh on it, but together with the sinews attached to it is of the size of an olive. This is usually swallowed whole.
(6) Lit., ‘what is lacking as regards being brought together is not lacking as to the act’. I.e., the fact that the olive's bulk was put into the mouth in parts, one following the other, does not exempt the person from liability, for after all he has eaten a complete olive's bulk.
(7) This and the subsequent cases until the end of the chapter apparently refer to all prohibited substances. According to R. Simeon b. Lakish a person is liable only if he swallowed a whole olive's bulk, i.e., this quantity entered his stomach, but not if he put an exact olive's bulk into his mouth, for in the process of mastication some of the substance would certainly adhere between the teeth and this cannot be reckoned together with the amount swallowed.
(8) All hold that it cannot be reckoned together with that which has been swallowed, for neither the gullet nor the stomach has derived any enjoyment therefrom.
(9) I.e., within the period of time taken to eat a half-loaf of the size of four (according to Maim. three) ordinary eggs.
(10) [R. Assi does not accept the statement reported (supra) by R. Dimi in the name of R. Johanan exempting from liability where the olive's bulk was divided outside (Rashi).]
(11) I.e., if a person ate an olive's bulk of a forbidden substance, vomited it forth, and swallowed it again, would he be liable twice or once only?
(12) In the preceding passage where R. Assi expressly states that the main factor of eating is the enjoyment of the gullet.
(13) R. Eleazar himself was not in doubt at all about the law, but he put the case before R. Assi in the form of a question in order to remind him in the most respectful manner of the decision given by R. Johanan.
(14) Which the person swallowed after he had vomited forth a half-olive's bulk.
(15) That he is liable even in the case of the sane half-olive's bulk.
(16) Including even the flesh of fowls and of wild beasts. The prohibition of ‘flesh cooked in milk’ relating to the cooking, or to the eating, or to the enjoyment of any benefit therefrom, is derived from the thrice-repeated Biblical prohibition: Thou shalt not seethe a kid in its mother's milk (Ex. XXIII, 19; XXXIV, 26; Deut. XIV, 21).
(17) This is a Rabbinic measure as a precaution against eating the two together.

Talmud - Mas. Chullin 104a

IF A PERSON VOWED TO ABSTAIN FROM FLESH. HE MAY PARTAKE OF THE FLESH OF FISH AND OF LOCUSTS.[1]

GEMARA. It follows [from our Mishnah] that the flesh of fowls is prohibited by the law of the

Torah;[2] now in accordance with whose view would this be? It surely is not in accordance with R. Akiba's view, for R. Akiba maintains that the flesh of wild animals and of fowls is not prohibited by the law of the Torah. Consider now the final clause: IF A PERSON VOWED TO ABSTAIN FROM FLESH, HE MAY PARTAKE OF THE FLESH OF FISH AND OF LOCUSTS. It follows however that he is forbidden the flesh of fowl, which is in accordance with R. Akiba's view, namely, that any variation concerning which the agent would ask for special instructions is deemed to be of the same species.[3] For we have learnt:[4] If a person vowed to abstain from vegetables, he is permitted gourds; R. Akiba forbids them. They said to R. Akiba: Is it not a fact that when a man says to his agent. ‘Bring me vegetables’, the other might [come back and] say. ‘I can only obtain gourds’?[5] He replied. Exactly so; for he surely would not come back and say. ‘I can only obtain pulse’.[6] This proves that gourds are included among vegetables and pulse is not included among vegetables. [Must it then be that] the first clause of our Mishnah is in accordance with the view of the Rabbis, and the second clause is in accordance with R. Akiba's view? — R. Joseph said: The author [of our Mishnah] is Rabbi who incorporated the views of various Tannaim: with regard to vows he adopted the view of R. Akiba, and with regard to flesh [cooked] in milk he adopted the view of the Rabbis. R. Ashi said: The whole of our Mishnah is in accordance with R. Akiba's view, for this is what it means, EVERY KIND OF FLESH IS FORBIDDEN TO BE COOKED IN MILK: some[7] being forbidden by the law of the Torah and others[8] by the enactment of the Scribes, EXCEPTING THE FLESH OF FISH AND OF LOCUSTS, which are neither prohibited by the law of the Torah nor by the enactment of the Scribes.[9] AND IT IS ALSO FORBIDDEN TO PLACE etc. R. Joseph said: You can infer from this that the flesh of fowl [cooked] in milk is prohibited by the law of the Torah, for were it only [prohibited by the enactment] of the Rabbis, seeing that the actual eating thereof is [prohibited only as] a precautionary measure, would we forbid the placing [of them together upon the table] as a safeguard against the eating thereof?[10] And whence do you derive the rule that we do not impose a precautionary measure upon a precautionary measure? — From the following [Mishnah] which we have learnt:[11] The dough-offering[12] [of produce grown] outside the Land [of Israel]

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(1) For the usual connotation of ‘flesh’, as used in ordinary speech, includes all kinds of flesh excepting that of fish and of locusts. The interpretation of expressions used in vows is always in accordance with the general use of the ordinary man.

(2) It is assumed for the present that the prohibition in the first clause of our Mishnah — which includes fowls — is Biblical, otherwise the precautionary measure imposed in the second clause would not be applied to fowls (v. Tosaf.).

(3) Anything which is not quite the same as the original thing requested but about which an agent would consider it proper to consult his principal is regarded as of the same species as the original thing requested; for were it not so, the agent would reject it immediately:without even consulting his principal. In the case of our Mishnah, if a person were to send another to buy flesh, the latter, if unable to obtain flesh of cattle, would certainly return and ask his principle whether or not he may buy fowls. Hence fowl is included in the term ‘flesh’.

(4) Ned. 54a.

(5) Thus proving that gourds are not vegetables since the agent considers it necessary to obtain special authority to buy them.

(6) Since it is common knowledge that pulse is not included among vegetables, an agent sent to buy vegetables and not being able to obtain any would certainly not return to his principle and say: ‘I can only obtain pulse’. He might as well reply, ‘I could only obtain fish or cheese’. Most probably and rightly he would say: ‘I could not obtain any vegetables’. The fact that he replies, ‘I could only obtain gourds’, proves, according to R. Akiba, that they are included among vegetables.

(7) The flesh of cattle.

(8) The flesh of wild beasts and of fowls.

(9) [As to the precautionary measure in the second clause (cf. p. 576, n. 4) R. Ashi accepts the explanation of Abaye infra pp. 578-9; v. Adreth, חידושים.]

(10) This would be imposing a precautionary measure (sc. restriction of placing them together on the table) upon a precautionary measure (sc. the restriction of eating fowls cooked in milk) which is not done.

(11) Hal. IV, 8.

(12) Cf. Num. XV, 20; Of the first of your dough you shall offer up a cake for a heave-offering. This law only applied to Palestine, i.e., to dough made from produce grown in the land of Israel (cf. ibid. 18), but the Rabbis ordained that it be observed outside Palestine, i.e., in respect of dough made from produce grown outside the Land of Israel, as a precautionary measure safeguarding the dough-offering of Palestinian produce. If, therefore, a non-priest ate the dough-offering offered from produce grown outside the Land of Israel he has transgressed a Rabbinic enactment

Talmud - Mas. Chullin 104b

may be eaten [by a priest] in company with a non-priest at the table,[1] and may be given to any priest one likes.[2] Said Abaye to him, I grant you, if we were told that the dough-offering [of produce grown] outside the Land [may be eaten] in the Land[3] [in company with a non-priest at the table], in which case there would be good cause to enact a precautionary measure on account of the dough-offering [of produce grown] in the Land which is ordained by the Torah, and yet we do not take this precaution, that the inference can be made. But outside the Land of Israel [it is allowed] surely because there is no reason to take any precautionary measure.[4] In the case [of our Mishnah], however, if you permit one to place [upon the table] fowl and cheese, one might even place [upon the table] flesh and cheese, and so come to eat flesh with milk which is prohibited by the law of the Torah.[5]

R. Shesheth demurred saying: Yet after all[6] it is but cold [food] with cold [food]! — Abaye answered: It is prohibited lest it be placed upon the table in a boiling pot. But even In that case it is only in a ‘second vessel’[7] and a second vessel cannot bring anything to the boil! — It is only prohibited lest it be placed upon the table in the ‘first vessel’.[8]

MISHNAH. A FOWL MAY BE PLACED UPON THE TABLE TOGETHER WITH CHEESE BUT MAY NOT BE EATEN WITH IT: SO BETH SHAMMAI. BETH HILLEL SAY: IT MAY NEITHER BE PLACED [UPON THE TABLE TOGETHER WITH CHEESE] NOR EATEN WITH IT. R. JOSE SAID: THIS IS AN INSTANCE WHERE BETH SHAMMAI ADOPT THE LENIENT RULING AND BETH HILLEL THE STRICT RULING.[9] OF WHAT TABLE DID THEY SPEAK? OF THE TABLE UPON WHICH ONE EATS; BUT ON THE TABLE WHEREON THE FOOD IS SET OUT ONE MAY WITHOUT ANY HESITATION PLACE THE ONE [FOOD] BESIDE THE OTHER.

GEMARA. Is not R. Jose's opinion identical with that of the first Tanna? And should you say that there is a difference between them with regard to the actual eating [of fowl with cheese], the first Tanna maintaining that they[10] differ only with regard to the placing [upon the table] but not with regard to the eating thereof,[11] whereas R. Jose says that they differ even with regard to the eating thereof, Beth Shammai adopting the lenient ruling and Beth Hillel the strict ruling — but surely we have already learnt: R. Jose reports six cases in which Beth Shammai adopt the lenient ruling and Beth Hillel the strict ruling, and this is one of them, viz., A fowl may be placed upon the table together with cheese but may not be eaten with it; so Beth Shammai; but Beth Hillel say: It may neither be placed together with it nor eaten with it.[12] — Rather what the [teacher of our Mishnah] tells us is merely that the first Tanna [whose opinion is expressed anonymously] is R. Jose; for whosoever reports a thing in the name of him that said it brings deliverance into the world, as it is said: And Esther told the king in the name of Mordecai.[13]

Agra, the father-in-law of R. Abba, recited: A fowl and cheese may be eaten without restriction.[14] He recited it[15] and he himself explained it thus: it means without washing the hands or cleaning the mouth [between the eating of the one and the other].

R. Isaac the son of R. Mesharsheya once visited the house of R. Ashi. He was served with cheese which he ate and then was served with meat which he also ate without washing his hands [between the courses]. They said to him: Has not Agra the father-in-law of R. Abba recited that a fowl and cheese may be eaten without restriction? A fowl and cheese, yes; but meat and cheese, no! — He replied: That is the rule only at night, but by day I can see [that my hands are clean].[16]

It was taught: Beth Shammai say. One must[17] clean [the mouth];[18] Beth Hillel say. One must rinse it.[19] Now what is meant by 'one must clean' and 'one must rinse'?

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(1) And we do not apprehend lest the non-priest eat of it. To prohibit this would be to impose a precautionary measure upon a precautionary measure.

(2) Even to a priest an 'am ha-arez (v. Glos.) i.e., one who does not observe the strict rules of levitical cleanness. With regard to the dough-offering taken from produce grown in the Land of Israel this was not allowed, for only those priests who upheld the laws of the Torah were entitled to receive the priestly dues (cf. II Chron. XXXI, 4).

(3) I.e., it was brought into the Land of Israel.

(4) For outside the Land of Israel there cannot possibly occur any infringement of the law of dough.offering.

(5) There is virtually but one precautionary measure here, namely, the placing of fowl and cheese on the table is declared forbidden as a safeguard against the placing of flesh and cheese on the table, for the placing of the two together on the table will almost certainly lead to the eating thereof, thus involving the transgression of a Biblical prohibition. Cf. Torath Hayyim, a.l.

(6) Even if it is held that fowl with milk is prohibited by the law of the Torah there can still be shown two precautionary measures before one approaches the actual prohibition of the Torah. For it must be remembered that the Torah forbade flesh and milk that had been cooked together in the one pot; but if the flesh and the milk were in the same pot, not cooked together, they would be permitted by the law of the Torah but forbidden by the Rabbis only as a precautionary measure. Now to prohibit the placing together upon the table of these two cold foods as a safeguard against the eating thereof is again superimposing precautionary measures one upon the other.

(7) I.e., a vessel into which boiling food or liquid has been poured, in contradistinction from 'a first vessel', i.e., a vessel taken direct from the fire where it has been at the boil. A 'first vessel' can bring other foodstuffs to the boil even when removed from the fire, and in the case of 'flesh and milk' would involve a transgression of the law of the Torah.

(8) Lit., 'stew pot'.

(9) In the majority of cases the position is the reverse, i.e., Beth Hillel adopt the lenient ruling and Beth Shammai the strict ruling.

(10) Beth Shammai and Beth Hillel.

(11) For in this case all agree that it is forbidden to eat the two (sc. fowl and cheese) together.

(12) 'Ed. V, 2.

(13) Esther, II, 22.

(14) באפיקורן 'freely', from root פקר. V. Alfasi a.l. for the variant באפיקולים, explained as referring to the opinion of אפיקולים or אבקולם mentioned in Tosef. Hul. VIII, 3.

(15) Having received it on tradition from his teacher (Rashi).

(16) There is therefore no need to wash the hands between the courses at all.

(17) After eating cheese and before eating meat.

(18) By eating some dry bread, v. infra.

(19) Sc. the mouth; so apparently according to Rashi. R. Nissim, Torath Hayyim, and others, however, refer the rinsing to the hands.

Talmud - Mas. Chullin 105a

Should you say it means this: Beth Shammai say: One must clean [the mouth] and not rinse it,[1] and Beth Hillel Say. One must rinse [the mouth] and not clean it, then the statement of R. Zera viz., Cleaning the mouth must be done with bread only, would agree with the view of Beth Shammai, would it not?[2] And if you say it means this: Beth Shammai say: One must clean [the mouth] and not rinse it, and Beth Hillel Say. One must also rinse it, then it is a case in which Beth Shammai adopt the lenient ruling and Beth Hillel the strict ruling; why then is this not taught among the cases[3] in which Beth Shammai adopt the lenient ruling and Beth Hillel the strict ruling? — Rather this must be the interpretation: Beth Shammai say: One must clean [the mouth], and also rinse it; Beth Hillel say. One must rinse [the mouth], and also clean it. But one [school] mentions one [requirement], the other [school] another, and they do not really differ.[4] The [above] text [stated]: ‘R. Zera said: Cleaning the mouth must be done with bread only’. This means only with wheaten bread but not with barley bread.[5] And even with wheaten bread it is allowed only if it is cold, but not if it is still warm, for it cleaves [to the palate]. And it must be soft and not hard.[5] The law is: Cleaning [the mouth] may be done with everything except flour, dates and vegetables.

R. Assi enquired of R. Johanan: How long must one wait between flesh and cheese?[6] — He replied. Nothing at all. But this cannot be, for R. Hisda said: If a person ate flesh he is forbidden to eat [after it] cheese, if he ate cheese he is permitted to eat [after it] flesh! — This indeed was the question. How long must one wait between cheese and flesh? And he replied. Nothing at all.

The [above] text [stated]: ‘R. Hisda said: If a person ate flesh he is forbidden to eat [after it] cheese, if he ate cheese he is permitted to eat [after it] flesh’. R. Aha b. Joseph asked R. Hisda: What about the flesh that is between the teeth?[7] — He quoted [in reply] the verse: While the flesh was yet between their teeth.[8]

Mar ‘Ukba said: In this matter I am as vinegar is to wine[9] compared with my father. For if my father were to eat flesh now he would not eat cheese until this very hour to-morrow, whereas I do not eat [cheese] in the same meal but I do eat it in my next meal.

Samuel said: In this matter I am as vinegar is to wine compared with my father. For my father used to inspect his property twice a day, but I do so only once a day. Samuel here follows his maxim, for Samuel declared: He who inspects his property daily will find an istira.[10] Abaye used to inspect his property daily. One day he met his farmer-tenant carrying away a bundle of twigs. Said to him [Abaye]. Where is this going to? He replied. To my master's house. Said Abaye. The Rabbis have long ago anticipated you.[11]

R. Assi used to inspect his property daily. He exclaimed: Where are all those istiras of the Master Samuel? One day he saw that a pipe had burst on his land. He took off his coat, rolled it up and stuffed it into the hole. He then raised his voice and people came and stopped it up. He exclaimed: Now I have found all those istiras of the Master Samuel.[12]

R. Idi b. Abin said in the name of R. Isaac b. Ashian: The first washing[13] [of the hands] is a meritorious act, the last washing[14] is a bounden duty. An objection was raised from the following: The first and last washing [of the hands] are bounden duties,[15] the middle washing[16] is a matter of free choice. — A meritorious act as compared with a matter of free choice can well be termed a bounden duty.

[To return to] the main text: ‘The first and last washing [of the hands] are bounden duties, the middle washing is a matter of free choice’. The first washing may be performed either over a vessel or over the ground; the last washing must be performed over a vessel. Others read: The last washing may not be performed over the ground. (What is the real difference between these [two versions]? There is a difference, [where one washes over] twigs.)[17] The first washing may be With either hot or cold water; the last washing must be with cold water only, because hot water softens the hands and does not remove the grease.[18]

‘The first washing may be with either hot or cold water’. R. Isaac b. Joseph said in the name of R. Jannai. They said this only of [hot] water wherein the hand is not

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(1) I.e., rinsing the mouth with water would not be sufficient and so would not serve the purpose; so Rashi adopting the reading which omits the words ‘need not’ before ‘rinse it’ in cur. edd. V. MS.M. v. also Tosaf. s.v. אילימא

(2) For Beth Hillel do not mention ‘cleaning the mouth’, accordingly R. Zera's statement is based upon Beth Shammai's view.

(3) ‘Ed. IV, V.

(4) For they are agreed that both requirements are essential, namely, and cleaning and rinsing the mouth. As for washing the hands v. Asheri a.l. and Tur, Yoreh Deah, LXXXIX.

(5) Because it crumbles in the mouth and does not clean the mouth well.

(6) I.e, after eating flesh how long must one wait before being allowed to eat cheese?

(7) Must it be removed before one is about to eat cheese?

(8) Num. XI. 33. The suggestion is that the particles of flesh between the teeth are still termed ‘flesh’, and therefore must be removed before one may eat cheese.

(9) Lit., ‘vinegar the son of wine’, i.e., ‘I am inferior to my father’, applied both in a religious and secular sense.

(10) A silver coin equal to half a zuz. The meaning is that he who inspects his property daily will derive much profit, for he will be able to see that everything is in proper order, and no workman of his could take advantage of his absence.

(11) By their advice to inspect one's property daily, whereby pilfering and theft is put a stop to.

(12) By being on the spot he was able to repair in time what might have been a serious disaster through inundation.

(13) Lit., ‘the first water’; i.e., the washing of the hands before the meal.

(14) Lit., ‘the last water ; i.e., the washing of the hands after the meal.

(15) Whereas previously it was stated the washing before the meal was merely a meritorious act but not a duty.

(16) Lit., ‘the middle water’; i.e., the washing of the hands during the meal.

(17) The water does not run directly on to the ground, neither can it be said that it runs into a vessel: according to the second version this would be allowed, according to the first version it would not.

(18) Which becomes absorbed all the more in the hands through hot water.

Talmud - Mas. Chullin 105b

scalded, but one may not wash the hands with water wherein the hand would be scalded. Others refer this [distinction] to the final clause thus,

‘The last washing must be With cold Water only’, and not with hot water. R. Isaac b. Joseph said in the name of R. Jannai. They said this only of [hot] water wherein the hand is scalded, but one may wash the hands with water wherein the hand is not scalded. It follows, however, from this that for the first washing one may use even water wherein the hand is scalded.

‘The middle washing is a matter of free choice’. R. Nahman said: They said this only [of the washing] between one course and another course,[1] but between a [meat] course and cheese it is a bounden duty to do so.

R. Judah the son of R. Hiyya said: Why did [the Rabbis] say that it was a bounden duty to wash the hands after the meal? Because of a certain salt of Sodom which makes the eyes blind.[2] Said Abaye. One grain of this is found in a kor of ordinary salt. R. Aha the son of Raba asked R. Ashi: What is the rule if one measured out salt?[3] — He replied: Undoubtedly.[4]

Abaye said: At first I thought the reason why the last washing may not be performed over the ground was that it made a mess, but now my Master[5] has told me: It is because an evil spirit rests upon it.

Abaye also said: At first I thought the reason why one should not remove anything from the table whilst another is holding a cup and drinking was the fear lest there occur a mishap at the table,[6] but now my Master has told me: It is because it may cause vertigo. This applies, however, only if [the thing is] taken away and not returned, but if taken and returned it does not matter. Moreover, it applies only if the thing is taken away a distance of more than four cubits [from the table], but if it remains within four cubits' distance it does not matter. Moreover, it applies only to such things as may be required at the table, but if it is not required at the table it does not matter. Mar son of R. Ashi used to be particular even about [the removal of] a pestle and mortar for [pounding] spices, for these are required at the table.

Abaye also said: At first I thought the reason why one collects the crumbs [from the floor] was mere tidiness, but now my Master has told me: It is because it might lead to poverty.[7] Once the angel of poverty was following a certain man but could not prevail over him, because the man was extremely careful about [collecting the] crumbs. One day he ate some bread upon the grass. 'Now'.[said the angel] 'he will certainly fall into my hand'.[8] After he had eaten he took a spade, dug up the grass, and threw it all into a river. He then heard [the angel] exclaiming. 'Alas, he has driven me[9] out of his house'.

Abaye also said: At first I thought the reason why one does not drink froth was that it was nauseous, but now my Master has told me: It is because it may cause catarrh. To drink it may cause catarrh, to blow it away may cause headache, and to skim it [with the hand] may cause poverty. What then should one do? One must let it settle down by itself. For catarrh [contracted from drinking the froth] of wine [one should drink] beer, for that from beer one should drink water, for that from water there is no remedy. This bears out the popular saying, poverty follows the poor.[10]

Abaye also said: At first I thought the reason why one should not eat vegetables from the bunch which was tied up by the gardener was because it had the appearance of gluttony, but now my Master has told me, it is because one lays oneself open thereby to the dangers of magic. R. Hisda and Rabbah b. R. Huna once were travelling on a ship. A certain lady said to them, 'Take me with you'; but they would not. She then pronounced a spell and the ship was held fast. They [in return] pronounced a spell and it was freed. She said: 'What power have I over you? seeing that you do not cleanse yourselves with a potsherd.[11] neither do you crush a louse on your clothes, nor do you eat vegetables from a bunch tied up by the gardener.

Abaye also said: At first I thought that the reason why one does not eat vegetables which had fallen on to the tray was because it was not clean, but now my Master has told me: It is because It causes a foul smell in the mouth.

Abaye also said: At first I thought the reason why one does not sit under a drain pipe was that there was waste water there, but my Master has told me. It is because demons are to be found there. Certain carriers were once carrying a barrel of wine. Wishing to take a rest they put it down under a drain pipe, whereupon the barrel burst, so they came to Mar son of R. Ashi. He brought forth trumpets and exorcised the demon who now stood before him. Said he to the devil, 'Why did you do such a thing?' He replied. 'What else could I do, seeing that they put it down on my ear'? The other [Mar son Of R. Ashi] retorted: 'What business had you in a public place? It is you that are in the wrong, you must therefore pay for the damage'. Said the devil, 'Will the Master give me a time wherein to pay'? A date was fixed. When the day arrived he defaulted. He came to court and [Mar b. R. Ashi] said to him, 'Why did you not keep your time?' He replied. 'We have no right to take away anything that is tied up sealed, measured or counted; but only if we find something that has been abandoned'.

Abaye also said: At first I thought the reason why one pours off [a little water] from the mouth of the jug [before drinking therefrom] was the fear of scraps [that may be on the surface], but now my Master has told me: It is because of evil waters.[12] A demon in the service of R. Papa once went to fetch water from the river but was away a long time. When he returned he was asked. 'Why were you so long?' He replied. '[I waited] until the evil waters had all gone'. In the meantime

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(1) Both being meat dishes or milk dishes; cf. however, Tosaf. s.v. לא.

(2) If one touches the eyes after having handled this salt.

(3) Must he wash his hands after it or not?

(4) He must certainly wash his hands.

(5) Rabbah b. Nahmani.

(6) Lit., ‘at the meal’. He who is drinking may be annoyed at the removal of those things and may choke in his anger.

(7) If one leaves the crumbs strewn on the floor.

(8) Believing that this man would certainly fail to pick up all the crumbs from the grass.

(9) Lit., ‘this person’.

(10) The poor man not having anything but water to drink is afflicted by that disease for which there is no remedy.

(11) After an evacuation. V. Shab. 81b.

(12) I.e., water from which demons had drunk.

Talmud - Mas. Chullin 106a

he saw them pouring off [a little water] from the mouth of the jug; he exclaimed. ‘Had I known that you were in the habit of doing this I would not have been away so long’.

When R. Dimi came [from Palestine] he reported. The omission to wash the hands before the meal caused one to eat swine's flesh,[1] and the omission to wash the hands after the meal caused a separation of a wife from her husband.[2] When Rabin came [from Palestine] he reported. The omission to wash before the meal caused one to eat nebelah.[3] and the omission to wash after the meal caused a murder.[2] R. Nahman b. Isaac said, [In order to remember the statements of each bear in mind] the following mnemonic: ‘R. Dimi came [first] and separated her, and then Rabin came and killed her’.[4] R. Abba reported the graver result in each case.[5]

It was stated: As regards water heated by fire, Hezekiah says: One may not wash the hands therewith;[6] but R. Johanan says: One may wash the hands therewith. R. Johanan related: I enquired of R. Gamaliel the son of Rabbi, who used to eat all his food in conditions of levitical purity, and he told me that all the great men of Galilee did so.[7] As regards the hot springs of Tiberias, Hezekiah says: One may not wash the hands therewith, but one may immerse the hands therein.[8] R. Johanan says. One may immerse the body therein, but not the face, hands or feet.[9] But surely, if one may immerse therein the whole body, how much more so the face, hands or feet![10] — R. Papa said: At the source there is no dispute at all that it is permitted;[11] moreover, to take some away in a vessel, there is no dispute at all that it is forbidden.[12] They disagree only in the case where the water [from the spring] was run off into a channel;[13] one holds that we must forbid the case of a channel on account of a vessel,[14] the other holds we do not impose this precautionary measure.

Tannaim differ on this point. [It was taught:] Water which is unfit for cattle to drink,[15] if it is in a vessel, is invalid [for the immersion of the hands], but if it is on the ground it is valid. R. Simeon b. Eleazar says: Even if it is on the ground one may immerse therein the whole body, but not the face, hands or feet. But surely if one may immerse therein the whole body, how much more so the face, hands or feet! This therefore must be a case where the water was run off into a channel, and they differ in this: one[16] is of the opinion that we must forbid a channel on account of a vessel, and the other is of the opinion that we do not impose this precautionary measure.

R. Idi b. Abin said in the name of R. Isaac b. Ashian: The washing of the hands for common food was ordained only in order to acquire the habit with regard to terumah;[17] moreover, it is a meritorious act.[18] What is this meritorious act? — Abaye answered: It is a meritorious act to hearken to the words of the Sages. Raba answered: It is a meritorious act to hearken to the words of R. Eleazar b. ‘Arach. [For It was taught:] It is written: And whomsoever he that hath the issue toucheth, without having rinsed his hands in water:[19] herein, said R. Eleazar b. ‘Arach, the Sages found a

Biblical support for the law of washing the hands. Raba asked R. Nahman: Wherein is this indicated? For it is written: ‘Without having rinsed his hands in water’. Can this mean that if he had rinsed his hands, [whatsoever he touched] would be clean? Surely he requires immersion, does he not? The meaning must be: And any other person that has not rinsed his hands is unclean.[20]

R. Eleazar said in the name of R. Oshaia: They enjoined the washing of the hands before eating fruit only for reasons of cleanliness The disciples understood from this that it was not a duty but that it was nevertheless a meritorious act. Raba, however, said to them: It is neither a duty nor a meritorious act, but is merely an act of free choice. This opinion [of Raba] differs from that of R. Nahman, for R. Nahman said: Whosoever washes his hands for fruit is of those that are haughty in spirit.[21]

Rabbah b. Bar Hana said: I was once standing in the presence of R. Ammi and R. Assi when a basket of fruit was brought before them. They ate without first washing their hands, they gave me none of it, and each said the Grace [after meals] for himself. Draw three conclusions from this: (i) that the law of washing the hands does not apply to fruit; (ii) that the law of Common Grace does not apply to fruit;[22] and (iii) that if two ate together. It is a meritorious act on their part to separate.[23] It has also been taught to the same effect: If two ate together, it is a meritorious act on their part to separate. This is so only if both of them are learned;[24] but if one is learned and the other illiterate, the former says Grace and the other fulfils his obligation [by listening].

Our Rabbis taught: The washing of the hands for common food [must reach] up to the joint:[25] for terumah [it must reach]

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(1) A person once entered an inn and sat down to the table without first washing his hands. He was taken for a non-Jew and was served with swine's flesh.

(2) V. Yoma 83b, where it is related that certain Rabbis had entrusted their purses to a certain man who later denied all knowledge of them. They noticed that the man had traces of lentils on his upper lip, so they immediately went off to his home and asked his wife in the name of her husband to hand them the purses. On her asking them to prove their bona fides they told her that her husband had eaten lentils that day. She thereupon handed them the purses. When the husband came home and learnt what his wife had done he immediately divorced her, or as some say, killed her. Now had the husband been particular about washing the hands (and naturally also the lips) after the meal, this tragedy of a divorce or a murder would not have happened.

(3) Cf. n. 2.

(4) R. Dimi came to Palestine before R. Abin and reported what could have occurred only earlier before the murder reported by R. Abin.

(5) With regard to the omission of washing before the meal the graver outcome was the eating of swine's flesh, and with regard to the omission of washing after the meal it was the taking of a life.

(6) Before the meal.

(7) I.e., wash their hands before the meal with hot water.

(8) Provided there was the requisite quantity of water, viz., forty se'ah.

(9) If the hands were unclean and one immersed them in these hot springs they are not thereby rendered clean, neither are they regarded as washed for the meal. The terms ‘face’ and ‘feet’ are quite irrelevant and are added here only on account of the fullness of the expression. ‘face, hands and feet’.

(10) For it established that the immersion of the whole body is accounted as the immersion of the hands and certainly as the washing of the hands before the meal.

(11) For all purposes, immersion as well as washing. For by immersing the hands at the source of the spring it is like an immersion in a fountain or mikweh.

(12) I.e., to fill a vessel with water from these springs and to pour it over the hands would not be deemed a valid ‘washing’ of the hands. For washing the hands by means of a vessel was primarily confined to the use of cold water, and although the Rabbis permitted water that had been heated, the permission did not extend to include the water from hot springs, for, being ever hot, it never came within the scope of the institution.

(13) I.e., the water from the hot springs had been run off in a small channel in which there was not the requisite quantity of water for immersion but which was connected with the source.
(14) Such is the view of Hezekiah, hence his ruling that one may not wash the hands therewith; the following view is that of R. Johanan. V. Asheri a.l. and Alfasi on Ber. VIII, 44b.
(15) Either foul water or water from the hot springs of Tiberias (Rashi).
(16) R. Simeon b. Eleazar.
(17) For hands are accounted unclean in the second degree and so can only impart their uncleanness to consecrated food or terumah but not to common food.
(18) [I.e., apart from the consideration of terumah, the fact that the washing of the hands was instituted by the Sages makes it into a meritorious act, v. Adreth Hiddushim.]
(19) Lev. XV, 11.
(20) It is interpreted as a distinct rule and does not refer to the person that has an issue. Of course it is not intended thereby to convey that the law of washing the hands is of Biblical origin, the Rabbis merely supported their enactment by a Biblical text, i.e., אסמכתא.
(21) And one should not behave so; Raba however permits it at one's free choice.
(22) V. Ber. 45a: Three who ate together are under the obligation to say the Common Grace (זמון). This law evidently does not apply to a meal of fruit, for if it did these Rabbis would certainly have offered Rabbah some fruit in order to be enabled to say the Common Grace.
(23) So that each may say the Grace for himself.
(24) Lit., ‘scribes, bookmen’.
(25) I.e., only the tips of the fingers need be washed up to the second joint.

Talmud - Mas. Chullin 106b

up to the joint;[1] the sanctification of the hands and feet for Temple service[2] [must reach] up to the joint.[3] Whatsoever is deemed to be an interposition with regard to the immersion of the body[4] is also an interposition with regard to the washing of the hands and the sanctification of the hands and feet for the Temple service.[5]

Rab said: Up to here[6] is [the washing] for common food; up to here for terumah. Samuel said: Up to here both for common food and for terumah, adopting the stricter view.[7] R. Shesheth said, up to here both for common food and for terumah, adopting the lenient view.[8] Bar Hadaya said: I was once standing before R. Ammi and he said: Up to here both for common food and for terumah, adopting the stricter view. And you must not suppose that R. Ammi [said so] because he was a priest,[9] for R. Meyasha, the grandson of R. Joshua b. Levi, who was a Levite also said: Up to here both for common food and for terumah, adopting the stricter view.

Rab said: A person may wash both his hands in the morning and stipulate that it shall serve him the whole day long.[10] R. Abina said to the inhabitants of

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(1) The third joint of the fingers. i.e., the junction of the phalanges and the metacarpus.
(2) I.e., the washing of hands and feet from the bronze laver; v Ex. XXX, 17-21.
(3) The joint of the wrist.
(4) Anything that adheres to the body and so prevents the water of the mikweh from penetrating to that part of the body renders the immersion invalid.
(5) From the laver, v. Ex. XXX, 21.
(6) Rab was demonstrating the law to his pupils: for common food up to the second joint, and for terumah up to the third joint.
(7) Up to the third joint of the fingers.
(8) Up to the second joint of the fingers.
(9) And in order to acquire the habit of washing the whole surface of the fingers for terumah he ruled likewise for common food; I.e., it was merely a personal restriction.

(10) And he need not wash them again before his meals; he must however take care that his hands do not become dirty or unclean.

the valley of ‘Araboth: People like you that have not much water, may wash the hands in the morning and stipulate that it shall serve the whole day long. Some say: This is allowed only in a time of need[1] but not at ordinary times, hence it is at variance with Rab's view;[2] others say: This is allowed even at ordinary times, and so it corresponds with Rab's view.

R. Papa said: A person may not wash the hands in a dike used for irrigation, because [the water] here does not run directly from the human act;[3] if, however, he is quite close to the bucket he may wash his hands [in the dike], because there it runs directly from the human act. If the bucket was cracked so that liquid could filter in,[4] the waters are then considered as connected[5] and he may immerse the hands [in the dike].

Raba said: A vessel which has a hole in it so that liquid can filter into it, may not be Used for washing the hands.

Raba also said: A vessel in which there is not a quarter [log of water] may not be used for washing the hands. But this surely cannot be, for Raba has said: A vessel which cannot hold a quarter [log] may not be used for washing the hands. Now it follows that if it can hold [a quarter log] even though there is not [that much] in it [it may be used]! — This is no difficulty, for the one passage refers to one person and the other to two persons.[6] and we have learnt: A quarter log of water [is sufficient] for washing the hands of one person or even of two persons.[7]

R. Shesheth asked Amemar: Are you particular about the vessel used?[8] He replied: Yes. About the colour[9] [of the water used]? — He replied. Yes. About the amount[10] [of water used]?He replied: Yes. Others report that he replied thus: We are particular about the vessel and the colour [of the water], but we are not particular about the amount [of water used], for we have learnt: A quarter log of water [is sufficient] for washing the hands of one person or even of two persons. This, however, is not correct, for it is different in that case since it is the residue of [what was the proper amount for] purification.[11]

R. Jacob of Nehar Pekod had a standard washing vessel made that contained a quarter [log]. R. Ashi had a standard jug made in Huzal that contained a quarter [log].

Raba also said: If the stopper of a jar was fashioned[12] [into a vessel], it may be used for washing the hands. It has also been taught to the same effect, viz., If the stopper of a jar was fashioned [into a vessel], it may be used for washing the hands. If a waterskin or a [leather] bottle was fashioned [into a vessel], it may be used for washing the hands. A sack or a basket, even though they were made to hold water, may not be used for washing the hands.[13]

The question was raised: May one eat with a cloth [wrapped round the hand] or not?[14] Must we apprehend lest [the bare hand] touch [the food] or not? — Come and hear: But when they gave R. Zadok less than an egg's bulk of food to eat, the took it with a cloth, ate it outside the Sukkah, and did not say the Grace after it.[15] Now presumably if it was as large as an egg's bulk it would have been necessary to wash the hands![16] — No, perhaps the only inference is, if it was as large as an egg's bulk it would have been necessary to eat it in the Sukkah and to say the Grace after it.[17]

Come and hear [from the following incident]. Samuel once found Rab eating with a cloth and said to him,

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(1) E.g., where there is a shortage of water.

(2) For Rab does not qualify his statement and permits this practice at all times.

(3) The water in the dike is supplied by buckets which a man fills from a river and empties into the dike, and thence it runs off in its courses over fields. It is therefore forbidden to dip the hands in the dike because the power of man has already spent itself at the beginning of the dike and the waters run now of their own impetus.
(4) This implies a large hole so that the water would run out through the hole with a spurt.
(5) If he filled this cracked bucket with water from the river and emptied it out into the dike, the water would be running out at both ends, from the crack back into the river and from the mouth into the dike, so that, while the bucket is being emptied out, the water in the dike is actually connected with the water in the river; one may therefore immerse the hands in the dike.
(6) Where one person washes the hands a quarter log of water is necessary, and so also where two persons wash the hands one after the other only a quarter log is necessary; obviously then in the latter case the second person washes his hands with less than a quarter log. This is allowed, however, because of the reason stated infra, that the second person uses the residue of what was the proper amount for washing the hands.
(7) Yad. I, 1.
(8) That it should be whole and not damaged.
(9) That it should have the appearance of water.
(10) That there must be a quarter log.
(11) Cf. p. 592, n. 3.
(12) The stopper is cup-shaped, concave on the inside and convex outside. As the inside was not made to serve as a receptacle it is therefore necessary to hollow it out a little more for this purpose (Rashi). According to Tosaf. it is only necessary to make the outside flat so that it should be able to stand upright without support.
(13) For these do not usually hold water and cannot be regarded as a vessel for washing.
(14) If a person did not wash the hands but wrapped a cloth round them, may he thus eat his food or not?
(15) V. Suk. 26b.
(16) Even though his hands were wrapped in a cloth.
(17) But not to wash the hands since they were covered with a cloth.

Talmud - Mas. Chullin 107b

Is it right to do so?[1] And Rab replied. I am very sensitive.[2] When R. Zera went up [to Palestine] he found R. Ammi and R. Assi eating food with leather[3] rags around their hands;[4] he exclaimed, ‘Two great men like you to be in error about the incident of Rab and Samuel! Did not Rab reply. "I am very sensitive"’ ? — In truth he [R. Zera] had forgotten the statement of R. Tahlifa b. Abimi in the name of Samuel, viz., They permitted those that eat terumah[5] the use of a cloth, but they did not permit those that eat [common food] in conditions of cleanness the use of a cloth. And R. Ammi and R. Assi were priests.

The question was raised: Must he that is being fed by another wash his hands or not? — Come and hear. R. Huna b. Sehora once was standing before R. Hamnuna and put some meat[6] into R. Hamnuna's mouth which he ate. Said [R. Huna]. If you were not R. Hamnuna I would not have fed you. Now what was the reason [for the exception in R. Hamnuna's case]? Was it not because he was very careful not to touch [the food]?[7] — No, it was because he was most scrupulous and had certainly washed his hands previously.

Come and hear. R. Zera said in the name of Rab: One should not put a piece [of bread] into the mouth of the waiter unless one knows that he has washed his hands. The waiter must say a Benediction for each cup [of wine that he receives], but does not say a Benediction for each piece [of bread].[8] R. Johanan said: He must also say a Benediction for each piece [of bread]. And R. Papa said: In fact there is no contradiction [between Rab and R. Johanan], for one refers to the case where a notable person [is sitting at the table][9] and the other to a case where there was no notable person [at the table]. Nevertheless it expressly says. ‘Unless one knows that he has washed his hands’! — In the case of a waiter it is different because he is kept busy.[10]

Our Rabbis taught: A man should not give any bread to the waiter while the cup [of wine] is in the hand [of the waiter] or in his host's hand, lest there occur a mishap at the table.[11] If the waiter has not washed his hands, one may not put bread into his mouth.

The question was raised: Must he that feeds another wash his hands or not? — Come and hear: It was taught in the school of Manasseh: R. Simeon b. Gamaliel says. A woman may wash one hand in water[12] and give some bread to her small child. It was said of Shammai the Elder that he would not feed a child even with one hand, and the Sages ordered him that he feed it with both hands![13] — Abaye answered: There it was on account of evil spirits.[14]

Come and hear [from the following incident]. The father of Samuel once found Samuel crying and asked him, ‘Why are you crying’? ‘Because my teacher beat me’. ‘But why’? ‘Because he said to me, "You were feeding my son and you did not wash your hands before doing so"’.’ And why did you not wash’? [He replied:] ‘It was he that was eating, so why should I wash’? Said [the father of Samuel:] ‘It is not enough that he [your teacher] is ignorant [of the law], but he must also beat you’!

The law is: He that is fed by another must wash his hands; he that feeds another need not wash his hands.

MISHNAH. A PERSON MAY WRAP UP FLESH AND CHEESE IN ONE CLOTH, PROVIDED THEY DO NOT TOUCH ONE ANOTHER. R. SIMEON B. GAMALIEL SAYS: TWO PEOPLE AT AN INN[15] MAY EAT AT THE SAME TABLE, THE ONE FLESH AND THE OTHER CHEESE, WITHOUT HESITATION.

GEMARA. And what does it matter if they do touch one another? It is only cold [food] with cold [food]? — Abaye answered: I grant you that it is not necessary to scrape away the surface,[16] but surely each must be washed.

R. SIMEON B. GAMALIEL SAYS: TWO PEOPLE AT AN INN MAY EAT AT THE SAME TABLE etc. R. Hanan b. Ammi said in the name of Samuel: This is permitted only if they do not know each other, but if they know each other it is forbidden. It has also been taught to the same effect: R. Simeon b. Gamaliel says. If two guests stay at the same inn, one having come from the north and the other from the south, the one with his piece of flesh and the other with his cheese, they may eat at the same table, the one flesh and the other cheese, without hesitation. They only forbade it where the two eat from one parcel. ‘From one parcel’! You surely cannot mean that![17] — It means, if it appears as [though they are eating from] one parcel.[18]

R. Yemar b. Shelemya asked Abaye: What is the law in the case of two brothers who are particular with each other![19] — He replied, Then people will say: All cakes are forbidden but the cakes of Boethius are permitted.[20] Then according to your argument, what of the statement of R. Assi in the name of R. Johanan viz.: One who possesses only one shirt may wash it on the intermediate days of the festival![21] There, too, people will say:

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(1) He assumed that he had not washed his hands.

(2) He had in fact washed his hands yet he would not touch his food with his fingers but always wrapped a cloth around them. It is however apparent that both Rab and Samuel are of the opinion that the use of a cloth does not dispense with the need for washing the hands.

(3) Like gloves.

(4) Without having washed their hands.

(5) I.e., priests, for they are most scrupulous and would avoid touching the food with their hands.

(6) Together with bread (Tosaf.).

(7) Hence where one is careful not to touch the food there is no need to wash the hands.

(8) The waiter can expect to receive from the diners a morsel of bread from time to time, therefore the benediction for the first piece would serve also for the subsequent pieces. He cannot however be certain that he will receive wine from time to time, therefore each time he must make a benediction.

(9) Only in this case, Rab holds that the waiter should not make several benedictions, for he can reasonably expect to receive bread from time to time.

(10) In such circumstances there is a danger that he will actually touch the food that he is eating; but with an ordinary person there is no such apprehension. It must be noted that the serving of food by the waiter with his hands does not impose upon him the duty of washing the hands, v. infra.

(11) The host may be annoyed at it and may choke while drinking, or he may look with anger at the waiter who might get frightened and spill the wine and thus cause an unfortunate incident.

(12) On the Day of Atonement when it is forbidden to wash.

(13) It is evident from these cases that even when feeding another it is necessary to wash the hands!

(14) The washing of the hands referred to on the Day of Atonement is that which has to be performed in the morning on account of the evil spirit that clings to unwashed hands. But once the hands have been washed in the morning there is no further need to wash them when about to feed others; v. Yoma 77b.

(15) Lit., ‘two strangers’.

(16) Of the flesh and cheese where they came into contact.

(17) But this is forbidden even when one is not sitting at the table. V. our Mishnah.

(18) I.e., they are intimate with each other and it appears that what one has is shared by the other.

(19) Not to share each other's food. May they both eat at the same table, the one flesh and the other cheese, as strangers, or not?

(20) Cf. Pes. 37a. It is forbidden to make cakes of fancy shapes on the Passover for, in the time spent in shaping, the dough might become leavened. A certain baker Boethius had moulds of various shapes, and the question was asked: May one eat the cakes of Boethius on the Passover or not? It was resolved that no distinction can be made; all cakes in fancy shapes are forbidden whether made in moulds or not, and the law does not admit of any exceptions. Here, too, the law is clear, that strangers may eat at the same table but friends or brothers may not. It will not alter the law the fact that the brothers are unfriendly or particular with each other.

(21) Ordinarily this is forbidden, cf. M.K. 14a.

Talmud - Mas. Chullin 108a

All cakes are forbidden but the cakes of Boethius are permitted![1] — Surely Mar son of R. Ashi has explained that his girdle proves his special case.[2]

MISHNAH. IF A DROP OF MILK FELL ON A PIECE OF FLESH[3] AND IT IMPARTED A FLAVOUR INTO THAT PIECE,[4] IT[5] IS FORBIDDEN. IF THE POT WAS STIRRED,[6] THEN IT IS FORBIDDEN ONLY IF [THE DROP OF MILK] IMPARTED A FLAVOUR INTO [ALL THAT WAS IN] THE POT.

GEMARA. Abaye said: In all cases wherever the flavour [of a forbidden substance is perceptible] but not the substance it self,[7] [the mixture is forbidden] by the law of the Torah.[8] For should you say that it is forbidden by Rabbinic law only, and the reason why we may not draw any conclusions from the case of ‘flesh in milk’ is that it is an anomaly.[9] then by reason of that anomaly [the mixture of flesh and milk should be forbidden] even though the one does not impart a flavour in the other![10] — Said Raba to him: The Torah has expressed this prohibition by the term ‘cooking’.[11]

Rab said: As soon as it [the drop of milk] imparted a flavour to the piece of flesh, that piece becomes forbidden like nebelah, and it in turn renders all the other pieces forbidden,[12] for they are of like kind.[13] Mar Zutra the son of R. Mari said to Rabina: Let us consider: Rab in this statement of his evidently follows the view of R. Judah, who holds that homogeneous substances can never neutralize each other; but must we say that he disagrees with Raba? For Raba said: R. Judah is of the opinion that where one kind is mixed with a like kind and also with a different kind, you disregard the like kind as if it were not there, and if the different kind is more [than the forbidden substance] it will neutralize it![14] — He replied. Had it fallen into thin broth this would have been the case, but here we must suppose that it fell into thick broth.[15] Then what is his view? If he holds that when the forbidden essence can be considered[16] extracted it becomes permitted.[17] why should the piece of flesh be deemed as nebelah?[18] One must say that he holds that even when it is considered extracted it is still forbidden. And indeed it was so reported: Rab, R. Hanina and R. Johanan hold that even when it can be considered extracted it is still forbidden; Samuel, R. Simeon b. Rabbi and R. Simeon b. Lakish hold that when it is considered extracted it becomes permitted.

Is Rab then of the opinion that even when it can be considered extracted it is still forbidden? But it has been reported: If an olive's bulk of flesh fell into a pot of milk, the flesh, says Rab, is forbidden[19] but the milk is permitted. Now if you maintain that [Rab holds] even when it is considered extracted it is still forbidden.

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(1) I.e., all people may not wash their clothes on the intermediate days of the festival but this man may.

(2) Since this man is washing his shirt together with the girdle (which is unusual) it is clear to all that he has no other shirt with which to wear the girdle, for otherwise he would have removed it.

(3) That was in a pot boiling on the fire.

(4) I.e., the piece was not sixty times as much in bulk as the drop of milk.

(5) Sc. the piece of flesh.

(6) As soon as the drop of milk fell into the pot the pot was stirred so that the flavour of the milk was distributed equally among everything that was in the pot.

(7) E.g., where the forbidden substance was, after a time, removed from the mixture, so that there is only the flavour of the forbidden substance under consideration.

(8) The principle is derived from the law of ‘flesh in milk’, for in that case, after the two substances were cooked together, even though they have been removed from each other, they are forbidden because of the flavour of the other which each absorbed.

(9) For each substance separately is permitted but in a mixture each is forbidden; moreover, this law is peculiar for the mere cooking together of these substances is also forbidden.

(10) Whereas our Mishnah forbids the mixture only where the flavour of the milk is perceptible.

(11) The prohibition of ‘flesh in milk’ is thrice expressed in the Torah by the term ‘cooking’, and cooking signifies the imparting of a flavour from one substance to the other.

(12) Even though the other pieces in the pot are together more than sixty times the volume of the piece upon which the milk fell.

(13) The rule IT IS FORBIDDEN in the first clause of our Mishnah accordingly means that all that is in the pot is forbidden; for Rab evidently is in agreement with R. Judah that homogeneous substances cannot neutralize each other.

(14) V. supra 100b. In our Mishnah, therefore, according to this view, even though the one piece is rendered forbidden as nebelah, and the other pieces in the pot are to be disregarded for they are of like kind, the broth, if there is sufficient of it, should neutralize the forbidden piece, for broth and flesh are different kinds.

(15) And this is regarded as being of the same kind as flesh.

(16) Lit., ‘might have been’.

(17) The contention is that when a substance, rendered forbidden because it had absorbed the essence of a forbidden matter, is cooked together with other permitted food, the forbidden essence is considered as extracted from the original substance and distributed equally among the contents of the pot; so that if there is enough in the Pot to neutralize the quantity of forbidden essence it will all be permitted, even the original substance which Was rendered forbidden. In other words the substance, which is forbidden because of the forbidden essence that it absorbed, is not regarded as nebelah and forbidden absolutely for all time, but it is even possible for it to become permitted once again when cooked with other substances.

(18) Surely the drop of milk which originally fell on this piece would in the course of further cooking be extracted from it and distributed equally among all the pieces in the pot, so that this piece too should be permitted!

(19) Because of the milk that it absorbed.

Talmud - Mas. Chullin 108b

why is the milk permitted? Is not the milk[1] as nebelah?[2] — I still maintain, that Rab holds that even when it can be considered extracted it is still forbidden, but there[3] it is exceptional, for the verse states: Thou shalt not seethe a kid in its mother's milk,[4] whence it is clear that the Torah forbade the kid only and not the milk.[5]

But does Rab hold that the Torah forbade the kid only and not the milk? But it has been reported: If a person cooked half an olive's bulk of flesh with half an olive's bulk of milk,[6] he suffers stripes, says Rab, if he eats it, but does not suffer stripes for cooking it. Now if you maintain that [Rab contends that] the Torah forbade the kid only and not the milk, why should he suffer stripes for eating it? There was only half the [minimum] quantity![7] Rather we must say that Rab holds the view that the milk is also forbidden, but in this case[8] we must suppose that [the olive's bulk of flesh] fell into a boiling pot, in which case it will absorb all the time and not discharge at all.[9] But eventually when [the boiling] subsides it will discharge [the milk which it had absorbed]! — By then he had already removed it.[10]

The text [stated above]: 'If a person cooked half an olive's bulk of flesh with half an olive's bulk of milk, he suffers stripes, says Rab, if he eats it, but does not suffer stripes for cooking it'. But say what you will. If the two[11] combine [to make the prohibition], then he should also suffer stripes for cooking it; and if they do not combine, then he should not suffer stripes even if he ate it! — Really they do not combine, but this[12] is a case where each [half an olive's bulk] came from a large pot.[13] Levi, however, said: He also suffers stripes for cooking it. Moreover, Levi taught so in a Baraitha: Just as he suffers stripes for eating it he suffers stripes for cooking it. And of what kind of cooking did they speak? Of such cooking as others[14] would eat thereof.

With regard to the law where the forbidden essence is considered extracted,[15] there is a dispute between Tannaim. For it was taught: If a drop of milk fell on a piece of flesh, as soon as it imparted a flavour to the piece, the piece itself is forbidden as nebelah, and it will in turn render all the pieces [in the pot] forbidden, for they are of like kind: so R. Judah. But the Sages say. [It is not forbidden at all] until it imparts a flavour to the broth, the sediments and the pieces. Said Rabbi: The words of R. Judah are acceptable in the case where he[16] neither stirred nor covered [the pot], and the words of the Sages in the case where he either stirred it or covered it.

Now what is meant by 'neither stirred nor covered'? Should you say it means that he did not stir it at all, or that he did not cover it at all, then this piece will indeed have absorbed [the drop of milk] but will not at any time have given it out; [wherefore then are the other pieces forbidden?] And if it means that he did not stir it straightway but only later on, or that he did not cover it straightway but only later on, wherefore [are any of the pieces forbidden]? True, this piece had absorbed [the drop of milk] but it has also given it out! — He is of the opinion that even when the forbidden substance can be considered extracted it is still forbidden.[17]

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(1) Sc. that milk which was first absorbed by the flesh and later discharged in the rest of the milk in the pot.

(2) So that when it mixes with the rest of the milk we have here a mixture of homogeneous liquids which, according to Rab can never neutralize each other.

(3) In connection with the prohibition of flesh in milk.

(4) Ex. XXIII, 19.

(5) Rab contends that whenever flesh and milk are cooked together in any proportion whatsoever, it is only the flesh that is forbidden and not the milk.

(6) An olive's bulk of liquid is that amount of liquid displaced from a brimming bowl by an olive.

(7) The minimum quantity of a forbidden substance to render one liable to stripes is an olive's bulk. Here the only forbidden substance is the meat and there is only half an olive's bulk of it.

(8) Namely, where an olive's bulk of flesh fell into a pot of milk.
(9) The milk absorbed by the flesh will not be given out so long as the pot is boiling, consequently it will not affect the rest of the milk in the Pot.
(10) The olive's bulk of flesh.
(11) Sc. the flesh and the milk.
(12) The statement of Rab that he suffers stripes for eating it.
(13) Wherein large quantities of flesh and milk were cooked together. To take out of this Pot half an olive's bulk of flesh and half an olive's bulk of milk and eat them certainly renders one liable to stripes. But to cook half an olive's bulk of meat with half an olive's bulk of milk does not, according to Rab, render one liable to stripes. So that the two rulings given by Rab refer to different cases.
(14) Non-Jews. I.e., sufficiently cooked.
(15) Whether the original piece which contained the forbidden essence becomes now permitted or not.
(16) Sc., the person who was looking after the pot. By stirring or covering the pot the forbidden substance is distributed equally among the entire contents of the pot.
(17) Once a piece of flesh has absorbed a forbidden substance it becomes absolutely forbidden as nebelah and will at once render all the pieces in the pot forbidden, no matter how much there is in the Pot besides this; for it can never be neutralized since this is a case of a forbidden piece among permitted pieces, or a mixture of homogeneous substances.

Talmud - Mas. Chullin 109a

(It follows then from this that R. Judah holds that [the entire contents of the pot] are forbidden even though he stirred it straightway [and continued to do so] till the very end, or covered it straightway [and kept it so] till the very end.[1] But why should this be so? The one [piece] has not absorbed any more [than the others]?[2] — Perhaps he did not stir it so well or he did not cover it so well.)[3]

The Master [further] stated above: ‘And the words of the Sages in the case where he either stirred it or covered it’. What is meant by ‘either stirred it or covered it’? Should you say it means that he stirred it only later on but not at the beginning, or that he covered it only later on but not at the beginning,[4] — but in this case you have said that the words of R. Judah are acceptable.[5] It must therefore mean that he stirred it straightway and [continued to do so] till the very end, or that he covered it straightway and [kept it so] till the very end; from which it follows that the Sages maintain [that everything in the pot is] permitted even though he stirred it only later on but not at the beginning, or he covered it only later on but not at the beginning. It is evident then that they hold that when the forbidden substance can be considered extracted it becomes permitted.[6]

R. Aha of Difti said to Rabina: Why say they differ as to the law where the forbidden substance can be extracted? Perhaps all are of the opinion that even when the forbidden substance can be is extracted it is still forbidden, but they differ [about the neutralization[7] of homogeneous substances: R. Judah maintaining his principle that homogeneous substances cannot neutralize each other, and the Rabbis maintain theirs that homogeneous substances can neutralize each other?[7] — This argument cannot be entertained.[8] If you concede that the Sages in this dispute accept R. Judah’ s view concerning homogeneous substances, but they differ only as to the law in the case where the forbidden substance can be considered extracted, then the meaning of Rabbi is clear when he says. ‘The words of R. Judah are acceptable in this case and the words of the Sages in that’. But if you insist that all agree that even where the forbidden substance can be considered extracted it is still forbidden, but they differ concerning the law of homogeneous substances, then surely [Rabbi] should have said. ‘The words of R. Judah are acceptable in this but not in that’![9] And there is no more to be said about this. MISHNAH. THE UDDER MUST BE CUT OPEN AND EMPTIED OF ITS MILK; IF HE DID NOT CUT IT OPEN[10] HE HAS NOT TRANSGRESSED THE LAW ON ACCOUNT THEREOF.[11] THE HEART MUST BE CUT OPEN AND EMPTIED OF ITS BLOOD; IF HE DID NOT CUT IT OPEN HE HAS NOT TRANSGRESSED THE LAW ON ACCOUNT THEREOF.[12]

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(1) The fact that Rabbi finds R. Judah's view acceptable only where the pot was not stirred immediately but only later on clearly suggests that R. Judah maintains his view (viz., that everything in the pot is forbidden) even where the pot was stirred immediately and kept on so till the end.

(2) The drop of milk, in these circumstances, should be considered as distributed equally among all the pieces in the pot, and surely there is sufficient in the pot to neutralize this drop.

(3) And if the pot was not stirred well or covered properly the very moment the drop of milk fell on a piece, that piece would immediately absorb the milk and would render all the contents of the pot forbidden.

(4) And in this case Rabbi is inclined to accept the lenient view of the Sages that all the pieces in the pot would neutralize the milk, for it has been extracted from the one piece and distributed evenly in the pot.

(5) That the entire contents of the pot are forbidden.

(6) Hence we see that where the forbidden substance can be considered extracted is a matter of dispute between Tannaim.

(7) The position would then be: all bold that the piece upon which the drop of milk fell is wholly forbidden as nebelah, but the dispute is concerning the other pieces in the pot. R. Judah holding that the entire contents of the pot are forbidden because the forbidden piece can never be neutralized amongst other pieces, and the Sages holding that neutralization even in a mixture of homogeneous substances can take place. The attitude of Rabbi who holds, first that when the forbidden substance can be extracted the piece is still forbidden, and secondly that neutralization cannot take place between homogeneous substances, is expressed thus: The words of R. Judah are acceptable to me, namely, that the entire contents of the pot are forbidden, in the case where the pot was not stirred at once but only later on, for then one piece was first rendered forbidden and it would later render the entire pot forbidden. But the words of R. Judah are not acceptable to me in the case where the pot was stirred straightway, for then the drop of milk was immediately evenly distributed among the contents of the pot. In this latter case the words of the Sages are acceptable to me, namely that the entire contents of the pot are permitted, for the apprehension lest the pot was not well stirred or well covered need not be taken into consideration.

(8) Lit., ‘what is this?’

(9) V. supra n. 1. The view expressed there is that Rabbi agrees with R. Judah, that the entire contents are forbidden in the case where the pot was not stirred at once, but does not agree with him in the case where it was stirred at once. If this is Rabbi's true view then he should not have mentioned the Sages at all in his statement. The fact that the Sages are mentioned in Rabbi's statement indicates that they went so far as to permit even that Piece upon which the drop of milk fell, for they hold that when the forbidden substance is extracted the piece itself becomes permitted. The result of all this argument is to show that the law in the case when the forbidden substance can be considered extracted is a matter of dispute between Tannaim.

(10) But cooked it together with all the milk it contained.

(11) And no penalty Is 1ncurred either for cooking or eating the udder. The prohibition of ‘flesh in milk’ applies only to milk drawn off from the living animal but not to milk found in the udder of a slaughtered animal.

(12) And is not liable to the penalty of kareth for eating blood. According to Rashi the Mishnah is referring only to the heart of a fowl and the reason why this penalty is not incurred is because the blood contained in the heart is not as much as an olive's bulk. According to Tosaf. it refers to the heart of any animal and there is no liability because blood that has been cooked is not forbidden by the law of the Torah. V. Ker. 220. The flesh of the heart, says Rashi, is not rendered forbidden, for since it is smooth it does not absorb the blood. V. however Tosaf. s.v. הלב.

Talmud - Mas. Chullin 109b

GEMARA. R. Zera said in the name of Rab: He has [not only] not transgressed the law on account thereof, but it is even permitted.[1] But have we not learnt: HE HAS NOT TRANSGRESSED THE LAW ON ACCOUNT THEREOF, which implies that there is no transgression of the law but that it is forbidden?Strictly it is not forbidden at all, but only because the second clause reads: THE HEART MUST BE CUT OPEN AND EMPTIED OF ITS BLOOD; IF HE DID NOT CUT IT OPEN HE HAS NOT TRANSGRESSED THE LAW ON ACCOUNT THEREOF, in which case it is true that there is no transgression of the law but clearly it is forbidden,[2] the Tanna also stated in the first clause, HE HAS NOT TRANSGRESSED THE LAW ON ACCOUNT THEREOF. Shall we say that the following teaching supports him? It was taught: The udder must be cut open and emptied of its milk; if he did not cut it open he has not transgressed the law on account thereof. The heart must be cut open and emptied of its blood; if he did not cut it open he must cut it open after it had been cooked and it is permitted [to be eaten]. Now it is only the heart that must be cut open [after the cooking], but the udder need not be cut open at all! — Perhaps the inference is: only for the heart does the cutting open [after the cooking] suffice, but for the udder the cutting open [after the cooking] would not be sufficient.[3]

Others report the passage thus: R. Zera said in the name of Rab: He has not transgressed the law on account thereof, but it is forbidden [to be eaten]. Shall we say that [our Mishnah] supports him? It reads: HE HAS NOT TRANSGRESSED THE LAW ON ACCOUNT THEREOF, which implies, no doubt, that there Is no transgression of the law but that it is forbidden! — Strictly it is not even forbidden, but only because the second clause reads: THE HEART MUST BE CUT OPEN AND EMPTIED OF ITS BLOOD; IF HE DID NOT CUT IT OPEN HE HAS NOT TRANSGRESSED THE LAW ON ACCOUNT THEREOF, in which case there is no transgression of the law but clearly it is forbidden, the Tanna also stated in the first clause, HE HAS NOT TRANSGRESSED THE LAW ON ACCOUNT THEREOF.

Come and hear: The udder must be cut open and emptied of its milk; if he did not cut it open he has not transgressed the law on account thereof. The heart must be cut open and emptied of its blood; if he did not cut it open, he must cut it open after it had been cooked and it is permitted [to be eaten]. Now only the heart must be cut open [after the cooking] but the udder need not be cut open at all! — Perhaps the inference is: only for the heart does the cutting open [after the cooking] suffice, but for the udder the cutting open [after the cooking] would not be sufficient.

It was taught in agreement with the first version of Rab's view: If the udder was cooked with its milk it is permitted; if the stomach [of a sucking calf] was cooked with its milk it is forbidden. And wherein lies the distinction between the two? In the one the milk is collected inside, in the other it is not collected inside.[4]

How should one cut it[5] open? — Rab Judah replied. One must cut it lengthwise and breadthwise and press it against the wall. R. Eleazar once said to his attendant, ‘Cut it up for me[6] and I will eat it’. What does he teach us? Is it not [a clear statement in] our Mishnah? — He teaches us that it is not necessary to cut it both lengthwise and breadthwise.[7] Or [he teaches us that this would be sufficient even for cooking] in a pot.[8]

Yaltha[9] once said to R. Nahman: ‘Observe, for everything that the Divine Law has forbidden us it has permitted us an equivalent: it has forbidden us blood but it has permitted us liver; it has forbidden us intercourse during menstruation but it has permitted us the blood of purification;[10] it has forbidden us the fat of cattle but it has permitted us the fat of wild beasts; it has forbidden us swine's flesh but it has permitted us the brain of the shibbuta;[11] it has forbidden us the girutha[12] but it has permitted us the tongue of fish;[13] it has forbidden us the married woman but it has permitted us the divorcee during the lifetime of her former husband; it has forbidden us the brother's wife but it has permitted us the levirate marriage;[14] it has forbidden us the non-Jewess but it has permitted us the beautiful woman[15] [taken in war]. I wish to eat flesh in milk, [where is its equivalent?]’ Thereupon R. Nahman said to the butchers, ‘Give her roasted Udders’.[16] But have we not learnt, [THE UDDER] MUST BE CUT OPEN? — That is only when [it is to be cooked] in a pot.[17] But does it not state [in the Baraitha above]. ‘If [the udder was] cooked’,[18] which implies that only after the act it is permitted but not in the first instance?[19] — Indeed, it is even permitted in the first instance, but only because [the Tanna of the cited Baraitha] desired to state the second clause viz., If the stomach

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(1) To be eaten; for the milk that was withdrawn from a slaughtered animal is at most forbidden to be cooked with flesh by the Rabbis only, and here since the milk was absorbed and confined within the udder there is not even a Rabbinic injunction against eating it.

(2) For although there can be no liability to any punishment for eating the blood in the heart of a fowl for the reason stated, namely that it is less than an olive's bulk, there nevertheless lies a prohibition even where there is less than an olive's bulk, and it would certainly not be permitted to be eaten.

(3) And there is good reason for this distinction. As the heart is smooth and hard even in cooking the blood would not penetrate into it; the udder, on the other hand, is soft and spongy, and in cooking, the milk would Penetrate into it, and it would be impossible to remove it.

(4) The milk found in the stomach of a calf is regarded as ordinary milk, accumulated in a particular place, to which the prohibition of ‘flesh in milk’ applies, whereas the milk in the udder cannot be said to be collected inside but is absorbed in every part of the udder and therefore the prohibition of ‘flesh in milk’ does not apply.

(5) Sc. the udder.

(6) Before you roast it (Rashi); or, Before you cook it (Tosaf.).

(7) But cutting it in one direction would be sufficient.

(8) I.e., by cutting it lengthwise and breadthwise and by pressing it out against the wall it is permitted to cook it in a pot together with other meat. The text adopted is as found in MS.M.. Alfasi, R. Gershom and others. In cur. edd., in place of ‘or in a pot’ are the words ‘and to press it against the wall’. V. Glos. of Bah.

(9) R. Nahman's wife.

(10) In the period of purification after childbirth (cf. Lev. XII, 4) intercourse is permitted even though the woman may be suffering from a discharge of blood. Moreover, the blood of virginity is permitted which is the equivalent of the blood of menstruation.

(11) שיבוטא a kind of fish the brain of which has the same taste as swine's flesh. According to some it is the mullet, according to others the sturgeon.

(12) A forbidden bird; v. supra 62b where it is identified with the moor-hen.

(13) Which has the taste of girutha.

(14) Cf. Deut. XXV, 5ff.

(15) Cf. ibid. XXI, II ff.

(16) Lit., ‘give her udders on the spit’. i.e., roasted (Rashi). According to Aruch: ‘Feed her with well-filled udders’.

(17) R. Nahman apparently accepts the view stated in the second version of Rab supra. that the udder is forbidden if cooked without having been cut open.

(18) The expression ‘cooked’, בשל, in the Baraitha is to be interpreted as roasted and not cooked in a Pot. Cf. the same expression in II Chron. XXXV, 13: And they cooked the passover.

(19) How then did R. Nahman permit his wife to eat the udder roasted, and in the first instance too?

Talmud - Mas. Chullin 110a

was cooked with its milk it is forbidden, in which case it is not permitted even after the act, he stated in the first clause too ‘if it was cooked’.

When R. Eleazar went up [to Palestine] he met Ze'iri to whom he said: Is there to be found here a Tanna[1] who recited to Rab the law of the udder?[2] He immediately pointed out to him R. Isaac b. Abudimi. Thereupon the latter said unto him: I did not recite to him [any prohibition] at all about the udder; Rab however found an open space and put a fence around it.[3] For Rab once happened to be at Tatlefush[4] and overheard a woman asking her neighbour. How much milk is required for cooking a rib'a[5] of meat? Said Rab: Do they not know that meat cooked with milk is forbidden? He therefore stayed there [some time] and declared the udder forbidden to them.

R. Kahana reported the passage as above; but R. Jose b. Abba reported it as follows: [R. Isaac b. Abudimi said.] ‘I taught him [the prohibition only] with regard to the udder of a milch [cow]’.[6] And relying upon the keen perception of R. Hiyya he had stated this law in general about the udder.[7]

Rabin and R. Isaac b. Joseph once happened to be at R. Papi's, and they were served with a dish of udder. R. Isaac b. Joseph ate of it, but Rabin did not. Said Abaye: Wherefore did not this childless Rabin[8] eat? Consider this, R. Papi's wife was the daughter of R. Isaac Nappaha, and R. Isaac Nappaha was most strict in his actions;[9] now had she not seen this practice in her parents' home she certainly would not have served them with it.

In Sura people did not eat the udder at all, in Pumbeditha they used to eat it.

Rami b. Tamri, also known as Rami b. Dikuli, of Pumbeditha once happened to be in Sura on the eve of the Day of Atonement. When the townspeople took all the udders [of the animals] and threw them away, he immediately went and collected them and ate them. He was then brought before R. Hisda who said to him: 'Why did you do it?' He replied: 'I come from the place of Rab Judah who permits it to be eaten.' Said R. Hisda to him: 'But do you not accept the rule:[10] [When a person arrives in a town] he must adopt the restrictions of the town he has left and also the restrictions of the town he has entered?' — He replied: 'I ate them outside the [city's] boundary.' 'And with what did you roast them?' He replied. 'With the kernels [of grapes].' 'Perhaps they were [the kernels] of wine used for idolatrous purposes?' He replied. 'They had been lying there more than twelve months.'[11] 'Perhaps they were stolen goods?' He replied. 'The owners must have certainly abandoned all rights to them for lichen was growing amongst them.' He [R. Hisda] noticed that the other was not wearing the Tefillin[12] and said to him. 'Why do you not wear the Tefillin?' He replied. 'I suffer from the bowels, and Rab Judah has said. One who suffers from the bowels is exempt from wearing the Tefillin.'[13] He further noticed that the other was not wearing fringes [on his coat] and said to him. 'Why are you not wearing fringes?' He replied. 'The coat [l am wearing] is borrowed, and Rab Judah has said.

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(1) V. Glos.

(2) I.e., that it is forbidden if cooked without having been cut open.

(3) I.e., he came to a place where the people were negligent in their religious observances and he therefore placed upon them additional restrictions.

(4) In the neighbourhood of Sura; Obermeyer p. 298.

(5) ריבעא a term describing a certain quantity of meat, cf. Bez. 29a. According to Rashi: 'a litra'.

(6) I.e., without however stating so expressly as the Gemara continues to explain, v. מעדני יו״ט.

(7) Without explaining that it was only the udder of a milch cow that was forbidden. Rab however had heard this statement without making the necessary distinction. This is apparently the interpretation of this difficult passage.

(8) He was bereft of his children, and therefore was always referred to sympathetically as 'the childless Rabin'; v. Pes. 70b.

(9) Lit., 'a master of (good) deeds'.

(10) Supra 18b. Pes. 50a.

(11) V. A.Z. 34a; kernels which had been used for idolatry, if dry i.e., after twelve months, are permitted for use.

(12) V. Glos.

(13) For otherwise he would be constantly having to remove them in order to relieve himself.

Talmud - Mas. Chullin 110b

A borrowed coat is, for the first thirty days, exempt from the zizith.' While this was going on a man was brought in [to the court] for not honouring his father and mother. They bound him [to have him flogged], whereupon [Rami] said to them. 'Leave him alone, for it has been taught. Every commandment which carries its reward by its side does not fall within the jurisdiction of the Court below.'[1] Said [R. Hisda] to him. 'I see that you are very sharp.' He replied. 'If only you would come to Rab Judah's school I would show you how sharp I am!'

Abaye said to, R. Safra. When you go up there [to Palestine] enquire of them. How do you deal with the liver?' When he came up he met R. Zerika who told him [in reply]. 'I once cooked [the liver] well[2] for R. Ammi and he ate it.’ When he [R. Safra] returned, Abaye said to him: ‘I had no doubt at all that it, itself, was forbidden;[3] I was only in doubt whether it could render forbidden other [pieces that were in the pot with it or not].’ ‘But why had you no doubt that it, itself, was forbidden? For we have learnt: It is not itself rendered forbidden.[4] Then you should have no more doubts as to whether it renders others forbidden, for we have learnt: The liver renders [other pieces in the pot] forbidden but is not itself rendered forbidden, for it exudes and does not absorb’![4] — He replied. ‘Perhaps there it refers to the liver of a forbidden [animal]

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(1) And the reward for honouring parents is stated side by side with the precept; v. Ex. XX, 12.

(2) שלקי V. p. 611, n. 4.

(3) It is certainly permitted because it is discharging blood all the time during the cooking and will not absorb at all.

(4) Ter. X, 11.

Talmud - Mas. Chullin 111a

and the point is about the fat;[1] [what I wish to know is] the law about the blood’?[2] When he went up [to Palestine] a second time he met R. Zerika who told him [in reply]. ‘This, too, should not cause you any doubt, for I and Jannai the son of R. Ammi once came to the house of Judah the son of R. Simeon b. Pazzi, and we were served with the windpipe and its appendages[3] and we ate them.’ R. Ashi, others say. R. Samuel of Zerukinia,[4] demurred [at any proof from this] saying. Perhaps there the mouth of the windpipe was outside the pot?[5] Or perhaps it [the liver] was first dipped?[6] For R. Huna used to dip it in vinegar, and R. Nahman used to dip it in boiling hot water. R.[7] Papa once suggested to Raba that the vinegar [in which the liver was dipped] should be forbidden, but Raba answered him thus: If the vinegar is forbidden then it [the liver] too should be forbidden, for just as it exudes [its juice into the vinegar] it will later on absorb it.[8]

Rab b. Shabba once visited R. Nahman's house and was served with well-cooked[9] liver but he would nor eat it. Thereupon they told him [R. Nahman]. ‘There's a young scholar inside, namely Rab b. Shabba, who will not eat it.’ R. Nahman replied. ‘Force Shabba to eat it.’ This indeed is a matter of dispute between Tannaim: R. Eliezer says. The liver renders [other pieces in the pot] forbidden but is not itself rendered forbidden, because it exudes and does not absorb. R. Ishmael the son of R. Johanan b. Berokah says: If it [the liver] was seasoned with spices[10] it renders others forbidden and is itself also rendered forbidden; [and so too] if it was well-cooked[11] it renders others forbidden and is itself also rendered forbidden.[12]

Rabbah son of R. Huna once visited the house of Rabbah son of R. Nahman and was served with three se'ahs of honey-cakes. He said to them,[13] Did you know that I was coming? They replied. You are no more important than it,[14] and it is written. And call the sabbath a delight.[15] In the meantime he noticed a liver and in the artery thereof there was much blood. He said to them: Is it right to do so? They replied. What then should we do? He said. Cut it open lengthwise and breadthwise, and the part cut should be below.[16] This is so[17] only with the liver, but as to the spleen it contains merely a fatty juice.[18] Thus on the day when Samuel was bled they prepared for him spleen broth.

It was stated: [To roast] the liver on top of meat, is permitted, for the blood glides off;[19] [to roast] the udder on top of meat is forbidden because the milk clings [to and penetrates into the meat]. R. Dimi of Nehardea reports this just the reverse thus, [To roast] the udder on top of meat, is permitted, because the milk of a slaughtered animal is but a Rabbinic prohibition; liver on top of meat is forbidden because the blood is a Biblical prohibition.

Meremar declared in a public exposition: The law is, both with regard to the liver and the udder: under meat, it is permitted; on top of meat, it is permitted only after the act, but one may not do so in the first instance.

R. Ashi once visited the house of Rami b. Abba his father-in-law when he saw the son of Rami b. Abba

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(1) So that the liver of a trefah animal, when cooked with other pieces of flesh, will render those pieces forbidden not because of the blood, but because of the fat of the liver which has been absorbed by those pieces. On the other hand, if the liver of a permitted animal was cooked in the same pot with trefah meat, it would not be rendered forbidden, because whilst it is discharging blood it would not be able to absorb anything.

(2) The question is. Will the blood discharged from a liver that is permitted render the other pieces in the pot forbidden or not?

(3) The windpipe and its appendages, i.e., the lungs, liver and heart, had all been cooked together In one Rot.

(4) Near Nehar Azak, east of Tigris; v. Obermeyer, p. 80.

(5) So that whatever blood was discharged from the liver ran off outside the pot and nothing in the pot could have been affected by it.

(6) Either in vinegar or in boiling water to cause contraction of the pores so that nothing at all would exude from it.

(7) So var. lec.; cur. edd. ‘And R. Papa etc.’.

(8) In truth, however, the effect of the vinegar is to harden the liver and close up its pores so that nothing at all can exude from it; this being so, the vinegar is also permitted.

(9) שליקא V. n. 3.

(10) The spices soften the liver and render it more susceptible to absorb into it other juice.

(11) שלוקה term denoting ‘well-cooked’, cf. n. 3 mut. mut.

(12) [Thus those who ate the liver after cooking it well (supra p. 610) follow the view of’ R. Eliezer whilst R. Shaba follows the view of R. Ishmael, Adreth Hiddushim.]

(13) Sc. the members of the household.

(14) Sc. the Sabbath.

(15) Isa. LVIII. 13. The cakes had been prepared for the Sabbath.

(16) When roasting the liver the cut should be turned to the fire so that the blood should flow out directly and not run on to any other part of the liver.

(17) That it must be cut up lengthwise and breadthwise.

(18) It does not contain much blood, and so does not need to be cut up.

(19) The blood that is drawn out of the liver will not be absorbed by the meat but will run of the meat and drip on to the fire, and so the meat is permitted.

Talmud - Mas. Chullin 111b

putting liver on the spit on top of meat. ‘How presumptuous this young scholar is!’ he exclaimed. ‘The Rabbis may have permitted it after the act, but did they permit it in the first instance?’ But if a vessel was placed below to collect the drippings, even though the meat was on top of the liver, it is forbidden.[1] But in what way is this different from the blood of flesh?[2] — The blood of flesh settles at the bottom of the vessel, whereas the blood of liver floats at the top.[3]

R. Nahman said in the name of Samuel: The knife with which one slaughtered may not be used for cutting hot food;[4] as for cold food, some say it must be washed,[5] whilst others say, it need not be washed.

Rab Judah said in the name of Samuel: The vessel in which one salted meat may not be used for eating therein hot food. This is in accord with Samuel's principle, for Samuel has stated: Whatsoever is salted is counted as hot, and whatsoever is preserved is counted as cooked.[6] When Rabin came [from Palestine] he reported in the name of R. Johanan. Whatsoever is salted is not counted as hot and whatsoever is preserved is not counted as cooked. Said Abaye. This statement of Rabin cannot be upheld, for it once happened in the house of R. Ammi that an earthenware plate had been used for salting meat thereon and he broke It. Now let us see. Was not R. Ammi a disciple of R. Johanan?

Why then did he break [the plate]? Surely because he had heard the statement from R. Johanan that whatsoever is salted is counted as hot.

R. Kahana, the brother of Rab Judah, was sitting before R. Huna and recited as follows, The vessel in which one salted meat may not be used for eating therein hot food. A radish which was cut with a meat knife may be eaten with a milk sauce.[7] Why the distinction? — Abaye answered: The latter absorbed what is permitted, the former what is forbidden.[8] Said to him Raba. But what difference does it make the fact that it absorbed what is permitted? After all what is permitted now will be forbidden later on,[9] so that he will be eating that which is forbidden! Rather said Raba: [This is the distinction]. The latter can be tasted, the former cannot.[10] R. Papa said to Raba: But could not a gentile cook taste it? Has it not been taught: In a pot wherein meat had been cooked a person may not boil milk, and if he did boil [milk] therein [it is forbidden] if the pot imparts a flavour [to the milk]. In a pot wherein terumah food had been cooked a person may not cook common food, and if he did cook [common food] therein, [it is forbidden] if the pot imparted a flavour [to the common food]. And when we put the question to you. In the case of terumah I grant you that a priest could taste the food; but in the case of meat and milk who may taste it? You replied: A gentile cook could taste it. Now in our case, too, could not a gentile cook taste it? [He replied:] That is so, but I am speaking of a case where there is no gentile cook available.[11]

It was stated: If [hot] fish was served on a [meat] plate: Rab says: It is forbidden to eat it with milk sauce; Samuel says: It is permitted to eat it with milk sauce. 'Rab says: It is forbidden', because it imparted a flavour to it;[12] 'Samuel says: It is permitted', because it imparted a flavour indirectly.[13]

This ruling of Rab, however, was not expressly stated by him but was inferred from the following incident. Rab once visited the house of R. Shimi b. Hiyya, his grandson. He felt a pain in his eyes and so they prepared for him an ointment on a dish. Later on he was served with stew in this same dish and he detected the taste of the ointment in it. He remarked: 'Does it impart such a strong flavour?'[14] — But this does not prove anything; in that case it is different for the bitterness of the ointment is very pungent.[15]

R. Eleazar was once standing before Mar Samuel, who was being served with fish upon a [meat] plate and was eating it with milk sauce. He [Samuel] offered him some but he would not eat it. Samuel said to him, 'I once offered some to your Master[16] and he ate it, and you won't eat it.' He [R. Eleazar] then came to Rab and asked him, 'Has my Master withdrawn his view?' He replied. Heaven forfend that the son of Abba b. Abba[17] should give me to eat that which I do not hold [to be permitted]![18]

R. Huna and R. Hiyya b. Ashi were once sitting, one on the one side of the ferry of Sura and the other on the other side; one was served with fish on a [meat] plate which he ate with milk sauce; the other was served with figs and grapes in the course of the meal which he ate without reciting a benediction over them.[19] One called out to the other, 'ignoramus,[20] would your master do so?' The other called back, 'Ignoramus, would your master do so?' The one answered and said: 'I accept Samuel's view.'[21] The other answered: 'I hold the view of R. Hiyya. For R. Hiyya taught:[22] [The benediction over] bread exempts all other kinds of food, and that over wine exempts all other kinds of drink [from the necessity of another benediction].'

Hezekiah said in the name of Abaye: The law is, fish that was served on a [meat] plate may be eaten with milk sauce, and a radish that was cut with a meat knife may not be eaten with milk sauce. This is so only in the case of a radish,

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(1) I.e., the drippings of fat in the vessel are forbidden to be eaten because they are mingled with the blood drippings from the liver.

(2) V. infra 112a, where it is permitted to place a vessel below the roasting meat in order to collect the drippings of fat even though it collects at the same time blood drippings.
(3) In the former case the fat can be poured off into another vessel leaving behind all the blood, in the latter case the blood is intermingled with the fat and the one cannot be separated from the other.
(4) The throat at the time of slaughtering is deemed to be hot so that the knife during the act of cutting will have absorbed blood and will give it out again when used with hot food.
(5) The cold food cut with this knife must be washed, so Rashi. Most commentators, including Maim., R. Gershom, and Tosaf. (supra 8b s.v. והלכתא), interpret that the knife must be washed before cutting with it cold food.
(6) supra 97b. The vessel will therefore have absorbed blood by reason of the salting.
(7) Kutah, a preserve consisting of sour milk, breadcrust and salt. Even though the radish because of its pungency absorbed the fat that was congealed upon the knife.
(8) The radish absorbed the fat of meat which is in no wise forbidden, whereas the vessel absorbed blood which is forbidden.
(9) When it is dipped in the milk sauce, for then there is the combination of meat and milk.
(10) The radish can be tasted by any person to ascertain whether or not the flavour of the meat is perceptible; but the food cooked in the vessel wherein meat had been salted, may not be tasted by a Jew, for fear that the flavour of the blood that was absorbed in the vessel will have passed into the food.
(11) Where a gentile cook is available he may taste the food cooked in this vessel, and if he pronounces it to be absolutely free from the taste or flavour of blood it may then be eaten. So that in fact there is no distinction between the two cases cited by R. Kahana.
(12) The meat essence absorbed in the plate imparted its flavour to the fish.
(13) Lit., ‘that which gives a flavour the son of (i.e., derived from) that which gives a flavour’. Here the meat originally imparted a flavour to the plate and the plate to the fish; the fish, therefore, has a secondary or indirect taste of the meat, and this according to Samuel is negligible and of no consequence. However, it is conceded by Samuel that it is forbidden to drink hot milk out of a meat dish, for the dish has the first taste of the meat and this flavour, like the meat itself, is forbidden to eat with milk.
(14) I.e., it is remarkable, thought Rab, that the flavour of the ointment should remain in the dish (which obviously was cleaned well) and be felt also in the food that was subsequently served in it. From this remark the Rabbis inferred that even the secondary or indirect taste is of consequence. This suggested inference is somewhat difficult for the case of the fish and the case of the ointment are not on all fours; v. however R. Nissim a.l.
(15) [Rab therefore must have stated his rule expressly. Tosaf.]
(16) Rab.
(17) I.e., Samuel, whose father was Abba b. Abba.
(18) In other words, such a thing never occurred, for Rab maintains his view that it is forbidden.
(19) These fruits are usually eaten after the meal and therefore when served in the course of the dinner one must recite the benediction over them, and one is not exempt with the benediction recited over the bread at the beginning of the dinner. V. Ber. 41b.
(20) Lit., ‘orphan’. i.e., without knowledge. A term of gentle rebuke.
(21) V. supra, that fish served on a meat plate may be eaten with milk sauce.
(22) Ber. 41b.

Talmud - Mas. Chullin 112a

since on account of its pungency it absorbs [from the knife]; but in the case of a cucumber one need only scrape away the surface of the cut and then one may eat it [with a milk sauce]. Turnip stalks[1] are permitted;[2] beet stalks are forbidden, but if one cut these and turnips alternately,[3] they are permitted.

R. Dimi enquired of R. Nahman: May one place a jar of salt close to a jar of milk sauce?[4] — He replied. It is forbidden. And what about a jar of vinegar?[5] — He replied. It is permitted. What Is the difference between the two? If you will measure out a kor of salt[6] [I will tell you the difference]. And what is it? — ln the one case the forbidden substance is discernible, in the other it is not discernible.[7]

A young pigeon once fell into a jar of milk sauce,[8] and R. Hinena son of Raba of Pashrunia permitted it. Thereupon Raba remarked: Who, save R. Hinena son of Raba of Pashrunia, is so wise as to permit such a thing? For he [R. Hinena] is of the opinion that — Samuel's dictum, Whatsoever is salted is counted as hot, applies only to the case [of food salted so much] that it cannot be eaten on account of the salt;[9] but this milk sauce can be eaten together with the salt that is in it. This [was allowed] only in the case of a raw pigeon, but if it was roasted[10] it would require to be pared around; moreover if there were cuts In It It would be wholly forbidden;[11] likewise, if it was seasoned with spices it would be wholly forbidden.

R. Nahman said in the name of Samuel, A loaf of bread upon which one cut [roast] meat may not be eaten,[12] but only if [the meat was] red, and only if [the blood] penetrated through the bread, and only if [the juice which exuded from the meat was] thick, but if it was thin then it does not matter. Samuel would throw that [loaf of bread] to the dogs. R. Huna used to give It his attendant. Say what you will; if it is permitted it is permitted to all, and if it is forbidden it is forbidden to all! — R. Huna's was quite a special case, for he was fastidious [in his food].[13] Raba used to eat it and called it ‘meat wine’.

R. Nahman again said in the name of Samuel, One may not place a vessel beneath meat [that is roasting][14] until all the redness [of the meat] has gone. How does one know this? — Mar Zutra answered in the name of R. Papa. When the smoke rises.[15] R. Ashi demurred saying. Perhaps the lower half has been roasted and the upper half has not?[16] R. Ashi therefore said: There is no other remedy but to cast [into the vessel] two lumps of salt

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(1) If cut with a meat knife.

(2) To be eaten with a milk sauce.

(3) I.e., if one first cut a turnip with the meat knife and then beet.

(4) The apprehension is lest some of the milk sauce fall into the salt and he used with the latter to salt meat.

(5) May one place it next to a jar of milk sauce?

(6) V. supra 12a.

(7) Milk sauce is noticeable in salt, hut in vinegar it would melt away and would not even leave any trace of its flavour.

(8) The pigeon had been ritually slaughtered and prepared for cooking when it fell into the milk sauce which usually contains a substantial amount of salt.

(9) The salting in that case being for the purpose of preserving the food.

(10) [Even if it was now cold, for roasting softens the meat, making it liable to absorb the milk sauce (Asheri). Others explain this to refer to hot roast; Adreth and Nissim.]

(11) On account of the cuts and cracks in the body or because of the high seasoning, the roast pigeon would be all the more susceptible to absorb the milk sauce.

(12) Because of the blood which the bread absorbed.

(13) Actually R. Huna regarded it as permitted but would not eat it himself because of his sensitive nature.

(14) In order to collect the drippings of fat; v. supra 111b.

(15) From the meat, i.e., the meat is now dry and all the blood has been drawn out. Aliter: From the coals; this smoke is from the drippings of fat after the drippings of blood have ceased.

(16) And there may still be drippings of blood from the upper half, i.e., that which is furthest from the fire.

Talmud - Mas. Chullin 112b

and to pour off [the fat].[1] But did Samuel really say so?[2] Has not Samuel stated that a loaf [of bread] upon which one cut [roast] meat may not be eaten?[3] — It is different in that case for it [the blood] exudes only by reason of the pressure of the knife.

R. Nahman said: If fish and fowl were salted together, they[4] are forbidden. What are the circumstances here? If the vessel [in which they were salted] was not perforated[5] then fowl with other fowl would also be forbidden, and if the vessel was perforated then even fish with fowl should be permitted? — Indeed the vessel was perforated, but fish, having a soft skin, very quickly exude [their juice], whereas fowl are constricted and exude [blood] long after the fish have ceased to do so, so that the latter will absorb from [the fowl].[6]

It happened to R. Mari b. Rahel that ritually slaughtered meat had been salted with trefah meat.[7] He came before Raba who sa[3] d to him, It is written: The unclean,[8] to signify that the juice and the broth and the sediment of these [which are unclean] are forbidden.[9]

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(1) The effect of the salt is to draw the blood together so as to settle at the base of the vessel, leaving the fat on top; the fat can then very easily be poured off into another vessel, and it may be eaten.

(2) That once the redness of the meat has gone no more blood will exude from it.

(3) Because of the blood which has exuded from the roast meat.

(4) I.e., the fish, for the blood that is exuded from the fowl will be absorbed by the fish.

(5) It is forbidden to salt meat in a vessel that is not perforated. V. infra 113a.

(6) On the other hand meat with other meat may very well be salted together, for each piece will take an equal length of time to exude the blood and so long as it exudes it will not absorb.

(7) In a perforated vessel.

(8) Lev. XI, 31: These are the unclean unto you among all that creep. It is apparent that the definite article before ‘unclean’ is superfluous.

(9) And therefore in the case of the trefah meat being salted with ritually slaughtered meat, whilst it is true that one will not absorb blood from the other because each is discharging it, each will however absorb the juice from the other, so that the ritually slaughtered meat would be rendered forbidden on account of the juice of the other.

Talmud - Mas. Chullin 113a

Why did he not tell him [that it was forbidden] because of Samuel's dictum, ‘Whatsoever is salted is counted as hot, and whatsoever is preserved is counted as cooked’? — As for Samuel's dictum I would have thought that it applies only to the blood[1] but not to the juice and broth;[2] he therefore teaches us [the Baraitha]. An objection was raised: [It was taught:] If a clean fish was salted together with an unclean fish, it[3] is permitted. Presumably this is a case where both were salted, is it not?[4] — No. It is a case where the clean fish was salted but the unclean was not.[5] But surely, since the subsequent clause states: If the clean fish was salted and the unclean was not, [it’ is permitted],[6] it follows that the first clause deals with the case where both were salted. — The [second] clause merely explains the first thus: If a clean fish was salted together with an unclean fish, it is permitted. When is this so? When, for instance, the clean fish was salted but the unclean was not. And indeed this supposition is reasonable, since if we assume the first clause to refer to the case where both were salted, seeing that where both were salted it is permitted, is it necessary [to tell us that it is permitted] where only the clean fish was salted and not the unclean? — This however is not a conclusive argument. It may be that the second clause was put in to make clear the reference in the first: lest you might think that the first clause refers to where the clean fish was salted and the unclean was not, leaving us to infer that where both were salted it would be forbidden, he therefore adds the second clause, where the clean fish was salted and the unclean was not, which shows that the first clause speaks of the case where both were salted, and even so it is permitted.

Come and hear from the very last clause: But if the unclean fish was salted and the clean was not, it[3] is forbidden. Now it is forbidden only where the unclean was salted and the clean was not, from which it follows that where both were salted it would be permitted![4] — Not at all; but since in the preceding clause it teaches of the case where the clean fish was salted, and the unclean was not, it teaches also in the second clause of the case where the unclean fish was salted and the clean was not.[7]

(Mnemonic: Flesh put [on the] neckbone.)[8] Samuel said: Flesh cannot be drained of its blood unless it has been salted very well and rinsed very well. It was stated: R. Huna said: One must salt the flesh and then rinse it. In a Baraitha it was taught: One must rinse it, salt it and then rinse it again. Indeed they are not at variance, for in the one case[9] it was washed down by the butcher and in the other it was not washed by the butcher. R. Dimi of Nehardea used to salt meat with coarse salt and then shake it off.[10]

R. Mesharsheya said: We do not assume that the internal organs contain blood;[11] this is explained as referring specifically to the rectum, the small intestines, and the coil of the colon.

Samuel said: One may not put salted meat except into a perforated vessel.[12] R. Shesheth used to salt each piece of meat[13] separately. But why not two together? Because the blood would run out of one piece and be absorbed by the other? Then in one piece also the blood may run out of one side and be absorbed by the other side! — Indeed there can be no difference.[14]

Samuel said in the name of R. Hiyya: If a man breaks the neck bone of an animal [after it has been slaughtered but] before the life departed from it, he thereby makes the meat heavy,[15] robs mankind,[16] and causes the blood to remain in the limbs. It was asked: What is the true meaning? Is it that he makes the meat heavy and thereby robs mankind by causing the blood to remain in the limbs, but where only he himself is concerned he may do so?[17] Or perhaps even for himself it is forbidden?[18] — This remains undecided.

MISHNAH. IF A MAN PLACES UPON THE TABLE FOWL WITH CHEESE HE DOES NOT THEREBY TRANSGRESS THE LAW.

GEMARA. It follows that if he were to eat [them together] he would transgress the law; you can infer from this that the flesh of fowl [cooked] in milk is prohibited by the law of the Torah! — Render thus. If a man places upon the table fowl with cheese he cannot come to the transgression of the law.[19]

MISHNAH. IT IS FORBIDDEN TO COOK THE FLESH OF A CLEAN ANIMAL IN THE MILK OF A CLEAN ANIMAL OR TO DERIVE ANY BENEFIT THEREFROM; BUT IT IS PERMITTED TO COOK THE FLESH OF A CLEAN ANIMAL IN THE MILK OF AN UNCLEAN ANIMAL OR THE FLESH OF AN UNCLEAN ANIMAL IN THE MILK OF A CLEAN ANIMAL AND TO DERIVE BENEFIT THEREFROM. R. AKIBA SAYS, WILD ANIMALS AND FOWLS ARE NOT INCLUDED IN THE PROHIBITION OF THE TORAH, FOR IT IS WRITTEN THRICE, THOU SHALT NOT SEETHE A KID IN ITS MOTHER'S MILK,[20] TO EXCLUDE WILD ANIMALS, FOWLS, AND UNCLEAN ANIMALS. R. JOSE THE GALILEAN SAYS, IT IS WRITTEN, YE SHALL NOT EAT OF ANYTHING THAT DIETH OF ITSELF.[21] AND IN THE SAME VERSE IT IS WRITTEN, THOU SHALT NOT SEE THE A KID IN ITS MOTHER'S MILK; THEREFORE WHATSOEVER IS PROHIBITED. UNDER THE LAW OF NEBELAH[22] IT IS FORBIDDEN TO COOK IN MILK. NOW IT MIGHT BE INFERRED THAT A FOWL, SINCE IT IS PROHIBITED UNDER THE LAW OF NEBELAH. IS ALSO FORBIDDEN TO BE COOKED IN MILK; THE VERSE THEREFORE SAYS. IN ITS MOTHER'S MILK'; THUS A FOWL IS EXCLUDED SINCE IT HAS NO MOTHER'S MILK.[23]

GEMARA. Whence do we know this?[24] — R. Eleazar said: Because the verse says: And Judah sent the kid of the goats;[25]

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(1) I.e., if meat with its blood was salted in a vessel which was not perforated it would be regarded as cooked (or roasted) thus, and is forbidden.

(2) Which we would not know to be forbidden at all without the Baraitha quoted, for we would regard them as a mere secretion and of no consequence.

(3) I.e., the clean fish.

(4) Both the clean and unclean fish were salted, and the former is permitted because so long as each fish is exuding juice one will not absorb from the other; similarly in the above case, so long as each piece of meat is exuding blood and juice, the ritually slaughtered meat will not absorb from the trefah meat.

(5) Lit., ‘insipid’, ‘without salt’. The unclean fish not being salted will not exude at all, and therefore the clean fish will not be affected by it.

(6) V. Marginal Gloss.

(7) Actually even if both were salted the clean fish would be forbidden.

(8) A mnemonic of the three statements of Samuel given on this page on the subject of salting meat. The third word in the mnemonic is read as מפרקתא ‘neckbone’ which is supported by MS.M.; in cur. edd. the reading is נפקותא ‘going out, departing’.

(9) In R. Huna's case.

(10) Because it has absorbed the blood. In the case of fine salt there is no need to shake it off, for it would melt in the blood and run off the meat.

(11) And they are not forbidden if cooked without salting.

(12) Meat that was salted and the salt had not been washed off may not be Put into an unperforated vessel, for fear that the meat will absorb again the blood that was drawn out of it. It is certainly forbidden to salt meat in such a vessel in the first instance (R. Nissim). [Rashi supra 122b, s.v. אפילו, seems to have read one may not salt etc. מולחין for מניחין]

(13) Lit., ‘bone (by) bone’.

(14) One may therefore salt any number of pieces together, for while each is exuding it will not absorb. As to whether all the pieces must be salted simultaneously or not, v. Tosaf. supra 112b, ודגים.

(15) For the animal is bereft of its last energy to spurt out the blood, and the blood now settles in the limbs of the animal.

(16) When he sells this meat, for it contains more than the usual amount of blood.

(17) I.e., if he does not sell the meat. And the usual salting of meat would presumably be sufficient for this meat too.

(18) For now no amount of salting will draw out the blood that has settled in the limbs.

(19) For even if he were to eat them together he would not transgress the law of the Torah.

(20) Ex. XXIII, 19; XXXIV, 26; Deut. XIV, 21.

(21) Deut. XIV, 21.

(22) V. Glos.

(23) Accordingly the prohibition is restricted to mammals.

(24) That the prohibition, ‘Thou shall not seethe a kid in its mother's milk’, is not limited in its application to a kid only but applies to all clean animals.

(25) Gen. XXXVIII, 20.

Talmud - Mas. Chullin 113b

here it was a ‘kid of the goats’, but elsewhere, wherever ‘kid’ is stated, it includes [the young of] the cow and the ewe. And might we not derive the rule from that?[1] — There is another verse which says: The skins of the kids of the goats;[2] here it was ‘kids of the goats’, but elsewhere, wherever ‘kid’ is stated, it includes [the young of] the cow and the ewe. And might we not derive the rule from the latter?[1] — [No, because] we have here two verses which teach the same thing, and one may not draw any conclusions from two verses which teach the same thing.[3] This is well according to him who maintains that one may not draw conclusions from such verses, but what can be said according to him who maintains that one may draw conclusions from such verses? — There are here two limiting particles: ‘goats’, ‘the goats’.[4]

Samuel said: ‘Kid’ includes the forbidden fat;[5] ‘kid’ includes that which died of itself;[6] ‘kid’ includes the foetus.[7] ‘Kid’ excludes the blood; ‘kid’ excludes the afterbirth; ‘kid’ excludes the unclean animal.[8] ‘In its mother's milk’, and not in the milk of a male;[9] ‘in its mother's milk’, and not in the milk of a slaughtered animal;[10] ‘in its mother's milk’ and not in the milk of an unclean animal.[11] But is not the term ‘kid’ written only three times,[12] yet we give six interpretations to it! — Samuel holds the view that a prohibition can be superimposed upon an existing prohibition, so that the application of the prohibition [of ‘flesh in milk’] to forbidden fat and also to that which died of itself is derived from one verse;[13] blood [is excluded because] it does not come under the term ‘kid’;[14] the afterbirth also because it is a mere excretion;[14] two verses now remain, one to include the foetus and the other to exclude an unclean animal.

Does Samuel then hold that a prohibition can be superimposed upon an existing prohibition? Surely Samuel has said in the name of R. Eliezer: Whence do we know that if a priest who was unclean ate unclean terumah he would not be liable to death?[15] From the verse: And die therein if they profane it,[16] thus excluding this [unclean terumah], since it already stands profaned![17] — You may say, if you will, that in all cases a prohibition can be superimposed upon an existing prohibition, but it is different there for the Divine Law expressly disallowed it by the expression ‘And die therein if they profane it’. Or you may say, if you will, that in all cases Samuel is of the opinion that a prohibition cannot be superimposed upon an existing prohibition, but it is different here for the Divine Law expressly allowed it by the expression ‘kid’.[18] Or further you may also say, if you will, the one is his own opinion, the other is the opinion of his teacher.[19]

R. Ahadboi b. Ammi enquired of Raba: What is the law if one cooked [flesh] in the milk of a she-goat that had not given suck?[20] — He replied: Since it was necessary for Samuel to state, the expression ‘in its mother's milk’, and not in the milk of a male, [it is clear that] only a male [is excluded] for it cannot become a mother, but [in the milk of] this [she-goat], since it can become a mother, it is forbidden.

It was stated: [In the case where] a man cooked forbidden fat in milk, [there is a dispute between] R. Ammi and R. Assi: one says: He incurs stripes;[21] the other says: He does not incur stripes. Shall we say that they differ in this: he who says he incurs stripes maintains that a prohibition can be superimposed upon an existing prohibition, and he who says he does not incur stripes maintains that a prohibition cannot be superimposed upon an existing prohibition? — No. All agree that a prohibition cannot be superimposed upon an existing prohibition; and [consequently] there is no dispute at all that for eating this he does not incur stripes.[22] They differ only with regard to the cooking thereof: he who says he incurs stripes argues that there is only one prohibition here;[23] and he who says he does not incur stripes argues that for this very reason did the Divine Law express the prohibition of eating by the term ‘cooking’,[24] [to signify that]

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(1) That wherever ‘kid’ is mentioned it means the kid of the goats as in the verse quoted.

(2) Ibid. XXVII, 16.

(3) V. supra 61b.

(4) The definite article I added to the word ‘goats’ in each of the above verses is superfluous and is interpreted as a limitation; thus in these two cases the term ‘kid’ means a goat, but elsewhere ‘kid’ means the young of any clean animal.

(5) I.e., if a man cooked the forbidden fat of an animal, or a piece of nebelah, in milk and ate it, he would be liable twice: for eating forbidden fat or nebelah, and for eating flesh cooked in milk. The special point of this statement of Samuel is that the prohibition of ‘flesh in milk’ can be superimposed upon the existing prohibition of forbidden fat or nebelah. V. infra.

(6) V. p. 622, n. 10.

(7) The flesh of a foetus is accounted as the flesh of an ordinary animal and the prohibition of ‘flesh in milk’ applies to it.

(8) I.e., if a man cooked blood or the afterbirth of an animal or a piece of an unclean animal in milk and ate it he would not be liable for eating flesh cooked in milk. Of course he would be liable for eating blood, or for eating of an unclean animal.

(9) If it so happened that a male had milk.

(10) The milk extracted from a slaughtered animal cannot be said to be ‘mother's milk’, for the slaughtered animal can no more be a ‘mother’.

(11) For only the milk of that species of animal is prohibited whose flesh would be included under the term ‘kid’, and since unclean animals are expressly precluded by the term ‘kid’, their milk is also excluded from the prohibition.

(12) V. supra p. 621, n. 5.

(13) I.e., from that verse which is required for the general statement of the law. See, however, Rashi who emends the text by omitting ‘Samuel is of the view . . . existing prohibition’; for, according to Rashi, Samuel's view as stated is the result of the interpretation here, and not the cause and reason of this interpretation.

(14) And does not require any expression of the verse to exclude it.

(15) Death by the hands of Heaven; v. Sanh. 83a.

(16) Lev. XXII, 9.

(17) Unclean terumah is already subject to one prohibition viz., a priest may not eat thereof, and a second prohibition arising by reason of the priest's uncleanness cannot be superimposed.

(18) Which includes the forbidden fat and the animal that died of itself; hence in this case the Torah expressly sanctioned one prohibition to be superimposed upon an already existing prohibition.

(19) I.e., R. Eliezer, in whose name Samuel had reported the above ruling. He maintains that a prohibition cannot be superimposed upon an existing prohibition. This is not to imply that R. Eliezer was the teacher of Samuel (Rashi).

(20) I.e., had not yet brought forth young. Does ‘mother’ in the text mean an animal that has brought forth young or not?

(21) Presumably if he ate it, for he has thereby transgressed the prohibition of ‘flesh in milk’. The penalty for eating forbidden fat does not enter into consideration here.

(22) For the prohibition of ‘flesh in milk’ cannot be superimposed upon the existing prohibition of forbidden fat.

(23) Viz., for cooking flesh in milk. The prohibition of forbidden fat is only in respect of the eating thereof.

(24) The Torah has in every instance expressed the prohibition of eating ‘flesh in milk’ by the words: Thou shalt not seethe a kid etc.

Talmud - Mas. Chullin 114a

whenever a man does not incur stripes for the eating he likewise does not incur stripes for the cooking thereof.

Another version runs as follows: There is no dispute at all that for the cooking he certainly incurs stripes; they differ only with regard to the eating thereof: he who says he does not incur stripes contends that a prohibition cannot be superimposed upon an existing prohibition, and he who says he incurs stripes contends that for this very reason did the Divine Law express the prohibition of eating by the term ‘cooking’ [to signify that] whenever a man incurs stripes for the cooking he likewise incurs stripes for the eating thereof. Alternatively you may say: One teaches one thing, the other teaches another thing,[1] but they do not differ at all.

An objection was raised. If a man cooked [flesh] in whey, he is not liable. If he cooked blood in milk, he is not liable. If he cooked bones, nerves, horns or hoofs in milk, he is not liable. If he cooked [consecrated flesh] that was piggul[2] or left over[3] or unclean [flesh] in milk, he is liable! — That Tanna is of the opinion that a prohibition can be superimposed upon an existing prohibition.[4] ‘If a man cooked flesh in whey, he is not liable’. This supports the view of R. Simeon b. Lakish. For we have learnt: Whey is counted as milk, and the sap [of olives] is counted as oil.[5] Said R. Simeon b. Lakish: They taught this only in respect of rendering seeds susceptible to contract uncleanness,[6] but in respect of the prohibition of cooking flesh in milk whey is not counted as milk.

Our Rabbis taught: [It is written: Thou shalt not seethe a kid] in its mother's milk.[7] From this I know [that the kid is forbidden][8] in its mother's milk,[9] but whence do I know [that it is also forbidden][8] in cow's milk or in ewe's milk?[9] From the following a fortiori argument: If [in the milk of] its mother, a species with which the kid may be mated, it is forbidden to cook [the kid], how much more [in the milk of] a cow or of a ewe, with which species the kid may not be mated,[10] is it forbidden to cook [the kid]! And the text also states: In its mother's milk.[11] But why is this [latter] verse necessary? It has been inferred [from the a fortiori argument], has it not? — R. Ashi answered: Because one can argue that the first proposition of the [a fortiori] argument is unsound: Whence do you adduce the argument? From ‘its mother’! [As against this it may be argued] that is so in the case of its mother,[12] since it is forbidden to be slaughtered [with the kid on the same day];[13] will you then say the same in the case of a cow[12] which is not forbidden to be slaughtered [with the kid on the same day]? The text therefore teaches, ‘In its mother's milk’.

Another [Baraitha] teaches: It is written: ‘In its mother's milk’. From this I know [that the kid is forbidden] in its mother's milk, but where do I know [that it is forbidden] in the milk of its ‘older sister’![14] From the following a fortiori argument: If [in the milk of] its mother, which enters the cattle-pen together [with the kid] to be tithed,[15] it is forbidden to cook [the kid], how much more [in the milk of] its ‘older sister’, which does not enter the cattlepen together [with the kid] to be tithed,[15] is it forbidden to cook the kid! And the text also teaches, ‘In its mother's milk’. But why is this latter verse necessary? It has been inferred [from the a fortiori argument], has it not? — R. Ashi answered: Because one can argue that the first proposition of the [a fortiori] argument is unsound. Whence do you adduce the argument? From its mother! [As against this it may be argued] that is so in the case of its mother, since it is forbidden to be slaughtered [with the kid on the same day]; will you then say the same in the case of its ‘older sister’ which is not forbidden to be slaughtered [with the kid on the same day]? The text therefore teaches, ‘In its mother's milk’.[16] We have thus learnt [the prohibition with regard to] ‘the older sister’, but whence do we know it with regard to ‘the younger sister’?[17] It can be inferred from both together.[18] But from which do you proceed to make the inference? You may infer it from ‘its mother’. But [if it be objected to that] this is so in the case of ‘its mother’, since it may not be slaughtered [with the kid on the same day].[19] then the case of ‘the older sister’ argues otherwise.[20] And [if it be objected to that] this is so in the case of ‘the older sister’, since it does not enter the cattlepen with the kid to be tithed,[21] then the case of ‘its mother’ argues otherwise.[22] The argument thus goes round; the reason given for this does not apply to the other, and the reason given for the other does not apply to this one. What they have in common is that each is flesh,[23] and in the milk of each [the kid] may not be cooked; thus I will include ‘the younger sister’ too, for since it is flesh,[23] [the kid] may not be cooked in its milk. But by this argument ‘the older sister’ can also be inferred from both together?[24] — This is indeed so. Then for what purpose do I require the verse: ‘In its mother's milk’?[25] — It is required for what has been taught. It is written: ‘In its mother's milk’. We know [that it is forbidden] in its mother's milk,

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(1) He who says he incurs strips refers to the cooking of forbidden fat in milk, and he who says he does not incur stripes refers to the eating thereof.

(2) V. Glos.

(3) Beyond the prescribed time within which it must be eaten.

(4) Whereas other Tannaim do not hold that view, and R. Ammi and R. Assi are in agreement with those other Tannaim.

(5) Maksh. VI, 5.

(6) V. Lev. XI, 38. Milk and oil are among the liquids that render foodstuffs susceptible to uncleanness; cf. Maksh. VI, 4, 5.

(7) Ex. XXIII, 19.

(8) To be cooked.

(9) I.e., in goats’ milk.

(10) Cf. Lev. XIX, 19.

(11) Ex. XXXIV, 26.

(12) Viz., that the prohibition of cooking the kid in its milk applies.

(13) Cf. Lev. XXII, 28.

(14) I.e., cows, in contradistinction from ‘the younger sister’ i.e., sheep. This is the explanation which Rashi says he received from his teachers, but after criticizing it Rashi expresses his preference for the interpretation of R. Joseph

Bonfils, according to which ‘older sister’ and ‘younger sister’ are both goats, the former, however, being a goat of last year's breeding which had already been counted with other goats for the purposes of tithing, the latter being one which has not been counted with others for tithing.

(15) Cf. Lev. XXVII, 32, and Bek. IX. It has been laid down (a) that cattle may not be counted together with sheep or goats for the purposes of tithing nor vice versa. Moreover (b) an animal which has once been counted with others for the purposes of tithing cannot be counted again. The ‘older sister’ therefore cannot be counted together with kids for tithing either because of (a) or (b), according to whichever interpretation is adopted. V. preceding note.

(16) I.e., third, yet unexpounded verse. The Tanna of this Baraitha is assumed to be identical with the Tanna of the first which applies one extra verse to include the cow and ewe, and the third verse he consequently employs for the ‘older sister’.

(17) V. supra p. 626, n. 20.

(18) Lit., ‘from between them’. I.e., the prohibition against cooking the kid in the milk of its younger sister can be inferred from the mother and the older sister.

(19) But the younger sister may.

(20) For it also may be slaughtered with the kid on the same day and nevertheless it is forbidden to cook the kid in its milk.

(21) But the younger sister does.

(22) For it also may be counted with the kids for the purposes of tithing, v. Bek. 20b, and yet it is forbidden to cook the kid in its milk.

(23) According to some MSS. the reading is ‘it is milk and it is forbidden to cook in it’ instead of ‘is flesh etc.’, and so it appears from Rashi too. V. Glos. of Maharam Schiff a.l.

(24) I.e., from an argument drawn from ‘its mother’ and from the cow (since the Tanna of this Baraitha is the identical Tanna of the first Baraitha in which it was shown that there is a verse expressly stated to include the cow and ewe), so that no verse is required to teach the prohibition even in the case of ‘the older sister’ (Rashi).

(25) Since this verse is repeated thrice, one clearly serves for its own purpose, another to include the cow and ewe (the teaching of the first Baraitha q.v.), but the third is indeed superfluous.

Talmud - Mas. Chullin 114b

but whence do we know [that it is forbidden] in its own milk? From the following a fortiori argument: if, where the fruit is not forbidden with the fruit[1] — as in the case of slaughtering — the fruit with the dam is forbidden, how much more, therefore, where the fruit is forbidden with the fruit[2] — as in the case of cooking — is the fruit forbidden with the dam![3] And the text also teaches, ‘In its mother's milk’. But why is this latter verse necessary? It has been inferred [from the a fortiori argument], has it not? — R. Ahadboi b. Ammi answered: Because we can refute the argument thus: A colt, the offspring of a mare, and which is also the ‘brother’ of a mule,[4] could prove otherwise: for the fruit is forbidden with the fruit, nevertheless the fruit with the dam is permitted.[5] But surely [this is no refutation since] that is due to the seed of the sire only;[6] for, in truth, the case of a male mule, the offspring of a mare, and which is also the ‘brother’ of a female mule,[7] could prove the reverse: for the fruit is permitted with the fruit and the fruit with the dam is forbidden! Rather said Mar the son of Rabina: Because one can refute the argument thus: A slave, the son of a bondwoman, who is also the brother of a freed bondwoman, could prove otherwise: for the fruit is forbidden with the fruit, nevertheless the fruit with the mother is permitted.[8] But [this too is no refutation since] that position is due solely to the deed of emancipation; for, in truth, the case of a slave, the son of a freed bondwoman, who is also the brother of a bondwoman, could prove the reverse: for the fruit is permitted with the fruit, and the fruit with the ‘mother’ is forbidden! Rather said R. Idi b. Abin: Because one can refute the argument thus: The case of diverse seeds could prove otherwise: for the fruit is forbidden with the fruit, nevertheless the fruit with the mother is permitted.[9] But is not the fruit with the fruit forbidden only by reason of the ‘mother’? For when grains of wheat and barley are together in a vessel they are not forbidden! — Rather said R. Ashi: Because one can refute the argument thus. It is indeed [forbidden] in the case of fruit with fruit for they are two separate bodies;[10] will you say the same in the case of the fruit with the dam which is one body?[11]

Consequently the [extra] verse is necessary.

R. Ashi said: Whence do we know that flesh [cooked] in milk may not be eaten?[12] From the verse: Thou shalt not eat any abominable thing;[13] everything which I declared to be abominable to you comes under the law of Thou shalt not eat.[14] I know from this that it is forbidden to be eaten; whence do I know that it is forbidden to derive any benefit from it? From R. Abbahu's statement. For R. Abbahu stated in the name of R. Eleazar: Wherever Scripture says: ‘It shall not be eaten’, or ‘Thou shalt not eat’, or ‘Ye shall not eat’, a prohibition both in respect of eating and in respect of deriving benefit is implied, unless Scripture expressly states otherwise as it did in the case of nebelah.[15] For it has been taught:[16] [The verse,] Ye shall not eat of anything which dieth of itself; unto the stranger that is within thy gates thou mayest give it, that he may eat it,’ or thou mayest sell it unto a gentile,[17] only tells me that it may be given away [as a gift] to a stranger or sold to a gentile. How do I know that it may be sold to a stranger? Because Scripture says. ‘Unto the stranger . . . thou mayest give it . . . or thou mayest sell it’. How do I know that it may be given away to a gentile? Because Scripture says. ‘Thou mayest give it . . . or thou mayest sell it unto a gentile’. Hence it may be derived that both giving and selling may be applied to a stranger or to a gentile:[18] so R. Meir. R. Judah says: The words are to be taken literally, viz., giving away to a stranger and selling to a gentile.[19] What is the reason for R. Judah's view? — He contends thus: Were the words to be interpreted according as R. Meir suggests, the Divine Law should have said: ‘Ye shall not eat of anything that dieth of itself; unto the stranger that is within thy gates thou mayest give it that he may eat it, as well as sell it’. Wherefore does it say ‘or’? To prove that the words are to be taken literally, viz., giving away to a stranger and selling to a gentile. And R. Meir? — He would reply that ‘or’ indicates that it is preferable to give it away [as a gift] to a stranger rather than sell it to a gentile. And R. Judah? — He would say that no Scriptural term is needed to indicate this preference of giving it away to the stranger rather than selling it to a gentile, it stands to reason, since the one[20] you are bidden to support whereas the other you are not bidden to support.

(Mnemonic: Sabbath; Ploughing; Divers kinds of seeds; It and its young; Letting the mother bird go from the nest). According to this,

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(1) ‘Fruit’, i.e., ‘offspring’. All the offspring of an animal may be slaughtered on the same day; it is only forbidden to slaughter the dam with the young.

(2) The kid and the mother's milk are each the ‘fruit’ of the she-goat.

(3) I.e., the kid in its own milk; in this case the milk of the kid is regarded as its fruit.

(4) For the mare had also been mated with an ass and bore a mule.

(5) Here it would be forbidden to breed the fruit with the fruit, i.e., the colt with the mule, for they are diverse kinds (v. Lev. XIX, 19), although it would be permitted to breed the colt with the mare.

(6) It is prohibited to breed the fruit with the fruit, i.e., the colt with the mule, only because of the different sires of each and not because of the general principle that fruit with fruit is forbidden.

(7) I.e., a mare had been mated with an ass on several occasions and bore a male and female mule.

(8) A slave may not marry a free woman nor a free man a bondwoman. In this case, then, the fruit with the fruit is forbidden, i.e., the slave may not marry the kind of his sister sc. a free woman, but the fruit with the mother is permitted, i.e., the slave may marry the kind of his mother sc. a bondwoman.

(9) Cf. Ibid. XIX, 19. Fruit with fruit is forbidden, i.e., diverse seeds may not be sown together, nevertheless the fruit with the mother is permitted, i.e., a seed may be sown in the ‘mother’ earth, the soil.

(10) The kid and the mother's milk, each being separate fruits of the dam.

(11) Therefore to cook a kid in its own milk might not be regarded as forbidden.

(12) For the prohibition expressly says. Thou shalt not seethe a kid etc. Whence do we know that if one cooked flesh in milk others may not eat it.

(13) Deut. XIV, 3.

(14) This is a prohibition against eating anything which is produced by or results from a forbidden act, even though the prohibition in any particular case was circumvented by the employment of a minor or a gentile to perform that act. Hence it is forbidden to eat flesh cooked in milk, for the cooking thereof was a forbidden act.

(15) Deut. XIV, 21. In cur. edd. are added the words ‘which may be given to a stranger or sold to a gentile’. These words are omitted in MS.M. and also in the parallel passages Pes. 21b and Kid. 56b, although they are found in B.K. 41a. V. Tosaf. s.v. כדרך.

(16) ‘A.Z. 20a.

(17) Deut. XIV, 21. The Hebrew word here rendered ‘stranger’ is ger or fully גר תושב, lit., ‘a stranger-settler’: a resident alien who has accepted the Seven Commandments of the sons of Noah (cf. Sanh. 56aff). He does not observe the Jewish dietary laws, but enjoys full rights and privileges of citizenship. Such a stranger, if poor, had to be maintained by the state according to the Biblical injunction: A stranger and a settler he shall live with thee (Lev. XXV, 35).

(18) The juxtaposition of the words in this verse, the two verbs in the middle preceded by ‘the stranger’ and followed by ‘the gentile’, suggests that both verbs, i.e., giving away and selling, are to be applied to the former and also to the latter.

(19) But it is forbidden to give it away to a gentile or sell it to a stranger.

(20) Sc. the stranger; v. p. 630, n. 8, note 1.

Talmud - Mas. Chullin 115a

should not what has been [unlawfully] prepared on the Sabbath be forbidden,[1] since I have declared it to be abominable unto you?[2] — Scripture says: For it is holy unto you,[3] that means, ‘it’ is holy, but what has been prepared on it is not holy. Furthermore if a man ploughed with an ox and an ass together, or if he muzzled a cow when it was treading out [the corn], should it[4] not be forbidden, since I have declared these acts to be abominable to you?[5] — Surely if what has been [unlawfully] prepared on the Sabbath, which is a grave matter, is permitted, how much more so these!

Should not [the produce of a field sown with] diverse kinds of seeds be forbidden, since I have declared it to be abominable to you?[6] — From the fact that the Divine Law states with regard to diverse kinds in a vineyard. Lest [the fruit of thy seed which thou hast sown, and the fruit of thy vineyard] be defiled [tikdash],[7] [which has been interpreted as,] ‘lest it be burnt in fire’[8] [tukad esh], it follows that diverse kinds of seeds [sown in a field] are permitted. But perhaps [the inference is this]: whereas diverse kinds in a vineyard are forbidden to be eaten and also to be made use of, diverse kinds of seeds are forbidden to be eaten but are permitted to be made use of? — These [latter] have been compared with diverse kinds of cattle, for it is written: Thou shalt not let thy cattle gender with a diverse kind; thou shalt not sow thy field with two kinds of seed,[9] and just as the issue [of the mating of diverse kinds] of thy cattle is permitted, so the produce of [diverse kinds of seed sown in] thy field is permitted. And whence do we know that the issue of diverse kinds of cattle is permitted? — From the fact that the Divine Law has prohibited the offering of a cross-breed[10] to the Most High we may infer that to the common person it is permitted.

Should not ‘It and its young’ be forbidden, since I have declared it to be abominable to you?[11] — Since the Divine Law has forbidden an animal that is out of time[12] for an offering to the Most High it follows that such[13] is permitted to the common person.

Should not [the mother-bird] which has been sent away from the nest be forbidden, since I have declared it to be abominable to you?[14] — The Torah would not order to send it away if it would thereby lead to transgression.[15]

R. Simeon b. Lakish said: Whence do we know that flesh [cooked] in milk is forbidden [to be eaten]? From the verse: Eat not of it raw, nor cooked in any cooking with water.[16] Now the verse need not have added ‘in any cooking’; why then does it say ‘in any cooking’? To teach you that there is another cooking which is [also forbidden to be eaten] like this. And which is it? It is flesh [cooked] in milk. Said to him R. Johanan,

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(1) To eat as well as to derive any benefit therefrom. This is the meaning of ‘forbidden’ throughout this passage.

(2) Yet it is established law that if, e.g., a man cooked food on the Sabbath it may be eaten at least by others if not by himself; v. supra 15a, and Ter. II, 3.
(3) Ex. XXXI, 14.
(4) I.e., the produce of the field which had been so ploughed and the corn which had been so trodden (Rashi); or, the ox or ass which had committed the trespass (Tosaf.). V. however, Rashi infra s.v. לא אמרה.
(5) Cf. Deut. XXII, 10, and XXV, 4.
(6) Cf. Lev. XIX, 19. Nevertheless the produce of diverse kinds of seeds sown together is permitted to be eaten; v. Kil. VIII, 1.
(7) Deut. XXII, 9. Heb. תקדש, interpreted as תוקד אש.
(8) I.e., that it is absolutely forbidden.
(9) Lev. XIX, 19.
(10) I.e., the issue of diverse kinds of cattle. This is prohibited for a sacrifice, derived from Lev. XXII, 27. V. supra 38b.
(11) Cf. Lev. ibid. 28. If the dam and its young were both slaughtered in one day, that which was slaughtered last should be forbidden for all time and for all use; nevertheless it is established law that even though the law has been transgressed both animals are permitted; v. supra 78a.
(12) Cf. Lev. XXII, 27, and Zeb. 112b.
(13) The prohibition of ‘It and its young’ is brought about by its inappropriateness in point of time, for one may slaughter them on different days.
(14) Cf. Deut. XXII, 6, 7.
(15) Lit., ‘for a stumbling-block’. The finder of this mother-bird, ignorant of the fact that it has been sent away from the nest, would eat it, and so be led into sin by another's performance of a precept. It must therefore be permitted.
(16) Ex. XII, 9. A literal rendering of the verse.

Talmud - Mas. Chullin 115b

And is the following teaching of Rabbi so unsatisfactory? [For it was taught: The verse,] Thou shalt not eat it,[1] refers to flesh [cooked] in milk. You say it refers to flesh [cooked] in milk; perhaps it refers to some other thing that is forbidden in the Torah? You can reply: Go forth and derive it by one of the thirteen exegetical principles by which the Torah is expounded, namely, ‘The meaning of a verse is to be deduced from its context’. Now what does this context deal with? With that which partakes of the characteristics of two kinds.[2] Then this verse also deals with that which partakes of the characteristics of two kinds![3] — From that teaching I might have thought that the prohibition was only in respect of eating but not in respect of deriving benefit from it, he therefore teaches us [another teaching].[4]

And whence does Rabbi infer that it is also forbidden to derive any benefit from it? — He infers it from the following argument: It is written here: For thou art a holy people onto the Lord,[5] and it is written there: There shall be no consecrated prostitutes of the sons of Israel;[6] just as there the prohibition refers to the pleasure derived therefrom,[7] so here to the pleasure derived therefrom.[8]

The school of R. Eliezer taught: Ye shall not eat of anything that dieth of itself . . . thou mayest sell it . . . Thou shalt not seethe a kid etc.[9] The Torah here implies that when you sell it you may not first cook it [in milk] and then sell it.[10]

The school of R. Ishmael taught: Thou shalt not seethe a kid in its mother's milk, is stated three times:[11] one is a prohibition against eating it, one a prohibition against deriving benefit from it, and one a prohibition against cooking it.

It was taught: Issi b. Judah says: Whence do we know that flesh cooked in milk is forbidden? It is written here: For thou art a holy people,[12] and it is written there: And ye shall be holy men unto me; therefore ye shall not eat any flesh that is torn of beasts in the field:[13] just as there it is forbidden [as food], so here it is forbidden [as food]. We have thus learnt that it is forbidden as food; how do we know that it is forbidden for all use? I will tell you: it follows a fortiori: If ‘orlah,[14] which is not produced by transgression, is forbidden for all use, then surely flesh cooked in milk, which is produced by transgression,[15] is forbidden for all use! But [if you object] this may be true of ‘orlah only, since it had no period of fitness,[16] [I reply] the law concerning leaven during Passover shows otherwise, namely, that although it had a period of fitness,[17] it is nevertheless forbidden for all use. And [if you object] this may be true of leaven during Passover only, since it carries with it the penalty of kareth,[18] [I reply] the law concerning diverse kinds in the vineyard[19] shows otherwise, namely, that although it does not carry with it the penalty of kareth, nevertheless it is forbidden for all use.

Wherefore is the analogy necessary?[20] Surely it can all be inferred from the a fortiori argument derived from ‘orlah thus: If ‘orlah which is not produced by transgression, is forbidden both as food and for all use, how much more then is flesh cooked in milk, which is produced by transgression, is forbidden both as food and for all use! — Because one could refute the argument thus: The law in the case where one ploughed with an ox and an ass together, or where one muzzled a cow when it was treading out [the corn], can prove otherwise, namely, although it[21] was produced by transgression it is nevertheless permitted.[22]

Wherefore, was it necessary to reply [in the argument], ‘The law concerning diverse kinds in the vineyard shows otherwise’? He could have replied. ‘The law of ‘orlah shows otherwise’; the argument would then have gone round again, with the result that it [sc. the law of flesh cooked in milk] would have been inferred from the common features [of the others]![23] — R. Ashi answered: Because one could have refuted the argument thus: The law of nebelah would show otherwise, for although it is forbidden as food, nevertheless it is permitted for all use. Said R. Mordecai to R. Ashi: We have learnt the following on the authority of R. Simeon b. Lakish: An inference drawn from cases with common features can be refuted only by those [cases] and not by other [cases].[24] If so,it can very well be inferred from the common features, can it not?[25] — Because[26] one can refute it thus: The cases which present these common features are peculiar in that they are both products of the soil.[27] But now,[28] too, the argument can be refuted thus: This[29] may be so of diverse kinds in the vineyard since it deals with products of the soil! — Said R. Mordecai to R. Ashi: We have learnt the following on the authority of R. Simeon b. Lakish: An inference drawn from cases with common features can be refuted by indicating any peculiarity whatsoever; but an argument which employs the expression ‘No, if you say it in this . . . will you say it in that?’ can only be refuted by adducing a feature in the one which is less or more grave than in the other, and not by any peculiarity whatsoever.[30] But we may refute all the cases thus: This may be so of all these cases since they all deal with products of the soil![31] — R. Mordecai then said to R. Ashi: We have learnt the following on the authority of R. Simeon b. Lakish:

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(1) Deut. XII, 25. Which is superfluous in the context, the prohibition having already been stated in the preceding verse.

(2) The foregoing verses state the law concerning consecrated animals that were redeemed after being rendered unfit for sacrifice owing to physical blemish. These animals are treated partly as ordinary unconsecrated animals in that the flesh thereof may be eaten even by one unclean, and partly as consecrated animals in that they may not be put to work, neither may one enjoy the milk or wool thereof.

(3) I.e., flesh and milk. The teaching of this Mishnah is attributed to Rabbi as the editor of the whole Mishnah.

(4) R. Simeon b. Lakish derives the prohibition against making use of flesh cooked in milk from the verse in connection with the paschal lamb. For just as the latter, if cooked and not roasted, would be forbidden for all purposes as all sacrificial flesh which has been rendered unfit so flesh cooked in milk is forbidden for all purposes.

(5) Deut. XIV, 21. Heb. עם קדוש. This verse concludes with the prohibition: Thou shalt not seethe a kid etc.

(6) Ibid. XXIII, 18. Heb. קדש. The analogy is drawn by reason of the similar expression used in both passages, קדוש, and קדש.

(7) Viz., the act of coition.

(8) Hence flesh cooked in milk is forbidden for all purposes.

(9) Ibid. XIV, 22.

(10) For as soon as it has been cooked in milk it is forbidden to be sold or used for any purpose.

(11) Ex. XXIII, 19; XXXIV, 26; Deut. XIV, 21.

(12) Deut. ibid.

(13) Ex. XXII, 30. The analogy is based upon the expression ‘holy’ written in each verse.

(14) ערלה. Lit., ‘uncircumcision’. The fruit of newly planted trees was forbidden for all use during the first three years; cf. Lev. XIX, 23.

(15) Sc. by cooking.

(16) The fruit of ‘orlah as soon as it comes into being is forbidden, whereas flesh and milk, before being cooked together, are each separately permitted.

(17) Before the passover.

(18) V. Glos.

(19) Cf. Deut XXII, 9.

(20) To establish the law that flesh cooked in milk is forbidden to be eaten, v.p. 634, n. 10. This prohibition, and that against deriving any benefit, can surely be inferred from the a fortiori argument.

(21) Sc. the produce of the field so ploughed, or the corn which had been so trodden out.

(22) And so, too, with flesh cooked in milk. But now that is it established by the analogy that flesh cooked in milk is forbidden to be eaten, this prohibition of ploughing with an ox and ass together, cannot be brought into this argument.

(23) Thus it was unnecessary to introduce the case of sowing diverse kinds in the vineyard. The argument would then run as follows: Flesh cooked in milk is declared to be forbidden for all purposes by inference from ‘orlah by the a fortiori reasoning; if the objection be taken that ‘orlah is a special case inasmuch as it had no period of fitness, the reply would be that the case of leaven during Passover clearly shows that this distinctive feature (sc. not having a period of fitness) is not the reason for the general prohibition; and if the objection be taken that leaven during Passover is a special case inasmuch as there is a penalty of kareth attached to it, the reply would be that the case of ‘orlah clearly shows that the gravity of the penalty (sc. kareth) is not the reason for the general prohibition; and so the argument would go in a circle: the objection to the case of ‘orlah would be met by the case of leaven during Passover and vice versa. What, however, is common to ‘orlah and leaven during Passover is that each is forbidden as food and also for all use; the inference then follows that flesh cooked in milk, inasmuch as it is forbidden as food, should also be forbidden for all use. This type of argument, namely, an inference from common features of two or more cases, is very frequent in the Gemara; and the result being satisfactory, it was unnecessary to introduce the third case of diverse kinds in the vineyard.

(24) I.e., the refutation must be in the nature of a peculiar characteristic possessed by the cases that determine the common features and which is absent from the case proposed to be inferred from the common features — e.g. the demonstration of a special characteristic peculiar to ‘orlah and to leaven during Passover but absent from flesh cooked in milk would indeed be a valid refutation. It is, however, no refutation of the argument by adducing cases wherein the common features are not found, for such an argument, as here the case of nebelah, is irrelevant.

(25) V. supra n. 1.

(26) l.e., the reason why the argument is not run on the lines suggested (v. p. 636, n. 1), drawing the inference from the common features, is that there is the following refutation.

(27) ‘Orlah and leavened grain are products of the soil whereas milk and flesh are not. This characteristic, sc. being a product of the soil, is a distinction of little or no significance for this is no satisfactory reason why the law should be more severe or less severe.

(28) I.e., even now when the third case, sc. diverse kinds in a vineyard, is introduced the argument can be refuted on this ground.

(29) That it is forbidden as food and also for use.

(30) Where an inference is made from the common features of two cases all the cases must indeed be alike in every respect, and if one case presents any special characteristic, even though that characteristic does not go down to the root of the matter and is of no significance, the argument is untenable. On the other hand, where the law in one case is inferred from another case, e.g. by an a fortiori argument, an incidental characteristic would not be taken into consideration. Only a characteristic which is of such significance as to suggest the reason for the law in that particular case, would be accepted as a refutation, for then it would be argued thus, ‘No, if you say it in the one case, it is because it has this grave or less grave characteristic; will you say it in the other cases which have not this characteristic’?

(31) it is assumed for the present that an inference from three cases is to be regarded on the same footing as an inference from cases with common features, so that any peculiarity, however insignificant, would be accepted as a refutation.

Talmud - Mas. Chullin 116a

An argument inferring one case from another case can be refuted only by adducing a feature in the one case which is less or more grave than in the other, and not by any peculiarity whatsoever. An argument inferring one case from two cases can be refuted by any peculiarity whatsoever. An argument inferring one case from three cases, the argument from the three cases going round and round, so that the inference is made from the features common to all, can be refuted by any peculiarity whatsoever; but if it is not so,[1] it can only be refuted by adducing in the one case a feature which is less grave or more grave than in the other, and not by any peculiarity whatsoever.

But we may refute it thus: This may be so of diverse kinds in a vineyard since they had no period of fitness![2] — R. Adda b. Ahaba said: This[3] therefore informs us that the original roots of divers kinds sown In a vineyard are forbidden, so that there was a time when these kinds had a period of fitness, namely, before they took root.

R. Shemaiah b. Ze'ira raised the following objection. [We have learnt:] If a man carried a perforated plant-pot [sown with cereals] through a vineyard and [what was in] it increased by a two-hundredth part.[4] it is forbidden.[5] Now only if it increased [by a two-hundredth part] is it [forbidden], but if it had not increased it would not[6] [be forbidden]. — Abaye answered: There are two texts: It is written: Lest the produce[7] be forfeited.[8] and it is also written: The seed [which thou hast sown].[8] How can we explain this? Thus, if they were sown originally [in the vineyard, they are forbidden] as soon as they have taken root, if sown [elsewhere] and brought [into the vineyard], if they increased [a two-hundredth part] they are [forbidden], but if they had not increased they would not [be forbidden].

Our Mishnah[9] is not in accordance with the following Tanna. For it has been taught: R. Simeon b. Judah says on behalf of R. Simeon: Flesh cooked in milk is forbidden as food but is permitted for general use, for it is written: For thou art an holy people unto the Lord thy God. [Thou shalt not seethe a kid in its mother's milk];[10] whilst elsewhere it is written: And ye shall be holy men unto me; [therefore ye shall not eat any flesh that is torn of beasts in the field; ye shall cast it to the dogs].[11] Just as there it is forbidden as food but is permitted for general use, so here too it is forbidden as food but is permitted for general use.

R. AKIBA SAYS, WILD ANIMALS AND FOWLS etc. But have not these[12] been applied to Samuel's interpretations?[13] — R. Akiba is of the opinion that a prohibition can be superimposed upon an existing prohibition; therefore no specific verse is necessary [to show that the prohibition of flesh in milk applies to] forbidden fat or [to the flesh of an animal] that died of itself; moreover [the prohibition naturally applies to] an embryo [for it] IS as an ordinary kid; consequently all the expressions are Superfluous and serve therefore to exclude wild animals, fowl and unclean animals.

R. JOSE THE GALILEAN SAYS, IT IS WRITTEN, YE SHALL NOT EAT OF ANYTHING etc. What is the difference between the views of R. Jose the Galilean and R. Akiba? — The difference between them is as regards wild animals: R. Jose the Galilean holds that wild animals are prohibited Biblically, whereas R. Akiba holds that wild animals are prohibited Rabbinically. Or, you may Say, the difference between them is as regards fowls: R. Akiba maintains that wild animals and fowls are not included In the prohibition of the Torah but are prohibited Rabbinically, whereas R. Jose the Galilean maintains that fowls are not even prohibited by the Rabbis. There is also [a Baraitha] taught to the same effect: In the place of R. Eliezer they used to cut wood [on the Sabbath] to make charcoal in order to forge an iron instrument.[14] In the place of R. Jose the Galilean they used to eat fowl's flesh cooked in milk.

Levi once visited the house of Joseph the fowler, and was served with a peacock's head cooked in milk and said nothing to them about it.[15] When he came to Rabbi [and related this]. Rabbi said to him: Why did you not lay them under a ban? He replied. Because it was the place of R. Judah b. Bathyra and I imagine that he must have expounded to them the view of R. Jose the Galilean who said: A FOWL IS EXCLUDED SINCE IT HAS NO MOTHER'S MILK.

MISHNAH. THE [MILK IN THE] STOMACH [OF AN ANIMAL] OF A GENTILE[16] OR [IN THE STOMACH OF] A NEBELAH IS FORBIDDEN. IF A MAN CURDLED MILK WITH THE SKIN OF THE STOMACH OF AN ANIMAL THAT WAS VALIDLY SLAUGHTERED

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(1) I.e., the inference is not drawn from the common features, but by placing one case against the other.

(2) For it is assumed that it is not the actual diverse kinds sown in a vineyard that are forbidden but the produce of these diverse kinds; the original roots, however, that were planted or sown, do not come under the prohibition of diverse kinds.

(3) The fact that this objection is not raised.

(4) During the time the plant-pot was in the vineyard. A perforated plant-pot draws sustenance from the soil of the vineyard, and so there is an increase in the plant-pot by reason of the vineyard. Here there were in the pot one hundred and ninety.nine parts of permitted growth to one part forbidden, hence the whole is forbidden. But if they were in the proportion of two hundred to one the entire growth in the pot would be permitted.

(5) Kil. VII. 8.

(6) It is evident from this that the diverse kinds sown (even after they have taken root) are not forbidden, but only if there was an increase in the one by reason of the other.

(7) Lit., ‘the fullness’, i.e., the Increase.

(8) Deut. XXII, 9.

(9) Which states that flesh cooked in milk is forbidden for all use too.

(10) Deut. Xlv. 21.

(11) Ex. XXII. 30.

(12) I.e., the thrice repeated expression ‘kid’.

(13) V. supra 113b.

(14) Sc. the circumcision knife. R. Eliezer is of the opinion that, since the performance of the precept of circumcision supersedes the Sabbath, all the necessary requisites such as the making or preparation of the knife, or the kindling of fire to obtain warm water etc. may also be performed on the Sabbath. V. Shab. 130a.

(15) According to MS.M. ‘And he did not eat it’. So in Shab. l.c.

(16) This is explained in the Gemara.

Talmud - Mas. Chullin 116b

AND IT IMPARTED ITS FLAVOUR [TO THE MILK]. IT IS FORBIDDEN. THE [MILK IN THE] STOMACH OF A VALIDLY SLAUGHTERED ANIMAL WHICH HAD SUCKED FROM A TREFAH ANIMAL. IS FORBIDDEN; THE [MILK IN THE] STOMACH OF A TREFAH ANIMAL WHICH HAD SUCKED FROM A VALID ANIMAL IS PERMITTED, BECAUSE THE MILK REMAINS COLLECTED INSIDE.[1]

GEMARA. But is not the stomach [of an animal] of a gentile nebelah?[2] — R. Huna answered. We are dealing here with the case of a kid that was bought from a gentile.[3] and we apprehend that it sucked from a trefah animal.[4] But do we apprehend that it sucked from a trefah animal? Behold it has been taught: One may buy eggs from gentiles and need have no fear lest they are of birds that were nebelah or trefah![5] — Say, rather, we apprehend lest it sucked from an unclean animal. And why is it that we do not apprehend [sucking] from a trefah animal but we do apprehend [sucking] from an unclean animal? — Because trefah animals are not common whilst unclean animals are. If these are common, then even with regard to our own [kids] we should be apprehensive?[6] — With regard to our own, since we keep away from unclean animals, and whenever we see them together[7] we separate them, the Rabbis imposed no restriction as a precaution; with regard to theirs, however, since they do not keep away from unclean animals, and whenever they see them together[7] they do not separate them, the Rabbis imposed a restriction as a precaution.

Samuel answered:[8] They are to be taken as one thus: The [milk in the] stomach of an animal slaughtered by a gentile is nebelah [and therefore forbidden]. But how could Samuel have said so? Behold Samuel has stated. The reason for forbidding the cheese of gentiles is because they curdle it with the skin of the stomach of a nebelah. This implies, does it not, that the [milk In the] stomach is permitted? There is no contradiction here. This [sc. our Mishnah] was taught before he [R. Joshua] retracted, the other after he retracted.[9] THE [MILK IN THE] STOMACH OF A VALIDLY SLAUGHTERED ANIMAL WHICH HAD SUCKED FROM A TREFAH ANIMAL IS FORBIDDEN etc. But does not the first clause state, THE [MILK IN THE] STOMACH OF [AN ANIMAL] OF A GENTILE. OR [IN THE STOMACH OF] A NEBELAH. IS FORBIDDEN?[10] — R. Ashi answered. In the first clause it would appear that one is eating nebelah,[11] but here [in the final clause] the animal has been slaughtered. Said to him Raba. But is this not all the more reason [to forbid it]? For if in the case of nebelah, which is a loathsome matter, and if you were to permit [the milk in] its stomach one would not come to eat of its flesh, you say it is forbidden; is it not then all the more reason to forbid [the milk in the stomach of] a trefah animal which had been slaughtered, for if you were to permit it one would come to eat of its flesh? — Rather said R. Isaac in the name of R. Johanan. There is no contradiction here. This [the first clause was taught] before he [R. Joshua] retracted; the other [the final clause] after he retracted;[12] [the first clause, however, of] our Mishnah was allowed to stand.[13]

R. Hiyya b. Abba said in the name of R. Johanan: One may curdle [milk] with the [milk in the] stomach of a nebelah, but not — with the [milk in the] stomach of an animal slaughtered by an idolater. Thereupon R. Simeon b. Abba said before him: This is, is it not, in accordance with the view of R. Eliezer who maintains that the thoughts of an idolater are usually directed towards idolatry? — He replied: Of course. According to whom else could it be? When R. Samuel b. R. Isaac came [from Palestine] he reported in the name of R. Johanan: One may curdle [milk] with the [milk in the] stomach both of a nebelah and an animal slaughtered by an idolater for we are not concerned with the view of R. Eliezer. The law is: One may not curdle [milk] with the skin of the stomach of a nebelah, but one may with the [milk in the] stomach of a nebelah, and also with the [milk in the] stomach of an animal slaughtered unto idolatry. ([One may also curdle milk] with the [milk found in the] stomach of a validly slaughtered animal which had sucked from a trefah animal, and certainly with the [milk found in the] stomach of a trefah animal which had sucked from a valid animal, because the milk that is collected within is considered as dung.)[14]

MISHNAH. IN CERTAIN RESPECTS THE PROHIBITION OF THE FAT IS MORE STRICT THAN THE PROHIBITION OF THE BLOOD, AND IN CERTAIN RESPECTS THE PROHIBITION OF THE BLOOD IS MORE STRICT THAN THE PROHIBITION OF THE FAT. THE PROHIBITION OF THE FAT IS MORE STRICT, IN THAT THE FAT

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(1) It does not mix with the other fluids in the stomach of the trefah animal, but remains separate and distinct and is therefore permitted.

(2) It is assumed that the meaning is of an animal slaughtered by a gentile.

(3) Which was slaughtered by the Israelite.

(4) And therefore the Mishnah states that the milk found in the stomach of the kid is forbidden.

(5) V. supra p. 63b.

(6) Lest they sucked from an unclean animal.

(7) I.e., clean animals with unclean animals.

(8) In explanation of the two expressions in our Mishnah.

(9) Cf. ‘A.Z. 350and b. It was R. Joshua who originally suggested that the milk in the stomach of a nebelah animal was forbidden; subsequently he retracted this. Now our Mishnah which, according to Samuel's interpretation, suggests that the milk in the stomach of a nebelah is forbidden is obviously the view of R. Joshua before he retracted; whereas Samuel's statement as regards the cheese of gentiles follows the later view of R. Joshua.

(10) And according to this, the milk in the stomach of a trefah animal which had sucked from a valid animal should also be forbidden. Can there be any distinction between the milk in the stomach of a nebelah and of a trefah?

(11) If one were allowed to eat the milk in the stomach of a nebelah. Strictly, however, it is permitted. For it is not regarded as part of the nebelah but merely collected in its stomach.

(12) V. p. 641, n. 8.

(13) Although it is contradicted by the final clause and does not represent the accepted view.

(14) In cur. edd. the last sentence is in parenthesis and is omitted in many MSS. V. however, R. Nissim, Rashal and other commentators.

Talmud - Mas. Chullin 117a

IS SUBJECT TO THE LAW OF SACRILEGE,[1] AND THE PENALTY FOR PIGGUL,[2] NOTHAR,[2] AND UNCLEANNESS IS INCURRED BY IT,[3] WHICH IS NOT THE CASE WITH THE BLOOD. AND THE PROHIBITION OF THE BLOOD IS MORE STRICT, FOR IT APPLIES TO CATTLE, WILD ANIMALS AND BIRDS, WHETHER CLEAN OR UNCLEAN; BUT THE PROHIBITION OF THE FAT APPLIES TO CLEAN CATTLE ONLY.[4]

GEMARA. Whence do we know this?[5] — R. Jannai answered, It is written: As it is taken off from the ox of the sacrifice of peace-offerings.[6] Now what do we learn from the ox of the sacrifice of peace-offerings?[7] Indeed, ‘it comes as a teacher but turns out to be a pupil’;[8] we must compare the ox of the sacrifice of peace-offerings with the bullock of the anointed High Priest; as the bullock of the anointed High Priest is subject to the law of Sacrilege, so the ox of the sacrifice of peace-offerings is also subject to the law of Sacrilege.[9] Said R. Hanina to him: And is the following teaching of Rabbi unsatisfactory? ‘The verse: All the fat is the Lord's,[10] signifies that the sacrificial portions of the less holy sacrifices are also subject to the law of Sacrilege’. — Abaye answered, [Both verses] are necessary [for our purpose]. For had the Divine Law only stated ‘All the fat’. I should have said that only the fat is [subject to the law of Sacrilege] but the caul and the two kidneys are not;[11] the Divine Law therefore stated the verse. ‘As it is taken off’. And had the Divine Law only stated the verse: ‘As it is taken off’. I should have said that the fat of the fat tail [of a lamb], which is not found in an ox, is not subject to the law of Sacrilege;[12] the Divine Law therefore stated. ‘All the fat is the Lord's’.

Said R. Mari to R. Zebid: If the fat tail [of a lamb] is included under the term ‘fat’, should it not then be forbidden to be eaten?[13] — He replied. It is for your sake that it is written: You shall eat no fat, of ox, or sheep, or goat.[14] [Thus the Torah has forbidden] only such fat as is common to ox, sheep, and goat. R. Ashi answered: It is always referred to as ‘the fat of the fat tail’, but never as ‘fat’ simply. If so, it should not be subject to the law of Sacrilege?[15] Obviously then the better answer is that of R. Zebid.

WHICH IS NOT THE CASE WITH THE BLOOD. Whence do we know this?[16] — Ulla answered: Scripture says: To you,[17] that is, it shall be yours. The school of R. Ishmael taught: Scripture says. To make atonement.[17] that is, I have given it to you for an atonement and not that you be liable for Sacrilege on its account. R. Johanan said: Scripture says. It is,[17] that is, it is the same before the atonement as after the atonement: just as after the atonement [the residue of the blood] is not subject to the law of Sacrilege, so before the atonement [the blood] is not subject to the law of Sacrilege. Perhaps I ought to say. It is the same after the atonement as before the atonement: just as before the atonement it is subject to the law of Sacrilege, so after the atonement it is subject to the law of Sacrilege? — There is nothing that is subject to the law of Sacrilege once its rites have been performed. But is there not? Surely there is the case of the removal of the ashes [from the altar], which [ashes] are subject to the law of Sacrilege even though the rites therewith have been performed, for it is written: And he shall put them beside the altar![18] — This case of the removal of the ashes and that of the garments of the High Priest[19] are two texts which teach the same thing, and one may not draw any conclusions from two texts which teach the same thing.[20] This, however, would be right according to the Rabbis who declare that the verse: And he shall leave them there,[21] teaches that they [sc. the garments] must be hidden away; but according to R. Dosa who declares that the verse teaches that [the High Priest] shall not wear them on a subsequent Day of Atonement,[22] what is to be said? — Rather [say] that the case of the removal of the ashes and that of the heifer whose neck was to be broken[23] are two texts which teach the same thing, and one may not draw any conclusions from two texts which teach the same thing. This is well according to him who maintains that one may not draw conclusions from such texts, but according to him who maintains that one may draw conclusions from such texts, what is to be said?-There are two

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(1) Cf. Lev. V, 15. If a person inadvertently makes use of the fat of a sacrifice he commits a trespass and must bring a guilt-offering for atonement. This is not the case with the blood of a sacrifice; v. Gemara.

(2) V. Glos.

(3) If a person ate the fat of a sacrifice which was rendered piggul or nothar (נותר) i.e., what was left over beyond the prescribed time in which the sacrifice must be eaten, or if the person was unclean at the time he ate the fat, he would, in each alternative, incur guilt twice: for eating fat and also for eating piggul etc.

(4) I.e., to those animals which are fit for sacrifices, for it is written (Lev. VII, 25). Whosoever eateth the fat of the beast, of which men offer an offering mode by fire unto the Lord, etc.

(5) That the law of Sacrilege applies to the fat of a sacrifice, whether the sacrifice was of the most holy or less holy kind.

(6) Lev. IV, 10. The sacrificial portions of the bullock brought by the anointed High Priest as his sin-offering are in this verse compared with the ox of the peace-offering.

(7) What is the purpose of the comparison? In fact, with regard to the burning of the sacrificial portions upon the altar, all those portions which are stated in connection with the peace-offering are also expressly stated here.

(8) V. supra p. 143, n. 8.

(9) Although the peace-offering is a sacrifice of the less holy kind, and from the time of the consecration of the animal until the sacrifice thereof it is certainly not subject to the law of Sacrilege- as soon as the sprinkling of the blood of the sacrifice has taken place the sacrificial portions of the animal are subject to the law of Sacrilege.

(10) Lev. III, 16.

(11) For the caul of the liver and the two kidneys, although sacrificial parts, cannot be comprehended with the term ‘all the fat’.

(12) For this verse: As it is taken of speaks of the sacrificial portions of an ox, and therefore cannot include the fat of the fat tail of a lamb.

(13) For all that fat in a sacrifice which is burnt upon the altar is forbidden to be eaten when the animal is slaughtered for ordinary use. Cf. Lev. VII, 25.

(14) Lev. VII, 23.

(15) For the law of Sacrilege in respect of the fat of less holy sacrifices is derived from the verse: All the fat is the Lord's; and if the fat of the fat tail is not included under the term ‘fat’, it cannot then be subject to the law of Sacrilege.

(16) That the blood of a sacrifice is not subject to the law of Sacrilege.

(17) Lev. XVII. 11: And I hove given it to you upon the altar to make atonement for your souls: for it is the blood that maketh atonement by reason of the life. Several parts of this verse suggest that the blood ‘is not the Lord's’ and so is not subject to the law of Sacrilege.

(18) Ibid. VI. 3. Every morning the ashes of the burnt-offering upon the altar were scooped up in a firepan and were deposited on the east side of the incline leading to the altar. It was forbidden to derive any use from them.

(19) Cf. ibid. XVI. 23. The garments worn by the High Priest on the Day of Atonement when he entered the innermost Sanctuary, the Holy of Holies, had to be put away never to be used again, either by an ordinary priest for his regular services or by a High Priest for service on the Day of Atonement of the following year.

(20) These two cases are therefore exceptions to the rule stated above, that after the performance of its rites a thing cannot be subject any more to the law of Sacrilege.

(21) V. p. 645, n. 6.

(22) An ordinary priest, however, may wear these garments during the year.

(23) Cf. Deut. XXI, 1ff. The heifer, after the performance of the rites with regard to it, had to be buried in the very place where the ceremony was performed, and it was forbidden to derive any use from it.

Talmud - Mas. Chullin 117b

limiting particles stated: here it is written: And he shall put them,[1] and there it is written: Whose neck was broken.[2]

Why are the three different texts with regard to the blood necessary?[3] One excludes blood from the law of nothar,[4] another excludes it from the law of Sacrilege, and the third excludes it from the law of uncleanness.[5] No text, however, is necessary to exclude it from the law of piggul.[6] for we have learnt: 'Whatsoever is rendered permissible, whether for man or for the altar, by a certain rite.[7] is subject to the law of piggul', but the blood is itself that which renders [other parts of the offering] permissible.

CHAPTER IX

MISHNAH. THE HIDE,[8] MEAT JUICE, SEDIMENT, ALAL,[9] BONES, SINEWS, HORNS AND HOOFS ARE TO BE INCLUDED[10] [TO MAKE UP THE MINIMUM QUANTITY IN ORDER] TO CONVEY FOOD-UNCLEANNESS, BUT NOT TO [MAKE UP THE MINIMUM QUANTITY IN ORDER TO] CONVEY NEBELAH-UNCLEANNESS.[11] SIMILARLY, IF A MAN SLAUGHTERED AN UNCLEAN ANIMAL FOR A GENTILE AND IT STILL WRITHES CONVULSIVELY, IT CAN CONVEY FOOD-UNCLEANNESS,[12] BUT IT CAN ONLY CONVEY NEBELAH-UNCLEANNESS AFTER IT IS DEAD,[13] OR ITS HEAD HAS BEEN CHOPPED OFF. [SCRIPTURE] HAS [THUS] INTIMATED MORE CASES THAT CONVEY FOOD-UNCLEANNESS THAN THOSE THAT CONVEY NEBELAH-UNCLEANNESS. R. JUDAH SAYS, IF SO MUCH OF ALAL WAS COLLECTED TOGETHER[14] SO THAT THERE WAS AN OLIVE'S BULK IN ONE PLACE, ONE WOULD THEREBY BECOME LIABLE.[15]

GEMARA. We have learnt [here in our Mishnah] what our Rabbis have taught elsewhere: Protections[16] [can be included to make up the quantity required] for a lighter uncleanness,[17] but protections cannot [be included to make up the quantity required] for a graver uncleanness.[18] Whence do we know that protections can be included for a lighter uncleanness? — From the following teaching of a Tanna of the school of R. Ishmael: It is written: Upon any sowing seed which is to be sown,[19] that is to say, in the manner in which men take out the seeds for sowing: wheat in its husk, barley in its husk, lentils in their husks.[20] And whence do we know that protections cannot be included for a graver uncleanness? — From the following which our Rabbis taught: [He that toucheth] the carcass thereof [shall be unclean],[21] but not he that touches the hide which has not an olive's bulk of flesh attached to it.

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(1) Lev. VI, 3. The express addition of the suffix 'them' (in the Heb. 'it' in the sing.) in the text serves to exclude others.

(2) Deut. XXI. 6; lit., 'the one whose neck was broken'. The redundant particle, the, limits the rule to this case only.

(3) Namely. ' To you'. ' To make atonement', and 'It is'. V. supra p. 645, n. 4.

(4) If a man ate the blood of a sacrifice which remained over beyond the prescribed time within which the meat there of may be eaten, he is liable only for eating blood, but not, in addition, for eating nothar.

(5) If a man who was unclean ate the blood of a sacrifice, he is liable only for eating blood, but not, in addition, for eating it whilst unclean.

(6) I.e., if the sacrifice was rendered piggul (v. Glos.) and a man ate of the blood thereof he would not be liable for eating piggul.

(7) V. Zeb. 43a. By the proper sprinkling of the blood the sacrificial portions are rendered permissible to be burnt upon the altar, and the flesh to be consumed by the priest or owner. Therefore if the sacrifice was rendered piggul and a man ate of the flesh or of the sacrificial portions he would be liable; but if he ate of the blood, which is what renders others permissible, he would not be liable.

(8) For the precise meaning of all these substances v. Gemara.

(9) Some kind of offal of meat, as explained in the Gemara.

(10) Each of the substances enumerated would be reckoned together with a piece of meat less than an egg's bulk, so as to make up the quantity of an egg's bulk and, if unclean, would convey uncleanness to other foodstuffs or liquids. With regard to some of the substances, e.g., the meat juice, the sediment and the sinews, the reason why they would be reckoned together with the meat is because, although they are not eaten alone, they would be eaten together with the meat, and are therefore regarded as foodstuffs. And with regard to the other substances, e.g., the hide, bones, horns and hoofs, the reason is because each forms a protection or covering to a foodstuff and is therefore regarded as one with the foodstuff.

(11) If the meat was nebelah these substances would not be included together with the meat in order to make up an olive's bulk, the quantity necessary in order to convey uncleanness to men or vessels.

(12) If it was touched by anything unclean. For although at this moment the animal may not be eaten, either by the Israelite who slaughtered it, for it is an unclean animal, or by the gentile, since by its death only is an animal rendered permitted to a gentile, and not by the slaughtering (v. supra 33a), nevertheless the act of slaughtering performed by the Israelite has the effect that the animal be deemed a foodstuff forthwith, for this could only have been the intention and purpose of the slaughtering.

(13) Only then is it regarded as nebelah; cf. Lev. XI, 39.

(14) Although alal by itself is not a foodstuff, if one collected a number of pieces together so that there was an olive's bulk in one place, this action is significant and renders the bulk a foodstuff.

(15) If this accumulated bulk was taken from a nebelah and a man touched it and later entered the Temple or ate consecrated food, he would be liable to the penalty of kareth.

(16) I.e., that which surrounds and encloses foodstuffs, e.g., the husk of grain, the peel of fruit, the shell of nuts, the hide of an animal, etc.

(17) That condition of uncleanness which can only render unclean foodstuffs and liquids, provided there was an egg's bulk of the unclean matter.

(18) Nebelah-uncleanness. The condition of uncleanness that can even render unclean men and vessels, provided there was an olive's bulk of the unclean matter.

(19) Lev. XI, 37, with reference to the uncleanness of foodstuffs.

(20) I.e., by seed is meant the grain together with its husk; hence the protection of food is considered as part of the food itself.

(21) Ibid. 39.

Talmud - Mas. Chullin 118a

I might also think that he that touches [the hide] at a part where the flesh is attached on the other side shall not be unclean, Scripture therefore says. ‘Shall be unclean’. What does this mean?[1] — Raba, others say: Kadi,[2] replied. There is something missing fin ‘that ‘passage] and it should read as follows: ‘[He that toucheth] the ‘carcass ‘thereof [shall ‘be unclean]’, but not he that touches the bide which has not an olive's bulk of flesh attached to it, even though the hide brings it up to an olive's bulk.[3] I might then also exclude the case of the hide which has an olive's bulk of flesh attached to it. So that if a man were to touch the hide at a part where the flesh is attached on the other side he would not, [I suggest,] be unclean, for it [the hide] does not act even as a ‘handle; Scripture therefore says. ‘Shall be unclean’.[4]

We have learnt elsewhere:[5] Whatever serves as a handle [to a bulk] but not as a protection[6] [is a medium whereby the bulk] contracts uncleanness and conveys uncleanness, but is not included [together with the bulk to make up the size of an egg to convey uncleanness]. Whatever serves as a protection, even if it does not serve as a handle,[7] [is a medium whereby the bulk] contracts uncleanness and conveys uncleanness, and is included [together with the bulk]. Whatever serves neither as a handle ‘nor as a protection[8] [is no medium so that the bulk] neither contracts uncleanness nor conveys uncleanness thereby.

Where is there any Scriptural authority for the law of ‘handles’? — It is written: But if water be put upon the seed, and aught of their carcass fall thereon, it is unclean unto you’.[9] ‘Unto you’, that is, everything that you make use of [with regard to the foodstuff]; thus the verse includes handles.[10] It is also written: And if any animal, which serves as food unto you, die.[11] ‘Unto you’, that is, everything that you make use of [with regard to this carcass conveys uncleanness]; thus the verse includes handles.[12] Hence [we see that] a handle can convey uncleanness to [the bulk in the case of foodstuffs] and also that a handle can convey uncleanness from [the bulk in the case of a carcass]. That a protection can convey uncleanness to and from [the bulk] does not require any verse, for it is inferred by an a fortiori argument from a handle thus: If a handle which affords no protection can convey uncleanness to and from [the bulk], how much more that which affords protection! Why then does the Divine Law state a verse with regard to a protection?[13] It is, surely, to teach that it[14] is to be included together [with the bulk].[15] But I might say: A handle can convey uncleanness to [the bulk] but not from it,[16] and a protection can convey uncleanness both to and from [the bulk],[17] but a handle cannot convey uncleanness from [the bulk], neither is a protection to be included together [with the bulk]? — You surely cannot say that a handle can convey uncleanness to [the bulk] but not from [the bulk], for if it can bring in the uncleanness it certainly can pass it on! Then I might say: A handle can convey uncleanness from [the bulk] but not to [the bulk], and a protection can convey uncleanness both to and from [the bulk], but a handle cannot convey uncleanness to [the bulk], neither is a protection to be included together [with the bulk]? — There is another verse which also teaches the law of handles, for it is written: Whether oven, or range for pots, it shall be broken in pieces: they are unclean, and shall be unclean unto you.[18] ‘Unto you’, that is, everything that you make use of [with regard to it is unclean]; thus the verse includes handles.[19]

Which of these verses is superfluous?[20] If the Divine Law had stated [the law of handles] in connection with seeds and it was intended that the others[21] be inferred from them, [the objection could be raised thus,] That is so with seeds only, since they have more conditions of uncleanness than the others.[22] And if the Divine Law had stated it in connection with the oven and it was intended that the others be inferred from it, [the objection could be raised thus,] That is so with the oven only since it renders foodstuffs unclean by its air-space.[23] And if the Divine Law had stated it in connection with nebelah and it was intended that the others be inferred from it, [the objection could be raised thus,] That is so with the nebelah only since it can render man unclean, it can convey uncleanness by carrying,[24] and it is its own source of uncleanness.[25] — One could not indeed infer one case from the other, but one could infer one case from the other two cases. Which one would you infer? If the Divine Law had not stated it in connection with seeds but you would have inferred it from the other two, [the objection could be raised thus,] That is so with the other cases since they become unclean without first having been rendered susceptible thereto; will you say the same of seeds which become unclean only if first they have been rendered susceptible thereto?[26] — Said R. Huna the son of R. Joshua: But surely fruit which has not been rendered susceptible to uncleanness is in the same condition as an oven which is not yet finished![27] — Rather you could raise this objection: That is so with the other cases since they both become unclean without contact [with unclean matter];[28] will you say the same of seeds which become unclean only by contact? And if the Divine Law had not stated it in connection with the oven but you would have inferred it from the others, [the objection could be raised thus:] That is so with the other cases since each[29] is a foodstuff! — The fact is the Divine Law need not have stated it in connection with nebelah, for you could have inferred it from the others.[30] For what purpose then is the law of handles stated in connection with nebelah? If then the law of handles serves no purpose in connection with nebelah, you may apply it to other cases.[31] Hence [you derive that] a handle can convey uncleanness both to and from [the bulk], and [that] a protection can be included together [with the bulk].[32]

But still the law of handles stated in connection with nebelah was absolutely necessary; for had not the Divine Law stated it in connection with nebelah I should have said: ‘It is enough if the inferred law is as strict as that from which it is inferred’, and therefore, just as the others cannot render a man unclean so nebelah cannot render a man unclean![33] In truth the law of handles in connection with nebelah is really necessary, but it is the law of protections in connection with nebelah[34] that is unnecessary. Why did the Divine Law state it? Will you say, [to teach] that it[35] can be included together [with the bulk]? Surely you have already said that it cannot be included![36] [And to teach] that it[35] can convey the uncleanness from the bulk [is unnecessary], for it is already inferred by an a fortiori argument from the law of handles![37] If then the law of protections in connection with nebelah serves no purpose, you may apply it to the law of handles in connection with nebelah; and if the law of handles in connection with nebelah also serves no purpose,[38] you may then apply it to the law of handles in connection with other cases. Hence [we derive that] a handle can convey uncleanness both to and from [the bulk] and a protection can be included together [with the bulk].

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(1) The two clauses of this Baraitha apparently contradict each other: the first clause states that the hide ‘of a carcass does not convey uncleanness, whereas the second clause states that ‘one who touches the hide of a carcass becomes unclean.

(2) Aliter: ‘as the case may be’, i.e., introducing respectively other persons.

(3) For the protection cannot be included together with a morsel of the carcass to make up the olive's bulk in order to convey nebelah-uncleanness.

(4) For although the hide does not serve as a protection so as to be reckoned as part of the carcass itself, it serves nevertheless as a handle or connective by which uncleanness can be conveyed to other matters.

(5) ‘Uk. I, 1.

(6) E.g., the stalks of fruit or a marrowless bone attached to a piece of flesh; each, although not a foodstuff, acts as a handle or connective to convey uncleanness to other foodstuffs if the fruit or the flesh was unclean, or to render the fruit or flesh unclean if the stalk or bone came into contact with unclean matter.

(7) E.g., hide to which is attached an olive's bulk of flesh, or nut shells.

(8) E.g., hair.

(9) Lev. XI, 38.

(10) That in connection with foodstuffs a handle can convey the uncleanness to the bulk; in other words the bulk contracts uncleanness through the medium of the handle, for this verse only speaks of the foodstuff contracting uncleanness.

(11) Lev. XI, 39.

(12) That through the medium of the handle the carcass conveys uncleanness to everything that comes into contact with the handle.

(13) Cf. supra 117b the teaching of the Tanna of the school of P. Ishmael, where v. 37 is interpreted for this purpose.

(14) Sc. the protection.

(15) To make up the requisite minimum quantity.

(16) For the verse which implies that a handle can convey the uncleanness from the bulk deals solely with nebelah, which is a grave uncleanness, and no other case may be inferred from it.

(17) For a protection is a degree graver than a handle by reason of the a fortiori argument.

(18) Lev. XI, 35.

(19) I.e., that a handle can convey the uncleanness from an external source to the vessel. There being, therefore, two verses each teaching the law that a handle can convey uncleanness to the bulk, one would be utilized to teach the law that handles can convey uncleanness from the bulk. Consequently, now that handles can convey uncleanness to and from the bulk, the verse (ibid. 37) with regard to a protection is entirely superfluous, for it would have been inferred by an a fortiori argument from handles; it must serve therefore to teach the law that the protection is to be included together with the bulk to make up the requisite minimum quantity.

(20) For we have now three verses each stating the law of handles, viz., v. 35 which deals with an oven, v. 38 which deals with seeds, and v. 39 which deals with nebelah.

(21) Sc. the rule of handles in connection with the oven and nebelah.

(22) Seeds, being foodstuffs, can become unclean even from that which is unclean in the first degree, whereas an oven or any vessel can only contract uncleanness from that which is a primary source of uncleanness. Moreover, foodstuffs have more conditions of uncleanness than nebelah, as is expressly stated in our Mishnah as the result of the application of the law of protections.

(23) Which is not the case with foodstuffs and nebelah. The oven, being an earthenware vessel, can render unclean any foodstuffs which come into its air-space even though there was no actual contact. V. supra 24bff

(24) As well as by contact, which is not the case with the others.

(25) Whereas the oven and the foodstuffs were rendered unclean by some unclean matter.

(26) For foodstuffs cannot contract uncleanness unless they have first been rendered susceptible to uncleanness by being moistened by water or any of the other liquids prescribed. Cf. Lev. XI, 38.

(27) From the point of view of the application of uncleanness fruit which has not been moistened by water is considered ‘unfinished’ just as an unfinished article.

(28) The oven contracts uncleanness without any contact, as when a dead reptile is suspended in its air-space; nebelah, too, is unclean without any contact for it is its own source of uncleanness.

(29) Sc. nebelah and seeds.

(30) By drawing the conclusion from the common features of the two cases, for each of those cases has a peculiarity which is not present in the other. Seeds are peculiar in that they have many conditions of uncleanness; the oven is peculiar in that its air-space can render unclean. The features common to both are that they are unclean and that through the medium of a handle they can convey uncleanness to others; the same would apply to nebelah.

(31) Sc. foodstuffs, that through the medium of a handle they can contract uncleanness.

(32) Accordingly, ‘unto you’ stated in connection with seeds teaches that a handle can convey uncleanness from the bulk; ‘unto you’ stated in connection with nebelah teaches that with foodstuffs a handle can convey uncleanness to the bulk, (for it was unnecessary to state this for nebelah itself since nebelah could have been inferred from the other two cases, v. p. 653, n. 6; moreover, it was also unnecessary to teach the rule that a handle can convey uncleanness from the bulk, for this we already know with regard to foodstuffs). ‘Upon any sowing seed’ teaches that a protection can be included together with the bulk to make up the requisite minimum quantity.

(33) I.e., nebelah cannot render a man unclean by means of a handle, e.g., if a man touched a dry bone at the end of which there was a piece of nebelah he would not be unclean. Hence it was necessary that the law of handles be stated in connection with nebelah in order to include this case.

(34) Which is derived from the verse: Shall be unclean, supra 118a top.

(35) Sc. a protection.

(36) Supra p. 650.

(37) Supra p. 651.

(38) For the law of handles is expressly stated in connection with nebelah in the verse: Which serves as food unto you; v. supra p. 651.

Talmud - Mas. Chullin 118b

But I could say this: If the law of protections in connection with nebelah serves no purpose then you may apply it to the law of protections in connection with other cases,[1] with the result [that we learn] that a protection can convey uncleanness to [the bulk] and also [that] a protection can be included together [with the bulk], but a handle [I maintain] cannot convey uncleanness to [the bulk]! — Indeed at the very outset [it must be admitted that] the law of handles stated in connection with foodstuffs refers to the handle as conveying the uncleanness to [the bulk].[2] Then for what purpose is the law of protections stated in connection with nebelah? For its own purpose. But for what? [Will you say to teach] that it[3] can be included together [with the bulk]? Surely you have already said that it cannot be included! And [to teach] that it can convey uncleanness to and from [the bulk is unnecessary], for it can surely be inferred by an a fortiori argument from the law of handles! — Scripture sometimes takes trouble to state a rule even though it could be inferred by an a fortiori argument. But if so, I can say the same of the law of protections in connection with other cases; I can say that it actually teaches that it[3] conveys uncleanness to and from [the bulk], for although it could be inferred by an a fortiori argument, Scripture nevertheless troubled to state it expressly! — Wherever it is possible to interpret the verse [as applying to something else] we do so.[4] R. Habiba said: The law of protections stated in connection with nebelah is exceptional, for since it acts in the same way as a handle[5] [it is only right that] we refer it to the law of handles.[6] R. Judah b. Ishmael demurred, raising an objection from the following Mishnah which we learnt: The point of a pomegranate is included [with the fruit], but its blossom is not included.[7] Wherefore is this? Should not one apply the rule of the verse: Upon any sowing seed which is to be sown?[8] And it is not so here. Moreover we have learnt: THE HIDE, MEAT JUICE, SEDIMENT . . . ARE TO BE INCLUDED TO CONVEY FOOD-UNCLEANNESS; whence do we know it?[9] — The fact is, there are three Scriptural expressions: 'upon any sowing', 'seed', 'which is to be sown'; one refers to the protections of seeds, the other to the protections of fruit and the third to the protections of flesh, eggs, and fish.

R. Hiyya b. Ashi said in the name of Rab: A handle serves [as a connective] for the uncleanness[10] but a handle does not serve [as a connective] for rendering susceptible to uncleanness.[11] R. Johanan says: A handle serves [as a connective] both for the uncleanness and for rendering susceptible to uncleanness. Wherein do they differ?[12] — If you wish you may say [that they differ] in the interpretation of a verse, or if you wish you may say [that they differ] in the logical reasoning. 'If you wish you may say [that they differ] in the interpretation of a verse'[13] — one maintains, a Scriptural expression may be interpreted as referring to the immediately preceding subject but not to what is anterior thereto, whilst the other maintains, a Scriptural expression may be interpreted as referring both to the immediately preceding subject and to what is anterior thereto. 'Or if you wish you may say [that they differ] in the logical reasoning' one maintains, being rendered susceptible to uncleanness is the first stage of uncleanness,[14] whilst the other maintains, being rendered susceptible to uncleanness is not the first stage of uncleanness. There is [a Baraitha] taught which accords with the view of R. Johanan. It was taught: As a handle serves as a connective for the uncleanness so it serves also as a connective for rendering susceptible to uncleanness. And as seeds can contract uncleanness only when they have been plucked up[15] so can they be rendered susceptible to uncleanness only when they have been plucked up.

Rab said: A handle cannot serve [as a connective] to anything less than the size of an olive,[16] and a protection cannot serve [as a protection] to anything less than the size of a bean.[17] R. Johanan said: A handle can serve [as a connective] to anything less than the size of an olive,[18] and a protection can serve [as a protection] to anything less than the size of a bean.

An objection was raised: If there were two bones [of a corpse] that bore each a half-olive's bulk of flesh [at one end] and a man brought into a house the other two ends, and the house overshadowed them, the house becomes unclean.[19]

Judah b. Nakosa says in the name of R. Jacob: How can two bones [each bearing only a half olive's bulk of flesh at the other end] be reckoned together to make up an olive's bulk?[20]

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(1) Sc. foodstuffs.

(2) The question at the early stages of the argument when it is suggested that a handle can convey uncleanness from the bulk but not to it in the case of foodstuffs is untenable, for the context clearly shows that the handle, which is referred to in that verse, is intended to convey the uncleanness to the bulk.

(3) Sc. a protection.

(4) And here the verse can be interpreted as referring to the rule that the protection can be included together with the rest.

(5) The protection of a nebelah, sc. the hide, is admittedly not part of the nebelah, for it is not included together with the flesh to make up the minimum quantity to convey uncleanness, but it serves to convey uncleanness from the nebelah; in other words it serves in the capacity of a handle.

(6) And not as was suggested supra (p. 655) to the law of protections in regard to other cases.

(7) 'Uk. II, 3. The point may be regarded as a protection to the pomegranate and as such may be considered as part of the fruit, but the blossoms around it are at most a protection over the point, i.e., a protection to a protection, and as such cannot be considered part of the fruit.

(8) Lev. XI, 37. For the law of protections is derived from this verse, and only that covering is regarded as a protection which is sown together with the seed or is planted with the fruit; thus one must exclude the protuberances of fruit.
(9) Seeing that the law of protections is stated only with regard to seeds.
(10) To convey uncleanness to and from the bulk.
(11) I.e., if the handle was moistened by water the bulk was not thereby rendered susceptible to contract uncleanness.
(12) I.e., what is the ground of their difference.
(13) The law of handles in connection with foodstuffs is deduced from the expression ‘unto you’ stated in the following verse: But if water be put upon the seed, and aught of their carcass fall thereon, it is unclean unto you (Lev. XI, 38). Now this expression certainly refers to the subject of uncleanness which immediately precedes it, but the question is whether it also refers to the subject, ‘If water be put upon’, which is at the beginning of the verse.
(14) And just as a handle serves as a connective for the uncleanness so it also serves as a connective for rendering the rest susceptible to uncleanness.
(15) For otherwise all seed would be unclean because of the dead reptiles found in the soil.
(16) If the handle to a foodstuff less than the size of an olive's bulk (which foodstuff was among other foodstuffs together making up the size of an egg-so adds Rashi, but unnecessarily, v. Tosaf. s.v. אין) was touched by unclean matter, it does not act as a connective to convey the uncleanness to the foodstuff.
(17) If, for instance, a bone has less than a bean's bulk of marrow in it, it cannot, as a protection, be included together with the marrow to make up the requisite quantity, nor can it convey the uncleanness either to or from the marrow.
(18) But not to anything less than the size of a bean.
(19) For whatsoever overshadows a handle to flesh is regarded as if it overshadows the flesh itself.
(20) For a handle to anything less than the size of an olive's bulk is of no significance.

Talmud - Mas. Chullin 119a

Now how does Rab interpret this teaching [to accord with his view]? If he regards it [the bone] as a handle,[1] then the first opinion conflicts with his;[2] and if he regards it as a protection,[3] then the second opinion conflicts with his![4] — If you wish, you may say he regards it as a handle, or if you wish.you may say he regards it as a protection. ‘If you wish, you may say he regards it as a handle’ — and he is in agreement with Judah b. Nakosa.[5] ‘Or if you wish, you may say he regards it as a protection’ — and he is in agreement with the first Tanna.[6] R. Johanan, however, says that it can only be regarded as a handle, and so he is in agreement with the first Tanna.[7] Come and hear: R. Judah says: If a thighbone has an olive's bulk of flesh attached to it, it brings about the uncleanness to the whole.[8] Others say: Even if it has flesh only the size of a bean attached to it it is sufficient to bring about the uncleanness to the whole. Now how does Rab interpret this teaching? If he regards it [the bone] as a handle, then the second opinion conflicts with his;[9] and if he regards it as a protection, then the first opinion conflicts with his.[10] If you wish, you may say he regards it as a handle and he is then in agreement with R. Judah; or if you wish, you may say he regards it as a protection, and he is in agreement with the ‘others’. R. Johanan, however, says that it can be regarded as a protection and ,so he is in agreement with the ‘others’.[11] But do not the ‘others expressly mention the size of a bean?[12] — It is only because the first Tanna [sc. R. Judah] stated a fixed quantity[13] that they also stated a fixed quantity.[14] Raba said: There is indeed a proof that the Baraitha regards it as a protection, for it states ‘a thigh-bone’.[15] This is conclusive. It was stated: R. Hanina said that that[16] was the [minimum] size,[17] but R. Johanan said that that was not the [minimum] size. But does it not expressly say: ‘the size of a bean’? — It was only because the first Tanna stated a fixed quantity that they too stated a fixed quantity.

Come and hear. We have learnt: R. Eleazar b. ‘Azariah declares that of the bean clean but that of [other] pulse unclean, since one is pleased with it when handling them![18] — As R. Aha the son of Raba had suggested [in another case] that it referred to the stalk which is considered a handle, so here too it refers to the stalk and it is considered here a handle.[19] And what is meant by ‘when handling them’? — It means, when moving them about.

Come and hear from the following teaching of a Tanna of the school of R. Ishmael: It is written: Upon any sowing seed which is to be sown,[20] that is to say, in the manner in which men take out the seeds for sowing: wheat in its husk, barley in its husk, lentils in their husks![21] — It is different with a separate entity.[22] R. Oshaia raised the question,

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(1) I.e., each bone was dry and without marrow but there was a piece of flesh attached to one end of each, in which case the bones can act as handles only.

(2) Since the first Tanna declares the house to be unclean because a handle can serve as a connective even to what is less than the size of an olive's bulk.

(3) I.e., the bones contained marrow at one end but not at the other end, and the ends void of marrow were brought into the house. The bone of a marrow-bone is regarded as a protection to the marrow within.

(4) Since Judah b. Nakosa holds that a protection cannot serve as such to anything less than the size of an olive's bulk, whereas according to Rab it can serve as a protection to anything the size of a bean which is less than half an olive. The same difficulty would arise on the view of R. Johanan, which is apparently in conflict with that of Judah b. Nakosa, whether the bone is treated as a ‘handle’ or ‘protection’; v. n. 9.

(5) For presumably with regard to a protection Judah b. Nakosa would concede that a protection can serve as a protection even to that which is less than the size of an olive's bulk, provided, of course, it was not less than the size of a bean; thus entirely in agreement with Rab's view.

(6) The first Tanna presumably would agree with Rab that a handle cannot serve as a connective unless it was attached to flesh at least of the size of an olive's bulk.

(7) He cannot however regard the bones in the dispute between the first Tanna and Judah b. Nakosa as protections, for then he would be in agreement with neither: for Judah b. Nakosa insists upon an olive's bulk, and the first Tanna upon a half olive's bulk, since he speaks of two bones together making up an olive's bulk, whereas R. Johanan rules that a protection can serve as such even to anything less than the size of a bean which is certainly less than a half olive's bulk. See Rashi and Tosaf. a.l.

(8) I.e., if the olive's bulk of flesh attached to this bone was with other foodstuffs so that together there was an egg's bulk of foodstuff, and unclean matter came into contact with the bone, the whole would then become unclean.

(9) For Rab says that a handle to anything less than the size of an olive's bulk cannot serve as a connective.

(10) For R. Judah speaks of an olive's bulk of flesh which was attached to the bone, whereas Rab said that a protection to that which is less than an olive's bulk, provided it is of the size of a bean, can serve as a protection.

(11) In this case R. Johanan could certainly regard it as a handle and he would be in agreement with the ‘others’; moreover, if he did so, it would leave no ground for the question which follows in the text; but he preferred to regard it as a protection, since the thigh-bone, which is expressly mentioned in the Baraitha, usually contains marrow and so must be considered as a protection. V. Rashi, s.v.

(12) Whereas R. Johanan considers it a proper protection even if the substance within is less than the size of a bean.

(13) An olive's bulk.

(14) The size of a bean; nevertheless a protection to something even less than the size of a bean would also be regarded as a protection.

(15) Which usually contains marrow, and therefore is to be considered a protection.

(16) The statement of the ‘others’ above: ‘Even if it has flesh only the size of a bean attached to it’.

(17) But a protection to anything less than this size cannot be considered as a protection.

(18) Cf. ‘Uk. I, 5. R. Eleazar b. ‘Azariah maintains that the pod of beans is not regarded as a protection to convey uncleanness to or from the beans, neither is it to be reckoned together with the beans so as to make up the requisite quantity, because the pod does not serve any useful purpose since the beans are large enough to be handled with the fingers. On the other hand the pods of peas or of other pulse are regarded as protections, for the peas are small and the pods then serve a useful purpose in making the handling of the peas easier. Now even if there was only one pea in the pod it would serve as a protection to it. Hence it is clear that a protection can serve as a protection even to a foodstuff less than the size of a bean, contra R. Hanina and Rab.

(19) It is not the pod that is considered here but the stalk to which a number of pods are attached. In the case of other pulse, like peas, the stalk serves as a handle to all the pods (which obviously are more than an olive's bulk), and so is a connective for uncleanness. In the case of the bean, however, the stalk is of no importance, for the beans are large enough to be handled by themselves, and is therefore not considered a handle for the uncleanness.

(20) Lev. XI, 37.

(21) The husk serves as a protection to the grain even though the grain of wheat is less than the size of a bean.

(22) A protection to an entire thing, however small it is, as the husk of grain, is certainly regarded as a protection. Rab and R. Hanina, however, insist upon the minimum size of a bean only in those cases where the substance that is protected is only part of a whole, as a morsel of flesh, or half a bean.

Talmud - Mas. Chullin 119b

Can two protections be reckoned together[1] or not? But what is the actual case? If you say that one is over the other, but can it be said that a protection over a protection [has the law of a protection]? Behold we have learnt: R. Judah says: An onion has three skins: the innermost skin, whether it is entire or has holes in it, is reckoned together [with the edible part]; the middle skin, if it is entire, is reckoned together, but if it has holes in it, it is not reckoned together; the outermost skin in either case is clean![2] — R. Oshaia really raised this question: What is the law if the protection of a foodstuff was divided?[3] Since this [half of the protection] does not protect the other [half of the foodstuff] and the other [half of the protection] does not protect this [half of the foodstuff] they cannot be reckoned together, or, it may be, since each [half of the protection] protects its own [half of the foodstuff] they can be reckoned together? Come and hear: R. Eleazar b. ‘Azariah declares that of the bean clean but that of [other] pulse unclean, since one is pleased with it when handling them![4] — R. Aha the son of Raba answered: It refers to the stalk which is considered as a handle.[5] And what is meant by ‘when handling them’? — It means, when moving them about.

Come and hear from the following teaching of a Tanna of the school of R. Ishmael: It is written: ‘Upon any sowing seed which is to be sown’,[6] that is to say, in the manner in which men take out the seeds for sowing; wheat in its husk, barley in its husk, lentils in their husks![7] — As R. Aha the son of Raba had suggested [above] that it referred to the stalk which is considered a handle, so here it refers to the stem [of the ear of wheat] which is considered a protection.[8] Granted, however, that the upper rows need the lower ones; but do the lower need the upper ones?[9] — We are dealing here with one row only.[10] But is there ever as much as an egg's bulk of foodstuff in one row? — Yes, in the wheat grains of Simeon b. Shetah.[11] And now that you have arrived at this, you may say that it refers to a single grain of wheat, but of the wheat grains of Simeon b. Shetah.

[To revert to] the [above] text: If there were two bones [of a corpse] that bore [at one end] a half olive's bulk of flesh and a man brought into a house the other two ends, and the house overshadowed them, the house becomes unclean. Judah b. Nakosa says in the name of R. Jacob: How can two bones [each bearing only a half olive's bulk of flesh at the other end] be reckoned together to make up an olive's bulk’? R. Simeon b. Lakish said: This was taught only with regard to a bone which is considered a handle, but a hair is not considered a handle.[12] R. Johanan however said: Even a hair is considered a handle.

R. Johanan raised the following objection against R. Simeon b. Lakish: If there was an olive's bulk of [unclean] flesh adhering to the hide and a man touched a shred hanging from it,[13] or a hair that was opposite it,[14] he becomes unclean. It is, is it not, because it [the hair] is regarded as a handle? — No, it is because it is regarded as a protection. But can there be a protection over another protection?[15] — It penetrates right through.[16]

R. Aha b. Jacob demurred, [saying:] If so, how may we write Tefillin?[17] Surely it is necessary that the writing be perfect, and it is not so?[18] — [In raising this objection] he must have overlooked the statement [of the Rabbis] in the West, viz., Any hole [in parchment] over which the ink can pass is not considered a hole.[19] Or if you wish, you may answer: Each[20] is considered a handle, for as R. Ila'a referred [elsewhere] to a bristle among many bristles, so here too it refers to a hair among many hairs.[21] And where was this view of R. Ila'a stated? In connection with the following [Mishnah]:[22]

The bristles[23] of ears of corn bring in uncleanness and convey uncleanness,[24] but are not included together [with the rest to make up the quantity necessary to convey uncleanness]. Of what use is a bristle?[25] R. Ila'a replied: It refers to a bristle among many bristles.[26]

Another version renders the argument as follows: It is more reasonable to say that it [a hair] is regarded as a protection, for should you say it is regarded as a handle [it will be asked]: Of what use is one hair? — As R. Ila'a referred [elsewhere] to a bristle among many bristles, so here, too, it refers to a hair among hairs. And where was this view of R. Ila'a stated? In connection with the following Mishnah: The bristles of ears of corn bring in uncleanness and convey uncleanness, but are not included together with the rest. Of what use is a bristle? — R. Ila'a replied: It refers to a bristle among many bristles.

Some refer it[27]

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(1) With the foodstuff within so as to make up the egg's bulk in order to contract and convey uncleanness.

(2) V. ‘Uk. II, 4. The innermost skin is regarded as part of the onion for it is edible, the middle is a protection and therefore can serve as such only when entire, the outermost as a protection over a protection which can in no circumstances be reckoned together with the foodstuff.

(3) I.e., a foodstuff that had a protection over it was divided into two. V. however, Tosaf. s.v. שומר.

(4) V. supra p. 660, n. 3. Since, therefore, in the case of other pulse, such as peas, several pods can be reckoned together with the peas within them to make up the quantity of an egg's bulk; it is evident that two protections can be reckoned together.

(5) The one stalk serves as a handle to many pods.

(6) Lev. XI, 37.

(7) Since several grains with their husks can be reckoned together to make up the quantity of an egg's bulk, it is evident that protections can be reckoned together; likewise, where a foodstuff was divided into two together with the protection upon it, the parts can be reckoned together.

(8) The grains in the ear of corn spring from the rachis or stem in row upon row on all sides of it; moreover the ear of corn (in barley and certain species of wheat) is covered by an awn or beard. The suggestion seems to be here that the rachis and the awn together act as one protection to the grains.

(9) The lower rows of grain support the upper rows and if the lower rows were to fall away the upper rows, losing their support, would fall away too; hence from the point of view of the upper rows the entire ear of corn serves as one whole protection. On the other hand, the lower rows can stand without the upper ones for it has its own protection, and the fact that the upper and lower rows in the ear can be reckoned together proves that two protections can be reckoned together.

(10) I.e., the protection and the grains on one row only must make up the quantity of an egg's bulk.

(11) In his time the grains of wheat were of extraordinary size, v. Ta'an. 23a.

(12) But only a protection. And there is this qualification with regard to a protection, namely, that the contact must be made with the protection that is directly opposite the foodstuff.

(13) The flesh. But, v. infra 124a.

(14) I.e., on the outside of the hide, opposite the flesh.

(15) For the skin is itself a protection and the hair is above the skin.

(16) The hair penetrates through the skin to the flesh, so that it serves as a protection to the flesh, and not as a protection to the hide, so that it is not a protection over another protection.

(17) I.e., phylacteries which contain scrolls of parchment with special selected passages written thereon. Cf. Deut. VI, 8.

(18) Since the hair penetrates the hide the parchment made from it must perforce be full of holes, and any writing on it must be interrupted as the pen passes over these holes, and this invalidates the scroll.

(19) The holes are so minute that the pen passes smoothly over them, even the ink does not collect in these holes.

(20) Sc. the shred of flesh and the hair.

(21) It is conceded by R. Simeon b. Lakish that many hairs taken together can serve as a handle, but a single hair, he maintains, cannot, for it would certainly snap when attempting to lift the bulk by it.

(22) ‘Uk. I, 3.

(23) I.e., the spiky growth at the end of an ear of corn; the awn or the beard.

(24) For they are regarded as handles.

(25) How can it serve as a handle seeing that it would break off as soon as one took hold of it?

(26) By grasping many awns together one can obtain a firm hold on the ears of corn.

(27) The above dispute between R. Johanan and Resh Lakish.

Talmud - Mas. Chullin 120a

to our Mishnah thus, THE HIDE, MEAT JUICE, SEDIMENT . . . [BONES . . .] ARE TO BE INCLUDED TO CONVEY FOOD UNCLEANNESS. Thereupon R. Simeon b. Lakish said: This was taught only with regard to a bone which is considered a protection, but a hair is not considered a protection; R. Johanan, however, said: Even a hair is considered a protection. Said Resh Lakish to R. Johanan: But can there be a protection over another protection? — [He replied,] It penetrates right through. R. Aha demurred saying: If so, how may we write Tefillin? It is necessary that the writing be perfect and it is not so? — He must have overlooked the statement [of the Rabbis] in the West, viz., Any hole [in parchment] over which the ink can pass is not considered a hole. R. Johanan then raised the following objection against Resh Lakish: If there was an olive's bulk of [unclean] flesh on the hide and a man touched a shred hanging from it, or a hair that was opposite it, he becomes unclean. It is, is it not, because it [the hair] is regarded as a protection? — No, it is because it is regarded as a handle. But of what use is one hair? — As R. Ila'a referred [elsewhere] to a bristle among many bristles, so here, too, it refers to a hair amongst other hairs. And where was this view of R. Ila'a stated? — In connection with the following Mishnah: The bristles of an ear of corn contract uncleanness and convey uncleanness, but are not included together with the rest. Of what use is a bristle? — R. Ila'a replied: It refers to a bristle among many bristles.

MEAT JUICE. What is the ROTEB?[1] — Raba said: It is the fat.[2] Whereupon Abaye said to him: But should it not by itself convey food uncleanness? — Rather it must be, meat juice which had set. But why ‘had set’? Even if it had not set it should also [be included with the meat], for Resh Lakish has said that the juice of vegetables is to be included [with the vegetable] to make up the date's bulk with regard to the Day of Atonement.[3] — There it is a question of satisfying one's hunger and anything [though not strictly a foodstuff] would satisfy it; here, however, it is a question of what can be included [with a foodstuff] and, therefore, if it [the meat juice] had set it can be included, but if it had not set it cannot be included.[4]

SEDIMENT. What is the KIPPAH?[5] — Raba said,lt is the sediment [of boiled meat]. Whereupon Abaye said to him: But should it not by itself convey food uncleanness? — Rather said R. Papa: It must be the spices.

We have learnt elsewhere: If a man clotted blood and ate it, or if he melted [forbidden] fat and gulped it down, he is culpable.[6] Now it is quite clear in the case where he clotted blood and ate it, for since he clotted it he thereby determined it [as a foodstuff], but [why should he be culpable] where he melted fat and gulped it down? Scripture uses the term ‘eating’ in connection with it, and this is not eating? — Resh Lakish said: The verse says: Soul,[7] to include one who drinks.[8]

The same has been taught in respect of leavened bread: Where a man dissolved it[9] and gulped it down, if it was leavened, he is liable to the penalty of kareth, and if it was unleavened, he has not thereby fulfilled his obligation on the Passover.[10] Now it is quite right to say ‘If it was unleavened he has not thereby fulfilled his obligation on the Passover’, for the Divine Law says: Bread of affliction,[11] and this is not bread of affliction;[12] but why does it say: ‘If it was leavened he is liable to the penalty of kareth’? Does not Scripture use the term eating’ in connection with it? Resh Lakish said: The verse says: Soul,[13] to include one who drinks.

And the same has been taught in respect of the carcass of a clean bird: If he dissolved it[14] with fire (and gulped it down], he is unclean;[15] but if in the sun, he is not unclean.[16] Whereupon we put the questions is not the expression ‘eating’ written in connection with it?[17] And Resh Lakish replied. The verse says: Soul,[17] to include one who drinks. But if so, even (if he dissolved it) in the sun he should also [be unclean]? — In the sun it becomes putrid.

Now this[18] was necessary [to have been taught with regard to each of these cases]. For if the Divine Law had stated it only with regard to the fat, one could not have inferred the same with regard to leavened bread, for (in the case of the former) there was never a moment when it was permitted;[19] nor could one have inferred the same with regard to the carcass [of a clean bird], for the former is punishable by kareth.[20] And had the Divine Law stated it only with regard to leavened bread, one could not have inferred the same with regard to the fat, for the former does not admit of any exception;[21] nor could one have inferred the same with regard to the carcass [of a clean bird], for the former is punishable by kareth. And had the Divine Law stated it only with regard to the carcass [of a clean bird], one could not have inferred the same with regard to the others, for the former conveys uncleanness.[22] [Clearly] one case could not have been inferred from the other, but could not one case have been inferred from the other two? — Which could have been inferred? Had not the Divine Law stated it with regard to the carcass [of a clean bird] but this latter was to be inferred from the others,[23] [such inference could be refuted thus]: It is so with the other cases since they are punishable by kareth. And had not the Divine Law stated it with regard to leavened bread but this latter was to be inferred from the others,[24] [such inference could be refuted thus], it is so with the other cases since they were never permitted at any time. And had not the Divine Law stated it with regard to the forbidden fat but this latter was to be inferred from the others,[25] [such inference could be refuted thus]: It is so with the other cases since they admit of no exceptions; will you, then, say the same of the forbidden fat which admits of an exception? — What is this [exception]? Is it that the forbidden fat of cattle is permitted to the Most High?[26] But a carcass [of a bird], too, is permitted to the Most High, namely, a bird whose head has been nipped off![27] Or is it that the fat of a wild animal [is permitted] to a common man? But a carcass, namely, the sin-offering of a bird whose head has been nipped off, is also permitted to priests![28] — In truth, [the exception is that] the fat of a wild animal [is permitted] to a common man, and as for your difficulty from the case of the priests, [it must be remembered that] the priests enjoy this privilege from the table of the Most High.[29]

Wherefore is the following teaching necessary: ‘[It is written,] The unclean,[30] to signify that the juice and the broth and the sediment of these are forbidden’? Surely it could have been inferred from the above cases?[31] — It is necessary, for had not the Divine Law stated it expressly[32] I would have said: ‘It is enough if the inferred law is as strict as that from which it is inferred’, and as there [a minimum of] an olive's bulk is essential, so here a minimum of an olive's bulk is essential.[33]

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(1) רוטב, translated in the Mishnah as meat juice.

(2) On the surface of the broth.

(3) The eating of a date's bulk on the Day of Atonement is the minimum quantity to render one liable. Here the juice of the vegetable is regarded as part of the foodstuff and is reckoned together with it to make up this quantity. If it were not regarded as part of the foodstuff but as a liquid it could not be reckoned together with it; cf. Yoma 73b.

(4) For a liquid and a foodstuff cannot be reckoned together to make up the minimum quantity so as to convey food uncleanness, for the standard with each is different.

(5) קיפה ‘sediment’; either of the meat itself, i.e., the particles of meat that fall away in the boiling and form a jelly, or of the spices; v. infra.

(6) Men. 21a, but not in a Mishnah.

(7) Lev. VII, 25: The soul that eateth it shall be cut off from his people; in connection with forbidden fat.

(8) The word נפש, ‘soul’, is also used to express desire, pleasure (cf. Gen. XXIII, 8 Deut. XXIII, 25), so that even when a person drinks fat his ‘soul’ enjoys it and he is therefore liable.

(9) Sc. bread.

(10) V. Pes. 35a.

(11) Deut. XVI, 3.
(12) It is not the usual way of eating bread. Cf. Rashi Pes. 35a bot.
(13) Ex. XII, 15: That soul shall be cut off from Israel.
(14) Sc. the carcass of a clean bird.
(15) And renders unclean the clothes that he is wearing whilst swallowing it.
(16) Naz. 50a.
(17) Lev. XVII, 15: And every soul ha eateth that which dieth of itself.
(18) That one who drinks forbidden food that was melted down is also liable.
(19) Forbidden fat in an animal has always been forbidden from the birth of the animal, whereas leavened bread is forbidden only during Passover, but before the festival, it was permitted.
(20) Sc. forbidden fat, but there is not the penalty of kareth for eating nebelah.
(21) Whereas the fat in certain cases is permitted, v. infra.
(22) I.e., is itself a source of uncleanness, whereas forbidden fat and leavened bread have no uncleanness in themselves.
(23) Sc. fat and leavened bread.
(24) Sc. fat and the carcass of a clean bird.
(25) Sc. leavened bread and the carcass of a clean bird.
(26) The forbidden fat of a sacrifice is permitted to, i.e., is offered upon, the altar.
(27) Ordinarily this method of killing the bird would render it nebelah, nevertheless it is acceptable as a sacrifice; hence the law of nebelah admits of an exception, like the fat.
(28) The priests may eat the flesh of this bird sacrifice, hence there is an exception to the law of nebelah even in respect of the eating thereof.
(29) It is only to the Most High that nebelah is permitted, even though priests may enjoy it as guests of the Divine table; there is no case, however, of nebelah being permitted to a common man as of law.
(30) Lev. XI, 31: These are the unclean unto you among all that creep. The definite article before ‘unclean’ is obviously superfluous, and it therefore serves to indicate that the extracts and juices from creeping things are included within the prohibition. V. supra 112b.
(31) For we have learnt above in respect of three cases (viz., the forbidden fat, leavened bread and the carcass of a clean bird) that a solution of the forbidden substance and also the extracts and juices therefrom are forbidden; and all cases could be inferred from these.
(32) With regard to creeping things.
(33) Whereas the law, is established that the eating of a lentil's bulk of a creeping thing renders one liable.

Talmud - Mas. Chullin 120b

The Divine Law then could have stated it[1] with regard to creeping things and the other cases[2] would have been inferred therefrom? Such inference could be refuted thus: It is so with the case of creeping things since they convey uncleanness no matter what their size.[3]

And as for [the Baraitha] which was taught: ‘The liquids that exuded from produce of tebel,[4] or from new produce,[5] or from consecrated produced or from seventh year produce,[6] or from the produce of diverse kinds,[7] are like [the produce] themselves’ — whence is this derived? Should you say it can be inferred from the other cases,[8] [but it will be refuted thus,] It is so with the others since each is an original prohibition.[9] Now this [inference] could stand in respect of those that are original prohibitions, but whence would we know it in respect of prohibitions which are not original?[10] — We could infer it from the law of the firstfruits.[11] And whence do we know it with regard to the firstfruits? — From the following teaching of R. Jose:[12] It is written: The fruit,[13] that is to say, you shall bring fruit but not liquids. And whence do we know that where a man brought grapes and trod them [into wine they are acceptable as firstfruits]? The verse therefore says: Thou shalt bring.[14] But the inference can be refuted thus: It is so with firstfruits since they require the recital [of a passage][15] and also setting down![16] — Rather it[17] must be inferred from terumah. And whence do we know it with regard to terumah itself? Because it has been likened to the firstfruits, for a Master has said: The offering if thine hand[18] refers to the firstfruits. But [it will be refuted thus]: It is so with regard to terumah since on account of it people incur the penalty of death[19] and the penalty of the [added] fifth![20] — Rather it must be inferred from the two, from terumah and the firstfruits. But [it will be refuted thus], It is so with regard to terumah and the firstfruits since on account of them people incur the penalty of death and the penalty of the [added] fifth! — Rather it must be inferred either from terumah and one of the other cases[21] or from the firstfruits and one of the other cases.[21]

And as for [the Mishnah] which we learnt: '[If a non-priest drank in error] date-honey, cider, vinegar from wintergrapes, or any other juices,[22] of terumah, R. Eliezer declares him liable to the payment, of the value and the [added] fifth, but R. Joshua declares him exempt [from the added fifth]'[23] — on what principle do they differ?[24] — They differ as to [whether we say], 'Deduce from it and [entirely] from it', or, 'Deduce from it and establish it ln its own place'.[25] R. Eliezer holds, 'Deduce from it and [entirely] from it': thus, 'deduce from it' — just as in the case of firstfruits the liquids which exude from them are like [the fruits] themselves, so in the case of terumah, too, the liquids which exude from it are like [the fruit] itself; 'and [entirely] from it' — just as this law of firstfruits applies even to the other kinds,[26] so with regard to terumah, too, this law applies even to ,the other kinds.[27] R. Joshua holds, 'Deduce from it and establish it in its own place': thus 'deduce from it' — just as in the case of firstfruits the liquids which exude from them are like [the fruits] themselves, so in the case of terumah, too, the liquids which exude from it are like [the fruit] itself; 'and establish it in its own place' — just as the liquids that can be consecrated as terumah are only wine and oil but no other liquids, so, too, the rule that the liquids which exude from it are like [the fruit] itself, applies only to wine and oil, but to no other liquids.[28]

And as for [the Mishnah] which we learnt: 'No liquid may be brought as firstfruits excepting the product of olives and grapes'[29] — who is the author thereof? — It is R. Joshua who holds the principle, 'Deduce from it and establish it in its place', and then he infers the law as to firstfruits from terumah.[30]

And as for [the Mishnah] which we learnt: 'One would not suffer the penalty of forty stripes incurred through the transgression of the law of 'orlah[31] [for the liquid which issued from any orlah fruits] save for that which issued from olives and grapes'[29] — who is the author thereof'? — It is R. Joshua who holds the principle, 'Deduce from it and establish it in its own place', he then infers the law as to firstfruits from terumah,

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(1) That the extracts and juices from forbidden substances or the liquids made from them are included within the prohibition.

(2) Sc. the carcass of a clean bird, the forbidden fat, and leavened bread. V. Tosaf. s.v. לכתוב, and also Glos. of Isaiah Berlin in the margin of the text quoting the Adreth Hiddushim.

(3) I.e., even the size of a lentil's bulk; but v. Tosaf. 120a s.v. שכן.

(4) טבל 'mixed'; produce from which the priestly and levitical dues have not been separated.

(5) The harvest of the new season which may not be eaten before the offering of the 'omer; v. Lev. XXIII, 10-14.

(6) Cf. Ex. XXIII, 21; Lev. XXV, 2-7.

(7) Cf. Lev. XIX, 19; Deut. XXII, 9.

(8) Sc. the fat, leavened bread and the carcass of a clean bird.

(9) Lit., 'the prohibition comes from itself'; as opposed to a prohibition which is brought about by man. All the cases mentioned in this passage are original except that of consecrated produce.

(10) Sc. consecrated produce.

(11) Cf. Deut. XXVI, 1ff. Firstfruits are, like consecrated produce, rendered holy by the word of man.

(12) 'Arak. 11a.

(13) Deut. XXVI, 2.

(14) We thus see that the liquid is like the fruit.

(15) Ibid. 5ff.

(16) I.e., setting down the basket of fruit before the Lord; ibid. 10.

(17) Sc. that the liquid and juice of any substance is like the substance itself in the case of consecrated produce.

(18) Ibid. XII, 17. Heb. ותרומת ידך. By ידך, ‘thy hand’ is meant: Firstfruits, in reference to which ‘hand’ is mentioned (cf. Deut. XXVI, 4); hence terumah is equated with Firstfruits. V. Mak. 17a.

(19) When a non-priest deliberately consumes terumah he incurs the penalty of death at the hands of Heaven; cf. Lev. XXII, 9, 10.

(20) When a non-priest consumes terumah in error and makes restitution, cf. ibid. 14.

(21) I.e., either the case of leavened bread, or of the carcass of a clean bird (Rashi, but v. Tosaf. s.v. אלא). The inference is drawn by reducing these cases to their common features, that is, each is a forbidden substance and the liquid made from it is forbidden like the substance itself.

(22) Excepting wine and oil.

(23) Ter. XI, 2. Ber. 38a.

(24) Since it is established by analogy with firstfruits that the liquid exuding from terumah is like terumah itself.

(25) Whenever one subject is inferred from another by means of analogy, or by ‘the common features’, the question always arises as to extent to which the inference must be carried. We may say that the inference is ‘from it and again from it’, i.e., the subjects must be alike in every respect and on every point, or we may say that the inference is ‘from it and then put in its place’. i.e., the inference is made with regard to one point only, and as for the rest each subject is regulated by the rules which govern its other aspects.

(26) I.e., to the seven kinds of products for which the Land of Israel was famed: wheat, barley, grapes, figs, pomegranates, olive-oil and date-honey. V, Deut. VIII, 8.

(27) Hence the liquids made from apples and dates are subject to the law of terumah.

(28) For wine and oil are the only liquids expressly mentioned in the Torah with regard to terumah; cf. Num. XVIII, 12; Deut. XVIII, 4. So, juice which exuded from grapes and olives of terumah is as the terumah itself.

(29) Ter. XI, 3.

(30) The rule stated in this Mishnah is arrived at by the following stages in the argument: (a) it is inferred from firstfruits that the liquid derived from terumah fruits is consecrated like the fruit itself; (b) this deduction must be governed by the conditions of terumah, i.e., this rule applies only to those liquids which are expressly mentioned in the Torah as terumah, sc., wine and oil; and finally (c) it is inferred from terumah that only the liquids from olives and grapes are acceptable as firstfruits.

(31) V. Glos.

Talmud - Mas. Chullin 121a

and finally he derives the law as to ‘orlah by means of the word ‘fruit’ stated here and also in connection with the firstfruits.[1] AND ALAL.[2] What is ALAL? R. Johanan said: It is withered flesh.[3] Resh Lakish said: It is flesh which the knife has cut away.[4] An objection was ‘raised. It is written: But ye are plasterers of lies, ye are all physicians of elil.[5] Now according to him who says it is withered flesh it is well, for such cannot be healed; but according to him who says it is flesh which the knife has cut away, surely this can be healed![6] — There is no dispute at all about the elil mentioned in the verse;[7] they only disagree as to the meaning of alal in our Mishnah.

Come and hear: [from our Mishnah]: R. JUDAH SAYS, IF SO MUCH OF ALAL WAS COLLECTED TOGETHER SO THAT THERE WAS AN OLIVE'S BULK IN ONE PLACE, ONE WOULD THEREBY BECOME LIABLE. And to this R. Huna added, provided he collected it together.[8] Now according to him who says it is the flesh which the knife has cut away, it is clear that when there was an olive's bulk of it [in one place] one would thereby become liable; but according to him who says it is withered flesh, what if there was an olive's bulk of it, it is surely only regarded as wood?They certainly do not disagree as to the alal referred to by R. Judah;[9] they only disagree as to the meaning of the alal according to the Rabbis. R. Johanan maintains that even withered flesh can be included together [with ordinary flesh to make up the minimum quantity to convey uncleanness], but Resh Lakish maintains that only the flesh which the knife has cut away can be included but withered flesh cannot be included.

What is the case with regard to the flesh which the knife had cut away? If he intended it [as a foodstuff],[10] it should contract uncleanness alone;[11] and if he did not intend it [as a foodstuff], he has then surely abandoned it! — R. Abin and R. Meyasha [each offered a suggestion]; one suggested the case where he intended part of it [as a foodstuff],[12] the other suggested the case where part was rent by a wild beast and part cut away by the knife.[13]

We have learnt elsewhere:[14] The beak and the claws contract uncleanness and convey uncleanness and can be reckoned together [with the flesh].[15] But is not the beak like wood? — It refers to the lower beak. And is not the lower beak also like wood? — R. Papa said: It means the lower part [inside membrane] of the upper beak. As to ‘claws’, — R. Eleazar said: It refers to that part [of the claws only] which is buried in the flesh. HORNS. R. Papa said: It refers to that part [of the horns] from which the blood flows when cut into.

SIMILARLY, IF A MAN SLAUGHTERED AN UNCLEAN ANIMAL.[16] R. Assi stated: Some teach that in the case of an Israelite [slaughtering] an unclean animal and also in the case of a gentile [slaughtering] a clean animal, there must be[17] an express intention [to regard it as a foodstuff],[18] and the animal must be[17] rendered susceptible [to uncleanness by a liquid] from another source.[19] Wherefore is it necessary that it be rendered susceptible to uncleanness? Ultimately it will convey the graver uncleanness,[20] will it not? And whatever will ultimately convey the graver uncleanness does not require to be rendered susceptible to uncleanness! For the school of R. Ishmael taught: But if water be put upon seed[21] — just as seeds, which will never ultimately convey the graver uncleanness, require to be rendered susceptible to uncleanness by a liquid,[22] in like manner, whatever will not ultimately convey the graver uncleanness requires to be rendered susceptible to uncleanness by a liquid. And it has also been taught: R. Jose says: Why did [the Rabbis] rule[23] that in the case of the carcass of a clean bird there must be an intention [to use it as food],[24] but it does not need to be rendered susceptible to uncleanness by a liquid? Because

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(1) Just as the term ‘fruit’ stated in connection with the firstfruits (Deut. XXVI, 2) includes the products of olives and grapes but no other liquids (v. supra n. 4) so the term ‘fruit’ stated (Lev. XIX, 23) in connection with ‘orlah includes the products of olives and grapes but no other liquids.

(2) Heb. אלל.

(3) So R. Hananel and Tosaf. According to Rashi, it is the hard veins in the throat.

(4) When the animal is flayed some flesh is inevitably cut away and remains attached to the hide.

(5) Job XIII, 4. Heb. אלל, usually translated ‘of no value’. The word is of the same root as that of our Mishnah.

(6) If the flesh cut away is replaced and bound up well it would heal up.

(7) Scriptural elil certainly means ‘withered flesh’ (or, ‘the hard veins’).

(8) And by collecting it together of set purpose he has revealed his intention that he never ceased to regard it as foodstuff. If, however, it was collected by a child, or if he himself inadvertently collected it together, R. Judah would agree that the olive's bulk of it cannot be accounted as nebelah.

(9) R. Judah when dealing with alal certainly speaks of the ‘pieces of flesh cut away by the knife in flaying.

(10) Even though it was already adhering to the skin.

(11) Without being included together with other flesh; for whatsoever can be eaten and is intended to he used as a foodstuff will contract and convey food uncleanness.

(12) But he did not expressly state which part he intended as a foodstuff. Therefore, by itself it cannot contract uncleanness, for in an egg's bulk thereof only part of it is a foodstuff, but that part which was intended as a foodstuff can be reckoned together with other foodstuff to make up the quantity of an egg's bulk.

(13) A wild beast attacked the animal whilst alive and tore away a portion of flesh which was left hanging, and later when the animal was being flayed this portion of flesh and some more was cut away by the knife and remained attached to the skin. Now it is to be assumed that the portion torn by the wild beast is usually not regarded as abandoned but that cut away by the knife is; consequently this portion of flesh adhering to the skin is abandoned in part only, and therefore the other part can be reckoned together with other flesh.

(14) Toh. I, 2.

(15) The carcass of a clean bird (except that it renders the clothes of the person that eats of it unclean) is not in itself a source of uncleanness, but is regarded only as a foodstuff, to contract uncleanness from unclean matter and to transfer it to other foodstuffs. This Mishnah (Toh. I, 2) enumerates the various parts of a fowl which by themselves are not regarded as foodstuffs but can serve as handles to convey uncleanness to the fowl or from it.
(16) V. supra p. 648, n. 5.
(17) In order that the animal should convey food uncleanness, if it comes into contact with unclean matter, from the moment after the slaughtering, while it still moves about convulsively, until the moment it is dead. Without this express intention it would not be regarded as a foodstuff until it was actually dead.
(18) I.e., his intention at the time of slaughtering the unclean animal was that a gentile should eat of it immediately.
(19) But the blood from the slaughtering of this animal will not serve to render the animal susceptible to uncleanness as is the case generally with slaughtering (v. supra 35b), for the blood is regarded as the blood of a dead animal which is not designated in the Bible as a liquid. The word ‘water’ in cur. edd. is omitted in MSS. and is deleted by Shittah Mekuhbezeth.
(20) When the animal is actually dead it will then render men and vessels that come into contact with it, even with only an olive's bulk of it, unclean, and it also renders these unclean by carrying.
(21) Lev. XI, 38.
(22) Foodstuff, liquids, and earthenware vessels can in no circumstances be a primary source of uncleanness, for these are implicitly excluded from Num. XIX. 22, since these, once unclean, have no remedy whereby they can become clean again.
(23) V. Toh. I, 1.
(24) For the carcass of a clean bird is generally not counted as a foodstuff in small towns and villages; in large towns, however, intention to use lt as a foodstuff is not necessary since it is there generally regarded as a foodstuff, cf. ‘Uk. III, 3.

Talmud - Mas. Chullin 121b

it will ultimately convey the graver uncleanness![1] — Hezekiah answered, [The case In our Mishnah is different] since he could cut it up into pieces each smaller than an olive's bulk.[2] Said R. Jeremiah to R. Zera, But could Hezekiah really have said so?[3] Behold it has been reported: If a man cut ritually, both, or the greater part of both [organs of the throat of an unclean animal], and the animal was still struggling: Hezekiah said: It is no more subject to the prohibition of limbs [from the living animal];[4] but R. Johanan said: It is still subject to the prohibition of limbs [from the living animal]. ‘Hezekiah said: It is no more subject to the prohibition of limbs’, because it is now considered as dead. ‘R. Johanan said: It is still subject to the prohibition of limbs’, because it is not actually dead![5] — He replied: It is really out of the category of living animals but has not yet come within the category of dead animals.[6]

The text above stated: ‘If a man cut ritually both or the greater part of both [organs of the throat of an unclean animal], and the animal was still struggling: Hezekiah said: It is no more subject to the prohibition of limbs [from the living animal]; but R. Johanan said: It is still subject to the prohibition of limbs’. R. Eleazar said: Hold fast to this view of R. Johanan for R. Oshaia has taught in agreement with him. For R. Oshaia taught: If an Israelite slaughtered an unclean animal for a gentile, as soon as he has cut both or the greater part of both organs of the throat, even though it still struggles, it conveys food uncleanness,[7] but not the uncleanness of nebelah. A limb severed from it is regarded as severed from the living animal,[8] and flesh severed from it is regarded as severed from the living animal, and it[9] may not be eaten by a gentile even after the life of the animal has departed.[10] If he only cut one or the greater part of one organ, it does not convey food uncleanness.[11] If he stabbed it,[12] it has no uncleanness whatsoever.[11] If a gentile slaughtered a clean animal for an Israelite, as soon as he has cut both or the greater part of both organs, even though it still struggles, it conveys food uncleanness,[13] but not the uncleanness of nebelah. A limb severed from it is regarded as severed from the living animal, and flesh severed from it is regarded as severed from the living animal, and it may not be eaten by a gentile even after the life of the animal has departed. If he only cut one or the greater part of one organ, it does not convey food uncleanness.[11] If he stabbed it, it has no uncleanness whatsoever.[11] If the gentile cut only so much as does not render the animal trefah,[14] and an Israelite came and finished it, the slaughtering is valid. If an Israelite slaughtered, whether he had cut so much as would render the animal trefah or not, and a gentile came and finished it, the slaughtering is invalid. If a person desires to eat the flesh of an animal before the life has departed from it, he should cut off an olive's bulk of flesh from around the throat, salt it well, rinse it well, wait until the life departs [from the animal], and then eat it. Both Israelite and gentile may eat it in this manner. This [Baraitha][15] lends support to the view of R. Idi b. Abin. For R. Idi b. Abin said in the name of R. Isaac b. Ashian: If a person desires to be in good health he should cut off an olive's bulk of flesh from around the throat, salt it well, rinse it well, wait until the life departs [from the animal], and then eat it. Both Israelite and gentile may eat it in this manner.[16]

R. Eleazar raised the question: What is the law if he paused or pressed down [the knife whilst cutting the organs]?[17] — Thereupon a certain old man answered: Thus said R. Johanan, It requires the same ritual acts of slaughtering as in the case of a clean animal. To what extent are the ritual acts essential? — R. Samuel b. Isaac said: Even to the examination of the knife.

R. Zera enquired of R. Shesheth: Can the animal protect the articles that are swallowed within it [from becoming unclean or not]?[18] — He replied: It already conveys food uncleanness,[19] is it then possible that it should afford protection! The other retorted: It does not yet convey the uncleanness of nebelah,[20] why then should it not afford protection? — Abaye said: It does not protect the articles that are within it from becoming unclean since it already conveys food uncleanness, and he who commits an unnatural crime upon it is culpable[21] since it does not yet convey the uncleanness of nebelah.

R. JUDAH SAYS, IF SO MUCH OF ALAL WAS COLLECTED etc. R. Huna said: Provided he collected it together [of set purpose].[22]

R. Huna also said: If there were two pieces of flesh on the hide, each a half-olive's bulk, the hide renders them negligible.[23]

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(1) For, when dead, it renders unclean the person that eats it and his clothes; therefore it does not require to be rendered susceptible to uncleanness by contact with a liquid.

(2) It must be remembered that our Mishnah deals with an animal not quite dead but still struggling, at which stage it certainly cannot convey the uncleanness of nebelah; moreover it is by no means certain that ultimately it will convey the graver uncleanness, i.e., the uncleanness of nebelah, for it is possible that the animal will be cut up into bits, each piece smaller than an olive's bulk.

(3) That while the animal still struggles it is not deemed nebelah and does not convey uncleanness as such.

(4) A gentile bound by the Seven Commandments of the Sons of Noah (cf. Sanh. 56a), is forbidden to eat a limb torn from a living animal. According to Hezekiah the animal is regarded as dead, and therefore is not subject to the aforementioned prohibition, not so according to R. Johanan.

(5) We thus see that according to Hezekiah even while the animal is still struggling it is presumably regarded as dead since the prohibition of limbs no longer applies.

(6) So that Hezekiah holds that it is not subject to the prohibition of ‘limbs’ since it can no longer be considered as living, neither can it be considered as dead to’ convey the graver uncleanness.

(7) If it came into contact with unclean matter it will convey uncleanness to other foodstuffs, for it is regarded as a foodstuff immediately on the cutting of the organs; the reason being that the ritual slaughtering performed by the Israelite expressly on behalf of the gentile renders the animal a foodstuff forthwith, just as the slaughtering by an Israelite of a clean animal certainly renders it a foodstuff forthwith.

(8) And defiles forthwith like nebelah.

(9) Sc. the limb or the flesh that was severed.

(10) Since it was severed from the ‘living’ animal, hence in agreement with R. Johanan that while struggling, the animal is still considered living.

(11) As long as it still struggles. For the animal at this moment is permitted neither to Israelite nor to gentile.

(12) At the throat.

(13) Just as when an Israelite slaughters an animal, as soon as the organs are cut through it is rendered a foodstuff forthwith, so it is when a gentile slaughters it expressly on behalf of an Israelite.

(14) E.g., the gentile only cut half through the windpipe, so that if the gentile were to stop at this stage the animal would not be trefah. Cf. supra 59b.

(15) Which states that even the gentile may eat of it.

(16) v. supra p. 177.

(17) In the aforementioned cases, where an Israelite slaughtered an unclean animal for a gentile, or a gentile slaughtered a clean animal for an Israelite, the question is raised as to whether the slaughtering must be entirely in accordance with ritual, free from such invalidating acts as pausing or pressing (cf. supra 9a), for otherwise it is like stabbing, or not.

(18) I.e., where an Israelite slaughtered an unclean animal for a gentile, or a gentile a clean animal for an Israelite, and the animal whilst alive had swallowed certain articles, and after it was slaughtered, while still struggling, was brought under the same roof or ‘tent’ as a corpse. V. supra 71b where it is stated that a living person or animal can protect from the uncleanness of the ‘tent’ the articles that are swallowed within them. The question is: Is the animal whilst still struggling regarded as living or not?

(19) Apparently because it is considered as dead.

(20) It is then not considered as dead.

(21) He suffers the death penalty if he committed the crime deliberately, or if inadvertently, is obliged to bring a sin-offering. According to Rashi, Abaye always considers the animal in that status which produces the more stringent result; but v. Tosaf., s.v. אביי.

(22) V. supra p. 672, n. 7.

(23) They cannot be reckoned together as one whole olive's bulk of nebelah so as to convey uncleanness by carrying.

Talmud - Mas. Chullin 122a

According to whose authority is this ruling? If according to R. Ishmael's[1] — but he maintains that the hide does not render them[2] negligible; and if according to R. Akiba's[1] — but it is obvious, for he maintains that the hide renders them[2] negligible! — In fact it is in accordance with R. Ishmael's view, for R. Ishmael only maintains that the hide does not render them negligible in the case where the pieces were torn away by a wild beast,[3] but where they were cut away by the knife [he concedes that] the hide renders them negligible.

Come and hear [from our Mishnah]. R. JUDAH SAYS, IF SO MUCH OF ALAL WAS COLLECTED TOGETHER SO THAT THERE WAS AN OLIVE'S BULK IN ONE PLACE, ONE WOULD THEREBY BECOME LIABLE. And to this R. Huna added, provided he collected it together.[4] Now if you say that even where the knife cut it[5] away it is not rendered negligible according to R. Ishmael, it is well, for then R. Huna is in agreement with R. Ishmael.[6] But if you say that where the knife cut it away R. Ishmael concedes that it is rendered negligible, then [it will be asked], With whom does R. Huna agree?[7] — You must therefore say that even where the knife cut it away it is not rendered negligible according to R. Ishmael; and R. Huna[8] is in agreement with R. Akiba. But this would be obvious? — No, for you might have thought that R. Akiba maintains his view only where the knife cut it away, but where it was torn away by a wild beast he would concede that it is not rendered negligible; he therefore teaches us that the reason for R. Akiba's view is because the hide renders it negligible, making thus no difference whether it was torn away by a wild beast or cut away by the knife, for so it reads in the last clause: ‘Wherefore does R. Akiba declare him clean in the case of the hide? Because the hide renders them negligible’.[9]

MISHNAH. IN THE FOLLOWING CASES THE SKIN IS CONSIDERED FLESH:[10] THE SKIN OF A MAN, THE SKIN OF THE DOMESTIC PIG (R. JUDAH[11] SAYS, EVEN THE SKIN OF THE WILD PIG), THE SKIN OF THE HUMP OF A YOUNG[12] CAMEL, THE SKIN OF THE HEAD OF A YOUNG[12] CALF, THE SKIN AROUND THE HOOFS, THE SKIN OF THE PUDENDA,[13] THE SKIN OF A FOETUS, THE SKIN BENEATH THE FAT TAIL, THE SKIN OF THE HEDGEHOG,[14] THE CHAMELEON, THE LIZARD AND THE SNAIL. R. JUDAH SAYS, THE LIZARD IS LIKE THE WEASEL.[15] IF ANY OF THESE SKINS WAS TANNED OR TRAMPLED UPON AS MUCH AS [WAS USUAL] FOR TANNING, IT BECOMES CLEAN, EXCEPTING THE SKIN OF A MAN. R. JOHANAN B. NURI SAYS, THE EIGHT REPTILES HAVE [REAL] SKINS.[16]

GEMARA. Ulla said: According to the law of the Torah the skin of a man[17] is clean, but for what reason did they say it was unclean? As a precautionary measure lest a man make rugs out of the skin of his father and mother.

Others refer this [dictum of Ulla's] to the later clause of our Mishnah, viz., IF ANY OF THESE [SKINS] WAS TANNED OR TRAMPLED UPON AS MUCH AS [WAS USUAL] FOR TANNING, IT BECOMES CLEAN, EXCEPTING THE SKIN OF A MAN. Ulla said: According to the law of the Torah, if the skin of a man was tanned, it thereby becomes clean, but for what reason did they say it remained unclean? As a precautionary measure lest a man make rugs out of the skin of his father and mother. Now those who refer this [dictum of Ulla's] to the first clause will certainly refer it to the later cause,[18] but those who refer it to the later clause [maintain that] in the first the uncleanness is by the law of the Torah.

THE SKIN OF THE DOMESTIC PIG etc. What is the issue between them? One[19] is of the opinion that this[20] is hard and only the other[21] soft, whereas the other[22] maintains that this,[20] too, is soft.

THE SKIN OF THE HUMP OF A YOUNG CAMEL. How long is the camel considered young? — Ulla said in the name of R. Joshua b. Levi: As long as it has not borne a burden. R. Jeremiah enquired: What is the law [with regard to its skin] if it had reached the age for bearing burdens but had not actually borne any? Abaye enquired: What if it had actually borne burdens although it had not reached the age for it? — These questions must stand.

Resh Lakish was once sitting and raised the question: How long is the camel considered young? — R. Ishmael b. Abba answered: So said R. Joshua b. Levi: As long as it has not borne a burden. Whereupon he [Resh Lakish] said: Sit down opposite me.[23]

R. Zera was once sitting and raised the question: How long is the camel considered young? — Rabin b. Hinena answered him: So said Ulla in the name of R. Joshua b. Levi: As long as it has not borne a burden. He [Rabin] then repeated it over again,[24] whereupon the other [R. Zera] said to him, ‘It is the only thing you knew, and you have already told us it!’ Come and see the difference between the imperious men of the Land of Israel and the pious men of Babylon![25]

THE SKIN OF THE HEAD [OF A YOUNG CALF]. How long is the calf considered young? — Ulla said: Throughout its first year. R. Johanan said: As long as it sucks. The question was raised: Did Ulla mean ‘Throughout its first year’ provided it still sucked,[26]

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(1) V. infra 124a.

(2) Sc. pieces of flesh adhering to the hide each less than an olive's bulk.

(3) In this case the pieces of flesh became attached to the hide accidentally, without the knowledge or will of the owner, and therefore R. Ishmael holds that these pieces are not rendered negligible. Where, however, the pieces were cut away and intentionally left hanging on to the skin by the man who flayed the animal, even R. Ishmael agrees that they are negligible in themselves and are considered as part of the hide.

(4) This provision implies that the knife had cut away shreds of flesh in a number of places and left them attached to the hide. The fact that one is liable if the pieces were collected together clearly indicates that the hide did not render these shreds negligible, for had they once been rendered negligible the person who touched them would not become unclean and so not be liable for any further consequences.

(5) Sc. shreds of flesh attached to the hide.

(6) I.e., R. Judah of our Mishnah, as interpreted by R. Huna, is in agreement with R. Ishmael, and the Rabbis who differ with R. Judah are in agreement with R. Akiba.

(7) I.e., R. Judah's view as interpreted by R. Huna.

(8) I.e., the second dictum of R. Huna (‘If there were two pieces of flesh’ etc.) accords with R. Akiba; the first dictum of R. Huna which interprets the view of R Judah in our Mishnah (‘Provided he collected it together’) accords with R. Ishmael.

(9) V. infra 124a.

(10) The skins enumerated are thin and tender, and therefore with regard to the laws of uncleanness are regarded as flesh.

(11) In MS.M. and in the editions of the Mishnah: ‘R. Jose’.

(12) V. Gemara, for the definition of ‘YOUNG’.

(13) I.e., the skin of the womb in a female animal.

(14) Cf. Lev. XI, 29, 30, where are enumerated the eight unclean reptiles. In the case of these four mentioned, their skin is soft and is counted as the flesh. The identification of the reptiles mentioned is very uncertain; v. Lewysohn, Zoologie des Talmuds.

(15) Whose skin is hard and therefore not unclean.

(16) Lev. ibid. The skins of these eight reptiles are quite separate from the flesh and cannot convey uncleanness.

(17) Taken from a corpse. Human skin might have been preserved for sentimental reasons, or perhaps on grounds of utility.

(18) For since the skin was tanned and its character thus altered, there would be no other reason why it should remain unclean, except this precautionary measure stated by Ulla.

(19) The first Tanna.
(20) The skin of a wild pig.
(21) The skin of the domestic pig.
(22) R. Judah.
(23) As a token of his gratitude and as a mark of respect.
(24) He thought that R. Zera had not heard it the first time.
(25) Resh Lakish who was of the powerful and imperious men of Palestine (cf. Yoma 9b) treated his informant with courtesy and respect, whereas R. Zera, a Babylonian who was renowned for his piety (cf B.M. 85a) treated his informant with disrespect and insult.
(26) So that if it had passed its first year or if it had ceased to suck within its first year it was no more young.

Talmud - Mas. Chullin 122b

whereupon R. Johanan said to him, ‘As long as it sucks’;[1] or Ulla meant ‘Throughout its first year’, whether it still was sucking or not, whereupon R. Johanan said to him, ‘Throughout its first year and provided it was still sucking?’ — Come and hear: ‘R. Johanan said: As long as it sucks’ — Now if it were the case [that R. Johanan required both][2] he should have said, provided it still sucks. This proves it.

Resh Lakish enquired of R. Johanan: ‘Can the skin of the head of a young calf convey uncleanness or not?’ — He replied: ‘It cannot’ — ‘But’, said the other, ‘you, our teacher have taught us, "IN THE FOLLOWING CASES THE SKIN IS CONSIDERED AS FLESH: . . . THE SKIN OF THE HEAD OF A YOUNG CALF"’. — He replied: ‘Do not weary me [with your arguments], for I taught that [Mishnah] as the opinion of an individual.[3] For it was taught:[4] If a man slaughtered a burnt-offering purposing to burn an olive's bulk of its skin from under the fat tail at the improper place,[5] the sacrifice is invalid, and he is not liable to the punishment of kareth,’[6] but [if he purposed to burn it] at the improper time, it would be piggul,[6] and he would be liable to the punishment of kareth. Eleazar b. Judah of Ablum[7] stated in the name of R. Jacob, similarly R. Simeon b. Judah of Kefar ‘Ikum[8] stated in the name of R. Simeon, [If a man while slaughtering a burnt-offering intended to burn] either the skin around the hoofs, or the skin of the head of a young calf, or the skin from under the fat tail, or any of the skins[9] enumerated by the Sages in connection with the law of uncleanness VIZ., IN THE FOLLOWING CASES THE SKIN IS ACCOUNTED AS FLESH, meaning to include the skin of the pudenda[10] — at the improper place the sacrifice is invalid, and he is not liable to the punishment of kareth; but at the improper time, it would be piggul, and he would be liable to the punishment of kareth’.

THE SKIN AROUND THE HOOFS. What is the meaning of AROUND THE HOOFS? — Rab said: It means actually around the hoofs. R. Hanina said: It means the [skin upon the nethermost] limb[11] which is usually sold with the head.

THE SKIN OF THE HEDGEHOG. Our Rabbis taught: ‘The unclean[12] includes their skins, which are to be regarded as their flesh. I might then say that this is so with regard to then, all,[13] the verse therefore states These.[12] But does not the expression ‘These’ refer to all [reptiles mentioned]?[14] — Rab said: The phrase After its kinds[15] interrupts the subject matter. And why is not the mole also reckoned?[16] — R. Samuel b. Isaac said: Rab is himself a Tanna and he [in his Mishnah] includes the mole. But why does not our Tanna [of our present Mishnah] include the mole? — R. Shesheth the son of R. Idi said: Our Tanna agrees with R. Judah that it depends upon the feel [of the skin],[17] but he differs with him[18] about the feel of the [skin of the] lizard.[19]

IF ANY OF THESE SKINS WAS TANNED etc. Only if trampled upon does it [become clean], but if not trampled upon it does not [become clean]; but R. Hiyya has taught [to the contrary], viz., If a man patched up his basket with the ear of an ass it becomes clean![20] — If he patched up something with it, then it becomes clean even though it had not been trampled upon; but if he had not patched up anything with it, then if trampled upon it does [become clean], but if not trampled upon it does not [become clean]. How much [trampling] would be sufficient for tanning? — R. Huna said in the name of R. Jannai, [The equivalent of a] four mils [distance].

R. Abbahu said in the name of Resh Lakish: For kneading,[21] for prayer,[22] and for washing the hands,[23] the standard is four mils. R. Nahman b. Isaac said:

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(1) Even though it had passed its first year.

(2) That it must be in its first year and also continue to suck.

(3) It accords with the individual opinion of Eleazar b. Judah infra. V. supra 55b.

(4) Zeb. 28a.

(5) An intention, expressed during the slaughtering of a sacrifice, of performing a subsequent service improperly, can only invalidate the sacrifice if the proposed service relates to matters which are usually so served and performed. E.g., an intention, expressed during the slaughtering of the sacrifice, of eating at the improper time or place, such parts which are not usually eaten, as the hide, does not invalidate the sacrifice. It is evident, therefore, that the skin from under the fat tail is regarded as edible inasmuch as the sacrifice is rendered invalid by the wrongful intention with regard to it.

(6) V. Glos.

(7) V. supra p. 305, n. 1.

(8) V. supra ibid., n. 2.

(9) This Tanna — Eleazar b. Judah — is of the opinion that all the skins mentioned in our Mishnah are edible and therefore regarded as flesh, whereas the first Tanna (with whom R. Johanan is in agreement) considers only the skin under the fat tail as edible.

(10) I.e., the skin of the womb of the female animal. This had to be specially included for the Tanna was dealing with the case of a burnt-offering which is a male and not a female animal.

(11) I.e., the metatarsus, which is usually sold with the head as offal.

(12) Lev. XI, 31. The three verses relevant to this argument read: (v. 29) . . . the weasel, and the mouse, and the toad after its kinds, (v. 30) and the hedgehog, and the chameleon, and the lizard, and the snail, and the mole. (v. 31) These are the unclean amongst all the creeping things.

(13) I.e., that the skins of those mentioned in v. 29 should also be reckoned as the flesh.

(14) Both in vv. 29 and 30.

(15) Ibid. 29. The term These (in v. 31) refers only to those reptiles mentioned in the preceding verse 30.

(16) Which is also mentioned in v. 30.

(17) The Tanna of our Mishnah and R. Judah (also mentioned in our Mishnah) do not form their views by the interpretation of the aforementioned verses but from practical observation. It depends entirely upon the feel of the skin. If the skin of the reptile feels soft and fleshy it is regarded as flesh, but if hard and scaly it is not regarded as flesh.

(18) I.e., with R. Judah.

(19) The skin of the lizard according to R. Judah feels hard but according to the first Tanna it has the feel of flesh.

(20) The ass's ear becomes clean as soon as it serves as skin even though it has not been treated in any way for tanning and not even trampled upon.

(21) A person who undertakes, for reward, to knead the dough of an owner in conditions of levitical cleanness, and the owner's vessels are unclean, must go even a distance of four miles, if that is the nearest mikweh, in order to immerse the vessels, but no further. For other explanations v. Tosaf. s.v. לגבל.

(22) A person who is on the way and wishes to rest for the night, and knows of a Synagogue not more than four mils away, must continue his journey till he reaches that Synagogue in order to pray there.

(23) Before meals. If a person knows that he can obtain water a distance of four mils away, he must wait until he reaches it before making a meal.

Talmud - Mas. Chullin 123a

It was Aibu who reported this[1] and he mentioned four things, one of which was the trampling for tanning. R. Jose b. R. Hanina said: This ‘teaching applies only to the distance ahead of him,[2] but [as for going] back he need not turn back even one mil. R. Aha b. Jacob said: From this [can be inferred that] a distance of one mil he need not turn back, but a distance of less than a mil he must turn back.

Our Rabbis taught: If a [Roman] legion which passes from place to place enters a house, the house is unclean, for there is not a legion that does not carry with it several scalps.[3] And be not surprised at this; for R. Ishmael's scalp was placed upon the head of kings.[4]

MISHNAH. IF A MAN WAS FLAYING CATTLE OR WILD ANIMALS, CLEAN OR UNCLEAN,[5] SMALL OR LARGE, IN ORDER TO USE THE HIDE FOR A COVERING,[6] [THE HIDE] IS REGARDED AS A CONNECTIVE [WITH THE FLESH] IN RESPECT OF UNCLEANNESS, FOR THE FLESH TO CONTRACT UNCLEANNESS OR CONVEY UNCLEANNESS, UNTIL SO MUCH [OF THE] HIDE HAS BEEN FLAYED AS CAN BE TAKEN HOLD OF;[7] OR IF [IT WAS BEING FLAYED] FOR A WATER-SKIN,[8] UNTIL THE BREAST HAS BEEN FLAYED;[9] OR IF IT WAS BEING FLAYED FROM THE FEET UPWARDS,[10] UNTIL THE WHOLE HIDE[11] [HAS BEEN FLAYED]. AS FOR THE SKIN THAT IS ON THE NECK, R. JOHANAN B. NURI DOES NOT REGARD IT AS A CONNECTIVE,[12] BUT THE SAGES DO REGARD IT AS A CONNECTIVE UNTIL THE WHOLE HIDE HAS BEEN FLAYED.

GEMARA. What is the law when more than this[13] [has been flayed]? — Rab said: That which has already been flayed is clean;[14] R. Assi said: The handbreadth nearest to the flesh is unclean.[15]

An objection was raised: If a man had flayed this extent,[16] henceforth whosoever touches that which has already been flayed is clean.[17] Presumably [this is so] even [if he touches] the handbreadth nearest to the flesh?[18] — No, except for the handbreadth nearest to the flesh.

Come and hear: [Whosoever touches] the skin opposite the flesh is unclean. [That is, presumably whosoever touches] the skin opposite the flesh only is unclean, but [whosoever touches the skin in] the handbreadth nearest to the flesh is clean! — This Tanna expresses the handbreadth nearest to the flesh by the term ‘the skin opposite the flesh’.

Come and hear: If a man flayed cattle or wild animals, clean or unclean, small or large, in order to use the hide for a covering, [and he flayed] so much [of the hide] as can be taken hold of, [it does not serve as a connective], and the handbreadth nearest to the flesh is clean! — That refers to the first handbreadth.[19] It was taught: How much is meant by ‘so much as can be taken hold of’? — A handbreadth. But it was taught: Two handbreadths! — Abaye explained (The former Baraitha meant) a double handbreadth. And so it has been expressly taught: How much is ‘so much as can be taken hold of’. A double handbreadth.

We have learnt elsewhere:[20] If a man had begun to tear a garment[21] (which was unclean), so soon as the greater part of it is torn[22] the parts can no longer be deemed to be joined and it is clean. R. Nahman said in the name of Rabbah b. Abbuha: This [teaching] applies only to a garment which had been immersed that same day,[23] for since he did not shrink from immersing it, he likewise will not shrink from tearing the greater part of it; but it does not apply to a garment which had not been immersed that same day, for it is to be feared that he will not tear the greater part of it. Thereupon Rabbah said: There are two objections to this argument. In the first place [it certainly cannot apply to a garment which had been immersed that same day], for people might say that immersion during the day is sufficient [to render an article clean];[24] secondly,

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(1) In the name of R. Simeon b. Lakish, and not R. Abbahu.

(2) This distinction obviously according to Rashi does not refer to the case of the kneader, for to him it would make no difference in which direction he would have to go. V. however, Tosaf. supra 122b s.v. לגבל.

(3) As mementos of victories, or, as Rashi suggests, to serve as charms against danger in battle.
(4) Cf. A.Z. 11b, Sonc. ed., p. 58.
(5) Either the animal was clean (i.e., of the species fit for food, and also slaughtered ritually) and the man who flayed it was unclean, or the animal was unclean (i.e., either of the former species but not ritually slaughtered, or of the species that are forbidden to be eaten even though slaughtered ritually) and the man who flayed it was clean.
(6) For this purpose the hide was slit the whole length of the animal and flayed on both flanks, the result being one large sheet of hide.
(7) Until this much has been flayed that portion which has actually been flayed is not regarded as entirely disconnected from the flesh but rather as a 'handle' which conveys uncleanness to and from the flesh. Once this extent (- for the measure v. Gemara —) has been flayed the hide is regarded as disconnected and can no longer serve as a handle.
(8) For this purpose the hide was not slit lengthwise but was cut around the neck and flayed whole from the animal so as to form a receptacle to hold liquids.
(9) The breast is the most difficult part of the operation of flaying for the hide adheres fast there and, therefore, so long as the region of the breast has not been flayed that which has already been flayed serves as a connective or 'handle' to the flesh.
(10) In this manner of flaying, the region around the breast is the last important section to be flayed, although there yet remains the skin around the neck to be flayed.
(11) Whether this includes the flaying of the skin around the neck or not, is the subject of the following dispute between R. Johanan b. Nuri and the Sages.
(12) It is negligible and soon falls away of itself by the weight of the rest of the hide, and therefore can no longer serve as a connective.
(13) Sc. as much as can be taken hold of; a handgrip.
(14) But that which still adheres to the flesh serves as a 'protection' and conveys uncleanness to and from the flesh.
(15) The last handbreadth of the skin that had been flayed nearest to the flesh is unclean, i.e., it serves as a 'handle' to convey uncleanness to and from the flesh.
(16) As much as a handgrip.
(17) Assuming the animal was itself unclean; for it does not serve as a 'handle'.
(18) Contra R. Assi.
(19) R. Assi admits that where only so much of the hide as can be taken hold of plus one handbreadth had been flayed the handbreadth nearest to the flesh is not deemed a 'handle' for the amount flayed is too little to be made use of as a handle. For a var. text and interpretation v. Tos. s.v. בפירוש.
(20) Kel. XXVIII, 8.
(21) In order to render it clean by making it unfit for its former use.
(22) The original garment is now deemed to be destroyed and with it the uncleanness it bore, even though each part of the garment is of a substantial size (Rashi). According to Tosaf. the garment was torn to shreds there was no piece the width of three fingerbreadths but these shreds were joined at one end (v. Tosaf. supra 72b s.v. בשעת).
(23) Ordinarily the garment by evening would be clean, but this man desiring to use it immediately with clean things sets a bout to tear it. Now since he has actually immersed it in the waters of a mikweh, an act which certainly does not improve the garment, he will have no hesitation in tearing the greater part of the garment.
(24) For those who saw the immersion of the article by day and later see it used that selfsame day with clean things, will be led to believe that immersion by itself renders an article clean without the additional necessity of waiting until sunset of that day, for they might not be aware of the fact that the garment had been torn.

Talmud - Mas. Chullin 123b

the same is to be feared in the case of the burnt-offering of a bird, according to the view of R. Eleazar son of R. Simeon, namely that he will not divide the greater part of both organs [of the throat]![1] — R. Joseph replied to him: As for your objection 'people might say that immersion during the day is sufficient', [my answer is,] the tearing explains the position;[2] and as for your objection 'The same is to be feared in the case of a burnt-offering of a bird according to the view of R. Eleazar son of R. Simeon', [my answer is,] priests are most careful.[3]

Come and hear: IF A MAN WAS FLAYING CATTLE OR WILD ANIMALS, CLEAN OR UNCLEAN, SMALL OR LARGE, IN ORDER TO USE THE HIDE FOR A COVERING, UNTIL SO MUCH [OF THE HIDE HAS BEEN FLAYED] AS CAN BE TAKEN HOLD OF, etc.Now if more than this had been flayed, it would be clean, would it not? But why? Should we not apprehend that he will have flayed only so much as can be taken hold of, in which case [by touching the hide] he is [as it were] touching uncleanness,[4] and yet we declare him to be clean? If it were a case of uncleanness as enjoined by the Torah this would indeed be so; but here we really speak of uncleanness as enjoined by the Rabbis.[5] This is well in the case of an unclean person [flaying] a clean animal, but in the case of a clean person [flaying] an unclean animal, surely the uncleanness is enjoined by the Torah![6] — It refers to a trefah animal.[7] And can a trefah animal render ought unclean? — Yes, as stated by Samuel's father. For Samuel's father stated: A trefah animal that was slaughtered renders holy things unclean.[8]

Come and hear: R. Dosethai b. Judah says in the name of R. Simeon: If a man was skinning reptiles, the skin is regarded as a connective until the whole has been removed. Now it follows, does it not, that in the case of a camel it is not regarded as a connective?[9] — Draw not the inference that in the case of a camel it is not regarded as a connective, but rather that in the case of a camel the skin that is on the neck is not regarded as a connective, and this accords with the opinion of R. Johanan b. Nuri.[10]

R. Huna said in the name of R. Simeon son of R. Jose: This [teaching][11] applies only to the case where he did not leave [untorn] a portion sufficient for an apron, but if he left [untorn] a portion sufficient for an apron, it [the garment] is deemed to be joined.

Resh Lakish said: This [teaching][12] applies only to a garment, but in the case of leather, [what is left] is firm.[13] But R. Johanan said: Even in the case of leather, [what is left] is not firm. R. Johanan raised an objection against Resh Lakish [from the following Mishnah]: If a hide had contracted midras[14] uncleanness, and a man had the intention to use it for straps and sandals, so soon as he puts the knife into it it becomes clean;[15] so R. Judah. But the Sages say. Not until he has reduced its size to less than five handbreadths.[16] It follows, however, that if he had reduced its size [to less than five handbreadths] it would be clean; but why? Surely, we should say, [what is left] is firm! — When do we say, [what is left] is firm, only in the case where the hide was cut with a straight cut, but here we must suppose that it was trimmed on all sides.[17]

R. Jeremiah raised an objection: IF A MAN WAS FLAYING CATTLE OR WILD ANIMALS, CLEAN OR UNCLEAN, SMALL OR LARGE, IN ORDER TO USE THE HIDE FOR A COVERING, UNTIL SO MUCH [OF THE HIDE HAS BEEN FLAYED] AS CAN BE TAKEN HOLD OF, etc. Now if more than this had been flayed it would be clean, would it not? But why? Surely we should say [that the residue of the hide that is attached to the carcass] is firm! — R. Abin explained it, [that with regard to the hide,] each portion[18] flayed is considered as fallen away.[19]

R. Joseph raised an objection: AS FOR THE SKIN THAT IS ON THE NECK, R. JOHANAN B. NURI DOES NOT REGARD IT AS A CONNECTIVE. But why? Surely it holds firm![20] — Thereupon Abaye said to him, But read the next line: BUT THE SAGES DO REGARD IT AS A CONNECTIVE![21] In fact, said Abaye, the point at issue between them[22] is concerning a protection that will soon fall away of its own accord:[23] one maintains that it is still a protection,[24] the other[25] that it is no protection.

R. Jeremiah raised an objection: If an oven[26] had become unclean how can one make it clean again? One should divide it into three parts[27] and scrape off the plastering

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(1) In sacrificing the burnt-offering of a bird the head had to be nipped off by the officiating priest, but not severed entirely (cf. Lev. I, 17); and according to the interpretation of R. Eleazar b. R. Simeon, it means that he must divide the greater portion of each organ and no more (v. supra 21a). Now is there not a similar apprehension in this case that the priest will not divide the greater portion of the organs?

(2) The onlookers will know that it is the tearing of the garment that renders it clean and not the immersion by itself.

(3) And do exactly what is required by law, neither more nor less.

(4) Assuming that the carcass was unclean.

(5) I.e., the ruling with regard to an unclean person flaying a clean animal as stated in our Mishnah, refers to a person that was rendered unclean by enactment of the Rabbis (cf. the cases enumerated in Shab. 13b) and the animal spoken of was a consecrated animal. Accordingly we do not impose any further preventive measures by reason of such remote apprehensions.

(6) I.e., the uncleanness of nebelah.

(7) The reference in our Mishnah with regard to an unclean animal, really means an animal which was slaughtered and found to be trefah.

(8) So according to Maim. Yad, Aboth Ha-tumah, II, 8. Rashi interprets: A consecrated animal which was slaughtered and found to be trefah renders unclean, v. supra 73a.

(9) As soon as the extent of a handgrip of the hide has been flayed. And there is no mention of any apprehension lest on account of this ruling, people might be led to believe that even when less than a handgrip had been flayed the hide is not to be regarded as a connective. This then conflicts with R. Nahman's statement supra.

(10) This refers to the case where the man who flays the camel requires the hide for a water-skin, or where he flays it from the feet upwards; in either case, according to R. Johanan b. Nuri, once the whole hide, with the exception of that which is on the neck, has been flayed, it can no longer be regarded as a connective (v. our Mishnah supra), in contradistinction from the case of reptiles, for with reptiles even the skin around the neck is regard ed as a connective. There is indeed here no ground at all to apply a preventive measure in apprehension lest he who flays the camel will not remove all the hide with the exception only of that which remains on the neck, in which case the hide would be a connective, for the standard has been clearly stated, namely, whether or not anything more than the skin of the neck remains, and this standard is a matter which is clearly noticeable and ascertainable. On the other hand, the standard ‘as much as can be taken hold of’ is not so clearly defined and ascertainable; similarly, the difference between tearing the greater part of a garment and only half of it is also a matter not clearly discernible, accordingly in the latter two cases there is ground for a restrictive measure.

(11) That a garment is rendered clean by tearing the greater part of it.

(12) That where there was not left untorn a portion sufficient for an apron the garment is rendered clean.

(13) No matter how little it is, for it can be sewn together and used again for its original purpose.

(14) Heb. מדרס. The degree of uncleanness arising when an unclean person, of those mentioned in Lev. XV, 2, 19, 25, sits or treads upon or leans with the body against an object, provided such object is fit and generally used for one of the above purposes.

(15) By putting the knife to it he has annulled it from its original use even though there are as yet substantial pieces left each five handbreadths square, this being the minimum size for leather to contract midras uncleanness (cf. Kel. XXVII. 2).

(16) Kel. XXVI, 9.

(17) Since there are irregular cuts on all sides, even if it is sewn together it will not hold firm.

(18) Lit., ‘the first, the first’.

(19) For it cannot by any means be made to adhere again to the flesh, whereas in the case of a garment it can be sewn together to hold fast.

(20) The skin on the neck still adheres to the flesh, nevertheless, R. Johanan b. Nuri holds that whosoever touches this skin (the animal being unclean) is not thereby rendered unclean; thus conflicting with Resh Lakish's view.

(21) And this would be in support of Resh Lakish's view.

(22) Sc. between the Sages and R. Johanan b. Nuri in our Mishnah.

(23) E.g., the skin around the neck when all the rest of the hide has been removed.

(24) The Sages hold that so long as it has not fallen off it still serves as a protection and conveys uncleanness to and from the flesh.

(25) R. Johanan b. Nuri.

(26) It usually consisted of an earthenware pot with no bottom, placed on the ground, and plastered on all sides with clay to hold it firm.

(27) So that no part thereof be more than half the size of the original oven. Cf. Lev. XI, 35.

Talmud - Mas. Chullin 124a

so that it[1] lies on the ground. R. Meir says. One need not scrape off the plastering nor [see to it] that it lies on the ground, but one need only cut it down to less than four handbreadths high inside.[2] It follows that if one did cut it down to less than four handbreadths high it would be clean; but why? Surely we should say that it stands firm![3] — Thereupon Raba said to him, Why not rather quote the view of the Rabbis,[4] 'One should scrape off the plastering so that it lies on the ground' [in support]? Rather, said Raba, This is the interpretation: If an oven had become unclean how can one make it clean again? It is the unanimous opinion that one should divide it into three parts and scrape off the plastering so that it lies on the ground. And if one desires that the oven should not be susceptible to uncleanness what should one do? One should divide it into three parts and should scrape off the plastering so that it lies on the ground. R. Meir says. One need not scrape off the plastering nor [see to it] that it lies on the ground, but one need only cut it down to less than four handbreadths high inside.[5]

The Master said: 'One should divide it into three parts'. But there is a contradiction to this, for we have learnt: An oven must, in its first state, be [at least] four handbreadths high,[6] and any fragment thereof[7] [is still unclean if it is] four handbreadths high: so R. Meir. But the Sages say. This[8] applies only to a large oven,[9] but as regards a small oven[10] no matter what its height was in its first state, provided its manufacture was complete. [it is susceptible to uncleanness,] and any fragment thereof [is still unclean if it amounts to] the greater portion of [the oven].[11] How much is meant by 'no matter what its height'? R. Jannai said, [At least] one handbreadth high, for it is usual to make an oven one handbreadth high [as a plaything]. Now only if there is a fragment of four handbreadths [is it still unclean], but if there is no fragment of four handbreadths it is clean![12] — I can answer: There he split it across the width,[13] but here he split it lengthwise.[14]

The Master said: 'And any fragment thereof [is still unclean if it amounts to] the greater portion of [the oven]'. But of what use can the greater portion of a handbreadth be? — Abaye said: It means, any fragment of a large oven [is still unclean if it amounts to] the greater portion of it. But [with regard to a large oven] the Sages say [in agreement with R. Meir that it is still unclean if the fragment is] four handbreadths? — This is no difficulty: one ruling refers to an oven nine handbreadths high, the other to an oven seven handbreadths high.[15]

Another version reports the passage as follows: R. Huna said in the name of R. Ishmael son of R. Jose. Even if he left a portion sufficient for an apron [the garment is rendered clean]. Thereupon Resh Lakish said: This [teaching] applies only to a garment, but in the case of leather [what is left] is of value.[16] But R. Johanan said: Even in the case of leather [what is left] is of no value. R. Johanan raised the following objection against Resh Lakish: If[17] a hide had contracted midras uncleanness and a man had the intention to use it for straps and sandals, so soon as he puts the knife into it it becomes clean: so R. Judah. But the Sages say. Not until he has reduced its size to less than five handbreadths. It follows, however, that if he had actually reduced its size [to less than five handbreadths] it would be clean; but why? Surely we should say [what is left] is of value! — We must suppose here that he intended [the hide] to serve as a seat for one suffering with an issue.[18]

MISHNAH. IF THERE WAS AN OLIVE'S BULK OF [UNCLEAN] FLESH ADHERING TO THE HIDE[19] AND A MAN TOUCHED A SHRED HANGING FROM IT,[20] OR A HAIR THAT WAS OPPOSITE TO IT,[21] HE BECOMES UNCLEAN.[22] IF THERE WERE TWO PIECES OF FLESH EACH A HALF-OLIVES BULK UPON IT, THEY CONVEY UNCLEANNESS BY CARRYING[23] BUT NOT BY CONTACT:[24] SO R. ISHMAEL. R. AKIBA SAYS, NEITHER BY

CONTACT NOR BY CARRYING.[25] R. AKIBA, HOWEVER, AGREES THAT IF THERE WERE TWO PIECES OF FLESH, EACH A HALF-OLIVE'S BULK, STUCK ON A CHIP AND A MAN SWAYED[26] THEM, HE BECOMES UNCLEAN.[27] WHEREFORE THEN DOES R. AKIBA DECLARE HIM CLEAN IN THE [CASE WHERE THEY ADHERE TO THE] HIDE? BECAUSE THE HIDE RENDERS THEM NEGLIGIBLE.

GEMARA. ‘Ulla said in the name of R. Johanan. This rule[28] applies only to the case where a wild beast tore it away,[29] but where it was cut away by the knife [in flaying] it certainly is deemed negligible.[30] R. Nahman enquired of ‘Ulla, ‘Did R. Johanan also say so even if it was as large as a tirta?[31] — He replied. ‘Yes’. ‘And even as large as a sieve?’ — He replied. ‘Yes’. ‘By God!’ said the other; ‘even if R. Johanan himself had told it me by his own mouth I should not have accepted it!’

When R. Oshaia went up [to Palestine] he met R. Ammi and reported to him the discussion, ‘So said ‘Ulla and so answered R. Nahman’. Said [R. Ammi] to him, ‘And even if R. Nahman is the son-in-law of the Exilarch shall he make light of the teaching of R. Johanan?’ On another occasion he [R. Oshaia] found him [R. Ammi] sitting and expounding it[32] with reference to the second clause [of our Mishnah] thus: ‘IF THERE WERE TWO PIECES OF FLESH EACH A HALF-OLIVE'S BULK UPON IT. THEY CONVEY UNCLEANNESS BY CARRYING BUT NOT BY CONTACT: SO R. ISHMAEL. R. AKIBA SAYS, NEITHER BY CONTACT NOR BY CARRYING. Thereupon R. Johanan had said: This rule[33] applies only to the case where a wild beast tore them away, but where they were cut away by the knife [in flaying] they are deemed negligible’. Then said [R. Oshaia]. ‘Does the Master refer it to the second clause?’ — He replied. ‘Yes; did ‘Ulla tell it you with reference to the first clause?’ Said the other, ‘He did’. ‘By God!’ said R. Ammi, ‘even if Joshua the son of Nun had told it me by his own mouth I should not have accepted it!’ When Rabin came down with all the company[34] that used to come down [from Palestine to Babylon] they reported that it referred to the first clause. But is there not then a difficulty?[35] — As R. Papa suggested [elsewhere][36]

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(1) Sc. the plastering; i.e., the plastering must be entirely demolished so that it in no wise supports the parts of the oven (Rashi); or, ‘it’ sc. each part of the oven (Maim); or, ‘it’ sc. the crack must run from the top to the bottom of the oven, i.e., a perpendicular crack (R. Samson of Sens).

(2) Kel. V, 7.

(3) By reason of the plastering around it. This then conflicts with Resh Lakish who maintains that if only a portion of an article remains firm, although the rest of it is broken or torn, it is still considered an article.

(4) Sc. the first Tanna of this Mishnah.

(5) The dispute therefore between R. Meir and the Rabbis is only with regard to an oven which was not unclean, concerning the measures necessary in order to prevent it from ever becoming unclean.

(6) In order to be susceptible to uncleanness.

(7) I.e., of a large oven which was broken in order to be made clean again; cf. Lev. XI, 35.

(8) Sc. the ruling of R. Meir.

(9) I.e., an oven used for baking or cooking.

(10) Which is used as a plaything.

(11) Kel. V, 1.

(12) This clearly contradicts the aforementioned Mishnah which states that an oven to be made clean again must be divided into three parts, but it would not be sufficient to divide it into two, even though each part would be less than four handbreadths.

(13) And if none of the fragments are of four handbreadths, the oven is absolutely useless and therefore clean.

(14) And if there remains standing the greater part of the oven, even though such part is less than four handbreadths, it remains unclean. It must therefore be divided into three parts so that no part is equal to the greater part of the oven.

(15) The Sages adopt rules of leniency: where the greater portion of the oven is more than four handbreadths then they regard fragments up to the size of the greater portion as clean; and where the greater portion is less than four handbreadths then they regard fragments up to four handbreadths as clean.

(16) Even though it is only the size of an apron. Hence it is not rendered clean by ‘the tearing, for it cannot be said to be destroyed for al use.

(17) V. supra p. 690.

(18) Reading למושב זב. According to MS.M. and ‘Aruch the reading is למושבזג, a peculiar word, whose etymology as well as meaning is extremely doubtful. ‘A leather seat of a folding chair’ (Jast). The argument is, since the hide was intended to be used for a particular purpose so soon as it is diminished and so rendered unfit for that purpose it is deemed to be of no value.

(19) In one place.

(20) I.e., from the olive's bulk of flesh (Rashi). According to Maim. the Mishnah refers to a fibre that proceeds from the hide.

(21) I.e., on the outside of the hide, directly over the morsel of flesh.

(22) For the shred is like the flesh itself, and the hair is a protection to the flesh.

(23) For when a person carries the hide he carries at the same time an olive's bulk of the carcass.

(24) Since the pieces are apart they cannot be touched simultaneously but only one after the other, and each time only a half-olive's bulk is touched. The two separate ‘contacts’ cannot be reckoned together to make up a ‘contact’ of an olive's bulk.

(25) For R. Akiba is of the opinion (infra) that flesh less than an olive's bulk adhering to hide is deemed as part of the hide itself.

(26) I.e., moved them without actually touching them. Heb. היסט ‘swaying’. ‘shaking’.

(27) V. Gemara for the reason of R. Akiba s view.

(28) That an olive's bulk of flesh adhering to the hide is not rendered negligible.

(29) I.e., a wild beast bit into the animal whilst alive and later when the animal was being flayed pieces of flesh were found to have been torn away and left hanging to the hide.

(30) Even though there is a whole olive's bulk of flesh.

(31) A quarter of a kab; or, the pan of scales (Rashi). The question is, what if the knife, whilst flaying, cut away a large slice of flesh as much as a tirta? Can this quantity, too, be deemed negligible or not?

(32) Sc. the above statement of R. Johanan.

(33) That two pieces of flesh each a half-olive's bulk are not rendered negligible according to R. Ishmael.

(34) נחותי; the scholars who used to travel to and fro between Palestine and Babylon reporting teachings of the one country to the other.

(35) For if it is held that a whole olive's bulk of flesh is rendered negligible when cut away by the knife then the same should be the case where flesh the size of a tirta or a sieve was cut away. But this is contrary to reason!

(36) V. infra.

Talmud - Mas. Chullin 124b

that the flesh was beaten thin, so here it could also be explained that the flesh was beaten thin.[1]

IF THERE WERE TWO PIECES OF FLESH EACH A HALF-OLIVES BULK UPON IT etc. Bar Padda said: This ruling[2] applies only to the case [where a man touched them] from the outside,[3] but [where he touched them] on the inside[4] the two contacts can be reckoned together.[5] But R. Johanan said: The two contacts cannot be reckoned together.

R. Johanan is consistent in his view, for R. Johanan also said that R. Ishmael and R. Dosa b. Harkinas said the same thing. R. Ishmael taught it in the above passage,[6] and R. Dosa b. Harkinas in the following Mishnah which we learnt: If any matter[7] which causes uncleanness in a ‘tent’[8] was divided and [the parts][9] brought into a house, R. Dosa b. Harkinas declares [everything under the same roof-space] clean, but the Sages declare it unclean.[10] Now does not R. Dosa b. Harkinas hold that two overshadowings[11] cannot be reckoned together? Similarly, two contacts cannot be reckoned together.

As it is established that R. Dosa b. Harkinas is in agreement with R. Ishmael, it follows that the

Sages [the opponents of R. Dosa] are in agreement with R. Akiba [the opponent of R. Ishmael]. But does not R. Akiba hold that they are entirely clean?[12] — R. Akiba only declares them clean when adhering to the hide, but otherwise they[13] convey uncleanness, as stated in the latter part [of the Mishnah]: R. AKIBA, HOWEVER, AGREES THAT IF THERE WERE TWO PIECES OF FLESH. EACH A HALF-OLIVE'S BULK, STUCK ON A CHIP AND A MAN SWAYED THEM, HE BECOMES UNCLEAN. WHEREFORE THEN DOES R. AKIBA DECLARE HIM CLEAN IN THE [CASE WHERE THEY ADHERE TO THE] HIDE? BECAUSE THE HIDE RENDERS THEM NEGLIGIBLE.

R. ‘Ukba b. Hama raised an objection. It is written: [He that toucheth] the carcass thereof,[14] but not the hide upon which are two pieces of flesh each a half-olive's bulk. I might think that the same is the case with regard to carrying, the verse therefore says. And he that carrieth . . . shall be unclean.[15] So R. Ishmael. R. Akiba says: It is written: ‘He that toucheth’, and ‘He that carrieth’: therefore, what comes within the scope of uncleanness by contact, comes within the scope of uncleanness by carrying, and what does not come within the scope of uncleanness by contact does not come within the scope of uncleanness by carrying.[16] Now if it were so,[17] it indeed comes within the scope of uncleanness by contact on the inside! — Raba answered. He means to say this: What comes within the scope of uncleanness by contact on every side thereof comes within the scope of uncleanness by carrying, and what does not come within the scope of uncleanness by contact on every side thereof does not come within the scope of uncleanness by carrying.[18]

R. Awia the Elder enquired of Rabbah son of R. Huna: Can a closed marrow-bone, according to R. Ishmael, convey uncleanness [by carrying] or not? Does R. Ishmael accept the principle ‘What comes within the scope of uncleanness by contact, comes within the scope of uncleanness by carrying, and what does not come within the scope of uncleanness by contact, does not come within the scope of uncleanness by carrying’,[19] — but here [in our Mishnah] the reason[20] is because it comes within the scope of uncleanness by contact on the inside; or does he not accept this principle at all? — He replied: See, there's a raven flying past.[21] [When R. Awia left,] his son Raba said to him,[22] ‘Was that not R. Awia the Elder of Pumbeditha whom you. Sir, have praised as a great man’? He replied: ‘I am to-day [in the condition of the lover who said,] Sustain me with raisin-cakes![23] And he asks me a matter which requires much reasoning!’

Ulla said: If there were two pieces of flesh, each a half-olive's bulk, stuck on a chip and a man waved them to and fro, even the whole day long, he remains clean. Why? Because [as] written [the word can be read] ‘be carried’, but [by tradition] we read ‘carries’;[24] it is necessary therefore that when one ‘carries’ it it must be able to ‘be carried’ at one time.[25]

We have learnt: IF THERE WERE TWO PIECES OF FLESH, EACH A HALF-OLIVE'S BULK. UPON IT, THEY CONVEY UNCLEANNESS BY CARRYING BUT NOT BY CONTACT; SO R. ISHMAEL. Wherefore is this so? They surely cannot ‘be carried’ at one time? — R. Papa suggested that there was a thin strip [of flesh joining the two pieces]. Come and hear: R. AKIBA, HOWEVER, AGREES THAT IF THERE WERE TWO PIECES OF FLESH, EACH A HALF-OLIVE'S BULK, STUCK ON A CHIP AND A MAN SWAYED THEM, HE BECOMES UNCLEAN. Wherefore is this so? They surely cannot ‘be carried’ at one time? — Here, too, we must suppose that there was a thin strip of flesh.

Tannaim differ on this point.[26] It was taught: It is all one[27] whether one touches them[28] or sways them. R. Eliezer says. Even if one carries them. But does not the one that carries them also sway them?[29] — This must be the interpretation: It is all one whether one touches them or sways them even though they cannot be carried [at one time]. Whereupon R. Eliezer comes to say, [No,] only if they can be carried at one time. Then what is the meaning of ‘even’?[30] — Read: Only if they can be carried at one time.

MISHNAH. WITH REGARD TO A THIGH-BONE[31] OF A CORPSE.

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(1) There was a thin slice of flesh the size of a tirta or even of a sieve which when collected and rolled tip amounted to an olive's bulk only.

(2) Of R. Ishmael that the two pieces of flesh each a half-olive's bulk adhering to the hide do not convey uncleanness by contact.

(3) I.e., he did not actually touch the flesh but only the hide opposite each piece; the hide in such a case cannot serve either as a protection or as a handle to combine the two pieces in order to convey the uncleanness.

(4) I.e., he actually touched the pieces of flesh, first the one half-olive's bulk and then the other. In this case R. Ishmael will hold that the two separate contacts are combined and are regarded as one contact of a whole olive's bulk, and the person would be unclean.

(5) Lit., ‘there is such a thing as touching and again touching’.

(6) That according to R. Johanan R. Ishmael holds that two separate contacts, each time of half the minimum quantity, cannot be reckoned as one contact of the whole quantity.

(7) Of those enumerated in Ohol. II, 1, e.g. an olive's bulk of the flesh of a corpse, or a ladleful of corpse-mould.

(8) By overshadowing, i.e., which renders unclean everything which happens to be in the same tent or under the same roof space as the unclean matter. Cf. Num. XIX, 14.

(9) Each less then the minimum quantity.

(10) Oh. III, 1, ‘Ed. III, 1.

(11) Each time of half the minimum quantity. According to R. Dosa b. Harkinas, overshadowing must be in one place, at the same time, and over a whole olive's bulk.

(12) Sc. the flesh adhering to the hide. Thus R. Akiba is more lenient in his view than R. Ishmael, whereas the Sages who differ with R. Dosa (supra) declare everything in the house to be unclean.

(13) Sc. the two pieces of flesh, each a half-olive's bulk, when touched separately.

(14) Lev. XI, 39.

(15) Ibid. 40.

(16) Therefore, argues R. Akiba, it cannot be said that these pieces of flesh convey uncleanness by carrying and not by contact, as R. Ishmael would have it.

(17) That, according to Bar Padda, R. Ishmael holds that these pieces can convey uncleanness also by contact, namely, on the inside (v. supra p. 696, n. 2), then R. Akiba's argument is void of meaning.

(18) I.e., R. Akiba means that unless a substance can convey uncleanness by every contact with it, from the outside as well as from the inside, it will not convey uncleanness by carrying.

(19) And therefore a closed-up marrow-bone of a carcass, since it does not convey uncleanness by contact (v. next Mishnah, for the bone itself is not considered unclean as the carcass, and the marrow within it is inaccessible for it is closed-up), will not convey uncleanness by carrying.

(20) Why the two morsels of flesh convey uncleanness by carrying.

(21) An evasive answer.

(22) Raba said to his father Rabbah b. R. Huna.

(23) Cant. II, 5. He had just finished his lecture for that day (or, he was that day elected Head of the Academy — ‘Aruch) and was too exhausted for any argument or discussion but required rest and refreshment.

(24) Lev. XI, 40. Heb. והנשא. The traditional reading is והנשא, (in active sense) ‘and he who carries’; though the word might also be read as והנשא, (in passive sense) ‘and whatsoever is carried’.

(25) I.e., the olive's bulk must be one whole piece so that if one were to lift up part thereof the whole would be lifted up.

(26) As to whether it is essential that the olive's bulk be in one whole so that it could be carried at one time.

(27) And one is rendered unclean.

(28) Sc. the two pieces of unclean flesh each a half-olive's bulk.

(29) Wherein then does R. Eliezer differ from the first Tanna?

(30) The word ‘even’ implies an extension of the law beyond that stated by the first Tanna; on the other hand, ‘only’ is a limitation,

(31) Or any bone which contains marrow.

Talmud - Mas. Chullin 125a

Talmud - Mas. Chullin 125a

OR A THIGH-BONE OF A CONSECRATED ANIMAL,[1] HE WHO TOUCHES IT, WHETHER IT BE STOPPED UP OR PIERCED, BECOMES UNCLEAN. WITH REGARD TO A THIGHBONE OF A CARCASS OR OF A [DEAD] REPTILE, IF IT WAS STOPPED UP HE WHO TOUCHES IT REMAINS CLEAN,[2] BUT IF IT WAS AT ALL PIERCED IT CONVEYS UNCLEANNESS BY CONTACT. WHENCE DO WE KNOW [THAT IT CONVEYS UNCLEANNESS] ALSO BY CARRYING? THE TEXT SAYS, HE THAT TOUCHETH[3] AND HE THAT CARRIETH:[4] THEREFORE, WHAT COMES WITHIN THE SCOPE OF UNCLEANNESS BY CONTACT COMES WITHIN THE SCOPE OF UNCLEANNESS BY CARRYING. AND WHAT DOES NOT COME WITHIN THE SCOPE OF UNCLEANNESS BY CONTACT DOES NOT COME WITHIN THE SCOPE OF UNCLEANNESS BY CARRYING.

GEMARA. He who touches it does [become unclean] but he who overshadows it does not [become unclean]. What are the circumstances? If there was an olive's bulk of flesh upon it, then surely it conveys uncleanness by overshadowing? — It must be that there was not an olive's bulk of flesh upon it. But if there was an olive's bulk of marrow within it, then surely the uncleanness breaks through and rises upwards,[5] and it should convey uncleanness by overshadowing? — It must be that there was not an olive's bulk of marrow within it. But if it is held that the marrow within [the bone] can restore [the flesh] outside it,[6] then surely it is a proper limb, and it should convey uncleanness by overshadowing? — Rab Judah the son of R. Hiyya said: This proves that the marrow within cannot restore [the flesh] outside it.

How have you explained the case? That there was not an olive's bulk.[7] Then why does it convey uncleanness in the case of consecrated animals?[8] Furthermore, why does the thigh-bone of a carcass or of a [dead] reptile, even when pierced, convey uncleanness?[9] — These are no difficulties at all, for the first clause[10] refers to the case where there was not an olive's bulk and the subsequent clause[11] to the case where there was an olive's bulk. What does he teach us then? — He teaches us a number of rules. The first clause teaches us [the principle] that the marrow within [the bone] cannot restore [the flesh] outside it.[12] The clause concerning consecrated animals teaches us that whatever serves [as a holder for] the meat left over [from the sacrifice] is a matter of consequence,[13] for R. Mari b. Abbuha said in the name of R. Isaac,[14] Bones of sacrifices which served [as a holder for] the meat left over [from the sacrifice] render the hands unclean, since they have become auxiliary[15] to forbidden matter. The clause concerning the carcass [teaches us] that even if there is an olive's bulk [of marrow in the bone], only when [the bone is] pierced does it [convey uncleanness], but when not pierced it does not [convey uncleanness].

Abaye said: In fact [I maintain that] the marrow within [the bone] can restore [the flesh] outside it, but here we are dealing with a bone which was sawn through [transversely],[16] and it is in agreement with R. Eleazar's view. For R. Eleazar stated: If a man sawed through a marrow-bone lengthwise it is still unclean,[17] if transversely it is clean; as a mnemonic think of the palm tree.[18]

R. Johanan said: In truth, there was an olive's bulk [of marrow in the bone], and [I maintain that] the marrow within can restore [the flesh] outside it,[19] but the expression HE WHO TOUCHES stated [in the Mishnah] means also overshadowing.[20] But surely if the marrow within can restore [the flesh] outside it, why is it that the thigh-bone of a carcass or of a dead reptile, if not pierced, is clean?[21] — R. Benjamin b. Giddal said in the name of R. Johanan. We are dealing here with an olive's bulk of marrow that shakes about[22] [in the bone]; so that with regard to a corpse[23] the uncleanness breaks through and rises upwards, but with regard to a carcass, since the marrow shakes about within,[24] if the bone was pierced, it does [convey uncleanness], but if it was not pierced, it does not [convey uncleanness].

R. Abin (others say R. Jose b. Abin) said: We have also learnt the same:[25] If a man touched one half-olive's bulk [of a corpse] and [at the same time] overshadowed another half-olive's bulk[26] or the other half-olive's bulk overshadowed him,[27] he is unclean. Now if you hold that they[28] fall within one category then it is quite right that they combine [to render the person unclean]; but if you hold that they fall within two categories, can they in any way combine? Surely, we have learnt: This is the general rule: All [means of conveying uncleanness] which fall within one category combine to convey uncleanness, but all which fall within two categories do not [combine to] convey uncleanness.[29] What do you say then? That they fall within one category? Read the following clause: But

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(1) Which was rendered piggul (v. Glos.) in the course of the offering, or whose meat became nothar, i.e., was left over beyond the time prescribed for eating. The Rabbis, in order to prevent such abuses arising out of the negligence of the priest, decreed that sacrificial meat which was piggul or nothar shall render the hands unclean (v. Pes. 120b). This decree clearly applied to those parts of the sacrifice which were edible; therefore it did not apply to marrowless bones, but it did apply to a marrowbone for then the bone serves as a holder for the marrow within it.

(2) The bone of a carcass or of a reptile is in itself not unclean (v. supra 77b); it is, however, unclean because it serves as a ‘protection’ to the marrow that is within it. And this is so only if the marrow within was accessible, i.e., the bone must be pierced so as to allow a hair at least to reach the marrow.

(3) Lev. XI, 39.

(4) Ibid. 40.

(5) Since presumably there is not within the bone an air-space of one cubic-handbreadth the uncleanness within it breaks through its enclosure and spreads in the house or ‘tent’. Cf. supra 71a, and Ber. 19b.

(6) And even if the marrow of a bone in the living animal has entirely wasted away, and the flesh around it has gone, the bone is still regarded as a proper limb, for it is possible for new marrow to form in the bone and to restore the flesh around it.

(7) Neither of marrow nor of flesh.

(8) For to regard the bone as a holder for the flesh that is nothar (v. Glos.) there must be at least an olive's bulk either of marrow within it or of flesh upon it.

(9) The bone is clearly a protection for the marrow that is within it, and it ha been established (supra 117b, in the very first ruling of this chapter) that a protection can be included and reckoned together with the foodstuff only to convey the light uncleanness i.e., to render other foodstuffs unclean, but not to convey the grave uncleanness, i.e., to render the person that touches it unclean.

(10) Which deals with the thigh-bone of a corpse.

(11) Which deals with the thigh-bone of consecrated animals and of a carcass or reptile.

(12) Therefore if there was not an olive's bulk of marrow within the bone, it cannot convey uncleanness by ‘overshadowing’. i.e., It cannot render unclean men and vessels that are in the same ‘tent’ or under the same roof.

(13) It is regarded as the meat itself and so renders the hands unclean.

(14) V. Pes. 83a.

(15) Lit., a stand for’.

(16) In which case there is no hope of the limb being restored by the formation of new marrow and flesh. Hence as there is not an olive's bulk of marrow now in the bone, neither is there any prospect for the bone to form new marrow, it cannot convey uncleanness by overshadowing.

(17) Although it does not now contain the requisite quantity of marrow, since in a portion of the bone there is a continuous strip of marrow, it will be invested in time with marrow and flesh, and it therefore conveys uncleanness as the corpse itself.

(18) If a long strip of the bark of the tree is removed, the tree will in no way be affected by it, but if a strip around the circumference of the tree is removed, the tree will soon wither.

(19) I.e., even if there was not an olive's bulk of marrow within the bone, it would still convey uncleanness as a corpse, for the limb would, in time, be restored.

(20) So that the original assumption at the outset that the Tanna of our Mishnah excluded uncleanness by overshadowing was incorrect.

(21) It is surely regarded as a whole limb, for even if it has no marrow or flesh at present, it will be invested with these later on; of what avail is it, therefore, that the bone is stopped up?

(22) I.e., it is dried up and shrivelled so that it shakes about within the bone; in such a case the limb cannot be restored.

(23) Since there is the requisite quantity of marrow within the bone it is immaterial whether it is stopped up or not, for the uncleanness breaks through. With regard to consecrated meat, too, as the bone should as a holder for an olive's bulk of marrow which was nothar, it conveys uncleanness.

(24) And since it cannot restore the flesh on the outside, it cannot then be considered as a limb; it therefore requires the minimum standard of an olive's bulk which must be accessible.

(25) Ohol. III, 2. The Tanna in the following Mishnah clearly holds the view that the expression ‘contact’ means also ‘overshadowing’, and that these two forms of uncleanness fall within one category.

(26) E.g. one hand of the man was touching one half-olive's bulk while the other hand was directly above and overshadowing the second half-olive's bulk.

(27) E.g. the second half-olive's bulk was stuck on a chip which was inserted in the wall and the man stood directly underneath it.

(28) Sc., uncleanness conveyed by contact and by overshadowing.

(29) Ohol. ibid.

Talmud - Mas. Chullin 125b

if he touched one half-olive's bulk and some other thing overshadowed both him and another half-olive's bulk,[1] he is clean. Now if they fall within one category why is he clean?[2] But does not this clause conflict with the first clause?[3] — R. Zera answered: We are dealing there [in the first clause] with uncleanness that was confined between two cupboards between which there was not a handbreadth's space, in which case [overshadowing] is regarded as actual contact.[4]

Who then is the Tanna that includes ‘overshadowing’ in the term ‘he who touches’? — It is R. Jose. For it was taught: R. Jose says. A ladleful of corpse-mould[5] conveys uncleanness by contact, by carrying, and by overshadowing. Now it is clear [that a person is rendered unclean] by carrying and by overshadowing, for he carries the whole quantity and overshadows the whole quantity, but with regard to uncleanness by contact, he surely does not touch the whole quantity![6] One must say, therefore, that the expression ‘contact’ means ‘overshadowing’. But does it not expressly state ‘by contact’ as well as ‘by overshadowing’? Abaye suggested, [To overshadow uncleanness] within a handbreadth thereof is termed ‘overshadowing by contact’, but more than a handbreadth away it is termed ‘plain overshadowing’.[7] Raba said: Even more than a handbreadth away, it is also termed overshadowing by contact’; but what is meant by ‘plain overshadowing’? Where there is a projection.[8]

Raba said: Whence do I derive this?[9] From what was taught [in the following Baraitha]: R. Jose says. The woven cords of beds and the lattice-work of windows serve as partitions between the house and the upper room to prevent the passage of uncleanness to the other side.[10] If these were spread over a corpse, being suspended in the air, whatever touches[11] directly over a mesh is unclean but whatever is not directly over a mesh is clean. Now what are the circumstances? If [they were suspended] within a handbreadth [from the corpse], why does that which was not directly over a mesh remain clean? Surely it is nothing else but the corpse in its shroud, and the corpse in its shroud conveys uncleanness![12] They must then [have been suspended] more than a handbreadth away [from the corpse], nevertheless the expression ‘whatever touches’ is used! — Abaye said: In fact [they were suspended] within a handbreadth [from the corpse], but as for your objection, ‘Surely it is nothing else but the corpse in its shroud!’ [I reply that] with regard to the corpse in its shroud a man certainly ignores [the existence of the shroud],[13] but he does not ignore the existence of these. But is this not a case of concealed uncleanness[14] which [according to established law] breaks through and rises upwards? — R. Jose is of the opinion that concealed uncleanness cannot break through and rise upwards.

Whence do you know this?[15] From [the following Mishnah] which we learnt:[16] If a drawer in a cupboard had the capacity of a [cubic] handbreadth within,[17] and the opening [of the cupboard] was less than a handbreadth [square], and there was some uncleanness in it, the house becomes unclean;[18] if there was some uncleanness in the house, what is in the drawer remains clean, for the uncleanness must come forth [eventually] but need not come in at all. R. Jose declares [the house] clean, for one could take out the uncleanness by halves or burn it in its place.[19] And the next clause reads thus: If one set [the cupboard] in the doorway of the house and it [the cupboard] opened outwards, and there was some uncleanness in it, the house remains clean;[20] if there was some uncleanness in the house, what is in [the cupboard] remains clean.

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(1) E.g., both the man and the second half-olive's bulk were directly underneath and overshadowed by a plank.

(2) Should not the contact and the overshadowing, each in connection with a half-olive's bulk of a corpse, combine to render the person unclean?

(3) I.e., there is a contradiction in this Mishnah itself between the first clause and the next one.

(4) For it is established law that uncleanness which is confined or wedged in — i.e., there is not the air-space of a handbreadth on all sides — breaks through its confines and rises, as it were, in a column directly above, so that whoever passes at any height whatsoever over the uncleanness actually comes into contact with the column of uncleanness and is rendered unclean.

(5) I.e., the earth of a decomposed body found in a coffin.

(6) For the corpse-mould is composed of many particles, and when a person touches a part thereof he cannot be said to have touched the whole ladleful, in which case he should not be rendered unclean by contact therewith.

(7) The terms ‘contact’ and ‘overshadowing’ employed in the foregoing Baraitha are both to be understood in the sense of overshadowing, but Abaye draws a distinction between two modes of overshadowing. It must be observed that Abaye's suggestion is in no wise in support of R. Johanan's contention that the Tanna of our Mishnah is R. Jose and that the expression in our Mishnah HE WHO TOUCHES includes overshadowing, for according to him only overshadowing within a handbreadth from the unclean matter can be referred to by the term ‘touch’, accordingly our Mishnah does exclude plain overshadowing so that the difficulty propounded at the beginning of the argument stands. Of course Abaye himself has already explained the Mishnah to his satisfaction as stated above, supra p. 701.

(8) I.e., where the person and the uncleanness are side by side, but some projection overshadows both, forming a ‘tent’ or roof over both.

(9) That whatsoever overshadows more than the distance of a handbreadth away from the uncleanness is still regarded as ‘overshadowing by contact’ according to R. Jose, and is implied in the term ‘touch’.

(10) If these networks are stretched out across the lower room forming a ceiling thereto, they become forthwith part of the structure of the room and as such cannot contract uncleanness. Moreover they serve as a partition and prevent the uncleanness from passing into the room above, for the meshes or holes in the network do not give passage to the uncleanness since there is no opening a handbreadth square in it. Consequently whatsoever happens to be in the upper room, even that which is directly over a hole in the net, remains clean.

(11) I.e., happens to be directly over one of the holes in the net. In this case the network is in no way intended as a ceiling, consequently whatsoever directly overshadows the corpse becomes unclean, but whatsoever is not directly over a hole but over a bar or thread of the net does not become unclean, for in this respect the threads of the net, inasmuch as they do not contract uncleanness, form a partition to prevent the uncleanness from passing upwards.

(12) The network, since it is so close to the corpse, can almost be regarded as the shroud of the dead, and the shroud of the dead surely cannot prevent the uncleanness of the corpse from spreading!

(13) I.e., he mentally ignores the separate existence of the shroud as a garment but looks upon it as part of the corpse; this, however, cannot be said with regard to the network.

(14) I.e., uncleanness over which there is not the space of one handbreadth. V. supra 71a and Ohol. XIV, 6.

(15) That according to R. Jose concealed uncleanness cannot break through.

(16) Ohol. IV, 2, 3.

(17) So that any uncleanness inside it would not be regarded as concealed uncleanness.

(18) By Rabbinic decree everything in the house becomes unclean forthwith, even while the uncleanness is still shut-up in the drawer, because eventually the uncleanness will be brought forth and then it will certainly render everything in the house unclean. Cf. Ohol. VII, 3; Bez. 101.

(19) It is not inevitable that the house be tendered unclean, for the uncleanness can either be destroyed in the drawer, or be brought out in such quantities as does not render unclean.

(20) For the uncleanness will not pass through the house at all and as there was the space of a cubic handbreadth in the cupboard the uncleanness in it cannot break through.

Talmud - Mas. Chullin 126a

And in connection with this it was taught that R. Jose declares [the house] clean. Now to which clause [does R. Jose refer]? If to the last clause-surely the first Tanna [in that case] also declares [the house] clean! It must therefore [be this]. The first Tanna had said: ‘If there was some uncleanness in it the house becomes unclean’, either by virtue of the fact that the uncleanness must come forth eventually, or by virtue of the rule that concealed uncleanness breaks through.[1] Whereupon R. Jose said to him: As for your argument, ‘The uncleanness must come forth eventually’, [I reply that] one could take out the uncleanness by halves, or burn it in its place; and as for your ruling, ‘Concealed uncleanness breaks through’, [I maintain that] concealed uncleanness does not break through. I can point out a contradiction in the views of R. Jose. For we have learnt:[2] If a dog ate the flesh of a corpse and died[3] and Jay upon the threshold:[4] R. Meir says. If its neck was one handbreadth wide, it brings the uncleanness [into the house];[5] and if not, it does not bring in the uncleanness.[6] R. Jose says. We must see [where the uncleanness lies]: if it[7] lies opposite the lintel and inwards,[8] the house is unclean;[9] but if opposite the lintel and outwards, the house is clean. R. Eleazar says. If its mouth lies inside,[10] the house remains clean; but if the mouth lies outside,[10] the house is unclean, because the uncleanness passes out by way of its lower parts.[11] R. Judah b. Bathyra says. In all circumstances[12] the house is unclean. Now presumably R. Jose deals with the case where its neck was not one handbreadth wide;[13] hence you can deduce [that he holds], concealed uncleanness breaks through! — Said Raba: He [R. Jose] means to say: ‘We must consider the space in connection with the uncleanness’;[14] and R. Jose consequently differs on two points, saying to R. Meir thus: As for your saying: ‘If its neck was one handbreadth wide it brings in the uncleanness’, [I maintain that] we must consider only the space; and as for your saying, [If it lies] anywhere upon the threshold[15] the house is unclean, [I maintain that] if it lies on the inside of the lintel the house is unclean, but if on the outside of the lintel the house remains clean.[16] R. Aha the son of Raba actually quotes the Mishnah with these words: R. Jose says. We must consider the space in connection with the uncleanness.

And who is the Tanna that disagrees with R. Jose?[17] — It is R. Simeon. For it was taught: R. Simeon says.

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(1) I.e., R. Jose had heard the first Tanna declare the house unclean in every case to which one of the reasons stated in the text applies. E.g., (in the case that is inferred from the last clause) where there was not the space of a cubic handbreadth in the drawer, even though the cupboard stood in the doorway of the house, the house is unclean because of concealed uncleanness; or, the case quoted in the first clause, the house is unclean for the uncleanness will eventually pass through.

(2) Ohol. XI, 7.

(3) If alive there would be no question at all of uncleanness, for, as already stated (supra 71a), uncleanness that is swallowed within a living being cannot render unclean.

(4) With its head pointing inside the house.

(5) Since the width of the neck is one handbreadth (even though it is not one handbreadth of space but consists of flesh, vertebrae, arteries etc.) the uppermost side of the neck overshadows as a ‘tent’ the uncleanness, and seeing that the ‘tent’ extends into the house it thus leads in the uncleanness.

(6) For a space with one of its dimensions less than a handbreadth cannot be regarded as a tent with regard to uncleanness. V. Ohol. III, 7.

(7) Sc., that part of the dog in which the uncleanness happens to be.

(8) I.e., the inner side of the lintel so that the house overshadows the uncleanness.

(9) Presumably even though the dog's neck was not one handbreadth wide, for the uncleanness concealed within breaks through, so that the house overshadows the uncleanness.
(10) The uncleanness being in that part of the dog's carcass which is lying outside.
(11) And therefore one may regard the uncleanness in the dog as extending along the lower parts of the animal (for by this way it would have been evacuated) into the house.
(12) Whether the neck was one handbreadth wide or not, and whether the actual uncleanness lay on the inside of the lintel or not, and whether the mouth of the dog lay inside or not.
(13) V. supra n. 8.
(14) Where there is in the neck a space of one handbreadth, the uppermost side of the neck would serve as a ‘tent’ and would lead the uncleanness into the house. Where, however, there is no space of a handbreadth in the neck, even though the neck in which the uncleanness lies is entirely within the house, the house is clean, for the uncleanness is concealed and cannot break through.
(15) Even if it lies on that part of the threshold which is outside of the lintel.
(16) R. Jose therefore is in every respect less strict than R. Meir, and not, as was previously assumed, more so.
(17) I.e., who is it that holds, in opposition to R. Jose, that overshadowing is in no way included in the expression ‘he who touches’, for contact and overshadowing are separate categories of uncleanness.

Talmud - Mas. Chullin 126b

There are three matters of uncleanness issuing from a corpse which convey uncleanness by two means but not by the third,[1] and these are they: a ladleful of corpse-mould, a barley's bulk of bone, and the covering stone and side stones of the grave.[2] A ladleful of corpse-mould conveys uncleanness by carrying and by overshadowing but not by contact;[3] [uncleanness by] contact, however, is to be found with each of the others. A barley's bulk of bone conveys uncleanness by carrying and by contact but not by overshadowing;[4] [uncleanness by] overshadowing, however, is to be found with each of the others. The covering stone and side stones of the grave convey uncleanness by contact and by overshadowing but not by carrying;[4] [uncleanness by] carrying, however, is to be found with each of the others. A THIGH-BONE OF A CARCASS OR OF A [DEAD] REPTILE, etc. Our Rabbis taught: It is written: [He that toucheth] the carcass thereof,[5] but not a stopped up thigh-bone. I might think [that the same is the case] even if it was pierced, the verse therefore says: He that toucheth . . . shall be unclean,[5] that is,[6] whatever can be touched is unclean[7] but whatever cannot be touched is clean. R. Zera said to Abaye. In that case a carcass with the hide still upon it should not convey uncleanness?[8] — [He replied,] Just go and see how many apertures there are in it![9] R. Papa said to Raba. In that case the kidney [of a carcass], so long as it is surrounded with fat, should not convey uncleanness?[10] — [He replied:] Just go and see how many fibers run through it![11]

R. Oshaia raised the question. What is the position if a man intended to pierce [the bone] but did not pierce it? Does the absence of piercing make it incomplete,[12] or not? He later answered the question himself: the absence of piercing does not make it incomplete.[13]

MISHNAH. THE EGG OF A REPTILE IN WHICH THERE HAS FORMED AN EMBRYO IS CLEAN;[14] IF IT WAS PIERCED, HOWEVER SMALL THE HOLE WAS, IT IS UNCLEAN.[15] WITH REGARD TO A MOUSE WHICH IS HALF FLESH AND HALF EARTH.[16] IF A MAN TOUCHED THE FLESH HE BECOMES UNCLEAN, BUT IF HE TOUCHED THE EARTH HE REMAINS CLEAN. R. JUDAH SAYS, EVEN IF HE TOUCHED THE EARTH THAT IS OVER AGAINST THE FLESH HE BECOMES UNCLEAN.

GEMARA. Our Rabbis taught: The unclean[17] includes the egg of a reptile and the thigh-bone of a reptile. I might think [that it is the same] even if there had not formed an embryo in it, the verse therefore adds: The creeping things,[17] that is, just as the creeping thing is fully formed so the reptile's egg must also be fully formed. I might think [that it is the same] even if they had not been pierced, the verse therefore states: Whosoever doth touch them . . . shall be unclean,[17] that is, whatever can be touched is unclean, but whatever cannot be touched is clean. How much must be pierced? A hairbreadth, for then it could be touched with a hair.[18]

WITH REGARD TO A MOUSE WHICH IS HALF FLESH etc. R. Joshua the son of Levi said, provided the entire length [of the creature] had developed.[19] Others, however, report this statement in reference to the last clause thus: R. JUDAH SAYS, EVEN IF HE TOUCHED THE EARTH THAT IS OVER AGAINST THE FLESH HE BECOMES UNCLEAN. Thereupon R. Joshua the son of Levi said, provided the entire length [of the creature] had been developed. He who reports it in reference to the first clause will with more reason apply it also to the last clause,[20] but he who reports it in reference to the last clause will hold that in the first clause even though the entire length [of the creature] had not been developed [whosoever touches the fleshy part thereof becomes unclean].

Our Rabbis taught: Since Scripture mentioned ‘the mouse’[21] I would have said that it included the sea-mouse for it bears the name ‘mouse’. There is, however, an argument [against this]: [Scripture] declared the weasel unclean and the mouse unclean, therefore as the weasel refers only to those that live upon the land[22] so the mouse refers only to those that live upon the land. Or you might argue in this way: [Scripture] declared the weasel unclean and the mouse unclean, therefore as the weasel refers to every creature which bears the name weasel, so the mouse refers to every creature which bears the name mouse, and so it will include the sea-mouse since it bears the name mouse! The text therefore teaches: Upon the earth.[23] But if I had only the expression ‘upon the earth’ to go by, I might say that while upon the earth it[24] can render unclean, but if it went down into the sea it[24] cannot render anything unclean!

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(1) The three means of conveying uncleanness are: by contact, by carrying, and by overshadowing. With regards to the three matters stated, only two of these means apply, the actual two varying with each case, but not all three.

(2) V. supra p. 397, n. 7.

(3) This clearly conflicts with the aforementioned view of R. Jose, supra p. 703.

(4) This is a traditional law and not derived from the exposition of a verse, but v. Tosaf. s.v. עצם, and s.v. גולל.

(5) Lev. XI, 39.

(6) According to Rashi the implication is derived from the superfluous ‘yod’ in the word yitma, shall be unclean. V. however, Shittah Mekubbezeth, n. 9.

(7) If the flesh, or, as in this case, the marrow, that is inside can be touched from the outside, then the outer covering serves as a protection to what is inside, and as such conveys the uncleanness.

(8) Since one cannot touch the flesh directly and the hide itself is clean, v. supra 124b.

(9) E.g., the nose and the mouth which give direct access to the flesh.

(10) For the fat itself is clean, v. Pes. 231.

(11) And the fibers are accounted as flesh.

(12) And what is incomplete does not convey uncleanness.

(13) And therefore since there was a clear intention to pierce it it conveys uncleanness. According to old sources the reading is, ‘The absence of piercing makes it incomplete’; for which see Sh. Mek., n. 5, and Maim. Yad, Aboth Hatumeah, II, 12.

(14) And if a man touched the shell he remains clean since the developed embryo within cannot be touched at all.

(15) And contact with the shell would render the person unclean, for in this case the shell serves as a protection to foodstuff and as such conveys uncleanness.

(16) According to the Rabbis, there exists a kind of mouse which is generated from the earth itself; v. Lewysohn, Zoologie des Talmuds, p. 345. Cf. also Sanh. 91a. In the process of generation there would be a time when it is half flesh and half earth.

(17) Lev. XI, 31: These are the unclean amongst all the creeping things: whosoever doth touch them, when they are dead, shall be unclean until the even.

(18) For it is established law that if a person touched the hair of an unclean body or if by his hair he touched an unclean body, in either case he becomes unclean. V. Rashi a.l.

(19) If the creature had already developed in its entire length from head to tail, even if only in half the width of its body, whosoever touches the fleshy part which has already developed becomes unclean.

(20) For had it not developed in its entire length R. Judah surely would not have said that whosoever touched the earth thereof would become unclean.

(21) Lev. XI, 29: And these are they which are unclean to you among the creeping things that creep upon the earth: the weasel, and the mouse, and the toad after its kind.

(22) For there are no weasels, nor any creatures by the name of weasel, that live in the sea.

(23) Ibid. This serves to exclude those that live in the sea.

(24) Sc., the mouse, be it land-mouse or sea-mouse.

Talmud - Mas. Chullin 127a

The text therefore teaches: That creep[1] signifies, wherever it creeps[2] [it renders unclean]. But perhaps it is not so but that the expression ‘that creep’ signifies, all that breed[3] can render unclean, but those that do not breed cannot render unclean, and so I would exclude the mouse which is half flesh and half earth since it does not breed.[4] There is, however, a good argument [against this]: [Scripture] declared the weasel unclean and the mouse unclean, therefore as the weasel refers to all that bear the name weasel, so the mouse refers to all that bear the name mouse, and [in this way] I include the mouse which is half flesh and half earth. Or you might argue in this way: As the weasel breeds so the mouse [includes all species that] breed, [and so I would exclude the mouse which is half flesh and half earth]! The text therefore teaches. Among the creeping things.[5]

A certain Rabbi said to Raba: Perhaps the expression ‘among the creeping things’ includes the mouse which is half flesh and half earth, and the expression ‘that creep’ signifies all that creep, thus including the sea-mouse, and as for the expression ‘upon the earth’, it would be interpreted as follows: While upon earth it[6] can render unclean, but if it went down into the sea it cannot render anything unclean? — He replied: Since you regard the sea as a place of uncleanness, then it is all one, whether here or there.[7] But is not the expression ‘upon the earth’ required to exclude a floating uncleanness where there is a doubt [concerning contact]?[8] For R. Isaac b. Abdimi stated: The expression ‘upon the earth’ excludes a floating uncleanness concerning which there is a doubt! — ‘Upon the earth’ is written twice.[9] Our Rabbis taught: The toad after its kind,[10] includes the ‘arod,[11] the ben-nephilin,[12] and the salamander.[13] When R. Akiba read this verse he used to say: ‘How manifold are Thy works, O Lord![14] Thou hast creatures that live in the sea and Thou hast creatures that live upon the dry land; if those of the sea were to come up upon the dry land they would straightway die, and if those of the dry land were to go down into the sea they would straightway die. Thou hast creatures that live in fire and Thou hast creatures that live in the air; if those of the fire were to come up into the air they would straightway die, and if those of the air were to go down into the fire they would straightway die. How manifold are Thy works, O Lord!’

Our Rabbis taught: Every creature that is on the dry land is also to be found in the sea, excepting the weasel. R. Zera said: Where is there proof for this from Scripture? Give ear, all ye inhabitants of the world.[15]

R. Huna the son of R. Joshua said. The beavers around Naresh[16] are not land [creatures].[17]

R. Papa said. The ban upon Naresh, its fat, its hide, and its tail![18]

O Land, land, land, hear the word of the Lord.[19] Said R. Papa. Yet the inhabitants of Naresh would not hear the word of the Lord.

R. Giddal said in the name of Rab, If an inhabitant of Naresh has kissed you then count your teeth.[20] If a man of Nehar Pekod accompanies you it is because of the fine garments he sees on you.[21] If a Pumbedithan accompanies you then change your quarters.[22]

R. Huna b. Torta said: I once went to Wa'ad[23] and saw a snake wrapped round a toad; after some days there came forth an ‘arod from between them. When I came before R. Simeon the pious, [and related this to him,] he said to me: The Holy One, blessed be He, said: They have produced a new creature which I had not created into my world, I too will bring upon them a creature which I had not created in my world.[24] (But has not a Master said,[25] All creatures whose manner of copulation is the same and whose period of gestation is the same can bear young from each other and suckle each other, but all creatures whose manner of copulation is not the same and whose period of gestation is not the same cannot bear young from each other nor suckle each other?[26] — Rab said: It was a miracle within a miracle.[27] But this is for chastisement![28] — It was a micracle[29] within a miracle even for chastisement!)

MISHNAH. LIMBS[30] OR PIECES OF FLESH WHICH HANG LOOSE FROM THE [LIVING] ANIMAL ARE RENDERED UNCLEAN IN RESPECT OF FOOD UNCLEANNESS WHILST THEY ARE IN THEIR PLACE.[31] AND REQUIRE TO BE RENDERED SUSCEPTIBLE TO UNCLEANNESS.[32]

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(1) Ibid.

(2) In the light of this interpretation it could not have been maintained that a mouse cannot render unclean if it fell into the sea and there came into contact with some object. Consequently the term ‘upon the earth’ must be explained with regard to species, thus only land species can render unclean but not the sea species.

(3) Heb. שרץ might also mean to propagate, breed; cf. Ex. I, 7. Rashi, however, explains the word in the sense that the creature is the product of copulation of the sexes, which is not the case with the mouse that is generated by the earth itself. In some MSS. of Rashi this explanation is not found.

(4) Consequently the expression ‘upon the earth’ would signify that all creatures, whether land or sea creatures, if they have fallen into the sea, cannot render anything unclean.

(5) Lev. XI, 29. This would include even the mouse generated by the earth.

(6) Sc., any mouse, whether land-mouse or sea-mouse, or the mouse generated from the earth.

(7) I.e., a breeding place for species that can render unclean. Since it has been established that the sea-mouse can render unclean, there is no sufficient reason, indeed it is illogical to limit such uncleanness to the time when it creeps upon the land.

(8) I.e., if a dead reptile was floating upon the water and there arose a doubt as to whether or not it had come into contact with some object, even if the doubt arose in a private domain (in which case the established rule is that the state of doubt is resolved according to its more stringent aspect. i.e., unclean), the object remains clean. This is deduced from the strict interpretation of the expression ‘upon the earth’. V. Nazir 64a.

(9) Ibid. XI, 29 and 41.

(10) Lev. XI. 29.

(11) ערוד, a species of lizard; a cross between a snake and a toad. ‘The watersnake’ according to Lewysohn, op. cit. pp. 241-2.

(12) נפילין or בן נפילין, the skink; so Lewysohn, p. 225.

(13) A kind of lizard which was supposed to exist in fire without being burnt; v. Hag. end.

(14) Ps. CIV, 24.

(15) Ibid. XLIX, 2. ‘The world’ is expressed by the rare word חלד (heled) which is similar to the word for the weasel (holed). The world (heled) is the specific habitation of the weasel (holed), for the latter is not to be found in the sea.

(16) Identical with Nahras, on the canal of the same name, on the East bank of the Euphrates.

(17) So according to Rashi. Tosaf., however, gives an entirely different rendering: ‘The inhabitants of Bibri and of Naresh are not fit for human society’ (i.e., they are in every way wicked, see following statement of R. Papa). Accordingly Bibri (Be-Bari) is taken as the town close to Naresh; cf. ‘Er. 56a and Sot. 10a. V. Tosaf. a.l., and Lewysohn, op. cit. p. 98. [Obermeyer p. 308 renders: Be-Bari and Naresh are not accounted as (inhabited) settlements. They are, that is, sparsely inhabited and infested consequently with wild animals.1

(18) The inhabitants of Naresh, both great and small, all without exception are wicked, and should be put under the ban. The fat, the hide, and the tail, indicate the various sections of the community.
(19) Jer. XXII, 29.
(20) For they are all thieves and insincere in their profession of friendship.
(21) He will steal it from you at the first opportunity.
(22) That he may not rob you.
(23) The name of a certain place whose inhabitants used to engage in crossbreeding animals. A variant reading is, יער, ‘a forest’.
(24) Sc. the ‘arod whose bite is deadly; cf. Ber. 331.
(25) Bek. 8a.
(26) The periods of gestation of a snake and a toad differ greatly; with the latter it is six months, with the former seven years, cf. Bek. 8a, consequently they cannot be crossed.
(27) First that each should leave its own kind, and secondly that these two kinds should bear from each other.
(28) God surely would not perform miracles for the purpose of chastisement.
(29) So MS.M. Cur. edd., ‘what is the meaning of a miracle within a miracle? For the purpose of punishment.’
(30) I.e., pieces consisting of bones, flesh and sinews. A limb entirely severed from the living animal renders unclean men and vessels like a carcass, whereas a piece of flesh entirely severed from the animal has no uncleanness whatsoever, v. infra 128b.
(31) Although they are not severed from the animal and the animal whilst alive cannot contract or convey uncleanness, they are in this respect regarded as detached from the animal, provided they were expressly intended to serve as food (for a gentile, cf. ‘Uk. III, 2), so as to contract uncleanness like ordinary foodstuffs and also to convey it.
(32) By being moistened by water or one of the seven liquids (v. Maksh. VI, 4) at any time after they have been torn loose.

Talmud - Mas. Chullin 127b

IF THE ANIMAL WAS SLAUGHTERED THEY HAVE BY THE BLOOD [OF THE SLAUGHTERING] BECOME SUSCEPTIBLE TO UNCLEANNESS:[1] SO R. MEIR. R. SIMEON SAYS, THEY HAVE NOT BECOME SUSCEPTIBLE TO UNCLEANNESS. IF THE ANIMAL DIED. THE FLESH REQUIRES TO BE RENDERED SUSCEPTIBLE TO UNCLEANNESS, AND THE LIMB IS RENDERED UNCLEAN AS A LIMB SEVERED FROM THE LIVING CREATURE, BUT IS NOT RENDERED UNCLEAN AS THE LIMB OF A CARCASS:[2] SO R. MEIR. R. SIMEON DECLARES IT CLEAN.

GEMARA. They are rendered unclean in respect of FOOD UNCLEANNESS but not in respect of nebelah uncleanness.[3] Now what are the circumstances? If they can be restored[4] they should not be rendered unclean even In respect of food uncleanness, and if they cannot be restored they should be then rendered unclean also in respect of nebelah uncleanness! — In fact they cannot be restored, but with regard to nebelah Uncleanness it is different, for the Divine Law says. And if there fall,[5] that is, they must absolutely fall away [from the body].[6] There was also taught [a Baraitha] to this effect: ‘With regard to the limbs or the pieces of flesh which hang loose from the animal and are attached by a hairbreadth, I might have said that they should convey nebelah uncleanness, the text therefore states. "And if there fall", that is, they must absolutely fall away [from the body]’; nevertheless, they are rendered unclean in respect of food uncleanness.[7]

This supports R. Hiyya b. Ashi, for R. Hiyya b. Ashi said in the name of Samuel: Figs which had shrivelled up on the branch are rendered unclean in respect of food uncleanness, and he who plucks them on the Sabbath is liable to bring a sin-offering.[8]

Shall we say that the following also supports him? It was taught: Vegetables, such as cabbages and pumpkins, which had shrivelled up on the stem,[9] are not rendered unclean in respect of food uncleanness. If they were cut down and dried, they are rendered unclean in respect of food uncleanness. ‘If they were cut down and dried’. But this is unthinkable, for they are then like wood! R. Isaac, however, explained that it means: If they were cut down in order to be dried.[10] Now this reasoning applies only to cabbages and pumpkins, for these no sooner have they become dry than they are uneatable: but other fruits [even though they shrivelled up on the stem] are rendered unclean [in respect of food uncleanness]. And what are the facts [in the case of the shrivelled-up cabbages and pumpkins]? If both they and their stems dried up, it is obvious;[11] it must be then that only they shrivelled up but not their stems![12] — [It is not so]. In fact both they and their stems had dried up, but it was necessary to teach that if one cut them down in order to dry them [they are still unclean in respect of food uncleanness].

Come and hear: If a branch of a tree broke off with fruits upon it they are regarded as plucked. If they[13] had dried up they are regarded as attached, presumably as the one is regarded as plucked for all purposes,[14] so the other is regarded as attached for all purposes![14] — Is this an argument? One means one thing, and the other another.[15]

IF THE ANIMAL WAS SLAUGHTERED etc. What is the issue between them?[16] — Rabbah said: They differ as to whether the animal can be regarded as serving as a handle to a limb;[17] one[18] holds that the animal can be regarded as a handle to a limb,[19] and the other[20] holds that the animal cannot be regarded as a handle to a limb.

Abaye said: They differ as to the ruling in the case where by taking hold of the smaller part of a thing the greater part does not come away with it; one[18] is of the opinion that where by taking hold of the smaller part of a thing the greater part does not come away with it it is regarded like it,[21] but the other[20] is of the opinion that where by taking hold of the smaller part of a thing the greater part does not come away with it it is not regarded like it.

R. Johanan also maintains that they differ as to the ruling in the case where by taking hold of the smaller part of a thing the greater part does not come away with it. For R. Johanan pointed out a contradiction in the views of R. Meir. Did R. Meir say, where by taking hold of the smaller part of a thing the greater part would not come away with it it is to be regarded like it? But there is a contradiction to it for we have learnt:[22] If a foodstuff [of terumah] was divided, but was still attached in part.

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(1) For at the slaughtering the limbs and pieces of flesh are not regarded as having fallen off, so that although the slaughtering cannot render the limbs and flesh fit for food it can render them clean that they be not nebelah, and at the same time it renders them susceptible to receive uncleanness by the moistening by the blood. V. supra 33a.

(2) For at death the limbs and pieces of flesh are regarded as having fallen off before, i.e., from the living animal, and therefore the flesh is entirely free from uncleanness (v. p. 714, n. 12) whereas the limbs convey uncleanness as limbs severed from a living animal but not as limbs severed from a carcass. For the distinction v. Gemara infra.

(3) I.e., the limb does not render men and vessels unclean.

(4) I.e., the flesh or the limb hanging from the body could be reset and bound up with the body so as to heal and recover completely.

(5) Lev. XI, 37.

(6) In order to be deemed unclean like nebelah.

(7) Though in respect of nebelah uncleanness they are considered attached to the animal.

(8) Thus although with regard to Sabbath the figs are regarded as still upon the tree, with regard to food uncleanness they are regarded as fallen off.

(9) I.e., during growth.

(10) Although they were intended to be dried and used as fuel, nevertheless so long as they are still moist they are rendered unclean in respect of food uncleanness.

(11) For even with regard to the laws of Sabbath these vegetables would be regarded as plucked, consequently only these do not convey food uncleanness, since they are as wood, but other vegetables do. Hence it was unnecessary for the

Baraitha to state these obvious rules.

(12) In which case with regard to the laws of Sabbath they would be regarded as unplucked, nevertheless with regard to uncleanness they are considered plucked and convey food uncleanness, thus supporting Samuel's view.

(13) In the case where the tree had not split but the fruits had dried upon the tree.

(14) I.e., both as regards the laws of Sabbath and uncleanness, thus conflicting with Samuel, who distinguishes between these laws.

(15) In other words, ‘regarded as attached’ has reference only to the laws of Sabbath but not to uncleanness, thus in agreement with Samuel.

(16) R. Meir and R. Simeon in our Mishnah.

(17) Both agree that moistening the handle of foodstuffs renders the whole foodstuff susceptible to uncleanness, but the question is whether the major portion of a thing can in any way be said to serve as a handle to the lesser portion, so that by moistening the bulk the handle is regarded as made susceptible to uncleanness.

(18) R. Meir.

(19) So when the animal was rendered susceptible to uncleanness the hanging limb was likewise rendered susceptible.

(20) R. Simeon.

(21) I.e., the smaller part is still considered as part of the whole. It is agreed to by all that the animal cannot serve as a handle to the limb, but R. Meir and R. Simeon differ in this: R. Meir maintains that whatever still hangs on to the whole is regarded as part of the whole; for, granted that the hanging limb cannot pull with it the rest of the animal, the animal when taken up would certainly take with it this hanging limb. R. Simeon, however, does not accept this argument.

(22) T. Y. III, 1. Cf. variant text in Tosaf. 128a, s.v. רבי.

Talmud - Mas. Chullin 128a

R. Meir says: If by taking hold of the smaller part the greater part comes away with it, it is regarded like it;[1] otherwise it is not regarded like it.[2] Whereupon R. Johanan suggested that he in this case changed his opinion![3] But what was [R. Johanan's] difficulty? perhaps R. Meir distinguishes between the uncleanness of a tebul yom[4] and other uncleannesses? — [This surely is not the case for] it was taught: Rabbi says: It is all one whether the uncleanness was that of a tebul yom or any other uncleanness.[5] But perhaps Rabbi draws no distinction [between the uncleannesses] but R. Meir does? — Said R. Josiah. This is what R. Johanan meant to say. According to Rabbi's view he [R. Meir] in this case changed his opinion. Raba said: They differ as to whether the law of handles applies only in respect of conveying the uncleanness but not in respect of rendering [the bulk] susceptible to uncleanness [or whether it applies to both];[6] one[7] holds that the law of handles applies only in respect of conveying the uncleanness but not in respect of rendering [the bulk] susceptible to uncleanness, but the other[8] holds that the law of handles applies both in respect of conveying the uncleanness and of rendering [the bulk] susceptible to uncleanness.

R. Papa said: They differ as to the ruling in the case where [the limb] was rendered susceptible [to uncleanness] before any intention [was formed of using it as food].[9] For it was taught: R. Judah said: R. Akiba used to teach as follows: The forbidden fat of a slaughtered animal, in villages,[10] needs intention [to be used for food], but does not need to be made susceptible to uncleanness, since it has already[11] been made susceptible by the slaughtering. Thereupon I said to him: Master, did you not teach us that if a man gathered endives, washed them for [feeding] cattle, and then determined to use them as food for man, they again need [to be moistened in order] to be rendered susceptible to uncleanness?[12] R. Akiba then retracted and taught according to R. Judah. The one[8] accepts the original [teaching of R. Akiba].[13] the other[7] [the teaching] after he retracted. R. Aha the son of R. Ika said: They differ in the case where the blood was wiped away [from the limb] between the cutting of the first and second organs [of the throat];[14] one[15] maintains that the term shechitah applies to the entire process of slaughtering from beginning to end, consequently this [blood that was upon the limb] was the blood of slaughtering; the other[16] maintains that the term shechitah applies only to the last stage of the slaughtering, consequently this [blood that was upon the limb] was the blood of a wound.[17]

R. Ashi said: They differ as to whether the slaughtering only and not the blood renders susceptible to uncleanness.[18]

Rabbah raised the following question: Can the living animal serve as a handle to the limb or not?[19] — It is undecided.

Abaye said: Behold they have said:[20] If a man planted a cucumber in a plant-pot and it grew and spread outside the pot, it is clean.[21] Said R. Simeon: How does this come[22] to be clean? Rather what is unclean[23] remains unclean and what is clean[24] remains clean. Now, asked Abaye, [according to R. Simeon] can it[24] serve as a handle to the rest?[25] — It is undecided.

R. Jeremiah said: Behold they have said that if a man bowed down to half a pumpkin he has thereby rendered it forbidden.[26] Now, asked R. Jeremiah,

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(1) And if a tebul yom (i.e., one who has immersed himself by day but is not regarded as absolutely clean until sunset) touched either part, the whole is rendered invalid (i.e., it is unclean, but it cannot convey the uncleanness).

(2) And only the part touched by the tebul yom is rendered invalid but not the other.

(3) R. Meir in the case of the tebul yom adopted a different view, but generally he is of the opinion that where by taking hold of the smaller part the greater part does not come away with it, the former is regarded as part of the whole (Rashi).

(4) V. n. 2. In the case of a tebul yom R. Meir adopts a less strict view, since the uncleanness of such a person is only Rabbinic. So Rashi, but v. Glos. of R. Akiba Eger in the margin of the folio.

(5) I.e., what is regarded as contact with the whole in the case of other sources of uncleanness is also regarded as contact with the whole by a tebul yom

(6) They both, however, agree that the animal can serve as a handle to the limb.

(7) R. Simeon.

(8) R. Meir.

(9) Since the limb was hanging loose from the living animal it is forbidden, even after the slaughtering, to be eaten by all, Jew and gentile alike; consequently it is not regarded as a foodstuff unless an express intention was formed to that effect. In this case, however, at the time of slaughtering when the animal was rendered susceptible to uncleanness by the blood, no such intention was expressed. Later when it is intended to be used as food the question arises whether the first moistening has effectively rendered it susceptible to uncleanness or not. They both, however, agree that a part can serve as a handle both for the purposes of uncleanness and of rendering aught susceptible to uncleanness.

(10) In villages fat was not counted as a foodstuff for it was not usually eaten, either because the villagers could not afford to buy it, or because there was no need for it because of their abundant supply of meat.

(11) Prior to the intention.

(12) For the first washing by water, since it preceded the intention to use them as a foodstuff, will not serve to render them susceptible to uncleanness.

(13) That moistening by water of any matter, even before the intention was formed to use it as a foodstuff, renders it susceptible to uncleanness.

(14) They both hold that although the animal serves as a handle to the limb, it can only serve as such for the purposes of uncleanness but not for the purpose of rendering the limb susceptible to uncleanness; in other words the limb must itself be moistened. Now in this case some blood of the slaughtering splashed upon this loose limb but it was wiped off before the slaughtering was completed.

(15) R. Meir.

(16) R. Simeon.

(17) Which cannot render aught susceptible to uncleanness; v. supra 35b.

(18) It is agreed by all that the animal cannot serve as a handle to the limb for the purpose of rendering it susceptible to uncleanness; it is therefore suggested that the limb was splashed with the blood of the slaughtering which was not wiped off at all. R. Simeon nevertheless maintains that the limb was not thereby rendered susceptible, for he holds that it is the act of slaughtering and not the blood which renders the animal susceptible to uncleanness, and this being so, the act of slaughtering must be a valid act such as renders the animal fit for food, which is not the case with regard to this limb.

(19) This question is founded upon the view of R. Meir who, on Rabbah's interpretation, holds that the slaughtered animal serves as a handle to the loose limb. If it is held that the living animal can also serve as a handle to the loose limb, then the position would be that if unclean matter came into contact with the body of the animal, although it could not itself contract uncleanness thereby for it is alive, it could nevertheless act as a ‘handle’ to convey the uncleanness to the loose limb (provided the limb was first moistened by water).

(20) ‘Uk. II, 9.

(21) Whatsoever is planted in a plant-pot which is not perforated is not regarded as attached to the soil in any way; it is therefore susceptible to contract uncleanness, or if the plant was unclean before planting, it retains the uncleanness (which is not the case if the plant was planted in the ground). If, however part of the growth of the plant spread outside the pot this part clearly draws nourishment from the earth and the effect is that the whole plant, even that which is inside the pot, is insusceptible to uncleanness, or if the plant, before planting, was unclean, it is now clean.

(22) Lit., ‘what is the nature of this’?

(23) Sc., that which is inside the pot, for it is not regarded as attached to the soil.

(24) Sc., that which is outside the pot, and which draws sustenance from the soil and so is regarded as attached to the soil.

(25) To convey uncleanness to what is inside the pot although it itself cannot contract uncleanness.

(26) Inasmuch as it is forbidden to derive any benefit whatsoever from the object worshipped, the half pumpkin is no longer, according to the view of R. Simeon infra 129a, regarded as a foodstuff, and so cannot contract uncleanness.

Talmud - Mas. Chullin 128b

can it serve as a handle to the other [half]?[1] — It is undecided.

R. Papa said: Behold they have said,[2] If a branch of a fig-tree was broken off but it was still attached by the bark, [and unclean matter came into contact with it.] R. Judah declares it to be clean;[3] but the Sages say. If it can live,[4] it is clean; but if not, it is unclean. Now, asked R. Papa, can it serve as a handle to the rest?[5] — It is undecided. R. Zera said: Behold they have said,[6] As to a stone that is in a corner,[7] when it must be taken out[8] the whole of it must be taken out, and when [the house] must be pulled down[9] a man need pull down only his own [half of the stone] but leaves his neighbour's [half]. Now, asked R. Zera, can it serve as a handle to the rest?[10] — It is undecided.

IF THE ANIMAL DIED. What difference is there between a limb torn from a living animal and a limb torn from a dead animal? — The difference is where some flesh is severed from the limb; for flesh severed from the limb torn from a living animal is not rendered unclean, but [flesh severed] from the limb torn from a dead animal is rendered unclean. And where is there proof in Scripture that a limb torn away from a living animal renders unclean? — Rab Judah said in the name of Rab: It is written: And if there die of the beasts.[11] But surely this verse is required for the other teaching of Rab Judah in the name of Rab; for Rab Judah said in the name of Rab, (others say: It was so taught in a Baraitha). It is written: And if there die of the beasts, [he that toucheth the carcass thereof shall be unclean,] that is to say, some beasts render unclean and some do not, and which are they [that do] not render unclean]? They are trefah animals that have been slaughtered.[12] — If that were so, Scripture should have stated ‘of beasts’; why does it state ‘of the beasts’? You may therefore infer two results from it. Then in that case even flesh [severed from the living animal] should also [render unclean], should it not? — You cannot say so, for it has been taught: I might think that flesh severed from the living animal should also be unclean, Scripture therefore states: And if there die of the beasts: as death cannot be replaced so everything that [is severed and] cannot be replaced [renders unclean]; so R. Jose [the Galilean]. R. Akiba says. It is written: ‘The beasts’: as the beast is made up of veins and bones so everything [severed] must be made up of veins and bones [in order to render unclean]. Rabbi says: ‘The beasts’: as the beast is made up of flesh and veins and bones so everything [severed] must be made up of flesh and veins and bones [in order to render unclean]. Wherein is there a difference between Rabbi and R. Akiba? — In the case of the nethermost joint [of the leg].[13] And wherein is there a difference between R. Akiba and R. Jose the Galilean? — R. Papa answered: In the case of the kidney and the upper lip.[14]

The same has also been taught with regard to creeping things, viz., I might think that flesh severed from [living] creeping things should also be unclean, Scripture therefore states. When they are dead:[15] as death cannot be replaced so everything that [is severed and] cannot be replaced [renders unclean]; so R. Jose the Galilean. R. Akiba says. It is written: The creeping things:[15] as the creeping thing is made up of veins and bones so everything [severed] must be made up of veins and bones [in order to render unclean]. Rabbi says: ‘The creeping things’: as the creeping thing is made up of flesh and veins and bones so everything [severed] must be made up of flesh and veins and bones. Between Rabbi and R. Akiba there is a difference with regard to the nethermost joint [of the leg]; and between R. Akiba and R. Jose the Galilean there is a difference with regard to the kidney and the upper lip.

Now both teachings were necessary. For if it had been taught only with regard to beasts I should have said that the reason [why the flesh torn from] the living beast does not render unclean was that [the beast when dead] does not render unclean by a lentil's bulk thereof,[16] but in the case of a creeping thing, since [when dead] it renders Unclean by a lentil's bulk thereof, I should have said that the flesh of the living [creeping thing] should render Unclean. And if it had been taught only with regard to creeping things. I should have said that the reason [why the flesh torn from] the living creeping thing does not render unclean was that creeping things do not convey uncleanness by carrying, but in the case of beasts, since they do convey uncleanness by carrying. I should have said that even [the flesh torn from] the living beast should render unclean. Therefore both teachings were necessary.

Our Rabbis taught: Where a man cut off an olive's bulk[17] of flesh from a limb that was severed from a living animal, if he first cut it off and then intended it as food,[18] it is clean;[19] but if he first intended it as food and then cut it off, it is unclean.[20] R. Assi was once absent from the Beth Hamidrash. He later met R. Zera and asked him, ‘What was said in the Beth Hamidrash’? Said the other, ‘And what was your difficulty’? He said: ‘Well, it has been stated: "If he first intended it as food and then cut it off, it is unclean".

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(1) I.e., if unclean matter came into contact with the forbidden half, can it, seeing that it cannot contract uncleanness itself, serve as a handle to convey the uncleanness to the other half or not?

(2) ‘Uk. III, 8.

(3) For it is still regarded as part of the tree and therefore cannot contract uncleanness.

(4) I.e., if when tied to the tree it can produce fruit.

(5) I.e., can this branch which has been tied to the tree and continues to produce fruit, (in which case it cannot contract uncleanness itself,) serve as a handle, if unclean matter came into contact with it, to convey the uncleanness to a smaller branch broken away from it and which cannot live and produce fruit? This is the first interpretation of Rashi, and it is on all fours with the previous questions that were raised. A simpler interpretation is: can the tree, which does not contract uncleanness, convey the uncleanness which came into contact with it to the branch which has broken away and which cannot revive even when tied to the tree?

(6) Neg. XIII, 2.

(7) I.e., a stone which forms part of two adjoining houses and which was infected with some leprous disease. Cf. Lev. XIV, 33ff: if the plague had spread after the house had been shut up for seven days the infected stones must be removed and replaced by others, and if after a further period of seven days the plague appears upon the new stones then the entire house must be pulled down.

(8) Viz., after the first seven days.

(9) Viz., after the second period of seven days.

(10) It is established that stones infected with the plague render everything in the ‘tent’, i.e., under the same roof-space unclean; cf. Lev. XIV, 36. 46. The question, therefore, is: can the other half of the stone which remains, i.e., his neighbour's half, since it is clean itself, serve as a handle in order that the uncleanness may pass from his house into his neighbour's house.

(11) Lev. XI, 39. The exposition is inferred from the Heb. מן הבהמה, ‘of the beasts’, i.e., a part thereof. Thus a limb that has died (i.e., torn away from the beast) renders unclean.

(12) In this case the expression מן הבהמה, ‘of the beasts’, means among beasts; thus some beasts render unclean and some do not.

(13) Sc., the metatarsus or the metacarpus; these consist entirely of bones and veins without flesh. According to R. Akiba, these are limbs and if severed from the living beast render unclean, and so too according to R. Jose; but according to Rabbi these are not limbs.

(14) These are without bones, but obviously once cut away the animal cannot get another kidney or upper lip. According to R. Jose's definition these are regarded as limbs, but not so according to R. Akiba's definition.

(15) Lev. XI, 31.

(16) There must be at least an olive's bulk thereof.

(17) The words ‘an olive's bulk’ are omitted in MS.M. and other MSS. Rashi apparently also adopts the reading without these words and he quotes the Tosef. in support. The reason for the omission is, that for a foodstuff to contract uncleanness and to convey uncleanness, there must be at least an egg's bulk.

(18) For a gentile.

(19) For a morsel of flesh which has been cut away from a limb that was severed from a living animal has no uncleanness of its own; and at the moment that this morsel comes to be regarded as a foodstuff it was then separated from the limb or from any source of uncleanness, hence it is clean.

(20) Inasmuch as this morsel was regarded as a foodstuff whilst still joined to the limb, it has always borne uncleanness; for when joined to the limb it bore the graver uncleanness (which can render men and vessels unclean), and when separated from it it thereby loses the graver uncleanness but bears the lighter uncleanness (which can render unclean only foodstuffs and liquids) because of its contact with the limb.

Talmud - Mas. Chullin 129a

But it had only [made] covert [contact with] uncleanness[1] and covert [contact with] uncleanness does not render unclean’? Said the other, ‘I, too, had this difficulty and I put it to R. Abba b. Memel, and he told me that this ruling was in accordance with R. Meir's view who maintains that covert [contact with] Uncleanness does render unclean’. He said: ‘Indeed on many occasions he told me that too, but I replied to him that R. Meir surely made a distinction between that which needed to be rendered susceptible [to uncleanness by a liquid] and that which did not need to be so rendered susceptible’,[2] Raba said: But what was the objection, perhaps it was rendered susceptible to uncleanness?[3] Whereupon Rabbah son of Hanan asked Raba: Why is it at all necessary that it be rendered susceptible? Originally[4] it conveyed the graver uncleanness![5] — He replied. But then it served only as wood.[6] Abaye said: Behold they have said[7] that if a man especially set aside a lump of leaven to be used as a seat, he has thereby nullified it.[8] The uncleanness thereof [I say] is not decreed by the law of the Torah; for should you say it is so by the law of the Torah then we should have a case of foodstuffs being able to convey the graver uncleanness [later on]![9] — [No. Not necessarily so]. For it now serves as wood.[10]

Abaye said: Behold they have said that foodstuffs used as offerings to idols render unclean [men and vessels that are] in the same tent.[11] This uncleanness [I say] is not decreed by the law of the Torah; for should you say it is so by the law of the Torah then we should have a case of foodstuffs being able to convey the graver uncleanness [later on]! — [No. Not necessarily so]. For they now serve as wood.[12]

Abaye said: Behold they have stated that foodstuffs that adhere closely [to vessels] are like the vessels themselves.[13] The uncleanness [in such a case I say] is not decreed by the law of the Torah; for should you say it is so by the law of the Torah then we should have a case of foodstuffs being able to convey the graver uncleanness [later on]! — [No. Not necessarily so]. For they now serve as wood.

R. Papa said to Raba: In view of that which has been taught[14] viz.: The forbidden fat of a carcass [of a clean animal], in villages,[15] needs the intention [to be used as food] and also needs to be made susceptible to uncleanness, [I say] the uncleanness that [the fat] conveys by reason of the kidney within it,[16] is not decreed by the law of the Torah; for should you say it is so by the law of the Torah then we should have a case of foodstuffs being able to convey the graver uncleanness![17] — [No, not necessarily so]. For it now serves as wood.[18]

R. Mattenah said: Behold they have spoken of a house roofed with stalks,[19] the uncleanness thereof[20] [I say] is not decreed by the law of the Torah; for should you say that it is so by the law of the Torah then we should have a case of stalks conveying the graver uncleanness! — [No, not necessarily so]. For they now serve as wood.

R. SIMEON DECLARES IT CLEAN. But whichever view you take [it is difficult]: If at death the limb is considered as already fallen off then it should be unclean as a limb severed from a living animal, and if at death it is not considered as already fallen off then it should be unclean as a limb severed from a carcass! — R. Simeon refers to the first clause [which reads]: LIMBS OR PIECES OF FLESH WHICH HANG LOOSE FROM THE [LIVING] ANIMAL ARE UNCLEAN IN RESPECT OF FOOD UNCLEANNESS WHILST THEY ARE IN THEIR PLACE, AND REQUIRE TO BE RENDERED SUSCEPTIBLE TO UNCLEANNESS. But R. Simeon declares them clean.

R. Assi said in the name of R. Johanan. What is the reason for R. Simeon's view? Because Scripture says. All food therein which may be eaten;[21] therefore, food which you may give others[22] to eat is termed food, but food which you may not give

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(1) The contact between the morsel and the limb was made only at the place where subsequently the severance is to be made, and that contact was not exposed. Cf. supra 72b.

(2) R. Meir would agree that where after severance from the limb the part has to be rendered susceptible to uncleanness by water or some other liquid, as is the case here (cf. the Mishnah supra 127a bot.), the covert contact with the uncleanness would not render unclean. Contrast the case stated supra 72b, where the foetus in the womb was already rendered susceptible to uncleanness by the slaughtering of its dam before the unclean protruding limb was cut off.

(3) I.e., the morsel before it was severed from the limb was moistened with water.

(4) Lit., ‘together with its father’.

(5) The morsel when joined to the limb was regarded as a primary source of uncleanness to convey the graver uncleanness, and it is established that whatsoever will convey the graver uncleanness later on does not require to be rendered susceptible to uncleanness by water, v. supra 121a; how much more so this morsel which in the past did convey the graver uncleanness!

(6) I.e., it had no individual character but formed together with the bones and sinews an entire limb. It is only now on being severed from the limb that it assumes a new character, viz., that of a foodstuff, and like all foodstuffs it requires moistening in order to be rendered susceptible to uncleanness.

(7) Pes. 45b.

(8) I.e., it no longer counts as leaven and by using it on the Passover one does not transgress the prohibition of Ex. XII, 19, for it is no longer a foodstuff but converted into a seat. As a seat it would contract midras uncleanness (which is a grave uncleanness) if a man that has an issue sat upon it.

(9) Which would conflict with the principle laid down supra 121a, quoted supra p. 725, n. 5.

(10) When converted into a seat it has lost all the characteristics of a foodstuff and has become quite a new article, and as such can convey the graver uncleanness. Accordingly the uncleanness spoken of can well be by the law of the Torah.

(11) The words ‘men and vessels that are in the same tent’ are omitted in MS.M. Cf. Tosaf. supra 13b s.v. תקרובת.

(12) Since it has been used for idolatrous purposes it is forbidden for all purposes, consequently it has lost its character as a foodstuff, and it is on all fours with any article that has been worshipped.

(13) E.g., pieces of dough found in the cracks of the kneading vessels are regarded as part of the vessel and, if unclean, can render unclean men and vessels. Cf. Pes. 45a, 46a.

(14) The reference given in the margin is to ‘Uk. III, 3, but it is not to be found in the Mishnah in the form quoted. V.

Tosaf. Nid. 50b s.v. ל״ג.

(15) Where the fat is rarely eaten even by gentiles; v. supra p. 719, n. 5.

(16) The fat of a carcass cannot convey uncleanness as nebelah save that which encloses the kidney, and that is because of the kidney that is inside it; v. supra 126b.

(17) And this cannot be for then it would not need to be made susceptible to uncleanness, in accordance with the rule quoted, supra 121a.

(18) The fat that encloses the kidney conveys uncleanness not by virtue of its being a foodstuff but, on the contrary, rather as a bone or wood which serves as a protection to the kidney which is nebelah.

(19) So MS.M. and Rashi. The text in cur. edd. reads: ‘If a house was roofed with stalks they become clean’. V. Rashi s.v. טומאתו.

(20) The stalks, although they contain grain, can no longer be regarded as foodstuffs but form the roof of the house; and if the house was stricken with a leprous plague, this roof as well as the walls and the rest of the house would be unclean and render men and vessels unclean.

(21) Lev. XI, 34.

(22) Sc. gentiles.

Talmud - Mas. Chullin 129b

others to eat is not termed food.[1] R. Zera said to R. Assi, perhaps the reason for R. Simeon's view there [in the first clause] is: since it is attached it is regarded as one with it.[2] For we have learnt:[3] If a branch of a fig-tree was broken off but it was still attached by the bark, [and unclean matter came into contact with it.] R. Judah declares it to be clean;[4] but the Sages say, if it can live,[5] it is clean; but if not, it is unclean. And when we asked you the reason for R. Judah's view you told us that being still attached, it is regarded as one with it! — We must say that it[6] refers to the middle clause [which reads]: IF THE ANIMAL WAS SLAUGHTERED THEY HAVE, BY THE BLOOD [OF THE SLAUGHTERING], BECOME SUSCEPTIBLE TO UNCLEANNESS: SO R. MEIR. R. SIMEON SAYS, THEY HAVE NOT BECOME SUSCEPTIBLE TO UNCLEANNESS. Thereupon R. Johanan said: What is the reason for R. Simeon's view? Because Scripture says: All food therein which may be eaten’; therefore, food which you may give others to eat is termed food, but food which you may not give others to eat is not termed food. But perhaps the reason for R. Simeon's view there is that given by Rabbah[7] or R. Johanan![8] — Indeed we must say, it[6] refers to the last clause, but [R. Simeon differs] not with regard to the limbs[9] but only with regard to the pieces of flesh. Thus, IF THE ANIMAL DIED THE FLESH REQUIRES TO BE RENDERED SUSCEPTIBLE TO UNCLEANNESS; . . . R. SIMEON DECLARES IT CLEAN. Thereupon R. Johanan said: What is the reason for R. Simeon's view?[10] Because Scripture says: ‘All food therein which may be eaten’; therefore, food which you may give others to eat is termed food, but food which you may not give others to eat is not termed food.

MISHNAH. LIMBS OR PIECES OF FLESH WHICH HANG LOOSE FROM A MAN ARE CLEAN. IF THE MAN DIED. THE FLESH IS CLEAN;[11] THE LIMB IS UNCLEAN AS A LIMB SEVERED FROM THE LIVING BODY BUT IS NOT UNCLEAN AS A LIMB SEVERED FROM A CORPSE:[12] SO R. MEIR. R. SIMEON DECLARES IT CLEAN.

GEMARA. Whichever view R. Simeon takes [it is difficult]: If at death the limb is considered as already fallen off, then it should be unclean as a limb severed from the living body, and if at death it is not considered as already fallen off, then it should be unclean as a limb severed from a corpse! — R. Simeon refers to the law in general.[13] For the first Tanna had stated: THE LIMB IS UNCLEAN AS A LIMB SEVERED FROM THE LIVING BODY BUT IS NOT UNCLEAN AS A LIMB SEVERED FROM A CORPSE, and this clearly shows that the law in general is that a limb[14] severed from a corpse is unclean; thereupon R. Simeon said to him that in general a limb[14] severed from a corpse is not unclean. For it has been taught: R. Eliezer said: I have heard that a limb severed from the living body is unclean. Said to him R. Joshua. [Do you mean only] from the living body and not from a corpse? Surely it is all the more so: for if a limb severed from the living body which is clean, is unclean, how much more is a limb severed from a corpse unclean! In like manner we find it stated in the Scroll of Fasts:[15] ‘On the minor Passover no mourning is allowed’. Does this mean that on the major festival[16] mourning is allowed? Surely it is all the more so [on the major festival]; similarly here it is all the more so [with regard to the limb severed from the corpse]! He replied: So have I heard.[17]

What difference is there between a limb severed from the living body and a limb severed from a corpse?[18] — The difference is with regard to an olive's bulk of flesh or a barleycorn's bulk of bone cut away from the limb that was severed[19] (from the living body).[20] For we have learnt: If an olive's bulk of flesh was cut away from a limb that was severed from the living body. R. Eliezer declares it unclean; but R. Nehunia b. Hakaneh and R. Joshua declare it clean. If a barleycorn's bulk of bone broke away from a limb that was severed from the living body. R. Nehunia b. Hakaneh declares it unclean; but R. Eliezer and R. Joshua declare it clean.[21] Now that you have come to this,[22] you can also say that the difference between the first Tanna and R. Simeon is with regard to an olive's bulk of flesh or a barleycorn's bulk of bone.[23]

CHAPTER X

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(1) And a limb severed from a living animal is forbidden even unto gentiles; this being one of the Seven Commandments given to the sons of Noah, cf. Sanh. 56a.

(2) Lit., ‘since it is attached, it is attached’. I.e., as long as it is joined to the living animal, however slender the attachment may be, it is still regarded as part of the living animal and as such cannot be unclean.

(3) ‘Uk. III; 8; v. supra p. 721.

(4) For as long as it is joined to the tree, no matter how slightly, it is regarded as part of the tree, and therefore cannot contract uncleanness since the tree is attached to the soil.

(5) I.e., if when fastened to the tree the branch can continue to produce fruit.

(6) Sc., R. Johanan's explanation of R. Simeon's view derived from the interpretation of the verse in Lev. XI, 34.

(7) V. supra 127b, where Rabbah suggested as the reason for R. Simeon's view the principle that the animal cannot serve as a handle to a limb. In some texts the reading is Raba, and his explanation of R. Simeon's view is that in no circumstances can a handle serve as the means of rendering the rest susceptible to uncleanness (cf. supra 128a).

(8) According to R. Johanan the reason for R. Simeon's view is that he holds that where by taking hold of the smaller part the greater part would not come away with it the former cannot be regarded as one with the latter (cf. supra 127b).

(9) The limb is certainly unclean, whether as a limb severed from the living animal or as a limb from a carcass.

(10) That the pieces of flesh even though moistened by water do not contract uncleanness.

(11) The flesh which was hanging loose is clean for it is regarded as having fallen off before death, and this Tanna holds the view that flesh (not a limb) severed from the living body is clean.

(12) For the distinction between these two v. Gemara infra.

(13) And he holds that a limb (entirely without flesh) severed from a corpse does not convey uncleanness!

(14) With no flesh at all upon it.

(15) To commemorate joyous events in the history of the Jewish people there was drawn up a list of days on which fasting, and in some cases also mourning, was forbidden. See further J.E. VIII, p. 427, and also S. Zeitlin, Megillat Taanit, 1922.

(16) The festival of Passover in the month of Nisan as opposed to the minor festival, or Second Passover, in the month of Iyar (cf. Num. IX, 11).

(17) That a limb from a corpse which contains neither an olive's bulk of flesh nor a barleycorn's bulk of bone is not unclean.

(18) Seeing that the first Tanna (sc. R. Meir) in our Mishnah makes such a distinction.

(19) If such was cut away from the limb severed from the living body it is clean, but if from the limb severed from the corpse it is unclean. This view of R. Meir accords entirely with the view of R. Joshua as stated in the Mishnah ‘Ed., and in the foregoing Baraitha.

(20) These words in brackets are obviously to be deleted. V. Glos. of Strashun a.l.

(21) ‘Ed. VI, 3. For the arguments and reasons adduced by these Rabbis in support of their views v. Mishnah there.
(22) I.e., having introduced the olive's bulk of flesh and the barleycorn's bulk of bone in the argument.
(23) Both the first Tanna and R. Simeon are of the opinion that the limb (even without flesh) of a corpse is unclean, but they differ with regard to an olive's bulk of flesh or a barleycorn's bulk of bone cut away from a limb that was severed from the living body. R. Simeon considers each clean and is in accord with R. Joshua. The first Tanna, however, considers either the former clean and the latter unclean and so accords with R. Nehunia b. Hakaneh, or the former unclean and the latter clean and so accords with R. Eliezer.

Talmud - Mas. Chullin 130a

MISHNAH. THE LAW OF THE SHOULDER AND THE TWO CHEEKS AND THE MAW[1] IS IN FORCE BOTH WITHIN THE HOLY LAND AND OUTSIDE IT, BOTH DURING THE EXISTENCE OF THE TEMPLE AND AFTER IT, IN RESPECT OF UNCONSECRATED ANIMALS BUT NOT CONSECRATED ANIMALS. FOR IT MIGHT HAVE BEEN ARGUED THUS, IF UNCONSECRATED ANIMALS, WHICH ARE NOT SUBJECT TO THE LAW OF THE BREAST AND THE THIGH,[2] ARE SUBJECT TO THESE DUES, HOW MUCH MORE ARE CONSECRATED ANIMALS, WITH ARE SUBJECT TO THE LAW OF THE BREAST AND THE THIGH, SUBJECT ALSO TO THESE DUES! SCRIPTURE THEREFORE STATES, AND I HAVE GIVEN THEM UNTO AARON THE PRIEST AND UNTO HIS SONS AS A DUE FOR EVER;[3] ONLY WHAT IS MENTIONED IN THIS PASSAGE SHALL BE HIS.[4]

ALL CONSECRATED ANIMALS WHICH HAD CONTRACTED A PERMANENT PHYSICAL BLEMISH BEFORE THEY WERE CONSECRATED[5] AND HAVE BEEN REDEEMED[6] ARE SUBJECT TO THE LAW OF THE FIRSTLING[7] AND TO THESE DUES, AND LIKE UNCONSECRATED ANIMALS THEY MAY BE SHORN AND MAY BE PUT TO WORK,[8] AND AFTER THEY HAVE BEEN REDEEMED THEIR YOUNG[9] AND THEIR MILK ARE PERMITTED,[10] AND HE WHO SLAUGHTERED THEM[11] OUTSIDE THE SANCTUARY IS NOT LIABLE, AND THEY[11] DO NOT RENDER WHAT WAS SUBSTITUTED FOR THEM [HOLY].[12] AND IF THEY DIED THEY MAY BE REDEEMED.[13] THE FIRSTLING[14] AND THE TITHE OF CATTLE[14] ARE EXCEPTED. ALL [CONSECRATED ANIMALS] WHICH HAD CONTRACTED A PERMANENT BLEMISH AFTER THEY WERE CONSECRATED, OR IF THEY HAD CONTRACTED A PASSING BLEMISH BEFORE THEY WERE CONSECRATED AND SUBSEQUENTLY [AFTER CONSECRATION] CONTRACTED A PERMANENT BLEMISH, AND HAVE BEEN REDEEMED,[15] ARE EXEMPT FROM THE LAW OF THE FIRSTLING, AND FROM THESE DUES, AND THEY MAY NOT, LIKE UNCONSECRATED ANIMALS, BE SHORN OR PUT TO WORK, AND [EVEN] AFTER THEY HAVE BEEN REDEEMED THEIR YOUNG[16] AND THEIR MILK ARE FORBIDDEN, AND HE WHO SLAUGHTERED THEM OUTSIDE THE SANCTUARY IS LIABLE,[17] AND THEY[18] RENDER WHAT WAS SUBSTITUTED FOR THEM [HOLY], AND IF THEY DIED THEY MUST BE BURIED.[19]

GEMARA. The reason[20] is that Scripture stated them,[21] but without it I should have argued that consecrated animals are subject to these dues; but surely the argument [of the Mishnah] can be refuted thus: That is so[22] of unconsecrated animals since they are [also] subject to the law of the Firstling![23] — It[24] might have been inferred from male unconsecrated animals.[25] But [it can also be refuted thus]. That is so[22] of males since they are [also] subject to the precept of the First of the Fleece![26] — It[24] might then have been inferred from he-goats. But [it might be argued,] that is so of he-goats since they [also] enter the stall to be tithed![27] — It might then have been inferred from old[28] [he-goats]. But [it might be argued,] that is so of old [he-goats] since they have in the past entered the stall to be tithed! — It might then have been inferred from a bought or orphaned animal.[29] But [it might be argued.] that is so of bought or orphaned animals since their kind enters the stall to be tithed! — ‘Their kind’! you say; then it is the same with consecrated animals too,for their kind[30] enters the stall to be tithed.[31]

But can it not be inferred that unconsecrated animals are subject to the precept of the breast and the thigh from the following a fortiori argument? Thus: if consecrated animals, which are not subject to the priestly dues, are subject to the precept of the breast and the thigh, how much more are unconsecrated animals which are subject to the priestly dues subject also to the precept of the breast and the thigh! The verse therefore reads: And this shall be the priests' due;[32] 'this', yes, but nothing else. Now the reason is that Scripture stated 'this', but without it I should have said that unconsecrated animals are subject to the precept of the breast and the thigh. But is not the rite of 'waving' essential?[33] And where can they be waved? Outside [the Sanctuary]? But it is written: Before the Lord.[33]

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(1) Deut. XVIII, 3: And this shall be the priests' due from the people, from them that slaughter a slaughtering whether it be ox or sheep, that they shall give unto the priest the shoulder and the two cheeks and the maw.

(2) Lev. VII, 29ff. This law clearly refers to animal offerings only.

(3) Ibid. 34.

(4) Thus of consecrated animals the breast and the thigh only pertain to the priest but not the shoulder etc.

(5) Such animals can only be regarded as consecrated for their value (קדושת דמים) for they are unfit for sacrifice by reason of their blemish.

(6) They are now like ordinary unconsecrated animals in every respect.

(7) And if they now bear a male firstling, even though the animal became pregnant before redemption, it belongs to the priest; cf. Num. XVIII, 15-28.

(8) But this is not so with consecrated animals which contracted a permanent blemish after consecration and have been redeemed. To such the provisions of Deut. XII, 15 apply; thus they are regarded as the gazelle and the hart and are exempt from the law of firstling and from the priestly dues; they may be slaughtered and eaten but may not be put to any labour; and their products, as wool, milk and young, are forbidden.

(9) Even though the animal became pregnant before it was redeemed and brought forth its young after redemption; cf. Bek. 14a.

(10) V. p. 732, n. 8.

(11) Even before they were redeemed.

(12) For although the expression, 'A good for a bad or a bad for a good', in connection with the law of Substitution (Lev. XXVII, 10) has been interpreted to mean an unblemished for a blemished animal, this applies only to a consecrated animal that later suffered a blemish, but not to a blemished animal that was later consecrated; cf. Bek. 14b.

(13) Even though they are fit now only for dogs' food; for the rule (Bek. 15a), 'One must not redeem consecrated animals in order to feed dogs therewith', does not apply to these animals, since they were never regarded as consecrated themselves (קדושת הגוף), but only as consecrated for their value (קדושת דמים). Moreover this Tanna is of the opinion that whatsoever is consecrated for value only need not be made to stand when being redeemed, as is the case with animal offerings when being redeemed on account of a blemish (v. Lev. XXVII, 11,12).

(14) These are holy in all circumstances; for the male firstling is still holy even though born blemished; likewise the tenth beast is designated holy, whether it is blemished or not.

(15) These were themselves consecrated for sacrifice and the provisions of Deut. XII, 15 apply; v. supra p. 732, n. 8.

(16) It is assumed that the animal became pregnant before it was redeemed and brought forth its young after redemption; v. Bek. 14a.

(17) Even though because of their blemish they are not fit for sacrifice in the Sanctuary. In Bek. 16a the unfitness is explained as arising out of a slight blemish, e.g., a thin filmy veil over the eye, and the view adopted is that of R. Akiba who holds that a consecrated animal with such a blemish if already offered upon the altar must not be taken down.

(18) Before they were redeemed.

(19) V. supra p. 733, n. 5. For one must not redeem consecrated animals in order to feed dogs therewith; alternatively because they cannot stand while being redeemed.

(20) Why consecrated animals are not subject to the priestly dues of the shoulder and the two cheeks and the maw.

(21) Lev. VII, 34; V. Mishnah.

(22) Viz., that they are subject to the priestly dues.

(23) Whereas consecrated animals are not subject to the law of the Firstling, consequently they should neither be subject to the priestly dues.
(24) That consecrated animals, were it not for the express verse which excludes them, should also be subject to the priestly dues.
(25) These, being males, are not subject to the law of the Firstling, and yet are subject to the priestly dues; similarly consecrated animals although not subject to the law of the Firstling should nevertheless be subject to the priestly dues.
(26) V. Deut. XVIII, 4. This law, however, does not apply to he-goats, nor to consecrated animals. Likewise the priestly dues should not apply to consecrated animals.
(27) I.e., arc subject to the law of cattle tithe (cf. Lev. XXVII, 32); consecrated animals, however, are exempt from the cattle tithe.
(28) Which have passed through the gate for tithing. Such an animal is no more subject to the law of cattle tithe, yet is subject to the priestly dues; I would then say the same of consecrated animals.
(29) These are exempt from the cattle tithe, v. Bek. 55b, 57a. By ‘orphaned’ is meant a beast whose dam died whilst bearing it. The argument in the latter part of the prec. n. applies here too.
(30) I.e., unconsecrated animals.
(31) Hence the argument from bought and orphaned animals would have been conclusive to include consecrated animals within the law of the priestly dues; accordingly the verse quoted in the Mishnah is necessary to exclude them.
(32) Deut. XVIII, 3. No other dues but those mentioned in this verse are to be exacted from unconsecrated animals.
(33) Lev. VII, 30.

Talmud - Mas. Chullin 130b

Inside [the Sanctuary]? Then he is bringing what is unconsecrated into the Temple court.[1] It is therefore inapplicable; wherefore then do I require [the word] ‘this’?[2] — For R. Hisda's teaching. For R. Hisda said: If a man destroyed or consumed the priestly dues [before they were given to the priest] he is not liable to make restitution.[3]

[To turn to] the main text: ‘R. Hisda said: If a man destroyed or consumed the priestly dues [before they were given to the priest] he is not liable to make restitution’. For what reason? If you wish I can say, because it is written [the word] this; or if you prefer I can say, because it is property which has no definite claimant.[4]

An objection was raised: [The verse,] And this shall be the priests’ due [mishpat],[5] teaches that the dues are a matter of right. What is the effect of this? Is it not that they can be claimed in court?[6] — No, it is that they are to be distributed by the [advice of the] court.[7] And this is in agreement with R. Samuel b. Nahmani; for R. Samuel b. Nahmani said in the name of R. Jonathan: Whence do we know that one should not give any dues to a priest an ‘am ha-arez?[8] From the verse: Moreover he commanded the people that dwelt in Jerusalem to give the portion of the priests and the Levites, that they might hold fast to the law of the Lord,’[9] whosoever holds fast to the law of the Lord has a portion, and whosoever does not hold fast to the law of the Lord has no portion.

Come and hear: R. Judah b. Bathyra says: The expression ‘due’, [mishpat], teaches that the dues are a matter of right. I might say that the breast and the thigh are also a matter of right, the text therefore states: And this.[5] Now what is the effect of this rule? Is it that they are to be distributed by [the advice of] the court? Then surely the breast and thigh are also to be distributed by the [advice of the] court.[10] It must therefore mean that they can be claimed in court![11] — We are dealing here with the case where they had come into [the priest's] possession.[12] But if they had come into his possession already then this is obvious![13] They came into his possession unseparated,[14] and this Tanna is of the opinion that priestly dues although not separated [from the bulk] are regarded as virtually separated.[15]

Come and hear: If a householder was travelling from place to place and is obliged to take the gleanings,[16] the forgotten sheaf,[17] or the corners of the field,[16] or the Poorman's Tithe,[18] he may take them, and when he returns to his house he must make restitution;[19] so R. Eliezer.[20] — R. Hisda said: They taught this Only as a rule of conduct for the pious.[21] Said Raba: But the Tanna stated 'he must make restitution',[22] how then can one say that this was stated here only as a rule of conduct for the pious? Moreover, can any objection be raised from the statement of R. Eliezer?[23] Indeed it was from the following clause [that the objection was raised] viz., But the Sages say: He was a poor man at that time.[24] Now this is so only because he was a poor man, but had he been a rich man he would have had to make restitution; but why? Is this not a case of a man destroying or consuming the priestly dues?[25] Whereupon R. Hisda answered: They taught this only as a rule of conduct for the pious.

Come and hear: Whence do we know that if an owner consumed his produce without having separated the tithes,[26] or if a Levite consumed his tithe without having separated the priestly tithe therefrom,[26] he is exempt from making restitution?[27] Because Scripture says: And they shall not profane the holy things of the children of Israel, which they set apart unto the Lord;[28] thou[29] hast a right to them only after they have been set apart. It follows, however, that after they have been set apart, [if a man consumed them] he would be liable to make restitution; but why? Is this not a case of a man destroying or consuming the priestly gifts? — Here too [we must suppose that]

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(1) And this is forbidden Biblically, v. Tosaf s.v. אי.

(2) To exclude unconsecrated animals from the precept of the breast and the thigh seeing that the indispensability of the rite of 'waving' makes it inapplicable to them.

(3) The rule is derived from the word 'this' (v. infra), which implies that these portions if in existence must be given to the priest, but if destroyed there is no obligation to compensate the priest for them.

(4) For to every priest that claims them the owner could say that he proposed to give them to another priest.

(5) Deut. XVIII, 3. Heb. משפט. In this verse it is translated as 'due', but generally it means 'judgment, right'. The use of this word in connection with these portions signifies that they are regarded as a legal right.

(6) Lit., 'to collect them by (order of) the judges'. I.e., a priest can claim them in court from an owner who withholds them; thus conflicting with R. Hisda who regards these dues as property without any claimants.

(7) I.e., the court guides the owner as to the distribution of his dues, that he should not give them to the unworthy.

(8) V. Glos. In general the ignorant and irreligious people.

(9) II Chron. XXXI, 4.

(10) For also these dues should not be given to an unworthy priest.

(11) I.e., a priest can claim the dues of the shoulder, the two cheeks and the maw from an owner; contra R. Hisda. This legal right was expressly excluded from the law of the breast and the thigh as any claim to them would hardly be contested, for, since they formed part of the atonement of the sacrifice, the owner would certainly not withhold them.

(12) The claim in connection with the dues of the shoulder etc. referred to arises when they were stolen from the possession of the priest to whom they had already been given.

(13) That they can be claimed and recovered in court.

(14) The entire animal came into the possession of the priest and, as the dues have no particular owner, this priest acquired the property in them even though they had not yet been separated from the animal.

(15) This, however, cannot be said with regard to the dues of the breast and thigh, for these are not free to all priests but are restricted to that division of priests on duty in the Temple at the time of the sacrifice.

(16) Lev. XIX, 9.

(17) Deut. XXIV, 19.

(18) This was due in the third and sixth years of the Sabbatical cycle in lieu of the Second Tithe, and was to be distributed among the poor. Deut. XIV, 28, 29.

(19) He must pay for the amount he had consumed to the first poor man who claims it. This clearly conflicts with R. Hisda's teaching.

(20) Pe'ah V, 4.

(21) Strictly he is not bound to make any restitution, and his doing so is only in the nature of a pious and charitable act.

(22) Clearly a legal ruling!

(23) Surely not; for R. Hisda need not find himself in agreement with R. Eliezer seeing that R. Eliezer's view is disputed by the Sages. But see Tosaf. s.v. תנא at end.
(24) And therefore he need not make restitution.
(25) In which case R. Hisda expressly said that he need not make restitution for none could claim it from him.
(26) Lit., ‘in a state of tebel’ (mixture).
(27) Even though he may be liable to death at the hands of Heaven for eating it, cf. Sanh. 83a.
(28) Lev. XXII, 15.
(29) Sc., the priest.

Talmud - Mas. Chullin 131a

they came into his possession unseparated [from the bulk],[1] and this Tanna is also of the opinion that priestly dues although not yet separated [from the bulk] are regarded as virtually separated.

Come and hear: If the king's officers seized the corn in a man's granary, if it was on account of a debt due from him he must give tithe for it,[2] but if it was by reason of confiscation[3] he is under no obligation to give tithe for it! — There the case is different, because they confer some advantage on him.[4]

Come and hear: If a man said: ‘Sell me the entrails of a cow’, and among them were the priestly dues,[5] he [the purchaser] must give them to a priest, and [the seller] need not allow any reduction in the purchase price on that account. But if he bought them from him by weight, he must give them to a priest and [the seller] must allow a reduction in the price on that account.[6] But why?[7] Is it not like the case of a man destroying or consuming the priestly dues? — There it is different, because they are actually in existence.

Come and hear: The following nine things are the property of the priest:[8] Terumah,[9] the terumah of the tithe,[10] the dough-offering,[11] the first of the fleece,[12] the dues,[13] the [terumah of the tithe of] dem'ai,[14] the firstfruits,[15] the principal and the added fifth.[16] In what respect [are they considered the property of the priest]? Surely in that they can be claimed in court![17] — No, but as we have learnt:[18] Why did they say that [the firstfruits] are the property of the priest? Because with them he may buy slaves, immovable property and unclean cattle, and a creditor can take them in payment of his debt, or a woman in payment of her kethubah,[19] and [he may also buy with them] a scroll of the Law.[20]

There was once a Levite who used to snatch the priestly dues.[21] When this was reported to Rab, he said: Is it not enough for him that We do not take the dues from his own [slaughtering],[22] but he must also snatch them? But what was Rab's view? If they [Levites] are included within the term ‘the people’[23] we should exact the dues from them too; and if they are not included within the term ‘the people’ then the Divine Law has exempted them?[24] — Rab was in doubt whether they are included within the term ‘the people’ or not.[25]

R. Papa was once sitting and reciting the above statement,[26] whereupon R. Idi b. Abin raised this objection against R. Papa. [It was taught:] The four gifts [assigned by the Torah] to the poor in a vineyard, namely the fallen grapes, the small clusters, the forgotten cluster, and the corner [of the vineyard], and the three in a cornfield, namely the gleanings, the forgotten sheaf, and the corners of the field, and the two in the fruit of the tree, namely the forgotten fruits and the corner of the tree — with regard of these, the owners have not the benefit of disposal;[27] and even from the poorest in Israel they are exacted.[28] With regard to the Poorman's Tithe which is distributed in the house, the owner has the benefit of disposal, and it is exacted even from the poorest in Israel. The other priestly dues, such as the shoulder and the two cheeks and the maw, are not exacted from one priest in favour of another priest nor from one Levite in favour of another Levite.[29] ‘The four gifts to the poor in the vineyard, namely the fallen grapes, the small clusters, the forgotten cluster, and the corner’ — for it is written: And thou shalt not glean the small clusters of thy vineyard, neither shalt thou gather the fallen fruit of thy vineyard.[30] And it is written: When thou gatherest the grapes of thy vineyard thou shalt not glean the small clusters after thee;[31] and R. Levi said: ‘After thee’ implies that which is forgotten.[32] As to the corner (of the vineyard] this is inferred by the use of the expression ‘after thee’ both here [with regard to a vineyard] and also with regard to the olive-tree; for it is written: When thou beatest thine olive-tree thou shalt not go over the boughs after thee,[33] and a Tanna of the School of R. Ishmael expressed it thus: Thou shalt not cut off the crown thereof.[34] ‘The three in the cornfield, namely the gleanings. [

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(1) The whole produce having been entrusted to the priest's keeping, the priest forthwith acquired the property in the tithes, and whosoever deprives him of them must certainly make restitution.

(2) From other produce, just as when a man sells produce he must also give the tithe for it. This, however, shows that the tithe is claimable and that the obligation is enforced by the court; it cannot mean that the obligation is merely a religious one for then it would not be insisted upon that he give the tithe for it seeing that he has neither the produce nor its value.

(3) אנפרות. V. Git. (Sonc. ed.) p. 190, n. 2.

(4) The obligation is therefore a religious one, yet he must give the tithe for it because he has this benefit that his debt has been cleared. V. supra p. 738, n. 9; and Tosaf. s.v. שאני.

(5) Sc., the maw.

(6) V. infra 132a. In the first case the transaction implicitly excluded the maw for it is common knowledge that the maw belongs to the priest, hence it was not included in the sale; in the second case, however, the maw was included in the weight sold, and since it was not the seller's to sell the price must be reduced to that extent.

(7) Why should the purchaser have to give the dues to the priest?

(8) And the priest may use them for any purpose whatsoever. This is only part of the list of twenty-four endowments bestowed upon the priests; v. infra 133b, and B.K. 110b. In point of fact there are fifteen priestly gifts which are the absolute property of the priest to be used for any purpose; but Rashi suggests that these fifteen are comprehended within the nine mentioned in the text; v. Rash s.v. תשעה. R. Han. reads ‘seven’, in the text; v. Tosaf. s.v. ה״ג.

(9) Cf. Num. XVIII, 12; v. Glos.

(10) To be given by the Levites; ibid. 26.

(11) Ibid. XV, 18-21.

(12) Deut. XVIII, 4.

(13) Ibid. 3. Sc., the shoulder and the two cheeks and the maw.

(14) The produce bought from an ‘am ha-arez was regarded as dem'ai, doubtful, for he could not be trusted as to the separation of the tithes. They were trusted, however, with regard to the separation of the terumah, for this had a higher degree of sanctity. Therefore the purchaser who scrupulously observes the law of tithing must separate from dem'ai (a) ‘the terumah of the tithe’, i.e., the portion due to the priest out of the First Tithe, and (b) the Second Tithe.

(15) Ex. XXIII, 19; and Deut. XXVI, 1ff.

(16) The restitution, (consisting of the principal and an additional fifth) that is to be made for robbery committed upon a proselyte who died without issue belongs to the priest. Cf. Num. V, 7, 8.

(17) Thus conflicting with R. Hisda's view.

(18) Bik. III, 12.

(19) Generally meaning the statutory sum that the husband undertakes to pay to his wife in the event of his death or of his divorcing her. V. Intro. to Kethuboth, Sonc. ed., p. xi.

(20) In the Mishnah Bik., the text reads ‘as (the creditors may also do with) a scroll of the Law’. V. Rashi here s.v. וס״ת.

(21) From children who were carrying them to the priest's home.

(22) I.e., when he slaughters his own animal we do not compel him to give the dues to a priest. The tone of Rab's remark implies that this was a concession to them by the Rabbis.

(23) Deut. XVIII, 3: And this shall be the priests’ due from the people.

(24) What then did Rah mean by suggesting that they were favoured in that it was not insisted upon that they give the dues? V. supra n. 6, end.

(25) And therefore no priest could claim the dues from Levites without bringing evidence to prove they latter are subject to this law.

(26) That Rab was in doubt whether Levites were subject to this law or not.

(27) To give them to whomsoever he wishes, but they are to be left on the field free to all the poor, and the first poor person that collects them acquires them.

(28) If he is in possession of a field he is bound to leave these gifts for the poor.

(29) Tosef. Pe'ah II. The Gemara proceeds first to interpret this Baraitha, proving the Biblical source for each of these gifts to the poor, and later on reverts to the objection raised by R. Idi against R. Papa.

(30) Lev. XIX, 10: לא תועלל, Thou shalt not remove the עוללות i.e., the small clusters. פרט, I.e , single grapes that fall off during ‘the grape gathering

(31) Deut. XXIV, 21.

(32) For the law of the forgotten sheaf or cluster applies only to what has been left ‘after’ i.e., behind one, but not to what is still in front of one; cf. Pe'ah VI, 4, and B.M. 12a

(33) Deut. XXIV 20.

(34) I.e., one must not remove the last berries from the extremities or corners’ of the tree. By an inference made from the common expression ‘after thee’, the law of the ‘corners stated in connection with the olive-tree applies also to a vineyard.

Talmud - Mas. Chullin 131b

the forgotten sheaf, and the corners of the field’ — for it is written: And when ye reap the harvest of your land, thou shalt not wholly reap the corner of thy field; neither shalt thou gather the gleaning of thy harvest;[1] and it is written: When thou reapest thy harvest in thy field, and hast forgot a sheaf in the field, thou shalt not go back to fetch it.[2] ‘The two in the fruit of the tree, namely the forgotten fruits and the corner [of the tree]’ — for it is written: When thou beatest thine olive-tree thou shalt not go over the boughs after thee,[3] and a Tanna of the School of R. Ishmael expressed it thus: Thou shalt not cut off the crown thereof; and the expression ‘after thee’ refers to the forgotten fruits. ‘With regard to all of these the owners have not the benefit of disposal’ — because the term ‘leaving’ is used in connection with them.[4] ‘And even from the poorest in Israel they are exacted’ — for it is written: Neither shalt thou gather the gleaning of thy harvest; thou shalt leave them for the poor and the stranger: this is an admonition to a poor man [who himself owns a field] in regard to his own [gleanings].[5] ‘With regard to the poorman s Tithe which is distributed in the house, the owner has the benefit of disposal’ — because the term ‘giving’ is used in connection with it.[6] ‘And it is exacted even from the poorest in Israel’ — for R. Ila'a said: An inference is to be made by means of the common expression ‘for the stranger’ from the other [dues to the poor]:[7] as with the other dues there is an admonition to a poor man in regard to his own, so here [with regard to the Poorman's Tithe] there is an admonition to a poor man in regard to his own. ‘The other priestly dues, such as the shoulder, the two cheeks and the maw, are not exacted from one priest in favour of another priest, nor from one Levite in favour of another Levite’ — it follows, however, that they may be exacted from a Levite in favour of a priest; apparently because they are included within the term ‘the people’![8] — [It only stated,] ‘Such as the shoulder’, but not actually the shoulder; what is really meant is the First Tithe.[9] But is not the First Tithe due to the Levite? — The view expressed here is that of R. Eleazar b. ‘Azariah; for it has been taught:[10] Terumah belongs to the priest, the First Tithe to the Levite; so R. Akiba. R. Eleazar b. ‘Azariah says. It belongs to the priest also.[11] But R. Eleazar b. ‘Azariah said: ‘to the priest also’! Did he say, to the priest and not to the Levite? — Yes, after Ezra had penalized them.[12] Perhaps Ezra had penalized them that one should not give it [the First Tithe] to them, but did he intend that it should be taken away from them?[13] — We must therefore say, such as the shoulder’, but not actually the shoulder; what is really meant is the first of the fleece.[14]

Come and hear: This is the general rule: Whatsoever is sacred,[15] as terumah, the terumah of the Tithe, and the Dough-offering, is exacted from their hands,[16] and whatsoever is not sacred, as the shoulder, the two cheeks and the maw, is not exacted from them![17] — [It states,] ‘Such as the shoulder’ but not actually the shoulder; what is meant is the First Tithe, and this refers [to the state of things] after Ezra had penalized them.[18]

Come and hear: If a man slaughtered an animal for a priest or for a gentile, he is exempt from the dues.[19] It follows, does it not, that for a Levite or an Israelite he is liable? — Say not, ‘it follows that for a Levite or an Israelite he is liable’, but rather, it follows that for an Israelite he is liable. But for a Levite [you say] he is exempt, in that case the Mishnah should have taught thus: If a man slaughtered an animal for a Levite or a gentile he is exempt from the dues![20] Moreover it has been taught [in a Baraitha]: If a man slaughtered an animal for a priest or a gentile, he is exempt from the dues, but if he slaughtered for a Levite or an Israelite, he is liable. Surely this is a refutation of Rab's view! — Rab can reply that it is a matter of dispute between Tannaim. For it has been taught:[21] [Scripture says,] And he shall make atonement for the most holy place:[22] this means [for transgression of the laws of uncleanness occurring in] the Holy of Holies; and the tent of meeting:[22] this means in the Holy place; and the altar:[22] this is to be taken in its usual sense;[23] he shall make atonement:[22] this means [for transgression of the laws of uncleanness occurring in] the various Temple courts; and for the priests:[24] this is to be taken in its usual sense; and for all the people of the assembly:[24] this means the Israelites; he shall make atonement:[24] this means the Levites. And another [Baraitha] taught: He shall make atonement:[24] this means [heathen] slaves.[25] Surely then the Tannaim differ in this: one holds that they [the Levites] are included Under the term ‘the people’,[26] and the other holds that they are not included Under ‘the people’.[27] And Rab?[28] If he agrees with the one Tanna he should have ruled accordingly, and if he agrees with the other Tanna he should have ruled accordingly? — Rab was in doubt whether to accept the ruling of the one Tanna or of the other.

Meremar stated in a discourse: The law is in accordance with Rab's view;[29] and the law is also in accordance with R. Hisda's view.[30]

‘Ulla used to give the priestly dues to the daughter of a priest.[31] Raba raised the following objection to ‘Ulla. We have learnt:[32] The meal-offering of a priest's daughter is eaten,[33] but the meal-offering of a priest may not be eaten. Now if you say that ‘priest’ includes a priest's daughter too, is it not written: And every meal-offering of the priest shall be wholly made to smoke; it shall not be eaten?[34] — He replied: Master,

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(1) Lev. XXIII, 22.

(2) Deut. XXIV, 19.

(3) Ibid. 20. V. supra p. 741, n. 8.

(4) In some contexts the expression used is ‘thou shalt leave them for the poor’, e.g., Lev. XIX, 10, XXIII, 22; and in others the expression used is ‘it shall be for the stranger’, e.g., Deut. XXIV, 19, 20, 21. It is clear therefore that the poor man has a claim to them whilst they are in the field, hence there is no right for the owner of the field to collect them, bring them into his house and distribute them according to his discretion among the poor.

(5) In the Hebrew of the verse: Lev. XXIII, 22, ‘for the poor’ follows immediately upon the command to leave the gleanings, and the interpretation is, that it is for the poor, too’ to leave the gleanings.

(6) Cf. Deut. XXVI, 22.

(7) Cf. Lev. XXIII, 22, and Deut. ibid.

(8) This is in conflict with Rab who was in doubt about it.

(9) The expression ‘such as the shoulder’ was stated as an example of the priestly dues, but what was specially meant was the First Tithe (v. Num. XVIII, 21) which according to this teaching, could be taken away from the Levite in favour of the priest.

(10) Yeb. 86a; Keth. 26a; B.B. 81b.

(11) For although the Torah expressly granted the First Tithe to the Levites, the priests were not thereby excluded, for in twenty-four instances do we find priests described as Levites, e.g., Ezek. XLIV, 15.

(12) Because the Levites did not go up with him in the return to Judea from the Babylonian exile, Ezra deprived them of the tithe; v. Yeb. 86b. There is no express reference to this in the Books of Ezra or Nehemiah; v. Rashi s.v. בתר. It has been suggested that Mal. III, 10: Bring ye the whole tithe into the Temple treasury, refers to this new institution of Ezra;

for according to Jewish tradition, Malachi is identified with Ezra (v. Meg. 15a). Cf. Tosaf. Yeb. 86b, s.v. מפני.

(13) It surely was not intended that the Levites were bound to give the First Tithe of their own produce to the priests.

(14) This law (Deut. XVIII, 4) certainly applies to Levites too' and the due is exacted from the Levite in favour of the priest.

(15) I.e., forbidden to non-priests.

(16) From the Levites in favour of the priests.

(17) This clearly shows that the Levites are not under any obligation to give the shoulder etc. to the priests, obviously because they are not included under the term 'the people'. Why then was Rab in doubt about it?

(18) The suggestion therefore is that although the Levites are not to be given the First Tithe any more, it is not to be exacted from their own produce in favour of the priest. With regard to the shoulder, however, the matter is still in doubt.

(19) Although the claim for these dues is usually made upon the slaughterer (v. infra 132b), in this case the slaughterer is exempt since the animal belonged to the priest or to the gentile. V. infra 132a.

(20) And needless to say that it is so where the animal belonged to a priest.

(21) Yoma 61a; Sheb. 23b; Men. 92a.

(22) Lev. XVI, 33. The bullock and the goat prescribed in the sacrificial service of the Day of Atonement make atonement for all transgressions of the rules of uncleanness occurring in the several parts of the Temple precincts, e.g., if any person entered the Temple court in a state of levitical uncleanness; and the atonement is extended to include every section of the community. Cf. Sheb. 13b.

(23) I.e., if a priest whilst serving at the altar became unclean and stayed there for a period co-extensive with the time of one prostration, cf. Sheb. 16a.

(24) V. p. 744, n. 6.

(25) Who are also in need of atonement.

(26) Sc., the Tanna of the latter Baraitha. It is therefore unnecessary to have a special reference in the verse to include Levites, consequently the reference serves to include heathen slaves.

(27) Sc., the Tanna of the first Baraitha; it was therefore necessary to include Levites expressly.

(28) How is it that he was in doubt?

(29) That we do not exact the priestly dues from Levites.

(30) That whosoever destroys or consumes the priestly dues, before they ever came into the hand of the priest, is exempt from making restitution; v. supra 130b.

(31) Even though she is married to an Israelite; for the precept And they shall give unto the priest (Deut. XVIII, 3) includes every one of priestly stock, even females.

(32) Sot. 23a.

(33) The residue of her meal-offering, and so also of that of an Israelite, was eaten by the priests after that the handful, i.e., the memorial part thereof, had been burnt upon the altar.

(34) Lev. VI, 16.

Talmud - Mas. Chullin 132a

I borrow your own argument,[1] for in that passage are expressly mentioned Aaron and his sons.[2] The school of R. Ishmael taught: unto the priest,[3] but not unto the priest's daughter, for we may infer what is not explicitly stated from what is explicitly stated.[4]

The school of R. Eliezer b. Jacob taught: unto the priest,[3] and even unto the priest's daughter, for we have here a limitation following a limitation,[5] and the purpose of a double limitation is to extend the law.

R. Kahana used to eat [the priestly dues] on account of his wife.[6] R. Papa used to eat them on account of his wife. R. Yemar used to eat them on account of his wife. R. Idi b. Abin used to eat them on account of his wife.

Rabina said: Meremar told me that the law was in accordance with Rab's view;[7] that the law was in accordance with R. Hisda's view;[7] that the law was in accordance with 'Ulla's view;[8] and that the law was in accordance with the view of R. Adda b. Ahaba that if a Levite's daughter gave birth to a firstborn son the child is exempt from the payment of the five sela's.[9]

Our Rabbis taught:[10] The law of the shoulder, the two cheeks and the maw applies to a hybrid and to a koy.[11] R. Eliezer says, A hybrid, the offspring of a he-goat and a ewe, is subject to these dues; the offspring of a he-goat and a hind[12] is exempt from these dues. Let us consider the case. It has been established[13] that with regard to the law of covering up the blood and also with regard to the priestly dues the dispute (between R. Eliezer and the Rabbis as to the koy] can arise only in the case where a hart covered a she-goat; for both R. Eliezer and the Rabbis are undecided whether or not to take into consideration the seed of the male parent, but they differ as to whether the term ‘sheep’ includes even that which is a sheep in part only: one[14] maintains that the term ‘sheep’ includes even that which is a sheep in part only, the other[15] maintains that we do not say that the term ‘sheep’ includes that which is a sheep in part only. Now R. Eliezer's view that [the offspring of a he-goat and a hind] is exempt from dues is clear, for he holds that the term ‘sheep’ does not include even that which is a sheep in part only.[16] According to the Rabbis however [it is difficult]; for granting that they hold the view that the term ‘sheep’ includes even that which is a sheep in part only, he [the priest] should only be entitled to half the dues,[17] for as to the other half the owner could say to him, ‘Bring proof that we do not take into consideration the seed of the male parent and then you can have it’! — R. Huna b. Hiyya answered that by ‘subject’ they meant subject to half the dues.[18]

R. Zera raised an objection. We have learnt: A koy is in some ways similar to cattle, and in some ways similar to wild animals, and in some ways it is similar to wild animals and to cattle. Thus, its fat is forbidden like the fat of cattle; its blood must be covered up like the blood of wild animals. ‘In some ways it is similar to cattle and to wild animals’, for the blood and the sciatic nerve thereof are forbidden like [the blood and the sciatic nerve of] cattle and wild animals. It is subject to the law of the shoulder, the two cheeks and the maw, like cattle; R. Eliezer declares it exempt [from these dues].[19] Now if it were so,[20] it should state that it is subject to half the dues only! — Since it states the rule with regard to its fat and its blood, in which case it could not have stated half, it therefore does not state half [even with regard to the dues].[21]

When Rabin came [from Palestine] he reported in the name of R. Johanan that a koy, according to the Rabbis, is subject to the whole of the dues. For it was taught: [Scripture could have stated] ‘ox’, wherefore does it state, whether it be ox?[22] To include the hybrid. [Likewise it could have stated] ‘sheep’, wherefore does it state, whether it be sheep?[22] To include the koy. According to R. Eliezer what is the purpose of ‘whether’?[22] — It is necessary in order to[19] ndicate disjunction.[23] Then whence do the Rabbis derive the principle of disjunction? — From the verse: From them that slaughter a slaughtering.[24] And to what purpose does R. Eliezer put this verse: From them that slaughter a slaughtering? — He requires it for Raba's teaching, for Raba said: The claim is made against the slaughterer.[25]

MISHNAH. IF A FIRSTLING GOT MIXED UP WITH A HUNDRED OTHER ANIMALS AND A HUNDRED [AND ONE] PERSONS SLAUGHTERED THEM ALL,[26] THEY ARE ALL EXEMPT FROM THE DUES.[27] IF ONE PERSON SLAUGHTERED THEM ALL,[28] ONLY ONE ANIMAL IS EXEMPT FROM THE DUES. IF A MAN SLAUGHTERED AN ANIMAL FOR A PRIEST OR A GENTILE,[29] HE IS EXEMPT FROM THE DUES; IF HE HAD A SHARE [IN THE ANIMAL] WITH THEM, HE MUST INDICATE THIS BY SOME SIGN.[30] IF HE[31] SAID, ‘EXCEPT THE DUES’, HE IS EXEMPT FROM GIVING THE DUES.[32] IF A MAN SAID, SELL ME THE ENTRAILS OF A COW’, AND AMONG THEM WERE THE PRIESTLY DUES, HE MUST GIVE THEM TO A PRIEST AND [THE SELLER] NEED NOT ALLOW ANY REDUCTION IN THE PURCHASE PRICE ON THAT ACCOUNT. BUT IF HE BOUGHT THEM FROM HIM BY WEIGHT, HE MUST GIVE THEM TO A PRIEST, AND [THE SELLER] MUST ALLOW A REDUCTION IN THE PRICE ON THAT ACCOUNT.[33]

GEMARA. Why is this so?[34] — The priest can surely approach him with a double claim[35] saying [of each animal]. 'If it is the firstling, it is all mine, and if it is not the firstling, then give me my dues!'

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(1) Lit., 'from your burden'; i.e., the other words in the passage quoted by you confute you.

(2) Ibid. 13. But elsewhere, wherever 'priest' alone is mentioned, it includes even the priest's daughter, as in the case of the priestly dues.

(3) Deut. XVIII, 3, in reference to the priestly dues.

(4) With regard to the meal-offering of priests the Torah expressly states 'Aaron and his sons', in order to exclude the priest's daughters, and this serves as a guiding principle suggesting that whenever Scripture mentions 'priest' the priest's daughter is excluded.

(5) In the passage dealing with the priestly dues there occur the words 'priests' and 'priest', and inasmuch as each serves as a limitation to exclude the priest's daughter, the result is that the successive limitations actually amplify the scope of the law and include the priest's daughter.

(6) Who was the daughter of a priest. The meaning is that the giving of the priestly dues to the husband of a priest's daughter is a proper fulfilment of the obligation (R. Nissim).

(7) V. supra p. 745.

(8) That one may give the priestly dues to the daughter of a priest.

(9) The sum prescribed for the redemption of the firstborn son; cf. Num. XVIII, 25, 26. It is established law (cf. Bek. 13a) that where either one of the parents is of priestly stock or where the father is a Levite, the firstborn son is exempt from redemption. R. Adda b. Ahaba here extends the rule of exemption even where the mother is the daughter of a Levite. V. Bek. 47a.

(10) V. supra p. 443.

(11) A permitted animal, about which the Rabbis were undecided whether it was to be classed in the category of cattle or of wild beasts.

(12) For 'the offspring of a he-goat and a hind' Rashal substitutes 'the koy'.

(13) V. supra 80a, pp. 444-5 and notes thereon.

(14) The Sages.

(15) R. Eliezer.

(16) And as this offspring is at most only a part sheep by reason of its sire it is exempt entirely from dues.

(17) Even in the case of the offspring of a hart and a she-goat.

(18) Strictly the Rabbis did not use the expression 'subject' at all; they only ruled that the law of the shoulder etc. applied to a koy, and it is now suggested that by 'applied' they meant only as to half the dues.

(19) Bik. II, 8.

(20) That according to the Rabbis the koy is only subject to half the dues.

(21) But of course it is only subject to half the dues.

(22) Deut. XVIII, 3. The particle אם (im) is unnecessarily stated before ox and sheep.

(23) That these portions are due when one slaughters either an ox or a sheep; without the particles 'im it might have been said that these portions are due only when one slaughters an ox and a sheep.

(24) Ibid. זבח 'slaughtering' is in the singular; so that the slaughtering of one animal imposes the obligation of the dues.

(25) The priest when claiming his dues makes his claim upon the slaughterer, although the latter may have slaughtered animals belonging to other people.

(26) I.e., every animal belonged to a different person, or better, each person slaughtered his own animal.

(27) For each owner-slaughterer can rebut the priest's claim by saying that what he had slaughtered was the firstling which is exempt from priestly dues.

(28) I.e., the animals all belonged to one person.

(29) I.e., the animal belonged to a priest or a gentile.

(30) That all may know that he shares the animal with the priest or the gentile and on that account he is exempt from giving the dues.

(31) A priest or a gentile when selling the animal to an Israelite.

(32) The purchaser is exempt from giving the dues for they had not become his property at all.
(33) V. supra 131a.
(34) That, in the first clause, all the animals are exempt from the dues because of the firstling that is mixed up with them.
(35) Lit., 'from two sides'.

Talmud - Mas. Chullin 132b

— R. Oshaia said: This [firstling] had already been received by the priest but when it suffered a blemish he sold it to an Israelite.[1]

IF A MAN SLAUGHTERED AN ANIMAL FOR A PRIEST OR A GENTILE HE IS EXEMPT FROM THE DUES. Why does not the Mishnah teach simply. 'Priests and gentiles are exempt from giving the dues'?[2] — Raba said: This proves that the claim is made against the slaughterer.[3] Raba stated in his discourse, Scripture says: From the people,[4] but not from the priests; but when it further says. From them that slaughter a slaughtering,[4] I say, this includes even a slaughterer who is a priest.[5]

R. Tabla's host was a priest and in sore need. When he came to R. Tabla the latter said to him, 'Go and take a share [in the animals] of the Israelite butchers, for since they will thereby be exempt from giving the dues[6] they will give you a share with them'. R. Nahman, however, declared him[7] liable to give the dues. Said he,[7] 'But R. Tabla has exempted me'. 'Go at once', ordered [R. Nahman.] 'and give up the dues, or else I will put R. Tabla out of your mind'.[8] Thereupon R. Tabla came before R. Nahman and said to him, 'Why has the Master done so?' He replied. 'When R. Aha b. Hanina came from the schools in the South he reported that R. Joshua b. Levi and the elders of the South ruled that a priest who became a slaughterer was exempt from giving the dues for the first two or three weeks,[9] but thereafter he was liable to give the dues'. 'Then', said the other, 'why does not the Master at least deal with him[7] in accordance with R. Aha b. Hanina'?[10] He replied. 'That is the ruling only when he has not set up a butcher's stall; but here he has set up a stall'.[11]

R. Hisda said: A priest [a butcher] who does not give the dues [to another priest] is to be put under the ban of the Lord God of Israel. Rabbah son of R. Shila, said: The butchers of Huzal have been under the ban of R. Hisda for the last twenty-two years. Now what is the point of this?[12] Does it mean to say that we do not continue the ban? But it has been taught: This[13] applies only to negative precepts, but in the case of positive precepts as, for instance, when a man is told, 'Make a sukkah',[14] and he does not make it, or 'Perform the commandment of the lulab'.[15] and he does not perform it, he is flogged until his soul departs![16] — It means that we may penalize them [now] without warning;[17] as when Raba penalized a man [by taking away from him] a side of meat,[18] and R. Nahman b. Isaac penalized a man [by taking away from him] his cloak.

R. Hisda also said: The [entire] shoulder is to be given to one [priest], the maw to another, and the two cheeks to two [priests]. But surely this is not so, for when R. Isaac b. Joseph came [from Palestine] he reported that in the West they even divide every bone [amongst a number of priests]! — That is only in the case of an ox.[19]

Rabbah b. Bar Hana said in the name of R. Johanan: It is forbidden to eat from an animal from which the priestly dues have not been taken.

Rabbah b. Bar Hana also said in the name of R. Johanan: Whosoever eats from an animal from which the priestly dues have not been taken is as one who eats untithed produce.[20] — The law, however, is not in accordance with him.

R. Hisda said: The priestly dues may be eaten only roasted and with mustard. What is the reason?

Because Scripture says: For a consecrated portion,[21] that is, as a mark of eminence,[22] [and must therefore be eaten] as kings take their food.

R. Hisda also said: A priest who is not conversant with the twenty-four priestly endowments[23] should not be given any gifts at all. This however is not right; for it has been taught:[24] R. Simeon says. A priest who does not believe in the [Temple] service[25] has no portion in the priesthood,[26] for it is written: He among the sons of Aaron, that offereth the blood of the peace-offerings, and the fat, shall have the right thigh for a portion.[27] I only know it with regard to this[28] service; whence do I know it with regard to the fifteen other services in the Temple, viz., the rites of pouring,[29] mingling,[30] breaking into pieces,[31] seasoning with salt,[32] waving,[33] bringing near,[34] taking out the handful,[35] and burning it,[35] the rite of nipping off.[36]

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(1) So that the priest's claim is only in respect of the dues.

(2) Since these are not included within the term ‘the people’; Deut. XVIII, 3.

(3) And the slaughterer can meet the claim by proving that the animal belongs to a priest or a gentile.

(4) Deut. XVIII, 3.

(5) I.e., a priest who has opened up a trade as a butcher must give the dues to another priest. What he slaughters for his own use, however, is exempt from the dues.

(6) In accordance with the rule in our Mishnah.

(7) Sc., the Israelite who granted this priest a share in his animals.

(8) Lit., ‘I will take R. Tabla out of your ear’; i.e., I shall place you under the ban and R. Tabla will not be able to help you in any way.

(9) I.e., for so long until he is established in the town as a butcher.

(10) And exempt the Israelite his partner from giving the dues for the first two or three weeks.

(11) And has at once established himself as a butcher.

(12) Of stating twenty-two years.

(13) That with the execution of punishment the wrong is atoned for.

(14) The booth for the Feast of Tabernacles, cf. Lev. XXIII, 42.

(15) The palm branch used in the ritual of the Feast of Tabernacles, cf. ibid. 40.

(16) Hence we see that a person who is recalcitrant in the performance of a commandment (especially in the performance of a commandment which does not involve great outlay or expense-Rashi) is to be coerced by whatever means the Rabbis have in their power and they will not relax it until he does perform it. In the previous case therefore the ban would be continued unremittingly until the precept is performed.

(17) I.e., when a person has been under the ban for twenty-two years he may be punished further without any warning.

(18) For refusing to give the priestly dues Raba once took away from the owner an whole side of meat and gave it to the priest.

(19) So that even when one portion, e.g., the shoulder, is cut up into several parts each priest would receive something substantial.

(20) טבל, for which the penalty is death at the hands of Heaven. V. Tosaf. s.v. כאילו.

(21) Num. XVIII, 8.

(22) So Targum Onkelos: לרבו ‘as a distinction, as a mark of eminence’.

(23) As to the manner in which they should be eaten, cf. prec. passage.

(24) Men. 18b; Tosaf. Dem'ai II.

(25) As a divine institution.

(26) I.e., is not entitled to any portion of sacrificial meat or to the priestly dues.

(27) Lev. VII, 33.

(28) Sc., the rite of ‘offering’ or bringing forward the parts of the sacrifice to the altar.

(29) Oil in the vessel of the meal-offering; cf. Men. 74b.

(30) The meal with the oil; Men. ibid.

(31) The baked meal-offering; Lev. II, 6.

(32) Ibid. 13.

(33) Certain meal-offerings; v. Men. 60a, 61a.

(34) Certain meal-offerings to the south-west corner of the altar, ibid. 8.
(35) Ibid. 2.
(36) The head of a bird-offering; v. Lev. I, 15; V, 8.

Talmud - Mas. Chullin 133a

of receiving [the blood in a vessel], and sprinkling it,[1] the ceremony of giving the water to a woman suspected of adultery,[2] of breaking the heifer's neck,[3] of purifying the leper,[4] and of raising the hands [for the priestly benediction][5] both inside (the Temple] and outside?[6] The text therefore states, among the sons of Aaron,[7] that is, every service ordained for the sons of Aaron. Hence, a priest who does not believe in the [Temple] services has no portion in the priesthood. Now the reason for this is that he does not believe in them, but if he does believe in them although he is not conversant with them [he is entitled to the priestly dues].[8]

R. Abba said in the name of R. Huna who said it in the name of Rab: The veins in the cheek are forbidden,[9] and a priest who does not know how to remove them should not be given this portion. But this is not correct, for if [the meat is] roasted then the blood will run out, and if [it is] cooked in a pot, having first been cut up and salted, then the blood will have run out.[10]

Raba said: R. Joseph once tested us [by the following question]: If a priest snatches the priestly dues,[11] is this a token of his zeal for the precept or of his contempt for the precept? And we replied, [Scripture says.] They shall give,[12] but he shall not take it himself.[13]

Abaye said: At first I used to snatch the priestly dues for I said to myself. ‘I am showing my zeal for the precept’, but when I heard the teaching, ‘"They shall give", but he shall not take it himself’, I would no more snatch it, but would say to all, ‘Give them to me’. And when I heard the teaching [of the following Baraitha] which was taught: ‘They turned aside after lucre:[14] R. Meir said: Samuel's sons used to ask for the portions themselves’, I decided not to ask for them but would accept them if they were given to me. And when I heard the following [Baraitha][15] which was taught: ‘The modest withdrew their hands from it but the greedy took it’, I decided not to accept them at all, save on the day before the Day of Atonement so as to establish myself as one of the priests.[16] But he could have raised his hands [for the priestly benediction]?[17] — Time pressed him.[18]

R. Joseph said: A priest in whose neighbourhood there lives a scholar who is in sore need, may assign to him the priestly dues[19] even though they have not yet come into his hands; provided [the priest] is popular among the priests and Levites.[20]

Raba and R. Safra once visited the house of Mar Yuhna the son of R. Hana b. Adda (others say, the house of Mar Yuhna the son of R. Hana b. Bizna), and he prepared for them a third-born[21] calf. Thereupon Raba said to the attendant[22] [who waited upon them]: ‘Assign to me the dues, for I wish to eat the tongue with mustard’.[23] He assigned them to him. Raba ate it, but R. Safra would not eat it.[24] There came to R. Safra the following verse in a dream: As one that taketh off a garment in cold weather, and as vinegar upon nitre, so is he that singeth songs to a heavy heart.[25] He then came before R. Joseph and said to him, ‘Perhaps it was because I did not do in accordance with the Master's teaching[26] that this verse came to me?’ But he [R. Joseph] replied. ‘I said it of a stranger only, but an attendant perforce must assign it;[27] moreover I said it in respect of one who is needy, but here it was not a case of need’. ‘Then why did this verse appear to me?’ — ‘It referred to Raba’. ‘Then why did it not appear to Raba?’ ‘He was under Divine censure’.[28]

Abaye said to R. Dimi: To what does the plain meaning of the [above] verse refer? — He replied: To one who teaches a disciple that is unworthy. For Rab Judah stated in the name of Rab: Whosoever teaches a disciple that is unworthy will fall into Gehinnom,[29] as it is written: All darkness is laid up for his treasures; a fire not blown by man shall consume him that hath an unworthy remnant [sarid] in his tent;[30] and ‘sarid’ can refer only to the scholar, as it is written: And among the remnant [u-baseridim] those whom the Lord shall call.[31]

R. Zera said in the name of Rab: Whosoever teaches a disciple that is unworthy is as one that throws a stone at a Merculis,[32] for it is written: As a small stone in a heap of stones, so is he that giveth honour to a fool;[33] and ‘honour’ is nothing but the Torah as it is written: The wise shall inherit honour;[34] and The perfect shall inherit good.[35]

R. Hama b. Hanina said: Whosoever does good to one that does not appreciate it is as one that throws a stone at a Merculis, for it is written: As a small stone in a heap of stones, so is he that giveth honour to a fool;[33] and it is also written: Luxury is not seemly for a fool.[36]

IF HE HAD A SHARE [IN THE ANIMAL] WITH THEM, HE MUST INDICATE THIS BY SOME SIGN. [This is so, apparently] even with a gentile.[37] But I can point out a contradiction, for it has been taught: If a man shares [the animal] with a priest he must indicate this by a sign; if he shares it with a gentile, or if the animal was a consecrated animal that had become unfit for a sacrifice,[38] there is no need to indicate this by a sign!

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(1) Either upon the veil of the Holy of Holies, or upon the altar.
(2) Num. V, 24.
(3) Deut. XXI, 4.
(4) Lev. XIV, 2ff.
(5) Num. VI, 22-27.
(6) I.e., in Synagogues.
(7) Lev. VII, 33.
(8) This clearly refutes R. Hisda's statement.
(9) On account of the blood that is in them.
(10) Cf. supra 93a re the veins in the fore-limb.
(11) From children who are taking it to another priest.
(12) Deut. XVIII, 3.
(13) Hence it is wrong to seize it.
(14) I Sam. VIII, 3.
(15) Yoma 39a, in connection with the distribution of the shew-bread among the priests, and conditions in the Temple after the death of Simeon the Just.
(16) That it should not be forgotten that he was a priest.
(17) In the Synagogue service and this would have proved him to be a priest.
(18) He was always occupied in study with his pupils that he could not find the time to take part in the priestly benediction. According to ‘Aruch and Alfasi, Abaye used to suffer from intestinal troubles and this debarred him from participating in the priestly benediction.
(19) And the scholar may collect the dues from the people.
(20) מכירי כהונה. Lit., ‘acquaintances of priesthood’. One who can count upon receiving dues from many people, and therefore, having as it were a presumptive ownership of the dues, he can assign them even though he has not actually received them.
(21) Or, a calf in its third year, or one that has reached a third of its growth.
(22) Who was a priest and who usually received the priestly dues from his master.
(23) The tongue constitutes part of the two cheeks to be given to the priest.
(24) He held that the attendant could not assign what he had not yet received.
(25) Prov. XXV, 20. R. Safra felt humiliated that this verse should have been applied to him; for the latter part of the verse implies that it is useless to teach one who has no understanding.
(26) Stated supra.
(27) To his master's guests; in such a case they in whose favour the dues were assigned would not acquire them.

(28) Because of his conduct in this incident, or because he had incurred the divine displeasure by demanding rain from Heaven, cf. Ta'an. 24b.

(29) The place of punishment of the wicked in the hereafter; hell.

(30) Job XX, 26. All darkness i.e., Gehinnom, and a fire not blown by man i.e., the fires of hell, are prepared for him who has an unworthy scholar (רע שריד) in his tent.

(31) Joel III, 5: ובשרידים.

(32) I.e., an idolater. Mercurius, a Roman divinity, identified with the Greek Hermes, the patron deity of wayfarers. Worship of this deity consisted in the setting up of stones, two beside each other and one above them, cf. A.Z. 49b, and sometimes simply in throwing stones at the figure; cf. Sanh. 60b.

(33) Prov. XXVI. 8. The words in the text following this verse until the end of this same verse quoted in the subsequent passage are omitted in the current editions. It is an obvious scribal omission, and the text has been supplied from MS.M.; the passage in full is also to be found in the ‘En Jacob.

(34) Ibid. III, 35.

(35) Ibid. XXVIII, 10. The logic of the argument must be followed up thus: And ‘good’ is nothing but Torah, as it is said: For I give you good doctrine, forsake ye not my Torah (ibid. IV, 2). Cf. Aboth VI, 3.

(36) Ibid. XIX, 10.

(37) I.e., it is necessary to indicate by some sign the existing partnership between the Jew and the gentile.

(38) By reason of a physical blemish and which has been redeemed. Such an animal is exempt from the priestly dues, v. supra 130a.

Talmud - Mas. Chullin 133b

— We must suppose in this case that the gentile was sitting by the butcher's stall.[1] But then in the case of the priest we must also suppose the same circumstances, that he sat by the stall; why then is it necessary to indicate [the partnership] by a sign? — Because people might say that he is only buying meat. Then in the case of a gentile, too, people might say that he is only buying meat, will they not? — We must suppose in this case that the gentile was sitting by the till.[2] Then in the case of the priest we must suppose the same circumstances, that he sat by the till, why is it necessary to indicate by a sign? — Because people might say that he merely trusted him [the priest].[3] Then in the case of a gentile, too, people might say that he merely trusted him? — There is no trust among heathens. If you wish, however, I can say, a gentile [partner] usually makes himself heard.[4]

The Master stated: ‘If the animal was a consecrated animal that had become unfit for sacrifice, there is no need to indicate this by a sign’. This shows that it is evident to all;[5] but we have learnt: Consecrated animals that have become unfit for sacrifice may [after they have been redeemed] be sold in the market, may be slaughtered in the market, and may be weighed out by the pound![6] — R. Adda b. Ahabah suggested before R. Papa that our case refers only to those animals that are sold in the house.[7]

R. Huna said: If he[8] has a share in the head of the animal only, one is exempt from giving the cheeks; if he has a share in the forelimb, one is exempt from giving the shoulder; and if he has a share in the entrails, one is exempt from giving the maw. Hiyya b. Rab said: Even if he has only a share in one of these parts one is nevertheless exempt from all [the dues].

An objection was raised: [If he said,][9] ‘The head shall be mine and the rest yours’, or even [if he said], ‘One hundredth part of the head [shall be mine]’, he[10] is exempt. ‘The fore-limb shall be mine and the rest yours’, or even ‘One’ hundredth part of the fore-limb [shall be mine]’, he is exempt. ‘The entrails shall be mine and the rest yours’, or even ‘One hundredth part of the entrails [shall be mine]’, he is exempt. Now this means, does it not, that he is exempt from the cheeks but liable to give the others; likewise that he is exempt from the shoulder but liable to give the others; and so also that he is Exempt from the maw but liable to give the others? — No, it means, he is exempt from all the dues. Then why does it not [expressly] state, ‘He is exempt from all the dues’? Furthermore, it has been expressly taught: [If he said.] ‘The head shall be mine and the rest yours’, or even ‘One hundredth part of the head [shall be mine]’, he is exempt from giving the cheeks but he is liable to give the others! — This is surely a refutation of the view of Hiyya b. Rab. It is a refutation.

R. Hisda said: The following Baraitha misled Hiyya b. Rab. For it was taught:[11] There are twenty-four priestly endowments, all bestowed upon Aaron and his sons first in general terms[12] and then specified separately,[13] and [finally confirmed] by a covenant of salt.[14] Whosoever observes them is as though he observes [the whole Torah which is expounded by] generalizations and specifications and [the sacrifices which were confirmed by] a covenant of salt,[15] and whosoever neglects them is as though he neglects [the whole Torah which is expounded by] generalizations and specifications and [the sacrifices which were confirmed by] a covenant of salt. And these are they: Ten [that are to be eaten] within the precincts of the Temple, four [that are enjoyed] in Jerusalem, and ten [that are given to them] within the borders [of the Land of Israel]. The ten [that are to be eaten] within the precincts of the Temple are: the sin-offering of an animal, the sin-offering of a bird, the guilt-offering for a known sin, the guilt-offering for a doubtful sin, the peace-offerings of the congregation.[16] the log of oil of the leper,[17] the two loaves,[18] the shewbread,[19] the remnant of the meal-offerings, the remnant of the ‘Omer.[20] The four [that are enjoyed] in Jerusalem are: the firstling, the firstfruits, that which is taken away as a heave-offering from the thank-offering[21] and from the ram of the Nazirite,[22] and the hides of the [most] holy sacrifices.[23] The ten [that are given to them] within the borders [of the Land of Israel] are: the terumah, the terumah of the tithe, the dough-offering, the first of the fleece, the [priestly] dues, the redemption of the [firstborn] son,[24] the redemption of the firstling of an ass,[25] the field of possession,[26] the devoted field,[27] and [the restitution for] robbery committed upon a proselyte.[28] Now he[29] thought that since ‘the [priestly] dues’ were counted as one [item in the list], they are considered one;[30] but it is not the case, for can it be said that ‘what is taken away as a heave-offering from the thank-offering and from the ram of the Nazirite’ are considered one merely because they are counted as one item? Surely they are counted as one item because they are similar to each other; then in this case too, they are counted as one item only because they are similar to each other.

The question was raised: What is the law [if he said],[31] ‘The head shall be yours and all the rest shall be mine’? Do we have regard to the part of the animal on which the obligation rests and this part belongs to the Israelite,[32] or do we have regard to the major portion of the animal and this belongs to the priest? — Come and hear: If a gentile or a priest delivered sheep to an Israelite to shear them, he[33] is exempt [from the first of the fleece]. If a man bought the fleeces of a flock belonging to a gentile, he Is exempt from the first of the fleece. In this respect the law of the shoulder and the two cheeks and the maw is more strict than the law of the first of the fleece.[34] This proves that we have regard to the part of the animal upon which the obligation rests. This proves it.

IF HE SAID, ‘EXCEPT THE DUES’, HE IS EXEMPT FROM GIVING THE DUES.

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(1) And this in itself is a manifest indication to all that the gentile has a share in the business.

(2) This is even stronger evidence that the gentile is a partner.

(3) To guard the till, but it does not necessarily imply that the priest has a share in the business.

(4) The circumstances were, as suggested at first, that the gentile was sitting by the butcher's stall, and so too in the case of the priest. But there is this distinction: a gentile partner would not look on in silence but would interfere in the business done by his Jewish partner, protesting from time to time at the price his partner allows, so that it would be obvious to all that the gentile has a share in the business. This, however, is not the case with a priest who is a partner in the business.

(5) That the animal is an animal unfit for sacrifice and has been redeemed. This is indicated, no doubt, by the fact that the meat is not sold in the market place like ordinary meat.

(6) Lit., ‘by the litra’ (the weight of one pound). It is evident from this Mishnah (Bek. V, 1) that consecrated animals which have been redeemed are treated in every way like ordinary animals.

(7) E.g., the Firstling and Cattle Tithe (cf. Bek. V, 1). In other words, the dictum of the Master that there is no need for any indication in the case of consecrated animals that became unfit refers only to the Firstling and the Cattle Tithe, for these may not, under any circumstances, be sold in the market but only in the house.
(8) Sc., the priest or the gentile.
(9) Sc., the priest or the gentile when selling the animal to an Israelite.
(10) The Israelite.
(11) B.K. 110b; Tosef. Hal. II.
(12) Cf. Num. XVIII, 8: All the hallowed things of the children of Israel unto thee have I given them.
(13) Num. XVIII, 9-19.
(14) Ibid. 19. I.e., a permanent covenant.
(15) Cf. Lev. II. 13.
(16) Offered on the Feast of Weeks, cf. Lev. XXIII, 19.
(17) Used for his purification rite; v. ibid. XIV, 10ff.
(18) Brought on the Feast of Weeks, ibid. XXIII, 17.
(19) Cf. Ex. XXV, 30; Lev. XXIV, 5-9.
(20) Lit., ‘sheaf’, referred to in Lev. XXIII, 10ff.
(21) Sc., the breast and the thigh and the four loaves; cf. ibid. VII, 11-14.
(22) Sc., the sodden shoulder, an unleavened cake and wafer; cf. Num. VI. 19.
(23) The hides of burnt-offerings, sin-offerings and guilt-offerings; cf. Lev. VII, 8. The hides of the lesser holy sacrifices belong to the donors; v. Zeb. 103b.
(24) I.e., the prescribed sum of five shekels; cf. Num. XVIII, 15-16.
(25) With a sheep; v. Ex. XIII, 13.
(26) Cf. Lev. XXVII, 16-21.
(27) Num. XVIII, 14.
(28) I.e., the principal and the additional fifth, cf. Num. V, 7, 8. This list is also to be found in B.K. 110b, Sonc. ed., p. 645-6. Part of this list is also found supra 131a.
(29) Hiyya b. Rab.
(30) So that he that is exempt from one portion is exempt from all.
(31) Sc., the priest when selling to an Israelite the head of an animal only.
(32) At the time of slaughtering when the obligation to give the portions falls due the Israelite is the owner of the head of the animal. And since the head belongs to the Israelite he is liable to give the two cheeks to the priest.
(33) Sc., the Israelite.
(34) For if an Israelite bought the portions of an animal from a priest from which the priestly dues are taken he is bound to give the dues; hence it is clear that the obligation rests upon the part of the animal bought.

Talmud - Mas. Chullin 134a

I can point out a contradiction to this. [It was taught: If he said,][1] ‘On condition that the dues shall be given to me’, he may nevertheless give them to any priest he chooses![2] — Do you oppose the terms ‘except’ and ‘on condition that’ against each other? The term ‘except’ is a reservation,[3] but the term on condition that’ is no reservation.[4] There is, however, a further contradiction, [for it was taught: If he said.] ‘On condition that the dues shall be given to me’, the dues must then be given to him![5] — They differ in this: one holds that ‘on condition that’ is a reservation;[6] the other[7] holds that ‘on condition that’ is no reservation.

IF A MAN SAID, ‘SELL ME THE ENTRAILS OF A COW’, etc. Rab said: They taught this[8] only where [the purchaser] weighed them for himself,[9] but if the butcher weighed them for him, then the [priest's] claim is against the butcher [also].[10] R. Assi said: Even though the butcher weighed them for him his claim is with him only.[11] Shall we say that they differ in the ruling of R. Hisda? For R. Hisda stated: If a person misappropriated (an article] and, before the owner gave up hope of recovering it, another person came and consumed it, the owner has the option of collecting payment from either the one[12] or the other.[13] Now is it to be said that the one [Rab] agrees with R. Hisda and the other [R. Assi] does not agree with R. Hisda? — No, all agree with R. Hisda, but there they differ as to whether the priestly dues are subject to the law of theft, the one [Rab] holds that they are subject to the law of theft[14] and the other [R. Assi] holds that they are not.[15] Some report the above argument independently[16] thus: Rab said: The priestly dues are subject to the law of theft; R. Assi said: The priestly dues are not subject to the law of theft.

MISHNAH. IF A PROSELYTE HAD A COW AND HE SLAUGHTERED IT BEFORE HE BECAME A PROSELYTE, HE IS EXEMPT FROM GIVING THE PRIESTLY DUES; IF [HE SLAUGHTERED IT] AFTER HE BECAME A PROSELYTE, HE IS LIABLE; IF THERE WAS A DOUBT ABOUT IT, HE IS EXEMPT, FOR THE BURDEN OF PROOF LIES UPON THE CLAIMANT.[17]

GEMARA. When R. Dimi came [from Palestine] he reported that R. Simeon b. Lakish pointed out the following contradiction to R. Johanan. We have learnt: IF THERE WAS A DOUBT ABOUT IT, HE IS EXEMPT, which shows that the doubt is decided in favour of leniency.[18] But there is a contradiction to this, for we have learnt:[19] [The grain found] in ant-holes among the standing corn,[20] belongs to the owner;[21] [as for the grain found in ant-holes] behind the reapers,[22] the uppermost layer belongs to the poor, but what is beneath belongs to the owner. R. Meir says. It all belongs to the poor, since gleanings that are in doubt are deemed to be gleanings.[23] To this [R. Johanan] answered: Do not weary me [with your arguments], since I quote that [Mishnah] as the opinion of an individual;[24] for it has been taught: R. Judah b. Agra says in the name of R. Meir: Gleanings that are in doubt are deemed to be gleanings, forgotten sheaves that are in doubt are deemed to be forgotten sheaves, and corners of the field that are in doubt are deemed to be corners of the field. The other [Resh Lakish] retorted: Teach it even in Ben Taddal's[25] name, [the difficulty, however, remains] for he adduces a reason for his view. For Resh Lakish said,[26] It is written: Do justice to the afflicted and poor;[27] what is meant by ‘do justice’? Can it mean, [favour him] in his lawsuit? Surely it is written: Thou shalt not favour a poor man in his cause![28] Rather it means: Be liberal with what is yours and give it to him![29] — Raba answered,[30] Here the cow has the status of exemption [from dues], but the standing corn has the status of being subject [to the dues].[31] Said Abaye to him: Behold the case of the dough [of a proselyte, of which we learnt]:[32] If it was mixed before he became a proselyte he is exempt from giving the dough-offering; if after he became a proselyte, he is liable to give it; if there was a doubt about it, he is liable![33] — He replied. Where the doubt concerns a religious prohibition[34] we must take the more stringent view, where the doubt concerns a monetary matter we take the more lenient view.[35] For R. Hisda stated, and so also did R. Hiyya teach: Eight cases of doubt were cited in connection with a proselyte, in four he is held liable and in four he is held exempt; and these are they: with regard to his wife's sacrifice,[36] the dough-offering,[37] the firstling of an unclean animal,[38] and the firstling of a clean animal,[39] he is held liable;[40]

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(1) Sc., the priest when selling an animal to an Israelite.

(2) For the condition is contrary to Scriptural law, since by Scriptural law the owner has a power of disposal of the dues to whom he will, and it is therefore null and void. The purchaser then can dispose of the dues as he wishes, but he is bound to give them, thus apparently in conflict with our Mishnah.

(3) What was excepted did not form part of the sale, for the priest reserved these parts to himself.

(4) But merely a condition which, being contrary to Scriptural law, is null. V. Git. 82a.

(5) Thus contradicting the first Baraitha.

(6) The Tanna of the last quoted Baraitha regards the term on condition that’ on all fours with the term ‘except’.

(7) The Tanna of the first Baraitha.

(8) That where the entrails were sold by weight the seller must allow a reduction in the price on account of the priestly dues that were included; the implication being that the priest comes and claims the dues from the purchaser.

(9) In this case it was the purchaser who actually took away the priest's due, consequently the priest can only claim them from the purchaser and the latter in turn is entitled to an allowance in the purchase price.

(10) The priest, if he so pleases, can claim the dues from the seller (even though they are no longer in his possession) for he was also in the wrong, and he must make every effort to obtain them for the priest. V. B.K. 115a.

(11) The priest can only claim the dues from the person in whose possession they are, in this case from the purchaser.

(12) I.e., the one who robbed him.

(13) I.e., the one who later consumed the article; for so long as the owner has not given up hope of recovering it it is deemed to be his property wherever it happens to be, so that the one who consumed it also committed an act of theft.

(14) Accordingly the butcher when he sold them committed an act of theft for which he is held liable.

(15) For since they are endowments by Divine Law they always remain the priest's property wherever they are, consequently the law of theft does not apply to them, but the person in whose possession they are is alone responsible for them to the priest.

(16) And not in connection with our Mishnah.

(17) In this case it would be upon the priest to show that the animal was slaughtered after the owner was converted to the Jewish faith.

(18) I.e., in favour of the owner.

(19) Pe'ah IV. 11.

(20) According to Rashi, that which is in front of the reapers, i.e., which the reapers have not yet reached, although they have begun to reap the field; but v. infra p. 762, n. 1, commentary of R. Samson of Sens.

(21) The law of gleanings does not apply to it, for it is certain that the grain was carried into the holes by ants and did not fall therein at the time of reaping, since that part of the field has not yet been reaped.

(22) According to R. Samson of Sens, if only the reapers have started to reap even though they have not reached the standing corn around the ant-holes; q.v.

(23) R. Meir thus in a case of doubt decides against the owner, which view clearly contradicts that of our Mishnah which is also the view of R. Meir, for an anonymous Mishnah represents the view of R. Meir, v. Sanh. 86a (Sonc. ed.) p. 566. V., however, Tosaf. s.v. ורמינהי.

(24) It is only the opinion of R. Judah b. Agra quoting R. Meir, and he is not to be relied upon.

(25) A fictitious name for some foolish babbler (Jast.). Variants are: בן ערל a stammerer, cf. ערל שפתים Ex. VI, 12; בן תרן, בן עדל probably names of persons known to have been unreliable in all matters.

(26) [Insert with MS.M., ‘what is the reason of R. Judah b. Agra’?]

(27) Ps. LXXXII, 3.

(28) Ex. XXIII, 3.

(29) I.e., in matters of doubt give the poor the benefit.

(30) To reconcile the two Mishnahs.

(31) In every case of doubt we must refer to the status of the thing before the doubt arose (v. supra p. 46), and the cow then belonged to a gentile when it was exempt from dues; the cornfield, on the other hand, being the property of an Israelite, has always been subject to the various dues to the poor.

(32) Hal. III, 6.

(33) Even though at the time when the doubt arises the dough has the status of exemption from the dough-offering, for the dough of a gentile is exempt; this clearly conflicts with Raba's contention.

(34) For if the dough-offering is not given to the priest the whole dough is deemed to be tebel and forbidden to be eaten on the penalty of death at the hands of Heaven.

(35) The priestly dues are in no wise sacred and the omission to give them does not render the animal forbidden; consequently, it is only a monetary consideration, and in a case of doubt it is for the priest, the claimant, to establish his claim.

(36) Where there was a doubt whether his wife gave birth to a child before she became a proselyte or after. This case of doubt may involve a penalty of kareth, for if she gave birth after she became a proselyte she would then be obliged to bring a sacrifice consequent upon her childbirth (cf. Lev. XII); and if she failed to do so and ate consecrated food she would be liable to the penalty of kareth.

(37) The doubt here being as stated in Mishnah Hal. III, 6. This case of doubt may involve the penalty of death at the hands of Heaven, v. supra n. 3.

(38) Where there was a doubt whether the proselyte's ass brought forth a firstling before his conversion or after. If after, then the foal is forbidden for all purposes until it is redeemed with a lamb (cf. Ex. XIII, 13), which lamb had to be given to the priest; in this case of doubt, the proselyte must redeem the foal with a lamb, but he may withhold it from the priest; v. infra n. 20.

(39) The doubt here as in prec. note. This case of doubt may involve the penalty of kareth for slaughtering a firstling outside the Temple.

(40) Since these cases are matters which involve religious prohibitions and entail serious penalties, we must adopt the stricter view and impose the obligation upon the proselyte.

Talmud - Mas. Chullin 134b

with regard to the first of the fleece, the priestly dues, the redemption of his firstborn son, and the redemption of the firstling of an ass,[1] he is exempt.[2] When Rabin came [from Palestine] he reported that he had pointed out to him a contradiction with regard to the standing corn itself.[3]

Levi[4] once sowed grain in Kishor, and there were no poor to collect the gleanings, so he came before R. Shesheth. He told him: It is written: Thou shalt leave them for the poor and the stranger,[5] but not for ravens and bats.[6]

An objection was raised: One is not obliged to bring in the terumah from the threshing-floor into the town, nor from the desert into the inhabited place;[7] if, however, there is no priest there [in the district], one must hire a cow and bring it in, for otherwise there would be a waste of terumah![8] — In the case of terumah it is different, for [without setting apart the terumah] the whole is forbidden,[9] and therefore one has no choice but to set it apart.[10] But take the case of the priestly dues they do not render the whole forbidden, nevertheless it has been taught: Where the custom is only to scrape away [with boiling water the hair] of calves,[11] one should not remove the skin from the shoulder;[12] moreover, where the custom is to remove the skin from the head one should not remove the skin from the cheeks.[12] If there is no priest [to whom to give these dues], one must estimate their value[13] and then eat them, so that there should be no loss to the priest! — In the case of the priestly dues it is different, for in regard to them the term giving is used.[14] And now that you have suggested this, you may also say that in regard to terumah the term ‘giving’ is used.[15]

For what purpose then do I require the additional expression ‘Thou shalt leave them’?[16] — For the following teaching: If a man renounced the ownership of his vineyard and rose early on the following morning and gathered the grapes, he is liable to the laws of the fallen grapes, the small clusters, the forgotten clusters, and the corners [of the vineyard], but he is exempt from the tithe.[17]

There once arrived at the Beth Hamidrash [a gift of] a bag of [golden] denars,[18] whereupon R. Ammi came in first and acquired them. But how may he do such a thing? Is it not written. And they shall give,[19] but he shall not take it himself? — R. Ammi acquired them on behalf of the poor. Or, if you wish, you may say that in the case of an eminent person it is different.[20] For it has been taught: The verse: And the priest that is highest among his brethren,[21] implies that he shall be highest among his brethren in beauty, in wisdom and in wealth. Others say: Whence is it proved that if he does not possess any wealth, his brethren, the priests, shall make him great? Because Scripture says: And the priest that is highest by reason of his brethren,[21] that is, he must be made the highest [by reason of gifts] from his brethren.

MISHNAH. WHAT COUNTS AS ‘THE SHOULDER’? FROM THE JOINT UP TO THE SHOULDER-SOCKET OF THE FORELIMB;[22] AND THIS IS THE SAME FOR THE NAZIRITE.[23] THE CORRESPONDING PART OF THE HIND LEG IS CALLED THE THIGH.[24] R. JUDAH SAYS, THE THIGH EXTENDS FROM THE JOINT UP TO THE FLESHY PART OF THE LEG.[25] WHAT COUNTS AS ‘THE CHEEK? FROM THE JOINT OF THE JAW TO THE PROMINENCE OF THE WINDPIPE.[26]

GEMARA. Our Rabbis taught: The shoulder,[27] that is, the right shoulder. You say it is the right shoulder, but perhaps it is the left? Scripture therefore says: ‘The shoulder’. How is this implied? —

As Raba said: ‘The thigh’[28] means the right thigh, so ‘The shoulder’ means the right shoulder. And for what purpose is ‘The cheeks’ stated?[29] — To include the wool Upon the head of sheep and the hair of the beard of goats. And for what purpose is ‘The maw’ stated?[29] — To include the fat that lies upon the stomach and the fat within the stomach.[30] For R. Joshua[31] said: The priests were in the habit of being generous with this[32] and used to return it to the owners. The only reason [for returning it] is that they were in the habit [of doing so], but had they not been of this habit it certainly would have belonged to them.

The interpreters of Scripture by symbol[33] used to say: ‘The shoulder’[34] represents the hand [of Phinehas], for it is written: And took a spear in his hand.[35] ‘The cheeks’ represent his prayer, for so it is written: Then stood up Phinehas and prayed.[36] ‘The maw’ — this is to be taken in its literal sense, for so it is written: And the woman through her stomach.[37]

A Tanna derives it from the following: It is written: And the right thigh;[38] from this I only know the right thigh, whence do I know this of the shoulder of consecrated animals?[39] Because the text states: As a heave-offering.[38] And whence do I know this of the shoulder of unconsecrated animals?[40] Because the text states: Ye shall give.[41]

WHAT COUNTS AS ‘THE CHEEK’? FROM THE JOINT OF THE JAW TO THE PROMINENCE OF THE WINDPIPE. But it has been taught: One should cut it away and the place of slaughtering should go with it![42] — This is no contradiction, for the one [our Mishnah] gives the opinion of the Rabbis, and the other [the Baraitha] the opinion of R. Hanina b. Antigonus. For it was taught: Any deflection [of the knife outside the top ring] invalidates the slaughtering. R. Hanina b. Antigonus testified that a deflection is permitted.[43] Or, if you wish, you may say that both statements accord with the opinion of the Rabbis, for ‘with it’ [in the Baraitha] means with the [rest of the] animal.[44]

CHAPTER XI

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(1) Sc., the lamb used for redeeming the firstling of the ass; v. supra n. 7.

(2) In all these cases the doubt was whether at the material time, i.e., when the obligation to make these presents to the priest fell due, this man was already a proselyte or not. Since, however, these are all monetary considerations we adopt the lenient view and leave it to the priest who is the claimant to establish his claim.

(3) I.e., that Resh Lakish had pointed out to R. Johanan a contradiction between R. Meir's views with regard to standing corn, and not, as reported by R. Dimi, a contradiction between R. Meir's views with regard to standing corn and the priestly dues. According to Rabin's report Resh Lakish had adduced a Baraitha concerning standing corn in which R. Meir's view was in direct conflict with that expressed by him in Mishnah Pe'ah IV, 11. R. Johanan, however, made the same answer as reported above, viz., that the latter Mishnah was taught by an individual.

(4) [Probably Levi b. Hama; v. D.S. note a.l.]

(5) Lev. XIX, 10.

(6) So that where there are no poor the gleanings may be gathered by the owner and consumed by him, but on no account are they to be left in the open field to be consumed by birds.

(7) The priest must go and fetch it himself.

(8) The owner must then bring it in and store it for the priest (no doubt he could claim his expenses from the priest, cf. Maim. Yad, Terumoth XII, 17); the same should also be the rule with the dues to the poor, i.e., the owner should collect and keep them for the poor, but not consume them himself.

(9) טבל ‘mixed’, i.e., untithed produce, which is forbidden to be eaten under the penalty of death at the hands of Heaven.

(10) And since one must set it apart in order to render the rest of the produce permitted, it becomes one's duty also to keep it in store fur the priest; but this is not the case with gleanings, for the produce is under no restriction even though the gleanings were not left.

(11) And cook it together with its skin and eat it. V. Alfasi for a variant in the text and the comment of R. Nissim thereon.

(12) But one should give it to the priest with the skin upon it.

(13) And set aside the money to be given to the first priest that claims it. This should be the case, should it not, with the gifts to the poor too?

(14) Cf. Deut. XVIII, 3. It is thus one's duty to give them to the priest, even though no priests are available at the time.

(15) Cf. Num. XVIII, 12.

(16) This expression is found in Lev. XIX, 10 and also in XXIII, 22. Surely its purpose is to teach that one must keep the dues for the poor, is it not?

(17) For although ownerless property or property that has been renounced by its owner is free from these poor laws, in this case the original owner has by his conduct resumed the ownership of the vineyard and is therefore liable to these poor laws. This is inferred from the superfluous expression ‘Thou shalt leave them’, which, as shown supra 131a ff (v. Rashi), refers only to the poor laws but not to the tithe. For the special connotation of each of these terms and their Biblical sources v. supra ibid. and notes thereon. V. also B.K. 28a, and Ned. 44b.

(18) A coin, v. Glos.

(19) Deut. XVIII, 3.

(20) R. Ammi as head of the Academy was permitted to acquire the money for himself; indeed, it is a duty upon all to make him ‘the greatest among his brethren’.

(21) Lev. XXI, 10.

(22) I.e., from the carpus to the scapula; it thus consists of two bones, the radius and the humerus. V. Diagram of ox.

(23) Cf. Num. VI, 19: ‘the shoulder of the ram’.

(24) I.e., from the tarsus to the innominate bone; this also consists of two bones, the tibia and the femur. This portion together with the breast was to be given to the priest from every peace-offering, cf. Lev. VII, 32.

(25) I.e., it consists of one bone only, viz. the tibia.

(26) I.e., the tip of the thyroid cartilage. This extent includes the whole of the lower jaw and the tongue.

(27) Deut. XVIII, 3. הזרוע.

(28) Gen. XXXII, 33. V. supra 91a. The implication is from the additional ה ‘the’, in each case.

(29) I.e., the additional ה, the.

(30) The fat upon the greater and lesser curvatures of the stomach; v. Tur. Yoreh De'ah c. LXI. Perhaps the second וחלב should be read וחלב, i.e., the milk within the stomach; and from Rashi (in MSS.) this would appear to be the meaning.

(31) Probably R. Joshua b. Levi; so MS .M. In many MSS. (v. Bah) ‘For’ at the head of this passage is omitted, and the passage is quite independent of what has gone before.

(32) Sc., the supplementary portions of the stomach. Cf. Taz, Yoreh De'ah c. LXI, sub-sec. 7.

(33) דורשי חמורות, in MS.M. דורשי רשומות. See the exhaustive discussion of Lauterbach in JQR. (N.S.) I, pp. 291-333, 503, 531.

(34) These portions were granted to the priests as a reward for Phinehas's zealous act in slaying Zimri, and so turned away God's wrath from Israel. V. Num. XXV, 6ff.

(35) Ibid. 7. Presumably in his right hand, consequently it is the right shoulder that is to be given.

(36) Ps. CVI, 30.

(37) Num. XXV, 8.

(38) Lev. VII, 32.

(39) That the shoulder which is taken as a heave-offering from the sacrifice of the Nazirite (cf. Num. VI, 19) shall be the right one.

(40) I.e., of the priestly dues.

(41) Lev. ibid. Whatsoever is given shall be from the right side.

(42) This apparently implies that a part of the area prescribed for slaughtering must be included in ‘the cheek’. This however is not the case according to the description of ‘the cheek’ in our Mishnah, for the tip of the thyroid cartilage, which is the limit described in the Mishnah, is surely not within the area prescribed for slaughtering.

(43) V. supra 18b. According to R. Hanina b. Antigonus the tip of the thyroid cartilage is within the area prescribed for slaughtering. It must be observed that with regard to the extent of the cheek that is given to the priest there is no difference of opinion between R. Hanina and the Rabbis.

(44) But it is not included in the portion of ‘the cheek’.

MISHNAH. THE LAW OF THE FIRST OF THE FLEECE[1] IS IN FORCE BOTH WITHIN THE HOLY LAND AND OUTSIDE IT, BOTH DURING THE EXISTENCE OF THE TEMPLE AND AFTER IT, IN RESPECT OF UNCONSECRATED ANIMALS BUT NOT CONSECRATED ANIMALS. THE LAW OF THE SHOULDER AND THE TWO CHEEKS AND THE MAW IS OF WIDER APPLICATION THAN THE LAW OF THE FIRST OF THE FLEECE; FOR THE LAW OF THE SHOULDER AND THE TWO CHEEKS AND THE MAW APPLIES BOTH TO HERDS AND FLOCKS, WHETHER THEY ARE MANY OR FEW,[2] WHEREAS THE LAW OF THE FIRST OF THE FLEECE APPLIES ONLY TO SHEEP, AND ONLY WHEN THERE ARE MANY. WHAT IS MEANT BY ‘MANY’? BETH SHAMMAI SAY, [AT LEAST] TWO SHEEP, AS IT IS SAID, A MAN SHALL REAR A YOUNG COW AND TWO SHEEP.[3] BETH HILLEL SAY, FIVE, AS IT IS SAID, FIVE SHEEP READY DRESSED.[4] R. DOSA B. HARKINAS SAYS, FIVE SHEEP, WHICH PRODUCE EACH [A FLEECE OF THE WEIGHT OF] A MANEH[5] AND A HALF, ARE SUBJECT TO THE LAW OF THE FIRST OF THE FLEECE. BUT THE SAGES SAY, FIVE SHEEP, WHATEVER THEIR FLEECES WEIGH. AND HOW MUCH SHOULD ONE GIVE HIM?[6] THE WEIGHT OF FIVE SELA'S IN JUDAH, WHICH IS EQUAL TO TEN SELA'S IN GALILEE, OF BLEACHED WOOL BUT NOT DIRTY WOOL, SUFFICIENT TO MAKE FROM IT A SMALL GARMENT, FOR IT IS WRITTEN, THOU SHALT GIVE HIM,[7] THAT IS, THERE SHALL BE ENOUGH WORTHY TO BE CALLED ‘A GIFT’. IF THE OWNER DID NOT MANAGE TO GIVE [THE FLEECE TO THE PRIEST] UNTIL IT HAD ALREADY BEEN DYED, HE IS EXEMPT;[8] IF HE ONLY BLEACHED IT BUT DID NOT DYE IT, HE IS STILL LIABLE.[9] IF A MAN BOUGHT THE FLEECES OF A FLOCK BELONGING TO A GENTILE.[10] HE IS EXEMPT FROM THE LAW OF THE FIRST OF THE FLEECE. IF A MAN BOUGHT THE FLEECES OF A FLOCK BELONGING TO HIS NEIGHBOUR AND THE SELLER KEPT BACK SOME FOR HIMSELF, THE SELLER IS LIABLE, BUT IF HE KEPT NAUGHT BACK, THE BUYER IS LIABLE. IF HE HAD TWO KINDS OF WOOL, GREY AND WHITE, AND HE SOLD THE GREY BUT NOT THE WHITE, OR [IF HE SOLD THE WOOL] OF THE MALES BUT NOT OF THE FEMALES, EACH[11] MUST GIVE [THE FIRST OF THE FLEECE] FOR HIMSELF.

GEMARA. Why does not [the law of the first of the fleece] apply to consecrated animals? — Because Scripture says, of thy sheep,[7] but not of the sheep of the Sanctuary. Now this is so because Scripture stated: ‘Of thy sheep’, but without this [Scriptural indication] I should have said that consecrated animals are subject to the law of the first of the fleece; but surely they may not be shorn, for it is written: Thou shalt not shear the firstling of thy flock![12] — In respect of animals consecrated for the altar this is indeed so,[13] but we were referring to animals consecrated to the Temple treasury.[14] But has not R. Eleazar said that animals consecrated to the Temple treasury are forbidden to be shorn and to be used for work? — [This is forbidden] by Rabbinic decree only. Now I might have thought that, since by law of the Torah they may be shorn, where a man did shear them he should give [the priest the first of the fleece; Scripture therefore teaches that they are not subject to the law]. But it is consecrated, is it not?[15] — I might think that he[16] must redeem it and give it to the priest. But surely it has to stand up to be appraised?[17] This is well according to him who says that animals consecrated to the Temple treasury are not subject to the law of ‘standing up to be appraised’, but what can you say according to him who says that they are subject to this law? — R. Mani b. Pattish suggested in the name of R. Jannai: We are referring here to the case of a man who consecrated to the Temple treasury his animal apart from its fleece. Now I might have thought that he should shear it and give [the portion] to the priest. Scripture therefore states: ‘Of thy sheep’ but not of the sheep of the Sanctuary. In that case it can also refer to an animal consecrated to the altar![18] — It would thereby become weak.[19] Then the animal consecrated to the Temple treasury would also become weak thereby? — [We must assume that] he said: ‘[I consecrate the animal] except for its fleece and the debility [resulting from the shearing of the fleece’]. Then even with regard to an animal consecrated to the altar, [we can assume that] he said: ‘[I consecrate the animal] except for its fleece and the debility [resulting from the shearing thereof’]! — Even so the sanctity extends over the whole [animal].[20] Whence do you gather this? — Because [we have learnt:] R. Jose said: Is it not the case that, in connection with animal offerings, if one said: ‘Let the foot of this animal be a burnt-offering’, the whole animal is consecrated as a burnt-offering?[21] And even according to R. Meir who declares that the whole animal does not thereby become [consecrated as] a burnt-offering, that is so only where one consecrated a limb whereon the life [of the animal] does not depend, but if one consecrated a limb whereon the life [of the animal] depends, [he agrees that] the whole animal becomes consecrated.

Raba said, [Our Mishnah refers to the case] where a man consecrated the fleece only; now I might have said that he must shear it, redeem it, and give it to the priest. Scripture therefore states The fleece of thy sheep shalt thou give him:[22] this applies only to that which lacks shearing and giving but not to that which lacks shearing, redeeming and giving.[23]

And what does the expression ‘Of thy sheep’ come to teach us? — The following, which has been taught: An animal which is held jointly is subject to the law of the first of the fleece; R. Ila'i declares it exempt.[24] What is the reason for R. Ila'i's view? — Because Scripture states ‘Of thy sheep’, but not of that which is held jointly. And the Rabbis? — [They say that] it serves to exclude only that which is held jointly with a gentile.[25] And whence does R. Ila'i know that that which is held jointly with a gentile [is exempt]? — He derives it from the beginning of the verse, which reads: The first of thy corn,[26] but not that which is held jointly with a gentile. And the Rabbis?[27] — The word ‘first’ [they say] interrupts the subject-matter.[28] And R. Ila'i? — ‘And’ [he says] connects this[29] [with the above Subject].

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(1) Deut. XVIII, 4: And the first of the fleece of thy sheep shalt thou give him.

(2) Even if one slaughters a single beast.

(3) Isa. VII, 21. The term צאן ‘flock’ stated in connection with the law of the first of the fleece is in this verse used of two sheep.

(4) I Sam. XXV, 18. The expression עשוית ‘ready dressed’, is interpreted to mean that the commandment (עשה) of the first of the fleece had been fulfilled in respect of them.

(5) V. Glos.

(6) Sc. to the priest. V. Gemara 137b.

(7) Deut. XVIII, 4.

(8) For he has acquired absolute ownership of the wool by the change he had wrought in it. This is regarded as an act of theft and he is exempt from giving it now to the priest, in accordance with R. Hisda's dictum supra 130b.

(9) Mere bleaching, unlike dyeing, does not constitute a change whereby one can acquire the ownership of an article.

(10) Even though the wool was not shorn from the animal, but the Israelite sheared it.

(11) Both the seller and the purchaser must give to the priest the first of the fleece. V. however Gemara, 136b.

(12) Deut. XV, 19.

(13) And no verse is necessary to exclude consecrated animals fit for a sacrifice from the law of the first of the fleece.

(14) These consecrated animals may be shorn, and therefore a scriptural indication must be resorted to in order to exclude them from the law of the first of the fleece.

(15) The fleece belongs to the Temple treasury, how then can it be suggested that it be given to the priest?

(16) Probably the original owner who consecrated the beast, but v. Tosaf. s.v. ראשית.

(17) Every consecrated living animal and everything attached to it, when it is about to be redeemed must be able to stand up before the priest to be valued, in accordance with Lev. XXVII, 11, 12.

(18) For since the animal only was consecrated and not the fleece, it is permitted to use the fleece, hence it is necessary for Scripture to teach that it need not be given to the priest.

(19) I.e., by the shearing: it is therefore forbidden to shear the wool of a consecrated animal, even though the wool was not consecrated.

(20) So that in the case of an animal consecrated to the altar the exception of the fleece cannot be regarded as a reservation and the whole animal is deemed to be consecrated; whereas in the case of an animal consecrated to the Temple treasury whatsoever is excepted will not be deemed to be consecrated.

(21) V. Tem. 10a, and supra 69b. R. Jose puts forward this argument to prove that where the foot of an animal was designated as a substitute for an already consecrated animal, the whole animal thereby becomes consecrated.

(22) Deut. XVIII, 4.

(23) Hence the fleece of consecrated animals is not subject. It must be observed that the rule of ‘standing up to be appraised’ does not come into consideration here for it does not apply to an inanimate object consecrated to the Temple treasury. V. p. 771, n. 3, and Tosaf. s.v. והא.

(24) The expression ‘Of thy sheep’ — meaning sheep belonging to a single individual — excludes, according to the view of the first Tanna (later referred to as ‘the Rabbis’), sheep held jointly by an Israelite and a gentile, and according to R. Ila'i, even that which is held by two Israelites jointly.

(25) But that which is held by two Israelites jointly is subject to the law of the first of the fleece, since each is individually subject to the law, and the people of Israel are often referred to as a single individual; cf. Mak. 23b.

(26) Deut. XVIII, 4. The firstfruits of corn held jointly with a gentile is not subject to the offering of terumah; likewise it is reasonable to infer that sheep held jointly with a gentile are not subject to the law of the first of the fleece; consequently the later expression ‘thy sheep’ excludes that which is held jointly by Israelites.

(27) How do they meet this argument of R. Ila'i?

(28) The verse reads: The first of thy corn . . . and the first of the fleece of thy sheep shalt thou give him. The fact that Scripture repeats the word ‘first’ in regard to the fleece indicates that it is quite distinct from the foregoing, and no inference may be made therefrom.

(29) Were the two laws entirely distinct, Scripture would not have introduced the second with the conjunction ‘and’. It evidently signifies some connection and analogy between the two.

Talmud - Mas. Chullin 135b

And the Rabbis? — [They say] the Divine Law then should have stated neither ‘and’ nor ‘first’.[1] And R. Ila'i? — [He says] since the one has no sanctity whatsoever,[2] whereas the other is itself sacred, the two had to be [in the first place] stated separately and later connected.

Alternatively, you may say, the Rabbis are of the opinion that what is held jointly with a gentile is subject to terumah.[3] For it has been taught:[4] If an Israelite and a gentile bought a field jointly, tebel and hullin[5] are inextricably mixed up in it:[6] so Rabbi. Rabban Simeon b. Gamaliel says: The part belonging to the Israelite is subject to the tithe, and the part belonging to the gentile is exempt. Now the extent of their difference consists in this, that the one authority [R. Simeon] holds the principle of bererah[7] while the other does not hold the principle of bererah, but both are agreed that whatsoever is held jointly with a gentile is subject to tithe.

In the further alternative you may say that both rules[8] are derived, according to R. Ila'i, from the expression ‘thy sheep’. For why is it that what is held jointly with a gentile is exempt [from the law of the first of the fleece]? Because it is not solely his. Then what is held jointly with another Israelite should also be exempt,for it is not solely his. And the Rabbis? — [They distinguish thus:] A gentile is not subject to this law, whereas an Israelite is.[9]

Raba said: R. Ila'i agrees as regards terumah;[10] for, although it is written; ‘Thy corn’ [from which it would appear that] thine only [is subject to terumah] and not what is held jointly, the Divine Law stated: Your heave-offerings.[11] What then is the significance of ‘thy corn’? — It excludes what is held jointly with a gentile. As regards the dough-offering,[12] although there is written the word ‘first’,[12] and one could draw an analogy by reason of the common word ‘first’[13] from the law of the first of the fleece: as there what is held jointly is exempt so here what is held jointly is exempt, the Divine Law stated: Your dough.[12] Now this is so only because Scripture stated: ‘Your dough’, but had it not stated it I should have said that we should draw an analogy by reason of the common word ‘first’ from the law of the first of the fleece, but on the contrary we would rather draw the analogy from the law of terumah![14] — This is indeed so; what then is the significance of ‘your dough? — That there must be as much as your dough.[15]

As regards the corner of the field, although it is written: Thy field[16] [from which it would follow that] thine only is subject and not what is held jointly, the Divine Law stated: And when ye reap the harvest of your land.[16] What then is the significance of ‘thy field’? — It excludes what is held jointly with a gentile.

As regards the law of the firstling, although it is written: All the firstling males that are born of thy herd and of thy flock,[17] [from which it would follow that] thine only is subject but not what is held jointly, the Divine Law stated: And the firstlings of your herd and of your flock.[18] What then is the significance of ‘thy herd and thy flock’? — It excludes what is held jointly with a gentile.

As regards the law of mezuzah,[19] although it is written: Thy house,[20] [from which it would follow that] thine only is subject but not what is held jointly, the Divine Law stated: That your days may be multiplied and the days of your children.[21] What then is the significance of ‘thy house’? — It is as Rabbah stated. For Rabbah stated:

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(1) If any analogy was to be inferred from the two laws, both these expressions then should have been omitted, viz., ‘and’ which implies connection with the preceding subject and ‘first’ which implies separateness.

(2) Lit., ‘it is consecrated as to its value’. Not to be taken literally, since the first of the fleece has no sanctity whatsoever, whereas terumah is sacred and may be eaten by none but priests (Rashi).

(3) I.e., only the share held by the Israelite. Consequently the expression ‘thy sheep’ serves to exclude that which is held jointly with a gentile from the law of the first of the fleece, and the expression ‘thy corn’ serves to exclude that which belongs entirely to the gentile. V. Rashi s.v. ואיבעית אימא

(4) Tosef. Ter. II; and Git. 47aff.

(5) Tebel (lit., mixed) is produce which is subject to tithes but from which these have not been separated. Hullin (lit., common, unconsecrated) is produce that is free entirely from tithes, e.g., what is bought from a gentile.

(6) Even after they have divided between them the produce of the field, we do not assume that the share which each took eventually was intended for him from the beginning, so that the result would be that the Israelite's share is wholly tebel and the gentile's wholly hullin. This would mean the application of the principle of bererah i.e., retrospective designation. Rabbi does not accept this principle and maintains that each share, nay, each grain, is part tebel and part hullin; and the Israelite therefore must separate the tithe for his share from this very produce but not from other produce, neither can this produce be set aside as tithe for other produce. V. Rashi s.v. טבל.

(7) ברירה, v. Glos, and also supra 14a and notes.

(8) That sheep held jointly with an Israelite as well as sheep held jointly with a gentile are exempt from the law of the first of the fleece.

(9) It is not necessary that the sheep shall belong wholly to one person, all that the law insists upon is that it shall belong to parties each subject to the law, sc. Israelites, for, after all, the people of Israel are often referred to as a single unit.

(10) That produce held jointly by Israelites is subject to terumah.

(11) The use of the second person plural suffix in this and in all subsequent cases indicates that the matter may be held by several persons jointly. ‘Your heave-offerings’ is not found in the Torah at all, but only in Ezek. XX, 40 and XLIV, 30. Probably the text should read: Your heave-offering, as in Num. XVIII, 27.

(12) Num. XV, 20.

(13) Stated here in connection with the dough-offering, and also in connection with the first of the fleece; Deut. XVIII, 4.

(14) With the result that what is held jointly by Israelites is subject to the dough-offering, just as it is subject to terumah. For it is an established principle that where two analogies are possible, one leading to stringency and the other to leniency, we must adopt the former; v. Yeb. 8a, Kid. 68a, and A.Z. 46b.

(15) To be subject to the dough-offering there must be a minimum quantity of dough equal to a person's daily ration in the wilderness, viz., an ‘omer per head (Ex. XVI, 16), and an ‘omer is the tenth part of an ephah (ibid. 36). This is equivalent in mass to forty-three and one fifth eggs, for an ephah equals four hundred and thirty-two eggs. (One ephah =

three se'ah2; one se'ah = six kabs; one kab = four logs; one log = six eggs.)
(16) Lev. XIX, 9.
(17) Deut. XV, 19.
(18) Ibid. XII, 6.
(19) V. Glos.
(20) Ibid. VI, 9.
(21) Deut. XI, 21.

Talmud - Mas. Chullin 136a

The way thou enterest [thy house], that is, with the right [foot].[1]

As regards the tithe, although it is written: The tithe of thy corn,[2] [from which would follow that] thine only is subject but not what is held jointly, the Divine Law stated: Your tithe.[3] What then is the significance of ‘the tithe of thy corn’? — It excludes what is held jointly with a gentile.

As regards the priestly dues, although it is written: And he shall give,[4] and by reason of the common expression ‘giving’[5] one might draw an analogy from the law of the first of the fleece: as there what is held jointly is exempt so here what is held jointly is exempt, the Divine Law stated: From them that slaughter a slaughtering.[6] Now this is so only because Scripture stated: From them that slaughter a slaughtering, but had it not stated it, I should have said that one should draw the analogy from the law of the first of the fleece; but on the contrary one should rather draw the analogy from terumah.[7] — This is indeed so; what then is the significance of ‘from them that slaughter a slaughtering’? — It is as Raba said. For Raba said: The claim is made against the slaughterer.[8]

As regards the first-fruits, although it is written: Thy land,[9] [from which it would follow that] thine only is subject but not what is held jointly, the Divine Law stated: The first-ripe fruits of all that is in their land.[10] What then is the significance of ‘thy land’? — It excludes land that is outside the Land [of Israel].[11] As regards the law of zizith,[12] although it is written: Thy covering,[13] [from which it would follow that] thine only is subject but not what is held jointly, the Divine Law stated: In the corners of their garments.[14] What then is the significance of ‘thy covering’? — It is as Rab Judah said. For Rab Judah said: A borrowed garment is for the first thirty days exempt from zizith.[15]

As regards the law of the parapet,[16] although it is written: For thy roof,[16] [from which it would follow that] thine only is subject but not what is held jointly, the Divine Law stated: If any man fall from thence.[17] What then is the significance of ‘thy roof’? — It excludes the roofs of Synagogues and Houses of Study.[18]

R. Bibi b. Abaye said: These cases[19] are all wrong,[20] for it has been taught: An animal that is held jointly is subject to the law of the firstling; R. Ila'i declares it exempt. What is the reason for R. Ila'i's view? — Because it is written: Thy herd and thy flock.[21] But it is also written: Your herd and your flock.[22] — That means of all Israel.[23]

R. Hanina of Sura said: These cases are all wrong, for it has been taught: An animal that is held jointly is subject to the priestly dues; R. Ila'i declares it exempt. What is his reason? — He draws an analogy by means of the common expression ‘giving’ from the law of the first of the fleece; just as there what is held jointly is exempt so here what is held jointly is exempt. Now if you could say that in respect of terumah [what is jointly held] is liable, then surely one would have to draw the analogy by means of the common expression ‘giving’ from terumah.[24] This proves, therefore, that even in respect of terumah [what is jointly held] is exempt.

But[25] just as terumah obtains in the Land [of Israel] only and not outside it so the law of the first of the fleece[26] should obtain in the Land only and not outside it![27] — R. Jose of Nehar Bil said: It is indeed so; for it has been taught: R. Ila'i says: The law of the priestly dues obtains only in the Land [of Israel]. Likewise R. Ila'i used to say: The law of the first of the fleece obtains only in the Land. What is R. Ila'i's reason? — Raba answered: He draws an analogy by means of the common expression ‘giving’ from terumah; as terumah obtains in the Land only and not outside it, so the law of the first of the fleece obtains in the Land only and not outside it.

Said to him Abaye. Then just as terumah produces the condition of tebel[28] so should the first of the fleece produce the condition of tebel, should it not? — He replied: Scripture says. And the first of the fleece of thy sheep shalt thou give him,[29] that is, you[30] have no right to it except after it has [been separated as] the first.[31]

Again just as terumah is subject to the penalty of death[32] and the additional fifth[33] so the first of the fleece should be subject to the death penalty and the additional fifth, should it not? — Scripture says: And die for it,[34] and He shall add unto it;[35] that is, ‘unto it’ [he shall add the fifth] but not unto the first of the fleece; for it’ [they shall die] but not for the first of the fleece.

Again just as there follow after terumah the first and second [tithes] so there should follow after the first of the fleece the first and second [tithes], should there not? — Scripture says: ‘The first’, thus you have only [to give] the first [of the fleece].

Again just as in the case of terumah one must not set aside new [grain as terumah] for old[36] so in the case of the first of the fleece one should not give new [fleece as the due] for old? — This is indeed so; for it has been taught: If a man had two lambs and he sheared them and kept [the wool], and [next year] again sheared them and kept [the wool], and so he did for two or three years, they are not to be reckoned together.[37] It follows, however, that if he had five lambs[38] they would be reckoned together; yet [in another Baraitha] it has been taught that they would not be reckoned together. It is clear therefore that one [Baraitha] gives R. Ila'i's opinion[39] and the other that of the Rabbis.

Again just as with regard to terumah it is the law that what grows [on land in the possession of] one subject[40] [to terumah] is liable [to it], but what grows [on land in the possession of] one not subject[41] [to terumah] is exempt [from it], so it should be with regard to the first of the fleece: what grows on [sheep in the possession of] one subject to this law is liable, but what grows on [sheep in the possession of] one not subject to this law is exempt? (Whence do we know this with regard to terumah? — From the following [Baraitha][42] which was taught: If an Israelite bought a field in Syria[43] from a gentile before the produce had reached a third of its growth, it is subject [to tithe]; if it had already reached a third of its growth,[44] R. Akiba declares the increase[45] subject [to tithe], but the Sages declare it exempt.) And should you say that this is indeed so,[46] but we have learnt: IF A MAN BOUGHT THE FLEECES OF A FLOCK BELONGING TO A GENTILE HE IS EXEMPT FROM THE LAW OF THE FIRST OF THE FLEECE, so it follows that if he bought the flock [with its fleece] which was ready for shearing he would be liable![47] — Our Mishnah

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(1) On that side, sc. the right, you must fix the Mezuzah. V. Men. 340 and Yoma 11b.

(2) Ibid. XIV, 23.

(3) Ibid. XII, 6.

(4) Ibid. XVIII, 3.

(5) Used here and also in connection with the first of the fleece: shalt thou give him (ibid. 4).

(6) Ibid. XVIII, 3. The plural in this verse indicates that though the animal is held jointly by several people it is still subject to the dues.

(7) By means of the common expression ‘giving’ which is also used in connection with terumah (cf. Num. XVIII, 12), with the result that what is held jointly is subject to the dues. V. supra p. 775, n. 3.

(8) V. supra 132a.

(9) Deut. XXVI, 2.

(10) Num. XVIII, 13.

(11) From the law of the firstfruits. This would not have been excluded from the expression ‘their land’, and therefore Scripture says: Thy land which implies the specific land of the Israelite, the Land of Israel.

(12) The fringes attached to the four corners of the garment; v. Num. XV, 38.

(13) Deut. XXII, 12.

(14) Num. ibid.

(15) For it is not ‘thy covering’; v. supra 110b.

(16) Cf. Deut. XXII, 8, where it enjoined to erect a parapet around the roof of the house to prevent accidental falling off.

(17) Ibid. Any roof from which one might fall had to be fenced, even though the roof was held jointly.

(18) For the verse implies the roof of a house used as a dwelling but not the roof of any other building.

(19) These cases enumerated by Raba in which R. Ila'i is said to agree that what is jointly held is subject to the law in question are to be disregarded.

(20) Since we find that R. Ila'i exempts what is jointly held from the law of the firstling, hence Raba's argument fails with regard to this; accordingly his arguments with regard to the others cannot be upheld.

(21) Deut. XV, 19.

(22) Ibid. XII, 6.

(23) To the exclusion of gentiles. On the other hand, wherever Scripture states ‘thy’ it excludes what is held jointly.

(24) In accordance with the established principle quoted supra p. 775, n. 3.

(25) Here commences a new argument. Since R. Ila'i derives the law of the first of the fleece from terumah (cf. supra 135a, bot.) concerning what is held jointly with a gentile, the analogy must be carried to all its conclusions and the rules applying to the one should apply to the other. V. Rashi s.v. אי, and comments of Rashal, Maharsha and Maharam thereon. V. also Torath Hayyim a.l., and Gloss. of Bah.

(26) So in MS.M. and most MSS., and apparently also according to Rashi; in cur. edd. ‘the priestly dues’. V. Maharam a.l.

(27) Which is contrary to our Mishnah.

(28) I.e., renders the whole produce forbidden to he eaten until the terumah is separated therefrom.

(29) Deut. XVIII, 4.

(30) Sc. the priest.

(31) But before the first of the fleece has been set apart no priest has any claim to it, and consequently the condition of tebel does not exist at all. This implication is made from the word ‘first’ which is redundant in the verse.

(32) If a non-priest deliberately ate terumah, he is liable to the penalty of death at the hands of Heaven; v. Sanh. 83a.

(33) If a non-priest inadvertently ate terumah, he must make restitution by paying the value thereof plus a fifth to the priest; cf. Lev. XXII, 14.

(34) Lev. XXII, 9.

(35) Ibid. 14.

(36) The produce of one year may not be given as terumah or tithe for the produce of the preceding year, or vice versa, for it is written: That which is brought forth in the field year by year (Deut. XIV, 22).

(37) Even though he has now accumulated five fleeces; for there must be five fleeces from five sheep.

(38) And he sheared some one year and the rest the next year.

(39) The second Baraitha represents R. Ila'i's view that the fleece of one year's shearing cannot be reckoned together with that of another year's shearing, as is the case with the produce of terumah.

(40) E.g., if an Israelite bought a field from a gentile.

(41) Sc. land in the possession of a gentile.

(42) Git. 47a.

(43) The Biblical Aram Zobah which was conquered by David and added by him to the Land of Israel (II Sam. VIII). It is not, however, regarded as the Land of Israel proper, and therefore what is owned there by a gentile constitutes full ownership so as to release it from the obligation of tithe. This is not the case with regard to land held by a gentile in the Land of Israel proper, v. Git. 47a.

(44) At which stage corn becomes liable to tithe, cf. Ma'as. I, 3.

(45) Sc. the last two-thirds of the growth; this increase is in fact a mixture of tebel and hullin.

(46) That fleece which had grown on sheep while in the possession of a gentile, although now in the possession of an Israelite, is exempt from the first of the fleece.

(47) Although the wool grew upon the sheep whilst they were in the possession of the gentile.

Talmud - Mas. Chullin 136b

is not in accordance with R. Ila'i.[1]

Again just as in the case of terumah one may not give one kind [as terumah] for another kind,[2] so in the case of the first of the fleece one should not give one kind [as the due] for another kind? (Whence do we know this in the case of terumah? — From the following [Baraitha] which was taught: If a man had two kinds of figs, black and white, likewise if he had two kinds of wheat, he may not give one kind as terumah or as tithe for the other kind. R. Isaac reports in the name of R. Ila'i:[3] Beth Shammai say that he may not give [one kind] as terumah [for another kind], but Beth Hillel say that he may.) So in the case of the first of the fleece one should not be permitted to give one kind [as the due] for another kind! — This is indeed so, for we have learnt: IF HE HAD TWO KINDS OF WOOL, GREY AND WHITE, AND HE SOLD THE GREY BUT NOT THE WHITE . . . EACH MUST GIVE [THE FIRST OF THE FLEECE] FOR HIMSELF.[4] But if so, in the last clause which reads: IF HE SOLD THE WOOL OF THE MALES BUT NOT OF THE FEMALES EACH MUST GIVE THE FIRST OF THE FLEECE FOR HIMSELF, is the reason also because they are two different kinds?[5] We must therefore say[6] that the Tanna was merely giving a piece of good advice, viz., that he[7] should give him of the hard as well as the soft wool;[8] likewise in the former clause he also gives a piece of good advice, viz., that he should give him of both kinds![9] — We have already stated that our Mishnah is not in accordance with R. Ila'i.

Again just as in the case of terumah there must be a ‘first offering’ such as leaves a perceptible remainder,[10] so in the case of the first of the fleece there should also be a ‘first offering’ such as leaves a perceptible remainder, should there not? — This is indeed so; for we have learnt:[11] If a man said: ‘Let all [the corn in] my threshing floor be ‘terumah’, or ‘Let all my dough be dough-offering’, his words are of no effect. It follows, however, that if he said: ‘Let all my fleeces be the first of the fleece’, his words would hold good; yet another [Baraitha] taught that his words are of no effect. It is clear therefore that one [Baraitha] gives R. Ila'i's opinion[12] and the other that of the Rabbis.

R. Nahman b. Isaac said: Nowadays the world has adopted the views of the following three Elders: that of R. Ila'i with regard to the first of the fleece, for it has been taught: R. Ila'i says: The law of the first of the fleece[13] obtains only in the Land [of Israel]; that of R. Judah b. Bathyra with regard to the words of the Torah, for it has been taught: R. Judah b. Bathyra says: The words of the Torah do not contract uncleanness;[14] and that of R. Josiah with regard to diverse kinds,[15] for it has been taught: R. Josiah says: A man does not incur guilt [for the infringement of this law][15] until he sows wheat, barley and grape-kernels with one throw of the hand.

THE LAW OF THE SHOULDER . . . IS MORE STRICT etc. Wherefore does not the Tanna state that the law of the first of the fleece is more strict in that it applies to a trefah animal, which is not so with regard to the priestly dues?[16] — Rabina said: The author [of the view in our Mishnah] is R. Simeon, for it has been taught: R. Simeon exempts trefah animals from the first of the fleece.

What is the reason for R. Simeon's view? — He draws an analogy by means of the common expression ‘giving’ from the priestly dues; just as the priestly dues do not apply to a trefah animal[16] so the law of the first of the fleece does not apply to trefah animals. But since he draws an analogy by means of the common expression ‘giving’ from the priestly dues, he should also draw an analogy by means of this common expression ‘giving’ from terumah: just as terumah obtains only in the

Land [of Israel] but not outside it so the law of the first of the fleece obtains only in the Land [of Israel] but not outside it. Wherefore then have we learnt: THE LAW OF THE FIRST OF THE FLEECE APPLIES BOTH WITHIN THE HOLY LAND AND OUTSIDE IT? — Rather we must say that this is the reason for R. Simeon's view: he draws an analogy by means of the common expression ‘sheep’ from the [cattle] tithe:[17] just as the tithe does not apply to a trefah animal so the law of the first of the fleece does not apply to a trefah animal. And whence do we know it there?[18] — For it is written: Whatsoever passeth under the rod,[17] thus excluding a trefah animal since it cannot pass under [the rod].[19]

And wherefore does he [R. Simeon] not draw an analogy by means of the common expression ‘sheep’ from the firstling:[20] just as the law of the firstling also applies to a trefah animal[21] so the law of the first of the fleece also applies to a trefah animal? — It is more logical to draw the analogy from the cattle tithe, because they[22] are alike in the following points: (i) males,[23] (ii) unclean animals,[24] (iii) quantity,[25] (iv) sanctity from the womb,[26] (v) mankind,[27] (vi) ordinary,[28] and (vii) before the Revelation.[29] On the contrary, should not the analogy be drawn rather from the law of the firstling, since they are alike in the following points: — (i) orphan-beast,[30] (ii) bought, (iii) held jointly, (iv) given,[31] (v) during the existence of [the Temple],[32] (vi) priestly endowment,[33]

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(1) For according to R. Ila'i if an Israelite bought flocks from a gentile with fleeces that were ready to be shorn he would be exempt.

(2) Even though both kinds are of the same species; cf. infra black figs and white figs.

(3) MS.M. and also in Tosef. Ter. II, ‘R. Eleazar’.

(4) This case proves the rule that one may not give the fleece from one kind as the due for other kinds. For if this were not so, the seller alone would be liable to give the due both in respect of what he sold and of what he retained, in accordance with the preceding clause of the Mishnah: IF THE SELLER KEPT BACK SOME FOR HIMSELF, THE SELLER IS LIABLE; for since the various kinds count as one with regard to the priestly due it would be regarded as though the seller had retained some for himself, and only he would be liable.

(5) It would be absurd to regard the males and females of sheep as different kinds.

(6) Male and female sheep certainly count as one kind, and therefore the seller, having kept back some, viz., the females, for himself, is in fact solely liable to give the first of the fleece to the priest.

(7) Sc. the seller.

(8) The wool of male sheep is harder and therefore of less value than that of females. The seller is, in our Mishnah, advised for his own advantage to buy back some of the wool of the males from the purchaser, so as not to have to give soft and more expensive wool to the priest in respect of the hard wool of the male now in possession of the purchaser.

(9) For the seller is solely liable, inasmuch as the two colours of wool count as one kind and he retained one colour for himself. Consequently the reason of the Mishnah is not, as R. Ila'i suggested, because one may not give one kind as due for another kind.

(10) I.e., part thereof is set aside as terumah and the rest is common produce, but the whole produce is not to be terumah; cf. Ter. IV, 5.

(11) Hal. I, 9.

(12) Sc. the latter Baraitha represents the view of R. Ila'i that with regard to the first of the fleece, as with terumah, there must be a perceptible remainder.

(13) Likewise the priestly dues of the shoulder, the two cheeks, and the maw (Rashi).

(14) And therefore a man that has suffered a seminal emission may occupy himself with the study of the Torah; cf. Ber. 220.

(15) Cf. Deut XXII, 9.

(16) For with regard to the priestly dues it is written: They shall give unto the priest, that is, the dues shall be fit for the priest to be eaten by him and not for his dog only.

(17) Cf. Lev. XXVII, 32: And all the tithe of cattle and sheep, whatsoever passeth under the rod, the tenth shall be holy unto the Lord. With regard to the law of the first of the fleece the word ‘sheep’ is also written, cf. Deut. XVIII, 4.

(18) That the cattle tithe does not apply to a trefah animal.

(19) E.g., an animal whose hind-legs were cut off above the knee-joint (v. supra 76a). And so all trefah animals are exempt.

(20) Cf. Deut. XV, 19: All the firstling males that are born of thy cattle and of thy sheep thou shalt sanctify unto the Lord.

(21) A firstling that is born a trefah is nevertheless sacred, and must be buried.

(22) Sc. the cattle tithe and the first of the fleece.

(23) These two laws — Sc. the cattle tithe and the first of the fleece-apply not only to male but also to female animals, whereas the firstling applies only to the males.

(24) They do not apply to unclean animals, whereas the firstling of an ass is also sacred.

(25) They require a minimum number of animals for the law to apply; for the first of the fleece there must be at least five sheep, and for the cattle tithe there must he ten animals, whereas one single firstling is sacred.

(26) They are not sacred when born, like the firstling.

(27) They do not apply to human beings, whereas the first-born of man is holy.

(28) They only apply to ordinary animals, i.e., not firstlings.

(29) These two laws were first promulgated on Mount Sinai at the giving of the Torah, whereas the law of the firstling was made known to Israel, whilst still in Egypt, cf. Ex. XIII, 2ff.

(30) An orphan, i.e., a beast whose dam died or was slaughtered at the very moment that it was born, is sacred if a firstling, and is subject to the law of the first of the fleece, but is exempt from the cattle tithe.

(31) Animals bought or held jointly or received as a gift are subject to the law of the firstling and to the first of the fleece but are exempt from the cattle tithe. V. Bek. 55b, 56b.

(32) בפני (הבית) These apply at all times both during the existence of the Temple and after it, whereas the cattle tithe does not operate nowadays; cf. Bek. 53a. V. however, Tosaf. s.v. לפני.

(33) The firstling and the first of the fleece are to be given to the priest, whereas the cattle tithe is consumed by the owner like peace-offerings.

(vii) sacred,[1] and (viii) sold,[2] and these have more points in common? — It is preferable to draw the analogy from ordinary animals.[3]

THE LAW OF THE FIRST OF THE FLEECE APPLIES ONLY TO SHEEP. Whence is this derived? — R. Hisda said: An inference is made by means of the common expression ‘fleece’; it is written here: The first of the fleece,[4] and it is written there: And if he were not warned with the fleece of my sheep;[5] just as there it is [the fleece of], sheep, so here it refers to [the fleece of] sheep. Should not the inference rather be made by means of the common expression ‘fleece’ from the law of the firstling? For it has been taught:[6] From the verse: Thou shalt do no work with the firstling of thine ox, nor shear the fleece of the firstling of thy sheep,[7] I only know that an ox [may not be put] to any work and that the sheep [may not be] shorn, whence do I know to apply the restriction of the one to the other? The text therefore states: Thou shalt do no work . . . nor shear![8] — Scripture says: ‘Thou shalt give him’, and not for his sack.[9] If so, then goats' hair should also be subject to this law, should it not?[10] — It is necessary that it be shorn, which is not the case [with goats' hair].[11] But whom, have you heard, holding this view?[12] It is R. Jose, is it not?[13] And R. Jose agrees that what is the general practice [is included]![14] — As R. Joshua b. Levi said elsewhere,[15] The expression ‘to stand to minister’[16] indicates something serviceable for ministering, so here too, it must be something serviceable for ministering.[17] What then is the significance of the analogy by reason of the common expression ‘fleece’? — It is in respect of the following teaching of a Tanna of the school of R. Ishmael. For a Tanna of the school of R. Ishmael taught:[18] Sheep with hard wool are exempt from the law of the first of the fleece, since it is written: And if he were not warmed with the fleece of my sheep.[19]

One [Baraitha] teaches: If a man shears the [hair of] goats or washes the sheep [and plucks their wool] he is exempt from the first of the fleece.[20] Another [Baraitha] teaches: If a man shears the [hair of] goats he is exempt from the first of the fleece; if he washes the sheep [and then plucks their wool] he is liable. There is, however, no difficulty; for one [Baraitha] sets forth R. Jose's view,[21] the other that of the Rabbis. For it has been taught: Scripture says: The gleaning of thy harvest,[22] but not the gleaning of plucking.[23] R. Jose says: Gleaning is only that which falls at the reaping.[24] Is not R. Jose's view identical with that of the first Tanna? — The whole of the Baraitha sets forth R. Jose s view, render therefore, ‘For R. Jose says: Gleaning is only that which falls at the reaping’.

R. Aha the son of Raba said to R. Ashi: R. Jose nevertheless agrees that what is the general practice [is included].[25] For it has been taught: R. Jose says, [Scripture states:] Harvest[22] from which I only know that reaping [is subject to the law of gleanings]; whence would I know uprooting?[26] The text therefore states: To reap.[22] And whence would I know plucking?[26] The text therefore states: When thou reapest.[27] Rabina said to R. Ashi: We have also learnt the same:[28] If rows of onions are planted among vegetables, R. Jose says: ‘The corner’ must be left in each [row].[29] But the Sages say: In one for all.

WHAT IS MEANT BY ‘MANY’? Now Beth Shammai's view is clear, for [we see that] two sheep are also referred to as zon,[30] but what is the reason for Beth Hillel's view? — R. Kahana answered: The verse says: Five sheep ready dressed,[31] that is, ‘ready’ [now][32] for the fulfilment of two precepts, viz., the first of the fleece and the priestly dues. But perhaps it refers to the law of the firstling and the priestly dues? — [This cannot be, for] is not one [sheep] subject to the law of the firstling? Then according to your suggestion [it can also be asked:] Is not one [sheep] subject to the priestly dues? — Rather, said R. Ashi, the verse says: ‘Five sheep ready dressed’, that is, they bid their owner to be ready, addressing him, ‘Up, perform the commandment’.[33]

It was taught: R. Ishmael son of R. Jose says in the name of his father,[34] Four [sheep are subject to the law of the first of the fleece], as it is written: Four sheep for a sheep.[35] It was taught: Rabbi said: Had their[36] views been based on words from the Torah and Beribbi's[37] view on words from the prophets, we should nevertheless have had to adopt Beribbi's view,[38] how much more now that their views are based on words from the Prophets and Beribbi's view on words of the Torah! But has not a Master said,[39] A compromise of a third [independent opinion] is no true compromise?[40]

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(1) The firstling and the first of the fleece have not to be consecrated, the former because it is sacred from the womb and the latter because it has no sanctity whatsoever, whereas the cattle tithe must be consecrated with the rod.

(2) These may be sold by the priest, but the cattle tithe may neither be sold nor exchanged, v. Bek. 320.

(3) Rather than from a firstling.

(4) Deut. XVIII, 4.

(5) Job XXXI, 20.

(6) Bek. 250.

(7) Deut. XV, 19.

(8) These verbs stated at the head of the sentence imply that the prohibition is general and not restricted to the specific objects mentioned in the verse. It follows then that it is forbidden to shear ‘the fleece’ (i.e., the hair) of an ox; consequently by analogy with the firstling ‘the fleece’ of an ox should also be subject to the law of the first of the fleece.

(9) Deut. XVIII, 4. It must be given to the priest for his use, i.e., for clothing; the fleece of an ox, however, is not usually made into clothing but used for making sacks.

(10) Since goats’ hair is suitable to be made into cloth.

(11) The common practice is to pluck the hair off the goats and not to shear it.

(12) That the words of the Torah must be given their strictest meaning, so that the word ‘fleece’ from root גזז to shear, implies only what is shorn.

(13) V. infra.

(14) And since goats’ hair is generally plucked, what is plucked is deemed to be its ‘fleece’ and therefore should be subject to the law of the first of the fleece!

(15) Infra 1380.

(16) Deut. XVIII, 5. This verse follows immediately after the one enjoining the law of the first fleece.

(17) I.e., the fleece referred to in the preceding verse 4 must be such as could be used for the priestly robes of service, and the blue wool in the priestly garments was of sheep's wool and not of goats’ hair.

(18) Bek. 17a.

(19) Job. XXXI, 20. Hence only soft wool which gives warmth is subject to the law of the first of the fleece, but not hard wool; this rule is established by reason of the analogy through the expression ‘fleece’.

(20) The usual practice is to shear the wool of the sheep, and to pluck the hair of the goats after they have been washed in water so that the hair should come away more easily. Any person who acts contrary to these practices is exempt from giving the first of the fleece.

(21) The first Baraitha represents the view of R. Jose who applies the strictest meanings to the terms of Scripture.

(22) Lev. XIX, 9.

(23) If a man harvested his field by plucking with his hand the ears of corn he is not subject to the law of gleanings.

(24) Lit., ‘which comes on account of the harvest’.

(25) And with many vegetables, e.g., onions and garlic, plucking is the normal method of ‘ingathering’, and renders the field subject to the law of ‘the corner’.

(26) Is also subject to the law of gleanings.

(27) Lev. XXIII, 22. This as well as the ‘preceding expression ‘to reap’ is redundant in the verse and serves to include every manner of ‘harvesting’ which is the usual practice with regard to the particular plants.

(28) Pe'ah III, 4.

(29) Of all vegetables only onions and garlic are subject to the law of ‘the corner’. Here, since the other vegetables separate the rows of onions from each other, each row, maintains R. Jose, is deemed a separate field and therefore each is subject to the law of ‘the corner’. It is clear, however, that that which is usually plucked, as onions, is subject to the law of the corners.

(30) צאן, ‘flock’; in the verse quoted by him in the Mishnah; Isa. VII, 21.

(31) I Sam. XXV, 18.

(32) Since there is the required minimum of five sheep.

(33) This can only refer to the law of the first of the fleece for which, as is apparent from the verse, there must be a minimum of five sheep; for the law of the firstling and the priestly dues apply even to a single sheep.

(34) So according to Rashi, Alfasi and MSS. In cur. edd. 'In the school of R. Ishmael b. R. Jose it was said in the name of his father'.

(35) Ex. XXI, 37. Here the word צאן is used of four sheep.

(36) Sc. the views of Beth Shammai and of Beth Hillel in our Mishnah.

(37) A title of honour applied to scholars of eminence; here applied to R. Jose. V. supra p. 52, and J.E. III, p. 52.

(38) Since it is assumed for the present that Beribbi's view is in the nature of a compromise, i.e., not so many as five as Beth Hillel would have it; nor so few as two as Beth Shammai, but four.

(39) Pes. 21a; Naz. 53a; B.K. 116a.

(40) And cannot be accepted as the final decision. Here Beribbi's view is not a true compromise, for it does not adopt any of the arguments of the conflicting Rabbis, but constitutes a third independent opinion opposed in its entirety to each of the other opinions.

Talmud - Mas. Chullin 137b

— R. Johanan said: He[1] had it as a tradition deriving from Haggai, Zechariah and Malachi.[2] R. DOSA B. HARKINAS SAYS . . . [WHATEVER THEIR FLEECES WEIGH]. What is meant by 'WHATEVER'? — Rab said, [At least] a maneh and a half,[3] provided each supplies [no less than] a fifth[4] [of this quantity]. Samuel said, [At least] sixty [sela's], and he gives thereof one sela' to the priest. Rabbah b. Bar Hana said in the name of R. Johanan, [At least] six [sela's], and he gives five to the priest and retains one for himself. Ulla said in the name of R. Eleazar: Our Mishnah expressly says: WHATEVER.[5]

We have learnt: AND HOW MUCH SHOULD ONE GIVE HIM? THE WEIGHT OF FIVE SELA'S IN JUDAH, WHICH IS EQUAL. TO TEN SELA'S IN GALILEE. Now this is in order according to the views of Rab and R. Johanan,[6] but it surely presents a difficulty, does it not, to Samuel and R. 'Eleazar?[7] — Then, as you would have it, it also presents a difficulty to Rab? For did not Rab and Samuel both rule that the proper measure for the first of the fleece is one sixtieth part?[8] But the fact is as has already been taught in connection with this [Mishnah] that Rab and Samuel both said; it[9] speaks of the case of an Israelite who has many fleeces and who wishes to distribute them[10] among a number of priests, and we tell him that he must not give less than the weight of five sela's to each.

[To turn to] the main text. 'Rab and Samuel both ruled: The proper measure for the first of the fleece is one sixtieth part, for terumah one sixtieth part, and for the "corner" one sixtieth part'. 'For terumah one sixtieth part'. But we have learnt: The proper measure for terumah, if a man is liberal, is one fortieth part?[11] — According to the law of the Torah the measure is one sixtieth part,[12] but by Rabbinic enactment it is one fortieth part. But has not Samuel stated that one grain of wheat frees the stack?[13] — The law of the Torah is as Samuel stated it;[14] but the Rabbinic enactment is that in respect of that which is subject [to terumah] by the Torah[15] the measure is one fortieth part, and in respect of that which is subject [to terumah] only by the Rabbis[16] the measure is one sixtieth part.

'For the "corner" one sixtieth part'. But we have learnt:[17] These are the things which have no fixed measure: the corner [of the field], the firstfruits, and the appearance-offering![18] — By law of the Torah there is no fixed measure, but by Rabbinic enactment it is fixed as one sixtieth part. Then what does he teach us? We have learnt it: The corner should not be less than one sixtieth part, even though they have said that no fixed measure is prescribed for the corner![19] — That gives the rule for the Land [of Israel], here [Rab and Samuel] give the rule for outside the Land [of Israel]. When Isi b. Hini went up [to Palestine], R. Johanan found him teaching his son [our Mishnah and using the term] rehelim.[20] He [R. Johanan] said to him, 'Use the term reheloth'.[21] The other retorted, 'But it is written: Two hundred rehelim'.[22] He replied: 'The Torah uses its own language and the Sages their own'.[23] He [R. Johanan] then enquired, 'Who is the head of the Academy[24] in Babylon'? 'Abba Arika',[25] he replied. 'And you simply call him Abba Arika'![26] said [R. Johanan]. 'I remember when I was sitting before Rabbi, seventeen rows behind Rab, seeing sparks of fire leaping from the mouth of Rabbi into the mouth of Rab and from the mouth of Rab into the mouth of Rabbi, and I could not understand what they were saying; and you simply call him Abba Arika!' Then the other asked, 'What is the minimum quantity subject to the law of the first of the fleece'? — 'Sixty [sela's]', he replied. 'But', said the other, 'we have learnt: WHATEVER [THEIR FLEECES WEIGH]!' 'Then what difference is there between me and you'?[27] he retorted.

When R. Dimi came [from Palestine] he reported: With regard to the first of the fleece, Rab said: Sixty;[28] R. Johanan said in the name of R. Jannai: Six.[29] Thereupon Abaye said to R. Dimi: One opinion is quite in order, but the other presents to us a difficulty. There is indeed no contradiction between the one opinion of R. Johanan and the other, for one is his own opinions the other that of his master;[30] but surely there is a contradiction between this opinion of Rab and the other, for Rab has said: At least a maneh and a half![31] — There is also no contradiction between this opinion of Rab and the other, for by 'a maneh' he meant [a maneh] of forty sela's, so that [a maneh and a half] is equal to

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(1) R. Jose.

(2) And therefore his opinion should be accepted as final.

(3) From the five sheep there must be a minimum quantity of wool, of one maneh and a half in order to be subject to the law of the first of the fleece. This quantity equals thirty-seven and a half sela's (one maneh twenty-five sela's).

(4) No sheep shall supply less than seven and a half sela's of wool.

(5) Whatever quantity of wool the five sheep produce, even though only one sela' in all, it is subject to this law.

(6) For R. Johanan expressly stated that five sela's weight shall be given to the priest in every case, even out of a total of six sela's! Rab also agrees with the ruling of the Mishnah that five sela's' weight must be given to the priest, but he merely establishes the minimum quantity of wool that is subject to this law.

(7) For according to Samuel the quantity of one sela' only, and according to Ulla even less, shall be given to the priest.

(8) I.e., the amount to be given to the priest shall not be less than one sixtieth part of the whole; whereas now it is suggested, according to Rab, that out of a total of thirty.seven and a half sela's five shall be given to the priest, almost one-seventh!

(9) The statement of the Mishnah FIVE SELA'S does not purport to establish this amount as the minimum quantity to be given to the priest, for this is fixed at one sixtieth in accordance with the ruling of Rab and Samuel.

(10) Sc. the sixtieth part.

(11) V. Ter. IV, 3, where the Mishnah continues: If he is mean it is one sixtieth part. Surely Rab and Samuel would not adopt as the general standard the measure given in the case of a mean person.

(12) This is indicated in Ezek. XLV, 13: This is the heave offering (terumah) which ye shall offer; the sixth part of an ephah (i.e., half a se'ah) from an homer of wheat (i.e., thirty se'ah). That is one sixtieth part.

(13) The obligation of terumah can be discharged by the removal of one grain from the heap, since the Torah does not prescribe any specific amount.

(14) That one grain discharges the obligation of terumah.

(15) Viz., corn, wine, and oil; cf. Deut. XVIII, 4.

(16) Viz., other fruits (besides the vine) and vegetables.

(17) Pe'ah I, 1.

(18) Heb. ראיון. The offerings to be brought on appearing before the Lord at the three Festivals (in accordance with Deut. XVI, 16: They shall not appear before the Lord empty) are not limited in their value; but see Hag. 20.

(19) Pe'ah I, 2.

(20) In the ruling of R. Dosa b. Harkinas. רחלים, the plural of רחל (a ewe, lamb) with the masculine plural ending im.

(21) רחלות with the feminine plural ending oth.

(22) Gen. XXXII, 15.

(23) In the speech of the Rabbis there is a marked tendency to adopt the plural ending oth in place of the ending im with which the same words are found in the Bible. Cf. the plural of המון, קרבן, עולם, etc.

(24) ריש סדרא; identified by Zuri (תולדות המשפט הצבור, pp. 247ff) as the Archi Synagogis, the supreme authority over the synagogues. V. Sot., (Sonc. ed.) p. 202, n. 5.]

(25) Sc. Rab. The surname Arika 'long' was given to him because of his tall physical stature, cf. Nid. 24b. Others regard Arika as a title of honour; v. Jast. s.v., and Weiss Dor, III, 247.

(26) And not by the generally accepted title of 'Rab', the Master, par excellence.

(27) 'If I do not know the interpretation of the Mishnah, then l am no better than you'. The Mishnah by the expression WHATEVER' assumed a minimum of sixty sela's so that the priest would receive at least one sela'.

(28) The weight of sixty sela's is the minimum quantity subject to the law of the first of the fleece. Or: the amount to be given to the priest must be one sixtieth part of the whole.

(29) In MS.M. 'sixty'. V. Maharam a.l.

(30) In fact there is an apparent contradiction between two statements of R. Johanan. Above it has been stated: 'Rabbah b. Bar Hana said in the name of R. Johanan: At least six sela's', but subsequently we read that R. Johanan told Isi b. Hini that there must be at least sixty sela's in order to be subject to the law of the first of the fleece. The report of R. Dimi however clears up this contradiction, for it is manifest that the former statement was not the personal view of R. Johanan but that of his teacher R. Jannai, and R. Dimi expressly reported it so.

(31) I.e., there must be a maneh and a half — thirty-seven and a half sela's — to be subject to the law of the first of the fleece, whereas according to R. Dimi Rab ruled that there must be a minimum of sixty sela's. According to the second interpretation (v. p. 790, n. 9) the contradiction between Rab is this: Rab is reported by R. Dimi to have ruled that the measure for the first of the fleece is one sixtieth part, whereas previously Rab ruled that out of thirty-seven and a half sela's, the minimum quantity that is subject to the law of the first of the fleece, one sela', which is the very least that would constitute 'giving's must be given to the priest.

Talmud - Mas. Chullin 138a

sixty sela's. But do we know of any Tanna that refers to a maneh of forty sela's? — We do, indeed; for it has been taught: A new[1] waterskin, even though it can hold pomegranates, is clean; if it had been sewn and then was torn, [it thereby becomes clean provided the rent was of] such a size as to let through pomegranates. R. Eliezer b. Jacob says: Of such a size as to let through a warp-clew [which weighs] one fourth part of a maneh of forty sela's.[2]

AND NOW MUCH SHOULD ONE GIVE HIM . . . [OF BLEACHED WOOL]. A Tanna taught: It does not mean that one must first bleach it and give it him, but that after the priest has bleached it there should be the weight of five sela's.[3]

SUFFICIENT TO MAKE FROM IT A SMALL GARMENT. Whence is this derived? — R. Joshua b. Levi said: The expression 'to stand to minister'[4] indicates that it[5] must be something serviceable for ministering, and that is, the girdle.[6] Perhaps it is the robe [that is meant]? — If you grasp a lot, you cannot hold it; if you grasp a little, you can hold it.[7] Perhaps it is the woollen cap [that is meant]? For it has been taught: Upon the High Priest's head there lay a woollen cap upon which was placed the plate [of gold], in order to fulfil literally what is said: And thou shalt put it on a lace of blue wool![8] — The verse says: Him and his sons,[9] that is, an article worn alike by Aaron and his sons.[10] But the girdle is not worn alike [by High Priest and priest], is it? This, however, presents no difficulty to him who holds that the girdle worn by the High Priest [on the Day of Atonement][11] was not similar to that worn by an ordinary priest [the whole year round];[12] but what can be said according to him who holds that the girdle worn by the High Priest [on the Day of Atonement] was similar to that worn by an ordinary priest [the whole year round]?[13] — The name girdle, however, is to be found with each.[14]

IF THE OWNER DID NOT MANAGE TO GIVE etc. It was stated: If a man sheared the first [sheep] and immediately sold it,[15] R. Hisda says: He is liable [to give the first of the fleece]; but R.

Nathan b. Hoshaia says: He is exempt. 'R. Hisda says: He is liable', because he has shorn;[16] 'R. Nathan b. Hoshaia says: He is exempt', because at the time that the requisite quantity has been reached one must be able to refer to [the sheep as] 'thy sheep', and this is not the case here.[17]

We have learnt: IF A MAN BOUGHT THE FLEECES OF A FLOCK BELONGING TO A GENTILE, HE IS EXEMPT FROM THE LAW OF THE FIRST OF THE FLEECE. It follows from this that if [he acquired] the flock for [the time that he was] shearing, he would be liable [to the first of the fleece].[18] But why? Does not each sheep leave his possession after it has been shorn?[19] — R. Hisda interpreted this according to the view of R. Nathan b. Hoshaia as follows: He[20] granted him possession of the flock for thirty days.[21]

IF A MAN BOUGHT THE FLEECE OF A FLOCK BELONGING TO HIS NEIGHBOUR, [AND THE SELLER KEPT BACK SOME FOR HIMSELF, THE SELLER IS LIABLE]. Who is the authority that holds that where the seller keeps back some for himself we turn to the seller?[22] — R. Hisda said: It is R. Judah, for we have learnt:[23] If a man sold single trees[24] in his field, the buyer must leave the 'Corner' from each tree.[25] R. Judah said: This applies only if the owner of the field had not kept back [any tree for himself], but if the owner of the field had kept back some for himself he must leave the 'Corner' for the whole.[26] Raba said to him: But did not the Master himself say: 'Provided the owner of the field had begun to reap'?[27] And if you were to suggest in this case, too, 'Provided the owner of the sheep had begun to shear,[28] [I reply that the cases are not alike]. For it is right in that case, since it is written: And when ye reap the harvest of your land;[29] that is, the moment one begins to reap one becomes bound to leave the 'Corner' for the whole field; but in this case, the moment one begins to shear one does not become liable for the whole flock.[30] — Rather, said Raba: It is the following Tanna, for we have learnt:[31] If a man said: 'Sell me the entrails of this cow', and among them were the priestly dues, he[32] must give them to the priest, and [the seller] need not allow any reduction in the purchase price on that account. But if he bought them from him by weight, he must give them to a priest, and [the seller] must allow a reduction in the price on that account.

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(1) I.e., unfinished; the skin had not yet been sewn up completely and therefore it cannot contract uncleanness, for it is an unfinished article.

(2) Cf. Kel. XVII, 1, 2.

(3) I.e., it is not incumbent upon an Israelite to give the priest bleached wool, but he must estimate such a quantity as would, after bleaching, make up five sela's weight.

(4) Deut. XVIII, 5; this verse follows immediately after the law of the first of the fleece.

(5) Sc. the first of the fleece given to the priest.

(6) Which is the smallest article among the priestly robes, and could he woven out of five sela's of wool.

(7) A proverbial saying. I.e., where there are two possible inferences always select that which gives the smaller result. V. Rashi s.v. תפשת.

(8) Ex. XXVIII, 37.

(9) Deut. XVIII, 5.

(10) Whereas the woollen cap was worn by the High Priest only.

(11) Which was of linen only, cf. Lev. XVI, 4.

(12) V. Yoma 6a. For the whole year round both the High Priest and the ordinary priest wore a girdle of wool and linen combined, cf. Ex. XXXIX, 29; so that a woolen girdle is a garment worn alike by priest and High Priest.

(13) I.e., both were of linen, and only the High Priest wore a girdle of wool and linen (except on the Day of Atonement); so that it cannot be said that the 'woollen girdle' was worn alike by 'Aaron and his sons'.

(14) Lit., 'is in the world'. Both the High Priest and ordinary priests were alike in that they wore girdles although the material in each case was different.

(15) Sc. the sheep, and so he did with all his sheep (Rashi and R. Nissim). V., however Maim. Yad, Bikkurim, X, 15.

(16) The requisite number of sheep; and at the time of shearing each sheep was still his, and it is in accordance with the precept of the Torah 'The first of the fleece of thy sheep'.

(17) For when the obligation of the first of the fleece falls due, namely with the shearing of the fifth sheep, the owner has already sold the first four sheep.

(18) The reason for the exemption in the Mishnah is that the sheep at no time belonged to the shearer, but if they did belong to him, even if only temporarily, he would be liable.

(19) This clearly is in conflict with R. Nathan b. Hoshaia.

(20) Sc. the gentile.

(21) The case was not, as assumed, that immediately after the shearing of each sheep that sheep reverted to its owner, but that the ownership in all the sheep remained with the Israelite for thirty days, or for any period until the end of all the shearing.

(22) I.e., the obligation to give the first of the fleece to the priest lies entirely upon the seller.

(23) Pe'ah. III, 5.

(24) Lit., 'trunks of trees', meaning single trees, but not several trees together with the land between them.

(25) For each tree is regarded as a separate entity, and each is subject to the law of the 'Corner'.

(26) Thus the obligation of leaving the 'Corner', even in respect of the trees actually sold, lies upon the seller, since he kept back some for himself. This view therefore corresponds with the view in our Mishnah.

(27) I.e., he had begun to gather in the fruits before he had sold any of the trees; in that case the duty of the 'Corner' lay upon him in respect of the entire field.

(28) Only then is the seller liable to give the priest's due.

(29) Lev. XIX, 9.

(30) The obligation of the first of the fleece arises only after the shearing, for Scripture does not use the expression here 'And when ye shear'.

(31) V. supra 132a.

(32) The purchaser.

Talmud - Mas. Chullin 138b

Hence it is clear that no man sells the priestly dues; here, too, the priest's due no man sells.[1] Therefore, if the seller kept back [some fleece for himself] the seller is solely liable [to give the first of the fleece], for the buyer can say to him, 'The priest's due still remains with you'. If he did not keep back anything for himself the buyer is liable,[2] for the seller can say to him, 'I never sold you the priest's due'.

CHAPTER XII

MISHNAH. THE LAW OF LETTING [THE DAM] GO FROM THE NEST[3] IS IN FORCE BOTH WITHIN THE HOLY LAND AND OUTSIDE IT, BOTH DURING THE EXISTENCE OF THE TEMPLE AND AFTER IT, IN RESPECT OF UNCONSECRATED BIRDS BUT NOT CONSECRATED BIRDS. THE LAW OF COVERING UP THE BLOOD[4] IS OF WIDER APPLICATION THAN THE LAW OF LETTING THE DAM GO; FOR THE LAW OF COVERING UP THE BLOOD APPLIES TO WILD ANIMALS AS WELL AS BIRDS, WHETHER THEY ARE AT ONE'S DISPOSAL[5] OR NOT, WHEREAS THE LAW OF LETTING [THE DAM] GO FROM THE NEST APPLIES ONLY TO BIRDS AND ONLY TO THOSE WHICH ARE NOT AT ONE'S DISPOSAL. WHICH ARE THEY THAT ARE NOT AT ONE'S DISPOSAL? SUCH AS GEESE AND FOWLS THAT MADE THEIR NESTS IN THE OPEN FIELD;[6] BUT IF THEY MADE THEIR NESTS WITHIN A HOUSE OR IN THE CASE OF HERODIAN DOVES,[7] ONE IS NOT BOUND TO LET [THE DAM] GO. AN UNCLEAN BIRD ONE IS NOT BOUND TO LET GO. IF AN UNCLEAN BIRD WAS SITTING ON THE EGGS OF A CLEAN BIRD, OR A CLEAN BIRD ON THE EGGS OF AN UNCLEAN BIRD, ONE IS NOT BOUND TO LET IT GO. AS TO A COCK PARTRIDGE,[8] R. ELIEZER SAYS ONE IS BOUND TO LET IT GO, BUT THE SAGES SAY ONE IS NOT BOUND.

GEMARA. R. Abin and R. Meyasha [taught the following:] One said that the expression 'both within the Holy Land and outside it'[9] was in every case unnecessary,[10] except in [the Mishnah of]

‘The first of the fleece’,[11] [where it had to be stated] in order to exclude the view of R. Ila'i, who holds that the law of the first of the fleece obtains only in the Land of Israel.[12] The other said, the expression ‘both during the existence of the Temple and after it’[9] was in every case unnecessary, except in [the Mishnah of] ‘It and its young’, [where it had to be stated,] for I might have argued that, since that law is stated in connection with laws concerning sacrifices,[13] it is in force only as long as sacrifices continue but it is not in force once sacrifices are no more, [the Tanna] therefore found it necessary to teach us [that it is binding for all time]. Furthermore both said that the expression ‘in respect of unconsecrated and consecrated animals’,[14] was in every case necessary except in [the Mishnah of] ‘The sciatic nerve’,[15] for it is obvious that the prohibition of the nerve has not vanished merely because the animal has been consecrated. But did we not establish [that Mishnah] as dealing with the young of consecrated animals?[16] — Yes, but why did we establish [the Mishnah] in that way? Was it not because we were faced with the difficulty: ‘Why did [the Tanna] state it’? In reality however[17] this at the very outset should offer no difficulty, for since this expression was stated in one Mishnah where it was necessary[18] it was also stated in the other where it was not necessary at all.

IN RESPECT OF UNCONSECRATED BIRDS BUT NOT CONSECRATED BIRDS. Why not? — Because the verse: Thou shalt in any wise let the dam go,[19] clearly refers only to such as you are bound to let go, excluding such as you are not bound to let go but rather to bring to the Temple treasurer. Rabina said: It follows, therefore, that if a clean bird killed a man, one is not bound to let it go,[20] because the verse: ‘Thou shalt in any wise let the dam go’, clearly refers only to such as you are bound to let go, excluding such as you are not bound to let go but rather to bring to the Beth din.[21] But what are the circumstances here? If it had already been condemned,

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(1) And therefore whenever the seller keeps back anything for himself it is to be presumed that he has kept back the priest's due, for that he certainly would not sell.

(2) Not because the obligation rests upon the buyer, but because at the sale the priestly dues were not intended to pass from the seller to the buyer.

(3) Deut. XXII, 6, 7.

(4) Lev. XVII, 13.

(5) I.e., always ready at hand for one's purpose and use.

(6) Although geese and fowls are usually domesticated, if they became wild and broke loose and nested in the open field the law of letting the dam go applies.

(7) A special breed of doves favoured by Herod; or, as some read הדרסיאות, doves from a particular locality. These doves are quite domesticated. V. infra 139b.

(8) Which like the hen partridge broods upon eggs of other birds; cf. Jer. XVII, 11.

(9) Stated in the opening Mishnah of Chap. V, VI, VII, X, XI, XII.

(10) Since every precept which is not dependent upon the land obtains both within the Land of Israel and outside it; v. Kid. 36b.

(11) And also the Mishnah dealing with the Priestly dues, (supra Chap. X) the law of which is derived from that of the ‘first of the fleece’. (Rashi, Tosaf.).

(12) V. supra 136b.

(13) The law of ‘It and its young’ (Lev. XXII, 28) is immediately preceded and followed by laws concerning sacrifices.

(14) Stated in the opening Mishnah of Chap. V and VII.

(15) At the opening of Chap. VII.

(16) V. supra 89b. The case therefore is not obvious, for it teaches that the prohibition of the nerve can be superimposed upon the existing prohibition of consecrated things.

(17) In the view of R. Abin and R. Meyasha.

(18) At the opening of Chap. V.

(19) Deut. XXII, 7.

(20) If found in the nest sitting upon its young ones.

(21) I.e., the Court, to be put to death.

then surely it would have been put to death! Rather we must say that it had not yet been condemned, in which case one is bound to bring it to the Beth din so as to carry into effect the verse: So shalt thou put away the evil from the midst of thee.[1]

What are the circumstances with regard to consecrated birds? If you say that a man had a nest in his home and consecrated it, but in that case the law does not apply, for the verse: If a bird's nest chance to be before thee,[2] excludes what is at one's disposal. You will say then that a man saw a nest somewhere and consecrated it, but in that case would it become consecrated? Does not the Divine Law say. And when a man shall sanctify his house to be holy,[3] [from which we conclude that] just as his house is in his possession so must everything [that he may wish to sanctify] be in his possession? You will then say that a man lifted up the young ones,[4] consecrated them, and put them back again; but in such a case, even though they were not consecrated, the law would not apply, for we have learnt: If a man took the young and brought them back again into the nest, and afterwards the dam returned to them, he is not bound to let it go.[5] You will therefore say that he lifted up the dam, consecrated it, and put it back again; but in that case at the very outset, even before he consecrated it, he was bound to let it go, for it was taught: R. Johanan b. Joseph says: If a man consecrated a wild animal and then slaughtered it, he is exempt from covering up [the blood];[6] if he slaughtered it and afterwards consecrated it, he is bound to cover up [the blood], since he was already bound to cover up [the blood] before it was consecrated![7] Rab suggested[8] the case where a man consecrated the young of his dovecote[9] and they later broke lose.[10] Samuel suggested the case where a man consecrated his hen[11] to the Temple treasury.[12] Now one can understand why Samuel does not suggest the case of Rab; it is because he wishes to state the law even in respect of that which is consecrated to the Temple treasury only. But why does not Rab suggest the case of Samuel? — Rab would answer thus: It is only in the case where a man consecrated the young of his dove-cote that one is not bound to let the dam go, for they are consecrated for the altar; and inasmuch as they are themselves consecrated for an offering, [even though they break loose,] their sanctity has not gone.[13] But where a man consecrated his hen to the Temple treasury, inasmuch as it was not consecrated for the altar but only for its value, as soon as it breaks loose its sanctity has gone, and the law of letting the dam go applies. But Samuel says: Wherever it[14] happens to be it is in the Lord's treasury, for it is written: The earth is the Lord's and the fullness thereof.[15]

And so, too, did R. Johanan say: It is a case where a man consecrated his hen to the Temple treasury, and afterwards it broke loose. Thereupon R. Simeon b. Lakish said to him: Surely as soon as it breaks loose its sanctity has gone! — He replied: Wherever it happens to be it is in the Lord's treasury, for it is written: ‘The earth is the Lord's and the fullness thereof’.

I can point out a contradiction between the words of R. Johanan [here] and the words of R. Johanan [elsewhere]; and I can point out a contradiction between the words of Resh Lakish [here] and the words of Resh Lakish [elsewhere]. For it has been stated: [If a man said], ‘Let this maneh be for the Temple treasury’, and it was stolen or lost, R. Johanan says: He is responsible for it until it reaches the hands of the Temple treasurer; but Resh Lakish says: Wherever it is it is in the Lord's treasury, for it is Written, ‘The earth is the Lord's and the fullness thereof’. Hence there is a contradiction between R. Johanan's statements, and between Resh Lakish's statements.[16] [I concede that] there is not necessarily a contradiction between Resh Lakish's statements, for this [the former] view he expressed before he had learnt the true view from his master R. Johanan,[17] whilst that [the latter] view he expressed after he had learnt it from his master R. Johanan.[18] But surely there is a contradiction between the statements of R. Johanan! — There is no contradiction even between the statements of R. Johanan, for in one case the man said: ‘I take upon myself [an offering]’ and in the other case he said: ‘Let this be [an offering]’.[19] It follows then that, according to Resh Lakish, a man is not responsible [for his offering] even though he said: ‘I take upon myself’. But we have learnt: What is a votive-offering and what a freewill-offering? It is a votive-offering when a man says: ‘I take upon myself a burnt-offering’; it is a freewill-offering when a man says: ‘Let this be a burnt-offering’. And wherein do votive-offerings differ from freewill-offerings? With a votive-offering if it dies or is stolen or lost, he is responsible for it [and must replace it]; but with a freewill-offering, if it dies or is stolen or lost he is not responsible for it.[20] — Resh Lakish can answer thus: That is so[21] only with regard to what is consecrated for the altar, since it still needs to be offered as a sacrifice;[22] but with regard to what is consecrated to the Temple treasury, since it has not to be offered as a sacrifice, he is not responsible for it even though he said ‘I take upon myself’.[23] But we have learnt:[24] If a man said: ‘Let this ox be a burnt-offering’, or, ‘Let this house be an offering’, and the ox died or the house fell down, he is not bound to make restitution; but if he said: ‘I take upon myself [to offer] this ox for a burnt-offering’, or, ‘I take upon myself [to present] this house as an offering’, and the ox died or the house fell down, he must make restitution![25] — That is so only where the ox died or the house fell down, then indeed he must make restitution, since they are no more in existence; but where they are in existence, wherever they happen to be, they are still within the Lord's treasury, for it is written: ‘The earth is the Lord's and the fullness thereof’. R. Hamnuna said: All agree that regarding vows of valuation,[26] even though a man said: ‘I take upon myself’,[27] he is not bound to make restitution, for these cannot be expressed without the formula ‘I take upon myself’. For how else can they be expressed? If he were only to say: ‘My valuation’, then [we do not know] upon whom [lies this obligation]; and if he were to say: ‘The valuation of So-and-So’, [we still do not know] upon whom [lies the obligation]. Raba demurred: But surely he can say: ‘Here is my valuation’, or, ‘Here is the valuation of So-and-so’. Moreover it has been taught: R. Nathan says: It is written: And he shall give thy valuation in that day, as a holy thing unto the Lord.[28] What does Scripture teach thereby? But inasmuch as we find that, with regard to consecrated things and second tithe, if a man exchanged them for unconsecrated money and the money was stolen or lost, he is not liable to make restitution,[29]

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(1) Ibid. XIII, 6.

(2) Ibid. XXII, 6.

(3) Lev. XXVII, 24.

(4) Thereby acquiring them as his own.

(5) Since the young ones have become his own property the law of sending away does not apply, for they are always at his disposal. V. infra 141a.

(6) For the law of covering up the blood (v. Lev. XVII, 13) does not apply to consecrated animals; v. supra 83b.

(7) And consecration does not set aside the existing obligation of covering up the blood; likewise it does not set aside the existing obligation of letting the dam go.

(8) In answer to the question of how to construe a case where the law of letting the dam go might possibly apply to consecrated birds.

(9) Intending them to be offered as bird-offerings upon the altar.

(10) They are no more at his disposal, and so the law of letting the dam go would apply were it not for the fact that they were consecrated.

(11) Which is not allowed for an offering, but is consecrated merely for its value.

(12) And it also broke loose and became wild; v. note 5.

(13) And the law of letting the dam go does not apply.

(14) Even what is consecrated only for its value.

(15) Ps. XXIV, 1. Therefore even though it has broken loose it is still within the Lord's treasury and sacred.

(16) For in the discussion regarding the law of letting the dam go it was R. Johanan who advanced the argument that the whole earth is the Lord's treasury, whereas in the latter dispute it is Resh Lakish who advances this view.

(17) Resh Lakish then held that if a consecrated bird had broken loose its sanctity had gone and it was subject henceforth to the law of letting the dam go; but later R. Johanan convinced him that it was not so, with the argument that the earth is the Lord's treasury, which argument Resh Lakish eventually accepted.

(18) Therefore where a man consecrated an animal and it was lost or stolen, he has no further responsibility with regard to it, since it is still within the Lord's treasury.

(19) R. Johanan, although maintaining the principle that wherever a thing happens to be it is still within the Lord's treasury, nevertheless holds a man responsible for his offering if he expressed himself thus: ‘I take upon myself’, for then the personal obligation is not discharged until the Temple treasurer has actually received it.

(20) Kin. I, 1; R.H. 6a; Meg. 82. Resh Lakish surely would not maintain his view in opposition to the Mishnah quoted and hold that even where a man said: ‘I take upon myself’, he is not responsible for it.

(21) That where a man says: ‘I take upon myself’, he is responsible for it.

(22) Therefore so long as he has not brought his offering to the Temple he will not have discharged his obligation, and up to then he is responsible for it.

(23) For as soon as he dedicates it to the Temple it automatically becomes part of the Temple treasury, and wherever it happens to be it is still within the Lord's treasury.

(24) ‘Arak. 20b.

(25) Even though he specified the subject consecrated by the term ‘this’ he is nevertheless responsible since he undertook the vow as a personal charge. It is, however, evident from this that even in respect of what is consecrated to the Temple treasury, e.g., a house, one is bound to make restitution, contra Resh Lakish.

(26) Where a man vows to the Temple the ‘valuation’ of himself or of another person. The ‘valuation’ is fixed according to the scale prescribed in the Torah, cf. Lev. XXVII, 1ff.

(27) And he set aside the fixed amount and it was lost or stolen.

(28) Lev. XXVII, 23. This verse is stated in connection with the law of the redemption of a field that was bought and afterwards consecrated unto the Temple, and the reference in this verse to ‘thy valuation’ is certainly strange and out of place.

(29) For Scripture does not state that the redemption money shall be given unto the Lord, but simply that it is holy, ibid. 15.

Talmud - Mas. Chullin 139b

I might say that it is the same with regard to this too;[1] the text therefore states: ‘And he shall give thy valuation in that day as a holy thing unto the Lord’; that is to say, it is still consecrated [in thy hand] until it reaches the hand of the Temple treasurer.[2] — Rather if this statement was reported it must have been reported as follows: R. Hamnuna said: All agree that regarding vows of valuation, even though a man did not say ‘I take upon myself’, he is bound to make restitution, for it is written: ‘And he shall give thy valuation etc.’, that is to say, it is still consecrated in thy hand until it reaches the hand of the Temple treasurer. THE LAW OF COVERING UP THE BLOOD IS OF WIDER APPLICATION etc. Our Rabbis taught: It is written: If a bird's nest chance to be before thee [in the way, in any tree or on the ground].[3] What does Scripture teach thereby? But because it is also written: Thou shalt in any wise let the dam go, but the young thou mayest take unto thyself,[4] I might suppose that one should go searching over mountains and hills to find a nest, the text therefore states: ‘chance to be’, that is, if it happens to be before you. ‘A nest’, that is, any nest whatsoever.[5] ‘A bird's’, that is, of a clean but not of an unclean bird. ‘Before thee’, that is, in a private domain.[6] ‘In the way’, that is, in a public place. Whence do I know even [if found] on trees? The text states: ‘In any tree’. Whence do I know even [if found] in cisterns, ditches or caverns? The text states: ‘Or on the ground’. But since in the end we include everything, wherefore [does Scripture say], ‘Before thee in the way’? To teach you, just as on the way the nest cannot be said to be ready at your hand,[7] so everywhere the nest must not be ready at your hand; hence they said, [Wild] doves of the dove-cote, and doves of the loft, and birds which made their nests in the cornices[8] [in the walls] in large houses, and geese and fowls that made their nests in the open field,[9] one is bound to let the dam go; but if they made their nests within a house, or in the case of Herodian doves, one is not bound to let the dam go.

The Master said: ‘Just as on the way the nest cannot be said to be ready at your hand, so everywhere the nest must not be ready at your hand’. Is this [teaching] necessary? It is surely inferred from the expression ‘chance to be’ thus, ‘chance to be’, but not what is at one's disposal!

Moreover, what is the significance of the expression ‘before thee’? — Rather we must say: The expression ‘before thee’ serves to include those birds that were once before you and which later broke loose; and the expression ‘in the way’ points to the teaching of Rab Judah in the name of Rab. For Rab Judah said in the name of Rab: If a man found a nest in the sea[10] he is bound to let the dam go, since it is written: Thus saith the Lord, who maketh a way in the sea.[11] Then, in like manner, if a man found a nest in the sky,[12] inasmuch as it is written: The way of an eagle in the sky,[13] he should also, should he not, be bound to let the dam go? — It [the sky] is referred to as ‘the way of an eagle’, but never simply as ‘way’.

The Papunians[14] asked of R. Mattenah: What if one found a nest upon a man's head? — He replied, lt is written: And earth upon his head.[15] Where is Moses indicated in the Torah?[16] [they asked]. — In the verse: For that he also is flesh.[17] Where is Haman indicated in the Torah? — In the verse: Is it [hamin] from the tree?[18] Where is Esther indicated in the Torah? — [In the verse,] And I will surely hide [asthir] my face.[19] Where is Mordecai indicated in the Torah? — In the verse: Flowing myrrh,[20] which the Targum renders as mira dakia.[21] WHICH ARE THEY THAT ARE ‘NOT AT ONE'S DISPOSAL’? etc. R. Hiyya and R. Simeon [b. Rabbi differ]: One reads [in the Mishnah] ‘Hadresioth’, and the other reads ‘Hardesioth’. He who reads ‘Hardesioth’[22] derives the word from the name of Herod; and he who reads ‘Hadresioth’ derives it from their place of origin.[23] R. Kahana said: ‘I once saw them, and there were sixteen rows of them, each row extending over one mil, and they were calling out, kiri kiri.[24] One, however, did not call out kiri kiri, and its neighbour said to it, ‘You blind fool, call out kiri kiri’. The other replied: ‘You blind fool, call out rather kiri keri’.[25] Straightway she was taken and slaughtered. R. Ashi said: R. Hanina told me that all this was empty words. Empty words! surely not![26] — Say, rather: All this [conversation][27] was effected by magic spells.[28]

AN UNCLEAN BIRD ONE IS NOT BOUND TO LET GO. Whence is this derived? — R. Isaac said: From the verse: If a nest of a bird [zippor] chance to be before thee.[29] Now the term ‘ ‘of’[30] applies both to clean and unclean birds, but as for the term ‘zippor’, we find clean birds referred to as zippor but not unclean birds. Come and hear: It is written: The likeness of any winged zippor.[31] Surely ‘zippor’ includes both clean and unclean birds, and ‘winged’ includes locusts! — No, ‘zippor’ refers only to clean birds, and ‘winged’ includes both unclean birds and locusts. Come and hear: It is written: Beasts and all cattle, creeping things and winged zippor.[32] Surely ‘zippor’ includes both clean and unclean birds, and ‘winged’ includes locusts. — No, ‘zippor’ refers only to clean birds, and ‘winged’ includes both unclean birds and locusts. Come and hear: It is written: Every zippor of every sort.[33] Surely the interpretation is as suggested in the above objection! — No, it is as suggested in the above reply. Come and hear: It is written: And thou, son of man, [thus saith the Lord God]: Speak unto the zippor of every sort.[34] Surely the interpretation is as suggested in the above objection! — No, it is as suggested in the above reply.

Come and hear:

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(1) Sc. with regard to vows of valuation, that one is not bound to make restitution for the loss of the valuation money.

(2) Hence a man is responsible for the valuation money until it actually reaches the Temple treasury, thus in conflict with R. Hamnuna.

(3) Deut. XXII, 6.

(4) Ibid. 7.

(5) Even though there is only one egg or one young bird in it. V. infra Mishnah 140b.

(6) But only in such a private domain as cannot acquire the nest or the bird for the owner, e.g. a private field which is unguarded or has no fences round it. Cf. B.M. 11a.

(7) For the birds are not yet caught and certainly not at one's disposal.

(8) טפיחין pitcher-shaped vessels put up in walls and corners as resting places for birds (Jast). Cf. Bez., Sonc. ed., p. 124, nn. 3-4.

(9) Lit., ‘orchards’.
(10) A tree was washed away into the sea and upon it was a bird's nest.
(11) Isa. XLIII, 26. Hence the term ‘way’ includes the expanse of the sea.
(12) The bird was carrying its nest while flying.
(13) Prov. XXX, 19.
(14) I.e., men of Papunia, a town situated between Bagdad and Pumbeditha (v. map at end of Kid., Sonc. ed.).
(15) II Sam. XV, 32. Earth even though upon a man's head is still called earth and is looked upon as on the ground; likewise a nest upon a man's head is also looked upon as on the ground, and so the law of letting the dam go applies.
(16) I.e., where in the Torah is the coming of Moses foretold? Possibly it is an attempt to find some indication or hint of the name of Moses even in Genesis, the First Book of Moses.
(17) Gen. VI, 3. Heb. בשגם which in the numerical value of its letters is equivalent to the name משה Moses — 345. Moreover this verse adds: Therefore shall his days be a hundred and twenty years, which corresponds with the years of the life of Moses.
(18) Ibid. III, 11. Heb. המן. The first word can be read as Haman, and the second can refer to the tree or gallows upon which Haman was hanged; cf. Esth. VII, 10.
(19) Deut. XXXI, 18. Heb. אסתיר. The second word is very like the name Esther, אסתר both in spelling and in sound. The verse in general foretells the many evils and troubles that shall befall Israel when they forsake the ways of God, and this was the case at the time of Esther, cf. Meg. 12a.
(20) Ex. XXX, 23. Heb. מר דרור.
(21) The aramaic translation of Onkelos renders the Hebrew by מירא דכיא, which words both in spelling and in sound resemble מרדכי, Mordecai.
(22) הדרסיאות, i.e., Herodian.
(23) הדרסיאות. The locality referred to is unknown. V. supra, Mishnah p. 795, n. 5.
(24) קירי, Master’, from Gr. ** referring to Herod.
(25) כירי (in current ed. בירי) ‘slave’ from Gr. **, ‘a slave’. Kiri keri = the master is a slave.
(26) For R. Kahana actually said that he saw these doves.
(27) Of the birds.
(28) Lit., ‘words’.
(29) Deut. XXII, 6. Heb. צפור.
(30) עוף.
(31) Ibid. IV, 17; with reference to the prohibition of idolatry.
(32) Ps. CXLVIII, 10.
(33) Lit., ‘of every winged (species)’. Gen. VII, 14.
(34) Lit., ‘of every winged (species)’. Ezek. XXXIX, 17.

Talmud - Mas. Chullin 140a

It is written: And the zippor of the heaven dwelt in the branches thereof![1] — They[2] are designated ‘the zippor of the heaven’, but not ‘zippor’ alone. Come and hear: It is written: Every zippor that is clean ye may eat;[3] from which we may deduce that there is [a zippor] that is unclean! — No, we may deduce that there is [a zippor] that is forbidden.[4] But which is that? If it is one that is trefah, but this is expressly stated[5] [to be forbidden]. And if it is the slaughtered bird of the leper,[6] but this is inferred from the next verse: And these are they of which ye shall not eat,[7] which includes the slaughtered bird of the leper![8] — It is, in truth, the slaughtered bird of the leper,[9] and [it is repeated so as to teach that] one infringes on that account a positive and also a negative precept.[10] But why not say that it is a trefah bird [that is meant, and it teaches that] one infringes on that account a positive and also a negative precept? — ‘The meaning of a verse is to be deduced from its context’, and the context deals with those that are slaughtered.[11] Come and hear: It is written: Two living zipparim.[12] Now what is meant by ‘living’? It means, does it not, those that are fit for your mouth,[13] and from which follows that there are also those [zipparim] that are not fit for your mouth? — No, by ‘living’ is meant those whose principal limbs are living.[14] Come and hear from the next word [in the above verse]: Clean.[12] Is not the inference that there are unclean [zipparim]?[15] — No, the inference is that there are trefah [clean birds].[15] But are not trefah birds excluded by the term ‘living’? Of course this presents no difficulty to him who says that a trefah can continue to live,[16] but according to him who says that a trefah cannot continue to live what can be said? Moreover, both according to him who says that a trefah can continue to live and him who says that it cannot continue to live, this[17] is inferred from the teaching of a Tanna of the school of R. Ishmael. For a Tanna of the school of R. Ishmael taught: There have been prescribed qualifying and atoning sacrifices within the Temple, and there have been prescribed qualifying and atoning sacrifices outside the Temple;[18] just as with regard to the qualifying and atoning sacrifices prescribed within the Temple, the qualifying sacrifices are equal to the atoning sacrifices, so with regard to the qualifying and atoning sacrifices prescribed outside the Temple, the qualifying sacrifices are equal to the atoning sacrifices![19] — Rather said R. Nahman b. Isaac, [The expression ‘clean’] serves to exclude the birds of a beguiled city.[20] But for which one?[21] If for the one that must be set free, but surely the Torah would not enjoin to set it free if it would thereby lead to transgression![22] Rather it could serve for the one that must be slaughtered.[23]

Raba said, [The expression ‘clean’] serves to exclude [the following case]: that one may not use this bird before it is set free so as to make up the pair of birds [for the purification rites] of another leper. But for which one?[24] If for the one that was to be slaughtered, but surely it must be set free![25] Rather it could serve for the one that was to be set free.[26]

R. Papa said, [The expression ‘clean’] serves to exclude birds that were obtained in exchange for an idol, for it is written: And become a devoted thing like unto it;[27] whatever you bring into being from [the devoted thing] is to be treated like it. But for which one?[28] If for the one that must be set free, but surely the Torah would not enjoin to set it free if it would thereby lead to transgression! Rather it could serve for the one that must be slaughtered,[29] Rabina said: We are dealing here with a bird that had killed a man.[30] But what are the circumstances? If it had already been condemned, then it must be put to death; we must therefore say that it had not yet been condemned. But for which one [of the leper's birds might this be used]? If for the one that must be set free, but surely it must be brought to the Beth din so as to carry into effect the verse: So shalt thou put away the evil from the midst of thee![31] Rather it could serve for the one that must be slaughtered.[32]

IF AN UNCLEAN BIRD WAS SITTING ON THE EGGS OF A CLEAN BIRD . . . [ONE IS NOT BOUND TO LET IT GO]. This is indeed clear of an unclean bird sitting on the eggs of a clean bird, for the law [of letting the dam go] applies only to a ‘zippor’,[33] and this is not the case here; but why [is one not bound to let go] the clean bird that was sitting on the eggs of an unclean bird? It is a zippor, is it not? — As R. Kahana said [in another connection]. It is written, [But the young] thou mayest take for thyself,[34] ‘for thyself’ but not for thy dogs; here too [we say the same], ‘Thou mayest take for thyself’, but not for thy dogs.

In what connection was this statement of R. Kahana said? — In connection with the following Baraitha which was taught: If the dam is trefah, one is still bound to let it go; if the young ones are trefah, one is not bound to let the dam go. Whence is this derived? — R. Kahana said: It is written: ‘[But the young] thou mayest take for thyself’; ‘for thyself’ but not for thy dogs. But should we not regard a trefah dam on the same footing as [trefah] young ones, and as in the case of trefah young ones one is not bound to let the dam go so in the case of a trefah dam one is not bound to let it go?

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(1) Dan. IV, 9. Since here there is no other synonym for bird mentioned in the verse, then surely the term ‘zippor’ includes all, both clean and unclean birds.

(2) Sc. unclean birds.

(3) Deut. XIV, 11.

(4) Although it is a clean bird.

(5) Cf. Lev. XXII, 8, which verse, according to Rabbinic tradition, refers to a clean bird that was rendered trefah.

(6) Lev. XIV, 4, 5. Of the two birds used in the purification rites of a leper one was slaughtered and was thereupon rendered forbidden for all purposes, cf. Kid. 57a, A.Z. 74a.
(7) Deut. XIV, 12. ‘Of which’ clearly refers to those clean birds mentioned in the preceding verse, implying that some of those are forbidden even though clean.
(8) V. Kid. loc. cit.
(9) That is excluded from v. 11.
(10) By deriving any benefit from the slaughtered bird of the leper one transgresses the negative precept implied in Deut. XIV, 12, and also the positive precept (i.e., the negative inference from a positive precept which has the force of a positive precept) derived from Deut. XIV, 11.
(11) For the passage begins with the verse: ‘Every clean bird ye may eat’, which means, of course, only if slaughtered.
(12) Lev. XIV, 4.
(13) Lit., ‘living in your mouth’, i.e., permitted to be eaten.
(14) And only excludes those clean birds which have an entire limb missing.
(15) Which are excluded from use in the purification rites of a leper.
(16) V. supra 42a.
(17) That a trefah bird may not be used in the purification rites of a leper.
(18) A qualifying sacrifice is one that renders a person fit to enter the Temple and partake of sacred food; in most cases (e.g., the sin-offering brought by a woman after childbirth, or the guilt-offering of a leper) the service of the sacrifice was performed inside the Temple, but in some cases (e.g. the bird-offerings of a leper) the service was performed outside the Temple. An atoning sacrifice, on the other hand, is one that atones for a sin committed; in most cases (e.g., the usual sin-offerings and guilt-offerings) the service of the sacrifice was performed inside the Temple, but in a few cases (e.g., the Scapegoat, and the heifer whose neck was to be broken) the service was performed outside the Temple.
(19) And therefore what is regarded as unfit for an atoning sacrifice, e.g. an animal that is trefah or has a physical blemish, may not be used for a qualifying sacrifice. Hence a trefah bird may not be used for the purification rites of a leper, and there is no need for any express term to exclude it.
(20) A city whose inhabitants were enticed into idolatry was to be utterly destroyed and everything belonging to it was forbidden absolutely; cf. Deut. XIII, 13ff. The term ‘clean’ thus excludes the birds of this town from being used in the purification rites of the leper.
(21) For which of the two birds of the leper's offering could such a bird be used? Cf. Lev. XIV, 4ff, where two birds are prescribed for the leper's offering, one was to be slaughtered whilst the other was to be set free.
(22) Lit., ‘for a stumbling-block’. The finder of the bird, not knowing that it originally came from a beguiled city, will eat it, and so be led into sin by another's performance of a precept. On this ground therefore it cannot be suggested that birds from a beguiled city may be used for the leper's offering.
(23) The word ‘clean’ is therefore necessary to exclude such a bird.
(24) Of the second leper's birds would it at all be possible for this to be used.
(25) In order to fulfil the rites for the purification of the first leper; thus it certainly may not be slaughtered for the second leper.
(26) I.e., it could’ serve this same purpose for both lepers, were it not for the fact that the word ‘clean’ excludes such a case.
(27) Deut. VII, 26.
(28) V. supra n. 2.
(29) The term ‘clean’ is therefore necessary to exclude such a bird from use in the purification rites of the leper.
(30) V. p. 807, n. 10.
(31) Deut. XIII, 6.
(32) For by being slaughtered it is put away from the midst of thee’. Hence the verse is necessary to exclude it.
(33) I.e., a clean bird.
(34) Ibid. XXII, 7.

Talmud - Mas. Chullin 140b

— If that were so, then the teaching that the term zippor’ excludes an unclean bird is superfluous.[1] But it has been taught: The dam of young that is trefah, one is bound to let go![2] — Abaye answered:

It is to be explained thus: If the dam of the young is trefah, one is bound to let it go.

R. Hoshaia raised the question: What is the law if a man put his hand into a nest and cut through a small part of the throat organs [of the young ones]? Should we say that, since if he were to leave off cutting at this point they would become trefah,[3] the rule '"Thou mayest take for thyself" but not for thy dog' applies;[4] or rather, since it is within his power to finish cutting, we still say [of these young ones] 'Thou mayest take for thyself', and he is therefore bound to let the dam go? — This question remains unanswered.

R. Jeremiah raised the question: Would a cloth be regarded as an interposition or not?[5] Would [loose] feathers be an interposition or not? Would addled eggs be an interposition or not?[6] What if there were two layers of eggs, one above the other?[7] What if the male bird was upon the eggs and the dam was upon the male?[8] — These questions remain unanswered. R. Zera raised the question: What is the law if a dove was sitting on a tasil's[9] eggs, or if a tasil was sitting on dove's eggs? Abaye said: Come and hear: IF AN UNCLEAN BIRD WAS SITTING ON THE EGGS OF A CLEAN BIRD, OR A CLEAN BIRD ON THE EGGS OF AN UNCLEAN BIRD, ONE IS NOT BOUND TO LET IT GO. It follows, does it not, that if a clean [bird was sitting upon the eggs of another] clean bird, one is bound to let it go? — Perhaps this is so only with a hen partridge.[10]

AS TO A COCK PARTRIDGE, R. ELIEZER SAYS ONE IS BOUND TO LET IT GO, BUT THE SAGES SAY ONE IS NOT BOUND. R. Abbahu said: What is the reason of R. Eliezer? — He draws an analogy between the expressions 'brood'; for it is written here: As the partridge broodeth over young which he has not brought forth,[11] and it is written there: She shall hatch and brood under her shadow.[12]

R. Eleazar said: They[13] differ only with regard to a cock partridge, but as for a hen partridge all agree that one is bound to let it go. Is not this obvious? for the Mishnah expressly says: A COCK PARTRIDGE! — One might have thought that even the hen partridge the Rabbis exempt [from letting go], but the reason why the cock partridge was stated [in the Mishnah] was to set forth the extent of R. Eliezer's view; we are therefore taught [that it is not so].

R. Eleazar also said: They differ only with regard to a cock partridge, but as for the male of any other [bird] all agree that one is exempt [from letting it go]. Is not this obvious? For the Mishnah expressly says: AS TO A COCK PARTRIDGE? — One might have thought that even the male of any other bird R. Eliezer declares one bound [to let go], but the reason why the cock partridge was stated was to set forth the extent of the Rabbis'[14] view; we are therefore taught [that it is not so]. There has also been taught [a Baraitha] to this effect: The male of any other bird one is not bound [to let go]; as to a cock partridge. R. Eliezer declares one bound [to let it go], but the Sages say one is not bound.

MISHNAH. IF THE DAM WAS HOVERING [OVER THE NEST] AND HER WINGS TOUCH THE NEST, ONE IS BOUND TO LET HER GO; IF HER WINGS DO NOT TOUCH THE NEST, ONE IS NOT BOUND TO LET HER GO. IF THERE WAS BUT ONE YOUNG BIRD OR ONE EGG [IN THE NEST], ONE IS STILL BOUND TO LET THE DAM GO, FOR IT IS WRITTEN: A NEST,[15] THAT IS, ANY NEST WHATSOEVER. IF THERE WERE THERE YOUNG BIRDS ABLE TO FLY OR ADDLED EGGS, ONE IS NOT BOUND TO LET [THE DAM] GO, FOR IT IS WRITTEN, AND THE DAM SITTING UP ON THE YOUNG OR UPON THE EGGS;[15] AS THE YOUNG ARE LIVING BEINGS SO THE EGGS MUST BE SUCH AS [WOULD PRODUCE] LIVING BEINGS; HENCE ADDLED EGGS ARE EXCLUDED. AND AS THE EGGS NEED THE CARE OF THE DAM SO THE YOUNG MUST BE SUCH AS NEED THE CARE OF THE DAM; HENCE THOSE THAT ARE ABLE TO FLY ARE EXCLUDED.

GEMARA. Our Rabbis taught: It is written: Sitting,[15] but not hovering. I might then Suppose that even when her wings touch the nest [the law does not apply], the text therefore stated: ‘Sitting’. How is this implied? — Because it is not written ‘brooding’.[16]

Rab Judah said in the name of Rab: If she[17] was perched upon two branches of a tree, we must consider, if when the branches slip away from each other she would fall upon them,[18] one is bound to let her go, but if not, one is not bound [to let her go].

An objection was raised. [It was taught:] If she was sitting among them, one is not bound to let her go, if upon them, one is bound to let her go; if she was hovering over the nest, even though her wings touch the nest, one is not bound to let her go. Now presumably the expression ‘upon them’ bears the same meaning as ‘among them’, and just as ‘among them’ means that she is actually touching them so ‘upon them’ also means that she is actually touching them; it follows, however, that if she was upon the branches of a tree, one is not bound [to let her go]![19] — No, the expression ‘upon them’ bears the same meaning as ‘among them’, and just as ‘among them’ clearly means that she is not touching them from above so ‘upon them’ also means that she is not touching them from above, and that must be the case where she was upon the branches of a tree.[20] It is indeed more logical to argue thus, for if you were to hold that when perched upon the branches of a tree one is not bound [to let her go], then the Tanna, in place of the case ‘If she was hovering over the nest, even though her wings touch the nest, one is not bound to let her go’, should rather have taught the case where she was perched upon the branches of a tree, and it would go without saying that where she was hovering [over the nest one is not bound to let her go!][21] — [This argument is not conclusive for] he wished to state the case where she was hovering [over the nest] to teach that, even though her wings actually touch the nest, one is not bound to let her go. But have we not learnt: IF THE DAM WAS HOVERING OVER THE NEST, AND HER WINGS TOUCH THE NEST, ONE IS BOUND TO LET HER GO? — R. Jeremiah answered, The Baraitha deals with the case where her wings touch the side of the nest.[22]

Another version reads as follows: Shall we say that the following [Baraitha] is a support for his view?[23] For it was taught: If she was sitting among them, one is not bound to let her go, if upon them, one is bound to let her go; if she was hovering over the nest, even though her wings touch the nest, one is not bound to let her go. Now presumably the expression ‘upon them’ bears the same meaning as ‘among them’, and just as ‘among them’ clearly means that she is not touching them from above so ‘upon them’ also means that she is not touching them from above, and that must be the case where she was upon the branches of a tree! — No, the expression ‘upon them’ bears the same meaning as ‘among them’, and just as ‘among them’ means that she is actually touching them so ‘upon them’ also means that she is actually touching them, but if she was perched upon the branches of a tree one would not be bound [to let her go]. But if so, [the Tanna] in place of the last case ‘If she was hovering over the nest, even though her wings touch the nest, one is not bound to let her go’,

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(1) For if by making this comparison a trefah dam is excluded, then in like manner an unclean bird would also be excluded, thus rendering the interpretation derived from the term ‘zippor’ unnecessary.

(2) It is assumed that the Baraitha means this: if the young ones were trefah and the dam was not, one is bound to let the dam go; thus in conflict with R. Kahana.

(3) For in the case of birds the slaughtering is valid only when the greater portion of one organ of the throat has been cut, and to leave off before this requisite amount has been cut through would render the bird trefah. It must, however, be assumed here that the partly-cut organ was the gullet, for a partly-cut windpipe does not render trefah (v. supra 29a); v. Shak, Yoreh De'ah c. 292, sec. 15; and Glosses of R. Bezalel Regensburg a.l.

(4) Accordingly one is not bound to let the dam go.

(5) If a cloth was spread over the eggs in the nest and the mother-bird was sitting on it, does the law of sending away apply or not? The doubt arises through a strict literal interpretation of the verse: And the dam sitting upon the young or upon the eggs (Deut. XXII, 6), which would exclude every case where some extraneous object interposed between the dam and the eggs.

(6) Since the law does not apply where there are only addled eggs in the nest (i.e., rotten eggs, incapable of producing a chicken; v. Mishnah infra), if these addled eggs formed a layer over ordinary eggs, interposing between the dam and the ordinary eggs, are they regarded as an interposition, in which case the law of letting the dam go does not apply, or not?

(7) Does the upper layer serve as an interposition, so that one may take away the eggs of the lower layer without first letting the dam go, or not?

(8) Since the law of letting the dam go does not apply to a male bird sitting on the eggs (v. supra), is the male bird deemed an interposition between the dam and the eggs, or not?

(9) תסיל a clean bird, resembling a dove; cf. supra 62a.

(10) I.e., the inference which Abaye makes from the statement of the Mishnah, that where one clean bird sits upon the eggs of another clean bird the law applies, may be restricted only to the case of the hen partridge which habitually broods over other birds' eggs.

(11) Jer. XVII, 11. This verse clearly refers to the cock partridge because of the masculine form of the verb 'he has not brought forth'.

(12) Isa. XXXIV, 15. The comparison is between the brooding by the dam in this verse and the brooding by the male bird in the previous verse; in each case it is a proper brooding.

(13) R. Eliezer and the Rabbis.

(14) The Sages.

(15) Deut. XXII, 6.

(16) Which would signify constantly sitting upon the eggs.

(17) Throughout this passage 'she' refers to the dam and 'them' to the young or the eggs.

(18) V. p. 821, n. 4.

(19) Since she does not actually touch them; contrary to Rab Judah's ruling.

(20) For since she is directly above them, even though she does not touch them, the law of 'letting the dam go' applies.

(21) If where she was perched the whole time directly over the nest the law of 'letting the dam go' does not apply, how much less where she was hovering over the nest!

(22) Whereas in our Mishnah the case is that the wings touch the nest from above, thus actually touching the young birds or the eggs, and therefore one is bound to let the dam go. V. however, Maim. Yad, Shechitah, XIII, 13; and Tur, Yoreh De'ah, c. 292.

(23) Rab's view, as quoted by Rab Judah.

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should rather have taught the case where she was perched upon the branches of a tree, and it would go without saying that where she was hovering [over the nest one is not bound to let her go]! — He wished to state the case where she was hovering [over the nest] to teach that, even though her wings actually touch the nest, one is not bound to let her go. But have we not learnt: IF THE DAM WAS HOVERING OVER THE NEST, AND HER WINGS TOUCH THE NEST, ONE IS BOUND TO LET HER GO? — R. Jeremiah[1] answered: The Baraitha[2] deals with the case where her wings touch the side of the nest. IF THERE WAS BUT ONE YOUNG BIRD OR ONE EGG etc. A certain Rabbi said to Raba: Perhaps it should be the reverse, thus if there was but one young bird or one egg [in the nest], one is not bound to let the dam go, for according to the verse there must be young or eggs,[3] which is not the case here; and if there were there young birds able to fly or addled eggs, one is bound to let the dam go, for it is written, a nest, that is, any nest whatsoever! — [He replied,] If that were so, the verse should have stated: 'And the dam sitting upon them'; why is it written: And the dam sitting upon the young or upon the eggs? To compare the young with the eggs[4] and the eggs with the young.[5]

MISHNAH. IF A MAN LET [THE DAM] GO AND SHE RETURNED, EVEN FOUR OF FIVE TIMES, HE IS STILL BOUND [TO LET HER GO AGAIN], FOR IT IS WRITTEN, THOU SHALT IN ANY WISE LET THE DAM GO.[6] IF A MAN SAID, 'I WILL TAKE THE DAM AND

LET THE YOUNG GO', HE IS STILL BOUND [TO LET HER GO], FOR IT IS WRITTEN, 'THOU SHALT IN ANY WISE LET THE DAM GO'. IF A MAN TOOK THE YOUNG[7] AND BROUGHT THEM BACK AGAIN TO THE NEST, AND AFTERWARDS THE DAM RETURNED TO THEM, HE IS NOT BOUND TO LET HER GO.[8]

GEMARA. A certain Rabbi said to Raba: Perhaps 'shalleah'[9] means once, and 'teshallah'[10] twice? — He replied: 'Shalleah' implies even a hundred times; and as for 'teshallah', [it is required for the following teaching:] I only know [this law in the case where the dam is required] for matters of choice,[11] whence do I know [that this law applies even when it is required] for the fulfilment of a precept?[12] The text therefore states: 'teshallah', [thou shalt let her go] under all circumstances.

R. Abba the son of R. Joseph b. Raba said to R. Kahana: Then the only reason [for this] is that the Divine Law stated 'teshallah', but otherwise I should have said that [where one required the dam] for the fulfilment of a precept, the law did not apply. But there is here, is there not, both a positive and a negative precept?[13] And [it is established law that] a positive precept[14] cannot override a positive and negative precept! — It is necessary for the case where one had transgressed and had taken the dam. Now he has already transgressed the negative precept, and there remains only the positive precept; and one might suppose that now a positive precept can override this [remaining] positive precept,[15] [Scripture] therefore teaches us [that it is not so]. This is in order, however, according to him who teaches[16] that it depends upon whether he has fulfilled or not fulfilled [the positive precept],[17] but according to him who teaches that it depends upon whether he has nullified or not nullified [the positive precept],[18] then so long as this man has not slaughtered the dam he has not transgressed the negative precept.[19] Moreover, according to R. Judah who maintains that the precept of letting [the dam] go was intended only in the first instance,[20] there is now [after the transgression of the law] not even a positive precept![21] — Rather, said Mar son of R. Ashi, we suppose the case where a man took up the dam in order to let it go, in which case there is no infringement of the negative precept; there is, however, a positive precept and [it might be suggested that] the positive precept [of the leper's offering] should override this positive precept.[22] But in what way is this positive precept more potent than that?[23] — Because one might argue: since a Master has said,[24] Great is the peace between man and wife, for the Torah has permitted the name of the Holy One, blessed be He, which is to be written in all sanctity, to be washed away in the waters of bitterness,[25] and since a leper so long as he has not been cleansed is forbidden marital intercourse, (for it is written: And he shall dwell outside his tent seven days;[26] 'his tent' signifies his wife,[27] hence he is forbidden marital intercourse) — one might therefore argue, since he is forbidden marital intercourse, the positive precept in his case[28] should override the positive precept of letting the dam go, we are therefore taught [that it is not so].

MISHNAH. IF A MAN TOOK THE DAM WITH THE YOUNG, R. JUDAH SAYS, HE HAS INCURRED [FORTY] STRIPES, AND HE NEED NOT NOW LET HER GO. BUT THE SAGES SAY, HE MUST LET HER GO, AND HE DOES NOT INCUR STRIPES. THIS IS THE GENERAL RULE: [FOR THE TRANSGRESSION OF] ANY NEGATIVE PRECEPT WHICH ADMITS OF A REMEDY BY THE SUBSEQUENT FULFILMENT OF A POSITIVE COMMAND,[29] ONE DOES NOT INCUR STRIPES.[30]

GEMARA. R. Abba b. Memel raised the question: Is the reason for R. Judah's view [in the Mishnah] that he is of the opinion that [for the transgression of] a negative precept which can be remedied by a subsequent act [of the transgressor] one incurs stripes, or is it that elsewhere he is of the opinion that [for the transgression of] a negative precept which can be remedied by a subsequent act one does not incur stripes, but here the reason is that he maintains that the precept of letting [the dam] go was intended only in the first instance?[31] — Come and hear: A thief and a robber are subject to the penalty of stripes; so R. Judah. Now is not this a case of a negative precept which can be remedied by a subsequent act,for the Divine Law says: Thou shalt not rob,[32] and also: He shall restore that which he took by robbery?[33] You can therefore infer from this that the reason for R. Judah's view [in our Mishnah] is that he is of the opinion that [for the transgression of] a negative precept which can be remedied by a subsequent act [of the transgressor] one incurs stripes. Thereupon R. Zera said to them,[34] Have I not told you that every Baraitha that was not taught in the school of

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(1) So in MS.M. and also in the first version supra; cur. edd. ‘Rab Judah’.

(2) So according to MSS, and Maharsha (q.v.); in the text ‘The Mishnah’. The latter, however, in all probability, was the text before Maim. and Tur. loc. cit.; v. D.S. a.l.

(3) Deut. XXII, 6. The verse states these nouns in the plural, i.e., several young or several eggs.

(4) I.e., as eggs need the care of the dam so the young must be such as need the care of the dam, thus excluding such as can fly.

(5) I.e., as the young are living beings so the eggs must be such as can produce living beings, thus addled eggs are excluded, v. Mishnah supra. Consequently the expression ‘a nest’, signifying any nest whatsoever, includes a nest that has but one young or one egg in it.

(6) Ibid. 7. Lit., ‘letting go thou shalt let go’; i.e., as often as necessary. V. Gemara infra.

(7) Having already let the dam go.

(8) For this man has acquired possession of the young ones, and they are now always at his disposal, consequently the law no longer applies.

(9) שלח, ‘to let go’, the infinitive of the verb.

(10) תשלח, ‘thou shalt let go’, the imperfect of the verb.

(11) I.e., for one's own purposes, either for food or for breeding.

(12) E.g., for the leper's sacrifice (Lev. XIV, 4) or for the sacrifice of a woman after childbirth (ibid. XII, 8). Whence do I know that even for these religious purposes it is not permitted to take the dam?

(13) The negative precept Thou shalt not take the dam, and the positive precept Thou shalt in any wise let the dam go.

(14) For the fulfilment of which the bird is required, v. n. 3.

(15) I.e., that the positive precept of offering birds for the leper's sacrifice should override the positive precept of letting the dam go.

(16) V. Mak. 15a, 16a.

(17) In all prohibitions the transgression of which can be rectified by a subsequent act of the transgressor — e.g., the prohibition: Thou shalt not rob (Lev. XIX, 13), can after the transgression thereof be rectified by the remedial precept: He shall restore that which he took by robbery (ibid. V, 23) — the transgressor is not liable to forty stripes unless after the transgression he does not immediately (or, at the Court's bidding, v. Rashi, Mak. 15a s.v. הניחא) fulfil the remedial precept. In our case, therefore, if the man does not let the dam go at once he has transgressed the law and is liable to stripes. Accordingly there now remains only the positive precept and this could be overridden by another positive precept were it not for the expression ‘teshallah’, v. supra.

(18) I.e., the transgressor does not incur the penalty of stripes for the infringement of the negative precept unless he has also nullified his chances of performing the remedial precept, e.g., here if he slaughtered the dam. But so long as he has not nullified the remedial precept, even though he defers it to some later date, he is not liable to stripes.

(19) It cannot therefore be suggested that the positive precept of the leper's sacrifice should override the law of letting the dam go for the latter still involves a positive and a negative precept; accordingly the verse stated above to exclude this is now superfluous.

(20) I.e., on finding a bird's nest a man should immediately let the dam go, for as soon as he takes up the dam he thereby transgresses the law for which he incurs forty stripes (v. next Mishnah). Thereafter he is not obliged to let her go at all, but may use it for any purpose.

(21) It, therefore, cannot be suggested that the man had transgressed the law and taken the dam, for then according to R. Judah it may be used for all purposes.

(22) By taking the dam he has not infringed the negative precept, since he took it for the purpose of letting it go, and even if he does not let it go it cannot be said that he has transgressed this negative precept retroactively. There now remains incumbent upon him the positive precept of letting it go, but this would be overridden if he were to retain it for the fulfilment of the positive precept of the leper's offering. The verse is therefore necessary to exclude this possibility.

(23) Why should the precept of the leper's offering be considered more important so as to override the precept of letting the dam go?

(24) Shab. 116a and elsewhere.

(25) Cf. Num. V, 23.

(26) Lev. XIV, 8.

(27) Cf. Deut. V, 27: Go say to them: Return to your tents, which was a permission to resume marital relations.

(28) I.e., the offering of birds which brings about the leper's purification and also the restoration of conjugal relationships.

(29) Lit., 'in which there is (the command,) Rise and do'.

(30) Provided one fulfilled the, remedial positive act immediately according to one view above, or one did not nullify the chances of performing the remedial act according to the other view above. V. supra p. 815, n. 8 and p. 816, n. 1, notes 5 and 6, and Mak. 15b.

(31) And therefore once the dam has been taken both the negative and positive precepts have been infringed, and one is no longer obliged to send it away. V. p. 816, n. 3.

(32) Lev. XIX, 13.

(33) Ibid. V, 23. This precept obviously can only be taken as a remedial act for the preceding prohibition; nevertheless according to R. Judah the robber incurs the penalty of stripes.

(34) So in MS.M. 'To them', i.e., to the students in the Beth Hamidrash (House of Study) who quoted the foregoing teaching. Cur. edd. 'to him'.

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R. Hiyya and R. Oshaia[1] is not authentic, and that you should not put it forward as a refutation in the Beth Hamidrash? Perhaps it was taught thus: [A thief and a robber] are not subject to the penalty of forty stripes.

Come and hear: R. Oshaia and R. Hiyya taught: [It is written,] Thou shall not go back [to fetch it],[2] but if a man went back [and gathered the forgotten sheaf] — [It is written,] Thou shalt not wholly reap,[3] but if a man did reap the whole field — he is subject to the penalty of forty stripes;[4] so R. Judah. You may infer from this that the reason for R. Judah's view is that he is of the opinion that [for the transgression of] a negative precept which can be remedied by a subsequent act [of the transgressor] one incurs stripes! — Perhaps the reason here is that he maintains that the precept of leaving [the gleanings etc. for the poor] was intended only in the first instance.[5] Rabina said to R. Ashi: Come and hear: [It is written,] And ye shall let nothing of it remain until the morning; [and that which remaineth of it until the morning] ye shall burn with fire.[6] Scripture here came and provided a positive precept as a remedy for[7] the [disregarded] prohibition, to indicate that the prohibition is not punishable by stripes; so R. Judah. You may then infer from this that the reason for R. Judah's view [in our Mishnah] is that he maintains that the precept of letting [the dam] go was intended only in the first instance. This indeed proves it.[8]

R. Idi b. Abin said to R. Ashi: Our Mishnah also proves it, for it states: IF A MAN TOOK THE DAM WITH THE YOUNG, R. JUDAH SAYS, HE HAS INCURRED [FORTY] STRIPES, AND HE NEED NOT NOW LET HER GO. Now if you were to say that the reason for R. Judah's view is that he is of the opinion that [for the transgression of] a negative precept which can be remedied by a subsequent act [of the transgressor] one incurs guilt,[9] then it should have stated: 'He has incurred [forty] stripes and must also let her go'! — Perhaps the Mishnah is to be interpreted thus: He has not cleared himself [by merely letting her go] until he has suffered stripes.[10]

How far must he let it go? — Rab Judah said, until it is out of his reach.[11]

How should he let it go? — R. Huna said: With its feet.[12] Rab Judah said: With its wings.[13] 'R. Huna said: With its feet', for it is written: That let go freely the feet of the ox and the ass.[14] 'Rab Judah said: With its wings', for its wings are also [regarded as feet].[15]

A man once clipped the wings [of the dam before letting it go], let it go and then caught it again. Rab Judah had him flogged and ordered him: ‘Go, keep it until it grows its wing feathers again and then let it go’. But whose view did he adopt? For according to R. Judah he suffers stripes but need not let it go, and according to the Sages he must let it go but does not suffer stripes? — In truth he adopted the view of the Sages, but [the flogging] was chastisement of the Rabbis.[16]

A man once came to Raba and asked: What is the law with regard to the Temah?[17] Said [Raba to himself]: Does not this man know that one is bound to let go a clean bird? He [Raba] then said to him: Perhaps [you enquire because] there was [in the nest] but one young bird or one egg? He replied: That is so.[18] Then said [Raba] to him: This surely should not give rise to any doubt;[18] it is expressly stated in our Mishnah: If there was but one young bird or one egg [in the nest], one is still bound to let [the dam] go. The other then sent it away; whereupon Raba set snares for it and caught it. But is there not ground here for suspicion?[19] — He acted in an indirect manner[20] [as did not give rise to suspicion].

Our Rabbis taught:[21] [Wild] doves of the dove-cote,[22] and doves[22] of the loft, are subject to the law of letting [the dam] go, and are forbidden as [coming within the category of] theft in the interest of peace.[23] Now if the dictum of R. Jose b. Hanina,[24] that a man's courtyard acquires [property] for him even without his knowledge, is correct, then apply to this case the verse: If a bird's nest chance to be before thee, which excludes that which is always at one's disposal![25] — Raba[26] said: As soon as the greater part of the egg has emerged [from the body of the bird] the law of letting [the dam] go applies, whereas [the owner of the dovecote] does not acquire it until it falls into his courtyard; therefore the ruling: ‘Are subject to the law of letting [the dam] go’ means, before it falls into his courtyard.[27] If so, why are they forbidden as theft?[28] — That refers to the mother-bird.[29] Alternatively, you may say, it refers indeed to the eggs, for when the greater part of the egg has emerged his mind is set upon it.[30] But now that Rab Judah has said in Rab's name that it is forbidden to take the eggs so long as the dam is sitting on them, for it is written: Thou shalt in any wise let the dam go,[31] and then only: Thou mayest take the young to thee,[31] — you may even say that it [the egg] fell into his courtyard, [nevertheless the law of letting the dam go applies], for whenever he himself may acquire it his courtyard acquires it for him, but whenever he himself may not acquire it his courtyard cannot acquire it for him either.[32] If so, why are they forbidden as theft in the interests of peace? If he[33] let the dam go, then [to take the eggs] is actual theft,[34] and if he did not let it go, then he is bound to let it go?[35] — We are referring to a minor.[36] But is a minor subject to provisions enacted in the interests of peace? — It means this: The father of the minor must return [the eggs][37] in the interests of peace.

Levi b. Simon assigned to Rab Judah the young of his dovecote. When the latter came before Samuel he advised him: ‘Go, knock on the nest so that [the brooding birds] shall rise up, and then take possession’. But why was this necessary?[38] If in order to take possession of them;[39] but surely he could have acquired them by means of a ‘cloth’.[40] And if for the purpose of the Festival,[41]

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(1) Who were disciples of R. Judah the Patriarch who collected the Baraitha (v. Glos.).

(2) Deut. XXIV, 19.

(3) Lev. XIX, 9.

(4) Although in each case the Torah provides a remedial act, to leave the forgotten sheaf and the corner of the field for the poor and the stranger.

(5) But once the law has been transgressed there is no longer a duty to leave them for the poor; hence the precept ‘to leave’ is not a remedial act.

(6) Ex. XII, 10.

(7) Lit., ‘after’.

(8) It cannot be otherwise since here R. Judah expressly states his view that for the transgression of a negative precept which can be remedied by a subsequent act of the transgressor one does not incur stripes.

(9) And on this assumption the precept of letting the dam go must be observed even after the transgression of the law.

(10) I.e., although he is bound even now to let her go he nevertheless suffers forty stripes.

(11) And then if this same person succeeds in catching it again he is permitted to use it.

(12) I.e., he must let it go so that it should be able to walk away on its feet. In this manner he has fulfilled his obligation even though he may have injured its wings so that it cannot fly away. Aliter: he must get hold of it with its feet and set it free.

(13) I.e., that it should be able to fly with its wings.

(14) Isa. XXXII, 20. The expression 'feet' is used in connection with 'letting go'.

(15) So MS.M. V. Rashal and Maharsha a.l. Cur. edd. 'since these are its wings'.

(16) The punishment decreed by the Rabbis for disobedience as opposed to stripes ordained by Biblical law.

(17) A clean bird, perhaps the bullfinch, cf. Lewysohn, Zoologie des Talmuds, p. 181.

(18) The text in cur. edd. is doubtful; the translation rests upon the reading in MS.M.

(19) That Raba ordered the other to let the dam go only that he might gain possession of it himself.

(20) Lit., 'as though (doing a thing) with the back of the hand'.

(21) B.M. 102a.

(22) I.e., doves that roam at large seeking their food in the open field, but come to rest for the night in the dove-cote or in the loft.

(23) Strictly they do not belong to the owner of the dove-cote, but the Rabbis, for the sake of peace, and knowing that he has set his mind on them, recognized his right to them as against all others.

(24) V. B.M. 11a, and 102a.

(25) And since the dove-cote has acquired the eggs for the owner the law of letting the dam go surely cannot apply.

(26) So in B.M. 102a. Cur. edd. 'Rab'; in MS.M. 'Rabbah'.

(27) Since the egg has not emerged entirely the dove-cote has not acquired it for the owner, so that it is not at his disposal; and therefore it is subject to the law of sending away.

(28) Seeing that the egg has not yet become the property of the owner of the dove-cote.

(29) I.e., to take away the mother-bird is regarded by the Rabbis as theft, but only in the interests of peace, for the owner of the dove-cote has no doubt been looking forward to acquire this bird, since it has nested from time to time in his dove-cote, and it would therefore be wrong to deprive him of it. Similarly to take the egg, inasmuch as it has not wholly emerged from the mother-bird but is deemed a part thereof, would also constitute theft (Rashi). Cf. however Tosaf. B.M. 102a, s.v. אי.

(30) And therefore, in the interests of peace, it is forbidden to deprive the owner of the dove-cote of these eggs to which he has been looking forward; but in respect of the mother-bird he has no better claim than a stranger. And on the other hand, so long as the egg has not actually been laid the law of letting the dam go still applies.

(31) Deut. XXII, 7.

(32) And since he cannot acquire it himself for the dam is sitting on it, his courtyard likewise cannot acquire it for him, so that it is not at his disposal, and therefore the law of letting the dam go applies.

(33) Sc. any person who comes to take the eggs.

(34) For as soon as the dam is lifted up from the eggs the latter become the property of the owner of the courtyard.

(35) Before the eggs can be taken, so that they are forbidden in any case.

(36) Who is about to take the eggs from the dove-cote and upon whom the law of letting the dam go is not binding.

(37) To the owner of the dove-cote.

(38) To knock on the nest so as to make the birds rise up.

(39) According to the usual manner of acquiring a thing by lifting up.

(40) The passing of a cloth or any article from one party to the other effected the transfer of the subject matter 'of the transaction. V. B.M. 47a. Cf. Ruth IV, 7.

(41) Whatever is intended to be used on the Festival must be 'set in readiness' before the Festival, otherwise it would be regarded as mukzeh, i.e., laid aside and not to be used on the Festival. The knocking on the nest would therefore be regarded as setting them in readiness for the Festival.

Talmud - Mas. Chullin 142a

it is sufficient to stand by and say: ‘This one and that one I shall take’.[1] — These eggs[2] were newly laid and Levi b. Simon himself had not yet acquired them.[3] [Samuel] therefore said this to him [Rab Judah], ‘Go knock on the nest so that [the brooding birds] shall rise up and Levi b. Simon shall acquire them, and afterwards let him assign them to you by means of a "cloth".’

MISHNAH. A MAN MAY NOT TAKE THE DAM WITH THE YOUNG EVEN FOR THE SAKE OF CLEANSING THE LEPER.[4] IF IN RESPECT OF SO LIGHT A PRECEPT, WHICH DEALS WITH THAT WHICH IS BUT WORTH AN ISSAR,[5] THE TORAH SAID, THAT IT MAY BE WELL WITH THEE, AND THAT THOU MAYEST PROLONG THY DAYS,[6] HOW MUCH MORE [MUST BE THE REWARD] FOR THE OBSERVANCE OF THE MORE DIFFICULT PRECEPTS OF THE TORAH!

GEMARA. It was taught: R. Jacob says,[7] There is no precept in the Torah, where reward is stated by its side, from which you cannot infer the doctrine of the resurrection of the dead.[8] Thus, in connection with honouring parents it is written: That thy days may be prolonged, and that it may go well with thee.[9] Again in connection with the law of letting [the dam] go from the nest it is written: ‘That it may be well with thee, and that thou mayest prolong thy days’. Now, in the case where a man's father said to him, ‘Go up to the top of the building and bring me down some young birds’, and he went up to the top of the building, let the dam go and took the young ones, and on his return he fell and was killed-where is this man's length of days, and where is this man's happiness? But ‘that thy days may be prolonged’ refers to the world that is wholly long,[10] and ‘that it may go well with thee’ refers to the world that is wholly good.[10] But[11] perhaps such a thing could not happen? — R. Jacob actually saw this occurrence. Then perhaps that person had conceived in his mind a sinful thought? — The Holy One, blessed be He, does not reckon the sinful thought for the deed.[12] Perhaps then he had conceived in his mind idolatry, and it is written: That I may take the house of Israel in their own heart,[13] which, according to R. Aha b. Jacob, refers to thoughts of idolatry?[14] — This was what he [R. Jacob] meant to convey: if there is a reward for precepts in this world, then surely that [reward] should have stood him in good stead and guarded him from such thoughts that he come not to any hurt; we must therefore say that there is no reward for precepts in this world.

But did not R. Eleazar say that those engaged[15] in [the performance of] a precept never come to harm? — When returning from the performance of a precept it is different. But did not R. Eleazar say that those engaged in a precept never come to harm, either when going [to perform it] or when returning [from the performance thereof?] — It must have been a broken ladder [that was used],[16] so that injury was likely; and where injury is likely it is different, as tt is written: And Samuel said: How can I go? If Saul hear it, he will kill me.[17]

R. Joseph said: Had Aher[18] interpreted this verse[19] as R. Jacob, his daughter's son, did, he would not have sinned. What actually did he see? — Some say: He saw such an occurrence.[20] Others say, He saw the tongue of R. Huzpith the Interpreter[21] lying on a dung-heap, and he exclaimed, ‘Shall the mouth that uttered pearls lick the dust’! But he knew not that the verse: ‘That it may go well with thee’, refers to the world that is wholly good, and that the verse: That thy days may be prolonged’ refers to the world that is wholly long.

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(1) In accordance with the view of Beth Hillel; Bez. 10a.

(2) Lit., ‘these fruits’. The eggs were newly laid and the dam was still sitting over them.

(3) For so long as the dam was sitting upon them his courtyard could not acquire the eggs for him.

(4) For whose purification rites two birds were required, one to be slaughtered and the other to be set free into the open field, cf. Lev. XIV, 4ff.

(5) V. Glos. Rarely would the dam be worth more than an issar.

(6) Deut. XXII, 7.

(7) The word דבי ‘in the school of’ is to be omitted, so in MS.M. and in Kid. 39b.

(8) Lit., ‘upon which the doctrine of the resurrection of the dead does not depend’.

(9) Deut. V, 16.

(10) The promise of bliss is to be fulfilled in the world to come, and one must not expect to receive the reward of a good deed in this world; v. infra, and Kid. loc. cit.

(11) The rest of this chapter from this point is omitted in MS.M., and apparently it was not in the text before Rashi; cf. Tosef. Hul. end. It has been inserted here from Kid. loc. cit.

(12) Lit., ‘He does not combine the (evil) thought with the (evil) deed’; i.e., God does not punish for the sinful thought.

(13) Ezek. XIV, 5.

(14) l.e., the intention to serve idolatry is punishable like the act.

(15) Lit., ‘sent’.

(16) By the person who went up to the top of the building to fetch the young ones.

(17) 1 Sam. XVI, 2. Although Samuel was bidden by God he nevertheless hesitated for the danger of his mission was apparent.

(18) Lit., ‘Another’, ‘a stranger’, the name attached to Elisha b. Abuyah, the great scholar and teacher of R. Meir, on his apostasy, V. Hag. 15a.

(19) Which promises happiness and length of days to him that performs the commandment; cf. Deut. V, 16, and XXII, 7.

(20) Where a person engaged in the performance of a precept met with an accident and was killed. This incident made him doubt the truth of the Torah and he turned unbeliever.

(21) A martyr of the Hadrianic persecution. He is mentioned in the Mishnah once only; Sheb. X, 6. He acted as Interpreter or Amora (v. Glos.) for R. Gamaliel, v. Ber. 27b.

Talmud - Mas. Bechoroth 2a

CHAPTER I

MISHNAH. [AN ISRAELITE] WHO BUYS AN EMBRYO[1] OF AN ASS BELONGING TO A HEATHEN OR WHO SELLS ONE TO HIM, ALTHOUGH THIS IS NOT PERMITTED,[2] OR WHO FORMS A PARTNERSHIP WITH HIM,[3] OR WHO RECEIVES [AN ANIMAL] FROM HIM TO LOOK AFTER[4] OR WHO GIVES [HIS ASS] TO HIM TO LOOK AFTER,[5] IS EXEMPT FROM THE [LAW OF THE] FIRSTLING,[6] FOR IT SAYS:[7] ['I HALLOWED UNTO ME ALL THE FIRSTBORN] IN ISRAEL', BUT NOT IN GENTILES[8]

GEMARA. What need is there for all these [cases mentioned in the Mishnah?[9] — It is necessary [to state all these cases]. For if it taught only the case of HE WHO BUYS etc., I might have thought the reason was because he brings it [the animal] into the state of holiness[10] but where he sells [to a heathen], since he releases it from holiness, he should be punished.[11] He accordingly states the second case [WHO SELLS etc.] What need is there for the statement OR WHO FORMS A PARTNERSHIP WITH HIM?[12] — It is to exclude the ruling of R. Judah Who said: A partnership with a heathen is subject to the law of the first-born.[13] [The Mishnah] accordingly informs us [that a partnership with a heathen exempts the Israelite from the duty of the first-born]. What need is there for the case OR [AN ISRAELITE] WHO RECEIVES etc.?[14] — It is necessary because [the Mishnah] wishes to teach the next case: OR [AN ISRAELITE] WHO GIVES [HIS ASS] TO HIM TO LOOK AFTER. And what need is there to state [the latter case itself.] OR [AN ISRAELITE] WHO GIVES etc.?[15] — It is necessary. You might be inclined to assume that since the animal itself belongs to the Israelite[16] we should punish him lest one come to confuse this with another animal.[17] [The Mishnah] accordingly informs us that we have no such fear. We have learnt elsewhere:[18] R. Judah permits the selling to a heathen of a maimed [animal][19] Ben Bathyra permits the selling of a horse.[20] The question was asked: What is R. Judah's ruling on selling an embryo to a heathen? Is the reason of R. Judah for allowing in that case[21] because the animal is maimed and therefore an embryo also being incapable of work is on a par with a maimed [animal]? Or is the reason perhaps because a maimed [animal] is not a frequent occurrence,[22] but a case of an embryo, being a frequent occurrence,[23] is unlike the case of a maimed [animal]? — Come and hear: OR WHO SELLS AN EMBRYO TO HIM ALTHOUGH HE IS NOT PERMITTED; and R. Judah does not contest this![24] — But, according to your argument [in the cases mentioned in the Mishnah] OR WHO FORMS A PARTNERSHIP OR WHO RECEIVES FROM HIM OR WHO GIVES HIM, where [the Mishnah] does not expressly state that R. Judah differs, is it really the fact that he does not differ?[25] You must admit that he does differ without [the Mishnah] saying so; similarly here[26] also he differs without the Mishnah saying so. Come and hear: R. Judah says: If one received an animal from a heathen to look after[27] and it gave birth [to a firstling] we settle [with the gentile partner] for what it is worth and half of its value is given to the priest.[28] Or if [an Israelite] gives [an animal] to him [a heathen] to look after, although he is not permitted.[29] we punish him by compelling him to redeem the animal[30] even up to ten times its value and he gives its whole value to the priest.

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(1) A firstling.

(2) For one is forbidden to sell large cattle to a heathen because the animal is worked on the Sabbath. (A.Z. 14b).

(3) Both purchasing an animal between them.

(4) The Israelite for attending to the animal receiving in payment half of the offspring, but the animal itself belonging to the heathen.

(5) The Israelite sharing a half or a third of the offspring.

(6) Which required the Israelite to set apart the first-born as holy to be given to the priest and in the case of the firstling of an ass, to redeem it with a sheep, failing which its neck was broken. (Ex. XIII, 12, 13).

(7) Num. III, 13.

(8) Lit., 'in others'; where a Gentile has any share in the mother or the offspring, the firstborn is not holy.

(9) HE WHO . . . . SELLS ... FORMS A PARTNERSHIP etc., since obviously the principle that a non-Jew sharing in an animal or its offspring exempts the Israelite from the law of the first-born and which is applied in the first case (HE WHO BUYS etc.), applies equally to the others.
(10) The animal coming into the possession of an Israelite will now rest on the Sabbath and therefore, having thereby performed a meritorious act he should not be punished by being made liable to observe the law of the firstling.
(11) By being compelled to redeem it and give it to the priest.
(12) If where the whole firstling belongs to the Israelite he is exempt, how much more so when he only shares in the offspring as a partner?
(13) Half of the value of the first-born is consequently given to the priest.
(14) Since, clearly, the rule that a non-Jew sharing in the animal or offspring exempts the Israelite from the law of the firstborn, applies here as in the previous passages.
(15) What is the difference whether the Israelite undertakes to care for the heathen's animal or the non-Jew undertakes to attend to the Israelite's animal? For in both instances, since the non-Jew has a share in the offspring, the law of the first-born does not apply.
(16) In the case of: OR WHO GIVES HIM etc., the whole animal, as well as half of the offspring. belongs to the Israelite.
(17) In which the gentile has no portion either in the mother or in its offspring, claiming that exemption is also applicable in this instance.
(18) A.Z. 14b.
(19) An animal with a broken leg. The permission refers only to a place where there is no fear of carnal relations with animals.
(20) Since a horse is generally used for riding, and if a gentile employed it in that manner on the Sabbath, there would be no breaking of the biblical prohibition of the Sabbath law, as riding on the Sabbath is only a rabbinic restriction.
(21) In the case of a maimed animal.
(22) And therefore we do not fear that if this is permitted, one would sell an ordinary animal to a heathen.
(23) Because after its birth it is fit for work, and therefore if we allow it to be sold as an embryo, we may think that it is also permissible to sell an ordinary animal to a heathen.
(24) And we are dealing with the case of an embryo and the Mishnah says ALTHOUGH HE IS NOT PERMITTED. Hence from the silence of R. Judah we may infer that the selling of an embryo to a heathen is forbidden according to every authority.
(25) R. Judah differs from the Mishnah, as we have seen, with reference to a partnership with a heathen, and he also differs as stated later in the cases where an Israelite undertakes to look after a heathen's animal where a heathen looks after an Israelite's animal.
(26) Where an Israelite sells an embryo to a heathen.
(27) To share half the offspring between the Israelite and the heathen.
(28) The animal, however, is not consecrated for sacrifice on the altar, since half of it belongs to a heathen.
(29) To sell an animal to a heathen.
(30) From the possession of the heathen.

Talmud - Mas. Bechoroth 2b

Now, does this[1] not refer to the case of an embryo?[2] — No, it refers to the animal.[3] But it does not say ‘damaw’ [‘its value’]?[4] — Read ‘dameha’.[5] But does it not say ‘and he gives its whole value to the Priest’? Now if [the words ‘its value’] refer to the animal, what has the priest to do with it?[6] — [No.][7] We are dealing here with a case where e.g., [an Israelite] gave him a pregnant animal to fatten;[8] since we punish him for [selling the] animal [to a gentile,] we also punish him for [selling] an embryo.[9] Said R. Ashi, Come and hear: R. Judah permits the selling of a maimed [animal].[10] because it cannot be cured.[11] But if it could be cured, it would be forbidden. Now, is not an embryo also like [an animal] which can be cured?[12] Deduce, therefore, from this [that it is forbidden to sell an embryo to a heathen according to R. Judah].

Some there are who referred [R. Judah's ruling on an embryo] to our Mishnah:[13] AND WHO

SELLS [AN EMBRYO] TO HIM [A HEATHEN] ALTHOUGH HE IS NOT PERMITTED. May we say that the Mishnah is not in agreement with R. Judah? For we have learnt: R. Judah permits the selling of a maimed [animal]![14] — You can even say [that the Mishnah] agrees with R. Judah. For the case of a maimed [animal] is not a frequent occurrence[15] whereas the case of an embryo is a frequent occurrence.[16] Come and hear: R. Judah Says: if one received an animal from a heathen to look after and it gave birth [to a firstling], we settle [with the gentile partner] for what it is worth and half of its value is given to the priest. Or if [an Israelite] gives [an animal] to him to look after, although he is not permitted to do so, we punish him [by making him, redeem the animal] even up to ten times its value and he gives its whole value to the Priest. Now, does this not refer to the case of an embryo? — No, it refers to the animal. But does it not say ‘damaw’? [‘its value’?] — Read ‘dameha’. But does it not say ‘and he gives its whole value to the Priest’? Now if [the words ‘its value’] refer to the animal, what has the Priest to do with it? — We are dealing here with a case where e.g., an Israelite gave him a pregnant animal to fatten, and since we punish him for [selling] the animal [to a gentile,] we also punish him for [selling] an embryo. Said R. Ashi, Come and hear: R. Judah permits the selling of a maimed [animal] because it cannot be cured. But if it could be cured it would be forbidden. And an embryo is on a par with an animal that can be cured. Deduce therefore from this [that according to R. Judah it is not allowed to sell an embryo to a heathen]. The following query was put forward: If one sold an animal for its [future] offspring [to a gentile,][17] what is the ruling?[18] You can put this question to R. Judah and you can put this query to the Rabbis.[19] You can put the query to R. Judah thus: are we to say that R. Judah only permits the case of a maimed [animal][20] because he [the Israelite] will not come to confuse it with another animal and sell it [to a heathen], but in the case of a whole animal,[21] where he may confuse it with another, [he will say that] it is forbidden, or are we to say that perhaps, if in the case of a maimed [animal] where he severs all connection with it,[22] [it is allowed,] how much more so in the case of a whole animal where he has not severed all connection with it?[23] You can put this query to the Rabbis, thus: are we to say that the Rabbis only prohibit in the case of a maimed [animal] because he severs all connection with it,[24] but in the case of a whole animal, where he does not sever his connection from the animal, it is permissible; or are we perhaps to say that if in the case of a maimed [animal], where he will not come to confuse it [with another animal], they forbid [the selling to a heathen,] how much more so in the case of a whole animal, is there the fear [of confusion.][25] But is the reason of the Rabbis because of what [is stated] here?[26] Has it not been taught: They, [the Rabbis,] said to R. Judah:[27] Is it not possible to couple [an animal with a broken foot] so that it gives birth? Consequently, the reason is on account of the [future] offspring?[28] — This is what the Rabbis said [to R. Judah:] ‘Our reason [why we forbid the selling of a maimed animal] is because he may come to confuse it with another [animal]. But as for you, why do you permit a maimed [animal]? [It is] because it cannot be cured, and therefore it is as if he had sold it to be slaughtered.[29] But do we not couple it and it gives birth? And since we couple it and it gives birth, he will detain it.’[30] And thereupon he replied to them: ‘When it gives birth,[31] for [in fact] it cannot take a male [for coupling purposes]’.[32] Come and hear: OR AN ISRAELITE WHO GIVES [HIS ASS] TO HIM [A HEATHEN] TO LOOK AFTER. And it does not say ‘although he is not permitted’![33] — But, according to your argument, when it says: OR WHO FORMS A PARTNERSHIP WITH HIM, since it does not say [it is forbidden,] are we to infer that it is allowed? Has not the father of Samuel said: One must not form a partnership with a heathen lest he [the heathen] will be bound to take an oath to him and he will swear in the name of his idol and the Torah says: [And make no mention of the name of other gods.] neither let it be heard out of thy mouth?[34] You must, therefore, admit that when [the Mishnah] lays down that selling [to a heathen] is forbidden[35] the same ruling applies to a partnership [with a heathen]. Likewise here also when [the Mishnah] lays down that selling [is prohibited] the same ruling applies to kablanuth.[36] Why then does the Mishnah cite [the prohibition] specifically in connection with selling?[37] — Because the main prohibition refers to the selling. Come and hear: R. Judah said: If one receives an animal from a heathen to look after and it gives birth [to a first-born] we settle [with the gentile partner] for what it is worth and half of its value is given to the priest. If again an Israelite gives an animal [to a heathen] to look after, although [he knows that] this is not permitted, we fine him even up to ten times its value and he gives its whole value to the Priest.[38] But the Sages say, so long a gentile has a share in it,[39] it is exempt from the law of the first-born.

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(1) The statement that we punish him because he is not permitted to sell to a heathen.

(2) I.e., where an Israelite gives a pregnant animal to a heathen to look after, both sharing the offspring while the animal itself belongs to the Israelite, the words ‘although it is not permitted’ referring to the embryo. We punish him by making him give the value of the embryo to the Priest. Hence we can deduce that one is forbidden to sell an embryo to a heathen.

(3) The words ‘although it is not permitted’ refer to the animal, but an embryo is allowed to be sold to a heathen.

(4) The masculine ending of the Hebrew word דמיו , proves that it refers to the embryo.

(5) With a feminine ending referring to בהמה (animal), which is a feminine noun.

(6) The Priest having no claim on the animal itself, only on its first-born.

(7) We cannot deduce from here the prohibition to sell an embryo to a heathen.

(8) The Israelite and the heathen share the offspring and any increase in the animal's value after it is sold.

(9) But elsewhere, R. Judah may hold that an embryo may be sold to a gentile, just as he allows the selling of a maimed animal.

(10) Supra p. 2, n. 8.

(11) To enable it to do work on the Sabbath.

(12) For in time, after its birth, it will be fit for work.

(13) And do not, in the first place, propound a query which they subsequently attempt to solve from the Mishnah.

(14) And an embryo may be compared with a maimed animal since in both cases the animals are unable to work, and therefore R. Judah will hold that an embryo may be sold to a heathen, contrary to the ruling of our Mishnah.

(15) As it is an unusual occurrence, R. Judah permits its selling, and we do not fear lest one will sell in other circumstances also.

(16) If we therefore permit in this case, one may come to sell in other cases also.

(17) The animal itself, however, he does not sell.

(18) Should we punish him by forcing him to redeem the animal for having broken the rule prohibiting the selling of large cattle to a gentile?

(19) Who differ from R. Judah with reference to a maimed animal.

(20) Supra p. 4, n. 22.

(21) As in our query, he may think that it is permissible to sell to a gentile a whole animal, since here, too, we allow him to sell an animal for its future offspring.

(22) The Israelite leaving nothing for himself after selling.

(23) Since the animal itself belongs to the Israelite and is not yet pregnant, and when the offspring is born, it will be in the possession of the heathen.

(24) The selling her is complete and, therefore, there is the fear that one might sell also a whole animal to a heathen.

(25) For another animal, where the selling is complete and the Israelite has no share in the animal, unlike the circumstances in our query, where the animal still belongs to the Israelite and there is as yet no offspring.

(26) So that the above query naturally arises.

(27) In arguing why they forbid the selling of a sheburah to a heathen.

(28) We may therefore solve from here our query by concluding that according to the Rabbis it is forbidden to sell an animal to a heathen for the sake of its future offspring, and according to R. Judah it is permissible.

(29) Therefore there can be no fear that one might substitute another animal which is not to be slaughtered and sell it to a gentile.

(30) For the sake of its offspring, and one who sees it in the house of a heathen at the end of a year or two may come to the conclusion that it is permissible to sell an animal which is not for slaughter to a heathen.

(31) You will then inform me.

(32) Because of the animal's disability.

(33) Now here the animal was sold to the heathen for its offspring and therefore we can infer that it is permissible to sell an animal to a gentile for its future offspring.

(34) Ex. XXIII, 23. ‘Out of thy mouth’, caused by thy mouth, i.e., when you are responsible for the heathen's oath, which shows that it is not allowed.

(35) The passage in the Mishnah ALTHOUGH HE IS NOT PERMITTED.

(36) Where the heathen undertakes to take care of the Israelite's animal in return for its offspring.
(37) And not in connection with the other cases enumerated in the Mishnah.
(38) Supra 2b.
(39) Lit., 'has a hand in the middle'.

Talmud - Mas. Bechoroth 3a

Now, does not this statement[1] deal with the case of the animal? — No. It deals with the case of an embryo.[2] I can also prove this [from the wording]. For it says: We fine him up to ten times its value; from which you may deduce that it refers to the embryo.[3] [The ruling that we punish him for selling to a gentile] supports the view of Resh Lakish. For Resh Lakish said: If one sells large cattle to a heathen, we punish him by forcing him [to redeem the animal][4] even up to ten times its value. [Does Resh Lakish mean] exactly ten times or not?[5] — Come and hear: For R. Joshua b. Levi said: If one sells a slave to a heathen, we punish him by forcing him [to redeem the slave] even up to a hundred times his value.[6] — The case of a slave is different, for every day he [his gentile master] prevents him from carrying out religious duties.[7] Another version [of this argument] is: Said Resh Lakish: If one sells large cattle to a heathen, we punish him by forcing him to redeem the animal even up to one hundred times its value. But we have learnt in a Mishnah: or if [an Israelite] gives an animal to him [a heathen] to look after, although he is not permitted, we punish him by forcing him [to redeem the animal] even up to ten times its value![8] — By selling he severs all connection with it [the animal.][9] But in the 'case of kablanuth[10] there is no severing of his connection with the animal.[11] [Does Resh Lakish mean] exactly [one hundred times] or not?[12] — Come and hear: For R. Joshua b. Levi said: If one sells his slave to a heathen, we punish him by forcing him [to redeem the slave], even up to ten times his value![13] — The case of a slave is different, for he does not return[14] [to his master after being redeemed].[15] Now in the case of an animal, what is the reason [why an Israelite is forced to redeem it even up to one hundred times its value]? Presumably, because it comes back [to its master]. Let us then force him [to pay] once over [the ten etc.]?[16] — Rather the reason must be because the case of a slave [being sold to a heathen] is a rare occurrence,[17] and any case which is of a rare occurrence, the Rabbis did not [in their rulings] guard against.[18] 'But the Sages say: So long a gentile has a share in it etc.' Said R. Joshua:[19] And both[20] expounded the same verse: [Sanctify unto me] all the first-born [whatsoever openeth the womb in Israel].[21] The Rabbis hold that [the word] 'first-born' is to be understood as meaning even if a portion [of a first-born] belongs to an Israelite.[22] Therefore the Divine Law inserts the word 'all' implying that the whole [of the first-born must belong to the Israelite].[23] R. Judah on the other hand holds that the word 'first-born' [by itself] is to be understood as meaning the whole of the first-born. Therefore the Divine Law inserts 'all' to show that even if any portion whatsoever [of the first-born belongs to the Israelite it[24] is subject to the law of the firstling.] Or if you prefer, I may say that all [the authorities] understand that the word 'first-born' denotes the larger part [of the animal]. One Master, however, holds that the [purport of the] word 'all' is to add[25] while the other Master[26] holds that it is to diminish.[27] And how much must a gentile's share be to exempt [the animal] from the law of the first-born? — Said R. Huna: Even if it is no more than of the [firstling's] ears. R. Nahman demurred. Let him [the Priest] say to him [the gentile] 'Take your portion of the ear and go'?[28] It was stated: R. Hisda said: [The heathen's share in the animal] must be something which renders an animal nebelah.[29] Raba said: [The heathen's share in the animal] must be something which renders it trefah.[30] What is the point at issue between them? — Whether a trefah can live. He who says that [the gentile's share in the animal] must be something which renders it trefah, would maintain that a trefah cannot live,[31] whereas he who says [the gentile's share] must be something which renders the animal nebelah but a trefah, he would maintain, that it is able to live.[32] The Rabbis said in the presence of R. Papa: The ruling of R. Huna on the one hand and the rulings of R. Hisda and Raba on the other, do not differ.[33] The one [R. Huna's] relates to it [the first-born;][34] the other [the rulings of R. Hisda and Raba] relate to the mother.[35] Said R. Papa to them [the Rabbis]: Why is there this ruling in connection with the first-born? [Presumably] because we require [the condition of] 'all of the first-born'[36] and it is not found here.[37] In connection with its mother also,[38] we require [the condition specified in the verse]: And of all thy cattle thou shalt sanctify the males,[39] which is not found here. But there is in fact no difference.[40] Mar, the son of R. Ashi demurred: Why should this[41] be different from the premature [first births] of animals, which although they are not viable, are sacred? For a Master said: The words, [And every firstling that is a male] which thou hast coming from an animal [shall be the Lord's],[42] [denote the foetus] which dwells in the animal? — There,[43] since there is no mixture of an unconsecrated [part of the animal],[44] we apply to it the words ‘in the animal’, ‘all the first-born’.[45] Here,[46] however, since there is a mixture of the unconsecrated part of the animal,[47] we do not read concerning it the words ‘all the first-born’.[48] R. Eleazar once did not attend the House of Study. He came across R. Assi and asked him ‘What did the Rabbis say in the House of Study’? — He replied

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(1) The ruling that we punish the Israelite to redeem it from the gentile refers to the animal. Consequently we see that if one sold an animal to a gentile for its future offspring, we punish him according to both the ruling of R. Judah and the Rabbis, for the opponents of R. Judah only differ from him in connection with the first-born.

(2) We punish him for making over the embryo in a pregnant animal to a gentile. But with the case of an animal sold for its future offspring, we are not here concerned. Therefore we are unable to solve the above query.

(3) Since it says דמיו (‘its value’) with the masculine ending and also speaks of giving it to the Priest, v. supra p. 4, n. 2.

(4) From the possession of the heathen.

(5) Must the Israelite actually pay even ten times its value in order to redeem the animal or does the ruling only mean that even if the gentile demands a larger price than its worth, the Israelite is compelled to redeem it?

(6) Now, since it says here a hundred times the value of the object sold and in reference to an animal it states ten times, we can infer that ,the numbers are meant to be taken literally, for if it were otherwise, why does it not say in both instances either a hundred times or ten times?

(7) And in the case of a heathen slave he would be preventing him from living up to the obligations resting on the Noahide. We therefore force the Israelite to pay even one hundred times the value of the slave. But in the case of an animal, we are not so strict and the ten times mentioned may be taken as an exaggeration.

(8) Thus the Mishnah is contrary to the ruling of Resh Lakish.

(9) We therefore force him to pay even one hundred times its value to the gentile.

(10) The case in the Mishnah just cited where a heathen undertakes to attend to an Israelite's animal.

(11) Since the animal still belongs to the Israelite.

(12) Or is the one hundred times mentioned a mere hyperbole?

(13) And since in connection with a slave it says ten times and in reference to an animal one hundred times, we may infer that the numbers mentioned are not to be taken literally, for otherwise in the case of a slave where lie is prevented from observing his religious obligations, the penalty should be much more severe than in the case of an animal.

(14) According to Rashi he is automatically set free. Y. Git. 43b. R. Gershom says that the slave hates to return of his own free will to his former master, after the latter had sold him to a heathen.

(15) And therefore we do not force him to pay more than ten times the value of the object sold, but in the case of an animal the number stated may be taken as precise.

(16) Since the animal returns to its former owner it cannot be counted as part of the fine i.e. the Israelite should be forced to pay eleven times its value.

(17) And therefore we do not force the Israelite to pay more than ten times the value of the object sold.

(18) But in the case of selling an animal which is a frequent occurrence, the Rabbis were more stringent.

(19) Var. lec.: R. Johanan.

(20) The Sages and R. Judah.

(21) Ex. XIII, 2.

(22) In order to be subject to the law of the first-born.

(23) Meaning literally ‘all’.

(24) The animal.

(25) So that the entire animal must, be in the Israelite's possession.

(26) R. Judah.

(27) Meaning ‘any’, so that if the Israelite has a share in the first-born, however small, he is required to carry out the duty of the first-born.

(28) For a first-born, even with a blemish, although unfit for sacrifice on the altar, is given to the Priest.

(29) An animal that has died a natural death or was killed not in accordance with the Jewish ritual law, is called nebelah. If the gentile therefore had for his share an essential part of the animal the absence of which would make it impossible to perform ritual slaughter, e.g., its gullet or windpipe, since such a vital part of the animal was in his hand, it was as if the whole animal belonged to him and was therefore exempted from the law of the first-born.

(30) An animal afflicted with an organic disease or disability as e.g., the removal of a certain portion of the knee. v. Hul. 42a.

(31) And since the animal cannot live, it is as if it belonged completely to the gentile.

(32) The gentile consequently does not posses a vital part of the animal.

(33) R. Hisda and Raba however do differ.

(34) Even if the gentile has the share of an ear in it, the law of the first-born does not apply.

(35) And they differ as to whether the blemish must be of a nature which renders it nebelah or trefah.

(36) In the possession of the Israelite so as to be subject to the duty of the first-born.

(37) Where the ear belongs to the gentile.

(38) Where the gentile has an element in the animal which makes it either trefah or nebelah.

(39) Ex. XXXIV, 19, i.e. if the animal belongs entirely to you, then you are commanded to observe the law of the first-born.

(40) Between the mother and its first-born, and consequently R. Huna on the one hand and R. Hisda and Raba on the other, do actually differ.

(41) The case of a heathen having a share in an animal which renders it either trefah or nebelah.

(42) Ex. XIII, 12 שגר (sheger) coming from the word שגר (shegor), the root being גר to dwell, sojourn. Or שגר (shegor) that which it casts forth prematurely.

(43) In the case of premature first births.

(44) Shared by a heathen.

(45) Whatever is in the animal has the holiness of a firstling.

(46) In the case of the mother.

(47) Shared by a heathen.

(48) Which phrase denotes that any part shared by an Israelite makes it subject to the law of the first-born.

Talmud - Mas. Bechoroth 3b

Thus did R. Johanan say: Even if [the heathen's share in the firstling was only something constituting] a slight blemish,[1] And as to what we have learnt:[2] ‘A ewe which gave birth to a species of a goat or a goat which gave birth to a species of a ewe, is exempt from the duty of the firstling’.[3] But if [the offspring] possessed some features [similar to the mother] it is subject to the [law of the firstling]. [Thereon R. Johanan commented that this[4] means that] it is [like a firstling with] a permanent blemish, on account of which it is slaughtered.[5] We well understand R. Johanan laying down a ruling with reference to a slight blemish, for this informs us that [the law] is according to R. Huna and excludes the rulings of R. Hisda and Raba. But his ruling regarding a permanent blemish — what new thing does he teach us therewith? Is it to inform us that since it [the animal] is abnormal this is regarded as a blemish? [Surely] we have [already] learnt [this ruling[6] in a Mishnah]: Or if the firstling's mouth is like a pig, it is a blemish![7] And should you argue that [in the Mishnah just cited] the firstling has changed into a species [of animal] in which the sanctity of the firstling does not exist[8] but here the firstling has changed into a species [of animal] in which the sanctity of the firstling does exist,[9] this too we have learnt: If one of its eyes is large and one is small [it is a blemish].[10] And a Tanna taught that ‘large’ means large like a calf's and ‘small’, small like that of a goose. Now, we may giant your argument as far as [the case of a firstling] with a small eye like a goose is concerned, this being a species[11] in which the sanctity [of the firstling] does not exist.[12] But in the case of a large eye like a calf's — this is a species in which the sanctity of the firstling does exist.[13] Must you not therefore admit that [the reason is] that we say since [the animal] is abnormal, it is regarded as a blemish?[14] — No. The reason is because it is a sarua’.[15] This really also stands to reason. For we have learnt: The above mentioned blemishes, whether permanent or transitory, make also human beings unfit for the Priesthood. To these must be added in the case of blemishes of human beings, two large eyes or two small eyes.[16] [Because] with reference only to human beings it is written: Whatsoever man of the seed of Aaron[17] requiring 'man' among the seed of Aaron to be with normal [human features].[18] But the case of an animal, two large or two small eyes is not also regarded as a blemish. Now in the case of an animal with one large or one small eye what is the reason [why it is a blemish]? If because of the abnormality, then the same should apply to an animal with two large eyes or two small eyes? Then must you not admit that the reason [in the former case] is because of sarua'?[19] — No. I can indeed still say that [the reason why an animal with one large and one small eye is blemished] is because of the abnormality. And as for your question that the [same ruling] should apply to the case of an animal with two large and two small eyes, [the answer is that] there [in the latter instance] if [the change is] because of the animal's extra obesity, the two eyes need to be large, and if because of its unusual leanness, then both [eyes] have to be lean [small].[20] There was a woman proselyte to whom the Achii[21] gave an animal to fatten. She came before Raba.[22] He said to her: There is no authority that pays any attention to the ruling of R. Judah who said: The partnership of a heathen [in an animal] is subject to the law of the firstling. R. Mari b. Rahel possessed a herd of animals. He used to transfer [to a heathen] possession of the ears [of the firstlings while still in the womb].[23] He [nevertheless] forbade the shearing and the working of the animals and gave them to the Priests.[24] The herd of R. Mari b. Rahel died. Now, since he forbade the shearing and the working of the animals and gave them to the Priests, why did he give [a heathen] possession of the ears [of the firstlings?][25] — [It was] lest he should be led to commit an offence.[26] If so, why did the herd of R. Mari die?[27] — Because he deprived them of their holiness.[28] But has not Rab Judah said: One is permitted to make a blemish in a firstling before it comes into the world?[29] — There, [in the latter case] he deprives the animal of the holiness of being sacrificed on the altar but he does not deprive it of the holiness [of belonging to] the Priests.[30] But in the former case, he even deprives it of the holiness [of belonging to] the Priests.[31] Or, if you prefer, I may say that R. Mari b. Rahel knew how to make a valid transfer to a heathen.[32] But we are afraid that another man may see this and go and do [likewise], thinking that R. Mari did nothing significant[33] [when transferring to a heathen].[34] And thus he will be lead to commit an offence.

MISHNAH. PRIESTS AND LEVITES ARE EXEMPT[35] A FORTIORI: IF THEY EXEMPTED THE FIRST-BORN BELONGING TO THE ISRAELITES IN THE WILDERNESS,[36] IT FOLLOWS A FORTIORI THAT THEY SHOULD EXEMPT THEIR OWN.

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(1) Like the ear of the animal which is not a vital part, in which case the Israelite is exempt from the duty of the firstling.

(2) V. infra 16b.

(3) For Scripture says: Or the firstling of a goat. Num. XVIII, 17. Both the firstling and the mother must belong to the same species and class i.e. a goat.

(4) The ruling that it is subject to the law of the firstling.

(5) I.e., outside the Temple. And eaten like any other firstling which possesses a blemish. It is, however, not suitable for sacrifice on the altar. This was R. Johanan's novel ruling emanating also from the House of Study, i.e., that a change in the animal renders it blemished.

(6) That a change in the animal renders it blemished.

(7) Infra 402.

(8) That of a pig.

(9) And therefore this would be the novelty in the ruling of R. Johanan, that even in such an instance it is regarded as a blemish.

(10) Infra 40b.

(11) Birds being exempt from the law of the firstling.

(12) There is need therefore for R. Johanan to inform us that even in this case it is a blemish since there is a change in the animal.

(13) And even so it is regarded as blemished.

(14) What new thing consequently does R. Johanan tell us in his ruling that a change renders it blemished, since this may be inferred from the Mishnah?

(15) An animal whose one limb is larger than the other is called a sarua’. Therefore were it not stated in the House of Study that a change in the offspring e.g., where its wool resembles that of a goat, renders it blemished, I should not have been in a position to infer this from the Mishnah, as sarua’ is a permanent blemish explicitly mentioned in the Scripture.

(16) Infra 43a.

(17) Lev. XXII, 4.

(18) V. infra p. 289, n. 8.

(19) And it is not because of the change that an animal with one long and one short eye is regarded as blemished and therefore there is need for R. Johanan to inform us that elsewhere a change in the animal constitutes a blemish.

(20) So that two large or small eyes constitute no change. Now since we can after all deduce from the Mishnah that a change renders the animal blemished, one can still raise the question, what is there novel in R. Johanan's ruling? (R. Gershom).

(21) Certain heathens.

(22) To enquire whether the duty of the firstling applies.

(23) To be exempt from the law of the firstling.

(24) As if they were actually firstlings and holy.

(25) For in this manner he carried out the prohibitions in connection with the firstling.

(26) In case he should shear and work the animal. And therefore he rendered himself exempt by transferring a part of the embryo to a heathen.

(27) Since his motives were good.

(28) By transferring a share of them to heathens.

(29) As the sanctity of a firstling only begins after its birth.

(30) Like a firstling with a blemish whose shearing is forbidden and work with which is prohibited, still possessing a certain degree of holiness.

(31) Although he actually observes all the prohibitions with reference to a blemished firstling, it is really rendered, owing to the share of the heathens, an unconsecrated animal.

(32) To accept money from a heathen which is the valid method whereby a selling transaction is concluded with a gentile.

(33) Lit., ‘did a mere word’.

(34) By means of words only the transference was effected and no money was paid i.e., he simply informed the heathen that he had given him possession.

(35) Presumably from the first-born of an ass.

(36) This at present understood as meaning that since the Levites themselves exempted the asses of the Israelites in the wilderness, how much more should they exempt their own asses.

Talmud - Mas. Bechoroth 4a

GEMARA. Did they [themselves] exempt?[1] [Surely] a man [a Levite] exempted a man [a first-born Israelite]; an animal [of a Levite] exempted an animal [an Israelite's first-born ass]. For it is written: ‘Take the Levites instead of all the first-born among the children of Israel and the cattle of the Levites instead of their cattle’?[2] — Said Abaye: The Mishnah means this: ‘As for priests and Levites, their animals are exempt a fortiori. If the animal [the sheep] of the Levites released the animal of the Israelites in the wilderness,[3] it follows a fortiori that it should release their own’.[4] Said Raba to him: But does not the Mishnah say: ‘THEY EXEMPT’ meaning the Levites] themselves? And further, if it is [as you state],[5] they [the Levites] should be exempted even from [liabilities for] a clean animal?[6] Why have we learnt: They [the Levites] are not exempted from the law of the firstling of a clean animal only from the redemption of the first-born male, and the first birth of an ass![7] No, said Raba; the [Mishnah] must be read thus: ‘Priests and Levites exempt themselves [from the redemption of the first-born] a fortiori’. If the holiness of the [non-first-born] Levites canceled the holiness of the first-born Israelite [in the wilderness], should it not cancel that of their own [first-born]? We thus find that man [the Levite first-born is exempt]. Whence do we know that this also applies to an unclean animal?[8] The text says: Howbeit the first-born of man shalt thou surely redeem and the firstling of unclean beasts shalt thou redeem.[9] Whosoever is required [to redeem] the first-born of a man, is required [to redeem] the firstling of an unclean animal. But whosoever is not required [to redeem] the first-born of a man[10] is not required to redeem the firstling of an unclean animal. Said R. Safra to Abaye: According to your interpretation, which is that [the a fortiori argument] also refers to their [the Levites'] animals,[11] a Levite who had a sheep [in the wilderness] to release [a first-born of an Israelite ass], could ipso facto release [his own], but he who did not possess a sheep to release [a first-born of an Israelite ass] could not release his own? Further, both according to your interpretation and Raba's,[12] [a Levite] of a month old who released [an Israelite first-born of a month old in the wilderness][13] should therefore release [himself from the necessity of redemption,] while [a Levite first-born] less than a month old, who did not release [a first-born Israelite of the same age], should not therefore be able to release himself?[14] Also, a Levite's daughter[15] who gave birth to a first-born, should not be exempt [from redemption].[16] Why then did R. Adda b. Ahaba say: If a Levite's daughter [married to an Israelite] gave birth, her son is exempt from the five sela's?[17] — That is no objection, as Mar the son of R. Joseph [explained in the name of Raba who said: [Scripture says]: peter rehem [the opening of the womb]. The Divine Law makes [the duty of the first-born] depend on the opening of the womb.[18] But what of Aaron since he was not included in that counting [of the Levites],[19] then [the first-born of his asses] should not be released [from redemption]; (for it has been taught: Why is [the word] 'Aaron' dotted in the Book of Numbers?[20] Because he [Aaron] was not in that numbering [of the Levites]?) — Scripture said 'The Levites' implying that all Levites are compared to one another.[21] And whence do we know [that] Priests [are included in the term Levite?] — As R. Joshua the son of Levi explained. For said R. Joshua: In twenty-four places Priests are called Levites and the following [instance] is one of them: But[22] the Priests the Levites the sons of Zadok.[23]

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(1) The first-born of asses in the wilderness.

(2) Num. III, 45.

(3) From the redemption of the first-born of an ass.

(4) The Levites' own first-born of asses. Similarly, according to Abaye, just as the Levites themselves exempted the first-born of the Israelites in the wilderness, so they should a fortiori exempt their own first-born.

(5) That we argue a fortiori with reference to the animals of the Levites.

(6) From the law of the firstling, for the Levites' clean animals exempted the clean animals of the Israelites in the wilderness.

(7) Infra 13a.

(8) I.e., that priests and Levites are exempt from the law of the first-born of an ass!

(9) Num. XVIII, 15.

(10) E.g., the Levites and priests who are exempt a fortiori, are therefore also free from redeeming their first-born of asses.

(11) Inferring that the firstling of an ass belonging to a Levite and Priest is also exempt a fortiori.

(12) For both agree that we argue a fortiori that the first-born of a Levite is exempt from redemption.

(13) If the holiness of a plain (non-first-born) Levite of a month old released from holiness an Israelite first-born of a month old-as only the first-born of a month old were numbered, V. Num. III,40 — how much more so should the Levite first-born of a month old release himself from redemption?

(14) Why therefore does not Scripture state that the first-born Levites in the wilderness who were at the time of counting less than a month old had to be redeemed?

(15) Who married an Israelite.

(16) Since females were not included in the count in the wilderness.

(17) The sum of money necessary for the redemption of the first-born.

(18) We go therefore by the mother and since she comes of a tribe which is exempt from redemption of the first-born, we link the son with the mother and not with the father, that is provided the exemption in the wilderness extended to all Levites, even those who were not a month old at the time.

(19) Num. III, 14 etc. Neither he nor his animals were included and therefore they did not cancel the holiness of the first-born of the Israelites.

(20) Num. III, 39: All that were numbered of the Levies which Moses and Aaron numbered. For all dottings of a word have the purpose of limiting and excluding something.

(21) All Levites irrespective of age, including anybody performing sacred functions, such as the priests, all were exempt from redeeming the first-born of an ass. This answers all the questions raised above.

(22) Ezek. XLIV, 15.

(23) We see here therefore that the priests are described as Levites. Similarly where the word ‘Levites’ is mentioned by itself, it also embraces the priests.

Talmud - Mas. Bechoroth 4b

Whence do we know [that the exemptions][1] apply to all time?[2] The text says: ‘And the Levites shall be mine’;[3] ‘and they shall be’ means that they [the Levites] retain their status [for all time]. And whence [do we know] that [the Levite exempted the Israelite's first-born of asses in the wilderness] with a sheep?[4] — Said R. Hisda: Money[5] is written [in connection with the redemption of the first-born] for all time; and ‘a sheep’ is written [in connection with the redemption of the first-born of an ass][6] for all time. Just as with the money prescribed for all time, they both redeemed [the first-born] at all times and they redeemed at that particular time [in the wilderness], so with sheep prescribed for all time, they [the Levites] both redeemed [the firstlings] at all times and they redeemed at that particular time [in the wilderness]. But it may be objected[7] , that the case of money is different, because with it we also redeem consecrated objects and the second [year's] tithing![8] Rather [we deduce from the following]. Scripture said: ‘Nevertheless the first-born of man thou shalt surely redeem and the firstling of unclean beasts shalt thou redeem’.[9] Just as in the case of the first-born of a man you make no distinction between all time and that particular time [in the wilderness, the redemption in each case being] with money, so [in the case of an unclean animal], you shall not make a distinction between for all time and that particular time, [the redemption in each case being] with a sheep. R. Hanina said: One sheep of a Levite exempted many firstborn of the asses of the Israelites. Said Abaye: The proof is that Scripture numbers the surplus of men[10] [over the Levites] but does not number the surplus [of Israelite] animals [over the Levites’ animals]. But what proof is this? Perhaps they [the Israelites in the wilderness] did not possess many animals [asses] to redeem?[11] — That cannot enter your mind. For it is written: ‘Now the children of Reuben and the children of Gad had a very great multitude of cattle’.[12] Perhaps even so the ordinary [non-first-born animals] of the Levites just corresponded with [the number] of the first-born of the Israelites?[13] — Scripture says: And the cattle of the Levites instead of their cattle;[14] one Levite animal instead of many [Israelite] animals [firstlings of asses]. But why can we not say that the word [‘cattle’] also implies many [animals?] — If so let Scripture write either ‘cattle instead of cattle’ or ‘their cattle instead of their cattle’. Why does Scripture write ‘cattle of . . . instead of their cattle’? Deduce from this that one [Levite] animal exempted many [Israelite] animals. Said Raba: We have also learnt [R. Hanina's ruling]: And he can redeem with it [the sheep][15] many times [the first-born of asses]. And R. Hanina?[16] — He explains the reason of the Mishnah and what he means is this: What is the reason that he can redeem with it [the sheep] many times [the first-born of asses]? Because one sheep of a Levite exempted many firstborn of asses belonging to an Israelite. It was stated: R. Johanan said: The first-born[17] in the wilderness were sanctified; Resh Lakish said: The first-born in the wilderness were not sanctified.[18] R. Johanan said that the first-born were sanctified in the wilderness, for the Divine Law said that they should be sanctified, as it is written: Sanctify unto me all the first-born.[19] Resh Lakish said that the first-born were not sanctified in the wilderness, since it is written: And it shall be when the Lord shall bring thee [into the land of the Canaanites] and it says subsequently: That thou shalt set apart [unto the Lord all that openeth the womb].[20] From this you can infer that previously [to their entering the land],[21] it [the first-born] was not sanctified.[22] R. Johanan raised an objection to Resh Lakish's [view]: Before the Sanctuary was erected,[23] the High places[24] were permitted and the service [was performed] by the first-born![25] — He replied to him: [The service was performed] by those [first-born] who departed from Egypt.[26] It also stands to reason. For if you will not say so, is a one year old[27] capable of performing the service? And [R. Johanan] how could he raise such a question at all?[28] — This was his [R. Johanan's] objection [to Resh Lakish's view]. You would be right if you said that the holiness [of the first-born] did not cease [in the wilderness],[29] because then those [first-born] also originally born [in Egypt], did not have their holiness canceled. But if you say that their holiness ceased,[30] then those [firstborn] originally born in Egypt, should also have had their holiness canceled?[31] And [what says] the other [to this]? — Those who were holy [the first-born of Egypt], remained holy[32] and those who were not hitherto holy,[33] [did not become] holy. He [R. Johanan] raised an objection: On the day on which the Sanctuary was erected, votive-offerings, freewill-offerings, sin-offerings, trespass-offerings, firstlings and the tithe of cattle, were sacrificed in Israel![34] — Here, also, it refers to those [firstborn] who departed from Egypt. And [from the Baraitha] itself we can deduce this: ‘On that day [firstlings] were sacrificed’, but after that, [in the wilderness], there was no sacrifice [of firstlings].[35] Some there are who say, Resh Lakish cited against R. Johanan the following: ‘That day on which the Sanctuary was erected, votive-offerings, freewill-offerings, sin-offerings, trespass-offerings, firstlings, tithe of cattle were sacrificed in Israel’, as much as to say ‘on that day’ but after that [in the wilderness], there was no [sacrifice of firstlings]![36] — R. Johanan replied: Amend [the Baraitha] thus: ‘From that day and onward’.[37] And what does he tell us here? — That from that day [these sacrifices] were permitted but not at first, from which we are to infer that obligatory sacrifices were not sacrificed on a High place.[38] Come and hear: ‘Consequently in three places were the firstborn sanctified for Israel: in Egypt, in the wilderness, and when they entered the Land. With reference to the first-born in Egypt, what does Scripture say? Sanctify unto me all the firstling.[39] With reference to the firstling in the wilderness Scripture says: For the first-born of the children of Israel are mine.[40] With reference to [the first-born] when they entered the Land, [Scripture] says: And it shall be when the Lord shall bring thee [into the land of the Canaanites] . . . That thou shalt set apart![41] Said R. Nahman b. Isaac: [This passage means] that in three places the Israelites were commanded concerning the sanctification of the first-born but they were not [actually] sanctified.[42] And were not also the [first-born] in Egypt sanctified? Did we not say that they were holy?[43] — This is what the [passage] means: In some [of the three places referred to], [the first-born] were sanctified, and in some, they were not sanctified.[44] R. Papa demurred: And were not the first-born sanctified in the wilderness? Behold it is written: Number all the first-born males of the children of Israel.[45] Rather [if the above dispute was] stated, it was stated as follows: R. Johanan said: They [the first-born] were sanctified and did not cease [from their holiness].[46] But Resh Lakish said that they were sanctified [temporarily]

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(1) For priests and Levites.

(2) And not limited to the wilderness.

(3) Num. III, 45.

(4) Perhaps the verse ‘And the cattle of the Levites instead of all the firstlings among the cattle of the children of Israel’, (Num. III, 41.) means that the first-born of the Levite's ass exempted the Israelite's firstling of an ass, but not the sheep, (R. Gershom).

(5) Num. XVIII, 16.

(6) Ex. XIII, 13.

(7) To this analogy between ‘money’ and ‘sheep’.

(8) Whereas we do not as a rule redeem sacred objects with a sheep. Consecrated objects are redeemed with money. V. Lev. XXVII, 15 and the second year's tithes are also redeemed with money, V. Deut. XIV, 25.

(9) Num. XVIII, 15.

(10) Of first-born Israelites who had to be redeemed with money. And since Scripture does not mention the surplus of Israelite animals over the Levites’ animals, we can infer that one Levite sheep exempted many Israelite animals.

(11) And this being the case, one Levite sheep did not have to redeem many first-born of asses.

(12) Ibid. XXXII, I.

(13) So that there was no surplus and there is thus no evidence that the firstlings of the Israelites outnumbered the plain Levites’ animals.

(14) Ibid. III, 45.
(15) Infra 9a. If the sheep which he gave to the priest as a redemption for the first-born of an ass, comes back to him either through the priest selling or giving it as a present to him, he can redeem another first-.born of an ass with the same sheep.
(16) Since the Mishnah just cited teaches his ruling, then his is superfluous.
(17) Both of men and animals and certainly those born in Egypt.
(18) And Only the first-born in Egypt and those who were born when they entered the land were sanctified.
(19) Ex. XIII, 2.
(20) Ibid. XIII, II, 12.
(21) In the wilderness.
(22) And the above verse ‘Sanctify unto me all the first-born’ will refer to those born in Egypt.
(23) Zeb. 112b.
(24) Improvised and temporary altars.
(25) We therefore see that the first-born in the wilderness, were sanctified contrary to the ruling of Resh Lakish.
(26) But the first-born born in the wilderness were not sanctified.
(27) Since only one year had elapsed since the departure from Egypt and the erection of the Sanctuary.
(28) Surely there could be only one explanation of the Mishnah in Zebahim.
(29) That the first-born born in the wilderness were also sanctified.
(30) For a period, namely, those first-born born in the wilderness.
(31) And therefore the question is raised, according to Resh Lakish, how were the first-born permitted to offer sacrifices.
(32) And their holiness never ceased.
(33) The firstborn born in the wilderness.
(34) We therefore see that the first-born in the wilderness were sanctified contrary to the ruling of Resh Lakish.
(35) Because, as Resh Lakish says, the first-born in the wilderness either of men or cattle were not sanctified and those of cattle offered on the day the Sanctuary was erected, were born in Egypt.
(36) Which is contrary to the view of R. Johanan.
(37) For the first-born were sanctified in the wilderness.
(38) An improvised and temporary altar. Obligatory offerings are e.g. sin-offerings, firstlings, etc.
(39) Ex. XIII, 2.
(40) Num. VIII, 17.
(41) Ex. XIII, 11, 12. We see therefore that contrary to the view of Resh Lakish the firstlings were sanctified in the wilderness.
(42) Until they entered the land.
(43) For this was agreed by all the above.
(44) Those born in the wilderness.
(45) Num. III, 40. The male first-born were to be numbered from a month and upwards and this took place in the wilderness.
(46) After being numbered in the wilderness.

Talmud - Mas. Bechoroth 5a

and then ceased [from their holiness]. As to Resh Lakish it is well, for the reason stated above.[1] But what is the reason of R. Johanan? — Said R. Eleazar: R. Johanan appeared to me in a dream telling me that I said an excellent thing, viz., Scripture said: Mine shall they be[2] [denoting] that they [the first-born] shall remain in their status. And what does R. Johanan do with the verses [which follow:] And it shall be when the Lord shall bring thee unto the land . . . That thou shalt set apart unto the Lord? — That [textual proximity] is required [to deduce] what the School of R. Ishmael taught: Perform this Divine command,[3] on account of which you will be worthy to enter the Land. Said R. Mordecai to R. Ashi: You reported it in this manner, we reversed the names; R. Johanan said: Firstlings were not sanctified in the wilderness. But Resh Lakish said: Firstlings were sanctified in the wilderness. He thereupon asked him: ‘And do you also propose to reverse [the name of the author] of the refutation[4] together with R. Eleazar's statement?[5] — He replied to him: [The words]

‘They were not sanctified’ [of R. Johanan] mean, there was no need for the firstlings to be sanctified [in the wilderness].[6] If so, then it is identical with our version [of the dispute between R. Johanan and Resh Lakish]? — It teaches us that a man must cite a ruling in the exact language of his master.[7] A Roman general Controcos[8] questioned R. Johanan b. Zakkai. ‘In the detailed record of the numbering of the Levites, you find the total is twenty-two thousand three hundred,[9] whereas in the sum total you only find twenty-two thousand.[10] Where are the [remaining] three hundred?’ He replied to him: [‘The remaining] three hundred were [Levite] first-born, and a first born cannot cancel the holiness of a first-born’. What is the reason? said Abaye: Because it is sufficient for a [Levite] first-born to cancel his own holiness. And again he questioned him: ‘With reference to the collection of the money,[11] you count two hundred and one kikkar[12] and eleven maneh[13] for Scripture writes: A beka’ for every man, that is, half a shekel after the shekel of the Sanctuary,[14] whereas when the money was given,[15] you find only one hundred kikkar, for it is written: And the hundred talents of silver were for casting, etc.?[16] Was Moses your teacher either a thief or a swindler or else a bad arithmetician? He gave a half, took a half, and did not [even] return a complete half’?[17] — He replied to him: ‘Moses our teacher was a trustworthy treasurer and a good arithmetician, only the sacred maneh was double the common’.[18] R. Ahi argued: What is his [the general's] difficulty? It says: And the hundred talents that were for casting etc.; these were used for casting[19] and those others, [the two hundred and one kikkar] were for the treasury! — [Scripture] wrote another verse: And the silver of them that were numbered of the congregation, was a hundred talents etc.[20] And as to his reply that the sacred maneh was double the common, — whence did he derive this? If you say from it [this very verse], for here we have seventy-one maneh,[21] since Scripture writes: And of the thousand seven hundred seventy and five shekels he made hooks for the pillars and recorded them only in Units [of shekels]. Now if [the value of a sacred maneh] is [not higher], Scripture ought to have written one hundred and one kikkar and eleven maneh?[22] But since Scripture does not record them except in units [of shekels,] you may deduce from here that the sacred maneh was double the common.[23] But perhaps it is only the sum total [of a hundred] kikkar that Scripture records but the odd amount [of only one kikkar or so], it does not record?[24] Rather deduce then from here:[25] And the brass of the offering was seventy talents and two thousand and four hundred shekels.[26] For here are ninety-six maneh, and Scripture does not record them except in units [of shekels]. Deduce from here, therefore, that the sacred maneh was double the common.[27] Perhaps, however, a large odd number [of kikkar][28] Scripture records but a small odd number[29] it does not record? Rather said R. Hisda, Deduce from here:[30] And the shekel shall be twenty gerahs; twenty shekels, five and twenty shekels, fifteen shekels, shall be your maneh.[31] [

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(1) The juxtaposition of the verses in Ex. XIII, 11 and 12.

(2) Num. III, 13, indicating that there was no break in their holiness, even in the wilderness.

(3) The law of the firstling.

(4) That it was R. Johanan who refuted Resh Lakish with reference to the Baraitha; ‘That day on which the sanctuary was erected etc.’ and not vice versa, as in our version.

(5) That he saw R. Johanan in a dream, and will you also alter this to Resh Lakish? Surely, it is more feasible to assume that it was R. Johanan, the teacher of R. Eleazar, who appeared to him in a dream.

(6) Since they were holy at birth, as R. Johanan maintains above that the first-born in the wilderness were sanctified.

(7) Although there may be no actual difference in the ruling.

(8) Rashi and Tosaf. in Hullin 27b read Contricon. There are a number of variants in the reading of this name, owing to corruptions. It is suggested that the name refers either to Quintus or Quietus. V. Hul., Sonc. ed., p. 141, n. 2.

(9) The families of Gershom numbered seven thousand and five hundred, the families of Kohath numbered eight thousand and six hundred, and the families of Merari numbered six thousand and two hundred, making a grand total of the families of the Levites of twenty-two thousand and three hundred.

(10) V. Num. III, 39.

(11) When every Israelite was bidden to give half a shekel.

(12) A weight of silver or gold, a talent. Now a kikkar contains sixty maneh, a maneh has twenty five sela's or holy shekels, therefore we have one thousand and five hundred shekels in one kikkar. Six hundred and three thousand five hundred and fifty half shekels collected from the people make three hundred and one thousand seven hundred and seventy-five shekels. Divide one thousand and five hundred into this, we have two hundred and one kikkar with the remainder of two hundred and seventy-five shekels, i.e., eleven maneh.

(13) A weight in gold or silver of twenty-five common shekels.

(14) Ex. XXXVIII, 26.

(15) When Moses rendered the account to the Israelites.

(16) Ibid. 27.

(17) For a complete half would have been one hundred and a half kikkar and five and a half maneh and he only returned one hundred kikkar. And although Scripture says: ‘And of the thousand seven hundred seventy and five shekels he made hooks’ and consequently, he returned more than a half, the general did not mention this verse, for he wanted to catch him with words.

(18) There were therefore one hundred and twenty maneh in a kikkar. The hundred kikkar were therefore really two hundred and the remaining kikkar and eleven maneh, were the one thousand seven hundred and seventy-five shekel mentioned, from which hooks were made.

(19) And this would be separate from the two hundred and one kikkar mentioned.

(20) Ex. XXXVIII, 25. And here no mention is made of being used for casting purposes.

(21) A maneh containing twenty-five shekels; therefore one thousand seven hundred and seventy-five shekels make seventy-one maneh.

(22) If all maneh consisted of sixty shekels, then seventy-one maneh is one kikkar more, plus eleven maneh.

(23) And therefore the seventy-one maneh i.e. the one thousand seven hundred and seventy-five shekels, could not be counted in terms of kikkar, as there would then be one hundred and twenty maneh in a kikkar.

(24) It is not of sufficient importance to record in terms of kikkar, but the sacred maneh may still have the same value as the common. Therefore the point would once again arise that Moses received two hundred and one kikkar and, when rendering the account, Scripture only mentions one hundred kikkar. (5) That the sacred maneh was double the common.

(25) Ibid. XXXVIII, 29.

(26) There being twenty-five shekels in a maneh.

(27) I.e., one hundred and twenty maneh in a kikkar, and therefore Scripture could not count this in terms of kikkar.

(28) Like seventy kikkar, although they cannot be counted in terms of one hundred kikkar.

(29) Like one kikkar; but a sacred kikkar may contain only sixty maneh as the common.

(30) That the sacred maneh was double the common.

(31) Ezek. XLV, 12. We therefore see there were sixty shekels in a maneh.

Talmud - Mas. Bechoroth 5b

Now would not this [maneh] be two hundred and forty [denars]?[1] Therefore deduce from this that the sacred maneh was double [the common].[2] And further deduce from here that we may add to the measures, but not more than a sixth part. And still further deduce from here, that the sixth part added, is a sixth of the total.[3] Said R. Hanina: I asked [R. Eliezer] in the great School of Learning [Beth Hamidrash:] ‘Why were the first-born of asses different from the first-born of horses and camels?’ — He replied: ‘It is a decree of Scripture’.[4] Moreover, they [the asses] helped the Israelites when they departed from Egypt, for there was not an Israelite who did not possess ninety Libyan asses laden with the silver and gold of Egypt. I also asked him: ‘What does the word "Rephidim" signify?’ And he told me: ‘Rephidim was the name [of a place]’. There is a difference between Tannaim. R. Eliezer says: ‘Rephidim’ was the name [of a place], but R. Joshua says, it means that they relaxed [rifu] their hold on the words of the Law. And so Scripture says: The fathers shall not look back to their children for [rifyon] feebleness of hand.[5] And I asked him further: ‘What is the meaning of the word "Shittim"?’ And he told me: ‘Shittim was the name [of a place]’. Here too Tannaim differ. R. Eliezer says: ‘Shittim’ was the name of the place, whereas R. Joshua says, it means that they gave themselves up to lust.[6] ‘And they called to the people unto the sacrifices of their gods’.[7] R. Eliezer says, this verse means that they [the Israelites] came into contact with naked bodies.[8] But R. Joshua says they all became polluted.[9]

MISHNAH. IF A COW GAVE BIRTH TO A SPECIES OF ASS, OR AN ASS GAVE BIRTH TO A SPECIES OF HORSE, IT IS EXEMPT FROM [THE LAW OF] THE FIRSTLING, FOR IT IS SAID: FIRSTLING [PETER] OF AN ASS',[10] 'FIRSTLING [PETER] OF AN ASS',[11] TWICE [TO TEACH] [THAT THE LAW OF THE FIRSTBORN DOES NOT APPLY] UNTIL THAT WHICH GIVES BIRTH IS AN ASS AND THAT WHICH IS BORN IS AN ASS. AND WHAT IS THE LAW WITH REFERENCE TO EATING THEM?[12] IF A CLEAN ANIMAL GAVE BIRTH TO A SPECIES OF UNCLEAN ANIMAL, IT IS PERMITTED TO BE EATEN. BUT IF AN UNCLEAN ANIMAL GAVE BIRTH TO A SPECIES OF A CLEAN ANIMAL, IT IS FORBIDDEN TO BE EATEN, FOR THAT WHICH GOES FORTH FROM THE UNCLEAN IS UNCLEAN AND THAT WHICH GOES FORTH FROM THE CLEAN IS CLEAN.

GEMARA. We have learnt elsewhere:[13] If a ewe gave birth to a species of goat or a goat gave birth to a Species of ewe, it is exempt from [the law of] the firstling. But if the offspring possesses some marks [resembling the mother], it is subject to [the law of] the firstling. Whence is this proved? Said Rab Judah: Scripture says: 'But the firstling of an ox',[14] meaning that it [the animal] should be an ox and its firstling must be an ox; 'Firstling of a sheep',[15] indicating that [the animal] should be a sheep and its firstling must be a sheep; 'Firstling of a goat',[16] indicating that [the animal] 'Firstling of a goat' ,[16] indicating that [the animal] should be a goat and its firstling must be a goat. You might think that even if it [the offspring] possesses some marks [similar to the mother]?[17] There the text stated 'ak' [but],[18] intimating that there is a distinction.[19] But does not the Tanna [of our Mishnah] derive the ruling [for the exemption] of a cow [which gave birth to a species of ass] from 'peter' [firstling['peter' [firstling].[20] — He [R. Judah] follows the view of R. Jose the Galilean. For it was taught: R. Jose the Galilean said: 'But the firstling of an ox':[21] [the law of the firstling does not apply] until it [the animal] is an ox and its firstling is an ox; 'firstling of a sheep': [the law of the firstling does not apply] until it [the animal] is a sheep and its firstling is a sheep; 'firstling of a goat': [the law of the firstling does not apply] until it [the animal] is a goat and its firstling is a goat. You might think that even if it [the offspring] possesses some marks [similar to its mother]?[22] The text states 'ak' intimating that there is a distinction.[23] Wherein do they differ?[24] — Our Tanna [in the Mishnah] holds that the Divine Law informs us in that case of that which is consecrated for its value[25] [that a change in the offspring exempts it from the law of the firstling], and the same applies to an object consecrated as such.[26] But R. Jose the Galilean maintains that the Divine Law informs us in connection with an object consecrated as such [that a change in the offspring exempts it from the law of the firstling] and the same principle applies in connection with an object which is consecrated for its value. And we derive an object which is consecrated for its value from an object which is consecrated as such. And our Tanna[27] — what does he make of 'bekor' [firstling], 'bekor' [firstling].[28] — He requires it for R. Jose b. Hanina's [explanation]. For R. Jose b. Hanina said: Why does Scripture mention 'emurim'[29] in connection with the firstling of an ox, emurim in connection with the firstling of a sheep, emurim in connection with the firstling of a goat? It is necessary. For if the Divine Law had written 'emurim' in connection with the firstling of an ox [only], [I might have said], the reason [for the emurim was] because there was an increased drink offering.[30] [And if the Divine Law had written 'emurim'] in connection with the firstling of a sheep [only], [I might have said] the reason [for the 'emurim'] was because of the fat-tail which was included [to be sacrificed together with the emurim].[31] [And if the Divine Law had written 'emurim'] in connection with the firstling of a goat [only], [I might have said] the reason [for the 'emurim' was] because a goat was included as a suitable offering in the case of the sin of idolatry committed by an individual. You could not have derived 'emurim' in connection with any single case [of a firstling of an ox, firstling of a sheep or firstling of a goat] from any other single case. [Perhaps] you could derive however 'emurim' in a single case [of a firstling mentioned] from the remaining two cases?[32] in connection with what case should the Divine Law have omitted to write 'emurim'? Should the Divine Law not have written ['emurim'] in connection with the firstling of an ox, and should we have proceeded to derive this from the remaining two cases, [the firstling of a sheep and the firstling of a goat quoted above], [I might have raised the objection] that the two cases [mentioned where emurim was written], were different, for a sheep and a goat are included as suitable to be brought as Passover sacrifices.[33] Or should the Divine Law have omitted [emurim] in connection with the firstling of a sheep and should we then have derived this from the remaining two cases [of the firstling of an ox and the firstling of a goat], [I might have raised the objection] that the cases [of an ox and a goat] were different, for they are included as suitable offerings for the sin of idolatry committed communally.[34] Or should the Divine Law have omitted [emurim] in connection with the firstling of a goat and should we then have derived this from the remaining two cases [of the firstling of an ox and the firstling of a sheep], [I might have raised the objection] that the cases [of an ox and a sheep] were different, for they have the [common] point of an increased offering upon the altar.[35] Therefore, all the three cases [to which the verse[36] refers] are necessary. And R. Jose the Galilean?[37] — [His answer is:] If so,[38] let the Divine Law write: 'But the firstling of an ox, sheep and goat'. What need is there for the words 'bekor' 'bekor'?[39] Hence you must deduce from here [the teaching also] that both [the animal] and its firstling must be an ox. And R. Jose the Galilean, what does he do with the texts 'peter hamor' 'peter hamor'?[40] — He requires this for what was taught. R. Jose the Galilean says: Because it is said in the Scriptures: Howbeit the firstborn of man shalt thou surely redeem and the firstling of unclean beasts shalt thou redeem,[41] I might infer from the text that even the first-born of horses and camels [are liable to the law of the first-born]. Therefore, there the text stated 'peter hamor'. I have only spoken to you [says Scripture] of firstlings of asses[42] but not of the firstlings of horses and camels. I can still maintain, however, that the firstlings of asses are to be redeemed with a sheep but the firstlings of horses and camels may be redeemed with any object.[43]

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(1) And a maneh has only one hundred dear or zuz, for there are twenty-five shekels to a maneh and four denar to a shekel.

(2) I.e., fifty shekels would be the maneh. This is two hundred denar and the remaining forty were added subsequently.

(3) Lit., 'from outside'. I.e., to each five portions, one is added, an addition of twenty per cent. And here, also, there was an addition to the two hundred denar which constitute the sacred maneh of twenty per cent, making a total of two hundred and forty denar. This addition of forty denar makes therefore a sixth part of the sum total, i.e., a sixth 'from the outside', although not a sixth part of the value of the sacred maneh as such, as forty denar would be a fifth part of two hundred denar.

(4) There is no special reason for this differentiation.

(5) Jer. XLVII, 3. The feebleness being due to their neglect of the Law.

(6) The word 'Shetuth' (a stupid thing, like lust) and the word 'Shittim', have a verbal resemblance.

(7) Num. XXV, 2.

(8) For lustful purposes. The word ותקראן is also derived from the word קרה to meet; they themselves, their bodies, met naked bodies in order to stimulate sexual desire.

(9) ותקראן is connected here with the word קרי meaning seminal pollution,

(10) Ex. XIII, 13.

(11) Ibid. XXXIV, 20.

(12) The animals born which do not resemble their mother.

(13) Supra 3b and infra 16b.

(14) Num. XVIII, 17.

(15) Ibid.

(16) Ibid. In connection with the words 'ox', 'sheep' and goat', Scripture prefaces in each case the word בכור (firstling) which in each case is superfluous, as it is clearly dealing with the subject of a firstling.

(17) That it is also excluded from the law of the firstling.

(18) But the firstling etc.

(19) Between total physical change in the offspring and where there is a partial resemblance to the mother, the word 'ak' having limiting qualifications.

(20) Why therefore does R. Judah bring his own Scriptural proof since what applies to a cow whose offspring changes species applies equally to a sheep whose offspring changes?

(21) Num. XVIII, 17.

(22) V. supra.

(23) V. supra.
(24) The Tanna in our Mishnah and R. Jose the Galilean.
(25) The case of an ass which is not holy in itself and is redeemed with a sheep.
(26) The case of a cow or any clean animal where it is holy as such, and is irredeemable. In such an instance, the law of the firstling should certainly only apply where the offspring resembles its mother, as since it is irredeemable, the offspring should be required all the more to resemble its mother.
(27) In the Mishnah.
(28) The threefold repetition of the word 'bekor' (firstling) in Num. XVIII, 17.
(29) The portion of the animal sacrificed on the altar. Scripture says: Thou shalt dash their blood against the altar and shalt make their fat smoke for an offering made by fire, which verse refers to all the three cases of firstlings mentioned in the text. If Scripture had written 'emurim' in connection with one of the firstlings mentioned, I could have inferred the rest.
(30) A half of a hin, whereas with reference to a goat or a sheep, the amount is only a quarter of a hin.
(31) Unlike the case of a goat or an ox.
(32) One of the references to 'emurim' would, then, be unnecessary.
(33) Whereas an ox is not brought as a passover sacrifice.
(34) A bull for a burnt offering and a goat for a sin-offering.
(35) Compared with a goat. For an ox has an increased drink-offering and a sheep has, in addition, its fat-tail offered up on the altar.
(36) Thou shalt dash their blood against the altar etc. quoted above.
(37) Since he explains the verse: 'But the firstling of an ox etc.' quoted above, as teaching that the mother and its offspring must be of the same species, how does he then explain the references to 'emurim' in connection with the three cases of firstlings mentioned above?
(38) That the verse only teaches what R. Jose b. Hanina says.
(39) The threefold repetition of the word 'bekor' ('firstling').
(40) Employed by our Mishnah as basis for its teaching.
(41) Num. XVIII, 15.
(42) As liable to redemption.
(43) And the law of the firstling will apply to these as well.

Talmud - Mas. Bechoroth 6a

The text therefore states 'peter hamor' 'peter hamor' twice, to intimate: 'I have only spoken of the firstling of asses[1] but not [at all] of the firstlings of horses and camels'. R. Ahai raised an objection. [There is need for the repetition of 'peter hamor']. For if the Divine Law had written only one ['peter hamor'], I might have said that it [the law of the firstling of an ass requiring redemption] is a thing which was included in the general proposition[2] and then made the subject of a special statement,[3] so that the specification Is not limited to itself alone but is to be applied to the whole class [of unclean animals], and so, in all cases, the redemption is indeed with a sheep. Therefore the Divine Law wrote in another text 'peter hamor' to intimate that only firstlings of asses are redeemed with a sheep but not the firstlings of horses and camels. But one might say that the limitation [with reference to horses etc,] only refers to [redemption] with a sheep, but, elsewhere, they may indeed be redeemed with any object? — If so, let the Divine Law write: 'The firstling of an ass thou shalt redeem with a sheep'; 'and an ass thou shalt redeem with a sheep'. Why [this repetition], 'The firstling of an ass thou shalt redeem with a sheep',[4] 'the firstling of an ass thou shalt redeem with a sheep'?[5] It is to intimate, 'I have only spoken to you of the firstlings of asses [as requiring redemption] but not of the firstlings of horses and camels'.[6] And our Tanna of the Mishnah, whence does he derive a limitation of horses and camels [as being altogether exempt from the law of the firstlings]? — Said R. Papa: [Scripture says:] And of all the cattle thou shalt sanctify the males,[7] this is a general proposition. 'The firstling of an ox and sheep . . . And the firstling of an ass thou shalt redeem', is a specification; and with a general proposition complemented by a specification the general proposition includes only the specification; thus teaching that an ox, sheep and an ass [are liable to the law of the firstling], but not any other [animal]. And R. Jose the Galilean?[8] — [His answer is] that the word ‘peter’ interrupts the subject.[9] And the Rabbis?[10] — The letter waw[11] joins it again to the previous verse. And R. Jose the Galilean? — Let not Scripture write neither the waw [which joins it with the previous verse] nor [write the word] ‘peter’ [which interrupts the subject].[12] And the’ Rabbis? — Since the one part[13] deals with objects consecrated in respect of their value and the other part with objects consecrated as such,[14] Scripture, therefore, at first interrupts the subject and subsequently connects it again [with the previous verse]. The question was asked: If a cow gave birth to a species of ass and it possesses some marks similar [to its mother]; what is the ruling? If a goat gave birth to a species of ewe and a ewe gave birth to a species of goat, the ruling is that when it possesses some marks [similar to its mother] it is subject to the law of the firstling, the reason being that this one [the mother] is a clean animal and this one [the offspring] is a clean animal, this one [the mother] is an object consecrated as such and this one [the offspring] is also an object consecrated as such. But here, where this one [the offspring] is an unclean animal and this one [the mother] is a clean animal, this one [the mother] is an object consecrated as such and this one [the offspring] is an object consecrated for its value, the ruling should not be [the same]. Or, perhaps, since in both cases, [even in the case where the offspring is a species of ass and the mother is a cow], they belong to a category of animals possessing the sanctity of the first-born, shall we say that it is therefore sanctified?[15] And should you maintain that since both cases mentioned above come under the law of the sanctity of the firstborn, therefore [where a cow gave birth to a species of ass which possesses some features akin to its mother] it is sanctified, what will be the ruling for an ass which gave birth to a species of horse? Here, surely, it[16] does not belong to the category of animals which have the sanctity of the firstling. Or, are we perhaps to say that since [the horse] belongs to the same class of unclean animals,[17] it is sanctified? And would you say that since it belongs to a class of unclean animals,it is sanctified, what will be the ruling regarding a cow which gave birth to a species of horse? Here, surely, this one [the cow] is a clean animal whereas this one [the offspring] is an unclean animal, this one [the cow] belongs to a category of animals which possess the sanctity of the firstling, whereas this one [the horse] does not belong to the category of animals which have the sanctity of the firstling. Or are we perhaps to say that marks [similar to the mother] are the decisive factor?[18] — Come and hear: ‘A clean animal which gave birth to a species of unclean animal is exempted from he law of the firstling. If it possesses, however, some marks [similar to the parent], it is liable to the law of the firstling[19] . What [does this mean]? Does it not refer even to the case of a cow which gave birth to a species of horse?’ — No, it refers to the case of a cow which gave birth to a species of ass.[20] Come and hear: ‘If a cow gave birth to a species of ass or an ass gave birth to a species of horse, it is exempt from the law of the firstling. If it possesses, however, some marks [similar to the mother], it is liable to [the law of] the firstling’. What [does this mean]? Does this [the last clause] not refer to both cases mentioned?[21] — No, it refers only to the case of a cow which gave birth to a species of ass. But the case of an ass which gave birth to a species of horse-why does it state this? Is it to exempt it [from the law of the first-born]? Is this not obvious? Since, in the case of a cow which gave birth to a species of an ass, where both [the mother and its offspring] belong to a category of animals which have the sanctity of the firstling, you say if the ass has some marks [similar to its mother], it is sanctified, but if not, it is not sanctified, is there any question in the case of an ass which gave birth to a species of horse?[22] — It is necessary to state this. You might be inclined to assume that there [in the case of a cow which gave birth to a species of ass] the reason is because the cow has horns but here the ass has no horns, here [the cow] its hoofs are cloven but there [the ass] its hoofs are closed.[23] But here [in the case where an ass gave birth to a species of horse], since in both instances, they have no horns and the hoofs of both are closed, I might have said that the offspring [a species of horse] was merely a red ass.[24] We are therefore informed [that this is not so].[25] WHAT IS THE LAW WITH REFERENCE TO EATING THEM etc. What need is there [for the Mishnah] to lay down FOR THAT WHICH GOES’ FORTH etc.? — It is a mere [mnemonical] sign so that you should not change the version [of the Mishnah][26] and that you should not say ‘decide according to the offspring, and this is a perfectly clean animal and this is a perfectly unclean animal’.[27] But we rather say, ‘Follow the mother’. Whence is this proved? — Because our Rabbis taught:

‘Nevertheless these shall ye not eat of them that chew the cud or[28] of them that divide the hoof’.[29] You have the case of an animal which chews the cud and has divided hoofs which you are, nevertheless, forbidden to eat. And what is it? This is the case of a clean animal born from an unclean animal. Perhaps, it is not so but [the verse] refers to the case of an unclean animal born from a clean animal? And what is the interpretation of the verse: ‘Of them that chew the cud or of them that divide the hoof’?

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(1) As requiring redemption.

(2) In the verse, ‘And the firstling of unclean beasts shalt thou redeem’ cited supra.

(3) That the firstling of an ass must be redeemed with a sheep.

(4) Ex. XIII, 13.

(5) The repetition of the word פטר (firstling) in Ex. XXXIV, 20.

(6) Because there is no holiness at all in regard to the firstlings of other unclean animals.

(7) Ibid. XXXIV, 19.

(8) Who infers the ruling that other animals beside the firstling of an ass, sheep and goat are not liable to the law of the firstborn from the repetition of ‘peter hamor’, why does he not derive this from the verse quoted by R. Papa and in the manner interpreted by the latter.

(9) We do not interpret the verse as a general proposition complemented by a specification, as the word ‘peter’ before the text ‘ox or sheep’ indicates a break in the subject.

(10) The majority of the Rabbis who dispute with him as to the derivations of the various teachings under discussion.

(11) The ‘waw’, a conjunction, meaning ‘and’ in the word ופטר which commences the following verse.

(12) If Scripture did not interrupt the theme with the word ‘Peter’, there would have been no need for the ‘waw’ to connect again.

(13) The general proposition: ‘All that openeth the womb is mine etc.’ which includes an ass, that is not holy as such and must be redeemed with a sheep.

(14) The firstlings of ox or sheep.

(15) A species of ass born from a cow is, therefore, holy if it has some features resembling its mother, for an ass although an unclean animal, is liable to the law of the firstling.

(16) A horse. Therefore, even if it has some marks like the mother, it should not be liable to the law of the firstling.

(17) . Like an ass, which though unclean, is liable to the law of the firstling. Therefore, if the offspring is a species of horse, and if there is a measure of resemblance between it and its mother, we do not regard the change between the ass and its offspring of such great importance, as to exempt it altogether from the law of the firstling.

(18) And although the difference between the parent and the offspring is great, since the latter resembles the mother, it is liable to the law of the firstling.

(19) We therefore deduce that signs in the offspring akin to the parent are an important matter and the other points raised above are also, incidentally, thereby solved.

(20) But where there is such a gap between the Parent and its offspring as e.g. where a cow gave birth to a species of horse, it is exempt from the law of the firstling. Therefore, only one of the above queries can be solved.

(21) Where a cow gave birth to a species of ass and an ass gave birth to a species of horse, if the offspring had some marks like its mother, it is liable to the law of the firstling.

(22) If the horse does not possess signs resembling the ass, that it should be exempt?

(23) Therefore only if the ass has signs resembling the cow, is it liable to the law of the firstling.

(24) And not a horse at all. An ordinary horse is red in color and an ordinary ass is black. Consequently, if the horse had some features like its parents, we ought perhaps to regard it as a kind of red ass, thus making it liable to the law of the firstling.

(25) Since a horse's color is generally red we regard it as a species of a horse and not as a freak ass. There is, consequently, no proof as to what is the ruling concerning an ass which gave birth to a species of horse.

(26) And say that a clean animal which gave birth to an unclean animal is forbidden to be eaten and an unclean animal which gave birth to a clean animal is permitted to be eaten. Clean animals are those which may be eaten according to the Jewish law and possess the necessary signs of a clean animal and unclean animals are those which do not possess these signs. .

(27) Therefore where a clean animal is born from an unclean animal, it should be permitted to be eaten.

(28) This can also be rendered 'and'.
(29) Lev. XI, 4.

Talmud - Mas. Bechoroth 6b

It means this: An object which proceeds from them which chew the cud and of them that divide the hoof, ye shall not eat![1] The text therefore states: The camel . . . he is unclean,[2] intimating that he is unclean[3] but an unclean animal born from a clean animal is not Unclean, but clean. R. Simeon says: The word 'camel' occurs twice,[4] once referring to a camel born from a camel [as forbidden], and the other, to a camel born from a cow. And as to the Rabbis who differ from R. Simeon — what do they do with the repetition 'camel', 'camel'? — One is to forbid [the camel itself] and the other to prohibit its milk. And whence does R. Simeon derive the prohibition of a camel's milk? — He derives it from the word 'eth, [with] the camel'.[5] And the Rabbis? — They do not stress the word eth [occurring in the Scriptures]. As it was taught: Simeon the Imsonite used to expound the word eth wherever it occurred in the Law. When he reached, however, the verse, eth [with] the Lord thy God thou shalt fear,[6] he abstained.[7] His pupils, thereupon, said to him: 'Rabbi, every eth which you have expounded, — what will become of them?' He replied to them: 'Just as I have received reward for interpreting every eth, so I shall receive reward for abstaining'. Finally, however, R. Akiba came and taught that the verse: 'eth [with] the Lord thy God thou shalt fear', intimates that we must pay reverence to scholars next to God. Said R. Aha the son of Raba to R. Ashi: According to this, the reason of the Rabbis [why milk of an unclean animal is forbidden], is because of the repetition 'camel', 'camel', and that of R. Simeon is because of the text 'eth [with] the camel', but were it not so, I might have said that milk from an unclean animal is permitted. Why should it be different from what was taught: [The verse] These are the unclean,[8] implies the prohibition of their brine, their soup and their jelly![9] — It is necessary [to find another basis for milk]. For I might have been inclined to assume that since even the use of milk itself of a clean animal is an anomaly, for a Master said: The blood [during the nursing period] is dis turbed [decomposed] and turns into milk; and since it is an anomaly,[10] therefore even from an unclean animal the milk should be permitted. We are accordingly informed [that this is not so]. This would indeed hold good according to him who says that the blood [during the nursing period] is disturbed [decomposed] and turns into milk. But according to him who says [that the reason why there is no menstruation period while nursing is] because her limbs become disjointed[11] and she does not become normal in herself for twenty-four months,[12] what can you reply? — It is still necessary. I might have been inclined to assume, that since there is nothing which proceeds from a living being which the Divine Law permits and yet milk which is similar to a part from a living animal [is permitted], therefore even from an unclean animal the milk should be permitted. We are accordingly informed [that this is not so]. And whence do we derive that milk itself from a clean animal is permitted? Shall I say that since the Divine Law prohibits [the boiling of] milk and meat together, this implies that separately milk is permitted? But might I not still maintain that milk by itself is forbidden to be eaten though permitted for other general use,[13] whereas in the case of boiling meat and milk together, it is also forbidden for any use. And even according to the view of R. Simeon who holds that meat and milk boiled together is permitted for general use,[14] the prohibition can be explained as necessary to inflict lashes for the boiling![15] Rather,[16] since the Divine Law states in connection with dedicated objects which became unfit, Notwithstanding thou mayest kill[17] but not to use the shearing, 'flesh', but not the milk,[18] this implies that milk from an unconsecrated animal is permitted. But may I not take the meaning to be that milk from an unconsecrated animal is forbidden to be eaten but may be used for other general use, whereas in the case of consecrated objects, it is forbidden even for any use? — Rather deduce [the law] from what [Scripture] has written, And thou shalt have goats' milk enough for thy food, for the food of thy household, and for the maintenance of thy maidens.[19] Perhaps, however, this only refers to business?[20] Rather deduce this from what [Scripture] writes, And carry these ten cheeses unto the captain of their thousand.[21] Perhaps, here also, it refers to business.[22] Is it usual in war to sell [food to the enemy]?[23] If you prefer, I may deduce from here:[24] A land flowing with milk and honey.[25] Now if milk were not permitted, would Scripture commend the country to us with something which is not fit to be eaten? Or, if you prefer, I may deduce it from here:[26] Come ye buy and eat, yea, come buy wine and milk without money and without price.[27] Now, according to this,[28] , the repetition ‘Rockbadger’, ‘Rockbadger’,[29] ‘Hare’, ‘Hare’, ‘Swine’, ‘Swine’, — are these also come for some purpose?[30] But [the object of these repetitions quoted] is really as was taught: Why is there a repetition [of the clean and unclean] ani mals?[31] On account of shesu'ah.[32] Why with reference to birds, [is there the same repetition in the Scripture]? On account of ra'ah.[33] Then, perhaps, [the repetition of] ‘Camel’, ‘Camel’ also has the same purpose?[34] — All the same, wherever we can derive a lesson from the biblical text, we interpret it.[35] Our Rabbis taught: If a ewe gave birth to a species of a goat or a goat gave birth to a species of a ewe, it is exempt from the law of the firstling. But if the offspring possesses some marks similar to its mother, it is liable to the law of the firstling. R. Simeon says [it is not liable to the law of the firstling] until the head and the greater part of the body resemble the mother. The following query was put forward. Does R. Simeon require, in order that the animal may be permitted to be eaten, the head and the greater part of the body,[36] or not? In connection with a firstling, Scripture writes: ‘But the firstling of an ox’[37] indicating [that the law of the firstling does not apply] until the animal is an ox and its firstborn is an ox.[38] But as regards permission for eating, the Divine Law says that only a camel is prohibited, but

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(1) I.e., a species of an unclean animal born from a clean animal.

(2) Ibid.

(3) And usually camels are born from camels and, since Scripture emphasizes that ‘he’ is unclean etc., this implies that a camel, however, born from a cow, is clean.

(4) Once in Lev. XI, 4 and again in Deut. XIV, 7.

(5) את הגמל. The accusative article את can be rendered also ‘with’.

(6) Deut. X, 20.

(7) Because the word eth means by implication an amplification and he felt that here he could not amplify the word so as to include fearing someone besides the Deity.

(8) Lev. XI, 31. The ה before טמאים meaning ‘the’. The superfluous letter suggests the inclusion of something else as unclean.

(9) And the sediments of boiled meat.

(10) This shows that blood, which ordinarily is prohibited, after a change is permitted, and the same is the case in connection with the milk of a clean animal.

(11) On account of the labor of childbirth.

(12) The period of nursing, and not because the blood is changed into milk. Therefore, the use of milk is not an anomaly and what need is there, consequently, for a special prohibition with reference to the milk of an unclean animal?

(13) I.e., to be sold to non-Jews.

(14) V. infra 10a.

(15) But milk by itself may still be forbidden, only, in addition, there is a penalty of forty lashes for boiling the meat and milk together.

(16) From the following verse, you may derive the permission for the use of milk.

(17) Deut. XII, 15.

(18) Although the animal is no longer fit for the purpose dedicated, even after its redemption, it possesses a measure of sanctity.

(19) Prov. XXVII, 27.

(20) To sell the milk profitably to non-Jews to maintain his family. But milk may be still prohibited for food.

(21) I Sam. XVII, 18. And Jesse instructs David to bring them to the captain of their thousand in the war, which shows that milk is permitted to be eaten.

(22) That the captain of their thousand might sell to the gentile enemy.

(23) Their intention being to destroy the enemy heathen, the Hebrews would not do business with them to increase their power of resistance. Therefore the cheeses must have been intended for the Hebrews.

(24) From the following verse, we can derive that milk is permitted.

(25) Ex. III, 8.

(26) From the following verse, one can derive that milk is permitted.
(27) Isa. LV, 1.
(28) Both according to the Rabbis and R. Simeon who derive lessons from the repetition of 'Camel', 'Camel', although variously.
(29) Once in Leviticus and again in Deuteronomy, the same applying to the other repetitions quoted.
(30) What need is there for these repeated prohibitions?
(31) In Leviticus and Deuteronomy.
(32) A creature with two backs and two spinal columns, which is not mentioned in Leviticus as forbidden.
(33) The name of an unclean bird, not mentioned in Leviticus.
(34) The repetition having no object except for the inclusion of one new animal and bird left unmentioned in Leviticus.
(35) And the reason why we infer that special deductions are made from 'Camel', 'Camel', and not from the repetition of 'Rockbadger', 'Rockbadger' etc., is because the word 'Camel' occurs first in the text.
(36) In the case of an unclean animal born from a clean animal where R. Simeon forbids the eating, if the offspring has no marks similar to the mother, but permits it if there are marks similar to the mother, the question arises whether he requires that the offspring must be like the mother to the extent of its head and the greater part of the body?
(37) Num. XVIII, 17.
(38) I.e., the head and the greater part of the body to be similar to its mother.

Talmud - Mas. Bechoroth 7a

if it has changed from a camel,[1] there is no objection. Or is there perhaps no difference?[2] — Come and hear: If a clean animal gives birth to a species of unclean animal it is forbidden to be eaten, but if the head and the greater part of the body resemble its mother, it is liable to the law of the firstling. May we not deduce from here[3] that even as regards permission to eat, R. Simeon requires the head and the greater part of the body to be [similar to its mother?] — No, only as regards [the law] of the firstling.[4] I can also prove it. For he leaves [the first clause of the above passage] relating to eating [as it is] and places [the provision of the head and the greater part of the body] in conjunction with the firstling. We deduce from here, therefore, [do we not] that only in connection with the firstling does R. Simeon require the head and the greater part of the body, but not as regards permission for eating! — No. I may still tell you that also as regards eating, R. Simeon requires the head and the greater part of the body; and that it was necessary to state this with particular reference to the firstling. For I might be inclined to assume that since Scripture writes: 'But the firstling of an ox',[5] [that the law of the firstling does not apply] until the animal is an ox and its first-born is an ox, and that therefore it is not sufficient for the offspring to resemble its mother to the extent only of its head and the greater part of its body, but the whole animal must resemble its mother. He accordingly informs us [that this is not so]. Come and hear: [Scripture says]: Nevertheless these shall ye not eat of them that chew the cud or of them that divide the hoof.[6] We infer that this you must not eat,[7] but you may eat an animal which has one mark similar [to its mother]. And what is this which has one mark? This is an unclean animal which was born from a clean animal impregnated from a clean animal. I might think that this is the case even if it was impregnated from an unclean animal? The Text therefore states: 'A sheep [born from a pair] of lambs', 'a goat [born from a pair] of goats',[8] intimating that the father must be a sheep and the mother must be a female sheep. These are the words of R. Joshua. R. Eliezer says: The object of the text is not to allow what is [already] permitted[9] but to add to what is already permitted. And what is this? This is the case of an unclean animal born from a clean animal impregnated from an unclean animal. Or, shall I say that this is not the case, but its pregnancy must be from a clean animal? Scripture therefore states: 'a sheep of lambs', 'a sheep of goats' in any case.[10] Now he describes [in the above passage] the animal as unclean, therein agreeing with R. Simeon,[11] and proceeds to say, 'But you may eat an animal which possesses one [clean] mark similar to its mother'! — This Tanna [of the above passage] holds with R. Simeon in one thing[12] but he differs from him in the other.[13] Some there are who raise a question [with reference to the above Baraitha], and answer it.[14] [The question was asked]. Can impregnation take place from an unclean animal? For R. Joshua b. Levi said: There can be no impregnation either of an unclean animal from a clean animal, or of a clean animal from an unclean animal, or of large cattle from small cattle, or of small cattle from large cattle, or of a domestic animal from a beast of chase, or a beast of chase from a domestic animal, except in the case[15] discussed by R. Eliezer and his disputants, where all say that a beast of chase can become pregnant from a domestic animal. And R. Jeremiah explained that the animal became pregnant from a kalut born of a cow,[16] adopting the view of R. Simeon.[17] And the Baraitha states: But you may eat an animal which has one mark like its mother?[18] — This Tanna [from the Baraitha] holds with R. Simeon in one thing but differs from him in the other.[19] Does this mean to say that R. Eliezer holds that a product of two [heterogeneous] factors is permitted[20] and that R. Joshua holds that a product of two such factors is forbidden? But have we not learnt the reverse of them? [For we have learnt]: The offspring of a trefah[21] must not be offered upon the altar. But R. Joshua says it may be offered upon the altar![22] — As a rule, R. Eliezer maintains that a product of two [heterogeneous] factors is forbidden, but the case is different here.[23] For if it were so, Scripture should write: The sheep of lambs and goats. Why is the repetition of ‘sheep’, ‘sheep’ needed? Deduce from here, therefore, ‘sheep’ in any circumstances.[24] And R. Joshua? — He will explain the matter to you [as follows]. In general, a product of two [heterogeneous] factors is permitted, but here [in the Baraitha], if this were the case, let Scripture write: ‘Ox’, ‘sheep of a lamb’, ‘sheep of a goat’. What need is there for the words ‘lambs’, ‘goats’?[25] Deduce, therefore, from here that the father must be a sheep and the mother must be a sheep.[26] Come and hear: R. Simeon says: [We find] ‘camel’, ‘camel’ twice;[27] one refers to a camel born from a camel [as prohibited] and the other refers to a camel born from a cow. But if its head and the greater part of its body resemble the mother, it is permitted to be eaten. Deduce, therefore, from here that even for eating R. Simeon requires the head and the greater part of the body [to be similar to the mother]. This is proved. FOR THAT WHICH GOES FORTH FROM THE UNCLEAN, etc. A question was put to R. Shesheth. What is the ruling concerning the urine of an ass? Why should not the question be put [concerning the urine] of horses or camels? The question was not put [concerning the urine] of horses or camels, for it is not thick and, consequently, it is not similar to milk. [It is merely] water coming in,[28] and water coming out. But the question does arise [concerning the urine] of an ass, because it is thick and is similar to milk. What is the ruling? Is the urine drained from the body of the ass itself and therefore it is forbidden, or, perhaps, [it is merely] water coming in and water coming out and its thickness is due to the exudations of the body? — R. Shesheth replied to his questioners. We have learnt it: FOR THAT WHICH GOES FORTH FROM THE UNCLEAN IS UNCLEAN, AND THAT WHICH GOES FORTH FROM THE CLEAN IS CLEAN. Now, it does not say ‘from what is Unclean’.[29]

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(1) But in some respects it is like its mother.

(2) Even for permission to eat, we require the head and the greater part of the body to be like the mother.

(3) For it is R. Simeon who holds that an unclean animal born from a clean animal is forbidden, and since the prohibition of eating is put in the proximity of the expression of the head and the greater part of the body, we therefore may conclude that for eating purposes, as well as for the law of the firstling, the offspring must resemble the mother as regards its head and the greater part of the body.

(4) Does R. Simeon require that the head and the greater part of the body must be similar to its mother.

(5) Num. XVIII, 17.

(6) Lev. XI, 4.

(7) E.g., a camel even born from a cow.

(8) So literally. Deut. XIV, 4.

(9) Where both parents are clean animals.

(10) From the repetition of the word ‘seh’, it is inferred that even if the unclean animal has only a mother which is a clean animal, the father being an unclean animal, it is still permitted.

(11) The language used, ‘an unclean animal’, in the Baraitha but not ‘that which issues from a clean animal’, is in accordance with the view of R. Simeon who forbids the offspring as definitely unclean, if it has not marks resembling its mother; and it says here that if it has one mark similar to its mother, it is permitted. Hence, we see that we do not require according to R. Simeon the head etc. to resemble its mother.

(12) That an unclean animal born from a clean animal is unclean.

(13) For R. Simeon requires the head and the greater part of the body to resemble its mother before it is permitted to be eaten.

(14) And from the answer, our query whether R. Simeon requires the head etc. to be like the mother in order to be permitted to be eaten, can be solved.

(15) A koy: (An antelope or bearded deer). The Rabbis are undecided whether it belongs to the genus of cattle or the beasts of the chase. This animal, however, comes from a he-goat, and a hind, and R. Eliezer and the majority of the Sages dispute whether the law forbidding the killing of the mother and its young on one day applies to it. But apparently they agree that impregnation is possible in such circumstances.

(16) The unclean animal referred to in the Baraitha above, does not actually mean an unclean animal but a kalu! (closed), an animal with closed and uncloven hoofs born of a cow.

(17) Since the Baraitha describes the kalut born of a cow as unclean, this indicates that its views are in accordance with R. Simeon who holds that an unclean animal born from a clean animal is unclean.

(18) Hence we can infer that for eating purposes, R. Simeon does not require the head and the greater part of its body to be like its mother.

(19) As regards requiring the head etc. to resemble its mother.

(20) R. Eliezer who permits the offspring when the impregnation is from an unclean animal, because he maintains that since it is a product of combined causes and one of these, the mother, is a clean animal, it is permitted.

(21) V. Glos.

(22) If its sire is a clean animal, although the mother is trefah. V. Hul. 58a and Tem. 30b. We have here, consequently, a product of combined causes, one of which is a clean animal.

(23) In the Baraitha quoted above.

(24) Even where the pregnancy is from an unclean animal, the offspring is permitted.

(25) Why are these words put in the plural.

(26) The father must also belong to the same class.

(27) Once in Leviticus and again in Deuteronomy.

(28) When the animal drinks.

(29) The phrase ‘from what is unclean’ would imply coming from the body itself, and therefore whether the substance which came forth was turgid or otherwise, it would be forbidden to be eaten.

Talmud - Mas. Bechoroth 7b

but FROM THE UNCLEAN,[1] and this too [the urine of an ass thick as milk] is from that which is unclean. Some state the argument as follows: With reference to [the urine of] horses or animals, the question was not put forward, because it is not drunk.[2] The question, however, arose concerning [the urine of an ass] which people drink and is good for jaundice. What is the ruling? — R. Shesheth replied to this. We have learnt this in the Mishnah: THAT WHICH GOES FORTH FROM THE UNCLEAN IS UNCLEAN, AND THAT WHICH GOES FORTH FROM THE CLEAN IS CLEAN, and this [urine] also comes from an unclean animal.[3] An objection was raised. Why did [the Sages] say that honey from bees is permitted? Because the bees store it[4] up in their bodies but do not drain it from their bodies.[5] — He [the Tanna of the passage quoted above] holds with R. Jacob who said: The Divine Law expressly permitted honey.[6] For it was taught: R. Jacob says: Yet these may ye eat of all the winged swarming things.’[7] This you may eat, but you are forbidden to eat an unclean winged swarming thing. But is not an unclean winged swarming thing expressly mentioned in the Scripture [as forbidden]? Rather we must explain [thus]: An unclean fowl that swarms you must not eat, but you may eat what an unclean fowl casts forth from its body. And what is this? This is bees’ honey.[8] You might think that this also includes gazins’[9] honey or hornets’ honey as permissible. You cannot, however, say this. And why should you include bees’ honey and exclude gazins’ honey or hornets’ honey? I include bees’ honey because it has no qualifying epithet[10] but I exclude gazins’ honey or hornets’ honey, since they have a qualifying epithet. Whom does this dictum that has been taught follow: Gazins’ honey or hornets’ honey is clean and is permitted to be eaten? Not R. Jacob. [The Baraitha says concerning gazins’ or hornets’ honey] that it is clean, consequently, it requires the intention [of using it as a food].[11] We infer from this that bees’ honey does not need the intention [of using it as a food].[12] It has also been taught likewise: Honey in its hive becomes unclean[13] with the uncleanness of food, even without the intention [of using it as a food]. With regard to ball-like concretions in a fallow-deer, the Rabbis in the presence of R. Safra proposed to lay down that they were real eggs and were therefore forbidden.[14] Said R. Safra: It was really the seed of a deer which sought to couple with a hind, but since the latter's womb is narrow and it is unable to copulate, the deer, therefore, seeks to couple with a fallow-deer, releasing its semen into the latter's womb.[15] Said R. Huna: The skin which is over the face of an ass at birth[16] is permitted to be eaten.[17] What is the reason? — It is a mere secretion [but no real skin]. Said R. Hisda to him. There is a [Baraitha] taught which supports you: A skin which is over the face of a man, whether alive or dead, is clean.[18] Now does not this mean whether both the offspring and its mother are alive, or whether both the offspring and its mother are dead?[19] No. It means, whether the offspring is alive and its mother is dead, or whether the offspring is dead and its mother is alive.[20] But has it not been taught: Whether the offspring and its mother are alive, or whether the offspring and its mother are dead, [the ruling is that the skin is clean]? If it has been actually taught in a Baraitha, then it has been taught.[21]

MISHNAH. IF AN UNCLEAN FISH SWALLOWED A CLEAN FISH, IT IS PERMITTED TO BE EATEN. BUT IF A CLEAN FISH HAS SWALLOWED AN UNCLEAN FISH, THE LATTER IS FORBIDDEN TO BE EATEN, BECAUSE IT IS NOT [THE CLEAN FISH'S] PRODUCT.[22]

GEMARA. The reason[23] is because we actually saw that it swallowed. But if we did not see that it swallowed, we would say that it was bred[24] [by the unclean fish]. Whence do we know this? For it has been taught: An unclean fish breeds, whereas a clean fish lays eggs.[25] If this is a fact, even if we see that it actually swallowed, we should say that the clean fish had been consumed and [the fish found inside] was bred by the unclean fish![26] — Said R. Shesheth: [It means,] if e.g., he found it in the secretory channel.[27] R. Nahman said: if e.g., he found it whole.[28] R. Ashi said:[29] The majority of fish breed their own kind and therefore [when we discover a different kind of fish inside] it is as if we had witnessed the swallowing. Our Rabbis taught: An Unclean fish breeds, but a clean fish lays eggs. Whatsoever gives birth,[30] gives suck.[31] And whatsoever lays eggs, supports its brood by picking up [food for it], except the bat, for although it lays eggs,it gives suck [to its young].

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(1) The phrase ‘from the unclean’ implies something which proceeds from the inside of an unclean creature, and although it does not drain from the body itself, it is yet forbidden.

(2) As a medicine. Therefore it is of little value and is not forbidden.

(3) According to this version therefore, whether it is thick or otherwise, it is forbidden (R. Gershom).

(4) From the sap of flowers and plants.

(5) There is, therefore, an objection here according to both versions. According to the first version, if the substance which proceeds from an unclean creature is thick although it does not drain from the body, it is prohibited, whereas here, in the case of honey, the reason why it is allowed is because it does not drain the body. And according to the second version, honey, since it comes from an unclean creature, should be forbidden.

(6) The Divine Law explicitly permits honey, although it may come from the body of the bee itself, and no reason is given for this.

(7) Lev. XI, 21.

(8) And is not like the embryo or offspring which is part of the creature itself.

(9) A species of wild bees or locusts.

(10) Bees’ honey is known briefly as honey, without any necessity to describe it as such.

(11) Food, which is recognized as such, automatically receives the uncleanness pertaining to food when coming in contact with an unclean object such as a corpse or carcass. But, an object which is not ordinarily considered as food requires, in order to receive uncleanness, the intention that it is to be used as food.

(12) For it is regarded as ordinary food and receives uncleanness in the usual manner. This passage is to be added with Sh. Mek.

(13) For ordinary hives are used for bees, although the honey is still in the hive and the consumer has not as yet expressed his intention of using it as food.

(14) Like a limb from a living animal, having been communicated from the male organ to the womb.

(15) The semen, however, owing to the delay in copulation, has meanwhile hardened, and although it enters the womb, owing to its congealed state, it has no effect and issues later in the animal's excrements, in the form of ball concretions.

(16) A thin skin somewhat similar to the after-birth, but not actually the same.

(17) For it is not regarded as the after-birth in any way.

(18) He who touches or carries it remains clean.

(19) And even if both are dead, nevertheless, the skin is clean. Hence, we learn that the skin is a false membrane and is not considered as the after-birth of either the mother or the offspring.

(20) For the skin comes from both the mother and its offspring and therefore it is clean until both are dead. This is one explanation. Rashi's explanation, however, is that the Baraitha in both cases supposes the mother to be alive, only In one instance the offspring is also alive, therefore the skin is clean. But where both are dead, R. Hisda cannot find support for R. Huna's ruling.

(21) And nothing further need be said.

(22) For the unclean fish was swallowed alive, but if it was actually a growth of the clean fish, it would be permitted, as is the ruling with something which proceeds from a clean being.

(23) Why the Mishnah states that if an unclean fish swallowed a clean fish, the latter is permitted to be eaten.

(24) And we should then regard it as its progeny and as part of the unclean fish.

(25) And hatches them till the young emerge.

(26) And it should therefore be forbidden to be eaten, as the progeny of any unclean fish.

(27) And if it were an embryo, it should have been found in the womb.

(28) And if it were an embryo, it would have left the womb before now.

(29) The Mishnah does not refer to the case where we actually saw the swallowing.

(30) To an embryo or offspring, a creature like itself.

(31) I.e., possesses breasts.

Talmud - Mas. Bechoroth 8a

Dolphins are fruitful and multiply by coupling with human beings. What are dolphins? — Said Rab Judah: Humans of the sea.[1] In any species which has its male balls outside,[2] [the female] give birth [to its young]. But where the male balls are inside, [the female] lay eggs. It is not so. Did not Samuel Say: The domestic and wild goose are forbidden copulation?[3] And we raised the point, what is the reason? Said Abaye: In one case, the male balls are outside, and in the other, the male balls are inside. Yet both lay eggs! — Rather say: Whatsoever has its male genital outside, gives birth, but whatsoever has its male genital inside lays eggs.[4] Whatsoever copulates in the day time, gives birth in the day time. Whatsoever copulates in the night, gives birth in the night. Whatsoever copulates in the day and night time, gives birth both in the day and in the night. 'Whatsoever copulates in the day time gives birth in the day time:' for instance, a cock. 'What soever copulates in the night, gives birth in the night': for instance, a bat. 'Whatsoever copulates in the day and night time, gives birth both in the day and in the night': for instance, man and all beings resembling him. What is the practical rule [to be derived from this statement]? — The rule of R. Mari, the son of Kahana. For R. Mari, the son of Kahana said: If one searched a nest of chickens on the eve of a Festival and did not find an egg therein and on the morrow, he rose early[5] and found there an egg, it is permitted to be eaten on the Festival.[6] [But did he not search?][7] — You presume that he did not search thoroughly. But did he not search thoroughly? — You presume that the greater part [of the egg] came forth from the intestines of the chicken but returned,[8] and this is in accordance with the ruling of R. Johanan. For R. Johanan said: An egg, the greater part of which came forth [from the intestines of a chicken] on the eve of a Festival and returned [to its intestines,] may be eaten on the Festival. All animals whose copulating and pregnancy are alike,[9] give birth from one another, and nurse each other's young. All animals copulate with their faces against the back [of the female], except three, which copulate face to face, and these are a fish, man, and a serpent. And why are these three different? — When R. Dimi came [from Palestine] he said: In the West [Palestine] it was said: Because the Divine

Presence spoke with them.[10] In a Baraitha it was taught: Camels [copulate] back to back. Our Rabbis taught: A hen lays its eggs after twenty-one days,[11] and corresponding [to a hen] is the almond-tree among trees.[12] A dog [goes with young] for fifty days, and corresponding [to a dog] is a fig-tree among trees. A cat [goes with young] for fifty-two days, and corresponding [to a cat] is a mulberry-tree among trees, [whose fruit ripens fifty-two days after its blossoming]. A pig [goes with young] for sixty days, and corresponding [to a pig] is an apple tree among trees. A fox and all kinds of reptiles [go with young] for six months, and corresponding [to a fox] etc. is wheat among trees.[13] Small clean animals [go with young] for five months, and corresponding [to small animals] is a vine among trees. Large unclean cattle [go with young] for twelve months, and corresponding [to large unclean cattle] is a palm-tree among trees.[14] Clean large cattle [go with young] for nine months, and corresponding [to clean large cattle] is an olive-tree among trees. The wolf, lion, bear, leopard, bardeles,[15] elephant, monkey, and long-tailed ape [go with young] for three years, corresponding to them are white figs among trees. A viper [or adder] goes with young for Seventy years, and corresponding to it is the carob-tree among trees. From the time of the planting of the carob-tree to the ripening of its fruit, a period of seventy years elapses; and the time of its pregnancy',[16] is three years. A serpent [goes with young] for seven years, and for that wicked animal there is no companion [among trees]. Some, however, say that [corresponding to a serpent] is a kind of white fig [among trees],[17] Whence is this proved?[18] — Said Rab Judah in the name of Rab and they trace it in tradition up to the name of R. Joshua b. Hanania: Because [Scripture] says: Cursed art thou from among all cattle and from among all the beasts of the field.[19] Now if [the serpent] was cursed [to go with young for a period] longer than an animal,[20] [how much] longer must this have been than that of a beast?[21] But [the object of the verse is] to tell you: Just as the animal is cursed [to go with young] longer than a beast in the proportion of one to seven[22] — and what is this? An ass which [goes with young longer] than a cat — so [the serpent] is cursed [to go with young] in the proportion of one to seven, which is seven years.[23] But why not say, that just as the beast has been cursed [to go with young longer] than an animal in the proportion of one to three — and what is this? A lion [which goes with young longer] than an ass[24] — so, [the serpent] has been cursed [to go with young] longer than the beast in the proportion of one to three, which is nine years?

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(1) Half fish and half human.

(2) Outside its belly, i.e. animals and beasts.

(3) The coupling together of heterogeneous animals or birds is one form of kil'ayim.

(4) And as regards the domestic and wild goose, although the latter has its male balls outside, its male genital is inside. Therefore, in both instances, they lay eggs and do not give birth to their brood.

(5) Before dawn.

(6) For since a hen does not lay eggs at night, it must have been laid on the previous day. An egg newly laid on a festival is forbidden on that day. V. Bez. 2a.

(7) Inserted with Sh. Mek.

(8) The greater part of the egg came forth from the inside of the chicken on the eve of the Festival, but it returned, and therefore he did not find it when he searched for it at first in the nest. Consequently, even if, as in this case, it laid the egg at night, it is permitted to eat it on the Festival. But it does not, usually, lay eggs in the night time.

(9) Like sheep and goats, which copulate in a similar manner, their faces against the back of the female and whose period of pregnancy is five months.

(10) The serpent in the Genesis story and the fish in that of Jonah.

(11) After pregnancy from a cock, the egg takes this period for completion. Another explanation is that the hen hatches its eggs for a period of twenty-one days before the young ones emerge. (Rabbenu Gershom.)

(12) From the time of its blossoming until the fruits are ripened, a period of twenty-one days elapse.

(13) Wheat is here described as a tree, in accordance with the authority who maintains that the tree from which. Adam partook was wheat; v. Ber. 40a.

(14) V. supra n. 1.

(15) A spotted beast, either a leopard or a hyena.

(16) The time of the blossoming of the carob-tree until the ripening of its fruit extends over the last three years of the seventy years.

(17) A species of fig, inferior to white figs.

(18) That a serpent goes with young for seven years.

(19) Gen. III, 14.

(20) For the least of animals, i.e., a goat, takes five months to produce its young, whereas the shortest period for a beast, i.e., a cat, is fifty-two days.

(21) If Scripture had written: ‘Cursed art thou from among all cattle’, this would have embraced the period also for which beasts are cursed to go with young.

(22) A cat goes with young for fifty-two days and an ass for one year, i.e., three hundred and sixty-five days, the proportion therefore being one to seven.

(23) Hence we infer that a serpent goes with young for seven years.

(24) An ass goes with young for one year and a lion for three years.

Talmud - Mas. Bechoroth 8b

— Does [Scripture] write: ‘From among all the beasts and from among all the cattle’?[1] It writes [in the following order:] from among all the cattle and from among all the beasts. [The serpent] is cursed from among all the animals which are cursed [in that it takes longer to produce their young] than the beasts. But why not say: Just as the animal has been cursed [to go with young longer] than the beast in the proportion of one to three — and what is this? A goat [which goes with young longer] than a cat — so the serpent has been cursed in the proportion of one to three, which is fifteen months?[2] — If you choose, I may reply that Scripture writes: ‘From among all cattle’.[3] Or if you prefer [still another solution], it is a curse [which it is the object of the verse to inflict] and therefore we cast the [heaviest] curses possible [on the serpent].[4] The Emperor once asked R. Joshua b. Hanania: ‘How long is the period of gestation and birth of a serpent’? — He replied to him: ‘Seven years’. ‘But did not the Sages of the Athenian school couple’ [a male serpent with a female] and they gave birth in three years’? — ‘Those had already been pregnant for four years’. ‘But did they not have sexual contact’?[5] — ‘Serpents have sexual intercourse in the same manner as human beings’.[6] ‘But are not [the sages of Athens] wise men [and surely they must have ascertained the true facts about the serpent]’? ‘We are wiser than they’. ‘If you are wise’ said the Emperor, ‘go and defeat them [in argument], and bring them to me’. He asked him: ‘How many [are the Athenian sages]’? ‘Sixty persons’. Thereupon he said to him: ‘Make me a ship containing sixty compartments, each compartment containing sixty cushions’.[7] He did this for him. When [R. Joshua] reached [their city], he went up to a slaughter-house. He found a certain man who was dressing an animal. He asked him: ‘Is thy head for sale’? The other replied ‘Yes’. Thereupon he asked him: ‘For how much’? And the man answered: ‘For a half a zuz’. He gave him [the money]. Eventually, he said to him: ‘Give me thy head’. [He gave him an animal's head]. Thereupon [R. Joshua] exclaimed: ‘Did I say the head of an animal? [I told thee, thy head’]. [R. Joshua] then said to him: ‘If you wish that I should leave thee alone, step in front of me and show me the door of the school of the Athenian sages’. Thereupon the man replied: ‘I am afraid, for whoever points them out, they put to death’. R. Joshua then said: ‘Take a bundle of reeds, and if you reach the spot, throw it down as if to rest’.[8] He went and found guards inside and guards outside the school; for when the [wise men] saw somebody enter, they used to kill the outside guards, and when they saw someone leaving, they killed the inside guards.[9] He reversed [the heel] of his shoe and they killed the inside guards. He then reversed the shoe [to its normal position] and they killed all of them.[10] He proceeded and found the young men sitting high up [in the upper chamber] and the elders below. He said: ‘If l give greetings [to the elders], then [the young men] will kill me, the latter claiming "we are more important", [for we sit high up and they sit below]. [And if I give greetings to the young men, then the elders will kill me], the latter claiming "we are older and they are just youngsters"’. [R. Joshua] then said: ‘Peace to you’. They asked him: ‘What are you doing here’? He replied to them: ‘I am a sage of the Jews, I wish to learn wisdom from you’. ‘If so, we will ask you questions’ [said the Athenian wise men]. He answered them: ‘Very well. If you defeat me, then whatever you wish, do Unto me, but if l defeat you, eat bread with me in the ship’. They said to him: If a person wished to marry a woman and the consent was not given, is it feasible that he should seek a woman of higher birth?[11] He took a peg and stuck it below [on the stone wall][12] and it would not join, and then he stuck it higher up,[13] and it went in. He said: ‘Here also therefore, it- may happen that the second woman is his destined one’. ‘If a man lends money and is compelled to seize his debt by force, is it to be expected that he should lend again’?[14] He replied to them: ‘A man goes into a forest, cuts the first load of wood and cannot [lift it].[15] He continues cutting, until somebody comes along and helps him to lift the bundle’.[16] They said to him: ‘Tell us some stories’. He said to them: ‘There was a mule which gave birth, and round its neck was a document in which was written, "there is a claim against my father's house of [one hundred][17] thousand zuz"’. They asked him: ‘Can a mule give birth’? He answered them: ‘This is one of these stories’. ‘When salt becomes unsavory, wherewith is it salted’? He replied: ‘With the after-birth of a mule’. ‘And is there an after-birth of a mule’? ‘And can salt become unsavory’? ‘Build as a house in the sky’. He pronounced the Name [of the Deity], [suspended himself in the air] and hung between heaven and earth. He then said to them: ‘Bring me up bricks and clay from down there’. [They asked: ‘And is it possible to do this’? He replied: ‘And is it possible to build a house between heaven and earth’].[18] ‘Where is the centre of the world’? He raised his fingers and said to them: ‘Here’. They said to him: ‘How can you prove it’? He replied: ‘Bring ropes and measure’. They said: ‘We have a pit in the field. Bring it to the town’. He replied: ‘Knot ropes of bran flour for me and I will bring it in’.[19] ‘We have a broken millstone. Mend it’. [He took a detached portion from it and threw it before them][18] saying: ‘Take out the threads for me, like a weaver, and I shall mend it’. ‘A bed of knives, wherewith can we cut it’? ‘With the horns of an ass’. They asked: ‘But has an ass horns’? ‘And is there a bed of knives’? [He replied:] They brought him two eggs. ‘Which is from the black clucking hen and which is from the white’? He himself brought them two cheeses and asked them: ‘Which is from a black goat and which from a white’? ‘A chicken dead in its shell-where has the spirit gone’? ‘From whence it came, thither it went’. ‘Show us an article whose value is not worth the loss it causes’. He brought a mat of reeds and spread it out. It could not get through the door [being too long and wide]. He then said: ‘Bring a rake [and pickaxe]’, and demolished [the door of the building].[20] ‘That is an example of an article whose value is not worth the loss it causes’. He brought them to eat in the ship, one by one to his Separate chamber. When they saw the sixty cushions, each one thought that all the companions would come to this chamber. He ordered the captain to set sail. As they were about to journey, he took some earth from their [native] soil.

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(1) That we should interpret the verse from among all beasts as meaning that the serpent was cursed in the same proportion as the beast is more cursed than the animal.

(2) Small clean cattle whose period of gestation is five months, while a cat's period is fifty-two days, the latter thus being to the former In the proportion of one to three.

(3) The animal most cursed, an unclean large animal, like an ass, going with young longer than the beast, i.e., the cat, constituting a ratio of one to seven, as stated above.

(4) We therefore multiply curses in the greatest degree, since it is the clear intention of the verse to heap curses upon the serpent.

(5) And once pregnant, an animal or beast does not take a male.

(6) Having sexual contact even after pregnancy.

(7) So Jast. Rashi and R. Gershom have here ‘chairs’, the latter adding that they were very ornamental.

(8) And thereby I shall know the place where the Athenians are located.

(9) Bran flour or dust was scattered over the threshold and the footsteps were visible of whosoever entered or departed. The outside guards were put to death when a footstep was visible indicating that someone had entered, for which they were held responsible. On the other hand, when a footstep was visible indicating that someone had left, the inside guards were held responsible and put to death. The guards did not, however, put anybody to death unless he made a forced entry or an exit.

(10) The two footsteps seen on the threshold, pointing in different directions, suggested to the Athenians that there had been two persons, one leaving and the other entering, and consequently all the guards were punished and put to death. This, of course, made it easy for R. Joshua to gain entrance unmolested.

(11) If he was unable to obtain the woman of an inferior status, how much less would he be able to secure the hand of a woman coming from a better family?

(12) In the spot where there was no opening and hole.

(13) Where there was an opening in a space between the stones.

(14) If the lender was constrained to claim his debt from the buyers of the debtor's lands, surely he would not be inclined to lend in future, for fear of meeting similar difficulties in the recovery of his money.

(15) The wood being in such quantities, he is unable to lift it.

(16) Similarly, although he had difficulties with his first debtor, he may be more fortunate with the next one.

(17) Goldschmidt reads: one thousand.

(18) Inserted from Bah.

(19) And if you are unable to carry out my wish, then I cannot perform yours.

(20) And the wall, until it was able to go in.

Talmud - Mas. Bechoroth 9a

When they reached the straits,[1] they filled a jug of water from the waters of the straits. When they arrived, they were presented to the Emperor. He observed that they were depressed, [being far from their native land]. He said: ‘these are not the same [people]’. He, therefore, took a piece of the earth of their country and cast it at them. Thereupon, they grew haughty[2] towards the King. He then said to R. Joshua: ‘Whatever you desire, do with them’. He fetched the water which [the Athenians] had taken from the straits and poured it into a ditch.[3] He said to them: ‘Fill this and depart’. They tried to fill it by casting therein the water, one after the other, but it was absorbed. They went on filling until [the joints] of their shoulders became dislocated and they perished.MISHNAH. IF A SHE-ASS THAT HAD NEVER BEFORE GIVEN BIRTH GAVE BIRTH TO TWO MALES, [THE ISRAELITE] GIVES ONE LAMB TO THE PRIEST AS A REDEMPTION.[4] [IF IT GAVE BIRTH TO] A MALE AND A FEMALE, HE SETS ASIDE ONE LAMB [WHICH REMAINS] FOR HIMSELF.[5] IF TWO SHE-ASSES THAT HAD NEVER BEFORE GIVEN BIRTH GAVE BIRTH TO TWO MALES, HE GIVES TWO LAMBS TO THE PRIEST. [IF THEY GAVE BIRTH TO] A MALE AND A FEMALE OR TWO MALES AND A FEMALE, HE GIVES ONE LAMB TO THE PRIEST.[6] [IF THEY GAVE BIRTH TO] TWO FEMALES AND A MALE OR TO TWO MALES AND TWO FEMALES THE PRIEST RECEIVES NOTHING.[7] IF ONE SHE-ASS HAD GIVEN BIRTH BEFORE AND ONE HAD NOT GIVEN BIRTH BEFORE AND THEY GAVE BIRTH TO TWO MALES, HE GIVES ONE LAMB TO THE PRIEST. [IF THEY GAVE BIRTH TO] A MALE AND A FEMALE, HE SETS ASIDE ONE LAMB [WHICH REMAINS] FOR HIMSELF,[8] FOR [SCRIPTURE] SAYS: AND THE FIRSTLING OF AN ASS THOU SHALT REDEEM WITH A LAMB.[9] [THE LAMB CAN COME EITHER] FROM THE SHEEP OR THE GOATS MALE OR FEMALE, LARGE OR SMALL, UNBLEMISHED OR BLEMISHED. HE CAN REDEEM WITH THE SAME ONE MANY TIMES.[10] AND THE LAMB] ENTERS THE SHED TO BE TITHED.[11] IF IT DIES, THE PRIEST CAN BENEFIT FROM IT.[12] GEMARA. Who is the authority [of the first passage in the Mishnah]?[13] R. Jeremiah said: It does not follow the opinion of R. Jose, the Galilean. For if it were the opinion of R. Jose the Galilean — did he not say that it is possible to ascertain exactly [that both heads came forth simultaneously]?[14] Said Abaye: You may even assume that [the passage in the Mishnah] represents the opinion of R. Jose the Galilean, and that he makes a difference [in connection with the first-born of a clean animal], for [Scripture] writes: The males shall be the Lord's.[15] But why not infer [the case of the first-born of an unclean animal] from [the case of the firstborn of a clean animal]? — The Divine Law excludes this [by the definite article in the expression], ‘The males’.[16] Some there are who say: Must we say that [the passage in the Mishnah][13] does not represent the view of R. Jose the Galilean? For if it were the opinion of R. Jose the Galilean, did he not say that it is possible to ascertain exactly [that both heads came forth simultaneously]? — Said Abaye: You may even assume that it is the opinion of R. Jose the Galilean and he makes a difference [in connection with the first-born of a clean animal], for [Scripture] writes: ‘The males shall be the Lord's’. Now we can understand R. Jeremiah stating that [the passage in the Mishnah] does not follow R. Jose the Galilean; that is the reason why the [Mishnah] does not say: ‘And both their heads came forth simultaneously’.[17] But according to Abaye, let it Say: ‘And both heads came forth simultaneously’?[18] Moreover, it has been taught: If his ass had never given birth before, and it gave birth to two males, and the two heads came forth simultaneously, R. Jose the Galilean says that they both belong to the priest, for Scripture Says: ‘The males are the Lord's.’ But is this not written in connection with [an animal] consecrated as such [which is a clean animal]? — Rather say, On account of what [Scripture] Says: ‘The males are the Lord's’.[19] This is a confutation of Abaye. — It is a refutation.

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(1) Probably Scylla and Charybdis (Jast.). Rashi explains that בי בליעי refers to the ocean mostly the Mediterranean Sea which absorbs all the waters of the world which flow therein. The waters are then brought to the depths from which they are subsequently discharged. Other explanations (by R. Gershom) are that there is a particular spot in the sea that absorbs other waters or that it refers to Miriam's Well.

(2) After smelling their native earth, they imagined that they were back again in their own country.

(3) A vessel or an earthen jug (Rashi).

(4) Because, at all events, one of the offspring must be a first-birth.

(5) There is a doubt here as to whether the male ass was born before the female; so, by setting aside a lamb for redemption, he releases the animal from the prohibitions which attach to the first-birth of an ass, in case the male was born first. He is not required, however, to give the lamb to the priest, since the claim of the latter is purely that of a debt due to him as laid down in the Scripture, the lamb not possessing any sanctity, and being like the ass which it redeems. Consequently, the priest is in the position of a claimant who must produce the evidence, the evidence here being that the male was born prior to the female.

(6) One male must be a first-birth and the other, as there is a doubt whether the male was born before the female, therefore, he sets aside one lamb for redemption, which, however, remains for himself.

(7) Where two males and two females are born, the priest receives nothing, because the female might have been born prior to the males; also, where two females and a male are born, because here too there is a doubt, and the female might have been born before the male. The Israelite, however, must set aside two lambs which remain for himself.

(8) In case the she-ass which had never given birth before had given birth to the female.

(9) Ex. XIII, 13. From here we derive the general rule that the first-birth of an ass is redeemed with a sheep.

(10) If the lamb which the priest receives as a redemption for the first-birth of an ass was sold or returned to the Israelite as a present, it can exempt another first-birth of an ass. This process can be repeated in connection with many first-births of asses.

(11) The lamb which he sets aside is an absolutely unconsecrated animal and enters the shed to be tithed with the rest of his animals.

(12) As soon as the lamb is set aside, the Priest has a claim on it as belonging to him, and it is as if it were already in his possession. Therefore, if the lamb died before it was delivered to the priest, the latter benefits from its skin and carcass.

(13) That if a she-ass which had never before given birth, gave birth to two males, he only gives one lamb to the Priest.

(14) Infra 17a. If a ewe which had never given birth before gave birth to two males, R. Jose, the Galilean, says that both belong to the priest since both heads came forth at the same time.

(15) Ex. XIII, 12. The plural indicates two males, but in the case of the first-births of asses, where the singular is used throughout, even if it were possible to make sure that both heads came forth simultaneously, they are not sanctified.

(16) The superfluous ה (‘the’) implies that only in the case of a clean animal do we apply the said law.

(17) As in the case of a clean animal, infra 17a.

(18) According to Abaye, it is possible to ascertain exactly that both heads came forth simultaneously, as the Mishnah is in accordance with R. Jose, only in the case of an unclean animal, it is different, because of the restrictive word ‘The males’. Why should not the Mishnah, therefore, state that even if both heads came forth simultaneously, only one lamb is given to the Priest?

(19) The inference from the verse is indirect. Since Scripture has indicated in this verse that it is possible to ascertain that both heads come forth simultaneously in connection with a clean animal, we apply the same to the first-birth of an ass. In any case we therefore clearly see here that R. Jose's ruling applies even to the first-birth of an ass.

Talmud - Mas. Bechoroth 9b

And as to the Rabbis,[1] must we say that the Rabbis hold that even if a portion of the womb touches [the firstling] it consecrates? For if it consecrates only when the whole womb touches [a firstling], granted it is impossible to ascertain that both heads came forth simultaneously, nevertheless, there is here an interposition?[2] — Said R. Ashi: Objects of a homogeneous kind are not reckoned as an Interposition [with reference to each other].[3] IF IT GAVE BIRTH TO A MALE AND FEMALE, HE SETS ASIDE etc. Since it remains for himself what need is there to set it aside? — [In order] to release it from the prohibitions [attaching to the first-birth of an ass].[4] Consequently, [we infer] that until it is released, it is forbidden to be used. Whose opinion does the Mishnah represent? It is the opinion of R. Judah. For it has been taught:[5] It is forbidden to make any use of the first-birth of an ass. These are the words of R. Judah. But R. Simeon permits this. What is the reason of R. Judah? Said ‘Ulla: ‘Can you find an object which requires redemption and yet is permitted to be used while unredeemed’? But is there not? What of the case of the first-born of a man who requires redemption and yet [even before redemption] one may derive benefit from him? — Rather argue [thus]: Is there an object concerning which the Torah particularly enjoined that redemption must be with a sheep and which was yet permitted to be used [before redemption]? And was [the Torah] indeed so particular? Did not R. Nehemiah the son of R. Joseph redeem [an ass] with boiled herbs of its equivalent value? — As regards an object of equivalent value, this is not referred to here.[6] What we are speaking of is the redemption [of an object] not with its equivalent value. And ‘Ulla means this: Can you find an object concerning which the Torah was particular to release its prohibition only with a sheep even though not Its equivalent in value and yet it is permitted to benefit therefrom [unredeemed]? — But what of the second tithing which the Torah was particular that the redemption must be with coined money, and yet we have learnt, R. Judah says: If he betrothed a woman [with second tithe] wilfully she is betrothed?[7] — Also with a first-birth of an ass is a woman betrothed, as R. Eleazar [taught]. For R. Eleazar said: A woman knows that the second tithe is not rendered unconsecrated through her,[8] and she, therefore, goes up to Jerusalem and eats it. Similarly, here also, a woman is aware that the first-birth of an ass is prohibited, she redeems it therefore with a lamb, and is betrothed with the difference [between the value of the ass and the sheep].[9] And as to R. Simeon, what is his reason? — Said ‘Ulla: Can you find an object whose ransom[10] is permitted to be used while [the object itself] is forbidden? But can we not? What of [the fruit of] the Sabbatical year, whose ransom is permitted to be used and yet the fruit itself is forbidden?[11] — Also with [the fruit of] the Sabbatical year is the ransom forbidden, for a Master said: [The prohibitions attaching to the Sabbatical year] take effect on the very last thing [bought].[12] Or, if you choose, I may say that R. Judah and R. Simeon differ in the interpretation of the following verse. For it has been taught: [Scripture says]: Thou shalt do no work with the firstling of thine ox:[13] but you may do work with a firstling which belongs [both] to you and to a gentile;[14] nor shear the firstling of thy flock:[13] but you may shear what belongs [both] to you and to a gentile. These are the words of R. Judah. But R. Simeon says: ‘Thou shalt do no work with the firstling of thine ox’, implying, but you may work with the first-born of a man; thou shalt not shear the firstling of thy sheep; implying, but you may shear the first-birth of an ass. We understand why, according to R. Simeon's interpretations Scripture needs to write both verses. But, according to R. Judah, what need is there for two verses to exclude a firstling which belongs [both] to you and to a gentile? And furthermore, according to R. Judah, the first-born of a man also should we say is forbidden [to work with before redemption]? Rather therefore, explain that all [the authorities mentioned] hold that the words, ‘thine ox’, have for their object the exclusion of the first-born of a man. The dispute, however, is in the interpretation of the words, ‘thy sheep’, for R. Judah is in agreement with his own dictum elsewhere, where he says: A partnership with a gentile is subject to the law of the first-born, so that there is need of a verse to make it permissible for shearing and working [of a firstling]. R. Simeon, however, holds that a partnership with a gentile is not subject to the law of the first-born. And, therefore, in respect to shearing and working, there is no necessity for a verse to make it permissible. The necessity, however, arises for a verse in respect to the first-birth of an ass. This is quite right on the view of R. Judah, for it is for the reason [stated above] that Scripture writes, ‘thy sheep’, and the words, ‘thine ox’, [Scripture adds merely] on account of the words, ‘thine ass’. But according to R. Simeon, what need is there for the words, ‘thine ox’, and ‘thy sheep’?[15] This is indeed a difficulty. Rabbah said: R. Simeon agrees, however, that after the breaking of its neck,[16] it is forbidden to use it. What is the reason? — He draws a conclusion by analogy between ‘’arifah’ [the breaking of the neck] here and the "arifah’ [mentioned] in connection with the heifer that had its neck broken.[17] Said Rabbah: On what evidence do I say this? Because it has been taught: The fruit of trees of the first three years, the mixed seeds in a vineyard, an ox that is to be put to death by stoning,[18] or the heifer that has had its neck broken,[19] the birds of the leper,[20] the first-birth of an ass,[21] and [the mixture] of meat and milk [boiled together],[22] all of them receive the uncleanness relating to food.[23] R. Simeon says: All of them do not receive the [levitical] uncleanness relating to food. R. Simeon, however, agrees with regard to the [mixture] of meat and milk, that it receives the uncleanness relating to food, since at one time, it was fit [to receive the uncleanness relating to food],[24] And R. Assi explained in the name of R. Johanan: What is the reason of R. Simeon? Scripture writes: All food therein which may be eaten.[25] [We deduce] that food which you can give gentiles to eat is called food, but food which you are unable to give gentiles to eat is not called food.[26]

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(1) Of the Mishnah, who say that he gives one lamb to the priest, for we have explained that the Mishnah is not according to R. Jose and therefore it is the opinion of the majority of the Rabbis. Or the reference may be to the Rabbis who differ with R. Jose in the case of a clean animal that gave birth to two males, the Rabbis holding that one lamb must be given to the priest and one remains for himself.

(2) For before one male came forth entirely, the other was on its way out. Therefore, although one came forth prior to the other and was sacred, it did not have the whole womb to consecrate it, owing to the other male, which was coming out at the same time. There was, consequently, an interposition between the first male and the womb.

(3) And the two males are of the same kind.

(4) Of working with it and the restriction on its shearing.

(5) Kid. 57b.

(6) For it is not more restricted in respect of the manner of its redemption than other consecrated objects.

(7) v. Kid. 2b. Therefore, we see here that it is permitted to benefit from an object even before its appropriate redemption. Hence we conclude that according to R. Judah, it is permitted to use it.

(8) I.e., by giving her second tithe as kiddushin (token of betrothal).

(9) The ass being of greater value than the sheep. Therefore, no objection can be cited to ‘Ulla's interpretation of R. Judah's views from the case of second tithe.

(10) Here the lamb wherewith the ass is redeemed is permitted for all use.

(11) If one sold fruit of the Sabbatical year, the object purchased may be used, but the fruit itself is forbidden and must be removed from the house when the beasts in the field have consumed the fruit there.

(12) If one purchased flesh in exchange for the fruit of the Sabbatical year, both are liable to the law of removal pertaining to the Sabbatical year. If he then bought wine for the flesh, then the flesh may be used but not the wine. And if again he bought oil for the wine, the last thing purchased is forbidden to be used as well as the fruit itself of the Sabbatical year.

(13) Deut. XV, 19.

(14) In the case e.g., of a firstling of an animal in which a gentile has a share, although R. Judah requires the Israelite to give a half of its value to the priest, nevertheless working with the animal and the shearing thereof are permitted. Since the verse, however, does not exclude the first-birth of an ass, we do not permit its use prior to its redemption and it is on a par with a firstling of a clean animal.

(15) If Scripture had merely written: The firstling of an ox and The firstling of a sheep, R. Simeon could still have expounded the verse in the manner he does.

(16) If the law of redeeming the first.birth of an ass with a lamb is not carried out, the law prescribes that its neck must be broken with a hatchet.

(17) In the case where an unknown man is found dead, the law requires the bringing of a heifer whose neck must be broken as an atonement, and here also for failing to redeem the ass with the lamb, the neck of the ass was broken. As in the former case, it is forbidden to be used, so here also by analogy, it is forbidden to be used.

(18) If it had been ritually killed after it was sentenced to death for killing a man.

(19) Which was ritually slaughtered, after being brought down into the rough valley.

(20) The two clean birds, one of which was killed, which the leper brought after his recovery.

(21) Which was ritually slaughtered for a gentile, and as it was still struggling and not dead, it did not posses the uncleanness of nebelah (a carcass). Therefore, if a dead reptile came in contact with it, it received the uncleanness relating to food, so that if it touched other food, it causes levitical uncleanness. The ritual slaughtering, however, helped at least to make it fit to receive the uncleanness of food. Another interpretation is that even if the ass had its neck broken and it was, therefore, nebelah, we can still apply here the principle of the uncleanness of food, if e.g., there was less of the carcass in size than an olive which, although it did not become unclean as nebelah, may yet be supplemented with other food to the required size of an egg to make it receive the uncleanness of food.

(22) And consequently forbidden for any use.

(23) For although they are forbidden to be used, the uncleanness has the effect that should they come in contact with other food, the latter becomes unclean.

(24) I.e., before its boiling.

(25) Lev. XI, 34.

(26) I.e., when it is forbidden to be used and therefore it does not receive the uncleanness relating to food.

Talmud - Mas. Bechoroth 10a

But if this is so, then in the case of [the mixture] of meat and milk, why should it be said that the reason that it receives levitical uncleanness is because, at one time, it was fit for the uncleanness relating to food? Why not derive this from the fact that it is a food which you can give to gentiles? For it has been taught: R. Simeon, the son of R. Judah says in the name of R. Simeon: [The mixture of] meat and milk is forbidden to be eaten but it is permitted for general use since [Scripture says]: For thou art a holy people unto the Lord thy God.[1] And, in another place, Scripture says: And ye shall be holy men unto Me.[2] As in that case,[3] it is forbidden to be eaten but it may be used generally, so here [in connection with the mixture of meat and milk] it is forbidden to be eaten but it may be used generally! — R. Simeon gives one [reason] and still another [reason]. One [reason why it should receive the uncleanness of food is because it is a food] which can be given to gentiles. And still another [reason], because for [the Israelite] himself, too, there was a time [before its boiling] when it was fit to receive uncleanness.[4] Now,[5] if there is any substance in the opinion that after the ass's neck is broken it is permitted according to R. Simeon to be used, let the above [Baraitha] state: But R. Simeon agrees in connection with the first-birth of an ass[6] and [the mixture of] meat and milk that they receive the levitical uncleanness relating to food? — [No]. If one had formed the intention [of using the ass as food], it would be so [as you argue][7] We are dealing here, however, in a case where he had not formed such an intention.[8] And what is then the reason that [the majority of] the Rabbis, [R. Simeon's disputants], make it receive uncleanness? — Rabbis said the following in the presence of R. Shesheth: [The reason is that] its prohibition [by Scripture] renders it important [to be regarded as food].[9] But, do we say according to the Rabbis that the reason Is, since its prohibition renders it important? Have we not learnt [in a Mishnah]: Thirteen things were said with reference to the carcass of a clean bird, and this is one of them: it requires the intention [to be used as food],[10] but it does not need to be rendered fit [to receive uncleanness].[11] Now, if its prohibition signalizes it [as food] [to receive uncleanness], what need is there for the intention of using it as food? — [The Mishnah just quoted] represents the opinion of R. Simeon. Come and hear: ‘The carcass of an unclean animal in all places, and the carcass of a clean bird and the fat [of the carcass of a clean animal] in the villages,[12] require the intention [of being used as food in order to receive uncleanness], but they do not need to be rendered fit [to receive uncleanness].[13] Now, if you say that its prohibition renders it important [to receive uncleanness], what need is there for the intention [of using it as food]? — This, [too], represents the opinion of R. Simeon. Come and hear: The carcass of a clean animal[14] in all places,[15] or the carcass of a clean bird, or the fat [of a ritually slaughtered animal] in market places,[16] do not require the intention [of being used as food]. Nor do they need to be rendered fit [to receive uncleanness of food].[17] This implies that an unclean animal does require the intention [of using it as food in order to receive uncleanness].[18] And should you say that this too represents the opinion of R. Simeon; surely since the second part [quoted below] is the opinion of R. Simeon, then the first part cannot be according to the opinion of R. Simeon. For the second part states: R. Simeon says: Also a camel, hare, rockbadger and swine, do not require the intention [of using them as food in order to receive uncleanness], nor need they be rendered fit [to receive uncleanness]. And R. Simeon [further] explained. What is the reason? Since [these animals mentioned] have marks of a clean animal![19] — No, said Rabbah: All [the authorities mentioned] agree that we do not say that its prohibition [by the Scriptures] renders it important [to receive the uncleanness relating to food]. And [as to your question, what is the reason of the Rabbis]? If the ass's neck has been broken, it would really be so.[20]

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(1) Deut. XIV, 21, which is followed by the prohibition of seething a kid in its mother's milk.

(2) Ex. XXII, 30, in connection with the prohibition of trefah (ritually forbidden food).

(3) In the Scriptural verse: And ye shall be holy, etc., referring to trefah which may be used for general purposes as stated in the context: Ye shall cast it to the dogs.

(4) Unlike the case of the ox and heifer mentioned above, since they have a forbidden status when alive.

(5) Rabbah continued his argument.

(6) Since it can be given to gentiles for food. Hence Rabbah concludes that even R. Simeon admits that an ass whose neck was broken because its owner failed to redeem it, is forbidden to be used.

(7) That the ass with a broken neck would have received the uncleanness relating to food.

(8) And that is the reason why the Baraitha does not include the case of an ass in the statement of R. Simeon as receiving the uncleanness of food, for ordinarily, without expressing the intention of regarding it as food, it is not considered as such.

(9) The very prohibition which Scripture imposes upon it indicates that it is food fit for gentiles to eat, otherwise, Scripture would not have considered it of sufficient importance to forbid it and, therefore, it receives the uncleanness relating to food even without the express Intention of using it as such.

(10) And if a dead reptile touched it and, in turn, it touched other food, it renders the latter unclean. This intention of using it as food is necessary, as the carcass of a clean bird has no uncleanness of touch, for it conveys uncleanness only in the gullet in the process of eating. Or, in the case where it is less in size than an olive and consequently there is no uncleanness as regards nebelah, it combines with other foods to make up the required size of an egg, in order to receive food uncleanness when it comes In contact with a dead reptile.

(11) Like seeds, by having water poured on it, since it already possesses a more stringent uncleanness by causing uncleanness to man and garments by eating it; v. Nid. 50b, Zeb. 105b.

(12) In the villages, where the inhabitants are poor and are not accustomed to eat birds or fat, the intention of using these as food to be given to gentiles is necessary before it can receive the uncleanness relating to food. With reference also to the carcass of a forbidden animal, the intention of using it as food is also necessary, for the reason that it is loathsome and, ordinarily, is not considered food even for gentiles.

(13) ‘Uk. III, 3.

(14) I.e., one which had not been ritually slaughtered.

(15) It is usually given to gentiles as food, for it is not loathsome and therefore it does not require the intention of using it as food.

(16) I.e., the towns, containing many people of means who are accustomed to eat birds or fat so that these are usually considered food.

(17) The carcass of a clean animal, because its uncleanness is of a more stringent character, and the fat, because the very act of ritual slaughter has made it fit to receive uncleanness, since the intention of using it as food is not required, v. ibid.

(18) And we do not maintain that its prohibition renders it important to receive food uncleanness, without the intention being expressed using it as food.

(19) Therefore the first passage with reference to the carcass of an unclean animal etc. requiring the intention of being used as food, must be in accordance with the view of the Rabbis., Hence we infer that the Rabbis do not hold that its prohibition marks it out as fit to receive food uncleanness and therefore the Baraitha quoted above by Rabbah, where the Rabbis say that the first-birth of an ass receives the uncleanness relating to food, must deal with a case where he expressed the intention of Using it as food. And R. Simeon maintains that it does not receive uncleanness, because it is food which cannot be given to a gentile to eat, I.e., It is forbidden to be used. Rabbah consequently is able to deduce from this that an ass which had its neck broken because it was not redeemed is forbidden to be used.

(20) That the Rabbis would agree that it does not receive the uncleanness relating to food, since he had not intended to use it as food.

Talmud - Mas. Bechoroth 10b

But here we are dealing with a case where e.g., he ritually killed [the ass] to practice therewith [to kill ritually],[1] and the difference here corresponds to the difference of opinion of Nimos and R. Eleazar. For it has been taught: R. Jose said: Nimos the brother of Joshua the grist-maker told me that if one killed a raven ritually in order to practice therewith, its blood renders food fit [to receive uncleanness].[2] [R. Eleazar] says: The blood of shechitah[3] always renders fit [to receive uncleanness]. Now is not [R. Eleazar's] opinion identical with the first Tanna? We must suppose then that the difference between them is whether its prohibition[4] renders it important [as fit to receive uncleanness]? The first Tanna holds: Its blood renders it fit [for conveying uncleanness] to other [food], but as regards [the raven itself], it requires the intention [of being used as food].[5] Upon which [R. Eleazar] remarks: The blood of shechitah always renders it fit [to convey or receive uncleanness] and as regards the [raven] itself too, it does not require the intention [of using it as food] in order to receive [levitical uncleanness]. But how do you know [this]? Perhaps the reason of R. Eleazar there,[6] is because the case of a raven is different, since it has marks of cleanness.[7] And how do we know that marks of cleanness are of importance? — Because it says in connection with the Baraitha above,[8] R. Simeon said: What is the reason? Since it has marks of cleanness. And should you object that if the reason is because of the marks of cleanness, why should it say [according to R. Eleazar] [that he killed the raven] in order to practice, since even if he unintentionally ritually killed it, the case should also be identical; the answer is, Yes, it is so, but it is on account of Nimos [that it does not state this].[9] Abaye[10] raised the following objection.[11] If he did not wish to redeem [the ass], he breaks its neck with a hatchet from the back and buries it, and it must not be used. These are the teachings of R. Judah. But R. Simeon permits it [to be used]?[12] — Explain [in the following manner]: When alive it is forbidden to use [the first-birth of an ass], but R. Simeon permits this. But since the second part [of the above passage] refers to it when alive, then the first part must refer to it when it is not alive? For the second part states: ‘He must not kill [the ass] with a cane, nor with a sickle, nor with a spade, nor with a saw. Nor may he let it enter an enclosure and lock the door on it, in order that it may die. And it is forbidden to shear it or to work with it. These are the teachings of R. Judah. But R. Simeon permits this’! — The first and the second parts [we may explain] both refer to an ass when alive. The first part, however, refers to monetary benefit,[13] and the second part refers to the benefit derived from its body.[14] [And both parts] require [to be stated]. For if we had only the part referring to monetary benefit,I might have assumed that in that peculiar case R. Simeon permits, whereas with regard to the benefit derived from its body, I might have said that he agrees with R. Judah. And if we had only the part referring to the benefit derived from its body, I might have supposed that R. Judah forbids in that particular case, whereas in the case of monetary benefit, I might have said that he agrees with R. Simeon. [Therefore both parts] are necessary. And so R. Nahman reported in the name of Rabbah, the son of Abbuha: R. Simeon agrees that after the neck has been broken it is forbidden to be used. And R. Nahman said: On what evidence do I say this? Because it has been taught, [Scripture says]: Then thou shalt break its neck.[15] Here [the word] "arifah’[16] is used and above[17] [the word] "arifah’ is used; just as above it is forbidden to be used, so here also it is forbidden to be used. Whose opinion does this represent? Shall I say it is according to the opinion of R. Judah? Surely he prohibits it even when alive, Must you not therefore admit that it is the opinion. of R. Simeon?[18] — Said R. Shesheth to him: Safra our fellow-student interpreted it as follows: [The above Baraitha] can still be the opinion of R. Judah, and yet there is need [for stating it]. I might have assumed that since ‘arifah’ stands in the place of redemption, as redemption makes it permissible [to be used], so "arifah’ is permitted. He consequently informs us [that it is not so]. Said R. Nahman: On what evidence do I say this?[19] From what R. Levi taught, The Israelite causes a monetary loss to the priest;[20] therefore he should suffer a monetary loss.[21] Whose opinion does this represent? Shall I say that it is the opinion of R. Judah? Surely his loss is of long standing![22] [Must we not therefore admit] that it is the opinion of R. Simeon? — If you choose I may say it is the opinion of R. Judah, and, if you choose, I may say that it is the opinion of R. Simeon. If you choose I may say that it is the opinion of R. Judah, and he speaks of the loss entailed in the difference.[23] And if you choose I may say that it is the opinion of R. Simeon, and he speaks of the loss incurred by its death.[24] And so did Resh Lakish say: R. Simeon agrees that the ass after its neck has been broken is forbidden to be used. But R. Johanan, (or as some say, R. Eleazar) says: The difference between the Rabbis and R. Simeon still prevails even in such circumstances.[25] Some report this, R. Nahman's ruling,[26] in connection with the following: If one betrothed a woman with the first-birth of an ass, she is not betrothed.[27] Are we to say that the Mishnah is not according to the opinion of R. Simeon? — R. Nahman reported in the name of Rabbah the son of Abbuha: [The Mishnah refers to a case] where the neck had been broken and therefore agrees with all the authorities concerned. Some there are who Say: Whose opinion does this represent? Neither the opinion of R. Judah nor that of R. Simeon. For if it is the opinion of R. Simeon, let her become betrothed with the whole value of the ass.[28] And if it is the opinion of R. Judah, let her become betrothed with the difference![29] — Said Rabbah b. Abbuha in the name of Rab: [The Mishnah] can still be the opinion of R. Judah, e.g., where the ass was of the value only of a shekel;[30] and he holds according to the view of R. Jose b. Judah. For it has been taught, [Scripture says]: ‘Thou shalt redeem’ . . . ‘Thou shalt redeem’.[31] [One text] ‘Thou shalt redeem’ intimates immediately,[32] [and the other text] ‘Thou shalt redeem’ intimates with whatever value.[33] But R. Jose b. Judah says: There can be no redemption with less than the value of a shekel.[34] The Master said. ‘[Scripture says]: "Thou shalt redeem, . . Thou shalt redeem". [The one text] "Thou shalt redeem" intimates immediately [and the other text] "Thou shalt redeem" intimates with whatever value’. Is not this obvious?[35] — It is necessary [to state it]. I might have assumed that since an unclean animal is compared with the first-born of a man,[36] just as in the case of a first. born of a man the redemption takes place after a period of thirty days and with the sum of five sela's,[37] so here also the redemption should take place after a period of thirty days and with the sum of five sela's. [Therefore Scripture states]: ‘Thou shalt redeem, viz, immediately, ‘Thou shalt redeem’, viz., with whatever value. ‘R. Jose b. Judah says: There is no redemption with less than the value of one shekel’. But which way do you take it; if R. Jose compares an unclean animal with the first-born of a man, then the sum of five sela's is required for redemptions and if he does not compare [an unclean animal with the first-born of a man], whence does he derive that the redemption is with a shekel? — In fact he does not compare [an unclean animal with the first-born of a man]; [yet] said Rabba: Scripture says: And all thy valuations shall be according to the shekel of the Sanctuary,[38] intimating that any valuations which you assess shall be no less in value than a shekel. And the Rabbis [who differ with R. Jose], what say they? —

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(1) But not for the purpose of eating therefrom.

(2) If the blood fell on food or vegetables. And certainly this would be the case if he killed it ritually in order to eat therefrom; its blood would render itself and other food fit to receive levitical uncleanness.

(3) The act of ritual slaughter of an animal or bird.

(4) The prohibition referred to here in the context must be understood to mean the fact that it was not a proper schechitah, in the sense that it was not being killed for eating purposes but merely in order to practice.

(5) For its prohibition does not render it fit to receive uncleanness and its shechitah here is of no importance to cause it to be considered as food. R. Simeon, therefore, holds as regards the first-birth of an ass which was ritually killed, according to the view of Nimos that it does not receive the uncleanness of food, and the Rabbis agree with the opinion of R. Eleazar that the ritual killing, in itself, causes it to be regarded as food, without the express intention of regarding it as such.

(6) In the passage quoted above where R. Eleazar differs with Nimos in connection with a raven ritually killed for practice.

(7) A raven has a crop, which is one of the signs of a clean bird, and, therefore, it is considered as food as regards levitical uncleanness. But in the case of the first-birth of an ass, which does not possess any marks of cleanness, unless he intended to use it as food, the Rabbis would not hold that it receives the uncleanness pertaining to food, and R.

Simeon would maintain that even if he had thought of it as food, it receives no uncleanness, owing to the fact that it is forbidden to be used after its neck has been broken.

(8) A carcass of a clean animal in all places etc.

(9) To inform us that according to Nimos, although there was a deliberate ritual killing for practice purposes, nevertheless the raven itself does not receive the uncleanness relating to food. But as regards R. Eleazar, it is true that even if the raven was killed unintentionally, (the intention having been to cut some other object), the blood renders other food fit to receive uncleanness, and the raven itself also receives uncleanness. Consequently, you cannot explain the difference between the Rabbis and R. Simeon on the basis of the difference of Nimos and R. Eleazar. Therefore, the difference of the former disputants refers to the case where the ass's neck was broken, and the reason why R. Simeon maintains that it is not clean is because, as Rabbah explains, it is forbidden to be used.

(10) Inserted from Sh. Mek.

(11) Referring to the ruling of Rabbah concerning the ass which had its neck broken and which is forbidden to be used, for any purpose.

(12) Therefore we derive from here the reverse of the ruling of Rabbah.

(13) If he hired or sold it to others.

(14) I.e., the shearing and the working with it.

(15) Ex. XIII, 13.

(16) Indicating the broken neck of the first-birth of an ass.

(17) In connection with the ceremony of the heifer, whose neck was broken when an unknown man's body was found dead.

(18) We therefore see here that R. Simeon agrees that it is prohibited after its neck is broken.

(19) That R. Simeon agrees that it is forbidden for all use after its neck is broken.

(20) By not redeeming the ass with a lamb and giving it to the priest.

(21) The Beth din should therefore compel him to have its neck broken after thirty days.

(22) Even when the ass was alive it was forbidden to be used according to R. Judah.

(23) Between its value when alive and dead. For whereas when it was alive, although forbidden to be used, it could be redeemed, now he loses everything.

(24) For being dead it can only be given to dogs to eat and therefore, there has been a considerable loss.

(25) Where the neck of a first-born of an ass was broken.

(26) That after the ass's neck had been broken it was forbidden to use it and this was expressed not as separate and independent ruling but with reference to the following Mishnah.

(27) Kid. 56b.

(28) For the whole of it may be used.

(29) The difference between the ass of the value of a shekel and a sheep even of the value of a danka i.e., a sixth of a denar.

(30) And the sheep being not less in value than a shekel as stated below, there is no difference in value between it and the ass in order that a woman may be betrothed thereby.

(31) Ex. XIII, 13. There is a repetition of the text.

(32) Before the period of thirty days has elapsed.

(33) There is no fixed sum and redemption may therefore be carried out even for less than a shekel or sela'.

(34) The sheep must therefore posses at least the value of a shekel, so that there is no surplus left to effect a betrothal.

(35) For Scripture does not mention that redemption commences when the ass is a month old nor does it say that the lamb must be of some specific value.

(36) Howbeit the first-born of man shalt thou surely redeem and the firstling of unclean beasts shalt thou redeem. Num. XVIII, 15.

(37) A sela' is a coin equal to two common shekels.

(38) Lev. XXVII, 25.

Talmud - Mas. Bechoroth 11a

That [verse] refers to the amount of one's means.[1] Said R. Nahman: The halachah is according to the teachings of the Sages.[2] And how much [must be the value of the lamb]? — Said R. Joseph: Even a puny lamb worth no more than a dank,a.[3] Said Raba: We have learnt this too: [The lamb for redemption can either be] large or small, without a blemish or blemished. Is this not evident?[4] — You might have assumed that to that extent [i.e., that of a puny lamb etc.] it is not an adequate redemptions or indeed [which would be better], a puny lamb is not [an adequate redemption at all].[5] [R. Joseph consequently] informs us [that it is an adequate redemption]. R. Judah the Prince had a first-birth of an ass. He sent it to R. Tarfon.[6] He asked him, ‘How much am I required to give the Priest’? He replied to him ‘Behold the Rabbis said: The liberal person redeems with a sela’ [four zuz], the stingy person redeems with a shekel [two zuz], an average person redeems with a rigia. Said Raba: The law [requires redemption] with a rigia. And how much is this? Three zuz, less than one and more than the other.[7] Does not this ruling contradict the above?[8] There is no difficulty.[9] [We are dealing] here with the case when one comes to seek advice and the case there is where he redeems of his own accord.[10] R. Isaac reported in the name of Resh Lakish: If one possesses a first-birth of an ass and he has not a lamb with which to redeem it, he redeems it for its equivalent value. According to whose opinion is this? Shall I say it is according to R. Judah?[11] Did he not say that the Torah was particular that the redemption must be with a sheep? You must then say it is according to the view of R. Simeon.[12] R. Ahah stated it thus. Rabina found a difficulty: [In a difference between] R. Judah and R. Simeon, the law is according to R. Judah; moreover, the Tanna [of our Mishnah][13] states the law anonymously in the sense of R. Judah; and still you declare the halachah is according to R. Simeon? But [rather say] that [R. Isaac's statement] accords even with the opinion of R. Judah. For let not [the redemption of the first-birth of an ass] be more stringent than other consecrated objects.[14] Moreover the Torah did not propose [by the law of redeeming] with a lamb to make it severe for him,[15] but, on the contrary, to make it easier for him.[16] R. Nehemiah the son of R. Joseph redeemed the first-birth of an ass with boiled herbs of its equivalent value. R. Shizbi reported in the name of R. Huna: If one redeems the ass of his neighbor, it is a valid redemption. The question was raised: Is it a valid redemption as regards the person who redeems it,[17] or does it mean that it is a valid redemption as regards the owner?[18] According to the opinion of R. Simeon, there is no need to inquire, for, since he says that it is permitted to use the first-birth of an ass, it is the owner's money.[19] The question does arise, however, according to the opinion of R. Judah who says that it is forbidden to use it. Does he compare it with a consecrated object concerning which the Divine Law says: And he shall give money and it shall be assured to him?[20] Or, perhaps since the owner possesses the difference [between the value of the ass and a sheep], it is not compared with a consecrated object?[21] — Said R. Nahman: Come and hear: ‘If one stole the first-birth of an ass belonging to his neighbor, he pays double to the owner, for although he does not possess [the rights of ownership] now, he will possess subsequently.’[22] Now, whose opinion does this represent? Shall I say that it is the opinion of R. Simeon? Why has he no rights of ownership now? Then obviously, it must be the opinion of R. Judah. Now if you were to assume that we compare it with a consecrated object, does not the Divine Law say: And it be stolen out of a man's house,[23] implying, but not from the possession of the sanctuary?[24] And there is nothing more to be said. IF ONE SHE-ASS HAD GIVEN BIRTH BEFORE AND ONE HAD NOT GIVEN BIRTH BEFORE etc. Our Rabbis taught. Under what circumstances did the Sages rule that IT ENTERS THE SHED TO BE TITHED? You cannot say that it means where the lamb came into the possession of the priest, [and then it was returned to the Israelite],[25] for we have learnt: An animal purchased, or which is given to him as a gift, is exempted from the law of the tithes of animals.[26] This must refer then to the case of an Israelite who had ten uncertain first births of asses[27] in his house. He sets aside on their behalf ten lambs, [makes them enter the shed],[28] tithes them, and they are his. [This] supports the opinion of R. Nahman. For R. Nahman reported in the name of Rabbah the son of Abbuha: If an Israelite had ten uncertain first-births of asses, he sets aside on their behalf ten lambs, tithes them and they are his. R. Nahman further reported in the name of Rabbah the son of Abbuha: If an Israelite has ten asses, distinctly first-births, in his house, which fell to him [as an inheritance] from his maternal grandfather, a priest, to whom this inheritance had fallen from his maternal grandfather, an Israelite,[29] he sets aside[30] ten lambs, tithes them and they are his.[31]

R. Nahman [further] reported in the name of Rabbah the son of Abbuha: If an Israelite who possessed tebel[32] evenly piled up; in his house, which fell to him [as an inheritance] from his maternal grandfathers a priest, to whom it had fallen from his maternal grandfather[33] an Israelite, he tithes it and it is his.[34] And it was necessary [to teach both cases]. For had R. Nahman taught only the first case, [I might have assumed that the reason was] because it was already set aside.[35] But, here, in the second case, since gifts for the priest, which have not yet been taken [by the priest] are not considered as having been given, I might have said it is not so.[36] And if he had only taught the second case, [I might have assumed that the reason why the tithes are his] is because it is possible to tithe tebel as it is, for it lies [in one place],[37] but in the other case, since the lamb comes from another place, we do not say that it is as if it were already set aside,[38] and therefore I might have said that it was not [as stated]. It was therefore necessary [to state both cases]. R. Samuel b. Nathan reported in the name of R. Hanina: If one who buys untithed grain

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(1) A man who says ‘I vow my own value’ or according to Rabbenu Gershom, the value of a specified persona Scripture informs us here that we do not accept the valuation if his means are less than one shekel. But as regards the redemption of the first-born of an ass, redemption may be with whatever value, however small.

(2) That its redemption with a sheep may be of any value no matter how insignificant.

(3) A small Persian coin, the value of a sixth of a denar (Rashi), or, a sixth of a shekel (R. Gershom).

(4) That a puny lamb is adequate for redemption, since the Rabbis state above that it can be of any value whatever.

(5) For although a small lamb may be an adequate redemption, a lean lamb is not.

(6) Who was a priest.

(7) One zuz less than a sela’ which is the redemption of a liberal person and one more zuz than that of a stingy person, i.e., three zuz. Lit., ‘running this way and running that way’.

(8) The above ruling that the law is according to the Sages who hold that even the worth of a danka is sufficient for redemption.

(9) How much should be given to the priest. We accordingly advise him to give three zuz.

(10) When he redeems the first-birth of an ass even with a lamb worth a danka, we do not compel him to give something of greater value.

(11) This questioner quotes the view of R. Judah, which was mentioned above in the first instance, although it is not the final conclusion, namely, that only with a lamb can it be redeemed but not with any other object.

(12) Who does not mention when giving his reason for the view he holds that the Torah was particular that the redemption must be with a sheep, thus implying that the first-birth of an ass may also be redeemed with its equivalent value.

(13) Stated above, that the Israelite sets aside a lamb in order to release the first-birth of an ass from the prohibitions attaching to it, which is the opinion of R. Judah.

(14) Which are redeemed with their equivalent value.

(15) I.e., that only with a lamb is he allowed to redeem the ass.

(16) If he wished to redeem it with a lamb, even a puny one, it is an adequate redemption. But he need not necessarily redeem with a lamb.

(17) The person who redeems acquires the first-birth of the ass in virtue of the redemption.

(18) The ass is redeemed, but the first-birth belongs to the owner. The person who redeems, consequently, is unable to dispose of it.

(19) And the person who redeemed it cannot sell it and is not reimbursed.

(20) Lev. XXVII, 19. The verse is given here in an abbreviated form, the full verse being Then he shall add a fifth part of the money and it shall be assured to him. V. Tosaf. on Shab. 128a, ונתן.

(21) And since a portion of it is the owner's money, if he redeems it, we account the whole of it as belonging to him.

(22) After its redemption it will be his money.

(23) Ex. XXII, 6.

(24) Since, therefore, he pays double for the stolen first birth of an ass, we infer that it is not compared with a consecrated object.

(25) Either in the form of a gift or it was sold to him.

(26) V. infra 55b.

(27) E.g., where he had ten she-asses and each gave birth to a male and a female and there was a doubt whether the males were born before the females. Ten sheep are therefore set aside on their behalf to release them from the prohibitions attaching to the first-birth of asses and these are unconsecrated animals, to be tithed in the ordinary manner. The same principle also applies to two or three uncertain first-births, but the reason why it mentions ten uncertain first-births is to inform us that although in the latter case they are entitled to be tithed on their own account, we still set aside the ten lambs to be tithed among the others in the shed.

(28) Supplemented from R. Gershom.

(29) These are certainly subject to the law of redemption, since they were born in the Israelite's possession.

(30) To redeem them from their prohibition as first-births.

(31) The present Israelite does exactly what the priest would have been required to do. As the priest who inherited from the Israelite would have been required to set aside the lambs on behalf of the first-births of the asses, since they were born in the possession of the Israelite, the present Israelite does the same. And just as the priest would have kept the lambs for himself, being a priest, so the Israelite who inherited from the priest retains these for himself, for it is as if the priest had bequeathed the lambs to him.

(32) Fruits or grain before the separation of the priestly and levitical dues.

(33) The even piling up or storing of the grain is the finishing touch which prepares it for tithing.

(34) He must give the tithe because it belonged to an Israelite and still belongs to an Israelite. But it is retained by him, since it came to him from a priest and therefore he sells the priestly gift to a priest and the tithes to a Levite.

(35) The lambs and the asses belong to different species and nothing special is required to be done; therefore it is as if the asses and the lambs had fallen to him from his maternal grandfather, a priest, already separated.

(36) And the tithes must be given to the priest. He therefore teaches us that the tithes belong to him and that he need not give the tithes to the priest.

(37) With the parts to be separated, and therefore it is considered as if it had been already separated and tithed and in the priest's possession, before it fell to the Israelite.

(38) For it requires a special action to bring the lamb in order to redeem whereas in the case of tebel, no effort Is necessary.

Talmud - Mas. Bechoroth 11b

evenly piled up from a gentile, he tithes it and it is his.[1] Who piled it up? Shall I say that a gentile piled it up? Surely the text says, ‘thy corn’ implying, but not the corn of a gentile?[2] Rather we are dealing here with a case where the Israelites piled it up in the domain of a gentile.[3] ‘He tithes it’, because a gentile has not the right of possession in Palestine to release [produce] from the obligation of tithing. ‘And it is his’, because he says to the priest, ‘I have acquired my rights from a man with whom you cannot go to law’. We have learnt elsewhere: If a man deposits his fruits with a Cuthean,[4] or with an ‘am ha-arez,[5] it may be presumed that they retain their former condition in respect of tithes and the sabbatical year,[6] but if with a gentile, they are like [the gentile's] fruits.[7] R. Simeon says: They are dem'ai.[8] Said R. Eleazar: That [the priest's share] should be set aside all the authorities mentioned agree. Where they differ is on the question whether to give it[9] to the priest. The first Tanna [mentioned] holds that he has certainly changed them and therefore he must give the priestly share to the priest, whereas R. Simeon maintains that they have the law of dem'ai. R. Dimi was once sitting and repeating this teaching. Said Abaye to him: The reason is because we are in doubt whether he changed them or not. But if he certainly changed the fruits, all the authorities [mentioned] would agree that he is required to give the priestly share to the priest, would they not? But surely did not R. Samuel report in the name of R. Hanina: If one bought untithed grain from a gentile piled up [in proper shape], he gives tithes and it is his? — Perhaps [he replied], the one[10] refers to great terumah, and R. Samuel's report refers to the terumah of the tithe![11] [Said Abaye], This indeed reminds me of something [which supports your very explanation]. For R. Joshua the son of Levi said: Whence do we derive that a purchaser of untithed grain from a gentile piled up in proper shape is exempt from the terumah of the tithe? Because Scripture says: Moreover thou shalt speak unto the Levites and say unto them, when ye take of the children of Israel.[12] [We infer that] from the untithed grain which you buy from the children of Israel, you separate the terumah of the tithe and give it to the priest. But from untithed grain which you buy from a gentile you do not separate terumah of the tithe and give it to the priest. AND IF IT DIED, HE BENEFITS THEREFROM. In what circumstances are we to suppose it to have died?[13] Shall I say that it died in the possession of the priest and that he is permitted to benefit therefrom? This is obvious, since it is his own money. Again, if it means that it died in the possession of the owner and that he [the priest] is permitted to benefit therefrom, this too is obvious! — I might have assumed that as long as the animal has not reached the priest's hands, the latter does not really possess it. [The Mishnah] accordingly informs us that from the time that [the Israelite] has set it aside, it stands in the domain of the priest.

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(1) And the priest's share of the crop he sells to a priest.

(2) What the Israelite stores and evenly piles up becomes subject to the priestly contribution, but not what is stored by a gentile. The text is in Deut. XIV, 23 and also in Deut. XVIII, 4.

(3) Where the Israelite is a tenant in a gentile's field, for which he takes a share of the produce, and the Israelite stored up the grain, R. Hanina therefore means by the words: ‘One who buys untithed grain etc.’, that the Israelite acquired it by virtue of his labour for him. Another explanation is that the Israelite bought the corn in the ear, and afterwards stored it up in the gentile's domain. (Tosaf.).

(4) Samaritan.

(5) V. Glos. A person suspected of not observing certain customs regarding tithes.

(6) We do not fear lest the fruits are not the same as those deposited and therefore are untithed. And, with reference to the sabbatical year, if he deposited with them the fruits of the sixth year and they are returned in the sabbatical year, we do not fear that the fruits returned have been exchanged and that, actually fruits of the sabbatical year are being restored, which fruit must not be sold and which require removal from the house after the fruits of the field have been consumed by the beasts.

(7) They are considered gentile's fruits, for we say that they have been undoubtedly exchanged.

(8) Fruits concerning which there is a suspicion as to the tithes being properly taken therefrom and, owing to this doubt, must be tithed, v. Dem'ai III, 4.

(9) The share of the priest from the fruits and grain. It is called ‘great terumah’, since it is the first sacred gift to be set aside and, also, to distinguish it from the terumah of the tithe, mentioned below.

(10) The teaching reported by R. Dimi from which Abaye made his deduction.

(11) The tithe of the tithe, which the Levite owes to the priest.

(12) Num. XVIII, 26.

(13) A physical disability of the animal, which renders it forbidden to be eaten.

Talmud - Mas. Bechoroth 12a

MISHNAH. WE DO NOT REDEEM A FIRST-BIRTH OF AN ASS EITHER WITH A CALF, A BEAST OF CHASE, AN ANIMAL RITUALLY KILLED,[1] A TREFAH, KIL'AYIM[2] OR A KOY.[3] R. ELIEZER PERMITS HOWEVER [REDEMPTION] WITH KIL'AYIM BECAUSE IT IS ALSO DESCRIBED AS A LAMB. BUT HE FORBIDS WITH A KOY, BECAUSE ITS NATURE IS DOUBTFUL. IF HE GAVE [THE FIRST-BIRTH OF AN ASS] ITSELF TO THE PRIEST, THE LATTER MUST NOT RETAIN IT, UNLESS HE SETS ASIDE A LAMB IN ITS PLACE. GEMARA. Whose opinion does the Mishnah represent? It is that of Ben Bag Bag. For it has been taught: We read here, [in connection with the redemption of a first-birth], the word, lamb,[4] and we read elsewhere, [with reference to the Paschal-offering] the word, lamb,[5] just as there [Scripture] excludes all those named [in the Mishnah above as unsuitable for the Paschal-offering],[6] so here also, it excludes all those named [as unsuitable for the object of redeeming]. [Now you might assume that] just as the Paschal-offering must be a male, without a blemish, and a year old, similarly here, [in connection with the redemption of the first-birth of an ass] it must be a male, without a blemish, and a year old. The text therefore states: ‘Thou shalt redeem’, [and repeats], ‘Thou shalt redeem’ to include [even other than a male etc.]. Now if the repetition: ‘Thou shalt redeem’, ‘Thou shalt redeem’, has for its purpose to include, then why not include also all those [animals named in the

Mishnah, as being unsuitable to redeem]? — If this were so, what is the use of [the analogy above between the words], ‘lamb’, ‘lamb’? The question was raised: What is the ruling as regards redeeming a first-birth with a ben peku'ah?[7] According to the opinion of R. Meir, there is no need for you to ask, for since R. Meir said: ‘A ben peku'ah requires ritual slaughter’, it is a perfect lamb. But the question does arise according to the opinion of the Rabbis, who hold that its mother's slaughtering makes it permitted to be eaten [without slaughtering] ‘so that it is like flesh in the pot.[8] Or are we to say that since at the moment it runs and walks, we can describe it as a lamb?[9] — Mar Zutra said: We do not redeem [with it]. Said R. Ashi to Mar Zutra: What is your reason? Is it because you infer this from the Paschal-offering, [which cannot be a hen peku'ah]? Then why not say also, that as in the case of the Paschal-offering it must be a male, without a blemish, and a year old, so here [the animal for redeeming] must be a male, without a blemish and a year old? — [The text]: ‘Thou shalt redeem’ [and its repetition], ‘Thou shalt redeem’, includes [even other than a male etc.]. But if the repetition: ‘Thou shalt redeem’, ‘Thou shalt redeem’, has for its object to include, then why not include also ben peku'ah? If so, what need is there [for the analogy above derived from the words], ‘lamb’, ‘lamb’?[10] The question was raised. What is the ruling as regards redeeming the first-birth of an ass with a nidmeh?[11] You cannot ask according to R. Eliezer, for since according to him we may redeem with kil'ayim, how much more so with a nidmeh?[12] The question does arise, however, according to the opinion of the Rabbis: Do we say that we are forbidden to redeem with kil'ayim, but we may redeem with a nidmeh? Or perhaps, there is no difference, [and in both cases we are forbidden to redeem with them]? Come and hear. ‘If a cow gave birth to something looking like a kid, we do not redeem [with it].[13] From this we infer that if a ewe gave birth to what looks like a kid, we do redeem [with it]. Now whose opinion does this represent? Shall I assume it is the opinion of R. Eliezer? But do we not also redeem with kil'ayim [according to him]?[14] You must then say that it is the opinion of the Rabbis![15] — No. You can still maintain that it is the opinion of R. Eliezer; and he teaches us this very thing,[16] that if a cow gave birth to what looked like a kid, we do not redeem with it, and that you should not say, ‘decide according to the offspring itself’, and this is a genuine kid, but we rather say, ‘decide according to its mother’, and therefore it is a calf. Come and hear: For Rabbah b. Samuel learnt: What is kil'ayim? A ewe which gave birth to something that looked like a kid, though its father was a sheep. If the father was a sheep, is it kil'ayim? Is it not nidmeh? — Rather then put it in this way: What is that which is like kil'ayim, so that the Rabbis have placed it on a par with kil'ayim? A ewe which gave birth to what looked like a kid, though its father was a sheep. Now, for what purpose [does the Baraitha say that we liken nidmeh to kil'ayim]? If in respect of dedicating it as a sacrifice,[17] surely [this is not necessary, since] from the text from which we derive the exclusion of kil'ayim [as unsuitable for a sacrifice on the altar], we also derive the exclusion of nidmeh. For it has been taught [Scripture says]: When a bullock or a sheep,[18] intimating the exclusion of kil'ayim; ‘or a goat’[18] intimates the exclusion of nidmeh. Is it then in order [to exclude nidmeh] from the rule of the firstling? Surely the Divine Law says: But the firstling of an ox[19] implying [that it is not subject to the law of the firstling] until the father is an ox and the offspring is an ox, [obviously excluding nidmeh]. Is it then from the rule of tithing [of animals]? The rule for [both nidmeh and kil'ayim] is expressly derived from the analogy of the words, ‘under’, ‘under’ [mentioned In both cases].[20] [You must say that it is] with regard to the first-birth of an ass![21] — No.[22] [The comparison of nidmeh with kil'ayim] can still refer to tithing, and we suppose to a case where the nidmeh possesses certain marks [similar to its mother]. I might in this case assume that we draw an analogy between the ‘passing’ mentioned [in connection with tithing] and the ‘passing’ [mentioned] in connection with a firstling.[23] Therefore, we are told[24] that we rather draw the analogy between ‘under’ mentioned here and ‘under’ mentioned in connection with consecrated sacrifices.[25] The question was raised: What is the ruling as regards [redeeming the first-birth of an ass] with dedicated sacrifices which became unfit [for the altar]?[26] This question does not arise if we accept the opinion of R. Simeon, for since he holds that it is permitted to be used [before its redemption], it is unconsecrated.[27] The question does arise, however, according to the opinion of R. Judah, who says that it is forbidden to be used [before its redemption]. What is the ruling? Since it is forbidden to be used, [do we apply the principle that] one prohibition does not take effect where another prohibition already exists;[28] or perhaps, since [the lamb] does not assume any sanctity,[29] do we say that the redemption has the purpose only of releasing the ass from a mere prohibition?[30] — Said R. Mari the son of Kahana, And is this which is written in connection with these, As the gaze lie and the hart’!,[31] a small matter? [Consequently] just as we do not redeem [the first-birth of an ass] with the gazelle or the hart,[32] [being beasts], similarly, we do not redeem with dedicated sacrifices which became unfit for the altar! Now that you have arrived at this conclusion,

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(1) Even a lamb.

(2) A lamb born from the coupling of a he-goat and a ewe.

(3) The offspring of a he.goat and. a hind. There is, therefore, a doubt whether it is to be considered an animal or a beast.

(4) Thou shalt redeem with a lamb. (Ex. XIII, 13).

(5) Your lamb shall be without a blemish, a male of the first year. (Ex. XII, 5).

(6) A calf and a beast are excluded, because the text says: From the sheep and goats. A ritually slaughtered animal is excluded, because the killing must be specifically for the Passover, and kil'ayim is forbidden because a Paschal lamb must be suitable for offering on the altar.

(7) An animal taken alive out of the slaughtered mother's womb.

(8) It is on a par with a ritually slaughtered animal, and, like the latter, we are not permitted to redeem with it a first-birth of an ass.

(9) And all those cases enumerated in the Mishnah do not possess the equivalent value of the ass, for otherwise it would be permissible, as mentioned above, to redeem even with boiled herbs.

(10) And since something must be excluded, we rather include ben peku'ah as unsuitable to redeem with, than the case of a female etc., since, after all, the latter are lambs, whereas hen peku'ah is like a ritually slaughtered animal.

(11) An animal suspected to be a hybrid or looking like one. And in this case, although its sire is a ram and its mother a ewe, the offspring looks like some other species.

(12) If the offspring born from two different kinds of animals is permitted, how much more so this one.

(13) For we say it is a calf, with which, as the Mishnah states above, it is forbidden to redeem.

(14) As stated in the Mishnah above.

(15) Therefore we see that according to the Rabbis it is forbidden to redeem with a nidmeh.

(16) But not to deduce therefrom the ruling as regards redemption with offspring which looked like a kid given birth to by a ewe.

(17) That nidmeh may not be offered up on the altar as kil'ayim.

(18) Lev. XXII, 27.

(19) Num. XVIII, 17.

(20) It says in connection with dedicated sacrifices: Then it shall be seven days under its dam (Lev. XXII, 27). And in connection with the tithing of animals the text says: Even of whatsoever passeth under the rod (Lev. XXVII, 32). Just as nidmeh and kil'ayim are invalid to be brought as offerings in the case of consecrated sacrifices, they are similarly unsuitable in connection with the tithing of animals.

(21) And that nidmeh is unsuitable to redeem with, as is the case of kil'ayim, which answers the above query.

(22) There is no proof from here that the first-birth of an ass can be redeemed with a nidmeh.

(23) ‘Even whatsoever passeth under the rod’, the text in connection with tithing and the text in connection with the firstling, ‘That thou shalt cause to pass (set apart)’. As in the latter case, if it possesses some marks similar to its mother it is liable to the law of the firstling, so too with reference to its tithing.

(24) In the teaching reported by Rabbah b. Samuel.

(25) That we exclude nidmeh from animal tithing, comparing it with kil'ayim, even in such circumstance.

(26) And had been redeemed. Such an animal even after redemption retains some sanctity in that it may not be used for work and shearing.

(27) I.e., the first-birth of the ass. It can therefore be redeemed, for we apply here the principle that one prohibition cannot take legal hold where another already exists, as there exists no prohibition in the case of a first-birth.

(28) The prohibition attaching to the first-birth of an ass cannot be transferred to a dedicated animal unfit for the altar which is liable to the prohibitions regarding its shearing and working with it.

(29) As a result of the redemption of the first-birth of an ass.

(30) In order to render it permissible to be used, but not that its sanctity shall fall upon the object with which it is redeemed.

(31) Deut. XII, 22 with reference to sacrifices which became unfit for the altar.

(32) Being beasts of chase, v. Mishnah.

Talmud - Mas. Bechoroth 12b

it may be that even according to the opinion of R. Simeon,[1] [it is forbidden to redeem with it], since the text says in connection with them: ‘As the gazelle and the hart’. The question was raised: What is the ruling as regards redeeming with an animal bought with the fruits of the sabbatical year? With reference to an ass, distinctly a first-birth, there is no need for you to ask, since the Divine Law says [that the fruits of the sab batical year are]: For food,[2] implying, but not to trade therewith.[3] The question does arise regarding the uncertain [first-birth of an ass]. And according to the opinion of R. Simeon you need not ask, because he holds there is no uncertain [first-birth of an ass which requires redemption].[4] The question does arise, however, according to the opinion of R. Judah. What is the ruling? Since he sets aside a lamb and it remains for himself, we can apply to it [the designation]: ‘For food’? Or perhaps, since as long as the ass's prohibition is not canceled it is not permitted,[5] it is like trading [with the fruits of the sabbatical year]? — Come and hear: For R. Hisda said: If an animal has been purchased with the fruits of the sabbatical year, we are not permitted to redeem with it an ass, distinctly a first-birth, but it is permitted to redeem therewith an uncertain first-birth. R. Hisda further said: An animal bought with the fruits of the sabbatical year is not liable to the law of the firstling. It is subject, however, to the law of the gifts [which are the prerogative of the priest].[6] It is not liable to the law of the firstling, because the Divine Law says: ‘For food’, implying, but not for burning.[7] And it is subject to the law of gifts, for we can apply to it[8] [the designation], ‘For food’. An objection was raised from the following: If one eats from the dough of the sabbatical year before the hallah[9] has been taken, he incurs the guilt of death [at the hands of Heaven]. But why?[10] Since, if it became levitically unclean, it is fit for burning, and the Divine Law says: ‘For food’, implying, but not for burning? — The case is different here, for it says: Throughout your generations.[11] It has been taught to the same effect: Whence do we derive that if one eats from the dough of the sabbatical year before its hallah is taken, he incurs the guilt of death? Because it is said: ‘Throughout your generations’. But why not derive [that the firstling bought with the fruits of the sabbatical year is liable to the law of the firstling],from the case [of hallah]?[12] — In the case of hallah [its separation] is mainly ‘for the eating [of the priests], [except when it receives uncleanness], but in the case of the firstling, [the portion for the altar] is mainly for burning.[13] IF HE GAVE IT TO THE PRIEST etc. We have learnt here that which our Rabbis have taught: ‘If an Israelite had a first- birth of an ass in his house and the priest said to him, "Give it to me and I will redeem it", he should not give it to him, except [the priest] redeem it in his presence’. R. Nahman reported in the name of Rabbah the son of Abbuha: ‘This proves[14] that the priests are suspected of neglecting the redemption of the first-births of asses’. Surely [this deduction] is evident? — You might have assumed that this is the case only where he is known to be suspected,[15] but generally we do not suspect the priest. He therefore informs us that he usually decides that it is a legitimate act.[16] MISHNAH.

IF ONE SETS ASIDE [A LAMB] FOR THE REDEMPTION OF THE FIRST-BIRTH OF AN ASS AND IT DIED, R. ELIEZER SAYS: HE IS RESPONSIBLE AS IS THE CASE WITH THE FIVE SELA'S IN CONNECTION WITH THE REDEMPTION OF THE FIRST-BORN. BUT THE SAGES SAY: HE IS NOT RESPONSIBLE, AS IS THE CASE WITH THE REDEMPTION OF THE SECOND [YEAR'S] TITHING.[17] R. JOSHUA AND R. ZADOK TESTIFIED CONCERNING THE REDEMPTION OF THE FIRST-BIRTH OF AN ASS WHICH DIED THAT THE PRIEST RECEIVES NOTHING [IN SUCH CIRCUMSTANCES] — IF THE FIRST-BIRTH OF AN ASS DIED [AFTER THE LAMB FOR REDEMPTION HAD BEEN SET ASIDE], R. ELIEZER SAYS: IT SHALL BE BURIED, BUT THE LAMB MAY BE USED,[18] WHEREAS THE SAGES SAY: IT IS NOT REQUIRED TO BE BURIED AND THE LAMB BELONGS TO THE PRIEST.

GEMARA. Said R. Joseph: What is the reason of R. Eliezer? — Because Scripture writes: Nevertheless the first-born of man shalt thou surely redeem [and the firstling of unclean beasts shalt thou redeem].[19] Just as in the case of the first-born of a man, he is responsible [if the redemption money is lost], similarly, in the case of the first-birth of an unclean animal, he is responsible [if the redemption lamb dies] — Said Abaye to him: [If the comparison be correct, then] as in the case of the first-born of a man, it is permitted to benefit [from his work before redemption], so in the case of an unclean animal, it should be permitted to benefit from it. And should you assume that this is so, have we not learnt in a Mishnah: IF THE FIRST-BIRTH OF AN ASS DIES, R. ELIEZER SAYS: IT SHALL BE BURIED? What does he mean by the phrase IT SHALL BE BURIED? Does he not mean that it is forbidden to use it? — No, It means,it shall be buried as in the case of the first-born of a man.[20] But [am I to infer that on]y] a first-born of a man requires burial, but that a plain Israelite does not require burial? And moreover, it has been taught: R. Eliezer agrees that if an Israelite has an uncertain first-birth of an ass in his house, he sets aside a lamb on its behalf and it is his?[21] — Rather, said Raba; [the following is the reason of R. Eliezer]. Scripture says: Nevertheless the first-born of man shalt thou surely redeem. Scripture implies, ‘I have compared [an unclean animal with the first-birth of a man] in connection with [the responsibility for] redemption, but not as regards any other matter.[22] We have learnt elsewhere [in a Mishnah]:[23] Valuations are according to their period;[24] the redemption of the first-born takes place after thirty days and the redemption of the first-birth of an ass takes place immediately. But does the redemption of the first-birth of an ass take place immediately? Against this I quote the following in contradiction: The period of valuation or redemption of the first-born, or Naziriteship,[25] or redemption of the first-birth of an ass, is in no case less than thirty days. But we can extend the time in each of these cases indefinitely![26] — Said R. from it, but owing to the fact that an unclean animal is compared with the first-born of man; and usually a dead first-born receives burial. Nahman: [The statement above, that the redemption of a first-birth takes place immediately means] to inform us that if he redeemed it, it is redeemed.[27] This would imply that in the case of his first-born son, if he redeemed him within the thirty days he is not redeemed? Has it not been stated: If one redeems his son within the thirty days, Rab holds: his son is redeemed? — But surely has it not been stated in this connection: Raba said: All authorities agree [that if he said that the first-born should be redeemed] from now [before the expiry of the thirty days], then his son is not redeemed?[28]

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(1) For although it is permitted according to his view to benefit from the first-birth of an ass, we are, nevertheless, not allowed to redeem it with a dedicated animal which became unfit for the altar.

(2) Lev. XXV, 6.

(3) Redeeming the first-birth with an animal bought with the fruits of the sabbatical year is like trading with sabbatical fruits, and, moreover, while the fruits of the sabbatical year may be eaten by means of this redemption, he acquires an ass which cannot be eaten.

(4) An uncertain birth, e.g. where its mother gave birth to a male and a female and there was a doubt as to whether the male was born first. The Mishnah states above that in such a case, a lamb is set aside and it remains for himself. And according to R. Simeon, since he permits a first-birth of an ass to be used, (v. supra p. 9b), there is no need to set aside a lamb to release the first. birth from any prohibition attaching to it.

(5) Unless he sets aside a lamb for redemption.

(6) The priestly share consisting of the shoulder, jaw and the maw. V. Deut. XVIII, 3.

(7) And if it be liable to the law of the firstling, certain portions are burnt on the altar.

(8) Sc. the animal.

(9) The priestly share of the dough; v. Num. XV, 18ff.

(10) Should the dough be liable to hallah on the sabbatical year?

(11) Num. XV, 21, implying that even on the sabbatical year, hallah must be given.

(12) I.e., why do we not make an exception in the application of the text ‘For food’, implying, ‘but not for burning’, with reference to a firstling, as we do in the case of hallah.

(13) And since it is burnt, we apply the text: ‘For food’, with its implication, ‘but not for burning’; whereas it is otherwise In connection with hallah.

(14) Since the Mishnah says that he should not give the first-birth to the ‘priest unless the latter redeems it before him.

(15) Where we have reason to suspect him. Or, where we actually saw him working the firstling of an ass prior to its redemption, either wilfully or through ignorance of the law on the matter.

(16) Not to set aside a lamb to redeem it, as he argues that in any case the lamb remains with him.

(17) Where if the redemption money is lost, it is not replaced.

(18) For as R. Eliezer maintains that the Israelite is responsible, it is as if the lamb had not yet been set aside and the Israelite may therefore benefit from it. But the first-birth must be buried, since it is forbidden to use it, as is the case when alive.

(19) Num. XVIII, 15.

(20) Not because it is forbidden to benefit

(21) And although with reference to an ass, distinctly a first-birth, he maintains that so long as the lamb is not in the possession of the priest it is not redeemed, he agrees with regard to an uncertain first-birth that he need not give its redemption to the priest but sets aside a lamb, thus implying that the first-birth of an ass is forbidden to be used otherwise. And since we do not compare an unclean animal with the first-born of man in this respect, the same should apply in respect of his responsibility for it. The question therefore remains, what is the reason of R. Eliezer in the opening passage of our Mishnah?

(22) The limiting word ‘nevertheless’, indicates that only with regard to the responsibility for redemption is an unclean animal compared with the firstborn of a man.

(23) Var. lec.: It has been taught, as the statement which follows is not a Mishnah but a Baraitha.

(24) Between the ages of one month and five years, if one said, ‘I vow my valuation’ and he delayed till the age of six, when there is an increased valuation, he still only gives the original valuation, as laid down in Scripture. Some maintain that since a child of that age is not legally permitted to dedicate its valuation to the sanctuary, therefore it means hare that somebody else said, ‘I vow the child's valuation upon myself’.

(25) The unspecified vow of a Nazirite, i.e., one bound by a vow to abstain from wine etc., is at least for thirty days.

(26) With reference to valuations, as the ages increase the valuation will correspondingly increase, as mentioned in Scripture. A Nazirite also can vow for a period of years and the first-birth of an ass may be redeemed even after the lapse of years and it is not necessary to give more because of the delay.

(27) Although he has not carried out properly the religious command of redemption, the animal is redeemed.

(28) And the difference of opinion only arises when he said, ‘I give the money now but its redemption shall only take effect after thirty days’.

Talmud - Mas. Bechoroth 13a

R. Shesheth said: [The above Baraitha means] to inform us that he does not transgress on account of the first-birth.[1] Rami the son of Hama raised an objection from the following: The duty of redemption is for the entire period of thirty days. After that, either he redeems it, or breaks its neck. What [does it mean]? Does it not mean that it is a religious duty to retain it for the whole period of thirty days?[2] No, it means that it is a religious duty to redeem it all the thirty days. If this is the case, what it should say is: After that, either he redeems it[3] or he transgresses [the command to redeem]![4] Rather, said Raba:[5] There is no contradiction: the one statement [that redemption is after thirty days] gives the opinion of R. Eliezer who compares [an unclean animal with the first-born of a man], and the other statement [that redemption takes place immediately] gives the opinion of the Rabbis who do not make this comparison. MISHNAH. IF HE DOES NOT WISH TO REDEEM IT [THE FIRST-BIRTH OF AN ASS], HE BREAKS ITS NECK FROM BEHIND AND BURIES IT. THE MIZWAH[6] OF REDEMPTION IS PRIOR TO[7] THE MIZWAH OF BREAKING ITS NECK, FOR IT SAYS: AND IF THOU WILT NOT REDEEM IT, THEN THOU SHALT BREAK ITS NECK.[8] THE MIZWAH OF YI'UD[9] IS PRIOR TO THE MIZWAH OF REDEMPTION, FOR IT SAYS: WHO HATH BETROTHED HER TO HIMSELF.[10] THE MIZWAH OF YIBBUM[11] IS PRIOR TO THE MIZWAH OF HALIZAH.[12] THIS WAS THE CASE AT FIRST WHEN THE PARTIES CONCERNED USED TO CARRY OUT THE LAW WITH RELIGIOUS INTENTIONS.[13] BUT NOW THAT THEY DO NOT CARRY OUT THE LAW RELIGIOUSLY,[14] THE [RABBIS] HAVE SAID: THE MIZWAH OF HALIZAH IS PRIOR TO THE MIZWAH OF YIBBUM. THE

MIZWAH OF REDEMPTION [OF AN UNCLEAN ANIMAL WHOSE VALUE IS DEDICATED TO THE SANCTUARY] RESTS WITH THE OWNER. HE IS FIRST, BEFORE ANY OTHER MAN, FOR IT SAYS: OR IF IT BE NOT REDEEMED, THEN IT SHALL BE SOLD ACCORDING TO THY VALUATION.[15]

CHAPTER II

MISHNAH. [AN ISRAELITE] WHO BUYS AN EMBRYO[16] OF A COW BELONGING TO A HEATHEN, OR WHO SELLS ONE TO HIM, ALTHOUGH THIS IS NOT PERMITTED,[17] OR WHO FORMS A PARTNERSHIP WITH HIM,[18] OR WHO RECEIVES AN ANIMAL FROM HIM TO LOOK AFTER,[19] OR WHO GIVES [HIS COW] TO HIM TO LOOK AFTER,[20] IS EXEMPT FROM THE LAW OF THE FIRSTLING, FOR IT SAYS: [I HALLOWED UNTO ME ALL THE FIRST-BORN] IN ISRAEL,[21] BUT NOT IN GENTILES. PRIESTS AND LEVITES ARE SUBJECT [TO THE LAW OF THE FIRSTLING]. THEY ARE NOT EXEMPT FROM [THE LAW OF] THE FIRSTLING OF A CLEAN ANIMAL, BUT ONLY OF A FIRST-BORN SON AND THE FIRST-BORN OF AN ASS.

GEMARA. Why does [the redactor of the Mishnah] state the case of the embryo of an ass in the first [chapter],[22] and subsequently [in the second chapter], the case of an embryo of a cow? Why not state in the first [chapter] the case of an embryo of a cow, since it is a case of an animal consecrated as such, and, subsequently. in the case of an embryo of an ass, as it is a case of an animal consecrated only for its value? — It was explained in the West [Palestine]:[23] If you choose, I may say the reason is because he dwelt with peculiar pleasure on this case, in the manner of R. Hanina [explained above].[24] Or if you prefer, I can say it is because the regulations concerning an unclean animal are relatively few;[25] [the redactor of the Mishnah] therefore cleared them out of the way first.

R. Isaac b. Nahmani reported in the name of Resh Lakish on behalf of R. Oshiah: If an Israelite gave money to a heathen for his animal, [we judge the transaction] according to their laws and even though he did not pull the animal,[26] he acquires possession and is subject to the law of the firstling. If a heathen gives money to an Israelite for his animal, [we also judge the transaction] according to their laws, and although he did not pull [the animal], he acquires possession and is exempt from the law of the firstling. The Master says: ‘If an Israelite gave money to a heathen, [we judge the transaction] according to their laws, and although he did not pull [the animal], he acquires possession and is subject to the law of the firstling’. What does ‘their laws’ mean? Shall we say that ‘according to their laws’ means, as regards the person [of the heathen], and we conclude a fortiori, that if the person [of a heathen] is acquired by the Israelite for money, as Scripture writes: To hold for possession[27] — [Scripture] compares a Canaanitish slave with a possession: as a possession is acquired by handing over the money to the seller, by a bill of sale, and taking possession,[28] so a Canaanitish slave is acquired with money — how much more so, therefore, is this the case with reference to a heathen's property?[29] If this were the case, then a heathen's property should also be acquired even by means of a bill of sale and taking possession? And, moreover, this idea can be confuted by the case of an Israelite [having a transaction] with an Israelite. For though the person [of an Israelite] is acquired with money. yet his property is acquired by means of meshikah![30] Rather said Abaye: The expression ‘according to their laws’ means, those which the Torah laid down for them. [For Scripture says]: Or buy of thy neighbour's hand,[31] [and we deduce from this that] from ‘the hand of thy neighbour’ the way of acquiring possession is meshikah,[32] but from the hand of a heathen the way of acquiring possession is with money. But why not deduce that from the hand of a heathen there is no way of acquiring possession at all?[33] — It was explained: You cannot assume this a fortiori: If [the heathen's] person can be acquired, how much more so his property! But perhaps say that in the case of a heathen, two ways of effecting possession are required?[34] — The answer was given: Have we not here an a fortiori [argument]? If his person is acquired only in one way. shall his property be acquired in two ways? But why not say that [a heathen acquires an object] either by means of one or the other?[35] — [The method of his acquiring] must resemble [the form of acquiring mentioned In connection with the text] ‘thy neighbour’. Just as in the case of ‘thy neighbour’, [i.e., an Israelite], possession [can be acquired] only in one way, so in the case of a heathen only in one way.

The Master said: ‘But if a heathen gave money to an Israelite for his animal, [we judge the transaction according to their laws, and even though he did not pull [the animal], he acquires possession and is exempt from the law of the firstling’. What does ‘according to their laws’ mean? If the expression ‘according to their laws’ refers to the person [of the Israelite] who is acquired with money by a heathen and we infer a fortiori: If the person [of an Israelite] is acquired with money — for Scripture writes: Out of the money that he was bought for,[36] — how much more so is [the Israelite's] property [acquired by means of money by a gentile]? This can be refuted by the case of a transaction between Israelites, for his person is acquired with money and yet his property is acquired by meshikah! Rather, said Abaye: ‘According to their laws’ means those which the Torah laid down for them. [Scripture says]: ‘And if thou sell aught to thy neighbour’;[37] [we infer from this] that ‘to thy neighbour’ the way of acquiring possession is by meshikah, but in the case of a gentile, possession is acquired with money. But why not say that for a heathen there is no way [for acquiring possession] at all?[38] — I can answer, No. Have we not an a fortiori [argument]? If a heathen can acquire the person [of an Israelite] with money, how much more so is this the case with the property [of an Israelite]? But why not say that for a heathen there must be two ways of acquiring possession? — But is there not the a fortiori argument [to the contrary]? If a heathen acquires possession of the person [of an Israelite] by one act only, should the Israelite's property be acquired only by two acts? But why not say that [a heathen acquires possession of an Israelite's property] either by means of one or the other! — [The way of acquiring possession] must resemble [what is mentioned in connection with the text] ‘thy neighbour’.

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(1) The duty to redeem the first-birth of an ass is indeed immediately after its birth, and the Baraitha which says that redemption does not take place for thirty days means that he does not transgress the command to redeem until the period of thirty days has elapsed.

(2) In accordance with the opinion of R. Nahman, who maintains that redemption does not take place before thirty days have elapsed. This seems to contradict the opinion of R. Shesheth.

(3) Var. lec.: He either breaks its neck. V. R. Gershom.

(4) And since it says: ‘Either he redeems it or breaks its neck’, we infer that redemption only commences after the thirty days and that during the thirty days it is a duty to retain it.

(5) We may indeed say that it is a religious duty to retain the first-birth for thirty days and still we do not ex plain the Baraitha cited by Rami b. Hama as being in accordance with R. Nahman's view (Rashi). Sh. Mek.: Raba's reply can be explained as being entirely independent of the opinions of R. Shesheth and R. Nahman and that it merely explains the conflicting statements regarding when redemption should take place.

(6) A religious act and duty.

(7) I.e., has precedence over.

(8) Ex. XIII, 13. The verse implies that redemption comes first.

(9) Designation, especially the betrothal of a Hebrew handmaid.

(10) Ex. XXI, 8. The verse implies that the first duty is to betroth her.

(11) To marry the wife of a brother who died without issue.

(12) The ceremony of taking off the brother-in-law's shoe after refusing to marry his brother's widow. Deut. XXV, (5-11).

(13) In order to preserve the name of the dead brother.

(14) But merely for sexual pleasure, and, since this is the case, it is sexual intercourse with a brother's wife, which is one of the forbidden relations.

(15) Lev. XXVII, 27. The verse therefore implies that redemption is a prior duty. Also redemption takes precedence, because where the owner redeems he has to add a fifth part, but in the case of another redeeming, there is no addition of a fifth for the benefit of the sanctuary, as Scripture says in the first part of the verse quoted in this connection: ‘And If it be of an unclean beast, then he shall ransom it according to thy valuation and shall add unto it the fifth part thereof'.

(16) A firstling.

(17) It is forbidden to sell large cattle to a heathen, because the animal is worked on the Sabbath.

(18) Both purchasing an animal between them.

(19) The Israelite in return for attending to the animal receives in payment half of the offspring, but the animal itself belongs to the heathen.

(20) The Israelite sharing a half or a third of the offspring.

(21) Num. III, 13. The text implies that where a gentile has a share in the mother or an offspring, the firstling is not holy.

(22) The first Mishnah in the first chapter of the tractate.

(23) Palestine is designated as the West, being so situated geographically relative to Babylon, where the Talmud Babli was evolved.

(24) Supra 5b.

(25) For only one chapter is devoted to the rules and regulations appertaining to an unclean animal, whereas the remainder of the tractate of Bekoroth deals with the firstling of a clean animal.

(26) Into his possession, which is one of the ways of effecting transference between Israelites, whereas with reference to a gentile, the handing over of the money effects transference; v. Glos. s.v. Meshikah.

(27) Lev. XXV, 46.

(28) Performing some kind of work on the estate. V. Kid, 26a.

(29) That it is acquired from him by handing over the purchase money.

(30) V. p. 90, n. 3 and Kid, 26a. Similarly, although the person of the heathen is acquired with money, his property may require another form of acquiring possession.

(31) Lev. XXV, 14.

(32) The expression 'of thy neighbour's hand' implies that the object has to be filled from the hands of the seller into the hands of the buyer.

(33) Short of actually bringing the object completely into the domain of the Israelite.

(34) Possession by means of money and meshikah, but not with money alone.

(35) Money or Meshikah.

(36) Lev. XXV, 51. And the verse deals with a gentile who purchases a Hebrew slave.

(37) Lev. XXV, 14.

(38) And that in order to secure possession of an Israelite's chattels, he must transfer them completely to his domain.

Talmud - Mas. Bechoroth 13b

As 'thy neighbour' [i.e., an Israelite] acquires possession only in one way,[1] so the heathen acquires possession only in one way.[2] It was argued: Now according to Amemar who said that meshikah effects possession in the case of a heathen, this might be right if he holds according to the opinion of R. Johanan who maintains that according to the Biblical law, money effects possession between Israelites, whereas meshikah does not effect possession;[3] the text 'to thy neighbour' serves then the purpose of allowing us to deduce that 'to thy neighbour' [i.e., an Israelite] money effects possession, but for a heathen to effect possession meshikah is required. But if he holds according to the opinion of Resh Lakish, who maintains that meshikah is expressly mentioned in the Torah, [with the indicating result that] 'to thy neighbour' [an Israelite] with meshikah and for a heathen with meshikah, what need then is there for the text 'to thy neighbour'? — It can be explained thus: The text means: 'to thy neighbour' you return an overcharge,[4] but you do not return an overcharge to a Canaanite [a heathen] — But do we not derive [the exclusion of the law of overcharging in connection with] the Canaanite from the following text: Ye shall not oppress one another?[5] — One text refers to a Canaanite and the other refers to sacred property.[6] And it was necessary [to teach both cases]. For if the Divine Law had written only one text, I might have assumed that, as regards the Canaanite there is no law concerning overreaching, but in regard to sacred property[7] the law of overreaching is enforced. Therefore Scripture teaches us [that this is not so]. This would hold good according to him who says that the robbed object of a Canaanite is forbidden [to be retained]; therefore a scriptural text is necessary to permit [the retention of] overreaching. But[8] if be holds with him who says that the robbed object of a Canaanite is allowed [to be retained], can there be any question about permitting [to retain] overreaching? I can answer: If [Amemar] holds according to him who says that the robbed object of a Canaanite is allowed [to be retained], then perforce he will hold according to the view of R. Johanan.[9] An objection was raised. If one buys broken pieces [of silver] from a heathen and finds among them an idol, if he made meshikah before he had given the purchase money, he should withdraw [from the transaction]. But if he made meshikah after he had given the money, he should carry the benefit derived therefrom to the Dead Sea.[10] Now, if you hold that money effects possession, what need is there for meshikah? — We are dealing here with the case where [the heathen] undertook to act in the matter in accordance with Israelite law. If so, what need is there for money [as a means of effecting possession]? — This is what [the Baraitha] intends to say: Although he had given the money, if he made meshikah, [then he can withdraw], but if not, [he] cannot [do so]. If this is the case, there is a difficulty in the first part [of the Baraitha]?[11] — Said Abaye: The reason of the first part [of the Baraitha] is because it was made in error.[12] Raba said to him: '[You say that the reason of] the first part [of the Baraitha] is because it was made in error. But is the last part [of the Baraitha] also not a case of a purchase in error'? Rather, said Raba: Both the first and the last parts deal with the case of a purchase in error;[13] but in [the case stated in] the first part where he had not yet given the money, the idol does not appear to have been in the possession of an Israelite, whereas in the last part [of the Baraitha], where he had given the money, the idol appears to have been in the possession of an Israelite.[14] And Abaye? — He will explain thus. The first part is a case of a purchase made in error, for he did not know of the idol, since he had not yet paid the money.[15] But the last part is a case of a purchase made in error, for since he had given the money, when he was [about] to make meshikah he should have examined the purchase and then made meshikah.[16] R. Ashi said:[17] Since in the first part [of the Baraitha], meshikah does not effect possession, in the last part also, meshikah does not effect possession. But as he mentions meshikah in the first part, he also states meshikah in the last part. Rabina said: Since in the last part meshikah effects possession, in the first part too meshikah effects possession.[18] And what the first part says in effect is this: If he had not given the money, nor made meshikah, he withdraws. What is [then] meant by 'he withdraws'?[19] — That he can retract his words, for he [the Tanna of the Baraitha] maintains: To retract one's words indicates a want of honesty, but this is the case only with an Israelite dealing with an Israelite, because they stand by their word, whereas in the case of an Israelite dealing with gentiles, since the latter do not stand by their word, it is not so.

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(1) I.e., meshikah.

(2) I.e., with money and not meshikah, for the verse implies 'thy neighbour' with meshikah but not a heathen, and by analogy we assume that the same limitation applies in the case of the form of acquisition which exists for gentiles. i.e., money.

(3) B.M. 46b, Kid. 26a.

(4) The law of overcharging and overreaching being mentioned later in the same chapter of the Bible.

(5) Lev. XXV, 14. The text implies that for a heathen this law does not apply, as the words 'one another' refer to Israelites.

(6) To which also the law does not apply.

(7) An object dedicated for the Temple, or for some other sacred purpose, and I might have said that secular property should not have an advantage over sacred property in this respect.

(8) v. Sanh., Sonc. ed., p. 388, n. 6 and B.M., Sonc. ed., p. 506, n. 9.

(9) For since the robbed object of Canaanite may be retained, therefore there is no need to deduce the retention of the overreaching from the text, 'Thy neighbour'. Consequently the text will imply that although money effects possession in a transaction between Israelites, in the case of heathens meshikah is required. Hence we see that Amemar must necessarily hold according to the opinion of R. Johanan.

(10) For an idol in the possession of an Israelite can never be freed from its prohibition, and it is therefore forbidden to derive any profit therefrom.

(11) Why should his withdrawal cancel the sale? Since he made meshikah, he should be required to carry the benefit to the Dead Sea!

(12) For he did not know there was an idol and therefore the withdrawal cancels the sale.

(13) And legally the withdrawal cancels the sale even under the circumstances mentioned in, the last part of the Baraitha, and meshikah is the form here of effecting possession, this having been agreed upon by the parties concerned.

(14) On withdrawal he receives back his money from the heathen.

(15) And before the purchase is handed over, the buyer does not usually trouble to examine the contents of a purchase.

(16) And as he omitted to make the examination, the transaction was valid and, consequently, the meshikah was a genuine one.

(17) On R. Ashi's view we are dealing here with a case where the parties did not agree to act according to Jewish law, and therefore money payment is the method of effecting possession of an object bought. And no difficulty can be raised from the last part of the Baraitha, by arguing that, if this be a fact what need is there for meshikah, for meshikah is mentioned here only because it is mentioned in the first part, and there it had to be mentioned to inform us, that it has no effect, since the purchase money was not handed over.

(18) When e.g., the parties agree to act according to Jewish law, i.e., use meshikah as a form of transference.

(19) Since neither meshikah nor money did take place.

Talmud - Mas. Bechoroth 14a

MISHNAH. ALL DEDICATED SACRIFICES WHICH HAD A PERMANENT BLEMISH BEFORE THEIR DEDICATION[1] AND WERE REDEEMED, ARE LIABLE [TO THE LAW] OF THE FIRSTLING AND THE [PRIESTLY] GIFTS;[2] THEY BECOME UNCONSECRATED ANIMALS AS REGARDS SHEARING AND WORKING;[3] THEIR OFFSPRING AND MILK ARE PERMITTED TO BE USED AFTER THEIR REDEMPTION;[4] HE WHO SLAUGHTERS THEM WITHOUT[5] [THE TEMPLE COURT] DOES NOT INCUR [THE PUNISHMENT OF EXCISION]; AND THE LAW OF SUBSTITUTE DOES NOT APPLY TO THEM;[6] AND IF THEY DIED [BEFORE REDEMPTION]. THEY MAY BE REDEEMED,[7] EXCEPT IN THE CASE OF A FIRSTLING AND AN ANIMAL SET ASIDE FOR TITHE [OF CATTLE].[8] ALL ANIMALS HOWEVER WHICH WERE DEDICATED BEFORE THEY BECAME BLEMISHED OR HAD ONLY SUFFERED A TRANSITORY BLEMISH BEFORE THEIR DEDICATION AND AFTER THAT DEVELOPED A PERMANENT BLEMISH, AND WERE REDEEMED, ARE EXEMPT [FROM THE LAW] OF THE FIRSTLING AND FROM THE [PRIESTLY] GIFTS; THEY DO NOT BECOME UNCONSECRATED AS REGARDS SHEARING AND WORKING; THEIR OFFSPRING AND MILK ARE FORBIDDEN TO BE USED AFTER THEIR REDEMPTION; HE WHO SLAUGHTERS THEM WITHOUT [THE TEMPLE COURT] IS PUNISHABLE [WITH EXCISION]; THE LAW OF SUBSTITUTE APPLIES TO THEM; AND IF THEY DIE, THEY ARE TO BE BURIED.

GEMARA. The reason[9] is because they were redeemed, but if they were not redeemed, they would have been exempt from [the law of] the firstling and from the [priestly] gifts, for [the Mishnah] holds that the consecration of an object consecrated for its value sets aside [the law of] the firstling and the duty of the [priestly] gifts.

AND THEY BECOME UNCONSECRATED etc. The reason[10] is because they were redeemed, but if they were not redeemed, they would have been forbidden as regards shearing and working. This would confirm the opinion of R. Eleazar who said: Animals dedicated for keeping the Temple in repair,[11] are forbidden as regards shearing and working! — [No]. It can he maintained that this is no proof. For an object consecrated for its value, eventually to be used for the altar,[12] might be confused with an object which is itself consecrated for the altar, therefore the Rabbis enacted a prohibition.[13] But in the case of an object dedicated for keeping the Temple in repair, the Rabbis did not enact a prohibition.[14]

THEIR OFFSPRING AND MILK ARE PERMITTED etc. How is this to be understood? Shall I say that [we speak of where] they became pregnant and gave birth after their redemption? Surely this is obvious? They are unconsecrated animals! Rather what is meant is that they were pregnant before their redemption and gave birth after their redemption. This implies that before their redemption, [the offspring] are forbidden!?[15]

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(1) And the object of the dedication, since they possessed already a permanent blemish, was to sell them and purchase with the money sacrifices for the altar.

(2) The shoulder, jaw and maw, as is the case with genuine hullin (unconsecrated animals).

(3) For they are considered hullin, as they were blemished before dedication, and the law of dedicated sacrifices which had become unfit for the altar, where shearing and working are prohibited, does not apply to them.

(4) Even if they were pregnant before their redemption, for since they gave birth after their redemption. their offspring are permitted. V. Gemara.

(5) Even before their redemption. since the animals did not receive any sanctity from the outset, owing to their blemishes before dedication.

(6) V. Lev. XXVII, 10.

(7) In order to give the carcases to dogs to eat. Moreover, we are taught here also that they hold an inferior status compared with other dedicated sacrifices, which can only be redeemed when alive.

(8) A firstling, even with a permanent blemish. is sanctified as the passing through the womb consecrates it. And with reference also to tithing. Scripture ordains that whether it be good, i.e., without a blemish, or bad (blemished), the animal passes under the rod to be tithed.

(9) Why the first clause of the Mishnah says that they are liable to the law of the firstling.

(10) Why the Mishnah says that shearing and working are permissible.

(11) The dedicated animals are sold and the money is devoted to the repair of the Sanctuary.

(12) The money realized from its sale is used to purchase sacrifices for the altar, and we therefore prohibit its shearing and working.

(13) Because if in the former case we permit the shearing and working, we might be led to permit in the latter case.

(14) For there is little fear here that because in the one case we permit the shearing and working. we might be led to permit in connection with the object consecrated as such, as there is an obvious distinction between the two.

(15) To be used for any purpose without redemption, nor could they be offered up on the altar, since even their own mother is not fit for the altar.

Talmud - Mas. Bechoroth 14b

[The point then arises], can they be redeemed even when they are without a blemish, or, can they not be redeemed so long as they are without a blemish?[1] — Come and hear: If one consecrated animals having a permanent blemish for the altar and they gave birth, they are to be sold and [the offspring] do not need a blemish, because they receive no sanctity. For we cannot be more stringent with the subsidiary than with the principal object.[2]

Now the reason [why the offspring do not require a blemish before redemption], is because we should not be more stringent with the subsidiary than with the principal, but if he consecrated a male[3] animal for its value, it receives the sanctity of an animal consecrated as such. This would support Raba's teaching. For Raba said: If one consecrated a male animal for its value,[4] it receives the sanctity of an animal which has been consecrated in itself.

HE WHO SLAUGHTERS THEM WITHOUT [THE TEMPLE COURT], DOES NOT INCUR [THE PUNISHMENT OF EXCISION]. R. Eleazar quoted [with reference to this passage of the Mishnah]: He is culpable.[5] and he explains [the word ‘WITHOUT’ in the Mishnah] as meaning that he slaughters them on a private altar.[6] For R. Eleazar said: Whence do we deduce that he who slaughters a blemished animal on a private altar at a period when high places are used legitimately, is guilty of transgressing a negative precept? Scripture says: Thou shalt not sacrifice unto the Lord thy God an ox or a sheep wherein is a blemish.[7] If this text has no bearing on a national altar,[8] since Scripture has already stated: Blind or broken, ye shall not offer these unto the Lord,[9] apply it to a private altar. Why not say that if the text has no bearing on dedicated sacrifices, apply it to a firstling?[10] For I might have been inclined to assume that since it is holy even when blemished, [the shearing and working being forbidden], it should therefore be offered up even if blemished. Therefore Scripture teaches us that it is not so! — I might argue against this that in connection with a firstling. Scripture expressly states: Lame or blind thou shalt not sacrifice it.[11] But why not say: If the above text has no bearing on dedicated sacrifices,[12] let us apply it to animal tithes?[13] For I might have been inclined to assume that since a tithed animal is holy even blemished, as Scripture writes, He shall not inquire whether it be good or bad,[14] therefore we should offer it up even blemished, and Scripture consequently informs us that this is not so? — [In connection with] a tithed animal, too, we draw an analogy between 'passing'[15] and 'passing' used in connection with a firstling. But why not then say: Let us apply the text above to an animal exchanged for a dedicated sacrifice? For I might have been inclined to assume that since it is sacred, even if blemished, since Scripture writes: Neither shall he alter it or change it etc.[16] Therefore it should be offered up even blemished; and consequently Scripture teaches us that it is not so! Scripture says: Then it and that for which it is changed, shall be holy.[17] It thus compares the exchanged animal with the animal itself; as the animal itself is unfit [for the altar] if blemished, so the exchanged animal with a blemish is unfit [for the altar]. R. Zera demurred: Why not say, apply the text[18] to the blemished offspring [born of unblemished sacrifices]?[19] For I might have been inclined to assume they are holy even blemished. through their mother, therefore they may be offered up even blemished, and Scripture therefore informs us that it is not so? — Said Raba: A Tanna of the school of R. Ishmael has already pronounced on the matter.[20] For a Tanna of the School of R. Ishmael taught: Scripture says: Only thy holy things which thou hast and thy vows:[21] 'Only thy holy things'; this refers to exchanged animals,[22] 'which thou hast': these are the offspring of dedicated sacrifices; 'and thy vows': Scripture here compares them with an animal vowed for a sacrifice: as an animal vowed for a sacrifice is unfit for the altar with a blemish, so these too are unfit with a blemish.[23]

THE LAW OF SUBSTITUTE DOES NOT APPLY TO THEM etc. What is the reason? Because Scripture Says: He shall not alter it nor change it, a good for a bad or a bad for a good. Now, if a bad [i.e., a blemished consecrated animal] must not be exchanged for a good [an unblemished and unconsecrated animal], is it necessary to inform us concerning the prohibition of exchanging a good [an unblemished consecrated animal] for a bad [a blemished animal]? What is meant then is, that to an animal good [i.e., unblemished] from the start [before dedication] [but which became blemished afterwards] the law of substitute applies, but to one bad [i.e., blemished] from the start [before dedication] the law of substitute does not apply.

AND IF THEY DIED, THEY MAY BE REDEEMED. Rab Judah reported in the name of Rab: This[24] is the teaching of R. Simeon who said: Objects consecrated for the altar were [at first] included [in the law of] presentation[25] and valuation, whereas objects consecrated for keeping the Temple in repair were not included in [the law of] presentation and valuation. For we have learnt: R. Simeon says: Objects consecrated for keeping the Temple in repair, if they die, are redeemed. R. Simeon agrees, however, that an animal blemished from the start [before dedication] may be redeemed.[26] What is the reason? Because Scripture says: And [the priest shall value] it;[27] the word 'it' excludes[28] the case of an animal with a blemish from the start [before dedication]. But the Sages say: If they die they are to be buried. Who are the Sages referred to here?[29] It is a Tanna of the School of Levi. For a Tanna of the School of Levi taught: All objects were [at first] included in [the law of] presentation and valuation, even an animal blemished from the start [before dedication]. And thus did the School of Levi teach in his Mishnah:[30] Even a beast and even a bird.[31] But does not Scripture say, 'It'? — The word 'It', according to the opinion of the Tanna of the School of Levi, is a difficulty. But the Rabbis who differ from R. Simeon[32] — what is the position? Is it a fact that they hold that if [the blemished dedicated animal] died, it is redeemed? If so,

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(1) Must we delay until the offspring are blemished and then we can proceed to redeem them or, can they be redeemed as they are, without waiting?

(2) I.e., we cannot be more stringent with the offspring than with the mother, seeing that the offspring is holy only in virtue of its mother. And as the mother can be redeemed at all times, the same rule should apply to its offspring. which solves the question.

(3) I.e., a ram which was dedicated for its value and which has the sanctity of an animal consecrated as such, insofar that is does not become hullin without a blemish appearing on it. The same ruling applies to a female animal, but as later on he wishes to support Raba's opinion and Raba mentions a male, he speaks here of a male.

(4) And for its money, a burnt-offering is purchased. The reason why Raba mentions a male animal is because the majority of people who bring a sacrifice offer up a burnt-offering, which is a male.

(5) l.e, he is liable to forty lashes.

(6) Lit., 'high place'. A temporary altar. Private altars were e.g., like those made by Manoah, Gideon and Samuel, in times when any individual could build an improvised altar for himself; v. Meg. 9b.

(7) Deut. XVII. 1.

(8) Lit., 'great high place'. As the high places of Nob and Gibeon, which were national and public ones.

(9) Lev. XXII, 22.

(10) Therefore there is no proof that the text, Thou shalt not sacrifice etc., refers to a private altar.

(11) Deut. XV, 21.

(12) Since this is already provided for in Lev. XXII, 22.

(13) The text, therefore, may still refer to a national altar and not to a private altar,

(14) Lev. XXVII, 33. 'Bad', i.e., blemished, and even so, if it is the tenth, it is holy.

(15) Mentioned in regard to the tithing of animals, Even of whatsoever passeth and the text, Then thou shalt cause to pass (set apart), referring to a firstling.

(16) Ibid. XXVII,10.

(17) Ibid.

(18) Quoted by R. Eleazar.

(19) As unfit to be sacrificed on the altar.

(20) That the instances mentioned above as unfit for the altar if blemished, are derived from another verse. Therefore there is no need to deduce them from the above text, Thou shalt not sacrifice.

(21) Deut. XII, 26.

(22) Which Scripture informs us are sacrificed on the altar.

(23) Consequently, the verse 'Thou shalt not sacrifice' refers, as R. Eleazar explains, to a private altar.

(24) The statement of the Tanna of the Mishnah, that if they died, they may be redeemed.

(25) Before the priest of the object whose value is dedicated, as Scripture says: Then he shall present the beast before the priest. (Lev. XXVII, 11.)

(26) For although objects consecrated for the altar require presentation and valuation, and therefore, cannot be redeemed when dead, in the case here of a sacrifice blemished from the start, he agrees that it can be redeemed when dead, although there can be no presentation and valuation here; for it is like an object consecrated for Temple repairs. which was not included in the law of presentation and valuation.

(27) Lev. XXVII, 12.

(28) From the requirements of presentation and valuation.

(29) For they are not the same Sages who differ with R. Simeon in Tem. 32b.

(30) Levi compiled a collection of teachings.

(31) Whose value he dedicated for the keeping of the Temple in repair, as they are not suitable for the altar, require presentation and valuation.

(32) The Rabbis who dispute with R. Simeon in Tem. 32b, holding that both objects consecrated for the altar and objects consecrated for Temple repairs are included in the law of presentation and valuation, though they agree that an animal blemished from the start may be redeemed after its death.

Talmud - Mas. Bechoroth 15a

[in connection with Rab's observation above], what should be said is: This is the teaching of R. Simeon and those who dispute with him? — I can answer: Rab holds with R. Simeon the son of

Lakish, who explained that according to the Rabbis [who differ with R. Simeon] objects dedicated for the keeping of the Temple in repair were [at first] included in [the law of] presentation and valuation, whereas objects dedicated for the altar were not included in [the law of] presentation and valuation. Therefore the Mishnah can not be explained [to agree completely] with the views of the Rabbis. For it states in the later clause: AND IF THEY DIED, THEY SHALL BE BURIED.[1] But whence can we prove that the reason [of the Mishnah] why they shall be buried is because they are subject to the law of presentation and valuation? Perhaps the reason is because we may not redeem dedicated sacrifices in order to give food to dogs?[2] — We can answer: If this is so, then, let the [Mishnah] state: If they become trefah,[3] they shall be buried.[4] Or if you choose [another solution]. I can say that Rab in fact holds with R. Johanan,[5] and read [in the passage above]. This is the teaching both of R. Simeon and of those who dispute with him.

BUT IF THEIR DEDICATION PRECEDED etc. Whence is this proved? — Our Rabbis have taught: [Scripture says]: Howbeit as the gazelle[6] [and as a hart]; as a gazelle is exempt from [the law of] the firstling,[7] so dedicated sacrifices which have become unfit for the altar are also exempt from [the law of] the firstling. I would then exclude the firstling and not the priestly gifts! The text [therefore] states, ‘A hart’; as a hart is exempt from [the law of] a firstling and from [the duty of priestly] gifts, so blemished dedicated sacrifices are exempt from the law of the firstling and of [the priestly] gifts. Am I to say that just as the fat of the gazelle and a hart is permitted to be used, so the fat of [blemished dedicated sacrifices] is also permitted to be used? [For this reason] the text states ‘ak’ [‘howbeit’], which intimates a distinction.[8]

The Master said: ‘I would then exclude the firstling but not [the priestly] gifts’! Now, what is the difference?[9] — I exclude the firstling, because its law does not equally apply in all cases, whereas I do not exclude [the priestly] gifts, as their law applies equally in all cases.[10] Hence Scripture states ‘A hart’. Said R. Papa to Abaye: Why not [say that] just as the law concerning the killing of the young[11] with its mother on the same day does not apply to a gazelle and a hart so the law concerning the killing of the mother on the same day does not apply to dedicated sacrifices which have become unfit for the altar? — He replied to him: With what will you compare [blemished dedicated sacrifices, to render them exempt from the law regarding the killing of the young with its mother on the same day]? If you compare them with unconsecrated animals, then the law concerning the killing of the young with its mother on the same day should apply to them! And if you compare them with dedicated sacrifices, here [also] the law regarding the killing of the young with its mother on the same day should apply to them.[12] — He replied to him: If so, then in regard to the fat [of blemished dedicated animals], why not say likewise, as follows: With what will you compare them? If with unconsecrated animals, their fat is forbidden, and if with dedicated sacrifices, their fat is forbidden? — But[13] did you not say that the [word] ‘ak’ implies ‘but not their fat’?[14] Then similarly adduce the word ‘ak’ as implying, ‘but the law regarding the killing of the young with its mother on the same day, is not [included in the analogy]’. Raba said: The word ‘ak’ serves [to exclude from the analogy] the law concerning the killing of the young with its mother on the same day, while as regards the fat of blemished dedicated sacrifices, we derive [the prohibition] from the words ‘the blood thereof’, for it is written: ‘Only thou shalt not eat the blood thereof’.[15] What do the words ‘The blood thereof’ mean? You can hardly say that it actually means ‘the blood thereof’. For granting that it is only as the blood of the gazelle and a hart — is then the blood of a gazelle and a hart permitted? The words ‘The blood thereof’ then refer to its fat. And why does not Scripture expressly write ‘Its fat’? — If the Divine Law had written the word ‘fat’, I might have assumed that both the analogy and the scriptural verse helped [to define the nature of the prohibition of the fat]. The analogy [between the word ‘fat’ and the words ‘as a gazelle and a hart’], helped to exclude it from [the punishment of] excision, for Scripture imposes the punishment of excision only on one who eats the fat of an animal, as it says: For whosoever eateth the fat of the animal.[16] And the scriptural verse also helped to make [the eating of the fat of blemished sacrifices equivalent to the breaking of] a mere prohibition. Therefore the Divine Law used the expression ‘the blood thereof’, to teach you that as the eating of its blood is punishable with excision, so the eating of its fat is punishable with excision.

But does not the Tanna [above in the Baraitha] say that the word ‘ak’ implies ‘but not its fat’?[17] — This is what [the Tanna] intends to say: If there were not a text ‘The blood thereof’. I might have said that [the word] ‘ak’ implies ‘but not its fat’. Now, however, that Scripture says ‘The blood thereof’, the word ‘ak’ serves [to exclude from the analogy] the law regarding the killing of the young with its mother [on the same day].

AND THEY DO NOT BECOME UNCONSECRATED. Whence is this derived — Our Rabbis taught. Scripture says: Notwithstanding thou mayest kill,[18] implying, but not shear. [The text continues further], ‘flesh’, implying. ‘but not milk’. ‘And eat’, implying, ‘but not for dogs’. Hence we infer that we do not redeem dedicated sacrifices to give food to the dogs.

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(1) From which we may infer that objects consecrated for the altar are included in the law of presentation and valuation, whereas the Rabbis hold the reverse view, according to the interpretation of R. Simeon b. Lakish.

(2) And not because the Mishnah holds that objects dedicated for the altar are included in the law of presentation and valuation.

(3) V. Glos.

(4) From which I could infer that, although it was possible to make presentation and valuation here, nevertheless since they were only fit for dogs, they must be buried. But since the Mishnah states, ‘IF THEY DIED etc.’, I deduce that the reason is because presentation and valuation cannot be carried out.

(5) Who says in Tem. 32b that according to the Rabbis, both objects dedicated for the altar and objects dedicated for keeping the Temple in repair were included in the law of presentation and valuation, and that an animal blemished from the start may be redeemed.

(6) Deut. XII, 22. And Scripture is dealing here with dedicated sacrifices which received their blemish after dedication, as the text says: The unclean and the clean shall eat of them alike, and they still retain some measure of holiness.

(7) For Scripture says: All the firstling males that come of thy herd and of thy flock, thou shalt sanctify. (Deut. XV, 19.)

(8) I.e., it warns us that the analogy is not complete and therefore the fat is forbidden.

(9) Deriving the limitation of a firstling from the first text, and requiring another text to exclude the priestly gifts.

(10) For the law of the firstling only applies to a male, whereas the duty of the priestly gifts applies to females as well.

(11) Lev XXII, 28.

(12) v. Hul. 78a.

(13) [This appears to be Abaye's reply].

(14) V. supra n. 1.

(15) Deut. XV, 23. The verse deals here with the case of a firstling with a blemish.

(16) Lev. VII, 25. It is also understandable that excision should be incurred only for eating the fat of an animal, as it is suitable for sacrifice on the altar.

(17) I.e., it excludes its fat from the analogy. How can Rab, therefore, maintain that the text ‘ak’ excludes from the analogy the law of killing the young with its mother on the same day, seeing that the Baraitha above says that ‘ak’ excludes the eating of the fat?

(18) Deut. XII, 15.

Talmud - Mas. Bechoroth 15b

Some there are who say: ‘Thou mayest kill and eat’: The permission of eating of blemished dedicated sacrifices is only from the time of their killing and thenceforward.[1] We may, however, redeem dedicated sacrifices to give food to dogs.[2]

THEIR OFFSPRING AND THEIR MILK ARE FORBIDDEN AFTER THEIR REDEMPTION. How is this to be understood? Shall I say that they became pregnant and gave birth after their redemption? Why [in that case should they be forbidden]? [The offspring] are [as] the gazelle and a hart![3] Rather what is meant is that they became pregnant before their redemption and give birth after their redemption. But if [they were born] before their redemption, they would indeed become holy. Whence is this proved? For our Rabbis taught: [Scripture says]: ‘Whether male’:[4] this includes the offspring [of a peace-offering].[5] [It goes on] ‘or a female’; this includes an animal [exchanged for a peace-offering].[6] Now I can only infer from these unblemished offspring and unblemished exchanged animals. Whence, however, can I derive blemished offspring[7] and blemished exchanged animals? When Scripture says: ‘Whether a male’, it includes even blemished offspring and the text ‘or a female’, includes an exchanged blemished animal. Those young [which were In embryo before their redemption] and were born after their redemption — what shall become of them? Concerning those born before their redemption there is a difference of opinion. There is one authority who says they are so far holy as to be offered up, and there is another authority who says they are only so far holy as to be left to graze.[8] But what is to be done with [the offspring] born after their redemption. — Said R. Huna: We put them in a vault and they die [of hunger]. For what are we to do? Shall we offer them up on the altar? They derive their status from a holiness which has been cancelled.[9] Shall we redeem them? They are not qualified to receive redemption.[10] In the West [Palestine] it was stated in the name of R. Hanina: Before their redemption he consecrates them for that particular sacrifice.[11] ‘Before their redemption’? Does this mean to say that they are capable of redemption? Explain rather [as follows]: Before the redemption of their mother,[12] he consecrated them for that particular sacrifice. And what is the reason?[13] — Said R. Levi: It is a preventive measure, lest he should rear of them flocks.[14] Rabina asked of R. Shesheth: May he consecrate [the offspring][15] for any sacrifice that he chose? — He replied: He may not consecrate them, [except for the particular sacrifice of the mother]. What is the reason? — He said to him: There is an analogy between the words ‘within thy gates’[16] [used in connection with blemished dedicated sacrifices] and the words ‘within thy gates’[17] [used in connection with the firstling]: just as a firstling does not become consecrated after birth for any sacrifice which he chooses, because Scripture writes: Howbeit the firstling among the beasts which is born a firstling to the Lord, no man shall sanctify it,[18] so these young ones do not become consecrated for any sacrifice he chooses. It has been taught in accordance with the opinion of R. Shesheth: Dedicated sacrifices which became permanently blemished before their dedication and were redeemed are subject to the law of the firstling and of the [priestly] gifts; whether before their redemption or after their redemption. one who shears them and works with them does not receive forty lashes; whether before their redemption or after their redemption, the law of substitute does not apply to them; before their redemption. the law of Sacrilege[19] applies to them, but after their redemption it does not; their offspring are unconsecrated [even if in embryo before redemption and born after redemption]; they are redeemed unblemished[20] and become consecrated for any sacrifice he chooses. The general rule in this matter is: They are like unconsecrated animals in all particulars. The only religious duty which applies to them is that of valuing them [for redemption].[21] But if their dedication preceded their blemish, or if a transitory blemish [preceded] their dedication and after that there appeared on them a permanent blemish, and they were redeemed, they are exempt from the law of the firstling and from the [priestly] gifts; whether before their redemption or after their redemption, one who shears and works them receives forty lashes; whether before their redemption or after their redemption, the law of substitute applies to them; before their redemption. Sacrilege applies to them, but not after their redemption;[22] their offspring are holy [if in embryo before redemption]; they are not redeemed unblemished; and they do not become consecrated for any sacrifice that he chooses.[23] The general rule in the matter is that they are like consecrated animals in all particulars. You have only the permission to eat them. Now the general rule of the first part [of the Baraitha above] is stated in order to include the rule that one who slaughters them without [the Temple Court] is exempt [from the punishment of excision]. The general rule of the second part [of the Baraitha]

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(1) This excludes milking and shearing, and is deduced from the proximity of the texts referring to killing and eating. The word ‘flesh’ is on this view not expounded.

(2) As there is no special text to prohibit this.

(3) I.e. they are hullin (unconsecrated animals).

(4) Lev. III, 1, with reference to peace.offerings. The whole verse is superfluous, for unless it expressly stated that a peace-offering must be a male, as is the case with a burnt-offering. I should have known that there was no restriction as regards the sex of the animal.
(5) That it is offered as a peace-offering.
(6) V. n. 6.
(7) Whose dedication preceded their blemish.
(8) Until they become blemished. Then they are sold and their money is devoted for a freewill-offering. The reason for delaying until a blemish appears is because unblemished animals are not redeemed.
(9) The offspring possess two disqualifications. First, they are born from a mother which though once fit for the altar, has now lost its sanctity, owing to its blemish. Secondly, since the offspring were born after the mother's redemption, they cannot be invested with any sanctity so as to be sacrificed on the altar.
(10) For since they are redeemed through their mother, they retain no sanctity to enable redemption to render them hullin.
(11) That of the mother, and this holiness helps to make them capable of redemption.
(12) While she was still pregnant and before their birth, the offspring received the holiness of their mother's dedication, and in this way redemption, after a blemish appears on them, is required, as their mother's redemption did not cancel their sanctity.
(13) Of. R. Huna above, that they are condemned to die. Why not devise a method of redemption as R. Hanina suggests.
(14) If there were a remedy for the offspring of blemished dedicated offerings, we might raise flocks of these blemished animals, delay the redemption of their mothers, and even be led to eat them without the required redemption. Another explanation (quoted by Rashi) is: What is the reason of the authority who says that we condemn the offspring to die, and also, what is the reason of the other authority who maintains that we consecrate them for a sacrifice? Why did the Rabbis trouble in the matter at all? Could not the offspring be left in their forbidden state? The answer is that we fear lest one might raise flocks, that these offspring will in turn give birth to others and we might be led to commit an offence, whereas after redemption, we do not entertain any fears, as the offspring then are hullin. Still another explanation (quoted by Rashi) is: Why does the Mishnah say that the offspring are forbidden after redemption, seeing that their mother's holiness has been cancelled? And the reply given is because, if we permit the offspring to be used, we might raise flocks of blemished dedicated sacrifices for the sake of the offspring born after redemption and, thus might be led to transgress the law concerning shearing and working.
(15) Of blemished dedicated sacrifices.
(16) Deut. XII, 21.
(17) Ibid. XV, 22.
(18) Lev. XXVII, 26. The text continuing, No man shall sanctify it, indicates that no other holiness except that of a firstling attaches to it.
(19) To make an inappropriate use of a sacred object is Sacrilege (v. Lev. X, 15) and since he benefits therefrom, it is no worse a case than using an object dedicated to the keeping of the Temple in repair.
(20) If they were pregnant and gave birth before their redemption.
(21) The only restrictive enactment is that of redeeming the animal with money.
(22) For they are compared with ‘a gazelle and a hart’, but the shearing of them is forbidden.
(23) Which is the view of R. Shesheth.

Talmud - Mas. Bechoroth 16a

is adduced to include its milk.[1]

The Master said: They are not redeemed unblemished and they do not become consecrated for any sacrifice he chooses. The unblemished are not redeemed; we infer from this that the blemished[2] are redeemed. Also for any sacrifice he chooses they are not consecrated; we infer from this that for that particular sacrifice they are consecrated. Now what do we find here? That they are consecrated for that particular sacrifice and are redeemed when blemished. Shall we say that this confutes R. Huna?[3] — R. Huna can answer thus: The rule really is that blemished animals also are not redeemed, but, since the first part [of the Baraitha] states: ‘They are redeemed unblemished’,[4] therefore the second part [of the Baraitha] also states: ‘they are not redeemed unblemished’. And also, since it states in the first part [of the Baraitha]: For any sacrifice he chooses, the second part [in the Baraitha] also states: For any sacrifice he chooses. ‘And he who slaughters them without [the Temple Court] is not culpable’.[5] R. Huna read [as in the Mishnah]:[6] He is culpable, and he explains it, of a case where the blemished animal had a withered spot in the eye, [a cataract] and in accordance with the opinion of R. Akiba, who maintains: If they have been put on the altar, they must not be taken down again.[7]

‘Both before its redemption and after its redemption, the law of substitute applies’. R. Nahman reported in the name of Rabba the son of Abbuha: And the exchanged animal after its redemption is left to die. What is the reason? — How are we to do? Shall we offer it up? The animal exchanged derives its status from cancelled holiness.[8] Shall we redeem it? It is not qualified to receive redemption; therefore we leave it to die. R. Amram demurred. And why should the exchanged animal not be eaten by the owners when blemished? In what way is this different from an animal exchanged for a firstling and a tithed animal? For we have learnt: Animals exchanged for a firstling and a tithed animal, and also their offspring and their offspring's offspring until the end of time are like a firstling and a tithed animal and are eaten by their owners when blemished![9] Said Abaye to him: In this case it bears the name of its mother, and, in the other case, it bears the name of its mother. In this case it bears the name of its mother,[10] for it is called the animal substituted for a firstling and a tithed animal; and, therefore, as a firstling and a tithed animal are eaten by their owners when blemished, so the exchanged animal is eaten under similar circumstances. And in the other case, it bears the name of its mother. It is called the animal exchanged for the dedicated sacrifice; and, as a dedicated sacrifice which became blemished may not be eaten unless redeemed, so also an animal exchanged for a dedicated sacrifice is not eaten unless redeemed. But in this present case, it is not qualified to receive redemption and, therefore, [it is left to die]. It has been taught in accordance with the opinion of R. Nahman: Whence do we derive that an animal exchanged for a blemished dedicated sacrifice is left to die? Because it says: ‘nevertheless these shall ye not eat of them that chew the cud, he is unclean to you’.[11] But is this text not required to teach that there are five sin-offerings that are left to die?[12] — The latter teaching we learn from [the continuation of the text]: ‘Of them that divide the hoof, he is unclean to you’. It has also been taught to the same effect: Whence do we derive that the five sin-offerings are left to die? Because it says: ‘All of them that divide the hoof, he is unclean’. But is not the rule of the five sin-offerings that are left to die learnt purely from tradition? — Rather the text comes to teach us concerning the animal exchanged for a guilt-offering that it pastures [until blemished]. But is not the rule of a guilt-offering also learnt purely from tradition, for wherever a sin-offering is left to die, in a corresponding case, a guilt-offering pastures?[13] — The fact is that the text still refers to the rule of the five sin-offerings left to die, and both the text and the traditional law are necessary. For had I the text alone, I might have said that they are condemned to pasture. Therefore, the traditional law teaches us that they are to die. And had I the traditional law alone I might have said that if by chance he ate of these five sin-offerings, he performed a forbidden action, but he did not transgress a negative precept. Therefore a scriptural text teaches us that he transgresses a negative precept, [ye shall not eat]. Or if you wish, I may say that it is in order to compare an object the rule of which is derived from the text of them that chew the cud, with an object the rule of which is derived from the text of them that divide the hoof, so as to teach that, just as there, they are condemned to die, so here also they are condemned to die.[14]

MISHNAH. IF ONE RECEIVES FLOCK FROM A HEATHEN ON ‘IRON TERMS’,[15]

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(1) As forbidden to be used, as the text says, And eat, implying, ‘but not milk’. There is no need to make the general rule of the first part of the Baraitha include milk as permissible, for since the offspring are permitted, all the more so is the milk. Again, the general rule in the second part of the Baraitha could not include the case of one who slaughters without the Temple Court as punishable with excision, for here, too, he may be exempt, for since the sacrifice cannot be offered up in the Temple, there is no prohibition of killing them outside the Temple Court.

(2) Those in embryo before redemption and born after redemption and consecrated for a sacrifice, i.e., for the particular sacrifice of the mother.

(3) For R. Huna holds that they are not subject to redemption at all and that they are condemned to die whereas from the Baraitha we deduce that they are subject to redemption and are consecrated for a particular sacrifice.

(4) Which is an anomaly, that an unblemished animal should be redeemed.

(5) Where the dedication preceded the blemish. This is the continuation of the latter part of the Baraitha above. V. Rashi and R. Gershom.

(6) So (Rashi), v. Sh. Mek.

(7) An animal with a cataract, if offered up in the Temple, is not disqualified as a sacrifice according to the view of R. Akiba, because, in the first place, a cataract is not considered a blemish in birds and, moreover, it is not a blemish of a prominent nature. But an animal with a prominent and permanent blemish, since it is invalid as a sacrifice in the Temple, is not forbidden to be slaughtered outside the Temple precincts.

(8) Of the blemished animal for which it was exchanged, the exchange having taken place after redemption.

(9) Tem. 21a.

(10) The expression ‘its mother’ used in this connection means, in virtue of the animal from which it derives its status. The expression also ‘eaten by their owners’ mentioned in connection with the firstling, means that if blemished it is eaten by the priests, whereas in connection with a tithed animal, ‘the owners’ refers to the Israelites.

(11) Lev. XI, 4. And we infer this that there is an animal possessing marks of cleanness and yet forbidden to be eaten, viz., an animal exchanged for a blemished sacrifice.

(12) V. Tem. 21b.

(13) V. Nazir 25b.

(14) There is no need for a scriptural text, for the rule of the five sin-offerings is a traditional law. The reason, however, why the Baraitha refers it to the text ‘of them that divide the hoof’ is because it wishes to draw an analogy between the animal exchanged for a blemished sacrifice after redemption, which is inferred from the text ‘of them that chew the cud’ and the rule of the five sin-offerings, inferring that just as the latter are condemned to die, so the former is condemned to die, thus confirming the view of R. Nahman.

(15) Lit., ‘flock of iron’. The terms are that the flock or their equivalent value should be restored to the heathen owner at the end of a stipulated period and that meanwhile the owner shares the offspring. The interests of the owner are consequently well protected against loss and the security is like barzel (iron). V. B.M.. Sonc. ed., p. 405. n. 3.

Talmud - Mas. Bechoroth 16b

THEIR OFFSPRING ARE EXEMPT [FROM THE LAW OF] THE FIRSTLING.[1] BUT THE OFFSPRING OF THEIR OFFSPRING ARE LIABLE [TO THE LAW OF THE FIRSTLING].[2] IF [THE ISRAELITE] PUT THE OFFSPRING IN THE PLACE OF THEIR MOTHERS,[3] THEN THE OFFSPRING OF THE OFFSPRING ARE EXEMPT,[4] BUT THE OFFSPRING OF THE OFFSPRING OF THE OFFSPRING ARE LIABLE [TO THE LAW OF THE FIRSTLING]. RABBAN SIMEON B. GAMALIEL SAYS: EVEN UNTO TEN GENERATIONS THE OFFSPRING ARE EXEMPT [FROM THE LAW OF THE FIRSTLING]. SINCE THEY ARE PLEDGED TO THE HEATHEN.[5] IF A EWE GAVE BIRTH TO WHAT LOOKED LIKE A KID, OR A KID WHICH GAVE BIRTH TO WHAT LOOKED LIKE A EWE, IT IS EXEMPT FROM [THE LAW OF] THE FIRSTLING BUT IF IT POSSESSES CERTAIN CLEAR MARKS [RESEMBLING THE MOTHER] IT IS LIABLE [TO THE LAW OF THE FIRSTLING].

GEMARA. Does this mean to say that since the owner does not take money, therefore it is still the property of the owner? Against this I quote: One must not receive a flock from an Israelite on ‘iron terms’, because It is usury. This shows that it is in the ownership of the receiver?[6] — Said Abaye: This is no difficulty. In the one case [our Mishnah] he [the heathen owner] took the risks of accidents and a fall in value while in the other he [the owner] did not take the risks of accidents and a fall in value. Raba said to him: If he took the risks of accidents and a fall in value, do you call this receiving a flock on ‘iron terms’,[7] and, moreover, where is this distinction implied [in the context]? And, moreover, why does the second part [of the passage quoted above] state: ‘One may receive from a heathen a flock on "iron terms"’? Why not draw a distinction in the first part [itself, as follows]:

When does this apply? Where he [the owner] did not undertake the risks of accidents and a fall in value, but where he undertook the risks of accidents and a fall in value, it is permitted! — Rather said Raba, In both cases he [the owner] did not take the risks of accidents and a fall in value. But here, in connection with the firstling,[8] this is the reason. If the heathen came and wanted money and the Israelite did not give it to him, he would seize the animal, and if he did not find the animal, he would seize its offspring. Therefore the heathen has a share in it,[9] and wherever the heathen has a share [in an animal], it is exempt from [the law of] the firstling.

(IF THE ISRAELITE PUT THE OFFSPRING IN THE PLACE OF THEIR MOTHERS, THE OFFSPRING OF THE OFFSPRING ARE EXEMPT:)[10] Said R. Huna:[11] Their offspring are exempt from the law of the firstling, but the offspring of the offspring are liable to the law of the firstling. Rab Judah. however, said: The offspring of the offspring are also exempt, but the offspring of the offspring of the offspring are liable [to the law of the firstling]. We have learnt in a Mishnah: IF THE ISRAELITE PUT THE OFFSPRING IN THE PLACE OF THEIR MOTHERS, THE OFFSPRING OF THE OFFSPRING ARE EXEMPT.[12] The reason for exemption is because he put them in place of their mothers. But if he did not do so, they would not be exempt. Now, is this not an argument against Rab Judah? — Rab Judah can answer: The same applies even if he did not put the offspring [in the place of the mothers];[13] but the Mishnah, however, teaches us this, that even if he put [the offspring in the place of their mothers],[14] since it is the custom of the heathen to seize the offspring [failing the mother], it is as if he had not put the offspring [in place of their mothers].[15] We are therefore informed [that even so] the offspring of the offspring are exempt, but the offspring of the offspring of the offspring are liable [to the law of the firstling].

We have learnt in the Mishnah: RABBAN SIMEON B. GAMALIEL SAYS: EVEN UNTO TEN GENERATIONS THE OFFSPRING ARE EXEMPT, SINCE THEY ARE PLEDGED TO THE HEATHEN.[16] Now there is no difficulty on the view of Rab Judah who said that the first Tanna [in the Mishnah] goes up to [two] generations,

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(1) For, in the first place, a half of the offspring belongs to the heathen and secondly the latter will seize the offspring if he cannot have the flock (v. infra). The heathen therefore having an interest in the offspring, the Israelite is legally exempt from the law of the firstling.

(2) For the heathen will not go as far as to seize the third generation in place of the mother.

(3) The Israelite has expressly stipulated that if the flock died, the heathen could have the offspring.

(4) Since the owner has a hold on the succeeding generation of animals.

(5) For every time the heathen would lay hands on whatever he found.

(6) And therefore it is as if the giver in return for waiting for his money receives a share of the offspring, which is usury, whereas if the money remained in the possession of the giver, it would not be usury.

(7) For then there would be no security like ‘iron’ for the giver of the animal.

(8) The reason is not because it is in the possession of the heathen, but because it is a pledge with the Israelite.

(9) Lit., ‘the hand (finger) of the heathen is between’.

(10) [The bracketed passage is best left out. V. Marginal Gloss Z.K.].

(11) Referring to the first passage in the Mishnah.

(12) [No objection is raised from the first clause of our Mishnah, as the phrase ‘OFFSPRING OF THE OFFSPRING there may be of a more general connotation meaning simply that with certain later generations the liability begins. V. Sh. Mek. and p. 115. n. 1.]

(13) That the second generation of offspring are exempt from the law of the firstling.

(14) And thus mortgaged the first generation for the heathen, so that the latter ought not to have any further claim on successive generations of offspring.

(15) And therefore I might have said that successive generations of offspring should always be exempted.

(16) It is assumed that R. Simeon b. Gamaliel refers to the first clause.

Talmud - Mas. Bechoroth 17a

[of offspring in exempting] that is why Rabban Simeon b. Gamaliel said to him: EVEN UNTO TEN GENERATIONS THE OFFSPRING ARE EXEMPT.[1] But according to R. Huna who said that the first Tanna does not go up to [two] generations [of offspring in exempting], what does Rabban Simeon b. Gamaliel mean by ‘unto ten generations’?[2] R. Huna can reply: R. Simeon b. Gamaliel refers to [the second clause] where the Israelite put [the offspring in the place of their mothers], and where the Tanna In question goes up to [two] generations [of offspring].[3]

Come and hear: If one received a flock from a heathen on ‘iron terms’, their offspring are exempt. but the offspring of the offspring are liable [to the law of the firstling].[4] Now, is this not an argument against R. Judah? — R. Judah can reply: Read: They and their offspring.[5] Some there are who say: ‘They and their offspring are exempt’. Now is this not an argument against R. Huna? — R. Huna can reply: Read: They,[6] the offspring, are exempt, whereas the offspring of the offspring are liable to the law of the firstling.

IF A EWE GAve BIRTH TO WHAT LOOKED LIKE A GOAT etc. R. Oshaia of Nehardea[7] came bringing a Baraitha with him: A ewe born of a goat or a goat born of a ewe, is declared liable by R. Meir, whereas the Sages exempt it. Said R. Oshaia to Rabbah: When you go up into the presence of R. Huna, inquire from him: R. Meir makes it liable for what? Shall I say for [the law of] the firstling? Does not R. Meir hold that [when Scripture says]: But the firstling of an ox,[8] it intimates that the law of the firstling does not apply until the sire is an ox and its firstling is an ox? [Shall I say] then, he means liable to the rule of [giving] the first shorn wool to the priest? [Hardly so], for does he not hold with the Tanna of the School of Ishmael who taught: Lambs whose wool is hard, are exempt from the rule of the first shorn wool, for it says: And if he were not warmed with the fleece of my sheep?[9] He replied to him: Let us see, we are dealing here with a case where a ewe gave birth to what looked like a goat and its sire was a he-goat[10] and the difference of opinion is whether we take into consideration the nature[11] of the sire in connection with the prohibition of killing the mother with its young on the same day.[12] For R. Meir holds that we take into consideration the nature of the sire, whereas the Rabbis hold that we do not take into consideration the nature of the sire.[13] If so, let them also differ as to whether we take into consideration the nature of the sire in other cases, as in the dispute between Hanania and the Rabbis?[14] Rather, the reference is indeed to the law of the firstling, and what we are dealing here with is the case of a ewe born of a ewe which, in turn, was born of a goat. One authority [R. Meir] maintains that we follow the mother and this is not a nidmeh,[15] while the other authority maintains that we follow the mother's mother, and therefore this is a nidmeh. Or if you prefer I may say: It is a case of a ewe born of a goat which, in turn, was born of a ewe. One authority maintains that the sheep goes back to its former status[16] whereas the other authority maintains that the sheep does not go back to its former status. R. Ahi said: We suppose it possesses certain marks [resembling the mother].[17] And who are the Sages [who exempt]? — R. Simeon, who holds [that the law of the firstling does not apply] until its head and the greater part of the body resemble its mother. Said R. Johanan: R. Meir agrees however[18] that in the case of the goat for the New Moon, we require it to be the offspring of a she-goat. What is the reason? Because Scripture says: And one [he-goat],[19] — the singled out since the six days of the Creation. And do we derive it from this text? Do we not derive it from another text as follows: [Scripture says]: a bullock or a sheep;[20] this excludes kil'ayim;[21] [the words] ‘or a goat’ exclude nidmeh? — Both texts are necessary. For, from the latter text alone, I might have inferred that this is the case only when it has not returned to its original status,[22] but where it has returned to its original status[23] I might have thought it is not a case of nidmeh. And from the former text alone I might have inferred that this is only the case with an obligatory sacrifice, but in the case of a freewill-offering there is no prohibition as regards nidmeh.[24] There is therefore a need [for both texts]. Said R. Aha b. Jacob: All [the authorities concerned, even R. Meir] agree that by using its wool one does not become liable to lashes for kil'ayim.[25] For Scripture says: Thou shalt not wear a mingled stuff wool and linen together;[26] just as the linen must be proper linen,[27] so the wool must be proper wool. Said R. Papa: All [the authorities concerned] agree that its wool is disqualified for purple blue.[28] For Scripture says: Thou shalt not wear mingled stuff. Thou shalt make thee twisted cords; just as the flax must be proper flax, so the wool must be proper wool. Said R. Nahman b. Isaac: All [the authorities concerned] agree that its wool is not liable to the uncleanness of plagues. For Scripture says: Whether it be a woollen garment or a linen garment;[29] just as the flax must be proper flax, similarly the wool must be proper wool. Said R. Ashi: We will also say something [on similar lines]. If one trains a vine over a fig-tree, its wine is unfit for libations. What is the reason? Scripture says: A sacrifice and drink-offerings;[30] just as the sacrifice must be a normal animal, similarly the drink-offerings must be a normal liquid. Rabina demurred to this.[31] If one trains flax over a shrub does it cease to be proper flax? If this is so, then you cannot say that ‘just as flax must be proper flax’, since flax can also be transformed! — He replied to him: In the one case, the smell had altered,[32] in the other, its smell has not altered.[33]

MISHNAH. IF A EWE WHICH NEVER BEFORE HAD GIVEN BIRTH BORE TWO MALES AND BOTH HEADS CAME FORTH SIMULTANEOUSLY, R. JOSE THE GALILEAN SAYS: BOTH BELONG TO THE PRIEST FOR SCRIPTURE SAYS: THE MALES SHALL BE THE LORD'S[34] WHEREAS THE SAGES SAY: IT IS IMPOSSIBLE TO ASCERTAIN EXACTLY [IF BOTH HEADS CAME FORTH SIMULTANEOUSLY]. ONE THEREFORE REMAINS [WITH THE ISRAELITE] AND THE OTHER IS FOR THE PRIEST. R. TARFON SAYS: THE PRIEST CHOOSES THE BETTER ONE.[35] R. AKIBA SAYS: WE COMPROMISE BETWEEN THEM,[36] AND THE SECOND ONE [IN THE ISRAELITE'S POSSESSION] IS LEFT TO PASTURE UNTIL IT BECOMES BLEMISHED.[37]

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(1) For not only are two generations of offspring exempted but even ten are exempted and even more.

(2) Since the first Tanna quoted in the Mishnah only exempts the offspring of the original flock, why does Rabban Simeon say, unto the tenth generation? Let him say that even the offspring of the offspring are exempt and I should have inferred that just as the offspring of the offspring are exempt, although they ware not born of the flock, the same applies to successive generations, even unto ten.

(3) In order to exempt.

(4) [This is apparently the first clause of our Mishnah, cf. supra p. 113, n. 4. Var. lec.: ‘If one . . . they, their offspring etc.’ quoting a Baraitha. ‘Their offspring’ is taken to be in apposition to ‘they’, thus implying that the offspring's offspring are liable contra Rab Judah. V. Sh. Mek.].

(5) Which indicates two generations as being exempt.

(6) The word ‘offspring’ being in apposition to the word ‘they’.

(7) A town in Babylonia, famous as the seat of a college founded by Samuel.

(8) Num. XVIII, 17.

(9) Job. XXXI, 20. Therefore only fleece that warms is called fleece, and the fleece of a goat born of a ewe is hard, goat's wool being hard; v. Hul. 137a.

(10) And he killed the sire with its offspring on the same day.

(11) Lit., ‘seed’.

(12) V. Lev. XXII, 28.

(13) And he is consequently exempt since we follow the mother and here it bears no resemblance to the mother.

(14) V. Hul. 78b, where Hanania says he transgresses the prohibition and the Sages absolve him.

(15) An animal suspected of looking like a hybrid.

(16) R. Meir holds that it must be given to the priest and that it is not a nidmeh. The ewe from a goat referred to here does not actually mean a ewe, for a female animal is not consecrated as a firstling, but it means an animal looking like a ewe.

(17) R. Meir holding that it is liable to the law of the firstling as the Mishnah states anonymously, whereas the Rabbis maintain that he is not liable.

(18) Although in respect of the law of the firstling R. Meir holds that the sheep goes back to its former status.

(19) Num. XXVIII, 15. We infer from this that the goat must belong to the family of goats all time.

(20) Lev. XXII, 27.

(21) An animal born from heterogeneous parents which exempted from the law of the firstling.

(22) Lit., ‘it did not go back to its generation (species)’. A ewe born of a goat, which was in turn born of a goat and therefore a nidmeh.

(23) I.e., if its grandmother was a ewe.

(24) For the words, ‘a bullock or sheep’, refer to a freewill-offering. The obligatory sacrifice mentioned here includes not only a goat for the New Moon but also Festival goats as the word ‘One’ is used of those offerings as well.

(25) The wearing of a garment containing a mixture of wool and linen.

(26) Deut. XXII, 11.

(27) Lit. ‘must not have been transformed’.

(28) The purple-blue thread used for the fringes.

(29) Lev. XIII, 47.

(30) Ibid. XXIII, 37.

(31) If by overhanging and training over the other, a transformation is effected, then the same might be said concerning flax.

(32) The wine of that vine.

(33) The training flax over a shrub does not alter its smell and, moreover, in the latter case a change in its smell is immaterial.

(34) Ex. XIII, 12. The word ‘males’ implying two.

(35) For the stronger one came forth first.

(36) Whoever takes the fatter animal must give the other a half of its excess value, v. Gemara.

(37) And after that he eats it, the reason being that it is a doubtful first-born and cannot therefore, be eaten unblemished. The same ruling applies also to the priest's animal, as we are dealing with firstlings in our day, after the destruction of the Temple. Or, indeed, it may, even deal with a firstling in Temple times; seeing that there is uncertainty as to whether the animal is a firstling, it cannot be killed in the Temple court.

Talmud - Mas. Bechoroth 17b

THE OWNER IS LIABLE FOR THE [PRIEST'S] GIFTS,[1] WHEREAS R. JOSE EXEMPTS HIM.[2] IF ONE OF THEM DIED, R. TARFON SAYS: THEY DIVIDE [THE LIVING ONE]. R. AKIBA SAYS: THE CLAIMANT MUST PRODUCE THE EVIDENCE. IF IT GAVE BIRTH TO A MALE AND A FEMALE, THE PRIEST RECEIVES NOTHING [IN SUCH CIRCUMSTANCES].[3] GEMARA. The School of Jannai said: Of R. Jose the Galilean we have heard that he said: It is possible to ascertain [simultaneity] in natural processes,[4] and, therefore, how much more so is it possible to ascertain exactly in human actions. The Rabbis [we know] hold that it is impossible to ascertain simultaneity in natural processes. What is their view with reference to human actions? — Come and hear: A red line went round the altar in order to divide between the blood to be sprinkled above and the blood to be sprinkled below.[5] Now if you say that it is impossible to be exact in human actions, sometimes the priest might put the blood which should be above, below the [middle of] the altar?[6] — The line is made somewhat wide.[7] Come and hear. [Proof can be adduced] from the measurements of the furniture [of the Sanctuary] and from the measurements of the altar![8] — It is different there, since the Divine Law said: Do it, and in whatever manner you are able to do it, it will be satisfactory, as David said: All this the Lord made me understand in writing by His hand upon me.[9] Said R. Kattina: Come and hear: [If an unclean oven] is divided into two and the parts are equal, both are unclean, for it is impossible to be exact![10] — R. Kahana replied: An earthen vessel is different because it has holes.[11] Come and hear: If [a slain body is] found at exactly the same distance between two cities, both bring two heifers.[12] These are the words of R. Eliezer. What is the reason? Is it not because he holds that it is possible to be exact in human actions[13] and the words [the city] which is nearest[14] imply [even the cities] which are nearest? — No. R. Eliezer

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(1) For if it is a firstling, then the entire animal is the priest's and if not, then it is hullin and is liable for the priest's gifts.

(2) For it is as if the priest had taken possession of the animal and when blemished had returned it to the Israelite, in which circumstances the latter is exempt.

(3) Even R. Tarfon agrees to this for here if the female came forth first, there is no firstling at all. Therefore, the priest receives nothing and the animals pasture until blemished and are then eaten. Tosaf. adds that even if the two heads came forth simultaneously, since there is a female, the priest cannot make any claim.

(4) I.e., birth as in the example of our Mishnah and this would certainly be the case in human actions in regard to which we are intent on ascertaining the exact measurement or size of any object.

(5) V. Mid. III, 1.

(6) If it is impossible to be exact, then it is likely that the line is marked below the middle of the altar and therefore when the blood for the upper half of the altar is sprinkled above the line, it may still be really in the lower half. Again. if the line is marked higher than the middle of the altar, then when the blood to be sprinkled below is sprinkled lower than the line, it may still be in the upper half.

(7) The line encircling the altar was not a thin line but was fairly wide extending both below and above the exact middle and therefore there could be no fear of the blood for the upper part being sprinkled below and vice trio, as above the line was certainly the upper portion of the altar, and below the line was certainly the lower part.

(8) Since Scripture lays down these specific measurements apparently it is possible to be precise in human actions.

(9) I Chron. XXVIII, 19. Rashi deletes this quotation.

(10) Since it is im possible to be exact, one can say that each portion is the greater and the law is that if the greater part of the oven remains it is unclean; v. Hul. 28b.

(11) In the place where it is broken it is not level and one cannot therefore be sure of the measurement.

(12) V. Deut. XXI, 1f.

(13) For we can measure the distance accurately and we have Scriptural authority that where a slain body is the same distance from two cities, then two heifers can be brought.

(14) Ibid. XXI, 3.

Talmud - Mas. Bechoroth 18a

holds with R. Jose the Galilean who said: It is possible to ascertain simultaneity in natural processes, and how much more so in human actions.[1]

May we say that Tannaim differ in this matter? If [a slain body was] found at the same distance between two cities, we do not perform the ceremony of breaking the heifer's neck.[2] R. Eliezer says: Both cities bring two heifers. Is not the difference of opinion based on this very point? For the first Tanna holds: that it is impossible to be exact,[3] whereas R. Eliezer holds that it is possible to be exact! — But can you really say this? If the first Tanna holds that it is impossible to be exact, why did they not have the ceremony of breaking the heifer's neck? Let the two cities bring one heifer between them and make a stipulation?[4] Rather, according to these Tannaim quoted above, they all hold that it is possible to be exact.[5] The point at issue, however, is whether we hold that the words ‘[the city] which is nearest’, imply ‘but not [the cities] which are nearest’: The first Tanna holds: The words, ‘Which is nearest’ imply ‘but not [the cities] which are nearest’, whereas R. Eliezer holds: ‘[The city] which is nearest’, implies even [the cities] which are nearest. What do we decide?[6] R. Hiyya b. Abin reported in the name of R. Amram: A Tanna taught: If a slain body is found at exactly the same distance between two cities, R. Eliezer says: Both cities bring two heifers, whereas the Sages say: They shall bring one heifer between them and make a stipulation. Now what is the reasoning of the Rabbis [Sages]? If the Rabbis hold that it is possible to be exact and the words ‘[The city] which is nearest’, imply also ‘[the cities] which are nearest’, then let them bring two heifers. And if the words ‘[The city] which is nearest’ imply ‘but not [the cities] which are nearest, then they should not bring even one heifer? You can, therefore, deduce from this that the Rabbis hold that it is impossible to be exact even in human actions. This is proved.

R. TARFON SAYS: THE PRIEST CHOOSES FOR HIMSELF THE BETTER ONE. What is the reason of R. Tarfon? — He holds that the animal which is stronger came forth first.

R. AKIBA SAYS: WE COMPROMISE BETWEEN THEM, etc. R. Hiyya b. Abba reported in the name of R. Johanan: The priest takes the lean one. Said R. Hiyya b. Abba to R. Johanan: But do we not read meshammenin?[7] — He replied to him: While you were not yet eating date-berries[8] in Babylonia, we expounded R. Akiba's statement from the latter part of the Mishnah. For the latter part of the Mishnah says: IF ONE OF THEM DIES, R. TARFON SAYS THEY DIVIDE IT. R. AKIBA SAYS: THE CLAIMANT MUST PRODUCE THE EVIDENCE. Now, if we were to assume that the word meshammenin etc. means that they are divided equally, here also let them divide the live animal equally! Rather what is meant by meshammenin is that the fat animal [remains to be divided] between them,[9] for [the Israelite] says to the priest: Bring a proof that it is a firstling and take it.[10] AND THE SECOND ONE [IN THE POSSESSION OF THE ISRAELITE] IS LEFT TO PASTURE UNTIL IT IS BLEMISHED

What is the reason of R. Meir?[11] — Said R. Johanan: Because the priest can make a claim upon him from two sides. For he can say to him: If it is a firstling then it belongs to me entirely. And if it is not a firstling, give me the priest's gifts therefrom. And R. Jose — what is his reason? Said Raba: [The Rabbis] put one who had not taken possession, in the position of one who had taken possession. So although it had not reached the priest's hands, it is as if it had reached his hands and he had sold it to the Israelite when blemished.[12] Said R. Eleazar: All [the authorities concerned] agree that an animal which is a doubtful first-born, since the priest has [a beast] in its stead,[13] is liable for the priest's gifts. [You say] all the authorities concerned. Now, whose view does this represent? R. Jose's! But is not this obvious? For R. Jose exempts only where the priest has [a beast] in its stead, in which case [the Sages] put one who has not taken possession, in the position of one who had taken possession. But where the priest has nothing In its stead, it is not so? — You might have thought that the reason of R. Jose was because he held that if you make him liable for the priest's gifts he may come to shear and work [the animal], even where the priest has nothing in its stead. He consequently informs us [that we do not fear this]. But how can you say this?[14] Have we not learnt [in the subsequent Mishnah]: For R. Jose used to say:

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(1) Whereas our enquiry is with reference to the view of the Rabbis.

(2) For each city can maintain that it is not the nearest.

(3) And therefore there is no ceremony of breaking the heifer's neck at all.

(4) ‘If’, let each city say, ‘I am the nearest then the heifer shall atone for me, and if my neighbour is the nearest, it shall atone for her’.

(5) For they concur with R. Jose.

(6) According to the Rabbis, is it possible to be precise in human actions or not?

(7) This is taken to be connected with rt. meaning ‘fat’, indicating that the difference in the value of the fat one is shared between the Israelite and the priest.

(8) I.e., while yet young.

(9) And the priest takes the lean one, failing the evidence that the fat one was a first-born.

(10) In the same way as in the latter part of the Mishnah according to R. Akiba, for we apply here the principle of money of doubtful ownership.

(11) I.e., the anonymous Mishnah which always represents the view of R. Meir.

(12) And then the priest received something in return, i.e the other animal, and a priest who sold a firstling to an Israelite is, according to the ruling (supra 12b) exempt from the priest's gifts.

(13) Where for example a female and a male are born and there is a doubt as to the first-birth, since the priest received nothing in its place, the animal grazes until it is blemished and is therefore liable for the priest's gifts, for in such a case you cannot argue that it is as if it had been acquired by the priest and subsequently sold to the Israelite, as the priest received nothing in return.

(14) That the reason of R. Jose was because of the fear of shearing and working the animal.

Talmud - Mas. Bechoroth 18b

Wherever the priest has [a beast] in its stead, he is exempt from the priest's gifts, whereas R. Meir makes him liable? The reason therefore is because the priest has [a beast] in its stead, but if the priest has nothing in its stead, it would be other wise![1] — You might have assumed that R. Jose was arguing according to the view of R. Meir [as follows]: My own view is that even if the priest has nothing in its stead [he is not liable for the gifts]. For if you render him liable for the priest's gifts, he may come to shear and work [the animal]. But according to your view, at least admit that where the priest has [a beast] in its stead, [the Sages] put one who had not taken possession in the position of one who had taken possession. To this R. Meir replied to him: It is not so.

Said R. Papa: All [the authorities concerned] agree with reference to a doubtfully tithed animal[2] that it is exempted from the priest's gifts. You say ‘all [the authorities concerned]’? Whose opinion is that? It is R. Meir's. But is not this obvious? For R. Meir only makes him liable for the priest's gifts in connection with an animal which is a doubtful first-born, since the priest can make claim upon him from two sides,[3] but in the case of a doubtfully tithed animal, it is not so![4] — You might have assumed that the reason of R. Meir was that the law of the priest's gifts should not be forgotten and consequently even in the case of a doubtfully tithed animal, the ruling is the same. He therefore informs us [that it is not so]. But how can you say this?[5] Have we not learnt: For R. Jose used to say that wherever the priest has [a beast] in its stead it is exempt, whereas R. Meir makes him liable?[6] — You might have assumed that R. Meir, even in the case of a doubtfully tithed animal, makes him liable, and the reason why they differ [in the matter where the priest has a beast] in its stead, is to show how far R. Jose is prepared to go, since he exempts even where the priest can make a claim upon him from two sides. He therefore informs us [that this is not so].

IF ONE DIES, R. TARFON SAYS: THEY DIVIDE THE LIVING ONE. Why should they divide [the living one]? Let us see. If the fat one died, it is the priest's [which has died],[7] and the one remaining is the owner's. And if the lean one died, it is the owner's [which has died] and the one remaining is the priest's! — Said R. Ammi: R. Tarfon retracted.[8]

R. AKIBA SAYS: THE CLAIMANT MUST PRODUCE THE EVIDENCE. Said R. Hiyya: On R. Tarfon's view, what does the position resemble? That of two men who gave [two animals] in charge of a shepherd and [one died], where the shepherd leaves the living one between them and departs.[9] On the view of R. Akiba, to what can the position be compared? To that of a man who gave an animal in charge of an owner [of animals],[10] where the claimant must produce the evidence. Then what is the point at issue?[11] Will R. Akiba deny where two give [two animals] in charge of a shepherd, that the shepherd leaves [the living one] and departs?[12] And will R. Tarfon differ in the case where one gave an animal in charge of an owner [of animals]? — Said Raba, or some say. R. Papa: All the authorities concerned agree that where two men gave [two animals] in charge of a shepherd, the shepherd leaves [the living one] between them and departs. Also in the case where one gave an animal in charge of an owner [of animals], that the claimant must produce the evidence. The point at issue, however, is where the ground is the owner's and the priest is the shepherd.[13] R. Tarfon holds: The owner gives possession to the priest in his ground[14] since he is desirous that a mizwah[15] should be performed through his property and therefore the position is that of two who gave [animals] in charge of a shepherd where the shepherd leaves [the living one] between them and departs. But R. Akiba says: Since he would suffer loss,[16] he does not give him any possession,[17] and it is therefore similar to the case of one who gave an animal in charge of the owner [of animals], where the claimant must produce the evidence.

MISHNAH. IF TWO EWES WHICH HAD NEVER PREVIOUSLY GIVEN BIRTH BORE TWO MALES, BOTH BELONG TO THE PRIEST. [IF THEY GAVE BIRTH] TO A MALE AND A FEMALE, THE MALE BELONGS TO THE PRIEST. [IF THEY GAVE BIRTH] TO TWO MALES AND A FEMALE, ONE REMAINS WITH HIM,[18] AND THE OTHER BELONGS TO THE PRIEST. R. TARFON SAYS: THE PRIEST CHOOSES THE STRONGER ONE. R. AKIBA

SAYS: THE FAT ONE REMAINS BETWEEN THEM[19] AND THE SECOND PASTURES UNTIL BLEMISHED, AND HE IS ALSO LIABLE FOR THE PRIESTS GIFTS; R. JOSE HOWEVER EXEMPTS HIM. IF ONE OF THEM DIES, R. TARFON SAYS: THEY DIVIDE [THE LIVING ONE]. R. AKIBA SAYS: THE CLAIMANT MUST PRODUCE THE EVIDENCE. [IF THEY GAVE BIRTH TO] TWO FEMALES AND A MALE OR TWO MALES AND TWO FEMALES, THE PRIEST RECEIVES NOTHING IN SUCH CIRCUMSTANCES.[20] IF ONE [OF THE EWES] HAD GIVEN BIRTH AND THE OTHER HAD NEVER PREVIOUSLY GIVEN BIRTH. AND THEY BORE TWO MALES, ONE REMAINS WITH HIM AND THE OTHER BELONGS TO THE PRIEST. R. TARFON SAYS: THE PRIEST CHOOSES THE STRONG ONE. R. AKIBA SAYS: THE FAT ONE REMAINS BETWEEN THEM[19] AND THE SECOND PASTURES UNTIL BLEMISHED, AND HE IS ALSO LIABLE FOR THE PRIESTS' GIFTS; R. JOSE HOWEVER EXEMPTS HIM. FOR R. JOSE SAYS: WHEREVER THE PRIEST RECEIVES [AN ANIMAL] IN ITS STEAD,[21] HE IS EXEMPT FROM THE PRIESTS GIFTS.[22] R. MEIR HOWEVER MAKES HIM LIABLE. IF ONE OF THEM DIES. R. TARFON SAYS THEY DIVIDE [THE LIVING ONE]. R. AKIBA SAYS: THE CLAIMANT MUST PRODUCE THE EVIDENCE. [IF THEY GAVE BIRTH] TO A MALE AND A FEMALE, THE PRIEST RECEIVES NOTHING IN SUCH CIRCUMSTANCES.[23]

GEMARA. [All these cases where R. Tarfon and R. Akiba differ] are necessary [to be stated]. For if we had been informed of the first case above,[24] [I might have assumed] that in that case R. Akiba held that the claimant must produce the evidence, because two males came from one ewe,[25] but in the case of two ewes which had never previously given birth, and where two animals [a male and a female] were born from one, and one [male] from the other, I might have said that he agrees with R. Tarfon that the animal which came forth singly is much the better one.[26] And if he had stated only the latter case, I might have assumed that in this case R. Akiba [held that the claimant must produce the evidence], for neither had previously given birth, but where one ewe had given birth and the other had not given birth and they begot two males, I might have said that he agrees with R. Tarfon,

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(1) Thus we see It explicitly stated that the reason is because the priest has a beast in its stead.

(2) An animal numbered tenth in tithing, which jumped back among the untithed ones. There is in the case of each animal a doubt whether it is the tithed one and therefore the animals pasture until blemished, when they are eaten by the owners. (Infra 58b.)

(3) If it is a firstling, then it is entirely his, and if not, then it is hullin and subject to the priest's gifts.

(4) For the priest can only claim on the ground that it is hullin, an unconsecrated animal, since a tithed animal belongs to the owner.

(5) That the reason of R. Meir is lest the law of the priest's gifts be forgotten.

(6) Now, if the reason of R. Meir with reference to the firstling is because the priest can make his claim on two grounds and therefore R. lose argues for exemption, maintaining that the priest cannot say that if it is a firstling then it belongs entirely to him, since he holds that it is as if the priest had, after acquiring the firstling, sold it to the Israelite. But if you maintain that the reason of R. Meir is lest the law of the priest's gifts be forgotten, why does R. Jose give the reason that the priest has a beast in its stead, since possibly R. Meir himself might have exempted him on that ground. (Rashi).

(7) For R. Tarfon holds that the Priest chooses the stronger one.

(8) From his view in the early part of the Mishnah where he declared that the priest chooses the stronger one.

(9) And similarly the Mishnah is dealing with a case where the surviving animal, a doubtful first-born, was given in charge of a shepherd, and both the owner and priest claim it. Here we cannot say that the claimant must produce the evidence, since the animal is in the possession of neither of them.

(10) Who placed it among his herd of animals, one of which died. The owner declares that it is not his animal that has died, and the other makes a similar assertion. Here, since the animal is in the possession of the owner, the priest is the claimant.

(11) Since each of these Tannaim refers to different circumstances.

(12) Here surely R. Akiba cannot maintain that the claimant must produce the evidence. And similarly, R. Tarfon cannot maintain that where one gave an animal in charge of an owner, the living animal is divided.

(13) Where, e.g., the living firstling is in the ground of the owner and the priest is the shepherd of all his animals. A ground has the power to acquire chattels on behalf of its owner, v. B.M. 9b.

(14) So that the priest might acquire the firstlings immediately after birth.

(15) A good deed, by rearing the firstlings of the priest in his ground. Therefore it is as if the ground belonged to both. The ground also is like the shepherd in the case where two gave animals in charge of a shepherd and therefore they divide the surviving animal.

(16) I.e., in the case of an animal of uncertain first-birth, the owner would suffer a loss if the ground was the priest's.

(17) Of the ground.

(18) For there was a female with it, and therefore one can say that the female came first.

(19) And the priest takes the lean one. Heb. Meshammenim1. V. supra p. 121 n. 1.

(20) For one can say that each ewe gave birth to a male and a female and in each case there is a doubt as to whether the male came first.

(21) Where the priest receives one of the animals of uncertain first-birth, the other animal is exempt from the priests' gifts.

(22) For the reason stated by Raba supra 18a.

(23) Since perhaps the ewe which had never given birth begot the female, and the ewe which had given birth before begot the male.

(24) Where a ewe begot two males.

(25) And as there is a doubt, we say that the claimant must produce the evidence.

(26) For the reason why this is the strong one is because it came forth without a companion and had more room in emerging; therefore it is undoubtedly the firstling.

Talmud - Mas. Bechoroth 19a

that the one which had not given birth is much the better one.[1] There is need therefore [for the enumeration of all the instances where R. Tarfon and R. Akiba differ].

MISHNAH. WITH REGARD TO [AN ANIMAL] EXTRACTED THROUGH THE CESAREAN SECTION AND THE FIRSTLING WHICH CAME AFTER IT, R. TARFON SAYS: BOTH PASTURE UNTIL BLEMISHED AND ARE EATEN WITH THEIR BLEMISHES BY THE OWNERS,[2] WHEREAS R. AKIBA SAYS: IN BOTH CASES THE LAW OF THE FIRSTLING DOES NOT APPLY: IN THE FIRST, BECAUSE IT IS NOT THE FIRST-BIRTH OF THE WOMB, AND THE SECOND, BECAUSE ANOTHER [ANIMAL] PRECEDED IT.

GEMARA. On what principle do they differ? — R. Tarfon is in doubt whether a firstling in only one respect is the firstling [of Scripture]. whereas R. Akiba is certain that a firstling in only one respect is not the firstling [of the Scripture].

Our Rabbis taught: [A lesson can be derived] from a general proposition which requires complementing by specification and from a specification which requires complementing by a general proposition. For Instance: [Scripture says]: Sanctify unto me all the first-born.[3] I might understand from this that even a female is subject to the law of the firstling. Hence the text expressly states: All the firstling males[4] [that are born].[5] From the word males', however, I might understand that even if a female came forth before it, [it is subject to the law of the firstling]. Hence the text expressly states: That openeth the womb.[6] From the words 'that openeth the womb', however, I might understand that the law applies even if it came after an animal extracted through the cesarean section. Hence Scripture expressly states: The firstling.[7] Said R. Sherabya to Abaye: In the first part [of the above passage],[8] why does not the Talmud bring the text 'The firstling'?[9] From this we see that a firstling in only one respect is the firstling [of the Scripture]. And in the last part [of the above passage],[10] the Talmud brings the text 'firstling'. Consequently, we see that the firstling in only one respect is not the firstling [of the Scripture]! — He replied to him: Indeed a firstling in only one respect may still not be the firstling [of the Scripture][11] and, in the first part [of the above passage], what he means to say is this: From the word ‘male’ in the text, however, I might infer that even a firstling extracted through the cesarian section is the firstling [of the Scripture]. Hence Scripture expressly states: The first-birth of the womb.[12] Rabina said: Indeed a firstling in one respect may still be the firstling [of the Scripture].[13] and the last part [of the passage] means this: If you should assume that a firstling which came forth after one extracted through the cesarean section is sanctified, what need is there for the Divine Law to write the word ‘Firstling’?[14]

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(1) And therefore its offspring is the stronger and, consequently, the priest should claim it as the firstling.

(2) For they are animals of uncertain first-birth, according to R. Tarfon. In the case of the first animal, although it is the first of the offspring, it is not the first which came forth from the womb. And with regard to the second animal, although it is the first which left the womb, it is not the first of the offspring.

(3) Ex. XIII, 2. This first part is not an illustration of the general proposition which requires a specification to define it, as mentioned above (Rashi).

(4) Deut. XV, 19.

(5) This is an example of a general proposition followed by a specification in which the scope of the proposition is limited by the things specified.

(6) Here we have a case of a specification which is required to define and explain a general proposition as mentioned above. It is not, however, a genuine general proposition followed by a specification referred to in the first portion of the passage where there is no necessity to define the nature of a first-born, since a female can also be first of the womb, the specification. however, limiting the scope of the general proposition to males alone (Rashi).

(7) Ex. XIII, 2. Here we have an illustration of a specification requiring a general proposition to define it.

(8) He calls here the middle part of the above passage commencing ‘From the word males" etc.’, the first part.

(9) If the law of the firstling only applied to an animal which is a firstling in every particular, why does not the Talmud, instead of saying ‘I might infer that even if a female came before’ etc., simply refer to the word ‘firstling, in the text as excluding this assumption, since a genuine firstling must be such in all respects? Hence we may deduce that the scriptural firstling can be an animal which is so only in one respect.

(10) It says ‘one might infer that the animal which came after one extracted through the cesarean section, etc., from which we may conclude that the firstling in only one respect is not a genuine firstling. Thus there is a clear contradiction in the above passage.

(11) For the firstling of the Scripture implies a firstling in every particular.

(12) And here the Talmud could not adduce the text ‘Firstling’ to refute the inference, for in this case the animal is a firstling, since it had never given birth. Therefore he quotes the text. The first-birth of the womb’, which, at the same time, excludes the case of a female born previously through the womb (Rashi).

(13) And we do not derive the exclusion of an animal following one extracted through the cesarean Section from the scriptural word ‘Firstling’, as the latter also indicates that it is a firstling even if it is so in one particular only. But the exclusion is in fact derived from the addition of the word ‘Firstling’.

(14) Let Scripture write: The first-birth of the womb, a male, thou shalt sanctify.

Talmud - Mas. Bechoroth 19b

It cannot be for the purpose of excluding a case of a female which came before it, since this is derived from the text ‘The first-birth of the womb’. Deduce then from here that the additional word ‘Firstling’ excludes the case of an animal which came forth after one extracted through the cesarean section.[1] Said R. Aha of Difti to Rabina: If you should assume that a firstling in one respect is the firstling [of the Scripture],[2] we can well understand that if a male extracted through the cesarean section is followed by a male subsequently born from the womb, the latter is not sanctified, being excluded by the word ‘Firstling’, since we have here a firstling in respect of the womb but not as regards males and offspring.[3] But in the case of a female extracted from the cesarean section and a male subsequently born from the womb, let it be sanctified, since here we have a firstling of males and the firstling of the womb?[4] — The fact is that the best explanation is that of Abaye.[5]

CHAPTER III

MISHNAH. IF ONE BUYS AN ANIMAL FROM A HEATHEN NOT KNOWING WHETHER IT HAD GIVEN BIRTH OR HAD NEVER YET GIVEN BIRTH, R. ISHMAEL SAYS: THAT BORN OF A GOAT IN ITS FIRST YEAR CERTAINLY BELONGS TO THE PRIEST; AFTER THAT, IT IS A QUESTIONABLE CASE [OF A FIRSTLING].[6] THAT BORN OF A EWE TWO YEARS OLD CERTAINLY BELONGS TO THE PRIEST; AFTER THAT, IT IS A QUESTIONABLE CASE [OF A FIRSTLING]. THAT BORN OF A COW OR AN ASS THREE YEARS OLD CERTAINLY BELONGS TO THE PRIEST; AFTER THAT, IT IS A QUESTIONABLE CASE [OF A FIRSTLING].[7] SAID R. AKIBA TO HIM: IF AN ANIMAL WERE EXEMPTED [FROM THE LAW OF THE FIRSTLING] ONLY WITH THE BIRTH OF [ACTUAL] OFFSPRING, IT WOULD BE AS YOU SAY. BUT THE FACT IS [AS THE RABBIS] SAID: THE SIGN OF OFFSPRING IN SMALL CATTLE IS A DISCHARGE [FROM THE WOMB].[8] IN LARGE CATTLE, THE AFTER-BIRTH; IN A WOMAN, THE SIGNS ARE THE FOETUS AND THE AFTER-BIRTH. THIS IS THE GENERAL RULE: WHEREVER IT IS KNOWN THAT IT HAD GIVEN BIRTH,[9] THE PRIEST RECEIVES NOTHING. WHEREVER IT HAD NEVER GIVEN BIRTH, IT BELONGS TO THE PRIEST. IF THERE IS A DOUBT, IT SHALL BE EATEN IN ITS BLEMISHED STATE BY THE OWNERS.

GEMARA. [The Mishnah says] that, after that, it is a questionable case [of a firstling]. Why is it a questionable case? Why not go by the majority of animals which become pregnant and beget in their first year, and [so we say that] this one certainly gave birth in the first year?[10] May we, therefore, not say that R. Ishmael holds according to R. Meir, who takes into consideration the minority? — You may say that he even concurs with the Rabbis, for the Rabbis go by the majority only when it is the majority which is before us, as e.g. the case of the nine stalls[11] and the Sanhedrin.[12] But in the case of a majority which is not before us,[13] the Rabbis do not go by the majority. But is there not the case of minors, a boy and a girl,[14] which is a majority that is not before us, and still the Rabbis go by the majority? For we have learnt: Minors, whether boy or girl, do not perform the act of halizah[15] nor the levirate marriage.[16] This is the teaching of R. Meir. [The Rabbis] said to him: You rightly say that they do not perform the act of halizah, for Scripture says a man;[17] and we put a woman on a level with a man [in this respect]. But what is the reason why they do not perform the levirate marriage? — He thereupon replied to them: A boy minor [is not allowed to do so]. lest he be found to be a eunuch,[18] and a girl minor, lest she be discovered to be sterile[19] and thus render it a case of contact with a forbidden relation.[20] And the Rabbis? — We go by the majority of boys in the world, and the majority of boys are not eunuchs. We go by the majority of girls [in the world], and the majority of girl minors are not sterile![21] — Rather said Raba:

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(1) That it is not sanctified, but in the case where a female was born before through the cesarean section, the male animal following, it is still the firstling of the Scripture, although it is not a firstling as regards birth, for a firstling need not be so in every respect.

(2) And an animal which was born after one which came through the cesarean section is excluded, not by the implication of the word ‘Firstling’, but owing to the addition of the word ‘Firstling’.

(3) It is logical to maintain that the additional word ‘Firstling’ would exclude a case of this character.

(4) For the additional word can only exclude one case, whereas the Baraitha above implies that in both instances, even where a female was extracted through the cesarean section and a male was born from the womb, it is not the Scriptural firstling.

(5) That the significance of the term ‘Firstling’ is that in every particular the animal must be a firstling and therefore all the cases cited above are excluded.

(6) The animal therefore grazes until it is blemished and it is then eaten by the owners.

(7) And in the case of an ass of a questionable first-birth, the Israelite separates a lamb on its behalf, which, however, he retains for himself.

(8) And we say that there is an abortion. We fear then lest it discharged in its first year, and therefore that born of a goat, even in its first year is a questionable case of a first-birth.

(9) Either actual birth or a discharge from the womb.
(10) Consequently, the animal born now should be regarded as genuine hullin, to be eaten unblemished.
(11) Each selling meat killed ritually and one stall selling ritually forbidden meat. A piece of meat is found on the ground before one of these stalls and it is not known whether it is kosher (ritually fit to be eaten) or not. The ruling is that whatever comes out of a heterogeneous mass is presumed to come from the larger element in it and, in this instance, it is a majority which is before us, since the stalls are before us to witness.
(12) In a court of law, where twelve judges absolve and eleven condemn and we are guided by the views of the majority. Here, too, the majority is one which is visible to us; v. Hul. 11a.
(13) As in this case, where we argue that the majority of the animals the world over are pregnant, etc.
(14) A boy under thirteen years of age, and a girl under twelve.
(15) The ceremony of taking off the brother-in-law's shoe. (Deut. XXV, 5-11.)
(16) To marry the wife of a brother who died without issue.
(17) ‘So shall it be done with that man’, (Deut. XXV, 9.) Excluding, therefore, a minor.
(18) Impotent as regards a sexual act.
(19) Incapable of conception.
(20) A woman forbidden to marry a certain man and vice versa, owing to consanguinity.
(21) This proves that the Rabbis follow also a majority which is not before.

Talmud - Mas. Bechoroth 20a

It is the best explanation [to say that] R. Ishmael holds according to R. Meir, who takes into consideration the minority. Rabina said: You may still say that he holds with the Rabbis,for the Rabbis go by the majority only in the case of a majority that does not depend on action, but in the case of a majority which depends on action,[1] it is not so.

Our Rabbis taught: That born from a goat in its first year, certainly belongs to the priest; after that, it is a questionable case [of a firstling]. That born of a ewe two years old certainly belongs to the priest; after that, it is a questionable case. That born of a cow three years old certainly belongs to the priest; after that, it is a questionable case. The rule for a she-ass is the same as for a cow. R. Jose b. Judah, however, says that the offspring of a she-ass four years old [certainly belongs to the priest]. Thus far the teachings are those of R. Ishmael. When these teachings were reported to R. Joshua, he said to them: Go and say to R. Ishmael, you have made a mistake. If the animal were exempted only with the [actual] birth of an embryo, it would be as you say. But [the Sages] have declared: A sign of offspring in small cattle is a discharge [from the womb], in large cattle, the after-birth, and in a woman, the signs are the foetus and after-birth. I do not, however, hold with this. But [what I say is that] a goat which at six months discharged [from the womb] can give birth in its first year, that a ewe which discharged within its first year [from the womb], gives birth in its second year. Said R. Akiba: I have not got so far as this.[2] But [what I say is that] wherever it is known that it had given birth, the priest receives nothing; wherever it had never given birth, it belongs to the priest, and if it is a questionable [firstling], it shall be eaten in its blemished state by the owner. What is the point at issue between R. Ishmael and R. Joshua? May we say that the point at issue is as to whether a discharge [from the womb] exempts [from the law of the firstling].[3] R. Ishmael holding that a discharge does not exempt. whereas R. Joshua holds that a discharge exempts? — [No]. If we actually saw it discharging, all the authorities would agree that a discharge exempts [from the law of the firstling]. The point at issue, however, is whether we take into consideration the possibility of its having discharged. R. Ishmael holds: We do not take into consideration the possibility of its having discharged, whereas R. Joshua holds that we take into consideration this possibility. But does not R. Ishmael take into consideration [such a possibility]. Did not Raba say above that it is obvious that R. Ishmael holds with R. Meir, who takes into consideration [the minority]? — R. Ishmael takes into consideration [the minority] when the object is to make the ruling more stringent.[4] But when the object is to render the ruling more lenient,[5] then he does not take into consideration the minority. And if you prefer [another solution], I may say: Whether it is to restrict or to make the ruling more lenient, he takes into consideration [the minority]. The difference of opinion, however, is [whether] where it discharges [from the womb] it can subsequently give birth in its first year. R. Ishmael held that an animal which discharges does not subsequently give birth in its first year. and consequently this one, since it gave birth, certainly did not discharge. But R. Joshua held: An animal which discharges can give birth subsequently in its first year.

[It says above]: ‘l do not, however, hold with this. But a goat six months old which discharged gives birth in its first year, a ewe a year old when she discharged gives birth in its second year’. What is the difference between what he had on tradition[6] and his own opinion?[7] — Where e.g., the animal discharged at the end of six months,[8] and they differ as to Ze'iri's dictum. For Ze'iri said: The period of discharge is not less than thirty days.[9] What he had on traditions[10] agrees with Ze'iri's dictum, whereas his own opinion[11] does not agree with Ze'iri's dictum.

And if you prefer [another solution]. I may say: All [the authorities concerned] accept Ze'iri's dictum. The point at issue here, however, is whether an animal gives birth before the due number of months is completed.

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(1) As e.g., the animal's pregnancy, which depends on the act of coupling with a male, so that there is the possibility that there was no coupling in this instance.

(2) I.e., to know whether an animal which discharged in six months can bear in a year, so that even if it bears in the first year we are not certain that the offspring is a firstling.

(3) That R. Ishmael who regards that born of a goat in the first year as certainly a firstling is of the opinion that even if it discharges in its first year, it is not thereby exempted.

(4) And he rules that the offspring, even after the first year, is a questionable firstling, for a minority of animals do not give birth in the first year, whereas if we went only by the majority, an animal born after the first year would be regarded as hullin, without any doubt as to whether it is a first-birth.

(5) As in the example here, if we were to take into consideration the minority that discharges and therefore regard the animal as a questionable firstling even in its first year. that would be making the law of the firstling more lenient.

(6) R. Joshua's statement ‘But the Sages said, etc’.

(7) Where he declares: But I do not hold with this.

(8) Where we actually saw the discharge commencing in the beginning of the seventh month.

(9) And for this period it is unable to couple with a male.

(10) Which does not say: That of a goat in its first year. thus implying that even if it gives birth on the first day of the second year. the offspring is a firstling, as we accept Ze'iri's dictum that its discharge is for thirty full days, after which there is a period of pregnancy of five complete months, so that it would give birth on the first day of the second year.

(11) Which says: But a goat six months old which discharges gives birth in its first year. It cannot, consequently. hold that the discharge lasts the full thirty days as laid down by Ze'iri's dictum, for then, allowing for the full months of pregnancy, it could not give birth in the first year.

Talmud - Mas. Bechoroth 20b

According to what we have on tradition, we do not maintain that it gives birth before the due number of months is completed,[1] but according to his own opinion we maintain that it does give birth before the due number of months is completed. And if you still prefer [another solution], I may say: We do not maintain that an animal gives birth before the due number of months is completed. and the point at issue here is, however, whether a part of the day[2] is considered as equivalent to the whole day. According to his own opinion,[3] we say that a part of the day is considered equivalent to the whole day.[4] whereas according to what he had on tradition we do not say that a part of the day is considered as the whole day.

‘Said R. Akiba: I have not come so far as this. But wherever it is known etc.’ What is the difference between R. Akiba and R. Joshua?[5] — Said R. Hanina of Sura: The difference between them is whether milk exempts [from the law of the firstling].[6] R. Akiba holds: Milk exempts, for we go by the majority of animals and the majority of animals do not give milk unless they have given birth. But R. Joshua[7] holds that there exists a minority of animals which give milk although they have not yet given birth. But does R. Joshua take into consideration the minority? Have we not learnt: If [a woman][8] had a mother-in-law, she need not fear,[9] but if when she left the mother-in-law was pregnant, she must fear.[10] R. Joshua. however, says: She need not fear.[11] And we explained, what is the reason of R. Joshua — He holds: The majority of pregnant women actually gave birth, and only a minority miscarry. And of all who give birth, half bear males and half females.[12] Add the minority of miscarriages to the half which bear females, then males are in the minority and we do not take into consideration a minority? — Rather, reverse [the names above].[13] And it has been taught similarly: Milk exempts from the law of the firstling:[14] this is the teaching of R. Joshua. R. Akiba, however, Says: Milk does not exempt.[15]

Our Rabbis have taught: If a she-kid gave birth to three females[16] and each female gave birth to three,[17] all of them[18] enter the shed to be tithed. Said R. Simeon: I saw [a she-kid] of which [the offspring] was tithed in its first year.[19] What need is there [for the Baraitha] to state that each gave birth to three? Let it state that one gave birth to three and the rest each gave birth to two? — Since one animal must necessarily bear three,[20] [the Baraitha] states in each of the cases mentioned that it gave birth to three. And what need is there for [the Baraitha] to state [that each gave birth to] three at all? Let it say that each [offspring] gave birth to two and the mother again gave birth together with them?[21]

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(1) And, therefore, it does not speak of having been born in the first year.

(2) The thirtieth day of the discharge, and the point is whether it is possible for the animal to commence pregnancy on that day.

(3) Which refers to being born in the first year.

(4) That a part of the last day of the discharge is considered as a whole day, and therefore we can say that it became pregnant on that very day, so that the animal was born on the last day of its first year, even after allowing for five full months for the pregnancy.

(5) Since according to both, where we do not know if it had given birth, the embryo is a questionable first-born.

(6) If it gives milk in its first year, or if it was born in the Israelite's house and we did not see it giving birth until after the first year, but meanwhile it gave milk.

(7) Who takes into consideration the minority of animals which discharge, also takes into consideration the minority of animals which give milk although they had never given birth. Therefore the offspring in this case is subject to the law of the firstling.

(8) Who with her husband had gone to some place where information regarding those left behind was not easy to obtain, and the husband died without children and left no brother (Yeb. 119a).

(9) Lest meanwhile, during their absence, the mother-in-law had given birth to a son whom the widow is now obliged under the levirate law to marry.

(10) Lest a son was born to her mother-in-law, and therefore she cannot marry another.

(11) V. Yeb. 119a.

(12) Who do not render the widow liable to the law of the levirate.

(13) So that it is R. Joshua who maintains that a discharge exempts, and the same applies to the giving of milk, whereas R. Akiba only exempts where it is definitely known that it had given birth, but when it is not known, even if it discharges or gives milk, it is a doubtful first-born.

(14) As is the case when it discharges from the womb.

(15) From the law of the firstling, unless it is known that it had not given birth.

(16) Simultaneously, at the end of its year.

(17) At the end of their year. The offspring were females, but if they had been males, there would have been three firstlings and there could then be no tithing. All of them would have to be born between one Elul and the next, as the month of Elul is reckoned the New Year for animal tithing and those born before Elul cannot be tithed with those born after Elul; v. R.H. 2a.

(18) I.e., the offspring.

(19) I.e., in the same year as the three daughters were born, and the daughters in turn gave birth, and the animals entered for tithing.

(20) In order to make up the number ten to be subject to tithing. as the original she-kid is not tithed with the offspring because it belongs to a previous year.

(21) So that there will be three mothers with their six offspring and the additional offspring of the she-kid.

Talmud - Mas. Bechoroth 21a

May we say,[1] therefore, that he holds that an animal which discharges, does not subsequently give birth in the year [of its discharging]?[2] — [No], though you hold that an animal which discharges can give birth in the year [of its discharging],[3] [you may still maintain that] if it gave birth, it cannot give birth again in the same year.[4]

Said R. Simeon: ‘I saw a she-kid etc.’ What is the difference between the first Tanna [quoted above in the Baraitha] and R. Simeon?[5] — They differ in accepting or rejecting the dictum of Ze'iri. For Ze'iri said: The period of discharging [from the womb] is not less than thirty days.[6] The first Tanna [in the above Baraitha] accepts Ze'iri's dictum,[7] whereas R. Simeon[8] does not accept Ze'iri's teaching. And if you wish [another solution]. I may say: All the authorities concerned agree with Ze'iri's dictum, but the difference between them is whether an animal can give birth before the due number of months is completed. The first Tanna [of the above Baraitha] holds that an animal cannot give birth before the due number of months is completed, whereas, according to R. Simeon, It can give birth before the due number of months is completed. And if you wish [still another solution] I may say: All [the authorities concerned] maintain that an animal does not give birth before the due number of months is completed, and the difference of opinion is whether a part of the day is considered as equivalent to the whole day. According to the first Tanna [above] we do not maintain that a part of the day is considered like a whole day, whereas, according to R. Simeon, we maintain that a part of the day is considered like a whole day. And if you wish [still another solution], I may say: All the authorities concerned agree that a part of the day is considered like the whole day, and the point at issue here is whether animals may enter the shed to be tithed before its due time.[9]

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(1) Since the Baraitha above does not state that the mother gave birth again but that the ten animals for tithing are composed of each of the daughters giving birth to three.

(2) And in this case, it cannot bear, having given birth to three daughters in the beginning of the year. He mentions here ‘discharging’ because he also wishes to solve the dispute above between R. Ishmael and R. Joshua on the point whether there is a delay after a discharge as after an actual birth.

(3) I.e., that the period of discharging can be less than thirty days.

(4) And therefore the language of the Baraitha affords no proof with regard to discharging.

(5) For both agree that the she-kid, the grandmother, is not tithed with the rest.

(6) This passage is inserted from Sh. Mek.

(7) And these three daughters discharged in the beginning of the seventh month, continuing the discharge for thirty days, and therefore they could not give birth in the first year, but only at the beginning of the second year. For this reason the first Tanna does not use the expression ‘In the first year’.

(8) Who uses the phrase ‘In the first year’, certainly does not agree with Ze'iri, but maintains that discharging can last less than thirty days, so that they gave birth in the first year. (R. Gershom). According to Rashi the explanation is that the females discharged on the last day of the sixth month and not on the first day of the seventh month. Add to this the thirty days of Ze'iri and the five full months of pregnancy, then the animal enters the shed for tithing at the end of the first year. But R. Simeon who uses the expression ‘In the year’ does not accept Ze'iri's teaching and therefore the tithing can take place some days earlier, before the completion of the year. A further explanation of Rashi is: According to the first Tanna of the Baraitha above, even if it begins to discharge on the first day of the seventh month, and allowing the thirty full days of Ze'iri, it still gives birth on the first day of the second year. If the year is a leap-year the mothers and their daughters enter the shed to be tithed even in that case. Reckoning the year therefore from Elul to the following Elul, we could place the birth even on the first of Ab. But R. Simeon who uses the expression ‘In his first year’ does not accept Ze'iri's reaching and they can therefore be tithed together, having been born on the last day of Ab.

(9) Before the eighth day from its birth. According to the first Tanna of the Baraitha they do not enter to be tithed before the completion of seven days alter their birth, whereas according to R. Simeon, they can be tithed even before that time.

Talmud - Mas. Bechoroth 21b

And we have a Baraitha [confirming this]. R. Simeon the son of Judah reported in the name of R. Simeon: An animal, though immature,[1] can enter the shed to be tithed, for it is like the case of a firstling: Just as a firstling is sanctified before its due time[2] and is sacrificed when its time becomes due, so a tithing animal can be sanctified before its due time and offered up after its time becomes due. But why deduce [the case of a tithing animal] from the case of a firstling? Why not deduce it from the case of dedicated animals?[3] — It is reasonable to infer [the case of a tithing animal] from the case of a firstling, because to both apply the rules regarding redemption,[4] a blemish,[5] exchange,[6] and eating.[7] On the contrary, according to this, [the Baraitha] ought to infer [the case of a tithing animal] from the case of dedicated animals, because to both apply the rules regarding a plain animal,[8] a male,[9] sanctification,[10] and the priest's dues?[11] The fact is that R. Simeon learns from [the analogy between] ‘passing’[12] and ‘passing’.

What is the discharge [from the womb] like? — Rab said: As the shepherds of Zaltha said: The womb closes up.[13] Samuel said: Casting up blood. And he is required to show it to a wise man [Sage].[14] How does a wise man know? — Said R. Papa: [What is meant is] a wise shepherd. Said R. Hisda: Behold the Sages said: The period for the formation of an embryo in a woman is forty days.[15] R. Hisda thereupon asked: How long is the period in the case of an animal?[16] — Said R. Papa to Abaye: Is not this Ze'iri's dictum? For Ze'iri said: The period of discharging is not less than thirty days?[17] This [statement] referred only to the receiving of a male for coupling.[18] Now we have [in our Mishnah] the ruling concerning [an Israelite] purchasing [an animal] from a heathen. What is the ruling, however, where [an Israelite] purchases [an animal] from an Israelite? — Said Rab: It is surely a firstling, for if it had given birth, he would certainly have recommended it on this ground.[19] But Samuel says: It is a questionable firstling, because the seller thinks the other needs it for slaughtering.[20] R. Johanan said: The animal is genuine hullin.[21] What is the reason? If it be a fact that it had never given birth, since we have here a prohibition,[22] he would surely inform him.[23] It has been taught in support of R. Johanan's ruling, who maintains that it is hullin: If[24] he did not inform him,[25] he can proceed to kill and need not refrain.[26] May we assume [then] that this [Baraitha] is a refutation of Rab and Samuel?[27] — There,[28] it depends on the seller, whereas here the matter depends on the buyer.[29] MISHNAH. R. ELIEZER B. JACOB SAYS: IF A LARGE DOMESTIC ANIMAL HAS DISCHARGED A CLOT OF BLOOD, IT [THE CLOT] SHALL BE BURIED,[30] AND IT [THE MOTHER] IS EXEMPTED FROM THE LAW OF THE FIRSTLING.

GEMARA. R. Hiyya taught: [The clot of blood] does not make unclean with contact, nor by being carried. Now since it does not make [a person] unclean by contact nor the carrier unclean, why is it buried?[31]

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(1) I.e., too early for sacrifice, before the expiration of the seven days after birth.

(2) From the time it leaves the womb.

(3) Where not only is the animal disqualified for sacrifice before its due time but it is even not invested with any sanctity if consecrated before the expiration of the seven days after birth.

(4) A firstling and a tithing animal cannot be redeemed from their sanctity. whereas blemished dedicated animals are capable of redemption.

(5) A firstling, even born blemished, is sacred. A tithing animal is also sacred, even in a blemished state.

(6) The animal for which a firstling or a tithed animal is exchanged is not holy, whereas with reference to dedicated animals, they and their exchanges are sacred.

(7) A firstling and a tithing animal are eaten by their owners, in the first case by the priest and in the second by the Israelite, whereas blemished dedicated objects must be redeemed. Tosaf. explains that all consecrated animals which have been disqualified from the altar may be bought in a shop and sold by the pound weight, which is forbidden in the case of a firstling and tithing animal.
(8) The rules of tithing and consecration apply to plain animals, i.e., not first-born.
(9) Consecration and tithing apply to both males and females, whereas the law of the firstling applies only to males.
(10) An act of consecration is required in the case of tithing animals and dedicated objects. whereas a firstling is sacred from birth.
(11) A tithing animal or a consecrated animal is not the priests' due, whereas a firstling is the due of the priests.
(12) The text: 'Thou shalt cause to pass (set apart) unto the Lord all that openeth the womb'. (Ex. XIII, 12) stated in connection with the law of the firstling, and the text that passeth under the rod', mentioned in connection with the law of tithing animals.
(13) And the embryo was mashed.
(14) To ascertain whether there was an embryo and thus to be exempted from the law of the firstling.
(15) And should the woman, therefore, have a miscarriage before this period has elapsed. she is not required to keep the days of purity and impurity laid down by Scripture for a woman after childbirth.
(16) I.e., if it miscarried and is not therefore exempt from the law of the firstling.
(17) Apparently referring to the formation of the embryo.
(18) That it cannot take a male for coupling purpose for a period of thirty days, having commenced to discharge from the womb. But there is no indication here as regards the time it takes to form an embryo. Another explanation is that Ze'iri's meaning is that before the animal becomes pregnant she discharges for thirty days, but there is nothing here with reference to the period of the formation of an embryo. (R. Gershom.)
(19) That the animal had already given birth and thus the priest had no further claim on the offspring.
(20) And the reason, therefore, why the seller is silent on this point is perhaps not because it had never given birth but because he thinks that the buyer desires to kill the animal and not to rear offspring, in which case there is no advantage in informing him. Consequently, it is a doubtful firstling.
(21) An unconsecrated animal.
(22) If the Israelite ate the firstling, since it belongs to the priest.
(23) That the animal had never given birth.
(24) Hul. 83a.
(25) In four periods of the year. the Mishnah says in Hul. 83b, a seller must inform prospective buyers that he had sold the mother or the young on that day, so as to safeguard the buyer from killing the mother with its young on the same day.
(26) Since he had not informed him about selling its mother or its young on that day. We see therefore that we construe silence as indicating that there is no infringement of the law.
(27) Who hold above respectively that the animal is a certain or a doubtful firstling, for here we see that it is regarded as genuine hullin.
(28) In the case of the Baraitha in Hul., the duty rests with the seller to inform the public and therefore the purchaser interprets the former's silence as indicating that there is no infringement of the law.
(29) It rests with the buyer of the animal to inquire whether it is a firstling or not, as Scripture says: All the firstling males that come of thy herd and thy flock etc. (Deut. XV. 19), indicating that the duty of separating the firstling devolves upon the person in whose possession the animal is. Consequently, as the necessary inquiries were not made, we regard the offspring as a case of a questionable firstling.
(30) For it is forbidden to use it profitably in case it was a male embryo which was mashed and was sanctified as a firstling.
(31) Since it does not cause levitical uncleanness; we see that we do not fear lest there was here an embryo at all!

Talmud - Mas. Bechoroth 22a

— In order to make known that the mother is exempted from [the law of] the firstling. Does not this mean to say that it is a genuine embryo? Then why does it not make unclean by contact nor make the carrier unclean? — R. Johanan answered: Because the principle of neutralisation by the larger portion is applied here.[1] And R. Johanan is in agreement here with the opinion he expressed elsewhere. For R. Johanan said: R. Eliezer b. Jacob and R. Simeon made similar statements. What is the statement of R. Eliezer b. Jacob? — That which we have learnt [in our Mishnah above]. What is R. Simeon's statement? — As we have learnt: If there is an after-birth[2] in a house, the house is unclean. Not that the after-birth is considered an embryo, only because there cannot be an after-birth without an embryo.[3] But R. Simeon says: The embryo was mashed before it came forth.[4] We have learnt elsewhere: The opening of the uterus[5] for untimely births is not until the embryo [on leaving the uterus] forms a round head like a coil. What kind of coil does this mean? — Like a coil of wool. Said Hiyya b. Rab to R. Huna: Did Rabbi explain whether the coil of wool containing warp[6] or containing woof is meant?[7] — He replied to him: It has been taught:[8] The coil of the warp. These are the words of R. Meir. R. Judah says: The coil of the woof. R. Eliezer b. Zadok says: From the time when the ring-like formations [at the mouth of the vagina] are visible.[9] What are the ring-like formations like? — Rab Judah reported in the name of Samuel in behalf of R. Eliezer son of R. Zadok: In Jerusalem they used to explain it in this manner. Like a mule which bends to urinate,[10] and it has the appearance of a coil coming forth out of a coil.

Said R. Huna: I learnt two sizes of coils, one of the warp and the other of the woof, and I am unable to explain.[11] When R. Dimi came, [from Palestine], he reported in the name of R. Johanan: I learnt of three sizes of coils, one of the warp, another of the woof and one large coil, and again another of the sack-carriers, and I am unable to explain.[11] When R. Abin came [from Palestine] he explained this in the name of R. Johanan. In the case of a woman, the coil is like a warp.[12] In the case of an animal, the size of the coil is like the woof.[13] As to a large-size coil of the sack-carriers, it is as we have learnt. A clod [of clay] from a beth ha-peras[14] or a clod of imported clay[15] must have the size of the great seal of the sack-carriers which is like the seal of leather bags. And of the same size is the top part[16] of the stopper of the Bethlehem wine jug.[17] Resh Lakish reported in the name of R. Judah the Prince: He who buys brine from an ‘am ha-arez[18] must bring it in contact with water[19] and it is then levitically clean. For in either case if the larger portion [of the brine] is water,[20] since he brings it in contact with water,[21] he has cleaned it; and if the larger part is brine, brine is not susceptible to levitical uncleanness.[22] The only doubtful element is that small quantity of water [in the brine][23] and this is neutralized in the larger portion of the brine.

Said R. Jeremiah: This has been laid down only with regard to dipping bread in it but, for cooking purposes, the brine is not permitted,[24] since like attracts like and the uncleanness is aroused.[25] R. Dimi was once sitting and repeating this statement of R. Jeremiah: Said Abaye to him: Can levitical uncleanness, once neu tralized, be aroused again? — He replied to him: And do you not hold that this is reasonable? Have we not learnt: If a se'ah[26] of unclean terumah[27] has fallen

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(1) The blood and the multi-coloured substance being the larger portion neutralizes the flesh of the embryo and therefore the latter is not susceptible of levitical uncleanness.

(2) Which a woman produced by a miscarriage and an embryo was not recognized therein.

(3) Which however was mashed. And nevertheless it made the house unclean since we fear lest the embryo was not mashed — and so neutralized — until after it came forth.

(4) V. Nid. 18a. And it was explained there that the reason why the house is not unclean was because we apply to it the principle of the greater proportion of blood etc., neutralizing the embryo before it came forth.

(5) If an embryo died inside a woman who sat on the travailing chair and her uterus was opened in one house but the embryo did not come forth in that house but in another, the first house is unclean, as if it had been born there, for impurity breaks through. v. Oh. VII.

(6) The thread of which is thin and small.

(7) The thread of which is thick.

(8) That there is a difference of opinion on this point.

(9) R. Eliezer differs from the first Tanna quoted above, for whereas the latter requires for constituting the opening of the uterus that the embryo should form a round head like a coil, the former holds that even if it had not formed a round head but in the period of travailing had reached the stage when ring-like formations were visible, indicating the passage of the embryo's head, we regard it as the opening of the uterus.

(10) The mule bends more than any other animal or beast, and while it does so, wrinkles are descernible on the vagina.

(11) To what each of these sizes of coil refers.

(12) This is the size which makes the woman subject to the law of one whose womb is open.

(13) If the embryo had not yet formed a round head of the size of the coil of the woof, then, if the embryo died inside the animal, and the shepherd stretched his hand inside, he does not receive levitical uncleanness.

(14) A field declared to be unclean on account of the crushed bones carried over it from a ploughed grave.

(15) Which has the same law as a beth ha-peras.

(16) The upward sloping portion of the seal, like a handle, is called the top part.

(17) Oh. VII, 5.

(18) V. Glos. A person who is suspected of not keeping either through ignorance or willfulness certain regulations or customs relating to impurity.

(19) The brine in a vessel is placed in a mikweh (ritual bath of purification), so as to make its surface level with the surface of the water into which it is dipped. This is a form of purification.

(20) And the brine is nullified in the larger part of the water, thus receiving uncleanness on account of the water.

(21) Of the mikweh and it is purified thereby. This method of purification applies only to unclean water but not to food and other liquids.

(22) Because it is just the moisture of the fish which issues when salted,

(23) Which receives impurity and for which contact with mikweh water is no purification, since the larger portion is brine and this method of purification does not apply to food.

(24) For the water in the brine combines with the water in the pot and the two together being now the larger portion, neutralize the brine, and make the latter unclean.

(25) Shaken from the law of neutralization. (So Rashi on A.Z. 73a.)

(26) A measure of volume for dry objects and for liquids. V. Ter. V, 2.

(27) The priest's share of the crop.

Talmud - Mas. Bechoroth 22b

into a hundred of clean hullin.[1] R. Eliezer says: The terumah is separated and left to rot.[2] For I maintain that the same se'ah which fell was separated. But the Sages say: A se'ah is separated and eaten in a mouldy state,[3] parched, kneaded in fruit juice,[4] or divided into [minute] loaves, so that there shall not be in one place the size of an egg.[5] And it was taught in connection: As to that hullin

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(1) The unconsecrated portion, not belonging to the priest.

(2) This being the law of unclean terumah, which is forbidden to be eaten.

(3) From excessive dryness. Or it means, crumbled pieces less than the size of an egg. Although there is here clean and unclean food, nevertheless, so long as the former is not being made fit to receive levitical uncleanness, i.e. does not come in contact with a liquid, the mixture can be eaten in the manner set forth here.

(4) For fruit juice does not make food susceptible to uncleanness.

(5) This being the size which makes it fit to receive levitical uncleanness, v. Ter. V, 2.

Talmud - Mas. Bechoroth 23a

according to R. Eliezer, what shall become of it?[1] — It shall be eaten in a mouldy state, parched, kneaded in fruit juice or be divided into [minute] loaves, so that there shall not be in one place more than the size of an egg. And ‘Ulla further explained: What is the reason?[2] It is a precautionary measure in case he brings a kab[3] of unclean hullin from another source and a kab and a little over from this kind. He thinks that he neutralizes it by the larger portion, but since there is this minute quantity [of unclean terumah].[4] like combines with like and the uncleanness is stirred up![5] — He said to him: If levitical uncleanness arouses uncleanness, shall therefore levitical cleanness stir up uncleanness.[6] He [Abaye] raised an objection [to R. Jeremiah's views]: If ashes fit for lustration [from the red-heifer] were mixed with wood-ashes, we go by the larger portion to render unclean.[7]

But if the greater part is wood-ashes, they do not make unclean. Now, if you say that levitical uncleanness [which was neutralized] is considered as still existing, granted that it does not make uncleanness by contact,[8] still let it make the carrier unclean?[9] It was indeed stated on the subject: R. Jose son of R. Hanina said: [The word] ‘clean’ [in the above Mishnah] means that it is so far clean as not to make uncleanness by contact, but it still makes the carrier unclean. But did not R. Hisda say: Nebelah[10] is neutralized by ritually cut meat,[11] for it is impossible for ritually cut meat[12] to become nebelah? Now,[13] granted that it does not make unclean by contact, still let it make the carrier unclean? — He [R. Dimi] replied to him: You report this[14] in connection with what R. Hisda said, we report it in connection with R. Hiyya. [For] R. Hiyya taught: Nebelah and ritually cut meat neutralize one another [when mixed together]. And it was stated on the subject: R. Jose son of R. Hanina said: It is so far clean as not to make unclean by contact, but it makes the carrier unclean. But have we not learnt: R. ELIEZER THE SON OF JACOB SAYS: IF A LARGE DOMESTIC ANIMAL DISCHARGED A CLOT OF BLOOD, IT SHALL BE BURIED, AND IT IS EXEMPT FROM THE LAW OF THE FIRSTLING. And R. Hiyya taught [in a Baraitha]: It does not make unclean, neither by contact nor by carrying?[15] Now [if a forbidden thing remains in existence even after neutralization], granted that it does not make unclean by contact, still let it make the carrier unclean? — He [R. Dimi] became silent. [Nevertheless. there is no difficulty]; perhaps it is different here because it is an uncleanness which is putrid.[16] This would indeed hold good according to Bar Pada who said: A major uncleanness[17] attaches to it as long as it is fit to be eaten by a stranger,[18] whereas a minor uncleanness[19] until as long as it is fit for a dog; and in the case here it is surely not fit for a stranger. But according to R. Johanan who said:

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(1) For according to the Sages, he is permitted to eat both the hullin and the terumah in the conditions stated above.

(2) Why do we not regard the rest as genuine hullin according to R. Eliezer, since he holds that the se'ah which he separates is the terumah and therefore the rest should be real hullin?

(3) A small measure.

(4) Which must inevitably have mixed with the remainder, in spite of the fact that we maintain that the se'ah which is separated is the se'ah which fell into the hullin.

(5) And combine together and thus receive uncleanness. This proves that levitical uncleanness though once neutralized can be aroused again.

(6) That a minute quantity of uncleanness may stir up other uncleanness, as in the case of the terumah, is feasible; but in the case of the brine, we certainly do not assume that the clean water in the pot will combine with the small quantity of unclean water in the brine in order to neutralize the latter and thus make it unclean.

(7) So that if the larger portion of ashes belong to the red heifer, they make unclean by contact. v. Parah IX. 7.

(8) For since the ashes are mixed, we do not know which are the red heifer's and perhaps he did not touch the ashes belonging to the red heifer at all.

(9) For if he carried all the ashes, then he is bound to have carried the ashes of the red heifer, which make unclean.

(10) Ritually forbidden food, the animal not having been killed according to Jewish law.

(11) Where two or more pieces of ritually killed meat are mixed with one piece of nebelah.

(12) This is the correct version. A different version (cur. edd.) stating that it is impossible for nebelah to become etc. is incorrect, as it is possible for nebelah to be freed from its levitical uncleanness, if it becomes putrid and ceases to be regarded as edible food.

(13) If a forbidden thing, even after being neutralized, is still in existence and can be stirred up again.

(14) The ruling of R. Jose. [The meaning is not clear, nor is the text certain. The passage may also be explained: ‘You report this ruling in the name of R. Hisda and as such it could not have been commented on by R. Jose; we report it as a Baraitha taught by R. Hiyya, and in connection with which R. Jose's statement was made’; cf. text in R. Gershom.]

(15) And we have explained above that the reason is because the larger portion of the blood etc. neutralizes the embryo.

(16) This is the answer suggested by the Talmud.

(17) Like the uncleanness of carrying.

(18) After which it does not cause uncleanness.

(19) Like the uncleanness of coming in contact.

Talmud - Mas. Bechoroth 23b

Talmud - Mas. Bechoroth 23b

The one as well as the other,[1] [attaches to it so long as] it is fit for a dog — in the case here is it not fit for a dog?[2] — This is indeed a difficulty.

[The above] text [stated]: 'Bar Pada said: A major uncleanness attaches to it as long as it is fit for a stranger, but a minor uncleanness, as long as it is fit for a dog. But R. Johanan said: In the one case as well as the other, so long as it is fit for a dog [it remains unclean]'. What is the reason of Bar Pada? — Scripture Says: Ye shall not eat of anything that dieth of itself; thou shalt give it unto the stranger.[3] [We infer from this that] what is still suitable for a stranger [to eat] is called nebelah, whereas that which is no longer suitable for a stranger [to eat] is not called nebelah. And the other? — He explains [the Scriptural text] as excluding the case where it was putrid from the beginning.[4] And [what says] the other [to this]? — Where it was putrid from the beginning there is no need for a Scriptural text to exclude, for it is mere dust. We have learnt: R. ELIEZER B. JACOB SAYS: IF A LARGE DOMESTIC ANIMAL DISCHARGED A CLOT OF BLOOD, IT SHALL BE BURIED, AND IT IS EXEMPTED FROM THE LAW OF THE FIRSTLING. And R. Hiyya taught [in a Baraitha]: It does not make unclean either with contact or by carrying it. And R. Johanan explained that we apply here the principle of the larger portion neutralizing [the other]. [The question therefore arises], what need is there for the neutralization by the larger portion? Why not deduce this from the fact that it was not fit at all [for a stranger]? — In this case, too, it was suitable to be eaten [by a stranger], on account of its mother.[5]

We have learnt elsewhere: R. Eliezer b. Jacob says: Clear brine[6] into which there fell a little water is levitically unclean.[7] R. Nahman reported in the name of Rabbah b. Abbuha: This proves that the 'amme ha-arez are suspected of mixing half water in brine.[8] But why half? Why not even less than a half, for together with the little water here, it makes a half, and a half does not become neutralized?[9] Read: Up to a half.[10] And if you prefer [another solution] I may say: The levitical uncleanness imposed with reference to an 'am ha-arez is a Rabbinic enactment, and the uncleanness of liquid is also a Rabbinic enactment. Therefore, in the case where the water is the greater portion, the Rabbis decreed uncleanness, but where there is half and half, the Rabbis did not decree uncleanness.

MISHNAH. R. SIMEON B. GAMALIEL SAYS: IF ONE BUYS AN ANIMAL GIVING SUCK FROM A GENTILE, HE NEED NOT FEAR THAT PERHAPS THE OFFSPRING BELONGS TO ANOTHER [ANIMAL].[11] IF HE WENT AMONG HIS HERD AND SAW ANIMALS WHICH HAD GIVEN BIRTH FOR THE FIRST TIME GIVING SUCK AND ANIMALS WHICH HAD NOT GIVEN BIRTH FOR THE FIRST TIME GIVING SUCK, WE NEED NOT FEAR THAT PERHAPS THE OFFSPRING OF THIS ONE CAME TO THE OTHER OR PERHAPS THE OFFSPRING OF THE OTHER CAME TO THIS ONE.[12]

GEMARA. R. Nahman reported in the name of Rab: The law is in accordance [with the Mishnah][13] in the whole chapter, except in the case where a difference of opinion is recorded. Said R. Shesheth: I say that Rab declared this tradition when he was half asleep. For to what does [Rab] refer? You can hardly say that he refers to the first part [of the chapter], for are there not differing opinions recorded of R. Ishmael and R. Akiba? Again if he refers [to the teaching of] R. Eliezer b. Jacob [in the preceding Mishnah] — is not the Mishnah of R. Eliezer b. Jacob little in quantity,[14] but well sifted?[15] And if he refers to [the teachings of] R. Simeon b. Gamaliel [in our Mishnah] — are there not differing opinions in the Baraitha?[16] If he refers to [the teachings of] R. Jose b. ha-Meshullam [in a subsequent Mishnah], has not Rab, however, informed us of this once, for Rab said: The law is in accordance With R. Jose b. ha-Meshullam? And if he refers to [the subsequent Mishnah] in connection with the hair of a blemished [firstling], — are there not, however, different opinions recorded of Akabya b. Mahalalel and the Rabbis? — Indeed [Rab refers] to [the teachings of] R. Simeon b. Gamaliel, and this is what he teaches us, that [the difference of opinion] in the

Baraitha is not considered a difference of opinion [to be taken into account]. But since Rab said: The law is according [to the Mishnah] in the whole chapter, except where there is a difference of opinion.

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(1) Both in the case of a major uncleanness and a minor uncleanness, it makes unclean, until it is no longer suitable for a dog to eat.

(2) And should therefore make the carrier unclean. R. Jeremiah's ruling above is therefore refuted. [Thus R. Johanan is self-contradictory.] Sh. Mek, reads: ‘not fit at all to a stranger’.

(3) Deut. XIV, 21.

(4) Where e.g.. the animal broke its ribs when alive and it commenced to decay. Although it is fit for dogs, it does not make the carrier unclean, for it never had this uncleanness. But where it was at first fit for a stranger and it possessed the power of making the carrier unclean, then it retains this uncleanness until it is unfit for a dog to eat.

(5) For if the animal did not discharge and it was slaughtered and a clot of blood was discovered, the clot would have been fit for a stranger along with the flesh, and since in this case it is made fit because of its mother, it is fit even now, when it has been discharged. Consequently. were it not for the fact that it is neutralized by the larger portion, it would have received uncleanness.

(6) Where the larger portion is not water.

(7) Having now received a little water, it becomes unclean and requires contact with mikweh water for purification.

(8) So that when a little more fell into the brine, the parts which were similar, combined, and the water, being more than the brine, therefore received levitical uncleanness.

(9) For only a small quantity of water we say above is neutralized by the larger portion, but not where the amount is a half.

(10) I.e., nearly a half of water the ‘amme ha-arez mix with their brine and this, together with the small quantity of water that fell in, makes up the half. Consequently, the water is not neutralized and it receives uncleanness.

(11) So as to consider the offspring which follows a doubtful firstling, as perhaps the animal had never given birth. And as for its giving milk, it is only a minority of animals which give milk without having given birth previously. We therefore consider the offspring as certainly belonging to the animal and the animal is thus exempted from the law of the firstling.

(12) But we presume that the offspring clinging to the animal belongs to it, and that there has been no mingling.

(13) Whether stated anonymously or as the pronouncement of a certain Tanna, where there is no difference of opinion.

(14) Lit., ‘a kab’, a small measure of capacity.

(15) Then what need is there for Rab's ruling. since in any case the law is in accordance with his views.

(16) V. infra 24a.

Talmud - Mas. Bechoroth 24a

what need is there for the ruling that the law is in accordance with R. Jose b. ha-Meshullam? — If he had said that the law was according [to the Mishnah] in the whole chapter and did not state subsequently that the law was in accordance with R. Jose b. ha-Meshullam. I might have thought that he referred to R. Jose b. ha-Meshullam. and that what [the expression] ‘the whole chapter’ meant[1] was that R. Jose stated two things [in the subsequent Mishnah][2] and that the difference of opinion in the Baraitha [is considered] a genuine difference of opinion.[3] Therefore Rab informs us that the law is in accordance with R. Jose. so as to intimate to us that [in the other statement] he refers to R. Simeon b. Gamaliel, and thus the difference of opinion in the Baraitha is not considered a difference of opinion [of any importance].

What is the Baraitha [referred to above]? — As it has been taught: If one buys an animal giving suck from a gentile, the young which follows it, is a doubtful firstling,[4] because it can give suck even to one to which it had not given birth. R. Simeon b. Gamaliel however, says: We follow the natural presumption.[5] And so R. Simeon b. Gamaliel used to say: If one goes among his herd at night and sees about ten or fifteen animals, both those which had not borne previously and those which had previously given birth, and, the next day, he rises early and finds the males[6] clinging to the animals that had given birth previously and the females clinging to those which were now giving birth for the first time, he need not fear that perhaps the offspring of one came to the other.[7]

It was queried: Was the reason of R. Simeon b. Gamaliel's statement that we follow the natural presumption. because no dam gives suck [to a stranger] unless it has had a child of its own,[8] but where it had given birth before, we do fear lest it gives suck to a stranger. Or perhaps was it that it gives suck to its own but it does not give suck to a stranger? What is the practical differ ence?[9] To punish with lashes on its[10] account for transgressing the prohibition of killing the mother and its young [on the same day]. If you say that it gives suck to its own but not to a stranger, then there is here a liability of lashes, whereas if you say that it gives suck also to a stranger. then there is no liability of lashes?[11] — Come and hear: R. Simeon b. Gamaliel says: If one buys an animal from a gentile, he need not fear that perhaps it was the offspring of another![12] — [No]. Does R. Simeon say [that perhaps] it is?[13] He says: [That perhaps] it was. What he means is this:[14] He need not fear that perhaps it was the offspring of another, except when it had previously given birth.

Come and hear: If one went among his herd and saw [both the animals] now bearing for the first time giving suck and those not now bearing for the first time giving suck, he need not fear that perhaps the offspring of this one came to the other or the offspring of the other came to this one. Why is this so? Why not fear lest it gave suck to a stranger?[15] — Where it has its own offspring. it does not leave its own and give suck to a stranger.[16]

Come and hear: ‘We follow the natural presumption’. And so.[17] Now does not the first part [of the Baraitha above][18] resemble the second part,[19] so that just as the second part refers to a case where the offspring is certainly its own,[20] so the first part also refers to a case where [the offspring] is certainly its own?[21] — Is this an argument? The first part deals with its own case and the second part deals with its own case.[22] And what does [the Baraitha] mean [by the phrase] ‘and so’?[23] — It refers to the exemption from [the law of] the firstling.[24]

Rabbah b. Bar Hana reported in the name of R. Johanan: If one saw a swine clinging to a ewe,[25] it is exempted from [the law] of the firstling,[26] and it is forbidden to be eaten Until he come and teach[27] righteousness unto you.[28] [You say] ‘It is exempted from the law of the firstling’. Whose view is followed? The view of R. Simeon b. Gamaliel.[29] [You say] ‘And it is forbidden to be eaten’. Whose view is followed? The view of the Rabbis.[30] And, moreover, if it is according to the Rabbis, why ‘Until he come and teach righteousness to you’? ‘Until it be known to you’ is what is required?[31] And should you say that R. Johanan is in doubt whether the law is in accordance with R. Simeon b. Gamaliel or the Rabbis,[32] if R. Johanan is in doubt then why is it exempt from the law of the firstling? And further, is there a doubt? Did not Rabbah b. Bar Hana report in the name of R. Johanan: Wherever R. Simeon b. Gamaliel expressed a view in the Mishnah, the halachah is in accordance with him, with the exception of his view regarding suretyship,[33] Sidon,[34] and the last [case dealing with] evidence?[35] — One may still say that R. Johanan is in no doubt that the law is in accordance with R. Simeon b. Gamaliel.[36] He is in doubt, however, whether R. Simeon b. Gamaliel holds that an animal which has given birth, gives suck [even to a stranger],[37] or whether it does not give suck [to a stranger].[38] If so, instead of stating [this ruling] in connection with the case of a swine, why not state it in connection with the case of a lamb, and as regards the punishment with lashes for infringing the prohibition of killing the mother and its young [on the same day]? — He had need to state [this ruling] in connection with the case of a swine. For if he had stated [this ruling] in connection with the case of a lamb, I might have thought that even if you assumed that R. Simeon holds that an animal which gives birth, gives suck [to a stranger], this only applies [to a stranger belonging] to its own species, but not to [an animal] not belonging to its own species.[39] Consequently. R. Johanan states the case of a swine [to inform us that this ruling applies] although it does not belong to the species [of the ewe], for even here one can say that perhaps it gave suck. And this is what R. Johanan meant above.

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(1) Implying as it does a number of things.

(2) One thing. that we make a clear space in the neck for the butcher's hatchet in order to kill the firstling, and secondly, that we tear the wool to show the blemish of a firstling.

(3) Which would exclude the ruling of R. Simeon b. Gamaliel.

(4) For it is possible that the animal had never before given birth, and the fact that it gives milk is not a conclusive proof, as there is a minority which gives milk without having yet given birth. It is thus a doubtful firstling.

(5) That the offspring is surely its child and that therefore the succeeding offspring is exempted from the law of the firstling.

(6) Who were born now, clinging to and being given suck by animals which had already been exempted from the law of the firstling. And the females born now, he found clinging to and being given suck by animals that had now given birth for the first time. In these cases, the priest receives nothing, for as we presume that each offspring is near its own mother, the law of the firstling is not here applicable, as the males come from animals already exempted and the females are not subject to the law of the firstling.

(7) So as to impose a restriction and make them questionable firstlings, fearing lest the males belong to the animals which are giving birth for the first time. The reason why R. Simeon the son of Gamaliel speaks of entering at night etc. and does not state simply that if one entered his herd and saw males clinging etc., is in order to inform us of a striking thing, that although their birth certainly took place in the night when the dams did not as yet recognize their offspring and were, therefore, liable to make a mistake, nevertheless we do not fear lest the offspring of the one came to the other.

(8) And R. Simeon refers to an animal which never gave birth previously.

(9) For in either case, if it had given birth previously, whether it is its own offspring or a stranger, it is exempt from the law of the firstling.

(10) That of the offspring which clings to the animal.

(11) As we presume that it is not its own offspring.

(12) But presumes that the offspring belongs to the animal. Consequently we see that in his opinion it does not give suck, except to its own offspring.

(13) In which case we could properly have made this deduction.

(14) And in either case it is exempt from the law of the firstling, for we only entertain a doubt that it might be a stranger if the animal had given birth previously. But in respect of the infringement of the prohibition of killing the animal and its young on the same day, there is a doubt.

(15) Since they all possess offspring. Therefore the reason must surely be that even if it were not now bearing for the first time, it gives suck only to its own, thus solving the above query.

(16) But where it has none of its own offspring, it may give suck even to a stranger, and so the above query remains.

(17) V. supra.

(18) Which says: If one buys an animal which gives sock from a gentile etc.

(19) Viz., And so R. Simeon etc.

(20) That each offspring clinging to the animal belongs to it For you explained above that where it possesses its own offspring, it does not give suck to a stranger.

(21) And therefore with reference to the prohibition of killing the mother and the young on the same day. there is the liability of lashes, for we presume that it is certainly the animal's offspring.

(22) In the second part of the Baraitha it is certainly its offspring, whereas there is a doubt in this respect in the first part.

(23) Since they are not necessarily similar.

(24) In that respect alone the two parts of the Baraitha are alike. For just as in the second part they are certainly exempt from the law of the firstling, as certainly the females cling to those which have now given birth for the first time, for they would not leave their own offspring and give suck to strangers, in the first part of the Baraitha also, they are exempted in the future from the law of the firstling. And in the first part, even if they are not their own offspring, they are exempted, having already given birth, since otherwise they would not have given suck to strangers. But in respect of the prohibition of killing the mother and its young on the same day, there may still be a doubt.

(25) And being given suck by it.

(26) And the succeeding offspring is not a firstling.

(27) The word יורה is used here in the sense that Elijah will teach. The usual rendering of the word, however, is ‘to cause to rain’.

(28) Hosea X, 12.

(29) Who maintains that the animal only gives suck to its own offspring, and the swine itself is not sanctified, as it is a nidmeh.

(30) Who fear that the animal gives suck to a stranger. For if it were in accordance with the view of R. Simeon, it should be permitted to be eaten, as in the case of an unclean animal which comes from a clean animal. V. supra 5b.

(31) As this is not a question of pronouncing a legal decision but merely of revealing or intimating whether it is its offspring.

(32) And the text ‘Until he comes etc.’ means as follows: Until he comes and teaches whether the law is in accordance with R. Simeon and therefore it may be eaten or according to the Rabbis. It is, consequently, forbidden to be eaten because of the doubt that it perhaps gave suck to a stranger.

(33) B.B. 174a.

(34) Git. 77a.

(35) Sanh. 31a.

(36) That it is certainly exempted from the law of the firstling, for if the offspring were not its own, it would not have given suck unless it had already given birth.

(37) It is therefore exempt from the law of the firstling. for if the offspring belongs to the animal, then it is exempt. and if it is a stranger. then the animal must have already given birth, since it gives suck to strangers. It is also forbidden to be eaten, for the offspring might be a stranger and its own might have died,

(38) And it is therefore permitted to be eaten, for it certainly belongs to the animal to which it clings.

(39) I.e., a swine. And it is permitted to be eaten, for to one not belonging to the ewe species it would not give suck, and since the animal does give suck, it must of a certainty belong to it.

Talmud - Mas. Bechoroth 24b

Aha Beribi[1] asked: How is it if one saw a swine clinging to a ewe? But what exactly does the question refer to? If it has reference to the law of the firstling and the query is whether the law is in accordance with the view of R. Simeon b. Gamaliel or according to the Rabbis, why not put this query with reference to the case of a lamb?[2] — The query refers to the law of the firstling as laid down by the Rabbis[3] and to the rule as to eating, as laid down by R. Simeon b. Gamaliel.[4] The query refers to [the law] of the firstling, [thus]. [Do we say that] even in accordance with the Rabbis, who maintain that it gives suck [to a stranger], this is only the case [with an animal] belonging to its own species, but to one not belonging to its own species, it does not give suck?[5] Or do we perhaps maintain that even [to offspring] that does not belong to its own species, the animal also gives suck? And also in connection with eating, [the query is put forward]: Do we say that even according to R. Simeon b. Gamaliel, granting that he holds that an animal which has begotten[6] gives suck [even to a stranger], this is the case only when the offspring belongs to the same species [as the ewe], but where it does not belong to the same species, it does not [give suck]?[7] Or perhaps even if the offspring does not belong to the species [of the ewe], do we say that it also gives suck [to it]?[8] — Let this remain undecided.

MISHNAH. R. JOSE B. HA-MESHULLAM SAYS: ONE WHO SLAUGHTERS THE FIRSTLING, [FIRST] MAKES A CLEAR SPACE WITH THE [BUTCHER'S] HATCHET[9] ON BOTH SIDES AND TEARS THE HAIR [ON BOTH SIDES][10] PROVIDED HOWEVER THAT HE DOES NOT REMOVE THE WOOL FROM ITS PLACE[11] [WITH AN INSTRUMENT]. AND SIMILARLY ONE MAY TEAR THE HAIR TO SHOW THE PLACE OF THE BLEMISH [TO A SAGE].

GEMARA. Rab said: The halachah is according to R. Jose b. ha-Meshullam. [The scholars] asked R. Huna: What is the rule about acting similarly on a festival day?[12] Is the reason of R. Jose b. ha-Meshullam because he maintains that tearing is not [considered] the same as shearing[13] and yet on a festival day it is forbidden, for it would be detaching a thing from the place of its growth; or perhaps, does R. Jose b. ha-Meshullam as a rule main tain that tearing is [considered] the same as shearing, but the reason why he permits [in the Mishnah] is because it is a forbidden act which was produced without intent[14] and a forbidden act which was produced without intent is permissible on a festival day? — He replied to them: ‘Go and ask R. Hananel.[15] If he tells you that the halachah is in accordance with R. Jose b. ha-Meshullam, then I shall give you a definite answer’. They went and asked him. He replied to them: ‘Rab said this: The halachah is in accordance with R. Jose b. ha-Meshullam’. Then they came before R. Huna. He said to them: It is permitted to act in a corresponding manner on a festival day.[16] It was also stated: R. Hananya b. Shalmia reported in the name of Rab: It is permitted to act in a corresponding manner on a festival day.

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(1) An eminent and prominent teacher in his generation. The term Beribi is frequently applied to the disciples of R. Judah ha-Nasi and his contemporaries and also to some of his predecessors.

(2) Since it is in connection with this case that they differ.

(3) For according to R. Simeon it is certainly exempted, for if it does not give suck to its own species unless it had already begotten, how much less is this the case where it does not belong to the species of animal to which it clings.

(4) And certainly according to the Rabbis.

(5) And the offspring in this case surely belongs to the ewe, and therefore the future offspring is exempted from the law of the firstling.

(6) But if he held that an animal which already had given birth does not give suck to strangers, then in the case here, the offspring is certainly permitted to be eaten, for it is its child.

(7) Hence in this case, the swine must be its offspring and permissible to be eaten, as it gives suck to it.

(8) Since it had given suck previously. Consequently, the swine is forbidden to be eaten in case it is a stranger.

(9) Clearing the hair in the place where the animal is to be slaughtered. The Mishnah mentions a butcher's hatchet and not an ordinary slaughtering knife, because in the former case there is more need to make a place and a larger one, than in the case of a slaughtering knife. The same applies to the slaughtering of dedicated animals, but as these are slaughtered in the Temple court where there are special knives, there is no need to clear a place when slaughtering. Moreover the Mishnah mentions here the case of a firstling because the law of the firstling is observed even in our days and also because a firstling's wool is probably thicker than that of an ordinary sacrifice, since the owner must wait until it is blemished before he slaughters it (Tosaf).

(10) In the place where the cut is to be made, in order to avoid haladah (passing the knife under cover) which would render the animal nebelah (Rashi).

(11) That it should not be said that he is shearing a firstling's wool, an action which is forbidden. Therefore he leaves the animal with its wool on both sides (Rashi).

(12) The query is whether it is allowed to tear the hair on both sides in order to clear a place for the cut, in the case of an unconsecrated animal.

(13) And in connection with a firstling. Scripture expresses only prohibited shearing.

(14) And the Mishnah means by the expression ‘tearing etc.’ to pull the hair on both sides so as to clear a place but not with the intention of tearing or plucking, and that should this happen, there would be no infringement of the law.

(15) A disciple of Rab.

(16) The reason being because there was no intention of committing a breach of the law.

Talmud - Mas. Bechoroth 25a

But did Rab say this? Did not R. Hiyya b. Ashi say in the name of Rab: The stopper of the brewery boiler[1] must not be squeezed in on a festival day?[2] — In that case even R. Simeon would agree. For Abaye and Raba both said: R. Simeon admits where it is a case of ‘let his head be cut off, but let him not die’,[3] that it is forbidden. But did not R. Hiyya b. Ashi report in the name of Rab: The halachah is in accordance with R. Judah,[4] and R. Hanan b. Ami reported in the name of Samuel: The halachah is in accordance with R. Simeon, and R. Hiyya b. Abin taught without naming the authority[5] as follows: Rab says: The halachah is in accordance with R. Judah, whereas Samuel says: The halachah is in accordance with R. Simeon? — Indeed Rab holds that a forbidden act which was produced without intent is prohibited [on a festival day] and that tearing is not [considered] the same as shearing,[6] and the reason why it is permitted on a festival day is because it is detaching a thing from its place of growth in an unusual manner.[7] But is not tearing [considered] the same as shearing? Has it not been taught: If one plucks a large feather from the wing [of a bird] and cuts off [its head], and smooths[8] it, he is obliged to bring three sin-offerings.[9] And Resh Lakish explained: He is guilty for the act of plucking it, because it comes under the category of shearing; he is guilty for the act of cutting, because it comes under the category of severing; and he is guilty for the act of smoothing, because it comes under the category of scraping?[10] — [Plucking] a wing is different, for that is the usual thing.[11] Now since Rab holds in accordance with R. Jose b. ha-Meshullam, then R. Jose b. ha-Meshullam holds in accordance with Rab.[12] But does R. Jose b. ha-Meshullam hold that a forbidden act [which was produced] without intent is forbidden? Has it not been taught: If two hairs [of a Red Heifer] are red at the roots but black at the top. R. Jose b. ha-Meshullam says: He may shear with scissors without fear?[13] — The case of a Red Heifer is different, for it does not belong to a class [of animals] that are sheared.[14] But has it not been taught: [Scripture says]: Thou shalt do no work with the firstling of thine ox nor shear the firstling of thy flock.[15] From this I can gather only that working an ox and shearing sheep are forbidden. Whence will you deduce that the expression used in connection with an ox applies equally to sheep and the expression used in connection with sheep applies equally to an ox? The text states: Thou shalt not work nor shear the firstling of thy flock![16] — Rather [say] the case of a Red Heifer is different, for it is an offering for the Temple repair.[17] But has not R. Eliezer said: Offerings for Temple repair are forbidden in respect of shearing and work? — It is a Rabbinic enactment. But is there not still a Rabbinic prohibition?[18] — The case of a Red Heifer is different, as it is a rare occurrence.[19] But why not redeem the Red Heifer, bring it to a state of hullin [in order] to shear it and then again consecrate it?[20] — Its price is high.[21] But why not act here as Samuel taught. for Samuel said: A dedicated object worth a maneh[22] which has been redeemed for the value of a perutah[23] is considered redeemed? — Samuel's teaching refers only to a case where it has been done, but does he teach that it is directly permissible! If you wish I may say: Rab holds with R. Jose b. ha-Meshullam but R. Jose b. ha-Meshullam does not hold with Rab [that unintentional results caused by forbidden acts are prohibited].

AND TEARS THE HAIR PROVIDED HOWEVER HE DOES NOT REMOVE THE WOOL FROM ITS PLACE. R. Ashi reported in the name of Resh Lakish: They have taught this only with regard to tearing with the hand but with an instrument it is forbidden. But does not [the Mishnah] state: HE MAKES A PLACE WITH[24] A BUTCHER'S HATCHET ON BOTH SIDES? — Read: FOR[25] THE BUTCHER'S HATCHET. AND SIMILARLY IF ONE TEARS THE HAIR TO SHOW THE PLACE OF THE BLEMISH. It was queried: Does it mean that this is directly permitted[26] or only condoned if it had been done?[27] — Said R. Jeremiah. Come and hear: If wool is entangled in the ear,[28] R. Jose b. ha-Meshullam says: He tears it and shows its blemish. Deduce from here therefore that it means a direct permission. This stands proved. Said R. Mari: We have also learnt: AND SIMILARLY IF ONE TEARS THE HAIR TO SHOW THE PLACE OF THE BLEMISH. What does the expression AND SIMILARLY indicate? If it is to tell us that he must not remove it from its place, since if he slaughters, where the slaughtering proves his intention,[29] [you still say] that he must not remove its wool, can there be any question as regards showing the place of the blemish? Must you not therefore admit that it[30] refers to the ‘tearing’.[31] Deduce from this therefore that it is directly permissible. It stands proved.

MISHNAH. IF [A PORTION OF] THE HAIR OF A BLEMISHED FIRSTLING WAS TORN AWAY AND HE PLACED IT IN THE WINDOW,[32] AND SUBSEQUENTLY SLAUGHTERED THE ANIMAL. AKABYA B. MAHALALEL ALLOWS[33] IT

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(1) Made of soft material, as rag.

(2) For fear of breaking the law against squeezing and wringing on a Holy Day, v. Keth. 6a.

(3) A dialectic term denoting the unavoidable result of an act. And here, since he closes the boiler with the stopper, it is inevitable that there should be squeezing and therefore even R. Simeon, who elsewhere holds that an unintentioned forbidden act is not prohibited, admits in such an Instance that it is prohibited.

(4) Who prohibits an unintentional act.

(5) Of. R. Hiyya or Hanan.

(6) And therefore Rab declared that the ruling was according to R. Jose b. ha-Meshullam in connection with a firstling.

(7) For it is not usual to tear or pluck wool, except to shear it.

(8) Tearing the hair from the windpipe and smoothing it away from the sides.

(9) V. Shab. 74b.

(10) We see, therefore, that plucking or tearing is considered the same as shearing.

(11) Whereas it is not a usual thing to shear it, and consequently plucking is considered the same as shearing. But plucking or tearing wool is not a usual thing and therefore it is not considered the same as shearing.

(12) That a forbidden act which was produced unintentionally, is forbidden.

(13) That he is shearing dedicated animals, even if he shears other hairs as well. (Tosef. Parah I). Consequently. where he does not intend to shear but merely to trim, it is permissible. for the unintentional results of an act are permitted. This remedy is only possible in this instance, but where the two hairs are wholly black, the Red Heifer is disqualified. Another version (Tosaf.) is: The roots are black and the heads are red and it teaches us that although the outside is all red yet it requires trimming.

(14) For cows have no wool and consequently shearing is not prohibited. But one can still maintain that a forbidden act produced without intent is forbidden.

(15) Deut. XV, 19.

(16) ולא תגז the conjunction ו intimating that the prohibition of working and shearing refer to both the ox and the flock.

(17) And not for the altar and therefore shearing is permissible.

(18) Why therefore does the Baraitha state above that he need not fear?

(19) And for cases which occurred rarely the Rabbis did not enact their prohibitions.

(20) Why, therefore, shear the Red Heifer in its consecrated state?

(21) And it is therefore not easy to find the money with which to redeem it.

(22) A certain weight of gold and silver.

(23) A small coin.

(24) בקופיץ .

(25) לקופיץ .

(26) The expression AND SIMILARLY will then refer to the passage stating that it is permissible to tear on both sides for slaughtering and that just as it is allowed to do this, so there is a direct permission to tear the hair in order to show the blemish to the Sage, so that he may pronounce on the nature of the defect of the firstling.

(27) And the expression AND SIMILARLY refers therefore to the passage in the Mishnah stating that the wool must not be removed and that just as in the case of slaughtering the wool must not be removed, so when the blemish is shown to a Sage, the same rule applies. But this does not imply direct permission to tear the hair of the firstling to show its blemish.

(28) There being a blemish in that part of the body.

(29) That he does not do this for the sake of the wool, and still you say that it must not be removed. It should certainly therefore be so in the case where he tears the hair to show the blemish, since there is nothing to prove his intention, for the blemish is not visible to everybody.

(30) The expression AND SIMILARLY.

(31) That it is permissible in the first instance, even as it is in the first clause in our Mishnah.

(32) As the hair i.e., the wool, is forbidden to be used while the animal is alive, because it is the wool of an animal disqualified for the altar.

(33) The use of the wool by the priest, for just as the killing renders permissible the flesh, skin and the wool attached to the animal, so the part that becomes detached is also allowed to be used.

Talmud - Mas. Bechoroth 25b

WHEREAS THE SAGES DECLARE IT FORBIDDEN.[1] THESE ARE THE WORDS OF R. JUDAH. R. JOSE SAID TO HIM: AKABYA B. MAHALALEL DID NOT ALLOW IN THIS CASE,[2] BUT IT IS IN THE CASE WHERE THE HAIR OF A BLEMISHED FIRSTLING WHICH WAS TORN AWAY AND HE PLACED IT IN THE WINDOW, AND THE ANIMAL DIED SUBSEQUENTLY,[3] THAT AKABYA B. MAHALALEL ALLOWS, WHEREAS THE SAGES

DECLARE IT FORBIDDEN. WHERE THE WOOL OF A FIRSTLING IS LOOSELY CONNECTED [WITH THE SKIN].[4] THAT PART WHICH APPEARS [ON A LEVEL] WITH [THE REST OF] THE WOOL[5] IS PERMITTED, WHEREAS THAT WHICH DOES NOT APPEAR [ON A LEVEL] WITH [THE REST OF] THE WOOL[6] IS FORBIDDEN.

GEMARA. [AKABYA B. MAHALALEL DID NOT ALLOW IN THIS CASE]. Is it to be deduced then that the wool is forbidden? If in the case of a dead [firstling][7] [the wool torn away] is allowed [to be used], is there any question that in the case where it is slaughtered, [the wool torn away is allowed]? What is meant then is: Not in this case does Akabya allow and the Sages declare it forbidden,[8] but where he slaughtered it, all unanimously allow [the use of the wool]. They only differ in connection with the case of a dead [firstling].

R. Assi reported in the name of Resh Lakish: The difference of opinion relates to a case where the expert had permitted the firstling,[9] one authority maintaining that we enact a prohibition as a precaution lest he should come to detain it,[10] while the other authority maintains that we do not enact such a prohibition;[11] but where the expert had not yet permitted it, all unanimously hold [that the wool] is forbidden.[12]

R. Shesheth raised an objection: Blemished sacrifices [which became mixed up] with other sacrifices are forbidden whatever they may be;[13] R. Jose however says: The case must be examined. And we raised the point: What does R. Jose mean by the statement ‘It must be examined’? You can hardly say that it refers to the blemished animal which is then to be taken away; for we should then infer that the first Tanna quoted above does not hold this?[14] And R. Nahman answered in the name of Rabah b. Abbuha: We are dealing here with the wool of a blemished firstling [torn away while alive], which became mixed up with the wool of hullin?[15] And who is the first Tanna quoted above? R. Judah [in our Mishnah] who said that where he slaughtered it the Rabbis declared it forbidden;[16] whereas R. Jose adheres to his own view that if he slaughtered it the Rabbis allowed. And it states: ‘It shall be examined’. Now what does this expression ‘It shall be examined’ mean? Does it not mean that the examination is by the expert to see whether it possesses a permanent blemish [and then killing it, will make everything permissible to be used] or a transitory blemish?[17] — Said Raba: No. The expression ‘It shall be examined’ means that an examination is made if the expert had permitted [the firstling] before the wool was torn away; in that case [the wool] is allowed, but if not, then it is not [allowed].

When Rabin went up [from Babylonia to Palestine], he reported the dictum of R. Nahman before R. Jeremiah. The latter said: ‘The foolish Babylonians because they dwell in a dark country report an obscure tradition. Have they not heard what R. Hiyya b. Abba reported in the name of R. Johanan: The difference of opinion[18] relates to a case where he searched and did not find the blemished animal, and they differ on the principle on which R. Meir and the Rabbis differ? For we have learnt, R. Meir used to say: Everything which has a presumption of levitical uncleanness continues for ever in that status,[19] until the uncleanness is revealed, whereas the Sages say: He digs until he reaches a rock or unbroken ground, [after which there is no further uncleanness]. But R. Assi says: The difference of opinion relates to a case where he searched and found [a blemished animal],[20] and they differ on the principle on which Rabbi and R. Simeon b. Gamaliel differ. For it has been taught: If one enters a field in which a grave was lost he becomes unclean. If a grave is found therein, he is clean, for I maintain that the grave found is the identical one which was lost. These are the words of Rabbi, whereas R. Simeon b. Gamaliel says: The entire field must be searched. Why does not R. Assi concur with [the interpretation of] R. Hiyya b. Abba? — He can reply [as follows]: This would indeed hold good with regard to levitical uncleanness,[21] for one can say that a raven or a mouse came and took it. But in the case of a blemished animal, where could it have gone?[22] And the other authority [R. Hiyya]? — He will reply: One can say that it was a transitory blemish.[23] And R. Hiyya b. Abba — what is his reason for not accepting the explanation of R. Assi? — He can answer to you [in this manner]: This indeed holds good[24] with regard to a field in which a grave was lost, for just as it is possible for this man to bury there, so it is for another. But in the case of dedicated animals,[25] once they have been examined, is it a usual thing that a blemish should occur in them?[26] And the other [authority]?[27] — [He answers]: Since animals attack each other, blemishes frequently occur even after an examination.

An objection was raised: If one plucks wool from an unblemished firstling, although there appeared on it subsequently a blemish and he slaughtered it, [the wool] is forbidden to be used. Now, the reason why [the wool] is forbidden is because the animal was unblemished

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(1) For if you permit the use of wool plucked when the animal is alive, one may be led to detain the firstling in order to benefit from its wool, and this may eventually bring about a breaking of the law with reference to working and shearing.

(2) The Gemara later on explains this.

(3) But not slaughtered.

(4) I.e., it is entangled with the remaining wool and has not fallen.

(5) When it is slaughtered and sheared, it does not seem to be removed very much from the other wool.

(6) Where it is separated from the remainder of the wool in a marked degree. It is therefore considered as if it became detached while the animal was alive.

(7) Where the wool attached to it is forbidden to be used, as it requires burial.

(8) I.e., in this case there is no dispute.

(9) Before the wool was torn away.

(10) So that he can avail himself of its wool from time to time and in so doing he may come to break the law regarding working and shearing it.

(11) The expert having permitted its slaughter, we hold that he will not keep the animal.

(12) For it is like an unblemished firstling, and in such a case even Akabya agrees. for if the wool is allowed to be used, he will keep the animal until a blemish appears on it, thus preventing its sacrifice on the altar.

(13) No matter how few in number, so that even if one blemished animal became mixed up with a thousand. all are rendered unfit for sacrificial purposes.

(14) Surely not! For if the blemished animal can be recognized, what further doubt can there be?

(15) Unconsecrated animals, and we are not dealing here at all, with living animals.

(16) And there is no remedy in slaughtering it.

(17) According to R. Jose slaughtering the animal makes the wool permissible to be used even according to the Rabbis. Therefore, just as according to R. Jose, the Rabbis allow the use of the wool when the animal is slaughtered, whether the expert had permitted the firstling or not, for R. Jose says that the animal has yet to be examined, similarly Akabya with regard to a dead firstling makes no distinction whether the expert had permitted it or not, for Akabya makes no distinction between a case of slaughtering it and that of a dead firstling. Hence we see that even without the expert permitting the firstling, there is yet a difference of opinion. The text adopted is that of Sh. Mek. Cur. edd. read: the examination is whether it possesses a permanent blemish or a transitory blemish, though the expert did not permit it.

(18) The first Tanna quoted above and R. Jose differing in regard to living blemished sacrifices that became mixed up with others.

(19) If the lost grave is not found, though the whole field had been searched, similarly here, if the blemished animal cannot be identified, according to the first Tanna, all the animals are forbidden.

(20) For we fear, according to the first Tanna quoted above, lest the blemished animal found was really another, and, therefore, all the animals require examination, whereas R. Jose maintains that making a search is adequate and, having discovered a blemished animal, we presume that it is the one which became mixed up with the rest.

(21) The Rabbis maintaining the he digs until he reaches a rock etc. and this is sufficient, for although he does not find it, one may say that it was removed.

(22) Therefore R. Jose might not permit here, as the blemished animal is undoubtedly among them.

(23) And it healed up, and therefore he was not able to trace the blemished sacrifice.

(24) R. Simeon maintaining that a search should be made of the entire field.

(25) Where a blemished animal sacrifice became mixed up with others and it was found.

(26) And in such circumstances, the first Tanna mentioned above would not have prohibited.

(27) R. Assi — what answer can he give to this?

Talmud - Mas. Bechoroth 26a

but if it were blemished [the wool] would have been allowed[1] [to be used], although the expert did not permit the firstling?[2] — [Explain this as follows]: As long as the expert has not permitted it, the Tanna [in the Baraitha] describes it as an unblemished [firstling].[3]

Must it be said that this[4] is a difference of opinion among Tannaim? If one plucks wool from an unblemished firstling, although subsequently there appeared a blemish on it and he slaughtered it, the wool is forbidden [to be used].[5] If, however, wool was plucked from a blemished firstling and it died subsequently. Akabya b. Mahalalel allows, whereas the Sages declare it forbidden. Said R. Judah: Akabya b. Mahalalel does not permit in this case,[6] but in the case where the hair of a blemished firstling became torn away and he placed it in the window, subsequently slaughtering it, Akabya b. Mahalalel allows whereas the Sages declare it forbidden. Said R. Jose: Abba Halafta[7] agrees in this case[8] that it is allowed. Indeed the Sages clearly said: He shall place it in the window, as perhaps there is hope [of being able to use it].[9] If he slaughtered it, all unanimously agree that it is allowed. If [the firstling] died, Akabya b. Mahalalel allows [the use of the wool], whereas the Sages declare it forbidden. Now, is not the view of R. Jose identical with that of the first Tanna [quoted above]?[10] Then must you not therefore admit that the difference is in respect of a case where the expert had permitted it, the first Tanna [quoted] above] holding that if the expert permitted the firstling, [the wool] is allowed [to be used], but if not, it is not allowed,[11] while R. Jose comes along and says that even though the expert had not permitted the firstling, [it is still allowed]?[12] — Said Raba: No. All agree that if the expert had permitted [the animal, the wool] is allowed [to be used], and if the expert had not permitted it, it is not allowed to be used. There are however three differences of opinion in the matter. For the first Tanna [quoted above] holds that the difference of opinion between Akabya and the Sages refers to a dead firstling and the same applies in the case where he slaughtered it,[13] and the reason why they differ in connection with a dead [firstling] is to show to what lengths Akabya is prepared to go. And R. Judah holds that in connection with a dead [firstling] all [the authorities concerned] prohibit, and that the difference of opinion is where he slaughtered it. Then R. Jose comes along and says: Where he slaughtered it, all agree that it is allowed but the difference of opinion is where the [firstling] died.

Said R. Nahman: The law is in accordance with R. Judah[14] since we have learnt [in a Mishnah of] Bekirta[15] in agreement with his view. For we have learnt: If the hair of a blemished firstling became torn away and he placed it in a window, subsequently slaughtering it, Akabya b. Mahalalel allows, whereas the Sages declare it for bidden. R. Nahman b. Isaac said: The [language of the] Mishnah also indicates this: IF WOOL OF A FIRSTLING IS LOOSELY CONNECTED [WITH THE SKIN], THAT WHICH APPEARS [ON A LEVEL] WITH [THE REST OF] THE WOOL IS ALLOWED. WHEREAS THAT WHICH DOES NOT APPEAR [ON A LEVEL] WITH [THE REST OF] THE WOOL IS FORBIDDEN. Whose opinion is this? Shall I say that it is R. Jose's? If so, in what circumstance is this the case? You can hardly say where he slaughtered [the firstling], for both Akabya and the Rabbis in both instances[16] indeed allow. Does then this perhaps refer to the case of a dead [firstling]? But if the Mishnah gives the opinion of the Rabbis, then in both instances they indeed forbid[17] and if it is Akabya's opinion, then the passage ought to be reversed as follows: If it appeared on a level with [the rest of] the wool, then it is forbidden, for death renders it prohibited, whereas if it did not appear on a level with [the rest of] the wool, then it is allowed,[18] having been torn away previously! It is evident therefore that the Mishnah represents R. Judah's view. In what circumstances? You can hardly say in a case where [the firstling] died, for both Akabya and the Rabbis, in both instances, prohibit. What is meant then is. in a case where he slaughtered it, and if [the Mishnah represents] Akabya's view, in both instances he indeed allows. Must you not then admit that the Mishnah is the view of the Rabbis[19] and deduce from this that the point at issue is where he slaughtered it?[20] This stands proved. R. Jannai asked: How is it if one plucks wool from an unblemished burnt-offering?[21] [But if one actually] plucks, is there any authority who allows?[22] — Rather [the question is regarding] wool which became detached from an unblemished burnt-offering; what is the ruling? Concerning a sin-offering or trespass-offering, there is no need to ask, for since they come to atone, he would not detain them. And as regards a tithing animal, too, [there is no need to ask for], since it does not come to atone, he might detain it.[23] The question does arise, however, concerning a burnt-offering. What is the ruling?

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(1) And the Baraitha follows R. Jose who says that when he slaughtered it. the Rabbis allowed the use of the wool, or it follows Akabya in accordance with R. Judah's interpretation of the Mishnah, and even though the expert did not permit the firstling before the wool was plucked. Hence there is a difficulty here with reference to the ruling of Resh Lakish!

(2) Previously. but only after the wool had been plucked.

(3) Although it is in reality blemished, and the expression in the Baraitha ‘although subsequently a blemish appeared on it’ means after the expert had examined the blemish and pronounced it to be of a permanent character.

(4) The ruling of Resh Lakish.

(5) For in that case, even Akabya agrees that the wool is forbidden to be used, for we apprehend that he may be led to detain the firstling and prevent it from being offered up on the altar. The same ruling also applies to wool which has become detached from the animal.

(6) Where the firstling died.

(7) One of the Sages who dispute with Akabya.

(8) Where he slaughtered it.

(9) If he should slaughter it as it is stated in the next passage.

(10) From the first Tanna mentioned above we deduce that if he slaughtered a blemished firstling the wool is allowed to be used according to all the authorities concerned, and the difference of opinion relates to where the firstling dies. And R. Jose also declares that the point at issue is where the animal dies.

(11) As this Baraitha above was explained on the view of Resh Lakish as meaning that the expression ‘unblemished firstling’ meant a blemished firstling which had not yet been shown to the expert, and therefore the wool is forbidden according to all the authorities concerned, but if the expert had permitted the animal, then the wool torn previously is allowed to be used.

(12) For since R. Jose says that there is a hope in slaughtering it, this implies that the expert had not yet examined the animal. We see, therefore, that on the ruling of Resh Lakish there is a difference of opinion among Tannaim.

(13) Since we do not find it stated by the first Tanna quoted above, that where he slaughtered it all maintain that the wool is allowed to be used.

(14) That Akabya only allows the wool to be used where he slaughtered the firstling and that the difference of opinion does not refer to a dead firstling.

(15) The tractate ‘Eduyyoth V, 6. On the name Behirta, v. Ed., Sonc. ed., Introduction.

(16) Both where it is on a level with the rest of the wool and where it is not.

(17) For that which is attached to the dead animal requires burial according to all, and of that which is detached the Rabbis prohibit the use, even to place it in the window.

(18) For the wool of the dead firstling which is allowed is that which has fallen off before it died but not that which is plucked after its death.

(19) Who hold that the wool torn away before the slaughtering is forbidden to be used but after the slaughtering it is allowed, and the interpretation of the Mishnah which says: THAT WHICH APPEARS ON A LEVEL WITH etc., is that the wool which is attached to the skin, i.e., which remains after the killing, is allowed to be used, but ‘that which is not on a level etc., i.e., that which has been detached previously. is forbidden.

(20) Since you cannot explain the Baraitha in any other way. And as R. Judah's view is stated anonymously in the Mishnah, therefore the law is in agreement with his interpretation, that the point at issue between Akabya and the Sages is where he slaughtered the firstling.

(21) When alive and it became blemished and was redeemed. What is the ruling according to the Rabbis? The inquiry does not concern a blemished burnt-offering, for since it requires an expert to examine it, there is a fear if the wool may be used, he may. in order to benefit from the wool, postpone the examination and thus possibly come to infringe the prohibitions of working and shearing a disqualified sacrifice.

(22) According to the view of the Rabbis who declare it is forbidden, he is certainly a transgressor. Tosaf. adds that since we are dealing here with an unblemished animal, even Akabya would consider it wrong in accordance with the Baraitha above.
(23) And therefore there is no question but that the wool is forbidden.

Talmud - Mas. Bechoroth 26b

Since it is essentially not brought to atone, he might detain it, or since a burnt-offering also atones for a transgression of a positive precept. [do we say that] he would not detain it? — Come and hear: If one plucks wool from an unblemished firstling, although a blemish appeared on it subsequently and he slaughtered it, the wool is forbidden to be used. Now, the reason is because he actually plucks it, but if it became detached, it would be allowed; how much more so, therefore, in the case of a burnt-offering,[1] [is it to be expected] that he would not detain it! — [No]. The same ruling applies if it became detached from an unblemished animal, that it is forbidden, and the reason, why [the Baraitha states] ‘If one plucks’, is to show the length to which Akabya is prepared to go, that in the case of a blemished sacrifice, one is evenly allowed to pluck it. But have we not learnt: WHICH BECAME TORN AWAY’? — It says WHICH BECAME TORN AWAY, to show to what lengths the Rabbis are prepared to go[2] [and] it says ‘If one plucks’, to show the lengths to which Akabya is prepared to go.

WOOL OF A FIRSTLING LOOSELY CONNECTED etc. How is the expression ‘THAT WHICH DOES NOT APPEAR WITH THE WOOL to he understood?R. Eleazar reported in the name of Resh Lakish: Wherever the root [of the wool] is turned towards its head.[3] R. Nathan b. Oshaia says: Wherever it is not attached [to the skin] on a line with [the rest of] the wool.[4] Why does not Resh Lakish give the explanation of R. Nathan b. Oshaia?[5] — Said R. Ela: Resh Lakish holds [that the reason is] because it is impossible for wool to he free from loosely connected threads.[6]

CHAPTER IV

MISHNAH. UP TO HOW LONG IS AN ISRAELITE BOUND TO ATTEND TO A FIRSTLING?[7] — IN THE CASE OF SMALL CATTLE, UNTIL THIRTY DAYS, WITH LARGE CATTLE, [THE PERIOD] IS FIFTY DAYS. R. JOSE SAYS: IN THE CASE OF SMALL CATTLE [THE PERIOD] IS THREE MONTHS. IF THE PRIEST SAYS [TO THE ISRAELITE] DURING THIS PERIOD ‘GIVE IT TO ME’, HE MUST NOT GIVE IT TO HIM. BUT IF THE FIRSTLING WAS BLEMISHED AND THE PRIEST SAID TO HIM ‘GIVE IT TO ME SO THAT I MAY EAT IT’, THEN IT IS ALLOWED.[8] AND IN TEMPLE TIMES, IF [THE FIRSTLING] WAS IN AN UNBLEMISHED STATE AND THE PRIEST SAID TO HIM ‘GIVE, AND I WILL OFFER IT UP IT WAS ALLOWED. A FIRSTLING IS EATEN YEAR BY YEAR BOTH IN AN UNBLEMISHED[9] AS WELL AS IN A BLEMISHED STATE,[10] FOR IT IS SAID: THOU SHALT EAT IT BEFORE THE LORD THY GOD YEAR BY YEAR.[11] IF A BLEMISH APPEARED ON IT IN ITS FIRST YEAR, HE IS PERMITTED TO KEEP IT ALL THE TWELVE MONTHS.[12] AFTER THE TWELVE MONTHS, HOWEVER, HE IS NOT PERMITTED TO KEEP IT EXCEPT FOR THIRTY DAYS.

GEMARA. Whence is this proved?[13] — Said R. Kahana: Scripture says: The first-born of thy sons thou shalt give unto Me.[14] [Likewise shalt thou do] with thy sheep. Thou shalt not delay to offer of the fullness of thy harvest and of the outflow of thy presses.[15] Likewise thou shalt do with thine oxen. And why not reverse this?[16] — It is reasonable to assume that the part which comes first in the first text[17] forms an analogy with that which comes first in the subsequent verse[18] and that which comes later in the first text[19] forms an analogy with that which comes later in the subsequent text. On the contrary, the text that is near to it should rather form an analogy with the text near to it?[20] — Rather said Raba: The text says: ‘Thou shalt do’. Scripture adds [the duty of] another doing[21] [i.e., attention] in connection with ‘Thine oxen’. Then why not say sixty days?[22] — Scripture refers you to the Sages [for the precise interpretation].[23] It has also been taught to this effect: [Scripture says]: ‘The firstborn of thy sons thou shalt give unto Me. Likewise thou shalt do with thy sheep’. I might [conclude from the Biblical text] that it applies also to ‘Thine oxen’? The text therefore states ‘Thou shalt do’, the text adds [the duty of] another doing [i.e., attention] in connection with an ox and Scripture refers you to the Sages [for the precise interpretation]. Hence [the Sages] said: Up to how long is the Israelite bound to attend to the firstling? In the case of small cattle, until thirty days and in the case of large cattle, fifty days. R. Jose Says: In the case of small cattle, [the period] is three months, because it requires extra attention. What does the expression ‘Because it requires extra attention’ mean?[24] — A Tanna taught: Because its teeth are small.[25]

IF THE PRIEST SAID TO HIM DURING THIS PERIOD: GIVE IT TO ME’, HE MUST NOT GIVE IT TO HIM. What is the reason? — Said R. Shesheth: Because it makes him appear like a priest who helps in the threshing floors.[26]

Our Rabbis taught: If Priests, Levites and poor help in the house of the shepherds,[27] in the threshing floors,[28] and in the slaughtering place,[29] we do not give them the priests’ gifts,[30] terumah,[31] or tithes in reward; and if they acted thus, they render them hullin.[32] And concerning these, Scripture says: Ye have corrupted the covenant of Levi.[33] And Scripture further says: And ye shall not profane the holy things of the children of Israel, that ye die not.[34] What need is there for a further text? — You might think that there is no death guilt. Come therefore and hear: There is a further text, ‘And ye shall not profane the holy things of the children of Israel that ye die not’. And the Sages wished to punish the owners by making them separate terumah [a second time] from their own. And what was the reason why they did not punish them? Lest[35] [the owners] come to separate from what is exempt [from terumah] for what is subject [to terumah].

And in all these cases [mentioned above] the owners enjoy

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(1) That its wool should be allowed to be used.

(2) That they forbid even if the wool became detached, but in reality according to Akabya, one may actually pluck the wool of a blemished firstling.

(3) The wool being folded up in the centre so that the two tops of the wool appear outside.

(4) Where some of it appears to be higher than the rest.

(5) The query is not raised why R. Nathan does not explain in the same way as Resh Lakish, because R. Nathan is more stringent in this connection than Resh Lakish.

(6) For it is a usual thing, and, consequently, if we adopted R. Nathan's interpretation, there would scarcely be any wool that would be allowed to be used in such circumstances.

(7) In our days, after the destruction of the Temple, for what length of time must the Israelite care for and feed the animal perforce the priest claims it?

(8) For whereas in the previous case where the priest asks for the unblemished firstling it is forbidden because it appears as if the priest receives the animal in exchange for looking after it until it becomes blemished, in this instance as the animal can be eaten immediately and there is no necessity for the priest to detain it, it is not so.

(9) In Temple times.

(10) In our days.

(11) Deut. XV, 20.

(12) From its birth.

(13) That the Israelite is bound to care for the firstling for a period of thirty days.

(14) And next to this verse, in Ex. XXII is the verse ‘Likewise . . . with thy sheep’ and we interpret the juxtaposition in the following manner: Just as in the case of a first-born son, redemption is necessary after thirty days, similarly in the case of a firstling of small cattle, the Israelite must keep the animal for thirty days.

(15) And next to this verse is another ‘Likewise . . . with thine oxen’. Here also we make a comparison as follows. Just as the fulness of thy harvest, i.e., the first-fruits, ripen on Passover and are brought to the Temple on Pentecost fifty days later, similarly the firstling of oxen, i.e., large cattle, must be looked after for a period of fifty days.

(16) I.e., draw the analogy between the text ‘The first-born of thy sons etc.’, and the text ‘Likewise shalt thou do with thy oxen’, and thus the firstling of large cattle will require only thirty days to be looked after.

(17) ‘Thou shalt not delay to offer of the fullness of thy harvest’.

(18) ‘Likewise shalt thou do with thy oxen’.

(19) ‘The first-born of thy sons’ we link up with the text ‘Likewise thou shalt do with thy sheep’.

(20) The text ‘The first-born of thy sons’ should form a comparison with the text ‘Likewise thou shalt do with thy oxen’ and thus large cattle would have a period of thirty days.

(21) The superfluous text ‘Thou shalt do’ denotes that in the case of an ox and large cattle in general, a longer period of doing for the animal is demanded than is the case with sheep.

(22) Since the text increases the period in connection with large cattle, why not say that the addition consists of double that of the period of a first-born's redemption?

(23) Scripture does not state sixty days, but the Sages explain that fifty days are required, basing this on a comparison between the text ‘The fullness of thy harvest’ and the verse ‘Likewise thou shalt do with thy oxen’.

(24) This passage is inserted with Sh. Mek.

(25) And it is unable to eat grass and without its mother's care it dies. But after three months it is able to eat without its mother's help.

(26) For in our days a firstling is of no use until a blemish befalls it. As, therefore, the Israelite has to take trouble with the animal for fifty days, if the priest asks him to deliver the firstling to him during this period to look after, he thus saves the Israelite expense and labour, in consideration for which he takes possession of the firstling and thereby prevents any other priest claiming it. He thus seems to be on a par with a priest who helps with the threshing in order that he may receive the priestly dues for his services, which is forbidden. If, however, the firstling was blemished and the priest asked him for it so that he might eat it, this would be permissible.

(27) This applies only to the priest, who can receive the firstling.

(28) This applies to all the classes mentioned here, to the priests for terumah, to the Levites who receive the first tithes, and to the poor who are the recipients of the poor men's tithing every third year.

(29) Referring again to the priests who receive the gifts of the shoulder, the jaws and the maw.

(30) V. Marginal Gloss.

(31) The dues of the priests.

(32) The priestly and levitical dues become secularized, the owners having acted improperly and not having discharged their obligations.

(33) Mal. II, 8.

(34) Num. XVIII, 32. As applied to the case in question, the expression ‘death’ means that the owner is in danger of committing a sin which involves the penalty of death, not that he is actually guilty of such a sin.

(35) In a case, for example, where there are two se'ahs, one from which terumah has been separated while the terumah from the other was given to a priest who helped in the threshing. Now, if you say that the owner is compelled to give terumah a second time, then he may think that the second se'ah is regarded as if terumah had not been given from it at all, and he may separate this for the other. This would be separating from what is exempt etc., for the second se'ah is biblically exempt from terumah.

Talmud - Mas. Bechoroth 27a

the benefit for putting a person under an obligation.[1] In what way? — If an Israelite separated terumah from his pile and another Israelite found him and said to him: ‘Here is a sela’ for you and give it to the son of my daughter, a priest’, it is permitted. If, however, a priest [approached him] on behalf of another priest, it is forbidden.[2] And why does not the Tanna [of the Baraitha] also mention the case of the priest's gifts?[3] — He can explain it to you [as follows]. When terumah is consecrated as such, since it is not redeemed, no mistake can be made with it.[4] But in these cases [of the firstling and priest's gifts], since they are consecrated only for their value, the priest may make a mistake with them, thinking that their holiness is redeemed for the four zuz [i.e., the sela’] and thus will come to treat them after the manner of hullin.[5]

Raba said: Terumah from abroad[6] is not subject to the ruling of a priest who helps in the threshing floors.[7] R. Hama gave it to his attendant.[8] Samuel said: Terumah from abroad is neutralized in a larger quantity.[9] Rabbah[10] neutralized it in a larger quantity and used to eat it in the days of his [levitical] impurity.

R. Huna the son of R. Joshua, when he happened to have wine of terumah [from abroad], used to mix two natla[11] of hullin with one natla of terumah, and after that he would add one [natla] and take one.[12]

Samuel further said: Terumah from abroad one may go on eating, leaving the separation for afterwards.[13] Samuel further said: Terumah from abroad is forbidden only for one whose uncleanness issues from his body;[14] and this is the case only as regards eating, but as regards touching, there is no objection.[15]

Said Rabina: Therefore a woman during menstruation may separate the hallah[16] and a priest who is a minor,[17] eats it; and if there is not a priest who is a minor, she takes it on the point of the shovel[18] and throws it in the oven, and then separates other hallah[19] in order that the law of hallah may not be forgotten and an adult priest eats it.

R. Nahman, R. Amram and Rami b. Hama were sailing in a boat. R. Amram went away to ease himself. A certain woman came, approached and asked them: Is it allowed for one made unclean through a corpse that he should bathe and eat terumah from abroad?[20] — Said R. Nahman to Rami b. Hama:

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(1) Receiving in return a small amount for this privilege.

(2) For it looks as if the priest buys the right of the terumah on behalf of another priest, although he can claim it himself. It, therefore, comes under the category of the action of a priest who helped in the threshing floor.

(3) Of a butcher who separates the priest's gifts or that of a shepherd who gives up the firstling, in each of which cases he may receive a sela’ from another Israelite who said to him: ‘Here is a sela’ and give it etc.’

(4) Since everybody is aware that terumah cannot lose its holiness, and therefore the priest on whose behalf the sela’ was paid by the Israelite will not mistakenly use it as hullin.

(5) For if the priest chose to sell to an Israelite the firstling's flesh, or the shoulder etc. , he can do so and the latter is no longer required to eat the flesh roasted and with mustard, the royal manner of eating, as the priest is compelled to do, and thus he may be led to give the flesh to dogs to eat, treating it as mere hullin.

(6) Lit., outside Palestine.

(7) The ruling mentioned here is not applied, because the giving of such terumah is only a Rabbinic enactment, and therefore we are not particular with reference to it.

(8) Who was a priest, in lieu of payment for his services, and he had no fears about its being similar to the case of a priest who helps in the threshing floor.

(9) One measure of terumah is nullified in two of hullin, and it is not required that the one measure of terumah should be neutralized in a hundred, as is the case with terumah in the Holy Land. Also, after being neutralized, the whole mixture may be eaten by a non-priest or by the priest himself in his days of levitical impurity.

(10) He was a priest, being a descendant from the House of Eli.

(11) A measure, one-fourth of a log.

(12) And proceeded to act thus until all the terumah was neutralized, there being always a greater quantity of hullin to neutralize the terumah. (R. Gershom.)

(13) Even delaying the separation until the end. According to Tosaf., however, there must remain a portion of the pile even after the separation, to carry out the principle of mukaf (lit., ‘brought near’) requiring that the terumah must be of a mass in close neighbourhood of the products from which it is set aside.

(14) E.g., one afflicted with gonorrhoea, or who has become defiled.

(15) And although he makes the terumah unclean, we do not trouble, as there is no obligation to preserve it in a state of cleanliness.

(16) The Priest's share of the dough, since as regards coming in contact, there is no restriction on a menstruant woman.

(17) The woman herself being unclean through an uncleanness which issues from the body, and therefore only a minor but not an adult priest may eat it. And even an adult priest, if he bathes and purifies himself from pollution is considered as a minor in this respect. Another reason why it says ‘a minor’ is because a minor is not subject to pollution and thus did not become unclean. Still another reason is because hallah can be of a small quantity which is only sufficient for a minor, as the expression later on ‘on the point of a shovel’ indicates.

(18) Avoiding direct contact, for we are endeavouring as far as possible to prevent her touching it (Rashi). Tosaf. observes that this refers to a baker's shovel used in order to place it more easily in the oven and in the fire, for if according to Rashi's explanations the difficulty arises that coming into direct contact, as we are taught above, is not forbidden at all.

(19) This implies that where there is a minor who is a priests we do not demand the separation of two hallahs. In places, however, near the Holy Land, two hallahs are required to be separated, one for the fire and the other for the priest.

(20) Without the sprinkling and waiting for sunset, for complete purification.

Talmud - Mas. Bechoroth 27b

And have we [in these days] sprinkling [on the unclean]?[1] Rami b. Hama replied to him: ‘Should we not take into consideration the views of the Elder’?[2] While this was going on, R. Amram arrived. He said to them: This is what Rab said: One made unclean through a corpse, bathes and eats of the terumah from abroad.[3] The law however is not in accordance with his view.[4] Mar Zutra[5] reported in the name of R. Shesheth: One made unclean through a reptile bathes and eats the terumah from abroad. The law however is not in accordance with his view.

A FIRSTLING IS EATEN YEAR BY YEAR etc. Since [the Mishnah] says: IF A BLEMISH APPEARED ON IT DURING ITS FIRST YEAR, we infer that we count according to its own year.[6] Whence is this proved: As Rab Judah reported in the name of Rab: Scripture says: Thou shalt eat it before the Lord thy God, year by year.[7] Now, what year is it which enters into another? One must say it is the year of a firstling.[8] The school of Rabbi,[9] however, taught: The text ‘year by year’ denotes one day in this year and one day in the next year, and teaches that a firstling may be eaten for two days and a night.[10] And according to the school of Rabbi, whence do they derive this?[11] — They infer it from dedicated sacrifices.[12] And as regards to dedicated sacrifices themselves, whence do we deduce this? — Said R. Aha the son of Jacob, Scripture says: A lamb of the first year,[13] implying the year of the lamb, but not the year counted according to the Creation.[14] And whence does Rab derive that a firstling may be eaten for two days and a night? — He derives it from the text: And the flesh of them shall be thine as the wave-breast and as the right thigh:[15] Scripture compares it to the wave-breast and the right thigh of peace-offerings. Just as there they may be eaten for two days and a night, so here it may be eaten for two days and a night.

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(1) As there is no sprinkling there is no need for awaiting sunset.

(2) R. Amram. It is not proper to give a decision in his absence.

(3) And he does not need to wait for sunset in order to complete his purification.

(4) Which required him to bathe but even bathing is not necessary, since it is terumah from abroad (Tosaf.) According to Rashi, however, it appears that the law is that one made unclean through a corpse may not eat terumah from abroad and Rabbenu Gershom says explicitly that this is the case.

(5) So Sh. Mek,. Cur. edd. ‘For Mar Zutra’.

(6) So that if it was born in Nisan, he may keep it until the following Nisan, and we have not to consider that a new year commences in Tishri in this connection.

(7) Deut. XV, 20.

(8) For such a year enters into the new year commencing in Tishri.

(9) So Sh. Mek. Cur. edd. Rab.

(10) If he slaughters it on the last day of its first year he may continue eating it on the first day of the second.

(11) That the firstling's year is counted from its birth.

(12) From other dedicated sacrifices, which are offered up a year old counting from their birth.
(13) Lev. XII, 6. Lit., ‘of its first year’.
(14) I.e., commencing in Tishri.
(15) Num. XVIII, 18. The text refers to a firstling.

Talmud - Mas. Bechoroth 28a

And [what says] the other [to this]? — From that text one could say that it refers to the wave-breast and the right thigh of a thanksgiving offering.[1] And the other? — Scripture says: ‘Shall be thine’ thus adding another ‘being’ in connection with the first-born.[2] And the other? — If we go by that text, we could say that it teaches concerning a blemished firstling that he gives it to the priest,[3] as we do not find this stated [explicitly] in the whole of the Torah.[4] And the other?[5] — It says: ‘And the flesh of them’, intimating that an unblemished as well as a blemished firstling [may be eaten]. And the other? — The text: ‘And the flesh of them’ refers to the firstlings of all the Israelites.[6]

IF A BLEMISH APPEARED ON IT DURING ITS FIRST YEAR, HE IS PERMITTED TO KEEP IT ALL THE TWELVE MONTHS. The query was put forward. What does [the Mishnah exactly] mean? Does it mean that if a blemish appeared on it during its first year, he is allowed to keep it all the twelve months and thirty days besides? Or does [the Mishnah] mean that where a blemish appeared on it during its first year, he is allowed to keep it all the twelve months but no longer, and where a blemish appeared on it after its first year, he is not allowed to keep it except for thirty days? — Come and hear: It was taught: A firstling in our days,[7] so long as it is not fit to show to a Sage,[8] is allowed to be kept for two or three years. And when it is fit to show to a Sage, if a blemish appeared on it during its first year, he is allowed to keep it all the twelve months, whereas after its first year, he is not allowed to keep it even one day nor even one hour.[9] On the ground, however, of restoring a lost object to the owners,[10] [the Rabbis] said that he is allowed to keep it for thirty days![11] But I can still however raise the question [concerning the Baraitha itself]: Does it mean thirty days after its first year[12] or before its first year?[13] — Come and hear: If a blemish appeared on it fifteen days during its first year, we complete for it fifteen days after its first year.[14] This proves it.[15] This supports the views of R. Eleazar. For R. Eleazar said: We give it thirty days from the time when the blemish appeared on it. Some there are who read: R. Eleazar said: Whence do we know that if a blemish appeared on a firstling in its first year we give it thirty days after its year? It is said: Thou shalt eat it before the Lord thy God year by year.[16] Now, what is the number of days which is reckoned [by all authorities] as a year? You must admit that it is thirty days. An objection was raised: [It is taught]: If a blemish appeared on it fifteen days in its first year, we complete for it fifteen days after its year. We deduce from here that we complete thirty days, but we do not give it [thirty full days after its first year]. This is a refutation of R. Eleazar! It is indeed a refutation.

MISHNAH. IF ONE SLAUGHTERED THE FIRSTLING AND SHOWED ITS BLEMISH [TO AN EXPERT],[17] R. JUDAH PERMITS,[18] WHEREAS R. MEIR SAYS: SINCE IT WAS NOT SLAUGHTERED BY THE INSTRUCTIONS OF THE EXPERT, IT IS FORBIDDEN.[19] IF ONE WHO IS NOT AN EXPERT SEES THE FIRSTLING AND IT WAS SLAUGHTERED BY HIS INSTRUCTIONS, IN SUCH A CASE IT SHALL BE BURIED AND HE SHALL MAKE REPARATION OUT OF HIS OWN ESTATE.

GEMARA. Said Rabba b. Bar Hana: In the case of a blemish of withered spots in the eye,[20] all agree that it is forbidden, for they change.[21] They only differ regarding blemishes of the body.[22] R. Meir maintaining that we prohibit blemishes of the body on account of withered spots in the eye, whereas R. Judah maintains that we do not prohibit blemishes of the body on account of withered spots in the eye. It has also been taught to the same effect: If one slaughtered a firstling and showed [an expert] its blemish [after its slaughter], R. Judah says: If there are withered spots in the eye, it is forbidden, since they change, whereas if there are bodily blemishes, it is permitted because they do not change. But R. Meir says: Both in the one case as in the other it is forbidden, because they change. [You say] ‘Because they change’ — you cannot mean that? Do bodily blemishes change? — Rather what R. Meir means is on account of those [blemishes] that change.[23] Said R. Nahman b. Isaac:

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(1) Which can only be eaten for one day and a night. Therefore the school of Rabbi infers this from the text ‘Thou shalt eat it’ etc.

(2) Which shows that it is to be eaten for two days and a night, unlike some sacrifices,

(3) Therefore the school of Rabbi cannot derive the period of eating for a firstling from ‘Shall be thine’, as Rab maintains.

(4) Tosaf. however explains that this means that we do not find elsewhere that the priest should benefit from a sacrifice which became blemished, as is the case with regard to a firstling.

(5) Rab who deduces the period of two days and a night from ‘Shall be thine’ whence does he infer that a blemished firstling may be eaten?

(6) The text ‘And the flesh of them’ only refers to unblemished firstlings, and the plural ‘them’ alludes to the Israelites.

(7) When an unblemished firstling is not fit for anything.

(8) I.e., before a blemish appears on it so that he can show it to a Sage in order to decide whether it is a transitory or permanent blemish. Tosaf. explains the expression as meaning where a Sage is not at hand, for the Israelite is not compelled to go to distant parts to have the blemish examined.

(9) Now it is assumed that the Baraitha deals here with a case where the blemish appeared in its first year.

(10) I.e., the priest, for if the firstling must not be kept for any period in the possession of the Israelite, he may not find a priest to whom to give it, and if he kills it, it will become putrid, thus making a loss for the priest. Therefore the Israelite must keep it for thirty days, after which period he is allowed to kill and salt it keeping it until he finds a priest. The comment of Tosaf., however, is that we are dealing where the firstling is in the possession of the priest, giving the latter a period of thirty days to hold it, in case he had no need for the flesh at the moment. But the Israelite must always wait until he finds a priest to receive the firstling.

(11) We consequently see that the thirty days of the Mishnah refers to a blemish in its first year.

(12) I.e., that the blemish appeared after its first year.

(13) The blemish appeared before the first year ended, and he keeps it for thirty days after its first year. The words ‘whereas after its first year’ can bear either interpretation.

(14) We give the animal thirty days from the time when a blemish appears on it, and if a blemish appeared after the year or a little while before the expiration of the year, we give it thirty days from the time of the blemish for the Israelite to keep it. And we also infer that if the blemish appeared a month or three months in its first year, the Israelite waits until the end of its year.

(15) That the thirty days of the Mishnah refers to where a blemish appears after its year, for if the blemish appeared in its first year even a day before its expiration, we do not give the animal thirty full days but only complete the period of thirty days.

(16) Deut. XV, 20. Which implies that it is not eaten in the year of its blemish.

(17) After its killing, and the expert discovered that it was a permanent blemish.

(18) Since the animal was after all seen by an expert.

(19) We punish him because he did not show it to an expert before its killing:

(20) If he showed it after its killing.

(21) Owing to its death agony the eye is liable to change and therefore although at the moment the blemish seems to be a permanent one, it is possible that if he had examined it when the animal was still alive, the blemish might have been found to be a transitory one.

(22) E.g., a slit in the ear.

(23) I.e., withered spots in the eye, we penalize the Israelite even in cases of bodily blemishes.

Talmud - Mas. Bechoroth 28b

I can prove it from our Mishnah.[1]

R. MEIR SAYS: SINCE IT WAS NOT SLAUGHTERED ACCORDING TO THE INSTRUCTIONS OF AN EXPERT IT IS FORBIDDEN.[2]

Deduce from here that R. Meir does indeed penalize him. This stands proved.

The question was raised: Does [the statement above] ‘on account of those blemishes that change’, imply that all [the withered spots in the eye] change, or that some change and others do not change?[3] What is the practical difference?[4] — Whether we should declare the witnesses false or not.[5] If you say that in all cases withered spots in the eye change, then they are false.[6] But if you say that there are some that change and other do not, we rely on them. What is the ruling? — Come and hear. For Rabbah b. Bar Hana reported in the name of R. Johanan: R. Josiah of Usha told me: ‘Come and I will show you withered spots in the eye that change’. Now, since he said to him ‘Come and I will show you’, this implies that there are some that change and others which do not change.

IF ONE WHO WAS NOT AN EXPERT SEES THE FIRSTLING AND IT WAS SLAUGHTERED BY HIS INSTRUCTIONS, IN SUCH A CASE IT SHALL BE BURIED. May we say that the Mishnah states anonymously that the ruling is in accordance with R. Meir?[7] — Perhaps it refers to a case of withered spots in the eye, and thus it will be according to the view of all the authorities concerned.[8]

AND HE SHALL MAKE REPARATION OUT OF HIS OWN ESTATE. A Tanna taught: When he pays [the priest], he pays a quarter [of the loss] for [a firstling of] small cattle and a half for [a firstling of] large cattle.[9] What is the reason [for this disparity in reparation]? In one case the loss is great, whereas in the other it is small. If this be a fact, let him pay [the priest] in proportion to the loss?[10] — R. Huna b. Manoah reported in the name of R. Aha b. Ika: They inflicted on him only [a quarter of the loss] because of the trouble of raising small cattle.[11] MISHNAH. IF A JUDGE IN GIVING JUDGMENT HAS DECLARED INNOCENT A PERSON WHO WAS REALLY LIABLE OR MADE LIABLE A PERSON WHO WAS REALLY INNOCENT, DECLARED DEFILED A THING WHICH WAS LEVITICALLY CLEAN OR DECLARED CLEAN A THING WHICH WAS REALLY DEFILED, HIS DECISION STANDS BUT HE HAS TO MAKE REPARATION OUT OF HIS OWN ESTATE. IF, HOWEVER, THE JUDGE WAS AN EXPERT FOR THE BETH DIN,[12] HE IS ABSOLVED FROM MAKING REPARATION.

GEMARA. May we say, the anonymous statement of the Mishnah is in accordance with R. Meir who is prepared to adjudicate liability for damage done indirectly?[13] — R. Ela reported in the name of Rab: [We suppose that] he personally executed the judgment by his own hand.[14] Now, this is quite intelligible where the judge made liable a person really innocent, [the explanation being] e.g., where he personally executed the judgment by his own hand; but where he declared innocent the person who was really liable, how are we to understand it? For if you say it means where he said to him: ‘You are innocent’, he does not personally execute the judgment by his own hand! — Said Rabina: The case deals here where e.g. [the creditor] had a pledge and [the judge] took it from him.[15] The case also where he declared defiled a thing which was really clean, [can be explained], where he touched clean things with a [dead] reptile;[16] and the case where he declared clean a thing which was really defiled, [can be explained] where he mixed them with his fruits.[17] MISHNAH. IT HAPPENED ONCE THAT A COW'S WOMB WAS TAKEN AWAY AND R. TARFON GAVE IT TO THE DOGS TO EAT.[18] THE MATTER CAME BEFORE THE SAGES AT JABNEH AND THEY PERMITTED THE ANIMAL [FOR] THEODOS THE PHYSICIAN HAD SAID: NO COW NOR SOW LEAVES ALEXANDRIA OF EGYPT BEFORE ITS WOMB IS CUT OUT IN ORDER THAT IT MAY NOT BREED.[19] SAID R. TARFON: ‘YOUR ASS IS GONE, TARFON’.[20] SAID R. AKIBA TO HIM: YOU ARE ABSOLVED, FOR YOU ARE AN EXPERT AND WHOEVER IS AN EXPERT FOR THE BETH DIN IS ABSOLVED FROM REPARATION.

GEMARA. And why does not [R. Akiba] infer this[21] from the fact that he had erred in a matter where the Mishnah is explicit, and one who errs in a matter where the Mishnah is explicit can reconsider his decision?[22] — He gave him one reason and then another: One reason for absolving is because you gave a wrong decision against an explicit law in the Mishnah. And another is that even if your mistake was made against the common practice,[23] you are an expert for the Beth din, and whoever is an expert for the Beth din is absolved from reparation. MISHNAH. IF ONE TAKES PAYMENT FOR SEEING THE FIRSTLINGS, THEY MUST NOT BE SLAUGHTERED BY HIS INSTRUCTIONS,[24] UNLESS HE WAS AN EXPERT

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(1) That the controversy refers to bodily blemishes.

(2) Now, since R. Meir adduces as the reason for prohibiting that we penalize the Israelite because he did not show the blemished firstling to the expert before its killing, therefore if the difference of opinion applied also to the case of withered spots in the eye, then surely he would have given a more effective reason why he forbids, i.e., that the eye is liable to vary. Consequently, the controversy relates to bodily blemishes, and according to R. Meir we forbid in these cases on account of the case of withered spots in the eye, punishing him for not showing it to the expert.

(3) And yet in the case of bodily blemishes we forbid, on account of withered spots in the eye.

(4) Even in cases where the spots do not change, since we cannot be sure which change and which do not, the animals are forbidden in all cases if they are not examined previous to their killing!

(5) If he killed a firstling without previously consulting an expert, a permanent blemish being discovered now, and witnesses declare that the spots in the eye did not change and that they were the same when the animal was alive.

(6) And it is forbidden unanimously.

(7) For although after its killing it is discovered to possess a permanent blemish, nevertheless it is buried, which is according to the view of R. Meir, who punishes the Israelite in such circumstances.

(8) And spots in the eye are liable to change, and therefore the Mishnah says it shall be buried.

(9) He gives a half because it is money of doubtful ownership, as one might say that the Israelite made the priest suffer a complete loss, for had an expert seen the animal when it was alive, he might have permitted it, whereas now it has to be buried. On the other hand, perhaps there was no permanent blemish and an expert would not have permitted it, and also it may be that the firstling would have died without a blemish appearing on it at all.

(10) In one case a half of its larger value and in the other also, half of its smaller value.

(11) The firstling saved the priest considerable trouble as small cattle can only be raised on untilled land. Moreover, if the Israelite had shown it to another, he might not have permitted it and then the priest would have had to attend to it until it became blemished; hence the reparation is only a quarter. Another explanation why he only receives a quarter of its value is because he transgressed the prohibition enacted against raising small cattle in the Holy Land (v. B.K. 79b), and we are therefore dealing here with a case where it was the firstling of a priest's animal and the priest was raising small cattle.

(12) Court of Law. Another version is: An expert for the public.

(13) V. B.K. 100a. And here the judge by his words caused a damage.

(14) Taking the money from one and giving it to the other party of the suit.

(15) And exempted the debtor from any liability.

(16) In order that his decision might stand and that there should be no doubt in the matter.

(17) He took defiled fruits and declared them clean and then proceeded to mix them with fruit belonging to another, thus doing something direct in causing the damage.

(18) I.e., he caused it to be given to the dogs, having declared the animal trefah.

(19) For their cows and sows were highly rated, and therefore, to prevent them breeding elsewhere and thus compel buyers to come to Alexandria, they used to cut out the womb, and the animal did not suffer a fatal injury on account of this. We see, therefore, that the animal does not become trefah where the womb is absent.

(20) In order to make reparation for the cow which he had mistakenly made trefah.

(21) Absolving R. Tarfon from reparation.

(22) And therefore even if R. Tarfon were not an expert, he should be absolved, for there exists an explicit Mishnah in Hul. (54a) stating that an absent womb in an animal does not render the animal trefah. In this case therefore, if the cow were in existence, R. Tarfon could have permitted it, and consequently the person who gave it to the dogs to eat is himself responsible for the loss, v. supra n. 1.

(23) Lit., 'weighing of opinion', in a case concerning which there are opposing views among Tannaim or Amoraim no definite ruling existing, but there being an established practice.

(24) As we apprehend that he might be influenced to permit this by the hope of pecuniary gain.

Talmud - Mas. Bechoroth 29a

LIKE ILA[1] IN JABNEH WHOM THE SAGES PERMITTED TO ACCEPT FOUR AS[2] FOR SMALL CATTLE AND SIX AS FOR LARGE CATTLE, WHETHER UNBLEMISHED OR BLEMISHED.[3]

GEMARA. What is the reason?[4] — In one case, [i.e., of large cattle], he has much trouble,[5] whereas in the other case, he has not much trouble.

WHETHER UNBLEMISHED OR BLEMISHED. Now, we quite understand this in the case of a blemished firstling,[6] because in this case he permits it; but in the case of an unblemished firstling,[7] why [does he take payment]? — The reason is that otherwise he might be suspected, and it might be said that the animal pronounced blemished is unblemished, and the reason he permits it is because he receives payment. If your argument is true, in the case of an unblemished firstling also it might be said that it is really blemished and the reason why he does not permit it is because he thinks that he might be able to take payment a second time? — The Rabbis enacted payment for the first examination but they did not enact payment twice [for the same firstling].[8]

MISHNAH. IF ONE TAKES PAYMENT TO ACT AS A JUDGE, HIS JUDGMENTS ARE VOID; TO GIVE EVIDENCE, HIS EVIDENCE IS VOID; TO SPRINKLE[9] OR TO SANCTIFY,[10] THE WATERS ARE CONSIDERED CAVE WATERS AND THE ASHES ARE CONSIDERED CALCINED ASHES.[11] IF HE[12] WAS A PRIEST AND HE WAS MADE UNCLEAN REGARDING HIS TERUMAH,[13] HE[14] MUST GIVE HIM FOOD AND DRINK AND RUB HIM WITH OIL. AND IF HE WAS AN OLD MAN, HE MOUNTS HIM ON AN ASS. HE ALSO PAYS THE PRIEST AS HE WOULD A WORKMAN.[15]

GEMARA. Whence is it proved?[16] — Rab Judah reported in the name of Rab: Scripture says: Behold I have taught you, etc.:[17] Just as I teach gratuitously, so you should teach gratuitously. It has also been taught to the same effect. Scripture Says: Even as the Lord my God commanded me,[18] [intimating], just as I teach gratuitously, so you should teach gratuitously. And whence do we derive that if he cannot find someone to teach him gratuitously, he must pay for learning? The text states: Buy the truth.[19] And whence do we infer that one should not say 'as I learnt the Torah by paying, so I shall teach it for payment'? The text states: And sell it not.[19]

TO SPRINKLE OR TO SANCTIFY, ITS WATERS ARE CONSIDERED CAVE WATERS AND ITS ASHES ARE CONSIDERED CALCINED ASHES. The following was cited in contradiction: If one betrothes a woman with the waters of purification or with the ashes of purification, she is betrothed, although he is an Israelite?[20] — Said Abaye: This offers no difficulty. In the case mentioned above [in the Baraitha] it is payment for bringing the ashes[21] or filling the waters, whereas in the case [of the Mishnah] it is payment for actual sprinkling or sanctification.[22]

I can also prove it. For here in our Mishnah it states: TO SPRINKLE OR TO SANCTIFY, whereas there [in the Baraitha] it states: If one betrothes a woman with the waters of purification[23] or with the ashes of purification. It stands proved.

IF HE WAS A PRIEST, AND HE WAS MADE UNCLEAN IN RESPECT OF HIS TERUMAH. How could the priest go to a place of uncleanness?[24] — He went to a beth ha-peras,[25] the prohibition being a rabbinical enactment. For Rab Judah reported in the name of Rab: A man can blow away the bones of a beth ha-peras and may then proceed.[26]

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(1) A pious person and above suspicion in these matters.

(2) A Roman coin usually of the value of one twenty-fourth of a denar.

(3) Whether he pronounced the firstling to be unblemished or possessing a permanent blemish, he used to take full payment for his examination.

(4) That for small cattle he took four as and for large cattle six as.

(5) To cast it on the ground in order to bind it so as to enable the expert to examine it.

(6) That the expert takes payment where he decides that it possesses a permanent blemish.

(7) Where the priest pronounces the animal unblemished or having only a transitory blemish.

(8) There is no fear, therefore, lest the firstling is really blemished and that it is pronounced unblemished in order that the priest might receive a further payment in a subsequent examination as there is no double payment for the same animal.

(9) The water of purification.

(10) To mix the ashes of purification with living water in a vessel.

(11) I.e., ordinary ashes.

(12) The expert, witness or judge.

(13) If the person who required the priest's services led him to inspect the firstling or to give evidence etc., through a path which inevitable caused the priest to become unclean. The latter cannot therefore now eat terumah, which is cheaper in price than hullin, since the latter can be eaten by everybody whereas terumah is only suitable for priests.

(14) The person who accompanies the priest.

(15) This is explained in the Gemara.

(16) That it is forbidden to take payment for giving decisions on Jewish Law and teaching the Torah.

(17) Deut. IV, 5.

(18) Ibid.

(19) Prov. XXIII, 23.

(20) For usually priests carry out these offices. Hence we see that one is permitted to take payment, for otherwise how could she be betrothed?

(21) From a distance to Jerusalem, and for the money earned in that manner he betrothes a woman.

(22) This being part of the preparation for the performance of the precept for which there is no reward.

(23) The language employed in the Baraitha, i.e., ‘With the waters etc.’ suggests payment for bringing the waters, whereas the language used in the Mishnah indicates that the priest receives reward directly for sprinkling of sanctification.

(24) Thus transgressing the negative precept There shall none be defiled for the dead (Lev. XXI, 1).

(25) A field rendered unclean on account of crushed bones carried over it from a ploughed grave.

(26) To bring the Paschal lamb, since abstaining from this fear of uncleanness would render him liable to the guilt of excision; but in respect of terumah the rabbinic enactment stands.

Talmud - Mas. Bechoroth 29b

And R. Judah b. Ami reported in the name of Rab Judah: A beth ha-peras which has been trodden is levitically clean.[1] Or, we may also say: [The Mishnah refers] to other impurities,[2] concerning which he is not warned [against coming into contact].

IF HE WAS AN OLD MAN, HE MOUNTS HIM ON AN ASS. A Tanna taught: He receives payment on the scale of a workman with nothing to do. [What does the expression ‘an idle workman’ mean, since it does not render him idle?] — Abaye said: He pays the priest like a workman idle from his particular occupation.[3] MISHNAH. IF ONE IS SUSPECTED IN CONNECTION WITH FIRSTLINGS,[4] EVEN DEER'S FLESH[5] WE MUST NOT BUY FROM HIM, NOR UNDRESSED HIDES. R. ELIEZER SAYS: FEMALE HIDES WE MAY BUY FROM HIM. WASHED OR DIRTY WOOL WE MUST NOT BUY FROM HIM BUT SPUN WOOL OR GARMENTS WE MAY BUY FROM HIM.

GEMARA. [The reason for prohibiting] deer's flesh is because it might be exchanged for calf's flesh. Undressed skins are forbidden [to be bought], thus implying that dressed skins we may buy. What is the reason? — If there was any substance in the suspicion that they might be of a firstling, he would not have troubled in the matter, reflecting thus: If the Rabbis heard about me,[6] they would make me forfeit them.

R. ELIEZER SAYS: FEMALE HIDES WE MAY BUY FROM HIM. What is the reason? — It is easily recognized.[7] And the first Tanna?[8] If this be so, then in the case of a male also he might cut away the male genital[9] and maintain that mice have devoured it. And the other? — The action of mice is easily recognized.

WASHED OR DIRTY WOOL WE MUST NOT BUY FROM HIM. If we must not purchase washed wool[10] [from], him is there any question about dirty wool? — Rather this is stated as one case: Wool washed from its dirt.

BUT SPUN WOOL OR GARMENTS WE MAY BUY FROM HIM. Now if we must not buy spun wool, is there any question as to garments?[11] — The kind of garments meant are felt spreadings.[12]

MISHNAH. IF ONE IS SUSPECTED OF IGNORING THE SABBATICAL YEAR,[13] FLAX MUST NOT BE BOUGHT FROM HIM, EVEN CARDED;[14] BUT SPUN OR WOVEN WOOL MAY BE BOUGHT FROM HIM.

GEMARA. Now if spun wool may be bought, is there any question with regard to woven wool?[15] — ‘Woven’ means here twists.[16]

MISHNAH. IF ONE IS SUSPECTED OF SELLING TERUMAH AS HULLIN, EVEN WATER AND SALT MUST NOT BE BOUGHT FROM HIM.[17] THESE ARE THE WORDS OF R. JUDAH. R. SIMEON SAYS: WHATEVER COMES UNDER THE OBLIGATION OF TERUMAH AND TITHES MUST NOT BE BOUGHT FROM HIM.

GEMARA. [The expression ‘WHATEVER’ of R. Simeon], what does it include? — It includes the entrails of fish in which oil is mixed.[18] There was a certain butcher suspected of selling

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(1) The field having been trodden by several people, it is impossible that a dead man's bone the size of a barley-corn could remain to cause uncleanness, v. Pes. 92b.

(2) E.g., coming in contact with a carcass or dead reptile, the negative precept cited above referring exclusively to a corpse.

(3) If, for example, he performs light work and earns a big wage, then the priest's compensation would only be slightly less than what he receives for his normal work. But if his work was of an arduous kind for which he received say, three zuz, then if he had invited him to take a zuz for much lighter work, he would probably have accepted the offer, This is therefore what the priest receives now for his services which prevented him following his occupation, but not the whole of his usual wages, as the work which the priest is performing for him is not arduous.

(4) E.g., of causing blemishes.

(5) The flesh being red, it can be exchanged for calf's flesh, and he might therefore sell him the flesh of an unblemished firstling calf, pretending that it is deer's flesh.

(6) That I took it from an unblemished firstling which requires burial. Therefore to spare himself unnecessary trouble, he would not dress the skins, if they came from firstlings,

(7) The difference between the skin of a male and a female. A female animal is not subject to the law of the firstling.

(8) In our Mishnah, who forbids the purchasing of skins of both sexes, as he makes no distinction. But surely one can observe a difference in the skins!

(9) And make the part look like a female organ and when questioned about the cut in the organ, he may ascribe it to the work of mice.

(10) Where one might have said that he would not take the trouble to wash the wool if it came from a firstling, for fear that the Rabbis might hear of the case and he would as a result have to forfeit it.

(11) Since we have already permitted it from the moment when the wool was spun.

(12) Which were never spun and therefore our Mishnah needs to inform us what the ruling is.

(13) I.e., of sowing or doing business with the spontaneous growth of the sabbatical year.

(14) And prepared with a comb.

(15) As we have already permitted the buying of the wool in the earlier stage of spinning.

(16) Ropes made from flax before they are spun.

(17) As a punishment.

(18) Oil being subject to the law of terumah.

Talmud - Mas. Bechoroth 30a

kidney fat for the fat of ileum.[1] Raba punished him by forbidding him to sell even nuts. Said R. Papa to Raba: What opinion does this represent? R. Judah's![2] If it is the opinion of R. Judah, then the prohibition should apply even to water and salt?[3] — It may still represent the opinion of R. Simeon, and we punish him through the very object which caused the offence. Young children are generally attracted by nuts. He goes and misleads the children of butchers, attracting them by means of nuts. They bring him kidney fat[4] and he sells it for the fat of ileum.

MISHNAH. ONE WHO IS SUSPECTED OF IGNORING THE SABBATICAL YEAR IS NOT SUSPECTED OF IGNORING [ALSO] THE TITHES.[5] ONE WHO IS SUSPECTED OF IGNORING TITHES IS NOT SUSPECTED OF IGNORING [ALSO] THE SABBATICAL YEAR. ONE WHO IS SUSPECTED OF IGNORING BOTH IS SUSPECTED OF IGNORING THE RULES OF LEVITICAL PURITY. AND IT IS POSSIBLE FOR ONE TO BE SUSPECTED OF IGNORING THE RULES OF LEVITICAL PURITY AND YET NOT SUSPECTED OF IGNORING THE TWO LAWS [CITED ABOVE]. THIS IS THE GENERAL RULE: ONE WHO IS SUSPECTED OF IGNORING A RELIGIOUS LAW MUST NOT GIVE JUDGMENT ON IT OR TESTIFY CONCERNING IT.

GEMARA. What is the reason? — Fruits of the sabbatical year are not required to be eaten within the walls [of Jerusalem],[6] whereas tithes are required to be eaten within the walls and therefore the rule is more stringent with regard to them.

ONE WHO IS SUSPECTED OF IGNORING TITHES. What is the reason? — The tithe can be redeemed, whereas fruit of the sabbatical year is forbidden to him[7] and cannot be redeemed;[8] and therefore the rule is more stringent in regard to it.

ONE WHO IS SUSPECTED OF IGNORING BOTH LAWS. Since he is suspected of ignoring both laws of biblical enactment, how much more so is he suspected of ignoring a rabbinic enactment [like eating hullin levitically prepared]?

AND IT IS POSSIBLE FOR ONE WHO IS SUSPECTED OF IGNORING THE RULES OF LEVITICAL PURITY. What is the reason? — Even though he is suspected of ignoring a rabbinic enactment,[9] he is not suspected of ignoring a biblical enactment. The following was cited in contradiction: One who can be relied upon in respect of the rules of purity, is relied upon with respect to the sabbatical year and tithes. This allows the inference that one who is suspected of ignoring [the rules of levitical purity] is suspected [of ignoring the laws just cited]! — Said R. Elai: The Mishnah refers to a case where we saw him practise privately at home.[10] R. Jannai son of R. Ishmael said: [The Baraitha refers to a case] where e.g., he was suspected of ignoring both the sabbatical year and levitical purity, and he came before the Rabbis and received a warning concerning both of them; and subsequently he was again suspected of ignoring one of them. We then hold that since he is suspected of ignoring the one, he is also suspected of ignoring the other.

Rabbah b. Bar Hana reported in the name of R. Johanan: Those are the words[11] of R. Akiba, whose opinion has been adopted without naming him; but the Sages say: One who is suspected of ignoring the laws of the sabbatical year is suspected of ignoring the laws of tithes. Who are the Sages [referred to]? — R. Judah, for in the place of R. Judah the sabbatical year was strictly observed by the people.[12] For there was a certain party[13] who called after his companion: proselyte son of a proselyte, and the latter retorted 'May I merit [divine reward] as I have not eaten the fruits of the sabbatical year like you'.[14] Some there are who say: Rabbah b. Bar Hana reported in the name of R. Johanan: Those are the words of R. Akiba whose opinion has been adopted without naming him; but the Sages say: One who is suspected of ignoring tithes is suspected of ignoring the law of the sabbatical year. And who are the Sages [referred to]? It is R. Meir who said: One who is suspected of ignoring one religious law is suspected of disregarding the whole Torah.

R. Jonah and R. Jeremiah, the pupils of R. Ze'ira, or according to others, R. Jonah and R. Ze'ira, pupils of R. Johanan [reported differently]. One said: But the Sages said: One who is suspected of ignoring the sabbatical year laws

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(1) The former fat is prohibited, the latter permitted, v. Hul. 48b.

(2) Who punishes by forbidding to buy in all cases.

(3) And why therefore did Raba penalize him only as regards nuts.

(4) Stolen from their father's houses.

(5) The fruits in other years, however, may be bought from him.

(6) Scripture saying: And thou shalt eat before the Lord thy God, etc. (Deut. XIV, 23).

(7) To do business with.

(8) For no matter how many successive exchanges of the fruit of the sabbatical year took place, only the last object is invested with restrictions of the sabbatical year whereas the fruit of the sabbatical year itself always remains forbidden (R. Gershom).

(9) For the eating of hullin (ordinary food and not terumah) with levitical cleanness is only a rabbinical injunction.

(10) The regulation pertaining to tithes and the sabbatical year and therefore the Mishnah states that he is not suspected of disregarding them in public, albeit he ignores the rules of levitical purity.

(11) That one who is suspected of ignoring the sabbatical year is not suspected of disregarding the law of tithes.

(12) Consequently, if one was suspected of disregarding the sabbatical law he was certainly suspected with regard to tithes, since the former was kept more strictly in R. Judah's locality.

(13) In the place of R. Judah.

(14) And since he boasts of this, we see that in that place, the sabbatical law was held strictly. Another explanation is: May a curse come to me if I partook of the fruits of the sabbatical year, as you have done.

Talmud - Mas. Bechoroth 30b

is suspected of ignoring the laws of tithes. And who are the Sages [referred to]? R. Judah, for in the place of R. Judah the sabbatical year law was kept strictly by the people. And the other said: One who is suspected of ignoring the laws of tithes is suspected of ignoring the sabbatical year laws. And who are the Sages [referred to]? — R. Meir, as it has been taught: An 'am ha-arez[1] who accepted the obligations of a haber[2] and who is suspected of ignoring one religious law is suspected of disregarding the whole Torah. But the Sages say: He is only suspected of ignoring that particular religious law. And a proselyte, who accepted the teachings of the Torah, though he is suspected of ignoring only one religious law, is suspected of disregarding the whole Torah,[3] and he is considered as a non-observant Israelite.[4] The difference[5] would be that if he betrothes a woman, [even after his relapse], his betrothal is valid, [the woman thus requiring a divorce.]

Our Rabbis taught: If one is prepared to accept the obligation of a haber except one religious law, we must not receive him as a haber. If a heathen is prepared to accept the Torah except one religious law, we must not receive him [as an Israelite]. R. Jose son of R. Judah says: Even [if the exception be] one point of the special minutiae of the Scribes' enactments. And similarly if a son of a Levite was prepared to accept the duties of the community of Levites[6] except one religious law, we must not receive him [as a Levite]. If a priest was prepared to accept the duties of the priesthood except one religious law, we must not receive him [as a priest], as it is said, He [among the sons of Aaron] that offereth the blood etc.,[7] implying the [entire] service that is transmitted to the sons of Aaron and that any priest who does not acknowledge this has no share in [the privileges of] the priesthood.

Our Rabbis taught: If one applies to become a haber, if we saw him practising these privately at his house,[8] we receive him and subsequently instruct him, but if not, we first instruct him and then receive him [as a haber]. But R. Simeon b. Yohai says: Both in the first case and the second, we receive him [as a haber] and he learns incidentally as he goes on.

Our Rabbis taught: We accept a haber if he promises to observe cleanness of hands[9] and afterwards we accept him as one who will observe the other rules of levitical purity.[10] If he said: I only promise to observe cleanness of hands, we receive him [as a haber, as his promise is important in connection with levitical purity]. If, however, he promised to observe the rules of levitical purity but not cleanness of hands, then even his promise to observe the rules of levitical purity is not regarded as a genuine promise.[11]

Our Rabbis taught: How long is the period[12] before we receive him [as a haber]? Beth Shammai say: As regards [the purity of his] liquids, [whose uncleanness is of a light character], the period is thirty days, but as regards the purity of [his] garment,[13] the period is twelve months; whereas Beth Hillel Say: Both in the one case as well as in the other, the period is twelve months. If this be so, then you have here a ruling where Beth Shammai is more lenient and Beth Hillel is the stricter?[14] — Rather [read]: Beth Hillel Say: Both in the one case as well as in the other, the period is thirty days.

(Mnemonic: A Haber, Scholar, Purple-blue, Repent, Taxcollector.) Our Rabbis taught: One who desires to accept the obligations of a haber is required to do so in the presence of three haberim, whereas his sons and the members of his family are not required to accept [these obligations] in the presence of three haberim. But R. Simeon b. Gamaliel says: His sons and the members of his family are also required to accept [these obligations] in the presence of three haberim, because the case of a haber who accepts [these obligations] is not on a par with the case of the son of a haber[15] who accepts [them].

Our Rabbis taught: One who desires to accept the obligations of a haber is required to accept them in the presence of three haberim, and even a talmid hakam [a scholar] is required to accept the obligations in the presence of three haberim. An elder, a member of a scholars' council, is not required to accept [these obligations] in the presence of three haberim, having already accepted them from the time when he took his place at the council. Abba Saul Says: Even a talmid hakam is not required to accept the obligations of a haber in the presence of three haberim. And not only this, but even others may accept the obligations of a haber in his presence. Said R. Johanan: In the days of the son of R. Hanina b. Antigonus was this teaching taught.[16] For R. Judah and R. Jose were in doubt concerning a matter of levitical cleanness. They sent a pair of scholars to the son of R. Hanina b. Antigonus. They went and asked him to inquire into the matter. They found him carrying[17] levitically prepared food. He seated some of his own disciples[18] with them,[19] while he stood up to look in to the question. They came and informed R. Judah and R. Jose [of his conduct towards them].[20] R. Judah said to them: His father[21] held scholars in contempt and he also holds scholars in contempt. R. Jose replied to him: Let the dignity of the elder[22] lie undisturbed in its place,[23] but from the day that the Temple was destroyed, the priests[24] guarded their dignity by not entrusting matters of levitical cleanness to everybody.[25]

Our Rabbis taught: [The wife of a haber is considered as a haber].[26] If a haber dies, his wife and the members of the family retain their status until there is reason to suspect them.[27] And similarly a court-yard in which tekeleth [purple-blue][28] was sold retains its status until it is disqualified.[29] Our Rabbis taught: The wife of an ‘am ha-arez who was married to a haber, likewise a daughter of an ‘am ha-arez who was married to a haber, and similarly the slave of an ‘am ha-arez who was sold to a haber — all of these must first[30] accept the obligations of a haber.[31] But the wife of a haber who was married to an ‘am ha-arez, likewise the daughter of a haber who was married to an ‘am ha-arez and similarly the slave of a haber who was sold to an ‘am ha-arez, need not first accept the obligations of a haber.[32] R. Simeon b. Eleazar says: Even the latter require first to accept the obligations of a haber. For R. Simeon b. Eleazar reported in the name of R. Meir: It happened with a certain woman who was married to a haber that she fastened the straps of the tefillin [phylacteries] on his hand and when afterwards married to a publican, she knotted the custom seals for him.[33]

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(1) One who is not relied upon, especially in connection with terumah and tithes.

(2) A member of an order who were very scrupulous in the observance of the levitical laws in daily intercourse; v. Glos.

(3) Sh. Mek. adds, Or even if he is suspected of ignoring the whole Torah.

(4) And we do not maintain that he is considered as a real heathen, as if he had not become a proselyte.

(5) In regarding him as a non-observant Israelite and not as a real heathen.

(6) To sing, minister and serve as a gate-keeper of the Temple.

(7) The verse continues: Of the peace-offering and the fat, shall have the right thigh for a portion (Lev. VII, 33), thus teaching that the priest must practise all the laws devolving upon the sons of Aaron, and then only he is entitled to his dues.

(8) Prior to agreeing to observe them publicly so that he cannot be accused of doing so merely for show.

(9) Washing the hands before eating and before touching food of terumah.

(10) To partake of his terumah on the assumption of it being levitically clean.

(11) For, if he will not undertake to keep a simple matter like the washing of hands, then we can have no confidence in his promise to observe other levitical restrictions.

(12) During which he must practise the laws of levitical purity.

(13) The garment of an ‘am ha-arez is considered unclean by a person observant of the rules of levitical purity, through the former leaning and pressing on it.

(14) In ‘Ed. only six examples of these are quoted. This case would therefore constitute one more example.

(15) The father, a haber, will be more strict, as he publicly accepted in the presence of three haberim the obligations involved, whereas the son of a haber only sees his father practise these laws. Another interpretation is as follows: The reason, according to the first Tanna quoted above, why the sons and the members of the family of a haber are not required to accept these obligations is because the family of a haber actually seeing these levitical laws observed at home, are not suspected of disregarding them and therefore there is no necessity for them to accept these obligations in the presence of three haberim.

(16) That even a talmid hakam is required to accept the obligations of a haber in the presence of three haberim, for even he was suspected in such matters.

(17) Sh. Mek. has ‘guarding’.

(18) Who scrupulously observed the levitical rules regarding food.

(19) To keep an eye on his levitically prepared food, against the touch of the Rabbis who had been sent on the mission.

(20) That he did not trust them in matters of levitical purity.

(21) He said this in a temper, but this was not actually the case.

(22) I.e., the father and the son.

(23) Do not accuse him of despising scholars.

(24) R. Hanina b. Antigonus was a priest.

(25) It was not therefore because R. Hanina held scholars in contempt that he seated some of his disciples with the Rabbis.

(26) So Sh. Mek.

(27) Of disregarding the rules of levitical cleanness.

(28) For the fringes, in accordance with Num. XV, 38.

(29) By selling therein a vegetable blue dye for genuine tekeleth.

(30) Before we can receive them as haberim.

(31) And although it is stated above that the members of the family are not required to accept the obligations of a haber, the case is different here because when acceptance took place the wife, daughter and slave were not with him and there is, consequently, the fear that earlier habits may still influence their conduct.

(32) If they return to the sphere of the haber.

(33) We see therefore that even a wife originally of a haber can alter her habits in a changed environment and the same applies to a slave, etc.

Talmud - Mas. Bechoroth 31a

Our Rabbis taught: And all of these[1] if they repented must never be received. [These are] the words of R. Meir. R. Judah Says: If they repented only in secrecy, we must not receive them, but if publicly, they may be received. Some there are who say: If what they did[2] was in secrecy, they may be received, but if publicly, they must not be received. But R. Simeon and R. Joshua b. Karha say: Both in the first case as in the other, they may be received because of what is said, Turn, O backsliding children.[3]

R. Isaac of Kefar Acco[4] reported in the name of R. Johanan: The halachah is in accordance with the view of that pair.[5]

Our Rabbis taught: At first [the Sages] said: If a haber became a tax-collector he is expelled from the order.[6] If he withdrew,[7] he is not received [as a haber]. They subsequently declared: If he withdrew, he is regarded like any other person. The scholars required the teaching of R. Huna b. Hiyya.[8] Rabbah and R. Joseph went in to him together with four hundred pairs of scholars. When he learnt that they were coming, he wreathed[9] four hundred stools for them. Eventually they heard that he had become a tax-collector. Thereupon they sent him a message that he should adhere to his office.[10] He went back to his former position,[11] and sent back to them: ‘I have withdrawn’.[12] R. Joseph did not go, but Rabbah went. R. Joseph said:[13] We have learnt: If he withdrew from the office, he must not be received [as a haber]. Rabbah however says: We have learnt: They subsequently decided that if he withdrew, he is regarded like any other person.

Our Rabbis taught: A man may examine all firstlings, except his own;[14] he may examine his holy sacrifices[15] and his animal tithes.[16] He also allows himself to be asked with reference to his levitically prepared food.[17]

The master said: ‘A man may examine all firstlings except his own’. What are the circumstances? Shall I say that only one person [examines]? But is one person believed?[18] Then we must suppose that three persons [examine]. But are three persons suspected [on his account]? Have we not learnt: If a woman made a declaration of protest[19] or performed halizah[20] before him [a scholar], the latter may marry her because he is of the Beth din?[21] — I may still say it refers to one person and as R. Hisda reported in the name of R. Johanan elsewhere that it was a case of an individual expert, so also here it is the case of an individual expert [who examined the firstling]. ‘He may examine his holy sacrifices’, [the reason being] because if he wished, he could ask for their release [from a scholar].[22] And as regards ‘his [animal] tithes’, [the reason is] because if he wished, he could cast a blemish in the entire herd [of animals].[23] ‘He also allows himself to be asked with reference to his levitically prepared food’, [the reason being] because they are fit to eat during the period of his uncleanness.[24]

CHAPTER V

MISHNAH. THE PROFIT ON ALL DEDICATED OBJECTS WHICH BECAME UNFIT [FOR THE ALTAR] GOES TO THE SANCTUARY.[25] THEY ARE SOLD IN A MARKET,[26] SLAUGHTERED IN A MARKET AND WEIGHED BY THE POUND,[27] EXCEPT IN THE CASE OF A FIRSTLING OR A TITHING ANIMAL, AS THEIR PROFIT GOES TO THE OWNERS.[28] THE PROFIT ON DEDICATED OBJECTS WHICH BECAME UNFIT [FOR THE PURPOSE CONSECRATED] GOES TO THE SANCTUARY. YOU MUST WEIGH ONE PIECE OF MEAT OF THE FIRST-BORN AGAINST ANOTHER PIECE OF ORDINARY MEAT OF ASCERTAINED WEIGHT.

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(1) The reference is to the second clause of the Baraitha in Tosef. Dem'ai. II, concerning one accepting the obligations of a haber except one religious law, a priest who accepts all priestly obligation except one, and similarly a Levite. Tosaf explains that it refers to an earlier clause in the Tosef. with reference to an ‘am ha-arez accepting the obligations of a haber, a heathen who accepts the teachings of the Torah and a priest who accepts the full obligations of the priesthood. Now, if any of these retracted, i.e., returned to their former habits, they are never received again, since they have shown their weakness, whereas R. Judah maintains that if this relapse was in secrecy, they must not be received because they are merely deceiving people and doing it for show, but if their relapse was both privately and publicly, then if they retracted, we accept them again as genuine penitents.

(2) I.e., ignoring the rules of levitically prepared food. Tosaf. interprets this as follows: If we recognized from the beginning, prior to their lapse, that they observed the obligations of a haber even privately, then we receive them when they return. But where we saw them keeping those obligations only in public but not privately, they must not be received back by us, as we suspect them merely of deceiving people.

(3) Jer. III, 14.

(4) [Caphare Accho in Lower Galilee; v. Hildesheimer, Beitrige, p. 81.]

(5) R. Simeon and R. Judah b. Karha.

(6) Publicans or customs-collectors had the taxes farmed out to them by the crown and as a rule recouped themselves by imposing iniquitous burdens on the people; consequently they were considered robbers in Jewish law.

(7) From the office of publican.

(8) In order to consult him on some point of Jewish law. Lit., ‘the time needed him’. Another explanation is that he fell ill and it was necessary for them to visit him.

(9) So Jast.

(10) Since he was already a publican, let him cling to the position, but as far as they were concerned, they would not visit him.

(11) I.e., resigned his office. Read אזל for זיל. So Jast. According to cur. edd. this was the continuation of the message, viz., that he should adhere ‘to his (new position) before him’.

(12) V. supra p. 196, n. 6.

(13) Explaining why he did not go.

(14) A priest is not allowed to inspect his own firstling and to permit it.

(15) Peace-offerings, in which a blemish appears in order to ascertain whether it is a permanent blemish, so as to redeem them as hullin.

(16) In which a permanent blemish appeared.

(17) If he is versed in such matters, and there is a doubt on some point, he need not go to a scholar to inquire.

(18) For even to permit firstlings belonging to others we require the decision of three persons.

(19) Against a marriage contracted during her minority; v. Glos. s.v. Mi'un.

(20) V. Glos.

(21) For he was not there alone, as a Beth din of three were present. Therefore we do not suspect him of permitting her for the purpose of marrying her.

(22) By pleading that the consecration was a mistake, thus finding a way out to free the animal from its sanctity. We therefore do not entertain the suspicion that he would declare the blemish to be a permanent one when it is transitory. This method, however, of releasing the animal from its holiness does not apply to a firstling which is hallowed from birth, and consequently there is room for suspicion here.

(23) Before tithing his herd, tithing taking effect even on blemished animals, and from the very beginning he could have released them from their holiness in the matter of eating them within the walls of Jerusalem.

(24) He is consequently not suspected of declaring something which is unclean to be clean, since he can make use even of unclean food. This of course only refers to hullin, but unclean terumah is not suitable for him to eat even when he is levitically unclean, as it requires to be burnt.

(25) Their profit is obtained by selling at a high price.

(26) Where much is bought and at a high price.

(27) Lit. ‘Litra’, the Roman Libra, a pound, in the manner butchers who sell hullin.

(28) In the case of a firstling, the owner is the priest, who sells its flesh to anybody. Since therefore the profit belongs to private people, it was not permitted to sell the meat and treat it lightly like hullin by selling it in the market etc., in order to gain more profit.

Talmud - Mas. Bechoroth 31b

GEMARA. [The Mishnah says that] the profit on all dedicated objects which have become unfit [for the object consecrated] goes to THE SANCTUARY. Now, when is this? Is it after redemption? Then why does it state that their profit belongs to THE SANCTUARY? Is not the profit on them for the owners? If again you maintain that [the Mishnah] refers to the period before redemption, why does it say THEY ARE SLAUGHTERED? Do they not require presentation and valuation?[1] No difficulty arises according to him who says that objects consecrated for the altar are not included in the law of presentation and valuation; but according to him who holds that they are included in the law of presenta tion and valuation,[2] what answer could you give? — You can still say that [the Mishnah] refers to the period after redemption, and what is meant then by the expression THEIR PROFIT BELONGS TO THE SANCTUARY? [It means] from the beginning.[3] For since the Master permits them to be sold in the market, slaughtered in the market and weighed by the pound, the amount of the redemption is increased from the beginning.

EXCEPT IN THE CASE OF A FIRSTLING OR OF A TITHING ANIMAL, AS THEIR PROFIT BELONGS TO THE OWNERS. This is quite fair in the case of a firstling, which, although it must not be sold in the market, can be sold privately; but are animal tithes allowed to be sold privately? Has it not been taught: In connection with a firstling it is said: [But the firstling of an ox] . . . thou shalt not redeem,[4] [intimating] that it may be sold alive[5] and in connection with animal tithing, it says: It shall not be redeemed,[6] [intimating] that it is forbidden to be sold either alive or ritually cut, whether unblemished or blemished? — This problem presented itself to R. Shesheth in the evening and he solved it the next morning by reference to a Baraitha [mentioned below]. We are dealing here [in the Mishnah] with a tithing animal[7] belonging to orphans, [and by permitting in this case] we resort to the principle of restoring something lost.[8] R. Idi was the attendant of R. Shesheth. He heard [this answer] from him and proceeded to mention it in the College, but did not cite it in his name. R. Shesheth heard of it and was annoyed. He exclaimed: ‘He who has bitten[9] me, a scorpion should bite him’. And what practical difference did this make to R. Shesheth? — As Rab Judah reported in the name of Rab: What is the meaning of the scriptural text: I will dwell in Thy Tent in [both] worlds?[10] Is it possible for a man to dwell in two worlds? What David meant is this: ‘Master of the Universe, may they cite a tradition in my name in this world’. For R. Johanan reported in the name of R. Simeon b. Yohai: When a tradition is cited in a scholar's name in this world, his lips murmur in the grave. And R. Isaac b. Zera also said: What is the meaning of the scriptural text: And the roof of thy mouth like the best wine that glideth smoothly for my beloved, moving gently the lips of those that are asleep?[11] It is like a heated mass of grapes. Just as a heated mass of grapes drips as soon as you apply your finger, so do the lips of scholars in the graves murmur when sayings are cited in their name.

What is the Baraitha [referred to above]?[12] — As it has been taught: A tithing animal belonging to orphans, we may sell. And as to the flesh of a ritually cut tithing animal he may also sell it in conjunction with its skin, fat, tendons and bones. What does [the Baraitha] mean?[13] Abaye said: It means this: A tithing animal belonging to orphans may be sold. And how is it sold? In conjunction with its skin,[14] fat, tendons and horns. This would therefore imply that in the case of an adult it is forbidden to sell a tithing animal in conjunction with other things. Now why is this different from the case we have learnt [as follows]: If one buys a lulab[15] from another in the sabbatical year, he gives him at the same time the ethrog[16] as a gift because he must not buy it[17] in the sabbatical year. And we raised the point, what if we did not wish to give it to him as a gift? And R. Huna explained: He pays him indirectly the value of the ethrog in conjunction with the lulab? — There [in the Mishnah] the matter is not obvious,[18] but here the matter is obvious.[19] Said Raba: If this be so, then why does the Baraitha above repeat the expression ‘tithing animal’?[20] Rather said Rabba: It means this: A tithing animal belonging to orphans may be sold in the ordinary way, whereas in the case of a tithing animal belonging to an adult, which was ritually cut, he pays for the flesh in conjunction with its skin, fat, tendon and horns. Said Raba: Whence do I prove it? Because it is written, Then both it and that, for which it is changed shall be holy; it shall not be redeemed.[21] Now, when does the law of substitution apply? When the animal is alive. Therefore [by analogy] when is a tithing animal not redeemed? When it is alive, thus implying that after being ritually cut, it may be redeemed, and it is but the Rabbis who have prohibited its selling after having been ritually cut in order to prevent its selling before it was ritually cut.[22] Consequently in the case of an object which is valued when alive,[23] the Rabbis prohibited its selling after having been ritually cut in order to prevent its selling before it was ritually cut;

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(1) Therefore how is it possible for him to sell it and make it hullin, for a dedicated animal cannot be redeemed except when alive, since it requires to be presented to the priest and valued by him (Lev. XXVII).

(2) V. supra 32b.

(3) When the owners redeem them originally from the sanctuary, the latter benefits if after redemption the flesh can be sold in the manner of hullin.

(4) Num. XVIII, 17.

(5) To others, having once come into the possession of the priest.

(6) Lev. XXVII, 33.

(7) In a blemished state.

(8) As he is unable to eat the whole animal, it would become decomposed and be a loss if we forbade its disposal privately. But in the case of an adult, even private selling is prohibited.

(9) I.e. not cited my name as the author.

(10) So lit., E.V. ‘for ever’. Ps. LXI, 5.

(11) Cant. VII, 10.

(12) On which R. Shesheth based his reply.

(13) At first it says that we may sell it, apparently in the normal way, and then it proceeds to say that the selling must be in an indirect manner.

(14) He sells the skin for a high price, which includes the value of the flesh; the skin, horns etc. being permitted to be sold because they are not eatable things.

(15) The palm branch, one of the Four Species taken on Sukkoth.

(16) The citron, another of the Four Species.

(17) Other fruit including the lulab, although gathered in the sabbatical year, may be bought because we go by the time when the fruit is formed, which is the sixth year. But in the case of the ethrog, we go by the time when the fruit matures, i.e., in the sabbatical year. and consequently we must not purchase an ethrog from an ‘am ha-arez as the latter might do business in the sabbatical year with the money thus obtained.

(18) As the ethrog is only of slight value, so that it is not manifest that be is paying for it in connection with the lulab.

(19) Since the price is high, it is clear that the money is not for the skin etc, but for the flesh.

(20) Thus implying that the Baraitha deals with two separate cases and does not merely consist of one clause dealing with a single case.

(21) Lev. XXVII, 33.

(22) As mentioned above, that ‘it is not sold either alive or slaughtered’.

(23) I.e., the flesh which is the main part of the animal that is sold when alive.

but in the case of an object which is not valued when alive,[1] the Rabbis did not prohibit;[2] and in the case of orphans, the Rabbis let the law remain according to the biblical ruling.[3] And R. Samuel son of R. Isaac also held Raba's view.[4] For R. Samuel son of R. Isaac said: Whence is it proved that we may sell a tithing animal belonging to orphans in the ordinary way? Because it is said, Notwithstanding thou mayest kill and eat flesh within all thy gates after all the desire of thy soul [according to the blessing of the Lord thy God][5] Now which [dedicated] object has no blessing [from the dedication] when alive but only after being slaughtered? You must say that this is a tithing animal.[6] The following query was put forward: What of selling its flesh in conjunction with the bones?[7] R. Hiyya and R. Simeon son of Rabbi differ [in this matter]. One says. he may sell indirectly, and the other says he must not sell indirectly: And they do not [really] differ. The teacher [who forbids] refers to the bones of small cattle, and the other refers to bones of large cattle.[8] Or, if you prefer. I can say: In the one case as well as in the other it refers to large cattle, and yet there is no difference of opinion. One follows the custom of his place[9] and the other that of his.[10]

The [above] text states: In connection with a firstling Scripture says: ‘Thou shalt not redeem’, implying that it may be sold when alive, and in connection with tithing, it is said in the Scriptures: ‘It shall not be redeemed’, intimating that it is forbidden to be sold either alive or ritually cut, whether unblemished or blemished. Whence is this proved?[11] — R. Hanina reported in the name of Rab and likewise when R. Dimi came he reported in the name of R. Johanan: It is said in connection with tithing the expression ‘It shall not be redeemed’, and we read in the Scriptures in connection with haramim[12] the expression It shall not be redeemed;[13] just as the latter includes [the prohibition of] selling so the former includes selling. Said R. Nahman the son of Isaac to R. Huna son of Joshua: [The text ‘It shall not be redeemed’] is free [for interpretation], for if it were not free [for interpretation], it may be objected [against this analogy] that the case of haramim is different because they take effect upon everything.[14] Is it not so? It is indeed open for interpretation. [For if Scripture] should not have stated ‘It shall not be redeemed’ in connection with haramim, one could have inferred this from the case of a tithing animal: just as a tithing animal is holy and is not redeemed, so haramim are holy and are not redeemed. What need therefore is there for [the words] ‘It shall not be redeemed’?[15] Deduce from here consequently that it is free for interpretation. But it may be objected [to this analogy] that the case of a tithing animal is different because the animals which preceded and followed [the tenth in the counting] are all holy?[16] Rather [argue thus]: [Scripture] should not have stated ‘It shall not be redeemed’[17] in connection with haramim, and one could have inferred this from the case of the firstling; as a firstling is holy and is not redeemed, so haramim are holy and cannot be redeemed. What need then is there for [Scripture] to write ‘It shall not be redeemed’? This shows that it is free for interpretation. But it may still be objected that the case of a firstling is different because it is hallowed from birth![18] Rather [argue thus: Scripture] should not have used the expression ‘It shall not be redeemed’ in connection with a tithing animal, and one could have inferred this from the analogy between ‘passing’[19] here and passing mentioned in con nection with a firstling; as a firstling is holy and is not redeemed, so a tithing animal is holy and is not redeemed. What need then is there for [Scripture] to write ‘It shall not be redeemed’ in connection with a tithing animal? It is therefore free [for interpretation]. But still [the expression] in connection with a tithing animal is not free, since we can refute the analogy as we did above?[20] — [The text That thou shalt cause to pass’ is superfluous.[21] But why not also make a comparison between the text ‘Thou shalt not redeem’ used in connection with a firstling and the text ‘It shall not be redeemed’ used in connection with haramim?[22] — The ‘redemption’ mentioned in connection with tithing is free for interpretation[23] whereas the ‘redemption’ mentioned in connection with a firstling is not free [for interpretation].[24] But why do you see fit to say that the text mentioning ‘redemption’ in connection with a firstling is required for its own sake,[25] while the text ‘It shall not be redeemed’ in connection with tithing is free [for interpretation]?[26] Why not say that the text ‘It shall not be redeemed’ in connection with tithing is required for its own sake, while the text ‘Thou shalt not redeem’ referring to a firstling is free for interpretation?[27] — We compare the word ge'ulah with the word ge'ulah,[28] whereas we do not compare the word pediyah [used in connection with a first-born], with the word ge'ulah [mentioned in connection with haramim].[29] But what is the practical difference?[30] Did not a Tanna of the school of R. Ishmael teach: [Scripture says]: And the Priest shall come again and [later it says]: Then the Priest shall come,[31] to show that the same rule applies to his coming [the second time] as to his entering [after a week]?[32] — This is the case only where no identical words are to be found [with which to compare], but where identical words are to be found, we rather make the comparison with identical words. But why not infer the case of a firstling[33] from that of a tithing animal [by means of the analogy] between ‘passing’ and ‘passing’, for, as regards the [forbidding of the sale] of a tithing animal, we have already compared the word ge'ulah with the word ge'ulah mentioned in connection with haramim? — Scripture excludes this in connection with haramim, [saying]: It is [most holy][34] implying ‘it is [most holy],[35] but not a firstling’. But why not say that the text implies ‘it is [most holy] but not tithing?’ — It is reasonable to maintain that the word ge'ulah is used [in connection with tithing] and the word ge'ulah is used [with reference to haramim] in order that the former may be compared with the latter.[36]

Raba said: [The text] ‘It shall not be redeemed’ in connection with haramim is superfluous. For, where were [these haramim]? If in the possession of the owners, then they are holy.[37] If in the possession of the priest, then they are hullin [and may be sold]. For it has been taught: So long as haramim are in the possession of the owners, they are considered as holy in all respects, for it is said: Every devoted thing is most holy unto the Lord.[34] If however he gave them to the priest, they are considered as hullin in all respects, as it is said: Everything devoted in Israel shall be thine.[38]

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(1) E.g., the skin, etc.

(2) The value of the animal being not on account of these things, disposing of them indirectly is permissible even in the case of an adult.

(3) That after having been slaughtered a tithing animal may be sold even in the ordinary manner.

(4) That according to the biblical law a tithing animal may be sold after having been slaughtered.

(5) Deut. XII, 15. Sifri a.l. explains this verse as referring to consecrated animals that have received a blemish.

(6) For any other consecrated object with a blemish may after redemption be sold when alive to anybody. And the blessing referred to here means the permission of selling it just as the blessing denied when alive refers to its selling. Consequently we see that according to the biblical law, a tithing animal may be sold after having been slaughtered and there is only a rabbinic restriction which is not invoked when it belongs to orphans.

(7) The tithing animal belonging to an adult.

(8) Which may be fashioned into vessels or instruments like flutes, and therefore selling the flesh in conjunction with the bones is permissible, as it will be said that the price is for the bones, since these can be of use.

(9) Where flutes for example are made from bones, and therefore this teacher permits the selling of flesh in connection with the bones.

(10) Where these articles are not made from bones, and therefore when they are sold it is obvious that the money is for the flesh, which is forbidden.

(11) That a tithing animal must not be sold and that the expression לא יגאל , rendered ‘It shall not be redeemed’ also connotes selling.

(12) ‘Devoted things’. Dedications for use by the priests or the Temple.

(13) לא יגאל Lev. XXVII, 28.

(14) Even upon sacred objects as well, whereas tithing only has affect on hullin. Moreover herem applies to all the herd, whereas tithing only applies to every tenth animal of the herd.

(15) In connection with haramim.

(16) If, for example, he called the ninth animal the tenth and the eleventh the tenth, the three are holy.

(17) In connection with animal tithing.

(18) Whereas this is not the case with a tithing animal.

(19) ‘All that passeth under the rod’ Lev. XXVII, 32 in connection with tithing and ‘that thou shalt cause to pass (set apart)’ mentioned with reference to a first-born in Ex. XIII, 12.

(20) The case of a firstling being different, as it is hallowed from birth.
(21) It would have sufficed if Scripture had stated: All that openeth the womb is the Lord's. The term ‘cause to pass’ here is therefore free for the deduction of an analogy between it and the term used in connection with tithing, as we do not refute an analogy drawn from congruent expressions, since the latter is a tradition. Therefore the text ‘It shall not be redeemed’ is redundant, and we consequently compare it with a similar text in connection with haramim, deducing that tithes must not be sold as well as not redeemed.
(22) That a firstling must not be sold, though the Hebrew expressions in each are different, פדה in the one and גאל in the other, identical in meaning.
(23) Therefore we make the analogy of firstling with haramim.
(24) In the first place, it is required for its own sake, to show that the animal cannot be redeemed, and secondly for the analogy between ‘passing’ and ‘passing’.
(25) And for the analogy with tithing.
(26) To compare with haramim with regard to selling.
(27) That just as in the case of haramim selling is forbidden, so a firstling must not be sold.
(28) Mentioned in connection with haramim and tithing respectively.
(29) V. supra p. 205, n. 3 .
(30) Since both the words pediyah and ge'ulah mean the same thing.
(31) Lev. XIV. 39 and 44 (with reference to leprosy of house).
(32) Although the words are not identical, yet the ruling is the same. v. Hul 85a.
(33) That it must not be sold.
(34) Lev. XXVII. 28.
(35) And is forbidden to be sold.
(36) As regards the prohibition of selling, and to exclude the case of a firstling, since the expression used there is pediyah.
(37) And cannot therefore unless blemished be redeemed.
(38) Num. XVIII, 14.

Talmud - Mas. Bechoroth 32b

What need then is there for the text ‘It shall not be redeemed’? If it has no bearing on the subject of haramim, make it bear on the subject of tithing [as regards selling]. But why not say: Make it bear on the subject of a firstling? — [It is reasonable to maintain that] the word ge'ulah used in connection with haramim is [to be applied to tithing since the identical word] ge'ulah [is used with reference to tithing] as with the former.[1]

R. Ashi says: ‘It shall not be redeemed’ mentioned in connection with tithing means that it shall not be sold. Said R. Ashi: Whence can I prove this? [Scripture writes]: Then both it and that for which it is changed shall be holy; it shall not be redeemed.[2] Now, when is it that the law of Substitution applies? When [the animal] is alive. Therefore, when may it not be redeemed? When it is alive, thus implying that after having been slaughtered it may be redeemed. But does it not require presentation and valuation?[3] Therefore you must deduce from here that the text ‘It shall not be redeemed’ means that it shall not be sold. This would indeed hold good according to him who holds that objects consecrated for the altar are included in the law of presentation and valuation. But according to him who holds that objects consecrated for the altar are not included in the law of presentation and valuation, what can you reply? — We mean this [R. Ashi argues]: Is there any object which cannot be redeemed when alive and can yet be redeemed after being slaughtered! — But why not? [It is natural that] when an object is alive, its holiness being strong, it cannot be redeemed, whereas after its slaughtering, its holiness having been weakened, it may be that it can be redeemed! — But is it not a matter of course? For if when the animal is alive, when it is qualified to effect redemption [Scripture says that] it cannot be redeemed, after having been slaughtered, when it has not the strength to effect redemption, how much more so is it the case that it cannot be redeemed? Consequently [we deduce from here that] the text ‘It shall not be redeemed’ means that it shall not be sold. But why does not the Divine Law then write explicitly ‘It shall not be sold’? — If the Divine Law had written ‘It shall not be sold’. I might have thought that it cannot indeed be sold, since he performed a secular action [in exchanging], but it can be redeemed, because its money enters [the coffers of] the Sanctuary, the Divine Law therefore writes ‘It shall not be redeemed’ teaching that it can neither be sold nor redeemed.

MISHNAH. BETH SHAMMAI SAY: AN ISRAELITE MUST NOT BE INVITED TO SHARE [A BLEMISHED FIRSTLING] WITH A PRIEST, WHEREAS BETH HILLEL PERMIT THIS. EVEN IN THE CASE OF A HEATHEN.

GEMARA. Whose view does the Mishnah represent? — That of R. Akiba. For it has been taught: Only a company all of whom are priests may enter for a share of a firstling. These are the words of Beth Shammai. But Beth Hillel permit even strangers.[4] R. Akiba permits [according to Beth Hillel] even heathens. What is the reason of Beth Shammai? — It is written, And the flesh of them shall be thine, as the wave-breast and as the right shoulder [are thine].[5] Just as there[6] priests may [eat] but not a lay Israelite,[7] so here priests are allowed [to eat] but not an Israelite.

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(1) Rashi for various reasons rejects this version and gives the following version: Without the analogy between tithing and haramim one can infer that tithing must not be sold, for the text ‘It shall not be sold’ in connection with haramim is not necessary, for if haramim are in the possession of the owners then they are holy, and if in the possession of the priest, then they are hullin. We therefore, declares Raba, maintain that the text ‘It shall not be sold’ refers to tithing.

(2) Lev. XXVII. 33.

(3) Therefore you must admit it does not come under the law of redemption and that its value does not assume any holiness, the selling being prohibited because a secular action was performed with the animal.

(4) I.e., non-priests.

(5) Num. XVIII, 18.

(6) In connection with the wave-breast and shoulder.

(7) For Scripture writes, Thou and thy sons and thy daughters with thee, thus excluding a lay Israelite.

Talmud - Mas. Bechoroth 33a

And Beth Hillel?[1] — This is only the case in connection with an unblemished firstling.[2] but with reference to a blemished firstling, the text says. The unclean and the clean person shall eat it alike.[3] Now, if an unclean person who is forbidden to eat sacrifices of a minor grade may eat a firstling, how much more should a non-priest who may eat sacrifices of a minor grade be allowed to eat a firstling! But this argument can be refuted. The case of an unclean person is different, for he was permitted [and exempted] from the general rule in that he may officiate in the Temple service for the public.[4]

And Beth Hillel? — Does [the Baraitha] refer to Temple service? We are speaking of eating, and as regards eating, a non-priest has a better right![5]

‘And R. Akiba permits even in the case of a gentile’. What is the reason of R. Akiba?[6] — [Scripture says]: As the gazelle and as the hart:[7] as the gazelle and the hart are permitted to be eaten by a gentile, so a firstling is permitted to be eaten by a gentile. And the other authority? — There are three texts [in Deuteronomy][8] mentioning the gazelle and the hart. One text is for what R. Isaac and R. Oshaiah taught.[9] the other for what R. Eleazar ha-Kappar taught:[10] and the last [to interpret as follows]: As a gazelle and hart are not subject to the law of the firstling and the priest's gift, so consecrated objects rendered unfit for sacrifices are not subject to the law of the firstling and the priest's gifts.

Our Rabbis taught: A firstling must not be given to eat to menstruant women. These are the words of Beth Shammai, whereas Beth Hillel say: We are allowed to give it to eat to menstruant women. What is the reason of Beth Shammai? — Scripture writes [with reference to a firstling]: ‘And the flesh of them shall be thine [as the wave-breast and as the right shoulder]’:[11] as there [in the case of the wave-breast etc.] menstruant women are forbidden to eat, so here menstruant women are forbidden to eat [the firstling]. And Beth Hillel?[12] This is only the case with an unblemished firstling, but as regards a blemished firstling, ‘the unclean as well as the clean may eat it alike’. And Beth Shammai? — This is only the case [that an unclean person may eat it] where the impurity does not issue from the body, but where the impurity issues from the body, it is not so, for we find that the Divine Law makes a distinction between impurity which issues from the body and impurity which does not issue from the body. For we have learnt: The paschal lamb which is offered [by those] in a state of uncleanness must not be eaten by zabim, zaboth,[13] menstruant women or confined women.[14] And Beth Hillel? There, [zabim etc. are forbidden to eat the paschal lamb] because Scripture explicitly made this clear in the text: ‘By reason of a dead body’,[15] whereas here in connection with a firstling, the text says: ‘The unclean person’ in general, implying, without any distinction.

Our Rabbis taught: We must not flay an animal from the feet on a Holy Day;[16] nor [on a weekday] when the animal is a firstborn [even blemished]; nor sacrifices rendered unfit.[17] Now, we understand this as regards a Holy Day. because he undertakes a labour of which he can make no use [on that day], but as regards a firstling, who is the authority [for the law just quoted]? — Said R. Hisda: It is the view of Beth Shammai,[18] who say: We must not give it to eat to menstruant women.

‘Nor sacrifices rendered unfit’. Who is the authority [for this]? — Said R. Hisda: It is the opinion of R. Eleazar b. R. Simeon.[19] For it has been taught: If he has two sin-offerings[20] in front of him, one unblemished and the other blemished, the unblemished one shall be offered up and the blemished one shall be redeemed.[21] If, however, the blemished one was slaughtered[22] before the blood of the unblemished animal was sprinkled, it may be eaten;[23] but [if it was slaughtered] after the blood of the unblemished animal was sprinkled, it is forbidden [to be eaten].[24] R. Eleazar b. R. Simeon however says: Even if the flesh [of the blemished one] is already in the pot, if the blood of the unblemished one had been sprinkled, it is forbidden [to be eaten].[25] And why does not R. Hisda interpret [the above Baraitha] altogether in accordance with Beth Shammai?[26] — Perhaps Beth Shammai is stringent only with reference to a firstling, since its holiness is from birth, but in the case of sacrifices which have become unfit, whose holiness is not from birth, the case is different.

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(1) What is their reason?

(2) Only in this case do we compare it with the wave-breast and shoulder, as the text there deals with an unblemished animal.

(3) Deut. XV, 22.

(4) If there was no priest levitically clean in that particular priests’ division on duty, the Temple service on behalf of the community may be performed by a priest even in a state of levitical uncleanness, there being a scriptural text, ‘In its appointed season’, which implies that even on the Sabbath or in a state of uncleanness the Paschal lamb may sometimes be brought. v. Pes. 66b.

(5) To eat than an unclean priest, as stated above, for there is no example where an unclean priest is allowed to eat and a non-priest is forbidden.

(6) The first Tanna who states that according to Beth Hillel the permission only refers to an Israelite but not to a gentile.

(7) Deut. XV, 22.

(8) Ibid. XII. 15. 22; XV, 22.

(9) In Mak. 22a; v. Tosaf. a.l.

(10) Hul. 28a.

(11) Num. XVIII, 18.

(12) How will they interpret this text?

(13) Men and women afflicted with gonorrhoea.

(14) For although where the greater part of the community is unclean, the Paschal lamb may still be brought, this only applies to those who were unclean through handling a corpse; Pes. 95b.

(15) Num. IX, 10.

(16) For the purpose of making e.g., a mechanics' bellows with it.

(17) Although they were redeemed and ritually cut for food.

(18) Who hold that a blemished first-born remains holy even after its slaughtering, and since in the case of an unblemished firstling, flaying in this manner would be prohibited because he impairs the flesh for fear of cutting the skin, so the same ruling applies to a blemished firstling.

(19) Who imposes restrictions on sacrifices rendered unfit for the altar.

(20) Setting two animals apart so that in case one is lost or becomes blemished, the other would take its place.

(21) And the money is placed in the special Temple chest for free will-offerings.

(22) After its redemption.

(23) And although the sprinkling of the blood of the unblemished animal took place before the flesh of the blemished animal was eaten, it is still permissible to eat the latter, once it has been permitted to be eaten when slaughtered.

(24) Not even to benefit therefrom in any way, for it is a sin-offering whose owner has already been atoned for and is therefore condemned to die.

(25) Although its slaughtering took place before the sprinkling of the blood of the unblemished animal and although the flesh in the pot is considered as boiled, since it was not to be eaten till after the sprinkling of the other animal, it is forbidden to be eaten altogether, for it is like a sin-offering whose owner has already atoned for, retaining its holy status even after its slaughtering, v. Tem. 24a.

(26) It is now assumed that just as Beth Shammai are stringent with regard to a firstling, so they are stringent with regard to other unfit sacrifices after being slaughtered.

Talmud - Mas. Bechoroth 33b

And why not interpret [the above Baraitha] altogether in accordance with R. Eleazar son of R. Simeon?[1] — Perhaps R. Eleazar son of R. Simeon holds that it is forbidden only in the case of sacrifices which have become unfit, for they are competent to be redeemed, but in the case of a firstling which is not competent to be redeemed, it is different.[2] But does not R. Eleazar son of R. Simeon accept [the preceding Mishnah]: All consecrated objects which become unfit may be sold in the market, slaughtered in the market and weighed by the pound? From this We see that since there is a benefit for the Sanctuary, the Rabbis permitted it;[3] here also then, since there is a benefit for the Sanctuary, let the Rabbis permit its flaying? — Said R. Mari the son of R. Kahana: What benefit he obtains through selling the skin [at a high price], he loses by spoiling the flesh.[4] In the Palestinian colleges[5] it was said in the name of Rabina: [The reason is] because it appears like doing work with sacrificial animals.[6] R. Jose b. Abin says:[7] [It is a precautionary measure] lest he raise herds from them.[8]

MISHNAH. IF A FIRSTLING HAS AN ATTACK OF CONGESTION WE MUST NOT LET ITS BLOOD EVEN IF IT DIES [AS A RESULT].[9] THESE ARE THE WORDS OF R. JUDAH. BUT THE SAGES SAY: HE MAY LET BLOOD. ONLY HE MUST NOT MAKE A BLEMISH.[10] AND IF HE MADE A BLEMISH, HE MUST NOT SLAUGHTER IT ON ACCOUNT OF THIS.[11] R. SIMEON HOWEVER SAYS: HE MAY LET BLOOD, EVEN THOUGH HE MAKES A BLEMISH.[12]

GEMARA. Our Rabbis taught: We may let blood of a firstling which had an attack of congestion, in a part [of the body] where it is not made blemished, but we must not let blood in a part [of the body] where a blemish is caused. These are the words of R. Meir. But the Sages say: He may let blood even in a part which makes it blemished,[13] only he must not slaughter it on account of that blemish. R. Simeon however says: It may also be slaughtered on account of that blemish. R. Judah says: We must not let blood for it even if it dies [as a result]. R. Eleazar taught his son[14] as follows: A similar difference of opinion exists with reference to a jug of terumah. For we have learnt: If there is a jug of terumah concerning which there is a doubt as to its levitical cleanness, R. Eliezer says: If it was lying in a filthy place, he must put it in a cleanly place, and if it was open, he must cover it. R. Joshua says: If it was lying in a clean place, he must put it in a filthy place and if it was covered, he must open it, while R. Gamaliel says: He must not introduce any new factor.[15] Now R. Meir will hold the view of R. Eliezer,[16] the Rabbis will hold according to the view of R. Joshua[17] and R. Judah will hold the view of R. Gamaliel.[18] But whence [is this proven]? It may be that R. Meir holds this view only here because he does it directly,[19] but there, where the effect is caused indirectly,[20] he holds the view of R. Joshua. And it may be that R. Eliezer holds this view only [in connection with doubtful terumah], in case Elijah should come and pronounce it clean,[21] but in this case, where if you leave it the animal dies, he holds the view of the Rabbis! And [perhaps] the Rabbis hold their view only here, for if he leaves it, it dies, but there, in case Elijah should come and pronounce it clean, they hold with R. Eliezer! [And perhaps R. Joshua holds his view only there because the effect is caused indirectly, but here, where the effect is direct, he may even hold the view of R. Eliezer!][22] And [perhaps] R. Judah holds his view only here, for he does it directly, but where the effect is merely caused indirectly, he may agree with R. Joshua. And [perhaps] R. Gamaliel may hold his view only there, in case Elijah should come and pronounce it clean, but here where if he leaves the animal, it dies, he agrees with the Rabbis! And moreover the difference of opinion here is with reference to the interpretation of Scriptural texts, and there too the difference of opinion is with reference to the interpretation of Scriptural texts! [There the difference is with reference to the interpretation of texts]. for R. Hiyya b. Abba reported in the name of R. Johanan: All are agreed[23] that one who added a transgression to the leavening effected by another person[24] is guilty [of breaking the law in this connection]. for Scripture says: It shall not be baked with leaven.[25] No meal-offering . . . shall be made with leaven.[26] All are also agreed in the case of one who adds [a transgression] to the mutilation caused by another person that he is guilty for Scripture writes: That which hath its stones bruised or crushed or torn or cut, [ye shall not offer unto the Lord].[27] Now if he is guilty for cutting [the stones].[28] how much more so is he guilty for tearing them! The purpose of the text is therefore to include the case of tearing after another person had cut as rendering him guilty. The point at issue, however, is with reference to causing a blemish to a blemished animal,[29] R. Meir holding [that we emphasize the text]: There shall be no blemish therein,[30] whereas the Rabbis hold [that we emphasize the full beginning]: It shall be perfect to be accepted.[31] And what does R. Meir do with the text: ‘It shall be perfect to be accepted’? — He requires it to exclude the case of an animal which possessed a blemish originally.[32] But is not the case of an originally blemished animal obviously excluded, since it is just a palm-tree?[33] — Rather it is required to exclude the case of sacrifices rendered unfit [for the altar] after their redemption. You might be inclined to assume that since they must not be shorn or worked, they are also forbidden to be blemished. He therefore informs us [that it is not so]. And as regards the Rabbis, does not Scripture write: ‘There shall be no blemish therein’? — [This text] forbids causing a blemish even indirectly, for it has been taught:[34] Scripture says: ‘There shall be no blemish therein’. I am here told

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(1) As he holds that unfit sacrifices retain holiness even after having been slaughtered, and it is the same with a blemished firstling.

(2) And therefore one may flay the skin of a firstling from its feet.

(3) We see therefore that the animal does not retain its holy status because of the advantage to hekdesh in allowing it to be sold in the market etc.

(4) Cutting away some of the flesh together with the skin.

(5) Lit. ‘the West’.

(6) Preparing the skin for a bellows when it is still on the sacrificial animal, and one can still say that the Baraitha above which forbids the flaying of the skin from the feet expresses the view of all the authorities concerned.

(7) The prohibition of flaying from the feet is according to all the authorities concerned.

(8) If you permit him to flay the skin from the feet from the unfit sacrifices he may delay killing the animals until he finds somebody who wants whole skins, meanwhile rearing stocks from these disqualified sacrificial animals. This might eventually lead to committing the offence of shearing or working them. Hence the flaying from the feet is prohibited by all the authorities concerned.

(9) Of not letting blood. It is forbidden even in a part of the animal where it can heal again, for if you permit in this case, since the owner's property is at stake, he may do the same in the case where an actual blemish might be caused.
(10) Not to cut nor damage the ear or lip, parts which cannot heal.
(11) Since he was responsible for the blemish, but must wait for another blemish to appear.
(12) For R. Simeon holds that a forbidden act done unintentionally is not penalized.
(13) For he must not let it die.
(14) Var. lec. Hiyya b. Abba taught his son.
(15) V. Ter. VIII, 8.
(16) For R. Meir, in order to save the animal, permits blood-letting where a blemish is not caused, and similarly R. Eliezer maintains that we must avoid increasing uncleanness and must put the terumah in a clean place.
(17) For the Rabbis permit making a blemish in order that it may be fit for food like R. Joshua who holds that he put the terumah in a filthy place so that it may become unclean and its liquid contents become fit for aromatic sprinkling.
(18) R. Judah who holds that, although the firstling dies without blood-letting, he must do neither one thing nor the other, is in accord with R. Gamaliel.
(19) Actually making a blemish. Therefore he maintains that, rather than do this, he must let the animal die.
(20) As he merely leaves it in a filthy place and thus causes it to become unclean eventually.
(21) By declaring that, for example, no dead reptile touched the terumah.
(22) Inserted with Sh. Mek.
(23) Even the Rabbis, although they maintain that blood-letting of a first-born is not the same as causing a blemish to an animal; for what animal can be more blemished than one which might die without blood-letting?
(24) Viz., by baking it.
(25) Lev. VI. 10.
(26) Ibid. II, 11. Baking is included in making leaven, and Scripture means to inform us that just as baking is a single act and one is guilty on account of it, so any single act in connection with leavening, involves guilt.
(27) Ibid. XXII, 24.
(28) Scripture subsequently saying: Neither shall ye do thus in your land.
(29) E.g., a first-born which had an attack of congestion.
(30) Lev. XXII, 21, the word כל , implying that any blemish is forbidden, even in an already blemished animal.
(31) Continuing: There shall be no etc., Intimating that the prohibition of blemishing refers to a sound animal.
(32) I.e., before the animal's consecration.
(33) Possessing no sanctification at all.
(34) Bez. 27b, Men. 56b.

Talmud - Mas. Bechoroth 34a

only that he must not cause a blemish directly; whence is it learnt that he must not bring a case of pressed figs or dough and put it on the ear so that a dog may come and eat it, [with the possibility of a blemish being caused]? Therefore the text says ‘There shall be no blemish’. [It says] blemish and [it adds] ‘there shall be no blemish’.[1]

And there also the difference of opinion is in the interpretation of Scriptural texts. For Rab Judah reported in the name of Samuel, and so did Resh Lakish say, and likewise R. Nahman reported in the name of Rabbah b. Abbuha: [Scripture says]: And I, behold. I have given thee the charge of My heave-offerings.[2] R. Eliezer holds that Scripture refers to two kinds of terumah,[3] one clean terumah and the other terumah held in suspense,[4] and the Divine Law says: ‘keep charge of it’ [not to make it unnecessarily unclean]. And [how does] R. Joshua [explain this]? — The written text is ‘My offering’.[5] Does this mean to say that R. Eliezer holds that the traditional reading [vowels] must guide us? The following was cited in contradiction. [Scripture says]: Seeing that he hath dealt deceitfully with her,[6] since he spread his cloth over her,[7] he is not permitted to sell her again. These are the words of R. Akiba, whereas R. Eliezer says: ‘Since he hath dealt deceitfully with her’,[8] he cannot sell her again! Rather here the difference of opinion is in connection with the text ‘Thee’ [for Scripture[9] says: And I, behold, I have given thee the charge of My heave-offerings]. R. Joshua holds the interpretation is: The terumah that is fit [to be eaten] by ‘thee’, protect from further uncleanness, whereas that which is not fit for thee, thou needest not protect. And [how does] R. Eliezer [interpret it]? — Doubtful terumah is also fit terumah for thee, in case Elijah comes and pronounces it clean.

Rab Judah reported in the name of Samuel: The halachah is like R. Simeon. R. Nahman b. Isaac demurred: Which R. Simeon? Is it the R. Simeon of the Mishnah?[10] But has not Samuel already informed us that a forbidden act effected unintentionally is permissible? Did not R. Hiyya b. Ashi report in the name of Rab that the halachah was according to Rab Judah.[11] whereas R. Hanin b. Ashi reported in the name of Samuel that the halachah is according to R. Simeon? And R. Hiyya b. Abin taught without naming any authorities[12] [as follows] : Rab says, the opinion of Rab Judah is the rule, whereas Samuel says: The opinion of R. Simeon is the rule?[13] — Rather you must say that it refers to the R. Simeon of the Baraitha.[14] And R. Shisha b. Idid taught this explicitly: Rab Judah reported in the name of Samuel: The halachah is like R. Simeon of the Baraitha.

MISHNAH. IF ONE[15] MAKES A SLIT IN THE EAR OF A FIRSTBORN ANIMAL. HE MUST NEVER SLAUGHTER IT. THESE ARE THE WORDS OF R. ELIEZER. WHEREAS THE SAGES SAY: HE MAY SLAUGHTER IT ON ACCOUNT OF ANOTHER BLEMISH, WHEN IT APPEARS ON IT.

GEMARA. And does R. Eliezer penalize in perpetuity? The following was cited in contradiction: If one had a bahereth[16]

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(1) One text referring to a direct blemish and the other to an indirect blemish.

(2) Num. XVIII, 8.

(3) The emphasis is on the plural ‘heave-offerings’.

(4) Neither eaten nor burnt, there being a doubt concerning its levitical purity.

(5) The word is written defectively. תרומתי not תרומותי referring only to one terminal, viz. clean.

(6) Ex. XXI. 8.

(7) Since the master has taken her under his protection by espousing her unto himself for a wife, the father has no further claim on her, even if she became divorced. The word בבגדו , here is derived from the word בגד , a garment, the pointing being authoritative.

(8) Having sold her as a maid-servant, the father is not allowed to sell her again as a maid-servant, but he may sell her again if she became divorced. R. Eliezer holds that we follow the lettering of the text which is without a yod as if from the word בגידה , R. Eliezer reads בבגדה (Rashi). V. Kid. 18b.

(9) So Sh. Mek. Cur. edd.: The difference is in the following.

(10) Who holds in the Mishnah that he may let blood although he makes a blemish, but he does not state that he may slaughter the firstling on account of this.

(11) Who holds that a forbidden act produced unintentionally is forbidden.

(12) R. Hiyya and R. Hanan.

(13) V. supra 25a.

(14) Who says that one may even slaughter the firstling on account of the blemish caused unintentionally.

(15) Viz., a priest.

(16) A bright white spot on the skin, ultimately one of the symptoms of leprosy.

Talmud - Mas. Bechoroth 34b

and it was cut off [unintentionally] he becomes clean. If, however, he cut it off intentionally. R. Eliezer says: When another plague spot appears on him [from which he is pronounced clean], then he is cleansed from [the first].[1] But the Sages say: [In order for him to be clean], either [the second plague] must break out all over his flesh,[2] or [before the cutting off of the first leprous spot], it must have decreased to less than the size of a bean?[3] — Rabbah and R. Joseph both replied: R. Eliezer penalizes thus only where a person's property is concerned, not where his body is concerned. As regards his property [i.e. the firstling], one can say that he may do it [in either case][4] but as regards his body, can it be said that he would do it in either case?[5] Said Raba: Is there only a contradiction between R. Eliezer here [in the Mishnah] and R. Eliezer [in Nega'im]? Is there not a similar contradiction between the Rabbis [in the Mishnah] and the Rabbis [in Nega'im]?[6] — The difficulty with regard to R. Eliezer has already been solved and as regards the difficulty in the case of the Rabbis, this is also no problem. In the one case we punish him for what he did, and in the other also we punish him for what he did. In one case, [that of a firstling], we punish him for what he did, for how did he intend to make it permitted? By means of this blemish. The Rabbis therefore punished him by ordering that the firstling should not be permitted on account of this very blemish.[7] And in the other case we punish him for what he did. For how did he intend to make himself appear clean? By cutting off this [bahereth]. The Rabbis therefore punished him for this very cut.[8]

R. Papa inquired: Does it mean ‘He shall become clean’[9] or ‘And then[10] he shall become clean’? What is the practical difference?[11] — In the case of a bridegroom on whom there appeared this [second] leprous spot. For we learnt: In the case of a bridegroom on whom there appears a plague spot, we give him seven days [of the wedding week not to see the priest] — to him, to his garment and to his covering.[12] And likewise in the case of any person on a Festival, we give him the whole Festival [in which not to see a priest].[13] Now if you say that it means ‘He shall become clean’ then he is clean[14] from the first plague and as regards the second, we wait seven days for him. But if you say that it means ‘And then he shall become clean’ of what avail is it that he is not unclean from the second plague, if he remains unclean by reason of the first plague?[15] What [is the answer]? — Let [the question] stand over.

R. Jeremiah inquired from R. Ze'ira: If one slit the ear of a firstling and he died, what is the ruling as regards penalizing his son? Should you take as a guide the rule that if a man sells his slave to a heathen[16] and he dies, his son is penalized after him, the reason [there] may be because every day he is prevented from carrying out commandments.[17] And should you be guided by the rule that if a man plans some work[18] for [the intermediate days of] the Festival and dies, his son is not penalized after him, the reason [there] may be because he did not actually do anything forbidden.[19] What then is the ruling here?[20] Did the Rabbis penalize the man himself and he is no more, or perhaps does the penalty of the Rabbis apply to his property and this is still in existence? — He replied to him: We have learnt this [in a Mishnah]: A field which had its thorns removed in the sabbatical year may be sown in the period beginning with the end of the sabbatical year.[21] If, however, the field had been improved[22] or manured with [the excrement of cattle],it must not be sown in the period beginning with the end of the sabbatical year.[23] And R. Jose b. Hanina said: We hold a tradition: If he improved the field and died, his son may sow it. Consequently we see that the Rabbis punished the man himself, but the Rabbis did not punish his son; here also the Rabbis punish the man himself but not his son. Said Abaye: We hold a tradition:

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(1) For this proves that the first leprous spot would also have healed had it not been cut off.

(2) Scripture saying: If the leprosy have covered all the flesh, he shall pronounce him clean. Lev. XIII. 13.

(3) But if the bahereth was of the size of a bean before being cut off, he is never clean. (Neg. VII, 5). Consequently, we see that R. Eliezer does not condemn him to be unclean for ever.

(4) For we argue that if by causing the blemish he is permitted to slaughter the animal, then he benefits thereby, and if he has to wait till another blemish appears, then he has lost nothing, as in any case he intended waiting for another blemish to appear. We therefore condemn him never to slaughter the firstling, so as to prevent him causing blemishes.

(5) That, if we do not make him unclean for ever, he will cut off the bahereth, and put himself in a doubtful position and wait for the next plague. He will not do so, first because if there does not appear another plague spot he will never be clean, and secondly, because even if there appears another plague spot what benefit is it to him, since he is afflicted as before? It is therefore better for him not to cut off the bahereth and to wait in case it heals.

(6) Who evidently condemn him to be unclean for ever unless it spreads over the whole flesh or it decreased etc.

(7) Treating the firstling as if nothing at all had been done to it.

(8) Regarding him as if he had never cut off the bahereth at all, so that even if he becomes clean from the second plague, he is not clean from the first, unless the latter plague covers all his flesh.
(9) Implying that directly there appears a second plague, he is clean from the first.
(10) That only after he is pronounced clean from the latter leprous spot is he clean from the former.
(11) Since in any case he remains unclean until the second plague heals, even if he is clean from the first.
(12) Should a plague appear on it.
(13) Neg. III. 2.
(14) Immediately when the other appears, and he is not unclean on account of the latter, as we wait until after the wedding week or after the Festival.
(15) Of what use is it that we wait in connection with the second plague, not allowing the priest to examine it, seeing that he is not clean from the first plague until the second is healed?
(16) There being a penalty for one who sells his slave to a heathen, the owner being required to redeem him even up to ten times his price.
(17) In his non-Jewish environment.
(18) To cut e.g., the grapes of his vineyard, since if a real loss would be entailed through not working during the Festival, the work is permitted, but this man deliberately arranged for this work to be done during the intermediate days, though he could have done it earlier.
(19) For he died before the Festival.
(20) Where he actually committed an offence in causing a blemish to a firstling.
(21) We do not penalize him, as the work done was of little value.
(22) By tilling oftener than usual or by unloading manure on it.
(23) Since the work is important, and we therefore punish him.

Talmud - Mas. Bechoroth 35a

If a man made unclean food levitically prepared and died, his son is not punished after him.[1] What is the reason? A damage not discernible [in the object itself] is not regarded as a tangible damage.[2] It is therefore only a rabbinical penalty. Thus the Rabbis imposed a penalty upon the man himself, whereas the Rabbis did not impose a penalty upon his son.[3]

MISHNAH. IT HAPPENED THAT A QUAESTOR SAW AN OLD MALE LAMB WITH ITS LONG WOOL HANGING DOWN[4] AND ASKED: WHAT IS THE MEANING OF THIS?[5] — THEY REPLIED: ‘IT IS A FIRSTLING AND IS NOT TO BE SLAUGHTERED UNTIL IT HAS A BLEMISH’. [THE ROMAN] TOOK A DAGGER AND SLIT ITS EAR. THE MATTER CAME BEFORE THE SAGES AND THEY PERMITTED IT.[6] AFTER THEY HAD PERMITTED, HE WENT AND CUT INTO THE EARS OF OTHER [FIRSTLINGS]. THE SAGES THEREUPON FORBADE THEM. CHILDREN WERE ONCE PLAYING IN A FIELD. THEY TIED THE TAILS OF SHEEP ONE TO THE OTHER AND ONE TAIL WHICH BELONGED TO A FIRSTLING WAS SEVERED. THE MATTER CAME BEFORE THE RABBIS AND THEY PERMITTED [THE FIRSTLING]. WHEN THE CHILDREN SAW THAT THEY HAD PERMITTED, THEY PROCEEDED TO TIE THE TAILS OF OTHER FIRSTLINGS. THE SAGES THEREUPON FORBADE [THE OTHER FIRSTLINGS]. THIS IS THE RULE: WHEREVER THE BLEMISH IS CAUSED WITH THE KNOWLEDGE AND CONSENT [OF THE OWNER].[7] IT IS FORBIDDEN, BUT, IF IT IS NOT WITH HIS KNOWLEDGE AND CONSENT, IT IS PERMITTED.[8]

GEMARA. CHILDREN WERE ONCE PLAYING etc. It is necessary [to state both these cases[9] in the Mishnah]. For if it had informed us only of the case of the heathen, I might have thought that the reason was because there can be no fear [if we permit] that he will acquire the habit [of making blemishes],[10] but in the case of a minor, where he might acquire the habit [of making blemishes],[11] I might have said that it was forbidden. And if it had informed us only of the case of a minor, I might have thought that the reason was because one would not mistake [the case of a minor] for an adult,[12] but in the case of the quaestor, where one might mistake this for the case of any adult,[13] I might have said that it was forbidden. There is need [therefore for the Mishnah to state both cases].

R. Hisda reported in the name of Kattina: This[14] was taught only when they replied to him [in the words]: ‘Until it has a blemish’,[15] but if they reply to him in the words: ‘Until it was made blemished’,[16] it is as if they had told him: ‘Go, make a blemish’. Said Raba: Now does not the permission come automatically?[17] What difference then is it whether they replied to him in the words: ‘Until it has a blemish’ or ‘Until it was made blemished’? Even if they replied to him in the words ‘Until it was made blemished’ the permission comes automatically and thus there is no difference.

THIS IS THE RULE: WHEREVER THE BLEMISH IS CAUSED WITH THE KNOWLEDGE AND CONSENT [OF THE OWNER]. IT IS FORBIDDEN. What does this include? — It includes the case where the blemish was caused indirectly.[18]

BUT IF IT IS NOT WITH HIS KNOWLEDGE. This includes the case where they casually mentioned the fact.[19]

MISHNAH. IF A FIRSTLING WAS RUNNING AFTER HIM AND HE KICKED IT AND THEREBY BLEMISHED IT. HE MAY SLAUGHTER IT[20] ON ACCOUNT OF THIS.

GEMARA. Said R. Papa: This[21] was taught only when he kicked it while it was running, but if he kicked it after it had stopped running, it is not so. But is not this obvious? — I might have assumed that the reason why he kicked it was because he recalled his distress.[22] He therefore teaches us [that this was not the reason]. Some there are who say: R. Papa said, Do not say that this applies only while it was running, but not after it had stopped running; for even after it had stopped running [the same law applies], for the reason that he recalled his distress.

Said Rab Judah: It is permitted to cause a blemish to a firstling before it is born.[23] Said Raba: [E.g.], a kid in its ears[24] and a lamb in its lips.[25] Some there are who say: A lamb even in its ears; for one can say that the animal came forth [from the womb] with its temples first.[26] Said R. Papa:[27] If when the animal eats, [the defect] is not visible,[28] but when it bleats the defect is visible, it is considered a blemish. What does he wish to teach us? We have already learnt this [in a Mishnah]: If the incisors were broken off or levelled [with the gum] or if the molars were torn out [completely],[29] it is considered a blemish.[30] Now, what is the reason in the latter case? Is it not because when the animal bleats [the defect is visible? — Said Raba: R. Papa[31] also merely explains the Mishnah [as follows]: Why is it that if they were torn out they are considered a blemish? Because when the animal beats, the defect is visible.

MISHNAH. IN RESPECT OF ALL BLEMISHES WHICH MIGHT COME THROUGH THE AGENCY OF A MAN,[32] LAY ISRAELITE SHEPHERDS ARE TRUSTWORTHY[33] WHEREAS PRIESTS SHEPHERDS ARE NOT TRUSTWORTHY.[34] R. SIMEON B. GAMALIEL SAYS: HE IS TRUSTWORTHY AS REGARDS SOMEBODY ELSE'S FIRSTLING, BUT HE IS NOT TRUSTWORTHY AS REGARDS HIS OWN. R. MEIR SAYS: ONE WHO IS SUSPECTED OF NEGLECTING ANY RELIGIOUS MATTER MUST NOT PRONOUNCE JUDGMENT ON IT NOR GIVE EVIDENCE CONCERNING IT.

GEMARA. R. Johanan and R. Eleazar [differ as to the interpretation of the Mishnah]. One explains it [as follows]: The expression ‘LAY ISRAELITE SHEPHERDS’ means [lay Israelites] in the employ of priests are trustworthy, for we do not apprehend that their testimony may be influenced by their bread and butter.[35] The expression ‘PRIESTS’ SHEPHERDS means: [shepherds who are priests] in the employ of Israelites are not trustworthy, since the shepherd might Say. ‘Since I work for him, he will not pass over me and give it to another’.[36] And the same ruling [of the testimony being untrustworthy] applies to [a shepherd who was] a priest with reference to [the firstling of] another priest 'for we suspect them of favouring each other.[37] And thereupon R. Simeon comes and says: HE IS TRUSTWORTHY AS REGARDS SOMEBODY ELSE'S FIRSTLING,[38] BUT HE IS NOT TRUSTWORTHY AS REGARDS HIS OWN.[39] And R. Meir then adds: HE WHO IS SUSPECTED OF DISREGARDING ANY RELIGIOUS MATTER MUST NOT PRONOUNCE JUDGMENT ON IT NOR GIVE EVIDENCE CONCERNING IT. But the other [teacher] explains it [as follows]: The expression ISRAELITE SHEPHERDS means: [Shepherds of Israelite sheep] even if priests, are trustworthy.

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(1) By being condemned to make compensation, although the man himself is compelled to do so.

(2) For the food lies before him and no visible damage is perceived.

(3) On this whole passage v. Git. 44a-b.

(4) Having never been shorn, because it was a firstling.

(5) That the animal was allowed to grow so old?

(6) For one cannot say that the heathen planned to make it permissible.

(7) I.e., where the owner gave instructions.

(8) Therefore, in the cases of the quaestor and the children, the animals were permitted. When, however, other firstlings had their ears slit, the Sages forbade them, because the owners did not prevent this, and therefore it is as if this were done with their knowledge.

(9) Of the quaestor and of the children.

(10) Since he is a heathen, and in any case he is in the habit of doing forbidden things.

(11) Therefore if you permit the case of the first animal when he makes a blemish, he may go on repeating this.

(12) For it will not be said that because a blemish brought about by a minor is allowed, therefore the same ruling applies to an adult.

(13) For an observer might mistake this gentile who causes the blemish for an Israelite, and might say that as it is permitted in one case it is permitted in all adult cases.

(14) That the firstling is permitted through the heathen's action.

(15) Implying that a blemish appeared automatically on the animal, for we cannot then say that the heathen will infer from their words that firstlings are rendered permitted when blemished by human action.

(16) Implying, blemished by a man.

(17) The heathen, not being aware that the animal is permitted on account of his action, did not intend to make it permitted.

(18) E.g., where he placed dough or pressed dates on its ear and a dog came and took it.

(19) Where the quaestor did not ask them anything, but they on their own accord innocently pointed out to him that the old firstling was not permitted unless it was blemished.

(20) For he simply intended to save himself, and even in the case of a priest it is allowed

(21) That the animal is permitted.

(22) How the animal ran after him but his intention was not to cause a blemish.

(23) Lit., 'came-forth into the lighted space of the world'. The reason is because a first-born is only hallowed after leaving the womb.

(24) Its ears being long, they emerge before the whole head leaves the womb, and therefore it is allowed to blemish them.

(25) Its lips appearing before its head, whereas the ears being small do not appear until after the head has come forth, when, of course, the animal becomes sanctified.

(26) The ears also coming forth before the other limbs.

(27) Sh. Mek. cur. edd. Raba.

(28) The cut in the lips. Firstlings may only he slaughtered on account of open blemishes or defects.

(29) But if they were merely broken or levelled, this is not considered a blemish.

(30) V. infra 39b.

(31) So Sh. Mek. cur. edd. R. Papa said: Raba also.

(32) That a man is capable of doing. e.g., blinding the eyes, slitting the ear, or breaking a leg.

(33) To declare that the blemished came of themselves.

(34) For they are suspected of deliberately bringing about a blemish.

(35) I.e., by their dependence on their employers. לגמא ; means lit., ‘quaffing’, and in general eating and drinking. Aliter: by the share they would have in the firstling when slaughtered.

(36) And therefore we suspect them like the priest owners of causing a blemish.

(37) Thinking that by giving favourable evidence for his firstling now, he will on some future occasion be repaid when having obtained an unblemished firstling from an Israelite, he will make it blemished and this priest will testify that the blemish appeared of itself on the animal.

(38) Whether his master's or belonging to another.

(39) Where an Israelite had already given him a firstling.

Talmud - Mas. Bechoroth 35b

for the shepherd might indeed say: ‘My employer will not pass over a priest who is a rabbinic student, to give it to me’.[1] The expression PRIESTS’ ANIMALS means, [animals of priests], and even if the shepherds are Israelites, they are not trustworthy, for we fear lest their testimony may be influenced by their bread and butter. And how much more so is this the case with a [shepherd] priest working for [an employer] priest, that the former's testimony is untrustworthy, for we suspect them of favouring each other as well as being apprehensive of their bread and butter. Thereupon R. SIMEON SAYS: HE IS TRUSTWORTHY AS REGARDS SOMEBODY ELSE'S FIRSTLING,[2] BUT HE IS NOT TRUSTWORTHY AS REGARDS HIS OWN. And R. Meir comes and adds: HE WHO IS SUSPECTED OF DISREGARDING A CERTAIN RELIGIOUS MATTER[3] MUST NOT PRONOUNCE JUDGMENT ON IT NOR GIVE HIS TESTIMONY CONCERNING IT.[4]

Now there is no difficulty according to him who says that the expression ‘ISRAELITE SHEPHERDS’ means shepherds of [Israelite animals] and, even if priests, they are trustworthy, it is for this reason that R. Meir thereupon says: HE WHO IS SUSPECTED OF IGNORING A CERTAIN RELIGIOUS MATTER MUST NOT PRONOUNCE JUDGMENT ON IT NOR GIVE EVIDENCE CONCERNING IT. But according to him who holds that the expression ‘PRIESTS’ SHEPHERDS’ means [that shepherds who are priests] in the employ of Israelites are not trustworthy, what does R. Meir teach us [here]? Is not his view identical with that of the first Tanna quoted above? — The difference between them is the ruling of R. Joshua the son of Kapusai. For it has been taught: R. Joshua the son of Kapusai says: Two independent[5] witnesses are required to testify as regards a firstling in the possession of the priest. R. Simeon b. Gamaliel says: Even his son or his daughter may give evidence.[6] Rabbi says: Even the evidence of ten people is not accepted if they are members of his household.[7] According to which authority will be the ruling which R. Hisda reported in the name of R. Kattina, [who said]: An uncertain firstling[8] born in the possession of an Israelite requires two independent persons to give evidence?[9] [You ask] according to which authority? — It is, of course, according to that of R. Joshua the son of Kapusai.[10] R. Nahman says: The owners are permitted to give evidence [in respect to an uncertain firstling].[11] For if you will not say so, [but that an Israelite is suspected], how according to the view of R. Meir[12] can he give evidence with reference to [the blemish of] a tithing animal? But surely with regard to a tithing animal [even the owner] is trustworthy, since if he wished he could have maimed the entire herd before tithing?[13] Rather question [as follows]: In a case of an uncertain firstling.[14] who can testify according to the view of R. Meir? And if you will say ‘indeed it is so that there is no remedy [in these circumstances], have we not learnt: For R. Jose used to say: Wherever there is another [animal] in its stead in the hands of the priest.[15] the Israelite is exempt from the priests’ gifts. whereas R. Meir declares him liable?[16] Hence, therefore, we can deduce that the owners are permitted to give evidence [with reference to a doubtful firstling], priests alone being suspected as regards blemishes, whereas Israelites are not suspected as regards blemishes.

It has been stated: R. Nahman says: The halachah is like R. Simeon b. Gamaliel.[17] Raba says. however: The halachah is like Rabbi. But did Raba [actually] state this? Did not Raba say: If the owner [of a firstling] was with us outside the house, and the animal entered whole and emerged injured, they can testify concerning it?[18] — Read: All its owners[19] were with us we have no apprehension. If this be the case, what need is there to state it? — You might be under the impression that we entertain a suspicion.[20] He therefore teaches us [that it is not so]. And the law is in agreement with the view of R. Simeon b. Gamaliel; and only in the case of his son and his daughter is the testimony believed, but not in the case of his wife. What is the reason? — His wife is considered like himself.

Said R. Papa to Abaye: According to the view of R. Meir who holds that one who is suspected of disregarding a religious matter must not pronounce judgment on it nor give evidence concerning it, and who also maintains that one who is suspected of disregarding one religious matter is suspected of disregarding the whole Torah, then a priest should not be able to act as a judge: But is it not written: And by their word shall every controversy and every stroke be?[21]

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(1) As a rule, shepherds were ignorant people. We therefore trust him, for why should he lie since he will not benefit?

(2) In the case of a priestly shepherd with a master who is also a priest, the shepherd's testimony is believed.

(3) As priests are suspected with reference to firstlings of causing them blemishes.

(4) Differing with R. Simeon who permits even the testimony of a shepherd priest working for a priestly master, and also differing with the first Tanna above who holds that even a shepherd who is a priest looking after Israelite animals is trustworthy, whereas R. Meir holds that shepherds who are priests are always suspected.

(5) Lit., ‘from the market’. Two persons who have no connection with the priest and who may even be priests themselves.

(6) R. Simeon's view is in accordance with his ruling above that one is trustworthy with reference to a firstling belonging to another but not his own, and his father's is also not his own.

(7) Whereas even one independent person is trustworthy in these matters, or according to R. Joshua, two independent persons. Now the first Tanna mentioned above is in agreement with the view of R. Joshua. for the first Tanna holds that shepherds who are priests, whether with Israelite or priestly employers, are not trustworthy, but independent priests are trustworthy, even as regards firstlings of priests. R. Meir says that even an independent priest is suspected, a view which is opposed to that of R. Joshua. Rabbenu Gershom interprets this as follows: The first Tanna who says that Israelite shepherds even in the employ of priests are trustworthy does not agree with R. Joshua's view, for according to the latter only independent priests are trustworthy. But R. Meir agrees with R. Joshua that we only suspect the priest's testimony where there is dependence on others, but the evidence of two independent priests is accepted.

(8) E.g., a ewe which gave birth to two males, the Mishnah (17a) stating that one belongs to the priest and the other remains in the possession of the Israelite as a doubtful firstling which is left to pasture until it is blemished and is then eaten.

(9) That the blemish was not caused intentionally.

(10) For just as he holds that two independent persons are necessary to give evidence where the master is a priest, similarly two independent persons are required to give evidence with reference to a doubtful firstling in the possession of an Israelite.

(11) For only priests are suspected but not Israelites.

(12) For R. Meir maintains that in a matter which one is suspected of disregarding, one is not believed even with reference to others, as according to R. Meir, even independent priests are not trustworthy (Rashi).

(13) And this could have been done legitimately, as the animals were hullin. Therefore, why not believe him that he did not maim the animal?

(14) If the owners are suspected, then Israelite owners are suspected in the case of a firstling of causing a blemish, and certainly priests who possess an uncertain firstling in their herd would be suspected.

(15) V. supra 18b for notes.

(16) We therefore see that according to R. Meir a doubtful firstling after becoming blemished is regarded as positive hullin.

(17) That even his son and daughter are trustworthy.

(18) That the blemish came of itself. This is assumed to refer to the other members of the household. We see, therefore, that only the priestly owner of a firstling is suspected and not the other members of the household.

(19) Who have any connection with the animal, i.e., all the members of the household; and the shepherd within testifies with reference to the blemish.

(20) That the shepherd himself caused the blemish, or that, after all, a member of the household remained within the house (Tosaf.). Another interpretation is: If witnesses testify that all the members of the household were outside when the ani mal emerged maimed, then their evidence is considered trustworthy and we do not suspect that the members of the household had been instrumental before leaving in bringing about the blemish by e.g., opening a pit or putting pressed dates on its ear so that a dog came and caused a blemish.

(21) Deut. XXI, 5.

Talmud - Mas. Bechoroth 36a

R. Meir[1] meant that we have fear,[2] but did he actually presume [that he is to be suspected]?[3]

The following query was put: Is the testimony of a witness reporting another witness considered as evidence in connection with a firstling[4] — R. Ammi forbids, whereas R. Assi permits. Said R. Assi to R. Ammi: Did not the Tanna of the school of Manasseh teach: Only in connection with a woman[5] is the evidence of a witness reporting an eye-witness valid? — Explain this [as follows]: It is valid only in respect of testimony which a woman is allowed to give.[6] R. Yemar permitted the evidence of a witness reporting an eye-witness to be valid in connection with a firstling. Meremar designated to him the expression. ‘Yemar, the one who permits firstlings’.[7] And the law is that the evidence of a witness reporting an eye-witness in connection with a firstling is valid.

Said R. Elai: If an animal was not thought to be a firstling and its owner [a priest] came and declared that it was a firstling with a blemish on it, he is believed. What does he teach us? ‘The mouth that bound is the mouth that loosens’.[8] But have we not learnt this: A woman who said, ‘I was a married woman,[9] but now I am divorced’ is believed,[10] for ‘the mouth which bound is the mouth which loosens’?[11] — You might be under the impression that there[12] she is believed because if she wished she need not have said anything;[13] but here,[14] since it is impossible that he should not inform [the expert][15] — for [the priest] would not eat consecrated [unblemished] animals without the Temple walls[16] — I might not have applied [the principle] ‘the mouth which bound is the mouth which loosens’. He therefore informs us [that he is believed]. For, if this were really so,[17] he would have inflicted on it a recognizable blemish[18] and have eaten it then. Mar b. Rab Ashi demurred to this ruling. Why should this be different from the following case? Once, someone hired out an ass to a person and he said to him: ‘Do not go the way of Nehar Pekod, where there is water; go the way of Naresh where there is no water’. But he went the way of Nehar Pekod and the ass died. He then came before Raba and said to him: ‘Indeed I went the way of Nehar Pekod, but there was no water [and still the ass died]. Said Raba: Why should he lie? If he wished he could say ‘I went the way of Naresh’.[19] And Abaye explained: We do not apply the principle ‘why should he lie’ where there are witnesses![20] — But is the analogy correct? There [we are witnesses that] there certainly was water [on the way of Nehar pekod], but here, [in connection with the firstling], is it certain that he caused the blemish? It is only a fear,[21] and where there is only a question of a fear we do say ‘why should he lie’.

Rabina sat [lecturing] and reported this tradition[22] without mentioning the authority. Said Raba junior to Rabina: We learnt this in the name of R. Ela.

R. Zadok had a firstling. He set down barley for it in wicker baskets of peeled willow twigs. As it was eating, its lip was slit. He[23] came before R. Joshua.[24] He[25] said to him: ‘Have we made any difference between [a priest] who is a haber and [a priest] who is an ‘am ha-arez’? R. Joshua replied ‘Yes’.[26] He thereupon came before Rabban Gamaliel. He said to him. ‘Have we made any difference between [a priest] who is a haber and a priest who is an ‘am ha-arez’? Rabban Gamaliel replied ‘No’ .[27] R. Zadok said to him: ‘But R. Joshua told me "Yes"’! He said: ‘Wait until the great debaters[28] enter the Beth Hamidrash'. When they entered the Beth Hamidrash, the questioner[29] arose and asked: 'Have we made any difference between [a priest] who is a haber and one who is an 'am ha-arez'? R. Joshua replied 'No'.[30] Thereupon Rabban Gamaliel said: 'Was not the answer "Yes" reported to me in your name? Joshua, stand on your feet[31] and let them testify against you'.[32] R. Joshua stood up on his feet and said: 'How shall I act? If indeed I were alive and he were dead, the living can contradict the dead. But since both he and I are alive, how can the living contradict the living'?[33] And Rabban Gamaliel was sitting and discoursing while R. Joshua stood on his feet, until all the people murmured[34] and said to Huzspith the interpreter.[35] 'Silence'.[36] And he was silent.

MISHNAH. A PRIEST'S WORD IS TAKEN IF HE SAYS 'I HAVE SHOWN THIS FIRSTLING[37] AND IT IS BLEMISHED'.[38]

GEMARA. Rab Judah said that Rab said: A priest's word is taken if he says [to an expert]. 'an Israelite gave me this firstling with a blemish on it'.[39] What is the reason? 'People are not presumed to tell a lie which is likely to be found out'.[40] Said Raba: We have also learnt this: A PRIEST'S WORD IS TAKEN IF HE SAYS 'I HAVE SHOWN THIS FIRSTLING AND IT IS BLEMISHED'. Now, what is the reason? Is it not because we say 'people are not presumed to tell a lie which is likely to be found out'![41] — [No].[42] There, where it is a case of consecrated animals without [the Temple precincts], he will not eat[43] but here, since priests are suspected,[44] they are suspected.[45]

R. Shizbi raised an objection: He who says to one who is not trustworthy with reference to tithing.[46] 'Purchase on my behalf produce from one who is trustworthy[47] or from one who tithes', he is not believed.[48] Now why [is this so]? Let us adopt the principle that 'people are not presumed to tell a lie which is likely to be found out'? — The case is different there,

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(1) In ruling that one who is suspected of disregarding a certain religious matter is regarded as suspect in respect of the whole Torah.

(2) I.e., we entertain a fear and apprehension concerning other matters about which we have no ground for suspicion.

(3) Without some positive ground to go upon.

(4) To give evidence that the blemish was not caused intentionally.

(5) That her husband had died abroad, so that she can remarry. V. Shab. 145b.

(6) And with reference to a firstling, a woman's word is taken if she declares that a certain blemish was not brought about deliberately.

(7) Meant in a disparaging sense.

(8) The same person who said it was a firstling also said that it had a blemish on it for which he was not responsible and which he shows to the medical expert.

(9) The woman not being held to be married.

(10) And she may remarry.

(11) V. Keth. 22a.

(12) In the case of the woman.

(13) Since it was presumed that she was unmarried; therefore if there was a suspicion that she proposed marrying during her husband's lifetime without a divorce, she could have remained silent.

(14) In connection with a firstling.

(15) That the animal is a first-born, in order that the expert might inform him whether the blemish was a permanent or transitory one.

(16) As the penalty for this is excision, whereas maiming a firstling is only violating a negative precept.

(17) That we suspect the priest of causing the blemish.

(18) Which even an ignorant person would have recognized as such, and therefore, there would have been no need to bring the animal before us for the expert to declare that it was a permanent blemish, for no other person knew that he had a firstling. But where we are aware that the animal is a firstling, we do not believe him when he declares that the blemish was not caused by himself on the ground that he need not have come before us at all, for if he had slaughtered the animal without the expert's instructions, as everybody knew that he had a firstling, he would have been suspected of maiming the animal,

(19) V. Keth., Sonc. ed., p. 148 notes.

(20) For we are witnesses that water is there all the time, and similarly here also, since we are witnesses that priests are suspected concerning blemishes, we should not say ‘why should he lie’?

(21) That he caused a blemish.

(22) Of R. Ela.

(23) R. Zadok.

(24) To submit the case to his decision.

(25) R. Zadok. He was a Tanna of priestly descent.

(26) There is a difference, and therefore being a haber you are not suspected.

(27) Tosaf. comments that this is the law, and there is in fact no distinction between a priest who is a haber or an ‘am ha-arez.

(28) Lit., ‘shield-bearers’, the great defenders of the Torah and the scholars.

(29) R. Zadok (R. Gershom).

(30) Not wishing to give a contrary decision in the presence of Rabban Gamaliel.

(31) He intended to annoy him.

(32) Tosaf. omits the expression. ‘Let them testify’ etc as having no bearing in this connection.

(33) ‘I therefore certainly said it and withdraw’ (Rashi). Tosaf. explains however as follows: ‘I meant to conceal what I said but I am unable to do so now.

(34) Became rebellious.

(35) Of R. Gamaliel. He was one of the martyrs of the Hadrianic persecutions.

(36) Lit., ‘stand’.

(37) To a medical expert.

(38) I.e., that it possesses a permanent blemish provided that there are witnesses to testify that the blemish was not caused intentionally.

(39) Lit., ‘with its blemish’.

(40) Lit., ‘likely to be revealed’, And here the Israelite can be asked. V. R.H. 22b, Zeb. 93b.

(41) I.e., by inquiry from the expert.

(42) One may still say that we cannot deduce from the Mishnah the principle ‘people are not presumed to tell a lie’ etc., and the reason why he is believed is as follows.

(43) Unblemished consecrated animals. Consequently, unless the expert had permitted the firstling on the evidence of witnesses, he would not have declared that the firstling was permitted to be slaughtered by him.

(44) Of causing blemishes to firstlings.

(45) Even in this case of causing a blemish and pretending that an Israelite gave an animal to him in a blemished state.

(46) Who is known not to be observant as regards tithing.

(47) Not to purchase produce from an ‘am ha-arez or, if he does so, to give dem'ai (v. Glos.) before selling it.

(48) On saying that he bought from a person trustworthy in these matters (Dem'ai IV, 5).

Talmud - Mas. Bechoroth 36b

for[1] he can excuse himself by some subterfuge, [saying, ‘As far as I am concerned, his word is taken’].[2] The second clause however [of the Mishnah just cited] certainly supports [Rab Judah's view], for it says: From that man,[3] then he is believed![4] — There [again] since there is an inquirer, he is afraid.[5]

Said R. Jeremiah b. Abba: Whence does R. Judah know this?[6] [It is my own ruling]. I taught it to Giddul[7] and Giddul taught it to [R. Judah]. And this is how I imparted it to him: An Israelite's word is taken when he says: ‘This firstling I gave to a priest with a blemish on it’. [If it refers to] an Israelite,[8] surely this is obvious! — No. The statement is required for the case where [the animal] was small [when he gave it to the priest] and it grew up. You might have the impression that the Israelite cannot now establish the identity [of the animal].[9] He therefore teaches us [that it is not so]. In Sura they reported this in the last version,[10] whereas in Pumbeditha [they reported this] in the former version. The law is decided in accordance even with the first version.

Rafram of Pumbeditha possessed a firstling which he gave to a priest without a blemish. The latter made it blemished. One day his[11] eyes were affected. [The priest] brought the [same] animal before him,[12] and said to him, ‘This firstling an Israelite gave to me with a blemish on it’! He [forcefully] opened his eyes [wide] and perceived his fraud.[13] He[14] said to him: ‘Was it not I who gave it to you’? Nevertheless, the incident did not make Rafram anxious,[15] [because he held that] this priest happened to be impudent[16] but everybody was not impudent.

Once a case of sarua’[17] came before R. Ashi.[18] He said: What can we fear in connection [with the animal]? For whether [the owner be] a priest or Israelite, here is a firstling with a blemish on it.[19] Said Rabina to R. Ashi: But perhaps [the animal] belongs to an Israelite and Rab Judah ruled: A firstling of an Israelite must not be examined unless a priest is present?[20] — He replied to him: But is the analogy correct? There,[21] granted that he will not eat consecrated animals without [the Temple precincts],[22] he is nevertheless suspected as regards the priest's property;[23] but here, well, he knew that this blemish was a well-marked one, and why did he bring it before the Rabbis? Out of respect for the Sage. Now, if he did not neglect showing respect to the Sage, will he actually commit an offence?[24]

MISHNAH. ALL ARE TRUST WORTHY[25] AS REGARDS THE BLEMISHES OF A TITHING ANIMAL.

GEMARA. What is the reason? — Because if he wished he could cause a blemish originally [before the tithing]. But how does he know which goes out [through the door]?[26] And if you will say that he brings out an animal as the tenth[27] and blemishes it, does not the Divine Law say: He shall not search whether it be good or bad?[28] — Rather explain thus: If he wished he could have caused a blemish to the whole herd [of animals before tithing].[29] MISHNAH. A FIRSTLING WHOSE EYE WAS BLINDED[30] OR WHOSE FORE-FOOT WAS CUT OFF, OR WHOSE HIND-LEG WAS BROKEN, MAY BE SLAUGHTERED WITH THE APPROVAL OF THREE [PERSONS] OF THE SYNAGOGUE.[31] BUT R. JOSE SAYS: EVEN IF A HIGH PRIEST WERE PRESENT, A FIRSTLING MUST NOT BE SLAUGHTERED EXCEPT WITH THE APPROVAL OF AN EXPERT.

GEMARA. Both R. Simlai and R. Judah the Prince reported in the name of R. Joshua b. Levi, (another version is: R. Simlai and R. Joshua b. Levi both reported in the name of R. Judah the Prince): The permitting of a firstling[32] abroad[33] is by three persons of the Synagogue. Said Raba: This is so [even] in the case of prominent blemishes. What does he teach us? We have learnt this: A FIRSTLING WHOSE EYE WAS BLINDED OR WHOSE FORE-FOOT WAS CUT OFF OR WHOSE HIND LEG WAS BROKEN, MAY BE SLAUGHTERED WITH THE APPROVAL OF THREE [PERSONS] OF THE SYNAGOGUE?[34] — From the Mishnah I might have thought that blemishes which are not prominent are also permitted abroad, and the reason why the Mishnah speaks of ‘prominent’ [blemishes] is for the purpose of showing to what a length R. Jose is prepared to go [insisting that even so an expert is required]. He therefore informs us [that it is not so].

Rab Judah said that he was in doubt whether R. Jeremiah reported in the name of Rab or in the name of Samuel [the following ruling]: Three [ordinary] persons are required to permit a firstling [to be slaughtered when blemished] in a place where there is no expert. What does it teach us? We have learnt this: THE ANIMAL MAY BE SLAUGHTERED WITH THE APPROVAL OF THREE [PERSONS] OF THE SYNAGOGUE? From the Mishnah I might have said that even where an expert is available, [three ordinary persons are required to permit it]. He therefore informs us that in a place where there is no expert it is [as the Mishnah states], but in a place where there is an expert, it is not so.

R. Hiyya b. Abin reported that R. Amram said: Three persons are necessary to permit a firstling [to be slaughtered] in a place where there is no expert. Three persons are required to annul vows, where there is no Sage. ‘Three persons are necessary to permit a firstling in a place where there is no expert’;

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(1) When inquiries are made and it is discovered that he bought the produce from an untrustworthy person.

(2) That although the seller may not be trustworthy in the sender's opinion, he is regarded as trustworthy by his agent. Therefore the agent has no fear of being found out. The bracketed words are inserted from Sh. Mek.

(3) Whose name the sender explicitly mentioned.

(4) For there is the fear here that the sender might make investigations as to whether his instructions were carried out. There is therefore here a confirmation of Rab Judah's view.

(5) Since he sees that the sender is particular, having mentioned a specific name, he is aware that the sender will certainly make inquiries, and therefore the agent is believed, but not for the reason which Rab Judah states. In the case, however, of the firstling, the priest is not afraid, thinking that nobody will trouble to ascertain whether his statement is correct.

(6) That a priest is trustworthy to declare that an Israelite etc.

(7) The name of a rabbinic teacher. Another explanation of the word Giddul is ‘a great’ man, from the word גדול .

(8) And not to a priest who said ‘this firstling an Israelite gave to me with its blemish’.

(9) The animal having grown up. And therefore it might not be the same one which the Priest gave him, and thus it is possible that the Israelite actually caused the blemish. Rabbenu Gershom explains that קטן refers to an Israelite who was young when he gave the animal to the priest, and now when grown up he testifies that he gave the animal with a blemish on it. We are therefore informed that we trust the Israelite and we do not fear that he may not recollect whether or not it had a blemish when he received it.

(10) That an Israelite is trustworthy to say ‘this firstling etc.’

(11) Rafram's.

(12) For Rafram to decide whether the blemish was of a permanent character, the priest thinking that now that Rafram's eyes were bad, he would not recognize the animal.

(13) Recognizing that it was the firstling he had given him and that the priest was responsible for the blemish.

(14) Rafram.

(15) To decree that a priest in no circumstances should be believed when he declares that an Israelite gave him a blemished firstling.

(16) For he exhibited inordinate impudence, in the first place in causing the blemish, and secondly in showing the firstling to the person who gave him the animal instead of to another expert.

(17) An animal with one eye abnormally small and the other large.

(18) To give a decision on the animal.

(19) For in either case there can be no suspicion. since it was born with this defect.

(20) Lit., ‘with him’. The reason is because we fear that when the blemish is pronounced a permanent one, he will eat it himself and deprive the priest of his due.

(21) With reference to Rab Judah's ruling.

(22) As we see that he would not slaughter the animal before he showed it to the expert.

(23) For the penalty is not as severe as for eating consecrated animals outside the Temple, which involves kareth, and therefore the priest must be present when the examination takes place.

(24) Of stealing, which is a much more serious thing than not showing respect to the expert by not showing him the animal in the case under discussion.

(25) To testify that the blemish was not caused deliberately. The Mishnah refers to a doubtful tithing animal, e.g., where he called the ninth animal, when counting the tenth, the law being that it is not eaten unless blemished, v. infra 59a.

(26) I.e., the tenth, so that he might cause a blemish at the outset.

(27) Lit., ‘the beginning of ten’.

(28) Lev. XXVII. 33. Implying that he must not bring out the animal but it must go out by itself.

(29) When the animals are all hullin, and this is permissible. He can then proceed to tithe, for tithing takes effect even with blemished animals, the text saying ‘Good or bad’, i.e., unblemished or blemished. Therefore we believe him when he declares that the blemish on the doubtfully tithed animal was not caused intentionally.

(30) I.e., a prominent and visible blemish.

(31) Who are not necessarily experts.

(32) To be slaughtered in consequence of a blemish.

(33) Lit., 'outside the Land' (of Palestine.) The reason is because even in Temple-times it was not fit to be sacrificed.

(34) And these are prominent blemishes. The Mishnahs here also deal with a firstling abroad and nowadays, a previous Mishnah speaking of an old male firstling with long wool etc'. Now if it referred to Temple-times and in Palestine, why did not the Priest offer it up?

Talmud - Mas. Bechoroth 37a

this excludes the ruling of R. Jose [in the Mishnah]. 'Three persons are required to annul vows in a place where there is no Sage'; this excludes the ruling of R. Judah. For it has been taught: The annulment of vows requires three persons; 'R. Judah rules: One of them must be a Sage'. 'In the place where there is no Sage'. Who, for example?[1] — Said R. Nahman: for example, myself. 'R. Judah rules: One of them must be a Sage'. Does this imply, therefore, that the rest can be people of any kind?[2] — Said Rabina: They[3] are explained to them and they understand.

BUT R. JOSE SAYS: EVEN IF A HIGH PRIEST WERE PRESENT etc. R. Hananel reported in the name of Rab: The halachah is not in accordance with R. Jose. Surely this is obvious, for 'where a single opinion is opposed to the opinion of more than one, the law follows the latter'![4] — You might have thought that we must adopt R. Jose's opinion, because he is known to have deep reasons [for his rulings]. He therefore informs us [that it is not so]. You may now infer from this[5] that the former ruling[6] was stated in the name of Samuel. For if it were in the name of Rab, what need is there for the repetition?[7] — 'One ruling was derived by implication' from the other.[8] MISHNAH. IF ONE SLAUGHTERED A FIRSTLING[9] AND IT BECAME KNOWN THAT HE HAD NOT SHOWN IT [TO A SCHOLAR]. AS REGARDS WHAT [THE PURCHASERS] HAVE EATEN, THERE IS NO REMEDY[10] AND HE MUST RETURN THE MONEY TO THEM.[11] AS REGARDS, HOWEVER, WHAT THEY HAVE NOT YET EATEN, THE FLESH MUST BE BURIED[12] AND HE MUST RETURN THE MONEY TO THEM. AND LIKEWISE IF ONE SLAUGHTERED A COW AND SOLD IT AND IT BECAME KNOWN THAT IT WAS TREFAH, AS REGARDS WHAT [THE PURCHASERS] HAVE EATEN THERE IS NO REMEDY, AND AS REGARDS WHAT THEY HAVE NOT EATEN, THEY RETURN THE FLESH TO HIM AND HE MUST RETURN THE MONEY TO THEM. IF [THE PURCHASERS] [IN THEIR TURN] SOLD IT TO HEATHENS OR CAST IT TO DOGS, THEY MUST PAY HIM THE PRICE OF TREFAH.[13]

GEMARA. Our Rabbis taught: If one sells flesh to another which turned out to be flesh of a firstling, or if one sells produce and it turns out to be untithed or if one sells wine and it turns out to be forbidden wine,[14] what [the purchasers] have eaten cannot be remedied and he must return the money to them. R. Simeon b. Eleazar, however, says: In the case of objects for which a man has a loathing, he must return the money to them, [as there was no benefit to them after knowing], whereas in the case of objects for which a man has not a loathing, he deducts from the price [what had been eaten]. And the following are the objects for which a person has a loathing: Carcases, trefahs, forbidden animals and reptiles. And the following are objects for which a person has no loathing: Firstlings, untithed products and forbidden wine. [Do you therefore say that in the case of] a firstling [he deducts]? But why should not [the buyer] say to [the seller] 'What loss have I caused you'?[15] — No; the statement is required for the case where he sold him the flesh from the place where the blemish was, for he says to him: 'Had you not eaten it, I would have shown it to [a scholar] and he might have permitted it, in accordance with the ruling of R. Judah.[16] As regards untithed things,[17] he can say: 'I might have prepared them [ritually] and eaten them'. With reference to forbidden wine,[18] [one can explain that he sold it to him] mixed [with permitted wine], [and had he not consumed it he would have been able to benefit by it] according to the ruling of R. Simeon b. Gamaliel. For we have learnt: If forbidden wine falls into a vat [of permitted wine], it is forbidden to profit from the whole of it. R. Simeon b. Gamaliel, however, says: He can sell the whole of it to a heathen, except for the value of the forbidden wine in it.[19]

CHAPTER VI

MISHNAH. THESE ARE THE BLEMISHES IN CONSEQUENCE OF WHICH A FIRST-BORN ANIMAL MAY BE SLAUGHTERED;[20] IF ITS EAR HAS BECOME DEFECTIVE, [BEING CUT OR BORED THROUGH] FROM THE CARTILAGES [INWARD] BUT NOT IF THE DEFECT IS IN THE EAR-LAP;[21] IF IT IS SLIT ALTHOUGH THERE WAS NO LOSS [OF SUBSTANCE]; IF IT IS PERFORATED WITH A HOLE AS LARGE AS A KARSHINAH[22] OR IF [THE EAR] HAS BECOME DRY. WHAT IS CALLED 'BECOMING DRY'? IF IT IS PERFORATED NO DROP OF BLOOD WOULD ISSUE. R. JOSE B. HA-MESHULLAM SAYS: [IT] IS CALLED DRY WHEN IT IS LIABLE TO CRUMBLE.

GEMARA. Why is this so?[23] Does not Scripture say 'Lame or blind'?[24] It also writes: And if there be any blemish therein.[25] But why not argue that [the text] 'And if there be any blemish therein' is a general statement while 'lame or blind' is a specification; and where a general statement is followed by a specification the scope of the general statement is limited by the things specified, so that only lameness or blindness [in a firstling] are [legal blemishes], but other [defects] are not [legal blemishes]? — [The text]: 'Any ill blemishes whatsoever'[26] is another general statement. We have, therefore, a general statement followed by the enumeration of specifications which are in turn followed by a general statement and in such a case we include only such things as are similar to those specified. Hence, just as the specifications[27] are exposed blemishes which cannot become sound again, so all [legal] blemishes must be exposed and unable to become sound again. But why not reason: As the specifications are exposed blemishes which render the animal incapable of carrying out its normal functions[28] and cannot become sound again. so all [legal] blemishes must be exposed rendering the animal incapable of carrying out its normal functions and unable to become sound again? Why then have we learnt: IF THE EAR IS DEFECTIVE FROM THE CARTILAGES,[29] BUT NOT IF THE DEFECT IS IN THE EAR-LAP? — [The text]: 'Any[30] ill blemish whatsoever' is a widening of the scope of what constitutes a blemish. If this be so, why not also [slaughter a firstling] in consequence of hidden blemishes? Why then have we learnt: If the incisors are broken off or levelled [to the gum] or the molars are torn out [completely].[31]

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(1) Is meant by the term Sage?

(2) Even ignorant people. But how can we take their views into consideration?

(3) The rules and regulations appertaining to vows.

(4) Ber. 9a.

(5) The ruling of R. Hananel.

(6) Which Rab Judah reported that R. Jeremiah gave. viz., that three Persons are required to permit a firstling.

(7) By declaring in the name of Rab that the law is not in accordance with the ruling of R. Jose, R. Hananel indicates that three persons are required, and therefore, if the former statement had been reported in the name of Rab, there would be two similar rulings by the same authority. Hence we can solve the doubt whether R. Jeremiah reported in the name of Rab or Samuel; it must have been in the name of Samuel.

(8) The above ruling of Rab Judah may still have been reported to him by R. Jeremiah in the name of Rab, and there is no difficulty, for R. Hananel's statement here in the name of Rab may be only an inference from Rab Judah's earlier ruling and not an explicit statement on the part of Rab.

(9) And sold of its flesh.

(10) Lit., 'what they have eaten they have eaten'.

(11) For being instrumental in causing them to eat forbidden food he is penalized.

(12) As it is forbidden to benefit from an unblemished firstling.

(13) Since they did not eat the trefah, they must pay him the cheap price of trefah and he compensates them for the rest, as they paid the higher price for kosher flesh.

(14) Wine of idolatrous libation.

(15) For even if it were in your possession. it would have required burial, having been slaughtered in an unblemished state.

(16) V. supra 28a.

(17) The question also arises, why should the seller take a part of the money, since in any case he could not have used the untithed produce.

(18) Cf. previous note mutatis mutandis.

(19) I.e., he deducts the value from the price, so as not to benefit from the forbidden wine.

(20) After the destruction of the Temple.

(21) Lit., ‘from the skin’, because a blemish at this spot can become sound again.

(22) A species of vetch, probably horse-bean.

(23) Why should the defects enumerated in the Mishnah be regarded as legal blemishes in connection with a firstling?

(24) Deut. XV, 21. As being blemishes in consequence of which a firstling may be killed, the text continuing ‘Thou shalt eat it within thy gates’. This implies that no other defects are considered legal blemishes.

(25) The opening passage of the text just cited; from this we deduce that there are other blemishes which have the same ruling as lameness and blindness.

(26) A continuation of the above text.

(27) Lameness and blindness.

(28) The lame not being able to walk and the blind to see. Lit., ‘idle from its work’.

(29) Why should this be considered a blemish, since the animal is not in consequence deprived of hearing.

(30) The word כל is a comprehensive term which includes other defects as blemishes.

(31) Infra 39a.

Talmud - Mas. Bechoroth 37b

[thus implying that] when torn out completely [they are blemishes] but not where they are broken off or levelled [to the gum]?[1] — We require [that it should appear] ‘an ill blemish’,[2] which is not the case [where it is not torn out]. If this be so,[3] why should not [a firstling be slaughtered] in consequence of a transitory blemish?[4] Why have we learnt: BUT NOT IF THE DEFECT IS IN THE EAR-LAP? — There is a logical reason [why we do not slaughter a firstling] in consequence of a transitory blemish, for seeing that we do not redeem [a consecrated animal][5] in consequence [of a transitory blemish], shall we slaughter in consequence of it?" For it has been taught: [Scripture says]: And if it be any unclean beast of which they may not bring an offering unto the Lord.[6] The text deals here with sacrifices rendered unfit which were redeemed. You say sacrifices rendered unfit. Perhaps it is really not so, but it speaks actually of an unclean animal? Since it says: ‘And if it be of an unclean beast, then he shall ransom it according to thy valuation’[7] the case of an unclean animal is already stated. How then do I interpret the text ‘Of which they may not bring an offering unto the Lord’? You must say that it refers to sacrifices rendered unfit which were redeemed. I might, however, conclude that one may redeem in consequence of a transitory blemish, hence Scripture explicitly states: ‘Of which they may not bring an offering unto the Lord’, thus intimating [that it refers to] a sacrifice which is completely unfit [for the altar], but excluding this case of a transitory blemish, which although unfit for sacrifice today, is fit tomorrow. And if you prefer [another solution][8] I may say: If this be a fact [that a transitory defect is a legal blemish] then of what avail is the text ‘Lame and blind’ [which implies only permanent blemishes]?

IF IT WAS SLIT, ALTHOUGH THERE WAS NOT ANY LOSS [OF SUBSTANCE]. Our Rabbis taught: A slit may be as small as you please.[9] A defect [a cut] may be either through the agency of man or by nature.[10] Does this imply that a slit has not the same ruling when brought about by nature? — Rather state it thus: A slit may be as small as you please, and both a slit and a cut may be either through the agency of man or by nature. And how large is a cut? — A notch deep enough to stop the finger nail.[11]

IF IT WAS PERFORATED AS LARGE etc. Our Rabbis taught: How large is the perforation of the ear? — As large as a karshinah. R. Jose son of R. Judah says: As large as a lentil. What is called dry? If when perforated [the sore] does not bring forth a drop of blood. R. Jose b. Ha-meshullam says: [It is called] ‘dry’ as long as it is liable to crumble. A Tanna taught: Their views are nearly alike. Whose views [are meant]? Shall I say the views of the first Tanna [quoted above] and R. Jose b. Ha-meshullam? Surely there is a considerable difference![12] — Rather you must say, the views of the first Tanna [quoted above] and R. Jose son of R. Judah.[13] [But does R. Jose son of R. Judah maintain that a blemish is constituted] by [a hole] the size of a lentil and not by less than the size of a lentil? Against this I quote: Scripture says ‘An awl’.[14] I have here mentioned only an awl [wherewith to bore the ear of a slave]; whence do you include also a prick, a thorn, a borer, and a stylus? Hence the text states: Then thou shalt take,[14] thus including everything which can be taken in a hand. This is the view of R. Jose son of R. Judah. Rabbi says, [Since the text says] ‘An awl’, we infer that as an awl is exclusively of metal, so anything used must be of metal. And it is stated in the following clause: Said R. Eleazar: Judan the son of Rabbis[15] used to expound as follows: The boring is only done through the ear-lap. The Sages, however, rule: A Hebrew slave who is a priest must not have his ear bored, because he becomes blemished. Now if you maintain that the boring was done through the ear-lap, then the Hebrew slave who is a priest cannot become blemished, hence we only bore through the top part of the ear![16] — Said Rab Hana b. Kattina: This offers no difficulty. Here for the purpose of slaughtering,[17] [the size of a lentil is required] but there in the case of causing a disqualification [even a needle can render the animal blemished for the altar]. What is karshinah? Said R. Sherabya: Indian vetch. R. Oshaiah inquired from R. Huna the Great: [Must the hole be] of a size so that the karshinah may enter and come out [with ease] or as to contain a karshinah[18] [only with difficulty]? — He replied to him: I have not heard the answer to this particular query, but I have heard [a solution of] a similar query. For we have learnt: A spinal column and a skull which have shrunk [do not cause uncleanness].[19] And how great must be the shrinkage in the spinal column in order not to cause uncleanness? Beth Shammai say: Two vertebrae, whereas Beth Hillel say: One vertebra. And as regards the skull, Beth Shammai say: [The amount of the shrinkage] must be equal to a borer;[20] and Beth Hillel say: As much as is required to be taken away from a living person in order to prove fatal.[21] Now R. Hisda sat discoursing and inquired: [You say] as much as is required to be taken from a living person [so as to prove fatal]. And how much would this be? — R. Tahlifa b. Abudimi said to him: Thus did Samuel say: As much as a sela’.[22] (And it was stated; R. Safra said: [R. Tahlifa] reported to [R. Hisda] a ruling [in the name of Samuel], whereas Rab Samuel b. Judah says: [R. Tahlifa] quoted [to Rab Hisda] a Baraitha [reported by Samuel]. And the way to remember[23] this is by the sentence: R. Samuel b. Judah reported a Baraitha).[24] Said [R. Hisda] to him [R. Tahlifa]: If so,[25] then you have made the views of Beth Shammai and Beth Hillel identical. For we have learnt: In a light-hole which was not made by the agency of man,[26] the size[27] required is as large as a big fist, such as the fist of Ben Battiah.[28] Said R. Jose: And this [fist] is as large as a big head of a man. If [the light-hole], however, was made by the agency of man, [the Sages] fixed the size to be as large as a hole made with the large [carpenter's borer kept in the Temple cell,[29] which is as large as an Italian dupondium[30] or as large as a Neronian sela’. And it[31] has

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(1) I.e., only hidden blemishes.

(2) And therefore there must be a complete tearing out, as ‘an ill blemish’ is only when it is seen.

(3) That the word כל is an extension of the scope of what is a blemish.

(4) Since such a defect appears to be an ill blemish.

(5) Which became unfit for sacrifice. (11) A firstling outside Palestine.

(6) Lev. XXVII, 11.

(7) Ibid XXVII, 27.

(8) To the question why, in view of the word כל we should not be allowed to slaughter a firstling by reason of a transitory blemish?

(9) Lit., ‘whatever it may be’.

(10) Lit., ‘By the hands of heaven’, i.e., born with a defect.
(11) When passing over its edge as with a slaughtering knife.
(12) Between the two views set forth.
(13) For a karshinah is only slightly larger than a lentil.
(14) Deut. XV, 17.
(15) A name applied to a great scholar, v. J.E. s.v.
(16) I.e., from the cartilage inward. Nevertheless we see that the boring causes a blemish. R. Jose holding that even a needle's point which makes a hole much smaller than a lentil, is capable of maiming.
(17) Outside the Temple.
(18) Lit., ‘a karshinah which stands’.
(19) The spinal column and the skull cause levitical uncleanness, rendering any object unclean under their shelter, like the greater number of the limbs of a dead body or the greater part of a dead body. If however, they are not complete, they do not cause this uncleanness.
(20) V. Oh. II, 3.
(21) Defined infra p. 38a.
(22) A weight and a coin.
(23) Lit., ‘And thy sign’ so as not to make a mistake who said it was a ruling and who said it was a Baraitha.
(24) For we find elsewhere R. Samuel b. Judah frequently quoting a Baraitha.
(25) That Beth Hillel say a sela’.
(26) A wall breaking a little of itself between two houses, thus making an opening letting in light.
(27) So as to bring uncleanness from one house to the other. As this was not made by the agency of a man, therefore less than this size does not bring about impurity.
(28) Nephew of R. Johanan b. Zakkai, one of the leaders of the terrorists during the siege of Jerusalem by the Romans. He was a big man physically.
(29) For purposes of Temple repair.
(30) V. Glos.
(31) The sela’ or the Dupondium.

Talmud - Mas. Bechoroth 38a

[a size] as large as a hole of a yoke![1] — He[2] was silent. Said R. Hisda to him: perhaps what we have learnt[3] refers to the borer and [the removal of] what stopped up [the hole].[4] Thereupon R. Tahlifa said to him: You should not say ‘perhaps’, it certainly refers to the borer and [the removal of] what stopped up [the hole], and you can confidently accept this explanation as we accept the evidence of Hezekiah the father of Ikkesh.[5] For it has been taught: This which follows is the evidence given by Hezekiah the father of Ikkesh before Rabban Gamaliel in Jabneh which he reported in the name of Rabban Gamaliel the Elder: Wherever an earthen vessel has no inside,[6] it is not regarded as having an independent back.[7] If then the inside becomes unclean, the back becomes unclean, and if the back becomes unclean, the inside becomes unclean. But did not the Divine Law teach that the uncleanness of an earthen vessel depends on the inside?[8] If it has an inside [receiving uncleanness] then the vessel becomes unclean, but if it has no inside, then it does not become unclean? — Said R. Isaac b. Abin: This is what is meant: Wherever an earthen vessel has no inside in a corresponding case with a rinsing vessel[9] it has no back which is treated independently. If then its inside becomes unclean, its back [outside] becomes unclean, and if its back becomes unclean, then its inside is unclean. What need however is there to make it depend on an earthen vessel? Let him say as follows: Wherever in the case of a rinsing vessel there is no inside, there is no back which is treated independently? — He informs us of this very thing, that if it has an inside, then it is like an earthen vessel, as much as [to say]: As in the case of an earthen vessel, if the inside becomes unclean, then the back becomes unclean, and if the back becomes[10] unclean, the inside does not become unclean, so it is in the case of a rinsing vessel, if the inside becomes unclean then the back becomes unclean, and if the back becomes unclean, the inside does not become unclean. Now we may readily grant this in the case of an earthen vessel, the Divine Law having revealed explicitly in that connection that uncleanness

depends on the inside [receiving uncleanness]; but as regards a rinsing vessel, did the Divine Law reveal explicitly that uncleanness depends on the inside [receiving uncleanness]? — If we were referring to a case of biblical uncleanness, it would indeed be so.[11] We are dealing here[12] however with unclean liquids [which have come in contact with a rinsing vessel], the resulting uncleanness being due to a rabbinic enactment. For we have learnt: If the back [outside] of a vessel has been defiled by unclean liquids, its back becomes unclean, but its inside, its edge,[13] its handle and its projectors remain clean. If its inside however becomes unclean, the whole vessel becomes unclean;[14] for according to the biblical law, food cannot make a vessel unclean nor can unclean liquid make a vessel unclean, and only the Rabbis have declared uncleanness on account of the liquid of a zab and a zabah.[15] The Rabbis consequently declared it[16] to have uncleanness of an earthen vessel but they did not declare it [in this particular instance] to be biblically unclean on its own account, the Rabbis differentiating in order that terumah and holy objects might not be burnt on its account.[17] But if this be so,[18] where there is no inside, let there also be a distinction made?[19] Since where there is an inside, the Rabbis differentiated, it will indeed be known that where there is no inside the uncleanness is a rabbinic enactment [and that therefore terumah must not be burnt in consequence of it].

But with regard to a rinsing vessel, where there is no inside, is it susceptible of becoming unclean according to the biblical law?[20] For we do not require [in order that a vessel may become unclean] that it should resemble a sack[21] that is [to say], As a sack is handled either fully or empty, so anything [in order to receive uncleanness] must be in a condition to be handled either full or empty?[22] — It refers to those [articles] which are fit to be used as seats.[23] If this be so, then why not also declare an earthen vessel[24] unclean [rabbinically]?[25] — Midras[26] is not employed with an earthen vessel, [for fear of breaking it].

R. Papa says:[27] The Mishnah above states distinctly a ‘large borer’, from which we can deduce that an ordinary borer is smaller than a sela’.[28] This would indeed hold good according to the view of R. Meir[29] but according to the view of the Rabbis, what answer would you give? For we have learnt: To what kind of borer did Beth Shammai refer? To a small one, belonging to doctors.[30] The Sages said however: They refer to the large [carpenter's] borer kept in the Temple cell. But is it satisfactory even according to the view of R. Meir? Would this not then be a case where the ruling of Beth Shammai would be easier[31] and the ruling of Beth Hillel severer; and [as regards examples of this kind of ruling] what we have learnt[32] we accept[33] and what we have not learnt in the Mishnah we do not accept! — Said R. Nahman:[34] A Neronian sela’ is distinctly mentioned above.[35] A Neronian sela’ is as large as a large borer, but an ordinary sela’ is even smaller than an ordinary borer.[36]

MISHNAH. ONE WHOSE RIS [EYELID] IS PERFORATED, NIPPED OR SLIT, OR IF IT HAS A CATARACT OR A TEBALLUL,[37] HALAZON [SNAIL-SHAPED], NAHASH [SNAKE-SHAPED][38] AND A [BERRY-SHAPED] GROWTH ON THE EYE, [IS DISQUALIFIED]. WHAT DOES TEBALLUL MEAN? THE WHITE OF THE EYE BREAKING THROUGH THE RING AND ENCROACHING ON THE BLACK, BUT IF THE BLACK BREAKS THROUGH THE RING AND INVADES THE WHITE, IT IS NOT A [DISQUALIFYING] BLEMISH, [BECAUSE THERE ARE NO DISQUALIFYING BLEMISHES AS REGARDS THE WHITE OF THE EYE].[39]

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(1) In which a peg is fastened in order to bind the straps (v. Kel. XVII, 12). Consequently we see that the carpenter's borer מקדח is the size of a sela’ and, therefore, what is the difference between Beth Hillel and Beth Shammai?

(2) Rab Tahlifa.

(3) The ‘borer’ referred to above in connection with the skull.

(4) The borer being narrow below and wide at the top, some scraping away of the hole is necessary in order that it may enter and come out freely. This would therefore make the hole larger than a sela’ and, therefore, Beth Shammai and Beth

Hillel would differ in the extent of the diminution required in the case of the skull. Incidentally this would solve R. Oshaiah's query above.

(5) Though his statement which follows appeared difficult, every effort was made to explain it, since it was known to have been reliable in substance.

(6) I.e., is not hollowed out so as to be capable of containing something.

(7) Lit., ‘a back for distinction’, i.e., its back (outside) cannot become unclean independently of its inside or vice versa. The inside here would mean the part which is customarily used (Tosaf.).

(8) v. Lev. XI, 32.

(9) I.e., a wooden vessel, as Scripture writes: And every vessel of wood shall be rinsed in water. (Lev. XV, 12.) A suggestion that the vessel referred to here is a metal one is refuted by Rashi.

(10) So Sh. Mek. Cur. edd. ‘if the back does not become’.

(11) That if the outside of a rinsing vessel becomes unclean, the inside too becomes unclean, whether it is capable of containing or not.

(12) When we say that where it is capable of containing and the outside becomes unclean, the inside does not become unclean as in the case of an earthen vessel, and where it is incapable of containing, Hezekiah requires to inform us that there is no distinction as regards the back and inside and whichever becomes unclean, the other also becomes unclean.

(13) Or its basin (Rashi).

(14) Kelim XXV, 6.

(15) One afflicted with gonorrhoea. His or her spittle is one of the direct causes of levitical impurity and it makes a vessel unclean biblically, whereas other unclean liquids cannot do so, but only make the vessel rabbinically unclean.

(16) A rinsing vessel.

(17) Thus not causing unnecessary burning of holy things.

(18) If the uncleanness here be a rabbinic enactment and therefore a distinction between the inside and the back was made, just as in the case of an earthen vessel, in order not to burn holy things unnecessarily.

(19) That where the back becomes unclean, the inside does not become unclean.

(20) That there should be need to take a precaution in case an unclean liquid comes in contact with it. Moreover, it states above that if the case were one of biblical uncleanness etc. The objection therefore arises that where it is not capable of containing there can be no uncleanness biblically!

(21) Scripture saying. ‘It shall be unclean whether it be any vessel of wood, or raiment, or skin or sack (Lev. XI, 32).

(22) I.e., capable of containing.

(23) As couches, stools or chairs.

(24) Without an inside, but fit to be used as a chair etc.

(25) According to the view of R. Isaac b. Abin above.

(26) Causing uncleanness by treading, lying or sitting on it.

(27) The difficulty you raised above concerning Beth Shammai and Beth Hillel apparently holding the same view, can be solved in the following manner.

(28) And Beth Shammai in connection with the passage above referring to the loss in the skull mean by the term ‘borer’ the ordinary one, which is smaller than a sela’. Therefore the measurements of the two schools are not alike.

(29) Who explains below that a physician's borer is meant in the statement referring to the size of the shrinkage in the skull. This is less than a sela’, and thus there is a difference between Beth Shammai and Beth Hillel.

(30) With which the head is bored when a wound has to be examined.

(31) For Beth Shammai would then hold that a smaller portion is required in order to free the skull from uncleanness of ohel, whereas Beth Hillel would demand a greater decrease.

(32) In ‘Ed. V, I, where only six cases are enumerated in which Beth Shammai are more lenient in their rulings than Beth Hillel.

(33) Lit., ‘we have learnt’.

(34) Explaining the view of R. Meir.

(35) In the Mishnah referring to the light-hole etc.

(36) Therefore Beth Shammai, requiring a shrinkage in the skull of the size of a borer before it can be exempt from the impurity of overshadowing would be severer in their ruling than Beth Hillel, who only require the decrease of the size of an ordinary sela’, which is even less than the size of an ordinary borer.

(37) Explained below in the Gemara.

(38) The Gemara explains this below.
(39) For only the black part is looked upon as the eye. Added with Sh. Mek.

Talmud - Mas. Bechoroth 38b

GEMARA. What is the meaning of the RIS?[1] R. Papa said: The eyelid.[2]

OR IF IT HAS A CATARACT OR A TEBALLUL. Our Rabbis taught: A cataract which causes the eye to sink is a [disqualifying] blemish, but if it is floating, it is not a disqualifying blemish. But has not the opposite been taught? — This offers no difficulty. One statement refers to the black part of the eye, and the other case to the white.[3] But surely blemishes in the white of the eye do not disqualify! One statement then refers to a white spot, and the other to a black spot. For Rabbah b. Bar Hana said: R. Oshaiah of Usha told me, A black spot which causes the eye to sink is a [disqualifying] blemish, but if it is floating it is not a [disqualifying] blemish. A white spot if it causes the eye to sink is not a disqualifying blemish, but if it is floating, it is a disqualifying blemish. And mnemonic for this is,[4] barka.[5]

HALAZON, NAHASH AND A GROWTH IN THE EYE. A query was put forward: Does [the Mishnah mean that] HALAZON is the same thing as NAHASH or does it mean halazon or nahash? — Come and hear: For Rabbah b. Bar Hana said: R. Johanan b. Eleazar told me: A certain old man [a priest] lived in our quarter whose name was R. Simeon b. Jose b. Lekunia. Never had I passed in front of him.[6] Once, however, I passed in front of him. He said to me: Sit down my son, sit. This[7] halazon is a permanent blemish, in consequence of which [the animal] may be slaughtered and this is what the Sages called nahash. And although the Sages have said: A man must not examine his own [animals] to discover their blemishes, yet he is allowed to teach the rule to his pupils and the pupils are permitted to examine. But surely it is not so! For did not R. Abba say that R. Huna reported in the name of Rab: Wherever a scholar comes before us and teaches a [new] rule, if he enunciated it before a practical case arose for the application of the rule, then we listen to him, but if not, we do not listen to him?[8] — He too came to us and taught it before the case arose.

WHAT DOES TEBALLUL MEAN? THE WHITE OF THE EYE BREAKING THROUGH THE RING AND ENCROACHING ON THE BLACK. Whose opinion does this[9] represent? — It is that of R. Jose. For it was taught: If the white of the eye encroaches on the black or if the black encroaches on the white, it is a disqualifying blemish. This is the view of R. Meir. R. Jose says: If the white encroaches on the black it is a blemish, whereas if the black of the eye encroaches on the white, it is not a blemish, for blemishes do not disqualify in the white of the eye. Said Rab: What is the reason of R. Jose? Scripture says: Their eyes stand forth from fatness.[10] [The white of the eye] is called the fat of the eye, but not simply their eyes.[11] And what is the reason of R. Meir? — Said Raba:[12] What is the meaning of teballul? — Anything which disturbs [mebalbel] the action of the eye. MISHNAH. HAWARWAR [WHITE SPOTS][13] ON THE CORNEA AND WATER CONSTANTLY DRIPPING FROM THE EYE, [ARE DISQUALIFYING BLEMISHES]. WHAT DO WE MEAN BY A PERMANENT HAWARWAR? IF IT REMAINED FOR A PERIOD OF EIGHTY DAYS.[14] R. HANINA B. ANTIGONUS SAID: WE MUST EXAMINE IT THREE TIMES IN THE EIGHTY DAYS.[15] AND THE FOLLOWING ARE CASES OF CONSTANT DRIPPING FROM THE EYE [AND HOW TO TEST ITS PERMANENCY]: IF IT ATE [FOR A CURE] FRESH [FODDER] AND DRY [FODDER][16] FROM A FIELD SUFFICIENTLY WATERED BY RAIN, OR FRESH [FODDER] AND DRY [FODDER] FROM A FIELD REQUIRING ARTIFICIAL IRRIGATION, [IT IS A PERMANENT BLEMISH, IF NOT CURED]. IF IT ATE DRY [FODDER] FIRST AND THEN FRESH [FODDER][17] IT IS NOT A BLEMISH. UNLESS IT EATS DRY [FODDER] AFTER[18] THE FRESH.[19]

GEMARA. What opinion does our Mishnah[20] represent? — It is that of R. Judah. For it has been taught: A permanent hawarwar must remain for forty days, and water constantly dripping [from the eye] must remain so for eighty days. This is the view of R. Meir. But R. Judah says: A permanent hawarwar must remain for eighty days. And the following are cases of permanent hawarwar [and how to test their permanency]: if it ate fresh [fodder] with dry [fodder] from a field sufficiently watered by rain,[21] but not fresh [fodder] and dry from a field requiring irrigation. Or if it ate dry [fodder] followed by fresh, it is not a blemish,[22] unless it ate dry [fodder] after fresh. And this [treatment] must last for three months.[23] But have we not learnt both [kinds of fields]: IF IT ATE FRESH [FODDER] AND DRY [FODDER] FROM A FIELD SUFFICIENTLY WATERED BY RAIN, OF IF IT ATE FRESH [FODDER] AND DRY [FODDER] FROM A FIELD REQUIRING IRRIGATION?[24] — There is a lacuna in the Mishnah and it should read thus: IF IT ATE THE FRESH [FODDER] AND DRY [FODDER] FROM A FIELD SUFFICIENTLY WATERED BY RAIN, it is a blemish.[25] [IF IT ATE] FROM A FIELD REQUIRING IRRIGATION, it is not a blemish, [EVEN IF IT DID NOT BECOME CURED]. [And even in the case of a field] watered by rain, IF IT ATE DRY [FODDER] AND AFTERWARDS FRESH IT IS NOT A BLEMISH, UNLESS IT ATE DRY [FODDER] AFTER FRESH.

‘And this treatment must last for three months.’ But surely this is not so![26] Has not R. Idi b. Abin reported in the name of R. Isaac b. Ashian: [In] Adar and Nisan [it is given] fresh [fodder], in Elul and Tishri dry [fodder]?[27] — Read rather as follows: [In] Adar and a half of Nisan fresh [fodder], [in] Elul and half of Tishri dry.[28]

The following query was put forward: [Does the Mishnah mean that] the fresh [fodder] [given to the firstling to eat for a cure] must be in the period of fresh [fodder][29] and, similarly, the dry in the period of dry,[30] or [does the Mishnah mean that] we give it to eat fresh [fodder] together with dry in the period of fresh [fodder]?[31] — Come and hear:[32] For R. Idi b. Abin reported in the name of R. Isaac b. Ashian: [In] Adar and Nisan [it is given] fresh [fodder] and [in] Elul and Tishri dry. It may be, however, that this passage means that the [dry] produce of Elul and Tishri is given to the animal to eat in Adar and Nisan.[33]

And how much [of this] do we give it to eat daily? — R. Johanan reported in the name of R. Phinehas b. Aruba: The size of a dry fig. Said ‘Ulla: In the Palestinian colleges[34] it was asked: Does the amount mentioned refer only to the animal's first meal,[35]

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(1) Mentioned in the Mishnah above as being a blemish.

(2) Lit., ‘the outer row of the eye’.

(3) The first impression was that the passage referred to the two parts of the eye.

(4) By which to remember which of the two affections of the eye is considered a blemish.

(5) An affection of the eye-sight occasioned by lightning which is white and cataract and similarly the floating white spot in the eye is a disqualifying blemish.

(6) He being a great man of his generation.

(7) He possessed a firstling which had a halazon.

(8) Since it is on account of the case that he is induced to pronounce the new rule. And here also how can we listen to him when he says that the animal has a permanent blemish?

(9) The Mishnah which states that a blemish does not disqualify the white part of the eye.

(10) Ps. LXXIII, 7. The wicked man has become degenerate because of the excessive fatness in his eye, and the fatness of the eye is in the white part.

(11) The white part has therefore a qualification, ‘fat’, implying that it is not actually the eye. R. Jose therefore maintains that a blemish does not disqualify in the white part of the eye.

(12) Added with Sh. Mek.

(13) Or a membrane (Gershom).

(14) Without diminishing from what it was originally.

(15) And failing this examination, even if the white spots are found on the eightieth day, they are not considered a blemish, as probably during this period the defect disappeared and has now returned. This defect would, therefore, be a natural thing.

(16) Lit., ‘dry’ grass which grows in Tishri, the fresh grass (lit., ‘moist’) growing in Nisan.

(17) And although it was not cured, it is not a blemish, as this is not the way to cure the animal.

(18) So Sh. Mek. cur. edd. ‘and after’.

(19) And if the animal is not cured then, it is a blemish.

(20) Which says that a permanent hawarwar must remain so for eighty days.

(21) This is for the purpose of curing the animal.

(22) For it is not the way of curing it.

(23) The animal eating the fresh fodder and then the dry for the period mentioned.

(24) How then can you say that the Mishnah is the view of R. Judah?

(25) If it did not become cured thereby.

(26) That only three months are required for the treatment in order to ascertain whether it is a permanent blemish or a transitory one.

(27) We therefore see that more than three months are necessary for the treatment.

(28) I.e., three months are required in all.

(29) I.e., in Adar and Nisan.

(30) I.e.,in Elul and Tishri, and we do not slaughter the firstling until the ‘whole summer has passed; thus the animal is tested with both foods.

(31) V. note 7.

(32) A solution, that the fresh fodder we give to eat in Adar and Nisan and the dry in Elul and Tishri.

(33) There is consequently no proof here that the foods must be given at the particular periods of their growth.

(34) Lit., ‘the West’.

(35) Which it eats daily as a cure.

Talmud - Mas. Bechoroth 39a

or to every single meal? If you say that the first meal is meant, then the question arises, has it to be given before the meal or after the meal.[1] — [The treatment][2] before a meal certainly does the animal good, like medicine.[3]

But suppose it is given after the meal, what then?[4] Also, do we give it [the treatment] before drinking or after drinking? — It certainly does it more good before drinking, like barley.[5] But suppose it is given after drinking?[6] [When it is given the treatment] should it be tied, or must it be unloosened?[7] — It certainly does it more good when it is unloosened. But suppose it is given when it is tied? Also, [do we give it the treatment] when it is by itself or together with another [animal]?[8] — It certainly does it more good when it is together with another. But suppose it is given when it is by itself? Further, [do we give it the treatment] in the city or in the field?[9] — It certainly does it more good in the field. But suppose it is given in the city? R. Ashi inquired: If you will say that [it is preferable] in a field, what is the ruling as regards a garden adjacent to a field?[10] Let all this stand undecided.

R. HANINA B. ANTIGONUS SAYS, etc. Said R. Nahman b. Isaac. Provided that the cure is administered at three[11] intervals [during the eighty days]. Phinehas the brother of Mar Samuel inquired of Samuel: If the firstling [ate this for a cure] and did not get better, is it considered a blemish retrospectively or is it considered a blemish only from then onwards? What is the practical difference? For deciding whether the law of Sacrilege applies to redemption money,[12] [if it is redeemed within the three months]. If you say therefore that it[13] is a disqualifying blemish retrospectively, then he commits sacrilege.[14] But if it counts as a blemish only from then onwards, there is no Sacrilege. What is the ruling? — Samuel applied [to R. Phinehas] the verse: The[15] lame take the prey.[16]

MISHNAH. IF ITS NOSE IS PERFORATED, NIPPED, OR SLIT, OR ITS UPPER LIP PERFORATED, MUTILATED, OR SLIT [THESE ARE DISQUALIFYING BLEMISHES].

GEMARA. Our Rabbis have taught: If the partitions of the nostrils are perforated right through from the outside, this is a disqualifying blemish, if the perforation is inside,[17] it is not considered a blemish.[18]

IF ITS UPPER LIP WHICH IS PERFORATED, MUTILATED, OR SLIT. Said R. Papa: The outer line [edge] of its lip is meant.[19]

MISHNAH. IF THE INCISORS ARE BROKEN OFF OR LEVELLED [TO THE GUM] OR THE MOLARS ARE TORN OUT [COMPLETELY], [THESE ARE DISQUALIFYING BLEMISHES IN A FIRSTLING]. BUT R. HANINA B. ANTIGONUS SAID: WE DO NOT EXAMINE BEHIND THE MOLARS,[20] NOR THE MOLARS THEMSELVES.[21]

GEMARA. Our Rabbis have taught: Which are the molars?[22] Inside from the molars, the molars themselves being considered like the inside. R. Joshua b. Kapuzai[23] says: We are permitted to slaughter the firstling in consequence only of [a defect in] the incisors.[24] R. Hanina b. Antigonus says: We pay no attention whatever to the molars.[25] What does it mean?[26] Moreover, is not the view of R. Joshua b. Kapuzai the same as that of the first Tanna [quoted above]? — There is a lacuna [in the Baraitha] and it should read thus: Which are regarded as the inside teeth?[27] Inside from the molars, and the molars themselves, are all regarded as the inside teeth. When does this rule apply? When they were broken off or levelled [to the gum], but if they were torn away [completely], we may slaughter [the firstling as a consequence]. R. Joshua b. Kapuzai says: We must not slaughter [the firstling] except in consequence of the incisors [becoming defective]. But if the molars were torn away [completely], we must not in consequence of this, slaughter [the firstling], though they do disqualify.[28] R. Hanina b. Antigonus, however, says: We do not pay any attention whatever to the molar teeth and they do not even disqualify.

R. Ahadboi b. Ammi asked: Does [the law of] the loss of a limb apply to what is inside [an animal],[29] or does [the law of] a loss of a limb not apply to the inside [of an animal]? To what does this query refer? If to a firstling, does not Scripture write: ‘Lame or blind’?[30] If to a sacrificial animal, does not Scripture write: ‘Blind or broken’?[31] I am not inquiring as regards slaughtering[32] or redeeming [a sacrificial offering].[33] My inquiry relates to disqualifying [the animal from the altar]. "What is the ruling? The Divine Law says: It shall be perfect to be accepted.[34] This implies that if it is ‘perfect’ then it is valid [as a sacrifice], but if there is anything missing [even inside the animal], then it is not so. Or shall I say while the text ‘It shall be perfect to be accepted’, is inclusive, the text ‘There shall be no blemishes therein’ [informs us] that as a blemish is from the outside, so anything must be missing from the outside [in order to disqualify the animal]? — Come and hear: [Scripture says]: ‘And the two kidneys’[35] implying that an animal with one kidney or with three kidneys [is not offered up]. And another [Baraitha] taught, [Scripture says]: ‘He shall remove it’[36] which includes a sacrificial animal possessing one kidney only, [as fit for the altar]. Now, all [the authorities concerned here] hold that a living creature is not created with one kidney only, and in the case here there was a definite loss of a kidney. Shall it therefore be said that this is the point at issue, that one Master holds that a deficiency inside the animal is considered a loss [which can disqualify], whereas the other Master holds that a deficiency inside the animal is not considered a deficiency [to disqualify]? — Said R. Hiyya b. Joseph: All [the authorities] agree that a living creature can be created with one kidney only, and the deficiency inside is considered a deficiency; and still there is no difficulty.[37] In one case,[38] we are dealing with an animal which was created with two [kidneys] and there was a loss [of a kidney], whereas in the other case, it speaks of where it was created originally with one kidney only [and therefore the animal was not disqualified from the altar]. But is not the case [of one kidney][39] stated to be similar to the case of three kidneys; consequently as three kidneys were created originally, so one kidney was created originally?[40] — Rather the point at issue here is whether a living creature can be created [with one kidney only]. One Master holds that a living creature can be created with one kidney only [and therefore an animal with one kidney is permitted for the altar] whereas the other holds that a living creature cannot be created with one kidney only.[41] R. Johanan however said: All agree that a living creature [cannot be created] with one [kidney] only, and that the deficiency [of a limb] inside an animal is considered a deficiency. And still there is no difficulty [as regards the two Baraithas above]. In one case, the loss took place before it was slaughtered,[42] and in the other, after the slaughtering. But even if the loss took place after the slaughtering, only before the blood was received [in a vessel][43] is it permitted [to offer it]?

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(1) For if we adopt the view that every single meal is meant, then it is immaterial whether before or after the meal, since when the second meal arrives, although it is after a meal (the first one), we still give it this food to eat.

(2) This does not apply to a firstling to which no redemption money applies, but to consecrated animals in general.

(3) Which is usually given before a meal, and it does more good then than after a meal.

(4) Do we regard this as a satisfactory test so that if it is not cured the defect is pronounced a disqualifying blemish.

(5) It being the custom of clean animals to eat barley before drinking, as it does them more good then than after drinking.

(6) Do the fresh and dry fodder have any good effect?

(7) The animal being more content when it eats in such a condition.

(8) Enjoying its food better in company.

(9) The animal preferring the open space of the field.

(10) Where the animal is fed with fodder (fresh and dry) for a cure. Does it enjoy the air here as well as in a field?

(11) That it is examined for example, to-day and at the end of twenty-six and a half days, then further at the end of twenty-six and a half days and subsequently at the end of the period of twenty-seven days. There is usually a change at these three particular periods, and consequently if he did not examine the animal at these specific times, then we cannot declare that the animal had a permanent blemish. Tosaf, explains it as meaning that the examination must take place at the commencement of the eighty days, at the conclusion of the period and in the middle, a three-fold examination.

(12) If it is used for a secular purpose.

(13) The defect of the dripping eye.

(14) If he has derived a benefit from the redemption money and he must bring a suitable sacrifice.

(15) Isa. XXXIII, 23.

(16) The verse states something almost incredible, viz., that the lame take prey. Similarly although Samuel was the much greater scholar then Phinehas, yet the latter asked him a question which he confessed was beyond him.

(17) The partition which divides the nose inside.

(18) For it is in a hidden part.

(19) I.e., but not its breadth.

(20) Lit., ‘from the molars and within’, as in those teeth a defect is not recognized either when the animal cats or bleats. The molar is called תיומת (twin) from its shape, each tooth possessing two roots and looking like two.

(21) If they were completely torn out, as it is not a blemish from the inside.

(22) This passage is explained below in the Gemara.

(23) Var. lec. Kapusai.

(24) In the centre of the mouth.

(25) Even for the altar the animal is not disqualified.

(26) The Baraitha asking the question, What are the molar teeth? and then proceeding to say, ‘From the molars etc’.

(27) With reference to which the Mishnah says, If they were torn away it is a blemish and if they were broken off it is not a blemish.

(28) The animal for offering up on the altar, and he must wait until another blemish occurs, after which he may slaughter it.

(29) E.g., the loss of a kidney or milt.

(30) Implying that only open defects are disqualifying blemishes. The verse is in Deut. XV, 21.

(31) Again implying that only open defects are regarded as blemishes. The verse is in Lev. XXII, 22.

(32) A firstling, in consequence of a loss inside the animal.

(33) For to such an extent it would not be a blemish.

(34) For the altar. The verse is in Lev. XXII, 21.
(35) Lev. VII, 4 in connection with sacrifices.
(36) Ibid. Emphasis on the singular ‘it’.
(37) As regards a contradiction between the two Baraithas.
(38) The Baraitha which disqualifies an animal where there is the loss of a kidney.
(39) In the Baraitha where it says that an animal with one kidney or three kidneys is disqualified.
(40) And still it disqualifies the animal.
(41) And therefore if we find only one kidney, we say that the animal originally possessed two kidneys and has been deprived of one, thereby becoming disqualified from the altar.
(42) The loss therefore disqualifies the animal from the altar,
(43) For sprinkling purposes.

Talmud - Mas. Bechoroth 39b

Has not R. Ze'ira said in the name of Rab. If one makes a slit in the ear of the bull[1] and subsequently receives its bloods, it is disqualified, as it is written in the Scriptures: And he shall take of the blood of the bullock,[2] [implying] the bullock as it had been before?[3] Rather [the explanation] is that in one case,[4] the loss took place before the blood was received, and in the other after the blood was received. But is a defect in the sacrifice after the blood was received, but before the sprinkling permitted? Has it not been taught: [Scripture says]: Your lamb shall be without blemish, a male of the first year.[5] [This intimates] that it must be unblemished and a year old at the time of slaughtering. Whence do we infer that the same rule applies at the time of the receiving of the blood, its carrying [to the altar] and its sprinkling? Because the text states: ‘It shall be’, [implying] that it must be unblemished and a year old in all the phases [of the sacrificial rite]? — Explain this[6] to refer only to the law of a year old.[7] It also stands to reason.[8] For it was taught, R. Joshua said: In all the sacrificial animals mentioned in the Torah, if there is left [a piece of flesh] the size of an olive or [a piece of fat] the size of an olive, the blood may be sprinkled,[9] it stands proved.

But does there exist an object which at the time of slaughtering is a year old and at the time when the blood is received and carried is two years old? — Said Raba: This proves that [even] hours disqualify in the case of [sacrifices].[10]

Shall we say [that R. Ahadobi's query above] goes back to Tannaim?[11] [For it was taught, Scripture says]: That which hath its stones bruised or crushed[12] or torn[13] or cut,[14] all these blemishes must be in the stones. This is the view of R. Judah. [Do you say] ‘in the stones’ but not in the membrum virile?[15] — Read then: Also in the stones. This is the view of R. Judah. R. Eleazar b. Jacob says: All these blemishes must be in the membrum. R. Jose however says: ‘Bruised or crushed’ can be in the stones also, whereas ‘torn or cut’ in the membrum is [a blemish], but in the stones is not [a blemish]. What does it mean? Does it not mean that the point at issue is that one Master[16] holds that a deficiency inside [the animal] is considered a deficiency, whereas the other Master holds that a deficiency inside [the animal] is not considered a deficiency! But do you consider this as reasonable?[17] What in this case does R. Jose hold? If he holds: A deficiency inside [an animal] is considered a deficiency, then ‘torn or cut’ should apply [to all parts]. And if he holds: A deficiency inside [an animal] is not considered a deficiency, then even ‘bruised or crushed’ should not apply [to all parts]! Rather [explain that] the point at issue here is whether they are open blemishes.[18] R. Judah holds: ‘Bruised or crushed’ are blemishes because [the stones or membrum] shrink afterwards. ‘Torn or cut’ are blemishes because they are hanging.[19] R. Eleazar b. Jacob, however, holds: ‘Bruised or crushed’ are not blemishes, for originally [when the animal is well] they[20] also sometimes shrink. ‘Torn or cut’ are not blemishes, for originally [when the animal is well] they some times also hang. And R. Jose holds: ‘Bruised or crushed’ are blemishes, for they are not in existence now.[21] ‘Torn or cut’ however, are not blemishes because they are still in existence.

MISHNAH. [OTHER BLEMISHES ARE] IF THE BAG[22] IS MUTILATED OR THE GENITALS OF A FEMALE ANIMAL IN THE CASE OF SACRIFICIAL OFFERINGS:[23] IF THE TAIL IS MUTILATED FROM THE BONE[24] BUT NOT FROM THE JOINT;[25] OR IF THE TOP END [ROOT] OF THE TAIL DIVIDES THE BONE[26] OR IF THERE IS FLESH BETWEEN ONE JOINT AND ANOTHER [IN THE TAIL] TO THE AMOUNT OF A FINGER'S BREADTH.

GEMARA. Said R. Eleazar: [The Mishnah particularly means a bag] which is mutilated, but not if it is removed.[27] [The mutilation also only applies to] the bag, but not to the membrum itself.[28] It has been taught likewise: [If the bag was] mutilated [it is a blemish], but not if it was removed. [The mutilation applies to] the bag and not to the membrum. Said R. Jose b. ha-Meshullam: It happened at En-Bul[29] that a wolf took [the whole bag] of one and it returned to its normal condition.

IF THE TAIL IS MUTILATED FROM THE BONE etc. A Tanna taught: The measurement of a finger's breadth mentioned [by the Sages] is one-fourth of any man's handbreadth, [i.e., a thumb's breadth]. What is the legal import of this?[30] Said Raba: It is in connection with the subject of purple blue.[31] For it has been taught: How many threads does he put into [the hole of the corner for fringes]? Beth Shammai say: Four; whereas Beth Hillel say: Three. And how far must the threads of the show-fringes hang down [beyond the border]?[32] — Beth Shammai say: Four finger-breadths, whereas Beth Hillel say: Three finger-breadths. And the three finger-breadths mentioned by Beth Hillel are each equal to one of the four finger-breadths of any man's hand.[33]

R. Huna son of R. Joshua says: [The measurement of a fingerbreadth here mentioned has reference to] the two standard-cubits, as we have learnt: Two standard-cubits were deposited

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(1) Belonging to the anointed priest, after its slaughter but before the receiving of the blood.

(2) Lev. XVI, 14.

(3) And just as at the slaughtering the bullock was unblemished, so it must be perfect when its blood is received in the vessel.

(4) When it says that a loss inside the animal disqualifies.

(5) Ex. XII, 5.

(6) The statement just cited: In all phases etc.

(7) But as regards the rule of being unblemished, this is only necessary at the slaughtering and receiving of the blood.

(8) That the loss after receiving the blood does not disqualify the animal.

(9) For since the size of an olive remains of the flesh, which is sufficient for the eating of a man, and the size of an olive of fat, which is adequate for burning on the altar, we may proceed to sprinkle the blood. If, however, nothing remains, then there cannot be any sprinkling. We thus see that if everything is lost except the size of an olive of flesh and fat, we can still conclude the sacrificial rite. Therefore the statement that ‘in all phases it must be perfect’ quoted in the Baraitha just mentioned, can only refer to the law of its being a year old.

(10) Hence, for example. if the lamb was born last year on the fourteenth of Nisan at the eighth hour, he must be careful to slaughter and sprinkle its blood before the ninth hour, for the ninth hour disqualifies it and it is as if it had entered the second year.

(11) I.e., Tannaim differ in the matter.

(12) E.g. with stones (Rashi).

(13) Completely by hand, only still hanging on to the bag.

(14) With a knife, only still hanging on to the bag. Lev. XXII, 24.

(15) Surely since the latter is more open and visible a blemish in it should certainly disqualify.

(16) R. Judah.

(17) That the point at issue is as you say.

(18) All unanimously hold that a loss of a limb inside the animal is not considered a loss, and the reason of the authority who disqualifies the balls is not because it is considered a loss but because it is regarded as a blemish.

(19) Knocking against the bag and being visible outside, since not attached above.

(20) The stones

(21) And therefore it is a loss.
(22) Containing the male animal's membrum.
(23) This cannot refer to a first-born animal, as the law of a first-born only applies to a male.
(24) This is a blemish because it cannot recover.
(25) I.e., between the joints, for this can heal.
(26) I.e., if the backbone is branched at the place where the tail begins appearing like two tails. Rashi explains מפציל ‘peels’ the backbone, i.e., if the end of the backbone is bare of skin and flesh.
(27) For then it can return to its normal condition.
(28) As this is hidden and can heal.
(29) N.W. of Saffed.
(30) Has the measure of a finger's breadth been mentioned?
(31) The fringes, which require the blue show-fringes.
(32) Another explanation is: What is the length of the twisted thread, independently of the show-fringes? And the word משולשת is employed to indicate that it is a third of the whole, i.e., that the show-fringes together with the twisted thread are twelve finger-breadths, that is three handbreadths.
(33) Making altogether the size of three thumbs.

Talmud - Mas. Bechoroth 40a

in [the gate called] the Castle of Shushan,[1] one in the north-east corner, and the other in the south-east corner. That in the northeast corner was larger than the Mosaic cubit by half a finger's breadth and that of the south-east corner was larger than its companion by half a finger's breadth. Consequently the latter was a finger's breadth larger than the Mosaic cubit. And why were there a large and small standard-cubit? So that while the workmen used to undertake their tasks according to the smaller cubit [of Moses] but executed in accordance with the large, in order that it should not come to commit sacrilege.[2] And what need was there for two standard-cubits? — One standard-cubit [which was half a finger's breadth larger than that of Moses] was used for measuring gold and silver[3] and the other [which was a whole finger's-breadth larger] was used for building [the wall]. R. Nahman b. Isaac or you may say R. Huna b. Nathan, said: [The exact measurement of a finger's breadth mentioned above has] reference to what we have learnt: OR IF THERE IS FLESH BETWEEN ONE JOINT AND ANOTHER TO THE AMOUNT OF A FINGER'S BREADTH.

MISHNAH. IF [A FIRSTLING] HAS NO STONES OR IF IT ONLY HAS ONE STONE, [IT IS A BLEMISH]. R. ISHMAEL SAYS: IF IT HAS TWO BAGS, THEN IT HAS TWO STONES, BUT IF IT ONLY HAS ONE BAG, THEN IT ONLY HAS ONE STONE. R. AKIBA SAYS: [THE ANIMAL] IS PLACED ON ITS BUTTOCK[4] AND HE RUBS [THE BAG].[5] IF A TESTICLE IS [THERE, INSIDE THE BAG] IT WILL EVENTUALLY COME OUT. IT HAPPENED THAT ONE RUBBED IT AND [THE STONE] DID NOT COME OUT, BUT WHEN IT WAS SLAUGHTERED [THE STONE] WAS FOUND ATTACHED TO THE LOINS, AND R. AKIBA PERMITTED [THE ANIMAL][6] WHILE R. JOHANAN B. NURI PROHIBITED IT.[7]

GEMARA. If in a case where it only has one stone, you say [in the Mishnah] that it is a blemish, in a case where it has no stones at all, is there any question?[8] — Something is omitted,[9] and it must read thus: IF [THE FIRSTLING] HAS NOT the two STONES in two bags, only in one bag, OR IF IT HAS two bags containing ONLY ONE STONE, IT IS A BLEMISH. R. ISHMAEL SAYS:[10] IF IT HAS TWO BAGS, IT CERTAINLY HAS TWO STONES. IF HOWEVER IT HAS ONLY ONE BAG, IT IS AS IF IT HAS ONLY ONE STONE. WHEREUPON R. AKIBA SAYS: We do not say ‘it certainly has’ BUT WE PLACE THE ANIMAL ON ITS BUTTOCK AND RUB [THE BAG] AND IF THERE IS A STONE [INSIDE] THEN IT COMES OUT EVENTUALLY.

IF HAPPENED THAT HE RUBBED IT AND THE STONE DID NOT COME OUT etc. It has been taught: Said R. Jose: It happened at Peran[11] in the house of Menahem that he rubbed [the bag] and [the stone] did not come out. When however it was slaughtered, the stone was found attached to the loins and R. Akiba permitted [the animal to be eaten] whereas R. Johanan b. Nuri prohibited it. Said R. Akiba to R. Johanan b. Nuri: 'How long will you waste the money of Israel'?[12] Said R. Johanan b. Nuri to R. Akiba: 'How long will you allow Israel to eat nebelahs'?[13] But do we not ritually cut it? — Rather [R. Johanan] must have said trefahs.[14] But it is not a case here of the prohibition of trefahs! Then [this is what he said to R. Akiba]: How long will you allow Israel to eat consecrated sacrifices without [the wall of Jerusalem]?[15]

MISHNAH. IF [A FIRSTLING] HAS FIVE FEET OR IF IT HAS ONLY THREE FEET OR IF ITS FEET ARE CLOSED[16] LIKE THAT OF AN ASS OR A SHAHUL OR A KASUL [THESE ARE BLEMISHES]. WHAT IS MEANT BY SHAHUL? [AN ANIMAL] WITH A DISLOCATED HIP [WITHOUT THE SINEWS BEING SEVERED]. WHAT IS MEANT BY KASUL? [AN ANIMAL] ONE OF WHOSE HIPS IS HIGHER THAN THE OTHER.

GEMARA. Said Rab Huna: This[17] is meant only when [the animal] has one foot too few or one too many in front;[18] but if behind, it is also trefah,[19] for 'every addition is considered equal to the entire absence [of the respective limb]'.[20]

OR WHOSE FEET ARE CLOSED LIKE THAT OF AN ASS. Said R. Papa: You should not say that they are round as well as not cloven,[21] but even if their feet are only round [like that of an ass] although they are not cloven, [it is a blemish].[22]

A SHAHUL OR A KASUL etc. Our Rabbis taught: What is meant by kasul and what is meant by shahul? Shahul means [an animal] whose hip became dislocated [without the severing of the sinews]. Kasul means [an animal] one of whose legs is fixed in the loin[23] and the other over the loin.

A Tanna taught: What is meant by a sarua' or a kalut? Sarua' means [an animal] one of whose legs is longer than the other, kalut means one whose feet are uncloven like that of an ass or a horse.

MISHNAH. IF THE BONE OF THE FORE-FOOT [OF A FIRSTLING] OR OF ITS HIND-FOOT IS BROKEN, EVEN THOUGH IT IS NOT NOTICEABLE,[24] [THIS IS A BLEMISH]. THESE BLEMISHES ILA[25] ENUMERATED IN JABNEH AND THE SAGES AGREED WITH HIM. HE ALSO ADDED ANOTHER THREE CASES [OF BLEMISHES]. THEY THEREUPON SAID TO HIM: WE HAVE ONLY HEARD THESE [ALREADY MENTIONED PREVIOUSLY]. ONE WHICH HAS ITS EYEBALL ROUND LIKE THAT OF A MAN OR A MOUTH LIKE THAT OF A SWINE OR ONE WHICH HAS LOST THE GREATER PART OF THE ANTERIOR OF THE TONGUE, [THESE ARE THE ADDITIONAL BLEMISHES]. A SUBSEQUENT BETH DIN RULED HOWEVER:[26] EACH OF THESE CASES IS A [DISQUALIFYING] BLEMISH.

GEMARA. You say EVEN THOUGH IT WAS NOT NOTICEABLE. But is it then a blemish? — Said R. Papa: [The break] is not noticeable in itself but it is noticeable owing to the animal's inability to carry out its normal functions.[27]

THESE BLEMISHES ILA RECORDED etc. Does this mean to say that this is not a usual thing?[28] The following was cited in contradiction. If a woman gives birth to a kind of animal, beast or bird, whether clean or unclean, if it is a male she must observe the regulations relating to the birth of a male,[29] and if it is a female she must observe the regulations relating to the birth of a female.[30] If [the sex], however, is not known, then she must keep the regulations relating both to a male and a female.[31] These are the words of R. Meir. And Rabbah b. Bar Hana reported in the name of R. Johanan: What is the reason of R. Meir?[32] Since its eyeball is round like that of a man.[33] — Said R. Joseph: This offers no difficulty. In one case the shape of the black of the eye is meant,[34] and in the other the slit[35] [in which the eye is seated is meant].

OR HAS A MOUTH LIKE THAT OF A SWINE. Said R. Papa: You should not say[36] that the mouth must be pointed besides the lip being parted, but if [the lip] is parted, even though the mouth is not pointed.[37]

OR ONE WHICH HAD THE GREATER PART OF THE ANTERIOR OF THE TONGUE REMOVED. Whose opinion does this represent? — It is that of R. Judah. For it has been taught: And one which has the greater part of the tongue removed; R. Judah, however, says: The greater part of the anterior of the tongue.[38]

MISHNAH. AND IT HAPPENED THAT THE LOWER JAW [OF A FIRSTLING] WAS LARGER THAN THE UPPER JAW. R. SIMEON B. GAMALIEL ASKED THE SAGES [FOR A RULING] AND THEY SAID: THIS IS A BLEMISH.

GEMARA. What has he taught that he cites an incident?[39] — Since we have learnt [in the previous] Mishnah: Or its mouth was like that of a swine, and the Rabbis differ from R. [Ila].[40] And it is with reference to this that we are now told that the Rabbis differ from R. [Ila] only where the upper lip is larger than the lower one, but where the lower lip is larger than the upper one, [they agree that] this is a [disqualifying] blemish.

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(1) The eastern gate of the Temple mount on which the picture of the Castle of Shushan was sculptured, v. Mid, I, 3.

(2) Illegally benefiting from a sacred object. For if the workmen followed the Mosaic cubit, since it is not always possible to be exact, there was a fear that what was actually holy might be used in a secular manner.

(3) The Mosaic cubit being stipulated but the workmen in executing the work, giving the larger cubit.

(4) Lit., ‘hollow, arched pitcher’.

(5) And the loins, as a test.

(6) To be eaten, for it was a blemish, owing to the fact that it was not in its place.

(7) Since the stone was eventually found.

(8) About its being a blemish?

(9) In the Mishnah.

(10) R. Ishmael differs therefore only as regards the second clause of the Mishnah, but as regards the first, he agrees that where the animal has only one bag it is a blemish, for it is as if there was only one stone.

(11) The name of a village (Rashi). Tosaf. renders the passage מעשה בפירן ‘It happened in the stables of the house of Menahem’ etc. deriving פירן from פרה .

(12) For since you forbid the eating of the animal as an unblemished firstling without Jerusalem, there is no other remedy except burying it.

(13) Animals not ritually slaughtered or which died of themselves.

(14) Animals afflicted with a fatal organic disease.

(15) For it is an unblemished firstling which can only be eaten in Jerusalem and, according to your ruling, it will be eaten outside the walls of Jerusalem.

(16) I.e., uncloven hoofs.

(17) The statement of the Mishnah, A FIRSTLING WHICH HAS FIVE FEET etc.

(18) E.g., if in the one case it has three fore-feet as well as its two hind-feet, and in the other, it has the two hind-feet and one fore-foot. The reason is that trefah does not apply to the fore-foot.

(19) As well as being a blemish.

(20) And the law is that if the part from the knee upwards is cut then the animal is trefah.

(21) I.e., that in every respect it must resemble an ass in order to constitute a blemish.

(22) For the hoofs of a clean animal are not round.

(23) Normally the leg of an animal is attached to the fat-tail in proximity of the loin but not over it.

(24) This is explained in the Gemara below.

(25) A medical expert v. supra 29a.

(26) Contrary to the Sages above who oppose the additional cases of blemishes mentioned by Ila.
(27) Of walking naturally, as at present it limps.
(28) That the eyeball should be round?
(29) I.e., seven days of impurity and then the continuation for thirty-three days in blood of purification. Lit., ‘she sits’.
(30) I.e., fourteen impure days and then continue with sixty-six days of the blood of purification.
(31) The stricter rules of both sexes i.e., fourteen impure days and only thirty-three pure days.
(32) Who maintains that if a woman gives birth to a species of animal etc. it is considered as a genuine offspring.
(33) We therefore see that a round eyeball is not an abnormal feature.
(34) Which is a usual thing.
(35) It is unusual for this to be round. The reading of the text is ציריא , according to Rashi and R. Gershom. R. Hananel has ציהרא , referring to the red parts surrounding the black of the eye. Cur. edd. חיוורא , ‘the white part’.
(36) That we compare it with the swine in all particulars in order to constitute a blemish.
(37) It is a blemish. Another interpretation of ופרום דשפיד given by Rashi is: The mouth is round besides the upper lip and upper jaws overlapping the lower jaws.
(38) And since the Mishnah speaks of the anterior part of the tongue, must represent the view of R. Judah and not that of the first Tanna quoted.
(39) Similar to that quoted in the Mishnah and on a similar subject.
(40) When they declare above: We have only heard these already mentioned etc.

Talmud - Mas. Bechoroth 40b

AND IT HAPPENED also THAT THE LOWER JAW WAS LARGER THAN THE UPPER ONE, AND R. SIMEON B. GAMALIEL ASKED THE SAGES [FOR A RULING], AND THEY SAID: THIS IS A BLEMISH. But did we not learn of this [blemish] only with reference to a human being:[1] ‘If the upper lip is larger than the lower one or the lower lip is larger than the upper one, this is a blemish’? Now only with reference to a human being does Scripture write: What man soever of the seed of Aaron,[2] [implying] that among the seed of Aaron man must be normal but not with regard to a beast? Said R. Papa: This offers no difficulty. In one case there is a bone,[3] whereas in the other there is no bone.[4] MISHNAH. IN REGARD TO THE EAR OF A KID WHICH WAS DOUBLED,[5] THE SAGES RULED [AS FOLLOWS]: IF IT IS ALL ONE BONE,[6] IT IS A BLEMISH, BUT IF IT IS NOT ALL ONE BONE,[7] IT IS NOT A BLEMISH.

R. HANINA THE SON OF GAMALIEL SAYS: IF THE TAIL OF A KID IS LIKE THAT OF A SWINE, OR IF THE TAIL DOES NOT POSSESS THREE VERTEBRAE, THIS IS A BLEMISH.

GEMARA. Our Rabbis taught: If a firstling's mouth is shrunk[8] or if its feet are shrunk, if it is on account of [lack of] room[9] then it is not a blemish, but if it is on account of the bone,[10] it is a blemish. Doubled ears with one system of cartilages constitute a blemish, but with two systems of cartilages are not a blemish.

R. GAMALIEL SAYS: THE TAIL OF A KID WHICH WAS LIKE THAT OF A SWINE. Said R. Papa: Do not say that it must be round as well as [very] thin;[11] enough if it is round, even though it is thick.

OR IF THE TAIL DOES NOT POSSESS THREE VERTEBRAE etc. Said R. Huna: In a kid, two vertebrae in the tail constitute a blemish, but three are not a blemish. But in a lamb, three vertebrae constitute a blemish, whereas four are not a blemish. An objection was raised: In a kid, one vertebra in the tail is a blemish, whereas two are not a blemish. But in a lamb two vertebrae are a blemish while three are not a blemish. Is not this a refutation of R. Huna? How then does R. Huna [explain his position]? — Our Mishnah misled him. He was under the impression that just as the first part[12] [of the Mishnah] referred to a kid, similarly the second part[13] referred to a kid. It is not so, however. The first part refers to a kid, whereas the second part refers to a lamb.

MISHNAH. R. HANINA THE SON OR ANTIGONUS SAYS: IF [A FIRSTLING] HAS A YABELETH[14] IN ITS EYE OR IF A BONE OF ITS FORE-FOOT OR HINDLEG IS DEFECTIVE,[15] OR IF THE BONE OF THE MOUTH[16] SPLIT OR ONE EYE IS [ABNORMALLY] LARGE AND THE OTHER SMALL, OR ONE EAR [ABNORMALLY] LARGE AND THE OTHER SMALL, BEING VISIBLY SO AND NOT MERELY IN ACTUAL MEASUREMENT.[17] ALL THESE ARE DISQUALIFYING BLEMISHES. R. JUDAH SAYS: IF ONE STONE IS AS LARGE AS TWO OF THE OTHER. [THIS IS A BLEMISH]. THE SAGES, HOWEVER, DID NOT CONCUR WITH R. JUDAH'S RULING.

GEMARA. Does this mean to say that a yabeleth is a [disqualifying] blemish? Against this I quote the following: We must not slaughter a firstling either in the Temple[18] or in the country[19] in consequence of the following blemishes: One affected with garab,[20] or yabeleth![21] — But do you consider it reasonable [that yabeleth should not be a real blemish]? Is there not a text ‘or yabeleth’[22] in Scripture? — There is no contradiction. In the one case,[23] the body is referred to and in the other [our Mishnah], the eye. But let us see now. Holy Writ makes no distinction; what difference then does it make whether the blemish is in the eye or on the body? — Rather say that there is no difficulty [for the following reason].[24] In one case it has a bone and in the other it has no bone. [The yabeleth of] the text refers to where it has a bone.[25] [The yabeleth of] our Mishnah,[26] however, refers to where it has no bone. Therefore [if it is] in its eye, it is considered a [disqualifying] blemish, but on its body, it is not a [disqualifying] blemish.

But if there is no bone on the body, does it really disqualify [from the altar]? Is it not then a mere wart? For it has been taught: R. Eleazar says: Those with warts, if human beings, are unfit for the altar, if beasts, they are fit for the altar? — Rather explain as follows: In one case as well as in the other,[27] it refers to the eye, and yet there is no difficulty. In one case[28] it refers to the black part [of the eye] and in the other it refers to the white.[29] But surely blemishes do not disqualify in the white part of the eye?[30] — Rather explain this [as follows]: In one case as well as in the other[31] we are dealing with the white part of the eye, [nevertheless] said Resh Lakish: It offers no difficulty. In one case [the yabeleth] has hair on it,[32] in the other, it has no hair on it.[33]

ITS ONE EYE WAS ABNORMALLY LARGE etc. A Tanna taught: ‘Large’ means as large as that of a calf, and ‘small’ means as small as that of a goose.

ITS ONE EAR WAS ABNORMALLY LARGE etc. And the Rabbis,[34] what is their limit?[35] — It was taught, Others say: Even if the second stone is only the size of a bean, it is permitted.[36]

MISHNAH. IF THE TAIL OF A [FIRSTBORN] CALF DOES NOT REACH THE ‘ARKUB[37] , [IT IS A BLEMISH]. THE SAGES SAID: THE GROWTH OF ALL CALVES IS IN THIS MANNER.[38] AS LONG AS [THE ANIMALS] GROW, THE TAILS ALSO EXTEND [BELOW]. WHICH ARKUB MENTIONED IS MEANT? R. HANINA. B. ANTIGONUS SAYS: THE ‘ARKUB IN THE THIGH.

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(1) A priest. How then can we compare the two things?

(2) Lev. XXII, 4.

(3) If the bone of the lower jaw is larger than the upper one, it is regarded as a blemish even in an animal.

(4) Only the lower lip overlaps and is larger than the upper. This is a blemish in a human being but not in an animal.

(5) It has two ears on one side, an ear within an ear. The Mishnah speaks here of a kid, because this animal often has its ear somewhat folded and doubled.

(6) I.e., if the tip of the outside ear is bent over and is connected with the inside ear. We do not regard this as a case of an additional limb, because the deformity is not visible.

(7) So Rashi. I.e., if the tips of the outside ear and the inside one are not connected. According to this interpretation, the word עצם refers to the תנוך ‘tip of the ear’, and the reason why it is called ‘a bone’ is because it is a hard physical substance, like that of a bone. Maimonides, however, apparently reads: ‘If it is another’ and explains it as follows: If the external ear appears like a separate and distinct member, then it is a blemish, but if it does not seem like an extra member, then it is not a blemish. This interpretation would remove the difficulty why according to Rashi's version it is not regarded as an additional limb where it is ‘one bone’. Cur. edd.: If it has no bone.

(8) Or swollen (Rashi).

(9) In the mouth, so that the animal is not able to open its mouth well.

(10) The animal opens its mouth well, but the jaws are tight and prevent it from opening the mouth wide enough. According to Rashi's second explanation the meaning is: If the swelling is due to the air, (reading רוח not ריוח) which it breathes, then it is not blemished and it will recover. But if it is because of the bone being unduly thick, it is a blemish.

(11) That it is required to be like that of a swine in every way, in order to be a disqualifying blemish.

(12) THE EAR OF A KID etc.

(13) OR IF THE TAIL etc.

(14) An excrescence or large warts on the skin.

(15) For this defect is noticeable. The case where it was broken has already been stated previously.

(16) I.e., the jaw (R. Gershom), not the teeth.

(17) For if it is not recognized by sight as a deformity but is only found to be so by measurement, then it is not a disqualifying blemish, since a disqualifying blemish must be visible and noticeable.

(18) To offer it on the altar, since it is disqualified.

(19) A term used in contra distinction to the Sanctuary and Temple. It is forbidden to slaughter a firstling under such circumstances, unless it is actually blemished.

(20) A scurf or itch.

(21) Infra 41a. We see therefore that it is not regarded as a genuine blemish.

(22) Lev. XXII, 22.

(23) That of the text and also of the Mishnah quoted.

(24) In reality even in the body yabeleth is a blemish.

(25) Therefore even in the body yabeleth is considered a blemish.

(26) And also the Mishnah quoted. Therefore a yabeleth in the eye is a blemish, as our Mishnah holds, even without a bone, and as the other Mishnah refers to the body, a yabeleth in such a case is not a disqualifying blemish, since it has no bone.

(27) I.e., in both the other Mishnah and the Baraitha, but not to the scriptural text.

(28) Our Mishnah which regards yabeleth as a blemish.

(29) A yabeleth in the white part of the eye only renders an animal unfit for the Temple.

(30) V. supra 38a.

(31) The Mishnah infra 41a, like the statement of the quoted Mishnah that no blemishes disqualify the white part of the eye.

(32) Therefore although it is in the white part, since there is hair on the yabeleth it is not acceptable for a sacrifice.

(33) Therefore the rule of the Mishnah stands that blemishes do not disqualify in the white part of the eye. Our Mishnah here however which declares a yabeleth to be a real blemish refers to a case where it is in the black part of the eye, even without a bone, while the scriptural text refers to where there is a bone; consequently both on the body and in the eye, a yabeleth constitutes a blemish.

(34) Who do not agree with Rabbi Judah in connection with the case of one ball being as large as two of the other (Rashi).

(35) How small may its companion stone be and still not be regarded as a blemish.

(36) But if it is less, then it is a blemish.

(37) Explained later in the Gemara.

(38) To reach the ‘arkub, and if not, it is a blemish, Another version (Tosaf. Yom Tob.) is that the tail does not usually reach the ‘arkub and therefore if it is short of the ‘arkub, it is not a blemish.

Talmud - Mas. Bechoroth 41a

GEMARA. It has been taught: The upper joint, [the inner part of the knee] not the lower joint [knuckle]. And the corresponding part[1] in a camel is [easily] recognized.

MISHNAH. IN CONSEQUENCE OF THESE BLEMISHES WE MAY SLAUGHTER A FIRSTBORN ANIMAL, AND CONSECRATED ANIMALS RENDERED UNFIT [FOR THE ALTAR] IN CONSEQUENCE OF THESE BLEMISHES MAY BE REDEEMED.[2]

GEMARA. What need is there to state this again? Has not [the Tanna] stated this in a previous part [as follows]: In consequence of these blemishes we may slaughter the first-born animal?[3] — There was need [for the Tanna to state this] on account of the second clause in our Mishnah: CONSECRATED ANIMALS RENDERED UNFIT [FOR THE ALTAR] IN CONSEQUENCE OF THESE BLEMISHES MAY BE REDEEMED. But surely this too is obvious, for if we may slaughter [the animal in consequence of these blemishes], is there any question about redeeming it? Rather [the explanation is as follows]: Since it stated [in a previous Mishnah]: [Ila] also added three cases [of blemishes], and the Sages said to him: We have only heard of these [already mentioned],[4] the [Tanna] then proceeds [in subsequent Mishnahs] to give the opinions of individual teachers.[5] Therefore he states without mentioning names in reference to all these [individual rulings]: IN CONSEQUENCE OF THESE BLEMISHES WE MAY SLAUGHTER A FIRST-BORN ANIMAL, AND CONSECRATED ANIMALS RENDERED UNFIT [FOR THE ALTAR] IN CONSEQUENCE OF THESE BLEMISHES MAY BE REDEEMED.[6]

MISHNAH. AND IN CONSEQUENCE OF THE FOLLOWING BLEMISHES WE MUST NOT SLAUGHTER A FIRSTLING EITHER IN THE TEMPLE[7] OR WITHOUT THE TEMPLE:[8] WHITE SPOTS ON THE CORNEA AND WATER [DRIPPING FROM THE EYE] WHEN NOT PERMANENT FEATURES, OR MOLARS WHICH HAVE BEEN BROKEN BUT NOT TORN OUT [COMPLETELY] OR [AN ANIMAL] AFFECTED WITH GARAB,[9] YABELETH,[10] OR HAZZAZITH,[11] AN OLD [ANIMAL] OR A SICK ONE, [AN ANIMAL] OF OFFENSIVE SMELL OR APPEARANCE, OR [AN ANIMAL] WHICH WITH A TRANSGRESSION HAS BEEN COMMITTED[12] OR AN ANIMAL WHICH IS KNOWN TO HAVE KILLED A HUMAN BEING ON THE TESTIMONY OF ONE WITNESS OR OF THE OWNERS.[13] A TUMTUM[14] OR A HERMAPHRODITE[15] CAN BE SLAUGHTERED NEITHER IN THE TEMPLE NOR WITHOUT THE TEMPLE.[16] R. ISHMAEL HOWEVER SAYS: THERE IS NO GREATER BLEMISH THAN THAT [OF A HERMAPHRODITE].[17] BUT THE SAGES SAY: IT HAS NOT [THE LAW] OF A FIRST-BORN AND MAY BE SHORN AND WORKED WITH.[18]

GEMARA. And is not garab [a blemish]? Is it not written in the Scriptures: ‘or a garab’?[19] And also, is not hazzazith [a blemish]? Is it not written in the Scriptures ‘or yallefeth’?[20] For it has been taught: Garab is the same as heres,[21] yallefeth is the same as the Egyptian hazzazith? And Resh Lakish explained: Why is it called yallefeth? Because it continues to cling[22] [to the body] to the day of death. Now there is no difficulty as regards [different meanings of] the hazzazith [of the text] and the hazzazith [of our Mishnah], as here the text refers to Egyptian hazzazith and [the Mishnah] refers to a general hazzazith. But does not the [interpretation of] garab [in the text] and garab [of the Mishnah] present a contradiction? — The [different interpretations of] garab of the text and garab [of our Mishnah] also offer no difficulty, for in one case it refers to where it is moist and in the other to where it is dry, the moist healing whereas the dry does not heal, [and therefore it is a blemish]. But does the moist garab heal? Is it not written: The Lord will smite thee with the boil of Egypt and with the emerods and with the garab [scab] and with heres [itch][23] and since it says: ‘And with heres’ [a dry eruption], then the garab [scab] must be moist, and the text continues: ‘Whereof thou canst not be healed’? — Rather explain that there are three kinds of garab. The garab of the text[24] refers [to a scab] which is dry both inside and outside. The garab of our Mishnah refers to where it is moist both inside and outside. The garab of Egypt[25] is where it is dry inside and moist outside, for R. Joshua b. Levi said: The boil which the Holy One, blessed be He, brought upon the Egyptians was moist outside and dry inside, for it is written: And it became a boil breaking forth with blains upon man and upon beast.[26]

AN OLD ANIMAL OR A SICK ONE OR AN ANIMAL OF OFFENSIVE SMELL OR SIGHT. Whence is it proven?[27] — Our Rabbis taught: Scripture says: Of[28] the flock, 'or of the sheep', 'or of the goats', [intimating] the exclusion of an old [animal], a sick one, and one with an offensive [smell or appearance]. And all [the three restrictive texts] are necessary. For if the Divine Law had only written [one restrictive text] [I would say it is] to exclude the case of an old animal [from Temple sacrifice], I might have thought that this was because it cannot recover its former strength, but as regards a sick animal, since it may recover its health, I might have said that it is not so.[29] Or if the Divine Law had only written [one restrictive text] [I would say it is][30] to exclude the case of a sick animal, I might have thought that the reason was because it is not usual for an animal to be ill, but in regard to an old animal, since it is a usual thing,[31] I might have said it is not so. And if the Divine Law had written [two restrictive texts], [I might have thought that] they only excluded the two cases where [the animals] are weak, but as regards an animal with an offensive smell or sight but which is not [physically] weak, I might have said that it was not so. And even if [a scriptural text had been written] to exclude the case of [an animal] with an offensive smell or appearance, I might have thought that the reason was because it was repulsive, but in the case of the other animals which are not repulsive, I might have said that it was not so. There is need therefore [for the three restrictive texts].

OR AN ANIMAL WITH WHICH A TRANSGRESSION HAD BEEN COMMITTED etc. Whence is it proven [that we must not slaughter it in the Temple]? — Our Rabbis taught: [Scripture says]: Of the cattle'[32] intimating the exclusion of an animal which covered[33] [a woman] and the animal that was covered [by a man]; 'even of the herd'[34] [intimates] the exclusion of an animal which was worshipped as an idol; 'of the flock' [intimates] the exclusion of one designated for idolatrous purposes. The text 'or of the flock' intimates one which has gored a person [to death]. But are not these[35] liable to the penalty of death? — The reference here is to cases where there is only one witness or where the owners confess.[36]

[A TUMTUM OR A HERMAPHRODITE]. Now we quite understand a tumtum being disqualified for the Temple, the reason being in case it is a female.[37] It is also disqualified without the Temple, in case it is a male and not blemished.[38] As regards a hermaphrodite also, we understand its being disqualified for the Temple, in case it is a male. But in regard to slaughtering it without the Temple, granted that it is a male, let it at least be regarded as having a depression at its female genitals, in consequence of which he may slaughter the animal? — Said Abaye: Scripture says: 'Or broken', 'or haruz',[39] [intimating] that 'haruz' must be like 'broken'; just as 'broken' must be in a bone, [in order to disqualify], so 'haruz' must be in a bone, [but not in a fleshy part].

Raba says: Even without [the comparison] with 'broken', you could not say that a depression in the fleshy part is considered a blemish. For if you were to assume that a depression in the fleshy part is a blemish, since a Master said: garab,[40] [a dry scab], is the same as heres,[41] [a dry scab] is cut into [deeper than the surface],[42] for Scripture says: 'And the appearance thereof be deeper than the skin',[43] like the sun-lit spots which have a semblance of being deeper than the shaded spots [which appear to be raised]. Consequently, let Scripture write haruz[44] and then there would be no need to write garab, for I would argue, if haruz [in the fleshy part] which is not repulsive is yet regarded as a blemish, how much more so ought this to be the case with garab, which is repulsive? The Divine Law therefore mentions garab, [intimating] that a depression in the fleshy part is not a blemish.[45]

R. ISHMAEL SAYS: THERE IS NO GREATER BLEMISH [THAN THAT OF A HERMAPHRODITE]. He does not hold the opinion of Abaye, for we do not draw the analogy between haruz to 'broken'.[46] He also does not hold the opinion of Raba, for it may be that a depression in the fleshy part is not a blemish where the haruz is not distinguishable, but where it is distinguishable,[47] we apply the scriptural text ‘Ill blemish’.[48]

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(1) The upper joint, as it has there a bone projecting outside, and also because its ‘arkub is very thick (R. Gershom). Another interpretation (Rashi) is: The ‘arkub of a camel is noticeable, as its tail reaches that part. V. Hul., Sonc. ed., 76a.

(2) After which the animal becomes genuine hullin (v. Glos.).

(3) V. supra 37a.

(4) V. supra 40a.

(5) R. Hanina b. Antigonus and R. Hanina b. Gamaliel who mention several blemishes in connection with a firstling. One might therefore have thought that the Rabbis do not accept as blemishes also those cited by these teachers.

(6) Thus teaching that the view of R. Hanina b. Antigonus and that of R. Hanina b. Gamaliel are legal decisions. There was therefore need for stating the Mishnah.

(7) As the animals cannot be regarded as unblemished.

(8) As they are not genuinely blemished. Lit., ‘Province’, ‘district’, in contradistinction to the Temple.

(9) V. Gemara.

(10) An excrescence or large wart, having, however, no bone, for otherwise it would be a real blemish, v. supra 40b.

(11) Scabs or swollen lumps.

(12) Having copulated with a human being.

(13) For where there are two witnesses of the copulation or the boring, then the animal is stoned and no benefit can be derived from it.

(14) Where the sex of the animal is unknown, as the genitals are covered with a skin.

(15) The animal possessing both the male and the female characteristics. Both in this case and that of a tumtum we are uncertain whether we should regard the animal as a male or a female.

(16) The passage CAN NEITHER BE SLAUGHTERED etc. is repeated here by the Tanna to teach us that even in the case of a tumtum or a hermaphrodite, we may not slaughter it in the Temple or outside the Temple in consequence of this defect, as it is not a genuine blemish, unlike the view of R. Ishmael which follows.

(17) For in the sexual part it is virtually blemished. It has therefore the law of a blemished firstling which may be slaughtered, but shearing or working with it is prohibited.

(18) For we regard it as a special type of animal, distinct from all others.

(19) Lev. XXII, 22. E.V. ‘scabbed’.

(20) E.V.’ scurvy’.

(21) A dry eruption of the skin, as hard as a potsherd.

(22) ילפת comes from the word to cling, to join, the word ויחבר (in Ex. XXXVI) being translated in Targum Onkelos ולפיף .

(23) Deut. XXVIII, 27.

(24) Lev. XXII, 22.

(25) Mentioned in the imprecations in Deut. XXVIII.

(26) Ex. IX, 10 The word אבעבעת in the text is connected with נובע ‘pouring forth’, implying something wet and moist.

(27) That we must not slaughter these animals in the Temple.

(28) Lev. I, 2, 10. The word מן (of) in each case is partitive implying that some cattle, herd etc. cannot be offered up on the altar.

(29) And that it is not disqualified for the Temple.

(30) Cf. Sh. Mek.

(31) A normal thing for an animal which grows old not to retain its former vigour and therefore this should not be regarded as a disability.

(32) Lev. I, 2.

(33) I.e., had connection with a beast.

(34) Ibid.

(35) A goring animal, one which covered a woman and which was covered by a man.

(36) The animal is not stoned in such circumstances, as the law is that one who confesses an act which entails a fine is exempt from the fine; and the stoning of an animal is a fine on its owner.

(37) And if he brings it as a first-born, when it is not consecrated as such, since a firstling must be a male, he brings hullin into the Temple court.
(38) In which case it should be brought to the Temple.
(39) Lev. XXII, 22. E.V. 'Maimed' by a deep incision or abnormal cavity and depression.
(40) A dry eruption, or scab.
(41) A skin eruption, as hard as a potsherd. v. supra.
(42) And is therefore a skin plague.
(43) Lev. XIII, 25. In connection with leprosy.
(44) V. supra n. 4.
(45) Which shows that garab is a blemish, not because of the depression, as it is in the fleshy part, and that haruz only applies to a bone.
(46) But hold that even in a fleshy part it is a haruz.
(47) As for example, in the case of the female genitals, although it is the fleshy part.
(48) Deut. XV, 21. As the kind of animal which must not be offered in the Temple.

Talmud - Mas. Bechoroth 41b

Raba enquired:[1] What is the reason of R. Ishmael? Is he convinced that a hermaphrodite is a firstling [male] with a blemish[2] or is it because he has a doubt [as to its sex], and he means [to permit it to be slaughtered] by using an argument of the form 'If you assume' [as follows]: If you assume that it is a firstling, it should be permitted, since it has a blemish. What is the practical difference? — [The difference is] as regards liability to the punishment of lashes, in consequence of shearing it or working with it,[3] or indeed, as regards giving it to the priest.[4] Come and hear: R. Ila'i reported in the name of R. Ishmael: A hermaphrodite is a firstling with a blemish. Deduce then from this that R. Ishmael is convinced [that it is a firstling]. But perhaps he permits it by using the argument 'If you assume', [though in reality he has a doubt concerning its sex]!

Come and hear: [Scripture says]: 'A male',[5] [implying] but not a female. When it, however, repeats later [the words] 'A male',[6] which were not necessary, it intimates the exclusion of a tumtum and a hermaphrodite. Now whose opinion[7] does this represent? Shall I say it is that of the first Tanna [of our Mishnah]? But since he holds [that a hermaphrodite] is a doubtful case [as regards its sex], is there any need for a scriptural text for the exclusion of a case of doubt?[8] Again if it is the opinion of the last Rabbis [quoted in the Mishnah],[9] but why not infer this[10] from a single scriptural text, for in connection with [the law of] a firstling, there is only one scriptural text 'A male' and yet we derive all therefrom. [Why then is there need for the latter text 'A male']? Plainly then [the above passage] represents the opinion of R. Ishmael [in the Mishnah].[11] Now this is quite intelligible if you say that R. Ishmael was convinced that [a hermaphrodite] is a firstling; for that reason there was need for the scriptural text to exclude the case of a hermaphrodite.[12] But if you say that R. Ishmael had a doubt [as to its sex], is there any need for the exclusion of a case where there exists a doubt?[13] — The above passage may still represent the view of the last Rabbis,[14] And with reference to [the law of] a firstling also Scripture has two texts, 'The male'[15] and 'The males shall be the Lord's'.[16]

BUT THE SAGES SAY IT HAS NOT THE LAW OF THE FIRSTLING etc. Said R. Hisda: The difference of opinion[17] relates only to a hermaphrodite but as regards a tumtum all agree that there is a doubt as to its sex[18] and therefore it is hallowed by reason of this uncertainty [its shearing and slaughtering being therefore prohibited]. Said Raba to him: According to this, the law of valuation[19] should apply to a tumtum?

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(1) According to one commentator this enquiry will follow immediately after the citation of R. Ishmael's ruling from the Mishnah. R. Gershom, however, reads the ruling of R. Ishmael before 'He does not hold the opinion of Abaye', etc.
(2) Lit., 'And its blemish with it'.
(3) For it is forbidden to shear the wool or work with even a blemished firstling. In the case of a doubtful firstling,

however, there is no punishment of lashes.

(4) If it is a certain firstling, he gives it to the priest, which the latter eats in its blemished state. But if it is a doubtful firstling, then the Israelite retains the animal, since the priest, the claimant, must produce evidence that it is a firstling.

(5) Lev. I, 3. In connection with the offering of oxen.

(6) Lev. I, 10. In connection with an offering of sheep.

(7) That the latter text ‘A male’ excludes a tumtum etc.

(8) For before God there is no doubt as to the sex of the animal, it must therefore be regarded as a creature apart and distinct, and for that reason it is excluded as a sacrifice, unlike the opinion of the first Tanna.

(9) Who hold that a hermaphrodite is hullin.

(10) A female, a tumtum, and a hermaphrodite.

(11) For according to his view, the animal is holy as a firstling, only it is blemished. He therefore informs us that it is only holy as a firstling, but in respect of being a consecrated sacrifice, the latter text ‘A male’ disqualifies it from being offered in the Temple.

(12) That although it is a male, it does not receive any holiness if he consecrated it as a burnt-offering. and the animal may even be shorn and worked. And from the first text ‘A male’ in connection with sacrifices, one could not have derived this, for, in connection with a firstling itself, the single text ‘A male’ does not make the shearing and working permissible, only that its slaughtering is allowed.

(13) As before Heaven all is clear and manifest.

(14) And as regards the objection raised above about deriving all the three cases of a female, tumtum, etc., from a single text, this can be met in the following manner.

(15) ‘All the firstling males’ etc. (Deut. XV, 19).

(16) Ex. XIII, 12. Just as in connection with sacrifices two texts are required to exclude a female, tumtum, etc., similarly two texts are available in connection with the firstling for the same purpose.

(17) Where the last Rabbis in the Mishnah hold that a hermaphrodite is a creature apart, differing in this from the first Tanna and R. Ishmael.

(18) In case the skin tears and reveals it as a male.

(19) V. Lev. XXVII, 1ff.

Talmud - Mas. Bechoroth 42a

Why then is it taught: [Scripture says]: ‘Of the male’,[1] [intimating] the exclusion of a tumtum and a hermaphrodite?[2] — Delete tumtum from this [Baraitha].

Come and hear: You might think that the case of a tumtum or that of a hermaphrodite is not included in the [law of] valuation relating to a man but is included in the law of valuation of a woman.[3] There are two texts, therefore, ‘Of the male’, ‘And if it be a female’,[4] [intimating] the exclusion of tumtum and hermaphrodite. — Delete tumtum from this [Baraitha].[5]

Come and hear: [Scripture says]: ‘ Whether it be a male or a female’,[6] [intimating], the exclusion of a tumtum and a hermaphrodite?[7] — Delete tumtum from this [Baraitha]. Come and hear: [Scripture says]: ‘A male’,[8] [intimating] but not a female. When therefore [Scripture] repeats below ‘a male’[9] which there is no need to say, it intimates the exclusion of a tumtum and a hermaphrodite.[10] — Delete tumtum from [the Baraitha].

Come and hear: [Doves] worshipped as an idol or assigned to idolatrous purposes or a harlot's hire [as an offering] or the price obtaining by selling a harlot [and brought as an offering], or a tumtum or a hermaphrodite, — all these make garments unclean by [contact with one's] oesophagus.[11]

R. Eleazar says: tumtum and a hermaphrodite do not make the garments unclean of one who eats them. For R. Eleazar used to say: Wherever you find [in the Scriptures] ‘Male’ or ‘Female’, you exclude the case of a tumtum or a hermaphrodite therefrom. But in the case of a bird, since [Scripture] does not in that connection mention ‘Male’ or ‘Female’, you do not exclude the case of a tumtum or a hermaphrodite![12] — Delete tumtum from this [Baraitha].

Come and hear: R. Eleazar said: trefah, kil'ayim,[13] a foetus extracted by means of the caesarean section, tumtum and a hermaphrodite cannot become consecrated, nor can they cause consecration.[14] And Samuel explained this as follows: They do not become consecrated in substitution[15] nor do they cause consecration by effecting substitution.[16] — Delete tumtum from this [passage].

Come and hear: R. Eleazar says: There are five instances where animals do not become consecrated nor cause consecration and they are these' Trefah, kil'ayim. a foetus extracted by means of the caesarean section, tumtum and a hermaphrodite. And were you to assume that here also the answer is 'Delete tumtum from here,' then R. Eleazar has only brought four instances? — Omit tumtum and include the case of an orphaned [animal].[17]

May we say that Tannaim differ on this point?[18] [For it was taught]: R. Elai reported in the name of R. Ishmael: A hermaphrodite is considered a firstling with a blemish, whereas the Sages say: Holiness cannot attach to it.[19] R. Simeon b. Judah reported in the name of R. Simeon: Scripture says that 'The male' and wherever the text says 'A male' its object is to exclude tumtum and a hermaphrodite.[20] And should you say 'Delete tumtum from this [passage]' then the view of R. Simeon b. Judah would be identical with that of the Rabbis? Must you not therefore say that the difference between them lies in the case of a tumtum, the first Tanna [quoted above], [the Sages] maintaining that the ruling 'Holiness cannot attach to it' refers to a hermaphrodite, whereas a tumtum is considered a doubtful animal [as regards sex], and therefore it can be holy owing to this uncertainty. Thereupon comes R. Simeon

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(1) Lev. XXVII, 3.

(2) We therefore see that a tumtum is not included in the law of valuation.

(3) There being a difference in the valuation between the sexes.

(4) Ibid. 4. And from the additional ואם we derive the law of tumtum and hermaphrodite. The text cannot therefore exclude this for the reason that it is a doubtful animal as to sex, for there is no doubt before Heaven, the revealer of the Law. Therefore the exclusion of a tumtum must be, because it is considered a creature apart, so that this raises a difficulty with reference to R. Hisda's ruling above.

(5) As, from the text, we can only exclude the case of a hermaphrodite.

(6) Lev. III, 6. In connection with a peace-offering.

(7) And the exclusion here of a tumtum cannot be because of the uncertainty of its sex, since a peace-offering is brought from either sex. The reason therefore must be because a tumtum is regarded as a creature apart and distinct from others.

(8) Lev. I, 3 with reference to a burnt-offering.

(9) Ibid. 10.

(10) V. supra 41b.

(11) I.e., in the process of eating it. This is the manner of defilement by the nebelah (carcase) of a clean bird. The pinching (v. Lev. I, 15) is not recognized as valid, since the birds are not regarded as consecrated sacrifices. But except for the fact that we regard a tumtum as a creature apart, why should not the pinching be valid, for in the case of birds the sex is immaterial?

(12) And an objection to R. Hisda can be urged even from R. Eleazar's teaching, for only with reference to birds does he not exclude tumtum etc. but otherwise where the text says 'Male' or 'Female', tumtum and a hermaphrodite are excluded, the reason clearly being because they are regarded as creatures apart; v. Yeb. 83b.

(13) The product of a cross-breeding of animals.

(14) V. Yeb. 83b and Tem. 11a, 13a.

(15) Even a substitution which has effect on a blemished animal both becoming holy, has no effect on the cases enumerated here.

(16) If they are holy (having received their holiness through their mothers, as the offspring of consecrated animals) they do not cause the other animal improperly sub stituted for them to become holy as well. Now if a tumtum is a doubtful animal as regards sex, why should it not become holy?

(17) The case of an animal whose mother died during or soon after childbirth, which is disqualified as a sacrifice. V. Hul. 38b.

(18) Viz., R. Hisda's ruling, one Tanna holding that it is a different creature, entirely, and the other that it is a doubtful animal as regards sex.

(19) For it is regarded as a creature apart.

(20) For a tumtum is also a creature apart. V. supra 41b and notes.

Talmud - Mas. Bechoroth 42b

b. Judah and says: A tumtum is a creature apart and therefore it cannot be holy? — No. All [the authorities] agree that there is no doubt that a tumtum should be considered a creature apart.[1] The doubt is only whether it is to be regarded as a male or a female. Now if it urinates in the male part, then all agree that it is a male. The doubt arises however if it urinates in the female part. One teacher[2] holds: We fear lest his male sex may have changed into a female sex, whereas the other teacher[3] holds: We have no apprehension of such a thing.[4] This agrees with what is told of R. Elai[5] who gave a decision that a tumtum animal which urinates in the female part is hullin[6] and R. Johanan was thereupon astonished,[7] and exclaimed: ‘Which authority is it which does not take into consideration the first Tanna [quoted in our Mishnah above][8] and R. Ishmael’?[9] But let R. Johanan also say: Who is the authority that does not take into consideration the view of the last Rabbis [in the Mishnah]! For R. Hisda said: The difference of opinion in the Mishnah relates only to a hermaphrodite, but as regards a tumtum all agree that it is a case of a doubtful animal [as to sex]. — R. Johanan does not hold R. Hisda's opinion.[10] But if R. Johanan does not hold R. Hisda's opinion, why does he not explain that he [Elai] follows the view of the last Rabbis [mentioned in the Mishnah]?[11] This is [precisely] what R. Johanan means: Who is the authority that ignores the views of two teachers[12] and follows the view of a single teacher? And as regards R. Elai whose view does he follow? — It is that of Resh Lakish [as follows]: The ruling that a tumtum is a doubtful case [as regards sex] relates only to a human being, since his male and female parts are in the same place.[13] But in the case of an animal, if it urinates in the male part, then it is a male, whereas if it urinates in the female part, it is a female. To this R. Oshaiah demurred: And why not apprehend[14] lest its male sex may have changed to female? — Said [Abaye] to[15] him: Whose view will [this question] represent? Will it be R. Meir's, who takes Into consideration the minority?[16] Both Abaye b. Abin and R. Hanania b. Abin said: You may even say that this question arises also on the view of the Rabbis [the disputants of R. Meir]. for since its condition has changed,[17] there is a different animal?[18] — [The question can be met in this way]: One authority [the first Tanna quoted in the above Baraitha] holds: Since its condition has changed, it is a different animal [and therefore it possesses holiness] whereas the other authority, [R. Simeon] holds: We do not say [with reference to an animal] that since its condition has changed, it is therefore a different animal.[19]

May we say that the principle that the change of condition makes a different [human being or animal] is a matter in which Tannaim differ? For it has been taught: If a tumtum betrothes a woman, his betrothal is valid.[20] If he was betrothed, the betrothal is valid.[21] He submits to halizah,[22] his wife must be released by halizah[23] and his brother may marry his wife.[24] And another [Baraitha] taught: The wife of a tumtum must be released by halizah but she must not marry her brother-in-law. Now it was assumed that all agree with R. Akiba who said: A born saris[25] does not submit to halizah, nor perform levirate marriage?[26] The point at issue will therefore be [as follows]: According to the [Tanna of the Baraitha] who holds that a tumtum submits to halizah, that his wife must be released by halizah and his brother may marry his wife, we do not maintain that since the status has been changed,[27] therefore he is a different person,[28] and according [to the Tanna in the Baraitha] who holds: The wife of a tumtum must be released by halizah but must not marry his brother, we maintain that since the status has changed, he is a different person![29] — No. All [the authorities concerned] agree that we maintain that since the status is changed, he is a different person.[30] [One Baraitha][31] is in accordance with the view of R. Eleazar[32] and the [other Baraitha][33] is in accordance with the view of R. Akiba. And who [of R. Akiba's pupils is the Tanna] who holds this opinion according to R. Akiba?[34] Shall I say it is R. Judah? But does he not declare a tumtum to be a sure saris?[35] For we have learnt, R. Judah says: A tumtum [whose skin covering the sexual part] was torn and who was discovered to be a male, need not submit to halizah because he is like a saris![36] — Rather it is R. Jose b. Judah.[37] For it has been taught, R. Jose b. Judah says: A tumtum does not release his sister-in-law by halizah lest the skin is torn and he will be found to be a born saris.[38]

[But is the Tanna sure that he will be discovered to be a male]? Do you mean to say that when the skin is torn he might be discovered to be a male but never a female?[39] Rather [the explanation is]: [R. Judah means that there are two possibilities]. [First], his skin may be torn and it will be found that he is a female. Secondly, even if he is indeed a male, there is a possibility that he will be found to be a born saris. What is the practical difference?[40] — Said Raba:

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(1) As there is no question that it is not considered a creature apart and thus we cannot speak of Tannaim differing on this point.

(2) The first Tanna (the Sages).

(3) R. Simeon. And when it urinates in the male or female part R. Hisda also admits that according to one Tanna it is a sure male or female respectively and not merely a doubtful animal. R. Hisda, however, when he says that all agree that it is a doubtful animal, refers to the view of the last Rabbis in the Mishnah above, explaining that one should not say that the reason for the view of the last Rabbis is because the tumtum is a creature apart and thus it can never receive holiness, as all the authorities are agreed that a tumtum is at least a case of a doubtful animal.

(4) But we maintain that it is a sure female and that therefore it possesses no holiness of a first-born.

(5) Rashi has the reading אילעאי . He was an Amora and not the R. Ila'i of the Baraitha above who reported in the name of R. Ishmael.

(6) An unconsecrated animal. It is considered a sure female, as we entertain no fears about the sex being changed, and the law of the firstling does not apply to a female.

(7) At this decision of R. Elai.

(8) Who holds that a tumtum is neither slaughtered in the Temple nor without the Temple, because it is a doubtful animal as regards sex.

(9) As R. Ishmael's ruling in the Mishnah only relates to a hermaphrodite and not to a tumtum.

(10) But that the ruling of the last Rabbis in the Mishnah refers also to a tumtum, which is regarded as a creature apart and not a firstling at all.

(11) Why then is R. Johanan astonished at R. Elai's decision, since the latter only follows the ruling of the last Rabbis in the Mishnah.

(12) The first Tanna and R. Ishmael.

(13) Urination therefore does not provide a test. In the case of a tumtum animal, however, there need be no doubt as to its sex according to all the authorities concerned. The first Tanna in the Mishnah who says that the animal must not be slaughtered, refers to where it urinates in the male part, and then it is assuredly holy and therefore it must not be slaughtered outside the Temple. It is also not suitable for sacrifice in the Temple, for it has the appearance of a blemished animal, as it does not possess male genitals, a defect which Scripture excludes by the text ‘A male’. And both R. Ishmael and the last Rabbis only refer to a hermaphrodite, but as regards a tumtum they are all agreed that if the animal urinates in the male part, then it is a male, and if in the female part, then it is a female. R. Elai's decision will thus be in accordance with the views of all the authorities concerned. Tosaf. however maintains that Resh Lakish's view will not be shared by all the authorities; the ruling of the first Tanna of the Mishnah, for example, that it is a doubtful animal, will not be in accordance with the view of Resh Lakish who will concur with the view of R. Simeon b. Judah. .

(14) Both according to R. Elai and Resh Lakish.

(15) So Sh. Mek.

(16) I.e., the possibility of rares cases, v. supra 19b. And surely we do not follow the view of the individual as against that of the majority!

(17) It being a tumtum.

(18) Its male part changing into a female. Lit., ‘Since it has changed (in one direction), it has changed also in another direction’.

(19) And therefore we maintain that the animal was originally a female, in which case there is no holiness whatsoever. R. Elai will consequently agree with R. Simeon.
(20) The woman requires a Get (a divorce bill) and also his near relations are forbidden in marriage to her, in case he is a male.
(21) And the party who betrothed him is forbidden in marriage to the tumtum's relations, e.g., his mother and sister for fear that he might. after all, be a female.
(22) V. Glos. As a restrictive measure, that where there is no other brother his sister-in-law must be released by him before she can be married.
(23) Another merely restrictive measure, for fear that he might be a male.
(24) For if he is a male, then his brother rightly marries her according to the law of yabam (levir). And if he is a female, then the brother of the tumtum is betrothing an unmarried woman.
(25) A eunuch. חמה means lit., ‘from seeing the sun’, i.e., a eunuch from birth, in contradistinction to סרים אדם by the agency of man.
(26) V. Yeb. 79b.
(27) The deceased brother becoming a tumtum.
(28) That even if the skin were torn and he were found to be a male, we have no fear that it might be discovered that he is a saris, a different person entirely, the wife of a saris not being able to marry a deceased husband's brother.
(29) In case he is a born saris, even if he be a male. She therefore cannot marry her deceased husband's brother, for as he is as male, the betrothal is valid, but since he is a born saris, his wife is not subject to yibbum. She is therefore like a woman who has children and the brother would be marrying a sister-in-law of that status, this being one of the forbidden marriages of consanguinity. Halizah, however, would be necessary, in case he is not a saris.
(30) We therefore have a doubt as to whether he is a born saris in addition to being a male.
(31) Which says that the husband's brother may marry the tumtum's wife.
(32) Who holds that the wife of a born saris marries her husband's brother, as there are similar cases in Alexandria which recover. Therefore whether a tumtum is a female or male, this would be permissible.
(33) Which says she must not marry her husband's brother.
(34) That she is released by halizah and must not marry her brother-in-law, for R. Akiba himself maintains that a born saris can neither release his sister-in-law by halizah nor marry her.
(35) And even halizah is not then necessary, as there are no levirate ties in such circumstances.
(36) V. Yeb. 88a.
(37) Who holds that he is not a sure saris but that there is a possibility of him being one and, therefore, halizah is necessary, in case the tumtum is a male and not a saris. He cannot, however, marry his sister-in-law, lest he be a saris as well as a male, in which case she is not subject to yibbum.
(38) And where there are other suitable brothers, we may say that he does not give halizah merely as a restrictive measure, in case he is a born saris and the woman is not then subject to yibbum. Where, however, there is no other suitable brother, he must give her halizah, in case he is not a saris. His own wife, therefore, requires halizah, as he may not have been a saris, but she must not marry her brother-in-law, as her husband may have been a saris.
(39) That only uncertainty is as regards him being discovered a born saris, and that there is no possibility of the tumtum being found to be a female.
(40) Between R. Judah and R. Jose, for in the matter of a tumtum whose brother died, both maintain that he need not release his sister-in-law by halizah.

Talmud - Mas. Bechoroth 43a

The difference is with reference to disqualifying [the woman] where there are suitable brothers.[1] There is also a difference as to whether halizah should be performed where there are no other brothers.[2]

CHAPTER VII

MISHNAH. THESE BLEMISHES [NAMED ABOVE], WHETHER PERMANENT OR TRANSITORY, MAKE HUMAN BEINGS UNFIT.[3] TO THEM MUST BE ADDED [IN THE

CASE OF BLEMISHES OF HUMAN BEINGS]. KILON,[4] LIFTAN, MAKKABAN, ONE WHOSE HEAD IS ANGULAR AND ONE WHOSE OCCIPUT HAS THE SHAPE OF SEKIFAS [LINTEL]. AS REGARDS HUMPBACKED MEN, R. JUDAH CONSIDERS THEM FIT,[5] WHEREAS THE SAGES CONSIDER THEM UNFIT. A BALD-HEADED PERSON IS UNFIT [FOR THE PRIESTHOOD]. BALD-HEADED [IN THE LEGAL SENSE] IS HE WHO HAS NOT A LINE OF HAIR FROM EAR TO EAR. IF HOWEVER HE HAS, THEN HE IS FIT.

GEMARA. But why [do these blemishes make a human being unfit]? And is there not the case of yabeleth,[6] which is not written in the Scriptures in connection with the blemishes of a human being?[7]

And, moreover, dak[8] and teballul[9] , [mentioned above as blemishes in regard to a firstling], are not mentioned in the Law in connection with the blemishes of an animal?[10] — We infer one from the other.[11] For it was taught: In connection with a human being. yabeleth is not stated [as a blemish] and in connection with an animal, dak and teballul are not stated as blemishes. Whence do we infer that we apply the expressions used in connection with one to the other and vice versa? The text states ‘garab’, [a dry scab], [in connection with a human being] and repeats ‘garab’ [in connection with an animal]; also ‘yallefeth’, [lichen] is stated [in connection with a human being] and ‘yallefeth’ is repeated [in connection with an animal], in order to conclude a gezarah shawah.[12] Now [these] expressions are free [for interpretation]. For if they were not free [for interpretation], it can be objected [as follows]: We cannot infer [the blemishes in connection with] a human being from those of an animal, for in the latter case the animal itself is offered on the altar.[13] Again we cannot infer [blemishes in connection with an] animal from those in connection with a human being, as the latter has many commands to carry out.[14] Surely it is so? [These expressions] are indeed free [for interpretation]. For the Divine Law should say that ‘yallefeth’ is a blemish, and there would be no need to state ‘garab’, as I would have argued [as follows]: If ‘yallefeth’, which is not repulsive. is yet considered a disqualifying blemish, how much more so is this the case with reference to garab, which is repulsive?[15] What need is there therefore for the Divine Law to write, ‘garab’, ‘garab’?[16] They must consequently be free [for interpretation]. And why does not the Divine Law state all the blemishes[17] in one connection[18] and ‘garab’ and ‘yallefeth’ both here [in connection with a human being] and there [in connection with an animal], and then we would have inferred one [section of blemishes] from the other [section]?[19] — In connection with which [section of blemishes] should the Divine Law have stated [all the blemishes]? If it had stated them in connection with a human being, I might have thought that whatever blemish disqualifies a human being also disqualifies an animal; closed hoofs and defective teeth, however, which do not apply to a human being,[20] do not make the animal unfit either.[21] And if the Divine Law had stated all [the blemishes] in connection with an animal, I might have thought that whatever makes an animal unfit makes a human being unfit, but the blemishes of a defective eyebrow or flat nose, which do not apply to an animal,[22] do not make a human being unfit either. And why does not the Divine Law state all the [appropriate] blemishes in connection with one [section of blemishes],[23] and those blemishes which do not apply to a human being,[24] let the Divine Law mention in connection with [the blemishes of] an animal and let those blemishes which do not apply to an animal be stated in connection with human blemishes, together with garab and yallefeth written both here [among the blemishes of a human being] and there [among the blemishes of an animal], so that one[25] may be inferred from the other?[26] — Rather [the explanation is] as a Tanna of the school of R. Ishmael taught. For a Tanna of the school of R. Ishmael taught: Wherever a section of the Law is taught and afterwards repeated, the section is repeated for the sake of a new point added.[27]

Said Raba: What need is there for the Divine Law to state blemishes in connection with a human being, [a priest], consecrated sacrifices, and a first-born animal?[28] It was necessary [to state all these sections of blemishes]. For if the Divine Law had only stated the section of blemishes in connection with a human being. we might have thought that the reason was because he carries out many commands.[29] We cannot again infer [the blemishes] of a human being from those of a first-born animal, as we might have thought that the reason in the latter case was because the animal itself was offered up on the altar.[30] You cannot either infer [the blemishes of] consecrated animals from those of a first-born animal,[31] as we might have thought that the reason in the latter case was because it was consecrated from the womb.[32] Nor can you infer [the blemishes of] a human being from those of consecrated animals,[33] as we might have thought that the reason in the case of the latter was that they themselves are sacrificed. Neither can you infer [the blemishes of] a first-born animal from those of consecrated animals, for we might have thought that the reason in the case of the latter was because the holiness [of a consecrated animal] has a wider scope.[34] We cannot therefore infer one [section of blemishes] from another single [section of blemishes]. Why not, however, infer one [section of blemishes] from the other two?[35] — Which [section] should the Divine Law have omitted? Should the Divine Law have omitted [the section relating to blemishes of] the first-born animal, leaving it to be inferred from the other [two sections of blemishes]?[36] We might then have thought that the other [two sections] are different, seeing that their holiness has a wider scope and that they also apply to plain, [non-first-born].[37] Should the Divine Law have omitted [the section of blemishes relating to] consecrated animals, leaving me to infer it from the other two [sections]?[38] We might then have thought that the reason in the latter case was because they are holy on their own accord.[39] Should the Divine Law have omitted [the section of blemishes relating to] a human being, which we would then have inferred from the other two sections?[40] I might have thought that the reason in the latter case was because they themselves are sacrificed on the altar. Hence it was necessary [to state the three sections of blemishes].

TO THESE MUST BE ADDED IN CONNECTION WITH BLEMISHES OF HUMAN BEINGS. Whence is this proven? Said R. Johanan: Scripture says: ‘No man of the seed of Aaron the Priest that hath a blemish’,[41] [intimating] that a man who is like the seed of Aaron[42] [is rendered unfit by a blemish].[43]

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(1) If there are other suitable brothers and the tumtum hastens to release his sister-in-law by halizah. Now according to R. Judah his action is of no consequence and it does not prevent one of the others from carrying out the halizah ceremony, or marrying her; whereas according to R. Jose, since we only have a doubt lest the tumtum should be a saris, the action of the tumtum disqualifies her for the brothers, as it may be that the halizah is valid and, therefore, none of the brothers may marry her. They have, in consequence, to give her halizah again.

(2) If there are no other suitable brothers except the tumtum. According to R. Judah, the woman is released without halizah, for we regard him as a sure saris; whereas according to R. Jose, halizah is necessary in case he is not a saris. For R. Jose when he states in the Baraitha above that a tumtum gives no halizah, refers to a case where there are other suitable brothers who can perform the ceremony of halizah.

(3) For Temple services in the case of priests.

(4) V. Gemara.

(5) For Temple services.

(6) A wart or withered excrescence.

(7) And is yet mentioned in connection with the blemishes of an animal?

(8) A cataract (Lev. XXI, 20).

(9) The white of the eye encroaching on the black and vice versa. Ibid.

(10) But are mentioned only among the blemishes of a human being. For, as regards some of the blemishes mentioned in the above Mishnahs, these are derived from the text ‘ill blemish’. But with reference to dak and teballul, one might object that since the law laid them down explicitly in connection with a human being and not in connection with the blemishes of an animal, then one can conclude that they do not apply to animals.

(11) The blemishes of an animal from the blemishes of a human being, and therefore, the Tanna records them all in connection with the blemishes of an animal. We also infer the blemishes of a human being from the blemishes of an animal, in a similar manner.

(12) An analogy based on a similarity of expression. V. Glos.

(13) And therefore the law is more stringent as regards its blemishes.

(14) The priest has many religious duties to observe and we therefore are particular concerning his blemishes.

(15) A garab being as dry as a potsherd, sunk in the flesh and making indentations.
(16) The garab stated in connection with the blemishes of a human being. and the other garab mentioned in connection with the blemishes of an animal.
(17) Including dak, teballul and yallefeth.
(18) Either in connection with that of a human being or with that of an animal.
(19) Why, therefore, does Scripture mention ‘Blind’, ‘Broken’ and ‘Lame’ in both cases?
(20) For a human being i.e., a priest, is not required to possess cloven hoofs, nor, since his teeth are not so prominent and open as is the case with an animal, does a defect in them make him unfit for carrying out the priestly duties.
(21) Therefore the Torah had to enumerate blemishes in connection with animals and include closed hoofs, and defective teeth which comes under the category of חרויץ (Rashi). V supra 41a.
(22) An animal does not possess eyebrows, nor has it a nose between its eyes so that a flat nose might render it unfit.
(23) Either with reference to a human being or to an animal. V. Marginal Gloss. Cur. edd. ‘to the other’.
(24) I.e., cloven hoofs and defective teeth.
(25) Animal blemishes from human blemishes and vice versa.
(26) Those which are appropriate to each. The question therefore still remains, what need is there for a repetition in both sections, of blemishes like ‘Blind’, ‘Broken’ etc.?
(27) Therefore although several blemishes are repeated in both sections, yet because of the blemishes which are new that are taught, in the case of either a human being or an animal, Scripture does not refrain from repeating them.
(28) In Deut. XV. Could not we have deduced one section of blemishes from the other or one section from the other two?
(29) And therefore these blemishes make him unfit.
(30) And therefore we are particular with reference to its blemishes.
(31) I.e., if Scripture had only taught the blemishes of a firstborn, we should not have concluded therefrom the blemishes of consecrated animals and those of a human being.
(32) I.e., born holy, unlike sacrifices which must be sanctified before they become holy.
(33) If Scripture had written only the sections relating to the blemishes of consecrated animals and not the other two sections of blemishes, we could not have inferred the latter from the former.
(34) Applying to a female as well as to a male, whereas a first-born animal must be a male. Also there are different kinds of sacrifices i.e., burnt-sacrifices, peace- sacrifices, trespass-sacrifices, etc.
(35) And therefore one section would not be necessary for Scripture to state.
(36) I.e. that of consecrated animals and that of a human being.
(37) Whether of human beings or animals.
(38) Those of a first-born animal and a human being.
(39) A priest being born as such and the same applies to a firstborn animal.
(40) Those of consecrated sacrifices and a first-born animal.
(41) Lev. XXI, 21.
(42) I.e., normal in appearance, as human beings are in general.
(43) But a man who is not like the seed of Aaron is disqualified even without a blemish (Rashi). [Aliter: We require a man of symmetrical features (normal) with the seed of Aaron, v. supra p. 14, n. 1].

Talmud - Mas. Bechoroth 43b

What is the practical difference between [a priest] with a blemish and one ‘who is not like the seed of Aaron’? — The difference is whether the Temple-service is profaned. If it is an actual blemish, the service is profaned, for it is written: ‘Because he hath a blemish, that he profane not’.[1] If, however, it is a case of not being ‘like the seed of Aaron’, then the Temple-service is not profaned. What is also the difference between the case of one ‘who is not like the seed of Aaron’ and of a priest who is unfit ‘for appearance sake’?[2] — The difference is as regards the transgression of a positive precept.[3]

KILON is one whose head has the shape of a basket [akla].[4]

LIFTAN is one whose head resembles a slice of turnip [lifta].[5] A Tanna taught:[6] Where the neck stands in the centre of the head.[7]

MAKKABAN is one whose head resembles a mallet [makkaban].

ONE WHOSE HEAD IS ANGULAR means, in the front of the head.[8]

SEKIFAS means, the hinder part of the head. A Tanna taught: [‘One whose head is angular’ means, in the front, whereas Sekifas means to the hinder part],[9] as people say, a piece is taken off.[10] A Tanna taught: One whose neck is shakut or shamut. Shakut is one whose neck is sunk,[11] and shamut is one whose neck is long and thin.

AS TO HUMP-BACKED MEN, R. JUDAH etc. If he has [a hump] in which there is a bone, all the authorities concerned agree that he is unfit [for priestly service]. The dispute arises with [a hump] in which there is no bone. One Master holds: This is a case where ‘he is not like the seed of Aaron’ and the other Master [R. Judah] holds: It is merely an elevation of the flesh [swelling].

A BALD-HEADED PERSON IS UNFIT. Said Raba: This is meant only where he has not a line of hair from ear to ear in the hinder part, but he has it in the front; but where he has this both in the hinder and in the front parts, he is fit [for Temple service]. And this is certainly the case where he has a line of hair in the hinder part and not in the front part.[12] Some there are who refer Raba's explanation to the second clause: IF HE HAS, THEN HE IS FIT. Said Raba: This is meant only where he has the line of hair in the hinder part but not in the front part, but where he has this both in the hinder and front parts, he is unfit.[13] And this is certainly the case where he has the line of hair in the front part and not in the hinder part. And [this is also certainly the case] where he has no line of hair at all, [that he is unfit].

Said R. Johanan: Bald-heads, dwarfs and the blear-eyed[14] are unfit [for the priesthood] because ‘they are not like the seed of Aaron’. But have we not already learnt both the cases of baldheads and dwarfs [in the Mishnah]?[15] — R. Johanan needs to teach us the case of the blear-eyed [not mentioned in the Mishnah]. And even with regard to the rest, you might have thought that their unfitness was ‘for appearance sake’.[16] But does not the Tanna already state explicitly wherever it is a case ‘for appearance sake’, for it says: If his eyelids are hairless, he is unfit ‘for appearance sake’? — You might however have assumed that he states one case,[17] but the same applies to the rest,[18] But does not the Tanna wher ever there is an example of unfitness for appearance sake, repeat this [as in the following]: One whose teeth were removed is unfit [for the priesthood] ‘for appearance sake?’[19] — Rather [the explanation is that the purpose of R. Johanan is] to exclude what has been taught: Bald-heads, dwarfs, and the blear-eyed are fit [for the priesthood] and they have been stated to be disqualified only ‘for appearance sake’.[20] Who is this Tanna?[21] — It is R. Judah. For it has been taught, R. Judah says: Scripture says: ‘The priests’,[22] [intimating] the inclusion of bald-heads [as fit for priestly service].

MISHNAH. ONE WHO HAS NO EYEBROWS OR HAS ONLY ONE EYEBROW [IS UNFIT], THIS BEING THE GIBBEN OF THE BIBLE.[23] R. DOSA SAYS:[24] ONE WHOSE EYEBROWS LIE FLAT [OVERSHADOWING THE EYES]. R. HANINA B. ANTIGONUS SAYS: ONE WHO HAS A DOUBLE BACK OR A DOUBLE SPINE.[25]

GEMARA. But does gibben [by itself] imply that he has no eyebrows? Against this I quote the following: Gibben implies that he has many eyebrows.[26] Whence do we know [that a priest is unfit for the priesthood] if he has no eyebrows or only one eyebrow? The text states: Or a gibben![27] — Said Raba: This[28] is what is deduced by interpretation from: or a gibben.[29]

R. DOSA SAYS etc. Does this mean that he can live?[30] Has it not been stated: In the case of a birth given to a creature which possesses a double back or a double spine, Rab said: If it was a woman [who miscarried], it is not regarded as an offspring;[31] if an animal [miscarried], the creature born is forbidden to be eaten?[32] — This objection has already been raised by R. Shimi b. Hiyya.[33] And the former answered him: 'Are you the Shimi [famed for your wisdom]? [The Mishnah here means] where the spine was curved [thus appearing a double spine]'.

MISHNAH. A HARUM IS UNFIT [FOR THE PRIESTHOOD]. WHAT IS HARUM? ONE WHO CAN PAINT BOTH OF HIS EYES WITH ONE MOVEMENT.[34] ONE WHOSE TWO EYES ARE ABOVE OR WHOSE TWO EYES ARE BELOW;[35] A PERSON WHOSE ONE EYE SEES ABOVE AND THE OTHER BELOW; ONE WHO TAKES IN THE ROOM AND THE CEILING IN ONE GLANCE;[36] ONE WHO COVERS [HIS EYES] FROM THE SUN;[37] A ZAGDAN[38] AND A ZIRAN — [ALL THESE ARE UNFIT FOR THE PRIESTHOOD]. ONE WHOSE EYELIDS HAVE FALLEN OFF IS UNFIT [FOR THE PRIESTHOOD] FOR APPEARANCE SAKE.[39] GEMARA. Our Rabbis taught: Harum is one whose nose is sunk [above, between the eyes]. Whence do we know that one whose nose is turned up [snub-nosed] or obstructed, or whose nose overhangs [his lips is unfit for the priesthood]? There is a scriptural text: or a harum.[40] R. Jose says: Harum only refers to one who paints both his eyes with one movement. [The Rabbis] said to him: You have exaggerated,

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(1) Lev. XXI. 23.

(2) Some blemishes, more particularly the lightest, disqualify merely 'for appearance sake' as, for example, one whose eyelids are hairless or one whose teeth were removed; v. infra.

(3) A priest 'who is not like the seed of Aaron', if he performed his duties in the Temple, would be guilty of breaking a positive precept, according to the following reasoning: 'One who is like the seed of Aaron' may officiate in the Temple, but not one who is not like the seed of Aaron. Now this negative conclusion is merely an inference and not an explicit negative precept, and therefore it only possesses the force of a positive precept.

(4) A vessel made of twigs, pointed and slanting on the top.

(5) Especially the upper slice which is broad, narrowing downwards.

(6) According to R. Gershom, the Tanna is elucidating liftan in the Mishnah. Another interpretation (Sh. Mek.) is that his statement is independent of the Mishnah, and means: And there is yet another blemish not mentioned in the Mishnah, viz., etc.

(7) The head projecting equally backwards and forwards.

(8) The forehead receding abruptly.

(9) Inserted with Sh. Mek.

(10) Appearing as if a portion were missing.

(11) Abnormally short, where the head is hidden between two shoulders (Rashi).

(12) As where he has this line of hair only in the hinder part, the head is more presentable than when he has the line all the way round the head and the baldness is in the centre. There is also another version as follows: This is meant only where he has the line of hair both in the front and hinder parts, but where he has none, then he is fit (to officiate in the Temple). And this is certainly the case when he has this line of hair in the hinder part of the head but not in the front, (Sh. Mek.)

(13) To officiate in the Temple.

(14) Whose eyes drip with water (Rashi). R. Gershom says: Dropping spittle.

(15) Bald-heads is mentioned above in our Mishnah and the other is mentioned below, in a Mishnah later in this chapter.

(16) That the priest is disqualified to officiate, but that there is no transgression of a positive precept if a priest in this condition performed the service (v. supra). R. Johanan hence informs us that these cases come under the category of those 'who are not like the seed of Aaron'.

(17) That of a hairless eyelid, as being unfit 'for appearance sake'.

(18) Those quoted in the second part of the Mishnah commencing: AS TO HUMPBACKED MEN. For as regards the first part of the Mishnah, which mentions KILON etc., these are made unfit because they come under the class of those 'who are not like the seed of Aaron', as stated supra. Consequently. R. Johanan needs to inform us that the reason for the others too is because ‘they are not like the seed of Aaron.

(19) Infra 44a. And we do not say that the reason which applies in one case, applies also to the other. Similarly, how could we have assumed that the reason ‘for appearance sake’ applies to the blemishes enumerated in the second clause of our Mishnah? We must consequently maintain that only where the reason ‘for appearance sake’ is stated explicitly do we accept that reason, but where it does not say so, we do not hold that the unfitness is ‘for appearance sake’. What need, therefore, is there for R. Johanan's explanation?

(20) R. Johanan thus teaches us that the law is in accordance with the ruling of the Mishnah which makes the priest unfit because he ‘is not like the seed of Aaron’.

(21) Who holds that a bald-headed person is fit for the priesthood?

(22) Lev. I, 8. The word הכהנים , is not necessary, since the text has already said ‘the sons of Aaron’.

(23) Lev. XXI, 20. ‘One eyebrow’ means that both eyebrows are joined together above the nose and appear as one.

(24) The following is the gibben of the Bible.

(25) This is the biblical gibben. The Tannaim in the Mishnah here agree that all the blemishes mentioned disqualify a priest. The difference between them, however, as to what precisely is the biblical gibben.

(26) The two eyebrows appearing as one eyebrow.

(27) Lev. XXI, 20. We therefore see that the word gibben by itself does not mean one who has no eyebrows or only one eyebrow.

(28) The case of one eyebrow.

(29) By the first Tanna in the Mishnah but not from gibben itself. R. Dosa however differs and does not interpret the particle ‘or’.

(30) One with a double back or double spine.

(31) The laws concerning a birth are not observed.

(32) Like nebelah, for it is an abortion, and therefore there can be no ritual slaughtering.

(33) Elsewhere in Nid. 24a.

(34) Possessing no nose, so that nothing prevents him proceeding to paint the other eye in one movement.

(35) Explained in the Gemara.

(36) Or ‘the room and the upper chamber’.

(37) סכי from the word סכך meaning ‘to cover’, one who is unable to look at the sun.

(38) This blemish and the others which follow are explained below in the Gemara.

(39) This reason only applies to the case of hairless eyelids.

(40) Lev. XXI, 18. (E.V. ‘or that hath anything maimed’), from which we include all the blemishes just enumerated.

Talmud - Mas. Bechoroth 44a

for although he cannot paint both his eyes with one movement,[1] he is still a harum.

ONE WHOSE TWO EYES ARE ABOVE OR WHOSE TWO EYES ARE BELOW. What [does the Mishnah mean by the expression] BOTH EYES ABOVE AND BOTH EYES BELOW? Shall I say BOTH EYES ABOVE mean that they [continuously] see above, the expression BOTH EYES BELOW, that they see below; and ONE EYE ABOVE AND ONE EYE BELOW [means] that one eye sees below and the other above?[2] Then the latter case would be identical with the case ONE WHO TAKES IN THE ROOM AND THE CEILING IN ONE GLANCE [mentioned later in the Mishnah]? — Rather this is the explanation: The expression BOTH EYES ABOVE means that they stand above,[3] [the expression] BOTH EYES BELOW means that they stand below, [the expression] ONE EYE ABOVE AND ONE EYE BELOW means that one eye stands above and one eye below. And even where the eyes are in their normal places, there is a case of unfitness where ONE TAKES IN THE ROOM AND THE CEILING IN ONE GLANCE. Whence do we prove this? — Our Rabbis taught. Scripture says: ‘In his eye’,[4] every [defect] in connection with the eye. Hence [the Sages] say: One who has both eyes below or both eyes above or one eye above and one eye below or one who takes in the room and the ceiling in one glance or one who speaks with his friend, and another says, ‘He is looking at me’ — [all these defects render a priest unfit for the priesthood].

Our Rabbis taught. The text: ‘Blind’[5] means blind in both eyes or In one eye. Whence do we derive the case of white spots [on the cornea] and eyes dripping with water, [both defects being] of a permanent character? There is a scriptural text: ‘[A blind] man.[6] Said Raba: What need is there for the Divine Law to write: ‘blind man’, ‘dak’, ‘tebullal in his eye’?[7] — It is necessary [to state all these cases]. For if the Divine Law had only said ‘Blind’, we might have thought that the reason was because the eyes were not there,[8] but in the cases of white spots on the cornea and of dripping eyes, [both defects being] of a permanent character where the eyes are there, this is not so. Therefore Scripture says ‘[Blind] man’. And if the Divine Law had said ‘Man’ we might have thought that the reason was because the eyes cannot see at all [although they are there], but where however there was only defective vision,[9] it is not so. Therefore the Divine Law says ‘Dak.’ And if the Divine Law had said [only] Dak, we might have thought that the reason was because there was defective vision, but where there was confusion [of the colours in the eye][10] it is not so, therefore the Divine Law says ‘tebullal’. And if the Divine Law had only said teballul, we might have thought that the reason was because of the confusion [of the colours in the eye], but where It was a case of a different location [of the eyes],[11] it is not so. Therefore the Divine Law says: ‘In his eye’. Said Raba: Consequently, every case of blindness[12] we derive from the text ‘Man’. Every case of defective vision, we derive from the text ‘dak’. Every case of confusion [of colours in the eye] we derive from the text ‘te ballul’, and every case of a different location [in the two eyes] we derive from the text ‘In his eye’.

ONE WHO COVERS [HIS EYES] FROM THE SUN. R. Joseph taught: One who hates[13] the sun [a blinkard]. ZAGDAN. R. Huna showed by gestures, one eye like ours[14] and the other, like theirs.[15] Rab Judah was annoyed.

An objection was raised: Shakbonah is one whose eyebrows overshadow[16] [his eyes]. Zagdan is one who has one black and one white [eyebrow]. A Tanna taught: Any pair [of eyes] which is not properly matched[17] is called zagdan.

ZIRAN. It has been taught: One whose eyes are bleared[18] and granulated; weeping, dripping and running.[19] A Tanna taught: Zewir, lufyon, and tamir are blemishes. Zewir is one whose eyes are unsteady [mezawar]. Lufyon is one having thick and connected eyebrows, and tamir is one whose eyebrows are gone. And is the latter defect reckoned among disqualifying blemishes? Have we not learnt: ONE WHOSE EYELIDS ARE HAIRLESS IS UNFIT [FOR THE PRIESTHOOD] ‘FOR APPEARANCE SAKE?’[20] — This offers no difficulty. In the one case,[21] the root remains, in the other,[22] it does not remain.

MISHNAH. ONE WHOSE EYES ARE AS LARGE AS A CALF'S OR AS SMALL AS THOSE OF A GOOSE; OR WHOSE BODY IS [UNDULY] LARGE FOR HIS LIMBS;[23] [UNDULY] SMALL FOR HIS LIMBS; OR WHOSE NOSE IS [UNDULY] LARGE FOR HIS LIMBS; OR WHOSE NOSE IS [UNDULY] SMALL FOR HIS LIMBS; ZOMEM AND ZOMEA’. WHAT IS ZOMEA’? ONE WHOSE AURICLES ARE VERY SMALL. WHAT IS ZOMEM? ONE WHOSE AURICLES RESEMBLE A SPONGE. IF THE UPPER LIP OVERLAPS THE LOWER OR THE LOWER LIP OVERLAPS THE UPPER, THIS IS A BLEMISH. ONE WHOSE TEETH HAVE FALLEN OUT IS UNFIT [FOR THE PRIESTHOOD] FOR APPEARANCE SAKE.

GEMARA. Said Rab: Moses our teacher was ten cubits in height,[24] for it is said: And he spread abroad the tent over the tabernacle.[25] Now who spread it? Moses our teacher; and Scripture says: Ten cubits shall be the length of the board.[26] Said R. Shimi b. Hiyya to Rab: If so, you have made out that Moses was a blemished person,[27] for we have learnt: ONE WHOSE BODY IS UNDULY LARGE FOR HIS LIMBS OR UNDULY SMALL FOR HIS LIMBS. — He replied to him: ‘Are you the Shimi [famed for your wisdom]. I refer to the cubit of the tabernacle.’[28]

ONE WHOSE NOSE WAS UNDULY LARGE etc. A Tanna taught: As [the width of] a small finger.[29] ZOMEM AND ZOMEA’. A Tanna taught: [In addition to the blemishes mentioned] zimmeah is also a blemish. The Rabbis did not know what zimmeah was. They heard an Arab trader[30] call out: Who wants a zimmeah? And it was found to be a shaggy goat.[31]

Said R. Hisda: A goat which has no horns and a ewe which has horns are fit for the altar. So indeed it has been taught: There are some defects [in a firstling] which appear like blemishes but are not actually blemishes and in consequence of which we slaughter the animal in the Temple[32] but not without the Temple. And they are the following: A goat which has no horns and an ewe which has horns, a zimmeah, a zummum and a zomea’.[33] R. Hisda reported in the name of Abimi: If its horns together with the bony inside [of the horns] have been removed, the animal is unfit for the altar, but may not be redeemed by reason of it.[34] If its hoofs together with the bony inside [of the hoofs] have been removed, the animal is unfit, and may be redeemed by reason of it.

An objection was raised: If the horns and hoofs together with their bony insides were removed, the animal is unfit, and may be redeemed by reason of it![35] — This presents no difficulty. In the one case[36] [the horns] were uprooted,[37] and in the other[38] [the horns] were levelled.[39] But if the horns were only levelled, is it even unfit [for the altar]? The following was cited in contradiction: If a [red] heifer has horns and hoofs which are black, let him lop off [the black top of the horns and hoofs]. — Explain this as follows: [The lopping off] is from the top part of their bony inside.[40] [

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(1) There is no need for the nose to be so deeply sunk in order to make him unfit for the priesthood.

(2) But in each of these instances the eyes are in their normal and usual places.

(3) In the top of the forehead which is an actual change of position.

(4) Lev. XXI, 20. Scripture could have said dak (a cataract), teballul a blending of the black and white of the eye alone and I would have known that the eye is meant, for these blemishes only concern the eye. The text therefore ‘In his eye’ is superfluous, unless for the purpose of deriving other cases therefrom.

(5) Lev. XXI, 18. The word ‘Blind’ implies the actual removal of an eye.

(6) And we infer this from the additional word ‘Man’.

(7) V. p. 294, n. 5. Could we not have inferred one or two of these blemishes from the other?

(8) As the word ‘Blind’ implies that the eyes have been removed.

(9) But that there is a certain amount of vision left.

(10) Where the white of an eye invades the black and vice versa, the vision of the eye, however, not being decreased thereby.

(11) As, for example, where both eyes are in the forehead or below the normal places etc.

(12) Not being able to see at all, like the cases of white spots on the cornea and dripping eyes.

(13) Changing the word סכי into סני which means hating.

(14) A normal one.

(15) Those sitting opposite me among whom was Rab Judah whose eyes were abnormal. Tosaf. adds that Rab Judah's eyes were abnormal in this respect, that one eye was unduly large.

(16) Lit., ‘lie’. Heb. ‘shokbim’.

(17) Whether in colour or size.

(18) Discharging briny liquid (ציר). Rashi says: Round or pivot shaped.

(19) ‘Running’ is more than ‘dripping’ and the latter is more than weeping’. Aruch has for טורדות restless, constantly twinkling. Another opinion is, shutting with great trouble.

(20) We therefore see that it is not an actual blemish.

(21) The Mishnah which says that he is unfit merely for appearance sake.

(22) The Tanna who states that it is a real blemish. R. Gershom interprets this passage as follows: The authority in the Baraitha refers to a case where the root of the eyebrow and eyelid remains and even so he is unfit for the priesthood, whereas the Mishnah refers to where nothing remains of the root, and therefore the unfitness is only ‘for appearance sake’.

(23) I.e., his legs, hands and shoulders.

(24) It is assumed, a cubit being the measurement of the fore-arm, that the standard of measurement was Moses’ fore-arm.

(25) Ex. XL, 19.

(26) Ex. XXVI, 16.

(27) For then his body would be out of all proportion to his arms ten to one, whereas the proportion of the average person's body to his arm is only three to one.

(28) [I.e., the ordinary cubit measure used in the Tabernacle. The ten cubits of Moses were with reference not to his own fore-arm, but somewhat to that of an ordinary person (the cubit used in the Tabernacle being slightly longer than an ordinary cubit, v. supra 40a). The reading is that of Sh. Mek. and R. Gershom. Cur. edd.; he refers to the cubit (for the measurement) of the board. The meaning is however the same].

(29) And if it is smaller or larger than this measurement, then he is rendered unfit as a priest, supposing he is of average height.

(30) Heb. טייעא which usually means a caravan merchant.

(31) With long lumps of hair and long depending ears.

(32) Because they are not regarded as disqualifying blemishes.

(33) These three terms have been explained above in the Gemara.

(34) If it is a consecrated animal and not a first-born. It is not redeemed because it is considered a blemish only with regard to disqualifying for the altar.

(35) This Baraitha therefore contradicts Rab Hisda's ruling.

(36) The Baraitha just quoted.

(37) And a depression is visible on the top.

(38) The case referred to by Rab Hisda.

(39) But the stump remained.

(40) There is at the point of the horn, on the top, a piece of two or three finger-breadths to which the bony inside does not extend; if then the black did not reach the bony inside, he may lop it off, and this does not make the animal blemished.

Talmud - Mas. Bechoroth 44b

MISHNAH. IF ONE HAS LARGE[1] BREASTS LIKE THOSE OF A WOMAN, ONE WHOSE BELLY IS SWOLLEN, ONE WHOSE NAVEL PROJECTS, [OWING TO ILLNESS], ONE WHO IS SUBJECT TO EPILEPTIC SPELLS EVEN AT INFREQUENT INTERVALS,[2] ONE WHO IS SUBJECT TO ASTHMATIC SPELLS,[3] A ME'USHBAN AND A BA'AL GEBER [ALL THESE ARE UNFIT FOR THE PRIESTHOOD].

GEMARA. R. Abba b. R. Hiyya b. Abba reported in the name of R. Johanan: It is permitted to urinate in public,[4] whereas it is not permitted to drink water in public.[5] So indeed it has been taught: It is permitted to urinate in public, whereas it is not permitted to drink water in public. And it once happened that someone wanted to urinate and forewent it, and it was found that his belly was swollen. Samuel needed to urinate on a Sabbath preceding a Festival.[6] He spread his cloak [as a screen between his audience and himself]. He came before his father [and reported this to him]. He [the latter] then said to him: ‘I will give you four hundred zuz to retract this ruling,[7] for you were able to spread a cloak,[8] but one who is not able to do so, shall he delay and expose himself to the danger?’

Mar son of R. Ashi was walking on the junction of a landing bridge when he needed [to ease himself]. They said to him. ‘Your mother-in-law comes’. He replied to then,: ‘Even in her ear’.[9] But may I not assume[10] that the swelling of his belly arose from swallowing a leech?[11] — [We are dealing here in a case] when he discharged urine [laxly].[12]

Our Rabbis taught: Two channels are in the membrum of a human being, one of which discharges urine and the other semen, and the distance between them is no more than the peel of garlic. If then a person needs to ease himself, and one channel interferes with the other, he is found to be impotent.

Said Resh Lakish: What is the interpretation of the Scriptural text: There shall not be male and female barren among you or among your cattle?[13] [It is as follows]: When will there not be a male barren among you? If you put yourself on a level with an animal.[14] Said R. Joshua b. Levi: The words ‘There shall not be male barren’ mean that your house shall not be deprived of scholars. The words ‘Or female barren’ mean that your prayers shall not be fruitless before the Lord.[15] And when will this be the case? If you place yourself on a level with an animal.[16] Said R. Papa: One must not urinate in an earthen tub[17] nor in a hard spot.[18] For Rab said: The drains of Babylon carry water to En Etam.

Said Abaye: A woman must not stand actually before a child and urinate.[19] [If she urinates] sideways, however,[20] there is no objection.

We have learnt [in a Baraitha]: R. Simeon b. Gamaliel says, A suppressed discharge produces dropsy. To force back the urine in the urinary duct produces jaundices. R. Kattina reported in the name of Resh Lakish: If blood is allowed to increase,[21] skin disease will develop. If semen is allowed to increase,[22] leprosy develops. If excrement is allowed to increase, dropsy increases. If one allows the urine to increase [through neglect], jaundice develops.

ONE WHO IS SUBJECT TO ASTHMATIC SPELLS. What is this?[23] — Nala.[24] A Tanna taught: The spirit of ben nefalim[25] comes upon him.

A ME'USHBAN AND A BA'AL GEBER. A Tanna taught: ME'USHBAN is in the stones and BA'AL GEBER is in the membrum. It has been taught: Me'ushban is the kayyan, and arbatha is the ba'al kik. Kayyan means stones [which are abnormally large] and arbatha means the membrum [which is abnormally large]. And of what size? Rab Judah indicated this as up to the knee. It has been taught: R. Eliezer b. Jacob says: The membrum which reaches up to the knee makes the priest unfit, but if it is above the knee, he is fit. Some there are who say: If the membrum reaches up to the knee the priest is fit, whereas if it comes below the knee he is unfit [for the priesthood].

MISHNAH. IF HE HAS NO STONES AT ALL OR ONLY ONE STONE, THIS IS THE BIBLICAL MEROAH ASHEK.[26] R. ISHMAEL SAYS: IF HE HAS HIS TESTICLES CRUSHED.[27] R. AKIBA SAYS: IF HE HAS WIND IN HIS TESTICLES. R. HANINA B. ANTIGONUS SAYS: [MEROAH ASHEK MEANS]: IF HE HAS A BLACK COMPLEXION.[28] GEMARA. R. Ishmael [who differs from the opinion of the first Tanna in the Mishnah] found this opinion difficult to accept, [for if so], ‘it ought to read: Hasar ashek.[29] Therefore he teaches: IF HE HAS HIS TESTICLES CRUSHED. R. Akiba also [who in turn differs from R. Ishmael] found this opinion difficult to accept, [for if so], it ought to read: Memarah ashek.[30] He therefore teaches: IF ONE HAS WIND IN HIS TESTICLES. R. Hanina also [who differs from the opinion of R. Akiba] found this opinion difficult to accept, [for if so], it ought to read: ruah ashek.[31] He therefore teaches: IF HE HAS A BLACK COMPLEXION. For he maintains: We may take away one letter from one word of the text and add to another and thus interpret [the Law].[32] But then is this not [according to R. Hanina] the case of one who is like an Ethiopian?[33] — R. Hanina b. Antigonus does not teach the case of one abnormally dark-complexioned.[34]

MISHNAH. IF ONE KNOCKS HIS ANKLES [AGAINST EACH OTHER, IN WALKING][35] OR RUBS HIS LEGS [AGAINST EACH OTHER][36]

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(1) Lit., ‘lying’ on his body, hanging downwards.

(2) Lit., ‘Even once in many days’, although at fixed periods.

(3) Lit., ‘a short breath causes departure’. Aliter: ‘a spirit of Kazrah (Al. Kazruth or Kazrith) comes on him’; a demon believed to be responsible for this ailment.

(4) Lit., ‘in the presence of many’, because a delay may endanger health.

(5) Because it is customary for a scholar to exercise privacy in his eating and drinking.

(6) It being the usual practice for a period of thirty days before a Festival to discourse on the rules and regulations appertaining to the forthcoming Festival; v. Meg. 4a.

(7) To urinate in their presence and thus proclaim that it was not necessary to exercise privacy when requiring to urinate.

(8) Owing to your honoured position. R. Gershom explains this as follows: You possess a cloak but what about those who do not own one?

(9) ‘I would have urinated if I had no other spot, rather than wait, and certainly in her presence’.

(10) In the incident reported above.

(11) And not because of the delay in making water.

(12) Which proves that his belly swelled owing to the delay.

(13) Deut. VII, 14.

(14) As regards urinating in any place, even in public, like the animal which does not possess a sense of decency.

(15) When praying for children, you will be answered.

(16) Prayer in general must be offered up in a humble spirit. One must therefore put himself on a level with an animal regarding himself as an insignificant creature (Tosaf.).

(17) Because the urine is thrown into the nearest river and the rivers of Babylon proceed to mingle with En Etam, a fountain in which the high priest used to bathe himself on the Day of Atonement, v. Shab. 245b and Yoma 31a.

(18) Because since that spot does not absorb the urine, it flows on the ground until it reaches a declivity, whence it runs into the river.

(19) Even if she does not expose herself, it is an act of brazenness (Tosaf.).

(20) Without any intention of doing so before the child.

(21) If bleeding is neglected.

(22) Neglecting sexual intercourse when married.

(23) What is the spirit which is believed to cause this ailment?

(24) A spirit of stupidity brought about by a demon.

(25) The name of a demon which causes nervous prostration.

(26) Lev. XXI, 20; E.V. ‘he that hath his stones broken’.

(27) This is the biblical meroah.

(28) The blemishes mentioned in the Mishnah disqualify a priest from the priesthood according to all the Tannaim, and the difference of opinion is only with reference to the precise interpretation of the words meroah ashek.

(29) If the first Tanna were correct, that the Bible means that the testicles were absent, then it should have said hasar etc., i.e., deficient in testicles.

(30) If R. Ishmael's interpretation were correct. ממורח participle passive is required, v. Jast. cur. edd. ממורח, is difficult to explain grammatically.

(31) If R. Akiba's opinion were correct, that meroah means he who has wind in his testicles, then the word for wind רוח, ought to be used.

(32) And here too we take away the ח from מרוח and the א from אשך adding the ח to the latter word and א to the former, thus making מראו חשך viz., black-complexioned.

(33) A blemish explicitly mentioned below in the Mishnah infra 45b as disqualifying a priest.

(34) He omits ‘Ethiopian’ from the Mishnah below and thus there is no repetition.

(35) Because his legs are bent outwards.

(36) His feet being bent outward.

Talmud - Mas. Bechoroth 45a

A BA'AL HA-PIHIN AND AN ‘IKKEL — [ALL THESE DEFECTS RENDER A PRIEST UNFIT]. WHAT IS AN ‘IKKEL? ONE WHOSE LEGS DO NOT TOUCH EACH OTHER WHEN HE PUTS HIS FEET TOGETHER, [BANDY LEGGED]. IF HE HAS A LUMP PROJECTING FROM HIS THUMB,[1] OR IF HIS HEEL PROJECTS BEHIND, OR IF HIS FEET ARE WIDE LIKE THOSE OF A GOOSE[2] OR IF HIS FINGERS LIE ONE ABOVE THE OTHER OR IF THEY ARE GROWN TOGETHER UP TO THE ROOT [THE MIDDLE JOINT], HE IS FIT [FOR THE

PRIESTHOOD]; IF BELOW THE ROOT,[3] IF HE CUTS IT,[4] HE IS ALSO FIT. IF HE HAS AN ADDITIONAL FINGER AND HE CUT IT OFF, IF THERE WAS A BONE IN IT, HE IS UNFIT,[5] BUT IF NOT, HE IS FIT. IF HE HAS ADDITIONAL FINGERS AND ADDITIONAL TOES, ON EACH HAND AND FOOT SIX FINGERS AND SIX TOES, [MAKING ALTOGETHER] TWENTY-FOUR [FINGERS AND TOES], R. JUDAH DECLARES SUCH A PRIEST FIT FOR THE PRIESTHOOD,[6] WHEREAS THE SAGES DECLARE HIM UNFIT. IF ONE HAS EQUAL STRENGTH IN BOTH HANDS, RABBI DECLARES HIM UNFIT,[7] WHEREAS THE SAGES DECLARE HIM FIT.[8]

GEMARA. Our Rabbis taught: [Scripture says]: Broken-footed.[9] I have here mentioned only the case of broken-footed [as making a priest unfit for the priesthood]. Whence do we deduce the inclusion of one who knocks his ankles against each other or one who is bandy-legged or one who is club-footed? The text states, ‘Or broken-footed’. A Tanna taught: Ba'al ha-pikin and shufnor. R. Hiyya b. Abba reported in the name of R. Johanan: Ba'al ha-pikin is one who has many calves[10] and shufnor is one without calves.[11]

IF HE HAS A LUMP PROJECTING FROM THE THUMB, OR IF HIS HEEL PROJECTS BEHIND. Said R. Eleazar: This [latter defect] means the leg coming out in the middle of the foot.[12]

OR IF HIS FEET WERE AS WIDE AS THOSE OF A GOOSE. Said R. Papa: You should not say that the feet must be thin[13] as well as not separated; even if they are only thin, although separated [they make a priest unfit for the priesthood].

OR IF HIS FINGERS LIE ONE ABOVE THE OTHER OR ARE GROWN TOGETHER. Our Rabbis taught: [Scripture says]: Broken-handed.[14] I have here mentioned only the case of broken-handed [as making a priest unfit]. Whence do we deduce that if his fingers lie one above the other or are grown together above[15] the root and he cut them that he is unfit? But did you not say [in the Mishnah that in the latter instance] he is fit? — Rather read ‘he did not cut them’. Whence then do we derive these cases? — The text states: ‘Or broken-handed’.[16]

IF HE HAS AN ADDITIONAL FINGER AND HE CUT IT OFF, IF THERE WAS A BONE IN IT HE IS UNFIT. BUT IF NOT, HE IS FIT. Rabbah b. bar Hana reported in the name of R. Johanan: Provided the additional finger is counted with the others.[17] Our Rabbis taught: An additional [finger] if it has a bone in it, even without a nail,[18] makes a person unclean by contact and by carrying it.[19] It also causes tent uncleanness,[20] and is counted in the number of one hundred and twenty-five [limbs].[21] Rabbah b. Bar Hana reported in the name of R. Johanan: Provided the additional finger is counted with the others. Said R. Hisda: The following ruling was taught by our great Master [Rab], may the Lord be his support! An additional finger if there is a bone in it, even without a nail, makes a person unclean by contact and by carrying it but it does not cause tent uncleanness.[22] Said Rabbah b. Bar Hana: Provided the additional finger is not counted with the others. Said R. Hanina:[23] They have put their teaching on the level with prophecy.[24] For in either case [the ruling just quoted is difficult to understand]. If the additional finger is considered a limb [legally], then it should even cause tent uncleanness; and if it is not a limb [legally], then it should not even make a person unclean by contact and by carrying it! — Said R. Huna b. Manoah in the name of R. Aha b. Ika: The Rabbis applied here the rule of a bone which is the size of a barleycorn.[25] R. Papa says: We declare him unclean in the case where the additional finger was not counted with the others on account of the case where the additional finger is counted with the others.[26] But if this be so, then in the case where the additional finger is not counted with the others, it should also cause tent uncleanness? — The Rabbis made a distinction in order that terumah and consecrated ob jects might not be burnt [unnecessarily] on account of it.[27]

We have learnt elsewhere: The greater portion[28] of a corpse [as measured by size of limbs] and the larger number of joints and limbs, even though there is not among them one quarter of a kab[29] of bones, convey tent uncleanness.[30]

Our Rabbis taught: What is the greater part of a corpse? Two legs and a thigh, since this is the greater part of the height of a tall person.[31] What is the larger number of joints and limbs? One hundred and twenty-five [limbs]. Said Rabina[32] to Raba: Is it the object of the Tanna to teach us calculation?[33] He replied to him: He informs us of the following as it was taught: If a person is defective [in the number of joints], having only two hundred,[34] or if one[35] has additional limbs, having two hundred and eighty-one, all these joints are counted in the number of one hundred and twenty-five.[36] What is the reason? Follow the majority of people [who have only two hundred and forty-eight joints and limbs].

R. Judah related in the name of Samuel: The disciples of R. Ishmael once dissected the body of a prostitute who had been condemned to be burnt by the king. They examined and found two hundred and fifty-two joints and limbs. [They came and inquired of R. Ishmael: ‘How many joints has the human body?’ He replied to them: ‘Two hundred and forty-eight.]’[37] Thereupon they said to him: ‘But we have examined and found two hundred and fifty-two’? He replied to them: ‘Perhaps you made the postmortem examination on a woman, in whose case Scripture adds two hinges [in her sexual organ] and two doors[38] of the womb’.

It was taught: R. Eleazar said: As a house has hinges,[39] so a woman's body has hinges [in her sexual organ], as it is written in the Scriptures: She[40] bowed herself and brought forth, for her pains [zireha] came suddenly upon her.[41]

R. Joshua says: As a house has doors, so a woman's womb has doors,[38] as it is said in the Scriptures: Because it shut not up the doors of my mother's womb.[42] R. Akiba says: As a house has a key, so a woman has a key, [the womb], as it is written in the Scriptures: And opened her womb.[43] According to the opinion of R. Akiba, is there not a difficulty in connection with what R. Ishmael's disciples discovered?[44] — It may be that since it is small, it was dissolved in the course of dissecting. Said Rab:[45] And all these[46] do not cause tent uncleanness, for it is said in the Scriptures: This is the law when a man dieth in a tent,[47] [implying], a thing which is common to all human beings [causes tent uncleanness].[48] Said Abaye to him: And has not a man also [some of these additional limbs]?[49] Does not Scripture say: Pangs, [zirim][50] have taken hold upon me as the pangs of a woman that travailleth?[51] These are hinges of flesh.[52] But does not Scripture say: O my lord, by reason of the vision my pains, [zirai], have come upon me?[53] — Here again the verse refers to ‘hinges’ of flesh. It also stands to reason. For if you will not say so,[54] to whom then will you apply the accepted statement that there exist two hundred and forty-eight limbs [in the human body], for it can apply neither to a man nor to a woman.[55]

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(1) It is almost like an additional finger.

(2) As thin as those of a goose and their length and width are alike.

(3) Viz., towards the nail, the fingers being all attached to each other.

(4) In order to divide the fingers.

(5) For the priesthood, for it is like losing a limb.

(6) Since the fingers are equal in number.

(7) As they hold that a portion of the vigour of the right hand has gone to the left.

(8) Holding that additional strength was given to the left hand.

(9) Lev. XXI, 19.

(10) Appearing as if possessing many calves on his legs, very thick-fleshed.

(11) A file-shaped leg.

(12) Half of the foot is in the front and the other half in the rear.

(13) So Rashi understands טריפה here. The Arukh says that טריפה means: The length and width of the feet are alike. Rashi in his commentary on the Mishnah appears to combine both interpretations. Tosaf. Yom Tob suggests that Rashi on the Mishnah means that they are either thin or that their length etc.

(14) Lev. XXI, 19.

(15) The ‘above’ here has the same meaning as ‘below’ in the Mishnah.

(16) From the additional word ‘or’ we make this deduction.

(17) I.e., is in line with the rest of the fingers, it is then that the Mishnah regards it as a limb.

(18) Although it does not possess a nail, the additional finger of a corpse is still considered a limb, since it is in line with the rest of the fingers.

(19) Where, for example, it has a small quantity of flesh attached to it, even it be less than the size of an olive. For if there were a piece of flesh the size of an olive on the bone, then even if the additional finger were not in line with the rest of the fingers or even if there were not a bone in the additional finger, it would have caused tent uncleanness, for the rule is that the flesh of a corpse the size of an olive causes tent uncleanness. Again, if there were not any flesh at all on the bone, then even if the additional finger were in line with the rest, it would not have been considered a limb, since bones as such do not cause tent uncleanness, unless where there is a majority of the joints or the greater part of the corpse. But now since there is a small portion of flesh, even though not the size of an olive, the additional finger of a corpse causes uncleanness because it is in line with the rest and is legally recognized as a limb.

(20) Tent uncleanness is uncleanness arising from being under the same tent and shelter with, or forming a tent and shelter over, a corpse; v. Num. XIX, 14.

(21) If there is no flesh the size of an olive, the additional finger is counted as a limb among the one hundred and twenty-five limbs and joints, as this constitutes the greater number of limbs of the two hundred and forty-eight limbs and joints of which the human body is composed, the law being that the majority of the joints and limbs of a corpse causes tent uncleanness.

(22) Where the additional finger is not in line with the rest, as explained below, there being here two disqualifications; first that there are no nails, and secondly its not being in line with the rest of the fingers. But if it has a nail in it, the additional finger makes tent uncleanness although it is not in line.

(23) So Sh. Mek. cur. edd. R. Johanan.

(24) Just as the Prophets are not required to give reasons for their utterances, so the teachers in the passage just quoted also give no reason for their ruling.

(25) Which makes a person unclean either by carrying it or coming in contact with it, but does not cause tent uncleanness.

(26) Legally where the additional finger is not in line with the rest, there is no uncleanness, only for fear that this might bring about laxity in a case where the additional finger is in line, where it legally causes uncleanness, the Rabbis declared uncleanness also in the former case.

(27) Had every form of uncleanness been declared, including that of ohel, one might have been led to believe that an additional finger not in line is a genuine limb, and therefore terumah etc. might come to be wrongly burnt as a consequence.

(28) Lit., ‘structure’.

(29) A small measure of capacity.

(30) Oh. II, 1.

(31) Without reckoning the head, for as regards the frame of a corpse, the head is not taken into consideration. This measurement applies to a tall person only but not to a small person.

(32) Var. lec.: R. Adda b. Ahaba.

(33) For since there are two hundred and forty-eight joints in the human body, it is obvious that the majority is one hundred and twenty-five, and what need is there for the Tanna of the Baraitha to teach us this?

(34) A man born with two fingers missing on each hand and two toes on each leg i.e., eight members. Now since every finger has six bones, this makes altogether a total of forty-eight joints of which this man is short. Thus he has only two hundred joints of the two hundred and forty-eight which the human body contains.

(35) If a woman is born with two additional fingers on her hands and two additional toes on her legs and each one has six bones, we have a total of twenty-four additional limbs. In addition, there are five extra limbs in the case of a woman, viz. two hinges, two doors and the womb (v. infra). We have therefore altogether twenty-nine additional limbs. Add this to two hundred and forty-eight, and we have a grand total of two hundred and seventy-seven. Rashi says that he cannot account for the other four so as to make up the number to two hundred and eighty-one. R. Gershom however explains that for every six bones in a finger there is a corresponding extra bone in the arm. Consequently, as there are four additional fingers and toes, we have a further four limbs, which bring the number of joints to two hundred and eighty-one.

(36) The Tanna therefore informs us that although one hundred and twenty-five is not the actual majority of limbs in the case of a woman who has additional fingers or the bare majority in the case of one who has less than the usual number of limbs, we accept the number in all cases as the greater number of limbs causes tent uncleanness.

(37) Inserted from Sh. Mek.

(38) I.e., the muscles.

(39) Doors moving in sockets.

(40) The word צריה (her pains) coming from the word ציר literally rendered means ‘hinges’.

(41) I Sam. IV, 19.

(42) Job. III, 10.

(43) Gen. XXX, 22.

(44) Who only found two hundred and fifty-two limbs in a woman's body, while according to R. Akiba who mentions that the womb was an extra limb, there is another limb, making two hundred and fifty-three in all.

(45) Var. lec. Raba.

(46) The five additional limbs of a woman.

(47) Num. XIX, 14.

(48) But a thing which is not common to both men and women does not clause tent uncleanness, the word אדם meaning human being in general and not exclusively a man.

(49) Which we say belong only to a woman-the ‘hinges’.

(50) Isa. XXI, 3.

(51) V. p. 307, supra n. 5.

(52) Which have no bones and are therefore not regarded as genuine limbs.

(53) Dan. X, 16.

(54) That zirim written in connection with a man is not an additional limb and thus there would be another limb in the case of a man.

(55) On the number of human limbs given here v. Mak., Sonc. ed., p. 169 n. 5.

Talmud - Mas. Bechoroth 45b

IF HE HAS ADDITIONAL FINGERS AND ADDITIONAL TOES ON HIS HANDS AND FEET etc. Said R. Isaac: And both[1] derive their views from [the interpretation of] the same verse: And there was yet a battle in Gath where there was a man of great stature that had on every hand six fingers and on every foot six toes, four and twenty in number.[2] One Master holds that Scripture means to disparage him, while the other Master [R. Judah] holds that Scripture means to praise him. Said Rabbah: Why does Scripture say: ‘Six’, ‘six’ and ‘twenty-four in number’?[3] It was necessary [to state all these numbers]. For if the Divine Law had only said ‘six’ [fingers] and ‘six’ [toes], I might have thought that the one word ‘six’ referred to one hand and the other ‘six’ referred to one leg.[4] Therefore the Divine Law says: Twenty-four. And if the Divine Law had said only ‘twenty-four’, I might have thought that it meant five fingers on one hand and seven fingers on the other, [the same applying to the feet]. Therefore the Divine Law says: ‘Six’, ‘six’ ‘in number’ teaching us that the case here is one where the additional fingers are counted with the others.

It has been taught: R. Judah says: A man once came before R. Tarfon with additional fingers and toes, six on each, making altogether twenty-four. He said to him: May the like of you increase in Israel![5] Said R. Jose to him: Do you bring a proof from this incident? This is really what R. Tarfon said to him. May through people like you bastards and nethinim[6] diminish in Israel![7]

IF ONE HAS EQUAL STRENGTH IN BOTH HANDS. Our Rabbis taught: If one is left-handed or left-legged, Rabbi declares him unfit [for the priesthood][8] whereas the Sages declare him fit. One Master[9] holds that it is due to an unusual weakness which has befallen the right hand, and the other

Master[10] holds that it is due to unusual strength which has accrued to the left hand.[11]

MISHNAH. [IF ONE IS LIKE AN] ETHIOPIAN, A GIHUR, A LABKAN, A KIPPEAH,[12] A DWARF, A DEAF-MUTE, AN IMBECILE, INTOXICATED, OR AFFLICTED WITH PLAGUE MARKS WHICH ARE CLEAN[13] — [THESE DEFECTS] DISQUALIFY IN HUMAN BEINGS[14] BUT NOT IN ANIMALS. R. SIMEON B. GAMALIEL SAYS: ONE SHOULD NOT FOR CHOICE SACRIFICE A MAD ANIMAL. R. ELEAZAR[15] SAYS: ALSO THOSE AFFLICTED WITH WARTS ARE UNFIT IN HUMAN BEINGS BUT ARE FIT IN ANIMALS.

GEMARA. [ONE WHO IS LIKE] AN ETHIOPIAN, is one abnormally black-complexioned. GIHUR is one who is [abnormally] white-spotted in the face. LABKON is one who is [abnormally] red-spotted [in the face]. Now is this really so? Was there not a man who cried out: ‘Who wants to buy levkoiums’?[16] and it was found to be white flowers, [snowflakes]?[17] Rather [the following are the correct definitions]: [ONE LIKE] AN ETHIOPIAN is one who is [abnormally] black-complexioned. GIHUR is one who is [abnormally red-spotted in the face], as people call gihia flame-red.[18] LABKAN is one who is [abnormally] white-spotted [in the face], as we know from one who cried out: ‘Who wants levkoiums’? and it was found to be white flowers.[17]

KIPPEAH. R. Zebid taught: This means [extremely] tall. Now is it really so? Has not R. Abbuha taught: Whence do we know that the Holy One, blessed be He, takes pride in men of high stature? Because it is written in the Scriptures: Yet I destroyed the Amorite before them whose height was like the height of the cedars?[19] — Said R. Papa: Kippeah is a tall, thin[20] and unshapely person.

Said Resh Lakish: An abnormally tall man should not marry an abnormally tall woman, lest their offspring be [like] a mast.[21] A male dwarf should not marry a female dwarf, lest their offspring be a dwarf of the smallest size.[22] A man abnormally white-complexioned should not marry an equally white-complexioned woman, lest their offspring be excessively white-complexioned.[23] A very dark-complexioned man should not marry an equally very dark-complexioned woman, lest their offspring may be pitch black.[24]

A DEAF-MUTE PERSON, AN IMBECILE, AN INTOXICATED PERSON. But does not an intoxicated priest profane the Temple-service?[25] Should not this defect then be mentioned in connection with the disqualifying blemishes [of a priest]?[26] — [The Mishnah] refers to other things from which one can become intoxicated, and this will not be in accordance with the opinion of Rabbi Judah.[27] For it was taught: A priest who ate preserved figs from Keilah[28] and drank milk and[29] fermented honey, if he entered the Temple, incurs liability [to excision].[30]

MISHNAH. THE FOLLOWING ARE FIT IN THE CASE OF HUMAN BElngs,[31] BUT UNFIT IN THE CASE OF ANIMALS: A FATHER WITH ITS SON,[32] A TREFAH, AN ANIMAL EXTRACTED BY MEANS OF THE CAESAREAN SECTION.[33] A PRIEST WHO CONTRACTS AN ILLEGAL MARRIAGE[34] IS UNFIT [FOR THE PRIESTHOOD] UNTIL HE VOWS NOT TO DERIVE ANY BENEFIT FROM THE WOMAN.[35] ALSO ONE WHO MAKES HIMSELF UNCLEAN THROUGH CONTACT WITH THE DEAD IS UNFIT, UNTIL HE UNDERTAKES THAT HE WILL NO LONGER MAKE HIMSELF UNCLEAN THROUGH THE DEAD.

GEMARA. THE FOLLOWING ARE FIT IN A HUMAN BEING etc. What does the Mishnah mean by the expression A FATHER WITH ITS SON? Shall I say that it refers to Aaron[36] and his son, to which the corresponding case in an animal would be a he-goat and its young? But does this law apply in such circumstances? Has it not been taught: The law prohibiting the killing of an animal and its young on the same day applies only to females and their young, but not to males and their young?[37] — Rather the Mishnah refers to a she-goat and its young. Would not then a parallel case in human beings be a priestess and her son? But is a priestess suitable for Temple-service? — One may still say that the Mishnah refers to Aaron and his son and that the corresponding case here is a he-goat and its young. For it was explained in the West[38] in the name of R. Jose b. Abin [as follows]: This proves that Hanania taught this Mishnah. For we have learnt [in a Baraitha]: The law prohibiting the killing of an animal and its young on the same day refers only to females and their young but not to males and their young. But Hanania says: It applies to males and their young as well as to females.

A PRIEST WHO CONTRACTS AN ILLEGAL MARRIAGE etc. A Tanna taught: He vows,[39] performs the Temple-services [even before divorce] and then leaves the Temple-service[40] to divorce her. But why do we not fear lest he may go to a Sage and obtain release from his vow?[41] — He holds the opinion: A vow must be specified in detail [before it can be invalidated].[42] This is no difficulty according to him who says that a vow is required to be specified [before it can be invalidated]. But according to him who says that there is no need to specify in detail a vow before it can be invalidated, what answer would you give? — We make him interdict himself by vow in public.[43] This is no difficulty according to him who holds that an interdiction by vow imposed on a person in public can not be invalidated. But according to him who holds that an interdiction by a vow imposed on a person in public can be invalidated — what answer would you give? — We impose an interdiction by vow

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(1) R. Judah and the Sages.

(2) II Sam. XXI, 20.

(3) Could I not have inferred one number from the other?

(4) But not to two legs and two hands.

(5) Proving that additional fingers are marks of strength.

(6) The offspring of Nathin, a descendant of the Gibeonites. David decreed their exclusion from the Israelitish community with regard to inter-marriage.

(7) May nethinim and bastards like you possessing additional fingers and toes be multiplied, so as eventually to cause a decrease in their number, for they would then be distinguishable and marked off from the rest of the community (R. Gershom.)

(8) A left-handed priest is unfit for the priesthood because Scripture says: And the Priest shall dip his right finger, (Lev. XIV, 16) from which we infer that wherever Scripture says finger with reference to a priest, it means that of the right hand. And a left-legged priest is unfit because Scripture says: To stand and to serve, (Deut. XVII, 12) intimating that the serving must be in the normal manner of standing, viz., on the right leg, v. Zeb. 24a.

(9) Rabbi.

(10) The Sages.

(11) Left-handedness is therefore no defect.

(12) These terms are explained in the Gemara.

(13) E.g., a sore or a rising on the skin. There is no need for the Mishnah to mention that a priest with an unclean skin disease is disqualified, for in that case he is forbidden to enter the Temple-court on pain of excision.

(14) Viz. priests.

(15) Bah. adds, b. Jacob.

(16) So Jast. Rashi has here לוקייני The Aruch has לווקני .

(17) White lambs (Rashi.).

(18) V. e. gihia.

(19) Am. II, 9.

(20) שמיטה lit. ‘loose’; one whose height is out of all proportion to his breadth, and on account of this, he sags and his joints seem to be ‘loose.’

(21) Tall and slim.

(22) Lit., ‘a fingerlet’.

(23) Which is almost a skin plague. Another explanation of the word בוהק is: One glistening (with unsteady eyes), albino (Jast.)

(24) טפיה , a black earthenware pot.

(25) Because Scripture says: Do not drink wine nor strong drink (Lev. X, 9), and it continues: And that ye may put a difference between holy and unholy etc., thus service in that condition profanes, v. Zeb. 17b.

(26) Instead of mentioning it in connection with defects which are 'not like the seed of Aaron' and which do not render service in the Temple actually invalid.

(27) Who maintains that other things from which a man can become intoxicated have the same rule as drinking wine, which is explicitly stated (in Ker. 13b) as profaning the service.

(28) The name of a town in the lowland district of Judea. The figs which come from there are intoxicating.

(29) So Sh. Mek. cur. 'or'.

(30) V. Ker. 13b and Sanh. 70b. The Mishnah therefore teaches us that only in the case of wine does he incur the guilt of excision, but with regard to other things which can make a man intoxicated, there is only a negative prohibition, derived from the text 'And strong drink thou shalt not drink'.

(31) Viz., priests.

(32) Whereas a priest and his son may officiate in the Temple on the same day, in the case of an animal it is forbidden to sacrifice an animal and its young on the same day.

(33) Whereas a priest who is trefah etc. is fit to carry out his duties.

(34) Viz., a high priest who married a widow or a plain priest who married a divorcee or a woman released by halizah.

(35) I.e., until he divorces her.

(36) I.e., a male and his offspring must not officiate on the same day.

(37) Hul. 78b.

(38) The Palestine colleges.

(39) Not to derive any benefit from his wife till he divorces her.

(40) Lit., 'descends', sc. from the altar.

(41) We should not therefore permit him to perform his duties in the Temple after making the vow in case he subsequently consults a wise man in order to nullify the vow.

(42) This being the case, the Sage, being informed of the reasons which prompted the vow, will not invalidate it.

(43) Before ten persons, and the wise man cannot invalidate a vow made in such circumstances without knowing the nature of the vow.

Talmud - Mas. Bechoroth 46a

on him and make it dependent on the wishes of the public.[1] Said Amemar: The law is as follows: Even according to him who holds that an interdict by vow imposed on a person in public can be invalidated, a vow made dependent on the wishes of the public cannot be invalidated. But this is only the case with a vow made for a secular purpose, whereas if made for a religious purpose, it can be invalidated,[2] a case in point being that of a teacher whom R. Aha prohibited by vow from teaching any longer because he maltreated the children, but whom Rabina reinstated, as there was not to be found one who taught so efficiently.

AND ONE WHO MAKES HIMSELF UNCLEAN THROUGH THE DEAD etc. What is the difference between the case here, where merely an undertaking suffices and there [where a priest contracts an illegal marriage] that we impose a votary prohibition on him? — There [in the latter case] his passion overpowers him.[3]

CHAPTER VIII

MISHNAH. THERE IS ONE WHO IS [COUNTED AS] A FIRSTBORN [WITH RESPECT TO] INHERITANCE[4] BUT NOT WITH RESPECT TO REDEMPTION FROM A PRIEST;[5] A FIRST-BORN WITH RESPECT TO REDEMPTION FROM A PRIEST BUT NOT A FIRST-BORN [WITH RESPECT] TO INHERITANCE; A FIRSTBORN [WITH RESPECT BOTH] TO INHERITANCE AND TO REDEMPTION FROM A PRIEST; AND [AS] A FIRST-BORN [IN RESPECT NEITHER] TO INHERITANCE NOR REDEMPTION FROM A PRIEST. WHICH IS A FIRST-BORN [IN RESPECT] OF INHERITANCE BUT NOT OF REDEMPTION FROM A

PRIEST? ONE WHICH FOLLOWS AN UNTIMELY BIRTH WHOSE HEAD CAME FORTH ALIVE[6] OR ONE BORN IN THE NINTH MONTH WHOSE HEAD CAME FORTH DEAD,[7] OR WHEN A WOMAN DISCHARGES SOMETHING LIKE AN ANIMAL, BEAST OR BIRD.[8] THESE ARE THE WORDS OF R. MEIR. BUT THE SAGES SAY: [IT IS NOT CONSIDERED AN OPENING OF THE WOMB] UNTIL [THE DISCHARGE] HAS THE FORM OF A HUMAN BEING.[9] IF [A WOMAN] DISCHARGES A SANDLE LIKE[10] FOETUS OR A PLACENTA[11] OR A FOETUS[12] HAVING AN ARTICULATED SHAPE, OR IF AN EMBRYO CAME OUT BY PIECES,[13] [THE INFANT] WHICH FOLLOWS AFTER THEM IS A FIRST-BORN [WITH RESPECT] TO INHERITANCE BUT NOT A FIRST-BORN TO REDEMPTION FROM A PRIEST. IF ONE WHO NEVER HAD CHILDREN PREVIOUSLY MARRIED A WOMAN WHO HAD ALREADY GIVEN BIRTH,[14] EVEN IF SHE HAD GIVEN BIRTH WHEN SHE WAS A BONDWOMAN, BUT IS FREE [NOW], OR [HAD BORNE A CHILD] WHEN SHE WAS A HEATHEN BUT HAS SINCE BECOME A PROSELYTE IF AFTER COMING TO THE ISRAELITE SHE BEARS TO HIM, [THE INFANT] IS ALSO CONSIDERED A FIRST-BORN [WITH RESPECT] TO INHERITANCE BUT NOT A FIRST-BORN TO REDEMPTION FROM A PRIEST.[15] R. JOSE THE GALILEAN SAYS HOWEVER: [THE INFANT] IS A FIRST-BORN [WITH RESPECT] TO INHERITANCE AND ALSO ONE WHO MUST BE REDEEMED FROM A PRIEST, BECAUSE IT IS SAID IN THE SCRIPTURES: OPENETH THE WOMB AMONG THE CHILDREN OF ISRAEL,[16] [INTIMATING] UNTIL THE OPENING OF THE WOMB IS ‘[OF THE CHILDREN] OF ISRAEL’.[17] IF ONE HAD CHILDREN ALREADY AND MARRIED A WOMAN WHO HAD NEVER GIVEN BIRTH PREVIOUSLY OR IF SHE BECAME A PROSELYTE[18] WHEN PREGNANT OR IF SHE WAS FREED WHEN PREGNANT AND SHE GAVE BIRTH; [IF THERE WAS SOME CONFUSION BETWEEN] HER AND A PRIESTESS,[19] [BETWEEN] HER AND A LEVITE'S DAUGHTER,[20] [BETWEEN] HER AND A WOMAN WHO HAD ALREADY GIVEN BIRTH;[21] AND LIKEWISE [IF A WOMAN] WHO DID NOT WAIT THREE MONTHS AFTER HER HUSBAND'S DEATH, MARRIED AND GAVE BIRTH AND IT IS NOT KNOWN IF THE INFANT WAS BORN IN THE NINTH MONTH SINCE THE DEATH OF THE FIRST [HUSBAND] OR IN THE SEVENTH MONTH SINCE SHE MARRIED THE SECOND, IT IS A FIRST-BORN TO REDEMPTION FROM A PRIEST[22] BUT NOT A FIRST-BORN [WITH RESPECT] TO INHERITANCE.[23]

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(1) We urge him to vow not to derive any benefit from his wife without the consent of the public and the public of course we assume wish him to observe his vow, (Rashi Git. 36a) so as to be free of the illegal union. Tosaf. explains that he must vow with obligation to at least three members of the public whose names must be specified, although they are not present. But if he vowed without explicitly mentioning the names of at least three of the public, then the vow is of no importance.

(2) As we assume that public opinion would be agreeable to this.

(3) Therefore we do not merely rely on an undertaking that he will divorce her but there must be a votary prohibition forbidding any benefit to be derived from her. But where this consideration is absent, we rely on an undertaking given by him.

(4) Receiving a double share.

(5) Who receives five sela's for the redemption.

(6) In a case of twins, one a non-viable child and the other a viable one, where the former put forth its head alive and withdrew it and its companion anticipated it in coming out, the latter child is considered a first-born with the privileges of inheritance, the former not having prejudiced it in this respect. For although the emergence of the head of an embryo is considered a genuine birth, yet since Scripture calls the first-born who inherits: The beginning of his strength (Deut. XXI, 17) which is interpreted to mean, a child over whose death his father's heart is grieved, and since the untimely birth cannot live, the condition of inheritance i.e., being a first-born over which a father grieves. does not exist. The latter offspring, however, is exempted from the redemption from a priest, for what matters here is the opening of the womb, and this was done by the first offspring.

(7) And was then withdrawn, the companion coming out subsequently. The first offspring therefore exempts the latter from redemption, but since it is dead, the latter offspring is the first-born as regards inheritance.

(8) The discharge is regarded as the opening of the womb to release the second offspring from redemption, but it is of no importance as regards inheritance.

(9) And if not, the offspring which follows is a first-born also as regards redemption, for only the issue of the actual form of a human being is considered an opening of the womb exempting succeeding offspring from the law of redemption.

(10) Not having any shape of limbs whatever.

(11) There is no placenta except there be an embryo, only it has become mashed.

(12) Together with its sac.

(13) Limb by limb, but since the whole came forth, it is regarded as an opening of the womb. But if the head of the infant alone came forth by pieces, this is not considered an opening of the womb if its companion came forth afterwards before the majority of the limbs and pieces managed to emerge, and the latter offspring is regarded also as a first-born to be redeemed from a priest.

(14) The infant in this case is a first-born in respect of inheritance but not of redemption, since the right of inheritance is determined by the father, Scripture saying: ‘The beginning of his strength’, whereas for redemption it is the opening of the womb which is necessary.

(15) Since he did not have children previously, the present infant is a first-born as regards inheritance, but is not a first-born to be released by redemption. as the Hebrew woman, the gentile woman and the maid-servant have already had children.

(16) Ex. XIII, 2.

(17) It is only then that its birth is considered an opening of the womb to exempt future offspring from the law of redemption. The children therefore born when the woman was a gentile or a slave are not accounted as opening the womb.

(18) Together with her husband and she gave birth, her offspring is regarded as a first-born to be redeemed by the priest, since the opening of the womb was of Israel, after the parents came under the influence of the law of Israel, but not as a first-born in respect of inheritance, since the conception of the infant was not in holiness and it is not therefore eligible for inheritance.

(19) If an Israelite woman giving birth for the first time and a priestess giving birth for the first time had their offspring mixed and it was not known which was the child of the Israelite. The offspring of a priest is exempt from the law of redemption.

(20) A daughter of a Levite or a Levite's wife is also exempted from redeeming a son.

(21) If the child of a woman who had already given birth previously was mixed up with a first-born infant, and the latter could not be identified, we are here informed that the husband of the woman who gave birth for the first time is yet obliged to give five sela's redemption money to the priest, for at all events he has a first-born male son somewhere, whereas in the case of inheritance as he does not know who is the first-born, there can therefore be no first-born privileges of inheritance.

(22) When he grows up, he redeems himself.

(23) Because it is not know whose first-born he is and from what inheritance he should take a double portion.

Talmud - Mas. Bechoroth 46b

GEMARA. Said Samuel: [The putting forth of] the head of an untimely birth does not release [the offspring which follows from redemption from a priest].[1] What is the reason? [Scripture says]: All in whose nostrils was the breath of life,[2] [intimating] that wherever there is the breath of life in the nostrils, the head is of importance. [exempting the successor from redemption][3] but otherwise, the head is not considered of importance. We have learnt: ONE WHO FOLLOWS AN UNTIMELY BIRTH WHOSE HEAD CAME FORTH ALIVE OR ONE BORN IN THE NINTH MONTH WHOSE HEAD CAME FORTH DEAD. At all events the Mishnah says: ‘WHOSE HEAD’?[4] — ‘WHOSE HEAD means its greater part.[5] Why then not say its greater part? — By rights [the Tanna of our Mishnah] should have stated ‘its greater part’. But as he had to state in the second clause OR ONE BORN IN THE NINTH MONTH WHOSE HEAD CAME FORTH DEAD,[6] and he wishes to argue that the reason is because its head was dead but that if its head was alive, the one who follows is not even a first-born [with the privileges] of inheritance,[7] he therefore also states in the first clause ‘WHOSE HEAD’. Now what then does the Mishnah inform us? That since he put forth his head it is considered a birth.[8] But have we not learnt this already: If the embryo put forth its head, although he withdrew it again, it is considered a birth?[9] And should you reply that [the Tanna] teaches us this ruling[10] [separately] both for the case of an animal[11] and for that of a human being,[12] because we do not infer the case of a human being from that of an animal, as the latter has no forepart of female genitals,[13] and again we do not infer the case of an animal from that of a human being, as the latter's full face is important — have we not learnt this too[14] in a Mishnah: If an infant came forth in the natural way,[15] [it is not considered a birth] till the greater part of its head comes forth? And what is the greater part of its head? When its forehead comes forth.[16] Shall we then say that this confutes Samuel? — It is indeed a refutation.[17]

Said R. Simeon b. Lakish: The [emergence of] forehead is regarded as birth[18] in all cases except in that of inheritance.[19] What is the reason? — But he shall acknowledge the first-born,[20] says the Divine Law. But R. Johanan says: Even as regards inheritance.[21] What does ‘in all cases’ imply? — It implies what our Rabbis have taught [as follows]: In the case of a proselyte woman, if the forehead of her infant came forth from the womb when she was a heathen and she subsequently became a proselyte,[22] we do not subject her to periods of impurity and purity[23] and she does not bring the offering for confinement.

An objection was raised. [Scripture says]: But he shall acknowledge, [this intimates] the recognition of the face.[24] And what is a recognizable face? The full face with the nose![25] — Read: ‘Unto the nose’. Come and hear: Evidence may not be given [in identification of a corpse][26] save by [proof afforded by] the face with the nose,[27] Read: Unto the nose. Come and hear: No evidence may be given [by identification of] the forehead without the face or the face without the forehead; it must be by both together with the nose. And Abaye said, or as some say, R. Kahana: Where is the scriptural authority for this? [Scripture says]: The show of their countenance’ doth witness against them.[28] It is different with regard to testimony on behalf of a woman,[29] as the Rabbis made the law stringent in her case.[30] But have the Rabbis indeed made it stringent? Have we not learnt: If they were generally presumed established to permit a woman to re-marry on the evidence of a witness testifying to what he heard from an eye-witness, or from a woman, from a slave or a bondwoman?[31] — The Rabbis were only lenient in the end[32] but were not lenient in the beginning.[33] And if you prefer [another solution] I may say:

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(1) If an embryo in its eighth month put forth its head alive and withdrew it and its twin companion then anticipated it in coming forth, the latter is a firstborn to be redeemed from the priest, because a non-viable birth does not exempt its successor from redemption until the head and the greater part of the body came forth.

(2) Gen. VII, 22.

(3) Rashi in his interpretation appears to divide the text as follows: Wherever there is a breath of life נשמת חיים i.e. a viable birth, then go after its אפין i.e., its head (אפין having also the meaning of face, Jast.), regarding the head of importance. but if it is a non-viable birth its head is of no importance for exempting its successor from redemption.

(4) Implying that an untimely birth releases his successor from redemption with the putting forth of the head, thus contradicting the opinion of Samuel.

(5) But where only the embryo's head emerged, it does not exempt the one who follows from redemption from a priest.

(6) And here he could not have stated ‘its greater part’ for the reason that follows.

(7) Now if the Tanna of the Mishnah had said ‘its greater part came forth dead’ in the second clause, I should have inferred that if the greater part came forth alive then the latter offspring would not even be a first-born in respect of inheritance, but I could not have deduced that where the head came forth alive the latter offspring loses the privilege of inheritance, which is a well-established rule. It is therefore for this reason that both in the first and second clauses mention is only made of the head, although in the second clause itself the ‘head’ means the head together with the greater part of the body.

(8) If the Mishnah means specifically the head and so teaches us that the head of an untimely birth releases the offspring which follows from redemption, in the second clause it mentions the head on account of the first clause. But if you maintain that the mention of the head in the first clause is not strictly meant, since the head does not release from redemption in the case of non-viable births, then from the second clause we are enabled to make the following inference: The reason why it is not a first-born of inheritance is because its head came forth dead, but if the head came forth alive the successor is not a first-born as regards inheritance, for since an embryo in the ninth month is not an untimely birth, the emergence of the head, even if it is again withdrawn, is considered a genuine birth.

(9) And therefore the ritual slaughtering of the mother does not make the offspring permissible to be eaten, Hul. 68a.

(10) That the coming forth of the head constitutes a birth.

(11) As in the Mishnah in Hul.

(12) As in the Mishnah above.

(13) Lit., ‘ante-chamber’. Its vagina does not lie between the feet and therefore the coming forth of the head is accounted a birth, for it is open, whereas in the case of a woman, since the legs cover it, the putting forth of the head is not accounted a birth.

(14) That the putting forth of the head of a human being is regarded as a birth.

(15) I.e., the head coming first and not the legs.

(16) And although the head was withdrawn, and the infant is not born till the next day, we count the period of pure and impure days from the first day when the forehead came forth (Nid. 28a). Therefore there is no need even in the second clause of the Mishnah to teach us that the putting forth of the head in a human being constitutes a birth, as this is already stated in the Mishnah in Niddah. Why then does the first clause in our Mishnah say ‘its head’? Therefore it must not be on account of the second clause, and the reference to the head in the first clause is meant to be taken exactly. Therefore we can deduce from this clause that the emergence of the head of a non-viable birth is considered a birth, exempting the offspring which follows from redemption, contrary to the opinion of Samuel (R. Gershom).

(17) As assuredly the reference to the head in the first clause is meant to be taken in its exact sense.

(18) Lit., ‘the forehead exempts’.

(19) I.e., the one who follows is the first-born with the privileges of inheritance, unless the face of the first infant came forth (Rashi).

(20) Deut. XXI, 17. And where only the forehead comes forth, the face is not ‘recognized’, the literal meaning of יביר .

(21) The coming forth of the forehead is regarded as a birth even for this purpose.

(22) Before the face and the other part of the body came forth.

(23) The period when discharges of blood make her impure and the period when such discharges do not make her impure. The reason is because the putting forth of the forehead is regarded as a birth and therefore she was confined when she was a heathen, in which state she is not subject to the laws of confinement. Tosaf. observes that R. Simeon b. Lakish needed to inform us that he agrees with the Baraitha. For you might have thought that although the putting forth of the head is regarded as a birth, the coming forth of the rest of the body, when the mother is already a proselyte, should also be regarded as a birth and therefore she should be subject to the laws of confinement.

(24) Whoever's face is first recognized is the firstborn as regards inheritance.

(25) There is consequently here a difficulty regarding R. Johanan's view, for we see that the putting forth of the forehead alone is not regarded as a birth.

(26) Of a dead husband, so that the woman can re-marry.

(27) Yeb. 120a.

(28) Isa. III,9. Scripture therefore teaches us that the showing of the full face is alone counted as an identification. There is again a difficulty here as regards R. Johanan's opinion.

(29) To declare her a widow and enable her to marry again.

(30) And therefore the full face must be recognized, but elsewhere, as in in the case of a birth, only the forehead might be sufficient.

(31) Yeb. 86b, 122a.

(32) Once the body of the husband is claimed to have been clearly identified, the Sages were lenient as regards who gave the evidence to that effect.

(33) The actual identification of the dead husband must be clear beyond the peradventure of a doubt.

Talmud - Mas. Bechoroth 47a

[The phrase] ‘But he shall acknowledge’ is one thing[1] and the phrase ‘The show of their countenance’ is another.[2]

It has been stated: If he had children while he was a heathen and he became a proselyte, R. Johanan says: He cannot have a first-born [with the privileges of] inheritance, whereas R. Simeon b. Lakish says: He can have a first-born with respect to inheritance. R. Johanan holds that he cannot have a first-born with respect to inheritance, for he already had ‘the beginning of his strength’, whereas R. Simeon b. Lakish says that he can have a first-born [now] with the privilege of inheritance, because a stranger who became a proselyte is like a newly-born child. And they both follow their own line of reasoning elsewhere. For it has been stated: If he had children while he was a heathen and he became a proselyte, R. Johanan says: He has already fulfilled the command of propagation,[3] whereas R. Simeon b. Lakish says: He has not fulfilled the command. R. Johanan says: He has fulfilled [the command]: Since it is written, He [God] hath created it not in vain, He formed it to be inhabited,[4] whereas R. Simeon b. Lakish says: He has not fulfilled the command of propagation, for a stranger who became a proselyte is like a newly-born child.

And it is necessary [to state both these instances where R. Johanan and R. Simeon differ]. For if [the difference of opinion between them] had been stated only in the first case,[5] we might have said that only there does R. Simeon b. Lakish hold that he can have a first-born as regards inheritance because heathens are not legal heirs,[6] but here we might have thought that he agrees with R. Johanan that [we apply] ‘He hath created it not in vain, he formed it to inhabit it’, for he has helped to people the earth [by the children he had previously]. And if [the difference of opinion between them] had been stated only in the second case,[7] we might have said that only in that case does R. Johanan hold this opinion, but with reference to the first case [of inheritance] we might have thought that he agreed with R. Simeon b. Lakish. It was therefore necessary [to mention that they differ in both instances].

We have learnt: IF ONE WHO NEVER HAD CHILDREN BEFORE, MARRIED A WOMAN WHO HAD ALREADY GIVEN BIRTH PRE VIOUSLY OR ONE WHO HAD GIVEN BIRTH WHEN SHE WAS A BONDWOMAN BUT IS NOW FREED, OR ONE WHO GAVE BIRTH WHEN SHE WAS A HEATHEN AND HAS SINCE BECOME A PROSELYTE, AND IF WHEN SHE CAME TO THE ISRAELITE SHE BORE A FIRST-BORN THE INFANT IS CONSIDERED A FIRST-BORN [WITH RESPECT] TO INHERITANCE BUT NOT A FIRST-BORN TO BE REDEEMED FROM A PRIEST. Now from whom did she give birth?[8] Shall I say from an Israelite who had no children? Why then should [the Mishnah] mention a proselyte and a bondwoman,[9] since this would be the case even with a daughter of Israel?[10] Then[11] you must say that she gave birth from a stranger who had children and became a proselyte; and yet it says: THE INFANT IS A FIRST-BORN [WITH RESPECT] TO INHERITANCE, [which confutes R. Johanan's opinion]! — No. I may still say that [the Mishnah] means that she gave birth from an Israelite who had no children,[12] and it has to inform us that the infant is not a first-born to be released by redemption, to exclude the ruling of R. Jose the Galilean who said: THE INFANT IS BOTH A FIRST-BORN WITH RESPECT TO INHERITANCE AND ALSO ONE WHO MUST BE REDEEMED FROM A PRIEST, BECAUSE IT IS SAID IN THE SCRIPTURES: OPENETH THE WOMB AMONG THE CHILDREN OF ISRAEL[13] [IMPLYING] UNTIL THE OPENING OF THE WOMB IS OF [THE CHILDREN OF] ISRAEL. [The Mishnah] therefore informs us that it is not so.

Come and hear: If he had children when he was a heathen and he became a proselyte, the infant has the status of a first-born [with respect] to inheritance?[14] — Said Rabina, or, as some say, R. Aha b. Raba: This[15] is certainly the opinion of R. Jose the Galilean, who holds: [Scripture says] ‘WHOSOEVER OPENETH THE WOMB, UNTIL THE OPENING OF THE WOMB IS OF THE

CHILDREN OF ISRAEL, and we infer the case of the husband from that of the woman.[16]

R. Adda b. Ahabah said: If a Levite's daughter gave birth, her son is not subject to the law of redemption [from a priest] with five sela's. Now from whom did she conceive? Shall I say that she conceived from a priest or a Levite? Why then mention a Levite's daughter, since this is the case even with an Israelite's daughter?[17] Again you should say that she conceived from an Israelite. But is it not written: After their families, by house of their fathers?[18] — Said R. Papa: The case here then is where she conceived from a gentile.[19] And you should not say that this holds good only for him who maintains that the child[20] is not rejected [as the child of a gentile];[21] but even according to him who holds that the child is rejected, the son of a Levite's daughter is exempted, for it is called an unfit Levite.[22] Mar son of R. Joseph reported in the name of Raba: I may say still [that the Levite's daughter] conceived from an Israelite, and the case is different there [with reference to redemption from a priest], as Scripture says: ‘Whatsoever openeth the womb’: the Law makes it depend on the opening of the womb.[23]

We have learnt: IF ONE HAD CHILDREN ALREADY AND MARRIED A WOMAN WHO HAD NEVER GIVEN BIRTH PREVIOUSLY, OR IF SHE BECAME A PROSELYTE WHEN PREGNANT OR WAS FREED WHEN PREGNANT AND SHE GAVE BIRTH, OR [IF CONFUSION AROSE BETWEEN] HER AND A PRIESTESS, BETWEEN HER AND A LEVITE'S DAUGHTER, BETWEEN HER AND A WOMAN WHO HAD ALREADY GIVEN BIRTH; AND LIKEWISE IF A WOMAN WHO DID NOT WAIT THREE MONTHS AFTER HER HUSBAND'S DEATH MARRIED AND GAVE BIRTH AND IT IS NOT KNOWN IF THE INFANT WAS BORN IN THE NINTH MONTH AFTER THE DEATH OF THE FIRST HUSBAND OR IN THE SEVENTH MONTH SINCE SHE MARRIED THE SECOND, THE CHILD IS A FIRST-BORN TO BE REDEEMED BY A PRIEST BUT NOT A FIRST-BORN [WITH RESPECT] TO INHERITANCE. We infer from this that the priestess and the Levite's daughter are not subject to the law of redemption.[24] Now from whom did she conceive? Shall I say that she conceived from a priest or a Levite? Why mention [in the Mishnah] the cases of a priestess and a Levite's daughter, since the case is the same with a daughter of an Israelite?[25] Again you should say that she conceived from a gentile. But is a priestess [in such circumstances] exempt [from redeeming her son]? Has not R. Papa said: Raba examined us [in laws] as follows: ‘If a priestess conceived from a gentile, what is the ruling’?[26] And I answered him: ‘Is this not analogous to the ruling of R. Adda b. Ahaba Who said: If a Levite's daughter gave birth, her son is not subject to the law of redemption with five sela's’?[27] And he said to me: But is the analogy correct? This is no difficulty as regards the case of a Levite's daughter, for she retains her sacred status.[28] For it has been taught: If a Levite's daughter was made a captive or if she had intercourse of a licentious character, we nevertheless give her of the tithe[29] and she may eat.[30] But in the case of a priestess, as soon as she has intercourse with a gentile, she becomes a ‘stranger’?[31] This might be right according to Mar son of R. Joseph who said[32] that the Levite's daughter conceived from an Israelite; we can then explain that the Mishnah also refers to a case where the priestess conceived from an Israelite. But according to R. Papa,[33] how will you explain the Mishnah? — I may still say that she conceived from a priest, she herself however being a daughter of an Israelite[34] and the reason why [the Mishnah] describes her as a priestess is because her son is a priest.[35]

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(1) Since it does not mention ‘Countenance’ (פנים) therefore even the coming forth of the forehead is an identification of birth for purposes of inheritance.

(2) Since Scripture adds here ‘countenance’ פנים this shows that the full face is required in the case of identification.

(3) Cf. Gen. I, 28. And they need not remarry.

(4) Isa. XLV, 18. And this he has carried out through the children he has already had.

(5) That of inheritance.

(6) For heathens are not legal inheritors of their fathers’ estates after becoming proselytes (Rashi). Tosaf. explains that a heathen can also inherit his father's estate according to biblical law (v. Kid. 17b) and that the Gemara here means that a heathen does not come under the law of the first-born.

(7) Where a gentile has children and he becomes a proselyte.

(8) For the Mishnah says that if she gave birth when she came to the Israelite, the infant was a first-born as regards inheritance.

(9) Implying that the reason why the offspring was a first-born for inheritance was because the children born when she was a gentile were of no account legally.

(10) Where the children born previously are considered genuine children. The infant born now would still be a first-born of inheritance because in the case of inheritance the matter depends on the father, and not on the mother, and as far as he is concerned this infant is his first-born, ‘the beginning of his strength’.

(11) The expression AND WHEN SHE CAME TO THE ISRAELITE SHE BORE A FIRST-BORN does not then refer to an Israelite who had no children, but is a separate statement meaning that if a heathen woman had had children and then together with her husband became a proselyte and gave birth to an infant after having come under the influence of Jewish law, it is regarded as a first-born for inheritance.

(12) And there is, as you say, no need for the Mishnah to mention particularly the case of a proselyte as regards inheritance. But it wishes to teach us that the infant is not a first-born to be released from redemption, thus informing us that the previous children are considered as having opened the womb.

(13) Ex. XIII, 2.

(14) This is therefore a confutation of R. Johanan's opinion.

(15) The Baraitha which states that the child is a first-born for inheritance.

(16) That just as in the case of a woman, the previous children do not count legally and therefore the infant is regarded as a first-born and as opening the womb, so in the case of the husband as regards inheritance, the previous children do not count legally and thus this infant is the first-born for inheritance.

(17) Supra 3b, where it says that priests and Levites are exempt from redeeming their first-born.

(18) Num. I, 2. Thus we go after the family of the father but not after that of the mother, and as the father is an Israelite, why is she exempt from redeeming her son?

(19) Who possesses no legal relationship, and it is therefore more appropriate in this case to go after the mother than after the father who is a gentile. We therefore exempt her son from the law of redemption.

(20) Of a marriage between a gentile and a Hebrew woman.

(21) As it is considered legitimate, for we go after the mother, and therefore the son of a Levite's daughter is obviously exempted from the law of redemption. There is a difference of opinion on the subject recorded in Yeb. 45a.

(22) For although we go after the father and the child is not considered legitimate, the son is yet exempt from the law of redemption, for in this matter we go after the mother (R. Gershom) and the child is considered a disqualified Levite.

(23) I.e., on the mother, in the matter of redemption. Tosaf. observes that we accept as binding the opinion of Mar b. Rab Joseph and that therefore the son of a Levite's daughter or of a priestess who is the wife of an Israelite is exempt from the law of redemption.

(24) For the Mishnah informs us of a new point that although there had been a mixing of the two children and one is subject to redemption and the other exempt, it is the parent whose child is subject to redemption who must give the priest the redemption money and not the priestess or Levite's daughter. The questioner is for the present under the impression that the ‘priestess’ of the Mishnah means the daughter of a priest.

(25) For since the father is a priest or a Levite, her son is exempt from redemption, even if she be an Israelite's daughter.

(26) Is her son exempt from redemption or not?

(27) And just as a Levite's daughter is exempt from redeeming her son, similarly a priestess is also exempt.

(28) Although she had intercourse with a gentile. And therefore when we ‘cast’ her son after her, he is like an unfit Levite who is exempt from redemption.

(29) Referring to the first tithe, which is eaten by the Levites.

(30) Yeb. 91a.

(31) Scripture says: And the priest's daughter be married to a stranger, (Lev. XXII, 12) from which we infer (Yeb. 68a) that as soon as she has intercourse with one unfit to marry her, she becomes disqualified from consecrated objects. But a Levite's daughter in similar circumstances is only debarred from marrying a priest and eating terumah (v. Glos.), but she retains her status of belonging to the Levite community. And since the priestess here is regarded as a ‘stranger’, her son is subject to the law of redemption, like an Israelite. Consequently one cannot explain that the Mishnah refers to a case where she conceived from a gentile.

(32) Above, in his explanation of the ruling of R. Adda b. Ahabah.

(33) Who explained the ruling of R. Adda to refer to a Levite's daughter who conceived from a gentile.

(34) And not the daughter of a priest.

(35) But a priest's daughter, unless she conceived from a priest, is not exempted from redeeming her first-born, because we do not go after the mother except in the case of a Levite's daughter who conceived from a gentile.

Talmud - Mas. Bechoroth 47b

It was stated: If a priest dies and leaves a son who is a halal[1] R. Hisda said: The son is obliged to redeem himself;[2] but Rabbah son of R. Huna said: The son is not obliged to redeem himself. ‘Wherever the father dies after thirty days [from the son's birth],[3] all agree that the son is not obliged to redeem himself, for his father has acquired possession of his redemption [money].[4] The point at issue however is where the father dies within the thirty days. R. Hisda says: The son is obliged to redeem himself, since the father did not acquire possession of his redemption.[5] But Rabbah son of R. Huna said: The son is not obliged to redeem himself, for he can say to the priest: ‘I come on the strength of a man with whom you cannot go to law’.[6]

We have learnt: OR IF SHE BECAME A PROSELYTE WHEN PREGNANT,[7] [THE INFANT] IS A FIRST-BORN TO BE REDEEMED FROM A PRIEST. But why so? Why cannot [the son] say [to the priest who claims]: ‘I come on the strength of a man [a gentile] with whom you cannot go to law’![8] The case of a heathen is different, because he has no legal relationship.[9]

It has been stated: R. Simeon Yasinia reported in the name of R. Simeon b. Lakish: If a priest dies within thirty days [of the birth of his child] and leaves a son who is a halal, the son is obliged to redeem himself, for the father did not acquire possession of his redemption. If he dies, however, after thirty days [from the son's birth] the son is not obliged to redeem himself, for the father acquired possession of his redemption and the son inherited the redemption money.

AND LIKEWISE A WOMAN WHO DID NOT WAIT THREE MONTHS AFTER HER HUSBAND'S DEATH etc. [The Mishnah says that] he is not a first-born inheritance, implying however that he takes his share as a plain son [i.e., a non first-born]. But why should this be so? Let him go to [the sons] of this one[10] and they can reject [his claim][11] and let him go to the sons of the other and they too can reject his claim?[12] — Said R. Jeremiah: It would not have been necessary [for the Mishnah] to mention this[13] except for the case of the one who follows him,[14] the meaning being as follows: He is a first-born to be redeemed from a priest[15] and the one who follows him is not a first-born for inheritance.[16] But let [both the doubtful son and the one who follows him] write out the power of attorney to one another?[17] And should you say that the Mishnah [which says that he is not a first-born of inheritance] refers to a case where no power of attorney was given, is not [the Mishnah] explained later [in this chapter] as referring to a case where a power of attorney was written out, [thus proving that the power of attorney here does not help at all]? — [The Mishnah] supports the opinion of R. Jannai. For R. Jannai says: If the children [belonging to two women and two husbands] were identified in the beginning but in the end became mixed, they can write out a power of attorney to each other,[18] but if they were not identified in the beginning and in the end became mixed, they cannot write out a power of attorney to each other.[19]

MISHNAH. WHICH IS A FIRST-BORN BOTH [IN RESPECT] OF INHERITANCE[20] AND OF REDEMPTION FROM A PRIEST? IF [A WOMAN] DISCHARGES A SAC FULL OF WATER OR FULL OF BLOOD OR AN ABORTION CONSISTING OF A BAG FULL OF MANY-COLOURED SUBSTANCE; IF [A WOMAN] DISCHARGES SOMETHING LIKE FISH OR LOCUSTS[21] OR REPTILES, OR CREEPING THINGS, OR IF SHE DISCHARGES ON THE FORTIETH DAY [OF CONCEPTION],[22] [THE INFANT] WHICH FOLLOWS AFTER [THESE DISCHARGES] IS A FIRST-BORN BOTH [IN RESPECT] OF INHERITANCE AND OF

REDEMPTION FROM A PRIEST. NEITHER A FOETUS EXTRACTED BY MEANS OF THE CAESAREAN SECTION[23] NOR THE INFANT WHICH FOLLOWS[24] IS EITHER A FIRST-BORN FOR INHERITANCE OR A FIRST-BORN TO BE REDEEMED FROM A PRIEST. R. SIMEON HOWEVER SAYS: THE FIRST[25] IS A FIRST-BORN OF INHERITANCE AND THE SECOND IS A FIRST-BORN AS REGARDS THE REDEMPTION WITH FIVE SELA'S.

GEMARA. The first is not a first-born of inheritance because the condition required by Scripture is: And they have borne him.[26] It is also not a first-born [as regards redemption] with five sela's because the condition required [by Scripture] is: Openeth the womb.[27] The second offspring is not a first-born of inheritance because the condition required [by Scripture] is: ‘The first-fruits of his strength’. He is also not a first-born as regards redemption with five sela's because [the Tanna in the Mishnah] holds: A firstborn in one respect only [i.e., as regards the womb alone] is not considered a [legal] first-born.

R. SIMEON HOWEVER SAYS: THE FIRST IS A FIRST-BORN FOR INHERITANCE AND THE SECOND IS A FIRST-BORN AS REGARDS REDEMPTION WITH FIVE SELA'S. R. Simeon here follows his line of reasoning elsewhere,[28] when he said: [Scripture says], But if she bear,[29] intimating the inclusion of a foetus extracted by means of the caesarean section. And the second is a first-born as regards redemption with five sela's because he holds: A firstborn in one respect only is considered a [legal] first-born.[30] [

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(1) Lit., ‘profane’. One unfit for the priesthood on account of his father's illegitimate connection.

(2) Because he is on a par with an Israelite and is therefore subject to the law of the first-born.

(3) The period from which redemption of a first-born takes place, Scripture saying: And those that are to be redeemed from a month (Num. XVIII, 16).

(4) For even if the father had set aside the five sela's, being a priest he could have taken them for himself. Since therefore his father acquired the redemption money he leaves it to his son, together with his other estate.

(5) For since he died before the redemption was due, his father did not acquire the redemption money at all so that the son might inherit it.

(6) ‘Because if my father were alive, you could not claim the five sela's. For if he died within the thirty days of my birth, there is no obligation to redeem, and if after the thirty days, then my father acquired possession of the redemption money, seeing that he was a priest himself and I have inherited it. Consequently coming in his place. I claim exemption’.

(7) And she had never born children previously.

(8) Since a gentile is not subject to the law of the first-born.

(9) As far as the first-born is concerned the heathen father has no legal relationship, because a proselyte is considered as a newly-born child, and therefore it is not a case of claiming on his behalf.

(10) E.g., of the first husband.

(11) Maintaining that he is a son of the second husband.

(12) The children of the second husband can assert that he was the son of the first. Why therefore does the Mishnah imply that he at least receives his share as an ordinary son, even if not as a first-born?

(13) That he is not a first-born for inheritance.

(14) The son concerning whom there is a doubt whether he was born in the ninth month of the first husband or in the seventh month of the second husband does not even receive the portion of an ordinary son, for each of the sons on both sides can reject his claim. The Mishnah here however refers to the son who follows the doubtful one.

(15) The doubtful son in any case has opened the womb and is therefore a first-born in this respect, to be redeemed later by himself.

(16) Because his other brothers can say to him that the doubtful son was the son of their father and that therefore the one who follows is not the first-born.

(17) Concerning the share of each so that the doubtful son can claim the first-born's share in either case, as follows: ‘If I am a first-born then give it to me for my own sake, and if my brother is a first-born, then give it to me for my brother's sake’, because one of the two must be a first-born.

(18) When they all come to inherit, each can reject the claim of the other, maintaining that he is not his brother. They therefore write out a power of attorney to each other, and approach the inheritors of the two fathers and say to each of them: ‘If I am your brother, give me my share, and if this one is your brother, give me his share’.

(19) And the Mishnah here also refers to a case where the children who became mixed were never originally identified as to who was the first-born, so that no-one acquired any claim on the estate as a first-born. This therefore confirms the opinion of R. Jannai, v. B.B. 127a.

(20) Receiving a double share of the estate.

(21) Because fish and locusts are not regarded as offspring because Scripture in Genesis does not use in connection with them the expression ‘he formed’ ייצר , as it does in connection with man.

(22) Because until the morrow of the fortieth day of conception the foetus is considered as mere water, an embryo taking more than forty days to form.

(23) Lit., ‘one who is brought out from the side’ (of his mother).

(24) By way of the womb.

(25) The foetus extracted by means of the caesarean section.

(26) Implying that in the case of inheritance the offspring must be born in the normal way, by way of the womb (Deut. XXI, 15).

(27) Ex. XIII, 2.

(28) In Nid. 40a where it says that one born by means of the caesarean section is regarded as a genuine birth, for which the mother must observe the pure and impure periods of confinement. Therefore when it says: And they have borne etc., a caesarean birth is also regarded as a genuine birth, this being inferred from the former case.

(29) Lev. XII, 5.

(30) As for example here, the second offspring is only the first-born of the womb and is yet considered a legal first-born, whereas the first offspring, although it is the first of the males and the offspring, is nevertheless not considered a genuine first-born, as a primary condition is absent, i.e., that of being the first to open the womb, Scripture making a legal first-born depend on the opening of the womb.

Talmud - Mas. Bechoroth 48a

MISHNAH. IF A MAN'S WIFE HAD NEVER BEFORE GIVEN BIRTH AND SHE GAVE BIRTH TO TWO MALES, HE GIVES FIVE SELA'S TO THE PRIEST.[1] IF ONE OF THEM DIES WITHIN THIRTY DAYS [OF BIRTH] THE FATHER IS EXEMPT.[2] IF THE FATHER DIES AND THE SONS SURVIVE, R. MEIR SAYS: IF THEY GAVE THE FIVE SELA'S BEFORE THE PROPERTY WAS DIVIDED UP, IT IS IRRECOVERABLE[3] BUT IF NOT, THEY ARE EXEMPT. BUT R. JUDAH SAYS: THERE IS A CLAIM ON THE PROPERTY. IF SHE GAVE BIRTH TO A MALE AND A FEMALE, THE PRIEST RECEIVES NOTHING.[4]

GEMARA. When did the father die? Shall I say that he died after thirty days [from the offspring's birth]?[5] Would R. Meir say in this case that when they have divided up [the property] they are exempt from the five sela's? [How can this be] seeing that the property is mortgaged to the priest [for the five sela's]?[6] Then you must say that he died within the thirty days. What then is the reason why where they have divided up [the property the sons are exempt]? [Presumably] because if he [the priest] goes to one, his claim can be rejected,[7] and if he goes to the other, his claim can again be rejected! Why then should not the same apply to the case where they did not divide up the property, for if [the priest] goes to one, his claim can be rejected and if he goes to the other, his claim can be rejected? — Said R. Jeremiah: This proves that if there were two men of the name of Joseph b. Simeon in one city[8] and they purchased a field in partnership, a creditor can claim it from them, for he can say to either: ‘If my claim is against you, I am taking your maneh, and if my claim is against your friend, I am taking the maneh of your friend’.[9] Said Raba: Let us see. A man's property is surety for him.[10] Can there be a case where one is not able to claim against a man himself and can yet make a claim on his surety?

Have we not learnt: If one loans money to his neighbour through a surety, he cannot collect from the surety.[11] And it was established by us that the expression ‘He cannot collect’ meant that he cannot collect first from the surety?[12] But no, said Raba. I may still say that he [the father] died after thirty days; and if there is much property, then indeed [the priest] takes his due.[13] The case before us, however, is one in which e.g., there are only five sela's. Now all the authorities concerned agree with the ruling of R. Assi. For R. Assi said: After the brothers [heirs] have divided up the estate, with regards to a half of it they are considered as heirs[14] and with regards the other half, they are considered purchasers[15] from one another. Moreover, all agree that a [pecuniary] obligation arising from a rule of the Torah[16]

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(1) Since one of them must be a first-born.

(2) From redeeming the survivor with five sela's, as he can maintain that it was the first-born which died and the priest is in the position of a claimant. A similar exemption applies to the surviving son, and the reason why the Mishnah refers to the father is because it wishes to mention in a later clause: IF THE FATHER DIES etc.

(3) I.e., they cannot demand the return of the five sela's as they are legally bound to pay the redemption money which is considered a debt on the property. Lit., ‘they have given’.

(4) As perhaps the female came forth first. The priest being the claimant, it is for him to prove that the male came forth first.

(5) When the obligation of redemption commenced.

(6) Since it is a real debt.

(7) Saying: ‘I am not the first-born but my brother’.

(8) Against one of whom a man produces a note of indebtedness and each of them declares that the other and not he is the debtor.

(9) And here also the priest seizes the five sela's, his debt, from the joint property and says to them: ‘If you are the first-born, I am taking from your portion, and if your brother is the first-born, I am taking from his portion, and you can settle the matter among yourselves’.

(10) It can be attached.

(11) B.B. 174a.

(12) Until he claims from the debtor and the latter has not the means to pay. We therefore say that the first claim is on the debtor. Here, since the father died within the thirty days of the offspring's birth, the priest's claim cannot be made on the actual debtor, and therefore it cannot be made on his surety, i.e., his property.

(13) Because the property was pledged for the five sela's during the father's life-time, and although the loan is only verbal, the priest can claim from the heirs if there is sufficient inheritance to meet the debt.

(14) For there is a doubt whether we accept the principle of bererah i.e., whether a subsequent disposal has or has not a retrospective legal effect (v. Glos.) and consequently whether after having divided the estate the brothers stand to each other in the relation of co-heirs, or of vendees, each one having so to speak bought the share that fell to him from the other. Therefore in the case here, as we are in doubt, when the estate is subsequently divided up, we maintain that a half which the sons receive is as if they had received it at the beginning, their status being that of inheritors.

(15) In case we do not accept the principle of bererah.

(16) E.g., the duty of redeeming the first-born, valuation and civil damages. Tosaf. adds that this refers only to cases where without a specific command of the Torah, I might not have imposed any liability.

Talmud - Mas. Bechoroth 48b

is not on a par with an obligation in a note.[1] Again, all agree with the ruling of R. Papa. For R. Papa said: One can claim repayment of a verbal loan from the heirs but not from the purchasers. And the point at issue here is whether the [biblical] five sela's rules out a half of five sela's [as a redemption]. R. Meir holds: Scripture says five sela's, thus ruling out a half of five sela's [as redemption][2] whereas R. Judah holds: Five sela's and even a half of five sela's.[3] If this be the case,[4] why does [the Mishnah say], R. JUDAH HOWEVER SAYS: THERE IS A CLAIM ON THE PROPERTY? Should it not read as follows: ‘There is a claim on the person’?[5] And moreover it has been taught: R. Judah says: After the brothers [the heirs] have divided up the property,[6] if there are ten zuz[7] for one and ten zuz for the other, they must be redeemed from the priest, but if not,[8] they are exempt. Now what does R. Judah mean by the expression ‘ten zuz for one and ten zuz for the other’? Shall I say that he refers to both the portion [that comes to them] as inheritance and to that part in regard to which the heirs are considered vendees?[9] If this be the case, why does R. Judah mention ten zuz, for the same also applies to less than ten zuz?[10] Then he certainly means that there are ten zuz [coming] as inheritance to one and ten zuz [coming] as inheritance to the other.[11] Consequently we see that he holds that the [biblical] five sela's excludes [redemption with] half the five sela's! Rather [explain thus]: All the authorities concerned agree that the five sela's [of redemption] excludes [a redemption] with half of five sela's, and here they differ on the points raised by R. Assi and R. Papa.[12]

Some report this [whole argument] in connection with the latter clause [in our Mishnah as follows]. R. JUDAH SAYS: THERE IS A CLAIM ON THE PROPERTY. Now when did the father die? Shall I say that he died after thirty days? This would imply that R. Meir holds that when the property is divided up they are exempt from redemption. But is not the property pledged for redemption? Then we must say that he died within thirty days. But why then does R. Judah make the survivor liable to redemption, for if the priest goes to one his claim can be rejected, and if he goes to the other, his claim can again be rejected? — Said R. Jeremiah: This proves that if there were two men of the name of Joseph b. Simeon in one city and one purchased a field from the other, a creditor can claim from him[13] for he can say to him: ‘If my claim is against you, I am taking your maneh, and if the claim is against your friend, the property is pledged to me for the debt before your claim’. Said Raba: Now a man's property is surety for him etc., as in the first version.[14]

MISHNAH. IF TWO WOMEN[15] HAD NEVER BEFORE GIVEN BIRTH AND THEY GAVE BIRTH TO TWO MALES, HE [THE FATHER] GIVES TEN SELA'S TO THE PRIEST. IF ONE OF THE CHILDREN DIES WITHIN THIRTY DAYS [OF ITS BIRTH], IF HE GAVE THE REDEMPTION MONEY TO ONE PRIEST ALONE, HE RETURNS FIVE SELA'S TO HIM,[16] BUT IF HE GAVE IT TO TWO PRIESTS, HE CANNOT RECLAIM THE MONEY FROM THEM.[17] IF THEY GAVE BIRTH TO A MALE AND A FEMALE OR TO TWO MALES AND A FEMALE,[18] HE GIVES FIVE SELA'S TO THE PRIEST.[19] IF THEY GAVE BIRTH TO TWO FEMALES AND A MALE OR TO TWO MALES AND TWO FEMALES, THE PRIEST RECEIVES NOTHING.[20] IF ONE WOMAN HAD GIVEN BIRTH BEFORE AND THE OTHER HAD NEVER GIVEN BIRTH, AND THEY GAVE BIRTH TO TWO MALES, HE GIVES FIVE SELA'S TO THE PRIEST.[21] IF ONE OF THE CHILDREN DIED WITHIN THIRTY DAYS [OF ITS BIRTH], THE FATHER IS EXEMPT.[22] IF THE FATHER DIES AND THE CHILDREN SURVIVE, R. MEIR SAYS: IF THEY GAVE THE REDEMPTION MONEY BEFORE THE DIVIDING UP [OF THE PROPERTY], IT IS IRRECOVERABLE, BUT IF NOT, THEY ARE EXEMPT, BUT R. JUDAH SAYS: THERE IS A CLAIM ON THE PROPERTY. IF THEY GAVE BIRTH TO A MALE AND A FEMALE, THE PRIEST RECEIVES NOTHING. IF TWO WOMEN WHO HAD NEVER BEFORE GIVEN BIRTH MARRIED TWO MEN AND GAVE BIRTH TO TWO MALES, THE ONE FATHER GIVES FIVE SELA'S TO THE PRIEST AND THE OTHER GIVES FIVE SELA'S TO THE PRIEST. IF ONE OF THE CHILDREN DIED WITHIN THIRTY DAYS [OF ITS BIRTH], IF THEY GAVE THE REDEMPTION MONEY TO ONE PRIEST ALONE, HE RETURNS FIVE SELA'S TO THEM,[23] BUT IF THEY GAVE THE MONEY TO TWO PRIESTS, THEY ARE NOT ABLE TO CLAIM IT FROM THEM.[24] IF THEY GAVE BIRTH TO A MALE AND A FEMALE, THE FATHERS ARE EXEMPT FROM THE DUTY OF REDEMPTION,[25] WHEREAS THE SON MUST REDEEM HIMSELF [AS IN ANY CASE HE IS A FIRST-BORN]. IF THEY GAVE BIRTH TO TWO FEMALES AND A MALE OR TO TWO FEMALES AND TWO MALES, THE PRIEST RECEIVES NOTHING.[26] IF ONE WOMAN HAD GIVEN BIRTH BEFORE AND THE OTHER HAD NEVER BEFORE GIVEN BIRTH, THE WOMEN BELONGING TO TWO HUSBANDS, AND THEY GAVE BIRTH TO TWO MALES, THE ONE WHOSE WIFE HAD NEVER BEFORE GIVEN BIRTH GIVES FIVE SELA'S TO THE PRIEST. IF THEY GAVE BIRTH TO A MALE AND A FEMALE, THE PRIEST RECEIVES NOTHING.[27]

GEMARA. What is the reason that in the case of two priests the redemption money cannot be recovered? Presumably because if he [the father] goes to one priest his claim can be rejected, and if he goes to the other his claim can again be rejected. Why then should we not apply the same principle to the case of one priest, so that if one father goes to the priest the latter can reject his demand [to return the money][28] and if the other goes to the priest, the latter can also reject his demand? — Said Samuel:

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(1) But is regarded as a verbal loan.

(2) Consequently the inheritors are exempt. For half of their share is considered as belonging to them as vendees and there is thus no inheritance left except two-and-a-half sela's, and the priest is not able to claim this, since a verbal loan cannot be claimed from property in the hands of the buyers.

(3) And the priest can therefore take the half which is considered as the inheritance.

(4) If you say that we are dealing here with the case where he died after the thirty days.

(5) The father. For since we are referring to a case where the father died after the thirty days when there was a duty upon him to redeem, it would have been more appropriate for R. Judah to declare there is a liability standing against the father which the survivors must discharge.

(6) And both the brothers are cases of doubtful first-born.

(7) I.e., two-and-a-half- sela's; a sela’ == four zuz.

(8) If there are not ten zuz for each survivor.

(9) And when R. Judah declares that they are obliged to be redeemed from the priest, he means from the portion of the inheritance, since you say that all hold the view of R. Assi and R. Papa. Consequently we infer from this that R. Judah maintains that one can redeem a first-born with even less than the statutory five sela's of the Bible.

(10) Even for example, if each brother had only eight zuz, making four sela's in all, of which the priest would receive two, as the other half is considered as property bought from each other, the law would be the same. Consequently what need is there for R. Judah to mention specially the figure of ten zuz, for, since the whole of the redemption money cannot be paid, a third or a fourth of the sum is also valid.

(11) Apart from the half of the property in regard to which they are considered vendees, making five sela's as the portion that comes to them as inheritance.

(12) R. Meir holds with both R. Assi and R. Papa, and as there is not more than five sela's altogether, the priest takes nothing. for the five sela's of the Bible is strictly meant and one cannot therefore effect redemption with less than this sum. As for R. Judah, if he agrees with R. Assi that in regard to half of the property they are considered vendees, and not with the opinion of R. Papa, that a verbal loan cannot be claimed from property in the hands of buyers. the priest takes the whole. And if he does not agree with the opinion of R. Assi, but holds that in regard to the entire property they are regarded as heirs, then, whether he agrees with R. Papa or not, the priest takes the whole of the five sela's. According to this explanation we therefore interpret the Baraitha as follows: If there are ten zuz altogether for each brother, they must give all their property for redemption, but if there is not property of the value of five sela's, the survivors are exempt from the duty of redemption, for the statutory five sela's exclude a redemption of less than this amount (Rashi).

(13) As here where R. Judah holds that heirs who have divided up the property are considered as buyers.

(14) To the end of the argumentation.

(15) Married to one husband.

(16) Because since one child died within thirty days of its birth, then clearly the child was an untimely birth and therefore the priest is is not entitled to receive redemption money (Rashi). According to Tosaf. 49a s.v. מת the reason why the money is returned is not because the child was a non-viable birth, for even if it was a viable birth, since it died within thirty days, there is exemption, the Torah making redemption of the first-born dependent on its being a month old.

(17) Because each priest can rebut the father's claim by declaring ‘I am retaining the redemption money on account of the living child’.

(18) In a hiding place, and the children became mixed and the identity of each child could not be ascertained.

(19) As in any case one child must be a first-born. For if one woman gave birth to two males, the first male is the first-born, and if one woman gave birth to a male and a female, then the other gave birth to a male alone which is therefore the first-born, the male which was born with the female being exempt from the law of the firstborn in case the female came forth first.

(20) As we can say in each case that the female came forth first.

(21) As only one child can he a first-born, since one woman had already given birth previously.

(22) From redemption with five sela's, because he can maintain that it was the offspring of the woman who had never before given birth which had died.

(23) And the two fathers divide the money between them.

(24) For each priest can claim: ‘I am retaining the money on account of the living child, as the child on whose behalf I received the money did not die’, and the burden of proof is on the claimant, the father.

(25) Because each father can say to the priest that the female offspring belongs to him.

(26) In the case of two females and a male, each one can say that one woman gave birth to the female and the other to a male and a female, the female coming forth first. And with reference also to the case of two females and two males, each can say that the woman gave birth to a female first in each case.

(27) In case the female was born to the woman who had never given birth previously.

(28) Saying: ‘It is not your male son which died but your neighbour's, and therefore I am entitled to the five sela's’.

Talmud - Mas. Bechoroth 49a

We are dealing here with a case where [the fathers] wrote out a power of attorney.[1] But did not the Nehardeans say: We do not write out a private authorization[2] to take possession of movables?[3] — This is the case only where the debtor denies indebtedness [to the creditor][4] but where there is no such denial, we do write.[5]

A MALE AND A FEMALE THE FATHERS ARE EXEMPT etc. R. Huna learnt: If they gave birth to two males and a female [in a hiding place and the children became mixed], the priest receives nothing.[6] And our Tanna?[7] — Since this is the case only where there are two husbands but not where there is only one husband and two women,[8] he does not teach this.[9]

MISHNAH. IF THE SON DIES WITHIN THIRTY DAYS [OF HIS BIRTH] ALTHOUGH HE [THE FATHER] GAVE THE PRIEST [THE FIVE SELA'S], HE MUST RETURN THEM.[10] IF, HOWEVER, HE DIES AFTER THIRTY DAYS, ALTHOUGH HE HAS NOT YET GIVEN THE FIVE SELA'S, HE MUST GIVE THEM. IF HE DIES ON THE THIRTIETH DAY, IT IS AS IF HE DIED ON THE PREVIOUS DAY.[11] BUT R. AKIBA SAYS: IF HE GAVE [THE FIVE SELA'S] HE CANNOT RECLAIM THEM, BUT IF HE HAD NOT YET GIVEN, HE NEED NOT GIVE.

GEMARA. What is the reason of the Rabbis?[12] — We draw an analogy between the expression ‘month’[13] and ‘month’[14] mentioned in the Book of Numbers;[15] just as there [in the latter case] it says ‘And upward’ so here also in the case of redemption it means ‘and upward’.[16] And [what does] R. Akiba [say to this]? — He is in doubt.[17] For since it was necessary to write ‘and upward’ in connection with the law of valuation[18] and did not leave us to infer this [from the expression ‘and upward’] in the Book of Numbers, we have therefore two verses[19] teaching the same thing, and wherever we have two verses teaching the same thing, they cannot serve as an illustration for other cases.[20] Yet perhaps [on the other hand] we may say that the rule that the two verses which teach the same thing cannot serve as an illustration for other cases only applies to such cases as are totally different,[21] but where the same subject is dealt with,[22] the verses do serve as an illustration and consequently he [R. Akiba] is in doubt.[23]

Said R. Ashi:[24] All the authorities concerned agree that as regards the laws of mourning the thirtieth day is counted as being like the previous day,[25] for Samuel said: The law is in accordance with the authority who is lenient in matters of mourning.

MISHNAH. IF THE FATHER DIES WITHIN THIRTY DAYS,[26] [THE INFANT] IS UNDER THE PRESUMPTION OF NOT HAVING BEEN REDEEMED[27] UNTIL PROOF IS BROUGHT THAT IT HAS BEEN REDEEMED. IF THE FATHER, HOWEVER, DIES AFTER THIRTY DAYS, IT IS UNDER THE PRESUMPTION OF HAVING BEEN REDEEMED UNTIL HE [THE

SON] IS TOLD THAT HE WAS NOT REDEEMED.[28] IF BOTH THE FATHER AND THE SON REQUIRED REDEMPTION AS FIRST-BORN, THE FATHER TAKES PRECEDENCE OF HIS SON. BUT R. JUDAH SAYS: HIS SON COMES FIRST FOR THE COMMAND TO REDEEM HIM WAS UPON HIS FATHER,[29] AND THE COMMAND OF HIS SON IS UPON HIM.

GEMARA. It has been stated: If one redeems his son within thirty days [of his birth], Rab said: His son is [regarded as] redeemed, whereas Samuel says: His son is not redeemed. Said Rab bah: All [the authorities concerned] agree that if he said that his son's redemption should take effect ‘from now’ his son is not redeemed.[30] Again [if he said to the priest within the thirty days] that the redemption should take effect after the thirty days and the money is still then in existence, the son is certainly regarded as redeemed, [for it is as if he had given it now].[31] Where they differ is where [he said] after the thirty days and the money had been used [by that time].[32] [In such a case] Rab said: His son is redeemed, for this is on a par with the law of betrothal of a woman.[33] There [in the case of betrothal] although the money was used, is not the betrothal yet valid?

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(1) To each other and therefore one of them can come and claim as follows: ‘If mine died, return my redemption money, and if the child of my neighbour died, return me his five sela's, for I have his authorization’.

(2) To a creditor to collect or take possession of one's debt.

(3) Since the movables are not in sight, the declaration has the appearance of a falsehood, in case the debtor does not posses the articles at all, and therefore the witnesses seem to be signing falsely.

(4) The creditor cannot have an authorization written out in such circumstances, for it has the appearance of a falsehood.

(5) V. Sheb. 33b.

(6) The case of two women who had never given birth before married to two men is another instance of where the priest receives nothing. And although one child is a first-born in any case, for if one woman gave birth to two males, then one of them is a first-born and if one woman gave birth to a male and a female and the other gave birth to a male alone this one would be a first-born, nevertheless the son is not bound to redeem himself, for he can say to the priest: ‘Perhaps I am not a first-born but the other’.

(7) In the Mishnah, why does he not mention this case?

(8) Because in such a case there is one first-born and he must therefore give five sela's to the priest.

(9) As the Tanna in the Mishnah only reports instances of the priest receiving nothing where this applies equally to cases of two women married to one husband and two women married to two husbands.

(10) Because the offspring is an untimely birth (Rashi). Tosaf. says: The reason is because the Torah makes redemption dependent on the offspring being a month old. The Mishnah here refers to certain cases of first-born.

(11) And had been born within the thirty days previously, and therefore though he has already given the redemption money, the priest must return it.

(12) Who hold in the Mishnah that if the son dies on the thirtieth day, it is considered as if he had died on the previous day.

(13) And those that are to be redeemed from a month old (Num. XVIII, 16).

(14) Number all the first-born of the males of the children of Israel from a month old and upward (Num. III, 40).

(15) Lit., ‘The Wilderness’.

(16) That redemption is strictly due only after the thirty days of the child's birth.

(17) Whether we make this analogy.

(18) And if it be from sixty years old and upward (Lev. XXVII, 7). And in Tractate Ar. we draw an analogy between the expression ‘year’ used here and the ‘year’ mentioned in the same chapter in connection with the valuation of one twenty-five years old, to the effect that just as in the former case a valuation exactly on the sixtieth birthday is regarded as a valuation under that period, where it makes the person liable to a larger sum, similarly a valuation exactly on the twenty-fifth birthday is regarded as a valuation under that period, although it means paying a smaller sum of money for the person thus valued. The same principle also applies to the valuation of a child on the thirtieth day, the thirtieth day being counted like the previous day, although this means taking a lenient decision, and we do not draw the analogy between the expressions month used with reference to valuation and month used in the Book of Numbers so that there should be no valuation until after it is thirty days old (Rashi).

(19) That in the Book of Numbers in connection with the census of the first-born of Israel and that in connection with the law of valuation.

(20) Hence we are not able to infer from these verses that redemption of a first-born is due only after thirty days from its birth.

(21) As, for example, if the expression ‘month’ had been mentioned in connection with a subject entirely different from that of the law of valuation or that of a first-born.

(22) As, for example, here in regard to redemption, where month is mentioned also in connection with the subject of a first-born. We can therefore draw the analogy between the expressions month mentioned in connection with the law of the first-born laid down for generations and month mentioned in connection with the census of the Israelites’ first-born in the wilderness, since both deal with an identical subject.

(23) And owing to this doubt he says that if the father gave the redemption money, he cannot recover it, but that if he had not given it, he need not give it.

(24) Var. lec.: Samuel(Asheri).

(25) So that if the offspring died on the thirtieth day, the mourning ceremonies need not be observed by the father, as one can say that it was an untimely birth. Var. lec. (v. R. Gershom) have the following version: ‘The thirtieth day is considered like the day after’ i.e., there is no prohibition of washing one's clothes or cutting the hair.

(26) Of the birth of the first-born.

(27) Because it is not usual to redeem within the thirty days.

(28) Until the son is informed that the father had said before he died that he had not redeemed him. There is no need for proper witnesses here and a mere statement of not having redeemed suffices, since the presumption that the father had redeemed is not a very strong one, people as a rule not hastening to pay their debts immediately when due. It is not relevant here to say until the priest brings proof that the redemption money had not been paid, for even if he does the son can still maintain that his father gave the five sela's to some other priest.

(29) The duty of redeeming this father was on his father who died, and the duty of his son is upon him.

(30) The money is considered only as a gift, for there is no obligation to redeem within thirty days.

(31) I.e., after the thirty days.

(32) Lit., ‘The money had been consumed’.

(33) If a man gave a woman something and said to her: ‘Be thou betrothed after thirty days’ in which case the marriage is valid (Kid. 59a).

Talmud - Mas. Bechoroth 49b

In this case too, it is the same. And Samuel?[1] — He can answer thus: There [in the case of betrothal] he can effect the betrothal from now[2] whereas here, [in the case of redemption], redemption cannot make it take effect ‘from now. And although we have an established rule that wherever Rab and Samuel differ in ritual law the ruling adopted is that of Rab and in civil cases the ruling adopted is that of Samuel, here, however, the ruling adopted is that of Samuel.

We have learnt:[3] If the son dies within thirty days [of his birth] although he has given the priest redemption money, the latter must return it. The reason is because he dies, but if he did not die, the son is considered redeemed![4] — We are dealing here with the case where the money is still in existence.

Come and hear: THE INFANT IS UNDER THE PRESUMPTION OF NOT HAVING BEEN REDEEMED UNTIL A PROOF IS BROUGHT THAT IT HAS BEEN REDEEMED![5] — There too it is a case where the money is in existence.

A Tanna recited in the presence of Rab Judah: If one redeems his son within thirty days [of its birth] the son is considered redeemed. He said to him: But did not Samuel rule that the son is not redeemed, and you say that the son is considered redeemed? — Read: ‘The son is not redeemed’. And although we have an established rule that the ruling adopted is that of Rab in ritual matters and is like Samuel, in civil matters, here, however, the decision is in accordance with the ruling of Samuel.

IF BOTH THE FATHER AND SON REQUIRE REDEMPTION AS FIRST-BORN, THE FATHER TAKES PRECEDENCE OF HIS SON etc. Our Rabbis taught: If both the father and son require redemption as first-born, the father takes precedence of his son. R. Judah says: His son comes first, for the father's command is upon his father and the command of his son is upon him. Said R. Jeremiah: All [the authorities concerned] agree that where there are only five sela's the father takes precedence of the son, the reason being because the command regarding himself is of more importance. The difference arises, however, in the case where there are five sela's of encumbered property[6] and five sela's of free property. R. Judah holds: An obligation arising from a biblical law [e.g., the duty of redeeming the first-born] is on a par with a loan against a note. Therefore the five sela's due for himself, he [the priest] goes and seizes from the encumbered property[7] and with the five sela's of the free property, he redeems his son [immediately].[8] But the Rabbis say: An obligation arising from the biblical law is not on a par with a loan against a note,[9] and therefore the command [of redemption] relating to himself takes precedence. MISHNAH. THE FIVE SELA'S OF A FIRST-BORN TAKE THE TYRIAN MANEH AS THEIR STANDARD.[10] AS REGARDS THE THIRTY SHEKELS OF A SLAVE[11] AND LIKEWISE THE FIFTY SHEKELS OF ONE WHO VIOLATES A WOMAN,[12] THE INDEMNITY FOR SEDUCTION[13] AND THE ONE HUNDRED SHEKELS OF ONE WHO SPREADS AN EVIL NAME[14] — IN ALL THESE CASES THE HOLY SHEKEL[15] IS MEANT AND TAKE THE TYRIAN MANEH AS THEIR STANDARD. ALL OF THESE ARE REDEEMED[16] WITH MONEY OR MONEY'S WORTH WITH THE EXCEPTION OF SHEKEL PAYMENTS.[17]

GEMARA. What is a Tyrian maneh? — Said R. Ashi: The maneh of the Tyrian currency.[18] R. Ammi said: [The Tyrian maneh is] an Arabian denar.[19] R. Hanina said: A Syriac Istira,[20] eight of which are bought for a gold denar and five of which are the amount for the redemption of the first-born.

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(1) Who says that the child is not redeemed. Wherein lies the difference between this case and the case of a betrothal in similar circumstances?

(2) Because he can, if he wishes, marry within the thirty days, there being no restriction in this respect.

(3) Supra 49a.

(4) Although the redemption took place within the thirty days. which is contra Samuel's decision above.

(5) But if proof is forthcoming, the firstborn is redeemed, even within the thirty days, contrary to the opinion of Samuel.

(6) Property pledged or in the hands of buyers.

(7) The mortgaged property in the hands of buyers, as the mortgaging of the five sela's for the priest came first in the life-time of his father.

(8) Because if he gave the free property for his own redemption, then he could no longer redeem his son if the property in the hands of the buyers had been mortgaged before the birth of his son.

(9) If he therefore gave the free property, i.e., the property in his own possession to the priest for his son's redemption, then he could no longer redeem himself, for the priest cannot seize mortgaged property from the buyers for his five sela's, as is the case with a loan against a note, where there is created a hypothecary obligation.

(10) V. infra n. 9.

(11) Whom an ox gored to death and for which its owner has to pay thirty shekels. Ex. XXI, 32.

(12) Deut. XXII, 29.

(13) Ex. XXII, 16.

(14) Concerning a wife that she did not possess the tokens of virginity. (Deut. XXII, 19).

(15) Shekels of pure silver (used for Sanctuary purposes) like the Tyrian shekel and so twice the value of an ordinary current shekel mixed with an abby of copper.

(16) I.e., whatever is to be redeemed viz., the firstborn and consecrated objects.

(17) The shekels which came to the Temple treasury in Adar (v. Shek. I) could only be bought in the form of silver half shekels. The same also applies to the second tithes, which could only be redeemed with money, and not with money's worth.

(18) And this maneh had twenty-five sela's, a sela’ containing four zuz.

(19) So Rashi, adding that the seven of the ordinary denars mentioned in the Talmud, each of which has six ma'ah, are the equivalent of ten Arabian denars, the latter denars being light ones. Tosaf. explains that the golden Arabian denar was the equivalent of the five sela's of redemption and that R. Ammi is not referring to the Tyrian maneh.

(20) In our edition the text is סרסריא . Rashi has סרסריתא both forms deriving from the word סוריא (Syria). R. Gershom has another form סורסירא deriving from the word סרסור meaning a middle-man, a coin with which much business is transacted, just as a middle-man is the medium of much business.

Talmud - Mas. Bechoroth 50a

R. Johanan Says: Take a Trajanic or Hadrianic denar which is rubbed off[1] and bought for twenty-five zuz, and deduct a sixth from it, and the remainder is the amount for the redemption of the first-born. But is not this the sum of twenty-one zuz minus a danka?[2] — Rather deduct a sixth together with a zuz and the remainder is the amount for the redemption of the first-born. But even so the amount is twenty zuz minus a danka?[3] — Rather deduct [first] a zuz and then[4] a sixth and the remainder[5] is the amount for the redemption of the first-born which is twenty times the weight of a [Tyrian] denar, and which makes twenty-eight and a half zuz and a half danka.[6]

Said Raba: The biblical sela’ contains three and a third [denars], because Scripture says: A shekel is twenty gerahs,[7] which the Targum[8] renders ‘twenty ma'ah’, and it has been taught: Six ma'ah silver make one denar.[9] An objection was raised: Does not the holy sela’ contain forty-eight dupondia?[10] What business has the [extra] dupondium here?[11] The dupondium is an agio [an addition] to the units![12] — [The Baraitha] refers to the period after the sela’ had been increased in value.[13] For it was taught in a Baraitha: [Scripture says:] ‘A shekel is twenty gerahs’, for thus we learn that a shekel contains twenty gerahs, whence [do we deduce] that if he wished to increase [the number of ma'ah] he is at liberty to do so? The text states: ‘[Twenty gerahs] shall be [the shekel]’.[14] You might perhaps think that he can decrease [the number of ma'ah]? [To guard against such an inference] the text states: ‘The same Is twenty gerahs.[15]

R. Ashi sent seventeen zuz to R. Aha b. Raba[16] for the redemption of the first-born. He sent him word: ‘Let the Master return to me the extra third of a sela’ from the redemption-money sent’.[17] He replied to him: ‘Let the Master send me another three zuz which were added to the biblical sela’.[18]

Said R. Hanina: Every silver [coinage] [kesef] mentioned in the Pentateuch without any qualification means a sela’, in the Prophets litrae,[19] in the Hagiographa centenaria,[20] except the silver [coinage] mentioned in the transaction of Ephron, for although it is mentioned in the Bible without qualification, it means centenaria, because Scripture says: Four hundred shekels of silver current money with the merchant,[21] and there is a place where the shekels are called centenaria.[22]

Said R. Oshaiah: [The Rabbis] proposed to hide all the silver and gold in the world on account of the silver and gold of Jerusalem,[23] until they found a text from the Torah which made their use permissible, because Scripture says: For the robbers shall enter into it and profane it.[24] But is Jerusalem the greater portion of the world?[25] — Rather Abaye said, The Rabbis] proposed hiding the Hadrianic and Trajanic denars which were rubbed off[26] on account of the sacred coinage of Jerusalem,[27] until they found a text from the Torah making their use permissible because it is said: ‘For the robbers shall enter into it and profane it’.

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(1) Jewish coins restamped by Trajan etc., v. A.Z.. Sonc. ed., p. 267 nn. 7-8.

(2) Subtract a sixth of twenty-four from twenty-four leaving twenty, and then deduct a sixth of the remaining zuz (each zuz contains six danka) making a total of twenty and five-sixths zuz viz., twenty-one zuz minus a danka, whereas the amount required for redemption is five sela's, or twenty zuz, one sela’ four zuz.

(3) For a sixth of twenty-five zuz is four and a sixth, which after deduction leaves twenty and five-sixths zuz. Deduct again one zuz and you have twenty zuz minus one danka, which is less than the prescribed amount.

(4) Of the remaining twenty.four zuz.

(5) Twenty-five minus one minus one-sixth of twenty-four twenty (zuz).

(6) According to the Arabian denar, because seven Tyrian denars make ten Arabian denars, therefore fourteen Tyrian denars make twenty Arabian denars. The remaining six denars (to complete the twenty denars i.e., the twenty zuz, a denar being identified with a zuz) make eight and a half denars and a half of a danka i.e., a dupondium. For since every denar contains twelve dupondia and the proportion between a Tyrian and an Arabian coin is as ten to seven, one Tyrian denar will therefore be seventeen and a seventh dupondia, a surplus of five and one-seventh dupondia over the Arabian standard. Consequently, for the remaining six Tyrian dears we have a surplus, according to the Arabian standard, of thirty-one dupondia minus a negligible amount. These thirty-one dupondia make two and a half denars plus one dupondium. Therefore six Tyrian denars make eight and a half Arabian denars plus one dupondium and together with the fourteen Tyrian denars which equal twenty Arabian denars, we have thus in twenty Tyrian denars the equivalent of twenty-eight and a half Arabian denars plus a half of a danka viz., one dupondium.

(7) Ex. XXX, 13.

(8) Sc. Targum Onkelos.

(9) Therefore three denars make eighteen ma'ah and a third of a denar makes two ma'ah, as each denar contains six ma'ah, a shekel thus amounting in all to twenty ma'ah.

(10) If a man sanctifies his field in the year of Jubilee, Scripture lays it down that he redeems it according to the standard of a homer of barley seed for fifty shekels of silver, and this is explained as meaning that he pays forty-nine sela's and forty-nine dupondia for the forty-nine years of the Jubilee. The question therefore arises, does not the holy sela' etc., since a holy sela' contains only forty-eight dupondia, and therefore it comes about that he redeems the field for fifty shekels plus a dupondium.

(11) Since Scripture explicitly says fifty shekels and not more.

(12) The Baraitha after all says that the holy sela' contains forty-eight dupondia, which are four Tyrian denars, for each denar contains twelve dupondia. This Baraitha will therefore raise a difficulty as regards Rab's opinion.

(13) A sixth was added to the value of a biblical sela' and it was made a Tyrian sela' containing twenty-four ma'ah, i.e., four denars.

(14) Lev. XXVII, 25. Implying that one can go on adding more.

(15) Lit., 'twenty gerahs it is' (Num. XVIII, 16). The word הוא being used here in the restrictive sense.

(16) Who was a priest.

(17) Each sela' containing three and a third denars, five sela's therefore making seventeen denars minus a third. Consequently, in sending him seventeen denars there was an addition of a third of a denar.

(18) Because a sela' has four denars, five sela's therefore making twenty denars. You therefore owe me another three denars to make up the twenty denars.

(19) Twenty-five sela's.

(20) One hundred sela's in each shekel.

(21) Gen. XXIII, 16. Intimating that wherever there were merchants, these shekels were accepted as such.

(22) Where as many as a hundred sela's are given for a shekel. Hence the 'silver' (kesef) mentioned there in the Ephron transaction, although it is not explicitly stated, must mean centenaria.

(23) To save those in the Temple treasury, which were holy and forbidden to be used by strangers, becoming mixed with the gold and silver belonging to the Gentiles.

(24) Ezek. VII, 22. Implying that when the robbers came and took the Temple monies they profaned them and they became hullin, devoid of any sanctity.

(25) That we should forbid the use of all silver and gold in the world for fear of using that of Jerusalem.

(26) These coins were from Jerusalem and the majority of them came from Jerusalem.

(27) With which sacred things were redeemed (R. Gershom); v. A.Z., Sonc. ed., p. 267 notes.

Talmud - Mas. Bechoroth 50b

Rab Judah reported in the name of R. Assi: Every silver coinage mentioned in the Pentateuch without any qualification means in Tyrian currency;[1] in the teaching of the Rabbis, it means in the currency of the province [an eighth of the silver coinage of the Pentateuch].

And is this a general rule? Have we not the case of one making a claim,[2] for it is written: If a man shall deliver unto his neighbour silver [coinage] or stuff to keep,[3] and we have learnt: For an oath to be imposed by the judges,[4] the claim must amount to not less than two [silver] ma'ah?[5] — There[6] the reason is because the Torah says: Silver [coinage] or stuff;[7] just as stuff means two,[8] so silver [coinage] also means two coins;[9] and again, as silver [coinage] means something of value,[10] so stuff means also something of value.[11]

But is there not the case of tithing, for it is written: And bind up the silver [coinage] in thine hand,[12] and we have learnt: If one changes[13] [at the banker's] a sela's [worth] from the monies of second tithes?[14] — [The three-fold] repetition of the word ‘silver’ intimates an amplification.[15] But is there not the case of hekdesh,[16] of which it is written: And he shall give the silver [coinage] and it shall be assured to him,[17] and Samuel ruled: If hekdesh worth a maneh has been redeemed against a perutah, it is a valid redemption?[18] — In the case of hekdesh too we draw an analogy between the expression ‘holy’ used in this connection[19] and ‘holy’ used in connection with the second tithes.[20]

But is there not the case of a woman's betrothal, for it is written Then she shall go out free without silver [coinage],[21] and we have learnt [in a Mishnah]: Beth Shammai say: [Betrothal must take place] with a denar and the worth of a denar, whereas Beth Hillel say with a perutah and the worth of a perutah? Must it then be said that R. Assi agrees with the opinion of Beth Shammai?[22] — Rather we must say that if it[23] has been stated, it was stated thus: Rab Judah reported in the name of R. Assi: Every silver [coinage] mentioned in the Pentateuch in connection with defined payments[24] means in the Tyrian currency, and that mentioned in the teaching of the Rabbis means In the currency of the province.[25] What does he teach us thereby? Have we not learnt this already: FIVE SELA'S OF A FIRST-BORN etc.? He needed to teach us that the silver [coinage] mentioned by the Rabbis meant according to the provincial standard. For we have learnt: If one boxes his neighbour's ear,[26] he must compensate him with a sela’. Think not therefore that it means a sela’ of four zuz, but it means half a zuz,[27] for people call half a zuz a sela’.

The ruffian Hanan boxed a man's ear.[28] He was brought before R. Huna. The latter said to him: Give him half a zuz as compensation. He possessed

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(1) And where the Scripture says shekel it means a Tyrian sela’, which has four denars, and where it does not say shekel but kesef (silver coinage) it means a Tyrian denar. In B.K. 36b the author of this passage is given as Rab.

(2) Against his neighbour as follows: ‘I gave you a certain sum of money’.

(3) Ex. XXII, 6.

(4) Arising from the defendant's admission of his partial indebtedness.

(5) I.e., a third of a denar. We see therefore that kesef mentioned in the Torah does not mean a Tyrian denar as Rab declares, for if the Torah meant two denars, then it should read: Two kesef.

(6) In Ex. XXII, 6.

(7) Suggesting a comparison between כסף (silver coinage) and כלים (stuff).

(8) כלים lit. means ‘vessels’ , the plural implying at least two. V. further notes Shebu., Sonc. ed., pp. 240 and 247.

(9) Even if not possessing the value of denars but of ma'ah.

(10) For a ma'ah has some value and worth.

(11) And not something which is entirely insignificant and negligible.

(12) Deut. XIV; 25.

(13) Lit., ‘breaks into small change’ (Jast.).

(14) He has perutahs, small coins which he desires to change into silver sela's on account of the trouble of carrying them to Jerusalem, v. M. Sh., II, 8. We see from this that originally he exchanged the second tithes for perutahs, although Scripture here uses the expression ‘silver’.

(15) That he can sell the second tithes for any kind of money. The word ‘silver’ occurs three times as follows: Then thou shalt turn it into silver (kesef). (Deut. XIV, 25). And bind up the silver (kesef). (Ibid.). And thou shalt bestow that silver.

(Ibid. verse 26).
(16) That which is dedicated to a sacred purpose.
(17) The latter part of this quotation וקם לו is in Lev. XXVII, 19 and the word ‘silver’ is mentioned several times in the context, but does not immediately precede And he shall etc., v. B.M., Sonc. ed., p. 321, n. 1.
(18) We see therefore that the hekdesh was once redeemed against perutahs, which are copper coins, not silver.
(19) And when a man shall sanctify this house to be holy. (Lev. XXVII, 14).
(20) And all the tithe of the land whether of the seed of the land or of the fruit of the land is the Lord's. It is holy unto the Lord (Lev. XXVII, 30).
(21) Ex. XXI, 11. And we interpret this verse in Kid. 4a as follows: There is no silver coinage for this master, i.e., the master who employed a Hebrew maid-servant receives no money on her leaving him. But where she leaves another master, i.e., her father, the latter acquires the betrothal money.
(22) For since it mentions ‘silver’ here, according to R. Assi, it means a Tyrian silver denar, which is in harmony with the view of Beth Shammai, and usually the halachah is not according to Beth Shammai.
(23) A ruling defining the biblical kesef.
(24) Viz., five sela's of redemption, the thirty shekels in connection with a slave etc., whereas the cases cited above from which we questioned Rab's teaching are not of this character.
(25) Which is an eighth of the biblical silver coinage, v. infra.
(26) Aliter: Who shouts in his neighbour's ear.
(27) Which is an eighth of a Tyrian sela’.
(28) V. n. 8.

Talmud - Mas. Bechoroth 51a

a battered zuz which could not be passed.[1] [He wanted to give him half a zuz from it. The other had no change.] So he gave him another box on the ear and handed to him the whole zuz.

THE THIRTY SHEKELS OF A SLAVE, LIKEWISE THE FIFTY SHEKELS OF ONE WHO VIOLATES A WOMAN AND THE INDEMNITY OF FIFTY SHEKELS FOR SEDUCTION, etc. Why does he mention this again?[2] Has he not mentioned this in an earlier clause? The repetition[3] is needed on account of the cases of one who violates a woman and one who spreads an evil name. I might have thought that since shekalim is not written in connection with these cases[4] I might say that mere zuz are sufficient.[5] The Tanna therefore informs us that we infer one from the other.[6]

WITH THE EXCEPTION OF SHEKEL PAYMENTS. A Tanna taught: With the exception of shekel payments, second tithes[7] and the pilgrim's[8] burnt-offering.[9] ‘Shekel payments’, as we have learnt.[10] You may exchange[11] shekels for darics[12] on account of the burden of the journey.[13] ‘Second tithes’, as it is written:[14] And bind up the money in thine hand.[15] ‘And the pilgrim's burnt-offering’. R. Joseph learnt: In order that one may not bring base metal to the Temple.[16]

MISHNAH. WE MUST NOT REDEEM [A FIRST-BORN OF MAN] WITH SLAVES,[17] NOR WITH NOTES OF INDEBTEDNESS,[18] NOR WITH IMMOVABLE PROPERTIES, NOR WITH OBJECTS OF HEKDESH.[19] IF ONE GIVES A WRITTEN ACKNOWLEDGMENT TO A PRIEST THAT HE OWES HIM FIVE SELA'S[20] HE IS BOUND TO GIVE THEM TO HIM, ALTHOUGH HIS SON IS NOT CONSIDERED AS REDEEMED THEREBY.[21] THEREFORE,[22] IF THE PRIEST WISHES TO GIVE HIM [THE NOTE OF INDEBTEDNESS] AS A GIFT HE IS PERMITTED TO DO SO,[23] IF ONE SET ASIDE THE REDEMPTION MONEY OF HIS SON AND IT BECAME LOST, HE IS RESPONSIBLE FOR IT, BECAUSE IT SAYS: SHALL BE THINE [BUT] THOU SHALT SURELY REDEEM.[24]

GEMARA. Our Mishnah[25] is in accordance with the opinion of Rabbi. For it has been taught: Rabbi says: We may redeem a first-born of man with all things except notes of indebtedness. What is the reason of Rabbi? — He interprets the Bible texts on the lines of amplifications and limitations [as follows]: And those that are to be redeemed from a month[26] is an amplification; According to thy estimation of the money[26] is a limitation, and Shalt thou redeem[27] is a further amplification. [The text therefore here] amplifies and limits and then amplifies again. It therefore includes all. What does it include by amplifying? — All things. And what does the text exclude by limiting? — It excludes notes of indebtedness.[28] But the Rabbis [his disputants] interpret the Bible texts on the lines of generalizations and specifications, [thus]: ‘And those that are to be redeemed’ is a general statement: ‘According to thy estimation of the money’, is a specification, ‘Shalt thou redeem’ again is a general statement.[29] We have therefore here a general statement and a specification, and again a generalization, in which case we include in the general statement only such things as are similar to those specified. As therefore the specification explicitly mentions a movable object and that which is itself money, so everything [with which we may redeem] must be a movable object and that which is itself money. Immovable properties are therefore excluded [as being proper to redeem with] because they are not movables. Slaves are also excluded, as they are compared with immovable properties,[30] and notes of indebtedness are excluded because, although they are movables, they are not in themselves money.[31] Said Rabina to Meremar: But does Rabbi interpret [Bible texts] on the lines of amplifications and limitations? Does not Rabbi interpret [Bible texts] on the lines of generalizations followed by specifications in connection with [the law of boring a slave's ear with] an awl? For it was taught: [Scripture says], An awl,[32] I have here [mentioned] only an awl [wherewith to bore a slave's ear]. Whence do we include a prick, thorn, needle, borer or stylus? The text states: Then thou shalt take, thus including every object which can be taken in the hand. This is the view of R. Jose son of R. Judah. Rabbi, however, says: ‘An awl’; just as an awl is exclusively of metal, so anything [used for boring a slave's ear] must be of metal. And we stated elsewhere:[33] Wherein do they differ? Rabbi interprets [the biblical text] on the lines of generalizations and specifications,[34] whereas R. Jose son of R. Judah interprets on the lines of amplifications and limitations.[35] — Yes, elsewhere Rabbi interprets [biblical texts] on the lines of generalizations and specifications. The case however is different here,[36] as a Tanna of the school of R. Ishmael taught: For a Tanna of the school of R. Ishmael taught, [Scripture says]: ‘In the waters, in the waters’;[37] the repetition is not to be interpreted as a general statement followed by a specification, but as an amplification and a limitation.[38] And the Rabbis? They say[39] it was explained in the West [Palestinian colleges]:[40] Wherever you find two general statements in proximity, place the specification between them and interpret them on the lines of generalizations and specifications.[41]

NOR WITH OBJECTS OF HEKDESH. Surely this is obvious,[42] since they do not belong to him! Read

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(1) It was not accepted in the city and was worth little to him. Inserted in the Bah, v. B.K 37a.

(2) In the words IN ALL THESE CASES THE HOLY SHEKEL IS MEANT AND TAKE THE TYRIAN MANEH etc. since the Tanna has already mentioned earlier that the coin must be of the Tyrian currency.

(3) Of the clause and IN THESE CASES etc.

(4) There being no mention in the Torah that the payment must be in shekels. And although the Mishnah does not mention the holy shekel in connection with the other cases enumerated, the word shekel is used in the Scriptures with reference to them. In connection with the first-born Scripture says, Five shekels by the poll (Num. III, 47). With reference to a Slave it says: He shall give the master thirty shekels. (Ex. XXI, 32). And with reference to seduction it says: He shall pay silver (ישקול). (Ex. XXII, 16).

(5) That where the expression shekel is mentioned he must pay Tyrian shekels, but where the expression shekel is not mentioned, he can pay even in Tyrian denars (zuz).

(6) By stating: IN ALL THESE CASES etc, it teaches us that all cases in which payment is defined in the Pentateuch have the same rule i.e., payment in shekels on the Tyrian standard in accordance with the ruling of R. Assi above. Some editions have the following reading: ‘ALL OF THESE ARE REDEEMED etc. But are all these redeemable (since redemption only applies to a first-born and not to cases like the thirty shekels of a slave etc.?) — This is what (the Mishnah) means: And all of these cases which can be redeemed, viz., the first-born of man and consecrated objects’. (Sh. Mek).

(7) These are not redeemed except with stamped money, even stamped perutahs however being permitted.

(8) Lit., ‘the appearance’ in the Temple of the pilgrim.

(9) Which is bought for two ma'ah which must be in stamped money.

(10) Shek. II, 1.

(11) Lit., ‘combine’. Several half shekel payments are combined for purposes of exchange.

(12) A Persian gold and silver coin. (Jast.). Some editions have דרכון

(13) Because their gold coins are stamped, but other coins which are unstamped cannot be sent to Jerusalem. And the same limitation applies to money's worth, in case it drops in value and hekdesh will thus suffer a loss.

(14) Deut. XIV, 25.

(15) וצרת And bind up, the Hebrew word itself suggesting that the money must have a צורה i.e., a stamp.

(16) Rashi has the version סיגה וכסף סיגים ‘base metal or non-purified silver’, and adds that the Baraitha is adduced by R. Joseph to support the previous Baraitha but not to explain it. Tosaf., however, says that R. Joseph's Baraitha explains the previous Baraitha as follows: The reason why it is forbidden to bring a pilgrim's burnt-offering from money's worth is because sometimes he may bring base metal or non-purified silver which will not possess the value of two silver ma'ah, and as a result he will not be able to purchase a good burnt-offering.

(17) Although the Mishnah says above that one may redeem with money's worth, redemption cannot be effected with slaves etc.

(18) If one has a bond of five sela's against a debtor he cannot give this to the priest in payment of the redemption of his son.

(19) V. Glos. Explained later in the Gemara as meaning that hekdesh has the same rule, i.e., that it cannot be redeemed with slaves, etc.

(20) On account of redemption of his first-born.

(21) For fear it should be said that it is permissible to redeem with notes of indebtedness.

(22) Since he has to give the priest a further five sela's. Another explanation is: Since the Torah ruled (v. infra) that one cannot redeem with notes of indebtedness, therefore the priest cannot remit his debt, and there is no other remedy except making the bond a gift to the father.

(23) As there is no other way in which the father can recover the money.

(24) Num. XVIII, 15, implying that only when the priest has the redemption money the first-born is redeemed.

(25) Which says that the redemption of the first-born cannot be effected with slaves etc.

(26) Num. XVIII, 16.

(27) So Sh. Mek. rightly deleting the words ‘shalt thou redeem’ of cur. edd.

(28) Because they are of no value.

(29) And although the general statement ‘Shalt thou redeem’ comes before the specification, we nevertheless expound the texts on the lines of a general statement followed by specification.

(30) Scripture saying (Lev. XXV, 46) in connection with slaves: And ye shall take them as an inheritance, the term נחלה (inheritance) being applied to immovable property.

(31) On these two methods of expositions v. Shebu., Sonc. ed., p. 12, n. 3.

(32) Deut. XV, 17.

(33) V. Kid. 21a.

(34) ‘Then thou shalt take’ is a general statement, ‘An awl’ is a specification, ‘And thrust it through his ear’ is again a general statement.

(35) The amplification includes everything which can bore the ear, and the limitation only excludes poison as a means of boring the ear.

(36) With reference to the redemption of the first-born.

(37) Lev. XI, 9.

(38) The texts ‘These may ye eat of all that are in the waters’ and ‘Whatsoever hath fins and scales in the waters’ are two general statements intimating that in all waters, in order that the fish may be eaten, we require them to possess fins and scales. This is followed by a specification ‘In the seas’ and ‘In the rivers’, implying that only in flowing waters do we require fins and scales, but in gathered waters we can eat fish without fins and scales. And whenever we have two statements in close proximity as is the case here, we do not interpret the biblical text on the lines of a general statement and specifications but of amplifications and limitations (v. Hul. 66b). Similarly, in the case of redemption, since the two general statements are in close proximity and the specification subsequently follows (v. p. 351, supra n. 7), Rabbi interprets the texts on the lines of amplification and limitation.

(39) Who expounded the biblical texts on the lines of generalizations and specifications.

(40) Var. lec. (v. R. Gershom): 'Said Rabina as it was explained, etc.'.

(41) And the fact that the specification follows the two generalisations makes no difference.

(42) That we cannot redeem the first-born with consecrated objects.

Talmud - Mas. Bechoroth 51b

: And objects of hekdesh cannot be redeemed with all these.[1]

IF ONE WRITES OUT TO A PRIEST THAT HE OWES HIM FIVE SELA'S, HE IS BOUND TO GIVE THEM TO HIM etc. Said 'Ulla: According to the biblical law, his son is redeemed after payment; why then [does the Mishnah say that] his son is not redeemed? It is a precaution in case people might say that it is permissible to redeem with notes of indebtedness.[2] [And Rab Shesheth ruled likewise: His son is redeemed after payment].[3] A Tanna recited before R. Nahman: His son is redeemed after payment. R. Nahman said to him: This is the teaching of R. Jose son of R. Judah whose opinion has been reported anonymously. (Some Say: This is the teaching of R. Eleazar son of R. Simeon, whose opinion has been reported anonymously.) But the Sages say: His son is not redeemed.[4] And the Law is that his son is not redeemed.

THEREFORE IF THE PRIEST WISHES TO GIVE HIM [THE NOTE OF INDEBTEDNESS] AS A GIFT, HE IS PERMITTED TO DO SO. [The Mishnah here] teaches what our Rabbis have taught [elsewhere]: If one gave [the five sela's] to ten priests simultaneously,[5] he has discharged his duty of redemption. If he gave [the five sela's] one after the other,[6] he has discharged his duty. If [the priest] took the redemption money and returned it to him, he has discharged his duty.[7] And this was the custom of R. Tarfon.[8] He used to take the five sela's and then return them. When the Sages heard of this they said: 'This [teacher] has observed this law'. And did he only observe this law and no other? — 'This teacher observed even this law'.

R. Hanina[8] was in the habit of taking [the five sela's] and returning them. Once he saw a man who [after giving him the five sela's] kept on coming before him.[9] He said to him: 'You have not given genuinely.[10] You did[11] something wrong.[12] Consequently your son is not redeemed'.[13]

IF ONE SET ASIDE THE REDEMPTION [MONEY] FOR HIS SON AND IT BECAME LOST, HE IS RESPONSIBLE FOR IT. How do we know?[14] — Said R. Simeon b. Lakish: We draw an analogy between [the term] 'valuation' used in connection with the redemption of the first-born[15] and [the word] 'valuation' used in connection with the law of valuations.[16] R. Dimi reported in the name of R. Johanan: Scripture says: And all the first-born of thy sons thou shalt redeem and none shall appear before me empty,[17] and we draw an analogy between [the word] 'empty' and [the word] 'empty' used in connection with the burnt-offering of appearance before the Lord[18] [thus]: just as one is responsible for the burnt-offering of appearance,[19] so one is responsible for the redemption money of the first-born. To this R. Papa demurred: Is there need for a biblical verse to support another biblical verse?[20] — No, said R. Papa. The reason [why he is responsible] is as stated: [Scripture says]: Shall be thine shalt thou surely redeem. And when the explanation of Resh Lakish was stated, it was stated in connection with an earlier clause [in the Mishnah]: If the son died after thirty days although he has not yet given the redemption money, he is bound to give it.[21] How do we know?[22] Said R. Simeon b. Lakish: We draw an analogy between [the word] 'valuation' used in connection with the redemption of the first-born and the word 'valuation' used in connection with the law of valuations.[23] R. Dimi reported in the name of R. Johanan: [Scripture says]: 'All the first-born of thy sons thou shalt redeem and none shall appear before me empty': say just as there[24] the heirs are responsible for the burnt-offering [it being an obligatory burnt-offering], so here the heirs are responsible [for the redemption money if the father and son die].

MISHNAH. THE FIRST-BORN TAKES A DOUBLE SHARE OF THE FATHER'S ESTATE BUT HE DOES NOT TAKE A DOUBLE SHARE OF THE MOTHERS ESTATE.[25] HE ALSO DOES NOT TAKE A DOUBLE SHARE OF THE IMPROVEMENT IN THE VALUE OF THE ESTATE.[26] NOR DOES HE TAKE A DOUBLE SHARE OF WHAT WILL FALL DUE [TO THE ESTATE][27] AS HE DOES OF WHAT IS HELD IN POSSESSION.

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(1) Viz., slaves, bonds etc.

(2) Even where he actually gives the priest nothing, or with a bond on which the father claims against his neighbour.

(3) Inserted with Sh. Mek.

(4) Tosaf, points out that although this is apparently what the Mishnah says, viz., that he gives him the five sela's and yet the son is not redeemed, it is possible that R. Nahman holds that what the Mishnah means by the expression ‘ALTHOUGH HIS SON IS NOT REDEEMED is that the son is not redeemed unless payment is made, and that if the priest enters the note as a loan against him, we do not say that it is as if the priest received it and then later lent him the money, or if the priest remits the five sela's, the son is still not redeemed unless the father pays. R. Nahman therefore informs us that the Sages maintain that the son is not redeemed in such circumstances even after payment of the note.

(5) Putting the five sela's before them all and then going his way (Rashi). R. Gershom adds that although this meant that each priest only receives half a sela’, yet since altogether he gave the full redemption money, his son is redeemed.

(6) To one priest. So Rashi. Maimonides appears to refer this to ten priests i.e., that he gave the money between ten priests, but not to them all simultaneously only to one after the other.

(7) The halachah will therefore be in accordance with the ruling of the Mishnah, since the Baraitha here supports the Mishnah (R. Gershom).

(8) He was a priest.

(9) In order that he should see him and refund his redemption money.

(10) Lit., ‘you have not determined and given’.

(11) Inserted in the text with Rashi and Tosaf.

(12) In giving the redemption money with the expectation of getting it refunded.

(13) ‘If I return the money to you’. Another explanation is: ‘Even if I do not return the money, your son is not redeemed’.

(14) That he is responsible for the redemption money. The question is asked in spite of the fact that the Mishnah cites a scriptural verse in support of this ruling, v. infra.

(15) And those that are redeemed according to thy valuation, Num. XVIII, 16.

(16) And he shall give thy valuation on that day etc. (Lev. XXVII, 23). This verse is explained in Hul. 139a as teaching that until the money is in the hands of the Temple treasurer the valuation money is still regarded as hullin (secular), for which the person who vows is responsible if it is lost or stolen, as it says ‘And he shall give’, implying that the money must be actually given if the law of valuation is to be carried out.

(17) Ex. XXXIV, 20.

(18) And none shall appear before me empty (Ex. XXIII, 15).

(19) Because it is an obligatory offering and is no less binding than an offering which one vows of for which he is responsible if it is lost. For since Scripture forbids the pilgrim to appear empty in the Temple, if the offering is lost and he does not bring another, then he would be appearing ‘empty’ before the Lord. But from the word ‘empty’ used in connection with a first-born, I could not have inferred that he is responsible for it if lost, as the word ‘before me’ is not to be taken literally, since a first-born is not brought to the Temple but given to the priest, and I would therefore have said that the mere setting aside of the first-born suffices, there being no further responsibility.

(20) Is there not a biblical verse adduced in the Mishnah to confirm this ruling? What need therefore is there for an additional verse to support the one already quoted in the Mishnah?

(21) V. supra 49a.

(22) That he is bound to give the redemption money even after the death of his son.

(23) In the case of valuations, if one says: ‘I vow my value’, and he dies, the heir must pay the valuation money, and if one says ‘I vow the value of So-and-so’, if the latter dies he is bound to pay. And similarly here, if the first-born dies after thirty days, the father is bound to give the five sela's.

(24) In the case of the pilgrim's burnt-offering of appearance before the Lord.

(25) The property of which the husband has the usufruct only, without responsibility for deterioration or loss.

(26) If it has improved in value since the father's death and before the division. The increase in value of the first-born's second share is assessed in money and divided between the heirs.

(27) But was not in the possession of the father at his death.

Talmud - Mas. Bechoroth 52a

NOR CAN A WOMAN CLAIM WITH HER KETHUBAH [FROM THESE],[1] NOR CAN DAUGHTERS CLAIM THEIR SUPPORT,[2] NOR CAN A LEVIR CLAIM.[3] NONE OF THESE TAKE FROM THE IMPROVEMENT IN THE VALUE OF THE ESTATE, NOR OF WHAT WILL FALL TO THE ESTATE AS THEY DO OF WHAT IS NOW HELD IN POSSESSION.

GEMARA. What is the reason? — Scripture say. The right of the first-born is his,[4] [intimating] that the right of the first-born [is conferred] by a man[5] but not by a woman. HE DOES NOT TAKE DOUBLE SHARE OF THE INCREASE IN VALUE because Scripture says: Of all that he hath.[6] NOR DOES HE TAKE A DOUBLE SHARE OF WHAT WILL FALL DUE [TO THE ESTATE] AS HE DOES OF WHAT IS HELD IN POSSESSION, because Scripture says: Of all that he hath.[7]

NOR CAN A WOMAN CLAIM WITH HER KETHUBAH. Is it really so? Has not Samuel said: A creditor[8] can claim also the improvement in the value of the estate? — Said R. Abba: They have taught here one of the concessions made in connection with the kethubah.[9]

NOR THE OBLIGATIONS OF SUPPORTING THE DAUGHTERS. What is the reason? — Stipulations in a kethubah are like the kethubah.[10]

NOR A LEVIR. What is the reason? Scripture calls him a firstborn.[11] Said Abaye: They have taught this[12] only with regard to the improvement in the value of the estate between the death of the brother and the performance of the levirate marriage, but he does take a double share of the improvement of the value of the estate which took place between the period of the performance of the levirate marriage and the division of the estate. What is the reason? The Divine Law says: Shall succeed in the name of his brother that is dead;[13] but here is a case of one who succeeded.[14] Raba however says: He does not take the improvement in the brother's share even between the period of the performance of the levirate marriage and the dividing up of the estate. What is the reason? He has the same law as a first-born;[15] as a first-born does not take [a double share of the improvement in the value of the estate] before the division, so a levir also does not take [a double share of the improvement] before the division.

NONE OF THESE TAKE FROM THE IMPROVEMENT IN THE VALUE OF THE ESTATE.

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(1) I.e., from the improvement in value of the estate or from what is to accrue to the estate.

(2) If a man undertakes to support for five years the daughter of his wife whom she had from another man, on his death the alimentation can be taken only from the present value of the estate but not from what is to accrue to the estate after his death nor from any increment in the estate.

(3) A brother-in-law who takes his own and the share of his deceased brother whose wife he had taken in levirate marriage, cannot take the improvement in value from the dead brother's inheritance or from what accrued to the estate after the brother's death.

(4) Deut. XXI, 17.

(5) The estate of a man.

(6) Ibid. He hath at present.

(7) What he hath, at the time of death.

(8) If one lent another money on the security of an estate and the debtor sold his property and the purchasers improved it, the creditor can seize the whole estate including the improvement in the property. The woman also is here in the position of a creditor.

(9) Since the Rabbis made certain concessions (to the heirs) in connection with the kethubah as that, for example, she cannot claim from land of average quality as is the case with a creditor but only claims from the worst land (B.K. 7b) and also that she must take an oath when claiming (v. Git. 34b), they also made a further concession by laying down that she cannot claim from the improvement in the estate which has taken place since her husband's death (R. Gershom).

(10) And just as a woman cannot claim with her kethubah from the increase in value of the estate since her husband's death, so it is with any undertaking set forth in the kethubah.

(11) And it shall be that the first-born that she beareth, and in Yeb. 24a it is explained that this passage refers to a levir, it being the duty of the eldest to perform the levirate marriage. Now since the law describes him as a first-born his case is on a par with that of a first-born who does not receive a double share of the increase in value of the estate, nor does the levir take two shares in what accrues to the estate after the brother's death.

(12) That the levir does not take from the increase in the value of the estate belonging to his dead brother.

(13) Deut. XXV, 6.

(14) As soon as he married the deceased brother's wife, the double share of the estate is his, for he is in the place of his brother and is no longer called the first-born. Consequently the improvement in the estate took place in his possession and thus he takes two shares in the improvement of the estate.

(15) Even after the performance of the levirate marriage he is still called the first-born.

Talmud - Mas. Bechoroth 52b

This implies even an improvement in the value of the estate which comes of itself.[1] If, e.g., [on the father's death] what was available of the products of the ground was classed under hafirah[2] and now it is shuble [ears], or [on the father's death] they were shalpufe[3] and afterwards became full-grown dates.[4]

NOT WHAT WILL FALL DUE [TO THE ESTATE] AS THEY DO OF WHAT IS HELD IN POSSESSION. This brings as under the rule the grandfather's estate.[5]

MISHNAH. THE FOLLOWING DO NOT RETURN [TO THEIR OWNERS] IN JUBILEE.[6] THE SHARE OF THE FIRST-BORN, [THE INHERITANCE OF] ONE WHO INHERITS HIS WIFE'S [ESTATE] [AND OF] ONE WHO MARRIES HIS SISTER-IN-LAW[7] AND A PRESENT. THESE ARE THE WORDS OF R. MEIR. BUT THE SAGES SAY: A PRESENT HAS THE LAW OF A SALE [OF LAND].[8] R. ELEAZAR SAYS HOWEVER: ALL THESE RETURN IN JUBILEE. R. JOHANAN B. BEROKAH SAYS: IF ONE INHERITS HIS WIFE'S ESTATE, HE RETURNS IT TO THE MEMBERS OF THE FAMILY AND ALLOWS THEM A DEDUCTION FROM THE PURCHASE MONEY.[9]

GEMARA. What is the reason of R. Meir? — Only in the case of a sale [of land] does the Divine Law enjoin that it must return in the year of Jubilee [to its original owners], but not with regard to a present or an inheritance; and the cases [enumerated in the Mishnah as not returning in Jubilee] are either cases of inheritance or such as come under the category of a present;[10] [with reference to] a first-born [it says]: By giving him a double portion,[11] the Divine Law thus describing his portion as a present.

AND HE WHO INHERITS HIS WIFE'S ESTATE. A man's inheritance of his wife's estate is a biblical law [and therefore it is a genuine inheritance].[12]

HE WHO MARRIES HIS SISTER-IN-LAW. [The reason being because] the Divine Law describes him [the levir] as a first-born.[13]

BUT THE SAGES SAY: A PRESENT HAS THE LAW OF A SALE OF LAND. What is the reason of the Rabbis? [Scripture says]: Ye shall return,[14] intimating the inclusion of the case of a present; but all the other cases[15] are those of inheritance; with regard to a first-born Scripture Says: ‘By giving him a double portion’, thus comparing the share he receives as a first-born with the plain [ordinary] portion; as the plain portion of the first-born is considered as an inheritance, so the extra share received by a firstborn is also considered as an inheritance.[16]

R. ELEAZAR SAYS HOWEVER: ALL OF THESE RETURN IN JUBILEE. He agrees with the Rabbis who say that ‘Ye shall return’ intimates the inclusion of the case of a present and holds that all these cases [enumerated in the Mishnah][17] come under the category of a present; with regard to a first-born Scripture says: ‘By giving him a double portion’; thus the Divine Law describes his share as a present. With regard also to the case of one who in herits his wife's estate, he holds that a man's inheritance of his wife's estate is a rabbinical law.[18] Again, with regard to the case of one who marries his sister-in-law, the Divine Law calls [the levir] a first-born. R. Assi reported in the name of R. Johanan: After the heirs have divided up the estate, they are considered as purchasers from one another and return [their portions] one to another in the year of Jubilee.[19]

To this R. Oshaiah demurred: THE FOLLOWING DO NOT RETURN IN JUBILEE: THE SHARE OF A FIRST-BORN. R. Eleazar replied to him: The expression DO NOT RETURN here means that the return in Jubilee does not make [the privileges of the first-born] of no account.[20] To this R. Shesheth demurred: Does this imply that the one [R. Eleazar] who said: ALL OF THESE RETURN IN JUBILEE means that the return in Jubilee makes [the privilege of the first-born] of no account?[21] Thereupon Rami b. Hama applied to R. Shesheth the verse: Wisdom is good with an inheritance,[22] for has he not heard the following: When Rabin came, he reported in the name of R. Johanan (another version is [that when Rabin came he reported that] R. Eleazar said in the name of R. Eleazar b. Shammua’),[23] RETURNING IN JUBILEE here means that it makes [the privileges of the first-born] of no account.[24]

R. JOHANAN B. BEROKAH SAYS: IF ONE INHERITS HIS WIFE'S ESTATE HE RETURNS IT TO THE MEMBERS OF THE FAMILY etc. What is his view? If he holds that a man's inheritance of his wife's estate is a biblical law, then why should he return it to the family in Jubilee? And if he holds that a man's inheritance of his wife's estate is only a rabbinical law, what claim is there to the money?[25] One may still maintain that a man's inheritance of his wife's estate is a biblical law, and we are dealing here with a case where e.g., his wife bequeathed him a cemetery[26] and for fear of casting a reflection on the family,[27] the Rabbis ruled that he should take [from them] the money for the cemetery and return it to them in Jubilee.[28] And so it has been taught: If one sells his grave and the road to his grave, or his halting place[29] and the place for lamentation, the members of his family come and bury him per force, so as not to cast any reflection on the family.[30] And what the Mishnah means by ‘HE ALLOWS THEM A DEDUCTION’[31] is with reference to the cost of his wife's grave, [as this is an obligation which devolves on him].

CHAPTER IX

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(1) And without any expense of labour or money on the part of the plain heir.

(2) Vegetable e.g., the green of grains (Jast.).

(3) Undeveloped dates.

(4) The Mishnah therefore informs us with this last clause that even in such instances where the ordinary (non first-born) heir has spent no money on or worked in any way for the improvement in the estate, the first-born takes merely an equal share with the rest of the brothers and does not enjoy the privileges of a first-born.

(5) If their grandfather was alive when their father died and the former's estate was coming to them eventually, for even if he had another son, their father would ultimately receive his share, I might have thought that this is counted as having the estate in one's possession. The last clause in the Mishnah by repeating: NOR WHAT IS TO FALL DUE etc, thus informs us that this is not so. For, from the previous clause in the Mishnah which says that a first-born does not take a double share etc., I might have thought that the expression ‘WHAT IS TO FALL DUE TO THE ESTATE’ referred only to a case where there fell to them the estate of their father's brother, the latter having children at the time of their father's death, so that it did not appear coming to them on their father's death, but both he and his sons died before the division (Rashi); or the latter having no children when their father died but yet as he might still have heirs there was no certainty that the property was coming to them (Sh. Mek.).

(6) As is the case where one sells land to another, the year of Jubilee effecting a restoration to the original owner, v. Lev. XXV, 10.

(7) And took his brother's share, for it is regarded as a genuine inheritance and therefore it does not return in Jubilee.

(8) And it goes out in Jubilee.

(9) The Gemara later explains this passage.

(10) Lit., those cases of inheritance are considered as inheritance, and those cases of a present are considered as a present.

(11) Deut. XXI, 17. Scripture using the word giving.

(12) V. B.B. 11b.

(13) V. supra p. 358, n. 1.

(14) Lev. XXV, 10, the passage being superfluous, Scripture having already said in the same verse, and ye shall return every man unto his possession.

(15) In which the Rabbis admit that they do not return in Jubilee (Rashi).

(16) As Scripture writes: Then it shall be when he maketh his sons to inherit, (Deut. XXI, 16). Thus the share received by one as an heir is called inheritance.

(17) One who inherits his wife's estate and he who marries his sister-in-law.

(18) And is not genuine inheritance. It therefore returns in Jubilee.

(19) And again divide up the estate after the year of Jubilee.

(20) I.e., the first-born, after the Jubilee, receives his double share.

(21) Why should the first-born lose his privileged portion? Therefore R. Eleazar's reply above is not acceptable, and the difficulty therefore remains with regard to R. Assi's opinion.

(22) Eccl. VII, II. Good is wisdom. The acumen of an Amora (Rabin) together with the erudition of many Baraithas, the inheritance of successive scholars, possessed by R. Shesheth. For had R. Shesheth known Rabin's wise observation, he would never have objected in the way he did (Rashi and Tosaf.). R. Gershom explains as follows: Good is wisdom, R. Shesheth has shown wisdom in his objection. Nevertheless why did he object? Has he not heard etc.? Wisdom alone is not sufficient without inheritance and knowledge of the rulings of the scholars.

(23) I.e., R. Eleazar in our Mishnah.

(24) Therefore the passage in the Mishnah that Jubilee does not cause a return, also has the same meaning as R. Eleazar explains above, i.e., that it does not cause the first-born to lose his privileges on account of Jubilee.

(25) By him, since it is not a genuine inheritance.

(26) Which belonged to her family as a burial place.

(27) It is derogatory for a family that strangers should be interred in their graveyard, while their own members should have to seek burial in a strange graveyard. There is no difficulty as regards the period before Jubilee, as the family can pay the husband for the burials which take place without anybody being aware that the cemetery was no longer in their possession, Tosaf. Yom Tob.

(28) Force the buyer to take back the purchase price and cancel the sale.

(29) A halting place, of which there were seven in number, for consolation for the funeral escort on returning from a burial.

(30) V. Keth. 84a.

(31) Since the inheritance is a biblical law and hence a genuine one, why should he make any deduction for them at all?

Talmud - Mas. Bechoroth 53a

MISHNAH. THE LAW CONCERNING THE TITHE OF CATTLE[1] IS IN FORCE IN PALESTINE[2] AND OUTSIDE PALESTINE, IN THE DAYS WHEN THE TEMPLE EXISTS AND WHEN IT DOES NOT EXIST, [IT APPLIES] TO HULLIN ONLY BUT NOT TO CONSECRATED ANIMALS. IT APPLIES BOTH TO LARGE CATTLE AND SHEEP. (THOUGH NONE CAN BE TITHED FOR THE OTHER); TO LAMBS AND TO GOATS (AND

ONE CAN BE TITHED FOR THE OTHER); TO THE NEW[3] BREED AND THE OLD,[4] (THOUGH NONE CAN BE TITHED FOR THE OTHER). NOW IT MIGHT BE RIGHTLY ARGUED: SEEING THAT NEW AND OLD ANIMALS WHICH ARE NOT TREATED AS DIVERSE KINDS IN REGARD TO ONE ANOTHER ARE YET NOT TITHED ONE FOR THE OTHER, LAMBS AND GOATS WHICH ARE TREATED AS DIVERSE KINDS IN REGARD TO ONE ANOTHER, ALL THE MORE SHOULD NOT BE TITHED ONE FOR THE OTHER. THE TEXT THEREFORE STATES: AND OF THE FLOCK,[5] INTIMATING THAT ALL KINDS OF FLOCK ARE CONSIDERED ONE [FOR PURPOSES OF TITHING].

GEMARA. May we say that our Mishnah[6] is not in accordance with R. Akiba? For it was taught: R. Akiba says: You might think that a man may take up an animal set aside as tithe from outside Palestine and offer it? [To guard against this inference] the text states: And thither ye shall bring your burnt-offerings and your sacrifices and your tithes.[7] Scripture speaks of two kinds of tithes,[8] one the tithing of animals, and the other the tithe of grain. [And I draw an analogy thus]: from the place from which you can bring up the tithe of grain[9] you can bring up an animal set aside as tithe, but from a place from which you cannot bring up the tithe of grain, you cannot bring up an animal set aside as tithe [to be sacrificed]! — [No]. You can even say [that the Mishnah is] in accordance with R. Akiba. The one statement[10] refers to offering [the animal up].[11] the other to the consecration [thereof].[12] This[13] is also indicated by the fact that he [R. Akiba] derives his teaching from the text: ‘And thither ye shall bring’, [thus referring distinctly to offering up]. This proves it. But since [the animal] is not offered up, for what purpose is it consecrated?[14] — To be eaten by the owners when it becomes blemished.[15]

IN THE DAYS WHEN THE TEMPLE EXISTS AND WHEN IT DOES NOT EXIST. If this be the case, [then the law of tithe as regards animals] should apply even nowadays?[16] — It is as R. Huna says [elsewhere], for R. Huna said: [It is prohibited] as a prevention against an animal whose mother died[17] [during or soon after childbirth being brought into the shed].[18] If this be the case, the same prohibition should have applied originally [when the Temple was standing]?[19] [What you must] therefore [reply is that] it is possible for an announcement to be made [by the Beth din].[20] [This being so], here too[21] it is possible to have all announcement made [by the Beth din]? — Rather said Raba: The reason is that one might be led to commit an offence.[22] And whence will you prove that we take into account the possibility of one committing an offence? — For it was taught: We are not permitted to consecrate an animal, nor to make valuation, nor to set aside as devoted[23] nowadays.[24] But if one did consecrate an animal, or make a valuation or set aside as devoted, the animal is to be destroyed;[25] fruits, garments and vessels shall be allowed to rot and as for money and metal vessels, let him cast them into the Salt Sea. And what is meant by destroying? He locks the door on [the animal] and it dies of itself [from hunger].[26] If this be the case,[27] then a first-born [of an animal] should also not become holy nowadays?[28] Is then the sanctity of a first-born dependent on us? Is it not holy from the time it leaves the womb? — This is what is meant [by the question]: Let him make over to a heathen the ears of the [mothers of the prospective offspring] so that they shall not be sanctified from the beginning?[29]

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(1) V. Lev. XXVII, 32. The fat and blood of an animal set aside as tithe are offered up and their flesh is eaten by its ritually clean owners in Jerusalem. Also, if blemished, it may be eaten in a state of uncleanness in all places.

(2) Lit., ‘the Land’.

(3) Those born after Elul, the first of this month being considered a New Year for the tithing of animals.

(4) Those born before Elul.

(5) Ibid.

(6) Which says that the law concerning tithe of cattle is in force outside Palestine.

(7) Deut. XII, 6.

(8) The plural tithes implies more than one tithe.

(9) The tithing of grain is only practised in Palestine as it is a duty connected with the (Palestinian) soil.

(10) In the Baraitha.

(11) R. Akiba does not permit the tithe animal brought from outside Palestine to be offered up.

(12) The Mishnah refers only to the animal's consecration, stating that the law of tithe regarding an animal applies in that respect even outside Palestine.

(13) That R. Akiba only excludes the animal set aside as tithe from being sacrificed.

(14) Unless it be that it might be offered up as a sacrifice.

(15) Waiting for a blemish to befall the animal, for an animal set aside as tithe may be eaten by the owner whether it is blemished or unblemished, Scripture not enjoining that it must be given to a priest.

(16) When there is no Temple in existence.

(17) Lit., ‘an orphan’.

(18) An orphaned animal not being subject to the law of tithe, v. infra 58b.

(19) That even when there was a Temple there should be no tithing of animals, in case an orphaned animal enters the shed for tithing.

(20) That one should not bring an orphaned animal to the shed.

(21) With reference to the tithing of animals in these days.

(22) Lit., ‘a stumbling-block’. For since we have no altar nowadays, we have to keep the animal until it becomes blemished. There is thus a possibility that an offence might be committed, that the animal might be worked and shorn or slaughtered before it is blemished.

(23) Dedicated as holy for the priests or sacred use.

(24) Because we cannot hide them until the Temple is rebuilt and therefore we apprehend that an offence might be committed with them.

(25) Lit., ‘uprooted’.

(26) V. A.Z. 13a.

(27) That an animal set aside as tithe nowadays is not holy for fear of the law being transgressed.

(28) For fear that it might be shorn etc.

(29) The law being that if a heathen has a share in the first-born it is not subject to redemption, v. supra 2a. If you therefore fear an offence against the law, why not adopt this remedy?

Talmud - Mas. Bechoroth 53b

— It is possible to adopt the remedy of Rab Judah. For Rab Judah said: One may maim a first-born before it is born.[1]

But[2] here also it is possible to cause a blemish from the beginning?[3] — Who knows which animal will come out [the tenth]?[4] And should you say that he brings it out as tenth,[5] [Scripture says]: He shall not search whether it be good or bad.[6] And should you say that it is possible to cause a blemish in the whole herd [of animals],[7] — the Temple may be speedily rebuilt and we shall require an animal for a sacrifice and there will be none. But does this not also apply to a first-born,[8] that the Temple may speedily be rebuilt and we shall require an animal for sacrifice and there will be none? — It is possible [in the latter case] to use plain [non first-born] animals. There too [in the case of the tithing of animals] it is possible to sacrifice animals bought?[9] — Since he causes a blemish in the entire herd [of animals],[10] and blemishes which disqualify consecrated animals are frequent, for even a cataract disqualifies, animals for sacrifice are not easy to obtain.[11]

IT APPLIES TO HULLIN ONLY BUT NOT TO CONSECRATED ANIMALS. But is it not obvious that the law of tithing animals does not apply to consecrated animals, seeing that they are not his?[12] — This statement refers to sacrifices of a minor grade[13] and is in accordance with the opinion of R. Jose the Galilean who said: Sacrifices of a minor grade are considered the property of the owners. For it has been taught: And commit a trespass against the Lord,[14] this includes sacrifices of a minor grade,[15] which are considered the owner's property. These are the words of R. Jose the Galilean. You might therefore think that they should be tithed. [The Mishnah] consequently informs us [that it is not so].[16] And why not say that this is so?[17] — The Divine Law says: [The tenth] shall be holy,[18] implying but not what is already holy.[19] Now the reason of this[20] is because the Divine Law says: ‘Shall be holy’, but otherwise the holiness of an animal set aside for tithe would have applied to consecrated animals.[21] But if a major grade of holiness is not superimposed on a minor grade is there any question of a minor grade being superimposed on a minor grade?

(What is referred to?[22] — As we have learnt: Neither objects dedicated for sacrifices nor offerings for Temple repair may be changed from one holiness to the other.[23] But it is permitted to dedicate [for Temple repair] the value [one receives for obliging somebody] in connection with dedicated sacrifices,[24] or we may declare [the benefit received for obliging somebody] as devoted [for the altar])![25] — You might have said that there[26] [the reason is that] every animal is not designated for a burnt-offering,[27] but here, since every animal must be tithed, therefore although he dedicated it for a peace-offering, he does not exempt it from the prohibition applying to an animal tithed. And what would be the practical difference?[28] That he is liable of transgressing on their account [the negative precepts of]: ‘It shall not be sold’, and ‘It shall not be redeemed’.[29] [The text therefore: ‘Shall be holy’] intimates that this is not so.

IT ALSO APPLIES BOTH TO LARGE CATTLE AND SHEEP BUT THEY CANNOT BE TITHED ONE FOR THE OTHER; TO LAMBS AND GOATS etc. And why should not [we derive a rule that] the new animals [born after Elul] and the old born [before Elul] be tithed one for the other a minori [thus]: If lambs and goats which are treated as diverse kinds in regard to one another are tithed one for the other, does it not stand to reason that new and old animals which are not treated as diverse kinds in regard to one another should be tithed one for the other? Scripture however, states: Thou shalt truly tithe.[30] Scripture speaks of two kinds of tithes, one the tithing of animals and the other the tithing of grain, and it compares the case of an animal tithed with that of the tithing of grain; just as in the case of the tithing of grain it is forbidden to tithe the new for the old[31] so in the case of the tithing of animals it is also forbidden to tithe the new for the old.

If this be the fact,[32] the same should apply to the case of lambs and goats? Why not say that we compare the tithing of animals to the tithing of grain so that, just as in the case of the tithing of grain you must not tithe one kind of grain for the other, so in the case of the tithing of animals you must not tithe one kind [of animal] for the other? — The Divine Law includes [all by stating] flock’.[33] If this be so,[34] then [include] also new and old [animals]?[35] — Scripture says: ‘Thou shalt truly tithe’?[36] And why do you see fit?[37] — Said Rab: Scripture says: ‘year by year’, [intimating], I [Scripture] have compared the tithing of animals with the tithing of grain in respect of the year,[38] but not with reference to any other matter [e.g., one kind of animal for another].

We have learnt elsewhere: We must not separate [terumah from] one kind of grain for another, and if one does so separate, his terumah is no terumah.[39] Whence is this proved? R. Ammi reported in the name of R. Jannai, (another version is: R. Ammi reported in the name of R. Simeon b. Lakish): [Scripture says]: All the best of the oil and all the best of the wine and of the wheat.[40] The Torah thus said: Give the best for this and the best for that.[41]

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(1) Lit., ‘issues into the air of the world’; this remedy being even a better one than that of a heathen sharing a part of the animal, v. supra 3b. Therefore a first-born is holy because we do not entertain a fear lest one might be led to commit an offence, seeing that he could, if he wished, eliminate all sanctity from the animal at the outset.

(2) In the case of an animal set aside as tithe.

(3) There is therefore a remedy, and so there is no need to keep the animal, because it can be maimed from the outset. Why therefore should not the law of tithing animals apply even nowadays?

(4) So as to maim it at the beginning.

(5) Lit., ‘the head of the ten’.

(6) Lev. XXVII, 33. Implying that he must not bring out the animal but that it must go out by itself.

(7) Before the tithing when it is still in a state of hullin (unconsecrated) as the law of tithing takes effect even with animals blemished.

(8) Where you say that he causes it a blemish.

(9) Animals bought or presented as gifts are not subject to the law of tithing. There is consequently no need to maim them.

(10) Those therefore which are born to him are thus disqualified, and therefore those animals bought are in a minority.

(11) Even by purchase and for this reason we do not set aside an animal nowadays as tithe.

(12) Having been dedicated they belong to the Temple.

(13) The Mishnah needs to inform us that even in such cases the law of tithing animals does not apply.

(14) Lev. V, 21, Scripture adding: ‘And lie against his neighbour’, implying a trespass which is at the same time ‘against the Lord’ and ‘against his neighbour’.

(15) So that if a man deposited for safe keeping with his neighbour a peace-offering which the latter at first denies on oath but which he afterwards admits to be in his possession, he pays the principal and the fine of one-fifth, for he has committed a trespass not only ‘against the Lord’ but also ‘against his neighbour’, since the owners partake of the offering.

(16) That the law of tithing animals does not apply even in such instances.

(17) That the law of setting aside an animal as tithe applies in the case of sacrifices of a minor grade.

(18) Ibid. XXVII, 32.

(19) As is the case with dedicated animals.

(20) Why the law of tithing animals does not apply to dedicated animals of a minor grade.

(21) Applying to it the prohibition attached to an animal tithed concerning which (as is explained later) Scripture says, ‘It shall not be sold, It shall not be redeemed’.

(22) What is this major and minor holiness which cannot be superimposed?

(23) Dedication for the altar taking no effect on objects dedicated for Temple repair, although the former holiness is of higher grade than the latter. The same applies to objects dedicated for Temple repair, which cannot be changed into objects dedicated for the altar.

(24) One who received for example from another Israelite a sela’ because he gives the animal to be offered up to a particular priest who is the son of the Israelite's daughter.

(25) V. Tem. 32a.

(26) In Tem. the reason is as follows.

(27) For the majority of animals are eaten. Consequently when he dedicates an animal for Temple repair, it is a genuine dedication and cannot be altered for offering up on the altar.

(28) Whether the sanctity of an animal tithed is superimposed upon that of a peace-offering or not?

(29) Lev. XXVII, 28, for peace-offerings are fit to be redeemed.

(30) Deut. XIV, 22. Lit., ‘To tithe, thou shalt tithe’, using the word Tithe twice.

(31) Scripture saying in the same verse: That the field bringeth forth year by year, thus intimating that it is forbidden to tithe last year's grain for this year's and this year's grain for the coming year's.

(32) That we compare the tithing of animals with the tithing of grain.

(33) By writing וצאן v. Mishnah; lit., ‘And of the flock’. The text thus includes all kinds of small cattle as being one in respect to tithing.

(34) That all is included.

(35) As regards tithing one for the other.

(36) Making the comparison with the tithing of corn as supra.

(37) To compare the tithing of new and old animals with tithing of grain. Why not compare the tithing of lambs and goats with the tithing of grain, thus forbidding the tithing of one for the other in small cattle?

(38) That those born after Elul, which is the New Year for animal tithing, cannot be tithed for those born before Elul.

(39) Ter. II, 4.

(40) Num. XVIII, 12.

(41) That for purposes of terumah or tithes each must be tithed with the best of its own kind, as Scripture says: When ye have heaved the best thereof (Num. XVIII, 30).

Talmud - Mas. Bechoroth 54a

We have found that wine and oil [cannot be tithed for each other].[1] Whence do we derive that this applies to wine and grain[2] or grain and grain?[3] We deduce this a minori [as follows]: If in the case of wine and oil which are not counted as diverse kinds in regard to one another,[4] you must not tithe one for the other, all the more must wine and grain or grain and grain, which are counted as diverse kinds in regard to one another,[5] not be tithed one for the other. But according to the opinion of R. Josaiah who said: [The law of diverse kinds does not apply] until one has sowed a wheat-seed, a barley-seed and a grape kernel with one and the same throw, how can you adduce this [argument]?[6] He adduces it as follows: If in the case of wine and oil which are not counted as diverse kinds in regard to one another, even through the sowing of another seed,[7] you must not tithe one for the other, all the more must wine and grain or grain and grain, which are counted as diverse kinds in regard to one another through the sowing of another seed,[8] not be tithed one for the other.

And whence do we know that you must not tithe generally any two other kinds[9] [one for the other]? — [The tithing of] these[10] is a rabbinical enactment and all the enactments of the Rabbis have the same scope as the [corresponding] biblical enactment. Hence just as two kinds which are ordained biblically must not be tithed one for the other, so also [two kinds] which are ordained rabbinically must not be tithed one for the other.

Said R. Abba b. Memel to R. Ammi: According to this,[11] in the case of the tithing of animals, since Scripture does not say: ‘And concerning the tithe of the herd, and the tithe of the flock’

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(1) Seeing that the expression ‘The best’ is used in connection with each.

(2) Since in connection with these, Scripture does not mention ‘the best’ in every case, but only with reference to wine.

(3) Wheat for barley or barley for wheat.

(4) Vine and olives not being treated as diverse kinds when sown together.

(5) A mixture of two kinds of grain constitutes ‘diverse kinds’ rabbinically. A mixture also of grain and vine constitutes ‘diverse kinds’ of the vineyard and is biblically forbidden.

(6) Since three seeds are necessary to cause ‘diverse kinds’, a mixture of two different grains or a mixture of vine and grain does not constitute ‘diverse kinds’.

(7) If he sowed a third seed, either wheat or barley, they are not considered ‘diverse kinds’ unless there are present two different kinds of grain.

(8) In the case of two kinds of grain, by sowing a vine and in the case of a vine and grain, by sowing barley or wheat.

(9) As e.g., beans and lentils, which are not grain.

(10) Biblically, tithing applies only to grain, wine and oil.

(11) Since you say above that the expression ‘the best’ used in each case with reference to wine and oil is for the purpose of forbidding tithing one for the other.

Talmud - Mas. Bechoroth 54b

it should be permitted to tithe one for the other?[1] He replied to him: Scripture says: ‘The tenth’ intimating that you must give ‘the tenth’ of this [kind of animal] and the tenth of the other.[2] If this be the case, lambs and goats should also [not be tithed one for the other]?[3] — Scripture says: ‘And of the flock’, implying that all kinds of flock are considered one. Here too let us say that the text ‘And of the wheat’ implies that all kinds of grain are considered one?[4] — Said Abaye: [Scripture says]: The first-fruits of them.[5] And R. Ela likewise [adduced the text]: ‘The first-fruits of them’,

Raba said: Even without [the text] ‘The first-fruits of them’, we could not say that the text ‘And of the wheat’ implies that all kinds of [grain] are considered one. For it is quite intelligible that we should say there that ‘And of the flock’ implies that all kinds of flock are considered one, for if you should be inclined to think that [Scripture intended that] lambs and goats are also not to be tithed one for the other, then let Scripture say, ‘And concerning the tithe of animal’.[6] And should you object that if it had written, ‘And concerning the tithe of animal’, I might have assumed that it included even a beast of chase,[7] [the answer is that] we have an analogy between the expressions ‘under’[8] and ‘under’[9] and we could have derived a minori from new and old that you must not tithe one kind of animal for another;[10] and why therefore [does Scripture state] ‘Of the herd and of the flock’? [It must be] to intimate that only as regards the herd [large cattle] and the flock you must not tithe one for the other, but as regards lambs and goats, you may tithe one for the other. But here,[11] [Scripture] could not avoid saying ‘of the wheat’, in order to exclude other kinds.[12] To this R. Huna B. Nathan demurred: Why not say [that the text] ‘Of the herd and of the flock’ intimates that you may tithe large cattle for flock?[13] — Mar Zutra son of R. Nahman replied to him Raba also holds [the derivation from the text] ‘The tenth’.[14] Some there are who say: Said Raba: Even without [the text] ‘the tenth’ you could not say that large cattle and sheep are tithed one for the other, for the tithing of animals is compared to the tithing of grain; just as in the case of the tithing of grain you must not tithe one kind of grain for the other, so in the case of tithing of animals you must not tithe one for the other.[15] But was it not Raba who said: [Scripture says]: year [by year]’[16] implying [thus]: I [Scripture] have compared the tithing of animals with the tithing of grain only with regard to the year[17] but not with regard to any other matter?[18] — Raba went back on this former teaching.[19] Or if you wish I can say: One [of these statements] was made by R. Papa.[20]

MISHNAH. ANIMALS ARE COMBINED FOR PURPOSES OF TITHING SO LONG AS THEY CAN STILL PASTURE WITHIN THE DISTANCE THAT CATTLE WANDER.[21] AND WHAT IS THE DISTANCE OVER WHICH THEY CAN WANDER WHILE PASTURING? — SIXTEEN MILS.[22] IF THERE WAS BETWEEN TWO GROUPS OF ANIMALS A DISTANCE OF THIRTY-TWO MILS,[23] THEY DO NOT COMBINE FOR THE PURPOSE OF TITHING. IF HOWEVER THERE WAS [A HERD] IN THE MIDDLE [OF THE DISTANCE OF THIRTY-TWO MILS] HE BRINGS THEM [INTO ONE SHED] AND TITHES THEM [AT SOME POINT] IN THE MIDDLE.[24] R. MEIR SAYS: THE [RIVER] JORDAN IS REGARDED AS FORMING A DIVISION AS REGARDS THE TITHING OF ANIMALS.[25]

GEMARA. Whence is this proved? Said Rabbah b. Shila: Because Scripture says: Shall the flocks pass again under the hands of him that telleth them.[26] And it was certain to the Rabbis that the eye of a shepherd can exercise control for a distance of sixteen mils.

IF THERE WAS BETWEEN TWO GROUPS OF ANIMALS A DISTANCE OF THIRTY-TWO MILS THEY DO NOT COMBINE etc. You say that where the distance is thirty-two mils the animals do not combine [for the law of tithing], thus implying that in less of this distance they do combine. But does not [the Mishnah] state previously that the distance for combining the animals is sixteen mils, implying but not a greater distance? — [The Mishnah mentions thirty-two mils] because it wishes to report in a later clause: IF HOWEVER THERE WAS A HERD IN THE MIDDLE OF THE THIRTY-TWO MILS HE BRINGS THEM [INTO A SHED] AND TITHES THEM IN THE MIDDLE.[27] And how many?[28] — Said Rab: Five on this side and five on the other and five in the middle,[29] for the animals in the middle are fit to be combined either with those on the one side or with those on the other.[30]

But Samuel says: Even if there are five animals on one side and five on the other, and one in the middle, they combine for tithing,[31] for we regard the shepherd as standing in the middle.[32] And we therefore apply here the text: Of him that telleth.

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(1) Let it therefore be permitted to tithe large cattle for sheep, since the word מעשר (tithe) is not mentioned in Lev. XXVII, 32 with reference to every kind of animal enumerated in the text.

(2) The word מעשר (the tenth) occurs near the word בקר (cattle) and the word עשירי again occurs near the word וצאן (flock). Therefore מעשר is actually used in each case.

(3) Just as above Scripture says ‘the best’ with reference to oil and ‘the best’ with reference to wine, and a minori we conclude that one cannot be tithed for the other, so, as מעשר is mentioned in connection with herd and עשירי (the tenth) is mentioned in connection with flock, let us here also conclude a minori from new and old as stated above that you cannot tithe one kind of small cattle for another kind of small cattle, v. Sh. Mek.

(4) And therefore let wheat be tithed for barley.

(5) Num. XVIII, 12. This occurs near the text ‘Of the wheat’ to intimate ‘Give the first-fruit of each kind of corn’.

(6) Instead of ‘of the herd’; and I should have known that you must not tithe one kind of animal for another, as I would have inferred this a fortiori from new and old, as explained above.

(7) The general term’ animal ‘ בהמה including also חיה , ‘beast of chase’, v. B.K. 54b. Hence a beast of chase would be subject to the law of tithe.

(8) Under the rod (Lev. XXVII, 32) mentioned in connection with tithing.

(9) Under the dam (Ibid. XXII, 27), where a beast of chase is not included,

(10) If a new animal born after Elul cannot be tithed for one born before Elul although they are not counted as diverse kinds in regard to one another, how much more so is this the case with two kinds of animals counted, as they are, as diverse kinds in regard to one another.

(11) In connection with terumah, the text ‘And of the wheat’ is not superfluous, since it enables us to deduce that you must not tithe wheat and wine one for the other, but you may tithe wheat for wheat.

(12) That they are not subject biblically to the law of tithes.

(13) Lit., ‘to mix herd with flock’. How does Raba know that the reason why Scripture writes ‘Of the herd etc.’ is so that one must not tithe one for the other? Perhaps Scripture specified the animals in details in order to deduce that you may tithe one for the other. For had Scripture only said: ‘And concerning the tithe of the animal’, I should have inferred a minori from ‘new and old’, as explained above, that you must not tithe one for the other. R. Huna in asking this question was under the impression that since Raba does not hold with Abaye's interpretation of the text ‘The first fruits of them’, he also does not accept the interpretation derived from the text ‘the tenth’ (Rashi)!

(14) Although he does not expound the text ‘The first-fruits of them’, he does agree with the interpretation based on the text ‘the tenth’. Therefore we cannot explain the text ‘Of the herd etc.’ as teaching that you may tithe one kind of animal for the other.

(15) And this does not apply to lambs and goats because we have an amplification in ‘and of the flock’. It is also appropriate that we should exclude cattle and sheep from tithing one another, since they are two distinct kinds of animals rather than lambs and goats which are akin, as shown e.g., by the fact that when one vows an animal from the flock, he can bring either a lamb or a goat (Rashi).

(16) Deut. XIV, 22; v. supra 53b.

(17) I.e., that you must not tithe animals born after Elul for animals born before Elul.

(18) E.g., tithing one kind for the other, there being no restriction in this respect.

(19) And holds that the analogy between the tithing of animals and the tithing of grain applies even with regard to the tithing of cattle for flock and that you must not tithe one kind of animal for the other. With reference however to lambs and goats there is an amplification ‘and of the flock’.

(20) Either for the analogy of ‘year’ or the comparison between the tithing of animals and the tithing of grain. R. Papa succeeded Raba in spiritual leadership and often a teaching emanating from the former was attributed to the latter (Tosaf.).

(21) Lit., ‘foot of the animal’. And if there are five animals in one village and five in the other with a distance of sixteen mils between them, all belonging to one man, he brings them into one shed and sets aside an animal as tithe. But if the distance is greater, they are not subject to the tithe.

(22) The shepherd can exercise control over the animals for this distance but not more. A mil == two thousand cubits.

(23) The same applies to any distance exceeding sixteen mils.

(24) The centre herd combining with the herds on the sides. The Mishnah does not mean strictly that he has to bring them to the middle in order to be tithed.

(25) If there were five sheep on one side of the Jordan and five on the other although the distance was much less than sixteen mils, the river constitutes a boundary and therefore the animals are not combined so as to become subject to the law of tithe.

(26) Jer. XXXIII, 13, implying that if they can be numbered by one shepherd we apply to them the expression ‘passed under the rod’, a similar expression ‘shall pass’ also being used here.

(27) But in reality if the distance between the two flocks at all exceeds sixteen mils they cannot be combined for tithing.

(28) Animals must be there in the thirty-two mils so that the middle herd may combine the rest for tithing.

(29) And the surplus five animals are kept and eventually combined with others when they are born. But if the animals on the one side are nearer to the centre herd and the animals on the other side are more distant than sixteen mils from the centre herd, the distant animals are altogether exempted from tithing and there is no need to wait for others to be born in order to combine.

(30) But if there were five animals in the middle and four on one side and five on the other, the four do not combine for tithing and there is no need to wait for the period of the birth of new animals (Rashi).

(31) And although this one animal is of little use as regards the number, since however the shepherd is in the habit of going there to look after it, it is as if he stood there and it combines with the other animals for the purpose of tithing.

(32) Of the thirty-two mils. And so according to Samuel we combine the animals to be subject to tithing, where there are four on one side, five on the other and one in the centre, as the latter is fit to combine for the number required to be tithed.

Talmud - Mas. Bechoroth 55a

An objection was raised: If he had five animals in Kefar Hananiah[1] and five in Kefar 'Uthnai[2] [a distance of thirty-two mils], the animals do not combine for tithing until he has one animal in Sepphoris. Shall we say that this confutes Rab? — Samuel explained on the view of Rab [as follows]: [The case here is one] where e.g., there were nine on one side and nine on the other and one in the middle,[3] the middle animal being fit to be combined either with the one group or with the other. R. Papa said: According to the opinion of Samuel, even the shepherd himself[4] can combine the animals [for tithing] and even the implements of the shepherd.[5]

R. Ashi inquired: What of the shepherd's dog?[6] Do we say that since when he calls it it comes, therefore it, [the dog], cannot help to combine [the animals for tithing],[7] or since the dog does not always come [at his bidding], he requires to go and fetch it [and therefore it does help to combine the animals for tithing]? — Let this stand undecided.

R. MEIR SAYS: THE [RIVER] JORDAN IS REGARDED AS FORMING A DIVISION WITH REFERENCE TO THE TITHING OF ANIMALS. Said R. Ammi: This is the case only where there is no bridge, but where there is a bridge the bridge combines the animals [for the purpose of tithing]. We see consequently that the reason[8] is because they are not in contact with each other.[9]

An objection was raised: If he had animals on both sides of the Jordan or in two autonomous cities[10] as e.g., Namer and Nemuri[11] the animals are not combined [for the purpose of tithing]. And needless to say [that animals] outside the Land [of Israel] and [animals] in the Land [of Israel] [do not combine for tithing purposes]. Now is not outside the Land [of Israel] and in the Land [of Israel] on a par with a place where there is a bridge,[12] and yet the [Baraitha] states that they do not combine?[13] — Rather said R. Hiyya b. Abba in the name of R. Johanan: The following is the reason of R. Meir: Scripture says: And the Jordan was the border of it on the east side;[14] Scripture thus makes it a separate border [boundary] on its own. But on this reasoning, where it says: And the border was drawn there, And the border went up,[15] will you also say that the text makes it a separate border on its own?[16] — The case is different there, because Scripture says: This shall be unto you the land according to the borders round about,[17] [intimating that] the whole of the Land of Israel is [regarded as possessing] one border.[18] If this be the case,[19] then is not the Jordan too [a part of the Land of Israel]?[20] — [Scripture says: 'According to the border etc.' with reference to the] 'land',[21] but not [with reference to] the Jordan.

There is no difficulty on the view of R. Hiyya b. Abba,[22] for this reason [the Mishnah] specially mentions the Jordan, but on the view of R. Ammi, why does it not mention all the rivers?[23] This is indeed a difficulty. May it be said that Tannaim differ on these points[24] [Scripture says]: When ye pass over the Jordan into the land of Canaan,[25] implying that the 'land' is the land of Canaan but that the Jordan is not the land of Canaan. These are the words of R. Judah b. Bathyra. R. Simeon b. Yohai says: Behold Scripture says: On this side the Jordan near Jericho eastwards towards the sun rising,[26] implying that just as Jericho is part of the land of Canaan, so is the Jordan part of the land of Canaan.

Said Rabbah b. Bar Hana: The real Jordan is only from Jericho and below.[27] What is the legal bearing of this remark? Shall I say it is with reference to one who vows?[28] Why not be guided by the common parlance of men so that wherever men call it 'Jordan' it should be forbidden to him? Rather it must be with reference to the tithing of animals.

So indeed it has been taught in a Baraitha: The Jordan issues from the cavern of Paneas,[29] flows through the Lake of Sibkay,[30] the Lake of Tiberias, and the Lake of Sodom,[31] and proceeds to run Into the Mediterranean Ocean. And the real Jordan is from Jericho and below.

R. Hiyya b. Abba reported in the name of R. Johanan.[32] Why is it called Yarden [Jordan]? Because it comes from Dan.[33] Said R. Abba to R. Ashi: You learnt this is from the name, we learn it from here: And they called Leshem Dan after the name of Dan their father,[34] [expounding which] R. Isaac said: Leshem is Paneas. And it has been taught: The Jordan issues from the cavern of Paneas.

Said Rab Kahana: The chief supply of the Jordan comes from the cavern of Paneas. Where a person says 'I will not drink waters from the cavern of Paneas' the water of the entire Jordan is forbidden to him. The liver is the fountain head of the blood, as R. Isaac said. For R. Isaac said: A mashed liver causes tent defilement with a quarter [of a log].[35] The chief source of all waters is the Euphrates. For Rab Judah reported in the name of Rab: If one vows forbidding himself to benefit from the waters of the Euphrates, he is forbidden to benefit from all the waters in the world. How am I to understand this? Shall I say that he said: 'I will not drink from the waters of the Euphrates?' [Does not this imply that he meant to say:] I will not drink from the waters of the Euphrates but l will drink from any other river?[36] Rather he must have said: 'I will not drink from the waters which come from the Euphrates'. For Rab Judah reported in the name of Rab: All other rivers in the world are lower than the three[37] and these three are lower than the Euphrates.[38] But are there not

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(1) [Kafr 'Anan, north of Sepphoris.]

(2) [Kefr Kud, on the border of Galilee and Samaria, South of Sepphoris.]

(3) And the expression 'one in the middle' of the Baraitha does not refer to the first clause, namely, where there are five on one side etc. but it refers to where there were nine on one side etc.

(4) If he has a residence in the middle of the thirty-two mils.

(5) Lying in that village in the middle combine to make him liable to tithe the animals, since he must go there eventually to fetch his things and we therefore regard the place as being under his observation.

(6) Do we consider the dog in the middle of the thirty-two mils capable of combining the animals on both sides as regards tithing?

(7) As then he has no occasion to go there and we cannot apply to him the text, Him that telleth.

(8) Why the Jordan forms a division.

(9) The animals are in touch neither with one another nor with the shepherd, the water intervening.

(10) Although in one province.

(11) Although they are near to each other, being only separated by one mil.

(12) For there is no water to interpose and one can go from one to the other territory without hindrance.

(13) Even although both are within a mil of each other, yet since one part is in Palestine and the other outside, there is no combination as regards tithing.

(14) Josh. XVIII, 20.

(15) Josh. XVIII, 12 and 14, with reference to the boundaries between tribe and tribe.

(16) So that the animals in the territory of one tribe and animals in that of another do not combine even within the sixteen mils. Why then does the Baraitha mention the case of outside Palestine and Palestine as not combining, since this occurs even in Palestine?

(17) Num. XXXIV, 12.

(18) After mentioning the borders of the various tribes, Scripture proceeds to describe them as one land.
(19) If the whole of Palestine is considered as possessing one boundary.
(20) And therefore in the case of tithing it should not divide.
(21) The land borders of Palestine are regarded as non-existent for purpose of combining, but not the border of the Jordan.
(22) Who says that the reason why R. Meir holds that the Jordan forms a division is because it is described as ‘a border’.
(23) As forming a division and not allowing combination for the purpose of tithing, since according to his view the only reason why the Jordan forms a division is because there is no contact between the animals on the one side and the shepherd on the other. All rivers, consequently and not only the Jordan divide if they have no bridges.
(24) Whether the Jordan is regarded as the land of Canaan or not.
(25) Num. XXXV, 10.
(26) Ibid. XXXIV, 15.
(27) But the part above is not the Jordan.
(28) Against deriving any benefit from the Jordan. Should he be permitted to drink of the waters of Jericho and above or not?
(29) Caesarea Philippi, modern Banias, a city in North Palestine (Jast.).
(30) Sea of Samachonitis, north of Lake Tiberias (Sea of Gennesareth).
(31) The Dead Sea.
(32) Var. lec. R. Jonathan.
(33) A combination of the word ירד (‘going down) and דן (Dan). (12) That the Jordan comes from Dan.
(34) Josh. XIX, 47.
(35) One-fourth of a log being the quantity of vital blood from a corpse which is required to cause tent uncleanness (v. Num. XIX, 14).
(36) For usually when people speak of the Euphrates they refer to the river generally known as such.
(37) Pison, Gihon, Hiddekel mentioned in Gen. II, all waters drawing their supply from these.
(38) These in turn draw their supply from the Euphrates.

Talmud - Mas. Bechoroth 55b

springs higher than the Euphrates? — Said R. Mesharshea: These are the upper parts [the sources][1] of the Euphrates. But is it not written: And as to the fourth river it is the Euphrates?[2] — Said R. Nahman b. Isaac, (others say: R. Aha b. Jacob): [It means thus]: It is the Euphrates [mentioned] first.[3]

It has been taught: Its name[4] is Yubal [river] because Scripture says: For he shall be like a tree planted by the waters and that spreadeth the roots by the river [Yubal].[5] And why is it called Perath? Because its waters are fruitful [fructifying] and increase.[6] [But the Sages say its name is Perath. The Master said: Because its waters are fruitful and increase].[7] This supports Samuel. For Samuel said: The river grows from the waters coming down its banks.[8] In this he differs from Rab. For R. Ammi reported in the name of Rab: The rise of the Euphrates is a weighty witness [indication] that it has rained in Palestine. The father of Samuel made a mikweh[9] for his daughters in the days of Nisan and had mats laid for them[10] in the days of Tishri. ‘He made a mikweh in the days of Nisan’ because he agreed with Rab. For R. Ammi reported in the name of Rab: The rise of the Euphrates is a weighty witness [indication] that it has rained in Palestine. We fear therefore lest the dripping water[11] will be more than the flowing water and thus the greater part will consist of rain water.[12] ‘And had mats laid for them in the days of Tishri’. And there is a discrepancy between two opinions held by him.[13] For Samuel said: Waters do not ritually cleanse in a running condition,[14] except the river Euphrates[15] in the days of Tishri. MISHNAH. AN ANIMAL BOUGHT OR GIVEN AS A PRESENT IS EXEMPT FROM THE LAW OF CATTLE TITHE.

GEMARA. Whence is this proved? — Said R. Kahana: Because Scripture says: The first-born of thy sons thou shalt give unto Me. Likewise thou shalt do with thine oxen and with thy sheep;[16]

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(1) Lit., ‘ladders’, so called because they gush forth and look like ladders on the mountain slopes.

(2) Gen. II, 14 thus proving that the Euphrates is one of the rivers, and you say that they all issue from it.

(3) I.e., the river which went forth from Eden, and from thence was parted and became four heads (Gen. II, 10). The explanation is based on the superfluous ‘it is’.

(4) That of the Euphrates.

(5) Jer. XVII, 8, referring to the Tree of Life and the Tree of Life was in the Garden of Eden, the Euphrates watering the Garden of Eden.

(6) Welling up spontaneously without the help of rain.

(7) Inserted with Sh. Mek.

(8) Aliter: from its bed. Not from rain. And although Samuel does not distinctly mention the Euphrates, yet since all rivers draw from it, if ordinary rivers are fruitful, this is due to the waters of Euphrates being fruitful and increasing (Tosaf.).

(9) A gathering of flowing waters for ritual immersion. Samuel would have one specially constructed as he would not allow them to bathe in the rivers in case the rain water dropping from the clouds and the melting snows were greater than the flowing waters.

(10) Spread at the bottom of the river in which they bathed so that the mud should not interpose when bathing. Another opinion (Tosaf.) is: that the mats were put up on the shore as a screen, for in the days of Tishri the rivers were low, and for fear of being seen, they might hurry the bathing and not do it properly.

(11) I.e., the rain water.

(12) And rain water does not cleanse when it turns into a stream.

(13) By Samuel, who says above that a river grows waters coming down the shores, which contradicts the opinion expressed by him in the following observation. Var. lec.: There is a discrepancy between one opinion of Samuel and another.

(14) For the dripping water, the rain water, is constantly the larger amount.

(15) Because there is then a decrease in the rain water and also because the Euphrates is constantly welling up with fresh waters. Consequently, we see that he holds that rivers grow from rain water, unlike the opinion expressed above. Another explanation is (Rashi): Samuel's father specially made a mikweh for his daughters because it was the end of the winter and after the great rains but not in the middle of winter, whereas here Samuel says that we always require a mikweh except when bathing in the Euphrates in the days of Tishri. For further notes v. Ned., Sonc. ed., p. 129.

(16) Ex. XXII, 28, 29.

Talmud - Mas. Bechoroth 56a

just as the law of [the first-born of] thy sons does not apply to a case of bought or presented,[1] so [the law referring to] ‘Thine oxen and thy sheep’ does not apply to the bought or given as a present. But does not this [text] refer to a first-born?[2] — Scripture says: Thus thou shalt do.[3] If the text has no bearing on the subject of a first-born, to which doing [i.e., the act of consecration] does not apply, since a first-born is holy from birth, then apply it to the subject of the tithing of animals. But why not say: Apply it to the case of a sin-offering or trespass-offering?[4] — [The inference to be made] must resemble the case of ‘thy [first-born] son’.[5] Just as ‘thy [first-born] son’ is not brought [to atone] for a sin, so ‘thine oxen and [with] thy sheep’ must be such as are not brought [to atone] for a sin. But why not say: Apply [the text] to a burnt-offering or peace-offering? — [The inference to be made] must resemble the case of ‘thy [first. born] son’. Just as the case of ‘thy [first-born] son’ [is obligatory][6] and he cannot be brought [to the altar] as the result of a vow or freewill-offering, so in the case of ‘thine oxen and with thy sheep’. But why not say: Apply [the text] to the case of a pilgrim's burnt-offering of appearance [before the Lord]?[7] — [The rule] must resemble the case of ‘thy first-born son’. Just as in the case of thy first-born son there is no fixed time for him to become holy,[8] so in the case of ‘thine oxen and with thy sheep’ no time is fixed for their holiness. I might have said, however, that just as [the rule of] ‘thy first-born son’ does not apply at all to where he is bought, similarly [the rule of] ‘thine oxen and with thy sheep’ does not apply at all to where they are bought; why then did R. Assi report in the name of Rab Johanan: If one bought ten embryos which were in the insides of their mothers they all enter the shed to be tithed?[9] — Said Raba: Scripture says: ‘Thou shalt do’, intimating that only when doing [i.e., the act of consecration] is possible[10] does Scripture impose restrictions.[11]

[To revert to] the [above] text: ‘R. Assi reported in the name of R. Johanan: If one bought ten embryos which were in the insides of their mothers, all of them enter the shed to be tithed’. But have we not learnt: AN ANIMAL BOUGHT OR GIVEN AS A PRESENT IS EXEMPT FROM THE LAW OF CATTLE TITHE? Said R. Eleazar: R. Johanan appeared [last night] to me in a dream [therefore I know] that I will say a good thing [to-day], [as follows]: Scripture says: ‘Thou shalt do’, intimating that only where the act of consecration is possible does Scripture impose restrictions.

R. Simeon b. Eliakim raised an objection against the opinion of R. Eleazar: [The law of] an animal bought, applies also to an animal too young for sacrifice![12] — He replied to him: This is not a [recognized] teaching. And if you will say that it is a [recognized] teaching, then it must be the opinion of R. Simeon b. Judah.[13] For it has been taught: R. Simeon b. Judah says in the name of R. Simeon: An animal too young for sacrifice may enter the shed to be tithed, and it is on a par with a first-born. Just as a first-born is holy before its time[14] and is sacrificed after its time [i.e., after waiting seven days], similarly an animal too young for sacrifice becomes holy before its time and is sacrificed after its time.

A Tanna recited before Rab: What kind of ‘hire’[15] may enter the shed to be tithed? Wherever it is given to her and then bought back from her.[16] But is not the animal disqualified because it is bought? — The questioner failed to notice that which R. Assi reported in the name of R. Johanan: If one bought ten embryos which were in the insides of their mothers, all of them enter the shed to be tithed.[17]

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(1) As the cases of being bought or given as a present are not relevant to human first-born, for only those born to him are liable to the law of the first-born.

(2) How then can you infer the case of tithing an animal from it? Moreover, a first-born is sanctified from birth.

(3) The words ‘Thou shalt do’ means the act of consecration which of course cannot apply to a first-born, since the latter is holy from birth and no special act of dedication is necessary.

(4) That they should not be brought from animals purchased or presented as a gift. What proof therefore have we that the text refers to the tithing of animals?

(5) The text referring to the first-born of man.

(6) Inserted with Sh. Mek.

(7) Which it is a duty to bring and which is not brought to atone for a sin.

(8) As it is sacred immediately after birth.

(9) Tosaf. observes that the same ruling applies even if they were already born, but are too young for sacrifice.

(10) Lit., ‘in the time of doing’. When dedication is appropriate, viz., after birth but not when the embryo is still in the inside of the animal.

(11) Ordaining that an animal bought or presented as a gift is not to be tithed.

(12) If he bought it before the seventh day from its birth, it no longer enters the shed to be tithed, this certainly being the case if he bought it as a full-grown animal. We see then that its being too young for sacrifice prevents consecration from taking place, and still the law of an animal bought applies to it.

(13) For according to his opinion an animal within seven days of its birth can be dedicated, and therefore the law of an animal bought applies to it. He admits nevertheless that if an embryo was in the inside of the mother, the law of an animal bought does not apply to it.

(14) For sacrifice has begun, viz., from seven days before its birth, since it is holy from birth.

(15) A lamb given as the hire of a harlot, v. Deut. XXIII, 19.

(16) If therefore he has nine animals and this one, they are subject to tithing. And if one of the fit ones come out the tenth, then it is well. And if the harlot's offering came out the tenth, it is eaten when it becomes blemished by its owners.

(17) And here too we are dealing with a case where she was given an embryo which was in the inside of the mother.

Talmud - Mas. Bechoroth 56b

And why should not [the harlot] herself tithe it?[1] — The reference is to a heathen harlot.[2] But does not [the Baraitha] deal with an Israelitish harlot and let her tithe it herself? — This is what [the Baraitha] informs us [by implication]: That in the case of an Israelitish harlot, the animal has not the law of 'hire'[3] as Abaye taught. For Abaye said: The hire of a heathen harlot is forbidden [for the altar] and a priest who has sexual relations with her is not liable to lashes for transgressing the negative precept: Neither shall he profane his seed among his people.[4] But the hire of an Israelitish harlot is permitted [for the altar] and a priest, who has sexual relations with her is liable to lashes for transgressing the negative precept: 'Neither shall he profane his seed among his people'. The hire of a heathen harlot is forbidden [for the altar] because we form an analogy between the expressions 'abomination' [mentioned in connection with a harlot][5] and 'abomination' mentioned in connection with forbidden relatives.[6] Just as in the case of forbidden relations betrothal takes no effect,[7] so a harlot [whose offering is forbidden] is one in whose case betrothal takes no effect.[8] 'And the priest who has sexual relations with her is not liable to lashes', because Scripture says: 'Neither shall he profane his seed among his people'; the Divine Law says he must not profane his seed, but in this case it is not his seed.[9]

MISHNAH. IF BROTHERS BECAME PARTNERS,[10] THOUGH THEY ARE STILL BOUND TO PAY AGIO,[11] THEY ARE EXEMPT FROM THE TITHE OF CATTLE.[12] AND WHEN THEY BECOME LIABLE TO TITHE OF CATTLE,[13] THEY ARE EXEMPT FROM PAYING AGIO;[14] IF THEY ACQUIRED[15] ANIMALS [THE CATTLE] FROM THE ESTATE,[16] THEY ARE BOUND [TO TITHE THEM].[17] BUT IF NOT,[18] THEY ARE EXEMPT FROM TITHING; IF[19] THEY FIRST DIVIDED UP THE ESTATE AND THEN AGAIN BECAME PARTNERS, THEY ARE BOUND TO PAY AGIO AND ARE EXEMPT FROM TITHE OF CATTLE.

GEMARA. Our Rabbis taught: [Scripture says]: 'Shall be thine',[20] intimating, but not that is held in partnership.[21] You might have thought that exemption applies even if one acquired the animals from the [paternal] estate. Therefore, the text states: 'Shall be'.[22] But is not this written in connection with the case of a first-born? — If it has no bearing on the case of a first-born, since the law of the first-born applies even in the case of a partnership, because it is written. And the firstlings of your herds and of your flocks,[23] then apply it to the case of tithing animals.

Said R. Jeremiah: Sometimes they are bound to tithe and to pay agio and sometimes they are exempt from both. Sometimes they are bound to pay agio and are exempt from tithing [the animals] and sometimes they are bound to tithe [the animals] and are exempt from paying agio. They are bound to tithe the animals and pay agio in the case where they divided[24] the monies but not the animals.[25] They are exempt from both, where they divided the animals but not the monies. They are bound to pay agio and are exempt from tithing animals where both animals and monies were divided. They are bound to tithe and are exempt from paying agio where neither monies nor animals were divided. Is not all this obvious?[26] — He [R. Jeremiah] needed to inform us of the case where the animals were divided but not the monies.[27] You might have thought that since they divided the animals, they have thus shown their intention of dividing the rest, and therefore they should be bound to pay agio. He therefore informs us that [this is not so].

Said R. 'Anan: This[28] is meant only when they divided kids against he-goats [in accordance with their value] and he-goats against kids [in accordance with their value][29] but where they divided kids against kids and he-goats against he-goats one can say: 'This is the portion which was his from the outset'.[30] But R. Nahman says: Even if they divided kids against kids and he-goats against he-goats we do not say: 'This was the part which was his at the outset'.[31]

And R. Eleazar also says:[32] This is meant only when they divided nine large animals against ten small[33] ones [according to their value], or ten small animals against nine large ones. But if they divided nine animals against nine or ten animals against ten, one can say: ‘This is the part which was his from the outset’. But R. Johanan says: Even if they divided nine animals against nine or ten animals against ten, one does not say: ‘This is the part which was his at the outset’.

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(1) Since an embryo is not regarded as ‘hire’ but as a gift and can be eaten in its blemished state if it came forth the tenth. Why therefore must they proceed to buy it from her? (Rashi). R. Gershom explains that hire constitutes no prohibitions as regards tithing an animal, the rule of ‘lewdness’ not applying to an animal tithed, as is explained infra 57a.

(2) To whom the law of tithing animals is not applicable.

(3) And is even permitted for the altar, the law of ‘hire’ only applying to a heathen harlot.

(4) Lev. XXI, 15.

(5) Deut. XXIII, 19.

(6) Lev. XVIII, 26.

(7) For the penalty of kareth (v. Glos.) applies to such cases, and all are agreed that betrothal cannot take effect in them.

(8) And a heathen's betrothal also is no betrothal, and therefore her hire is forbidden.

(9) For the offspring has the status of the gentile mother.

(10) Having divided their father's estate and then become partners.

(11) When they bring their half-shekels to the Temple. It was customary on such occasions to pay a surcharge to compensate for any loss incurred in the Temple shekels collection in changing the shekels or half shekels into other money, v. Shek. I,7. Even if they wish to give a whole shekel together, they must pay double agio as if they were two strangers.

(12) For partners are exempt from tithing animals born to them so long as partnership lasts.

(13) As, for example, where the estate was not divided and it is still the inheritance of their father.

(14) If the two brothers gave a whole shekel, for it is as if their father were alive, he being able to exempt them when alive from paying agio.

(15) The Mishnah here does not exactly mean by the word in bought with money. for an animal bought is exempt from the law of tithing, but only that the animals fell to them as an inheritance from their father.

(16) Lit., ‘that which belongs to (i.e., is the possession of) the house’.

(17) But are exempt from agio. The clause IF THEY ACQUIRED etc. is an explanation of the previous clause of the Mishnah, as follows: In saying that where tithing is required there is exemption from agios, we mean where they acquired etc.

(18) If they divided up the estate and then became partners again, the animals being born subsequently.

(19) This passage to the end of the Mishnah is an explanation of the previous clause; But if not etc. For further notes v. Hull., Sonc. ed., p. 25b.

(20) Num. XVIII, 15.

(21) The text implying that you give the animal which belongs to you by yourself but not that which belongs to you in partnership.

(22) That even in such a case he gives the animal.

(23) Deut. XII, 6. Your herds etc., the plural number being used.

(24) And became partners afterwards; hence they pay agio.

(25) And since the animals were not divided, they are still the fathers’ inheritance and must be tithed.

(26) As I could have derived these ruling from the Mishnah. What need has R. Jeremiah to teach us all this?

(27) That we adopt the lenient view and exempt in both.

(28) When we say that when they divided and then became partners they are exempt from tithing.

(29) For in that case one cannot say that this is the part which was due from his father's inheritance from the beginning, because at the death of their father, each brother acquired a half of the kids and a half of the goats. Consequently, the animals which were present at the time of the division of the estate are not subject to the tithe, as they come under the law of animals bought, while those which are born subsequently, are exempt on account of the brothers becoming partners.

(30) Because we hold the principle of bererah (retrospective designation; v. Glos.) and therefore each brother's share is still regarded as an inheritance, even after the brothers became partners again. Consequently, the animals born before the dividing up of the estate are not considered as animals bought to be exempted from tithing, nor are those that are born subsequently considered as born to brothers who hold the status of partners.

(31) For we do not hold the principle of bererah. Therefore at first when the division takes place the animals are regarded as bought, and those born later are regarded as born to brothers who hold the status of partners.

(32) The difference between R. Eleazar and R. Johanan is in principle the same as that between R. Anan and R. Nahman.

(33) Or lean ones (R. Gershom).

Talmud - Mas. Bechoroth 57a

And R. Johanan follows the opinion he expressed elsewhere:[1] For R. Assi reported in the name of R. Johanan: Brothers who divide an estate are considered as purchasers and return [their respective parts] to each other in Jubilee.[2] And it was necessary [for R. Johanan to state both rulings]. For if he had stated only this ruling,[3] I might have said that R. Johanan only holds his view in this case because the tithing of animals is compared with ‘thy first-born son’.[4] Just as the text thy first-born son’ deals with a case where you are certain[5] so the text ‘thine oxen and with thy sheep’ deals with a case where you are certain. But with respect to a field, only in case of a sale does the Divine Law say that it should return [to its original owner] in Jubilee, but not in the case of an inheritance or a present. And if R. Johanan had stated his ruling with reference only to a field,[6] I might have said that in that case R. Johanan holds this opinion because it makes for greater stringency.[7] Or indeed, a field returns in Jubilee because [after returning] it is [like] at the beginning [before the division],[8] but here I might have said, it is not so.[9] Therefore both [rulings by R. Johanan] are necessary. An objection was raised: And likewise if partners divided [an estate] and one took ten lambs and the other took nine with a dog, [the lambs] taken against the dog are forbidden [for the altar][10] but those taken with the dog[11] are permitted. Now if you say that we hold the principle of bererah let him pick out one lamb as the equivalent of the dog and the rest should be permitted for the altar?[12] — Said R. Ashi: If they were all of the same value,[13] it would really be so.[14] We are assuming here,[15] however, that they are not all alike in value and this dog is equal in value to one lamb plus a little and this little extends to all.[16]

MISHNAH. ALL [LAMBS] ENTER THE SHED TO BE TITHED EXCEPT KIL'AYIM,[17] TREFAH, OFFSPRING BROUGHT FORTH BY MEANS OF THE CAESAREAN SECTION, AN ANIMAL TOO YOUNG FOR SACRIFICE, AND AN ‘ORPHAN’ [ANIMAL]. AND WHAT IS AN ‘ORPHAN’? WHEN ITS DAM HAS DIED DURING ITS BIRTH OR WAS SLAUGHTERED AND SUBSEQUENTLY GAVE BIRTH. BUT R. JOSHUA SAYS: EVEN WHEN THE DAM HAS BEEN KILLED, IF THE HIDE IS STILL INTACT THE OFFSPRING IS NOT AN ‘ORPHAN’ ANIMAL.

GEMARA. Whence is this proved? — For our Rabbis taught: Scripture says: When a bullock or a sheep’,[18] this excludes the case of kil'ayim. Or a goat;[19] this excludes the case of nidmeh;[20] Is brought forth[21] excludes the case of offspring brought forth by the caesarean section; Then it shall be seven days excludes the case of an animal too young for sacrifice; Under the dam excludes the case of an ‘orphan’. R. Ishmael son of R. Johanan b. Berokah says: Here it says: Under the rod,[22] and there it says: Under the dam;[18] just as there[23] all the categories[24] are excluded, similarly here all the categories are excluded. And just as here[25] a trefah is excluded,[26] so there a trefah is excluded.

What is the word ALL meant to include in addition? — It includes what our Rabbis taught: [An animal] which covered [a woman], that was covered [by a man] or designated for idolatrous purposes and one actually so used,[27] or given as ‘hire’,[28] or as ‘price [of a dog]’,[29] a tumtum[30] and a hermaphrodite — all of these enter the shed to be tithed. But R. Simeon b. Judah said in the name of R. Simeon: A tumtum and a hermaphrodite do not enter the shed to be tithed. And our Tanna?[31] — If he draws an analogy between ‘under’[32] and ‘under’ mentioned in connection with consecrated objects, these also[33] should not be tithed?[34] And if he does not infer from the case of consecrated objects, whence does he infer these?[35] — One may still say that he does draw the analogy, but the Divine Law included these because it is written: Because their corruption is in them and blemishes be in them; they shall not be accepted for you.[36] And R. Ishmael taught: Wherever corruption is mentioned, the act of 'lewdness'[37] and idolatry is meant. An act of 'lewdness' because it is written in the Scriptures: For all flesh hath corrupted his way on the earth[38] and idolatry because it is written: Lest ye corrupt yourselves and make you a graven image the similitude of any figure the likeness of a male or female.[39] And where ever a blemish disqualifies, the act of 'lewdness' and idolatry also disqualify,[40] and wherever a blemish does not disqualify, the act of 'lewdness' and idolatry do not disqualify. And in the case of tithing an animal, since a blemish does not disqualify, because Scripture writes: He shall not search whether it be good or bad neither shall he change it,[41] the act of 'lewdness' and idolatry also do not disqualify an animal for tithing. The case of an animal which covers [a woman] or that was covered [by a man] come under the head of 'lewdness'. [An animal] designated for idolatrous purposes and one so used are cases of idolatry. And [one given as] 'hire' comes under the category of an act of 'lewdness'; and the — 'price [of a dog]' is compared with the case of the 'hire'. As regards a tumtum and a hermaphrodite, he holds that there exists a doubt [in each case].[42]

'R. Simeon b. Judah says etc.' He holds that a tumtum and a hermaphrodite are of doubtful sex. Now in the case of consecrated objects, the Divine Law restricted the offering to an undisputed male and an undisputed female, prohibiting a tumtum or a hermaphrodite; and with regard also to the tithing of animals we form an analogy between 'under' and 'under' mentioned in connection with consecrated objects.

Our Rabbis have taught: All lambs enter the shed to be tithed except kil'ayim and trefah. These are the words of R. Eleazar b. Judah a man of Kefar Bartotha, who reported this in the name of R. Joshua. Said R. Akiba: I have heard from him that this applies also to offspring which came forth through the caesarean section, an animal too young for sacrifice and an 'orphan'. And the first Tanna [R. Joshua] quoted above?[43] If he draws the analogy between 'under' and 'under' mentioned in connection with consecrated objects, these too [which are added by R. Akiba] should not be tithed. And if he does not make the analogy, we can indeed understand why trefah is not tithed, because Scripture says: 'All that shall pass under the rod', thus excluding the case of trefah which does not 'pass'[44] but with regard to kil'ayim, whence does he prove this?[45] — One may still say that [the first Tanna] draws the analogy [mentioned] and in respect of offspring brought forth by means of the caesarean section

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(1) That there is no bererah.

(2) V. supra 52b.

(3) The case of an animal tithed.

(4) The first-born of thy sons thou shalt give unto Me. Likewise thou shalt do with thine oxen etc. Ex. XXII, 28, 29.

(5) That your son was born in your possession.

(6) That there is no bererah and that the field returns in Jubilee.

(7) For as there is a doubt we adopt the more stringent view that the brothers are considered as buyers and thus the field returns in Jubilee, whereas in the case of the tithing of animals, if you say that the animals are considered as bought, you are adopting the more lenient view.

(8) Since returning in Jubilee applies to a field, and therefore when this takes place we can apply the text: And ye shall return every man to his possession. We therefore say that there is no bererah in order that it should return to Jubilee.

(9) Because in the case of tithing animals, since the law of returning in Jubilee does not apply here, I might have said that we hold the principle of bererah and that what each of the brothers receives now is the same part which was his originally.

(10) Because one of them is the exchange for the dog, and as we do not know which, therefore all are prohibited for the altar.

(11) There is no prohibition as regards the nine lambs which are with the dog.
(12) For since we hold the principle of bererah, then we ought to leave it to his judgement and to assume that his intention was from the beginning that the lamb he would choose would be the equivalent of the dog (Tosaf.).
(13) If every lamb of the nine lambs had a companion in the ten lambs of equal value and thus it would be found that the tenth is the equivalent of the dog, then we would hold the principle of bererah.
(14) That he would pick out one and the remainder would be fit to be offered up on the altar.
(15) When we say that all the ten lambs are forbidden.
(16) Where the nine lambs of the ten are worth more than the nine which are together with the dog and the dog worth the tenth plus a little over. Thus a portion of the value of the dog is to be found in all the opposite lambs and consequently they are ali forbidden for the altar. For example, suppose the ten lambs are each worth four and one-tenth zuz, making a total of forty-one zuz, and the dog is worth five zuz. Then the nine remaining lambs are worth thirty-six zuz or four zuz each — one-tenth of a zuz less than each of the others. Hence the dog is the equivalent of each of the ten opposite lambs plus the tenth of a zuz in each, and this tenth in each is the equivalent of a portion of the dog and therefore causes them all to be forbidden to be sacrificed being ‘the price of a dog’ (v. Deut. XXIII, 19).
(17) Beasts that are cross-bred.
(18) Lev. XXII, 27.
(19) A continuation of the previous scriptural text.
(20) Lit., one who resembles’. One whose mother is a ewe while the animal itself resembles a goat.
(21) A continuation of the previous text. The other three texts given below are also a continuation of the same passage in Lev. XXII, 27.
(22) Lev. XXVII, 32, with reference to the tithing of animals.
(23) In the case of dedicated objects.
(24) Lit., ‘names’, i.e., those enumerated in the Baraitha above, vis., kil'ayim, nidmeh etc.
(25) In the case of the tithing of animals.
(26) Because Scripture says: ‘All that shall pass’, thus excluding a trefah which cannot pass, since trefah includes an animal whose leg was cut from the knee and upwards; v. infra 58a.
(27) By the offering of a libation between its horns (Rashi).
(28) A harlot's hire.
(29) An animal taken in exchange for a dog.
(30) One whose sex is unknown.
(31) Of the Mishnah who says ALL, what is his position?
(32) Under the rod mentioned in connection with tithing.
(33) The cases of an animal designated for idolatrous purposes and one so used, an animal which covered a woman etc.
(34) For all these are disqualified in the case of dedicated objects.
(35) Viz., an animal too young for sacrifice an orphan, etc. as not being tithed.
(36) Lev. XXII, 25.
(37) Like the case of an animal which covered a woman etc.
(38) Gen. VI, 12. The ‘corruption’ referred to here means immorality, as mentioned in verse 2 in the same chapter.
(39) Deut. IV, 16.
(40) For Scripture compared them with a blemish: ‘ Because their corruption is in them and blemishes be in them’.
(41) Lev. XXVII, 33.
(42) Whether it is a male or female and consequently both are tithed.
(43) Who does not mention the cases referred to by R. Akiba.
(44) If it became a trefah, for example, through having its leg broken from the knee upward, in which case it is not in a position physically to ‘pass under the rod’ in order to be tithed.
(45) That it does not enter to be tithed.

Talmud - Mas. Bechoroth 57b

he holds with the view of R. Simeon, who said: Offspring brought forth by means of the caesarean section is a genuine offspring,[1] and not with the opinion of R. Johanan.[2] With respect to an animal too young to sacrifice, he agrees with the view of R. Simeon b. Judah.[3] As regards an ‘orphan’, he assumes e.g., that the hide is still intact and R. Joshua follows the opinion he expressed elsewhere: EVEN IF THE MOTHER HAS BEEN KILLED BUT THE HIDE IS STILL INTACT, IT IS NOT AN ORPHANED ANIMAL. R. Ishmael b. Sathriel of Arkath Libnah[4] testified before Rabbi: In our place we strip the hide from the dead [dam] and put it on the living [offspring].[5] Said Rabbi: The reason of our Mishnah is now revealed.[6] [He further testified]: The lettuces In our place have six hundred thousand peelings [of small leaves] around their core.[7]

Once a certain cedar tree fell in our place and sixteen wagons alongside each other passed its width.[8] Once the egg of a Bar Yokani[9] fell and its contents swamped sixteen cities and destroyed three hundred cedar trees. But does it actually throw the egg?[10] is it not written: The wing of the ostrich beateth joyously?[11] — The egg [which it smashed] was a rotten one.[12]

MISHNAH. THERE ARE THREE PERIODS[13] FOR THE TITHE OF CATTLE.[14] IN THE PERAS[15] OF PASSOVER, IN THE PERAS OF PENTECOST AND IN THE PERAS OF TABERNACLES. THESE ARE THE WORDS OF R. AKIBA. BEN AZZAI SAYS: ON THE TWENTY-NINTH OF ADAR, ON THE FIRST OF SIWAN AND ON THE TWENTY-NINTH OF AB. R. ELEAZAR AND R. SIMEON SAY: ON THE FIRST OF NISAN, ON THE FIRST OF SIWAN AND ON THE TWENTY-NINTH OF ELUL. AND WHY DID THEY SAY THE TWENTY-NINTH OF ELUL AND NOT THE FIRST OF TISHRI?[16] BECAUSE IT IS A HOLY DAY AND YOU CANNOT TITHE ON A HOLY DAY.[17] CONSEQUENTLY THE RABBIS FIXED IT EARLIER, FOR THE TWENTY-NINTH OF ELUL. R. MEIR SAYS: THE FIRST OF ELUL IS THE NEW YEAR FOR THE TITHE OF CATTLE.[18] BEN AZZAI SAYS: THOSE BORN IN ELUL ARE TITHED BY THEMSELVES.[19] ALL THOSE BORN FROM THE FIRST OF TISHRI UNTIL THE TWENTY-NINTH OF ELUL COMBINE [TO ENTER INTO ONE SHED].[20] FIVE LAMBS BORN BEFORE ROSH HASHANAH[21] AND FIVE BORN AFTER ROSH HASHANAH DO NOT COMBINE. BUT FIVE LAMBS BORN BEFORE THE PERIOD [OF TITHING] AND FIVE AFTER THE PERIOD [OF TITHING] DO COMBINE [TO ENTER ONE SHED FOR TITHING]. IF SO, WHY DID THEY SPEAK OF THREE PERIODS FOR THE TITHE OF CATTLE?[22] [IT IS FOR THE PURPOSE OF INFORMING US THAT] UNTIL THE ARRIVAL OF THE [TITHING] PERIOD IT IS PERMITTED TO SELL AND KILL [THE ANIMALS],[23] BUT WHEN THE PERIOD HAS ARRIVED HE MUST NOT KILL, THOUGH IF HE KILLED, HE IS NOT CULPABLE.

GEMARA. What reason is there for these three periods? — Said Rabbah b. Shila: Corresponding [to the three periods when animals give birth]; [some give birth] early [in the season],[24] [some] late [in the season][25] and [some in] the summer.[26] And why [are the lambs] tithed in these particular times?[27] — Said R. Tanhum son of R. Hiyya a man of Kefar Acco:[28]

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(1) The mother being unclean through the confinement and therefore it is eligible to enter the shed to be tithed, v. supra 47b.

(2) Who explains (Nid. 40a) that R. Simeon admits that as dedicated objects they are not consecrated for the altar, comparing them with a first-born which is only hallowed when born from the womb (Rashi).

(3) Who holds (supra 21b) that an animal too young for sacrifice may enter the shed to be tithed.

(4) Arca Caesarea Libani at the north-western foot of Mt. Lebanon (Jast.).

(5) Thereby preserving it alive.

(6) The reason why R. Joshua in the Mishnah says that where the hide is still intact the animal is not considered an orphan is therefore because since the hide is of assistance to the offspring, it is as if the mother were alive.

(7) Lit., 'in its stomach'. Var. lec. insert after peelings, 'A gnat has in its stomach sixty thousand peelings.' Others read, 'A he-goat etc.'.

(8) The tree being exceptionally thick.

(9) A fabulous bird of the ostrich family.

(10) In order to smash it.

(11) Job. XXXIX, 13.The word נעלסה (beateth etc.) is explained acrostically (Men. 66b): נושא (it carries) עולה (it goes up) למעלא (above) נתחטא (it comes down). It carries its large egg, ascends aloft and then comes down to lay it gently in its nest on the ground without smashing it.

(12) Not being fit for chicken to come forth and therefore the bird deliberately threw and smashed it.

(13) Lit., ‘threshing floors’, v. Gemara.

(14) I.e., the animals which are born between the periods must be tithed at the approach of the period. Previous however to these intervals, one may eat or sell the animals directly even without tithing.

(15) Lit., ‘half (a month)’. The fifteen days before Passover etc. V. the Gemara infra.

(16) Which is really the New Year for animals.

(17) On account of the required marking of the tenth animal with paint.

(18) So that those born before this period do not enter the shed with those born subsequently, as it would be tithing the new for the old.

(19) And neither with those born in Ab nor for those born in Tishri, as there is a doubt whether the New Year for tithing is the first of Tishri or the first of Elul.

(20) An anonymous ruling in accordance with the opinion of R. Eleazar and R. Simeon, who maintain that the first of Tishri is the New Year for the purpose of tithing.

(21) I.e,, the first of Tishri,

(22) Since the periods fixed for tithing do not form an interval with respect to the lambs born before them.

(23) Directly without tithing.

(24) Before Passover.

(25) Between Passover and Pentecost.

(26) Between Pentecost and Tabernacles. And therefore those born earlier in the season have their period for tithing fixed in the Peras of Passover, those born late, in the Peras of Pentecost, and those born in the summer, in the Peras of Tabernacles. Another explanation given by Rashi and R. Gershom is: that those born in summer, the period given is the Peras of Pentecost and those which are born late are assigned for tithing purposes to the Peras of Tabernacles,

(27) Why not some other month before Passover, Pentecost and Tabernacles?

(28) In Lower Galilee.

Talmud - Mas. Bechoroth 58a

In order that animals may be easily obtained by the pilgrims.[1] And although we have learnt in the Mishnah: UNTIL THE ARRIVAL OF THE TITHING PERIOD IT IS PERMITTED TO SELL AND KILL ANIMAL FOR FOOD,[2] a man likes to perform a religious duty[3] with his money first, and only then to proceed to sell or eat the animals. And why does [the Mishnah] call [the cattle tithing period] ‘threshing floor’?[4] — Because [the approach of the tithing period] makes [the animals] tebel[5] [according to a rabbinical enactment] like the period of the ‘threshing floor’.[6] And what is [the period of] Peras mentioned in the Mishnah? — R. Jose b. Judah explained: Peras is [a period of] no less than fifteen days. How is this implied? — Said R. Abahu: Peras means a half.[7] Half of what? Half of the period of instruction in the laws of the Passover, in accordance with what was taught: The laws of the Passover are discussed and expounded thirty days before Passover.[8] R. Simeon b. Gamaliel says: The period is two weeks.

BEN ‘AZZAI SAYS: IN THE TWENTY-NINTH OF ADAR, IN THE FIRST OF SIVAN. Wherein do R. Akiba and Ben ‘Azzai differ?[9] — R. Akiba holds that the month of Adar which is next to Nisan is sometimes full[10] [i.e., thirty days] sometimes defective [i.e., twenty-nine days] so that sometimes the Peras of Passover falls on the thirtieth of Adar and sometimes it falls on the twenty-ninth of Adar and for this reason he does not fix the time for the Peras. But Ben ‘Azzai holds that the month of Adar which is next to Nisan is always defective; consequently he fixes the time for the Peras on the twenty-ninth of Adar. And the reason why he fixes the first of Siwan[11] is that since animals are not plentiful,[12] if you therefore say that he should tithe earlier,[13] by the time the festival arrives, he will have finished eating them [the animals].

ON THE TWENTY-NINTH DAY OF AB etc. Ben ‘Azzai follows the opinion he expresses when he Says: THOSE BORN IN ELUL ARE TITHED BY THEMSELVES.[14] And why not tithe them on the thirtieth of Ab?[15] Sometimes[16] the month of Ab is defective[17] [i.e., twenty-nine days] and we need to make a distinction between the new and the old.[18]

R. ELEAZAR AND R. SIMEON SAY: ON THE FIRST OF NISAN, ON THE FIRST OF SIWAN etc. ‘ON THE FIRST OF NISAN’ in accordance with the opinion of R. Simeon b. Gamaliel who said: Two weeks.[19] ON THE FIRST OF SIWAN as we have explained above.[20] ON THE TWENTY-NINTH OF ELUL because R. Eleazar and R. Simeon follow the opinion they express elsewhere, where they said: The first of Tishri is the New Year for the tithing of animals.[21]

AND WHY DID [THE RABBIS] SAY THE TWENTY-NINTH OF ELUL AND NOT THE FIRST OF TISHRI? BECAUSE IT IS A HOLY DAY etc. And why not say that the reason is because we need to make a distinction between the new and the old?[22] — [The Mishnah] gives one reason and yet another. One reason is because we need to make a distinction between the new and the old. And yet another reason is because it is a Holy Day, and you cannot tithe on a Holy Day on account of the required marking of the tenth animal with paint.[23]

R. MEIR SAYS: THE FIRST OF ELUL IS THE NEW YEAR FOR THE TITHING OF ANIMALS. BEN ‘AZZAI SAYS etc. It has been taught: Said Ben ‘Azzai: Since some hold the one opinion[24] and others the other,[25] therefore the animals born in Elul are tithed by themselves. And why not see which authority holds the more reasonable opinion? And should you say that he [Ben ‘Azzai] could not discover the reason of the authorities concerned, has it not been taught: ‘Ben ‘Azzai says: All the Sages of Israel are in comparison with myself, as thin as the husk of garlic,[26] except that bald head’?[27] — Said R. Johanan: They[28] gave their opinions purely as traditions derived from the prophets Haggai, Zechariah and Malachi.[29]

It has been taught: In what way[30] did Ben ‘Azzai say that those born in Elul are tithed by themselves? If five lambs were born in Ab and five in Elul, they do not combine [to enter one shed to be tithed]. [If] five [were born] in Elul and five in Tishri, they do not combine. If, however, five [were born] in Tishri and five in the following Ab, they combine. Surely this is obvious?[31] — You might have said that just as ‘the years interrupt,[32] similarly the tithing periods also interrupt.[33] [The Baraitha] therefore informs us [that this is not so]. As we have learnt: FIVE LAMBS BORN BEFORE ROSH HASHANAH AND FIVE LAMBS BORN AFTER ROSH HASHANAH DO NOT COMBINE [TO ENTER THE ONE SHED] WHEREAS FIVE LAMBS BORN BEFORE THE TITHING PERIOD AND FIVE AFTER THE TITHING PERIOD DO COMBINE.

Said Raba: According to the opinion of Ben ‘Azzai,[34] if five were born to him in Ab, five in Elul and five in Tishri, he brings them into a shed to be tithed.

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(1) For since the period of the tithing of animals does not take place until the Peras of the Festivals, people will keep their animals until the tithing period and will not meanwhile sell or kill them, with the result that there will be a plentiful supply of animals to eat and to offer up on the Festivals.

(2) We see then that only the arrival of the tithing period causes the animal to be subject to the tithe.

(3) So Sh. Mek. cur. edd., ‘to be performed’. Viz., in the case here, that of tithing animals, as there is no loss for him, since he himself brings the animal set aside as tithe and eats it as a peace-offering.

(4) V. supra p. 391, n. 10.

(5) Subject to tithing.

(6) The threshing floor is the place where the grain is to be made fit for food and where it is made subject to tithes, similarly the respective periods of tithing make the animals subject to tithing rabbinically.

(7) Peras means something divided into two parts.

(8) And a half of this period is fifteen days. The tithing of animals and thus making them more easy to obtain by the pilgrims for the use of the Passover, can also be considered as preparation for the Festival (Rashi כת י).

(9) For even Ben ‘Azzai agrees that fifteen days before Passover, I.e., the Peras of Passover make the animal subject to tithing, since the twenty-ninth of Adar plus the fourteen days of Nisan constitute fifteen days before Passover.

(10) In some years.

(11) And does not say fifteen days before Pentecost, in the same way as he mentions fifteen days before Passover as a period of tithing.

(12) Between Passover and Pentecost, animals being then few in number.

(13) Viz., fifteen days before Pentecost.

(14) We cannot tithe those born in Elul for those born in Ab, in case the first of Elul is the New Year for the tithing of animals and we should thus be tithing the new for the old. We cannot also tithe the animals born in Tishri for those born in Elul, in case the first of Tishri is the New Year for tithing purposes. Since therefore there is a doubt whether the first of Elul or the first of Tishri is the New Year for tithing, those born in Elul are tithed amongst themselves. And for this reason the tithing Period of those born in summer is not fixed for the twenty-ninth of Elul i.e., the Peras of Tabernacles, so as not to combine the animals born in Ab with those born in Elul, which would be tithing the new for the old. On the other hand, we do not fix the period earlier than the twenty-ninth of Ab because we must defer the period of tithing to as near to the Festival as possible.

(15) Instead of the twenty-ninth of Ab.

(16) In some years.

(17) The thirtieth of Ab would therefore fall on the first of Elul.

(18) And although a lamb born on the first of Elul is too young for sacrifice, we nevertheless make a distinction so as not to tithe the new, viz., those born in Elul, for the old, viz., those born in Ab. Therefore we do not tithe at all those born in Ab with the animals born in Elul, even those born on the first of the month,

(19) I.e., fourteen days are the period of preparation for the Passover, these Tannaim not accepting the prescribed period of the Peras.

(20) In connection with Ben ‘Azzai's opinion above.

(21) V. R.H. 2a. And therefore we could not defer the tithing period later than to the last day of Elul, for we require that there should be a distinction between the new and the old.

(22) And because of this we cannot fix the tithing period on the first of Tishri as then we should be tithing the new, viz., those born after the first of Tishri, which is a New Year for animals, for the old, those born before the first of Tishri.

(23) And painting on a Holy Day is work which is forbidden. And the reason why it was fixed on the twenty-ninth day of Elul and not on the thirtieth is because in the majority of years Elul is defective i.e., twenty-nine days, and thus the thirtieth day of Elul would be Rosh Hashanah.

(24) I.e., R. Meir, who holds that the first of Elul is the New Year for tithing.

(25) I.e., R. Eleazar and R. Simeon who hold that the first of Tishri is the New Year for tithing purposes. Ben ‘Assai therefore does not know which view to adopt.

(26) Consequently we see that Ben ‘Azzai was a wise man, well able to discover which ruling in any dispute had the better reason.

(27) R. Akiba, R. Joshua b. Korha mentioned in various places in the Talmud being the same person as the son of Akiba, and the word Korha meaning bald head. Tosaf. comment that it is not conceivable that Ben ‘Azzai would thus refer to a great Sage like R. Akiba, the term bald head being employed in many cases in an abusive sense. Tosaf. therefore say that the word Korha refers to R. Eleazar b. Azariah, concerning whom it is said in the Jerushalmi that he was bald headed. Rabbenu Tam says that קרח (‘bald-head’) was the name of a man.

(28) R. Meir as well as R. Eleazar and R. Simeon.

(29) And not derived by a process of reasoning or supported from biblical texts. Thus Ben ‘Azzai could not decide purely on grounds of reason which opinion he should adopt.

(30) Var. lec.: ‘How’.

(31) That those born in Tishri and those born in the subsequent Ab combine to enter one shed, since the first of Tishri is a New Year and therefore all were born in the same year.

(32) Every first of Tishri, the New Year for tithing animals, makes it forbidden to tithe animals born after this period for those born previously.

(33) And that one cannot tithe animals born after one tithing period for those born previously, and between Tishri and the following Ab there are a number of tithing periods for animals,

(34) Who is in doubt whether the first of Elul or the first of Tishri is the New Year of tithing animals.

Talmud - Mas. Bechoroth 58b

He can also take one from those born in Elul[1] and the rest are exempt in any case, for if the first of Elul is the New Year [for cattle tithe], [the animals] of Elul and Tishri combine [to enter one shed] and those of Ab are exempt,[2] and if the first of Tishri is the New Year, the animals of Ab and Elul combine and those of Tishri are exempt.[3] You will perhaps argue against this that [those five of Tishri] should be combined with those born in a subsequent tithing period.[4] The Divine Law however refers to a sure tenth[5] and not to a doubtful tenth.[6] But is not this obvious?[7] — You might have said that we ought to enact a prohibition lest he should come to take from these.[8] [Raba] therefore informs us [that we have no such fear of this].[9]

MISHNAH. HOW DO WE TITHE ANIMALS? WE BRING THEM TO A SHED AND MAKE FOR THEM A SMALL OPENING SO THAT TWO SHALL NOT BE ABLE TO GO OUT AT THE SAME TIME. AND WE COUNT [WITH THE ROD],[10] ONE, TWO, THREE, FOUR, FIVE, SIX, SEVEN, EIGHT, NINE. AND HE MARKS EVERY TENTH LAMB THAT GOES OUT AND SAYS: THIS IS [THE TITHE]'. IF HE FAILED TO MARK IT, DID NOT COUNT THEM [THE LAMBS] WITH A ROD, OR IF HE COUNTED THEM WHILE THEY WERE CROUCHING OR STANDING, THEY ARE STILL CONSIDERED TITHED. IF HE HAD ONE HUNDRED [LAMBS] AND HE TOOK TEN[11] OR IF HE HAD TEN AND HE TOOK ONE,[12] THIS IS NOT [VALID] TITHE.[13] BUT R. JOSE B. JUDAH SAYS: THIS IS [VALID] TITHE. IF ONE [OF THE LAMBS] ALREADY COUNTED[14] LEAPED AMONG THE FLOCK [IN THE SHED][15] THEY ARE ALL EXEMPT.[16] IF ONE OF THEM THAT WAS MARKED AS TITHE LEAPED AMONG THE FLOCK [IN THE SHED],[17] THEY ALL GO TO PASTURE UNTIL THEY BECOME UNFIT FOR SACRIFICE,[18] AND THE OWNERS MAY EAT THEM IN THEIR UNFIT STATE.[19]

GEMARA. Our Rabbis taught: How does he tithe animals? He brings them into a shed and makes for them a small opening so that two may not go out at the same time. He also places their mothers outside [the shed] while the offspring are inside, so that [the mothers] low and [the offspring] go out to meet their mothers. But let him bring them out himself? — Scripture Says: Shall pass,[20] intimating that he must not cause them to pass. But let him throw them some green herb [outside][21] so as to induce them to go out? — Said R. Huna: This was prohibited[22] on account of an animal bought or orphaned.[23] Our Rabbis taught, Scripture says: Even of whatsoever passeth under the rod:[20] this excludes a trefah which is unable [physically] to pass under the rod.[24] It is a duty to count them with the rod. If, however, he did not count them with the rod, or if he counted them while they were crouching or standing, whence do we infer that the tithing is valid? The text states: The tenth shall be holy,[20] in any case.[25] I have here mentioned only that the tenth animal is holy when he calls it the tenth. Whence is it derived that it is holy even if he did not call it the tenth? Scripture says: 'It shall be holy', intimating that [it is holy] in any case. You might think that if he had a hundred [lambs] and he took ten [at the same time as the tithe], or if he had ten lambs and he took one [as the tithe], they are redeemed? The text states: 'The tenth', and this is not the tenth.[26] But R. Jose son of R. Judah says: Such is [valid] tithe. What is the reason of R. Jose son of R. Judah? He agrees with Abba Eleazar b. Gomel.[27] For it was taught: Abba Eleazar b. Gomel Says: [Scripture says]: And this your heave-offering shall be reckoned unto you as though it were the corn of the threshing-floor.[28] Scripture speaks of two kinds of terumah,[29] one that of terumah gedolah[30] and the other the terumah of the tithe.[31] Just as terumah gedolah may be set apart for the priest by estimating [without measuring the quantity][32] and by [merely] mentally planning [the separation],[33]

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(1) Not deliberately taking one out, as this would be forbidden, but where, for example, he numbers them either in a crouching position or standing, when be is able mentally to fix upon one from those born in Elul as tithe.

(2) Because there are no more than five lambs belonging to that year.

(3) As there are only five lambs and they belong to a different year.
(4) In the same year, viz,, the Peras of Passover,
(5) Lev. XXVII, 32.
(6) In case the first of Elul is the New Year for tithing and therefore the five lambs of Elul and the five of Tishri have combined to enter the shed. Consequently, those of Tishri have already been redeemed and the law of tithing does not apply to where there is a doubt,
(7) That he takes one from those born in Elul. For those born in Ab cannot help to tithe the others, in case Elul is a New Year and therefore there are only five of the previous year, a number insufficient for tithing. Again, he cannot take one lamb as a tenth from those born in Tishri for those born in Ab and Elul, in case Tishri is the New Year and therefore there are only five lambs, a number to which tithing cannot apply.
(8) Born in Ab and Tishri, and this would lead to an offence against the law by bringing hullin to the Temple, as, for example, if he takes one of the animals born in Ab as the tithe for the others. If Elul is the New Year, it will be found that these cannot combine for tithing and consequently the one taken is not the tithe, and if therefore he eats this as the tithe he will be eating hullin in the Temple. The same applies if he took one lamb from those born in Tishri.
(9) As it is possible to distinguish those born in Elul by arranging for them to be standing or crouching while the counting takes place, thus avoiding taking from the others (R. Gershom).
(10) Inserted with Sh. Mek.
(11) At the same time, as tithe, without counting one, two, etc., merely choosing ten Iambs from the hundred.
(12) As tithe without counting one, two, etc.
(13) Because he must count them, in order that the tenth may be holy.
(14) Even if there had been no tithing yet, as for example if he had not yet counted ten.
(15) Not yet tithed.
(16) For those already counted are exempt from redemption because a count properly begun redeems, since there were ten in the shed when counting commenced, and as we are in doubt which is the redeemed lamb among the flock, all are exempt.
(17) Not yet tithed.
(18) Because concerning each lamb there is a doubt whether it he the one set aside as tithe.
(19) Because they cannot be eaten while in a fit condition for sacrifice, as any one of them may be the tithe, and he will thus be eating a consecrated animal without the Temple wall.
(20) Lev. XXVII, 32.
(21) What need therefore is there to place the mothers outside?
(22) No other device being adopted except that of placing the mothers outside the shed.
(23) Because an animal bought or orphaned is exempted from tithing, and the placing of the mothers outside is a reminder that an animal bought and not born to him, or one whose mother died during or soon after confinement, is exempt from tithing; whereas if some other plan were adopted of inducing the young to go out, orphans and animals bought might enter the shed and thus cause the rest to be exempted.
(24) Where, for example, its leg from the knee and upwards is broken.
(25) Even in the instances just mentioned.
(26) Not having been counted.
(27) Or, Gamala; v. Bez. 13b, Git. 30b.
(28) Num. XVIII, 27.
(29) The verse refers to the Levite who has to give terumah to the priest from the tithe he received from the Israelite and this is compared to the terumah which the Israelite gives to the priest from the threshing-floor, v. Glos. s.v. Terumah.
(30) The gift which the Israelite gives to the priest is called the ‘great’ because it is the first to be separated from the grain.
(31) The text: ‘And this shall be reckoned ונחשב unto you , referring to the gift of terumah given by the Levite to the priest may also be held to refer to the terumah given by the Israelite to the priest.
(32) Estimating approximately how many se'ah there are, and he gives terumah according to his judgment.
(33) And not actually separating with the hand but merely glancing at one side and deciding (Lit., ‘thinking’) to give it as terumah, after which he can immediately eat what is on the other side.

Talmud - Mas. Bechoroth 59a

similarly the terumah of the tithe may be set apart by estimating [without measuring the quantity] and by [merely] mentally planning [the separation]. And we find that tithe is called by the Divine Law terumah, because it is written: But the tithes of the children of Israel which they offer as a heave-offering[1] unto the Lord I have given to the Levites to inherit.[2] And the tithing of animals is also compared to the tithing of grain.[3] Just as the tithe of grain is set apart by estimating [without measuring the quantity] and by [merely] planning [the separation], similarly the tithing of animals may be set aside by estimating and by merely planning [the separation].[4]

Said Raba: The tenth is holy of its own accord.[5] Whence does Raba know this? Shall I say from what was taught: I have here [mentioned] only that the tenth animal is holy when he calls it the tenth. Whence is it derived [that it is holy] even if he did not call it the tenth? The text states: ‘It shall be holy’, [intimating that] in any case [it is holy]. But perhaps [it means that] he did not call it the tenth but still called it holy?[6] — Rather [Raba derives his ruling] from what has been taught: If he called the ninth the tenth and when the tenth came out he said nothing, the ninth is eaten [only] if blemished and the tenth is the tithe![7] Perhaps it is different here,[8] for it was made quite clear that it was the tenth.[9] Or indeed [the Baraitha] refers to a case where he indicated[10] that it should be the tithe![11] — Rather [he derives his ruling] from what has been taught: If he called the ninth the tenth and the tenth died in the shed, the ninth is eaten [only] if blemished[12] and all are exempt.[13] Now why are they all exempt? Is it not because the tenth is sacred?[14] — Perhaps the reason is because they became exempt by means of the [interrupted] count properly begun,[15] for Raba said: A count properly begun exempts![16] Rather [Raba derives his ruling] from what has been taught. If he called the ninth the tenth and the tenth remained in the shed, the ninth is eaten [only] if it is blemished and the tenth is the tithe.[17] But has it not been taught: The ninth is hullin [secular]?[18] — A Tanna recited before R. Shesheth: Whose opinion is this? It is that of R. Simeon b. Judah: For it was taught: R. Simeon b. Judah reported in the name of R. Simeon:

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(1) תרומה .

(2) Num. XVIII, 24.

(3) V. supra 53b.

(4) R. Jose will therefore agree with Abba Eleazar, and tithes of animals can be set aside even without counting one, two, etc.

(5) If he counted nine lambs and one remained in the shed although he did not count it, it is sacred of itself.

(6) Aliter: Perhaps the Divine Law did not call it the tenth, but still called it holy, so that it cannot be eaten without first becoming blemished, and holiness takes effect with reference to it though it need not be taken up to be eaten in Jerusalem. (Rashi: first interpretation). Perhaps although he did not call it the tenth, it is holy because he called it holy, but where he did not even call it holy, then no holiness whatsoever attaches to the animal. Whence, consequently, does Raba derive his ruling that the tenth animal becomes sacred on its own accord?

(7) We therefore say that the tenth is tithe automatically without having been called so.

(8) In the Baraitah.

(9) For since it followed the ninth, it was obvious that it was the tenth, and therefore it is like other tithe, although it was not called so. Raba therefore will not be able to prove his ruling from this Baraitha. Another explanation is: the reason it was the tithe, although it was not called so, was because it passed through the same door as the other nine; but if it remained in the shed or if it passed through a different door, I might have thought that it does not become sacred automatically (Rashi).

(10) With his finger when it passed through.

(11) Not saying anything, however. But where it remained in the shed and he made no sign that he wished it to be the tithe, one could not have inferred from the Baraitha that it was holy like other tithe.

(12) Since it has been called the tenth, the name of tithe making it holy.

(13) The eight which have already come out.

(14) Of itself in the shed, although it did not pass through.

(15) When the nine went out through the door there was the right number for tithing, for the tenth was still alive and was in a condition to follow in order to exempt them. And since the counting was properly begun, it is as if the tenth had actually passed through and it exempts the lambs counted. The tenth animal itself, however, is not sacred unless it passed under the rod.

(16) If one began to count ten lambs or more for tithing purposes and during the counting one animal died or ran off, those which passed the rod are accounted redeemed.

(17) Consequently we see that although it did not pass under the rod, it becomes holy on its own account.

(18) Unlike the Baraitha above which says that the ninth is eaten only while blemished.

Talmud - Mas. Bechoroth 59b

The ninth also is not sacred[1] except when the name of the tenth was eliminated therefrom.[2] And it is a proper conclusion. For if the eleventh [animal] possesses sufficient holiness to be sacrificed[3] and is yet not holy except when the name of the tenth has been eliminated therefrom,[4] it surely follows that in the case of the ninth, which does not possess sufficient holiness to be sacrificed,[5] if the name of the tenth is elim inated therefrom it is holy[6] but if not,[7] it is not [holy at all]! But [on the contrary], it is thus that we should argue: The eleventh is capable of becoming holy enough to be sacrificed. If therefore the name of the tenth has been eliminated therefrom,[8] it should require this holiness, but if not, not.[9] But the ninth is not capable of becoming holy enough to be sacrificed. Hence it should become holy[10] even if the name of the tenth has not been eliminated therefrom. Or perhaps [we can argue] seeing that the eleventh is not reached till the tenth has already established itself [as the tithe],[11] then if the name of the tenth was eliminated therefrom,[12] the eleventh becomes holy but if not,[13] not; whereas the ninth which comes before the tenth has established itself [as the tithe][14] is holy even if the tenth has not been eliminated therefrom.[15] And there is nothing more to be said against it.[16]

Said Raba: A count properly begun redeems.[17] Whence does Raba derive this? Shall I say from what we have learnt: IF ONE [OF THE LAMBS] ALREADY COUNTED LEAPED IN AMONG THE FLOCK [IN THE SHED] THEY ARE ALL EXEMPT?[18] Now how are [the lambs] already counted exempt? Is it not by means of the count properly begun?[19] But perhaps they[20] had been already tithed![21] — This you cannot say, for does it not state: IF ONE OF THOSE ALREADY TITHED LEAPED IN AMONG THE FLOCK! But perhaps the phrase ONE OF THOSE ALREADY TITHED refers to one actually set aside as tithe[22] I can also prove it.' For it Says: LET THEM GO TO PASTURE![23] — Raba thereupon said: [My proof is as follows]. Scripture says: Shall pass,[24] intimating, but not that which has already passed. Now what does 'But not that which has already passed' mean? If it means those already tithed,[25] is there any need to say this?[26] It must refer to those exempted because of a count properly begun.[27] It stands proved. It has been taught in accordance with the ruling of Raba: If he had ten lambs and he led them into a shed, and after he had counted five[28] one of them died, if the one which died was of those already counted, he counts and combines them [with others].[29] But if the one which died was not of those yet counted, the counted ones are exempt[30] but those not yet counted combine with [others born] in a later tithing period.

Raba further said: If he had fourteen lambs and he led them into a shed, six [first] passing through one door,[31] four through another door and four remaining there [in the shed], if these four [eventually] passed through the same door as the six, he takes one of them as tithe,[32] and the rest[33] combine [in one shed] with those [born] in a later tithing period.[34] But if not,[35] the six are exempt[36] and the four together with the other four combine with those [born] in a later tithing period. If four pass through this door [first] and six through another door, four remaining there in the shed, if the four [eventually] pass through the same door which the six had passed through, he takes one as tithe and the rest are exempt.[37] And if not,[38] the first four and the six are exempt[39] and the last four combine with those [born] in a later tithing period. If four passed through this door and four through another door, six remaining there [in the shed], if the remaining [six] passed through the door of one of them,[40] he takes one [as tithe][41] and the rest are exempt.[42]

And if not,[43] [the first] four and [the second] four are exempt[44] and the [remaining] six combine with those [born] in a later tithing period. What does he [Raba] teach us? That a counting properly begun exempts! But has not Raba already taught us this ruling? — You might have said that we apply the principle that a counting properly begun exempts where it is certain that there is a proper number[45] but where it is uncertain whether there is a proper number[46] seeing that it is possible to combine the six either here[47] or there,[48] we do not apply [this ruling].[49] He [Rab] therefore informs us [that it is not so].

Raba further said: If he had fifteen[50] lambs he cannot say: ‘I will select ten, bring them into the shed, take one [as tithe] from them and the rest will be exempt’. But he must bring them [all] into the shed, bring out ten lambs, take one from them [as the tithe] and the rest combine with those [born] in a later tithing period. So indeed it has been taught: If he had fifteen lambs

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(1) Referring to the Mishnah below where it says that if one called the ninth the tenth, the tenth the tenth, and the eleventh the tenth, the eleventh is not holy, since he has not omitted the proper name of the tenth, having counted the tenth as the tenth and not the tenth as the ninth. If, however, he called the tenth the ninth, i.e., if he omitted the proper name of the tenth therefrom, then the eleventh is sacred. The ninth, however, if it has been called the tenth, is sacred even if he called the tenth the tenth, i.e., if he did not omit the name of the tenth therefrom. R. Simeon thereupon comes and says that even the ninth in such circumstances is not sacred etc.

(2) If he called the tenth the ninth.

(3) For if he called the eleventh the tenth, it is brought as a peace-offering, this ruling being derived later on from a scriptural verse, and, yet in spite of this considerable sanctity, it is etc.

(4) When, for example, the tenth is called the ninth.

(5) Even if he called it the tenth it is not offered up, only it becomes so far holy that it must not be eaten except when it is blemished.

(6) That the ninth receives this minor holiness.

(7) If he does not eliminate the name of the tenth therefrom. i.e., if he calls the tenth the tenth.

(8) If he called the tenth the ninth.

(9) This being a comparatively high grade of holiness.

(10) I.e., acquire the minor holiness of not being eaten except when it is blemished.

(11) The tenth having already gone out before the eleventh, thus becoming the tithe automatically.

(12) By calling the tenth the ninth.

(13) If he called the tenth the tenth.

(14) As the calling of the ninth obviously precedes the calling of the tenth.

(15) If he proceeded to call the tenth the tenth.

(16) You cannot argue against this, for this is certainly the case that the ninth is holy in all circumstances, even if the tenth is counted the tenth.

(17) If he had ten lambs in the shed and he counted nine and the tenth died in the shed or passed through a different door from the others, the nine are redeemed and there is no need to combine them with the others of a later tithing period, since when he commenced counting the requisite number was available for tithing purposes.

(18) The questioner was under the impression that ‘the lambs already counted’ refers to the nine (or less) lambs already counted, one of which leaped back into the flock and those in the shed are exempted because he does not recognize which among them is the one which leaped back. Owing therefore to this doubt, not one of the animals is fit to be brought as tithe.

(19) There being ten lambs in the shed when the counting commenced.

(20) ‘The lambs already counted’ referred to in the Mishnah.

(21) And not merely counted up to nine but actually redeemed.

(22) Therefore the passage ‘those already counted’ will refer to those already set aside as tithe and consequently Raba cannot prove his ruling that where he properly began to count and the tenth died, we consider the counted ones as redeemed.

(23) If therefore the lamb that leaped was hullin, ‘why should it be condemned to pasture until blemished? The reason must therefore be because it is actually tithe, possessing the holiness of an animal set aside as tithe, and concerning each animal there is a doubt whether it be tithe.

(24) Lev. XXVII, 32.

(25) That they cannot be redeemed again.

(26) Surely there is no question that those already tithed once need not further be redeemed.

(27) Where a number were already counted, counting having begun properly with ten in the shed and the tenth died. This case Scripture exempts from redemption, since the animals had already passed through under the rod.

(28) The number five is not strictly meant, as it can be any number up to nine.

(29) In one shed until there are ten and then he takes one as tithe.

(30) Because it is a counting properly begun.

(31) There being two doors to the shed.

(32) Since ten lambs had passed through the same door.

(33) The four which passed through the other door, for we cannot exempt them on account of having begun to count them properly, as when the first four passed through the door there were only four left in the shed and you cannot combine four with four.

(34) To be tithed.

(35) If the four did not pass through the same door as the six but either remained in the shed or passed through the door of the other four thus making a total of eight, a number insufficient for tithing.

(36) Because when they left the shed there were sufficient lambs in the shed together with these for the requisite number for tithing.

(37) Even the first four are exempt because their counting was properly begun.

(38) If the four did not pass through the door of the six.

(39) Because when the first four passed through the door the counting was properly begun, there being ten left in the shed. Likewise with the six, when they passed through the door there were four left in the shed to combine for tithing.

(40) Either through the door of the first four or through the door of the last four.

(41) Because there are ten passing through the same door.

(42) Even those four through whose door the six did not pass, because when they went through the counting was properly begun.

(43) If the six did not pass through the door of the first four or the door of the other four, either remaining in the shed or passing through a third door.

(44) Because in the case of both the first and the second four lambs, the counting was properly begun, there being ten in the shed at the time of counting.

(45) Where, for example, he counted five or six and there were sufficient lambs in the shed to combine for tithing purposes, there being also one door in the shed. In such circumstances, the rest are certainly fit to pass through that door and to combine in order to be tithed with those already counted.

(46) As, for example, where four passed through one door and four through another door, six remaining in the shed. Here we cannot say whether the six will pass through this door or the other.

(47) With the four which passed through one door.

(48) With the four which passed through the second door.

(49) Of a counting properly begun exempting from tithing.

(50) The number is not strictly meant, the usual practice however being to combine five with five so as to make up the required number for tithing (Rashi).

Talmud - Mas. Bechoroth 60a

he cannot say: ‘I will select ten [meagre ones], take one from them [as tithe] and the rest will be exempt’. But he must bring them [all][1] into the shed, bring out ten, take one from them [as tithe], and the rest combine with those of a later tithing period.[2] But has it not been taught: If he had nineteen lambs he cannot say: ‘I will select ten, take one from them [as tithe] and the rest will be exempt’. But he must bring them [all] into the shed, bring out ten, take one from them [as tithe] and the rest are exempt?[3] — R. Huna b. Sehorah explained this before Rab on [the Sabbath preceding] a Festival:[4] We are dealing here with a shed which has two doors. Nine lambs passed through one door and nine through the other, thus [the remaining lamb] is fit [to combine either with those] here or there.[5]

But why not explain[6] [the Baraitha] as dealing with a case where he counted nine and when he reached [the number] ten, he called it One, [as] from the beginning?[7] — He holds that the tenth is holy on its own account.[8] And why not explain [the Baraitha][9] as dealing with a case where e.g., he counted [the nineteen lambs] in pairs?[10] — R. Huna holds: The tenth is rendered holy by the actual number of the animals.[11]

R. Nahman b. Isaac said: The mother of R. Huna b. Sehorah was privileged to have a son who explained [Raba's ruling] on [the Sabbath previous to] a Festival[12] in line with Raba's teaching.[13] MISHNAH. IF TWO [LAMBS] CAME FORTH AT THE SAME TIME,[14] HE COUNTS THEM IN PAIRS.[15] IF HE COUNTED [THE TWO][16] AS ONE, THE NINTH AND THE TENTH ARE SPOILT.[17] [IF THE NINTH AND THE TENTH CAME OUT AT THE SAME TIME, THE NINTH AND THE TENTH ARE SPOILT.][18] IF HE CALLED THE NINTH THE TENTH, THE TENTH THE NINTH AND THE ELEVENTH THE TENTH, THE THREE ARE HOLY. THE NINTH IS EATEN WHILE BLEMISHED, THE TENTH IS THE TITHE AND THE ELEVENTH IS SACRIFICED AS A PEACE-OFFERING, AND IT CAN EFFECT A SUBSTITUTE.[19] THESE ARE THE WORDS OF R. MEIR. SAID R. JUDAH: CAN THAT ONE SUBSTITUTE EFFECT ANOTHER SUBSTITUTE?[20] THEY SAID IN THE NAME OF R. MEIR: IF IT[21] WERE A SUBSTITUTE, IT WOULD NOT HAVE BEEN SACRIFICED.[22] IF HE CALLED THE NINTH THE TENTH, THE TENTH THE TENTH AND THE ELEVENTH THE TENTH, THE ELEVENTH IS NOT CONSECRATED.[23] THE FOLLOWING IS THE RULE: WHEREVER THE NAME OF THE TENTH [ANIMAL] HAS NOT BEEN ELIMINATED THEREFROM,[24] THE ELEVENTH IS NOT CONSECRATED.[25]

GEMARA. Said R. Johanan: If he counted [the lambs] in pairs or in hundreds; the tenth in his counting becomes holy. In what counting? — R. Mari says: The holiness of the tenth is determined by his counting,[26] whereas R. Kahana says: The holiness of the tenth is determined by the actual number of animals.[27]

We have learnt: IF TWO CAME OUT AT THE SAME TIME, HE COUNTS THEM IN PAIRS. IF HE COUNTED [THE TWO] AS ONE, THE NINTH AND THE TENTH ARE SPOILT. Now there is no difficulty according to him who holds: The holiness of the tenth is determined by his counting; for this reason the ninth and the tenth are spoilt, and he calls the tenth the ninth and the eleventh the tenth.[28] But according to him who holds that the holiness of the tenth is determined by the actual number of the animals, it is as if he called the [certain] ninth the ninth and the [certain] tenth the tenth![29] R. Johanan can reply thus:[30] I only say [that the holiness of the tenth is determined by the counting of the animals] where he planned to bring them out in pairs, but where [as in the Mishnah] they came out [of the shed] of themselves,[31] it is not so.[32]

Come and hear: If he counted them backwards,[33] the tenth of the counting is holy. Now I grant that according to him who holds that the holiness of the tenth is determined by the actual number of the animals, there would be no difficulty. But according to him who holds that the holiness of the tenth is determined by his counting, then he calls the tenth the first![34] — Said Raba: The reason is because it so happens that in the Persian system of counting that they call ten One.[35]

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(1) Both the meagre ones and the fat ones (Rashi).

(2) We are therefore taught here two things. First, that he cannot select the meagre ones alone to be tithed, and again, that, although only five lambs remain, he cannot say that they are altogether exempt but must combine them with those born at a later tithing period.

(3) Although he had brought all of them into the shed for tithing.

(4) When the laws of the forthcoming Festival were being expounded.

(5) Either with the nine which passed through this door or the nine which passed through the other door, the reason why it exempts the rest being that a counting properly begun redeems. The lamb itself is holy, however, on its own account whether it remains in the shed or passes through the door.

(6) And even when the shed had only one door.

(7) He did not say ten but proceeded to count, two etc. thus calling the tenth, One. Therefore the nineteenth was the tenth according to the second counting of the animals, the last ten being thus exempt through the nineteenth which is the tithe. And the first nine already counted are exempted on the grounds of a counting properly begun.

(8) Even if he called it One and did not call it the Tenth. Thus the nine lambs which remained cannot be exempted, as there is here no counting properly begun.

(9) Where there was only one door.

(10) There being nine pairs and he brought out the last lamb and called it the Tenth in order to exempt the first nine and the other nine on account of מנין הראוי .

(11) And it is not how one counts them, viz., one, two etc. which matters. Therefore as soon as he counted five pairs, one of the lambs becomes the tithe and the remaining nine are not exempt since the counting of them was not properly begun.

(12) Where there was a large public present to hear the exposition of the regulations of the forthcoming Festival.

(13) When he says above: Thus (the remaining lamb) is fit to combine etc., which is the principle which Raba adopts, namely that of a counting properly begun.

(14) When he commenced to count them two came forth simultaneously through the width of the door.

(15) And the tenth pair are holy. The same applies if they passed through in threes, fours etc.

(16) E.g., when he reached the sixth or the seventh (Rashi).

(17) As regards offering up on the altar, for the ninth, according to his counting, is really the tenth and the tenth is really the eleventh. There is therefore (according to R. Gershom) a mixture here of tithe and a peace-offering. Consequently, the animals are condemned to pasture until blemished. The case here also is unlike the case of one who called the tenth the ninth and the eleventh the tenth, when the tenth is the tithe and the eleventh is offered up as a peace-offering, because since he counted the animals one by one it is clear that the animal he called the ninth was really the tenth, the mistake being on his part. The tenth is holy therefore without the slightest doubt, and the eleventh is also holy as the result of a Divine decree, as mentioned below. But where a pair came out in the beginning simultaneously, and instead of counting them in pairs, he counted them singly, it was not absolutely clear that the animal which he counted the ninth would be the tenth (Rashi).

(18) As regards being offered up as tithe, for it is impossible to ascertain which came forth first and is consequently the tithe. Hence since we are in doubt which passed through, first both must pasture and are eaten when blemished.

(19) It can transfer its holiness to another animal substituted for it, v. Lev. XXVII, 10.

(20) Because he maintains that the holiness of the eleventh animal is due to the fact that it is a substitute. For when he called the eleventh the tenth, it is as if he had said: ‘Let this be holy instead of the tenth’ and that which is already a substitute etc.

(21) The eleventh animal which he called the tenth.

(22) The eleventh is not the substitute for the tenth, for had it been a substitute it would not have been offered up, for Scripture says: Thou shalt not redeem, they are holy (Num. XVIII, 17). And we deduce thus: They (themselves) are holy but not their substitutes. And although the text refers to the first-born, we derive the case of tithe therefrom (Rashi). The fact that the eleventh is offered up as a peace-offering proves therefore that it cannot be a substitute and that its holiness is in its own right.

(23) Since sometimes the eleventh can receive the comparatively stringent holiness of a peace-offering, when, for example, he made a mistake and called the tenth the ninth, then in this case when he called the tenth the tenth, the eleventh receives no holiness at all. The ninth, however, will retain the minor holiness of not being eaten unless blemished, even where he called the tenth the tenth.

(24) I.e., when he called the tenth the tenth and thus there was a proper tithe.

(25) Although he called it the tenth.

(26) In the case of pairs, therefore, the tenth pair is holy as tithe, and in the case of the counting of hundreds, the tenth hundred is holy.

(27) We are not concerned with his counting, and therefore in the case of pairs, the tenth animal becomes holy as tithe of itself and every tenth animal of the hundred becomes holy, making ten animals as tithes in every hundred. If, therefore, the tithes can be recognized it is well, and if not, they are all condemned until they are blemished (Rashi).

(28) There is some holiness in the eleventh, his naming it as the tenth having this effect.

(29) For the fact that he called the tenth the ninth and the eleventh the tenth makes no difference, and therefore why should not the tenth be the tithe and the eleventh a peace-offering?

(30) On the explanation of R. Kahana.

(31) The Mishnah saying distinctly: IF THEY CAME OUT etc.

(32) That we go according to the actual number of the animals, but the tithe also depends on the way he counts.

(33) E.g., the first he called the tenth, the second the ninth, the third the eighth etc.

(34) He then calls the tenth animal the first, and if therefore we are guided by what he says why should the last animal be sacred, since he actually calls it the first?

(35) Counting only the Units. Therefore what he calls the first is in fact the tenth.

Talmud - Mas. Bechoroth 60b

IF HE CALLED THE NINTH THE TENTH, THE TENTH THE NINTH AND THE ELEVENTH THE TENTH etc. Our Rabbis taught: Whence do we know that if he called the ninth the tenth, the tenth the ninth and the eleventh the tenth, the three are consecrated? The text states: And concerning the tithe of the herd or of the flock even of whatsoever passeth under the rod the tenth shall be holy,[1] thus including all.[2] One might have thought that I include also the eighth and the twelfth.[3] [Against this] you can argue thus: Since it [the tenth] is holy and [the animal] he by mistake [called the tenth] is consecrated, just as [the tenth] is only consecrated when it is next [to it],[4] similarly [the animals] he by mistake called [the tenth] must be next to it.[5] But has it not been taught: Just as the tenth can only be one,[6] similarly [the animal] called by mistake [the tenth] can only be one?[7] — A Tanna recited before R. Johanan: [This Baraitha][8] will represent the opinion of R. Eleazar b. Simeon. For it has been taught: R. Eleazar b. Simeon says: The eleventh is holy only when he is silent at the ninth,[9] calls the tenth the ninth, and the eleventh the tenth.[10] He [R. Eleazar] concurs with R. Judah who said: A mistake in counting the animal for tithes renders [the animal styled tenth] as a substitute,[11] and he also holds the opinion of his father [R. Simeon] who said: No substitute can effect another substitute.[12]

Said Raba: If two came out of the shed at the ninth[13] and he called them the ninth, the tenth and hullin are mixed together.[14] The tenth is sacred on its own accord.[15] And the ninth [is hullin] because he called it the ninth. If he called them[16] the tenth, the tenth and the ninth are mixed together.[17] What is the reason? Because he called them both the tenth. If two came out [of the shed] at the tenth[18] and he called them the tenth, the tenth and the eleventh are mixed together.[19]

If he called them[20] the eleventh, the tenth and hullin are mixed together.[21] What need is there [for Raba] to give this additional ruling?[22] Is it not the same?[23] — He informs us of this, that wherever they came out at the same time and he called them the tenth they are consecrated, although the name of the tenth was not eliminated therefrom.[24]

R. Kahana sat and was stating this tradition. Said R. Ashi to R. Kahana: But the name of the tenth has not been eliminated therefrom, and we have learnt: THE FOLLOWING IS THE RULE: WHEREVER THE NAME OF THE TENTH HAS NOT BEEN ELIMINATED THEREFROM THE ELEVENTH IS NOT CONSECRATED?[25] — This is the case[26] only when [the lambs] came out one after the other,[27] but where they came out simultaneously,[28] both are holy.[29] But is not the case [where he called the tenth and the eleventh] one after the other [the tenth] explicitly stated: IF HE CALLED THE NINTH THE TENTH, THE TENTH THE TENTH AND THE ELEVENTH THE TENTH, THE ELEVENTH IS NOT CONSECRATED? Now what does the statement THE FOLLOWING IS THE RULE include? Does it not include the case where he called the tenth and the eleventh simultaneously the tenth?[30] — No. It includes the case where the tenth came out and he did not say anything,[31] for here the name of the tenth was not eliminated therefrom.[32] For if you will not agree to this,[33] what of this which has been taught: If two came out at the tenth[34] one not preceding the other, and he called them the tenth, the tenth and eleventh are mixed together [viz., tithe and a peace-offering]. [Now why is this, seeing that] the name of the tenth has not been here eliminated therefrom?[35] Must not we say therefore that wherever both came out [of the shed] at the same time they are consecrated? — Were it only for this, there would be no proof, because the case here[36] is where one put forth its head before the other and he called it the eleventh,[37] and subsequently, it mixed with the others [and two animals] came out together and he called them the tenth, the name of the tenth having thus been eliminated therefrom.[38] But does not [the Baraitha] state above: 'One not preceding the other'? — The phrase 'One not preceding the other' means that it afterwards mixed with the others.[39] And whose opinion does this[40] represent? Not that of Rabbi, for if that of Rabbi, does he not say: The [calling of] the eleventh [before the tenth] is not considered as eliminating [the name of the tenth]? — You may even say that this represents the opinion of Rabbi, for Rabbi's ruling refers only to a case where he has many animals to tithe, for then we say that he means 'one [group of] ten'.[41] But here we are referring to a case where he has no more animals.[42]

What is this ruling of Rabbi? — As it has been taught: If he called the tenth the eleventh[43] and the eleventh the tenth, the eleventh is not sacred. There are the words of Rabbi. R. Jose son of R. Judah says: The eleventh is sacred. Rabbi stated a rule: So long as the name of the tenth has not been eliminated therefrom,[44] the eleventh is not holy. [But has not [the name of the tenth] been eliminated]?[45] — Said Raba: What are the circumstances here? Where he has many animals and we say that he means one ten.[46]

[It has been said]: If two came out at the tenth,[47] one [Baraitha] teaches: Let them pasture[48] and another [Baraitha] teaches: Let them be offered up. And yet another teaches: Let them be left to die. There is no contradiction here. The one which says: Let them pasture, gives the opinion of the Rabbis who say: We must not wittingly cause sacred flesh to be brought to the place where the unfit [are burnt].[49]

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(1) Lev. XXVII, 32.

(2) Implying that it is the tithe whether he called it the tenth or it was the actual tenth, even though he did not call it tithe.

(3) If he called them the tenth, that they are sacred.

(4) And what can be nearer to the tenth animal than the very animal itself?

(5) Viz., the ninth or the eleventh which is the next one, before or after the tenth.

(6) For obviously the tenth can only be one animal.

(7) So that if he made a mistake in calling the ninth and the eleventh the tenth, both are not consecrated but only one. How then can you say that all are consecrated?

(8) Which requires the mistake to refer to one animal only.

(9) When he did not call it the tenth, for had he done so the eleventh would not have been holy, as then he would have made two mistakes.

(10) There being only one mistake here viz., calling the eleventh the tenth, because calling the tenth the ninth is no mistake, since the tenth automatically becomes consecrated (R. Gershom).

(11) The animal marked as the tenth by mistake is deemed sacred as a substitute, and having therefore made the ninth a tenth, the eleventh can no more become a substitute, as R. Judah says in the Mishnah above.

(12) V. Tem. 9a. And similarly here two mistakes, viz., calling the ninth the tenth and the eleventh the tenth, do not confer holiness on the two animals in substitution for the holiness of the tenth.

(13) When the ninth was about to go out.

(14) And they must not be eaten unless in a blemished state and if he shears or works one of the animals, he is not liable to lashes since it may be hullin.

(15) Although he has not called it the tenth.

(16) The two animals which left the shed together when about to go out.

(17) They are both therefore holy, and if he redeemed or sold one of them he is liable to lashes, for he called them both the tenth, and the owners can eat them only while they are blemished (R. Gershom).

(18) When the tenth animal was about to go out.

(19) The tenth is actually the tithe and the eleventh is a peace-offering. Therefore both are sacrificed and are eaten subject to the restriction applying to each, viz., two sprinklings of blood and the separation of the breast and shoulder for the priest.

(20) The two lambs which came out of the shed when the tenth was about to go out.

(21) And both are eaten while blemished by their owners without redemption (R. Gershom).

(22) Where the two came forth as the tenth was about to go out, that the tenth and the eleventh are mixed together.

(23) Could I not have inferred that the tenth and the eleventh are mixed together from the ruling of the tenth and the ninth which are considered as mixed together?

(24) Since he also called the tenth the tenth.

(25) Viz., where he called the tenth the tenth. Therefore how can the eleventh be holy here, since he called the tenth the tenth?

(26) That we require the name of the tenth to be eliminated therefrom.

(27) And since he called the tenth the tenth, the eleventh is not holy.

(28) And he called both the tenth and the eleventh the tenth.

(29) Even the eleventh.

(30) And even so the eleventh is not holy.

(31) He did not call it the tenth, and yet the eleventh which subsequently came out and which he called the tenth is not holy, because the tenth becomes holy in its own accord, the silence not being considered the elimination of the name of the tenth therefrom.

(32) But where both came out of the shed at the same time and he called the tenth and the eleventh the tenth, they are both holy.

(33) That if they came out simultaneously they are holy.

(34) When the tenth was about to go out.

(35) Because he called the tenth the tenth.

(36) In the Baraitha which says that the tenth and the eleventh are mixed together and we regard the eleventh as consecrated, although he called the tenth the tenth.

(37) Thus removing the name of the tenth therefrom, since he did not call it the tenth but the eleventh. Where he called it the ninth, there is no question that this is eliminating the name of the tenth, but the Baraitha wishes to inform us that even if he called it the eleventh, although this is not the view of Rabbi below, it is also regarded as removing the name of the tenth.

(38) And therefore the eleventh is holy. But where he first called them the tenth, although they came out together, it may be that the eleventh is not consecrated.

(39) And then both animals actually came out at the same time, one not preceding the other.

(40) The ruling which says that if he calls the tenth the eleventh it is regarded as eliminating the name of the tenth therefrom.

(41) אחד עשר (eleven) lit., ‘one ten’ may signify (by dividing the words) ‘one (group) of ten’, and meaning: this is the first tenth, the first ten animals that have been tithed. Therefore by calling the tenth אחד עשר he has not really eliminated the name of the tenth therefrom according to Rabbi.

(42) Than eleven, or twelve or thirteen, or fifteen. We cannot therefore explain the words אחד עשר as meaning the first ten, as this would imply that he has more tens of animals to tithe. In this instance, consequently, he must actually mean to call the animal the eleventh, and even Rabbi will admit here that the calling of the tenth the eleventh eliminates the name of the tenth therefrom.

(43) Before he called the tenth.

(44) I.e., where he called the tenth the tenth.

(45) By calling the tenth the eleventh. Inserted with Sh. Mek.

(46) V. supra nn. 1 and 1a.

(47) Referring to the ruling of Raba above where he called both animals which came out at the tenth the tenth and we say that the tenth and the eleventh are mixed together. The Gemara now proceeds to give a number of Baraithas which explain the implications of the phrase ‘the tenth and eleventh are mixed together’.

(48) Until they are blemished.

(49) Now here since we have the tithe and a peace-offering, if we offer them up and impose on them the restrictions applying to each of them, we shall have to separate the breast and the right shoulder of each animal for the priest, owing to the doubt that each may be the peace-offering. It may happen that the priests have many sacrifices to eat and will not be able to partake of the breast etc., thus causing sacred meat to be burnt. But in the case of the tithe, not only priests are privileged to eat it but also Israelites, and, as there are many Israelites, there is no fear that sacred meat might be left over to be burnt among the unfit. Thus if we impose on both the restrictions applying to each of them, we shall have to treat both animals as peace-offerings as far as the priest's gifts of the breast etc. are concerned. We therefore say that the remedy is to condemn them both to pasture until they become blemished, one being redeemed and both eaten while blemished (R. Gershom).

Talmud - Mas. Bechoroth 61a

And the one who says: Let them be offered up, represents the opinion of R. Simeon who says: We may cause sacred flesh to be brought to the place where the unfit [are burnt].[1] The one who says: Let them be left to die, gives the opinion of R. Judah who says: A mistake [in counting] for tithes renders the tenth animal as a substitute;[2] and R. Judah further holds: That which has been made as substitute for [an animal set aside as] tithe must be allowed to perish. But does R. Judah hold that that which is made a substitute for [an animal set aside as] tithe must be allowed to perish? Have we not learnt: THEY SAID IN THE NAME OF R. MEIR: IF IT WERE A SUBSTITUTE IT WOULD NOT HAVE BEEN SACRIFICED, thus implying that R. Judah holds that it is sacrificed? And should you say that R. Meir says this in accordance with his own opinion,[3] has it not been taught: The only difference between the eleventh [called by mistake the tenth] and an actual peace-offering is that the latter confers the degree of consecration[4] required for an offering whereas the former does not confer the degree of consecration required for an offering.[5] These are the words of R. Judah. Thus it cannot effect a consecration [for another animal] to be offered up but, as far as [the animal] itself is concerned, [the eleventh called by mistake the tenth] can be offered up [according to R. Judah]!

Moreover it has been taught: [Scripture says]: If he offer it of the herd[6] this includes the eleventh[7] as a peace-offering. You might think that I include also the ninth as a peace-offering. Against this argue thus: Does hekdesh consecrate [an unblemished animal of hullin] which comes before it[8] or the one which comes after it? You must admit that it consecrates only the one coming after it.[9] Now whose opinion does an anonymous view in Sifra[10] represent? Is it not that of R. Judah? And yet it says: ‘If he offer of the herd’ includes the eleventh as a peace-offering![11] — Rather explained R. Simeon b. R. Abba before R. Johanan: It[12] refers to tithing in our days[13] and for fear that an offence might be committed.[14] If this be the case, why [does the Baraitha speak of] two,[15] since the same ruling applies also to one?[16] — [The Baraitha above] gives a particularly strong instance:[17] Not only in the case of one where there is not much loss,[18] but even in the case of two lambs, where I might have said that since there is much loss we should keep them until a blemish befalls them in order to eat them, does [the Baraitha] inform us [that the ruling applies].

It has been stated: If one says to his agent: ‘Go and tithe on my behalf’, R. Papi in the name of Raba says: If he called the ninth the tenth, it is sacred,[19] whereas if he called the eleventh the tenth, it is not sacred.[20] But R. Papa in the name of Raba Says: Even if he called the ninth the tenth, it is not sacred, for he [the sender] can say to him: ‘I sent you to do the right thing[21] not to do it wrong’.[22] And why is this different from what we have learnt in a Mishnah: If one says to his agent: ‘Go and separate terumah’, he separates according to the disposition of the owner.[23] If, however, he does not know the disposition of the owner, he separates the amount of terumah for an average person, one in fifty. If he decreased the terumah by ten[24] or increased it by ten, his terumah is valid![25] — I will tell you: There [in the Mishnah] since some separate terumah liberally and others meanly, he [the agent] can say to him: ‘I guessed this to be your intention’;[26] but here there was a mistake.[27] He [the owner] can therefore say to him [the agent]: ‘You should not have made a mistake’.[28]

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(1) There is a difference of opinion on the subject in Zeb. 75b.

(2) The animal marked as the tenth by mistake is sacred.

(3) Meaning thus: ‘According to my view that the eleventh marked by mistake as tithe is offered up as a peace-offering, it is not a substitute, for were it a substitute it would not have been offered’. But according to R. Judah, the animal must be left to die.

(4) I.e., an animal substituted for it is sacred enough to serve as an offering.

(5) I.e., an animal substituted for the eleventh is not sacred enough to be offered up.

(6) Lev. III, 1.

(7) Which was marked the tenth.

(8) I.e., can an offering transfer its sanctity to a substitute made for it before it itself has been consecrated? Similarly here, is it possible that the tenth which is not yet holy itself should be able to confer holiness on the ninth.

(9) The eleventh which follows the tenth.

(10) The source of the cited Baraitha.

(11) We see therefore that R. Judah holds that the eleventh which was marked the tenth is sacrificed. How then can we explain the Baraitha above which says ‘Let them be left to die’ as being the opinion of R. Judah?

(12) The Baraitha above which states that where the two came out together and he called the tenth and the eleventh the tenth, they are both left to die.

(13) After the destruction of the Jewish Temple, when there cannot be any sacrifices. This explanation is not in agreement with the opinion of R. Huna above (53a), that nowadays the law of tithing animals is not practised. (Rashi) Tosaf. observes however that although the law of tithing does not apply in our days, nevertheless, if he did tithe, the animal set aside as tithe is sacred.

(14) Lit., ‘on account of a stumbling-block’. That he might maim it deliberately or that he might eat it without waiting for it to become blemished or he might shear it and work with it. Therefore we leave the animals to die rather then to let them pasture until they become blemished.

(15) Where he called the two animals the tenth and the eleventh the tenth.

(16) The fear of his maiming the animal or eating it while it is unblemished applies equally to one animal, seeing that it cannot be offered nowadays. Therefore the ruling that the animal is left to die should be taught with reference even to one animal.

(17) Lit., ‘states a "not only"’.

(18) Does the Baraitha say that we condemn it to die.

(19) For he loses nothing thereby, as he can wait until the animal is blemished in order to eat it.

(20) Since it is a peace-offering, he loses the breast and the right shoulder which must be given to the priest, and therefore the sender can say: ‘I did not send you to cause me a loss’. We therefore maintain that the sending was void.

(21) To benefit me.

(22) To cause me a loss, having to wait for a blemish before the animal can be eaten.

(23) If he knows the owner to be a liberal person, the agent separates as terumah one part in forty, if a mean person, he separates as terumah one part in sixty and if the owner is an average person, the agent separates as terumah for him one part in fifty.

(24) Giving one in forty, which is a liberal amount.

(25) Ter. IV, 4. Why cannot the owner say here, as R. Papa maintains above, that the one in forty which the agent separated as terumah was a mistake which caused him a loss and that therefore his agency is void?

(26) I judged in my mind that this was the amount of terumah that you proposed separating.

(27) To mark the ninth animal as the tenth.

(28) You should have marked the certain tenth as the tenth. R. Papa therefore maintains that in every case the agency is void and thus the animal is not sacred.

Talmud - Mas. Arachin 2a

CHAPTER I

MISHNAH. ALL [PERSONS] ARE FIT TO EVALUATE OR TO BE MADE THE SUBJECTS OF VALUATION,[1] ARE FIT TO VOW[2] [ANOTHER'S WORTH] OR HAVE THEIR WORTH VOWED: — PRIESTS, LEVITES AND [ORDINARY] ISRAELITES, WOMEN AND SLAVES. PERSONS OF UNKNOWN[3] SEX AND HERMAPHRODITES ARE FIT TO VOW [ANOTHER'S WORTH], OR TO HAVE THEIR WORTH VOWED, AND ARE FIT TO EVALUATE, BUT THEY ARE NOT FIT TO BE MADE THE SUBJECTS OF VALUATION, FOR THE SUBJECT OF VALUATION MAY BE ONLY A PERSON DEFINITELY EITHER MALE OR FEMALE.[4] A DEAF-MUTE, AN IMBECILE, OR A MINOR[5] ARE FIT TO HAVE THEIR WORTH VOWED OR BE MADE THE SUBJECT OF VALUATION, BUT THEY ARE NOT FIT TO MAKE EITHER A VOW [OF ANOTHER'S WORTH] OR TO EVALUATE, BECAUSE THEY HAVE NO MIND.

GEMARA. What does ALL [PERSONS] ARE FIT TO EVALUATE mean to include? — It is meant to include one close to manhood who must be examined.[6] What does [ALL[7] ARE] FIT TO BE MADE THE SUBJECTS OF VALUATION mean to include? — It is meant to include a person disfigured, or one afflicted with boils.[8] For one might have assumed that since Scripture says: A vow according to thy valuation,[9] that only such persons as are fit to be made the subjects of a vow [as regards their worth], are fit to be made subjects of a valuation, and that persons who are unfit to be made subjects of a vow [as regards their worth], are also unfit to be made subjects of a valuation, hence Scripture informs us: of persons.[9] i.e., no matter who they be. What does [ALL PERSONS] ARE FIT TO VOW mean to include? — [The phrase ALL] is needed only for [the clause] ‘are fit to have their worth vowed’ — What is to be included [in the phrase ALL] ARE FIT TO HAVE THEIR WORTH VOWED? Is it to include persons of unknown sex or hermaphrodites — but they are expressly stated [in our Mishnah]! Again is it to include a deaf-mute, an imbecile and a minor — they too are expressly stated! And if it is to include a person below the age of one month — that too is expressly mentioned![10] And again if it is to include an idolater — he too is expressly mentioned![11] — In reality it is meant to include a person below the age of one month; and the Mishnah states it [by implication] and later on expressly mentions it.[12]

What does ‘All persons are obliged to lay on hands’ mean to include?[13] — It is meant to include the heir, and this against the view of R. Judah.[14] What does ‘All persons can effect a substitute’[15] mean to include? — That, too, means to include the heir, in contrast to the view of R. Judah. For it was taught: An heir must lay on hands, an heir can effect a substitute. R. Judah says: An heir does not lay on hands, and an heir cannot effect a substitute. What is the reason of R. Judah's view? — [Scripture says:] His offering,[16] i.e., but not his father's offering. And he infers the rule concerning the commencement of the dedication of the animal from the rule governing its end. Just as at the end of the dedication the heir does not lay on hands, thus also at the beginning[17] he cannot effect a substitute. And the Rabbis? — [Scripture says redundantly:] And if he shall at all change — that included the heir. And we infer the rule concerning the end of the dedication from the rule governing the commencement of the dedication. Just as at the beginning of the dedication the heir has power to effect a substitute, so at the end is he obliged to lay his hands on the animal's head.[18] But what do the Rabbis do with ‘his offering’? [They interpret:] ‘his offering’, but not the offering of an idolater; ‘his offering’, but not the offering of his neighbour; ‘his offering. i.e., to include all who have a share[19] in the ownership of a sacrifice in the duty to lay on hands. And R. Judah?[20] — He does not hold that all who have a share in the ownership share the obligation of laying hands thereon; or, indeed, if he should hold so

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(1) Lev. XXVII, 1f fixes the value of the person dedicated to the sanctuary, this value depending only on the age of the person dedicated. Hence, if someone uses the formula: Erek peloni ‘alay. i.e., the valuation of So-and-so be upon me (to pay to the sanctuary). he must make payment in accord with the valuation fixed in Lev. XXVII, independent of the person's physical or mental condition. Thus e.g., the valuation fixed there for a man of the age of between twenty and sixty, is fifty shekels.

(2) But if he said: Deme peloni ‘alay, i.e., the equivalent of the market value of So-and-so be upon me (to pay to the sanctuary), he has made a vow and he must pay the amount which that person would fetch, if sold on the slave market. In this case the deciding factor would be not age, but physical and mental condition.

(3) Tumtum; lit., ‘one hidden, stopped up’. i.e., a person whose genitalia are covered by a skin, hence one of unknown sex.

(4) Scripture refers (ibid.) to ‘male’ and ‘female’, but persons whose sex cannot be determined are excluded from the valuation.

(5) A boy under the age of thirteen, a girl under the age of twelve years.

(6) Mufla’ from the root meaning, to make clear, to examine, hence ‘one to be examined’ as to the purpose for which he made the valuation. Above the age of thirteen such knowledge is taken for granted. Below the age of twelve it is assumed to be absent. During the period from twelve to thirteen the boy is to be subject to questioning. If the examination establishes his knowledge of the purpose of the dedication, his dedication is considered valid, and renders payment obligatory. Otherwise no significance is to be attached during that period to his utterance of the formula: Erek peloni ‘alay.

(7) The first word of the Mishnah ALL is assumed to apply to the four cases enumerated. This word does not seem necessary, the Mishnah might have stated e.g., Priests, Levites and Israelites are fit etc. The additional ALL hence is assumed by the questioner to have implied the inclusion of persons whom, without this inclusion, one might have excluded. Hence the series of questions establishing the identity of the persons included in each case. This discussion leads to the consideration of other passages throughout the Mishnah, in which the word ‘all’ occurs, and to an explanation of who is included in each statement.

(8) Lev. XXVII, 2.

(9) A person disfigured, or afflicted with boils would fetch no price at all on the market place. In the expression A vow according to thy valuation, one might have inferred from this juxtaposition, that a certain fundamental agreement prevailed between cases of vow (of one's worth) and of valuation, and that therefore a person unfit to have his worth vowed (because a vow was redeemable by payment of the market value, which did not exist in the case of a disfigured person) would be unfit to be made the subject of a valuation. But this inference is cancelled by another Biblical phrase, which indicates that what is required is but ‘persons’, independent of their physical condition: When a man shall clearly utter a vow of persons (ibid.).

(10) V. infra 5a.

(11) Ibid. 5b.

(12) By the redundant ALL, which obviously includes some person or persons, which but for this all-inclusive term, would have been excluded. The particular reason why this case rather than any other of the four here dealt with is included here Rashi finds in the fact that it is the only one concerning which a controversy exists (infra 5a), whence the statement here by implication is of importance in teaching that even the Rabbis who hold that one who is less than a month cannot be subject to evaluation, nevertheless agree that he can have his worth vowed.

(13) The Gemara proceeds now to discuss all other cases in which a redundant ‘all’ is to convey sone inclusion in the principle of other persons. The laying on of the hands on the head of the animal to be sacrificed conveyed the sense of ownership. It was a duty, hence a question arises in the case of several partners, or in the case of proxy.

(14) R. Judah denied this obligation to an heir. Lev. I, 3 reads: If his be a burnt-offering . . . he shall lay his hand upon the head. This, R. Judah argues, expressly limits the duty of laying the hand to the man who offered it, not to his heir, who is freed from his obligation.

(15) Lev. XXVII, 10: He shall not alter it, nor change it, a good for a bad, or a bad for a good; and If he shall at all change beast for beast, then both it and that for which it is changed shall be holy. The dispute concerns only the case of an heir in respect of an offering dedicated by his father but all agree that an exchange made by anyone besides the original owner of the sacrifice would have no effect at all, the first animal remaining sacred, the second not being affected by the unauthorized attempt at exchange.

(16) Lev. III ,2, 7 and 13 in connection with the laying on of hands in the case of peace-offerings. V. Rashi and Tosaf. a.l.

(17) First an animal is separated for the purpose of being offered on the altar. That is the commencement of its sanctification. At the end, just before the slaying of the animal, the owner lays his hand on its head. R. Judah infers from the regulations at the end, viz., the prohibition for anyone but the owner to lay hands on the head, the inefficacy of the change at the beginning, i.e., his intended exchange has no effect on the animal he wanted to substitute.
(18) The Sages infer from the redundant ‘shall at all change’ that even another may effect the substitute and argue from the beginning of the sanctification to the end, hence permit an heir to lay hands on the animal.
(19) The phrase ‘his offering’ occurs three times in Lev. III, viz., vv. 2, 7 and 13, and while two of these expressions have a limiting sense, one has an inclusive meaning, lust as ‘his’ implies ownership, so must anyone who has a claim to ownership lay his hands on the animal's head. Therefore, every member of a group who offer the animal together must perform the laying on of hands.
(20) Since R. Judah would interpret ‘his offering’ in each case in an exclusive sense, how could he derive the obligation of the laying on of hands on the part of anyone who shares in it-for which an inclusive interpretation is necessary?

Talmud - Mas. Arachin 2b

he would infer [the exclusion of] idolater and neighbour from one passage,[1] so that two more would remain redundant, from one of which he would infer that ‘his offering’ means ‘but not that of his father’, and from the other that all who have a share in the ownership of a sacrifice are obliged to perform the laying on of hands. But what does R. Judah do with ‘If he shall at all change’? — He needs that to include woman,[2] for it was taught: Since all this chapter is couched in masculine gender, what brings us eventually to include woman? The text stated: ‘If he shall at all change’.[3] But [whence do] the Sages [infer this]? — From the’ [redundant] ‘And if’. And R. Judah? — He does not interpret ‘And if’.[4]

What does ‘All persons are obliged[5] to observe [the laws concerning] the booth’ mean to include? — That is meant to include a minor that no more needs his mother,[6] for we have learnt: A minor that no more needs his mother is obliged to observe the laws concerning the booth.[7] What does ‘All are obliged to observe the law of the lulab’[8] mean to include? — That includes a minor who knows how to shake the lulab, for we learnt: A minor who knows how to shake[9] the lulab is obliged to observe [the laws of] the lulab.[10] What does ‘All are obliged to observe the [law of] the fringes’ include? — That includes the minor who knows how to wrap himself, for it was taught: A minor who knows how to wrap himself [into the tallith][11] is obliged to observe the law of the fringes. What does ‘All are obliged to observe the rules concerning the tefillin’ include? — That includes a minor who knows how to take care of the tefillin, for it was taught: If a minor knows how to take care of the tefillin,[12] his father buys tefillin for him. What does ‘All are obliged to appear’ include’[13] — It is meant to include one who is half[14] slave and half freedman. According, however, to Rabina, who holds that one who is half slave and half freed is free from the obligation to appear, [the word ‘All’] is meant to include one who was lame[15] on the first day of the festival and became normal again on the second day. That would be right according to the view that all the days of the festival may make up for each other. But according to the view that they all are but making up for the first day, what will ‘All’ come to include?[16] — It will include one blind in one of his eyes. This [answer] is not in accord with the following Tanna, for it was taught:[17] Johanan b. Dahabai said in the name of R. Judah: One blind in one eye is free from the obligation to appear, for it is said:[18] Yir'eh-yera'eh [he shall see — he shall appear] i.e.,just as He is present to see [the comer], so shall He be seen, just as His sight is complete,[19] so shall the sight of him who appears be intact.[19] Or, if you like, say this: In truth it is meant to include one who is half slave and half freed man, and if the view of Rabina should appear as the difficulty, this is no difficulty either; the first view is in accord with the former Mishnah, the second with the later Mishnah. For we learnt:[20] One who is half slave and half freed man shall serve himself one day and his master the other — thus Beth Hillel. Said Beth Shammai to them: You took care of the interests of his master, but you have done nothing [thereby] on his behalf. For he is unable to marry either a female slave or free woman. Shall he do without marriage? But the world was created only for propagation of the species, as it is said: He created it not a waste. He formed it to be inhabited.[21] Rather, for the sake of the social welfare we force his master to set him free, and the slave writes out a document of indebtedness covering the other half of his value. Beth Hillel retracted and taught as Beth Shammai.[22] What does 'All are obliged to sound the shofar'[23] mean to include? — That includes a minor who has reached the age of training, for we learnt: One does not prevent a minor from blowing the shofar on the festival.[24] 'All are obliged to read the scroll'.[25] 'All are fit to read the scroll'. What are these meant to include? —

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(1) The word 'his' could exclude both the fellow-Jew and the idolater, since the Scriptural 'his sacrifice' logically excludes both.

(2) That a woman can effect a substitute in her offering.

(3) Lit., 'if change he shall change' the emphasis is inclusive.

(4) He does not ascribe to that word the implications attributed to it by the Sages. About the limits of such interpretation and the basic suggestions implied in disputes thereon v. D. Hoffman, Leviticus I, 9f.

(5) The Gemara proceeds now to a systematic examination of all cases in which the word 'all' is used. Unless it can be proved that in each case that word includes something normally excluded, the argument, or rather the first question posed on 2a will be invalidated.

(6) A child which (Suk. 28b) on awakening no more calls out 'Mother!' but attends to his needs, dresses himself, etc.

(7) Suk. 28a.

(8) The palm-branch forming with citron, myrtle and willow, the cluster taken during the Feast of Tabernacles (v. Lev. XXIII, 40) is every day waved in every direction to symbolize the omnipresence of God.

(9) The lulab is waved in the four main directions: south, north, west and east, and there are some details as to the position of the components of the cluster, which are known to the worshipper, so that he may follow the cantor's lead.

(10) Suk. 42a.

(11) The prayer shawl at the four corners of which the fringes are attached, and into which one wraps oneself, 'in order to remember the commandments of the Lord'. The wrapping must be performed in a special manner, v. M.K. 24a.

(12) Commonly called phylacteries. The attachment, leather box and leather strap, each on left arm and forehead, containing the Shema' and other extracts from the Torah, originally worn all day, now only at the morning prayer.

(13) Ex. XXIII, 17: Three times in the year all thy males shall appear before the Lord God. The Scriptural text is all-inclusive, hence the Mishnaic 'All' must deal with a case which, but for its redundant 'all', one would have excluded from the obligation to appear.

(14) A full slave is free because 'before the Lord God' is interpreted to mean: only those who have but one Lord or Master, I.e., excluding the slave, who has a terrestrial master in addition to the Eternal Lord to serve. If owned by two masters, one of whom frees him, the slave becomes half freed, and stays half slave.

(15) The word regel in Hebrew may mean either 'foot' or 'festival' (on the three festivals the men 'footed' it to Jerusalem). Hence the inference that only those who could foot it normally are obliged to appear on these three festivals, which excludes a lame man.

(16) There are two views as to the statement of the Mishnah (Hag. 9a: One who has made no offering on the first day of the feast must make up, or has the opportunity to make up for it, throughout the other days of the festival), the first holding that each day has its own obligation; hence even if the worshipper was unfit on the first day of the festival, provided he is fit on the next, he is not exempt on the other days per se imposing the obligation, whilst the other considers only the first day imposing the obligation of an offering. Consequently, if he was disqualified on the first day, or free of that obligation, he would be exempt a complementary offering. The practical difference, in our case, would be this: One who on the first day of the festival had been lame, hence not obliged to offer the festal sacrifices, would be free according to the second view, but according to the first, would be obliged to make the offering on one of the subsequent days of the festival.

(17) Hag. 2a.

(18) The massoretic text y-r-'-h may be accentuated to read either yir'eh (he will see) or yera'eh (he will be seen). The first reading applied to the Lord, the second to the Israelite appearing before Him, would be thus interpreted: Just as the Lord sees him 'with two eyes' i.e., with undisturbed vision, so shall the worshipper be one appearing with 'both eyes intact, i.e., with undiminished sight. For an alternative rendering v. Hag., Sonc. ed., p. 3. n. 3.

(19) Lit., 'with two eyes'.

(20) Hag., Sonc. ed.. p. 3. n. 6.

(21) Isa. XLV, 18.
(22) V. Hag. 2b.
(23) The trumpet blown on the New Year, v. Lev. XXIII, 24.
(24) R.H. 32b. The source quoted does not seem to fit the ‘inference made, for the answer postulates evidence that a minor is obliged to sound the shofar, whereas the reference quoted refers to the fact that one does not prevent a minor from sounding the horn, which allows for the possibility of his being neither obliged nor forbidden to sound it. There is a lacuna in the text which Tosaf. s.v. אין מעכבין supplies, from R.H. 33a, where such obligation is definitely stated.
(25) I.e., the Scroll of Esther read on the feast of Purim.

Talmud - Mas. Arachin 3a

They are meant to include women, in accord with the view of R. Joshua b. Levi; for R. Joshua b. Levi said: Women are obliged to read the scroll because they, too, had a part in that miracle.[1] What does ‘All are obliged to arrange zimmun’[2] mean to include? — It means to include women and slaves, for it was taught: Women are under the obligation of zimmun amongst themselves, and slaves are under the obligation of zimmun amongst themselves.[3] What does ‘All may be joined to a zimmun’ mean to include? — That includes a minor who knows to Whom one pronounces a blessing, for R. Nahman said: One may arrange a zimmun with a minor who knows to Whom one pronounces a blessing.[4] What does ‘All defile by reason of their flux’ include? — That includes a child one day old, for it was taught: [It could have said,] When a man [hath an issue out of his flesh].[5] Why does the text state ‘any man’? That is to include a child one day old, [teaching] that he defiles by reason of his flux; this is the view of R. Judah. R. Ishmael the son of R. Johanan b. Beroka says: [This inference] is not necessary, for behold, Scripture reads: And of them that have an Issue, whether it be a male or a female,[6] i.e., once he is ‘a male’, however minor or major, once she is ‘a female’, whether minor or major.[7] If so, why does the Torah use [the redundant phrase] ‘any man’? The Torah speaks in the language of man.[8] What does ‘All are susceptible to be defiled by someone defiled through contact with a corpse’[9] include? — That includes a minor. For one might have assumed that since Scripture reads: But the man that shall be unclean, and shall not purify himself,[10] that means only [to] a man [does this law apply] but not to a minor, therefore it is said: And upon the souls [persons] that were there.[11] What then did ‘man’ come to exclude?[12] — It is meant to exclude a minor from the penalty of excision.[13] What does ‘All contract uncleanness by leprosy’ include?-That includes a minor. For one would have taught: [Scripture reads:] A leprous man,[14] that means only a man but not a minor, therefore we are taught [that a minor, too, is defiled when leprous]. But say perhaps: Thus, indeed?[15] — [The text reads:] When adam [a man] shall have in the skin of his flesh,[16] i.e., as long as it is [an adam].[17] Then why the word ‘man’? — This is in accord with what was taught: ‘[A leprous] man’, thence I derive only the law as referring to a man, whence am I to infer it for woman? When it says: And the leper,[18] that includes two. Why then does the text state, [A leprous] man’? That refers to [the matter referred to] later,[19] [viz.,] only a [leprous] man lets the hair of his head go loose and rends his clothes, but a [leprous] woman does not let the hair of her head go loose, nor does she rend her clothes. What does ‘All may inspect the signs of leprosy’, ‘All are fit to inspect the signs of leprosy’ include?[20] — That includes one who is not familiar with them and their names. But did not a Master say that one unfamiliar with them and their names may not inspect leprous signs?[21] Rabina said: This is no difficulty: One case speaks of one who understands them when they are explained, the other of one who, even when they are explained, does not understand them. What does ‘All are fit to mix the ashes’[22] include? According to R. Judah it includes a minor; In accord with the Sages it includes a woman, for we are taught: All are fit to mix the ashes except a deaf-mute, an imbecile or a minor. R. Judah considers a minor fit, but a woman and a hermaphrodite unfit. What does ‘All are fit to sprinkle’[23] include? — That includes an uncircumcised[24] person In accord with the view of R. Eleazar; for R. Eleazar said: If an uncircumcised person sprinkled, his sprinkling is valid.

What does ‘All are fit to slaughter ritually’ include? — The first includes a Samaritan, the second a non-conforming Israelite.[25] What does ‘All may compel to go up to the land of Israel’ include?[26] —

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(1) v. Meg. 4a, Rashi and Tosaf. s.v. שאף : Either they too were included, in Haman's decree of extinction, or their merit, too, brought about the miracle of the deliverance.
(2) Ber. 45a: Three who ate together are under the obligation of zimmun, i.e. of saying grace together. Literally zimmun means appointing and may thus refer to the appointment to eat together, with the implied obligation to say grace together.
(3) Ber. 45b.
(4) Ber. 48a.
(5) Lev. XV, 2.
(6) Lev. XV, 33.
(7) Nid. 32b.
(8) The repetition of the word ‘man’ is redundant. ‘Ish ish’ means every man, any man.
(9) The corpse itself is called: Abi Aboth ha-Tunah i.e.,very first cause of defilement.
(10) Num. XIX, 20.
(11) Ibid. 18.
(12) Since all persons can defile, why the exclusive ‘man’?
(13) This passage refers to an unclean person entering the Sanctuary, the penalty for which offence is excision (by the hand of God). The word ‘man’ in the passage indicates that whereas any ‘soul’ (even a minor) can defile, only a man, i.e., an adult, incurs the penalty of death when in his unclean state he enters the Sanctuary.
(14) Lev. XIII, 44.
(15) That the laws of leprosy do not apply to a minor, in accord with the exclusive meaning of ‘man’?
(16) Lev. XIII, 2.
(17) ‘Adam’, a human being in the general sense of the term, includes minors. ‘Ish’ — ‘man’ should have been used if minors were to be excluded from the application of that law.
(18) Lev. XIII, 45. The word ‘and the leper’ is superfluous. The preceding verse having referred to the leper, why then the repetition ‘and the leper, etc’? Evidently another leper, too, is concerned, i.e., a female leper.
(19) In v. 45: And the leper in whom the plague is, his clothes shall be rent, and the hair of his head shall go loose, v. M.K. 15a.
(20) These are two distinct teachings, giving the same ruling in different phraseology, the latter being a Mishnah in Neg. III, 1.
(21) Shebu. 6a.
(22) To mix (lit., ‘to sanctify’) the ashes of the red heifer with fresh water, v. Yoma 43a.
(23) A person levitically unclean with the water of purification. Num. XIX, 1f.
(24) If two sons of one family have died because of the circumcision, the third is not to be circumcised, because of the hazakah (presumption) that a like fate might befall him. Such an uncircumcised person, being legally justified in failure to have the rite performed upon himself, does not fall into the category of the unfit.
(25) There are two statements to this effect: Hui. 2a and 15b, hence the questions calls for two inclusions.
(26) Keth. 110b.

Talmud - Mas. Arachin 3b

That includes slaves.[1] But according to the one who teaches ‘slaves’ explicitly, what does it include? — That includes the case [when the husband moves] from a beautiful habitation [in the Diaspora] into a bad one [in the land of Israel]. What does ‘All may compel to go up to Jerusalem’ include?[2] It includes the case [of moving] from a beautiful habitation into a bad one.

‘All are obliged to observe the laws concerning the booth even priests, Levites and Israelites’. But that[3] is self-evident, for if they are not obliged, who is obliged? — The statement is necessary for the priests, for I would have thought, since Scripture says: Ye shall dwell in booths,[4] and a Master said: ‘Ye shall dwell’ [means] ‘in the same manner as you occupy your habitation’, just as in the dwelling husband and wife are living together, so shall husband and wife live together in the booth, and since the priests are prevented by the [Temple] service,[5] one would have assumed they are free from the obligation to dwell in the booth; we are therefore taught that though they are free at the time of the service, outside the time of the service they are definitely obliged [to observe the laws of the booth]; just as is the case with travellers; for a Master has said: those who travel by day are free from the obligation of the booth by day and are bound to it at night. ‘All are obliged to observe the law concerning the fringes, even priests, Levites and Israelites’. But that is self-evident? — It is necessary because of the priests, for I would have thought, since it is written: Thou shalt not wear a mingled stuff . . . thou shalt make thee twisted cords,[6] that only such persons as are bound by the prohibition of mingled stuff in their garments are obliged to make the twisted cords, as since to them [the wearing of mingled] stuff has been permitted,[7] one might have thought that they would not be obliged to make themselves fringes, therefore we are informed that although that prohibition does not apply at the time of their service, it does apply outside that time of service.[8]

‘All are obliged to observe the commandment of the tefillin, even priests, Levites and Israelites’. But that is self-evident? — It is necessary because of the priests. For I might have assumed that since it says: And thou shalt bind them for a sign upon thy hands, and they shall be for frontlets between thine eyes,[9] that only those to whom [the obligation to bind] upon the hand applies are bound to [bind upon] the head; but as to the priests [the obligation of the sign] upon the hand does not apply to them, as it is written: [And his linen garment, his linen breeches] shall he put upon his flesh,[10] [which means] that nothing may intervene between them and his flesh,[11] one might say [the obligation of the sign upon] the head similarly does not apply to them, therefore we are informed that they are not indispensable one to another, as we learnt: The tefillin of the arm is not indispensable to the tefillin of the head, neither is the tefillin of the head indispensable to the tefillin of the arm.[12] But why shall it be different with the tefillin of the hand?[13] [Evidently] because Scripture says: [And his linen garments] ... shall he put upon his flesh? But in connection with [the sign upon] the head it is similarly written: And thou shalt set the mitre upon his head?[14] — It was taught: ‘Between the plate and the mitre his hair was visible’, at the place where he put his tefillin.[15]

‘All are obliged to perform the commandment touching the horn, even priests, Levites and Israelites’. But that is self-evident? — For the sake of the priests is it necessary, for I might have assumed since it is written: It is a day of blowing the horn unto you,[16] that only those who are obliged to sound the horn one day [a year] are obliged to do so on that day; the priests, however, since they are obliged to sound the horn throughout the year, as it is written: Ye shall blow with the trumpets over your burnt-offerings,[17] one might have assumed to be free from that obligation. But these things are not similar. Here it is a case of the horn, there one of trumpets? — Still, the information is necessary, for I might have assumed, since we learnt[18] that the Jubilee year is like the New Year with regard to the sounding of the horn and the benedictions, that therefore only he to whom the laws of the Jubilee year apply is obliged to perform the laws touching the New Year, but he to whom the laws of the Jubilee year do not apply, need not perform the laws touching the New Year, and since priests are not affected by the laws governing the Jubilee year, as we learnt:[19] priests and Levites may sell at any time

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(1) A circumcised Canaanite slave, whom his master must not sell outside the Holy Land, if the slave desires to be imported to Palestine. The master must either take him to the Holy Land or emancipate him outside thereof. Tosaf. s.v. לאתויי.

(2) I.e., the husband can compel the wife to go up to the land of Israel even under such conditions.

(3) Here starts a new type of question, really a sub-question of the first. In the first the problem was to discover the case to be included because of the inclusive ‘all’; in the following cases the redundant ‘priests, Levites and Israelites’ is to be accounted for. The law was given to Israel. Israel is divided into the three groups, Priests, Levites and (common, not levitical) Israelites. Why then the repetition? The answer in each case will have to show that for some particular reason one of the three classes might have been excluded, but for the repeated clause, which expressly includes them.

(4) Lev. XXIII, 42.

(5) Priests must be levitically pure when performing the service, whilst the act of conjugality would render them levitically impure.

(6) Deut. XXII, 11 and 12 are read together, and according to the principle that the proximity of passages in Deut. justified legalistic inference (Ber. 10a), they are assumed here to be interdependent.

(7) The girdle of the priests was of mingled stuff, linen and wool, v. Yeb. 4b in explanation of Ex. XXXIX, 29.

(8) With the corollary that when not engaged in the service divine, they are subject to the rule of the twisted cords.

(9) Deut. VI, 8.

(10) Lev. VI, 3.

(11) Hence not the tefillin either since such binding would intervene between the priestly garment and the flesh.

(12) Men. 38a. The Mishnah means that the performance of the obligation of the sign upon head and arm respectively is not interdependent, i.e., failure to bind the sign upon the head does not render the binding upon the hand invalid, or superfluous. Although part of the same sign-symbolism, they represent two independent, individual acts.

(13) That priests are exempt from binding it on.

(14) Ex. XXIX, 6, so that the tefillin on the head would act as interposition between the head and the mitre.

(15) Hence the argument of the last note could not be made here, whilst the tefillin of the arm does interfere with the regulation that nothing shall intervene between the linen garment and the priest's flesh, the tefillin being placed upon the biceps of the left arm, tradition provides for a free space between plate (Ex. XXVIII, 36) and mitre, where the tefillin of the head had its legitimate place.

(16) Num. XXIX, 1.

(17) Ibid. X, 10.

(18) R.H. 26b. On the Day of Atonement of the Jubilee year the set of prayers obligatory on the average New Year are also mandatory, viz., Malkhiyoth, Zikhronoth and Shofroth.

(19) Infra 33b.

Talmud - Mas. Arachin 4a

and redeem at any time, one might say that they are not affected by the laws governing the New Year either, therefore we are informed that although they are unaffected by the law of release of landed property, the law concerning the release of debts and the emancipation of slaves binds them at any rate.[1]

‘All are obliged to read the scroll, even priests, Levites and Israelites’. is that not self-evident? — No, it is necessary [to state that] concerning the interruption of their [Temple] service, in accord with Rab Judah in the name of Rab; for Rab Judah in the name of Rab said: Both the priests in their [Temple] service, the Levites on their platform, the Israelites at their posts[2] interrupt their work and come to listen to the reading of the scroll.

‘All are obliged to arrange a zimmun even priests, Levites and Israelites’. Is not that self-evident? — No, it is necessary for the case in which the priests were eating consecrated foods. I might have thought since the Divine Law said: And they shall eat those things wherewith atonement hath been made,[3] that this is an atonement, therefore we are informed: The Divine Law has said: Thou shalt eat and be satisfied,[4] and this applies to them as well.

‘All may be joined for a zimmun, even priests, Levites and Israelites’. Is that not self-evident? — No, it is necessary for the case where the priests eat of terumah[5] or of consecrated foods, whilst the non-priest eats of profane foods. I might have assumed that since the commoner, even though he desired to eat with the priest [of the latter's food], he could not do so, therefore he could not be joined to him [for the zimmun] either, so we are informed that granted that the non-priest may not eat together with the priest, the priest could surely eat together with the non-priest.[6] ALL MAY EVALUATE, EVEN PRIESTS, LEVITES AND ISRAELITES. But that is self-evident? — Rabbah said: This is necessary in view of the opinion of Ben Bukri, for we learnt:[7] R. Judah said: Ben Bukri testified at Jabneh that any priest who paid the shekel[8] does not thereby commit a sin. R. Johanan b. Zakkai said to him: Not so! But a priest who does not pay the shekel commits a sin. The priests, however, Used to explain the following verse to their advantage: And every meal-offering of the priest shall be wholly made to smoke; it shall not be eaten.[9] Now, [they argued] since the ‘Omer and the two loaves and the shewbread are ours, how could they be eaten? — But according to Ben Bukri, since they are not de jure obliged to bring it [pay the shekel], if one brings it he should be considered a sinner, for he brings profane things to the Temple Court?[10] — [The assumption is that] they bring the shekel and hand it over to the community.[10] Now I might have assumed that since Scripture reads: And all thy valuations shall be according to the shekel of the Sanctuary,[11] that only he to whom the obligation of the shekel applies is subject to the laws of valuation, but as to priests, since the obligation of the shekel does not apply to them, are not subject to the laws of valuation; therefore we are informed [that they are]. Said Abaye to him: But the words, ‘And all thy valuations’ serve to teach that ‘all thy valuations’ must each amount to no less than one sela’? Rather, said Abaye, [the inclusion of priests] is necessary [for this reason]: I might have assumed that since Scripture reads: And their redemption money — from a month old shalt thou redeem them — shall be according to thy valuation,[12] that only he to whom the law of redeeming [the first-born] applies, is subject to the laws of valuation, but as to priests, since they are not included in the law concerning redemption, therefore they are not subject to the law of valuations; therefore we are informed [that they are]. Said Raba to him: If so, since with regard to the ram of guilt-offering Scripture reads: And he shall bring his forfeit unto the Lord, a ram without blemish out of the flock, according to thy valuation,[13] let us also argue that only he to whom the law of valuation applies is liable to bring a ram of guilt-offerings but one of doubtful sex, or a hermaphrodite, who is not subject to the law of valuation, is free from the obligation to offer up a ram of guilt-offering? Rather, said Raba, or as some say, R. Ashi: [The inclusion of priests] is necessary, for I might have said, since Scripture reads: Then he shall be set before the priest, etc.,[14] that [only an Israelite is set] before the priest, but not a priest before a fellow priest; therefore we are informed [that priests, too, are included in the law of valuation].

What does ALL ARE FIT TO BE MADE THE SUBJECT OF VALUATION include? — That includes one disfigured or afflicted with boils. Whence do we derive that? — For our Rabbis have taught: ‘According to thy valuation’, that includes a general valuation.[15] Another interpretation: ‘According to thy valuation’, i.e., one pays only for the valuation of a whole person, but not for the valuation of his limbs. One might have assumed that they exclude [the valuation of] any thing on which life [the soul] depends, therefore the text states: ‘Persons’.[16] ‘Persons’ [souls], but not a dead person. Thence I would exclude the dead, but not the dying, therefore the text states: Then he shall be set [before the priest], and the priest shall value him,[17] [which means] only one who can be set [before the priest] can be evaluated but one who cannot be set before the priest cannot be evaluated either. Another interpretation: ‘Persons’ — thence I could infer only the case of one evaluating person; whence do I know the case of one evaluating a hundred persons? The text therefore states: ‘Persons’. Another interpretation: ‘Persons’

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(1) The Jubilee year affects more than the sale of land, viz., also the manumission of slaves; the priests do not enjoy any privileged position, hence they are also included in Jubilee legislation, whence their obligation to blow the horn on New Year's day.

(2) V. Meg. 3b.

(3) Ex. XXIX, 33.

(4) Deut. VIII, 10. According to Sh. Mek.: ‘I would have thought that since it is written: Thou shalt eat and be satisfied, and bless, i.e., only when you eat for the purpose of appeasing your hunger is it obligatory for you to pronounce the blessing, but since priests (also) eat to obtain forgiveness, they would be free from that obligation, therefore we are informed etc.’.

(5) V. Glos.

(6) It need not be mutually possible to join in the meal, hence as long as priest and non-priest are able to partake of one meal together, the zimmun is obligatory, for even the priest is permitted to eat non-consecrated food.

(7) Shek I, 4.

(8) The sin, as explained infra, would lie in his bringing profane money into the sanctuary. The command of Ex. XXX, 13: This they shall give, every one that passeth among them that are numbered, half a shekel after the shekel of the sanctuary, yields several inferences. ‘Among then that are numbered’ excludes the tribe of Levi who were not numbered among the rest of the tribes. Hence the priest offering his shekel might be assumed to offend by introducing non-consecrated, i.e., profane, hence forbidden, money into the sanctuary. Nevertheless, Ben Bukri maintains he does not offend, because he may surrender it to the non-priestly community, which is obliged to offer the shekel, thus converting his own shekel into consecrated money. R. Johanan b. Zakkai, however, points out that there are indications in the text justifying a different interpretation. — Every one that passeth’ may refer to the whole people, including the Levites, who passed through the Red Sea.

(9) Lev. VI, 16. They argued: Since this verse prohibits the enjoyment of anything offered up by priests, our shekel, the proceeds of which should be completely used for ‘smoking’ would render the ‘omer and the shewbread, the costs of which were defrayed from the shekel payments, prohibited for any human use; whereas they are eaten by the priests in the sanctuary. Consequently, for any priest to pay the shekel would be sinful. But this argument is faulty for it is only the priest's own flour-offering which must be wholly burnt, in all other cases the majority of the givers, i.e., the non.priestly community, determine the character of the offering, which need therefore not be consumed wholly on the altar.

(10) V. n. 1.

(11) Lev. XXVII, 25.

(12) Num. XVIII, 16.

(13) Lev. V, 25. This inference would be absurd; none would suggest that the hermaphrodite be freed from this law.

(14) Lev. XXVII, 8.

(15) The normal form of the valuation is: The valuation of So-and-so or the valuation of myself be upon me, i.e., I undertake to pay. A general valuation is: I undertake to pay a valuation, without referring to any person thus to be valued.

(16) Lev. XXVII, 2: persons, souls. Without a leg, for example, one would still be a person, but not without the head. Hence the valuation, say, of a man's head or heart, is taken to be equal to the valuation of his whole person, whereas the valuation of a non-vital part of his body has no significance.

(17) Ibid. 8.

Talmud - Mas. Arachin 4b

, thence I could infer only the case of a man evaluating either man or woman. But whence do we know the case of a woman evaluating a man, or of a woman evaluating a woman? The text therefore states: ‘Persons’. Another interpretation: ‘Persons’ — that means to include one disfigured or afflicted with boils. For I might have assumed: ‘A vow . . . according to thy valuation’ [meaning] whatsoever can have its worth vowed is subject to valuation, but whatsoever cannot have its worth vowed is not subject to valuation,[1] therefore Scripture states: ‘Persons’. ‘Then thy valuation shall be’ — that includes the person of ‘doubtful sex and the hermaphrodite among those who can have their worth vowed. For I might have assumed: Since [Scripture reads]: ‘A vow according to thy valuation’ that only such things as are subject to valuation can have their worth vowed; but whatsoever is not subject to valuation cannot have its worth vowed, therefore the text states: Then shall thy valuation be for the male,[2] [viz.,] only for the male but not for one of doubtful sex, or an hermaphrodite. One might have assumed that they may not be subject to the valuation of a man, but that they are subject to the valuation of a woman, therefore [the text reads]: Then thy valuation shall be for the male . . . and if it be a female — that means only one definitely male or female [is subject to valuation], but not one of doubtful sex or a hermaphrodite.

The Master taught: ‘According to thy valuation’: that includes a general valuation. What is a general valuation? — For it was taught: If someone says, I assume the obligation of a general valuation,[3] then he gives according to the minimum amount possible in valuations. What is the minimum due in valuations? Three shekels. But say, perhaps, fifty shekels?[4] — If you take hold of the larger [amount], you may lose your hold, but if you take hold of the lower, you will keep it![5]

Then say, perhaps, one shekel? As it is written: And all thy valuations shall be according to the shekel of the sanctuary?[6] — That passage refers to the regard to one's means.[7] What then is the purpose of the Scriptural passage?[8] — R. Nahman, in the name of Rabbah b. Abbuha said: To tell us that in this case he is not adjudged according to his means.[9] What is the reason? — Because it is as if he had made an express statement [of the minimum]. Others say: R. Nahman in the name of Rabbah b. Abbuha said, He is adjudged according to his means. But that is self-evident? — I might have assumed that [a general valuation] is considered like an express statement, therefore we are informed [that it is regarded like a poor man's vow]. ‘Another interpretation: "According to thy valuation", i.e., he pays only in case of the dedication of a whole person, but not for the valuation of his limbs’. But you have used this text to infer the rule concerning a general valuation? — Read: [Since instead of] ‘valuation’, it says, ‘according to thy valuation’.[10]

‘One might have assumed that this excludes anything on which life [the soul] depends, therefore the text states: "Persons" [souls] viz., souls but not the dead person’. But you have used that word for another purpose. Read: [Since instead of] ‘person’ [it says] persons’.[11]

‘Thence I would exclude the dead but not the dying, therefore the text states: "He shall be set [before the priest] and [the priest] shall value him"’. But, if so, you might exclude the dead also through inference from: ‘He shall be set . . . and the priest shall value him’? — In truth so. Wherefore then [the exposition] of ‘person’, ‘persons’? As we shall explain later on.[12]

‘Another interpretation: "Persons", thence I could infer the case of one evaluating one person; whence do I know the case of one evaluating a hundred? The text therefore states: "Persons". Another interpretation: "Persons" , thence I could infer only the case of a man evaluating either ma_n or woman. But whence do I know the case of a woman evaluating a man, or of a woman evaluating a woman? The text therefore states: "Persons". Another interpretation: "Persons", that means one disfigured or afflicted with boils’. But you have used the word for these [other teachings]?[13] — No Scriptural text is necessary for these, because the balance [between them] is even, hence all may be inferred therefrom.[14] The passage is necessary only for [the inclusion of] one disfigured or afflicted with boils. "’Then thy valuation shall be", that includes one of doubtful sex and an hermaphrodite among those who can have their worth vowed’. But why is a Scriptural passage necessary for [including these in the rule of those whose] worth [can be vowed]? Let them be no worse than the worth of a palm tree! If he said: The worth of a palm tree [do I oblige myself to pay], would he not have to pay it? — Said Rabbah:[15] It means to say that he [his worth] be assessed according to the importance [of his limb].[16] I would have thought that since it is written: ‘A vow according to thy valuation’, that whatsoever is affected by the law of evaluation is assessed according to the importance [of the limb] ‘ but that whosoever is not affected by the laws of evaluation is not assessed according to the importance [of the limb, hence the Scriptural indication]. Said Abaye to him: Is indeed one to whom the laws of valuation do not apply assessed according to the importance [of the limb]? Was it not taught: [If someone said], The head of this slave shall be consecrated to the sanctuary, then he and the sanctuary share it in partnership.[17] If he said: The head of this slave be sold to you, they assess its value between them.[18] [If he said], The head of this ass is consecrated, he and the sanctuary share it in partnership; [if he said], The head of this ass is sold to you, they assess it between them. [If he said], The head of this cow is sold to you, he has sold no more than her head. And not only that but even if he said: The head of this cow Is consecrated to the sanctuary, the sanctuary has no more than her head. And R. Papa said: [The reason why there is no partnership in the case of a cow is] because the head of an ox is sold[19] in the butcher's shop. Now ass and cow are not affected by the law of valuations, and yet are not assessed according to the importance [of the limb]? But according to your own position, what of the case of a slave to whom the law of valuation does apply, and yet he is not assessed according to the importance [of the limb]?[20] Rather: There is no difficulty. This latter [Baraitha] refers to things dedicated to the altar, the former to things dedicated to the Repair of the House.[21] How did you explain [the latter

Baraitha]? As referring to things dedicated to the altar? But look at the second part: And not only that, but even if he said: The head of this cow is consecrated to the sanctuary, the sanctuary owns no more than her head. Why that? Let the sacred character spread so as to include the whole animal?[22] Has it not been taught:

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(1) V. supra p. 16 n. 4.

(2) Ibid. 3.

(3) The suggestion is that the lowest possible amount is involved, namely three shekels, for a female from one month to five years of age.

(4) But why give him the benefit of the doubt? Why not impose, with even justification, the maximum?

(5) A proverb, v. Hag. 17a.

(6) If, however, we consider it safer to impose the minimum amount, because that is definitely included in any general valuation, whereas the maximum may be fought as against the intention of the man who dedicated, then why not impose the minimum possible in connection with valuations, one shekel, v. 25.

(7) That verse refers to a poor person, having made a vow of valuation, in which case the payment of his vow is regulated in accord with the valuator's means, never less than a shekel. But that does not affect the case of one who made a vague general evaluation, who, therefore, must pay the minimum of a valuation, viz., three shekels.

(8) What is the significance then of ‘According to thy valuation’? Since it is simple inference that a general valuation implies the minimum of three shekels, below which no valuation can go, the text seems meaningless.

(9) In the case of a general valuation the payment is fixed at three shekels, even if it is beyond the means of him who made the vow.

(10) The word without any suffix would have sufficed. The redundancy of the suffix implies additional information. Hence a double inference such as made here is quite legitimate.

(11) Cf. n. 1. mutatis mutandis.

(12) I.e., to include one disfigured or afflicted with boils.

(13) That one may evaluate a hundred persons, and that a woman too may evaluate.

(14) The word ‘nefesh’ (person, soul) allows with even logic a number of inferences: any person, male or female, may dedicate or he dedicated; person as well as persons may be dedicated; anything that is vital (to person, or soul) may be dedicated, even if it be but part of a person. Anyone of these inferences are therefore ‘balanced’, evenly justified and neither could one be inferred exclusively as more logical than the other. But the inclusion of one disfigured or afflicted with boils, which would have seemed incongruous because such persons cannot have their worth vowed, needed some textual justification or at least intimation, and that is provided by the plural ‘persons’, which includes even persons disfigured etc.

(15) So Sh. Mek. Cur. edd. Raba.

(16) So R. Gershom; e.g.,if a person's head or heart or any other vital organ were vowed, such vow, because of the vital need to that person of the respective organ, would be considered as equal to a vow of the whole person's worth, thereupon due to the Temple Treasury.

(17) Sc. its worth, which then is divided between them.

(18) V. infra.

(19) In the case of slave and donkey the head could not be (cut off and) sold, whence the vow implies part ownership. This shows that objects to which the law of valuation does not apply, are nevertheless not considered as having been vowed in their totality when a vital organ has been vowed, which contradicts the thesis, above, of Rabbah.

(20) The same question applies to Abaye's position inasmuch as from the same Baraitha it appears that even a slave, who is affected by the law of valuation, is not assumed to have been vowed in his totality, even though one of his vital organs has been vowed.

(21) Only with regard to dedications, the money of which flows to the repair fund, do we go by vow of vital organs, therefore also a hermaphrodite whose worth had been vowed to the repair fund, would be considered totally vowed, as long as a vital organ had been vowed; but such a regulation does not apply to objects dedicated to the altar.

(22) Since the whole animal could be offered up as a sacrifice.

Talmud - Mas. Arachin 5a

If one said: ‘The leg of this [animal] shall be a burnt-offering’, one might have assumed that the whole animal thereby becomes a burnt-offering, therefore the text states: All that any man giveth thereof unto the Lord shall be holy,[1] i.e., only [that] ‘thereof’ [which he giveth] shall be holy, but not the whole thereof shall be holy. One might have assumed that the whole becomes profane,[2] therefore the text states: ‘[It] shall be’, i.e., It retains its present character. How then? It is sold for the purchase of burnt-offerings and the money realized, with the exception[3] of the [value of the] limb dedicated, shall be profane; this is the view of R. Meir. R. Judah, R. Jose and R. Simeon say: Whence do we know that if a man said: The leg of this animal shall be a burnt-offering, that the whole animal is a burnt-offering, therefore the text states: ‘All that any man giveth thereof unto the Lord shall be holy’: that means to include the whole. Now even according to the view that thereby the whole animal does not become consecrated, that applies only to [the vow of] an organ upon which life does not depend, but whenever a limb is vowed upon which the life [of the animal] depends, the whole [animal] becomes consecrated?[4] — This is no difficulty. One speaks of the vow of the animal itself,[5] the other of the vow of its equivalent in money. But it ‘was the Master himself[6] who said that if someone consecrates a male [animal] in its money equivalent, that [animal] becomes consecrated in itself ![7] — That is no difficulty: one case[8] speaks of his having dedicated the whole, the other of his dedicating one member of the body.[9] But even concerning [the dedication of] one member it is a matter of doubt, for Rabbah asked: If a man had dedicated one member in its money value, how then? — The question was asked about a perfect animal, whereas here we are dealing with a blemished one, similar to the donkey[10] [discussed above]. But the case of [the dedication of] a blemished one is also doubtful, for Rabbah asked: If someone says the money value of my head[11] is [dedicated] to the altar, what then? — The question was asked before he heard this teaching,[12] but now that he has heard this teaching, it is no more doubtful to him.

[To turn to] the main text: Rabbah asked, [If a man said,] The money value of my head be for the altar, shall he be valued according to the importance [of this], or shall he not be so valued? [Do we say that] it never happens that a vow regarding [a person's] worth be not assessed according to the importance [of the limb] or, [on the other hand, do we say] it never happens with regard to a consecration for the altar that [the consecration] is determined by the importance [of the limb]?[13] — The question remains [unanswered].

Raba asked: [If someone said:] The valuation of myself I undertake to pay for the altar, is he adjudged according to his means, or not? [Do we say,] It is never found in connection with valuation that one is not adjudged according to one's means; or, [on the other hand] it never happens with regard to any vow to the altar that[14] one be adjudged according to his means? — The question remains [unanswered].

R. Ashi asked: If a man dedicated a field of possession[15] for the altar, what then? Do we say it never occurs that a field of possession can be redeemed except on the basis of fifty shekels for each [part of the field sufficient for] the sowing of a homer of barley, or [perhaps, we say] it does not happen with regard to any [gift for] the altar that it be redeemed otherwise than in accord with its actual value?[16] — The question remains [unanswered]. MISHNAH. A PERSON LESS THAN ONE MONTH OLD MAY HAVE HIS WORTH VOWED[17] BUT NOT HIS VALUATION.

GEMARA. Our Rabbis taught: If one evaluates a person less than one month old, R. Meir says, He gives his worth [its market value], but the Sages say, ‘He has said nothing’. Wherein are they of divided opinion? — R. Meir says: No man utters his words in vain,[18] and knowing that a person less than one month old cannot be made the subject of a valuation [and having spoken] he makes up his mind to vow his worth. The Sages, however, hold that a man may utter his words in vain. According to whose view [of the disputants] will be what R. Giddal said in the name of Rab, who said. if one said: the valuation of this vessel[19] is upon me, he shall pay its worth! — That is in accord with R. Meir. But this is self-evident? — You might have said: It could be in accord with the view of the

Rabbis [Sages]. For in the other case one could have erred in thinking that just as a child of one month has valuation thus also one less than one month old; but in this case where there is nothing to err about, for a man surely knows that a vessel has no valuation, and therefore he had intended his statement to mean to vow the vessel's worth, therefore we are informed [that even here the Sages do not so hold].

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(1) Lev. XXVII, 9.

(2) The whole animal, apart from the dedicated limb, is profane without further ado.

(3) Both groups base their interpretation on the same Scriptural verse, emphasis deciding the issue. R. Meir stresses the words ‘that any man giveth thereof’ in a private sense, to exclude such portions as were not included in his gift. The other Rabbis interpret: ‘All that any man giveth thereof’ to mean that all animals whereof any part is given become fully consecrated.

(4) Tem. 11b places the dispute between R. Meir and the Sages only in the case of a non-vital organ and thus the question arises: why in the case of the head does the sanctuary not own more than the head?

(5) The consecration of one organ is suggested as spreading over the whole animal, when that organ itself has been consecrated, but where only the money value of such an organ has been vowed there, that organ itself remains a detached entity, not connected in its consecration with the rest of the body, hence not affecting it as to consecration.

(6) Rabbah, who gave the last answer.

(7) Tem. 11b.

(8) Rabbah's ruling in Tem.

(9) In the case where he consecrated the head only for its value obviously the consecration is limited to the monetary value of the member consecrated.

(10) Both a blemished animal of a class admitted to the altar, or an animal, though unblemished, but of a class unfit for sacrifices, are in one category.

(11) Shall the vowing of his head be considered, because of the vital importance of the head, as equal to the vowing of his whole worth or not? Now a man is in the same category as an unblemished animal as far as the altar is concerned.

(12) Cited supra. If one consecrates the head of an ass.

(13) I.e., that by consecrating the value of one vital organ the worth of the animal is consecrated to the altar.

(14) Text corrected in accordance with Sh. Mek. cur. ed.: That it can be redeemed except for its value.

(15) V. Lev. XXVII, 16ff.

(16) If someone consecrated that field for the fund from which burnt-offerings were provided, how could he redeem his pledge? Do we abide by the general rule in such cases of a vow for Temple repairs, or do we consider the special circumstance governing vows for the altar?

(17) Because, no matter how young, it would fetch its price in a market; but as to valuation a definite minimum age is stated.

(18) R. Meir holds that no man utters any statement uselessly; he might, however, talk loosely, use terms applicable to a case somewhat different from the one involved. Thus the terminology of dedication might well be used by someone who has in his mind a vow. ‘Or, as Tosaf. s.v. אדם has it: A man, indifferent to the exact terminology, or ignorant of it, would intend to have his utterance serve whatever purpose the Rabbis attributed to the words he used.

(19) ‘Valuation’ was fixed only for human beings, hence vessels cannot be evaluated, thus an illustration of the former problem is offered here.

Talmud - Mas. Arachin 5b

But why was it necessary [for Rab] to state [this ruling] on the view of R. Meir? — One might have thought the reason for R. Meir in that case was that he decreed [the obligation to pay] in the case of a child less than one month old out of consideration[1] for one which was one month old, but that in the case here,[2] where no such decree is warranted, one might [assume that R. Meir would] not [rule thus], therefore we are informed that R. Meir's reason is that no man utters his words at random, so that the same rule applies in both cases.

According to whose view will be the teaching of Rabbah b. Jose[3] in the name of Rab [according to others R. Yeba b. Jose in the name of Rab]: If one consecrates [to the sanctuary] his neighbour's animal, he shall pay its worth.[4] According to whom? According to R. Meir. But Rab has already said that once before, for R. Giddal in the name of Rab said: If one said, ‘The valuation of a vessel be upon me, he shall pay its worth’. — You might have said: In the one case he knew that a vessel has no valuation whereupon he made up his statement with the intention for its worth, but in the case of an animal, which is normally fit to be consecrated, one might say that this is what he meant: If I report it to its owner he will sell it [to me], therefore let it be consecrated as from now already, and I shall offer it up [after having purchased it], but that he did not mean its worth,[5] therefore he informs us [that this is not so].[6] R. Ashi[7] said: This applies only where he said: I undertake the responsibility [for an animal], but not if he said: I assume the obligation [to consecrate] this [animal].[8] MISHNAH. AN IDOL-WORSHIPPER ACCORDING TO R. MEIR CAN BE MADE THE SUBJECT OF A VALUATION BUT CANNOT EVALUATE, WHEREAS ACCORDING TO R. JUDAH HE MAY EVALUATE BUT CANNOT BE MADE THE SUBJECT OF A VALUATION. BOTH AGREE, HOWEVER, THAT HE CAN BOTH VOW ANOTHER'S WORTH AND HAVE HIS WORTH VOWED BY OTHERS.

GEMARA. Our Rabbis taught: The children of Israel[9] may evaluate, but idol-worshippers may not evaluate. One might have assumed that they cannot be made the subject of a valuation either, therefore the text states: Man,[10] these are the words of R. Meir. Said R. Meir: Now that one Scriptural verse includes and the other excludes, whence am I [justified in] saying: He may be made the subject of a valuation, but may not evaluate himself?[11] It is because Scripture has included more among those subject to valuation than among those fit to evaluate; for a deaf-mute, an imbecile and a minor each may be made the subject of a valuation, but is not fit to evaluate. R. Judah said: The children of Israel may be made the subject of a valuation, but idol-worshippers are not fit to be made the subject of a valuation. One might have assumed that they [the latter] are not fit to evaluate either, therefore the text states: ‘Man’. Said R. Judah: Since one verse includes and the other excludes, whence do I come to make the statement that idol-worshippers are fit to evaluate and are not subject to valuation? Because Scripture has included more among those fit to evaluate than among those subject to valuation. For one of doubtful sex and a hermaphrodite are fit to evaluate, but are not subject to valuation. Said Raba: The decision of R. Meir appeals to logic, but not the reason; the reason of R. Judah is logical, but not his decision. The decision of R. Meir appeals to logic as it is written: Ye have nothing to do with us to build a house unto our God.[12] His reason does not appeal, for he argues from the case of a deaf-mute, an imbecile or a minor; but it is different with them since they have no intelligence. The reason of R. Judah is logical, for he deduces it from the case of one of doubtful sex and a hermaphrodite, which, although endowed with intelligence, are yet excluded by the Divine Law [from evaluation]. His decision, however, does not appeal, as it is written: ‘Ye have nothing to do with us to build a house unto our God’. How, indeed, does R. Judah deal with ‘Ye have nothing to do with us’? — R. Hisda said in the name of Abimi: His valuation [money] must be hidden.[13] But then one should not be guilty of sacrilege in connection with them, for it was taught: Concerning the five kinds of sin-offerings which must be left to die, and all moneys that must be cast into the Dead Sea, one must not derive any benefit from them, nor is one guilty of sacrilege [if one has used them].[14] Why then was it taught with regard to the consecration of idol-worshippers: These things apply only to things consecrated for the altar, but things consecrated for Temple repairs are subject to the law of sacrilege?[15] — Rather, said Raba: It[16] was due to the ‘weakening of the hands’, as it is written: Then the people of the land weakened the hands of the people of Judah and harried them while they were building.[17]

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(1) I.e. , to safeguard the payment fixed in the Bible.

(2) Referring to a vessel.

(3) So Sh. Mek. cur. edd. Joseph.

(4) Since none can consecrate an object not belonging to himself, the suggestion is that he meant to offer the money value of the object in question, such offering, of course, being independent of his owning the animal.

(5) If his hope was to obtain the animal and to consecrate it (and not its money value), then his utterance was quite in vain and no obligation results: The money value he had not vowed, the animal itself did not belong to him, wherefore he incurred no obligation whatsoever.

(6) That, according to R. Meir he must have known that the animal itself cannot be consecrated, and therefore must have had in mind the payment of its market value, which is now obligatory.

(7) Sh. Mek.: Mar b. R. Ashi.

(8) If a man said: My neighbour's animal do I consecrate, only then does an obligation arise to pay its money value, but if he said ‘This animal’ shall I provide for the altar,’ he obviously has said nothing. For he could undertake to make himself responsible for the money value of an animal, but he could surely not oblige himself to dedicate the animal that does not belong to him. In the latter case his words are for practical purposes meaningless. He has said nothing.

(9) Thus does the chapter on dedications commence: Speak unto the children of Israel, and say unto them (Lev. XXVII, 2), the inference being obvious.

(10) Ibid.

(11) What is the justification for declaring the idol-worshipper fit for one rather than for the other? The text has both inclusive and exclusive indications. ‘The children of Israel’ excludes, while ‘man’ includes.

(12) Ezra IV, 3.

(13) R. Judah's view that idol-worshippers are fit to evaluate does not imply that such money is to be used — that is excluded by Ezra IV, 3, — but it does mean that it acquires sacredness, so as to be forbidden for profane use; and since it is also not fit for sacred use, it must be hidden or destroyed.

(14) V. Me'ilah 3a.

(15) Since they are to be destroyed they ought not, according to the cited Baraitha from Me'ilah be subject to the law of sacrilege.

(16) The refusal to accept the idol-worshippers’ gifts in the days of Ezra.

(17) Ezra IV, 4.

Talmud - Mas. Arachin 6a

One [Baraitha] taught: If an idol-worshipper offers a freewill- gift towards Temple repairs ‘one accepts it from him, whilst another [Baraitha] taught: One does not accept it from him. Said R. Ela in the name of R. Johanan: This is no difficulty: The first applies to the beginning,[1] the latter to the end.[2] For R. Assi said in the name of R. Johanan: In the beginning one should not accept from them even salt or water, whereas at the end one may not accept a thing that can be easily identified,[3] but something that cannot easily be identified one may accept. What is a ‘thing that can be easily identified’? — R. Joseph said: Like the cubit [of metal] keeping off the raven.[4]

R. Joseph raised an objection: And a letter unto Asaph the keeper of the king's park [that he may give me timber to make beams, etc.]?[5] — Abaye said: It is different with the government because it will not retract. For Samuel has said: If the government said, I will uproot a mountain, it will uproot the mountain and not retract!

Rab Judah said in the name of Rab: If an idol-worshipper separated the terumah[6] from his pile [of produce], then we examine him. If he said:[7] I have separated it with the same intention as an Israelite, it is to be handed to the priests but if not, it must be hidden, because we consider the possibility of his having in his heart intended it for the Lord.[8] An objection was raised [against that]: If an idol-worshipper had dedicated a beam to the Sanctuary upon which the Name [of God] is inscribed, he is to be examined. If he said: I have separated it with the same intention as an Israelite, then one should cut off [the part containing the Name of God] and use the rest. But if [he does] not [offer this explanation], it must be hidden away, because we fear his heart [intention] may have been [to dedicate it] to the Lord. The reason then [for this decision] is because the Name [of God] is inscribed thereon, and only therefore does it require to be hidden away, but if the Name [of God] were not inscribed thereupon, then indeed, it would not have to be hidden away![9] — [No!] Even if the Name [of God] were not inscribed thereupon it would likewise have to be hidden away, and it is exactly this that we are told, that although the Name [of God] is thereon inscribed, he need but cut off that portion and use the rest For the Name of God not in its proper place is not considered sacred.[10] For it was taught: If it [the Name of God] was written upon the handles of a vessel, or upon the props of a bed, behold, it shall be cut off and hidden.[11]

R. Nahman said in the name of R. Abbuha: If one says, This sela' is dedicated to charity, he is permitted to exchange it. Now it was assumed that this is permitted only for himself, but not for anybody else;[12] but it was stated that R. Ammi said in the name of R. Johanan that it is permitted both for oneself and for someone else. R. Ze'ira said: We have learnt that only where he said: [I take] upon myself [generally], but if he said: [I take] upon myself to [give] this, then he is obliged to give this [sela']. Whereupon Raba demurred: On the contrary! The opposite is logical. If he said: Behold this [sela' I take upon myself to pay], then he may use it for himself, so that he may be responsible for it, but when he said: [I take] upon myself [a sela'], he should not [be permitted to exchange it]? But the fact is it makes no difference.[13] It was taught in accord with Raba: Vows are [like] charity, but consecrations [to the sanctuary] are not like charity. What does that mean? Neither vows nor dedications are charity. Is it not rather this that is meant: Charity [is like vows] in respect of the prohibition 'Thou shalt not delay it',[14] but is not like a consecration [to the sanctuary] because anything so consecrated one must not use, whereas [money dedicated to] charity one may [meantime] use for oneself! R. Kahana said: I reported this teaching before R. Zebid of Nehardea whereupon he said: This is how you stated it;[15] we, however, state it thus: R. Nahman in the name of R. Abbuha based on Rab said: If one said, This sela' is [dedicated to] charity, he may exchange it both for himself, or for someone else independent of whether he had said: [I take it] upon myself [in general], or [I take it upon myself to pay] this [sela'].

Our Rabbis taught: [If one said:] This sela' shall be for charity, then before it has reached the hand of the [charity] treasurer, it is permitted to exchange it, but after it has come into the treasurer's hand, it is forbidden to exchange it.

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(1) At the beginning of the building the intention of the idol-worshippers may not be a good one, their gift being made to give them entry into the building programmed which they plan to interfere with or delay. But according to the law they may be accepted for Temple repairs, hence the ruling of R. Judah.

(2) When the building is completed.

(3) Which might cause the heathen to point Boastfully to their contribution, or to its importance for the Temple.

(4) An arrangement of iron points on the roof of the Temple designed to keep ravens away. V. M.K. 9a.

(5) Neh. II, 8. From this passage it is evident that gifts were accepted from (Cyrus) an idolator, and that happened at the beginning of the building.

(6) V. Glos.

(7) One may not accept a gift for the sanctuary from a heathen. Hence, if he says: I want the terumah to go where the Jew's terumah goes, one may accept it from him and give it to the priest, who is permitted to receive it. Rashi: The reference is to the present day when there is no sanctuary, and when consequently things dedicated to the sanctuary must be hidden away, v. Bek. 53a.

(8) But a gift 'Unto the Lord', i.e., for the sanctuary must not be accepted from, him, and must be hidden.

(9) This contradicts the earlier teaching!

(10) There attaches no holiness whatsoever to the name inscribed on the wrong kind of place or material, the right kind would be parchment, or paper, everything else is not normally fit to have the name inscribed thereon.

(11) Shab. 61b.

(12) I.e., to use this coin for his own purpose, to refund it to the Sanctuary afterwards. But it would be wrong for him to lend it to his neighbour, for it may be argued reasonably that he meant to use it meantime for himself, whilst conscious of his obligation to pay it later into the Temple treasury. But he surely did not, in his intention to use it, include ally benefit to his neighbour such as a loan to him of this sum.

(13) One might argue with even force: If he said, I take upon myself to pay this sela' into the Temple treasury, then it thereby has become its property, and by using it one has incurred the obli gation, not only moral but legal, of restoring that property; whereas in the case of a general vow (I accept it upon myself to give a sela') a different argument is to be made. At any rate, since both claims have support, we recognize no practical difference between the one form and the other.

(14) Deut. XXIII, 22.

(15) I.e., you reported R. Nahman's statement in general terms, relying on R. Ammi and Raba to explain its implications.

Talmud - Mas. Arachin 6b

But it is not so, for R. Jannai borrowed and paid it [afterwards]?[1] — It is different with R. Jannai, for what he did was acceptable to the poor, for the more he delayed the more did he succeed in collecting and bringing in to them.

Our Rabbis taught: If an Israelite dedicated a candlestick or a lamp to the synagogue, he is not permitted to exchange it. R. Hiyya had thought that was to say [it may not be changed] either for a secular or a religious purpose. Whereupon R. Ammi said to him: This is what R. Johanan said: We have learnt [of the prohibition] only in connection with a secular purpose, but for a religious purpose it is permitted to exchange [the object dedicated] — For R. Assi said in the name of R. Johanan: If an idol-worshipper had dedicated a candlestick or a lamp to the synagogue, then, before the name of its owner has become forgotten, it is forbidden to exchange it; after the name of the owner has been forgotten, it is permitted to change it. Now to what purpose is it to be changed? Shall I say for secular use? — Then why speak of an idol-worshipper's gift, the same applies to that of an Israelite? Hence you must say for a religious use, and nevertheless the reason [why it may not be changed is][2] because an idol-worshipper would create a row about it, but in the case of an Israelite who would not create a row about it, it would be proper [to change it].[3]

Sha'azrek, an Arab, made a gift of a lamp to the synagogue of Rab Judah. Rehaba changed it['s use] and Raba took it amiss. (Some say: Raba changed it and Rehaba took it amiss. Others say: The sextons of pumbeditha changed it and both Rehaba and Raba rebuked them for it.) He who changed it held: It would[4] be a rare occurrence, whereas he who rebuked held: It may happen that he comes.[5]

MISHNAH. ONE AT THE POINT OF DEATH OR ABOUT TO BE PUT TO DEATH CANNOT HAve HIS WORTH VOWED, NOR BE SUBJECT TO VALUATION. R. HANINA B. AKABIA SAID: HE IS FIT TO BE MADE THE SUBJECT OF A VALUATION BECAUSE HIS PRICE IS FIXED. R. JOSE SAID: HE MAY VOW ANOTHER'S WORTH, EVALUATE, AND CONSECRATE [TO THE SANCTUARY], AND IF HE CAUSED DAMAGE, HE IS OBLIGED TO MAKE RESTITUTION.

GEMARA. It is quite right that one at the point of death cannot have his worth vowed, because he has no money [value]; nor can he be made the subject of a valuation because he is not fit to be set and valued.[6] But as regards one about to be put to death, whilst it is true that he cannot have his worth vowed since he has no money [value], why should he be unfit to be made the subject of a valuation?[7] — Because it was taught: Whence do we know that if one about to be put to death says: The valuation of myself is upon me,[8] he has said nothing? The text states: No devoted thing . . . shall be redeemed.[9] One might have assumed that this holds good even before the proceedings [of his case] are finished, therefore the text states: Of man,[10] i.e.,but not [as long as he is] a whole man. But what will R. Hanina b. Akabya who holds him fit to be made the subject of a valuation 'because his price is fixed', do with 'No devoted thing, etc.'? — He needs this in accord with what was taught: R. Ishmael the son of R. Johanan b. Beroka said: Since we find that those to be put to death by the hand of heaven can offer a monetary expiation and thereby obtain atonement, as it is said: If there be laid on him a ransom,[11] I might have thought the same applied to those who are to be put to death by the hand of man, therefore we are taught: 'No devoted thing shall be redeemed'. From here I may derive teaching only for severer penalties of death , for which even when committed in error no atonement is possible.[12] But whence do I know that it applies also to lesser penalties of death,for which at least when committed in error atonement is possible? The text therefore states: ‘Any devoted thing, etc.’.

R. JOSE SAYS: HE MAY VOW ANOTHER'S WORTH, EVALUATE. But did the first Tanna say that he may? Rather, there is no dispute whatsoever that he may vow another's worth, evaluate and consecrate, the dispute touches only the case of his having caused damage,[13] the first Tanna holding that if he had caused damage he is not obliged to make compensation, whereas R. Jose holds he is obliged to make compensation when he has caused damage. What principle are they disputing? — R. Joseph said: They are disputing whether an oral[14] debt can be collected from the heirs, the first Tanna holding an oral debt cannot be collected from the heirs, whereas R. Jose considers it can be collected. Raba[15] said: All agree that an oral debt cannot be collected from the heirs, what they are here disputing is the [nature of a] debt arising from the law of the Torah, the first Tanna holding that a debt arising from the law of the Torah is not to be considered equal to one acknowledged in a document [of indebtedness], whilst R. Jose considers it like one acknowledged in a document [of indebtedness]. There are some who refer it[16] to the following matter: If one[17] about to be executed wounded others, he is obliged to make reparation, but if others have wounded him, they are free [from reparation].[18] R. Simeon b. Eleazar said: Even if he has wounded someone he is free, because he may not be placed before the Court of Law again.[19]

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(1) He was a commissioner of charity, yet he used to borrow funds to use them for his own purposes!

(2) Before the name of its owner is forgotten.

(3) This proves that R. Johanan holds that it may be changed even for a secular purpose.

(4) That the donor would notice such a change, and protest.

(5) It is not impossible that the donor, who travelled much, might come to the city and see the change and protest therefore their rebuke.

(6) C. supra p. 16 n. 4.

(7) Surely the amount of valuation is fixed.

(8) Var. lec.: and somebody says, The valuation of him is upon me, v. Keth. 37b.

(9) Lev. XXVII, 28. I.e., all condemned persons are not redeemable.

(10) Once a man is sentenced to death he is no more a whole man, hence the partitive ‘of man’; v. Keth. 37b. But before such a sentence has actually been pronounced, be is still a whole man to whom the text, ‘of man’ (i.e., part of man, in the ad hoc meaning) does not apply.

(11) Ex. XXI, 30. As is evident from Sanh. 15b, in the case of the goring ox, the owner incurs death through the decree of heaven for his negligence, and in such a case the evil decree may be averted by a monetary compensation or expiation. The word ‘devoted’ is interpreted as devoted by human beings, hence ‘devoted to death’ by human beings. Such interpretation removed the possibility of any devoted thing being saved from execution by compensation-payment, for, No devoted thing shall be redeemed (from death by payment).

(12) The crime of blasphemy even if committed in error cannot be remedied as is done with other unintentionally committed crimes, by sin-offering or (in the case of involuntary manslaughter) by exile.

(13) Since he has a mind, he obviously is fit to do things which one possessed of mentality is fit to do. This obligation would, of course, descend upon his heirs, hence the principle involved.

(14) An obligation arising from the law of the Torah has the character of an orally admitted debt. Hence, even if no definite decision had been made by the court on the question of his damage, a delay in his execution would be considered unnecessary, hence prohibited. Nevertheless the debt arising from the law of the Torah is considered an oral debt.

(15) Var. lec.: Rabbah.

(16) The statements of R. Joseph and Raba.

(17) Tos. B.K. 9.

(18) He is obliged to make reparation because until his moment of death he is presumed to have a mind, hence is responsible. But since he is about to be executed, his body as such is no more in its integrity, hence one who wounds him should be free from any obligation to make compensation payment. All these refer to someone about to be executed by the laws of Israel, i.e., after careful investigation and examination. One, however, sentenced to death by the heathen tyrants or other malefactors, might perhaps be ransomed, freed by persuasion or payment, hence his physical integrity may yet be said to be unimpaired.

(19) The examination of the claim against him would consume some time. This would involve a delay in his execution, which is forbidden, v. Sanh. 89a.

Talmud - Mas. Arachin 7a

From this it would appear that the first Tanna holds that he may be placed before the Court of Law again! Said R. Joseph: They are disputing whether an oral debt can be collected from the heirs, the first Tanna holding an oral debt may be collected from the heirs, whilst R. Simeon b. Eleazar holds it cannot be collected. Rabbah said: All agree that an oral debt cannot be collected from the heirs, they are disputing here whether an obligation arising from the law of the Torah may be considered as one written in a document of indebtedness, the first Tanna holding it is to be regarded like one acknowledged in a document of indebtedness, whilst R. Simeon b. Eleazar holds it is not to be regarded like one acknowledged in a document of indebtedness.

An objection was raised:[1] If one dug a pit in a public thoroughfare, and an ox fell upon him and killed him, [the owner of the latter] is free, and even more, if the ox should die, then the heirs of the owner of the pit must repay its money value to the owner of the ox! Said R. Ela in the name of Rab: [This speaks of the case] where he stood before the Court of Law.[2] But the text reads: ‘And killed him’! — Said R. Adda b. Ahabah: It means he hurt him fatally. But did not R. Nahman say that R. Hagga read: Killed and buried him![3] But the law is [that the heirs are liable] where the judges were sitting at the opening of the pit. Our Rabbis taught: If one is about to be executed one sprinkles[4] for him the blood of the sin-offering or the blood of the guilt-offering. But if he sinned at that time,[5] one is no more obliged to attend to him.[6] What is the reason? — R. Joseph said: We must not put off his execution. Said Abaye: If so, then concerning the first part, too?[7] — That refers to the case that his sacrifice by that hour was killed already. But if it had not been slaughtered before that hour, what then [would be the law]? presumably it would not be so! Then instead of having the text read, ‘If he sinned at that time they do not attend to him’, let the distinction be made with reference to [the sacrifice itself]: These things apply only when his sacrifice by that hour had been slaughtered already, but if his sacrifice had not been slaughtered by that hour, one does not [sprinkle of his blood upon him]? — This indeed is what he said: These things apply only if by that hour his sacrifice had been slaughtered already, but if his sacrifice had not been slaughtered yet, then his case is like that of one who sinned at that hour, and to whom therefore one need not attend in this matter.

MISHNAH. IF A WOMAN IS ABOUT TO BE EXECUTED, ONE DOES NOT WAIT FOR HER UNTIL SHE GIVES BIRTH:[8] BUT IF SHE HAD ALREADY SAT ON THE BIRTHSTOOL,[9] ONE WAITS FOR HER UNTIL SHE GIVES BIRTH. IF A WOMAN HAS BEEN PUT TO DEATH ONE MAY USE HER HAIR; IF AN ANIMAL HAS BEEN PUT TO DEATH IT IS FORBIDDEN TO MAKE ANY USE OF IT.[10]

GEMARA. But that is self-evident, for it is her body![11] — It is necessary to teach it, for one might have assumed since Scripture says: According as the woman's husband shall lay upon him,[12] that it [the unborn child] is the husband's property, of which he should not be deprived, therefore we are informed [that it is not so]. But perhaps [the former point of view] may indeed [be the law]? — Said R. Abbuha in the name of R. Johanan: Scripture says: They shall die, also both of them,[13] that includes the child. But this [verse] is required for the inference that they must both be of equal condition,[14] as R. Joseph teaches? — We infer it from ‘also’.[15]

BUT IF SHE HAD ALREADY SAT ON THE BIRTHSTOOL: What is the reason? — As soon as it moves [from its place in the womb] it is another body. Rab Judah said in the name of Samuel: If a woman is about to be executed one strikes her against her womb so that the child may die first, to avoid her being disgraced.[16] That means to say that [otherwise] she dies first? But we have an established [assumption] principle that the child dies first, for we learnt: A child one day old inherits and bequeaths;[17] and R. Shesheth said [in explanation]: He inherits the mother's property to bequeath it to his brothers from his father. Now this [as is clearly indicated] applies only to a child ‘one day old’, but not to an embryo, because it would die first and no son already in the grave can inherit from his mother to bequeath to his paternal brothers?[18] — This applies only to [her natural] death, because the child's life is very frail, the ‘drop’ [of poison] from the angel of death enters and destroys its vital organs,[19] but in the case of death by execution she dies first. But there was a case in which [the child] moved three times? — Mar son of R. Ashi said: That is analogous to the tail of a lizard which moves [after being cut off].[20]

R. Nahman said in the name of Samuel: If a woman who has been sitting on a birthstool died on a Sabbath, one may bring a knife and cut her womb open to take out the child. But that is self-evident? What is he doing?

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(1) From here it is evident that an obligation arising out of the law of the Torah is considered like one acknowledged in a document of indebtedness, and since the principle is there definitely established as legitimate, it is wrong to assume that what is a recognized Tannaitic principle, since it is reported in an anonymous, i.e., accepted form, is opposed by the majority view in our Mishnah on Raba's explanation.

(2) Before he died the court had decided that he must pay the fine, such decision being equal to a debt acknowledged by himself in writing.

(3) The ox killed and buried the man, by his fall upon him, in the pit. According to this reading the owner of the pit could not have been adjudged before the court. I.e., the court was held at the pit, with the fatally wounded man adjudged guilty before his actual death, the obligation arising having the character of a debt acknowledged in writing.

(4) I.e., for his sake, to obtain for him forgiveness for another sin committed in error, for which this sacrifice had been offered up.

(5) E.g., he ate some forbidden fat in error whilst on his way to be executed.

(6) He is about to be executed and any ceremony on his behalf would have to take place before he actually dies, and thus may cause the prohibited delay in his execution.

(7) One would have to wait here with the killing of the animal and the sprinkling, and thus delay his execution.

(8) If she were found to be pregnant.

(9) I.e., if her pains of parturition had begun already. Rashi holds this to apply to a woman whose pains had started before sentence was pronounced; accord ing to Tosaf, even if the pains had begun only after the sentence. For the child is considered as of one body with the mother only as long as it still is in its normal place. But as soon as it has started to move, it is another body and thus unaffected by the mother's state.

(10) In the case of an animal sentenced by the court to be destroyed (as e.g., an ox which gored a man to death) the prohibition to use its corpse in any manner comes into force as soon as sentence is pronounced, in the case of a human being only with the execution proper.

(11) The embryo is part of her body, having no identity of its own and dependent for its life upon the body of the woman.

(12) Ex. XXI, 22 refers to the indemnity to be paid to the husband for a premature child.

(13) So literally. E.V. ‘They shall both of them die’. Deut. XXII, 22. The redundant ‘both of them’ is used for another situation.

(14) That they must both be of age so that both are punishable; if one is a minor, no death penalty for this adultery is inflicted.

(15) Which is redundant, and from which the law here concerning the embryo is derived.

(16) If the child, having escaped death, came forth after her execution, it would cause bleeding and thus expose the executed mother to be disgraced.

(17) If on that one day of its life it should inherit some property, by dying on the same day the child would cause its paternal brothers to inherit it. V. B.B. 142a; Nid. 44a.

(18) Hence, when the mother dies after the child, her property does not sow to the child, which is legally assumed to be in the grave; he is therefore unable to inherit his mother's property and much less to bequeath it to his paternal brothers.

This proves that the child is assumed to die before the mother as otherwise the case above could also deal with an unborn child, whilst the Mishnah limits it to the child born and one day old.

(19) The phrase here is borrowed from the death of an animal, which is achieved in accordance with the laws of Shechitah by the cutting of the windpipe and the gullet, the two organs to be cut in accordance with the ritual law.

(20) Although no more alive; similarly such moving on the part of the child is no sign of its life.

Talmud - Mas. Arachin 7b

Only cutting flesh?[1] — Rabbah said: It is necessary [to permit the] fetching of the knife by way of a public thoroughfare.[2] But what is he informing us? That in case of doubt one may desecrate the Sabbath! Surely we have learnt already: If debris falls down upon one and there is doubt whether he is there or not, or whether he is alive or dead, whether he is a Canaanite or an Israelite, one may remove the debris from above him![3] You might have said: There [permission was given] because [the person in question] had at least presumption of having been alive, but here where it [the embryo] did not have such original presumption of life, one might say no [desecration of the Sabbath shall be permitted], therefore we are informed [that it is].

IF A WOMAN HAS BEEN PUT TO DEATH etc. But why? These things are forbidden for any use? — Rab said: [This refers to the case] where she had said: Give my hair to my daughter. But if she had [similarly] said: Give my hand to my daughter, would we have given it to her? — Rab said: It refers to a wig.[4] Now the reason [for the permission] is that she had said: ‘Give [it]’, but if she had not said: ‘Give [it]’, it would have been as part of her body and forbidden [for any use]. But this matter was questioned by R. Jose b. Hanina, for R. Jose b. Hanina asked: What about the hair of righteous women, and Raba had remarked: His question refers to [their] wig?[5] — The question of R. Jose b. Hanina referred to the case of [such wig] its hanging on a peg; but here the wig is attached to her [head], therefore the reason [it is permitted] is because she said: ‘Give [it]’, but if she had not said ‘Give [it]’, it would be as her body and forbidden.

This appeared difficult to R. Nahman b. Isaac for it is placed in juxtaposition to the [law concerning an] animal, hence just as there [the hair] is part of the body, here too it should be part of the body?[6] — Rather, said R.Nahman: In the one case [the woman's] it is the actual death which renders the body prohibited for any use,[7] whereas in the other case [the animal's], the close of the legal proceedings [the pronouncement of the death sentence] renders it prohibited for any use. Levi taught in accord with Rab and he also taught in accord with R. Nahman b. Isaac.[8] He taught in accord with Rab: If a woman went forth to be executed and she said: ‘Give my hair to my daughter’, one would give it to her; but if she died [before making such a demand] one would not give it, because the dead must not be used for any purpose. But that is self-evident? — [Say] rather the ornaments of the dead are prohibited for any use.[9] It was taught in accord with R. Nahman b. Isaac: If a woman died, her hair is permitted for use. If an animal was put to death, it is forbidden for any use. And what is the difference between the one and the other? In the one case it is only the actual death which renders the body prohibited for any use, and in the other case the pronouncement of the death sentence in itself renders it prohibited for any use.

CHAPTER II

MISHNAH. THERE IS NO VALUATION LESS THAN ONE SELA’ NOR MORE THAN FIFTY. HOW IS THAT? IF ONE PAID A SELA’[10] AND BECAME RICH, HE NEED NOT GIVE ANY [MORE]. BUT IF HE GAVE LESS THAN A SELA’ AND BECAME RICH, HE MUST PAY FIFTY SELA'S.[11] IF HE HAD FIVE SELA'S IN HIS POSSESSION,[12] R. MEIR SAYS, THEN HE NEED NOT GIVE MORE THAN ONE, WHEREAS THE SAGES SAY HE MUST GIVE THEM ALL. FOR THERE IS NO VALUATION OF LESS THAN ONE SELA NOR MORE THAN FIFTY SELA'S.

GEMARA. THERE IS NO VALUATION LESS THAN ONE SELA. Whence do we know that? — For Scripture said: And all thy valuations shall be according to the shekel of the sanctuary,[13] i.e., all valuations which you evaluate shall be of no less than a shekel. Nor more than fifty sela's, as it is written: Fifty.[14]

IF HE HAD FIVE SELA'S IN HIS POSSESSION, etc. What is the reason of R. Meir? — Scripture says: ‘Fifty’, and it is also written: ‘Shekel’, i.e., either fifty or one shekel. And the Rabbis? That means that all valuations which you evaluate shall be of no less than one shekel.[15] But where he has [more], there applies the Scriptural verse: According to the means of him that vowed,[16] and here he has means. And R. Meir?[17] — That indicates that the possessions of him who evaluates rather than of him who is evaluated are to be considered. And the Rabbis? — Does this not incidentally prove that where he has possessions, take from him as much as he can pay?

R. Adda b. Ahabah said: If a man had five sela's in his possession and said: My own valuation be upon me [to pay], and he repeats: My own valuation be upon me, and then he paid four sela's on account for the second valuation and one sela’ for the first, then he has fulfilled his duty to both. What is the reason? — Because:[18] A creditor, later in order of time, who has collected before [an earlier one] retains what he has collected. [Likewise] here when he paid for the second [valuation] he was in debt for the first,[19] and when he paid for the first he had no more.

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(1) Only the cutting of a living person constitutes desecration of the Sabbath, the cutting of meat is unavoidable in eating.

(2) The bringing of any portable property from private territory into a public thoroughfare or vice versa constitutes transgression of the law of the Sabbath as Biblically stated.

(3) V. Yoma 83a.

(4) That wig, tied to her hair, might have been considered part of her body and therefore forbidden for any use, hence also inadmissible as a gift to her daughter. But since she left instruction of such gift, she evidently did not consider the wig part of her body, and guided by her view we do not consider it such either, hence the gift is valid.

(5) According to Deut. XIII, 13ff the inhabitants of a city condemned for idolatrous practices to which they had been led astray were to be destroyed with all their property. Righteous persons, however, lost only their property but not their life. The theoretical question touched the wig of righteous women of such a city: Was it to be considered part of their body and thus will it escape destruction, or is it to be regarded as detachable from the head and as general property does it fall under the ban? At any rate what is a matter of doubt there could not possibly be taken here as settled law!

(6) How then could he interpret our Mishnah as’ referring to the woman's wig, which is not part of the body?

(7) The reference is indeed to’ her natural hair, but since hair never lived it is not affected by death, which renders forbidden all such parts of the body which had their vitality cut off by death (Rashi).

(8) Levi had an ancient Baraitha the view of which accorded with Rab and another with R. Nahman b. Isaac.

(9) The reference must hence be to a wig.

(10) A Biblical shekel. According to Lev. XXVII, 8 a special reduction was made in the case of the poor, but any such reduced estimate may not fall below a sela’.

(11) One twenty years of age and of male sex whose normal valuation is fifty sela's, happens to be poor when paying the poor man's exceptional one sela’ for any valuation. That sela’, being the legal minimum for a poor man, therefore has paid his debt, and freed him from any obligation, even if afterwards he became rich. But if, whilst poor, he had paid less than a sela’, he has not paid the minimum, his obligation to pay his valuation still rests upon him, and on becoming rich he must therefore pay the complete sum due, under the circumstances of payment which for a man not poor, amounts to fifty sela's.

(12) And his prescribed valuation was, say. fifty.

(13) Ibid. XXVII, 25.

(14) Ibid. 3.

(15) Indicating only a minimum beyond which the sum may be increased to the maximum of fifty. There are no rigorous restrictions between these two sums, adjustments being made in accordance with the possessions of the respective dedicator.

(16) Lev. XXVII, 8.

(17) How will he explain this latter verse?

(18) B.K. 34a.

(19) To the extent of the whole five sela's on the view of the Sages in our Mishnah, so that as far as the second valuation is concerned he had no five sela's to pay and hence discharged his obligation by paying the four sela's.

Talmud - Mas. Arachin 8a

But if he paid four for the first [valuation] and one for the second, then he has fulfilled his obligation regarding the second one, but he has failed to discharge his obligation touching the first, as all [his sela's] were subject to the payment for the first.[1]

R. Adda b. Ahabah asked: If he had five sela's and said in one utterance, Two of my valuations be upon me [to pay], how then? [Shall I say]. Since he said it in one utterance the obligations arise simultaneously so that he would have to pay two and a half for the one valuation and two and a half for the other, or is the whole sum due for each of them? — The question remains [unanswered].

THERE IS NO VALUATION LESS THAN ONE SELA’ NOR MORE etc. Why is this re-statement necessary? — This is what we are told: There is none less than one sela’, but there are some above one sela’; there is none above fifty sela's, but there are some below fifty sela's, and it [the teaching] is stated anonymously[2] in accord with the Rabbis.

MISHNAH. IF A WOMAN GOES ASTRAY[3] IN HER RECKONING THERE IS NO RE-OPENING FOR HER [OF THE NIDDAH COUNT] EARLIER THAN SEVEN, NOR LATER THAN AFTER SEVENTEEN DAYS.

GEMARA. Our Rabbis taught: If a woman astray in her reckoning said: ‘I saw uncleanness for one day’ then her re-count begins after seventeen days;[4] [if she says.] ‘I saw uncleanness for two days’, her re-count commences after seventeen days;[5] [if she says,] ‘I saw uncleanness for three days’, her re-count commences after seventeen days.[6] [If she says,] ‘I saw uncleanness for four days’, her re-count commences after sixteen days;[7] [if she says,] ‘I saw uncleanness for five days’, her re-count commences after fifteen days.[8] [If she says,] ‘I saw uncleanness for six days’, her re-count commences after fourteen days; [if she says,] ‘I saw uncleanness for seven days’, her re-count commences after thirteen days; [if she says,] ‘I saw uncleanness for eight days’, her re-count commences after twelve days; [if she says,] ‘I saw uncleanness for nine days’, her re-count commences after eleven days; [if she says,] ‘I saw uncleanness for ten days’, her re-count commences after ten days;[9] [if she says,] ‘I saw uncleanness for eleven days’, her recount commences after nine days; [if she says.] ‘I saw uncleanness for twelve days’,[10] her re-count commences after eight days;

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(1) The decision being in accord with the Sages, all his sela's were affected by the first valuation. The practical difference lies in the fact that since now he is considered as still obliged to make payment for the first valuation, he would have to pay full fifty sela's if at any later time he became rich.

(2) Whenever one Mishnah reports conflicting opinions in the name of the disputants, and another a decision in this case anonymously, the latter is regarded as authoritative.

(3) Lev. XV deals with the regulations touching the woman's issue (of blood), and distinguishes between an issue ‘in time of her impurity’ and one ‘not in’ or ‘beyond’ the time of her impurity. The flow ‘in the time of her impurity’ is called dam niddah — the blood of her menstruation; the flow beyond or outside the time of her impurity is called dam zibah — the blood of one having an issue. According to the law of the Torah a woman who menstruates for the first time becomes unclean as niddah for seven days, the day on which she menstruated included. She remains in this state of uncleanness for seven days, independent of whether she has had that issue of blood for the first day only or on any other

of the seven days. Even if she should suffer such issue for seven days continuously, as long as it has stopped before sunset on the seventh day, she takes the ritual bath that night and becomes clean thereby. These seven days are her niddah days. The eleven days following are called ‘the days of her having an issue’, yeme zibah, any issue of blood during which is considered ‘not in’ or ‘beyond the time of her impurity’; this period starts at the end of the seven days of her normal impurity, quite independent of her having taken the bath prescribed or not. Any issue of blood on one of these eleven days renders the woman a zabah ketannah, one having a minor issue, and by taking the ritual bath on the day following the issue, she becomes clean if no new issue appeared on the day of the bath. The same law applies if on any other of the eleven days issue should have appeared. But if such issue appeared on three consecutive days, the woman's considered zabah gedolah, one having a major issue, and she does not regain her ritual cleanness until seven days. free from any issue following the last of the three days, have passed. On the seventh day she takes the ritual bath of purification, and on the eighth day she offers two turtle-doves as her sacrifice of purification. If during these eleven days there had been no issue of blood, or only a ‘minor issue’ then any day from the twelfth on, on which she should have an issue, is the commencement of her niddah days, yeme niddah. If, however, she had become during the eleven days zabah ge dolah, one having a major issue, then she does not become a niddah again until there have been seven days after the last day of the flow during which there was no issue whatsoever. Any issue of blood appearing before such seven days have passed is considered part of the days of zibah. Even after the days of her niddah have started she of course becomes a niddah only when and if she has an issue, yeme niddah signifying no more than that she becomes a niddah in case of any issue, as against her being a zibah during the other period. After she has become a niddah again she remains in this state for seven days. to be followed again by the days of zibah. A woman thus can become a zabah only in the eleven days following her yeme niddah; or, if during these eleven days she had three days’ consecutive flow, she remains a zabah until she had had seven days of freedom from any flow. After that period she becomes a niddah again, with the first flow. And similarly a woman can become niddah again only after the passing of the eleven days of zibah, or, if during these days she had become a zabah gedolah, one having a large issue, she can become a niddah only after seven days have gone after the last day of the flow during which no further flow was experienced. Upon the day on which the woman becomes niddah again, depends the count of the rest of these days of her niddah state as well as the count of the days of her zibah. Therefore the day on which she becomes niddah is considered the ‘entrance’, the ‘gate’, the ‘re-opening’. The Mishnah refers to a woman ‘astray in her reckoning’, i.e., one who after purification has experienced a flow of blood, and does not remember whether she was passing through the days of niddah or those of her zibah. She is unable to emerge from this state of uncertainty to a new safe reckoning until after the end of the present flow she experiences a new one, as to which she is definitely sure that it was her period of niddah. This certainty cannot be obtained earlier than after seven days, nor later than after seventeen days, during which she experiences no flow of blood at all.

(4) If the flow of blood had lasted for only one day, followed by seventeen days free from any flow, then any new flow signifies the commencement of her days of niddah. For the day on which she had the flow concerning which she was astray fell either into her period of zibah or into that of niddah. If that day was one, or even the first one, of her days of zibah then the days of her niddah would have commenced no later than on the tenth day after the flow; and her flow on the eighteenth day renders her a niddah. If, however, the day on which she had that flow, concerning which she was astray, should have been one of her yeme niddah, then having become niddah on that day (after her bath of purification which terminated her uncleanness) she remains in the state of niddah for six more days, becomes a zabah for the eleven days following, to enter her period of niddah thereupon, eleven days later, which is on the eighteenth day or any day following it.

(5) Similarly, if she had seen blood for two days, then the flow of blood again after seventeen days of cleanness is there-commencement of her days of niddah. If these two days were days of zibah then the days of niddah would commence no later than nine days after the flow, Or, if the two days of the flow were in the period of niddah then that period of niddah was over in five days, the following period of zibah terminated after eleven days, or the new period of niddah would re-commence after only sixteen days. But it is also possible that the first of the two days was the last day of the zibah period and the second the first of the niddah period, in which case six more days would be necessary to terminate her niddah period, to be followed by eleven days for her zibah period, so that seventeen days must pass before she can definitely be said to have become a niddah again.

(6) If all the three days were part of the zibah period, then the niddah period would commence no later than eight days after that, the assumption throughout being that there was no flow whatsoever during these seventeen days. If all of the three days fell into the niddah period, then the new period of niddah would commence after fifteen days, i.e., after the last four days of the niddah period, and the following eleven of the zibah period. But since it is also possible that the first two of the three days of the flow were the last days of the zibah period, and that consequently the niddah period would commence only with the third, six more days of the niddah period followed by eleven days of the zibah period must pass before the woman can re-commence her new niddah period, hence again the necessity of seventeen clean days before she can definitely re-commence her reckoning.

(7) If all the four days were either yeme niddah or yeme zibah, the new re-commencement could have started before seventeen days. If they were yeme zibah, the new period of niddah would start after seven days. If the days of the flow fell in the niddah period, the new reckoning could start after fourteen days, viz., the remaining three days of the niddah period and the eleven of the zibah period. In this case one cannot posit the possibility of the first three days of the four days' flow having been the last days of the zibah period, followed by the fourth day as the first of the new niddah period, for, as explained above, the niddah period does not follow upon a three-day flow in the zibah period, before seven completely free days have passed. But it is possible that the first two of the four-day flow were the last days of the zibah period, whereupon only the third day signified the commencement of the zibah period, so that five more days of the niddah and eleven days of the zibah period are required before her re-commencement of her new niddah period may be definitely assumed.

(8) V. next note.

(9) The same consideration, that the first two days may be the last days of her zibah period, necessitates, in the case of the five-day flow, the counting of at least fifteen days, the remaining four of the niddah plus the complete eleven of the zibah periods, in the case of the six-days flow, the counting of the remaining four days of the niddah plus the eleven of the zibah period; of three remaining niddah plus eleven zibah days in the case of a seven-day flow; of two niddah and eleven zibbah days in the case of an eight-day flow, and of one remaining day of niddah and eleven days of zibah in the case of a nine-day flow. So that the number of the days necessary moves from seventeen to twelve, on the above considerations. In the case of a ten-day flow, then, even on the assumption that the first two days had belonged to the zibah period, the zibah period recommenced after the seven days of niddah, i.e., on the tenth day, whence only the remaining ten days of zibah need pass before the woman becomes niddah again.

(10) In the case of eleven days, on the same basis, two days of the new zibah period have passed after the intervening days of niddah, so that only the remaining nine days of zibah must be counted before the woman re-enters her niddah period; in the case of a twelve-day flow there are only eight; in the case of a thirteen.day flow only seven days of the zibah period before the new niddah period re-commences. Never earlier than before the passing of seven days, because that is the period necessary for a zibah to become a niddah again, never later than after seventeen days, so that the Mishnaic law becomes evident as indicating the minimum and the maximum necessary for a woman astray in her reckoning before she can definitely reach the 'gate' of her safe reckoning, i.e., the re-commencement of her niddah period.

Talmud - Mas. Arachin 8b

[if she says,] 'I saw uncleanness for thirteen days', then her re-count commences after seven days; for the re-opening [of the Niddah count] does not come before seven nor later than after seventeen days. R. Adda b. Ahabah said to Rabbah: Why all this [reckoning]? Let her count seven days and be permitted [to have intercourse]! — He answered: [We are meaning] to set her right concerning her menstruation and its re-commencement.[1]

Our Rabbis taught: All women who are astray in their reckoning are zaboth[2] and must offer a sacrifice which must not be eaten,[3] with the exception of those whose [niddah] re-count started after the seventh or after the eighth day.[4] who must offer a sacrifice which is to be eaten. But are women astray in their reckoning zaboth? Furthermore, must a woman who has had an issue one day, or two days, at all offer up a sacrifice? — Rather read, Zaboth who are astray in their reckoning[5] must offer a sacrifice which is not to be eaten, with the exception of the woman whose [niddah] re-count starts after seven or after eight days, who must offer up a sacrifice that is to be eaten.

MISHNAH. NO SIGNS OF LEPROSY ARE SHUT[6] UP LESS THAN ONE WEEK AND NONE MORE THAN TWO WEEKS.

GEMARA. NO LESS THAN ONE WEEK refers to human leprosy. NONE MORE THAN THREE WEEKS refers to leprosy of houses. R. Papa said: Thy righteousness is like the mighty mountains,[7] refers to human leprosy. Thy judgments are like the great deep,[7] refers to the leprosy of houses. What is the simple meaning of the Scriptural verse? — Were it not for Thy righteousness [as great] as the mighty mountains, who could stand before Thy judgments [as profound] as the great deep! Rabbah said: 'Thy righteousness is like the mighty mountains', because 'Thy judgments are like the great deep'. Wherein are they conflicting? — In the dispute of R. Eleazar and R. Jose b. Hanina, for it was reported that R. Eleazar says: He suppresses;[8] R. Jose b. Hanina says: He forgives;[9] Rabbah agrees with the view of R. Eleazar, whilst Rab Judah concurs with that of R. Jose b. Hanina.

MISHNAH. THERE ARE NEVER LESS THAN FOUR FULL MONTHS IN THE YEAR, NOR DID IT SEEM RIGHT TO HAVE MORE THAN EIGHT.[10] THE TWO LOAVES[11] WERE CONSUMED NEVER EARLIER THAN THE SECOND, NOR LATER THAN THE THIRD DAY. THE SHEWBREAD[12] WAS CONSUMED NEVER EARLIER THAN THE NINTH NOR LATER THAN THE ELEVENTH DAY. AN INFANT MAY NEVER BE CIRCUMCISED EARLIER THAN THE EIGHTH NOR LATER THAN THE TWELFTH DAY.[13]

GEMARA. What does DID NOT SEEM RIGHT TO HAVE MORE THAN EIGHT mean? — R. Huna said: It did not appear right to the Sages to make more than eight months full. Wherefore is the difference with regard to nine, that they would not [make full]? Because if they did not [stop at eight]

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(1) R. Adda meant that this counting of the days has as its sole purpose the permission of renewed sexual congress, whereas our purpose was to enable her to re-establish a definite rule of her counting. For, if e.g., she does not know whether she is in the period of niddah or zibah, she would be confused as to how soon she becomes clean again. as niddah only four more days would be required for her to become clean after a three-day flow, whereas if she were a zibah seven days would be necessary before she becomes a niddah again; or, after one-day's flow, as niddah she would have to wait six more days for the bath of purification, whereas in the case of a minor zibah, such a bath may be taken on the next day.

(2) Plur. of zabah, v. Glos.

(3) This is explained as referring to women astray as to their reckoning who may be suspected of being zaboth. As such they must offer the sacrifices, prescribed for a zabah gedolah, a pair of turtle-doves of which one is a sin-offering, the other a burnt-offering. The burnt-offering is consumed on the altar, but the sin-offering as a rule is partly eaten by the priests. The form of killing, melikah (pinching of the bird's neck with the fingernail) is legitimate only with the required bird sin-offering. Since the woman in the above cases is only suspected of being a 'zabah', her sin-offering is not definitely required. In this doubtful case the sin-offering had to be brought to satisfy the possibility of the woman having been a zabah; but it must not be eaten, because there is reasonable doubt, hence the sacrifice may be legally profane and having been killed in a manner prohibited for profane food, is unfit to be eaten by anybody.

(4) In which the woman must have been a zabah. Having had a twelve-day flow of blood, she must have been zabah. For even on the assumption that the first two days were the last days of a zibah, the woman became zibah again on the second count, for the ten days left, seven had belonged to the niddah and the other three to the new zibah, and of course, if the first days came at the beginning of niddah, or three of them were the end of zibah, the woman would definitely be a zibah. In all other cases, however, the woman is only doubtfully a zabah, for just as one could say that three of the days were in the zibah period, making her a zibah proper (zabah gedolah), so could one say that the last two days of the flow came from the zibah period, without making her a zabah gedolah, so that within the days concerned she could not become a zibah again.

(5) I.e., only those who, having had a three-day flow and being thus under the definite suspicion of zibah, whilst astray in their reckoning.

(6) Rashi reads: There is no cleanliness obtainable in the case of leprosy. etc. Lev. XIII distinguishes between leprosy which the priest at his first inspection may be able to declare as either clean or unclean, and doubtful cases. In case of doubt (ibid., 4) the priests must shut up the suspected leper for at least one week, in the case of leprosy of a house, which has remained unchanged after the first week, and has either remained unchanged or has spread at the end of the second week, the priest must shut up the house for another, the third week. V. Neg. XIII, 1.

(7) Ps. XXXVI, 7. The word zedakah (righteousness) has also the meaning of 'mercy'. It is a mark of divine mercy in prescribing one week's shutting in for man.

(8) Or, presses down the balance of merits; v. next note.

(9) Or, raises the scale of impurity. According to R. Eleazar: The Lord in His mercy ignores man's sins, so that his good deeds may save him when before the throne of God in judgment. According to R. Jose b. Hanina: The Lord forgiving, wipes the sins off completely, or, in the case of the man's repentance, changes his very sins into virtues. (V. R.H. 17a.) Rabbah, explaining in terms of R. Eleazar, sees God's zedakah in the fact He keeps His judgment of man's sins in the deep abyss, invisible on the day of judgment, whereas Rab Judah suggests, in accord with the other Tanna, that but for God's supreme zedakah which forgives iniquity, or, for the repentant changes it into moral asset, man could not stand the divine judgment.

(10) A full month (lit., 'a prolonged one') is one of thirty days, a defective one is one of twenty-nine days. The average year has six months of thirty days each, and six of twenty-nine days each. For there are about twenty-nine and one half days between one new moon and the other, whence a month of thirty days, to restore the balance, must be followed by one of twenty-nine days. However, there are more then twenty-nine and one half days between one new moon and the other, approximately twenty-nine days, twelve hours and forty minutes; furthermore, there are other causes influencing the fixing of the calendar, as the result of which the arrangement of six full and defective months undergoes certain variations, so that one year might have a larger number of full, the other more than the half of defective months. In the time of the Mishnah the Sanhedrin decreed the beginning of the new months on the basis of the testimony of witnesses who had actually seen the new moon. But even then conditions would arise (such as non-visibility of the new moon, due to cloudy weather) when the Sanhedrin would be guided by its own astronomical calculations. For such a decree the principle was adopted that no year may have more than eight, nor less than four full months.

(11) Of the Feast of Weeks, v. Lev. XXIII, 27. Since they could not be eaten before the lambs of the sacrifice had been offered up, they were not as profane food, for which alone permission to bake or cook was given on the Holy Day on which all manner of work is prohibited. And as not immediately ready for human food, and hence not under the category of permitted labour, these breads had to be baked on the day before the Feast of Weeks, or, if the latter fell on a Sabbath, on the Friday preceding it. i.e., on the third day. Ex. XII, 16: Save that which every man must eat, that alone may be done by you, excludes that which is not immediately available for human use.

(12) Placed every Sabbath on the Table in the Sanctuary and consumed by the priests on the following Sabbath, they had to be baked on the preceding Friday (not earlier, since they were to be fresh). If a Holy Day fell on Friday, they were baked on Thursday. If the two days of the New Year fell on Thursday and Friday (the only Holy Day which could, even in the time of the Sanhedrin, last for two days. v. Men. 100b), the shewbread would be baked on Wednesday to be eaten on the following Sabbath, on the eleventh day, its baking overriding neither the Sabbath, nor a Holy Day.

(13) The circumcision performed on the eighth day overrides both Sabbath and Holy Day. Here, however, we deal with a boy born Friday eve at twilight. Hence his birthday is doubtful: it may be either Friday or Saturday. the twilight may be considered as belonging either to the day past or to the following one. The Sabbath following may therefore be the eighth or the ninth day after the birth and the circumcision must be postponed (for a doubtfully eighth day circumcision does not override the Sabbath) to the following, the tenth day. If the following day be a Holy Day, the circumcision could not take place before the eleventh day. If the two days of New Year fall on Sunday, the circumcision is postponed to the twelfth day. V. Shab. 137b.

Talmud - Mas. Arachin 9a

the new moon[1] would come three days too early! But now, too. It would come two days too early?[2] — This is in accord with what R. Mesharsheya said: 'It refers to a case where the preceding year was prolonged',[3] Here, too, the reference is to a year following a prolonged year, and the prolongation of a year is one month.[4] But put one full month against one incomplete month, and there will be still one day left?[5] — People do not pay too much attention to that.[6]

'Ulla said: [the meaning is,] It did not seem right to the Sages to make more than eight defective months. He [the Tanna] states here a reason:[7] What is the reason that it did not seem right to the Sages to have less than four full months? Because it did not seem right to them to have more than eight defective months. Why not nine? Because in that case the new moon would be coming three days too late?[8] But now, too, it would be coming two days too late? — That is to be explained in accord with R. Mesharsheya: 'It refers to a case where the preceding year was prolonged'; here, too, the reference is to a year following a prolonged year.[9] Deduct one defective month against one full month, and still there will be one day left?[10] They [the people] will say: It [the moon] has actually been seen, whilst we had paid no attention.[11] [

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(1) The new moon, coming say on Wednesday, with New Year starting only on the Sabbath. This discrepancy would cause popular murmuring against the 'arbitrariness of the Sages'.

(2) But the arrangement of eight months, too, would leave a difference of two days, hence what is the value of limiting it to eight full months? Normally six full months plus six defective ones would take care of the situation.

(3) I.e., a year of thirteen months.

(4) Which may be either full or defective, and having made the intercalation of the preceding year defective, we have regained one day. which is counter-balanced by one day of the eight full months this year.

(5) Yet, even with one month full, and one month of last year incomplete. we gain only one day, so that one day still intervenes between the new moon of Tishri and the fixation of the New Year; so that popular clamour against the Sanhedrin's margin would be aroused still.

(6) A one day's margin would not be considered abuse of the Sanhedrin's function.

(7) And 'for what reason', he says.

(8) 'Ulla's interpretation of the Mishnah: No less than four full months, but not more either, because 'it did not seem right to the Sages to have more than eight defective months', so that the New Moon should not appear three days after the New Year.

(9) And the prolonged month was made full, the consideration being the reverse of the former.

(10) Cf. n. 3 mutatis mutandis.

(11) The people assume in this case that the Sanhedrin had good reason, the basis of which, the actual seeing of the new moon, had escaped themselves.

Talmud - Mas. Arachin 9b

In what principle do they differ?[1] — In regard to the prolonged year. For it was taught: By how much is a year prolonged? By thirty days. R. Simeon b. Gamaliel said: By a month.[2]

An objection was raised: The Feast of Weeks can fall only on the day of the waving,[3] and the New Year can fall only on either the day of the waving or the day following the night of the last day of the full month [of Nisan].[4] Now that will be right according to 'Ulla if eight defective months could be arranged, but not full ones; hence this may happen thus: if both are defective, it falls on the day of the waving; if one is full and the other defective, it falls on the day following the night of the last day of the full month.[5] But according to R. Huna who says one does make [eight] full months, it may happen that it falls on the day following the day after the night of the last day of the full month?[6] — R. Huna will answer you: But is it indeed right. according to 'Ulla? Only eight [full] months are not made, but we do make seven. Now can it not happen that we arrange them not in winter but in the summer, with the result that it would possibly fall upon the day following the day after the last day of the full month![7] — Rather, this is in agreement with the 'Others', for it was taught: 'Others' taught. Between one Feast of Weeks and the other, and between one New Year and the other, there is an interval of no more than four days [of the week], or in the case of a prolonged year, five days.[8] But, at all events, on the view of the 'Others', it could not fall on the day of the waving? — R. Mesharsheya said: The reference is to a prolonged year, and the prolongation of a year is by thirty days. Deduct one [full] month against the other [full one] and it will fall upon the day of the waving.[9]

Said R. Adda b. Ahabah to Raba: Do 'Others' intend teaching us [how to count] the number?[10] —

This is what they convey to us: That it is not obligatory to proclaim a new moon on the basis of having seen it.[11] Rabina demurred: But there are days made of hours,[12] and days of thirty years?[13] — Since they do not occur every year, he does not count them. Samuel, too, agreed with the view of R. Huna, for Samuel said: The lunar year consists of no less than three hundred and fifty-two, nor of more than three hundred and fifty-six days. How is that? — If the two are full,[14] there are [fifty] six; if the two are incomplete. [fifty] two; if one is complete and one incomplete, [fifty] four.

An objection was raised: [If one said,] I shall be a Nazirite according to the number of the days of the solar year, then he must count for his Naziriteship three hundred and sixty-five days according to the years of the sun; [if he said,] According to the days of the lunar year, he must count for his Naziriteship three hundred and fifty-four days according to the days of the lunar year. Now, if that [account above] were right, at times you find [a year of three hundred and fifty] six days?[15] — With regard to vows go after human parlance as well as after the majority of years. Rabbi, too, held the view of R. Huna, for it was taught: Rabbi happened to have arranged for nine defective months, and the moon [of Tishri] was seen in its due season! Whereupon Rabbi was amazed and said: We have arranged nine incomplete ones and yet the moon [of Tishri] appeared in due season! R. Simeon b. Rabbi said to him: perhaps this happened to be a prolonged year

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(1) R. Huna and ‘Ulla. R. Huna accepts R. Simeon b. Gamaliel's view and ‘Ulla that of the first Tanna.

(2) A month of twenty-nine days. The margin is the point of difference.

(3) The second day of Passover (v. Lev. XXIII, 10-12) i.e., on the same day of the week as the second day of Passover. The fifty days are counted from the sixteenth of Nisan to the first of Shabuoth. Hence the fiftieth day must fall upon the same week-day as the first, the day of the waving.

(4) Or iburo, the night of its being made a full month, because upon the night depends its completeness, for if the new moon is proclaimed for the thirty-first day, that fact renders the month just passed full (one of thirty days).

(5) [Normally the twelve months of the year beginning with Tishri are full and defective in rotation. Where there is a departure from this order, the only months affected are Kislew in the winter and Siwan in the summer, which months are made defective instead of being normally full. Now if both these months are made defective, giving eight defective months for the year, there is an interval between the 30th of Nisan and the first of Tishri of eight days of the week, i.e., the first of Tishri falls on the same day of the week as the 31st of Nisan; and since the 30th of Nisan falls on the same day as the day of waving, which is exactly fifteen days before, the New Year will also fall on the day of waving. Should, on the other hand, only one of these two months be made defective — namely Kislew, whilst Siwan is full, there would be nine days of the week difference between the 30th of Nisan and the first of Tishri, so that New Year will fall on the 31st day. i.e., the day following the night of the last day of the full month of Nisan.]

(6) [On the view of R. Huna that we make eight full months, the two months Heshwan (in winter) and Iyyar (in summer) normally defective are made full, with the result that one extra day of the week is added as interval between the 30th day of Nisan and the first Tishri making New Year to fall two week-days after the 30th of Nisan.]

(7) [By making the extra full month in the summer, there would be added an extra day of the week as in p. 51, n. 6 with the same result.]

(8) The statement that the New Year must fall either on the day of the week on which the waving day falls or upon the day following the night after the last day of the full month is in accord with the teaching of ‘Others’, who hold that all months are full and defective in strict rotation, making a total of 354 which is four days over fifty weeks, leaving four days of the week as interval between one New Year and the other in a normal year and five in a prolonged year.

(9) [Having added in winter an extra full month, Nisan is made defective, with the result that we have four defective months during the summer, making New Year fall on the day of the waving. v. p. 51, n. 5.]

(10) From the fact that all months follow each other in regular order, it follows that there are four days’ difference between the New Years.

(11) Even without having actually seen the new moon the new month may be proclaimed by the proper authorities.

(12) Granted that ‘Others’ go by the order of the new moons, yet it happens that in a simple (not prolonged) year, five days may intervene between one Passover and the other. For the forty minutes above twenty-nine days and twelve hours, between one moon and the other, make in one year an additional eight hours, in three years an additional day.

(13) And even when that is accounted for, there remain minutes, which added to one another amount in every thirty years to one complete day. The exact duration is: twenty-nine days, twelve 793/1080 hours, which time fragments combined add one day in every three, and one additional one every thirty years.

(14) Of the defective ones (i.e., Marheshwan and Iyyar) they add two days, i,e., three hundred and fifty-six days altogether; if two of the full ones (i.e., Kislew and Siwan) are made defective, there are two days less than usual, and the year has but three hundred and fifty-two days.

(15) Then why should the Nazirite be given a reduced term, two days shorter?

Talmud - Mas. Arachin 10a

and the prolongation of a year is by thirty days. and last year we made the two full, put the three full against the three defective, and it will come to Its proper place.[1] He answered to him: Light of Israel! So it was! MISHNAH. THEY BLEW NEVER LESS THAN TWENTY-ONE BLASTS IN THE SANCTUARY AND NEVER MORE THAN FORTY-EIGHT.[2] THEY PLAYED NEVER ON LESS THAN TWO HARPS,[3] OR MORE THAN SIX, NOR EVER ON LESS THAN TWO FLUTES OR MORE THAN TWELVE. ON TWELVE DAYS IN THE YEAR WAS THE FLUTE [HALIL] PLAYED BEFORE THE ALTAR:[4] AT THE KILLING OF THE FIRST PASSOVER-SACRIFICE,[5] AT THE KILLING OF THE SECOND PASSOVER-SACRIFICE,[6] ON THE FIRST FESTIVAL DAY OF PASSOVER, ON THE FESTIVAL DAY OF THE FEAST OF WEEKS, AND ON THE EIGHT DAYS OF THE FEAST [OF TABERNACLES].[7] AND THEY DID NOT PLAY ON A PIPE [ABUB][8] OF BRONZE BUT ON A REED PIPE, BECAUSE ITS TUNE IS SWEETER. NOR WAS ANY BUT A PIPE SOLO USED FOR CLOSING[9] A TUNE. BECAUSE IT MAKES A PLEASANT FINALE. THEY[10] WERE SLAVES OF THE PRIESTS. ACCORDING TO R. MEIR. R. JOSE SAID: THEY WERE OF THE FAMILIES BETH HAPEGARIM, BETH-ZIPPORUA AND FROM EMMAUS,[11] FROM WHICH PRIESTS WOULD MARRY [WOMEN].[12] R. HANINA B. ANTIGONOS SAID: THEY WERE LEVltes.[13]

GEMARA. Our Mishnah[14] will not be in accord with R. Judah. for it was taught: R. Judah said: One who sounds a smaller number of blasts may not sound less than seven, and one who sounds a larger number must not exceed sixteen. What principle are they disputing? — R. Judah says: Teki'ah, teru'ah, teki'ah[15] constitute one sound,[16] whereas the Sages hold: Teki'ah is a separate sound, so is teru'ah, and so the [second] teki'ah.[17] What is the reason for R. Judah's view? — It is written: And when ye blow an alarm [teki'ah],[18] and again it is written: They shall blow an alarm [teru'ah],[19] from this it is evident that teki'ah, teru'ah and teki'ah are one sound.[20] And the Sages? — That merely indicates that the teru'ah sound is to be both preceded and followed by a teki'ah sound.[21] What is the reason of the Sages' view? — Scripture says: But when the assembly is to be gathered together, ye shall blow, but ye shall not sound an alarm.[22] Now, if one should assume that teki'ah, teru'ah, and teki'ah are together only one sound would the Divine Law have said: perform but one half of the command! And R. Judah? — This is no more than a signal.[23] According to whom will be the following teaching of R. Kahana: There may be no interruption whatever between teki'ah and teru'ah? — According to whom? According to R. Judah. But this is obvious. You might have said: It may be in accord even with the Rabbis, and it is taught thus only to exclude the view of R. Johanan who said that if one heard nine sounds even in the course of nine hours during the day, he had fulfilled his duty,[24] therefore we are informed [that this is not so]. But say, perhaps it is indeed so? — If that were the case, what means: 'No interruption whatever'?

ON TWELVE DAYS IN THE YEAR WAS THE FLUTE PLAYED etc. Why just on these days? Because an individual[25] completes the Hallel psalms on them.[26] For R. Johanan said in the name of R. Simeon b. Jehozadak: There are eighteen days on which an individual completes the Hallel: the eight days of the Feast [of Tabernacles], the eight days of Hanukkah, the first Festival day of Passover and the Festival day of the Feast of Weeks. In the exile[27] [one praying individually completes the Hallel] on twenty-one days: the nine days of the Feast [of Tabernacles], the eight days of Hanukkah, the two Festival days of Passover, and the two Festival days of the Feast of Weeks.

Why this difference that on the Feast [of Tabernacles] we complete Hallel on all the days, and on the Passover Festival we do

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(1) Rabbi also held that eight full months are the limit, hence his astonishment when the new moon of Tishri came at the proper time in spite of the additional incomplete months. Last year the two normally defective months (Heshwan and Iyyar) were made full and the intercalated month was full. If the three defective ones of this year are placed against the three full ones of last year a normal situation is achieved, hence the new moon of Tishri appeared at the moment when it was fixed.
(2) V. Suk. 53b.
(3) Lit., ‘a kind of hose’, nabla in Greek, which according to Josephus had twelve strings and was played with the hand.
(4) On these days all the thanksgiving Psalms (Hallel. Ps. CXIII-CXVIII) were sung. The meaning here is doubtful: either, ‘on these days the flute was played before the altar, whereas on other days it was played together with all other instruments on the Dukhan by the Levites’, or on these days alone the flute was played, on other days other instruments only. The technical term ‘beat’ (מכה) applies to the flute, because tunes are evoked thereon by beating with the fingers on the holes.
(5) During the singing of the Hallel, Pes. 64a.
(6) On Iyyar the fourteenth, when the Passover-sacrifice of those who on Nisan the fourteenth were on a journey afar off, or in an unclean state, was offered up. V. Num. IX, 9ff.
(7) The playing of the flute on these days was part of the official music in the Sanctuary, prescribed during the process of offering up the sacrifices, and overriding both Sabbath and Holy Days. But the playing of the flute at the Water Festival (Suk. 50a) overrode neither, and was permissible on a week-day only.
(8) The change in the Hebrew designation for ‘pipe’ is explained in the Gemara.
(9) Either, ‘to smoothe’, then in the causative, to close a tune softly; or, ‘to separate’, to close one before the other starts; or, the overture, before the song commences.
(10) It was the youths or servants who played the flutes as well as the other instruments.
(11) Near Tiberias.
(12) Not slaves but youths of noble families, with whom the proud priestly families were willing to intermarry. The practical difference arising from this dispute has something to do with a man's claim to descent and desire to marry into a priestly family. If none but the youths of such excellent families were admitted to such service, participation in the latter would be sufficient evidence of noble descent and would eo ipso be sufficient ground for admission into such family. According to R. Meir even servants were admitted to such service, hence former participation therein is no evidence of noble descent, and no self-sufficient ground for admission into a priestly family.
(13) Legally also non-Levites were admissible. Actually, however, only Levites were admitted, whence the fact of ones participation was sufficient proof of levitical descent,
(14) In that it teaches: ‘They blew never less than twenty-one, nor more than forty-eight blasts’.
(15) Teki'ah: one long sound; teru'ah; a rapid succession of three notes each, a broken tune. The value (length) of a teki'ah is equal to a teru'ah. V. R.H. 34a as to the significance and form of the sounds.
(16) And consequently are to be sounded without a break between them.
(17) And consequently are to be separated from each other by a small pause.
(18) Num. X, 5.
(19) Ibid. 6.
(20) The Hebrew verb used to denote ‘blow’ in both instances is derived from the same root as teki'ah.
(21) The proof is derived from the fact that teru'ah in these passages is preceded and followed by the root word of ‘teki'ah’, interpreted here as indicative of the form the blast took.
(22) Num. X, 7.
(23) It is not a proper sound of teki'ah, but a mere signal of assembly.
(24) That of hearing the sound of the shofar, v. R.H. 34b.
(25) One praying individually, not in or as part of a congregation, a minyan.
(26) V. Ta'an., Sonc. ed., p. 150, n. 7.
(27) Where two days of Festival holiness would be celebrated instead of one.

Talmud - Mas. Arachin 10b

not do so on all of its days? — The days of the Feast [of Tabernacles] are differentiated from one another in respect of the sacrifices due thereon, whereas the days of Passover are differentiated from one another in respect of their sacrifices.[1] Let it then be read on the Sabbath which is distinguished by its sacrifices? — It [Sabbath] is not called a festival. But what of New Moon which is called a festival, let the complete Hallel be said on it? — [New Moon] is not sanctified as to [prohibition of] labour, as it is written: Ye shall have a song as in the night when a feast is hallowed,[2] i.e., only the night sanctified towards a festival requires a song, but the night which is not sanctified towards a festival does not require a song. Then let the Hallel be said on the New Year and on the Day of Atonement, both of which are called Festival and are sanctified by [the prohibition of] labour?[3] — That [is not possible] because of R. Abbahu, for R. Abbahu said: The ministering angels said before the Holy One, blessed be He: Why do not the Israelites sing a song before you on the New Year and on the Day of Atonement? He answered them: Would that be possible; the King sits on the throne of Judgment, with the books of those destined to live and destined to die before Him, and Israel singing a song before Me? But there is Hanukkah, on which neither one nor the other [condition applies] and the Hallel is said? — That is due to the miracle. Then let it be said on Purim, on which, too, a miracle occurred? — Said R. Isaac: [It is not said] because no song [Hallel] is said for a miracle that occurred outside the [Holy] Land. To this R. Nahman b. Isaac demurred: But there is the exodus from Egypt, which constitutes a miracle that happened outside the Land, and yet we say Hallel? — There it is due to the fact taught ,for it was taught: Before Israel entered the [Holy] Land, all the lands were considered fit for song to be said [if a miracle had occurred in their boundaries]; once Israel had entered the Land, no other countries were considered fit for song to be said. R. Nahman, however, answered: The reading [of the Megillah][4] that is its [Purim's] Hallel. Raba said: It fits quite well there: Praise ye servants of the Lord,[5] but not servants of Pharaoh; but here ‘servants of the Lord’, not servants of Ahasuerus. Surely they are still servants of Ahasuerus! But according to R. Nahman who says the reading [of the Megillah] is its Hallel, was it not taught that after Israel had entered the Land, no other land was considered fit to sing Hallel about? — After Israel was exiled they [the other countries] were restored to their original fitness.

THEY DID NOT PLAY ON A PIPE OF BRONZE: He [the Tanna] begins with Halil and closes with Abub? — Said R. Papa. Halil is the same of Abub [this latter being its right name], and why was it called Halil? — Because its tune is sweet [hali].

Our Rabbis taught: There was a pipe in the Sanctuary which was smooth and thin, made of reed, and from the days of Moses, [and its sound was pleasant].[6] The king commanded to overlay it with gold, whereupon its sound was no more pleasant. Then its overlay was taken off, and its sound was pleasant again as before. There was a cymbal in the Sanctuary from the days of Moses, made of bronze, and its sound was pleasant; then it became damaged. The Sages sent for craftsmen from Alexandria of Egypt, and they mended it, but its sound was not pleasant any more. Thereupon they removed the improvement and its sound became as pleasant as it was before. A bronze mortar was in the Sanctuary, from the days of Moses, and it would mix the drugs. When it became damaged the Sages sent for craftsmen from Alexandria of Egypt who mended it, but it would no more mix the drugs as well as it used to.[7] Whereupon they removed the improvement, and it would mix them well again as before. These two vessels were left over from the first Sanctuary, and after they had been damaged there was no remedy for them. It is with reference to them that David said: They were of burnished brass,[8] and bright brass.[9] In connection with them it is said also: And two vessels of fine bright brass, precious as gold.[10] Rab and Samuel were disputing: One said each of them had the full weight of two of gold; the other held both of them had the weight of one of gold. R. Joseph learnt: Both of them had the weight of one of gold. It was taught: Nathan said: They were two each,[11] for shenayim is the written text, which one should read: not shenayim [two], but shniyyim [double ones].

R. Simeon b. Gamaliel taught: The Siloah was gushing forth through a mouth of the size of an issar.[12] The king commanded and it was widened so that its waters be increased, but the waters diminished. Thereupon it was narrowed again, whereupon it had its [original] flow, to make true that which was said: Let not the wise man glory in his wisdom, neither let the mighty man glory in his might.[13] Thus also would R. Simeon b. Gamaliel say: There was no hirdolim in the Sanctuary. [What is hirdolim?] — Abaye said: A musical instrument [table][14] worked by pressure [of water] because its sound was heavy and disturbed the music. Rabbah b. Shila, in the name of R. Mattenah, on the authority of Samuel, said: There was a magrefa[15] in the Sanctuary; it had ten holes, each of which produced

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(1) The number of bullocks to be sacrificed on the Feast of Tabernacles diminished from day to day. which was thus distinguished from Passover, where the number was stationary.

(2) Isa. XXX, 29.

(3) In spite of the fact that the New Moon is also called a festival, it lacks the condition of ‘sanctification by Prohibition of labour’.

(4) The Scroll of Esther.

(5) Ps. CXIII, 1. This clause fits Passover, but not Purim.

(6) Added with Sh. Mek.

(7) v. Ker. 6b.

(8) I Kings VII, 45. Tosaf. a.l. remark that this could not possibly have been said by David, because it refers to vessels made by Solomon, and hence reads: ‘concerning which Scripture says’. That fits also the next quotation.

(9) II Chron. IV, 16.

(10) Ezra VIII, 27.

(11) I.e., two cymbals and two mortars.

(12) V. Glos.

(13) Jer. IX, 22. The lesson to be derived from these accounts seems to be, no ‘foreign’ improvements could remove what appeared imperfect in the Sanctuary. Things became right after the disastrous ‘improvements’ were removed.

(14) No absolutely satisfactory interpretation of this work is available: The very letters are uncertain, nor is the text clear. V. Tosaf. a.l. The rendering here adopts the reading ab (heavy) instead of ‘areb (pleasant) of cur. edd. V. Marginal Gloss. Jast. connects it with hydraula (water-organ) and renders: There was no organ used in the Sanctuary because it would interfere (eliminating ‘areb, pleasant. perhaps as dittography of um'arbeb) with the sweetness of the song.

(15) A name of another musical instrument.

Talmud - Mas. Arachin 11a

ten different kinds of sounds, with the result that the whole amounted to one hundred kinds of sounds. A Tanna taught: It was one cubit long, one cubit high, from it projected a handle, which had ten holes. Each of them produced one hundred kinds of sounds, amounting for the whole to one thousand kinds of sounds. Said R. Nahman b. Isaac: To remember whose teaching it is: The Baraitha exaggerates’.[1] THEY WERE SLAVES OF THE PRIESTS. Shall we say they are of conflicting opinions concerning the following principle: He who said they [the players of the instruments] were slaves holds that the essential in the music of the Sanctuary was the singing with the mouth, the instrumental music being just for sweetening the sound; whereas he who said that they were Levites holds the instrumental music to have been the essential. But if you reason this way, what will appear as R. Jose's view? If he holds that the essential of the [Sanctuary] music was the singing with the mouth, it [the instrumental music] should have been satisfactory [if performed] by slaves; if [on the other hand] he holds that instrumental music was the essential, it would have to be done by Levites?[2] — In reality he holds that vocal music was the essential; here, however, they are disputing as to whether one may promote one from the dukhan[3] to noble[4] families and to the enjoyment of tithes.[5] He who said that they [the players of the instruments] were slaves would hold one may not promote any one from the dukhan to either noble families or to the enjoyment of tithes; whereas he who said they were Levites would hold one may promote any one from the dukhan both to [marriage into] noble families and to the enjoyment of tithes; whereas he who said that they [the players of instruments] were Israelites, would hold that one may promote any one from the dukhan to [marriage into] noble families, but not to the enjoyment of tithes.[6]

Our Rabbis taught: The omission of the song invalidates the sacrifice, this is the view of R. Meir. The Sages. however, hold that the omission of the song does not invalidate the sacrifice. What is the reason of R. Meir? — R. Eleazar[7] said: Because Scripture said, And I have given the Levites — they are given to Aaron and to his sons from among the children of Israel . . . and to make atonement for the children of Israel,[8] i.e., just as atonement[9] is indispensable, so is the song indispensable. And the Rabbis? — This [analogy is] with reference to another teaching of R. Eleazar, for R. Eleazar said: Just as the atonement is performed during the day, so does the song take place during the day.[10]

Rab Judah said in the name of Samuel: Whence do we know that fundamentally the song is obligatory on the basis of the Torah? As it is said: Then shall he minister in the name of the Lord his God.[11] Now which ministry is it in the course of which the Lord's name is mentioned? You must say: It is the song. But perhaps it is the [priest's] raising of the hands [to bless]? — Since Scripture said: To minister unto Him and to bless in His name,[12] it follows that the priest's blessing [in itself] is no ministry. R. Mattenah said: [It is derived] from here: Because thou didst not serve the Lord thy God in joyfulness and with gladness of heart.[13] Now which service is it that is ‘in joyfulness and with gladness of heart’? — You must say: It is song. But perhaps it means the words of the Torah, as it is written: The precepts of the Lord are right, rejoicing the heart?[14] — They are described as ‘rejoicing the heart’, but not as ‘gladdening [the heart]’. But say [it refers to] first-fruits. as it is written: And thou shalt rejoice in all the good?[15] — They are called ‘good’, but not ‘gladdening the heart’. R. Mattenah said: Whence do we know that the [offering up of] first-fruits requires a song? — We infer that from the analogy of the words ‘good’, ‘good’[16] which occur here too. But that is not so, for R. Samuel b. Nahmani said in the name of R. Jonathan: Whence do we know that the song is not sung [in the Sanctuary] except over wine? — Because it is said: And the vine said unto them: Should I leave my wine, which cheereth God aid man?[17] Granted that it cheers men, whereby can it cheer God? From this it is evident that the song is not sung except over wine! — That is possible in accord with what R. Jose taught: [You shall take of the fruit of the ground[18] implies] You may offer the fruit, but not liquids. Whence do we know that if he brought grapes and pressed them [he has performed his duty de facto]? The text therefore states: Which thou shalt bring.[19]

Hezekiah said [we infer this] from the following passage:[20] And Chenaniah, chief of the Levites, was over the song; he was master [yasor] in the song, because he was skilful.[21] Do not read ‘yasor’, but ‘yashir’ [he sang]. Belvati, in the name of R. Johanan inferred it from here: To do the work of service.[22] Which work needs [depends on] service? Say: That is the song. R. Isaac inferred it from here: Take up the melody, and sound the timbrel, the sweet harp with the psaltery.[23] R. Nahman b. Isaac derived it from here: Those yonder lift up their voice, they sing for joy; for the majesty of the Lord they shout from the sea.[24] One Tanna derived it from here: But unto the sons of Kohath he gave none, because the service of the holy things belonged unto them: they bore them upon their shoulders.[25] Would I not have known from the meaning of ‘upon their shoulders’, that they bore them? Wherefore then they bore them’? But ‘they bore them’ here means ‘in song’, for thus also it is said: Take up [se'u] the melody and sound the timbrel,[23] and it is said also: They lift up [yisse'u] their voices, they sing for joy, etc.[24] Hananiah, the son of the brother of R. Joshua derived it from here: Moses spoke and God answered him by a voice[26]

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(1) Whereas the Mishnah is exact in its style, the Baraitha allows itself occasional hyper bolic language. R. Gershom a.l. uses severe language against the Baraitha. Rashi refers to Hul. 90b where, however, some of the exaggerations go back to the Mishnah Middoth, or are no exaggerations. In this case, at any rate, the Mishnah reports a reasonably effective instrument, whereas the Baraitha tells a tall instrument story.

(2) Neither of the two views would account for his divergence from the other Tannaim.

(3) The platform upon which the Levites stood during the singing of psalms.
(4) I.e., free from any taint of illegitimacy.
(5) If they are Levites they are not only privileged to marry into Israel's noble families, but also, a more practical benefit, to obtain the tithe which a member of that tribe is entitled to receive from the average Jew.
(6) V. Suk. 51a
(7) Changed in accord with Marginal Gloss.
(8) Num. VIII, 19. The Levites were the singers.
(9) The atoning rites, e.g.. the sprinkling of the blood.
(10) This ‘other teaching of Eleazar’ justifies the marginal change above. V, n. 1.
(11) Deut. XVIII, 7.
(12) Ibid. X, 8.
(13) Ibid. XXVIII, 47.
(14) Ps. XIX, 9.
(15) Deut. XXVI, 11.
(16) The same word occurs in the command concerning the first-fruits as well as in connection with the song in the Sanctuary, hence the inferences.
(17) Judg. IX, 13.
(18) Deut. XXVI, 2: Thou shalt take of the fruit of the ground.
(19) Ibid. From this redundant word this additional teaching is to be derived: In any way, as long as thou bringest them.
(20) Do we derive the Biblical basis for song in the Sanctuary.
(21) I Chron. XV, 22.
(22) Num. IV, 47. The song required the service of the sacrifice, at the libations of which the trumpets sounded,
(23) Ps. LXXXI, 3.
(24) Isa. XXIV, 14.
(25) Num. VII, 9.
(26) Ex. XIX, 19.

Talmud - Mas. Arachin 11b

[i.e.,] concerning the voice.[1] R. Ashi[2] derived it from here: It came even to pass when the trumpeters and singers were as one to make one sound to be heard.[3] R. Jonathan derived it from here: That they die not, neither they, nor ye.[4] [i.e.,] just as you at the service of the altar, so they, too, at the service of the altar. It was taught also thus: ‘That they die not, neither they, nor ye. viz., ye by engaging in their work, or they by engaging in yours, would incur penalty of death; they, however, by engaging in [another's] work of their[5] own [group] would be incurring penalty for transgression, but not death. Abaye said: We have it on tradition that a singing Levite who did his colleague's work at the gate incurs the penalty of death,[6] as it is said: And those that were to pitch before the tabernacle eastward before the tent of meeting toward the sunrising, were Moses and Aaron, etc. and the stranger that drew nigh was to be put to death.[7] What ‘stranger’ is meant here? Would you say a real stranger [non-priest]? But that has been mentioned [by Scripture] already! Rather, must it mean a ‘stranger’ to this particular service.

An objection was raised: Concerning a Levite chorister that attended to the Temple gates, or a gate-keeping Levite who sang, as to whether they are guilty of a transgression or incurring penalty of death, that is a matter of dispute among Tannaim, for it was taught: It happened that R. Joshua b. Hananyia went to assist R. Johanan b. Gudgeda in the fastening of the Temple doors,[8] whereupon he [the latter] said to him: My son, turn back, for you are of the choristers, not of the door-keepers. Would you not say that they were of divided opinion herein, that one held[9] he incurs the penalty of death, and for this reason the Rabbis forbade [their assisting], whereas the other held that only a transgression was involved, whence [the Rabbis] did not decree this preventive measure? — No, both agree that only a transgression is involved; [and their point of issue is the following:] one holds that the Rabbis forbade assisting as a preventive measure, the other holding that they did not forbid assisting as a preventive measure.[10]

R. Abin asked: Does a freewill burnt-offering of a community require song or not? The Divine Law says: Your burnt-offerings[11] , which means no matter whether they are obligatory or freewill-offerings; or in saying ‘your burnt-offerings’ does perhaps the Divine Law mean those of all Israel?[12] — Come and hear: And Hezekiah commanded to offer the burnt-offering upon the altar. And when the burnt-offering began, the song of the Lord began also, and the trumpets, together with the instruments of David, King of Israel.[13] What need was there here for song? Would you say it was on account of [the daily] obligatory burnt-offering? That surely needed no consultation? Rather, it was one in connection with a freewill burnt-offering! Said R. Joseph: No, it was the burnt-offering [offered] on the new moon, and it was questionable as to whether the new month has been fixed in its right time so that it should be offered up, or not. Said Abaye to him: How can you say so,[14] is it not written: And on the sixteenth day of the first month they made an end . . . then Hezekiah commanded to offer the burnt.offering upon the altar, etc.?[15] — Rather, said Rami the son of R. Yeba: The question was with reference to the lamb offered up with the ‘Omer,[16] [namely]: Was the new month decreed in its right time or not so that the lamb may be offered? — R. Avya demurred to this: They should have seen when the paschal lamb had been sacrificed, when the leavened bread had been eaten![17] Rather, said R. Ashi: It is the same as with the messenger of the congregation, who consults [formally asks for permission to start the prayer].[18] Now that you have come to this answer, say: Even if it was the case of the [daily] obligatory burnt-offering, [yet there is no difficulty]: It is the same as with any messenger of a community, who consults [his congregation].

Come and hear: R. Jose said, Good[19] things are brought about on a good [auspicious] day, and evil ones on a bad one. It is said, The day on which the first Temple was destroyed was the ninth of Ab, and it was at the going out of the Sabbath,[20] and at the end of the seventh [Sabbatical] year. The [priestly] guard was that of Jehojarib, the priests and Levites were standing on their platform singing the song. What song was it? And He hath brought upon them their iniquity, and will cut them off in their evil.[21] They had no time to complete [the psalm with] ‘The Lord our God will cut them off’, before the enemies came and overwhelmed them. The same happened the second time [the second Sanctuary's destruction].[22] Now what need was there for song? Would you say that it was on account of the [daily] burnt-offering? But that could not be, for on the seventeenth of Tammuz the continual sacrifice had been abolished.[23] Hence it was on account of a freewill burnt-offering! But how could you think so? Why should an obligatory-offering have been impossible and a freewill-offering available? — That is no difficulty: A young ox may accidentally have come to them![24] Said Raba, or, as some say, R. Ashi: But how could you think so?[25] The song of the day was: The earth is the Lord's and the fulness thereof,[26] whereas the verse, ‘And He hath brought upon them their iniquity’ belongs to the song due on the fourth day of the week! Rather [what you must say is.] It was just a lamentation text that had come to their mouth. But it says: ‘They were standing upon the platform’?[27] [Rather, say] That is in accord with Resh Lakish who said: The song may be sung even without any [attending] sacrifice.[28] But that principle might be applied to a voluntary burnt-offering, too?[29] — That might lead to an offence.[30] How is it therewith?[31] — Come and hear: R. Mari the son of R. Kahana taught: Over your burnt-offerings and over the sacrifices of your peace-offerings;[32] just as the burntoffering is Most Holy, so are the peace-offerings [referred to] Most Holy;[33] and just as the peace-offerings have a definite time fixed for them, so have the burnt-offerings a definite time fixed for them.[34]

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(1) He commanded him concerning the voice of song, Moses being a Levite.

(2) Marginal Gloss suggests R. Oshaia, the usual disputant of R. Jonathan who follows.

(3) II Chron. V, 13.

(4) Num. XVIII, 3. The only altar service of fit Levites was the singing. Anyone performing at the altar any service for which he is unfitted, as e.g.. exchanging the Levite's task for that of the priest's incurs that penalty.

(5) If a Levite engaged in the work of another Levite, his offence is not as serious as that of one who had undertaken

Priest's work; still, it is an offence.

(6) Abaye does not appear satisfied with the distinction made just now, because he found a teaching much more severe,

(7) Num. III, 38. The Torah would not state anything twice. In III, 10: The stranger that draweth nigh shall be put to death (i.e., by the hand of heaven). Hence the statement involving a similar penalty to the stranger in verse 38 must refer to another ‘stranger’, a Levite who was a ‘stranger’ because unfit for that service allotted to another.

(8) Both Rabbis were Levites.

(9) When a chorister or doorkeeper do each other's work.

(10) R. Johanan held that if a chorister did gate-service alone he incurred penalty of death, hence if he assisted in such work as was not allotted to him, he, at any rate, fell under the interdiction of the Sages, whence he advised him to return; the interdiction of the Sages having for its purpose the prevention of any Levite's doing his neighbour's work unassisted, which offence would involve death as the penalty. But R. Joshua held that even if a Levite did his neighbour's work alone, no more than a transgression of a prohibition, without attendant severe penalty, was involved; hence if one only assisted one's neighbour, not even Rabbinic interdiction was transgressed.

(11) Num. X, 10.

(12) Restricting it, however, to obligatory dues.

(13) II Chron. XXIX, 27. Obviously he had been consulted, otherwise he would not have commanded a self-evident thing. Hence the matter must have been non-obvious.

(14) That this was on the new moon,

(15) Ibid. 17.

(16) V. Lev. XXIII, 12. The lamb was an obligatory burnt-offering.

(17) Aliter: How could they have offered up if the date was not clear to them?

(18) Similarly with the case of Hezekiah, formal permission was first obtained from him before sacrificing the lamb offered in connection with the omer, though it was an obligatory one.

(19) E.g., the redemption from Egypt, as well as the final redemption, fall into the month of Nisan. In Num. XIV, 1 the whole congregation is reported to ‘have lifted up their voice and cried’, complaining against Moses and Aaron, and against God. That evil day fell on the ninth of Ab. The ninth of Ab therefore was a day predestined to disaster. (R. Gershom.)

(20) I.e., Sunday.

(21) Ps. XCIV, 23.

(22) V. Ta'an, 27a.

(23) Because no lambs were left for the sacrifice and none would be imported on account of the siege.

(24) The siege had prevented the securing of proper animals (lambs) for the continual offering. but any cattle was fit for the freewill burnt-offering.

(25) That the song referred to is the song sung in connection with offerings.

(26) Ps. XXIV, 1. This is the song for Sunday; every day had its song definitely arranged.

(27) [How then could it be assumed that the references to a freewill-offering; surely not all the Levites would take their stand on the platform for the offering of a freewill sacrifice (v. R. Gershom).]

(28) [So that the song could have been sung though there was no continual sacrifice. Consequently the song in the cited Baraitha may refer to the one sung in connection with the obligatory daily burnt-offerings, affording no solution to R. Abin's query.]

(29) If a song was in order even without any sacrifice being offered, the answer would have been found for the question above of R. Abin (Tosaf.).

(30) One would have inferred that no freewill-offering may be offered up without a song, so that if no Levites were present or available, as happened in the time of Ezra, no freewill burnt-offerings would be made at all! (R. Gershom.) According to Rashi: If voluntary singing were permitted, its very voluntariness would occasion legal laxities, and such laxities would be transferred to obligatory songs. too.

(31) What is the answer to R. Abin's question?

(32) Num. X, 10. Here Scripture compares the freewill peace offering to the burnt-offering, in connection with prescribed music.

(33) I.e., congregational peace-offerings, v. Lev. XXIII, 19.

(34) Only burnt-offerings due at a definite time, i,e., only prescribed, obligatory ones, require a song, but not voluntary ones.

Talmud - Mas. Arachin 12a

The following question was asked: Do libations offered[1] up by themselves require a song or not? Since R. Samuel b. Nahmani had said: Whence do we know that one does not sing the [Sanctuary] song except over wine, etc.?[2] Do we say it [over wine alone], or do we say it only when [the sacrifice] includes food and drink, but not over drink alone? — Come and hear: R. Jose said, Good things are brought about on an auspicious day. etc. Now what need was there for song? Would you say it was on account of an obligatory burnt-offering? But that could not be for on the seventeenth of Tammuz the continual offering was abolished! And if it was on account of a voluntary burnt-offering! Did not R. Mari the son of R. Kahana teach that such did not require a song?[3] — Hence it must have been the song on account of libations?[4] Said Raba, or as some say. R. Ashi: But how could you think so? The song of the day was 'The earth is the Lord's and the fulness thereof', whereas the verse, 'And He brought upon them their iniquity' belongs to the song due on the fourth day of the week? Rather [say]: It was a verse of lamentation that came to their mouth! But it says: 'And they were standing on their platform'? — [Rather say,] That is in accord with Resh Lakish; for Resh Lakish said: The song may be sung even without any [attending] sacrifice. Then let the same be said for libations, too? — That might lead to an offence.

[To turn to] the [above] text: R.Jose said, Good things are brought about on an auspicious day, etc. 'At the first time it was at the end of the seventh year'. How could that have been? Is it not written: In the five and twentieth year of our captivity. in the beginning of the year, in the tenth day of the month, in the fourteenth year after that the city was smitten.[5] Now which is the year the beginning of which falls on the tenth of Tishri? Say: This is the jubilee year.[6] And if you should think that [the Sanctuary] was destroyed in the first year [of the seven years' cycle], [consider] there are from the first year of one seven years' cycle to the first year of another seven years' cycle eight years, and to the first of the next seven years cycle fifteen years? — Said Rabina: It was in the fourteenth year after the year in which the city was smitten. But how, then, in 'the twenty-fifth year'? It was, really in the twenty-sixth year, for a Master said: They were exiled in the seventh year, they were exiled in the eighth year, they were exiled in the eighteenth year, they were exiled in the nineteenth year. Now from the seventh to the eighteenth are eleven years, add fifteen and that makes it twenty-six years![7] — Rabina will answer you: But even according to your own reckoning is it right? Since they were exiled also in the nineteenth year, [you have] from the seventh to the nineteenth twelve years, add fourteen years and you have twenty-six years? What you must therefore say[8] is that [the counting] excludes the year in which they were exiled. So is it with me: [the counting] excludes the year in which they were exiled. But, at any rate, the number nineteen remains a difficulty according to Rabina?[9] Do you think three exiles are involved? [No, rather:] they were exiled in the seventh year after the subjection of Jehoiakim,[10] which happened to be the eighth year of Nebuchadnezzar; they were exiled in the eighteenth year[11] after the conquest of Jehoiakim. which was the nineteenth year of Nebuchadnezzar, for a Master has taught: In the first year he [Nebuchadnezzar] conquered Nineveh

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(1) V. Men. 44, according to which libations could be offered up on the morrow after the sacrifice.

(2) V. supra 11a.

(3) V. supra p. 66 n. 10.

(4) Which solves the query first propounded.

(5) According to Ezek. XL, 1 this was the year when the Sanctuary was destroyed. 'Our Exile' meaning the exile of Jehoiakim in 597.

(6) In the jubilee year the beginning falls on the Day of Atonement, on which the Sanhedrin sounds the shofar, the slaves are set free, and the fields are restored to their original owners. V. R.H. 8b.

(7) This is soon explained.

(8) In order to explain the statement of Ezekiel satisfactorily.

(9) For, if he counts from seven to nineteen, he finds twelve years, which with fourteen added, again are twenty-six.
(10) In 597.
(11) In 586 under Zedekiah.

Talmud - Mas. Arachin 12b

, in the second he came up and conquered Jehoiakim.[1] 'The same happened with the second [destruction of the Temple]'. But how is it possible that the second time it happened at the end of a septennate? For how long did the second [Temple] stand? Four hundred and twenty years. Now, four hundred years correspond to eight [cycles of] jubilees, fourteen years would make two septennates, leaving six years over. Hence it [the second destruction] should have happened in the sixth year [of the septennate]! — This is in accord with R. Judah, who says that the fiftieth year is counted both ways.[2] Take the eight years of the eight jubilee [cycles], add [to them] those six [years] which will amount to fourteen years, thus it is found that it [the destruction of the second Sanctuary] happened at the end of a septennate. But on the view of R. Judah it could not have happened the first time at the end of a septennate; for it was taught: Seventeen jubilee [cycles] did Israel count from the time they entered the Land [of Israel] until they left it. And you cannot assume that they counted from the moment they entered, for if you were to say so, it would be found that the [first] Temple was destroyed at the beginning of a jubilee, and you could not find [right the statement]: 'in the fourteenth year, after that the city was smitten'.[3] Rather, deduct from them the seven years of the conquest and the seven during which the land was distributed, thus you find [substantiated]: 'In the fourteenth year after that the city was smitten'. But according to R. Judah you must count the seventeen years of the seventeen jubilee [cycles], and add them to these, so that it happened in the third year of a seven years cycle! — The years from the exile by Sennecherib until their return through Jeremiah are not counted.[4] Or, if you like, I can say it is indeed in accord with the Rabbis, and as to the statement 'the same happened the second time', this refers to the remaining [details].[5] This also stands to reason, for if you were not to take it thus, was there indeed the guard of Jehoiarib at the second Sanctuary? Was it not taught: Four guards went up from the Exile: Jedaiah,[6] Harim, Pashhur and Immer. The prophets who were among them divided them into twenty-four guards. They mixed them [the lots] and placed them into an urn. Thereupon came Jedaiah and took six for his own portion and for that of his fellows;

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(1) It was not exile, but subjection which Jehoiakim suffered. According to II Kings XXIV, 1: Jehoiakim became his servant three years; then he turned and rebelled against him.

(2) The fiftieth year is counted as the end of the last and as the beginning of the new jubilee cycle.

(3) Which, as explained supra 12a, was a jubilee year.

(4) So Rashi and Tosaf. According to tradition Jeremiah restored the ten tribes in the eighteenth year of King Josiah (v. infra 33a and Meg. 14b). With their return began the counting of a new jubilee cycle to mark the renewed observance of the laws of the Year of Release and Jubilee which had fallen into disuse while the Northern Kingdom was in exile. The Temple was destroyed 36 years later so that the 'fourteenth year after that the city was smitten' fell in the jubilee year. Cur. edd. read: 'the three years from the exile' which is inexplicable.

(5) Outgoing of Sabbath, ninth of Ab.

(6) In the first Sanctuary the guard of Jedaiah came before that of Pashhur, which again preceded that of Immer. Now, however, the order was not clear, hence the prophets chose to abide by the decision of the lots.

Talmud - Mas. Arachin 13a

then came Harim and took six for his own portion and for that of his fellows. Thus also Pashhur and Immer. Then the prophets who were among them regulated that even if Jehoiarib the head of the guards were to come up he could not push Jedaiah from his place, but Jedaiah would remain the chief, and Jehoiarib only an adjunct to him.[1] Hence [the statement refers only] to the remaining [details].

R. Ashi said: He does not count the six years until Ezra had come up and dedicated [the Sanctuary].[2] For it is written: Then ceased the work of the house of God which is at Jerusalem.[3] And it is also written: And this house was finished on the third day of the month Adar, which was in the sixth year of the reign of Darius the king.[4] And a Tanna taught: About the same time in the following year Ezra with his exiled community went up [to the Land], as it is said: And he came to Jerusalem in the fifth month, which was in the seventh year of the king.[5] [To revert to] the main text: 'Seventeen jubilee cycles did Israel count from the time they entered the Land until they left it'. But you cannot say that they counted from the moment they entered. For if you were to say so, then it would be found that the Temple was destroyed at the beginning of a seven years cycle and you could not account for: 'In the fourteenth year after that the city was smitten, etc.' Whence do we know that it took seven years to conquer [the Land]? — Caleb said: Forty years old was I when Moses the servant of the Lord sent me from Kadesh-Barnea to spy out the land[6] . . . and now, lo, I am this day four-score and five years old.[7] And a Master said: 'The first year Moses built the tabernacle, in the second the tabernacle was put up, then he sent out the spies. When Caleb passed over the Jordan how old therefore was he? He was two years less than eighty years old.[8] When he distributed the inheritances, he said: 'Now, lo, I am this day four-score and five years old'. Whence it follows that it took seven years for them to conquer the land. And whence do we know that it took them seven years to distribute it? — If you like, say: Since the conquest took seven years, so did the distribution. Or, if you like, say: Because otherwise one could not account for 'In the fourteenth year after that the city was smitten'.

MISHNAH. THERE WERE NEVER LESS THAN SIX[9] INSPECTED LAMBS IN THE CELL OF LAMBS,[10] SUFFICIENT FOR A SABBATH AND THE [TWO] FESTIVAL DAYS OF THE NEW YEAR,[11] AND THEIR NUMBER COULD BE INCREASED INTO INFINITY. THERE WERE NEVER LESS THAN TWO TRUMPETS AND THEIR NUMBER COULD BE INCREASED INTO INFINITY.[12] THERE WERE NEVER LESS THAN NINE LYRES, AND THEIR NUMBER COULD BE INCREASED INTO INFINITY. BUT THERE WAS ONLY ONE CYMBAL.

GEMARA. But the continual and the additional sacrifices were larger in number?[13] — The Tanna refers to average days, and only to continual daily offerings. As for SUFFICIENT FOR A SABBATH AND THE [TWO] FESTIVAL DAYS OF THE NEW YEAR, that is to serve only as a mnemotechnical note, and this is what he says: There were never less than six inspected

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(1) V. Ta'an, 27a.

(2) And thereby reintroduced into force the laws of the Years of Release and Jubilee.

(3) Ezra IV, 24.

(4) Ibid. VI, 15.

(5) Ibid. VII, 8. R. Ashi holds that the statement 'the same happened with the second Temple' refers also to the termination of the jubilee and explains it by deducting six years from the total of 420.

(6) Jos. XIV, 7.

(7) Ibid. 10.

(8) Allowing forty years for the sojourn of Israel in the wilderness.

(9) Two lambs each were required for the continual daily morning and evening sacrifice. The Gemara infers below that just as with the paschal lamb, which was ordered on the tenth of Nissan to be slaughtered on the fourteenth, the lambs for the continual daily sacrifices too had to be examined four days before the actual slaughtering for any blemish which would render them invalid. Whenever the two lambs were taken out for the daily need, at least six other examined ones had to be left at the same time, so that the lambs, newly introduced, were actually used only on the fourth day thereafter.

(10) V. Tam. III, 3.

(11) When the three fell on consecutive days, the Gemara described these words as a mnemotechnical expression. Rashi: The number of six is required for Sabbath and the two days of the New Year if they ate consecutive, each needing two.

Maimonides: Six was the necessary number, because the newly introduced lambs had to be inspected for four days before they could be used, four being the number of the days which remain in a week after one has taken off the maximum of festival days that can occur in one week, i.e., the Sabbath and the two days of the New Year. Bartinoro follows Maimonides with this modification: The lambs required inspection four days, just as it would be necessary when the New Year's two days followed the Sabbath, because in that case the lambs to be used the following Tuesday would have to have been provided on the Friday before, in order that they be available early on Tuesday.

(12) There seems to be a contradiction between the Mishnah and the statement in the Gemara that the maximum number of trumpets is one hundred and twenty. As a matter of fact, some editions of the Talmud omit the words ‘and their number could be increased, etc.’.

(13) On these three days, the Sabbath and the two days of the New Year Festival.

Talmud - Mas. Arachin 13b

lambs in the cell of lambs, [having thus been inspected] four days before they were actually slaughtered. Whose view is this? That of Ben Bag Bag, for it was taught: Ben Bag Bag said, Whence do we know that it [the lamb destined for the continual daily offering] requires to be inspected four days before the slaughtering? The text states: Shall ye observe [tishmru] to offer unto Me in its due season,[1] and there it is said: And ye shall keep it [le-mishmereth] until the fourteenth day of the same month;[2] just as there[3] it was required that it [the animal] be inspected four days before the slaughtering, so here, too, is it required that it be examined four days before the slaughtering. That[4] may also be inferred from [the wording]: SUFFICIENT FOR A SABBATH, not ‘for a Sabbath’. That inference is conclusive.

NEVER LESS THAN TWO TRUMPETS AND THEIR NUMBER COULD BE INCREASED INTO INFINITY. How far? — R. Huna b. Zabdi (or, according to others, R. Zabdi said in the name of R. Huna): Up to one hundred and twenty. And it is said: And with them a hundred and twenty priests sounding with trumpets.[5]

NEVER LESS THAN NINE LYRES . . . BUT ONLY ONE CYMBAL. Whence do we know that? — R. Ashi said: Scripture said: And Asaph with cymbals, sounding aloud.[6] But ‘cymbals’ implies two? — Since they both perform one function and are played by one man, he [the Tanna] called them one.

MISHNAH. THERE WERE NEVER LESS THAN TWELVE LEVltes[7] STANDING ON THE PLATFORM[8] AND THEIR NUMBER COULD BE INCREASED INTO INFINITY. NO MINOR COULD ENTER THE COURT OF THE SANCTUARY TO TAKE PART IN THE SERVICE EXCEPT WHEN THE LEVITES STOOD UP TO SING.[9] NOR DID THEY[10] JOIN IN THE SINGING WITH HARP AND LYRE, BUT WITH THE MOUTH ALONE, TO ADD FLAVOUR TO THE MUSIC, R. ELIEZER B. JACOB SAID: THEY DID NOT HELP TO MAKE UP THE REQUIRED NUMBER, NOR DID THEY STAND ON THE PLATFORM. BUT THEY WOULD STAND ON THE GROUND, SO THAT THEIR HEADS WERE BETWEEN THE FEET OF THE LEVITES. AND THEY WOULD BE CALLED THE TORMENTORS OF THE LEVITES. GEMARA. To whom did these correspond? — To the nine lyres, two harps, and the one cymbal, as it is said: He and his brethren and sons were twelve.[11]

NO MINOR COULD ENTER THE COURT OF THE SANCTUARY etc. Whence do we know that? — R. Johanan said: Because Scripture said, Then stood Jeshua with his sons and his brethren, and Kadmiel and his sons, the sons of Judah together, to have the oversight of the workmen in the house of God.[12]

NOR DID THEY JOIN IN THE SINGING WITH THE HARP AND LYRE, BUT WITH THE MOUTH ALONE etc. One would say therefore that harp and lyre are different instruments. Is this to say that our Mishnah is not in accord with R. Judah, for it was taught: R. Judah said, The harp of the Sanctuary had seven cords, as it is written: In Thy presence is fitness [soba'] of joy;[13] read not, fulness [soba'], but seven [sheba']! The harp of the messianic days has eight cords, as it is said: For the leader on the Sheminith,[14] [i.e., the eighth string]. The harp of the world to come has ten cords, as it is said: With an instrument of ten strings, and with the psaltery; with a solemn sound upon the harp.[15] Furthermore, it is said: Give thanks unto the Lord with harp, sing praises unto Him with the psaltery of ten strings. Sing unto Him a new song; play skilfully midst shouts of joy.[16] You could say also that [our Mishnah will be] in accord with R. Judah: Since, in the world to come, it will have more cords and its sound will be stronger, like that of a harp, he calls it 'harp'.

R. ELIEZER B. JACOB SAID: THEY DID NOT HELP TO MAKE UP THE REQUIRED NUMBER etc. A Tanna taught: They were called assistants to the Levites. Our Tanna, however, called them tormentors of the Levites because their voice was high, the voice of the others low: they could sing high. whereas the others could not do so.

CHAPTER III

MISHNAH. THE LAW OF VALUATION IS AT TIMES IN THE DIRECTION OF LENIENCY, AT OTHERS IN THE DIRECTION OF STRINGENCY. THE LAW OF THE FIELD OF POSSESSION[17] IS AT TIMES MORE LENIENT, AT OTHERS MORE STRINGENT. THE LAW CONCERNING A MU'AD[18] OX THAT HAS KILLED A SLAVE IS AT TIMES MORE LENIENT, AT OTHERS MORE STRINGENT. THE LAW OF THE VIOLATOR[19] AND SEDUCER[20] AND OF HIM THAT HATH BROUGHT UP AN EVIL NAME[21] IS AT TIMES MORE LENIENT, AT OTHERS MORE STRINGENT. THE LAW OF VALUATION IS AT TIMES MORE LENIENT, AT OTHERS MORE STRINGENT. HOW IS THAT? IT IS ALL ONE WHETHER A MAN HAS EVALUATED THE FAIREST IN ISRAEL, OR THE UGLIEST IN ISRAEL, HE MUST PAY FIFTY SELA'S.[22] BUT IF HE SAID: I VOW HIS WORTH,[23] HE NEED PAY BUT AS MUCH AS HE IS WORTH [THERE].

GEMARA. THE LAW OF VALUATION IS AT TIMES MORE LENIENT, AT OTHERS MORE STRINGENT etc. HOW IS THAT? IT IS ALL ONE WHETHER A MAN HAS EVALUATED etc. Only IN ISRAEL but not in the case of an idolater. Shall We say that our Mishnah will not be in accord with R. Meir? For it was taught: Concerning an idolater, R. Meir said he may be made the subject of valuation, but he may not evaluate![24] You may say also that it is in accord With R. Meir, and that the same law would apply to idolaters, but

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(1) Num. XXVIII, 2 in connection with the daily continual offering.

(2) Ex. XII, 6 in connection with the first paschal offering.

(3) On the tenth of Nisan it was to be prepared. on the fourteenth to be sacrificed.

(4) I.e., that the Mishnah meant this to serve as a mere mnemotechnical note.

(5) II Chron. V, 12.

(6) I Chron. XVI, 5.

(7) To play the twelve instruments, accompanying with them their song, the song being, according to all, the essential (Tosaf.). Maimonides holds the twelve Levites to have been the singers, as distinct from the players of the instruments.

(8) The raised platform, on which the Levites stood whilst playing or singing.

(9) According to Rashi minors were not admitted at all to any service in the Sanctuary except to join the Levites in the singing. Maimonides, however, refers this passage to the introduction of young priests and Levites to the service, who, even after having reached maturity. could enter the Sanctuary for first time participation in the service, only when the Levites, standing on the platform, were singing.

(10) Rashi: the minors, Maim.: the twelve Levites.

(11) I Chron. XXV, 9.

(12) Ezra III, 9.

(13) Ps. XVI, II.
(14) Lit., ‘on the eighth’. Ibid. XII, 1.
(15) Ps. XCII, 4.
(16) Ibid. XXXIII, 2, 3.
(17) Which one has inherited, Lev. XXVII, 16ff.
(18) Lit., ‘(whose master has been) forewarned’, the ox having done damage three times. V. Glos.
(19) V. Deut. XXII, 28.
(20) V. Ex. XXII, 15.
(21) V. Deut. XXII, 19.
(22) If the man valued was between twenty and sixty years of age.
(23) Lit., ‘his money’.
(24) V. supra 5b.

Talmud - Mas. Arachin 14a

[our Mishnah] informs us incidentally[1] of a teaching in accord with Rab Judah, Who said in the name of Rab: One should not say, How beautiful is this Canaanite![2] Then let it teach: ‘Whether a man has dedicated the fairest in Israel or the ugliest among Canaanites’? It deals with one nation, not With two nations. But does it not? Surely it teaches: ‘Of the noblest among the priests, and the humblest in Israel’?[3] — There it is one nation, except that the priests are holier. And if you like, say: Since it is about to teach, in the second part of the Mishnah, concerning a field of possession which applies only to Israel, not to idolaters, because they do not possess fields [by inheritance in the Land],[4] therefore it teaches also [in the first part of the Mishnah] with reference to Israel alone.

MISHNAH. ‘THE LAW OF THE FIELD OF POSSESSION IS AT TIMES MORE LENIENT, AT OTHERS MORE STRINGENT. HOW IS THAT? IT IS ALL ONE WHETHER A MAN DEDICATES A FIELD IN THE SANDY PLAIN OF MAHUZ[5] OR IN THE GARDENS OF SEBASTE, [IF HE WOULD REDEEM IT] HE MUST PAY FIFTY SHEKELS OF SILVER FOR [EVERY PART OF THE FIELD SUFFICIENT FOR] THE SOWING OF A HOMER OF BARLEY,[6] BUT IF IT WAS A FIELD WHICH HE HATH BOUGHT’,[7] HE MUST PAY WHAT IT IS WORTH. R. ELIEZER SAYS: IT IS ALL THE SAME WHETHER IT BE A FIELD OF POSSESSION OR ONE THAT HE HATH BOUGHT. THE ONLY DIFFERENCE BETWEEN THE FIELD OF POSSESSION AND THAT WHICH HE HATH BOUGHT LIES THEREIN: FOR A FIELD OF POSSESSION HE MUST PAY THE [ADDED] FIFTH, WHEREAS FOR A FIELD THAT HE HATH BOUGHT HE NEED NOT PAY THE ADDED FIFTH.[8]

GEMARA. R. Huna said: If a man had dedicated a field full of trees, he must, when he comes to redeem them, redeem the trees for what they are worth, and then redeem the ground at [the rate of] fifty shekels of silver for [every part of the field sufficient for] ‘the sowing of a homer of barley’. We see thus that R. Huna tolds one Who dedicated, dedicates with a generous eye.[9] R. Nahman raised the following objection to R. Huna: IT IS ALL ONE WHETHER A MAN DEDICATES A FIELD IN THE SANDY PLAIN OF MAHUZ OR IN THE GARDENS[10] OF SEBASTE, HE MUST PAY FIFTY SHEKELS OF SILVER FOR [EVERY PART OF THE FIELD SUFFICIENT FOR] THE SOWING OF A HOMER OF BARLEY? — He answered: He [the Tanna] means: Such as are fit to be gardens.[11]

He raised a further objection: ‘Field for the sowing’:[12] from this I know only [the rule] in the case of a field for sowing. whence do we know it concerning a field of vines, or a field of reeds, or a field of trees? Therefore Scripture says: Field,[13] i.e., as long as it is a field! — R. Huna replied: Here, too, he redeems, and then redeems again!

He raised a further objection: If one dedicates three trees of a plantation in which ten were planted in a field sufficient for the sowing of one se'ah,[14] then he also dedicates the soil as well as the trees between them.[15] When he redeems them, he redeems them at the rate of fifty shekels of silver for every piece of the field sufficient for the sowing of a homer of barley.[16] If they are planted more thickly or less thickly than this, or if he dedicates them one after the other, then he does not dedicate thereby either the soil or the trees between them;[17] therefore, when he redeems them he redeems the trees at their value; and even more, if he first dedicates his trees[18] and afterwards dedicates the ground, when he comes to redeem them, he must redeem the trees at their value, and then he must redeem the ground again, at the rate of fifty shekels of silver for [every part of the field sufficient for] the sowing of a homer of barley![19] And, if you were to say: Here[20] too, he redeems and then must redeem again; but surely since the second clause expressly mentions ‘he must redeem and redeem again’, it follows that in the first clause this is not so! Rather, say: According to whom is this [teaching]?[19] It is in accord with R. Simeon, who holds that one who dedicates does so ‘with an ungenerous eye’, for it was taught: If one dedicates a field, he dedicates the whole of it.[21] R. Simeon says: He does not dedicate anything [together with the field] save the full grown carob tree and the cropped sycamore tree. If this be in accord with R. Simeon, consider the second part: ‘And not only that, but if he dedicates the trees and afterwards the ground, when he comes to redeem, he must redeem the trees at their value, and then must redeem the ground again at the rate of fifty shekels of silver for [every part of the field sufficient for] the sowing of a homer of barley’! Now if it were in accord with R. Simeon, one should be guided only by the circumstances[22] at the time of redemption, and hence they should be redeemed [automatically] with the ground, for we have heard from R. Simeon to be guided by circumstances at the time of redemption. For it was taught: Whence do we know that if one buys a field from his father and dedicates it, and the father died afterwards, that that field is considered a ‘field of possession’? Because the text states: And if he sanctify unto the Lord a field which he hath bought, which is not of the field of his possession,[23] i.e., a field which could not become a field of possession,[24] that excludes [such a field as] this, which would have become his field of possession. This is the view of R. Judah and R. Simeon. R. Meir said: Whence do we know that if one buys a field from his father, and his father died, and he thereupon dedicated it, that it is considered a field of possession?

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(1) By not teaching ‘the fairest among Canaanites’, because one should not attribute any beauty to those indulging in the cruelty and immorality of idolaters.

(2) This was Rab Judah's teaching (v. A.Z. 20a). for which the Mishnah offers authoritative endorsement by implication.

(3) V. infra 15a.

(4) An idolater could not, by Biblical law, redeem his field of possession for the payment of fifty shekels; he would have to repay its value.

(5) Mahuz may be the term tech. for ‘place’, ‘circle’, or the name of an unidentified locality. ‘The desert, sandy wilderness of Mahuz’ would be a good contrast to the rich, developed gardens of Sebaste, the city built by Herod on the ruins of Samaria. According to Rashi the reference in Mahuz is to a field in the environs of a town the ground of which is continually trodden on and thus has become sterile.

(6) Lev. XXVII, 16. A field sufficient for the sowing of a ‘homer of barley’, according to ‘Er. 23b would hold 75,000 square cubits.

(7) V. Lev. XXVII, 22.

(8) For the field of possession as well as for the field bought, the price of redemption is fifty silver pieces for every part of the field sufficient for the sowing of a homer of barley. But with the field of possession, the owner must pay the additional fifth, whereas with a field bought he need but pay what it is worth.

(9) He dedicated the tract and in addition thereto, the trees, hence when he comes to redeem, he must redeem the tract after having redeemed the trees.

(10) The gardens of Sebaste were planted vineyards, nevertheless the Mishnah states they can be redeemed with fifty silver pieces etc., which shows that the trees were redeemed with them, thus disproving the view of R. Huna. The latter says the sum mentioned refers only to the field; as for the trees, they must be redeemed at their value, the redemption of one following the other.

(11) Without being actually planted with trees.

(12) The reference is probably to Lev. XXVII, 16, although the word ‘field’ (lit., ‘house’) does not occur in the Biblical text.
(13) Ibid.
(14) One se'ah is the thirtieth part of a homer; the field corresponding would contain 2,500 square cubits.
(15) Small trees.
(16) This would be contra R. Huna.
(17) The usual way of planting trees is to plant ten in a field sufficient for the sowing of one se'ah. The whole tract is needed for these trees, hence if they are dedicated, the tract and the small trees between them are dedicated too. If the trees are planted either more or less thickly, only the trees are considered dedicated, and only they need be redeemed.
(18) Planted more or less thickly.
(19) V. B.B. 72a.
(20) In the first clause from which an objection is raised against R. Huna.
(21) All that it contains. (9) Which are old and large. and derive their sustenance from the ground more than any other tree, v. B.B., Sonc. ed., p. 282 notes.
(22) At the moment of the redemption the trees are on the ground, and the question as to whether they were dedicated together with or after the tract is then irrelevant.
(23) Lev. XXVII, 22.
(24) Since he bought it from a stranger, from whom he would not inherit it.

Talmud - Mas. Arachin 14b

— Because the text states: ‘And if he sanctify unto the Lord a field which he hath bought, which is not the field of his possession’, i.e., a field which is not a field of possession, excluding one that is his field of possession. Now according to R. Judah and R. Simeon, even if he dedicated it and his father died subsequently, it is still considered a field of possession. What is the reason therefore? It is on account of the Scriptural text?[1] But that is in favour of R. Meir's view![2] Rather must you say because one is guided by the circumstances at the redeeming![3] Said R. Nahman b. Isaac: R. Judah and R. Simeon found a Scriptural verse and expounded it. If it were so [as R. Meir holds], the Divine Law should have written: ‘If he sanctify . . . a field which he hath bought, which is not his possession’. But since it says: Which is not of the field of his possession, [it means:] A field which is not fit[4] to be the field of his possession.

R. Papa said: If one dedicates stony ground. he must redeem it at its value. Why? — The Divine Law speaks of a ‘field for the sowing’, and this ground cannot be sown. If he has not redeemed it. then in the jubilee year, it goes forth to the priests.[5] Why? — Because the Divine Law speaks of a ‘field’. no matter of what kind. If he sold stony ground, it can be redeemed even within two years.[6] Why? ‘According to the number of the years of the crops’. says the Divine Law, and it [stony ground] is incapable of having crops. If he has not redeemed it, it returns in the jubilee year to the owners. Why? And he shall return into his possession,[7] the Divine Law says, and this, too, is possession. If he dedicates trees he redeems them at their worth. What is the reason? — The Divine Law says: ‘a field for sowing’, but not trees. If he did not redeem them they do not go forth in the jubilee year to the priest. What is the reason? — The Divine Law says, ‘and the field shall be’, but not trees. If he sold trees they are not redeemed before two years. What is the reason? — ‘According to the number of the years of the crops’, says the Divine Law, and these are productive of crops. If he has not redeemed them they do not return to the owner at Jubilee. What is the reason? — ‘And he shall return unto his possession says the Divine Law, but not trees.

The Master said: If he dedicates trees he redeems them at their worth [etc.]. But why? — Let them become sacred [property] through the ground and be redeemed together with it and return to their owners [at Jubilee] together with the ground? And if you were to argue: He dedicated trees, but not ground, but did not the Nehardeans say: If one sells to his neighbour a [date] palm, the latter acquires it from the base[8] to the furthest depth? — But it was taught in connection therewith: Only if he came with such a claim.[9]

BUT IF IT WAS A FIELD WHICH HE HATH BOUGHT HE MUST PAY WHAT IT IS ACTUALLY WORTH: Our Rabbis taught: The worth,[10] what does that teach us? Since it is said: ‘Fifty shekels of silver for every piece of the field sufficient for the sowing of a homer of barley’, I might have thought the same applied also to a field which he bought, therefore the text states ‘the worth’.[11] R. Eliezer says: Here it is said: [The priest] shall reckon,[10] and above it is said: [The priest] shall reckon.[12] Just as there a definite [sum], so here, also, a definite [sum]. The following question was asked: Do the Rabbis accept this gezerah shawah,[13] and hence they infer also the additional fifth,[14] or do they not accept this gezerah shawah and neither the fifth? — Said Raba: It seems logical that they do not accept this gezerah shawah. For the Divine Law revealed [taught] concerning the fifth, both in connection with a field of possession, and also with one who dedicated his house;[15] we have thus two Scriptural verses teaching the same thing and ‘whenever two Scriptural verses teach the same thing, they do not serve as illustrations for other cases’.[16] But what according to him who says ‘they do serve as illustrations for other cases’? — Since the Divine Law revealed about a fifth in connection with the tithe of pure and impure cattle, it is a teaching occurring frequently, and hence they do not serve as illustrations in other cases. It was taught in accord with Raba, but not for the reason he advanced:[17] It was taught: ‘The worth of thy valuation’, herewith Scripture compares it to valuation: just as no fifth is added in connection with valuation, so no fifth is added in connection with a field that he has bought.

MISHNAH. THE LAW CONCERNING A MU'AD OX THAT HAS KILLED A SLAVE,[18] IS AT TIMES IN THE DIRECTION OF LENIENCY, AT OTHERS IN THE DIRECTION OF STRINGENCY. HOW IS THAT? IT IS ALL ONE WHETHER IT KILLED THE FINEST SLAVE OR THE UGLIEST SLAVE, HE MUST PAY THIRTY SELA'S. IF IT KILLED A FREE MAN HE MUST PAY WHAT HE IS WORTH. IF IT WOUNDED HIM. WHETHER THE ONE OR THE OTHER, HE MUST PAY THE DAMAGE IN FULL.[19]

GEMARA. This[20] then applies only to a mu'ad,[21] but not to a tam?[22] Shall we say that our Mishnah will not be in accord with R. Akiba? For it was taught: R. Akiba said, Even with a tam which injured a man, the larger[23] damage must be paid in full! — You can even say that it is in accord with R. Akiba, for it applies to a tam too; but since he wishes to teach in the latter part the case where IT KILLED A SLAVE OR A FREE MAN, which applies only to a mu'ad, but not to a tam, therefore it speaks of mu'ad.

MISHNAH. ‘THE LAW OF THE VIOLATOR AND SEDUCER IS AT TIMES IN THE DIRECTION OF LENIENCY, AT OTHERS IN THE DIRECTION OF STRINGENCY.’ HOW IS THAT? IT IS ALL ONE WHETHER A MAN VIOLATED OR SEDUCED A WOMAN FROM AMONG THE NOBLEST OF THE PRIESTLY STOCK OR THE HUMBLEST IN ISRAEL, HE MUST PAY FIFTY SELA'S.[24] BUT COMPENSATION FOR SHAMING AND FOR BLEMISH IS IN ACCORD WITH THE [CIRCUMSTANCES] OF HIM WHO SHAMES AND OF HER WHO SUFFERS THAT SHAME.[25]

GEMARA. But why? Perhaps the Divine Law means: Fifty sela's for all the things together? — R. Ze'ira replied: People would say, How should one who has lain with a king's daughter pay fifty, and one who has lain with the daughter of a commoner pay fifty! — Abaye replied to him: If that be right, one could argue in the case of a slave too: why for a slave who perforates pearls thirty, and for one who does needlework also thirty?[26] Rather said R. Ze'ira:

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(1) ‘Which is not the field of his possession’.

(2) The text quoted may not mean to exclude a field which he has dedicated before the father died; rather does it support the interpretation of R. Meir: to exclude the case where his father died and he afterwards dedicated it.

(3) And since at the redemption the father was dead, it is a field of possession.

(4) The argument is based on the mem privative. v. B.B. Sonc. ed., p. 285ff notes.

(5) Lev. XXVII, 20-21.

(6) Normally a field cannot be redeemed before two years (v. infra 29b). The stony ground is a field and therefore falls into some part of the law, but since it is an abnormal field, it is not affected by such regulations as apply to the usual type. Lev. XXV. 15 covers the ordinary field, bearing crop.

(7) Lev. XXV, 27.

(8) And can therefore plant a new one when this one withered, B.B. 37b, which teaching indicates that he who owns the tree owns the land on which it stands, whence the dedication of a tree implied the dedication of such ground.

(9) That he had bought the ground with the tree. That renders it an exceptional case, not a general rule, v. ibid.

(10) Lev. XXVII, 23.

(11) I.e., only the actual worth not the amount imposed by the Torah on the field of possession.

(12) With reference to a field of possession: Lev. XXVII, 18: arguing hence from analogy of expression, the fixed sum is fifty shekels.

(13) I.e., the inference based on the similarity of expression. v. Glos.

(14) The consequence of the inference from analogy would be that with regard to other items too, hence with regard to the fifth additional in case of redemption, a field which is bought shall be governed by the rules applicable to a field of possession.

(15) V. Lev. XXVII, 14.

(16) Lit., 'they do not teach'. The Torah does not repeat itself. A general law would be stated once. The very fact that it appears twice indicates that it applies only to those detailed situations and that no general rule may be inferred from them for others.

(17) His argument came from the fact that the rule was stated too often to be considered one generally applicable, whereas this teaching is based on an analogy with valuation, as explained.

(18) Ex. XXI, 29. The owner must pay the damage caused by his ox, for which he is responsible.

(19) The value which he would have had as bond-servant.

(20) The ruling in the last clause that full damage must be paid by the owner in case the ox has wounded either a free man or slave.

(21) As is indicated by the introductory words of our Mishnah.

(22) Lit., 'simple', 'innocuous', i.e., an ox whose owner had not been forewarned (v. Glos.).

(23) Lit., 'the difference (between the two damages)'. If ox and man injured each other, then if the owner of the ox had not been forewarned, he need pay but one half of the greater damage. R. Akiba held he must pay in full, even though the ox was a tam, v. B.K. 33a.

(24) V. Deut. XXII, 29.

(25) In addition to the fifty sela's the violator as well as the seducer must pay damages for the shame and the blemish caused. V. Keth. 40a.

(26) Just as the shame suffered by a king's daughter is greater than that suffered by one of common descent, so is the damage suffered in the loss of a skilled slave much greater than that suffered in the loss of an unskilled one.

Talmud - Mas. Arachin 15a

[Argue thus,] If two men had intercourse with her, the one in a natural way, the other in an unnatural manner,[1] people will say: He who has lain with a blemished [woman pays] fifty, and he who has lain with a sound [woman][2] fifty! Said Abaye to him: But with regard to a slave they would equally say: For [the death of] a healthy slave thirty, and for one afflicted with boils also thirty? Rather, said Abaye: [This is his answer,] Scripture said: Because he hath humbled her,' from this it is evident that there is also indemnification for shame and blemish. Raba said: Since Scripture said, Then the man that lay with her shall give,[3] it indicates that for the enjoyment of lying with her [he must pay] fifty shekels, from which we infer that there are other things [to pay for], viz., shame and blemish.

MISHNAH. THE LAW OF HIM THAT HATH BROUGHT UP AN EVIL NAME[4] IS AT TIMES IN THE DIRECTION OF LENIENCY, AT OTHERS IN THE DIRECTION OF

STRINGENCY. HOW IS THAT? IT IS ALL ONE WHETHER A MAN HATH BROUGHT UP AN EVIL NAME AGAINST A WOMAN FROM THE NOBLEST OF PRIESTLY STOCK OR OF THE HUMBLEST IN ISRAEL. HE MUST PAY A HUNDRED SELA'S. THUS IT IS FOUND THAT HE WHO SPEAKS WITH HIS MOUTH SUFFERS MORE THAN HE THAT COMMITS AN ACT.[5] THUS WE DO ALSO FIND THAT THE JUDGMENT AGAINST OUR FATHERS IN THE WILDERNESS WAS SEALED ONLY BECAUSE OF THEIR EVIL TONGUE, AS IT IS WRITTEN: YET HAVE PUT ME TO PROOF THESE TEN TIMES etc.[6]

GEMARA. Whence do we know that?[7] Perhaps it is due to the fact that he wanted to bring about her death, as it is written: But if this thing be true . . . then they shall bring out the damsel . . . and stone her with stones that she die![8] — Raba answered: Scripture said, Because he hath brought up an evil name,[9] i.e., [only] because of the evil name that he has brought up.

THUS DO WE ALSO FIND THAT THE JUDGMENT etc. Whence do we know that? Perhaps it was due to the fact that their measure [of guilt] was not full yet. for R. Hamnuna said: The Holy One, blessed be He, does not punish man until his measure is full, as it is said: In the fulness of his sufficiency he shall be in straits![10] — Resh Lakish replied: Scripture said, ‘Yet have put Me to proof these ten times’, i.e., because of ‘these’ was the judgment against them sealed,

It was taught: R. Eleazar b. Perata said, Come and see how great the power of an evil tongue is! Whence do we know [its power]? From the spies: for if it happens thus to those who bring up an evil report against wood and stones, how much more will it happen to him who brings up an evil report against his neighbour! But whence [follows] that? Perhaps it is as explained by R. Hanina b. Papa; for R. Hanina b. Papa said: A stark thing did the spies say in that hour, as it is written: For they are stronger than we’.[11] Do not read: ‘than we’ but ‘than He’: as it were, even the Master of the house cannot remove his utensils from here![12] Rather, said Rabbah in the name of Resh Lakish: Scripture said, Even those men that did bring up an evil report against the land, died by the plague against the Lord,[13] i.e., [they died just] because of the evil report which they had brought up.

It was taught: R. Judah said, With ten trials did our forefathers try the Holy One, blessed be He: two at the sea, two because of water, two because of manna, two because of the quails, one in connection with the golden calf, and one in the wilderness of Paran, ‘Two at the sea’: one at the going down, the other at the coming up. ‘At the going down’, as it is written: Because there were no graves in Egypt [hast thou taken us away to die in the wilderness]?[14] ‘At the coming up’: That is in accord with what R. Huna taught, for he said: The Israelites of that generation were among those of little faith; as Rabbah b. Mari expressed it; for Rabbah b. Mari said: It is written: But they were rebellions at the sea, even at the Red Sea; nevertheless He saved them for His name's sake.[15] This teaches that Israel were rebellious at that very hour, saying: Just as we go up from this side, so will the Egyptians go up from the other side. The Holy One, blessed be He, said to the Prince of the Sea: Cast them out on the dry land! He answered: Sovereign of the Universe, is there a slave to whom his Master gives a gift and then takes it away from him again? He said to him: I shall give you [afterwards] one and a half times as many of them.[16] He said before Him: Sovereign of the Universe, is there any slave who can claim anything against his master? He said: The brook of Kishon shall be surety. At once he cast them on the dry land, as it is written: And Israel saw the Egyptians dead on the sea-shore.[17] ‘Twice because of water’: at Marah, and at Refidim. ‘At Marah’, as it is written: And when they came to Marah, they could not drink,[18] and it is written: And the people murmured against Moses.[19] ‘At Refidim’, as it is written: They encamped in Refidim and there was no water to drink,[20] and it is also written: Wherefore the people strove with Moses.[21] ‘Twice because of the manna as it is written:

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(1) So that she remained a virgin still and could obtain the fifty shekels, compensation in case of another attack or seduction. Thereupon she suffered the second violation.

(2) I.e., he who had intercourse with her without blemishing her shall pay fifty sela's, and he who had intercourse with her when she was blemished shall pay the same. Hence the additional indemnifications.
(3) Deut. XXII, 29.
(4) Ibid. 13-19.
(5) Because he must pay a hundred sela's for bringing up an evil name against her, whereas if he himself had committed that act (before she was married), he would have to pay but fifty sela's. (If she was betrothed and he violated or seduced her, he suffers the penalty of death, she only in case of seduction, not of course if she was violated).
(6) Num. XIV, 22.
(7) That one who speaks with his mouth suffers more than one who commits the act.
(8) Deut. XXII, 20.
(9) Ibid. 19.
(10) Job XX, 22.
(11) Num. XIII, 31. The Hebrew gadol here means less a ‘big’ than a ‘stark’ word.
(12) V. Sot., Sonc. ed., p. 172. n, 1.
(13) Ibid. XIV, 37.
(14) Ex, XIV, 11.
(15) Ps. CVI, 7.
(16) There were nine hundred war chariots at the brook Kishon (Judg. IV, 3), one and a half times as many as at the Red Sea, where there were only six hundred, thus making true the promise.
(17) Ex. XIV, 30.
(18) Ibid. XV. 23.
(19) Ibid. XVII, 3.
(20) Ibid. XVII, 1.
(21) Ibid. 2.

Talmud - Mas. Arachin 15b

‘Do not go out’,[1] whereas they did go out. Do not leave over,[2] but they did leave over. Twice because of the quails’: of the first and second quails. With the first: When we sat by the fleshpots;[3] with the second quails: And the mixed multitude that was among them.[4] ‘With the golden calf’: as it happened.[5] ‘In the wilderness of Paran’: As it happened.[6] R. Johanan said in the name of R. Joseph b. Zimra: What is the meaning of: What shall be given unto thee, and what shall be done more unto thee, thou deceitful tongue.[7] The Holy One, blessed be He, said to the tongue: All members of the human body[8] are standing, you are lying; all members of the human body are outside, you are guarded inside; not only that, but I surrounded you with two walls, one of bone and one of flesh; ‘What shall be given unto thee, what shall be done more unto thee, thou deceitful tongue’! And R. Johanan said in the name of R. Joseph b. Zimra: One who bears evil tales almost denies the foundation[9] [of faith].[10] as it is said: Who have said: Our tongue will we make mighty; our lips are with us; who is lord over us?[11] — Further did R. Johanan say in the name of R. Joseph b. Zimra: Any one who bears evil tales will be visited by the plague of leprosy, as it is said: Whoso slandereth his neighbour in secret, him azmith [will I destroy].[12] And there it is said: La-zemithuth [in perpetuity],[13] which we translate as: ‘absolutely’ [permanently],[14] and we learnt: The leper that is shut up differs from the leper that is certified unclean only in respect of unkempt hair and rent garments.[15] Resh Lakish said: What is the meaning of: This shall be the law of the leper?[16] [It means,] ‘This shall be the law for him who brings up an evil name’. Further, said Resh Lakish: What is the meaning of the Scriptural verse: If the serpent bite before it is charmed, then the charmer hath no advantage?[17] — At some future time all the animals will assemble and come to the serpent and say: The lion attacks and devours; the wolf tears and consumes; but what profit hast thou? But he will answer: What benefit has he who uses his tongue? Further said Resh Lakish: One who slanders makes his sin reach unto heaven, as it is said: They have set their mouth against the heavens, and their tongue walketh through the earth.[18]

R. Hisda said in the name of Mar ‘Ukba: One who slanders deserves to be stoned with stones. It is written here: ‘Him azmith [will I destroy]’, and it is written there: zamethu [they have cut off] my life in the dungeon, and have cast stones upon me.[19] Further did R. Hisda say in the name of Mar ‘Ukba: Of him who slanders, the Holy One, blessed be He, says: He and I cannot live together in the world, as it is said: Whoso slandereth his neighbor in secret, hint will I destroy; whoso is haughty of eye and proud of heart, him will I not suffer.[20] Do not read: ‘Otho [him] will I not suffer’, but ‘Itto [with him] can I not suffer [to be together]’. Some refer this to the arrogant.

Further said R. Hisda in the name of Mar ‘Ukba: About one who slanders, the Holy One, blessed be He, says to the prince of Gehinnom: I shall be against him from above, you be against him from below, and we shall condemn him, as it is said: Sharp arrows of the mighty, with coals of broom.[21] ‘Arrow’ means nothing else but the evil tongue, as it is said: Their tongue is a sharpened arrow, it speaketh deceit;[22] and ‘mighty’ means only the Holy One, blessed be He, as it is said: The Lord will go forth as a mighty man;[23] and ‘cools of broom’ is Gehinnom.

R. Hama b. Hanina said: What is the remedy for slanderers? If he be a scholar, let him engage in the Torah, as it is said: The healing for a tongue is the tree of life,[24] and ‘tongue’ here means the evil tongue, as it is said: ‘Their tongue is a sharpened arrow’, and ‘tree [of life]’ means only the Torah, as it is said: She is a tree of life, to them that lay hold upon her.[25] — But if he be an ignorant person, let him become humble, as it is said: But perverseness therein is a wound to the spirit.[26] R. Aha b. R. Hanina said: If he has slandered already, there is no remedy for him, for King David, in his holy spirit, has cut him off already, as it is said: May the Lord cut off all flattering lips, the tongue that speaketh great [proud] things![27] Nevertheless, what shall be his remedy so that he may not come to [utter] evil speech? If he be a scholar, let him engage in the Torah, and if he be an ignorant person, let him humble himself, as it is said: ‘But perverseness therein is a wound to the spirit’.

The School of R. Ishmael taught: Whoever speaks slander increases his sins even up to [the degree of] the three [cardinal] sins: idolatry, incest,[28] and the shedding of blood. It is said here: ‘The tongue that speaketh great things’, and it is written in connection with idolatry: Oh, this people have sinned a great sin.[29] Touching incest Scripture said: How then can I do this great wickedness?[30] And in connection with the shedding of blood it is written: My punishment is greater than I can bear.[31] Perhaps ‘great things’ refers to two [sins of the three]? Which of them would you exclude? In the West [Palestine] they say: The talk about third [persons][32] kills three persons: him who tells [the slander], him who accepts it, and him about whom it is told. R. Hama b. Hanina said: What is the meaning of: Death and life are in the hand [power] of the tongue?[33] Has the tongue ‘a hand’? It tells you that just as the hand can kill, so can the tongue. One might say that just as the hand can kill only one near it, thus also the tongue can kill only one near it, therefore the text states: ‘Their tongue is a sharpened arrow’. Then one might assume that just as an arrow kills only within forty or fifty cubits, thus also the tongue kills only up to forty or fifty cubits, therefore the text states: ‘They have set their mouth against the heavens, and their tongue walketh through the earth’. But since it is written already: ‘They set their mouth against the heavens’, why was it necessary to state also: ‘Their tongue is a sharpened arrow’? — This is what we are informed: That [the tongue] kills as an arrow. But once it is written: ‘Their tongue is a sharpened arrow’, why was it necessary to state: Death and life are in the hand of the tongue’? — It is in accord with Raba; for Raba said: He who wants to live [can find life] through the tongue;[34] he who wants to die [can find death] through the tongue.

What constitutes evil speech? — Rabbah said: For example [to say] there is fire in the house of So-and-so.[35] Said Abaye: What did he do? He just gave information? — Rather, when he utters that in slanderous fashion: ‘Where else should there be fire if not in the house of So-and-so? There is always meat and fish’.[36] Rabbah said: Whatsoever is said in the presence of the person concerned is not considered evil speech. Said Abaye to him: But then it is the more impudence and evil speech! — He answered: I hold with R. Jose, for R. Jose said: I have never said a word and looked behind my back.[37]

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(1) There is no text for this statement. Ex. XVI, 29 is not relevant here. The Gemara quotes the second verse, too, loosely, indirectly. Some MSS. omit ‘as it is written’, thus rendering the statement correct (Goldschmidt).
(2) Cf. Ex. XVI, 19.
(3) Ibid. 3.
(4) Num. XI, 4.
(5) Ex. XXXII, 1ff.
(6) The story of the spies. Num. Xlii-XIV.
(7) Ps. CXX, 3. More guarded and protected than all other members, the tongue's ambition is ever unsatisfied. The walls of flesh and bone are, of course, cheeks and teeth.
(8) Lit., ‘man’,
(9) Lit., ‘root’.
(10) God.
(11) Ps. XII, 5.
(12) Ps. CI, 5.
(13) Lev. XXV, 30.
(14) The Hebrew for the words ‘I will destroy’ and ‘in perpetuity’ are both derived from one and the same root. Hence the suggestion that, since the word is used in connection with leprosy ‘absolutely’ (the Aramaic version of ‘in perpetuity’) and the word ‘destroy’ refers to the same thing, the punishment of destruction will take the form of leprosy. V. Lev. XIII for details.
(15) V. Meg. 8b.
(16) Lev. XIV, 2. It is a play on the word: mezora’ (a leper) was mozi-shem-ra’, a slanderer before. The ‘law’ for a slanderer is that he become a leper.
(17) Eccl. X, 11. According to Yoma 75a the serpent eats only earth. It bites therefore not for food, but by Divine order and in retribution for slander, which, similarly, produces no advantage to the offender. The verse may be interpreted (paraphrased): Will the serpent bite without whisper (order from on high) etc.?
(18) Ps. LXXIII, 9.
(19) Lam. III, 53.
(20) Ps. CI, 5.
(21) Ibid. CXX, 4.
(22) Jer. IX, 7.
(23) Isa. XLII, 13.
(24) Prov. XV, 4. The usual rendering: A soothing tongue is a tree of life, but it bears the ad hoc interpretation well.
(25) Prov. III, 18.
(26) Prov. XV, 4. The ad hoc interpretation of this verse is: To depart from it (only by) a broken spirit!
(27) Ps. XII, 4.
(28) Including adultery.
(29) Ex. XXXII, 31.
(30) Gen. XXXIX, 9.
(31) Ibid. IV, 13.
(32) So Jast. Rashi: The third tongue. i.e., the go-between.
(33) Prov. XVIII, 21. The tongue is called threefold.
(34) Rashi: By the study of the Torah.
(35) The fire of the oven. The suggestion: they are wealthy and eating all the time.
(36) Behind that apparently innocent phrase lurks the slanderer's purpose.
(37) To see whether the man concerned was near. I would say it to his face, which proves that in such a case it is not accounted slander (Rashi).

Talmud - Mas. Arachin 16a

Rabbah son of R. Huna said: Whatsoever is said before three is not considered slander. Why? Your friend has a friend, and your friend's friend has a friend.[1] When R. Dimi came [from Palestine]. he said: What is the meaning of the verse: He that blesseth his friend with a loud voice, rising early in the morning, it shall be counted a curse to him?[2] It refers, for example, to the case of one who happened to stay in a house where they laboured much on his behalf, and next morning he goes out into the street and says: May the Merciful One bless So-and-so, who laboured so much on my behalf. Whereupon people will hear it and come and plunder him.[3]

R. Dimi, brother of R. Safra, learnt: Let no man ever talk in praise of his neighbour, for through [talking in] his praise he will come[4] to disparage him. Some there are who say: R. Dimi, brother of R. Safra, was ill. R. Safra entered to inquire about his state of health. He said, May it come [home] to me[5] that I have kept whatever the Rabbis have enjoined. He said to him: Hast thou also kept [their command]: Let no man ever talk in praise of his neighbour. for through talking in his praise he will come to disparage him? He answered: I have not heard it, for had I heard it, l would have kept it.

R. Samuel b. Nahmani said in the name of R. Johanan: Because of seven things the plague of leprosy is incurred: [These are:] slander, the shedding of blood, vain oath,[6] incest, arrogance, robbery and envy. Because of slander, as it is written: Whoso slandereth his neighbour in secret, him will I destroy.[7] For ‘blood-shed’, as it is written: And let there not fail front the house of Joab one ... hath an issue or that is a leper.[8] For a vain oath’, as it is written: And Naaman said: be content, take two talents,[9] and it is written: The leprosy therefore of Naaman shall cleave unto thee.[9] For ‘incest’, as it is written: And the Lord plagued Pharaoh . . . with great plagues.[10] Because of ‘arrogance’. as it is written: But when he was strong, his heart was lifted up so he did corruptly, and he trespassed against the Lord, his God . . . and the leprosy broke forth in his forehead.[11] Because of ‘robbery’, as it is written: And the priest shall command that they empty the house,[12] in connection with which a Tanna taught: Because he had gathered money that was not his own, the priest comes and scatters it. And because of ‘envy’, as it is said: Then he that owneth the house shall come,[13] referring to which the school of R. Ishmael taught: He who would reserve his house for himself.[14] But that is not so, for R. ‘Anani b. Sason said: Why is the portion about the priestly garments[15] placed next to the portion about the sacrifices? It is to tell you that just as sacrifices procure atonement, so do the priestly garments. The tunic procures atonement for bloodshed, as it is written: And they dipped the coat in the blood.[16] The breeches procure atonement for incest, as it is written: And thou shalt make them linen breeches to cover the flesh of their nakedness.[17] The mitre procures atonement for those of arrogant mind, in accord with what R. Hanina taught; for he said: Let that which is [placed] high procure atonement for acts of haughtiness. The girdle procures atonement for sinful thoughts of the heart, [for it atones] where it is [worn].[18] The breastplate procures atonement for [error in] legal decisions, as it is written: And thou shalt make a breastplate of judgment.[19] The ephod procures atonement for idolatry, as it is written: And without ephod or teraphim.[20] The robe procures atonement for slander, for the Holy One, blessed be He, said: Let that which emits a sound,[21] procure atonement for an act of sound [the voice]. The [golden] plate procures atonement for impudent deeds, for there it is written: And it shall be upon Aaron's forehead,[22] and it is written there: Yet thou hadst a harlot's forehead![23] — This is no contradiction: The one results when his actions were effective, the other when they were not effective. If his acts were effective, the plague of leprosy visits him, if his actions were not effective, the robe procures atonement.[24] But R. Simeon said in the name of R. Joshua b. Levi: For two things we do not find any atonement through sacrifices, but we do find atonement for them through something else, [viz.,] bloodshed and slander. Bloodshed through the heifer whose neck is to be broken, and slander through incense. For R. Hanina taught: We have learnt that the incense procures atonement, as it is written: And he put oil the incense and mode atonement for the people.[25] And the School of R. Ishmael taught: For what does incense procure atonement? For slander. The Holy One, blessed be He, said: Let that which is [offered][26] in secret [come and] procure atonement for what was done in secret. Now we have a contradiction from [one teaching concerning] bloodshed as against another [teaching touching] bloodshed; and a contradiction from [one teaching about] slander against [another about] slander? — There is no contradiction between the two teachings about bloodshed; one speaks of the case where it is known who has killed him, and the other where it is unknown. But where it is known who has killed him, he ought to be executed? — It speaks of a case where he did it deliberately, but without having been forewarned.[27] Neither is there a contradiction between the two teachings about slander; the one was committed in secret,

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(1) By making his statement before three he expects their spreading it in his name, as something that will become known. Cf. R. Jose's attitude just above.

(2) Prov. XXVII, 14. The expression seems too strong, his tactlessness might call for reproof, but why is it a curse?

(3) If that praise indicates that the host has much, violent men may go to rob him; normally. such praise will subject the host to the importunities of indecent people eager to be fed by him.

(4) He will say: ‘With the exception of this or that bad habit’, thus dispraising his neighbour. Aliter: ‘it will come’ etc. His praise will arouse the hostile remarks of the envious.

(5) I.e., I believe to have merited reward, in that . . .

(6) The taking of the Lord's name in vain being a great offence. Or, perjury: the example chosen shows that the latter is meant.

(7) Ps. CI, 5. ‘Destroy’ here has been explained as signifying afflict with leprosy. v. supra 15b.

(8) II Sam. III, 29.

(9) II Kings V, 23 and 27.

(10) Gen. XII, 17.

(11) II Chron. XXVI, 16 and 19.

(12) Lev. XIV, 36.

(13) Ibid. v. 35.

(14) Will suffer from house leprosy. v. Yoma 11b.

(15) In Ex. XXVIII and XXIX.

(16) Gen. XXXVII, 31. A hint that the coat covers (as it was covered by) blood.

(17) Ex. XXVIII, 42.

(18) The girdle was supposed to have been wide enough to cover his heart.

(19) Ex. XXVIII, 15. ‘Of’ equivalent for ‘error in’ judgment.

(20) Hosea III, 4, interpreting thus: ‘Because there was no ephod. there were teraphim (idols).

(21) Ex. XXVIII, 33. The robe had small bells on its hem so that one might hear the approach of the high priest. Slander. too, is audible.

(22) Ex. XXVIII, 38.

(23) Jer. III, 3. The argument is from analogy of phrase.

(24) According to the reaching above, slander is visited by plagues. whereas now we are taught that the priestly robe procures atonement for it.

(25) Num XVII, 12.

(26) The incense is offered in the Holy of Holies, which therefore is ‘in secret’, v. Yoma 44a. That ‘slander’ is described here as something said in secret endorses the view of Rabbah v. R. Huna supra 16a.

(27) For a murderer to be executed he must have been forewarned, and his deed must have been seen by two witnesses.

Talmud - Mas. Arachin 16b

the other in public.[1]

R. Samuel b. Elnadab asked of R. Hanina, or as others say. R. Samuel b. Nadab, the son-in-law of R. Hanina, asked of R. Hanina; or, according to still others, asked of R. Joshua b. Levi: Wherein is the leper different that the Torah said: He shall dwell alone; without the camp shall his dwelling be?[2] He separated a husband from his wife, a man from his neighbour, therefore said the Torah: ‘He shall dwell alone’. R. Joshua b. Levi said: Wherein is the leper different that the Torah said: Two living clean birds[3] [he should bring] so that he may become pure again? The Holy One, blessed be He, said: He did the work of a babbler, therefore let him offer a babbler as a sacrifice.[4]

Our Rabbis taught: Thou shalt not hate thy brother in thy heart.[5] One might have believed one may only not smite him, slap him, curse him, therefore the text states: ‘In thy heart’; Scripture speaks of ‘hatred in the heart’. Whence do we know that if a man sees something unseemly in his neighbour, he is obliged to reprove him? Because it is said: Thou shalt surely rebuke.[6] If he rebuked him and he did not accept it, whence do we know that he must rebuke him again? The text states: ‘surely rebuke’ all ways. One might assume [this to be obligatory] even though his face blanched, therefore the text states: ‘Thou shalt not bear sin because of him’.[6]

It was taught [in a Baraitha]: R. Tarfon said, I wonder whether there is any one in this generation who accepts reproof, for if one says to him: Remove the mote from between your eyes, he would answer: Remove the beam from between your eyes! R. Eleazar b. Azariah said: I wonder if there Is one in this generation who knows how to reprove! R. Johanan b. Nuri said: I call heaven and earth to witness for myself that often was Akiba punished[7] through me because I used to complain against him before our Rabban, Gamaliel Beribbi,[8] and all the more he showered love upon me, to make true what has been said: Reprove not a scorner, lest he hate thee; reprove a wise man and he will love thee.[9]

R. Judah son of R. Simeon b. Pazzi asked of R. Simeon b. Pazzi: What is preferable: reproof with honest purpose or false modesty?[10] — He answered: Won't you agree that true modesty is better,[11] for a Master said: Modesty is the greatest of them all? Thus also is false modesty preferable. For Rab Judah said in the name of Rab: By all means let a man engage in the study of the Torah and in good deeds, even if not for their own sake, because through the work for an ulterior purpose he will arrive at the stage of doing [good] for its own sake.[12] What is honest reproof and what is false modesty? — For instance the case of R. Huna and Hiyya b. Rab who were sitting before Samuel, when Hiyya b. Rab said: Sir, look how he is vexing me greatly. He [R. Huna] undertook not to vex him any more. After he [the former] left, he [R. Huna] said: He did this and that [unseemly] thing. Whereupon Samuel said: Why did you not tell him that to his face? He replied: Forbid that the seed of Rab should be put to shame through me![13]

How far shall reproof be administered? Rab said: Until he [the reprover] be beaten. Samuel said: Until he be cursed. R. Johanan sad: Until he be rebuked. This is a point at issue between Tannaim. R. Eliezer said: Until he be beaten. R. Joshua said: Until he be cursed. Ben ‘Azzai said: Until he be rebuked. Said R. Nahman b. Isaac: All the three expounded one Scriptural verse; [It is written:] Then Saul's anger was kindled against Jonathan and he said unto him: Thou son of perverse rebellion, do not I know that thou hast chosen the son of Jesse to thine own shame, and unto the shame of thy mother's nakedness?[14] And it is written: And Saul cast his spear at him to smite him.[15] The one who said [above] ‘Until he be beaten’ [said so] because it is written: ‘to smite him’; the other who said: ‘Until he be cursed’ [said so] because it is written: ‘to thine own shame and to the shame of thy mother's nakedness’; the other, who said: ‘Until he be rebuked’ [said so] because it is written: ‘Then Saul's anger was kindled’. But according to him who says: ‘Until he be shouted at’, does not Scripture mention ‘beating’ and ‘cursing’? — That was different, because for his great love of David, Jonathan risked his life even further. How far shall a man suffer before changing his lodging? — Rab said: Until he is beaten, Samuel said: Until they throw his bundles over his shoulder. Where he himself is beaten there is no dispute [that it is proper for him to leave]; similarly if they threw his bundles over his shoulder, there is likewise no dispute. They are of conflicting opinion only in case his wife is beaten, one holding: ‘As long as he himself is not vexed what difference does it make’?[16] The other's view being: ‘It will end in a quarrel [ultimately]’. Why all that [deliberation]?[17] — Because a Master said: A boarder [constantly changing his lodging] discredits others and himself.[18] R. Judah in the name of Rab said: Whence is derived from the Torah the view that a man should not change his lodging? Because it is said: [And he went] unto the place where his tent had been at the beginning.[19] R. Jose b. Hanina said: [It is derived] from here: And he went on his [former] journeys.[20] What is the practical difference between them? — There is this difference: the case of a casual lodging.

R. Johanan said: Whence do we know that a man should not change his occupation and that of his forebears? As it is said: And King Solomon sent and fetched Hiram out of Tyre. He was the son of a widow of the tribe of Naphtali,[21] and his father was a man of Tyre, a worker in brass;[22] and a Master said: His mother was of the house of Dan;[23] and it is written: And I behold I have appointed him with Ohaliab, the son of Ahisamach, of the tribe of Dan.[24]

At what stage do [Divine] visitations commence?[25] — R. Eleazar said: If a man had, for example, a garment woven for him to wear and it does not fit him. Raba the younger (or, as others say. R. Ze'ira; or again. as others say. R. Samuel b. Nahmani) demurred to this: But more than that was said. ‘Even if it had been intended to serve him [the wine] hot, and it was served cold to him; or it was intended to be served cold, and it was served hot to him [is accounted as a divine visitation]’, and you say [only] at that stage? Mar, the son of Rabina, said: Even if his shirt gets turned inside out. Raba (or, as others say, R. Hisda, or again, as some say. R. Isaac, or as it was said, it was taught in a Baraitha): Even if he puts the hand into his pocket to take out three [coins] and he takes out but two. Now this is only in the case [where he intended to take out] three, and [took out] two, but not if [he meant to take] two and three came into his hand, because it is no trouble to throw it back. But why all this [information]? — Because the School of R. Ishmael taught: Anyone upon whom forty days have passed without [divine] visitation, had received his world. In the West [Palestine] they say:

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(1) If he slandered in private the incense procures atonement, as it, too, functions in private. If he slandered in public the robe, emitting sound, procures atonement for the act of sound which is his sin.

(2) Lev. XIII, 46.

(3) Lev. XIV, 4.

(4) The slanderer babbled, hence his sacrifice is chosen from babblers. The babblers may yet teach him the folly of babbling.

(5) Lev. XIX, 17.

(6) Lev. XIX, 17. Lit., ‘rebuking thou shalt rebuke’. The repetition of the word indicates the obligation to repeat the reproof, even though it was not accepted when administered first.

(7) [Sifre Deut. I, ‘was rebuked’. v. Finkelstein. Akiba p. 113.].

(8) Var. lec. v. Marginal Gloss. The reference is to R. Gamaliel of Jamnia; cur. edd. R. Simeon b. Rabbi.

(9) Prov. IX, 8.

(10) For a man to pretend to be unworthy of administering reproof, whereas in fact it is the fear of arousing hatred that deters him from doing his duty in this respect.

(11) In A.Z. 20b modesty is hailed as the chief of the virtues enumerated there.

(12) V. Hor. Sonc. ed., p. 75, n. 10.

(13) The false modesty of R. Huna expressed itself in this: He would vex Hiyya, to suggest his displeasure at his unseemly behaviour (whatever it was), but he would not disgrace him by direct reproach, while reporting his misbehaviour in his absence.

(14) I Sam. XX, 30.

(15) Ibid. 33.

(16) V. Maharsha.

(17) Why undergo so much suffering before changing one's lodging? Is there any significance in this seemingly trivial act?

(18) Frequent change of lodging brings disgrace upon him who changes, because he will acquire the reputation of a man hard-to-please, as well as upon the lodging place, which will be regarded as unsatisfactory.

(19) Gen. XIII, 3.

(20) He who based his view on ‘where his tent had been’ would not object to a change from a casual dwelling, because ‘his tent’ suggests a certain permanency. whereas he who emphasized the Biblical ‘he went on his journeys’ would want to see the place of any of his journeys revisited.

(21) I.e., on his father's side.
(22) I Kings VII, 13-14.
(23) [Var. lec. and it is written, the son of a woman of the daughters of Dan (II Chron. II, 13)].
(24) Ex. XXXI, 6. This indicates that the family all through the centuries intervening had practised the same profession.
(25) Below which they are not ‘chastisements’ for sins committed in this world, so that one may look forward to a future existence, in which one will derive but the fruits of one's good deeds on earth, having received the punishments for misdeeds whilst yet on earth. Everything below the stage of chastisement is but unimportant annoyance of no compensating quality.

Retribution is prepared for him.

It was taught: R. Eliezer the great said: If the Holy One, blessed be He, wished to enter in judgment with Abraham, Isaac or Jacob, not [even] they could stand before His reproof! As it is said: Now therefore stand still, that I may plead with you before the Lord concerning all the righteous acts of the Lord, which He did to you and to your fathers.[1] [It is written:] Such is the generation of them that seek after Him, that seek Thy face, even Jacob. Selah.[2] R. Judah Nesi'ah[3] and the Rabbis differ [as to the meaning]: One says, as the leader, so the generation; the other: as the generation, so the leader. For what practical purpose [is this discussion]? Would you say: It refers to virtue so that one holds: if the generation is virtuous, so is the leader; the other's view being: if the leader is virtuous, so is the generation; but surely there is Zedekiah who was virtuous, whereas his generation was not so; and there is Jehoiakim who was not virtuous, whilst his generation was so. For R. Johanan said in the name of R. Simeon b. Yohai: What is the meaning of: In the beginning of the reign of Jehoiakim, the son of Josiah, king of Judah?[4] The Holy One, blessed be He, wanted to reduce the world to formlessness and emptiness because of Jehoiakim, but when He considered His generation. His anger subsided.[5] The Holy One, blessed be He, wanted to reduce the world to formlessness and emptiness because of the generation of Zedekiah, but when he considered Zedekiah, his anger subsided? — Rather, it refers to anger and gentleness respectively.[6]

CHAPTER IV

MISHNAH. AS TO THE SUFFICIENCY OF MEANS,[7] THIS SHALL BE DONE ACCORDING TO THE ABILITY OF HIM WHO VOWS. AND [WHEN ACCORDING TO] THE YEARS OF HIS AGE, THIS SHALL BE ACCORDING TO HIM WHO IS THE SUBJECT OF THE VOW. AS FOR VALUATIONS,[8] THIS SHALL BE ACCORDING TO HIM WHO IS THE SUBJECT OF THE VALUATION. AND THE VALUATIONS [SHALL BE PAID ACCORDING TO THE RATE PRESCRIBED] AT THE TIME OF THE VALUATION. AS TO THE SUFFICIENCY OF MEANS, THIS SHALL BE ACCORDING TO THE MAN WHO VOWS’. HOW IS THAT? IF A POOR MAN EVALUATED A RICH MAN, HE SHALL PAY ONLY THE VALUATION OF A POOR MAN.[9] BUT IF A RICH MAN EVALUATED A POOR MAN, HE MUST PAY THE VALUATION OF A RICH MAN. BUT IT IS NOT SO WITH OFFERINGS. IF A MAN SAID: I TAKE UPON MYSELF THE OFFERING OF THIS LEPER, AND THE LEPER WAS POOR, HE BRINGS THE OFFERING OF A POOR MAN.[10] BUT IF THE LEPER WAS RICH, HE MUST BRING THE OFFERING OF A RICH MAN.[11] RABBI SAYS: I SAY THE SAME APPLIES WITH REGARD TO A VALUATION.[12] WHY IS A POOR MAN WHO EVALUATED A RICH MAN OBLIGED TO PAY ONLY THE VALUATION OF A POOR MAN? BECAUSE THE RICH MAN HAD NOT INCURRED ANY LIABILITY WHATSOEVER. BUT IF THE RICH MAN SAID: I EVALUATE MYSELF’ AND THE POOR MAN, HEARING THAT, SAID: WHAT THIS MAN HAS SAID, I TAKE UPON MYSELF, THEN HE MUST PAY THE VALUATION OF A RICH MAN.

GEMARA. Surely ‘sufficiency of means’ is written only in connection with evaluation?[13] As it is written: According to the means of him that vowed shall the priest value him.[14] But is [payment according to] the years of his age with regard to one [whose worth has been] vowed, is it not only [stated] with regard to one who has been subject to valuation? — Since he [the Tanna] had spoken of ‘sufficiency of means’ in connection with ‘one who vows’, he speaks, touching the years, also of one who had been the subject of a vow.

AS TO SUFFICIENCY OF MEANS, THIS SHALL BE ACCORDING TO THE MAN WHO VOWS’. HOW IS THAT? IF A POOR MAN EVALUATED A RICH MAN HE SHALL PAY

ONLY THE VALUATION OF A POOR MAN. But why? Scripture said: 'According to the means of him that vowed', i.e., the Divine Law made it dependent upon him who 'vowed'.

BUT IT IS NOT SO WITH OFFERINGS. IF A MAN SAID: I TAKE UPON MYSELF THE OFFERING OF THIS LEPER. AND THE LEPER WAS POOR, HE BRINGS THE OFFERING OF A POOR MAN. This means although he who vowed is rich! But did not the Divine Law say: And if he be poor,[15] and he [who vowed] is not poor? Said R. Isaac: This refers to the case where he who vowed [too] was poor. But perhaps the All Merciful spared only [the leper] himself, but not him who vowed, as it is written: [If] he [be too poor]?[16] — Said R. Adda b. Ahabah: 'And his means suffice not',[17] includes him who vows. But if he who vows were a rich man, would he indeed have to bring the offering of a rich man? If so, what means BUT IT IS NOT SO WITH OFFERINGS?[18] —

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(1) I Sam. XII, 7.

(2) Ps. XXIV, 6.

(3) The Prince, R. Judah II.

(4) Jer. XXVI, 1.

(5) The emphasis is on the phrase in the beginning used instead of simply 'in the first year', v. Sanh. Sonc. ed., p. 699 notes.

(6) The temperament of the leader, gentle or otherwise, depends upon the spirit of his time.

(7) V. Lev. XXVII, 8.

(8) Explained in Mishnah infra 18a.

(9) I.e., according to his means.

(10) Lev. XIV, 21-32.

(11) Ibid. 10.

(12) There are two views as to what Rabbi means: (i) Rabbi disagrees with the Tanna, for according to the former, a poor man would under all circumstances incur no liability beyond that of a poor man's valuation, i.e., according to his means; even though he heard the rich man vow his own valuation and thereupon he (the poor man) said: I take upon myself what this man has said. According to Rabbi, however, in such a case the poor man would be liable to pay the rich man's (i.e., the normal) valuation, since in saying: 'I take upon myself what this man has said' he deliberately assumes the full liability, and he would owe the sum until able to pay it. (ii) Maimonides interprets Rabbi's attitude to be in accord with the first Tanna's, opposing only the suggestion that it is not so with offerings'. because if the same conditions which prevail at the leper's vow prevailed in the case of a valuation, the same rules would apply, according to the view of the Tanna which Rabbi holds.

(13) Our Mishnah uses the term 'vows' instead of 'evaluates', whereas the rule of paying according to one's means applies not to the vower (of a man's market value), but to the valuations.

(14) The Torah uses in this particular case 'vowing' in its general meaning, which includes also the vowing of one's valuation, that is why the Mishnah, too, uses the same term, not in the stricter but in the general sense. (Lev. XXVII, 8).

(15) Lev. XIV, 21.

(16) The suggestion is that the Torah, out of pity for a poor leper, would allow him to bring the lesser sacrifice, but might not be willing to extend the same consideration to a healthy poor man, who without any compulsion assumed his liability.

(17) Ibid.

(18) When the same regulation applies to them too.

Talmud - Mas. Arachin 17b

One refers to a poor leper. when the person who vowed [his sacrifice] was poor; the other to a rich leper when he who vows is poor.[1] One might have believed that since he was included, he was completely included,[2] therefore we are informed [that it is not so]. even as it was taught: Since we find in case of valuation that a poor man who evaluated a rich man need pay but the valuation of a poor man, one might have assumed that the same applied also to this [case], therefore the text states: And if he be poor'. But according to Rabbi who said: I SAY THE SAME APPLIES ALSO WITH

REGARD TO A VALUATION which shows that we are guided by the liability of the person,[3] so that no Scriptural verse is necessary to exclude,[4] what then does: ‘[If] he [be too poor]’ exclude? — It excludes the case of a poor leper whilst he who vowed was rich. I might have assumed that since Rabbi said: We are guided by the liability of the person, we shall here too be guided by the liability of the person, therefore we are informed [that we are not so guided here].

MISHNAH. IF HE WAS POOR AND THEN BECAME RICH,[5] OR RICH AND THEN BECAME POOR, HE MUST PAY THE VALUATION OF A RICH MAN. R. JUDAH SAYS: EVEN IF HE WAS POOR AND BECAME RICH AND THEN AGAIN BECAME POOR HE MUST PAY THE VALUATION OF A RICH MAN. BUT IT IS NOT SO WITH OFFERINGS. EVEN IF HIS FATHER WAS DYING [WHILST A MAN VOWED] AND LEFT HIM TEN THOUSAND, OR IF HE HAD A SHIP ON THE SEA AND IT BROUGHT TO HIM TEN THOUSAND, THE SANCTUARY HAS NO CLAIM AT ALL ON THEM.[6]

GEMARA. IF HE WAS POOR AND THEN BECAME RICH etc., [as it is written,] According to the means of him that vowed.[7] OR RICH AND THEN BECAME POOR [etc.]. [as it is written,] According to the means of him that vowed.[7]

R. JUDAH SAID: EVEN IF HE WAS POOR AND BECAME RICH AND THEN AGAIN BECAME POOR etc. What is the reason of R. Judah's view? — Scripture said: But if he be too poor for thy valuation,[7] i.e., only if he remains in his poor state from the beginning to the end. But if that be so [consider that]: ‘If he be too poor’.[8] [Would you say] here, too, ‘only if he remains poor from the beginning to the end’? And if you were to say, ‘Indeed so’! Have we not learnt: If a leper offered up [part of] his offering as a poor man and became rich, or as a rich man and became poor, all should be guided by what the sin-offering was. These are the words of R. Simeon. R. Judah says: Everything should be guided by [what he was when he brought] the guilt-offering.[9] And it was taught: R. Eleazar b. Jacob says. All should be guided by what [he was when he brought] the birds?[10] — But surely it was said with regard thereto; R. Judah said in the name of Rab: All the three inferred it from one Scriptural verse: Whose means suffice not for that which pertaineth to his cleansing.[11] R. Simeon holds: [The reference is to] the thing that procures atonement, that is, the sin-offering. R. Judah holds: It is to the thing which renders him fit, that is, the guilt-offering.[12] R. Eleazar b. Jacob says: The thing which causes his cleansing, that is, the birds. But then why is it said: ‘[If] he [be too poor]’? According to Rabbi, as he explains it, and according to the Sages, as they explain it.[13]

But then,[14] [when it is written:] He being a witness,[15] would you here, too, say that he must be a fit [witness] from beginning to end? And if you will say: Indeed so! Surely it was taught: If a man knew testimony [to give] for another before he became his son-in-law, and then became his son-in-law; or if he then could hear and now became deaf; could see and now became blind; was of sound mind then and now became stupid, then he is disqualified [as witness]. But if he knew testimony [to give] for him before he became his son-in-law, then became his son-in-law,

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(1) In one respect it does apply, in the other it does not. It does not apply to the case of a poor man vowing a rich leper's sacrifice, therefore the remark, ‘But it is not so with offerings’, is justified. But it does apply to the case of a poor man vowing a poor leper's sacrifice.

(2) One might have assumed that since on the basis of the Scriptural ‘And his means suffice not’, we include the poor man vowing a poor leper's sacrifice in the consideration due to a poor man's dedicating a rich man, that therefore we might extend the same consideration even to a poor man vowing a rich leper's sacrifice, therefore we need the exclusive meaning of, ‘If he be too poor’, i.e., only a poor leper's sacrifice is reduced, but a rich leper's sacrifice, even if vowed by a poor man, is not reduced.

(3) Whose valuation has been vowed, not by the ability of the person who vows it.

(4) I.e., the case of a poor man who vows the offering due from a rich leper; since on Rabbi's view the law can be derived from valuations, we are guided by the liability of the leper and not by the means of him that vowed.

(5) If he became rich either before he had paid the valuation (Rashi); or (Tosaf. Yomtob) before he had been assessed by the priest as to his means.
(6) Again the meaning of the Mishnah is disputed. Rashi holds, ‘But it is not so with offerings’ refers to the difference between the rules governing them, and those governing valuations; the second part of the Mishnah, however, applies evenly to both. Maimonides, on the other hand, sees the two parts forming one whole. The difference between offering and valuation lies in this: with regard to the former, everything depends on the sufficiency of means of him from whom the offering is due at the moment when the offering is due, which, according to R. Simeon and the other Tannaim (v. infra) means the time when the sin- and guilt-offerings respectively are offered up. and according to R. Eliezer b. Jacob, the time when he brings the birds into the Sanctuary. If at that moment he is poor, then he need bring but the sacrifice of a poor leper, even though his father be dying. or his boat be on the way back and thus promising him an increase in his sufficiency of means. Tosaf. has valid objections to this interpretation. s.v. אבל .
(7) Lev. XXVII, 8.
(8) With reference to a leper.
(9) [The leper had to bring a guilt-offering, a sin-offering and a whole-offering (Lev. XIV, 19, 22). the latter two varying according whether he be poor or rich. If his condition changed after having brought his sin-offering, the whole-offering which he subsequently brings must be a bird if the sin-offering he had brought as a poor man was a bird, or a he-lamb if the sin-offering he had brought as a rich man had been an ewe lamb].
(10) Lev. XIV, 4. He had to bring these birds alive into the Sanctuary.
(11) Lev. Xlv, 32.
(12) It is the guilt-offering which renders him fit to enter the Sanctuary and to eat of the holy meat, after the priest had applied the blood thereof on the tip of his right ear and great toe of his right foot and thumb of the right hand. Lev. XIV, 14.
(13) Supra p. 99, n. 6.
(14) In view of the interpretation of the verse ‘If he be too poor’. taking the ‘he’ to denote that there has been no change of condition all the time.
(15) Lev. V, 1.

Talmud - Mas. Arachin 18a

and after that his daughter [the father-in-law's. i.e., his wife] died; or if he could hear, became deaf, and now regained his hearing; or if he could see, lost his sight, and now recovered it; or was of sound mind, lost his mind, and now recovered it, then he is eligible [as witness]. This is the general rule: Whosoever was capable at the beginning and, again, at the end, is eligible?[1] — It is different there because Scripture says: If he do not utter it, then he shall bear his iniquity.[2] the Divine Law has made the matter dependent on seeing and hearing, and that is found here.[3] But then what is the need of: ‘He being a witness’? — Because of what has been taught: If he saw a company of men standing, among whom are his witnesses, and he says: I adjure you that if you know a testimony on my behalf you come and testify for me, one might have assumed that they then are obliged [to do so], therefore the text states: ‘He being a witness’, whilst he has not singled out his witnesses. One might assume that [the same applies] even if he said: Whosoever [of you knows a fact to testify to. etc.], therefore the text states: ‘He being a witness’, and he has singled them out.[4]

BUT IT IS NOT SO WITH OFFERINGS: IF HIS FATHER DIED AND LEFT HIM TEN THOUSAND etc. But then he is a rich man? R. Abbuha said: Say, He was leaving him ten thousand.[5] But that is self-evident? — It means that his father lies in a dying condition. You might have said: Most of the people in a dying condition really die, therefore we are informed [that the Sanctuary has nevertheless no claim].

IF HIS BOAT IS ON THE SEA RETURNING TO HIM WITH TEN THOUSAND. But then he is a rich man? R. Hisda said: It refers to a case when he had rented out or hired it out to others. But there is the rent? — Rent is not payable before the end [of the contracted period]. But derive [his richness] from his boat alone? This is in accord with the view of R. Eliezer, for it was taught: If he was a farmer, they must leave him his yoke of oxen, and if he was an ass-driver, they must leave him his ass.[6]

MISHNAH. ‘AS FOR THE YEARS THIS SHALL BE [VALUED] ACCORDING TO [THE AGE OF] HIM WHO IS VOWED’? IF A CHILD EVALUATES AN OLD MAN. HE MUST PAY THE VALUATION OF AN OLD MAN. AND IF AN OLD MAN EVALUATES A CHILD. HE MUST PAY THE VALUATION OF A CHILD. AS FOR VALUATION: THIS SHALL BE ACCORDING TO HIM WHO IS THE SUBJECT OF THE VALUATION. HOW IS THAT? IF A MAN EVALUATED A WOMAN, HE MUST PAY THE VALUATION OF A WOMAN. AND IF A WOMAN EVALUATED A MAN, SHE MUST PAY THE VALUATION OF A MAN. ‘AND THE VALUATION DEPENDS UPON THE TIME OF THE VALUATION’. HOW IS THAT? IF HE EVALUATED ONE WHO WAS LESS THAN FIVE YEARS OF AGE, AND HE BECAME [MEANTIME] OLDER THAN FIVE YEARS OF AGE; OR [HE EVALUATED ONE] WHO WAS LESS THAN TWENTY YEARS OF AGE AND HE BECAME TWENTY YEARS OLD. HE MUST PAY [ONLY] IN ACCORD WITH THE AGE AT THE TIME OF THE VALUATION.

GEMARA. Our Rabbis taught: You have compared vows [of market value] to valuations, both with regard to [the valuation of] pearls for the poor,[7] and to the rule that the value of a limb be judged in accord with its importance.[8] One might have assumed that we shall compare valuations with vows of market value also with regard to the rule that there, too, he shall have to pay its value according to the time of the payment,[9] therefore it is said: According to thy valuation it shall stand,[10] i.e., [in the case of valuation] he shall pay only as much as it was worth at the time of the valuation.

MISHNAH. THE THIRTIETH DAY IS ACCOUNTED UNDER THIS AGE. THE FIFTH YEAR OR TWENTIETH YEAR IS ACCOUNTED UNDER THIS AGE. FOR IT IS WRITTEN: AND IF IT BE FROM SIXTY YEARS OLD AND UPWARD.[11] WE LEARN THUS WITH REGARD TO ALL OTHERS FROM WHAT IS SAID ABOUT SIXTY YEARS: JUST AS THE SIXTIETH YEAR IS ACCOUNTED UNDER THIS AGE. SO ALSO THE FIFTH AND TWENTIETH YEARS ARE ACCOUNTED UNDER THIS AGE. WHAT! BECAUSE [THE TORAH] HAS RECKONED THE SIXTIETH YEAR TO BE UNDER THIS AGE, THEREBY BEING MORE STRINGENT, SHALL THE FIFTH OR THE TWENTIETH YEAR BE CONSIDERED UNDER THIS AGE. WHEREBY IT WOULD BE MORE LENIENT?[12] TO TEACH US THAT, IT IS SAID: ‘YEARS’, ‘YEARS’ TO SET FORTH THIS ANALOGY: JUST AS WITH THE SIXTIETH YEAR THE WORD ‘YEARS’ MEANS THAT IT BE RECKONED UNDER AGE, SO THE WORD YEARS’ WITH THE FIFTH AND WITH THE TWENTIETH YEAR MEANS THAT IT IS TO BE RECKONED UNDER AGE, NO MATTER WHETHER IT BEARS LENIENTLY OR STRINGENTLY. R. ELEAZAR SAYS: [THIS RULE HOLDS GOOD] UNTIL THEY ARE A MONTH AND A DAY BEYOND THE YEARS CONCERNED.

GEMARA. Now this is superfluous,[13] for were that not the case, it could be refuted as we did. For [the fact is that] the words ‘years’, ‘years’ are written superfluously.

Shall we say that our Mishnah is not in accord with Rabbi; for if it were in accord with Rabbi, surely he said: ‘Until’ is meant to be inclusive. For it was taught: [It is written:] From the first day until the seventh day.[14] One might have assumed [this to mean]: ‘From the first day on’ but the first not included, and ‘until the seventh day’ but the seventh day not included,

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(1) Whereas above the condition was made that he must be of one quality or condition from the beginning to the end.

(2) Lev. V, 1.

(3) The Torah here insists that it is sufficient if he be fit at the time of seeing and telling, rendering his condition at any other time irrelevant.

(4) He must single out those whom he adjures to give testimony on his behalf, because the Biblical ‘He being a witness’ indicates that a definite person must be involved. When the adjurer says: If someone among you knows etc., he speaks in general terms, hence does not affect those few who know among the majority who do not. But if he said: Whosoever of you knows, then he is addressing himself individually to each who does, hence he does oblige those who can give testimony on his behalf, to do so.

(5) He has not left him the money yet. He is still living, although in a dying condition. Yet, as long as he is alive, the Sanctuary has no claim whatsoever on the son, because the general experience that people in a dying condition die, does not, for the purpose of the law, assume that the person is dead, that the inheritance is available, but we say that the son now has no money yet.

(6) Just as the farmer's yoke of oxen are his ‘tools’ wherewith he earns his living; just as the ass-driver's ass for that reason may not be taken in pledge, so is this man's boat, a tool wherewith he earns his living and must not be taken either.

(7) If a poor man owned a pearl which in his place of residence, for lack of demand, is worth but thirty sela's, whereas in a large town where there are many buyers, it would be worth fifty-one must assume that it is worth only what the poor man can get for it now, in his place of residence. The poor man who vowed his own valuation would hence not have to pay fifty sela's (if he were between twenty and fifty years of age), although the pearl might fetch that price elsewhere. Now the same rule applies to the case of one who said: ‘I take it upon myself to pay to the Sanctuary the value of this pearl’. Here, too since we compared valuation to vow of market-value, the vower would have to pay the lower price. The comparison, based on analogy of expression, is found supra 2a.

(8) V. supra 4b,

(9) When the worth of the person who is the subject of the vow is valued.

(10) Lev. XXVII, 17.

(11) Lev. XXVII, 7.

(12) The valuation from twenty to sixty is fifty shekels. From sixty up it is fifteen. From five to twenty, twenty shekels. Now the Torah in considering one of sixty years to be under age, imposes upon the vower the highest payment — a stringency. Would one stretch the analogy so far as to do just the opposite: to lower the payment by considering one of twenty to be nineteen, which would mean reducing the sum due from fifty shekels to twenty?

(13) ‘Mufneh’; lit., ‘free, empty, disengaged’. It means that the identical expression, the gezerah shawah (v. Glos.) occurring in two different texts, has not been engaged for any deduction or interpretation, thus is ‘free’ and legitimately a source of comparison for the case in question. The repetition of the word ‘years’. which has no meaning in the context, and which suggests no other teaching. thereby justifies the inferences made here from the analogous expression.

(14) Ex. XII, 15.

Talmud - Mas. Arachin 18b

, in the same manner as it is said: From his head even unto his feet,[1] where it means, ‘[from] his head [on]’, but his head is not included; and ‘[unto his] feet’, but his feet are not included;[2] therefore it is said: Until the one and twentieth day of the month at even.[3] — Rabbi said: This was not necessary: ‘first’ [itself] means the first inclusive, and ‘seventh’ the seventh inclusive! You might even say that our Mishnah is In accord with Rabbi. Here, however, the Scriptural verses are balanced. For it is written: From a month old even unto five years old,[4] why then [state] From five years old even unto twenty years old?[5] Therefore they are balanced.[6]

The Master has said: ‘his head’. but his head is not included; ‘his feet’, but the feet are not included. Whence do we know that? — If you like, say: Because the signs [of leprosy] on the body are different from those on the head;[7] or, if you like, say: As far as appeareth to the priest.[8]

R. ELIEZER SAYS: [THIS RULE HOLDS GOOD] UNTIL THEY ARE A MONTH AND A DAY BEYOND THE YEARS CONCERNED. It was taught: R. Eliezer said, Here it is said, ‘and upward’, and there it is said, ‘and upward’;[9] just as there the meaning is ‘from a month and one day’, so here a month and one day. But say perhaps: Just as there ‘one day’ so here, too. ‘one day’?[10] — Of what value would the analogy then be?

Our Rabbis taught: The year mentioned in connection with consecrated animals, the year stated in connection with dwelling houses in a walled city,[11] the two years in connection with the field of possession,[12] the six years of the Hebrew slave,[13] as well as those of a son or daughter,[14] are to be understood as from hour to hour.[15] Whence do we know that with regard to consecrated animals? — R. Aha b. Jacob said: Scripture said, A lamb ben shenato [of the first year],[16] i.e.. of 'its own first year', not that of the calendar.[17] As to the year mentioned in connection with dwelling houses in a walled city. Scripture said: Within a whole year mimkaro [after it is sold],[18] i.e., of its [own year after the] sale, not of the calendar. With regard to the two years of the field of possession, it is written: According unto the number of years of the crops he shall sell unto thee,[19] implying that a man eats [the fruit of] three crops in two years. With regard to the six years of a Hebrew slave, Scripture said: Six years he shall serve, and in the seventh,[20] implying that at times in the seventh year, too, he may be working.[21] 'As well as those of a son or daughter', for what practical purpose is the rule? — R. Giddal in the name of Rab said: With regard to valuations.[22] R. Joseph said: With regard to [the subject of] the chapter on the foetus extracted by means of a caesarean section.[23]

Said Abaye to R. Joseph: Are you [two] of conflicting opinion? — He replied: No, I say one thing, and he said another. Thus also does it seem logical. For if you should think they are disputing, and he who said [the practical purpose] concerns valuations, should not hold it to be also with regard to the chapter about the foetus extracted by means of a caesarean section, has not Rab said that the decision was with regard to all [cases in that] chapter: that [the years] were to be understood as from hour to hour? Then why does he who said [the practical purpose] concerned valuations not say it concerns the chapter on a caesarean extraction? — Because it[24] is to be analogous to those [mentioned previously]:[25] Just as these are written [in the Torah], so does this refer to what is written [in the Torah].[26] And the other? — If you think [that the reference is to] what is written, then the expression 'With a son or daughter' — ought it not to state 'with male or female'?[27]

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(1) Lev. XIII, 12 in connection with the signs of leprosy.

(2) V. infra.

(3) Ex. XII, 18, the words 'at even', at the end of the day, include the seventh, and 'at even' is also written in connection with the first day in the same verse.

(4) Lev. XXVII, 6.

(5) Ibid. v. 5.

(6) The fifth year as well as the twentieth (vv. 3 and 5) could be counted as belonging to either of the periods. Therefore the verses are suspended in meaning, indeterminate, and it is only the inference from analogy of expression which establishes the correct meaning.

(7) The signs on the head are yellow thin hair, whereas the signs on the body are white hair, and spreading in the skin.

(8) Ibid. XIII, 12. The priest could not see the sign on the head because of the hair, nor between the toes, in one view, as required.

(9) Num. III, 43. with reference to the counting of the Levites. Any Levite of over one month old, even if it be but one day, was included in the counting.

(10) Since here the addition is but one day, perhaps it ought to be exactly alike with the years in the case of valuations.

(11) V. Lev. XXV, 30.

(12) V. infra 29b.

(13) Ex. XXI, 2.

(14) V. infra p. 112, n. 1.

(15) As lasting one year from the hour of its birth, or sale, or service, to the very same hour a year later on the very same day, independent of the calendar year. In a calendar year Tishri would commence the New Year.

(16) Lev. XII, 6. The text might have read: ben shanah, which would have suggested an ordinary year. 'Ben shenato', (lit., 'an animal its year old') suggests that it shall be its own year, from hour to hour.

(17) Lit., 'world'.

(18) Lev. XXV, 29. Again the word 'mimkaro' suggests its own year. i.e., from hour to hour.

(19) Ibid. v. 15. the double plural 'years of crops' suggesting that the regular counting would not be satisfactory. There may be more than two crops in two years.

(20) Ex. XXI, 2.

(21) The second part of the verse is taken here in conjunction with the first.

(22) I.e., with regard to the age which determines the rate of payment.

(23) In that chapter the age is discussed at which son and daughter are fit to vow. Nid. 45b.

(24) The reference to a son and daughter.

(25) I.e., the consecrated animals, etc.

(26) Viz., valuations.

(27) Just as the Torah in this connection (Lev. XXVII) speaks of ‘male’ and ‘female’.

Talmud - Mas. Arachin 19a

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Why is a female, when she is old, valued only at one third, whereas a man at not even a third?[1] — Said Hezekiah: people say, An old man in the house is a burden in the house, an old woman in the house is a treasure in the house![2]

CHAPTER V

MISHNAH. IF A MAN SAID: I VOW MY WEIGHT, THEN HE MUST PAY HIS WEIGHT, IN SILVER [IF HE HAD SAID IN] SILVER, OR IN GOLD [IF HE HAD SAID IN] GOLD. IT HAPPENED WITH THE MOTHER OF YIRMATIA,[3] WHO HAD SAID, ‘I VOW MY DAUGHTER'S WEIGHT’: SHE WENT UP TO JERUSALEM AND WEIGHED HER AND THEN PAID HER WEIGHT IN GOLD. [IF A MAN SAID: I VOW] THE WEIGHT OF MY HAND, R. JUDAH SAYS: LET HIM FILL A BARREL WITH WATER AND PUT IT [HIS HAND] IN UP TO THE ELBOW. THEN LET HIM WEIGH THE FLESH, BONES AND SINEWS OF AN ASS AND PUT IT INTO THE BARREL UNTIL IT IS FILLED UP AGAIN. SAID R. JOSE: BUT HOW IS IT POSSIBLE TO ACCOUNT EXACTLY ONE KIND OF FLESH AGAINST ANOTHER KIND OF FLESH, AND ONE KIND OF BONES AGAINST ANOTHER KIND OF BONES? RATHER: ONE ESTIMATES WHAT THE HAND IS LIKELY TO WEIGH.

GEMARA. What does it mean IF SILVER, SILVER, IF GOLD, GOLD? — Rab Judah said: If he had said [my weight] in silver, then [he must pay it] in silver, if gold. gold. But that is self-evident? — This is what he is teaching us: The reason[4] is because he has mentioned expressly [the precious metal], but if he has not mentioned expressly, he can free himself of the obligation with anything;[5] in accord with Rehabah, for Rehabah said: In a place where [they sell] pitch by the weight, he can free himself even with pitch. But that is self-evident? — No, it is necessary to mention that for the case that some weigh and others measure it. You might say since not all [sell it] by weight [he may] not [free himself by paying his weight in pitch], therefore we are informed [that he may].

R. Papa said: In a place where [they sell] onions by the weight, he can acquit himself [of his vow] even with onions. But that is self-evident? — It is necessary to mention that because after weighing it [the seller] would add two or three. Therefore you might have said: thereby it should be excluded from the rule of things [sold] by weight. Therefore we are informed [that it is not so excluded].

IT HAPPENED WITH THE MOTHER OF YIRMATIA. An accident [is reported] to contradict [the law just stated]? — Something is missing here and thus it ought to read: ‘But if it be a prominent person, then although he has not expressly stated, we estimate it in accordance with his dignity; and IT HAPPENED WITH THE MOTHER OF YIRMATIA WHO HAD SAID, ‘I VOW MY DAUGHTER'S WEIGHT’: SHE WENT UP TO JERUSALEM AND THEY WEIGHED HER, AND THEN SHE PAID HER WEIGHT IN GOLD’.[6]

Rab Judah said: If one says, I vow my stature, he must give a staff which cannot be bent. [If he said:] I vow my full stature, he may give a staff which can be bent.[7] They raised the following objection: [If one said:] 'I vow my stature', or [if he said, 'I vow] my full stature', he must give a staff which cannot be bent? He holds with R. Akiba, who pays close attention to redundant speech. For we learnt: Nor [has he thereby sold][8] the cistern or the walled cellar, even though he wrote [in the document of sale], 'the depth and the height', but he [the seller] must acquire for himself a way thereto. These are the words of R. Akiba. The Rabbis taught: He does not need to do so. R. Akiba, however, agrees that if he had said, 'With the exception of these', he need not buy himself a way thereto.[9] Thus we see that since he did not have to say anything and nevertheless did make a statement, he meant to add something thereby; therefore here, too, since he did not have to say anything and he spoke nevertheless, he wanted to add something.[10]

The following question was raised [in the Academy]: If he said, 'My stand', what is [the law]?

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(1) A woman under sixty is to be valued at thirty, above sixty at ten, which is one third; a man under sixty at fifty, over sixty at fifteen, which is less than a third.

(2) A woman is never too old to be useful in the house, whereas in popular opinion, an old man in the house may be termed 'an obstacle', 'a burden', 'a weak vessel'.

(3) Var. lec.: Domitia.

(4) That he was to pay his weight in silver or gold.

(5) However base a metal or material.

(6) According to which one is bound only by express statement as to that metal is meant, whereas the mother of Yirmatia, on the basis of a general vow, is reported to have made a payment of the weight in gold.

(7) In the first case the stature of the metal, whichever he mentioned, should be paid. In the second, he has stressed only the height, therefore a staff, however thin and easy to be bent, will redeem the pledge. In the first it must be solid, as his figure, in the second it must be high, but need not be of any minimum thickness.

(8) I.e., if one who has sold a house.

(9) V. B.B. 64a.

(10) The seller should not have mentioned a self-evident clause: that cistern and cellar are not sold with the house. Having mentioned that, he must have added something to the contract not implicit therein, viz., the right to the cellar. In similar manner here, 'full' is a superfluous phrase, stature implies the full height. Hence the additional suggestion: It is only as to the full height that I assume obligation, but as to thickness, that may be as slender as possible.

Talmud - Mas. Arachin 19b

'My breadth, what is [the law]? 'My sitting', or 'My thickness', what is [the law]? 'My circumference', what is [the law]?[1] — The questions remain unanswered.

I VOW THE WEIGHT OF MY HAND. Our Rabbis taught: [If one said:] 'I vow the weight of my hand and the weight of my foot', R. Judah says: Let him bring a barrel, fill it with water, place his hand therein up to the elbow, and his foot up to the knee; then let him weigh the flesh, bones and sinews of an ass and put it in [to the barrel] until it is filled up. And although there is no proof for it [in the Bible],[2] there is a mnemonical allusion: Whose flesh is as the flesh of asses.[3] R. Jose said to him: How is it possible to account exactly one kind of flesh as against another kind of flesh, one kind of bones as against another kind of bones, and one kind of sinews as against another kind of sinews? R. Judah answered him: They estimate [the weight of the flesh, bones and sinews].[4] Said R. Jose to him: If you must estimate, estimate the hand [itself]? And R. Judah? As far as possible we do it by weight.

'The hand up to the elbow'? An objection was raised: The hands and feet in the Sanctuary were washed up to the joint [of the palm]? In [the language of] the Torah [hand means] up to the joint, but with regard to vows, go after human parlance!

But according to the Torah [language, does it mean] up to the joint? What then of tefillin with regard to which thy hand[5] is written; and the School of Mennaseh taught: ‘thy hand’, that means on the biceps muscle? [Rather say thus,] In the Torah [it means] the whole biceps-muscle, but with regard to vows, go after human parlance, and as to washing the hands and feet in the Sanctuary. that[6] is a traditional teaching.

‘The foot up to the knee’? But there is a contradiction against this. [It is written,] Feet,[7] that excludes people with wooden legs?[8] — With regard to vows, go after human parlance. But in the Torah does [the term] foot exclude people with wooden legs? What of halizah where it is written: his foot,[9] and yet it was taught if she drew off his shoe [that was strapped] from the knee below, her halizah [ceremony] is valid?[10] — It is different there, because Scripture says: From off his foot.[9] If that be so, then even if [the shoe was strapped] above the knee, it should also be [valid]? — It reads: from above’, not ‘from over above’.

R. Papa said: It is evident therefrom[11] that what is called istawira[12] goes down to the ground.[13] For if you should think it is divided [into two], then the istawira would be ‘above the foot’ and the thigh[14] ‘over above’ [the foot].[15] — R. Ashi said: You may even say that it is divided [into two], yet whatsoever is horizontally with the foot[16] is [like] the foot.

MISHNAH. [IF SOMEONE SAID] I VOW THE WORTH OF MY HAND, THEY ESTIMATE HIS WORTH WITH HIS HAND AND [WHAT IT WOULD BE] WITHOUT HIS HAND. IN THIS RESPECT VOWS OF WORTH ARE MORE STRINGENT THAN VALUATIONS.[17]

GEMARA. How do we estimate him? — Raba said: We estimate him as one estimates in the case of injury.[18] Said Abaye: Are the two cases alike? There the man is reduced in value, here he is in physical integrity! — Rather, said Abaye: They estimate how much a man would give for a slave who does his work with but one hand as against what he would give for a slave who does his work with both hands. [You say,] ‘With one hand’? What does that imply? That the other is cut off? But that is the very case [of damage just mentioned]. Rather [say, How much a man would give . . . as against the case] where one of his hands is assigned to the first master.[19]

Raba asked: If they have estimated him in a case of injury and he said: ‘I vow my worth’, what is [the law]? Do we say, ‘surely they have estimated him once already’, or is an estimate by ten different from an estimate by three?[20] And if you find a reason for saying that the estimate by ten is different from one by three, what is [the law] if he said: I vow my worth and he was estimated, whereupon he said again. I vow my worth? Is it here definite since ten have estimated him, or perhaps he may have increased in value meantime![21] [And if you were to say that he has increased in value meantime,] what is [the law] if he said: I vow my worth, and they did not estimate him, and then he again said: I vow my worth? [Do we say] in this case he is surely

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(1) ‘My stand’ may mean my height; ‘my breadth’ may mean a staff as long as I am broad, or a staff as broad as I am; ‘my thickness’, too, is ambiguous; ‘my circumference’ may imply a staff, crooked and of the same circumference as myself, or one as thick as my circumference.

(2) That the weight of flesh, bones and sinews of an ass correspond to those of men.

(3) Ezek. XXIII, 20.

(4) Probably the meaning is that the weighing demanded by R. Judah is but to serve as an aid to estimating the weight of the hand itself].

(5) Ex. XIII, 9.

(6) The limit of the joint of the palms.

(7) Ex. XXIII, 14.

(8) Men with artificial feet are not obliged to go ‘on foot’, i.e., on pilgrimage to the Temple on the three festivals, v. Hag. 3a. This shows that the foot does not stretch to the knee.
(9) Deut. XXV, 9.
(10) V. Yeb. 101a.
(11) Since a halizah performed with a shoe strapped below the knee is valid.
(12) I.e., the ankle (in an anatomical sense).
(13) I.e., the entire length of the foot from the ankle.
(14) I.e., that part of the leg up to the knee joint from the ankle upward.
(15) And consequently the halizah should be invalid.
(16) I.e., the whole istawira is regarded as part of the foot.
(17) Because one cannot vow the valuation of the hand or any other non-vital organ.
(18) V. B.K. 83b. He is looked upon as if he were a slave to be sold in the market, and they assess how much he was worth (before the injury) and how much he is worth now.
(19) He must not do work with it for the second master at all. He is therefore physically of full integrity and the analogy is warranted.
(20) One who vows his market-value must be estimated by a body of ten with the case of our Mishnah, whereas one's assessment in the case of injuries can be determined by a court of three (v. Sanh. 2a).
(21) And consequently he must be assessed anew.

Talmud - Mas. Arachin 20a

to be estimated once [only],[1] or perhaps since he vowed one time after the other, he is [formally] to be estimated twice? And if you find a reason for saying that because he vowed one time after the other he is to be estimated twice, what is [the law] if he said, ‘Twice my worth do I vow’? [Do we say] he has definitely vowed only once and hence he should be estimated only once, or perhaps since he said, ‘Twice’ it is to be as if he had vowed one time after the other? And if you find a reason for saying that since he said, ‘Twice’ it is to be as if he had vowed one time after the other, what is [the law] if they had estimated him incidentally?[2] Do we say. Behold he stands estimated, or do we require intention for an estimation [to be valid]? — Solve at least one [of these questions], for we learnt: [If one said,] ‘I vow my worth’ and died, the heirs need not give anything’, because a dead man has no worth.[3] Now if you were to say that if they had estimated him incidentally the estimate would be considered valid, then he, too, stands estimated already; for is there a person who is not worth four zuz [at least]? — [No,] one estimated incidentally has been estimated at any rate, but one who merely said: ‘I vow my worth’, has not reached [the stage of] estimation at all.

MISHNAH. VALUATIONS ARE IN THE DIRECTION OF MORE STRINGENCY THAN VOWS OF WORTH. HOW IS THAT? IF ONE SAID: I VOW MY VALUATION AND THEN HE DIES. HIS HEIRS MUST PAY IT. [BUT IF HE SAID:] I VOW MY WORTH AND THEN HE DIES, THEN HIS HEIRS NEED NOT PAY ANYTHING BECAUSE DEAD PERSONS HAVE NO WORTH [MARKET-VALUE]. [IF HE SAID,] ‘THE VALUATION OF MY HAND OR FOOT I VOW’, HE HAS SAID NOTHING, [BUT IF HE SAID,] ‘I VOW THE VALUATION OF MY HEAD OR OF MY LIVER’, HE MUST PAY HIS WHOLE valuation. THIS IS THE GENERAL RULE: [WHENEVER HE VOWED THE VALUATION OF ANY] THING ON WHICH HIS LIFE DEPENDS. HE MUST PAY HIS VALUATION IN FULL. [IF HE SAID:] ‘I VOW. HALF MY VALUATION’, HE MUST PAY HALF HIS VALUATION, [BUT IF HE SAID,] ‘THE VALUATION OF ONE HALF OF ME HE MUST PAY HIS WHOLE VALUATION. [IF HE SAID] ‘HALF OF MY WORTH I VOW’, HE MUST PAY HALF HIS WORTH. [IF HE SAID,] ‘I VOW THE WORTH OF ONE HALF OF ME, HE MUST PAY HIS WHOLE WORTH. THIS IS THE GENERAL RULE: [IF HE VOWED] THE WORTH OF ANYTHING ON WHICH HIS LIFE DEPENDS, HE MUST PAY HIS WHOLE WORTH. IF HE SAID: I VOW THE VALUATION OF SO-AND-SO’, AND BOTH THE VOWER AND THE SUBJECT OF THE VOW DIED, THEN THE HEIRS MUST PAY IT. [IF HE SAID,] ‘THE WORTH OF SO-AND-SO I VOW’, AND THE

VOWER DIED, THE HEIRS MUST PAY IT. BUT IF THE SUBJECT OF THE VOW DIED, THE HEIRS NEED NOT PAY ANYTHING BECAUSE DEAD PERSONS HAVE NO WORTH.

GEMARA. Our Rabbis taught: Vows of worth are in the direction of greater stringency than vows of valuations, for vows of worth apply to cattle, game and birds, and are not estimated according to sufficiency of means, whereas it is not so with valuations. Valuations are in the direction of greater stringency than vows of worth. How is that? If one said: ‘I vow my valuation’ and then died, his heirs must pay it; [but if he said,] ‘I vow my worth’ and then died, his heirs need not give anything, for dead persons have no worth [market-value].

‘If he said: "I vow my valuation" and then died, his heirs must pay.’ We infer therefrom that an oral debt may be collected from the heirs?[4] — It is different here because it is a debt arising from the law of the Torah. Then we may infer from here that a debt arising from the law of the Torah has the force of one acknowledged in a document of indebtedness? — Here we speak of the case where he stood before the court.[5] Then, in the same situation where he had said: ‘I vow my worth’, if he stood before the court, why should the heirs not have to pay? — Because in the case of where he says, ‘I vow my worth’, he still lacked estimate, whilst in the case where he had said, ‘I vow my valuation’, he lacked nothing.[6]

I VOW THE VALUATION OF MY HAND OR OF MY FOOT etc. R. Giddal in the name of Rab said: And he must pay its worth [market-value]. But it was said, He has said nothing? — He has said nothing according to the Rabbis, but he must pay according to R. Meir.[7] But he [R. Giddal] has said that once already, for R. Giddal had said in the name of Rab: [If someone said:] ‘I vow the valuation of this vessel’, he must pay its market-value?[8] You might have said: There [he must pay the market-value] because a man knows that a vessel is not subject to valuation, therefore he had made up his mind to [use the phrase meaning, however, its] worth. But here he was really mistaken, in that he believed that just as there is valuation to ‘my hand or liver’, there is one to ‘my foot or hand’, but he never meant the market-value; therefore he informs us [that he must pay the market-value nevertheless].

THE VALUATION OF MY HEAD OR MY LIVER’, HE MUST PAY HIS WHOLE VALUATION. Why? — The Divine Law said: souls.[9]

THIS IS THE GENERAL RULE: [WHENEVER HE VOWED THE VALUATION OF] ANYTHING ON WHICH HIS LIFE DEPENDS, HE MUST PAY HIS VALUATION IN FULL. That includes [his saying: I vow the valuation of anything] from the knee upwards.[10]

HALF OF MY VALUATION etc.’ Our Rabbis taught: [If a man said:] ‘I vow half my valuation’, he must pay half his valuation. R. Jose son of R. Judah says: He receives punishment and must pay his full valuation.[11] Why [should he be punished]? — Said R. Papa: He receives the punishment of having to pay the full valuation. What is the reason? — [It means,] We are stringent about the vow, ‘Half of my valuation’ because [of its possible confusion with] ‘The valuation of one half of him’, and the valuation of the half of oneself is tantamount to [the valuation of] something on which one's life depends.

HALF OF MY WORTH DO I VOW etc. [BUT IF HE SAID:] ‘I VOW THE WORTH OF ONE HALF OF ME, HE MUST PAY THE WHOLE OF HIS WORTH. What is the reason? — Scripture said: A vow of persons [souls] according to thy valuation.[12] THIS IS THE GENERAL RULE: [WHENEVER HE VOWED THE VALUATION OF] ANYTHING ON WHICH LIFE DEPENDS, HE MUST PAY HIS WHOLE VALUATION. That includes his vowing the worth of anything from the knee upwards.[13]

Our Rabbis taught: If one vows half the valuation of a vessel, then R. Meir says he must pay its market-value, whereas the Sages say he need not pay anything. Rabbah was ill. Abaye and the Rabbis entered his home. They were sitting and saying: That is right according to R. Meir for he holds that 'no man utters his words in vain [without purpose]', there being no difference whether one half or the whole is concerned. But [the difficulty is with] the Rabbis. What is their view? If they hold a man does utter his words in vain, then he should be free from any obligation to pay even if he said, [I vow the valuation] of a whole vessel; and [if they hold] that a man does not utter his words in vain, then he ought to pay even though he vowed half of its valuation? — Rabbah answered them: The Rabbis here hold with R. Meir and with R. Simeon: They hold with R. Meir that no man utters his words in vain, and they agree with R. Simeon who said [that he[14] is exempt] because he did not make a freewill-offering in the manner proper to those that make freewill-offerings. Now it would make a full gift for one to vow a whole [vessel], but it is not usual to vow only half [a vessel].[15]

IF SOMEONE SAID: 'I VOW THE VALUATION OF SO-AND-SO AND THEN THE VOWER DIED etc. How is this [case] to be explained? presumably that he stood before the court?[16] But that is the same as the other?[17] — It is necessary [to state that] because of the second clause: [If he said,] 'I vow the worth of So-and-so'. and he who vowed died, then the heirs must pay it

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(1) Making, of course, a twofold payment.

(2) I.e., not with any particular purpose in view.

(3) V. next Mishnah.

(4) And elsewhere it was left an undecided question.

(5) To have his payment enforced.

(6) The payment being determined according to age and sex by the law in Lev. XXVII.

(7) V. supra 5a.

(8) R. Giddal holds with R. Meir (supra 5a) that no man utters his words in vain, hence, whilst careless as to technical terms, he has something definite in mind. A vessel not being subject to valuation, he must have had in mind its market-value.

(9) Persons, souls (life), all members or parts of the body upon which life depends can be dedicated, their value being equal to the valuation of the whole person.

(10) The suggestion is that the removal of any part of the body above the knee would constitute a danger to life, hence would mean the valuation of the person. just as if somebody said: I 'vow my liver, or my heart'.

(11) 'Lakah', the term, tech. for the thirty-nine stripes, means literally to suffer', 'to be at a disadvantage'; hence R. Papa's interpretation. Cf. B.M. 43a.

(12) Lev. XXVII, 2. The some interpretation as to vitality of the organ concerned applies to both vows of worth and valuations.

(13) V. supra p. 118, n. 4.

(14) Who vowed to bring a meal-offering of barley. v. Men. 103a.

(15) Therefore, if he had evaluated a whole object on the principle that no man utters words in vain, he would have been considered liable. But an unusual gift made in the additionally abnormal form of half of an object must have been meant 'in vain', not seriously. hence the Rabbis decide that he need not pay anything at all.

(16) To be assessed.

(17) Above, exactly the same case was reported, and interpreted also as one in which he stood before the court. Why then this repetition?

Talmud - Mas. Arachin 20b

. Now you might have said: Since there has been no estimate,[1] his possessions are not subject [to payment], therefore we are informed that since he stood before the court, his possessions have [automatically] become liable [for the vow], the estimating being a mere statement of fact [as to the monetary value].

MISHNAH. [IF SOMEONE SAID:] THIS OX SHALL BE A BURNT-OFFERING. OR THIS HOUSE SHALL BE AN OFFERING,[2] AND THE OX DIED OR THE HOUSE FELL DOWN, HE IS FREE FROM PAYING [THEIR WORTH]. [BUT IF HE SAID:] 'I VOW THIS OX AS A BURNT-OFFERING' OR 'THIS HOUSE AS AN OFFERING AND THE OX DIED, OR THE HOUSE FELL DOWN. THEN HE IS OBLIGED TO PAY [THEIR WORTH].[3]

GEMARA. R. Hiyya b. Rab said: This has been taught only for the case where he said: 'I vow[4] the worth of this ox for a burnt-offering', but if he said: 'I vow this ox as a burnt-offering', since he had said 'this' and [this one] died, he is not obliged [to make restitution for it], for he [merely] meant: '[I vow] to bring him'.[5]

An objection was raised: [If he said,] 'This ox shall be a burnt-offering', then the ox is sacred property and the law of sacrilege applies to it.[6] If it die or be stolen, he is not obliged to make restitution. [But if he said:] 'I vow this ox as a burnt-offering', the ox becomes sacred property and the law of sacrilege applies to it. If it died or is stolen, he is obliged to make restitution! — Is this [teaching] any stronger than our Mishnah? There we assumed it refers to the case where he said: 'I vow its worth', thus here too, the reference is to the case where he said: 'I vow its worth'. But since the second part speaks of the case where he said 'the worth', the first must needs speak of the case where he did not say 'the worth'! For the second part reads: [If he said:] The money of the ox shall be a burnt-offering, then the ox remains profane, and the law of sacrilege does not apply to it. If it die or be stolen, he is not obliged to make restitution. But he is obliged to make restitution for his money?[7] — Both the first and the second part speak of the case where he said: 'Its money value'; but in the first case he said: 'The ox be sanctified in respect of its money', in the second he said: 'The money thereof be sanctified when realized'. But how can a man sanctify a thing that is non-existent?[8] Said Rab Judah in the name of Rab, This is in accord with R. Meir who said: A man may sanctify a thing that is non-existent.

Some say. R. Papa said to Abaye (or, according to others, Rama b. Hama said to R. Hisda): According to whom will [this teaching be]? According to R. Meir, who holds a man may consecrate a thing that is non-existent? He replied: According to whom else [will it be]?

Some refer it to the following: If a man rents a house to his neighbour and it became leprous, then although the priest has declared it definitely leprous, he could say to him: Behold. before you lies your own![9] If the priest has broken it down, he is obliged to place another one at his disposal;[10]

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(1) Sc. of the worth of the one who has been vowed.

(2) For the repair of the Sanctuary. v. Num. XXXI, 50. where such gifts, too, are called korban, 'offering'.

(3) Tosaf, interprets this Mishnah thus (s.v. אמר): If someone used the expression. 'this ox' or 'this house' shall be an offering. and the ox died or the house fell down, then he is not obliged to pay because he made the vow contingent upon these objects or upon their value when extant. But if he said: 'I vow (lit., "(I take) upon me") this ox or house', then he makes the payment depending on none but himself, and he must redeem his pledge independent of the condition or existence of the objects (referred to). Maimonides makes this distinction: The preceding Mishnah taught: Dead persons have no market-value. This applies only to human beings. Oxen, however, have value even when dead.

(4) V. supra p. 120, n. 5.

(5) I.e., if possible, to make every effort to do so. But his obligation extended only to this ox; he assumed no responsibility for any accident (like death) that would render his effort futile.

(6) V. Lev. V, 15ff.

(7) If it is sold and the money obtained as proceeds is lost.

(8) Lit., 'that has not come into the world'. How then can the consecration operate at all in the second clause?

(9) The owner can say to him who rented it: The house I rented to you is here. That it became leprous is your misfortune.

(10) If the priest broke down the house, then the rented house being no more available, the owner must provide a new house for the use of him who had rented it.

if he consecrated it, then he who dwells therein must pay rent to the Sanctuary. [It says,] ‘If he consecrated it, then he who dwells therein must pay the rent to the Sanctuary’. But how could he have consecrated it; does not the Divine Law say. And when a man shall sanctify his house,[1] i.e..just as his house is in his possession, so [can he sanctify only] such things as are in his possession? — This is what it means: If he who leases it consecrates it, then he who dwells therein must pay rent to the Sanctuary. You say, ‘If he who leases it consecrated it’, but how could he dwell therein? Surely he is committing sacrilege? Furthermore [it says]: ‘He must pay rent to the Sanctuary’? Once sacrilege has been committed its rent becomes profane? — It speaks of the case where he said: ‘As soon as the rent comes in, it shall be sanctified’. But no man can sanctify anything that is non-existent? — That is in accord with R. Meir who said: A man may sanctify a thing that is non-existent.

Some say R. Papa said to Abaye (others, that it was Rama b. Hama said to R. Hisda). According to whom [will this teaching be]? According to R. Meir. who said. A man may sanctify a thing that is non-existent? — He replied: According to whom else [will it be]?

MISHNAH. A PLEDGE IS TO BE TAKEN FROM THOSE WHO OWE [MONEY DUE FROM] VALUATIONS, BUT NOT FROM THOSE WHO OWE SIN-OFFERINGS OR GUILT-OFFERINGS.[2] A PLEDGE MUST BE TAKEN FROM THOSE WHO OWE BURNT-OFFERINGS OR PEACE-OFFERINGS AND ALTHOUGH NO ATONEMENT IS OBTAINED FOR HIM UNTIL HE AGREES, AS IT IS SAID: LIRZONO, HE IS TO BE COERCED UNTIL HE SAYS: I AGREE.[3] THUS ALSO IS IT THE CASE WITH A DOCUMENT OF DIVORCE: THEY COERCE HIM UNTIL HE SAYS: I AGREE.

GEMARA. R. Papa said: It may happen that a pledge is taken from those who owe sin-offerings, and that none is taken from those who owe burnt-offerings. A pledge is taken of those who owe a sin-offering, that is in the case of a Nazirite. For since a Master said: If he shaved his hair after having offered one of the three sacrifices due,[4] he has fulfilled his duty, and if the blood of one of them has been sprinkled, he is permitted to drink wine and to defile himself with a dead person; therefore he might be negligent about it[5] and not bring it, [therefore one compels him to do so]. No pledge is taken from those who owe burnt-offerings: this refers to the burnt-offerings due from a woman who has given birth. Why is that? [presumably] because Scripture cites it first?[6] But did not Raba say: It is only in the reading [in the text] that Scripture has placed it first but not in respect of the offering itself? — Rather, it refers to the burnt-offering due from a leper, for it was taught: R. Johanan b. Beroka said: Just as his sin-offering and his guilt-offering are indispensable for [his becoming clean again]. so is his burnt-offering indispensable.

AND ALTHOUGH NO ATONEMENT IS OBTAINED FOR HIM UNTIL HE AGREES. Our Rabbis taught: He shall offer it,[7] that teaches that one forces him to do so. One might have thought, against his will? Therefore the text states: Lirzono.[8] How is that? He is coerced until he says. ‘I will’. Samuel said: A burnt-offering requires his agreement, for it is said: ‘Lirzono’. What is he teaching Us, we have learnt already: ALTHOUGH HE CANNOT OBTAIN ATONEMENT UNTIL HE AGREES, AS IT IS SAID: LIRZONO? — It is necessary [for Samuel to mention it] for the case where his fellow put one aside for him. You might have said: We need his agreement only in the case of an offering from his own [possession] but not from his fellow's, therefore we are informed that [it may happen] at times it may not please him to obtain atonement through something not of his own.

An objection was raised: [If he said,] ‘I vow the sin-offering or guilt-offering due from So-and-so’

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(1) Lev. XXVII, 14.

(2) In the latter case the person will make every effort to obtain atonement through offering the sacrifice. In the former, where but the redemption of a pledge is involved, he might be negligently delaying it. The exceptions to each rule the Gemara mentions and explains.

(3) Lirzono, ‘with his agreement’ (E.V. that he may be accepted).

(4) Num. VI, 14. The Nazirite must offer up a burnt-offering, a sin-offering and a peace-offering. Thereupon he may (ibid. 18) shave his hair, at the end of his Naziriteship.

(5) I.e., the sin-offering. if he happened to have brought the others first.

(6) Lev. XII, 6. The woman shall bring a lamb . . . for a burnt-offering, . . . and a young pigeon for a sin-offering, implying that the burnt-offering is indispensable to her cleansing. Actually, however, the sin-offering is offered up first.

(7) Lev. I, 3.

(8) Lirzono, ‘with his agreement’ (E.V. that he may be accepted).

Talmud - Mas. Arachin 21b

then if it is with the latter's [knowledge and] agreement, he has fulfilled his duty, but without his [knowledge and] agreement he has not fulfilled it. [If he said,] ‘I vow the burnt-offering or peace-offering of So-and-so’, then he has fulfilled his obligation, whether it was done with his knowledge or not?[1] — Samuel will answer you: This was taught with regard to the time of the [obtainment of] atonement,[2] he having agreed at the time the sacrifice was [designated] separated [for his purpose]; whereas I refer to [his agreement necessary] at the time of its being separated. Now this is in conflict with the view of ‘Ulla; for ‘Ulla said: They have made no distinction between burnt-offering and sin-offering except in this: the sin-offering requires the agreement [of the one who has to bring it] at the time of its designation, whereas the burnt-offering needs no such agreement. But as for the time of the atonement, in the case of either: If with his agreement he has fulfilled his duty, if not with his agreement, he has not fulfilled his duty.

An objection was raised: [If he says:] ‘I vow the sin.offering, guilt-offering, burnt-offering, or peace-offering due from So-and-so’ then [if they are offered] with the latter's agreement, he has fulfilled his obligation. without the latter's agreement. he has not done so? — Samuel refers this teaching to the time of the designation. ‘Ulla to that of the atonement.

R. Papa said: The two Baraithas[3] do not contradict one another; one refers to the time of the atonement, the other to that of the designation. Nor do they contradict the Amoraim, Samuel interpreting the first as referring to the time of the atonement, and the second as dealing with the time of the designation; whereas ‘Ulla interprets them inversely. The Amoraim, however, surely differ. But that is self-evident? You might have said: When Samuel says that he refers it to ‘the time of the designation’,[4] he means, ‘Also to the time of the designation’, although thereby the first Baraitha would be contradicting him,[5] therefore we are informed [otherwise].[6]

THUS ALSO IS IT THE CASE WITH A DOCUMENT OF DIVORCE: ONE COERCES HIM etc. R. Shesheth said: If one utters a protest with regard to a document of divorce,[7] then his protest is valid. Is not that self-evident? — No. It is necessary to state that for the case where he was first coerced and then agreed thereto. You might have said he has [by his agreement] cancelled his protest, therefore we are informed his protest stands. For [if it were not so] let [the Mishnah] state: [One coerces him] ‘Until he gives it’. What is the meaning of UNTIL HE SAYS? [Hence it means,] Until he cancels his protest [expressly].

CHAPTER VI

MISHNAH. [THE PROPERTY] OF ORPHANS WHICH HAS BEEN VALUED[8] [MUST BE

PROCLAIMED FOR] THIRTY DAYS, AND [THE PROPERTY OF] THE SANCTUARY WHICH HAS BEEN VALUED [FOR] SIXTY DAYS; THE PROCLAMATION MUST BE MADE IN THE MORNING AND IN THE EVENING.

GEMARA. Why in the morning and in the evening? — Rab Judah said in the name of Rab: At the time when the labourers leave [work] and at the time when they enter [upon their work]. 'At the time when the labourers leave', for there may be someone desirous of buying, who would say to them: 'Go and examine it for me'. 'At the time when they enter [upon their work]', so that he may remind himself of what he had told them and ask them. Thus was it also taught: [The property] of orphans which has been valued [must be proclaimed] for thirty days, that of the Sanctuary for sixty days, the proclamation to be made in the morning and in the evening, at the time when the labourers leave, and at the time when they enter. [The proclaimer] says, The field of So-and-so, of these characteristics and boundaries, is of such and such quality,[9] and is valued at so much. Let whosoever wants to buy it come and buy it for the purpose of paying a woman her kethubah[10] or a creditor his debt. Why is it necessary to state 'for the purpose of paying a woman her kethubah or a creditor his debt'? Because there are some who would prefer dealing with a creditor who is lenient with regard to the coins,[11] while others prefer dealing with a woman, who will take it also in instalments.

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(1) Contra Samuel.

(2) I.e., the time of the actual sacrifice, through which atonement is being obtained.

(3) The one teaching that if one vowed the burnt-offering and peace-offering of someone else, the latter fulfilled his duty whether that offering had come with or without his knowledge; and the other teaching that in every case knowledge of him on whose behalf they were offered was indispensable.

(4) I.e., that at all times agreement of the person on whose behalf the burnt-offering is sacrificed is necessary.

(5) Which said that the person on whose behalf the burnt-offering was offered up fulfilled his duty whether he knew (and agreed) or not.

(6) I.e., that Samuel requires no agreement at the time of the atonement.

(7) To the effect that he does not give it out of his free will, but calls upon the people present to he his witnesses to the fact that he is forced to give it. Such a protest would invalidate the document.

(8) By the court, for the purpose of providing payment for the creditors, either the marriage settlement of the widow, or the debt contracted by the father.

(9) It produces so much crop.

(10) V. Glos.

(11) The merchant (creditor) will take even imperfect coins, which in the absence of base metal, would after some time become thin. Such would be looked upon with misgiving by the widow, but not by the merchant, who would know whether the depreciation is too serious for him to accept them. On the other hand, he will insist on full payment, whilst the widow, who uses the money for her own needs, rather than for investment in business enterprise, will be willing to accept payment by instalments, thus allowing the purchaser to use the capital for himself in the interval.

Talmud - Mas. Arachin 22a

Our Rabbis taught: [The property] of orphans which has been valued [must be proclaimed for thirty days], and [that] of the Sanctuary which has been valued, for sixty days. This is the view of R. Meir. R. Judah says: [The property] of orphans that has been valued must be proclaimed for sixty days and [that] of the Sanctuary which has been valued for ninety days. But the Sages say: Both of them for sixty days. R. Hisda said in the name of Abimi: The halachah is: [The property] of orphans that has been valued must be proclaimed for sixty days. R. Hiyya b. Abin sat and reported this law. Said R. Nahman b. Isaac to him: Did you say 'sixty' or 'thirty'? He replied: 'Sixty'. 'Of the orphans or of the Sanctuary?' He answered: 'Of the orphans'. 'In accord with R. Meir or with R. Judah'? He replied: 'With R. Meir'. 'But R. Meir said "thirty days"?' He answered: Thus did R. Hisda say: Many a beating did I receive from Abimi because of this [teaching]: If he is to proclaim on consecutive days, then [the period of proclamation] is thirty days; if on Mondays and Thursdays alone, then it is sixty days.[1] And although if you, Sir, were to count the days [of actual proclamation] it will be only eighteen,[2] still, since the matter is drawn out [over sixty days], people hear about it.

Rab Judah said in the name of R. Assi: One must not distrain upon the property of orphans except if interest was consuming it. R. Johanan says: Either because of a document of indebtedness bearing interest, or because of the kethubah of a woman [so as to save from further payment] on account of her.[3] Why does not R. Assi say. ‘Because of a woman's kethubah’? — Because the Rabbis have arranged for them[4] to receive the work of her hands.[5] And the other? — At times that may not be sufficient. We learnt: [THE PROPERTY] OF ORPHANS WHICH HAS BEEN VALUED [MUST BE PROCLAIMED FOR] THIRTY DAYS, AND [THE PROPERTY OF] THE SANCTUARY WHICH HAS BEEN VALUED [FOR] SIXTY DAYS; THE PROCLAMATION MUST BE MADE IN THE MORNING AND IN THE EVENING. What case are we dealing with? Would you say one with a heathen creditor? Would he agree [to wait]?[6] Hence it is self-evident that we are dealing with a case of an Israelite creditor. [But then] if he were to consume interest,[7] would we permit him to do so? — Rather must you say that he is not consuming interest, and yet it is taught: We distrain upon [the orphans’ property]. Now this will be right in accord with R. Johanan who will interpret it as referring to the case of a woman's kethubah; but according to R. Assi it is a difficulty? — R. Assi will answer you: But even according to R. Johanan, is it in order? How do we continue to allow her the alimony,[8] which definitely causes them loss, and take up the proclamation, concerning which we do not know if it will show profit or not?[9] — This is no difficulty: the case speaks of one who demands her kethubah in court,[10] in accord with Rab Judah in the name of Samuel. For Rab Judah said in the name of Samuel: One who claims her kethubah before the court receives no more alimony. If so, we should not attend to her at all? — Since we attended to her at the beginning, we attend to her at the end as well.[11] But at any rate, on the view of R. Assi [our Mishnah] presents a difficulty? [No!] Indeed I can maintain that the case is one of a heathen creditor, but the reference is to one who accepted to have his case dealt with in accord with Israelite law.[12] If that is so,let him not take interest. He accepted [Jewish Law] in the one respect, but not in the other.[13]

Come and hear: One may not collect from the property of orphans except the worst land. What case are we dealing with here? Would you say that the creditor is a heathen, he surely would not agree to this![14] Hence you must say it deals with an Israelite creditor. [But then] if he consumes interest, how could we permit him to do so? Hence you must say that he did not consume interest; and nevertheless we are taught that we distrain upon [the orphans’ property]? It will be right for R. Johanan, for he will interpret it as referring to a woman's kethubah. But according to R. Assi, it will present a difficulty? — R. Assi will tell you: But even according to R. Johanan is it right? If it refers to a kethubah, why does he speak of [the property of] orphans, even if it were his own, it could be collected only from the worst land? — That is no difficulty. It will be in accord with R. Meir who holds that a woman's kethubah is collectable from a land of average quality, but if from orphans’ property, only from worst land.[15] At any rate, according to R. Assi, the difficulty stands! [No,] indeed I can maintain that we deal with the case of a heathen creditor, but it refers to one who has accepted upon himself that the case be dealt with according to Jewish law. Then let him not take interest either? — The case is that he accepted [the law] in respect of the one thing, but not in respect of the other.

Come and hear: ‘For the purpose of paying a woman her kethubah or a creditor his debt’. Now this will be right in the case of a creditor, whether according to one Master or to the other Master,[16] as we have answered it.[17] But as for the case of the kethubah, that will be right according to R. Johanan. but on the view of R. Assi it will present a difficulty! — [We speak here of the case] where the debtor[18] admitted [the debt]. Now that you have come to this [explanation], all the other [teachings][19] may also be explained as referring to the case that the debtor admitted it.

Meramar collected the kethubah of a divorced woman from the orphans’ property, whereupon

Rabina said to him: But Rab Judah has said in the name of R. Assi: One must not distrain upon the property of orphans, except if interest was consuming it. R. Johanan says: Either because of a document of indebtedness bearing interest, or because of the kethubah of a woman [so as to save from further payment] on account of her alimony. And even R. Johanan was including only [the case of] a widow, because her alimony causes them loss, but not in the case of a divorce?[20] — He replied: [The reason for] that ruling of R. Johanan[21] we explain to be ‘for favour's sake’.[22] R. Nahman said: At first I would not distrain upon the property of orphans. But when I heard the statement of our colleague, R. Huna in the name of Rab: As for orphans who enjoy what does not belong to them, let them follow him who left them! from that time on I distrain upon it. Why not at first? — R. Papa said: The paying of a debt is a commandment and [minor] orphans are not obliged to fulfil the commandment. R. Huna the son of R. Joshua said: We say he might have left bundles as security.[23] What is the [practical] difference between them?[24] — When he who owes admitted the debt, or if he was excommunicated and dies in the state of excommunication.[25] They sent from there [Palestine]: [The reference is][26] to one excommunicated who died in the state of excommunication. And the law is in accord with R. Huna the son of R. Joshua.

We learnt:

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(1) Until I learnt to understand its apparent contradictions. Abimi taught him that the property of orphans must be proclaimed on the view of R. Meir for sixty days. The disciple, however, knew the above cited Baraitha, that R. Meir limited it to thirty days and thus raised an objection against his Master's teaching. He had forgotten, however, the instruction offered by the same Master, according to which ‘thirty days’ referred to consecutive ones, whereas ‘sixty days’ were required if the proclamation took place only on Mondays and Thursdays. He could thus appreciate his colleague's bewilderment from his own experience of the difficulty.

(2) In sixty days there are eight weeks, containing together sixteen Mondays and Thursdays. If the first week started with a Monday, the four remaining days would include one Monday and Thursday again, which would together amount to the eighteen days, during which the news of such proclamation is made.

(3) Which likewise consumes the orphans’ property. As long as the widow does not collect her kethubah she receives her maintenance from the property of the orphans.

(4) [So R. Gershom. Cur. edd.: for him, i.e., the husband].

(5) So that the alimony does not constitute a loss, the earning of the widow making up for it.

(6) For the end of the period of the proclamation and forego in the meantime his charge of interest.

(7) I.e., he charged interest on the property.

(8) During the period.

(9) Whether it will fetch a higher price than that valued. Why not then sell the property immediately without waiting for the period of proclamation to expire?

(10) She loses her alimony on making such a claim, therefore the orphans suffer no loss during the period of waiting for the payment of her kethubah, due to the effort to sell their property through proclamation.

(11) It is but fair that since we took care to see that as a consequence of her having presented her claim for the kethubah, she loses her alimony, thus benefitting the orphans, we should also help her in obtaining her kethubah, because of the claim of which she lost the alimony.

(12) And consequently be willing to wait for the end of the proclamation period.

(13) I.e., in regard to the taking of interest.

(14) To collect his debt only from the worst property.

(15) V. supra 21b.

(16) I.e., R. Assi or R. Johanan.

(17) I.e., the reference is to a heathen creditor who charges interest. Therefore both agree that to protect the orphans we sell their property.

(18) The father of the orphans admitted the debt on his deathbed and charged the children to pay it.

(19) Cited above in objection to R. Assi.

(20) Who does not receive any alimony. so that the orphans suffer no loss.

(21) That the property of orphans is distrained upon for the sake of the kethubah.

(22) I.e., to render men attractive to women, so that the latter will agree to marry them.

(23) The father gave the creditor bundles of valuables as security, whereof his orphans would not, or need not, know.

(24) I.e., whether we accept the reason of R. Papa or R. Huna's.

(25) The court excommunicated the orphans' father for failure to pay his debts, he died whilst still excommunicated. There is no reason for suspecting his having secured the creditor's debt with a bundle of valuables, for if he had been willing to pay he would rather have done it through the court in order to win cancellation of his excommunication. The orphans in this case would have to pay, though on the first reason they would still be exempt.

(26) In all the teachings cited above, the rule that the property of orphans is distrained upon.

Talmud - Mas. Arachin 22b

[THE PROPERTY] OF ORPHANS WHICH HAS BEEN VALUED [MUST BE PROCLAIMED FOR] THIRTY DAYS, AND [THE PROPERTY OF] THE SANCTUARY WHICH HAS BEEN VALUED [FOR] SIXTY DAYS; THE PROCLAMATION MUST BE MADE IN THE MORNING AND IN THE EVENING. Now what case are we dealing with? Would you say with that of a heathen creditor; would he agree [to wait]? Hence it is obvious that it is with that of an Israelite creditor. This then will be in accord with the view of R. Huna the son of R. Joshua, for he will interpret it as referring to the case where he who admitted [the debt]. But according to R. Papa this will present a difficulty? — R. Papa will tell you: If you like, I can tell you the reference is to a kethubah, the reason being 'for favour's sake'! Or if you like, I can tell you the reference is to a heathen creditor who accepted upon himself to have his case dealt with in accord with Israelite law. But if he accepted that upon himself, let him agree to wait until they are of age? — He accepted the law in the one respect, but he did not accept it in the other respect.[1]

Come and hear: For the purpose of paying a woman her kethubah or a creditor his debt. Now what case are we dealing with? Would you say that of a heathen creditor, but would he agree? Hence it is evident that we deal with that of an Israelite creditor. That then will be right on the view of R. Huna the son of R. Joshua. for he will interpret it as referring to the case where the debtor admitted [his debt]. But according to R. Papa: Granted that in the case of a kethubah, where the reason may be 'for favour's sake', but the case of the creditor would present a difficulty? — [No,] [Indeed] I can maintain it deals with a heathen creditor, but in the case where he accepted upon himself to be judged in accord with the laws of Israel. But if he accepted that, let him accept to wait until they are of age? — He accepted upon himself the one thing, but not the other.

Raba said: [We do not distrain upon the orphans' property] because of [a possible] quittance.[2] R. Huna the son of R. Joshua said to Raba: But do we consider [the possibility of] a quittance? Did we not learn: If a woman[3] collects [her kethubah] in his absence, she can do so only by means of an oath. And R. Aha, Commander of the Fortress, said: A case came before R. Isaac the Smith in Antiochia, and he decided, We have learnt[4] that only in the case of a kethubah 'for favour's sake', but not in the case of a creditor. Raba, however, in the name of R. Nahman, said: Also in the case of a creditor.[5] Now, if we should consider the [possibility] of a quittance, let us consider it there too? — There the reason is as we have stated it: Lest anyone take his neighbour's possession and depart for maritime provinces.[6]

Raba said: The law is. We do not distrain upon the property of orphans, but if he [the father] said: 'Give', then we distrain upon it. If he said, '[Give] this field', or 'this mina', we distrain upon it without appointing a guardian.[7] But if he said, '[Give] a field', or 'a mina', we distrain upon it and appoint a guardian. The Nehardeans say: In each case we distrain upon it and appoint a guardian, except if it be found that the field does not belong to him,[8] for we do not assume that the witnesses[9] testified falsely. R. Ashi said: Therefore we do not distrain [upon the property of orphans];[10] for Raba said: The law is that we do not distrain upon [the property of orphans]. But where we distrain upon it, we appoint a guardian for the Nehardeans said. In every case[11] we distrain upon [the property of orphans] and appoint a guardian. except in the case where it be found that the field does not belong to him, because we do not assume that the witnesses have testified falsely.

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(1) I.e., he agreed to wait till after the proclamation. but not till they would come of age.

(2) The father may have obtained a quittance, of which the orphans do not know, stating that the had paid the debt.

(3) To whom the husband had sent a divorce from ‘a maritime province’.

(4) We extend such consideration only to a woman because of the social implications of such benefit, but not in the purely commercial case of a creditor. Therefore the latter must await the debtor's return,

(5) V. Keth. 88a.

(6) Hence the rule of Raba.

(7) To see that the interest of the orphans is taken care of, that the collection of debt is made from the worst land they hold at the proper price. etc.

(8) In which case the field is forthwith taken away from the orphans without appointing first a guardian.

(9) The witnesses who testily that a field believed to be his property in reality had been stolen or acquired by force.

(10) Wherever there is the possibility of the father having given ‘bundles’ to the creditor (Tosaf.).

(11) I.e., if he said, ‘Give this field’, or ‘this mina’ (Tosaf.).

Talmud - Mas. Arachin 23a

MISHNAH. IF A MAN DEDICATES HIS POSSESSIONS TO THE SANCTUARY WHILST STILL LIABLE FOR HIS WIFE'S KETHUBAH, R. ELIEZER SAYS WHEN HE DIVORCES HER HE MUST VOW[1] THAT HE WILL NOT DERIVE ANY FURTHER BENEFIT FROM HER. R. JOSHUA SAYS, HE NEED NOT DO SO. LIKEWISE SAID RABBAN SIMEON B. GAMALIEL: ALSO IF ONE GUARANTEES A WOMAN'S KETHUBAH AND HER HUSBAND DIVORCES HER, THE HUSBAND MUST VOW TO DERIVE NO BENEFIT FROM HER. LEST HE MAKE A CONSPIRACY[2] AGAINST THE PROPERTY OF THAT MAN [THE GUARANTOR] AND TAKE HIS WIFE BACK AGAIN.[3] GEMARA. Wherein do they differ? R. Eliezer holds: A man will engage in a conspiracy against the Sanctuary. But R. Joshua holds that a man will not engage in a conspiracy against the Sanctuary. But what of the ruling of R. Huna: If a person dangerously ill dedicated all his possessions to the Sanctuary and said, I owe So-and-so a maneh, he is believed, because of the presumption that nobody will engage in a conspiracy against the Sanctuary. Shall we say that he gave a ruling concerning which Tannaim are conflicting? — No! They dispute only the case of a healthy person, but with regard to one dangerously ill all agree that he would not engage in a conspiracy against the Sanctuary. Why? Because no man will sin where he does not stand to benefit [thereby].

Some there are who say: With regard to a healthy person there is a general agreement that one [he] would engage in a conspiracy against the Sanctuary; but here they differ with regard to a vow made in the presence of many, one Master [R. Joshua] holding such a vow can be annulled,[4] while the other Master [R. Eliezer] holds it cannot be annulled. Or, if you like, say: All agree that a vow made in the presence of many can be remitted, and they differ here as to a vow made on the authority of many.[5] But then what of Amemar's statement that ‘A vow made in the presence of many can be annulled. whereas one made on the authority of many cannot be annulled’, are we to say that he made a statement concerning which Tannaim are of divided opinion? Furthermore how explain: R. JOSHUA SAYS: HE NEED NOT DO SO. He should have said: ‘It would be useless’?[6] — Rather, they are disputing here on the principle as to whether absolution from consecration of an object may be obtained;[7] and thus it was taught: If a man dedicates his possessions to the Sanctuary whilst still liable for his wife's kethubah, R. Eliezer says. When he divorces her he must vow that he will not derive any further benefit from her, whilst R. Joshua says: He need not do so. And R. Eleazar b. Simeon said: These are [respectively] the very views of Beth Shammai and Beth Hillel, for Beth Shammai holds: A consecration [to the Sanctuary] made In error is [valid] consecration, whilst Beth Hillel holds it is not valid consecration.

LIKEWISE DID RABBAN SIMEON B. GAMALIEL SAY etc. Moses b. Azri was the guarantor for [the kethubah of] his daughter-in-law. Now R. Huna, his son, was a young scholar but in strait circumstances. Said Abaye: Is there no one to advise R. Huna to divorce his wife so that she might claim her kethubah from her father-in-law, and he [R. Huna] might then take her back? Said Raba to him: But we learnt: HE MUST VOW THAT HE WILL NOT DERIVE ANY FURTHER BENEFIT FROM HER? And Abaye?[8] — Does every one who divorces his wife do so before a court?[9] In the end it became known that he [R. Huna] was a priest.[10] Whereupon Abaye exclaimed: poverty pursues the poor![11] But how could Abaye say thus?[12] Did not Abaye say: ‘Who is a cunningly wicked man? He who offers advice to sell property in accord with Rabban Simeon b. Gamaliel’?[13] — It is different in the case of one's son, and it is different also in the case of a young scholar.[14] But derive it from the fact that the guarantor for a kethubah is not held responsible?

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(1) Lest the divorce was a collusion of husband and wife for the purpose of depriving the Sanctuary of certain property on which the kethubah had the first lien.

(2) R. Joshua does not assume that a man would go to such lengths to defraud the Sanctuary.

(3) After the kethubah had been paid out to her. Kinunia, the Greek Koinonia, ‘partnership’, then joint fraud, collusion.

(4) Consequently the vow would be of no effect.

(5) Lit., ‘by the knowledge’. ‘the will of’, i.e., they say to him: We administer his vow to you on our responsibility.

(6) Because such a vow could always be revoked, thus rendering the precautionary measure unavailing.

(7) R. Eliezer holds that no vow to the Treasury can be nullified by a plea of error, hence he might resort to a conspiracy by divorcing his wife. But R. Joshua holds that a plea of error would be admitted, whence there is no need for him to engage in a conspiracy wherefore he need not deny himself by vow the benefit of her company.

(8) How did he meet this objection?

(9) Only in court would such a vow be enforced. But the divorce could be given outside of court.

(10) Who is forbidden to marry a divorcee, even his own divorced wife.

(11) V. B.K. 92a.

(12) I.e., offer such advice.

(13) V. Keth. 95b. If some one said whilst dying. ‘My property (I give) to you, and after you, to So-and-so’, and the first went and sold or consumed it, then according to Rabban Simeon b. Gamaliel, the second may have only what the first left over. That kind of trick Abaye denounced, how then could he offer kindred advice?

(14) A son would anyway inherit his father's possessions. And a young scholar's support is a mizwah (good deed, command, to enable to study), hence Abaye had two legitimate reasons for what otherwise would have been improper advice.

Talmud - Mas. Arachin 23b

— He[1] was a kabbelan.[2] That will be right according to him who holds that a kabbelan is held responsible, although the debtor had no property [at the time of contracting the debt]. But what can be said on the view that he is held responsible only if the debtor had property, but if he has no property the kabbelan is not responsible?[3] If you like say: R. Huna had property,[4] but it was struck with blast; and if you like say: A father, where his son is concerned, will always hold himself responsible. For it was stated: As to a guarantor for a kethubah, all agree he is not held responsible; the kabbelan for a creditor, all agree is held responsible. [In the case however of] a guarantor for a creditor and a kabbelan for a kethubah, there is a dispute. There is one authority who holds that if the debtor had property he [the kabbelan] is held responsible, but if he had none he is not held responsible: whereas there is another authority who holds that even if the debtor had no property he is also held responsible. The law with regard to all cases is that though the debtor has no property the guarantor is responsible, with the exception of the guarantor for a kethubah who, even though [the husband] had property, is not held responsible. For what reason? He performed a mizwah,[5] and he caused her no loss.[6] There was a man who sold his possessions and divorced his wife. R. Joseph son of Raba sent her to R. Papa [with the following question]: We learnt [in our Mishnah] about A

GUARANTOR. about CONSECRATED PROPERTY, what about a purchaser?[7] — He replied: Shall the Tanna go on enumerating like a pedlar?[8] The Nehardeans said: What we learnt we learnt, and what we did not learn we did not learn![9] Said R. Mesharshaya: What is the reason of the Nehardeans? — With regard to consecrated property the teaching is in order to safeguard the profit of the Sanctuary; also with regard to a guarantor, [the reason is] because he performed a mizwah and did not cause her any loss;[10] but as for a purchaser, since he must have known that upon everyone's possessions there is a kethubah as lien, why did he go and buy? It is he [the buyer] who caused damage to himself!

MISHNAH. IF A MAN DEDICATES HIS POSSESSIONS TO THE SANCTUARY WHILST STILL LIABLE FOR HIS [DIVORCED] WIFE'S KETHUBAH OR IN DEBT TO A CREDITOR,[11] THEN THE WIFE CANNOT COLLECT HER KETHUBAH FROM THE CONSECRATED PROPERTY,[12] NOR THE CREDITOR HIS DEBT, BUT HE WHO REDEEMS THEM MUST REDEEM FOR THE PURPOSE OF PAYING THE WIFE HER KETHUBAH OR THE CREDITOR HIS DEBT. IF HE HAD DEDICATED NINETY MINAS WORTH OF PROPERTY, WHILST OWING A HUNDRED MINAS. THEN HE[13] [THE CREDITOR] MUST ADD ONE DENAR MORE AND HE REDEEMS THE PROPERTY FOR THE PURPOSE OF PAYING THE KETHUBAH TO THE WIFE OR THE DEBT TO THE CREDITOR.

GEMARA. Why is it necessary to state: He who redeems must redeem’?[14] — That is because of the teaching of R. Abbuha, for R. Abbuha said: Lest people say consecrated property goes out [of the Sanctuary] without any redemption.

Our Mishnah will not be in accord with R. Simeon b. Gamaliel, for it was taught: R. Simeon b. Gamaliel said, If his debt correspond, with [the value of] the consecrated property. then he redeems it, but if not, then he cannot redeem it.[15] And as for the Rabbis, to what extent [must the debt correspond to the consecrated property]? — R. Huna b. Judah in the name of R. Shesheth said: Up to one half.[16]

MISHNAH. ALTHOUGH IT WAS SAID: PLEDGES MUST BE TAKEN FROM THOSE WHO OWE VALUATIONS, ONE ALLOWS[17] HIM FOOD FOR THIRTY DAYS, GARMENTS FOR TWELVE MONTHS, BED AND BEDDING, SHOES AND TEFlllin[18] FOR HIMSELF, BUT NOT FOR HIS WIFE AND CHILDREN. IF HE WAS A CRAFTSMAN, ONE LEAVES HIM TWO TOOLS OF EVERY KIND; IF HE WAS A CARPENTER, ONE LEAVES HIM TWO AXES AND TWO SAWS. R. ELIEZER SAYS, IF HE WAS A FARMER, ONE LEAVES HIM HIS YOKE [OF OXEN]. IF AN ASS-DRIVER, ONE LEAVES HIM HIS ASS. IF HE HAD MANY [TOOLS] OF ONE KIND, AND FEW OF ANOTHER KIND, ONE DOES NOT THEN TELL HIM TO SELL OF THE MANY AND BUY SOME OF THE FEW, BUT ONE LEAVES HIM TWO OF THE KIND OF WHICH HE HAS MANY AND ALL THAT HE HAS FROM THEM OF WHICH HE HAS FEW. IF ONE CONSECRATES [ALL] HIS POSSESSIONS TO THE SANCTUARY, THEN ONE VALUES[19] HIS TEFILLIN.

GEMARA. What is the reason?[20] — Scripture said:

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(1) R. Huna's father.

(2) ‘An acceptor’. i.e., one who assumes another man's obligation unconditionally, even though the debtor has property.

(3) Since R. Huna was poor he could not have had any property, and his father consequently, though a kabbelan, could not have become liable for the payment of the kethubah.

(4) At the time his father undertook to be a kabbelan.

(5) v. Glos. To cause the two to get married and establish a house.

(6) The woman did not advance the husband any money on the strength of the guarantee. For fuller notes v. B.B.. Sonc. ed., pp. 769ff.

(7) Do we suspect that the purchaser may be victimized by similar conspiracy between husband and wife? Should we therefore similarly insist that if the wife wishes to collect her kethubah from the field bought by an outsider that here, too, the husband takes a vow that he will not in future derive any benefit from his wife, so as to prevent his receiving the kethubah from her, and thereupon remarrying her.
(8) Who, praising each piece of merchandise separately. enumerates every item. The Tanna, however, need not do that. He states a principle in one or several instances, allowing for application of the precedent to new situations. Thus the case of the purchaser is covered by the first two.
(9) The Nehardeans would not derive the latter from the former.
(10) As explained supra.
(11) This is a case where the divorce or the debt were effected before the consecration, so that the question of conspiracy does not arise.
(12) Without a formal redemption of the property with a small sum, v. infra.
(13) He, i.e., the creditor, lends the debtor another denar, since he had consecrated his whole possessions to the Sanctuary.
(14) Why should not the woman and creditor collect their dues from the Sanctuary without any redemption, seeing that they had a prior lien on the property?
(15) If the debt and the property consecrated are of the same value, then the owner can redeem it for a little sum, for the creditor had extended the loan with that property as security in his mind. But if the sum was larger than the value of the property, then obviously the creditor has not relied on that property but upon the character of the debtor. Therefore that property cannot be considered encumbered by the debt, and hence cannot be re-obtained from the Sanctuary.
(16) Rashi: If the value of the consecrated property be less than one half of the debt, the creditor receives nothing. because, as stated in n. 1, the security was the debtor's character, and he should await the latter's ability to repay the debt, but must not collect from the Sanctuary its rightful (because hitherto unencumbered) property. For another interpretation v. Tosaf.
(17) Lit., ‘one gives him’, i.e., of his own possessions; one permits him to retain these necessities or the means whereby to purchase them.
(18) V. Glos. This is the difference between vows of valuation and the case where one consecrates his possessions. In the former case his tefillin as his spiritual tools are left to him, in the latter not; v. infra.
(19) The meaning of ‘ma'alin’ is debated. It is either; put up to auction so that the Sanctuary obtains a maximum benefit (Rashi); or, ‘remove’ i.e., take away, as included in his dedication (R. Gershom). He must redeem them as one of his possessions which, in their totality. he had consecrated to the Sanctuary.
(20) For the allowance made in the Mishnah.

Talmud - Mas. Arachin 24a

But if [me'erkeka] he be too poor from thy valuation,[1] implying, sustain him from thy valuation.[2]

BUT NOT FOR HIS WIFE AND CHILDREN etc. What is the reason? — ‘He [must be sustained] from thy valuation’, but his wife and children [are not sustained] ‘from thy valuation’.

R. ELIEZER SAYS: IF HE WAS A FARMER, ONE LEAVES HIM HIS YOKE [OF OXEN] etc. And the Rabbis? — These are not his tools, but his possessions.

IF HE HAD MANY OF ONE KIND etc. But that is self-evident. Whatever has been enough until now, must be enough now as well? — You might have said: Until now, when he was in a position to lend [tools to others], others would have lent [tools] to him, too, but now since there is none to lend him, [these shall] not be [considered sufficient], therefore we are informed [that he is not told to sell the many and buy some more of the few].

IF ONE DEDICATES [ALL] HIS POSSESSIONS, THEN ONE VALUES EVEN HIS TEFILLIN. There was a man who sold all his possessions. He came before R. Yemar. He said to them: Take his tefillin away. What is he teaching us? It is [taught in] our Mishnah: IF ONE

DEDICATES HIS POSSESSIONS, THEN ONE VALUES HIS TEFILLIN? — You might have said: There he thought that he was fulfilling a religious act,[3] but in the case of a sale [you might say] no one sells that wherewith he performs a personal commandment, therefore he teaches us [otherwise].

MISHNAH. IT IS ALL ONE WHETHER A MAN CONSECRATES HIS GOODS OR EVALUATES HIMSELF. HE[4] HAS NO CLAIM TO HIS WIFE'S GARMENT OR HIS CHILDREN'S GARMENT, NOR TO THE DYED CLOTHES[5] WHICH HE HAD DYED FOR THEIR USE. NOR TO THE NEW SANDALS WHICH HE HAS BOUGHT FOR THEIR USE. ALTHOUGH IT WAS SAID: 'SLAVES SHOULD BE SOLD WITH THEIR GARMENTS TO INCREASE THEIR VALUE', BECAUSE WHEN A GARMENT FOR THIRTY DENARS IS BOUGHT FOR HIM HIS VALUE IS INCREASED BY A MINA. [LIKEWISE WITH A COW, IF IT BE KEPT WAITING TO THE MARKET-DAY[6] IT INCREASES IN VALUE, AS ALSO A PEARL, IF BROUGHT TO A BIG CITY INCREASES IN VALUE]. BUT THE SANCTUARY CAN CLAIM THE VALUE OF ANYTHING ONLY IN ITS OWN PLACE AND AT ITS OWN TIME.[7] GEMARA. Our Rabbis taught: And he shall give thy valuation in that day,[8] that means, one should not delay [the sale] of a pearl for poor people. As a holy thing[9] unto the Lord:[8] i.e., general [unspecified] consecration belongs to the [fund for] repairs of the Sanctuary.

CHAPTER VII

MISHNAH. ONE MAY NOT CONSECRATE [THE FIELD OF HIS POSSESSION],[10] LESS THAN TWO YEARS BEFORE THE YEAR OF JUBILEE,[11] NOR REDEEM IT LESS THAN ONE YEAR AFTER THE YEAR OF JUBILEE.[12] ONE MAY NOT RECKON ANY MONTHS TO [THE DISADVANTAGE OF] THE SANCTUARY,[13] BUT THE SANCTUARY MAY RECKON MONTHS[14] [TO ITS OWN ADVANTAGE].[12]

GEMARA. The following contradiction was raised: One may consecrate both before or after the year of Jubilee, but in the year of Jubilee itself one should not consecrate. And if one consecrated, it is not consecrated! — Rab and Samuel both say: [This is what our Mishnah means]. One cannot consecrate and then redeem at a deduction less than two years [before the year of Jubilee], and since one cannot consecrate to redeem at any reduction within less than two years, let a man be careful with his possessions and let him not consecrate anything within less than two years [of the Jubilee year].

It was stated: If one consecrates his field in the year of Jubilee itself, said Rab, It is consecrated and he must pay fifty [shekels].[15] But Samuel said: It has not acquired any sanctity whatsoever. To this R. Joseph demurred: It is right that Samuel conflicts with Rab in matters of a sale, for there is an argument a fortiori: If [a field] that had been sold returns now to its former owner,[16] how much more so that one that had not been sold yet should not be saleable now. But, here,[17] what argument a fortiori can be made? Surely we learnt, If the Jubilee year has arrived and it was not yet redeemed, the priests enter into possession of it and they pay its value. So R. Judah?[18] — Samuel holds with R. Simeon who said: They enter into possession but they do not pay [anything].

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(1) So literally. Lev. XXVII, 8.

(2) The mem of me'erkeka here is interpreted as having its own meaning: If he be too poor, leave him something to live on 'from' your valuation of his possessions.

(3) In consecrating all his possessions to the Sanctuary, therefore he includes all of them in his vow.

(4) The consecrator, in paying his vow or redeeming what he had dedicated. Aliter: It, viz., the treasurer of the Sanctuary (R. Gershom).

(5) The garments of wife or children cannot be touched by any consecration. He would not, according to the previous Mishnah, be allowed funds for buying them new ones, but those which they have are regarded as their own.

(6) A cow will fetch a higher price on market-day, when the demand is greater, just as the pearl will find more buyers in a metropolis than in a village.

(7) I.e., the value at the time it comes into the Sanctuary's possession and in the place of dedication.

(8) Lev. XXVII, 23.

(9) If a poor man had vowed his own valuation and he possesses a pearl, then the Sanctuary's treasurer may not tell him: Take it to a big city and then pay according to the price fetched there, but it should be valued now and accordingly the Sanctuary should be paid, and no matter how high the ultimate price obtained, the Sanctuary receives no more than the price obtainable here, i.e., at the place where the pearl is at the time of the dedication, and at the price it fetches now, at the moment of dedication.

(10) Lev. XXVII, 16ff.

(11) If someone would redeem a field which he had consecrated to the Sanctuary immediately after the year of Jubilee, then he must redeem it by paying fifty shekels for every piece of a field sufficient for the sowing of a homer of barley, for every year of the next forty-nine years. If he fails to redeem it by then, the priests will possess it. Every year this sum is diminished by one forty-ninth of the fifty shekels, exactly one shekel and one pondion (the latter being the forty-eighth part of a shekel), the remaining pondions being considered the exchange fee as the pondions are changed into shekels. The sum of redemption, then, consists of as many shekels and pondions as the number of years up to the next year of Jubilee. But there must be at least two years before the next year of Jubilee, because Scripture said: According to the years which remain unto the year of Jubilee, the minimum of ‘years’ being two. Hence, if there be not at least two years before that of jubilee, the sum whereby the field is redeemed cannot be deducted from at all, and the owner must then pay the complete fifty shekels for every piece of field sufficient for the sowing of a homer of barley. which sum is very much more than the field's crop, until the year of Jubilee, will be worth.

(12) This will be explained in the Gemara.

(13) E.g., two years and three months may not be reckoned as two years to the disadvantage of the Temple treasury.

(14) E.g.. one year and eleven months before the Jubilee is not reckoned as two full years and the redemption price must be the full fifty shekels, v. n. 2.

(15) A shekel for every piece of field sufficient for the sowing of a homer of barley.

(16) In the year of Jubilee.

(17) Here one cannot analogously argue: If a field, already consecrated before the Jubilee year, goes back in the year of Jubilee, how much less could not one consecrate in that year, for in truth a field consecrated before the Jubilee year, if not redeemed by the owners, must be redeemed by the priests.

(18) V. supra 25b.

Talmud - Mas. Arachin 24b

Rab, however, holds,[1] at any rate, it does eventually not return to the owners, it is to the priests that it goes, and the priests obtain it from the table of the Most High.

What is the reason of Rab's view? — Scripture said: If from the year of Jubilee [he shall sanctify his field],[2] the year of Jubilee being included. And Samuel? — Is it written: If in the year of Jubilee? It is written: If from the year of Jubilee, i.e., from the year after the year of Jubilee. It is all well according to Rab, hence it is written: ‘If from the year of Jubilee’, [and also], ‘and if after the Jubilee’;[3] but according to Samuel what means: ‘and if after the Jubilee’?[4] — It means, After after.[5]

An objection was raised: One may consecrate [a field] both before and after the year of Jubilee. But in the year of Jubilee itself one should not consecrate, and if one has consecrated, no sanctity attaches [to the field].[6] Rab will tell you: [It means] it acquires no sanctity so as to be redeemable at a deduction, but it is consecrated and one must pay the full fifty shekels [for the redemption]. This implies that [if one consecrates] before the Jubilee year it would be sanctified and redeemable at a deduction; but have not Rab and Samuel both declared: One cannot consecrate to redeem at a deduction less than two years before the Jubilee? — Rab will tell you: This is the view of the Rabbis, but I hold with Rabbi, who said: The first[7] [day] includes the first day; the seventh [day][7] includes the seventh day.[8] So here, too, ‘from the year’ [of Jubilee] includes the year of Jubilee.[9] But if [this is the view of] Rabbi, where does the pondion come in?[10] And if you were to say, he ignored the pondion: surely we learnt: If a man consecrated two or three years before the Jubilee. said Rabbi: I hold that he must pay a sela' [shekel] and a pondion? — Rabbi is of the view of R. Judah who said: The fiftieth year is counted both ways.[11]

Shall we say then that Samuel[12] holds Rabbi to be in accord with the Rabbis?[13] For if his [Rabbi's] view were in accord with that of R. Judah, it should read: 'one sela' and two pondions'![14] Hence we must say that on the view of Samuel, Rabbi[15] agrees with the Rabbis.

Come and hear: NOR REDEEM IT LESS THAN ONE YEAR AFTER THE YEAR OF JUBILEE. This will be right for Samuel's view,[16] for one cannot indeed redeem it less than one year after the year of Jubilee;[17] but according to Rab, what means 'Not less than a year after the Jubilee'? — Do you think that 'after the year of Jubilee' is to be taken literally? [No]. 'After the year of Jubilee' means in the midst of the Jubilee

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(1) Even on the view of R. Simeon.

(2) Lev. XXVII, 17.

(3) Ibid. 18. [The former verse indicating that if the consecration took place on Jubilee year the redemption price must be the full fifty shekels, and the second verse teaches the redemption at a reduction where the consecration took place after the Jubilee.]

(4) [Since the former verse also refers to a consecration after the Jubilee year.]

(5) [I.e., two or three years after the Jubilee, when there the redemption is at a reduction, whereas if the consecration took place earlier the redemption price must be the full fifty shekels.]

(6) Contra Rab!

(7) Ex. XII, 15.

(8) V. supra 18a q.v. notes.

(9) [Whilst the cited Baraitha must certainly be explained that no consecration is effective in the Jubilee year, Rab does not stand refuted in view of Rabbi's support of his interpretation of the verse.]

(10) If Scripture refers to the second year after the Jubilee, so that fifty shekels are payable for forty-eight years. the redeemer must add one pondion to each shekel (v. supra p. 142 n. 2); but according to Rabbi, Scripture speaks of the year of Jubilee itself, so that fifty shekels are payable for fifty years, i.e., just a sela' per year; how then does the pondion come in?

(11) The year of Jubilee is the last of the last cycle and the first of the new one, so that there are forty-nine years for each of which a shekel and a pondion are due from the redeemer.

(12) [Who holds that the redemption at a reduction can only begin with the year after the Jubilee.]

(13) That the Jubilee year is not included in the cycle of forty-nine years, so that there are full forty-nine years between one Jubilee and another apart from the Jubilee year itself.

(14) For on the view of R. Judah there are only forty-eight years between one Jubilee and another, which would make the payment per year amount to one shekel and two pondions.

(15) Who speaks of 'one pondion'.

(16) Who said that if one consecrated property in the year of Jubilee, it is not consecrated.

(17) Since any consecration in the year of Jubilee is not valid.

Talmud - Mas. Arachin 25a

for as long as a year is not complete it cannot be deducted.[1] What is he teaching us? That one does not reckon months to the disadvantage of the Sanctuary? But that was [expressly] taught [in the Mishnah]: ONE MAY NOT RECKON ANY MONTHS TO THE [DISADVANTAGE OF] THE SANCTUARY? — He gives the reason: Why is it ruled: NOR REDEEM IT LESS THAN ONE YEAR AFTER THE YEAR OF JUBILEE? Because one does not reckon the months to [the disadvantage] of the Sanctuary.

Our Rabbis taught: Whence do we know that one does not reckon months to the [disadvantage of] the Sanctuary? The text states: Then the Priest shall reckon unto him the money according to the years that remain,[2] i.e., you may reckon years but not months. Whence do we know that if you desire to add the months [so as] to consider them one year, you can do so; as e.g., if he consecrated [the field] in the middle of the forty-eighth year?[3] Therefore the text states: Then the priest shall reckon unto him, in any case.[4]

MISHNAH. IF A MAN CONSECRATED HIS FIELD AT THE TIME WHEN THE LAW OF THE JUBILEE IS IN FORCE,[5] HE MUST PAY FIFTY SHEKELS FOR [EVERY PIECE OF FIELD SUFFICIENT FOR] THE SOWING OF A HOMER OF BARLEY. IF THE FIELD CONTAINED RAVINES TEN HANDBREADTHS DEEP OR ROCKS TEN HANDBREADTHS HIGH, THEY ARE NOT INCLUDED IN THE MEASURE. BUT IF LESS THAN THIS, THEY ARE INCLUDED. IF HE CONSECRATED IT TWO OR THREE YEARS BEFORE THE JUBILEE, THEN HE MUST PAY ONE SELA’ [SHEKEL] AND ONE PONDION FOR EACH YEAR. IF HE SAYS: ‘I SHALL PAY FOR EACH YEAR AS IT COMES ONE DOES NOT LISTEN TO HIM, BUT HE MUST PAY FOR ALL THE YEARS TOGETHER. IT IS ALL THE SAME WHETHER THE OWNER OR ANYONE ELSE [REDEEMS THE FIELD]. WHEREIN THEN DOES THE OWNER DIFFER FROM ANY OTHER MAN? IN THAT THE OWNER MUST ADD ONE FIFTH, WHEREAS ANY OTHER MAN NEED NOT ADD ONE FIFTH.

GEMARA. A Tanna taught: [A field requiring] one kor[6] seed, but not one [yielding] a kor crop. Strewn with the hand, not with oxen![7] Levi taught: Neither too thick, nor too thin, but in average manner!

IF THE FIELD CONTAINS RAVINES etc. But let them be treated as if they had been consecrated separately? And if you were to say that since they are not sufficient for [the sowing of] a kor, they cannot become consecrated; surely it was taught: Field.[8] What does that mean to teach? Because it is said: the sowing of a homer of barley shall be valued at fifty shekels of silver;[8] from this I know only [the law] if he consecrated it in this manner. Whence [do I know] to include also a lethek, half a lethek, a se'ah, or half a se'ah, a tarkab, or half a tarkab?[9] Therefore Scripture says ‘Field’, of any size! Mar Ukba b. Hama replied: Here the reference is to ravines full of water which cannot be sown. Infer that also [from the fact] that [the clefts] were mentioned in an analogous position to that of rocks.[10] This proves it. But then also smaller [areas than ten handbreadths] too [ought not to be included]? — Those are called small ‘clefts of the earth’ or ‘spines of the earth’.[11]

IF HE CONSECRATED IT TWO OR THREE YEARS etc. Our Rabbis taught: And an abatement shall be made from thy valuation,[12] also from the Sanctuary; so that if the Sanctuary enjoyed the property for two or three years, or even if it did not enjoy it, but had it in its possession, one may deduct one sela’ and one pondion for each year.

IF HE SAYS: I SHALL PAY EACH YEAR etc. Our Rabbis taught: Whence do we know, that if the owner said, ‘I shall pay for each year as it comes’ that we do not listen to him? Therefore the text says: ‘Then the priest shall reckon unto him the money’, i.e., until the whole sum is together. It is all the same whether it be the owner or someone else, except that the owner must add one fifth, whereas any other man need not add the fifth.

MISHNAH. IF A MAN CONSECRATED [HIS FIELD] AND THEN REDEEMED IT, IT DOES NOT GO OUT OF HIS POSSESSION IN THE JUBILEE.[13] IF HIS SON REDEEMED IT, IT REVERTS TO HIS FATHER IN THE JUBILEE. IF ANOTHER, OR A RELATIVE REDEEMED IT, AND HE[14] REDEEMED IT FROM HIS HAND, IT GOES OUT TO THE PRIESTS.[15] IF ONE OF THE PRIESTS REDEEMED IT,[16] AND IT WAS STILL IN HIS POSSESSION,[17] THEN HE CANNOT SAY: ‘SINCE IT GOES OUT TO THE PRIESTS IN THE YEAR OF JUBILEE, AND

SINCE IT IS NOW IN MY POSSESSION, THEREFORE IT BELONGS TO ME', BUT IT GOES OUT OF HIS POSSESSION TO BE DISTRIBUTED AMONG ALL HIS BRETHREN THE PRIESTS.[18]

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(1) From the total of remaining years to the next Jubilee, and he who redeems must pay for the incomplete year a full shekel with its pondion, The Mishnah thus means that after the Jubilee all redemptions must be made on the basis of complete years.

(2) Lev. XXVII, 18.

(3) And by adding the months that have already elapsed to the preceding years, there are left less than two years to the Jubilee, in which case the redemption price is the full fifty shekels.

(4) I.e., the priest must always so reckon as it should be to the advantage of the Sanctuary.

(5) V. infra 32b, when the law of Jubilee is not in force the redemption price is fixed according to the value of the field,

(6) A homer.

(7) We assess the value of the field by the quantity of the seed required (not by the yield of the crop) when strewn with the hand, but not when strewn from a perforated bag or wagon drawn by oxen.

(8) Lev. XXVII, 16.

(9) Two letheks are one kor; one kor is thirty se'ahs; one se'ah is six kabs. Tirkab. lit., 'two kabs', has come later on to be used as the term. tech. for three kabs.

(10) In which sowing is impossible.

(11) And treated as part of the field.

(12) Lev. XXVII, 18. Just as when he consecrated a field in, for example, the tenth year after the Jubilee and came to redeem it in the twentieth, he would deduct the ten years during which he had it, so if the Sanctuary had had the benefit of the field for a number of years he would deduct from the sum wherewith he redeems the field all the years the Sanctuary owned, or derived benefit from it.

(13) As would be the case if another man had redeemed it, when it would go out on Jubilee to the priests; v. Lev. XXVII, 19.

(14) The original owner.

(15) The printed edd. of the separate Mishnah read: '. . . it does not go out of his possession in the year of Jubilee'; v. Maim. Mishnah Commentary.

(16) From the treasurer of the Sanctuary.

(17) At the commencement of the year of Jubilee. His argument would be: If another (i.e., not the owner) Israelite had redeemed it, I and my collagues would have received it anyhow in the year of Jubilee; now that I have it in my possession, I have the best claim to it.

(18) I.e., to the group officiating as the year of Jubilee commences.

Talmud - Mas. Arachin 25b

GEMARA. Our Rabbis taught: And if he will not redeem the field,[1] i.e., the owner. Or if he have sold the field,[1] i.e., the treasurer [of the Sanctuary]. To another man,[1] I.e., to another man but not to his son.[2] You say, 'to another man' [means] not to his son! But perhaps, 'to another man' [means] not to his brother? Since Scripture says, 'man', the brother is included, hence how explain [the word] 'other', [it means to] exclude the son. Why do you choose to include the son and exclude the brother? — I include the son because he arises in his father's place, for the purpose of 'designation',[3] and in regard to a Hebrew slave.[4] On the contrary! I would include the brother because he arises in his brother's place in regard to the levirate duty?[5] [This is no argument.] For is there any levirate duty in any condition but where there be no son? Surely if there is a son, no levirate duty is involved.[6] But infer it from the fact that here [in the son's case] there are two points [in his favour], whereas there [in the brother's case] there is only one! — [The preference for a son in the case of] a Hebrew slave is similarly inferred from the same refutation: Is there any levirate duty in any other condition but where there be no son?[7]

Rabbah b. Abbuha asked: Could a daughter preserve a field for her father? [Shall I say,] Since with regard to the levirate obligation, both son and daughter alike effect exemption,[8] she therefore can preserve [the field], or perhaps, since in respect of inheritance the daughter, where there is a son, is considered an outsider,[9] she cannot preserve [the field]? — Come and hear, for the School of R. Ishmael taught: 'Whosoever is considered an outsider where there is a son cannot preserve [the field]', and she, too, is considered an outsider where there is a son.

R. Zeirah asked: Who can preserve the field for a woman? [Shall I say,] The husband can preserve it for her, since he inherits here, or perhaps the son can preserve it for her, because he takes of what is coming due [to the estate] as he does of what is held in actual possession?[10] — The question remains unanswered.

Rama b. Hama asked of R. Hisda: If one dedicates [his field] less than two years before the year of Jubilee, does it go out to the priests?[11] He replied: What do you think? Because: 'An abatement shall be made from thy valuation . . . but the field when it goeth out in the Jubilee'[12] [from which you would infer] that [the law[13] applies] only to [a field] subject to the law of deduction, but not to one which is not subject to the law of deduction? On the contrary! [Scripture says:] And if he will not redeem the field . . . the field, when it goeth out in the Jubilee, etc.,[14] and this field too is subject to redemption.

IF ONE OF THE PRIESTS REDEEMED IT. Our Rabbis taught: The possession thereof shall be the priest's,[15] what does that come to teach? [The following:] Whence do we know that if a field is to go out on Jubilee to the priests and one of the priests redeems it, that he cannot say: Since it would go out to a priest [anyway] and it is in my possession now, let it belong to me, on an argument ad majus: 'If I can acquire title to something belonging to others, how much more to something belonging to myself', therefore the text reads: '[his] possession';[16] a possession which is his, but this one is not his. How then [do we deal with such a field]? It goes out of his hand and is distributed among his brethren the priests.

MISHNAH. IF THE YEAR OF JUBILEE ARRIVED AND IT WAS NOT YET REDEEMED THEN THE PRIESTS ENTER INTO POSSESSION THEREOF AND PAY ITS VALUE.[17] THESE ARE THE WORDS OF R. JUDAH. R. SIMEON SAYS: THEY ENTER [INTO POSSESSION] BUT THEY DO NOT PAY [ITS VALUE]. R. ELIEZER SAYS: THEY NEITHER ENTER [INTO POSSESSION] NOR PAY [ITS VALUE]. BUT IT IS CALLED AN ABANDONED FIELD UNTIL THE SECOND JUBILEE. IF THE SECOND JUBILEE HAS ARRIVED AND IT WAS NOT YET REDEEMED, IT IS CALLED A 'TWICE ABANDONED FIELD'[18] UNTIL THE THIRD JUBILEE. THE PRIESTS NEVER ENTER INTO POSSESSION THEREOF UNTIL SOMEONE ELSE HAD REDEEMED IT.[19]

GEMARA. What is the reason of R. Judah's view? — He derives it from [the analogous]: 'holy', 'holy' [written] with the consecration of a house.[20] Just as there [a redemption is impossible without] payment of money, so here also payment of money [is mandatory]. And R. Simeon? — He derives it from [the analogous]: 'holy', 'holy' [written] with the lambs of the Feast of Weeks.[21] Just as there [the priest obtains them] without money, so here, too, without money. But let R. Judah, too, infer it from the lambs of the Feast of Weeks? — One may make inference for objects consecrated to repairs of the Sanctuary

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(1) Lev. XXVII, 20.

(2) If the son redeems it, the field reverts to his father at Jubilee.

(3) Ex. XXI, 9. The designation i.e., betrothal of a Hebrew handmaid to her master. There the son automatically enters into his father's rights.

(4) In the case of a Hebrew slave, whose master dies, the son is entitled to the remaining ones of the six years' service due to his father.

(5) Deut. XXV, 5 If brethren dwell together and one of them die and have no child, the wife of the dead shall not be married abroad unto one not of his kin. Her husband's brother shall go in unto her, and take her to him to wife.
(6) Any child, son or daughter, of the dead brother renders the levirate duty impossible, and indeed prohibits it as incestuous. Hence the brother plays a role only when there is no son.
(7) The preference for a son in the case of a Hebrew slave is not based on the Biblical text, but is inferred from this very argument, v. Kid. 17b; therefore in reality there is but one point in the son's favour, so that the balance between brother and son is restored, each of them having but one point in his favour.
(8) Just as in the case of her father's death, the daughter like the son, cancels the possibility of the levirate obligation, so should she be able to preserve the field for her father by redeeming it so that in the year of Jubilee it would revert to her father.
(9) Lit., ‘another’ since she cannot inherit.
(10) The son inherits from his mother property which will be due after her death, as well as such already in her possession, whereas the husband does not obtain those still due, as he does those in her possession already. V. B.B. 113a.
(11) If another man redeems as is required, not at a deduction but with the payment of the full fifty shekels.
(12) Lev. XXVII, 18 and 21.
(13) That the field on Jubilee goes out to the priests.
(14) Ibid. 20, 21.
(15) Ibid. 21. Unless he redeems it, the field will go out to the priests.
(16) ‘His’ is here interpreted as suggesting only that the priest's own field of possession, i.e., that inherited from his father, may belong exclusively to him, but not someone else's field of possession.
(17) Fifty shekels for each piece of the field sufficient for the sowing of a homer of barley, payable to the treasurer of the Sanctuary; thereupon the field becomes their field of possession.
(18) This designation serves at the same time as a notice to the would-be buyers, who for practical or sentimental reasons might redeem the field for its original owner.
(19) When the next Jubilee arrives, the priests enter into possession of the field without the obligation of paying its value to the Sanctuary, for the latter has already received such value from the person who redeemed the field.
(20) Lev. XXVII, 14 uses the term in referring’ to the consecration of a house, and v. 23 to that of a field of possession.
(21) V. Lev, XXIII, 20.

Talmud - Mas. Arachin 26a

from other objects dedicated to repairs of the Sanctuary, but one may make no inference for objects dedicated to Temple repairs from such as are dedicated to the altar. But let R. Simeon, too, derive it from ‘one who consecrated his house’? — One may make inference for things given as a gift to the priests from others which are a gift unto priests, but one may not make inference for things which are a gift to the priests from others which are not a gift to the priests.[1]

R. ELIEZER SAYS: THEY NEITHER ENTER [INTO POSSESSION] NOR PAY [ITS VALUE]. Rabbah said: What is the reason for R. Eliezer's view? Scripture said: And if he will not redeem the field . . . it shall not be redeemed any more . . . or if he have sold the field to another man [then] . . . the field, when it goeth out in the Jubilee.[2] Said Abaye: A sharp knife to cut Scriptural verses [to pieces]! Rather, said Abaye, this is the reason for R. Eliezer's view, as it was taught: ‘It shall not be, redeemed any more’. One might have assumed that [means]: It shall not be redeemed [by the owners], i.e., even to be considered [to him] a field acquired by purchase,[3] therefore Scripture says, ‘any more’, which means: it cannot be redeemed so as to be considered [again] what it was before [a field of possession][4] but it can be redeemed to become to him like a field acquired by purchase.[5] Now to when does this refer? Will you say, To the first Jubilee? Why can it not be redeemed? It is still a field of possession. Hence is it obviously to the second Jubilee [that we refer]. But according to whom [is this teaching]? Would you say according to either R. Judah or R. Simeon; surely it goes out to the priests [at the first Jubilee]![6] You must hence say it is in accord with R. Eliezer, which proves that R. Eliezer infers his reason from here.[7] But is that how you think? How then do R. Judah and R. Simeon interpret that ‘any more’. Rather we speak here of a field [of possession] that went out to the priests [at Jubilee],[8] and which the priests thereupon consecrated,[9] and now the [original] owner comes to redeem it. You might have assumed that it cannot be redeemed [by the owner][10] not even to be regarded as a field acquired by purchase, therefore the text states ‘any more’; [meaning] it cannot be redeemed so as to be considered as before [a field of possession], but it can be redeemed to be considered a field acquired by purchase. And then indeed was it taught: In the year of Jubilee the field shall return unto him of whom it was bought.[11] One might have assumed that it shall go back to the treasurer from whom he bought it, therefore the text states: Even to him to whom the possession of the land belongeth.[11] Now Scripture should [only] have said: ‘Even to him to whom the possession of the land belongeth’ For what purpose does it say: ‘Unto him of whom it was bought’? [It refers to the case of] a field that had gone out to the priests, whereupon the priest sold it and the purchaser consecrated it, and another person came and redeemed it. One might have assumed that it shall revert to the original owners, therefore it is said: ‘Unto him of whom it was bought’.[12] And it was necessary to state]: ‘Unto him of whom it was bought’ and it was necessary to state: ‘It shall not be redeemed any more’. For if the Divine Law had written [only]: ‘It shall not be redeemed any more’ [one would have said that this applied only to the former case] where it does not come back at all [to the one who consecrated it],[13] but here where it reverts [to the one who consecrated it],[14] [I might have said,] it shall revert to the owner; therefore the Divine Law wrote: ‘Unto him of whom it was bought’. And if the Divine Law had written [only]: ‘Unto him of whom it was bought’ [one would have said that this applies to the latter case] where the owner does not pay its value,[15] but here [in the former case] where he pays its value, [I might say] it shall be placed in his possession, therefore the Divine Law wrote: ‘It shall not be redeemed’. And if the Divine Law had written: ‘It shall not be redeemed’, but had not written, ‘any more’, I would have thought: It cannot be redeemed at all, therefore the Divine Law said, ‘any more’, i.e., it cannot revert to its original status again, but it can be so redeemed as to be regarded a field acquired by purchase. Now what of it?[16] — Raba said: Scripture said, ‘But the field when it goeth out in the Jubilee [etc.]’,[implying] when it goeth out [on Jubilee] of the hand [possession] of another.[17]

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(1) The field of possession as well as the lambs of the Feast of Weeks both are a gift to the priest (v. Lev. XXIII, 20 and XXVII, 21); that is not the case with the consecration of a house, the value of which goes to the fund for Temple repairs.

(2) V. Lev. XXVII, 20-21. The two verses are combined to mean thus: If he does not redeem it, it shall not be redeemed any more, but if he (the treasurer of the Sanctuary) sells it, then the field goes out on Jubilee to the priests. This implies that if the treasurer does not sell it the priests do not enter into possession of the field.

(3) I.e., the owner can no longer redeem it to have the use of the field at least to the next Jubilee.

(4) I.e., to be his permanently after the redemption.

(5) This laborious combination of verses for a forced ad hoc elicits Abaye's merited reproach.

(6) As stated in our Mishnah.

(7) R. Eliezer holds that after the first Jubilee year the field if unredeemed belongs to the Sanctuary and not the priests, and consequently the field can still be redeemed, hence the exposition of the cited verse.

(8) Because it had been redeemed by another man.

(9) Who received it on Jubilee.

(10) Since he did not redeem it on the first Jubilee year.

(11) Lev. XXVII, 24 with reference to a field of purchase.

(12) One might have assumed that it reverts to the man who originally consecrated it, therefore the Scriptural verse comes to teach us that since it was not bought from him but was acquired from the Sanctuary it reverts to the priest, from whom the purchaser had acquired it before consecrating the field. And similarly in the case of a field of possession, once another redeems it and it gets into the possession of the priest at Jubilee, the owner can no longer redeem it as his field of possession.

(13) I.e., when the priest consecrated it after having received it on Jubilee, the owner having failed to redeem it. In this case the field on the next Jubilee goes out to all the priests and not to the priest who consecrated it, and similarly the original owner cannot claim it as a field of possession.

(14) I.e., where the priest sold and the purchaser consecrated it, in which case it is a field acquired by purchase, which if someone redeems it from the Sanctuary does not go out to the priests on Jubilee, but reverts to the consecrator.

(15) Since another redeemed it.

(16) We do not yet know the reason for R. Eliezer's view that the priests cannot enter into possession until someone has redeemed it.

(17) I.e., when it goes out of the possession of another who had redeemed it from the treasurer before the year of Jubilee, then shall it go out to the priests as their field of possession.

Talmud - Mas. Arachin 26b

The question was asked: Is the owner in the second Jubilee cycle considered like someone else or not?[1] — Come and hear: 'It shall not be redeemed any more'. One might have assumed it shall not be redeemed [by the owners] even to be considered before him like a field acquired by purchase, therefore it is said: 'Any more, i.e., it cannot be redeemed so as to be considered again what it was before, but it can be redeemed so as to become to him like a field acquired by purchase. Now to what does this refer? Will you say to the first Jubilee? Why should it not be redeemed? It is still regarded a field of possession! Hence the reference is obviously to the second Jubilee. But according to whose view [is this teaching]? If according to R. Judah or R. Simeon, surely it goes out to the priests [at the first Jubilee]? one must rather say therefore, it is in accord with R. Eliezer, which proves that [according to him][2] the owner in the second Jubilee is considered as if he were another person. But do you think so? How then would R. Judah and R. Simeon interpret 'any more'? — Rather do we deal here with the case of a field [of possession] that went out [at Jubilee] to the priests, and which the priest consecrated, and now the original owner comes to redeem it. You might have thought: It cannot be redeemed [by the owner] so as to become like a field acquired by purchase, therefore it is said: 'any more', I.e., it cannot be redeemed so as to be considered what it was before, but it can be redeemed so as to become to him a field acquired by purchase. Thus also was it taught: 'The field shall return unto him of whom it was bought'. One might have assumed it shall return to the treasurer from whom he had bought it, therefore the text states: 'Even to him unto whom the possession of the land belongeth'. Now Scripture should have said: 'Unto whom the possession of the land belongeth'. For what purpose does it say: 'Unto him of whom the field was bought'? It refers to a field that had gone out to the priests and a priest sold it, whereupon the purchaser consecrated it and another person came and redeemed it. One might have assumed that it shall revert to the original owner, therefore it is said: 'Unto him of whom it was bought'. And it was necessary to write: 'It shall not be redeemed any more', as it was necessary to write: 'Unto him of whom it was bought'. For had the Divine Law written [only], 'It shall not be redeemed any more', [one would have said that applies only in the former case] where it does not come back at all, [to the one who consecrated it], but here where it does revert [to him], I might have said it shall revert to the owner, therefore the Divine Law wrote: 'Unto him of whom it was bought'. And if the Divine Law had written [only]: 'Unto him of whom it was bought' [one would have said this applies to the latter case] where the owner does not pay its money-value, but here [in the former case] where he pays its money-value, it shall be placed in his possession, therefore the Divine Law wrote: 'It shall not be redeemed'. And if the Divine Law had written [only]: 'It shall not be redeemed', but had not written any more', I might have said that it cannot be redeemed at all, therefore the Divine Law wrote 'any more'; i.e., it cannot revert any more to its original status [as a field of possession], but it can be redeemed so as to be considered a field acquired by purchase. Now what of it?[3] — Come and hear: R. Eliezer said, If the owner redeemed it in the second Jubilee [cycle] it goes out to the priest in the [next] Jubilee.[4] Said Rabina to R. Ashi: But did we not learn thus: R. ELIEZER SAID, THE PRIESTS NEVER ENTER INTO POSSESSION THEREOF UNTIL SOMEONE ELSE HAS REDEEMED IT? — He replied: The owner is considered as someone else in the second Jubilee [cycle]. Others say, R. Eliezer said: If he [the owner] redeems it during the second Jubilee [cycle], it does not go out to the priests at the Jubilee. Whereupon Rabina said to R. Ashi: We also learnt likewise: R. ELIEZER SAID, THE PRIESTS NEVER ENTER INTO POSSESSION THEREOF UNTIL SOMEONE ELSE HAS REDEEMED IT. — He replied: If we [knew it only] from our

Mishnah, I might have assumed that the owner during the second Jubilee [cycle] is considered like someone else, therefore we are informed [otherwise].[5]

MISHNAH. IF ONE BOUGHT A FIELD FROM HIS FATHER,[6] AND HIS FATHER DIED AND AFTERWARDS HE CONSECRATED IT, IT IS CONSIDERED A FIELD OF POSSESSION.[7] IF HE CONSECRATED IT AND AFTERWARDS HIS FATHER DIED, THEN IT IS CONSIDERED A FIELD ACQUIRED BY PURCHASE.[8] THESE ARE THE WORDS OF R. MEIR. R. JUDAH AND R. SIMEON SAY: [EVEN IN THE LATTER CASE] IT IS CONSIDERED A FIELD OF POSSESSION, AS IT IS SAID: ‘AND IF A FIELD WHICH HE HATH BOUGHT, WHICH IS NOT A FIELD OF HIS POSSESSION, I.E., A FIELD WHICH IS NOT CAPABLE OF BECOMING A FIELD OF HIS POSSESSION, THUS EXCLUDING A FIELD WHICH IS CAPABLE OF BECOMING A FIELD OF POSSESSION.[9] A FIELD ACQUIRED BY PURCHASE DOES NOT GO OUT TO THE PRIESTS IN THE YEAR OF JUBILEE, FOR NO MAN CAN CONSECRATE AN OBJECT NOT BELONGING TO HIM.[10] PRIESTS AND LEVITES MAY CONSECRATE [THEIR FIELDS] AT ANY TIME AND REDEEM AT ANY TIME, BOTH BEFORE AND AFTER THE JUBILEE.

GEMARA. Our Rabbis taught: Whence do we know that if one bought a field from his father and consecrated it, and thereupon his father died, that it is to be considered his field of possession? Therefore it is said: ‘A field which he hath bought, which is not a field of his possession’, i.e., field which is not capable of becoming a field of his possessions excluding this, which is capable of becoming a field of his possession. These are the words of R. Judah and R. Simeon. R. Meir says: Whence do we know that if one bought a field from his father and his father died, and he thereupon consecrated it, that it be considered to him a field of his possession? Therefore it is said: ‘A field which he hath bought which is not a field of his possession’, i.e., a field which is not a field of his possession, excluding this, which is a field of his possession. Shall we say that they are conflicting about this [principle], R. Meir holding that the acquisition of usufruct is like the acquisition of the capital itself, whereas R. Judah and R. Simeon hold that the acquisition of usufruct is not like the acquisition of the soil itself?[11] — Said R. Nahman b. Isaac: As a rule R. Simeon and R. Judah hold that the acquisition of usufruct is like the acquisition of the soil itself

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(1) According to R. Eliezer who says that in the second Jubilee cycle, too, the field can be redeemed, the question is asked: Is the owner in the second cycle considered like someone else, so that when he redeems it the field will in the third Jubilee go out to the priests; or is he still considered the owner so that in the third Jubilee the field will revert to him, as it would have reverted to him had he redeemed it before the end of the first Jubilee.

(2) .

(3) The question propounded above.

(4) Which proves that the owner, during the second Jubilee cycle, is considered like someone else, the field in the Jubilee reverting to the priests.

(5) That the owner is not considered another, during the second Jubilee cycle, and if he redeems it the field remains with him at Jubilee.

(6) If he consecrated it after it had become, through his father's death, his field of possession. it remains in the status of a field of his possession. But if he consecrated it whilst his father was alive, it had not yet become his field of possession and remains therefore his field acquired by purchase. The difference is that a field acquired by purchase must be redeemed at its full value (instead of the fifty shekels for each piece of field sufficient for the sowing of a homer of barley. due in the case of a field of his possession); and, if he who consecrated it has not redeemed it, then when the year of Jubilee arrives, it does not go out to the priests but reverts then to its original owner. In our case It would revert to the father, and since he died, to his heirs.

(7) V. Lev. XXVII, 16.

(8) Lev. XXVII, 22.

(9) Even if it was not yet a field of his possession at the time he consecrated it, but was (one of) ‘from’ the fields of his (potential) possession, it is considered his field of possession. But when he comes to redeem it, it must be his field of possession already, or else it will be regarded as a field acquired by purchase. ‘A field acquired by purchase’ is the term. techn. for any property acquired in any manner, as long as it was not inherited by its present owner.

(10) If someone buys a field, he has bought only the usufruct up to the year of Jubilee, in that year it reverts automatically. without any fee payable, to its original owner. Hence its purchase could not legally consecrate it, consecration being unlimited in time, whereas his limited rights are also limited by the year of Jubilee. Hence that field will not go out to the priests, but will revert to the original owner, whose field of possession it was, by inheritance.

(11) As long as his father lived the son had but the usufruct of the field he had purchased from the former. He did not really own the soil, because in the year of Jubilee the soil would have reverted to his father, the original owner. R. Meir, however, would hold that the acquisition of the usufruct is like the acquisition of the soil itself. Therefore when he consecrated it in his father's lifetime, it was to be regarded as a field acquired by purchase, the soil belonging to him with the usufruct, whence it could no more acquire the status of a field of possession, with the rules relevant thereto. R. Judah and R. Simeon, on the other hand, hold that the acquisition of usufruct is not like the acquisition of the soil, hence it could become a field of possession only if the father died before the son consecrated it. This being a very obvious rule, no Scriptural law was necessary to teach what applies here. What required the Scriptural guidance was the case of his having consecrated the field before his father died to teach that although at the time of its consecration the field was one acquired by purchase, nevertheless since the father died before its being redeemed, it is considered a field of his possession. For the original purchase did not include the field, only the usufruct.

Talmud - Mas. Arachin 27a

, but here they found a Scriptural verse which they interpreted [as follows]:[1] The Divine Law should have said: ‘If from the field acquired by purchase which is not his field of possession’, or ‘which is not a field of possession’, what does ‘from the field of his possession’[2] mean? [It means] a field incapable of becoming a field of possession, [thus] excluding this which is capable of becoming a field of possession.

PRIESTS AND LEVITES MAY CONSECRATE AT ANY TIME. Granted that it is necessary [to teach that the priests may] REDEEM to exclude Israelites who may redeem only up to the year of Jubilee. That is why we are informed [that priests and Levites] MAY REDEEM AT ANY TIME. But as regards [their ability to] CONSECRATE, why teach about priests and Levites since Israelites may do the same?[3] And if you were to say it refers to the year of Jubilee itself, that would be right only on the view of Samuel who says: In the year of Jubilee itself it [the consecrated object] acquires no sacred character,[4] therefore the information [in our Mishnah] that priests and Levites, however, may consecrate at any time. But on the view of Rab, why speak about priests and Levites? Israelites, too, may [consecrate at any time, even in the year of Jubilee]? — But according to your own opinion, for what purpose does he teach: BOTH BEFORE AND AFTER THE JUBILEE?[5] — Rather [must we explain]: Because he taught in the first part ‘Before the Jubilee’ . . . and ‘after the Jubilee’,[6] therefore he taught in the second part too, BOTH BEFORE AND AFTER THE YEAR OF JUBILEE. And since he taught in the first part, ‘They may neither consecrate . . . nor redeem’, he teaches also in the second part: [PRIESTS] MAY CONSECRATED . . . AND REDEEM.

CHAPTER VIII

MISHNAH. IF ONE CONSECRATED HIS FIELD AT A TIME WHEN THE [LAW OF THE] JUBILEE WAS NO LONGER VALID,[7] THEY SAY TO HIM: MAKE THOU THE FIRST BEGINNING!’ BECAUSE THE OWNER MUST PAY AN ADDED FIFTH WHEREAS NO OTHER PERSON NEED PAY AN ADDITIONAL FIFTH.[8] IT HAPPENED THAT ONE CONSECRATED HIS FIELD BECAUSE IT WAS BAD. THEY SAID TO HIM: MAKE THOU THE FIRST BEGINNING!’ HE SAID: ‘I WILL ACQUIRE IT FOR AN ISSAR’.[9] R. JOSE SAID: HE DID NOT SPEAK THUS, BUT ‘FOR AN EGG’, BECAUSE CONSECRATED OBJECTS MAY BE REDEEMED BY EITHER MONEY OR MONEY'S WORTH.[10] HE SAID TO HIM: IT HAS BECOME THINE.[11] THUS HE WAS FOUND TO HAVE LOST AN ISSAR AND THE

FIELD WAS HIS AGAIN.

GEMARA. IF ONE CONSECRATED HIS FIELD AT A TIME WHEN etc. THEY SAY: but was it not taught. ‘They compel him’? — What THEY SAY means is ‘they compel him’. Or, if you like say, At first, they speak to him. If he obeys, he obeys. If not, they compel him.

FOR THE OWNER MUST PAY AN ADDED FIFTH. Why argue from the fact that the owner is obliged to pay an added fifth, infer it from the fact that since it is dear to him he will pay more to redeem it? And furthermore, the obligation to redeem it rests upon the owner?[12] — He gives one reason and then another. One reason, that since it is dear to him he will pay more to redeem it; and another, that the obligation to redeem it rests upon the owner, and furthermore, the owner is obliged to pay an added fifth.

IT HAPPENED THAT ONE CONSECRATED HIS FIELD etc. Shall we say they are disputing this principle: R. Jose holds that money's worth is like money, whilst the Rabbis are of the opinion that money's worth is not like money? But then we have an established principle that money's worth is like money![13] — [No.] All agree that money's worth is like money, but here they are disputing whether one may redeem by an object the fifth of which is not worth one perutah; the first Tanna holding only with an issar, the fifth of which is worth one perutah, may one redeem [but not by less],[14] whilst R. Jose holds with an egg too one may redeem.

HE SAID TO HIM: IT HAS BECOME THINE! THUS HE WAS FOUND TO HAVE LOST AN ISSAR AND THE FIELD WAS HIS AGAIN. This anonymous statement is in accord with the view of the Rabbis.[15]

MISHNAH. IF ONE SAID: ‘I WILL ACQUIRE IT FOR TEN SELA'S, AND ANOTHER ‘[FOR] TWENTY’, AND ANOTHER ‘FOR THIRTY’, AND ANOTHER ‘FOR FORTY’, AND ANOTHER ‘FOR FIFTY’, AND HE [THAT BID] FIFTY RECANTED, THEY TAKE PLEDGES FROM HIS PROPERTY UP TO TEN SELA'S.[16] IF HE [THAT BID] FORTY[17] RECANTED, THEY TAKE PLEDGES FROM HIS POSSESSION UP TO TEN SELA'S. IF HE [THAT BID] THIRTY RECANTED, THEY TAKE PLEDGES FROM HIS POSSESSIONS UP TO TEN SELA'S. IF HE THAT BID TWENTY RECANTED THEY TAKE PLEDGES FROM HIS POSSESSION UP TO TEN SELA'S. IF HE THAT BID TEN RECANTED THEY SELL [THE FIELD] FOR WHAT IT IS WORTH, AND COLLECT WHAT REMAINS FROM HIM WHO BID TEN.[18] IF THE OWNER BID TWENTY AND ANY OTHER MAN BID TWENTY,[19] THEN THE OWNER COMES FIRST, BECAUSE HE MUST ADD ONE FIFTH. IF ONE SAID ‘I WILL ACQUIRE IT FOR TWENTY-ONE SELA'S’

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(1) As excluding the field under question, quite independent of the discussion as to whether acquisition of usufruct is like acquisition of the soil itself.

(2) משרה ‘men privativum’. For further notes v. B.B. Sonc. ed., pp. 285ff.

(3) V. supra 24a.

(4) V. ibid.

(5) In which Israelites may not consecrate.

(6) V. supra 24a.

(7) The law of the year of Jubilee was valid only as long as all Israel lived in the Holy Land, with the tribes inhabiting the portions of the land allocated to them by Joshua, v. infra 32b.

(8) For as long as it was valid, the price to be paid was fixed (fifty shekels for every piece of the field sufficient for the sowing of a homer of barley) and did not depend upon any offer of the owner. But after the validity of the Jubilee was lost, the field of possession, too, had to be redeemed at its value, hence the question here.

(9) The expense was greater than its produce.

(10) Eight perutahs.

(11) The treasurer said to the owner: It is yours.

(12) V. Lev. XXVII, 23.

(13) V. B.K. 7a.

(14) The disagreement is in detail, not on principle, both holding that redemption may be achieved by either money or money's worth. An issar is the smallest coin containing five perutahs.

(15) Which speaks of his losing an issar.

(16) Through his recanting the Sanctuary lost ten sela's, the difference between his bid and that of the next lower bidder. As a rule, some definite act is necessary before any purchase is legally binding, but with regard to any transaction touching the Sanctuary an oral undertaking has the force of a legal act.

(17) This is explained in the Gemara.

(18) The difference between what he bid (ten sela's) and what after his retraction was actually paid by the lowest bidder.

(19) After the owner offered twenty.

Talmud - Mas. Arachin 27b

THEN THE OWNER MUST PAY TWENTY-SIX. [IF ONE BID] TWENTY-TWO, THE OWNER MUST PAY TWENTY-SEVEN. IF TWENTY-THREE, THE OWNER MUST PAY TWENTY-EIGHT. IF TWENTY-FOUR, THE OWNER MUST PAY TWENTY-NINE. IF TWENTY-FIVE, THE OWNER MUST PAY THIRTY, FOR THEY NEED NOT ADD ONE FIFTH TO WHAT THE OTHER BIDS MORE. IF ONE SAID: ‘I WILL ACQUIRE IT FOR TWENTY-SIX’,[1] AND IF THE OWNER WAS WILLING TO PAY THIRTY-ONE AND ONE DENAR IN ADDITION,[2] THE OWNER COMES FIRST. AND IF NOT, WE SAY TO THE OTHER: ‘IT HAS BECOME THINE.

GEMARA. R. Hisda said: This[3] was taught only if he who bid forty stands by his bid, but if he who bid forty does not stand by his bid, then we divide it among them.[4] We learnt: IF HE THAT BID FORTY RECANTED, THEY TAKE PLEDGES FROM HIS POSSESSIONS UP TO TEN SELA'S. But why so? Let him who bid fifty pay with [alike] him [the ten sela's which he outbid]? — It refers to the case where there was no one who bid fifty. IF HE WHO BID THIRTY RECANTED, THEY TAKE PLEDGES FROM HIS POS SESSIONS UP TO TEN SELA'S. But why so? Let him who bid forty pay together with him [the ten sela's which he outbid]? — It refers to the case where there was no one who bid forty. IF HE WHO BID TWENTY RECANTED, THEY TAKE PLEDGES FROM HIS POSSESSIONS UP TO TEN SELA'S. But why so? Let him who bid thirty pay with him? — It refers to the case where there was no one who bid thirty. But if that be so, read the last part: IF HE THAT BID TEN RECANTED THEY SELL IT FOR WHAT IT IS WORTH, AND COLLECT WHAT REMAINS FROM HIM WHO BID TEN. But let him who bid twenty pay with him [the ten sela's]? And if you would say. Here, too, it refers to the case where there was no one who bid ten, then instead of teaching AND COLLECT WHAT REMAINS FROM HIM WHO BID TEN, it should state: ‘And collect from him’?[5] — Rather, said R. Hisda, this is no difficulty. One case refers to their recanting simultaneously, the other, if they do so one after the other.[6] Thus was it also taught: If all of them recanted simultaneously, one distributed it among them. But we were taught: THEY TAKE PLEDGES FROM HIS POSSESSION UP TO TEN SELA's? Hence it is evident therefrom that the explanation is like R. Hisda. That is evident. Some put it in the form of a contradiction. We learnt: IF HE WHO BID TEN RECANTED, THEY SELL IT FOR WHAT IT IS WORTH, AND COLLECT WHAT REMAINS FROM HIM WHO BID TEN. But it was taught: ‘We divide it among them’? — R. Hisda said: This is no contradiction, one case speaks of their recanting simultaneously, the other, if they do so one after the other.

IF THE OWNER BID TWENTY AND ANY OTHER MAN BID TWENTY etc. Shall we say that the added fifth has preference? But I will point out a contradiction. ‘If a householder[7] bid a sela’ and another bid a sela’ and an issar, he who bid a sela’ and an issar has preference, since he adds to the principal value’? — Here where the fifth is the profit of the Sanctuary, the fifth has preference, but there, where the fifth is the profit[8] of the householder, a goodly capital sum is preferable [for redemption], but the fifth does not concern us.

IF ONE SAID: I WILL ACQUIRE IT FOR etc. IF TWENTY-FIVE, THE OWNER MUST PAY THIRTY. But let the owner say: A man has come in our stead'?[9] — Said Ze'ira:[10] It speaks of the case where the owner had bid one denar [over twenty].[11] Then let [the Mishnah] mention that denar? — He [the Tanna] was not particular to mention [a mere denar]. But [yet] it teaches: If the owner was willing to pay thirty-one sela's and one denar, the owner has preference? — Rather, said Raba, it was a case where the owner bid an additional perutah and [the Tanna] was not particular [to mention it].

FOR THEY NEED NOT ADD ONE FIFTH TO WHAT THE OTHER BIDS MORE. R. Hisda said: This was taught only [for the case] where the consecrated object was not yet valued by three,[12] but if the consecrated object was valued by three, he must add [the fifth]. It was also taught thus: Beth Shammai say: They[13] must add, whilst Beth Hillel Say: They need not add. Now how shall we imagine this case? If it [the consecrated object] has not yet been valued, what is the reason for the view of Beth Shammai? Rather must we take it that it has been valued. Shall we, then, assume that R. Hisda is of the view of Beth Shammai?[14] In reality [assume] that it has not been valued, but Beth Shammai are nevertheless stringent. Or if you like, say: Indeed, it was valued and [the Baraitha] is to be reversed: Beth Shammai say. They need not add [etc.]. But then let it be taught among the cases in which Beth Shammai are less stringent and Beth Hillel are more stringent?[15] — Rather, Indeed it was not valued, but Beth Shammai are nevertheless stringent.

IF ONE SAID: I WILL ACQUIRE IT FOR TWENTY-SIX etc. If he [the owner] is willing, good, if not, [we do] not compel him, for he can say: 'A man has come in my stead'. What is the function of the [one] denar?[16] — R. Shesheth said: This is what it means. If the owner originally wanted to give a sum amounting [with the extra addition of the last bid] to thirty-one [sela's] and one denar

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(1) Thereby outbidding the owner's original bid plus the added fifth.

(2) One sela' contains four denars, so that the full fifth of twenty-six is thirty-one sela's and one denar.

(3) That if the bidder of fifty recanted they take pledges from his property up to (no more than) ten sela's.

(4) The loss divided among the bidders of fifty and forty, the former becoming responsible for fifteen (sharing the loss in the difference between forty and thirty), the latter for five sela's.

(5) Since the text reads: 'From him who bid ten', the inference is justified that there is one who bid twenty too, yet we are not taught that the sum lost is to be collected from both. This is a refutation of R. Hisda's view.

(6) When all recanted simultaneously the charge is distributed among them, but if one after the other recants, one imposes upon each the difference between his bid and the next highest bid.

(7) With reference to the second tithe which can be converted into money to be taken to Jerusalem there to be expended on food. V. Lev. XXVII, 31.

(8) In the case of the second tithe, both the original sum and the added fifth remain the possession of the householder, the only restriction upon him being the obligation to consume the whole sum in Jerusalem, after having redeemed the second tithe in the country. In that case we allow the preference to a bidder who goes, by even one issar, above the bid of the householder, even though the householder adds one fifth, since that fifth as well as the whole sum, remains his private property the Sanctuary's interest not being involved at all. But when the consecrated field is to be redeemed, the fifth added by the owner is the profit of the Sanctuary, both the original amount and the addition being received by its treasurer, therefore the preference is with him who offered the additional fifth.

(9) Who is willing to make a payment that includes the sum plus the added fifth from the owner. Hence no loss will be sustained by the Sanctuary. Why compel him then to give thirty?

(10) Inserted with Sh. Mek.

(11) Which, with the added fifth, would make his offer amount to more than twenty-five.

(12) On the basis of the last bid. Although, as a rule, valuations for the Sanctuary require the presence of ten (Sanh. 2a). here an exception is de facto recognized.

(13) The owners.

(14) The ultimate decision in a matter of conflict between Beth Shammai and Beth Hillel is, as a general rule, in accord with the latter. How then could R. Hisda, an Amora, adhere to the view of Beth Shammai?

(15) These are recorded in ‘Ed. and assumed to be all the rare cases in which the Schools reverse their usual role, the Hillelites being more stringent, and the Shammaites more liberal. The fact that the Mishnah in ‘Ed. does not include this case indicates that the report here of such an additional unusual decision must be erroneous.

(16) Since the Mishnah stated: They need not add one fifth to what the other bid.

Talmud - Mas. Arachin 28a

. And how is this to be imagined? If he offered twenty-one;[1] then the owner has the preference. If not [the treasurer] says to him [the bidder]: ‘It is yours’.

MISHNAH. A MAN MAY DEVOTE[2] [PART] OF HIS FLOCK OR OF HIS HERD, OF HIS CANAANITE MANSERVANTS OR MAID SERVANTS OR OF HIS FIELD OF POSSESSION. BUT IF HE DEVOTED THE WHOLE OF THEM, THEY ARE NOT CONSIDERED [VALIDLY] DEVOTED. THIS IS THE VIEW OF R. ELIEZER. R. ELEAZAR B. AZARYAH SAID: IF, EVEN TO THE HIGHEST, NO ONE IS PERMITTED TO DEVOTE ALL HIS POSSESSIONS, HOW MUCH MORE SHOULD ONE BE [CAREFUL ABOUT] SPARING IN REGARD TO ONE'S POSSESSIONS.

GEMARA. Whence do we know these things? — Because our Rabbis taught: Of all that he hath,[3] i.e., but not ‘all that he has’; of man,[3] but not ‘all man’; or [of] beast,’ but not ‘all beast’; of the field of his possession,[3] but not ‘all the field of his possession’. One might have assumed that he may not at the outset devote [the whole], but if he had done so, it should be [considered validly] devoted, therefore it is said: Notwithstanding.[3] These are the words of R. Eliezer. R. Eleazar b. Azaryah said: If, even to the highest, no one is permitted to devote all his possessions, how much more should one be sparing in regard to his possessions! And all [the details] are necessary. For if the Divine Law had but written: ‘Of all that he hath’, I might have said: He may not devote all that he has but of one kind he may devote all [objects]. Therefore the Divine Law said: ‘Of man’, i.e., but not ‘all man’. And if the Divine Law had but written: ‘of man’, [I would have said]: Because without labour none can manage,[4] but [in the case of] a field he can still make a living by working as a serf, [therefore it stated: ‘of the field of his possession’]. And if [the Divine Law] had taught us about these two, [I would have said: The reason in both these cases] is that each is vitally necessary, but as for movable property, let him be allowed to devote it all,’ therefore it was necessary [to teach about that as well]. Why was ‘or beast’ necessary? — In accordance with what was taught: One might have assumed that a man may devote his son or daughter, his Hebrew manservant or his field or purchase, therefore it is said: ‘or beast’, i.e., just as the beast is something he may sell, so [may he devote] only such things as he is permitted to sell. But as he is permitted to sell his minor daughter, I might therefore think that he can devote her as well, therefore it is said: ‘or beast’, i.e., just as a beast is something which he may sell for ever, [so can he devote only such objects] as he is permitted to sell for ever.[5]

R. ELEAZAR B. AZARYAH SAID: IF EVEN TO THE HIGHEST NO ONE IS PERMITTED etc. But that is exactly what the first Tanna has said? — The difference between them is implied in what R. Ela said; for R. Ela said: In Usha they ordained that one who would distribute [his possessions] must not go beyond one fifth [of them].[6] It happened that one wanted to distribute more than one fifth, and his colleagues would not permit him to do so. Who was that? R. Yeshebab. Some say, it was R. Yeshebab who [wanted to distribute it] and his colleagues would not let him do so. Who was [chief among them]? — R. Akiba.

MISHNAH. IF ONE DEVOTES HIS SON OR HIS DAUGHTER,[7] OR HIS HEBREW MANSERVANT OR MAIDSERVANT, OR THE FIELD WHICH HE ACQUIRED BY

PURCHASE, THEY ARE NOT CONSIDERED [VALIDLY] DEVOTED, FOR NONE CAN DEVOTE A THING WHICH DOES NOT BELONG TO HIM. PRIESTS AND LEVITES CANNOT DEVOTE [THEIR BELONGINGS]. THESE ARE THE WORDS OF R. JUDAH. R. SIMEON SAYS: THE PRIESTS CANNOT DEVOTE, BECAUSE THINGS DEVOTED BELONG TO THEM. BUT LEVITES CAN DEVOTE, BECAUSE THINGS DEVOTED DO NOT FALL TO THEM. RABBI SAYS: THE WORDS OF R. JUDAH ARE ACCEPTABLE IN CASES OF IMMOVABLE PROPERTY AS IT IS SAID: FOR THAT IS THEIR PERPETUAL POSSESSION,[8] AND THE WORDS OF R. SIMEON IN CASES OF MOVABLE PROPERTY, SINCE THINGS DEVOTED DO NOT FALL TO THEM.

GEMARA. According to R. Judah, it is quite right that priests cannot devote, because all objects devoted fall to them. But, touching Levites, granted they cannot devote immovable property, because it is written: ‘For that is their perpetual possession but let them devote movable property? — Scripture said: ‘Of all that he hath . . . or of the field of his possession’, thus comparing movable property on the same level with immovable property. Now according to R. Simeon it is quite right [what he rules] about the priests, as we have [just] said. But touching the Levites, granted they can devote movable property, because he does not draw the [above] analogy; but why should they be able to devote immovable property; Surely it is written: ‘For that is their perpetual possession’? What he means when he says LEVITES CAN DEVOTE is [that they can devote] movables. But surely the last part [of this Mishnah] reads: RABBI SAYS: THE WORDS OF R. JUDAH ARE ACCEPTABLE IN CASES OF IMMOVABLE PROPERTY, AND THE WORDS OF R. SIMEON IN CASES OF MOVABLE PROPERTY; it follows that R. Simeon refers to immovable property too? — This is what he means: Rabbi said, The words of R. Judah are acceptable to R. Simeon in cases of immovable property, for R. Simeon disputes his view only in cases of movable property, but in cases of immovable property he consents.

R. Hiyya b. Abin said: If one had devoted movable property he may give it to any priest he pleases, as it is said: Everything devoted in Israel

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(1) Which with the extra fifth amounts to twenty-six sela's and one denar (approximately).

(2) V. Lev. XXVII, 28. Whatever was devoted was considered most holy, whilst still in the owner's house, but became profane as soon as it reached the priests. Anything devoted could be neither redeemed nor sold. Ibid. 29.

(3) V. p. 165, n. 5.

(4) Without servants, who do one's work, one cannot live. But one may rent out fields for labour, with part of the crop belonging to the tiller thereof.

(5) Excluding his daughter, whom he may sell only whilst she is a minor.

(6) V. Keth. 50a.

(7) The minor children could be sold by their father only whilst they are minors. The Hebrew slave, manservant or maidservant, are the property of their owner only during a limited number of years. The field acquired by purchase, too, can be held only for a limited time, reverting, as it does to its original owner, in the year of Jubilee. Hence all these things or persons cannot be devoted, devotion implying in perpetuity.

(8) Lev. XXV, 34.

Talmud - Mas. Arachin 28b

shall be thine.[1] If he devoted his field he must give it to a priest of the then officiating guard,[2] as it is said: As a field devoted,’ the possession thereof shall be the priest's,[3] making the inference from the analogy of [the term] ‘the priest's, sin case of robbery of a stranger. And whence do we know it for that case? For it was taught: The Lord's, even the priest's,[4] i.e., the Lord acquired it and gave it to the priest in that guard. You say, To the priest in that [particular] guard; but perhaps it means to any priest it pleases him [to give it to]? When it says, Besides the ram of the atonement, whereby atonement shall be made for him,[4] hence Scripture speaks of the priests in that guard.[5] The field which goes out to the priests in the year of Jubilee is [also] given to the priests of that [particular] guard.

The following question was raised: How if it[6] fell on a Sabbath? — R. Hiyya b. Ammi in the name of Hulfana said: It is to be given to the departing guard.[7] R. Nahman b. Isaac said: Thus was it also taught: It is to be found,[8] then, that both the year of Jubilee and the seventh year effect [respectively] the release [of debts and land] at the same time, except that the year of Jubilee [effects it] in its beginning and the seventh year at its end.[9] On the contrary! It was just because of this! — Say: Because the year of Jubilee, etc. Granted that the seventh year [effects release] at the end, as it is written: At the end of every seven years, thou shalt make a release,[10] but how does the year of Jubilee [effect release] at the beginning? That takes place on the Day of Atonement, as it is written: In the day of atonement shall ye make proclamation with the horn throughout all your land.[11] This is the view of R. Ishmael, the son of R. Johanan b. Beroka, who said that the year of Jubilee commenced from the New Year already.

Hezekiah son of Biloti heard it,[12] and he went and reported it to R. Abbahu. [The latter asked:] But let him compare movable property to immovable property? — But is it not a matter of dispute among Tannaim, there being some who compare the one to the other,[13] whilst some there are who do not?[14] And he [R. Hiyya b. Abin] holds with the view that we do not make that comparison.

MISHNAH. THINGS DEVOTED FOR [THE USE OF] THE PRIESTS CANNOT BE REDEEMED BUT ARE TO BE GIVEN TO THE PRIESTS. EVEN AS TERUMAH.[15] R. JUDAH B. BATHYRA SAYS: THINGS DEVOTED GENERALLY[16] FALL TO [THE FUND FOR] TEMPLE REPAIRS, AS IT WAS SAID: EVERY DEVOTED THING IS MOST HOLY UNTO THE LORD.[17] BUT THE SAGES SAY: THINGS DEVOTED GENERALLY FALL TO THE PRIESTS, AS IT IS SAID: AS A FIELD DEVOTED: THE POSSESSION THEREOF SHALL BE THE PRIEST'S.[18] IF SO, WHY IS IT SAID: ‘EVERY DEVOTED THING IS MOST HOLY UNTO THE LORD’? [THAT IS TO TEACH] THAT IS APPLIES TO THE MOST HOLY AND THE LESS HOLY THINGS.

A MAN MAY DEVOTE WHAT HE HAS ALREADY CONSECRATED, WHETHER THEY BE MOST HOLY THINGS OR LESS HOLY THINGS. IF [THEY HAD BEEN] CONSECRATED AS A VOW, HE MUST GIVE THEIR VALUE,[19] IF AS A FREEWILL-OFFERING, HE MUST GIVE WHAT IT IS WORTH TO HIM.[20] [IF, E.G., HE SAID:] LET THIS OX BE A BURNT-OFFERING, ONE ESTIMATES HOW MUCH A MAN WOULD PAY FOR THE OX TO OFFER IT AS A BURNT-OFFERING, WHICH HE WAS NOT OBLIGED [TO OFFER]. A FIRSTLING, WHETHER UNBLEMISHED OR BLEMISHED, MAY BE DEVOTED. AND HOW CAN IT BE REDEEMED? THEY [WHO REDEEM IT] ESTIMATE WHAT A MAN WOULD GIVE FOR THIS FIRSTLING IN ORDER TO GIVE IT TO THE SON OF HIS DAUGHTER OR TO THE SON OF HIS SISTER.[21]

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(1) Num. XVIII, 14.

(2) Mishmar, v. Glos.

(3) Lev. XXVII, 21. (5) Num. V, 8. There being no heir to this stranger, his property falls to the priests. As in Lev. XXVII, 21 the words ‘The possession thereof shall be the priest's’ occur here. Hence the inference from analogy of expression.

(4) V. p. 168, n. 5.

(5) The sense of the verse being that the priest who offers the atoning sacrifice for him shall receive the capital and extra fifth.

(6) If the year of Jubilee fell on the Sabbath day on which the guards are changed, to which, the incoming or the outgoing guard, shall the field etc. be given?

(7) The Jubilee started on the eve before the Day of Atonement. Therefore the outgoing guard is entitled to the privilege.

(8) Since the end of the seventh year (the 49th year in the cycle) coincides with the beginning of the Jubilee.

(9) The wording is incorrect. It is because the end of the seventh year coincides with the beginning of the Jubilee that both effect the release at the same time. What meaning is there then to the ‘except that’.

(10) Deut. XV, 1.

(11) Lev. XXV, 9. And the Day of Atonement is the tenth day after the beginning of the New Year.

(12) The teaching of R. Hiyya b. Abin.

(13) R. Judah supra.

(14) R. Simeon.

(15) V. Glos.

(16) I.e., without any specification.

(17) Lev. XXVII, 28.

(18) Ibid. 21.

(19) If he vowed to bring an offering and after designating an animal for the purpose he devoted it, since if that animal died or was stolen he would be liable to replace it, the animal is still regarded as being in his possession and the animal is devoted. As, however, an animal once designated as an offering may never be used for any other purpose, the devoter must pay its full value to the priest, whilst the animal itself is to be sacrificed for the purpose to which it originally had been designated by its owner. The same would apply if the sacrifice in question had not been vowed but obligatory.

(20) If without vow or earlier liability he designated an animal as a freewill-offering, then he must pay the amount at which he valued his satisfaction with the fact that he was able to bring this offering.

(21) A firstling, by reason of being a firstling, is a sacrifice due, which the owner is obliged to hand to the priest. And if the owner, before bringing this animal to the priest had devoted it, he can redeem it by estimating how much a man would give to him to have that firstling given to his relatives, who are priests. A priest must not pay to an Israelite with the view of being favoured as to the latter's priestly gifts. V. Bek. 27a.

Talmud - Mas. Arachin 29a

GEMARA. Our Rabbis taught: Things devoted to the priests cannot be redeemed, but must be given to the priests. Things devoted, as long as they are in the house of their owners, are in every respect as objects consecrated, as it is said: ‘Every devoted thing [in Israel] is most holy unto the Lord’. Once given to the priests, they are in every respect profane, as it is said: ‘Every devoted thing in Israel shall be thine.[1]

R. JUDAH B. BATHYRA SAID: THINGS DEVOTED GENERALLY FALL TO [THE FUND FOR] TEMPLE REPAIRS. It is all right as to the Rabbis, for they have explained their own reason as well as [the verse] adduced by R. Judah b. Bathyra. But what does R. Judah b. Bathyra do with ‘as a field devoted’? — He needs it for what has been taught: ‘As a field devoted, the possession thereof shall be the priest's’. What does that teach us? Whence do we know that if a priest consecrates his field which he derived from ‘devotion’,[2] he may not say: Since it falls to the priests [at Jubilee] and is now in my possession, it shall remain mine; and it is arguable a minori: If I acquire title to what belongs to others, how much more [can I do so] with what belongs to me! Therefore it is written: ‘As a field devoted, the possession thereof shall be the priest's’. What, now, is it that we learn from ‘a field devoted’? This comes to throw light and it itself illumined: His field which he derived from ‘devotion’ is compared with an Israelite's field of possession: just as an Israelite's field of possession goes out of his hand and is distributed among the priests [at Jubilee], thus also his field which he derived from ‘devotion’ goes out of his hands and is distributed among his brethren the priests. And the other?[3] [They derive this from the fact that instead of] ‘devoting thing’ [is is written] the devoted thing.[4] And the other? — [The argument from] ‘devoted’, ‘the devoted’ does not convey [any inference] to him. Whence does R. Judah b. Bathyra know that it applies to the most holy and to less holy things?[5] — He holds as does R. Ishmael.[6]

Rab said: The halachah is like R. Judah b. Bathyra. But will Rab leave aside the Rabbis and act in accord with R. Judah b. Bathyra? — A Baraitha teaches the reverse.[7] But will he leave aside a

Mishnah and act in accord with a Baraitha? — Rab teaches also our Mishnah in the reverse manner. Why do you find it right to teach to reverse our Mishnah in view of the Baraitha? Why not reverse the Baraitha in view of our Mishnah? — Rab had a tradition [on this matter]. If that be the case,[8] why does he say: [the halachah is like] R. Judah b. Bathyra? He should rather say, 'Like the Rabbis'? — This is what he means: Given your teaching in the reverse manner, the halachah is like R. Judah b. Bathyra.

There was a man who devoted his possessions in Pumbeditha. He came before Rab Judah, who said to him: Take four zuz, redeem them thereby, throw them into the river, and then they will be allowed to you. This shows that he holds that things devoted generally go to [the fund for] Temple repairs. In accord with whom will that be? In accord with Samuel, who said: If one re deemed an object worth a mina with an object worth a perutah, it is redeemed. But R. Samuel said that only for the case where he had already done so, but did he at all say one may do so at the outset? — That [reservation] applied only to the time when the Sanctuary was still standing, because of the loss of consecrated property, but now one may do so even at the outset. If so, a perutah ought to do as well?[9] — It is necessary in order to make the matter public.[10] 'Ulla said: 'If I had been there,[11] I would have given all to the priests'. This shows that 'Ulla holds that things devoted generally fall to the priests.

An objection was raised: The law of the Hebrew slave applies only as long as the Jubilee applies, as it is said: He shall serve with thee unto the year of Jubilee.[12] Neither does the law concerning a devoted field apply except at the time when the law of the Jubilee applies, as it is said: And in the Jubilee it shall go out, and he shall return unto his possessions.[13] The law touching houses in walled cities applies only as long as the law of the Jubilee applies, as it is said: It shall not go out in the Jubilee.[14] R. Simeon b. Yohai said: The law concerning a devoted field applies only at the time in which the law of the Jubilee applies, as it is said: But the field, when it goeth out in the Jubilee, shall be holy unto the Lord, as a field devoted.[15] R. Simeon b. Eleazar said: The law concerning the resident alien[16] applies only at the time when the law of the Jubilee applies. Said Bibi, what is the reason? Because it is inferred from the analogous 'well', 'well'. Here it is written: Because he fareth well with thee,[17] and there it is written: Where it liketh him well, thou shalt not wrong him.[18] — This is no difficulty: the one refers to immovable property,[19] the other to movable property. But the case of Pumbeditha referred also to immovable property? — Immovable property outside the Land is like movable property in the land of Israel.[20] MISHNAH. R. ISHMAEL SAID: ONE VERSE SAYS, [ALL THE FIRSTLING MALES] THOU SHALT SANCTIFY,[21] AND ANOTHER VERSE SAYS: [THE FIRSTLINGS AMONGST BEASTS] NO MAN SHALL SANCTIFY.[22] IT IS NOT POSSIBLE TO SAY: THOU SHALT SANCTIFY', SINCE IT WAS SAID ALREADY: NO MAN SHALL SANCTIFY'. AND IT IS NOT POSSIBLE TO SAY: ONE SHALL NOT SANCTIFY', SINCE IT IS ALSO WRITTEN: THOU SHALT SANCTIFY'? HOW THEN? YOU MAY SANCTIFY IT BY CONSECRATING ITS VALUE [TO THE OWNER], BUT YOU MAY NOT SANCTIFY IT BY CONSECRATING ITSELF TO THE ALTAR.[23]

GEMARA: And the Rabbis?[24] 'No man shall sanctify' is required to [render such consecration for the altar transgression of a] prohibition; 'thou shalt sanctify' is necessary in accord with what was taught: Whence do we know that if one had a firstling born to him among his flock, that he is commanded [formally] to sanctify it? Because it is said: 'The firstling thou shalt sanctify'. And R. Ishmael? — If he did not sanctify it, would it not be sacred? It is sacred from his dam's womb! Since, therefore, it is holy even if it be not [specially] sanctified, there is no need to sanctify it. [

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(1) Num. XVIII, 14.

(2) I.e., a field which an Israelite devoted.

(3) The Rabbis.

(4) 'Devoted' would have conveyed the required meaning; 'the' devoted is redundant, and the Sages make the said inference therefrom.

(5) Since he applies the verse ‘Every’ devoted thins’ to another purpose.

(6) V. next Mishnah.

(7) I.e., reverses the views of R. Judah b. Bathyra and the Sages recorded in our Mishnah.

(8) That he taught it in reverse manner.

(9) Why did he have to take four zuz?

(10) That it had been redeemed.

(11) When this cited case happened.

(12) Lev. XXV, 40.

(13) Ibid. 28.

(14) Ibid. 30.

(15) Ibid. XXVII, 21.

(16) I.e., a stranger who renounced idolatry, thereby acquiring a kind of limited citizenship in Palestine.

(17) Deut. XV, 16.

(18) Ibid. XXIII, 17.

(19) Lev. XXV, 28 refers to immovable property.

(20) Here, then, is evidence that the law concerning devoted property applies only as long as the law of the Jubilee is in force.

(21) Deut. XV, 19.

(22) Lev. XXVII, 26.

(23) The Sanctuary may receive the value which the satisfaction of having offered up such a sacrifice has for the owner (v. previous Mishnah), but the firstling may never be deprived of its primary character as a firstling, so as to be offered up in any other capacity, as any other animal consecrated to the altar.

(24) Who do not use these verses for the inferences which R. Ishmael derives from them, to what purpose are they using them?

Talmud - Mas. Arachin 29b

CHAPTER IX

MISHNAH. IF ONE SOLD HIS FIELD [OF POSSESSION] AT THE TIME WHEN THE LAW OF THE JUBILEE WAS IN FORCE, HE MAY NOT REDEEM IT UNTIL AFTER [A TIME OF LESS THAN] TWO YEARS, AS IT IS WRITTEN: ACCORDING TO THE NUMBER OF THE YEARS OF THE CROPS HE SHALL SELL UNTO THEE.[1] IF [AMONG THE TWO] THERE WAS A YEAR OF BLIGHT OR MILDEW, OR A SEVENTH YEAR, IT IS NOT INCLUDED IN THE RECKONING. IF HE ONLY BROKE THE GROUND [WITHOUT PLANTING] OR LEFT IT FALLOW [FOR A YEAR], THAT YEAR IS INCLUDED IN THE RECKONING. R. ELEAZAR SAYS: IF HE SOLD IT TO HIM BEFORE THE NEW YEAR, WHILST IT WAS STILL FULL OF FRUIT, HE ENJOYS THREE CROPS IN TWO YEARS.

GEMARA. IF ONE SOLD HIS FIELD AT THE TIME WHEN THE LAW OF THE JUBILEE WAS IN FORCE, etc. It does not state: He cannot redeem,[2] but ‘he may not redeem’; this shows that it is even prohibited. so that it is forbidden even to clapper zuz to him [to rouse his love of money]. And it is not necessary [to state] that the seller [in redeeming it] acts against a positive command, as it is written: ‘According to the number of the years of the crops he shall sell unto thee’,[1] but even the purchaser transgresses a positive commandment, as we require: [According to the number of] the years thou shalt buy,[1] which was not done here.[3]

It was stated: If one sells his field in the year of Jubilee itself, Rab said, It is sold but goes out [immediately]. whilst Samuel said, It is not sold at all. What is the reason of Samuel's view? It is an argument a minori. If [a field] that was already sold goes out [in the Jubilee] it is not logical that one which is not sold yet cannot be sold [now]! — But according to Rab, do we not argue a minori in such a case? Was it not taught: One might have assumed that a man can sell his daughter when she is a na'arah[4] lass, therefore one argues a minori: If she who was sold already goes out [free],[5] is it not logical that if not sold yet, she cannot be sold now? — There she cannot be sold again, but here it [the field] can be sold again.[6]

An objection was raised: Years after the Jubilee thou shalt buy,[7] that teaches that one may sell immediately after the year of the Jubilee. Whence [do we know] that one may sell [at a period] removed from the year of Jubilee? Therefore it is said: According to the multitude of the years . . . and according to the fewness of the years.[8] In the year of Jubilee itself one may not sell, and if he has sold [a field], it is not [validly] sold![9] Rab will answer you: [It means,] It is not sold ‘according unto the number of the years of the crops’, but it is sold and goes out [immediately]. But if it is legally sold, let it remain in his possession until after the year of the Jubilee, and after the Jubilee let him enjoy the [two] years of the crops, and thereupon return it; for was it not taught: If he enjoyed it one year before the Jubilee, one lets him complete [the two years by] one year after the Jubilee? — There he has started[10] enjoying it, but here he has not started to enjoy it.[11]

R. ‘Anan said: I heard from Mar Samuel two things; one in relation to this point, and the other in relation to the statement: If one sells his slave to an idolater or outside the Land [of Israel], he goes out free. In one case [he said] the purchase money is returned,[12] and in the other it is not returned, and I do not know which is which. Said R. Joseph: Let us see. It was taught in a Baraitha: If one sells his slave outside the Land [of Israel], he goes out free, and he requires a document of manumission from his second master. Now since he refers to the second as his master, it is evident that the purchase money is not returned, and it is therefore here that Samuel said it is not sold and the purchase money is returned.

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(1) Lev. XXV, 15.

(2) I.e., against the wish of the buyer.

(3) He did not fulfil the obligation to buy them for a minimum period of two years. thus disregarding the positive commandment to that effect.

(4) V. Glos.

(5) V. Kid. 4a.

(6) After the daughter has once been sold for servitude, she cannot be sold for servitude again, but the field could be sold after the year of Jubilee.

(7) Lev. XXV, 15.

(8) Lev. XXV, 16.

(9) Contra Rab.

(10) Lit., ‘he descended (into the field)’.

(11) Having started before the Jubilee, lawfully.

(12) To the purchaser.

Talmud - Mas. Arachin 30a

And R. ‘Anan?[1] — As to the Baraitha, he had not heard it and as far as Samuel's [teaching] is concerned, whence [the evidence that it means] that it is not sold and the money is returned? Perhaps [it means]: ‘It is not sold and the money is [to be considered] a gift’; just as is the case of one who betroths his sister; for it was stated: If one betroths his sister, Rab said the [betrothal] money is to be returned, and Samuel holds that the money is regarded as a gift![2]

Abaye said to R. Joseph: Why do you find it proper that we penalize the purchaser. let us penalize the seller![3] — He answered: ‘Not the mouse has stolen, the hole has stolen. But if there were no mouse, whence would the hole [have its theft]? — It is reasonable that we penalize him with whom the forbidden stuff is [found].[4]

IF THERE WAS A YEAR OF BLIGHT, etc. If it is included in the reckoning even when he left it fallow [for a year], is it necessary to state that [it is included] if he broke the ground?[5] — It is necessary. For you might have thought: We say to him,[6] pay him the money [which the breaking of the ground cost] and he will go;[7] therefore we are informed [that we do not say so].

R. ELEAZAR SAID: IF HE SOLD IT TO HIM, etc. It was taught: R. Eleazar said, Whence do we know that if he sold him [the field] before the New Year whilst it was full of fruit, that he cannot say to him: 'Leave it before me as I have left it before you',[8] therefore it is said: 'According to the number of years of the crops he shall sell unto thee', i.e., it may happen that a man enjoys three crops in two years.[9]

MISHNAH. IF HE SOLD IT TO THE FIRST FOR ONE HUNDRED [DENARS]. AND THE FIRST SOLD IT TO THE SECOND FOR TWO HUNDRED, THEN HE NEED RECKON ONLY WITH THE FIRST,[10] FOR IT IS WRITTEN: [THEN LET HIM COUNT THE SALE THEREOF] . . . UNTO THE MAN TO WHOM HE SOLD IT.[11] IF HE SOLD IT TO THE FIRST FOR TWO HUNDRED, AND THE FIRST SOLD IT TO THE SECOND FOR A HUNDRED, THEN HE NEED RECKON ONLY WITH THE SECOND, FOR IT IS SAID: THEN LET HIM COUNT THE YEARS OF THE SALE THEREOF AND RESTORE THE OVERPLUS UNTO THE MAN TO WHOM HE SOLD IT.[11] I.E., UNTO THE MAN WHO IS IN POSSESSION THEREOF.[12] ONE MAY NOT SELL A DISTANT FIELD IN ORDER TO REDEEM A NEARER ONE, NOR REDEEM A POOR FIELD IN ORDER TO REDEEM ONE THAT IS GOOD. NOR BORROW [MONEY] IN ORDER TO REDEEM IT, NOR REDEEM IT BY HALVES, BUT IN THE CASE OF OBJECTS CONSECRATED ALL THESE THINGS ARE PERMITTED. IN THIS RESPECT MORE STRINGENCY ATTACHES TO COMMON PROPERTY THAN TO CONSECRATED OBJECTS.

GEMARA. Our Rabbis taught: If he sold it to the first one for one hundred, and the first sold it to the second for two hundred, whence do we know that he need reckon but With the first? There fore it is said: 'Unto the man to whom he sold it'. If he sold it to the first for two hundred, and the first sold it to the second for a hundred, whence do we know that he need reckon but with the second? Therefore it is said: 'Unto the man' in whose possession it is. These are the words of Rabbi. R. Dosethai b. Judah said: If he sold it to him for one hundred and he improved it so that it[s value] amounted now to two hundred, whence, do we know that he need reckon it only as worth one hundred? Therefore it is said: 'Let him restore the overplus', i.e., the overplus which is left in his hand. If he sold it to him for two hundred and it depreciated and is worth now only one hundred, whence do we know that he need reckon it only as worth one hundred? Therefore it is said, 'Let him restore the overplus', i.e., the overplus that is in the soil.[13] What is the practical difference between these two [authorities]?[14] — If it was more valuable, then became less valuable, then more valuable again.[15] But whence do we know that [the counting] is in the direction of leniency.[16] Perhaps it is to be on the side of stringency? — Do not think so! For we infer it from 'redemption' [written here][17] and 'redemption' [written] in connection with the Hebrew slave.[18] But whence do we know it there? For it was taught: If he was sold for a hundred and appreciated in value and stood at two hundred, whence do we know that he is assessed only at one hundred?[19] Therefore it is said: [He shall give back the price of his redemption] out of the money that he was bought for.[20] If he was sold for two hundred and depreciated and stood at a hundred, whence do we know that he is assessed only at a hundred? Therefore it is said: According unto his years shall he give back the price of his redemption.[21] Now I know only for the case of a slave sold to an idolater that since he may be redeemed [by his own kinsmen] his [the slave's] hand is uppermost. Whence do I know it for the case of one who is sold to an Israelite? Therefore it is said: 'A hired servant', 'a hired servant',[22] for the purpose of a gezerah shawah.

Abaye said:

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(1) What was his doubt?

(2) Everyone knows that he cannot betroth his sister, hence his form of betrothal was a humorous manner of giving her a gift. V. Kid. 46b.

(3) The question refers to the case of a man who sold his slave outside Palestine. Why punish the purchaser? Why not punish the seller by decreeing that he should return the money to the would-be purchaser and imposing upon the seller the duty of manumitting him?

(4) The penalty is inflicted where the corpus delicti, here the unlawfully sold slave, is to be found.

(5) Where he made some use of the land.

(6) To the seller.

(7) Return you the field.

(8) When I sold it to you.

(9) ‘Years of crops’ suggests years with all their crops, no matter how many. If two crops’ only were intended, Scripture would have chosen another expression, such as ‘number of years’ or ‘number of crops’.

(10) The field is at present in the possession of the second, from whom its original owner desires to redeem it. The latter need reckon only according to the purchase money he himself received from the first buyer. From that sum he would deduct the amounts due for the years during which the field was in the buyer's possession.

(11) Lev. XXV, 27.

(12) ‘Ish’ here is interpreted as ba'al, ‘owner’, ‘master’, i.e., whosoever is now in possession. ‘To whom he sold it’ means then to whom the first purchaser sold it. These interpretations in both instances favour the owner.

(13) We interpret the law in a manner favourable to the owner who wishes to redeem it.

(14) Since both Rabbi and R. Judah favour the redeeming owner.

(15) Where it was first sold, say, for two hundred and then resold for one hundred and it appreciated again to two hundred in the possession of the second buyer. According to Rabbi the reckoning is on the basis of one hundred, the price paid by the second buyer, who is the man who is in possession. But on the view of R. Dosethai, the reckoning is on the basis of two hundred.

(16) I.e., more favourable to the owner who wishes to redeem it.

(17) Lev. XXV, 26.

(18) Ibid. 51.

(19) For the purpose of redemption.

(20) Ibid. 51.

(21) Lev. XXV. 52.

(22) Ibid. 40 (with reference to a slave sold to a Jew), and ibid. 50 with reference to one sold to a heathen.

Talmud - Mas. Arachin 30b

Behold I am like Ben ‘Azzai in the streets of Tiberias![1] One of the Rabbis said to Abaye: Since these verses may be interpreted both leniently and stringently. Why do you interpret them leniently, perhaps say they should be interpreted stringently?[2] — Let not that enter your mind, since the All Merciful was lenient to him. For it was taught: Because he fareth well with thee,[3] i.e., he must be with [like] thee in food, with thee in drink, that thou shouldst not eat fine bread and he coarse bread, thou drink old wine and he drink new wine, thou sleep on a soft bed and he on straw. Hence it was said: Whosoever buys a Hebrew slave almost buys a master of himself. But on the contrary, let us deal more stringently with him, in accordance with what R. Jose b. Hanina said. For R. Jose b. Hanina said: Come and see how hard is the very dust[4] of [violating the laws of] the seventh year. For a man who sells and buys the produce of the seventh year ultimately must sell his movable property, as it is said: In this year of Jubilee ye shall return every man unto his possession;[5] and it is said: And if thou sell aught unto thy neighbour. or buy of thy neighbour's hand,[6] i.e., something which is acquired from hand to hand.[7] If he does not perceive this,[8] he eventually must sell his fields, as it is said: If thy brother be waxen poor, and sell some of his possessions.[9] He has no opportunity [of amending his ways][10] until he sells his house, as is added: And if a man sell a dwelling-house in a walled city.[11] Why state there: ‘If he does not perceive’. and here ‘He has no opportunity’? — This is in accord with R. Huna, for R. Huna said: Once a man has committed a transgression and repeated it, it is permitted to him. ‘Permitted to him’, how could you think so? Say, rather, it becomes as permitted to him.[12] It is not brought home to him[10] until he sells his daughter, as it is said: And if a man sell his daughter to be a maidservant,[13] and although the [sale of] the daughter is not mentioned in this section, he teaches us that a man should rather sell his daughter than borrow on usury; for in the former case she goes on making deductions [and goes out free], whereas here [the debt] becomes ever larger.[14]

It is not brought home to him until he sells himself, as it is said: And if thy brother be waxen poor with thee and sell himself to thee.[15] And not even ‘unto thee’, but unto a proselyte, as it is said: Unto the proselyte,[16] and not even to a proselyte of righteousness, but to a resident alien, as it is said: Or unto the resident alien.[17] ‘A prose lyte's family’, i.e., an idolater. When it is said, ‘to the stock’, it means one who sells himself to become a servant to an idol itself! — He replied: But Scripture restores him [to his brethren's regard]. For the School of R. Ishmael taught: Since this one went and sold himself to the service of idol worship, [I might have said] let us cast a stone after the fallen?[18] Therefore it is said: After that he is sold, he shall be redeemed, one of his brethren shall redeem him.[19] But perhaps ‘he shall be redeemed’ means, he shall not be absorbed by the idolaters, but as far as redemption is concerned, we should indeed deal stringently with him? — Said R. Nahman b. Isaac: It is written, If there be yet increases in the years,[20] and if there remain but little in the years:[21] are there then prolonged years and shortened years?[22] But [the meaning is this]. If his value increased, [then his redemption shall be paid] Out of the money that he was bought for;[23] and if his value decreased [the basis of the redemption shall be] According unto his [remaining] years! But perhaps [the meaning is this]: If he served two years, with four remaining, let him repay him for four years ‘out of the money that he was bought for’; while if he served four years, with two remaining, let him repay two years ‘according unto his years’?[24] — If that were the meaning. let Scripture write: ‘If there be yet [shanim] many years’. Why ‘in years [he-shanim]’? [It means:] If his value increased [in these] years [then his redemption shall be paid] ‘out of the money that he was bought for’; and if his value decreased, in [these] years [the basis of the redemption shall be] ‘according unto his [remaining] years’. R. Joseph said: R. Nahman interpreted these verses [with authority] as of Sinai.

HE MAY NOT SELL A DISTANT FIELD etc. Whence do we know these things? For our Rabbis taught: And his hand shall reach,[25] i.e., his own hand, [implying] that he must not borrow to redeem; ‘and find’ excludes that which he possessed already. He must not sell a remote [field] to redeem a nearer one; nor a bad one to redeem a good one; ‘sufficient means to redeem it’, i.e., he may redeem it [wholly], but not by halves. Shall we say that [the phrase] ‘and he find’ means that which is here already? Against this I will raise a contradiction: ‘and findeth’,[26] that excludes the case where he [the victim] brought himself [within the range of the missile]. Hence R. Eliezer said: If after the stone had left his hand the other put out his head and received it [the blow], he [the former] is free.[27] This shows that ‘he find’ refers to something that had been [here already before]? — Raba replied: [Here] in our case [we consider] the context of Scripture, and there, too, [we consider] the context of Scripture. Here it corresponds to ‘and his hand reaches’; just as ‘his hand reaches’ means only now, thus also ‘and find’ means just now. And there, too, ‘and findeth’ corresponds to ‘the forest’: just as the forest was here before, so does ‘and findeth’ means that he [the neighbour] was here already before.

IN THE CASE OF OBJECTS CONSECRATED, etc. Whence do we know these things? — Because our Rabbis taught: And if he [that sanctified the field] will indeed redeem it:[28] that teaches that he can borrow and redeem and redeem by halves. Said R. Simeon: What is the reason? Because we find in the case of one who sells a field of possession that [since] his privilege is strengthened in that if the Jubilee arrives and it has not been redeemed it reverts to the owner, his rights are weakened in [so far] that he cannot borrow and redeem, or redeem by halves, whereas he who consecrates a field of possession, since his rights are weakened in that if the Jubilee comes and it is not redeemed, it goes out to the priests, therefore his privilege is strengthened, in [so far] that he may borrow and redeem as well as redeem by halves.

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(1) In an expansive mood he challenged all comers. Ben ‘Azzai was famous for his scholarship. and for his eagerness to be challenged on any point of Jewish law. Abaye does not suggest that he is as complacent in his judgment on all other Sages as Ben ‘Azzai, but that like the latter he is eager to hear questions and to answer them. Cf. Bek. 58a.

(2) The verses referring to the redemption of the Hebrew slave. Instead of applying v. 52 to depreciation and v. 51 to appreciation in value, so that the slave is always assessed on his higher value.

(3) Deut. XV, 16.

(4) The very dust, as it were the scent. A real transgression of the law of the seventh year would consist of his storing up fruit for speculation; ‘dust’ suggests ‘shade’, something akin to, here, an occupation indirectly related to those forbidden in the seventh year. Selling its produce is such indirect transgression. nevertheless the consequences are as serious as described (R. Gershom).

(5) Lev. XXV. 13.

(6) Lev. XXV, 14. The juxtaposition of these two verses imply that the one is a punishment for transgressing the other.

(7) I.e., movables.

(8) That this is punishment inflicted for his transgression.

(9) Lev. XXV, 25. ‘Possessions (used esp. for the field inherited) indicates ‘immovable property’.

(10) Lit., ‘it does not come to his hand’.

(11) Ibid. 29.

(12) The effect of repeated transgression upon the transgressor lies in his becoming insensitive to wrong so that wrong habit hardens and develops into wrong character.

(13) Ex. XXI, 7.

(14) The sum paid for the daughter diminishes as the daughter performs the labour implied in her servitude, so that if she be redeemed after some years, it may be small indeed, but a debt contracted upon usurious terms increases from year to year. Whereas there is no reference to the daughter in that section, usury is mentioned therein, and the suggestion is made that he had sold his daughter already. in accord with the advice given.

(15) Lev. XXV, 39.

(16) Ibid. 47. E.V. ‘stranger’.

(17) The difference between the proselyte of righteousness and the resident alien (Ger Toshab) lies in the fact that the former, for the sake of the faith, accepts upon himself all the laws of the Torah, whereas the resident alien, in order to acquire a limited citizenship. renounces idolatry but does not accept the rest of the law.

(18) Performing menial service for the pay, without in any manner being identified with idolatry. Now since this is the foretold and effected punishment of one who even indirectly transgressed the laws of the seventh year, why deal leniently with him?

(19) Lev. XXV, 48.

(20) Ibid. 51.

(21) Ibid. 52. The translation here would seem to indicate the meaning of the verses as understood by R. Nahman.

(22) All years are of the same duration.

(23) The meaning is, if his value increased in the years of his service, etc.

(24) The verses thus may not refer to a rise or fall in values, but be meant literally as the E.V.

(25) Lev. XXV, 26. E.V. ‘And he be waxen rich’.

(26) Deut. XIX, 5. E.V. ‘lighteth’.

(27) V. Mak. 8a.

(28) Lev. XXVII, 19. Indeed endeavours to express the intensive in Heb: And if redeeming, he will redeem. The redundancy is here interpreted also to suggest that he may redeem any way, i.e., by borrowing, or by halves as long as he redeems.

Talmud - Mas. Arachin 31a

One [Baraitha] taught: ‘He may not borrow and redeem. and may not redeem by halves’? — This is no difficulty: one is in accord with the Rabbis. the other with R. Simeon.[1]

MISHNAH. IF ONE SOLD A HOUSE AMONG THE HOUSES IN A WALLED CITY. HE MAY REDEEM IT AT ONCE AND AT ANY TIME DURING TWELVE MONTHS.[2] IT IS A KIND OF [RECEIVING] INTEREST, AND YET NOT INTEREST.[3] IF THE SELLER DIED, HIS SON MAY REDEEM IT. IF THE PURCHASER DIED, IT MAY BE REDEEMED FROM HIS SON. ONE CAN RECKON THE YEAR ONLY FROM THE TIME THAT HE SOLD IT, AS IT IS SAID: WITHIN THE SPACE OF A . . . YEAR.[4] SINCE IT SAYS: A ‘FULL’ [YEAR] THE INTERCALARY MONTH IS INCLUDED THEREIN.[5] RABBI SAYS: HE IS ALLOWED A YEAR AND ITS INTERCALARY [DAYS].[6] IF THE [LAST] DAY OF THE TWELVE MONTHS HAS ARRIVED AND IT WAS NOT REDEEMED. IT BECOMES HIS ABIDING [POSSESSION], NO MATTER WHETHER HE BOUGHT IT OR RECEIVED IT AS A GIFT, AS IT IS SAID: IN PERPETUITY.[7]

GEMARA. Our Mishnah will not be in accord with Rabbi, for it was taught: Rabbi said, Yamim[8] [days] that means no less than two days! How do the Rabbis explain ‘yamim’? — They need it for [the indication]: From the day to the day.[9] And whence does Rabbi know the rule ‘from the day to the day’? — He derives it from: ‘Within a whole year after it is sold’. And the Rabbis? — This [verse] is needed to teach that one considers only the year after his sale and not the universal [calendar] year, and the word yamim indicates that twenty-four astronomical hours are meant.[10] For if [we had only] ‘within a whole year after it is sold’ [to go by], one might have assumed that is must be [a full year] from day to day, but need not be from [exact] hour to [exact] hour, therefore the Divine Law wrote: ‘Yamim’. Whence does Rabbi know that it must be from ‘hour to hour’? — He derives that from ‘full’ [year]. And the Rabbis? — That is necessary for [the inclusion of] its intercalary [days]. But Rabbi, too, requires that for its intercalary [days]? — That indeed is so, but that [the year must be full] from day to day and from hour to hour he derives from: ‘Within a whole year after it is sold’.

IT IS A KIND OF INTEREST, etc. But was it not taught: This is real interest, except that the Torah has permitted it [in this case]? — R. Johanan said: This is no difficulty: One [teaching] is in accord with R. Judah, the other with the Sages. For it was taught: If one had a creditor's claim of one maneh against his neigh bour and the latter pledged unto him the sale of his field,[11] then, if the seller has the usufruct, it is permitted, but if the purchaser has the usufruct, it is forbidden.[12] R. Judah says: Even if the purchaser has the usufruct, it is permitted.[13] Said R. Judah; It happened with Boethus b. Zunin that with the approval of R. Eleazar b. Azaryah he pledged his field's sale, and the purchaser had the usufruct. They said to him, [Would you adduce] evidence from there? The seller had the usufruct, not the purchaser. Wherein do they differ? — They differ with respect to one-sided usury.[14] The first Tanna holds one-sided usury to be forbidden, whilst R. Judah is of the opinion that one-sided usury is permitted

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(1) R. Simeon holds that any impairment of rights of any person in one direction must have as its compensating aspect a strengthening of his rights in another direction. He finds this principle verified not only in the case of him who sells his field of possession, or his field acquired by purchase, but also in the case of one who sells a house in the walled city (v. Tosaf.). The Rabbis, however, dispute his view. V. Kid. Sonc. ed., p. 97 n. 3.

(2) By paying to the purchaser the full sum of the sale, Lev. XXV, 29.

(3) Since the purchaser may inhabit the house free of rent. For, on redelivering it, the owner must refund the exact sum of the purchase without any deduction for rent. Yet it is not interest, for if the owner does not exercise his right of redemption, the buyer has inhabited what is his house in perpetuity.

(4) Lev. XXV, 30.

(5) I.e., he need not redeem before thirteen months.

(6) The first Tanna holds ‘a full year’ to mean a complete calendar year up to the very same day of the year to come, hence the intercalary month is included. Rabbi, however, holds ‘a full year’ to be the solar year, consisting of 365 days, which is composed of the 354 days of the lunar year of the Jewish calendar, plus the eleven days difference between the lunar and the solar year.

(7) Lev. XXV, 30. The present owner acquires it in perpetuity, independent of the way he acquired it.

(8) Ibid. 29. 'Yamim', lit., 'days'. (E.V. 'a full year'). On Rabbi's view the purchaser would have had it for at least two days before the seller could redeem it. Our Mishnah, however, taught that redemption is permitted without any delay.

(9) From e.g., the tenth of Adar to the tenth of Adar next year, and not as one might have thought, from the tenth of Adar to the end of the calendar year. It is the whole year after the purchase that the Torah stipulates.

(10) Not only the day, but the hour. It would allow the seller, who had sold it at 5 p.m. on Adar 10th to re-purchase it up to that very hour, the hour included.

(11) Saying, 'If I do not repay a certain date the field is sold unto you'.

(12) Because if he repays the debt, the usufruct would rank as interest for the money advanced.

(13) Because it is not certain that the field will be redeemed, in which case there is no usury. Hence it is regarded as none-sided interest which is permitted.

(14) V. previous note.

Talmud - Mas. Arachin 31b

. Raba said: All agree that one-sided usury is forbidden, here they are disputing [the principle of] usury [received] on condition that it shall be returned,[1] one holding it to be forbidden, the other to be permitted.

IF THE SELLER DIED, HIS SON MAY REDEEM IT. But that is self-evident? — You might have said: The Divine Law said, And if a man sell a dwelling house,[2] and this one [the son] did not sell it, therefore we are informed, then he may redeem it,[2] which means any way.

IF THE PURCHASER DIED, IT MAY BE REDEEMED FROM [THE HAND OF] HIS SON. But that is self-evident? — You might have said: The Divine Law said, To him that bought it,[3] but this one did not buy it, therefore we are informed, 'then he may redeem it', which means anyway.

ONE CAN RECKON THE YEAR ONLY FROM THE TIME THAT HE SOLD IT, etc. Our Rabbis taught: [It Is written:] 'year';[4] I would not know whether this year is to be counted to the first or the second [purchaser], but as it says, 'with the space of a full year',[5] it must mean to the first. Whose abiding [possession] does it become? — R. Eleazar said: It becomes the abiding possession of the first one. R. Johanan said: It becomes the abiding possession of the second. This is quite right according to R. Eleazar, since we reckon also according to him, but what is the reason for R. Johanan's view? — R. Abba b. Memel said: What did the first sell to the second? All the rights that may accrue to him therefrom.

R. Abba b. Memel said: If one sold two houses in a walled city, one on the fifteenth day of the first Adar, and the other on the first day of the second Adar, then as soon as the first day of Adar in the next year has arrived, the year is complete for the sale of the first day of the second Adar, but for the sale of the fifteenth of Adar the year does not become complete before the fifteenth Adar in the next year. Rabina demurred: But could he not say unto him: I lighted a fire before you![6] — [That would not be effective] because he could reply: You have chosen the intercalated month![7]

Furthermore said R. Abba b. Memel: If two lambs were born to one,[8] one on the fifteenth of the first Adar, and the other on the first of the second Adar, then the one born on the first of the second Adar has its year completed as soon as the first day of Adar of the next year has arrived, whereas to the one born on the fifteenth day of the first Adar the year is not complete before the fifteenth day of Adar in the next year. Rabina demurred: But [the first] could say to the [second] other: I have eaten grass before you! [That would not be effective] because it could reply: You have come down [to life] in the intercalated month, I have not arrived in the intercalated month! For what purpose was that second [case] taught? Is it not identical with the first? — You might have said: There [the reason for the change] is that it is written: ‘a full [year]’, but here, in connection with which ‘full’ is not written, it does not apply; therefore we are informed that there is an inference from the analogous ‘year’, ‘year’.[9]

SINCE IT SAYS A ‘FULL’ [YEAR], etc. RABBI SAYS, HE IS ALLOWED A YEAR AND ITS INTERCALARY [DAYS]. Our Rabbis taught: [It is written], ‘a full year’: Rabbi Says. He counts three hundred and sixty-five days according to the number of days in the solar year; but the Sages say: He counts twelve months from day to day, and if the year is intercalated it is intercalated to his advantage!

IF THE [LAST] DAY OF THE TWELVE MONTHS HAS ARRIVED AND IT WAS NOT REDEEMED, etc. Our Rabbis taught: ‘La-zemithuth’,[10] i.e., permanently. Another explanation: La-zemithuth’. that includes the gift. What is the reason? — [Since instead of] zamith [it says] zemithuth.[11] — The scholars said before R. Papa: According to whom is this? [Evidently] not in accord with R. Meir; for if according to R. Meir, surely he said: ‘A gift is not treated like a sale’![12] — R. Papa answered: You may even say that it is in accord with R. Meir, but here it is different. because the Divine Law, in saying ‘la-zemithuth’ has included [the field by gift]. The scholars said to R. Papa, or as some say. R. Huna the son of R. Joshua said to R. Papa: But in connection with the Jubilee touching which it is said: Ye shall return[13] includes the gift. yet R. Meir does not include [a gift]?[14] — Hence indeed it is not in accord with R. Meir.

Our Rabbis taught: If one consecrated a house among the houses In a walled city, he may redeem it at once, and redeem it any time in the future. If someone else redeemed it from the Sanctuary. and the [last] day of the twelve months[15] has arrived and the [original owner] did not redeem it [from him who redeemed it] then it is his in perpetuity. Whence do we know this? — Said Samuel: Because Scripture said: To him that bought it, i.e., even out of the possession of the Sanctuary. But let it become the permanent possession of the Sanctuary? — Scripture said: Throughout his generations;[16] that excludes the Sanctuary which has no generations.[17] Why [is it written]: It shall not go out in the Jubilee?[18] — Said R. Safra: That was necessary only for the case of one who sold a house among the houses in a walled city, and the Jubilee arrived within the [first] year. One might have assumed: It shall go out on the Jubilee, therefore we were taught: ‘It shall not go out in the Jubilee’.

MISHNAH. BEFORETIME HE [THE BUYER] USED TO HIDE HIMSELF ON THE LAST DAY OF THE TWELVE MONTHS, SO THAT [THE HOUSE] MIGHT BECOME HIS PERMANENT [POSSESSION]. BUT HILLEL ORDAINED THAT HE [THAT SOLD IT] COULD DEPOSIT HIS MONEY IN A CHAMBER[19] AND BREAK DOWN THE DOOR AND ENTER, AND THAT THE OTHER, WHENEVER HE WANTED, MIGHT COME AND TAKE HIS MONEY.

GEMARA. Raba said: [One may deduce] from the ordinance of Hillel that [if a husband said to his wife]: Here is thy bill of divorce on condition that you give me two hundred zuz, and she gave it to him, then she is divorced if she did so with his consent; but if against his will, she is not divorced.

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(1) The case is one in which the purchaser undertakes that if the seller redeems the field within three years, he would return to him the value of the usufruct. The Rabbis hold even this is forbidden, for when he enjoys the usufruct it is actually interest on money lent, whilst R. Judah said: Since by this arrangement the infringement of usury is precluded. V. B.M. Sonc. ed., p. 376. n. 9.

(2) Lev. XXV, 29.

(3) Ibid. 30.

(4) Ibid. 29.

(5) Lit., ‘until a full year has been completed for him’.

(6) I.e., I have kindled fire and used the house before you! Why should it become your abiding possession before the one I used became mine?

(7) Having chosen that month, you indicated that you are satisfied to abide by the regulations of the intercalated year. hence your year is completed later.

(8) These lambs, being firstlings, must be offered up before they are one year old.

(9) Lev. XXV. 30. (with reference to a dwelling house) and Deut. XV, 20 (with reference to firstlings).

(10) E.V. ‘In perpetuity’. Lev. XXV, 30.

(11) The shorter form would have been sufficient. The redundancy of the longer form includes something, hence possession by gift, to which the same rule applies as does to possession by purchase.

(12) V. Bek. 52b.

(13) Lev. XXV, 10.

(14) In the law of the Jubilee.

(15) After redeeming it from the Sanctuary.

(16) Lev. XXV, 30.

(17) I.e., offspring.

(18) Ibid. This is apparently superfluous in view of the preceding ‘in perpetuity’.

(19) What chamber? Not, as most commentators have it, in the Sanctuary. No house in Jerusalem could fall to the purchaser, and for an inhabitant of the province the procedure of bringing that money to Jerusalem on the particular day might be very burdensome. R. Gershom suggests it was a chamber constructed ad hoc, in any court of justice, in the city wherein the case arose.

Talmud - Mas. Arachin 32a

For, since it was necessary for Hillel to ordain that [in this case] giving against [the recipient's will] is considered valid giving, the inference is that elsewhere such giving is not considered valid giving. To this R. Papa, or as others say, R. Shimi b. Ashi, demurred: But perhaps Hillel had to ordain this only in his absence, but in his presence it would be considered a valid gift both with his consent or without it? Others reported: Raba said, From the ordinance of Hillel [one can infer that if a husband said]: Here is your bill of divorce on condition that you give me two hundred zuz, and she thereupon gave them to him, whether that was given with his consent or against his will, it is a valid gift. For Hillel's ordinance was necessary in the case of the recipient's absence; but where he was present, whether [given] with his consent or against his will, the gift is valid. To this R. Papa, or as some say, R. Shimi b. Ashi, demurred: But perhaps whether it was in his presence or absence, it is [valid] only [if it was given] with his consent, but not if without his consent, and as to Hillel, he ordained what was required [by the circumstances of the case].[1]

MISHNAH. WHATSOEVER IS WITHIN THE [CITY] WALL IS REGARDED AS THE DWELLING HOUSES IN A WALLED CITY, WITH THE EXCEPTION OF FIELDS. R. MEIR SAYS: ALSO FIELDS. IF A HOUSE IS BUILT INTO THE WALL, R. JUDAH SAYS: IT IS NOT CONSIDERED A HOUSE WITHIN A WALLED CITY. R. SIMEON SAYS: ITS OUTER WALL IS REGARDED AS ITS [CITY] WALL.

GEMARA. Our Rabbis taught: [It is written] ‘house’,[2] hence I know only about a house, whence [do I learn] to include the building for the oil-press, bath-houses, towers, dove-cotes, pits, trenches and caves? Therefore the text states: that is in the city.[3] One might have assumed that fields are also included, therefore it is said: ‘house’. So R. Judah. R. Meir says, ‘house’, hence I know only about a house. Whence [do I learn] to include the buildings for the oil-press, bath-houses, towers, dove-cotes, pits, trenches and caves, and also fields? Therefore the text states: ‘that is in the city’. But surely it is written: ‘house’? — R. Hisda in the name of R. Kattina said: The practical difference between them applies in the case of a sand-mound and a glen.[4] Thus also was it taught: Concerning a sand-mound and a glen. R. Meir said: They are as houses, R. Judah: They are as fields.

IF A HOUSE IS BUILT INTO THE WALL, R. JUDAH SAYS: IT IS NOT CONSIDERED A HOUSE WITHIN THE WALLED CITY, etc. R. Johanan said: And both expound the same Scriptural verse: Then she let them down by a court through the window; for her house was upon the side of the wall, and she dwelt upon the wall.[5] R. Simeon [explains it] according to the simple meaning of the text,[6] whilst R. Judah holds: She dwelt upon the wall, not in a walled city.

MISHNAH. [A HOUSE WITHIN] A CITY WHOSE HOUSEROOFS[7] FORM ITS WALL, OR THAT WAS NOT ENCOMPASSED BY A WALL IN[8] THE DAYS OF JOSHUA B. NUN, IS NOT CONSIDERED A DWELLING HOUSE IN A WALLED CITY. [A HOUSE IN ANY OF] THE FOLLOWING IS ACCOUNTED A HOUSE IN A WALLED CITY: [THOSE IN A CITY] OF NO LESS THAN THREE COURTYARDS, HAVING TWO HOUSES EACH, WHICH HAVE BEEN ENCOMPASSED BY A WALL IN THE DAYS OF JOSHUA B. NUN, SUCH AS THE OLD CASTLE OF SEPPHORIS,[9] THE FORT OF GUSH-HALAB.[10] OLD YODPAT,[11] GAMALA,[12] GADUD,[13] HADID,[14] ONO,[15] JERUSALEM AND THE LIKE.

GEMARA. Our Rabbis taught: [It is written,] ‘a wall’,[16] but not a line formed by joining roofs; round about,[17] that excludes Tiberias whose wall is the lake. R. Eliezer b. Jose says: asher lo homah,[18] even though it has none now, as long as it had one before.

[A HOUSE IN ANY OF] THE FOLLOWING IS ACCOUNTED IN WALLED CITIES etc. It was taught: Gamala was in Galilee, Gadud in Transjordania, Hadid, Ono and Jerusalem in Judaea. What does he mean to say?[19]

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(1) His ordinance providing also for the case where the owner was present. V. Git. 74b.
(2) Lev. XXV, 29.
(3) Ibid. 30.
(4) A sand-mound for glassmaking, and a glen (shaft for metal-digging). Aliter: a fish-pond. [It is to these that R. Meir refers under the term of ‘fields’, since they appertain to buildings but not to actual fields, in which he agrees with R. Judah, though R. Judah treats the former also as fields.]
(5) Joshua II, 15.
(6) Which states that the house was in the wall and she dwelt in (a city surrounded by) a wall.
(7) The ed. Lowe of the Mishnah reads: gannotheha (house-gardens) instead of gaggotheha (house-roofs).
(8) Lit., ‘since’, v. Gemara.
(9) In Lower Galilee.
(10) The Fort of Gush-Halab, identified by Neubauer with Josephus’ Giskala.
(11) Yotapata mentioned by Josephus.
(12) On the eastern shore of Lake Galilee.
(13) Var. lec: Gadar, perhaps Gadara, a fortress described by Josephus as the capital of Beraea.
(14) Mentioned in Ezra II. 33; east of Lydda.
(15) Modern Kefir Anneh, N. of Lydda.
(16) Lev. XXV, 30.
(17) Ibid. 31.
(18) Asher lo homah (E.V. ‘that is in the walled city’); the kethib is spelt לא (not), meaning lit., ‘which has no wall’ and the kere, לו (to it), i.e., ‘which has a wall to it’, hence the combination of the meanings: Even if it has no wall now, as long as it had one in the long ago it is, for the purposes of these laws, considered a walled city.
(19) Surely not that there were no walled cities in Galilee save Gamala, or in Transjordania save Gadud!

Talmud - Mas. Arachin 32b

Abaye said: This is what he means, [All the cities] up to Gamala in Galilee. up to Gadud in Transjordania, and Hadid, Ono and Jerusalem in Judaea.[1] Raba said: Gamala in Galilee [is mentioned so as] to exclude [any city called] Gamala in other countries; Gadud in Transjordania to exclude Gadud in any other countries; but with regard to the others, since there are none of the same name [like them], no [statement as to their location] was necessary.

But is [any house in] Jerusalem liable to become irredeemable? Was it not taught: Ten special regulations were applied to Jerusalem: first, that a house sold there should not be liable to become irredeemable [etc.]. R. Johanan said: [The Mishnah means] like Jerusalem, that was encompassed by a wall in the days of Joshua b. Nun, [yet] not like Jerusalem,[2] for in Jerusalem no house sold there was liable to become irredeemable, but here[3] a house sold is liable to become irredeemable. R. Ashi said: Did not R. Joseph say. There were two [different cities called] Kadesh? Thus also were there two [cities called] Jerusalem.[4]

It was taught: R. Ishmael b. Jose said: Why did the Sages enumerate those [in the Mishnah]? Because when the exiles [from Babylon] went up [to Palestine] they found these [cities] and sanctified them, but former [cities] lost [their holiness] as the sanctity of the land was lost. He holds, therefore, that as to the first consecration, he[5] consecrated it only for the time being, but not for the future. I will raise a question of contradiction against this: R. Ishmael b. Jose said: Were there only these [mentioned in the Mishnah], surely it has been said: Three score cities, all the region of Argob . . . all these were fortified cities?[6] Why then did the Sages enumerate but these? Because when the exiles came up they found these and consecrated them anew. (‘And consecrated them’! Surely we said above that it was not necessary to consecrate them anew? — Rather [read]: ‘They found those and enumerated them’.) And not only these [are walled cities], but any one concerning which you have a tradition from your fathers that it was encompassed by a wall since the days of Joshua b. Nun, then all these laws apply to it, because as to the first consecration, he consecrated it not only for the time being, but for the future?[7] — If you like, say: There were two Tannaim in conflict about the view of R. Ishmael. Or, if you like, say: One of them was R. Eleazar b. Jose, for it was taught: R. Eleazar b. Jose said, 'Asher lo homah', even though it is not encompassed by one to-day, as long as it was walled before.[8] What is the reason of the one who holds: 'As to the first consecration, he consecrated it only for the time being, but not for the future'? — Because it is written: And all the congregation of them that were come back out of the captivity made booths, and dwelt in the booths; for since the days of Joshua the son of Nun had not the children of Israel done so. And there was very great gladness.[9] Is it possible that when David came, they made no booths, [when Solomon came, they did not make booths] until Ezra came?[10] Rather, he compares their arrival in the days of Ezra to their arrival in the days of Joshua: just as at their arrival in the days of Joshua they counted the years of release and the Jubilees, and consecrated cities encompassed by walls, thus also at their arrival in the days of Ezra they counted the years of release and the Jubilees. and consecrated walled cities.[11] And it says also: And the Lord thy God will bring thee into the land which thy fathers possessed, and thou shalt possess it;[12] thus comparing your possession thereof with that of your fathers: just as your forefathers' possession thereof brought about a renewal of all these things, so shall your possession thereof bring about a renewal of all these things.

And the other?[13] — He [Ezra] had prayed for mercy because of the passion for idolatry and he removed it, and his merit then shielded them even as the booth. That is why Scripture reproved Joshua, for in all other passages it is spelt: Jehoshua, but here, Joshua.[14] It was quite right that Moses did not pray for mercy, because the virtue [power] of the Holy Land was absent [to support his plea], but why did Joshua, who had the power of the Holy Land [to assist him], fail to pray for mercy?[15] But it is written: 'which thy fathers possessed and thou shalt possess it'?[16] — This is what is meant: Since they fathers possessed it, you also possess it.[17]

But did they count the years of release and Jubilees [after the return from Babylon]? If even after the tribe of Reuben, the tribe of Gad and the half-tribe of Manasseh went into exile, the Jubilees were abolished, should Ezra in connection with whom it is said: The whole congregation together was forty and two thousand three hundred and three score,[18] have counted them? For it was taught: When the tribe of Reuben, the tribe of Gad and the half-tribe of Manasseh went into exile, the Jubilees were abolished as it is said: And ye shall proclaim liberty throughout the land unto all the inhabitants thereof,[19] i.e., [only] at the time when all the inhabitants thereof dwell upon it, but not at the time when some of them are exiled. One might have assumed that if they were there, but intermingled, the tribe of Benjamin with that of Judah and the tribe of Judah with that of Benjamin, that even the [laws of the] Jubilee should apply, therefore it is said: 'unto all the inhabitants thereof', which means, only at the time when its inhabitants are there as [where] they ought to be, but not when they are intermingled! — Said R. Nahman b. Isaac: They counted the Jubilees to keep the years of release holy.[20] [

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(1) All the cities up to Gamala etc. were encompassed with walls in the days of Joshua, and have no less than three courtyards of two houses each.

(2) He compares them to Jerusalem which was a walled city in the days of Joshua, but they are not as Jerusalem, for in that city no house sold could become irredeemable, Jerusalem belonging to all Israel.

(3) I.e., in the other places mentioned.

(4) Perhaps the distinction is made between the Greater Jerusalem and Jerusalem proper, as between New York City and Greater New York, the latter including very many and widely scattered communities. In Jerusalem proper no house could fall to the purchaser in perpetuity because of the seller's failure to redeem it within the year. But this restriction would have no validity in the expanded Greater Jerusalem, evidence as to which has of late been presented.

(5) Joshua; the consecration of the Holy Land by him lost its validity with the destruction of the Holy City and the exile of its population.

(6) Deut. III, 4, 5.
(7) V. Shebu., Sonc. ed., p. 80 notes.
(8) V. p. 192, n. 9.
(9) Neh. VIII, 17.
(10) Inserted with Sh.Mek. The mentioning of David alone is insufficient, surely with Solomon, the Temple-builder, Sukkoth was celebrated, too.
(11) The words For since the days of Joshua . . . had not . . . done so, do not refer to the booths but to the renewed formal rites of sanctification.
(12) Deut. XXX, 5.
(13) How does he who holds that he consecrated for all the future explain the passage from Nehemiah? 'Booths' here as symbolic meaning: they enjoyed the protection 'as of booths', because Ezra through his prayer had achieved the destruction of idolatrous tendencies among the people, and this achievement protected them. In this sense they 'had booths', when they returned.
(14) For his failure to implore the Lord to remove the passion for idolatry from the heart of the people. Just as with Abram the enlargement of his name into 'Abraham' was an expression of divine approval, so did this diminution of Jehoshua into Joshua express divine disapproval. The reason for Joshua's failure to implore the Lord to remove the passion for idolatry was his assumption that he possessed the land in its pristine holiness, so that it would in itself help Israel to overcome its idolatrous tendencies.
(15) Hence the implied censure of Joshua.
(16) Which would show that renewed sanctification was required.
(17) Without the need of a renewed sanctification.
(18) Ezra II, 64.
(19) Lev. XXV, 10.
(20) Though the Jubilees had been abolished, years of release were still observed, consequently they had to count the Jubilees in order to be able to observe the years of release in their proper time. For the year of Jubilee was not included in the seven years cycle. They therefore had to know when the year of Jubilee arrives to be able to fix the next year of release, which was to be the eighth year following the year of Jubilee.

Talmud - Mas. Arachin 33a

That will be right in the view of the Rabbis who hold that the fiftieth year is not included,[1] but according to R. Judah who holds that the fiftieth year counts both ways,[2] why was that necessary [to count the Jubilees]? It would have been enough if the years of release alone had been counted! Hence [we must say], this is not in accord with the view of R. Judah.

But did they not count years of release and the Jubilees?[3] Is it not written: At the end of seven years ye shall let go every man his brother that is a Hebrew, that hath been sold unto thee,[4] and when we asked: Why 'at the end of seven years'? is it not written: He shall serve thee six years?[5] and to this R. Nahman b. Isaac replied: Six for one who had been sold and seven for one who had his ear pierced?[6] — This is written in connection with the threat of punishment, for the prophet said: 'Did you set them free [when you should have done so]?[7] But it is said: They hearkened and let them go'?[8] — Rather, said R. Johanan: Jeremiah brought them back, and Josiah son of Amon ruled over them. Whence do we know that they returned? — Because it is written: For the seller shall not return to that which is sold.[9] Now is it possible that the Jubilee was abolished already and the prophet would prophesy concerning it that it will be abolished? This therefore teaches that Jeremiah had brought them back. Whence do we know that Josiah ruled over them? — Because it is written: Then he said: What monument is that which I see? And the men of the city told him: It is the sepulchre of the man of God, who came from Judah, and proclaimed these things that thou hast done against the altar of Beth-El.[10] Now what had Josiah to do at Beth-El?[11] Hence [we must say]. When Jeremiah had brought them back, Josiah ruled over them. R. Nahman b. Isaac derived it from here: Also, O Judah, there is a harvest [katsir] appointed for thee![12]

MISHNAH. HOUSES IN COURTYARDS[13] HAVE THE PRIVILEGES BOTH OF HOUSES IN A WALLED CITY. AND THE PRIVILEGES GIVEN TO FIELDS: THEY CAN BE REDEEMED AT ONCE, AND AT ANY TIME WITHIN THE TWELVE MONTHS LIKE HOUSES [IN A WALLED CITY], AND THEY GO OUT [TO THE OWNERS] IN THE YEAR OF JUBILEE OR [AT AN EARLIER TIME] BY [PAYMENT OF A] LESSENED PRICE[14] LIKE FIELDS.

GEMARA. Our Rabbis taught: [It is written:] [But the houses in courtyards which have no wall about them] shall be reckoned with the fields of the country:[15] Scripture compares them with a field of possession: just as a field of possession goes out in the Jubilee and by payment of a lessened price, so do houses in courtyards go out in the year of Jubilee and by payment of a lessened price. [One might have assumed that similarly:] Just as a field of possession may not be redeemed before two years, thus may houses in courtyards not be redeemed before two years, therefore it is said: they may be redeemed,[15] i.e., at once. Since you have given them the privileges of fields, as well as those of houses in walled cities, one might assume that they do not go out in the year of Jubilee, therefore it is said: And they shall go out in the Jubilee.[15] What does he mean to say?[16] — Said R. Huna: This was necessary [to be stated] only for the case of one who consecrates a house among the houses in a courtyard, and someone else redeemed it from the Sanctuary, and the year of Jubilee came in its second year.[17] With what, now, will you compare it? If you compare it to a house in a walled city. it becomes the perpetual [possession] of the purchaser;[18] if you compare it to a field of possession, it goes out to the priests. For this case it was necessary to say: ‘And they shall go out in the Jubilee’.[19] To this R. Ze'ira demurred: Why speak about someone else redeeming it? Even if no-one redeemed it the same [law would apply]?[20] — Said Abaye: [This is not so] lest people say: Consecrated property goes out without redemption. Whence do we know that? — [It is derived] from a Levite: If a Levite whose privilege is strengthened where he sold property[21] has his rights weakened where he consecrated an object,[22] how much more shall an Israelite whose rights are weakened where he sold property, have his rights weakened with regard to an object which he consecrated himself! And whence do we know it there?[23] — Because it was taught: And if a man purchase of the Levites, then shall go out [in the Jubilee] that which was sold.[24] From this I might infer that [the law applies] even to his slaves, his movable property, and his documents, therefore it is said: Of a house [in the] city of his possession. What then does ‘that which was sold’ mean? What he sold goes out without payment, but no consecrated object goes out without payment but [requires] redemption. Now this[25] conflicts with R. Oshaia, for R. Oshaia said: All was included in the general statement: Then shall he add [the fifth part of] the money . . . and it shall be assured to him,[26] and when Scripture specified with regard to the field of possession: But the field when it goeth out in the Jubilee shall be holy unto the Lord,[27] [as a field devoted], [it teaches] only a field if redeemed goes out [from the one who redeemed it] to the priests, but all other [objects redeemed from the Sanctuary] remain where they are.[28]

For what purpose [then][29] is it said: ‘And they shall go out in the Jubilee’? — R. Papa said: This is necessary but for the case of one who sells a house among the houses in courtyards, and the Jubilee came in the second year. With what now will you compare it? If you compare it to a house in a walled city, it becomes the perpetual [possession] of the purchaser; if you compare it to a field of possession, it needs the completion [of two years in the purchaser's possession],[30] for this case it was necessary to state: ‘And they shall go out in the Jubilee’.

It was taught in accord with R. Huna and in refutation of R. Oshaia: If one consecrates a house among the houses in courtyards, then he may redeem it at once, and redeem it for ever. If someone else redeemed it from the Sanctuary, and the Jubilee arrived and it had not been redeemed [by the original owner] it reverts in the year of Jubilee to the owner.

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(1) In the cycle of seven years.

(2) Both as the year of release and the beginning of the next seven year cycle.

(3) After the exile of the tribes of Reuben, Gad, etc.

(4) Jer. XXXIV, 14.
(5) Deut. XV, 12.
(6) According to Ex. XXI, 6 the ear of the slave who refuses to go free and who must then serve him up to the year of the Jubilee, is pierced. If such a pierced servant has completed seven years and the eighth was a Jubilee year. he went out free. This passage of Jeremiah refers to the time of Zedekiah, long after Sennacherib had exiled a large part of the people, and yet the law of the year of Jubilee was valid!
(7) The verse is thus to be rendered: By the end of the seven years you should have had set free etc.
(8) Jer. XXXIV, 10.
(9) Ezek. VII, 13.
(10) II Kings XXIII, 17.
(11) Josiah was King of Judah, Beth-el was in Israel.
(12) Hosea VI, 11. Reading for kazir (harvest) kazin (prince, ruler). The letters r and n interchange frequently in the Hebrew Bible. The meaning of the passage thus is given as: ‘From Judah (whose king Josiah was first) was a king appointed for thee (O Israel)’.
(13) V. Lev. XXV, 31. E.V., ‘houses of the villages’.
(14) V. supra 24a.
(15) Lev. XXV. 31.
(16) Obviously they will go out in the Jubilee because they were compared to fields of possession. Why then the superfluous, And they shall go out in the Jubilee?
(17) After it had been redeemed from the Sanctuary.
(18) V. supra 31b.
(19) And it returns to the owner.
(20) The superfluous ‘And they shall go out in the Jubilee’ coming to teach that the law applies to the case of consecration no less than to that of sale, making the house in a courtyard returnable on the Jubilee to the original owner.
(21) A Levite can redeem at any time a house in a walled city sold by him.
(22) V. infra.
(23) That the rights of the Levite are weakened in the case of consecration.
(24) Lev. XXV, 33. So literally.
(25) R. Huna's statement above that if a stranger redeems a house in a courtyard from the Sanctuary, it returns to the original owner at Jubilee.
(26) Lev. XXVII, 19 teaching that he who redeems aught from the Sanctuary retains the ownership of the redeemed object in permanence.
(27) Ibid. 21.
(28) In the permanent possession of him who redeemed them.
(29) On the view of R. Oshaia.
(30) V. supra 29b.

Talmud - Mas. Arachin 33b

MISHNAH. THE FOLLOWING ARE CONSIDERED HOUSES IN [OPEN] COURTYARDS: [A CITY IN WHICH ARE] TWO COURTYARDS, EACH HAVING TWO HOUSES, EVEN THOUGH THEY HAVE BEEN ENCOMPASSED BY A WALL SINCE THE DAYS OF JOSHUA B. NUN, ARE THEY ACCOUNTED HOUSES IN [OPEN] COURTYARDS.

GEMARA. Our Rabbis taught: By mere implication of the text: ‘Houses of the courtyards’,[1] would I not know that they are not encompassed by walls, why then is it stated: ‘Which have no wall around them’? [To teach us] that even if they were encompassed by a wall, they would still be considered as not being so encompassed.[2]

And how many [houses and courtyards must there be]? — ‘Houses’ [denotes] two; ‘courtyards’, also two: i.e., two courtyards having two houses each. But perhaps one house in one courtyard? Then the Divine Law should have written, [only] ‘courtyards’. And if you were to say: If the Divine Law had written only courtyards', it would have been understood as a courtyard without a house, but such a one is called an enclosure [and not a courtyard].

MISHNAH. IF AN ISRAELITE INHERITED [A HOUSE IN A WALLED CITY OF THE LEVITES] FROM HIS MOTHER'S FATHER WHO WAS A LEVITE, HE CANNOT REDEEM IT ACCORDING TO THE ORDER HERE PRESCRIBED.[3] ALSO IF A LEVITE INHERITED [A HOUSE IN A WALLED CITY OF ISRAELITES] FROM HIS MOTHER'S FATHER WHO WAS AN ISRAELITE, HE CANNOT REDEEM IT ACCORDING TO THE ORDER HERE PRESCRIBED, AS IT IS WRITTEN: FOR THE HOUSES OF THE CITIES OF THE LEVltes.[4] [THIS ORDER THUS DOES NOT APPLY] UNLESS HE IS A LEVITE AND IN THE CITIES OF THE LEVITES. THESE ARE THE WORDS OF RABBI. THE SAGES SAY: THESE THINGS APPLY ONLY TO THE CITIES OF THE LEVITES.[5]

GEMARA. Then like whom [does he redeem]?[6] Like a Levite? But then it teaches UNLESS HE IS A LEVITE AND IN THE CITIES OF THE LEVITES? — Say: HE CANNOT REDEEM IT except AC CORDING TO THE [FOREGOING] ORDER HERE PRESCRIBED, UNLESS HE IS A LEVITE AND IN THE CITIES OF THE LEVITES. THESE ARE THE WORDS OF RABBI. It is quite right as to [UNLESS HE IS IN] THE CITIES OF THE LEVITES, as it is written: For the houses of the Levites. But whence do we know that [these foregoing rules do not apply UNLESS HE IS] A LEVITE? — Because it was written: And if a man redeem of the Levites.[7] It was [likewise] taught: 'And if a man redeem [re-purchases] of the Levites'. One might assume that a Levite could re-purchase from an Israelite, because the privileges of the former are strengthened, whereas the rights of the latter are weakened,[8] but a Levite could not re-purchase from a Levite because the privileges of both are strengthened, therefore it is said: '[And if a man] redeem of the Levites'. 'Of the Levites, i.e., but not all the Levites, excluding a Levite who is a bastard or a nathin.[9] The Sages, however, say: 'These things apply only to the cities of the Levites'. But we do not say that he must be a Levite.[10]

MISHNAH. ONE MAY NOT TURN A FIELD INTO A CITY'S OUTSKIRTS,[11] NOR A CITY'S OUTSKIRTS INTO A FIELD.[12] NOR A CITY'S OUTSKIRTS INTO A CITY,[13] NOR A CITY INTO A CITY'S OUTSKIRTS.[14] R. ELEAZAR SAID: THIS APPLIES ONLY TO THE CITIES OF THE LEVITES, BUT IN THE CITIES OF THE ISRAELITES ONE MAY TURN A FIELD INTO A CITY'S OUTSKIRTS, BUT NOT[15] A CITY'S OUTSKIRTS INTO A FIELD. [ONE MAY TURN] A CITY'S OUTSKIRTS INTO A CITY, BUT NOT A CITY INTO A CITY'S OUTSKIRTS, THAT THEY DESTROY NOT THE CITIES OF ISRAEL. THE PRIESTS AND LEVITES MAY SELL [A HOUSE] AT ANY TIME AND REDEEM IT AT ANY TIME, AS IT IS SAID: THE LEVITES SHALL HAVE A PERPETUAL RIGHT OF REDEMPTION.[16]

GEMARA. R. ELEAZAR SAID: THIS APPLIES ONLY TO THE CITIES OF THE LEVITES. BUT IN THE CITIES OF THE ISRAELITES ONE MAY TURN etc. But, at any rate, all are of the opinion that in [the cities of] the Levites one may not effect any change. Whence do we know that? — R. Eleazar said: Because Scripture said, But the fields of the open land about their cities may not be sold.[17] What does 'may not be sold' mean? Shall I say that it may not be sold at all? But since it is written, 'The Levites shall have a perpetual right of redemption' it is evident that they must be selling; rather must 'may not be sold' mean that they may not be changed [as above].

THE PRIESTS AND LEVITES MAY SELL AT ANY TIME AND REDEEM AT ANY TIME. Our Rabbis taught: 'The Levites shall have a perpetual right of redemption'; what does that teach us? Because it is said: According unto the number of years of the crops he shall sell unto thee,[18] one might have assumed that shall apply also here, therefore it is said: 'The Levites shall have a perpetual right of redemption'. And because it is said: But the field, when it goeth out in the Jubilee, shall be holy unto the Lord,[19] one might have assumed the same applies here: therefore it is said:

‘The Levites shall have a perpetual right of redemption’. And because it is said: ‘Then the house that is in the walled city shall be made sure in perpetuity to him’,[20] one might have assumed that shall apply also here: therefore it is said: ‘The Levites shall have a perpetual right of redemption’. Granted that one could assume that with regard to the first, but how do Levites come to have houses in walled cities? Was it not taught: These cities [of the Levites] may not be either little villages nor large walled cities, but cities of average size?[21] — R. Kahana said: This is no contradiction: one refers to a city first inhabited and then encompassed.[22] But would it in that case be considered a walled city? Was it not taught: ‘And if a man sell a dwelling house in a walled city’,[23] i.e., one that was first walled, and then inhabited. One might have assumed [that law applies] even if the Israelites had walled it [after the conquest of the Land]: therefore it says here: ‘wall’ and elsewhere it says, too, ‘wall’:[24] just as there it refers to one built by idolaters, so here also. One might have assumed [it would be considered a walled city] if the idolaters had walled it at a later date: therefore it says here, ‘wall’, and there too it says ‘wall’: just as there the idolaters had done so before [the conquest]. so here too [the wall must have been there before the conquest]! — R. Joseph, son of R. Sala the Pious interpreted it before R. Papa: We suppose that they [the cities] had fallen to them [the Levites] together with their outskirts.[25]

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(1) Lev. XXV, 31. E.V., ‘houses of the villages’.

(2) Since they are sparsely inhabited.

(3) The meaning seems to he: The order described in Lev. XXV, 32-3 which contains the regulations governing houses belonging to the Levites. V. however Gemara.

(4) Lev. XXV, 33.

(5) Interpreting the passage to mean: If one of the Levites redeems (instead of the usual rendering. If one redeems of the Levites) that he who redeems must himself be a Levite, excluding thus an Israelite who inherited from a Levite, which is the view of Rabbi in our Mishnah.

(6) Referring to the first two clauses in our Mishnah.

(7) Lev. XXV, 33. E.V., ‘purchase of the Levites’. V. p. 200, n. 5.

(8) Since an Israelite cannot redeem after one year.

(9) Lit., ‘given’, ‘donated’. A descendant of the Gibeonites (Josh. IX, 27). V. Yeb. 78b: David decreed concerning Nethinim that with regard to intermarriage they be excluded from the congregation of Israel.

(10) Lit., ‘unless he is a Levite’.

(11) An open space outside of a city which was neither sown nor built upon. V. Num. XXXV, 3: And their open land shall be for their cattle, and for their substance and for off their beasts. (Ibid. 4:) From the wall of the city and outward a thousand cubits round about.

(12) In the former case the change would reduce the cultivated area, in the latter the city would become ugly, because its beautiful appearance requires an open space round about it.

(13) In order to extend the street, build houses or the like.

(14) One would decrease the number of the city's inhabitants, or destroy its aspects, by changing the city into its outskirts.

(15) Var. lec. omit NOT reading AND A CITY'S etc. V. B.B. 26b.

(16) Lev. XXV, 32.

(17) Ibid. 34.

(18) Ibid. XXV, 15 teaching that the redemption cannot take place before two years, v. supra 29b.

(19) Ibid. XXVII, 21.

(20) Ibid. XXV, 30.

(21) V. Mak. 10a.

(22) The former could not apply to a city of the Levites, but once they settled in them, they could surround the cities by a wall.

(23) Lev. XXV, 29.

(24) Deut. III, 5 in connection with the aborigines of Palestine.

(25) In the days of Joshua, the walled cities together with their outskirts.

Talmud - Mas. Arachin 34a

Talmud - Mas. Arachin 34a

But they as well as their outskirts are to be torn down?[1] — R. Ashi said: It is necessary to teach [the law] for one might have assumed that before they are torn down, if any [of the houses] therein have been sold, they should become perpetual possessions, therefore we are informed [that is not so].

Our Rabbis taught: As a field devoted the possession there of shall be the priest's:[2] what does that teach? Whence do we know that if a priest consecrated a field obtained by him as [a field of] devotion that he cannot say: Since it anyway goes out to the priests [in the Jubilee year] and now is in my possession, it shall be my own, a fortiori: If I acquire title to what belongs to others, how much more [can I acquire title] to what belongs to me, therefore it is said: ‘As a field devoted the possession thereof shall be to the priest’.[3] Now what are we learning from [the words]: ‘As a field devoted’? Behold the text came to teach and now it itself is illuminated thereby: we compare the field acquired [by the priest] as [a field of] devotion to an Israelite's field of possession. Just as an Israelite's field of possession goes out of his hand and is distributed among the priests, so also does the field which he acquired as [a field of] devotion go out of his hand to be distributed among his brethren the priests.

The Master said: ‘If I acquire title to what belonged to others’. But how can that be compared? There he simply acquires title to it, but here he takes himself? — Rami b. Hama said: It is necessary [to state that]: You might have assumed since it is written: And every man's hallowed things shall be his,[4] that this also is like his ‘hallowed things’. But how can you compare these? His hallowed things are not in his possession,[5] whereas this is in his possession![6] Rather said R. Nahman: It is necessary to teach this, for you might have assumed since it is written: For that is their perpetual possession.[7] that this too,[8] is his possession;[9] therefore the text ‘his possession’ informs us that [the law applies] only to his possession but not to anything obtained by him as devotion.

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(1) Since the cities of the Levites may not be big walled cities.

(2) Lev. XXVII, 21.

(3) V. supra 29a.

(4) Num. V, 10 referring to the sacrifices which a priest offers on his own behalf.

(5) I.e., he received them from God as a gift for his service.

(6) He obtains them only after the sacrifice has been offered, as his God-appointed portion of the sacrifice, whereas here he keeps it back for himself without any authority.

(7) Lev. XXV, 34.

(8) The field once acquired by him as a field of devotion.

(9) In perpetuity.

Talmud - Mas. T'murah 2a

CHAPTER I

MISHNAH. ALL PERSONS CAN EXCHANGE,[1] MEN AS WELL AS WOMEN; NOT THAT ONE IS PERMITTED TO EXCHANGE,[2] BUT THAT IF ONE DID SO, THE SUBSTITUTE IS SACRED,[3] AND HE RECEIVES FORTY LASHES.[4]

GEMARA. [The Mishnah] contains a contradiction in itself. You say: ALL PERSONS CAN EXCHANGE, implying that it is [permissible to exchange in the first instance] and [then it says]: NOT THAT ONE IS PERMITTED TO EXCHANGE, implying, only after it has been done?[5] — But how can you understand it that ALL PERSONS CAN EXCHANGE in the first instance! In that case, instead of bringing a contradiction from the Mishnah, you could rather bring it from the Scriptural verse, since it says: He shall not alter it nor change it![6] Rab Judah therefore said: What [the Mishnah] means is this: ALL PERSONS CAN EFFECT AN EXCHANGE,[7] MEN AS WELL AS WOMEN;[8] NOT THAT ONE IS PERMITTED TO EXCHANGE, BUT THAT IF ONE DID SO, THE SUBSTITUTE IS SACRED, AND HE RECEIVES FORTY LASHES.

What additional case is included by [the word] ALL?[9] — It includes the case of an heir,[10] and [the Mishnah] will not be in accordance with the view of R. Judah,[11] for it has been taught:[12] An heir can lay hands [on the head of a sacrifice];[13] an heir can effect exchange [with his father's dedication]. This is the teaching of R. Meir; whereas R. Judah says: An heir cannot lay hands [on the head of a sacrifice] nor can an heir effect exchange [with his father's dedication]. What is R. Judah's reason? — We infer the case of a preliminary act in the dedication[14] from the case of a final act in the dedication.[15] Just as in the case of the final act, an heir cannot lay hands [on the head of a sacrifice], so in the case of the preliminary act, an heir cannot effect exchange [with his father's dedication]. And how do we know this in the case of laying on of hands itself?[16] — Three times the expression his offerings[17] is used: One [intimates that] ‘his offering’ [requires laying on of hands], but not that of a gentile. One [that] ‘his offering’, but not that of his fellow. And one ‘his offering’ but not his father's dedication.[18] But as for R. Meir, who rules that an heir can effect exchange [with his father's dedication], surely ‘his offering’ is written?[19] — He needs this in order to include partners in a sacrifice[20] as requiring to perform laying on of hands. And [what does] R. Judah] [say to this]?[21] — He does not hold that partners in a sacrifice must perform laying on of hands.[22] What is the reason? Because their sacrifice is not designated.[23] Or if you prefer [another solution] I may say that R. Judah may still be of the opinion [that partners in a sacrifice must perform laying on of hands] but he derives the cases both of the sacrifice of a gentile and a fellow's sacrifice[24] from the one text.[25] There is left over therefore one text, from which we derive that partners in a sacrifice must perform laying on of hands.[26] And as to R. Meir, who rules that an heir can exchange [with his father's dedication] what is his reason? — He can tell you: [Scripture says:] And if he shall at all change,[27] to intimate that an heir can change.

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(1) This unconsecrated animal for that consecrated animal.

(2) Since Scripture says: Nor chance it (Lev. XXVII, 10).

(3) Thus both animals become sacred.

(4) For violating the prohibitory law of ‘nor change it’.

(5) Is the exchange effective, but not that it is directly permissible.

(6) Ibid.

(7) So that the substituted animal becomes sacred whilst the original animal retains its sanctity.

(8) Even the exchange by a woman renders the substituted animal sacred.

(9) Besides the MEN and WOMEN actually mentioned.

(10) Who exchanges a sacrifice which his father consecrated during his lifetime.

(11) Who holds that an heir cannot effect an exchange with his father's dedication.

(12) Men. 93a; ‘Ar. 2a.
(13) If the father was unable to do so during his life-time.
(14) E.g., that of exchanging.
(15) I.e., that of laying on of hands on the animal's head, which act is prior to sacrificing it.
(16) That an heir cannot perform this.
(17) And if his offering be a sacrifice of a peace-offering (Lev. III, 1). And if his offering for a sacrifice unto the Lord be of the flock (Ibid. 6). And if he offer a lamb for his offering (Ibid. 7). And in each text the law of ‘laying on of hands’ is laid down.
(18) R. Judah therefore deduces from here that an heir cannot lay hands on his father's dedication.
(19) Thus intimating that an heir cannot lay hands on his father's dedication.
(20) If, for example, two or three people share one sacrifice, we apply to each partner the text ‘his offering’ and thus they all have to lay hands on the animal prior to killing it.
(21) If the text is interpreted for this purpose, how can he infer his ruling that an heir cannot lay hands?
(22) He is of the opinion that an offering brought by partners does not require the laying on of hands.
(23) As belonging specifically to any one of the partners. Consequently R. Judah can still maintain that the text ‘his offering’ excludes a father's dedication from the need of the laying on of hands.
(24) As being excluded from the laying on of hands
(25) The expression ‘his offering’ implies the exclusion of the sacrifice by an agent, whether Jew or gentile, from the law of laying on of hands. For it cannot be said to be solely for the purpose of excluding the sacrifice of a gentile from the laying on of hands, since this is already derived from another Biblical text as explained in Men. 93a.
(26) And there still remains a third text of ‘his offering’ to imply that laying on of hands is not required in connection with a father's dedication, since a father's sacrifice might naturally be regarded as one's own and consequently subject to the laying on of hands. There is need therefore for a special text to inform us that this is not so.
(27) Lit., ‘changing he shall change’. The reduplicated expression enables us to infer that an heir's exchange of his father's sacrifice is effective.

Talmud - Mas. T'murah 2b

We infer then the case of a final act in the dedication[1] from the case of a preliminary act in the dedication.[2] Just as in the case of the preliminary act, an heir can effect exchange [with his father's dedication], so in the case of the final act, an heir can lay on hands. And what will R. Judah do with the text: ‘And if he shall at all change’?[3] — It is to include [the exchange by] a woman, and as it is taught: Since the whole context [of exchanging] speaks only of the masculine gender, as it says: He shall not alter it nor change it,[4] whence do you derive that the same applies to a woman? The text therefore states:[5] ‘And if he shall at all change’,[6] in order to include a woman. And whence does R. Meir[7] derive that a woman [can effect an exchange]? — He derives it from the waw [‘and’].[8] And [what does] R. Judah [say to this]? — He does not interpret the waw.[9] Now according to the view both of R. Meir and of R. Judah, the reason [why the law of substitution applies to a woman] is because Scripture expressly included the case of a woman,[10] but if it had not included it, I might have thought that when she exchanged she was not punishable [with lashes].[11] Surely Rab Judah reported in the name of Rab and likewise a Tanna of the School of R. Ishmael taught: [Scripture says:] When a man or woman shall commit any sin that men commit;[12] Scripture thus places woman on a par with man in respect of all the penalties mentioned in the Torah! — You[13] might be under the impression[14] this is the case only as regards a penalty which applies equally, both to the individual and the community, but there,[15] since the penalty does not apply equally in all cases, for we have learnt: A community or partners cannot effect an exchange,[16] therefore in the case of a woman also if she performed an exchange she would not be punishable [with lashes]. Hence we are informed [that this is not so].

Rami b. Hama asked: Can a minor effect an exchange? What kind of case do you mean? Shall I say, it is the case of a minor who has not yet reached the stage of [legal] vows?[17] Surely there should be no question about this, for since he is unable [legally] to dedicate, how can he effect an exchange?

— Rather the case is that of a minor who has reached the stage of [legal] vows.[18] Do we say, seeing that a Master said: [Scripture could have stated:] When a man shall utter a vow of persons. Why then does it say: If a man shall clearly utter[19] a vow? It is in order to include ‘a doubtful person[20] next to a man’ in that his dedication is valid.[21] Now do we say that since he can dedicate, he can effect an exchange? Or, perhaps, since a minor is not punishable,[22] he cannot effect an exchange?[23] And if you were to maintain that a minor can effect an exchange, since ultimately he comes into the category of being punishable,[24] can a gentile effect an exchange? Should we say, since he can legally dedicate an animal for sacrifice, as it has been taught: [Scripture says:] A man, a man [of the house of Israel].[25] What need is there for Scripture to repeat ‘man’? It is in order to intimate that the gentiles can make votive freewill-offerings like the Israelites;[26] [do we say that] they therefore can also effect an exchange? Or perhaps since [they] never come into the category of being punishable,[27] [do we say that] when an exchange is performed by them [the animal] is not sacred? — Said Raba, Come and hear: For it has been taught, No secular use may be made of the dedications of gentiles, but the law of sacrilege does not apply to them.[28] Nor are [these] subject to the law of piggul,[29] nothar,[30] and uncleanness. [Gentiles] cannot effect an exchange, nor can they bring drink-offerings,[31] but the animal offering [of a gentile] requires [the accompaniment of] drink-offerings. These are the words of R. Simeon. R. Jose said: In all [these things][32] I favour the strict view.[33] This[34] applies only to things dedicated for the altar,[35] but with things dedicated [for their value] to be used for Temple needs, the law of sacrilege applies. At all events [the Baraitha] says: [Gentiles] cannot effect an exchange.[36] And what does Rami b. Hama [say to this]?[37] — My inquiry does not refer to a case where a gentile dedicates [an animal] for his own atonement.[38] My inquiry has reference to a case where a gentile dedicated an animal so that an Israelite may be atoned for [by its sacrifice]. Do we go by the person who consecrates[39] or by the person for whom atonement is made?[40] But why not solve this question from what R. Abbuha said? For R. Abbuha reported in the name of R. Johanan: [Only] he who dedicates must add a fifth,[41] and he who is to procure atonement can effect an exchange,[42] and if one separates [the priestly due] from his own [grain]

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(1) The laying on of the hands which is prior to the sacrificing of the animal.

(2) The exchanging of an unconsecrated animal for a consecrated one.

(3) Why the reduplicated expression, since he holds that an heir cannot effect exchange with his father's dedication?

(4) Lev. XXVII, 10.

(5) V. supra n. 4.

(6) The reduplicated expression when the one word ‘he shall change’ would have sufficed.

(7) Who needs the text ‘and if he shall at all change’ in order to include the case of an heir.

(8) As Scripture could have said simply, ‘If he shall at all change, etc.’ without the ‘and’.

(9) The waw in ואם does not call for a special interpretation.

(10) Stating that the exchange is effective.

(11) I.e., that her exchange is not holy.

(12) Num. V, 6.

(13) The phrase ‘it is necessary’ is omitted with Sh. Mek.

(14) Var. lec. (v. Rashi): You might be under the impression that this is the case, viz., that a woman is placed on a par with man with reference only to a prohibition where an action is involved (e.g., the desecration of the Sabbath etc.) but in the case of a prohibition where no action is involved (as, for example, the exchanging of an unconsecrated animal for a consecrated one, where the words themselves constitute an action) I might have thought that she is not punishable with lashes, hence we are informed otherwise.

(15) With reference to exchanging.

(16) Infra 13a.

(17) I.e., if he is less than twelve years and a day. At that age, even if he knows to whom he vows and dedicates, his word is of no importance. From the age of thirteen years and a day, however, his vows and dedications are legal, even if he is not conscious of their significance.

(18) I.e., the age of twelve years and a day, when his vows and consecrations are subject to examination as to whether he realises their import.

(19) Heb. Ki yafli (Lev. XXVII, 2).

(20) Heb. Mufla.

(21) I.e., a boy near the age of religious majority.

(22) Till the age of thirteen years and one day.

(23) For Scripture says: He shall not alter it nor change it . . . . Then it and the exchange thereof shall be holy. We therefore say anyone to whom this prohibitory law and the penalty attached thereto apply, can perform an exchange, but as the prohibition and the penalty are not relevant to a minor, therefore his exchange is not valid.

(24) With the penalties mentioned in the Torah when he attains his religious majority.

(25) Lev. XVII, 8. E.V. ‘whatsoever man there be of the house of Israel’.

(26) Naz. 62a; Men. 73b.

(27) As the Biblical commands and prohibitions do not apply to them.

(28) V. Lev. V, 15ff.

(29) A sacrifice rejected in consequence of improper intention in the mind of the officiating priest, to eat it beyond the prescribed time limit, v. Glos.

(30) Portions of the sacrifice left over beyond the legal time, v. Glos.

(31) They cannot offer drink-offerings for the altar without bringing a sacrifice at the same time, unlike an Israelite.

(32) Relating to sacrilege, piggul, etc.

(33) That sacrifices of gentiles are subject to the respective laws, the only exception being drink-offerings, which they cannot bring.

(34) The teaching of the first Tanna in the above Baraitha that says: Dedications of gentiles are not subject to the law of sacrilege.

(35) I.e., an animal sacrificed.

(36) Which solves the above query of Rami b. Mama regarding a gentile.

(37) Why does he inquire, since it is explicitly mentioned in the Baraitha.

(38) Lit., ‘so that a gentile may be atoned for’. There is no doubt that in such a case the gentile cannot effect an exchange, since he does not come into the category of being punishable.

(39) And the consecrator being a gentile cannot effect an exchange.

(40) Who is an Israelite and punishable and therefore an unconsecrated animal can be substituted for it, both animals thus becoming sacred.

(41) Where a man dedicates his house or field, the owner, if he is desirous of redeeming it, must add a fifth. But if a stranger redeems it, Scripture does not make it incumbent upon the redeemer to add a fifth, v. Lev. XXVII, 15.

(42) Since the animal was consecrated for his benefit we regard it as his offering, because we go by the person for whom atonement is made.

Talmud - Mas. T'murah 3a

for [the untithed grain of] his fellow,[1] the power of disposing of it[2] belongs to him [who separated].[3] What does Rami b. Hama [say to this]?[4] — There,[5] [as the dedication] came through the agency of an Israelite, we go by him to whom atonement is made and thus both the beginning[6] and the end[7] are in the hand of an Israelite. But here,[8] the question is: Do you require that both the beginning and the end should remain in the control of one who can effect an exchange,[9] or not?[10] The question remains undecided.

The Master said: ‘No secular use may be made of dedications of a gentile, but the law of sacrilege does not apply to them’. [The ruling that] no secular use may be made of them is Rabbinical,[11] and that the law of sacrilege does not apply to them is Biblical. What is the reason? — It is written: If a soul commit a trespass and sin through ignorance.[12] We draw an analogy between [the word] ‘sin’ here and sin mentioned in connection with terumah;[13] and with reference to terumah it is written: The children of Israel,[14] [intimating] but not gentiles.[15] ‘Nor are these subject to the law of piggul, nothar and uncleanness ; because in connection with uncleanness it is written: Speak unto Aaron and unto his sons that they separate themselves from the holy things of the children of Israel[16] and that they profane not My holy name, etc.;[17] and we infer that nothar [does not apply to the dedications of gentiles] by means of an analogy between the word ‘profaned’[18] and the word ‘profaned’ mentioned in connection with the law of uncleanness: with reference to uncleanness it is written: ‘The children of Israel and that they profane not, etc.’, and in connection with nothar it is written: Therefore everyone that eateth it shall bear his iniquity because he hath profaned the hallowed things of the Lord.[19] And we derive the case of piggul[20] by means of an analogy between the word ‘iniquity’[21] and the word ‘iniquity’ mentioned in connection with nothar; for in connection with piggul it is written: And the soul that eateth of it shall bear its iniquity.[22] And in connection with nothar it is written: Therefore everyone that eateth it shall bear his iniquity for he hath profaned the hallowed things of the Lord,[23] and so in connection with all [these cases[24] we apply the text] ‘the children of Israel’[25] but not gentiles.

‘Gentiles cannot effect an exchange’, because it is written: He shall not alter it nor change it,[26] and earlier in the context it is written: Speak unto the children of Israel and say unto them when a man shall clearly utter a vow of persons,[27] [thus referring to the children of Israel and not to gentiles]. Another version: Gentiles cannot effect an exchange. What is the reason? There is an analogy between the exchange of an animal and the tithing of animals,[28] and there is also an analogy between animal tithing and the tithing of grain;[29] and in connection with the tithing of grain it is written: But the tithes of the children of Israel which they offer unto the Lord;[30] ‘the children of Israel’ but not gentiles.[31]

‘Nor can they bring drink-offerings, but the animal offering of a gentile requires [the accompaniment of] drink-offerings.These are the words of R. Simeon.’ Whence is this proved? — Our Rabbis have taught: [Scripture says:] All that are home born;[32] a home born[33] brings drink-offerings but the gentile does not bring drink-offerings. One might think that a burnt-offering of a gentile does not require drink-offerings! The text therefore states: After this manner.[34]

‘Said R. Jose: In all these cases I favour the strict view’. What is the reason? — The words ‘unto the Lord’[35] are used [in connection with the dedications of gentiles].[36]

‘This applies only to things dedicated for the altar, but with things dedicated [for their value] to be used for Temple needs, the law of sacrilege applies’. What is the reason? — Since when we derive the law of sacrilege on the basis of the analogy of ‘sin’ and ‘sin’[37] mentioned in connection with terumah,[38] there must be some resemblance to terumah which is dedicated as such.[39] But with things dedicated to be used for Temple needs, which are dedicated for their value, the case is not so.

Rab Judah reported in the name of Rab: In the case of every negative command mentioned in the Torah [the transgression of] which involves action is punishable with lashes, but if it involves no action, it is exempt [from lashes]. And is this a general rule, that a negative command [the transgression of which] does not involve an action is not punishable with lashes? But is there not the case of one who exchanges [an unconsecrated animal for a consecrated animal] which involves no action,[40] and yet it is punishable [with lashes]? For we have learnt: NOT THAT ONE IS PERMITTED TO EXCHANGE, BUT THAT IF ONE DID SO, THE SUBSTITUTE IS SACRED AND HE RECEIVES FORTY LASHES! — Rab can answer you: This [our Mishnah] is the opinion of R. Judah who holds: A negative command [the transgression of] which involves no action is punishable with lashes. But how can you explain the Mishnah in accordance with the view of R. Judah, surely have we not explained the first clause [of the Mishnah] as not being in accordance with the view of R. Judah? For the Mishnah states: ALL PERSONS CAN EXCHANGE; [and it was asked]: What does hakkol [all] include? [And the answer was that] it includes the case of an heir, not in accordance with R. Judah![41] This Tanna [of the Mishnah] agrees with R. Judah on one point, [namely] that a negative command [the transgression of] which involves no action is punishable with lashes, but differs from him in another point, for whereas R. Judah holds that an heir cannot lay hands [on the head of his father's sacrifice] and that an heir cannot effect an exchange, our Tanna holds that an heir can lay hands [on the head of his father's sacrifice] and can effect an exchange.

R. Iddi son of R. Abin reported in the name of R. Amram, R. Isaac and R. Johanan: [R. Judah reported][42] in the name of R. Jose the Galilean: In respect of every negative command laid down in the Torah, if one actually does something [in transgressing it], he is punishable with lashes ‘ but if he does not actually do anything [in transgressing it] he is not punishable, except in the cases of one who takes an oath, exchanges [an unconsecrated animal for a consecrated animal], and curses his fellow with the Name,[43] in which cases though he committed no action, he is punished [with lashes].

[The Rabbis] said in the name of R. Jose son of R. Hanina: In the case also of one who named[44] terumah before bikkurim.[45]

Whence do we derive that one who takes an oath is punishable [with lashes]? — R. Johanan reported in the name of R. Meir:[46] [Scripture says:] For the Lord will not hold him guiltless that taketh his Name in vain;[47] thus intimating that the Heavenly tribunal

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(1) In order to exempt his neighbour's grain from tithes.

(2) Lit., ‘the pleasure of (conferring) a benefit’, i.e., the satisfaction one feels in obliging somebody.

(3) Rami b. Hama could thus solve his query from R. Abbuha's statement.

(4) So Sh. Mek. Cur. edd. ‘he said to him’.

(5) In the case cited by R. Abbuha.

(6) The consecration of the animal.

(7) The sacrificing for atonement.

(8) With reference to Rami b. Hama's inquiry.

(9) I.e, an Israelite whose substitution makes the animal sacred. But where in the beginning the animal's dedication was through a gentile, although the atonement was for an Israelite, its exchange is not holy.

(10) And since the person for whom atonement is made is an Israelite who can effect an exchange, although the consecrator is a gentile, the exchange is sacred.

(11) For since the law of sacrilege does not apply to them, then necessarily the prohibition of making secular use of the dedications of a gentile can only be of a rabbinical character; and this leniency is indicated by the fact that other laws like piggul etc. do not apply to them.

(12) Lev. V, 15.

(13) V. Num. XVIII, 32. On terumah v. Glos. s.v.

(14) Ibid. 28.

(15) That the grain of a gentile is not subject to terumah.

(16) Thus excluding gentiles.

(17) Ibid. XXII, 2.

(18) Mentioned in connection with nothar.

(19) Lev. XIX, 8. And just as the laws of ritual uncleanness do not apply to the sacrifice of a gentile, since it says the children of Israel, so the law of nothar does not apply to the dedication of a gentile.

(20) That it does not apply to a gentile dedication.

(21) Used with reference to piggul.

(22) Ibid. VII, 18.

(23) Ibid. XIX, 8.

(24) Nothar, piggul and uncleanness.

(25) Because all are compared to the law of ritual uncleanness where Scripture explicitly mentioned the ‘children of Israel’.

(26) Ibid. XXVII, 10.

(27) Ibid 2.

(28) V. infra 13a.

(29) V. Bk. 53b.

(30) Num. XVIII, 24.

(31) The same ruling which excludes a gentile therefore applies to animal tithing, as both kinds of tithing come under the term of ma'aser (tithe); and on the basis of this, by reason of the analogy mentioned above between an exchanged animal and a tithed animal, we derive the ruling that a gentile cannot effect an exchange.

(32) Num. XV, 13.

(33) I.e., a Jew.

(34) Num. XV, 13. The emphatic expression ‘after this manner’ intimates the indispensableness of bringing drink-offerings in connection with animal sacrifices.

(35) Lev. XXII, 18.

(36) For the words ‘a man, a man’ in this passage which are explained as including the consecrations of gentiles are followed by ‘unto the Lord’, thus intimating that gentile dedications are subject to the same laws as those of Israelites.

(37) V. supra 7.

(38) Num. XVIII, 22.

(39) And not merely for its value.

(40) One only pronounces the words: ‘This unconsecrated animal shall be instead of that consecrated animal’.

(41) V. supra 2a.

(42) V. Mak. 16a; Shebu. 21a.

(43) Of the Deity. And although in all these instances no action is performed, the transgression is punishable with lashes, as will be subsequently explained.

(44) Not actually separating the terumah, for this would be an action but merely casting his eyes over a portion of the grain and saying that it should be terumah.

(45) ‘The first fruits’, the correct order of separating dues being first bikkurim and then terumah.

(46) In Shebu. 21a the name given is that of R. Simeon b. Yohai.

(47) Ex. xx, 7.

Talmud - Mas. T'murah 3b

will not hold him guiltless but the earthly tribunal punish him [with lashes] and hold him guiltless.[1] Said R. Papa to Abaye: Why not say that the meaning of the text is that the earthly tribunal will not punish him at all?[2] — He replied to him: If this be the case, let Scripture state: He shall not hold him guiltless, and say no more; what is the need for the word ‘the Lord’? In order to intimate: It is the Heavenly tribunal which will not hold him guiltless, but the earthly tribunal punish him [with lashes] and hold him guiltless. We find therefore [Biblical authority] for the case of a vain oath.[3] Whence do we derive that [one is punishable with lashes] for a false oath?[4] — R. Johanan himself[5] said: [The expression] in vain [is stated] twice.[6] If it[7] has no bearing on the subject of a vain oath, apply it to the case of a false oath, as intimating that one is punishable [with lashes]. To this R. Abbuha demurred: How is a false oath to be understood? Shall we say, if he said: ‘I will not eat and he did eat? But in that case he performed action![8] On the other hand where he said: ‘I will eat’, and he did not eat, would he be punishable [with lashes in such a case]? Has it not been stated:[9] If he says, ‘I swear that I will eat this loaf to-day’ and the day passed and he did not eat, both R. Johanan and R. Simeon b. Lakish hold that he is not punishable with lashes. R. Johanan says: He is not punishable [with lashes] because it is a negative command [the transgression of] which involves no action, and for breaking a prohibitory law which does not involve an action one is not punishable [with lashes]; whereas R. Simeon b. Lakish says: He is not punishable with lashes because he can be given only a doubtful warning,[10] and a doubtful warning cannot render one punishable [with lashes]! — Rather said R. Abbuha: Let the case of a false oath then be if he says: ‘I have eaten’ or ‘I have not eaten’.[11] And why is the case if he says: ‘[I swear] I have eaten’ or ‘[I swear] I have not eaten’ different?[12] — Said Raba: The Torah plainly implies a false oath similar to a vain oath. Just as a vain oath refers to the past,[13] so a false oath also refers to the past.[14]

R. Jeremiah cited the following in objection to R. Abbuha: If he says, ‘I swear that I will not eat this loaf’, ‘I swear I will not eat it’, ‘I swear I will not eat it’[15] and he ate it, he is punishable only on one count,[16] and this is the ‘oath of utterance’[17] for which one is liable to lashes if it is wilfully broken, and to a sliding scale sacrifice[18] if in error.[19] Now what case does the expression ‘This is’ exclude?[20] Is it not surely the case of one who says: ‘I swear I have eaten’ or ‘I swear I have not eaten’ that he is not lashed?[21] — No. [This is what it means:] This is [an example of an oath of utterance] for which, if broken in error, one brings a sacrifice, but where he says: ‘I swear I have eaten’ or ‘I have not eaten’, he does not bring a sacrifice.[22] And whose opinion is this? That of R. Ishmael who says: One is liable to bring [a sacrifice for an oath of utterance] only when the oath relates to the future.[23] But [you may say that] he is punishable [with lashes];[24] read then the second clause:[25] ‘This is a vain oath for which one is punishable with lashes if it is wilfully broken, and if in error, one is exempt’.[26] Now what case does [the word] ‘This is’ exclude? Is it not surely the case of one who says ‘l swear I have eaten’ or ‘I swear I have not eaten’, so that he is not punishable with lashes?[27] — No. [It means this:] This is [a case of a vain oath] where if it is broken in error, one is exempted from bringing a sacrifice, but where one says ‘I swear I have eaten’ or ‘I swear I have not eaten’, he brings a sacrifice. And whose opinion is this? That of R. Akiba who says: One brings a sacrifice [for an oath of utterance] even if it relates to the past. But have you not explained that the first clause is the opinion of R. Ishmael?[28] Rather [we must say,] since the second clause is the opinion of R. Akiba, therefore the first clause will also be the opinion of R. Akiba; and the first clause therefore will not exclude the case of one who says ‘I have eaten’ or ‘I have not eaten’[29] but will exclude the case of one who says ‘I shall eat’ or ‘I shall not eat’.[30] And what is the difference?[31] — Where [it] speaks of the future,[32] it excludes something relating to the future;[33] but where it speaks of the future, would it exclude something relating to the past?[34]

‘And one who exchanges’. Said R. Johanan to the Tanna:[35] Do not read: ‘And one who exchanges’,[36] because his very words[37] constitute an action.[38]

‘And he who curses his fellow with the Name’. Whence is this proved? — R. Eleazar reported in the name of R. Oshaia: The verse says: If thou wilt not observe to do etc.[39] And it says: Then the Lord will make thy plagues wonderful.[40] Now I do not know in what this ‘wonder’ consists.[41] But when Scripture says:[42] That the judge cause him to lie down to be beaten,[43] this shows that [the] ‘wonderful’ [punishment][44] means [punishment with] lashes. But why not say that it[45] refers even to a true oath?[46] — It is explicitly stated:[47] Then shall the oath of the Lord be between them.[48] But why not say that this[49] is only with the object of appeasing his neighbour,[50] but that in reality he is punished [with lashes]?[51] — You cannot say this. For is it not written: And shalt swear by his Name?[52] But we need this text in order to derive the ruling of R. Giddal? For R. Giddal said: Whence do we derive that one may swear to observe the commandments,[53] for it says: I have sworn and I will perform it that I will keep thy righteous judgments?[54] — Is there not however another text, And to him shalt thou cling and swear by his Name?[55] Then what does the text, [‘If thou wilt not observe to do’] come to teach us? That one who curses his fellow with the Name is punishable [with lashes].[56] But why not say that the text refers to one who pronounces the Lord's name for no purpose?[57] — Is then one who curses his fellow with the Name less culpable than one who pronounces the Lord's name for no purpose? — Our question is really this: Why not say that for one who pronounces the Lord's name for no purpose the punishment of lashes will suffice, but if one curses his fellow with the Name, since he commits two [forbidden things], first in pronouncing the Lord's name for no purpose and then in vexing his fellow, therefore punishment with lashes should not be sufficient?[58]

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(1) By means of lashes his sin will be atoned.

(2) Since no action is involved in taking an oath, therefore no punishment at all is inflicted.

(3) That one is punishable with lashes. A vain oath means if one swears to that which is universally known to he otherwise, e.g. saying of a stone column that it is gold.

(4) If one swears to the opposite of the truth, e.g., ‘I have eaten’ when he has not.

(5) Without reporting it in the name of some other teacher.

(6) In the same verse Ex. XX, 7.
(7) The additional repetition of ‘in vain’.
(8) And therefore it is only right that he should be punishable with lashes, for he ate and took an action in transgressing the oath.
(9) Pes. 63b; Mak. 15b; Shebu. 3b, 21a.
(10) One swears he will do a certain thing during the day when the actual moment of the offence (of omission) cannot be defined, so as to make the warning precede immediately. Here too when he is warned to eat the loaf of bread, he can say he has plenty of time and has no fear of the warning. And even if the day passed, he can still plead that he forgot both the oath and the warning. Consequently he is not liable to punishment with lashes.
(11) Referring to what has already taken place, so that no action is involved in the violation of the oath.
(12) That you include if he says ‘I have eaten’ and he did not eat as punishable with lashes and you exclude from punishment if he says ‘I will eat’ and he did not eat, since in both cases the transgressions do not involve an action. Sh. Mek. deletes the words ‘I will eat and he did not eat’ that follow.
(13) For if he swears concerning a column of stone that it is gold, this refers to the past, for in the past, before he took the oath, it was a stone, as it is now (Rashi).
(14) E.g., if he says: ‘I swear I have eaten’ or ‘I have not eaten’, whereas ‘I will eat’ refers to the future. And just as one is liable to lashes for the vain oath as explained above, similarly one is liable to lashes for a false oath.
(15) Uttering the same oath three times.
(16) For one oath cannot be superimposed on another.
(17) Of which Scripture says: Pronouncing with his lips to do evil or to do good (Lev. v, 4). It is an oath which neither benefits nor injures anybody.
(18) According to pecuniary conditions.
(19) V. Shebu. 27b.
(20) So that one is not liable to lashes if he offends wilfully.
(21) For although it is an ‘oath of utterance’ it is not punishable with lashes, since Scripture says ‘to do evil or to do good’, implying the future and excluding the past, e.g., ‘I have eaten’ etc. At all events, we have not yet found a definition of what constitutes a ‘false oath’ which we say above is punishable with lashes.
(22) For the Scriptural verse: ‘To do evil or to do good’ which refers to the future is mentioned in connection with the bringing of a sacrifice. But there would be the punishment of lashes where he says. ‘I have eaten’ as in the case of a vain oath.
(23) For Scripture says: To do evil or to do good (Lev. v, 4); v. Shebu. 25a.
(24) If he swears: ‘I have eaten’ or ‘I have not eaten’.
(25) Of the Mishnah in Shebu. 27b.
(26) v. Shebu. 29a.
(27) This therefore contradicts the inference from the first clause above.
(28) Who says that a sacrifice is brought only when the oath has reference to the future. How then can you have the same Mishnah holding contrary opinions?
(29) So that if one says: ‘I have eaten’ or ‘I have not eaten’ one would certainly be bound to bring a sacrifice if he swore in error, since we accept the opinion of R. Akiba on this point.
(30) From the bringing of a sacrifice.
(31) That I exclude from the first clause the case of ‘I will eat’ from bringing a sacrifice and include the case of ‘I have eaten’ in the second clause as being bound to bring a sacrifice.
(32) ‘I will not eat it’, mentioned in the first clause.
(33) The case of ‘I will eat’ and he did not eat.
(34) E.g., ‘I have eaten’ or ‘I have not eaten’. For fuller notes v. Shebu. (Sonc. ed.) 27b et seq.
(35) V. Glos. s.v. (b).
(36) As being one of the exceptions of a transgression involving no action for which one is lashed.
(37) ‘This unconsecrated animal be exchanged for that consecrated animal’.
(38) For the unconsecrated animal becomes sacred.
(39) Deut. XXVIII, 58. The passage continues: That thou mayest fear this glorious and fearful name, the Lord thy God, i.e., that one should not utter the Deity's name in vain and similarly one who curses his neighbour with the Name, utters God's name in vain.

(40) In verse 59 which follows.
(41) What exactly is the nature of the punishment referred to when Scripture says והפלא , He will make . . . . wonderful.
(42) . Ibid. XXV, 2.
(43) Here the word ‘beaten’ is mentioned in connection with והפילו , the latter word being a similar expression to והפלא , And (the Lord) will make wonderful.
(44) Alluded to by the word.
(45) The Scriptural passage above: If thou wilt not observe to do etc.
(46) That one is warned not to utter the name of the Deity even with a true oath, under the penalty of lashes.
(47) That a true oath may be uttered with the Name.
(48) Ex. XXII, 10.
(49) That an oath is taken with the Name.
(50) So that he should not claim money from him.
(51) For taking an oath with the Name.
(52) Deut. VI, 13. Thus we see that it is permissible to swear with the Name.
(53) So that one cannot go back on one's word.
(54) Ps. CXIX, 106. And therefore there is need for the text: And shalt swear by His name to inform us that one may even utter the Name in an oath which is taken to observe commandments.
(55) Deut. X, 20. Therefore one of the texts is required in order to deduce the ruling that one can swear with the Name to observe the commandments, and the other, that it is permissible to utter the Name in connection with a true oath.
(56) Although no action is involved.
(57) But if one curses one's fellow with the Name, there is no punishment with lashes.
(58) That atonement with lashes alone is not adequate for the offence.

Talmud - Mas. T'murah 4a

— You cannot say this, since it is written: Thou shalt not curse the deaf.[1] Or if you prefer [another solution] I may say:[2] There is no difficulty [if the text above][3] refers to one who curses his fellow [with the Name]; its warning[4] in that case would be derived from here, since it is written: Thou shalt not curse the deaf.[5] But if you say that it refers to one who utters the Lord's name for no purpose,[6] whence is its warning derived?[7] — But why not?[8] But does not Scripture say: Thou shalt fear the Lord thy God and serve Him?[9] — That text is only a positive admonition.[10]

‘[The Rabbis] said in the name of R. Jose son of R. Hanina: In the case also of one who names terumah before bikkurim.’ What is the reason of R. Jose son of R. Hanina? — The verse says: Thou shalt not delay to offer of the fulness of thy harvest and of the outflow of thy presses.[11] ‘The fulness of thy harvest’, this refers to the bikkurim;[12] ‘the outflow[13] of thy presses’, this refers to terumah;[14] and [Scripture] says: Thou shalt not delay.[15]

It was stated: If one named terumah before bikkurim there is a difference of opinion between R. Eleazar and R. Jose son of R. Hanina. One says he is punishable with lashes, while the other says he is not punishable with lashes. You may conclude that it is R. Jose son of R. Hanina who says that he is punishable [with lashes], since R. Jose son of R. Hanina says: Also one who names terumah before bikkurim is punishable [with lashes]. On the contrary, you may conclude that it is R. Eleazar who says that he is punishable [with lashes]. For we have learnt:[16] If one has before him two baskets of tebel [untithed produce] and he says: The tithe of this [basket] shall be in that one, the first basket is considered tithed.[17] [If he says:] The tithe of this one shall be in the other one, and the tithe of the other one in this one, the first is tithed,[18] whereas the second is not tithed.[19] [If he says:] Their tithes shall serve for another, he has named them.[20] And it was stated: R. Eleazar says:[21] He is punishable with lashes because he named the second tithes [of the one basket] before the first tithes of the other.[22] This is proved.[23] Then it is R. Jose son of R. Hanina who holds that he is not punishable with lashes.[24] Must it then be said that there is a contradiction between the two rulings of R. Jose son of R. Ham'na?[25] — No. R. Jose son of R. Ham'na

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(1) Lev. XIX, 14. Implying whether without the Name or with the Name, for which there is a prohibitory law. The texts therefore, 'If thou wilt not observe to do' and 'Then the Lord will make thy plagues wonderful' inform us that there is punishment of lashes for one who curses his fellow with the Name. Aliter: You cannot say that atonement with lashes alone is not sufficient in a case where one curses his fellow with the Name, for by means of an analogy in Sanh. 61a we compare the text ' Thou shalt not curse the deaf' with the text: Nor curse the ruler of thy people (Ex. XXII, 27) and just as in the case of the latter punishment of lashes is sufficient, so in the case of 'the humblest of thy people', i.e., the deaf, lashes are sufficient atonement. The Gemara also explains in Sanhedrin that we are dealing in the text with a case where the Name is uttered (Rashi).

(2) So Rashi.

(3) 'If thou wilt not observe to do'.

(4) in order that the transgression of a prohibition should entail lashes, a text giving the warning is first necessary.

(5) And we have explained that the text implies even with the Name. Therefore here we have the warning, and the punishment of lashes is derived from the text: If thou wilt not observe to do.

(6) And is therefore punishable with lashes.

(7) Where is the Biblical warning that it is forbidden to pronounce the Lord's name for no purpose?

(8) Can we not find a text giving the required warning?

(9) Deut. VI, 13 'which informs us that the Deity's name must be treated with respect.

(10) It is not therefore called a warning. Consequently we explain the text: If thou wilt not observe to do . . . then the Lord will make thy plagues wonderful as referring to the case of one who curses his fellow with the Name and not to a case of one who pronounces the Lord's name to no purpose.

(11) Ex. XXII, 28.

(12) And the reason why bikkurim is described as 'fulness' is because soon after the grain is full and ripened it is ready for bikkurim. Another reason (R. Gershom) is because bikkurim is given when the grain is still intact, prior to any separation.

(13) דמעך .

(14) Terumah is called dema' (mixture) because the mixing of secular grain with it, to the extent of one hundred and one times its quantity, neutralizes it.

(15) Meaning that the proper sequence of the setting aside of the various priestly dues must be observed.

(16) Dem. VII, 6.

(17) Although he had not actually made the separation.

(18) Because the tithe has been set aside on its behalf from the second basket.

(19) For the first basket is now exempt, and we cannot in turn set aside the tithe from it on behalf of the second basket which is still subject to tithe.

(20) We cannot say here that we are separating what is exempt from tithe on behalf of what is subject to tithe, for in both baskets the separation is viewed as taking place simultaneously and with one declaration.

(21) R. Eleazar's words refer to the first case where one names tithe of the second basket for the first basket and where it is ruled that only the first basket is exempted.

(22) For we hold that when he names tithe this includes also the second tithes. Thus the first basket was exempted from both the first and second tithes, whilst the second basket is still tebel, even in respect of the first tithe. There is therefore the penalty of lashes because he named the second tithes before the first tithes. For, although the text only speaks of delaying with reference to terumah and bikkurim, the same law applies to the correct sequence of the two tithes and also to terumah and tithes.

(23) That it is R. Eleazar who holds that one is punishable for changing the sequence of the priestly dues.

(24) Since it is R. Eleazar who says that he is punishable with lashes, therefore the Tanna who differs from him and holds that one is not punishable with lashes must be R. Jose son of R. Hanina.

(25) For he says above that one who names terumah before bikkurim is punishable with lashes.

Talmud - Mas. T'murah 4b

was speaking of exempting [from lashes];[1] and he says thus: Transgression of a negative command which does not involve an action is not punishable with lashes. [The Rabbis] said in the name of R. Jose son of R. Hanina: Also one who names terumah before bikkurim.[2] And why is it that one who exchanges is punishable [with lashes]?[3] [Assumedly] because with his very words[4] he performs an action.[5] Then the case of one who names terumah before bikkurim should also be punishable with lashes, since with his words he performed an action?[6] — Said R. Abin: It is different there,[7] for [the prohibition of not delaying the priestly dues] is a negative command that is remediable by a positive command,[8] since it is written: Out of all your gifts ye shall offer every heave offering.[9]

R. Dimi was once sitting and repeating this tradition.[10] Abaye asked him: And is it true that every negative command which is remediable by a positive command is not punishable [with lashes]? Is there not the case of one who exchanges [an unconsecrated animal for a consecrated animal] which is a negative command remediable by a positive command and is yet punishable with lashes? For we have learnt in our Mishnah: NOT THAT ONE IS PERMITTED TO EXCHANGE BUT THAT IF ONE DID SO, THE SUBSTITUTE IS SACRED AND HE RECEIVES FORTY LASHES. — [The case of one who exchanges is different, for][11] here are two negative commands[12] and one positive command[13] and one positive command cannot displace two negative commands.[14] But is there not the case of one who violates [a woman] for which act there is one negative command[15] and one positive command,[16] and yet the positive command does not displace the negative command? For it has been taught:[17] If one violates [a maiden] and then divorces her [after marriage],[18] if he is an Israelite he takes her back and is not punished [with lashes];[19] but if he is a priest, he is punished [with lashes][20] and he does not take her back![21] — You mention the case of priests. Their case is different, for the Divine Law[22] invests them with added sanctity.[23]

This is a matter of dispute between Tannaim:[24] And ye shall let nothing remain of it until the morning and that which remains of it until morning ye shall burn with fire.[25] Scripture here has come to state a positive command[26] following a negative command in order to inform us that one is not punishable with lashes on account thereof. So R. Judah.[27] R. Jacob says: This comes not under this head,[28] but the reason is because it is a negative command [the transgression of] which involves no action,[29] and the transgression of a negative command in which no action is involved is not punishable with lashes. This implies [does it not] that R. Judah holds that it is punishable with lashes.[30] And according to R. Jacob, what does the text: ‘And that which remains of it until the morning ye shall burn with fire’ come to teach? It is required for what we have learnt:[31] The bones, the tendons and that which remains of the Paschal lamb are burnt on the sixteenth [of Nisan].[32] If the sixteenth [of Nisan] fell on the Sabbath they are burnt on the seventeenth, because the burning of sacred things does not supersede either the Sabbath or Festivals. And Hezekiah said, and so taught a Tanna of the School of Hezekiah: What is the reason? Scripture says: ‘That which remains of it until the morning ye shall burn with fire’; the text came to give a second morning[33] for its burning.[34]

Said Abaye: Any act which the Divine Law forbids[35] , if it has been done, it has legal effect;[36] for if you were to think that the act has no legal effect, why then is one punishable [on account thereof with lashes]? Raba however said: The act has no legal effect at all, and the reason why one is punishable with lashes on account thereof is because one has transgressed a command of the Divine Law.

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(1) R. Jose b. R. Hanina's statement has reference to the first Tanna who holds that transgression of a negative command which does not involve an action is not punishable with lashes. R. Jose thereupon declares that the case also of one who named terumah before bikkurim is exempt from lashes for the same reason. This is contrary to the assumption held hitherto that R. Jose made him liable to lashes.

(2) Is also exempt from the punishment of lashes.

(3) As stated above, that the case of one who exchanges is an exception to the rule that the transgression of any negative law in order to merit punishment with lashes must involve an action, for here, in exchanging, no action is taken.

(4) ‘Let this unconsecrated animal be instead of that consecrated animal’.

(5) The hullin (unconsecrated animal) becoming sacred.
(6) By naming it he invests the fruit with the holiness of terumah.
(7) In the case of the naming of terumah before bikkurim.
(8) A negative command the transgression of which must be repaired by a succeeding act. Now if he violates the prohibition by not naming the priestly dues in their right sequence, he can rectify the matter by setting aside the priestly due which has been omitted. In such a case, where a forbidden act can be repaired, there is no punishment of lashes.
(9) Num. XVIII, 29.
(10) That the reason why one is not punishable with lashes where one names terumah before bikkurim is because the prohibition is remediable by the positive command.
(11) So Sh. Mek.
(12) ‘He shall not alter nor change it’.
(13) ‘Then it and the exchange thereof shall be holy’ (Lev. XXVII, 10).
(14) And therefore he who exchanges is punishable with lashes.
(15) He may not put her away all his days (Deut. XXII, 29).
(16) And she shall be his wife (ibid).
(17) Mak. 15a.
(18) Which is forbidden by the Scripture.
(19) For after committing the transgression he can always carry out the positive command by re-marrying her,
(20) Since he cannot take her back after divorcing her, as a priest is forbidden to re-marry a divorcee. Therefore he cannot repair the act and the positive command does not as a result displace the transgression.
(21) You have therefore here a difficulty for the one who maintains that a transgression of a negative command which is remediable by a positive command is not punishable with lashes.
(22) Lit., ‘the merciful one’.
(23) The reason therefore is not because a positive command does not displace a negative command, but because we are stricter in the case of a priest than in that of an Israelite, and therefore a priest is liable to lashes.
(24) There is a difference of opinion among Tannaim as to whether or not the transgression of a negative command which involves no action is punishable with lashes.
(25) Ex. XII, 10.
(26) ‘And that which remains, etc.’.
(27) Who therefore holds that transgression of a negative command which is remediable by a positive command is not punishable with lashes.
(28) This is not the real reason why one is exempt from lashes.
(29) Since to leave over the remains of the Paschal lamb entails no action.
(30) Hence we see that there is a difference of opinion among Tannaim as to whether transgression of a negative law which does not entail an action is punishable with lashes.
(31) Pes. 83a.
(32) But not on the fifteenth, for it is forbidden to burn holy things on festivals.
(33) The word ‘morning’ being mentioned twice in the same verse.
(34) The text therefore means as follows: One must not leave the remains of the Paschal lamb until the next morning, i.e., the fifteenth; but that which remains till the second morning, you shall burn it in fire, i.e., on the sixteenth which is the intermediate day of the festival.
(35) Lit., ‘said, "do not"’.
(36) I.e., what has been done is valid.

Talmud - Mas. T'murah 5a

An objection was raised: If one violates [a maiden] and then divorces her [after marriage], if he is an Israelite he must take her back and is not punished with lashes. Now if you say that since one has transgressed the command of the Divine Law one is punished with lashes, then here he, too, should be punished with lashes! This refutes Raba?[1] — Raba can answer you: The case is different there,[2] for Scripture says: ‘All his days’[3] [intimating that] all his days, [if he divorces her] he is required to take her back.[4] And what does Abaye[5] say to this? — If the Divine Law had not said: ‘All his days’ I might have thought that there exists a mere prohibition,[6] but that if he wishes he can take her back, and if he wishes he need not.[7] The text ‘All his days’ therefore teaches us [that this is not so].[8] (Another version: They raised an objection: If one violates [a woman] and [marries her] and then divorces her, if he is an Israelite, he takes her back and is not punishable with lashes; but if he is a priest, he is punishable with lashes and he does not take her back. At all events it [the Baraitha] says: If he is an Israelite, he takes her back and he is punishable with lashes. This refutes Abaye? — The case is different there, since the Divine Law says: ‘All his days’, intimating that all his days [if he divorces her] he is required to re-marry her. And what does Raba [say to this]? — [Raba] can answer you: If the Divine Law had not said ‘All his days’, I might have thought that he would be punishable with lashes and that he must re-marry her, [for the law of one who violates a woman] is an unqualified negative command, since it is written: He may not put her away all his days. For this reason Scripture says: ‘All his days’, to make the law of one who violates [a woman] a negative command remediable by a positive command, for which there is no punishment of lashes.)[9]

But is there not the case of one who separates [terumah] from bad [grain] for good [grain], concerning which the Divine Law says: Of all the best thereof;[10] [he must bring as terumah] ‘the best thereof’,[11] but not from the inferior?[12] And yet we have learnt: We may not separate terumah from the bad [grain] for the good, but if one did so,[13] it is counted as terumah?[14] Consequently we see [that a forbidden act] has a legal effect! Shall we say that this refutes Raba?[15] — Raba can answer you: The case is different,[16] for it will be as R. Elai. For R. Elai said: Whence do we deduce that if one separated [terumah] from bad [grain] for good [grain] it is counted as terumah? It says: And ye shall bear no sin by reason of it when ye have heaved from it the best of it.[17] Now if the terumah[18] is not holy, wherefore should he bear sin?[19] Hence we infer that if one separates terumah from bad [grain] for good [grain] it is counted as terumah. And Abaye?[20] — If the Divine Law had not said: ‘And ye shall bear no sin’ I might have thought what the Divine Law means is, ‘Perform a mizwah[21] in the best [way]’,[22] but if one did not do so, he is not called a sinner. [The text][23] therefore informs us [that this is not so].[24] But is there not the case of one who separates from one species to serve as terumah for another species, concerning which the Divine Law says:[25] All the best of the oil [and all the best of the wine],[26] [intimating] that he must give the best [as terumah][27] for the one [species] and the best [as terumah][28] for the other? And we have learnt: One must not separate terumah from one species for another species, and if one did so, it is not counted as terumah.[29] Consequently we see that a forbidden act has no legal effect. Shall we say that this refutes Abaye?[30] — Abaye can answer you: The case is different there,[31] since Scripture says: The first part of them,[25] thus implying the first of this [species][32] and the first of that [species].[33] And Elai said likewise: [The text says:] ‘The first part of them’ [intimating the first of this species and the first of that species].[34] And Raba?[35] — If the Divine Law had not stated ‘the first part of them’[36] I might have thought that [only] in the case of wine and oil, with reference to which the text says: ‘The best’, ‘the best’,[37] we may not set aside one species for the other; but in the case of wine and corn, or corn and corn,[38] where ‘the best’[39] is mentioned only once, we may separate one species for the other.[40] The Divine Law therefore says: ‘The first part of them’, [to teach] that one must give ‘the best’ of one species and ‘the best’ of the other.[41]

Another version.[42] But in the case of wine and corn in connection with which ‘the best’ is mentioned only once, [I might think that] one may separate from this [wine] for that [corn]. Scripture therefore says: The first part of them.

But is there not the case of devoted things, with reference to which Scripture says: [Notwithstanding, no devoted thing that a man may devote unto the Lord of all that he hath whether of man or of beast or of the field of his possession] shall be sold or redeemed.[43] And we have learnt: Things devoted to priests[44] are not subject to redemption but must be given to the priest.[45] Consequently we see that [a forbidden act][46] has no legal effect.[47] Shall we say that this refutes Abaye? — He [Abaye] will answer you: The case is different there, for the Divine Law says:[48]

‘Every devoted thing most holy unto the Lord it is’,[49] intimating that it shall remain in its status.[50]

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(1) It is now assumed that the implication of the ruling that he must take her back is that the divorce is of no effect since he is in duty bound to re-marry her. Now this would be in order according to Abaye who holds that the punishment of lashes is determined by the validity of the act; since the divorce is of no legal effect, he is not flagellated. But according to Raba, who holds that the punishment is inflicted because of transgressing a Scriptural command, irrespective of the effect of the act, here, too, he should be flagellated (v. Tosaf.).

(2) In the Baraitha just quoted.

(3) Deut. XXII, 29.

(4) The Torah thus distinctly states that the divorce, even if effective, can never be of permanent character, as he is at all times in duty bound to take her back. The Torah is thus supplying a remedied action to the prohibition and consequently there are no lashes.

(5) According to Abaye, what need is there for a special text ‘All his days’ to inform us that one is in duty bound always to re-marry her and that therefore there is no punishment of lashes? Even without the text ‘All his days’, according to Abaye, there is no punishment of lashes, since he can take her back, his divorce having no permanent character.

(6) By divorcing her.

(7) That the re-marrying is optional.

(8) And that it is a definite duty to re-marry her, not a mere option, and that all his days he is required to take her back, should he send her away.

(9) The whole passage is omitted in Ms. M.

(10) Num. XVIII, 29.

(11) That he must separate from the best grain on behalf of the best grain.

(12) On behalf of the good grain, for it is forbidden to do so. This is a matter therefore for which there is a Scriptural prohibition, although there would not be the punishment of lashes in this case, since the prohibition is merely derived by implication from the positive precept.

(13) Lit., ‘if he set aside terumah’.

(14) Lit., ‘his terumah is terumah’. V. Ter. II, 6.

(15) Who holds that a forbidden act has no legal effect.

(16) In the case of terumah just mentioned.

(17) Num. XVIII, 32.

(18) Set aside from inferior grain for good grain.

(19) On account of the act of separation.

(20) Since he holds that a forbidden act has a legal effect, what need is there for the text ‘And ye shall bear no sin, etc.’, which implies that the setting aside of inferior grain as terumah for good grain has legal effect?

(21) A religious command.

(22) Separate from the very best grain for terumah.

(23) ‘And ye shall bear no sin’.

(24) But that he actually is designated a sinner.

(25) Num. XVIII, 12.

(26) The word ‘best’ being repeated in connection with oil and wine.

(27) On behalf of its own species of oil but not for wine.

(28) On behalf of its own species of wine but not for oil.

(29) Ter. II, 4.

(30) Who says that a forbidden act has a legal effect.

(31) In the Mishnah just quoted.

(32) I.e., oil is to be separated for the same species.

(33) I.e., wine is to be separated for the same species; thus teaching that fruit cannot be set aside except for its own species. For this reason it is not counted as terumah; but elsewhere a forbidden act may have a legal effect.

(34) So Sh. Mek.

(35) Who holds that a forbidden act has no legal effect; what need, according to him, is there for the text ‘the first part of them’, to tell us this?

(36) ראשיתם So Rashi; cur. edd. have throughout ‘first’.

(37) The word ‘best’ is repeated.
(38) I.e., wheat and barley, all of which come under the heading of corn (דגן).
(39) And all the best of the wine and the corn, Num. XVIII, 12
(40) V. Rashi and Sh. Mek. Cur. edd.: where we separate one for the other there are no lashes.
(41) I.e., that we cannot separate from one species of fruit or grain for another.
(42) Of Raba's reply.
(43) Lev. XXVII, 28.
(44) V. Num. XVIII, 14.
(45) ‘Ar. 28b.
(46) I.e., the text: ‘It shall not be sold, etc.’.
(47) For if it is redeemed, the redemption is of no avail, as stated.
(48) Lev. XXVII, 28.
(49) So lit.
(50) It does not pass from its sacred state through redemption.

Talmud - Mas. T'murah 5b

But according to Raba[1] the text ‘it is’ comes to exclude the case of a firstling. For it has been taught: With reference to a firstling, it says: Thou shalt not redeem,[2] implying that it may be sold.[3] In connection with a tithing animal, it says: It shall not be redeemed,[4] and may neither be sold alive nor dead, neither unblemished nor blemished.[5]

But is there not the case of temurah[6] concerning which the Divine Law says: He shall not alter it nor change it,[7] and yet we learnt: NOT THAT ONE IS PERMITTED TO EXCHANGE BUT THAT IF ONE DID SO, THE SUBSTITUTE IS SACRED AND HE RECEIVES FORTY LASHES. Consequently we see that [a forbidden act] has a legal effect. This refutes Raba?[8] — [Raba] can answer you: The case there[9] is different, for Scripture says: ‘Then it and the exchange thereof shall be holy’, implying that it [the exchanged animal] must retain its sacred character. And Abaye?[10] — If the Divine Law had not said: ‘Then it and the exchange thereof [shall be holy’], I might have thought that the consecrated animal ceases [to be holy] and this one [the exchanged animal] enters into holiness. [Scripture] therefore informs us [that this is not so.][11]

But is there not the case of a firstling of which the Divine Law says: But the firstling of a cow or the firstling of a sheep or the firstling of a goat thou shalt not redeem,[12] and we have learnt:[13] [Sacrifices rendered unfit for the altar][14] have redemption themselves[15] and their exchanges,[16] except in the case of a firstling or a tithing animal?[17] Consequently we see that [a forbidden act] has no legal effect.[18] This refutes Abaye?[19] — He [Abaye] will answer you: The case is different there,[20] for Scripture says: [Holy] they [are][21] intimating that they remain in their sacred status. And what will Raba do with the word ‘they’?[22] — It intimates that ‘they’ are offered up but not their exchanges.[23] And whence does Abaye derive this ruling?[24] — [He derives it from the text:] Whether it be an ox or sheep, to the Lord it is;[25] ‘it’ [the firstling itself] is offered up but not its exchange. And Raba?[26] — It is indeed so that he does derive it[27] from that text.[28] Then what need is there for the text ‘they are’? It teaches that if the blood of a firstling or a tithing animal became mixed up with things which are offered up,[29] they are still offered on the altar.[30] And whence does Abaye derive this ruling? — [He derives it from the text:] And shall take of the blood of the bullock and of the blood of the goat.[31] Now is not the blood of the bullock more than the blood of the goat? This proves that things which are offered up do not neutralize one another. For it has been taught: ‘And shall take of the blood of the bullock and of the blood of the goat’, intimating that they must be mixed up.[32] These are the words of R. Josiah. And Raba?[33] — There[34] he sprinkles the blood of the bullock separately and the blood of the goat separately, for he accepts the view of R. Jonathan.[35]

But is there not the case of a tithing animal in reference to which the Divine Law says:[36] ‘It shall not be redeemed', and we have learnt: They have redemption themselves and their exchanges except in the case of a firstling or tithing animal?[37] Consequently we see that a forbidden act has no legal effect![38] This refutes Abaye? — He [Abaye] will answer you: The case is different there,[39] since we draw an analogy[40] between the term 'passing'[41] used in connection with an animal tithed and the term 'passing'[42] used in connection with a firstling.[43]

But is there not the case of one who names terumah before bikkurim, concerning which the Divine Law says: Thou shalt not delay to offer of the fulness of thy harvest and of the outflow of thy press,[44] and we have learnt: If one [names] terumah before bikkurim, although he is guilty of transgressing a negative command,[45] his action is valid?[46] This refutes Raba?[47] — Raba will answer you: The case is different there,[48] since Scripture says: Out of all your gifts ye shall offer every heave offering.[49] And Abaye?[50] — He needs [the words 'Out of all your gifts'] for [answering the question which] R. Papa put to Abaye: If this be the case,[51] then even if he [the Levite, anticipated the priest] when [the grain was] in the pile, he should be exempt from the obligation of terumah?[52] And [Abaye] answered him: To meet your query Scripture says: Out of all your gifts ye shall offer every heave offering.[53] But why do you see fit to include the case of when [the grain was] in the pile,[54] and to exclude the case of grain in the ear?[55] — I include the case of [grain] in the pile because it comes under the title of corn, whereas I exclude the case of grain in the ear because it does not come under the title of corn.

But is there not the case of a widow married by a High Priest, concerning which the Divine Law says: A widow or a divorced woman, these shall he not take,[56] and we have learnt: Wherever betrothal is valid and yet involves a transgression,[57] the child has the legal status of the party which causes the transgression![58] — The case is different there since Scripture says: Neither shall he profane his seed among his people.[59] And Abaye?[60] — Let Scripture then say: 'Lo yahel'.[61] Why 'lo yehalel'?[62] One [profanation refers] to it [the child][63] and the other to [the woman] herself.[64]

But is there not the case of one who dedicates blemished animals for the altar, concerning which the Divine Law says: But whatsoever hath a blemish, that shall ye not offer.[65] And it has been taught:[66] If one dedicates blemished animals for the altar, although he infringes a negative command, the act is valid?[67] This refutes Raba![68] — Raba can answer you: The case is different there, since Scripture says: 'For it shall not be acceptable for you',[69] [intimating that] it is not acceptable but that its consecration is legal.[70] And Abaye?[71] — If Scripture had not stated: 'For it shall not be acceptable for you', I might have thought the case[72] should be similar to that of one who transgresses a religious command, but that it [the animal] is fit [even to offer up]. [The text therefore] informs us [that it is not so].[73]

But is there not the case of one who dedicates unblemished animals for Temple repairs,[74] concerning which the Divine Law says:

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(1) Who says a forbidden act is not valid; what need has he for the phrase 'it is'?

(2) Num. XVIII, 17. Redemption is forbidden so that the owners should not treat it as unconsecrated, as regards shearing its wool and working it.

(3) If a blemish occurred in the firstling the owner may sell it as a firstling to a priest, since Scripture only forbids its redemption, but not its selling; v. Bek. 31b.

(4) Lev. XXVII, 28.

(5) Because we draw an analogy between ma'aser and dedications, just as in the latter both redemption and selling are forbidden, similarly in the former, i.e., a tithing animal, selling is also forbidden. Now I might have supposed that the law of the firstling animal would be the same as that of an animal tithed as regards its selling. Therefore the word הוא (it is) used in connection with dedications comes to exclude a firstling animal from the restriction of selling.

(6) An unconsecrated animal exchanged for a consecrated one.

(7) Ibid. 10.

(8) Who says that a forbidden act has no validity.

(9) Of temurah.

(10) According to his view that a forbidden act has a legal effect, what need is there for the text, Then it and the exchange thereof, etc.?

(11) But that both become consecrated.

(12) Num. XVIII, 17.

(13) Infra 21a.

(14) Having become blemished. The difference between a firstling and a tithing animal and other disqualified sacrifices is that the flesh of the latter may be sold by weight and in shops like ordinary flesh, and this is not considered an unbecoming treatment of sacrifices since all profits accrued thereby go to the Sanctuary. But in regard to the flesh of a firstborn or a tithing animal, since the benefit accrues to the owners — in the case of the firstborn to the priest and in the case of a tithing animal to the Israelite owners — we do not allow them to be sold in the shop and by weight, as not in keeping with the treatment becoming to sacred things.

(15) The money acquires holiness and the animal becomes hullin.

(16) In which a blemish occurred. They become hullin and the money of redemption acquires holiness, after redemption.

(17) Blemished firstlings and tithing animals are not redeemable and remain sacred. The redemption money therefore does not acquire holiness, v. infra 21a.

(18) In the case of a blemished firstling or a blemished tithing animal.

(19) Who holds that a forbidden act has a legal effect.

(20) The Mishnah just quoted.

(21) So lit. E. V. ‘They are holy’; Num. XVIII, 17.

(22) Since he holds that a forbidden act is not valid, the redemption here of a firstling is of no legal effect. Consequently there is no need for the word ‘they’ to teach us the same thing.

(23) For they do not receive any holiness by substitution.

(24) That substitutes do not become sacred.

(25) So lit. E. V. ‘it is the Lord's’. Lev. XXVII, 26.

(26) Since we derive the ruling excluding the substitute of the firstling from holiness from the text ‘whether it be an ox etc.’, what need is there for the text ‘holy they are’ to teach the same thing?

(27) That a substitute of a firstling is not sacred.

(28) ‘Whether it be an ox’.

(29) E.g., blood of several sacrifices that have become mixed up.

(30) And the flesh is rendered permissible by the sprinkling, for things which are offered up do not neutralize one another. From here we apply the same ruling to all cases of things which are offered up. The meaning of the text ‘holy they are’ is therefore that they remain in their sacred status, even if the blood is mixed up with the blood of other sacrifices.

(31) Lev. XVI, 18. Scripture continuing: And put it upon the horns of the altar.

(32) Implying that the sprinkling is done from both the blood of the bullock and the goat after mixing.

(33) Since we derive the ruling that we may sprinkle the mixed blood of sacrifices from the text. ‘And shall take from the blood of the bullock, etc.’, what need is there for the words ‘they are’, used in connection with the law of a firstling?

(34) In the text: And shall take from the blood of the bullock, etc.

(35) Who says that we do not mix the blood of the bullock with the blood of the goat to sprinkle on the horns of the altar; v. Zeb. 81a.

(36) Lev. XXVII, 33.

(37) V. supra p. 25 notes. What is the difference between an animal tithed and a firstling on the one hand, and other sacrifices?

(38) For the Mishnah says it has no redemption.

(39) With reference to a tithed animal.

(40) Zeb. 9a.

(41) All that passes under the rod (Lev. XXVII, 32).

(42) That thou shall cause to pass (set apart); Ex. XIII, 12.

(43) And just as for a firstling there is no redemption (v. supra) so a tithed animal has no redemption. But elsewhere, Abaye maintains, it may be that a forbidden act has a legal effect.

(44) V. supra 3a, 4a and notes.
(45) ‘Thou shalt not delay, etc.’.
(46) Lit., ‘what he has done is done’. Ter. III, 6.
(47) So Sh. Mek.
(48) Where terumah was named before bikkurim.
(49) Num. XVIII, 29, intimating that although you have named first tithe before terumah you can still separate terumah; and the same applies to terumah and bikkurim.
(50) Since he holds that a prohibited act can have legal effect, what need is there for the text ‘Out of all your gifts, etc.’?
(51) In Bez. 13b if a Levite anticipated a priest by taking his first tithes from the grain still in the ear before the priest secures his terumah (v. Glos.) although thereby he causes the priest a loss, for a priest in the normal way receives two portions for every hundred and now after the Levite has taken his first tithe, the terumah will be only for the remaining ninety, nevertheless the Levite is not required to make good the priest's loss. The reason is because Scripture says the Levite must give a tenth part from the tithe (Num. XVIII, 26) implying that he need give not only a tithe from the tithe but both tithe and terumah. If, however, the Levite anticipated the priest when the grain was stacked up in piles, i.e., when it became liable to both terumah and tithes, then the Levite must make up for the terumah when he separates his tithe. Thereupon R. Papa said to Abaye: If you exempt the Levite from giving terumah because of the text: A tenth part of the tithe.
(52) Why then is the Levite exempt from the obligation of terumah only when the grain is in ear?
(53) Terumah. I.e., that he must, in certain circumstances, set aside terumah as well as the tithe from the tithe.
(54) As requiring the Levite to give terumah.
(55) As not requiring the Levite to give terumah.
(56) Lev. XXI, 14.
(57) As a result, as e.g., in the case of a widow marrying a High priest.
(58) Lit., ‘which is defective’. In this case, the widow or divorcee, and the child becomes a halal (profane, unfit for the priesthood) v. Kid. 66b. Consequently we see here that a forbidden act has a legal effect, for it says that the betrothal is valid. For if a prohibited act has no legal effect, should the betrothal be valid?
(59) Lev. XXI, 15, implying that such marriages produce halalim (unfit for the priesthood) but not mamzerim (illegitimate children). Consequently we see that the betrothal in this case is valid.
(60) Since he holds that a prohibited act has a legal effect, what need is there for the text: Neither shall he profane etc.
(61) Which would imply that it refers to the status of the child alone.
(62) יחלל the extra ל indicates a further teaching.
(63) That it becomes a halal.
(64) That she becomes profaned (חללה) and therefore if she is the daughter of a priest, she cannot eat her father's terumah. It is for this purpose that the text is necessary and not to teach that the betrothal is valid, despite the prohibition involved, as there is no need of an extra text to inform us of this, since in every case, according to Abaye, the ruling is that a forbidden act is valid.
(65) Lev. XXII, 20; which text is explained (infra) as meaning: Ye shall not consecrate.
(66) So Sh. Mek.
(67) And they are sacred to the extent of their value.
(68) Who holds that a forbidden act has no legal effect.
(69) Lev. XXII, 20. So Bah.
(70) To the extent of its value for the altar.
(71) Since he holds that a forbidden act has a legal effect, what need is there for this text?
(72) Of one who consecrates a blemished animal.
(73) That it cannot be offered up on the altar.
(74) But not for sacrifice on the altar.

Talmud - Mas. T'murah 6a

[Anything too long or too short that mayest] thou offer for a freewill-offering,[1] that is, for dedications for Temple repairs,[2] and we have learnt: If one consecrates unblemished animals for Temple repairs, although he infringes a negative command,[3] the act is valid? This refutes Raba?[4] —

Raba can answer you: From the same verse[5] from which you include the case of blemished animals dedicated for the altar,[6] you include the case of unblemished animals dedicated for Temple repairs.[7]

But is there not the case of one who steals, concerning which the Divine Law says: ‘Thou shalt not steal’,[8] and we have learnt: If one steals[9] wood and makes it into vessels or wool and makes it into garments, he pays [the value of the object] as it was at the time of the theft?[10] This refutes Raba?[11] — Raba can answer you: The case is different there, since Scripture says: That he shall restore [that which he took by robbery],[12] intimating [that the restoration is to be] according to what he had robbed.[13] And Abaye?[14] — The text: That which he took by robbery[15] is required in order to teach that he adds a fifth for his own robbery[15] but not for that of his father.[16]

But is there not the case of one who takes the pledge,[17] concerning which the Divine Law says: Thou shalt not go into his house to fetch his pledge[18] and we have learnt: ‘He [the creditor] returns the pillow at night and the plough in the day’?[19] — This refutes Raba?[20] — Raba can answer you: The case is different there,[21] for Scripture says:[22] Thou shalt surely restore [the pledge].[23] And Abaye?[24] — If the Divine Law had not stated ‘thou shalt surely restore [the pledge]’, I might have thought that he has only broken a prohibition,[25] and if he wishes, he can restore the pledge, and if he wishes, he need not. The text therefore informs us [that it is not so].[26]

But is there not the case of pe'ah,[27] concerning which the Divine Law says: Thou shalt not wholly reap the corner of thy field,[28] and we have learnt:[29] [The proper performance of] the command of pe'ah is to separate from the standing corn. If he did not separate from the standing corn, he separates from the sheaves. If he did not separate from the sheaves, he separates from the pile [of grain] before he evens it. If he has evened it,[30] he tithes it and then gives pe'ah to him [the poor man]. In the name of R. Ishmael it was said: He also separates from the dough?[31] This refutes Abaye?[32] — Abaye can answer you: The case is different there,[33] since Scripture says: Thou shalt leave,[34] [and again] thou shalt leave[35] as redundant.[36] And Raba?[37] — He can answer you:[38] There is another case of ‘leaving’ similar to this. And what is it? It is the case of one who renounces ownership of his vineyard, for it was taught: If one renounces ownership of his vineyard and wakes in the morning and harvests it, he is bound to give peret,[39] the defective grapecluster,[40] the forgotten sheaf[41] and pe'ah, but he is exempt from tithe.[42]

Said R. Aha the son of Raba to R. Ashi: And now that you have given all these [various] answers,[43] wherein do Abaye and Raba really differ? — They differ in the case of stipulated usury[44] and will be on the lines of R. Eleazar's [statement]. For R. Eleazar said: Stipulated usury can be reclaimed through the judges,

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(1) Lev. XXII, 23.

(2) From which it is inferred that only blemished animals are fit to dedicate for Temple repairs, but not unblemished animals; v. infra 7b.

(3) V. infra 7b.

(4) Who says that a forbidden act has no legal effect.

(5) From the text: ‘But for a vow it shall not be accepted’.

(6) Which we explained above as implying that they are not acceptable but are consecrated, at least for their money value, for the altar.

(7) As being forbidden to offer; and we thus compare the case of unblemished animals dedicated for Temple repairs to the case of blemished animals dedicated for the altar. Just as in the case of the latter, we say although there is a negative command the act is valid, so in the case of the former, though there is a negative command, the act is valid. But elsewhere, Raba maintains, a forbidden act has no legal effect.

(8) Lev. XIX, 13.

(9) Lit., ‘he robbed’, ‘he took it openly by force’.

(10) I.e., for the wood or wool alone, as we say that he obtains the ownership of the garment or vessel by reason of the change which he has effected, in spite of the forbidden act of stealing; v. B. K. 93a

(11) Who says that a forbidden act has no legal effect.

(12) Lev. V, 23.

(13) But not according to its value at present, after being improved and changed.

(14) Who holds that a forbidden act has a legal effect. What need is there for the text: ‘That which he took by robbery’?

(15) For the text occurs in connection with the taking of a false oath and making a confession following a robbery, for which there is the extra penalty of adding a fifth to the value of the theft.

(16) Even if he swore falsely concerning it.

(17) For a debt, without the consent of the debtor.

(18) Deut. XXIV, 10.

(19) B. M. 113a. The law applies even if he took the pledge without the warrant of the court. We see therefore that a prohibited act is valid, otherwise the pledge would not be the creditor's at all and he would have to restore the pillow even in the day (Tosaf.).

(20) Who says that a forbidden act has no legal effect.

(21) In the Mishnah just quoted.

(22) Deut. XXIV, 13.

(23) Since the text repeats ‘thou shalt surely restore, etc.’, which teaches that the law applies also to the case where the pledge was taken without the warrant of the court; v. Tosaf.

(24) Who holds that a forbidden act has a legal effect; what need is there for the text ‘thou shalt surely restore the pledge’?

(25) By taking the pledge without warrant.

(26) That the restoration is in every case compulsory.

(27) The corner of the field which belongs to the poor.

(28) Lev. XXIII, 22.

(29) B. K. 94a.

(30) When it becomes subject to tithes and terumah.

(31) And the change of name from grain does not give him ownership so as to exempt him from pe'ah. The Rabbis, however, differ from R. Ishmael and hold that the change in the name makes it exempt from pe'ah; v. B.K. 94a.

(32) Who says that a forbidden act has a legal effect. The difficulty will arise if we accept the view of the Rabbis, for since he has not separated pe'ah from the standing corn, he transgresses a negative command. He ought then, according to Abaye, to be exempt from pe'ah, as a forbidden act is valid. The difficulty will even more certainly arise according to Abaye, if we adopt the view of R. Ishmael, for he goes even further than the Rabbis as regards the duty of giving pe'ah. V. Sh. Mek.

(33) With reference to pe'ah.

(34) Lev. XIX, 10.

(35) Ibid. XXIII, 22.

(36) The extra text therefore teaches us that although the grain has changed in his possession, he does not acquire possession of it, and is still bound to separate pe'ah and to leave it for the poor.

(37) Who holds that a forbidden act is not valid. What will he do with the additional text ‘thou shalt leave’?

(38) The object of the extra text ‘thou shalt leave’ is to teach the following.

(39) Grapes fallen off during cutting, v. Pe'ah VIII, 3.

(40) Heb. ‘oleloth; which belong to the poor, v. ibid 4.

(41) Which also belongs to the poor. And although in the normal way renunciation of ownership exempts from the duty of giving all these things to the poor, this kind of renunciation does not exempt, on account of the additional command ‘thou shalt leave’ mentioned in connection with peret, pe'ah, etc.

(42) For in connection with tithes there is no text ‘thou shalt leave’.

(43) The Baraithas and the Mishnahs quoted above in the Gemara either as questioning Abaye's or Raba's dictum, as the case may be, and the replies of each of these teachers explaining that, although elsewhere they maintain their own view on the subject as to whether a forbidden act has a legal effect or otherwise, the case of the particular Baraitha or Mishnah adduced was different, inasmuch as there existed a text to render it an exception.

(44) Where the creditor arranges for a fixed amount as interest on loan. Abaye will hold that the action is valid and therefore the interest would not be reclaimed, in spite of transgressing the negative command relating to usury. Raba, however, will hold that the action has no legal effect and the interest therefore must be returned.

Talmud - Mas. T'murah 6b

whereas the dust of usury[1] cannot be reclaimed through the judges. R. Johanan, however, says: Even stipulated usury is not reclaimed through the judges.[2] Thereupon he [R. Aha] said to him: But do they[3] differ merely in opinion? Do they not differ in the interpretation of Scriptural texts? For R. Isaac said: What is the reason of R. Johanan? Scripture says: He hath given forth upon usury and hath taken increase: shall he then live? He shall not live,[4] thus intimating that the taking of usury is a matter that affects life[5] but is not subject to restoration.[6] R. Aha b. Adda says: From here:[7] Scripture says, ‘But fear thy God’,[8] intimating that the taking of usury is a matter of fearing God but is not subject to restoration. Raba says: From here:[7] [Scripture says:] He hath done all these abominations: he shall surely die: his blood shall be upon him.[9] Now, lo, if he begat a son that is a robber, a shedder of blood.[10] Lenders on interest are compared to shedders of blood. Just as shedders of blood cannot make restoration [of the lives lost], so lenders on interest are not required to make restoration [of interest]. And R. Nahman b. Isaac said: What is the reason of R. Eleazar?[11] Scripture says: That thy brother may live with thee,[12] thus intimating that he must return the interest so that he [the borrower] may live with you.

But then wherein do Abaye and Raba [really] differ? — On the question whether a change[13] enables one to obtain ownership.[14] Another version: The difference will be[15] in the various answers [given above].[16] [Still] another version: The difference[17] will be in the matter of stipulated usury. According to Abaye he [the debtor] does not return the interest whereas according to Raba he is required to return the interest.[18] But does not Abaye also hold that we reclaim stipulated usury through the judges? For Abaye said: If one claims four zuz from his fellow as interest, and the latter gave the lender in his shop for it a garment to the value of five [zuz], we recover four [zuz] from him and the remaining [zuz] we say he gave as a gift. Raba says however: We recover from him five [zuz]. What is the reason? The whole [sum] came to him as interest.[19] — Rather then the difference of opinion between Abaye and Raba is in whether a change confers ownership.[20]

Our Rabbis taught: [Scripture says:] Whatsoever hath a blemish, that ye shall not offer.[21] Now what does the text teach us? If it means that ye shall not kill, is this not stated below?[22] Why then does the text state: ‘Ye shall not offer’? It means, Ye shall not dedicate. Hence [the Sages] said: He who dedicates blemished animals for the altar[23] is guilty on all five counts; for transgressing the prohibitory laws with reference to offering,[24] to dedicating,[25] killing,[26] sprinkling and burning wholly or partly.[27] They [the Sages] said in the name of R. Jose: [He is guilty] also [on account of the prohibition of] the receiving of the blood.

The Master said: ‘If it means, Ye shall not kill, is not this mentioned below?’ Where is this stated? — It has been taught: Blind or broken or maimed ye shall not offer these unto the Lord.[28] What does Scripture teach us here? If it means not to dedicate,[29] this is already stated above.[30] Then what does Scripture mean by ‘Ye shall not offer’? [That] ye shall not kill. [The text:] Nor make an offering by fire of them[29] refers to the burning [of the sacrifices on the altar].[31] From this I could only prove the burning of the whole sacrifice [as being prohibited]. Whence, however, will you deduce that the same applies to a part [of a sacrifice]? Because the text states: Of them.[32] Whence will you deduce the prohibitory law for the sprinkling of the blood [of blemished animals]? The text states: Upon the altar.[33] [The succeeding words:] ‘Unto the Lord’ include the case of a scapegoat.[34] But do [the words]: ‘Unto the Lord’ come to include [something additional]? Has it not been taught:[35] Now[36] if you expound the word korban [offering], am I to understand it to include the case of animals dedicated for Temple repairs,[37] which are described as korban as for instance when it says: We have therefore brought the Lord's korban?[38] The text, however, states: And hath not brought it unto the door of the tent of the meeting.[39] [We therefore argue as follows]: In respect of whatever is fit for the door of the tent of the meeting,[40] one may become liable on account of the prohibition of slaughtering consecrated animals outside the Temple court; but in respect of whatever is not fit for the door of the tent of the meeting,[41] one cannot become liable on account of the prohibition of slaughtering consecrated animals outside the Temple court. Shall I therefore exclude these[42] but not the Red Heifer[43] and the scapegoat, since they are fit for ‘the door of the tent of the meeting’?[44] Therefore the text states: ‘Unto the Lord’; [the law concerning slaughtering outside the Temple court applies] only to those designated as ‘unto the Lord’,[45] but these[46] are excluded, for they are not designated ‘unto the Lord’![47] — Said Raba: There we go according to the context [and[48] here we go according to the context]. There,[49] since the text, ‘Unto the door of the tent of the meeting’ includes,[50] therefore the text, ‘Unto the Lord’ in that connection excludes.[51] Here, however, as the text ‘by fire’ excludes,[52] therefore the text, ‘Unto the Lord’ in that connection includes.[53]

The reason then why a blemished scapegoat is not brought is because Scripture says, ‘Unto the Lord’. But if Scripture had not included [the case of a scapegoat] by means of the text, ‘Unto the Lord’, I might have thought that it was permissible to bring a blemished scapegoat. But consider: The lot[54] designates only such as are fit ‘for [the Lord]’?[55] — Said R. Joseph: This represents the opinion of Hanan the Egyptian. [For it has been taught:] Hanan the Egyptian said: Even if there was blood[56] in the cup,[57] he brings another [goat][58] to pair with it.[59] Granted that you can understand from Hanan the Egyptian that there is no rejection,[60] can you Understand that there is no casting of lots? Perhaps he brings two new goats and casts lots?[61] Rather said R. Joseph: This[62] will represent the view of R. Simeon, for it has been taught: If one [of the two animals] died, he brings the other without casting lots.[63] Raba says: [The text][64] is not required save for the case where e.g., [the scapegoat] became blemished on that day[65] and he redeemed it for another [animal].[66]

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(1) I.e., indirect usury, e.g., when a man sells his field and says to the buyer that if he pays him at once he wants so much but if at a later date, he demands a larger sum. Therefore because he waits for the money, the buyer pays more, and this is called the ‘dust of usury’.

(2) Raba will therefore agree with R. Eleazar and Abaye with R. Johanan, for here there is no special text in virtue of which one or the other of these Amoraim can say that the case is different.

(3) Abaye and Raba.

(4) Ezek. XVIII, 13.

(5) That he shall not live who takes usury.

(6) Therefore even according to Raba who holds that a forbidden act has no legal effect, here the act will be valid, because of the text.

(7) Where the Scriptural text makes the case of usury different, so that even Raba can agree that the forbidden act here is valid.

(8) Lev. XXV, 36. The text occurs in connection with the law of usury.

(9) Ezek. XVIII, 13.

(10) Ibid. XVIII, 10. The passage, Now etc. is omitted in Raba's statements in B.M. 61a.

(11) Who holds that stipulated usury is reclaimed through the judges.

(12) Lev. XXV, 36.

(13) By transgressing a Scriptural command.

(14) Abaye and Raba differ as to whether a change wrought in a thing brings about ownership, e.g., one who stole wood and made it into a vessel or wool and made it into a garment. According to Abaye the action is valid, for he acquires ownership and therefore he only pays the price of the wood or wool; whereas according to Raba the act is not valid, for he does not acquire ownership of the article and therefore must return the garment or the article. And when in the Gemara above we raise a difficulty for Raba from the relevant Mishnah: If one steals etc., do not reply that the case is different from the Mishnah because of a text, but answer that Raba will hold according to one Tanna in B.M. 61a who says that a change in an object does not confer ownership, whereas Abaye holds with another Tanna there who holds that a change does confer ownership. For other interpretations v. Rashi.

(15) Between Abaye and Raba,

(16) There will not actually be a difference in any specific case except in the kind of explanation each of these teachers

will give in answer to the Baraitha or Mishnah as quoted above in the Gemara. Abaye, who says a forbidden act has a legal effect will explain any particular Baraitha or Mishnah which appears to contradict this according to his view, and Raba, who holds that a prohibited act has no legal effect, will explain any particular Baraitha or Mishnah according to his point of view.
(17) Between Abaye and Raba.
(18) As the action is not valid.
(19) We therefore see that even according to Abaye the interest is recovered.
(20) V. supra p. 33. n. 11.
(21) Lev. XXII, 20.
(22) That a blemished animal must not be killed for the altar. The Gemara explains this subsequently.
(23) Burnt them wholly on the altar.
(24) Blemished animals.
(25) The word ‘dedicating’ is omitted by Sh. Mek. and by Rashi, in Hul. 80b, where the passage is cited.
(26) Blemished animals.
(27) Whether he burnt the whole or part of the animal, he is guilty of breaking the prohibitory law of burning a blemished animal on the altar.
(28) Lev. XXII, 22.
(29) Blemished animals for the altar.
(30) But whatsoever hath a blemish that ye shall not offer (ibid. 20).
(31) This is the prohibition of burning.
(32) The continuation of the text, ‘Nor make, etc.’.
(33) The continuation of the text ‘Of them’.
(34) That he who dedicates it blemished is guilty of breaking the prohibition ‘Ye shall not offer’. Lit., ‘the goat that is sent away’.
(35) Zeb. 113a and infra 13a.
(36) The Baraitha opened as follows: One might think that if one kills hullin (an unconsecrated animal) inside a Temple court one is guilty of excision? Scripture, however, says: Korban (offering) Lev. XVII, 4, thus implying that guilt is only incurred in connection with a korban. Now if you expound, etc.
(37) That if one killed them outside the Temple court he would be liable to the penalty of excision.
(38) Num. XXXI, 50. And the offerings mentioned here were for the Sanctuary, as it speaks of jewels of gold, chains, bracelets, etc.
(39) Lev. XVII, 4.
(40) I.e., to be offered up on the altar.
(41) I.e., dedications for Temple repairs because they are blemished.
(42) Dedicated animals for Temple repairs.
(43) Lit., ‘the cow for expiation’.
(44) For they are unblemished, as both a red heifer and a scapegoat must be unblemished for their several purposes.
(45) Actually offered up on the altar.
(46) The red heifer and the scapegoat.
(47) We therefore see that the text, ‘Unto the Lord’ implies exclusion and yet above you say the text ‘Unto the Lord’ is intended to include.
(48) So Sh. Mek.
(49) In connection with slaughtering outside the Temple court.
(50) All unblemished animals to incur guilt for slaughtering them outside the Temple court.
(51) It can only be to exclude something and we therefore exclude the cases of the scapegoat and the red heifer.
(52) That only in respect of an offering which is burnt is there liability for dedicating a blemished animal, and that in respect of a sacrifice which is not burnt and is dedicated in its blemished state, one does not incur any guilt for its dedication. I might therefore have thought that a scapegoat, since it is not burnt, is in the same category.
(53) The case of a scapegoat, so that if one dedicates it in its blemished state one is guilty of transgressing the prohibitory law of ‘Ye shall not offer it’.
(54) Which determines which goat was to be offered on the altar, and which the scapegoat, which was sent to Azazel.
(55) I.e., the two animals must be unblemished. For since we do not know on which will fall the lot ‘for the Lord’ and on

which ‘for Azazel’, then necessarily both must be fit, as either may be destined ‘for the Lord’.

(56) Of the goat ‘for the Lord’,

(57) The sprinkling of the blood not having yet taken place and the scapegoat was either lost or became blemished.

(58) For a scapegoat.

(59) With the slaughtered goat. This obviously must be without casting lots, since he cannot do so as the animal ‘for the Lord’ has already been slaughtered. Now just as according to Hanan one can bring a second animal for the scapegoat without casting lots, so it might be assumed he can bring it in a blemished condition. The special text therefore, ‘Unto the Lord’ is necessary to inform us that this is not so.

(60) That although the goat ‘for the Lord’ has been already slaughtered, since the sprinkling had not yet taken place, it is not denied as having suffered a disability in the process of the ritual, thus becoming rejected from the altar. We can consequently proceed with the selection of another animal for the scapegoat. The first Tanna, however, will hold that the blood is poured out, since there was a break in the ritual.

(61) Perhaps the casting of lots still takes place in the following manner. He brings two fresh animals and casts lots as to which shall be ‘for the Lord’ and which for the scapegoat. The animal which is designated ‘for the Lord’ he leaves to pasture until blemished, and the other one, on which the lot for Azazel has fallen, he brings and pairs it with the slaughtered goat. Now since he must cast lots, the second animal, in order to become a scapegoat, must be unblemished.

(62) The view that without the text ‘Unto the Lord’ I might have thought that a scapegoat could be brought even in a blemished state.

(63) Yoma 40a, 63b, I might therefore have thought since lots are not required in these circumstances, there is no need that the scapegoat should be unblemished. The Scriptural text ‘Unto the Lord’ therefore teaches us that it is not so.

(64) ‘Unto the Lord’.

(65) After the lots had been cast.

(66) Which was also blemished and there would be a penalty for the dedication.

Talmud - Mas. T'murah 7a

You might argue that we can well understand why at the outset [we require both animals to be unblemished] because we do not know which one will be designated ‘for the Lord’. But here, since the animal designated ‘for the Lord’ is recognised, there is no punishment of lashes.[1] The text [‘Unto the Lord’ mentioned above] therefore informs us [that it is not so].[2]

The Master said: ‘It is reported in the name of R. Jose son of R. Judah: [There is] also [the case of the prohibitory law relating to] the receiving of the blood’. What is the reason of R. Jose son of R. Judah? Scripture says: That which hath its stones bruised or crushed or torn or cut etc. [ye shall not offer unto the Lord];[3] this refers to the receiving of the blood mentioned by R. Jose son of R. Judah.[4] And according to the first Tanna,[5] what need is there for this text: ‘Ye shall not offer’? — It is necessary for the case of the sprinkling of the blood of a blemished animal.[6] But do we not deduce this from the text: Upon the altar?[7] — This[8] is simply Scripture's manner of speaking.[9] But may it not also be, according to R. Jose son of R. Judah, Scriptures manner of speaking?[10] — Yes, it is so.[11] Then whence does he deduce the prohibition in respect of receiving the blood?[12] — He derives [this ruling] from the following: ‘Neither from the hand of a foreigner shall ye offer’;[13] this refers to the receiving of the blood [mentioned by R. Jose son of R. Judah]. And what does the first Tanna do with this text, ‘Neither shall ye offer’? — He needs it for this: It may occur to you to think that since the Noahides[14] were only commanded concerning the loss of limbs,[15] it is therefore immaterial whether the sacrifice is for their altar[16] or ours.[17] [The text][18] therefore informs us [that this is not so].

Another version: R. Jose son of R. Judah says: ‘[There is] also [the prohibition relating to] the receiving of the blood’. What is the reason? — Since Scripture says: ‘That which hath its stones bruised or crushed etc. ye shall not offer unto the Lord’, this refers to the receiving of the blood and the prohibition of sprinkling[19] is derived from the text, ‘Upon the altar’. And according to the Rabbis, why not also derive the prohibition of sprinkling from the text, ‘Upon the altar’? — In fact they do. Then what does the text, ‘Ye shall not offer’ stated in connection with the text, ‘Bruised or crushed’ come to teach? — It is required to teach us the case of a private bamah.[20] And according to R. Jose son of R. Judah, do we not require the text[21] to teach us the case of a private bamah? — Yes, it is so, Then whence does he derive [the prohibition of] offering with reference to the receiving of the blood? — He derives it from the text, ‘Neither from the hand of a foreigner shall ye offer’, this meaning the receiving of the blood. And the Rabbis?[22] — There is need for the text. You might think that since the Noahides are only commanded concerning the loss of a limb for their own bamah,[23] we too may therefore accept from them [a permanently blemished animal].[24] The text, ‘Of any of these’ therefore informs us that we do not accept.[25] To this Resh Lakish demurred:[26] Perhaps this[27] is stated only in connection with the case of an unblemished animal which became blemished,[28] in which case there is a transgression, but if it is an originally blemished animal, it is then a mere palm-tree![29] — Thereupon R. Hiyya b. Joseph said to him: [Scripture says:] ‘Too long or too short’[30] in the section[31] and these are originally blemished animals.[32] He [Resh Lakish] said: Perhaps we have learnt this[33] only with reference to substitutes,[34] for we have learnt: There is a restriction in the law regarding substitutes which does not apply to original sacrifices, in that holiness can attach [as substitute] to an animal permanently blemished![35] — R. Johanan replied to him: Have you not heard what R. Jannai said: At the college a vote was taken and it was decided: He who dedicates a blemished animal for the altar is guilty on five counts.[36] Now if [this passage] deals with substitutes, then there are six, for there is also the prohibition of exchanging?[37] — What then? Do you maintain that he deals with a case of an animal originally blemished? Then why should there be the punishment of lashes, since it is merely a palm-tree? — He replied, There is nothing irreverential about a palm-tree [as] it is a kind of wood. But in dedicating an originally blemished animal, there is something irreverential [as regards consecrations], since he ignores unblemished animals and dedicates blemished ones, and therefore he is guilty.

Another version: He [R. Hiyya] said to him [Resh Lakish]: Even so the act is irreverential.[38] For the dedication of a palm-tree, as there is nothing in its class [fit for the altar] there is no punishment of lashes. But the case is otherwise with reference to a blemished animal, since there exists in the class of animals [those fit for the altar], and he is therefore punishable with lashes.[39]

Said Raba: Now that you say that the reason why [one who dedicates] a blemished animal incurs the punishment [of lashes] is because the act is irreverential,[40] then even if one dedicates it [a blemished animal] for the value of its drink-offerings, one should incur the punishment [of lashes]. [Raba's[41] is a point at issue among Tannaim.]

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(1) For breaking the prohibitory law of ‘Ye shall not offer’ if the scapegoat were dedicated in a blemished state.

(2) To include the case of a blemished scapegoat as infringing the prohibition of ‘Ye shall not offer’.

(3) Lev. XXII, 24.

(4) Deduced from the repetition of the phrase, ‘Ye shall not offer’

(5) R. Jose's disputant, who does not hold that there is an infringement of a prohibitory law in receiving the blood of a blemished dedicated animal.

(6) In order to teach us that there is an infringement of a prohibitory, law in doing so.

(7) Ibid. XXII, 22.

(8) The text, ‘Ye shall not offer’.

(9) As a summing up of the law relating to blemishes, and we do not infer some special ruling therefrom.

(10) Alluding to the text, ‘Ye shall not offer’, quoted above.

(11) It is Scripture's way of speaking.

(12) If this text, ‘Ye shall not offer’ is not to be specially interpreted.

(13) Ibid. XXII, 25.

(14) I.e., Gentiles who are the descendants of Noah.

(15) That only such a defect disqualifies a sacrifice for their altar, but a mere blemish is no disqualification.

(16) I.e., which a Gentile had erected to offer upon it to God.

(17) That we may offer up a blemished animal belonging to a Gentile on our altar so long as it is not short of a limb.
(18) ‘Neither shall ye offer’.
(19) Of a blemished animal.
(20) That it is forbidden to offer up a blemished animal on one. Bamah is a high place.
(21) ‘Ye shall not offer’ occurring in connection with the text ‘Bruised or crushed etc.’.
(22) Who differ with R. Jose what need have they for this text?
(23) For they are not forbidden to offer up a blemished sacrifice on their bamah.
(24) To offer up on our altar.
(25) For a Gentile's blemished animal is compared with our own. Just as in our case, we do not offer up a blemished animal on the altar, even without the loss of a limb, so we do not accept for sacrifice a permanently blemished animal from the Gentiles.
(26) Referring to the Baraitha above which says that one who dedicates blemished animals for the altar is guilty of transgressing five negative commands.
(27) That the punishment of lashes is inflicted for transgressing the prohibition of ‘Ye shall not offer’.
(28) As one might be under the impression that since it was once holy, the fact that it subsequently became blemished should not disqualify it from being offered up on the altar.
(29) He could not possibly have imagined that it would be fit for the altar except for its money value, and therefore one might think that there would not be any punishment of lashes.
(30) Lev. XXII, 23.
(31) Dealing with the various permanent blemishes which render an animal unfit.
(32) Concerning which Scripture says, ‘Ye shall not offer’ which indicates as explained above, that one is guilty in dedicating these blemished animals.
(33) Which says that there is a penalty for dedicating.
(34) Where the substituted animal is blemished.
(35) For this reason there is the penalty of lashes, but if he dedicated an animal originally blemished, there may perhaps be no penalty for the dedication, unless he later offered it up.
(36) I.e., he breaks five negative commands.
(37) ‘Nor change it’.
(38) Where one dedicates an animal which became blemished. There is therefore a degradation of holy things.
(39) For dedicating something which is not fit.
(40) To dedicate an animal which has become blemished.
(41) So Sh. Mek. Cur. edd. It has been taught like Raba.

Talmud - Mas. T'murah 7b

[Scripture says:] That mayest thou offer for a freewill-offering:[1] this refers to dedications for Temple repairs. Now I have here mentioned only the case[2] of a freewill-offering.[3] Whence do we derive that the same applies to a vow?[4] Scripture says: And for a vow.[5] One might think [that the blemished animals vowed for offering are fit] even for the altar? The text, however, states: ‘And for a vow it shall not be accepted’, thus referring to dedications for the altar.[6] I here mentioned only the case of a freewill-offering.[7] Whence can we derive that it is the same with reference to a vow?[8] The text states: A freewill-offering’.[9]

Rabbi said: [Scripture says:] ‘It shall not be accepted’, the text thus speaks of accepting its body [for sacrifice on the altar].[10] But is not this opinion precisely that of the first Tanna? Must we not say that they differ[11] in this: The first Tanna holds that even if he dedicates the blemished animal for the value of drink-offerings, he also incurs the punishment of lashes, whereas Rabbi says: The punishment only applies to the acceptance of the body,[12] but not if the dedication is for the value of a drink-offering? It stands proved.[13] But why then is the word ‘that’[14] inserted? — It is needed to intimate what has been taught: Scripture says, That mayest thou offer for a freewill-offering, thus intimating: that you may offer as a freewill-offering [for Temple repairs], but you may not offer unblemished animals as a freewill-offering [for Temple repairs]. Hence the Rabbis say: He who dedicates unblemished animals[15] for Temple repairs is guilty of transgressing a positive command.[16] And whence do we derive that one is guilty of transgressing a negative command? Because it says: 'And the Lord spake unto Moses saying',[17] thus teaching us that the whole section is regarded as having the force of a prohibitory law. This is the teaching of R. Judah. Said Rabbi to Bar Kappara: How do you understand this?[18] He replied to him: Because of the word 'saying',[19] which indicates that a negative command has been said in connection with these statements.[20] The School of Rabbi says: The word 'saying' means, tell[21] [the children of Israel] a negative command.[22]

It is stated: If one burns on the altar the limbs[23] of blemished animals, Raba says: He transgresses the prohibitory laws of burning the whole and burning a part.[24] Abaye says: There is no punishment of lashes for a comprehensive prohibition.[25]

They raised an objection: He who dedicates blemished animals for the altar is guilty on five counts,[26] This refutes Abaye?[27] — Said R. Kahana:[28] It refers to different individuals.[29] But if it [the Baraitha] refers to different individuals, [why then does the Baraitha say,] 'He incurs etc.'? Is not 'they incur' required? Then obviously the Baraitha refers to one individual. Shall we say that this refutes Abaye? — Abaye can answer you: Exclude [from the Baraitha] the prohibition for burning part [of the blemished animal on the altar] and include [the prohibition for] receiving the blood [of the blemished animal]. [You say] the receiving of the blood; this prohibition is maintained only by R. Jose son of R. Judah,[30] but not by the Rabbis?[31] — This is a difficulty.

Another version: Since the latter part [of the Baraitha][32] is the opinion of R. Jose son of R. Judah,[33] the first part will be the opinion of the Rabbis.[34] Shall we say this refutes Abaye? This is a final refutation. MISHNAH. PRIESTS HAVE POWER TO EXCHANGE [AN ANIMAL] BELONGING TO THEMSELVES[35] AND ISRAELITES ALSO HAVE POWER TO EXCHANGE AN ANIMAL BELONGING TO THEMSELVES. PRIESTS HAVE NOT THE POWER TO EXCHANGE A SIN-OFFERING,[36] A GUILT-OFFERING[36] OR A FIRSTLING.[37] SAID R. JOHANAN B. NURI: WHAT IS THE REASON WHY [PRIESTS] HAVE NOT THE POWER TO EXCHANGE A FIRSTLING?[38] R. AKIBA SAID TO HIM: A SIN-OFFERING AND A GUILT-OFFERING ARE PRIESTLY GIFTS AND A FIRSTLING IS ALSO A PRIESTLY GIFT. JUST AS IN THE CASE OF A SIN-OFFERING AND GUILT-OFFERING [PRIESTS] HAVE NO POWER TO EXCHANGE THEM,[39] SO IN THE CASE OF A FIRSTLING [PRIESTS] HAVE NO POWER TO EXCHANGE IT. SAID R. JOHANAN B. NURI: IT IS RIGHT THAT PRIESTS SHOULD HAVE NO POWER TO EXCHANGE A SIN-OFFERING AND A GUILT-OFFERING BECAUSE THEY HAVE NO CLAIM ON THESE [OFFERINGS] WHILE THESE ARE ALIVE. WILL YOU, HOWEVER, SAY THAT THE SAME APPLIES TO A FIRSTLING ON WHICH [THE PRIESTS] HAVE A CLAIM WHEN IT IS ALIVE?[40] R. AKIBA THEREUPON REPLIED TO HIM: HAS NOT SCRIPTURE ALREADY SAID: THEN IT AND THE EXCHANGE THEREOF SHALL BE HOLY?[41] NOW WHERE DOES THE HOLINESS ARISE?[42] IN THE HOUSE OF THE OWNERS.[43] SIMILARLY EXCHANGE IS NOT EFFECTED EXCEPT IN THE HOUSE OF THE OWNERS.[44] GEMARA. We have learnt elsewhere: An unblemished firstling may be sold alive,[45] but a blemished firstling whether alive or slaughtered; and [the priest] may also betroth a woman with it.[46] Said R. Nahman in the name of Rabbah b. Abbuha: This[47] was taught only for nowadays,[48] since a priest has a claim upon it.[49] But in Temple times, since an unblemished firstling is destined to be offered up, we may not sell it alive unblemished.[50] Raba raised an objection to R. Nahman: An unblemished firstling may be sold alive. [It says,] 'alive', implying, but not slaughtered. Now to what period does this refer? Shall I say that this refers to nowadays?[51] Is there an unblemished animal that may be slaughtered [nowadays]?[52] Then obviously you must say that the term 'alive' refers to Temple times[53] and yet it says: An unblemished firstling may be sold alive.[54] — No! One can still maintain that it refers to nowadays, for does it state: One may sell it unblemished alive, but not slaughtered?[55] It wishes to inform us of this very thing, that a firstling [nowadays] may be sold unblemished alive.[56]

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(1) Lev. XXII, 23; referring to a blemished animal.

(2) That a blemished animal can become holy for Temple repairs.

(3) E.g., where he says: ‘Behold this animal shall be dedicated for Temple repairs’.

(4) If one says: ‘I vow to dedicate an animal for Temple repairs’,that it is a duty to set aside the animal even if blemished.

(5) And we interpret the text thus: That mayest thou offer for a freewill-offering and also for a vow.

(6) For the term ‘accepted’ can only mean for the purpose of offering up on the altar.

(7) If one said, ‘I vow to dedicate this blemished burnt-offering’, such dedication is not fit for the altar, as being not ‘accepted’, for this kind of dedication is mentioned next to the text, ‘It can not be accepted’.

(8) That one cannot say in connection with a blemished animal: ‘Behold, this is for the altar’.

(9) The meaning of the text will therefore be as follows: The freewill-offering which you may dedicate for Temple repairs and the blemished animal vowed for Temple repairs are not acceptable for the altar.

(10) That it must not be offered up.

(11) Between the first Tanna and Rabbi.

(12) I.e., sacrifice on the altar.

(13) That Raba's ruling above is a matter of dispute between Tannaim.

(14) That (אותו) mayest thou etc. Since you say that the words ‘vow’ and ‘freewill-offering’ are linked together as meaning that a blemished animal either as vow or freewill-offering is not acceptable for the altar, the word ‘that’ which possesses a restrictive meaning, is not needed (Wilna Gaon).

(15) Which are fit for sacrifice on the altar.

(16) The prohibition derived by implication from the positive command that mayest thou, and which has the force only of a positive command.

(17) Lev. XXII, 17.

(18) How do you gather that the section has the force of a prohibitory law?

(19) לאמר

(20) The word לאמר is split into לא אמר ‘he said, not’.

(21) אמר .

(22) לא which with the previous word forms לאמר .

(23) The pieces, in accordance with the law of a burnt-offering.

(24) Derived from the text, ‘Nor make an offering by fire’, for when we burn the whole, this also includes a portion of it.

(25) The prohibition comprises both the burning of the whole and a part, and in such a case there is only punishment on one count only (v. Rashi).

(26) I.e., he breaks five prohibitory laws, the Baraitha enumerating as two prohibitions the burning of the whole, and a part of the burnt-offering.

(27) Who holds that there is only one prohibitory law for burning the whole on the altar.

(28) V. Sh. Mek.

(29) In the case where one person burns the whole of an animal and another burns a part of an animal, each is separately liable to one count of lashes for his own particular transgression. Where, however, one person is the offender he would not be liable on the count of burning a part.

(30) Who adds in the Baraitha the case of receiving the blood as yet another prohibitory law.

(31) Who do not agree with R. Jose, and there would thus not be five prohibitions.

(32) Which speaks of the receiving of the blood.

(33) V. supra 6b.

(34) Who hold that there is no prohibitory law against receiving the blood of a blemished dedicated animal. We cannot therefore include in the Baraitha receiving the blood as a prohibitory law. In order therefore to make up the five prohibitions, we must include burning a part of the burnt-offering as a prohibitory law, which will be at variance with the view of Abaye.

(35) Which they set aside for themselves, and if they substituted an unconsecrated animal for them, then the animal and the substitute become sacred.

(36) Which an Israelite gave to a priest for a sacrifice. If a priest exchanged this the exchange is not valid, since he has no share in the animal except from the time it is burnt and onwards, and we learn later in this chapter that a man cannot cause a substitution of a thing which is not his.

(37) Which an Israelite gave to him.

(38) Since the whole belongs to the priest and the firstling is given to him while alive, the Israelite not being atoned for therewith.

(39) For we are sure that they do not legally acquire possession of them until the time of the burning of the sacrifices.

(40) The case of a firstling is different and there should therefore be power to exchange it, the priest having a claim on it while it is alive.

(41) Lev. XXVII, 10; thus comparing the substitute with dedication itself.

(42) In connection with things dedicated.

(43) But it does not take place at all in the house of a priest and therefore a priest has not the power to exchange a firstling.

(44) I.e., in the house of an Israelite in whose possession the holiness of a firstling arises and therefore if an Israelite exchanged a firstling, the substitute is sacred, but not if a priest made the exchange.

(45) Ma'as. Sh. I, 2; B.K. 12b.

(46) For it is considered his money.

(47) That a priest can sell it alive.

(48) When the Temple is no longer in existence, and the firstling is consequently not destined for the altar.

(49) Alive, for even nowadays a firstling belongs to the priest.

(50) For a priest has no claim on it except from the time when the parts of the sacrifice are burnt on the altar.

(51) The buyer waiting till a blemish occurs to the animal in order to be able to eat it.

(52) For it would be slaughtering sacrifices outside the Temple wall.

(53) When, however, it may not be sold slaughtered, for it is an abuse of holy things to make an ordinary transaction with its flesh.

(54) We therefore see that one may sell an unblemished firstling alive in Temple times, contrary to the opinion of R. Nahman.

(55) For us to infer that we are not dealing with the present time, since nowadays there can be no unblemished slaughtered firstling.

(56) For it might have occurred to you to think that the priest has no claim on it until the firstling is blemished. It is not, however, the object of the Mishnah that we should deduce therefrom that we may not sell a slaughtered firstling, as we are dealing with the present time and nowadays there is no unblemished slaughtered firstling.

Talmud - Mas. T'murah 8a

He raised [a further] objection: With reference to a firstling it is said: Thou shalt not redeem[1] implying but it may be sold.[2] Now with what case are we dealing? Shall I say that [the Baraitha] refers to nowadays? Read the second part [of the text]: Thou shalt sprinkle their blood upon the altar![3] Now is there in existence an altar nowadays [for sacrifice]? Then obviously [it] refers to Temple times. Of what then does it speak? Shall I say of a blemished firstling? Read the second part [of the text]: Thou shalt sprinkle their blood upon the altar and shalt burn their fat.[3] Now if we are dealing with a blemished firstling, is it fit for sacrifice? Then we must be dealing with an unblemished firstling, and it says, ‘but it may be sold’![4] — But is this an argument?[5] The first part [of the text][6] refers to a blemished [animal][7] and the latter part of the text[8] refers to an unblemished [firstling]!

R. Mesharsheya raised an objection: If the child of a priestess became mixed up with a child of her slave,[9] when the children grow up they free one another;[10] both may eat terumah;[11] they take their share simultaneously at the threshing floor;[12] their firstling[13] is left to pasture until blemished[14] and it is eaten blemished by their owners. Now with what case[15] are we here dealing? Shall I say that we are dealing with a firstling of nowadays? For then what is the difference between [a firstling] belonging to ourselves[16] and [a firstling] belonging to them,[17] since [a firstling] belonging to ourselves also requires a blemish to be eaten?[18] Then you must admit that we are dealing with a firstling in Temple times.[19] Now if you say that the priest has a claim on a firstling [alive],[20] there will be no difficulty.[21] But if you say that he has no claim on a firstling alive, then let the Temple treasurer come and take it?[22] — One can still say that we are dealing with a firstling of nowadays.[23] And as regards the difficulty you raise as to why [a firstling] belonging to ourselves is different from [a firstling] belonging to them, [the answer is] we give ours to the priest in its blemished condition,[24] but with [a firstling] belonging to them, since there is an element of priesthood,[25] priests are excluded from claiming [this firstling].[26]

Another version: [Now if we are dealing with a firstling of] nowadays, why mention firstlings belonging [to persons] of uncertain priesthood?[27] Even firstlings belonging to ourselves also are left to pasture [until blemished]? Then obviously we are dealing with a firstling of Temple times. Now if we are referring to a blemished firstling, why do we say, let them be left to pasture until blemished? Are they not already blemished? Then obviously we are dealing with unblemished firstlings; and only these[28] may not sell;[29] [but persons who are certainly priests may sell]?[30] — It may still be that we are dealing with firstlings of nowadays. What is your difficulty? That even [firstlings] belonging to ourselves should also be left to pasture! [The answer is:] We cannot disregard the priest,[31] for there exists no uncertainty of the priesthood, but these persons of uncertain [priesthood] can put off the priest, each one saying to the priest. 'I am a priest', 'I am a priest'.[32]

An objection was raised. R. Simeon said: [Scripture says:] And the cattle thereof.[33] This excludes a firstling animal and an animal tithed[34] in it [the city]. 'The spoil of it'; this excludes the money of the second tithes.[35] Now with what case are we dealing? Shall I say that we are dealing with nowadays? For is the law of an apostate city in force [nowadays]? Have we not learnt: We do not practise the law of an apostate city except where there is in existence a Beth din of seventy-one?[36] Then obviously we are dealing with Temple times. And in what condition [was the firstling]?[37] If it was blemished, is this not the same as the text, 'The cattle thereof'?[38] Then obviously we are dealing with an unblemished firstling. Now there will be no difficulty if you say that the priest has a claim on the firstling alive.[39] But if you say the priest has no claim on a firstling alive, what need is there for the text 'The cattle thereof'?[40] Why not derive this from the text, 'The spoil of it', from which we can deduce, But not the spoil of heaven?[41] — One can still maintain that we are dealing with a blemished animal,[42] and as regards the difficulty you raise that this is the case covered by the text, 'The cattle thereof',[43] [the answer is] this implies, Whatever is eaten in the manner of 'The cattle thereof',[44] excluding the cases of the firstling and animals tithed, for they are not covered by the words, The cattle thereof'. For we have learnt in a Mishnah: All dedications rendered unfit for sacrifice may be sold in the market and by the pound,[45] with the exception of a firstling and an animal tithed, for their benefit belongs to the owners.[46]

An objection was raised. [Scripture says:] And committed a trespass against the Lord.[47] This includes sacrifices of minor grades of holiness,[48] which are considered the money of the owners.[49] These are the words of R. Jose the Galilean. Ben Azzai says: [This text comes] to include peace-offerings.[50] Abba Jose the son of Dosai says: R. Jose the Galilean only refers to a firstling.[51] Now what period are we dealing with? Shall I say that of nowadays? Surely the case [of the firstling referred to by Abba Jose] is compared with peace-offerings?[52] Then obviously we are dealing with Temple times. Now what are the circumstances? Shall I say that we are dealing with a case of a blemished firstling? Surely the case [of a firstling referred to by Abba Jose] is compared with peace-offerings?[53] Then you must say that you are dealing with the case of an unblemished firstling.[54] Deduce therefore from here that a priest has a claim on a firstling [alive].[55]

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(1) Num. XVIII, 17; that the redemption money should become holy and the firstling become hullin.

(2) And it is eaten in a sacred condition, i.e., must not be killed to be sold in a market or weighed by the pound; v. supra 5b, B.K. 13a, Bek. 32a.

(3) Num. XVIII, 17.

(4) We therefore see that an unblemished firstling in Temple times may be sold, contrary to the opinion of R. Nahman.

(5) That the two parts of the text must necessarily deal with an unblemished firstling.

(6) ‘Thou shalt not redeem’.

(7) And we may therefore deduce therefrom that a firstling may be sold.

(8) ‘Thou shalt sprinkle etc.’.

(9) And it is not known which is the child of the priestess and which is the child of her slave.

(10) Each one writes: ‘If I am the master and you are the slave: Behold you are a free man’, and both may marry a daughter of an Israelite.

(11) So long as they had not freed one another, for in any case each can say: ‘If I am a priest then I eat terumah in my own right, and if I am a slave, then give me terumah as the slave of a priest’, for the slave of a priest is permitted to partake of terumah.

(12) When they are both together they are given terumah, but one of them by himself does not receive terumah without the other present, in case the recipient is the slave, and this Tanna holds that we do not give terumah to the slave of a priest unless the master be present, for fear lest the slave might eventually claim a higher pedigree for himself, i.e., that of being a priest.

(13) Animal born in the pen of the mixed-up offspring.

(14) And are rendered unfit for sacrifice.

(15) Of their firstling required to pasture until blemished.

(16) To persons who are certainly priests.

(17) To the mixed-up offspring, as mentioned in the Bariatha above.

(18) For even in our case, even a person who is certainly a priest cannot eat a firstling nowadays unless it is blemished.

(19) A firstling therefore which belongs to us, i.e., to a genuine priest, is given to the priest for sacrifice, whereas theirs i.e., a firstling belonging to the mixed-up offspring must pasture until blemished. For although even a priest is required to carry out the law of a firstling, here the firstling must be left to pasture, because in the case of any other priest who set aside a firstling, there is no loss, as he himself offers it up and eats the flesh, but in the case mentioned by the Baraitha above, if the firstling is offered up, then no-one can eat it, since one of the offspring is not a priest but a slave and only a priest can eat a firstling unblemished in Temple times. Therefore the Baraitha above says a firstling must be left to pasture until blemished, for each one can say to the priest who claims, ‘I am a priest and shall eat the firstling’.

(20) I.e., that he may sell it alive in its unblemished state even in Temple times.

(21) Therefore he can retain the firstling, saying, ‘perhaps I am a priest and I have therefore a prior claim, and do not wish to give it to another priest, but shall wait till I am able to eat it’.

(22) And give it to a genuine priest, since the priest has no claim on the firstling till it is brought to the altar. This shows that even in Temple times the priest has a claim on the unblemished firstling, for we are undoubtedly dealing here with an unblemished animal, since the Baraitha says it is left to pasture, etc., which contradicts R. Abbuha.

(23) And therefore the firstling is left to pasture, for it is unfit for sacrifice and the priest has a claim upon it while it is alive.

(24) For although blemished and permissible to be eaten by non-priests, it must be given to the priests, otherwise it would be stealing the priestly due.

(25) In the case mentioned in the Baraitha above, where one of them is certainly a priest.

(26) And it is not stealing what is due to the priest, for each one of the mixed-up persons can claim, ‘I am a priest’ and since there is a doubt concerning money, the claimant must bring the necessary evidence to prove his case.

(27) As in the case in the Baraitha above, where there was a mixing-up between the offspring of a priestess and her slave.

(28) Persons of uncertain priesthood, as mentioned in the Baraitha above.

(29) The firstling.

(30) We therefore see that a priest may sell an unblemished firstling alive in Temple times, contrary to the opinion of R. Nahman in the name of R. Abbuha above.

(31) We have no option but to surrender a Firstling even blemished, otherwise it would be robbing the priestly due.

(32) And therefore they retain the firstling.

(33) Deut. XIII, 16; in connection with an apostate city which is totally destroyed on account of its inhabitants worshipping idols.

(34) The text ‘And the cattle etc.’ implies that one's own cattle is destroyed where there is no part which belongs to heaven (the Sanctuary), unlike the case of a firstling and tithes.

(35) This will represent the view of the teacher who maintains that the second tithe is money which belongs to heaven; v. Sanh. 112b.
(36) And as there is no Beth din of such a character in existence to-day, the law of an apostate city is inoperative.
(37) Or the tithed animal.
(38) Where the animal belongs entirely to a person and heaven has no share in it. Here, too, where a priest eats the firstling and an Israelite his tithe, there is no element which belongs to heaven.
(39) Therefore the exclusion of a firstling is derived from the text ‘The cattle thereof’ and not from the text ‘The spoil of it’, since it is not altogether the spoil of heaven, as the priest has a claim upon it.
(40) To exclude the case of a firstling and tithes from the law of an apostate city.
(41) Since therefore we exclude the case of a firstling and an animal tithed from the text ‘The cattle thereof’, this proves that the priest has a claim on the firstling. This will therefore raise a difficulty for the ruling of R. Nahman in the name of R. Abbuha, for we see here that an unblemished firstling may be sold in Temple times.
(42) In which there is no share for heaven and which therefore should be burnt in fire.
(43) Why therefore do we exclude the case of a firstling and an animal tithed?
(44) Where the animal belongs entirely to the owner.
(45) In order to fetch more money and we do not consider this degrading holy things.
(46) Therefore for the extra benefit in favour of the owners, we do not allow selling in the market and by the pound of a firstling, v. Bek. 32a, Bez. 28a. Hence a firstling and tithed animal are spared in an apostate city.
(47) Lev. V, 21.
(48) That if one deposited dedications of a minor grade of holiness with his neighbour, and the latter denied the deposit, took a false oath and subsequently confessed, he has to pay the principal plus a fifth as a fine, also to bring an offering on account of the false oath.
(49) And we can therefore apply the text mentioned in this connection: ‘And lie unto his neighbour’.
(50) Which are certainly considered his money, but the case is not the same with regard to an animal tithed, for one cannot sell it either alive, slaughtered, unblemished or blemished.
(51) Where a priest deposited his firstling with another, the latter denying the deposit, taking an oath and then confessing. He pays the principal together with the fine of a fifth and brings a trespass-offering, the reason being because a priest can sell a firstling alive unblemished and it is therefore considered his money (R. Gershom).
(52) And the peace-offering cannot be brought nowadays.
(53) For as regards a firstling and a priest, we can make a distinction between an unblemished and a blemished animal, as in the former case one might say that the priest has no claim on it until the time of offering it up on the altar, whereas in the latter case the priest might claim it immediately, as the animal is unfit for sacrifice. But with reference to a peace-offering, one cannot say that the owner has a claim on the animal from the time of its burning and therefore there is no distinction between an unblemished and a blemished peace-offering, in each case the owner having a claim on it alive.
(54) And we impose a trespass-offering for one who denied a deposit of the firstling with a false oath. We see therefore that it is regarded as the priest's money.
(55) And therefore we can apply the text, ‘And lie unto his neighbour’, the firstling being considered his own money. Hence we see that an unblemished live firstling may be sold in Temple times, contrary to the opinion of R. Abbuha reported by R. Nahman above.

Talmud - Mas. T'murah 8b

Said [Rabina]:[1] One may still say that we are dealing with an unblemished firstling[2] and we are alluding here to a firstling outside the Holy Land,[3] and [the Tanna of this Baraitha] is R. Simeon who Says: If unblemished firstlings came from outside Palestine they may be offered up.[4]

An objection was raised: R. JOHANAN B. NURI SAID TO HIM: GRANTED THAT ONE HAS NO POWER TO EXCHANGE A SIN-OFFERING AND A GUILT-OFFERING SINCE [PRIESTS] HAVE NO CLAIM ON THEM WHILE [THE ANIMALS] ARE ALIVE, CAN WE SAY THAT THE SAME APPLIES TO A FIRSTLING WHERE [THE PRIEST] HAS A CLAIM ON IT WHILE IT IS ALIVE? Now what case is here referred to? Shall I say it is the case of a blemished animal?

But [the Mishnah] compares a firstling with a sin-offering and a guilt-offering?[5] Then you must say that the case is that of an unblemished animal, and it states: THEY HAVE A CLAIM ON THE FIRSTLING ALIVE![6] — Said Rabina: Here too[7] the case is of a firstling outside Palestine,[8] and [the Tanna of this Mishnah] is R. Simeon who says: If they came unblemished, they are offered up.

Shall we say that Tannaim differ on that point?[9] [For it was taught:] 'With a firstling in the house of the owners there can be effected an exchange, but there can be no exchange effected when in the house of a priest. R. Simeon b. Eleazar Says: Since it comes into the house of a priest, there can be no exchange effected'. But is not this[10] the identical opinion of the first Tanna? Then must you not say that the first Tanna means this: In the house of a priest the priest alone can effect the exchange but not the owner, and consequently we see that the priest has a claim on the firstling?[11] — No. The difference of opinion here is the same as the difference of opinion between R. Johanan b. Nuri and R. Akiba. The first Tanna will hold the view of R. Johanan b. Nuri[12] whereas R. Simeon will hold the view of R. Akiba.[13]

Said R. Hisda: They have taught this[14] only with regard to a case of a priest selling to a priest, but a priest is forbidden [to sell] to an Israelite. What is the reason? Lest an Israelite should go and cast a blemish on it [the firstling] and bring it to a [Sage] and say: 'A priest gave me this firstling with its blemish'.[15] But can a Sage permit it in such circumstances?[16] Has not Rab said:[17] One may not sell a firstling belonging to an Israelite unless the priest be present with him?[18] — Said R. Huna the son of R. Joshua: The reason why it is forbidden [for a priest to sell] to an Israelite[19] is because this appears similar to the case of a priest who assists in the threshing-floor.[20]

Mar Zutra once visited R. Ashi. They[21] said to him: 'Let the Master partake of something'. They set meat before him. They said to him: 'Let the Master eat it because it is healthy[22] for it comes from a firstling'. He [Mar Zutra] asked them: 'How did you get this?'[23] They answered him: 'A certain priest sold it to us with its blemish'. He said to them: 'Do you not hold with what R. Huna the son of R. Joshua said: 'Because[24] this appears similar to the case of a priest who assists in the threshing-floor'? — They replied to him: 'We do not hold this opinion, since we have indeed bought [the firstling]'.[25] He said to them: And do you not hold what we have learnt: How long is an Israelite required to look after a firstling?[26] In the case of small cattle, thirty days and in the case of large cattle, fifty days. If the priest said to the Israelite, 'Give it to me within this period', the Israelite must not give it to him. And R. Shesheth said:[27] Now what is the reason?[28] Because it appears similar to the case of a priest who assists in the threshing floor![29] — They replied to him: 'There,[30] the thing is obvious,[31] whereas here, we do indeed buy it'.

Another version: They replied to him [Mar Zutra]: There,[32] he does not give any money but here,[33] money was paid. Perhaps you will still say that the priest lowers the price to him,[34] thinking to himself, 'When the Israelite has another firstling, he will give it to me'. No,[35] for he will rather reflect

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(1) So Sh. Mek.; cur. edd. Abaye.

(2) And there is no difficulty as regards R. Nahman's opinion, for the reason why the priest has a claim on the firstling alive is as follows.

(3) Which usually is not destined for sacrifice even in Temple times. It is however compared with a peace-offering, since if one desires, it is fit to be offered up.

(4) I.e., only if they are brought, but they are not to be brought directly. Now since we must not directly bring these unblemished animals to be offered up, therefore they are considered his own money and he can sell them alive, but a firstling of a priest which is destined for sacrifice may not be sold according to R. Abbuha, as the priest has no claim on it alive.

(5) And the sin-offering etc. referred to are unblemished animals, for the Mishnah states that the priest has no claim on them while alive, but has a claim after they are slaughtered. Hence we see that we are dealing with animals which are fit for sacrifice.

(6) Contrary to the view of R. Abbuha reported by R. Nahman above.

(7) In the Mishnah just quoted.

(8) Therefore the firstling is considered his own money and he has the power to make a substitute, but with a firstling of the Holy Land which is destined for sacrifice you cannot make a substitute, since he has no claim on it alive, as R. Abbuha holds.

(9) Whether a priest has a claim on an unblemished live firstling in Temple times or not.

(10) That no exchange can be effected with a firstling in a priest's possession.

(11) And since the priest has the power to effect an exchange he can also sell it, unlike the opinion of R. Abbuha. R. Simeon, however, says that the priest cannot effect an exchange with a firstling in his possession and therefore he may not sell it, the reason being because he has no claim on it alive, which is the opinion of R. Abbuha. We see therefore that these two Tannaim differ as regards R. Abbuha's ruling reported above.

(12) Who says that a priest can effect an exchange with a firstling because he has a claim on it alive, since as we have explained above, the Mishnah deals with a firstling outside Palestine, which is usually not destined for sacrifice.

(13) That although the priest has a claim on the firstling alive, he cannot effect an exchange, as we infer from an analogy (v. Rashi, first version).

(14) That an unblemished firstling alive may be sold even in Temple times.

(15) Whereas in the case of a priest selling to a priest one cannot say this, since a priest who brings a firstling to show it to an expert is required to bring witnesses that a blemish befell it of itself, as priests are suspected of maiming firstlings in order to eat them.

(16) Even if there is a permanent blemish, can the expert permit the use of the firstling without the priest being in attendance?

(17) Bek. 36a: ‘Rab Judah’.

(18) For fear lest if the Israelite learnt from the expert that the blemish was a permanent one and that there was thus no fear of holy things being eaten without the Temple walls, he will eat it and will disregard the fact that he would be robbing the priest of his due. Therefore a priest is required to be present with the Israelite and the latter cannot then say, ‘A priest gave me this firstling with its blemish’, for we say to him, ‘Produce the priest who gave it to you’, and so long as he does not do so, we do not allow the use of the firstling. Another explanation (R. Gershom): If you permit a priest to sell a firstling to an Israelite, the Israelite might detain the firstling among the herd till a blemish occurs to it and he then say: ‘A priest has sold me this firstling with its blemish’, thus evading his duty to the priest.

(19) An unblemished firstling; for all the authorities concerned agree that a blemished firstling may be sold (Wilna Gaon). Now a firstling of nowadays is usually sold at a lower price, for the purchaser is compelled to wait till the animal is blemished before he can eat it.

(20) To winnow or bind the sheaves. Now this is forbidden, for it looks as if the priest is helping in order to receive the reward of terumah. Similarly, if a priest sells an unblemished firstling to an Israelite at a lower price (and still more if he makes him a present of it), it appears as if he does so in order to receive all the future firstlings born in the herd of the Israelite.

(21) Those waiting on him.

(22) More fat than other flesh (R. Gershom).

(23) Seeing you are not priests.

(24) That the reason why a priest may not sell an unblemished firstling to an Israelite is because etc.

(25) And have not received it as a gift. Consequently we do not consider that it is on a par with the case of a priest who assists in the threshing-floor.

(26) To rear it before giving it to the priest.

(27) V. Bek. 26b.

(28) Why cannot an Israelite give the firstling to the priest within the period specified above.

(29) It might appear that the reason why the priest is taking the firstling from the Israelite before the time of its tending expires, thus relieving the Israelite of further trouble with the animal, is because the priest expects him to give him future firstlings. We see therefore that there is a Mishnah holding this reason in the case of assisting in the threshing-floor.

(30) In the case of a priest who asks for the firstling from the Israelite before the time for its tending has terminated.

(31) That it is in consideration for letting him have future firstlings.

(32) In the case of the priest who relieves the Israelite of the firstling, before the specified period mentioned above.

(33) In the case of the firstling whose flesh was placed before Mar Zutra to eat.

(34) In order that the Israelite might give future firstlings to this priest and not to any other.

(35) He will not do so.

Talmud - Mas. T'murah 9a

that a young pumpkin [now] is better than a full-grown pumpkin [to-morrow].[1]

MISHNAH. ONE CAN EFFECT AN EXCHANGE WITH SMALL CATTLE FOR OXEN AND WITH OXEN FOR SMALL CATTLE; WITH SHEEP FOR GOATS AND WITH GOATS FOR SHEEP; WITH MALE [ANIMALS] FOR FEMALE [ANIMALS] AND WITH FEMALE [ANIMALS] FOR MALE [ANIMALS]; WITH UNBLEMISHED ANIMALS] FOR BLEMISHED ANIMALS AND WITH BLEMISHED [ANIMALS] FOR UNBLEMISHED [ANIMALS], SINCE SCRIPTURE SAYS:[2] HE SHALL NOT ALTER IT NOR CHANGE IT, A GOOD[3] FOR A BAD[4] OR A BAD[5] FOR A GOOD. WHAT KIND IS MEANT BY 'A GOOD FOR A BAD?[6] BLEMISHED ANIMALS WHOSE DEDICATION WAS PRIOR TO THEIR BLEMISH.

GEMARA. Whence is this proved?[7] — Our Rabbis have taught: Scripture says, 'Beast for beast'; 'hence[8] we infer that one can effect an exchange with small cattle for oxen and with oxen for small cattle; with sheep for goats and with goats for sheep; with male [animals] for female [animals] and with female [animals] for male [animals]; with blemished [animals] for unblemished [animals] and with unblemished [animals] for blemished [animals]. One might think that this is so even if they had a permanent blemish prior to their dedication? The text therefore States: 'He shall not alter it nor change it, a good for a bad or a bad for a good'. What kind is meant by 'a good for a bad'? Blemished animals whose dedication was prior to their blemish [but[9] not where the blemish was prior to their dedication]. How is this implied [in the Scriptural text]?[10] — Said Abaye: Let Scripture say, 'He shall not alter it nor change it, a good for a bad or a bad for it'.[11] What need is there for the second text, 'a good'? Deduce therefore from here that only if the animal is originally 'good'[12] the exchange takes effect.[13] , but the exchange takes no effect in respect of an animal originally 'bad'.[14] Raba says: Both the expressions 'a good' are indeed superfluous.[15] [Scripture] might simply have written: 'He shall not alter it nor change it[16] for a bad or a bad for it'?[17] What need is there then for both the expressions 'a good'? One 'a good' teaches us that even if one exchanges a good [animal] for a good [one], there is the punishment of lashes for substituting, and the other 'a good' teaches us that exchange takes effect only when the animal was 'good' originally, but where it was originally 'bad', exchange takes no effect. And whence will Abaye [derive[18] that it is forbidden to exchange a good for a good]?[19] — He holds that it is derived a minori. If where 'a good' [an unblemished hullin] is exchanged for 'a bad' [a blemished animal], in which case an improve is effected,[20] the punishment of lashes is inflicted, how much more so should there be the punishment of lashes if one exchanges 'a good' for 'a good', which are alike [in holiness]! And Raba?[21] — An offence established by inference [from minor to major] is not punishable.[22] And Abaye? — He can answer you thus: This[23] is no conclusion from [minor to major, but[24] is merely an intimation of a thing];[25] for is the case of 'a good' [an unblemished consecrated animal] worse than the case of 'a bad' [blemished animal]?[26]

Our Rabbis taught: 'He shall not alter it'[27] [for hullin][28] belonging to others.[29] 'Nor change it' [for hullin] belonging to himself. But let it write [simply]: 'He shall not alter it' and there will then be no need for the expression 'nor change it'? If it had written so, I might have said that where [the intention is for the original animal] to lose its holiness and the [substituted one] to acquire holiness,[30] there is the punishment of lashes, but in the case of exchanging [the consecrated animal for his own hullin], where [if he wishes] he can consecrate both,[31] I might have thought there is no punishment of lashes. [Scripture] therefore informs us [that it is not so].[32]

As to the expression, ‘[for hullin] belonging to others’, how is this to be understood? Shall we say [that it means] his own consecrated animal and hullin belonging to another? But can he consecrate [hullin in such circumstances]?[33] The Divine Law says: When a man shall sanctify his house to be holy unto the Lord.[34] Just as his house is his own possession, so everything[35] must be in his possession! Again if the case then is of a consecration belonging to another and his own hullin,[36] can one cause the substitution[37] of a thing which is not his? — One can still maintain that the case is of a consecrated animal belonging to another person and his own hullin and when e.g., the owner of the consecrated animals says: ‘Whoever wishes to exchange with this animal may come and do so’.[38] MISHNAH. ONE CAN EFFECT AN EXCHANGE WITH ONE [HULLIN] FOR TWO [CONSECRATED ANIMALS],[39] AND WITH TWO [HULLIN] FOR ONE [CONSECRATED ANIMAL]; WITH ONE [HULLIN] FOR A HUNDRED [CONSECRATED ANIMALS] AND WITH A HUNDRED [HULLIN] FOR ONE [CONSECRATED ANIMAL]; R. SIMEON, HOWEVER, SAYS: NO EXCHANGE CAN BE EFFECTED EXCEPT WITH ONE [HULLIN] FOR ONE [CONSECRATED ANIMAL], FOR IT SAYS: ‘THEN IT AND THE EXCHANGE THEREOF SHALL BE HOLY’, THUS TEACHING US THAT JUST AS ‘IT’ [THE CONSECRATED ANIMAL] IS ONLY ONE,[40] SO [ITS SUBSTITUTE] ALSO MUST BE ONLY ONE.

GEMARA. Whence is this proved? — Our Rabbis taught: [Scripture says:] ‘Beast for beast’. Hence we infer[41] that one can effect an exchange with one [hullin] for two [consecrated animals] and with two [hullin] for one [consecrated animal]; with one [hullin] for a hundred [consecrated animals] and with a hundred [hullin] for one [consecrated animal]. R. Simeon, however, says: One cannot effect exchange except with one [hullin] for one [consecrated animal], since it Says: ‘Beast for beast’, [implying] but not beast for beasts or beasts for beast. They[42] said to him: We find [in the Scriptures] that beasts are also called behemah,[43] since it says: And also much cattle [behemah].[44] And what does R. Simeon say to this? — Many animals are described as behemah rabah [much], but not simply as behemah.[45]

But is R. Simeon's reason[46] because of the expression ‘beast’? Is not the reason of R. Simeon because of the expression ‘it’, [his reasoning being] just as ‘it’ is only one, so its [substitute] must be only one?[47] — At first, R. Simeon said to them that his reason was based on the text, ‘Then it and the exchange thereof’. When he saw, however, that the Rabbis interpreted the text ‘beast for beast’, he said to then,: ‘I also can derive the reason for my ruling from the same source

Said Resh Lakish: R. Simeon agrees[48] that one can effect an exchange repeatedly.[49] What is the reason? — For where has the holiness of the first dedicated animal gone?[50] But R. Johanan says: Just as one cannot effect an exchange with two hullin for one [consecration], so one cannot effect an exchange repeatedly [with the same animal].

There is a teaching in agreement with R. Johanan; there is a teaching in agreement with Resh Lakish. ‘There is a teaching in agreement with R. Johanan’: Just as one cannot effect an exchange with one hullin for two [consecrations], so one cannot effect an exchange repeatedly. There is a teaching in accordance with the opinion of Resh Lakish: One might have thought that just as R. Simeon holds that one cannot effect an exchange with two [hullin] for one [consecrated animal], so one cannot effect an exchange repeatedly. The text therefore states: ‘Then it and the exchange thereof’, implying, even for a hundred [animals of hullin].[51]

R. Abin asked: How is it according to the authority who says[52] that one cannot effect an exchange repeatedly, if he set aside a guilt-offering with which to obtain atonement and made an exchange for it,

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(1) The priest would rather sell the firstling for its equivalent value, for fear that if he were to reduce its price, he may after all not gain anything by it, as he may not receive the future firstlings. The additional gain of the moment will appeal to him more than the uncertain prospects of future gain.

(2) Lev. XXVII, 10.

(3) An unblemished animal of hullin (unconsecrated) must not be substituted.

(4) A blemished consecrated animal. We therefore see that the law of substitute applies to consecrated blemished animals.

(5) Thus ‘a bad’ i.e., a blemished hullin may be exchanged for ‘a good’ i.e., an unblemished consecrated animal. This shows that substitution has effect on a blemished animal.

(6) Which are subject to the law of substitute.

(7) The various rulings mentioned in the Mishnah.

(8) From the repetition of the word ‘beast’.

(9) Inserted with Sh. Mek.

(10) That there is a difference as regards the law of exchange where the blemish occurs before dedication.

(11) And we could infer: Or a bad hullin could not be exchanged either for ‘a good’ or for ‘a bad’ consecrated animal.

(12) Unblemished when consecrated, a blemish occurring to it subsequently.

(13) The substitute becoming sacred.

(14) I.e., blemished when consecrated.

(15) For the purpose of deducing that a permanent blemish prior to consecration does not permit of an exchange taking effect.

(16) Which would have implied ‘a good’ i.e., an unblemished animal, since the text later on says ‘for a bad’ i.e., a blemished one.

(17) ‘A bad’ (unconsecrated blemished animal) must not be exchanged for it i.e., ‘a good’ (unblemished) or a bad (blemished) consecrated animal.

(18) Inserted with Sh. Mek.

(19) Since according to him there is only one superfluous ‘a good’.

(20) As a better animal is being substituted for the dedicated blemished animal.

(21) Since there is an a minori conclusion, what need is there for an extra ‘a good’?

(22) But it must be stated positively and therefore the text is required to derive the case of one exchanging ‘a good’ for ‘a good’.

(23) The ruling that it is forbidden to exchange ‘a good’ for ‘a good’.

(24) Inserted with Sh. Mek.

(25) It is naturally implied and there is no need for a specific interpretation.

(26) If it is forbidden to substitute an unblemished animal for a blemished one it is obvious that the same applies if the animal for which substitution is made is ‘a good’ (unblemished one), for Scripture is only concerned that no exchange should be made with something which is holy.

(27) לא יחליפנו

(28) So R. Gershom.

(29) The word חילוף indicates that the exchange concerns two people.

(30) Although the exchange does not succeed in removing holiness from the unblemished consecrated animal, he is nevertheless punished with lashes, for his intention was to release it from its sanctity.

(31) So R. Gershom. The passage about ‘others’ is subsequently explained in the Gemara.

(32) That even if the substitution was for his own animal of hullin, he incurs the punishment of lashes.

(33) Where it does not belong to him.

(34) Lev. XXVII, 14.

(35) In order to receive holiness.

(36) And he said: This hullin of mine shall be a substitute for that man's dedication.

(37) Lit., ‘cause to seize’.

(38) In such circumstances the Biblical text informs us that the substitute is sacred although there is a prohibitory law against the act.

(39) By saying: This animal shall be exchanged for these two dedications.

(40) Since the text says: ‘It’, thus alluding to only one.

(41) Because the word behemah (beast) is repeated (Sh. Mck.).

(42) The disputants of R. Simeon.

(43) The term used in the text denoting beast.

(44) Jonah IV, 11.

(45) The word behemah therefore by itself denotes only one animal.

(46) Why he holds in the Mishnah that exchange can only be effected with one hullin for one consecrated animal.

(47) As stated in the Mishnah.

(48) Although he holds in the Mishnah that exchange cannot be effected except with one hullin for one consecrated animal.

(49) The same dedicated animal can be exchanged again and again with different animals. Lit., ‘one has power to exchange and again to exchange’.

(50) So that another animal should be able to receive holiness, even up to a thousand, since Scripture declares: ‘Then it and the exchange thereof shall be holy’.

(51) The substitutions are sacred.

(52) V. infra 13b.

Talmud - Mas. T'murah 9b

and it became blemished and he redeemed it for another[1] [which became lost], and he obtained atonement through another guilt-offering, and [the lost animal was then found] and it was [automatically] transformed into a burnt-offering?[2] What is the ruling as regards making an exchange for it?[3]

Said Abaye: What is [R. Abin's] inquiry? If it [the inquiry] is concerning two bodies and one kind of holiness,[4] why not put the question without stating that he obtains atonement?[5] If the inquiry is concerning two kinds of holiness and one body,[6] why not put the question without stating that the first animal became blemished?[7] — And R. Abin?[8] — His question is really in the form of one inquiry arising out of another [as follows]: And if you will adopt the opinion that there can be no [exchange] in a case of two bodies and one kind of holiness, since [an animal] has already been once exchanged in that holiness, what of two bodies and two kinds of holiness?[9] — Let it stand undecided.

Another version: R. Abin inquired, According to the opinion of R. Johanan who holds that one has no power to exchange repeatedly [the same dedicated animal], if he set aside a guilt-offering with which to obtain atonement and exchanged it, and after [the first animal] became blemished he redeemed it for another, what is the ruling as regards exchanging again [this second guilt-offering]?[10] Or,[11] if he obtained atonement through another guilt-offering][12] and the [first guilt-offering] was transformed into a burnt-offering,[13] what is the ruling as regards changing it again?[14]

Said Abaye: What is [R. Abin's main inquiry]? If as regards [the exchange] of another kind of holiness but in the same body, then there is no need to mention that he redeemed it [for another].[15] If as regards [the exchange] of another body in the same kind of holiness,[16] then there is no need to mention the atonement through another guilt-offering. And R. Abin? — His [question] is really one inquiry arising out of another: If [the guilt-offering] became blemished and he exchanged it and redeemed it for another, what is the ruling as regards exchanging it again? Do we say that there is no further exchange only with regard to the first guilt-offering but with a separate body [animal], though it remains in the same kind of holiness [of a guilt-offering], there can again be an exchange? Or, perhaps, all animals in the same kind of holiness cannot be exchanged again? And if you will adopt the opinion, that since this other body remains in the same holiness, there can be no further exchange, then if he obtained atonement through another guilt-offering and the first guilt-offering was transformed into a burnt-offering, what is the ruling as regards exchanging it again? Do we say that we hold that one cannot exchange again only with reference to the same body [animal] in the same kind of holiness,[17] but the same body possessing another kind of holiness can be changed again? Or, perhaps, although there is another kind of holiness, since it is the same body, there can be no exchange again? — Let it remain undecided.

Said R. Joshua b. Levi:[18] One adds a fifth[19] for the first dedication but not for the second dedication.[20] Said R. Papa: What is the reason of R. Joshua b. Levi? Scripture says: And if he that sanctified it will redeem his house then he shall add the fifth part of the money,[21] the text saying, 'he that sanctified', implying, but not one who causes holiness [to an animal through another dedicated animal].[22] R. Abin inquired: If one set aside a guilt-offering to obtain atonement and [after] it became blemished [he redeemed it for another animal], added a fifth and obtained atonement through another guilt-offering,[23] and [the first guilt-offering] was transformed into a burnt-offering,[24] what of adding a fifth to it?[25] — Said Abaye: What is [R. Abin's] main inquiry?[26] If the inquiry is [as regards adding a fifth for the redemption] of two bodies and one kind of holiness, then why not make the inquiry without mentioning that he obtained atonement?[27] And if the inquiry is [as regards] two kinds of holiness and one body, then why not formulate an inquiry without mentioning that [the first animal] became blemished?[28] And R. Abin? — His inquiry is really one question arising out of another. If you will adopt the opinion that there is no fifth added [when redeeming] in the case of two bodies and one kind of holiness, since a fifth has already been once added in that holiness, what is the ruling as regards two bodies and two kinds of holiness? — Let it stand undecided.

Another version: R. Abin inquired: If one set aside a guilt-offering to obtain atonement through it and after it became blemished, he redeemed it for another, [what[29] is the ruling as regards] adding a fifth?[30] [Or,][31] if he obtained atonement through another guilt-offering, and [the first animal being found] was transformed into a burnt-offering,[32] what is the ruling as regards adding a fifth?[33] — Said Abaye: Which is the main inquiry [of R. Abin]? If his inquiry relates to another kind of holiness but in the same body, then what need is there to mention that the [first] guilt-offering became blemished [and he redeemed it for another]? If it relates to [another] body in the same holiness, [then[34] what need is there to mention that he was atoned for through another guilt-offering]? And R. Abin? — His inquiry is really one question arising out of another question [as follows]: If it became blemished and he redeemed it for another, what is the ruling as regards adding a fifth?[35] Is it only in redeeming the first guilt-offering that one does not add a fifth but in the case of [another][36] body, although it remains in the same kind of holiness, one adds[37] a fifth [in redeeming it, if blemished]?

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(1) Which in turn became the second guilt-offering.

(2) For the law is that an animal dedicated for a guilt-offering whose owner has otherwise obtained atonement, is usually destined to be used as a communal burnt-offering.

(3) Do we say that as an exchange took place for the first guilt-offering, there cannot be another exchange made for the second guilt-offering now found, for it would be like making a number of exchanges for the same animal, which according to the view of the authority on whose behalf we are propounding this question, is not permissible; or, since the second guilt-offering is another animal altogether and it receives a different kind of holiness, do we say that there can therefore be an exchange made, for in the case of the first animal it was a guilt-offering which was exchanged and we are considering now the exchange of a burnt-offering.

(4) And the question will then be: Shall we say that since there is another body i.e., a different animal, therefore it can be exchanged or, perhaps, since there is the same holiness, there can be no further exchange.

(5) Let R. Abin state his inquiry as follows: One separated his guilt-offering and exchanged it and the first animal became blemished and was redeemed for another. What of exchanging this last animal? Shall we say since it is a different body, i.e., a different animal, there can therefore be a second exchange, or perhaps since the last animal comes in place of the first and has the same kind of holiness, both being a guilt-offering, there can be no exchange again.

(6) I.e., where one set aside a guilt-offering and exchanged it, and the first animal was lost and he obtained atonement through another guilt-offering, and the first guilt-offering was then found and is now regarded as a burnt-offering. Here we have, with reference to the first animal, one body with two kinds of holiness, and the question is, since there is here only one body, can exchange be effected again.

(7) And was subsequently redeemed, for the inquiry can be formulated without these conditions.

(8) What exactly is the nature of his inquiry which calls for all the circumstances which he enumerates.

(9) When e.g., the second guilt-offering was lost and he obtained atonement through a different animal, the second guilt-offering becoming a burnt-offering after being found. What of the second guilt-offering as regards exchanging? Do we say since it was brought in virtue of the first, there can therefore be no exchange, or, as it is a different animal with a different kind of holiness, there can be exchange?

(10) Do we say that as it was brought in the place of the first guilt-offering, as the first animal has once been exchanged, there can be no further exchange, or else, as it is a different animal, there can be a further exchange?

(11) V. Sh. Mek.

(12) Where the first animal did not become blemished and was not redeemed but was lost and the owner brought a second guilt-offering.

(13) According to the law.

(14) This burnt-offering. Now according to this version there will not be any reference to two kinds of holiness and two bodies, and there will really be here two inquiries (Rashi.)

(15) It would be sufficient to formulate the inquiry as follows: He set aside a guilt-offering which he exchanged, the first animal became lost and he obtained atonement through another guilt-offering. The first guilt-offering was then found and automatically became a burnt-offering, and the question was as regards making exchange again with the same animal which has now received another kind of holiness.

(16) Whether there can be a further exchange of the second animal possessing the same kind of holiness as the first, i.e., when the guilt-offering was exchanged, became blemished and was redeemed for another.

(17) The same animal all the time, without a change to a different kind of holiness.

(18) B.M. 54b.

(19) When redeeming a dedication.

(20) When e.g., the first animal became maimed and he redeemed it for another, this second animal being described as a second dedication. A substitute animal would be a second dedication.

(21) Lev. XXVII, 15.

(22) As in the case of a substitution, where the animal exchanged is not itself dedicated and only becomes holy by reason of exchange.

(23) The first guilt-offering was then found.

(24) In accordance with the rule that if an animal has been dedicated for a guilt-offering and the owner has obtained atonement through another, the original animal is changed into a burnt-offering.

(25) Would it be regarded as a second dedication, although it is the same animal, so that if it became blemished, there would be no need to add a fifth.

(26) For the present, R. Abin's words have no reference to the case of two bodies and two kinds of holiness, but he divides his inquiry into two parts, the first part being where there are two bodies and one kind of holiness, and the other, where he obtained atonement through another guilt-offering, i.e. where the first guilt-offering was not maimed but was lost and the owner obtained atonement through another guilt-offering. The first guilt-offering was then transformed into a burnt-offering and we have, as a result, two kinds of holiness but in one body (Rashi). Therefore Abaye's query is: What is etc.

(27) Through another guilt-offering. He need only state that the first guilt-offering became blemished, he redeemed it for another and added a fifth in redeeming, since there can be no redemption of an unblemished animal which is fit for the altar. The second animal in turn became blemished and the inquiry will therefore be as follows: Do we say that since the second animal possesses the same kind of holiness as the first, there cannot be the addition of the second fifth in redeeming, as it is a second dedication? Or, perhaps, since they are two separate bodies (animals) he adds a fifth when he redeems the second blemished guilt-offering? R. Joshua's dictum will therefore only apply in the case where one dedicated a blemished animal for Temple repairs and redeemed it for another blemished animal, no change being brought about, as both are blemished. In redeeming therefore the second animal, we say it is a second dedication and therefore a fifth is not added when redeeming. But in our case, where we redeem a blemished guilt-offering for an unblemished one which is fit for the altar, we consider this second animal a first consecration, since the first guilt-offering was only useful for its value alone, whereas the second animal is suitable for the altar. It is therefore a fresh consecration, requiring the addition of a fifth should it become blemished and be redeemed (Rashi).

(28) Before it became lost, and the case here is where the guilt-offering became lost, and he set aside another guilt-offering and obtained atonement through it. The first animal then becomes a burnt-offering. What is then the ruling? Do we say it is a second dedication, since the owner obtained atonement through another and this first animal is considered as subsidiary to it and, consequently, if it became blemished, there will be no need for the adding of a fifth in redeeming, or not?

(29) V. Wilna Gaon Glosses.

(30) If the second animal became blemished and was redeemed.

(31) Inserted with Sh. Mek.

(32) In accordance with the law.

(33) If it became blemished and was redeemed.

(34) Inserted with Z.K.

(35) If it became blemished and he redeemed it.

(36) Inserted with Z.K.

(37) V. Sh. Mek.

Talmud - Mas. T'murah 10a

Or perhaps, all [dedications] of the same holiness do not require the addition of a fifth?[1] And if you will say that since this [other] body [animal] remains in the same holiness, there is no addition of a fifth, then if [the owner] obtained atonement through [a guilt-offering] and the first [automatically] was transformed into a burnt-offering,[2] what is the ruling? [Do we say that] one does not add a fifth only in the case of the same body possessing the same holiness, but where there is another holiness,[3] it is not so? Or, perhaps, since it is the same body,[4] one is not required to add a fifth? — Let it remain undecided.

Rami b. Hama inquired: Is the consecrator required to add a fifth [when redeeming], or is the one who is atoned for required to add a fifth?[5] — Said Raba: Scripture says, And if he that sanctified it will redeem his house:[6] 'He that sanctified', but not the person who is atoned for.

Rami b. Hama inquired: Can a consecrator effect an exchange, or the one for whom atonement is obtained? — Said Raba: [Obviously the person for whom atonement is made has power of effecting exchange, for if only the consecrator has power of effecting exchange],[7] then we find that a congregation or partners have power of effecting exchange when, e.g., they charge an agent to dedicate?[8] And moreover R. Nahman reported: Huna informed me: It has been taught, Scripture says: And of his offering unto the Lord for his separation, beside that his hand shall get.[9] Now is the offering of a nazirite according to his pecuniary means?[10] How then are we to explain this? The words, 'His offering unto the Lord for his separation' refer to where he is able to set aside [the prescribed offering] from his own [means]. The words, 'Beside that his hand shall get refer to where others set aside [the prescribed offering].[11] For what practical ruling?[12] Shall I say with reference to atonement?[13] Surely it is obvious that he obtains atonement [with another sacrifice] seeing that they give it to him as a gift! Then must you not say that it is with reference to making exchange, and [the Baraitha above] means this: [Just as when he set aside an offering from his own means only he alone has power of effecting exchange],[14] so if others set aside [an offering] on his behalf he alone can effect exchange?[15] Deduce therefore from here that we go by the person for whom atonement is made![16] — No. One can still maintain that [the Baraitha above] refers to atonement, and as to your difficulty, do not [the others who set aside the offering] give it to him as a present? Had the Divine Law not included this in the text 'beside that his hand shall get', I might have thought that it is a Divine decree that [the nazirite] can obtain atonement only with an offering brought from his own means but not from that [set apart] by others, [although it is given to him as a gift]. The text ['beside that etc.'] therefore informs us [that it is not so]. What is the decision in the matter? — Come and hear: For R. Abbuha reported in the name of R. Johanan: He who dedicates [and wishes to redeem his dedication] must add a fifth. The exchange of one for whose atonement [an animal is dedicated] is sacred. If one separates [the priestly due] from his own [grain] for [the untithed grain] of his neighbour the right of disposal belongs to him [who separates].[17] What is the reason? Scripture says: All the tithes of thine increase . . . . and hast given it, etc.[18] MISHNAH. WITH LIMBS [OF HULLIN] NO EXCHANGE CAN BE EFFECTED FOR [DEDICATED] EMBRYOS,[19] NOR WITH EMBRYOS [OF HULLIN] FOR [DEDICATED] LIMBS;[20] NOR WITH EMBRYOS AND LIMBS [OF HULLIN] FOR WHOLE [DEDICATED ANIMALS];[21] NOR WITH WHOLE [ANIMALS OF HULLIN] FOR THEM. R. JOSE SAYS: WITH LIMBS [OF HULLIN] EXCHANGE CAN BE EFFECTED FOR WHOLE [DEDICATED ANIMALS],[22] BUT NOT WITH WHOLE [ANIMALS OF HULLIN] FOR THEM.[23] SAID R. JOSE: IS IT NOT THE CASE IN RESPECT OF DEDICATIONS,[24] THAT IF ONE SAYS: ‘THIS FOOT SHALL BE A BURNT-OFFERING, THE WHOLE [ANIMAL] BECOMES A BURNT-OFFERING? SIMILARLY, IF ONE SAYS, ‘THIS FOOT SHALL BE INSTEAD OF THIS [WHOLE DEDICATED ANIMAL]’, THE WHOLE [ANIMAL] SHOULD BECOME A SUBSTITUTE IN ITS PLACE.

GEMARA. It was stated: Bar Padda says, Dedication has no effect on embryos,[25] whereas R. Johanan says: Dedication has effect on embryos. And R. Johanan[26] follows the opinion he expressed elsewhere. For R. Johanan said: If one dedicates a pregnant sin-offering and it gave birth, if he wishes, he may obtain atonement through it [the mother], and if he wishes, he may obtain atonement through its offspring.[27] [And both statements of R. Johanan] are necessary. For if he had made only the first statement,[28] [I might have said] that here, where he dedicated

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(1) Although the second guilt-offering is a different animal.

(2) V. Sh. Mek.

(3) Where, as here, the animal becomes a burnt-offering.

(4) The same animal, although now possessing a different holiness.

(5) For the rule is that only the owner adds a fifth in redeeming but not a stranger. Now if one set aside an offering on behalf of one's neighbour and it became blemished, who is considered the owner in respect of adding a fifth? Is the consecrator considered the owner and therefore the person for whom atonement is made does not require to add a fifth, as he is regarded as a stranger, or is the person for whom atonement is made considered the owner?

(6) Lev. XXVII, 15.

(7) V. Sh. Mek.

(8) For then it becomes a private offering to which exchange is applicable, and we have learnt that a congregation or partners are not competent to effect an exchange. Hence we can deduce from this that we go by the person for whom atonement is made, and in the case of a congregation or partners it is the congregation or partners who are making the exchange and consequently in this ease no exchange will be effected.

(9) Num. VI, 21.

(10) Like the ease of the sacrifice of higher or lower value, for the sacrifice of a nazirite is fixed and specified.

(11) Where he is unable at the moment to bring a sacrifice and meanwhile others separate one on his behalf.

(12) Is there need for the text to inform us concerning others setting aside an offering on his behalf.

(13) To teach us that one can obtain atonement by means of an offering which others have set aside.

(14) But not another.

(15) He can effect exchange but not the others.

(16) For we see that although others have set aside the offering, only the owner, for whose benefit it was, can effect exchange.

(17) V. supra 2b notes.

(18) Deut. XXVI, 12. Thus a person who gives and separates the tithes has the right to give them to the priest he chooses, and the privilege is not in the hands of the person on whose behalf the grain is tithed. We see, however, from R. Abbuha that the person for whom atonement is made can effect exchange and this is the answer to Rami b. Hama's query above.

(19) If a person said: ‘Let the foot of this animal be exchanged for a dedicated embryo inside this animal’, dedication has no effect on the limb.

(20) If one said: ‘Let the embryo in the inside of this hullin be exchanged for the foot of this dedicated animal’, the embryo is not holy.

(21) If, for example, one said: ‘Let this embryo or limb be exchanged for this whole dedicated animal’, there is no exchange.

(22) If one says: ‘Let the foot of this animal of hullin be exchanged for this dedicated animal’, the exchange takes effect in regard to the limb and it spreads to the entire animal. Thus the whole animal becomes sacred and is offered up.

(23) For a limb of a dedicated animal has not the power to effect exchange.

(24) At the beginning when one dedicates.

(25) If one dedicates an embryo inside an animal, it is not holy to be offered up, and if he offered it up when it was born without a special dedication from its birth, he brings hullin to the Temple court. If, therefore, he separates a pregnant sin-offering, we do not consider it as a case of two sin-offerings set aside for security, for the embryo is sanctified by virtue of its mother and not on its own account, and therefore is regarded as the offspring of a sin-offering which is left to die. Similarly, as regards the matter of dedication, the embryo is regarded as the offspring of a dedication and not as a separate dedication.

(26) Who holds that dedication has effect on embryos.

(27) For we say that the offspring of sin-offerings is left to die only in the case where one set apart a sin-offering which became pregnant and gave birth, it being a Sinaitic law that the offspring in such circumstances is condemned to die (v. infra 21b). But where he set apart a pregnant sin-offering, the embryo is regarded as a different animal and therefore holiness attaches to it independently of its mother. We regard this as a case of one who sets apart two sin-offerings for security in which case he can obtain pardon with whichever one he chooses, the other being left to pasture. We thus see that holiness attaches to an embryo and no special dedication is required after its birth.

(28) That dedication has effect on an embryo.

Talmud - Mas. T'murah 10b

the embryo by itself, a dedication has effect on it, but there, where he dedicated the mother, it [the embryo] is included [in the dedication of the mother], and therefore it [the embryo] is not holy on its own account. And if he made only the second statement,[1] [I might have said] that there he dedicated it [the mother] and all connected with it [the embryo], but here where he dedicated it [the embryo], since it is not [emerged] outside, it is not holy.[2] [Both statements of R. Johanan] are therefore necessary.

Another version: What does [R. Johanan] inform us?[3] That if one left over [the embryo][4] , his act is valid[5] , and that an embryo is not considered as the thigh of its mother.[6] But what need is there for the two statements [of R. Johanan]?[7] — [Both] are necessary. For if the statement had been made in connection with this case only,[8] [I might have said] that there, where the mother herself is fit [for dedication], since holiness attached to it [the mother], it also attached to the embryo. But in the other case,[9] [I might have said] that it was not so. [R. Johanan] therefore informs us [otherwise].[10] And if R. Johanan had stated the law only in this case,[11] [I might have said] that there the reason was because he expressly dedicated the embryo, but here[12] the case is otherwise. [Both statements of R. Johanan are therefore] necessary.

R. Zera was once sitting and repeating this tradition [of Bar [Padda]. R. Jeremiah raised an objection to R. Zera.[13] What device does one adopt[14] in connection with a firstling? If a pregnant animal was giving birth for the first time, one can say: ‘Whatever is in the inside of this animal shall become a burnt-offering’. If now the animal gives birth to a male it is a burnt-offering.[15] Consequently we see that an embryo is holy on its own account![16] — He [R. Zera] replied to him: This was taught with reference to a consecration for its value.[17] But is a consecration for its value strong enough to release from the holiness of a firstling? — Yes. And we have learnt likewise: All dedications which have received a permanent blemish prior to their dedication and were redeemed, are subject to the law of the firstling[18] and the priestly gifts.[19] Now the reason why they are subject to the law of the firstling is because they were redeemed, but if they were not redeemed, they would be exempt from the law of the firstling. Consequently we see that a consecration for its value is strong enough to release the holiness of a firstling.[20]

He raised an objection: If one says, ‘Whatever is in the inside of this animal shall be a burnt-offering’, [the mother] may be shorn for its wool but must not be worked, because the embryo within is thereby weakened![21] — He said to him: Here[22] too it is a case of consecration for its value. But is a consecration for its value strong enough to forbid [shearing and work of an animal]? — He replied to him: Yes. And we have learnt likewise: They[23] become hullin as regards shearing and working.[24] Now the reason is because they were redeemed, but before they were redeemed they must not be worked. Consequently we see that a consecration for its value makes it forbidden to work [the animal].

He [R. Jeremiah] raised an objection to him [R. Zera]. Our Mishnah says: WITH LIMBS [OF HULLIN] NO EXCHANGE CAN BE EFFECTED FOR [DEDICATED] EMBRYOS, NOR WITH EMBRYOS FOR LIMBS.[25] Now it says that one has no power to exchange with them [the embryos],[26] but they [the embryos] can indeed become holy![27] — He [R. Zera] replied to him: [Our Mishnah] is dealing with dedicated offspring which are already holy. If we are dealing with dedicated offspring, it is only in the inside of their mother that they do not effect exchange. We infer then that outside [their mother] they do effect exchange. But have we not learnt: One cannot effect exchange with the offspring of a dedicated animal?[28] — [The Mishnah above] will represent the opinion of R. Judah who holds[29] that an animal's offspring effects exchange. If [the first part of our Mishnah above] is the opinion of R. Judah, it is only exchange which cannot be effected [with limbs],[30] but they [limbs] are indeed dedicated.[31] But has not R. Judah stated: Limbs do not become holy?[32] — The case here[33] is where he dedicated a limb the removal of which results in death.[34]

He [R. Jeremiah] raised an objection to him [R. Zera]: One can dedicate limbs and embryos but one has no power to exchange [them].[35] — Here[36] also we are dealing with offspring of dedications. If the case is that of offspring of dedications, why does the Baraitha say above: ‘one can dedicate’, for are they not already holy? —

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(1) If one set apart a pregnant sin-offering etc. as stated above.

(2) Requiring a special dedication when it emerges from the inside of its mother.

(3) In the case where one dedicates a sin-offering etc.

(4) For another kind of holiness, v. infra 19a.

(5) E.g., if one says: ‘This shall be a sin-offering and its embryo a burnt-offering’, his words are valid. Or, if he says: ‘The mother shall be a sin-offering and its embryo hullin’, it is hullin. Lit., ‘it is left over’.

(6) According to Bar Padda, however, an embryo is not considered something apart, and where one dedicated the mother and left over the embryo for another kind of holiness, it does not receive holiness and is regarded as an offspring from a sin-offering which is left to die. And if one says that the embryo should be hullin his words are nugatory. According to the authority who holds that an embryo inside a dedicated animal is holy, holiness attaches immediately, while according to the other authority, holiness only commences when the embryo is born.

(7) Can we not infer this from the other case mentioned by R. Johanan, when he says that dedication has an effect on an embryo, thus teaching us that the animal and its embryo are considered as independent on one another in respect of dedication?

(8) Where one separates a sin-offering.

(9) Where one dedicates an embryo.

(10) That holiness rests on an embryo.

(11) Concerning where one dedicates an embryo.

(12) Where one separates a sin-offering.

(13) Infra 24b.

(14) To evade the duty of giving a firstling to the priest, so as thus to derive the benefit for himself.

(15) He carries out his obligation if he is required to bring a burnt-offering, for the holiness of a firstling only commences when it leaves the womb of its mother. Consequently the dedication for a burnt-offering preceded the holiness of a firstling.

(16) Unlike the opinion of Bar Padda who says that an embryo possesses no holiness on its own account.

(17) Where he sells it and buys a burnt-offering for the money. But the embryo itself is not consecrated as such and is sold unblemished.

(18) If they are female animals and gave birth for the first time after their redemption.

(19) V. infra 33a.

(20) For since a permanent blemish was prior to the consecration, the consecration at the outset was only for the value.

(21) For working with the mother enfeebles the embryo, Tosef. III. Consequently we see that holiness has effect on an embryo, unlike the view of Bar Padda above.

(22) In the passage just cited.

(23) This passage is the second clause of the Mishnah cited above: All dedications where a permanent blemish, etc., the latter clause therefore says that they i.e., these blemished dedications etc.

(24) So that it is permitted to shear and work them.

(25) And the Mishnah goes on to say: NOR WITH WHOLE ANIMALS [OF HULLIN] FOR DEDICATED EMBRYOS.

(26) For in connection with exchanging, Scripture says ‘beast’ but not an embryo.

(27) For if embryos cannot become holy, it is obvious that one has no power to exchange whole animals of holy with them, since they are hullin.

(28) Born after its mother's dedication, and the status of one exchanged with the young is not altered. We must then be dealing with a case where one consecrated directly an embryo, which is regarded as a first dedication. Hence we see that dedication has effect on an embryo, unlike the opinion of Bar Padda.

(29) Infra 11a, 12a, 14a.

(30) Of hullin for whole dedicated animals, so that holiness should spread to the entire animal the limbs of which are being substituted.

(31) One can dedicate limbs, so that if one consecrated a limb of an animal, holiness spreads to the entire animal. For the first Tanna of the Mishnah must share this opinion, since R. Jose, his disputant in the Mishnah, retorts: IS IT NOT THE CASE WITH REFERENCE TO DEDICATIONS etc., thus implying that the first Tanna agrees with him that if one dedicated a limb the whole animal becomes holy, and it is R. Simeon who opposes R. Jose later in the Baraitha, saying that at the beginning the consecration of one limb makes the whole animal a burnt-offering, but the case of exchanging is different, as it has no effect on limbs.

(32) Later in the Baraitha, R. Judah says that holiness does not spread to the whole animal where their limbs are dedicated.

(33) Where we deduce from the Mishnah that the entire animal becomes holy if one limb is dedicated.

(34) Lit., ‘on which the soul depends’; e.g., if he dedicated a foot from the joint upwards, the removal of which would render the animal trefah (v. Glos.). Here, even R. Judah, the Baraitha says later, agrees that in such circumstances the whole animal becomes sacred.

(35) Infra 15a. We therefore see that dedication has an effect upon embryos, unlike the opinion of Bar Padda.

(36) In the case of the Mishnah just quoted.

Talmud - Mas. T'murah 11a

What is meant is this:[1] One can dedicate limbs,[2] and can effect exchange for them,[3] but one can effect no exchange with limbs for them [dedicated animals].[4] And embryos which were dedicated while they were inside their mother cannot be exchanged.[5]

Now if the case [in the Mishnah just quoted] refers to offsprings of dedications, it is only in the inside of their mothers that they do not effect an exchange, but outside [their mother][6] they do effect exchange. But have we not learnt: Offspring [of dedicated animals] do not effect an exchange? — This[7] is the opinion of R. Judah.[8] If it is the opinion of R. Judah, then how can limbs become holy,[9] for R. Judah does not hold that if one says: ‘The foot of this animal shall be a burnt-offering’ the whole becomes a burnt-offering? — He replied to him: Here[10] also the case[11] is one of the dedication of a limb [the loss of] which renders the animal trefah.

Must it be said that Tannaim differ [on that point]?[12] [For it was taught:] If one[13] slaughtered a sin-offering and found a four months' old[14] [embryo] alive inside, one [Baraitha] states: It is only eaten by the males of the priesthood,[15] within the hangings of the court, and for one day [and a night];[16] while another [Baraitha] taught: It is eaten by all people, it is eaten everywhere [in the Temple court] and [is eaten at all times].[17] What [does this mean]? Is it not that there is a difference of opinion among Tannaim, one Master holding that dedication has effect on embryos,[18] and the other Master holding that dedication has no effect on embryos?[19] — No.[20] These Tannaim [of the Baraitha above] differ on this point, one Tanna[21] holding that the offspring of dedications are holy at birth,[22] while the other Tanna[23] holds that [the offspring of dedications] are holy even in the inside of their mother. Or if you prefer [another solution] I may say: Both [Baraithas quoted above] are the teaching of one Tanna.[24] One of these Baraithas[25] deals with a case where one dedicates an animal and then it becomes pregnant,[26] and the other,[27] where he dedicates it in a pregnant condition.[28]

We have learnt:[29] R. Eliezer says, Kil'ayim,[30] trefah[31] and a foetus extracted by means of the caesarean section, a tumtum[32] and a hermaphrodite do not themselves become holy nor cause holiness.[33] And Samuel said: The expression, 'Do not themselves become holy' means as regards becoming a substitute,[34] and the expression, 'Nor cause holiness' means to effect an exchange.[35] And it has been taught: Said R. Meir:[36] Since they[37] do not become holy, how can they cause holiness? You cannot find a case[38] except where one dedicated an animal and then it became trefah,[39] or where one dedicated an embryo[40] and it was then extracted through the caesarean section. Consequently we see that an embryo can become holy [contrary to the opinion of Bar Padda above]! — To this the answer was given: As regards an unblemished [embryo] in the inside of an unblemished animal, even Bar Padda also agrees that it becomes hullin.[41] They[42] only differ as regards an unblemished [embryo] in the inside of a blemished animal. Bar Padda holds since the mother is not holy as such,[43] it [the embryo] is also not holy, whereas R. Johanan holds: These[44] are two independent animals; the mother is indeed not holy but the embryo is.

Another version: But the cases of kil'ayim, tumtum and a hermaphrodite you can only explain with reference to the offspring of dedication and in accordance with the opinion of R. Judah who used to say that one can effect an exchange with an offspring [of dedications]. Now only these are not consecrated as such, but other embryos become holy, [unlike the opinion of Bar Padda]! — Said Abaye: Regarding an unblemished [embryo] in the inside of an unblemished animal, all the authorities agree that it [the embryo] is holy as such. The point at issue is with reference to an embryo in the inside of a blemished animal, Bar padda, holding that since the mother is not holy as such, except for its value, the embryo also is not holy as such [except for its value], whereas R. Johanan says: An embryo is not considered the thigh of its mother, and although its mother is not holy as such, the embryo nevertheless is holy as such.

SAID R. JOSE: IS IT NOT THE CASE WITH REFERENCE TO DEDICATIONS THAT IF ONE SAYS: 'THIS FOOT SHALL BE etc.

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(1) The words 'One can dedicate' of the Mishnah just quoted do not refer at all to embryos.

(2) Separate limbs and parts of the animal.

(3) The limbs of the same animal permit of exchange with another animal, for the consecration of one limb renders the whole animal holy, since one cannot effect exchange for one consecrated limb. For even R. Jose in our Mishnah above only says that one has power to exchange limbs of hullin for whole dedicated animals but not the whole animal for a dedicated limb and certainly not limbs of hullin for dedicated limbs.

(4) And the latter part of the Mishnah quoted which says: 'But one has no power to effect exchange' informs us that one has no power to exchange limbs for whole animals, so that if e.g., one says: 'Let the limb of this animal be a substitute for this whole dedicated animal' it is not holy. This is a restriction which applies to dedications, for if one dedicated a limb, the whole animal becomes holy, whereas if one says: 'Let this limb be a substitute for this whole animal' there is no substitute.

(5) E.g., the offspring of a dedicated animal, although they are holy, cannot be exchanged for an animal so long as they are inside the animal. This will be in accordance with the opinion of R. Judah who holds that an offspring can effect an exchange, for according to the Rabbis, even if the offspring were outside their mother's body, they could not effect an exchange.

(6) After their birth.

(7) The Mishnah just explained.

(8) Who holds that the offspring of a dedicated animal can effect exchange.

(9) For the first clause in the Mishnah just explained above says that one can consecrate limbs and effect exchange with them, thus implying that holiness spreads to the entire animal, otherwise there could be no substitution for limbs.

(10) In the Mishnah just quoted.

(11) Sh. Mek. The case here is where he dedicated a limb, the loss of which results in death, v. p. 71, n. 7.

(12) Whether dedication has effect on embryos.

(13) Infra 25b.

(14) For if it is five months old, it has finished its months of pregnancy in the case of small cattle and is not rendered permissible through the slaughtering of its mother, according to R. Meir, who holds that if an animal has concluded its normal months of pregnancy it requires a separate shechitah.

(15) According to the law of a sin-offering. At present we interpret the Baraitha as dealing with a case where one separates a pregnant animal. For if pregnancy followed dedication, all the authorities concerned will agree that since the consecration of the embryo was through its mother, it is regarderd as hullin, as the offspring of dedications are only holy at their birth and not while inside the animal.

(16) So Sh. Mek.

(17) So Sh. Mek. For any length of time.

(18) In their own right. When the animal is dedicated while pregnant it becomes holy immediately and is not subject to the law of the offspring of dedication.

(19) Except by virtue of the mother and is subject to the law of other offspring of dedications which are holy at birth.

(20) The Baraitha above is not a case at all of setting apart a pregnant animal but of dedicating an animal which subsequently became pregnant.

(21) The last one, mentioned above in the difference of opinion.

(22) But not while inside the animal.

(23) The first Tanna, mentioned above in the Baraitha.

(24) And all the authorities concerned agree that dedication has effect on embryos immediately, in accordance with the opinion of R. Johanan.

(25) Which says that the embryo is not holy as a sin-offering.

(26) It is therefore like an offspring of dedications which is sacred at birth.

(27) Which says that the embryo has the law of a sin-offering.

(28) It therefore becomes holy immediately and has not the law of the offspring of dedications.

(29) Yeb. 83b, Bek. 42a, etc.

(30) A hybrid.

(31) An animal afflicted with an organic disease, v. Glos.

(32) An animal whose genitals are hidden or undeveloped.

(33) This passage is explained subsequently.

(34) So that if they are hullin and were substituted for a dedicated animal, they do not become sacred; and though the law of exchange has effect on permanent blemished animals, it has no effect on these cases. This is certainly the case, that they are not holy, if one actually consecrated them.

(35) If they are holy, there can be no exchange effected with them so as to cause holiness to another animal of hullin.

(36) Sh. Mek,. ‘Rabbi’.

(37) Kil'ayim, etc.

(38) That they should be holy.

(39) The animal is holy, for its consecration was prior to its defect.

(40) Holiness attaching to it immediately.

(41) Agreeing with R. Johanan, the case of consecrating an embryo and then extracting it through the caesarean section being the same as the case of an unblemished embryo in the inside of an unblemished animal.

(42) Bar Padda and R. Johanan.

(43) Because it is blemished.

(44) The mother and its embryo.

Talmud - Mas. T'murah 11b

Our Rabbis have taught: Are we to suppose that if one says: ‘This foot shall be a burnt-offering’ the whole animal becomes a burnt-offering? The text states: All that any man giveth of it unto the Lord shall be holy:[1] ‘Of it[2] unto the Lord’, but not the whole of it [the animal] ‘unto the Lord’. I might think that it [the animal] becomes hullin, therefore the text states: ‘It shall be holy’.[3] How is one to act?[4] It must be sold for the requirements of burnt-offerings, and its money is hullin except for the value of its limb. This is the teaching of R. Meir and R. Judah. R. Jose and R. Simeon, however, say: Whence do we derive that if one says, ‘The foot of this animal shall be a burnt-offering’, the whole animal becomes a burnt-offering? Because [Scripture] says, ‘All that any man giveth of it [shall be] unto the Lord’;[5] when it further says, ‘It shall be holy’ this includes the whole of it [the animal].[6]

The Master said: ‘It shall be sold for requirements of a burnt-offering’. But does not he [the purchaser] bring an animal [for a burnt-offering] with the loss [of limb]?[7] — Said ‘Raba: It is a case where he [the purchaser] says: ‘I undertake to bring a burnt-offering which can live’.[8]

Said R. Hisda: R. Judah[9] agrees where [he dedicated] a part [of the animal the removal of which] renders the animal trefah.[10] Raba says: A part [the removal of which] renders the animal nebelah.[11] And R. Shesheth says: A part [the removal of which] kills the animal. What is the practical difference between R. Hisda and Raba? — The difference is whether a trefah can live. R. Hisda holds according to the one who says that a trefah cannot live,[12] whereas Raba will hold according to the one who says that a trefah can live.[13] And what is the practical difference between Raba and R. Shesheth? — The difference between them is as regards the ruling of R. Eleazar. For R. Eleazar says: If the thigh of an animal was removed and the hollow [thereof], it [the animal] is nebelah.[14] Raba will agree with R. Eleazar,[15] whereas R. Shesheth will not agree with R. Eleazar.[16]

They raised an objection. ‘Said Rabbi: I favour the opinion of R. Judah[17] where [the dedication] is a part of the animal [the removal of which] will not result in death, and the opinion of R. Jose[18] where the dedication is of a part [of the animal the removal of which] results in death’. Now can we not infer from this that [R. Jose differs] with R. Judah [even in connection with the removal of a vital limb]? — There is no difficulty as regards the words: ‘I favour the opinion of R. Judah[19] where [the dedication] is of a part [of the animal] the removal of which will not result in death,’[20] since R. Jose does differ in this.[21] But from the words: ‘And the opinion of R. Jose where the dedication is of a part [of the animal the removal of which] will result in death’, cannot we infer from this that[22] R. Judah differs?[23] Shall we say this refutes all?[24] — No. The statement is defective[25] and must be read thus: The teaching of R. Jose is acceptable to R. Judah regarding a part [of the animal the removal of which] results in death, for even R. Judah does not differ with R. Jose save in regard to the dedication of a part [of the animal the removal of which] does not result in death, but in regard to the [dedication of] a part [the removal of which] results in death, he agrees with him.[26]

Raba inquired: What of the bird?[27] [Shall we say,] Scripture says ‘beast,’[28] and this is not a ‘beast’? Or perhaps shall we note that Scripture says korban [‘offering’][28] and a bird is also an offering?[29] Let it remain undecided.

Raba inquired: If one dedicated a limb for its value,[30] what of holiness as such[31] resting on it? Does one say, since one limb is dedicated the whole becomes holy for value,[32] and since there rests upon the animal the holiness for its value, there also rests on it dedication as such?[33] Or perhaps we use a single miggo[34] but not a double miggo! — But why cannot Raba solve [the inquiry] from his own teaching?[35] For Raba said: If one dedicated a male[36] [a ram] for its value,[37] it is dedicated as such?[38] — There,[39] he dedicated the whole animal,[40] but here,[41] he only dedicated one limb. What therefore is the ruling? — Let it stand undecided.

[Abaye[42] inquired of Rabbah:] If one dedicated a limb, what of the shearing?[43] — Why not solve it from what has been taught: [Scripture said:] Nor shear the firstling of thy sheep,[44] thus implying that you may shear where the firstling belongs to thee and to others [gentiles]?[45] — There,[46] no holiness rested on it at all,[47] but here, holiness rested on it [the limb].

Another version: There,[48] he has not the power to dedicate it,[49] whereas here,[50] he has the power to dedicate[the rest of the animal].

Abaye inquired of Rabbah: If one dedicated the skin of an animal, what of working [the animal]?[51] — Come and hear: If one says, ‘Whatever is in the inside of this animal shall be a burnt-offering’, shearing is permitted, but work [with it] is forbidden on account of the weakening of the embryo within![52] — He replied to him: When [the Baraitha just quoted] states ‘but work with it is forbidden’, it means Rabbinically.[53] If so, the shearing too should be forbidden?[54] — He said to him: Work [with the embryo] which weakens it, the Rabbis prohibited, but shearing, the Rabbis did not prohibit.

Abaye inquired of R. Joseph: If it [the mother] is a peace-offering and its embryo is hullin[55] and he slaughtered [the mother] within [the Temple court], what is the ruling?[56] According to the one who holds that offspring of dedications are holy at birth and not before, have we here a case of [slaughtering] hullin in the Temple court[57] or not?

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(1) Lev. XXVII, 9.

(2) Taken in the partitive sense.

(3) That limb, and since that limb is holy, he can no longer kill the animal as hullin.

(4) Since there is a blending of hullin and dedication in the animal.

(5) This is how the verse is rendered by R. Jose and R. Simeon.

(6) As being holy, because the holiness spreads to the entire animal.

(7) The limb belongs to the seller who dedicated it. Therefore it is found that the purchaser is not offering up a whole burnt-offering while he vowed to offer up a whole animal.

(8) And even if there was a loss of that limb which had already been dedicated, since even without the limb the animal can live, his vow was fulfilled. But if the dedication was of a limb the removal of which would kill the animal, then holiness spreads to the whole animal, even according to R. Judah.

(9) Who holds elsewhere that only the limb which is dedicated is holy.

(10) That in such circumstances holiness spreads to the whole animal.

(11) An animal that has died a natural death without shechitah.

(12) The difference of opinion is mentioned in Hul. 42b. Consequently since the animal cannot live, then he dedicated something the removal of which results in the death of the animal, and therefore he holds that R. Judah will agree in such a case.

(13) It is not therefore something the removal of which will result in the death of the animal. And R. Judah will maintain his opinion in the case of a trefah.

(14) Although it is still alive it causes ritual uncleanness like nebelah, for it is considered as already dead.

(15) And therefore if one dedicated the thigh and the region around, it is something the removal of which results in death, and the holiness spreads to the whole animal.

(16) And therefore he says: With the part that kills at once, and not with a thing the removal of which will not kill the animal outright, but will leave it struggling for a while.

(17) Who says above that the dedication of one limb does not render the whole animal holy.

(18) Who says above that the dedication of one limb makes the entire animal holy.

(19) Implying but not that of R. Jose.
(20) V. Sh. Mek.
(21) Where the loss of a limb does not result in death.
(22) V. Sh. Mek.
(23) And holds that even in such a case the dedication of one limb does not make the whole animal holy.
(24) I.e., R. Hisda, Raba, and R. Shesheth.
(25) There is a clause missing in the passage cited in the name of Rabbi.
(26) R. Jose, that the dedication of one vital limb makes the entire animal holy.
(27) According to R. Jose who holds that the consecration of a limb spreads to the whole animal, what if one consecrated a limb, e.g., a leg of a bird; does holiness spread to the whole bird or not?
(28) In the cited verse, ‘if it be a beast whereof men bring on offering (korban) unto the Lord’ (Lev. XXVII, 9).
(29) Like a turtle-dove, pigeon, etc.
(30) But not for dedication as such.
(31) Does the animal eventually become holy itself, and offered as a burnt-offering?
(32) The dedication in value for one limb having spread to the dedication in value for the whole animal.
(33) We go further and say, since the whole animal is dedicated for its value we extend it so that we consider it dedicated as such. For since the animal is unblemished and is fit for a burnt-offering, what is the difference whether we sell it and for the money purchase a burnt-offering or we use the animal directly as a burnt-offering?
(34) Lit., ‘since’ i.e., we have to argue thus: ‘Since’ one limb is dedicated for its value, therefore we regard the whole animal as dedicated for its value, and ‘since’ the animal is dedicated for its value, we consider it also as dedicated as such.
(35) That holiness as such certainly rested on it.
(36) The reason why Raba mentioned a male is because we are dealing with a burnt-offering, which cannot be other than a male.
(37) In order to purchase a burnt-offering for the money.
(38) It became dedicated as such and cannot be sold, for since the animal itself is fit for a burnt-offering, we use it as a burnt-offering.
(39) With reference to Raba's ruling.
(40) And therefore there is one miggo. i.e., since it is dedicated for its value, we say that holiness spreads to the body itself.
(41) With reference to Raba's inquiry.
(42) Inserted with Sh. Mek.
(43) There is no question about working it, for it is certainly forbidden, since work weakens the limb.
(44) Deut. XV, 19.
(45) So here too in the case of Abaye's inquiry, since there is hullin and dedication in the animal, the shearing should be permitted.
(46) In connection with a firstling, in which a Jew and a non-Jew were partners.
(47) The law of a firstling not applying in this instance.
(48) With reference to the firstling.
(49) Since the gentile has a share in the firstling.
(50) Where he dedicates a limb of an animal.
(51) There is no question about shearing, as the skin is not weakened thereby, whereas working the animal does weaken the skin. The inquiry can be even according to R. Jose, for although if one dedicated a foot the whole animal becomes holy, the reason may be because a foot can be offered up, unlike the skin (sh. Mek).
(52) And here too there is a weakening of the skin and therefore work should be forbidden.
(53) Whereas our inquiry here as regards the dedication of the skin is whether it is forbidden Scripturally, so as to incur the penalty of lashes.
(54) Rabbinically, in the case of the embryo.
(55) If one dedicated a pregnant animal without its embryo, when according to all the authorities concerned, the embryo is not holy.
(56) Is the embryo forbidden because he slaughtered hullin in the Temple court. Tosaf. suggests that this inquiry can be solved from the Baraitha, supra 11a, where it says: ‘If one slaughtered a sin-offering and found a four months’ old

embryo alive', implying that there is no prohibition here of slaughtering hullin in the Temple court. Sh. Mek. however, comments in this connection that there may be a difference between an embryo which has not completed its months of pregnancy, as in the case of the Baraitha, and an embryo which has completed its months of pregnancy, which is the case of our inquiry here.

(57) Since he did not dedicate the embryo, for he dedicated the animal before its pregnancy and therefore the embryo remains hullin until its birth.

Talmud - Mas. T'murah 12a

He [R. Joseph] said to him [Abaye]:[1] Can we apply here the text: If the place be too far for thee, then thou shalt kill?[2]

Abaye inquired of R. Joseph: If it [the mother] is hullin and its embryo is a peace-offering[3] and one slaughtered it [the mother] without [the Temple court], does he incur the penalty for slaughtering dedicated animals without [the Temple court] or not? — He replied to him: Can we apply here the text: Even that they may bring them unto the Lord?[4]

Another version: He [R. Joseph] replied to him: [If the animal] is fit for the tent of meeting,[5] one incurs a penalty for slaughtering it outside [the Temple court, but[6] for an animal which is not fit for the tent of meeting,[7] there is no penalty incurred for slaughtering without the Temple court].

MISHNAH. [ANYTHING WHICH HAS BECOME SUBJECT TO THE LAW OF TERUMAH THROUGH] AN ADMIXTURE CAN AFFECT A [SECOND] MIXTURE ONLY IN PROPORTION.[8] [DOUGH] LEAVENED [THROUGH TERUMAH] CAN AFFECT [ANOTHER DOUGH] ONLY IN PROPORTION.[9] DRAWN WATER CAN DISQUALIFY A MIKWEH[10] ONLY IN PROPORTION. WATER OF PURIFICATION BECOMES RITUALLY FIT[11] ONLY WITH THE PUTTING OF ASHES [IN THE WATER].[12] A GRAVE AREA[13] CANNOT CREATE A GRAVE AREA.[14] [THE SEPARATION OF] TERUMAH CANNOT BE REPEATED.[15] AN EXCHANGE CANNOT BE USED TO EFFECT ANOTHER EXCHANGE.[16] THE OFFSPRING OF A DEDICATED ANIMAL CANNOT EFFECT AN EXCHANGE. R. JUDAH SAYS: THE OFFSPRING OF A DEDICATED ANIMAL CAN EFFECT AN EXCHANGE.[17] THEY SAID TO HIM: A DEDICATED ANIMAL CAN EFFECT EXCHANGE, BUT NEITHER THE OFFSPRING OF A DEDICATED ANIMAL [NOR[18] AN EXCHANGE] CAN EFFECT EXCHANGE.

GEMARA. Whose opinion is here[19] represented? R. Hiyya b. Abba reported in the name of R. Johanan: It will not be that of R. Eliezer. For we have learnt: If a se'ah of terumah has fallen into less than a hundred se'ah of hullin,[20] [the admixture becoming forbidden to non-priests], and something fell from the mixture into another place [of hullin] , R. Eliezer says: The mixture is considered certain terumah,[21] whereas the Sages say: The [first] mixture can affect the [second] only in proportion.[22]

[DOUGH] LEAVENED [THROUGH TERUMAH] CAN AFFECT [OTHER DOUGH] ONLY IN PROPORTION. R. Hiyya b. Abba reported in the name of R. Johanan: The Mishnah will not be the opinion of R. Eliezer.[23] For we have learnt: If leaven of hullin and of terumah fell into dough and there was in neither a sufficient quantity to leaven [the dough] but both were capable of leavening when combined, R. Eliezer says: We go by the last [leaven],[24] whereas the Sages say: Whether the forbidden thing [terumah] fell first [into the dough] or last, a quantity capable of leavening is always required [in order that the dough should] become forbidden.

DRAWN WATER CAN DISQUALIFY A MIKWEH ONLY IN PROPORTION. Whose opinion is here represented? — R. Hiyya b. Aba reported in the name of R. Johanan: It is that of R. Eliezer b. Jacob. For it has been taught:[25] R. Eliezer b. Jacob said: If a mikweh contains twenty-one se'ah of rain-water, one can bring[26] nineteen se'ah[27] and open a sluice [near it],[28]

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(1) One does not incur the penalty for slaughtering hullin in the Temple court.

(2) Deut. XII, 21; from which text we derive in Kid. 57b that it is forbidden to slaughter hullin in the Temple court, for we interpret the text as follows: You may kill hullin away from the Temple court, but you may not kill hullin near the Temple court. Here you cannot apply the text, for you cannot kill the animal except in the Temple court, for it is a peace-offering and therefore the embryo is not regarded as hullin in the Temple court.

(3) And according to the authority who says that dedication has effect on an embryo, is there excision on account of the embryo, its mother having been slaughtered without the Temple court?

(4) Lev. XVII, 5, stated in connection with the prohibition of bringing dedications without the Temple court. For one is guilty of bringing dedications without the Temple court only with regard to an animal fit for an offering, but not an embryo which is not fit at present for an offering.

(5) And one offers it without the Temple court.

(6) Inserted with Sh. Mek.

(7) And here it is hullin and can only be brought outside the tent of meeting. Therefore the text is not applicable.

(8) If, for example, a se'ah of terumah fell into a se'ah of hullin so that the mixture became subject to terumah and if subsequently one se'ah of this mixture fell into hullin, the second mixture is subject to the law of terumah only in proportion of the terumah contained in the first mixture.

(9) If, for example, terumah the size of an egg has leavened hullin also the size of an egg and then there fell from the mixture the size of an egg into some other dough, if half an egg is capable of leavening the dough, then the latter is forbidden, but if not, it is permitted, for we say that in the egg that fell into the dough there was only half an egg of terumah.

(10) Ritual bath.

(11) Lit., ‘become waters of purification’.

(12) Which was there already, but if he first put the ashes in the vessel and then the water, the water is disqualified because, when he put in the ashes, there was no water in the vessel.

(13) Beth ha-Peras, a field in which a grave has been ploughed up; v. Keth. (Sonc. ed.) p. 154, n. 6.

(14) If the plough passes over and beyond it.

(15) I.e., once terumah has been separated from the heap, it cannot be separated again. Lit., ‘there is no terumah after terumah’.

(16) A substitute which is sacred cannot itself be exchanged for another animal, so as to cause holiness to the latter.

(17) One can exchange an animal for the offspring and the substitute becomes holy.

(18) Inserted with Sh. Mek.

(19) In the Mishnah which says that anything which has become subject to the law of terumah etc.

(20) For if it fell into one hundred se'ah of hullin, the terumah would be neutralized.

(21) So that if a se'ah from the admixture fell into other hullin there must be a hundred se'ah beside it in order to neutralize the terumah.

(22) We require a hundred times the proportion of terumah in the se'ah which fell into the second mixture and not more. If e.g., in the beginning there fell one se'ah of terumah into twenty-four se'ah of hullin, each se'ah of the mixture contains one twenty-fourth of terumah, i.e., one log. Now if a se'ah of this mixture fell into other hullin, seventy-seven log of hullin combine with the twenty-three log of hullin contained in the se'ah which fell in order to neutralize the terumah (Rashi).

(23) For according to R. Eliezer there is no need that the forbidden thing should be capable of leavening, and the forbidden thing, i.e., terumah, together with what is permissible, i.e., hullin, both combine in order to render the dough forbidden.

(24) Which causes the leavening, and if the forbidden thing fell last, the admixture is prohibited. And according to our Mishnah too, although from the first dough leavened exclusively by terumah, there fell into the second dough only a sufficient quantity to leaven the second dough, and hence the greater part of the leaven came from hullin, the second dough is still forbidden, because R. Eliezer holds that the product of combined causes i.e., of terumah and hullin joined together is forbidden (Rashi). Rashi adds that even if the terumah fell first but it was not removed, and both the terumah and the hullin leavened the dough, the latter is forbidden, because it is a product of combined causes. Tosaf. however, explains that the case dealt with by the Mishnah is where the leaven of terumah the size of an olive and hullin the size of an olive fell separately into a dough of hullin and leavened the latter, there being neither in the hullin by itself nor in the terumah by itself a sufficient quantity to leaven.

(25) Tosef. Mik. IV.

(26) Lit., ‘fill with the shoulder’.

(27) Of drawn water to make up the minimum required of forty se'ah.

(28) Since to pour from a bucket directly into a mikweh which contains less than forty se'ah of rain water would disqualify the water, even if only three log, but he makes a cavity into which he pours water from the bucket and the water flows from this cavity into the mikweh.

Talmud - Mas. T'murah 12b

and [the collected waters] are clean ritually,[1] for collected drawn waters are rendered clean by the greater part [in the mikweh being rain-water] and by being conducted through a channel.[2] We can infer from this that according to the opinion of the Rabbis [drawn waters are not rendered clean] by the greater part [of rain-water] and by being conducted through a channel.[3] Then the ruling which when Rabin came he reported in the name of R. Johanan: Collected water which has been drawn entirely through a channel is ritually clean, will represent neither the opinion of the Rabbis nor that of R. Eliezer? — Rather said R. Papa: [The words IN PROPORTION] mean according to the number of the vessels, and it [the Mishnah] is the opinion of Joseph b. Honi. For it has been taught: If three[4] log of collected water fell into a mikweh,[5] if [the waters] came from two or three vessels or even from four or five vessels, they disqualify the mikweh. Joseph b. Honi says: If the waters came from two or three vessels,[6] they disqualify the mikweh, but if from four or five vessels,[7] they do not disqualify the mikweh.

THE WATERS OF PURIFICATION BECOME RITUALLY FIT etc. Whose opinion is here represented? — R. Hiyya b. Abba reported in the name of R. Johanan: It is not the opinion of R. Simeon.[8] For it has been taught: If one puts the ashes [into the vessel] first before the water, it [the water of purification] is disqualified, whereas R. Simeon says: It is fit. What is the reason of R. Simeon? — Since it is written: And for the unclean they shall take the ashes [‘afar] of the burning of the purification from sin [and the running water shall be put thereto].[9] And it has been taught: R. Simeon says, Now is it ‘afar [dust]?[10] Is it not efer [ashes]?[11] The text departs from the natural expression[12] in the matter in order to permit of a gezerah shawah.[13] We read here ‘afar[14] and we read there ‘afar.[15] Just as there[16] the ‘afar is placed upon the water, so here[17] also the ‘afar is placed upon the water. And just as here[18] if the dust[19] is placed in the vessel before the water the ritual is fit, so there[20] if he placed the dust before the water, it [the water] is ritually fit.[21] And whence do we derive this [in connection with waters of purification]?[22] — There are two Scriptural texts. It first says: And [running water] shall be put thereto,[23] from which we see that ashes are put first in the vessel, and then the text continues: Running water . . . in a vessel.[24] How [do we reconcile these texts]? If he wishes [he puts] ‘afar[25] at the bottom [of the vessel],[26] and if he wishes, he puts ‘afar on top [of the water].[27] And what is the reason of our Tanna?[28] — He can answer you: The latter part of the verse[29] is to be strictly interpreted,[30] and [the text]: ‘And [running water] shall be put thereto teaches us that one must mix [the ashes and the water together].[31] But why do you see fit to say that the latter part of the verse is to be strictly interpreted? perhaps the first part of the text is to be strictly interpreted,[32] [and the text, ‘in a vessel’ teaches us that[33] the waters must be fresh in the vessel]?[34] — You cannot interpret the text in this way: Just as we find with regard to all other cases[35] that which makes [the water] ritually fit[36] is placed on top,[37] so here[38] that which makes [the water of purification] ritually fit is put on top.[39]

A GRAVE AREA CANNOT CREATE A GRAVE AREA etc. Our Mishnah will not represent the opinion of R. Eliezer. For we have learnt: R. Eliezer says: A grave area creates a grave area,[40] [whereas[41] the Sages say: A grave area does not create a grave area].[42] According to the Rabbis, up to how much?[43] — When R. Dimi came [from Palestine] he reported in the name of Resh Lakish who reported in the name of R. Simeon b. Abba:

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(1) Fit to immerse therein.

(2) This is therefore what the Mishnah means by the expression in this connection of ONLY IN PROPORTION, since collected drawn water does not disqualify a mikweh when it is conducted through a channel, unless there is twenty se'ah of this in the mikweh.

(3) Since you say that the Mishnah is the view of R. Eliezer and not that of the Rabbis, and since the Mishnah gives a lenient ruling in this connection for the very language DRAWN WATER ONLY IN PROPORTION proves that the object of the Mishnah is to be lenient in the matter — we can conclude that the Rabbis, in differing with R. Eliezer, adopt a stricter view.

(4) Tosef. Mik. III.

(5) Not by being conducted through a channel.

(6) So that a whole log of drawn water fell at once into the mikweh.

(7) So that there was no whole log of drawn water which fell at once into the mikweh.

(8) For according to R. Simeon, if one puts the ashes first into the vessel before the water, the water is ritually permitted.

(9) Num. XIX, 17. In connection with the waters of purification.

(10) Which is mixed with the waters of purification.

(11) אפר .

(12) I.e., the word ‘ashes’.

(13) An analogy established on the basis of verbal congruities in the text, v. Glos. s.v.

(14) With reference to the waters of purification.

(15) With reference to the waters of jealousy given to a woman suspected of faithlessness.

(16) In connection with the waters of jealousy, since Scripture says: And of the dust . . . and put it into water (Num. V, 17).

(17) With reference to the waters of purification. This procedure is at the outset the proper performance of the ritual.

(18) In connection with the waters of purification.

(19) Really the ashes.

(20) With reference to the waters of jealousy.

(21) we thus see that according to the opinion of R. Simeon in connection with the waters of purification, if one puts first the ashes into the vessel before the water, the water is ritually fit.

(22) That the putting of ashes before the water into the vessel does not disqualify the water.

(23) Ibid. XIX, 17. Implying that the ashes are already in the vessel and the water was then added.

(24) Implying that the water was poured directly into the vessel and not on the ashes, and that if the ashes were put first in the vessel prior to the water, the water would not be ritually fit for the purpose.

(25) The word here really means ‘ashes’.

(26) And then the water is poured on the ashes.

(27) It is permissible either way.

(28) I.e., the first Tanna who disputes with R. Simeon. This Tanna holds that if one should put the ashes first and then the water into the vessel, the water is not ritually fit. Now what may be his reason?

(29) ‘Running water . . . in a vessel’.

(30) As implying that the water must be put direct into the vessel, and if he put the ashes first, then the water does not cleanse ritually.

(31) The object of the text is not to teach us that if he first put ashes in the vessel and then the water, the water cleanses, but to warn us that after putting the ashes in the water he must mix them well with his finger so that the water below may come on top.

(32) The text: ‘And (running water) shall be put thereto’, thus implying that the ashes were put first in the vessel.

(33) Inserted with Sh. Mek.

(34) That he draws the water in the vessel direct and fresh from a fountain and the water is not poured into it from another vessel.

(35) E.g., with reference to the waters of jealousy.

(36) I.e., the ashes.

(37) For all the authorities concerned agree that it is the proper performance of the ritual to put the water first into the vessel.

(38) In connection with the waters of purification.

(39) Therefore inevitably the latter part of the text ‘running water in a vessel’ is interpreted in the exact sense, and the first part of the text refers to the need for effective mixing of the water and the ashes.

(40) All the four fields surrounding a grave area if ploughed become unclean, for the dust of the grave area causes uncleanness (Rashi). Tosaf, however, explains R. Eliezer's teaching as follows: If one ploughs a grave area and beyond it to another field, the latter becomes a grave area. If this second field in turn was ploughed and beyond it, the latter field becomes a grave area. Similarly from the third to the fourth, all making each other a grave area.

(41) Inserted with Sh. Mek.

(42) Oh. VII, 2.

(43) According to the Sages, how far does uncleanness extend to other fields.

Talmud - Mas. T'murah 13a

Three fields[1] and two furrows’ length.[2] How much is a furrow's length? A hundred cubits, as it has been taught:[3] He who ploughs a grave creates a beth ha-peras[4] the length of a furrow. And how much is the length of a furrow? A hundred cubits.

[THE SEPARATION OF] TERUMAH CANNOT BE REPEATED etc. Our Mishnah is the opinion of R. Akiba. For we have learnt: If partners separated terumah one after the other, R. Eliezer says: The terumah of both of them is valid;[5] whereas R. Akiba says: The terumah of both of them is not valid.[6] The Sages however say: If the first of the partners separated terumah according to the right quantity,[7] then the terumah of the second one is not valid. But if the first one did not separate terumah according to the right quantity,[8] then the terumah of the second [partner] is valid.[9]

AN EXCHANGE CANNOT BE USED TO EFFECT ANOTHER EXCHANGE etc. What is the reason? Since Scripture says: ‘And the exchange thereof’,[10] implying, but not the exchange of an exchange.

THE OFFSPRING OF A DEDICATED ANIMAL CANNOT EFFECT AN EXCHANGE. Since Scripture says: ‘It’[10] implying, it can effect exchange but not the offspring of a dedicated animal.

R. JUDAH SAYS: THE OFFSPRING OF A DEDICATED ANIMAL EFFECTS AN EXCHANGE. For Scripture says: Shall be,[10] thus including the offspring of a dedicated animal. And the Rabbis?[11] [The object of the text is] to include [an exchange] in error as [possessing the same validity as a] deliberate [exchange].[12]

MISHNAH. BIRDS AND MEAL-OFFERINGS DO NOT EFFECT EXCHANGE,[13] SINCE [THE LAW OF] EXCHANGE ONLY APPLIES TO AN ANIMAL.[14] A CONGREGATION OR PARTNERS CANNOT EFFECT EXCHANGE, SINCE IT SAYS: HE SHALL NOT ALTER IT NOR CHANGE IT,[15] THUS IMPLYING[16] THAT AN INDIVIDUAL CAN EFFECT EXCHANGE BUT A CONGREGATION OR PARTNERS CANNOT EFFECT EXCHANGE. ONE CANNOT EFFECT EXCHANGE WITH [OBJECTS][17] DEDICATED FOR TEMPLE REPAIRS.[18] SAID R. SIMEON:[19] NOW IS NOT TITHE[20] [ALREADY] IMPLIED?[21] FOR WHAT PURPOSE THEN IS TITHE SPECIALLY MENTIONED?[22] IT IS IN ORDER TO MAKE A COMPARISON WITH IT AND TO TEACH US THAT JUST AS TITHE IS A PRIVATE OFFERING, [SO ALL EXCHANGE OF DEDICATIONS MUST BE A PRIVATE OFFERING] THUS EXCLUDING CONGREGATIONAL OFFERINGS.[23] AND JUST AS TITHE IS A DEDICATION FOR THE ALTAR, [SO EXCHANGES CAN BE EFFECTED ONLY WITH DEDICATIONS FOR THE ALTAR] THUS EXCLUDING OFFERINGS DEDICATED FOR TEMPLE REPAIRS.

GEMARA. Our Rabbis have taught: One might think that one can effect exchange with dedications for Temple repairs? The text however says: Korban[24] [offering] implying that [exchange only applies] to what is called korban, thus excluding dedications for Temple repairs which are not called korban. And are not [dedications for Temple repairs called korban]? Has it not been taught:[25] If[26] you interpret the word korban, I can understand it as including even dedications for Temple repairs[27] which are called korban, since it says: And we have brought the Lord's offering etc.?[28] The text however states: And bringeth it not unto the door of the tent of meeting.[29] [We therefore say as follows:] In respect of anything which comes to the door of the tent of meeting, one is guilty [of the transgression] of slaughtering dedicated animals without the Temple court, but in respect of anything which does not come to the door of the tent of meeting, one is not guilty [of the transgression] of slaughtering dedicated animals without the Temple court.[30] Consequently we see that [dedications for Temple repairs], are called korban![31] — Said R. Hanina: This offers no difficulty. This[32] is the opinion of R. Simeon and that[33] is the opinion of the [Rabbis].[34] According to R. Simeon, dedications for Temple repairs are called korban and according to the Rabbis they are not called korban. And are not [dedications for Temple repairs called it korban]? Surely it is written: And we have brought the Lord's korban [offering]?[35] — [Dedications for Temple repairs] are called the Lord's offering, but they are not called an offering for the Lord.[36]

Our Rabbis have taught: He shall not search whether it be good or bad.[37] Now why is this mentioned?[38] Has not Scripture already said: He shall not alter it nor change it, a good for a bad or a bad for a good, etc.?[39] Because it says: ‘He shall not alter it nor change it’, implying either a private offering or a congregational offering, either a dedication for the altar or a dedication for Temple repairs, and [that which is brought obligatorily].[40] [In order to avoid this interpretation] Scripture says: ‘He shall not search’.[41] Said R. Simeon: Now was not tithe implied? And for what purpose was tithe specially mentioned? In order to teach you that just as tithe[42] is a private offering, a dedication for the altar, something which comes obligatorily and something which does not come through a partnership, so all [animals exchanged] must be a private offering, a dedication for the altar, something which comes obligatorily

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(1) The field actually containing the grave which was ploughed and the field on the one side of the grave area and on the other side, i.e., either east and west or north and south, as it is not customary to plough on all the four sides of a field but only east and west or north and south.

(2) I.e., the field containing the grave is entirely unclean but the other two fields, either on the east and west or north and south are only unclean to the extent of two furrows’ length. For the Rabbis have estimated that this is the distance the plough in the field is capable of moving the bones into another field.

(3) Tosef. Oh. XVII.

(4) A grave area.

(5) For both have a share in it. Lit., ‘the terumah of both is terumah’.

(6) Even of the first one, for since the second proceeded to tithe again, he shows thereby that he was not satisfied with the tithing of his partner. Therefore the tithing of the first partner was not with the consent and approval of the second partner. The same applies to the tithing of the second.

(7) One in fifty.

(8) E.g., if he was niggardly in his tithing, giving less than one in fifty, i.e., one in sixty.

(9) Whereas according to R. Akiba in either case the terumah is not valid, and our Mishnah too, as it does not specify whether the terumah was given generously by the first partner or otherwise, must be the view of R. Akiba.

(10) Lev. XXVII, 10.

(11) What will they do with the text ‘shall be’?

(12) If one intends to effect an exchange for a black animal and he exchanged the dedicated animal in error for a white one, the exchange is valid, unlike the case of dedication, where if one intended to dedicate a black animal and he dedicated in error a white one, the dedication is not valid.

(13) One cannot make an exchange for a dedicated bird or meal-offering.

(14) Since Scripture says: And if he shall at all exchange beast for beast.

(15) Ibid.

(16) The word ‘he’ etc.
(17) Supra 31a. Another version is: Dedications for Temple repairs.
(18) Since in connection with ‘exchange’ Scripture says korban (‘offering’) and dedications for Temple repairs are not described as korban.
(19) R. Simeon holds that a dedication for Temple repairs is called korban and therefore there is need for a text to exclude dedications for Temple repairs from the law of exchange.
(20) Animals tithed.
(21) In the word ‘beast’ used in connection with the law of exchange.
(22) As being capable of effecting exchange.
(23) Partners are also excluded, since partners are exempt from the law of tithing animals.
(24) And if it be a beast whereof men bring an offering (korban), Lev. XXVII, 9.
(25) Supra 6b.
(26) In connection with slaughtering and offering without the Temple court, the word korban is expounded as meaning that there is no penalty of excision incurred for slaughtering hullin in the Temple court. The passage then continues: If you etc.
(27) Usually blemished animals unfit for the altar, which yet are described as korban.
(28) Num. XXXI, 50.
(29) Lev. XVII, 4.
(30) And dedications for Temple repairs are usually such animals which are unfit for the door of the tent of meeting.
(31) Unlike the view in the Mishnah.
(32) The Baraitha just quoted.
(33) The Mishnah.
(34) Another version has here the name of Rabbi, who will hold that the name of korban does not apply to dedications for Temple repairs. Our Mishnah will therefore be entirely the opinion of R. Simeon and the reason why dedications for Temple repairs do not effect exchange will not be because of the word korban but as R. Simeon explains subsequently in the Mishnah.
(35) Num. XXXI, 50. We see therefore that the word korban applies also to objects other than dedications for the altar.
(36) This would have implied an offering in the ordinary sense, i.e., a sacrifice for the altar.
(37) Lev: XXVII, 33.
(38) The passage refers to animal tithe.
(39) Lev. XXVII, 10, in connection with the law of exchange, thus implying that all dedications including animal tithe effect exchange.
(40) All these effect exchange. Inserted with Sh. Mek.
(41) The reason therefore why the text again mentions the law of exchange in connection with animal tithe is in order to compare all other exchanges to animal tithe, as R. Simeon explains.
(42) For which exchange is effected.

Talmud - Mas. T'murah 13b

and something which does not come through a partnership.[1] Rabbi says: And for what purpose now is tithe specially mentioned?[2] In order to infer the cases of [one which became tithe through] a change of name[3] and the exchange of actual tithe.[4] [And further] to teach you that that which becomes tithe through a change of name is offered up,[5] whereas the exchange of actual tithe is not offered up;[6] that which becomes tithe through a change of name is redeemed,[7] whereas the exchange of actual tithe is not redeemed;[8] an exchange of actual tithe has effect both on what is fit [unblemished], and what is not fit [blemished],[9] whereas a change of name [of tithe] has effect only on what is fit.[10] The question was asked:[11] Because the Divine Law includes the case of that which became tithe through a change of name, should it therefore be inferior [in holiness]?[12] — Yes, for we say what [the Law] has included is included, but what it has not included, is not included. And whence do you derive this?[13] — Said R. Huna the son of R. Joshua: Because it[14] is made the subject of a fresh statement, and therefore we do not go beyond the anomalous feature.[15]

Said R. Nahman b. Isaac to Raba: According to R. Simeon who says: [Exchange is effected with] something which comes obligatorily, is it only an obligatory burnt-offering that can effect exchange but not a freewill burnt-offering? — He answered him: A freewill burnt-offering also; since he took upon himself [to offer it up],[16] it can effect exchange, and [R. Simeon's teaching][17] is necessary only for the case of a burnt-offering which comes from surpluses [of sacrificial appropriations].[18] Now what is his view? If he holds with the authority who says that the surpluses go for freewill gifts of the congregation, then actually exchange cannot be effected, since a congregation cannot effect exchange! — Then R. Simeon will hold with the authority who says that the surpluses go for freewill gifts of individuals.[19] Now from whom have we heard this opinion? From R. Eliezer.[20] But have we not heard him explicitly [state] that exchange is effected?[21] For it has been taught: A burnt-offering which came from the surpluses can effect exchange. This is the teaching of R. Eliezer! — R. Simeon agrees with him on one point and differs from him on another. [He[22] agrees with him on one point, that surpluses are applied to gifts for individuals],[23] and differs from him on another point, for R. Eliezer holds: A burnt-offering brought from surpluses can effect exchange, whereas R. Simeon holds it cannot effect exchange. If so,[24] as regards the inquiry of R. Abin:[25] If he set apart a guilt-offering with which to obtain atonement and made an exchange for it, and [the[26] first animal then became blemished and he redeemed it for another which became lost], and he obtained atonement through another guilt-offering, and the lost animal was then found and was [automatically] transformed into a burnt-offering, what is the ruling as regards making an exchange with it [the burnt-offering]? Whose opinion does this inquiry presuppose? It can hardly be that of R. Simeon, for you say that R. Simeon holds that a burnt-offering which comes from surpluses cannot effect exchange! — R. Abin's inquiry is thus: If you can find a Tanna who holds R. Simeon's opinion who says that one cannot exchange repeatedly and holds also R. Eliezer's opinion who says that a burnt-offering which comes from the surpluses can effect exchange, what of exchanging it again? With reference to two bodies [different animals] and one kind of holiness,[27] what is the ruling? And if you adopt the opinion that one kind of holiness cannot[28] [effect exchange again], what is the ruling in the case of two kinds of holiness and one body?[29] Let this question remain.[30]

CHAPTER II

MISHNAH

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(1) Since Scripture says ‘shall be to thee’, thus excluding partners.

(2) Subject to the law of exchange, since all dedications are included in the law of exchange. For Rabbi holds that for declaring a private offering subject to the law of exchange there is no need for a special mention of tithe, since Scripture says, ‘he shall etc.’ in the singular. That the dedication must be one for the altar is also inferred from the word korban mentioned in connection with the law of exchange. We therefore see that Rabbi holds that dedications for the Temple repairs are not called korban. Also as regards R. Simeon's exception from the law of exchange of the case of a burnt-offering brought from the surpluses of sacrificial appropriations because dedications must be something which come obligatorily, Rabbi will maintain that surpluses can go for communal offerings. The ruling also concerning partners and congregations not being able to effect exchange can be inferred from the text, He shall not alter, etc., since it is couched in the singular number (Rashi).

(3) Where e.g., one called the tenth animal the ninth and the eleventh the tenth, the law being that both are holy and are offered up as peace-offerings. We derive this from the text: ‘And all the tithe’. The animal is therefore not actually tithe but has been named tithe in error.

(4) Where one put a hullin alongside tithe and said that the first shall be exchanged for the latter, the exchange in this case having effect. There is need for the special mention of tithe, for otherwise I might have said that there is no exchange in this case, as the rendering of an animal tithe by a change of name is itself an anomaly and therefore one cannot go beyond it (Rashi).

(5) V. Bek. 61a.

(6) V. supra 5b.

(7) For it is a peace-offering and a peace-offering is redeemed when blemished.

(8) Since Scripture says: ‘Then both it and the change thereof shall be holy, it shall not be redeemed’.
(9) Like tithe which has effect on blemished animals so far as to restrict the killing of them in the market place and weighing the flesh by the pound.
(10) To receive holiness, like other dedications which do not receive holiness where the blemish was prior to the dedication.
(11) Lit., ‘they said’.
(12) Why then does not holiness have effect on a blemished animal in this connection? There is all the more reason that the case of tithe through change of name should be more strict and take effect even when the animal is blemished.
(13) That we do not include anything beyond what the Torah actually includes.
(14) The tithe through change of name.
(15) And therefore we do not go any further to include any other case.
(16) Although he said ‘Let this, etc.’.
(17) That exchange must be something which comes obligatorily.
(18) Where e.g., one separated money for a sin-offering or a guilt-offering and some of it was left over and with this money we purchased a burnt-offering.
(19) The owners themselves bring a burnt-offering as a gift but not to carry out an obligation.
(20) Who holds that surpluses are applied to gifts for individuals.
(21) What case therefore does R. Simeon exclude in respect of the law of exchange?
(22) Inserted with Sh. Mek.
(23) The text therefore is required to exclude this case from the law of exchange.
(24) That according to R. Simeon a burnt-offering coming from surpluses cannot effect exchange.
(25) V. supra 9a and notes.
(26) Inserted with Sh. Mek.
(27) I.e., if one separated a guilt-offering in order to obtain atonement and exchanged it and then it became blemished and was redeemed for another. The second animal, although another body, possesses the same kind of holiness as the first, i.e., the holiness of a guilt-offering.
(28) Inserted with Sh. Mek.
(29) I.e., if one were atoned for through another guilt-offering and the first lost guilt-offering was then found and transformed into a burnt-offering. Thus here there are two kinds of holiness with the same body.
(30) תיבעי is the term of the Jerusalem Talmud and has the same meaning as תיקו in the Babylonian Talmud.

Talmud - Mas. T'murah 14a

. THERE ARE [LAWS RELATING] TO THE SACRIFICES OF AN INDIVIDUAL WHICH DO NOT APPLY TO CONGREGATIONAL SACRIFICES AND [LAWS RELATING] TO CONGREGATIONAL SACRIFICES WHICH DO NOT APPLY TO THE SACRIFICES OF INDIVIDUALS. FOR SACRIFICES OF AN INDIVIDUAL CAN EFFECT EXCHANGE WHEREAS CONGREGATIONAL SACRIFICES CANNOT EFFECT EXCHANGE; SACRIFICES OF AN INDIVIDUAL CAN BE BOTH MALES AND FEMALES, WHEREAS CONGREGATIONAL SACRIFICES CAN BE ONLY MALES;[1] RESPONSIBILITY REMAINS[2] FOR THE SACRIFICES OF INDIVIDUALS[3] AND[4] THEIR DRINK-OFFERINGS, WHEREAS RESPONSIBILITY DOES NOT REMAIN FOR CONGREGATIONAL SACRIFICES NOR FOR THEIR DRINK-OFFERINGS, ALTHOUGH RESPONSIBILITY REMAINS FOR THEIR DRINK-OFFERINGS WHEN THE SACRIFICE IS OFFERED UP.[5] THERE ARE [LAWS RELATING] TO CONGREGATIONAL SACRIFICES WHICH DO NOT APPLY TO THE SACRIFICES OF INDIVIDUALS, FOR CONGREGATIONAL SACRIFICES SUPERSEDE THE SABBATH AND [THE LAWS] OF RITUAL UNCLEANNESS[6] WHEREAS SACRIFICES OF INDIVIDUALS DO NOT SUPERSEDE EITHER THE SABBATH OR [THE LAWS] OF RITUAL UNCLEANNESS. SAID R. MEIR: BUT ARE THERE NOT THE CASES OF THE OFFERING OF THE BAKED CAKES OF A HIGH PRIEST[7] AND THE BULLOCK FOR THE DAY OF ATONEMENT[8] WHICH ARE SACRIFICES OF INDIVIDUALS AND YET SUPERSEDE THE SABBATH AND [THE LAWS] OF RITUAL UNCLEANNESS? THE MATTER THEREFORE

DEPENDS ON [WHETHER] THE TIME [FOR THE OFFERING UP] IS FIXED.[9]

GEMARA. SACRIFICES OF AN INDIVIDUAL CAN EFFECT EXCHANGE etc. But is this a general rule? Is there not the case of birds which are a sacrifice of an individual and yet they do not effect exchange? — [The Mishnah][10] speaks only of animals. But is there not the case of the offspring of a dedicated animal which is a sacrifice of an individual and yet does not effect exchange? — This view represents the opinion of R. Judah who says: The offspring of a dedicated animal effects exchange. But is there not the case of a substitute itself which is a sacrifice of an individual and a substitute cannot effect an exchange?[11] — [The Mishnah] only refers to the principal sacrifice.[12] And now that you have arrived at this explanation,[13] you can even say that [the Mishnah] will be in agreement with the opinion of the Rabbis,[14] for [the Mishnah] only refers to the principal sacrifice.[15]

SACRIFICES OF AN INDIVIDUAL CAN BE BOTH MALES AND FEMALES. But is this a general rule?[16] Is there not the case of a burnt-offering which is a sacrifice of an individual and can only be a male and not a female? — There is the case of the burnt-offering of a bird,[17] for it has been taught: Unblemished condition and male sex [for purposes of sacrifice] are required only of cattle but unblemished condition and male sex are not required of birds. But is there not the case of a sin-offering which is a sacrifice of an individual and is a female-and not a male? — There is the goat offered by a prince, which is a male. But is there not the case of a guilt-offering which is a sacrifice of an individual and is a male and not a female?[18] — We[19] mean [in the Mishnah][20] a sacrifice which can be brought equally by an individual and a congregation,[21] whereas a guilt-offering can be brought only by an individual but not by a congregation. And if you prefer [another solution] I may say: Does the Mishnah say [there are laws which relate] to all sacrifices? It says [there are laws which relate] to sacrifices.[22] And what are these? peace-offerings; and [it tells us] that if one wishes to bring a female [animal] one may do so and if one wishes to bring a male [animal] one may do so.

RESPONSIBILITY REMAINS FOR SACRIFICES OF AN INDIVIDUAL etc. Whence is this proved?[23] — For our Rabbis have taught: [Scripture says:] Everything upon his day.[24] this teaches us that the additional offerings may be [offered up] all day.[25] The text, ‘upon his day’ teaches us that if the day passed and he did not offer them, he is not responsible for them.[26] One might think that one is not responsible for their drink-offerings although he offered up the sacrifice? The text, however, states: And their meal-offering and their drink-offerings,[27] [their meal-offerings and drink-offerings][28] even by night and their meal-offerings and drink-offerings even on the morrow.[29] Resh Lakish says: [We derive this] from here: Scripture says, Beside the Sabbaths of the Lord.[30] And both [texts][31] are necessary. For if the Divine Law had Only written: ‘Besides the Sabbaths of the Lord’, I might have thought that the drink-offerings may be only offered by day[32] but not by night. Therefore Scripture says: ‘And their meal-offering and their drink-offerings’ — And if the Divine Law had written only. ‘Their meal-offering and their drink-offerings’ and had not written. ‘Besides the Sabbaths of the Lord’, I might have thought that the drink-offerings are only offered by night[33] and not by day.[34] But wherein lies the difference?[35] — Because in respect of dedication, the night follows the day.[36] Therefore [both texts] are necessary. But are drink-offerings offered by night? Surely it has been taught: I can only infer from the text[37] that such things as it is customary to offer up by night, e.g., limbs, fat-pieces, are [brought to the altar, burnt][38] with the setting of the sun and consumed all through the night. Things, however, which it is customary to offer by day, e.g., the fistful of the meal-offering, frankincense and drink-offerings, whence do I know that he may bring them to the altar and burn them with the setting of the sun. ‘With the setting of the sun’ say you? Did you not just say things which it is customary to offer by day?[39] — Say therefore: Before the setting of the sun. — Whence do we derive that these can be consumed all through the night? The text states: This is the law of the burnt-offering;[40] this implies something additional.[41] Now in any case the above passage mentions ‘the drink-offerings’ as something which is offered by day?[42] — Said Rami b. Hama: There is no difficulty; here,[43] the reference is to dedication,[44] and there,[45] to offering.[46] Said Raba to him: If [the drink-offerings] indeed can become dedicated[47] [by night] they can be offered [by night]. For it has been taught: ‘This is the general rule: Whatsoever is offered by day is rendered holy only by day; whatsoever is offered by night is rendered holy only by night; whatsoever is offered both by day and night is rendered holy by day and night’! Rather said R. Joseph: Delete ‘drink-offerings’ [from the Baraitha above].[48] When R. Dimi went up [from Babylon to Palestine] he found R. Jeremiah sitting and lecturing in the name of R. Joshua b. Levi: Whence do we deduce that drink-offerings which accompany a sacrifice[49] can only be offered by day? The text states: And for your drink-offerings and for your peace-offerings;[50] and we say: Just as peace-offerings [are offered] by day, so drink-offerings [are offered] by day. He [R. Dimi] said: If I could have found [a messenger][51] I would have written a letter and sent it to R. Joseph [in Babylon]

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(1) For the majority of such sacrifices are burnt-offerings and a burnt-offering must be a male animal. A congregation also do not bring peace-offerings, save lambs on Pentecost and these are males. Also their sin-offerings are he-goats.

(2) Lit., ‘one is responsible’,for the whole time until they are offered.

(3) Some of these offerings have a fixed time for their sacrifice and even if their time is passed the offering is not void, e.g., the sacrifice of a leper after the eighth day from his cleanliness, or that of a woman after childbirth. In the case, however, of congregational sacrifices which have appointed times, if their time has passed the sacrifices are void.

(4) Lit., ‘and one is responsible for’.

(5) If the sacrifice was offered up at the correct time and the drink-offerings did not accompany the sacrifice, they can be brought within a period of ten days.

(6) They can be brought even in a state of ritual uncleanness.

(7) V. Lev. VI, 13. These have the law of the daily sacrifice which supersedes the Sabbath and ritual uncleanness; v. Men. 50b.

(8) Brought by Aaron, v. Lev. XVI, 3.

(9) The superseding of the Sabbath and ritual uncleanness is determined not by whether a sacrifice is of an individual or congregation, but whether there exists a set time for the particular sacrifice.

(10) which states that a sacrifice of an individual effects exchange.

(11) One cannot say: ‘Let that animal be in place of this exchange’ in order to acquire holiness.

(12) The first animal dedicated and not to one consecrated as a result of this dedication.

(13) That the Mishnah refers to the principal sacrifice.

(14) Who differ from R. Judah and hold that the offspring of a dedicated animal cannot effect exchange.

(15) And the offspring of a dedication, not being the principal dedication, is not included in the rule mentioned in the Mishnah.

(16) For the moment the Mishnah's statement is understood as meaning that all sacrifices of individuals can be males as well as females.

(17) We have here an example of a burnt-offering which can even be a female.

(18) For in connection with it Scripture says a sheep or a ram but not a ewe.

(19) V. Sh. Mek.

(20) By the statement SACRIFICES OF AN INDIVIDUAL CAN BE BOTH MALES AND FEMALES.

(21) Then we say that such a type of sacrifice which can be brought by the individual as well as by the congregation; when however an individual brings it, it can come both from males and females.

(22) Implying that there are some sacrifices which do come from females and males.

(23) That there is no compensation for the bringing of congregational sacrifices, should there be a postponement for some reason.

(24) Lev. XXIII, 37. The text refers to the additional offerings of the festivals.

(25) Provided that they are offered up before the daily sacrifice of the evening.

(26) There is no compensation.

(27) Num. XXIX, 18.

(28) Inserted with Sh. Mek.

(29) If he offered up the sacrifice in its time, he can bring the drink-offerings within a period of ten days, because Scripture uses the plural ‘their drink-offerings’, thus intimating that drink-offerings may be offered at other times as well (R. Gershom).

(30) Lev. XXIII, 38. Scripture says: To offer an offering made by fire, a burnt-offering and a meal-offering, a sacrifice and drink-offerings everything upon his day, ‘and this is followed by the words, Beside the Sabbaths etc. And we adopt here the interpretation based on textual proximity as follows: Drink-offerings etc. everything upon his day, besides etc., i.e., besides those Sabbaths followed by a Festival where it was forgotten to offer the drink-offerings on the Sabbath, for then they can be offered on the following day on the Festival.
(31) Besides the Sabbaths of the Lord and Their meal-offering and their drink-offerings.
(32) Since Scripture says: Everything upon his day followed by the text, Besides the Sabbaths of the Lord, i.e., that the drink-offerings of the Sabbath can be offered up on the following day on the Festival.
(33) But the drink-offerings of the day may be brought at night.
(34) Which follows the night, i.e., the morrow.
(35) Why should we have said that Scripture implies that the drink-offering can only be brought by night and not on the following day, seeing that Scripture makes no distinction?
(36) For Scripture says: Shall be eaten on the same day that it is offered. He shall not leave any of it until the morning (Lev. VII, 15). We therefore see that all the night is still called ‘day’ in respect of dedication.
(37) Viz., It is the burnt-offering because of the burning upon the altar all the night, (Lev. VI, 2), from which we infer one can place it on the altar with the setting of the sun and it goes on burning all the night.
(38) Inserted with Sk. Mek.
(39) How then can we speak of them as being offered with the setting of the sun?
(40) Lev. VI, 2.
(41) Since Scripture in this text makes no distinction and includes all things which go up on the altar to be burnt.
(42) Unlike what is stated in the text that drink-offerings are offered even by night.
(43) The text above ‘their drink-offerings’, from which we infer that drink-offerings may be offered by night.
(44) Implying that if one placed drink-offerings in a sacred vessel at night they are sanctified and cannot become hullin again.
(45) The Baraitha above.
(46) Which can only take place by day.
(47) As the result of placing them in sacred vessels.
(48) Which included drink-offerings as being offered by day.
(49) And which became hallowed with the killing of the sacrifice, thus becoming part of the sacrifice.
(50) Num. XXIX, 39.
(51) V. Rashi and Sh. Mek.

Talmud - Mas. T'murah 14b

to say that he should not delete the case of drink-offerings [from the above Baraitha],[1] and yet there is no contradiction.[2] Here,[3] we are dealing with drink-offerings which accompany a sacrifice,[4] while there[5] we are dealing with drink-offerings which are brought by themselves.[6] And if he had found [someone] could he have written the letter? Did not R. Abba the son of R. Hiyya b. Abba report in the name of R. Johanan: Those who write the traditional teachings[7] [are punished][8] like those who burn the Torah,[9] and he who learns from them [the writings] receives no reward. And R. Judah b. Nahman the Meturgeman[10] of Resh Lakish gave the following [as exposition]: The verse says: Write thou these words[11] and then says: For after the tenor of these words,[11] thus teaching you that matters received as oral traditions you are not permitted to recite from writing and that written things [Biblical passages] you are not permitted to recite from memory.[12] And the Tanna of the School of R. Ishmael taught: Scripture says, ‘Write thou these words’, implying that ‘these’ words you may write but you may not write traditional laws![13] — The answer was given: Perhaps the case is different in regard to a new interpretation.[14] For R. Johanan and Resh Lakish used to peruse the book of Aggadah[15] on Sabbaths[16] and explained [their attitude] in this manner: [Scripture says:] It is time for the Lord to work, they have made void thy law,[17] explaining this as follows: It is better that one letter of the Torah[18] should be uprooted than that the whole Torah should be forgotten.

Said R. Papa: Now that you say that drink-offerings which are brought by themselves[19] are offered even by night, if drink-offerings happen to be at hand by night, we can dedicate them by night[20] and offer them [by night]. Said R. Joseph the son of R. Shema'ia to R. Papa: There is a Baraitha which supports [your dictum]: 'This is the general rule, Whatsoever is offered by day is only dedicated by day, and whatsoever is offered by night is dedicated by night'.

Said R. Adda b. Ahaba:[21] And the rise of the morning dawn disqualifies drink-offerings like[22] the limbs [of the daily evening sacrifice].[23]

When R. Dimi came [from Palestine] he reported that R. Johanan said in the name of R. Simeon b. Jehozadok: [Scripture says:] These things ye shall do unto the Lord in your set feasts:[24] this refers to the obligatory sacrifices which are brought on holy days;[25] beside your vows and your freewill-offerings[24] teach concerning vows and freewill-offerings that they are offered on the Intermediate Days[26] of the Festival; for your burnt-offerings:[24] now of what kind of burnt-offering does the verse speak? If of a freewill burnt-offering, is it not already written, 'your freewill-offerings'? And if of a burnt-offering which was vowed, is it not already written, 'your vows'? [The text][27] therefore can only refer to the burnt-offerings of a woman brought after childbirth and the burnt-offering of a leper.[28] And for your meal-offerings:[24] now of what kind of meal-offering does the verse speak? If of a freewill meal-offering, is not this already written?[29] And if of a meal-offering which was vowed, is not this already written?[30] [The text] therefore can only refer to a sinner's meal-offering and a meal-offering of jealousy.[31] And for your drink-offerings and for your peace-offerings[24] implies an analogy between drink-offerings and peace-offerings [as follows]: Just as peace-offerings are offered by day so drink-offerings [which accompany a sacrifice] are offered by day. 'And for your peace-offerings' includes peace-offerings of a Nazirite.[32]

Said Abaye to him: And why not say that the text[33] includes peace-offerings of the Passover,[34] for if the text includes peace-offerings of a Nazirite, they are sacrifices which are the subject of a vow or a freewill dedication,[35] and we have learnt: 'This is the general rule, Whatsoever is the subject of a vow or a freewill dedication, may be offered on a private bamah[36] and whatsoever is not the subject of a vow or a freewill dedication must not be offered on a private bamah'.[37] And it has been taught: 'Meal-offerings and offerings in connection with a Nazirite may be offered on a private bamah'.[38] This is the teaching of R. Meir. — Delete[39] from here[40] the case of a Nazirite.[41] But is there an authority who holds that a Nazirite is not the subject of a vow or a freewill-offering? Lo, it is written: And it came to pass after forty years that Absalom said to the King, [pray thee let me go and pay my vow which I vowed unto the Lord in Hebron. For thy servant vowed a vow, etc.[42] Now does this not refer to the sacrifice?[43] — No, it refers to the vow itself.[44] 'The vow itself' — was it made in Hebron? Was it not made in Geshur?[45] Said R. Aha, some say Rabbah son of R. Hanan: Absalom only went in order to bring sheep from Hebron.[46] So indeed it stands to reason. For if you say that he went to Hebron to offer up, would he leave Jerusalem and go to offer up in Hebron? — Then what do you say? That he went to bring sheep from Hebron? Then why does it say: 'Which I vowed unto the Lord in Hebron'? It ought to say 'from Hebron'! — One can still say that he went to offer in Hebron,[47] and as regards your difficulty as to why he left Jerusalem and came to offer in Hebron, why not raise this same difficulty with reference to Gibeon which was a holy place?[48] This however is the explanation: Once it has become permissible to offer on the bamahs, he can offer wherever he wishes.[49]

It says: 'After forty years'. Forty years from what? — R. Nehorai reported in the name of R. Joshua: Forty years from when [the Israelites] asked for a king. For it has been taught: The year in which the Israelites asked for a king was the tenth year of Samuel's leadership.

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(1) That drink-offerings are indeed offered by day.

(2) With the text cited above: 'Their meal-offering and drink-offering, which was explained above as meaning that drink-offerings may be offered by night.

(3) In the Baraitha above which includes the case of drink-offerings as being offered by day.

(4) The offering up of a sacrifice rendered the drink-offerings sacred so that they cannot be offered by night, like the sacrifice itself.

(5) The text, ‘Their meal-offering etc.’.

(6) Which were not hallowed by the killing of the sacrifice but were dedicated after the sacrifice had been offered up. In such a case, drink-offerings may be offered for ten days, including the nights.

(7) Halachahs, v. Glos.

(8) V. R. Gershom.

(9) For it is forbidden to retain oral traditions which have been committed to writing, since they belong to the Oral Law (Rashi). Another explanation of Rashi: These writings are not saved on Sabbath in case of fire.

(10) Lit., ‘interpreter’; his Amora who expounded his lectures, v. Glos. s.v. Amora.

(11) Ex. XXXIV, 27.

(12) Tosaf. asks how then do we recite psalms, and answers that we are only particular as regards the Pentateuch. Furthermore the restriction only applies when we are desirous of acting on behalf of others.

(13) How therefore could R. Dimi have written down the oral tradition with reference to drink-offerings?

(14) The analogy quoted above: ‘And just as peace-offerings are offered by day etc.’ (R. Gershom). Another explanation (Rashi): Any new interpretation which reconciles conflicting Baraithas. Sh. Mek. adds: Another version: The answer was given. The Rabbis rely on what they learn, but since there is forgetfulness, they reduce to writing and when the occasion arises they look into the book.

(15) Homiletic literature.

(16) In order that the Aggadahs might not be forgotten.

(17) Ps. CXIX, 126. When a thing is done in the name of God it is sometimes necessary to nullify the Law. The reason for the prohibition of reducing to writing oral tradition has so far not been satisfactorily explained. For a full discussion of the problem, as well as an attempt to explain the term halachahs mentioned in this connection, v. Kaplan, J. The Redaction of the Talmud, pp. 261ff.

(18) I.e., the passage: ‘For after the tenor of these words’ which prohibits the committing to writing of oral traditions.

(19) Even though dedicated in connection with a sacrifice, they were not offered at the same time as a sacrifice.

(20) By placing them in a sacred vessel.

(21) Referring to R. Papa's ruling above that drink-offerings dedicated by night must be offered by night.

(22) So Rashi.

(23) Which is disqualified at the approach of dawn. Another explanation of R. Adda's ruling (R. Gershom) is as follows: Referring to the Baraitha above which says the limbs and joints go on being consumed all night, R. Adda says: The approach of the time for the bringing of the daily morning sacrifice disqualifies the limbs if they are not consumed by then. But only the actual offering up of the morning sacrifice disqualifies, as then it is already day, but not the mere preparations on the altar for the morning sacrifice.

(24) Num. XXIX, 39.

(25) E.g., the festive sacrifice, the offering of appearance before God and the additional festival offerings.

(26) But not on the Festival itself, as vows and freewill-offerings cannot be brought on a festival.

(27) ‘For your burnt-offerings’.

(28) Which are also offered on the Intermediate Days of the Festival (R. Gershom).

(29) In the words, ‘your freewill-offerings’.

(30) In the words,’your vows’.

(31) Brought in connection with a woman suspected of infidelity.

(32) These also are offered on the Intermediate Days of the Festival (R. Gershom). Scripture cannot here mean to include freewill peace-offerings, since the text has already said ‘your vows’. And if the text is for the purposes of analogy, let Scripture say ‘and for peace-offerings’. Why ‘and for your peace-offerings?’ (Rashi).

(33) ‘And for your peace-offerings’.

(34) If there was a large company for the paschal lamb so that it would not suffice for all present, peace-offerings were brought with it; and Abaye would learn that if these were set aside for that purpose on the fourteenth of Nisan but were not offered up, they could be offered on the Intermediate Days. For, according to Abaye, there is no need for Scripture to include the case of peace-offerings of a Nazirite, as this can be inferred from the text, ‘for your freewill-offerings and your vows’, for Naziriteship is the subject of a vow and freewill dedication, whereas peace-offerings in connection with the passover are obligatory sacrifices.

(35) For a man can vow to be a Nazirite and after completing the period of Naziriteship he brings his peace-offering.

(36) A temporary and improvised altar.

(37) Meg. 9b.

(38) Zeb. 117b. We consequently see that a Nazirite is the subject of a vow etc. Otherwise one could not offer sacrifices of a Nazirite on a private bamah.

(39) Var. lec. insert: Said R. Joseph (v. Sh. Mek.).

(40) From the cited Baraitha.

(41) So that although a Nazirite is the subject of a vow and a freewill dedication, this does not apply to the sacrifices which a Nazirite has to bring later on, these being obligatory, for the vow of a Nazirite at the outset only has reference to wine and the sacrifices come later automatically.

(42) II Sam. XV, 7.

(43) Implying that he will go to Hebron and pay his vows there. Now Absalom was a life Nazirite and every year he shaved himself and brought the appropriate sacrifice. Since he went to offer his sacrifice in Hebron where there were private bamahs, we can infer that a Nazirite is the subject of vows and freewill-offerings.

(44) The word Hebron in the text means this: I will go to the place of a large bamah i.e., Gibeon and there pay my vows which I made at Hebron. But the text does not mean that Absalom actually fulfilled his vows in Hebron.

(45) Since Scripture says: ‘For thy servant vowed a vow while I abode at Geshur’.

(46) The sheep there being large and fat and his intention being subsequently to offer them in Gideon on a large bamah. The text therefore does not mean that the vow was made in Hebron, only that he obtained the sheep at Hebron.

(47) For a Nazirite can offer his sacrifice on a private bamah.

(48) For in that place there was an altar which Moses made. Why not go there?

(49) Absalom therefore went to Hebron and saw the sheep, and being there, he decided to offer in the same place (Wilna Gaon). The Rabbis who differ from R. Meir, however, hold that a Nazirite is not the subject of vows and therefore Absalom went to Hebron for the sheep but the actual offering was in Gibeon, on a large bamah (Tosaf). R. Dimi therefore who includes peace-offerings in connection with a Nazirite, agrees with the Rabbis who hold that a Nazirite is not the subject of vows and the Baraitha quoted above is the opinion of R. Meir.

Talmud - Mas. T'murah 15a

Samuel himself[1] ruled ten years,[2] there was one year in which both Saul and Samuel ruled[3] and two years in which Saul himself ruled[4] and thirty-six[5] years in which David reigned.[6]

MISHNAH. A SIN-OFFERING OF AN INDIVIDUAL WHOSE OWNERS HAVE PROCURED ATONEMENT[7] IS LEFT TO DIE,[8] WHEREAS THAT OF A CONGREGATION[9] IS NOT LEFT TO DIE.[10] R. JUDAH, HOWEVER, SAYS: [IT IS] LEFT TO DIE.[11] R. SIMEON SAID: WHAT DO WE FIND WITH REGARD TO THE OFFSPRING OF A DEDICATED ANIMAL, THE SUBSTITUTE OF A SIN-OFFERING AND A SIN-OFFERING WHOSE OWNERS DIED?[12] [THAT THE RULES CONCERNING] THESE APPLY ONLY TO AN INDIVIDUAL BUT NOT A CONGREGATION. SIMILARLY [THE RULES CONCERNING] THE SIN-OFFERING WHOSE OWNERS HAVE PROCURED ATONEMENT AND [A SIN-OFFERING] WHOSE YEAR HAS PASSED[13] APPLIES ONLY TO AN INDIVIDUAL BUT NOT A CONGREGATION.[14]

GEMARA. Our Rabbis have taught: Why does [Scripture] say: And if he bring [a lamb] for a sin-offering?[15] Whence do we derive that if one dedicated a sin-offering and it became lost and he separated another animal in its place and the first animal was then found, and both are standing before us, whence do we derive that he may bring whichever one he chooses?[16] The text states: ‘And if he bring a sin-offering’. One might think that he may bring both of them. The text however states: ‘He shall bring it’,[17] implying one[18] but not two. And what becomes of the second sin-offering? — Said R. Hamnuna: It has been taught: R. Judah says, It is left to pasture, whereas R. Simeon says: It is left to die.[19] But does indeed R. Judah hold that it is left to pasture? Have we not heard R. Judah to hold that IT IS LEFT TO DIE?[20] — Reverse [the names in the above Baraitha] as follows: R. Judah says: It is left to die, whereas R. Simeon says: It is left to pasture. But does indeed R. Simeon hold that is is left to pasture? Did not R. Simeon say: Five sin-offerings are left to die?[21] — Rather you need not at all reverse [the names of the Baraitha above] and there is no difficulty.[22] There,[23] [we are dealing] with a case where [the first sin-offering] was lost when the second animal was separated [for a sin-offering],[24] and here,[25] we are dealing with a case where [the first sin-offering] was lost at the time of the atonement [by means of the second animal].[26] And if you prefer [another solution] I may say, In both cases we suppose [the first sin-offering] was lost at the time of the separating [of the second animal][27] and yet there is no difficulty.[28] This[29] is the opinion of R. Judah according to Rabbi,[30] and that[31] is the opinion of R. Judah according to the Rabbis.[32] But[33] is there an authority who holds that a congregational sin-offering whose owners procured atonement is left to die?

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(1) Without Saul after the death of Eli.

(2) In the tenth year of Samuel's ruling they asked for a king (Rashi).

(3) Saul following Samuel's advice.

(4) Without Samuel's guidance, although he was still alive, for Samuel died only four months before Saul.

(5) So Rashi. The text has thirty-seven.

(6) We have therefore thirteen years for Samuel and Saul after the death of Eli until David, and David reigned thirty-six years, up to the rebellion of Absalom. We have thus forty-nine years. Deduct from this nine years for Samuel's leadership before the Israelites asked for a king, and we find that when Absalom revolted it was forty years since the Israelites had asked for a king; v. Nazir 5a.

(7) If the animal became lost and atonement was obtained by means of another animal.

(8) For it is a Sinaitic tradition that there are five sin-offerings, of which this is one, which are left to die.

(9) Who were atoned for with another sin-offering.

(10) As according to the view of the first Tanna this tradition only refers to the sin-offerings of an individual but not to that of a congregation.

(11) Since the tradition applies even to a congregational sin-offering.

(12) Of the five sin-offerings which are condemned to die, three cannot belong to a congregation, namely, the offspring of a sin-offering, for a congregation cannot bring a female animal; the substitute of a sin-offering, since a congregation cannot effect an exchange; and finally the case where the owners of a sin-offering die, this law not applying to a congregation, as explained later in the Gemara.

(13) Which is older than one year, the period assigned for a sin-offering.

(14) Although it is possible to have a congregation bringing these two kinds of sin-offerings.

(15) Lev. IV, 32. What need is there for the words: ‘And if he bring’? Scripture could have said: If a lamb be his offering.

(16) For a sin-offering.

(17) The latter part of the verse: ‘And if he bring a lamb for a sin-offering’.

(18) Animal to be brought as a sin-offering.

(19) Since it is a case of a sin-offering of an individual whose owners have already procured atonement.

(20) Even in the case of a congregational sin-offering, and how much more so then in the case of a sin-offering of an individual.

(21) V. our Mishnah; and R. Simeon states there distinctly that all the five cases affect only individuals and one of them is the case of the sin-offerings whose owners have procured atonement.

(22) As regards the conflicting views of R. Judah in the Mishnah and in the Baraitha.

(23) In the Baraitha where he says that the sin-offering is condemned to pasture.

(24) Before its offering. Since then he can bring either, the second animal is only condemned to pasture.

(25) In the Mishnah.

(26) Since therefore the owners have procured atonement through the second animal, the first animal is left to die.

(27) The first animal was found, however, before atonement was procured by means of the second animal.

(28) V. p. 104, n. 10.

(29) In the Mishnah which says that it is left to die.

(30) Who holds (infra 22b) that if the first offering is lost at the time of the separation of the second animal, although it is found before atonement is obtained by means of the second animal, the latter is left to die.

(31) The Baraitha which says that the sin-offering is left only to pasture.

(32) Who differ from Rabbi and hold that the law of a sin-offering being left to die only applies after the owners had procured atonement by means of the second animal.

(33) The question refers to the Mishnah where R. Judah says that even a congregational sin-offering is condemned to die.

Talmud - Mas. T'murah 15b

Has it not been taught: Likewise,[1] R. Jose said: The children of the captivity that were come out of the exile offered burnt-offerings, twelve bullocks, ninety-six rams, seventy-seven lambs, twelve he-goats, for a sin-offering, all this was a burnt-offering unto the Lord.[2] But can a sin-offering be brought as a burnt-offering?[3] — Said Raba: [It means] like a burnt-offering [in this respect]. Just as a burnt-offering must not be eaten, so that sin-offering was not to be eaten. For R. Jose used to say: They brought the twelve he-goats[4] for the sin of idolatry. And Rab Judah reported in the name of Samuel: On account of the idolatry which they committed in the time of Zedekiah. Now, assuming that the one[5] who holds that a congregational sin-offering whose owners procured atonement is left to die, also holds that a sin-offering whose owners have died is left to die, is there not here[6] a case where the owners have died[7] and yet the sin-offering is offered![8] — Said R. Papa: Even according to the one who holds that a congregational sin-offering whose owners have procured atonement is left to die, a congregational sin-offering whose owners have died is not left to die, for ‘a congregation does not die’.[9]

Whence does R. Papa derive this? Shall we say because Scripture says: Instead of thy fathers shall be thy children?[10] If this be so, the same should apply to [the sacrifice] of an individual?[11] — Rather this is the reason why [the law of] the owners of [a sin-offering] who died does not apply to a congregation, because [we make an inference] from the case of the goats brought on Festivals and New Moons, since the Divine Law says: Bring them from the offerings of the Temple Treasury. Now perhaps the owners of this money have died?[12] Must you therefore not admit that a congregation does not die? And if you prefer [another solution] I may say: When these sin-offerings [goats] were offered[13] they were offered on behalf of those still alive,[14] since Scripture says: But many of the priests and Levites and chiefs of the fathers who were ancient men, that had seen the first house, when the foundation of this house was laid before their eyes, wept with a loud voice and many shouted aloud for joy.[15] Perhaps [the survivors] were only a minority?[16] — You cannot say this, since [the text continues]: So that the people could not discern the noise of the shouting from the noise of the weeping of the people.[17] But how could they bring [a sacrifice for idolatry]? Were they not wilful [sinners of idolatry in the days of Zedekiah]? — Said R. Johanan: It was a special decision.[18] So indeed it stands to reason.[19] For should you not say so, there is no difficulty as regards [the twelve] bullocks and [the twelve] goats, for this corresponds with the twelve tribes.[20] But as regards [rams][21] and lambs, with reference to whom [were they brought]? You must say therefore that this was a special decision [and here, too, it was a special decision].[22]

We have learnt elsewhere: When Joseph b. Jo'ezer of Zereda and Joseph b. Johanan of Jerusalem died the grape-clusters [the scholars] came to an end.[23] What is the meaning of eshkoloth [grapeclusters]?[24] — A man in whom all is contained.[25] R. Judah reported in the name of Samuel: All the ‘grape-clusters’ who arose from the days of Moses until Joseph b. Jo'ezer learnt Torah like Moses our Teacher.[26] From that time onward, they did not learn Torah like Moses our Teacher. But did not Rab Judah report in the name of Samuel: Three thousand halachoth were forgotten during the period of mourning for Moses? — Those laws which were forgotten were forgotten, but those which were learnt[27] they learnt like Moses our Teacher. But has it not been taught: After the death of Moses, if those who pronounced unclean were in the majority,[28] they [the Rabbis] declared [the object] unclean, and if those who pronounced clean were in the majority, they [the Rabbis] declared [it] clean?[29] — Their acumen[30] diminished, but what they had learnt[31] they learnt like Moses our

Teacher.[32]

It has been taught: All the ‘grape-clusters’ who arose in Israel from the days of Moses until the death of Joseph b. Jo'ezer of Zereda were free from all dofi [taint].[33] From that time onward some matter of taint was found in them.[34] But has it not been taught: There is the story of a certain hasid[35] who groaned [from a pain] in his heart, and when the doctors were consulted they said that there was no remedy for him unless he sucked hot milk from [a goat[36] every morning]. They brought a goat and bound it to the feet of his bed and he used to suck milk from it. Next day his friends came to visit him. When they saw the goat they exclaimed: ‘A robber in arms is in the house[37] and shall we go in to visit him?’ [They[38] left him immediately. When he died] they sat down and made investigation and found no other sin in him except that of [the keeping of] the goat. He [the hasid] too at his death said: ‘I myself know that I have not sinned except in the keeping of this goat, having thus transgressed the teaching of my colleagues’. For the Sages taught: One must not rear small cattle in the Land of Israel. And it is also an established fact with us that wherever the Talmud speaks of a certain hasid it refers either to R. Judah b. Baba or R. Judah b. Ila'i. Now [these] Rabbis[39] lived many generations after Joseph b. Jo'ezer of Zereda.[40]

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(1) Tosaf. explains that the Baraitha cited here is with reference to Lev. V, 10 where it says: And he shall offer the second for a burnt-offering. The Baraitha states that just as a burnt-offering must not be eaten, so this sin-offering must not be eaten. Thereupon the Baraitha proceeds: Likewise, etc.

(2) Ezra VIII, 35.

(3) Since the text says here that twelve sin-offerings were all brought as a burnt-offering.

(4) Corresponding to the twelve tribes. A goat for a sin-offering is brought for the sin of idolatry of which a congregation has been guilty and it is burnt outside the camp.

(5) R. Judah in the Mishnah.

(6) In the text just quoted.

(7) The owners having died during the seventy years of captivity in Babylon.

(8) In spite of the fact that the owners were dead.

(9) I.e., the relevant law does not apply to a congregation,

(10) Ps. XLV, 17. I.e., that the children take the place of the fathers and the sin-offering is offered up, for it is not considered as being ownerless.

(11) Where a man dies, his son in his place should be considered the owner of the sin-offering.

(12) And therefore the sin-offerings have no owners and should be condemned to die.

(13) For the sin of idolatry in the days of Ezra.

(14) From those who worshipped idolatry in the days of Zedekiah.

(15) Ezra III, 22. I.e., those who had not seen the first Temple, rejoiced now aloud.

(16) A minority of the Israelites, and for a minority we do not offer the same sacrifice as for a majority but as for individuals. Since then twelve goats were offered on behalf of the twelve tribes, these must have been meant for the first people mentioned in the text who had died, and we can therefore infer that the law of a sin-offering whose owner died does not apply to a congregation.

(17) We therefore see that those who wept were in a majority over those who rejoiced and the weepers belonged to the first people mentioned in the text who had died (Rashi).

(18) And not to be taken as a precedent.

(19) That it is a special decision.

(20) Since the congregational offering for idolatry is a bullock for a burnt-offering and a goat for a sin-offering.

(21) V. Bah.

(22) The bringing of a sacrifice for wilful idolatry. The bracketed words are inserted with sh. Mek.

(23) V. Sot. (Sonc. ed.) p. 249, n. 4.

(24) Inserted with Sh. Mek.

(25) Heb. ish she-hakol bo, a play on the word eshkoloth; universality of the knowledge of the Torah (v. Sh. Mek.). Rashi explains the phrase as denoting one having the knowledge in Torah, fearing God and practising benevolence.

(26) Scrupulous and exact in the knowledge of the laws and regulations.

(27) Lit., 'those they had on tradition'.
(28) R. Gershom explains that this refers to the laws which were forgotten during the period of mourning for Moses.
(29) We therefore see that there were differences of opinion with reference to many laws soon after the death of Moses.
(30) Lit., 'heart', and they could not recall the laws by means of discussion. Therefore there were differences of opinion with reference to them and the laws were settled by going according to the decision of the majority.
(31) V. p. 107, n. 11.
(32) Scrupulously and correctly.
(33) For the moment the word דופי is understood as meaning 'taint' of sin.
(34) They were not so upright.
(35) A pious man.
(36) Inserted with Sh. Mek.
(37) Small cattle cannot be looked after as they go and feed in other fields, thus an owner of small cattle is guilty of robbing another man's pasture; v. B.K. 80a.
(38) Inserted with Sh. Mek.
(39) I.e., R. Judah b. Ila'i and R. Judah b. Baba, and it says here that no sin was found in them.
(40) Consequently there was no taint of sin found among the leaders, even after the period of Joseph b. Jo'ezer.

Talmud - Mas. T'murah 16a

Said R. Joseph: [The word dofi here means] dispute, [e.g., the dispute] relating to 'laying on of hands'.[1] But does not Joseph b. Jo'ezer himself differ with reference to the law of laying on of hands?[2] — When he differed it was in his latter years, when his mental powers[3] declined.

The [above] text [stated]: 'Rab Judah reported in the name of Samuel: Three thousand traditional laws were forgotten during the period of mourning for Moses'. They said to Joshua: 'Ask';[4] he replied: It is not in heaven.[5] They [the Israelites] said to Samuel: 'Ask'; he replied: [Scripture says:] These are the commandments,[6] implying [that since the promulgation of these commandments] no prophet has now the right to introduce anything new.

Said R. Isaac the Smith: Also the law relating to a sin-offering whose owners have died[7] was forgotten[8] during the period of mourning for Moses. They [the Israelites] said to Phinehas: 'Ask'; he replied to them: 'It is not in heaven'.[9] They said to Eleazar: 'Ask'. He replied: 'These are the commandments', implying [that since the promulgation of these commandments] no prophet has now the right to introduce anything new.

Rab Judah reported in the name of Rab: When Moses departed [this world] for the Garden of Eden he said to Joshua: 'Ask me concerning all the doubts you have'.[10] He replied to him: 'My Master, have I ever left you for one hour and gone elsewhere?[11] Did you not write concerning me in the Torah: But his servant Joshua the son of Nun departed not out of the tabernacle?[12] Immediately the strength [of Moses] weakened[13] and [Joshua] forgot[14] three hundred laws and there arose [in his mind] seven hundred doubts [concerning laws]. Then all the Israelites rose up to kill him.[15] The Holy One, blessed be He, then said to him [Joshua]: 'It is not possible to tell you.[16] Go and occupy their attention in war, as it says: Now after the death of Moses the servant of the Lord, it came to pass that the Lord spake;[17] and it further says; [Prepare you victuals for within three days, etc.].[18]

It has been taught: A thousand and seven hundred kal wahomer[19] and gezerah shawah[20] and specifications of the Scribes[21] were forgotten during the period of mourning for Moses. Said R. Abbuha: Nevertheless Othniel the son of Kenaz restored [these forgotten teachings] as a result of his dialectics, as it says: And Othniel the son of Kenaz, the brother of Caleb, took it;[22] and he gave him Achsah his daughter to wife.[23] And why was her name called Achsah? — Said[24] R. Johanan: Because whosoever saw her was angry with his wife.[25] And it came to pass as she came unto him that she moved him to ask of her father a field. And she alighted [watiznah] off her ass.[26] What does the word wa-tiznah mean? Raba reported in the name of R. Isaac: She said to him: Just as an ass when it has no food in its trough immediately cries out,[27] so a woman when she has no wheat in her house cries out immediately, [as it says: And Caleb said unto her: What wouldst thou?].[24] And she answered, Give me a blessing for thou hast given me a south land,[28] implying a house dry[29] [devoid] of all goodness [money]; give me also springs of water,[30] meaning a man in whom is Only Torah.[31] And he gave her the upper springs [gulloth] and the nether springs.[30] He said to her: 'One to whom all the secrets of the upper and nether worlds are revealed,[32] need one ask food from him?'[33] But was Caleb the son of Kenaz?[34] Was he not the son of Jephunneh?[35] — The meaning of the word Jephunneh is that he turned[36] from the counsel of the spies. But still was he [Caleb] the son of Kenaz? Was he not the son of Hezron, since it says: And Caleb the son of Hezron begat Azubah?[37] — Said Raba: He [Caleb] was a stepson of Kenaz.[38] [This can also be proved,[39] since it says: Caleb the son of Jephunneh the Kenezite,[40] but does not say the son of Kenaz.][41] A Tanna taught: Othniel is the same as Jabez.[42] He[43] was called Othniel because God answered him,[44] and Jabez because he counselled[45] and fostered Torah in Israel. And what was his [real] name? Judah the brother of Simeon. And whence do we derive that God answered him? — Since it says: And Jabez called on the God of Israel saying, Oh that thou wouldst bless me indeed and enlarge my border, and that thine hand might be with me, and that thou wouldst keep me from evil that it may not grieve me! And God granted him that which he requested.[46] 'Oh that thou wouldst bless me indeed' with Torah; 'and enlarge my border' with pupils; 'that thine hand might be with me', that my studies may not be forgotten from my heart; 'and that thou wouldst keep me from evil', that I may meet friends like myself; 'that it may not grieve me', that the evil inclination may not have power over me so as to prevent me from studying: If thou doest so it is well, but if not, I shall go with my 'grief' to the grave. Immediately, 'God granted him that which he requested'.[47] You find a similar example: The poor man and the man of medium wealth meet together,[48] the Lord lighteneth both their eyes.[49] When the pupil questions his teacher and says to him: 'Teach me Torah', if he teaches him, the Lord enlightens the eyes of both of them,[50] and if not, 'the rich and poor meet together, the Lord is the maker of them all:[51] He who made this one wise can make him a fool, and He who has made this one a fool can make him wise.[52] This is the teaching of R. Nathan. R. Judah the Prince says: 'If thou wouldst bless me indeed', by multiplying and increasing; 'and enlarge my border', with sons and daughters; 'and that thine hand might be with me', in business; 'and thou wouldst keep me from evil', that I have no head-ache, ear-ache nor eye-ache; 'that it may not grieve me', that the evil inclination may not have power over me so as to prevent me from studying: If thou doest so, it is well, but if not, I will go with my 'grief' to the grave. 'And God granted him that which he requested'.

Likewise[53] you say: The poor man and the man of medium wealth have met together, the Lord lighteneth both their eyes;[54] when the poor man goes to the donor and says, 'Assist me',if he assists him it is well, but if not, 'the rich and the poor meet together, the Lord is the maker of them all': He who made this one rich can make him poor, and He who made this one poor can make him rich.

SAID R. SIMEON: WHAT DO WE FIND AS REGARDS etc. Our Rabbis taught: R. Simeon says, Five sin-offerings are left to die — an offspring of a dedicated animal, the substitute of a sin-offering, a sin-offering whose owner has died, a sin-offering whose owner has procured atonement, and a sin-offering whose year is passed. Now you cannot apply [the law of] the offspring of a dedicated animal to a congregation because a congregation does not bring a female animal [for an offering]. You cannot also apply [the law of] the substitute of a sin-offering to a congregation because a congregation cannot effect exchange. You cannot also apply [the law of] a sin-offering whose owner has died to a congregation because 'a congregation does not die'. With regard to the cases of a sin-offering whose owner has procured atonement or whose year is passed, we do not as yet know.[55] Shall we say then that these have the same rule in the case both of a congregation and an individual? I will tell you. Let the cases which are not explicitly stated[56] be derived [by analogy] from the cases explicitly stated[57] [as follows]: Just as the cases explicitly stated apply to an individual and not to a congregation, so the cases regarding the owners of a sin-offering who have procured atonement and a sin-offering whose year has passed only apply to an individual and not to a congregation.

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(1) The laying of hands on the animal previous to a sacrifice on a Festival, which was the very first subject over which there was a difference of opinion, the School of Shammai holding that it was permissible and the School of Hillel that it was not permissible. This controversy took place after the time of Joseph b. Jo'ezer.

(2) Hag. 16a. V. (Sonc. ed.) p. 105, n. 1. We therefore see that even in Joseph b. Jo'ezers time there were already differences of opinion relating to certain laws.

(3) Lit., ‘heart’.

(4) Through the holy spirit, that these forgotten laws should be taught anew (R. Gershom).

(5) Deut. XXX, 12. The whole Torah has already been given.

(6) Num. XXXVI, 13.

(7) Var. lec.: Have obtained atonement.

(8) Whether the animal was left to die or to pasture.

(9) Bah omits from ‘It is not’ to ‘he replied’.

(10) On any points of law.

(11) I.e., I have no doubts.

(12) Ex. XXXIII, 11.

(13) I.e., he took offence at Joshua's remark, which implied he had no longer need of him.

(14) He was punished for causing this weakness of Moses.

(15) Until he should tell them the laws.

(16) These laws, since the Torah is not in heaven.

(17) Josh. I, 1.

(18) Ibid. II. The bracketed words are inserted with Bah; v. also Sh. Mek.

(19) Conclusion from minor to major.

(20) Analogies based on verbal congruities.

(21) Numerical tabulations, (e.g., thirteen things were taught with reference to nebelah of a clean bird, five are not in a position to give temurah, etc). employed by the Rabbis as an aid to remembering the laws.

(22) I.e., Kiryath Sefer (Lit., ‘the city of the book’) and explained as meaning that Othniel won back the store of traditional teachings lost during the mourning period for Moses.

(23) Josh. XV, 17.

(24) Inserted with Sh. Mek.

(25) Because she was very beautiful, the word עכסה being derived from the word כעס which means ‘anger’.

(26) The continuation of the previous text.

(27) The word ותצנח is explained here as being derived from צוח ‘To cry out’, ‘shout’.

(28) Ibid. 18-19.

(29) The word נגב ‘south’ is here derived from the root נגב meaning ‘to be dry’.

(30) Josh. XV, 18-19.

(31) I.e., aman to whom the Torah is geluyah (revealed), a play on the word gulloth (springs).

(32) V. Bah; cur. edd. read: Let him seek food from him who dwells with the upper and nether worlds.

(33) Var. lec. ‘of me’, hence render: ‘need he seek food of me, surely he will not be in want’.

(34) For the Gemara above cites the text which says that Othniel the brother of Caleb was the son of Kenaz, thus implying that Kenaz was the father of Caleb.

(35) Since Scripture says (Josh. XIV, 13) Caleb the son of Jephunneh and does not say the son of Kenaz.

(36) יפונה and פנה ‘turn from’ having verbal similarity.

(37) I Chron. II, 18. This is explained in Sot. 12a to mean that he married Miriam who was forsaken on account of an illness. Since he therefore married her for heaven's sake, Scripture accounts it as if he had begotten her.

(38) And Othniel was his brother on the maternal side.

(39) That Caleb was not the son of Kenaz, his father being Hezron.

(40) Josh. ibid.

(41) Now if Caleb's father was Kenaz, why does not the text say, ‘the son of Kenaz’? This therefore proves that Kenaz only brought him up but did not beget him. The bracketed passage is inserted with Rashi and Sh. Mek; V. Wilna Gaon Glosses.

(42) In I Chron. II, 55 it says: And the families of the Scribes which dwelt at Jabez, these are the Kenites, and in Judg. I,16: And the children of the Kenites, etc. and went, etc. This must have been Othniel, Later on it says: And Judah went with Simeon his brother, referring to Othniel mentioned previously in the text (Wilna Gaon Glosses).

(43) For this reading v. Sh. Mek.

(44) עתניאל combining the words ענה with אל .

(45) יעבץ and יעץ ‘advising’, having some verbal similarity.

(46) I Chron. IV, 10.

(47) Showing that if one devotes himself to the study of the Torah all his petitions are fulfilled.

(48) ‘Poor’ is interpreted in the sense of one who is devoid of the knowledge of Torah and the expression, ‘A man of medium wealth’ is interpreted as one who only possesses a moderate knowledge of the Torah. When therefore the poor man asks the other to teach him, it is incumbent on the latter to do so just as God carried out the wish of Othniel (R. Gershom).

(49) Prov. XXIX, 13.

(50) For even the teacher requires enlightenment from God.

(51) Prov. XXII, 2.

(52) God now starts to make them afresh, a fool or a wise man.

(53) This Tanna explains the text with reference to money and the need for assisting a person in want, as God did with Othniel (R. Gershom). Rashi explains ‘likewise’ as meaning that if one seeks and petitions for sustenance, heaven will fulfil his wishes.

(54) Both will become rich (R. Gershom).

(55) Lit., ‘we have not learnt’, whether they apply to a congregation.

(56) As to whether they apply to a congregation, the cases being a sin-offering whose owners procured atonement and a sin-offering whose year is passed.

(57) I.e., in the cases of offspring of a dedicated animal, a sin-offering whose owners died, and a substitute of a sin-offering.

Talmud - Mas. T'murah 16b

But can we form an analogy between a case where there is an alternative and a case where there is none?[1] — Said Resh Lakish: Four sin-offerings were specified to the Israelites [on Sinai to be left to die][2] and the rule was extended to five.[3] Now if you suppose that these were congregational sin-offerings, are three of them[4] ever brought by a congregation?[5] Then you must admit that we form an analogy between the cases not explicitly stated and those explicitly stated.

R. Nathan says: Only one sin-offering was specified to the [Israelites on Mount Sinai][6] and the rule was extended to all the five sin-offerings.[7] But[8] [if that is so] let us see in what class they learnt it,[9] whether in that of the sin-offerings of an individual or of a congregation?[10] — There were two forgettings.[11] And consequently they[12] were in a difficulty. If[13] you should think that the rule[14] applies to the sin-offering of a congregation, can these[15] be brought by a congregation?[16] Then it is proved from here that we form an analogy between the cases not explicitly stated[17] and the cases explicitly stated: Just as in the cases explicitly stated the sin-offering is brought by an individual and not by a congregation, so in the cases not explicitly stated the sin-offering is brought by an individual and not by a congregation.[18]

MISHNAH. IN SOME WAYS [THE LAW RELATING TO] DEDICATIONS CARRIES GREATER WEIGHT THAN [THAT RELATING TO] EXCHANGE, AND IN SOME WAYS [THAT RELATING TO] EXCHANGE CARRIES GREATER WEIGHT THAN [THAT RELATING TO] DEDICATIONS. IN SOME WAYS [THE LAW RELATING TO] DEDICATIONS CARRIES GREATER WEIGHT THAN [THAT RELATING TO] EXCHANGE, FOR DEDICATED ANIMALS CAN EFFECT EXCHANGE WHEREAS ONE SUBSTITUTED

CANNOT EFFECT EXCHANGE.[19] A CONGREGATION OR PARTNERS CAN DEDICATE BUT CANNOT EFFECT EXCHANGE. WE CAN DEDICATE EMBRYOS AND LIMBS,[20] BUT WE CANNOT EFFECT EXCHANGE WITH THEM. [THE LAW RELATING TO] EXCHANGE CARRIES GREATER WEIGHT THAN [THAT RELATING TO] DEDICATIONS, SINCE EXCHANGE[21] HAS EFFECT ON A PERMANENTLY BLEMISHED ANIMAL[22] AND IT DOES NOT BECOME HULLIN

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(1) The reason why in the three first cases the sinofferings are not left to die in the case of a congregation is because there cannot be an offering in such circumstances, for they can never occur in connection with a congregation. There is therefore no alternative, whereas in the other two cases the offering can be brought both by an individual and a congregation.

(2) The fifth was to be left to pasture.

(3) Because they forgot during the period of mourning for Moses which one was to be left to pasture.

(4) For the cases of a sin-offering being left to die apply either all to a congregation or all to an individual.

(5) Viz., an offspring of a dedicated animal, a substitute of a sin-offering, and a sin-offering whose owners died.

(6) To be left to die, and the other four cases of sin-offerings were only to be left to pasture. It was, however, forgotten which were meant to die and which to pasture.

(7) I.e., all five were to be left to die.

(8) Before R. Nathan can complete his observation, he is interrupted with a question why it was necessary to condemn the four to die out of doubt.

(9) Viz., the sin-offering which was to be left to die.

(10) Let us see to what class this sin-offering which was to be left to die was remembered as belonging. If it was remembered as being the sin-offering both of a congregation and an individual, then let us say that a sin-offering whose owners procured atonement and a sin-offering whose year is passed are left to die because of doubt, whereas in the other three cases, which are entirely different, as they could not occur in connection with a congregation, there could be no doubt that there is no death for the sin-offerings. And if the case of a sin-offering being left to die was remembered only in connection with the offering of an individual, then let us say that these three sin-offerings, substitute and offspring of a dedicated animal etc., since they can be brought only by an individual, are left to die, but about the other two sin-offerings there can be no doubt, for they are entirely different (Rashi).

(11) The class in which the sin-offering that was to die was placed at Sinai (viz., congregational or individual) and also which of the five sin-offerings was to die.

(12) Those who lived in the days of Joshua and forgot those laws regarding sin-offerings.

(13) R. Nathan now continues to explain R. Simeon's teaching in the Mishnah.

(14) Of the sin-offering left to die.

(15) The four sin-offerings which are left to pasture.

(16) For this can never happen. Since therefore it is remembered that there were five sin-offerings which were either to be left to pasture or die, they were stated as regards an individual, in which circumstances all the five sin-offerings can occur.

(17) A sin-offering whose owners procured atonement and whose year had passed.

(18) This then is the reason for R. Simeon's opinion. The Rabbis however hold that four cases of sin-offerings were imparted from Sinai to be left to die. Therefore wherever we find that a sin-offering applies to an individual and a congregation, then it applies, and where not, it does not apply.

(19) So that if one says concerning an animal consecrated through being a substitute that it should in turn confer holiness on another animal by means of exchange, a further exchange does not take place.

(20) This is the view of R. Judah (supra 10a).

(21) So with Sh. Mek.

(22) So that if one substitutes a blemished animal for an unblemished dedicated animal, holiness attaches to the former to the extent that it does not become hullin.

Talmud - Mas. T'murah 17a

SO AS TO BE SHEARED [OF ITS WOOL] AND WORKED.[1] R. JOSE SON OF R. JUDAH SAYS: AN EXCHANGE IN ERROR IS PUT ON A LEVEL WITH AN INTENTIONAL [EXCHANGE], BUT A DEDICATION IN ERROR IS NOT PUT ON A LEVEL WITH AN INTENTIONAL [DEDICATION]. R. ELEAZAR[2] SAYS: KIL'AYIM,[3] TREFAH, A FOETUS EXTRACTED BY MEANS OF A CESAREAN SECTION, A TUMTUM AND A HERMAPHRODITE, NEITHER BECOME SACRED NOR CAN THEY CAUSE DEDICATION.

GEMARA. What is the reason of R. Jose son of R. Judah?[4] Scripture says: Shall be holy,[5] thus including the case of an exchange in error as on a level with an intentional [exchange]. How is [an exchange] in error being on a level with an intentional [exchange] to be understood? — Said Hezekiah: Where he has a [mistaken] opinion that it is permissible to exchange. Now in the case of exchange he is punishable [with lashes][6] whereas in the case of dedications he is not punishable [with lashes].[7]

Another version: In the case of exchange, the substitute is holy,[8] whereas in the case of dedications, there is no holiness. R. Johanan[9] says: Where he intended making an exchange with a burnt-offering and he made the exchange with a peace-offering,[10] [or where he intended making an exchange with a peace-offering and he made the exchange with a burnt-offering].[11] Now in the case of exchange the animal becomes holy, whereas in the case of dedications it is not holy.

Another version:[12] Where he intended saying a black [ox][13] and he said a white [ox]. In the case of exchange, he is punishable [with lashes],[14] whereas in the case of dedications, he is not punishable [with lashes].[15] Resh Lakish says:[16] Where he thought[17] that the one animal can be quit of holiness[18] while the other [the exchanged animal] enters into holiness. Similarly with reference to dedications, where he thought that if a blemish shows itself in dedicated animals they are eaten without redemption.[19] — Now in the case of exchange[20] he is punishable [with lashes],[21] whereas in the case of dedications he is not punishable [with lashes]. R. Shesheth says: Where he says, ‘I shall enter this house, dedicate and exchange with full knowledge [of what I am doing]’, and then he entered, exchanged and dedicated without knowing it.[22] Now as regards the exchanging, he is punishable [with lashes],[23] whereas as regards the dedications, he is not punishable with lashes.[24]

R. ELEAZAR SAYS: KIL'AYIM, TREFAH etc. Said Samuel: They are neither holy as regards exchange,[25] nor can they confer holiness through exchange [on others].[26] It was taught, Rabbi[27] said: But since they are not holy themselves, how can they confer holiness? This is possible only in the case where one dedicated an animal[28] and it afterwards became trefah,[29] or dedicated an embryo [in its mother's womb] and it was extracted through the cesarean section. But with regard to kil'ayim, tumtum and a hermaphrodite, you cannot explain these cases except with reference to embryos of dedicated animals.[30] And this accords with the view of R. Judah who said: An offspring of a dedicated animal can effect exchange![31] Said Raba:[32] What is the reason of R. Eleazar? — They are like an unclean animal. Just as an unclean animal is not offered and bodily consecration cannot attach to it,[33] so these [are not offered] and no bodily consecration attaches to them. Said [R. Adda b. Ahaba] to Raba:[34] But is there not the case of a blemished animal which is not offered and yet there attaches to it bodily consecration?[35] — A blemished animal belongs to the category [of animals] which are offered up.[36] If this is so,[37] what of trefah which also belongs to a category which is offered?[38] Rather said Raba:[39] It resembles an unclean animal. Just as an unclean animal is disqualified on account of the condition of its body, so all these cases[40] are disqualified on account of the condition of the body,[41] thus excluding the case of a blemished animal which is disqualified in virtue of a [mere] deficiency.[42]

Said R. Adda to Raba: Are there not the cases of anything too long or too short[43] mentioned in the

Scriptural passage and these are disqualifications of the [whole] body?[44] Rather said Raba:[45] It must be like an unclean animal [as follows]: Just as in the case of an unclean animal there is none [offered] in the same category [and it is not subject to the law of exchange], so in all cases where there is none [offered] in the same category [the law of exchange is not applicable], thus excluding a blemished animal, since there are [other animals offered] from the same category. Will you perhaps object that a trefah too has [other animals which are offered] from the same category?[45] [I answer that] it [a trefah animal] is not on a par with the case of a blemished animal. An unclean animal is forbidden to be eaten and a trefah is also forbidden to be eaten, to the exclusion of a blemished animal which is permitted to be eaten. Said Samuel: If one has dedicated a trefah, a permanent blemish is required in order to redeem it.[46] Can you not prove from here that one may redeem dedicated animals in order to give dogs to eat?[47] — Rather say: It is dedicated in that it is left to die.[48] R. Oshaia however says: It is only like dedicating wood and stones.[49]

We learnt: We must not redeem dedicated animals which became trefah because we must not redeem dedicated animals in order to give dogs to eat. The reason[50] is therefore because they became trefah; but if they were trefah at the beginning[51] we may redeem them?[52] — Perhaps this Tanna [of the Mishnah] holds: Wherever [the animal] is not fit [for offering] there does not rest upon it bodily dedication.[53]

Come and hear: R. ELEAZAR SAYS, KIL'AYIM, TREFAH, A FOETUS EXTRACTED BY MEANS OF A CESAREAN SECTION, A TUMTUM AND A HERMAPHRODITE ARE NEITHER HOLY NOR CAN THEY CONFER HOLINESS. And[54] Samuel said: ‘They are not holy’ [means] to receive holiness of an exchange. ‘Nor can they confer holiness’ [means] to effect exchange. And it has been taught: Said Rabbi, But since they are not holy themselves, how can they confer holiness [on others]?[55] You cannot therefore explain this except as referring to where one dedicated an animal and it afterwards became trefah.[56] [Now the reason is because the animal was dedicated first and then it became trefah], but if it was a trefah from the beginning [before the dedication], bodily consecration would not attach to it![57]

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(1) But it has the law of dedications whose consecration was prior to the blemish, when only the eating of it is permissible, whereas in the case of originally dedicated animals, if the blemish came before the dedication, the animal becomes hullin after redemption and may be shorn and worked.

(2) Var. lec.: R. Eliezer.

(3) V. supra 11a and notes.

(4) Who says in the Mishnah that an exchange in error is on a par with an intentional exchange, unlike the case of a dedication.

(5) Lev. XXVII, 33.

(6) Since Scripture says: ‘shall be holy’, thus including the case of exchange even in error.

(7) For we do not find the punishment of lashes except in regard to a wilful act preceded by a warning. But if one wilfully consecrated a permanently blemished animal, he is guilty of breaking five prohibitory laws as stated in Chap. I.

(8) According to this version there is no punishment of lashes in connection with an exchange if effected in error.

(9) So with Sh. Mek. Cur. edd.: Resh Lakish and R. Johanan.

(10) Explaining in what circumstances an error in exchange is on a par with an intentional exchange.

(11) V. Sh. Mek. for the correct reading of this passage.

(12) Giving the circumstances of an exchange in error which is unlike the case of dedications.

(13) ‘Which first left my house shall be exchanged in place of this animal’.

(14) If he makes use of it. For Scripture by the text ‘shall be’ reveals that an exchange even in error is valid.

(15) If the animal is blemished and unfit for the altar.

(16) So Sh. Mek; cur. edd. R. Johanan.

(17) So Bah; cur. edd. ‘said’.

(18) He knew that exchanging was forbidden but he thought the first dedicated animal became hullin after the exchanging, as if it had become blemished (Rashi).

(19) He knew that dedicated animals are forbidden to be eaten by non-priests but imagined that, if blemished, they could be eaten without redemption.

(20) Where he was under the impression that the first animal became hullin after being exchanged.

(21) For one is punishable with lashes in the case of exchanging even if in error.

(22) Being an absent-minded man who sometimes forgot what he said (Rashi). Tosaf. explains as follows: 'When I enter this house this animal shall be an exchange for this and that animal shall be dedicated with my full knowledge'. He entered, exchanged and dedicated without saying anything at all when he entered or thinking of what he had said previously. Therefore the exchange and the dedication took place without him knowing it.

(23) For Scripture says that an exchange in error is on a level with an intentional exchange.

(24) And if he dedicated a blemished animal for the altar, he is not punishable with lashes, for it was a mistaken dedication.

(25) Exchange takes no effect on these animals, for although exchange takes effect upon a blemished animal, rendering it consecrated as such, nevertheless these cases mentioned in the Mishnah are different. There is certainly no consecration as such in the cases of trefah, kil'ayim, etc., as they are only holy for their value, like wood or stones and do not require redemption.

(26) If they themselves are holy, one cannot exchange an animal for them.

(27) So Sh. Mek; cur. edd. 'R. Meir'.

(28) Holiness taking effect on it.

(29) The Mishnah therefore informs us that although it is holy, it cannot effect exchange.

(30) Which were consecrated in virtue of their mother before pregnancy. They are then obviously holy, like the limb of the mother. In these cases the Mishnah informs us that they do not effect exchange.

(31) With other offspring of dedicated animals. There is therefore need for a Mishnah to inform us with reference to tumtum etc. that although they are holy through their mother they cannot effect exchange, in spite of the fact that R. Judah holds elsewhere that the offspring of a dedicated animal effects exchange.

(32) So Sh. Mek.; cur. edd. 'R. Papa'.

(33) It can be consecrated only in respect of its monetary value.

(34) So Sh. Mek.

(35) By means of exchange, if the dedication was prior to the blemish. This animal too whose dedication came before it became trefah should effect exchange, and if it became trefah when hullin should also become holy if exchanged for a dedicated animal.

(36) I.e., other unblemished animals, and therefore it receives consecration as such through exchange. An animal which was extracted by means of the cesarean section is almost a species by itself and is not in the category of ordinary animals. The other four cases, kil'ayim, tumtum, etc. also do not belong to the category of animals which are offered up and, according to Tosaf., almost belong to a different species.

(37) That the reason why exchange takes effect on a blemished animal is because it belongs to a category of animals which is offered up.

(38) I.e., of other animals which are not trefah and therefore should be subject to the law of exchange.

(39) That the reason why a blemished animal is different from the cases mentioned in the Mishnah is that etc.

(40) Tumtum, etc.

(41) The cases of kil'ayim, tumtum etc. are totally disqualified bodily and there is no dedication of the animal at all.

(42) But not the condition of the whole body.

(43) Lev. XXII, 23.

(44) 'Too short' or 'too long' are bodily disqualifications.

(45) The reason why a blemished animal is subject to the law of exchange. (12) And therefore should be exchanged.

(46) If one wishes to redeem it, for Samuel holds that it is capable of dedication as such.

(47) And we learn (infra 31a) that one cannot redeem dedicated animals in order to give dogs to eat, but they are left to die and then buried.

(48) But it is holy bodily, and even after redemption it must not be shorn or worked. And even if blemished, it is not redeemed in order to be given to the dogs to eat.

(49) It is not called a dedication at all and therefore can be redeemed to be given to the dogs to eat, no permanent blemish being required to make redemption permissible.

(50) Why we must not redeem a dedicated animal that has become trefah.

(51) Before its dedication.

(52) We therefore see that if one dedicated a trefah it can be redeemed in order to give dogs to eat, unlike the view of Samuel.

(53) Since therefore there is no holiness as such in connection with trefah, it may be redeemed.

(54) Supra on this page of the Gemara and v. notes.

(55) V. supra p. 118, and notes.

(56) V. p. 118, and notes.

(57) Unlike the view of Samuel above.

Talmud - Mas. T'murah 17b

— Samuel can answer you: R. Eleazar holds:[1] Wherever [the animal] is not [offered],[2] bodily consecration does not attach to it.[3]

CHAPTER III

MISHNAH. THE FOLLOWING ARE DEDICATIONS WHOSE YOUNG AND EXCHANGES ARE IN THE SAME CLASS AS THEMSELVES: THE YOUNG OF PEACE-OFFERINGS AND THEIR EXCHANGES, THEIR YOUNG[4] AND THE YOUNG OF THEIR YOUNG, TILL THE END OF TIME,[5] ARE REGARDED AS PEACE-OFFERINGS REQUIRING LAYING ON OF HANDS,[6] DRINK-OFFERINGS AND THE WAVING OF THE BREAST AND SHOULDER.

GEMARA. Since it states: THE YOUNG AND THE YOUNG OF THEIR YOUNG, what need is there for the UNTIL THE END OF TIME? — Our Tanna [of the Mishnah] heard R. Eleazar state that the young of a peace-offering is not offered as a peace-offering.[7] Thereupon our Tanna said to him: Not only do I not agree with you with regard to their young.[8] but I even do not agree with you with regard to the young born until the end of time.[9]

Whence do we derive this? — Our Rabbis have taught: [Scripture says:] A male:[10] this includes the young. Now have we not here an inference from minor to major; if an exchange which is not reared in holiness is offered,[11] how much more should the young [of a dedication] which is reared in holiness be offered? The case of exchange is different, since it applies to all dedications,[12] whereas the rule of the young does not apply to all dedications,[13] [and since it does not apply to all dedications, therefore the young is not offered].[14] The text therefore states, ‘A male’, thus including the young [as being offered]. [The text] A female,[15] this includes exchange. I have so far only the young of unblemished[16] animals[17] and the exchange of unblemished animals. Whence do we derive the cases of the young of blemished animals and the exchange of blemished animals [as being offered]? Scripture says: If it [be a male],[18] this includes the young of blemished animals, and the words ‘if it be [a female]’ include the exchange of blemished animals. Said R. Safra to Abaye: perhaps I can reverse [this]?[19] — From the same text [‘A female’] that we include the exchange of unblemished animals [as being offered], we include the exchange of blemished animals.[20] He said to him: Am I asking you to reverse the interpretation of the expression ‘if it be’ which is next to ‘a male’ and the interpretation of the expression ‘if it be’ which is next to ‘a female’? I mean this: Reverse the whole verse. Say as follows: The expression ‘a male’ includes the case of exchange[21] and the expression ‘a female’ includes the young![22] — He replied to him: The word ‘walad’ [‘the young’] has a masculine implication,[23] whereas the word ‘temurah’ [‘exchange’] has a feminine implication.[24]

For what practical purpose?[25] — Said Samuel: In order to be offered and according to the opinion of R. Eleazar.[26] For you might have thought that R. Eleazar only holds that [the young] is regarded as a burnt-offering because the name of a burnt-offering is applied to its mother,[27] but these young [of a blemished peace-offering] are not offered. He[28] therefore informs us [that it is not so]. Bar

Padda says:[29] In order that they be left to pasture and [this is] according to all the authorities concerned.[30] It was stated also:[31] Raba says. In order to be offered and according to the opinion of R. Eleazar. R. Papa says: In order to be left to pasture and according to all the authorities concerned.

But the following Tanna derives this[32] from here:[33] [Scripture says:] ‘Only thy holy things’:[34] this refers to exchanges; ‘which thou hast’: this refers to the young [of dedications]; ‘thou shalt take and go’: one might think [from this text] that he brings the offspring into the Temple and refrains from giving them water and food in order that they may die?[35] The text therefore states: And thou shalt offer thy burnt-offerings, the flesh and the blood,[36] to teach us that you must deal with an exchange as you deal with a burnt-offering,[37] and that you must deal with the young of peace-offerings and their exchange as you deal with the peace-offerings themselves.[38] One might think that [the young and exchange] even of all dedications [are offered]? The text, however, states: Rak[39] [‘only’]. This is the teaching of R. Ishmael. R. Akiba says: There is no need [to derive the limitation from ‘rak’], for it says: ‘It is a guilt-offering’,[40] implying ‘it’ is offered but its exchange is not offered.[41]

The Master said: ‘Thou shalt take and go. One might think from this text that he brings the offspring into the Temple, etc.’ But how could you have inferred this,[42] seeing that tradition mentions five sin-offerings as left to die,[43] thus implying that these[44] are offered? — You might have thought that the five sin-offerings are left to die everywhere, whereas these[45] are left to die only in the Temple. [Scripture] therefore informs us [that it is not so].

The Master said: ‘One might think [that the young and exchange] of all dedications [are offered]? The text, however, says: Rak [only]’. Now to what young [are we alluding here]? If to the [young of a] burnt-offering, it is a male and is not capable of giving birth! If to the young of a sin-offering, there is a traditional law that it is condemned to die.

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(1) So Sh. Mek.; cur. edd.: perhaps this Tanna also.

(2) Not fit to offer on the altar.

(3) And therefore if the animal were trefah at the outset, bodily holiness does not attach to it. Samuel himself, however, will agree with the Rabbis that in the case of trefah, the animal receives bodily holiness and therefore it cannot be redeemed unless permanently blemished, in order to be given to dogs to eat.

(4) Viz., the young of peace-offerings and the exchange of the peace-offerings.

(5) Lit., ‘until the end of the world’.

(6) The laying on of the hands prior to the killing of the animal.

(7) But is condemned to die.

(8) Since I hold that it has the same status as its mother.

(9) Since even then I hold that the young has the law of its mother.

(10) Lev. III, 1. What need is there for the words ‘a male’, ‘a female’? It would have been sufficient if Scripture bad said: ‘If he offer it from the herd’, which would have implied male and female.

(11) This is derived from the expression ‘a female’, as stated subsequently in the Gemara.

(12) By an individual.

(13) Since a burnt-offering and a guilt-offering are males.

(14) Wilna Gaon Glosses.

(15) Lev. III, 1.

(16) V. Wilna Gaon Glosses.

(17) Since the mother is unblemished and therefore the young has the same law.

(18) The word אם (‘if it be’) which has an inclusive meaning.

(19) And say that the words ‘If it be (a male)’ include an exchange of blemished animals, and the words ‘If it be (a female)’ include the young of blemished animals.

(20) Therefore from the words ‘if it be’ which are next to the words ‘a female’, we derive the case of an exchange of blemished animals but not from the words ‘if it be’ next to the words ‘a male’.

(21) And its phrase ‘if it be’ will include the exchange of blemished animals.

(22) And its phrase ‘if it be’ will include the young of blemished animals.
(23) And therefore we include it from the text ‘a male’.
(24) Therefore we include it from the text ‘a female’.
(25) Are the offspring of blemished animals holy, since their mother is not fit to be offered.
(26) Who says in the Mishnah (infra 18a) that if one set apart a female animal for a burnt-offering and it gave birth,its offspring is offered as a burnt-offering, although its mother is not fit for a burnt-offering. Here too in the case of the young of blemished offerings, although the mother is not fit for the altar, the young is offered.
(27) Although the mother itself is not offered, the holiness of a burnt-offering is not eliminated, since there is a case of a burnt-offering which is a female, viz., a burnt-offering of a bird.
(28) The Tanna of the Baraitha above.
(29) The object of the Mishnah when it says that the offspring of a peace-offering is considered as a peace-offering is as follows.
(30) Even according to the Rabbis who differ from R. Eleazar. They will admit that the young are sacred at least as regards pasturing and that they are not hullin.
(31) As to what extent the offspring of a blemished peace-offering is holy.
(32) The rule of the young of peace-offering being like the mother.
(33) Naz. 25a; Bek. 24b.
(34) Deut. XII, 26.
(35) And thus he would be carrying out the injunction ‘take and go’.
(36) Ibid. 27 following the verse ‘only thy holy things etc.’.
(37) To sprinkle its blood and burn it entirely.
(38) I.e., in respect of laying on of hands, drink-offerings and the waving of the breast and shoulders.
(39) One of the words which has a restrictive meaning.
(40) Lev. V, 19.
(41) Thus excluding the exchange of other dedications from being offered.
(42) That the offspring and exchange of other dedications die, so as to require the text: And thou shalt offer thy burnt-offering, etc.
(43) Two of which are an offspring of a sin-offering and the exchange of a sin-offering.
(44) The young of peace-offerings and their exchange.
(45) The young of a peace-offering and its exchange.

Talmud - Mas. T'murah 18a

If to a guilt-offering,[1] there is a traditional law that it goes to pasture,[2] since according to tradition wherever a sin-offering is left to die, a guilt-offering in a similar case goes to pasture! — One may still say that we are referring to a sin-offering. The traditional law, however, refers to its death,whereas the Scriptural text only refers to the restriction upon offering it. But does not one depend On the other? For since it is condemned to die then automatically it is not offered?[3] — Rather the traditional law refers to a sin-offering and the Scriptural text [‘rak’] excludes the exchange of a guilt-offering [from death]. But is not this too a traditional law, for it is said: ‘Wherever the law is that a sin-offering is left to die, a guilt-offering is left to pasture’? Rather the text [‘rak’] is required for the case where he transgressed and offered, making him guilty of breaking a positive command.[4]

‘R. Akiba says: There is no need [to derive the limitation from ‘rak’] etc. It is offered but its exchange is not offered’. What need is there for the text?[5] Is there not a traditional law in this connection?[6] — Yes, that is so. Then what need is there for the Scriptural text? It is required for R. Huna's teaching.[7] For R. Huna said: If an animal dedicated as a guilt-offering[8] has been condemned to pasture[9] [until it dies a natural death] and the owner killed it[10] [without stating for what specific sacrifice], it is fit for a burnt-offering.[11] Now R. Huna says: ‘Which has been condemned to pasture’, but if it has not been condemned to pasture, it would not be so.[12] What is the reason? Scripture says: It,[13] it remains in the same status.[14]

And according to the Tanna who derives [the cases of the young of peace-offerings etc.] from these Scriptural texts,[15] why not derive this from the text: ‘If it be a male or female’?[16] — That[17] text is required to teach the cases of the young of blemished animals and the exchange of blemished animals.[18] But why not derive all these cases[19] from this text?[20] The phrase ‘if it be’ does not teach this according to him.[21] And the Tanna who derives [the teaching concerning the young and exchange of a peace-offering etc.] from the text: ‘If it be a male or female’, what does he do with the text: ‘Thou shalt take and go’? — Even[22] [if you have to take them away] from their pastures.[23] Another version: Even [if you have to take them away] from their threshing sledges.[24]

MISHNAH. R. ELIEZER SAYS: THE YOUNG OF A PEACE-OFFERING MUST NOT BE OFFERED AS A PEACE-OFFERING,[25] WHEREAS THE SAGES SAY IT MAY BE OFFERED. SAID R. SIMEON: THERE IS NO DISPUTE BETWEEN THEM AS REGARDS THE YOUNG OF THE YOUNG OF A PEACE-OFFERING OR THE YOUNG OF THE YOUNG OF AN EXCHANGE THAT THEY ARE NOT OFFERED. THE POINT AT ISSUE IS THE CASE OF THE YOUNG [OF A PEACE-OFFERING], R. ELIEZER SAYING: IT MAY NOT BE OFFERED, WHEREAS THE SAGES SAY: IT MAY BE OFFERED. R. JOSHUA AND R. PAPIAS TESTIFIED REGARDING THE YOUNG OF A PEACE-OFFERING THAT IT IS OFFERED AS A PEACE-OFFERING. SAID R. PAPIAS: I TESTIFY THAT WE HAD A COW OF A PEACE-OFFERING AND WE ATE IT ON PASS OVER AND WE ATE ITS YOUNG AS A PEACE-OFFERING ON THE FESTIVAL.[26]

GEMARA. R. Ammi reported in the name of R. Johanan: What is the reason of R. Eliezer? — Scripture Says: And if [we'im] his offering be a sacrifice of a peace-offering,[27] [and we interpret the im as] em [‘mother’],[28] thus excluding the young. Said R. Hiyya b. Abba to R. Ammi: If this is so [Scripture says]: If [im] he offer it for a thanksgiving,[29] here too shall we [interpret the ‘im’] as em, thus excluding the young? And if you say that it is so, has it not been taught: Whence do we derive that its young, its exchange and its substitution[30] are all offered? The text states: ‘If [im] he offer it for a thanksgiving’ — in any case![31] — Rather said R. Hiyya b. Abba in the name of R. Johanan: This is the reason of R. Eliezer: [It[32] is forbidden to be offered] lest we rear herds of them.[33]

SAID R. SIMEON: THERE IS NO DISPUTE etc. It was asked: How does [the Mishnah] mean: There is no divergent opinion that they are not offered, [all agreeing] that they are offered;[34] or perhaps there is no dispute that [the second generation of offspring] are offered, [all agreeing] that they are not offered![35] — Said Rabbah: It is reasonable to suppose that [the meaning of the Mishnah] is: There is no divergent opinion that they are not offered, [all agreeing] that they are offered. What is the reason? R. Eliezer only disputes with the Rabbis in the case of the young [of a dedication],[36] but as regards the young of the young of a dedication, it is a mere chance.[37] R. Joshua b. Levi, however, says: There is no divergent opinion that they are offered, [all agreeing] that they are not offered. What is the reason? The Rabbis do not differ from R. Eliezer save in the case of the young [of a dedication] but in the case of the young of the young of a dedication, one can recognise from his action that he means to rear them.[38]

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(1) Some read here: The offspring of the exchange of a guilt-offering.

(2) If the reading is ‘guilt-offering’ above, then the Gemara could have answered that it is a male. The Gemara, however, wishes to find a different answer, as the answer concerning a male is already given (Tosaf.).

(3) Then what need is there for the word ‘rak’ to exclude the offering of the young of a sin-offering.

(4) Both in connection with a sin-offering and a guilt-offering there is a breach of a positive command if the offering actually took place, since the text says: ‘Only thy holy things, etc.’, referring to the exchange of a burnt-offering and a peace-offering, their offspring and their exchange, and the text continues: ‘And thou shalt offer thy burnt-offering etc.’ implying, but not other dedications as, for example, a sin-offering or a guilt-offering. This prohibition being derived by implication from a positive command is itself equivalent to a positive command (Rashi).

(5) To teach that a guilt-offering is not offered up.

(6) For wherever a sin-offering is condemned to die, a guilt-offering is condemned to pasture.

(7) Zeb. 5b.

(8) On account of its being lost at the time when the second guilt-offering was set aside in its place and had been offered up (R. Gershom).

(9) By the Temple authorities.

(10) The first guilt-offering now found and before it became blemished and unfit for the altar.

(11) For usually its money goes for a burnt-offering.

(12) Although the owner has procured atonement. Since, however, it had not yet been condemned to pasture and the owner killed it without saying for what particular sacrifice, it is entirely disqualified.

(13) Lev. V, 19.

(14) And it is still a guilt-offering and unfit to offer up in that capacity. Consequently it is disqualified.

(15) Quoted above, i.e.: ‘Only thy holy things, etc.’.

(16) As interpreted above.

(17) ‘If it be a male etc.’.

(18) That they are offered, and the cases of the young of an unblemished dedication and its exchange are derived from the text: ‘Only thy holy things etc.’.

(19) The young of unblemished animals and blemished animals, the exchange of an unblemished animal and the exchange of a blemished animal, as being holy.

(20) ‘If it be a male etc.’ mentioned above, since we actually derive all these cases from this text.

(21) Therefore from the text ‘a male’ and ‘a female’ we infer the cases of the young of a blemished animal and the exchange of a blemished animal, and from the text, ‘Only thy holy things’ we infer the case of the young of an unblemished animal, and the case of the exchange of an unblemished animal we derive from the text, ‘Thou shale take and go etc.’, and ‘thou shalt offer thy burnt-offering’ (R. Gershom).

(22) The text, ‘Thou shalt take and go’ is not for the purpose of deriving the case of the young and exchange but for the dedicated animals themselves.

(23) If the Festival has arrived, he must not say that he will not trouble to collect the animals which are scattered on the pasture and that he will wait for another occasion to offer them, but he must take the animals as soon as possible and offer them.

(24) If the animals went by themselves into the threshing floor to thresh (for it is forbidden to do this deliberately, as this will be working a consecrated animal), he must take the animals away in order to bring them in the Temple.

(25) There being a Rabbinic enactment that it is condemned to die, since there are only five cases of sin-offering condemned to die.

(26) It is explained subsequently in the Gemara what Festival is meant.

(27) Lev. III, 1.

(28) אם with a change of vowel.

(29) Lev. VII, 12.

(30) E.g., if the animal were lost and he set apart another in its place, and the first animal was then found and both animals are before us.

(31) Including all the cases mentioned here and R. Eliezer does not differ.

(32) The young of a dedication.

(33) If you say that the young of a dedication has a remedy, he may detain the mother in order to give birth, and rear many herds from the offspring. There is therefore the danger that the animal may be shorn or worked. As regards the thanksgiving sacrifice, the Rabbis did not prohibit, for this kind of sacrifice is not so frequent as that of a peace-offering.

(34) For even R. Eliezer agrees that where there are two or more generations of offspring, people forget that they originally came from peace-offerings and therefore there is no fear that others will see that these are offered and will retain their peace-offerings in order to rear herds.

(35) Even the Sages agree here.

(36) As there is the fear that he will keep the mother in order to rear offspring and thus there is the danger of working and shearing dedicated animals.

(37) And it is unusual that he will detain the mother for such a long period.

(38) The very fact that he has retained the mother until the second generation proves that he is detaining them in order to rear them.

Talmud - Mas. T'murah 18b

R. Hiyya[1] taught in support of R. Joshua b. Levi: [Scripture says:] If he offer a lamb[2] for his offering,[3] implying that the first young is offered but the second young is not offered.[4] It [a young of a peace-offering] is offered,[5] but not the young of any other dedication. Now what young of [other] dedications [is excluded from being offered]? If of a burnt-offering and a guilt-offering, are they not male animals and not such as give birth to young? If of a sin-offering, is there not a traditional law that it is left to die? Said Rabina: [The exclusion refers to a] young [of a female animal] which came forth the tenth.[6] What need is there for a text regarding the case of a young of an animal which came forth the tenth? Is this not derived from an analogy between 'passing' used in connection with tithe[7] and 'passing'[8] used in connection with a firstling?[9] — The text[10] is necessary. You might be inclined to assume that we cannot form an analogy between a case where there is an alternative and one where there is none.[11] [The text, therefore] informs us that this is not so.[12]

R. JOSHUA AND R. PAPIAS TESTIFIED etc. And according to Raba who holds that after the lapse of one Festival one is guilty of the breaking of a positive command[13] daily in not offering dedications, why was not the animal eaten on 'Azereth?[14] — Said R. Zebid in the name of Raba: We must suppose that it was ill on Pentecost.[15] R. Ashi says: The word hag [in the Mishnah] also means in reality the Festival of Weeks. And what will the other authority [R. Zebid] say [to this]?[16] — Wherever the Tanna uses the term Pesach [Passover] he says 'Azereth.[17] If so,[18] then what is the point of the testimony [of R. Joshua]?[19] — It is to exclude the teaching of R. Eliezer who holds that the young of a peace-offering is not offered as a peace-offering. Consequently he testifies that it is offered.

MISHNAH. THE YOUNG OF A THANKSGIVING OFFERING AND ITS EXCHANGE, THEIR YOUNG AND THE YOUNG OF THEIR YOUNG, UNTIL THE END OF ALL TIME, ARE CONSIDERED AS THANKSGIVING OFFERINGS,[20] ONLY THEY DO NOT REQUIRE THE ACCOMPANIMENT OF LOAVES OF BREAD.[21]

GEMARA. Whence is this proved? Our Rabbis have taught: Why does it say: If he offer it for a thanksgiving?[22] [Whence do we infer][23] that if one set aside a thanksgiving offering and it became lost and he separated another in its place, and the first was then found, and both [animals] are standing [before us], he can offer whichever he wishes and bring its bread? The text states: If for a thanksgiving he shall offer.[24] One might think that the second animal requires the accompaniment of bread? The text, however, states: 'If he offer it', [the word 'it' implying that he brings] one [animal with the loaves of bread] but not two.[25] Whence do we include [for offering] the case of the young [of a thanksgiving offering], exchanges and substitutions?[26] The text states: 'If for a thanksgiving'. One might think that all these cases require the accompaniment [of loaves of bread]? The text states: With a sacrifice of thanksgiving,[27] [implying that] the thanksgiving itself requires loaves of bread but its young, its exchange, and its substitution do not require the bringing of bread.

MISHNAH. THE EXCHANGE OF A BURNT-OFFERING,[28] THE YOUNG OF ITS EXCHANGE,[29] ITS YOUNG AND THE YOUNG OF ITS YOUNG, UNTIL THE END OF TIME, ARE REGARDED As A BURNT-OFFERING: THEY REQUIRE FLAYING, CUTTING INTO PIECES AND TO BE ALTOGETHER BURNT. IF ONE SET ASIDE A FEMALE ANIMAL FOR A BURNT-OFFERING AND IT GAVE BIRTH TO A MALE, IT IS TO PASTURE UNTIL IT BECOMES UNFIT FOR SACRIFICE.[30] IT IS THEN SOLD AND FOR ITS MONEY HE BRINGS A BURNT-OFFERING. R. ELIEZER[31] HOWEVER, SAYS: THE [MALE] ANIMAL ITSELF IS OFFERED[32] AS A BURNT-OFFERING.

GEMARA. Why is it that in the first clause[33] [in our Mishnah above] the Rabbis do not differ,[34] whereas in the latter clause[35] the Rabbis do differ?[36] — Said Rabbah b. Bar Hana: The first clause has been taught as a disputed opinion,[37] being really the opinion of R. Eliezer. Raba says: You can even say that the first clause is in agreement with the Rabbis, for the Rabbis dispute with R. Eliezer[38] only in the case of one who sets apart a female animal for a burnt-offering, since the mother is not offered [for a burnt-offering],[39] but in the case of [the young of an] exchange [of a burnt-offering], where the mother[40] is offered, even the Rabbis agree.[41] But did R. Eliezer say [that the young of an exchange] is itself offered as a burnt-offering? Against this the following [is quoted] in contradiction: The exchange of a guilt-offering, the young of an exchange, their young and the young of their young until the end of time, are to go to pasture until they are unfit for sacrifice.[42] They are then sold and the monies are applied for freewill-[offerings].[43] R. Eleazar[44] says: Let them die[45] R. Eliezer[46] Says: Let him buy burnt-offerings with their money.[47] Now [he] only [brings an offering] for their money, but he must not bring the animal itself[48] [as a burnt-offering]?[49] — Said R. Hisda: R. Eliezer was arguing with the Rabbis from their own premises [as follows]: As far as I am concerned, I hold that even the young itself [of the exchange of a guilt-offering] is also offered as a burnt-offering. But according to your teaching, when you say that [it is not offered],[50] at least admit that the surplus [of sacrificial appropriations][51] are applied to freewill-offerings of an individual.[52] They [the Rabbis] however answer him: The surpluses are applied to freewill-offerings on behalf of the congregation.[53]

Raba says: R. Eliezer holds that the young itself is offered for a burnt-offering only in a case where one sets aside a female animal for a burnt-offering, because the mother has the name of a burnt-offering.[54]

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(1) Var. lec. R. Hanania. V. Sh. Mek.

(2) Keseb implying the young of the female flock mentioned in the preceding verse (Rashi).

(3) Lev. III, 7.

(4) Now this Baraitha must be according to the Rabbis, for according to R. Eliezer even the first young was not offered, and consequently supports the view of R. Joshua b. Levi. The prohibition here will only be of a Rabbinical character (the verse being adduced as mere mnemonic aid), for undoubtedly not to offer the second generation of offspring can only be a Rabbinical enactment, in case he keeps animals in order to rear herds (Tosaf.).

(5) For the text referred to a peace-offering.

(6) Then tithed.

(7) Whatsoever passeth under the rod (Ibid. XXVII, 32).

(8) And thou shalt set apart (Ex. XIII, 12).

(9) And in connection with a firstling no young is offered, as a firstling is a male animal.

(10) Lev. III, 7.

(11) As is the case with a firstling which is restricted to males, for it is not possible to have a young of a firstling.

(12) That we do draw the analogy between tithe and firstling.

(13) The text: And thither thou shalt come and thither ye shall bring your burnt-offerings (Deut. XII, 5 and 6), implying that one must bring one's offering on the very first Festival after its dedication; v. R.H. 6a.

(14) Pentecost, lit., ‘the closing (festival)’, Pentecost being regarded as the closing festival to Passover. On Passover itself it could not have been offered and eaten because as it was born on Passover possibly the necessary period of seven days had not elapsed before it could be eaten.

(15) And therefore it was eaten on the Feast of Tabernacles.

(16) Why not say that hag in the Mishnah actually means the Feast of Weeks?

(17) When referring to the Feast of Weeks, but does not call it hag. Since the Mishnah, however, says hag, then it must mean the Feast of Tabernacles. If, however, the Mishnah had referred to Pesach as the Hag (Feast) of Unleavened Bread, then it would have referred to ‘Azereth as hag (Rashi).

(18) That hag means the Feast of Weeks or that it was ill and could not be brought as a sacrifice on the Feast of Weeks but that in reality the right period of bringing the offering was on the Feast of Weeks.

(19) If hag means the Feast of Tabernacles and it was not sick on the Feast of Weeks, the testimony of R. Papias teaches us something fresh, namely, it excludes Raba's teaching above. But if as you explain, the word hag actually means Pentecost or the reason why the young was brought and eaten on the Feast of Tabernacles was because it was sick and it could not be offered on the Feast of Weeks, what new point does he inform us?

(20) The limbs etc. are burnt on the altar and the flesh is eaten for a day and a night.

(21) As mentioned in Lev. VII, 12 and 13.

(22) Ibid. VII, 12. V. Sh. Mek. For Scripture could have said: If it be for a thanksgiving, ye shall offer etc. (R. Gershom).

(23) Inserted with Sh. Mek.

(24) In any case, even a second animal is permitted to be offered up as a thanksgiving.

(25) The restriction, however, only refers to bread but not to the offering up of a second animal.

(26) Where the thanksgiving offering became lost and he set aside another in its place. Tosaf. observes that this is exactly the case mentioned above: If one sets aside a thanksgiving offering, etc. Wilna Gaon, however, adds that substitutions are included for offering even after the sacrificing of the first animal.

(27) Ibid.

(28) Where e.g., he exchanged a male for a burnt-offering.

(29) Where he exchanged a female for a burnt-offering and the exchange gave birth to a male.

(30) The reason why it is left to pasture is because the young's holiness came by virtue of the mother which is a female animal, a kind which is not fit for a burnt-offering. The mother herself being a female is certainly condemned to pasture.

(31) Var. lec. R. Eleazar, and so throughout.

(32) And is not left to pasture.

(33) In the case of the young of the exchange of a burnt-offering.

(34) But agree that these cases are to be considered as burnt-offerings.

(35) Where one separates a female animal for a burnt-offering and it gave birth to a male.

(36) The Rabbis maintaining that the animal is condemned to pasture but is not offered.

(37) It is a fact that even in the first clause in the Mishnah above in connection with the exchange of a burnt-offering and the young of an exchange, the Rabbis differ as they do in the latter clause, and hold that these are not regarded as burnt-offerings, the view of the Mishnah being that of R. Eliezer.

(38) And say that the animal is left to pasture.

(39) Being a female. Therefore they say its young is not offered.

(40) Not exactly the mother but the first dedication, the male burnt-offering, in virtue of which both the exchange and its young are holy, is offered, because it is a male animal. In the case, however, where one set aside a female animal for a burnt-offering, the first dedication was not fit for a burnt-offering.

(41) That it is considered a burnt-offering.

(42) The exchange of a guilt-offering is left to pasture, for wherever a sin-offering is left to die, a guilt-offering in similar circumstances is left to pasture, the exchange of a sin-offering being one of the five sin-offerings which is condemned to die.

(43) To purchase offerings with the money on behalf of the congregation.

(44) Far. lec. R. Eliezer.

(45) For he holds that a guilt-offering has the same law as a sin-offering in this respect.

(46) Var. lec. R. Eleazar.

(47) As a private sacrifice, but he cannot buy guilt-offerings. The same applies in the case of the young of the exchange of a guilt-offering, the young being sold after becoming blemished and a burnt-offering being bought with the money.

(48) I.e., the young of the exchange.

(49) Consequently we see that R. Eliezer (or according to var. lec. R. Eleazar) holds that since the mother is unfit for a burnt-offering, being a female, the young also cannot be offered as a burnt-offering. Why then does R. Eliezer say in the Mishnah of a female animal dedicated as a burnt-offering that its young, a male, can be offered as a burnt-offering?

(50) So Sh. Mek. Cur. edd.: That it is left to pasture. Bah: That its money is applied for a burnt-offering.

(51) I.e., the value of the young (R. Gershom).

(52) I.e., for a burnt-offering.

(53) I.e., one cannot buy a burnt-offering for an individual with the money.

(54) For since we find in connection with birds that a burnt-offering can also be a female, therefore although the animal set aside for a burnt-offering is a female, it retains the name of the burnt-offering. Moreover, when it is sold, a burnt-offering can be bought with the money i.e., it has the name of a burnt-offering (Rashi).

Talmud - Mas. T'murah 19a

But in the case of exchange[1] of a guilt-offering, where the mother has not the name of a burnt-offering,[2] [R.Eliezer] also agrees that [one can buy a burnt-offering] with its money but that [the animal] itself is not offered.

Abaye raised an objection: But does R. Eliezer indeed require that the mother should have the name of a burnt-offering? Has it not been taught: If one sets aside a female animal for a passover sacrifice, it is to pasture until unfit for sacrifice. It is then sold and a Passover sacrifice [a male] is bought with its money. If it gave birth [before Passover], it [the young] is to pasture until it is unfit for sacrifice. It is then sold and a passover sacrifice is bought with its money. If it remained over until after Passover,[3] it is to pasture until it is unfit for sacrifice. It is then sold and he brings a peace-offering[4] with its money. If it [the female Passover sacrifice] gave birth,[5] it is to pasture until it is unfit for sacrifice. It is then sold and a peace-offering is bought with its money. R. Eliezer says: The [animal] itself is offered as a peace-offering.[6] Now here is a case where the mother has not the name of a peace-offering and R. Eliezer says: He offers it as a peace-offering? — Raba said to him: The case after Passover is different, since what has not been used [of animals] dedicated for the Passover sacrifice is itself offered as peace-offerings.[7] If this is so,[8] let the dispute [between R. Eliezer and the Rabbis] be stated also in connection with the first clause above?[9] — He said to him: ‘Yes, that is so’.[10] Abaye says: R. Eliezer does not differ [in the first clause above],[11] since there we have it on tradition that [the purpose for] which an unused dedicated animal goes,[12] its young is used in the same way.[13] Now, after Passover, when an animal unused for a Passover sacrifice is considered a peace-offering, its young too is used as a peace-offering. But before Passover, for what purpose did he dedicate the mother? For the value of the Passover sacrifice.[14] Therefore in the case of the young too it is used for the value of the Passover sacrifice.[15]

R. Ukba b. Hama raised an objection: But do we say that since the mother is used only for its money value, its young is also used only for its money value? Surely it has been taught: If one sets aside a female animal for the Passover sacrifice, it and its offspring pasture until unfit for sacrifice, and they are then sold, and a Passover sacrifice is bought with the money. R. Eliezer, however, says: The [animal] itself is offered as a Passover sacrifice. Now here the mother is dedicated for its value and R. Eliezer says that its young is offered as a Passover sacrifice and we do not apply to it the same rule as to its mother? — Said Rabina: We are dealing here with a case where he sets aside a pregnant animal.[16] R. Eliezer holds the view of R. Johanan who says that if he left over [the embryo for a different dedication], the act is valid,[17] for an embryo is not considered as the thigh of its mother. Therefore it is only the mother [being a female] which receives no bodily consecration, whereas its embryo receives bodily consecration.

Said Mar Zutra the son of R. Mari to Rabina: It also stands to reason that we are dealing [in the above Baraitha] with the case of a pregnant animal, since the Baraitha says: ‘It and its offspring’.[18] This is proved.

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(1) So Sh. Mek. omitting the word ‘young of’ in cur. edd.

(2) For the first animal, in virtue of which the exchange and its young are holy, was dedicated as a guilt-offering and sacrificed as such and was not a burnt-offering (Rashi).

(3) If e.g., he brought another male Passover sacrifice and this female Passover sacrifice remained over.

(4) For a Passover sacrifice at other times of the year can be brought as a peace-offering. The animal itself, however, cannot be brought as a peace-offering, since its holiness as a Passover sacrifice has been suspended and it is therefore also unfit for a peace-offering.

(5) After Passover.

(6) Although the mother has not the name of a peace-offering, since it was dedicated as a Passover sacrifice; v. Tosef.

Pes. IX.

(7) Where e.g., one set aside a Passover sacrifice and he procured atonement through another, the one remaining over is offered as a peace-offering. Therefore this animal which remained over from Passover has the name of a peace-offering, the name of the Passover having disappeared from it, and there falls on it the name of a peace-offering. If, however, it is a female, it cannot be offered, since it comes in virtue of a Passover dedication. Its young, therefore, is offered as a peace-offering (Rashi).

(8) That the reason for R. Eliezer's view is because the mother has the name of a peace-offering.

(9) Where the female Passover sacrifice gave birth before Passover, and let R. Eliezer maintain that the young itself is offered as a peace-offering, since if he killed the mother at any time of the year it would be considered a peace-offering. Consequently the mother possesses the name of a peace-offering.

(10) That R. Eliezer holds in the first part of the above Tosef. that where the animal gave birth before Passover it is brought as a peace-offering.

(11) Where the animal gave birth before Passover, agreeing that the animal after becoming unfit for sacrifice is sold and a Passover sacrifice is bought with the money. The reason of R. Eliezer, however, in the second part of the Tosef. is not because the mother has not the name of a peace-offering but since, etc.

(12) If one set aside two animals for security's sake (in case one was lost) or if the animal which he set aside was lost, the owner procuring atonement by means of another animal, and the first animal was found. Therefore where one set aside a female for a burnt-offering, just as if one separates a burnt-offering and the owner procured atonement by means of another animal the second is offered as a burnt-offering, so the young of a female burnt-offering is treated in the same way, i.e., as a burnt-offering. In the case too of an unused guilt-offering which is left to pasture, the young of the exchange of a guilt-offering is also left to pasture. And as regards the Passover sacrifice after Passover, since an unused Passover lamb is brought as a peace-offering, the same law applies to its young. Further, in regard to a Passover sacrifice before Passover where there is a superfluous sacrifice, e.g., if he set aside two Passover sacrifices for security's sake, they are not fit for peace-offerings, since they are to be used ordinarily for the Passover. One of them is certainly superfluous and is not fit for a Passover sacrifice, since two Passover sacrifices cannot be offered. Since therefore they cannot be used for any purpose, the young too is not fit to be offered for any sacrifice but follows the mother which is holy only for the value of a Passover offering (Rashi).

(13) The same kind of dedication as its mother.

(14) The money obtained through selling the animal is used for a Passover sacrifice.

(15) But is not itself used as a Passover sacrifice.

(16) For the Passover sacrifice.

(17) If one dedicates a pregnant animal and leaves over the embryo for another dedication, this is regarded as valid; consequently we see that they are considered two separate bodies. Therefore even if he did not leave over the dedication of the embryo, it is not considered part of the body of the mother, and consequently its consecration as a Passover sacrifice has effect.

(18) Implying that both were in existence at the time of dedication, since the Baraitha does not say: If one sets aside a female animal for its Passover sacrifice let it go to pasture; if it gave birth to a male let it go to pasture, etc. This would have implied that it gave birth later, after the dedication.

Talmud - Mas. T'murah 19b

R. Jose b. Hanina said: R. Eliezer admits[1] that where one sets aside a female animal for a guilt-offering, its young is not offered as a guilt-offering. But surely this is obvious! For R. Eliezer refers only to a case where one sets aside a female animal for a burnt-offering, since its mother has the name of a burnt-offering;[2] whereas where one sets aside a female for a guilt-offering, since the mother has not the name of a guilt-offering, even [R. Eliezer] agrees that it is not offered as a guilt-offering![3] If [R. Jose] had not informed us of this, I might have thought that the reason of R. Eliezer was not because the mother has the name of a burnt-offering but because the young is fit for offering, and this animal[4] too is fit for offering.[5] [R. Jose therefore] informs us that it is not so.[6] If this is so,[7] why does [R. Jose] inform us that its young is not offered as a guilt-offering? Why not rather inform us that its young is not offered as a burnt-offering,[8] and the same would apply to a guilt-offering.[9] — If [R. Jose] had informed us concerning a burntoffering, I might have thought that the young is not offered as a burnt-offering, since the mother was not dedicated for that holiness, but in the case of a burnt-offering, I might have said that [the young] is offered as a guilt-offering. [R. Jose] therefore informs us [that it is not so].

MISHNAH. IF ONE SETS ASIDE A FEMALE [ANIMAL] FOR A GUILT-OFFERING, IT MUST GO TO PASTURE UNTIL IT BECOMES UNFIT FOR SACRIFICE. IT IS THEN SOLD AND HE BRINGS A GUILT-OFFERING WITH ITS MONEY. IF, HOWEVER, HE HAS ALREADY OFFERED HIS GUILT-OFFERING,[10] ITS VALUE[11] [IS PUT INTO THE CHEST] FOR FREEWILL-OFFERINGS;[12] R. SIMEON, HOWEVER, SAYS: IT IS SOLD WITHOUT [WAITING FOR] A BLEMISH.[13]

GEMARA. But why [wait] until [the guilt-offering] becomes blemished? Let it be sold, for since it is not fit for anything, that in itself constitutes a blemish? — Rab Judah reported in the name of Rab: The reason is this: Because we say, since consecration in respect of its value rests on it, there also rests [on it] bodily consecration.[14]

Said Raba:[15] This proves[16] that if one dedicates a male [animal][17] for its value, it receives bodily consecration.[18]

It has been stated: If one dedicated a male animal for its value, R. Kahana says: It receives the holiness of bodily consecration, whereas Raba says: It does not receive the holiness of bodily consecration. Raba, however, withdrew his opinion in favour of that of R. Kahana, on account of the explanation given [above] by Rab Judah in the name of Rab.[19]

R. SIMEON, HOWEVER, SAYS: IT IS SOLD [WITHOUT WAITING] FOR A BLEMISH. Said R. Hiyya b. Abin to R. Johanan: But why do we not say that since there rests on the animal a consecration for value, there also rests on it a bodily consecration? — R. Simeon follows the opinion expressed by him elsewhere where he says: Wherever an animal is not fit [for offering], a bodily consecration does not rest on it.[20] For it has been taught: If a guilt-offering which should be a year old[21] is brought at two years old,[22] or a guilt-offering which should be two years old[23] is brought at a year old, it is fit [for offering], only that the owners of the sacrifices are not credited as having fulfilled their obligation. R. Simeon, however, says: They are not holy at all.[24] But is there not the case of [an animal] too young for sacrifice[25] which is not fit for offering and yet R. Simeon holds that it is holy?[26] — The case of [an animal] too young for sacrifice is different, because it is fit on the morrow.[27] If this is so,[28] the same argument ought to apply to a guilt-offering which should be two years old and is brought as a year old, since it will be fit in a year's time![29] Rather the reason of R. Simeon in the case of [an animal] too young for sacrifice must be because we derive it from the case of ‘firstling’, as it has been taught: R. Simeon b. Judah reported in the name of R. Simeon: An animal too young for sacrifice enters the shed in order to be tithed, and it is like a firstling: Just as a firstling is holy before its due time [for sacrifice][30] and is sacrificed in its due time,[31] so [an animal] too young for sacrifice is holy before the prescribed time [for sacrifice] and is offered in its due time.[32]

The Rabbis have taught: If one consecrates a female [animal] for his burnt-offering,

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(1) Although where one sets aside a female animal for a burnt-offering he holds that the young itself is offered as a burnt-offering.

(2) E.g., in connection with the burnt-offering of a bird.

(3) For we do not find a female as a guilt-offering. Therefore the name of a guilt-offering has no effect on it.

(4) The young of a guilt-offering.

(5) And therefore the young should be offered as a guilt-offering.

(6) And the reason is because the name of a burnt-offering is on its mother, whereas in the other case the name of a guilt-offering is not on its mother, since it is a female.

(7) That the reason of R. Eliezer is because of the name of its mother.

(8) Since the mother has not the name of a burnt-offering, for he called it a guilt-offering.

(9) I would have argued in the following manner: If for a burnt-offering, when the money value of the mother can be used for a burnt-offering, we still say that the young is not used as a burnt-offering, how much less is the young of a female guilt-offering used as a guilt-offering, since neither the mother nor its value can be used as a guilt-offering (Rashi).

(10) I.e., procures atonement through another guilt-offering.

(11) The value of the first guilt-offering.

(12) I.e., for public sacrifices.

(13) Since it is not fit for anything, the animal is regarded as possessing a genuine blemish, unlike the case of a female burnt-offering where R. Simeon requires an actual blemish, because the name of a burnt-offering is on it.

(14) In this respect, that it requires a blemish.

(15) Var. lec. Rabbah.

(16) Since we see that the animal requires a blemish before it is sold, although ordinarily the consecration for value is intended.

(17) As a burnt-offering or a guilt-offering.

(18) For if a female requires a blemish because we say miggo (‘since’ it is holy for its value etc.), how much more so is it the case where he consecrated for its value a male, an animal fit for sacrifice, that we say ‘miggo’ and it becomes consecrated as such (R. Gershom).

(19) That from the ruling in the Mishnah that the animal pastures, it is proved that we apply miggo.

(20) And it is sold without waiting for a blemish.

(21) E.g., the guilt-offering of a Nazirite and a leper, for ‘lamb’ mentioned in this connection always denotes an animal a year old.

(22) Which is really a ram.

(23) A guilt-offering for theft or trespass; v. Lev. V, 20ff.

(24) Since they cannot he used as guilt-offerings, they do not receive any holiness, the same reason applying in the Mishnah according to the view of R. Simeon.

(25) Less than seven days old. Lit., ‘wanting time’.

(26) V. Hul. 81a where R. Simeon says: If one kills without the Temple court an animal which is fit to offer after the due time has elapsed, he is guilty of transgressing a prohibitory law.

(27) After a little while, whereas in the case of the Mishnah when the female animal is brought as a guilt-offering, it can never be fit for sacrifice.

(28) That because an animal is fit for sacrifice after a time, it is meanwhile considered holy.

(29) Why therefore does R. Simeon say in the Baraitha above that a two years’ old guilt-offering, if it is brought a year old, does not receive holiness at all?

(30) Since it is holy in the womb.

(31) So Sh. Mek.; cur. edd.: after its time.

(32) Bek. 22a, 56a and 57b.

Talmud - Mas. T'murah 20a

for his Passover sacrifice or for his guilt-offering, the [animal] can effect exchange.[1] R. Simeon Says: [The female animal set aside] for his burnt-offering effects exchange,[2] but that which he sets aside for his Passover sacrifice or guilt-offering cannot effect exchange,[3] since there is no [animal] which can effect exchange except that which pastures until unfit for sacrifice.[4]

Said Rabbi: I do not approve of the opinion of R. Simeon with reference to a Passover sacrifice,[5] since unused [money or animals] dedicated for the Passover is offered as peace-offerings.[6] And why does he not Say: I do not approve of the opinion of R. Simeon in connection with a guilt-offering, since an unused guilt-offering is offered as a burnt-offering?[7] — Rabbi holds the opinion of the Rabbis who say: The surpluses [of sacrificial appropriation] belong to the freewill-offerings of the congregation[8] and the congregation cannot effect exchange.[9] Now it is assumed that the reason why R. Simeon holds that a female set aside as a burnt-offering can effect exchange is because a female has the name of burnt-offering [in the case of a poor man who brings][10] a burnt-offering of a bird. According to this a cow set aside by a High Priest for his [sacrificial] bullock,[11] should become holy and effect exchange, since we have the case of the cow of sin-offering?[12] — The cow of sin-offering is regarded as a dedication for Temple repairs[13] and a dedication for Temple repairs cannot effect exchange. Then if an individual sets aside a goat instead of a she-goat[14] [for his sin-offering], let it become holy,[15] since we find elsewhere the case of a 'ruler' who sets aside a goat for a sin-offering?[16] Or, again, if a 'ruler' sets aside a she-goat instead of a goat [as a sin-offering], let it become holy, since elsewhere an individual sets aside a she-goat [for a sin-offering]? — These are two Separate persons [bodies].[17] But if he sinned before he was a 'ruler', even if he set aside a goat in place of a she-goat, let it become holy [and effect exchange] since, if he sinned now, [after his appointment][18] he brings a goat?[19] — Here,[20] [it is different,[21] for] since he did not sin [as a 'ruler'], he is not required to bring a goat. If so, here too,[22] he does not [actually] bring a burnt-offering of a bird?[23] — R. Simeon[24] holds the opinion of R. Eleazar b. Azariah.[25] For we have learnt: [If one says] 'Behold, I take upon myself to bring a burnt-offering',[26] he brings a sheep,[27] whereas R. Eleazar b. Azariah says: Or a turtle-dove or a pigeon.[28]

We have learnt elsewhere: If one dedicates his property [for Temple repairs] and there are animals[29] among them fit for the altar [i.e., unblemished], males and females, R. Eliezer says: The males shall be sold as burnt-offerings and the females shall be sold as peace-offerings, and their money together with the rest of the property shall go for Temple repairs.[30] R. Joshua, however, says: The males themselves are offered as burnt-offerings,[31] the females are sold as peace-offerings, burnt-offerings[32] are bought with their money and the rest of the property is applied for Temple repairs.

Said R. Hiyya b. Abba to R. Johanan: According to the opinion of R. Joshua, who said that the males are themselves offered as burnt-offerings, how can the females be offered as peace-offerings, seeing that their status is that of cancelled holiness?[33]

Another version: Said R. Hiyya b. Abba to R. Johanan: Since R. Joshua Says, The males are themselves offered as burnt-offerings, does this mean to say that he dedicated them in respect of bodily dedication? If so, why are the females sold for peace-offerings? Do not [the females] require to pasture? — He [R. Johanan] answered him: R. Joshua agrees with R. Simeon who says: Anything which is not fit [for offering] is not subject to bodily dedication.[34] For we have learnt: R. SIMEON SAYS: IT SHALL BE SOLD WITHOUT [WAITING FOR] A BLEMISH. And we explained that the reason of R. Simeon is that since the female animal is not fit for a guilt-offering, it is not subject to bodily dedication. Here[35] too[36] since a female animal is not fit for a burnt-offering, it is not subject to bodily dedication.[37] But does not R. Simeon's teaching refer only to a case where one sets aside a female animal for a guilt-offering

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(1) The animal substituted for it becomes holy.

(2) Because (i) it is not an obligatory sacrifice (R. Gershom) and also (ii) it has the name of a burnt-offering, since a bird can be a burnt-offering even though a female (Rashi).

(3) Since we do not find a female animal designated as a guilt-offering or a Passover offering.

(4) A female animal designated as a Passover or a guilt-offering is sold even without a blemish and therefore does not effect exchange; whereas a female animal designated as a burnt-offering, since the name of a burnt-offering is found in connection with a female bird, pastures until it becomes unfit and therefore effects exchange (Rashi).

(5) That it does not effect exchange.

(6) Consequently as a Passover sacrifice has some connection with peace-offerings and the latter can be females, therefore although this particular animal cannot be offered as a Passover sacrifice, we consider that it has the name of peace- offering and thus can effect exchange (Rashi). R. Gershom explains that we regard the Passover sacrifice as ‘surplus’ for the value of which we purchase a peace-offering, and thus it can effect exchange.

(7) We therefore find that this female guilt-offering is a burnt-offering and it would therefore be holy as such and effect exchange, like a female burnt-offering, for we have the case of a female burnt-offering in connection with birds (Rashi).

(8) Which are burnt-offerings.

(9) Therefore even if it were considered a burnt-offering, there could be no exchange.

(10) Inserted with Sh. Mek.

(11) Which he brings on the Day of Atonement for his sin-offering.

(12) The red heifer referred to in the Torah as a sin-offering.

(13) The reason being that the animal is not dedicated for the altar.

(14) Where he is required to bring a she-goat or a sheep for a sin-offering; v. Lev. IV, 28, 32.

(15) And effect exchange.

(16) V. ibid. 22ff.

(17) Viz., an individual and a ‘ruler’, and therefore we do not draw a comparison between them, whereas here an individual can set aside a female animal for his burnt-offering and it becomes holy and effects exchange, because if he, the same person, wished he could renounce his property in order to become a poor man and thus be able legally to bring a female bird for his burnt-offering.

(18) V. Bah.

(19) And here the ‘ruler’ and the individual are the same person.

(20) In the case just mentioned.

(21) Although there is only one person here, the reason why he does not bring a goat is as follows.

(22) Where he sets aside a female animal for his burnt-offering.

(23) For a rich man who is required to set aside an animal for his burnt-offering cannot bring a bird which is a poor man's offering. Therefore a female animal set aside for a burnt-offering should not become consecrated as such and thus should not effect exchange.

(24) This then is the reason of R. Simeon with regard to a burnt offering.

(25) That the unspecified freewill-offering even of a rich man can be the burnt-offering of a bird. Consequently, a female animal dedicated as a burnt-offering has the name of a burnt-offering.

(26) Without defining the nature of the burnt-offering.

(27) Which is the lowest kind of burnt-offering that a wealthy man can offer.

(28) Men. 105b, B.K. 78b.

(29) This is the reading in Zeb. 103a.

(30) For R. Eliezer holds that dedications are usually for Temple repairs, even of things fit for the altar. Nevertheless, whatever is suitable for the altar must be given up to the altar.

(31) One does not ignore animals fit for the altar and dedicate them for Temple repairs. Consequently we assume that they were dedicated for the altar and they themselves are offered up.

(32) For usually one makes a dedication of a burnt-offering, which is the most important of sacrifices (Sh. Mek).

(33) Since the males are offered as burnt-offerings and the money of the female animals is for burnt-offerings, presumably he holds that he dedicated them all for burnt-offerings. But a female animal dedicated as a burnt-offering must pasture, as stated above, its holiness as a burnt-offering having been cancelled (supra 18a). How then can they be offered as peace-offerings?

(34) And similarly here the female animals are not fit to be offered as burnt-offerings and therefore they have no bodily holiness which would make it requisite for them to pasture until unfit for sacrifice, but they are sold.

(35) For this reading v. Sh. Mek.

(36) In the case of our Mishnah.

(37) And therefore they are not left to pasture but are sold for peace-offerings.

Talmud - Mas. T'murah 20b

, since the mother has not the name of a guilt-offering,[1] whereas in the case of a female set aside for a burnt-offering, where the mother has the name of a burnt-offering, even R. Simeon agrees [that it can receive dedication as such]? Moreover, we have heard from R. Simeon that [a female animal set aside] for his burnt-offering effects exchange![2] — He [R. Johanan] replied to him: R. Joshua will agree with the other Tanna who quotes R. Simeon. For it has been taught: R. Simeon b. Judah reported in the name of R. Simeon: He cannot effect exchange [with a female animal set aside] even for his burnt-offering.[3] MISHNAH. THE EXCHANGE OF A GUILT-OFFERING,[4] THE YOUNG OF AN EXCHANGE,[5] THEIR YOUNG AND THE YOUNG OF THEIR YOUNG UNTIL THE END OF TIME, MUST GO TO PASTURE UNTIL UNFIT FOR SACRIFICE. THEY ARE THEN SOLD AND THEIR[6] MONEY IS APPLIED TO A FREEWILL-OFFERING.[7] R. ELIEZER, HOWEVER, SAYS: LET THEM DIE; WHILE R. ELEAZAR[8] SAYS: LET HIM BRING BURNT-OFFERINGS WITH THE MONEY.[9] A GUILT-OFFERING WHOSE OWNER DIED OR WHOSE OWNER OBTAINED ATONEMENT [THROUGH ANOTHER ANIMAL] MUST GO TO PASTURE UNTIL UNFIT FOR SACRIFICE. THEY ARE THEN SOLD AND THE MONEY OF THE OFFERING IS APPLIED TO A FREEWILL-OFFERING. R. ELIEZER, HOWEVER, SAYS: LET THE ANIMAL DIE; WHILE R. ELEAZAR[8] SAYS: LET HIM BUY A BURNT-OFFERING FOR THE MONEY. BUT CANNOT A NEDABAH [FREEWILL-OFFERING] ALSO BE A BURNT-OFFERING? WHAT THEN IS THE DIFFERENCE BETWEEN THE OPINION OF R. ELEAZAR AND THAT OF THE SAGES?[10] ONLY IN THAT WHEN THE OFFERING COMES AS AN OBLIGATION,[11] HE LAYS HIS HAND ON IT AND HE BRINGS DRINK-OFFERINGS AND THE DRINK-OFFERINGS MUST BE PROVIDED BY HIM; AND IF HE[12] IS A PRIEST, THE PRIVILEGE OF OFFICIATING AND ITS HIDE BELONG TO HIM;[13] WHEREAS WHEN HE BRINGS A FREEWILL-OFFERING, HE DOES NOT LAY HIS HAND [ON IT],[14] HE DOES NOT BRING DRINK-OFFERINGS WITH IT, THE DRINK-OFFERINGS ARE PROVIDED BY THE CONGREGATION, AND ALTHOUGH HE IS A PRIEST, THE PRIVILEGE OF OFFICIATING AND ITS HIDE BELONG TO THE MEN OF THE DIVISION[15] [OFFICIATING IN THAT PARTICULAR WEEK].

GEMARA. It is necessary [for the Mishnah] to mention that in both cases[16] [there is a difference of opinion]. For if we had been taught the case of a guilt-offering [whose owners had died or procured atonement through another animal], we might have thought that there R. Eliezer says that they[17] die because we prohibit after atonement[18] in virtue of having prohibited before atonement,[19] but in the case of the exchange of a guilt-offering or the young of an exchange,[20] I might have thought that he agrees with the Rabbis.[21] And if we had been taught the case of the exchange of a guilt-offering, [I might have thought] that the Rabbis say there that the animal pastures,[22] but in the case of a guilt-offering [whose owners had died or obtained atonement], I might have thought that they agree with R. Eliezer.[23] It was therefore necessary [for the Mishnah] to mention both cases.[24]

R. Nahman reported in the name of Rabbah b. Abbuha: The dispute[25] applies only[26] after atonement has taken place,[27] but before atonement[28] all the authorities agree that [the young itself] can be offered as a guilt-offering.[29] Said Raba: There are two arguments against this opinion. First, that a man cannot obtain atonement with something which he obtained as the result of a transgression.[30] And, moreover, R. Hanania learnt[31] in support of R. Joshua b. Levi: The first generation is offered but the second generation is not offered![32] Rather, if the statement was made, it was made in this form: R. Nahman reported in the name of Rabbah b. Abbuha: The dispute applies before atonement has taken place,[33] but after atonement has taken place,[34] all the authorities concerned agree that the animal itself[35] is offered as a burnt-offering. But has not R. Hanania learnt [a teaching] in support of R. Joshua b. Levi?[36] This remains a difficulty.

R. Abin b. Hiyya asked R. Abin b. Kahana: If one set aside a female [animal] for a guilt-offering, may its young be offered as a burnt-offering? (But why not solve this from the teaching of R. Joseph b. Hanina who said[37] that R. Eliezer agreed?[38] — He [R. Abin b. Hiyya] never heard this teaching.)[39] What is the ruling? — He [R. Abin b. Kahana] replied to him: Its young is offered as a burnt-offering. But what answer is this? R. Eliezer only refers to the case of one who set aside a female for a burnt-offering, where the mother has the name of a burnt-offering,[40] but in the case of a guilt-offering, where the mother has not the name of a burnt-offering,[41] even R. Eliezer agrees![42] —

He [R. Abin b. Kahana] replied to him: The reason of R. Eliezer[43] is not because its mother has the name of a burnt-offering but because it [the young] is fit for offering,[44] and here too [the young] is fit for offering.[45]

He raised an objection: THEIR YOUNG AND THE YOUNG OF THEIR YOUNG UNTIL THE END OF TIME etc. [R. ELEAZAR SAYS:] LET HIM BRING A BURNT-OFFERING WITH THEIR MONEY. [Now, he brings a burnt-offering] with their money.

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(1) For we do not find any case of a guilt-offering being a female.

(2) Consequently we see that it can receive bodily dedication so far as to be required to pasture before it is sold. We cannot therefore explain that R. Joshua will hold the opinion of R. Simeon.

(3) Since the animal has no bodily dedication. Thus it has to be sold as a peace-offering and is not left to pasture.

(4) Whether the exchange be a male or a female, it must pasture, as there is a traditional law that wherever in the case of a sin-offering it is condemned to die, in the case of a guilt-offering it is condemned to pasture until unfit for sacrifice.

(5) E.g., where he exchanged a female animal for his guilt-offering and it gave birth.

(6) So Wilna Gaon Glosses; cur. edd., ‘its money’.

(7) A burnt-offering, as surpluses are devoted to that purpose.

(8) So Sh. Mek.

(9) V. supra 19b.

(10) The first teachers mentioned in the Mishnah.

(11) So Sh. Mek. ‘When the duty lies on an individual to sacrifice; cur. edd. burnt-offering.

(12) The person owning the surpluses who set aside a guilt-offering and procured atonement through another animal while the first animal was condemned to pasture.

(13) Although he does not belong to the division of priests officiating in the Temple during that week, he is allowed to officiate and receive the usual priestly dues.

(14) Since a congregational sacrifice does not require laying on of hands, except in two instances.

(15) Of priests in the Temple.

(16) The case of the exchange of a guilt-offering and the one where the owners of a guilt-offering die, or had procured atonement by another animal.

(17) The animals.

(18) And only one animal is before us.

(19) And both animals are before us. We therefore fear that he might say that this one is for pasture and that for atonement, which is against the law. For since both animals are fit for guilt-offerings one animal cannot be specified as being condemned to pasture until the owner has atoned through the other animal. It is for this reason that, according to R. Eliezer, the animal is left to die even after atonement has taken place (R. Gershom).

(20) Since here one cannot prohibit, for the law to pasture applies both before and after atonement, the exchange of a guilt-offering being, according to traditional law, unfit for offering even before the sacrificing of the guilt-offering.

(21) That they go to ‘pasture. There is need therefore in the Mishnah for R. Eliezer to inform us that even in these circumstances the animals die.

(22) Because there is no prohibition after atonement on account of what might happen before atonement.

(23) That the animal is condemned to die.

(24) Another version (R. Gershom and Sh. Mek.): If the Mishnah only stated in the first part the case of the exchange of a guilt-offering, I might have thought that the Rabbis dispute there and hold that the animal is left to pasture because of the fear of a substitution. For if you say that the exchange of a guilt-offering dies, we fear lest he substitute this animal for the guilt-offering itself and the guilt-offering will thus die. Consequently, the Rabbis say that the animal pastures until unfit for sacrifice so that if by mistake there is a substitution, he can always rectify the matter by again offering the right animal. But in the case stated in the second part of the Mishnah, where the owners of a guilt-offering died or obtained atonement by means of another animal, since there is no fear of substitution — there being only one guilt-offering — I might have thought that the Rabbis agree with R. Eliezer that the animal is condemned to die. And if the Mishnah had taught us only the case where the owners of a guilt-offering died, I might have said that R. Eliezer holds there that the animal dies, since there is no fear of substitution etc.

(25) With reference to the young of the exchange of a guilt-offering.

(26) V. Sh. Mek.

(27) After the owners have obtained atonement by means of the guilt-offering itself and this young of the exchange remained.

(28) If he has not yet obtained atonement with the guilt-offering and both animals are before us, the guilt-offering and the young of its exchange.

(29) Since both are males he can use either as a guilt-offering.

(30) I.e., a breach of the prohibitory law, 'He shall not alter it nor change it' involved (Lev. XXVII, 10). And although the exchange of a burnt-offering or peace-offering is offered up, the latter is not for the purpose of atonement.

(31) V. supra 18b.

(32) And the young of the exchange is considered the second generation, the exchange itself being considered a generation, having become holy through another dedication.

(33) R. Eliezer holds there that the young dies. For if you say that the young pastures, since what is bought for its money is offered, it might be substituted and itself offered as a guilt-offering. The Rabbis, however, will maintain that since the animal itself is not offered as a burnt-offering, there is no fear of substitution (Rashi).

(34) Where there is no fear of substitution, since the guilt-offering has already been sacrificed.

(35) The young of the exchange.

(36) That the second generation is not offered and the young of the exchange is the second generation.

(37) V. supra 19b.

(38) That where one set aside a guilt-offering, its young is not offered as a guilt-offering.

(39) He never learnt the ruling (R. Gershom). Sh. Mek. explains this phrase as meaning that he did not agree with the teaching.

(40) I.e., in connection with the burnt-offering of a bird.

(41) As a burnt-offering cannot be a female.

(42) That the young is not brought as a burnt-offering.

(43) Why he holds that if one sets aside a female animal for a burnt-offering the male young is offered as a burnt-offering.

(44) Therefore in the case of the young of the female burnt-offering, since the young is fit to be offered, it is used as a burnt-offering.

(45) The male young of a female burnt-offering is fit for a burnt-offering, since it is suitable to be offered.

Talmud - Mas. T'murah 21a

implying. but he must not offer the animal itself as a burnt-offering?[1] — We are dealing here[2] with a case where e.g., it [the exchange] gave birth to a female animal.[3] AND UNTIL THE END OF TIME, would it not give birth even to one male? — He said to him: I am giving you a forced answer of a Babylonian character.[4] Where e.g., it gave birth until the end of time to females only. (But[5] what answer could he have given him?[6] — The reason there [why R. Eleazar says that only the money can be used for a burnt-offering] is because he may come to make a substitution.)[7]

MISHNAH. THE EXCHANGE OF A FIRSTLING AND AN ANIMAL TITHED, THEIR YOUNG AND THE YOUNG OF THEIR YOUNG UNTIL THE END OF TIME,[8] THESE HAVE THE LAW OF A FIRSTLING AND AN ANIMAL TITHED,[9] AND ARE EATEN BY THE OWNERS WHEN BLEMISHED.[10] WHAT IS THE DIFFERENCE BETWEEN A FIRSTLING AND AN ANIMAL TITHED [ON THE ONE HAND] AND OTHER DEDICATIONS ON THE OTHER? ALL [BLEMISHED] DEDICATIONS ARE SOLD IN THE MARKET,[11] KILLED IN THE MARKET, AND WEIGHED BY THE POUND, BUT NOT A FIRSTLING AND AN ANIMAL TITHED.[12] THEY [OTHER DEDICATIONS] AND THEIR EXCHANGES ARE REDEEMED,[13] BUT NOT A FIRSTLING AND AN ANIMAL TITHED.[14] THEY [OTHER DEDICATIONS] COME FROM OUTSIDE THE HOLY LAND [TO THE HOLY LAND], BUT NOT A FIRSTLING AND AN ANIMAL TITHED.[15] [IF] THEY[16] HOWEVER CAME FROM [OUTSIDE THE HOLY LAND] UNBLEMISHED, THEY ARE OFFERED, IF BLEMISHED THEY ARE EATEN BY THEIR OWNERS[17] WITH THEIR BLEMISHES. SAID R. SIMEON:

WHAT IS THE REASON?[18] BECAUSE A FIRSTLING AND AN ANIMAL TITHED HAVE A REMEDY WHEREVER THEY ARE,[19] WHEREAS ALL OTHER DEDICATIONS, ALTHOUGH A BLEMISH HAS OCCURRED IN THEM, REMAIN HOLY.[20]

GEMARA. Said Raba son of R. ‘Azza:[21] In the West [Palestine] they asked: How is it if one causes a blemish to the exchange of a firstling and an animal tithed? Do we say that since they are not offered,[22] he is not culpable?[23] Or that perhaps since they are holy,[24] he is culpable? Said Abaye to him: And why do you not ask: How is it if one causes a blemish to the ninth [animal] of the ten [taken in for tithing]?[25] Why then do you not ask concerning the ninth [animal of the ten], because the Divine Law excludes it [having stated]: The tenth,[26] thus excluding the ninth [animal]?[27] Here[28] too the Divine Law excludes it [by saying]: Thou shalt not redeem; they are holy,[29] thus implying, ‘they’ are offered but their exchange is not offered.[30]

R. Nahman b. Isaac reported the [above passage] as follows: R. Aha[31] son of R. ‘Azza said: They asked in the West: How is it if one caused a blemish to the ninth [animal] of the ten? — Said [Abaye][32] to him: And why not ask, How is it if one caused a blemish in a firstling and an animal tithed? What then is the reason that you do not ask this concerning the exchange of a firstling and tithe? Because the Divine Law excludes these cases[33] [by means of the text]: ‘They are holy’. implying that ‘they’ are offered but their exchange is not offered;[34] Similarly the case of the ninth [animal] of the ten is also excluded by the Divine Law [saying]: ‘The tenth’, thus excluding the ninth [animal].[35]

IF THEY, HOWEVER, CAME UNBLEMISHED etc. The following contradicts this: The son of Antigonus brought up firstlings from Babylon [to the Holy Land] and they were not accepted from him [to be offered]![36] — Said R. Hisda: There is no difficulty. This[37] is the opinion of R. Ishmael, and that[38] is the opinion of R. Akiba. For it has been taught: R. Jose reported three things in the name of three Elders.[39]

R. Ishmael says: One might say that a man can bring up second tithe and eat it in Jerusalem nowadays? Now we may argue thus: A firstling requires bringing to the [holy] place[40] and [second] tithe requires bringing to the holy place. Just as a firstling is not eaten except when there is a Temple in existence,[41] so [second] tithe should not be eaten except when there is a Temple in existence! No.[42] If you can say this of the firstling,[43] which requires the application of blood to and the burning of sacrificial portions[44] on the altar, shall you say the same of [second] tithe which does not require this?[45] Then you may reason thus: Firstfruits require bringing to the holy place[46] and second tithe requires bringing to the [holy] place. Just as firstfruits are not eaten except when the Temple is in existence, similarly [second] tithe should not be eaten except when the Temple is in existence. [I can however reply:] You can argue so of firstfruits which require setting[47] before the altar; but will you say the same of [second] tithe which does not require this? The text therefore states: Thou shalt eat before the Lord thy God the tithe of thy corn and of thy wine and of thine oil, and the firstlings of thine herds and of thy flocks.[48] It thus compares [second] tithe with a firstling: just as a firstling is not eaten except when the Temple is in existence, so second tithe is not eaten except when the Temple is in existence. But why not go around with the argument[49] and prove the case [of second tithe by analogy] from the common point?[50] — Said R. Ashi: Because one can object: As to the point firstling and firstfruits share in common,[51] it is that they both require the altar.[52] Now what is [R. Ishmael's] view?[53] Does he hold that with the first consecration[54] he [Joshua] consecrated the land for the time being [as long as it was inhabited by Israel] and also for the future?[55] Then there should be no difference between firstling and [second] tithe, both being suitable to be brought. And if [R. Ishmael] holds that with the first consecration he [Joshua] consecrated for the time being but not for the future,[56] why not raise the question[57] even concerning a firstling?[58] — One can maintain that [R. Ishmael] holds that with the first consecration he [Joshua] consecrated the land for the time being but not for the future, but here[59] he is thinking of a case where e.g., the blood of the firstling was sprinkled while the Temple was still in existence, and the Temple was then destroyed and the flesh of the firstling still remained. Since therefore if the blood was in existence, it would not be fit to be sprinkled,[60] we therefore derive the case of the flesh [of the firstling][61] from the case of the blood [of the firstling].[62]

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(1) In spite of the fact that the young of an exchange is fit to be offered, R. Eleazar still maintains that the young itself cannot be offered. You cannot therefore argue here that because the young of the female guilt-offering is fit for sacrifice, therefore it may be offered.

(2) Where he brings a burnt-offering with the money.

(3) Thus it is not fit to be offered as a burnt-offering and therefore R. Eleazar says in the Mishnah that a burnt-offering is bought for its money.

(4) A criticism of the teachers of Babylon who were, metaphorically speaking, described as putting an elephant through the eye of a needle (R. Gershom).

(5) The following bracketed passage is supplied on the basis of Rashi; v. Wilna Gaon Glosses.

(6) Since he says that the answer he gave was a forced one, this implies that he knew of another answer. Now what was it?

(7) If he could bring the young of an exchange of a guilt-offering itself as a burnt-offering, he might make a mistake and bring it as the guilt-offering in place of the real guilt-offering.

(8) Lit., ‘until the end of the world’.

(9) That they are not killed in the market where meat is sold, even after being blemished and redeemed.

(10) Without redemption, as is the case with a firstling and an animal tithed.

(11) Thus obtaining a higher price for the flesh, which benefits the Sanctuary, as then he is enabled to bring a better sacrifice for the money received.

(12) Since when they are blemished there is no need to bring another offering with the money. Consequently the higher price would only benefit private people i.e., the owners of the firstling or the tithed animal, and therefore we do not permit the abuse of consecrations for the sake of private profit.

(13) When blemished, and with the money another offering is purchased.

(14) Since if these animals become blemished they are not redeemed so as to render the wool and the working of them permissible. Also the money obtained is not holy, as there is no need to bring another offering in their place, only when blemished they are eaten by the owners themselves.

(15) Which are not directly brought from outside the Holy Land.

(16) A firstling and tithed animal.

(17) I.e., a priest in the case of the firstling and the owner in the case of a tithed animal.

(18) That a firstling or a tithed animal cannot come direct from outside the Holy Land to the Holy Land.

(19) To pasture until unfit for sacrifice and then eaten. Lit., ‘from their place’.

(20) Since even if they became blemished, he is required to bring their money for the purpose of bringing offerings. Therefore as holiness remains in them even if blemished, the owners are required to bring to the Holy Land the unblemished dedications in order to offer them.

(21) Var. lec. R. Aba.

(22) Scripture saying in connection with a firstling: ‘Thou shalt not redeem, they are holy’ (Num. XVIII, 17), from which we infer that they are offered but not their exchange and the case of tithe we derive by means of an analogy from the firstling.

(23) For transgressing, there shall be no blemish therein (Lev. XXII, 21) interpreted as a warning against inflicting a blemish.

(24) Since Scripture says: Then it and the exchange thereof shall be holy (Lev. XXVII, 10).

(25) And calling it tenth, in which case it is holy but is not offered.

(26) Lev. XXVII, 32.

(27) Which in tithing was called ‘the tenth’ so that it is not offered. And since it is not offered, then obviously there is no penalty for inflicting a blemish upon it.

(28) Where one causes a blemish on a firstling.

(29) Num. XVIII, 17.

(30) And since they are not offered, therefore there is no guilt in inflicting a blemish.

(31) Var. lec. Raba.
(32) So Sh. Mek.
(33) From the guilt of causing a blemish to dedications.
(34) And since they are not offered, there is no penalty for causing a blemish on it.
(35) And there is no guilt in causing on it a blemish.
(36) There is thus a difficulty as regards the Mishnah which says that if unblemished firstlings were actually brought up from outside the Holy Land they are offered.
(37) The Mishnah.
(38) That firstlings from outside the Holy Land were not accepted to be offered.
(39) R. Ishmael, R. Akiba and Ben ‘Azzai.
(40) V. Deut. XII, 11: Thither ye shall bring your burnt-offerings . . . and your tithes.
(41) Since the portions of sacrifices destined to be burnt must be burnt on the altar and the application of the blood requires an altar.
(42) This analogy is not conclusive.
(43) That it can be brought only when the Temple is in existence.
(44) Limbs and fat destined for the altar.
(45) And therefore being different it may perhaps be brought even without the Temple standing.
(46) ‘And the heave-offerings of your hand’ (ibid) is explained as referring to the firstfruits.
(47) Scripture saying, Thou shalt set it before the Lord thy God (Deut. XXVI, 20).
(48) Ibid. XIV, 23.
(49) What need is there for a special Scriptural text, And thou shalt eat, etc.?
(50) As follows: If you say that the analogy between firstfruits and tithe is not exact, since in the former there is no setting before the altar, then the case of firstling will prove that even without the setting before the altar it is necessary for the Temple to be in existence in order that the firstling can be brought, and the same therefore will apply to second tithe. Again, if you say that firstling is different because it requires the application of its blood to the altar, then the case of firstfruits will prove that although there is no application of blood, only when the Temple stands can they be brought, and the same therefore will apply to second tithe. Firstlings and firstfruits have therefore one point in common, i.e., the need of bringing them to a holy place and that the Temple must be standing, the same then will apply to second tithe, that it will be brought only when the Temple is standing.
(51) And therefore they require the Temple to be in existence before they can be brought. This is not the case with second tithe.
(52) In the case of firstfruits for the purpose of setting and in the case of firstling for the application of the blood.
(53) Who has no doubt that a firstling is not eaten except when the Temple stands, but who has a doubt concerning the second tithe.
(54) Of Palestine by Joshua.
(55) Even without a Temple, Jerusalem is a holy place.
(56) And so there is a doubt concerning second tithe.
(57) Whether in order to bring it the Temple must be in existence.
(58) Why therefore does he infer the case of the second tithe from firstling?
(59) Where R. Ishmael is sure of the case of firstling.
(60) Since Jerusalem was not holy after Temple times (Rashi).
(61) As regards eating it.
(62) And just as the blood cannot be sprinkled, the flesh too cannot be eaten.

Talmud - Mas. T'murah 21b

and then we derive the case of second tithe[1] from the case of firstling.[2] But do we infer one case of dedication from another?[3] Has not R. Johanan said:[4] Throughout the Torah we can derive by inference one rule from another which has itself been derived by inference, save only in the field of dedications where we do not derive a rule from one which is itself derived? — Tithe [of grain] is [considered] hullin.[5] This explanation will suffice for one who holds that that which is derived is the deciding factor.[6] But what answer would you give according to the authority who holds that that from which it is derived is the deciding factor?[7] — ‘Flesh’ and ‘blood’ in the case of firstling are considered one subject.[8]

R. Akiba says: One might think that a man can bring up a firstling from outside the Holy Land to the Holy Land when the Temple is standing and offer it? The text, however, states: And thou shalt eat before the Lord thy God the tithe of thy corn and of thy wine and of thine oil, and the firstlings of thy herds and of thy flocks,[9] thus implying that you may bring up a firstling to the Holy Land from the same place from where [second] tithe of grain is brought up,[10] and that you cannot bring up a firstling to the Holy Land from the place from which you cannot bring up [second] tithe of grain.[11]

Ben ‘Azzai says: One might say that a man may bring up the second tithe[12] and eat it wherever he can see [Jerusalem]? One may argue[13] [as follows]: A firstling requires bringing to a [holy] place and [second] tithe requires bringing to a [holy] place: just as a firstling is not eaten except within the wall [of Jerusalem],[14] so [second] tithe is not eaten except within the wall [of Jerusalem]. [To this I can reply:] How can you argue from a firstling which requires the application of blood to and the burning of sacrificial portions on the altar,[15] to second tithe which does not require this?[16] Scripture therefore says: ‘Thou shalt eat before the Lord thy God the tithe of thy corn and of thy wine and of thine oil, and the firstlings of . . ., etc.’, thus comparing second tithe with firstling as follows: Just as a firstling is not eaten except within the wall [of Jerusalem], similarly [second] tithe is not eaten except within the wall [of Jerusalem]. But what is [Ben ‘Azzai's] difficulty that he should say: One might think etc.?[17] — I will tell you. Since we have learnt: The difference between Shiloh and Jerusalem consists in this, that in Shiloh one may eat minor dedications and second tithe wherever one can see it, whereas in Jerusalem he may do so only within the wall, [and in both][18] dedications of the higher degree of holiness are eaten inside the enclosures of the Temple court, you might think that the second tithe should be eaten wherever one can see [Jerusalem].[19] [Ben ‘Azzai] needs therefore [to quote a text to] inform us [that it is not so].

Others say: One might think that a firstling whose year is passed has the same law as disqualified dedications and should be disqualified?[20] Scripture, however, says: ‘The tithe of thy corn, of thy wine and of thine oil’, thus comparing firstling with second tithe [as follows]: Just as second tithe is not disqualified from one year to another,[21] so a firstling [which is left] over from one year to another is not disqualified. And the Rabbis[22] who interpreted the text above[23] for another purpose, whence do they derive that one may bring a firstling [left over] from the first year to the other? — They derive this from [the Scriptural text]: Thou shalt eat it before the Lord thy God year by year,[24] which teaches us that a firstling [left over] from one year to another is not disqualified.[25] And how do the ‘Others’[26] interpret the text: ‘Thou shalt eat it before the Lord thy God year by year’? — They need this text for what has been taught: One day from this year and a day from the next;[27] this teaches us that a firstling may be eaten for two days[28] and a night. And whence do the Rabbis derive that a firstling may be eaten for two days and a night? — The text says: It shall be to thee as the breast of the waving.[29]

CHAPTER IV

MISHNAH. THE YOUNG OF A SIN-OFFERING, THE EXCHANGE OF A SIN-OFFERING, AND A SIN-OFFERING WHOSE OWNER HAS DIED, ARE LEFT TO DIE. A SIN-OFFERING WHOSE YEAR IS PASSED OR WHICH WAS LOST AND FOUND BLEMISHED,[30] IF THE OWNERS OBTAINED ATONEMENT [AFTERWARDS, THROUGH ANOTHER ANIMAL], IS LEFT TO DIE;[31] IT[32] DOES NOT EFFECT EXCHANGE;[33]

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(1) By means of the analogy as stated in the text: ‘And thou shalt eat before the Lord thy God, etc.’.

(2) Just as firstling is certainly not eaten in Jerusalem, since the Temple is not in existence, the same applies to second tithe.

(3) As, for example, here where we infer ‘flesh’ from ‘blood’ and again second tithe from the flesh of firstling.
(4) Zeb. 50a.
(5) Because it can he redeemed to become hullin i.e., unconsecrated grain, and eaten in all places (R. Gershom). Therefore when we compare second tithe with firstling, we are not really making analogy between dedications, as is the case when we inferred ‘flesh’ from ‘blood’.
(6) Whether the subject is dedications or not. And since it is second tithe which is the subject learnt and derived from dedication, it is quite in order, because second tithe can be rendered hullin, as stated previously.
(7) I.e., here the blood of the firstling, as we learn second tithe from it, and this belongs to the category of dedications.
(8) And since this is the case, we are only making one inference I.e., second tithe from the blood and flesh of a firstling which are considered as one subject as regards dedications. Rashi comments that if we say that the holiness of the Land only applied for the time being and not for the future, why should R. Ishmael have a doubt concerning second tithe, for since there is no consecration for the future then there is no need for the Temple to be standing when bringing second tithe? Rashi therefore agrees with the text found in the Jerushalmi as follows: If R. Ishmael holds that the holiness of the Land extends to all times, then the enquiry should be even concerning a firstling, whether it is a condition that the Temple should be in existence before bringing it. And if he holds that the holiness of the Land does not extend for all time, then he should not inquire even concerning second tithe! One may still say that he holds that the holiness of the Land extends to the future as well, and the reason why he is certain about a firstling is because he is thinking of a case where e.g., he killed a firstling before the Temple was destroyed etc. and the inference is: Just as the blood requires an altar, so the flesh of the firstling cannot be eaten except where there is an altar, and then we proceed to derive the case of second tithe from that of firstling.
(9) Deut. XIV, 23.
(10) I.e., from the Holy Land itself.
(11) I.e., outside the Holy Land. Thus the Baraitha above which says that the firstlings brought up by the son of Antigonus to the Holy Land were not accepted, follows the view of R. Akiba, whereas our Mishnah is in accordance with R. Ishmael, who does not expound the cited verse after the manner of R. Akiba.
(12) In the time when the Temple stood. (R. Gershom).
(13) That it should not be eaten.
(14) Since dedications are disqualified if eaten outside Jerusalem.
(15) And therefore is only eaten within the wall of Jerusalem.
(16) And therefore one might think that so long as one can see Jerusalem even outside its wall, it may be eaten. Rashi has a different version from the text in the Gemara: Firstling is different, since there is a distinction in the period in which it may be eaten i.e., only two days and a night, and a distinction as regards those permitted to eat i.e., only the priests, whereas second tithe can be eaten at all times and by everyone, priests or non-priests.
(17) Why should one imagine that he may eat second tithe wherever he can see Jerusalem even outside its walls?
(18) I.e., Shiloh and Jerusalem.
(19) This therefore was Ben ‘Azzai's difficulty regarding the Baraitha: I can understand the rule that dedications of the minor degree of holiness should be eaten within the walls of Jerusalem, since there is an application of blood to be made on the altar. But why should second tithe not be eaten in any place where he can see Jerusalem?
(20) From being offered, since Scripture says with reference to firstling: ‘Year by year’.
(21) For one redeems it and brings it any time
(22) The three Elders; R. Ishmael, R. Akiba and Ben ‘Azzai.
(23) ‘And thou shalt eat the tithe of thy corn and of thy wine and of thine oil, etc.’ quoted above.
(24) Deut. XV, 20.
(25) For the words ‘year by year’ imply two years.
(26) Who derive by means of the analogy between firstling and second tithe that a firstling older than a year is not disqualified.
(27) Where he killed a firstling according to the law at the end of its first year.
(28) Even if the second day belonged to the fresh year.
(29) Num. XVIII, 18. Like the breast and shoulder of the peace-offering which are eaten two days and a night.
(30) Prior to the owners obtaining atonement through another animal.
(31) And even the Rabbis who say later that a sin-offering is not condemned to die except when found after the owners had obtained atonement, here agree that the animal dies, since there are two unfavourable conditions: First, it was lost

and found blemished, and secondly, the owners obtained atonement through another animal after it was found, thus showing deliberately that they did not wish to procure atonement with the lost animal (Rashi).

(32) The animal which was found.

(33) Since it is not consecrated bodily but only for its value (R. Gershom).

Talmud - Mas. T'murah 22a

IT IS FORBIDDEN [RABBINICALLY] TO DERIVE BENEFIT FROM IT, BUT THE LAW OF SACRILEGE DOES NOT APPLY TO IT.[1] IF, HOWEVER, THE OWNERS[2] HAVE NOT YET OBTAINED ATONEMENT,[3] IT[4] MUST GO TO PASTURE UNTIL IT BECOMES UNFIT FOR SACRIFICE. IT[5] IS THEN SOLD IMMEDIATELY AND ANOTHER IS BOUGHT WITH THE MONEY.[6] IT[7] , EFFECTS EXCHANGE,[8] AND THE LAW OF SACRILEGE APPLIES TO IT.[9] GEMARA. Why does not [the Mishnah] state them [the five sin-offerings which are left to die] all together?[10] — The Tanna is sure [of the three cases] in the first part [of the Mishnah],[11] but is not sure [of the two other cases] in the latter part [of the Mishnah]. What need is there to state [this whole Mishnah] in [Tractate] Me'ilah and here in Temurah?[12] — [The Tanna in the Mishnah] states here the rule of exchange [with reference to the five sin-offerings], and since he states the rule of exchange [here], he also states the rule of sacrilege,[13] and [since he states the law of sacrilege in Temurah, he also states in Me'ilah the law of exchange].

Said Resh Lakish: A sin-offering whose year is passed is regarded[14] as if it stood in a cemetery[15] and it is left to pasture. We have learnt: AND [ONE] WHOSE YEAR IS PASSED AND WHICH WAS LOST AND FOUND BLEMISHED, IF THE OWNERS OBTAINED ATONEMENT [AFTERWARDS THROUGH ANOTHER ANIMAL], IS LEFT TO DIE. Shall we say this refutes Resh Lakish?[16] — Resh Lakish can answer you: The first part [of the Mishnah][17] refers to the case where the sin-offering was lost and found blemished.[18] If[19] so, read the latter part [of the Mishnah]: IF HOWEVER THE OWNERS HAVE NOT YET OBTAINED ATONEMENT, IT MUST GO TO PASTURE UNTIL UNFIT FOR SACRIFICE. Now if the Mishnah refers to a blemished animal, is it not already unfit?[20] — Said Rabbah: [The Mishnah] should read as follows: ‘Or[21] it was lost and found blemished with a transitory blemish, if after the owners have obtained atonement, it is condemned to die;[22] if, however, before the owners have obtained atonement, let it go to pasture until unfit for sacrifice with a permanent blemish and then sold’.[23] Said Raba: There are two arguments against [this answer]. First, if so,[24] the Mishnah ought to have said, ‘Let him keep it’ [the animal with the transitory blemish];[25] and, moreover, for what purpose does the Mishnah mention a sin-offering whose year is passed?[26] Raba therefore said: This is meant [by the Mishnah]: ‘If the sin-offering passed its year and was lost,[27] or if it was lost and found blemished,[28] if after the owners have obtained atonement [through another animal], it is left to die; if before the owners have obtained atonement,[29] let it go to pasture until unfit for sacrifice[30] and then be sold’.[31] And there is need to mention the condition of its being lost, both in connection with a blemished sin-offering and where [a sin-offering] passed its year. For if it mentioned the condition of its being lost only where the sin-offering passed its year, I might have thought there,[32] because it is of no use for anything,[33] the condition of being lost helps [to condemn it to die], whereas in the case of a blemished sin-offering, where if it were not for the blemish it would be fit, I might have said that the condition of being lost does not help [to condemn it to die].[34] And if it [the Mishnah] had mentioned the condition of being lost in connection only with a blemished sin-offering, I might have said that there the condition of being lost helps [to condemn it to die], since it is not fit to be offered;[35] whereas in the case of the sin-offering which passed its year and which is fit for offering,[36] I might have said that the condition of being lost does not help [to condemn it to die]. It is therefore necessary [to mention the condition of being lost in both cases]. But did Raba say this?[37] Has not Raba said: A sin-offering lost at night[38] has not the name [legally] of a lost sin-offering?[39] It is not the same.[40] A sin-offering lost at night is not fit to offer either itself or its value,[41] whereas here,[42] granted that it is not itself fit for offering, its value is fit for offering.[43]

We have learnt elsewhere: The second [goat] goes to pasture until unfit for sacrifice and it is then sold and its money is devoted to the purchase of a freewill-offering, since a congregational sin-offering is not condemned to die.[44] This implies that in the case of an individual sin-offering[45] it is condemned to die. And R. Johanan explained: Animals [dedicated for sacrifices] are removed for ever from sacred use,[46] and the atonement is through the second [animal] of the second pair. Now the first goat [of the first pair][47] is like the case of a sin-offering whose year is passed.[48] The reason therefore why it is not condemned to die is because it is a congregational offering, but if it were an individual offering it would be condemned to die![49] — Raba can answer you: The case where animals are removed from sacred use is one thing, and the case of an animal which was lost is another. What is the reason? — If sin-offerings were lost, his mind is on them, in case they may be found;[50] whereas where the sin-offerings are removed from sacred use, they can never be fit again for offering.[51]

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(1) If the owners benefited from it in any way, they are exempt from bringing a sacrifice for the unlawful use of a sacred thing (v. Lev. V, 15ff.) since neither it nor its money is devoted to anything holy.

(2) Of a sin-offering older than a year or a sin-offering found blemished after being lost.

(3) I.e., as long as the owners did not desire to procure atonement through another animal.

(4) Viz., the animal which has passed its year.

(5) Viz., the animal which was lost and found.

(6) Since the owners have not yet been atoned for.

(7) A sin-offering which is condemned to pasture.

(8) Since whatever is condemned to pasture effects exchange, as it is consecrated bodily.

(9) Since its value is devoted for a holy purpose.

(10) In one clause, instead of dividing them into two clauses, stating three cases i.e., a young of a sin-offering, the exchange of a sin-offering and a sin-offering lost and found blemished, in one section, and two other cases in a later section.

(11) That they are condemned to die even where the owners have not obtained atonement through another animal.

(12) The whole of this Mishnah being also taught in Tractate Me'ilah, III, 1.

(13) V. Marginal Gloss for the reading adopted here.

(14) Wherever it may be.

(15) Where a priest cannot enter, owing to ritual uncleanness, to kill it.

(16) Who rules that it pastures, implying even after the owners have obtained atonement, since he makes no distinction.

(17) Which says that it is condemned to die.

(18) But not with reference to a sin-offering older than a year.

(19) V. Sh. Mek. for the reading here, omitting the words preceding in cur. edd.

(20) Why then does the Mishnah say that it pastures until blemished? Consequently the Mishnah, when it says that the animal pastures, refers to the case of a sin-offering which has passed its year, and therefore the earlier part of the Mishnah which says that if the owners have obtained atonement the animal is condemned to die, also refers to a sinoffering which has passed its year. Now this is different from the opinion of Resh Lakish above.

(21) V. Sh. Mek. for this reading.

(22) The Mishnah consequently, according to Rabbah, does not refer to the case of a sin-offering whose year is passed.

(23) Therefore although we are dealing with a blemished animal, the Mishnah is in order when it speaks of pasturing until blemished, meaning with a permanent blemish, since a dedication with only a transitory blemish may not be sold.

(24) That we are dealing here with an animal possessing a transitory blemish.

(25) Until it receives a permanent blemish. Why does the Mishnah say that it should pasture?

(26) Since none of the rulings in the Mishnah have reference to it, for even if the owners have obtained atonement through another animal, it is not condemned to die, it effects exchange and is subject to the law of sacrilege. (V. Sh. Mek.).

(27) Thus having two unfavourable conditions even though found in an unblemished state.

(28) Here also there are two unfavourable conditions, being lost and blemished.

(29) Where the owners do not wish to obtain atonement through another animal.

(30) The sin-offering older than a year which is lost and found unblemished. The other which was found blemished is sold immediately (Sh. Mek.).
(31) And the ruling of Resh Lakish above that even if the owners have obtained atonement the animal older than a year is left to pasture, refers to the case where it was not lost and thus there is only one unfavourable condition, i.e., older than a year.
(32) Where the animal found was in a blemished condition.
(33) For any offering, since it is blemished.
(34) I might therefore have said that it is a mere defect in the animal, and since it was found before the owners obtained atonement through another animal, it is only condemned to pasture.
(35) For any sacrifice, being a blemished animal.
(36) For other sacrifices. Rashi explains that in all the cases in which we require two unfavourable conditions in order to condemn the sin-offering to die, we suppose that the animal was found before the owner has obtained atonement, but if the animal was found after the owner's atonement, even without the unfavourable condition of being lost, the animal is condemned to die.
(37) That where the sin-offering is disqualified before it was lost, i.e., if it is older than a year, the condition of being lost helps to condemn the animal to death.
(38) And the owner of which set aside another animal in its place.
(39) Since it is unfit to be offered at night and it was found the next day. It therefore pastures until unfit for sacrifice, if the owners obtain atonement through the other animal. Now here too in the case of a sin-offering whose year is passed, since it is unfit for sacrifice, the condition of being lost should not help to condemn it to die.
(40) The case of an animal lost by night is not on a par with a case of a sin-offering older than a year which was lost.
(41) Since a sacrifice cannot be offered at night.
(42) In a case of a sin-offering older than a year.
(43) Before it was lost.
(44) V. Yoma 64a which says that if one of the two goats required on the Day of Atonement died before the lots were cast, the High priest brings another goat and joins it to the survivor. If, however, the lots had been cast, he brings two fresh goats and casts lots and says: If the goat destined ‘unto the Lord’ died, then the goat upon which the lot of ‘unto the Lord’ has now fallen becomes the atonement sacrifice, and if the goat destined ‘for Azazel’ died, then the goat upon which the lot has now fallen ‘for Azazel’ is sent to Azazel and the second etc.
(45) In similar circumstances.
(46) Even without a physical disqualification.
(47) Removed from sacred use when its companion died.
(48) Which is also removed from sacred use.
(49) Although the condition of being lost is absent, it is condemned to die because the owner has obtained atonement through another animal. Consequently we see there is no need for two unfavourable conditions for the animal to be condemned to die, unlike the opinion of Raba above.
(50) And therefore the condition of being found blemished is required in addition to the condition of being lost, before the animal can be condemned to die.
(51) And therefore in the case of an individual as in the Mishnah above, where the animal is removed from being offered at all, it is condemned to die.

Talmud - Mas. T'murah 22b

The text [says above]: ‘Raba said: A sin-offering which had been lost at night[1] has not the name [legally] of a lost sin-offering’. In accordance with whom is this opinion? Shall I say according to the Rabbis? If so, why does Raba mention the condition of being lost at night; the same applies even if it were lost by day,[2] since the Rabbis say that a lost sin-offering, [found] when [the animal] set aside [in its place had not yet been offered],[3] is condemned to pasture?[4] Rather it is according to the opinion of Rabbi;[5] [for Raba holds] that Rabbi's ruling only applies to a sin-offering which was lost by day, but with regard to a sin-offering which was lost by night, even Rabbi agrees that it goes to pasture.[6] Or if you prefer [another solution] I may say: One may still hold that it is according, to the opinion of the Rabbis, and we are supposing here that the sin-offering was lost and was only found when the owners obtained atonement,[7] the opinion of the Rabbis that a sin-offering which was lost when the owners obtained atonement is condemned to die only applying when the loss first occurred[8] by day, but where the loss first occurred by night, it is not so.

Said Abaye: We have a tradition, ‘Lost but not stolen, lost but not robbed’,[9] How is the case of a sin-offering which was lost to be understood? — Said R. Oshaiah: It means even a single [animal which became mixed up] with his herd,[10] and even one [which became mixed up] with another.[11] R. Johanan says: If the sin-offering [ran] behind the door.

The question was asked: What is meant [by R. Johanan's view]? Shall we say that [the law of a lost sin-offering only applies where the sin-offering is] behind the door, since no-one can see [the animal], but if the sin-offering ran outside [into the wilderness],[12] since there are others who can see it, it has not the law of a lost sin-offering; or perhaps [a sin-offering] behind the door, though if [the owner] turns his face, he can see it, has yet the law of a lost [sin-offering], then all the more so is this the case with a sin-offering which ran outside, where he does not see it [at all]? — Let it stand undecided.

Said R. Papa: We have a tradition: If the sin-offering has been lost to [the owner] but not to the shepherd, it has not the law of a lost [sin-offering]; and this is certainly the case[13] where [the sin-offering] has been lost to the shepherd but not to [the owner]. How is it if the sin-offering has been lost to him [the owner] and to the shepherd but one from quite another place[14] recognised it? — Let it stand undecided.

R. Papa asked: How is it if [the sin-offering] was lost [when the blood of its companion was] in the cup?[15] To whom is this question addressed? Shall I say to Rabbi? but does he not hold that a lost [sin-offering, found] when [the animal] set aside [in its place had not yet been offered], is condemned to die?[16] Rather his [R. Papa's] inquiry will be addressed to the Rabbis, as follows: Do we say that the ruling of the Rabbis, that a lost sin-offering [found] when [the animal] set aside [in its place had not yet been offered] is condemned to pasture,[17] only applies before the blood was received in the cup, but here they hold that whatever is ready to be sprinkled is considered as if it had been sprinkled [and therefore it is condemned to die]; or perhaps that so long as the blood has not yet been sprinkled, it is like the case where a lost sin-offering [was found] when [the animal] set aside [in its place had not yet been offered] and it is condemned to pasture?

Some there are who say: One might indeed say that [R. Papa's inquiry] is addressed to Rabbi,[18] and his inquiry will be where e.g., he received the blood in two cups and one of them was lost.[19] And according to the authority who holds that one cup removes the other [cups of blood] from sacred use,[20] the question cannot arise.[21] It can arise, however, according to the authority who holds that one cup [of blood] renders [the blood in] the other [cups] remainder.[22] Do we say that this only applies where both [cups] are present, since he can sprinkle whichever [cup] he wishes, but here [it was lost];[23] or perhaps there is no difference?[24] — Let it remain undecided. MISHNAH. IF ONE SET ASIDE A SIN-OFFERING AND IT WAS LOST AND HE OFFERED ANOTHER INSTEAD OF IT, IF THEN THE FIRST [ANIMAL] IS FOUND, IT IS LEFT TO DIE.[25] IF ONE SET ASIDE MONEY FOR HIS SIN-OFFERING AND IT WAS LOST AND HE OFFERED A SIN-OFFERING INSTEAD OF IT, IF THEN THE MONEY WAS FOUND, IT GOES TO THE DEAD SEA.[26] IF ONE SET ASIDE MONEY FOR HIS SIN-OFFERING, AND IT WAS LOST AND HE SET ASIDE OTHER MONEY INSTEAD OF IT, IF HE DID NOT HAVE THE OPPORTUNITY OF PURCHASING A SIN-OFFERING WITH IT UNTIL THE [FIRST] MONEY WAS FOUND, HE BRINGS A SIN-OFFERING FROM BOTH [SUMS],[27] AND THE REST OF THE MONEY IS USED FOR A FREEWILL-OFFERING. IF ONE SET ASIDE MONEY FOR HIS SIN-OFFERING AND IT WAS LOST AND HE SET ASIDE A SIN-OFFERING INSTEAD OF IT, IF HE DID NOT HAVE THE OPPORTUNITY OF OFFERING IT UNTIL THE MONEY WAS FOUND, AND THE

SIN-OFFERING WAS BLEMISHED, IT IS SOLD AND HE BRINGS A SIN-OFFERING FROM BOTH [SUMS],[28] AND THE REST IS USED AS A FREEWILL-OFFERING. IF ONE SET ASIDE A SIN-OFFERING AND IT WAS LOST AND HE SET ASIDE MONEY INSTEAD OF IT, IF HE DID NOT HAVE THE OPPORTUNITY OF PURCHASING A SIN-OFFERING UNTIL HIS SIN-OFFERING WAS FOUND IN A BLEMISHED STATE, IT IS SOLD AND HE BRINGS A SIN-OFFERING FROM BOTH [SUMS], AND THE REST IS USED FOR A FREEWILL-OFFERING. IF ONE SET ASIDE A SIN-OFFERING AND IT WAS LOST AND HE SET ASIDE ANOTHER SIN-OFFERING INSTEAD OF IT, IF HE DID NOT HAVE THE OPPORTUNITY TO OFFER IT UNTIL THE FIRST SIN-OFFERING WAS FOUND AND BOTH WERE BLEMISHED, THEY ARE TO BE SOLD AND HE BRINGS A SIN-OFFERING FROM BOTH [SUMS]. AND THE REST IS USED FOR A FREEWILL-OFFERING. IF ONE SET ASIDE A SIN-OFFERING AND IT WAS LOST AND HE SET ASIDE ANOTHER INSTEAD OF IT, IF HE DID NOT HAVE THE OPPORTUNITY OF OFFERING IT UNTIL THE FIRST SIN-OFFERING WAS FOUND AND BOTH ANIMALS WERE UNBLEMISHED, ONE OF THEM IS OFFERED AS A SIN-OFFERING AND THE SECOND IS CONDEMNED TO DIE. THIS IS THE TEACHING OF RABBI. THE SAGES, HOWEVER, SAY: THE LAW OF A SIN-OFFERING WHICH IS CONDEMNED TO DIE ONLY APPLIES WHERE IT IS FOUND AFTER THE OWNERS OBTAINED ATONEMENT, AND THE MONEY DOES NOT GO TO THE DEAD SEA[29] EXCEPT WHERE FOUND AFTER THE OWNERS HAVE OBTAINED ATONEMENT. IF ONE SET ASIDE A SIN-OFFERING AND IT IS BLEMISHED,[30] HE SELLS IT AND PURCHASES ANOTHER FOR ITS MONEY; R. ELEAZAR SON OF R. SIMEON SAYS: IF THE SECOND ANIMAL WAS OFFERED BEFORE THE FIRST WAS KILLED,[31] IT IS CONDEMNED TO DIE, SINCE THE OWNERS HAVE [ALREADY] OBTAINED ATONEMENT.[32]

GEMARA. The reason why [the sin-offering is condemned to die],[33] is because the other [sin-offering] was offered instead of it, but if the other [sin-offering] was not offered instead of it, it is only condemned to pasture. Whose opinion does this represent? It is that of the Rabbis who hold that a lost [sin-offering found] when [the animal] set aside [instead of it had not yet been offered] is condemned to pasture. Then read the subsequent clause [of the Mishna]: IF ONE SET ASIDE MONEY FOR A SIN-OFFERING AND IT BECAME LOST AND HE SET ASIDE OTHER MONEY INSTEAD OF IT, [IF HE DID NOT HAVE THE OPPORTUNITY OF PURCHASING A SIN-OFFERING WITH IT],[34] HE BRINGS A SIN-OFFERING WITH BOTH SUMS AND THE REST IS USED FOR A FREEWILL-OFFERING. Now the reason is because he brings a sin-offering from both [sums],[35] but if he brought [a sin-offering] from one [of the sums of monies] the second is taken to the Dead Sea; and this will be the opinion of Rabbi, who says that a lost [sin-offering found] when [the animal] set aside [in its place had not yet been offered] is condemned to die! — The first part of the Mishnah will thus be the opinion of the Rabbis and the latter part that of Rabbi! Now there is no difficulty according to R. Huna,[36] for R. Huna reported in the name of Rab:

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(1) This is presumed to mean that the sin-offering was only lost by night and was found at dawn. Therefore it was not lost at a period where there can be atonement, for one cannot offer another animal by night in its place.

(2) And was found, the owners obtaining atonement through the other animal.

(3) Before the first was found.

(4) Since the Rabbis hold that a sin-offering is only condemned to die when it is found after the owners have obtained atonement.

(5) Who says that it shall die.

(6) Since even if the sin-offering is before us, we cannot offer it at night and therefore it has nor the legal name of a lost sin-offering.

(7) It was lost in the night and it was not found again until atonement had been obtained by another animal.

(8) Lit., ‘essence of the loss was by day’.

(9) Only such an animal is condemned to die, and if the animal is restored to its owner it is condemned to pasture and its value is used for a freewill-offering.

(10) Although he can see all of them, but since he only recognised it after atonement had been obtained, it is regarded as a lost sin-offering.

(11) Which was hullin.

(12) And became mixed up with animals belonging to others and these others did not recognise the sin-offering. Nevertheless, since the others saw the sin-offering, although not recognising it, the latter is not regarded as a lost sin-offering.

(13) That it is not regarded as a lost sin-offering.

(14) Lit., ‘in the end of the world’.

(15) He killed the animal which he set aside in place of the lost sin-offering and received its blood in a cup, and while the blood was still in the cup the first animal was found.

(16) How much more so is this the case here where the animal set aside was actually killed, and when one can say that whatever is ready to be sprinkled is considered as if it had been sprinkled, and therefore we should regard the sin-offering as lost when atonement took place (Rashi).

(17) Even if the owners obtained atonement subsequently through another animal.

(18) The inquiry not referring to two animals but to one animal whose blood was received in two cups.

(19) While the blood of the other was being sprinkled.

(20) A sin-offering whose blood was received in four cups and he made the four applications of blood to the four corners of the altar from one cup, the remainder of the cup being poured out at the bottom of the altar and the remaining blood of the cups into the sewer; v. Yoma 57b.

(21) Since here the sin-offering is certainly disqualified, whereas there, all the cups of blood being before us, the sacrifice is a proper one; for although the blood of three cups is poured into the sewer, there were four applications of the blood to the altar. In the case here, however, since one cup of blood was lost and since if the cup was before us it would have been removed from sacred use and, in addition, there is the unfavourable condition of being lost, the sacrifice is unfit, and it is similar to the case of a sin-offering which passed its year and was lost. Sh. Mek. brings another version which explains that the sacrifice itself does not become unfit here, since he can make the necessary applications of blood from the second cup. The inquiry here, however, is whether the cupful of blood which was found after being lost is poured into the sewer or poured out at the bottom of the altar, and according to the authority who says, one cup removes the other cups from sacred use, the case is certainly the same here, and it is poured into the sewer.

(22) And therefore it is poured out at the bottom of the altar, in accordance with the law of blood left over.

(23) And therefore the fact of being lost helps to remove it from sacred use and the sacrifice becomes unfit. The bracketed words are inserted with Sh. Mek.

(24) Even if it is lost, the other cup is not disqualified.

(25) Even if it was found unblemished, since only when it was found before the atonement of the owners had taken place do we require two unfavourable conditions to condemn the animal to die.

(26) The rule being that wherever a sin-offering is condemned to die, the money also is cast into the Dead Sea.

(27) He mixes the money together, and since he brings a sin-offering from both it is not regarded as a sin-offering whose owners had obtained atonement, whereas if he brought a sin-offering from one sum, then the sanctity of the other sum is removed and the case is like the money of a sin-offering whose owners had procured atonement through another sin-offering. Lit., ‘from these and these’ (Rashi).

(28) But if it was found unblemished, it is offered and the money goes to the Dead Sea, since the owners have obtained atonement through another (Rashi).

(29) Even if there was atonement through one sum of money after the other was found, since it was found before the atonement.

(30) While it was being killed it was discovered to be blemished (R. Gershom).

(31) In the house of the buyer as hullin.

(32) Although it was hullin, since it is a sin-offering whose owners have obtained atonement through another animal.

(33) In the case where one set aside a sin-offering which was lost and another was offered in its place, and the first was then found.

(34) Inserted with Sh. Mek.

(35) Where one cannot say that the owners were atoned for through another.

(36) As quoted infra.

Talmud - Mas. T'murah 23a

All[1] the authorities agree that if he selected one[2] [on his own accord][3] and offered it,[4] the second [sin-offering] dies.[5] [The latter part of the Mishnah here] can therefore be explained as referring to a case where e.g., he [deliberately] selected one [heap of the monies for a sin-offering] and offered it, and [the Mishnah] will thus be according to all the authorities concerned [even the Rabbis]. But according to R. Abba, who reported Rab as saying: All[6] the authorities concerned agree that where the owner obtained atonement through the sin-offering which was not lost, the lost sin-offering is condemned to die, and the difference of opinion arises only where [the owner] obtained atonement through the lost sin-offering, Rabbi holding that [the sin-offering] set aside instead of the lost one has the same law as the lost sin-offering,[7] whereas the Rabbis hold that it has not the same law as the lost sin-offering,[8] — are we to say that [the Tanna of] the early part [of the Mishnah] states the law anonymously in agreement with the Rabbis and in the latter part of the Mishnah it states the law anonymously according to Rabbi! [Yes, the first part of the Mishnah agrees with the opinion of the Rabbis and the latter part agrees with the opinion of Rabbi.][9] Now what does the Tanna of the Mishnah inform us?[10] That Rabbi and the Rabbis differ. Surely the Mishnah explicitly mentions later this difference of opinion between Rabbi and the Rabbis [as follows]: IF ONE SET ASIDE A SIN-OFFERING AND IT WAS LOST AND HE SET ASIDE ANOTHER INSTEAD OF IT, THE FIRST THEN BEING FOUND AND BOTH WERE UNBLEMISHED, ONE OF THEM IS OFFERED AS A SIN-OFFERING AND THE SECOND IS CONDEMNED TO DIE. THIS IS THE TEACHING OF RABBI. THE SAGES, HOWEVER, SAY: THE LAW OF A SIN-OFFERING WHICH IS CONDEMNED TO DIE ONLY APPLIES WHERE IT IS FOUND AFTER THE OWNERS HAVE OBTAINED ATONEMENT, AND THE MONEY DOES NOT GO TO THE DEAD SEA EXCEPT WHERE FOUND AFTER THE OWNERS OBTAINED ATONEMENT. [The latter part of the Mishnah][11] informs us that [the previous clauses in the Mishnah][12] are matters of dispute between Rabbi and the Rabbis.[13]

[To turn to] the main text: R. Huna reported in the name of Rab: All the authorities agree that if he selected one [sin-offering] and offered it, the second is condemned to die. The dispute between them refers only to the case where the owner comes to consult [the Beth din],[14] Rabbi holding that no remedy was devised for dedications,[15] and that we say: Obtain atonement through the sin-offering which was never lost and let the sin-offering which was lost die; whereas the Rabbis hold that a remedy was devised for dedications, and that we say to the owner: Go and obtain atonement through the sin-offering which was lost, and the sin-offering which was never lost is condemned to pasture.[16]

R. Mesharsheyah raised an objection: But was no remedy devised for dedications? Has it not been taught: Why does the text state: They shall eat?[17] This teaches [us] that if there was only a little quantity [of the meal-offering] the priests may eat hullin and terumah with it in order that it may make a satisfying meal.[18] What is the point of the expression, ‘They shall eat it’? In order to teach us that if the quantity was large,[19] the priests must not eat hullin or terumah with it, in order that the meal-offering should not make an over-sated meal. Is not [this Baraitha] even according to the opinion of Rabbi?[20] No, it is according to the Rabbis.[21]

But R. Abba reported in the name of Rab: All the authorities concerned agree that where the owners obtained atonement through the sin-offering which was never lost, the lost sin-offering is condemned to die. The dispute between them, however, is where [the owner] obtained atonement through the sin-offering which was lost, Rabbi holding that the sin-offering set aside instead of the lost sin-offering has the law of the lost sin-offering, whereas the Rabbis hold that it has not the law of the lost in-offering.

We have learnt: The second [goat] pastures until unfit for sacrifice. It is then sold and its money is used for a freewill-offering, since a congregational sin-offering is not condemned to die.[22] Now this implies that a sin-offering belonging to an individual is condemned to die. And Rab said: Animals [destined for sacrifice] are not removed from sacred use;[23] and [consequently] when he procures atonement he does so through the second [goat] of the first pair. Now this latter [pair][24] is like that which is set aside instead of a lost sin-offering; and yet the reason[25] is because the goat belongs to the congregation; but if it belonged to an individual it would be condemned to die.

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(1) Even the Rabbis, who hold that a sin-offering which was lost and found after another had been set aside in its place but before the latter was offered, is condemned to pasture.

(2) Of the two sin-offerings standing before us, the one lost and found and the other appointed in the place of the first.

(3) Without coming to consult the Beth din as to which animal he should offer.

(4) Even if the one selected was the lost sin-offering and the owner obtained atonement therewith.

(5) Even if it was the sin-offering which was never lost, since he thus showed deliberately that he was not concerned with it. For the Rabbis dispute only where the owner comes to consult the Beth din, thus showing that he is seeking a remedy, e.g., where he set aside a sin-offering and it was lost and then the first was found and he comes before us to consult as to what he should do. According to Rabbi we say to him, ‘Obtain atonement through the sin-offering which was never lost’, and the lost sin-offering is condemned to die, whereas according to the Rabbis we say to him, ‘Obtain atonement through the lost sin-offering’, and the other one is condemned to pasture.

(6) V. p. 166, n. 4.

(7) Just as where the owner obtained atonement through the sin-offering which was never lost, the law is that the lost sin-offering is condemned to die, so if he was atoned for through the lost sin-offering, the one which was never lost is condemned to die.

(8) When therefore the Mishnah says that the sin-offering is brought from both sums together, thus implying that if the owners procured atonement by means of one sum, even that which was lost, the other sum which was not lost goes to the Dead Sea, this is the opinion of Rabbi.

(9) Inserted with Sh. Mek.

(10) By stating the law anonymously in one part of the Mishnah according to the Rabbis and in another according to Rabbi.

(11) The clause which speaks of both sin-offerings standing before us, where it is stated explicitly that there is a dispute between Rabbi and the Rabbis in the matter.

(12) Where one sin-offering was offered before the first was found and where one set aside money for the lost money of a sin-offering etc.

(13) One clause stating the law anonymously in accordance with the view of the Rabbis and the other clause stating the law anonymously according to the view of Rabbi.

(14) As to which sin-offering he should offer, and thus he did not do anything deliberately to show which animal he intends to offer.

(15) For we do not care if the second animal dies.

(16) And the Mishnah therefore means as follows: One of the sin-offerings is offered in order that the second shall die, i.e., that the sin-offering which was never lost should be sacrificed and the lost one be condemned to die. This is the teaching of Rabbi, whereas the Rabbis say that a sin-offering is not condemned to die in a case where he comes to consult the Beth din, for we say: ‘Go and obtain atonement through the lost sin-offering’, thus avoiding condemning a dedication to die. Where, however, the owner has already procured atonement, the lost sin-offering certainly dies, as there is no remedy in consulting, and the same law applies if the sin-offering is found even before atonement took place, if the owner did not consult the Beth din.

(17) With reference to the remainder of a meal-offering. And the remainder thereof shall Aaron and his sons eat; in the court of the tent of meeting they shall eat it (Lev. VI, 9).

(18) There is no difficulty about bringing hullin into the Temple court, since he can eat hullin outside first and then continue with the meal-offering in the Temple court. Or, as Tosaf. explains, there is no restriction in merely bringing an object into the Temple court so long as no service is performed with it.

(19) The priest having many remainders of meal-offerings.

(20) Since no particular teacher is mentioned. We can therefore infer from here that a remedy was devised for dedications, since the Baraitha says here that hullin must not be eaten with large remainders of meal-offerings for fear of the latter becoming disqualified through being left over.

(21) Who hold that we do devise a remedy for dedications.

(22) V. supra 22a and notes.

(23) And the first animal was not removed from sacred use on account of the death of its companion.

(24) Set aside in place of the first goat of the first pair which died.

(25) Why the second goat of the second pair pastures.

Talmud - Mas. T'murah 23b

Does not [this Mishnah] represent even the opinion of the Rabbis?[1] — No. It represents that of Rabbi.[2]

We have learnt: IF ONE SET ASIDE A SIN-OFFERING AND IT WAS LOST AND HE OFFERED ANOTHER INSTEAD OF IT, IT IS CONDEMNED TO DIE. Now the reason is because he offered it [and afterwards the first sin-offering was found], but if he did not offer it [before the first animal was found], it pastures irrespective of whether the atonement then took place through the lost sin-offering or atonement took place through the sin-offering which was never lost, and irrespective of whether he selected one [of the sin-offerings] or did not select. Shall we say that this refutes both [Amoraim]?[3] — [The Tanna in the Mishnah] states what he is certain about[4] but does not state what he is not certain about.[5]

We have learnt: IF ONE SET ASIDE MONEY FOR A SINOFFERING AND IT WAS LOST AND HE SET ASIDE OTHER MONEY INSTEAD OF IT, IF THE FIRST MONEY WAS THEN FOUND, HE BRINGS A SIN-OFFERING FROM BOTH [SUMS], AND THE REST IS USED FOR A FREEWILL-OFFERING. Now the reason is because [the owner] obtains atonement from a sin-offering brought from both [sums], but if he brought a sin-offering from one [sum], he takes the other to the Dead Sea, irrespective of whether atonement took place through the lost money, or the money which was never lost, and irrespective of whether he selected one [heap of the money] or he did not select.[6] Shall we say this refutes the two [Amoraim]?[7] — Here too [the Tanna of the Mishnah] states what he is certain about,[8] but he does not state what he is not certain about.[9]

Said R. Ammi: If one sets aside two heaps of money for security's sake,[10] he can obtain atonement for one of them and the other is then used for a freewill-offering. Whose opinion does this represent? Will you say the opinion of Rabbi? Surely it is obvious that the second [heap of money] is used for a freewill-offering, since Rabbi [says the money must go to the Dead Sea] only in the case where one sets aside money for what is lost, but he would agree that when the setting aside is for security's sake [it must be used for a freewill-offering]. Shall I say then that it is the opinion of the Rabbis? But surely it is obvious that the monies are used for freewill-offerings! It is a conclusion from minor to major [as follows]: Seeing that if one sets aside [money instead of the money] for a lost sin-offering, the Rabbis hold that it has not the law of the lost sin-offering, can there be a doubt where the setting aside is for security's sake? — Rather he had [to state it] according to the opinion of R. Simeon.[11] You might have said that R. Simeon does not hold that there can be a freewill-offering [of an animal which was once a sin-offering].[12] [R. Ammi] therefore informs us that a freewill-offering [can take the place of a sin-offering]. But how can you say that R. Simeon holds that there is no freewill-offering in place of a sin-offering? Have we not learnt: There were thirteen horn-shaped [offering] boxes in the Temple and on them were inscribed [respectively] the words, New shekels,[13] Old shekels,[14] Bird sacrifices,[15] Pigeons for a burnt-offering,[16] Wood,[17] Frankincense,[18] Gold for kapporeth.[19] And six [horn-shaped] offering boxes were for the freewill-offerings [of the congregation].[20] And it has been taught with reference to this [Mishnah]: The statement, ‘six boxes for a freewill-offering’ means for burnt-offerings which come from the sacrificial surpluses,[21] and the skins do not belong to the priests.[22] This is the teaching of R. Judah. R. Nehemiah — some say

R. Simeon — said to him: If so,[23] the interpretation of Jehoaida the Priest is nullified, since we have learnt: The following exposition[24] was made by Jehoaida the Priest: [Scripture says]: It is a guilt-offering, he is certainly guilty before the Lord,[25] this includes everything which comes from the surpluses of sin-offerings and guilt-offerings, thus enjoining that burnt-offerings shall be brought with their money, the flesh to be used for the Name [of God][26] and the skins for the priests.[27] Consequently we see that R. Simeon holds that there can be a freewill-offering [replacing a sin-offering]?[28] — It is necessary [for R. Ammi to give us his ruling in connection with R. Simeon]. For you might think. that R. Simeon holds that there can be a freewill-offering[29] only in one[30] row,

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(1) Since it is stated anonymously. Hence we can deduce that a sin-offering set aside has the law of a lost sin-offering, since atonement is obtained through the first goat, the companion of the one lost. And the one belonging to the second pair, which along with its companion was not lost but was set aside, if belonging to an individual is condemned to die, even according to the opinion of Rabbi. The Rabbis therefore must have a different reason for their view than that given by R. Abba (Rashi).

(2) And therefore in a case of an individual the animal dies, but according to the Rabbis the animal would only pasture, since the animal set aside has not the law of the lost animal.

(3) R. Huna and R.Abba.

(4) The thing about which he is absolutely certain, and therefore he only mentions the case where atonement took place before the sin-offering was found and in which the animal is condemned to die, since he is sure of this. You cannot, however, deduce from this case that where the offering had not taken place and the sin-offering was found, it pastures, since sometimes it pastures and sometimes it is condemned to die, e.g., according to R. Huna where he selected one sin-offering, even the lost one, the other is condemned to die, whereas if the owner came to consult the Beth din as to which animal is to be offered, the one remaining over is only condemned to pasture. And according to R. Abba whether he selected one of the animals for sacrifice or came to consult, if atonement was procured with the sin-offering which was never lost, the lost one is condemned to die, whereas if atonement was procured through the lost sin-offering, the other is condemned to pasture.

(5) Where e.g., the sin-offering was found before atonement took place, when according to R. Huna, the animal dies if he did not consult the Beth din, or according to R. Abba, the animal dies if the owner obtained atonement through the animal which was never lost, since where the sin-offering was found before atonement, it can either pasture or die, according as to whether a certain condition was present, whereas in the former case, viz., where the sin-offering was found after atonement, the animal is condemned to die without any distinction (Rashi).

(6) And the presumption was that this is the opinion of all the authorities concerned even the Rabbis. Therefore the reason for the opinion of the Rabbis must be different from that given both by R. Huna and R. Abba.

(7) R. Huna and R. Abba.

(8) E.g., where he brings a sin-offering from both monies. This is a good remedy not requiring any condition. You cannot, however, deduce that where he brings a sin-offering from one of the heaps of money, the money goes to the Dead Sea, since sometimes it goes to the Dead Sea and sometimes it is used for a freewill-offering, according to the condition set forth respectively in the views of R. Huna and R. Abba.

(9) E.g., if he brought a sin-offering from one heap of the coins, the Tanna has to introduce a certain condition, according to the opinion of R. Huna, viz., whether he selected one heap or not, and according to R. Abba, whether it was the lost money or the other. Since therefore the bringing of a sin-offering from one heap of money does not determine absolutely that the other goes to the Dead Sea, the Tanna does not trouble to mention it in the Mishnah.

(10) So that if one heap was lost, atonement can be procured through the other.

(11) Who says (supra 15b) that the five sin-offerings are condemned to die and does not hold at all that any of these pasture so that their money could be used for freewill-offerings.

(12) And just as there is none in the case of the animal, so there is none brought with the money of a sin-offering.

(13) One who did not bring his shekel payment in Adar could bring it the whole year round and he put it into this offering box.

(14) One who did not bring his shekel during the year brought it the following year and put it into this box. The walls, towers and other requirements of the city were built with this money.

(15) Those who required a ceremony of atonement e.g., a woman after childbirth, a leper, etc. brought money and put it into this box for the bringing of bird sacrifices and could partake of a sacrificial meal in the evening in the confident belief that priests had emptied the box and brought the necessary sacrifices.

(16) He who offered young pigeons for a burnt-offering put the money for this purpose into this box.

(17) One who offered wood for the altar put the money for it into this box.

(18) The person who gave frankincense put the money for it into this box.

(19) 'Covering'; one who wished to make offerings of gold foil for the sacred vessels put the money for it into this box. Aliter: 'bowl'; one who wished to offer gold for a sacred vessel, e.g., a bowl, placed it in this box.

(20) Burnt-offerings; v. Shek. VI, 5.

(21) Of sin-offerings and trespass-offerings.

(22) But they are sold again and burnt-offerings are bought with the money.

(23) That the skins do not belong to the priests.

(24) Heb. Midrash.

(25) Lev. V, 19. The first part of the text implies that it was eaten by the priest, while the latter part implies that it belonged to the Lord. How do you reconcile this? (R. Gershom.)

(26) To be burnt wholly on the altar.

(27) Thus both parts of the verse are applicable.

(28) Why therefore does R. Ammi need to inform us that R. Simeon holds that a freewill-offering can replace a sin-offering?

(29) From the surpluses of sin-offerings and guilt-offerings.

(30) I.e., where one heap of coins was set aside for a sin-offering and on the lambs becoming cheap there was a surplus from the money.

Talmud - Mas. T'murah 24a

but in two rows[1] it is not so. R. Ammi therefore informs us [that it is not so].[2]

Said R. Hoshaiah: If one sets aside two sin-offerings for security's sake, he obtains atonement through [either] of them and its companion is left to pasture. Now whose opinion does this represent? Shall I say that of the Rabbis? Surely if where one sets aside [a sin-offering for one] which was lost, the Rabbis hold it has not the law of a lost sin-offering;[3] is there then a question as regards the case [of one setting aside a sin-offering] for security's sake?[4] Then it is the opinion of R. Simeon? But has not R. Simeon said: Five sin-offerings are left to die?[5] Rather[6] it must be the opinion of Rabbi,[7] for the ruling of Rabbi only applies [where a sin-offering is set aside for] one lost; but where the setting aside is for security's sake, the case is not so.[8]

We have learnt: IF ONE SET ASIDE A SIN-OFFERING AND IT IS BLEMISHED, HE SELLS IT AND BRINGS ANOTHER INSTEAD OF IT, WHEREAS R. ELEAZAR SON OF R. SIMEON SAYS: IF HE OFFERED THE SECOND ANIMAL BEFORE THE FIRST WAS KILLED [FOR HULLIN], IT IS CONDEMNED TO DIE, SINCE THE OWNERS HAVE [ALREADY] OBTAINED ATONEMENT. Now it is to be assumed that R. Eleazar son of R. Simeon agrees with the opinion of Rabbi,[9] [which proves that Rabbi's ruling applies] even in the case [of the setting aside] for security's sake.[10] — No. Perhaps R. Eleazar son of R. Simeon agrees with his father who says that the five sin-offerings are condemned to die.[11]

We have learnt:[12] Because a congregational sin-offering is not condemned to die.[13] Now this implies that [a sin-offering] belonging to an individual [in similar circumstances] is left to die. And Rab explained: Animals [destined for sacrifice] are not removed from sacred use,[14] and when he procures atonement, he does so through the second [goat] of the first pair; now this [second goat of the second pair] is a case of something being set aside for security's sake,[15] and yet [as implied in this Mishnah] a sin-offering belonging to an individual is left to die![16] — Rab follows the opinion expressed elsewhere,[17] where he said: It is a [proper performance of the] duty to use the first.[18]

R. Shimi b. Ziri recited before R. Papa: If [a sin-offering] was still lost when another was set aside [in its place],[19] according to Rabbi [the sin-offering found before atonement] is left to die, whereas according to the Rabbis it is left to pasture. If [a sin-offering] was still lost when atonement was obtained [by the owners], according to the Rabbis it is left to die, whereas according to Rabbi it is left to pasture. He [R. Papa] said to him: But can we not draw a conclusion from minor to major?[20] If in the case where a sin-offering is still lost when another is set aside [in its place! where the Rabbis say it is left to pasture, Rabbi says that it is left to die, how much more so is this the case of a sin-offering which is still lost when atonement has been obtained, where according to the Rabbis it is left to die, that according to Rabbi it is left to die? — Rather recite [the passage] thus: If [a sin-offering] is still lost when another is set aside in its place, according to Rabbi the animal is left to die, whereas according to the Rabbis it pastures. If [a sin-offering] was still lost, however, when atonement was obtained, it is the opinion of all the authorities concerned that it is condemned to die.

R. ELEAZAR SON OF R. SIMEON SAID etc. Our Rabbis have taught: We must not flay an animal from the feet on holy days;[21] likewise we must not flay from the feet a firstling or dedications unfit for sacrifice[22] [even on a weekday]. Now there is no difficulty in understanding why [this is forbidden] on a holy day; it is because he takes excessive trouble [in preparing something] which is not suitable for him [on that day].[23] But who is the Tanna who holds that [this is forbidden] with reference to a firstling? — Said R. Hisda: It is Beth Shammai who say that a firstling retains its holiness. For we have learnt: Beth Shammai say, One must not include[24] an Israelite with a priest [in connection with the eating of a firstling].[25] Who is the Tanna who forbids this in the case of dedications which became unfit for sacrifice? — Said R. Hisda: R. Eleazar son of R. Simeon. For it has been taught: If there were two sin-offerings before [the owner] one unblemished and the other blemished, the unblemished sin-offering is offered and the blemished sin-offering[26] is redeemed. If the blemished one was killed before the blood of the unblemished sin-offering was sprinkled, it is permitted [to be eaten]; if after the blood of the unblemished sin-offering was sprinkled, it is forbidden [to be eaten].[27] R. Eleazar son of R. Simeon however says: Even if the flesh of the blemished sin-offering is in the pot and the blood of the unblemished sin-offering was then sprinkled, it[28] is taken forth to the fire-house.[29]

But why does not R. Hisda explain [both parts[30] of the Baraitha just quoted] according to Beth Shammai?[31] — [The reason is] perhaps the teaching of Beth Shammai applies only to a firstling since its dedication [commences] from the womb,[32] but the case is different with dedications unfit for sacrifice. But why does not [R. Hisda] explain [both parts of the Baraitha above] according to the opinion of R. Eleazar son of R. Simeon?[33] — [The reason is that] perhaps the teaching of R. Eleazar son of R. Simeon applies only to dedications unfit for sacrifice, since they are capable of redemption,[34] but the case of a firstling is not so.[35] But does not R. Eleazar son of R. Simeon hold what we have learnt: All dedications unfit for sacrifice [after being redeemed] are killed in the market,[36] sold in the market, and weighed by the pound? Now we see from this that since you permit him [to sell them in the market] he will increase [the redemption money in order] to sell [them later at a higher price; so here[37] also if you permit him to flay the firstling from the feet, he will increase the redemption money]![38] Said R. Mari the son of Kahana: The improvement in the value of the skin spoils the flesh.[39] It was said in Palestine in the name of R. Abin:[40] Because it appears as if he performed work with dedications.[41] R. Jose b. Abin said: It is forbidden lest he rear [many] herds of dedications rendered unfit for sacrifice.[42] [

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(1) I.e., where two heaps were set aside for security's sake and where he obtained atonement through one; I might in that case have thought that the other heap is removed from sacred use altogether.

(2) And that the other heap of money is used for freewill burnt-offerings.

(3) And if the lost sin-offering is used, the other is condemned to pasture.

(4) That the surviving animal pastures.

(5) In all cases ‘and one of them is where the owners obtained atonement through another animal.

(6) R. Hoshaiah saying that the remaining sin-offering is condemned to pasture.

(7) Who holds that if a sin-offering was set aside in place of one which was lost, and the first was found before atonement, but the second sin-offering was still offered, the offering which was lost was condemned to die. But where the owner set aside two sin-offerings for security's sake and obtained atonement through one of them, the other would not be condemned to die.

(8) And the other animal is only condemned to pasture.

(9) Who holds that a sin-offering set aside in place of a lost sin-offering has the law of a lost sin-offering. We therefore see that even where there is no case of a lost sin-offering, as here in the Mishnah, where the first sin-offering was not lost but became blemished, and he set aside another in its place, it is also condemned to die (Rashi).

(10) The same will therefore apply where one sets aside two sin-offerings for security's sake, that the surviving animal is condemned to die, which is unlike the opinion of R. Hoshaiah.

(11) In every case, even where a sin-offering was not lost, wherever the owners obtain atonement through one sin-offering the other is condemned to die.

(12) V. supra 15a, 16a, 22b and notes.

(13) Referring to the goats brought on the Day of Atonement.

(14) And the first goat of the first pair is not removed from holiness by reason of the death of its companion.

(15) Since it was not set aside instead of a lost animal, as only the goat for Azazel died but not the goat ‘unto the Lord’. The setting aside was therefore for security's sake on behalf of the second goat in the first pair.

(16) That the animal set aside i.e., the second goat of the second pair which is left over, dies, which is unlike the opinion of R. Hoshaiah!

(17) Yoma 64a.

(18) I.e., the one which had been originally set aside. This ruling is mentioned in connection with a Passover offering which had been set aside and then lost, and another was set aside in its place after which the first was found; in which case the owner may sacrifice, on the view of the Rabbis, whichever he chooses for the Passover. R. Jose, however, says that it is incumbent upon him to sacrifice the first animal. Now Rab agrees with R. Jose, consequently on this view the setting aside of a second animal for one that had been lost was not necessarily for a dedication but eventually to condemn it to die; whereas in the case of setting aside two sin-offerings for security, since if he had wished at the beginning he could have obtained atonement through the surviving animal, the setting aside at the beginning was not with the purpose of condemning it to die (Rashi).

(19) And eventually atonement took place through the other.

(20) That in the latter case the animal should be condemned to die even according to Rabbi.

(21) So as to keep the skin intact in order to make a pair of bellows therewith. When the skin was flayed with a knife, the process was from the throat to the tail.

(22) Which had been redeemed and killed.

(23) Viz., for the bellows.

(24) Lit., number’.

(25) Which a priest killed when it was in a blemished state. Consequently we see that although it was blemished it retained its holiness, and therefore it is forbidden to flay it from the feet, as this is similar to the performance of work in connection with dedications.

(26) I.e., one which became blemished before the setting aside of the second sin-offering. Now these two offerings were brought for one sin and a blemish occurred in the first and the second was set aside in its place.

(27) Since it is like the case of a sin-offering whose owners have obtained atonement through another animal.

(28) The flesh of the blemished animal.

(29) Consequently we see that although it has ben redeemed and killed, it remained holy and is described as a sin-offering whose owner has obtained atonement. Similarly as regards flaying an unfit sacrifice mentioned in the Baraitha above, although it was redeemed and killed, it remains holy.

(30) That referring to a firstling and that referring to unfit dedications.

(31) For it is natural to suppose that just as Beth Shammai hold a strict view with reference to a firstling, they also adopt a similar attitude with reference to dedications which were rendered unfit for sacrifice. Why then does R. Hisda explain the first part of the Baraitha as being the view of Beth Shammai and the latter part, viz., that which refers to unfit dedications, as being the view of R. Eleazar son of R. Simeon?

(32) As it does not require a special dedication in order to receive holiness, unlike the case of ordinary dedications.

(33) Mentioned in the Baraitha just quoted: ‘If there were two sin-offerings etc.’, from which we learn that a blemished sin-offering still retains its sanctity even after redemption and killing.

(34) The redemption money being holy and the animal becoming hullin.

(35) Since Scripture says: ‘Thou shalt not redeem’ (Num. XVIII, 17) and if he did so, the redemption money does not receive any holiness.

(36) We therefore see that they do not retain their holiness after having been redeemed and killed.

(37) Inserted with Sh. Mek.

(38) And hasten to redeem it, since in the end he sells the skin at a higher price. Why therefore does R. Eleazar hold in a Baraitha that we must not flay dedications rendered unfit for sacrifice from the feet?

(39) Whatever gain there is as regards the skin remaining intact is lost as regards the flesh, and there is really no profit eventually, since for fear of spoiling the skin he cuts into the flesh, and thus he is no longer able to sell it so well.

(40) The reason why it is forbidden to flay a firstling etc. from the feet.

(41) That he is making a bellows on the animal while the skin is still attached to the animal. It is not, however, actually work since, strictly speaking, no work can legally be performed with dedications after the animal's death, only that it seems like work.

(42) If you permit him to flay the skin of unfit dedications from the feet, he may detain them and not kill them until smiths come his way. He might therefore be led to rear herds of unfit dedications and use their shearings or work with them, all of which is forbidden even after their redemption.

Talmud - Mas. T'murah 24b

CHAPTER V

MISHNAH. WHAT DEVICE DO WE USE WITH REFERENCE TO A FIRSTLING?[1] HE SAYS IN RESPECT OF A PREGNANT ANIMAL WHICH WAS GIVING BIRTH FOR THE FIRST TIME: IF WHAT IS IN THE INSIDE OF THIS [ANIMAL] IS A MALE, LET IT BE A BURNT-OFFERING. IF IT THEN GAVE BIRTH TO A MALE, IT IS OFFERED AS A BURNT-OFFERING.[2] [IF HE SAID:] IF IT IS A FEMALE, LET IT BE A PEACE-OFFERING, THEN IF IT GAVE BIRTH TO A FEMALE, IT IS OFFERED AS A PEACE-OFFERING. [IF HE SAID:] IF IT IS A MALE, LET IT BE A BURNT-OFFERING, AND IF A FEMALE [LET IT BE] A PEACE-OFFERING, THEN IF IT GAVE BIRTH TO A MALE AND A FEMALE, THE MALE IS OFFERED AS A BURNT-OFFERING AND THE FEMALE IS OFFERED AS A PEACE-OFFERING.[3] IF IT GAVE BIRTH TO TWO MALES,[4] ONE OF THEM SHALL BE OFFERED AS A BURNT-OFFERING AND THE SECOND SHALL BE SOLD TO PERSONS UNDER OBLIGATION TO BRING A BURNT-OFFERING[5] AND ITS MONEY BECOMES HULLIN. IF IT GAVE BIRTH TO TWO FEMALES, ONE OF THEM IS OFFERED AS A PEACE-OFFERING AND THE SECOND IS SOLD TO PERSONS UNDER OBLIGATION TO BRING PEACE-OFFERINGS AND THE MONEY BECOMES HULLIN. IF [THE ANIMAL] GAVE BIRTH TO A TUMTUM[6] AND A HERMAPHRODITE, R. SIMEON B. GAMALIEL SAYS: NO HOLINESS ATTACHES TO THEM. GEMARA. Said Rab Judah: One is permitted to make a blemish in a firstling before it is born.[7] We learnt: [WHAT[8] DEVICE DO WE USE WITH REFERENCE TO A FIRSTLING?] HE SAYS [IN RESPECT OF A PREGNANT ANIMAL WHICH WAS GIVING BIRTH FOR THE FIRST TIME]: IF WHAT IS IN THE INSIDE OF THIS ANIMAL IS A MALE, LET IT BE A BURNT-OFFERING. Now this implies only a burnt-offering[9] but not a peace-offering,[10] and yet you say that he is able to release it altogether from its holiness? — Rab Judah can answer you thus: [The Tanna of the Mishnah] refers to the period when the Temple stood, whereas I refer[11] to nowadays when [a firstling] is not fit to be offered. But if your ruling applies to nowadays, what need is there to teach it? — You might have said that we should prohibit, in case the greater part of the head goes forth[12] and he then makes a blemish in it.[13] But why not say that it is so?[14] — Even so, this is better,[15] since otherwise he may come to shear and work [the animal].[16]

[IF HE SAID:] IF IT IS A FEMALE, LET IT BE A PEACE-OFFERING. But is a female [animal] sacred in respect of the law of a firstling?[17] — The latter clause[18] of the Mishnah refers to a dedicated animal.[19]

IF IT GAVE BIRTH TO TWO MALES etc. It was asked, If the reference is to a dedicated animal, then let the young which was dedicated as a burnt-offering be a burnt-offering and the other [young when born] retain the holiness of its mother?[20] — This latter clause[21] refers to an animal of hullin.

IF IT GAVE BIRTH TO A TUMTUM OR A HERMAPHRODITE etc.

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(1) To prevent it coming into the possession of the priest and to enable the owner to carry out with it his own obligations.

(2) A firstling only becomes holy when it emerges from the womb, and since prior to this another holiness took effect on the embryo, the holiness of a firstling no longer attaches to it.

(3) V. Gemara.

(4) The holiness of a burnt-offering attaches to both animals, since he said that if the offspring be a male it shall become a burnt-offering.

(5) The reason being that his vow only referred to one animal and therefore one of the animals must be sold for a burnt-offering, for anything which is fit for the altar must be offered on the altar.

(6) One of doubtful sex.

(7) Lit., 'comes forth into the lighted space of the world'.

(8) V. Sh. Mek.

(9) Since it is burnt wholly on the altar, it is permissible to change the holiness of a firstling for this holiness.

(10) Since its holiness is of a less stringent character and therefore it is forbidden to use a device to change holiness of a firstling. How much more so then must it be forbidden to maim a firstling deliberately and deprive it of all holiness!

(11) When I say that it is permissible to maim a firstling in the inside of its mother.

(12) And it immediately became holy.

(13) Thus causing a blemish to a dedication. Rab Judah therefore informs us that we do not prohibit the infliction of a blemish, since he will be careful to cause the blemish only when a small part of the head has emerged and before the greater part comes forth from the womb.

(14) That on account of this fear we should prohibit the causing of a blemish to a firstling.

(15) To permit the causing of a blemish before it becomes holy in order that the priest may not be compelled to detain it till it becomes blemished.

(16) If he does not maim it, then there is the fear that he might transgress the law relating to a firstling. Var. lec. (v. Rashi and Sh. Mek.): Even so the causing of the loss of a limb (and thus making it blemished before the greater part of the animal has gone forth from the womb) is preferable.

(17) That the owner needs to use an artifice in order to obtain exemption from the law of the firstling.

(18) If it is a female, etc.

(19) If it was a sin-offering and it became pregnant and he wishes to use an artifice to avoid having its young condemned to death, the law being that the offspring of a sin-offering is condemned to death. He can therefore change the embryo for another dedication, since the holiness of a dedication only comes at birth but not previously.

(20) Why then is the second male animal sold for the purpose of a burnt-offering?

(21) Referring to the birth of two males.

Talmud - Mas. T'murah 25a

[1] R. Simeon b. Gamaliel holds: The offspring of dedications become holy at birth,[2] for if we were to think that they are holy from [the time of their existence] inside their mother, why should not holiness attach to them [tumtum etc.] since they receive the holiness of their mother?[3] But in fact this proves that the offspring of dedications become holy at birth.[4]

And the [following] Tanna holds that the offspring of dedications are holy from [the time of their existence] in the inside of their mother. For our Rabbis have taught: If it had been said only. A firstling shall not sanctify.[5] I might have thought that a firstborn [of man] must not make dedications.[6] The text therefore adds: 'No man shall sanctify it',[7] implying that it [the firstling animal] he must not sanctify [for another dedication] but a firstborn [of man may] make dedications. But I might still have said that he [a firstborn] must not sanctify [a firstling for another dedication] but others may do so. The text therefore states: 'Among the beasts' [saying in effect]: My concern is with a beast.[8] One might think that he cannot sanctify it [the firstling] even while it is in the inside of the animal [for another dedication]? The text therefore states: 'As a firstling to the Lord', implying, when it becomes 'a firstling to the Lord'[9] you must not sanctify it [for another dedication], but you may sanctify the firstling [for another dedication] while it is in the inside of the animal. One might have thought that the same applies to the young of all dedications?[10] The text therefore states: 'Howbeit', thus intimating a division.[11] Consequently we see that [this Tanna] holds that the young of dedicated [animals] are holy [from the time] that they commence to exist in the inside of their mothers.[12]

Said R. Amram to R. Shesheth: If one says of a firstling at the moment that the greater part of it was emerging from the womb:[13] 'Let it be a burnt-offering', is it a burnt-offering[14] or a legal firstling?[15] Is it a burnt-offering, since every portion which came forth [from the womb] is wholly burnt on the altar, or is it a legal firstling as every portion which came forth [from the womb] retains its original sanctity?[16] Another version: Is [the firstling] a burntoffering, since this is a [stringent][17] holiness and therefore has effect on it, or is it a legal firstling, since its holiness commences from the womb?[18] — He said to him: Why do you inquire? Is this not identical with the inquiry of Ilfa [as follows]: If one says in connection with leket[19] when the greater part [of the produce] has been plucked:[20] Let it be hefker,[21] is it leket or is it free?[22] Is it leket, since its holiness is derived from heaven,[23] or is it ownerless, since poor and rich acquire possession thereof? — And Abaye explained: What is this query?[24] Whose word do we obey? That of the Divine Master or of the pupil?[25] Similarly here also, whose word do we obey?[26]

MISHNAH. IF ONE SAYS: THE YOUNG OF THIS [PREGNANT ANIMAL][27] SHALL BE A BURNT-OFFERING AND IT [THE ANIMAL ITSELF] SHALL BE A PEACE-OFFERING, HIS WORDS STAND.[28] BUT IF HE SAYS [FIRST]: IT [THE ANIMAL] SHALL BE A PEACE-OFFERING[29] [AND THEN], AND ITS YOUNG SHALL BE A BURNT-OFFERING,[30] [ITS YOUNG] IS REGARDED AS THE YOUNG OF A PEACE-OFFERING.[31] THIS IS THE TEACHING OF R. MEIR. R. JOSE SAYS: IF HE INTENDED [TO SAY] THIS[32] AT FIRST,[33] SINCE IT IS IMPOSSIBLE TO MENTION BOTH KINDS [OF SACRIFICES] SIMULTANEOUSLY,[34] HIS WORDS STAND;[35] BUT IF AFTER HE ALREADY SAID [INTENTIONALLY]: THIS SHALL BE A PEACE-OFFERING, HE CHANGES HIS MIND AND SAYS: ITS YOUNG SHALL BE A BURNT-OFFERING, [ITS YOUNG] IS REGARDED AS THE YOUNG OF A PEACE-OFFERING.[36]

GEMARA. Said R. Johanan: If one set aside a pregnant sin-offering and it gave birth, if he wishes he can obtain atonement through it [the animal itself], and if he wishes, he can obtain atonement through its young.[37] What is the reason? — R. Johanan holds that if he left over [the young][38] the act is valid,[39] and an embryo is not regarded as part of the thigh of its mother. The case therefore is like one who sets aside two sin-offerings for security's sake, where if he wishes, he can obtain atonement through it [the one animal], and if he wishes, through the other.[40] R. Eleazar raised an objection: IT SHALL BE A PEACE-OFFERING AND ITS YOUNG SHALL BE A BURNT-OFFERING, [ITS YOUNG] IS REGARDED AS THE YOUNG OF A PEACE- OFFERING. Now if we assume that if he left over [the young] the act is valid, why does it say: ITS YOUNG IS REGARDED AS THE YOUNG OF A PEACE-OFFERING? Should it not say: 'Its young is a peace-offering'?[41] — Said R. Tabla: Ask no question from this [Mishnah],[42] since Rab said to the Tanna:[43] Recite [as follows]: 'Its young is a peace-offering'.[44]

An objection was raised: If one says to his [pregnant] bondwoman, 'Be thou a slave but thy child shall be free', if she was pregnant she obtains [freedom] in his behalf.[45] Now this creates no difficulty if you hold that if one left over [the young][46] the action is not valid, and that an embryo is considered as the thigh of its mother; for this reason she obtains [freedom] in his behalf, since it is on a par with the case of one who freed a half of his slave,[47] and this will represent the opinion of Rabbi,[48] as it has been been taught:

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(1) Omitting with Wilna Gaon: 'But why does not holiness attach to them', cf. cur. edd. Since this clause refers even to the offspring of dedications, why should not at least the holiness of their mother rest on them (Rashi).

(2) And when they are born they are already unfit and hence cannot receive any holiness at all.

(3) From the time when they begin to develop little by little in the inside of their mother, they should be holy.

(4) And the whole Mishnah will be the opinion of R. Simeon.

(5) Referring to the text (Lev. XXVII, 26): Howbeit the firstling among the beasts which is born as a firstling unto the Lord, no man shall sanctify it; the Heb. בכור denotes equally firstborn and firstling of an animal.

(6) Taking 'bekor' to denote a firstborn of any kind.

(7) The text therefore will mean this: Howbeit the bekor i.e., the firstborn of a man, that which is born a firstling unto the Lord, he shall not sanctify it, implying that the firstborn may not sanctify a firstling for another dedication.

(8) I refer here only to the firstling of a beast which 'bekor' here denotes, and thus state that no man may consecrate it for another dedication.

(9) I.e., at birth, after the sanctification by the womb, but as long as it is in the inside of the animal it is hullin.

(10) That one is permitted to change it for another dedication when inside the animal.

(11) This is the regular force of the word א ('howbeit'). The division here indicated is between the case of a firstling and that of other dedications. Only in the case of a firstling may one make dedication prior to the animal becoming a legal firstling but not in the case of other dedications in the inside of an animal, for since the mother is holy, with every portion which forms in the womb the offspring receives the holiness of the mother.

(12) Unlike the view of the Tanna in the Mishnah.

(13) While still inside the animal, at the time when the holiness of a firstling takes effect.

(14) Being wholly burnt on the altar.

(15) Since the holiness of a firstling rests on all firstlings that leave the womb. Which holiness is more stringent so as to have a prior effect on it and cancel the other?

(16) That of a firstling.

(17) V. R. Gershom.

(18) The holiness of a firstling takes effect on all firstlings from the time of leaving the womb without a special dedication.

(19) The gleanings from a field which are due to the poor.

(20) And the gleanings have actually become leket.

(21) 'Ownerless'. And free alike for the rich as for the poor.

(22) Which takes effect hefker or leket? Now there can be no question that if he made the produce free for everyone before the greater part of it was plucked, there would be no need to carry out the law of leket, since leket only applies to what is looked after and eaten.

(23) A divine decree.

(24) As both leket and hefker came together, surely leket is the more important law to observe.

(25) And the Master, God, has decreed that it is leket.

(26) Surely that of the Divine Master, and therefore the law of the firstling operates first.

(27) Of hullin.

(28) The young becomes a burnt-offering and its mother a peace. offering, since the holiness of the young animal came first.

(29) This implies the dedication of the animal and what is inside it. Its offspring is therefore important enough to be dedicated independently and it is like one dedicating two animals for peace-offerings.

(30) This is of no avail as he is not able to change the form of dedication.

(31) As R. Meir holds that we accept the first statement. And here the principle of holiness commencing only at birth does not apply, as this only refers to a case where the animal became pregnant subsequent to dedication, but where one dedicates a pregnant animal, the embryo is considered apart from its mother and is able to receive holiness on its own account.

(32) Its young shall be a burnt-offering and the mother a peace-offering.

(33) Although he made a mistake and said: It shall be a peace-offering and its young a burnt-offering.

(34) Since one has to mention one sacrifice before the other.

(35) Since he really did not intend that both shall be peace-offerings,and therefore the mother is a peace-offering and the young is a burnt-offering.

(36) His latter statement being of no consequence, since he meant at first that both should be peace-offerings.

(37) We only apply the principle of the young of a sin-offering being condemned to die in a case where one dedicated an animal and it became pregnant afterwards, but where he dedicated a pregnant sin-offering, the embryo can receive holiness independently, apart from its mother, and thus he can procure atonement through whichever animal he chooses.

(38) Where he says that the offspring should be hullin and the mother shall be a sin-offering. Therefore even where he did not leave over the embryo, i.e., did not declare it hullin, its holiness is still not derived through its mother.

(39) Lit., ‘it is left over’ as regards holiness, i.e., the young remains hullin.

(40) And the sin-offering which he does not use is condemned to pasture.

(41) Since it is holy on its own account, and not because of its mother. The Mishnah therefore in saying: It is regarded as the young of a peace-offering, implies that its holiness is due to its mother and therefore in the case also where one set aside a pregnant sin-offering, it is regarded as the offspring of a sin-offering, the law of which is that it is condemned to die.

(42) Lit., ‘except from this’.

(43) V. Glos. s.v. (a).

(44) We see therefore that the reading in our Mishnah is not a correct one, and no question can be raised from it.

(45) And the child goes out free; v. Git. 23b.

(46) And the mother and its young are not regarded as two separate entities.

(47) Where the slave acquires possession of that half, and so here the bondwoman is privileged to secure the freedom of her child.

(48) So .Sh. Mek.; cur. edd. R. Meir.

Talmud - Mas. T'murah 25b

If one frees a half of his slave,[1] he goes out free, since his letter of manumission and his right of possession come simultaneously. But if you hold that if one left over [the young] the act is valid,[2] and that an embryo is not considered as the thigh of its mother, why then does she [the bondwoman] obtain freedom in behalf of her child?[3] Has it not been taught: We approve the teaching that a slave can obtain a letter of manumission for his fellow-slave from the hand of one who is not his master,[4] but not from the hand of one who is his master?[5] You can therefore deduce from this that if one left over [the young], the act is not valid. Shall we say this refutes R. Johanan's ruling above? — It is a refutation. Must it be said that the opinion whether, if one left over the young the act is valid, is a point at issue between Tannaim? For it has been taught: If one says to his [pregnant] bondwoman, ‘Be thou free but thy child shall be a slave’, the child acquires her status [and is free]. This is the teaching of R. Jose the Galilean; whereas the Sages say: His words stand,[6] because it says: The wife and her children shall be her master's.[7] But how is the Scriptural text interpreted in support of the Rabbis?[8] — Said Raba. The text is adduced in support of the opinion of R. Jose the Galilean who states that, the child follows her status, since it says: ‘The wife and her children shall be her master's’, implying that as long as the wife belongs to her master the child is her master's, [but if the wife does not belong to her master, the child is not her master's].[9] Now does this not mean that [these Tannaim] differ in this, that R. Jose the Galilean holds that if one left over [the young], the act is not valid;[10] whereas the Rabbis hold that the act is valid? — R. Johanan can answer you: All the authorities concerned hold that if one left over [the young] the act is valid, and the reason here[11] is because Scripture explicitly says: ‘The wife and her children shall be her master's’.[12] Then assuredly [the matter[13] would be a point at issue] between the following Tannaim: If one killed a sin-offering[14] and found therein a live embryo four months old, it was taught in one [Baraitha]: It is only eaten by the males of the priesthood, for one day and a night, and within the curtains. And another [Baraitha] taught: It is eaten by any man, in any place, and at all times. Now does not this mean that they differ in this, that the first Tanna[15] holds that if one left over [the young] the act is valid,[16] whereas the latter Tanna[17] holds that if one left over [the young], the act is not[18] valid![19] — R. Johanan can answer you: All the authorities concerned hold[20] that if he left over [the young] the act is valid.[21] These Tannaim, however, differ in this, one Master holding that the offspring of dedications are holy only when they emerge into existence but not earlier, whereas the other Master holds that the offspring of dedications are holy already inside their mother.[22] And if you prefer [another solution], I may say there is no contradiction.[23] Here,[24] [we are dealing) with a case where he dedicated [a sin-offering] and it subsequently became pregnant,[25] and there,[26] with a case where it became pregnant and was subsequently dedicated.[27]

To this[28] Raba demurred: How do we know that the reason of R. Johanan[29] is because if one left over [the young] the act is valid? perhaps the reason of R. Johanan really is that a man can obtain atonement with the increment of dedicated animals?[30] — Said R. Hamnuna:[31] R. Eleazar, a pupil of R. Johanan, was in the presence of R. Johanan[32] and he [R. Johanan] did not give him that answer,[33] and yet you say that the reason of the ruling of R. Johanan is because a man can obtain atonement with the increment of dedications.

BUT IF AFTER HE HAD ALREADY SAID [INTENTIONALLY]: THIS SHALL BE A PEACE-OFFERING AND HE CHANGED HIS MIND, etc. Surely this is obvious, that [its young] is regarded as the offspring of a peace-offering! For can he change his mind whenever he wishes?[34] — Said R. Papa: This clause is required only for the case where one statement[35] followed the other in the same breath.[36] You might have said that two statements following each other immediately are considered as one statement and that this man was really reflecting [aloud]. [The Mishnah] therefore teaches us [that it is not so].

MISHNAH. [IF ONE SAYS:] BEHOLD, THIS ANIMAL [OF HULLIN] SHALL BE THE EXCHANGE OF A BURNT-OFFERING, THE EXCHANGE OF A PEACE-OFFERING,[37] IT IS THE EXCHANGE OF A BURNT-OFFERING. THIS IS THE TEACHING OF R. MEIR.[38] R. JOSE SAYS: IF HE ORIGINALLY INTENDED THIS,[39] SINCE IT IS IMPOSSIBLE TO MENTION BOTH NAMES [OF SACRIFICES] SIMULTANEOUSLY, HIS WORDS STAND.[40] BUT IF AFTER HE HAD ALREADY SAID: THIS SHALL BE AN EXCHANGE OF A BURNT-OFFERING, HE CHANGED HIS MIND AND SAID: AN EXCHANGE OF A PEACE-OFFERING, IT IS THE EXCHANGE OF A BURNT-OFFERING.

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(1) He possesses that half.

(2) So that if he freed the mother and left over the child, the latter is left over for service. Consequently we see that they are regarded as two bodies.

(3) It is like the case of a slave who receives a letter of manumission on behalf of his fellow slave, both belonging to the same master, since the possession of the slave is the possession of the master, and consequently it is considered as if really the letter had not left the hand of the master (Rashi).

(4) Since in relation to this man, the slave has the right of possession and can become an agent for the other slave.

(5) Both belonging to the same master since the slave has no rights of possession.

(6) And the child remains a slave.

(7) Ex. XXI, 4.

(8) Since the text appears in reality to confirm the opinion of R. Jose the Galilean, that the status of the offspring is like that of the mother.

(9) Inserted with Sh. Mek.

(10) But it is regarded as the thigh of its mother and therefore the child is free like the mother.

(11) Why R. Jose the Galilean holds that the child has the status of the mother.

(12) It is a divine decree, and not because the child is regarded as the thigh of its mother.

(13) Whether if one left over the young the act is a valid one or otherwise.

(14) The first impression was that the circumstances here are where the animal was dedicated when pregnant.

(15) Who regards the embryo as a sin-offering.

(16) So Bah. And since it is regarded as a separate animal, even if he did not leave it over, holiness attaches to it in the womb (Rashi).

(17) Who considers the embryo as hullin.

(18) So Bah. Cur. edd. reverse; v. also Rashi.

(19) Since it is not regarded as an independent animal but only as the thigh of its mother, like that of any other offspring. This holiness of the offspring, however, only commences after birth, but not as here when it is found in the inside of its mother, for we hold the opinion that the holiness of the offspring of dedicated animals commences at birth but not earlier.

(20) If he dedicated a pregnant sin-offering.

(21) And therefore even if he did not leave over the young, the embryo is holy like the sin-offering.

(22) And therefore the embryo is regarded as a sin-offering.

(23) Between the two Baraithas mentioned above.

(24) The Baraitha which says that the embryo has the law of hullin.

(25) And all the authorities concerned hold that the offspring of dedications become holy only at birth.

(26) The Baraitha which says that the embryo has the law of a sin-offering.

(27) And we hold that if he left over the young in respect of dedication, the act is valid and the young is important enough to be dedicated on its own account. These Tannaim therefore in reality do not differ at all (Rashi).

(28) To the refutation of R. Johanan from the Baraitha: If one says to a bondwoman etc. as stated above.

(29) Why he says that if he set aside a pregnant sin-offering and it gave birth, if he wishes he can obtain atonement through its mother or its young.

(30) Although its sanctity is derived from the mother, the young of a sin-offering is not condemned to die, since a man may obtain atonement with the increment of a consecrated animal as here, where the young is a gain to dedications, the law of a young of a sin-offering being condemned to die only applying where he refused to obtain atonement except through the mother.

(31) You cannot maintain that R. Johanan's reason is not because he holds that if one left over the young the act is valid.

(32) When he quoted the Baraitha in contradiction to R. Johanan's teaching.

(33) If the reason of R. Johanan's ruling was as you say, why did not R. Johanan reply that his reason was because a man may obtain atonement with the improvement of a consecrated animal?

(34) Surely he cannot be allowed to change his dedications at will.

(35) Viz., ‘and its young shall be a burnt-offering’.

(36) Lit.,’ within the time required for an utterance’, i.e., as long as it takes a master to greet his pupil or a pupil his master.

(37) And we are dealing with a case where both the peace-offering and a burnt-offering were before him when he effected the exchange.

(38) For R. Meir maintains that we hold to the first statement.

(39) I.e., that the animal of hullin should be the exchange of both, although he did not say: Behold this is the exchange of a burnt-offering and a peace-offering (R. Gershom).

(40) The animal pastures until blemished, and when it is sold an exchange of a burnt-offering is purchased for half of its money, and an exchange of a peace-offering is bought for the other half of the money.

Talmud - Mas. T'murah 26a

GEMARA. R. Isaac the son of Joseph reported in the name of R. Johanan: All the authorities concerned agree that if one says, ‘Let this[1] take effect’, and afterwards, ‘Let this[2] take effect’, it is the opinion of all that we hold to the first statement. [If he says:] ‘Let not this take effect unless this other takes effect’, all agree that both are holy. The dispute, however, is only e.g., in the case stated by the Mishnah: The exchange of a burnt-offering, the exchange of a peace-offering, R. Meir holding that since he ought to have said,[3] The exchange of a burnt-offering and a peace-offering, and he said, The exchange of a burnt-offering, the exchange of a peace-offering, it is like the case of one who says, ‘Let this take effect’ and afterwards, ‘Let this take effect’.[4] R. Jose, however, holds: [The man[5] thinks that] if he said: The exchange of a burnt-offering and a peace-offering, the result would be that it is holy but is not offered.[6] R. Jose therefore informs us [that his words stand].[7]

Our Rabbis have taught: If one says, This animal shall be half the exchange of a burnt-offering and the other half the exchange of a peace-offering, the whole animal is offered as a burnt-offering. This is the teaching of R. Meir.[8] The Sages, however, say: Let it pasture until it becomes blemished. It is then sold and with the half of its money an exchange of a burnt-offering is purchased and with the other half of its money an exchange of a peace-offering. R. Jose says: If he originally intended this, since it is impossible to mention both names [of sacrifices] simultaneously, his words stand. But is not the opinion of R. Jose identical with that of the Rabbis? — The whole [of the first part of this Baraitha] is taught by R. Jose.[9]

Another [Baraitha] taught: An animal, half of which is a burnt-offering and the other half a sin-offering, is offered as a burnt-offering. This is the teaching of R. Meir. R. Jose says: Let it die.[10] And both [these Tannaim] hold alike that if one says [first]: A half of the animal shall be a sin-offering and [then] the other half shall be a burnt-offering, [the animal] is condemned to die. [You say], ‘They hold alike’. Now whose opinion does this mean to represent? That of R. Meir![11] But surely this is obvious![12] — You might have said that if we had not been informed of this,[13] I might have thought that the reason of R. Meir is not because of the rule: ‘Hold to the first statement’, but the reason [really] is because a sin-offering which has been mixed up with another dedication is offered,[14] and therefore even if he said [first]: A half of the animal shall be a sin-offering and then a half shall be a burnt-offering, it is offered. [The Baraitha] therefore informs us that it is not so.[15]

Another [Baraitha] taught: If one says, Half of this animal shall be a burnt-offering and the [other] half shall be a peace-offering, it is holy but is not offered.[16] It [the animal] effects exchange[17] and its exchange has the same status.[18] Now whose opinion does this Baraitha represent? That of R. Jose![19] Surely it is obvious that the animal is holy but is not offered! — [The Baraitha] requires to mention the case of its exchange,[20] for you might have said: Granted that the animal itself is not offered, still its exchange is offered.[21] [The Baraitha] therefore informs us as follows: Why is the case [of the animal itself] different so that it is not offered? Because of suspended holiness.[22] Its exchange also is such in virtue of a suspended holiness.[23]

R. Johanan said: If an animal belonged to two partners and one dedicated his half and then proceeded to purchase the other half and dedicated it, [the animal] is holy but is not offered;[24] it effects exchange and its exchange

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(1) I.e., the exchange of a burnt-offering.

(2) The exchange of a peace-offering.

(3) If he meant that the animal should receive the exchange of a pace-offering and a burnt-offering.

(4) All agreeing that under such circumstances we hold to the first statement.

(5) Who is effecting the exchange.

(6) But is condemned to pasture. In this he made a mistake and used the word exchange in connection with peace-offering as well as burnt-offering, in order that the animal should be offered.

(7) Since he really intended that both should be an exchange, this being on a par with a case where one says: This should not take effect without the other taking effect.

(8) For we hold to the first statement, and since a half is holy, the whole animal becomes holy. And although R. Meir holds (supra 18a) that if one dedicated a foot of an animal the whole animal does not receive holiness, the case here is different where a half of the animal is dedicated, since it is a section of the animal without which it cannot live.

(9) I.e., the Baraitha informs us that R. Jose is described as the ‘Sages’.

(10) We hold also to the last statement when the two statements of a person contradict. And since he is not obliged to bring a sin-offering, the animal is condemned to die, like a sin-offering whose owners procured atonement through another animal (R. Gershom). Tosaf. comments that in circumstances where one is not required to bring a sin-offering, if he says: Let this animal be a sin-offering, his words are of no avail and that we are dealing here with a case where one says: Let half of this animal be exchanged for a burnt-offering and the other half be exchanged for a sin-offering, R. Jose holding that the animal dies, since the holiness of both sacrifices rests on the animal, and as one dedication is that of the exchange of a sin-offering, the animal is condemned to die.

(11) I.e., even R. Meir, who holds in the first part of this Baraitha that the animal is offered, on this occasion must inevitably hold that it is condemned to die.

(12) Since he says that we hold to the first statement and since the man said here first that the half should be a sin-offering, it must certainly be left to die, as he is not obliged to bring a sin-offering.

(13) That the animal is condemned to die.

(14) Where there are two separate dedications mixed up in the animal, and although both have effect on it, since there is mixed up in the animal a dedication which makes it fit to be offered, we ignore the other dedication which makes it unfit to be offered (Rashi).

(15) That if he said first: A half shall be a sin-offering etc., the animal is condemned to die.

(16) It is sold and for half of its money a burnt-offering is bought, and for the other half a peace-offering (R. Gershom).

(17) Being a male and therefore fit to be a burnt-offering (R. Gershom).

(18) Of being holy but not fit to be offered.

(19) Who holds that his words stand.

(20) That it is not offered but sold after becoming blemished, a burnt-offering being bought with half the money and a peace-offering with the other half.

(21) Since in accordance with the exchange he did not mention either the word peace-offering or burnt-offering, but simply said: Let this animal be for that (R. Gershom). Tosaf. explains that the intention was not that the exchange should be half a burnt-offering and half a peace-offering, but that the animal should be a complete exchange, either for half of a burnt-offering or for the half of a pace-offering, for although one may not exchange a whole animal for a limb of a dedicated animal, the case is different where the exchange is effected for a half of a dedicated animal.

(22) Having two names as regards dedication (R. Gershom).

(23) And therefore the exchange cannot be in a better position than the original animal from which it draws his holiness.

(24) Since when at first he dedicated his half, the animal was not fit to be offered at the altar, for half of an animal by itself cannot be offered, and the holiness of the other half, since it was not his, could not spread to the rest of the animal.

Talmud - Mas. T'murah 26b

has the same status. You can deduce from this[1] three things: You can deduce from this that animals[2] [dedicated for sacrifices] can be removed for ever from sacred use.[3] You can also deduce from this that the holiness of animals dedicated for their value[4] can be removed.[5] You can also deduce from this that a removal from sacred use at the beginning [of a dedication][6] is valid for ever.[7]

Said Abaye: All the authorities concerned agree [even R. Jose] that if he says: A half of an animal shall be a burnt-offering and the other half an animal tithed, all are agreed that it is offered as a burnt-offering.[8] What is the ruling, however, if he says: A half of an animal shall be an exchange and half of an animal tithed?[9] Is the animal offered as an exchange, since it [the exchange] applies to all dedications, or is it perhaps offered as an animal tithed, since [the animal] before the tenth and the succeeding [one] are consecrated?[10] — Let it remain undecided.

MISHNAH. [IF ONE SAYS:] BEHOLD THIS [ANIMAL] IS TAHATH [INSTEAD OF] THIS, BEHOLD THIS IS HALIFATH [IN PLACE OF] THIS, BEHOLD THIS IS TEMURATH [THE EXCHANGE OF] THIS, [EACH OF THESE] IS THE CASE OF A VALID EXCHANGE. [IF HOWEVER ONE SAYS:] THIS SHALL BE REDEEMED[11] FOR THIS, IT IS NOT THE CASE OF A [VALID] EXCHANGE.[12] AND IF THE DEDICATED ANIMAL WAS BLEMISHED, IT BECOMES HULLIN[13] AND HE IS REQUIRED TO MAKE UP [THE HULLIN] TO THE VALUE [OF THE DEDICATED ANIMAL].[14] GEMARA. Does this mean to say that the [word] tahath[15] has the meaning of occupying the place of?[16] This is contradicted [by the following]: As regards dedications for Temple repairs, if one says: Halifath this,[17] temurath this, he has said nothing.[18] [If, however, one says:] Tahath this, [this is] redeemed for this, his words stand.[19] Now if we suppose that the [word] ‘tahath’ has the meaning of occupying the place of, what is the difference between the first and second clause [of the Baraitha]?[20] — Said Abaye: The [word] ‘tahath’ is used in the sense of occupying the place of and in the sense of redeeming. In the sense of occupying the place of, as Scripture says:[21]

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(1) R. Johanan's ruling.

(2) This is the reading in Bah.

(3) And although subsequently they became fit to be offered, they are forever forbidden to be offered, on account of the previous suspension from sacred use.

(4) As, for example, here whore he dedicates a half of the animal; such dedication could only have been for its value.

(5) For one might have thought that the suspension of holiness only applies to animals dedicated for the altar. We therefore see from R. Johanan's teaching that it is not so.

(6) As, for example, here where from the very commencement of the consecration there was a suspension from holiness. For there is a difference of opinion (in Suk. 33a), one authority maintaining that where a dedicated animal was originally fit to be offered and the holiness was then suspended and finally the animal became fit again for sacred use, the animal is removed forever from sacred use, but where the suspension of holiness occurred at the very beginning of its consecration, if it became fit again, it may be used for sacred purposes.

(7) Lit., ‘is a suspension’.

(8) Even if he meant these dedications from the beginning, as his latter statement is of no account, since an animal tithed does not become holy except by passing through the shed and being numbered as the tenth. The same law applies if one says: Half the animal shall be a burnt-offering, the other half shall be an exchange, the latter statement having no effect, since there is no animal present for which an exchange might be effected (Rashi). Tosaf. remarks that even if he says that the whole animal shall become tithed, his words are of no avail, and therefore explains that the circumstances here are where a man causes his flock to pass under the rod and as the tenth animal emerges from the shed he says: Let half of it be a burnt-offering and the rest tithed. All the authorities concerned will agree that the animal in such circumstances becomes a burnt-offering, as a dedication for a burnt-offering is a more important consecration than the dedication for animal tithing, since the latter consecration requires the passing under a rod and numbering before the animal can receive any holiness. Tosaf. also proceed to ask, seeing that the law of tithe is a divine decree, how can a dedication like that of a burnt-offering suspend it, and explain that we are dealing here with a case where he called the animal a burnt-offering when only a small part of the animal emerged from the shed, whereas animal tithe requires that the greater part of it shall emerge before holiness can take effect.

(9) His statements in both instances have a certain irregularity since as regards tithe one cannot say: Let this be tithe except when the animal is passing through the shed to be numbered, and in the case of exchange one cannot say: Let this be an exchange unless there is an animal with which a substitute might be effected.

(10) If, for example, he called the ninth the tenth, and the eleventh the tenth, the three animals are holy, i.e., the ninth, tenth and the eleventh.

(11) Lit., ‘made hullin’.

(12) And his words are of no consequence, since an unblemished dedicated animal cannot become hullin.

(13) And the other animal takes its place.

(14) If the hullin is less in value than the dedication, since otherwise the consecration would be penalised. According to one explanation given later in the Gemara, this is only a Rabbinical requirement.

(15) Used in connection with exchanging. Lit., ‘under’.

(16) I.e., that it becomes consecrated according to the law of exchange.

(17) If one set before him an animal of hullin and said: This shall be halifath (in place of) this dedication for Temple repairs.

(18) Since he used the language of temurah, which does not apply to dedications for Temple repairs.

(19) The dedicated animal thus becoming hullin, and this one entering into its place, since even unblemished dedications for Temple repairs can be redeemed.

(20) Why does the first clause in the Baraitha say that his words are of no consequence while the other clause says that his words stand, for since tahath is used in the sense of exchanging and there is no exchange in connection with repairs for Temple purposes, the Baraitha should have stated in the second clause also that his words are of no consequence.

(21) Lev. XII, 23.

Talmud - Mas. T'murah 27a

But if the bright spot stay tahteha in its place;[1] and [in the sense] of redeeming, as it says: For [tahat] the brass I will bring gold.[2] [This being the case, the matter was left in the hand of the Sages.][3] With regard to dedications for the altar which can effect exchange, [‘tahath’] has the meaning of occupying the place of, whereas with regard to dedications for Temple repairs which do not effect exchange, [‘tahath’] has the meaning of redeeming.[4]

Raba said: Even in connection with dedication for the altar [the word ‘tahath’ sometimes] has the sense of redeeming, as e.g., where the dedicated [animal] was blemished.[5] Said R. Ashi: Even in connection with a blemished dedicated animal [tahath sometimes] has the sense of redeeming and sometimes has the sense of occupying the place of, [as follows]: [If he placed] his hand on a dedicated [blemished] animal,[6] the animal becomes hullin,[7] [but if he placed] his hand on an animal of hullin,[8] it becomes dedicated.[9]

Abaye inquired: What is the ruling if there were two dedicated blemished animals before him and two unblemished animals of hullin, and he says, Let these be tahath [in place of] these?[10] Did[11] he intend to substitute them [the former], or did he intend to redeem them [with the Iatter]?[12] And if you say that where there exists a legitimate way, a man will not abandon what is permitted and do what is forbidden,[13] what is the ruling if he had two dedicated animals before him, one of which was blemished, and two animals of hullin, one of which was blemished, and he said, Let these be tahath [instead of] these? Did he mean: The unblemished in place of the unblemished, in the sense of being substituted,[14] and the blemished animal of hullin in place of the dedicated blemished animal, in the sense of being redeemed?[15] Or perhaps the unblemished animal of hullin in place of the blemished dedicated animal, and the blemished animal of hullin in place of the unblemished dedicated animal and, in both cases, there is a punishment of lashes?[16] And if you say that wherever there exists a legitimate way, a man will not do what is forbidden, and therefore he means to redeem and there is no punishment of lashes, what is the ruling if there were three dedicated animals before him, one of which was blemished, and three unblemished animals of hullin, and he says, Behold these shall be instead of these?[17] Do we say, since [when he says] ‘these two unblemished animals instead of the unblemished animals’, he means they are to be substituted,[18] so [when he says] ‘the unblemished animal of hullin instead of the dedicated blemished animal’ [he also means], they are to be substituted? Or perhaps here too [we apply the principle that] wherever there exists a legitimate way, a man will not do what is forbidden, and therefore in the latter case,[19] he meant to redeem? And if you say that here too, since nevertheless there is no presumption against this man as regards prohibitions,[20] [we say that a man] would not abandon what is permitted and do what is forbidden, R. Ashi inquired: What is the ruling if one had four dedicated animals before him, one of which was blemished, and four unblemished animals of hullin, and he says: Let these be instead of these? Here [in this case] since there is certainly a presumption against the man as regards prohibitions,[21] do we say that he is therefore punishable four times with lashes,[22] or perhaps although there is a presumption against him as regards prohibitions, [do we say that a man] will not abandon what is permitted and do what is forbidden and therefore the last animal[23] was meant to be redeemed? — Let it stand undecided.

AND IF THE DEDICATED ANIMAL WAS BLEMISHED, IT BECOMES HULLIN etc. Said R. Johanan: Its becoming hullin is an ordinance of the Biblical law,[24] whereas his being required to make up [the hullin] to the value [of the dedication] is an ordinance of the Rabbinical law.[25] Resh Lakish, however, says that his having to make up [the hullin] to the value [of the dedicated animal] is also according to the Biblical law. Now with what kind of case are we dealing here? Shall we say that this refers to overreaching?[26] But will Resh Lakish ho]d in such a case that he must make up [the hullin] to the value of a dedicated animal in accordance with Biblical law? Have we not learnt: To the following overreaching does not apply: Slaves, bonds, immovable properties, and dedications? [Shall we say] then that this refers to the cancellation of the sale?[27] But will R. Johanan hold in such a case that he is required to make up the value of a dedication according to the Rabbinical law?

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(1) תחתיה , ‘standing in its place’; this is exactly what happens in the case of exchange, the dedicated animal remaining holy.

(2) Isa. LX, 17. In place of the brass which they stole, I will bring gold. And this is what redeeming does, transferring the holiness of this animal to the other.

(3) The Sages were therefore to decide where ‘tahath’ had the meaning of redeeming and where it had the meaning of occupying the place of. The bracketed words are inserted with Sh. Mek.

(4) Therefore in the Baraitha above, since it deals with dedications for Temple repairs, tahath has the meaning of redeeming.

(5) Raba explaining the clause in the Mishnah: And if the dedicated animal was blemished, it becomes hullin, as referring also to the first clause: Behold this is tahath (instead of) this (R. Gershom).

(6) And says: This animal of hullin shall be tahath (instead of) this dedicated animal (R. Gershom).

(7) Since he certainly intended to redeem the dedicated animal.

(8) And says: This animal of hullin shall be tahath (instead of) this dedicated animal. By placing his hand on the hullin, he shows that he meant to effect exchange, for if he intended to redeem, he would have placed his hands on the dedicated animal.

(9) Since one cannot effect exchange even with a blemished dedicated animal. The dedicated animal therefore remains holy in accordance with the law of exchange.

(10) And he did not place his hand either here or there.

(11) This is the reading in Rashi and is mentioned in Wilna Gaon Glosses.

(12) The same inquiry could have been made with reference to one dedicated blemished animal and one unblemished animal of hullin where he says: Let this be tahath (instead of) this. But since later on the inquiry particularly refers to two animals, the case of two animals is also mentioned here. R. Gershom and the text in cur. edd. have the following reading: Do we say that he means to substitute (i.e., to effect exchange with these animals and there will thus be two transgressions of the prohibitory law), or perhaps where there exists a way which is permissible, a man would not abandon that which is permitted and do what is forbidden (and consequently he means here to redeem the dedicated animal with the animals of hullin, the latter thus becoming holy in place of the former).

(13) Since in connection with exchange there is the prohibition of ‘nor change it’, and therefore we say that his intention was to redeem.

(14) One animal must have been meant to effect exchange, since one dedicated animal is unblemished, and we have learnt above that unblemished dedications for the altar are meant to be used as exchange.

(15) Since it cannot be meant in the sense of exchanging, as one cannot effect exchange when both animals are blemished (bad), since Scripture speaks only of ‘bad for good’ or ‘good for bad’, but not when both are bad.

(16) The prohibition of ‘nor change it’.

(17) For although we have said above that a man will not abandon what is permitted and do what is forbidden, there is still ground for inquiry in this case, since one can maintain that we follow the majority, and as two of the unblemished dedicated animals were certainly meant to be exchanged, the third blemished dedicated animal can also be regarded as being for the same purpose, i.e., exchange, although thereby there is the infringing of a prohibition.

(18) As an exchange.

(19) Where he says ‘the unblemished animal shall be instead of the blemished dedicated animal’.

(20) Since the breaking in a particular case of three prohibitions and not two, causes a man to be suspected in that connection.

(21) Since there were three unblemished dedicated animals, he could not have intended to redeem.

(22) As we maintain that the blemished dedicated animal was also meant for exchange.

(23) I.e., the blemished dedicated animal.

(24) Like the law of dedications which became unfit for the altar, and which are redeemed.

(25) Since Scripture says: ‘Ye shall not wrong one another’ (Lev. XXV, 14) implying, one another, thus excluding hekdesh (consecrated property) from the laws of overreaching.

(26) Where hekdesh was overreached only by a sixth and the difference in the value between the hullin and hekdesh must be returned.

(27) Where the overreaching was more than a sixth.

Talmud - Mas. T'murah 27b

Has not R. Jeremiah with reference to immovable properties of hullin, and R. Jonah with reference to dedications, both reported in the name of R. Johanan that only the law of overreaching does not apply to them but the law of a cancelled sale does apply to them?[1] — One can still say that the reference is to the cancellation of the sale[2] and reverse [the names].[3] But how can you say that the names [shall be reversed]? This would be quite right according to the authority of [R. Jonah] who holds that [R. Johanan] refers to dedications,[4] and therefore all the more does the rule apply to immovable properties.[5] But according to the authority [of R. Jeremiah] who holds that [R. Johanan] refers only to immovable properties but that to dedications the law of cancellation of the sale does not apply, how can you reverse [the names of the disputants]?[6] — R. Jeremiah can answer you: There is no need for you to reverse [the names].[7]

Must we say that R. Jonah and R. Jeremiah differ with regard to Samuel's dictum, for Samuel said: ‘If hekdesh[8] of the value of a maneh[9] was redeemed for the value of a perutah,[10] it is a valid act’,[11] R. Jonah not accepting Samuel's dictum whereas R. Jeremiah does accept Samuel's dictum? — No. Both Masters[12] agree with Samuel, R. Jonah holding that Samuel's dictum only refers to a case where the act has been done but that it is not permissible in the first instance, whereas R. Jeremiah holds that is is permissible even in the first instance. And if you prefer [another solution], I may say: One still need not reverse [the names even according to R. Jonah], and as regards the difficulty you raise from the Mishnah which says: To the following [overreaching does not apply], dedications etc., this will be in accordance with the opinion of R. Hisda. For R. Hisda said: [What is the meaning of the Mishnah]: ‘To the following overreaching does not apply’? [It means:] They do not come under the law of overreaching,[13] since in their case money, even less than the amount which constitutes overreaching,[14] has to be returned.

Said ‘Ulla: [The Mishnah][15] only refers to where two people made the assessment, but where three made the assessment, even if a hundred came [afterwards],[16] there is no redress. But it is not so! Has not R. Safra said: The principle that two are on a par with a hundred only applies to the giving of evidence, but with regard to making an assessment,it is the opinion of all the authorities that we go by the views [expressed].[17] And, moreover, even if there were three against three,[18] do we not follow the latter set, since hekdesh always has the preference![19] — ‘Ulla holds: Our Mishnah when it says: HE IS REQUIRED TO MAKE UP TO THE VALUE OF THE DEDICATION, means in accordance with Rabbinic law, and with reference to a Rabbinic requirement, the Rabbis adopted the lenient view.[20] MISHNAH. [IF ONE SAYS:] BEHOLD THIS ANIMAL SHALL BE INSTEAD[21] OF A BURNT-OFFERING, [THIS SHALL BE] INSTEAD OF A SIN-OFFERING,[22] HE HAS SAID NOTHING. [BUT IF HE SAYS:] INSTEAD OF THIS[23] SIN-OFFERING AND INSTEAD OF THIS BURNT-OFFERING,[24] [OR] INSTEAD OF THE SIN-OFFERING AND INSTEAD OF THE BURNT-OFFERING WHICH I HAVE IN THE HOUSE, AND HE HAD IT IN THE HOUSE, HIS WORDS STAND. IF HE SAYS CONCERNING AN UNCLEAN ANIMAL OR A BLEMISHED DEDICATED ANIMAL: BEHOLD THESE SHALL BE A BURNT-OFFERING, HE HAS SAID NOTHING. [BUT IF HE SAYS:] BEHOLD THEY SHALL BE FOR[25] A BURNT-OFFERING, THEY ARE SOLD AND THE BURNT-OFFERING IS BOUGHT WITH THEIR MONEY.

GEMARA. Rab Judah reported in the name of Rab: The Mishnah[26] is not the opinion of R. Meir, for if it were the opinion of R. Meir he holds that a man does not utter words for no purpose.[27]

BEHOLD THESE SHALL BE FOR A BURNT-OFFERING, THEY ARE SOLD AND A BURNT-OFFERING IS BOUGHT WITH THE MONEY. Now the reason is because it is an unclean animal or a blemished animal, since they are not fit [for the altar] and therefore they do not require a blemish [before selling], but if one set aside a female animal for a guilt-offering or a burnt-offering, a blemish is required [before selling].[28] Rab Judah reports in the name of Rab: Our Mishnah will thus not be the opinion of R. Simeon.[29] For we have learnt: R. Simeon says, It shall be sold even if without a blemish.[30] [

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(1) That if the overreaching was more than a sixth the sale is annulled. There will thus be a contradiction according to R. Jonah between the two opinions of R. Johanan.

(2) I.e.,where the overreaching of hekdesh was more than a sixth.

(3) In the dispute between R. Johanan and Resh Lakish above and say: R. Johanan holds that he is required to make up the value in accordance with the Biblical law, whereas Resh Lakish holds that it is according to the Rabbinical law.

(4) That the sale is annulled where the overreaching was more than a sixth, although Scripture says: ‘One another’, and thus excludes hekdesh.

(5) That the sale is annulled. It is therefore right that we reverse the names of the disputants so that it is R. Johanan who will maintain that the money has to be made up according to the Biblical law.

(6) And maintain that R. Johanan holds that the money must be made up to the value of the dedication according to the Biblical law, since there will thus be a contradiction between the two opinions of R. Johanan.

(7) According to him there is really no need for reversing the names, but according to R. Jonah there will be need to reserve the names of the disputants.

(8) That which is dedicated for a sacred purpose.

(9) A weight of silver or gold, as much as a hundred shekel coins.

(10) A small coin.

(11) Lit., ‘it is legally redeemed’.

(12) R. Jonah and R. Jeremiah.

(13) We are not dealing at all, however, with the annulling of a sale, and therefore there is no difficulty as regards the opinion of R. Jeremiah and R. Jonah.

(14) Scripture meaning as follows: In the cases of overreaching of ‘one another’, there is a difference between less than a sixth and a sixth, refunding not being obligatory in the former case but only in the latter. But with reference to hekdesh, even less than a sixth is returned. This is therefore what Resh Lakish means when he says that he is required to make up to the value of the dedication according to the Biblical law; whereas R. Johanan explains the Mishnah in the sense that there is no redress for overreaching, i.e., in the case of a sixth.

(15) Which says that the private individual must refund to hekdesh whatever loss might be incurred in redeeming.

(16) And valued the dedication at a higher figure.

(17) If the estimate was more favourable to hekdesh.

(18) The last three repudiating the assessment of the former.

(19) And we follow the view of the latter three.

(20) So that if three persons made the assessment, even if three others came afterwards and gave an estimate more favourable to hekdesh, we keep to the first estimate.

(21) Heb. tahath (v. preceding Mishnah).

(22) There being neither a sin-offering nor burnt-offering before him.

(23) A sin-offering being in front of him.

(24) A burnt-offering being in front of him.

(25) Implying its value, since if he meant to offer the animals themselves he would have said: ‘These are burnt-offerings’.

(26) Which states that if one says: ‘Instead of a sin-offering, instead of a burnt-offering’, his words are of no consequence.

(27) Where, for example, a man dedicated the value of a child less than one month old, since the man knows that there is no fixed estimation for a child of that age, and so evidently he meant its value as sold in the market, for a person does not make an utterance without meaning something. And here, too, he means the animal he has in his house, or perhaps his intention was a consecration for its value (sh. Mek.).

(28) Since it is fit to be offered as a peace-offering which can be a female.

(29) V. supra 19b.

(30) Another version: But if he said concerning a female animal: ‘Behold this shall be a burnt-offering’, it is consecrated as such and is sold after becoming blemished and can effect exchange, since it is itself fit for a peace-offering. This is unlike the opinion of R. Simeon b. Judah who says (supra 20b) that even if he dedicated it for a burnt-offering, it cannot effect exchange for the animal does not become holy in itself, since he does not hold miggo (v. Rashi and R. Gershom).

Talmud - Mas. T'murah 28a

CHAPTER VI

MISHNAH. ALL [ANIMALS] FORBIDDEN FOR THE ALTAR RENDER [OTHERS][1] UNFIT, HOWEVER FEW [THE FORMER MAY BE].[2] [SUCH CASES ARE] AN ANIMAL WHICH COVERED [A WOMAN] AND [AN ANIMAL] THAT WAS COVERED [BY A MAN], MUKZEH,[3] NE'EBAD,[4] A [HARLOT'S] HIRE, THE PRICE [OF A DOG], KIL'AYIM,[5] TREFAH AND THE FOETUS EXTRACTED BY THE MEANS OF A CAESAREAN SECTION. WHAT IS MEANT BY MUKZEH? THAT WHICH HAS BEEN SET ASIDE FOR IDOLATROUS USE; IT [THE ANIMAL ITSELF] IS FORBIDDEN,[6] BUT WHAT IS UPON IT,[7] IS PERMITTED.[8] AND WHAT IS MEANT BY NE'EBAD? THAT WHICH HAS BEEN USED FOR IDOLATRY; BOTH IT [THE ANIMAL ITSELF] AND THAT WHICH IS UPON IT, ARE FORBIDDEN.[9] IN BOTH CASES, HOWEVER,[10] [THE ANIMAL] MAY BE EATEN.[11]

GEMARA. It has been said: ALL [ANIMALS] FORBIDDEN FOR THE ALTAR RENDER [OTHERS] UNFIT HOWEVER FEW [THE FORMER MAY BE]. [Now what does the Mishnah inform us?][12] That [the animals forbidden for the altar] are not neutralised in any larger number [of animals]. But have we not learnt this in a Mishnah? If any dedicated animals became mixed up with the sin-offerings which are condemned to die,[13] or with an ox condemned to be stoned, even one in ten thousand [which are forbidden], all are condemned to die?[14] And we raised the question: What does the Mishnah mean by the word ‘even’?[15] [And it was answered:] It means this: If any of the sin-offerings which are condemned to die became mixed up with dedicated animals, or an ox condemned to be stoned [became mixed up], even one in ten thousand,[16] all are condemned to die.[17] — It is necessary.[18] You might think that there,[19] since the animals are prohibited from being used profitably, there is no neutralisation,[20] whereas here,[21] since the animals are permitted to be profitably used,[22] I might have thought that they are neutralised in any larger number. [Our Mishnah therefore] informs us [that it is not so].[23]

But have we not also learnt the cases [of an animal] which covered [a woman] and [an animal] that was covered [by a man]:[24] [If dedications] became mixed up with [an animal] of hullin which covered [a woman] and [an animal of hullin] which was covered [by a man]. they all pasture until blemished. They are then sold and with the money of the best among them[25] he brings an offering from the same kind?[26] — Said R. Kahana: I recited this tradition[27] in the presence of R. Shimi b. Ashi. He said to me: One [Mishnah][28] deals with hullin[29] and the other[30] [Mishnah] deals with dedicated animals.[31] And it was necessary [to teach both cases]; for if we had been taught only the case of dedicated [animals].[32] [we might have thought] that the reason[33] was because the forbidden animals are rejected as unseemly,[34] whereas in the case of hullin,[35] we might have thought that [the forbidden animals] are neutralised.[36] But have we not also learnt this[37] with reference to hullin? The following are forbidden and render forbidden other hullin,[38] however minute in quantity: Forbidden wine,[39] idols, birds [brought] by a leper,[40] hides pierced at the heart,[41] the hair of a Nazirite,[42] the firstborn of an ass, meat and milk [boiled together],[43] an ox condemned to be stoned, the heifer whose neck was broken, hullin which was killed in the Temple court, and the goat sent away [to Azazel]these are forbidden[44] and render other hullin forbidden, however small in quantity.[45] — It was necessary [to teach both Mishnahs], for if we had been informed only [of the Mishnah] there,[46] we might have thought that the reason[47] was because [the cases mentioned] are prohibited for general use, but here we might have thought they are neutralised in greater numbers; and if we had been informed only here,[48] [we might have said that the reason was] because it is loathsome to use [the animals] for the altar, but for private use, we might have thought that even things which are forbidden to be profitably used are neutralised in the greater numbers. [Our Mishnah] therefore informs us [that it is not so].[49]

And whence do we derive that the case of [an animal] that covered [a woman] and [an animal] which was covered [by a man] are forbidden for the altar? — Our Rabbis have taught: [Scripture says:] Of the cattle,[50] this excludes[51] the cases of [an animal] which covered [a woman] and [an animal] which was covered [by a man]. But can we not derive this from an analogy?[52] If a blemished animal with which no sinful act has been done is forbidden for the altar, how much more should [an animal] that covered [a woman] and [an animal] which was covered [by a man] be forbidden for the altar? Let the law concerning one who ploughs with an ox and an ass [together] decide, since a sinful act has been done with it and yet it is allowed for the altar![53] The case of ploughing with an ass and an ox together is, however, different since there is no punishment of death incurred, whereas in the cases of [an animal] that covered [a woman] and [an animal] which was covered [by a man] the punishment of death is incurred.[54] Then take away [the argument][55] you have brought[56] and say that [you can rely upon the above analogy][57] for the case of an animal with which a sinful act has been done according to the testimony of two witnesses;[58] but whence do we learn the case where a sinful act had been done according to the testimony of only one witness,[59] or where the owners confessed?[60] Said R. Simeon: I will bring forward an analogy [as follows]:[61] If in the case of a blemished animal, where [the testimony] of two witnesses does not disqualify the animal from being eaten, the testimony of one witness disqualifies it from being offered [on the altar],[62] then in the cases [of an animal] that covered [a woman] and [an animal] which was covered [by a man], where the testimony of two witnesses disqualifies the animal from being eaten,[63] how much more should the testimony of one witness disqualify the animal from being offered on the altar? The text therefore states ‘of the cattle’, to exclude the cases of an animal that covered [a woman] and [an animal] which was covered [by a man]. But have you not just inferred this from an analogy?[64]

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(1) With which they have become mixed up, unfit for being offered on the altar if the former are not recognised. In all the cases mentioned later in the Mishnah, it may always be that it will not be possible to recognise the forbidden one, except in the case of trefah which is always recognisable. Yet here too the case may arise where the gullet of the animal was pierced, the skin healed up and then it became mixed up with other animals (R. Gershom). Also the trefah here mentioned may refer to the offspring of a trefah (Rashi).

(2) Even if one animal forbidden for the altar became mixed up with a thousand other animals, all of them become unfit for the altar, since we cannot identify the forbidden one.

(3) Lit., ‘set aside’. Explained later in the Mishnah.

(4) Lit., ‘served’. Explained in the Mishnah.

(5) The offspring of a ewe which copulated with a he-goat.

(6) For the altar.

(7) Its ornaments and their value.

(8) As offerings for the altar.

(9) For the altar.

(10) I.e., mukzeh and ne'ebad.

(11) For private use, since a living thing cannot be forbidden.

(12) Inserted with Sh. Mek.

(13) Implying that one of the dedicated animals became mixed up with many sin-offerings which are condemned to die.

(14) Zeb. 70b.

(15) For since the cited Mishnah implies that one dedicated animal became mixed up with a large number of sin-offerings condemned to die, then surely the dedicated animals are all the more condemned to die if the number was one fit animal as against ten thousand unfit ones?

(16) I.e., one forbidden animal among ten thousand fit ones for the altar.

(17) And we do not say that the forbidden animal is neutralised by the greater number of fit animals. What need then is there for our Mishnah to teach us the same?

(18) For our Mishnah to state that the forbidden animals are not neutralised in any larger number!

(19) The cited Mishnah referring to the cases of sin-offerings which are condemned to die and an ox condemned to be stoned, of which no use whatever may be made.

(20) As these forbidden animals are considered of great importance.

(21) Our Mishnah.

(22) An animal which covered a woman and which was covered by a man may be eaten by a private person, for the case dealt with here is where the evidence of covering is given by one witness, there being no punishment of stoning in such circumstances.

(23) And on the other hand if the Tanna had informed us here in our Mishnah that there is no neutralisation, I might have thought that here, since these animals are rejected for the altar, there is no neutralisation in any larger number and the animals pasture until blemished and are then eaten. But in the case of something which is forbidden even for a private person, as in the cases mentioned in the cited Mishnah, I might have thought that there would be neutralisation. We are therefore informed there that all the dedications which became mixed up are condemned to die, and that even in the case of a private person there is no neutralisation, since the Mishnah does not say there that a dedication shall pasture until blemished and be eaten by private people after redemption (v. Rashi and Zeb. 71b).

(24) That there is no neutralisation.

(25) The greatest in value among the animals, since we cannot identify the offering.

(26) If the offering which became mixed up was a peace-offering, then a peace-offering is brought, and if a burnt-offering, then a burnt-offering is brought, since the rights of hekdesh are superior, v. Zeb. 71a. Consequently we see from here that there is no neutralisation in the larger number.

(27) Of there being two Mishnahs teaching the same thing.

(28) Our Mishnah.

(29) I.e., the mixing up of the forbidden animal took place when the other animals were hullin and he proceeded to dedicate them after the mixing.

(30) In Zeb. 72a.

(31) The mixing up of the forbidden animal with the dedicated animals.

(32) When the mixing up was with dedicated animals.

(33) Why there is no neutralisation in the greater number.

(34) Animals covered or that have been covered are rejected as unseemly for the altar.

(35) Since these animals of hullin are not rejected as unseemly for the altar when they became mixed up, as there was no share for the altar among them, and therefore when subsequently they were dedicated for the altar, it is quite in order, as they have already been neutralised (Rashi). In Zeb. the Talmud asks why then not state only the Mishnah in Temurah referring to hullin and then there would be no need for the Mishnah in Zebahim? And it answers that the reason is because the Mishnah in Zeb. informs us of something fresh, viz., that there is a remedy as regards dedications, i.e., that he sells etc., unlike the case in the Mishnah of Temurah where there is no remedy (v. Rashi).

(36) That there is neutralisation in the greater number.

(37) That there is no neutralisation in any larger number, even with actual hullin in the case of living things and important prohibitions (Rashi).

(38) When mixed up.

(39) Wine used for idolatrous libation.

(40) Which were let loose into the open field and from which it was prohibited to benefit.

(41) These were forbidden, because the heart had been cut out for idolatrous purposes.

(42) Which was burnt under the pot boiling the peace-offering.

(43) If the meat then became mixed up with even a thousand other pieces, they are all forbidden to be used in any way.

(44) To be profitably used.

(45) The prohibited thing may be; v. ‘A.Z. 74a.

(46) In Zeb.

(47) Why there is no neutralisation.

(48) The Mishnah of Temurah.
(49) That they are not neutralised.
(50) Lev. I, 2.
(51) The word ‘of’ implying but not all cattle may be brought as a sacrifice.
(52) A conclusion from minor to major, so that there is no need for a Scriptural text.
(53) The same will therefore apply to the case of an animal that covered or was covered. There is thus need for a special text to render them unfit for the altar.
(54) Therefore one can employ the above a minori argument and dispense with the special text.
(55) From the ploughing with an ox and an ass together.
(56) Since it is no question, for the reason just mentioned.
(57) The conclusion from the minor to the major, quoted above.
(58) That the animal is forbidden for the altar, since it is condemned to die.
(59) In which case the animal is not condemned to die but is forbidden for the altar.
(60) In which case the animal is exempted from death. In these cases surely a text is necessary.
(61) And there is no need for a Scriptural text.
(62) Since the expert says it is a permanent blemish, it is disqualified from being offered on the altar.
(63) Since it is stoned to death.
(64) Then why bring the Scriptural text?

Talmud - Mas. T'murah 28b

— Said R. Ashi: Because there is an objection to the basis of the analogy [as follows]: The case of a blemished animal is different, since its blemish is visible. Can you however say the same as regards the case of [an animal] which covered [a woman] and [an animal] which was covered [by a man] whose blemish is not visible? And since its blemish is not visible, it should be fit for the altar. The text therefore states: ‘Of the cattle’, to exclude the cases of [an animal] that covered [a woman] and [an animal] which was covered [by a man]. [The words:] Even of the herd,[1] exclude ne'ebad.[2] But can we not learn this from an analogy?[3] If in the cases of a [harlot's] hire and the price [of a dog], whose overlayings are permitted,[4] they [the animals themselves] are forbidden for the altar, in the case of ne'ebad whose overlayings are forbidden,[5] how much more should the animal itself be forbidden for the altar?[6] Or is it not the reverse[7] [as follows]: If in the case of a [harlot's] hire, and the price [of a dog], which themselves are forbidden for the altar, yet their overlayings are permitted, in the case of ne'ebad which is permitted for the altar,[8] how much more so should its overlayings be permitted? If so,[9] you do away with the Scriptural text: Thou shalt not desire the gold and silver that is on them, nor take it into thee?[10] I will explain the text: ‘Thou shalt not desire the gold and the silver that is on them’, as referring to a thing without life, but in the case of a living being [i.e., an animal], since it is permitted [for the altar], its overlayings should also be permitted.[11] The text therefore states: ‘Even of the herd,’[12] in order to exclude the case of ne'ebad.[13]

To this R. Hanania demurred: The reason[14] then is because the Scriptural text made a limitation, but if the text had not made a limitation, the overlayings would be permitted. But is it not written: And you shall destroy their names,[15] implying everything made for them?[16] — That is for the purpose of substituting a name for the idols. When [the idolaters] call a place Beth-Galia,[17] [Israelites should call] it Beth Karia,[18] Penei Hamolekh [they should call] Penei Keleb,[19] ‘Ain Kol[20] [they should call] ‘Ain Koz.[21] And why not reverse the exclusions [from the texts as follows]: ‘Of the cattle’ excludes ne'ebad and ‘even of the herd’ excludes the cases of [an animal] that covered [a woman] and [an animal] that was covered [by a man]? — In the one case[22] we exclude something which is associated with the subject of the text, and in the other, we also exclude something which is associated with the subject of a text. With regard to [the feminine term] ‘behemah’ [cattle][23] it is written: And if a man lie with a behemah [beast], he shall surely be put to death,[24] and with regard to [the masculine term] ‘bakar’ [herd] it is written: Thus they changed their glory with the similitude of an ox that eateth grass.[25]

‘Of the flock’[26] excludes mukzeh;[27] ‘and of the flock’ excludes the goring ox[28] [from the altar]. Said R. Simeon: If Scripture [excludes the case] of roba’,[29] what need is there for [the exclusion of] the goring ox?[30] And if Scripture [excludes the case of] the goring ox, what need is there for [the exclusion of] the case of roba’? — Because there is a law applying to roba’ which does not apply to the gorer [and[31] there is a law applying to the gorer which does not apply to roba’]. There is a law as regards roba’ that the unintentional act is on a par with the intentional act, unlike the case of the gorer.[32] There is a regulation applying to the gorer that [the owner of the ox] pays indemnity,[33] unlike the case of roba’. There is need therefore [for Scripture] to mention [the exclusion] of roba’ and the gorer.[34]

And the following Tanna derives this[35] from here [as follows]: For it has been taught as regards roba’ and nirba’ [etc.], if one dedicated them they are like dedicated animals in which a transitory blemish occurred before their dedication and which require a permanent blemish in order to redeem them, since it says: Because their corruption is in them, there is a blemish in them.[36] But how can you derive that from the text?[37] — A clause is missing [in the Baraitha] which should read as follows: Whence do we infer that they are forbidden [for the altar]? Because Scripture says: ‘Because their corruption is in them, there is a blemish in them’. And a Tanna of the School of R. Ishmael taught: Whenever the term hashhatha [corruption] is used [in the Scriptures] it refers to lewdness[38] and idolatry.[39] ‘Lewdness’, as it Says: For all flesh had corrupted its way, etc.,[40] and ‘idolatry’, as it says: Lest ye corrupt yourselves and make you a graven image the similitude of any figure.[41] [We thus argue:][42] Wherever a blemish disqualifies [an animal for the altar], ‘lewdness’ and ‘idolatry’ also disqualify them.[43]

And how does the Tanna of the School of R. Ishmael expound the texts, Of the cattle, of the herd and of the flock?[44] — These [texts] are required by him in order to exclude the following cases: A sick, old or evil-smelling animal.[45] Now the former Tanna [quoted above] who derives the cases of roba’ and nirba’ as unfit for the altar from those texts,[46] whence does he derive the cases of a sick, old and evil-smelling animal [as being forbidden for the altar]? — He derives these from [the texts]: ‘And if of the flock, of the sheep, or of the goats.[47] And what will the Tanna of the School of R. Ishmael do with these texts?[48] — It is the way of Scripture to speak in such a manner.[49]

WHAT IS MEANT BY MUKZEH? THAT WHICH HAS BEEN SET ASIDE FOR IDOLATROUS USE ETC. Said Resh Lakish: Mukzeh is forbidden only if it had been set aside for seven years,[50] since it says: And it came to pass that the Lord said unto him: Take thy father's young bullock even a second bullock of seven years old.[51] But there [in the text], was it only a case of mukzeh? Was it not also a case of ne'ebad?[52] Said R. Aha son of R. Jacob: It was designated for idolatry but they did not actually use it [as an idol]. Raba says: One can still maintain that they actually used it [the bull, as an idol],[53] but there it[54] was an innovation, as R. Aba b. Kahana explained. For R. Aba b. Kahana said: Eight things were permitted that night [as follows]: [The killing of an animal] outside [the tabernacle, the killing] at night,[55] [the officiating by] a non-priest,

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(1) Lev. I, 2.

(2) That an animal which has been used for an idolatrous purpose is forbidden for the altar. We infer this from ‘of’, taken in a partitive sense.

(3) A conclusion from the minor to the major that ne'ebad is forbidden for the altar. What need then is there for a Scriptural text?

(4) If after he had given the harlot an article he overlayed it with gold or silver etc, the overlay may be brought to the Temple for the covering of the altar.

(5) Scripture saying: Thou shalt not desire the gold and silver etc. (Deut. VII, 25).

(6) Granted that the animal cannot be prohibited for private use, since a living thing cannot be forbidden, nevertheless it should be unfit for the altar, seeing that its overlayings are forbidden even for private use. What need therefore is there for a Scriptural text?

(7) If there existed no text, then I might have reversed the analogy.

(8) Since there is no explicit Scriptural text which prohibits (Rashi).

(9) That the overlaying of an idol used also as an idol is permitted to be used.

(10) Deut. VII, 25. One cannot therefore reverse the analogy and say that the overlayings of a ne'ebad may be used for a sacred purpose. We therefore might have inferred from the analogy above that a ne'ebad is forbidden for the altar, and therefore a Scriptural text is not required to exclude a ne'ebad.

(11) And therefore I can reverse the analogy and derive that a ne'ebad is fit for the altar and that its overlayings are also permitted to be used.

(12) ‘Of’, implying a restriction and limitation.

(13) That it is forbidden for the altar. And since the animal is forbidden to be offered, the overlayings are also forbidden, even for private use, as we apply here the text: ‘Thou shalt not desire the gold and silver that is on them’ (Rashi and Tosaf.).

(14) Why the overlayings of a ne'ebad are forbidden to be used.

(15) Deut. XII, 3.

(16) Lit., ‘in their name’.

(17) Lit., ‘the high house’. ‘

(18) A House of Heaps (ruins), in derogation. It is a cacophemistic change of name.

(19) A contemptuous change of name, from ‘face of molekh’ to ‘face of a dog’.

(20) Lit., ‘the eye of all’.

(21) Koz means a thorn, another contemptuous change of name.

(22) Lit., ‘there’.

(23) We find the word behemah in connection with the case of an animal that covered a woman and an animal which was covered by a man, while in connection with idolatry we find the word bakar (herd) used.

(24) Lev. XX, 15.

(25) Ps. CVI, 20. The term used there is the masculine ‘shor’ (ox).

(26) Lev. I, 2.

(27) That which is set aside for idolatrous purposes.

(28) Which killed a man according to the evidence of one witness, where the animal is not stoned to death.

(29) An animal which covered a woman, from being offered on the altar.

(30) Since both are alike in this, that both animals are stoned to death on the testimony of two witnesses.

(31) Inserted with Sh. Mek.

(32) Only an ox which gores on its own accord is condemned to be stoned to death, but not an ox of the arena which is forced by others to gore.

(33) For killing a man, although the ox is stoned to death.

(34) That they are unfit for the altar.

(35) That roba’ and nirba’ (that which covered or had been covered) are forbidden for the altar.

(36) Lev. XXII, 25.

(37) What bearing has the text just quoted on roba’ and nirba’?

(38) Illicit sexual relations.

(39) And roba’ and nirba’ are cases of ‘lewdness’ and mukzeh, and ne'ebad are cases relating to idolatry.

(40) Gen. VI, 12.

(41) Deut. IV, 16.

(42) Comparing the earlier part of the text: ‘Because their corruption etc.’ with the latter part: ‘There is a blemish in them’.

(43) From being offered on the altar.

(44) Since he derives the exclusion of roba’ etc. from the text: ‘Because their corruption, etc.’.

(45) As being unfit for the altar.

(46) ‘Of the cattle etc.’.

(47) An entirely different verse, Lev. I, 20.

(48) ‘And 1f of the flock, etc.’ just quoted.

(49) That no special interpretation is meant in the way of excluding any cases from being offered.

(50) And after the conclusion of seven years the animal is to be offered to the idols.
(51) Judg. VI, 25. Having fattened it for seven years. We therefore see that this is the usual period for fattening before it is used for idolatrous purposes.
(52) Since Scripture says: And throw down the altar of Baal (Judg. VI, 25) which means the altar which was built for the bullock which was Baal (R. Gershom).
(53) And yet you cannot derive any law from this particular incident.
(54) The whole incident of Gideon here.
(55) Scripture saying: He did it by night (Ibid. 27).

Talmud - Mas. T'murah 29a

[without] a ministering vessel,[1] ministering with vessels of asherah,[2] the wood of asherah,[3] mukzeh and ne'ebad.

R. Tobi b. Mattenah reported in the name of R. Josiah: Where in the Torah is mukzeh intimated?[4] Since it says: Shall ye observe to offer unto Me,[5] intimating that every dedication requires special observation.[6] To this Abaye demurred: If this is so, if one brought a lean lamb without having kept it under observation, is it really the case that it is not fit to be offered on the altar? He [R. Tobi] replied to him [Abaye]: I mean [the text says]: ‘Shall ye observe to offer unto Me’, ‘unto Me’ implying but not to another lord. What is meant by another lord to whom offering is made? It is idolatry.[7]

Raba son of R. Adda reported in the name of R. Isaac: Mukzeh remains forbidden only until it has been used for some work.[8] ‘Ulla reported in the name of R. Johanan: Until the animal is handed over to the ministers of the idol [to be eaten].[9] Beha[10] reported in the name of R. Johanan: Until they feed the animal with vetches set aside for idolatry.[11] Said R. Abba to Beha: Do you[12] and ‘Ulla differ? — He replied to him: No. ‘Ulla himself means that it is fed[13] with vetches set aside for idolatry. R. Abba said: Beha knew how to explain this teaching. Had he not, however, gone[14] there [Palestine], he would not have known how to explain it, for it was the Land of Israel which was the cause.[15] Said R. Isaac to him: Beha belonged to both Babylon[16] and the Land of Israel.[17]

R.[18] Hanania of Trita[19] recited in the presence of R. Johanan: Mukzeh remains forbidden only until some act has been done with it. He taught this and also explained: What is meant by some act? — Such as shearing its wool or doing some work with it.

WHAT IS MEANT BY NE'EBAD etc. Whence is this proved?[20] Said R. Papa: Since Scripture says: From the well-watered pastures of Israel;[21] this intimates,[22] from what is legitimate for Israel.[23] Now if you were to assume that they[24] are forbidden for private use, what need is there for a [special] Scriptural text[25] to exclude them from the altar?[26] But is it the case that wherever a thing is forbidden for private use there is no need for a Scriptural text?[27] Is there not the case of trefah which is forbidden for private use and yet a Scriptural text excludes it from being offered on the altar? For it has been taught: [Even of the herd[28] excludes ne'ebad.[29] Perhaps it is not so, and the object of the text is to exclude trefah?] When Scripture however says further on: Of the herd,[30] which there is no need to repeat, it must be in order to exclude the case of trefah from the altar![31] — [Both] texts[32] are necessary. For you might think that the text[33] refers to a case where the animal became trefah and then it was dedicated,[34] but where the animal was dedicated and then it became trefah, I might have thought that it is legitimate [for the altar].[35]

But we do not derive this[36] from the following. [It says:] Whatsoever passeth under the rod,[37] thus excluding the case of trefah which cannot pass?[38] — That text[39] is also necessary. You might have thought that [the former text] refers only to an animal which was at no time fit for the altar, having been born a trefah in the inside of its mother; but in a case where it was fit at one time [for the altar], and it was born[40] and then became trefah, I might have thought that it is legitimate for the altar. [The text][41] therefore teaches us [that it is not so].[42] MISHNAH. WHAT IS MEANT BY A [HARLOT'S] HIRE? IF ONE SAYS TO A HARLOT: TAKE THIS LAMB FOR YOUR HIRE, EVEN IF THERE ARE A HUNDRED LAMBS, THEY ARE ALL FORBIDDEN [FOR THE ALTAR]. SIMILARLY, IF ONE SAYS TO HIS FELLOW: HERE IS A LAMB AND ASSIGN YOUR [NON-ISRAELITISH] MAIDSERVANT FOR MY SERVANT, R. MEIR[43] SAYS: IT [THE LAMB] IS NOT REGARDED AS [HARLOT'S] HIRE, WHEREAS THE SAGES SAY: IT IS REGARDED AS [HARLOT'S] HIRE.

GEMARA. The Master says: EVEN IF THERE ARE A HUNDRED LAMBS THEY ARE ALL FORBIDDEN. How is this meant? Shall I say that she took a hundred animals for her hire? Surely it is obvious that they are all forbidden [for the altar]! What is the difference whether there be one or a hundred [lambs]?[44] — No; it is necessary[45] in a case where she took one lamb as her hire[46] and he gave her a hundred; all are then forbidden, since they all come by reason of the hire.[47]

Our Rabbis have taught: If he gave her,[48] but he had no intercourse with her, if he had intercourse with her, but did not give her, her hire is legitimate [for the altar]. In the case where he gave her but did not have intercourse with her, do you call this her hire? And, moreover, the case where he had intercourse with her but did not give her, [you say that her hire is legitimate]. But what did he give her? — What is meant is this: If he gave her and then had intercourse with her, or if he had intercourse with her and then gave her [a lamb for] her hire, it is legitimate [for the altar]. But should not the law of [harlot's] hire take effect retrospectively?[49] — Said R. Eleazar:

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(1) I.e., one consecrated for the purpose of ministry.

(2) With the same vessel that he ministered to Asherah (a tree or grove worshipped as a god), he ministered to the Name.

(3) With which he burnt the offering.

(4) Misunderstood by Abaye as meaning: Where is it intimated that an animal must be kept in an enclosed space for some time to be looked after before it can be offered on the altar?

(5) Num. XXVIII, 2.

(6) To be designated and looked after before being offered.

(7) R. Tobi therefore says: Whence in the Torah is mukzeh, an animal designated for idolatry, forbidden?

(8) Whereby its designation for the idolatrous altar is annulled. This is Rashi's second interpretation which he prefers. The first interpretation is: Mukzeh is forbidden only when some work has been done with it, but previous to this there is no prohibition for the altar.

(9) After which it will no longer be offered on the altar.

(10) The name of an Amora.

(11) To fatten them for the idolatrous priests.

(12) V. Sh. Mek.

(13) Lit., ‘he rubs for it’.

(14) Var. lec. ‘come up from’.

(15) For the air of the Land of Israel made people wise.

(16) Lit., ‘from here and here’.

(17) And had the advantage of studying in both countries and his wisdom was not due only to his being a student from the Land of Israel.

(18) V. Marginal Gloss.

(19) In Babylonia.

(20) That mukzeh and ne'ebad are permitted to be eaten privately.

(21) Ezek. XLV, 15. The verse refers to the bringing of sacrifices.

(22) That an offering can be brought.

(23) To be eaten.

(24) Mukzeh and ne'ebad.

(25) ‘Of the herd, of the flock’, the former text including ne'ebad and the latter excluding mukzeh.

(26) Lit.,’the Most High’. Since we can exclude mukzeh and ne'ebad as regards offering them on the altar from the text:

‘From the well-watered pastures’ inasmuch as they are forbidden to Israel! The fact therefore that the special Scripture texts are required proves that mukzeh and ne'ebad are permitted to be eaten privately.

(27) To render it unfit for the altar.

(28) Lev. I, 2. The bracketed passage is inserted with Sh. Mek.

(29) That an animal which is used as an idol is forbidden for the altar.

(30) Lev. I, 3.

(31) And since the second text certainly excludes the case of trefah, therefore the first text must exclude ne'ebad. We see therefore that although trefah is forbidden to be eaten there is a special Scripture text to exclude it from the altar (Rashi).

(32) ‘From the well-watered’ and ‘of the herd etc.’.

(33) ‘From the well-watered pastures etc.’.

(34) In which case, since it was trefah and forbidden to be eaten before the dedication, it is unfit for the altar.

(35) The text therefore ‘of the herd etc.’ excludes trefah from being offered on the altar, even where the trefah occurred subsequently to the dedication (Rashi).

(36) That where one dedicated an animal and it afterwards became trefah, it is forbidden for the altar.

(37) Lev. XXVII, 32.

(38) Since it implies that although the animal entered the shed to be tithed it was not trefah, if it became trefah, i.e., if its legs were broken from the ankle upwards after entering the shed, so that it cannot pass under the rod, it is excluded from being offered on the altar (R. Gershom).

(39) ‘All that passeth etc.’

(40) Lit., ‘came into the air space of universe’.

(41) ‘All that passeth’.

(42) And where the animal became trefah after its birth and was dedicated, it was also forbidden for the altar. And the text, ‘of the herd’ excludes the case of the animal which became trefah after dedication (Rashi).

(43) Var. lec. ‘Rabbi’.

(44) As they are all a harlot's hire and forbidden for the altar.

(45) For the Mishnah to say that even a hundred animals are forbidden.

(46) The man only promised her one lamb.

(47) And we do not say that they were given to her as a present.

(48) A lamb as hire.

(49) In the case where he gave her a lamb before he had intercourse with her, why should not the lamb be considered her hire? For, since at the time of the intercourse the lamb is alive, and he had intercourse with her on the strength of promising it, then wherever the lamb is to be found, it should be regarded as the hire of a harlot. Now there is no difficulty in the case where he had intercourse with her and then gave her a lamb, for one might say that since the animal was not assigned to her at the time of the intercourse, it was not forbidden for the altar and should he regarded as a present (Rashi).

Talmud - Mas. T'murah 29b

[We are dealing with a case] where she offered [the lamb] before [intercourse]. How are we to understand this? Shall we say that he gave her immediate possession [of the lamb]?[1] Surely it is obvious that it is legitimate for the altar,[2] since so far he has had no intercourse with her![3] Shall we then suppose that he said: Do not acquire ownership of it [the lamb] until the time of intercourse?[4] But can she in such conditions offer it, Seeing that the Divine Law says: And when a man shall sanctify his house to be holy unto the Lord,[5] [and we infer] just as ‘his house’[6] is in his possession,[7] So all things must be in his possession?[8] — No. It is necessary[9] where he said: ‘[The lamb] shall not be acquired by you until the time of intercourse, but if you need it,[10] let it be acquired by you from now’.[11]

R. Oshaia asked: What is the ruling if she dedicated the lamb before [the intercourse]? — But why not solve this from the teaching of R. Eleazar, since R. Eleazar said [above]: Where she offered [the lamb] before [the intercourse]? Now [he says] that where she offered it, it is legitimate [for the altar] because it is not in existence at the time of the intercourse, implying that where she dedicated it, [since the animal is in existence at the time of the intercourse],[12] it is forbidden [for the altar]?[13] — This itself is the inquiry of R. Oshaia:[14] [Do we say that] where she offered it, since it is not in existence at the time of the intercourse, the animal is legitimate [for the altar], but where she dedicated it at the time of the intercourse, the animal is forbidden [for the altar],[15] or perhaps since we have learnt: The word of mouth is in dedication what delivery is in private transaction,[16] [if she] dedicated it, it is legitimate [for the altar], and all the more is it legitimate [for the altar] if she offered it?[17] — Let it remain undecided.

[The Master said:][18] 'If he had intercourse with her and then he gave her her hire, it is legitimate for the altar'. But has it not been taught: If he had intercourse with her and he gave her a lamb, even after twelve months,[19] the hire is forbidden [for the altar]? — Said R. Hanan son of R. Hisda: There is no difficulty. Here[20] we suppose that he said to her: 'Submit to intercourse for this lamb,'[21] and there[22] that he said to her: 'Submit to intercourse for a lamb', without specifying.[23] [And[24] if he said to her: 'Submit to intercourse] for this animal', is the animal forbidden for the altar? Is not meshikah[25] still wanting?[26] — We are dealing with a non-Israelitish harlot who does not acquire possession by meshikah.[27] And if you prefer [another solution] I may say that we are even dealing with an Israelitish harlot,[28] where e.g., the animal is standing in her courtyard.[29] If so, surely he gave it to her at the beginning?[30] [And, moreover, surely the animal is forbidden in such a case!][31] — We suppose that he assigned to her the animal as security and said to her: 'If I give you your money on a certain day, well and good. And if not, the [whole] lamb will be your hire'.[32]

Said Rab: The law of [harlot's] hire applies to a male[33] and to all forbidden relations, except the hire of his wife when she is a niddah.[34] What is the reason? It is written: 'A harlot',[35] and a niddah is not a harlot. Levi, however, says: Even of his wife when a niddah. What is the reason? It is written: An abomination,[36] and this is also an abomination. But as to Levi, is it not written: 'A zonah [harlot]'?[37] — He can answer you: [It is to intimate] zonah but not zoneh.[38] And whence will Rab infer [the limitation of] zonah but not zoneh? — He would derive it from the dictum of Rabbi. For it has been taught: Rabbi said, Hire is forbidden only when it comes to him through a transgression.[39] But the hire of his wife when a niddah,[40] or payments for her loss of time,[41] or if she [the harlot] gave him a lamb for hire — these are legitimate [for the altar]. And although there is no proof for it in the Bible,[42] there is an indication of it,[43] [Scripture saying:] And in that thou givest hire, and no hire is given unto thee, thus thou art contrary.[44] And what does Rab do with the text: 'An abomination'?[45] — He needs it for the teaching of Abaye. For Abaye said: The hire of a heathen harlot is forbidden for the altar. What is the reason? Here it is written: 'An abomination', and there Scripture says: For whosoever shall commit any of these abominations.[46] [We therefore argue,] just as there the reference is to forbidden relations where betrothal has no effect, similarly here [in the case of a harlot] we are dealing with a case where betrothal has no legal effect. And a priest who has intercourse with her is not punished with lashes for [having intercourse with] a zonah. What is the reason? Since Scripture says: And he shall not profane his seed,[47] implying such seed as is attributed to him, to the exclusion of a heathen women whose seed is not attributed to him.[48] The hire of an Israelitish harlot is legitimate [for the altar]. What is the reason? Because betrothal has effect with her. And a priest who has intercourse with her is punishable [with lashes] for [having intercourse with] a zonah. What is the reason? Because his seed is attributed to him.[49] Raba, however, says: In both cases[50] her hire is forbidden for the altar, and a priest who has intercourse with her is punishable [with lashes] for [having intercourse with] a zonah. What is the reason? We infer one from the other:[51] Just as in the case of an Israelitish harlot there is a negative command,[52] similarly there is a negative command in connection with a heathen harlot. And just as the hire of a heathen harlot is forbidden [for the altar], similarly the hire of an Israelitish harlot is also forbidden [for the altar].

An objection was raised: The hire of either a heathen harlot or an Israelitish harlot is forbidden [for the altar]. Shall we say that this refutes Abaye?[53] — Abaye can answer you: This[54] will represent the view of R. Akiba who holds that betrothal takes no effect in relationships involving the infringement of a negative command.[55] [But[56] does not the Baraitha say in a later clause, as e.g., a widow for a High Priest and a divorcee or one who has performed halizah for a common priest, her hire is forbidden?][57] This is what [the Baraitha] informs us, that [in the case of any harlot with whom betrothal takes no effect] as is the case with a widow [for a High Priest], the hire is forbidden.[58]

And according to Raba, why does [the Baraitha] say: ‘As e.g., the case of a widow for a High Priest’?[59] — [The Baraitha means:] It is like the case of a widow [for a High Priest]: Just as a widow for a High Priest is not punishable with lashes until she is warned, similarly with a harlot there is no prohibition until he said to her: ‘Here is [the hire]’,[60] thus excluding the teaching of R. Eleazar. For R. Eleazar said: If an unmarried man had intercourse with an unmarried woman without the intention thereby of making her his wife, he makes her a harlot. Where, however, she is already a harlot, even if he gave her a lamb [without giving the reason, Raba also agrees that] it is forbidden for the altar.

Another version: [The Baraitha] above refers to forbidden relations, where betrothals take no effect.[61] But does not the latter clause say: As e.g., a widow for a High Priest, a divorcee or one who has performed halizah for a common priest, her hire is forbidden? Now in these cases betrothals take effect![62] — [The Baraitha] will represent the opinion of

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(1) When he presented it to her.

(2) Even if she did not hurry to offer it, as the law of hire does not here apply at all (R. Gershom).

(3) When he gave it to her.

(4) And she hurried to offer it before there was intercourse.

(5) Lev. XXVII, 14.

(6) Which he wishes to dedicate.

(7) Must be his to dedicate.

(8) In order to be able to dedicate them. And here since the lamb only becomes hers at the time of intercourse, how can she legitimately offer it beforehand?

(9) For the Baraitha above to say that the hire is legitimate for the altar.

(10) To be eaten or sacrificed on the altar.

(11) We therefore regard it as a case of being in her possession to dedicate, since she can use it if she is in need. And since he said to her that the lamb is only hers at the time of intercourse, the Baraitha therefore needs to inform us that it is not a hire if she hurried and offered it before the act of intercourse.

(12) Inserted with Sh. Mek.

(13) What therefore is R. Oshaia's inquiry about?

(14) R. Eleazar's teaching itself is a matter of doubt with R. Oshaia.

(15) As it is in existence at the time of intercourse.

(16) And one cannot withdraw from his word.

(17) Before the intercourse.

(18) Inserted with Sh. Mek.

(19) After intercourse.

(20) In the Baraitha which says that the lamb is forbidden for the altar.

(21) And since he gave it to her at the time of intercourse, the law of hire has effect immediately on the animal and even if she did not receive it till twelve months later, it is forbidden for the altar (v. Sh. Mek.).

(22) In the Baraitha which says that the animal is legitimate for the altar.

(23) A particular lamb. What he therefore sends her afterwards is merely a present but not a harlot's hire.

(24) Inserted with Sh. Mek.

(25) A method of acquisition, drawing into one's possession the object to be acquired, v. Glos. s.v.

(26) Since payment alone does not confer possession and therefore she does not acquire it at the time of intercourse.

(27) V. Bek. 13a.

(28) And it can be explained that from the time that intercourse took place she possessed the animal.

(29) And one's courtyard can effect possession for a person.

(30) Before the intercourse, if the animal was placed in her courtyard. Why then does the Baraitha say that he had intercourse with her and then gave the lamb to her?
(31) V. Marginal Gloss. This appears to have been the reading in Rashi.
(32) Therefore when the day came and he did not give her the money, the animal is regarded as having been hers from the time of the act of intercourse. Nevertheless the Baraitha rightly says: ‘And then he gave her the animal’, since it was not hers till that particular day arrived. The Baraitha therefore needs to inform us that in such circumstances the animal is forbidden for the altar.
(33) If he had intercourse with a male and gave him a hire, the animal is forbidden to be offered.
(34) A woman during her menstruation period.
(35) Deut. XXIII, 19.
(36) Ibid.; Scripture saying: ‘For the abomination of the Lord thy God etc.’ And intercourse with a niddah is also an abomination, for it is mentioned in connection with illicit relations and with reference to all these relations the Bible says: For all these abominations (Lev. XVIII, 27).
(37) And a niddah is not a harlot (zonah).
(38) The male committing lewdness. I.e. , that if she gave him a hire, it is legitimate for the altar.
(39) When there is no legitimate aspect to the act of intercourse.
(40) Since she becomes permissible for him after the period of menstruation.
(41) But not for the act of cohabitation.
(42) That it is legitimate to be offered.
(43) That the hire given to a male is not included in the law.
(44) Ezek. XVI, 34. Hence what she gives him is not hire (Rashi).
(45) Since he does not use it for Levi's teaching.
(46) Lev. XVIII, 29.
(47) Lev. XXI, 15.
(48) The seed from a non-Jewess is called her child but not his.
(49) Since the harlot is an Israelitish woman, the children are his, i.e., Jewish.
(50) Whether the harlot be an Israelitish or heathen woman.
(51) The case of a heathen harlot from the case of an Israelitish harlot and vice versa.
(52) ‘Neither shall he profane etc.’
(53) Who holds that the hire of an Israelitish harlot is permissible for the altar.
(54) The Baraitha just quoted.
(55) And since there is the negative command: ‘Neither shall he profane’ in connection with an Israelitish harlot, her hire is forbidden.
(56) The bracketed passage is inserted passage is inserted with Bah.
(57) And these examples are presumably adduced as instances where the betrothal takes effect and yet the hire is forbidden though the relationships involve no infringement of a negative command!
(58) The text in the Gemara is in disorder. V. Commentaries.
(59) Since according to him every harlot's hire is forbidden. Why therefore specifically mention the case of a widow for a High Priest?
(60) According to Raba, however, the first intercourse does not make her into a zonah, and consequently unless he tells her ‘this is your hire’, what he gives her is considered a mere gift.
(61) And therefore even the hire of an Israelitish harlot is forbidden.
(62) And yet the hire is forbidden.

Talmud - Mas. T'murah 30a

R. Eleazar, who said: If an unmarried man has intercourse with an unmarried woman without the intention thereby of making her his wife, he makes her a harlot.[1] If [the Baraitha] represents the opinion of R. Eleazar, why take the case of a widow for a High Priest?[2] Why not take the case of an unmarried woman? — It was necessary to take the case of a widow [for a High Priest]. [For otherwise] you might think that since this[3] is the typical case[4] the [other cases] are not forbidden. [The Baraitha] informs us [that it is not so].

IF ONE SAYS TO HIS FELLOW: HERE IS THIS LAMB FOR YOU etc. But is not a bondwoman permitted for a slave?[5] — Said R. Huna: [The Mishnah means] for himself,[6] and the reason why it Says, MY SLAVE is because it is a more refined expression to use. If this is so, what is the reason of R. Meir?[7] — Said Samuel son of R. Isaac:[8] One can still say that the Mishnah actually means, MY SLAVE, and it refers to a Hebrew slave. If this is so, what is the reason of the Rabbis, since a bondwoman is permitted for a Hebrew slave? — The case here is where he does not possess a wife and children. For it has been taught: If a Hebrew slave does not possess a wife and children, his master cannot hand over a Canaanitish slave to him,[9] but if he possesses a wife and children, his master can hand over a Canaanitish slave to him. MISHNAH. AND WHAT IS MEANT BY THE PRICE OF A DOG?[10] IF ONE SAYS TO HIS FELLOW, HERE IS THIS LAMB INSTEAD OF [THIS] DOG.[11] AND LIKEWISE IF TWO PARTNERS DIVIDED [AN ESTATE] AND ONE TOOK TEN LAMBS AND THE OTHER NINE AND A DOG, ALL THOSE TAKEN INSTEAD OF THE DOG ARE FORBIDDEN [FOR THE ALTAR],[12] BUT THOSE TAKEN WITH A DOG ARE LEGITIMATE [FOR THE ALTAR]. THE HIRE OF A DOG[13] AND THE PRICE OF A HARLOT[14] ARE LEGITIMATE [FOR THE ALTAR], SINCE IT SAYS: [FOR EVEN] BOTH [OF THESE][15] ‘BOTH’ BUT NOT FOUR.[16] THEIR ISSUE[17] ARE LEGITIMATE [FOR THE ALTAR SINCE IT SAYS]: [BOTH OF THESE,] IMPLYING THEY[18] BUT NOT THEIR ISSUE.

GEMARA. Our Rabbis have taught: ‘A mekir of a dog’,[19] this refers to that taken in exchange for a dog. And likewise it says:[20] Thou sellest thy people for naught and hast not set high their price.[21]

And why not say [that mekir means] the hire [of a dog]?[22] — The text ‘both’ implies, but not three.[23] But did we suggest the hire and the price of a dog; what we suggested is that [it means] the hire and not the price? — If so, let Scripture say: Thou shalt not bring the hire of a harlot and a dog. Since Scripture says: The hire of a harlot or the price of a dog, you can prove from here [that it means the price but not the hire of a dog].

PARTNERS WHO DIVIDED [THEIR ESTATE] AND ONE TOOK etc. But why not take out [one lamb] for the dog, and all the remaining [lambs] should then be legitimate [for the altar]? — We are dealing here with a case where the value of the dog was greater than the value of any one [of the corresponding lambs] and this additional amount is distributed over all [the corresponding lambs].[24]

THE HIRE OF A DOG AND THE PRICE OF A HARLOT ARE LEGITIMATE etc. Said Raba of Parzakia[25] to R. Ashi:

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(1) And therefore the hire is forbidden, whereas Abaye will hold the opinion of the Rabbis who dispute with R. Eleazar.

(2) In the latter clause of the Baraitha.

(3) The case mentioned by R. Eleazar.

(4) If the case of an unmarried man who had intercourse with an unmarried woman had been taken, I might have regarded it as typical, and said that only where there is no prohibition as regards intercourse is the hire forbidden, but where intercourse is prohibited hire is not forbidden, and therefore in the case of a widow for a High Priest etc. the hire is not forbidden. The Baraitha therefore takes as example the case of a widow for a High Priest, etc.

(5) Why therefore do the Rabbis hold in our Mishnah that the lamb is a harlot's hire?

(6) I.e., the Israelite. And as regards himself, he is forbidden to have intercourse with a bondwoman.

(7) Who says in the Mishnah that it is not a harlot's hire. V. Bah.

(8) Var. lec. b. Nahmani.

(9) Because Scripture says: If he came in by himself, he should go out by himself (Ex. XXI, 3). R. Meir, who says that it is not a harlot's hire, does not however agree to this and holds that even if the Hebrew slave has no wife and children, his master can hand over a Canaanitish slave to him.

(10) V. Deut. XXIII, 19.

(11) The lamb is forbidden for the altar as ‘price of a dog’.

(12) Since one can describe each lamb as the equivalent and price of the dog.
(13) If one gave a lamb to his neighbour in order to allow him to abuse his dog.
(14) The price obtained for selling a harlot.
(15) Deut. XXIII, 19.
(16) And there are no other cases where the lamb is forbidden in such circumstances. Now to add the cases of hire of a dog and price of a harlot would be to make four cases.
(17) Sc. of the lamb received as harlot's hire or price of a dog.
(18) The emphasis is on ‘these’.
(19) ‘The price of a dog’.
(20) Ps. XLIV, 13.
(21) The term used is mehir. We therefore see that mehir means ‘the price’.
(22) For this reading cf. Rashi and Wilna Gaon.
(23) And by adding the case of hire of a dog there would be three cases of abomination.
(24) Where not one of the corresponding lambs is of equal value to the dog, some of the additional value of the dog is extended to each of the opposite lambs. E.g., suppose that each of the corresponding lambs was worth a denar, making altogether ten denars and each of the nine lambs with the dog was worth a denar minus a ma'ah (v. Glos.), the dog thus being worth one denar plus nine ma'ah. Then nine of the opposite lambs are regarded as possessing something of the value of the dog, while the tenth lamb just corresponds to what is left of it. The Jerushalmi explains this as follows: If the ten lambs are each worth four zuz and a tenth, making a total of forty-one zuz, and the dog is worth five zuz, then the nine remaining lambs with it are worth thirty-six zuz or four zuz each, one tenth of a zuz less than each of the others. Hence each lamb in one set is the equivalent of each of the nine opposite lambs plus the tenth of a zuz, and this tenth is the equivalent of a portion of the dog and therefore causes them all to be forbidden for the altar as ‘the price of a dog’.
(25) Farausag, near Nehardea.

Talmud - Mas. T'murah 30b

Whence do we derive what the Rabbis taught that the term harlotry[1] does not apply to animals?[2] — He said to him: If that were so, Scripture would not omit to say: ‘The hire of a harlot and a dog’.

We have learnt to the same effect:[3] Whence do we infer that the hire of a dog and the price of a harlot are legitimate [for the altar]? Because it says: ‘Both’ — but not four.[4] Their issue are legitimate for the altar, since it says: ‘Both of them’, implying they, but not their issue.

Said Raba: The issue of a beast which was used for buggery [while pregnant] is disqualified [for the altar], for mother and young have been abused. The issue of a beast which gored [while pregnant] is disqualified for the altar, for mother and young have gored. The issue of a beast which was designated for idolatry[5] or used for idolatry[6] [while pregnant] is legitimate [for the altar]. What is the reason? Its mother was designated for idolatry and its mother was used [as such].[7] Some there are who say: Even the issue of a beast which was designated or used for idolatry [while pregnant] is also disqualified [for the altar]. What is the reason? Its full appearance is welcome to him.[8]

R. Ahadboi b. Ammi in the name of Rab reported: If one betrothed with the dung of an ox condemned to be stoned, the act is valid.[9] [If one betrothed however] with the dung of the calves set aside for idolatry, the act is not valid. What is the reason? I may say it is intimated in Scripture and I may say that reason tells us so. I may say that reason tells us so, since for purposes of idol worship its full appearance is welcome to him,[10] whereas in the case of an ox condemned to be stoned, its full appearance is not welcome to him.[11] I may say it is intimated in Scripture. With reference to idolatry it is written: Lest thou be a cursed thing like it,[12] thus intimating that whatever comes from it[13] is like it and forbidden; whereas with reference to an ox condemned to be stoned, it is written: And its flesh shall not be eaten[14] — ‘its flesh’ is forbidden, its dung is permitted.[15]

MISHNAH. IF HE GAVE HER [A HARLOT] MONEY AS HIRE IT IS LEGITIMATE [FOR

THE ALTAR, BUT IF HE GAVE HER] WINE, OIL, FLOUR AND ANYTHING SIMILAR WHICH IS OFFERED ON THE ALTAR, IT IS DISQUALIFIED FOR THE ALTAR. IF HE GAVE HER DEDICATED [ANIMALS] THEY ARE LEGITIMATE [FOR THE ALTAR]. IF HE GAVE HER BIRDS [OF HULLIN][16] THEY ARE DISQUALIFIED,[17] FOR ONE MIGHT HAVE REASONED [AS FOLLOWS]: IF IN THE CASE OF DEDICATED ANIMALS, WHERE A BLEMISH DISQUALIFIES THEM, [THE LAW] OF [THE HARLOT'S] HIRE AND PRICE [OF A DOG] DOES NOT TAKE EFFECT, IN THE CASE OF BIRDS, WHERE A BLEMISH DOES NOT DISQUALIFY, IS IT NOT ALL THE MORE REASON THAT THE LAW OF [THE HARLOT'S] HIRE AND PRICE [OF A DOG] SHOULD NOT TAKE EFFECT? THE TEXT THEREFORE STATES: FOR ANY VOW,[18] IN ORDER TO INCLUDE THE CASE OF A BIRD.[19] THE ISSUE OF ALL ANIMALS WHICH ARE DISQUALIFIED FOR THE ALTAR ARE LEGITIMATE FOR THE ALTAR. R. ELEAZAR SAYS: THE ISSUE OF A TREFAH HOWEVER MAY NOT BE OFFERED ON THE ALTAR.[20] R. HANINA B. ANTIGONUS SAYS: A RITUALLY CLEAN ANIMAL WHICH SUCKLED FROM A TREFAH IS DISQUALIFIED FROM THE ALTAR. ONE MAY NOT REDEEM ANY DEDICATED ANIMAL WHICH BECAME TREFAH, SINCE WE ARE NOT ALLOWED TO REDEEM DEDICATED [ANIMALS] IN ORDER TO GIVE THEM TO DOGS TO EAT.[21]

GEMARA. Our Rabbis have taught: If he gave her [a harlot] wheat [as hire] and she made it into flour, olives and she made them into oil, grapes and she made them into wine, one [Baraitha] taught: They are forbidden [for the altar], and another [Baraitha] taught: They are legitimate [for the altar.]

Said R. Joseph: Gurion who came from Asporak[22] recited: Bath Shammai forbid, whereas Beth Hillel permit. Beth Hillel hold, [Scripture says]: ‘Them’, implying but not their issue; ‘them’ but not their products.[23] Beth Shammai however hold: ‘Them’ implies but not their issue, and the word ‘even’ includes their products.[24] But do not Beth Hillel see that is is written ‘even’? — The ‘even’ is according to the opinion of Beth Hillel indeed a difficulty.

Our Rabbis have taught: [Scripture says:] In the house of the Lord thy God,[25] this excludes the case of the red heifer which does not come to the House.[26] This is the teaching of R. Eleazar. The Sages, however say: This includes beaten gold plates [as forbidden for overlaying].[27] Whose opinion is that of the Sages? Said R. Hisda: It is that of R. Jose b. Judah. For it has been taught: If he gave her gold as hire, R. Jose b. Judah said: One must not use it to make beaten gold plates even for the space behind the Holy of Holies.[28]

IF HE GAVE HER DEDICATED [ANIMALS] THEY ARE LEGITIMATE etc. And why should not [the law of] a [harlot's] hire and price of a dog take effect with dedicated animals a minori?[29] If in the case of birds, where a blemish does not disqualify them [from being offered, the law of] ‘hire’ and ‘price’ have effect,[30] in the case of dedicated animals where a blemish disqualifies them, is there not all the more reason that [the law of] ‘hire’ and ‘price’ should have effect? The text therefore states: For any vow,[31] thus excluding what has already been vowed.[32] Now the reason[33] is because a Scriptural text excludes them [the dedications], but if a Scriptural text had not excluded them, I might have thought that if he gave a harlot dedicated animals the law of ‘hire’ and ‘price’[34] would apply to them, but can a man forbid what does not belong to him?[35] — Said R. Oshaiah: We are dealing with a case where he assigns her as hire a share in his Passover lamb and it is the opinion of Rabbi.[36] For it has been taught: [Scripture Says:] And if the household be too little for the lamb,[37] give him to live from the lamb[38] sufficient for food but not for a purchase.[39] Rabbi, however, says: Even sufficient for a purchase; if he had not the wherewithal, he can assign a share for others together with himself in his Passover lamb and his festival offerings, the money being hullin; for it was on such a condition that Israel dedicated their Passover lambs.[40]

THE ISSUE OF ALL ANIMALS WHICH ARE DISQUALIFIED FOR THE ALTAR etc. Said

Rab: The issue of all animals which are disqualified for the altar are legitimate [for the altar]. And with reference to this it was taught that R. Eliezer forbids. R. Huna b. Hinena reported in the name of R. Nahman: The difference of opinion refers only in the case where they were pregnant and in the end were used for buggery, R. Eliezer holding that an Embryo is considered as the thigh of its mother,[41] whereas the Rabbis hold that an embryo is not considered as the thigh of its mother. But where they were used for buggery and afterwards they became pregnant, it is the unanimous opinion of all the authorities that they [the issue] are legitimate [for the altar].

Raba says: The difference of opinion only refers to the case where they were used for buggery and afterwards became pregnant, R. Eliezer holding that a produce of combined causes[42] is forbidden, whereas the Rabbis hold that a product of combined causes is permitted. But where they were pregnant and then were used for buggery, it is the opinion of all the authorities concerned that they are forbidden [for the altar].

Raba follows the opinion expressed by him elsewhere. For Raba says: The issue of a beast which was used for buggery while pregnant is disqualified [for the altar], for both mother and young have been abused. The issue of a beast which gored while pregnant is disqualified [for the altar], for both mother and young have gored.

Another version: R. Huna b. Hinena reported in the name of R. Nahman: The difference of opinion refers only where they were used for buggery while they were consecrated, R. Eliezer[43] holding that this is a degrading thing,[44] whereas the Rabbis hold that it is not so. But where they were used for buggery as hullin, since there is a change in status,[45] it is the opinion of all the authorities concerned that they [the issue] are legitimate [for the altar]. Raba reported in the name of R. Nahman: The difference of opinion is the same even if they were used for buggery as hullin, R. Eliezer holding that it is a degrading thing, whereas the Rabbis hold that since there was a change [in status] they are legitimate [for the altar]. But where they were used for buggery while consecrated, it is the opinion of all the authorities concerned that they are forbidden for the altar.

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(1) Heb. zenuth.

(2) Since the Mishnah says that ‘the hire of a dog’ is permitted for the altar.

(3) That ‘harlotry’ does not apply to animals.

(4) And if we were to include the price of a harlot and the hire of a dog there would be four cases and not two.

(5) Mukzeh, v. supra 28a.

(6) Ne'ebad, v. supra 28a.

(7) But not its issue.

(8) To the idol worshipper, as it seems to lend more dignity to the act.

(9) Lit. , ‘she is betrothed’.

(10) The dung makes the animal look fatter and therefore it is forbidden to be used.

(11) Since it is condemned to die, and therefore the betrothal is valid.

(12) Deut. VII, 26.

(13) E.g., its dung.

(14) Ex. XXI, 28.

(15) And therefore the betrothal with it is a valid act.

(16) Like pigeons.

(17) From being used any more for the altar.

(18) Deut. XXIII, 19 in connection with the law of harlot's hire and price of a dog. The word ‘any’ amplifies.

(19) That the law of the harlot's hire and price of a dog has effect on them.

(20) But all will agree that it is permitted for private use, since it is not part of the body of its mother (Rashi). Tosaf., however, maintains that it is forbidden even for private use.

(21) As this would be degrading dedications.

(22) Not identified, but probably in Asia; v. Neubauer p. 386.

(23) Where he gave her grapes and she made wine, etc.
(24) As being subject to the law of harlot's hire and price of a dog.
(25) In connection with the law of hire (Deut. XXIII, 19).
(26) Since every rite in this connection is performed on the Mount of Olives. It may therefore be brought from hire.
(27) To cover the altar.
(28) This was an area of eleven cubits at the back of the Temple, of less stringent holiness. Rashi says that e.g., he gave her stones as hire to build a wall in that part of the Temple court.
(29) A conclusion from the minor to the major.
(30) As we include this from the text, ‘For any vow’.
(31) Ibid.
(32) I.e., dedicated objects, and the man cannot forbid something which does not belong to him.
(33) Why the law of ‘hire’ and ‘price’ do not apply to dedications.
(34) ‘Price’ is irrelevant here but mentioned as a current phrase.
(35) Sh. Mek.; cur. edd ‘but it is not (his) money’.
(36) We are concerned with the kind of dedication which is in his possession.
(37) Ex. XII, 4.
(38) Interpreting the text in the following manner: And if the household is diminished in resources, there being no means for the necessary things required for the Paschal lamb. מהיות משה , ‘Let him have the means from the lamb’, i.e., to buy wood with which to roast the lamb, by taking money from others and sharing the animal with them.
(39) As, for example, to buy a garment with the money obtained by inviting others to share in the Paschal lamb, since such an article has no connection with the Paschal offering.
(40) On the understanding that if he required something even unconnected with the Passover lamb, he should be permitted to invite others to share the offering.
(41) Therefore the offspring itself was abused.
(42) One of which was forbidden. Now here, although the issue is brought about by the male, a permissible element — no prohibition attaching to the father of the offspring — since the mother which is also a cause of the offspring is prohibited, therefore the offspring is forbidden (Rashi).
(43) Who holds that the issue is forbidden.
(44) For since they are dedications, it is unseemly to use them later for the altar after being abused.
(45) Viz., from hullin to dedications.

Talmud - Mas. T'murah 31a

THE ISSUE OF A TREFAH etc. According to the authority who holds that a trefah can give birth,[1] we can explain [the Mishnah here] as referring to a case where e.g., it became trefah and afterwards became pregnant, and the point at issue is that R. Eliezer holds that a product of combined causes[2] is forbidden, whereas the Rabbis hold that the product of combined causes is permitted. According to the authority who holds that a trefah cannot give birth,[3] it can be explained as referring to a case where e.g., it became pregnant and afterwards became trefah, and the point at issue is that R. Eliezer[4] holds that an embryo is considered as the thigh of its mother, whereas the Rabbis hold that an embryo is not considered as the thigh of its mother.

Said R. Huna: The Sages[5] agree with R. Eliezer that the young bird from the egg of a bird that became trefah is forbidden [for the altar]. What is the reason? [The Sages] differ from R. Eliezer only in the case of the issue of a trefah, since it develops from the air,[6] whereas in the case of a young bird from the egg of a bird that became trefah, since it develops from the body of the bird, even the Rabbis agree.[7] Said Raba to R. Huna: We have the confirmation of your opinion as follows: A tarwad[8] -full of worms that come from a living person [who then died], R. Eliezer declares to be ritually unclean[9] whereas the Sages declare them clean.[10] Now the Rabbis differ [with R. Eliezer] only as regards worms [of a human body], since they are considered merely as a discharge, but in the case of an egg, since it is part of the body of the bird, even the Rabbis would agree.[11] Said Abaye to him: But it is not logically the reverse? R. Eliezer only differs from the Rabbis in the case of a worm, since a man even when alive is described as a worm, as it is written: How much less man that is a worm, and son of man that is a maggot;[12] [but in the case of a young bird][13] even R. Eliezer would admit[14] [it is fit for the altar].[15] And, moreover, it has been explicitly taught: R. Eliezer agrees with the Sages in the case of [a young bird from] an egg from a bird that became trefah, that it is legitimate for the altar! — He [Raba] replied to [Abaye]: If it has been taught,[16] it has been taught.[17]

R. HANINA B. ANTIGONUS SAYS: A RITUALLY CLEAN ANIMAL etc. What is the reason? Shall we say because it becomes fat from it? If this is so, if he feeds it with vetches set aside for idolatry, is it really forbidden?[18] — [Rather it is as] R. Hanina of Trita recited in the presence of R. Johanan: You suppose for instance that it sucked hot milk [from a trefah] every morning,[19] since it can live for twenty-four hours.[20]

ONE MAY NOT REDEEM ANY DEDICATED ANIMAL WHICH BECAME TREFAH etc. Whence is this derived? — Our Rabbis have taught: [Scripture says: Thou mayest kill and eat flesh:[21]] 'thou mayest kill' [implies] but no shearing; 'and eat', but not for thy dogs; 'flesh', but not milk.[22] Hence we infer that one must not redeem dedications in order to give them to dogs to eat.

Another version: The text, 'Thou mayest kill and eat flesh' [implies] that the permission to eat commences only from the time of killing and onwards,[23] because he [the Tanna] here holds that it is permitted to redeem dedications in order to give them to dogs to eat.

CHAPTER VII

MISHNAH. THERE ARE [REGULATIONS] WHICH APPLY TO DEDICATIONS FOR THE ALTAR[24] WHICH DO NOT APPLY TO DEDICATIONS[25] FOR REPAIRS OF THE TEMPLE, AND THERE ARE [REGULATIONS] WHICH APPLY TO DEDICATIONS FOR THE REPAIRS OF THE TEMPLE WHICH DO NOT APPLY TO DEDICATIONS FOR THE ALTAR. FOR DEDICATIONS FOR THE ALTAR EFFECT EXCHANGE, THEY ARE SUBJECT TO THE LAWS OF PIGGUL,[26] NOTHAR[27] AND RITUAL UNCLEANNESS;

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(1) There is a controversy on this matter in Hul. 57b.

(2) The mother alone being forbidden but not the father. We cannot say here that the point at issue will be whether an embryo is to be regarded as the thigh of its mother, for since it became trefah before pregnancy it cannot be regarded as the thigh of its mother, as it possesses an element which is permissible, viz., from its sire (Rashi).

(3) So Sh. Mek.; cur. edd., cannot live.

(4) Who forbids the issue for the altar.

(5) Who say in the Mishnah that the issue of a trefah may be offered on the altar.

(6) The embryo of an animal is not attached to the latter's body but develops on its own and hangs, so to speak, in the air; whereas an egg, so long as it is not completed, is attached to the body and is completed inside the bird (Rashi). Another interpretation given by Rashi: An embryo of an animal grows and develops after it sees the light of day, i.e., after birth, whereas an egg does not develop any more after birth, thus proving that it is part of the body of the bird and can only grow when joined to it.

(7) That the bird which comes from the egg is forbidden for the altar.

(8) A spoon, pointed at the top and round at the end.

(9) I.e., to impart uncleanness by contact or through overshadowing, because a limb separated from a human being has the same law as a limb from a corpse (Rashi).

(10) Since it was separated when the person was alive, it is regarded as mere dust and is not considered as part of the body.

(11) That the bird from it is forbidden for the altar.

(12) Job XXV, 6.

(13) Inserted with Bah.

(14) Var. lec. (given in curr. edd. in square brackets): 'But with reference to an egg, the young bird is developed after the deterioration of the egg, and after deterioration the egg is mere dust, and therefore even R. Eliezer agrees.’

(15) Since it is an entirely different body which was not inside the trefah.

(16) That it is permissible for the altar.

(17) And there is nothing more to be said.

(18) For it says (supra 29a) that only mukzeh is forbidden in such circumstances.

(19) All its days.

(20) From this milk alone without any other food. This proves that the growth and development of the animal was due to its sucking from a trefah, and therefore it is forbidden for the altar; whereas an animal which was given to eat vetches set aside for idolatry, since it cannot exist without other food in the twenty-four hours, is permitted for the altar. If, however, an animal ate vetches set aside for idolatry, all its life, it would also be forbidden (Tosaf).

(21) Deut. XII, 15.

(22) Milking would be work, which is forbidden.

(23) Thus excluding milk or the shearing as forbidden, these being benefits derived while the animal is alive. Now since we do not interpret the text ‘and eat’ as excluding the food for dogs, we can therefore infer that it is allowed to feed dogs with redeemed dedications. From this Baraitha we see that there is a difference of opinion among Tannaim as to whether we may give dogs to eat from redeemed dedications.

(24) Unlike dedications for the repairs of the Temple, because these, in the first place, are not called ‘a sacrifice’, and secondly, because they are only holy for their value.

(25) I.e., their value.

(26) A sacrifice rejected in consequence of an improper intention in the mind of the officiating priest.

(27) A sacrifice which was left over after the appointed time set aside for its eating.

Talmud - Mas. T'murah 31b

THEIR ISSUE AND MILK ARE FORBIDDEN[1] AFTER THEIR REDEMPTION;[2] IF ONE KILLS THEM WITHOUT [THE TEMPLE COURT] HE IS GUILTY [OF A TRANSGRESSION][3] AND WAGES ARE NOT PAID FROM THEM[4] TO ARTISANS,[5] WHICH IS NOT THE CASE WITH DEDICATIONS FOR TEMPLE REPAIRS. THERE ARE [REGULATIONS] WHICH APPLY TO DEDICATIONS FOR THE REPAIRS OF THE TEMPLE [WHICH ARE NOT FOUND ELSEWHERE], SINCE UNSPECIFIED DEDICATIONS[6] GO TO THE REPAIRS OF THE TEMPLE, DEDICATION FOR THE REPAIRS OF THE TEMPLE TAKES EFFECT ON ALL THINGS,[7] THE LAW OF SACRILEGE[8] APPLIES TO THEIR PRODUCTS,[9] AND THERE IS NO BENEFIT TO BE DERIVED FROM THEM FOR THE PRIEST.[10]

GEMARA. Now is this a general rule, that all dedications for the altar effect exchange? Is there not a case of birds which are dedicated for the altar, and we have learnt: Meal-offerings and birds do not effect exchange? — [The Mishnah] speaks only of beasts. But is there not the case of the offspring [of a dedicated animal] which is a dedication for the altar, and we have learnt: The offspring [of a dedicated animal] does not effect exchange? — Our Mishnah represents the opinion of R. Judah who holds that the offspring can effect exchange. But is not the exchange itself a dedication for the altar, and we have learnt: One exchange cannot effect another exchange? — [The Mishnah] refers to original dedications.[11] Now that you have arrived at this conclusion, you may even say that the Mishnah above will be in accordance also with the opinion of the Rabbis [the disputants of R. Judah], since it only refers to original dedications.

AND WAGES ARE NOT PAID FROM THEM TO ARTISANS etc. We infer that we do pay from the dedications for the repair of the Temple.[12] [Whence do we derive this?][13] Said R. Abbahu: Since Scripture says. And let them make Me [a sanctuary],[14] [intimating] from what is Mine.[15]

THERE ARE [REGULATIONS] WHICH APPLY TO DEDICATIONS FOR THE REPAIRS OF THE TEMPLE;[16] UNSPECIFIED DEDICATIONS GO FOR THE REPAIRS OF THE TEMPLE. Who is the Tanna who holds that unspecified dedications[17] go for the repairs of the Temple?[18] — R.

Hiyya b. Abba reported in the name of R. Johanan: It is not R. Joshua.[19] For we learnt: If one dedicated his estate and he had among them animals fit for the altar, males and females, R. Eliezer says: The males are to be sold for the purpose of being used as burnt-offerings[20] and the females are to be sold for the purpose of being used as peace-offerings and their monies, with the rest of the estate, are devoted to the repairs of the Temple.[21] R. Joshua, however, says: The males are themselves offered as burnt-offerings and the females are sold for the purpose of peace-offerings.[22] Burnt-offerings are purchased with their monies and the rest of the estate is devoted to the repairs of the Temple. And this[23] will differ from the opinion of R. Adda b. Ahabah [reporting Rab].[24] For R. Adda b. Ahabah reported in the name of Rab: In the case of a herd consisting altogether of male animals even R. Eliezer agrees,[25] since a man will not ignore dedications for the altar and make dedications for the repair of the Temple. The point at issue, however, is with reference to a herd where half were male [animals] and the other half female [animals]. R. Eliezer holds: A man does not divide his vow,[26] and since the female animals are not meant for burnt-offerings,[27] therefore even the male [animals] are also not meant for burnt-offerings. R. Joshua, however, says: A man does divide his vow.[28]

Another version is current as follows: R. Adda b. Ahabah reported in the name of Rab: If he dedicated animals only, even R. Eliezer admits,[29] since a man does not ignore dedications for the altar and make dedications for the repairs of the Temple. The point at issue, however, is where there is other property with them [the animals]. R. Eliezer holding that one does not divide his vow, and since therefore the rest of the estate is not for dedications for the altar, the animals [of the estate] are also not for the altar; whereas R. Joshua says: A man does not divide his vow.

Now according to the latter version [of R. Adda b. Ahabah's teaching], it is in order to state [above]: Their monies, together with the rest of the estate, go for the repair of the Temple. It is for this reason that it says ‘together with the rest of the estate, go for the repair of the Temple’.[30] But according to the first version [of R. Adda's teaching],[31] let R. Eliezer say: They [the monies] shall go to the repairs of the Temple?[32] — Do in fact read so:[33] And their monies go for the repair of the Temple.

DEDICATIONS FOR THE REPAIRS OF THE TEMPLE TAKE EFFECT ON ALL THINGS. What does this include[34] — Said Rabina: It includes the shavings [of a tree][35] and sproutings.[36]

SACRILEGE APPLIES TO THEIR PRODUCTS. What does this[37] include? — Said R. Papa: It includes the milk of dedicated animals[38] and the eggs of turtle-doves, as we learnt: With regard to milk of dedicated animals and eggs of turtle-doves, one may not benefit from them nor does the law of sacrilege apply to them. This only refers to dedications of the altar, but as regards dedications for repairs of the Temple. [e.g.,] if one dedicated a hen,[39] the law of sacrilege applies to its eggs; [if one dedicated the value of] a she-ass [for the repairs of the Temple], the law of sacrilege applies to its milk.[40] And even according to the authority who holds that the law of sacrilege applies to the products of dedications for the altar, this only refers to products which are fit for the altar,[41] but to products which are not fit for the altar the law of Sacrilege does not apply.

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(1) If their mother became blemished.

(2) Scripture saying ‘flesh’, thus excluding milk. The case of the issue is where the pregnancy took place before redemption and the birth after redemption, but where the pregnancy took place after redemption, it would be permissible. But in the case of dedications for the repairs of the Temple, even if the pregnancy took place before redemption, it would be permissible, for the consecration was for their value and therefore the holiness is not so stringent.

(3) In connection with the killing without the confines of the Temple.

(4) From the money assigned for dedications for the altar.

(5) For helping to build something in the Temple. Wages are paid, however, from dedications for the repairs of the Temple.

(6) Where it is not specified whether for repairs of the Temple or for the altar.

(7) Even upon unclean animals, stones or wood.

(8) The unlawful use of sacred things.

(9) If one dedicated an animal, the value of which goes for the repairs of the Temple, its milk must not be used or if one dedicated a hen, its eggs must not be used unlawfully, unlike the case of the milk and eggs belonging to dedications for the altar.

(10) V. Marginal Gloss. Cur. edd.: 'to the owners'. Whereas with dedications for the altar in the majority of cases the flesh is eaten by the priests. and even in the case of a burnt-offering the skin is used by the priest.

(11) The first dedication and not an exchange which is the second dedication arising from an exchange with the first.

(12) Since I might have thought that one can, only use money set aside for Temple repairs for the purchase of stone and wood, which are actually used in the building and repairing of the Temple, but that it is forbidden to pay workmen with this money and it becomes hullin if used in that manner. There would then have to be a special fund donated for this purpose wherewith to pay workmen.

(13) Inserted with Sh. Mek.

(14) Ex. XXV, 8.

(15) And is set aside for the sanctuary, i.e., from the monies dedicated for the building of the Temple.

(16) For reading v. Sh. Mek.; cur. edd., 'The Master said'.

(17) Implying even a dedicated animal (Rashi).

(18) v. Sh. Mek.

(19) Var. lee.: It is R. Eliezer.

(20) Since unblemished dedications can never be excluded from being offered on the altar.

(21) For R. Eliezer holds that unspecified dedications go for the repair of the Temple even in the case of animals, except those which are fit for the altar.

(22) We see consequently that according to R. Joshua anything fit for the altar is generally intended to be used for the altar unlike the opinion stated in the Mishnah; v. supra 20a.

(23) The interpretation of the Mishnah just given, that it will be according to the opinion of R. Eliezer and not of R. Joshua.

(24) Inserted with Sh. Mek.

(25) That the dedications were meant for the altar.

(26) Half for one kind of dedication and the other half for a different kind of dedication.

(27) For burnt-offerings must be males.

(28) Males for burnt-offerings and females for the value of burnt-offerings, since he cannot offer females for peace-offerings without redemption (Rashi). Thus we see that according to R. Adda, even R. Eliezer will maintain that unspecified dedications are for the altar, the case however being different here in the Baraitha for the reason explained.

(29) That unspecified dedications are for the altar. For although there are female animals, since all are fit for the altar, we may suppose that they are meant for the altar. Male animals are therefore offered as burnt-offerings and female animals are sold and with the money burnt-offerings are bought, as we can say that he dedicated them all for the altar.

(30) As we are dealing with the case where there is other property in addition to animals.

(31) That in a herd where half were male animals and the other half were female animals, R. Eliezer holds that a man does not divide his vow, half for the altar and half for the Temple repairs, and even where there is no other estate and one can maintain that everything was meant for the altar (Rashi).

(32) Why does it then say: 'They (their monies) and the other property etc.', since often there is no other estate according to this version.

(33) For reading v. Wilna Gaon Glosses.

(34) The word ALL.

(35) If a man dedicated the value of a tree for the repairs of the Temple, there is sacrilege in respect of the shavings.

(36) Which come up in the winter and are used as manure.

(37) The products spoken of in the Mishnah.

(38) Their value goes for the Temple repairs.

(39) For Temple repairs one would not consecrate something which is fit for the altar and a hen is not fit for the altar.

(40) Although the animal is unclean, the holiness of the dedication for the repair of the Temple attaches to it as if it were a clean animal.

(41) The offspring of a dedicated animal (Rashi). Tosaf. explains that the term ‘products’ refers to the blood of sacrifices and the passage means this: And even according to the authority who holds that the law of sacrilege applies to ‘products’, i.e., the blood of a sacrifice, this only refers to blood which is fit to be sprinkled, but to ‘products’ like milk of dedicated animals and eggs of turtle-doves, the law of sacrilege does not apply.

Talmud - Mas. T'murah 32a

MISHNAH. NEITHER DEDICATIONS FOR THE ALTAR NOR DEDICATIONS FOR THE REPAIRS OF THE TEMPLE MAY BE CHANGED FROM ONE HOLINESS TO ANOTHER.[1] WE MAY DEDICATE THEM[2] WITH A VALUE-DEDICATlon,[3] AND WE MAY DECLARE THEM HEREM.[4] IF THEY[5] DIE,[6] THEY ARE BURIED.[7] R. SIMEON SAYS: DEDICATIONS FOR THE REPAIRS OF THE TEMPLE, IF THEY DIED, THEY ARE REDEEMED.[8]

GEMARA. Said R. Huna: If one designated[9] dedications for the altar for dedications as priestly property,[10] his action is of no consequence.[11] What is the reason? Scripture says: Every devoted thing is most holy unto the Lord,[12] intimating that every devoted thing that comes from what is most holy[13] belongs to the Lord.[14] An objection was raised: If one designated dedications for repairs to the Temple, whether for dedication for the altar or for dedication as priestly property, his action is of no consequence.[15] If one designated dedications for priestly property, whether for dedication for the altar or for dedication for the repairs of the Temple, his action is of no consequence.[16] Now this implies that if one designated dedications for the altar[17] by dedicating them as priestly property, his action is valid.[18] Shall we say that this refutes R. Huna? — R. Huna can answer you: When [the Tanna] leaves over this case,[19] it is for the purpose [of teaching] that if he designated dedications for the altar for the repairs of the Temple, his action is valid,[20] but if for dedication as priestly property, his action is of no consequence.[21] But why not state this case,[22] together with others [in the Baraitha above]?[23] — He [the Tanna in the Baraitha] mentions a case which has both aspects,[24] but does not state a rule which has not both aspects.[25]

We have learnt: WE MAY DEDICATE THEM WITH A VALUE-DEDICATION, AND WE MAY DECLARE THEM HEREM. Now does not the expression VALUE-DEDICATION refer to the dedication for the repairs of the Temple and the expression ‘WE MAY DECLARE THEM HEREM’ mean as priestly property?[26] — No. In both cases the reference is to dedications for the repairs of the Temple,[27] and [the Mishnah teaches that] it is immaterial whether he expresses this in the language of ‘dedication’ For the repairs of the Temple or in the language of herem for the repairs of the Temple.[28] But it is not so! For it has been taught: We may dedicate them[29] with a value-dedication for the repairs of the Temple, and we may declare them herem as priestly property.[30] And, moreover, it has been [explicitly] taught: If dedications for the altar are dedicated as priestly property, the act is valid.[31] Shall we say that this refutes R. Huna? — It is a refutation. But does not R. Huna adduce a Scriptural text?[32] — Said ‘Ulla:[33] Scripture [could have] said: ‘A devoted thing’ and it says ‘every devoted thing’.[34] But did ‘Ulla say this? Did not Ulla say: If one designated a burnt-offering for the repairs of the Temple, there is nothing to prevent the offering of a sacrifice except that we must wait

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(1) E.g., to offer a burnt-offering in place of a peace-offering, or vice versa. Similarly, if one dedicated something for the repair of the Temple, one must not change this for a dedication for the altar or vice versa.

(2) Dedications for the altar.

(3) If e.g., one said with reference to a burnt-offering: ‘Let this animal (i.e., its value) be for the repairs of the Temple’, the dedication is assessed and the money is given to the Temple treasurer. This applies to a neder, i.e., where he said: ‘I vow to dedicate a burnt-offering’, for since he is responsible if it became lost or died, therefore the whole animal belongs to him, and if he subsequently dedicated it for the repairs of the Temple, he must give the whole value of the dedication to the Temple treasurer. But in the case of a nedabah, i.e., where he said: ‘This animal is to be a freewill-offering’, since if it died or if it became lost, he is not responsible for it, if he therefore subsequently dedicated it for the repairs of the Temple, he only gives the Temple treasurer a small amount, in consideration for the right he has to receive a small sum from an Israelite friend for allowing the latter's grandson, a priest, to offer the animal and receive the skin of the burnt-offering (Rashi).

(4) ‘Devoted’ (v. Lev. XXVII, 28), consecrated for a sacred use. Here, too, if the animal is a neder, he gives the full value to the priest and if nedabah he gives a small amount as consideration to the priest (R. Gershom).

(5) The dedications for the altar.
(6) Even after becoming blemished but before redemption.
(7) And they cannot be redeemed and given as food to the dogs. And even according to the authority who holds that we may give redeemed blemished dedications to the dogs as food, this only applies when they become trefah, since they can be set before us and appraised, but not when they are dead. Or IF THEY DIE means where he killed the animal before their redemption. There cannot therefore be any further redemption nor eating of them, since setting down and appraising are necessary (v. Gemara). Consequently they are buried.
(8) As these are not included in the law of being required to be presented to the priest and appraised by him. V. Lev. XXVII, 12-13.
(9) Lit., ‘he attached them’.
(10) Declaring them herem. Unspecified herem are meant for the priests. The reason why it mentions priestly property is because at times herem goes for the repairs of the Temple, as e.g., where he declares, ‘Let this be herem for the repairs of the Temple’.
(11) He does not give the priest the value of the dedication nor a consideration, i.e., the smaller amount (Rashi and R. Gershom).
(12) Lev. XXVII, 28.
(13) I.e., dedications for the altar which were declared herem.
(14) But not to the priests.
(15) Because an object dedicated for the repair of the Temple cannot itself be released from the purpose of its consecration (Rashi).
(16) Since he has no share in them, not even the right of disposal, since he can only give them to the priests of that particular division.
(17) Where there is a right of disposal.
(18) And he gives a consideration to the priests.
(19) Of dedications for the altar, which is not explicitly mentioned in the Baraitha.
(20) And he gives for the repairs of the Temple the value of a dedication.
(21) Since there is a definite Scriptural text: ‘Every devoted thing, etc’, excluding this case as explained above.
(22) Of dedications for the altar declared as priestly property.
(23) Where the action is of no consequence.
(24) I.e., dedications for the repair of the Temple, in regard to which his action is of no consequence, whether he designated them for the altar or as priestly property, dedications for the repairs of the Temple applying here in two instances as being of no avail.
(25) Since in regard to dedications for the altar only if they were designated as priestly property is the action of no avail, as R. Huna teaches, whereas if they were designated for repairs of the Temple, the action would be valid.
(26) Unlike the opinion of R. Huna above.
(27) The value of the dedications is given to the Temple treasurers.
(28) But if dedications for the altar have been declared herem for priests, the act is of no consequence.
(29) Dedications for the altar.
(30) That the value belongs to the priests, as the property of the priests, and not to the Temple treasurer.
(31) Lit., ‘what he did is done’.
(32) ‘Every devoted thing is most holy unto the Lord’. How is then the text to be interpreted?
(33) This Scriptural text will not be in accordance with the opinion of R. Huna.
(34) This is in order to intimate that herem takes effect on all things, even upon most holy things.

Talmud - Mas. T'murah 32b

for the approach of the Temple treasurer [as representatives of the owners]?[1] — [The Baraitha above][2] means Rabbinically[3] and the Bible text refers to sacrilege.[4]

[You say] in respect of sacrilege? But what need is there for a Bible text[5] for this purpose? Is it not written in this connection, ‘It is most holy’? — And suppose Scripture does say so, has not R. Jannai taught: The law of sacrilege is not explicitly mentioned in the Torah, except in the case of a burnt-offering, since it says: If a soul commit a trespass and sin through ignorance in the holy things of the Lord,[6] which means such dedications as are exclusively to the Lord; but that the law of sacrilege applies to a sin-offering and guilt-offering is derived only from the teaching of Rabbi, as it has been taught: Rabbi says, The text: All fat is the Lord's,[7] this includes the emurim[8] of dedications of a minor grade as subject to the law of sacrilege.[9] Now here too we may ask, what need is there for a Bible text, for does it not say in connection with sin-offering and guilt-offering, ‘Most holy’?[10] We see then that although Scripture says, ‘Most holy’ in that connection, there is need for a text to include them under the law of sacrilege; and the same applies to herem, that although the text says in that connection, ‘Most holy’ there is need for a special text to include them under the law of sacrilege.

The text [stated above]: ‘If one dedicated a burnt-offering, there is nothing to prevent the offering of a sacrifice, except that we must wait for the approach of the Temple treasurers’. An objection was raised: If one dedicated a burnt-offering for the repairs of the Temple, one must not kill it until it is redeemed![11] — It[12] is a Rabbinical enactment. It also stands to reason, since the latter clause [of the Baraitha] says: If he transgressed and killed it,[13] the action is valid. Now if it were from the Torah, why is the act valid?[14] Then what will you say? That it is a Rabbinical enactment? If so, read the latter clause: ‘And if he unlawfully used the burnt-offering,[15] he has transgressed twice the law of sacrilege’.[16] Now if it were only a Rabbinical enactment why are there two transgressions of the law of sacrilege?[17] — The Baraitha means as follows: And it is capable of involving one in two transgressions of sacrilege.[18]

AND IF THEY DIED THEY ARE BURIED etc. Said R. Johanan: According to the Rabbis [of the Mishnah] both dedications for the altar and dedications for the repairs of the Temple are included in the law requiring the sacrifice to be presented[19] and appraised.[20] Resh Lakish, however, says: According to the Rabbis, dedications for repairs of the Temple were included in the law of being presented and appraised, whereas dedications of the altar were not included in the law of being presented and appraised. And both[21] admit that according to R. Simeon, the dedications for the repairs of the Temple were not included in the law of being presented and appraised, whereas dedications for the Temple were included in the law of being set down and appraised.[22] And [both][21] admit that according to all the authorities concerned,[23] an animal blemished from the beginning [before dedication], is not included in the law of being presented and appraised.[24]

We have learnt: R. SIMEON SAYS, DEDICATIONS FOR THE REPAIRS OF THE TEMPLE WHICH DIED ARE REDEEMED. Now this is quite correct according to R. Johanan who says that, according to the Rabbis, both [dedications for the altar] and [dedications for the repair of the Temple] are included in the law of being presented and appraised. There is need therefore for R. Simeon to explain that dedications for the repairs of the Temple which died are redeemed.[25] But according to Resh Lakish, what need is there for R. Simeon to explain this? Let him say: If they die, they are redeemed?[26] — Resh Lakish can answer you: R. Simeon did not know what the first Tanna [in the Mishnah] meant.[27] And this is what he said to him: If you refer to dedications for the altar,[28] I agree with you;[29] if you refer to dedications for the repairs of the Temple, if they die they are redeemed.[30]

It has been taught according to R. Johanan: Scripture says, And if it be any unclean beast of which they may not bring an offering,[31] the text refers to blemished animals which were redeemed. You say that the text refers to blemished animals, perhaps it is not so and it refers to an unclean animal? When, however, it says: And if it be of an unclean beast, then he shall redeem it according to thy estimation,[32] the case of an unclean animal is thus already mentioned.

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(1) Who gives the necessary permission to kill the burnt-offering without redemption, but no money is given to the Temple treasurer. Now since the holiness in respect of repairs of the Temple has no effect on dedications for the altar, how much less does herem take effect on dedications for the altar, since R. Huna above, who holds that dedications for the repairs of the Temple take effect on dedications for the altar, yet maintains that herem for priests has no effect on dedications for the altar. How much more then will ‘Ulla, who holds that dedications for the repair of the Temple have no effect on dedications for the altar, maintain that herem will have no effect on dedications for the altar. This will therefore refute ‘Ulla's opinion above where he interprets the text ‘every devoted thing, as teaching that herem has effect even on the most holy things, i.e., dedications for the altar (R. Gershom).

(2) Which left over the case of dedications for the altar which were designated as herem, implying that the action is valid.

(3) But, according to the Torah, there is only the waiting for the Temple treasurer, for ‘Ulla's explanation above is only according to Rabbinical requirement, the text adduced in this connection being a mere support for the Rabbinical enactment.

(4) The main purpose of the text ‘every devoted thing’ is, however, to include the case of herem for priests as being subject to the law of sacrilege, interpreting the text thus: ‘Every devoted thing belongs to the Lord’, i.e., if one used it unlawfully there is sacrilege.

(5) ‘Every devoted thing’.

(6) Lev. V, 15.

(7) Lev. III, 16.

(8) The sacrificial parts burnt on the altar.

(9) And from Rabbi's text R. Jannai also infers the cases of the most holy dedications as liable to the law of sacrilege, since Scripture says, ‘All fat’ (v. Rashi).

(10) Lev. VI, 18 and VII. 1, resp.

(11) I.e., as stated above, if it is a neder he gives their full value to the Temple treasurer, and if a nedabah he gives a consideration (R. Gershom).

(12) The Baraitha which says, ‘One must not kill, etc.’.

(13) Without redemption.

(14) Inserted with Sh. Mek.

(15) Either the animal itself or its wool.

(16) Once on account of dedications for the altar and again on account of its being an object dedicated for its value for the repairs of the Temple.

(17) Since the holiness for the repairs of the Temple only attaches to it according to a Rabbinical enactment.

(18) If the subsequent dedication for the repairs of the Temple were by enactment of the Torah, then there would be two transgressions of the law of sacrilege.

(19) Before the priest. Lit., ‘made to stand’.

(20) By the priest. And since this cannot be done after death, therefore they are not redeemed but buried, and this applies to all kinds of dedications.

(21) R. Johanan and Resh Lakish.

(22) And the Mishnah when it says: Dedications for the repairs of the Temple are burnt, means only dedications for the repairs of the Temple but not dedications for the altar.

(23) The Rabbis and R. Simeon.

(24) Referring to dedications for the altar, since as regards dedications for repairs for the Temple, it is immaterial whether the blemish occurred before the dedication or after the dedication, for this dedication has effect even on wood and stone (Rashi and Tosaf.).

(25) For otherwise if he had not stated, ‘If they died, they are buried’, I might have thought that it refers to both dedications, since the Rabbis also deal with both forms of dedication.

(26) And I should have known that he refers only to dedications for the repairs of the Temple, since the Mishnah is not concerned with dedications for the altar, whether as regards their redemption or their burial.

(27) To what kind of dedication the Rabbis alluded.

(28) That the dedication requires to be presented and appraised.

(29) And therefore they are buried.

(30) As these are not included in the law of being presented and appraised.

(31) Lev. XXVII, 11.

(32) Ibid. 27.

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How therefore do I explain the text: And if it be any unclean beast of which they may not bring an offering unto the Lord?[1] It refers to blemished animals [which were redeemed]. One might think that they may be redeemed on account of a transitory blemish. The text, however, states: 'Of which they may not bring an offering', thus referring to a sacrifice which is not offered at all,[2] to the exclusion of this[3] which is not offered to-day but to-morrow [maybe]. And the Divine Law says the sacrifice requires to be presented and appraised.[4]

R. Giddal reported in the name of Rab: What is the reason of Resh Lakish in saying that according to the Rabbis dedications for the altar are included in the law of being presented and appraised, whereas dedications for the repairs of the Temple are not included in the law of being presented and appraised? Because Scripture says: And the priest shall value it whether it be good or bad.[5] Now what is the kind of dedication where there is no difference between 'good' [an unblemished animal] and 'bad' [a blemished animal]? You must admit that it is dedications for the repairs of the Temple and Scripture says 'it', thus excluding dedications for the altar.[6] And what will the text 'it' exclude according to the opinion of R. Johanan? — It excludes an animal blemished from the beginning.[7] And according to the Tanna of the School of Levi who says that even an animal blemished from the beginning is included in the law of being presented and appraised — for Levi taught: All sacrifices are included in the law of being presented and appraised, even an animal blemished from the beginning. And Levi himself taught the same in his Baraitha:[8] Even a beast and even birds[9] — [what then does the word 'it' exclude?][10] — It is indeed a question.

Rab Judah reported in the name of Rab: What is the reason of R. Simeon in saying that dedications for the altar are included in the law of being presented and appraised, whereas dedications for the repairs of the Temple are not? Because Scripture says: 'And the priest shall value it whether it be good or bad'.[11] Now what is the kind of dedication in which there is a difference between 'good' [an unblemished animal] and 'bad' [a blemished one]? You must admit it is dedications for the altar, and Scripture says, 'it', thus excluding the case of dedications for the repairs of the Temple. If so,[12] the text should read 'between good and bad'?[13] — This remains a difficulty.

An objection was raised: If they die unblemished they are buried;[14] if blemished they are redeemed. This refers only to dedications for the altar.[15] But dedications for repairs of the Temple,[16] whether they are unblemished or blemished, are buried. R. Simeon, however, says: In the case of both dedication for the altar and dedication for the repairs of the Temple, if unblemished they are buried,[17] if blemished they are redeemed. Shall we say that this refutes R. Johanan from the first clause?[18] — R. Johanan can answer you: We are dealing here with an animal which became blemished from the beginning.[19] It also stands to reason.[20] For if you say that the case is where their dedication preceded their blemish,[21] why does not R. Simeon dispute in that connection?[22] Hence you must [must you not] say that the case here is of an animal blemished from the beginning.[23] But then are we to say that this refutes Resh Lakish?[24] Resh Lakish will explain [the Baraitha][25] as dealing with a case where their dedication was prior to their blemish.[26] If so, let R. Simeon dispute with reference to it?[27] — Resh Lakish reverses [the names of the authorities in the Baraitha] and asks a question from another Baraitha[28] [as follows]: If they die, whether unblemished or blemished, they are buried. This applies[29] to dedications for the repairs of the Temple, but dedications for the altar are redeemed.[30] R. Simeon says: If [they died] unblemished they are buried, if blemished they are redeemed.[31] Shall we say that R. Johanan can be refuted from the latter clause of the teaching [of the former Tanna]?[32] — R. Johanan can answer you: We are dealing here with an animal blemished from the beginning.[33] It stands to reason.[34] For if you say that it is a case of where their dedication preceded the blemish, why does not R. Simeon dispute with reference to it?[35] Shall we say that this refutes Resh Lakish?[36] — Resh Lakish will answer you: We are dealing here with a case where their dedication preceded their blemish.[37] But why does not R. Simeon differ with reference to it?[38] — Resh Lakish can answer you: R. Simeon does indeed differ.[39]

Said R. Jeremiah to R. Zera: According to Resh Lakish, who says that according to the Rabbis dedications for the altar are not included in the law of being presented and appraised, since [the Baraitha above] states with reference to dedications for the altar

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(1) The reading in Tosaf.

(2) I.e., an animal with a permanent blemish.

(3) An animal with a transitory blemish.

(4) Since immediately after Scripture says: ‘Then he shall present it before the priest and the priest shall value it’. And this text certainly refers to dedications for the altar, since a permanent blemish is required for redemption, for if it refers to dedications for the repairs of the Temple, what difference is there between an unblemished and a blemished animal, as even an unblemished animal is redeemed in such circumstances? Consequently we see that dedications for the altar are also included in the law of being presented and appraised according to the view of the Rabbis in the Mishnah. For this Baraitha is the opinion of the Rabbis and an anonymous view in the Sifra is that of R. Judah, the disputant of R. Simeon. Thus the Baraitha will be according to the opinion of R. Johanan alone. Now from here we learn the law of dedications for the altar, according to the Rabbis, and from the Mishnah we learn the law of dedications for the repairs of the Temple. For since R. Simeon said in the Mishnah that dedications for repairs of the Temple are redeemed, this implies that according to the Rabbis they are buried (Rashi).

(5) Lev. XXVII, 12. Implying both unblemished and blemished as being on a par.

(6) And the text, ‘And the priest shall value it’ will not therefore refer to the previous v. 12, since the latter deals with dedications for the altar.

(7) Prior to the dedication. R. Johanan certainly holds that the text, ‘Whether it be good or bad’ refers to dedications for the repairs of the Temple. Nevertheless the text, ‘And the priest shall value it’ refers both to the text, ‘Of which they do not offer’, which we explained above as dealing with dedications for the altar and to the later text, ‘Whether it be good etc.’, which deals with dedications for the repairs of the Temple. And the text ‘it’ excludes an animal blemished from the beginning from being dedicated for the altar. And, according to Resh Lakish, there is no need to exclude the case of an animal blemished from the beginning from the law of being presented and appraised, since according to his opinion, the Rabbis hold that dedications for the altar are not, included in the law of being presented and appraised, even if the dedication preceded the blemish, and how much more so is this the case with an animal blemished from the beginning.

(8) Levi compiled a collection of Baraithas.

(9) E.g., geese and hens which are not fit for the altar (Rashi). He causes them to be invested with the holiness of the repairs for the Temple, as they have not any bodily holiness for the altar (Tosaf.).

(10) Inserted with Sh. Mek.

(11) V. n. 4, p. 241.

(12) If the text deals with the dedications for the altar.

(13) Which would have implied that there is a difference between good and bad. The text, Whether it be good or bad, however, implies that whether blemished or unblemished they are both alike.

(14) Even those which are not included in the law of being presented and appraised. Where they died unblemished, the Rabbis gave them an advantage, since they were fit for the altar.

(15) Presumably because they are not included in the law of being presented and appraised.

(16) Which are included in the law of being presented and appraised.

(17) Since they possessed the advantage of being fit for the altar.

(18) Of this Baraitha, which states that according to the Rabbis dedications for the altar are redeemed.

(19) And therefore they are redeemed, whereas in the case of dedications for the repairs of the Temple, they are buried since there is no difference between an animal blemished before dedication or after dedication.

(20) That the Baraitha is dealing with an animal blemished from the beginning.

(21) And the Baraitha says, according to the Rabbis, that they are redeemed, the reason being as Resh Lakish explains, because dedications for the altar are not included in the law of being presented and appraised.

(22) And say: Dedications for the altar are buried, since according to R. Simeon it is the opinion of all that dedications for the altar are included in the law of being presented and appraised (R. Gershom).

(23) Since therefore R. Simeon does not dispute on this point we can infer that the Baraitha is dealing with an animal blemished from the beginning, and therefore according to the Rabbis, dedications for the altar are redeemed and dedications for the repairs of the Temple are buried, and according to R. Simeon, even dedications for the repairs of the Temple are also redeemed, since these are not included in the law of being presented and appraised.

(24) We see that the Baraitha deals with the case of an animal blemished from the beginning and we can therefore say that the reason why the Rabbis hold that the animals are redeemed is because the blemish preceded the dedication, but if the dedication preceded the blemish, then even the Rabbis will hold that they are buried. This would be unlike the opinion of Resh Lakish who holds that dedications for the altar are not included in the law of being presented and appraised.

(25) Where the Rabbis say: And blemished animals are redeemed.

(26) And the reason of the Rabbis is because dedications for the altar were not included in the law of being presented and appraised.

(27) I.e., dedications for the altar, and say that they are burnt according to the view of Resh Lakish? Why then does R. Simeon say that dedications for the altar as well as dedications for the repair of the Temple are redeemed?

(28) Heb. Mekilta, the name by which the Halachic Midrash on Exodus is now known.

(29) The teaching of the former Tanna that blemished animals are buried.

(30) Not being included in the law of being presented and appraised.

(31) Referring to dedications for the altar, concerning which the first Tanna says that they are buried.

(32) Where he says: But dedications for the altar are redeemed, whereas according to R. Johanan, since being presented and appraised are required, they are buried.

(33) Which is not included in the law of being presented and appraised, and therefore is redeemed. And dedications for the repairs of the Temple are buried, since in that case there is no difference whether a blemish occurred previous to dedication or after.

(34) That the case is as explained.

(35) And say two things: Dedications for the repairs of the Temple are redeemed and dedications for the altar are buried. Since therefore he only differs as regards dedications for the repairs of the Temple, holding that they are redeemed, and is silent with regard to dedications for the altar which according to the Rabbis are redeemed, this proves that we are dealing with animals blemished from the beginning, i.e., before dedication (Rashi).

(36) Since if we interpret the Baraitha as dealing with animals blemished from the beginning, we can infer from the words of the Rabbis that where the blemish occurred after dedication, dedications for the altar are buried, whereas according to Resh Lakish, the Rabbis hold that the dedications for the altar are not included in the law of being presented and appraised, and therefore should be redeemed.

(37) And therefore the Rabbis say that dedications for the altar are redeemed.

(38) And say that dedications for the altar are buried.

(39) R. Simeon not only differs with the Rabbis with reference to dedications for the repairs of the Temple, maintaining that they are redeemed, but also with reference to dedications for the altar, holding that they are buried, since they require being presented and appraised in accordance with the interpretation of Resh Lakish.

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that blemished animals are redeemed and we explained this [as being a case] where dedications preceded their blemish, may we infer from here that we may redeem [disqualified] dedicated animals in order to give them for food to dogs?[1] — [No,] the case here[2] is where he transgressed and killed them [before redemption][3] as it has been taught: As regards animals in which a blemish occurred and which he killed, R. Meir says: They shall be buried,[4] whereas the Sages say they are redeemed.[5]

Said R. Jeremiah to R. Zera: According to R. Simeon, who says that dedications for the repairs of the Temple were not included in the law of being presented and appraised, why are unblemished dedicated animals buried?[6] — It is because they are fit to be offered,[7] as it has been taught: If one caused unblemished animals to be invested [with the holiness of] dedications for the repairs of the Temple, when they are redeemed [for their value] they can only be redeemed in order to be used on the altar, since everything which is fit for use on the altar is never released from the lien of the altar.

Said R. Papa to Abaye [or according to another version, to Raba]: According to R. Johanan who explains [the Baraitha above] as dealing with the case of an animal blemished from the beginning,[8] which would imply that all the authorities [in the Baraitha] hold that an animal blemished from the beginning is not included in the law of being presented and appraised — is it indeed not [included]? Have we not learnt: All dedicated animals whose permanent blemish preceded their dedication, if redeemed are subject to the law of the firstling and the priestly gifts;[9] they become hullin to be shorn and worked after their dedication; their issue and milk are permitted after their dedication;[10] if one kills them without [the Temple court] he does not incur any guilt; they do not effect exchange; and if they die, they are redeemed.[11] And Rab Judah reported in the name of Rab:[12] This[13] is the teaching of R. Simeon who says that dedications for the altar are included in the law of being presented and appraised, whereas dedications for the repairs of the Temple are not,[14] as we have learnt: R. Simeon says, Animals dedicated for the repairs of the Temple, if they die are redeemed; but R. Simeon admits that a dedicated animal blemished from the beginning is redeemed. What is the reason? Scripture says, ‘it’,[15] the word ‘it’ excluding the case of a dedicated animal blemished from the beginning. The Sages, however, say: Even a dedicated animal blemished from the beginning is also included in the law of being presented and appraised![16] — He [Abaye][17] said to him [R, Papa]: Whose opinion do the Sages represent? That of the Tanna of the School of Levi.[18] If so, why does Rab say above: ‘This is the opinion of R. Simeon’ and nothing more? Should he not have said: This is the opinion of R. Simeon and [the Rabbis] who differ from him?[19] — He [Abaye] answered him: The reason why he [Rab] does not state this is because he holds the opinion of Resh Lakish who says that, according to the Rabbis, dedications for the repairs of the Temple are included in the law of being presented and appraised, whereas dedications for the altar are not,[20] the first clause [of the cited Mishnah] saying: And if they die they are redeemed;[21] while the latter clause [of the Mishnah says]: If they[22] die they are buried.[23] And if you prefer [another solution] I may say: Rab holds the opinion of R. Johanan;[24] and as for your difficulty that [Rab] should have stated: ‘This is the teaching of R. Simeon and [the Rabbis] who differ from him’, read here: This is the opinion of R. Simeon and the Rabbis who differ from him.[25]

MISHNAH. AND THE FOLLOWING ARE THE THINGS WHICH ARE TO BE BURIED:[26] IF A DEDICATED ANIMAL HAD AN UNTIMELY BIRTH IT IS TO BE BURIED;[27] IF A DEDICATED ANIMAL HAD AN AFTERBIRTH IT[28] IS TO BE BURIED.[29] AN OX WHICH WAS CONDEMNED TO BE STONED;[30] THE HEIFER WHOSE NECK WAS BROKEN; THE BIRDS [BROUGHT IN CONNECTION WITH THE PURIFICATION] OF A LEPER;[31] THE HAIR OF A NAZIRITE;[32] THE FIRSTBIRTH OF AN ASS;[33] [A MIXTURE OF] MEAT AND MILK; AND HULLIN WHICH WERE KILLED IN THE TEMPLE COURT. R. SIMEON HOWEVER SAYS: HULLIN WHICH WERE KILLED IN THE TEMPLE COURT ARE TO BE BURNT.[34] AND LIKEWISE [SAYS R. SIMEON] AN ANIMAL OF CHASE WHICH WAS KILLED IN THE TEMPLE COURT [IS ALSO BURNT].[35] AND THE FOLLOWING ARE TO BE BURNT: LEAVENED BREAD ON PASSOVER IS TO BE BURNT; UNCLEAN TERUMAH; ‘ORLAH;[36] MIXED SEEDS IN THE VINEYARD;[37] THAT[38] WHICH IT IS CUSTOMARY TO BURN[39] IS TO BE BURNT AND THAT WHICH IT IS CUSTOMARY TO BURY[40] IS TO BE BURIED. WE MAY BURN[41] THE BREAD AND OIL OF [UNCLEAN] TERUMAH.[42] ALL DEDICATED ANIMALS WHICH WERE KILLED [WITH THE INTENTION OF BEING EATEN] BEYOND THE ALLOTTED TIME OR BEYOND THE ALLOTTED PLACE[43] ARE TO BE BURNT.

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(1) For since we say that dead animals which are not fit for an Israelite to eat are redeemed, we can only infer that the redemption is meant for dogs. Now according to R. Johanan who explains the Baraitha as referring to a case of an animal blemished from the beginning, before dedication, it does not matter to us if the animal is redeemed for dogs to eat, as no physical holiness is possessed by an animal in such circumstances.

(2) In the Baraitha which says: ‘If they died’. This does not actually mean that they died and thus became unfit for Jewish consumption.

(3) They are therefore redeemed and are fit to be eaten.

(4) In accordance with the opinion of R. Simeon who says that dedications for the altar are included in the law of presentation and valuation, and since this cannot be carried out now, after being killed, the animal is buried.

(5) Since they were not included in the law of presentation and valuation.

(6) For since the law of being presented etc. does not apply to them, they should be redeemed.

(7) And therefore a greater stringency was imposed on them.

(8) And for this reason R. Simeon does not differ from the Rabbis in the Baraitha, agreeing that dedications for the altar are redeemed.

(9) The shoulder, cheeks and maw.

(10) Even if the pregnancy took place before their redemption and they were born after the redemption.

(11) Bek. 14a.

(12) With reference to the Mishnah just cited.

(13) The statement that they are redeemed.

(14) And a dedicated animal blemished from the beginning is like an animal dedicated for the repairs of the Temple.

(15) Contained in a Scriptural verse (Lev. XXVII, 12) and the priest shall value it, etc.

(16) We see therefore that, according to the Sages, a dedicated animal blemished from the beginning is included in the law of presentation and valuation, contrary to the opinion of R. Johanan. This creates no difficulty according to Resh Lakish, since he explains the Baraitha above as dealing with a case of an unblemished animal which became blemished after dedication. We can therefore say that a dedicated animal blemished from the outset is on a par with a dedication for the repairs of the Temple, for although he dedicated it for the altar, nevertheless it is like a dedication for the repairs of the Temple, being holy only for its value and it is included in the law of presentation and valuation according to the Rabbis (Rashi).

(17) Or, according to the other version, Raba.

(18) but not of the Rabbis who differ from R. Simeon.

(19) Since the Rabbis who dispute with him also agree that a dedicated animal blemished from the beginning, is not included in the law of presentation and valuation.

(20) And therefore the whole Mishnah from Bek. could not have been explained as representing the views of the Rabbis.

(21) And this opinion will be held even by the Rabbis, since the case dealt with there is of an animal which was blemished from the beginning.

(22) Viz., dedicated animals whose dedication preceded their blemish.

(23) This opinion, according to Resh Lakish, would not be held by the Rabbis. The Mishnah thus will not be altogether the opinion of the Rabbis and therefore Rab could not have taught: This is the opinion of R. Simeon and those who differ with him.

(24) That both dedications for the altar and dedications for the repairs of the Temple require to be presented and appraised, except for the case of an animal blemished from the outset, and both the first and second clauses of the Mishnah in Bek. will thus represent the opinion of the Rabbis as well as of R. Simeon.

(25) So Sh. Mek.; cur. edd., ‘say indeed so’.

(26) Because they are forbidden to be used in any way.

(27) Viz., the untimely birth.

(28) The afterbirth.

(29) Because we maintain that there can be no afterbirth without an embryo.

(30) For killing a man.

(31) This refers to the bird which was killed for purification, but the other bird after being sent away, may even be eaten.

(32) Who became ritually unclean and had to commence afresh to count the period of his Nazirite vow. But the hair of a clean Nazirite who completed the period of his vow is burnt under the pot where his sacrifices boiled.

(33) Whether its body or its hair.

(34) For if we say that they are buried, there is a danger that since one cannot tell whether they are holy or hullin, it may be said that in all cases of disqualified dedications it is permissible to bury them, whereas the law is that disqualified dedications are burnt.

(35) For although one cannot mistake such an animal for a consecrated animal, as it cannot be dedicated for the altar, we still burn it if it was killed in the Temple court on account of an animal of hullin which is burnt in similar circumstances.

(36) The fruit of a tree during the first three years after its planting is called ‘orlah (uncircumcision), and the law of burying is inferred from kil'ayim (v. Rashi).

(37) V. Deut. XXII, 9.

(38) This sentence refers to ‘orlah and the mixture of seeds in a vineyard.

(39) I.e., foods.

(40) I.e., liquids.

(41) To derive a benefit therefrom.

(42) Although the case of unclean terumah is mentioned above together with homes, leavened bread on Passover, as being burnt, the Mishnah informs us here that in the case of terumah we may derive a benefit from it.

(43) Or if the blood was intended to be received or sprinkled beyond the allotted time etc.

Talmud - Mas. T'murah 34a

A GUILT-OFFERING OFFERED BY ONE IN DOUBT [AS TO WHETHER HE HAS COMMITTED A SINFUL ACT] IS TO BE BURNT.[1] R. JUDAH, HOWEVER, SAYS: IT IS TO BE BURIED. A SIN-OFFERING OF A BIRD THAT IS BROUGHT FOR A DOUBT[2] IS BURNT.[3] R. JUDAH, HOWEVER, SAYS: IT IS CAST INTO THE SEWER.[4] ALL THINGS REQUIRING TO BE BURIED MUST NOT BE BURNT, AND ALL THINGS WHICH REQUIRE TO BE BURNT MUST NOT BE BURIED.[5] R. JUDAH SAYS: IF ONE WISHES TO BE STRINGENT WITH HIMSELF, TO BURN THINGS WHICH ARE BURIED, HE IS PERMITTED TO DO SO. THEY SAID TO HIM: IT IS NOT ALLOWED TO CHANGE.

GEMARA. Tobi[6] raised an objection to R. Nahman: We have learnt: THE HAIR OF A NAZIRITE IS BURIED. This contradicts the following: If one weaves the size of a sit[7] from the wool of a firstling animal[8] in a garment, the garment is to be burnt; [if one weaves] from the hair of a Nazirite and [from the hair of the] firstbirth of an ass in a sack,[9] the sack is to be burnt[10] — He [R. Nahman] said to him [Tobi]: Here,[11] we are dealing with a [ritually] unclean Nazirite,[12] and there,[13] we are dealing with a [ritually] clean Nazirite.[14] He [Tobi] said to him [R. Nahman]: You have accounted for the disagreement between the case of [the hair of] a Nazirite [mentioned in our Mishnah] and the case of [the hair of] a Nazirite [mentioned in the other]. But you have still to account for the difference between the teaching concerning the firstbirth of an ass [in our Mishnah] and the teaching concerning the firstbirth of an ass [mentioned in the other]? He [R. Nahman] was [at first] silent and said nothing at all to him, but [thereupon] he said to him: Have you heard Something with reference to this matter? — He [Tobi] replied to him: Thus said R. Shesheth: Here,[15] we are dealing with a sack,[16] and there,[17] with hair.[18] It has also been stated: Said R. Jose son of R. Hanina: Here we are dealing with a sack and there we are dealing with hair. R. Eleazar says: Here[19] we are dealing with a [ritually] clean Nazirite[20] and there[21] we are dealing with a [ritually] unclean Nazirite.[22] He [R. Nahman] asked him: Why should not the forbidden hair be neutralized in the larger size of the sack?[23] — Said R. Papa: We suppose that he wove [the figure of] a bird.[24] If [he indeed wove the figure of] a bird, why cannot he pull out [the forbidden hair]?[25] — Said R. Jeremiah: [The cited Mishnah] represents[26] the view of R. Judah, who holds that if one wishes to be stringent with himself so as to burn the things which only require to be buried, he is permitted to do so. He said to him: We ask why you should not pull out [the forbidden hairs] from the sack[27] and you explain [the cited Mishnah] as representing the view of R. Judah![28] — This is what I mean: If it is possible to pull out [the forbidden hair] it is better,[29] but if not,[30] [the cited Mishnah][31] may be explained as representing the opinion of R. Judah who says that if he wishes to be stringent with himself so as to burn things which only require to be buried, he is permitted to do so.

AND THE FOLLOWING ARE TO BE BURNT. The Master said: LEAVENED BREAD ON PASSOVER IS BURNT. The Tanna [of our Mishnah] states here anonymously the opinion of R. Judah who said: The removal of unleavened bread is only through fire.

UNCLEAN TERUMAH, ‘ORLAH, MIXED SEEDS IN THE VINEYARD. [THAT WHICH IT IS CUSTOMARY etc.]. How is this explained? Food for burning and liquids for burial.[32]

A SIN-OFFERING OF A BIRD etc. It has been taught: Said R. Judah, A sin-offering of a bird which is brought in virtue of a doubt, is cast into the sewer. He cuts it, limb by limb, and throws it into the sewer and it rolls and goes down to the Brook of Kidron.

ALL THINGS WHICH ARE BURIED MUST NOT BE BURNT etc. What is the reason?[33] Because the ashes of things which are buried are forbidden [to be used], whereas the ashes of things which are burnt are permitted [to be used].[34] But are the ashes of things which are buried forbidden [to be used]? Has it not been taught: The blood of a niddah[35] and the flesh of a corpse which has crumbled[36] are ritually clean? Now does this not mean ‘clean’ and permitted [to be used]?[37] — No, it means ‘clean’ but forbidden [to be used].

R. Phinehas raised an objection: The crop and the plumage of the burnt-offering of a bird whose blood has been squeezed[38] are not subject to the law of sacrilege.[39] Now does this not mean that they are not subject to the law of sacrilege and are permitted [to be used]?[40] — No, it means that they are not subject to the law of sacrilege but are forbidden to be used. But are the ashes of things consecrated permitted to be used? Has it not been taught: The ashes of all things which are burnt[41] are permitted to be used[42] save the ashes of asherah,[43] and the ashes of consecrated objects are always forbidden. (And the reason[44] why the Tanna in the Baraitha here does not state both cases together[45] is because asherah can be made void by a heathen[46] whereas consecrated objects can never be made void.) At any rate the Baraitha states that the ashes of consecrated objects are always forbidden? — Said Rami b. Hama: The case here[47] is where e.g., a fire broke out [of itself] among consecrated wood, seeing[48] that there was nobody who could be guilty of sacrilege for the ashes to become hullin.[49] R. Shmaya says: The Baraitha[50] above refers to the ashes which are separated[51] and which are always forbidden [to be used]. For it has been taught: [Scripture says:] And he shall put it,[52] meaning ‘he shall put it’ quietly;[53] ‘he shall put it’[54] — the whole of it [the handful]: and ‘he shall put it’ — that he must not scatter it.[55]

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(1) If he killed it, and before the sprinkling of the blood it became known to him that he had not sinned. It is therefore like a disqualified sacrifice, the law of which is that it is to be burnt. But if he did not become aware that he had not sinned, it may be eaten, as is the case with other guilt-offerings (Rashi).

(2) As to whether the embryo of a woman who had an untimely birth was of such a nature as to require her to bring the usual sin-offering after childbirth. For, since the sin-offering of a woman after childbirth is a bird, she can bring it even if there is a doubt concerning the untimely birth, as it does not matter if the sprinkling is performed on behalf of a doubtful case, since in any case the sin-offering is not eaten for fear that the untimely birth was not a genuine embryo and therefore the bird would be hullin, which by reason of the pinching of its neck, has become nebelah (v. Glos.).

(3) As is the case with other disqualified dedications.

(4) For since the bird is tender it decays and the flow of the water in the sewer is not obstructed.

(5) Lest one might find them and forget the reason for their burial and eat them.

(6) For reading v. Sh. Mek.

(7) The distance between the tip of the thumb and that of the index finger when held apart.

(8) Which is forbidden to be used, being from a dedicated animal.

(9) In connection with wool, the Baraitha uses the word ‘garment’ and in connection with hair, it uses the word ‘sack’, which in both cases are the appropriate terms.

(10) ‘Orlah III, 3. This is contrary to our Mishnah.

(11) Our Mishnah which speaks of burying the hair of a Nazirite.

(12) Rashi says here that the reason is because Scripture does not mention that burial is required in the case of the hair of an unclean Nazirite, as it does with reference to a clean Nazirite. Tosaf., however, (Nazir 45a) raises the question how we know that the hair of an unclean Nazirite is buried.

(13) In ‘Orlah.

(14) Since Scripture mentions burning: And put it in the fire (Num. VI, 18).

(15) The Mishnah which speaks of burning.

(16) Where he wove the hair of a Nazirite or of the firstbirth of an ass into a sack. Now if you say the sack is only buried, someone may come and derive benefit therefrom, seeing that it is not destroyed until after a time.

(17) Our Mishnah which speaks of burying.

(18) Where the hair was not woven into any article. And both Mishnahs refer either to an unclean or clean Nazirite.

(19) In ‘Orlah.

(20) And therefore the hair is burnt as Scripture enjoins in Num. VI, 18.

(21) Our Mishnah.

(22) And therefore the hair of a Nazirite is buried. And in both cases we are dealing with the weaving of the forbidden hair in the sack (Rashi).

(23) Since the statement: ‘If one weaves the hair of a Nazirite into a sack’ implies something small in a large thing.

(24) From the forbidden hair of the Nazirite in the sack, thus making the sack more valuable by decorating it. The hair is therefore not neutralized in the larger size of the sack and the sack is consequently burnt.

(25) And why not therefore bury the sack and not burn it?

(26) We assume for the moment that we adopt a stringent attitude and for this reason the Mishnah says that the sack is burnt (Rashi).

(27) Since there is here a remedy.

(28) Where there is a way out, does R. Judah hold that one may burn things which only require burial?

(29) That the sack should not be burnt (R. Gershom). Tosaf. comments here that the passage does not refer at all to the question of neutralizing the forbidden hair, but has reference to the incongruity between the Mishnah in ‘Orlah and our Mishnah above.

(30) The Wilna Gaon Glosses have the version ואמינא לך which in an abbreviated form is וא ל ‘but I tell you’.

(31) Which speaks of burning, contrary to our Mishnah above.

(32) As liquids cannot be burnt.

(33) That things which are buried must not be burnt.

(34) If therefore he burns things which are to be buried, he might use the ashes which are forbidden.

(35) A menstruant woman.

(36) And became dust. Now these things require to be buried.

(37) We therefore see that the ashes of things which are buried are permitted to be used.

(38) On the wall of the altar, the ritual in connection with a burnt-offering having been carried out.

(39) These are things which are buried.

(40) So that one may directly dig them up and use them. We therefore see that the ashes of buried things are permitted.

(41) E.g., leaven on passover, ‘orlah, etc.

(42) In order to wash clothes therewith (Rashi).

(43) Trees used as objects of idolatry.

(44) The Gemara proceeds to explain the Baraitha just quoted before completing the question.

(45) Those of asherah and consecrated objects by saying: Save for the ashes of asherah and consecrated objects, instead of: ‘Save for the ashes of asherah, and the ashes of etc.’, seeing that both are forbidden.

(46) A heathen can nullify objects of idolatry belonging to a heathen.

(47) In the Baraitha where it says that the ashes of consecrated objects are forbidden.

(48) For reading v. sh. Mek.

(49) But if a man deliberately burnt consecrated wood, the ashes became hullin, by the unlawful use of consecrated property.

(50) The Baraitha which says that the ashes of consecrated objects are forbidden.

(51) The handful of ashes taken away by the priest every morning and which he puts near the altar.

(52) Le;. VI, 3.

(53) I.e., not throw the ashes but put them near the altar, in an orderly manner, since Scripture does not say ‘he shall cast it’.

(54) Since the Torah could have said: ‘And he shall put’ without the objective suffix ‘it’ (R. Gershom).

(55) This is an obvious inference, after the previous interpretations. We therefore see that these ashes require to be hidden away and, this being the case, it is forbidden to benefit from them. But other ashes of consecrated objects are permitted to be used.

C H A P T E R I

MISHNAH. THERE ARE IN THE TORAH THIRTY-SIX [TRANSGRESSIONS WHICH ARE PUNISHABLE[1] WITH] EXTINCTION:[2] WHEN ONE HAS INTERCOURSE WITH HIS MOTHER,[3] HIS FATHER'S WIFE OR HIS DAUGHTER-IN-LAW; WHEN A MAN HAS CONNECTION WITH A MALE, OR COVERS A BEAST, OR WHEN A WOMAN ALLOWS HERSELF TO BE COVERED BY A BEAST; WHEN ONE HAS INTERCOURSE WITH A WOMAN AND HER DAUGHTER,[4] WITH A MARRIED WOMAN, WITH HIS SISTER, WITH HIS FATHER'S SISTER, HIS MOTHER'S SISTER, HIS WIFE'S SISTER,[5] HIS BROTHER'S WIFE,[6] THE WIFE OF HIS FATHER'S BROTHER,[7] OR WITH A MENSTRUOUS WOMAN; WHEN ONE BLASPHEMES [THE LORD].[8] SERVES IDOLS,[9] DEDICATES OF HIS CHILDREN TO MOLECH[10] OR HAS A FAMILIAR SPIRIT,[11] OR DESECRATES THE SABBATH;[12] . WHEN AN UNCLEAN PERSON EATS OF SACRIFICIAL FOOD,[13] OR WHEN ONE ENTERS THE PRECINCTS OF THE TEMPLE IN AN UNCLEAN STATE;[14] WHEN ONE EATS HELEB,[15] BLOOD,[16] NOTHAR[17] OR PIGGUL;[18] WHEN ONE SLAUGHTERS OR OFFERS UP[19] [A CONSECRATED ANIMAL] OUTSIDE [THE TEMPLE PRECINCTS]; WHEN ONE EATS ANYTHING LEAVENED ON PASSOVER;[20] WHEN ONE EATS OR WORKS ON THE DAY OF ATONEMENT;[21] WHEN ONE COMPOUNDS OIL [OF ANOINTING][22] OR COMPOUNDS INCENSE,[23] OR USES [UNLAWFULLY] OIL OF ANOINTING;[24] AND [WHEN ONE TRANSGRESSES THE LAWS OF] THE PASCHAL OFFERING[25] , AND CIRCUMCISION[26] — FROM AMONG POSITIVE COMMANDMENTS. FOR THESE [TRANSGRESSIONS] ONE IS LIABLE TO EXTINCTION IF COMMITTED WILFULLY,[27] AND IF IN ERROR TO A SIN-OFFERING,[28] AND IF THERE IS A DOUBT WHETHER HE HAD COMMITTED THE TRANSGRESSION TO A SUSPENSIVE GUILT-OFFERING, EXCEPT IN THE CASE OF ONE WHO DEFILED THE TEMPLE OR ITS CONSECRATED THINGS,[29] SINCE ONE IS LIABLE IN THIS CASE TO A SLIDING-SCALE SACRIFICE.[30] THUS R. MEIR, WHILE THE SAGES SAY: ALSO THE BLASPHEMER [IS AN EXCEPTION],[31] FOR IT SAYS: YE SHALL HAVE ONE LAW FOR HIM THAT DOETH AUGHT IN ERROR;[32] THIS IS TO EXCLUDE THE BLASPHEMER[33] WHO PERFORMS NO ACTION.[34] [

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(1) If committed wilfully, but without due warning by two witnesses of the punishments they involve. If committed after such warning, the penalties vary between flagellation and the death sentence.

(2) Heb. kareth, ‘cutting off’; i.e., the perpetrator's life is cut short by Providence (v. Glos.): M.K. 28a.

(3) This law as well as the other laws in the Mishnah relating to incestuous or other immoral connections are enumerated in Lev. XVIII. A notable omission from the list of incestuous relations is a daughter, both legitimate and illegitimate. The prohibition relating to her is taken to be self-evident from the explicit prohibition of intercourse with a woman and her daughter, or implied in the law regarding a grand-daughter. Cf. Yeb. 3a; Rashi ad loc.

(4) Or for that purpose also a grand-daughter.

(5) This prohibition holds good only while his wife is alive even though divorced.

(6) An exception is the case of levirate marriage, Deut. XXV, 5f.

(7) In some edd. ‘the wife of his mother's brother’ is added here.

(8) Num. XV, 30.

(9) Ibid. 31, which is understood to refer to idolatry.

(10) Lev. XVIII, 21.

(11) Ibid. XX, 6; cf. Sanh. VII, 6.

(12) Ex. XXXI, 14.

(13) Lev. XXII, 3.

(14) Num. XIX, 20.

(15) Certain portions of the abdomial fat of cattle which may not be eaten, Lev. VII, 25.

(16) Ibid. XVII, 14.

(17) Sacrificial portions left over beyond the prescribed time; these have to be burnt, ibid. XIX, 6-8. V. Glos.

(18) The flesh of an offering which became unfit by reason of an improper intention in the mind of those officiating. ibid. VII, 18; XIX, 7-8; v. Glos.

(19) Ibid. XVII, 9.

(20) Ex. XII, 19.

(21) Lev. XXIII, 29-30.

(22) In the exact quantities prescribed in Ex. XXX, 23-33.

(23) In the proportions prescribed in ibid. 34-38.

(24) Ibid. 32.

(25) Num. IX, 13.

(26) Gen. XVII, 14.

(27) But without legal warning; v.n. 1 p. 1.

(28) Referring to the prohibitory laws only. No sin-offering is required for sins of omission. 'Error' denotes ignorance of the nature of the object at the time of transgression; but in case of complete ignorance of the law, no offering is brought; thus Rashi against Maim. Shegagoth II, 6.

(29) I.e., one is exempt from an offering in case of doubt.

(30) I.e., the sacrifice varies according to the means of the transgressor, Lev. V, 6, 7, 11. The rule is that a suspensive guilt-offering is brought only in cases where, if in error, one is liable to a fixed sin-offering and not to one that varied according to circumstances, cf. infra 25a.

(31) V. Gemara.

(32) Num. XV, 29.

(33) The verse deals with those who must bring a sin-offering; v. ibid. 27.

(34) I.e., whose offence consists of words.

Talmud - Mas. K'rithoth 2b

GEMARA. Why has a number been mentioned [in the Mishnah]? — Said R. Johanan: [To tell you] that if one commits all [these transgressions] in one spell of unawareness he is liable [to a sacrifice] for each of them.[1] Again, as to that which we have learnt: 'There are thirty-nine principal categories of work prohibited on the Sabbath',[2] why has a number been mentioned there? [To tell you] that if one does them all in one spell of unawareness he is liable to a sacrifice for each of them. Again, as to that which we have learnt: 'There are four who require an act of atonement',[3] — why has a number been mentioned there? — To exclude the view of R. Eliezer b. Jacob, who holds that there are five, as we have learnt: 'R. Eliezer b. Jacob says: A proselyte [too] requires atonement [and may not eat of sacred things] until the blood [of the sacrifice] has been sprinkled'. This is why the number 'four' has been mentioned. Again, as to that which we have learnt: 'In four instances one brings the same sacrifice for wilful transgression as for transgression in error',[4] — why has a number been mentioned there? — To exclude the view of R. Simeon. For it has been taught: 'R. Simeon holds, that in the case of a false oath concerning a deposit[5] wilful transgression is not expiable by a sacrifice'.[6] This is why the number 'four' has been mentioned there. Again, as to that which we have learnt: 'There are five Instances where one sacrifice is brought for several transgressions',[7] — why has a number been mentioned? — Because it wishes to state in the sequel, 'And a nazirite who became unclean several times'. Now this is rendered possible if he became defiled on the seventh [clean] day[8] and then again on the seventh day,[9] and in accordance with the view of R. Jose son of R. Judah, who maintains that the 'Naziriteship of Cleanness'[10] begins to operate from the seventh day.[11] For according to Rabbi, who holds that the 'Naziriteship of Cleanness' does not become operative before the eighth day, how is this rendered possible? If he was defiled on the seventh day and then again on the seventh, the whole is one protracted period of uncleanness;[12] and if he was defiled on the eighth day and then again on the eighth, since he had passed the time when the sacrifice became due, he should be liable to a separate offering for each defilement? It is thus proved that that [Mishnah] is in accordance with R. Jose son of R. Judah.[13] Where is the dispute between Rabbi and R. Jose son of R. Judah? — As it has been taught: 'And he shall hallow his head the same day[14] refers to the day of the bringing of the sacrifice, says Rabbi; R. Jose son of R. Judah says: To the day of the cutting of his hair',[15] Again, as to that which we have learnt: 'Five must bring a sliding-scale offering' — why has a number been mentioned there?[16] — Because it says in the sequel:[17] 'The same applies to the ruler'.[18] He thus mentions the number 'five' to exclude the view of R. Eliezer who holds[19] that a ruler brings a goat as an offering.[20] Again, as to that which we have learnt: 'There are four principal categories of damage',[21] — why has a number been mentioned there? — To exclude the view of R. Oshaia, who holds there are thirteen such categories.[22] But then why has R. Oshaia mentioned a number? — To exclude the view of R. Hiyya, who holds that there are twenty-four such categories.[23] But then why has R. Hiyya mentioned a number? — To exclude an informer and one who renders a sacrifice piggul.[24]

The Master said: 'If one commits all these transgressions in one spell of unawareness, one is liable [to a sacrifice] for each of them'. It is well that you could not declare him exempted altogether, for it is written: For whosoever shall do any of these abominations [even the souls that do them] shall be cut off.[25] But why not say, if he commits one transgression of these he is liable to one sacrifice, if he transgresses them all in one spell of unawareness he is still liable only to one offering? — Replied R. Johanan: It is for this reason that [the penalty of] kareth has been specially mentioned in connection with 'his sister',[26] to intimate that each of them requires a separate atonement.[27] R. Bibi b. Abaye demurred to this: Why not say, in the case of 'his sister', which Scripture has singled out, a separate offering is required, but as to the other transgressions there should be but one sacrifice [for them all] since they have been committed under one spell of unawareness?[28] But as to R. Bibi b. Abaye, does he not accept [the general principle] which has been taught: 'If a law has been included in a class and has then been singled out for some specification, this specification applies not only to that law but to the whole class';[29] for instance [Scripture reads]: And the soul that eateth of the flesh [of the sacrifice of peace-offering. . .'].[30] Now, was not the peace-offering included in the general class of consecrated things,[31] why has it been singled out? To make [consecrated things][32] analogous [for the purpose of this law] to the peace-offerings: As the peace-offerings are dedications to the altar, and for this reason one is liable on their account to kareth, so also whatever are dedications to the altar, one is liable on account thereof to kareth; this excludes dedications for the Temple Repair [Fund]![33] — R. Bibi might reply: From this very [Baraitha one can prove the contrary]. Did you not say that dedications for the Temple Repair [Fund] were to be excluded? Likewise here [argue in a similar manner]: Just as 'his sister' is distinguished in that it is a relation which can never be permitted in the lifetime of the man who renders her forbidden,[34] so must the others[35] be such relatives as cannot be permitted in the lifetime of those who render them forbidden; this excludes the married woman, who can be permitted during the lifetime of him who renders her forbidden![36] — Said R. Jonah, or as some say, R. Huna the son of R. Joshua, Scripture says: For whosoever shall do any of these abominations etc.;[37] all other forbidden relations are thus made analogous to 'his sister': Just as in the case of 'his sister' one is liable on her account to a separate offering, so also in all other cases one is liable to a separate offering for each [transgression]. But according to R. Isaac who holds,[38] All transgressions[39] liable to kareth have been comprised in a general statement,[40] and the reason that kareth has been singled out in the case of 'his sister' is to render [the offence] subject to the penalty of kareth and not lashes,[41] — wherefrom does he then derive that separate offerings have to be brought for each transgression? — He derives it from: And thou shalt not approach unto a woman while she is a niddah[42] by her uncleanness;[43] a separate offering is brought for each woman.[44] But as to the Rabbis,[45] let them derive the law [relating to separate offerings] from: 'Unto a woman while she is a niddah by her uncleanness'? — Indeed they do. And for which purpose then has the penalty of kareth been mentioned in the case of 'his sister'? — [To teach] that separate sacrifices be brought for intercourse with 'his sister', 'his father's sister' and 'his mother's sister'. But is [a text] necessary to separate these [various offences],[46] are these [transgressions] not of different denominations and [committed with] different persons? — Rather, say that [three] separate sacrifices be required in the case of intercourse with 'his sister' who is at the same time his father's sister and his mother's sister.[47] And whence will R. Isaac derive this? — He will derive it from the latter part of the verse:

He hath uncovered his sister's nakedness.[48] And for which purpose do the Rabbis apply ‘his sister’ in the latter part of the verse? — They apply it

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(1) The mention of the number indicates that each transgression preserves its identity even if committed in conjunction with other transgressions.

(2) Shab. VII, 2.

(3) Before they may partake of sacred things.

(4) V. infra 9a where no number is mentioned.

(5) Which is one of the four instances mentioned in that Mishnah. According to him there are, then, only three such instances.

(6) Sheb. 34b.

(7) V. infra 9a.

(8) A nazirite who is defiled during the period of his naziriteship has to count seven clean days and bring an offering on the eighth day. He has then to observe again his vow of naziriteship for the period stipulated, v. Num. VI, 9f. If he is defiled on the seventh of the clean days, he has to start again this period of cleanness, etc.

(9) Viz., after the new defilement which interrupted the resumed count of naziriteship.

(10) I.e., the new count of naziriteship.

(11) His new defilement on the seventh day is therefore to be considered independent of that which preceded it.

(12) Its inclusion as a case where one is liable to one offering for several transgressions is then not justified.

(13) The number has thus been mentioned to include the nazirite and thus to teach that the Mishnah is in accordance with R. Jose and not Rabbi.

(14) Num. VI, 11. The continuation of this text prescribes the resumption of his naziriteship.

(15) I.e., the seventh day (ibid. g); v. infra 9b.

(16) V. infra 9a.

(17) Viz., of the Mishnah in Hor. 8b.

(18) I.e., he too is exempted altogether from any sacrifice in all cases where an ordinary person would have to bring a sliding-scale offering.

(19) Ibid. 9a.

(20) I.e., the number has been mentioned to stress that in the instances of these five transgressions enumerated in the Mishnah, infra 9a, none but a sliding-scale sacrifice can be brought and consequently a ruler brings in such cases no offering at all, in accordance with the general rule that a ruler is altogether exempt whenever the prescribed offering is not fixed.

(21) B.K. 2a.

(22) B. K 4b.

(23) Ibid.

(24) V. Glos. I.e., these two are exempted from paying indemnity; v. B.K. 5a.

(25) Lev. XVIII, 29.

(26) Ibid. XX, 17; although this penalty is already implied in the collective statement in Lev. XVIII, 29. The superfluous mention of kareth in a single instance is to indicate that this penalty is prescribed for each transgression separately even when committed in conjunction with others.

(27) Lit., ‘to divide’.

(28) I.e., one sacrifice should be offered for incestuous relations with a sister and one for the rest of transgressions collectively.

(29) One of the famous thirteen hermeneutic rules of R. Ishmael.

(30) Ibid. VII, 20 dealing with the prohibition for an unclean person to eat sacred food.

(31) Ibid. XXII, 3.

(32) To which the statement in Lev. XXII, 3 is meant to apply.

(33) And here likewise all cases of incestuous relationships ought to be derived from ‘his sister’.

(34) I.e., she always remains forbidden to the brother.

(35) For the purpose of liability to a separate offering.

(36) I.e., she may remarry on divorce even in the lifetime of him who had hitherto rendered her forbidden, i.e., her husband. One might thus argue that one should not be liable to a separate offering for having relations with a married woman, if the transgression was committed together with other transgressions relating to forbidden relations, in one spell of unawareness.

(37) Lev. XVIII, 29.

(38) V. Mak. 13b, 23b. R. Isaac employs the previously mentioned analogy for a different purpose.

(39) Referring to forbidden marriages.

(40) Lev. ibid.

(41) I.e., his sin is not expiated by the infliction of lashes upon him.

(42) I.e., a menstruant woman.

(43) Lev. XVIII, 19.

(44) The word ‘woman’ is considered superfluous; it should read, ‘not approach a niddah’.

(45) I.e., the opponents of R. Isaac, who hold that lashes effect expiation where kareth is predicated. The law referring to separate offerings seems according to them to be derived from ‘his sister’.

(46) To teach that each must be atoned for separately.

(47) V. infra 25a.

(48) Ibid. XX, 17. The word ‘sister’ is considered superfluous. It should read ‘her nakedness’.

Talmud - Mas. K'rithoth 3a

to ‘his sister’ who is his father's daughter and his mother's daughter,[1] and to teach you that the trespass of a law deduced ad majus is not punishable. R. Isaac on the other hand holds that it is punishable. Or, if you will, I can say he will derive [the inclusion of the full sister in the pronouncement of] punishment from [its inclusion in the pronouncement of] prohibition.[2]

Said R. Eleazar in the name of R. Hoshaia: Wherever two negative commands are combined in one [collective pronouncement of the penalty of] kareth, separate sin-offerings are to be brought for each of them.[3] Where is this exemplified? — In the instances of one who compounds or uses the sacred oil of anointment, for it is written: Upon the flesh of man shall it not be poured [neither shall ye make any like it], according to the composition thereof;[4] whilst as to the one [pronouncement of] kareth, it is written: Whosoever compoundeth any like it, or whosoever putteth any of it upon a stranger, he shall be cut off from his people.[5] Now, [according to this rule] since there is a separate negative command for each of the forbidden relations, why was it necessary [to single out in the Torah the] kareth [penalty] in the case of ‘his sister’?[6] — According to R. Isaac it is as we have explained above; whilst as to the Rabbis, [they employ the text] to let us know that a law derived by the conclusion ad majus is not punishable.[7] Said R. Nahman son of Isaac: We have also learnt to this effect: WHEN ONE COMPOUNDS OIL [OF ANOINTING] OR COMPOUNDS INCENSE, OR USES OIL OF ANOINTING. Why has [the law concerning] one who compounds incense been placed between [the other two laws][8] if not to let us know: As [the law concerning] incense is a separate prohibition and one is liable on account thereof to a separate sin-offering, so also where one compounds oil of anointing and uses it, since they are the subject of separate prohibitions, one is liable on account of them to separate sin-offerings.[3] And if you argue [that the reason of this order in the Mishnah is] because the instances concerning compounding had to be stated together, [then I would argue] that [the Tanna] should have reversed the order and stated as follows: When one compounds incense, or compounds the oil, or uses the oil [of anointing]; wherefore has he separated [the laws relating to] oil one from the other, if not to let us know that separate sin-offerings are to be brought for them? This proves it.

WHEN A MAN HAS CONNECTION WITH A MALE. Whom has the Tanna in mind?[9] If a male, then you must omit the instance of the woman that is covered by a beast, and you are one short;[10] if a woman, you must omit the instances of the man who has connection with a male or covers a beast, and you are short of two. — Said R. Johanan: Indeed the Tanna refers to a male, but read thus: When a male has connection with a male or causes a male to have connection with him; and [the Mishnah] is in accordance with R. Ishmael, who holds[11] that one is liable to two sin-offerings.[12] But since the case of the blasphemer is stated in the latter clause of the Mishnah and has been explained in accordance with R. Akiba,[13] have we not to assume that also the earlier clause is in accordance with R. Akiba? And if you should argue that [the Mishnah] is indeed according to R. Akiba, but that he himself agrees with R. Ishmael's view in the case dealt with in the earlier clause, [I would retort,] did not R. Abbahu say: If a man has connection with a man or causes a man to have connection with him, on the view of R. Ishmael, who derives these [prohibitions] from two different texts, viz., Thou shalt not lie with mankind,[14] and Neither shall there be a sodomite of the sons of Israel,[15] he is liable to two sin-offerings; but according to R. Akiba he is liable to one sin-offering, since he derives both [prohibitions] from one and the same text, viz., ‘Thou shalt not lie with mankind’, Interpreting this: Thou shalt not cause [mankind] to lie [with thee]?[16] Rather [you must say]: The first clause is according to R. Ishmael, but in the case of the blasphemer he agrees with R. Akiba. If so, the Mishnah should have also stated: When a man covers a beast or causes a beast to cover him? — Surely Abaye said: If a man covers a beast and causes a beast to cover him, even according to R. Ishmael, he is liable to one offering only, because the Scriptural text refers to human males only! R. Eleazar in the name of Rab said:[17] The Tanna of our Mishnah meant to imply the possibility of one person[18] bringing thirty-three sin-offerings,[19] and he mentions the other three instances[20] in order to complete the list of sins punishable with kareth. For it reads in the concluding clause: [WHEN ONE TRANSGRESSES THE LAWS OF] THE PASCHAL OFFERING AND CIRCUMCISION — FROM AMONG POSITIVE COMMANDMENTS. Now, wherefore have [the laws concerning the] paschal lamb and circumcision been enumerated? Should you say to intimate that one has to offer a sacrifice on their account?[21] But does one bring a sacrifice on their account? Has it not been taught: All the laws of the Torah have been brought into analogy with idolatry,[22] viz., Ye shall have one law for him that doeth ought in error,[23] and But the person that doeth aught with a high hand:[24] Just as the law concerning idolatry is the subject of a prohibition, so have all other transgressions to be the subjects of a prohibition?[25] This, therefore, proves that the Tanna speaks of thirty-three transgressions committed in error, and that the other three cases have been mentioned only for the purpose of completing the list of sins punishable with kareth. This proves it.

WHEN ONE DESECRATES THE SABBATH. It was remarked: Are there not thirty-nine different classes of work on Sabbath?[26] — Said R. Johanan: Our Tanna speaks of the case [where one was] in error in respect of the Sabbath, but aware of [the prohibition of the various kinds] of work [thereon],[27] in which case one is liable to one sacrifice only. For it has been taught:[28] How is ‘these’ resulting in ‘one’:[29] If one is in error in respect of the Sabbath but aware of the prohibition of [various kinds of] work! But why does not the Tanna speak of the case where one was aware of the Sabbath and in error in respect to the prohibition of the various kinds of labour, making him then liable to thirty-nine [sin-offerings]? For has it not been taught:[30] . . . and shall do any one of these [transgressions]? Sometimes one is liable to one offering for all transgressions and sometimes to an offering for each of them? [How is] ‘one’ resulting in ‘these’: If he was aware of the Sabbath and in error in respect of the work? — Our Tanna prefers to state the instance of the error in respect of the Sabbath and awareness [of the prohibition] of the various kinds of work to let us know that one is not altogether exempted from a sin-offering in such a case.[31] And you must likewise explain the instance of idolatry of which our Mishnah speaks as referring to an error in respect of the idol but with an awareness of the prohibition of the forms of [idolatrous] worship. How is error in respect of the idol’ to be understood? Shall I say that he stood in a house of idolatry and, thinking it was a synagogue, prostrated himself? But then his heart was directed towards Heaven. Again, if he saw a statue and prostrated himself to it, then if he accepted it as a deity, he is subject to stoning; on the other hand, if he did not acknowledge it as a deity, what has he done? Rather he served idols out of love or fear [of a fellow-man].[32] That is right according to Abaye who holds[33] one is liable [in such a case!, but according to Raba who says that one Is exempted, how is it to be understood?

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(1) The text, Lev. XVIII, 9, mentions his father's daughter or his mother's daughter. The full sister, though not explicitly stated, can be derived by the conclusion ad majus. On the basis of this conclusion, however, no penalty is imposed according to the Rabbis. In Lev. XX, 17, however, the full sister is taken to be implied because sister is mentioned there without qualification.

(2) For the latter part she is assumed to be implied in the general term, ‘she is thy sister’ of Lev. XVIII, 11. Cf. Mak. 5b.

(3) Viz., in case of their transgression in one spell of unawareness.

(4) Ex. XXX, 32.

(5) Ibid. 33.

(6) V. the preceding discussion. R. Isaac employs this special mention of kareth for the derivation of the rule that separate offerings are to be brought for each transgression, whilst the Rabbis derive this rule from another text. According to the Rabbis, the question here will similarly be that that other text is now superfluous.

(7) In cur. edd. the following text is inserted here: ‘According to R. Isaac, he derives from this that one is liable in the case of "his sister" who is at the same time his father's sister and his mother's sister. The Rabbis, however, will derive this from "his sister" of the former text; while R. Isaac holds that "his sister" in the former text is essential in the context and derives the rule of separate offerings from the word "his sister" in the latter text: that separate offerings be brought in the case of’ "his sister" who is at the same time his father's sister and his mother's sister’. This insertion is struck out by Rashi and others.

(8) Which refer to oil and should therefore be stated together.

(9) Viz., with his implication expounded above by R. Johanan that if a person transgresses them all in one spell of unawareness, he is liable to an offering for each trespass.

(10) Of the full total of thirty-four sin-offerings involved for all the transgressions enumerated in the Mishnah. The transgressions relating to the paschal lamb and circumcision involve no sin-offering.

(11) V. Sanh. 54b.

(12) If committing these two offences in one spell of unawareness.

(13) V. infra 7a.

(14) Lev. XVIII, 22.

(15) Deut. XXIII, 18. This refers to the passive agent.

(16) The kal תשכב is read as the hiphil תשכיב.

(17) In answer to the original query as to whether the Tanna refers to a man or woman.

(18) Viz., a male.

(19) And not thirty-four as hitherto assumed.

(20) I.e., the one which does not apply equally to man and woman and those transgressions relating to the paschal lamb and circumcision.

(21) I.e.,that they be included in the statement of the Mishnah regarding the bringing of a sin-offering in the case of transgression in error.

(22) Mak. 13b.

(23) Num. XV, 29.

(24) Ibid. 30. The latter text refers to idolatry. The juxtaposition of the texts effects the analogy.

(25) In order to involve a sin-offering.

(26) V. Shab. VII, 1. Our Mishnah should therefore, on the view of R. Johanan, have enumerated seventy-four transgressions for the commission of which one would be liable to many sin-offerings.

(27) I.e., he did not know that the day was Sabbath, though he knew that work was prohibited on the Sabbath Day.

(28) Shab. 70b.

(29) The twofold partitive prefix in מאחת מהנה , Lev. IV, 2 is an unusual construction. Both prefixes are regarded as significant, to be used separately: firstly as מהנה אחת one out of these’, indicating that several prohibited acts may be counted as one transgression, namely when they result from one error; secondly as מאחת הנה ‘these out of one’,implying that one law e.g., Sabbath, may lead to several transgressions, namely when the various acts originate in different errors. The former implication is expressed in the Gemara in the terms that ‘these’ results in ‘one’, and the latter that ‘one’ results in ‘these’.

(30) Sanh. 62a.

(31) Contrary to the possible assumption that since he was aware that the work was prohibited he is to be regarded as having sinned with presumption.

(32) Thinking that with this motive worship was not forbidden.

(33) V. Sanh. 61b.

Talmud - Mas. K'rithoth 3b

— Rather [it is to be understood] where he thought that the worship of idols was permitted. For Raba's question to R. Nahman[1] was whether one is liable to one offering or to two;[2] that one should be exempted altogether was never suggested by him.[3] R. Papa said: It is possible[4] where one had been captured as a child by heathens, he would know that idolatry was forbidden,[5] but not that these particular idols were forbidden. Or if you wish, I may say that they can occur also with an adult,[6] where e.g., he erred in the interpretation of the verse, Ye shall not make with the gods of silver or gods of gold, etc.[7] and assumed that only the prostration before idols of gold or silver was forbidden, but not of any other material. This would then be a case of error in respect of the idol and awareness of the prohibition of the forms of worship. R. Aha the son of R. Ika said in the name of R. Bibi:[8] Our Tanna enumerates Sabbath as a class and idolatry as a class.[9] Whence [do we know this]? — It says, WITH A WOMAN AND HER DAUGHTER, OR WITH A MARRIED WOMAN. Now there is still the case of his daughter from a woman outraged by him, which is not mentioned in the Mishnah.[10] [But] I might retort [the reason of this omission is that] the laws written in the Torah are mentioned, the laws not written in the Torah are not mentioned![11] — Surely there are still the instances of his wife's daughter, her daughter's daughter and her son's daughter, which are written in the Torah[12] and yet not mentioned in our Mishnah. You are thus obliged to say that the whole class of woman and daughter is meant to be implied in the Mishnah; similarly interpret the Mishnah as referring to the class of Sabbath and the class of idolatry. R. Aha the son of R. Ika found that he [R. Bibi] contradicted himself. For how could R. Bibi b. Abaye say here, ‘Our Tanna enumerates the Sabbath as a class and idolatry as a class’; was it not stated: ‘If one offered up [the sacrificial] limbs [of an offering] slaughtered inside the Temple precincts outside the Temple court, one is liable; similarly, if he offered up outside limbs [of an offering that was slaughtered] outside [the Temple precincts] he is liable’?[13] And in connection with this R. Bibi b. Abaye himself raised the difficulty: If so, how does the Mishnah state, THERE ARE IN THE TORAH THIRTY-SIX TRANSGRESSIONS PUNISHABLE WITH EXTINCTION? Are there not thirty-seven such transgressions, since there are the two cases of one offering up [outside] sacrificial portions. Now, what is his difficulty, since one can retort that the Tanna states the offering up as a class? What comparison is there? The laws of Sabbath and of idolatry are stated [elsewhere] in their proper place [in a Mishnah];[14] when being mentioned here again in connection with kareth, it suffices to enumerate Sabbath and idolatry as types. But as to the laws of offering up, where is the place [in a Mishnah] that they have been stated,[15] that you could reply in the same manner?

R. Jeremiah put the following query before R. Zera: What is the ruling when two separate pronouncements of kareth are attended by only one negative command?[16] — He replied: You refer, I suppose, to ‘slaughtering’ and ‘offering up’ [outside the Temple precincts],[17] but are there not in this case two negative commands?[18] For according to him who derives ‘slaughtering’ from a gezerah shawah[19] based upon the common term haba'ah[20] mentioned [in connection with ‘slaughtering’ and ‘offering up’], just as in the latter [the text] did not pronounce punishment without having expressed a warning,[21] so also in the former it has not pronounced punishment without an attended [implicit] warning; and according to him who derives it from a hekkesh,[19] the verse says: There thou shalt offer [thy burnt-offerings] and there thou shalt do [all that I command thee];[22] Scripture has thus compared ‘slaughtering’ and ‘offering up’, just as in the case of ‘offering up’ it has not pronounced punishment without having expressed a warning, so also with ‘slaughtering’ it did not pronounce punishment without an attended [implicit] warning. Your query is, perhaps, in regard to two separate pronouncements of the death penalty attended by only one negative command, as is the case with the ob and yidde'oni.[23] — He replied: On this there is a dispute between R. Johanan and Resh Lakish. For among the transgressions punishable by stoning we find enumerated[24] both the ba'al ob and yidde'oni, and the question was raised: Why was yidde'oni mentioned in connection with ‘stoning’ but omitted in connection with kareth? Whereupon R. Johanan replied: Because they were both under one negative command,[25] and the reason why ba'al ob and not yidde'oni was chosen, is that in Scripture ba'al ob is mentioned first; while Resh Lakish said that it is because [the offence of] yidde'oni involves no action.[26] Why did not Resh Lakish say as R. Johanan — Said R. Papa: Because he holds these two laws are after all stated separately in respect of the pronouncement of the death penalty,[27] while R. Johanan maintains that only where there are separate negative commands are there separate offerings, but separate pronouncements in respect of the death penalty do not involve separate offerings. And why does not R. Johanan say as Resh Lakish? — Because he holds that the Mishnah relating to kareth is according to R. Akiba,[28] who holds that action is not essential [for the liability to a sin-offering]. And Resh Lakish? [He maintains that] although R. Akiba does not require a weighty action, he still considers it essential that some slight action be performed. What action is there in connection with ob? — The clapping of the arms[29] is regarded as an action. What action is performed by the blasphemer? — The curving of the lips[30] is considered an action.

On the assumption that the clapping of the arms is considered a slight action even according to the Rabbis,[31] the following ob jection was raised: It was taught: In the case of idolatry one is liable only for an action such as sacrificing, the offering of incense or libation, or prostration;[32] and when the difficulty was pointed out that prostration was not an action, Resh Lakish replied that this ruling was in accordance with R. Akiba who held that [weighty] action was not essential; while R. Johanan said: The ruling might conform even to the view of the Rabbis, for the bending of stature[33] was to be considered as an action. It thus appears that in the opinion of Resh Lakish[34] the Rabbis do not consider the ‘bending of stature’ an action. How then can the clapping of the arms[35] be regarded as an action? — What, then, will you maintain that when Resh Lakish stated that the clapping of the arms is considered an action it was made on the view of R. Akiba, but that according to the Rabbis it was not to be considered an action;[36] why in this case [does the Mishnah] state, THIS IS TO EXCLUDE THE BLASPHEMER WHO PERFORMS NO ACTION? It should have stated, This is to exclude the blasphemer and the ba'al ob! — [The Mishnah mentions] one of two [as an example].[37] But then let it mention ba'al ob[38] instead of the blasphemer? — [The explicit exclusion of] the blasphemer was necessary, for I might otherwise have thought that, since the pronouncement of kareth in his case is in juxtaposition to laws relating to offerings,[39] the Rabbis agreed with R. Akiba with regard to the blasphemer. Therefore [the Mishnah] teaches us that this is not so. ‘Ulla said: Ba'al ob mentioned in the Mishnah means the offering of incense[40] to the Prince of the Demons.[41] Raba demurred to this: If this is so, is not this idolatry?[42] Rather Raba explained: [It means,] He offers incense to a demon in order to exorcise him.[43] Abaye demurred to this: If so, is this not identical with ‘one who charms’?[44] — He replied: The Torah has said that one who charms after this manner [is liable to death] by stoning. And what kind of charm, then, is subject to a mere negative command?[45] — He replied: As has been taught:[46] And one who indeed charms,[47] implies both the charmer of large and of small animals; even the charmer of a snake or scorpion is guilty.

Said Abaye: It is prohibited to cast a spell over a wasp and a scorpion,[48] but if they follow him, it is permitted. According to R. Johanan, who holds that the bending of stature is regarded as an action, why should not also the curving

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(1) Ibid. 70b.

(2) Where one was unmindful of the main offence as well as of its applications.

(3) And likewise here, although by thinking that idolatry is permitted the error would be alike in respect of the idol and the forms of worship, there is still liability to one sin-offering.

(4) To find a case where one was in error in respect of the idol but not in respect of the prohibition of the forms of worship.

(5) I.e., knowing which forms of worship were forbidden.

(6) Should read ‘one who was not captured by heathens as a child’.

(7) Ex. XX, 20.

(8) With reference to the question at the beginning of this discussion, ‘are there not thirty-nine classes of work on

Sabbath?’

(9) Even though there are several transgressions under the heading of Sabbath or of idolatry, since the penalties are inflicted under the order of the one law they count as one.

(10) The reason of this omission is assumed to be that this case is included in the denomination of ‘woman and daughter’. This would prove that a whole category count as one.

(11) Cf. Hag. 11b as to the source of the law concerning the daughter of an outraged woman. It is at all events not explicitly mentioned in the Torah.

(12) Lev. XVIII, 17.

(13) Zeb. 107a.

(14) Viz., in Shab. 73a and Sanh. 60b.

(15) The law relating to the two types of offering up mentioned above is nowhere mentioned in a Mishnah but emanates from the School of Amoraim.

(16) I.e., how many offerings are to be brought if such two laws are broken in one spell of unawareness?

(17) Kareth is mentioned in Lev. XVII, 4 and 9 and the negative command in Deut. XII, 13.

(18) Though one of them is not explicit.

(19) V. Glos.

(20) Lit., ‘bringing’ mentioned in connection with ‘slaughtering’, Lev. XVII, 4 and in connection with ‘offering up’ ibid. v. 9.

(21) I.e., a negative command. The negative command in connection with offering up is in Deut. XII, 13.

(22) Ibid, 14.

(23) ‘One that divineth by a ghost or a familiar spirit’, v. Lev. XX,27, where the death penalty is laid down for these offences, and for the attendant negative command, ibid. XIX, 31. The disjunctive particle ‘or’ in Lev. XX, 27 in connection with the death penalty serves to attach the death penalty to each of these two offences and it is regarded as if two separate pronouncements of the death penalty were made, whereas the negative command ibid. XIX, 31 is general in its implication, serving as a single warning for all the offences enumerated there, and thus the query is whether the fact that there are two pronouncements of death, although there is only one attendant warning, makes one liable to two sin-offerings for committing these two offences in one spell of unawareness?

(24) Sanh. 53a, 65a. In the latter place the whole discussion that follows is to be found.

(25) And are subject accordingly to one sacrifice if committed under the one spell of unawareness. Only one could therefore be mentioned in our Mishnah, on the explanation given by R. Johanan for the number stated, as the representative of the class of necromancy.

(26) It consists of a mere sound made by means of a certain bone put in the mouth, v. Sanh. 65b. There is accordingly no sin-offering, whereas ob involved an action; v. infra.

(27) And but for the fact that yidde'oni involves no action it would be in his opinion subject to a separate offering when committed together with ob.

(28) Who holds that, though his act involves no action, the blasphemer is liable to an offering; v. infra 7a.

(29) One of the movements of this form of divination, v. Sanh. 65a.

(30) When uttering the blasphemies.

(31) Who differ in our Mishnah from R. Akiba with regard to the blasphemer and hold that he brings no offering because blasphemy involves no action. As they do not seem to disagree in the law relating to ob, it may be assumed that they consider this involving an action.

(32) Tosef. Sanh. X.

(33) When prostrating.

(34) Whose deviation from R. Johanan is traced back to his disagreement on this point. In Resh Lakish's view the bending of stature is sufficient action only according to R. Akiba.

(35) Whereby the body remains unmoved.

(36) Ba'al ob should accordingly not be subject to an offering.

(37) From the exclusion of one we can derive the exclusion of the other since the reason is the same in both.

(38) Which is mentioned first in the Mishnah.

(39) The law concerning the blasphemer is contained in Num. XV, 30 in conjunction with prescriptions relating to offerings. I might have thought that this juxtaposition was to indicate that there is to be an offering in the case of blasphemy even against the otherwise valid rule that no sacrifice is offered except for a sin which involves an action.

(40) Which is undoubtedly an action.

(41) This is Rashi's version; while cur. edd. read only ‘demon’.

(42) Already mentioned in the Mishnah.

(43) I.e., that he should help him in his witchcraft, and not an act of worship.

(44) Which comes under a different prohibition, viz., Deut XVIII, 12 and does not involve kareth.

(45) I.e , to flagellation only.

(46) Sanh. 65a. It is these instances as enumerated in Sanh. that are the subject of a negative command only, while the exorcising of a demon is subject also to kareth.

(47) Deut. ibid. Lit. ‘and he who charms a charm’. The repetition of the term is to indicate that there are two kinds of charm.

(48) Although they are a source of danger to the public. When they follow him it is permitted by reason of the danger to his person.

Talmud - Mas. K'rithoth 4a

of the lips be considered an action?[1] — Said Raba: Different it is with the blasphemer, for it is the disposition of his heart[2] [that effects the sin]. But elsewhere the curving of the lips would be considered an action. R. Zera demurred to this: [We have learnt:] Zomemim[3] witnesses are exempt [from an offering] because they have done no action,[4] Why is this so? Is it not written in connection with them: By the mouth of two witnesses?[5] — Said Raba: Zomemim witness, too, are an exception, because the basis of evidence is seeing.[6]

WHEN ONE EATS HELEB. Our Rabbis taught: The text, Ye shall eat no heleb of ox, or sheep or goat,[7] [intimates] that one is liable [to a separate flagellation] for each kind [of heleb].[8] Thus R. Ishmael. But the Sages say: One is liable only once. Shall we say that this difference of opinion is based on the following principle: R. Ishmael holds one is liable to [a separate] flagellation for [each specification of] a collective prohibition,[9] while the Rabbis hold that one is not liable to [a separate] flagellation? — No, R. Ishmael indeed holds that one is ordinarily not liable [separately] for [each specification of] a collective prohibition, but our case is an exception, because the text is superfluous; for it should read, ‘Ye shall not eat any heleb’, why specify ‘of ox, or sheep or goat’, if not for the purpose of establishing a separate [prohibition for each of them]? And the Rabbis? — [They argue,] If ‘ox, or sheep or goat’ were not mentioned, I might have said that also the heleb of a beast of chase is included. It is for this reason that ‘ox, or sheep or goat’ was written, to tell us that only the heleb of ox, sheep or goat is forbidden, but that of the beast of chase is permitted. The Rabbis thus argue well, do they not? — Rather, this is the reason of R. Ishmael: He holds that if it were [as the Rabbis say] Scripture should have written: ‘Ye shall eat no heleb of an ox’, why have ‘sheep’ and ‘goat’ been mentioned, if not for the purpose of establishing a separate prohibition [for each of them]? The Rabbis, on the other hand, argue that if the Divine Law wrote, ‘no heleb of an ox’, I might have thought that the term ‘ox’ here was to be analogous to ox mentioned in connection with Sabbath:[10] As in the case of Sabbath the beast of chase and the fowl were included, so also in connection with the eating of heleb the beast of chase and fowl are included. It is for this reason that ‘ox, or sheep or goat’ were enumerated, to teach us that only the heleb of these is forbidden, but that of the beast of chase and the fowl is permitted. The Rabbis thus argue well? Rather, this is the reason [of R. Ishmael]: He holds [Scripture] should have written: ‘Ye shall eat no heleb of sheep’ or ‘Ye shall eat no heleb of goat’; why enumerate ‘ox, or sheep or goat’, if not in order to establish a separate [prohibition for each of them]. The Rabbis, on the other hand, argue: Had [Scripture] mentioned only ‘no heleb of sheep’,[11] might have assumed that only the heleb of sheep was forbidden, but that of ox and goat was permitted. And if you were to ask, why should sheep be an exception, [the retort would be] because it was singled out in that its fat-tail is offered upon the altar, even as R. Hanania taught:[11] Why has [Scripture] enumerated separately the emurim[12] of the ox, and the emurim of the sheep and the emurim of the goat, as it is written:[13] But the firstling of an ox, etc.?[14] It is necessary; for if ‘ox’ alone was written, I would not have derived ‘sheep’ and ‘goat’ from it, for I might object that ‘ox’ was an exception, since it is singled out with regard to libations.[15] Had the Divine Law written only ‘sheep’, so that ‘ox’ and ‘goat’ should be derived from it, I might object that ‘sheep’ was an exception,since it was singled out in that its fat-tail [is offered upon the altar].[16] Had the Divine Law written only ‘goat’, so that ‘ox’ and ‘sheep’ should be derived from it, I might object that ‘goat’ was an exception, since it was singled out [as the offering] for idolatry.[17] We thus cannot derive from any single one the other two. But why did not Scripture mention two and we might have derived the third from them? — Which one? Shall we derive ‘ox’ from ‘sheep’ and ‘goat’? I might object that ‘sheep’ and ‘goat’ were an exception, since they were both singled out to be offered as a paschal sacrifice.[18] If [Scripture] would not have written ‘sheep’, leaving us to derive it from ‘ox’ and ‘goat’, [I would have objected] that ‘ox’ and ‘goat’ were an exception, since they were both singled out as offerings for idolatry.[19] If it would not have written ‘goat’, leaving us to derive it from ‘ox’ and ‘sheep’ [I would have objected] that ‘ox’ and ‘sheep’ were exceptions in that they were both singled out in some aspect [regarding the altar].[20] Hence they cannot be derived one from the other. Did not then the Rabbis argue well? — Rather, the reason of R. Ishmael is indeed as has been said at the outset: [viz.,] that if it were so [Scripture] should have written: ‘[Ye shall eat] no heleb’, and no more; and as to your objection that the mention of ‘ox’, ‘sheep’ and ‘goat’ was necessary to teach that the heleb of the beast of chase was permitted, surely the text [in question] occurs in connection with a similar text which relates to consecrated animals,[21] and a law is always illuminated by its context.[22] This implies [does it not] that the Rabbis do not hold that a law is illuminated by its context?[23] — No, all agree that a law is illuminated by its context but here they differ in the following: R. Ishmael holds that such [a law which is the subject of] a mere negative command is illuminated [by its context] whether [the latter is likewise the subject] of a mere negative command or of one involving kareth;[24] while the Rabbis hold that [a law which is the subject of] a mere negative command is illuminated [by its context] which is [the subject of a mere] negative command, but a law which is [the subject of] a mere negative command is not illuminated by [a context which is] the subject of [a negative command involving] kareth.[25] Or, if you wish, I can say that the reason of the Rabbis is [that the enumeration of the various kinds of fat was necessary to teach] that which is intimated in a question of R. Mari to R. Zebid: ‘If so, why should not the fat-tail of non-consecrated animals be altogether forbidden’?[26] He replied: ‘It is to provide against an argument such as yours that Scripture specifies, All heleb of ox, sheep or goat, to teach us that only those portions of fat which these three animals have in common are forbidden, to the exclusion [of the fat-tail].’[27] The enumeration of ‘ox’, ‘sheep’ and ‘goat’ is thus for the purpose of permitting for use the fat-tail of unconsecrated animals. R. Ishmael, on the other hand, will argue: If for this reason, Scripture should have said: ‘No heleb of ox and sheep’. Therefore when ‘goat’ was added, it was for the purpose of establishing a separate prohibition for each of them.

Said R. Hanina: R. Ishmael, however, agrees that with regard to offerings only one sin-offering is brought [for the several kinds of heleb]. What is the reason? Because this prohibition is not like that relating to incestuous relations.[28]

Our Sages have taught: [It is written:] And [he] shall do any one [sin], and also, And shall do these;[29] this is to render one liable for each transgression separately, so that if one ate [e.g.,] two portions of heleb of the same designation under two separate spells of unawareness, he is liable to two offerings; [similarly] if the portions were of two different designations,[30] though they were consumed under one spell of unawareness, one is liable to two offerings. Said Rami son of Hama to R. Hisda: It is right that where the portions were of one designation but consumed under two spells of unawareness one should be liable to two offerings, because [the break in] the spell of unawareness effected a division [between the two meals], but why should one be liable to two offerings in the case where the portions were of different designations and consumed under one spell of unawareness? Surely we need a break in the spell of unawareness to effect a division, which is not the case here? — He replied: Here we deal with the case where he ate heleb of nothar,[31] when he is liable on account of nothar and on account of heleb. Said he to him: If so, he should be liable also on account of the consecrated flesh?[32] — Rather, said R. Shesheth: It refers to one who ate the heleb of a consecrated animal and it is in accordance with R. Judah.[33] For it has been taught: If one eats heleb of nebelah,[34] or heleb of consecrated animals, one is liable on two counts. R. Judah holds, in the case of heleb of a consecrated animal, one is liable on three counts.[35] In Palestine[36] this answer was ridiculed; [for they argued] why did we not explain it as referring to portions of heleb from an ox, sheep and goat, and in accordance with R. Ishmael who maintained that one was then liable on three counts?

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(1) Why then is blasphemy excluded by the Sages?

(2) His utterance is only proof of his disposition, while in the case of idolatry worship, I.e., action is an integral part of the transgression.

(3) V. Glos.

(4) Sanh. ibid.

(5) Deut. XVII, 6 implying that the speech is the essence of evidence.

(6) The knowledge of facts makes them into witnesses; the utterance of the evidence is only a means of conveying their knowledge to others. Perception by the senses is considered no action.

(7) Lev. VII, 23.

(8) When eaten after one collective warning.

(9) The term לאו שבכללות which occurs also in Pes. 41b, Naz. 35b, B.M. 115b, Sanh. 63a and Tem. 7a seems to have a double connotation. Firstly, a prohibition which is not explicit but implied in the text, such as in Num. VI, 4 as expounded in Pes. 41b; secondly, as it is used here, a law which is joined in the text with others in one prohibitory commandment. In the first instance the question is whether one is liable to flagellation at all, in the second whether one is liable separately for each specification, if several of them were perpetrated together.

(10) Ex. XXIII, 22; cf. B.K. 54b. Thus Rashi's version and MSS. Cur. edd. read Mount Sinai instead of Sabbath.

(11) Bek. 5b. There the author of this dictum is given as R. Jose son of R. Hanina.

(12) I.e., those sacrificial portions offered upon the altar; v. Glos.

(13) Num. XVIII, 17. This question is not precisely formulated; not the term emurim is repeated, but the term ‘firstling’: ‘The firstling of an ox, or the firstling of a sheep, or the firstling of a goat’; v. Bek. ibid.

(14) The end of this passage is: Thou shalt make their fat smoke for an offering made by fire.

(15) With the sacrifice of an ox half a hin of wine is offered up on the altar, with a sheep and goat only a quarter of a hin; cf. Num. XXVIII, 14.

(16) V. Lev. III, 9.

(17) Cf. Ibid. IV, 27-28. This is explained with reference to idolatry by an individual, v. Hor. 8a.

(18) Cf. Ex. XII, 5.

(19) The ox for idolatry committed by the public, cf. Lev. IV. 13f.

(20) V. Bek. 5b. The respective distinctions of ‘ox’ and of ‘sheep’ as mentioned above are in reference to the altar.

(21) Lev. VII, 25. Which must of necessity exclude beasts of chase, since no such animals may be consecrated for the altar.

(22) Viz., that also the prohibition of heleb does not apply to beasts of chase.

(23) Surely they cannot disregard this hermeneutic principle.

(24) In cur. edd. the following text, which is obviously out of place here and is also considered by Rashi as a faulty version, is inserted here: (For the negative command,) any heleb of ox, sheep or goat, you shall not eat, (Lev. VII, 23) is illuminated by the negative command, It shall be a statute throughout your generations in all your dwellings that ye shall eat neither heleb nor blood (Lev. III, 17) which is written in connection with consecrated animals; and since the beast of chase is excluded from the category of consecrated animals, there would be no doubt as to the exclusion of beasts of chase, even if heleb unqualified was mentioned in the text. The enumeration of ‘ox’, ‘sheep’ and ‘goat’ is thus for the purpose of establishing a separate offering for each of them. Then, the mere negative command, ‘Ye shall eat no heleb ‘and the one contained in the verse of ‘it shall he a perpetual statute’ may be derived from one to which kareth is attached, in the text, For whosoever eateth the heleb of the beast of which men present an offering (Lev. VII, 25). As the latter intimates a division of the offerings, so also the former.

(25) V. Lev. VII, 25. The penalty of kareth is mentioned in connection with heleb of consecrated animals.

(26) Since it is called heleb in Scripture, v. Lev. III, 9.

(27) V. Hul. 117a.

(28) Where a separate negative command is attached to each offence.

(29) Referring to Lev. IV, 2: If any one shall sin through error, in any of the things which the Lord hath commanded not to be done, and shall do any one of them. The construction in Heb. מאחת מהנה is unusual. The juxtaposition of ‘one’ and ‘these’ is therefore taken to indicate that there is a plurality which bears the character of oneness, and a oneness which bears the character of a plurality, v. Sanh. 62a. This exposition is expressed here in the terminology of the Gemara, that the predicate shall do relates on the one hand to ‘one’ and on the other to ‘these’. V. p. 11, n. 3.

(30) E.g., the heleb of the kidneys and that of the bowels.

(31) I.e., sacrificial portions left over beyond the prescribed time. V. Glos.

(32) As a non-priest.

(33) I.e., the second instance of the dictum of the Sages refers in fact to the eating of one portion of heleb, and ‘of two designations’ means of a kind that is subject to a twofold prohibition, for according to R. Judah, there are two prohibitory laws in the case of sacred heleb.

(34) I.e., an animal not slaughtered in the prescribed manner. V. Glos.

(35) Because eating heleb of consecrated animals, as will be shown later, involves a twofold transgression, and as a non-priest eating sacred flesh, he is guilty of a third prohibition.

(36) Lit., ‘in the West’; v. Sanh. 17b.

Talmud - Mas. K'rithoth 4b

Why then was it not explained in accordance with R. Ishmael? Obviously because R. Hanina said that R. Ishmael admitted that in so far as offerings were concerned one was liable only to one[1] — for the same reason you cannot explain it in accordance with R. Judah; for R. Eleazar said: R. Judah, too, agreed that with regard to offerings one is liable only to one. Therefore, said Resh Lakish on behalf of Bar Tutani: It deals with one who ate two portions of heleb in two different dishes, and is in accordance with R. Joshua, who holds that the separation of dishes effects a division with regard to offerings.

[Stated] the text [above]: ‘If one eats heleb of nebelah, one is liable on two counts, [similarly] if one eats heleb of consecrated animals one is liable on two counts. R. Judah holds, in the case of heleb of consecrated animals, one is liable on three counts’. Said R. Shizbi to Raba: It is well on the view of R. Judah; for this reason are written three verses: It shall be a perpetual statute etc., Ye shall eat no heleb of an ox, or sheep or goat, and There shall no common man eat of the holy things;[2] constituting three negative commands. But what is the reason of the Rabbis? — They hold, The negative command, ‘It shall be a perpetual statute [etc.]’ deals with consecrated animals, and the negative command, ‘[No] heleb of an ox . . . ‘deals with unconsecrated animals. And both texts were necessary, for if the Divine Law had written only that of consecrated animals, I might have said that only the heleb of consecrated animals was forbidden by reason of their stringency, but that of unconsecrated animals was not [included in the prohibition]. Therefore the Divine Law wrote: ‘No heleb of an ox . . .’. And if only ‘no heleb of an ox’ was written, I might have thought that only the heleb of unconsecrated animals was forbidden, because it has not been excluded from the general prohibition; but as to the heleb of consecrated animals, since it has been excluded from the general prohibition,[3] I might have thought that since it is thus excluded, their fat is permitted;[4] therefore both texts are necessary. R. Judah, on the other hand, holds that when ‘no heleb of an ox’ is written[5] it relates also to consecrated animals.[6] This implies [does it not] that the Rabbis hold that a law is not illuminated by its context? — No, all agree that a law is illuminated by its context, but they differ in the following: R. Judah holds that a law which is the subject of a mere negative command is illuminated by its context, whether the latter is likewise the subject of a mere negative command or of one involving kareth; while the Rabbis hold that a law which is the subject of a mere negative command is illuminated by its context which is also the subject of a mere negative command, but a law which is the subject of a mere negative command is not illuminated by its context which is the subject of a native command involving kareth.[7]

It has been taught: [From the text,] ‘Ye shall eat neither heleb nor blood’, [we learn:] Just as for heleb one is liable to a twofold flagellation’ so also for blood. Thus the view of R. Judah; while the Sages say: There is only one prohibition.[8] But why is heleb different in that one is liable for it to a twofold flagellation, even though there is no hekkesh[9] [to support it]? Obviously because there is written in Scripture concerning it two texts: ‘Ye shall eat neither heleb nor blood’, and ‘[Ye shall eat no] heleb of an ox or sheep’; then similarly in the case of blood even without the hekkesh,[10] one should be liable to a twofold flagellation,[11] since Scripture has written in connection therewith two texts: ‘Ye shall eat neither heleb nor blood’ and ‘Ye shall eat no manner of blood, whether it be of fowl or of beast, in any of your dwellings’?[12] — Rather read thus: Just as for heleb[13] one is liable to a threefold flagellation, so also for blood[13] one is liable to a threefold flagellation. But why is heleb different in that one is liable for it to a threefold flagellation? Obviously because there is written in connection therewith the two negative commands mentioned above, and because of the negative command [relating to the eating of holy things by] a non-priest,[14] making altogether three; then the same applies to blood![15] — [The hekkesh] is necessary, for I might otherwise have thought, since blood is excluded from the law of sacrilege,[16] it is also excluded from the law concerning the [eating of holy things by a] non-priest. It is for this reason that the hekkesh is necessary. And as to the Rabbis,[17] what is the purpose of the hekkesh? — It is required for what has been taught: ‘Ye shall eat neither heleb nor blood’; just as heleb is singled out in that it is distinct from its flesh,[18] and thus does not combine with the latter,[19] so also with blood, [it does not combine with the flesh] whenever it is distinct from its flesh,[20] to the exclusion of the blood of a reptile:[21] since the blood of the reptile is not distinct from its flesh,the two combine.[22] But is this law[23] derived from here, is it not rather derived from the following: The text, And these are they which are unclean unto you,[24] teaches that the blood of a reptile and its flesh combine with one another?[25] — If it were not for the hekkesh I might have thought [the law referred] to defilement,[26] but not to eating; the hekkesh therefore informs us that [the law refers] also to eating. Said Rabina: Consequently the blood of a snake[27] and its flesh[28] combine one with the other. Is this not obvious; it is just [the conclusion drawn from] the hekkesh? I might have thought that with the case of other reptiles,[29] since the law applies in respect of uncleanness, it applies also in respect of eating; but in the case of a snake, since it does not apply in respect of defilement,it does not apply also in respect of eating; therefore he[30] lets us know that the hekkesh is to comprise everything in which the blood is not distinct from its flesh.

Said Raba: Wherefore has kareth been pronounced three times[31] in connection with blood? One [pronouncement] refers to blood of unconsecrated animals, the other to blood of consecrated animals, and the third to the dripping blood.[32] This is right according to R. Judah, for it has been taught: The dripping blood is the subject of a mere prohibition; R. Judah says it involves kareth. But according to the Rabbis,[33] what is the purpose [of the third pronouncement]? And even according to R. Judah, is not the application of kareth[34] rather derived from the term ‘all blood’? For it has been taught: ‘R. Judah said, [The word] ‘blood’ [would suffice in the text],[35] why does it read ‘all blood’? I might have thought that only the blood of consecrated animals, and that only with which life departs, was meant, because this blood brings about atonement;[36] whence do we know then blood of unconsecrated animals and dripping blood? It is for this reason that ‘all blood’ was written’! — Rather say thus: One [pronouncement] refers to blood of unconsecrated animals, the other to blood of consecrated animals, and the third to blood that has been covered.[37]

Raba also said, Wherefore have five negative commandments been mentioned in connection with blood?[38] One for blood of unconsecrated animals, the other for blood of consecrated animals, the third for covered blood, the fourth for blood left in the limbs and the fifth for the dripping blood.

R. Ela said: If one eats[39] of the [second] tithe of corn, of wine and of oil, one is liable to a threefold flagellation. But are [separate] lashes administered for [each specification of] a collective prohibition? This case is an exception for the text is redundant. Consider: The Divine Law states, And thou shalt eat before the Lord thy God [in the place which He shall choose to cause His name to dwell there], the tithe of thy corn, of thy wine and of thine oil,[40] [from which we may infer that these shall be consumed] within [the precincts of Jerusalem] and not without; wherefore does the Divine Law repeat: Thou mayest not eat within thy gates the tithe of thy corn, of thy wine and of thine oil,[41] if not for the purpose of establishing separate [prohibitions for each specification]? But [it may be retorted], if [I had] the first text [only to go by], I would say it is the subject only of a positive command, but not of a negative command.[42] It was thus essential

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(1) I.e., though several negative commandments are transgressed, and the administration of lashes is therefore accordingly repeated, with reference to expiation by sacrifice they are regarded as one.

(2) Lev. III, 17; VII, 23 and XXII, 10.

(3) It is permissible to the altar.

(4) V. Sh. Mek. for this reading.

(5) V. Lev. VII, 23-25.

(6) So that there are two negative commands concerning heleb of consecrated animals.

(7) For notes v. supra 4a. In cur. edd. the following faulty text (v. Rashi) is inserted here: ‘But according to R. Judah for what purpose does Scripture mention the passage, Ye shall eat neither heleb nor blood (Lev. III, 17)? — To establish an analogy’.

(8) And consequently there can be only one administration of lashes.

(9) v. Glos.

(10) The textual analogy comparing blood to heleb.

(11) I.e., the mere repetition of the negative command is sufficient to establish a twofold flagellation. The fact of the juxtaposition of heleb and blood in the text is thus unaccounted for.

(12) Lev. VII, 26.

(13) Viz., of a consecrated animal.

(14) Ibid. XXII, 10. comprising apparently heleb as well as blood.

(15) What need is there then for the analogy.

(16) Thus the version of Rashi. Cur. edd. read ‘uncleanness’. Cf. Hul. 117a.

(17) According to whom blood of a consecrated animal is excluded from the law concerning the non-priest.

(18) The law of heleb singles out a certain portion of the animal and forbids it for use, while the rest of the body is permitted.

(19) Viz., to make up the requisite quantity sc. of an olive-size. I.e.,if one eats a fraction of an olive of heleb and the supplementary fraction of flesh, one is not liable to lashes, for the flesh is not forbidden.

(20) Whereas the penalty of kareth attaches to the blood, the flesh of an unclean animal does not carry such a penalty, and consequently blood and flesh do not combine not even with regard to uncleanness.

(21) Which is not prohibited as blood but as part of the reptile, cf. infra 21b.

(22) Viz., with reference to uncleanness and eating.

(23) Viz., the one relating to reptiles.

(24) Lev. XI, 29.

(25) V. Me'il. 17a.

(26) I.e., the combination of blood and flesh is adopted only with reference to defilement which is more stringent, in so far as the standard quantity is a lentil, while for eating an olive-size is required.

(27) Which does not cause defilement, but is forbidden for eating.

(28) I.e., now that we know that the rule concerning the combination of flesh and blood applies also to eating.

(29) Viz., the eight reptiles that are unclean.

(30) Viz., Rabina.

(31) Lev. VII, 27; XVII, 10 and 14.

(32) I.e.,the blood which, after a while, flows gently from the cut artery, in opposition to the blood which gushes forth immediately after the cut has been made, and with which life is considered to depart; cf. infra 22a.

(33) Those who dispute with R. Judah.

(34) Viz., to dripping blood.

(35) Lev. XVII, 10, which deals with the prohibition of blood.

(36) This gushing blood alone may be used for sprinkling, cf. Pes. 65a. This restriction of the law to blood suitable for atonement might have found a support in the following passage: And I have given it to you upon the altar to make atonement far your souls (ibid. 11).

(37) The blood of fowls and beasts has to be covered, cf. Lev. XVII, 13. This blood is prohibited even though it has been mixed with dust. This answer complies with the view of the Rabbis, for according to R. Judah blood of unconsecrated animals is derived by implication from ‘all blood’.

(38) Viz., Ibid. III, 17; VII, 26; XVII, 14; Deut. XII, 16 and 23.

(39) Viz., outside Jerusalem. Second tithe or its equivalent has to be consumed in Jerusalem; cf. Deut. XIV, 22f. In v. 23 corn, wine and oil are enumerated as specifications of the general law.

(40) Deut. XIV, 23.

(41) Ibid. XII, 17.

(42) Lashes are inflicted only for the transgression of a prohibitory law and not for the omission of a positive injunction. The prohibition derived by implication from a positive commandment bears in this respect the status of a positive commandment.

Talmud - Mas. K'rithoth 5a

that the Divine Law should write, ‘Thou mayest not [eat] . . .’ in order to make it the subject of a negative command. [The question thus] still [stands]. Is it not a collective prohibition? — If it were so, Scripture should have said, ‘Thou mayest not eat them within thy gates’, why specify, ‘the tithe of thy corn, thy wine and thine oil’, if not in order to establish separate prohibitions for each of them?

Said R. Isaac: if one eats of the bread, of the parched corn and of the fresh ears,[1] one is liable to a threefold flagellation. But are [separate] lashes administered for [each specification of] a collective prohibition? — This is an exception, as the text is redundant; for Scripture should have stated only ‘bread’, and ‘parched corn’ and ‘fresh ears’ would have been derived therefrom. But one might in this case have objected: ‘Bread’ is different because it is subject to hallah?[2] — Then ‘parched corn’ alone should have been written omitting ‘bread’,[3] and we would derive the others therefrom! — But ‘bread’ could not be derived from ‘parched corn’, because ‘parched corn’ is a produce in its natural state, while ‘bread’ is not in its natural state; similarly ‘fresh ears’ could not be derived from ‘parched corn’, because ‘parched corn’ is distinguished in that it is fit for meal-offerings,[4] while ‘fresh ears’ are not fit for meal-offerings? — Then ‘fresh ears’ alone should have been written, and we could derive ‘bread’ and ‘parched corn’ therefrom! But,then, I would object, ‘fresh ears’ were different in that they retain their original character. It is thus established that from any single one the other two cannot be derived; but let us derive one from two? — Now, if ‘bread’ was not written, leaving it to be derived from ‘parched corn’ and ‘fresh ears’, I might object, these two were distinguished in that they are in their natural form. If ‘fresh ears’ was not written, leaving them to be derived from ‘bread’ and ‘parched corn’, I might object that these two were distinguished in that they are included in the law of meal-offering?[5] — R. Isaac will tell you: [Scripture] should not have written ‘parched corn’, leaving it to be derived from ‘bread’ and ‘fresh ears. For what objection could then be raised? If you argued: ‘Bread’ was exceptional in that it is subject to hallah, ‘fresh ears’ will prove the contrary; and if that ‘fresh ears’ were exceptional because they retain their original character, ‘bread’ will prove the contrary. It is from this superfluous text that we learn that separate lashes are inflicted [for each specification]. But why not say then, that ‘parched corn’, the mention of which is superfluous, is singled out for flagellation,[6] but if one eats them all, one is still liable only once to flagellation? — If this were so, Scripture should read in this order: ‘Bread!, ‘fresh ears’ and ‘parched corn’, or ‘parched corn’, ‘bread’ and ‘fresh ears’; why is ‘parched corn’ placed between the other two, apparently that we may understand it thus: For ‘bread’ just as for parched corn’ one is liable [to a separate flagellation], and for ‘fresh ears just as for ‘parched corn’ one is liable [to a separate flagellation].

Said R. Jannai: Never treat a gezerah shawah[7] lightly, for behold the law of piggul,[7] which is one of the essential precepts of the Torah,[8] has been derived through a gezerah shawah; even as R. Johanan said: Zabda son of Levi taught: Elsewhere we read, Everyone that eateth it shall bear his iniquity,[9] and here we read, And the soul that eateth of it shall bear his iniquity;[10] as there[11] the penalty prescribed is kareth, so also here it is kareth.

Said R. Simai: Never treat a gezerah shawah lightly, for behold the law concerning nothar,[12] which is one of the essential precepts of the Torah,[13] has only been derived through a gezerah shawah. What is [the gezerah shawah]? — The derivation of kodesh [holy] from kodesh [in the following texts]: Everyone that eateth it shall bear his iniquity, because he hath profaned the holy thing of the Lord,[14] and Thou shalt burn the nothar with fire, [it shall not be eaten] because it is holy.[15]

Said Abaye: Never treat a gezerah shawah lightly, for behold the law concerning a man's daughter from an outraged woman is one of the essential precepts[16] of the Torah, and yet it has been derived only through a gezerah shawah,’ as Raba said: R. Isaac son of Abdimi told me: As to the prohibition, this law is derived from the similarity of the expression hennah,[17] and with regard to the penalty of burning from the similarity of the expression zimmah.[18]

Said R. Ashi: Never treat a gezerah shawah lightly, for death by stoning [as a penalty for many transgressions] is an essential regulation of the Torah, and yet [in several cases] it has been derived only through a gezerah shawah, as it has been taught:[19] We find here[20] the expression demehem bam[21] and we find the same expression in connection with ob and yidde'oni:[22] As in the latter case the penalty prescribed is stoning, so also in the former case it is stoning.

WHEN ONE COMPOUNDS OIL [OF ANOINTING] . . . Our Rabbis have taught: If one compounds oil [of anointing] for experimenting or with the intention to hand it over to the community, he is not culpable; if for anointment he is culpable, though the person that anoints himself therewith is exempt, because the transgression concerning the use of the oil is limited to the oil of anointment which Moses himself compounded.[23] The Master said: ‘If for experimenting or with the intention to hand it over to the community, he is not culpable’. Whence do we know this? — It is derived by means of the common expression mathkunto[24] mentioned here and in connection with incense. And with reference to incense it is written, Ye shall not make unto yourselves,[25] which implies that one is culpable only if compounded for oneself, but not with the intention to hand it over to the community; similarly with regard to the oil, if it is compounded with the intention to hand it over to the community, one is exempted. But why not then again derive incense from the oil: Just as in the case of the oil one is exempted if one compounded half the prescribed quantity, so also with incense, he should be exempted if he compounded half the prescribed quantity; why then did Raba say:[26] If one compounds incense in half the quantity prescribed, he is culpable, but if one compounds oil in half the quantity, he is exempt? — Raba will reply: In connection with oil it is written, Ye shall not make any like it according to the composition thereof’ ‘Like it’ it is prohibited, but in half the prescribed quantity it is permitted; but in connection with incense, it is written, And the incense which thou shalt make:[27] All compounding of incense [is forbidden], for one can offer up half the quantity in the morning and half in the evening.[28]

Our Rabbis have taught: [The composition of the] oil of anointment is [as follows]: Five hundred shekels of flowing myrrh, five hundred of cassia, five hundred of sweet cinnamon and two hundred and fifty of sweet calamus, together one thousand seven hundred and fifty shekels. Was it necessary for the Tanna to state the sum total? — To obviate the following assumption,[29] for one might say, Sweet calamus was like sweet cinnamon: as with sweet cinnamon the figure two hundred and fifty [mentioned in the text] is half the prescribed quantity, so also with reference to sweet calamus,[30] in which case the total weight would be two thousand. And indeed why not say so? Then it should have written: ‘Sweet cinnamon and sweet calamus, half so much of each, even two hundred and fifty shekels’.

R. Papa asked Abaye: When one weighs [the incense],[31] does one weigh it with’ overweight or exactly? — He replied: The Divine Law has written, ‘Of each shall there be a like weight’,[32] and you say that there shall be an overweight. But did not Rab Judah say, The Holy One, blessed be He, takes note of overweight [in incense],[33] which obviously implies that it had an overweight? — Rather, said R. Judah: Why are the five hundred shekels of sweet cinnamon taken in two portions of two hundred and fifty each? Since the total quantity is five hundred, why not bring the whole at a time?[34] From the fact that sweet cinnamon is brought in two portions we may infer that there was an overweight each time,[35] and [to be sure] the Holy One, blessed be He, takes note of overweight. And what is the meaning of, ‘Of each shall there be a like weight’? — Said Rabina: That one should not weigh first with the weight and use afterwards the weighed amount as a weight for the others.

The Rabbis have taught: The oil [of anointment] which Moses compounded in the wilderness was boiled with the roots [of the spices];[36] thus the view of R. Judah. Said to him R. Jose: Surely the oil[37] would not suffice even for smearing the roots;[38] what then did he do? He boiled[39] the roots in water,[40] poured over them the oil, which thus absorbed the scent, and wiped off [the oil from the roots].[41] R. Judah said to him:

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(1) Viz., of the new crop, prior to the offering of the ‘Omer sacrifice, Lev. XXIII, 10f.

(2) V. Glos.

(3) As well as ‘fresh ears’.

(4) Viz., the ‘Omer meal-offering, cf. Lev. II, 14 and Men. 66b. Rashi indeed reads here: ‘the meal-offering of the ‘Omer’.

(5) Bread is offered on Pentecost. Since then all the three specifications are necessary, whence does R. Isaac derive his ruling?

(6) I.e., that one is liable to lashes if one has eaten parched corn alone. The redundant text is to teach us that the flagellation is not conditional in every case upon the eating of the three enumerated products together.

(7) V. Glos.

(8) Viz., the fact that kareth is attached to it. Although the penalty of kareth is mentioned in the text relating to piggul, Lev. XIX, 8, the Gemara's exposition in Zeb. 28a of this passage is that the pronouncement of kareth refers to an offering disqualified by the improper intention to offer it outside the Temple precincts, and not to piggul in the narrower sense, viz., a sacrifice disqualified by the thought of eating its flesh beyond the prescribed time.

(9) Ibid. Lev.

(10) Ibid. VII, 18, understood to relate to piggul in the narrower sense.

(11) Which deals with disqualification by an improper intention relating to the place of offering, and where kareth is explicitly mentioned.

(12) V. Glos.

(13) Viz., the fact that kareth is attached to it.

(14) Lev. XIX, 8; the penalty of kareth follows.

(15) Ex. XXIX, 34.

(16) Viz., that this form of incest is subject to death by burning.

(17) Lit., ‘they are’, an expression used twice in connection with incest; firstly in Lev. XVIII, 17 dealing with the prohibition of intercourse with a woman and her daughter, both married unto him or not; and then in v. 10 relating to the prohibition of intercourse with one's grand-daughter. The latter text is interpreted in Yeb. 97a as referring to the grand-daughter from an outraged woman, and not of one legally married to him. We thus find explicitly that one's grand-daughter from an outraged woman is forbidden. The daughter of an outraged woman is not explicitly mentioned, but the gezerah shawah establishes an analogy between a married woman (v. 17) and an outraged woman (v. 20): as in the first instance daughter and grand-daughter are on the same footing, so also in the latter.

(18) Lit., ‘lewdness’, mentioned in Lev. XVIII, 17 and XX, 14 where the prescribed penalty is burning, v. Sanh. 51a.

(19) Sanh. 54a.

(20) Referring to the four laws where this term is found: Lev. XX, 11, 12, 13, 16.
(21) Tr. ‘Their blood shall be upon them’.
(22) V. Glos.; v. ibid. 27.
(23) Tosef. Mak. III, 1.
(24) ‘According to its composition’ mentioned in Ex. XXX, 32 in correction with oil of anointing, and in v. 37 relating to incense.
(25) Ibid. ‘Unto yourselves’ is taken in a restrictive sense.
(26) V. infra 6b.
(27) Ibid. vv. 32 and 37.
(28) V. Lev. VI, 13ff.
(29) Lit., ‘this is his difficulty’.
(30) I.e., that the qualification ‘half’ in the text referred both to sweet cinnamon and to sweet calamus.
(31) I.e., its components.
(32) Ex. XXX, 34.
(33) And rewards accordingly. V. Sh. Mek.
(34) As with the first two species.
(35) The division was for the purpose of adding a greater overweight of cinnamon.
(36) Hor. 11b.
(37) Altogether there were only twelve logs.
(38) How much less to have the species boiled therein!
(39) The version in Hor. and of Rashi here is ‘soaked’.
(40) So that they were saturated with liquid and did not absorb much of the oil when it was poured over them.
(41) And placed it in the flask.

Talmud - Mas. K'rithoth 5b

Is this the only miracle that occurred in connection with the oil of anointment? Was it not attended by many miracles from beginning to end! There were only twelve logs of oil and yet with it were anointed the Tabernacle and its vessels, Aaron and his sons throughout the seven days of the consecration, and the high priest and kings, and yet it remained whole for the days to come, as it is written: This shall be a holy anointing oil unto Me throughout your generations.[1] [The numerical value of] Zeh [this] is twelve, meaning that this quantity was preserved.

Our Rabbis taught: And Moses took the anointing oil and anointed the tabernacle.[2] R. Judah said: Many miracles attended from the beginning to the end the anointing oil which Moses made in the wilderness. There were originally only twelve logs; [consider] how much of it must have been absorbed in the boiler, how much in the roots of the spices, and how much of it was burnt by the fire, and yet with it were anointed the Tabernacle and its vessels, Aaron and his sons throughout the seven days of the consecration, and the high priests and kings. Even a high priest who is the son of a high priest requires anointing, though a king who is the son of a king does not require anointing. And if you ask, Why then was Solomon anointed?[3] Because Adoniah disputed his right of succession; similarly Jehoash [was anointed][4] by reason of Athaliah's [claim to the throne], and Jehoahaz[5] by reason [of the claim to the throne] of his brother Jehoiakim who was two years[6] his senior.[7]

The Master said: ‘Even the high priest who is the son of a high priest requires anointing’. Whence do we know this? — It is written: And the anointed priest that shall be in his stead from among his sons.[8] The text should have stated: ‘And the priest that shall be in his stead from among his sons’, why [add] ‘anointed’, if not to let us know that even from among his sons only the one that is anointed can be high priest, but he who is not anointed cannot be high priest.

The Master said: ‘A king who is the son of a king does not require anointing’. Whence do we know this? — Said R. Abba b. Jacob: It is written, That he may prolong his days in his kingdom, he and his children, for all days;[9] it is an inheritance.

‘Why then was Solomon anointed? Because Adoniah disputed his right of succession’. ‘Whence do we know that in a case of dispute anointing is required, and that it does not suffice that the king entrusts his kingdom to whomsoever he chooses? — Said R. Papa: It is written there, In the midst of Israel; only if there is peace in Israel [is it an inheritance].[10]

A Tanna taught: Also Jehu son of Nimshi was anointed only by reason of the claim to the throne by Joram son of Ahab. Was it indeed for this reason? ‘Was he not the first king of the dynasty? — The text is incomplete and should read thus: Kings from the House of David were anointed but not the kings of Israel. And if you ask: ‘Why then was Jehu son of Nimshi anointed? Because of the dispute of Joram son of Ahab.

The Master said: ‘Kings from the House of David were anointed, but not the kings of Israel’. ‘Whence do we know this? — It is written: Arise, about him, for this is he:[11] This one[12] requires anointing but not others.

The Master said: ‘By reason of the claim to the throne by Joram’. Were we indeed justified to commit sacrilege[13] with the oil of anointing solely by reason of the claim to the throne by Joram son of Ahab? — As R. Papa replied elsewhere: It was done with pure balm; so here too: It was done with pure balm.[14]

‘And Jehoahaz by reason of the claim to the throne by his brother Jehoiakim who was two years his senior’. ‘Was he indeed older, is it not written: And the sons of Josiah: the first-born Johanan, the second Johoiakim, the third Zedekiah and the fourth Shallum;[15] upon which R. Johanan remarked that Johanan was identical with Jehoahaz and Zedekiah with Shallum![16] — Jehoiakim was indeed older, and [the other] was called first-born, because he was first in succession. But is it permitted to install the younger son in preference to the older? Is it not written: And the kingdom he gave to Jehorom for he was the first-born?[17] — That one followed in his forefather's footsteps.[18]

The Master said: ‘Shallum is identical with Zedekiah’. But are not the sons enumerated in numerical order?[19] — He [Zedekiah] is called ‘the third’, because he was the third among the sons, and he is called ‘the fourth’, because he was the fourth to reign, for Jeconiah reigned before him: Jehoahaz was the first successor, then followed Jehoiakim, then Jeconiah and then Zedekiah.

Our Rabbis taught: Shallum is identical with Zedekiah; and why was he called Shallum? Because he was perfect [‘shalem’] in his deeds; or according to another explanation, because the kingdom of the House of David ended [shalem][20] in his days. ‘What was his real name? — Mattaniah, as it is written, And the king of Babylon made Mattaniah his father's brother king in his stead, and changed his name to Zedekiah,[21] for the king [Nebuchadnezzar] said to him, God may deal severely[22] with thee, if thou wilt rebel against me, as it is written, And he brought him to Babylon,[23] and also, And He also rebelled against king Nebuchadnezzar who had made him swear by the Lord.[24] But was there any oil of anointing at that time?[25] Has it not been taught: ‘When the holy ark was hidden there disappeared with it the jar of manna,[26] the flask of the oil of anointing, the rod of Aaron together with its almonds and blossoms,[27] and the coffer which the Philistines had sent as a present to the God of Israel, as it is written: And put the jewels of gold, which ye return Him for a guilt-offering, in a coffer by the side thereof.[28] ‘Who hid it? Josiah, king of Judah, hid it, as it is written: And he said, put the holy ark [in the house which Solomon the son of David did build: there shall no more be a burden upon your shoulders].[29] [As to the other articles:] R. Eleazar said: [Their disappearance is] inferred by the common expressions of sham, doroth and mishmereth.[30] Replied R. Papa: It was done with pure balm.

Our Rabbis have taught: In anointing kings one draws the figure of a crown,[31] and with priests in the shape of the letter chi. Said R. Menashia: The Greek-[letter] chi is meant. One [Tanna] teaches: The oil was first poured over the head and then smeared between the eye-lids; whereas another [Tanna] teaches: The oil was first smeared between the eye-lids and then poured over the head.[32] [On this point there is] a dispute of Tannaim: One holds that the anointing[33] has preference; the other holds that the pouring has preference. What is the reason of him who holds that the pouring has preference? He derives it from: And he poured from the anointing oil upon Aaron's head [and anointed him to sanctify him].[34] And he who maintains anointing has preference holds [his view] because this was the method employed in connection with the vessels of ministry.[35] But is it not written first: 'And he poured', and then, 'and anointed'? — This is what it means: 'Wherefore did he pour the oil, because he had already anointed him to sanctify him.

Our Rabbis have taught: It is like the precious oil upon the head [coming down upon the beard, even Aaron's beard].[36] Two drops of the oil were hanging down like pearls from Aaron's beard. Said R. Kahana; It was taught, 'When he [Aaron] spoke, the drops moved upwards and rested by the roots of his beard. This caused anxiety to Moses. Perhaps, Heaven forfend, [he said] I have committed sacrilege with the oil of anointing![37] But a heavenly voice was heard, saying: Like the dew of the Hermon, that cometh down upon the mountains of Zion;[38] as the dew is not subject to sacrilege, so the oil that cometh down upon the beard of Aaron is not subject to sacrilege. Yet Aaron was still worried: 'Although Moses did not commit sacrilege, I myself am guilty of sacrilege'. Thereupon the heavenly voice pronounced: Behold how good and how pleasant it is for brethren to dwell together in unity:[39] As Moses is not guilty of sacrilege, so thou too art not guilty of sacrilege.

Our Rabbis have taught: Kings are anointed only by the side of a spring, so that their rule be prolonged,[40] as it is written: And the king said unto them . . . and bring him down to Gihon . . . and anoint him there.[41] Said R. Ammi: 'When one wishes to know whether he will survive the coming year or not, let him take a burning lamp during the ten days between New Year and the Day of Atonement and place it in a house where there is no draught; if the lamp burns out to the end, he will know that he will survive the year. And if one is about to engage in business and wishes to know whether he will succeed or not,let him get a cock and feed it; if it grows fat and handsome, he will know that he will succeed. When one is about to go on a journey and wishes to know whether he will return home, let him enter a darkened room;[42] if he can perceive

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(1) Ex. XXX, 31.

(2) Lev. VIII, 10.

(3) V. I Kings I, 39.

(4) V. II Kings XI, 12.

(5) V. ibid. XXIII, 30.

(6) V. II Chron. XXIII, 31 and 36.

(7) In Hor. the text continues: And yet that oil remained whole for the days to come.

(8) Lev. VI, 15.

(9) Deut. XVII, 20 where instead of the last three words, it reads: In the midst of Israel. In Hor. this copyist's error is not to be found.

(10) But if there is dissension concerning the throne, the successor has to be specially sanctified and anointed.

(11) I Sam. XVI, 12.

(12) Or such a one i.e., one belonging to this dynasty.

(13) In using the oil for the anointing of a king, who does not require this according to the Torah, we transgressed the law of sacrilege.

(14) And not with the proper oil of anointing.

(15) I Chron. III, 15.

(16) Thus the version of Rashi. The text thus states that Jehoahaz was the firstborn.

(17) II Chron. XXI, 3.

(18) I.e., he (Jehoram) was like his father a pious man, at the time of succession. He became corrupted later on. Jehoiakim, on the other hand, did not follow, in his father's ways and could not therefore exercise his right as firstborn.
(19) Obviously implying that they were not identical.
(20) Both ‘perfect’ and ‘ended’ may be conveyed by the term ‘shalem’.
(21) 11 Kings XXIV, 17.
(22) From the root zedek’, strict justice.
(23) II Chron. XXXVI, 10. This phrase actually refers to Jehoiakim. The latter part of the verse is meant: And he appointed Zedekiah his brother king over Judah and Jerusalem.
(24) Ibid. v. 13.
(25) Viz., the time of Jehoahaz, whose anointment is mentioned above.
(26) Cf. Ex. XVI, 33.
(27) Num. XVII, 23.
(28) I Sam. VI, 8. This implies that the coffer had to be by the side of the ark. With the disappearance of the ark also the coffer had gone
(29) II Chron. XXXV, 3. Cf. J. Shek. I, 1 where the latter part of the passage is understood to imply that after the removal of the ark from the Temple at the time of the exile, it shall not be restored again to its place.
(30) Sham (‘there’) is mentioned in connection with the ark in Ex. XXX, 36 and with the manna in XVI, 33. Doroth (‘generations’) in connection with the manna ibid. and with the sacred oil, ibid. XXX, 31. Mishmereth (‘guard’) in connection with the manna ibid, and with Aaron's rod in Num. XVII, 25. Manna is thus derived from the ark; and the other two articles from manna. At all events, we learn therefrom that there was no oil of anointing at the time of Jehoahaz.
(31) I.e., a circle round the head.
(32) These two centres of oil are joined with one another and extended to the neck, Rashi.
(33) I.e., the smearing of the forehead.
(34) Lev. VIII, 12. Pouring is mentioned first.
(35) Lev. VIII vv. 10-11.
(36) Ps. CXXXIII, 2.
(37) By using too much of it.
(38) Ibid. v. 3.
(39) Ibid. v. 1.
(40) Like the spring of water.
(41) I Kings 1, 32-34.
(42) Some versions here and in Hor. 12a read ‘house of his neighbour’ instead of ‘darkened room.

Talmud - Mas. K'rithoth 6a

the reflection of his shadow, he will know that he will return home. But it is not the proper thing [to make these tests], for one might be discouraged and mar his fortune. Said Abaye: Since you hold that symbols are meaningful, every man should make it a habit to eat on New Year pumpkin, fenugreek, leek, beet and dates.[1]

R. Mesharsheya said to his sons: ‘When you wish to come before your teacher to learn, revise at first your Mishnah and then go to your teacher; and when you are sitting before your teacher look at the mouth of your teacher, as it is written: But thine eyes shall see thy teacher;[2] and when you study any teaching, do so by the side of water, for as the water is drawn out, so your learning may be prolonged. Be on the dustheaps of Matha Mehasia rather than in the palaces of Pumpeditha.[3] Eat a stinking fish rather than cutha[4] that breaks rocks.

And Hannah prayed and said: my heart exulteth in the Lord, my horn is exalted.[5] It says, ‘my horn is exalted’, but not ‘my jar is exalted’. David and Solomon were anointed from a horn,[6] and therefore their rule was prolonged; Saul and Jehu, however, were anointed from a jar,[7] and their rule[8] was not prolonged.

WHEN ONE COMPOUNDS INCENSE. Our Rabbis have taught: ‘When one compounds incense for experimenting or in order to hand it over to the community, he is culpable; if in order to smell of it, he is guilty. He who smells it[9] is not culpable,[10] but he is guilty of sacrilege.[11] But is smelling subject to the law of sacrilege? Has not R. Simeon son of Pazzi stated in the name of R. Joshua son of Levi on behalf of Bar Kappara: Hearing, seeing and smelling[12] are not subject to the law of sacrilege?[13] — The reference to smelling means, after the pillar of the [incense] smoke has ascended,[14] in which case it is not subject to the law of sacrilege, for nothing is subject to the law of sacrilege, after the prescribed command has been performed therewith. Is this indeed so? Behold the separation of the ashes[15] is subject to the law of sacrilege, although the prescribed, command has been performed therewith. — The law concerning the separation of the ashes and that of the garments of the High Priest[16] are two texts teaching the same thing, and where two texts teach the same thing no inference may be made [from them].[17] This is right according to the Rabbis, but what is to be said according to R. Dosa? For it has been taught: And he shall place them [the garments] there,[18] [means] that they have to be hidden.[19] R. Dosa holds: They may be used by an ordinary priest, and ‘he shall place them there’ means that he [the high priest] shall not use it again on another Day of Atonement.[20] — The law concerning the separation of the ashes and that of the heifer whose neck is broken are two texts teaching the same thing, and where two texts teach the same thing no inference may be made [from them for other instances]. ‘What is the case of the separation of the ashes? — It has been taught: He shall place it by the side of the altar;[21] this teaches that it has to be hidden. ‘What is the case of the heifer whose neck is broken? — It has been taught: And shall break the heifer's neck there in the valley,[22] this teaches that it has to be buried. And even according to him who holds, one may infer for other instances where two texts teach the same thing, here indeed no inference can be made because there are two limitations. In connection with the separation of the ashes, it is written: ‘He shall place it’: It, and not anything else; in connection with the heifer whose neck is broken, it is written: Whose neck is broken;[23] only the one whose neck is broken and not anything else.

Our Rabbis have taught: The compound of incense consisted of balm, onycha, galbanum and frankincense, each in the quantity of seventy manehs;[24] of myrrh, cassia, spikenard and saffron, each sixteen manehs by weight; of costus twelve, of aromatic rind three, and of cinnamon nine manehs; of lye obtained from leek nine kabs;[24] of Cyprus wine three se'ahs[24] and three kabs, though if Cyprus wine is not available, old white wine may be used instead; of salt of Sodom[25] the fourth of a kab, and of ma'aleh ‘ashan[26] a minute quantity. R. Nathan says: Also of Jordan resin a minute quantity. If, however, honey is added, the incense is rendered unfit; while if one omits one of the ingredients,[27] he is liable to the penalty of death.[28] R. Simeon son of Gamaliel said: Balm is nothing but a resin which exudes from the wood of the balsam-tree; the lye obtained from leek was rubbed over the onycha in order to render it beautiful, and in the Cyprus wine the onycha was steeped that its odour might be intensified. In fact urine might well serve this purpose, but urine may not be brought within the precincts of the Temple. This[29] supports R. Jose son of R. Hanina, who says: It is holy and it shall be holy unto you,[30] implies that all work in connection therewith must be performed within the sacred precincts.

An objection was raised: If one dedicates his possessions to the Temple[31] and there are among them things fit for communal offerings, they shall be given to the [Temple] craftsmen as wages.[32] Now what is meant by ‘things fit [for communal offerings]’? If cattle or beast,[33] this has already been taught;[34] if wine, oil or fine flour, this has already been taught; hence It must refer to incense.[35] — Said R. Oshaia: [It refers to] that which is given to the craftsmen as their wages;[36] for we learnt: ‘What was done with the remnant of the frankincense? They set apart [an amount equivalent to the craftsmen's] wages [from the Temple Treasury], the remnant was then exchanged against this money, handed over to the craftsmen as their wages and then bought back again from them with the money of the new levy.[37] To this R. Joseph demurred: Surely in connection with all remnants it teaches:

‘And then it is bought back again from the new levy’; whereas in connection with this teaching,[38] this is not stated.[39] — Rather, said R. Joseph: It refers to one of the ingredients of the frankincense.[40]

Our Rabbis have taught: The frankincense consisted of three hundred and sixty-eight manehs;[41] three hundred and sixty-five[42] corresponding to the days of the solar year, and of the three remaining manehs the high priest took his hands full [into the holy of holies] on the Day of Atonement,[43] while the remnant was given to the craftsmen for their wages, as we have learnt: What was done with the remnant of the frankincense? They set apart an amount equivalent to the craftsmen's wages [from the Temple Treasury], the remnant was then exchanged against this money, handed over to the craftsmen as their wages and then bought back again from then, with the money of the Temple Chamber.[44]

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(1) These are regarded as symbols of fertility, abundance and quick growth.

(2) Isa. XXX, 20.

(3) A town which was reputed for violence and dishonesty; v. Hor. 12a (Sonc. ed.) for further notes on this passage.

(4) Cutha is a dish containing milk, breadcrumbs and salt. It is described in Pes. 42a as one which is harmful alike to body and spirit. Even when it is as hot and as hard so as to break rocks, one should not eat it.

(5) I Sam. II, 1.

(6) Cf. ibid. XVI, 13 and I Kings 1, 39. משך ‘to blow’, used with the ‘horn’ connotes at the same time to prolong.

(7) Cf. I Sam. X, 1 and II Kings IX, 1, 3.

(8) I.e., their dynasty.

(9) I.e., the incense of the community.

(10) I.e.,is not subject to kareth. Kareth is only prescribed for the manufacture of incense with the purpose to smell of it.

(11) Tosef. Mak. III, 1.

(12) Viz., of things belonging to Temple property, e.g., the smelling of incense.

(13) Because these are considered immaterial forms of use. V. pes. 26a.

(14) I.e., after it had been burnt.

(15) I.e., the ashes separated from the altar and placed by the side of it. Cf. Lev. VI, 3 and Me'il. 11b.

(16) Used on the Day of Atonement, cf. Lev. XVI, 23f.

(17) Or rather, the fact that the same law is applied in the text to two instances is taken to exclude its application to others.

(18) Ibid.

(19) Viz., so as not to be used again. They are thus subject to sacrilege even after their use.

(20) Hul. 117a.

(21) Lev. VI, 3.

(22) Deut. XXI, 4. ‘There’ is superfluous, and is taken to imply that it shall remain there for ever and must not be used.

(23) Deut. XXI, 6. The article in the word הערופה is superfluous and is understood in a restrictive sense.

(24) V. Glos.

(25) Or sea-salt. Cf. B.B. 20b.

(26) Lit., ‘smoke-raiser’, i.e., a herb which makes the smoke of the frankincense rise.

(27) Viz., the high priest who enters the Holy of Holies with the unfit incense (Rashi). It may also refer to the manufacturer of the incense.

(28) By the hand of heaven.

(29) The last passage.

(30) Ex. XXX, 32.

(31) Without specification, in which case the possessions go to the Temple repair fund; but the things suitable for the altar must not be used for the repair fund. Objects fit for communal offerings cannot be offered, however, for the community, because such offerings must be brought out of communal funds.

(32) Shek. IV, 6.

(33) This is a standing phrase, not precise in this instance, as a beast of chase is not fit for the altar.

(34) Shek. IV, 6.

(35) We thus find that the frankincense may be compounded as profane goods and then dedicated to the Temple.

(36) I.e., the remnant of frankincense, left over from the past year; cf. R. H. 7a. At the beginning of Nisan the taxes for communal offerings were collected. The frankincense bought with the money of the previous levy was not allowed to be used in the new year. It was therefore necessary to resort to the device mentioned below, in order to make the use of the remnant in the new year possible.
(37) Ibid. IV, 5; cf. also Me'il. 14b where this Baraitha is expounded.
(38) Sc. Shek. IV, 6.
(39) It accordingly cannot refer to a remnant.
(40) Before the mixing, and not to the prepared incense.
(41) This is the total weight of the ingredients of incense, as expounded above.
(42) This is the average length also of the Jewish year, if the leap years are taken into consideration.
(43) V. Lev. XVI, 12.
(44) The version above of the same Mishnah reads ‘new levy’ instead of ‘Temple Chamber’ which is the same thing.

Talmud - Mas. K'rithoth 6b

Our Rabbis have taught: [By reason of] the remnants of frankincense once in sixty or seventy years only half the quantity was manufactured.[1] Therefore, if a stranger compounds half the quantity, he is culpable.[2] Thus the view of Rabban Simeon son of Gamaliel, who said this in the name of the Segan;[3] while there is no tradition that a third or a fourth of the quantity was ever compounded.[4] The Sages hold: He prepared frankincense each day[5] according to its composition and offered it up. This supports Raba; for Raba said: If one compounds half the quantity of frankincense,[6] he is capable, for it is written: And the incense which thou shalt make etc.[7] ; whatever [quantity] you make, and it is possible for one to prepare half [a maneh] in the morning and half in the evening.

Our Rabbis have taught: Twice in the course of the year is the incense put back into the mortar.[8] During the summer it is scattered, so that it does not rot away; during the winter it is heaped together, so that its fragrance may not escape. While it is being beaten, he[9] calls out: ‘Pound well, well pound’. These are the words of Abba Jose b. Johanan. The three remaining manehs of which the high priest on the Day of Atonement separates his handfuls, are put back in the mortar on the eve of the Day of Atonement and pounded very thoroughly, so that the incense is of the very finest, as it has been taught:[10] ‘Wherefore is beaten small[11] stated, since it is written already: And thou shalt beat some of it very small?[12] That it has to be the very finest.

The Master said: "While it is being beaten, he calls out: "Pound well, well pound".’ This supports R. Johanan; for R. Johanan said: Just as speech[13] is harmful to wine, so it is beneficial to spices.

Said R. Johanan: Eleven kinds of spices[14] were named to Moses at Sinai. Said R. Huna: ‘Where is the text? Take unto thee sweet spices, at least two; stacte, and onycha, and galbanum, that makes together five; ‘sweet spices’ means another five, that makes together ten; ‘with pure frankincense’, which is one, that is together eleven. ‘Why not say, ‘sweet spices’ [at the beginning] is a general statement, stacte, and onycha, and galbanum’ a specification, and ‘sweet spices’ [at the end] is again a general statement! [‘We have thus, a generalization followed by a specification and then by a generalisation, [in which case] only things sharing the qualities of the specification may be derived. Just as the [items of the] specification are things whose smoke ascends upwards and whose fragrance spreads, so include all things whose smoke ascends upwards and whose fragrance spreads. And should you say in this case only one [item of] specification should have been mentioned, [I would answer] No, all are necessary; for if ‘stacte’ alone was written, I might have said: Only things from the tree [are to be taken], but not things growing on the ground. It was thus necessary to state ‘onycha’. And if ‘onycha’ alone was written, I might have said: Only things from the ground, but not from the tree. It was thus necessary to state ‘stacte’. As to ‘galbanum’, its mention is necessary for its own sake, for its odour is unpleasant[15] if so,[16] it could have been derived from: Take unto thee.[17] But perhaps say: ‘The sweet spices’ in the latter part [of the verse] mean two, as ‘the sweet spices’ in the former part?[18] Then it should have written the two expressions ‘sweet spices’ next to one another, and then write ‘stacte, and onycha, and galbanum’. In the School of R. Ishmael it was taught thus: ‘Sweet spices’ is a generalisation, ‘stacte, and onycha, and galbanum’ is a specification, sweet spices’ again is a generalisation, and from a generalisation followed by a specification and then by another generalisation one can derive only things sharing the qualities of the specification. As the [items in the] specification are things whose smoke ascends upwards and whose fragrance spreads, so all things whose smoke ascends upwards and whose fragrance spreads.[19] Perhaps this is not so; but take the generalisation with the first generalisation, the specification with the first specification?[20] — Say: This cannot be; hence you must not expound according to the latter version but according to the former.

The Master said: ‘Perhaps this is not so, but take the generalisation with the first generalisation and the specification with the first specification? — Say: This cannot be, hence you cannot expound . . . ‘ ‘What is the question? — This is his difficulty: Let the sweet spices’ in the latter part [of the verse] mean two like ‘sweet spices’ in the former.[21] ‘Whereupon he replied as was answered before: Then it should have written, ‘Sweet spices, sweet spices, stacte, onycha and galbanum’. What is the meaning of ‘and the specification with the first specification’? — This is his difficulty: Things of the tree are derived from ‘stacte’, and things of the ground from ‘onycha’; why not then derive from ‘pure frankincense’ all things which have one quality in common with it [viz.,] that their fragrance spreads, though their smoke does not ascend upwards?[22] Whereupon he replied: If this was so, ‘pure frankincense’ should have been written among the others,[23] so that you could derive therefrom. But if ‘pure frankincense’ was written among the others, we would have twelve spices.[24] — ‘Pure frankincense’ should have been written among the others and ‘galbanum’ at the end. Resh Lakish says: From the word itself it can be inferred; for ketoreth[25] [frankincense] means something whose smoke ascends upwards.

Said R. Hana b. Bizna in the name of R. Hisda the pious:A fast in which none of the sinners of Israel participate is no fast;[26] for behold the odour of galbanum is unpleasant and yet it was included among the spices for the incense. Abaye says: ‘We learn this from the text: And hath founded his vault upon the earth.[27]

OR USES OIL OF ANOINTING. Our Rabbis have taught: He who pours the oil of anointing over cattle or vessels is not guilty; if over heathens or the dead, he is not guilty. The law relating to cattle and vessels is right, for it is written: Upon the flesh of man [adam] shall it not be poured;[28] and cattle and vessels are not man. Also with regard to the dead, [it is plausible] that he is exempt, since after death one is called corpse and not man. But why is one exempt in the case of heathens; are they not in the category of adam? — No, it is written: And ye my sheep, the sheep of my pasture, are adam [man]:[29] Ye are called adam but heathens are not called ‘adam. But is it not written: And the persons [adam] were sixteen thousand?[30] — Because it is used in opposition to cattle.[31] But is it not written: And should I not have pity on Nineveh [that great city, wherein are more than six score thousand persons [adam]?[32] — This too is used in opposition to cattle.[33] Or, if you wish, I might explain it in the light of what a Tanna recited before R. Eleazar: Whosoever is subject to the prohibition ‘he shall not pour’ is subject to [the law] ‘it shall not be poured [over him]’; but he who is not subject to ‘he shall not pour’ is not subject to ‘it shall not be poured [over him]’.[34]

Another [Baraitha] taught: If one anoints with the oil of anointing cattle, vessels, heathens and the dead, he is not culpable; if kings and priests, R. Meir holds he is culpable and R. Judah that he is exempt. How much has one to put in order to be culpable? R. Meir says: Any quantity; R. Judah says: As much as that of the bulk of an olive. But did not R. Judah say that one is exempt? — R. Judah exempts only in the case of kings and priests,[35] but in the case of laymen he declares one culpable. What is the ground of dispute between R. Meir and R. Judah? — Said R. Joseph: They dispute in this: R. Meir holds, It is written: Upon the flesh of man shall it not be poured;[36] and it is also written: Or whosoever putteth of it upon a stranger:[37] As the [prohibition of] anointing applies to any quantity,[38] so also the [prohibition of] putting [upon a stranger];[39] while R. Judah holds, The [implication of] ‘putting upon a stranger’ is derived from ‘giving’ elsewhere: as ‘giving’ implies at least an olive size,[40] so also the ‘putting upon a stranger at least an olive size; but with regard to the pouring for the anointing of kings and priests both agree that any quantity suffices. Then said R. Joseph: ‘Whereupon rests the dispute between R. Meir and R. Judah with reference to kings and priests?[41] R. Meir holds: It is written: ‘Or whosoever putteth of it upon a stranger’, and king and priest are now to be regarded as strangers;[42] while R. Judah maintains [to involve culpability] it is essential that one is a ‘stranger’ from beginning to end; but kings and priests were not considered [always] strangers.[43] Said R. Ika the son of R. Ammi: They[44] follow their own reasoning elsewhere; for we have learnt:[45]

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(1) As the handfuls of the high priest on the Day of Atonement amounted approximately to half a maneh, the remnant each year was about two and a half manehs. During a period of between sixty and seventy years the remnants accumulated to half the yearly quantity. When this was reached only a supplementary half was newly manufactured.

(2) This transgression applies only to quantities otherwise manufactured for the Temple.

(3) The deputy high priest.

(4) I.e., that two-thirds or three-quarters were allowed to be accumulated.

(5) Viz., one maneh. A stranger is accordingly guilty for the manufacture of one maneh.

(6) Or even less, as is proved from the text. In cur. edd. oil of anointing stands in place of frankincense, but in supra 5a whence this quotation is taken, frankincense is the version.

(7) Ex. XXX, 37.

(8) To induce fragrance.

(9) The superintendent calls to him who pounds the incense.

(10) Yoma 45a.

(11) Lev. XVI, 12 referring to the handfuls on the Day of Atonement.

(12) Ex. XXX, 36.

(13) I.e., speaking while it is being prepared.

(14) Only four are mentioned in Ex. XXX, 34.

(15) Had it not been explicitly mentioned, I would not have included it.

(16) If the purpose of the numeration of the items is for the sake of expounding the verse by the principle of generalisation and specification etc. and not to indicate the precise number.

(17) Which would have served as a generalisation without the addition of ‘spices’.

(18) And not five.

(19) R. Ishmael's School resorts both to the principle of generalisation etc. and to the exposition of R. Huna, the former teaching that it must be of a kind whose smoke ascends and fragrance spreads, and the latter indicating the number.

(20) This last question and the answer are obscure, and will be explained immediately.

(21) This then is the meaning: perhaps the second generalisation (sweet spices) has the same connotation as the first and implies no more than ‘two’; whence then is the number eleven derived?

(22) And thus the question is, perhaps the last specification is to be taken in conjunction with the first and the others that precede the second generalisation?

(23) I.e.,among the specifications enclosed by the two generalisations, ‘sweet spices’.

(24) For the latter expression ‘sweet spices’ doubles the number of spices enumerated before, which in this case would be six.

(25) The root קטר means ‘to rise in circles’.

(26) The sinners should not be excluded as unworthy of joining their fellow-Jews in prayer.

(27) Amos IX, 6. The root אגד of ואגודתו ‘his vault’ means to bind together. Only when all his creatures are bound together is this creation on earth founded.

(28) Ex. XXX, 32.

(29) Ezek. XXXIV, 31. The passage continues: And I am your God, saith the Lord God. It is thus clear that the term אדם in this sentence does not denote ‘man’ but Israelite. The term adam is used to denote man made in the image of God (v. Gen. IX, 6, for in the image of God He made adam) and heathens by their idolatry and idolatrous conduct mar this divine image and forfeit the designation adam (v. B.M. Sonc. ed. p. 651, n. 7). There is therefore a possibility that also oil used in Ex. XXX, 32 is to be understood in this restrictive sense, particularly as the distinction between holy and profane made in the text (it reads there, ‘it is holy and it shall be holy unto you’) is meaningful only to one who believes in the ideal of the holy.

(30) Num. XXXI, 40 referring to the heathen Midianites.

(31) V. the context.

(32) Jonah IV, 11.

(33) V. the end of the passage.

(34) The prohibition of using sacred oil for profane purposes is thus binding for the Israelites only.

(35) After they had been anointed. Rashi reads, high priests.

(36) Ex. XXX, 32.

(37) Ibid. v. 33. Lit., ‘whosoever giveth’. The analogy later between putting and giving is based upon this literal translation.

(38) Since there the term ‘anointing’ implies any quantity however small.

(39) Although elsewhere ‘putting’ (lit., ‘giving’) implies at least the bulk of an olive.

(40) Cf. Pes. 32b where this fact is derived from Lev. XXII, 14.

(41) Viz., when unlawfully anointed.

(42) For anointing after their first anointment is no longer prescribed for them.

(43) For there was a time when they were required to be anointed, and were not strangers.

(44) I.e., R. Meir and R. Judah.

(45) Ter. VII, 2.

Talmud - Mas. K'rithoth 7a

If the daughter of a priest married to an Israelite has eaten terumah,[1] she has to pay the principal but not the additional fifth, and her punishment[2] is death by burning. If she is married to one of those disqualified [for priesthood], she has to pay the principal as well as the additional fifth, and her punishment is death by strangulation.[3] Thus the view of R. Meir; but the Sages hold: In either case she has to pay the principal but not the fifth, and is punished by burning.[4]

Said R. Joseph: The dispute [between R. Meir and R. Judah] is only with reference to the putting of the oil of anointing, and as we have explained above;[5] but elsewhere[6] all agree that ‘giving’ implies at least an olive size.

[To turn to] the main text: A Tanna recited before R. Eleazar: Whosoever is subject to [the prohibition] ‘he shall not pour’ is subject to [the law] ‘it shall not be poured [over him]’; but he who is not subject to ‘he shall not pour’ is not subject to ‘it shall not be poured [over him]’. The latter said to him: You speak well: it is written, ‘It shall not be poured’ [yisak], read ‘he shall not pour’ [yasik].[7]

R. Hananiah recited before Raba: If a high priest has taken from the oil of anointing that is upon his head and rubbed it upon his stomach, whence do we know that he is culpable? It says: Upon the flesh of man shall it not be poured’.[8] Said R. Aha the son of Raba to R. Ashi: ‘Why is this different from that which has been taught:[9] A priest who is anointed with oil of terumah may without scruple allow [e.g.,] his Israelite grandson[10] to roll against him?[11] — He replied: In that connection it is written: And die therein, if they profane it;[12] once it is profaned[13] it remains profane; but in connection with the oil of anointing it says: For the consecration of the anointing oil of his God is upon him;[14] the Divine Law [still] calls it oil of anointing, so that even when it is ‘upon him’ it does not become profane.

FOR THESE [TRANSGRESSIONS] ONE IS LIABLE TO EXTINCTION IF COMMITTED WILFULLY etc. It states EXCEPT IN THE CASE OF ONE WHO DEFILED THE TEMPLE OR

ITS CONSECRATED THINGS. Excluded from what? — Read thus: Excluded is he who defiles the sanctuary or sacred things in that he does not bring a suspensive guilt-offering.[15] Why not also state: Excluded is one from a suspensive guilt-offering where the Day of Atonement has passed by in the meantime?[16] — Replied Resh Lakish: He mentions only cases where a sin-offering is [prescribed],[17] but the Divine Law has pronounced exemption [from a suspensive guilt-offering in case of a doubt]; but where the Day of Atonement had passed by, there is no sin-offering prescribed, for [the sin] had already been atoned. R. Johanan said: [The Mishnah] refers to a rebellious person,[18] [that is] who says that the Day of Atonement brings no forgiveness; if then he repents after the Day of Atonement, he is liable to a suspensive guilt-offering.[19] But Resh Lakish holds that the Day of Atonement effects forgiveness even to a rebellious person. Their dispute is similar to the following: If one says, My sin-offering shall effect no atonement for me, Abaye says: It does not effect atonement; Raba says: It does effect atonement. If he said, It shall not be offered, all agree that it does not effect atonement,for it is written: He shall bring it with the consent;[20] where they differ is when he said: It should be offered but should not effect atonement. Abaye holds that it does not effect atonement,for he said: It should not atone. Raba holds that it does effect atonement, since he ordered that it should be offered, atonement comes as a matter of course. Raba, however, has retracted his view, as it has been taught: I might assume that the Day of Atonement atones alike for them who repent and them who do not repent.[21] But is there not an argument [to the contrary]: Sin- and guilt-offerings effect atonement, and the Day of Atonement effects atonement. Just as sin- and guilt-offerings atone only for them that repent, so shall also the Day of Atonement atone only for them that repent? No, [this is not conclusive]. You can rightly say that such is the case of sin- and guilt-offerings, since they do not atone for wilful sins as they do for those in error; will you apply the same to the Day of Atonement which atones alike for wilful sins as well as for those in error? I might therefore have thought since the Day of Atonement atones for wilful sins as well as those in error, so it would atone for them that repent as well as them that do not repent, therefore it is written, ‘howbeit’,[22] to establish a distinction [between them that repent and them that do not repent]. ‘What is meant by ‘them that repent’ and ‘them that do not repent’?[23] Does ‘them that repent’ mean that the sin has been committed in error, and ‘them that do not repent’ that the sin has been committed wilfully? But then, does it not state: No, you can rightly say that such is the case of sin- and guilt-offerings, since they do not atone for wilful sins, etc.?[24] — Rather [explain in the light of] what ‘Ulla said in the name of R. Johanan:[25] If a man ate heleb[26] and separated a sacrifice, and then he apostatized but retracted afterwards, [the sacrifice may not be offered] for since it has once been rejected it remains rejected.[27] But although this [particular] sacrifice is rejected, the person, however, is fit for atonement?[28] — Hence [you must say] that ‘them that repent’ refers to one who says: My sin-offering shall effect atonement for me; and ‘them that do not repent’ to one who says: My sin-offering shall effect no atonement for me. This proves it.[29]

The following contradiction was raised: I might think that the Day of Atonement atoned only for him who afflicted himself and did no work on it, and called it a holy convocation;[30] but if one did not afflict himself or did work on it or did not call it a holy convocation, I might think that the Day of Atonement does not atone for him; therefore it is stated: It is the Day of Atonement:[31] in all circumstances [does it atone]. Now, these two statements[32] are both given anonymously[33] in the Sifra[34] and so they contradict each other! — Replied Abaye: There is no difficulty; the former teaching is that of Rabbi on the view of R. Judah, the latter that of Rabbi himself; as it has been taught: Rabbi says, For all the sins of the Torah, whether one has repented or not, the Day of Atonement atones, except for throwing off the yoke,[35] interpreting the Torah in opposition to the halachah,[36] and making void the convenant of the flesh,[37] where if one has repented the Day of Atonement effects atonement, but if not, the Day of Atonement effects no atonement.

Raba said: Both teachings represent Rabbi's own view, but Rabbi agrees that the transgressions against the sanctity of the Day of Atonement itself are not atoned for.[38] For if this was not so, how could, according to Rabbi, the penalty of kareth for offending against the laws of the Day of

Atonement ever take effect, since there is on that day continuous atonement. This would offer no difficulty; [it might take effect] when one did work during the night and died at dawn, so that he had no day[39] to atone for him. This is right only as far as sins committed by night are concerned, how can kareth take effect for sins committed by day?[40] — This is no difficulty. [It might take effect] when one while partaking of a meal[41] was choked by a lump of meat and died, so that there was no time during the day for the atonement to atone for him;[42] or when he was working just before sunset; or when while working he cut off his thigh with the axe and died, so that there was no time during the day to atone for him.

THE SAGES SAY: ALSO ONE WHO BLASPHEMES etc. What is the meaning of ‘also one who blasphemes’?[43] — The Rabbis heard that R. Akiba[44] included[45] ob but not yidde'oni;[46] so they said to him: The reason why there is no offering in the latter instance is because it involves no action;[46] the blasphemer, too, performs no action.

Our Rabbis have taught: He who blasphemes is liable to an offering, for kareth is written in connection with him; thus the view of R. Akiba. And it further says: He will bear his iniquity.[47] But is it a rule that wherever kareth is written, one has to bring an offering [in case of error]? Surely there are the cases of Passover and circumcision in connection with which kareth is written, and yet these Involve no offerings? —

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(1) V. Glos. By marrying an Israelite she becomes disqualified from eating terumah. She is, however, exempted from the payment of the fine of an extra fifth of the value (cf. Lev. V, 16), because she might return to her original status of priesthood on her husband's childless death.

(2) In case of infidelity; cf. Lev. XXI, 9.

(3) Like any other unfaithful wife. By this marriage she herself has become disqualified for priesthood. Even after her husband's death she is not fit to eat terumah.

(4) R. Meir does not take into consideration the fact that she was once fit for priesthood; while the Sages, identified with R. Judah, hold she has still the status of a priest's daughter by reason of her former inclusion in the tribe. The arguments are thus similar to those underlying the previous dispute.

(5) Viz., that the term ‘putting’ (i.e., giving) of oil is to be compared with that of ‘pouring’.

(6) E.g., when frankincense is put upon the meal-offering, cf. Men. 59b.

(7) The fact that the word ייסך is understood, by reason of the two yods, both in the active and in the passive voice is taken to imply that there is an interdependence between him who uses the oil and him upon whom it is used.

(8) This is all inclusive.

(9) Tosef. Ter. IX, 8, with slight variants.

(10) The son of his daughter who married an Israelite.

(11) Although his body may be smeared with the oil of terumah, which is prohibited to an Israelite.

(12) Lev. XXII, 9.

(13) I.e., once it has been used.

(14) Ibid. XXI, 12. It is called a ‘consecration’ even after it is poured over his head.

(15) V. Mishnah. The reason given is that such a guilt-offering is offered only in cases where by certain yet unwitting transgression a fixed sin-offering is prescribed. For the defilement, however, of the sanctuary or sacred things, a sacrifice of higher or lesser value is prescribed.

(16) In which case the Day of Atonement effects atonement for the doubtful sins.

(17) Viz., when the transgression is certain though committed in error.

(18) Lit., ‘one who kicks’.

(19) And for this reason the Mishnah doss not exclude this case.

(20) Lev. I, 3.

(21) Shebu. 13a.

(22) Lev. XXIII, 27 which is a restrictive expression.

(23) Mentioned above in connection with sin- and guilt-offerings.

(24) This passage would then be a repetition of the previous.

(25) Sanh. 47a.
(26) V. Glos. The eating was in error, in which case he is liable to a sin-offering.
(27) An apostate's sacrifice may not be offered upon the altar. In accordance with this dictum ‘them that do not repent’ signifies people who have apostatized between the separation of the sacrifice and its offering up.
(28) After the revocation of his apostasy such a person is regarded as a full Israelite and surely participates in the forgiveness of the Day of Atonement.
(29) That where one says, ‘My sin-offering shall effect no atonement for me’ it does not atone.
(30) I.e., participated in the service of the day (Rashi).
(31) Lev. XXIII, 27. The article is considered superfluous and is understood as an amplification.
(32) Viz., this one and the one above stating that the Day of Atonement atones only for them that repent and comply with the laws concerning the Day of Atonement.
(33) Being anonymous both teachings emanate from the same authority.
(34) Halachic Midrash on Leviticus.
(35) I.e., unbelief in God.
(36) Rejecting thereby the oral law.
(37) I.e., circumcision. On these phrases v. Sanh. (Sonc. ed.) p. 672 and notes.
(38) I.e., that if one does not afflict himself on the Day of Atonement that day does not atone for this sin except after repentance, while other sins perpetrated throughout the year are atoned for even without repentance. The former statement is thus confined to sins against the holiness of the Day of Atonement itself.
(39) Atonement is granted during day-time, although the sanctity of the festival commences on the previous evening as is the case of all Jewish festivals. Although the sinner is now dead, kareth can still take effect thereafter. V. Glos on kareth.
(40) The text Lev. XXIII, 28 explicitly mentions the day: Ye shall do no manner of work in that same day.
(41) Lit., ‘eating bread’. The parallel passage in Shebu. 13b reads: While eating a lump of meat.
(42) Sin and death were simultaneous.
(43) It can have no reference to the immediately preceding passage, which deals with suspensive guilt-offerings for doubtful sins.
(44) As is later on explained, the anonymous view in our Mishnah, to whom the Sages retort, represents R. Akiba's opinion.
(45) Viz., in the category of sins enumerated in the Mishnah liable to a sin-offering where committed in error.
(46) V. supra 3b.
(47) Lev. XXIV, 15.

Talmud - Mas. K'rithoth 7b

This is the meaning: One who blasphemes brings an offering,[1] because [the penalty of] kareth stands in this case in conjunction with offerings.[2] This is the view of R. Akiba. He holds that since kareth in this instance could have been mentioned independently, but is in fact mentioned in conjunction with offerings, this proves that [he who blasphemes] brings an offering. And it further says, ‘he shall bear his iniquity’; this is quoted on the view of the Sages. And thus did the Rabbis say to R. Akiba: You maintain that the blasphemer [megaddef] is liable to an offering because kareth in this instance is mentioned in conjunction with offerings. You thus assume that the term ‘megaddef’ of the Holy Writ[3] denotes one who blasphemes the Name of the Lord. [This is not so;] ‘Megaddef’ denotes one who worships idols.[4] And as to the text of the Mishnah: AND THE SAGES SAY, ALSO ONE WHO BLASPHEMES [megaddef],[5] it is to be understood thus: Also he who blasphemes the Name which you designate as megaddef[6] etc. . . And whence do you know that kareth applies to one who blasphemes the Name?[7] — In connection with blasphemy we read: ‘He shall bear his iniquity’,[8] and also in connection with the second Passover we read: ‘He shall bear his iniquity’:[9] As in the latter instance kareth is the penalty, so also in the former the penalty is kareth.[10]

Our Rabbis taught: The same blasphemeth [megaddef] the Lord;[11] Issi b. Judah explains [the term gadaf] in the sense of a man who says to his neighbour: Thou hast scraped [garef][12] the dish and impaired it;[13] he holds ‘megaddef’ denotes one who blasphemes the Name. R. Eleazar b. Azariah explains it in the sense of a man who says to his neighbour: Thou hast scraped the dish but hast not impaired it; he holds ‘megaddef’ denotes one who worships idols. Another [Baraitha] teaches: ‘The same blasphemeth the Lord’: R. Eleazar b. Azariah says: The text speaks of one who worships idols; while the Sages say: The text intends only to pronounce kareth for him who blasphemes the Name.[14]

MISHNAH. SOME [WOMEN AFTER CONFINEMENT] BRING AN OFFERING[15] WHICH IS EATEN; SOME BRING ONE WHICH IS NOT EATEN, AND SOME BRING NO OFFERING AT ALL. SOME BRING AN OFFERING WHICH IS EATEN: IF A WOMAN BEARS AN ABORTION WHICH IS IN THE SHAPE OF CATTLE, OR A BEAST OF CHASE OR A BIRD — [THUS THE VIEW OF R. MEIR; WHILE THE SAGES HOLD: ONLY IF IT HAS A HUMAN SHAPE], OR IF A WOMAN DISCHARGES A SANDAL-LIKE FOETUS OR A PLACENTA OR A DEVELOPED FOETUS,[16] OR A YOUNG THAT CAME OUT IN PIECES; SIMILARLY, IF A WOMAN-SLAVE[17] MISCARRIES, SHE BRINGS AN OFFERING WHICH IS EATEN. THE FOLLOWING BRING AN OFFERING WHICH IS NOT EATEN: A WOMAN WHO BEARS AN ABORTION BUT DOES NOT KNOW WHAT THE ABORTION WAS,[18] OR IF OF TWO WOMEN THE ONE HAD AN ABORTION OF A KIND WHICH DID NOT RENDER HER LIABLE [TO AN OFFERING], AND THE OTHER OF A KIND TO MAKE HER LIABLE [TO AN OFFERING].[19] R. JOSE SAID: THIS APPLIES ONLY IF THE ONE WENT TOWARDS THE EAST AND THE OTHER TOWARDS THE WEST,[20] BUT IF BOTH REMAINED TOGETHER THEY BRING [TOGETHER] ONE OFFERING WHICH IS EATEN. THE FOLLOWING BRING NO OFFERING AT ALL: THE WOMAN WHO DISCHARGES A FOETUS FILLED WITH WATER OR WITH BLOOD OR WITH A MANY-COLOURED SUBSTANCE; OR IF THE ABORTION WAS IN THE SHAPE OF FISH, LOCUST, UNCLEAN ANIMALS OR REPTILES; OR IF THE MISCARRIAGE TO OK PLACE ON THE FORTIETH DAY [AFTER THE CONCEPTION],[21] OR IF IT WAS EXTRACTED BY MEANS OF A CAESAREAN SECTION. R. SIMEON DECLARES HER LIABLE [TO AN OFFERING] IN THE CASE OF A CAESAREAN SECTION. GEMARA. ‘Whence do we know [the law concerning] the woman-slave? — For our Rabbis taught: [Speak unto] the children of Israel;[22] from this I only know that [the law] applies to the children of Israel, whence do we know [its application to] a woman-proselyte and to a woman-slave? The text therefore states: [If] a woman.[23] Why state, SIMILARLY IF A WOMAN-SLAVE?[24] — I might have thought that the rule that all commandments which are binding upon a woman apply also to a slave holds good only in respect of laws which are applicable both to men and woman; but as to the laws concerning the woman after confinement, which are applicable to women only and not to men, I might have thought that the woman-slave is not included. Therefore a woman-slave is mentioned [in the Mishnah].

THE FOLLOWING BRING AN OFFERING etc. How shall they proceed?[25] They bring [each] a certain [burnt-]offering and [together] a doubtful sin-offering of a bird and stipulate.[26] But does R. Jose indeed admit that one can stipulate? Have we not learnt: R. Simeon holds, They together bring one sin-offering; R. Jose holds, Two persons cannot bring one sin-offering?[27] Does this not prove that R. Jose does not agree with the principle of making a stipu lation?[28] — Said Raba: R. Jose agrees in the case of one who requires atonement.[29] Also when Rabin came [from Palestine], he said in the name of R. Johanan: R. Jose agrees in the case of one who requires atonement. ‘What is the difference? — There,[30] it is essential that the offender be conscious of his sin, as it is written: If his sin be known to him;[31] therefore the offering cannot be brought conditionally. But here, the women bring offerings only in order to be permitted to partake of holy things, even as we have learnt in the concluding clause of that [same Mishnah], R. Jose says: No sin-offering that is brought for the expiation of sin can be offered by two persons.

THE FOLLOWING BRING NO OFFERING . . . R. SIMEON DECLARES HER LIABLE IN THE CASE OF A CAESAREAN SECTION. What is the reason of R. Simeon? — Said Resh

Lakish: It is written, And if she bear a maid-child,[32] to include another kind of bearing, namely by means of a caesarean section. And what is the reason of the Rabbis? — Said R. Mani b. Pattish: It is written, If a woman conceive seed and bear;[33] only when the birth takes place through the seat of conception.[34]

MISHNAH. IF A WOMAN BRINGS FORTH AN ABORTION ON THE EVE OF THE EIGHTY-FIRST DAY,[35] BETH SHAMMAI SAY: SHE IS EXEMPTED FROM AN OFFERING,[36] WHILE BETH HILLEL SAY: SHE IS LIABLE. SAID BETH HILLEL TO BETH SHAMMAI: WHAT IS THE DIFFERENCE BETWEEN THE EVE OF THE EIGHTY-FIRST DAY AND THE EIGHTY-FIRST DAY ITSELF? SINCE THESE ARE CONSIDERED EQUAL WITH REGARD TO UNCLEANNESS,[37] WHY SHOULD THEY NOT BE CONSIDERED EQUAL ALSO WITH REFERENCE TO THE OFFERINGS? ANSWERED BETH SHAMMAI TO THEM: NO; IF YOU WILL MAINTAIN THIS[38] IN THE CASE WHERE SHE BEARS AN ABORTION ON THE EIGHTY-FIRST DAY WHERE IT[39] OCCURRED AT A TIME WHEN SHE WAS FIT TO BRING AN OFFERING, CAN YOU MAINTAIN THIS WHERE SHE BEARS AN ABORTION ON THE EVE OF THE EIGHTY-FIRST DAY, SEEING THAT IT DID NOT OCCUR AT A TIME WHEN SHE WAS FIT TO BRING AN OFFERING?[40] SAID BETH HILLEL AGAIN TO THEM: THE CASE OF AN ABORTION ON THE EIGHTY-FIRST DAY WHICH FELL ON A SABBATH SHALL PROVE IT, WHERE THE ABORTION TOOK PLACE AT A TIME WHEN SHE WAS UNFIT TO BRING AN OFFERING AND YET SHE IS LIABLE TO BRING A [NEW] OFFERING. REPLIED BETH SHAMMAI TO THEM: NO; IF YOU WILL MAINTAIN THIS OF THE EIGHTY-FIRST DAY WHICH FELL ON A SABBATH WHICH, THOUGH INDEED NOT FIT FOR OFFERINGS OF AN INDIVIDUAL, IS AT LEAST FIT FOR COMMUNAL OFFERINGS, WOULD YOU MAINTAIN THIS OF AN ABORTION ON THE EVE OF THE EIGHTY-FIRST DAY, SEEING THAT THE NIGHT IS FIT NEITHER FOR OFFERINGS OF THE INDIVIDUAL NOR FOR COMMUNAL OFFERINGS? AS TO [YOUR ARGUMENT OF THE UNCLEANNESS OF] THE BLOOD,[41] IT PROVES NOTHING, FOR ALSO WHEN THE ABORTION TOOK PLACE WITHIN THE PERIOD OF CLEANNESS IS THE BLOOD[42] UNCLEAN, AND YET SHE IS EXEMPTED FROM AN OFFERING.[43]

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(1) Although he performs no action.

(2) Cf. Num. XV, 30 and the context.

(3) Viz., of Num. XV, 30.

(4) So that blasphemy which is accordingly mentioned only in Lev. XXIV, 15-16 does not stand in conjunction with offerings. R. Akiba's view is thus robbed of its foundation.

(5) Thus admitting that ‘megaddef’ denotes the blasphemer.

(6) I.e., the Sages use here the term ‘megaddef’ in the language of R. Akiba to whom they address themselves.

(7) Since the text in Num. XV, 30 where kareth is mentioned refers to idolatry.

(8) Lev. XXIV, 15.

(9) Num. IX, 13.

(10) Thus Rashi's version. Cur. edd., whose text is not quite clear, read thus: . . . on the view of the Rabbis. R. Akiba argues thus with the Rabbis: You maintain the blasphemer (megaddef) performs no action; but in fact ‘megaddef’ is one who blasphemes the Name. And for what purpose has kareth been mentioned? They said to him: He who curses the Lord is liable to kareth, for it is written in connection with cursing, ‘That man shall bear his iniquity’ and it is written in conjunction with the second passover, ‘He shall bear his iniquity’: as in the latter instance there is kareth, so also in the former there is kareth.

(11) Num. XV, 30.

(12) מגדף is thus turned into מגרף by reason of the similarity of the two letters ד and ר .

(13) I.e., not only hast thou robbed the vessel of its contents, thou hast also damaged the vessel itself. The allusion is as follows: Though worshipping idols, the work of God's creation, one may still believe and recognise the supremacy of the Creator Himself, however unsound this attitude may be. With blasphemy one turns against the Creator Himself.

(14) In Lev. XXIV, 14 the death penalty is pronounced for the blasphemer of the Name. This text of Num. XV, 30 pronounces the penalty of kareth in case of wilful transgression in the absence of two witnesses or without due warning.

(15) Or rather offerings, cf. Lev. XII, 6-8.

(16) I.e., with the articulate parts of the body.

(17) Viz.,an heathen bondwoman.

(18) I.e., she is in doubt whether it was of a human shape making her liable to offerings, or not. Of the two offerings she has to bring (viz., the burnt-offering and the sin-offering) the first is brought with the stipulation that should she be exempted from offerings, it should be regarded as a freewill burnt-offering. With the latter this stipulation cannot be made, since there is no freewill sin-offering.

(19) It is not known which of the two is liable and which is exempted, therefore each of them brings a set of offerings.

(20) I.e., they have separated one from the other so that they cannot make the stipulation expounded in the Gemara.

(21) The development of the embryo begins to take shape after the fortieth day.

(22) Lev. XII, 2f., where the offerings of a woman after confinement are mentioned.

(23) Ibid. implying any woman.

(24) Is it not obvious, since slaves are subject to all laws to which women are subject?

(25) The question refers to R. Jose who holds that both women bring together one offering.

(26) The law prescribes two offerings, a burnt-offering and a sin-offering. A burnt-offering can also be brought in a doubtful case with the stipulation that the offering should be a freewill burnt-offering should the person in fact be exempted from the offerings. In this instance of the two women, each of them brings therefore a burnt-offering and stipulates that her burnt-offering should be a freewill sacrifice should the other woman be the one that is liable to the offering by law. This method cannot be used in connection with the sin-offering, for there is no freewill sin-offering. The women are therefore asked to bring together one sin-offering and each stipulates that her portion of the offering should belong to her friend, should the latter be the one that is liable by law to the offering.

(27) Infra 23a. The case in question is that two pieces of fat, one forbidden and the other permitted, were eaten by two people, and it is not known who ate the forbidden and who the permitted fat.

(28) Or else he would suggest a solution similar to that of our Mishnah.

(29) I.e., the instance of our Mishnah where the object of the offerings is to complete the atonement; v. infra 8b.

(30) In the Mishnah infra 23a.

(31) Lev. IV, 28. The offering is to expiate a certain sin of a certain person.

(32) Lev. XII, 5. It sufficed to state, ‘and if it be a maid-child’.

(33) Ibid. 2.

(34) . I.e., only in the case of a normal birth are offerings prescribed.

(35) After the birth of a girl, cf. Lev. XII, 5. These eighty days are a period of cleanness, during which the woman does not become unclean through the discharge of blood. On the eighty-first day special offerings are to be offered. If another birth takes place before the expiration of this period, no new offerings are required; if on or after the eighty-first day, she is liable. The query arises, if the second birth was on the eve of the eighty-first day. Although the night is generally reckoned as part of the following day, as the sacrifices may not be offered until day-time of the eighty-first day, it is doubtful whether the abortion is to be covered by these sacrifices or not.

(36) For the second birth.

(37) The period of cleanness undoubtedly ends with sunset. It is assumed by Beth Hillel that the exemption from new offerings in the case of abortion within the period of cleanness is based upon the fact that the blood discharged thereby is clean. If accordingly the abortion took place after this period has passed, new offerings are required.

(38) Viz., the law that if the second birth takes place on or after the eighty-first day, a new set of offerings is required.

(39) Viz., the abortion.

(40) Sacrifices may not be offered during the night. Although the period of cleanness is over, since the sacrifices may not be offered until the following morning, the birth on the eve of the eighty-first day is to be covered by these offerings.

(41) Viz., the first objection of Beth Hillel: ‘SINCE THESE ARE CONSIDERED EQUAL WITH REGARD TO UNCLEANNESS etc.’.

(42) Discharged at the abortion.

(43) I.e., according to Beth Shammai the exemption from offering in the case of abortion within the period of cleanness is not the outcome of the fact that the blood discharged thereby is clean, which in fact it is not, but because it is covered by the first set of offerings.

Talmud - Mas. K'rithoth 8a

Talmud - Mas. K'rithoth 8a

GEMARA. It has been taught: Beth Hillel said to Beth Shammai: Lo, it says, ‘or for a daughter’,[1] to include the eve of the eighty-first day.

R. Hoshaia was a frequent visitor to Bar Kappara; he then left him and joined R. Hiyya. One day he met [Bar Kappara] and asked him: If a zab had three [new] issues during the night of the eighth day,[2] what would be the view of Beth Hillel in this case?[3] Is the reason of Beth Hillel in the case of an abortion on the night [of the eighty-first day] because it is written, ‘or for a daughter’, but in the case of a zab there will be no sacrifice, since there is no superfluous text in connection therewith; or perhaps there is no difference [between these two cases]? — Replied to him Bar Kappara: What did the Babylonian[4] say in this matter? R. Hoshaia was silent and said nothing. Then Bar Kappara said to him: ‘We have still to depend upon the words of Iyya![5]

Let us return to that which has been said before. ‘Lo, it says, or for a daughter, to include the eve of the eighty-first day’. Are we to say that this is a point of dispute between Tannaim? If a zab had three issues in the night of the eighth day, one [Baraitha] teaches, He has to bring an offering, whereas another [Baraitha] teaches, He is exempted. Now, do they not differ in the following: The one which teaches that he is liable holds that the night does not render a period wanting in time;[6] and the one which teaches that he is exempt holds that the night renders a period wanting in time![7] — Said R. Huna b. Aha in the name of R. Eleazar: These Tannaim [indeed] hold that the night renders a period wanting in time, but the one which teaches that he is liable, deals with a zab of two issues,[8] and the one which teaches that he is exempt deals with a zab of three issues.[9] But need the case of a zab of two issues be stated?[10] — This is what we are informed: Only when he perceives [three issues] on the night of the eighth day; but if on the day of the seventh,he is not liable; for he holds that an issue which disturbs [the period of cleanness][11] does not render one liable to an offering.

Said Raba: You have explained the teaching that one is exempted from an offering as referring to a zab of three issues; why then has this law not been stated in conjunction with the [Mishnah]: ‘Five who bring one sacrifice for many transgressions’?[12] — Because this law is not absolute;[13] for R. Johanan said: If he perceived one issue in the night[14] and two during the day,[15] he is liable; two in the night and one during the day, he is not liable. Said R. Joseph: You can prove that one is liable if one [was perceived] by night and two during the day, for the first issue is regarded as a mere discharge of semen,[16] and yet if two more issues are perceived, they combine one with the other. [Against this] said R. Shesheth son of R. Idi: What argument is this? The first issue of a zab took place at a time fit for offerings, but in the instance of ‘one by night’, where the issue was at a time not fit for offerings, had not R. Johanan taught us that they combine with one another, I would have thought that they do not combine. But does R. Johanan hold that the night renders a period wanting in time?[17] Did not Hezekiah say:[18] If he [the nazirite] became unclean during the eighth day,[19] he has to bring a [second] offering; if on the night [of the eighth day], he does not bring [an offering]; while R. Johanan holds, Even on the night [of the eighth day] he has to bring?[20] — When R. Johanan said if [he perceived] two by night and one during the day he has to bring [an offering], it was according to him who holds [that the night] renders a period wanting in time. But according to him is not this obvious? — [The case] of one by night and two during the day was necessary [to be mentioned]; for I might have thought, since the one issue was not at a time fit for offerings, there is no combination. Therefore we are told [that this is not so].

MISHNAH. IF A WOMAN HAD FIVE DOUBTFUL BIRTHS[21] OR FIVE DOUBTFUL ISSUES,[22] SHE NEED BRING BUT ONE OFFERING,[23] AND MAY THEN PARTAKE OF SACRIFICIAL FLESH, AND SHE IS NOT BOUND TO BRING THE OTHER [OFFERINGS]. IF SHE HAD FIVE CERTAIN ISSUES, OR FIVE CERTAIN BIRTHS, SHE BRINGS ONE OFFERING AND MAY THEN PARTAKE OF SACRIFICIAL FLESH; BUT IT IS STILL HER

DUTY TO BRING THE OTHER OFFERINGS. IT ONCE HAPPENED IN JERUSALEM THAT THE PRICE OF A PAIR OF DOVES[24] ROSE TO A GOLDEN DENAR. SAID R. SIMEON B. GAMALIEL, BY THIS SANCTUARY, I SHALL NOT GO TO SLEEP TO-NIGHT BEFORE THEY COST BUT A [SILVER] DENAR! THEN HE ENTERED THE BETH DIN AND TAUGHT: IF A WOMAN HAD FIVE CERTAIN BIRTHS OR FIVE CERTAIN ISSUES SHE NEED BRING BUT ONE OFFERING, AND MAY THEN PARTAKE OF SACRIFICIAL FLESH, AND SHE IS NOT BOUND TO BRING THE OTHER [OFFERINGS]. THEREUPON THE PRICE OF A PAIR OF BIRDS STOOD AT A QUARTER OF A [SILVER] DENAR EACH.

GEMARA. Our Rabbis taught: If she had five certain births and five doubtful ones, or five certain issues and five doubtful ones, she brings two pairs of birds, one for the certain and one for the doubtful cases. The one offered for the certain cases may be eaten, and it is still incumbent upon her to bring the remaining offerings; that offered for the doubtful cases is not eaten,[25] and the woman is not bound to bring any more offerings. R. Johanan b. Nuri said: For the certain cases she shall say, The offering is for the last occurrence,[26] and she will be exempted; but for the doubtful cases, if there is a certain one among them,[27] she shall say that the offering is for the one that is not in doubt, and she is exempted; if not, she says that the offering is for any one of the occurrences and she is exempted. R. Akiba said: Both in the instance of the certain cases and in that of the doubtful ones she shall say that the offering is for any one of the occurrences and she is exempted. Said R. Nahman b. Isaac to R. Papa: I shall tell you in the name of Raba in which point these Tannaim differ: R. Johanan b. Nuri compares these instances to those of sin-offerings: Just as when one is liable to five sin-offerings, he is not atoned for before all have been offered, the same is the ruling in our case. R. Akiba on the other hand compares them to immersions;[28] for if one requires five immersions, as soon as he has immersed once he is clean; the same is the ruling in our case. Said R. Papa to him: If it was to be assumed that R. Johanan b. Nuri compared our instances to those of sin-offerings, why does he maintain that for doubtful cases she shall say the offering is for any one of them, and she is exempted? Suppose one was liable

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(1) Lev. XII, 6. The whole phrase ‘for a son or for a daughter’ is superfluous.

(2) Cf. Lev. XV, 14. After three issues he is unclean so as to require seven clean days, and an offering on the eighth.

(3) I.e., is he liable to another offering for the second set of issues?

(4) Viz., R. Hiyya, cf. Suk. 20a.

(5) Derisive pronunciation of Hiyya, who as a Babylonian could not utter gutturals; v. M.K. 16a. The text, however, is not clear.

(6) I.e., whenever a certain period has been fixed after the elapse of which one is liable to a certain duty, e.g., the offering of a sacrifice, and there is only a night intervening, the period may be regarded as accomplished. The new issues therefore involve a new offering.

(7) The new issues are regarded as falling within the period of seven days resulting from the former uncleanness. No new offering is therefore required. Yet in the case of the abortions dealt with in our Mishnah there is liability in the view of Beth Hillel to a new set of offerings, on account of the text, ‘or for a daughter’.

(8) Such a person is unclean and must count seven days, but is not liable to a sacrifice. If on the night of the eighth day he perceives three issues, these render him liable to an offering.

(9) For which he was already liable to a sacrifice; and the subsequent issues do not render him liable to bring a second offering.

(10) It is self-evident that he is liable to an offering.

(11) The issue on the seventh day destroys the period of cleanness of seven days, and they must be started again.

(12) Infra 9a. Here, too, one is liable to one offering although more than three issues were perceived.

(13) I.e., there are instances when one is liable even for issues on the night of the eighth day. viz., if two issues were perceived on the eighth day, the issue of the previous night combines with these, and he is liable to a new offering.

(14) Viz., the night of the eighth day.

(15) Viz., the eighth day.

(16) Rendering one unclean only for one day, and not liable to an offering.

(17) For he holds, for two issues during the night and one during the day, he is exempted.
(18) Hag. 9b.
(19) A nazirite who becomes unclean has to count seven clean days, bring an offering on the eighth day and begin to count again his period of naziriteship.
(20) Obviously this opinion cannot agree with the principle that the night renders the period wanting in time.
(21) Such as enumerated in the last but one Mishnah.
(22) I.e., it was doubtful whether the issues took place during the period of menstruation, in which case the uncleanness does not require offerings, or outside that period; v. Lev. XV, 25.
(23) For all the five cases. The sacrifice is offered out of doubt in order to enable the woman to partake afterwards of sacrificial flesh.
(24) A pair of pigeons or a pair of doves was the prescribed offering in the instances of the Mishnah. Rashi: two pairs, i.e. four birds, cost two golden denars, thus one golden denar (i.e. twenty-five silver denars) the pair.
(25) It is brought only in order to enable her to partake of sacrificial flesh.
(26) For if it was offered for one of the previous occurrences, those following would appear unatoned for, and this could lead to misunderstanding in that on future similar occasions the woman would assume that offerings were not essential.
(27) V. Rashi.
(28) E.g., if one contracted uncleanness five times.

Talmud - Mas. K'rithoth 8b

to five suspensive guilt-offerings, would he indeed be exempted if he offered only one? Has it not been taught: This is the general rule: Whenever there is a division[1] with regard to sin-offerings, there is also a division with reference to guilt-offerings?[2] — In fact, both compare our instances to that of immersion, and they differ as to whether we apprehend negligence. R. Johanan b. Nuri holds, It might lead to negligence;[3] R. Akiba holds, We do not apprehend negligence.

CHAPTER II

MISHNAH. THERE ARE FOUR PERSONS WHO REQUIRE A CEREMONY OF ATONEMENT,[4] AND FOUR WHO BRING A SACRIFICE FOR WILFUL AS WELL AS FOR INADVERTENT TRANSGRESSION.[5] THE FOLLOWING ARE THOSE WHO REQUIRE A CEREMONY OF ATONEMENT: THE ZAB,[6] THE ZABAH,[6] THE WOMAN AFTER CONFINEMENT[7] AND THE LEPER.[8] R. ELIEZER B. JACOB SAID, ALSO A PROSELYTE IS REGARDED AS A PERSON WHO STILL REQUIRES A CEREMONY OF ATONEMENT UNTIL THE BLOOD HAS BEEN SPRINKLED FOR HIM;[9] THE SAME APPLIES TO THE NAZIRITE WITH REFERENCE TO WINE, HAIRCUTTING AND UNCLEANNESS.[10]

GEMARA. Why are zab and zabah enumerated as two separate instances? Apparently because they differ as to their uncleanness: for the zab is not unclean through discharge by accident,[11] and the zabah is not rendered unclean through issues but through days;[12] for it has been taught: Out of his flesh,[13] but not by accident. A man is also unclean through issues as well as through days, as it has been taught: The text[14] has made the uncleanness of the male dependent upon discharge and that of the female upon days. A zabah on the other hand is unclean through issue by accident and is not unclean through issue as through days. Now are not the leprous man and the leprous woman also different with regard to their uncleanness? For the leprous man is required to rend his clothes and to let his hair grow loose, as it is written: His clothes shall be rent and the hair of his head shall go loose,[15] and he is forbidden marital intercourse; while the leprous woman is not required to rend her clothes and to let her hair grow loose, as it has been taught: I know only the law concerning a man,[16] whence do I know its application to a woman? When the text reads, and the leper,[17] both are included. Wherefore then is ‘man’ mentioned? The Writ removed him from the [application of the] earlier passage to the latter one,[18] to teach us that only a man is required to rend his clothes and to let his hair grow loose, but not a woman. Also the woman is permitted marital intercourse, as it is written: And he shall dwell outside his tent seven days,[19] but not [she] outside her tent. Why then have they[20] not been enumerated as two separate instances? — The zab and the zabah are essentially different with regard to the source of uncleanness;[21] whereas the leprous man and the leprous woman are not essentially different in their source of uncleanness, for the standard size of both is a bean.

R. ELIEZER B. JACOB SAID, ALSO A PROSELYTE IS REGARDED AS A PERSON WHO STILL REQUIRES etc. And why has the first Tanna not mentioned the proselyte? — He mentions only instances where the offering is to effect the permission of eating consecrated things, while in the case of the proselyte the offering is brought in order to qualify him to enter the congregation.[22] And why has he not mentioned the nazirite? After all, when the nazirite brings an offering it is in order that he may be permitted to drink unconsecrated wine.[23] And R. Eliezer, who has mentioned the nazirite in reference to his qualification,[24] why has he not stated also the instance of the unclean nazirite?[25] — The latter offers his sacrifice only to qualify for naziriteship in cleanness.

Our Rabbis have taught: A proselyte is prevented from partaking of consecrated things before he has offered his sacrificial birds. If he has offered one single pigeon in the morning, he is permitted to partake of consecrated things in the evening.[26] All sacrifices of birds consist of one sin-offering and one burnt-offering; in this case[27] both are burnt-offerings. If he has offered his obligatory sacrifice[28] from the cattle, he has done his duty; if he has offered a burnt-offering and a peace-offering, he has done his duty; if a meal — and a peace-offering he has not fulfilled his duty. The prescription of birds as sacrifices is, as it were, to be regarded only as a rule towards greater leniency.[29] Now, why do not a meal- and a peace-offering exempt him from his duty? Apparently because it is written: As ye do, so he shall do;[30] As ye [Israelites] offer a burnt-offering and a peace-offering, so shall also the proselyte offer a burnt-offering and a peace-offering. Similarly then it should not suffice for him to offer his obligatory sacrifice from the cattle, because it is written: 'As ye do, so he shall do'? — Said R. papa. Argue thus: As he is included regarding the offering of a bird,[31] should he not the more so be included regarding the burnt-offering of the cattle? If so, a meal-offering should also exempt him! — The text has excluded it by the word 'so'.[32] And whence do we know that he is included regarding the offering of a bird? — For our Rabbis taught: [It is written.] 'As ye do, so shall he do': As ye offer a burnt- and a peace-offering, so shall also he offer a burnt- and a peace-offering, as it is indeed confirmed in the text, As ye are, so shall the stranger be.[33] Whence do we know that he is included concerning the offering of a bird? It is written, An offering made by fire, of a sweet savour unto the Lord,[34] which is the offering that is wholly unto the Lord? You must say, This is the burnt-offering of the bird.[35]

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(1) I.e., that separate sacrifices are to be offered.

(2) Infra 15b.

(3) The stipulation that the sacrifice is for the last of the occurrences is essential in order to make it clear that all the occurrences are to be covered by this one offering. Were this stipulation omitted so that the sacrifice might be assumed to refer to one of the early occurrences, it would lead to the misunderstanding that it is not necessary to bring a sacrifice for every birth or issue. The sacrifice might then be omitted altogether on future occasions.

(4) I.e., a sacrifice. This sacrifice is not offered for the expiation of a sin, but in order to enable its owner to partake of consecrated things.

(5) These are exceptions, for the rule is that offerings are brought only for inadvertent transgression. The enumeration is found in the following Mishnah.

(6) Lev. XV, 2-33; v. Glos.

(7) Ibid XII, 2-8.

(8) Ibid XIV, 2-32.

(9) The first, anonymous Tanna holds that a proselyte may partake of sacred things even before the offering has been brought.

(10) I.e., he may not drink wine, cut his hair and render himself unclean by contact with the dead before the requisite offerings have been brought. The first Tanna also agrees on this point, but has omitted it because he has confined himself to the instances referring to the eating of sacred things.

(11) He is unclean only if the discharge was natural.

(12) Only when the three discharges were on three consecutive days is she unclean so as to require an offering.

(13) Lev. XV, 2. I.e., by reason of his flesh's lust.

(14) Cf. Lev. XV, 2-3 dealing with a man, and XV, 25 which deals with a woman.

(15) Lev. XIII, 45.

(16) It refers to Lev. XIII, 44 where it says that the priest shall declare the leprous man unclean.

(17) Lev. XIII, 45. ‘The lever’ is taken to include the woman though the word והצרוע is in the masculine, because it is altogether superfluous.

(18) I.e., from verse 44 to 45.

(19) Lev. XIV, 8. ‘Tent’ is a symbolic expression of matrimonial life.

(20) Viz., the leprous man and the leprous woman.

(21) In that in the case of a woman uncleanness is effected only through three issues on three consecutive days.

(22) I.e., to permit his marriage to a Jewess.

(23) And his offering is not particularly for the purpose of partaking of consecrated things.

(24) Viz., for secular things.

(25) I.e., a nazirite whose naziriteship has been interrupted by defilement. He is then required to bring an offering and to commence anew the period of naziriteship he originally vowed.

(26) Although it is still incumbent upon him to bring the other.

(27) I.e., in the instance of the proselyte.

(28) I.e., one burnt-offering of the cattle can take the place of two birds.

(29) I.e., as a concession to the poor who cannot afford a sacrifice of cattle, which of course is permissible.

(30) Num. XV, 14. Of the Israelites it reads (Ex. XXIV, 5) that when they consecrated themselves to the service of God they offered burnt- and peace-offerings.

(31) I.e., since we have learnt that sacrifices of the bird suffice for the proselyte as for the Israelite (as is soon shown), is it not logical that a sacrifice of the cattle should the more so suffice?

(32) Num. XV, 14. So and not otherwise.

(33) Ibid. XV, 15.

(34) Ibid v. 13.

(35) Of the burnt-offerings of the cattle the skin is left for the priests; while the burnt-offering of the bird is wholly burnt.

Talmud - Mas. K'rithoth 9a

I might then include also the meal-offering; therefore it reads ‘so’.

Another [Baraitha] teaches: [From the text,] ‘and will offer an offering made by fire, of a sweet savour unto the Lord’, I might derive everything that is offered up by fire, including a meal-offering; therefore it is written, ‘As ye do, so shall he do’: As ye offer blood sacrifices, so they[1] too blood sacrifices. I might then conclude: As ye offer a burnt- and a peace-offering, so shall they also offer a burnt-offering and a peace-offering;[2] it is therefore written, ‘As ye are, so shall the stranger be’: He is compared to you, but not wholly concerning your offerings.[3] Rabbi says: ‘As ye’ means as your forefathers: As your forefathers entered into the covenant only by circumcision, immersion and the sprinkling of the blood,[4] so shall they enter the Covenant only by circumcision, immersion and the sprinkling of the blood.

The offering of one pigeon does not suffice, for we do not find anywhere in the Torah [such an offering]; and the prescription of birds as sacrifices is only a rule towards greater leniency. Is this indeed so?[5] Has it not been taught: What is the meaning of, and he shall offer it?[6] It reads concerning turtle-doves, ‘he shall offer’,[7] and I might argue therefrom that if a man vows to offer a burnt-offering of a bird he shall offer no less than two pigeons,[8] therefore it is written, ‘and he shall offer it’.[9] Even one pigeon! — After all, we do not find an obligatory offering of this kind. But is there not the case of the woman after confinement who offers one young pigeon or one turtle-dove as a sin-offering? There a lamb is offered in addition. The Master said: ‘As your forefathers entered into the Covenant only etc.’. It is right concerning circumcision, for it is written, For all the people that came out were circumcised,[10] alternatively. And when I passed by thee, and saw thee wallowing in thy blood, I said unto thee: In thy blood, live, etc.;[11] as to the sprinkling of the blood, it is mentioned in the text, And he sent the young men of the children of Israel [who offered burnt-offerings and sacrificed peace offerings];[12] but whence do we know the immersion? — It is written, And Moses took the blood, and sprinkled it on the people,[13] and there can be no sprinkling without immersion.[14] If so, we should nowadays not receive any proselytes, since there are no sacrifices to-day? — Said R. Aha son of Jacob: It is written, And if a stranger sojourn with you, or whosoever may be among you, etc.[15]

Our Rabbis taught: A proselyte in these days has to put aside a fourth [of a denar][16] for his sacrifice of birds.[17] Said R. Simeon: R. Johanan b. Zakkai held a vote on this rule and abolished it for fear of misuse.[18] Said R. Idi b. Gershom in the name of R.Adda son of Ahaba, The decision is according to R. Simeon. Some report the latter statement with reference to that which has been taught: A resident alien[19] may do work for himself on the Sabbath in the same measure as an Israelite may do on the intermediate days of the festivals.[20] R. Akiba says as an Israelite on the festival.[21] R. Jose says: A resident alien may do work for himself on the Sabbath in the same measure as an Israelite on week-days.[22] R. Simeon says: Both a resident alien and a male or female sojourning heathen slave may do work for themselves in the same measure as an Israelite may do on week-days.

MISHNAH. THE FOLLOWING OFFER A SACRIFICE FOR WILFUL AS WELL AS FOR INADVERTENT TRANSGRESSION: ONE WHO HAS INTERCOURSE WITH A HANDMAID,[23] A NAZIRITE WHO HAS BECOME UNCLEAN,[24] [ONE WHO SWORE FALSELY] THE OATH CONCERNING EVIDENCE[25] OR THE OATH CONCERNING A DEPOSIT.[26] THERE ARE FIVE PERSONS WHO BRING ONE SACRIFICE FOR SEVERAL TRANSGRESSIONS, AND FIVE WHO BRING A SACRIFICE OF HIGHER OR LESSER VALUE.[27] THE FOLLOWING BRING ONE SACRIFICE FOR SEVERAL TRANSGRESSIONS: ONE WHO HAS INTERCOURSE WITH A HANDMAID[23] SEVERAL TIMES, AND A NAZIRITE WHO BECAME UNCLEAN SEVERAL TIMES.[28]

GEMARA. Whence do we know the law concerning the handmaid? — Our Rabbis taught: And the priest shall make atonement for him with the ram of the guilt-offering for his sin which he hath sinned;[29] this teaches that one may bring one offering for several sins; and he shall be forgiven for his sin which he hath sinned:[30] that wilful transgression is equal to transgression in error. A NAZIRITE WHO HAS BECOME UNCLEAN. Whence do we know this? — It is written, And if any man die in sudden [be-fetha’] unawareness [pithe'om] beside him:[31] fetha’ means unintentionally, for thus it is written: But if he thrust him unintentionally [be-fetha’] without enmity;[32] pithe'om means unexpectedly, and thus it is written: And the Lord spoke suddenly [pithe'om] unto Moses.[33] Another [Baraitha] taught: Pithe'om means intentionally, and thus it is written: A prudent man seeth the evil, and hideth himself; but the simple [petha'im] pass on, and are punished.[34] Why has the text not written just pithe'om, which denotes error, intention and accident at the same time: intention and accident as has been explained before; it denotes, however, also error, as it is written: The thoughtless [pethi] believeth every word?[35] Why then mention befetha’? — If pithe'om alone was mentioned, which denotes both error and intention and accident, I might have thought that an offering nevertheless was brought only for transgression in error, as is the case with all the laws of the Torah, but not in the case of accidental or wilful transgression; therefore the Divine Law mentions also befetha’, which denotes error only, to indicate that pithe'om shall denote accident and wilfulness, so that also in these circumstances the Divine Law enjoins an offering.

THE OATH CONCERNING EVIDENCE. Whence do we know this? — Our Rabbis have taught:[36] In connection with the other laws[37] the term it being hidden [from him] is used;[38] in connection with this law[39] this term is not used, to indicate that he is liable to an offering for wilful as well as for inadvertent transgression.

THE OATH CONCERNING A DEPOSIT. Whence do we know this? — It is derived from the oath concerning evidence through the common term sinneth [teheta].[40]

THERE ARE FIVE PERSONS WHO BRING ONE SACRIFICE FOR SEVERAL TRANSGRESSIONS. It is stated ONE WHO HAS INTERCOURSE WITH A HANDMAID SEVERAL TIMES; whence do we know this? — Our Rabbis have taught: And the priest shall make atonement for him with the ram of the guilt-offering for his sin which he hath sinned':[41] this teaches that one may bring one offering for several sins; 'and he shall be forgiven for his sin which he hath sinned': that wilful transgression is equal to transgression in error. But does not the text deal with the wilful transgression? — Rather say: that transgression in error be equal to wilful transgression.

R. Hanina of Tirna'ah[42] put the following query to R. Johanan: If one had intercourse with five designated handmaids[43] in one spell of unawareness,[44] is he liable to a sacrifice for each of them or altogether only to one sacrifice? — The latter replied: He is guilty for each of them. And why, the former asked, is this case different from one who had intercourse five times with one handmaid in different spells of unawareness? — He replied: In the case of one handmaid one cannot argue that there were different bodies; in the instance of the five handmaids there were different bodies.[45] And whence do we know that the argument of different bodies holds good in the case of the handmaid? — He replied: Did you not say[46] with reference to forbidden relations that the word 'and a woman'[47] implies that one is guilty for each woman? Also in connection with the handmaid it is written: And whosoever lieth carnally with a woman

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(1) Should be, 'he too'.

(2) I.e., he shall not be exempted by burnt-offerings alone.

(3) I.e., he is not to be equal to you in every respect appertaining to offerings: he does not fulfil his duty by a meal-offering.

(4) I.e., the offering of sacrifices, cf. Ex XXIV, 5ff.

(5) Referring to the former part of the passage.

(6) Lev. I, 15 dealing with freewill-offerings.

(7) Ibid v. 14.

(8) I.e., a complete offering.

(9) The singular 'it' implies that also one pigeon may be offered.

(10) Josh. V, 5.

(11) Ezek. XVI, 6. According to the supposition of the Zohar to Lev. XXII, 27 this passage refers to the blood of circumcision.

(12) Ex. XXIV, 5.

(13) Ibid v. 8.

(14) The parallel text in Yeb. 46b reads: 'and there is a tradition that there is no sprinkling . . .'.

(15) Num. XV, 14. The text continues: throughout your generations, i.e., at all times.

(16) This according to the Mishnah on 8a seems to be the minimum one could spend on it.

(17) And keep it ready in case the Temple be re-built.

(18) I.e., that he may not make unlawful use of it.

(19) A stranger who has renounced idolatry and has taken up residence among the Jews.

(20) I.e., he may work on things that would otherwise perish.

(21) I.e., he may do all that is necessary for the preparation of food.

(22) I.e., he may do all kinds of work.

(23) Designated by her master to be the wife of one chosen by him. Cf. Lev. XIX, 20-22.

(24) Num. VI, 2ff. The offering is brought irrespective of whether the uncleanness was in error or wilful.

(25) I.e., he swore falsely that he had no evidence to give, cf. Lev. V, 1.
(26) Ibid v. 21.
(27) Viz., according to their means; cf. Lev. V, 6ff.
(28) The enumerations continue in the following Mishnah.
(29) Lev. XIX, 22 which deals with the designated handmaid. Which he hath sinned is regarded as superfluous, to include a multitude of sins.
(30) Ibid. Here, too, the words ‘which he hath sinned’ are regarded as superfluous.
(31) Num. VI, 9.
(32) Ibid. XXXV, 22.
(33) Ibid XII, 4.
(34) Prov. XXII, 3. The comparison of these two words פתאם and פתאים is based on their similarity in appearance and sound. The latter word conveys a weakling who cannot control himself, yet commits his follies with intention.
(35) Ibid. XIV, 15.
(36) Shebu. 31b.
(37) Viz., all other laws, whereby an offering of higher or lesser value is prescribed, which are enumerated in that paragraph, Lev. V, 1ff.
(38) Implying that the transgression was committed in error.
(39) Lev. V, 1.
(40) Occurring in Lev. V, 1 and V, 21.
(41) V. p. 68, n. 10.
(42) This place appears in the Talmud (Ned. 57b, 59b) in a variety of forms.
(43) I.e., slaves who have been designated by the master to become the wives of people chosen by him.
(44) I.e., without becoming conscious of the sin between one transgression and the other.
(45) This effects separate offerings for each transgression.
(46) V. supra 2b.
(47) Lev. XVIII, 19. The correct quotation is ‘and unto a woman’.

Talmud - Mas. K'rithoth 9b

that is a bondmaid, etc.,[1] to enjoin separate offerings for each handmaid.

A NAZIRITE WHO BECAME UNCLEAN SEVERAL TIMES. Whose view does this represent? — Said R. Hisda, That of R. Jose son of R. Judah who holds that the naziriteship of cleanness counts from the seventh day,[2] and the instance of our Mishnah is realised if he became unclean on the seventh day and then again on the seventh; since the time for the offering was not reached, he is liable only to one sacrifice. [How can the instance of the Mishnah be realised] according to Rabbi who holds that the naziriteship of cleanness does not count before the eighth day? If he became unclean on the seventh day and again on the [following] seventh day, is this not one long period of uncleanness?[3] If he became unclean on the eighth day and again on the [following] eighth day, since the time of the offering has been reached,[4] he should be liable to an offering for each uncleanness? It is thus proved that the Mishnah is in accordance with R. Jose son of R. Judah. And where do we find R. Jose's view? — It has been taught: And he shall hallow his head that same day,[5] refers to the day on which the sacrifices are offered;[6] thus the words of Rabbi. R. Jose son of R. Judah says, On the day of the cutting of his hair.[7]

MISHNAH. ONE[8] WHO WARNS HIS WIFE[9] IN REGARD TO SEVERAL MEN,[10] AND A LEPER WHO HAS CONTRACTED A LEP ROUS DISEASE SEVERAL TIMES.[11] IF HE HAS OFFERED THE BIRDS AND THEN BECOMES LEPROUS AGAIN, THEY DO NOT COUNT FOR HIM UNTIL HE HAS OFFERED HIS SIN-OFFERING.[12] R. JUDAH SAYS, UNTIL HE HAS OFFERED HIS GUILT-OFFERING.

GEMARA. Whence do we know the law concerning this?[13] — It is written: This is the law concerning jealousies:[14] One law for several warnings.

A LEPER WHO HAS CONTRACTED A LEPROUS DISEASE SEVERAL TIMES. Whence do we know this? — It is written: This is the law of the leper:[15] one law for several cases of leprosy.

IF HE HAS OFFERED THE BIRDS AND THEN BECOMES LEPROUS AGAIN, THEY DO NOT COUNT FOR HIM UNTIL HE HAS OFFERED HIS SIN-OFFERING. R. JUDAH SAYS: UNTIL HE HAS OFFERED HIS GUILT-OFFERING. But did you not say he offers only one sacrifice?[16] — The text is incomplete, and should read thus: If he has offered the birds and then becomes leprous again, he offers but one set of sacrifices. The decision whether the sacrifices be those of the poor person or of the rich person[17] is not taken until the sin-offering is brought.[18] R. Judah says: Until the guilt-offering is brought.

We have learnt there:[19] If a leper became rich after he had offered his guilt-offering, you go by his pecuniary status at the time of the offering of the sin-offering.[20] Thus R. Simeon. R. Judah says: At the time of the offering of the guilt-offering.[21] It has been taught: R. Eliezer b. Jacob says, At the time of the offering of the birds. Said Rab Judah in the name of Rab: All the three [Rabbis] derive their respective views from the same passage, Whose means suffice not for that which pertaineth to his cleansing.[22] R. Simeon holds: The offering that effects atonement [is decisive]; R. Judah holds: That which effects his qualification[23] [to partake of holy things]; R. Eliezer b. Jacob holds: That which effects cleanness, namely, the birds.

MISHNAH. A WOMAN[24] WHO HAS UNDERGONE SEVERAL CONFINEMENTS, E.G., IF SHE PRODUCED A FEMALE ABORTION WITHIN EIGHTY DAYS OF THE BIRTH OF A GIRL,[25] AND THEN SHE PRODUCED AGAIN A FEMALE ABORTION WITHIN EIGHTY DAYS OF THE FIRST; OR IF SHE PRODUCED A MULTIPLE OF ABORTIONS.[26] R. JUDAH SAYS: SHE BRINGS AN OFFERING FOR THE FIRST BIRTH AND NOT FOR THE SECOND, FOR THE THIRD AGAIN BUT NOT FOR THE FOURTH.[27] GEMARA. Whence do we know this? — A Tanna recited before R. Shesheth: This is the law for her that beareth, whether a male or a female,[28] teaches that she offers but one offering for several births. I might perhaps assume then that also for a birth and a discharge of gonorrhea[29] only one offering is brought, therefore it is written, ‘this’.[30] It states, ‘I might perhaps assume then that also for a birth and a discharge of gonorrhea only one offering is brought’. If so,[31] she should also bring but one offering if she ate blood and gave birth to a child? — Read thus: I might assume that she also brings but one offering [for two births if] one was before the period of cleanness had expired and the other after it had expired;[32] therefore it is written, ‘this’.

IF SHE PRODUCED WITHIN EIGHTY DAYS etc. If you will assume that according to R. Judah the first birth causes the offering, and the period of uncleanness is counted from the first birth,[33] then according to the Rabbis[34] the second birth causes the offering and the second, because there is no period of cleanness attached to the latter, since it fell within the period of cleanness of the first. An offering has therefore to be brought for the third birth which covers also the fourth that took place within the former's period of cleanness. period of uncleanness is counted from the second birth. You say, ‘If you will assume’; is it not obvious?[35] — It has to be stated for the sake of its inclusion of the instance of the ‘multiple of abortions’. I might have thought that in the case of the multiple of abortions R. Judah agrees with the Rabbis; therefore we are informed [that it is not so].

The following query was put forward:

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(1) Lev. XIX, 20.

(2) A nazirite who becomes unclean has to count seven clean days and bring an offering on the eighth day. He has then to observe again his vow of naziriteship for the period stipulated, which is called the naziriteship of cleanness. According to R. Jose the new period commences on the seventh day. If the nazirite becomes unclean again on this day, it is considered a new state of uncleanness and yet he is liable only to one sacrifice because the offering is due only on the eighth. At the end of another spell of seven days he will then bring one sacrifice for two different occurrences of uncleanness.

(3) The Mishnah would then not be justified in regarding this as a case where one offering is brought for several separate transgressions or occurrences.

(4) I.e., the offering became due for the first uncleanness and thus designated for it.

(5) Num. VI, 11. I.e., he shall commence the new period of naziriteship, as the text continues, And he shall consecrate unto the Lord the days of his naziriteship.

(6) I.e., the eighth day; v. Num. VI, 10.

(7) I.e., the seventh day; v. ibid v. 9.

(8) This is a continuation of the enumeration in the previous Mishnah of laws where one is liable to one sacrifice for several transgressions.

(9) Not to have any relations with certain men; cf. Sot. 2a.

(10) Cf. Num. V, 15f. The jealous husband brings a meal-offering of barley.

(11) A leper when declared healed and clean by the priest, offers two birds, cf. Lev. XIV, 4-7, and after seven days other offerings, cf. v. 10ff. If before the offering of the latter sacrifices he contracts again a leprous disease, he is not liable to new sacrifices.

(12) After the seven days he offers three sacrifices: a sin-, a guilt- and a burnt-offering. For the explanation of this passage v. infra Gemara.

(13) With reference to the first instance in the Mishnah.

(14) Num. V, 29. The use of the plural implies this law.

(15) Lev. XIV, 2. The article is regarded as superfluous, and is taken to have been used for the sake of this implication.

(16) While the text of the Mishnah seems to imply that he has to offer birds again.

(17) The rich person brings three lambs as his sacrifices; the poor person offers a lamb as a guilt-offering and then two pigeons or turtle-doves, one for a sin-offering and one for a burnt-offering.

(18) I.e., it is the pecuniary position of the leper at the time of the offering of the sin-offering that is decisive, and not at the time of the offering of the birds.

(19) Neg. XIV, 11.

(20) The sin- and burnt-offering are offered after the guilt-offering.

(21) I.e., in spite of the fact that he is rich now, he offers but pigeons for the sin- and burnt-offerings, since he was poor at the moment when the guilt-offering was brought.

(22) Lev. XIV, 32. ‘To his cleansing’ is taken to indicate that the moment of cleansing is decisive, and the three scholars differ as to what is meant by this cleansing: cleansing of sins, cleansing of the impediment to partake of holy things, or that which introduces the ceremony of purification.

(23) Viz., the smearing of the blood of the guilt-offering upon the thumb.

(24) This, too, is a continuation of the enumeration in the second Mishnah of this chapter of laws where one is liable to one sacrifice for several transgressions.

(25) Cf. Lev. XII, 5. After the birth of a girl the woman counts eighty days of cleanness and offers then a sacrifice. The abortion within this period is thus covered by the sacrifice for the first birth.

(26) Lit. ‘twins’. Each abortion was brought forth before the period of cleanness for the previous abortion had expired.

(27) An abortion involves a sacrifice only if it takes place at least forty days after the conception. The first abortion took place within eighty days of the proper birth, but the second must of necessity have taken place after that period. It is therefore not covered by the offering brought for the proper birth. The third birth, i.e., the second abortion, cannot be regarded as exempted on account of the fact that it took place within eighty days of the

(28) Lev. XII, 7. The text is taken to suggest that there is one law, i.e., one offering, for several instances.

(29) Which preceded the birth.

(30) ‘This’ is restrictive: only in the instance of births is the allowance regarding the offering made.

(31) Viz., that according to your assumption, one offering should suffice for two instances that are not connected one with the other. The argument is then led ad absurdum.

(32) Or rather, if the second birth took place after the period of cleanness of the first.

(33) I.e., whenever a birth takes place within the period of cleanness of another, in which case one sacrifice is offered for both, it is the first for which the offering is brought and the second is merely covered by it. The period of cleanness is counted from the first birth, so that there is no such period provided for the second; v. p. 73. n. 8.
(34) I.e., the anonymous view of the Mishnah which maintains that she is liable only to one sacrifice for all the four births, holding that whenever a birth takes place within the period of cleanness of another, it is the second for which the offering is brought while the first becomes exempted owing to the fact that its period of cleanness was interrupted. In the instance of the Mishnah, therefore, the second birth takes the place of the first, the third the place of the second, etc. ad infinitum, and the offering is brought for the last of the sequence of births. cf. also Mishnah 7b.
(35) And therefore superfluous.

Talmud - Mas. K'rithoth 10a

What is R. Judah's view with reference to uncleanness?[1] Shall we say, R. Judah holds that the second birth is not taken into account only with regard to offerings, because it took place before the offering for the first birth was due, and consequently the second birth is not taken into account; but with reference to cleanness and uncleanness, I might say that the second birth is taken into account in that the period of impurity[2] thereof interrupts [the period of cleanness of the first], and that the latter period is afterwards completed and the period of cleanness of the second birth commences thereafter? Or does R. Judah uphold his view only if it leads to greater stringency;[3] but here,[4] since it leads to greater leniency,[5] he does not uphold his view? — Said R. Huna of Sura, Come and hear: For a woman after confinement, one may slaughter the Paschal Lamb and sprinkle the blood on the fortieth day after the birth of a male, and on the eightieth day after the birth of a girl?[6] [Whereon it was asked,] Is she not still unclean?[7] and R. Hisda answered: This is in accordance with R. Judah, who holds that the second birth is not taken into account.[8] Now, if you assume that with reference to uncleanness R. Judah agrees that the second birth is taken into account, how can the Paschal Sacrifice be slaughtered for her on the fortieth day, seeing that even in the evening she will not be permitted to partake of it? You must, therefore, conclude that also with reference to cleanness and uncleanness does R. Judah hold that the second birth is not taken into account! — No, I may still maintain that with reference to cleanness and uncleanness R. Judah agrees that the second birth is taken into account, but that law refers to a Paschal Lamb that is offered in uncleanness.[9] But is she then permitted to partake of it, have we not learnt: A Paschal Lamb that is offered in uncleanness may not be eaten by a :zab or a zabah, or by menstruant women or by a woman after confinement?[10] — These may not eat if they have not immersed; the law, however, which states that one may slaughter and sprinkle for her refers to a woman who has immersed.[11] If so,[12] she is fit for the Paschal Lamb from the eighth day onward![13] — She is not fit from the eighth day onward, for it is held that a zab who immersed by day has still the status of a zab.[14] If so, she is unfit even on the fortieth day! — No, on the fortieth day she is regarded fit, for it is held that a zab who lacks but offerings[15] is not considered a zab. But what will be your answer according to Raba who holds that a zab who lacks but offerings is still considered a zab? — Said R. Ashi: Raba will interpret the law as referring to the fortieth day of the conception of a male and the eightieth day of the conception of a female,[16] and as being in accordance with R. Ishmael who holds[17] the limit for a male to be forty-one days and for a female eighty-one days.[18] But is she not, after all, unclean as a menstruant woman?[19] — It deals with a dry birth.[20] If so, is the law not obvious? — I might have thought that the opening of the uterus cannot take place without discharge of blood;[21] therefore he lets us know that the uterus can open without a discharge of blood.

R. Shema'iah said, Come and hear: ‘Sixty’[22] may convey both a connected and a disconnected[23] spell of time; therefore it is written ‘days’:[24] as the day is a connected spell of time, so also the sixty days. With whom does this conform? Shall I say with the Rabbis? Surely, according to them, a disconnected spell of time is an impossibility![25] It must thus be in accordance with R. Judah; and since it is stated that the time must be connected, we are led to decide that he upholds his view only if it leads to greater stringency but not if it leads to greater leniency![26] — No,it may conform with the view of the Rabbis, but it refers to a woman who brought forth a male abortion within the eighty days of a female birth.[27] But, then, after all, is it not so that the days of the first birth finish before those of the second[28] and the Rabbis hold that the second birth is taken into account?[29] According to the Rabbis the law can be realised in the case of a birth of twins, a female first and a male afterwards, and where the male was, e.g., born after twenty days of the period of cleanness had passed,[30] so that she must keep of the days relating to the female birth seven days of impurity. The discussion, then, is thus: I might think that when twins are born, the female first and the male afterwards, the days of impurity of the latter cause an interruption[31] so that the sixty-six days are counted disjointedly; therefore it is written 'days': as the day is a connected spell of time, so also the sixty days must be connected.[32] Abaye said: Come and hear, 'Thirty'[33] may convey both a connected and a disconnected spell of time,[34] therefore it is written, 'days':[35] as the day is a connected spell of time, so also the thirty days. With whom does this conform? Shall I say with the Rabbis? Surely, according to the Rabbis

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(1) I.e., whether a period of cleanness, during which the discharge of blood does not render unclean, is provided for the second birth or not.

(2) I.e., the first seven days after the birth of a male and fourteen days after the birth of a female, during which she is regarded as unclean; cf. Lev. XII, 2 and 5.

(3) As in the Mishnah where two offerings are imposed.

(4) I.e., with reference to uncleanness.

(5) In that the period of cleanness is extended.

(6) Tosef. Pes. VII, 4.

(7) The offering is not brought until the forty-first or eighty-first day.

(8) I.e, this law refers to a woman who gave birth to twins on two consecutive days. The fortieth day of the second birth is thus the forty-first day of the first. On this day she may join the Passover celebration, because the time is due for the offerings which will effect her purification, although they have not been offered yet. The Paschal Lamb is consumed in the evening and the offerings of purification may still be offered. This holds good only according to R. Judah, who says the second birth is not taken into account, for according to the Sages it being the fortieth day of the second birth she would still be unfit for the Paschal Lamb.

(9) When the majority of the community are unclean the Paschal Lamb may, contrary to the general rule, be offered also for the unclean people. With this reply we depart from R. Hisda's interpretation.

(10) Pes. 95b.

(11) For the immersion takes place after the seven days of impurity that follow the birth.

(12) That the immersion is decisive and not the completion of the period.

(13) Why state 'the fortieth day'?

(14) In order to achieve complete cleanness he must immerse and wait till sunset. If the immersion has taken place, but the required spell of time has not passed, he is, according to this view, still unclean. Similarly, if the woman has immersed after the eighth day and has to wait for the completion of the forty days in order to offer the sacrifice, she is still regarded as unfit for sacred things.

(15) I.e., one who has even completed the requisite time but has not offered his sacrifices. Similarly, the woman is considered fit for the Paschal Lamb on the fortieth day.

(16) The law does not refer, as hitherto assumed, to the forty days of the period of cleanness, but to an abortion which took place forty or eighty days respectively after the conception. She is permitted to join the Passover celebration because the embryo is considered too immature to cause uncleanness.

(17) Nid. 30a.

(18) I.e., the formation of a male embryo lasts forty-one days and that of a female eighty-one days.

(19) The blood discharged at birth renders her a menstruant woman. How then is she permitted to be counted for a Paschal Lamb?

(20) Without any discharge of blood.

(21) So that the woman is unclean even if nobody has actually perceived any blood, for it is assumed that the blood is hidden.

(22) Lev. XII, 5. It refers to the sixty-six days of cleanness which follow the fourteen days of uncleanness after the birth of a female.

(23) Viz., by another birth within the eighty days.

(24) The text reads, sixty days and six days; the repetition of the word ‘days’ and the fact that the first time it is actually used in the singular implies that the period is to be like one day.

(25) For the Rabbis hold that in the case of an abortion within eighty days of a birth the period of cleanness of the birth is regarded as annulled and a new period is to start. According to R. Judah on the other hand the period of the first birth still holds good.

(26) For according to the first alternative of the query above there is a case of a disconnected spell of time, as described in the query.

(27) So that the forty days of the male, namely seven days of impurity and thirty-three days of cleanness, finish before the eighty days of the female. In this case even the Rabbis admit that the second, shorter period of cleanness does not abolish the first, longer one, which is to be resumed. The text conveys that the seven days of impurity caused by the abortion are not to be made up after the eighty days have passed.

(28) Intercourse could not have taken place before the first fourteen days of impurity have passed, during which she is not allowed to her husband. As the embryo must be at least forty days old, the abortion cannot have taken place before the fifty-fourth day after the birth of the female, so that the forty days of the second birth must of necessity end after the eighty days of the first.

(29) The period of cleanness will continue beyond the eighty days of the first birth. This instance can therefore no longer be regarded as an example of a disjointed period of eighty days, mentioned in the statement quoted.

(30) Even the Rabbis who hold the second birth is decisive agree here that the period of cleanness of the first birth is not abolished by that of the second, since the latter finishes before the former.

(31) I.e., the seven days of impurity caused by the second of the twins were to be made up after the eighty days of the first birth

(32) I.e., the seven days of impurity do not cause an interruption of the period of cleanness of the first birth, though the woman is indeed unclean during these seven days.

(33) Lev. XII, 5. It refers to the thirty-three days of cleanness which follow the seven days of impurity after the birth of a male.

(34) I.e., if two male twins were born one, say, thirty days after the other, so that the seven days of impurity of the second supersede seven of the days of cleanness of the first birth. If we said that these seven days are to be made up, we should find the period of cleanness of the first birth disconnected. The text lets us know that the seven days are not to be made up.

(35) V. p. 77, n.9.

Talmud - Mas. K'rithoth 10b

a disconnected spell of time is an impossibility, for they hold that it is the second birth that is of avail.[1] It must, therefore, be in accordance with the view of R. Judah; and it proves that he upholds his view only if it leads to greater stringency, but not if it leads to greater leniency.[2] R. Ashi, too, said: Come and hear: ‘Six days’ may mean both a connected and disconnected spell of time;[3] therefore it is written ‘sixty’: as the sixty days are connected, so also the six. With whom does this conform? Shall I say with the Rabbis? Surely, according to the Rabbis a disconnected spell of time is an impossibility, for they hold it is the second birth that is of avail. It must therefore be according to R. Judah, and this proves that he upholds his view only if it leads to greater stringency but not if it leads to greater leniency. This is indeed proved.

MISHNAH. THE FOLLOWING PERSONS BRING AN OFFERING OF HIGHER OR LESSER VALUE:[4] ONE WHO REFUSES TO GIVE EVIDENCE,[5] ONE WHO HAS BROKEN THE WORD OF HIS LIPS [SUPPORTED BY AN OATH],[6] ONE WHO WHILE UNCLEAN HAS ENTERED THE SANCTUARY OR HAS PARTAKEN OF HOLY THINGS,[7] A WOMAN AFTER CONFINEMENT[8] AND A LEPER.[9]

GEMARA. Our Rabbis taught: Some bring the offering of the poor and of the rich, some of the poor, and some of the poorest. A woman after confinement brings the offering of the poor and of the rich,[10] a leper that of the poor,[11] while one who refuses to give evidence, or breaks his word, or defiles the Sanctuary or holy things offers the offering of the poor and of the poorest.[12]

Another [Baraitha] taught: Sometimes one offering replaces[13] one, sometimes two replace two, sometimes two replace one and sometimes one replaces two; this teaches that the tenth of an ephah[14] is worth a perutah.[15] The woman after confinement offers one instead of one, namely a single bird in the place of the lamb[16] ; a leper offers two birds in the place of two lambs; one who refuses to give evidence or one who breaks his word or one who defiles the Sanctuary or holy things offers two birds instead of one lamb, and in the case of direst poverty one tenth of an ephah in the place of two birds.

It says, ‘This teaches that the tenth of an ephah is worth a perutah’. Whence do we know this? — Our Rabbis have taught: If one says, I vow an offering for the altar worth a sela’, he offers a lamb, for no offering can be offered for a sela’ but a lamb. Whence do we know this? — Since the Divine Law stated that the ram of the guilt-offering is valued at two shekels,[17] from this we learn that a one-year old lamb is valued at one sela’,[18] for it is said,A lamb of the first year,[19] [from which follows that] a ram is of the second year.[20] Then we have learnt:[21] ‘The pair of sacrificial birds on that day stood at a quarter [of a denar]’.[22] We thus see that the Divine Law has spared the poor and has fixed their sacrifice at the sixteenth part of that of the rich; we may then assume that the sacrifice of the poorest is to be the sixteenth part of that of the poor. Consequently the offering of the poor is worth a quarter of a denar. Since a quarter of a denar has forty-eight perutahs, a sixteenth thereof would be three perutahs, while it has been stated: ‘This teaches that the tenth of an ephah is worth a perutah’. Why a perutah? Did you not say the tenth of an ephah is the offering of the poorest and that this offering is worth one sixteenth part of that of the poor, which we found was three perutahs? — The Tanna derives his proportions from the instance of the woman after confinement, who offers in the place of a lamb one bird, the value of which[23] is one thirty-second part of that of a lamb. But is not the offering of the poorest still the sixteenth part of the poor,[24] as it is inferred from the comparison of the lamb and the ram?[25] The ephah should then be valued at a perutah and a half![26] — Said Raba, All is derived from the instance of the woman after confinement in the following manner: Since the Divine Law has spared the poor and has fixed their sacrifice at one thirty-second part of that of the rich, as we find in the instance of the woman after confinement, so we assume that the Divine Law has spared the poorest in fixing their sacrifice at the thirty-second part of that of the poor. If so, the ephah should be valued at three-quarters of a perutah! — Indeed, so it is, except that it is not becoming to offer to the Lord less than a perutah.

MISHNAH. WHAT IS THE DIFFERENCE BETWEEN THE HANDMAID[27] AND THE FORBIDDEN CONNECTIONS[28] FROM WHOM SHE DEVIATES BOTH IN REGARD TO THE PENALTY AND THE OFFERING? IN THE CASE OF ALL OTHER FORBIDDEN CONNECTIONS A SIN-OFFERING IS BROUGHT, IN THAT OF A HANDMAID A GUILT-OFFERING; IN THE CASE OF THE OTHER FORBIDDEN CONNECTIONS A FEMALE ANIMAL IS OFFERED, IN THAT OF THE HANDMAID A MALE; IN THE CASE OF THE OTHER FORBIDDEN CONNECTIONS MAN AND WOMAN ARE ALIKE IN RESPECT OF LASHES AND THE SACRIFICE,[29] IN THAT OF THE HANDMAID THE MAN IS UNLIKE THE WOMAN REGARDING THE LASHES, AND THE WOMAN IS UNLIKE THE MAN REGARDING THE SACRIFICE;[30] IN THE CASE OF ALL OTHER FORBIDDEN CONNECTIONS SEXUAL CONTACT[31] IS PUNISHABLE AS WELL AS CONSUMMATED CONNECTION, AND ONE IS GUILTY FOR EACH CONNECTION SEPARATELY;[32] FINALLY THE CASE OF THE HANDMAID IS MORE STRINGENT

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(1) She will thus have to count the forty days from the second birth and the period of cleanness of the first is completely abolished.

(2) V. p. 77, n. 11.

(3) I.e., if an abortion took place e.g., on the seventy-seventh day of the birth of a female, so that the days of impurity of the second birth supersede three of the days of the period of cleanness of the first birth. The question is again whether these three days are to be made up or not. The rest of the discussion is similar to that of the two previous ones.

(4) I.e., one which varies according to the pecuniary position of the owners; a rich person offers a lamb or goat, a poor person pigeons or turtle-doves, and a very poor person a meal-offering.

(5) Lit. 'one who heard the call (of an oath).' A person who refuses to give evidence, though called upon to do so by oath, or swearing falsely himself that he does not know the facts; Lev. V, 1.

(6) Lit., 'utterance of lips'; viz., a promise with reference to his own person, such as to fast, or an assurance of facts of the past, also with reference to his own person, e.g., that he fasted; Lev. V, 4.

(7) Ibid. vv. 2-3. The transgression was committed in error. That an offering of higher or lesser value is offered in these three instances is stated in the text, v. 6ff. A rich person offers one lamb, a poor person two doves, a very poor person a meal-offering.

(8) Lev. XII, 6-8. A rich person offers one lamb and one dove, a poor person two doves.

(9) Lev. XIV, 10ff. A rich person offers three lambs, a poor person one lamb and two doves.

(10) Viz., one lamb and one dove.

(11) Viz., two birds, prior to the other sacrifices.

(12) In these three cases the provision is made that the poorest offer but a meal-offering

(13) In case of poverty.

(14) Ephah is a measure. A tenth thereof is the quantity of the meal-offering offered by the poorest; Lev. V, 11.

(15) V. Glos. V. infra.

(16) For her burnt-offering. As for her sin-offering a woman after confinement always brought a dove or a pigeon.

(17) Lev. V, 15. The text uses shekels, plural; i.e., at least two.

(18) A Biblical shekel is identical with a sela'.

(19) Num. VI, 12.

(20) A ram is more mature. It is assumed that the price has doubled with the doubling of the age.

(21) V. supra 8a.

(22) One denar is the fourth of a sela'.

(23) Viz., the eighth of a denar.

(24) The offering of the poorest is not provided in the instance of the woman after confinement but only in the cases of refused evidence, broken promise and defilement of the Sanctuary and holy things. In these instances two birds replace one lamb. The proportion of the offering of the rich and that of the poor is sixteen to one. The same proportion must then hold good with reference to the offering of the poorest towards that of the poor.

(25) From which we learn that a lamb is valued at a sela'.

(26) The offering of the poor being the thirty-second part of that of the rich and sixteen times the value of that of the poorest, is thus worth one and a half perutahs.

(27) A bondwoman who is designated to a man chosen by her master; cf. Lev. XIX, 20.

(28) Enumerated in Lev. XVIII.

(29) I.e., both partners are liable to lashes in the case of wilful transgression and to an offering in the case of transgression in error.

(30) I.e., the man is liable to a guilt-offering and the handmaid to lashes.

(31) I.e., the mere contact of the sexual organs is punishable, even though the connection was not consummated.

(32) While in the case of the handmaid only a consummated connection is subject to the law, and one is not liable for each connection separately.

Talmud - Mas. K'rithoth 11a

IN THAT WILFUL TRANSGRESSION[1] IS OF THE SAME STATUS AS TRANSGRESSION IN ERROR. TO WHICH HANDMAID DOES THIS REFER? TO ONE WHO IS HALF A SLAVE AND HALF A FREE PERSON,[2] AS IT IS WRITTEN: AND NOT AT ALL REDEEMED.[3] THUS THE VIEW OF R. AKIBA. R. ISHMAEL SAYS: TO A SLAVE PROPER. R. ELIEZER B. JACOB[4] SAYS: OF ALL OTHER FORBIDDEN CONNECTIONS IT IS EXPLICITLY STATED

[THAT THEY ARE WHOLLY FREE PEOPLE], THERE IS THUS LEFT THE INSTANCE OF ONE WHO IS HALF A SLAVE AND HALF A FREE PERSON.[5]

GEMARA. Whence do we know that she is liable to lashes but not he? — Our Rabbis taught: There shall be inquisition [bikkoreth],[6] conveys that she is liable to lashes. I might still think that both are liable to lashes, therefore it is written ‘shall be’;[7] she is liable but not he. And whence do we know that the term bikkoreth implies lashes? — Said R. Isaac: It denotes, it shall be read for her,[8] as it has been taught: The head of the judges reads, the second counts and the third says, beat him. R. Ashi says: It denotes, she shall be examined,[9] as we have learnt: They do not estimate the number of lashes he can bear except in a multiple of three.[10]

Our Rabbis taught: Whenever the woman is subject to lashes the man is liable to a sacrifice, and when she is free from lashes,[11] he is exempted from a sacrifice. Whence do we know this? — Said Raba: It is written, And if a man lieth carnally with a woman, that is a bondmaid, designated for a man, and not at all redeemed, nor was freedom given her.[12] Now consider: the text deals hitherto with the man, it should therefore have proceeded immediately with the words, And he shall bring his guilt-offering unto the Lord, and then continue, There shall be inquisition.[13] Why has the text stated first, ‘There shall be inquisition’ and only afterwards ‘And he shall bring his guilt-offering unto the Lord’? This then is meant: If there is an inquisition regarding the woman, he shall bring a guilt-offering unto the Lord, and if there is no inquisition he shall not bring his guilt-offering. But perhaps he has been exempted [from lashes], she however is liable to lashes as well as to a sacrifice?[14] — It reads: And he shall bring his guilt-offering unto the Lord.[15]

R. Isaac said: One is liable only in the case of a possessed handmaid, as it is written, ‘That is a bondmaid, designated for a man’. And where do we find that the term ‘designated’ [neherefeth] implies that a change has taken place?[16] — It is written, And strewed groats [harifoth] thereon.[17] Or as it is written, Though thou shouldest bray a fool in a mortar with a pestle among groats [harifoth].[18]

And they gave their hand that they would put away their wives; and being guilty, they offered a ram of the flock for their guilt;[19] said R. Hisda: This teaches that they had all had intercourse with designated handmaids.[20]

TO WHICH HANDMAID DOES THIS REFER etc. Our Rabbis taught: ‘Redeemed’ might convey altogether free, therefore it continues, ‘she is not [redeemed]’. This on the other hand might convey not at all redeemed, therefore it reads ‘redeemed’. How is this possible? She is redeemed yet not wholly redeemed, viz., one who is half a slave and half a free person and is betrothed to a Hebrew slave. Thus the view of R. Akiba. R. Ishmael says: The text refers to a heathen bondmaid who is betrothed unto a Hebrew slave; while the phrase ‘redeemed, she is not [redeemed]’ is used in accordance with the language of men.[21] R. Eleazar b. Azariah says: Of all for bidden connections it is explicitly stated [that they are free people], there is thus left the instance of one who is half a slave and half a free person and is betrothed unto a Hebrew slave. Others[22] say, ‘They shall not be put to death, because she was not free’, indicates that the text refers to a heathen bondmaid who is betrothed unto a heathen slave. As to R. Ishmael, it is plausible that ‘redeemed, she is not [redeemed]’ may be interpreted as a common parlance, but whence do we learn that she was betrothed to a Hebrew slave? — It is written, For she was not free; he, however, was free.[23] Is not the view of R. Eleazar b. Azariah identical with that of R. Akiba? — He [R. Eleazar] retorts to R. Ishmael: I agree with you in general that the Torah uses the language of men, but this case is different, for the text states, ‘for she was not free’, why add ‘redeemed, she is not [redeemed]’? To learn therefrom that it refers to one who is half a slave and half a free person. As to others, it is plausible that ‘redeemed, she is not [redeemed]’ may be interpreted as a common parlance, but whence do we learn that she was betrothed to a heathen slave? — The text reads, ‘for she was not free'; since this is superfluous with reference to her,[24] it is taken to refer to him.

MISHNAH. IN THE CASE OF ALL FORBIDDEN CONNECTIONS, IF ONE PARTNER WAS A MAJOR AND THE OTHER A MINOR, THE LATTER IS EXEMPTED; IF ONE IS AWAKE AND THE OTHER ASLEEP, THE LATTER IS EXEMPTED; FINALLY, IF ONE IS AN INADVERTENT AND THE OTHER A WILFUL TRANSGRESSOR, THE FORMER IS LIABLE TO A SIN-OFFERING, THE LATTER TO KARETH.[25]

GEMARA. Is indeed in our instance[26] a minor guilty? — Said Rab Judah: This is meant: In the case of all forbidden connections, if one was a major and the other a minor, the latter is exempted and the former guilty; In our instance also the major is exempted, because both partners depend upon one another.[27]

IF ONE IS AWAKE AND THE OTHER ASLEEP, THE LATTER IS EXEMPTED. Is indeed In our instance a sleeping person guilty? Said Rab Judah in the name of Rab: This is meant: In the case of all forbidden connections, if one is awake and the other asleep, the latter is exempted and the former guilty, in our instance even the one awake is exempted, because they depend upon one another.

A Tanna recited before R. Shesheth: They have placed on an equal footing a consummated connection with a mere sexual contact, an intentional connection with an unintentional, a natural connection with a perverse one, and one performed while awake with one performed in sleep. He retorted: How is this meant? If it refers to a designated bondmaid, how does a consummated connection equal a mere sexual contact? In fact, a consummated connection is in the case of a designated bondmaid subject to the law, but a mere sexual contact is not. Similarly the statement that intentional connection equals unintentional [is wrong], for one is guilty only in the case of intentional connection but not otherwise. Similarly the statement that natural connection equals perverse [is wrong], for with the designated bondmaid one is guilty only in the case of natural connection but not in the case of perverse connection, because it is written 'carnally'. And then what is the meaning of the statement that a wakeful person equals a sleeping person? If on the other hand this dictum refers to other forbidden connections, how does it state consummated connection equals a mere sexual contact

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(1) Viz., of the man. If her trespass, however, was inadvertent there is no offering for the man either.

(2) E.g., a slave belonging to two partners one of whom has set her free. The maid is betrothed to a Hebrew slave; her betrothal is only partly valid by reason of her slavery.

(3) Lev. XIX, 20. Lit., 'redeemed, she is not redeemed', i.e., she is not altogether redeemed.

(4) Gemara infra, 'son of Azariah'.

(5) Therefore interpret the law in Lev. XIX, 20f, as referring to this category.

(6) Ibid.

(7) Shall be, being in the feminine, is referred to the maid.

(8) During the administration of lashes, the text of Deut. XXVIII, 58f; cf. Mak. 22b. בקרת, is thus derived from קרא , to read.

(9) Before the administration of lashes the delinquent is examined as to how many lashes he can stand.

(10) Mak. 22b.

(11) E.g., on account of her minority.

(12) Lev. XIX, 20.

(13) Which has just been interpreted as conveying her penalty of lashes.

(14) Whence does the Mishnah know that only the man is liable to a guilt-offering but not the woman?

(15) 'He' is restrictive. He brings a guilt-offering, but not she.

(16) I.e., that a bodily change has taken place with her in that she is no longer a virgin.

(17) II Sam. XVII, 19. Groats, i.e., grain which has experienced a change through grinding.

(18) Prov. XXVII, 22.
(19) Ezra X, 19.
(20) For which a guilt-offering is brought, as mentioned in the text.
(21) I.e., as a common parlance. The repetition of the verb ‘redeem’ is only an emphasis, and is not to imply any law.
(22) R. Meir is quoted under this name; cf. Hor. 13b.
(23) The Hebrew was not the perpetual possession of his master; he is to be freed after six years.
(24) For it is already stated that she was not redeemed.
(25) The Gemara enlarges upon it and states what the law would be in the case of a bondmaid.
(26) I.e., in the case of the bondmaid.
(27) As stated supra; whenever she is exempted from lashes he is also free from a guilt-offering.

Talmud - Mas. K'rithoth 11b

; the comparison, should be in the reverse direction! Said the former: Shall I cancel the dictum? — He replied: No, this is meant: A consummated perverse connection with a designated bondmaid equals a natural sexual contact, when one is exempted because it is written, ‘carnally’; intentional perverse connection with a bondmaid equals unintentional connection, when one is exempted, because it is written, ‘carnally’; perverse connection with a bondmaid while awake equals connection while asleep, when one is exempted because it is written, ‘carnally’. We thus find that intentional sexual contact in the case of a bondmaid equals unintentional connection in the case of other forbidden relations; that natural contact in sleep in the case of the bondmaid equals connection in sleep in the case of other forbidden relations; that perverse connection with the bondmaid while awake[1] equals connection in sleep in the case of other forbidden relations.

CHAPTER III

MISHNAH. IF THEY[2] SAY TO A PERSON, THOU HAST EATEN[3] HELEB,[4] HE IS LIABLE TO A SIN-OFFERING;[5] IF ONE WITNESS SAYS, HE HAS EATEN, AND ANOTHER SAYS, HE HAS NOT EATEN, OR IF ONE WOMAN[6] SAYS, HE HAS EATEN, AND ANOTHER SAYS, HE HAS NOT EATEN, HE IS LIABLE TO A SUSPENSIVE GUILT-OFFERING; IF ONE WITNESS SAYS, HE HAS EATEN, AND HE HIMSELF SAYS, I HAVE NOT EATEN, HE IS EXEMPTED; IF TWO [WITNESSES] SAY, HE HAS EATEN, AND HE HIMSELF SAYS, I HAVE NOT EATEN, R. MEIR DECLARES HIM LIABLE [TO AN OFFERING]. SAID R. MEIR: IF TWO WITNESSES ARE CAPABLE OF INFLICTING THE SEVERE PENALTY OF DEATH,[7] SHOULD THEY NOT IMPOSE THE LESS SEVERE PUNISHMENT OF A SACRIFICE? THEY[8] REPLIED: SUPPOSE HE SAID, I WAS A WILFUL TRANSGRESSOR, WOULD HE NOT BE EXEMPTED?[9] IF ONE ATE TWICE HELEB IN ONE SPELL OF UNAWARENESS, HE IS LIABLE TO BUT ONE OFFERING; IF ONE ATE HELEB, BLOOD, PIGGUL[4] AND NOTHAR[4] IN ONE SPELL OF UNAWARENESS, HE IS LIABLE FOR EACH KIND OF FOOD. THIS IS AN INSTANCE WHERE DIFFERENT KINDS [OF FOOD] ARE MORE STRINGENT THAN ONE KIND; IN THE FOLLOWING INSTANCE, HOWEVER, ONE KIND [OF FOOD] IS MORE STRINGENT THAN SEVERAL KINDS: IF ONE ATE HALF AN OLIVE-SIZE[10] AND THEN AGAIN HALF AN OLIVE-SIZE, BOTH IN ONE SPELL OF UNAWARENESS, IF OF ONE KIND HE IS LIABLE, IF OF TWO KINDS, HE IS EXEMPTED.

GEMARA. It is stated, IF THEY SAY TO A PERSON, THOU HAST EATEN HELEB, HE IS LIABLE TO A SIN-OFFERING. ‘THEY SAY’ implies [at least] two; and what does he maintain? If you assume that he was silent and did not contradict them, it would then follow that only silence in response to two witnesses evokes a sin-offering, but not in response to one. Now read the middle clause: IF ONE WITNESS SAYS, HE HAS EATEN AND HE HIMSELF SAYS, I HAVE NOT EATEN [HE IS EXEMPTED]. Now the reason [that he is exempted] is because he contradicts them, but if he did not deny the charge he would be guilty; and how much more so if there were two witnesses! Rather you must assume that he contradicts the witness, and the law is in accordance with R. Meir, who holds a contradiction of two witnesses is of no avail; but according to the Rabbis, he would indeed be exempted. But, then, why has this clause at all been mentioned, we know the law from the concluding clause?[11] — This is what he lets us know, that this is a point of dispute between R. Meir and the Rabbis.[12] Some there are who say: ‘THEY SAY’ may well refer to a single person, as we have learnt: If a man has gone overseas and they come and tell his wife that he is dead, whereupon she marries again. if the husband returns alive she has to leave both men.[13] And it has been established that this law refers also to one witness. Whence do we infer this? From that which has been stated in the latter clause: If she has married again without authority, she may return to her husband. Now, what does ‘without authority’ mean? Without the authority of the court but upon the evidence of witnesses;[14] from this we infer that in the former clause it was done with the authority of the court, but upon the evidence of one witness. We thus find that ‘they say’ is used of one witness; similarly, when it states ‘THEY SAY’ it refers to one witness. And what does he [the offender] say? If he contradicts, he should be exempted; for we have learnt in the middle clause: IF ONE WITNESS SAYS, HE HAS EATEN AND HE HIMSELF SAYS, I HAVE NOT EATEN, HE IS EXEMPTED! Again if you say, he is silent; surely we know this law already from the middle clause, IF ONE WITNESS SAYS etc., from which is inferred that he is exempted only when he contradicts, but when he is silent he is indeed liable to an offering! Indeed, he does not contradict, and understand the Mishnah thus: IF THEY SAY TO A PERSON, THOU HAST EATEN HELEB. HE IS LIABLE TO A SIN-OFFERING, namely if he is silent, but . . . when HE HIMSELF SAYS, I HAVE NOT EATEN, HE IS EXEMPTED.[15]

Where do we find in the Torah that a person is liable to an offering if he does not contradict the evidence of others? — Our Rabbis taught: If his sin be known to him . . . . he shall bring his offering];[16] but not if others make it known to him.[17] I might then think he is exempted even if he does not contradict,it is therefore written, ‘if it be known to him’: in whatever manner.[18] Now to which case does this refer? Shall I say to one in which two witnesses gave evidence? Do we in such a case need a text?[19]

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(1) no note.

(2) Viz., two witnesses, v. infra Gemara.

(3) Viz., without being conscious of the transgression.

(4) V. Glos.

(5) Provided the person does not deny the charge. Also one witness would suffice in this case.

(6) A woman is as a rule not qualified to act as a witness.

(7) E.g., if they testify to murder.

(8) Viz., the Sages who hold there is no sacrifice in any case of denial by the perpetrator.

(9) V. infra Gemara as to the interpretation of this passage.

(10) An olive is the standard size of these prohibited foods.

(11) Viz., the one wherein R. Meir and the Rabbis differ.

(12) The latter clause explains the former, that the anonymous view of the former clause declaring him liable to a sin-offering is in fact the opinion of R. Meir only, while the Rabbis disagree.

(13) I.e., she has to be divorced from both her husbands; v. Yeb. 87b.

(14) Since her second marriage was founded upon the evidence of two qualified witnesses, although the court did not give their consent, she is not to be penalised and may therefore return to her first husband. The former clause, where it states that she is punished and has to leave both men, must therefore refer to a case where there were not two witnesses but one only. The court has accepted the evidence of the one witness but with the understanding that she continues her inquiries as to her husband's fate. The fact that her husband has returned alive proves that her inquiries were not satisfactory, and she is therefore penalised.

(15) I.e., the middle clause is the counterpart of the first clause.

(16) Lev. IV, 23.

(17) I.e., if the facts are established by outside evidence.

(18) It should read, ‘if he remembers’. The text thus suggests that he is guilty, even if his ‘know. ledge’ for silence is taken as consent — is provoked from outside.

(19) That he is then liable to an offering is obvious.

Talmud - Mas. K'rithoth 12a

It must thus refer to one witness giving evidence; and yet it says that if there is no contradiction his evidence is valid.[1] We have thus proved it.

SAID R. MEIR, etc. The question was asked: What is the reason of the Rabbis? Is it that they hold that regarding oneself[2] a man is believed more than a hundred witnesses, or perhaps that we adopt the argument of miggo:[3] for if he said, I transgressed willfully, he would certainly have been exempted, so if he says, I did not eat at all, he is to be believed, and is therefore exempted? And in which way is this question of avail? With reference to the application of the law to uncleanness.[4] If you say the reason of the Rabbis is that regarding oneself a man is believed more than a hundred witnesses, there will be no difference between the old and fresh uncleanness;[5] but if you say the reason of the Rabbis is that we adopt the argument of miggo, they would exempt him in the case of old uncleanness but declare him liable in the case of new uncleanness.[6] For what reason? For in the case of old uncleanness, if he wanted, he could have said,I have already immersed ,’and be exempt; he is therefore exempt also when he says, I have not become unclean,[7] since it can be said that what he meant [when he said,] ‘I have not become unclean’ is ‘I did not remain unclean, for I have immersed’. In the case of fresh uncleanness, however, he is liable. For what reason? For even if he asserted, I have immersed, he would be guilty,[8] since the witnesses maintain that he has just become unclean. How is it? — Come and hear: If one witness says to a person. Thou art unclean, and he himself says, I am not unclean, he is exempted.[9] I might assume [this holds good] also in the case of two witnesses, but, says R. Meir, against this there is an a fortiori argument: since two witnesses are capable of inflicting the severe penalty of death, how much more can they impose the less severe punishment of a sacrifice! The Rabbis say: Regarding oneself a man is believed more than a hundred witnesses. It thus seems that the argument of the Rabbis is that regarding oneself a man is believed more than a hundred witnesses! — Said R. Ammi: Indeed the argument of the Rabbis is the conclusion of miggo; and understand their reasoning thus: As he could, if he wanted, have said, I did not remain unclean,[10] and would then be exempted, therefore regarding himself he is to be believed more than a hundred witnesses. If so, is not this instance identical with that concerning heleb?[11] — I might have thought, in the case of heleb I may assume that he explains his words:[12] I did not eat in error, but wilfully. But [when he is told], Thou art unclean, and he replies, I am not unclean, I might think his words are not capable of explanation; therefore he lets us know that also in this instance we interpret his words as conveying, I have not remained unclean for I have immersed.

Come and hear: And he shall confess,[13] [implies that] if he confesses he is liable to an offering, if he does not confess he is exempted. If, therefore, a witness says to him, Thou art unclean, and he says, I am not unclean, he is exempted. I might think this holds good even in the case where he contradicts two witnesses, but says R. Meir, since two witnesses are capable of inflicting the severe penalty of death, how much more can they impose the less severe punishment of a sacrifice! R. Judah says: Regarding oneself a man is believed more than a hundred witnesses. The Rabbis, however, agree with R. Judah in regard to heleb and the entering of the Temple precincts.[14] but not in regard to uncleanness.[15] Now, to which [uncleanness] does this refer? Shall I say

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(1) So that he has to bring an offering.

(2) I.e., in matters relating to the salvation of his soul, for the sacrifice is to bring about his propitiation and conciliation with the Lord.

(3) I.e., a logical rule that a man's statement is to be accepted as true whenever another credible and more advantageous assertion could have been made; for it is argued, that had he intended to lie he would have invented the more advantageous statement.

(4) I.e., if two people say e.g., you have entered the Temple precincts while unclean.

(5) Fresh uncleanness is one contracted on the same day; old uncleanness one contracted on previous days. In the first instance the witnesses say the contraction of the uncleanness and the entering of the Temple precincts were both on the same day, in the latter on different days.

(6) In the case of fresh uncleanness there has not yet been an opportunity of becoming clean again, for immersion alone is not sufficient; one has to wait till sunset to be clean. In the instance of old uncleanness one may well assert one's cleanness by saying, I have immersed.

(7) The actual statement is capable of an interpretation similar in sense to the assertion that might have been made.

(8) If he enters the precincts of the Temple before sunset, even after immersion, he is guilty.

(9) Toh. V, 9.

(10) I.e., I immersed.

(11) And therefore superfluous.

(12) I.e., he may give you a wider meaning to his words, so that the assertion he actually makes harmonises with the one he could have made.

(13) Lev. V, 5.

(14) I.e., when the question is whether he has eaten heleb, or whether he has entered the Temple while unclean, for in these two instances the argument is that he might have said the transgression was wilful, and the assertions actually made, viz., ‘I did not eat heleb’ and ‘I did not enter the Temple’, may be interpreted as being in harmony with the assertion he could have made thus: ‘I did not eat heleb and I did not enter the Temple in a manner which would make me liable to an offering’.

(15) I.e., when the question is whether he has at all become unclean. The miggo that he might have said, I did it wilfully, is no longer valid.

Talmud - Mas. K'rithoth 12b

[it refers] to old uncleanness, why do the Rabbis agree with R. Judah only with regard to heleb and the entering of the Temple precincts because he might have said, I did it wilfully? Also in the instance of old uncleanness he could have interpreted his words and say, if he wanted, I did not remain unclean but immersed![1] — Said Rabina: It refers in fact to old uncleanness,[2] but to a case where the witnesses said to him, Thou hast eaten sacred food while thy body was unclean,[3] and his reply was, I was not unclean; his words are then not open to an explanation, for we cannot say he meant, I did not remain unclean but immersed, for this would convey, I immersed and indeed did eat, which statement would contradict the first assertion[4] at least in respect of the uncleanness through contact.[5]

Said R. Nahman: The halachah is according to R. Judah. Said R. Joseph: He holds [that he is clean] only in private[6] and when appertaining to himself.[7]

Said Resh Lakish: R. Meir agrees with the Rabbis that if two witnesses say to a person, Thou hast had intercourse with a designated bondmaid,[8] and he maintains that he has had no intercourse, he is to be trusted, for he could, if he wishes, have answered them, I did not complete the act of cohabitation.[9]

Said R. Shesheth: R. Meir agrees with the Rabbis with regard to the uncleanness of a nazirite, that if two witnesses say to him, Thou art unclean, and he replies, I am not unclean, he is exempted,[10] because he could, if he wanted, have replied, I am absolved from the vow of naziriteship.[11]

Said Abaye: R. Meir agrees with the Rabbis that if two witnesses say to a person, Thou knowest evidence against a certain man,[12] and he says, I do not know, he is exempted, because he could, if he wanted, have said, I was not intent upon giving evidence.

IF ONE ATE TWICE HELEB IN ONE SPELL OF UNAWARENESS etc. To this R. Zera demurred: Why is he liable to only one sin-offering? Has he not eaten two olive-sizes of heleb? — Replied to him Abaye: It is the different spells of unawareness that effect separate offerings, but in our instance there was but one spell of unawareness. Some raise the difficulty in the following version: The reason [that he is liable only to one offering], is that there was only one spell of unawareness; if, however, there were two spells of unawareness he would indeed be liable to two offerings; but why? Were not both meals of the same denomination of heleb? — Replied to him Abaye: Different spells of unawareness effect separate offerings.

IF ONE ATE HELEB, BLOOD, PIGGUL AND NOTHAR etc. [It is stated,] IF OF ONE KIND HE IS LIABLE; is this not obvious? — Said Resh Lakish in the name of Bar Tutini:[13] We suppose it was eaten in two different dishes, and this law is in conformity with the view of R. Joshua who [generally] holds that different dishes do not combine with one another.[14] Now I might have thought that R. Joshua upholds his opinion no matter whether greater leniency or greater stringency result from it; therefore we are taught that he is liable [to an offering], implying that he upholds his view only when it leads to greater stringency, but not when it leads to greater leniency. Some refer the discussion to the latter part of the passage: IF OF TWO KINDS, HE IS EXEMPTED; is this not obvious? — Said Resh Lakish in the name of Bar Tutini: We suppose they were eaten in two different dishes and this law is in accordance with R. Joshua who holds different dishes do not combine with one another. Now I might have thought that R. Joshua upholds his rule only if it leads to greater stringency but not if greater leniency results from it; therefore we are taught: IF OF TWO KINDS, HE IS EXEMPTED: ‘Two kinds’ means in fact ‘one kind’;[15] it is called ‘two kinds’ because the eating was in two different dishes; and as it is stated that he is then exempted, hence we may conclude that R. Joshua upholds his rule both if it leads to greater leniency and if it results in greater stringency. Now, since the latter part of the passage[16] deals with one kind consumed in two dishes, the former part must, as its contrast, refer to one kind consumed in one dish. Is not the law then obvious? — Said Rabina: It refers to a case where he became aware [of his sin] in between,[17] and the law is in accordance with Rabban Gamaliel, who holds awareness is of no avail with regard to half-sizes;[18] as we have learnt:[19] If one writes two letters in two different spells of unawareness, one in the morning and the other in the evening, Rabban Gamaliel holds he is guilty, but the Rabbis exempt him. Rabban Gamaliel holds awareness is of no avail with regard to half-sizes, whereas the Rabbis maintain it is of avail.

MISHNAH. WITHIN WHAT TIME MUST HE EAT THEM?[20] [THE TIME HE WOULD NEED] IF HE ATE A LIKE BULK OF PARCHED GRAINS OF CORN.[21] THUS THE VIEW OF R. MEIR; BUT THE RABBIS SAY, HE MUST TAKE FROM THE BEGINNING TO THE END NO MORE TIME THAN IS REQUIRED FOR THE EATING OF A PERAS,[22] TO BECOME LIABLE. IF ONE EATS UNCLEAN EDIBLES OR DRINKS UNCLEAN DRINKS,[23] OR IF [A PRIEST] DRINKS A QUARTER [OF A LOG] OF WINE AND THEN ENTERS THE TEMPLE,[24] IF NO MORE TIME HAS ELAPSED THAN IS REQUIRED FOR THE EATING OF A PERAS, HE IS LIABLE. R. ELEAZAR SAYS: IF THE DRINKING WAS INTERRUPTED OR THE WINE DILUTED WITH WATER OF THE SMALLEST QUANTITY, HE IS EXEMPTED.[25] GEMARA. They asked: Is R. Meir's statement in the direction of stringency or of leniency? Is it in the direction of stringency, and this is what he means: [THE TIME HE WOULD NEED] IF HE ATE OF PARCHED GRAINS OF CORN, though lasting the whole day.[26] Thus even though the time that elapsed between the beginning and the end of the meal was longer than is required for the eating of a peras, yet since it was one protracted meal, he is liable; while the Rabbis retorted: If no more time has elapsed than is required for the eating of a peras, he is guilty, if more he is exempted? Or is it in the direction of leniency, and this is what he means: [THE TIME HE WOULD NEED] IF HE ATE OF PARCHED GRAINS OF CORN, provided it was without interruption,[27] but if with interruption he is exempted even though the time that elapsed between the beginning and the end of the meal is within that required for the eating of a peras; while the Rabbis retorted: Since the time elapsed between the beginning and the end of the meal was within that required for the eating of a peras, he is guilty? — Come and hear: BUT THE SAGES SAY, HE MUST TAKE FROM THE BEGINNING TO THE END NO MORE TIME THAN IS REQUIRED FOR THE EATING OF A PERAS.

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(1) We must therefore assume that the Baraitha refers to fresh uncleanness, in which case there is no miggo. It seems at all events to be implicitly accepted that the reason of the Sages' view is based upon the conclusion of miggo, while R. Judah who holds that even in the case of fresh uncleanness he is exempted, bases his view obviously upon the rule that regarding oneself a man is at all events believed more than a hundred witnesses. The query set forth at the outset of the discussion is thus resolved: R. Judah, who as the opponent of R. Meir is often quoted anonymously, bases his view upon the first argument of the query, the Sages upon the second.

(2) And both R. Judah and the Sages may base their arguments in the instance of heleb upon the rule of miggo, but this case is such that the Sages hold miggo is not applicable to it.

(3) This statement contains a twofold assertion: That he was unclean and that he ate sacred things. Were his contradiction, I did not eat, we might have understood it in the sense, I did not transgress for I had immersed before. His reply, I am not unclean, is taken to imply, I did not come into contact with an unclean object, and this is in open contradiction to the evidence of the witnesses, wherefore his statement is not accepted and he is liable to an offering.

(4) I.e., the assertion of the witnesses.

(5) For his words imply, he did not come into contact with an unclean object.

(6) He is not permitted to partake of sacred food in the presence of others, for this might be interpreted as neglectful treatment of the laws of purity.

(7) He is not believed with reference to other people. If he has come into contact with sacred things they are regarded as unclean for others. The trust put in him when he says he is not unclean is subjective, because we believe him in matters appertaining to his own conscience and salvation.

(8) I.e., a maidservant designated by her master for marriage to one chosen by him; Lev. XIX, 20.

(9) V. 11b, where the completion of the act is an essential condition of the transgression.

(10) From an offering at the end of seven days; v. Num. VI, 9f.

(11) Absolution can be granted from a vow by a scholar if there are good reasons to assume that the consequences of the vow were not foreseen.

(12) The refusal to give evidence if adjured to do so is punishable with an offering; v. Lev. V, 1.

(13) Supra 4b quoted as Bar Tutani.

(14) Viz., to make up the requisite standard size of an olive. The non-combination of the two half-olives brings about his exemption from an offering. If on the other hand one has, e.g., eaten two full quantities in two dishes the non-combination leads to greater stringency of the law, for he is then liable to two offerings.

(15) I.e., two pieces of heleb, e.g., each of the size of half an olive, eaten in two meals.

(16) Viz., IF OF TWO KINDS etc.

(17) Between the two meals he learnt, e.g., that the first piece of fat was heleb.

(18) I.e., half-sizes may be combined one with the other even if eaten in two spells of unawareness.

(19) Shab. 105a. Only when one writes two letters is a sacrifice prescribed.

(20) We have learnt in the previous Mishnah that if one eats two half-sizes of prohibited food, he is guilty because the two meals combine to make up the requisite size. What time may pass between the two meals to be still considered as one?

(21) I.e., the time it takes to eat an olive-size of food crumbled into small pieces of the size of parched ears, eaten one after the other.

(22) Lit., 'portion' or 'half'; viz., half a loaf; v. also 'Er. 83a.

(23) If one eats unclean food of the size of half a peras, or drinks of an unclean drink the quantity of a fourth of a log, he is regarded as unfit to eat sacred food until he has taken an immersion.

(24) To perform his service.

(25) R. Eliezer refers to the last instance.

(26) The criterion of R. Meir is then to indicate that the meal may be interrupted.

(27) The time required for the eating of an olive-size of parched corn without interruption is less than that required for the eating of a peras.

Talmud - Mas. K'rithoth 13a

Talmud - Mas. K'rithoth 13a

Now, if you say that R. Meir's view is in the direction of stringency,[1] it is right that it reads: HE MUST TAKE . . . NO MORE, meaning that he is not liable unless he takes no more time than is required for the eating of a peras; but if you say R. Meir's view is in the direction of leniency, it should have read ‘But the Rabbis say: If he has taken as much time as is required . . .’. It is thus proved that R. Meir's view is in the direction of stringency. It is indeed proved.

Said Rabanai in the name of Samuel: For heleb and nebelah[2] he must take from the beginning to the end [of the meal][3] no more time than is required for the eating of a peras; for unclean food, reptiles and unclean drinks,[4] he may take even the whole day, as much as is required for the eating of a peras. What does this mean? — Said R. Papa, thus: Even the whole day so long as he ate an olive-size within the time required for the eating of a peras.[5]

An objection was raised: All kinds of food combine one with the other to half a peras to render the body unfit.[6] Now does this not mean that he has to eat the half-peras within the time required for the eating of a peras? — No, he has to eat an olive-size within the time required for a peras.

An objection was raised: All kinds of food combine one with the other to a half-peras, consumed within the time required for a peras, in order to render the body unfit. How is this? If he ate and then ate again, if from the beginning of the first meal to the end of the last no more time has passed than is required for the eating of a peras, they combine with one another; if more they do not combine. It is not permitted to one who ate less than the requisite quantity to immerse;[7] if he did immerse and then ate the complementary quantity to the standard size, the meals combine one with the other. A pregnant woman is permitted to eat a quantity[8] smaller than the standard size, because of her serious position. All kinds of beverage combine one with the other to a quarter [of a log], consumed within the time required for the eating of a peras, in order to render the body unfit. How is this? If he drank and then drank again, if from the beginning of the first drink to the end of the last no more time has passed than is required for the eating of a peras, they combine with one another; if more they do not. [She] who has been in contact with one unclean by a dead body is permitted to nurse her baby, and the baby remains clean. It states at all events, ‘If from the beginning of the first meal to the end of the last no more time has passed than is required for the eating of a peras, they combine with one another’. Is this not in contradiction to Rabanai's statement? — Indeed it is.[9]

The Master says: ‘It is not permitted to one who ate less than the requisite quantity to immerse’. What does this mean?[10] — Said Rab Judah: This is what it means: If one ate less than the requisite quantity, he is not permitted to immerse, for if he should eat afterwards the complementary quantity, which combines with the first, he might assume that the preceding immersion is of avail, not knowing that an immersion is valid only at the end.

It is stated, ‘A pregnant woman is permitted to eat a quantity smaller than the standard size, because of her serious position’. If by reason of her serious position, she should be permitted to eat even more![11] — Said R. Papa: Read thus, A pregnant woman is permitted to eat even more, yet in quantities smaller than the standard size, because of her serious position.

It says, ‘[She] who has been in contact with one unclean by a dead body is permitted to nurse her baby, and the baby remains clean.’ Why is it clean? Since it has sucked in milk it should be unclean through the milk.[12] And should you say it was not prepared,[13] [I would reply,] It is prepared by the drop which moistens the nipple![14] — Answered R. Nahman in the name of Rabbah b. Abbuha: It sucked with great pull so that no drop was formed to moisten the nipple. Said Raba: I have two objections to raise: firstly we see that a child's mouth is filled with milk,[15] and then, the milk-source has the status of a ‘well’,[16] as we have learnt: The milk of a woman renders things unclean whether [it was drawn] purposely or unintentionally, while the milk of a cow renders things unclean only when brought forth intentionally.[17] Now does not 'unintentionally' mean that the child has no pleasure in it; and yet it says that it renders things unclean![18] — Rather said Raba: The reason why the child remains clean is that it is doubtful whether it has sucked in the requisite quantity or not; and even if it did, it is still doubtful whether it was done within the time required for the eating of a peras or during a longer period. But how can Raba maintain that the milk-source has the status of a 'well'? Have we not learnt: If milk drips from the breast of a [menstruant] woman and falls upon an oven, the oven is unclean?[19] Whereupon it was asked, wherewith has the milk become 'prepared' for uncleanness? and R. Johanan replied: By the drop with which the nipple is moistened.[20] And if you say that Raba disagrees with R. Johanan, has it not been taught: 'It is thus found that there are nine kinds of liquids of a gonorrhea-ridden person: sweat, ill-smelling discharge[21] and secretion, are altogether clean;[22] the tears of his eyes, the blood of his wound

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(1) I.e., the time-limit suggested by R. Meir is less than that laid down by the Rabbis, so that the Rabbis in their retort to R. Meir demand a prolongation of the time-limit.

(2) V. Glos.

(3) E.g., if he ate two half olive-sizes of heleb.

(4) Half a peras or a quarter of a log respectively renders him who ate it unfit to eat sacred food.

(5) I.e., each olive-size of the standard quantity of half a peras has been eaten within the time required for a peras.

(6) Me'il. 17b.

(7) This is soon explained.

(8) I.e., unclean food; v. Tosaf.

(9) Rabanai's view is thus refuted.

(10) Why should he not be permitted to immerse, even though the immersion is in vain?

(11) For it is permitted to break the law of the Torah in the case of danger to life.

(12) The milk is unclean of the second degree; it is therefore not capable of rendering persons unclean through contact, but he who drinks thereof a half-peras is unfit to partake of sacred food.

(13) All foodstuffs must be 'prepared', i.e., rendered fit for uncleanness, by being moistened with certain liquids. The milk coming from the body is considered foodstuff, and in the absence of such preparation should be clean.

(14) The drop with which the nipple is moistened is not regarded as food, since it is not destined to be consumed, and can therefore act as a liquid to 'prepare' the rest of the milk for uncleanness.

(15) One drop at least must have adhered to the nipple.

(16) The milk has not the status of ordinary food or drink, but that of a secretion from the body, and forms part thereof. When the body is unclean, the milk is ipso facto unclean too. No 'preparation' is thus necessary. 'Well' means here a secreting organ.

(17) Maksh. VI, 8. Things are regarded as 'prepared' for uncleanness by being moistened with a liquid only if the moistening was to the satisfaction of the owner or worker.

(18) As we learn here that the milk of a woman is unclean and conveys its uncleanness to other things even if it came forth not to the satisfaction of the owner or worker (here the child), it cannot bear the status of ordinary food that requires 'preparation'. It must thus possess the character of a secretion from the body.

(19) Kel. VIII, 11.

(20) We thus see that in contradiction to Raba 'preparation' is needed.

(21) Such as pus.

(22) They do not cause uncleanness through contact.

Talmud - Mas. K'rithoth 13b

and the milk of a woman, in the quantity of a fourth of a log contract uncleanness as a liquid;[1] saliva, flux and urine contract the more severe uncleanness[2] in the smallest quantity'? Now, if it was true, as you say, that the milk-source has the status of a 'well', milk too should contract the more severe uncleanness in the smallest quantity, like flux and saliva. It is thus proved that the milk-source of a woman has not the status of a 'well'. But, then, what of the contradiction between this Baraitha and [the Mishnah quoted by] Raba [that the milk of a woman] ‘renders things unclean whether drawn purposely or unintentionally’?[3] — Do you indeed think, as has hitherto been assumed, that ‘unintentionally’ means that the child had no pleasure in it? No, ‘unintentionally’ means ‘generally’, for it is accepted that the child has its mind upon the milk; but if the child indicates that he has no pleasure in it, it is indeed clean.

IF ONE EATS UNCLEAN EDIBLES etc. Why is it conditional upon the elapse of a certain time,[4] as it reads, IF . . . TIME HAS ELAPSED? — Said Rab Judah: Thus it is to be understood: If one eats unclean edibles or drinks unclean drinks, or if [a priest] drinks a quarter of a log of wine, spending thereon the time required for the eating of a peras, and then enters the Temple precincts, he is guilty.

R. ELEAZAR SAYS etc. Our Rabbis taught: Drink no wine nor strong drink;[5] I might think any quantity, and even if taken from the vat,[6] therefore the text states ‘strong drink’; he is guilty only if the quantity suffices to make him drunk.[7] Which is the quantity capable of causing intoxication? A fourth of a log of wine of forty days’ standing. Why then has ‘wine’ been mentioned? To tell you that one is cautioned in regard to the smallest quantity, and one is cautioned also in regard to [wine] drawn from the vat.[8] R. Judah says: It reads ‘wine’; from here we know only ‘wine’, whence do we know other intoxicating drinks? It therefore reads ‘and strong drink’. If so, why has ‘wine’ been stated? Wine involves the death penalty, other drinks involve only [the disregard of] a warning. R. Eleazar says: Drink no wine and [drink no] strong drink: Drink it not in the manner which causes intoxication; if, however, he interrupts or dilutes it with any quantity of water, he is not guilty. Wherein do they differ? — The first Tanna holds: We draw an inference from the nazirite by the common expression ‘strong drink’;[9] R. Judah does not hold this inference; while R. Eleazar holds that what ‘strong drink’ implies is something intoxicating. With whom does the following dictum comply: ‘If one eats pressed figs from Keilah,[10] or drinks honey or milk, and then enters the Sanctuary and performs the Temple service, he is liable to lashes’? With R. Judah.[11] Said R. Judah son of Ahotai: The halachah is in accordance with R. Eleazar. Also Rab spoke of R. Eleazar as the most distinguished of the Sages.

R. Aha of Huzal had a vow in regard to his wife.[12] He came before R. Ashi.[13] Said the latter to him: Go now and come back to-morrow, for Rab appointed no interpreter[14] from the commencement of the festival till the end of the following day,[15] on account of intoxication. Replied the former: But did not Rab say, The halachah is according to R. Eleazar,[16] while you dilute your wine with water? — Said he, There is no difficulty: his saying refers to a fourth of a log exactly, while I had more than a fourth.

Our Rabbis have taught: And that ye may put difference between the holy and the common,[17] refers to vows of worth, or vows of valuation,[18] or to things devoted[19] or consecrated;[20] between the unclean and the clean[17] refers to the laws of uncleanness and purity; that ye may teach[21] refers to decisions [concerning forbidden things]; all the statutes[21] refers to the expositions of the Law; which the Lord hath spoken[21] refers to traditions passed on [from Sinai]; by the hand of Moses[21] refers to the Gemara. I might include also the Mishnah,therefore it reads ‘that ye may teach’.[22] R. Jose b. Judah says: I might include also the Gemara,[23] therefore it reads, ‘that ye may teach’. According to whom is that which has been taught: ‘Excluded is the decision that a [dead] reptile is unclean and a [dead] frog clean,[24] which may be given also by one who is intoxicated with wine’? May we assume that it conforms with R. Jose b. Judah's view and not with that of the Rabbis? — No, it may conform also with the view of the Rabbis, but this problem is so simple that one may say, go read it at school.[25] Said Rab: The halachah is in accordance with R. Jose b. Judah.[26] But surely Rab did not appoint an interpreter from the commencement of a festival to the end of the following day on account of intoxication?[27] — Different it is with Rab who gave also decisions: But then why not appoint the interpreter and lay down the rule that no decisions be given? — Where Rab sat it was impossible to avoid giving decisions.[28] MISHNAH. ONE MAY BY ONE ACT OF EATING

BECOME LIABLE TO FOUR SIN-OFFERINGS AND ONE GUILT-OFFERING; VIZ., IF ANY UNCLEAN PERSON EATS HELEB WHICH WAS AT THE SAME TIME THE NOTHAR OF AN OFFERING, AND [IT WAS ON] THE DAY OF ATONEMENT.[29] R. MEIR SAYS: IF IT WAS THE SABBATH AND HE CARRIED IT OUT[30] [OF PRIVATE POSSESSION], HE IS LIABLE [TO YET ANOTHER SIN-OFFERING].[31] BUT THEY SAID TO HIM: THIS IS OF A DIFFERENT DENOMINATION.[32]

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(1) I.e., to convey uncleanness only to food and liquids.

(2) I.e., to defile human beings and vessels.

(3) If we say that the milk is unclean even when brought forth against the child's interest in contradiction to the laws ruling the ‘preparation’ for uncleanliness of liquids, we are obliged to infer therefrom that the milk has the status of a ‘well’ and not of a liquid. The right interpretation is, however, that even when the child does not express its pleasure at the bringing forth of the milk, it is unclean, for it is assumed that it is nevertheless done to its satisfaction.

(4) The condition concerning the time is mentioned in the Mishnah text after the entering of the Sanctuary. It is therefore assumed that it implies that it is necessary for the priest to stay in the Temple precincts for a time required for the eating of a peras. This is, of course, against the accepted law.

(5) Lev. X, 9 with reference to priests.

(6) I.e., before the fermentation is completed.

(7) The literal translation of שכר ‘strong drink’ is ‘intoxicating drink’.

(8) But not punishable with death. ‘Death’ here denotes death at the hands of Heaven.

(9) A textual analogy is drawn on the basis of the word ‘strong drink’ which occurs in connection with the priest, Lev. X, 9 and the nazirite, Num. VI, 3, where the produce of the vine only is prohibited.

(10) In Judea; v. I Sam. XXIII, 1.

(11) In Naz. 4a this dictum is explicitly mentioned in the name of R. Judah.

(12) He vowed not to derive any benefit from her.

(13) To ask for the absolution of the vow.

(14) The interpreter's task was to expound at length that which the Tanna taught in brief; v. Glos. s.v. Amora.

(15) I.e., from the termination of the first meal on the eve of the festival to the end of the following day. His meals on holy days were accompanied by wine, and Rab therefore refused to give any legal decision. R. Aha appeared before R. Ashi on a festival.

(16) Who holds only pure wine is prohibited.

(17) Lev. X, 10. This passage follows immediately upon the prohibition for the priest to drink wine. It is therefore assumed to imply that to give a decision in a state of intoxication is forbidden.

(18) V. ‘Ar. 2a.

(19) Lit., excommunicated’; i.e., a form of renouncing one's rights upon property and assigning it for the use of the Temple or the priests.

(20) I.e., all the valuations in connection therewith must not be undertaken in a state of intoxication.

(21) Ibid. 11.

(22) Or, that ye may decide. As the Mishnah does not always contain the last word of the law, decisions are based upon the discussions in the Gemara rather than the Mishnah.

(23) Viz., the study of the Talmud. Only the actual giving of judgment in a state of intoxication is punishable, but not the mere preoccupation with the law.

(24) These decisions are so obvious, being explicitly mentioned in the Torah, that an error is not feared.

(25) I.e., even youngsters who study only the Pentateuch should know it; v. Sanh. 33b.

(26) Viz., that to study in a state of intoxication is permitted.

(27) This proves that even to lecture on the law is forbidden.

(28) Rab was an authority recognised everywhere, and questions came before him at all times.

(29) He is liable to a sin-offering each for eating sacred food in a state of uncleanness, for eating keleb, for eating nothar and for partaking of food on the Day of Atonement. The guilt-offering is to atone for the sacrilegious use of Temple property. Nothar is the portion of a sacrifice left over beyond the prescribed time, which has to be burnt.

(30) Viz. , in his mouth.

(31) To carry on the Sabbath from private property to the public thoroughfare or vice versa is subject to an offering.

(32) The transgression is not caused by eating.

Talmud - Mas. K'rithoth 14a

GEMARA. May we infer that R. Meir holds that a prohibition may take hold of something already prohibited?[1] — [No,] although he may hold that a prohibition cannot take hold where another prohibition exists, he holds that a prohibition that is more comprehensive[2] or more extensive[3] can take hold [of an already existing prohibition]. To a clean person only heleb is prohibited; when he becomes unclean, since the other parts [of the animal] become forbidden to him, this more comprehensive prohibition embraces also heleb. Then heleb is forbidden for consumption only; when consecrated, since it becomes prohibited for all use, this more extensive prohibition takes hold of heleb. It is still, then, forbidden to laymen only but not for the altar;[4] when it becomes nothar, since it becomes forbidden also for the altar, this more extensive prohibition applies also in respect of laymen. Again, if it occurred on the Day of Atonement, since there is added an injunction which is more comprehensive in that it applies also to common food, it applies also to the things dedicated to the altar. But then why not instance five sin-offerings, namely when he ate an olive-size of piggul?[5] — He speaks of one animal and not of two, and the meat of one and the same animal cannot be nothar and piggul at the same time.[6] But why not? Is it not possible where, e.g., a limb of piggul was [wrongly] offered upon the altar, in which case its disqualification of piggul is lifted,[7] and it can thus become nothar, as ‘Ulla said: If the fistful of an offering, rendered piggul, has been offered upon the altar its piggul disqualification ceases, and it may then become nothar?[8] — He speaks of one limb and not of two limbs, and one and the same limb cannot be nothar and piggul at the same time. But why not? Is it not possible where, e.g., a limb of piggul was offered upon the altar, partly resting upon the altar and partly protruding,[9] so that the portion [which rested] upon the altar loses its piggul disqualification and may become nothar, in accordance with ‘Ulla, who said: ‘If the fistful of an offering, rendered piggul, has been offered upon the altar its disqualification ceases, and it may become nothar?’ — He replied: It is not possible, for if the major portion rests upon the altar, the whole is reckoned as being on the altar; if the major portion is protruding, the whole is reckoned as being outside. But then you could decide therefrom[10] the query of Rami son of Hama as to whether one goes by the majority in regard to sacrificial limbs or not![11] — He speaks of one olive-size and not of two.[12] But is this indeed so? Does he not deal with the Day of Atonement, where the requisite standard quantity is the size of a date, and a date corresponds to two olive-sizes? — Said R. Zera: He ate of a kidney together with the heleb attached thereto.[13] R. Papa said: He supplemented the heleb with dates.[14] R. Adda son of Aha indeed reads [in the Mishnah] ‘five sin-offerings’ and explains it [as dealing with the case] where he ate an olive-size of piggul,[15] rejecting the other explanations given. But then why not state six sin-offerings’, and explain it [as dealing with the case] where he ate in addition an olive-size of blood? — [The Mishnah] speaks of one act of eating and not of two, and the Rabbis have calculated that the gullet cannot hold more than two olive-sizes at a time.

R. MEIR SAYS, etc. Why did he not simply state, ‘If he carried it out [of private possession], he is liable[16] . . .’; wherefore does he state, IF IT WAS THE SABBATH’? — Said Rafram: This proves that the laws concerning ‘erub[17] and transport[18] apply to the Sabbath and do not apply to the Day of Atonement.[19] How is this proved? Maybe the laws concerning ‘erub and transport apply also to the Day of Atonement, and the Mishnah text is to be understood thus: If it was the Sabbath and he carried it out [of private possession], he is liable by reason of the Sabbath as well as the Day of Atonement![20] — Rather say, If the statement of Rafram was made, it was with reference to the following: It has been taught, And he shall send him away by the hand of an appointed man;[21] ‘man’ implies that also a non-priest is qualified; ‘appointed’ implies even if he is unclean and even on the Sabbath;[22] ‘appointed’ means designated for it. Now it is here stated: ‘"Appointed" implies even on the Sabbath’, whereupon Rafram remarked, This proves that the laws concerning ‘erub and transport apply to the Sabbath and do not apply to the Day of Atonement. How is this proved? Maybe the scapegoat is an exception, for its whole validity is bound up with the Day of Atonement![23] — The dictum of Rafram is indeed void.[24]

MISHNAH. ONE MAY BY ONE ACT OF INCESTUOUS CONNECTION BECOME LIABLE TO SIX SIN-OFFERINGS: VIZ., IF ONE HAD INTERCOURSE WITH HIS DAUGHTER.[25] HE IS GUILTY OF INCEST WITH HIS DAUGHTER, HIS SISTER, HIS BROTHER'S WIFE, THE WIFE OF HIS FATHER'S BROTHER, AND OF INTERCOURSE WITH A MARRIED WOMAN AND A MENSTRUOUS WOMAN.

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(1) I.e., that a prohibition can apply to something which is forbidden already by reason of another injunction, as exemplified in R. Meir's statement where the law of Sabbath takes hold of prohibited food.

(2) I.e., the range of application of the new prohibition is wider than that of the original. The new prohibition is thus at all events effective with regard to those objects not covered by the original; it is therefore considered of avail also in respect of those articles already prohibited by the original injunction, and an additional offering is prescribed.

(3) I.e., the additional prohibition is more stringent than the original one; e.g., if according to the original law only the eating of the prohibited food is punishable while the superadded prohibition law forbids also any benefit to be derived therefrom. The new prohibition is thus at all events effective where use is made of the food other than eating it; it is therefore regarded of avail also in case of eating, and evokes an additional offering. The following discussion expounds the instance of the Mishnah proving that each additional prohibition thereof is either more comprehensive or more extensive than those already existing.

(4) Or, for that matter, the priests.

(5) V. Glos. I.e., where the meat was, in addition, piggul which, too’ is subject to a sin-offering.

(6) The sacrifice is rendered piggul at the beginning of the service, namely during the preparation and performance of the sprinkling of the blood. Once piggul it is disqualified for altar and priest alike and cannot come within the range of nothar.

(7) Even if the limb is removed from the altar, before it is completely burnt, it retains the sanctity re-gained through contact with the altar and may become nothar. If one eats therefore a piece of the limb that has become nothar, under the conditions enumerated in the Mishnah and in addition thereto an olive-size of meat of the rest of the same sacrifice, which has remained piggul, one is liable to five sin-offerings.

(8) V. Zeb. 43a.

(9) And he ate from both portions of the limb.

(10) Viz., from the fact that the instance of five sin-offerings has not been stated for the reasons mentioned.

(11) V. Hul. 70a where this query is put forward by Raba and left unanswered.

(12) And with one olive-size one cannot evoke more than four sin-offerings, as enumerated in the Mishnah.

(13) I.e., he ate one olive-size of the kidney and another olive-size of the heleb. For the latter he is, under the conditions mentioned in the Mishnah, liable to three sin-offerings and a guilt-offering; when followed by an olive-size of the kidney he complements the date-size required for the transgression of the Day of Atonement, which provokes the fourth sin-offering. R. Zera's view is that the Tanna of the Mishnah wishes to confine himself to the eating of one olive-size of heleb, while in the combination of piggul and nothar it would be necessary to assume that two olive-sizes of heleb have been consumed (Rashi).

(14) I.e., his meal consisted of one olive-size of heleb and small dates to make up the requisite standard of a date. There was at any rate but one olive-size of meat.

(15) From a different sacrifice in addition to the olive-size of heleb as instanced in the Mishnah.

(16) For carrying it out on the Day of Atonement.

(17) V. Glos.

(18) I.e.,the transport from private property to a public thoroughfare and vice versa.

(19) Although the Day of Atonement bears otherwise all the stringency of the Sabbath, these two laws may be characteristic of the Sabbath only.

(20) I.e., he is liable twice for the transport: for the transgression of the Sabbath and for the transgression of the Day of Atonement.

(21) Lev. XVI, 21, relating to the scapegoat.

(22) I.e., also on the Sabbath may the scapegoat be transported to its place of offering, thus trespassing the laws regarding ‘erub and transport.

(23) I.e., the Torah has explicitly permitted work essential for the service of the day.
(24) V. Yoma 66b.
(25) The multitude of interrelationships between father and daughter is established thus: the daughter was born from his incestuous contact with his own mother. She then married his brother and after the latter's death, his father's brother. She was in addition menstruant at the time of the intercourse. This monstrous and complicated combination has been chosen to exemplify various prohibitions each of which is more comprehensive than the previous.

Talmud - Mas. K'rithoth 14b

GEMARA. But does not R. Meir hold, a prohibition cannot take hold of something already forbidden?[1] — Although he generally holds that a prohibition cannot take hold where another prohibition exists, he admits that a prohibition which is more comprehensive or more extensive can take hold [of an already existing prohibition].[2] [Our instance is then to be understood thus:] He had intercourse with his mother who bore him a daughter, so that the latter becomes prohibited to him simultaneously as his daughter and his sister. When she marries his brother, since she becomes prohibited also to his other brothers,[3] this comprehensive prohibition becomes operative also with reference to himself. When she then[4] marries his father's brother, since she becomes prohibited to the other brothers of his father, this comprehensive prohibition becomes operative also with reference to himself. In her capacity now as a married woman, since she becomes prohibited to the whole world, this comprehensive prohibition becomes operative also with regard to himself. Finally as a menstruant woman, since she becomes forbidden even to her own husband, this comprehensive prohibition become operative also with reference to himself.

MISHNAH. IF ONE HAD INTERCOURSE WITH HIS DAUGHTER'S DAUGHTER HE MAY THEREBY BECOME GUILTY FOR OFFENDING WITH HIS DAUGHTER'S DAUGHTER, HIS DAUGH TER-IN-LAW, HIS BROTHER'S WIFE, THE WIFE OF HIS FATHER'S BROTHER, HIS WIFE'S SISTER, A MARRIED WOMAN, AND FINALLY A MENSTRUANT WOMAN.[5] R. JOSE REMARKED: IF THE GRANDFATHER HAD COMMITTED TRANSGRESSION AND MARRIED HER FIRST, HE MAY THEREBY BECOME GUILTY FOR OFFENDING WITH HIS FATHER'S WIFE. SO TOO, IF ONE HAD CONNECTION WITH HIS WIFE'S DAUGHTER OR HER DAUGHTER'S DAUGHTER.

GEMARA. It is stated: HE MAY THEREBY BECOME GUILTY FOR OFFENDING WITH HIS FATHER'S WIFE. Was she then permitted to him?[6] — Replied R. Johanan: The case is met if she fell unto him in levirite marriage.[7] If so, what means: HAD COMMITTED TRANSGRESSION? — He committed transgression In that she was his son's daughter-in-law, which is a forbidden relation in the second degree,[8] as has been taught:[9] A daughter-in-law is an incestuous relation [by law of the Torah], the daughter-in-law of a son is forbidden [as a relation] in the second degree. The same distinction is made between the daughter of a son and the daughter of a son's son etc. to the end of all generations.[10]

But does R. Jose indeed hold that a prohibition can take hold of something already forbidden, have we not learnt:[11] If one has committed a sin which involves two death penalties,[12] he is condemned to the more stringent [of the two forms of execution]. R. Jose, however, maintains he is sentenced for the sin that took hold first. And it was taught: How is R. Jose's ruling, that he is sentenced for the sin that took hold first, to be understood? If, e.g., she was forbidden to him first as his mother-in-law and then as a married woman,[13] he is sentenced for intercourse with a mother-in-law; if she was forbidden to him first as a married woman and then as a mother-in-law, he is sentenced for connection with a married woman! — Answered R. Abbahu: R. Jose admits [an exception to the rule] when the new prohibition is more comprehensive.[14] Also when Rabin came[15] he said in the name of R. Johanan: R. Jose admitted when the new prohibition was more comprehensive. But in which respect is it more comprehensive here?[16] — When the grandfather had another son;[17] as the new prohibition comprises also the other son, it becomes operative with regard to [the offender] himself.

MISHNAH. IF ONE HAD INTERCOURSE WITH HIS MOTHER-IN-LAW HE MAY THEREBY BECOME GUILTY FOR OFFENDING WITH HIS MOTHER-IN-LAW, HIS DAUGHTER-IN-LAW, HIS BROTHER'S WIFE, THE WIFE OF HIS FATHER'S BROTHER, HIS WIFE'S SISTER, A MARRIED WOMAN, AND FINALLY A MENSTRUANT WOMAN.[18] AND SO TOO, IF ONE HAD INTERCOURSE WITH THE MOTHER OF HIS FATHER-IN-LAW OR OF HIS MOTHER-IN-LAW. R. JOHANAN B. NURI REMARKED: IF ONE HAD INTERCOURSE WITH HIS MOTHER-IN-LAW HE MAY THEREBY BECOME GUILTY FOR OFFENDING WITH HIS MOTHER-IN-LAW, THE MOTHER OF HIS MOTHER-IN-LAW, AND THE MOTHER OF HIS FATHER-IN-LAW.[19] THEY SAID TO HIM: ALL THESE THREE ARE OF ONE DENOMINATION.[20]

GEMARA. Said R. Eleazar in the name of R. Hoshaia: R. Johanan b. Nuri and Symmachus adhere to the same rule.[21] R. Johanan b. Nuri as stated above.[22] As to Symmachus, we have learnt:[23]

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(1) V. supra 14a. I.e., the latter five prohibitions should not become operative and only one sacrifice should be offered. Although the Mishnah is anonymous, it is, according to a general rule, assumed that R. Meir's view is represented therein.

(2) V. p. 104, nn. 6 and 7.

(3) Viz., his half-brothers of a common father. Before her marriage to one of them she was permitted to all of them, except her own father.

(4) I.e., after the brother's death.

(5) The inter-relationships between the man and his grand-daughter were manifold so that seven prohibitions were simultaneously broken in one act, viz., the grand-daughter, now a married woman, had previously wedded one of his sons and after his death the offender's brother and later, after the latter's death, the brother of the offender's father. The offender was at the same time married to his grand-daughter's half-sister, i.e., another daughter of his granddaughter's husband from another wife. The grand-daughter was, in addition, menstruant at the time of contact.

(6) As she was forbidden to the father as his brother's wife the marriage was invalid and she cannot be regarded as ‘his father's wife’.

(7) When the offender's uncle died, he left no children behind, so that his father was permitted and even obliged to marry her according to the law of levirate marriage, Deut. XXV, 5f.

(8) I.e., one enacted by rabbinical law.

(9) Yeb. 21b.

(10) I.e., ad infinitum. The daughter of any of his male descendants that stands at the end of a chain of male offsprings is forbidden to him by rabbinical enactment.

(11) Sanh. 81a.

(12) I.e., if the woman was forbidden to him because of their twofold inter-relation. As to the scale of the various forms of execution, cf. Sanh. 49b.

(13) E.g.,if she was a widow or divorced at the time he married her daughter and then married again. The sentence in the case of a married woman is death by strangulation and in that of a mother-in-law death by burning. We learn herefrom, at any rate, that R. Jose holds a new prohibition cannot take hold where another exists.

(14) V. p. 104, nn. 6 and 7. If the new prohibition is more comprehensive it supersedes the first one. The reason why R. Jose, in the quoted Mishnah, nevertheless holds that only the prohibition which is first established is of avail, (although in the first of the examples the second prohibition, viz.,the one concerning a married woman, which applied to all men, is more comprehensive than the first) is because the penalty of the first transgression is more stringent than that of the second (Rashi).

(15) I.e., when he arrived from Palestine to Babylonia.

(16) I.e., the case mentioned by R. Jose in our Mishnah, and with reference to the prohibition concerning the father's wife. This prohibition does not add to those already in existence.

(17) Before the transgressor's father married the grand-daughter she was permitted to his son. Now she is forbidden also to him as his father's wife.

(18) This case is met by the following inter-relations between the transgressor and his mother-in-law: The mother-in-law, now a married woman, had previously married his son and after the latter's death his brother, and then his father's brother. The offender himself had also been married to his mother-in-law's sister. If the mother-in-law was menstruant at the time of the union, we find that in one act he transgressed the seven prohibitions enumerated in the Mishnah.

(19) Viz., if in addition to the above inter-relations he had also been married to her daughter's daughter and her son's daughter, so that she was also his mother-in-law's mother and his father-in-law's mother.

(20) I.e., they are of the same class and intimated in the text (Lev. XVIII, 17) in one single prohibition, so that no separate offering is to be brought for each offence.

(21) Viz., that if a manifold prohibition of the same denomination has been transgressed, several offerings are required.

(22) Viz., in our Mishnah, where he requires a separate offering for the mother-in-law and her mother although both come under the same designation.

(23) Hul. 82b.

Talmud - Mas. K'rithoth 15a

If one slaughtered an animal together with its young's calf, and then the young itself,[1] he is liable to forty lashes. Symmachus said in the name of R. Meir: To eighty.[2] Said Raba: There is, perhaps, no comparison. Maybe R. Johanan b. Nuri maintains his view only in the instance of our Mishnah, because the prohibitions are at least of different designations; for she may be described as his mother-in-law and also as the mother of his mother-in-law and the mother of his father-in-law. In the instance, however, concerning the killing of a mother-animal and its young, where there is only one designation, and all such cases are known by the one name, maybe his ruling will not hold good. R. Nahman b. Isaac raised his doubt [in the opposite direction]. Maybe Symmachus maintains his view only in the case of the law concerning the killing of mother and young, because the objects are different;[3] in the instance of our Mishnah, however, where there is only one object,[4] I might perhaps argue that he [Symmachus] held with the ruling of R. Abbahu delivered in the name of R. Johanan. For R. Abbahu said in the name of R. Johanan: In the expression, They are near kinswomen; it is wickedness,[5] Scripture indicates that they are all one kind of wickedness.

MISHNAH. SAID R. AKIBA: I ASKED RABBAN GAMALIEL AND R. JOSHUA AT THE MEAT-MARKET OF EMMAUS, WHITHER THEY WENT TO BUY A BEAST FOR THE WEDDING FEAST OF RABBAN GAMALIEL'S SON, WHAT [IS THE LAW] IF A MAN HAD INTERCOURSE [INADVERTENTLY] WITH HIS SISTER, HIS FATHER'S SISTER AND HIS MOTHER'S SISTER;[6] IS HE LIABLE TO ONE OFFERING FOR ALL THE TRESPASSES, OR TO ONE [SEPARATE OFFERING] FOR EACH OF THEM? THEY REPLIED: WE HAVE HEARD NOTHING [ABOUT THIS], BUT WE HAVE HEARD THAT IF ONE HAD INTERCOURSE WITH HIS FIVE WIVES, WHILE THEY WERE MENSTRUANT, IN ONE SPELL OF UNAWARENESS, HE IS LIABLE TO A SACRIFICE FOR EACH [ACT], AND IT SEEMS TO US THAT THE CASE [YOU STATE] MAY BE DERIVED THEREFROM BY AN A FORTIORI CONCLUSION.[7]

GEMARA. How is the query to be understood? If as is stated,[8] what question is there, seeing that the prohibitions as well as the persons involved are distinct![9] — This is rather what it means to state: What [is the law] if one had intercourse with a sister who is at the same time his father's sister and his mother's sister; is he liable to one sacrifice for all the trespasses, or to one [separate] sacrifice for each of them? Do we argue that here are diverse prohibitions,[10] or do we argue [from the fact] that the persons are not diverse?[11] They replied: We have heard nothing about this, but we have heard that if one had intercourse together[12] with his five wives, while they were menstruant, whereby only one prohibition has been transgressed, he is liable to a sacrifice for each act of transgressing the law concerning menstruant women; and it seems to us that the case [you state] may be derived therefrom by an a fortiori conclusion [thus]: If one is liable to separate offerings in the case of intercourse together with his five menstruant wives, whereby only one prohibition has been transgressed, how much more should one be liable to separate offerings in the case of the sister who is at the same time his father's sister and his mother's sister, whereby three different prohibitions have been transgressed! But [against this conclusion] one may object: the case of the five menstruant women [is rightly more stringent] because several persons [are involved]?[The ruling[13] must] rather be derived from the Scriptural verse which says, He has uncovered the nakedness of his sister,[14] indicating that one is liable [to separate offerings] in the case of a sister who is at the same time his father's sister and his mother's sister. Said R. Adda b. Ahaba: This[15] can arise in the case of a wicked man the son of a wicked man;[16] [viz.] if a man had connection with his mother who bore him two daughters, and then had connection with one of these [daughters] who bore him a son; this son[17] then had connection with his mother's sister who is at the same time his sister and his father's sister. He is indeed a wicked man the son of a wicked man.

Our Rabbis taught: If one had intercourse [inadvertently with one of the incestuous relations] and then again and then again,[18] he is liable [to an offering] for each act. These are the words of R. Eliezer. But the Sages say, He is liable only once. The Sages, however, agree with R. Eliezer that if a man had intercourse at the same time[19] with his five menstruant wives, that he is liable for each act, since he caused them liability to separate offerings.[20] Raba said to R. Nahman: Do we say [as an argument] since he caused them [liability to separate offerings]; surely it has been taught: ‘If the man [committed several acts][21] in one spell of unawareness, and she in five separate spells of unawareness,[22] he is liable to one offering only and she to one for each act’?[23] — Say rather: Since the persons[24] were different.

The query was raised: If one cut plants[25] [on the Sabbath] and then cut again, what would be the law according to R. Eliezer?[26] Is R. Eliezer's reason in the previous case because two acts were committed, and that was why he ruled that he was liable for each act, so here also since he committed two acts [he is liable for each act]; or perhaps R. Eliezer's reason in the previous case is because the acts could not be united,[27] and therefore R. Eliezer said that he was liable for each act; in the instance, however, of a man cutting a plant of the size of a dried fig[28] and then cutting again a plant of the size of a dried fig, both in one spell of unawareness, since the two dried fig-sizes could have been united in one act of cutting, he should be liable to one sacrifice only? How is it? — Rabbah answered: R. Eliezer's reason is because two acts were performed, and here also two acts were performed. R. Joseph said: R. Eliezer's reason is because the acts could not be united, but whenever the acts could have been united one is liable to one offering only.

Abaye raised an objection against Rabbah: [It has been taught:] R. Eliezer declares one culpable for derivatives[29] even when performed together with their respective principal acts [of work]. [From this we infer that if,] however, the same principal act was performed twice in one spell of unawareness, he is exempt.[30] Now, should you be right in saying that R. Eliezer's reason is because two acts were performed, why should he be exempt here! — Said Mar the son of Rabana: I and Rab Nihumi b. Zechariah have explained this: Here[31] we deal with a branch of a vine which was overhanging a fig-tree, and he cut off both [branches] at one time.[32] R. Eliezer therefore declares him culpable, since both the denominations[33] and the objects[34] were different. In what circumstances, then, would a man be exempt [according to R. Eliezer] when cutting a plant twice? — Only if he cut off two plants of a dried fig's size in one stroke. But if he cut off one plant of a dried fig's size and then another of a dried fig's size, he is indeed liable [to two offerings].[35]

MISHNAH. R. AKIBA FURTHER ASKED: IF A LIMB HANGS LOOSE FROM THE BODY OF A LIVING BEAST, WHAT IS THE LAW?[36] THEY REPLIED: WE HAVE HEARD NOTHING ABOUT THIS, BUT WE HAVE HEARD ABOUT A LIMB HANGING LOOSE FROM THE BODY OF A MAN THAT IT IS CLEAN. AND THUS

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(1) This refers to the law concerning the killing on the same day of a young together with its mother, Lev. XXII, 28. By killing a beast after its mother as well as its own young had previously been slaughtered on the same day, an act not yet punishable, he committed a double sin, or rather he transgressed the prohibition twice in one act.

(2) Forty lashes means actually one set of thirty-nine strokes. 'Forty' is a term adopted from the text (Deut. XXV, 3). Eighty lashes means twofold flagellation.

(3) The twofold flagellation was caused by the mother of the last-killed animal as well as by its young.

(4) There is only one person who happens to be inter-related with him in several ways.

(5) Lev. XVIII, 17. שארה is in the singular, to indicate that even if several inter-relations are combined in one woman she is still a kinswoman singly, and subject to one sacrifice only.

(6) Here in some versions is added: 'in one spell of unawareness', suggesting that the query referred to three different women; v. Gemara.

(7) Since in the latter instance the sin is each time the same.

(8) Viz., that it referred to three different women, each falling under a different prohibition, though the three sins were committed in one spell of unawareness.

(9) Lit. 'the names are distinct and the bodies are distinct'.

(10) Consequently three offerings are to be brought.

(11) And therefore only one offering must be brought.

(12) I.e. in one spell of unawareness.

(13) On R. Akiba's query.

(14) Lev. XX, 17. The phrase is regarded as superfluous. V. also supra 2b.

(15) Viz., that a sister should be at the same time the father's sister and the mother's sister.

(16) I.e. this case can be construed only if the father of the offender had committed incest on two occasions, from which connections this woman as well as the man resulted.

(17) Sc. the offender referred to in the Mishnah.

(18) Without being conscious in the meantime of his sin.

(19) I.e. under one spell of unawareness. Rashi omits: 'at the same time'.

(20) I.e. the women who have also transgressed the same prohibition, have each to bring a separate sacrifice. A division has thus been established between the acts.

(21) Viz., with the same incestuous relation. Rashi mentions also the version that it refers to five different women.

(22) I.e. after each connection the woman became aware of her transgression.

(23) We thus see that although the woman is liable to separate offerings, this is no reason why the man should be similarly liable.

(24) I.e. in the case relating to the menstruant women different persons were involved and for this reason he is liable to five separate offerings.

(25) Lit. 'reaps'.

(26) Viz., in one spell of unawareness. Cutting plants or reaping corn is one of the principal acts of work prohibited on the Sabbath; Shab. VII, 2.

(27) The various sexual connections are of necessity separate performances.

(28) The legal minimum involving the desecration of the Sabbath is the size of a dried fig.

(29) There are altogether thirty-nine principal acts of work prohibited on the Sabbath. Each of them is the head of a series of acts of work similar to it and derived from it — the derivatives. If a principal act has been performed together with some of its derivatives in one spell of unawareness, he is liable, according to R. Eliezer, for each act. From the fact that R. Eliezer did not go a step further in stating that even if the same principal act had been performed several times he is liable for each act, we derive that in the latter case he is only liable to one sacrifice.

(30) He is liable to bring only one offering and is exempt from the second.

(31) Viz., the statement of R. Eliezer that one is guilty for a derivative when performed with its principal act.

(32) With one movement he cut off the vine branch, which he needed for fuel, as well as a twig of the fig-tree, which he wanted for its fruit. The first act is a derivative, since it was not done for the sake of its fruit; the second is a principal act. R. Eliezer holds that he is liable to two offerings even though one action only was performed. The inference made above, that R. Eliezer would not declare him guilty twice if the same principal act of work was performed twice on separate occasions but under one spell of unawareness, is no longer logical, for in this instance two different actions were done.

(33) I.e. the one was a principal act, the other its derivative.

(34) I.e. the trees.

(35) In accordance with Rabbah's interpretation of R. Eliezer's opinion.

(36) The question is whether it is unclean. The limb of a living animal completely detached from the body has the status of nebelah (see Glos.) and is unclean. In our instance it was not wholly detached from the body, but its connections were mainly severed.

Talmud - Mas. K'rithoth 15b

THOSE THAT WERE AFFLICTED WITH BOILS USED TO DO IN JERUSALEM:[1] THE AFFLICTED PERSON WOULD GO ON THE EVE OF PASSOVER TO THE PHYSICIAN, AND HE WOULD CUT THE LIMB UNTIL ONLY CONTACT OF A HAIRBREADTH WAS LEFT;[2] HE THEN STUCK IT ON A THORN AND THEN TORE HIMSELF AWAY FROM IT.[3] IN THIS MANNER BOTH THAT MAN AND THE PHYSICIAN COULD PARTICIPATE IN THE PASSOVER OFFERING. AND IT SEEMS TO US THAT YOUR CASE MAY BE DERIVED FROM THIS BY AN A FORTIORI CONCLUSION.[4]

GEMARA. We have learnt elsewhere:[5] If one scrapes liquid from off a leek, or wrings his hair [with a cloth],[6] the liquid which remained within does not render foodstuffs susceptible to uncleanness; that which came forth does render them susceptible.[7] Remarked Samuel: The leek itself is now susceptible to uncleanness,[8] because when its liquid emerged the leek became susceptible. But surely we have learnt: THE AFFLICTED PERSON WOULD GO ON THE EVE OF PASSOVER etc. Now, if you are to assert that ‘when its liquid emerged the leek became susceptible’, why should not the same apply to the loosened limb; at the moment of severance it should render the man unclean? — [It is] as Rab Joseph stated elsewhere that ‘it was removed with great force’, so say also here that the afflicted person tore himself away with great force.[9]

And where was that statement of Rab Joseph made? — In connection with the following: ‘If a zab[10] or one rendered unclean through contact with a dead body was walking while the rain fell upon him, though the water was squeezed by him from the upper towards the lower part [of his clothes], it is regarded as clean, for it is of no consequence so long as it is not wholly removed from the clothes.[11] If, however, it is wholly removed from the clothes, it renders foodstuffs susceptible to uncleanness, for it is of consequence only after its complete removal from the body’,[12] [In connection with this] Rab Joseph said: It had been removed with great force.[13]

MISHNAH. FURTHERMORE R. AKIBA ASKED: IF A MAN SLAUGHTERED IN ONE SPELL OF UNAWARENESS FIVE SACRIFICES OUTSIDE [THE TEMPLE PRECINCTS], WHAT IS THE LAW? IS HE LIABLE TO A SEPARATE OFFERING FOR EACH ACT OR ONLY TO ONE FOR THEM ALL? THEY REPLIED: WE HAVE HEARD NOTHING ABOUT THIS. SAID R. JOSHUA: I HAVE HEARD THAT IF ONE EATS OF AN OFFERING[14] FROM FIVE DIFFERENT DISHES IN ONE SPELL OF UNAWARENESS, HE IS GUILTY OF THE TRANSGRESSION OF THE LAW OF SACRILEGE FOR EACH OF THEM; AND IT SEEMS TO ME THAT THE CASE IN QUESTION MAY BE INFERRED FROM THIS BY AN A FORTIORI CONCLUSION.[15] SAID R. SIMEON, NOT OF SUCH A CASE DID R. AKIBA ASK, BUT OF ONE WHO ATE OF THE NOTHAR[16] OF FIVE SACRIFICES IN ONE SPELL OF UNAWARENESS — WHAT IS THE LAW? IS HE LIABLE ONLY TO ONE [OFFERING] FOR ALL OF THEM, OR IS HE LIABLE TO A SEPARATE ONE FOR EACH OF THEM? THEY REPLIED: WE HAVE HEARD NOTHING ABOUT THIS. SAID R. JOSHUA: I HAVE HEARD THAT IF ONE ATE, IN ONE SPELL OF UNAWARENESS, OF ONE SACRIFICE FROM FIVE DIFFERENT DISHES, HE IS GUILTY OF THE TRANSGRESSION OF THE LAW OF SACRILEGE FOR EACH OF THEM; AND IT SEEMS TO ME THAT THE CASE IN QUESTION

MAY BE DERIVED THEREFROM BY AN A FORTIORI CONCLUSION.[17] RETORTED TO HIM R. AKIBA: IF THIS[18] IS AN AUTHENTIC TRADITION WE SHALL ACCEPT IT; BUT IF IT IS ONLY A LOGICAL DEDUCTION, THERE IS A REBUTTAL. SAID [R. ELIEZER]: REBUT IT. HE REPLIED: IT CANNOT BE. YOU MAY HOLD THE [STRICT] VIEW IN THE LAW OF SACRILEGE,[19] SINCE IN CONNECTION WITH IT THE PERSON WHO GIVES OTHERS TO EAT [OF HOLY THINGS] IS AS GUILTY AS THE CONSUMER HIMSELF,[20] AND THE PERSON WHO CAUSES OTHERS TO DERIVE A BENEFIT FROM THEM IS AS GUILTY AS THE PERSON WHO HIMSELF MADE USE OF THEM; FURTHERMORE, [SMALL QUANTITIES ARE] RECKONED TOGETHER IN THE CASE OF SACRILEGE EVEN AFTER THE LAPSE OF A LONG PERIOD.[21] WHILST NOT ONE OF THESE RULINGS APPLIES TO THE CASE OF NOTHAR.

GEMARA. What objection had R. Simeon?[22] — This was his objection: How can you prove the case of slaughtering from that of eating?[23] Maybe the ruling holds good only in the case of eating, since the offender derived enjoyment! Therefore, what he asked them was this: If one ate of the nothar of five sacrifices in one spell of unawareness, what is the law? Is he liable [to a separate offering] for each of them, or only to one [offering] for all of them? They replied: We have heard nothing about this. Said R. Joshua: I have heard that if one ate, in one spell of unawareness, of a sacrifice from five different dishes, he is guilty of the transgression of the law of sacrilege for each of them; and it seems to me that the case in question may be derived therefrom by an a fortiori conclusion. Thus, if [when one eats five different dishes] from one sacrifice, where there are not distinct bodies, he is liable for each [dish] because there were separate dishes, how much more would one be liable for each [eating] in the case of the five sacrifices where there are distinct bodies! (SAID R. SIMEON: NOT OF SUCH A CASE DID R. AKIBA ASK, BUT OF ONE WHO ATE OF THE NOTHAR OF FIVE SACRIFICES IN ONE SPELL OF UNAWARENESS; WHAT IS THE LAW? IS HE LIABLE ONLY TO ONE [OFFERING] FOR ALL OF THEM, OR IS HE LIABLE TO A SEPARATE [OFFERING] FOR EACH OF THEM? THEY REPLIED: WE HAVE HEARD NOTHING ABOUT THIS. SAID R. JOSHUA: I HAVE HEARD THAT IF ONE ATE, IN ONE SPELL OF UNAWARENESS, OF ONE SACRIFICE FROM FIVE DIFFERENT DISHES, HE IS GUILTY OF THE TRANSGRESSION OF THE LAW OF SACRILEGE FOR EACH OF THEM; AND IT SEEMS TO ME THAT THE CASE IN QUESTION MAY BE DERIVED THEREFROM BY AN A FORTIORI CONCLUSION.)[24]

RETORTED TO HIM R. AKIBA: IF THIS IS AN AUTHENTIC TRADITION WE SHALL ACCEPT IT etc. Did R. Joshua give way to R. Akiba's objection, or not?[25] — Come and hear: It has been taught, ‘If one ate five portions of the nothar of one sacrifice from five dishes but in one spell of unawareness, he is liable to but one sin-offering, and in case of doubt,[26] to but one suspensive guilt-offering; if from five dishes and in five different spells of unawareness,[27] he is liable to a sin-offering for each portion, and in case of doubt, to a suspensive guilt-offering for each portion; if the portions were from five sacrifices, though consumed in one spell of unawareness, he is liable for each of them. R. Jose son of R. Judah holds: Even if he ate, in one spell of unawareness, five portions from five different sacrifices, he brings but one sin-offering, and in case of doubt, but one suspensive guilt-offering. The general rule is: whenever there is a plurality of sin-offerings,[28] there is also correspondingly a plurality of suspensive guilt-offerings. If he ate five portions, from five dishes, of the meat of one sacrifice prior to the sprinkling of its blood,[29] even if [he did it] in one spell of unawareness, he is guilty of the trespass of the law of sacrilege for each of them’.

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(1) An unclean person cannot participate in the Passover Feast. If the afflicted person had to have one of his limbs amputated on the eve of Passover and wished that both he and the physician should not become unclean by handling the amputated limb which is unclean, he adopted the method described in the Mishnah.

(2) So long as the limb is not completely detached from the body it is clean.

(3) None came thus into contact with the unclean limb.

(4) Viz., since the limb is considered clean in the case of a man who is susceptible to uncleanness even while still alive, then surely it is so in the case of an animal which is not subject to uncleanness while alive.
(5) Maksh. I, 5. V. ad loc.
(6) Thus the version in the Mishnah and in Rashi and Maim. Cur. edd. read here: 'wrings his hair or his cloth'.
(7) Lit. 'behold if water be put on (v. Lev. XI, 38) applies'. Foodstuffs are susceptible to uncleanness only after contact with liquid, but this contact must be with the desire, explicit or assumed, of the owner. The juice left in the leek which afterwards emerges of its own and comes into contact with foodstuffs does not, therefore, render them susceptible to uncleanness.
(8) Even though there was no new contact after the separation of the juice from the leek.
(9) So that there was no contact between the man and the limb for one moment, either during or after the severance of the limb. In the case of the leek, however, the juice emerges slowly.
(10) V. Glos.
(11) The water running down the clothes gathers in the hem and evaporates. It is therefore regarded as unsubstantial to be the carrier of defilement, unless it had been purposely removed from the clothes.
(12) Thus in Tosef. Maksh. I, 3. Rashi strikes out the last clause. We learn, in any case, that though the liquid, is able to qualify foodstuffs for defilement, it is not unclean itself though it touched the unclean clothes.
(13) Sc. that there was no contact with the clothes.
(14) Before the sprinkling of the blood of the offering.
(15) V. Gemara.
(16) V. Glos.
(17) V. Gemara.
(18) Viz., the ruling that he is liable to five offerings in the instance relating to nothar.
(19) But one cannot derive other cases from it.
(20) By giving of holy things to others he alienates them from Temple property. Similarly it is forbidden to cause other people to derive a benefit from sacred objects.
(21) Viz., in order to make up the requisite value of a perutah (see Glos.).
(22) Viz., to the first version of R. Akiba's query.
(23) Viz., the dictum of R. Joshua.
(24) The text in brackets is simply a superfluous repetition of the previous. Its inclusion seems to be a copyist's error. It is omitted in MSS.
(25) I.e., does R. Joshua still maintain that different dishes involve separate sacrifices not only in the case of sacrilege but also in the case of nothar?
(26) A sin-offering is brought for the expiation of a transgression of the sinfulness of which the perpetrator was not conscious at the time of action, but which is definitely established. If there is doubt as to the transgression, then a suspensive guilt-offering is brought.
(27) I.e., between the various meals he became each time conscious of the transgression perpetrated.
(28) Lit. 'wherever they are divided in regard to sin-offerings'. I.e. that separate sin-offerings are required for each act.
(29) Sacrificial meat is subject to the law of sacrilege only until the sprinkling of the blood, v. Men. 47b.

Talmud - Mas. K'rithoth 16a

Now [in the last instance] it does not continue, 'And in case of doubt, he is liable to a suspensive guilt-offering'! Now whose view does this statement[1] follow? Shall I say R. Akiba's? Then it should have stated in the latter clause, 'And in case of doubt,he is liable to a suspensive guilt-offering'; for we have learnt: 'R. Akiba prescribes a suspensive guilt-offering in the case of doubtful sacrilege'.[2] It must therefore follow R. Joshua's view, and yet we read, 'If . . . in five different spells of unawareness, he is liable to five sin-offerings'.[3] We thus learn that R. Joshua gave way to his [R. Akiba's] objection. But cannot the opposite also be proved from one of the latter clauses which reads, 'If the portions were from five offerings,[4] though consumed in one spell of unawareness, he is liable for each of them'; thus proving that he did not accept his objection? Hence you are compelled [to assume] that we have [here the views of two different] Tannaim:[5] according to one Tanna, he [R. Joshua] gave way; according to another he did not give way [to R. Akiba's objection]; then you might also answer that R. Akiba's view is followed,[6] but that the [anonymous] Tanna accepts his one opinion and rejects the other; thus, he agrees with him [R. Akiba] in the rules relating to unawareness of sin, but disagrees with regard to sacrilege.

How is one guilty fivefold of the law of sacrilege?[7] — Said Samuel: As we have learnt,[8] ‘Five things in a burnt-offering can combine one with the other:[9] the meat, the fat, the wine, the fine flour and the oil’.[10] Hezekiah said, If he ate of five different limbs. Resh Lakish said, You may even say [that he ate] of one limb, yet [the fivefold sacrilege] can arise in the case of the fore-limb.[11] R. Isaac the Smith said, If he ate it with five different dishes.[12] R. Johanan said,If he ate it in five different preparations.[13]

MISHNAH. SAID R. AKIBA:I ASKED R. ELIEZER, IF ONE PERFORMED MANY ACTS OF WORK OF THE SAME CATEGORY[14] ON DIFFERENT SABBATHS[15] BUT IN ONE SPELL OF UNAWARENESS, WHAT IS THE LAW? IS HE LIABLE TO ONE [OFFERING] ONLY FOR ALL OF THEM, OR TO A SEPARATE ONE FOR EACH OF THEM? HE REPLIED TO ME: HE IS LIABLE FOR EACH OF THEM; AND THIS CAN BE DERIVED BY AN A FORTIORI CONCLUSION: IF FOR INTERCOURSE WITH MENSTRUANT WOMEN,[16] IN WHICH PROHIBITION THERE ARE NEITHER MANY CATEGORIES NOR MANY WAYS OF SINNING,[17] ONE IS LIABLE FOR EACH ACT, HOW MUCH MORE MUST ONE BE LIABLE TO SEPARATE OFFERINGS IN THE CASE OF THE SABBATH, IN CONNECTION WITH WHICH THERE ARE MANY CATEGORIES [OF WORK] AND MANY WAYS OF SINNING![18] I RETORTED TO HIM: NO, YOU MAY HOLD THIS VIEW[19] IN THE CASE OF THE MENSTRUANT WOMEN, SINCE THEREIN THERE IS A TWOFOLD PROHIBITION: THE MAN IS CAUTIONED AGAINST CONNECTION WITH A MENSTRUANT WOMAN, AND THE MENSTRUANT WOMAN IS CAUTIONED AGAINST CONNECTION WITH A MAN;[20] BUT CAN YOU HOLD THE SAME IN THE CASE OF THE SABBATH WHERE THERE IS ONLY ONE PROHIBITION? HE SAID TO ME: LET THEN THE CASE OF INTERCOURSE WITH [MENSTRUANT] MINORS SERVE AS YOUR PREMISE, WHERE THERE IS BUT ONE PROHIBITION,[21] AND YET ONE IS LIABLE FOR EACH ACT. I RETORTED TO HIM: YOU MAY HOLD THIS VIEW IN THE CASE OF MINORS BECAUSE, ALTHOUGH NO PROHIBITION NOW APPLIES, IT WILL APPLY AFTER A TIME;[22] BUT CAN YOU HOLD THE SAME OF THE SABBATH WHERE NEITHER NOW NOR AFTER A TIME [IS THE PROHIBITION WAIVED]? HE SAID TO ME: THEN LET THE LAW CONCERNING COPULATION WITH A BEAST SERVE AS YOUR PREMISE.[23] I REPLIED TO HIM: THE LAW CONCERNING COPULATION WITH A BEAST IS INDEED COMPARABLE TO [THAT CONCERNING] SABBATH.[24]

GEMARA. What was his[25] query? If his query was whether separate Sabbaths were comparable to separate objects,[26] then he should have put the question thus: [What is the law] if one performed the same act of work on different Sabbaths?[27] And if his query was whether secondary acts of work were on a par with principal acts of work,[28] then he should have put the question thus: [What is the law] if one performed on one Sabbath several [secondary] acts of the same [principal] class? — Replied Raba: In the school of Rab they explained that the two questions were put. He asked whether [different] Sabbaths were comparable to different objects, and he also asked whether secondary acts of work were on a par with principal acts of work.

Now as to the Sabbaths what was his query?[29] [Are we to say that, where a man performed an act of work on several Sabbaths] in ignorance of the Sabbath, though knowing full well that that act was prohibited, [Rabbi Akiba] had no doubt at all that the intervening week-days effected a knowledge to separate [the occasions];[30] and his question was only where [he performed the act] knowing full well [on each occasion] that it was Sabbath but not knowing that it was a prohibited act, [the query being] whether different Sabbaths were comparable to different objects or not?[31] Or [rather that, where a man performed an act of work on several Sabbaths] with knowledge of the Sabbath [on each occasion] but in ignorance of its prohibition, [R. Akiba] had no doubt at all that the different Sabbaths were comparable to different objects; and his question was only where [he performed the act] in ignorance of the Sabbaths, though knowing full well that that act was prohibited, [his query being] whether the intervening week-days effected a knowledge to separate the occasions or not? — Said Rabbah:

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(1) I.e., the group of rules quoted anonymously in the Baraitha.

(2) Infra 22a.

(3) Lit., 'he is liable to a sin-offering for each portion'. From this we infer that only awareness in between the acts involves separate offerings. We thus learn that R. Joshua, whose view is represented and accepted in the Baraitha, agrees that the multiplicity of dishes does not involve separate sacrifices in the instance of nothar.

(4) It is assumed that the law would be the same if the meat was taken from five dishes, thus intimating that R. Joshua maintains his view regarding nothar.

(5) I.e., the statement is not uniform; the second and the third clauses of the above statement, from which contradictory conclusions have just been derived, follow different teachers.

(6) The only difficulty that presents itself then is the omission in the last clause of the reference to suspensive guilt-offerings for doubtful sins, which, ac cording to an utterance from R. Akiba elsewhere, should have been added.

(7) When eating five separate dishes.

(8) Me'il. 15b.

(9) To make up an olive's bulk so that the prohibition of offering outside the Temple might apply; or to make up the requisite value of a perutah in the case of sacrilege.

(10) The last three ingredients are of the meal-offering accompanying the burnt-offering.

(11) Which has several distinct sections.

(12) E.g. he ate the meal once with cabbage, again with onions and then with leeks etc. (Rashi).

(13) Lit. 'tastes'. E.g. roasted, cooked, grilled etc. So Rashi but see Tosaf.

(14) I.e., several secondary acts forbidden on the Sabbath, all being the derivatives of one principal work.

(15) I.e., the same labours were performed on various Sabbaths.

(16) V. R. Eliezer's statement supra 15a.

(17) I.e., there is no variety of transgression in connection therewith, such as principal acts and derivatives, and the sin-offering is brought always for the same act, viz., sexual intercourse.

(18) Thus the version in the Mishnah edd. and in MSS; cur. edd. read instead, 'death penalties'.

(19) That one is liable for each act.

(20) V. Lev. XX, 18, where for the woman too kareth is the penalty. In the instance of Sabbath, however, there is but one transgressor.

(21) The minor herself is not subject to any penalty, for she does not come within the prohibition.

(22) I.e., when she grows up.

(23) Though the beast is killed (v. ibid. 15) no prohibition can, of course, be said to apply to it. Its stoning is due to the fact that it was the cause of a man's downfall and would be pointed at by people. cf. Sanh. 54a.

(24) What applies to the one applies to the other. This answer still leaves the matter in doubt.

(25) R. Akiba's.

(26) Lit. 'bodies'. I.e., if the same act of work wad committed several times on different Sabbaths, is he liable to several offerings, just as though he had committed different acts on the Sabbath or not?

(27) This would be a simple case expressing unmistakably the point of his query. The expression in the Mishnah 'MANY ACTS OF WORK', involving principal and secondary acts is thus an unnecessary complication.

(28) I.e., whether one is liable to several offerings for performing several secondary labours of one and the same category.

(29) I.e., under what conditions was the Sabbath law unwittingly transgressed on the various Sabbath days. The question whether separate Sabbaths render one liable to separate offerings may, as it were, be conceived in two ways: firstly with reference to the error that caused the transgression and secondly with regard to the forbidden act: i.e., the question may be whether the fact that the error was made on different Sabbaths causes us to regard it as if several errors were made, or whether the fact that the work was done on separate Sabbaths causes us to consider it as if different kinds of work were performed. In the first instance the error must necessarily lie in unawareness of the Sabbath, though the fact that the labours were forbidden was known to the transgressor; in the second instance the mistake lies in his ignorance that the works he did were forbidden on the Sabbath, but knowing that that day was Sabbath.

(30) The six week-days are a long period during which the trespasser ought to have learnt when Sabbath was. His repeated unawareness of the Sabbath is, therefore, to be regarded each time as a new error involving a separate offering.

(31) Sins committed on different days but in one spell of unawareness are generally regarded as one protracted transgression in error and involve but one sacrifice; but in the case of Sabbath it may be said that each day is a separate entity, and therefore acts of work done on different Sabbaths are not regarded as one protracted transgression.

Talmud - Mas. K'rithoth 16b

It is reasonable to assume that in the case of the act being performed in ignorance of the Sabbaths and with knowledge of its prohibition he had no doubt at all that the intervening week-days effected separateness, and that his question was only when the act was performed with the knowledge of the Sabbaths but in ignorance of its prohibition, [the point in doubt being] whether different Sabbaths are like different objects or not. His[1] reply was that in the case of the act being done with knowledge of the Sabbaths but in ignorance of its prohibition the different Sabbaths were like different objects. This reply, however, he [R. Akiba] did not accept. He then proved that secondary acts of work were on a par with principal acts of work, but this too he rejected.

Said Rabbah: Whence do I derive this?[2] From that which we have learnt:[3] ‘A great general rule has been laid down with regard to Sabbath: He who was altogether oblivious of the principle of Sabbath and performed many acts of work on many Sabbaths, is liable to one offering only. If he knew the principle of Sabbath[4] and did many acts of work on many Sabbaths, he is liable for each Sabbath. If he knew each time that the day was Sabbath,[5] and did many acts of work on many Sabbaths, he is liable for each principal act of work’. Now, it does not say,[6] ‘he is liable for each principal act of work and for each Sabbath’.[7] Whom does [the Mishnah] follow? Shall I say R. Eliezer? Read then the latter clause:[8] ‘If he did many [secondary] acts of work of the same [principal] class, he is liable only to one offering’; but according to R. Eliezer he should be liable for each of the secondary acts of work as if they were principal acts of work! Hence it is clear [that this Mishnah, then, represents] R. Akiba's view, and it is hereby proved that he had no doubt at all that in the case of an act being done in ignorance of the Sabbath and with knowledge of its prohibition the intervening week-days effected separateness, and that his question was only when the act was performed with knowledge of the Sabbath but in ignorance of its prohibition, the point being whether different Sabbaths are like different objects or not. The other's solution[9] was that they were like different objects, and that secondary acts were on a par with principal acts of work; but both answers were rejected by him. Said Abaye to him:[10] Indeed I maintain that R. Akiba had no doubt that different Sabbaths were not comparable to different objects in the case where an act was done with knowledge of the Sabbath but in ignorance of its prohibition;[11] and his question was only in the case where an act was done in ignorance of the Sabbath but with knowledge of its prohibition, [the query being] whether the intervening week-days effected separateness or not. The solution offered was that the intervening week-days effected separateness, and this was accepted by him;[12] he also ruled that secondary acts of work were on a par with principal acts of work, but this was rejected by him.

Rab Hisda said:[13] In the case of an act being done with knowledge of the Sabbath but in ignorance of its prohibition even R. Akiba agrees that the different Sabbath days are like different objects; but his query was whether the intervening week-days effected separateness in the case where an act was done in ignorance of the Sabbath but with knowledge of its prohibition. The other's solution was that the intervening week-days effected separateness; and this was accepted by him. He also ruled that secondary acts of work were on a par with principal acts of work, but this was rejected by him.

Said Rab Hisda: Whence do I derive this? From that which has been taught:[14] ‘If one wrote [on Sabbath] two letters[15] in one spell of unawareness, he is liable [to an offering]; if in separate spells of unawareness,[16] Rabban Gamaliel says: He is liable; and the Sages say: He is not. Rabban Gamaliel, however, admits that if he wrote one letter on one Sabbath and the other on another, he is exempt’.[17] Whereas in another [Baraitha] it has been taught: ‘If one wrote two letters on two different Sabbaths, one on one Sabbath and the other on another, Rabban Gamaliel declares him liable, and the Sages declare him not liable’.[18] On the assumption that Rabban Gamaliel followed R. Akiba's opinion, [Rab Hisda argued thus:] According to me, who hold that in the case of an act being performed with knowledge of the Sabbath but in ignorance of its prohibition even R. Akiba agrees that the different Sabbath days are like different objects, there is no contradiction, for that which taught that he is exempt[19] refers to a case where the letters were written with knowledge of the Sabbath but in ignorance of the prohibition,[20] in which case the different Sabbaths are like different objects[21]

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(1) Viz., R. Eliezer's reply in the Mishnah.

(2) Viz., that R. Akiba's query is to be understood in the first alternative as Rabbah suggested above.

(3) Shab. 67b.

(4) But was unconscious that that day was Sabbath.

(5) But not that those works were forbidden.

(6) Viz., in the third instance.

(7) The fact that he is not declared liable in this instance for each Sabbath separately proves that this Mishnah, which, it is argued, follows R. Akiba's view, maintains either that work repeatedly performed on different Sabbaths in uninterrupted unawareness is not to be regarded as if several acts of work of different classes were performed, and therefore involving several offerings; or at least that there is doubt on this point. The second alternative is assumed by Rabbah to be the case; this being the very point of R. Akiba's query. The second clause of the quoted Mishnah, on the other hand, unmistakably states that if the error has been caused by the ignorance of the Sabbath, he is liable for each Sabbath, presumably because the intervening week-days effect a division. We thus see that Rabbah's interpretation of R. Akiba's query is borne out by that Mishnah.

(8) This is the very last clause of that Mishnah, not quoted above.

(9) I.e., R. Eliezer's answer.

(10) I.e., to Rabbah.

(11) As is indeed proved by the third clause of the Mishnah, where he is not liable for each Sabbath, which Abaye considers an absolute statement and not one about which there is doubt.

(12) The second clause of that Mishnah from Sabbath indicates the acceptance by R. Akiba of R. Eliezer's reply.

(13) Rab Hisda differs from Abaye and Rabbah in that he maintains that in the end R. Akiba decided that different Sabbath days were comparable to different objects. The third clause of the quoted Mishnah, which seemingly contradicts him in that it does not state that the transgressor is also liable for each Sabbath, is indeed interpreted by him as implying that there is liability for each Sabbath.

(14) This quotation is a combination from two Mishnahs, Shab 104b and 105a.

(15) The writing of a word of two characters is one of the principal labours.

(16) E.g., one character in the morning, the other in the afternoon of the same Sabbath day.

(17) The latter sentence seems to be an inference rather than a quotation, for it is not found in connection with the quoted Mishnahs.

(18) There is thus a seeming contradiction in the two Baraithas with regard to R. Gamaliel's opinion.

(19) According to R. Gamaliel.

(20) That writing is forbidden on the Sabbath.

(21) I.e., the two letters can therefore not combine. It is as if one did on two different Sabbaths each time a portion of a different act.

; and that which taught that he is liable refers to a case where the letters were written in ignorance of the Sabbath but with knowledge of their prohibition, [the liability arising] in pursuance of the rule that awareness is of no consequence with regard to half-sizes.[1] But how is it according to Rabbah who says that R. Akiba considers different Sabbaths as one object? It is true that that which taught, ‘he is liable’, may be met either by the case where the letters were written with knowledge of the Sabbath but in ignorance of their prohibition, when it is held that the Sabbaths are considered as one object,[2] or by the case where the letters were written in ignorance of the Sabbath but with knowledge of their prohibition, when it is held that awareness is of no consequence with regard to half-sizes,[3] But of which case speaks the statement that he is exempt; neither the one nor the other suits! — Rabbah may retort: Rabban Gamaliel follows R. Eliezer's opinion, who holds different Sabbaths are as different objects.[4]

But since it states ‘Rabban Gamaliel, however, admits . . .’ It follows that they disagree in the other cases. Now, if we say that he holds with R. Akiba,[5] it is well, for then their dispute[6] is [in the case where the letters were written] in ignorance of the Sabbath but with knowledge of their prohibition,[7] Rabban Gamaliel holding awareness is of no consequence with regard to half-sizes;[8] he admits, however, that he is exempt [in the case where the letters were written] with knowledge of the Sabbath but in ignorance of their prohibition, because [in that case he holds the view that] different Sabbaths are regarded as different objects. But if, as you say that Rabban Gamaliel follows R. Eliezer, [since the phrase ‘Rabban Gamaliel, however, admits...’] implies that they[9] disagree [in some cases], then [it will be asked], which is the case wherein they differ?If it is in [the case where the letters were written] in ignorance of the Sabbath but with knowledge of their prohibition; but [in that case] even R. Eliezer agrees with Rabban Gamaliel that awareness is of no consequence with regard to half-sizes, as has been taught: ‘If one wrote two letters on two Sabbaths, one letter on the one Sabbath and the other on the other Sabbath, R. Eliezer holds he is liable’.[10] Neither [can it be in the law] concerning the weaving of one thread on to a web,[11] for he declares him liable in that case, as we have learnt:[12] ‘R. Eliezer holds, that if one wove [on the Sabbath] three threads at the beginning [of a web] or added one thread on to [an existing] web, he is liable’. Said Raba: [The phrase ‘Rabban Gamaliel, however, admits...’] implying that elsewhere they disagree, is with [reference to the following] one case. For it has been taught:[13] ‘If one carried out [on the Sabbath the bulk of] half a dried fig[14] and then again [the bulk of] half a dried fig, if in one spell of unawareness, he is liable; if in two spells of unawareness, he is exempt. R. Jose said: If in one spell of unawareness and also into the same domain,[15] he is liable; if in different domains, he is exempt’. Rabban Gamaliel thus follows the view of the first Tanna and R. Eliezer that of R. Jose.[16]

Come and hear: HE REPLIED TO ME, HE IS LIABLE FOR EACH OF THEM; AND THIS CAN BE DERIVED BY AN A FORTIORI CONCLUSION: IF FOR INTERCOURSE WITH MENSTRUANT WOMEN, IN WHICH PROHIBITION THERE ARE NEITHER MANY CATEGORIES etc. Now, it is well according to R. Hisda who explained that his query [referred to the case where the act was performed] in ignorance of the Sabbath but with knowledge of its prohibition, [and that the question was] whether the intervening week-days effected a division or not, for then it is right why the answer [in the Mishnah] speaks of ‘A MENSTRUANT WOMAN’,[17] But according to Rabbah who explained that his query [referred to the case where the act was performed] with knowledge of the Sabbath but in ignorance of its prohibition, [and that the question was] whether different Sabbaths were regarded as different objects, the answer should speak of ‘menstruant women’.[18] — Rabbah can tell you: Read indeed ‘menstruant women’.[19] Samuel read: ‘A menstruant woman . Rab Adda b. Ahaba also read: ‘A menstruant woman’. R. Nathan b. Oshaia read: ‘Menstruant women’. But according to Rab Hisda, who explained that his query [referred to the case where the act was performed] in ignorance of the Sabbath but with knowledge of its prohibition, [and that the question was] whether the intervening week-days effected a division or not, how [can such a query as to] whether the intervening days effect a division or not apply to one menstruant woman? — Raba answered: For instance, he united with her [the menstruant] and she then immersed herself; she again became unclean[20] and he united with her once more and she then immersed; and again she became unclean and he united with her once more,[21] etc.; the immersions thus correspond to the intervening week-days [in the case relating to Sabbath].

Come and hear: LET THEN THE CASE OF INTERCOURSE WITH MENSTRUANT MINORS SERVE AS YOUR PREMISE. Now according to Rabbah it is well that it speaks of 'minors'; but why does it speak of 'minors' according to Rab Hisda?[22] — It speaks of 'minors' in a general way.[23]

Our Mishnah is not in accordance with the following Tanna.[24] For it has been taught: R. Simeon son of Eleazar said, Not so was the question of R. Akiba to R. Eliezer, but thus: If one united with his menstruant wife and then united with her again, in one spell of unawareness, what is the law? Is he liable to one [offering] for all the acts, or to [separate offerings] for each act? He replied, He is liable for each act,and this is derived [from the law of Sabbath] by an a fortiori conclusion: If in the instance of Sabbath, where there is but one prohibition, in that man is cautioned against [profaning] the Sabbath but the Sabbath is not cautioned against him, one is liable for each act, how much more should he be liable for each act in the instance of a menstruant woman, where the prohibition is twofold, in that a man is cautioned against connection with a menstruant woman, and a menstruant woman is cautioned against connection with a man! He [R. Akiba] retorted: No. You may hold this view in the case of the Sabbath, because there are concerning it many categories [of work] and many ways of sinning; but can you hold the same in the case of the menstruant woman where there are neither many categories nor many ways of sinning? He [R. Eliezer] replied: Let the case of intercourse with [menstruant] minors serve as your premise, where there are neither many categories nor many ways of sinning, and yet one is liable for each act. He [R. Akiba] retorted: No. You may hold thus in the case of [menstruant] minors since they are different bodies. He [R. Eliezer] replied: Let the law concerning copulation with a beast serve as your premise, where there are not different bodies, and one is nevertheless liable for each act. He [R. Akiba] retorted: [The law concerning copulation[25] with] a beast is indeed comparable to [that of] the menstruant woman.

CHAPTER IV

MISHNAH. IF [A PERSON WAS] IN DOUBT[26] WHETHER HE HAD EATEN HELEB[27] OR NOT, OR EVEN IF HE HAD CERTAINLY EATEN [OF IT] BUT [WAS] IN DOUBT AS TO WHETHER IT HAD THE REQUISITE QUANTITY,[28]

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(1) I.e., although the intervening week-days effect, in similar circumstances, a division as if the transgressor had learnt in the meantime of his trespass, this instance is different, because awareness with regard to half-sizes is ineffective, i.e., if one becomes conscious of sin in between incomplete forbidden acts such as the writing of one letter on Sabbath, one has not segregated the acts one from the other. Awareness in between different forbidden acts brings about a separation of the acts, because it immediately imposes upon the transgressor a sacrifice, which is to serve the expiation of the known act, and its realm cannot afterwards be extended to include also other sins. This does not apply to incomplete acts which do not involve a sacrifice.

(2) For R. Akiba did not accept R. Eliezer's ruling.

(3) The two letters, written on two different Sabbaths, are therefore not divided one from the other as if they were parts of different acts, but united to form one complete act by the fact that they were written in one spell of unawareness of sin.

(4) The version that he is exempt can now be explained as R. Hisda did.

(5) I.e., his admission in the first Baraitha is adressed to R. Akiba. The dispute in the first instance is accordingly also between R. Gamaliel and R. Akiba.

(6) I.e., that between Rabban Gamaliel and R. Akiba, who holds with the Sages.

(7) In the whole Baraitha it is then assumed that the two letters were written on different Sabbaths.

(8) Whilst R. Akiba differs from him on this point, maintaining that awareness in between incomplete acts is also effective.

(9) I.e. Rabban Gamaliel and R. Eliezer. For it must now be assumed that in the first Baraitha the Sages present R. Eliezer's view.

(10) R. Eliezer conforms thus to Rabban Gamaliel's view in the second Baraitha.

(11) The required minimum of threads with regard to weaving is two. If, however, one increases an already existing web by weaving thereinto one more thread, there is a difference of opinion as to whether he is liable or not. This case is somewhat related to that of doing an incomplete act with which R. Gamaliel deals. Furthermore, the Mishnah concerning weaving and that concerning writing are next to one an other. There is thus a reasonable assumption that the term 'Rabban Gamaliel admits' refers also to this instance of weaving.

(12) Shab. 105a.

(13) B. B. 55b.

(14) The carrying from private property into a public thoroughfare, or vice versa, of the size of a dried fig, is one of the principal acts of work.

(15) I.e.,in both instances he carried the objects into the same kind of domain. The first Tanna does not recognise this restriction.

(16) 'Rabban Gamaliel admits' is to be understood thus: Although he disagrees with R. Eliezer (or R. Jose) in the case of carrying and holds that different domains do not effect a separation between two incomplete acts, he admits that different Sabbaths do effect such a separation in reference to writing.

(17) The cases are similar, for also in the instance of the menstruant woman the reason for the multitude of sacrifices is the fact, as will further on be explained, that the time in between the menstruations brought about a division of the acts.

(18) Thus being a case of different persons or objects and therefore corresponding with the case of different Sabbaths which are held to be on the same footing as different persons.

(19) I.e., the example quoted refers indeed to a person having had intercourse with several menstruant women, a case which is comparable to the one in question, as expounded by Rabbah.

(20) Lit. 'she saw' sc. blood.

(21) I.e., the fact of her cleansing herself in between the various connections brings about a division as if it was with a different woman each time.

(22) It should speak of 'a minor, i.e. one person.

(23) It does not refer to one such case, but in a general way to cases of this kind; but in each case there was indeed but one minor.

(24) According to this Tanna the discussion in the Mishnah is in the reverse sense. The object of the query becomes the known factor, and the known factor of the Mishnah becomes the theme of the question. The rest of the discussion is mutatis mutandis to be explained as in the Mishnah.

(25) no note.

(26) The doubt arises only afterwards, when he is told, or remembers that there was good reason to doubt whether the food he ate was permitted. At the time of eating, however, he felt sure that the food was allowed. In all the instances of the Mishnah it must be laid down that at the time of action the offender was under the impression that the legitimacy of his act was beyond question. It is only afterwards that he learns that there was some doubt as to the permissibility of his act. For if the doubtfulness of the case was known to him from the beginning it would be his duty to refrain from his act; and if he did not do so, he would be considered a wilful transgressor, and as such no offering would be acceptable for the expiation of his sin.

(27) Forbidden fat. V. Glos.

(28) Viz., an olive-size.

Talmud - Mas. K'rithoth 17b

OR LESS; OR [IF THERE WERE] BEFORE HIM PERMITTED FAT AS WELL AS HELEB, AND HE ATE OF ONE OF THEM[1] AND DOES NOT KNOW OF WHICH OF THEM HE ATE; OR IF HIS WIFE AND HIS SISTER WERE WITH HIM IN THE ROOM AND HE UNWITTINGLY UNITED WITH ONE OF THEM[2] AND DOES NOT KNOW WITH WHICH OF THEM HE UNWITTINGLY UNITED; OR IF HE DID FORBIDDEN LABOUR[3] AND DOES NOT

KNOW WHETHER IT WAS ON THE SABBATH OR ON A WEEK-DAY, HE IS LIABLE TO A SUSPENSIVE GUILT-OFFERING. JUST AS A PERSON WHO ATE HELEB TWICE IN ONE SPELL OF UNAWARENESS IS LIABLE ONLY TO ONE SIN-OFFERING,[4] SO, TOO, WHEN THE TRANSGRESSION IS IN DOUBT, HE IS ONLY LIABLE TO ONE SUSPENSIVE GUILT OFFERING. IF IN THE MEANTIME HE BECAME AWARE [OF THE POSSIBLE TRESPASS].[5] HE IS LIABLE TO A SEPARATE SUSPENSIVE GUILT-OFFERING FOR EACH ACT, JUST AS HE WOULD [IN SIMILAR CIRCUMSTANCES] BE LIABLE TO A SEPARATE SIN-OFFERING FOR EACH ACT.[6] JUST AS ONE IS LIABLE TO SEPARATE SIN-OFFERINGS IF HE ATE, IN ONE SPELL OF UNAWARENESS, HELEB AND BLOOD AND PIGGUL[7] AND NOTHAR,[7] SO, TOO, WHEN THE TRANSGRESSION IS IN DOUBT, HE IS LIABLE TO A SUSPENSIVE GUILT-OFFERING FOR EACH ACT.

GEMARA. It was stated: Rab Assi said, [The first case of the Mishnah] refers to one piece about which there was a doubt whether it was heleb or permissible fat; Hiyya b. Rab said: It refers to one of two pieces.[8] What is the basis of their dispute? Rab Assi holds that the traditional spelling of the text is authoritative, and [in Scripture] it is written: ‘A commandment’[9] ; while Hiyya b. Rab holds that the reading of the text is authoritative, and we read, ‘commandments’.[9] R. Huna raised an objection to Rab Assi, — others say: Hiyya b. Rab raised the objection to Rab Assi: [It reads in the Mishnah] ‘[IF THERE WERE] BEFORE HIM PERMITTED FAT AS WELL AS HELEB AND HE ATE OF ONE OF THEM . . .’. May we not infer therefrom that as this latter clause refers to two pieces, so does also the first clause[10] refer to two pieces? — Replied Rab: Do not draw conclusions from something which may be interpreted in the opposite direction.[11] I can answer you that the latter clause deals with two pieces and the former with one piece. But, if so, may we not argue: If one is liable [to an offering] in the case of one piece, how much more so in the case of two pieces![12] — [The statement of the Mishnah is after the pattern of] ‘this and needless to say also this’.[13] Now according to Hiyya b. Rab who holds: As the latter clause refers to two pieces so does also the former refer to two pieces, why this repetition? — [The latter clause is] an explanation [of the former]: IF [A PERSON WAS] IN DOUBT WHETHER HE HAD EATEN HELEB OR NOT . . . HE IS LIABLE TO A SUSPENSIVE GUILT-OFFERING; and how does such a case arise? [IF THERE WERE] BEFORE HIM PERMITTED FAT AS WELL AS HELEB.

Said Rab Judah in the name of Rab: If there were before a person two pieces, one of permitted fat and the other of heleb, and he ate of one of them and does not know of which of them he ate, he is liable; [if there was] one piece [before him] about which [there was] a doubt whether it was permitted fat or heleb, and he ate of it, he is exempt. Said Raba: What is the reason for Rab's view? It is that Scripture says, And will do one of the commandments of the Lord, in error;[14] — the error must be produced by two objects, for although the spelling is ‘a commandment’, we read ‘commandments’.[15] Abaye raised an objection to him:’ [It has been taught:] R. Eliezer says, [If one eats of the heleb of] a koy,[16] he is liable to a suspensive guilt-offering![17] — He replied: R. Eliezer holds that the spelling is authoritative, and the spelling is ‘a commandment’.

He raised another objection: [We have learnt:][18] If it is doubtful whether [what is born] is a nine-months’ child of the first husband or a seven-months’ child of the second,[19] he[20] must put her away,[21] and the child is [deemed] legitimate, but each[22] is liable[23] to a suspensive guilt-offering![24] This, too, follows R. Eliezer's view.

He raised a further objection: [We have learnt:][25] If [the stain] was found on his [cloth][26] , they are both unclean and liable to an offering; if upon hers and immediately [after the coition],[27] they are unclean and liable to an offering, but if upon hers some time after, they must regard themselves unclean by reason of the doubt, but are exempt from offerings. And upon this it was taught: They[28] are nevertheless liable to suspensive guilt-offerings.[29] — This, too, follows R. Eliezer's view.

Said R. Hiyya[30] in the name of Rab: If there were before a person two pieces, one heleb and the other permitted fat, and he ate of one of them and does not know of which he ate, he is liable; if [there was only] one piece about which there was a doubt whether it was permitted fat or heleb, and he ate it, he is exempt. Said R. Zera: What is Rab's reason? He is of the opinion that in the case of two pieces it is possible to determine the transgression,[31] in the case of one piece it is not possible to determine the transgression. What is the difference between the reason [offered above] by Raba and that of R. Zera? — [If there were] one and a half olive-sizes.[32] According to Raba [he is exempt, for] there are not two pieces;[33] according to R. Zera, however, there is the possibility of determining the transgression.

R. Jeremiah raised an objection to R. Zera: ‘R. Eliezer says, ‘[If one eats of the heleb of] a koy, he is liable to a suspensive guilt-offering!’[34] — The latter replied: R. Eliezer, to be sure, holds that the possibility of determining the transgression is not an essential condition [for the bringing of a suspensive guilt-offering].

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(1) The offender did not know that heleb was also before him on the table.

(2) I.e., under the impression that it was his wife.

(3) I.e., labour forbidden on the Sabbath. At the time of action he was sure that it was a weekday.

(4) A sin-offering is brought for inadvertent but certain transgression; viz., when it is afterwards established that the deed performed was definitely forbidden though the offender was at the time unaware of it.

(5) I.e., he learnt that a doubt arose as to the permissibility of the act he had committed.

(6) I.e., if he transgressed different prohibitions.

(7) v. Glos.

(8) I.e., he ate one of two pieces that lay before him, one of which was certainly permissible and the other certainly heleb, which were mixed up one with the other.

(9) Many words of the Hebrew text of the Bible, which was originally written down vowelless, permit of various readings according to the vowels which are attached to them. In particular we find sometimes that by the omission of a letter, which in accordance with grammatical rule is expected there, the reading becomes equivocal. One School regards the fact of such spelling as indicative of a special intimation besides the one conveyed by the traditional reading of the word. They regard, in Talmudical terminology, ‘the traditional spelling as authoritative’ for the interpretation of the text. The other School takes only the reading version of the word into account when interpreting the text; v. Sanh. Sonc. ed. p. 4a and notes. Now in Lev. V, 17-19. which is the source of the law concerning the suspensive guilt-offering, it reads, And will do one of all the commandments of the Lord. The Hebrew for commandments is in this text מצות instead of the regular מצוות; it may, therefore, be read also as מצות the construct form of מצוה in the singular. This is to indicate, according to Rab Assi, that also when the doubt is produced by one object, e.g., when it is doubtful whether a piece of fat is permissible or is heleb, one is liable to such a guilt-offering. Whilst Hiyya gives consideration only to the reading version מצות in the plural, and insists therefore that one is liable to a suspensive guilt-offering only in the case where the doubtfulness is produced by the mixing up of two objects, one of which is certainly permitted and the other certainly forbidden. But in the case of one object where the presence of anything forbidden is altogether questioned, he holds that no suspensive guilt-offering is required.

(10) IF (A PERSON WAS) IN DOUBT WHETHER HE HAD EATEN HELEB etc.

(11) Thus Rashi, Keth. 48b.

(12) The second clause of our Mishnah is then superfluous.

(13) I.e., one is liable to a suspensive guilt-offering in the instance of one piece and needless to say, the Mishnah adds, in the case of two pieces.

(14) Lev. V, 17. ‘In error’ is not part of the text which, however, continues ‘though he know it not’.

(15) V. p. 134, n. 5.

(16) A koy is a cross between a goat and a gazelle, and the Sages were in doubt whether it belongs to the genus of cattle and its heleb is forbidden, or to the genus of beasts of chase whose heleb is permitted. We learn, at all events, that one is liable to a guilt-offering even where the doubt arises in connection with one object.

(17) Tosef. Bik. II, 1.

(18) Kid. 18b.

(19) This refers to a woman whose husband had died childless and who married thereupon his brother, according to the law of levirate marriage, Deut. XXV, 5-10. Contrary to the law she married him before the prescribed three months had elapsed from the time of her husband's death, and after seven months she gave birth to a child. The paternity of the child raises doubts whether it was a premature birth and the child is of the second husband, or a normal birth and it is of the first. In the latter case she may not continue to live with her brother-in-law, for the law of levirate marriage would not apply and her past relations with him were incestuous.

(20) I.e., the second husband.

(21) To avoid the possible transgression of one of the laws of incest.

(22) The woman as well as the man.

(23) The text reads in the sing. 'he is liable', but it is obvious that both are liable; cf. Nid. 14b.

(24) From this we learn that the suspensive guilt-offering is brought even when the doubt rests upon one object, viz., here the woman.

(25) Nid. 14a.

(26) Both husband and wife are recommended to use a piece of cloth after coitus to ascertain whether she was indeed in a condition of cleanness. Connection with a menstruant woman is subject to kareth in case of wilfulness and to a sin-offering in case of error.

(27) Text אותיום , the Greek word GR.** meaning 'forthwith'. Cf. Nid. 14b as to the length of this spell.

(28) V. p. 136, n. 9.

(29) V. p. 136, n. 10.

(30) Read with Sh. Mek 'R. Zera'.

(31) One might ascertain later whether the consumed piece was heleb or not. In the case of one piece which was consumed, such retrogressive determination is impossible. The doubt is perpetual, and for such doubt there is no liability for a suspensive guilt-offering.

(32) There were two pieces, one of the size of an olive and the other of the size of half an olive, and he ate the olive's size. It is therefore doubtful whether there was at all heleb of the prescribed minimum quantity. This case is therefore according to Raba to be compared to the one where only one piece was available, for the remaining half an olive's bulk is negligible. Not so according to R. Zera, for here, too, determination may still be possible.

(33) Lit. 'commandments'. There are not two pieces of the prescribed minimum size.

(34) V. supra p. 136, n. 2. Although there is no possibility of ever determining the transgression.

Talmud - Mas. K'rithoth 18a

He raised [another] objection: [We have learnt:] 'If it is doubtful whether [what is born] is a nine-months' child of the first husband or a seven-months' child of the second, he must put her away and the child is [deemed] legitimate, but each is liable to a suspensive guilt-offering!'[1] — This, too, is according to R. Eliezer. He raised a [further] objection: [We have learnt:] 'If [the stain] was found upon her cloth and immediately [after the coition], they are unclean and liable to sin-offerings; if upon hers some time after, they must regard themselves unclean by reason of the doubt, but are exempt from offerings. And upon this it was taught: They are nevertheless liable to suspensive guilt-offerings!'[1] — This, too, is according to R. Eliezer.

Rab Nahman said in the name of Rabbah b. Abbuha, who delivered it in the name of Rab: If there were before a person two pieces, one heleb and the other permitted fat, and he ate of one of them and does not know of which he ate, he is liable; if there was only one piece about which there was a doubt whether it was heleb or permitted fat, and he ate it, he is exempt. Said Rab Nahman: Rab's reason is that in the case of two pieces [the presence of] the forbidden substance is established, in the case of one piece [the presence of] the forbidden substance is not established. What is the practical difference between this reason that the forbidden substance is established and the one stated above that it is possible to determine the transgression? — A difference will arise in the case of two pieces, one heleb and the other permitted fat, and a gentile first ate one piece and then an Israelite the other. According to Raba [he is exempt, for] there were not two pieces at the time when the Israelite ate his. According to R. Zera, too, [he is exempt, for] it is not possible to determine the transgression.

But according to Rab Nahman [he is liable, for] the presence of the forbidden substance was established.

Raba raised an objection to Rab Nahman: ‘R. Eliezer says, [If one eats of the heleb of] a koy, he is liable to a suspensive guilt-offering!’[2] — R. Eliezer does not hold that [the presence of] the forbidden substance must be established. He raised [another] objection: [We have learnt:] ‘If it is doubtful whether [what is born] is a nine-months’ child of the first husband or a seven-months’ child of the second, he must put her away and the child is [deemed] legitimate, but each is liable to a suspensive guilt-offering!’[3] — This, too, is according to R. Eliezer. He raised a [further] objection: [We have learnt:] ‘If [the stain] was found on his cloth, they are both unclean and liable to offerings; if upon hers and immediately [after the coition], they are unclean and liable to offerings, but if upon hers some time after, they must regard themselves as unclean by reason of the doubt, but are exempt from offerings’. And upon this it was taught: They are nevertheless liable to suspensive guilt-offerings!’[3] [To this objection] he remained silent. When the former[4] had left, he said to himself: Why did I not reply that this law represents the view of R. Meir, who holds that the presence of the forbidden substance need not be established? As has been taught: If one slaughtered a suspensive guilt-offering outside [the Temple precincts], R. Meir holds him liable [to a sin-offering]. The Sages declare him exempt![5] But why did he not say: I might have retorted that that teaching represented R. Eliezer's view? — To indicate at the same time that R. Meir follows R. Eliezer regarding this law.

Said Rabbah b. Abbuha in the name of Rab: The case where one ate a piece of fat about which there was a doubt whether it was heleb or permitted fat forms the subject of a dispute between R. Eliezer and the Sages.[6] But why assume [the case] that he ate it, even If he did not eat it he may offer such a guilt-offering according to R. Eliezer, as we have learnt:[7] R. Eliezer says, A man may freely offer every day a suspensive guilt-offering![8] — Said R. Ashi: R. Eliezer follows here the view of Baba b. Buta,[9] of whom we have learnt:[10] But they said unto him, Wait until you come into a state of doubt.

Our Rabbis taught: If a person had before him two pieces, one permitted fat and the other heleb, and an Israelite first came and ate one piece and then a gentile came and ate the second piece, he is liable;[11] this holds good also if the second piece was eaten by a dog or by a raven. If a gentile first came and ate one piece and then an Israelite came and ate the second, he is exempt; but Rabbi declares him liable.[12] If he ate the first unwittingly and the second deliberately,[13] he is liable; if the first deliberately and the second unwittingly, he is exempt;[14] but Rabbi declares him liable. If he ate both pieces deliberately, he is altogether exempt.[15] If two ate the two pieces, both unwittingly, they are both liable [to suspensive guilt-offerings], though the second is not liable by law,[16] but rather because if you said that he was exempt, you would thereby establish a sin-offering for the first.[17] Now whose view does the last clause follow? If Rabbi's, then the second should surely be liable by law.[18] If that of the Sages, then [the question arises] how can we order the second [to bring a sacrifice], thereby causing a secular animal to be brought into the Temple precincts,[19] merely on the ground that otherwise a sin-offering would be established for the first?[20] Said Rab Ashi:

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(1) V. supra p. 136.

(2) Although the presence of a prohibited thing is not certain.

(3) V. p. 136.

(4) Viz., Raba.

(5) The Sages differentiate between this class of guilt-offerings and all other sacrifices. For it may be that this sacrifice was offered unnecessarily, i.e., that no law had in fact been transgressed, and the animal therefore bore a secular character, so that its slaughtering outside the Temple precincts would involve no guilt. R. Meir, on the other hand, holds that in order to be liable to an offering it is not necessary to establish with certainty the trespass of a law, or even the certain presence of a prohibited thing. This guilt-offering is therefore at all events sacred, and he who slaughters it outside the Temple precincts is liable to a sin-offering.

(6) For R. Eliezer, in agreement with R. Meir, holds that one brings a suspensive guilt-offering even when the presence of something forbidden is not established.

(7) Infra 25a.

(8) For sins that he might have committed unwittingly, even though he knows of no act of his that might have given rise even to a transgression in doubt.

(9) Baba b. Buta used to offer a suspensive guilt-offering every day. On the day following the Day of Atonement, however, it was not accepted, because it was thought unlikely that he needed expiation immediately after the atonement of his sins on that Holy Day. We thus see that there must be a probability of trespass before a suspensive guilt-offering may be brought. On account of this view the case stated above assumes that he ate something.

(10) Infra 25a.

(11) The Israelite is liable, for at the time of his eating there were two pieces.

(12) In Rabbi's view there is no need for the presence of two pieces to establish doubt.

(13) Deliberate transgression is not expiated by a sacrifice. For the first piece, however, he is liable to a suspensive guilt-offering, for at that time there were two pieces before him.

(14) For the first he is exempt because it was consumed deliberately, and for the second because there was but one piece at the time of eating.

(15) Because there is no sacrifice for deliberate transgression.

(16) The text seems to be in disorder; read: ‘if both of them unwittingly, he is liable (i.e. to a sin-offering); if two ate etc’. See Emden's glosses.

(17) The exemption of the second may be taken to imply that the first definitely ate the heleb, who should therefore be liable to a sin-offering.

(18) For Rabbi does not require the certain presence of something forbidden at the time of eating.

(19) If the offering is brought needlessly it retains its secular nature.

(20) I.e., how can we impose an offering which may result in a grave sin solely in order to avoid a possible misrepresentation?

Talmud - Mas. K'rithoth 18b

It follows R. Eliezer's opinion, who holds that a man may freely offer every day a suspensive guilt-offering.[1] We therefore advise the second to bring a suspensive guilt-offering and to stipulate thus: if the first ate the permitted fat, and therefore he the heleb, let it be an expiatory offering,[2] otherwise let it be a freewill-offering.

Our Rabbis taught: If one ate doubtful heleb and came to know of it,[3] then again ate doubtful heleb and came to know of it, Rabbi says: I hold, just as he would be liable to bring separate sin-offerings,[4] so is he also liable to bring separate suspensive guilt-offerings. R. Jose son of R. Judah, R. Eliezer and R. Simeon[5] hold: He is only liable to one suspensive guilt-offering, for it says, For his error which he erred;[6] even in the case of many errors, he is liable to only one [offering].

Said R. Zera: Rabbi has here taught that the awareness of the doubt separates [the acts] for sin-offerings.[7] Raba said: Awareness of the doubt does not separate [the acts] for sin-offerings; but this is what he [Rabbi] meant to teach: Just as he would be liable to separate sin-offerings if he became aware [after each act] that the transgression was certain, so he is also liable to separate suspensive guilt-offerings, if he became each time aware of the doubt. Said Abaye to him [Raba]: And are you not of the opinion that awareness of the doubt separates [the acts] for sin-offerings? But surely if you were to assume that awareness of the doubt does not separate [the acts] for sin-offerings, so that he brings only one sin-offering, then why should he bring a [separate] suspensive guilt-offering for each? Has it not been taught:[8] This is the general rule. Wherever a separation is effected with regard to sin-offerings there also a separation is effected with regard to suspensive guilt-offerings![9] Said Raba b. Hanan to Abaye: Also according to you, who hold that the awareness of the doubt separates the acts for sin-offerings, it should follow that if one ate an olive's bulk of heleb before the Day of Atonement and again an olive's bulk of heleb after the Day of Atonement — since the Day of Atonement is equivalent to a suspensive guilt-offering — he should have to bring two sin-offerings; but this cannot be, for he ate [at both times] in one spell of unawareness![10] — Abaye replied: Who says that the Day of Atonement atones even when the sin remained unknown, perhaps only when he is aware of it?[11] — Said Raba to him: We have explicitly learnt: [The Day of Atonement atones . . .] both for known and unknown sins.[12]

According to another version, Raba b. Hanan said thus to Abaye: What if one ate an olive's bulk of heleb in the morning of the Day of Atonement and another in the afternoon of the Day of Atonement, would he also be liable to two sin-offerings?[13] — Retorted Abaye: Who says that every moment of the Day of Atonement atones, perhaps only the day as a whole atones, from the evening?[14] — Said to him Raba b. Hanan: Simpleton have we not learnt: If one committed a doubtful sin on the Day of Atonement, even if it was already twilight, he is exempt[15] for the whole day effects atonement?[16]

R. Idi son of Abin raised an objection: [We have learnt:] If one ate and drank [on the Day of Atonement] in one spell of unawareness,[17] he is liable to one sin-offering only.[18] Now, it is hardly possible that between the eating and the drinking there was not an interval, during which he might become aware [that it was the Day of Atonement],[19] so that [that interval of the Day of Atonement] effected atonement for him, [in accordance with the rule that] the Day of Atonement has the same effect as a suspensive guilt-offering. Yet it states that he is liable to one sin-offering only. Now, if it is true that the awareness of the doubt separates [the acts] for sin-offerings, he should be liable to two sin-offerings![20] — Say: R. Zera only interpreted Rabbi's view, whilst this follows that of the Rabbis.[21] But is not the latter clause [in the cited Mishnah] in pursuance of Rabbi's opinion? For it teaches: If he drank brine or pickle-juice, he is exempt;[22] from which it may be inferred that if vinegar he is liable, and this is in accordance with Rabbi, for it has been taught: Vinegar is not a refreshing drink;[23] Rabbi says, It is.[24] Now, as the latter clause follows Rabbi, have we not to assume that also the first is in accordance with his view? — Say: the latter clause follows Rabbi, but the former follows the Rabbis.[21]

Raba raised an objection [to R. Zera]: If one[25] ate [of holy things] on one day and then again on the following day, or made use thereof on one day and again on the following day, or ate thereof on one day and made use thereof on the following day, or made use thereof on one day and ate thereof on the following day, or even when a period of three years intervened,[26] whence do we know that they combine one with the other?[27] The text tells us: If anyone trespasses a trespass,[28] to include [every trespass]. Now, why should he be liable? Has not the intervening Day of Atonement atoned for it? — Say: The Day of Atonement effects atonement for the transgression of a prohibition, but not for [the misappropriation of] money. Or you could say: The Day of Atonement effects atonement for transgressions involving full standard measure, but not for half-measures.

Resh Lakish also said: Rabbi has here taught that the awareness of the doubt separates [the acts] for sin-offerings. But R. Johanan said: The awareness of the doubt does not separate [the acts] for sin-offerings; and what he [Rabbi] meant to teach is this: Just as he would be liable to separate sin-offerings if he became aware [in between the acts of the transgression] of a definite sin, so he is also liable to separate suspensive guilt-offerings if he became each time aware of the doubtful sin. Now according to R. Johanan it is right that the guilt-offering is dependent upon the sin-offering,[29] but according to Resh Lakish the sin-offering should be made dependent upon the guilt-offering![30] This is indeed a difficulty.

Now one can point out a contradiction between the statements of R. Johanan and also a contradiction between the statements of Resh Lakish. For it was taught: If there were two roads, one unclean and the other clean,[31] and a person passed through one of them and did not enter [the

Temple precincts], and then through the other and entered [the Temple precincts], he is liable; if he passed through one and entered [the Temple precincts], he is exempt; if he then passed through the other and entered [the Temple precincts], he is liable; if he passed through one and entered [the Temple precincts], and was sprinkled upon once and also a second time and immersed himself,[32] and then he passed through the other and entered [the Temple precincts], he is liable.[33]

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(1) The offering of the second cannot therefore be said to be needless.

(2) Viz., a suspensive guilt-offering; for a sin-offering can be brought only when the transgression is established.

(3) At the time of eating he assumed it was permitted fat, but later learnt that there was some doubt about it.

(4) I.e. if he learnt ultimately that what he ate was undoubtedly heleb, he would be liable to sin-offerings for each offence.

(5) In Shebu. 19b this second view is delivered in the name of other Sages.

(6) Lev. V, 18. The text is redundant for ‘which he erred’ is superfluous. The repetition of אשר שגג serves to indicate that several errors may be covered by one guilt-offering.

(7) R. Zera understands Rabbi's exposition above thus, that the offender would be liable to separate sin-offerings if he learnt untimately, i.e., after all the meals, that the food was certainly heleb, although the intervening spells of awareness which separated the acts, acquainted him each time only of the fact that there was reason to doubt the permissibility of the food he had taken. Raba, on the other hand, understands Rabbi's ruling, that the offender is liable to separate sin-offerings, as applying only to the case where the inter vening spells of awareness related each time to the certainty of having eaten forbidden food.

(8) Supra 15b. This rule is assumed to work both ways, i.e. that the negative proposition is also true; thus in conflict with Rabbi.

(9) Viz., that sin-offerings and suspensive guilt-offerings follow the same rules with regard to division.

(10) The Day of Atonement atones for doubtful trespasses (v. infra 25a), and one is exempt from a suspensive guilt-offering for transgressions committed before that day. If each olive's bulk in our instance was of doubtful heleb, he is only liable but once, viz., for the second; yet taking into consideration the intervening Day of Atonement, which has the effect of a suspensive guilt-offering, it is as if he offered two such guilt-offerings. According to the quoted rule he should in the corresponding case of certain heleb be liable to two sin-offerings, which is untenable, because both sins were committed in one spell of unawareness. The rule is thus proved to be incorrect. V. Tosaf. s.v. אלא.

(11) In the corresponding case of certain heleb, he will then rightly be liable to two sin-offerings, because of the interruption in the unawareness of sin.

(12) Shebu. 2b. Abaye's proposition is thus refuted.

(13) For had it been doubtful heleb, the Day of Atonement would twice have effected atonement, as if two suspensive guilt-offerings were brought. In the corresponding case of certain heleb it would follow that he would be liable to two sin-offerings, which is, of course, absurd.

(14) A sin committed during the day would accordingly not he atoned for.

(15) From a suspensive guilt-offering.

(16) Infra 25a.

(17) That it was the Day of Atonement.

(18) Yoma 81a.

(19) See Rashi. Since there was an interval in between eating and drinking during which he could become aware of his sin, that length of time of the Day of Atonement would have atoned for his first act before the second was committed.

(20) The interval which atones for the first act in the case of doubtful transgression is, in effect, comparable to an act of awareness of doubtful sins; it should, according to Abaye, separate the acts for sin-offerings, i.e., even in the case of certain heleb.

(21) R. Jose and R. Eliezer.

(22) Because these liquids are unpalatable beverages; Yoma, ibid.

(23) One is therefore exempt when one drinks it on the Day of Atonement.

(24) V. Yoma 81a.

(25) Viz., each time only a portion of the requisite value of a perutah.

(26) The several acts were committed in one spell of unawareness.

(27) Viz., to make up the required value to involve a guilt-offering for sacrilege.

(28) Lev. V, 15. ‘A trespass’ is regarded as redundant.

(29) The fact that awareness of certain sins effects a division with regard to sin-offerings may rightly be taken for granted, and a similar law regarding guilt-offerings is derived therefrom.

(30) For the awareness is that of doubtful sins, as must be assumed according to Resh Lakish, and its effectiveness with regard to suspensive guilt-offerings is established in the Torah. By analogy it is extended to apply also to sin-offerings. The sin-offering should therefore be dependent upon the guilt-offering.

(31) It is not established which is the unclean road. The uncleanness was so situated in the road that a person passing through it perforce became unclean and therefore unfit to enter the sacred precincts of the Temple. In the first and third instances he is liable, because after the second act there is no doubt that he entered the Temple precincts in a state of uncleanness. In connection with the law concerning the defilement of Temple precincts it is an essential condition that the offender had at one time been aware of his uncleanness, though unconscious of it at the time of entering the Temple precincts. In these two cases there was a moment when he was in no doubt as to his state of certain uncleanness. He is therefore liable to an offering.

(32) An unclean person is sprinkled upon with the water of purification on the third and seventh day of his uncleanness, and then has to immerse himself in order to become clean.

(33) In this instance, too, the person most certainly entered the Temple precincts in a state of uncleanness. Although the offender had at no time been certain that he was unclean, for the first possible uncleanness was annulled before passing through the second road, nevertheless he had been aware of doubtful uncleanness, and this is regarded as sufficient by the Sages, who therefore declare him liable. R. Simeon, on the other hand, holds that awareness of doubtful uncleanness is not sufficient.

Talmud - Mas. K'rithoth 19a

R. Simeon holds he is exempt in the latter instance. R. Simeon b. Judah maintains in the name of R. Simeon that he is exempt in all instances.[1] Even in the former?[2] — Said Raba: Here we are dealing with the case of one who passed through one road, and when passing through the other he forgot that he had passed through the first. And they differ in this: The first Tanna holds, A partial knowledge is like a complete knowledge;[3] while R. Simeon maintains, A partial knowledge is not like a complete knowledge.

The Master said: ‘If he passed through one and entered [the Temple precincts], and was sprinkled upon once and also a second time, and immersed himself; and then he passed through the other and entered [the Temple precincts], he is liable’. Why should he be liable? There had at no time been [definite] knowledge [of uncleanness]! — Answered Resh Lakish: This statement follows R. Ishmael's view that knowledge at the beginning is not essential. R. Johanan answered: It may conform to the view of the Sages, but here they made doubtful knowledge [of uncleanness] like [definite] knowledge. Now it is assumed that ‘here they made’, and the same holds good in all the laws of the Torah. There is thus a contradiction between the two expositions of R. Johanan, and also a contradiction between the two expositions of Resh Lakish.[4] It will be granted that there is no contradiction between the two expositions of R. Johanan, for [we may say that he meant] only here they made [doubtful knowledge like definite knowledge] but not everywhere in the whole Torah did they do so, the reason being that in the case of uncleanness it is written: It being hidden from him that he is unclean,[5] [indicating that] even [if there is some] uncertainty in connection with his knowledge, Scripture still renders him liable; but regarding the other laws of the Torah,it is written: If his sin be known to him;[6] that is to say, only if he has definite knowledge is he liable. But with Resh Lakish there is a difficulty; why does he establish [the Baraitha] in accordance with R. Ishmael's view? Let him establish it as being in accordance with Rabbi's view! — He wished to let us know that R. Ishmael, too, does not require knowledge at the beginning. But is this not already the contents of a Mishnah? As we have learnt: R. Ishmael said, Scripture mentions twice ‘and it be hidden’,[7] to teach us that one is liable both for forgetfulness of the uncleanness and for forgetfulness of the Temple.[8] — It is necessary, for I might have thought that although he [R. Ishmael] does not derive the rule from the text, he yet accepts it as a tradition. Therefore he [Resh Lakish] informs us [that this is not the case].

MISHNAH. [IF BOTH] HELEB AND NOTHAR LAY BEFORE A PERSON AND HE ATE ONE OF THEM BUT DOES NOT KNOW WHICH, OR IF HIS MENSTRUANT WIFE AND HIS SISTER WERE WITH HIM IN HIS HOUSE AND HE UNITED, IN ERROR,[9] WITH ONE OF THEM AND DOES NOT KNOW WITH WHICH, OR IF SABBATH AND THE DAY OF ATONEMENT [FOLLOWED EACH OTHER][10] AND HE DID FORBIDDEN WORK AT TWILIGHT AND DOES NOT KNOW ON WHICH DAY: R. ELIEZER DECLARES HIM LIABLE TO A SIN-OFFERING, BUT R. JOSHUA DECLARES HIM EXEMPT. REMARKED R. JOSE: THEY DID NOT DISPUTE ABOUT WHETHER HE THAT DID WORK AT TWILIGHT WAS EXEMPT, FOR I MAY ASSUME THAT PART OF THE WORK WAS DONE ON THE ONE DAY AND PART ON THE FOLLOWING DAY.[11] ABOUT WHAT DID THEY DISPUTE? ABOUT ONE WHO DID WORK DURING THE DAY ITSELF BUT HE DID NOT KNOW WHETHER HE DID IT ON THE SABBATH OR ON THE DAY OF ATONEMENT, OR IF HE DID WORK AND DID NOT KNOW WHAT MANNER OF WORK HE DID:[12] R. ELIEZER DECLARES HIM LIABLE TO A SIN-OFFERING, AND R. JOSHUA DECLARES HIM EXEMPT. SAID R. JUDAH: R. JOSHUA EXEMPTS HIM EVEN FROM A SUSPENSIVE GUILT-OFFERING. R. SIMEON AND R. SIMEON SHEZURI SAID: THEY DID NOT DISPUTE REGARDING TRANSGRESSION OF THE SAME DENOMINATION[13] WHEN [IT IS AGREED THAT] HE IS LIABLE. ABOUT WHAT DID THEY DISPUTE? ABOUT TRANSGRESSIONS OF DIFFERENT DENOMINATIONS: R. ELIEZER DECLARES HIM LIABLE TO A SIN-OFFERING, AND R. JOSHUA DECLARES HIM EXEMPT. SAID R. JUDAH: EVEN IF HE INTENDED TO PICK FIGS AND HE PICKED GRAPES, OR GRAPES AND HE PICKED FIGS, WHITE [GRAPES] AND HE PICKED BLACK ONES, OR BLACK AND HE PICKED WHITE ONES, R. ELIEZER DECLARES HIM LIABLE AND R. JOSHUA DECLARES HIM EXEMPT. SAID R. SIMEON: I WONDER WHETHER R. JOSHUA INDEED DECLARED HIM EXEMPT IN SUCH A CASE. BUT THEN[14] WHY IS IT WRITTEN, WHEREIN HE HATH SINNED?[15] TO EXCLUDE UNPURPOSED ACTION.[16] GEMARA. It has been taught: R. Eliezer argued, In any event [he has transgressed]; if it was the heleb he ate he is liable, if the nothar he is liable; if it was his menstruant wife with whom he united he is liable, if his sister he is liable; if it was Sabbath when he did the work he is liable, if the Day of Atonement he is liable! Replied to him R. Joshua: It says, ‘wherein he hath sinned’:[17] it must be known to him wherein he sinned. And for what purpose does R.Eliezer employ the word ‘wherein’? — To exclude unpurposed action.

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(1) Tosef. Toh. VI, 5.

(2) I.e., in the first and third instances, where there is no reason whatsoever to exempt him from a sacrifice.

(3) Since he passed through both roads he is definitely unclean, but his knowledge is incomplete, for when walking in the second road he had forgotten about the first. Yet he is liable, for incomplete knowledge is like complete knowledge.

(4) For R. Johanan maintains above that consciousness of doubtful sins is not valid and here he states that the Sages, i.e., the accepted authority hold it is of avail with regard to all the laws of the Torah. And Resh Lakish maintains above that Rabbi, the author of the Mishnah, holds that consciousness of doubtful sins is of no avail, whilst he feels compelled to quote R. Ishmael as the author of this view.

(5) Lev. V, 2.

(6) Ibid. IV, 28.

(7) Heb. ונעלם ibid. V, 2 and 3.

(8) Shebu. 14b. The term ‘hidden’ is the source of the rule that knowledge at one time of the uncleanness is essential, cf. Shebu. 4a. As R. Ishmael uses this expression to derive another law, it may be assumed that he disagrees with that rule, and does not require knowledge in the beginning.

(9) I.e., thinking it was his wife and that she was clean. In all these instances the fact that he committed a trespass is afterwards established beyond doubt, though the transgressor was unaware of it at the time of action, but it is unknown which law was broken.

(10) I.e., when the Day of Atonement fell upon Friday or Sunday.

(11) Viz., each time less than the requisite standard.

(12) I.e., he is sure that his work was a forbidden act, but does not remember, e.g., whether he ploughed or sowed.

(13) I.e., of the same category, e.g., if he picked a certain fruit but did not know from which tree.

(14) I.e., if R. Joshua indeed agrees that he is liable in the last instance, even though his intention had not been realised, because he was after all set upon a forbidden act.

(15) Lev. IV, 23. The word 'wherein' is considered superfluous, to imply that in that particular act lay his intention.

(16) Heb. מתעסק, lit. 'occupy oneself'; the transgression resulting from his act was not purposed, for his intention was to do what was permitted. V. Gemara.

(17) V. p. 148, n. 5.

Talmud - Mas. K'rithoth 19b

To what kind of unpurposed action does he refer? If concerning heleb or incestuous intercourse,[1] surely he is liable! For Rab Nahman said in the name of Samuel: Unpurposed eating of heleb or unpurposed incestuous intercourse is subject [to an offering] because [the offender] has after all derived a benefit thereby! — It rather refers to unpurposed labour on Sabbath, when he is exempt, because the Torah has forbidden [on the Sabbath] only purposive work. According to Raba the case would arise when one intended, e.g., to cut something detached from the ground and he cut something that was attached;[2] and according to Abaye, when one intended to lift up something detached from the ground and he cut something that was attached. For it has been stated: If one intended to lift up something detached from the ground and he cut something that was attached, he is exempt, because no cutting was at all intended. If he intended to cut something detached from the ground and he cut something that was attached, Abaye says: He is liable because the act of cutting was intended; Raba says: He is exempt for it was not his intention to cut what was forbidden [to be cut].

REMARKED R. JOSE: THEY DID NOT DISPUTE etc. It has been taught: R. Jose said to them, 'You are most particular with me'.[3] What did they say to him that he remarked, 'You are most particular with me'? — Thus they said to him: What if one, e.g., lifted up an article at twilight?[4] Thereupon he said: You are most particular with me. But why did he not retort: part of the lifting up might have been done on the one day and the rest on the following day?[5] — This is indeed what he meant by saying: 'You are most particular with me', but 'you could not get the best of me'.[6] But would R. Jose hold that for the conclusion of an act one is, according to R. Eliezer, exempt? Surely we know that he declares him liable! For we have learnt: R. Eliezer says: If a person wove three threads at the start [of the web] or added one thread on to a woven piece, he is liable.[7] — Said Rab Joseph: R. Jose in his exposition of R. Eliezer's view reads [that Mishnah] as follows: 'R. Eliezer says: If a person wove three threads at the start or added two threads to a woven piece he is liable'.

SAID R. JUDAH: R. JOSHUA EXEMPTS HIM EVEN FROM A SUSPENSIVE GUILT-OFFERING. It has been taught: Said R. Judah: R. Joshua exempts him even from a suspensive guilt-offering, because it says, If [anyone] sin . . . though he know it not;[8] excluded is this case, where he knew that the sinned.[9] Said to him R. Simeon: It is just such a case when a suspensive guilt-offering should be brought, for it reads: And do . . . though he know it not;[8] and in this instance he in fact did not know wherein he did [the wrong]. As to [the case of one being in] doubt whether he did eat heleb or not, go forth and enquire[10] whether he is then liable to a suspensive guilt-offering or not. What was the decision? — Come and hear: [It has been stated:] If one committed a sin and does not know wherein, or if he is in doubt whether he did sin or not, he is liable to a suspensive guilt-offering. Now, who is it that maintains that if one committed a sin and does not know wherein, he is liable to a suspensive guilt-offering? Obviously R. Simeon; and yet it is stated, 'If he is in doubt whether he did sin or not, he is liable to a suspensive guilt-offering'. This proves that R. Simeon holds that if one is in doubt whether he did sin or not, he is liable to a suspensive guilt-offering.

R. SIMEON SHEZURI AND R. SIMEON SAID: THEY DID NOT DISPUTE . . . BUT THEN WHY IS IT WRITTEN, WHEREIN HE HATH SINNED? TO EXCLUDE UNPURPOSED ACTION. Said Rab Nahman in the name of Samuel: Unpurposed eating of heleb or [unpurposed] Incestuous intercourse Is subject [to an offering], because the offender has after all derived a benefit thereby; unpurposed labour on the Sabbath is exempt, because the Torah has forbidden only purposive work. Said Raba to Rab Nahman: Surely the case concerning [the circumcision of] boys is comparable to unpurposed action, and yet we have learnt regarding it: If there were two boys, one who was due to be circumcised on the Sabbath and another who was due to be circumcised after the Sabbath, and a person in error circumcised on the Sabbath the one who was due to be circumcised after the Sabbath,[11] R. Eliezer declares him liable to a sin-offering; R. Joshua holds: He is exempt. Now R. Joshua declares him exempt only because he maintains that for [a transgression committed in] error in the course of the [intended] performance of a commandment, even though the commandment was not in fact performed, one is exempt; if, however, one performed an unpurposed act which was not in the course of the performance of a commandment he would be liable even according to R. Joshua.[12] — He replied to him: Leave the case concerning the [circumcision of] boys alone. Since [it is exceptional in that] one is liable although the wound is an act of damage;[13] so too, for unpurposed wounding one is also liable.

Rab Judah raised an objection to Samuel: [We have learnt:] SAID R. JUDAH: EVEN IF HE INTENDED TO PICK FIGS AND HE PICKED GRAPES, OR GRAPES AND HE PICKED FIGS, WHITE GRAPES AND HE PICKED BLACK ONES, OR BLACK AND HE PICKED WHITE ONES, R. ELIEZER DECLARES HIM LIABLE AND R. JOSHUA DECLARES HIM EXEMPT. Now, is not this a case of unpurposed action, and yet [it seems that] R. Joshua declared him exempt solely because different kinds [of fruit are involved];[14] but if one kind only [was involved], even R. Joshua would declare him liable?[15] — He replied: Thou keen thinker,[16] leave this Mishnah and follow me, for here it refers to a gatherer whose intention escaped his mind![17] He set out to gather grapes and forgot about it, and thinking that he wanted figs, his hand unwittingly reached for the grapes. R. Eliezer argues: His purpose was after all achieved. R. Joshua argues: His purpose and design were not realized.[18]

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(1) E.g., if heleb and permitted fat lay before a person and he intended to eat the latter, but his hand unconsciously took hold of the heleb and he ate it. Similarly in the case of incest, if through carelessness he united with the forbidden relation whilst his intention was directed to his wife.

(2) The cutting or plucking of plants from the ground on the Sabbath is a forbidden work, falling within the category of harvesting.

(3) Now this is understood to mean that ‘You got the better of me’.

(4) I.e., to transport it from one domain to another on the Sabbath. This might be done very simply by the man standing in one domain and stretching out his hand and depositing an article in the other domain. Such work is of very little duration, and R. Jose's assumption that invariably in the case of work at twilight one part of the action is performed on the one day and another on the following day seems untenable.

(5) For after all the change from one day to another is instantaneous.

(6) Lit. ‘you did not bring up in your hand anything’. V. p. 149, n. 4.

(7) Shab. 105a. Although the minimum number of threads required for the labour of weaving is two, here one is sufficient, because it is interwoven with a ready-made cloth. The addition of the one thread to the web is like the conclusion of an act.

(8) Lev. V. 17, in connection with the suspensive guilt-offering.

(9) What he did not know was which particular transgression he violated.

(10) I.e., search for statements by R. Simeon which will intimate his view on this point.

(11) Circumcision in its proper time, i.e., the eighth day, supersedes the law of Sabbath; if not in its proper time its performance on the Sabbath is forbidden. The circumcision of the second boy on the assumption that it was the first, is an unpurposed action.

(12) This is in contradiction to the second clause of Rab Nahman's dictum.

(13) The rule regarding Sabbath is that for an act of damage one is not liable except for wounding and burning.
(14) The fruit that he intended to pick was of a different kind from that which he actually picked.
(15) Whilst according to Samuel one is always exempt in the case of unpurposed work on the Sabbath, whatever the circumstances.
(16) Shinena; lit. 'sharp one'. Alit. (a) 'long-toothed', denoting a facial characteristic. (b) 'translator', V. B.K. (Sonc. ed.) p. 60. n. 2.
(17) I.e., the case of the Mishnah is not one of unpurposed action where the intention of the doer is in the end unrealized, but is of a different class.
(18) His purpose was indeed realized in that he gathered grapes, but at the time of gathering his design was for figs, and this was not realized.

Talmud - Mas. K'rithoth 20a

R. Oshaia raised an objection: [We have learnt:] R. SIMEON SHEZURI AND R. SIMEON SAID: THEY DID NOT DISPUTE REGARDING TRANSGRESSIONS OF THE SAME DENOMINATION, WHEN [IT IS AGREED THAT] HE IS LIABLE. ABOUT WHAT DID THEY DISPUTE? ABOUT TRANSGRESSIONS OF DIFFERENT DENOMINATIONS: R. ELIEZER DECLARES HIM LIABLE TO A SIN-OFFERING, AND R. JOSHUA DECLARES HIM EXEMPT. And what did R. Judah [in the Mishnah] say? That their dispute was in the case of a person who intended to pick grapes and he picked figs, or black [grapes] and he gathered white ones. Now, are not figs and grapes, or black grapes and white grapes, of two different denominations? Is this not, then, identical with [the views of] R. Simeon and R. Simeon Shezuri? What then does R. Judah come to teach us? Hence you must say that they differ concerning unpurposed action, R. Judah holding that one is liable for unpurposed action; whereas R. Simeon and R. Simeon Shezuri hold that one is exempt for unpurposed action![1] — No; all agree that for unpurposed action one is exempt; they differ rather in this point: R. Simeon Shezuri holds that if the purpose escaped the gatherer's mind [and he erred] in respect of the same denomination, all agree that he is liable, and that their dispute is in the case [where the error related to] two different denominations; whilst R. Judah maintains that they differ both in the instance of one denomination and in that of two denominations.

Raba said, They differ in the matter of sequence.[2] As it has been taught: If there were before a person [on the Sabbath] two burning [or extinguished][3] candles and he intended to extinguish the one but extinguished the other, or to kindle the one but kindled the other, he is exempt;[4] if he intended first to kindle the one and then to extinguish the other, and he first extinguished and then kindled,[5] if with one breath[6] he is liable, if with two breaths he is exempt. But is this not obvious? — I might have thought that since his design was not realized, seeing that he wanted first to kindle and then to extinguish, but in his act [we might regard it as if] the extinguishing was done first and then the kindling, he should accordingly be exempt; therefore we are told [that this is not so]; for although [the kindling] did not precede [the extinguishing], neither did it follow.[7]

Our Rabbis taught: If one removed coals [from a burning pile] on the Sabbath, he is liable to a sin-offering; R. Simeon b. Eleazar says in the name of R. Eliezer son of R. Zadok: He is liable to two [offerings], because he extinguished the upper coals and kindled the lower ones.[8] How is this case to be understood? If he intended to extinguish as well as to kindle, what is the reason of the one who exempts him [from the second offering]? And if he did not intend to kindle, what is the reason of the one who holds him liable to two? — R. Eleazar and R. Hanina both explained the case as follows: He intended to extinguish the upper coals knowing that this would set the lower ones ablaze.[9] The first Tanna holds that one is exempt for any kindling which is to his disadvantage;[10] while R. Eliezer son of R. Zadok holds him liable. R. Johanan also said: It speaks of a blacksmith. Said R. Johanan: Until now the reason for this law has not been found.[11] Ammi b. Abin and R. Hanania b. Abin both explained [the case as follows:]

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(1) R. Simeon expounded that the dispute in the Mishnah was concerning the case where the original purpose had been forgotten, implying, however, that for unpurposed action all agree that one was exempt. R. Judah, on the other hand was of the view that the dispute was in the case of unpurposed action concerning different kinds of fruit, but that concerning the same kind all would agree that he is liable. R. Judah is thus in contradiction to Samuel.

(2) I.e., when the error was concerning the order of two acts; he intended to pick first the one fruit and then the other, but did it in the reverse order.

(3) So Sh. Mek.

(4) He had forgotten that the day was the Sabbath, or that such acts were prohibited on the Sabbath.

(5) I.e., there were before him two candles, one lit and the other unlit. His intention was first to light the one and then to extinguish the other, but he did it in the reverse order.

(6) I.e., the candles stood close to one another. The same breath that extinguished the one transferred the flame to the other.

(7) I.e., in fact both acts were simultaneous.

(8) By transferring live coals from a burning pile into a container, those that were lying on top of the pile are now at the bottom of the container and cool off, but those at the bottom of the pile flare up. His action therefore involves both extinguishing and kindling.

(9) The man was a blacksmith and his aim was to extinguish the upper coals before their consumption so as to provide big coal lumps for his smithy. The burning of the lower coals was not to his advantage at all.

(10) Lit. ‘destructive’. As distinct from other acts of work which involve no liability unless they are constructive. V. Shab. 106a.

(11) Read with Rabbenu Gershom: ‘Said R. Jeremiah, Until now (i.e. until R. Johanan explained it to refer to a blacksmith) the reason etc.’.

Talmud - Mas. K'rithoth 20b

He intended to extinguish as well as to kindle. The first Tanna follows R. Jose's view, who holds,[1] that kindling was singled out [in Scripture][2] in order to establish for it a prohibition;[3] while R. Eliezer son of R. Zadok holds with R. Nathan, who maintains that kindling was singled out to establish separate [acts of work].[4] Raba explained: They differ in the matter of the sequence.[5] Rab Ashi explained: He intended to extinguish and the kindling followed of its own accord; the first Tanna agrees with R. Simeon who maintains that one is exempt for an unintentional act;[6] whilst R. Eliezer son of R. Zadok follows R. Judah who holds that one is liable for an unintentional act.

Our Rabbis taught: If a man removed coals on the Sabbath in order to warm himself therewith, and they flared up of their own accord — one [Baraitha] teaches that he is liable, but another teaches that he is exempt. That which teaches that he is liable adopts the view that one is liable for an act of work which is not required for its own sake;[7] and that which teaches that he is exempt adopts the view that one is not liable for an act of work which is not required for its own sake.

CHAPTER V

MISHNAH. IF ONE ATE [AN OLIVE'S BULK] OF THE BLOOD OF SLAUGHTERED[8] CATTLE, BEASTS OR FOWL, EITHER CLEAN OR UNCLEAN, OR OF THE BLOOD OF A STABBED ANIMAL, OR OF THE BLOOD OF MUTILATION,[9] OR OF THE BLOOD OF THE ARTERIES WHEREBY LIFE ESCAPES,[10] HE IS LIABLE;[11] BUT OF THE BLOOD OF THE SPLEEN OR OF THE HEART, OR OF THE BLOOD FOUND IN EGGS, OR OF THE BLOOD OF LOCUSTS, OR OF THE SECONDARY BLOOD,[12] HE IS NOT LIABLE. R. JUDAH HOLDS: HE IS LIABLE FOR SECONDARY BLOOD.

GEMARA. Our Rabbis taught: [From the text:] Ye shall eat no manner of blood,[13] I might infer that even the blood of those that walk on two legs,[14] and the blood found in eggs, and the blood of locusts and of fish were included; therefore the text teaches, whether it be of fowl or of beast:[13] as fowl and beast are characterised in that they are subject both to light[15] and weighty uncleanness, and are [at times] forbidden and permitted,[16] and are of the category of flesh, so all are included that are subject to light and weighty uncleanness; I must therefore exclude the blood of those that walk on two legs, for they are subject to weighty uncleanness and not to light uncleanness;[17]

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(1) V. Shab. 70a.

(2) Exod. XXXV, 3.

(3) I.e. that this act of work is subject to a mere prohibition and not to the death penalty in the case of wilful transgression. There is therefore no offering incurred in the case of transgression in error.

(4) I.e. that for each act of work on the Sabbath one is separately liable. Kindling, however, is still subject to the death penalty.

(5) His intention was e.g. to kindle first the one and then extinguish the other, but in fact both acts were done simultaneously. The first Tanna insists that the work must be performed in the intended sequence and therefore declares him liable only for the kindling which after all was done at the initial stage; whereas R. Eliezer pays no heed to the intended sequence, and consequently declares him liable for both acts. See commentaries.

(6) Shab. 41b.

(7) Ibid. 105b. The burning of the coals is not done for its sake i.e. to consume the coal, but in order to obtain heat.

(8) I.e., the blood that comes forth at the slaughtering of animals in the manner prescribed.

(9) I.e., the blood that comes forth through the tearing away of the main arteries of the neck, i.e. the windpipe and the gullet.

(10) I.e., the blood that gushes forth with force immediately after the cutting of the arteries for the purpose of blood-letting; v. Gemara.

(11) To kareth. V. Glos.

(12) Lit. ‘that is squeezed’. I.e., blood that oozes out from the arteries after the first splashing blood ‘whereby life escapes’.

(13) Lev. VII, 26.

(14) I.e., man.

(15) Light uncleanness is identical with food uncleanness, i.e. the foodstuff has no inherent uncleanness but can contract uncleanness from a source of uncleanness, and if of an egg's bulk in quantity, can transmit its uncleanness to other foodstuffs. Weighty uncleanness is that which is inherently unclean, e.g. a carcass, and can transmit uncleanness by carrying.

(16) I.e., they are forbidden prior to their slaughtering in the prescribed manner, and permitted for use after that.

(17) For an unclean person transmits his uncleanness always through contact.

Talmud - Mas. K'rithoth 21a

I must also exclude the blood of reptiles, for they are not subject to weighty uncleanness;[1] I must further exclude the blood found in eggs,for they are not of the category of flesh, and the blood of fish and of locusts, for they are always permitted.[2] ‘Whether it be of fowl or of beast’;[3] if ‘fowl’ [alone was mentioned, I might have said], as this is not subject to kil'ayim,[4] so should be included only those animals that are not subject to kil'ayim;[5] therefore ‘beast’ is added. If ‘beast’ [alone was mentioned, I might have said], as this is not subject to the law concerning the mother and its young,[6] so should be included only those fowl that are not subject to the law concerning the mother and its young.[7] Therefore both ‘fowl’ and ‘beast’ had to be stated.

But why not argue thus: ‘Any manner of blood’ is a generalisation, ‘whether it be fowl or beast’ is a specification; and whenever a generalisation is followed by a specification it is meant to comprise only the instances of the specification; consequently fowl and beast are included but no other things?[8] ‘Whosoever eateth any blood’[9] represents a second generalisation; and whenever a generalisation is followed by a specification and then again by a generalisation, all things similar to the specification are to be included.[10] But is not the last generalisation different from the first, in that the first contains a mere prohibition whilst the last comprises the penalty of kareth?[11] — This Tanna agrees with the School of R. Ishmael, who apply the rules relating to generalisations and specifications even though the last generalisation is unlike the first.[12]

The Master said: '[Here we have] a generalisation followed by a specification and then again by a generalisation, [in which case] all things similar to the specification are to be included; just as the instances of the specification are characterised in that they are subject both to light and to weighty uncleanness, and are [at times] forbidden and [at times] permitted, and are of the category of flesh, so all are included which are subject to light and to weighty uncleanness, etc.'. What does the term 'all' serve to include? — Said Rab Adda b. Abin: It includes the blood of a koy.[13] What is his opinion [with regard to the koy]? If he holds that the koy is a doubtful creature, do we need a special text to forbid [the blood of an animal] about which there is doubt?[14] — He holds that the koy is a [class of] animal of its own. We have now learnt about its blood, whence do we know that its heleb [is forbidden]? — From the text, 'all heleb'.[15] Whence that its nebelah[16] [is forbidden]? — From the text, 'all nebelah',[17] Whence that its gid ha-nasheh[18] [is forbidden]? — The Divine Law defines it as [the sinew] 'upon the hollow of the thigh', and this, too, has a 'hollow of the thigh',[19] Whence do we know that [its nebelah] causes uncleanness, and that it requires slaughtering? — This stands to reason; since the Divine Law has placed it on the same footing as cattle in respect of all other laws, it is also like cattle in regard to uncleanness and slaughtering.

The Master said: 'I must therefore exclude the blood of those that walk on two legs, for they are subject to weighty uncleanness and not to light uncleanness'. A contradiction was pointed out. [We have learnt:][20] [The flesh which] one cut from off a man re quires both intention and preparation.[21] Upon this the question was raised: 'Wherefore does it require intention? Let the cutting express his intention!'[22] And Resh Lakish replied: He cut it for the use of a dog, and such a purpose is not a proper intention. Is this indeed so? Surely we have learnt: They laid down this general rule concerning uncleanness: Everything that serves as food for man [and became unclean] remains unclean until it becomes unfit to be food for dogs![23] — This ruling relates to the annulment of existing uncleanness, [the argument being,] since it was at one time fit for man its uncleanness does not depart unless it has become unfit for a dog; that other instance, however, relates to the state in which it can receive uncleanness; [we therefore say,] if it is fit for man it is fit for a dog; if it is unfit for a man it is unfit for a dog. It states, at all events, that [with flesh of man] intention is required; though intention is essential only for light uncleanness![24] — This is so [while the man is] alive, but after death there is indeed weighty uncleanness only.[25] But, then, the corresponding dictum relating to cattle must, accordingly, also refer to the time after death. Now, if the flesh is meant, it surely conveys weighty uncleanness; if the blood, it too conveys weighty uncleanness,[26] as we have learnt: The blood of a dead animal is clean, according to Beth Shammai; Beth Hillel say: It is unclean![27] — It speaks of an instance similar to that which we have learnt [in a Mishnah:] The carcass of an unclean beast anywhere and the carcass of a clean bird in the villages require intention and not preparation.[28] Rab remarked thereupon to R. Hiyya: Wherefore is an intention required to qualify it for light uncleanness, is it not already unclean?[29] — The latter replied: It is a case where there was less than an olive's bulk of nebelah[30] joined to another edible, which was less than an egg's bulk, but together they made up an egg's bulk.[31] But, then, preparation should also be required, for the School of R. Ishmael have taught: The text, [If aught of their carcass fall] upon any sowing seed, which is to be sown,[32] implies: as seed is characterised in that it will at no time convey weighty uncleanness and requires preparation, so everything that will at no time convey weighty uncleanness requires preparation! — He replied: This holds good in cases where the edibles have not joined to them less than an olive's bulk of nebelah; in our instance, however, the food has joined to it less than an olive's bulk of nebelah, and since it would require no preparation if it [the nebelah] was made up to a full olive's bulk, [so it requires no preparation even now].

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(1) Though a person is rendered unclean when coming into contact with a reptile, he does not transmit this uncleanness to his clothes.

(2) I.e., they do not require slaughtering.
(3) The question is implied: Why two specifications.
(4) Heb. כלאים i.e., the prohibition of wearing a material of a mixture of wool and linen. V. Lev. XIX, 19. The fluff of the fowl is not subject to this law.
(5) I.e., cattle and goat, whose hair, too, is not subject to that law. Sheep would be excluded, for its wool is subject to the law of kil'ayim.
(6) Deut. XXII, 6f. This law applies only to clean fowl.
(7) Viz., unclean fowls.
(8) On the hermeneutical rule of generalisation and specification, v. Shabu. (Sonc. ed) p. 12, n. 3.
(9) Lev. VII, 27.
(10) I.e., those possessing the same characteristics as the instances of the specifications, as expounded above in connection with the law of blood.
(11) V. Glos.
(12) V. B.K. 64a and Zeb. 4b.
(13) I.e., a cross between a goat and a gazelle, about which the Sages were in doubt whether it belonged to the category of ‘cattle’ or of ‘beast of chase’; v. Glos.
(14) Surely not. The Divine law is not in doubt as to the status of the koy.
(15) Lev. VII, 23.
(16) I.e., a carcass of an unslaughtered or non-ritually slaughtered animal. V. Glos.
(17) Deut XIV, 21.
(18) I.e., the nervus ischiadicus, forbidden in accordance with Gen. XXXII, 33.
(19) Thus every animal is included, for this law is to remind us of the incident of the text. For the exclusion of birds, however, v. Hul. 92b.
(20) ‘Uk. III, 2.
(21) The flesh is susceptible to uncleanness only if it had been cut off with the express intention of using it as food, and after it had been ‘prepared’, i.e. moistened by a liquid which renders it susceptible to uncleanness.
(22) And by that act alone it should be susceptible to uncleanness.
(23) Toh. VIII, 6.
(24) We thus learn that also the flesh of man is capable of light uncleanness, contrary to the above conclusion.
(25) The discussion above relates, therefore, to the flesh of a dead man, when no light uncleanness is possible.
(26) Thus cattle, too, are subject to weighty uncleanness only.
(27) ‘Ed. V, 1. The decision is in accordance with Beth Hillel, that the blood of a carcass is, like its flesh, contaminated with weighty uncleanness.
(28) ‘Uk. III, 3. Intention to use the flesh as food is required whenever it is normally not eaten by the people. The carcass of unclean cattle is eaten neither in town nor in villages. That of a clean bird is not likely to find a consumer in a village. Some edd. add here the second sentence of the quoted Mishnah: ‘The carcass of a clean beast anywhere and that of a clean bird or the heleb (of cattle) in the markets require neither intention nor preparation.
(29) Since it is nebelah.
(30) The minimum quantity for nebelah uncleanness is an olive's bulk.
(31) There was not the requisite quantity of nebelah. It is, therefore, not in itself unclean, but the portion of nebelah may combine with the other edible to the requisite size of an egg's bulk, which is the standard for food uncleanness. The intention is therefore essential to render the morsel of nebelah an edible, and thus capable of combination with the other food.
(32) Lev. XI, 37. This text lays down the law that foodstuffs must first be made wet by a liquid in order to be susceptible to uncleanness. Seed is the specified instance in the Torah, and seed is at no time capable of weighty uncleanness. Moreover, the morsel of nebelah cannot defile with weighty uncleanness, since it is less than an olive's bulk.

Talmud - Mas. K'rithoth 21b

An exception, however, is the flesh of a dead man, for even though it is joined [to a foodstuff to make up the requisite egg's bulk] it does not convey food uncleanness, for his view is set aside by general opinion.[1]

R. Hanania said: You may also say that there was a whole olive's bulk [of nebelah], but in this case it was entirely covered with dough.[2] If so, it should also require preparation![3] — This holds good only with regard to other foodstuffs, which transmit uncleanness neither by contact not by carrying;[4] in this instance, however, granted that it does not transmit uncleanness by contact, because it is covered with dough;[5] it may nevertheless transmit uncleanness by carrying, for it is after all carried. An exception, however, is the flesh of a dead man, for even though it is covered with dough it will convey weighty uncleanness, for its uncleanness breaks through and rises and breaks through and descends.[6]

The Master said: ‘I must exclude the blood of fish and of locusts, for they are always permitted’. What is the meaning of ‘always permitted’?[7] If that their heleb is permitted? Behold also the heleb of a beast of chase is permitted and yet its blood is forbidden! If that the prohibition of the gid ha-nasheh is not applicable to them? Behold also the fowl is not subject to the law of gid ha-nasheh, and yet its blood is forbidden! — ‘Always permitted’ means rather that they do not require slaughtering.

The Master said: ‘If "fowl" [alone was mentioned, I might have said], as this is not subject to kil'ayim, so should be included only those animals [that are not subject to kil'ayim]; therefore the text teaches "beast".’ Which kind of kil'ayim [is meant]?[8] If that relating to breeding diverse kinds or to ploughing with diverse kinds, have we not learnt: Beasts and fowl are subject to similar laws?[9] Said Abaye: It refers to its fluff which is not subject to the law of kil'ayim.[10]

Said Rab Judah in the name of Rab: For an olive's bulk of the blood of reptiles one incurs the penalty of stripes. An objection was raised: [It has been taught:] The blood of the spleen, or of the heart or of the kidneys, or of any other limb is subject to a prohibition;[11] the blood of those that walk on two legs or that of reptiles and creeping creatures is forbidden, but one is not liable for it.[12] What does ‘but one is not liable for it’ mean?[13] This cannot mean [that one is not liable for it] to kareth, but only to a prohibition,[11] for in the first place this would be identical with the ruling of the first clause,[14] and secondly the Tanna expressly excludes it even from a prohibition, as we have learnt: I must exclude the blood of reptiles for they are not subject to weighty uncleanness![15] — Replied R. Zera: If the warning related to reptiles, he incurs stripes; if to blood, he is exempt.[16]

Said Rab: The blood of fish collected [in a vessel] is forbidden.[17] An objection was raised: [It has been taught:] The blood of fish and locust may deliberately be eaten![18] This is when it is not collected;[19] whilst Rab speaks of collected blood. Then the clause relating to those that walk on two legs would likewise refer to uncollected blood; but is such blood at all forbidden; has it not been taught: The blood found on a loaf of bread must be scraped away and the loaf may be eaten; that between the teeth may be sucked and swallowed without hesitation? — In the instance of that Baraitha [the blood] contained [fish] scales; Rab, on the other hand, who rules that it is forbidden, refers to a case where there were no [fish] scales.[20]

Said Rab Shesheth: In the case of human blood one is not even enjoined to refrain from it.[21] An objection was raised: [It was taught:] The blood of the spleen, or of the heart or of the kidneys or of any other limb is subject to a prohibition; the blood of those that walk on two legs or that of reptiles and creeping things is forbidden, but one is not liable for it! — The ruling of the Baraitha that it is forbidden refers to the case

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(1) A morsel less than an olive's bulk of nebelah is potentially liable to weighty uncleanness and therefore not on the same footing as seed. It, therefore, does not require moistening. Moreover, as an edible, it is also subject to light uncleanness if joined together with other food. The flesh of a man, however, is not capable of being regarded as food even if the person concerned expressed that intention, for it is against the natural conception of society to lend to it the character of food.

(2) The dough itself was less than an egg's bulk but together with the olive's bulk of nebelah the whole amounted to an egg's bulk. This quantity can now convey food uncleanness.

(3) For it will at no time convey weighty uncleanness. It therefore requires preparation, I.e. moistening, according to the rule of the School of R. Ishmael.

(4) Unclean foodstuffs cannot render a person unclean, either by contact or by carrying.

(5) Direct contact with the nebelah is thus impossible.

(6) Even though the morsel of the corpse is buried or covered up it still transmits uncleanness to whatsoever is above or below it. The fact that it is wrapped in dough is therefore no hindrance in the transmission of its uncleanness. Some edd. add here: ‘The Master said, "I must exclude reptiles for they are not subject to (weighty) uncleanness". But does not a reptile transmit uncleanness by contact? — It does not, however, by carrying’. This addition is struck out by Rashi.

(7) Heb. כולו היתר , which may denote ‘wholly permitted’ as well as ‘always permitted’.

(8) The Torah forbids four types of kil'ayim or ‘diverse kinds’: (a) sowing a vineyard with diverse kinds or a field with diverse kinds of seed; (b) allowing cattle to gender with diverse kinds; (c) ploughing with diverse kinds of beasts; and (d) wearing a garment wherein wool and linen are mingled together. V. Lev. XIX, 19, and Deut. XXII, 9 — 11.

(9) B.K. 54b. Among the laws enumerated as applying equally to cattle, beasts and fowl, is expressly mentioned the law of kil'ayim.

(10) The fluff of fowl may be woven together with linen.

(11) Lit. ‘thou shalt not do’; involving the penalty of stripes.

(12) Tosef. Ker. II; v. infra 22a.

(13) The Talmudic text is in slight disorder, but the sense is as given.

(14) The text, however, makes it clear that a different ruling is given in the second clause.

(15) I.e., the blood of reptiles is excluded from the text that contains the prohibition of blood, viz., Lev. VII, 23.

(16) The blood of a reptile is prohibited as being part of the flesh, cf. supra 4b; as blood, however, it is not subject to a special prohibition. It therefore depends on the warning, which has to be precise and comprehensive, that was administered to the transgressor at the time of eating, as to whether he incurs stripes or not.

(17) When alone in a vessel it might be mistaken for the blood of cattle; it is therefore forbidden for appearance sake.

(18) Lit. ‘is permitted even in the first instance’.

(19) It is still in the flesh of the fish, so that no misunderstanding is possible.

(20) I.e., the Baraitha speaks in fact of collected blood throughout. It is therefore right that the blood of man in these circumstances is forbidden. In the instance relating to the blood of fish it is permitted, because there were still scales in the blood which clearly indicated its origin, and no misunderstanding is possible.

(21) I.e., one may, as we have learnt above, deliberately swallow it.

Talmud - Mas. K'rithoth 22a

where it had been separated,[1] whilst in the instance of Rab it had not been separated; as it has been taught: The blood found on a loaf of bread must be scraped away and the loaf may be eaten; that between the teeth may be sucked and swallowed without hesitation.

Some there are who report the statement of Rab Shesheth with reference to that which has been taught: I might have thought that he who drinks human milk transgresses a prohibition, and this might be supported by the following a fortiori conclusion: if the milk of an unclean animal is forbidden, although with regard to uncleanness by contact it follows the lenient ruling,[2] how much more should the milk of those that walk on two legs, who follow the stringent view regarding uncleanness by contact, be forbidden! The text therefore teaches, This is unclean unto you:[3] this is unclean; human milk, however, is not unclean but clean. I might exclude only milk in relation to which the law is not constant,[4] but not blood in relation to which the law is constant, therefore the text teaches, ‘This is unclean unto you’: this is unclean; human blood, however, is not unclean but clean. Upon this remarked Rab Shesheth: ‘One is not even enjoined to refrain from it’.

We have learnt elsewhere: The heart must be torn and its blood removed; if he had not torn it, he has nevertheless not transgressed.[5] Said R. Zera in the name of Rab: This holds good only with regard to the heart of a fowl which is not as big as an olive's bulk in all; the heart of a beast, however, which comprises an olive's bulk, is forbidden and [whoso eats it] incurs the penalty of kareth.

An objection was raised: [It has been taught:] The blood of the spleen or of the heart or of the kidneys, or of any other limb is subject to a prohibition; the blood of those that walk on two legs or that of reptiles and creeping things is forbidden, but one is not liable for it![6] — That which is there taught[7] refers to the blood within;[8] Rab, however, refers to blood that came from elsewhere.[9] But is not the blood within identical With the blood of a limb?[10] — And even according to you, is not the blood of the kidneys men tioned in addition to the blood of a limb? You must thus admit that the one is stated and then the other;[11] then say here, too, that the one is stated and then the other. [It says:] ‘From elsewhere’ — From where? — Said R. Zera: It absorbs it with the last breath.[12]

...OF THE BLOOD [OF THE ARTERIES] WHEREBY LIFE ESCAPES, HE IS LIABLE. It has been stated: What is the definition of ‘the blood of arteries upon which life depends’?[13] R. Johanan says: That which gushes forth; Resh Lakish says: From the black drop onward.[14]

An objection was raised: Which is the blood of arteries whereby life escapes? That which gushes forth, to the exclusion of secondary blood, because it flows gently.[15] May we not assume that the first as well as the last blood that flow gently[16] are regarded as secondary blood; and this is then in contradiction to Resh Lakish? — No, only the blackened blood is excluded, but the first and the last blood, though flowing gently, are regarded as life blood.[17]

An objection was raised: Which is regarded as life blood?[18] That which gushes forth, to the exclusion of the first and last blood, which flow gently. This is in contradiction to Resh Lakish! — He might retort: Tannaim differ on this point, as has been taught: Which is regarded as life blood? That which gushes forth. This is the view of R. Eliezer. R. Simeon holds: From the black drop onward. The School of R. Ishmael taught: The text ‘And drink the blood of the slain’:[19] excludes the gushing blood from rendering plants susceptible to uncleanness.

R. Jeremiah put the following query before R. Zera: What is the law if one drew blood from an animal and received it in two vessels? For [the blood which is] in the first vessel, according to all views one is liable;[20] but what of that in the second; is one liable for it or not? — He replied: Therein differ R. Johanan and Resh Lakish, as has been stated: If one drew blood from an animal and received it in two vessels, Resh Lakish says: He is liable to two sin-offerings;[21] R. Johanan says: He is liable to one sin-offering only.

R. JUDAH HOLDS, HE IS LIABLE FOR SECONDARY BLOOD. Said R. Eleazar: R. Judah admits, however, with reference to atonement, for it is written: For it is the blood that maketh atonement by reason of the life:[22] the blood whereby life escapes causes atonement, the blood whereby life does not escape does not cause atonement. Said Rab Nahman b. Isaac: We have also learnt in confirmation thereof, for it has been taught: [It would have sufficed had the text stated,] Blood, why does it say, Any manner of blood?[23] Because Scripture reads: ‘For it is the blood that maketh atonement by reason of the life’; from this we only learn that the blood of consecrated animals whereby life escapes and which makes atonement, [is forbidden], whence do we know that blood of unconsecrated animals and secondary blood [are forbidden]? Because it reads: ‘Any manner of blood’. And [it is established that] an anonymous [tradition in the] Sifra[24] represents the view of R. Judah.[25] MISHNAH. FOR DOUBTFUL MISAPPROPRIATION OF SACRED PROPERTY R. AKIBA DECLARES ONE LIABLE TO A SUSPENSIVE GUILT-OFFERING; WHILE THE SAGES DECLARE HIM EXEMPT.[26] R. AKIBA, HOWEVER, ADMITS THAT HE NEED NOT MAKE RESTITUTION[27] UNTIL HE BECOMES AWARE [OF HIS TRESPASS], WHEN HE

MUST BRING WITH IT AN UNCONDITIONAL GUILT-OFFERING. SAID R. TARFON: WHEREFORE SHOULD HE BRING TWO GUILT-OFFERINGS?[28] LET HIM RATHER RESTORE THE CAPITAL TOGETHER WITH THE FIFTH, OFFER A GUILT-OFFERING OF THE VALUE OF TWO SELA'S[29] AND STIPULATE: IF I DID COMMIT SACRILEGE, HERE IS MY RESTITUTION AND THIS MY GUILT-OFFERING; AND IF THE SACRILEGE WAS DOUBTFUL, LET THE MONEY BE A FREEWILL GIFT AND THE [OFFERING A] SUSPENSIVE GUILT-OFFERING; SINCE THAT WHICH IS OFFERED FOR A KNOWN [TRESPASS] IS OF THE SAME KIND AS THAT OFFERED FOR A DOUBTFUL ONE.[30] SAID R. AKIBA: HIS[31] WORDS SEEM PLAUSIBLE IN THE CASE OF A MINOR MISAPPROPRIATION; BUT IF HIS DOUBT RELATED TO THE MISAPPROPRIATION OF A HUNDRED MANEHS, WOULD IT NOT BE MORE ADVANTAGEOUS FOR HIM TO BRING A GUILT-OFFERING[32] FOR TWO SELA'S RATHER THAN RESTORE OUT OF DOUBT THE SUM OF A HUNDRED MANEHS? R. AKIBA INDEED AGREES WITH R. TARFON IN THE CASE OF A MINOR MISAPPROPRIATION.

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(1) Blood that had parted from the body and was collected in a vessel or was found on a loaf, may not be eaten; that which is still within the body may deliberately be consumed.

(2) A living animal can never cause uncleanness, either itself or by any kind of secretion from it, whilst a woman is unclean through menstruation or gonorrhoea, and transmits the uncleanness to other objects.

(3) Lev. XI, 29. The verse refers to unclean creeping things.

(4) Lit. ‘is not alike in all (cases)’. Viz., the milk of a clean animal is permitted, but that of an unclean one is forbidden. Blood, however, is forbidden in all cases.

(5) I.e., he has not transgressed the law relating to blood by eating the heart whole; Hul. 109a.

(6) V. supra 21b. This is in contradiction to Rab, for it states that the blood of the heart — and it obviously speaks of cattle-is subject to a prohibition, whilst Rab holds it is subject to kareth.

(7) Thus the version of Tosaf.; cur. edd. add here: ‘That one is not liable for it’. This version seems incorrect for this expression is used in the second clause and not in relation to the blood of the heart.

(8) I.e., the blood which is contained in the walls of the heart.

(9) And is now collected in the heart chambers.

(10) Its enumeration is thus superfluous.

(11) Even though one is redundant.

(12) The last beat of the heart before the animal's death fills the chambers of the heart with blood from the arteries.

(13) This is identical with the expression ‘the blood whereby life escapes’ used in our Mishnah.

(14) Thus literally. Rashi explains that when the arteries are cut the escaping blood is at first dark and then red. In its second stage it begins after a while to gush forth with force and when the pressure had ceased the stream weakens and the blood oozes gently. There is thus at the beginning as well as the end a period when the blood escapes in a gentle flow. According to R. Johanan, only the blood that escapes with force is considered the life blood; according to Resh Lakish it is all blood that escapes after the last black drop even when flowing gently.

(15) Tosef. Zeb. VIII.

(16) Even though it escaped after the last black drop. The first and the last blood means that which flows out gently before and after the gushing blood.

(17) ‘Life blood’ and ‘the blood whereby life escapes’ are identical expressions.

(18) Thus in MS; cur. edd. read erroneously ‘first blood’.

(19) Num. XXIII, 24. The text implies that the blood that issues from persons already slain (dead) may be regarded as a liquid with regard to qualification for uncleanness; ‘life blood’, however, does not qualify.

(20) For it contains blood which streamed out with force.

(21) One for each vessel, provided it was consumed in two different spells of unawareness of sin.

(22) Lev. XVII, 11. ‘By reason of the life’ is interpreted as referring to life blood.

(23) Ibid. v. 10 which deals with the prohibition of blood. As the following sentence makes reference to the blood of sacrifices, which causes atonement, I might have thought that the whole prohibition was confined to such blood.

(24) V. Glos.

(25) Cf. ‘Er. 96b. We thus find that R. Judah admits that only the blood that gushes forth with force brings about atonement.

(26) The Sages hold that only those transgressions that are subject to a sin-offering in the case of certain offences involve a suspensive guilt-offering in the case of doubt. Sacrilege, however, is subject to an ordinary guilt-offering.

(27) V. Lev. V, 15-16.

(28) I.e., at first a suspensive guilt-offering and then, should the trespass be established, an ordinary guilt-offering.

(29) Two silver shekels is the minimum amount to be spent for the offering, because the text (Lev. V, 15) speaks of silver shekels in the plural.

(30) I.e., in both instances a ram is to be offered.

(31) R. Tarfon's.

(32) Viz., one for doubtful sins; and should it afterwards be established that the trespass was certain, he will bring another ordinary guilt-offering. The risk amounts to two sela's only, whilst according to R. Tarfon he might lose a hundred muneh2.

Talmud - Mas. K'rithoth 22b

GEMARA. It has been taught: The expression And if any one[1] intimates that one is liable to a suspensive guilt-offering in the case of doubtful sacrilege; thus the view of R. Akiba. The Sages declare him exempt.[2] May we assume that they differ in the following point: R. Akiba holds, we may derive the law above[3] from the law below, while the [other] Rabbis hold, we may not derive the law above from the law below? — Said R. Papa: All agree that we may derive the law above from the law below, otherwise we should not find [a basis for the law] that a bullock has to be slaughtered on the north side of the altar;[4] but the reason why the Rabbis here declare him exempt, lies in the textual analogy to a sin-offering based on the common term mitzwoth:[5] as [that text] there[6] speaks of an offence for which one is liable to kareth in the case of wilful transgression, to a sin-offering in the case of erroneous transgression, and to a suspensive guilt-offering in the case of doubt, so for all other offences, for which one is liable to kareth in the case of wilful transgression, and to a sin-offering in the case of erroneous transgression, one is liable to a suspensive guilt-offering in the case of doubt; this excludes sacrilege, since for the wilful transgression thereof one is not liable to kareth, as has been taught: If one committed sacrilege wilfully, Rabbi says, He is liable to the death penalty;[7] the Sages say, [He has merely transgressed] a prohibition. And R. Akiba? — He maintains that the textual analogy regarding the sin-offering for heleb,[8] based upon the common term mitzwoth, is to be applied only for the following purpose: as that text relates to a fixed sacrifice, so must all be fixed sacrifices, thus excluding sacrifices of higher or lesser value.[9] And the Rabbis? — They hold, a gezerah shawah cannot be applied partially.[10] Are we, then, to conclude that R. Akiba holds that one may apply a gezerah shawah partially?[11] — Say, rather, all agree that a gezerah shawah cannot be applied partially; but this is the reason of R. Akiba. The text says, And if any one: ‘And’ implies an addition to the foregoing, so we therefore derive the law above from the law below.[12] And the Rabbis? — They hold [that the inference is in the reverse direction], and we must derive the law below from the law above regarding silver shekels for guilt-offerings.[13] And R. Akiba? — He holds, a hekkesh cannot be applied partially.[14] Are we, then, to conclude that the Rabbis hold that a hekkesh can be applied partially? Is it not definitely established that a hekkesh cannot be applied partially? — All agree that a hekkesh cannot be applied partially, but here the Rabbis maintain that the textual analogy founded upon the common term ‘mitzwoth’ supersedes the hekkesh. And R. Akiba? — The law regarding silver shekels for guilt-offerings he derives from: This is the law of the guilt-offering:[15] there is one law for all guilt-offerings, which includes the silver shekels.

And the Rabbis?[16] — Although it is written, ‘This is the law of the guilt-offering’, there is still need for the phrase, ‘and if any one’, the ‘and’ implying an addition to the foregoing, and thereby deriving the law below from the law above. For as to [the passage], ‘This is the law of the guilt-offering’, from which is derived that one law rules all guilt-offerings, it might be said to apply to unconditional guilt-offerings only [and not to suspensive guilt-offerings]; for since the suspensive guilt-offering is brought [e.g.] for [the eating of] doubtful heleb, I might have argued that doubtful transgression should not be more stringent than certain transgression; and as in the case of certain transgression a sin-offering of the value of a danka[17] suffices, so also in the case of doubtful transgression a guilt-offering of the value of a danka should suffice. It is for this reason that the Divine Law wrote, ‘And if any one’, the ‘and’ implying an addition to the foregoing.[18] The above [conclusion of R. Akiba] is valid according to him who holds[19] that an inference may be made from [the text], ‘This is the law of the guilt-offering’; but according to him who holds that one cannot make any inference from, ‘This is the law of the guilt-offering’, what can be said? — The law[20] will then be derived from that relating to the guilt-offering of sacrilege by a textual analogy based upon the common term be'erkeka;[21] whilst regarding the guilt-offering of the designated bondmaid,[22] in connection with which be'erkeka is not mentioned, the law will be derived by an analogy based upon the common term ayil.[23]

R. AKIBA, HOWEVER, ADMITS etc. What is the meaning of AND IF THE SACRILEGE WAS DOUBTFUL?[24] — Said Raba: Read, ‘And if the doubt remains for ever, it shall be a suspensive guilt-offering, since that which is offered for a known [trespass] is of the same kind as that offered for a doubtful one’. But has he not, after all, to bring an unconditional guilt-offering when he becomes aware of the transgression?[25] — Said Raba: From this ruling of both[26] we learn that knowledge at the outset is not essential with regard to an unconditional guilt-offering.[27]

MISHNAH. IF A WOMAN BROUGHT A SIN-OFFERING OF A BIRD BY REASON OF A DOUBT,[28] AND PRIOR TO THE PINCHING OF ITS NECK SHE LEARNT THAT THE BIRTH WAS A CERTAINTY, SHE SHALL OFFER IT AS FOR A CERTAINTY,[29] FOR THAT WHICH SHE OFFERS IN THE CASE OF CERTAINTY IS OF THE SAME KIND AS THAT WHICH SHE OFFERS IN THE CASE OF DOUBT.[30] [IF THERE WAS] A PIECE OF UNCONSECRATED FOOD AND A PIECE OF CONSECRATED FOOD, AND A PERSON ATE ONE OF THEM AND DOES NOT KNOW WHICH OF THEM HE ATE, HE IS EXEMPT. R. AKIBA DECLARES HIM LIABLE TO A SUSPENSIVE GUILT-OFFERING.[31] IF HE THEN ATE THE SECOND [PIECE], HE IS LIABLE TO AN UNCONDITIONAL GUILT-OFFERING.[32] IF HE ATE THE ONE [PIECE] AND ANOTHER CAME AND ATE THE OTHER, EACH OF THEM IS LIABLE TO A SUSPENSIVE GUILT-OFFERING; THIS IS THE VIEW OF R. AKIBA. R. SIMEON SAYS: THEY TOGETHER BRING ONE GUILT-OFFERING.[33] SAID R. JOSE

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(1) Lev. V, 15. The ‘and’ connects it with the previous paragraph which speaks of the guilt-offering for sacrilege. This is taken to indicate that also this transgression is to be included in the law relating to doubtful sins.

(2) V. Zeb. 48a.

(3) The law above is that relating to sacrilege, the law below that of the suspensive guilt-offering.

(4) Cf. Zeb. 48a where this ruling is derived from the fact that the text relating to bullock-offerings (Lev. I, 3f) precedes that relating to small cattle (ibid. 10f) which explicitly mentions the north side as the place of slaughtering.

(5) I.e., the expression ‘commandments’, which occurs in connection with the sin-offering (Lev. IV, 27) and also with the suspensive guilt-offering (ibid. V, 27). Such an analogy is known as a gezerah shawah.

(6) Viz., Lev. IV, 27, which deals with the sin-offering.

(7) I.e. death at the hands of Heaven.

(8) The eating of heleb is mentioned as the prototype of a transgression which is subject to a sin-offering, because the law relating to it (Lev. III, 27) immediately precedes the chapter containing the laws of the sin-offering.

(9) I.e., sacrifices which vary according to the pecuniary position of the transgressor; cf. Lev. V, 1-13.

(10) The deduction by such an analogy must take into consideration all qualities. R. Akiba, however, considers only the fact of the fixed sacrifice and disregards the fact of the penalty of kareth.

(11) Which would be in contradiction to a generally accepted rule.

(12) I.e., because of the connection established by the ‘and’, this inference is to be made in spite of the deduction by gezerah shawah to the contrary. This analogy based on the inner or logical connection between laws is known as a hekkesh.

(13) I.e., that the suspensive guilt-offering contained in the later text has also to be at least two silver shekels in value, just as the sacrifice of the preceding paragraph, where this is expressly indicated in Lev. V, 15. Rashi omits the following four passages and continues here: And whence does It. Akiba derive the law concerning silver shekels for guilt-offerings? — From ‘this is the law of the guilt-offering, etc.’.
(14) I.e., in one direction only.
(15) Lev. VII, 1.
(16) They, too, could infer the rule relating to the cost of a guilt-offering from the passage in Lev. VII, 1, and therefore the hekkesh based upon ‘and if any one’ would be superfluous.
(17) A small coin, the sixth of a denar.
(18) This comparison of laws, as explained above, teaches that the value of a guilt-offering for doubtful sins, too, must be two sela's.
(19) Cf. Men. 3b. The text in question there is ‘this is the law of the meal-offering’; but the principle involved is the same as in our text.
(20) Viz., that the minimum cost of the suspensive guilt-offering must be two sela's.
(21) Tr. ‘according to thy valuation’, which occurs in Lev. V, 15 and ibid. v. 18.
(22) Lev. XIX, 20-21.
(23) Tr. ‘ram’, occurring in Lev. V, 15 and XIX, 22.
(24) There is no ‘if’ here, for we are speaking of a doubtful transgression.
(25) For the sacrifice offered at the time when there was still doubt as to the trespass cannot expiate for the sin that afterwards becomes certain.
(26) I.e., R. Akiba and R. Tarfon who agree in the instance of minor misappropriation that the sacrifice is valid even when the sin becomes known.
(27) I.e., it is not necessary for the sinner to be aware of the sin at the time of its commission.
(28) A woman after confinement must offer a lamb as a burnt-offering and a dove as a sin-offering; v. Lev. XII, 6f. If there is doubt whether a normal birth took place (cf. Nid. III) she offers the burnt-offering with the stipulation that it shall be a freewill-offering in case of her being exempt, and the sin-offering she offers out of doubt without any stipulation. For the sin-offering of a bird the form of slaughter is the pinching of its neck, cf. Lev. V, 8.
(29) And the bird may be eaten by the priests.
(30) I.e., in either case birds are offered.
(31) Misappropriation of sacred property is subject to a guilt-offering, and the Sages and R. Akiba differ in the previous Mishnah as to whether a suspensive guilt-offering is brought in case of doubtful sacrilege.
(32) As prescribed in Lev. V, 15. For he ate at all events of sacred food.
(33) With the stipulation that the one who is exempt makes a gift to the other of his portion of the sacrifice.

Talmud - Mas. K'rithoth 23a

: TWO PERSONS CANNOT BRING ONE GUILT-OFFERING.[1] IF THERE WAS A PIECE OF HELEB AND A PIECE OF UNCONSECRATED [PERMITTED FAT], AND A PERSON ATE ONE OF THEM AND DOES NOT KNOW WHICH, HE IS LIABLE TO A SUSPENSIVE GUILT-OFFERING; IF HE THEN ATE THE SECOND PIECE, HE IS LIABLE TO A SIN-OFFERING. IF HE ATE THE ONE [PIECE] AND ANOTHER CAME AND ATE THE OTHER, EACH OF THEM IS LIABLE TO A SUSPENSIVE GUILT-OFFERING. R. SIMEON SAYS: THEY TOGETHER BRING ONE SIN-OFFERING.[2] SAID R. JOSE: TWO PERSONS CANNOT BRING ONE SIN-OFFERING. IF THERE WAS A PIECE OF HELEB AND A PIECE OF CONSECRATED [PERMITTED FAT], AND A PERSON ATE ONE OF THEM AND DOES NOT KNOW WHICH, HE IS LIABLE TO A SUSPENSIVE GUILT-OFFERING; IF HE THEN ATE THE SECOND PIECE, HE IS LIABLE TO A SIN-OFFERING AND AN UNCONDITIONAL GUILT-OFFERING.[3] IF HE ATE THE ONE PIECE AND ANOTHER CAME AND ATE THE OTHER, EACH OF THEM BRINGS A SUSPENSIVE GUILT-OFFERING. R. SIMEON HOLDS: THEY TOGETHER BRING A SIN-OFFERING AND A GUILT-OFFERING.[2] SAID R. JOSE: TWO PERSONS CANNOT TOGETHER BRING ONE SIN-OFFERING AND ONE GUILT-OFFERING. IF THERE WAS A PIECE OF UNCONSECRATED HELEB AND A PIECE

OF CONSECRATED HELEB,[4] AND A PERSON ATE ONE OF THEM AND DOES NOT KNOW WHICH, HE IS LIABLE TO A SIN-OFFERING. R. AKIBA SAID: ALSO TO A SUSPENSIVE GUILT-OFFERING. IF HE THEN ATE THE SECOND PIECE, HE IS LIABLE TO TWO SIN-OFFERINGS[5] AND ONE UNCONDITIONAL GUILT-OFFERING. IF HE ATE THE ONE PIECE AND ANOTHER CAME AND ATE THE OTHER, EACH OF THEM IS LIABLE TO A SIN-OFFERING.’ R. AKIBA SAYS: EACH OF THEM BRINGS [IN ADDITION] A SUSPENSIVE GUILT-OFFERING. R. SIMEON HOLDS: EACH OF THEM BRINGS A SIN-OFFERING AND TOGETHER THEY BRING ONE GUILT-OFFERING. SAID R. JOSE: TWO PERSONS CANNOT BRING ONE GUILT-OFFERING. IF THERE WAS A PIECE OF HELEB AND A PIECE OF HELEB [WHICH WAS AT THE SAME TIME] NOTHAR, AND A PERSON ATE ONE OF THEM AND DOES NOT KNOW WHICH, HE IS LIABLE TO A SIN-OFFERING AND TO A SUSPENSIVE GUILT-OFFERING;[6] IF HE THEN ATE THE SECOND PIECE, HE IS LIABLE TO THREE SIN-OFFERINGS.[7] IF HE ATE THE ONE PIECE AND ANOTHER CAME AND ATE THE OTHER, EACH OF THEM BRINGS A SIN-OFFERING AND A SUSPENSIVE GUILT-OFFERING. R. SIMEON HOLDS: EACH OF THEM BRINGS A SIN-OFFERING AND TOGETHER THEY BRING A SIN-OFFERING. SAID R. JOSE: NO SIN-OFFERING THAT IS BROUGHT FOR THE EXPIATION OF SIN[8] CAN BE OFFERED BY TWO PERSONS.

GEMARA. Said Raba to R. Nahman: According to R. Jose it is only a sin-offering that cannot be brought by two persons, but a suspensive guilt-offering can be brought by two persons. Is this, then, not identical with the view of the first Tanna? And should you say they differ as to whether one out of two pieces is required,[9] [I would reply,] has it not been taught: R. Jose holds that each of them[10] brings a suspensive guilt offering? He replied: What he wishes to let us know is that the first Tanna is R. Jose.

IF A PIECE OF HELEB AND A PIECE OF CONSECRATED [PERMITTED FAT]..., A PIECE OF UNCONSECRATED HELEB AND A PIECE OF CONSECRATED HELEB..., A PIECE OF HELEB AND A PIECE OF HELEB [WHICH WAS AT THE SAME TIME] NOTHAR etc. Said Raba to Rab Nahman: Let him also bring an unconditional guilt-offering, for the nothar is at the same time consecrated [food]? — He replied: [It is a case where] the food was not worth a perutah.[11] But do not the preceding instances[12] relate to food worth a perutah, for it is stated, HE MUST BRING AN UNCONDITIONAL GUILT-OFFERING? — He replied: In that instance since it was not nothar, it was worth a perutah.[13] But what [of the Mishnah] ‘One may by one act of eating ...’[14] which speaks of nothar as one of the trespasses involved, nevertheless it states that he is liable to four sin-offerings and one guilt-offering? — That [Mishnah] refers to a large meal, ours to a scanty meal; alternatively that [Mishnah] relates to the winter season and ours to the summer season.[15]

IF ONE PERSON ATE ONE PIECE etc. Said Raba to Rab Nahman: And does R. Simeon indeed hold that a prohibition can take effect on an existing prohibition;[16] has it not been taught: R. Simeon says, He who eats nebelah on the Day of Atonement is exempt?[17] — Said R. Shesheth son of Idi: [Our Mishnah] refers to one who ate the kidney with the heleb attached thereto.[18] But even in the case of the kidney with the heleb attached thereto is it not subject to prohibition relating to things offered [upon the altar]?[19] How, then, can the prohibition regarding nothar take effect on it? And should you argue that R. Simeon maintains that the prohibition relating to nothar is a stringent[20] one and therefore takes effect on the existing lighter prohibition regarding things offered [upon the altar], [I might retort], behold the prohibition of nebelah is light and that of the Day of Atonement is stringent, and yet the latter does not take effect on the former! — One must say that in connection with consecrated things the Divine Law has revealed that one prohibition can take effect on an existing prohibition,

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(1) He holds no conditions may be attached to a sacrifice.

(2) V. p. 171, n. 9.

(3) For the first piece he would be liable to a sin-offering, and for the second, which is not heleb, to a guilt-offering; in the case of doubt he brings a suspensive guilt-offering even according to the Sages, because of the doubt relating to the first piece.

(4) The first is subject to a sin-offering, the second to a sin-offering as well as a guilt-offering by reason of its sacred character.

(5) Provided the two pieces were not eaten in one spell of unawareness, otherwise he would be liable to but one sin-offering, viz., for the eating of heleb.

(6) The first is subject to a sin-offering, the second to two sin-offerings, for the law of nothar is more comprehensive than that of heleb, although it was forbidden before it became nothar. For nothar v. Glos. In case of doubt as to which of them he ate, he brings a sin-offering, to which he is at all events liable, and a suspensive guilt-offering by reason of the doubt relating to nothar.

(7) V. p. 172, n. 5.

(8) Excluded from this rule are the sin-offerings which are not brought as the outcome of a certain sin, such as the one offered by a woman after confinement, v. supra 7b.

(9) V. supra 16b. The first Tanna will hold that if the two pieces were eaten by two persons both will be liable to a suspensive guilt-offering, although when the second one ate his piece the presence of something forbidden was not established; R. Jose will hold that only the first is liable, because of the two pieces before him one was definitely forbidden, but the second is exempt.

(10) Obviously also the second is liable.

(11) The standard value for the trespass of the law of sacrilege is a perutah, the smallest coin.

(12) In the third instance of the Mishnah it is stated that if one ate both pieces he is liable to a sin-offering (by reason of the heleb present) and to a guilt-offering to expiate the sacrilege he committed. The second piece must, accordingly, have been worth a perutah; why should we not assume the same in the concluding instance?

(13) The meat of the nothar is usually inferior and cheaper because of its staleness.

(14) V. supra 13b. One of the sin-offerings is brought for the transgression of the law of nothar, whilst the guilt-offering is to expiate the trespass of sacrilege. The piece of nothar must of necessity have been worth a perutah.

(15) I.e., the meat referred to there was either of a bigger quantity or better preserved, by reason of the cold of the winter.

(16) R. Simeon holds in the last instance of the Mishnah that a second sin-offering is to be brought because of the trespass of the law of nothar. Now, before it became nothar it was already forbidden as heleb; how can the second prohibition take effect upon something already prohibited?

(17) The nebelah (v. Glos.) was forbidden even before the Day of Atonement; he is therefore exempt from the sin of eating on the Day of Atonement, for this prohibition cannot take effect.

(18) That part of the kidney which is not heleb is at all events subject to nothar. By eating them together he has made himself liable to the prohibition of heleb as well as nothar, the first by reason of the heleb, the second because of the kidney.

(19) Both the kidney and the heleb of an offering are burnt upon the altar and are therefore forbidden for use.

(20) Nothar and eating on the Day of Atonement involve the penalty of kareth, nebelah and the portions offered on the altar are only subject to a mere prohibition.

Talmud - Mas. K'rithoth 23b

as has been taught: [The expression] Which pertain unto the Lord[1] includes the sacrificial portions [destined for the altar]. Now these portions are subject to the prohibition relating to things offered [upon the the altar], moreover the heleb thereof is subject to a prohibition involving kareth, and yet the prohibition regarding uncleanness takes effect on them. A further proof that this is so:[2] Behold, Rabbi is of the opinion that one prohibition can take effect on another, provided it is a stringent prohibition being applied to an existing light one, and not a light one to a stringent one, yet in the matter of consecrated things he maintains that even a light prohibition can take effect on a stringent one. For the prohibition of sacrilege is light, being subject to death,[3] whereas the prohibition relating to [the eating of] consecrated things is stringent, involving kareth, yet the prohibition involving death takes effect on the prohibition involving kareth, as has been taught: Rabbi says, [The text] All fat is the Lord's[4] includes the sacrificial portions of offerings of a lower degree of holiness destined for the altar as being subject to the law of sacrilege. Now, sacrilege is a prohibition involving death[3] and yet it takes effect on the prohibition of heleb which involves kareth. This proves that Scripture revealed a special case with regard to consecrated things. But has it not been taught elsewhere: R. Simeon says, Neither the law of piggul[5] nor that of nothar applies to things that are offered upon the altar? — There are two [contradictory] tannaitic [traditions] in the name of R. Simeon; some there are who hold that in relation to consecrated things a prohibition can take effect on an existing prohibition, but others hold that even in relation to consecrated things a prohibition cannot take effect on an existing prohibition. And for what purpose will they who hold that also in relation to consecrated things one prohibition cannot take effect on another, employ [the text], ‘All fat is the Lord's’?[6] — They will employ it for the young[7] of consecrated animals, for they hold that the young of consecrated animals are sacred only from birth,[8] so that both [prohibitions][9] come into force simultaneously.

CHAPTER VI

MISHNAH. IF A PERSON BROUGHT A SUSPENSIVE GUILT-OFFERING AND LEARNT AFTERWARDS THAT HE DID NOT SIN,[10] IF IT WAS BEFORE THE ANIMAL WAS SLAUGHTERED, IT MAY GO OUT TO PASTURE AMONG THE FLOCK;[11] THUS THE VIEW OF R. MEIR. THE SAGES SAY: IT SHALL BE LEFT TO PASTURE UNTIL IT BECOMES BLEMISHED[12] AND THEN SOLD, AND ITS PRICE GOES TO [THE TEMPLE FUND FOR] FREEWILL-OFFERINGS.[13] R. ELIEZER SAYS: IT SHALL BE OFFERED UP, FOR IF IT DOES NOT EXPIATE THIS SIN, IT WILL EXPIATE ANOTHER SIN.[14] IF HE LEARNS OF IT AFTER IT WAS SLAUGHTERED, THE BLOOD SHALL BE POURED OUT AND THE FLESH IS REMOVED TO THE PLACE OF BURNING.[15] IF THE BLOOD HAD ALREADY BEEN TOSSED, THE FLESH MAY BE EATEN.[16] R. JOSE SAYS: EVEN IF THE BLOOD IS STILL IN THE VESSEL, IT SHOULD BE TOSSED AND THE FLESH THEN EATEN.[17] THE LAW, HOWEVER, IS DIFFERENT WITH AN UNCONDITIONAL GUILT-OFFERING: IF[18] BEFORE THE ANIMAL WAS SLAUGHTERED, IT MAY GO OUT TO PASTURE AMONG THE FLOCK; IF AFTER IT WAS SLAUGHTERED, IT SHALL BE BURIED; IF AFTER THE SPRINKLING OF THE BLOOD, THE FLESH MUST BE REMOVED TO THE PLACE OF BURNING. THE LAW IS ALSO DIFFERENT REGARDING AN OX TO BE STONED:[19] IF BEFORE IT WAS STONED,[20] IT MAY GO OUT TO PASTURE AMONG THE FLOCK; IF AFTER IT WAS STONED, IT IS PERMITTED FOR USE. THE LAW IS ALSO DIFFERENT REGARDING THE HEIFER WHOSE NECK IS TO BE BROKEN:[21] IF BEFORE ITS NECK WAS BROKEN,[22] IT MAY GO OUT TO PASTURE AMONG THE FLOCK; IF AFTER ITS NECK WAS BROKEN, IT SHALL BE BURIED ON THE SPOT,[23] FOR IT WAS FROM THE OUTSET BROUGHT IN A MATTER OF DOUBT, IT HAS ATONED FOR THE DOUBT, AND SO HAS SERVED ITS PURPOSE.

GEMARA. Wherein do they differ? — R. Meir reasons, As he no longer requires the offering he does not dedicate it;[24] the [other] Rabbis hold, Because of his troubled conscience[25] he resolved to dedicate it. A Tanna [taught]: Whether he learnt that he did sin[26] or learnt that he did not sin, R. Meir and the Rabbis differ. In the case where he learnt that he did sin, [the dispute is taught] to present the force of R. Meir's view: Although he is now aware of his sin, since he did not know this when the sacrifice was set aside, it may therefore go out to pasture among the flock. And in the case where he learnt that he did not sin, [the dispute is taught] to present the force of the view of the Rabbis: Although he is now aware that he did not sin, since he did not know this when the sacrifice was set aside, his conscience troubled him and so resolved to dedicate it absolutely.

Said Rab Shesheth: R. Meir concedes to the Rabbis

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(1) Lev. VII, 21, which states the law that if an unclean person eats of the flesh of sacrifices, he is liable to kareth. The expression ‘which pertain unto the Lord’ is apparently superfluous, and serves to teach us that also the portions destined for the altar are subject to this prohibition.

(2) That in connection with consecrated things one prohibition can take effect on another.

(3) Not the death penalty by human hands but as a heavenly punishment. This penalty is less stringent than kareth; cf. M.K. 28a.

(4) Lev. III, 16.

(5) V. Glos.

(6) From this text we derived above that the law of sacrilege takes effect upon the prohibition concerning heleb.

(7) Or rather to the sacrificial portions destined for the altar of the young of consecrated animals. Rashi reads explicitly ‘the sacrificial portions of the young ones’.

(8) Lit. on coming into being’, i.e. at birth.

(9) Viz., that concerning sacrilege and that relating to the use of things offered upon the altar. These two prohibitions take effect simultaneously, from the moment of birth. There is thus no question of one prohibition applying to the other.

(10) E.g., it is afterwards established that the portion left over was the heleb and the one he had eaten the permitted fat.

(11) I.e.,it loses its sacred character and becomes again a profane animal.

(12) So that it is unfit for the altar. Only then may a consecrated animal be sold to a private person.

(13) I.e., a fund which provided freewill-offerings whenever the altar was empty.

(14) This is consistent with R. Eliezer's view in the following Mishnah that such a guilt-offering may be brought without reference to a specific doubtful sin.

(15) I.e., it shall be burnt outside the Temple precincts, like all disqualified sacrifices.

(16) Since the ceremony of expiation was performed, it is to be treated as a valid offering.

(17) Because the blood was ready for tossing.

(18) I.e., if he discovers that the certain sin for which the sacrifice was brought did not take place after all; v. Gemara.

(19) An ox that killed a person must be stoned and no benefit or use may be derived from it. V. Exod. XXI, 28.

(20) It was found out that the judgment passed upon it was wrong.

(21) Deut. XXI, 1ff.

(22) The murderer was found.

(23) I.e., it is to be treated as if it was valid, for its purpose was to atone for the congregation who may have borne some guilt in the murder, and at the time that the heifer had its neck broken this doubt still existed.

(24) I.e., his dedication of the offering was not absolute, but rather that it should be sacred so long as the doubt existed. Now that the doubt has been solved the animal is again profane.

(25) Lit., ‘his heart knocks him’; at the time of dedication he resolved to bring an offering unconditionally.

(26) When a sin-offering is due. Even then R. Meir holds that the suspensive guilt-offering loses its sacred character, and becomes profane.

Talmud - Mas. K'rithoth 24a

in the case of a person who dedicated two guilt-offerings as a surety[1] and was atoned for by one of them, that the second shall be left to pasture until it becomes blemished and then sold, and its price goes to the fund for freewill-offerings.[2] What is the reason? — R. Meir disagrees with the Rabbis only in the case where the offerer had given no proof that his conscience troubled him; in this instance, however, behold only one sacrifice was required of him, for what reason then did he separate two sacrifices? [Obviously] because he thought. ‘Should one be lost ,I shall be atoned for by the other’. Now since he has proved that his conscience troubled him, we therefore assume that his dedication was absolute.

Said Rab Judah in the name of Rab: The Rabbis concede to R. Meir in the case of a suspensive guilt-offering [which was brought on the strength of] the evidence of witnesses who were subsequently proved to be ‘plotters’,[3] that it shall go out to pasture among the flock. What is the reason? — The Rabbis disagree with R. Meir only in the case where the offerer brought the sacrifice of his own accord, when we may assume that his conscience troubled him; but when he brought it on the strength of the evidence of two witnesses, he did not [entirely] rely on the witnesses, thinking that perhaps others might come and prove them ‘plotters’. Raba raised an objection: THE LAW IS ALSO DIFFERENT REGARDING AN OX TO BE STONED: IF BEFORE IT WAS STONED, IT MAY GO OUT TO PASTURE AMONG THE FLOCK. What were the circumstances?[4] If two witnesses came and said [the ox] killed a person, and two others [then came and] said, it did not kill, why should we accept the latter and not the former? It must therefore be a case of plotting witnesses, and correspondingly in the matter concerning the suspensive guilt-offering it is also a case of plotting witnesses, and yet [we see that] they differ therein! — Abaye replied to him: [The case of] the ox to be stoned[5] may be that the person [alleged to have been] killed came forward on his own feet; correspondingly in the matter concerning the suspensive guilt-offering, the case is that the remaining piece was [eventually] recognised.[6] But when the suspensive guilt-offering was brought on the strength of the evidence of two witnesses, the law may indeed be different.[7]

[This is also] the subject of a dispute [between the following]. If a suspensive guilt-offering was brought on the strength of the evidence of witnesses and they were subsequently proved to be ‘plotters’. R. Eleazar[8] says, It is [treated] like the meal-offering of jealousy,[9] of which it was taught that if the witnesses against the woman were proved to be ‘plotters’, it [the meal-offering] reverts to its profane character; but R. Johanan holds: It shall be left to pasture until it becomes blemished and then sold, and its price goes to the fund for freewill-offerings. And why does not R. Johanan compare it to the meal-offering of jealousy? — They are not comparable [one to another]; the meal-offering of jealousy is not offered for atonement but to ascertain her guilt; the suspensive guilt-offering, however, is offered for atonement, and since [we assume] that his conscience troubled him he resolved to dedicate it absolutely.

R. Keruspedai said in the name of R. Johanan: If an ox was condemned to be stoned and the witnesses were proved to be ‘plotters’. whosoever takes possession of it is its legal owner.[10] Said Raba: R. Johanan's view is plausible in the case where the witnesses testified that his beast was abused,[11] but if they asserted that he himself abused his beast, since he is certain that he did not abuse it, he certainly does not renounce his ownership of it, but will take pains to find witnesses [to disprove the charge]. But in what respect does [this case] differ from that which Rabbah b. Ithi taught in the name of Resh Lakish: In the case of a beguiled city[12] whose witnesses were proved to be ‘plotters’, whosoever takes hold of the property thereof is its legal owner? — In the beguiled city there are a multitude of people and each of them thinks, even though I did not sin others might have sinned,[13] and he therefore renounces the ownership of his property; in our instance, however, the matter rests with him alone; as he knows that he did not abuse the animal he does not renounce his ownership of it, but rather endeavours to find witnesses [to disprove the charge].

Resh Lakish said: If a person offers a gift to his fellow, and the latter says. ‘I do not want it’, whosoever takes hold of it becomes its legal owner.[14] But in what respect does this differ from that which Rabbah b. Aibu said in the name of Rab Shesheth, or as some report. R. Abbahu in the name of Rab Shesheth: If the recipient of a gift declared after it had come into his possession. ‘Let this gift be annulled’, or ‘It is to be annulled’, or ‘I do not want it’, his words have effect;[15] if he said, ‘It is annulled’ or ‘It is no gift’, his words are of no effect.

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(1) I.e., should the one die or be lost, the other shall be offered instead.

(2) I.e., that the second remains sacred property, because the dedication thereof is assumed to have been absolute.

(3) Zomemim, v. Glos. I.e., two witnesses gave evidence that he did something which was a doubtful sin, whereupon he is obliged to offer a suspensive guilt-offering. As it was not his conscience which prompted him to seek expiation, it is thought that he offered the sacrifice with reservation. The witnesses were then, before the slaughtering of the animal, proved to be ‘plotters’ by reason of their absence from the scene of the alleged offence; v. Deut. XIX, 18f and Mak. I, 1ff. The law distinguishes between witnesses who are contradicted and witnesses who have been proved to be ‘plotters’. In the former instance the subject matter of the evidence is contradicted by two other witnesses. Neither testimony is then accepted. In the latter instance evidence is brought against the credibility of the first witnesses by proving that at the time when the alleged act was supposed to have taken place the witnesses were seen in a different place. V. Mak. 2ff.

(4) I.e., how was it established that the sentence passed on the ox was wrong?

(5) An example of the charge being unfounded in the case of the ‘ox to be stoned’.

(6) Viz., as being the forbidden fat.

(7) Lit. ‘no’.

(8) Some texts read: Resh Lakish.

(9) V. Num. V, 12ff. The offering is brought on the basis of evidence that she retired with a man after having been forewarned by the husband not to do so. Its purpose is not the expiation of a sin, but rather to prove her fidelity or otherwise.

(10) The ox is regarded as ownerless, for it is assumed that the owner has abandoned all his rights in it, since it is forbidden to derive therefrom any kind of benefit.

(11) I.e. that some person had committed an offence upon the beast. V. Lev. XX, 15. Such an animal belongs to the category of an ‘ox to be stoned’.

(12) v. Deut. XIII, 13-18. The whole city is to be destroyed. It is therefore assumed that every inhabitant has implicitly relinquished the ownership of his property.

(13) I.e., although he was sure that he did not sin the city might still be destroyed because of the other inhabitants. V. Sanh. IIIb.

(14) It is regarded as ownerless, for both the donor and the beneficiary have renounced their rights in the gift.

(15) This dictum has a different version in Git. 32b; cf. Tosaf. a.l. According to our version, the recipient's declaration is valid if it is clothed in terms of the future, for it is then equal to a renunciation of ownership, and invalid if clothed in terms of the present, for his words are then in contradiction to his action, viz., his taking possession of the gift. Rashi here prefers the text of the version as quoted in Git. l.c.

Talmud - Mas. K'rithoth 24b

Does not the ruling ‘his words have effect’ imply that it returns to the original owner?[1] — No, ‘his words have effect’ implies that he, too, has not acquired it, but whoever takes hold of it becomes its legal owner.

An objection was raised: If a person says to his partner, ‘I have neither right nor claim on this field’, or ‘I have no concern in it’, or ‘I entirely dissociate myself from it’, his words are of no effect. Now, the expression ‘I entirely dissociate myself from it’ corresponds to ‘I do not want it’, and yet we learn here that his words are of no effect! — This case is different; for what he meant was that he dissociates himself from all rights and claims, but not from the real [ownership of the] field.[2]

An objection was raised: If a [dying] man assigned his possessions, in writing, to another, and there were among them slaves, and the other said, ‘I do not want them’, if the second master was a priest,[3] they may eat of terumah.[3] R. Simeon b. Gamaliel says: As soon as that other said, ‘I do not want them’, the heirs at once become their legal owners.[4] Now according to R. Simeon b. Gamaliel it is well, for he argues: When a man bestows a gift it is with the understanding that it be accepted; and if it is not accepted, it [automatically] returns to its original owner. But what of the first Tanna? If [it is right to say[5] that] whenever a beneficiary says, ‘I do not want it’, whoever takes hold of the property becomes its legal owner, here since the second master said, ‘ I do not want them’, the slaves should be ‘strangers’,[6] and how can ‘strangers’ eat terumah?[7] — He holds: If a man renounces the ownership of his slave, the latter is free but still requires a bill of emancipation from his master; and he also maintains that one who awaits a bill of emancipation may still eat of terumah.[8]

R. ELIEZER SAYS: IT SHALL BE OFFERED UP etc. Why does R. Eliezer state [that IT WILL EXPIATE ANOTHER] SIN? Does not R. Eliezer hold that a suspensive guilt-offering may be brought [at any time] as a freewill-offering, as we have learnt:[9] R. Eliezer says. A man may freely offer a suspensive guilt-offering every day? — Replied Rab Ashi: R. Eliezer takes here into consideration what they [the Sages] said to him,[10] as we have learnt:[9] But they said unto me, Wait until you fall into a state of doubt .[11]

IF HE LEARNS OF IT AFTER IT WAS SLAUGHTERED etc. [It is stated here:] THE FLESH IS REMOVED TO THE PLACE OF BURNING, from which it follows that non-consecrated animals that were slaughtered in the [Temple] court are to be burnt, whilst [we read later] in contradiction thereto: THE LAW, HOWEVER, IS DIFFERENT WITH AN UNCONDITIONAL GUILT-OFFERING: IF BEFORE THE ANIMAL WAS SLAUGHTERED, IT MAY GO OUT TO PASTURE AMONG THE FLOCK; IF AFTER IT WAS SLAUGHTERED, IT SHALL BE BURIED.[12] — Replied R. Eleazar: The contradiction is obvious;[13] he who taught the one clause cannot have taught the other.[14] Rabbah said: Do you point out a contradiction between the unconditional guilt-offering and the suspensive guilt-offering? As to the unconditional guilt-offering, since it is no longer required we may assume that its owner has not dedicated it; but as to the suspensive guilt-offering, since his conscience troubled him, we may assume that he has dedicated it absolutely.[15]

There is, however, a contradiction between two statements relating to the unconditional guilt-offering itself; for here we learn: IT SHALL BE BURIED, whilst the concluding clause reads: THE FLESH IS REMOVED TO THE PLACE OF BURNING! — This is doubtlessly a contradiction; he who taught the one clause cannot have taught the other. Rab Ashi said: Because it has the appearance of a disqualified offering.[16]

IF THE BLOOD HAD ALREADY BEEN TOSSED, THE FLESH MAY BE EATEN. Why? Has he not [in the meantime] reached a state of certainty?[17] — Replied Raba: The text says, Though he knew it not, and he shall be forgiven;[18] and this man was in doubt during the ceremony of forgiving.

R. JOSE SAYS, EVEN IF THE BLOOD IS STILL IN THE VESSEL etc. How can R. Jose maintain that the blood should be tossed? Has he not arrived at a condition of certainty at the time of the ceremony of forgiving? — Replied Raba: R. Jose follows R. Simeon who holds, Whatever is ready to be tossed is to be regarded as if it had already been tossed. But perhaps R. Simeon maintains his view only with regard to things that are indeed ready to be tossed,[19] whilst this is not ready to be tossed![20] — In the West[21] they replied: R. Jose holds that the vessels of ministry render fit for offering that which is disqualified from the outset.[22]

THE LAW, HOWEVER, IS DIFFERENT WITH AN UNCONDITIONAL GUILT-OFFERING etc. It was stated: When does the heifer whose neck is to be broken become forbidden [for use]? R. Hamnuna says: In its lifetime; Raba says: After the breaking of the neck. Now Raba's opinion is clear, for it is from the time that an act was done to it; but from what specific time according to R. Hamnuna?

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(1) I.e., it is not ownerless. This is in contradiction to Resh Lakish.

(2) The term דין ודברים אין לי . lit., ‘I have no lawsuit and words’, is now understood to convey the declaration that he does not expect to have to go to court to establish his title to the field, for this is undisputed.

(3) The slave of a priest may also eat of terumah (v. Glos.). Here the slave may eat terumah, for the declaration of the beneficiary, his second master, is void.

(4) V. B. B. 138a.

(5) As Resh Lakish maintains.

(6) I.e. non-priests. The slaves are declared ownerless and therefore take possession of themselves, so to speak.

(7) For no non-priest may eat of terumah.

(8) So long as he does not possess this bill he is still attached to his master. And if his master is a priest he may still eat terumah.

(9) Infra 25a.

(10) Viz., to Baba b. Buta; cf a.l.

(11) R. Eliezer corrected his view in conformity with this reply, according to which it is not advisable to offer a suspensive guilt-offering without some suggestion of sin. It was therefore necessary for R. Eliezer to offer a reason in the Mishnah for his opinion.
(12) The contradiction is that in one clause burial is prescribed, whilst in the other burning.
(13) Or, 'a division must be made'.
(14) I.e., the Mishnah is self-contradictory in combining two views which are at variance with one another. The views, however, are derived from different Schools.
(15) I.e., with a sacrifice for a certain sin we presuppose that it was offered only because the offerer wished to atone for his guilt. When it is found out that he did not commit the sin after all, the offering is proved to be an error and reverts to its profane status. As a profane animal, which was slaughtered in the Temple court, it has to be buried. In the case of doubt, however, the offerer himself had at all times to admit the possibility that he did not sin. By offering the sacrifice whilst he was still in a state of doubt, he manifested that he was particularly anxious to free himself from all uncertainty, and he therefore resolved to offer a sacrifice of atonement unqualifiedly. The offering remains sacred even after the doubt has been solved, and is to be treated like a disqualified offering, which is designated for burning.
(16) I.e., the unconditional guilt-offering is in fact not regarded as sacred, and this is why in the first clause we read that it shall be buried, just as a profane animal slaughtered in the Temple precincts. The reason why the concluding clause states that it is to be burnt if the blood had already been tossed, is that the offering has then the appearance of a valid sacrifice which had gone through many stages of the ceremony and was then rendered unfit for the altar. It is therefore to be treated like a disqualified sacrifice, which is to be burnt. The translation follows Rashi's version. Some edd. read: 'Rab Ashi said: The former clause which states of the suspensive guilt-offering that the flesh is removed to the place of burning offers no difficulty. because it has the appearance of a disqualified offering'.
(17) The sacrifice is thus rendered unfit, and the flesh should be forbidden for use, for it was brought in a matter of doubt and there is no longer any doubt.
(18) Lev. V, 18. The text conveys that the status during the ceremony of forgiving, i.e. tossing the blood, is decisive. If at that time he was still in doubt, the guilt-offering is valid.
(19) And will be tossed later.
(20) For in the meantime he has learnt that the doubtful sin was really a permitted act, so that the offering reverts to its profane status.
(21) I.e., Palestine.
(22) The fact that the blood to be tossed is already in the sacred vessel of ministry preserves the sacred character of the offering.

Talmud - Mas. K'rithoth 25a

— Said R. Jannai: I had heard a time limit regarding it, but it has escaped my memory. His colleagues. however, suggested:[1] Its conveyance to the 'rough valley'[2] renders it unfit for use.

Said R. Hamnuna: Whence do I derive this [my opinion]? From that which we have learnt:[3] If a person slaughtered the heifer of purification[4] or an ox condemned to be stoned or the heifer whose neck is to be broken, R. Simeon declares him exempt; the Sages declare him guilty. Now, according to me who hold it is forbidden 'in its lifetime', [the meaning] is clear, for the dispute between R. Simeon and the Sages lies in this: R. Simeon holds that ineffective slaughtering[5] is no slaughtering, while the Sages hold that ineffective slaughtering is regarded as slaughtering; but according to you who hold [it is forbidden] 'after the breaking of the neck', why does R. Simeon exempt him? The slaughtering is indeed effective![6] Should you say, however, that R. Simeon considers slaughtering valid in the case of the heifer [whose neck is to be broken],[7] surely we have learnt: That which is valid with the [red] heifer is invalid with the heifer whose neck is to be broken, and that which is invalid with the [red] heifer is valid with the heifer whose neck is to be broken: With the [red] heifer slaughtering is valid and the breaking of the neck invalid, and with the heifer [whose neck is to be broken] the breaking of the neck is valid and slaughtering invalid'![8] — Thereupon he[9] was silent. After the former had left, he said: Why did I not retort: R. Simeon is nevertheless of the opinion that slaughtering is valid with the heifer [whose neck is to be broken]? R. Hamnuna, on the other hand, might then have objected: The Tanna should not have failed to mention the view that slaughtering is valid with the heifer [whose neck is to be broken], when you might have said, it represents R. Simeon's opinion.[10]

Raba said: Whence do I derive this [my view]? From that which we have learnt: THE LAW IS ALSO DIFFERENT REGARDING THE HEIFER WHOSE NECK IS TO BE BROKEN: IF BEFORE ITS NECK WAS BROKEN, IT MAY GO OUT TO PASTURE AMONG THE FLOCK.[11] Now, if it were forbidden in its lifetime, how could it go out to pasture among the flock; surely it was forbidden while still alive?[12] — Read: 'If before it was ready for the breaking of the neck...'[13] Then read the following clause: IF AFTER ITS NECK WAS BROKEN. IT SHALL BE BURIED ON THE SPOT.[14] — Read: 'If after it was ready for the breaking of the neck'. If so, read the concluding clause: FOR IT WAS FROM THE OUTSET BROUGHT IN A MATTER OF DOUBT, IT HAS ATONED FOR THE DOUBT, AND SO HAS SERVED ITS PURPOSE. Now, if [it were forbidden] while still alive, then it has not yet atoned for the doubt![15] — [On this point there is] a dispute between Tannaim, as had been taught:[16] Qualifying[17] and atoning[17] sacrifices are mentioned within [the Temple], and qualifying and atoning sacrifices are mentioned without:[18] just as with the qualifying and atoning sacrifices mentioned within [the Temple], the qualifying sacrifices are in all respects like the atoning sacrifices, so with the qualifying and atoning sacrifices mentioned without, the qualifying sacrifices are to be like the atoning sacrifices in all respects.[19] MISHNAH. R. ELIEZER SAYS: A MAN MAY FREELY OFFER A SUSPENSIVE GUILT-OFFERING ON ANY DAY AND AT ANY TIME HE PLEASES.[20] SUCH A SACRIFICE WAS KNOWN AS THE GUILT-OFFERING OF THE PIOUS. IT IS SAID OF BABA B. BUT A THAT HE USED TO FREELY OFFER A SUSPENSIVE GUILT-OFFERING EVERY DAY, EXCEPT ON THE DAY FOLLOWING THE DAY OF ATONEMENT.[21] HE DECLARED: BY THIS TEMPLE! HAD THEY ALLOWED ME, I WOULD HAVE OFFERED ONE EVEN THEN, BUT THEY SAID UNTO ME, WAIT UNTIL YOU HAVE COME TO A STATE OF DOUBT.[22] THE SAGES, ON THE OTHER HAND, HOLD THAT ONE MAY NOT BRING A SUSPENSIVE GUILT-OFFERING EXCEPT FOR A [PARTICULAR] SIN. THE WILFUL TRANSGRESSION OF WHICH IS SUBJECT TO KARETH AND THE INADVERTENT TRANSGRESSION OF WHICH IS SUBJECT TO A SIN-OFFERING. THEY THAT ARE LIABLE TO SIN-OFFERINGS OR TO UNCONDITIONAL GUILT-OFFERINGS AND THE DAY OF ATONEMENT HAD INTERVENED, ARE STILL BOUND TO OFFER THEM AFTER THE DAY OF ATONEMENT.[23] THEY THAT ARE LIABLE TO SUSPENSIVE GUILT-OFFERINGS ARE EXEMPT.[24] HE WHO HAS COMMITTED[25] A DOUBTFUL SIN ON THE DAY OF ATONEMENT, EVEN AT TWILIGHT, IS EXEMPT, BECAUSE THE WHOLE OF THE DAY[26] EFFECTS ATONEMENT. A WOMAN WHO IS LIABLE TO A SIN-OFFERING OF A BIRD FOR A DOUBT.[27] AND THE DAY OF ATONEMENT HAD INTERVENED, IS STILL BOUND TO OFFER IT AFTER THE DAY OF ATONEMENT. BECAUSE IT RENDERS HER FIT TO PARTAKE OF SACRIFICIAL FLESH.[28] IF A SIN-OFFERING OF A BIRD WAS BROUGHT FOR A MATTER OF DOUBT AND, AFTER THE PINCHING OF ITS NECK,[29] IT BECAME KNOWN [THAT THERE WAS NO NEED FOR IT], IT MUST BE BURIED.

GEMARA. What is the reason for R. Eliezer's view? — Were it[30] obligatory, why is he to bring a sin-offering when the sin becomes known?[31] This proves that it is voluntary.[32] The [other] Rabbis on the other hand say: Burnt-offerings and peace-offerings may be brought either in fulfilment of a vow or as freewill sacrifices,[33] but sin-offerings and guilt-offerings only as obligatory sacrifices; and the reason why one brings at all a suspensive sin-offering, although the sin is uncertain, is to afford him protection, because the Torah has compassion upon the lives of Israel.[34] Said Rab Aha the son of Raba to Rab Ashi: May it not be that the suspensive guilt-offering is analogous to burnt-offerings and peace-offerings; as burnt-offerings and peace-offerings are brought either by free will or by obligation, so may suspensive guilt-offerings be brought either by free will or by obligation? — He replied: Burnt-offerings and peace-offerings are mentioned in Scripture mainly as freewill sacrifices, suspensive guilt-offerings mainly as obligatory sacrifices.[35]

R. Hiyya[36] recited before Raba

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(1) Lit. ‘took to say’.
(2) V. Deut. XXI. 4.
(3) Hul. 81b. This Mishnah deals with the prohibition of slaughtering the young with its mother on the same day (Lev. XXII, 28). The three types of animals enumerated in this Mishnah are such as are forbidden for use. Their ritual slaughtering, therefore, does not produce its normal effect, viz., of rendering the flesh permitted to be eaten. It is therefore questionable whether the slaughtering of such animals is subject to the prohibition of, ‘It and its young’, since the text there speaks of תשחטו , which denotes slaughtering for the purpose of rendering the flesh fit for food.
(4) I.e., the red heifer, Num. XIX.
(5) I.e., slaughtering which does not render the flesh fit for use. According to R. Hamnuna, the heifer whose neck is to be broken is forbidden when still alive, and its slaughtering is indeed of no avail with regard to rendering the flesh fit for use. R. Simeon holds that such slaughtering does not come within the scope of the prohibition of Lev. XXII, 28, whilst the Sages hold that it does.
(6) Through the slaughtering it becomes unfit as a sacrifice but suitable for ordinary purposes.
(7) I.e., slaughtering may take the place of breaking the neck. The animal thereby becomes forbidden, so that the slaughtering is ineffective.
(8) Hul. 23b.
(9) Sc. Raba
(10) I.e., if this view were tenable it would have been mentioned in the Mishnah.
(11) I.e., it becomes a profane animal, permitted for use.
(12) I.e. , how can it revert to its profane status after it had been brought down to the ‘rough valley’ as the heifer whose neck was to be broken and so unfit for use.
(13) I.e., before it was brought to the ‘rough valley’, while it was indeed still permitted.
(14) This implied that the preceding clause refers to the time prior to the breaking of the neck, even though the sacrifice was already in the ‘rough valley’.
(15) I.e., if the second clause was to be interpreted that the heifer should be buried if the murderer was found after it had been brought to the ‘rough valley’ even though it was still alive, the argument for this ruling would be meaningless, since the ceremony of atonement, i.e., the breaking of the neck, had not yet taken place.
(16) Some edd. quote this ruling in the name of the School of R. Ishmael.
(17) Qualifying sacrifices are those which are offered to render a person fit or clean for the Temple or the community, such as the guilt-offering of the leper after recovery which is offered in the Temple; atoning sacrifices are those which procure atonement for sin, such as ordinary sin- and guilt-offerings.
(18) A qualifying sacrifice which is offered outside the Temple is that of the bird of the leper which after the ceremony is set free (V. Lev. XIV, 7). An atoning sacrifice performed outside the Temple is the heifer whose neck is to be broken and also the scapegoat (v. ibid. XVI, 21).
(19) In respect of the moment of their prohibition: as the bird of the leper is forbidden for use in its lifetime, so also is the heifer whose neck is to be broken. This Tanna thus holds with R. Hamnuna, whilst our Mishnah has been proved to agree with Raba's view.
(20) He is of the opinion that such a guilt-offering is essentially a voluntary sacrifice, primarily offered for the appeasement of a troubled conscience, not necessarily with reference to a particular sin. The Sages, on the other hand, hold it is an obligatory sacrifice for the expiation of a particular sin.
(21) The Day of Atonement expiated all doubtful sins of the past, and it is unlikely that in this short spell of one day he was guilty anew of any sin.
(22) I.e., until you have reason to assume that you might have committed a doubtful sin.
(23) Definite sins known to the transgressor are not atoned for by the Day of Atonement.
(24) Doubtful sins are forgiven on the Day of Atonement.
(25) Lit. ‘there came to his hand’.
(26) Or rather, any moment of the day.
(27) E.g., a woman after confinement who is in doubt whether the birth was normal and so is liable to an offering.

(28) The sacrifice is not expiatory, but serves to render her fit again to partake of holy things, after the period of uncleanness caused by the birth.

(29) The prescribed form of killing a bird-offering.

(30) Viz., the suspensive guilt-offering.

(31) If the suspensive guilt-offering is an expiatory sacrifice, i.e., atoning for the sin that might have been committed, why then is a new sacrifice to be offered when the sin becomes known? Has it not already been atoned for?

(32) I.e., he who is troubled by his conscience, that he might have committed a sin, is enjoined to offer a freewill-offering. The actual sin, however, if such there was, is not expiated.

(33) Heb. neder or nedabah. In the latter a particular animal is dedicated, in the former a sacrifice generally is vowed.

(34) Viz., to spare the trespasser punishment.

(35) I.e., burnt-offerings and peace-offerings are chiefly prescribed as thanksgiving, festival and communal sacrifices; the guilt-offering is always the outcome of a sinful action.

(36) Read with Sh. Mek.: Rab Hanina.

Talmud - Mas. K'rithoth 25b

: Nebelah[1] is subject to a suspensive guilt-offering. Said the latter to him: Have we not learnt, THE SAGES HOLD THAT ONE MAY NOT BRING A SUSPENSIVE GUILT-OFFERING EXCEPT FOR A [PARTICULAR] SIN. THE WILFUL TRANSGRESSION OF WHICH IS SUBJECT TO KARETH AND THE INADVERTENT TRANSGRESSION OF WHICH IS SUBJECT TO A SIN-OFFERING? And should you follow R. Eliezer's view, behold he maintains that it may be offered as a freewill sacrifice![2] — Replied the former: Why do you not study [thoroughly]? Many a time I put this question before the Master, namely Rabbah, and he replied: This represents the view of R. Eliezer as [suggested] by ‘those who spoke to him’,[3] as we have learnt: BUT THEY SAID UNTO ME, WAIT UNTIL YOU HAVE COME TO A STATE OF DOUBT. Said Raba, What is the reason of ‘those that spoke to him?’ — The text reads. And [doeth] through error [any one of all the things] which [the Lord his God hath commanded] not to be done, and is guilty.[4]

Raba also said: What is the reason of the Rabbis who maintain that one may not bring a suspensive guilt-offering except for a [particular] sin the wilful transgression of which is subject to kareth and the inadvertent transgression of which is subject to a sin-offering? They derive [their ruling] from the sin-offering for heleb[5] by the analogy based upon the common term mitzwoth:[6] As in that instance[7] [it is brought] for a sin that is subject to kareth in the case of wilfulness and to a sin-offering in the case of error, so also in our instance,[8] [it is brought] for such sins as are subject to kareth in the case of wilfulness and to a sin-offering in the case of error.

Our Rabbis taught: The five guilt-offerings[9] effect [complete] atonement; the suspensive guilt-offering does not effect complete atonement. How is this to be understood? — Said Rab Joseph. As follows: The five guilt-offerings effect complete atonement,[10] the suspensive guilt-offering does not effect complete atonement;[11] thus dissenting from R. Eliezer, who holds that nebelah is subject to a suspensive guilt-offering.[12] Rabina said: It is to be understood thus: In respect of the five guilt-offerings nothing else can take their place to effect atonement, for when it is known to him he must still bring it;[13] with reference to the suspensive guilt-offering. however, something else can take its place to effect atonement, for when it is known to him he does not bring it;[14] as we have learnt: THEY THAT ARE LIABLE TO SIN-OFFERINGS OR TO UNCONDITIONAL GUILT-OFFERINGS AND THE DAY OF ATONEMENT HAD INTERVENED, ARE STILL BOUND TO OFFER THEM AFTER THE DAY OF ATONEMENT; THEY THAT ARE LIABLE TO SUSPENSIVE GUILT-OFFERINGS ARE EXEMPT.

THEY THAT ARE LIABLE TO SIN-OFFERINGS OR TO UNCONDITIONAL GUILT-OFFERINGS etc. It is stated, THEY THAT ARE LIABLE TO SIN-OFFERINGS OR TO UNCONDITIONAL GUILT-OFFERINGS AND THE DAY OF ATONEMENT HAD

INTERVENED, ARE STILL BOUND TO OFFER THEM AFTER THE DAY OF ATONEMENT; THEY THAT ARE LIABLE TO SUSPENSIVE GUILT OFFERINGS ARE EXEMPT. Whence do we know this? — When Rab Dimi arrived,[15] he said in the name of R. Ammi, who reported it in the name of R. Hanina. The verse reads, And he shall make atonement for the holy place, because of the uncleanness of the children of Israel, and because of their transgressions, even all their sins;[16] 'sins' are analogous to 'transgressions': as 'transgressions'[17] are not subject to a sacrifice, so also only those 'sins' which are not subject to a sacrifice are atoned for [by the Day of Atonement]; 'sins', however, which are subject to a sacrifice are not atoned for.[18] Said Abaye to him: But this verse refers to the goat that is offered up within,[19] which does not atone for the conscious transgression of a law; the scapegoat, however, which does atone for the conscious transgression of a law, I may say will atone also for sins that are subject to a sacrifice! Rather said Abaye: It is derived from the following [text]: And he shall confess over him all the iniquities of the children of Israel, and all their transgressions, even all their sins;[20] 'sins' are analogous to transgressions: as transgressions' are not subject to a sacrifice, so also only those 'sins' which are not subject to a sacrifice are atoned for [by the Day of Atonement]; 'sins', however, which are subject to a sacrifice are not atoned for by it. Scripture has thus suggested a limitation [in the text] relating to the 'scapegoat', to teach us that it does not atone for sins that are subject to a sacrifice. Said to him Rab Dimi: Whence do you know that the 'transgressions' referred to are those that are not subject to a sacrifice? Perhaps they are those that are subject to a sacrifice; as we have learnt: Four persons offer a sacrifice for wilful as for inadvertent transgression![21] In confirmation of his [Abaye's] view it was stated: When Rabin arrived,[22] he said in the name of R. Jose, who reported it in the name of Resh Lakish: 'And he shall confess over him all the iniquities of the children of Israel, and all their sins; sins are analogous to 'transgressions': as 'transgressions' are not subject to a sacrifice, and are atoned for [by the Day of Atonement], so also only those 'sins' which are not subject to a sacrifice are atoned for by it; 'sins', however, which are subject to a sacrifice are not atoned for by it. Remarked Abaye: I, too, derived it from this text, but Rab Dimi objected: Whence do we know that the 'transgressions' referred to are those that are not subject to a sacrifice; perhaps they are those that are subject to a sacrifice, as we have learnt: Four persons offer a sacrifice for wilful as for inadvertent transgression? — Replied Rabin to him: The majority of 'transgressions' are not subject to a sacrifice.[23] Said the other to him: Does the passage mention 'majority'? — Rather, said Abaye: [The proof comes] from the beginning of this same verse: And he shall confess over him all the iniquities of the children of Israel. And it was taught: 'Iniquities' denote wilful transgressions, and so it is written, His iniquity shall be upon him.[24] Now, why did the verse add, 'and all their transgressions, even all their sins';[25] to establish an analogy to 'transgressions': as transgressions' are not subject to a sacrifice, so also only those 'sins' are implied which are not subject to a sacrifice; 'sins', however, which are subject to a sacrifice are not atoned for [by the Day of Atonement].

THEY THAT ARE LIABLE TO SUSPENSIVE GUILT-OFFERINGS etc. Whence do we learn this?[26] — Said R. Eleazar: The Scriptural text reads, From all your sins [shall ye be clean] before the Lord:[27] The Day of Atonement expiates sins that are known to the Lord alone. Said Rab Tahlifa, the father of Rab Huna, in the name of Raba: Also the preceding instance[28] need no longer

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(1) V. Glos. Nebelah is subject to a prohibition involving only the penalty of stripes but not kareth. Its transgression in error is, therefore, not subject to a sin-offering

(2) It is, accordingly, superfluous to state that it may be offered for a prohibition.

(3) The reference is to the reply made by the Rabbis to Baba b. Buta in our Mishnah. According to them, one is not advised to bring a suspensive guilt-offering except with reference to a specific sin. R. Hiyya lets us know that this sin may be a prohibition which involves stripes and not kareth.

(4) This text does not literally occur in connection with the suspensive guilt-offering (Lev. V, 17-19). but in IV, 22 with reference to the sin-offering of the prince. It should rather read here: Which (the Lord hath commanded) not to be done, though he know it not, yet he is guilty, of Lev. V, 17 (v. Rabbenu Gershom). This passage suggests that that guilt-offering is offered only for a particular transgression prohibited by the Lord.

(5) The eating of heleb is the prototype of a sin which involves a sin-offering. For heleb v. Glos.
(6) ‘Commandments’; occurring in Lev. IV, 27 with reference to the sin-offering and in V, 17 with reference to the suspensive guilt-offering; v. also supra 22b.
(7) Sc. the sin-offering.
(8) Sc. the suspensive guilt-offering.
(9) The ordinary guilt-offering is prescribed in five instances: for sacrilege (Lev. V, 15f). for robbery (ibid. 21f.), for the leper (ibid. XIV, 12), for connection with a designated bondmaid (ibid. XIX, 20f.) and for the nazirite (Num. VI, 12).
(10) I.e., no other expiation is ever required.
(11) If the sin becomes known after the offering of this guilt-offering, an additional sin-offering is required.
(12) Nebelah is not subject to a sin-offering in the case of certain transgression; the suspensive guilt-offering brought for the doubt is thus its final expiation.
(13) Even though the Day of Atonement had intervened.
(14) I.e., the suspensive guilt-offering is no longer required, for the Day of Atonement atones for uncertain sins, though not for certain sins liable to a sin-offering.
(15) Viz., in Babylon from Palestine. He was the bearer of many a Palestinian tradition.
(16) Lev. XVI, 16, referring to the High Priest's atonement of the people's transgressions effected by the goat of atonement, which was offered upon the inner altar of the Temple on the Day of Atonement. In addition, the scapegoat’, i.e., the goat that was removed, or made to ‘escape’ into the wilderness, symbolizing the removal of the guilt of the community, was also offered on this day.
(17) Heb. פשעים . ‘transgressions’, denotes wilful rebellious action. Such an act of apostasy is too grave to be expiated by a sacrifice. חטאים ,’sins’, on the other hand, denotes unintentional deviation from the law.
(18) Viz., by the Day of Atonement. The Mishnah, therefore, states that the sacrifices are still due. The suspensive guilt-offering is an exception for reasons that will be explained further on.
(19) Viz., within the Temple, upon the inner altar. This sacrifice expiates only unconscious transgressions; v. Shebu. 22.
(20) Ibid. v. 21. referring to the ‘scapegoat’.
(21) Supra 9a. The text may allude to these four exceptional instances, thus implying that also transgressions liable to a sacrifice are expiated on the Day of Atonement.
(22) V. p. 192, n. 1.
(23) These four instances are exceptions, and it is therefore unlikely that the text alludes to them.
(24) Num. XV, 31. The beginning of the sentence reads, He hath despised the word of the Lord, suggesting a wilful departure from the law of God.
(25) ‘Transgressions’ is regarded as superfluous as it is included in ‘iniquities’. Its mention is to indicate the analogy.
(26) Viz., that the Day of Atonement expiates doubtful sins.
(27) Lev. XVI, 30. ‘Before the Lord’ is interpreted as a phrase qualifying ‘sins’ intimating that man is cleansed of all sins of which he is unaware by reason of their doubtfulness.
(28) Viz., that relating to sacrifices for certain sins, which has been expounded in the discussion preceding this paragraph by Abaya and R. Dimi. These expositions are regarded as unsatisfactory by reason of the above objections that were raised against them.

Talmud - Mas. K'rithoth 26a

be expounded in the manner of Rab Dimi and Abaye, but it may be derived from this argument: ‘The Day of Atonement expiates sins that are known to the Lord alone;’ from which it follows that the Day of Atonement expiates only sins known to the Lord alone, but it does not expiate sins of which the transgressor himself is conscious.

Furthermore said Rab Tahlifa, father of Rab Huna, in the name of Raba: They that are liable to stripes and the Day of Atonement had intervened, are still liable thereto. Is this not obvious? for wherein does it differ from the instance relating to sin-offerings and unconditional guilt-offerings? — I might have argued: There money only is involved;[1] in this instance, however, since his person is involved, I might say that it is not so. He, therefore, teaches us [that the law is the same]. But have we not learnt:[2] Known as well as unknown [sins], positive as well as negative commandments?[3] This is no contradiction; in the one instance the transgressor was warned, in the other he was not warned.[4]

But if this is so,[5] (Mnemonic: A woman after confinement; a leper; a nazirite; a woman suspected of infidelity; the heifer) a woman after a doubtful confinement, if the Day of Atonement had intervened, should also not [bring her offering],[6] for the Day of Atonement had effected atonement, since the sin is one known to the Lord alone'! — Said R. Hoshaia: [It reads.] 'Even all their sins'; but not all their uncleanness.[7] But according to R. Simeon son of Yohai, who holds that a woman in confinement is a sinner,[8] what can be said? — The sacrifice that she brings is, nevertheless, for the purpose of permitting her to partake of consecrated food, and is not expiatory.[9] Remarked Rab Ashi: We have also learnt likewise: A WOMAN WHO IS LIABLE TO A SIN-OFFERING OF A BIRD FOR A DOUBT, AND THE DAY OF ATONEMENT HAD INTERVENED, IS STILL BOUND TO OFFER IT AFTER THE DAY OF ATONEMENT, BECAUSE IT RENDERS HER FIT TO PARTAKE OF SACRIFICIAL FLESH.

Then a doubtful leper, if the Day of Atonement had intervened, should not [bring his offering], for the Day of Atonement had effected atonement, since the sin is one 'known to the Lord alone'! — Said Rab Oshaia: [It reads:] 'Even all their sins'; but not all their uncleanness. But did not R. Samuel b. Nahmani say in the name of R. Jonathan: For seven sins leprosy afflicts man?[10] — The leper when bringing his offering does so, not for the purpose of expiation,[11] but in order to render him fit to partake of consecrated food.

Then a nazirite in doubt,[12] if the Day of Atonement had intervened, should not bring an offering, for the Day of Atonement had effected atonement, since the sin is one 'known to the Lord alone'! — Said Rab Oshaia: [It reads:] 'Even all their sins'; but not all their uncleanness. But according to R. Eleazar b. ha-Kappar, who holds that the nazirite is a sinner,[13] what can be said? — The nazirite when bringing his offering does so, not for the purpose of expiation, but in order to enable him to resume his naziriteship in a state of cleanness.[14]

Then a woman suspected of doubtful infidelity,[15] if the Day of Atonement had intervened, should not bring her offering, for the Day of Atonement had effected atonement, since the sin is one 'known to the Lord alone'! — Said Rab Oshaia: [It reads:] 'Even all their sins'; but not all their uncleanness.[16] Abaye said: The adulterer is aware[17] [of the sin]. Raba said: The woman suspected of infidelity, in bringing [the sacrifice] does so for the purpose of ascertaining her guilt.[18]

Then the heifer whose neck is to be broken,[19] if the Day of Atonement had intervened, [should not be offered]! — Said Abaye: The murderer is aware [of the sin]. Raba said: Scripture reads, And no expiation can be made for the land for the blood that is shed therein, etc.[20] R. Papa said: Scripture reads, Forgive Thy people Israel, etc.;[21] this atonement was applicable even to those who went out from Egypt.

Now that you have established that a sin known to the Lord alone is atoned for by the Day of Atonement, then I might say that when one becomes aware [of the sin] after the Day of Atonement he should not need to bring a sin-offering![22] — Said R. Ze'ira: You cannot say so, for Scripture states 'knowledge' in connection with the sin-offering [of the individual] and also with that of the prince and of the congregation.[23] But is it not necessary [with each of these]? For if it was only mentioned in connection with the ordinary individual, I should have said that the others could not be derived from the ordinary individual because of this objection: It is so with the ordinary individual, since his offering is invariably female.[24] Then let it be stated in connection with the prince alone, and I should derive the others from the case of the prince! — The case of the individual cannot be derived from that of the prince, for it can be objected to: It is so with the prince, since he is not included in the law regarding the refusal of evidence;[25] but can you say so of the individual who is included in this law? Similarly the instance of the congregation cannot be derived from that of the prince, for I might object: It is so with the prince since his offering may at times be female.[26] Then let it be stated only in connection with the congregation, and I should derive the case of the individual and of the prince from it! — I can object: It is so with the congregation since they are liable only when ignorance of the law is followed by action in error.[27]

From the mention of ‘knowledge’ in any one case you cannot indeed derive the others, but from its mention in two instances you might derive the third. Let ‘knowledge’ be omitted in connection with the ordinary individual, and let it be derived from ‘knowledge’ mentioned in connection with the prince and the congregation! — I might object: It is so with the prince and the congregation since they are not subject to the law regarding the refusal of evidence;[28] but can you say so of the individual who is subject to this law? Let then ‘knowledge’ be omitted in connection with the congregation and let it be derived from ‘knowledge’ mentioned with the individual and the prince! — I might object: It is so with the individual and the prince since their sacrifice may at times be female;[29] but can you say so of the congregation whose sacrifice can never be female? Let, then, ‘knowledge’ be omitted in connection with the prince and let it be derived from ‘knowledge’ mentioned in connection with the individual and the congregation! For what argument can be raised in objection thereto? If the fact that the sacrifice is offered only where ignorance of the law [is followed by action in error],[30] the individual proves [the opposite]; and if that the sacrifice is at all times a female, the congregation prove [the opposite],[31] for they never offer a female and are nevertheless liable only when aware of the sin. Wherefore, then, was, ‘knowledge’ mentioned in connection with the prince? As it is not required for its own purpose, since it may be derived from that of the individual and the congregation, apply it to the case where the transgressor becomes aware [of his sin] after the Day of Atonement,[32] to the effect that he must bring a sin-offering. Abaye said: If ‘knowledge’ were omitted in the text relating to the prince I should not have derived it from the cases of the individual and the congregation. for I might object: It is so with the individual and the congregation since they cannot change their status; can you say so

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(1) His obligation, which is ruled to be unaffected by the Day of Atonement, binds him only to the extra expenditure of a sacrifice. In our instance, however, bodily chastisement is involved.

(2) With reference to the transgressions expiated by the Day of Atonement.

(3) Shebu. 2b. A negative commandment usually involves the penalty of stripes, yet it is stated that the Day of Atonement atones for it, thus in contradiction to Rab Tahlifa's ruling.

(4) That Mishnah of Shebu. refers to a case where no stripes are administered, because there was no legal warning. When, however, this penalty is due, the Day of Atonement does not effect its remission.

(5) I.e., if Rab Tahlifa was right.

(6) In contradiction to our Mishnah.

(7) The sin-offering of the woman after confinement is, he holds, brought by reason of her uncleanness and not of her sin; whilst Rab Tahlifa's ruling implies only the expiation of doubtful sins by the Day of Atonement.

(8) V. Nid. 31a. While in travail she swears not to unite again with her husband, and breaks this oath.

(9) The labour pains have expiated the sin.

(10) ‘Ar. 16a. Leprosy is thus the result of sin, and the sacrifice is therefore expiatory. The text adds as a mnemonic: G.G.G. Sh. Sh. L.Z., which are the initial letters of the Hebrew words for the seven sins, viz., Immorality, arrogance, robbery, bloodshed, false oath, slander, and meanness.’

(11) The sin has been expiated by the pain suffered in the illness.

(12) I.e., a nazirite who is in doubt whether his naziriteship has been interrupted through uncleanness. V. Num. VI, 9f.

(13) Ta'an. 11a. His vow of abstention is regarded as a sin.

(14) The sin, however, is expiated by the disgrace to which he submits himself in not having his hair cut (Rashi).

(15) Num. V, 12ff. Every case of a woman suspected of infidelity is obviously one of doubt, and that is what is referred to in this question (Rashi).

(16) Infidelity is expressed in the Bible as uncleanness; v. ibid. v. 13.

(17) The sin is thus not one known to the Lord alone, and is therefore not atoned for by the Day of Atonement.

(18) And not as an expiation; cf. Num. V, 19ff.

(19) Deut. XXI, 1ff.

(20) Num. XXXV, 33; this passage implies that there is no other means to achieve expiation except by the execution of the murderer; or, if the murderer is unknown, through the offering of the heifer.

(21) Deut. XXI, 8. The continuation is: 'Whom Thou has redeemed'. This is taken to indicate that even those who came out of Egypt would be liable to bring a heifer, although many a Day of Atonement had intervened in the meantime, because the Day of Atonement does not expiate a case of unidentified murder.

(22) For the sin is already atoned for.

(23) The text uses the term, 'If (the sin) be known' on three occasions: Lev. IV, 28 relating to an ordinary individual who commits a sin liable to a sin-offering; ibid. v. 23 referring to the prince; and ibid. v. 14 with reference to the congregation. This expression, the threefold repetition of which is unnecessary for the context, as will be explained later, is taken to intimate that whenever the sin becomes known a sin-offering is required. even though the Day of Atonement has intervened.

(24) V. ibid. v. 28. A female animal offering is of lesser importance, and the sin of the ordinary individual might be regarded as of lesser severity. I might therefore have thought that only this individual brings a sin-offering when aware of the sin; the others, however, are liable even in the case of doubt. Therefore the restrictive term 'if be known' is used also with the others.

(25) Lit., 'the hearing of the voice', i.e., the summons to give evidence, which was disregarded. v. Lev. V, 1. Such refusal to give evidence incurs a guilt-offering, but only in the case of an ordinary individual. A prince, on the other hand, cannot give evidence; cf. Sanh. 18a.

(26) In the case of idolatry both prince and commoner are liable to a female sin-offering.

(27) I.e., when the religious authorities wrongfully permitted an act which is forbidden by law, and which the congregation thereupon committed in error.

(28) Regarding the prince (v. p. 197. n. 4).As to the congregation. its liability lies only in active transgression. not in acts of ommission.

(29) V. p. 197. n. 5.

(30) I.e., should you argue that the fact, that the sacrifice is offered after an erroneous judgement, is decisive for the ruling that no sin-offering is brought except where there is awareness of sin, I should reply, the individual disproves this, for his transgression is not the outcome of an erroneous decision and he is nevertheless subject to the same ruling concerning awareness of sin.

(31) I.e., should you argue that the fact, that the sacrifice is at all times a female, is decisive for our ruling and that therefore the prince, who at times offers a male, is not subject thereto, I should reply that the case of the congregation disproves this, which is always liable to a male offering and yet is subject to our ruling.

(32) The expression 'if be known' then conveys that whenever the sin be known, even after the passing of the Day of Atonement, a sin-offering is due.

Talmud - Mas. K'rithoth 26b

of the prince whose status is liable to change?[1] Abaye, therefore, said: [The law[2] is rather inferred] from the following: Since the common term 'mitzwoth' has established between them a textual analogy,[3] thus rendering them analogous one to the other, why then was 'knowledge' mentioned thrice [i.e.] in connection with the commoner, the prince and the congregation? As it is not required for their own cases, for they can be inferred from each other, by reason of the analogy based upon the common term 'mitzwoth', apply it to the case where the transgressor becomes aware [of his sin] after the Day of Atonement ' to the effect that he must bring a sin-offering. But why not argue thus: Granted that when the transgressor becomes aware of his sin after the Day of Atonement he must still bring a sin-offering, because the Day of Atonement does not apply to this specific sin;[4] but in the case of the suspensive guilt-offering, since the offering is brought for the specific sin, he thereby receives atonement, so that when he becomes aware of his sin, after he had offered the suspensive guilt-offering, he need not bring a sin-offering! — Raba replied: Scripture reads, 'If [the sin] be known to him'; at all events.[5] Now that it is established that when he becomes aware of the sin he must still bring a sin-offering, what purpose did the suspensive guilt-offering serve? — Answered R. Zera, [It had the effect] that if he died, he died without sin. Raba demurred: But if he died, death purged him![6] Raba, therefore, answered: [It had the effect] of guarding him from chastisement.[7]

IF A SIN-OFFERING OF A BIRD WAS BROUGHT FOR A MATTER OF DOUBT etc. said Rab: It nevertheless effected atonement.[8] If so, why must it be buried? — Because it was not guarded.[9] When was it not guarded? If at the beginning,[10] was it not alive?[11] If at the end,[12] does he[13] not guard it? — The Mishnah speaks rather of the case where the woman became aware that she did not give birth.[14] And by law, therefore, it should be permitted for use; but why must it be buried? It is a Rabbinical enactment.[15] Rab's remark, however, was stated in connection with the following: If a woman brought a sin-offering of a bird by reason of a doubt, and prior to the pinching of its neck she learnt that the birth was a certainty, she shall offer it for a certainty, for that which she offers in the case of doubt is of the same kind as that which she offers in the case of certainty.[16] But if she learnt after the pinching of the neck that the birth was normal, then Rab says: The blood is sprinkled and drained out, atonement is effected, and [the bird] is permitted to be eaten. R. Johanan says: It is forbidden to be eaten as a precautionary measure lest it be said that a sin-offering of a bird in a matter of doubt may be eaten.

Levi taught in support of Rab: In the case of a sin-offering of a bird brought by reason of a doubt, if it is learnt after the pinching of the neck that the birth was normal, the blood is sprinkled and drained out, atonement is effected, and it is permitted to be eaten. It was taught [in a Baraitha] in support of R. Johanan: In the case of a sin-offering of a bird brought by reason of a doubt, if it is learnt prior to the pinching of the neck that the birth did not take place. the bird reverts to its profane status or it may be sold to a fellowwoman;[17] if it is learnt prior to the pinching of the neck that the birth was certain, it is offered as a certain sacrifice, for that which she offers in the case of doubt is of the same kind as that which she offers in the case of certainty; if it is learnt after the pinching of the neck that the birth did take place, the offering is forbidden even for all use,[18] for it was offered from the outset for a doubt, it has atoned for the doubt, and so has served its purpose.[19]

MISHNAH. IF A MAN SET APART TWO SELA'S[20] FOR A GUILT-OFFERING AND BROUGHT THEREWITH TWO RAMS FOR A GUILT-OFFERING, IF ONE WAS OF THE VALUE OF TWO SELA'S,[21] IT MAY BE OFFERED FOR HIS GUILT-OFFERING, AND THE OTHER MUST BE LEFT TO PASTURE[22] UNTIL IT BECOMES BLEMISHED WHEN IT IS SOLD AND ITS PRICE GOES TO THE FUND FOR FREEWILL-OFFERINGS. IF HE HAD BOUGHT WITH THE MONEY TWO RAMS FOR ORDINARY USE,[23] ONE WORTH TWO SELA'S AND THE OTHER WORTH TEN ZUZ,[24] THAT WHICH IS WORTH TWO SELA'S SHALL BE OFFERED FOR HIS GUILT-OFFERING[25] AND THE OTHER FOR HIS TRESPASS.[26] [IF HE HAD BOUGHT WITH THE MONEY] ONE [RAM] FOR A GUILT-OFFERING AND THE OTHER FOR ORDINARY USE,[27] IF THAT FOR THE GUILT-OFFERING WAS WORTH TWO SELA'S IT SHALL BE OFFERED FOR HIS GUILT-OFFERING[28] AND THE OTHER FOR HIS TRESPASS,[29] AND WITH IT HE SHALL BRING A SELA’ AND ITS FIFTH.[30]

GEMARA. What means HIS TRESPASS[31] which is stated in the first clause: AND THE OTHER FOR HIS TRESPASS? Shall I say it means the ram for the [Sacrilege] guilt-offering? But can it be said that the fifth is brought together with the ram [for the guilt-offering]? Bold it is written: And he shall make restitution for that which he hath done amiss in the holy thing, and shall add the fifth part thereto;[32] whence we see that it is brought together with [the restitution of] his misappropriation! Moreover, the last clause states: [IF HE HAD BOUGHT WITH THE MONEY] ONE [RAM] FOR A GUILT-OFFERING, AND THE OTHER FOR ORDINARY USE, IF THAT FOR THE GUILT-OFFERING WAS WORTH TWO SELA'S, IT SHALL BE OFFERED FOR HIS GUILT-OFFERING, AND THE OTHER FOR HIS TRESPASS, AND WITH IT HE SHALL BRING A SELA’ AND ITS FIFTH. From this too we see that the fifth is brought together with [the restitution of] his misappropriation! — Rather, HIS TRESPASS means the value he had benefitted from the Sanctuary, which is the amount of the two sela's he had originally set apart for a guilt-offering, and with which he bought two rams for ordinary use. So that the one which is worth two sela's he brings as the ram for his guilt-offering, and the other which is worth ten zuz he gives as restitution for what he had benefitted from the Sanctuary, which exactly equals the amount of his misappropriation plus one fifth. And HIS TRESPASS means his misappropriation.

Now how did you interpret HIS TRESPASS stated in the first clause? His misappropriation? Then read the last clause: [IF HE HAD BOUGHT WITH THE MONEY] ONE [RAM] FOR A GUILT-OFFERING, AND THE OTHER FOR ORDINARY USE, IF THAT FOR THE GUILT-OFFERING WAS WORTH TWO SELA'S IT SHALL BE OFFERED FOR HIS GUILT-OFFERING, AND THE OTHER FOR HIS TRESPASS, AND WITH IT HE SHALL BRING A SELA'S AND ITS FIFTH; whence we see that HIS TRESPASS means the ram for the [Sacrilege] guilt-offering. Accordingly in the first clause HIS TRESPASS means his misappropriation,

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(1) Viz., the prince may be deposed and reverted to the status of a commoner.

(2) Viz., that a sin-offering is brought when the transgressor becomes aware of the sin after the Day of Atonement.

(3) The term ‘mitzwoth’, (‘commandment’) occurs in connection with the congregation, Lev. IV, 13, the prince. v. 22, and the commoner, v. 27. This analogy includes that they all follow the same ruling also with regard to the Day of Atonement.

(4) The Day of Atonement atones for sins in general.

(5) I.e., whenever the sin becomes a certainty a sin-offering is due.

(6) For death expiates all sins with but few exceptions.

(7) During all that period that he was in doubt.

(8) Rab interprets this case of the Mishnah that the woman learnt afterwards that the birth was normal. He maintains that she is not liable to a fresh sacrifice.

(9) By reason of its doubtfulness, the sacrifice might not have been guarded properly from contact with unclean persons or objects.

(10) I.e., before the killing of the bird.

(11) And a living animal cannot contract uncleanness.

(12) After it was killed.

(13) Viz., the priest.

(14) The certainty was in the negative direction. She is exempt entirely from a sacrifice, and the offering she dedicated should by law revert to its secular status and be permitted for use.

(15) The Rabbis have ordered its destruction as a precautionary measure lest it be said that sin-offerings in a matter of doubt may be freely used.

(16) Supra 22b.

(17) I.e., any woman after confinement who would require such an offering.

(18) By reason of its doubtful status, it may neither be eaten nor made use of. On the one hand it may be a non-consecrated animal slaughtered in a manner contrary to law and thus forbidden for eating as nebelah; on the other hand, it may be consecrated flesh that may not be eaten, and as such is forbidden to be put to any use.

(19) I.e., it does not definitely revert to its original non-consecrated character.

(20) This is the price of a guilt-offering as prescribed in Lev. V, 15. The sela’, identical with the Biblical shekel, equals four zuz.

(21) I.e., he bought it at a reduced price; v. Gemara.

(22) It was bought with money set apart for a guilt-offering, hence it cannot be used for ordinary purposes even though it is no longer needed for a guilt-offering.

(23) He has thus committed sacrilege by misappropriating consecrated money to the value of two sela's and must now bring a guilt-offering on this account and make restitution.

(24) I.e. two sela's and one half.

(25) Incurred by his present misappropriation of consecrated money.

(26) The animal that is worth ten zuz is to be given as restitution, which exactly equals the amount misappropriated plus a fifth, cf. Lev. V, 16. It must be pointed out that the additional fifth is calculated as one quarter of the original value, so that what is added is a fifth of the repayment.

(27) The misappropriation therefore was of the value of one sela’ only.

(28) Which he was liable to bring at the outset and for which he had originally set apart the money.

(29) I.e. the guilt-offering which he has incurred by the present misappropriation.

(30) As restitution.

(31) The Heb. word מעילה may mean the guilt-offering that must be brought for the misappropriation of consecrated property as well as the act of misappropriation itself.

(32) Lev. V, 16.

Talmud - Mas. K'rithoth 27a

while in the last clause HIS TRESPASS means the ram for his [Sacrilege] guilt-offering![1] — In the first clause where the ram which he bought[2] is exactly equal to the principal and its fifth, the Tanna implies by HIS TRESPASS his misappropriation; in the last clause, however, where the ram which he bought is not equal to the principal and its fifth, the Tanna implies by HIS TRESPASS the ram for his [Sacrilege] guilt-offering, but he must bring with it a sela’ and its fifth [as restitution].

R. Menashia b. Gadda raised the question: Can a man obtain atonement with an accumulation of fifths?[3] If you will say [that it is held] that a man can obtain atonement with the increase of consecrated property,[4] but surely that is because he troubled himself with it,[5] whereas here, since he took no trouble with it, he cannot obtain atonement therewith. Or, perhaps, even if you will say that [it is held that] a man cannot obtain atonement with the increase of consecrated property, but surely that is because he did not set it apart,[6] whereas here in the case of the accumulation of fifths, since he did set it apart.[7] I might say that he can obtain atonement therewith? For the question was raised [in general]: Can a man obtain atonement with the increase of consecrated property or not?

Come and hear: [We have learnt:] IF A MAN SET APART TWO SELA'S FOR A GUILT-OFFERING AND BOUGHT THEREWITH TWO RAMS FOR A GUILT-OFFERING, IF ONE WAS OF THE VALUE OF TWO SELA'S IT MAY BE OFFERED FOR HIS GUILT-OFFERING, AND THE OTHER MUST BE LEFT TO PASTURE UNTIL IT BECOMES BLEMISHED WHEN IT IS SOLD AND ITS PRICE GOES TO THE FUND FOR FREEWILL-OFFERINGS. Surely the case is, is it not, that he bought it[8] for four [zuz][9] and improved it so that it is now worth eight [zuz]? We thus see that a man can obtain atonement with the increase of consecrated property![10] — No, here we are dealing with the case where the shepherd sold it to him at a reduced price.[11]

Come and hear: If a man bought a ram for one sela’ and he fattened it so that it is now worth two sela's, it is valid [for a guilt-offering]. Does not this prove that a man can obtain atonement with the increase of consecrated property? — No, it is different where he fattened it, for it actually cost him eight [zuz].[12]

Come and hear: If a man bought a ram for one sela’ and it is now worth two [sela's], it is valid [for a guilt-offering]. — Here, too, he fattened it. If so, is not this identical with the previous case? — In the first case he bought it for four [zuz] and improved it with four [zuz] more, so that [in fact] it cost him [in all] eight [zuz]; in the second case he bought the ram for four [zuz] and improved it with three [zuz] more and now it is worth eight [zuz]. If so, read the last clause: But he must pay one sela’ [to the Sanctuary]. [Why so?] Has it not cost him seven [zuz]?[13] — What he must pay is what is wanting to make up the [second] sela’. Now if you say that a man cannot obtain atonement with the increase of consecrated property, then even if he pays [one zuz] to makeup the sela’, what then? Surely we require a ram costing two sela's, and it is not so here! — Rather, the Tanna holds that a man can obtain atonement with the increase of consecrated property. If so, he should not have to make up the sela’? — This is the reason that he has to make up the sela’; it is a precautionary measure lest people say that a ram worth less than two sela's can make atonement.

What is the decision? — Come and hear: If at the time [the ram] was set apart it was worth one sela’, but at the time of atonement it was worth two sela's, he has fulfilled his obligation.[14]

R. Eleazar raised the question: Can a man obtain atonement with the increase of consecrated property or not?[15] Thereupon R. Johanan exclaimed: How many years is it that this one has been[16] in our midst and has not heard this law from me? It would seem then that R. Johanan actually gave a ruling on this? — Indeed yes, and he stated it in connection with the following which we learnt: The young of a thank-offering, or the substitutes [of a thank-offering], or if a man set aside [an animal for] his thank-offering and it was lost, and he then set aside another in its stead, [and later the original animal was found] — these do not require the loaves.[17] And R. Hananiah sent[18] this ruling in the name of R. Johanan: They taught so[19] only after atonement had been effected,[20] but before atonement had been effected it would require the loaves.[21] Thus we see that R. Johanan holds that a man can obtain atonement with the increase of consecrated property.

R. Eleazar raised the question: Can living animals be rejected or not?[22] Thereupon R. Johanan exclaimed: How many years is it that this one has been in our midst and has not heard this law from me? It would seem then that R. Johanan actually gave a ruling on this? — Indeed yes. for R. Johanan said: In the case of an animal belonging to two partners, if one dedicated his half[23] and later bought up the other's half and also dedicated it, the animal is holy but cannot be offered [as a sacrifice];[24] moreover it can make [another animal holy as its] substitute, and the substitute is like itself. We learn from this three rulings: we learn that living animals can be rejected; and we learn that what is consecrated only for its value can cause rejection; and we also learn that the law of rejection applies also to what is consecrated only for its value.[25]

R. Eleazar raised the question: What is the law if in the whole world lambs became cheap?[26] Do we say that we require your choice vows,[27] which is the case here; or do we require [two] silver shekels,[28] which is not the case here? Thereupon R. Johanan exclaimed: Many years have we spent[29] in the Beth Hammidrash but we have not heard this law! ‘We have not?’ Behold R. Johanan said in the name of R. Simeon b. Yohai: Why did not the Torah fix a value for [the animal-offerings brought by] those lacking atonement?[30] Because it might happen that lambs would become cheap [in the whole world] and these would never be rendered fit to partake of consecrated food![31] — Say: We have not taught this law. But was not R. Hiyya b. Abba[32] in the habit of revising all his studies every month before him [R. Johanan]?[33] — Say, rather: This law was not sought from us in the Beth Hammidrash.

The [above] text [stated]: ‘R. Johanan said in the name of R. Simeon b. Yohai: Why did not the Torah fix a value for [the animal-offerings brought by] those lacking atonement? Because it might happen that lambs would become cheap [throughout the world] and these would never be rendered fit to partake of consecrated food.’ Abaye demurred: In that case the sin-offering for [eating] forbidden fat[34] should have a fixed value, since it is brought for atonement and not to render one fit to eat consecrated food! Raba also demurred: In that case the guilt-offering of the nazarite should have a fixed value since it is brought for no apparent reason![35] For R. Johanan said in the name of R. Simeon b. Yohai: The only offering that is brought for no reason is the guilt-offering of the nazarite! — This is indeed a difficulty.

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(1) It is indeed strange that the Tanna in one Mishnah should employ the same term for the two conceptions.

(2) All printed texts have here רובן ‘their majority’ which makes no sense. The commentators unanimously emend to דזבן ‘which he bought’, which has been adopted here.

(3) E.g. a man wrongfully made profane use of two sela's which had been dedicated for an offering. He thereupon paid to the Sanctuary the two sela's plus one fifth (as prescribed), in all a sum of ten zuz. Then again he made profane use of the two sela's, indeed he did so four times, and on each occasion he returned the two sela's plus one fifth (i.e. two zuz). The extra fifths now mount up to two sela's (eight zuz) which is the price of a guilt-offering for sacrilege. The question that is raised is, can these two sela's, the accumulation of the fifths of the four occasions, be used for one of the four guilt-offerings for sacrilege that he has incurred? V., however, Sh. Mek.

(4) If e.g. a man bought a ram for a guilt-offering for one sela' and improved it and fattened it, or in the meantime the price of rams had gone up, and it is now worth two sela's and therefore eligible now for a guilt-offering.

(5) He expended time and money on improving the animal.

(6) He did not actually set aside any more money beyond the original sela'.

(7) After each misappropration he set apart an extra two zuz.

(8) Each ram.

(9) I.e. one sela'.

(10) Since one of the rams may be offered for a guilt-offering.

(11) The reduction was a personal favour to the purchaser, hence it is not considered as increase in consecrated property'.

(12) Four zuz the cost of purchase and four zuz the cost of fattening.

(13) At most he should have to pay to the Sanctuary one zuz.

(14) This clearly proves that a man can obtain atonement with the increase of consecrated property. The precise wording of this Baraitha precludes the possibility that the increase was due to fattening. V. Sh. Mek. It must be observed that R. Gershom reads in the Baraitha: 'he has not fulfilled his obligation', and the proof is therefore the reverse, that a man cannot obtain atonement with the increase of consecrated property.

(15) R. Eleazar apparently had not heard of the last Baraitha quoted.

(16) Lit. 'has grown up'. (5) The substitute of an offering is holy like the offering itself; v. Lev. XXVII, 33.

(17) Which must accompany the thank-offering; v. Lev. VII, 12, 13. V. Men. 79b.

(18) From Palestine to Babylon.

(19) 'That the young of a thank-offering does not require the loaves'. These words appearing incur. edd. are obviously a gloss. V. Sh. Mek.

(20) With the offering of the mother animal.

(21) And the young may be offered as the thank-offering in fulfillment of his obligation. This is an obvious case of increase in consecrated property, and it is taught that one may use 'the increase' in fulfillment of one's obligation.

(22) If an animal consecrated for an offering was for some cause rendered ineligible for offering, and later the disqualifying cause was removed, can it now be offered or is it permanently rejected?

(23) At this stage it is ineligible for a sacrifice since only half of it is holy. The animal is consecrated only as to its money value, i.e. it must be sold and half the proceeds to be used for a sacrifice.

(24) Its original rejection is permanent even though now the whole animal is consecrated.

(25) This and the preceding ruling amount to the same thing (Rashi). There are several variants of the text here, v. Sh. Mek., and the parallel passages in Kid. 7a and b, Zeb. 12a, and Tem. 26a and b. V. infra 28a top.

(26) So that no lambs cost as much as two shekels.

(27) Deut. XII, 11. By bringing a choice animal one has surely fulfilled one's obligation, especially as no animal can be bought for two shekels.

(28) Lev. V, 15.

(29) Lit. 'grown up'.

(30) A zab, a zabah (v. Glos.), a woman after childbirth, and a leper, even after the completion of their period of uncleanness are still debarred from partaking of consecrated food until their prescribed offerings were brought.

(31) It follows from this that where the Torah did fix the price of the offering that condition is indispensable in all circumstances.

(32) Cur. edd. R. Zera b. Adda; but cf. Ber. 38b. and Hul. 86b.

(33) Then surely R. Johanan must have taught his pupil this ruling.

(34) A typical example of a sin involving a sin-offering.

(35) Lit. 'in vain'. The nazirite whose period of consecration was profaned by uncleanness was obliged, before resuming his period afresh, to bring two doves, one for a sin-offering and the other for a burnt-offering, as well as a lamb for a guilt-offering. Now his sin-offering atoned for his involuntary defilement, his burnt-offering for his sinful thoughts, whereas the sprinkling with water of purification on the third and the seventh days of his uncleanness rendered him fit to partake of consecrated food. The guilt-offering, however, seems entirely superfluous and no reason can be adduced for its offering. V. however Ned. 10a.

Talmud - Mas. K'rithoth 27b

MISHNAH. IF A MAN SET APART HIS SIN-OFFERING AND THEN DIED. HIS SON MAY NOT OFFER IT AFTER HIM.[1] A MAN MAY NOT OFFER [WHAT WAS SET APART] FOR ONE SIN IN RESPECT OF ANOTHER SIN; MOREOVER. EVEN IF HE HAD SET APART [THE SIN-OFFERING] FOR FORBIDDEN FAT THAT HE HAD EATEN YESTERDAY, HE MAY NOT OFFER IT FOR FORBIDDEN FAT THAT HE HAS EATEN TO-DAY, FOR IT IS WRITTEN, HIS OFFERING ... FOR HIS SIN;[2] THE OFFERING MUST BE FOR THAT PARTICULAR SIN [FOR WHICH IT WAS SET APART].

GEMARA. Whence do we know this? — For our Rabbis taught:[3] His offering[4] [implies that] he fulfils his obligation with his own offering but not with that of his father. I might think that this means that he does not fulfil [his obligation] in respect of a serious offence[5] with his father's offering which had been set apart for a light offence[6] or vice versa, but he does fulfil [his obligation] in respect of a light offence with [what his father had set apart also for] a light offence, or his obligation in respect of a serious offence with [what his father had set apart also for] a serious offence. Therefore Scripture states, [once again,] His offering, [to show that] he fulfils [his obligation] with his own offering [only] but not with that of his father. Again I might think that he does not fulfil [his obligation] in respect of either a light or serious offence with the animal which his father had set apart also for an offence of a similar degree of gravity, since [it is established that] a man cannot make use of his [nazirite] father's animal for his own nazirite offerings,[7] but he does fulfil [his obligation] with money which his father had set apart, and even transfer what was assigned for a light offence to a serious offence, and vice versa, since [it is established that] a man may make use of his [nazirite] father's money for his own nazirite offerings, provided that it was unspecified money and not ear-marked.[8] Therefore Scripture states [a third time], His offering, [to show that] he fulfils [his obligation] with his own offering [only] but not with that of his father. I might further think that he does not fulfil [his obligation] even with money which his father had set apart, albeit for an offence of equal gravity, but he does fulfil [his obligation] with an offering which he himself had set apart, even transferring what was set apart for a serious offence to a light offence, or vice versa. Scripture therefore states, ‘His offering ... for his sin’, [to show that] the offering must be for the particular sin [for which the animal was set apart]. I might further think that he does not fulfil [his obligation] with an animal which he had set apart for himself, albeit for an offence of equal gravity, since [we know that] if he set apart an animal as an offering for his eating forbidden fat and brought it as an offering for his eating blood, or vice versa, he has thereby not been guilty of misappropriation[9] and he has not received atonement therewith, but he does fulfil [his obligation] with money which he had set apart for himself, whether or not there is a change in the gravity of the offence, since [we know that] if he set apart for himself money for [an offering for his eating] forbidden fat and used it for [an offering for his eating] blood, or vice versa, he has thereby become guilty of misappropriation and he receives atonement therewith. Therefore Scripture states, His offering ... for his sin, [to show that] the offering must be for the particular sin [for which the money was assigned].

What is meant by ‘he has thereby not been guilty of misappropriation and he has not received atonement therewith’? — Rab Samuel b. Shimi explained it before Rab Papa: It means, since he cannot possibly thereby become guilty of misappropriation,[10] consequently he cannot receive atonement therewith; and this being so, he obviously cannot use it[11] [the animal] for something else. In the case of money, however, [which was set apart for one purpose,] since if he used it for something else he has thereby become guilty of misappropriation,[12] and must bring a guilt-offering for his misappropriation. I might think that he may bring [another offering] even at the outset;[13] we are therefore informed [that he may not do so].[14]

MISHNAH. ONE MAY BRING WITH [MONEY] DEDICATED TO BUY A LAMB [FOR A SIN-OFFERING] A GOAT, OR WITH [WHAT WAS] DEDICATED TO BUY A GOAT [ONE MAY BRING] A LAMB; OR WITH [WHAT WAS] DEDICATED TO BUY A LAMB OR A GOAT [ONE MAY BRING] TURTLE-DOVES OR YOUNG PIGEONS;[15] OR WITH [WHAT WAS] DEDICATED TO BUY TURTLE-DOVES OR YOUNG PIGEONS [ONE MAY BRING] THE TENTH OF AN EPHAH.[16] HOW IS THIS? THUS IF A MAN SET APART [MONEY] FOR A LAMB OR A GOAT AND HE BECAME POOR, HE MAY BRING A BIRD-OFFERING;[17] IF HE BECAME STILL POORER HE MAY BRING THE TENTH OF AN EPHAH. IF A MAN SET APART [MONEY] FOR THE TENTH OF AN EPHAH AND HE BECAME RICH, HE MUST BRING A BIRD-OFFERING;[18] IF HE BECAME STILL RICHER HE MUST BRING A LAMB OR A GOAT. IF[19] A MAN SET APART A LAMB OR A GOAT AND THEY SUFFERED A BLEMISH,[20] HE MAY IF HE SO WISHES[21] BRING WITH THEIR PRICE A BIRD-OFFERING; BUT IF HE SET APART A BIRD-OFFERING AND IT SUFFERED A BLEMISH,[22] HE MAY NOT BRING WITH ITS PRICE THE TENTH OF AN EPHAH. SINCE A BIRD-OFFERING CANNOT BE REDEEMED.[23]

GEMARA. Whence do we know this? — For our Rabbis taught: Wherefore does Scripture state: ‘From his sin-offering’. ‘From his sin-offering’, and ‘To his sin-offering’.?[24] Whence do you know to say that one may bring with [money] dedicated to buy a lamb [for a sin-offering] a goat, or with [what was] dedicated to buy a goat [one may bring] a lamb; or with [what was] dedicated to buy a lamb or a goat [one may bring] turtle-doves or young pigeons; or with [what was] dedicated to buy turtle-doves or young pigeons [one may bring] the tenth of an ephah? How is this? Thus if a man set apart [money] for a lamb or a goat and he became poor, he may bring with it a bird-offering; if he became still poorer he may bring the tenth of an ephah. If a man set apart [money] for the tenth of an ephah and he became rich, he must bring a bird-offering; if he became still richer he must bring a lamb or a goat. If a man set apart a lamb or a goat and they suffered a blemish, he may if he so wishes bring with their price a bird-offering; but if he set apart a bird-offering and it suffered a blemish he may not bring with its price the tenth of an ephah, since a bird-offering cannot be redeemed. Therefore Scripture states, ‘From his sin-offering’, and ‘To his sin-offering’. And it is necessary for Scripture to state ‘from his sin-offering’ in connection with a lamb or a goat as well as in connection with a bird-offering. For if the expression had only been stated in connection with [money] set apart for a lamb or a goat, then I might have said that if he set apart [money] for a lamb or a goat and he became poor, [part] of that money may be applied[25] to a bird-offering, and he brings a bird-offering, since a lamb and a bird-offering are both blood offerings, but as for the tenth of an ephah, since it is not a blood offering, I might have said, had not the expression ‘from his sin-offering’ been stated in connection with the bird-offering, that if he set apart money for a pair of birds[26] and he became poor, he may not bring with it the tenth of an ephah, for it is not a blood offering, but he must bring the tenth of an ephah from his house, whilst that money which he had set apart shall fall to the fund for freewill-offerings. Therefore Scripture also stated ‘from his sin-offering’ in connection with the bird-offering to teach you that with [the money] dedicated to buy a bird-offering he may also bring the tenth of an ephah. And why is the expression ‘to his sin-offering’ stated in connection with the tenth of an ephah?[27] To teach you that if a man set apart money for the tenth of an ephah and before he brought the offering he became rich he must add [more money] to it and bring a bird-offering, and if he became still richer he must add [further money] to it and bring a lamb or a goat. And why is the expression ‘to his sin-offering’ stated in connection with the tenth of an ephah [and not in connection with the bird-offering]? If the expression ‘to his sin-offering’ were stated in connection with the bird-offering, I might have said that only if he had set apart money for a pair of birds and he became rich may he add [more money] to it and bring a lamb or a goat, since they are both blood offerings; but if he set apart money for the tenth of an ephah and he became rich, then if he did not become very rich he must bring [from his house] a bird-offering, and if he became very rich he must bring [from his house] a lamb or a goat, whilst that money which he had [originally] set apart shall fall to the fund for freewill-offerings. Therefore Scripture stated the expressions ‘from his sin-offering’ in connection with [the offering brought by a man] when rich and also in connection with [the offering brought by a man] when poor, and the expression ‘to his sin-offering’ in connection with [the offering brought by a man] when very poor to teach you [the expositions] as we have stated above.[28]

R. Eleazar said in the name of R. Oshaia: If a rich man who defiled the Sanctuary[29] had set apart a pair of birds

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(1) If the son was liable to bring a sin-offering he may not make use of his deceased father's animal, for it is an established law (Tem. IV, 1) that if the owner of a sin-offering died the animal must be left to die. The son can certainly not offer this sin-offering on behalf of his father, for atonement cannot be effected after death.

(2) Lev. IV, 28.

(3) V. Naz. 27b. where the entire passage is taught.

(4) This expression is used three times in Lev. IV, once with reference to the sacrifice brought by a prince who sinned in error (v. 23); the second time with reference to the goat (v. 28) and the third time with reference to the lamb (v. 32) brought by one of the common people who sinned in error.

(5) E.g. the sin-offering brought for inadvertently profaning the Sabbath. This offence is regarded ‘serious’ in that the wilful commission thereof involves the death penalty.

(6) E.g. the sin-offering brought for inadvertently eating forbidden fat. This offence is regarded ‘light’ in that the wilful commission thereof involves the penalty of kareth (v. Glos.) only, but not death.

(7) Lit. ‘he may not shave his naziriteship with the animal which his father (also a nazirite) had set apart’. The reference is to the sacrifice incumbent upon the nazarite at the end of the period of his consecration, when he must shave his head at the Sanctuary. V. Num. VI, 13-18.

(8) The money was not specified by the father for the particular offering, either for his sin-offering or his burnt-offering. V. Nazir 30a.

(9) V. infra, next paragraph and notes.

(10) The proposed change of using an animal assigned for a sin-offering, say, in respect of an offence relating to forbidden fat for an offence relating to blood is ineffectual (v. our Mishnah), and the animal remains in its former assignation. Moreover, an animal intended for the altar cannot be transferred from its sacred to a profane status, so that under no circumstances can the animal become his again, consequently no guilt of misappropriation is applicable.

(11) Lit. ‘he cannot change it’.

(12) For any proposed change in the use of money set aside for a particular offering renders the money non-holy, even though the money is intended for another consecrated purpose; consequently the guilt of misappropriation is applicable, involving a guilt-offering.

(13) I.e. that he is permitted to make such a change even in the first instance.

(14) Because Scripture says, for his sin; thus no change is allowed in the first instance.

(15) I.e. if he became poor and could not afford the animal-offering. This is explained anon in the Mishnah.

(16) The prescribed quantity of fine flour for a meal-offering.

(17) The surplus of the money would become non-holy and remains for his own use.

(18) By adding to the money he had originally set apart.

(19) This sentence is not found in the cur. edd. but it is found in the separate Mishnah collections. Moreover Rashi comments on it, thus indicating that he had the passage before him in his text. V. Sh. M., and marg. gloss.

(20) For a consecrated animal may be redeemed only after it had suffered a blemish.

(21) I.e. if he became poor. V. Gemara.

(22) Not the ordinary kind of blemish which disqualifies an animal-offering, for that does not disqualify a bird, but a major blemish such as the loss of a limb.

(23) The law concerning the redemption of blemished consecrated animals is stated in connection with animal-offerings but not with birds.

(24) Lev. V, 6. 10, 13. This is the literal translation of these expressions; E.V. render: ‘as concerning his sin’ ‘as concerning his sin' and 'as touching his sin' respectively. These expressions are found in connection with the sin-offering brought for certain transgressions which varies according to the financial circumstances of the sinner: if he is rich he must bring a female lamb or a female goat for his sin-offering, if poor he must bring either two turtle-doves or two young pigeons, and if he is very poor he must bring the tenth part of an ephah as a meal-offering. It should be observed that in the first two texts the preposition מ 'from' is used, indicating that from a larger sum of money assigned for the sin-offering some is taken for the offering and the remainder is non-holy, while in the last text the preposition על 'to' is used, signifying that in certain circumstances money must be added to the sum originally assigned.

(25) The word used in the text is unusual and would seem to mean 'they shall be redeemed', thus implying that the entire money becomes non-holy except for the value of the bird-offering.

(26) Lit. 'his nest'. The bird offering prescribed in the Torah always consists of two birds, a pair of turtle-doves or a pair of young pigeons, one for a sin-offering and the other for a burnt-offering.

(27) Emended text by Sh. Mek.

(28) The text of this entire passage is diffuse and hangs together loosely. The corrections of Sh. Mek. and Bah have been adopted generally.

(29) I.e. he entered the Sanctuary or ate consecrated flesh whilst in a state of uncleanness. He is bound to bring a sin-offering for atonement; the offering, however, varies according to the financial circumstances of the sinner; v. Lev. V, 2ff.

Talmud - Mas. K'rithoth 28a

instead of his lamb [that he was due to bring] and he became poor, since the offering was rejected it remains rejected.[1] Said Rab Huna the son of R. Joshua: From this we learn three things:[2] we learn that living animals can be rejected, that what is consecrated only for its money value can cause rejection,[3] and that what was rejected [be it even] at the very outset remains rejected permanently.[4]

R. 'Ukba b. Hanna raised an objection: If a man set apart before the Passover[5] a female lamb[6] for his Passover-offering, it must be left to pasture until it suffers a blemish when it must be sold and with the price thereof he may bring a Passover-offering. If it gave birth to a male, it[7] must be left to pasture until it suffers a blemish when it is sold and with the price thereof he may bring a Passover-offering. R. Simeon says: It itself may be brought as a Passover-offering. We thus learn [from the opinion of R. Simeon] that living animals are not rejected! — R. Oshaia replied:[8] I stated [my view] in accordance with the opinion of the Rabbis, for it is [only] R. Simeon who holds that living animals are not rejected.[9] For it was taught: If one of the two [goats] died he may bring another without [further] casting of lots;[10] this is the opinion of R. Simeon. We thus see that he holds that living animals are not rejected, neither is the casting of lots indispensable.

Rab Hisda said: Bird-offerings are designated[11] only at the time of purchase by the owner or at the time of offering by the priest.[12] Said Rab Shimi b. Ashi: What is the reason for Rab Hisda's view? Because it is written, And she shall take two turtle-doves[13] etc. and also, And the priest shall offer[14] etc. thereby indicating [that the designation is made] either at the time of purchase by the owner or at the time of offering by the priest.

An objection was raised: [And Aaron shall present the goat upon which the lot fell for the Lord,] and make it a sin-offering;[15] this implies, that the lot makes it a sin-offering but designation does not make it a sin-offering.[16] For [without this text] I would have argued [the reverse] by a fortiori reasoning thus: if in a case where the lot does not sanctify[17] designation does, then surely where the lot sanctifies designation does so all the more! Therefore Scripture stated, 'And make it a sin-offering', to intimate that the lot [only] makes it a sin offering but designation does not make it a sin-offering. Now [in the argument] designation was equated with the lot; and as the lot is [effective] not [necessarily] at the time of purchase or at the time of offering,[18] so designation is [effective] not [necessarily] at the time of purchase or at the time of offering![19] Rabbah answered: This was the argument: if in a case where the lot does not sanctify even [when cast] at the time of purchase or at the time of offering, designation does sanctify [if made] either at the time of purchase or at the time of offering,[20] then surely where the lot sanctifies outside the time of purchase or the time of offering, designation sanctifies all the more either at the time of purchase or at the time of offering! Therefore Scripture stated, ‘And make it a sin-offering’, to intimate that the lot [only] makes it a sin-offering but designation does not make it a sin-offering.

An objection was raised: If a poor man who defiled the Sanctuary had set apart money for his bird-offering, and he became rich,[21] and afterwards[22] said: ‘This [money] shall be for my sin-offering and this for my burnt-offering’, he may add to the money assigned for his [bird] sin-offering and bring therewith his obligation,[23] but he may not add to the money assigned for his [bird] burnt-offering and bring therewith his obligation.[24] Now here [the designation was made] neither at the time of purchase nor at the time of offering,[25] and yet it states that he may bring his obligation from the money assigned for his sin-offering but not from that assigned for his burnt-offering.[26] — Thereupon Rab Shesheth said: And do you think that the Baraitha is in order? [It surely is not,] for it says, ‘And he became rich and afterwards said’, whereas R. Eleazar said in the name of R. Oshaia that if a rich man who defiled the Sanctuary brought a poor man's offering he has not fulfilled his obligation![27] But you must rather say that he had already designated it when he was still poor;[28] then here,[29] too, [we will say that] he had already designated it when he set apart [the money][30] . But according to R. Hagga who said in the name of R. Oshaia[31] that he thereby fulfilled his obligation,[32] what can be said?[33] — Read [in the Baraitha]: And afterwards he bought and said.[34]

An objection was raised: If a poor leper brought the offerings of a rich leper he has fulfilled his obligation; if a rich leper brought the offerings of a poor leper he has not fulfilled his obligation. Is not this a refutation of R. Hagga's ruling in the name of R. Oshaia?[35] — He can reply: It is different in the case of a leper, for the Divine Law imposed there a limitation by the word ‘this’.[36] If so, then even a poor leper who brought the offerings of a rich leper should not thereby fulfil his obligation? — How could this be? Surely this case was included by the expression ‘the law’![37] And so it was taught: The expression ‘the law’ includes the case of a poor leper who brought a rich leper's offering that he has-thereby fulfilled his obligation. I might think, however, that even where a rich leper brought a poor leper's offering he has also fulfilled his obligation; therefore Scripture added: ‘this’. Let us then infer from it![38] — Scripture states, And if he be poor and his means suffice not:[39] signifying that only ‘he’, the leper, when rich does not fulfil his obligation with a poor man's offering, but a rich man who defiled the Sanctuary and who brought a poor man's offering has thereby fulfilled his obligation.

MISHNAH. R. SIMEON SAYS: LAMBS COME BEFORE GOATS IN ALL PLACES.[40] YOU MIGHT THINK THAT IT IS BECAUSE THEY ARE CHOICER,[41] THEREFORE SCRIPTURE STATED, AND IF HE BRING A LAMB AS HIS OFFERING,[42] TO TEACH THAT BOTH ARE EQUAL. TURTLE-DOVES COME BEFORE YOUNG PIGEONS IN ALL PLACES. YOU MIGHT THINK THAT IT IS BECAUSE THEY ARE CHOICER. THEREFORE SCRIPTURE STATED, A YOUNG PIGEON OR A TURTLE-DOVE FOR A SIN-OFFERING,[43] TO TEACH THAT BOTH ARE EQUAL. THE FATHER COMES BEFORE THE MOTHER IN ALL PLACES. YOU MIGHT THINK THAT IT IS BECAUSE THE HONOUR DUE TO THE FATHER EXCEEDS THE HONOUR DUE TO THE MOTHER, THEREFORE SCRIPTURE STATED, YE SHALL FEAR EVERY MAN HIS MOTHER AND HIS FATHER,[44] TO TEACH THAT BOTH ARE EQUAL.[45] BUT THE SAGES HAVE SAID: THE FATHER COMES BEFORE THE MOTHER IN ALL PLACES, BECAUSE BOTH A MAN AND HIS MOTHER ARE BOUND TO HONOUR THE FATHER. AND SO IT IS ALSO WITH THE STUDY OF THE LAW; IF THE SON HAS BEEN WORTHY [TO SIT] BEFORE THE TEACHER, THE TEACHER COMES BEFORE THE FATHER IN ALL PLACES,[46] BECAUSE BOTH A MAN AND HIS FATHER ARE BOUND TO HONOUR THE TEACHER.

GEMARA. Our Rabbis taught:[47] Four cries did the Temple Court cry out. The first cry: Cause the sons of Eli, Hophni and Phinehas, to depart hence for they defiled the Temple.[48] The second cry: Open. O ye gates, and let Johanan the son of Nidbai, the disciple of Pinkai, enter and fill his stomach with the Divine sacrifices. It was said of the son of Nidbai that he used to eat four seah[49] of young birds

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(1) Being a rich man the offering of a pair of birds which he set apart was ineligible for sacrifice, and once the offering had become ineligible it remains so for all times, even though in this case the man's circumstances deteriorated and he is now by law entitled to bring a bird-offering.

(2) V. supra 27a.

(3) The bird-offering which had been set apart by this man could not have been intended for the altar, since he was rich at the time, so that it was consecrated only for the value it would fetch — it would have to be sold and with the money realized the proper sacrifice would be offered. These actual birds, however, can under no circumstances be utilized for an offering even though now, by reason of the change in his circumstances, he is permitted to bring a bird-offering.

(4) And how much more so if its rejection followed its previous state of fitness!

(5) This is unnecessarily stated (Rashi). It is omitted in MS. M.

(6) This is contrary to law, for the Passover-offering must be a male, v. Ex. XII. 5.

(7) The young.

(8) In cur. edd. ‘The school of R. Oshaia would say’.

(9) In cur. edd. there is added: ‘neither is the casting of lots indispensable’. This has no bearing on the argument and is deleted by Sh. Mek.; it is omitted in MS. M.

(10) On the Day of Atonement two goats were brought and lots were cast over them, one as an offering to the Lord and the other as the Scapegoat; v. Lev. XVI, 8. If one of the goats died after the decision of the lots, another goat may be brought to replace it, according to R. Simeon, neither is there any need for a second ceremony of casting lots. Now the surviving goat was temporarily rejected by reason of the death of the other, yet it becomes now eligible for offering, thus proving that living animals are not permanently rejected.

(11) Which shall be a sin-offering and which a burnt-offering.

(12) Wherever the Torah prescribes a bird-offering, e.g. in the case of a woman after childbirth, two turtle-doves or two young pigeons must be brought, one to be a sin-offering and the other a burnt-offering. The allocation of the birds for the particular offering, we are here told, may be made at two periods only, either when the owner purchases them or when the priest is about to offer them. The designation of the birds at these two periods is final and cannot be altered; if made at any other time the designation is not decisive and it may be altered.

(13) Lev. XII, 8. The verse continues: or two young pigeons: the one for a burnt-offering and the other for a sin-offering. This indicates that the woman after confinement designates the birds for the particular kind of offering at the time when she takes, i.e. purchases, them.

(14) Ibid. XV, 30. In this verse the designation is left to the priest at the time when he prepares the birds for sacrifice.

(15) Ibid. XVI, 9, with reference to sacrifices of the Day of Atonement.

(16) If the High Priest, therefore, did not cast lots over the two goats but merely named them for their specific purposes, one for the Lord and the other as the Scapegoat, they are not thereby finally determined but may be interchanged.

(17) In the case where a pair of birds is prescribed, the casting of lots to determine which shall be the sin-offering and which the burnt-offering is not decisive, and they may be interchanged, for the casting of lots is prescribed as a rite only for the two goats of the Day of Atonement.

(18) For the casting of the lots over the goats may be done at any time on the Day of Atonement but not necessarily at these two specified periods.

(19) Thus contradicting Rab Hisda's statement.

(20) In accordance with Rab Hisda's dictum.

(21) He is now bound to bring an animal for a sin-offering, so that his subsequent designation of the money for the respective bird-offerings was in error and unnecessary.

(22) This word is deleted by Sh. Mek.; it is also omitted in MS. M.

(23) I.e. his animal sin-offering.

(24) For the designation, though unnecessary. was effective, and whatsoever is allocated for a burnt-offering may never be used for a sin-offering.

(25) The designation was made some time after he had set apart the money.

(26) Thus proving that the designation is effective even when made at other times contrary to Rab Hisda.

(27) Since he does not fulfil his obligation with the poor man's offering of birds then surely his designation was of no effect, consequently he should be permitted to use the entire money as he pleases.

(28) I.e. the designation was made before he became rich when he was still subject to a poor man's offering and therefore the designation is effective. The Baraitha must be corrected accordingly.

(29) I.e. the interpretation of the Baraitha according to Rab Hisda.

(30) According to Rab Hisda the Baraitha required a further correction to imply that the designation was made not only before this man became rich but actually at the very moment when the money was set apart. This period is equivalent to the time of purchase, and therefore the designation is effective in accordance with Rab Hisda's ruling.

(31) Sh. Mek. emends: R. Josiah. So in the parallel passage in Yoma 41a.

(32) In the case where a rich man who had defiled the Sanctuary brought a poor man's offering.

(33) Accordingly the original text of the Baraitha is correct and does not require any emendation; how then will Rab Hisda reconcile this Baraitha with his view?

(34) The word ‘bought’ must be inserted. In this way the designation was made at the time of purchase, and it is therefore effective, in accordance with Rab Hisda's view.

(35) Who ruled that in the case where a rich man who had defiled the Sanctuary and brought a poor man's offering he has fulfilled his obligation.

(36) Lev. XIV, 2: This shall be the law of the leper. The word ‘this’ suggests strict adherence to the offerings prescribed.

(37) Ibid. The expression ‘the law’ indicates that ultimately there is one law for all lepers. Lit. ‘the verse reverted him (to the general law)’.

(38) That a rich man who defiled the Sanctuary cannot obtain atonement by a poor man's offering, just as a rich leper cannot discharge his obligation with the offering of a poor leper.

(39) Ibid. 21.

(40) Throughout Scripture where a choice of animals is given for an offering Scripture always mentions lambs before goats.

(41) And should therefore be given preference in setting aside an animal for offering.

(42) Lev. IV, 32. This offering is stated as an alternative to the goat prescribed earlier in this chapter, in v. 28. In this passage the goat is stated before the lamb, and it serves to signify that both are equal in regard to sacrifices.

(43) Ibid. XII, 6.

(44) Lev. XIX, 3.

(45) The reward for honouring the mother is as great as for honouring the father (R. Gershom).

(46) V. B.M. 33a.

(47) V. Pes. 57a. where this same passage is taught with much textual variation.

(48) V. I Sam. II, 17, 22.

(49) V. Glos. Rashi in Pes. l.c. explains this as a compliment to his hospitality that many were invited to share his table, hence the excessive amount of food consumed.

Talmud - Mas. K'rithoth 28b

as a dessert for his meal. It was said that as long as he lived never was there nothar[1] in the Temple. The third cry: Lift up your heads, O ye gates. and let Elishama the son of Pikai,[2] the disciple of Phinehas,[3] enter and serve in the [office of the] High Priesthood. The fourth cry: Open, O ye gates, and cause Issachar of Kefar Barkai to depart hence, for he honours himself and treats with contempt the Divine sacrifices. What used he to do? He used to wrap silk over his hands and thus perform the service.[4] What was his fate?[5] Once king Jannai and his queen were sitting [at a meal]. The king said, ‘Goat's flesh is best’, but the queen said, ‘Lamb is best’. They said, ‘Let us ask Issachar of Kefar Barkai, who is the High Priest and offers sacrifices daily; so he ought to know’.[6] They [called him and] asked him; whereupon he replied. ‘If goat's flesh were best let it be offered for the daily sacrifice’.[7] As he spoke he waved his hand [in contempt]. Then said the king, ‘Since he waved his hand [in contempt of our royal persons] let his right hand be cut off’. He, however, gave a bribe and they cut off his left hand. When the king heard this he said, ‘Cut off his right hand too’. Rab Joseph said: Blessed be the Merciful One who paid out to Issachar of Kefar Barkai his due [in this world]!

Rab Ashi said: He[8] had not studied the Mishnah, for we have learnt: LAMBS COME BEFORE GOATS IN ALL PLACES. YOU MIGHT THINK THAT IT IS BECAUSE THEY ARE CHOICER, THEREFORE SCRIPTURE STATED, AND IF HE BRING A LAMB AS HIS SIN-OFFERING, TO TEACH THAT BOTH ARE EQUAL. Rabina said: He had not studied even Scripture, for it is written, If [he brings] a lamb ... And if [his offering be] a goat.[9]

R. Eleazar said in the name of R. Hanina:[10] The disciples of the Sages increase peace in the world, as it is said, And all thy children shall be taught of the Lord; and great shall be the peace of thy children[11] . Read not ‘thy children’ [banayik], but ‘thy builders’[12] [bonayik].

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(1) V. Glos.

(2) In Pes. l.c. the name is given as: Ishmael the son of Phabi.

(3) In his zeal for God, cf. Num. XXV, 11.

(4) The service must be performed with the bare hand, and any covering on the hand disqualifies the service. His action showed contempt for the Divine sacrifices.

(5) Lit. ‘what came to him?’

(6) This follows the text of Sh. Mek. and MS. M.

(7) Whereas the daily sacrifices were lambs only; v. Num. XXVIII, 3.

(8) Issachar of Kefar Barkai.

(9) Lev. III, 7, 12. These verses indicate that neither is preferable, and one may offer whichever one pleases. On the whole passage see Pes. (Sonc. ed) pp. 285-6 and notes.

(10) This passage is also found at the conclusion of three other tractates viz. Berakoth, Yebamoth, and Nazir.

(11) Isai. LIV. 13.

(12) Scholars are the true builders of the world and by their dissemination of knowledge and enlightenment they preserve the peace of the world.

Talmud - Mas. Me'ilah 2a

CHAPTER I

MISHNAH. IF THE MOST HOLY SACRIFICES[1] WERE SLAUGHTERED ON THE SOUTH SIDE [OF THE ALTAR].[2] THE LAW OF SACRILEGE[3] [STILL] APPLIES TO THEM. IF THEY WERE SLAUGHTERED ON THE SOUTH SIDE AND THEIR BLOOD RECEIVED ON THE NORTH OR [SLAUGHTERED] ON THE NORTH SIDE AND THEIR BLOOD RECEIVED ON THE SOUTH, OR IF THEY WERE SLAUGHTERED BY DAY AND [THEIR BLOOD] SPRINKLED DURING THE NIGHT[4] OR [SLAUGHTERED] DURING THE NIGHT AND [THEIR BLOOD] SPRINKLED BY DAY,[5] OR IF THEY WERE SLAUGHTERED [WITH THE INTENTION OF EATING THE FLESH] BEYOND ITS PROPER TIME OR OUTSIDE ITS PROPER PLACE,[6] THE LAW OF SACRILEGE STILL APPLIES TO THEM. R. JOSHUA LAID DOWN THE GENERAL RULE: WHATEVER HAS AT SOME TIME BEEN PERMITTED TO THE PRIESTS DOES NOT COME UNDER THE LAW OF SACRILEGE,[7] AND WHATEVER HAS AT NO TIME BEEN PERMITTED TO THE PRIESTS DOES COME UNDER THE LAW OF SACRILEGE. WHICH IS THAT WHICH HAS AT SOME TIME BEEN PERMITTED TO THE PRIESTS? [SACRIFICES] WHICH REMAINED OVERNIGHT[8] OR BECAME DEFILED OR WERE TAKEN OUT [OF THE TEMPLE COURT].[9] WHICH IS THAT WHICH HAS AT NO TIME BEEN PERMITTED TO THE PRIESTS? [SACRIFICES] THAT WERE SLAUGHTERED [WHILE PURPOSING AN ACT] BEYOND ITS PROPER TIME OR OUTSIDE ITS PROPER PLACE, OR THE BLOOD OF WHICH WAS RECEIVED BY THE UNFIT[10] AND THEY SPRINKLED IT.[11] GEMARA. It is stated: IF THE MOST HOLY SACRIFICES WERE SLAUGHTERED ON THE SOUTH SIDE, THE LAW OF SACRILEGE [STILL] APPLIES TO THEM. Is this not obvious? Should the Law of Sacrilege cease to apply to them merely because they were slaughtered on the south side?[12] — It need be stated, for it might otherwise have entered your mind to say: Since ‘Ulla said in the name of R. Johanan[13] that ‘sacrifices which died were, as far as the law of the Torah rules,[14] excluded from the Law of Sacrilege’, so were also Most Holy sacrifices when slaughtered on the south side considered as if they were strangled. It is therefore made known to us [that the instance of the Mishnah is different, for] sacrifices which died are in no case of any avail,[15] while the south side, though it is not the proper place for Most Holy sacrifices, is, however, the proper place for sacrifices of a minor degree of holiness.[16] Why was it necessary to enumerate [in the Mishnah all those cases]? — It was necessary, for if only SLAUGHTERED ON THE SOUTH SIDE AND THEIR BLOOD RECEIVED ON THE NORTH were stated, [I would argue:] The law of Sacrilege still applies to [the sacrifices in] this case, because the receiving [of the blood][17] was after all on the north side, but in the case where they were SLAUGHTERED ON THE NORTH SIDE AND THEIR BLOOD RECEIVED ON THE SOUTH, since [the blood] was received on the south side, [I Would say that] the Law of Sacrilege no longer applies to them. And if only these [first two instances] were stated, I would argue: [The law of Sacrilege still applies to them, because in these cases the sacrifices were at least offered during the day and] the day is the proper time for offering; in the case, however, where they were SLAUGHTERED BY NIGHT AND [THEIR BLOOD] SPRINKLED DURING THE DAY, since night is not the proper time for offering and the sacrifices were slaughtered by night, I might have thought that the Law of Sacrilege would no longer apply to them. And if SLAUGHTERED BY NIGHT [AND THEIR BLOOD SPRINKLED DURING THE DAY] were stated[18] I would argue: The Law of Sacrilege still applies to them, because the blood was received during the day. In the case, however, where they were SLAUGHTERED DURING THE DAY AND THEIR BLOOD SPRINKLED BY NIGHT,[19] since it is not the proper time for offering,[20] the sacrifices are to be considered as if strangled, and the Law of Sacrilege would accordingly not apply to them; therefore [also this instance] has been made known to us. IF SLAUGHTERED [WITH THE INTENTION OF EATING THE FLESH] BEYOND ITS PROPER TIME OR OUTSIDE ITS PROPER PLACE. Of what avail are such sacrifices?[21] — [The Law of Sacrilege still applies to them] because [the performance of] the other acts of offering[22] [is yet necessary][23] for rendering the sacrifices piggul.[24]

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[1] Viz., burnt-offerings, sin-offerings, guilt-offerings and communal peace offerings. They are considered wholly the ‘possession of God’ until their blood is sprinkled (Tosaf.).
[2] And not on the north side as required, v. Zeb. 47a.
[3] Lit., ‘trespass’, or malappropriation of the property of the Temple.
[4] Night is not the time for sacrificial rites.
[5] Tosaf. reverse the order of the last two instances, which is more in accord with the discussion in the Gemara below.
[6] Zeb. V. 3 and 5.
[7] Because it has, so to speak, become the private possession of the priests.
[8] V. Lev. VII, 17.
[9] After the sprinkling of the blood, so that the flesh was for a time permissible to the priests.
[10] Priests who have a blemish, or who are unclean (in case of private sacrifices), v. Rashi. In these three latter cases the offerings were never valid and as such never became permissible to the priests.
[11] V. Gemara.
[12] Surely they are still sacred!
[13] Infra 12a.
[14] Not, however, by rabbinical enactment.
[15] The prescribed manner of slaughtering allows no exception. It is & more rigid rule than that which prescribes the south side, and its non-fulfillment deprives the sacrifice of its sacred character.
[16] Zeb. 55a.
[17] Which is a holier act of offering than slaughtering, as it must be performed by a priest.
[18] But not the following instance.
[19] This argumentation proves that the version of Tosaf. in the Mishnah is correct, cf. p. 1. n. 5.
[20] Viz., sprinkling.
[21] Are they not irrevocably disqualified from the moment of slaughtering alike for the priests and the altar? Why then should the Law of Sacrilege apply to them?
[22] Lit., ‘(rites) that make acceptable’, Sc. receiving the blood, carrying it to the altar and the sprinkling thereof.
[23] With regard to the penalty of kareth (v. Glos) cf. Lev. XIX, 7.
[24] פיגול lit., ‘abomination’; sacrificial flesh which has lost its sacred character in consequence of an improper intention in the mind of the officiating priest. v. Zeb. 28b.

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The following was queried: If they[1] were already laid[2] [upon the altar], must they be brought down? Rabbah said, even if laid [upon the altar] they must be brought down. R. Joseph said, If laid [upon the altar] they need not be brought down. According to the view of R. Judah[3] there can be no question that all agree that even if laid [upon the altar], they must be brought down. The dispute arises according to the view of R. Simeon.[4] R. Joseph conforms [also here] to the view of R. Simeon; while Rabbah argues: R. Simeon maintained his view only in regard to offerings [the blood of which] should be applied below [the red line] and was applied above, or should be applied above [the red line] and was applied below; [since] they were at any rate slaughtered and their blood was received on the north side. In our case, however, since they were slaughtered[5] on the south side they are to be considered as if they were strangled. We have learnt: IF THE MOST HOLY SACRIFICES WERE SLAUGHTERED ON THE SOUTH SIDE, THE LAW OF SACRILEGE APPLIES TO THEM. This is in order on the view of R. Joseph; but on the view of Rabbah it presents, however, difficulties.[6] — [Rabbah would reply]: THE LAW OF SACRILEGE APPLIES . . . is [to be understood as enacted] by the Rabbis only. What is the actual difference between [its application] by law of the Torah and that by [enactment of] the Rabbis? — When by law of the Torah a fifth [of the value misappropriated] must be paid,[7] when by enactment of the Rabbis it is not paid.[8] But is there a Law of Sacrilege as a Rabbinical enactment? — Yes, there is. For ‘Ulla said in the name of R. Johanan[9] that ‘sacrifices which died were, as far as the law of the Torah rules, excluded from the

Law of Sacrilege', from which we may infer that by rule of the Torah only they are excluded from the Law of Sacrilege, by [enactment of] the Rabbis, however, the Law of Sacrilege still applies to them. In the same way [in our Mishnah it is to be interpreted as applying] by enactment of the Rabbis. May we then infer[10] that the statement of 'Ulla in the name of R. Johanan has already been learnt [in our Mishnah]?[11] — Although it has been learnt, 'Ulla's statement is still necessary, for it might otherwise have entered your mind to say: [In the instance of our Mishnah the Rabbis have enacted the application of the Law of Sacrilege, because] people do not keep away from those sacrifices;[12] but in the case of sacrifices which died, since people do keep away from them,[13] I might have thought that even as a Rabbinical enactment Sacrilege does not apply to them. Therefore ['Ulla has made his view] known to us. But has not also [the case of sacrifices which] died been learnt already? [For we have learnt]: If one enjoyed of a sin-offering,[14] if it was still alive he is not guilty of Sacrilege until he has diminished its substance, but if it was dead he is guilty of Sacrilege. as soon as he had benefitted from it.[15] — ['Ulla's statement is still necessary. for] it might otherwise have entered your mind

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(1) Viz., the disqualified sacrifices as instanced in the Mishnah.

(2) Lit., 'gone up'.

(3) Zeb. 84a.

(4) With reference to sacrifices the blood of which was sprinkled irregularly either above or below the red line surrounding the altar. In such a case R. Judah holds that if they had gone up they must come down again, whereas R. simeon holds they need not, v. ibid.

(5) Similarly in regard to other acts of offering.

(6) Since he holds that they must come down again these sacrifices have lost their sacred character, and the Law of Sacrilege should not apply to them.

(7) Lev. V, 16.

(8) Just as the trespass guilt-offering is not brought.

(9) Supra.

(10) According to Rabbah's interpretation of the Mishnah.

(11) Since on the view of Rabbah sacrifices slaughtered on the south are treated as if they were strangled, their case is on a par with that of sacrifices which died, the ruling of R. Johanan can be derived from the Mishnah and hence is superfluous.

(12) And are, therefore, likely to make unlawful use of them.

(13) As they are repulsive.

(14) E.g., by plucking of its wool.

(15) This is interpreted to the extent of the value of a Perutah, v. infra 18a. Thus the case of animals which died has already been taught, wherefore then 'Ulla's ruling in the name of R. Johanan?

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to say that in the case of the sin-offering, since it comes for atonement people do not keep away from it; but other sacrifices, however, since they come for atonement, people will keep away from them and there was, therefore, no [necessity for the Rabbis to enact in regard to them the] Law of Sacrilege. Therefore ['Ulla has made his view] known to us.[1] But is it indeed so that the Law of Sacrilege applies to a sin-offering which died? Has it not been taught: Sin-offerings that are to be left to die[2] and money that is to be thrown into the Dead Sea[3] must not be enjoyed, yet the Law of Sacrilege does not apply to them? — You might reply: In the case of sin-offerings that are to be left to die people keep away from them even while they are still alive;[4] which is not so [with ordinary sin-offerings] from which people do not keep away while they are alive.[5] R. Joseph raised an objection to Rabbah [by way of inference] from one [Mishnah] to another and again from this to a third. [We have learnt]: And all of them[6] do not defile the garments worn by him that swallows them, and the Law of Sacrilege still applies to them all except the sin-offering of a bird, which was offered below [the red line], after the manner of a sin-offering of a bird and under the name of a sin-offering. And then in connection therewith we have learnt [the general rule]:[7] Whenever it[8] became disqualified in the Sanctuary[9] it does not defile the garments worn by him that swallows it, and whenever it became disqualified while not in the Sanctuary it defiles the garments worn by him that swallows it.[10] And we have furthermore learnt: Whatever became disqualified in the Sanctuary need not be removed, if already laid upon the altar, need not be brought down.[11] Is this not a refutation of Rabbah's view?[12] — It is indeed a refutation. Now the point which had been disputed by Rabbah and R. Joseph was a matter of course to R. Eleazar. For R. Eleazar said:[13] If a burnt-offering which was dedicated to a private High Place[14] was brought [to be offered] inside [the Sanctuary]

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(1) [The meaning is obscure and the text seems to be in disorder. Bah reads: It might have entered your mind since a sin-offering comes for atonement people keep away from it and therefore no Law of Sacrilege applies to it, therefore (the Mishnah) has made known to us (that even here the Law of Sacrilege applies); consequently no question can be raised against ‘Ulla from this Mishnah which by specifying a sin-offering was taken on the view of the questioner to exclude other sacrifices, v. Sh. Mek,.]

(2) V. Tem. 21.

(3) Ibid. 22b.

(4) And are not likely to touch them after they have died.

(5) And therefore the Law of Sacrilege applies to them by Rabbinic enactment.

(6) I.e., those enumerated in the Mishnah Zeb. 66a.

(7) Zeb. 66b Mishnah.

(8) Refers to the sin.offering of a bird the ‘wringing’ of which (melikah. v. Glos.) was performed in the wrong place.

(9) Through some irregularity in the prescribed method of slaughtering, melikah.

(10) B. cause the wringing off of the head, which is prescribed for a valid sin-offering of a bird, renders it in this case nebelah (v. Glos.); v. Zeb. 68b.

(11) Zeb. 84a.

(12) From the first Mishnah we learn that the sin-offerings of a bird whose melikah was performed in the wrong place a case which corresponds to the instances of our Mishnah — do not defile the garments worn by him that swallows them; thus we infer that when the second Mishnah speaks of disqualification that occurred in the Sanctuary, the reference is likewise to a melikah performed in the wrong place, and similarly the third Mishnah which states that whatever becomes disqualified in the Sanctuary need not be brought down when already laid upon the altar includes such a disqualification as melikah performed in the wrong place, and similarly a slaughtering in the wrong place which refutes Rabbah.

(13) Zeb. 1 19b.

(14) At a time when these were permitted. In such places the offerings need not necessarily be slaughtered on the north side of the altar. Cf. Zeb. 112b.

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the [sacred] precincts exercise on it their retaining power in every respect.[1] R. Eleizar then submitted the following query:[2] ‘If a burnt-offering, which was dedicated to a private High Place and brought inside the Sanctuary. became disqualified,[3] if laid [upon the altar] must it be brought down?’ May we not infer from the fact that R. Eleazar queried only this [special] case. that the other case[4] was a matter of course to him, either confirming to the view of Rabbah or to the view of R. Joseph? — [No, R. Eleazar was doubtful even in regard to instances of our Mishnah and] he queries the one case as a further step[5] of the other. [For I could argue on the one hand]: Rabbah maintained that even when laid upon the altar they must be brought down only [when the sacrifices were brought inside] the precincts of the Temple in conformity with their original provision,[6] [in which case the departure from the prescribed method of offering rightly][7] disqualified them; but where [the sacrifices were brought inside] the precincts of the Temple against their original provision[8] [a departure from the right method of offering][9] [he might hold] does not disqualify them![10] Or I could, perhaps, [argue on the other hand]: R. Joseph maintained that when laid upon the altar they need not be brought down only when the retaining power of the sacred precincts was exercised in conformity with the Original provision [of the sacrifices]; but [if the sacrifices were brought inside] the sacred precincts against their original provision the retaining power of the Temple [he might hold] is not [fully] effective![11] Let this query[12] remain undecided. Said R. Giddal in the name of Rab: The sprinkling of [the blood of an offering which was rendered] piggul[13] [at the slaughtering][14] neither effects exemption from the Law of Sacrilege in the case of Most Holy sacrifices,[15] nor inclusion within the scope of the Law of Sacrilege in the case of sacrifices of a minor degree of holiness.[16] Abaye was sitting and quoting this ruling, when R. Papa raised an objection to him: If the thank-offering[17] was slaughtered inside [the Temple Court] while the bread thereof remained outside the wall, the bread has not become sacred. If it was slaughtered before the loaves in the oven had formed a crust — even if all the loaves but one had formed a crust — the bread has not become sacred. [But] if it was slaughtered[18] [while purposing an act] beyond the proper time or outside the proper place, the bread has become sacred?[19] Does this not prove that [the performance of the acts of offering of a sacrifice rendered] piggul brings [sacrifices of a minor degree of holiness] within the scope of the Law of Sacrilege? — Thereupon he [Abaye] was silent. When he came before R. Abba the latter replied: It is through the sprinkling[20] [that the bread has become sacred].[21] Said R. Ashi to Raba: But has not ‘Ulla ruled[22] that if the handful of [a meal-offering, which was rendered] piggul,[23] was laid upon the altar the disqualification ceased?[24] Now, the separation of a handful [of a meal-offering] corresponds to the slaughtering [of an animal-offering].[25] He thereupon replied: [‘Ulla's statement is to be understood in the following manner: The taking of the handful with disqualifying intention] is a prohibited act that leads to the offering becoming piggul.[26]

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(1) Sacrifices must then be offered in accordance with all the prescriptions relating to those originally dedicated to the Sanctuary

(2) Zeb. 119b has a different version of the text.

(3) By an error which causes no disqualification on a private High Place, e.g., he slaughtered it on the south side, cf. n. 2.

(4) Relating to the instances of our Mishnah.

(5) Lit., ‘out of the other’.

(6) I.e., when originally dedicated to the Temple.

(7) Because originally attached to them.

(8) Which was to offer them on a private High Place.

(9) Prescribed primarily for offerings dedicated to the Temple.

(10) And they need not be removed when laid upon the altar.

(11) And the sacrifices must be brought down from the altar.

(12) Of R. Eleazar.

(13) V. Glos.

(14) According to pseudo-Rashi the sprinkling, too, was performed with disqualifying intention, while Tosaf. hold that its performance was unqualified. The explanation that follows is according to the first view.

(15) Cf. infra 7b.

(16) [The principle is that the application of the Law of Sacrilege ceases from the moment the blood is sprinkled on the altar in the case of Most Holy sacrifices and in regard to sacrifices of a lesser degree of holiness it becomes operative only between the moment of the sprinkling of the blood and the burning of the portions — and that only as far as the sacrificial portions are concerned.]

(17) Which is a sacrifice of a minor degree of holiness.

(18) R. Papa assumed that the other acts of offering, too. were performed with this disqualifying intention,

(19) And the Law of Sacrilege applies to it, v. Men. 78b.

(20) Which, we should assume, was performed unqualified.

(21) While R. Giddal's ruling refers to a case where all the acts were performed with disqualifying intention.

(22) Zeb. 43a.

(23) Through the handful having been taken with disqualifying intention.

(24) Even to the extent that it must be placed upon the altar if it happened to spring off, and consequently the Law of Sacrilege applies to it.

(25) Both are respectively the first acts of offering. ‘Ulla's statement proves then that the first act alone can render an offering piggul, contrary to R. Abba's reply. And still it states that the bread is made sacred which shows that sacrifices of a minor degree of holiness are brought within the scope of the Law of Sacrilege by acts of offering performed subsequently to a slaughtering that rendered them piggul contra R. Giddal.

(26) Viz., when the other acts, too, will be performed with disqualifying intention, but the taking of the handful itself does not render completely piggul. nor the act of slaughtering in itself unless followed by other acts, such as sprinkling with the same disqualifying intention, which is the case to which R. Giddal refers.

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But does it not say:[1] since it [[the handful] renders others piggul, how much more so should it itself [become piggul]?[2] — Here, too, [you must understand it as meaning] a prohibited act that leads to the offering becoming piggul. Said Rabina to R. Ashi: But did not Ilfa say:[3] The dispute[4] is only in regard to two acts of offering,[5] namely when he [that officiated] said: I am cutting the first organ[6] [while purposing an act] beyond the proper time, and the second [while purposing an act] outside the proper place;[7] but in regard to one act,[8] they all agree that there is here an admixture of unlawful intentions?[9] — Here, too, [you must understand that] when the sprinkling takes place it will [retrospectively] prove whether [there was unlawful intention] in one act or in two acts of offering. If this be so,[10] why not say with the thankoffering, too, [that its disqualification becomes effective] with the sprinkling?[11] — '[The bread has become] sacred' means indeed only in so far as it has to be burnt by reason of its disqualification.[12] May not the following be cited in support [of R. Giddal]:[13] 'The Law of Sacrilege applies to piggul always'. [Does this not imply] even though the blood has been sprinkled. and will then offer a support [of R. Giddal]? — [No, [that is] where the blood has not been sprinkled.[14] But if the blood has not been sprinkled need it be stated? — It deals, in fact, with a case where the blood has been sprinkled, but when this has been taught, it was in reference to a burnt-offering.[15] If it refers to a burnt-offering, is it not obvious, since this offering is wholly dedicated to the Lord?

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(1) In 'Ulla's argument. MS.M.: 'Did not 'Ulla state'.

(2) V. Zeb. 43G where this is explained thus: If the disqualification rendered by the taking of the handful with the unlawful intention is not irrevocable in that if it is subsequently laid upon the altar it need not be brought down, now should it render the rest of the handful liable to the Law of Sacrilege. This proves that on the view of 'Ulla unlawful intention at the taking of the handful only renders the piggul complete and irrevocable.

(3) Zeb. 29b.

(4) Of R. Judah and the Sages, v. ibid.

(5) More exactly, two separable parts of an act.

(6) The windpipe and the gullet are the two organs the cutting of which effects the ritual slaughtering.

(7) The former intention renders the sacrifice piggul, the eating of which involves the penalty of kareth, the second renders it only invalid.

(8) Viz., one organ. e.g., if the first half of the organ is cut with the thought of executing an act beyond the proper time and the second with the thought of executing an act outside the proper place.

(9) And he that eats of the flesh is not liable to the penalty of kareih. This statement at any rate indicates that the disqualification is assumed to be effective and complete with the mere act of unlawful slaughtering, and yet in the case of the thank-offering we learnt that the bread has become sacred, which refutes R. Giddal.

(10) I.e., that the disqualification of the offering becomes effective with the sprinkling.

(11) Why then should, according to R. Giddal's view, the bread become sacred and thus come under the Law of Sacrilege.

(12) But not in regard to the Law of Sacrilege.

(13) Viz., of the first part of his statement with reference to the Most Holy sacrifices.

(14) With disqualifying thought.

(15) In which-unlike sin- and guiltofferings-the priests have no share, there then being no flesh rendered permissible by the sprinkling of the blood.

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And moreover it says in the concluding clause: ‘If the blood remained overnight, although it was still sprinkled, the Law of Sacrilege still applies [to the offering].[1] This would be right if it related [for instance] to a sin-offering, but if it referred to a burnt-offering. need it at all be stated?[2] — The concluding clause obviously supports [R. Giddal's view], but what about the opening clause? As the concluding clause offers a support so will also the opening one?[3] But even the concluding clause need not necessarily support [R. Giddal's view].[4] — And what would be the difference? — [The disqualification of] leaving the blood overnight is caused by action[5] and [the transgressor is therefore penalized in that] the sprinkling has not the effect of exempting the offering from the Law of Sacrilege, but the thought [of piggul] is not an action and the sprinkling has the effect of exempting the offering from the Law of Sacrilege. But may we not say that the following supports [R. Giddal]? [It was taught]: ‘The Law of Sacrilege applies to Most Holy sacrifices that were rendered piggul’. Now, does this not imply even though the blood was sprinkled,[6] and will then offer a support [of R. Giddal]? — No, [it speaks of a case] where the blood was not sprinkled. But what would be the case if [the blood was] sprinkled? Would the Law of Sacrilege indeed not apply to it? Why then state in the concluding clause: ‘The Law of Sacrilege does not apply to sacrifices of a minor degree of holiness [which were rendered piggul]’? Could the distinction not be made in the opening clause itself [in the following manner]: The Law of Sacrilege applies [to the offering] before the blood has been sprinkled. but is not applicable after it has been sprinkled? — [The concluding clause] undoubtedly supports [R. Giddal's view].[7] Shall we say: Since the concluding clause supports [R. Giddal], so will also the opening one?[8] — [No, the latter refers indeed to a case where the blood has not been sprinkled, and the reason why the distinction is not made within the opening clause itself is]: The statement [in the concluding clause] on sacrifices of a minor degree of holiness is absolute, the [distinction] in the opening clause would be, in form, conditional.[9] R. JOSHUA LAID DOWN THE GENERAL RULE: WHATEVER HAS AT SOME TIME BEEN PERMITTED TO THE PRIESTS DOES NOT COME UNDER THE LAW OF SACRILEGE, AND WHATEVER HAS AT NO TIME BEEN PERMITTED TO THE PRIESTS DOES COME UNDER THE LAW OF SACRILEGE. WHICH IS THAT WHICH HAS AT SOME TIME BEEN PERMITTED TO THE PRIESTS? THAT WHICH REMAINED OVERNIGHT OR BECAME DEFILED OR WAS TAKEN OUT [OF THE TEMPLE COURT]. WHICH IS THAT WHICH HAS AT NO TIME BEEN PERMITTED TO THE PRIESTS? THAT WHICH WAS SLAUGHTERED [WHILE PURPOSING AN ACT] BEYOND ITS PROPER TIME OR OUTSIDE ITS PROPER PLACE, OR THE BLOOD OF WHICH WAS RECEIVED BY THE UNFIT AND THEY SPRINKLED IT. Said Bar Kappara to Bar Pada:[10] O, thou son of my sister, keep in mind what to ask me to-morrow at the School House:[11] Does PERMITTED TO THE PRIESTS mean ‘permitted through slaughtering’[12]

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(1) And it is assumed that the same applies in the case of piggul.

(2) It is now assumed that this ruling applies to other disqualifications as well.

(3) I.e., does the opening clause necessarily refer to sin-offerings because the concluding one does?

(4) As it might apply only to the case where the blood was left overnight but not to other piggul. MS.M.: ‘And does the concluding clause indeed offer a support? — He said: What is the difference? — He replied: The disqualification of leaving the bread . . .’.

(5) Or rather by omission of action,

(6) With disqualifying thought.

(7) The concluding clause undoubtedly applies also to the case where the blood has been sprinkled, as a disqualified offering can never assume a sacred character. It therefore supports directly the second part of R. Giddal's statement with reference to sacrifices of a minor degree of holiness.

(8) In that we assume that the blood has been sprinkled.

(9) Lit., ‘not cut’.

(10) Cur. edd. Pedath, but cf. Tosaf. Tem. 10d s.v. איתמר.

(11) To provoke a discussion on this matter. Thus Tosaf. According to pseudorashi the query which follows was put forward by Bar-Pada.

(12) I.e., once it was properly slaughtered it is regarded as having become permissible to the priests and hence the Law of Sacrilege no longer applies to the flesh.

Talmud - Mas. Me'ilah 5a

or ‘permitted for sprinkling’,[1] or ‘permitted for consumption’?[2] Hezekiah said: It means ‘permitted at the time of slaughtering’. R. Johanan said: It means ‘permitted for consumption’. Said R. Zera: Our Mishnah cannot be made to correspond either with the view of Hezekiah or that of R. Johanan. For we have learnt: THAT WHICH REMAINED OVERNIGHT OR BECAME DEFlled OR WAS TAKEN OUT [OF THE TEMPLE COURT]. Now, does this not mean that the blood remained overnight,[3] and yet it states that the Law of Sacrilege does not apply, [a statement which] proves that ‘permitted for sprinkling’ is meant? — No, it means that the flesh remained overnight, but the blood had been sprinkled, and for this reason it states that the Law of Sacrilege does not apply. We have learnt: WHICH IS THAT WHICH HAS AT NO TIME BEEN PERMITTED TO THE PRIESTS? THAT WHICH WAS SLAUGHTERED WHILE PURPOSING AN ACT BEYOND ITS PROPER TIME OR OUTSIDE ITS PROPER PLACE, OR THE BLOOD OF WHICH WAS RECEIVED BY THE UNFIT AND THEY SPRINKLED IT. How is [the last instance] to be understood? Shall I say that the blood was received by unfit [priests] and sprinkled by unfit [priests]? Why is it necessary to have this twofold [disqualification]?[4] You must then understand it that the blood was received by the unfit and sprinkled by the fit,[5] and it states that [in this case] the Law of Sacrilege applies.[6] This would prove that ‘permitted for sprinkling’ is meant. To this R. Joseph demurred: Should you say that a distinction of this character can be made. how [would you explain] that which we have learnt elsewhere:[7] ‘The blood of a disqualified sin-offering need not be washed off[8] [if splashed upon a cloth], no matter whether the offering had at one time been fit for use and then became disqualified. or had at no time [been fit for use]. Which is that which had at one time been fit for use, but became disqualified? That[9] which remained overnight or became defiled or was brought outside the Temple Court. Which is that which had at no time been fit for use? That which was slaughtered [while purposing an act] beyond the proper time or outside the proper place, or the blood of which was received by the unfit and they sprinkled it’. Now, how is this to be understood? Shall I say that [the blood] was received by the unfit, and was sprinkled by the unfit [and thus infer that only in this case] need the blood not be washed off; if, however, it was received and sprinkled by the fit, the blood has to be washed off? [But this could not be!] Apply here the verse: And when there is sprinkled of the blood thereof . . . ,[10] but not of that which has already been sprinkled. You must then say [that the text of the Mishnah there] is not meant to be taken precisely [so as to exclude other instances]

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(1) I.e., the receiving of the blood must have been in order.

(2) I.e., also the sprinkling must have been in order.

(3) After the receiving was properly performed.

(4) The mere fact that the blood had been received by the unfit prevented the flesh from becoming permissible to the priests.

(5) The receiving was undoubtedly by unfit according to the text.

(6) But not if the receiving was by fit and the sprinkling by unfit, in which case the flesh would have been rendered at a time permissible to the priests.

(7) Zeb. 92.

(8) V. Lev. VI, 20.

(9) I.e., the blood.

(10) Lev. VI, 20. The verb is used in the future tense indicating that the blood has yet to be sprinkled.

Talmud - Mas. Me'ilah 5b

, and likewise here, [that the text is] not to be taken precisely [so as to exclude other instances].[1] Said

R. Assi: If so, why has this [loose phrasing] been used twice?[2] You must therefore indeed say that used in connection with the Law of Sacrilege is to be taken precisely [as excluding other instances],[3] [yet your objection that to state this twofold disqualification was unnecessary does not hold good as] it is to let us know that an unfit person [through his sprinkling] renders [the blood][4] a residue,[5] so that although after the unfit received and sprinkled [the blood] a fit priest received and sprinkled it again, the action of the latter is of no avail. Why? Because the blood[6] is considered a residue. But did not Resh Lakish put this forward as a query to R. Johanan:[7] 'Does [the act of] an unfit person render the blood a residue'? Whereupon the latter replied: 'Nothing makes [the blood] a residue save [the sprinkling while purposing an act] beyond its proper time or outside its proper place, because such a sprinkling [is in so far of effect as to] render [the sacrifice] 'acceptable' in respect of piggul.[8] Now, does this not exclude [the sprinkling by] an unfit person? — No, also the [sprinkling] by] the unfit [is included]. But does it not say: 'Nothing . . . save'? — This is to be understood in the following manner: There is no [disqualification] such as to render [an offering] nonacceptable in the case of a congregation [sacrifice][9] and yet to make the blood a residue save that caused by [the thought of executing an act] beyond the proper time or outside the proper place; but a defiled [priest],[10] since he is considered fit in the case of the congregation,[11] makes the blood a residue, whilst other unfit [priests][12] who are not considered fit in the case of the congregation, do not make the blood a residue. Come and hear: 'The Law of Sacrilege applies to piggul[13] always',[14] Does this not refer to a case where the blood has not been sprinkled, and would then prove[15] that 'permitted for sprinkling' is meant? — No, it [refers to a case where the blood] has been sprinkled. And what is the meaning of 'always'? — It is to confirm the statement of R. Giddal.[16] For R. Giddal said in the name of Rab: 'The sprinkling of [the blood of a sacrifice rendered] piggul] [with slaughtering] effects neither exemption from nor inclusion in the Law of Sacrilege'.[17]

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(1) E.g., where it was received by the fit and sprinkled by the unfit, for even in such a case the Law of Sacrilege applies since the slaughtering has been properly performed. The inference that 'permitted for sprinkling' is meant would then be invalid.

(2) Both here and in Zeb. 92a.

(3) Viz., that it refers to a case where both receiving and sprinkling were performed by the unfit, though the phrasing in Zeb. is not to be taken precisely, as proved by the verse Lev. VI. 20; v. n. 1.

(4) Also that life-blood which remained in the body of the beast.

(5) Which must not be used again and poured out into the duct, v. Zeb. 34b. Had the sprinkling not been performed by the unfit, receiving as well as sprinkling could have been executed again by a fit person from the life-blood that remained in the body of the beast. Cf. Zeb. 32a.

(6) Left over after the receiving and sprinkling performed by the unfit.

(7) Zeb. 34b.

(8) So that he who eats thereof is liable to the penalty of kareth. Cf. Zeb. 28b.

(9) E.g., piggul, nothar and 'taking out of the Temple Court'.

(10) The unfit to whom R. Assi in his explanation of our Mishnah is meant to refer.

(11) If the majority of the congregation are unclean, v. Pes. 66b. 77a.

(12) E.g., those with a blemish.

(13) Viz., of Most Holy sacrifices.

(14) No matter whether the disqualification was accomplished with the slaughtering or the receiving.

(15) By the conclusion that if, however, both slaughtering and receiving were in order the Law of Sacrilege would no longer apply.

(16) V. supra 3b.

(17) 'Always' means thus 'for ever'.

Talmud - Mas. Me'ilah 6a

Come and hear: R. Simeon said:[1] 'There is a kind of nothar[2] that is subject to the Law of Sacrilege and there is a kind of nothar that is exempted from the Law of Sacrilege. How is this? If [the blood was] left overnight before sprinkling it is subject to the Law of Sacrilege, if after the sprinkling it is exempted from the Law of Sacrilege'. Now it states, at all events: 'Is subject to the Law of Sacrilege'. Does this not refer to a case where there was still time [during the day] to sprinkle[3] it, so that if he wished, he could have performed the sprinkling?[4] This would then prove that 'permitted for consumption' is meant? — No, it refers to a case where the blood was received near sunset, so that there was no time for sprinkling. But what would be the case if there was time [during the day to sprinkle it]? Would the Law of Sacrilege indeed not apply? Why then was it necessary to instance 'before the sprinkling'?[5] Let [the distinction] be made between 'before sunset' and 'after sunset'![6] — This indeed is the way in which [the distinction] is to be understood, viz., 'Before it was ready[7] for sprinkling' and 'after it was ready for sprinkling'. Come and hear: R. Simeon said, 'There is piggul that is subject to the Law of Sacrilege. and there is piggul that is exempted from the Law of Sacrilege. How is this? If [enjoyed] before the sprinkling it is subject to the Law of Sacrilege, if after it is exempted from the Law of Sacrilege'. It states, at all events: 'If before the sprinkling it is subject to the Law of Sacrilege'. Now does this not refer to a case where there was still time [during the day] to sprinkle it, so that if he wished he could have performed the sprinkling, yet it states that it comes under the Law of Sacrilege, which would prove that 'permitted for consumption' is meant? — No, there was no time during the day to sprinkle it. But what would be the case if there was time during the day to sprinkle it? Would it indeed cease to be subject to the Law of Sacrilege? Why then was it necessary to instance 'after sprinkling'? Let [the distinction] be made between 'before sunset' and 'after sunset'?[8] — This indeed is the way in which [the distinction] is to be understood, viz., 'Before it was ready[9] for sprinkling' and 'after it was ready for sprinkling'. Come and hear: 'The Law of Sacrilege applies to Most Holy sacrifices that were rendered piggul'. Now, does this not refer to a case where the blood has been sprinkled. and would then prove that 'permitted for consumption' is meant?[10] — No, it was not sprinkled. But what would be the case if sprinkled? Would the Law of Sacrilege indeed not apply to it? Why then was it necessary to state:[11] 'But if the sacrifices were of a minor degree of holiness they are exempted from the Law of Sacrilege'? Let [the distinction] be made between 'before sprinkling' and 'after sprinkling'? — [The distinction made is to be preferred] to let know the rule: Whatsoever has to be brought within the scope of the Law of Sacrilege[12] can achieve this status only if the sprinkling was according to proper procedure, but whatsoever has to cease to be subject to the Law of Sacrilege[13] can achieve this also by a sprinkling that was not in accordance with the proper procedure.

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(1) Tosef. I, 1.

(2) Portions left over from sacrifices. Lev. VII, 17.

(3) I.e., it was received in the vessel on the same day but not sprinkled till the following.

(4) It was thus 'fit for sprinkling' and is yet subject to the Law of Sacrilege.

(5) I.e., to distinguish between 'before sprinkling' and 'after sprinkling'.

(6) I.e., 'there being time before sunset' and 'there being no time before sunset'.

(7) During the day.

(8) I.e., 'there being time before sunset' and 'there being no time before sunset'.

(9) During the day.

(10) By the inference that if, however, it was not piggul the law of Sacrilege would not apply to it.

(11) In the concluding clause.

(12) E.g.. the sacrificial portions, emurim, of sacrifices of a minor degree of holiness, v. supra p. 8. n. 6.

(13) Such as the flesh of Most Holy sacrifices. R. Giddal's statement is thus refuted, v. ibid.

Talmud - Mas. Me'ilah 6b

MISHNAH. IF THE FLESH OF THE MOST HOLY SACRIFICES WAS TAKEN OUT [OF THE TEMPLE COURT] BEFORE THE BLOOD WAS SPRINKLED,[1] R. ELIEZER SAYS: IT IS STILL SUBJECT TO THE LAW OF SACRllege[2] AND ONE DOES NOT BECOME GUILTY IN REGARD TO IT OF [TRANSGRESSING THE LAWS OF] NOTHAR,[3] PIGGUL[4] AND

DEFILEMENT.[5] R. AKIBA SAYS: IT ls EXEMPTED FROM THE LAW OF SACRILEGE AND ONE CAN BECOME GUILTY OF [TRANSGRESSING IN REGARD TO IT THE LAWS OF] NOTHAR, PIGGUL AND DEFILEMENT. SAID R. AKIBA: IF ONE SET ASIDE HIS SIN-OFFERING AND IT WAS LOST AND HE SET ASIDE ANOTHER IN ITS STEAD AND AFTERWARDS THE FIRST WAS FOUND SO THAT BOTH WERE DESIGNATED [FOR SLAUGHTERING].[6] [DO YOU NOT AGREE] THAT LIKE AS [THE SPRINKLING OF] THE BLOOD [OF THE ONE BEAST] EXEMPTS ITS OWN FLESH [FROM THE LAW OF SACRILEGE] SO IT EXEMPTS THE FLESH OF THE OTHER BEAST? NOW, IF THE SPRINKLING OF ITS BLOOD CAN EXEMPT THE FLESH OF OTHER BEASTS[7] FROM THE LAW OF SACRILEGE, HOW MUCH MORE MUST IT EXEMPT ITS OWN FLESH. IF THE EMURIM[8] OF SACRIFICES OF A MINOR DEGREE OF HOLINESS WERE TAKEN OUT [OF THE TEMPLE COURT] BEFORE THE BLOOD WAS SPRINKLED, R. ELlezer SAYS: THEY ARE EXEMPTED FROM THE LAW OF SACRILEGE AND ONE DOES NOT BECOME GUILTY IN REGARD TO THEM OF [TRANSGRESSING THE LAWS OF] NOTHAR. PIGGUL AND DEFILEMENT. R. AKIBA SAYS: THEY ARE SUBJECT TO THE LAW OF SACRILEGE AND ONE DOES BECOME GUILTY [OF TRANSGRESSING THE LAWS OF] NOTHAR, PIGGUL AND DEFILEMENT.[9] GEMARA. Why was it necessary to state both these instances? — It was necessary. for if [the instance of] the Most Holy sacrifices alone was stated, I might have said: In this case ruled R. Eliezer that it is still subject to the Law of Sacrilege, because [he held that] sprinkling executed according to the proper procedure effects exemption from the Law of Sacrilege, but [a sprinkling] not according to the proper procedure does not effect exemption. But as to effecting the inclusion within the scope of the Law of Sacrilege,[10] he might concede to R. Akiba that also [sprinkling that was] not performed in accordance with the proper procedure effects the inclusion within the scope of the Law of Sacrilege. And if the instance of a sacrifice of a minor degree of holiness alone was stated, I might have said: In regard to sacrifices of a minor degree of holiness only did R. Akiba rule that the Law of Sacrilege applies. because [he held that] even sprinkling that was not performed in accordance with the proper procedure [has the power of] including [the flesh] within the scope of the Law of Sacrilege; but in regard to Most Holy sacrifices in which case [the sprinkling] is to effect the exemption from the Law of Sacrilege. [I might say that] if not performed in accordance with the proper procedure it does not possess the power of exempting from the Law of Sacrilege. Therefore he informs us [regarding both instances]. It was stated, R. Johanan said: R. Akiba held his view that the sprinkling is of effect in the case of an offering that was taken out, only if it was partly taken out [of the Temple Court],[11] but if it was wholly taken out [R. Akiba did] not [hold this view]. Said R. Assi to R. Johanan:[12] My friends in the Diaspora [Babylon] have already taught me:

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(1) And brought in again, and then the blood was sprinkled.

(2) The sprinkling does not effect an exemption from the Law of Sacrilege since the offering is invalid.

(3) Lit., ‘left over’. Lev. VII, 17.

(4) V. GIos. Lev. VII, 18; Zeb. II, 3 and 28a.

(5) Lev. VII, 21. For only a valid sprinkling can bring the sacrifices within the scope of these laws.

(6) And he slaughtered both and after receiving the blood of each in two separate vessels he sprinkled the blood of only one of them.

(7) Though it be invalid, as the remnant of a sin-offering.

(8) I.e., the portions that are to be offered upon the altar.

(9) The sprinkling does not effect the application of the Law of Sacrilege, since the offering is invalid.

(10) Which is in the direction of greater stringency.

(11) Because the sprinkling is then of effect for the portions that remained inside.

(12) Tosaf. do not read ‘to R. Johanan’. The following discussion is then independent of R. Johanan's statement.

Talmud - Mas. Me'ilah 7a

‘The disqualifying thought[1] in respect of lost or burnt [portions of an offering] is of effect’.[2] Now, the lost and the burnt no longer exist, yet it was taught that a disqualifying thought [relating to them] is effective.[3] But does R. Assi indeed hold this view? Did not R. Assi ask R. Johanan: ‘What is the case if one purposed [to sprinkle on the] following day blood which has to be poured’?[4] Whereupon R. Zera replied: ‘Did you not teach us[5] [the Mishnah] about allal?[6] Now, this allal, because it has no substantial value, an un lawful thought relating to it is of no effect.[7] The same applies to the blood that is to be poured; because it is destined for destruction an unlawful thought relating to it must be of no effect’. At all events, that which was stated concerning the lost and the burnt[8] offers a difficulty![9] — Said Raba: Say, [‘The disqualifying thought in respect of portions] that were about to be lost or burnt . . .’.[10] Said R. Papa: R. Akiba held that sprinkling is effective in respect of [offerings that] were taken out only if the flesh was taken out, but if the blood was taken out[11] the sprinkling is of no effect. It was also taught likewise: ‘If the slaughtering was performed undefined, and the blood was taken out, although it was afterwards sprinkled [the sprinkling] is of no effect: Most Holy sacrifices remain subject to the Law of Sacrilege, and sacrifices of a minor degree of holiness remain exempted from the Law of Sacrilege’. SAID R. AKlba: TO WHAT CAN THIS BE COMPARED . . .[12] Said R. Eleazar: R. Akiba held his view[13] only if [both sin-offerings were slaughtered] simultaneously.[14] but if successively R. Akiba did not hold his view.[15] It has been taught:[16] Said R. Simeon, When I went to Kefar Pagi[17] an old man[18] met me and asked me: Does R. Akiba indeed hold that sprinkling is of effect in the case of an offering that was taken out? I said to him: Yes, he does. When I came and quoted these words before my colleagues in Galilee they said unto me: But is it not disqualified? How can [the sprinkling] be of effect[19] with a disqualified offering? When I left and brought up these words before R. Akiba himself, he said unto me: My son, do you not hold the same view? Behold,if one set aside his sin-offering and it was lost and he set aside another in its stead and afterwards the first was found, so that both were designated [to be slaughtered], both are still subject to the Law of Sacrilege; if they were slaughtered and their [respective] blood was placed in two [separate] receptacles, the Law of Sacrilege still applies to both.

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(1) During sprinkling. Lit., ‘one can think (with effect)’.

(2) To render the flesh piggul.

(3) In the same way should, in the case where the whole offering was taken out, the sprinkling be of effect in regard to the Law of Sacrilege.

(4) Over the base of the altar, cf. Zeb. 47a.

(5) Zeb. 35a.

(6) ‘Offal of meat’ which is uneatable. Cf. Hul. 121a as to what kind of offal is meant.

(7) Thus the version of Tosaf. and MS.M. Cur. edd.: ‘is not susceptible of defilement’. The quotation concerning allal would then be from Hul. 121a, thus also pseudo-Rashi.

(8) I.e., the statement reported by R. Assi in the name of his colleagues in the Diaspora.

(9) Viz., to R. Assi's teaching concerning allal.

(10) I.e., they had still been in existence at the time of the sprinkling. But if already lost or burnt an unlawful thought would indeed be of no effect.

(11) Though brought in again and then sprinkled.

(12) Cur. edd. and MS.M. do not contain this phrase in the Mishnah.

(13) That the sprinkling of the blood of the one exempts the flesh of the other beast from the Law of Sacrilege.

(14) E.g., by different people. V. Tosaf.

(15) V. infra.

(16) Tosef. I.

(17) Beth Page, near Jerusalem.

(18) MS.M.: ‘from among the disciples of R. Akiba’, v. Tosef.

(19) Lit., ‘make acceptable’, cf. Zeb. 28a.

Talmud - Mas. Me'ilah 7b

If the blood of one of them was sprinkled, do you not agree that like as the [sprinkling of the] blood exempts its flesh from the Law of Sacrilege so it exempts also the flesh of the other beast from the Law of Sacrilege? Now, if it can save the flesh of another offering from the Law of Sacrilege, though it is disqualified, how much more must it save its own flesh. Said Resh Lakish in the name of R. Oshaia: Inexact[1] was the reply that R. Akiba gave to that disciple, [as it[2] suggests that his instance holds good] only if they were slaughtered simultaneously but not if successively. Now, since [the other offering[3] is, at all events] disqualified,[4] what is the difference between 'simultaneously' and 'successively'? Said R. Johanan to Resh Lakish: And you, do you not make this distinction? Suppose one set apart two guilt-offerings for surety[5] [one against the other], and he had them both slaughtered and had the emurim[6] of one of them placed upon the altar before sprinkling.[7] Would you not agree that although [those emurim were] already placed upon the altar they have to be brought down? Now, if your assumption was right that they are considered in such a case as one offering, why have they to be brought down? Did not 'Ulla rule: 'If the emurim of sacrifices of a minor degree of holiness[8] were laid upon the altar before the sprinkling they must not be brought down, as they have become the food of the altar!? Thereupon he gave no reply. Said R. Johanan: I have cut off the legs of that child.[9] MISHNAH. THE ACT OF [SPRINKLING THE] BLOOD OF MOST HOLY SACRIFICES MAY HAVE EITHER A LENIENT OR A STRINGENT EFFECT, BUT WITH SACRIFICES OF A MINOR DEGREE OF HOLINESS IT HAS ONLY A STRINGENT EFFECT. HOW SO? WITH MOST HOLY SACRIFICES, BEFORE THE SPRINKLING THE LAW OF SACRILEGE APPLIES BOTH TO THE EMURlm AND TO THE FLESH; AFTER THE SPRINKLING IT APPLIES TO THE EMURIM BUT NOT TO THE FLESH;[10] IN RESPECT OF BOTH ONE IS GUILTY[11] OF [TRANSGRESSING THE LAWS OF] NOTHAR. PIGGUL AND DEFILEMENT.[12] IT IS THUS FOUND THAT WITH MOST HOLY SACRIFICES THE ACT OF SPRINKLING HAS A LENIENT AS WELL AS A STRINGENT EFFECT. WITH SACRIFICES OF A MINOR DEGREE OF HOLINESS IT HAS ONLY A STRINGENT EFFECT', HOW SO? WITH SACRIFICES OF A MINOR DEGREE OF HOLINESS, BEFORE THE SPRINKLING THE LAW OF SACRILEGE APPLIES NEITHER TO THE EMURIM NOR TO THE FLESH; AFTER THE SPRINKLING IT APPLIES TO THE EMURlm BUT NOT TO THE FLESH; IN RESPECT OF BOTH ONE IS GUILTY OF TRANSGRESSING THE LAWS OF NOTHAR, PIGGUL AND DEFILEMENT. IT IS THUS FOUND THAT WITH SACRIFICES OF A MINOR DEGREE OF HOLINESS IT HAS ONLY A STRINGENT EFFECT. GEMARA. It teaches:[13] 'THE LAW OF SACRILEGE APPLIES . . . NOT TO THE FLESH' which implies that the penalty of Sacrilege is not inflicted, but the prohibition still remains.[14] But why? Is it not the possession of the priest?[15] — This is no difficulty, since in the opening clause he had to use [the phrase] 'THE LAW OF SACRILEGE APPLIES' he uses also in the concluding clause[16] [the phrase] 'THE LAW OF SACRILEGE APPLIES NOT'.[17] But read then the second section of the Mishnah: 'WITH SACRIFICES OF A MINOR DEGREE OF HOLINESS IT HAS ONLY A STRINGENT EFFECT', HOW SO? WITH FLESH OF SACRIFICES OF A MINOR DEGREE OF HOLINESS, BEFORE THE SPRINKLING THE LAW OF SACRILEGE APPLIES NEITHER TO THE EMURIM NOR TO THE FLESH; AFTER THE SPRINKLING IT APPLIES To THE EMURIM BUT NOT TO THE FLESH. This implies: The penalty of sacrilege is not inflicted but the prohibition still remains.[18] Why? Is it not the possession of the owner?[19] — Said R. Hanina: [It refers] to an offering that was taken out [of the Temple Court] and the Mishnah stands in accordance with R. Akiba's view.[20] For R. Akiba held that 'sprinkling is of effect in the case of an offering that was taken out [of the Temple Court]' only in regard to its burning,[21] but

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(1) Lit., 'a stolen reply'.

(2) Viz., the phrase. 'they were slaughtered', and the repetition of 'both' in the text. Pseudo-Rashi 'reads: 'they were both slaughtered'.

(3) The one whose blood has not been sprinkled..

(4) As a remnant of a sin-offering. Yet R. Akiba ruled that it is exempted from the Law of Sacrilege. He must apparently hold that the two sin-offerings are considered as one offering.

(5) In case one is lost.

(6) V. Glos.

(7) Then the blood of the other offering was sprinkled

(8) The same applies, of course, also to Most Holy sacrifices,

(9) I.e., I have proved his argument to be wrong. Resh Lakish was younger than R. Johanan, hence the designation ‘of that child’.

(10) This is the lenient outcome.

(11) After sprinkling.

(12) V. supra p. 17. nn. 9-11. This is the stringent outcome.

(13) In the first section of the Mishnah.

(14) Viz., to the priest.

(15) Once the blood has been sprinkled.

(16) Of the first section of the Mishnah.

(17) For the sake of symmetry.

(18) Viz., to the layman.

(19) The answer given in the first instance is not applicable here, as there is no clause in this section which demanded the use of the phrase for the sake of symmetry.

(20) Infra 8b.

(21) Viz., that it may not be burnt at once, like offerings whose disqualifications are essentially in themselves, but only after the flesh has begun to decay.

Talmud - Mas. Me'ilah 8a

in regard to eating it does not effect permission.

CHAPTER II

MISHNAH. THE LAW OF SACRILEGE APPLIES TO THE SIN-OFFERING OF A BIRD FROM THE MOMENT OF ITS DEDICATION. WITH THE PINCHING OF ITS NECK[1] IT BECOMES SUSCEPTIBLE FOR UNFITNESS THROUGH CONTACT WITH A TEBUL YOM[2] OR ONE WHO STILL REQUIRES ATONEMENT’,[3] OR BY REMAINING OVERNIGHT. ONCE ITS BLOOD HAS BEEN SPRINKLED IT IS SUBJECT TO [THE TRANSGRESSION OF THE LAWS OF] PIGGUL, NOTHAR[4] AND DEFILEMENT, BUT THE LAW OF SACRILEGE NO LONGER APPLIES TO IT.[5] GEMARA. It is stated: IT BECOMES SUSCEPTIBLE FOR UNFITNESS THROUGH CONTACT WITH A TEBUL YOM OR ‘ONE WHO STILL REQUIRES ATONEMENT’, OR BY REMAINING OVERNIGHT. [That is, it becomes] ‘susceptible for unfitness’ but not for defilement.[6] With whom then will our Mishnah agree? — With the Sages, for it has been taught:[7] ‘Abba Saul says. A tebul yom [

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(1) This is the prescribed form of slaughter, v. Lev. I, 25.

(2) The immersion of an unclean person does not effect _immediate purification. In order to be able to partake of a sacred meal he has to wait until sunset. A tebul yom, lit., ‘a person immersed by day’. is one who took his immersion in day-time and is waiting for sunset.

(3) In four instances of uncleanness an offering is required in addition to immersion, v. Ker. 8b. As long as this ‘ceremony of atonement is not performed one is not permitted to partake of a sacred meal.

(4) V. supra p. 17, n. 9.

(5) For it has become the possession of the priests.

(6) The term ‘unfit’ פסול through contact with an unclean person or thing denotes that the uncleanness contracted is not of such a degree as to be transmitted to another object. ‘Defiled’ or ‘unclean’ טמא, on the other hand, denotes the capacity of transmitting further the uncleanness contracted.

(7) Tosef. Toh. I, 3. There is a scale of degrees of uncleanness: the ‘source of sources’; the ‘source’ of uncleanness; the first, second, third and fourth degree of uncleanness. The degree of uncleanness of the defiled object is (in general) one degree lower than that of the object from which it derived its defilement. The susceptibility to uncleanness is not uniform. The holier a thing the more susceptible it is to uncleanness. Holy things קדשים , e.g. are susceptible to ‘uncleanness’ in the third degree and to ‘unfitness’ in the fourth, and terumah to ‘uncleanness’ in the second degree and to ‘unfitness’ in the third.

Talmud - Mas. Me'ilah 8b

is unclean of the first degree in regard to holy things.[1] R. Meir says: He renders holy things "unclean" and terumah[2] "unfit".[3] The Sages say, Just as he renders "unfit" liquids and edibles of terumah, so he renders "unfit"[4] sacred liquids and edibles’! — Said Raba, on the view of Abba Saul, A higher standard has been set with holy things in that the Rabbis declared the tebul yom to be [in regard to them unclean in] the first degree. And on the view of R. Meir, [he possesses by Rabbinic enactment the same measure of uncleanness] as food which is unclean in the second degree;[5] while on the view of the Sages, since he has immersed, his uncleanness has weakened, and he renders things ‘unfit’ but not ‘unclean’.[6] ONCE ITS BLOOD HAS BEEN SPRINKLED . . . THE LAW OF SACRILEGE NO LONGER APPLIES TO IT. This implies that the Law of Sacrilege no longer applies though the prohibition still remains.[7] But why? Is it not now the possession of the priests? — Said R. Hanina, [The Mishnah refers to an offering] which was taken out [of the Temple Court] so that [the flesh] is indeed not fit for consumption[8] and is in accordance With the view of R. Akiba[9] Who holds that the sprinkling of the blood is of avail[10] with an offering that was taken out [of the Temple precincts]. Said R. Huna in the name of Rab: The draining out of the blood[11] of the sin-offering of a bird is not indispensable,[12] for Rab learnt [in our Mishnah]: ‘When its blood has been sprinkled’.[13] R. Adda son of Ahabah in the name of Rab said: The draining out of the blood of the sin-offering of a bird is indispensable, and Rab, in fact, learnt [in our Mishnah]: ‘When its blood has been drained out’. Come and hear: It is said, and the rest of the blood shall be drained at the base of the altar; it is a sin-offering.[14] Now on the view of R. Adda son of Ahabah it is right when it is written, ‘and the rest of the blood shall be drained . . . it is a sin-offering’,[15] but according to R. Huna, what is the meaning of ‘the ‘est etc.’? — As it has been taught in the School of R. Ishmael: ‘If there remained . . .’.[16] But then what of the phrase, ‘it is a sin-offering’?[17] — It refers to the preceding text.[18] Said R. Aha son of Raba to R. Ashi: If so, with the meal-offering where it is written ‘and the remainder’[19] does it also mean ‘if there remained’? And should you say: Indeed, so it is, surely it has been taught:

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(1) This means, the sacred thing touched by a tebul yom is ‘unclean’ of the second degree. It can thus transmit the uncleanness two stages further. It ‘defiles’ other holy things and ‘renders unfit’ terumah.

(2) I.e., the priests’ share of the produce of the land, v. Num. XVIII, 11f, v. Glos.

(3) As the tebul yom is considered unclean of the second degree.

(4) But not ‘unclean’ so as to defile other things, as in our Mishnah.

(5) Which renders a holy thing unclean in the third degree.

(6) According to Raba's explanation our Mishnah may well agree with the views of Abba Saul and R. Meir, for their rulings result from the enactment of the Rabbis, whilst the ‘Mishnah refers to the original law of the Torah.

(7) Its use is still forbidden although the attached penalty does not apply. It is thus considered the property of the Temple. This inference is made from the fact that the term ‘permitted’ would otherwise have been used in our Mishnah.

(8) But has to be burnt.

(9) V. supra 7b.

(10) To exempt it from the Law of Sacrilege.

(11) A ceremony performed after the sprinkling of the blood, v. Lev. V, 9.

(12) If omitted or if there is not sufficient blood in the organs of the animal for this act, the sprinkling remains valid in regard to the laws of Sacrilege, piggul, etc. as ruled in our Mishnah.

(13) No mention has been made of the draining out an indication that it is not indispensable.

(14) Ibid.

(15) Suggesting there has to be a rest and that the rest which is to be drained is a sin-offering, hence indispensable.

(16) Then it has to be drained out. But if there is no rest the service is still valid without it.
(17) Which might suggest that it is the draining out which makes it a valid sin-offering.
(18) Viz., the sprinkling of the blood, without which the offering is indeed invalid.
(19) Lev. II, 3.

Talmud - Mas. Me'ilah 9a

[The verse], and he shall take thereout his handful of the fine flour thereof, and of the oil thereof with all the frankincense thereof,[1] is to exclude the case where there was not the full quantity of fine flour, oil and frankincense?[2] — I will tell you. There it is written [again] ‘and the remainder’ which is superfluous.[3] The father of Samuel raised an objection to R. Huna: Both in the case of the sin-offering of a bird and in that of the burnt offering of a bird if the neck was pinched or the blood drained out while purposing an act outside the proper place, the offering is invalid but one is not liable to the penalty of extinction; if while purposing an act beyond its proper time, it is piggul, and one is liable to extinction.[4] It states at all events, ‘the blood drained out’.[5] — He raised this objection and he himself answered it: It is to be understood in a disjunctive sense.[6] [To revert to] the [above] text: The School of R. Ishmael taught: ‘If there remained of the blood’.[7] But has not the School of R. Ishmael taught elsewhere:[8] ‘The remnant is indispensable’. and R. Papa explained that they[9] differed as to whether the draining out of the blood of a sin-offering of a bird was indispensable? — There are two [contradictory traditions of] Tannaim as to what was the view of R. Ishmael. MISHNAH. THE LAW OF SACRILEGE APPLIES TO THE BURNT-OFFERING OF A BIRD FROM THE MOMENT OF ITS DEDICATION. WITH THE PINCHING OF ITS NECK IT BECOMES SUSCEPTIBLE FOR UNFITNESS THROUGH CONTACT WITH A TEBUL YOM, OR ONE WHO STILL REQUIRES ATONEMENT’, OR BY REMAINING OVERNIGHT. ONCE ITS BLOOD HAS BEEN DRAINED OUT,[10] IT IS SUBJECT TO [THE TRANSGRESSION OF THE LAWS OF] PIGGUL, NOTHAR AND DEFILEMENT, AND THE LAW OF SACRILEGE APPLIES TO IT UNTIL [THE ASHES HAVE BEEN] REMOVED [FROM THE ALTAR] TO THE PLACE OF THE ASHES.[11] THE LAW OF SACRILEGE APPLIES TO THE BULLOCKS WHICH ARE TO BE BURNT AND THE HEGOATS WHICH ARE TO BE BURNT[12] FROM THE MOMENT OF THEIR DEDICATION. ONCE SLAUGHTERED THEY BECOME SUSCEPTIBLE FOR UNFITNESS THROUGH CONTACT WITH A TEBUL YOM OR ‘ONE WHO STILL REQUIRES ATONEMENT’, OR BY REMAINING OVERNIGHT. ONCE THEIR BLOOD HAS BEEN SPRINKLED THEY ARE SUBJECT TO [THE TRANSGRESSION OF THE LAWS OF] PIGGUL, NOTHAR AND DEFILEMENT, AND THE LAW OF SACRILEGE APPLIES TO THEM EVEN WHILE THEY ARE AT THE PLACE OF THE ASHES SO LONG AS THE FLESH HAS NOT BEEN CHARRED TO CINDERS. THE LAW OF SACRILEGE APPLIES TO A BURNT-OFFERING FROM THE MOMENT OF ITS DEDICATION. ONCE SLAUGHTERED IT BECOMES SUSCEPTIBLE FOR UNFITNESS THROUGH CONTACT WITH A TEBUL YOM OR ONE WHO STILL REQUIRES ATONEMENT’, OR BY REMAINING OVERNIGHT. ONCE ITS BLOOD HAS BEEN SPRINKLED IT IS SUBJECT TO [THE TRANSGRESSION OF THE LAWS OF] PIGGUL, NOTHAR AND DEFILEMENT. THE LAW OF SACRILEGE DOES NOT APPLY TO THE SKIN,[13] BUT IT APPLIES TO THE FLESH UNTIL [THE ASHES] HAVE BEEN REMOVED TO THE PLACE OF THE ASHES. THE LAW OF SACRILEGE APPLIES TO BURNT- AND SIN-OFFERINGS AND TO PEACE-OFFERINGS OF THE CONGREGATION FROM THE MOMENT OF THEIR DEDICATION. ONCE SLAUGHTERED THEY BECOME SUSCEPTIBLE FOR UNFITNESS THROUGH CONTACT WITH A TEBUL YOM OR ‘ONE WHO STILL REQUIRES ATONEMENT, OR BY REMAINING OVERNIGHT. ONCE THEIR BLOOD HAS BEEN SPRINKLED THEY ARE SUBJECT TO [THE TRANSGRESSION OF THE LAWS OF] PIGGUL, NOTHAR AND DEFILEMENT. THE LAW OF SACRILEGE THEN NO LONGER APPLIES TO THE FLESH,[13] BUT APPLIES TO THE EMURIM UNTIL THE ASHES ARE REMOVED TO THE PLACE OF THE ASHES. THE LAW OF SACRILEGE APPLIES TO THE TWO LOAVES OF BREAD[14] FROM THE MOMENT OF THEIR DEDICATION. ONCE

THEY HAVE FORMED A CRUST IN THE OVEN THEY ARE SUSCEPTIBLE FOR UNFITNESS THROUGH CONTACT WITH A TEBUL YOM OR ‘ONE WHO STILL REQUIRES ATONEMENT’, AND THE [FESTIVAL] OFFERINGS[15] CAN THEN BE OFFERED. ONCE THE BLOOD OF THE LAMBS HAS BEEN SPRINKLED THEY [THE LOAVES] ARE SUBJECT TO [THE TRANSGRESSION OF THE LAWS OF] PIGGUL, NOTHAR AND DEFILEMENT, AND THE LAW OF SACRILEGE NO LONGER APPLIES TO THEM. THE LAW OF SACRILEGE APPLIES TO THE SHEWBREAD[16] FROM THE MOMENT OF ITS DEDICATION. ONCE IT HAS FORMED A CRUST IT BECOMES SUSCEPTIBLE FOR UNFITNESS THROUGH CONTACT WITH A TEBUL YOM OR ‘ONE WHO STILL REQUIRES ATONEMENT’, AND MAY BE ARRANGED UPON THE TABLE [OF THE SANCTUARY]. ONCE THE CENSERS OF INCENSE[17] WERE OFFERED IT IS SUBJECT TO [THE TRANSGRESSION OF THE LAWS OF] PIGGUL, NOTHAR AND DEFILEMENT, AND THE LAW OF SACRILEGE NO LONGER APPLIES TO IT.[18] THE LAW OF SACRILEGE APPLIES TO MEAL-OFFERINGS FROM THE MOMENT OF THEIR DEDICATION. ONCE THEY HAVE BECOME SACRED BY BEING PUT IN THE VESSEL [OF MINISTRY] THEY BECOME SUSCEPTIBLE FOR UNFITNESS THROUGH CONTACT WITH A TEBUL YOM OR ‘ONE WHO STILL REQUIRES ATONEMENT’, OR BY REMAINING OVERNIGHT. ONCE THE HANDFUL[19] HAS BEEN OFFERED THEY ARE SUBJECT TO [THE TRANSGRESSION OF THE LAW OF] PIGGUL, NOTHAR AND DEFILEMENT, AND THE LAW OF SACRILEGE NO LONGER APPLIES TO THE REMNANT,[20] BUT IT APPLIES TO THE HANDFUL UNTIL ITS ASHES HAVE BEEN REMOVED TO THE PLACE OF THE ASHES. GEMARA. It was stated: If one has made use of the ashes of the tappuah[21] which was on the altar, Rab says he has not transgressed the Law of Sacrilege, and R. Johanan says he has transgressed. Both agree that before the separation of the ashes[22] the Law of Sacrilege still applies to them, they differ as to what is the case after the separation of the ashes. Rab says the Law of Sacrilege no longer applies to them, since the prescribed ceremony[23] has already been performed with them; but R. Johanan holds, since it is written: And the priest shall put on his linen garments . . .[24] as priestly garments are necessary, it proves that they [the ashes] still maintained their sacredness. We have learnt: THE LAW OF SACRILEGE APPLIES[25] UNTIL THE ASHES HAVE BEEN REMOVED TO THE PLACE OF THE ASHES. This presents a difficulty on the view of Rab. — Rab would tell you: [The meaning is]: Until it is fit for removal to the place of the Ashes.[26]

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(1) Ibid. II, 2.

(2) I.e., even after the handful, which is only a portion of the prescribed quantity, has been taken, the ingredients of the offering must be whole. In other words, the remainder is indispensable.

(3) The phrase occurs twice II, 3 and 10. The indispensable nature of the offering of the ‘remainder’ in the case of the meal-offering is thus an exception and based on a special text.

(4) Zeb. 64b.

(5) Were it dispensable, it would not render the offering piggul.

(6) Viz., the pinching of the neck refers both to the sin- and to the burnt-offering, while the draining out refers to the burnt-offering only, in which case the blood is not sprinkled upon the altar and the draining takes the place of the sprinkling and is therefore rightly indispensable.

(7) This interpretation implies that the draining out of the blood is not indispensable.

(8) Ibid. 52a, where R. Akiba and R. Ishmael differ in general terms on the question whether the remnant of an offering is indispensable or not

(9) Viz., R. Akiba and R. Ishmael.

(10) The draining out of the blood takes here the place of the sprinkling of the blood prescribed of other offerings.

(11) V. Lev. VI. 4.

(12) These have to be burnt outside Jerusalem, at the Place of the Ashes. To this category belong the sacrifices brought by the High Priest for communal transgression and for idolatry, and those offered on the Day of Atonement.

(13) Which becomes the possession of the priests.

(14) To be offered on the Feast of Weeks. V. Lev. XXIII, 17.

(15) I.e., the two lambs appertaining to the bread, v. ibid. v. 19.
(16) Cf. Lev. XXIV, 5f.
(17) The censers of incense were offered before the bread was distributed among the priests. This act stands therefore in place of the sprinkling of the blood prescribed for animal sacrifices. Cf. Men. XI.
(18) It can then be eaten by the priests.
(19) A handful was separated from the meal-offering and burnt upon the altar.
(20) Which becomes the possession of the priests.
(21) Lit., 'apple', 'pile'. I.e., the place upon the altar where the ashes were piled up.
(22) Cf. Lev. VI, 3 and Yoma 22a.
(23) Viz., the separation of the ashes. These were then deposited outside Jerusalem.
(24) Ibid. The proof is actually from the following verse: And he shall put off his garments and put on other garments, and carry forth the ashes without the camp unto a clean place. This is taken to prove that the depositing of the ashes is: part of the ceremony. The ashes are still sacred before this is done.
(25) Apparently even after the separation of the ashes was performed they are subject to the Law of Sacrilege.
(26) I.e., until the separation of the ashes has been performed.

Talmud - Mas. Me'ilah 9b

The following objection was raised: [We have learnt]: 'And if any of them[1] burst off from the altar, they need not be replaced; similarly, if a coal burst off from the altar it need not be replaced'.[2] [It appears that if] however [the coal] burst off [from the fire but still remained] on the altar, it has to be replaced [upon the fire].[3] This is right according to the view of R. Johanan, but presents a difficulty on the view of Rab. — Rab would reply: It is different with coal, as it is still substance.[4] Some there are who say the objection was raised in the other direction: [It appears that coal only has to be replaced][5] because it is of substance, but ashes that are not of substance, though still upon the altar, are not subject to the law of Sacrilege. This would be right according to Rab, but presents a difficulty on the view of R. Johanan! — R. Johanan would reply: This ruling[6] applies to ashes as well, and the reason why coal has been instanced is to let us know even in the case of coal, that is of substance, if it burst off from the altar it must not be replaced. It was stated: If one enjoyed of the flesh of Most Holy sacrifices[7] before the sprinkling of the blood, or of the emurim of sacrifices of a minor degree of holiness after the sprinkling of the blood, Rab says: The [value[8] of that] which he enjoyed must be restored to the nedabah[9] fund. Levi says: He shall buy something which is wholly for the altar.[10] It was taught in confirmation of Levi's view: To which fund goes this repayment for this sacrilege? Those that were permitted to argue before the Sages[11] say: He shall buy something which is wholly for the altar. Which is it? Incense'. It was taught in confirmation of Rab's view: 'If one has enjoyed of the money destined for his sin- or guilt-offering, if[12] his sin-offering has not been offered yet, he shall add [a fifth] and offer [for the whole sum] his sin-offering; similarly if his guilt offering has not been offered, the money is to be taken to the Dead Sea;[13] similarly if his guilt-offering has already been offered, it shall be restored to the nedabah fund. If one had enjoyed of Most Holy sacrifices before the sprinkling of the blood, or of the emurim of sacrifices of a minor degree of holiness after the sprinkling of the blood, [the value of] that which he has enjoyed goes to the nedabah fund.[14] [If one has enjoyed of] any kind of offerings dedicated to the altar, [the money is refunded] for the altar, if of objects dedicated to the Temple Repair Fund [it is employed] for the Temple Repair Fund, if of sacrifices of the congregation, it is employed for freewill-offerings of the congregation'. Now, does this not contain a contradiction in itself? [For it states]: 'If his sin-offering has not been offered yet, he shall add [a fifth] and offer for the whole sum his sin-offering; and if his sin-offering has been offered already, the money is to be taken to the Dead Sea'. And then it states: 'If one has enjoyed any kind of offerings dedicated to the altar, it is employed for the altar', and there is apparently no distinction made as to whether the owner has been atoned or not! — The former clause is in accordance with the view of R. Simeon who holds,[15] 'Every sin-offering whose owner has already been atoned[16] is left to die',

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(1) Viz., those disqualified offerings that need not be removed when already laid upon the altar, Zeb. IX, 2.
(2) Zeb. 86a.
(3) As ‘coal’ here is unqualified it is assumed to include also coals which have already been removed from the fire place of the altar to the tappuah, i.e., coals with which the ‘separation’ has already been performed; and yet it says that only if it has burst off from the altar it need not be replaced, but if it was shifted to some other place upon the altar it has to be replaced upon the fire, which implies that even after the ‘separation’ it is still considered sacred; the Law of Sacrilege should then still apply.
(4) While ashes are considered of no substance.
(5) If still upon the altar. This version of the objection is also based upon the implication that if the coal was shifted from its place but remained upon the altar, it has to be replaced. It is thus still considered sacred.
(6) Viz., that the sacredness of things burnt upon the altar continues even after their separation.
(7) The flesh of Most Holy sacrifices is subject to sacrilege only prior to the sprinkling, while the ‘sacrificial portions’ of sacrifices of a lesser degree of holiness come under the Law of Sacrilege with the sprinkling of the blood, v. Mishnah 7b.
(8) Or rather, the value plus a fifth, v. Lev. V, 16.
(9) Lit., ‘freewill’; i.e., freewill burnt-offerings to be offered at a time when the altar was employed (Tosaf.).
(10) I.e., incense as distinct from the freewill burnt-offerings, the skin of which belongs to the priests.
(11) V. Sanh. 17b, that this paraphrases ‘Levi before R. Judah the Prince’, but Tosaf. rejects here this assumption. V. Men. 80b.
(12) At the moment of repayment. Tosaf.
(13) I.e., destroyed.
(14) This supports the view of Rab.
(15) Tem. 15a.
(16) I.e., he has brought in the meantime another offering for the sin which this sin-offering was to expiate.

Talmud - Mas. Me'ilah 10a

while the latter clause[1] is in accordance with the Sages.[2] Said R. Gebiha of Be Kathil[3] to R. Ashi: [Indeed] thus said Abaye: ‘The former clause reflects R. Simeon's view and the latter that of the Sages’.[4] Said Raba: All[5] agree that if he enjoyed of the flesh of Most Holy sacrifices which was defiled,[6] or of the emurim of sacrifices of a minor degree of holiness after they had been placed upon the altar,[7] he is free [from the payment of indemnity]. Is this not obvious? For what loss did he cause?[8] — I might have thought that since the flesh of most holy sacrifices became defiled there is still attached to it the duty of being burnt by the priests,[9] and with the emurim of sacrifices of a minor degree of holiness [placed on the altar fire] the duty of turning it over by the poker.[10] We are therefore informed [that he is free]. Said Raba: The statement,’If the sin-offering has already been offered the money is to be taken to the Dead Sea’, holds good only in the case where he became aware of his transgression [of the Law of Sacrilege] before this atonement, but if after his atonement, it goes to the nedabah fund.[11] Why? Because one may not at the outset set aside [holy things] for destruction. MISHNAH. THE LAW OF SACRILEGE APPLIES TO THE HANDFUL [OF A MEAL-OFFERING], THE FRANKINCENSE, THE INCENSE, THE MEAL-OFFERING OF A PRIEST,[12] THE MEAL-OFFERING OF THE ANOINTED HIGH PRIEST[13] AND THE MEALOFFERING THAT IS ACCOMPANIED BY A LIBATION[14] FROM THE MOMENT OF THEIR DEDICATION. ONCE THEY HAVE BECOME SACRED BY BEING PUT IN THE VESSEL [OF MINISTRY], THEY BECOME SUSCEPTIBLE FOR UNFITNESS THROUGH CONTACT WITH A TEBUL YOM OR ‘ONE WHO STILL REQUIRES ATONEMENT’, OR BY REMAINING OVERNIGHT, AND THEY ARE SUBJECT TO [THE TRANSGRESSION OF THE LAWS OF] NOTHAR AND DEFILEMENT, BUT [THE LAW OF] PIGGUL DOES NOT APPLY TO THEM. THIS IS THE GENERAL RULE: WHATSOEVER HAS THAT WHICH RENDERS IT PERMISSIBLE [FOR THE ALTAR OR FOR THE USE OF THE PRlests][15] IS NOT SUBJECT TO [THE LAWS OF] PIGGUL, NOTHAR AND DEFILEMENT UNTIL THAT ACT HAS BEEN PERFORMED. AND WHATSOEVER HAS NOT THAT WHICH RENDERS IT PERMISSIBLE[16] BECOMES SUBJECT [TO THE LAWS OF] NOTHAR AND DEFILEMENT AS SOON AS IT

HAS BECOME SACRED BY BEING PUT IN THE VESSEL [OF MINISTRY], BUT [THE LAW OF] PIGGUL DOES NOT APPLY TO IT.

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(1) Which makes no distinction whether or not the owners had been atoned for.

(2) Who dispute with R. Simeon, v. Tem. 15a.

(3) On the Tigris N. of Bagdad.

(4) This tradition in the name of Abaye is quoted as a confirmation of the anonymous answer given before.

(5) Rab as well as R. Johanan, whose dispute is mentioned supra 9a, v. Tosaf.

(6) Even if it was defiled before the sprinkling of the blood. The flesh is not fit to be offered upon the altar but has to be burnt by the priests.

(7) And charred, so that sacrilege is no longer applicable to it, since the ceremony of offering may be considered as completed.

(8) This means he has in the first case made use of something which cannot be used by the priests and in the second case of something which is no longer within the scope of the service of the Temple.

(9) I.e., it is still sacred; the religious procedure has not finished yet.

(10) Lit., ‘hook’.

(11) If he became aware of his sacrilegious use of a part of the money designated for his sin-offering prior to the offering of this sacrifice, we may consider the indemnity he has to pay as forming part of the sum to be used for the sin-offering. Consequently if before the indemnity was paid a sacrifice was bought for the remainder of the amount originally set aside for the offering, the indemnity is to be regarded as money designated for a sin-offering which can no longer be used for this purpose, as its owner has already been atoned for. It has then to be destroyed in accordance with our general rule. But if at the time of the offering he had no knowledge of his trespass against the Law of Sacrilege, his indemnity cannot be considered as set aside for his sin-offering, and when paid it need not be destroyed.

(12) Lev. VI, 16.

(13) Lev. IV, 3ff and Hor. III, 4.

(14) I.e., one that is offered with a freewill peace-offering.

(15) So as to make it ‘acceptable’ (v. Lev. XIX, 7). E.g., the flesh of sin-offerings and sacrificial portions of peace-offerings where the sprinkling of the blood renders these permissible respectively to the priest or for the altar.

(16) E.g., the handful and frankincense and other offerings enumerated in our Mishnah, which require no other things to make the offering fit for the altar.

Talmud - Mas. Me'ilah 10b

GEMARA. Whence do we know this?[1] — For our Rabbis taught:[2] I might have thought that only for things that have that which renders them permissible is one culpable for [transgressing] the Law of Defilement; for this would be the logical deduction: Since piggul, which requires only one awareness of transgression,[3] whose sacrifice of atonement is fixed[4] and allows of no exception for the congregation,[5] yet it applies to things only that have that which renders them permissible, the much more so must uncleanness, which requires a twofold awareness of transgression,[6] whose sacrifice of atonement can be of a higher or lesser value[7] and allows of an exception for the congregation,[8] apply only to things that have that which renders them permissible. The text therefore states: Say unto them: Whosoever he be of all your seed throughout your generations, that approaches [unto the holy things, which the children of Israel hallow unto the Lord, having his uncleanness upon him, that soul shall be cut off from before Me].[9] Scripture deals with all kinds of holy things.[10] But I might have thought that [in the case of things that have other things that render them permissible, the Law of Defilement] would apply at once;[11] therefore It states: ‘Who approaches’ [which is to be expounded after the way of] R. Eliezer [who] said: Is it possible that one is liable [to the Law of Defilement] merely by touching [the flesh]? You must then understand it in the following manner: Whatsoever has that which renders it permissible is not subject [to the laws of piggul, nothar and defilement] until that which renders it permissible has been performed; and whatsoever has not that which renders it permissible is liable [to those laws] only when they have become sacred by being put in the vessel [of ministry].[12]

CHAPTER III

MISHNAH. THE YOUNG OF A SIN-OFFERING,[13] THE SUBSTITUTE[14] OF A SIN-OFFERING AND A SIN-OFFERING WHOSE OWNER HAS Dled[15] ARE LEFT TO DIE. THAT WHICH PASSED [THE AGE-LIMIT OF] ONE YEAR[16] OR WAS LOST[17] AND THEN FOUND WITH A BLEMISH, IF AFTER THE OWNER HAS BEEN ATONED,[18] IT IS LEFT TO DIE; IT CANNOT EFFECT A SUBSTITUTE[19] AND THOUGH ONE MAY NOT DERIVE ANY BENEFIT FROM IT, IT IS NOT SUBJECT TO THE LAW OF SACRILEGE;[20]

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(1) I.e., that also things that do not require some other object to render them permissible are subject to the laws of nothar and defilement.

(2) Zeb. 45b.

(3) I.e., it is not necessary for the transgressor to have known that the food he enjoyed was piggul.

(4) I.e., does not vary according to the pecuniary situation of the transgressor, as in the case of uncleanness. V. Lev. V, 2ff.

(5) I.e., even if the whole congregation ate piggul, everyone would be guilty.

(6) An unclean person that has entered the Temple precincts or has eaten holy things is guilty only if at one time he knew of his uncleanness, v. Shebu. 2a. He thus is aware twice of his uncleanness; before and after his transgression.

(7) Shebu. 2a.

(8) E.g., in the case of the Passover lamb, v. Pes. 66b, which can be offered and consumed in the case of the whole congregation being unclean.

(9) Lev. XXII, 3.

(10) Including things that do not require the act of another object to render them permissible.

(11) Even before that act had been performed.

(12) The word יקריב , (rendered ‘who approaches’) is expounded as יקרב , ‘fit to be offered’, thus indicating that the law applies only if the flesh was ready to be offered, i.e., that the act that renders it permissible was performed already.

(13) The young, born after its mother's dedication, is considered holy, yet it cannot be offered upon the altar, since it was not explicitly dedicated for this purpose.

(14) It is forbidden to change an animal dedicated as an offering against a profane animal; if such an exchange takes place, both the animal originally dedicated and the animal exchanged for it are equally holy, except in the case where the latter animal, although it too becomes holy. must not be offered ‘upon the altar’, v. Lev. XXVII, 10 and Tem. 22b.

(15) ‘There is no atonement for the dead; death has atoned for them’ is a general ruling of the Sages. The offering can therefore no longer be employed for the purpose for which it was originally designated.

(16) Num. XV, 27.

(17) In Tem. 22b this is expounded as follows: ‘That which passed one year and was lost, or that which was lost and found with a blemish’.

(18) With another animal.

(19) As it is destined to be killed.

(20) By law of the Torah, but by enactment of the Sages it is sacrilegious to use it. The Fifth is then not to be paid.

Talmud - Mas. Me'ilah 11a

IF BEFORE THE OWNER HAD BEEN ATONED, IT SHALL GO TO PASTURE UNTIL IT BECOMES UNFIT [FOR SACRIFICE].[1] THEN IT SHALL BE SOLD AND FOR THE EQUIVALENT ANOTHER [SACRIFICE] SHALL BE BOUGHT; IT CAN EFFECT A SUBSTITUTE AND IS SUBJECT TO THE LAW OF SACRILEGE. GEMARA. Why this difference in that no distinction is made[2] in the first clause while in the concluding a distinction is made? — In the first clause the ruling is absolute,[3] in the concluding it is not. But has not this [Mishnah] been taught already in connection with exchanges?[4] — There it has been taught for the sake of its reference to the law of exchanges, here by reason of its reference to the Law of Sacrilege.

MISHNAH. IF ONE HAS SET ASIDE MONEY FOR HIS NAZIRITE OFFERINGS,[5] IT MAY NOT BE USED, BUT THE LAW OF SACRILEGE DOES NOT APPLY TO IT, AS IT MAY ALL[6] BE USED FOR THE PEACE-OFFERING.[7] IF HE DIED AND LEFT MONEY [FOR HIS NAZlrite OFFERINGS]. IF UNSPECIFIED IT SHALL GO TO THE NEDABAH[8] FUND; IF SPECIFIED, THE MONEY DESIGNATED FOR THE SIN-OFFERINGS SHALL BE TAKEN TO THE SALT [DEAD] SEA;[9] IT MAY NOT BE USED, THOUGH THE LAW OF SACRILEGE DOES NOT APPLY TO IT. WITH THE MONEY DESIGNATED FOR A BURNT-OFFERING THEY SHALL BRING A BURNT-OFFERlng;[10] THE LAW OF SACRILEGE APPLIES TO IT. WITH THE MONEY DESIGNATED FOR THE PEACE-OFFERING THEY SHALL BRING A PEACE-OFFERING, AND IT HAS TO BE CONSUMED WITHIN A DAY,[11] BUT REQUIRES NO BREAD OFFERING.[12] GEMARA. Resh Lakish demurred: Why does not [the Mishnah] teach also the following case: If one has set aside monies for bird-offerings,[13] they may not be used but the Law of Sacrilege does not apply to them because he might buy with them turtledoves which have not reached the prescribed age or pigeons which have passed the prescribed age?[14] — Said Raba: [In our case] the Torah rules that for the unspecified money [also] a peace offering shall be purchased; but does the Torah ever rule that turtle-doves which have not reached the right age shall be offered? Are they not indeed unfit for the altar? MISHNAH. R. SIMEON[15] SAYS: [THE LAW RELATING TO] BLOOD IS LENIENT AT THE BEGINNING [OF THE OFFERING CEREMONY] AND STRINGENT AT THE END; [THAT RELATING TO] LIBATIONS IS STRINGENT AT THE BEGINNING AND LENIENT AT THE END; BLOOD IS EXEMPTED FROM THE LAW OF SACRILEGE AT THE BEGINNING, BUT IS SUBJECT TO IT AFTER IT HAS FLOWED AWAY TO THE BROOK KIDRON;[16] LIBATIONS ARE SUBJECT TO THE LAW OF SACRILEGE AT THE BEGINNING, BUT ARE EXEMPTED FROM IT AFTER THEY FLOWED DOWN INTO THE SHITTln.[17] GEMARA. Our Rabbis taught:[18] 'The Law of Sacrilege applies to blood. These are the words of R. Meir and R. Simeon; but the Sages say. It does not apply'. What is the reason of them Who hold that it does not apply?[19] — Said 'Ulla: Scripture says. And I have given it to you,[20] [suggesting] it shall be yours.[21] The School of R. Ishmael taught: [It reads there] to make atonement[20] [meaning], I have given it for atonement, but not [to make it subject] to the Law of Sacrilege. R. Johanan says: Scripture Says. For it is the blood that maketh atonement by reason of the life.[22] [The blood] before [the act of][23] atonement is to be compared to its status after the act of atonement.[24] Just as after the act of atonement it is exempted from the Law of Sacrilege, so before the act of atonement it is exempted from the Law of Sacrilege. But why not infer [in the other direction]: Just as before the act of atonement the Law of Sacrilege applies to it, so also after the act of atonement the Law of Sacrilege applies to it? — Is there at all a thing to which the Law of Sacrilege applies after the Prescribed ceremony had been performed therewith! — But why not?

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(1) I.e., until it contracts a blemish. This phrase refers, of course, only to the one which has passed the age-limit. for in the other instance the animal is found with a blemish.

(2) Whether the owner has been atoned for or not.

(3) There is no object in making this distinction, for in all the three instances of the first clause the position is final; the young and the exchange are themselves not considered offerings, and in the case of the owners' death the sin for which the offering was brought is already expiated.

(4) Tem. IV, 1; why repeat it?

(5) Without specifying what portion of the sum is designated for each of the required offerings, viz., a sin-offering, a burnt-offering and a peace-offering. V. Num. VI, 14f.

(6) Of each coin one may say, perhaps this is designated for the peace-offering (Rashi). Tosaf.: The whole sum may be used for the peace. offering, and the other offerings bought with other money.

(7) Which as a sacrifice of a minor degree of holiness does not come under the Law of Sacrilege; v. supra 7b.

(8) V. Glos.

(9) I.e., it shall be destroyed.

(10) A burnt offering is not brought for atonement. It can therefore be offered even after its owner's death. The same applies to the peace-offering.

(11) As in the case of the peace-offering of a Nazirite and not as in the instance of an ordinary peace-offering whose flesh may be consumed during two days and the night in between.

(12) As it cannot be placed upon the hands of the Nazirite as required in Num. VI. 19.

(13) To be offered e.g., by him who recovered from gonorrhoea; v. Lev. XV. 1ff.

(14) Turtle-doves are fit for offerings only after they have reached a certain age, pigeons only under that age. cf. Hul. 22b. The argument is: As he might buy with the money something which is not subject to sacrilege. the money. too, should not be subject to the Law of Sacrilege, as in the instance of the Mishnah.

(15) Some edd. read: R. Ishmael.

(16) Cf. Yoma 58b.

(17) I.e., pits at the side of the altar into which the remainder of libations was poured. V. Tosef. Suk. III, 3.

(18) Yoma 592.

(19) Yoma 59b has the version: The dispute refers only to the application of the law by enactment of the Rabbis. All agree, however, that by law of the Torah Sacrilege does not apply; wherefrom do we know this? Tosaf. corrects here accordingly.

(20) Lev. XVII, 11.

(21) I.e., it is not the ‘possession of God’, but that of man.

(22) Ibid.

(23) I.e., the sprinkling of the blood.

(24) ‘It is’ is understood to convey as much as ‘it remains in the same status’, Rashi Yoma ibid.

Talmud - Mas. Me'ilah 11b

What of the ashes removed [from the altar] which are subject to the Law of Sacrilege although the prescribed ceremony had been performed therewith![1] — The [law concerning the] removed ashes and that concerning the limbs of the scapegoat[2] constitute two texts of Scripture which teach the same thing, and wherever two texts teach the same thing no general rule can be derived from them.[3] This would be right according to the view that one may make no use of the limbs of the scapegoat, but what would be your argument according to him who holds that one may use them? — The [law concerning the] removed ashes and that concerning the garments of the High priest[4] constitute two texts of Scripture which teach the same thing, and wherever two texts teach the same thing no general rule can be derived from them. This would be right according to the Rabbis Who hold [that the text]. And he shall place them there[5] teaches that they have to be hidden,[6] but what would be your argument according to R. Dosa who holds that a common priest may wear them? — The [law concerning the] removed ashes and that concerning the heifer whose neck has been broken[7] constitute two texts of Scripture which teach the same thing [and from such texts no general rule can be derived]. But this [reply] would be right [only] according to him who [indeed] holds that one cannot derive a general rule [from such laws]; but what would be your argument according to the view that one can derive a general rule [from such laws]? — [In this case] there are written two limitations [excluding other instances]: Here it is written. The heifer whose neck has been broken,[8] and there it is written, And he shall place it by the side of the altar,[9] implying that only in these [instances does the Law of Sacrilege apply even after the prescribed ceremony has been performed], but not in others. LIBATlons ARE SUBJECT TO THE LAW OF SACRILEGE AT THE BEGINNING etc. May we assume that our Mishnah is not in agreement with the view of R. Eleazar son of R. Zadok? For ‘it has been taught:[10] ‘R. Eleazar son of R. Zadok said: There was a small passage between the ascent [of the altar] and the altar, on the west side of the altar. Once every seventy years young priests descended through it and brought up the [accumulated] congealed wine, which resembled a cake of figs. and burnt it in a sacred place, for Scripture says: In holiness shalt thou surely offer the libation to the Lord:[11] just as the libation thereof must be in a sacred place, so the burning thereof must be in a sacred place’. How is this implied? — Thereupon said Rabina: It is derived from [nothar[12] by textual analogy based on the word] ‘holy’ occurring in both texts. It says here ‘in holiness’[13] and it says there, and thou shalt burn the remnant in fire, it may not be eaten for it is holy.[14] Just as nothar is burnt in a sacred state,[15] so also these [libations] are burnt in a sacred state.[16] — [The Mishnah] may well agree with R. Eleazar, son of R. Zadok, as [it refers only to the case where the wine] was caught [before it reached the bottom of the Shittin].[17] Some reported [the discussion in the following version]: Shall we say that our Mishnah is in accordance with the view of R. Eleazar son of R. Zadok?[18] — [Not necessarily] as [it deals with a case where] the wine was caught [before it reached the ground]. I might say:[19] It is not necessary [to limit the Mishnah to this case] for [it is considered holy only] by Rabbinical enactment. But does he not adduce the text? — [The Biblical text is a] mere exegetical support [of a Rabbinical enactment]. MISHNAH. THE ASHES OF THE INNER ALTAR[20] AND [OF THE WICKS OF] THE CANDLESTICK MAY NOT BE USED. AND ARE NOT SUBJECT TO THE LAW OF SACRILEGE. IF ONE DEDICATES ASHES[21] THEY ARE SUBJECT TO THE LAW OF SACRILEGE. TURTLE-DOVES WHICH HAVE NOT REACHED THE RIGHT AGE AND PIGEONS WHICH HAVE EXCEEDED THE RIGHT AGE[22] MAY NOT BE ENJOYED; THEY ARE, HOWEVER NOT SUBJECT TO THE LAW OF SACRILEGE. GEMARA. This[23] is right

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(1) Why not take this as an example for similar instances?

(2) Which, too, according to one view in Yoma 67a are subject to the Law of Sacrilege, although the prescribed ceremony has been performed therewith.

(3) For were it the intention of the Torah that these laws should serve as a model to similar cases one text would suffice.

(4) V. Hul. 117a.

(5) Lev. XVI, 23.

(6) So as not to be used again, i.e., they are subject to the Law of Sacrilege.

(7) V. Deut. XXI, 1ff, and Sot. IX. 1f.

(8) Deut. XXI, 6. The definite article is to exclude other cases.

(9) That the removed ashes are still holy and therefore subject to the Law of Sacrilege is learnt from the fact that we are commanded to place it ‘by the side of the altar’. In the text commanding this, Lev. VI, 3, the word ‘it’ is regarded as unnecessary and is taken to indicate that only the ashes are sacred even after the prescribed ceremony had been performed therewith, and not other things.

(10) Suk. 492’

(11) Num, XXVIII, 7. The verb is repeated in Hebrew as emphasis.

(12) V. Glos.

(13) Num. XXVIII, 7.

(14) Ex. XXIX, 34.

(15) Cf. Pes. 82b.

(16) They are still considered sacred at the time of burning. The Law of Sacrilege should accordingly apply to the wine libation even after it had been let down to the Shittin, which is contradictory to our Mishnah.

(17) In which case R. Eleazar too agrees that the Law of Sacrilege does not apply. though once it reaches the bottom of the Shittin the holy ground renders the wine again sacred.

(18) For according to the Sages. Suk. 49a, the pits were not pits where the wine accumulated, but rather canals through which it flowed. The instance of our Mishnah of the use of such wine should then be an impossibility.

(19) The text of the last paragraph is rather obscure; cf. Tosaf. Suk. 49b who states that this version is corrupt and that of Suk. correct, where this paragraph is wholly omitted. It can make sense as a continuation of the discussion according to the former tradition. There the Mishnah is restricted, according to R. Eleazar son of R. Zadok, to wine caught in the air, for if taken after it has reached the bottom of the Shittin, it is considered holy and should therefore be subject to the Law of Sacrilege. Now it is argued, perhaps this reservation is not necessary, for the sacred character attributed to the wine by R. Eleazar is only a Rabbinical enactment and the Law of Sacrilege need not therefore apply to it.

(20) Unlike the ashes of the outer altar these do not retain their sacred character after the removal from the inner altar, since there is no special text implying that they remain holy. as in the case of the outer altar (v. oupra p. 40, n. 5).

(21) I.e., if one collects these ashes after their removal from the inner altar to the heap of ashes, and dedicates them afresh to the Temple, they are sacred and therefore subject to the Law of Sacrilege (Tosaf.). Aliter: If someone had vowed to give their value to the Temple before they had been removed.

(22) These are not fit for offerings. v. Hul. I, 5.

(23) Viz., the fact that the ashes of the altar have to be put at the place of the ashes.

as far as the outer altar is concerned, for it is written: And he shall place it by the altar,[1] but wherefrom do we know this of the ashes of the inner altar? Said R. Eleazar, Scripture says: And he shall take away its crop with the feathers thereof [and cast it beside the altar on the east part, in the place of the ashes]:[2] as this has no bearing on the outer altar,[3] make it bear on the inner altar. But why not say that both passages bear upon the outer altar [and it has been repeated] in order to fix the precise side [for the ashes]?[4] — If so, Scripture should [only] say, 'by the altar'; why [add, 'the place of] the ashes'? [To suggest] that [it was the place of the ashes] also for the inner altar.[5] Wherefrom do we know [the place for the ashes of] the candlestick? — [The expression] 'the ashes' [is an amplification, for it sufficed to mention] 'ashes'. MISHNAH.[6] R. SIMEON SAID: TURTLE-DOVES WHICH HAVE NOT YET REACHED THE RIGHT AGE ARE SUBJECT TO THE LAW OF SACRILEGE,[7] WHILE PIGEONS WHICH HAVE EXCEEDED THE RIGHT AGE ARE NOT ALLOWED FOR USE, BUT ARE EXEMPTED FROM THE LAW OF SACRILEGE. GEMARA. It is right according to R. Simeon whose reason has been stated [in a Mishnah]:[8] 'For R. Simeon used to say: [He who uses] that which will be fit [for offering] after a period and has been dedicated before that period has expired has transgressed a prohibitory law,[9] though he is not liable to the penalty of kareth'.[10] But according to the ruling of the Rabbis,[11] whereby is [our case] distinguished from that of [animal-sacrifices] which have not reached the required age [of eight days]?[12] — I might reply: [The sacrifice of a beast] that has not reached the required age is to be compared to one with a blemish which can be redeemed,[13] but these bird-offerings, which a blemish[14] does not disqualify them, cannot be redeemed. 'Ulla said in the name of R, Johanan: Dedicated [animals] which have died are according to the Torah exempted from the Law of Sacrilege. When 'Ulla sat and recited this ruling. R. Hisda said to him: Who has ever heard this, your view and the view of R. Johanan. your teacher? Whither has the sanctity thereof gone? — He thereupon replied: Why not ask the same question with relation to our Mishnah, where it says: TURTLE-DOVES WHICH HAVE NOT YET REACHED THE RIGHT AGE, AND PIGEONS WHICH HAVE EXCEEDED THE RIGHT AGE MAY NOT BE ENJOYED; THEY ARE, HOWEVER, NOT SUBJECT TO THE LAW OF SACRILEGE. Here, too. [ask] whither has the sanctity thereof gone?[15] — Nevertheless[16] [continued 'Ulla], I admit that by Rabbinical enactment the Law of Sacrilege is applicable [in these instances],[17] but I wish to raise the difficulty: Is there anything which has been exempted from the Law of Sacrilege[18] from the beginning and is subject to it afterwards?[19] — Why not? Is there not the instance of blood which was originally exempted from the Law of Sacrilege, but is subject to it at the end [of the offering ceremony]? For we have learnt: 'Blood is exempted from the Law of Sacrilege at the beginning, but is subject to it after it has flowed away to the Brook Kidron'.[20] — I might reply: In that instance the Law of Sacrilege was applicable at the beginning

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(1) Lev. VI, 3.

(2) Ibid. I, 16.

(3) Since this is mentioned in Lev. VI, 3.

(4) Viz., the east side.

(5) Ibid. The definite article is regarded as superfluous.

(6) In many editions this Mishnah is joined to the previous, of which it is a continuation, thus in Tosaf.

(7) For they may be offered when they grow older.

(8) Hul. 81a.

(9) Similarly, these turtle-doves since they will become fit after a certain period, are considered holy when dedicated even before the period is reached.

(10) V. Glos.

(11) I.e., the anonymous view of the previous Mishnah.

(12) Of which it says in Bek. 56a that they at once become sacred.

(13) In the instance of a sacrifice of cattle there is redemption in the case of disqualification by blemish; i.e., we find a precedent that even a disqualified only is holy, because a substitute can take its place. There is no such precedent in the case of a bird offering as this offering cannot he redeemed.

(14) Even in the case of such blemishes which disqualify even bird-offerings there is no redemption.

(15) The question is from pigeons which have passed the prescribed age after having been dedicated.

(16) So MS.M. cur. edd.: ‘He said to him’. I.e., although Mishnah proves that it is possible for the Law of Sacrilege to cease to operate.

(17) I.e., in my case and in that of the Mishnah. One is liable to compensation, though not to the payment of the additional Fifth.

(18) As in the instance of the turtle-doves according to the first view of the Mishnah.

(19) I.e., after they reach the prescribed age. although they had been dedicated when they were not yet of age.

(20) Supra 11a.

Talmud - Mas. Me'ilah 12b

for Rab said:[1] ‘The blood let from a [living] consecrated animal may not be used and is subject to the Law of Sacrilege’. [The above] text states: R. Huna[2] said in the name of Rab: ‘The blood let from a [living] consecrated animal may not be used and is subject to the Law of Sacrilege’. R. Hamnuna raised an objection:[3] ‘The milk of consecrated cattle and the eggs of turtledoves may not be used, but the Law of Sacrilege does not apply to them’.[4] — He replied: The ruling applies only to blood, for one cannot live without blood,[5] but not to milk, as one can well live without it. R. Mesharsheya raised an objection: The manure and excrements[6] that lie in the courtyard of the Temple may not be used, but are not subject to the Law of Sacrilege. The money thereof [paid in compensation] goes to the Temple Treasury. Now why is this so, since here too there is none who exists without some quantity of digested food [in its body]?[7] — I might reply: How can you compare these two things with one another? Excrements come from outside [the body] and when the one [quantity of food] has been excluded [from the body] another will be consumed. Different it is with blood which is part of the body. It states: ‘. . . may not be used, but are subject to the Law of Sacrilege and the money [thereof paid in compensation] goes to the Temple Treasury’. This offers a support of the rule of R. Eleazar. For R. Eleazar said: Wherever the Sages ruled [that a thing is] sacred yet not sacred [in every respect],[8] the money thereof [paid in compensation] goes to the Temple Treasury. MISHNAH. THE MILK OF CONSECRATED ANIMALS AND THE EGGS OF [CONSECRATED] TURTLE-DOVES MAY NOT BE USED, BUT ARE NOT SUBJECT TO THE LAW OF SACRILEGE. THIS HOLDS GOOD ONLY FOR THINGS DEDICATED FOR THE ALTAR, BUT AS TO THINGS DEDICATED FOR TEMPLE REPAIR, IF ONE CONSECRATED [E.G.,] A CHICKEN BOTH IT AND ITS EGGS ARE SUBJECT TO THE LAW OF SACRILECE, OR [IF ONE DEDICATED] A SHE-ASS, BOTH IT AND ITS MILK ARE SUBJECT TO THE LAW OF SACRILEGE. GEMARA. Does [the restriction to things dedicated for Temple repair] imply that if dedicated [to the altar] for its value [the milk or eggs] will be exempted from the Law of Sacrilege? — Said R. Papa, a clause has been omitted [in the Mishnah] which should read as follows: ‘This holds good only for things dedicated themselves for the altar; but if their value is dedicated for the altar, it is considered as if they have been dedicated for Temple repair. If one consecrated [e.g.], a chicken both it and its eggs are sub ject to the Law of Sacrilege, or [if one dedicated] a she-ass, both it and its milk are subject to the Law of Sacrilege’.[9] MISHNAH. WHATSOEVER IS FIT FOR THE ALTAR

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(1) Ber. 312.

(2) In the above quotation R. Huna's name is omitted.

(3) Infra.

(4) The same should apply to blood.

(5) It is therefore an integral part of the body.

(6) Of consecrated animals.

(7) I.e., it is essential for the life of the beast.

(8) I.e. it may not be used, yet is not subject to the Law of Sacrilege, in which case the mere actual value has to be repaid.

(9) Because the produce of the offering cannot be offered upon the altar, for which the animal itself is designated. It is therefore not included in the dedication. In the case of sacrifices of a minor degree of holiness the produce is of the same degree of holiness as the animal itself.

Talmud - Mas. Me'ilah 13a

AND NOT FOR TEMPLE REPAIR. FOR TEMPLE REPAIR AND NOT FOR THE ALTAR, NEITHER FOR THE ALTAR NOR FOR TEMPLE REPAIR. IS SUBJECT TO THE LAW OF SACRILEGE, HOW IS THIS? IF ONE CONSECRATED A CISTERN FULL OF WATER,[1] A MIDDEN FULL OF MANURE,[2] A DOVE-COTE FULL OF PIGEONS,[3] A TREE LADEN WITH FRUIT,[4] A FIELD COVERED WITH HERBS,[5] THE LAW OF SACRILEGE APPLIES TO THEM AND TO THEIR CONTENTS. BUT IF ONE CONSECRATED A Clstern AND IT WAS LATER FILLED WITH WATER, A MIDDEN AND IT WAS LATER FILLED WITH MANURE, A DOVE-COTE AND IT WAS LATER FILLED WITH PIGEONS, A TREE AND IT AFTERWARDS BORE FRUIT OR A FIELD AND IT AFTERWARDS PRODUCED HERBS, THE LAW OF SACRILEGE APPLIES TO THE CONSECRATED OBJECTS THEMSELVES BUT NOT TO THEIR CONTENTS, R. JOSE SAID: IF ONE CONSECRATED A FIELD OR A TREE, THE LAW OF SACRILEGE APPLIES TO THEM AND TO THEIR PRODUCE.[6] FOR IT IS THE GROWTH OF CONSECRATED PROPERTY. THE YOUNG[7] OF [CATTLE SET ASIDE AS] TITHE MAY NOT SUCK FROM SUCH CATTLE.[8] SOME PEOPLE USED TO DEDICATE ON SUCH A CONDITION.[9] THE YOUNG[10] OF CON SECRATED CATTLE MAY NOT SUCK FROM SUCH CATTLE. SOME PEOPLE USED TO DEDICATE ON SUCH A CONDITION. LABOURERS[11] MAY NOT ENJOY OF DRY FIGS DEDICATED TO THE TEMPLE,[12] NOR MAY A COW EAT OF THE VETCH BELONGING TO THE TEMPLE.[13] GEMARA. It says: ‘THE YOUNG OF CATTLE SET ASIDE AS TITHE MAY NOT SUCK FROM SUCH CATTLE’. Wherefrom do we know this? Said R. Ahadboi, son of Ammi, It is derived from the first-born by textual analogy based on the word ‘passing’[14] occurring in both texts]: As the first-born[15] is subject to the Law of Sacrilege, so also the milk of cattle set aside as tithe is subject to the law of Sacrilege. As to milk of consecrated cattle, it is derived from the first-born [by textual analogy based on the words] ‘his mother’[16] [occurring in both texts]. LABOURERS MAY NOT ENJOY etc. What is the reason?[17] — Said R. Ahadboi, son of Ammi, Scripture says: Thou shalt not muzzle the ox when he treadeth out the corn;[18] what he treadeth of your own,[19] but not of Temple property. If one threshes [his] kela'ilin[20] in a field belonging to the Temple he is guilty of sacrilege.[21] But has it not to be detached from the ground?[22] — Said Rabina: This proves that the dust[23] is beneficial to it [kela'ilin]. [

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(1) Fit for Temple repair only.

(2) Fit neither for the altar nor for Temple repair.

(3) Fit for the altar.

(4) Fit for the altar if it was a vine tree, whose wine may be used for libation offerings, otherwise unfit for both.

(5) Which bears a sacred character.

(6) R. Jose contends that in these two instances the produce has not come from without, but has grown naturally from the things dedicated. The produce is potentially present at the time of dedication.

(7) Which is itself not sacred, as it was born before the tithing.

(8) For the milk is sacred and may not be used by profane cattle.

(9) I.e., when cattle were taken to be tithed a condition was made to the effect that should the tithe be a female, its milk should not be consecrated, but permissible for its young.

(10) Itself not sacred, if born before consecration.

(11) Working in fields belonging to the Temple.

(12) For the law that labourers may eat of fruits on which they work, Deut. XXIII, 25, applies to private property only, for the text speaks of ‘the neighbour's vineyard’. v. B.M. 87a.
(13) A cow which belongs to private property may be muzzled while thrashing the vetch of the Temple, for the law of Deut. XXV, 4 does not apply to Temple property.
(14) I.e., occurring in Ex. XIII, 12 and Lev. XXVII, 32.
(15) The first-born is a male animal. Its sacredness appertains to the whole body, as also in the case of tithe the sanctity attaches to the whole body, including the milk.
(16) I.e., occurring in Ex. XXII, 29 and Lev. XXII, 27.
(17) That a cow may not eat the vetch belonging to the Temple.
(18) Deut. XXV, 4.
(19) The pronoun of בדישו is taken to refer to the owner and not to the ox.
(20) Rashi and Tosaf.: A kind of cereall Jastrow identifies this with kela'ilin (‘wool’) of Men. 42b.
(21) For using property of the sanctuary.
(22) Only things detached from the ground are subject to the Law of Sacrilege. cf. infra 18b.
(23) Which is detached from the ground. He is guilty for using the dust belonging to Temple property.

Talmud - Mas. Me'ilah 13b

MISHNAH. IF THE ROOTS OF A PRIVATELY OWNED TREE SPREAD INTO DEDICATED GROUND,[1] OR THOSE OF A TREE IN DEDICATED GROUND SPREAD TO PRIVATE GROUND,[2] THEY MAY NOT BE USED, BUT THE LAW OF SACRILEGE DOES NOT APPLY TO THEM.[3] THE WATER OF A WELL[4] WHICH COMES FORTH IN A DEDICATED FIELD MAY NOT BE ENJOYED THOUGH IT IS NOT SUBJECT TO THE LAW OF SACRILEGE; WHEN IT HAS LEFT THE FIELD IT MAY BE ENJOYED.[5] THE WATER[6] IN THE GOLDEN JAR[7] MAY NOT BE USED, BUT THE LAW OF SACRILEGE DOES NOT APPLY TO IT. WHEN IT HAS BEEN POURED INTO THE FLASK, IT BECOMES SUBJECT TO THE LAW OF SACRILEGE. THE WILLOW BRANCH[8] MAY NOT BE USED, BUT IS NOT SUBJECT TO THE LAW OF SACRILEGE. R. ELEAZAR, SON OF R. ZADOK SAYS: THE ELDERS WERE ACCUSTOMED TO USE IT WITH THEIR PALM TREE BRANCHES. GEMARA. Said Resh Lakish: ‘The law of Sacrilege does not apply’ to the whole of the contents [of the jar], but the Law of Sacrilege applies to the three logs.[9] But does it not say in the second clause: WHEN IT HAS BEEN POURED INTO THE FLASK, IT BECOMES SUBJECT TO THE LAW OF SACRILEGE, from which it follows that in the first clause the Law of Sacrilege does not apply. even with reference to the three logs? — Rather, if [Resh Lakish's statement] has been made, it has been made with reference to the second clause: IT BECOMES SUBJECT TO THE LAW OF SACRILEGE. Said Resh Lakish: This holds good only [if the flask contained] exactly three logs,[10] but R. Johanan said: It applies to the whole contents. Are we then to assume that Resh Lakish holds that a definite quantity has been prescribed for the water libation? But have we not learnt: R. Eleazar said, If one offered the water libation of Tabernacles during the Festival outside the Temple Court he is culpable;[11] and R. Johanan in the name of Menahem of Jotapata remarked thereupon: R. Eleazar follows R. Akiba's principle who expounds ‘their libations’[12] denoting that the libation of water is analogous to the libation of wine;[13] and Resh Lakish retorted: Would you then also say: As three logs are prescribed for wine, so also for water? Now does it not follow from this that Resh Lakish holds that no definite quantity has been prescribed for water? — No, his argument is on the view of Menahem of Jotapata![14] MISHNAH. ONE MAY NOT DERIVE ANY BENEFIT FROM A NEST WHICH IS BUILT ON THE TOP OF A DEDICATED TREE. BUT THE LAW OF SACRILEGE DOES NOT APPLY TO IT. THAT WHICH IS ON THE TOP OF AN ASHERAH[15] ONE FLICKS [IT] OFF WITH A REED.[16] IF ONE DEDICATED A FOREST TO THE TEMPLE, THE LAW OF SACRILEGE APPLIES TO THE WHOLE OF IT.

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(1) I.e., property of the Temple, provided the tree is less than sixteen cubits away from the field. cf. Maim. and B.B. 27b.
(2) And there is a distance of more than sixteen cubits between tree and field, Maim.

(3) For either the tree or the ground where they are found is secular property.

(4) The source of which is in private ground (Rashi).

(5) For both the source and the place whence the water is drawn are not in Temple property.

(6) Used for the water libation on Tabernacles.

(7) V. Suk. 48a. The jar was not sacred proper. tao; the water was kept therein overnight.

(8) Used on Tabernacles to decorate the altar; v. Suk. IV, 5. According to Maim. this refers to willows growing on dedicated ground.

(9) I.e., if it contains more or less than the prescribed three logs which is the quantity prescribed for the libation according to Resh Lakish. For log v. Glos.

(10) But if it contained more, one is not liable unless one used of the last three logs. Tosaf.

(11) On the score of Lev. XVII, 3f.

(12) Num. XXIX, 19. Tosaf. reads as in Zeb. 110b ‘and its libations’ of verse 31, where the use of the plural is indeed out of place.

(13) And one is subject to a prohibition if one offers the water libation outside the Temple.

(14) Who does not hold with Resh Lakish that three logs are prescribed for the water libation.

(15) A tree worshipped by the heathen, cf. Deut. XII, 3.

(16) But one may not climb up the tree, in order not to make use of it.

Talmud - Mas. Me'ilah 14a

GEMARA. It was stated:[1] If an idol broke to pieces by itself, R. Johanan says it is still prohibited [for use]; Resh Lakish says it is allowed. ‘R. Johanan holds it is prohibited’, because the idol worshipper has not annulled it.[2] ‘Resh Lakish holds it is allowed’, for [the idolator] surely thinks: If the idol did not save itself, how could it save me.[3] Resh Lakish raised an objection to R. Johanan: ONE MAY NOT DERIVE ANY BENEFIT FROM A NEST WHICH IS BUILT ON THE TOP OF A DEDICATED TREE, BUT THE LAW OF SACRILEGE DOES NOT APPLY TO IT. THAT WHICH IS ON THE TOP OF AN ASHERAH ONE FLICKS [IT] OFF WITH A REED. Now, does this not deal with a case where the twigs [with which the nest was built] were broken off [by the birds] from that tree itself, and yet it rules that he can flick them off with a reed?[4] — No, the twigs were brought [by the birds] from elsewhere. If so,[5] if [the tree was] dedicated one may not make use [of the nest] and the Law of Sacrilege does not apply to it.[6] Hence it must deal with twigs that have however grown after [the dedication of the tree],[7] and [our Mishnah] holds that the Law of Sacrilege does not apply to the growth of dedicated [trees]. This interpretation[8] seems also logical, for should we say that the twigs were brought from elsewhere, why [has the nest] to be shaken off with a reed, let it be simply taken [by hand]![9] — Said R. Abbahu in the name of R. Johanan: It deals indeed with twigs brought from elsewhere and the expression ONE FLICKS OFF refers to the young birds.[10] Said R. Jacob to R. Jeremiah: The young birds are permitted for use[11] in both instances,[12] and the eggs are prohibited[13] for use in both instances. Said R. Ashi: If the birds are [so young that they] require [the care of] their mother, they are considered like eggs. MISHNAH. IF THE TREASURERS [OF THE TEMPLE] BOUGHT TREES,[14] THE TIMBER IS SUBJECT TO THE LAW OF SACRILEGE BUT NOT THE CHIPS AND THE FOLIAGE.[15] GEMARA. Said Samuel: Temple buildings are built first with secular [money]. and then they are dedicated,[16] (why? Because he who donates money [to the Temple Fund] declares it [forthwith] sacred)[17] in that he [the Treasurer] says the sacredness of the money shall be transmitted to the building, so that the money may be paid out to the labourers as their wages.

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(1) A.Z. 4b.

(2) It was not the heathen who broke the idol, it broke by itself.

(3) It is assumed that in their hearts the worshippers have abandoned this idol. It is no longer an object of worship.

(4) And, of course, used. This instance is parallel to the case in question. for the twigs were not broken by the heathen himself and thus annulled by him.

(5) Rashi has here a version similar to that of the same discussion in A.Z. 42a.

(6) Since the twigs are not from the tree belonging to Temple property, they should even be permitted for use (Tosaf).

(7) You are thus obliged to interpret the Mishnah as referring to twigs taken from the tree itself; but should you then object, in that case the difficulty would be why they were not subject to the Law of Sacrilege: It is because it deals with twigs grown after the dedication of the tree (exclusive of the ground upon which the tree grows) and such twigs are not subject to the Law of Sacrilege. The objection to R. Johanan again remains. The following passage is to be understood in parenthesis.

(8) Viz., that the twigs were from the tree itself.

(9) If the twigs are, in accordance with our interpretation. of the same tree the direct approach to the nest and its twigs may have been prohibited as a precautionary measure, lest people assume that the twigs still growing are also permitted;

(10) The twigs, however, are indeed prohibited in accordance with the view of R. Johanan.

(11) Because they can fly and are not considered as belonging to the tree.

(12) I.e., in the case of dedicated trees and an asherah.

(13) For they are considered attached to the tree.

(14) To have them prepared for building purpose for the Temple.

(15) For these are useless for building and the Treasurer, it is assumed, has not intended to impart to them the character of sacred property.

(16) The building material is bought with money belonging to private individuals or taken on credit. Also the wages for the workmen are paid from secular money or owed to them. When the building is finished it is exchanged. as a whole, against the money donated to the Temple Fund for this building. The money becomes again secular and can be used to satisfy the creditors and the labourers.

(17) If material was bought with this money, the seller of the material would be guilty of sacrilege in using the money. The same applies to the labourers.

Talmud - Mas. Me'ilah 14b

An objection was raised: What was done with the surplus of the frankincense?[1] Money equivalent to the craftsmen's but if the twigs are from elsewhere there is no ground for such an assumption. wages[2] was set aside [from the Temple Treasury],[3] [the surplus was] then exchanged against this money of the craftsmen, handed over to the craftsmen[4] and then purchased from them with money of the new levy.[5] Now why was [this procedure necessary]? Why not exchange the surplus against a building?[6] — [We deal with a case where] there was no building.[7] But does it not speak of ‘the craftsmen's wages’?[8] — There was no building equivalent to the value of the surplus. But does not Samuel hold:[9] ‘If consecrated property of the value of a maneh[10] has even exchanged against a perutah,[10] the exchange is valid’. — [He sanctions such a transaction] after it has been done, but not at the outset. R. Papa says, This is the reason why the building has to be built with secular [money]: The Torah has not been given to ministering angels;[11] he [the craftsman] might wish to lie down and would lie down on them,[12] and if it was built by consecrated [money] he would as a result be guilty of sacrilege. We have learnt: IF THE TREASURERS [OF THE TEMPLE] BOUGHT TREES, THE TIMBER IS SUBJECT TO THE LAW OF SACRILEGE BUT NOT THE CHIPS AND THE FOLIAGE. But why should one trespass the law of Sacrilege? Let this too be prepared in a secular state[13] lest one might wish to lie down on them, and would as a result be guilty of sacrilege! — Said R. Papa: If the wood is to be used at a later date it would be indeed so;[14] our Mishnah refers to wood which is to be used on the same day.[15] [

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(1) Each year there was a surplus of frankincense. In the month of Nissn a new year began for the offering of incense. The surplus of the past year was not allowed to be used in the new year. The device mentioned here provides a method of using this surplus by repurchasing it with the money of the new levy.

(2) I.e., any wages that the Temple may owe to labourers for their work.

(3) From this money of the shekel chamber (the Lishkah) wages were permitted to be paid, but not from a donation declared holy for a special purpose.

(4) It is not essential actually to hand it over to the labourers. Somebody else may acquire it on their behalf. The incense then becomes secular property and may be re-purchased for the Temple to be used during the coming year.

(5) I.e., the newly paid shekels from which all public offerings for the coming year beginning with the first of Nisan are bought, v. Shek. IV, 5.
(6) Since, according to Samuel, the building is at first secular, why not exchange the frankincense against it and re.purchase it with the money of the new levy?
(7) No new building was erected then.
(8) Implying that some work has been done.
(9) B.M. 57b.
(10) V. Glos.
(11) I.e., we are only human beings.
(12) The bricks e.g.
(13) Let the preparation of the timber be done as non consecrated property and then purchased by the Temple Fund.
(14) As you suggest.
(15) In which case there is little likelihood that one will use it unwittingly.

Talmud - Mas. Me'ilah 15a

CHAPTER IV

MISHNAH. THINGS DEDICATED FOR THE ALTAR CAN COMBINE WITH ONE ANOTHER[1] WITH REGARD TO THE LAW OF SACRILEGE AND TO RENDER ONE CULPABLE FOR [TRANSGRESSING THE LAWS OF] PIGGUL,[2] NOTHAR[2] AND DEFILEMENT.[3] THINGS DEDICATED FOR TEMPLE REPAIR[4] CAN COMBINE WITH ONE ANOTHER.[5] THINGS DEDICATED FOR THE ALTAR CAN COMBINE WITH THINGS DEDICATED FOR TEMPLE REPAIR WITH REGARD TO THE LAW OF SACRILEGE.

GEMARA. Since things dedicated for the altar can combine with things dedicated for Temple repair. although the one is consecrated as such and the other only for its value, was it then necessary to mention at all that things dedicated for the altar can combine with others of the same nature? — Since he had to state the addition in this connection: ‘AND TO RENDER ONE CULPABLE FOR [TRANSGRESSING THE LAWS OF] PIGGUL, NOTHAR AND DEFILEMENT’, which is inapplicable to things dedicated for Temple repair. therefore he stated this separately. Said R. Jannai: It is clear that the Law of Sacrilege applies only to things dedicated for Temple repair and to burnt-offerings.[6] What is the reason? — Scripture says: If anyone commits a trespass [and sin in error] in the holy things of the Lord.[7] Holy things designated wholly for God[8] are subject to the Law of Sacrilege; but as to [other] things[9] dedicated for the altar, of them the priests have a share and the owners have a share. We have learnt: THINGS DEDICATED FOR THE ALTAR CAN COMBINE WITH ONE ANOTHER WITH REGARD TO THE LAW OF SACRILEGE?[10] — [This applies only] by Rabbinical enactment. We have learnt: ‘The Law of Sacrilege applies to the Most Holy sacrifices which were slaughtered on the south side’.[11] — [It is] by Rabbinical enactment. We have learnt: ‘If one derived a benefit from a sin-offering, while it was alive he has not trespassed the Law of Sacrilege unless he has diminished its substance; if while it was dead he is liable even though his benefit was of the smallest value’.[12] — By Rabbinical enactment. And by Biblical law are they indeed exempted? Has it not been taught: Rabbi says. The expression all fat is the Lord's[13] is to include the emurim[14] of sacrifices of a minor degree of holiness with regard to the Law of Sacrilege![15] — By Rabbinical enactment. But does he adduce a Biblical text [as proof]? — It is a mere exegetical support [of a Rabbinical enactment]. But does not ‘Ulla say in the name of R. Johanan: ‘Consecrated animals which died are according to Biblical law exempted from the Law of Sacrilege’.[16] Now, to what does this refer? Shall I say to things dedicated for Temple repair; then the Law of Sacrilege should apply to them even after they have died; for suppose a man would dedicate a midden for Temple repair, would the Law of Sacrilege not apply to it? It must then refer to things dedicated for the altar.[17] But then they should not[18] be subject to sacrilege by Biblical law! — Rather what the School of R. Jannai taught was that from that text[19] you can only derive things dedicated for Temple repair; but things dedicated for the altar you cannot derive from it.[20] [

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(1) To make up the requisite legal size of an olive's bulk, or, in reference to sacrilege, the required legal value of a perutah.
(2) V. Glos.
(3) V. supra p. 17.
(4) I.e., the Temple treasury.
(5) With reference to sacrilege only. as the other laws are not applicable to them.
(6) [Var. lec. omit ‘and to burntofferings’. This is the correct reading as is shown by the second version of R. Jannai's statement at the end of this passage.]
(7) Lev. V, 15.
(8) Viz., the burnt-offering which is wholly offered on the altar.
(9) E.g., the sin-offering and the guilt-offering.
(10) Obviously referring to all sacrifices, in contradiction to R. Jannai.
(11) Supra 2a.
(12) Infra 18a.
(13) Lev. III, 16.
(14) V. Glos.
(15) Tem. 32b.
(16) Supra 12a.
(17) From ‘Ulla's statement we learn that before they died they were subject to sacrilege by Biblical law.
(18) According to R. Jannai's view.
(19) Viz., Lev. V, 15.
(20) But from Lev. III, 16.

Talmud - Mas. Me'ilah 15b

MISHNAH. FIVE THINGS IN A BURNT-OFFERING CAN COMBINE WITH ONE ANOTHER: THE FLESH, THE FAT,[1] THE FINE FLOUR, THE WINE AND THE OIL;[2] AND SIX IN A THANKOFFERING: THE FLESH, THE FAT, THE FINE FLOUR, THE WINE, THE OIL AND THE BREAD. GEMARA. R. Huna recited to Raba: ‘Five things in the world[3] can combine with one another’. Said the latter: Did you say ‘in the world’? Does not the Mishnah teach of a thank-offering: AND SIX IN A THANK-OFFERING: THE FLESH, THE FAT, THE FINE FLOUR, THE WINE, THE OIL AND THE BREAD? — The other replied: Read ‘in a burnt-offering’.[4] We have thus learnt here what our Rabbis have taught: ‘[The flesh of] a burnt-offering and the sacrificial portions thereof[5] can combine to make up [the requisite size of] an olive [to render one liable] for offering them outside [the Temple Court] and to render one culpable for [transgressing the laws of] piggul, nothar and defilement’. It speaks of a burnt-offering and does apparently not apply to a peace-offering. This is right as far as offering outside the Temple Court is concerned, for with a burnt-offering which is wholly offered the emurim[6] can be combined;[7] but with [the flesh of] a peace-offering[8] it can rightly not be combined. But with regard to [the transgression of the laws of] piggul nothar and defilement, why should one not be guilty in the case of a peace-offering?[9] Have we not learnt: ‘All kinds of piggul con combine with one another and all kinds of nothar can combine with one another’?[10] — Read, therefore: The flesh of a burnt-offering and the emurim thereof can combine with one another to make up an olive-size so that the blood can be sprinkled on account of them;[11] and it represents the opinion of R. Joshua. For we have learnt:[12] R. Joshua said, With all other sacrifices of the Torah the blood can be sprinkled only if an olive-size of flesh or an olive-size of fat was left; if half an olive-size of flesh and half an olive-size of fat were left the blood cannot be sprinkled. With a burnt-offering, however, the blood can be sprinkled even if half an olive-size of flesh and half an olive size of fat were left, because it is all offered upon the altar. And with a meal-offering, even if it has wholly been preserved. the blood cannot be sprinkled. How does the meal-offering come in?[13] — Said R. Papa: [It refers to] a meal-offering which accompanies a beast sacrifice.[14] MISHNAH. TERUMAH,[15] TERUMAH OF THE TITHE,[16] TERUMAH OF THE TITHE SEPARATED FROM DEM'AI,[17] HALLAH[18] AND FIRST-FRUITS CAN COMBINE WITH ONE ANOTHER TO MAKE UP THE SIZE REQUIRED TO RENDER OTHER THINGS[19] FORBIDDEN AND TO BE LIABLE TO THE PAYMENT OF A Fifth.[20] ALL KINDS OF PIGGUL CAN COMBINE WITH ONE ANOTHER AND ALL KINDS OF NOTHAR CAN COMBINE WITH ONE ANOTHER. GEMARA. What is the reason that hallah and first-fruits can combine? — All these are called by the term ‘terumah’. Of hallah it reads, of the first of your dough you shall set apart terumah.[21] The first-fruits are also called terumah, for we have learnt: The expression, and the terumah of thy hand[22] refers to first fruits.[23] While the other instances[24] of the Mishnah need no proof. MISHNAH. ALL KINDS OF NEBELAH[25] CAN COMBINE WITH ONE ANOTHER,[26] AND ALL KINDS OF REPTILES CAN COMBINE WITH ONE ANOTHER.[26] GEMARA. Said Rab:

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(1) The fat parts which were offered on the altar.

(2) The latter three are from the accompanying meal-offering

(3) Meaning there are in connection with all offerings only five things.

(4) בעולה instead of בעולם ‘in the world’.

(5) Thus the version of Zeb. 109a and of Rashi. Cur. edd. read: burnt-offerings and emurim, v. Glos.

(6) Which are always offered upon the altar.

(7) With the other parts of the flesh.

(8) The flesh is eaten by the owner and the priests. In this case they can, of course, not combine the emurim when offered outside the Temple.

(9) When the legal size was accomplished through a combination of the different parts thereof.

(10) V. infra.

(11) Thus the version of Tosaf. and Rashi. Cur. edd. add.: And since they can combine with regard to sprinkling, one is guilty . . . and whose view is this? If the flesh of a burnt-offering is lost, the blood can be sprinkled only if an olive-size of the offering is left. Now, this olive-size may be composed of flesh and emurim.

(12) Tosef. Zeb. IV, 3.

(13) I.e., how does the sprinkling come in connection with a meal-offering.

(14) Lit., ‘a meal.offering of libation’, because this is the only kind of meal-offering which requires wine for libation. V. Num. XV, 5f. I might have thought that the blood of the offering can be sprinkled if nothing but the accompanying meal-offering is preserved, hence we are told that it is not so.

(15) The priest's share of the ingathering of the field. v. Ter. IV, 3. v. Glos.

(16) The Levite's contribution to the priest.

(17) I.e., produce of the field about which there is a suspicion that they have not been tithed properly, v. Glos.

(18) The portion of the dough set aside for the priest. V. Num. XV, 20 and Glos.

(19) If common food is mixed with them in a proportion which is no less than a hundred to one (the required proportion of each of them), they are wholly forbidden to a non priest.

(20) If one has eaten unwittingly the value of at least a perutah, one is liable to the payment of an additional Fifth. V. Ter. I, 1.

(21) Num. XV, 20.

(22) Deut. XII, 17.

(23) Pes. 37b.

(24) The first three mentioned in our Mishnah.

(25) v. Glos.

(26) To make up the required legal size of an olive.

Talmud - Mas. Me'ilah 16a

This[1] has been taught only with reference to defilement,[2] but with regard to eating, clean animals[3] form one group for themselves and unclean animals[4] another. And Levi said: Also in regard to eating do they all combine with one another.[5] And R. Assi said: Clean animals for themselves and unclean for themselves. Some say he differs from Rab,[6] while others say he does not differ from him.[7] An objection was raised: [The flesh of] a dead cow[8] and a living camel[9] cannot combine with one another, from which it follows that if both, however, were dead their flesh would combine. Does this not contradict R. Assi?[10] — No, refer thus: But if both were alive they could combine; and this would be in agreement with R. Judah's view who holds[11] that the prohibition to eat a limb [cut off] from a living creature[12] applies also to unclean animals. But what would be the case if both were dead? Could they not combine? If so, why just instance[13] 'the flesh of a dead cow and a living camel',[14] surely even if both were dead they could not combine? And furthermore, have we not learnt: 'Half an olive size [of the flesh] of a living cow and half an olive-size of that of a dead camel cannot combine with one another, but half an olive size of the flesh of a cow and half an olive-size of that of a camel can combine with one another if both are alive or both dead'. There would be a contradiction between the opening clause[15] and the concluding. You must therefore come to the conclusion that in the case of both animals being dead they can combine with one another![16] — R. Assi would reply: This Tanna holds that a prohibition can apply to something that has been prohibited already by reason of another prohibition.[17]

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(1) Viz., the first clause.

(2) V. Lev. XI, 39. An olive's bulk conveys uncleanness.

(3) Which, if they died of themselves, or if slaughtered not according to ritual, are prohibited as nebelah, v. Deut. XIV, 21.

(4) Which even if not slaughtered according to ritual are prohibited only by reason of their uncleanness, v. Lev. XI, 8, but do not come under the category of nebelah, according to the principle that a prohibition cannot take hold of something which has already been forbidden.

(5) He holds that unclean animals not slaughtered according to ritual do come under the category of nebelah.

(6) I.e., he is assumed to relate also to defilement.

(7) But refers to eating only.

(8) I.e., the nebelah of a clean animal.

(9) Cut off while the camel was alive. A camel is an unclean animal.

(10) According to the first explanation of R. Assi's statement, Rashi: Rab is not contradicted as this statement might refer to defilement.

(11) Hul. 101b.

(12) Gen.IX, 4.

(13) Lit., 'what was (the idea) that he rushed and instanced . . .'.

(14) In the concluding clause of the previous statement.

(15) If your inference be right.

(16) Contradicting R. Assi.

(17) While his statement is following the view that such a prohibition cannot take effect.

Talmud - Mas. Me'ilah 16b

Said R. Judah in the name of Rab: As to the eating of unclean reptiles, one is liable to the penalty of lashes only when one has consumed an olive-size.[1] Why? Because the expression 'eating'[2] is used in that connection. But did not R. Jose son of R. Hanina recite before R. Johanan: [It is written]: Ye shall therefore separate between the clean beast and the unclean and between the unclean fowl and the clean and ye shall not make your souls[3] detestable by beast or by fowl or by anything wherewith the ground teemeth, which I have set apart for you to hold unclean.[4] Scripture speaks at the beginning of eating and ends with defilement, in order to indicate that as with reference to defilement the lentil is the standard size so also with regard to eating. Whereupon R. Johanan praised him. Now, does this not contradict Rab's ruling? — No, there is no difficulty, for the one[5] deals with reptiles while they are dead[6] the other while they are alive. But, said Abaye to him, does not Rab refer his statement to the Mishnah[7] and our Mishnah speaks of ALL REPTILES, [apparently] even though they are dead? — Replied R. Joseph: This[8] is your assumption. The fact is that Rab made an independent statement. [It said]: ‘R. Johanan praised him’.[9] To this an objection was raised. [We have learnt]: ‘There is no standard size for entire limbs [of unclean animals]. Even less than an olive-size of nebelah and less than a lentil-size of a reptile effect defilement’,[10] And R. Johanan remarked: The penalty of lashes, however, is inflicted only for an olive-size![11] — Said Raba: Scripture speaks only of those that are separated.[12] Said R. Adda son of Ahabah, to Raba: If so, why not draw a distinction also with reference to beasts between those that are separated[13] and those that are not sepa rated?[14]

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(1) Unlike defilement where the lentil-size suffices.

(2) Viz., Ye shall not cat them, for they are a detestable thing, Lev. XI, 42. The rule is that wherever ‘eating’ is used the standard size is an olive.

(3) ‘Make your souls detestable’ is understood, through eating.

(4) Lev. XX, 25.

(5) Viz., R. lose.

(6) And effect defilement in which case a comparison may be drawn between eating and defilement, making a lentil's bulk the standard quantity.

(7) Cur. edd. insert here in parenthesis the following text which pseudo-Rashi declares to be incomprehensible: ‘and not a little from here and a little from there’.

(8) That Rab was referring to our Mishnah.

(9) Thus agreeing that a lentil is the standard size for the eating of reptiles, and that one is then liable to lashes.

(10) Oh. I, 7.

(11) R. Johanan thus contradicts himself, as this dictum is taken to refer to dead reptiles in analogy to nebelah, and yet an olive-size is required.

(12) The former dictum of R. Johanan according to which the standard size for the eating of reptiles is a lentil refers to the eight reptiles which have been singled out in Lev. XI, 29f for their uncleanness, and whose standard size with regard to defilement is a lentil; while the latter saying of R. Johanan relates to other reptiles which do not effect uncleanness,: so that no analogy can be drawn between eating and defilement with regard to the legal size. This dictum of R. Johanan is not to be taken as comment on the Mishnah quoted from Oh. which explicitly mentions uncleanness in connection with reptiles and must therefore relate to the eight reptiles, but as a statement made independently by him.

(13) I.e., clean animals.

(14) I.e., the unclean. The fact that Lev. XX, 25 mentions beasts and reptiles side by side intimates an analogy between these two kinds. Also in the case of beasts, therefore, should some distinction be made as to the standard size between those that are separated and the standard quantity of those that are not separated, an olive-size being prescribed only with regard to the former; but as to the latter, a greater quantity should be required, e.g., that of an egg.

Talmud - Mas. Me'ilah 17a

— He replied to him: The Divine Law compares them with reference to the prohibition of ‘you shall not make your souls detestable’,[1] but not with regard to standard sizes.[2] MISHNAH. THE BLOOD OF A REPTILE AND THE FLESH [THEREOF] CAN COMBINE WITH ONE ANOTHER.[3] R. JOSHUA LAID DOWN THE GENERAL RULE: ALL THINGS THAT ARE ALIKE BOTH IN RESPECT OF [DURATION OF] UNCLEANNESS[4] AND IN RESPECT OF THEIR STANDARD SIZE[5] CAN COMBINE WITH ONE ANOTHER. THINGS, HOWEVER, THAT ARE ALIKE IN RESPECT [OF DURATION] OF UNCLEANNESS BUT NOT IN RESPECT OF SIZE, IN RESPECT OF SIZE BUT NOT IN RESPECT [OF DURATION] OF UNCLEANNESS, OR [IF THEY ARE ALIKE] NEITHER IN RESPECT [OF DURATION] OF UNCLEANNESS NOR IN RESPECT OF SIZE, CANNOT COMBINE WITH ONE ANOTHER. GEMARA. Said R. Hanin in the name of R. Zeira, and thus said also Rab Judah:[6] Only the blood and the flesh of the same reptile [can combine with one another]. R. Jose son of R. Hanina demurred to this: The expression, they that are unclean,[7] is to teach us that reptiles can combine one with the other: one reptile with another, reptile or [flesh of] reptile with blood, whether they are of one denomination or two denominations![8] — Said R. Joseph, There is no contradiction. The one ruling[9] refers to a whole creature[10] the other to a part thereof. Wherefrom do you know [to make such distinction]? — From what has been taught:[11] ‘If [the blood][12] was poured out on a pavement, which was a sloping place, and he overshadowed[13] a portion he remains clean, if he overshadowed the whole thereof he is unclean’. Now, what does ‘a portion’ mean? Shall I say, a portion [of the standard quality of blood]?[14] But did not R. Hanina[15] say in the name of Rabbi: ‘If one stirred[16] the exact quantity of a fourth of a log of blood he remained clean’.[17] You must therefore conclude [that a distinction has to be made in the following manner]: In the one instance the blood came from a whole body, in the other from a portion thereof.[18] This indeed proves it. R. Mathia b. Heresh once asked R. Simeon b. Yohai, in Rome: Wherefrom do we know that the blood of reptiles is unclean? — He replied: Because it is written: And these are they that are unclean.[19] His disciples then said to him: The son of Yohai has grown wise. Said he to them: This is a teaching prepared in the mouth of R. Eleazar son of R. Jose.[20] For the Government[21] had once issued a decree that [Jews] might not keep the Sabbath, circumcise their children, and that they should have intercourse with menstruant women. Thereupon R. Reuben son of Istroboli cut his hair in the Roman fashion,[22] and went and sat among them.[23] He said to them: If a man has an enemy, what does he wish him, to be poor or rich? They said: That he be poor. He said to them: If so, let them[24] do no work on the Sabbath so that they grow poor. They said: ‘He speaketh rightly’,[25] let this decree be annulled. It was indeed annulled. Then he continued: If one has an enemy, what does he wish him, to be weak or healthy? They answered: Weak. He said to them: Then let their children be circumcised at the age of eight days and they will be weak. They said: ‘He speaketh rightly’,[25] and it was annulled. Finally he said to them: If one has an enemy, what does he wish him, to multiply or to decrease? They said to him: That he decreases. If so, let them have no intercourse with menstruant women. They said: ‘He speaketh rightly’, and it was annulled. Later they came to know that he was a Jew, and [the decrees] were re-instituted. [The Jews] then conferred as to who should go [to Rome] to work for the annulment of the decrees.

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(1) Lev. XX. 25. I.e., that he who eats nebelah has transgressed an additional prohibition.

(2) I.e., not in order to make distinctions among animals with regard to standard sizes.

(3) With reference to defilement, to the requisite size of a lentil.

(4) Which they communicate to him who comes in contact with them. The defilement by reptile or nebelah lasts one day, by a corpse seven days.

(5) The standard size of nebelah or a corpse is an olive, that of reptiles a lentil.

(6) Thus Rashi. Cur. edd. ‘and thus said R. Jose son of R. Hanina: The expression . . .’, a version which seems to be corrupt.

(7) Lev XI, 31. The definite article of הטמאים , is regarded as superfluous.

(8) I.e., two species.

(9) Viz., that of R. Jose.

(10) I.e., the flesh and the blood were taken from two whole reptiles. But if taken from parts of reptiles the combination holds good only if the flesh and the blood are from the same reptile.

(11) Cf. Oh. III, 3. The text there is somewhat different.

(12) Viz., the fourth of a log of the blood of a corpse.

(13) A corpse renders unclean everything that is under the same roof as the corpse itself. This method of defilement is called ‘ohel’ (tent). Also a quarter of a log of blood from a corpse effects uncleanness by ‘ohel’. If a person overshadows, tentlike, a corpse or a quarter of a log of blood he himself forms the ‘ohel’, roofing, and is unclean.

(14) I.e., if he overshadowed less than the required fourth of a log, he is clean; and accordingly if he overshadowed the whole quantity. although it was scattered and disconnected, he is unclean.

(15) Tosaf. read R. Johanan.

(16) And thereby overshadowed it.

(17) Because a part of the blood must have been sucked into the ladle with which it was stirred, and the blood is thus disconnected. We thus learn that the fourth of a log must be connected.

(18) When the blood comes from a whole body it need not be connected; when from a part thereof it must be connected.

(19) Lev. XI, 29. A superfluous passage as the same is said in verse 31 and hence taken to include blood.

(20) I.e., it is not his own.

(21) Viz., the Roman.

(22) Lit., ‘cut a coma; i.e.’ to trim the front of the hair like a fringe on the forehead and let the curls hang down on the temple’ (Jastrow). V. B.K. 83a; that Abtolomos son of Reuben was permitted to wear a coma because he mixed with Roman officials. Tosaf. identifies him with Reuben son of Istroboli, v. Jawitz v. p. 177 who suggests that these were father and son.

(23) Viz., the Romans, without being recognized.

(24) Viz., the Jews.

(25) Apparently the Governor.

Talmud - Mas. Me'ilah 17b

Let R. Simeon b. Yohai go for he is experienced in miracles.[1] And who should accompany him? — R. Eleazar son of R. Jose. Said R. Jose to them: And were my father Halafta still alive, would you have said to him to give his son for slaughter?[2] Answered R. Simeon: Were Yohai my father still alive, would you have said to him to give his son for slaughter? Said R. Jose to them: I shall accompany him, for I fear R. Simeon may punish him.[3] He [R. Simeon] undertook thereupon not to inflict any punishment on him. Notwithstanding this, he did punish him, for when they were proceeding on the way the following question was raised in their presence: Wherefrom do we know that the blood of a reptile is unclean? R. Eleazar son of R. Jose curved his mouth[4] and said: It is written: And these are they that are unclean.[5] Said R. Simeon to him: From the undertone of thy utterance[6] one can see that thou art a scholar, yet the son[7] shall not return to the father.[8] Then Ben Temalion[9] came to meet them. [He said]: Is it your wish that I accompany you? Thereupon R. Simeon wept and said: The handmaid of my ancestor's house was found worthy of meeting an angel[10] thrice, and I not even to meet him once. However, let the miracle be performed, no matter how. Thereupon he[11] advanced and entered into the Emperor's daughter. When [R. Simeon] arrived there,[12] he called out: ‘Ben Temalion leave her, Ben Temalion leave her’,and as he proclaimed this he left her. He[13] said to them: Request whatever you desire. They were led into the treasure house to take whatever they chose. They found that bill,[14] took it and tore it to pieces. It was with reference to this visit that R. Eleazar son of R. Jose related:[15] ‘I saw it[16] in the city of Rome and there were on it several drops of blood’. MISHNAH. PIGGUL AND NOTHAR[17] CANNOT COMBINE WITH ONE ANOTHER BECAUSE THEY ARE OF TWO DIFFERENT DENOMINATIONS. REPTILE AND NEBELAH[18] AS WELL AS NEBELAH AND THE FLESH OF A CORPSE CANNOT COMBINE WITH ONE ANOTHER TO EFFECT UNCLEANNESS, NOT EVEN IN RESPECT OF THE MORE LENIENT OF THE TWO [GRADES] OF DEFILEMENT.[19] GEMARA. Said R. Judah in the name of Samuel: This[20] has been taught only with reference to the uncleanness of the hands,[21] which is only a Rabbinical enactment, but with regard to [the liability attached to] eating they can combine with one another. For we have learnt:[22] R. Eliezer said: It says, it shall not be eaten for it is holy;[23] with this the Writ comes to impose a negative command upon whatever among holy things has become disqualified.[24] MISHNAH. FOOD CONTAMINATED THROUGH CONTACT WITH A PRIMARY DEFIlement[25] CAN COMBINE WITH THAT CONTAMINATED BY A SECONDARY DEFILEMENT TO EFFECT UNCLEANNESS ACCORDING TO THE LOWER DEGREE OF DEFIlement OF THE TWO.[26] ALL KINDS OF [UNCLEAN] FOOD CAN COMBINE WITH ONE ANOTHER TO MAKE UP THE QUAN TITY OF HALF A PERAS[27] IN ORDER TO RENDER THE BODY UNFIT[28] [OR TO MAKE UP THE FOOD] FOR TWO MEALS TO FORM AN ‘ERUB[29] OR TO’ MAKE UP AN EGG'S BULK TO CONTAMINATE FOOD, OR TO MAKE UP A DRY FIG'S BULK IN RESPECT OF THE PROHIBITION TO CARRY FORTH ON THE SABBATH[30] AND A DATE'S BULK WITH REGARD TO THE DAY OF ATONEMENT.[31] ALL KINDS OF DRINKS CAN COMBINE WITH ONE ANOTHER TO MAKE UP THE FOURTH [OF A LOG] IN ORDER TO RENDER THE BODY UNFIT OR TO MAKE UP A MOUTHFUL WITH REGARD TO THE DAY OF ATONEMENT. GEMARA. It has been taught: R. Simeon said, What is the reason?[32] Because things unclean in the second degree can become unclean in the first degree.[33] But can indeed a thing unclean in the second degree become unclean in the first degree? Surely this is an impossibility?[34] — Said Raba: This is what is meant: What caused the object to be rendered unclean in the second degree? Surely it was something unclean in the first degree![35] R. Ashi said: Things unclean in the first degree and those unclean in the second degree in relation to uncleanness of the third degree are considered as belonging to one category.[36] [

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(1) V. Shab. 33 b.

(2) So you cannot expect me to send my son. He feared that R. Simeon might curse his son as he explains later in the conversation, but R. Simeon misunderstood this as cowardice, viz., that he feared to run the risk of being executed by the Romans, and therefore replied with displeasure that he, too, is risking his life.

(3) Viz., my son, when finding fault with him.

(4) I.e., pouted, speaking in an undertone; for it is unseemly for a pupil to speak unasked in his master's presence.

(5) Lev. XI, 29. Cf. supra.

(6) Lit., ‘from the curving of your lips’.

(7) Viz., R. Eleazar.

(8) l.e., should die as a punishment for his rashness to reply in the presence of his teacher without permission.

(9) Rashi: A demon. Tosaf.: a goblin.

(10) Refers to Hagar, Gen. XVI.

(11) Viz., Ben Temalion.

(12) According to Rashi the daughter continuously proclaimed the name of R. Simeon who was thereupon invited to cure her.

(13) Apparently the Emperor.

(14) Viz., the one containing the decrees against the religious practices of the Jews.

(15) Yoma 57a.

(16) Viz., the curtain separating the Holy from the Holy of Holies, cf. Yoma ibid.

(17) V. Glos.

(18) V. Glos.

(19) The gradation refers both to the standard size and the duration of uncleanness. The uncleanness caused through contact with a corpse lasts seven days, with nebelah or a reptile only one day. The standard size for nebelah and a corpse is an olive, that of a reptile is a lentil. Any two of these cannot combine even to the larger of the respective standard sizes, and even to effect the uncleanness of the lesser duration of the two.

(20) Referring to piggul and nothar.

(21) Both nothar and piggul render the hands unclean through contact, cf. Pes. 120b.

(22) Mak. 18a.

(23) Ex. XXIX, 34. Rashi reads, for they are holy’ probably with reference to verse 33, and derives this conclusion from the fact that the plural is used, referring as it seems not only to nothar but also to piggul.

(24) They are therefore to be considered as ‘of one denomination with regard to eating, and can therefore combine one with the other.
(25) V. supra 17a.
(26) The contaminated thing is as a rule one degree lower in the scale of uncleanness than the object from which it contracted the uncleanness. In the case of a combination the contaminated object is a degree lower than the lowest of the components.
(27) I.e., the quantity of half a loaf, v. ‘Er. 83a and Glos.
(28) A person that has eaten unclean food must not eat any terumah or sacred food. If he touches these they are unclean, unless he has immersed before; v. Mik. X, 7.
(29) By depositing food sufficient for two meals at the end of the Sabbath limit of two thousand cubits, one is permitted to walk on the Sabbath another two thousand cubits from that place. V. ‘Er. 82b.
(30) It is forbidden to carry things of the quantity of a dry fig from a private place to a public thoroughfare and vice versa, cf. Shab. 76b.
(31) The eating of food of the quantity of a date on the Day of Atonement is punishable with extinction; cf. Yoma 73b. The same applies to a mouthful of any drink.
(32) Of the combination of different degrees of uncleanness, referring to the first clause of the Mishnah.
(33) Tosef. Toh. I, 1.
(34) A thing unclean through contact with that of the second degree of uncleanness is itself only of the third degree!
(35) And because of this origin a combination of the two degrees should be possible.
(36) Lit., one valley’. Both lead after all to uncleanness of the third degree, whether it be direct or not.

Talmud - Mas. Me'ilah 18a

MISHNAH. ‘ORLAH[1] AND DIVERSE SEEDS OF THE VINEYARD[2] CAN COMBINE WITH ONE ANOTHER.[3] R. SIMEON SAYS, THEY CANNOT COMBINE. GEMARA. Is a combination at all necessary according to R. Simeon? Has it not been taught:[4] R. Simeon said, [The eating even of] the smallest quantity [of forbidden food] makes one liable to the penalty of lashes? — Read: [R. Simeon says], A combination is unnecessary. MISHNAH. CLOTH AND SACKING, SACKING AND SKIN, SKIN AND MATTING[5] CAN COMBINE WITH ONE ANOTHER.[6] SAID R. SIMEON: WHAT IS THE REASON?[7] BECAUSE THESE ARE ALL SUSCEPTIBLE TO THE UNCLEANNESS CAUSED BY SITTING.[8] GEMARA. A Tanna taught:[9] If one trimmed all these[10] and made of the trimmings a cloth to lie upon,[11] [the standard size for contracting defilement is] three [handbreadths square]; if to sit upon one [handbreadth square]; and if [to serve] as a holder [it contracts defilement] however small [its size]. What is [the reason of the rule relating to the] holder? — Said Resh Lakish in the name of R. Jannai: Because it may be used in connection with weaving.[12] In a Baraitha it was taught: Because it can be used by the reapers of figs.[13]

CHAPTER V

MISHNAH. IF ONE DERIVED FROM CONSECRATED THINGS A BENEFIT OF A PERUTAH'S WORTH,[14] HE IS GUILTY OF SACRILEGE EVEN THOUGH HE DID NOT LESSEN ITS VALUE. THIS IS THE VIEW OF R. AKIBA, WHILE THE SAGES HOLD: WHATSOEVER DETERIORATES [THROUGH USE] THE LAW OF SACRILEGE APPLIES TO IT ONLY AFTER IT HAS SUFFERED DETERIORATION,[15] BUT WHATSOEVER DOES NOT DETERIORATE [THROUGH USE], THE LAW OF SACRILEGE APPLIES TO IT AS SOON AS HE MADE USE OF IT. FOR INSTANCE: IF [A WOMAN] PUT A NECKLACE ROUND HER NECK OR A RING ON HER FINGER, OR IF SHE DRUNK FROM A GOLDEN CUP, SHE IS LIABLE TO THE LAW OF SACRILEGE AS SOON AS SHE MADE USE OF IT [TO THE VALUE OF A PERUTAH]. BUT IF ONE PUT ON A SHIRT OR COVERED HIMSELF WITH A CLOTH, OR IF ONE CHOPPED [WOOD] WITH AN AXE,[16] HE IS SUBJECT TO THE LAW OF SACRILEGE ONLY IF [THOSE OBJECTS] HAVE SUFFERED DETERIORATION.[15] IF ONE DERIVED BENEFIT[17] FROM A SINOFFERING,[18] IF WHILE IT WAS ALIVE,[19] HE IS NOT

LIABLE TO THE LAW OF SACRILEGE UNLESS HE HAS DIMINISHED ITS VALUE,[20] IF WHILE IT WAS DEAD,[21] HE IS LIABLE AS SOON AS HE MADE USE OF IT. GEMARA. A Tanna taught: R. Akiba agrees with the Sages in regard to things which deteriorate [through use].[22] Wherein, then, do they differ? — Said Raba, In regard to a garment worn between other [garments][23] and a soft web.[24] Our Rabbis taught: It is written, If any one [commit a trespass . . .],[25] to imply the ordinary man as well as the Prince or the Anointed Priest,[26] 'commit a trespass [ma'al]:[27] [The term] ma'al denotes nothing else but [effecting] a change,[28] and thus it says. If any one's wife go aside and act unfaithfully [ma'al] against him . . .,[29] and it also says, And they broke faith [wa-yim'alu] with the God of

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(1) V. Glos.

(2) V. Lev. XIX, 19, and Deut. XXII, 9ff.

(3) One who eats an olive's bulk of the two combined is liable to forty stripes.

(4) Mak. 17a.

(5) Their standard sizes required for midras defilement (v. Glos.) is respectively three, four, five and six handbreadths square. V. Kel. XXVII, 2.

(6) To make up the larger of the two sizes. V. Kei. XXVII, 3 as to the proportion of the composition.

(7) Viz., how can they combine since their legal sizes vary?

(8) Viz., caused by the sitting upon them of one who is afflicted with gonorrhoea, Lev. XV, 2f.

(9) Shab. 28.

(10) Thus Rashi. Cur. edd.: 'If one trimmed these to the extent of three handbreadths square . . .'.

(11) E.g., to patch a pillow with it.

(12) Rashi: The weaver can tie it around his finger when smoothing the yarn. Jast.: 'To tie around the weaver's frame'.

(13) Viz., to tie it around their fingers to keep them clean.

(14) I.e., for which use one would be ready to pay at least a perutah, the smallest coin. V. also Glos.

(15) To the extent of a perutah.

(16) All these articles being the property of the Temple.

(17) The printed separate Mishnah edd. read, 'If one has plucked (hair or wool) . . .'.

(18) Which had a blemish, v. Gemara.

(19) And could therefore be redeemed.

(20) For the price of redemption would suffer as a result of the use made of the offering; it thus belongs to the first category in the rule of the Sages.

(21) In which case it cannot be redeemed and can therefore not be valued.

(22) Tosef. II, 1.

(23) Lit., 'middle garment'.

(24) Which do not wear off quickly in the first instance because the garment is protected. in the latter because of its rare use. Cf. Git. 59a where ** מלמלא (soft web) is derived from מלל (to crumple). According to R. Akiba they are counted as garments which do not deteriorate, for the deterioration is very slow, according to the Sages they belong to the first category of the Mishnah.

(25) Lev. V, 25 dealing with sacrilege.

(26) I.e., the High Priest.

(27) Ibid.

(28) I.e., when the object of sacrilege has suffered deterioration by the use to which is has been put.

(29) Num. V, 12. This is a change of loyalty. One person or one god is substituted for another.

Talmud - Mas. Me'ilah 18b

their fathers. and went astray after the gods of the peoples of the land.[1] One might assume that [the Law of Sacrilege applied also to a case] where one has damaged [consecrated things] but has derived therefrom no benefit or has derived a benefit but has left the things unimpaired, or [that it applies] to things attached to the ground and in the case of a messenger who has carried out his appointed errand.[2] The text[3] therefore states, 'and sin'.[4] [The term] 'sin' is used in connection with terumah[5] and ‘sin’[6] is also mentioned in connection with sacrilege: just as ‘sin’ mentioned in connection with terumah[7] [refers to a case where there is] deterioration as well as benefit; [and to a case] where he who has caused the damage is at the same time the person that has derived the benefit; [and to a case] where the deterioration and the benefit are in respect of one and the same object and where the deterioration and the benefit take place simultaneously;[8] and to things detached from the ground and applies in the case where an agent has executed his appointed errand,[9] so also the word ‘sin’ used in connection with sacrilege [refers to a case where there is] deterioration as well as benefit; where he who has caused the damage is at the same time the person that has derived the benefit; where the deterioration and the benefit are in respect of one and the same object and where the deterioration and the benefit have taken place simultaneously; and to things detached from the ground and applies in the case where an agent has executed his appointed errand.[10] From this[11] we only derive that [the law of Sacrilege applies to] edibles which are enjoyed. whence do we know [its application to] things that do not deteriorate [through use] and that [different portions] can combine with one another,][12] even after the elapse of a considerable time;[13] in the case where he has himself eaten thereof[14] and has given to his fellow to eat thereof,[15] or where he has himself made use of it[14] and has given to his fellow to make use of it,[15] or where he has himself made use of it[14] and has given to his fellow to eat thereof,[15] or where he has himself eaten thereof[14] and has given to his friend to make use thereof?[15] The text therefore reads: Commit a trespass:[16] whatever the form may be. But [why not deduct in the following manner]: Just as with the word ‘sin’ mentioned in connection with terumah the rule is that two separate edibles cannot combine with one another,[17] so also with the word ‘sin’ mentioned in connection with sacrilege two separate meals cannot combine with one another.[18] From whence [further] do we know [that edibles can combine] if one eats one portion on one day and the other on the following, or if even a longer period has elapsed between the two meals? The text therefore reads: ‘Commit a trespass’, whatever the form may be. But [why not draw the following comparison]: Just as with the word ‘sin’ mentioned in connection with terumah the deterioration and the enjoyment is simultaneous,[19] [so also with the word sin used in connection with sacrilege]; whence do we know then [that the Law of Sacrilege applies] when one has eaten [of consecrated food] himself and has given to his fellow to eat, even though after an interval of three years? The text therefore reads: ‘Commit a trespass’, whatever the form may be. But [why not deduct as follows]: Just as with the word ‘sin’ mentioned in connection with terumah

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(1) I Chron. V, 25. Cur. edd. read wrongly ‘after the Baals’.

(2) Viz., that the agent should be liable to the penalty of sacrilege and not his employer, in accordance with the otherwise valid general rule: ‘One cannot appoint a deputy for an illegal act’. V. however infra 20a.

(3) Lev. V, 15.

(4) Which is really a repetition of the words preceding it ‘commit a trespass’ and is thus superfluous.

(5) Lev. XXII, 9, with reference to the priest's share of the crop; v. Glos.

(6) Or rather the verb of the same root.

(7) Referring to an Israelite who unlawfully eats terumah.

(8) I.e., eating.

(9) For one can appoint an agent to separate terumah, v. Kid. 41b.

(10) I.e., the employer is guilty. v. Chap. VI, I.

(11) Viz., the analogy between terumah and sacrilege. Terumah applies to edibles only.

(12) To make up the requisite value of a perutah.

(13) Rashi: but within the same day.

(14) A portion worth a fraction of a perutah.

(15) A portion worth the supplementary fraction of a perutah. V. Mishnah 3.

(16) Lev. V, 15. Lit., ‘trespass a trespass’. This repetition suggests an amplification.

(17) To make up the requisite size of an olive.

(18) I.e., from this analogy we should deduct that sacrilege applies only if the required quantity has been consumed of two different kinds of food, which is contradictory to IV, 1.

(19) Since the reference is to eating.

there is no liability except when [the food] has been transferred from sacred possession[1] into secular ownership,[2] [so also with the word ‘sin’ used in connection with sacrilege]; whence do we know [that the Law of Sacrilege applies] when consecrated money has been misappropriated and used for other sacred purposes; e.g., if he purchased with it the bird-offerings of a zab or a zabah,[3] or of a woman after confinement,[4] or has paid therewith his shekel,[5] or if one has offered his sin- or guiltoffering from sacred money, in which case one is liable to sacrilege at the moment of misappropriation according to R. Simeon and at the time of the sprinkling according to R. Judah. Whence do we know all this? The text reads: ‘Commit a trespass’: whatever the form may be. The Master said: It is written, ‘If any one [commit a trespass]’, to imply the ordinary man as well as the Prince or the Anointed [Priest]. What else might one have assumed? Is this not obvious, ‘If any one’ is written [distinctly]? — I might have thought, The Divine Law says: And whosoever putteth any of it upon a stranger [he shall be cut off from among his people],[6] and this one[7] is not a stranger, since he had been anointed therewith.[8] Therefore the amplification mentioned was necessary. The Divine Law has drawn an analogy between [the Law of Sacrilege on the one hand] and [the laws concerning] the suspected woman,[9] idolatry and terumah [on the other]. [It is compared] to the law concerning the suspected woman: [Just as the law applies] even though there was no deterioration,[10] so also with consecrated property;[11] if [a woman] has [e.g.,] put a ring on her finger she is guilty of sacrilege. And the Divine Law compared it to the law of idolatry: Just as the latter [applies] only when a change has taken place,[12] so also in the case of consecrated property.[13] One is not guilty when one has chopped wood with an axe [belonging to the Temple] unless it has been impaired. The Divine Law was compared to the law of terumah: Just as in the case of terumah [the words] ‘if one has eaten’[14] exclude the one who damages [terumah],[15] so also with consecrated things: If one has damaged anything eatable,[16] he is exempted from the Law of Sacrilege. FOR INSTANCE, IF [A WOMAN] HAS PUT A NECKLACE . . . Said R. Kahana to R. Zebid: Does gold indeed not deteriorate?[17] Whither, then, has the gold of Nun's daughter-in-law gone?[18] — He retorted: Perhaps the gold was thrown about[19] as your daughter in-law used to do. And besides, admitted this is not a case where there is enjoyment and immediate deterioration [of the used article], but [can you say] it will never deteriorate.[20] IF ONE HAS DERIVED A BENEFIT FROM A SIN-OFFERING etc. Now, consider:, if this refers to an animal that has no blemish,[21] [do you not agree that] it would be analogous to the case of the golden cup? — Said R. Papa: It refers indeed to one with a blemish.[22]

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(1) I.e., in this connection the possession of the priest.

(2) By eating the terumah one necessarily becomes the owner thereof.

(3) I.e., a man or a woman respectively who have recovered from gonorrhoea; v. Lev. XV.

(4) V. Lev. XII.

(5) V. Shek. II, 1.

(6) Ex. XXX, 33. The text deals with the anointing oil. From which it follows that he upon whom the oil is put by law is not to be considered a ‘stranger’ in respect of Temple property.

(7) Viz., the anointed.

(8) And consequently would not be liable to the Law of Sacrilege.

(9) Num. V, 12-31.

(10) I.e., no physical change has taken place with the woman.

(11) Viz., regarding things which do not deteriorate through use.

(12) The worshipper transfers his allegiance from God to the idol (Rashi).

(13) Referring this time to things which do deteriorate through use.

(14) Lev. XXII, 14 dealing with terumah.

(15) I.e., if he damaged terumah he is not liable to the payment of the additional Fifth. Pes. 32b.

(16) Terumah, from which this restrictive law is derived, consists always of edibles. The derived rule applies, therefore, also in the case of sacred property to edibles only.

(17) The general rule of the Mishnah is exemplified by a golden cup. It must, therefore, be assumed that gold is considered a material which does not deteriorate through use.

(18) This alludes according to Rashi and Tosaf. to a man called Nun who presented his daughters-in-law with golden vessels which after a time were found to have lost in weight.

(19) I.e., treated with little care.

(20) Thus lit.: When the rule of the Mishnah speaks of deterioration it can only mean immediate deterioration, for nothing remains unimpaired after a sufficiently long time.

(21) As it is to be offered upon the altar, whether it be fat or grows lean, any deterioration of the animal is irrelevant with regard to its purpose. Consequently it is to be compared to the case of the golden cup.

(22) The offering is then to be redeemed, and any deterioration will express itself in the price offered for it.

Talmud - Mas. Me'ilah 19b

MISHNAH. IF ONE HAS DERIVED A BENEFIT OF HALF A PERUTAH'S WORTH AND HAS IMPAIRED [THE VALUE OF THE USED ARTICLE] BY ANOTHER HALF A PERUTAH, OR IF ONE HAS DERIVED THE BENEFIT OF A PERUTAH'S WORTH FROM ONE THING[1] AND HAS DIMINISHED ANOTHER THING BY THE VALUE OF A PERUTAH, HE IS NOT LIABLE TO THE LAW OF SACRILEGE, [FOR THIS LAW APPLIES] ONLY WHEN HE BENEFITS A PERUTAH'S WORTH AND DIMINISHES THE VALUE OF A PERUTAH OF THE SELFSAME THING. ONE DOES NOT COMMIT SACRILEGE WITH CONSECRATED THINGS WITH WHICH SACRILEGE HAD ALREADY BEEN MADE BY ANOTHER PERSON,[2] EXCEPT WITH ANIMALS[3] AND VESSELS OF MINISTRY.[4] FOR INSTANCE, IF ONE RODE ON A BEAST AND THEN CAME ANOTHER AND RODE ON IT AND YET ANOTHER CAME AND RODE ON IT, ALL OF THEM ARE GUILTY OF SACRILEGE; OR IF ONE DRANK FROM A GOLDEN CUP, THEN CAME ANOTHER AND DRANK AND YET ANOTHER CAME AND DRANK, ALL OF THEM ARE GUILTY OF SACRILEGE; OR IF ONE PLUCKED [OF THE WOOL] OF A SIN-OFFERING, THEN CAME ANOTHER AND PLUCKED AND YET ANOTHER CAME AND PLUCKED, ALL OF THEM ARE GUILTY OF SACRILEGE. RABBI SAID: WHATSOEVER IS UNREDEEMABLE IS SUBJECT TO THE LAW OF SACRILEGE EVEN AFTER SACRILEGE HAS BEEN ALREADY COMMITTED WITH IT. GEMARA. According to whom is our Mishnah? — According to R. Nehemiah, for it has been taught: One does not commit sacrilege with things of which sacrilege had been committed already, except with animals; R. Nehemiah says. Except with animals and vessels of ministry.[5] What is the reason of the first Tanna? — He bases his opinion upon the fact that animals are mentioned in connection therewith,[6] for it is written: With the ram of the guilt-offering,[7] while R. Nehemiah argues a minori: If it[8] renders things contained therein holy,[9] surely it must be holy itself.[10] RABBI SAID WHATSOEVER IS UNREDEEMABLE IS SUBJECT etc. But this is the view of the first Tanna? — They differ with regard to wood. For our Rabbis taught:[11] If a man said, I take upon myself to present wood to the Temple, he may not offer less than two logs. Rabbi said: Wood has the status of a sacrifice, it requires salt[12] and swinging.[13] Whereupon Raba remarked that according to Rabbi an offering of wood requires other wood in addition,[14] and R. Papa remarked that according to Rabbi wood requires the taking of a handful.[15] R. Papa said, They differ with regard to unblemished offerings consecrated to the altar which received blemishes and were illegitimately slaughtered.[16] This indeed is confirmed by what has been taught: If unblemished offerings dedicated to the altar received blemishes and were illegitimately slaughtered. Rabbi says they have to be buried, while the Sages hold they shall be redeemed. MISHNAH. IF A MAN[17] TOOK AWAY A STONE OR A BEAM BELONGING TO TEMPLE PROPERTY, HE IS NOT GUILTY OF SACRILEGE

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(1) Viz., an article which according to the rule of the previous Mishnah comes under the Law of Sacrilege only after it has been impaired.

(2) The first transgressor has become its owner. Sacrilege can no longer apply to it, since it is in secular possession.

(3) Consecrated to the altar and unblemished. They cannot be redeemed or alienated.

(4) These things remain sacred even after sacrilege has been committed therewith. They cannot be redeemed or alienated.
(5) Tosef. II, 2.
(6) Viz., with sacrilege.
(7) Lev. V, 16. These words are considered superfluous, since it is clear from the context that the atonement is to be made with the ram of the guilt-offering. They are therefore taken to indicate that only to offerings does sacrilege apply under all circumstances, i.e., even though another person has already committed sacrilege with them, but not to vessels of ministry.
(8) Viz., a vessel of ministry.
(9) V. Zeb. IX, 7.
(10) I.e., it possesses a high degree of holiness so that it ought to retain its sacred character even after it has unlawfully been used by another person.
(11) The first part of this quotation is from the Mishnah Men. 106b, while the second part is from a Baraitha cited in the Gemara belonging thereto.
(12) V. Lev. II, 13.
(13) V. Lev. XIV, 12. V. Men. loc. cit.
(14) Upon which to burn the wood-offering.
(15) To be burnt upon the altar. According to Rabbi wood would be included in one category with animal sacrifices, also with regard to the question of repeated sacrilege, according to the Sages it would not.
(16) Rashi: Rabbi holds namely that also sacrifices when being redeemed have to be placed before the priest and appraised. This cannot be done with a slaughtered animal, v. Hul. 30a. The sacrifice is thus unredeemable and is according to Rabbi's rule subject to repeated sacrilege. The Sages. however, hold that the placing before the priest is unnecessary with sacrifices. The slaughtered sacrifice can thus be redeemed and does not come into the same category as unblemished offerings and vessels of ministry.
(17) Referring to the Temple treasurer, v. Gemara.

Talmud - Mas. Me'ilah 20a

. BUT IF HE GAVE IT TO HIS FELLOW HE IS GUILTY OF SACRILEGE, BUT HIS FELLOW IS NOT GUILTY. IF HE BUILT IT INTO HIS HOUSE HE IS NOT GUILTY OF SACRILEGE UNTIL HE LIVES BENEATH IT AND BENEFITS THE EQUIVALENTS OF A PERUTAH. IF HE TOOK A PERUTAH FROM TEMPLE PROPERTY HE HAS NOT TRANSGRESSED THE LAW OF SACRILEGE, BUT AS SOON AS HE GAVE IT TO HIS FELLOW HE IS GUILTY OF SACRILEGE, WHILE HIS FELLOW IS NOT GUILTY; IF HE GAVE IT TO THE BATHING KEEPER, HE IS GUILTY OF SACRILEGE EVEN THOUGH HE HAS NOT BATHED, FOR [THE MASTER] CAN SAY TO HIM, BEHOLD THE BATH IS READY FOR YOU, GO IN AND BATHE. THE PORTION WHICH A PERSON HAS EATEN HIMSELF AND THAT WHICH HE HAS GIVEN HIS NEIGHBOUR TO EAT, OR THE PORTION WHICH HE HAS MADE USE OF HIMSELF AND THAT WHICH HE HAS GIVEN TO HIS NEIGHBOUR TO MAKE USE OF, OR THE PORTION WHICH HE HAS EATEN HIMSELF AND THAT WHICH HE HAS GIVEN HIS NEIGHBOUR TO MAKE USE OF, OR THE PORTION WHICH HE HAS MADE USE OF HIMSELF AND THAT WHICH HE HAS GIVEN HIS NEIGHBOUR TO EAT CAN RESPECTIVELY COMBINE WITH ONE ANOTHER[1] EVEN AFTER THE LAPSE OF A CONSIDERABLE TIME. GEMARA. What is the difference[2] between himself and the other person?[3] — Said Samuel: It refers to the Temple treasurer in whose trust these articles were.[4] IF HE BUILT IT INTO HIS HOUSE HE IS NOT GUILTY etc. Why only when he has lived beneath it? [Should he not be guilty of sacrilege at all events] since the beam has been transformed?[5] — Said Rab: We suppose he placed it over the roof opening.[6] When, however, he built it in, it is agreed that he is guilty of Sacrilege;[7] does this not confirm Rab's view? For Rab said: If a man worships a house, he renders it prohibited for use?[8] Said R. Aha son of R. Ika: As to sacrilege, the Torah has prohibited any benefit which is visible.[9] Shall we say the following supports him [Rab]?[10] For it was taught: If one has dwelt in a house belonging to Temple property. he is guilty of sacrilege as soon as he has derived therefrom the benefit [of a perutah's worth]?[11] — Said Resh Lakish: This deals with a case where [the building material][12] was consecrated and then [the house] built.[13] But what would be the case if the house was first built and then consecrated? Would the Law of Sacrilege indeed not apply? Why then was it necessary to contrast:[14] If, however, one has dwelt in a cave [belonging to Temple property] he is not liable to the Law of Sacrilege?[15] Why not state [instead]: If one has dwelt in a house of stones which he had first built and then consecrated, he is not liable to the Law of Sacrilege? — They replied: That instance[16] is absolute,[17] this one would not be absolute.

CHAPTER VI

MISHNAH. IF AN AGENT HAS DISCHARGED HIS APPOINTED ERRAND, THE EMPLOYER[18] IS GUILTY OF SACRILEGE, BUT IF HE HAS NOT CARRIED OUT HIS APPOINTED ERRAND, HE HIMSELF IS GUILTY OF SACRILEGE.[19] FOR INSTANCE: IF THE EMPLOYER SAID TO HIM: GIVE FLESH[20] TO THE GUESTS AND HE OFFERED THEM LIVER, LIVER AND HE OFFERED THEM FLESH, HE HIMSELF IS GUILTY OF SACRILEGE. IF THE EMPLOYER SAID TO HIM: ‘GIVE THEM ONE PIECE EACH’, AND HE SAID TO THEM: ‘TAKE TWO PIECES EACH’, WHILE THE GUESTS THEMSELVES TOOK THREE PIECES EACH, ALL OF THEM ARE GUILTY OF SACRllege.[21]

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(1) To make up the requisite value of a perutah.

(2) I.e., why should not the mere appropriation of consecrated goods be a culpable act.

(3) I.e., the one to whom the goods were handed over.

(4) So long as the treasurer has not parted with the article it is considered as if it was deposited with him.

(5) Viz., cut and planed and adapted to the measures of the building. The change of form of a misappropriated object effects its definite transfer into the possession of the illegitimate holder in so far as he is no longer obliged to return the object itself, but may pay its value. Cf. B.K. 65b.

(6) I.e., he made no alteration, as the beam was ready for use.

(7) Though the beam is now something attached to the ground. The Law of Sacrilege does not apply to things attached to the ground. v. supra 18b.

(8) A.Z. 47a. He holds that movable things. such as stones and mortar, which are fixed to the ground. retain their status of movables and are forbidden for any use if worshipped. Originally immovable things are not prohibited for use if worshipped. V. ibid. 45a.

(9) I.e., the ruling of our Mishnah does not result from the fact that the beam is still considered a movable object, but that any visible benefit, whether derived from consecrated property. whether movable or immovable, is regarded as sacrilege.

(10) In his explanation of our Mishnah.

(11) Which proves that the material of a house is considered movable though it is built into the house.

(12) Which is movable.

(13) In which case the Law of Sacrilege has already taken full effect upon the object, before it was fixed to the ground. Different it might be with immovable property, such as houses, which were consecrated when already attached to the ground. The latter case seems to be implied in Rab's interpretation of our Mishnah.

(14) Lit., ‘why does he run and teach’.

(15) Since it is not movable.

(16) Viz., that of the cave.

(17) I.e., no distinction is necessary as to the time of consecration.

(18) Lit., ‘householder’.

(19) I.e., if a man has charged another person to make use on his behalf of consecrated things, both of them being ignorant of the transgression that they were committing thereby, and the agent carried out his commission exactly as he was told, his employer is guilty, because the Law of Sacrilege prescribing a guilt-offering as atonement for sacrilege applies only to an act committed in error as indicated in Lev. V, 15, and it was the employer who first trespassed in error. In this respect the Law of Sacrilege is an exception, for the general rule is that one cannot appoint a deputy for an unlawful act, v. supra 18b. If, however, the agent departed substantially from the task with which he was charged, his act is considered independent of his commission, and he is himself subject to the Law of Sacrilege.

(20) Belonging to Temple property.

(21) The employer, because in respect of the first piece his order has been carried out, the agent because he exceeded his power in respect of the second piece and the guests because they misappropriated the third piece on their own accord.

Talmud - Mas. Me'ilah 20b

GEMARA. Who is the Tanna who holds that any deviation[1] for which the agent would consult [the principal] is considered something different [from the original order]?[2] — Said R. Hisda: It is certainly not R. Akiba, for we have learnt: If one vows to abstain from vegetables. he is permitted to eat gourds; R. Akiba holds, he is forbidden.[3] Abaye said: The Mishnah may well agree with R. Akiba, for do you not admit that he should have nevertheless consulted his employer?[4] When the scholars passed on these words to Raba he said: Nahmani[5] said well. Who is the Tanna who opposes R. Akiba? — It is Rabban Simeon b. Gamaliel, for it has been taught: If one vows to abstain from meat, he is prohibited to eat any kind of flesh as well as the head, the legs, the windpipe, the liver and the heart and even the flesh of fowls, but he is permitted to eat the flesh of fish and locust. Rabban Simeon b. Gamaliel permits the head, the legs. the windpipe. the liver and the flesh of fowl, fish and locust. Similarly Rabban Simeon b. Gamaliel said that entrails are no flesh and he who eats them is no man.[6] Why is, according to the first Tanna, the flesh of fowl different [from that of fish and locust]? — [Presumably] because people often say. I could not find flesh of the cattle and bought flesh of the fowl instead.[7] But can you not argue similarly: people often say. I could not find flesh of the cattle and bought fish instead? — Said R. Papa: We deal with the case where [the vow was made] on the day of blood letting. when people do not as a rule eat any fish.[8] But then he may not eat fowl either? For Samuel[9] said: If a man who has let blood eats the flesh of fowl, his heart will fly off like a fowl. And it has further been taught: One should not let blood after a meal of fish, fowl and salted meat! — Rather said R. Papa: We deal with a case where [the vow was made] at a time when his eyes were sore, when one does not eat fish. IF THE EMPLOYER SAID TO HIM, ‘GIVE THEM ONE PIECE EACH’ etc. May we not infer from this that if an agent adds to his order he still remains an agent [in respect of the original commission]?[10] — Said R. Shesheth: [Our Mishnah deals with a case] where [the agent] said to the guests. ‘Take one piece each at my master's permission and another with my permission’.

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(1) Viz., of the commission with which he has been entrusted.

(2) For this situation is assumed to exist in the case of the Mishnah in which the agent offered liver instead of meat. Ordinarily if one is e.g., charged to buy meat one would enquire first whether liver may be bought instead.

(3) Ned. 54a. Cf. ibid. as to R. Akiba's reason. In this instance, which is parallel to that of our Mishnah, R. Akiba holds that gourds are not regarded as essentially different from herbs, although consultation would be required for such deviation from the original order. The following discussion is recorded there with little variation.

(4) Although R. Akiba holds that also where consultation is required the changed order is not necessarily to be considered as essentially different from the original one, he admits that such change may not be undertaken without the employer's authorization, and this the agent has failed to obtain in the instance of our Mishnah, wherefore he is himself guilty of sacrilege.

(5) Abaye's original name, but v. also Tosaf. Ned. 54b.

(6) He thus takes the word flesh in its greatest possible restriction. The same should apply to the instance of the Mishnah.

(7) I.e., the latter is considered similar in nature to the first.

(8) It is therefore assumed that fish was not included in the vow.

(9) Who was a physician, v. Shab. 208b.

(10) And we do not consider the whole commission as canceled. This question is dealt with in Keth. 98b.

Talmud - Mas. Me'ilah 21a

You might have thought that the agent had thereby canceled his employer's order and that [the employer] should therefore be exempted from sacrilege. therefore [the Mishnah] lets us know [that this is not the case]. MISHNAH. IF A MAN SAID TO ANOTHER PERSON, ‘GET ME [SUCH A THING] FROM THE WIND OW OR FROM THE CHEST’,[1] AND THE LATTER BROUGHT IT TO HIM [FROM ONE OF THESE PLACES]. EVEN THOUGH THE EMPLOYER SAYS, ‘I MEANT ONLY FROM THIS PLACE’. AND HE BROUGHT IT FROM ANOTHER PLACE, THE EMPLOYER IS GUILTY OF SACRILEGE.[2] BUT IF HE SAID TO HIM, ‘GET IT FOR ME FROM THE WINDOW, AND HE BROUGHT IT FROM THE CHEST, OR ‘FROM THE CHEST AND HE BROUGHT IT TO HIM FROM THE WINDOW, THE AGENT IS GUILTY OF SACRILEGE. IF ONE HAS COMMISSIONED A DEAF-MUTE, AN IMBECILE OR A MINOR,[3] AND THEY CARRIED OUT THEIR APPOINTED ERRAND THE EMPLOYER IS GUILTY, IF THEY DID NOT CARRY OUT THEIR APPOINTED ERRAND, THE SHOPKEEPER IS GUILTY.[4] IF ONE HAS COMMISSIONED ONE OF SOUND SENSES AND REMEMBERS[5] [THAT THE MONEY BELONGS TO TEMPLE PROPERTY] BEFORE IT HAS COME INTO THE POSSESSION OF THE SHOPKEEPER, THE SHOPKEEPER WILL BE GUILTY[6] WHEN HE SPENDS IT. WHAT SHALL HE[7] DO?[8] HE SHALL TAKE A PERUTAH OF ANY OBJECT AND DECLARE THAT THE MONEY[9] BELONGING TO TEMPLE PROPERTY, WHERESOEVER IT MAY BE AT THAT TIME, SHALL BE REDEEMED WITH THIS; FOR CONSECRATED THINGS CAN BE REDEEMED BOTH WITH MONEY AND WITH MONEY'S WORTH. GEMARA. What does he teach us thereby?[10] — That unexpressed words are of no avail. IF ONE HAS COMMISSIONED A DEAF-MUTE, AN IMBECILE OR A MINOR, AND THEY HAVE CARRIED OUT etc. But surely these people are legally not fit to become agents! — Said R. Eleazar: They have the same status as the vat of olives of which we have learnt:[11] From what tree do olives become susceptible to defilement?[12] When they begin to exude,[13] the moisture being one that comes out of them when they are in the vat and not moisture that comes out of them when they are still in the store basket.[14] R. Johanan said: This is to be compared to that which we have learnt: If one placed it[15] upon an ape or upon an elephant, which carried it to the right quarter (and another person was charged to receive it], the ‘erub is valid.[16] Does this not prove that the fact of the execution of the appointed errand alone matters?[17] So in our case: The appointed errand has at any rate been carried out. IF HE HAS COMMISSIONED A SANE PERSON etc. [Does this apply] even though the agent has not remembered? Against this the following contradiction is raised: If the employer remembered and not the agent, the agent is guilty of sacrilege, [but if both remembered the shopkeeper is guilty].[18] — Said R. Shesheth: Also our Mishnah has to be understood that both remembered.[19] MISHNAH. IF HE GAVE HIM A PERUTAH[20] AND SAID TO HIM: GET ME FOR HALF A PERUTAH LAMPS AND FOR THE OTHER HALF WICKS’, AND HE WENT AND BROUGHT FOR THE WHOLE WICKS OR FOR THE WHOLE LAMPS, OR IF HE SAID TO HIM, ‘GET ME FOR THE WHOLE LAMPS OR FOR THE WHOLE WICKS’, AND HE WENT AND BROUGHT FOR HALF [A PERUTAH] LAMPS AND FOR THE OTHER HALF WICKS. THEY ARE BOTH EXEMPTED FROM THE GUILT OF SACRILEGE.[21] BUT IF HE SAID TO HIM, ‘GET FOR HALF A PERUTAH LAMPS FROM ONE PLACE AND FOR HALF A PERUTAH WICKS FROM ANOTHER’ AND HE WENT AND BROUGHT THE LAMPS FROM THE PLACE WHERE THE WICKS [WERE TO BE BROUGHT] AND THE WICKS FROM THE PLACE WHERE THE LAMPS [WERE TO BE BROUGHT]. THE AGENT IS GUILTY.[22] IF HE GAVE HIM TWO PERUTAH'S AND SAID, ‘GET ME FOR THEM A CITRON’, AND HE BROUGHT FOR ONE PERUTAH A CITRON AND FOR THE OTHER A POMEGRANATE, BOTH HAVE TRANSGRESSED THE LAW OF SACRILEGE.[23] R. JUDAH HOLDS THAT THE EMPLOYER IS NOT GUILTY, FOR HE CAN ARGUE, I WISHED FOR A LARGE CITRON AND YOU BROUGHT ME A SMALL AND UGLY ONE.[24] IF HE GAVE HIM A GOLDEN DENAR[25] AND SAID TO HIM, ‘GET ME A SHIRT

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(1) Both containing the same kind of consecrated property.

(2) According to the rule that the uttered word and not the unexpressed thought of a man are of avail.

(3) To buy goods with money which belongs to the Temple.

(4) As soon as he spends the money, for the shop keeper at this point transfers it from Temple property to private possession. As long as it is with the shopkeeper, the money is regarded as deposited with him.

(5) So does the messenger, v. Gemara.

(6) The employer and the messenger are exempted because the Law of Sacrilege applies only in the case of inadvertency.

(7) Viz., the employer, according to Rashi and Tosaf., and according to Maim. the shopkeeper who has learned in the meantime that a coin of sacred property is among his money.

(8) So as to prevent the shopkeeper from committing sacrilege. according to Rashi; according to Maim. so as not to commit sacrilege himself.

(9) Lit., ‘perutah’.

(10) Referring to the first clause of the Mishnah.

(11) Toh. IX, 1.

(12) Food is susceptible to defilement only after it has been moistened with liquid. It is, however, essential that the circumstances are such as to enable one to assume that the owner regards the moistening as desirable.

(13) To prepare the olives for the press they used to be packed in vessels until they formed a viscid mass. Previous to that they were kept in baskets. The exudation produced In the vat was preserved. It was advantageous for the owner that such exudation should take place. We, therefore, assume that the owner was satisfied with the dripping of the olives, which accordingly become fit for defilement. The juice produced in the basket, however, trickles down and its formation is against the owner's interest and wish. Thus Maim.

(14) We learn from this that the vat may be considered an instrument for the realization of the owner's wish. In the same way are the deaf-mute, the imbecile and the minor to be considered a mere instrument by which the employer's wish is fulfilled. In other words: With sacrilege it is not the act of appropriation that is decisive, but the effect of possessing or deriving a benefit from consecrated things. It does not matter, therefore, whether it be achieved by legally qualified persons or not.

(15) Viz., the ‘erub, v. Glos.

(16) V. ‘Er. 31b.

(17) Irrespective of the instrument by which it was achieved.

(18) Kid. 50a.

(19) And only the shopkeeper is subject to the Law of Sacrilege.

(20) Belonging to the Temple.

(21) The employer, because his order has not been carried out and the messenger. because he spent only half a perutah contrary to the commission he received.

(22) Because he spent a whole perutah in contradiction to his commission.

(23) The employer by reason of that part of the order which was carried out according to his desire, and the messenger because of the other part.

(24) I.e., your purchase cannot be recognized as a part fulfillment of my order.

(25) Twenty-four silver denars, v. Keth. 99a, Tosaf. s.v. נתן .

Talmud - Mas. Me'ilah 21b

AND HE BROUGHT HIM FOR THREE [SILVER SELA'S][1] A SHIRT AND FOR THE OTHER THREE A CLOTH, BOTH HAVE TRANSGRESSED THE LAW OF SACRILEGE. R. JUDAH HOLDS THE EMPLOYER IS NOT GUILTY, FOR HE CAN ARGUE, I WISHED FOR A BIG SHIRT AND YOU BROUGHT ME A SMALL AND BAD ONE. GEMARA. May we infer from this[2] that if a man said to his agent. Go, buy for me a kor[3] of land and he bought only a lethek[4] the acquisition on behalf of the buyer is valid?[5] — I might retort: [Our Mishnah] refers to a case where [the messenger] bought something worth six [silver sela's] for three.[6] But read then the concluding clause: R. JUDAH HOLDS THE EMPLOYER IS NOT GUILTY. FOR HE CAN ARGUE, I WISHED FOR A BIG SHIRT AND YOU BROUGHT A SMALL AND BAD ONE? — [This is to be understood in the following manner]: Because he can say to him, Had you spent the whole [golden] denar you could have bought something worth two [golden] denars.[7] This interpretation stands to reason, for it says [in the concluding section]:[8] R. Judah agrees with reference to pulse, for it makes no difference whether you buy pulse for a perutah or for a denar![9] But how is this? If it deals with a place where it is customary to sell cereals by estimate, Surely then also in the case of pulse when one buys for a whole sela' he buys much cheaper? — Said R. Papa: It refers to a place where it is customary to sell it in kannas,[10] each kanna for a perutah, in which case the price is absolutely fixed.[11] MISHNAH. IF ONE DEPOSITED MONEY[12] WITH A MONEYCHANGER,[13] AND IT WAS TIED UP. HE MAY NOT USE IT; AND THEREFORE IF HE DID SPEND IT HE IS GUILTY OF SACRILEGE; IF IT WAS LOOSE HE MAY USE IT AND THEREFORE IF HE SPENT IT HE IS NOT GUILTY OF SACRILEGE.[14] IF [THE MONEY WAS DEPOSITED] WITH A PRIVATE PERSON,[15] HE MAY NOT USE IT IN NEITHER CASE, AND THEREFORE IF HE DID SPENT IT HE IS GUILTY OF SACRILEGE. A SHOPKEEPER HAS THE STATUS OF A PRIVATE PERSON. SAYS R. MEIR. R. JUDAH HOLDS, HE IS LIKE A MONEY-CHANGER. IF A PERUTAH BELONGING TO THE TEMPLE FELL INTO HIS BAG OR IF HE SAYS, ONE PERUTAH IN THIS BAG SHALL BE DEDICATED, HE IS GUILTY OF SACRILEGE AS SOON AS HE SPENDS THE FIRST PERUTAH. THUS THE VIEW OF R. AKIBA. WHILE THE SAGES HOLD: NOT BEFORE HE HAS SPENT ALL THE MONEY THAT WAS IN THE BAG. R. AKIBA AGREES, HOWEVER, WITH THE SAGES THAT IF HE SAID, A PERUTAH OUT OF THIS BAG[16] SHALL BE DEDICATED, HE IS PERMITTED TO KEEP ON SPENDING [AND IS LIABLE ONLY] WHEN HE HAS SPENT ALL THAT WAS IN THE BAG. GEMARA. When R. Dimi arrived,[17] he said, Resh Lakish had questioned R. Johanan: What is the difference between the first clause[18] and the last?[19] To this he [R. Johanan] replied: In the last clause the man's declaration was, This bag should not be spared from a donation to the Temple.[20] When Rabin arrived[17] he said: He[21] raised before him[22] a contradiction between the case of the pocket and that of the oxen. For we have learnt: If one said, I dedicate one of my oxen to the Temple, and he had two oxen, the larger one becomes sacred.[23] To this the other[24] re plied: In the last clause the man's declaration was, 'this bag shall not be spared from a donation to the Temple'.

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(1) Twelve silver denars.

(2) Viz., the last instance of the Mishnah where we read that according to the first Tanna the messenger is regarded as having acted on behalf of the employer with regard to a part of the commission.

(3) A piece of land which requires a kor (measure) of seed. It is usually valled Beth-Kor.

(4) I.e., half a kor.

(5) V. Keth. 98a.

(6) It is because the employer has obtained an article of the required quality that the commission is considered partly fulfilled.

(7) Thus cur. edd., a version which renders the discussion which follows incomprehensible. The Gemara in Keth reads 'at least two denars' and Tosaf. there understands this as follows: Had the messenger bought for the whole denar he would have got something worth more than two denars, because things are cheaper when bought in big quantities. The profit of the employer would then have been also relatively higher. This loss cannot be remedied, for even if the messenger bought now goods for another half denar at the same price, the extra profit over and above two denars would not materialize. Tosaf. quotes also a version which reads explicitly 'more than two denars'.

(8) To be found in the Tosef. II. The bracketed words are rightly deleted by Sh. Mek.

(9) There is no reduction when buying a large quantity. The employer had therefore no loss when the messenger spent only half a denar. The owner's order is therefore to be considered as partly fulfilled, and he is liable to the law of sacrilege.

(10) A certain measure.

(11) With no reduction for larger quantities.

(12) Belonging to the Temple.

(13) Or a banker, without telling him that the money was from sacred property.

(14) According to Rashi the depositor is guilty, while Maim. holds that both are exempted.

(15) Lit. , 'householder'.

(16) V. Gemara infra as to the difference between this form of promise and the previous.

(17) From Palestine.

(18) Viz., that which forms the subject of the dispute between R. Akiba and the Sages.

(19) Why does R. Akiba differ from the Sages in the first clause and agree with them in the last?

(20) It is assumed that the last perutah was meant.

(21) Resh Lakish's.

(22) R. Johanan.

(23) Men. 108b; from which it is inferred that if, however, both oxen were equal the one that is met first is considered sacred, while in the last clause of the Mishnah we learn that one can fulfil such a promise with the last perutah. Thus Rashi. Tosaf. explains the contradiction as follows: Why not say also in the last instance of our Mishnah that the biggest coin in the pocket should become sacred. Apparently Tosaf. read ‘coin’ instead of PERUTAH’ in the last clause of the Mishnah, or PERUTAH should be understood in its general significance as money.

(24) Viz., R. Johanan.

Talmud - Mas. Me'ilah 22a

R. Papa said, ‘He raised before him a contradiction between the case of the bag and that of loss; for we have learnt:[1] If one has bought wine[2] from Cutheans,[3] he shall declare: Two logs which I shall separate are herewith designated as terumah, ten as first tithe and nine as second tithe, the latter portion is redeemed[4] and then he may begin to drink at once.[5] This is the view of R. Meir, while R. Judah. R. Jose and R. Simeon hold it is prohibited.[6] To this he[7] replied: In the last clause the man's declaration was, ‘this bag shall not be spared from a donation to the Temple’.

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(1) Dem. VII, 4.

(2) Late on Sabbath Eve or while on the way, thus not being in a position to separate tithe and terumah, The law is exemplified with a quantity of a hundred logs.

(3) V. Glos.

(4) Second tithe has to be consumed in Jerusalem, or redeemed and its equivalent spent in Jerusalem.

(5) R. Meir accepts the principle of bererah (v. Glos.); i.e., the subsequent actual separation of these taxes will be retrospectively valid in that it will establish that the portion used by the owner was not ‘mingled’ with tithe or terumah which are prohibited for use.

(6) For they do not accept the principle of bererah, and as long as no actual separation of the tithe and the terumah has taken place, the wine is considered untithed and is therefore forbidden for use, for of each cup of wine I might say. perhaps this is the one designated as tithe (v. Hul. 14a). Similarly I should say in the instance of the Mishnah of each coin, perhaps this is the one dedicated to the Temple, in contradiction to R. Akiba's view that the last may be assumed to be the one designated for the Temple.

(7) Viz., R. Johanan.

Talmud - Mas. Tamid 25b

CHAPTER I

MISHNAH .[1] IN THREE PLACES THE PRIESTS KEEP WATCH IN THE TEMPLE,[2] IN THE CHAMBER OF ABTINAS,[3] IN THE CHAMBER OF THE SPARK,[4] AND IN THE FIRE CHAMBER.[5] IN THE CHAMBER OF ABTINAS AND IN THE CHAMBER OF THE SPARK THERE WERE UPPER CHAMBERS WHERE THE YOUTHS[6] KEPT WATCH. THE FIRE CHAMBER WAS VAULTED.[7] IT WAS A LARGE ROOM SURROUNDED WITH STONE PROJECTIONS,[8] AND THE ELDERS OF THE BETH AB[9] USED TO SLEEP THERE,[10] HAVING WITH THEM THE KEYS OF THE AZARAH. THE PRIESTLY NOVITIATES[11] USED TO PLACE EACH ONE HIS PILLOW[12] ON THE GROUND.[13] THEY DID NOT SLEEP IN THEIR SACRED GARMENTS, BUT THEY USED TO TAKE THEM OFF [AND FOLD THEM][14] AND PLACE THEM UNDER THEIR HEADS AND COVER THEMSELVES WITH THEIR OWN ORDINARY CLOTHES. IF AN ACCIDENT[15] HAPPENED TO ONE OF THEM, HE USED TO GO OUT AND TAKE HIS WAY

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(1) In current editions the pagination of the Tractate begins with 25b in continuation of Kinnim which follows on the Tractate Me'ilah.

(2) Not that the Temple or its contents needing guarding, according to the belief of the Sages. but as a mark of honour.

(3) Abtinas (== E**) is mentioned elsewhere (Yoma, 38a) as the head of the family which had the secret of making the incense, and apparently it was made in this chamber, which was on the south-east of the Azarah, or altar court.

(4) The reason of this name is not known for certain. Asheri suggests that it was so called because it was open to the rays of the sun. Another suggestion is, because a glimpse of the altar fire could be caught from it.

(5) So called because a fire was kept burning in it for the benefit of the priests who had to minister barefooted on the stone floor and wearing only one linen garment. These two rooms were on the north-west of the Azarah.

(6) Who were not yet quite old enough to minister. They were, however, allowed to keep watch.

(7) For this reason it had no upper chamber over it.

(8) Which could serve as steps to mount the wall,

(9) Lit., ‘the father's house’. The priests were divided into family groups of ‘fathers’ houses’ which ministered in rotation. The ‘father's house’ mentioned here is the one which was to minister next day.

(10) On these ledges or projections. They were not allowed to sleep inside, which would be consecrated ground.

(11) Lit., ‘flowers of the priesthood’; young priests who had just commenced to minister.

(12) V. infra p. 5, n. 1.

(13) And not on beds.

(14) Reading as in the Mishnayoth.

(15) Euphemism for a seminal issue.

Talmud - Mas. Tamid 26a

DOWN THE WINDING STAIR[1] WHICH WENT UNDER THE BIRAH,[2] AND WHICH WAS LIT BY LIGHTS ON EACH SIDE UNTIL HE REACHED THE BATHING PLACE. THERE WAS A FIRE CLOSE BY AND A SUPERIOR PRIVY. ITS SUPERIORITY LAY IN THIS: IF HE FOUND IT LOCKED, HE KNEW THERE WAS SOMEONE THERE; IF IT WAS OPEN, HE KNEW THERE WAS NO ONE THERE. HE WOULD GO DOWN AND BATHE AND THEN COME UP AND DRY HIMSELF AND WARM HIMSELF IN FRONT OF THE FIRE, AND THEN GO AND TAKE HIS SEAT NEXT TO HIS BROTHER PRIESTS UNTIL THE GATES WERE OPENED, WHEN HE WOULD TAKE HIS DEPARTURE.[3] ANYONE WHO DESIRED TO REMOVE THE ASHES FROM THE ALTAR USED TO RISE EARLY AND BATHE BEFORE THE SUPERINTENDENT[4] CAME. AT WHAT TIME DID THE SUPERINTENDENT COME? HE DID NOT ALWAYS COME AT THE SAME TIME; SOMETIMES HE CAME JUST AT COCK-CROW, SOMETIMES A LITTLE BEFORE OR A LITTLE AFTER. THE

SUPERINTENDENT WOULD COME AND KNOCK AND THEY WOULD OPEN FOR HIM, AND HE WOULD SAY TO THEM, LET ALL WHO HAVE BATHED COME AND DRAW LOTS. SO THEY DREW LOTS, AND ONE OR OTHER WAS SUCCESSFUL.[5]

GEMARA. Whence [in the Scripture] is this rule derived?[6] — Abaye replied: Scripture says, And those that were to pitch before the tabernacle eastward, before the tent of meeting toward the sunrising, were Moses and Aaron and his sons, keeping the charge of the sanctuary, even the charge for the children of Israel.[7] We say, Yes; we have found a basis for the rule of watching, and that it requires priests and Levites. But the Mishnah states:[8] The priests keep watch in three places and the Levites in twenty-one; [furthermore] whereas Scripture places priests and Levites[9] together the Mishnah places them separately. — We reply: What it means is this: 'Those that were to pitch before the tabernacle eastward, before the tent of meeting toward the sunrising, were Moses'; and then, 'Aaron and his sons keeping the charge of the sanctuary — Aaron in one place and his sons in two places.[10] Whence do you learn [that priests and Levites are separate]? — Because it is written 'those that were to pitch' and it is written 'keeping' which implies, that those who pitched and those who kept were separate. But I may still say that all [of those who kept] were in one place? — Do not imagine such a thing. Just as Moses was in one place by himself, so Aaron and his sons were each in one place by themselves. R. Ashi said: This can be learnt from the latter part of the verse, [from the words] keeping the charge . . . even the charge.[11]

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(1) Heb. mesibbah, something winding. Perhaps only a gangway is meant, not a stair.

(2) Lit., 'palace' or 'fortress', some part of the Temple buildings, the exact nature of which is not known. The word is sometimes used to designate the whole of the Temple, but it does not seem to have that meaning here. V. Yoma 2a.

(3) Because although he had bathed he did not become really clean and consequently not allowed to enter the Azarah, until sunset.

(4) Memunneh, lit., 'the appointed one', v. Sanh. (Sonc. ed.) p. 91, n. 11.

(5) Only one was required to remove the ashes.

(6) That the priests should keep watch.

(7) Num. III, 38. Moses here represents the Levites and Aaron the priests.

(8) Mid. ad init.

(9) Moses representing the Levites.

(10) This is a second lesson to be derived from the text.

(11) The repetition of the word 'charge' shows that the watching was to be in several places.

Talmud - Mas. Tamid 26b

In regard to the Chamber of Abtinas and the Chamber of the Spark, the question was asked in the Academy. Were they actually upper chambers[1] or were they perhaps simply raised like upper chambers?[2] — Come and hear; for we have learnt:[3] In the north was the Chamber of the Spark, built like a veranda,[4] and there was an upper chamber on top of it, and the priests kept watch above and the Levites below,[5] and it had a doorway to the non-sacred part. Whence is this rule[6] derived? — Because our Rabbis have taught: That they [the Levites] may be joined unto thee [Aaron] and minister unto thee.[7] The text speaks of thy [Aaron's] service.[8] You say, The text speaks of thy service. May it not perhaps be of their service?[9] When it says, And they shall bejoined unto thee and keep the charge of the tent of meeting,[10] this disposes of their service. What then do I make of That they may be joined unto thee and minister unto thee? The text must speak of thy service. How is this to be carried out? The priests watch above and the Levites below. THE FIRE CHAMBER WAS VAULTED AND IT WAS A LARGE ROOM. But was there only one watch kept in the Fire Chamber? This is opposed to [the following statement]: There were two gates in the Fire Chamber, one opening on to the Hel and one opening on to the Azarah. R. Judah said: In the doorway opening on to the Azarah there was a small wicket through which they used to go in to inspect the Azarah?[11] Abaye said: Since the gates were close to one another,[12] one watchman was sufficient, as he could glance from one to the other. [IT WAS] SURROUNDED WITH STONE PROJECTIONS. What were these projections? — They were the hewn slabs of the projections by which they used to climb up to the projections.[13] But were there any hewn stones there, seeing that it is written, For the house when it was in building was built of stone made ready etc.?[14] — Abaye replied: They were brought ready prepared. smaller stones and larger stones, as it says, Stones of ten cubits and stones of eight cubits.[15] THE ELDERS OF THE BETH AB SLEPT THERE. Why so? Why could they not take in beds? — Abaye replied: It would not be respectful to take beds into the Temple. THE PRIESTLY NOVITIATES PUT EACH HIS PILLOW[16] ON THE GROUND. Why are they first called 'youths' and then

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(1) This seems to show that the proper reading in the Mishnah is not, In the Chamber of Abtinas . . . were upper stories, but The Chamber . . . were upper stories; v. Sh. Mek. on the Mishnah.

(2) The meaning of the question is, Did they have actual chambers below them, or were they simply raised some way above the ground, like upper chambers?

(3) Mid. ad init.

(4) Open on one or more sides.

(5) This shows that it was actually an upper chamber.

(6) That the priests watch above and the Levites below.

(7) Num. XVIII, 2.

(8) E.g. watching, which was primarily a function of the priests.

(9) Viz., carrying the sacred vessels'

(10) Ib. 4.

(11) The superintendent went through to see that no one was asleep in the Azarah. v. Mid. 1, 7. And since there were two gates, presumably there were two watchers!

(12) Being both near the junction of the Azarah and the Hel in the eastern wall. Or perhaps he means that they exactly faced one another in opposite walls.

(13) The elders used to sleep on projections let into the wall, to which they climbed up by means of the slabs.

(14) I Kings, VI, 7.

(15) Ibid VII, 10.

(16) It is doubtful whether the correct reading is kesutha (his garment) as here, or kisto (his pillow) as above in the Mishnah.

Talmud - Mas. Tamid 27a

novitiates'? — They replied: That is quite right. In the first passage, which speaks of those who have not yet become qualified to minister,[1] they are called 'youths'; in the second clause which speaks of those who have become qualified to minister, they are called 'novitiates'. We have learnt elsewhere:[2] In three places the priests keep watch in the Temple — in the Chamber of Abtinas, in the Chamber of the Spark, and in the Fire Chamber, and the Levites in twenty one places — five at the five gates of the Temple Mount, four at its four corners, on the inside, five at the five gates of the Azarah and four at its four corners on the outside, one in the Offering Chamber, one in the Chamber of the Veil, and one behind the place of the Mercy Seat. On what Scriptural text was this practice based? — Rab Judah from Sura replied — according to others, it is taught in a Baraitha: Because it is written: Eastward were six Levites, northward four a day, southward four a day, and for the Storehouse [asuppim] two and two. For the Precinct [Parbar] westward four at the causeway and two at the Precinct.[3] But, it was observed, that makes twenty-four? — Abaye replied: We must understand thus: For the two asuppim[4] there were two. That still leaves twenty-two? — At the parbar there was properly only one watchman, and the other merely went and sat by him for company, because he was far outside.[5] What is the meaning of parbar? — Rabbah, son of R. Shilah replied: It is as if one said, Towards the outside [clape bar]. If you like I can say that there were really twenty-four places, as stated in the text, three of them for priests and twenty-one for Levites. But the text says here 'Levites'? This is explained by R. Joshua b. Levi; for R. Joshua b. Levi said: In twenty-four places ‘priests’ are called Levites, and this is one of them,[6] viz., But the priests the Levites, the sons of Zadok.[7] ‘Five at the five gates of the Temple Mount and four at its four corners on the inside, five at the five gates of the Azarah and four at its four corners on the outside’. Why in the case of the Temple Mount are they placed on the inside and in the case of the Azarah on the outside? — They replied: On the Temple Mount,[8] if the watchman feels tired and wants to sit down, he may sit, and therefore he is placed on the inside, but in the Azarah, if he feels tired and wants to sit down he may not sit, since a Master has said that sitting is not allowed in the Azarah save only to kings of the House of David; therefore they are Placed on the outside. The Master said: ‘Five at the five gates of the Azarah’. Were there then only five gates in the Azarah? This seems to contradict the following:[9] There were seven gates in the Azarah, three on the north, three on the south, and one on the east! — Abaye said: Two of them did not require to be watched.[10] Raba said: There is a difference of Tannaim on this point, as it has been taught:[11] There must not be less than thirteen treasurers [attached to the Azarah] and seven supervisors. R. Nathan said: There must be not less than thirteen treasurers corresponding to the thirteen gates. Subtract five for the Temple Mount, and eight are left for the Azarah. We see therefore that there is a Tanna who says there were eight, and one who says there were seven, and one who says there were five. THEY DID NOT SLEEP IN THEIR SACRED GARMENTS etc. It was sleeping which was forbidden, but they used to walk about in them. You may infer from this that the priestly garments could be made general[12] use of! — It was replied: In fact walking about in them was also forbidden, and the reason why the Mishnah says simply that they did not sleep in them was because it was going to say subsequently, BUT THEY TAKE THEM OFF AND FOLD THEM AND PLACE THEM UNDER THEIR HEADS. Therefore it says in the first clause also THEY DID NOT SLEEP IN THEM. But your explanation itself involves a difficulty. THEY PLACE THEM UNDER THEIR HEADS: this shows that general use may be made of the priestly garments? — Read, Opposite their heads. R. Papa said: We may infer from this that it is allowed to place tefillin at one's side [when sleeping] and we are not afraid that perhaps one will roll over and fall on them. It is reasonable to suppose that what is meant is opposite the head. For if you say ‘under the head’ even granting that they may be made general use of, it should still be forbidden on the ground of mixed kinds.[13]

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(1) Having not yet reached the age of puberty.

(2) Mid. ad init.

(3) I Chron. Xxvi, 17, 18.

(4) It is doubtful how Abaye understood this word: perhaps ‘extra chambers’ from the root asaf to add, v. Asheri.

(5) I.e., at a distance from the Azarah.

(6) I.e. the clearest of them.

(7) Ezek. XLIV, 15.

(8) The precincts of the Temple outside of the Courts.

(9) Mid. I, 4.

(10) This apparently refers to the gates in the Chamber of the Spark and the Fire Chamber which were guarded by priest.

(11) Shek. V, 2.

(12) V. Yoma 69a.

(13) Contained in the priestly garments. It is forbidden to lie on such.

Talmud - Mas. Tamid 27b

. This argument is valid for one who says that the girdle of the high priest was not the same as the girdle of the ordinary priest.[1] But if one holds that the girdle of the ordinary priest is the same as that of the high priest, what is there to say? And should you allege that mixed kinds are forbidden only for putting over and putting on, but there is no objection to folding them under one, has it not been taught: Neither shall there come upon thee [a garment of two kinds of stuff];[2] you may, however, spread it under you. The Sages, however, said that it is forbidden to do this, for fear that a thread may wind itself round his body. And should you argue that there is something separating, behold, R.

Simeon has said in the name of Joshua b. Levi who had it from R. Jose b. Saul in the name of the holy congregation in Jerusalem, that even if there are ten coverings one on top of another and mixed kinds under them, it is forbidden to sleep on them. We must then conclude that what is meant is opposite the head. Alternatively, I may say that the Mishnah speaks of those garments in which there are no mixed kinds. R. Ashi said: The priestly garments were hard;[3] since R. Huna the son of R. Joshua said: This hard fabric made in Naresh[4] is permitted.[5] (Come and hear: It is forbidden to go out into the town in priestly garments, but it is permissible to walk about in them in the Temple whether at the time of service or otherwise, since the priestly garments may be made general use of. This is conclusive. But not in the town? Has it not been taught: 'On the twenty-first of this month is the day of Mount Gerizim on which it is forbidden to mourn, as we find in Yoma[6] in the section 'The High priest used to come' etc. up to 'If you like I can Say they are fit for the priestly garments'.[6] Or if you like I can say 'When it is a time to act for the Lord they break Thy Law').[7] IF AN ACCIDENT HAPPENED TO ONE OF THEM etc. This supports the view of R. Johanan who said that the subterranean passage possessed no sanctity, and that a baal keri[8] is sent out of two camps.[9] WITH LIGHTS BURNING ON EACH SIDE etc. R. Safra was once sitting in a privy when R. Abba came and gave a cough,[10] whereupon R. Safra said, pray, enter, Sir. When he came out, R. Abba said to him: Though you have not got as far as a he-goat[11] you have learnt the manners of a he-goat. Have we not learnt as follows: IF HE FOUND IT LOCKED, HE KNEW THAT THERE WAS SOMEONE INSIDE? This was to signify that he ought not to have gone in.[12] R. Safra, however, thought that perhaps it would be dangerous for him to wait, as it has been taught: R. Simeon b. Gamaliel says: To hold back faeces brings on dropsy; to hold back urine brings on jaundice. Rab said to his son Hiyya — and so also said R. Huna to his son Raba — attend to your needs at nightfall and before daybreak,[13] so that you shall not need to go a long way.[14] Sit first and then Uncover, and cover first and then rise. Wipe [the cup] before drinking and wipe again before putting it down; and when you drink water, pour out some before giving [the cup] to your disciple,[15] as it has been taught: A man should not drink water and hand [the cup] to his disciple unless he first pours some out. It happened once that a man drank some water and without pouring any out gave [the cup] to his disciple. The disciple was squeamish and did not like to drink, and he died of thirst. There and then they laid down a rule that a man should not drink and give [the cup] to his disciple without pouring some out. R. Ashi said: Consequently if a disciple pours out in front of his teacher, this shows no disrespect. Do not spit anything out in front of your teacher except pumpkin and leek, for they are like molten lead.[16] We have learnt elsewhere:[17] The officer of the Temple Mount used to go round to every watch with torches burning before him, and if any watchman did not rise and say, Officer,

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(1) The girdle of the high priest contained both wool and linen. Another reading is: The girdle of the high priest was the same etc. The reference will then be to the girdle worn by the high priest on the Day of Atonement which was of linen only; v. Yoma 69a.

(2) Lev. XIX, 19.

(3) And therefore it was permitted to lie on them.

(4) Near Sura.

(5) Because there is no danger of a thread coming loose.

(6) 69a, from which this whole discussion is taken.

(7) The passage in brackets is obviously a marginal gloss which has crept into the text.

(8) V. Glos.

(9) Viz., of the Shechinah and of the Levites. This second statement of R. Johanan is quite independent of the first, and has no connection with the present passage.

(10) So as to ascertain if anyone was inside.

(11) Lit. 'gone up to a he-goat' (or perhaps 'satyr'). V. Ber. (Sonc. ed.) 62b, p. 391, n. 12.

(12) But R. Safra ought to have coughed as a warning to him to stay outside.

(13) When there are no people about.

(14) To the privies in the fields.

(15) So as to cleanse the rim. In the case of wine it would be wasteful to pour out.

(16) Lit., 'a wick of lead'. I.e., the spittle formed by them, if swallowed, burns the inside.
(17) Mid. I, 2.

Talmud - Mas. Tamid 28a

I greet you, it was a proof that he was asleep,[1] and he would beat him with his stick. He was also permitted to burn his clothes. The others would say, What noise is that in the Azarah? It is the cry of a Levite who is being beaten and whose garments are being burnt because he was asleep at his post. R. Eliezer b. Jacob said: Once they found my mother's brother asleep and they burnt his clothes. R. Hiyya b. Abba said: When R. Johanan came to this Mishnah he used to say: Happy were the former generations who punished even for being overpowered by sleep; how much more then when there was no overpowering as of sleep![2] It has been taught: Rabbi says: Which is a right way that a man should choose? Let him love reproof, since as long as there is reproof in the world ease of mind comes to the world, good and blessing come the world, and evil departs from the world, as it says, But to them that are reproved shall come delight; and a good blessing shall come upon them.[3] Some say: Let him have scrupuluos honesty,[4] as it says, Mine eyes are upon the faithful of the land that they may dwell with me,[5] etc. R. Samuel b. Nahmani said in the name of R. Jonathan: Whoever reproves his neighbour for a purely religious motive[6] is deemed worthy to be in the portion of the Holy One, blessed be He,[7] as it says, He that rebuketh a man is after Me.[8] Not only so, but a thread of favour shall twine about him, as it says, He shall find more favour than he that flattereth with the tongue.[9] IF HE FOUND IT LOCKED HE KNEW etc. . . . WHOEVER WANTED TO REMOVE THE ASHES FROM THE ALTAR etc. This statement contains a contradiction. You say first: WHOEVER WANTS TO REMOVE THE ASHES FROM THE ALTAR RISES EARLY AND BATHES BEFORE THE SUPERINTENDENT COMES, which would show that the matter does not depend on drawing of lots, and then it states, LET HIM COME AND DRAW LOTS, which shows that it does depend on the casting of lots?-Abaye replied: There is no contradiction. The first statement refers to the period before the regulation, the second to the period after the regulation, as we have learnt:[10] At first whoever desired to remove the ashes from the altar used to do so. When there were several of them they used to run and go up the Ascent[11] and whoever was first in the last four cubits had the privilege. If two were level, the superintendent said to them, put your fingers out. They put out the one or two fingers, but they did not put out the thumb in the Temple. It happened once that two were running level up the Ascent and one of them pushed the other and he broke his leg, and when the Beth din saw that they were endangering themselves, they ordained that the task of removing the ashes should be assigned only by lot. Raba said: Both statements refer to the period after the regulation, and what it means is this: Whoever wanted to come and draw lots used to rise early and bathe before the superintendent came. MISHNAH. HE TOOK THE KEY[12] AND OPENED THE SMALL DOOR AND WENT FROM THE FIRE CHAMBER INTO THE AZARAH, AND THE PRIESTS WENT IN AFTER HIM CARRYING TWO LIGHTED TORCHES. THEY DIVIDED INTO TWO GROUPS, ONE OF WHICH WENT ALONG THE PORTICO[13] TO THE EAST, WHILE THE OTHER WENT ALONG IT TO THE WEST. THEY WENT ALONG INSPECTlng[14] UNTIL THEY CAME TO THE PLACE WHERE THE GRlddle-CAKES[15] WERE MADE.[16] THERE THE TWO GROUPS MET AND SAID, IS IT WELL? ALL IS WELL.[17] THEY THEN APPOINTED HIM THAT MADE THE GRIDDLE-CAKES TO MAKE GRIDDLE-CAKES. THE ONE ON WHOM THE LOT HAD FALLEN TO CLEAR THE ASHES FROM THE ALTAR MADE READY TO DO SO. THEY SAID TO HIM: 'BE CAREFUL NOT TO TOUCH ANY VESSEL UNTIL YOU HAVE WASHED YOUR HANDS AND FEET FROM THE LAVER. SEE, THE FIREPAN IS IN THE CORNER BETWEEN THE ASCENT AND THE ALTAR ON THE WEST OF THE ASCENT'. NO ONE ENTERED WITH HIM,[18] NOR DID HE CARRY ANY LIGHT[19] BUT HE WALKED BY THE LIGHT OF THE ALTAR FIRE. NO-ONE SAW HIM[20]

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(1) For an alternative rendering, v. Mid. (Sonc. ed). pp. 1 and 2, trans. and notes.

(2) For transgressions committed not under constraint.
(3) Prov. XXIV, 25. E.V., But to them that decide.
(4) So Rashi. Lit., ‘abundant faithfulness’.
(5) Ps. CI, 6.
(6) Lit., ‘in the name of Heaven’.
(7) I.e., in the inner circle of the righteous in heaven.
(8) Prov. XXVIII, 23. E.V. shall in the end find more favour.
(9) Ibid.
(10) Yoma, 22a.
(11) The sloping board which led from the pavement of the Azorah to the altar. It was 32 cubits long, v. Mid.Ili, 3.
(12) Mid. I, 9.
(13) Which ran right round the Azarah, and where various vessels were kept.
(14) To see if all the vessels were in order.
(15) Which were offered every day by the High Priest. V. Lev. VI, 12-15.
(16) The south-east corner of the Temple court, v. Mid. I,14.
(17) I.e., the vessels are all in order.
(18) Because no-one was allowed in the Azarah save for purposes of service.
(19) Because he needed to have both hands free.
(20) Because he was hidden by the ascent.

Talmud - Mas. Tamid 28b

OR HEARD A SOUND FROM HIM UNTIL THEY HEARD THE NOISE OF THE WOODEN MACHINE WHICH BEN KATIN MADE FOR HAULING UP THE LAVER,[1] WHEN THEY SAID, THE TIME HAS COME. HE WASHED HIS HANDS AND FEET FROM THE LAVER, THEN TOOK THE SILVER FIREPAN AND WENT UP TO THE TOP OF THE ALTAR AND CLEARED AWAY THE CINDERS[2] ON EITHER SIDE AND SCOOPED UP THE ASHES[3] IN THE CENTRE. HE THEN DESCENDED AND WHEN HE REACHED THE PAVEMENT[4] HE TURNED HIS FACE TO THE NORTH[5] AND WENT ALONG THE EAST SIDE OF THE ASCENT FOR ABOUT TEN CUBITS, AND HE THEN MADE A HEAP OF THE Clnders ON THE PAVEMENT THREE HANDBREADTHS AWAY FROM THE ASCENT, IN THE PLACE WHERE THEY USED TO PUT THE CROP OF THE BIRDS[6] AND THE ASHES FROM THE INNER ALTAR[7] AND THE ASH FROM THE CANDLESTICK. GEMARA. But were there porticoes in the Azarah? Has it not been taught: R. Eliezer b. Jacob says: Whence do we learn that porticoes [of wood] are not made in the Azarah? Because it says: Thou shalt not plant thee an Asherah or any kind of tree beside the altar of the Lord thy God,[8] the meaning of which is this: Thou shalt not plant thee an Asherah; nor shalt thou plant thee any kind of tree beside the altar of the Lord thy God?-R. Hisda replied: [It is permitted] with porticoes of stone.[9] THEY WENT ALONG INSPECTING. . . . TO MAKE GRIDDLE CAKES. This would imply that the griddle cakes were the first thing offered. But it has been taught: Whence do we know that nothing preceded the regular morning offering? It says: And he shall lay the burnt-offering in order upon it,[10] and Rabbah said, ‘the burnt-offering’ [implies that] it goes up first?[11] Rab Judah replied: He is appointed to prepare hot water for the soaking.[12]

C H A P T E R I I

MISHNAH. WHEN HIS BRETHREN SAW THAT HE HAD DESCENDED [FROM THE ASCENT]. THEY CAME RUNNING AND HASTENED TO WASH THEIR HANDS AND FEET IN THE LAVER. THEY THEN TO OK THE SHOVELS AND THE FORKS[13] AND WENT UP TO THE TOP OF THE ALTAR. SUCH LIMBS AND PIECES OF FAT AS HAD NOT BEEN CONSUMED SINCE THE EVENING THEY REMOVED TO THE SIDES OF THE ALTAR.[14] IF THERE WAS NOT ROOM ON THE SIDES THEY ARRANGED THEM ON THE SURROUND[15]

AND ON THE ASCENT.[16] THEY THEN BEGAN TO THROW THE ASHES ON TO THE HEAP.[17] THIS HEAP WAS IN THE MIDDLE OF THE ALTAR, AND SOMETIMES THERE WAS AS MUCH AS THREE HUNDRED KOR ON IT. ON FESTIVALS THEY DID NOT USE TO CLEAR AWAY THE ASH BECAUSE IT WAS RECKONED AN ORNAMENT TO THE ALTAR.[18] IT NEVER HAPPENED THAT

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(1) The laver was sunk underground in the evening so that its waters should not become disqualified by being exposed throughout the night, but it was hauled up by a pulley.

(2) Which would be more on the side of the altar, where the heat was not so intense. The top of the altar was 28 cubits square. V. Mid. III, 1.

(3) Lit., 'the consumed'; the fuel more in the centre which had been completely reduced to ashes.

(4) The floor of the Azarah which was of stone.

(5) I.e., turned back and faced the altar.

(6) V. Lev. I, 16. It was reckoned that the priest standing at the altar would cast the crop behind him about twenty cubits.

(7) The altar of incense.

(8) Deut. XVI, 21.

(9) Lit., 'of building', i.e., supported on stone pillars.

(10) Lev. VI, 5.

(11) V. Zeb. 103a.

(12) V. Lev. VI, 14.

(13) To collect the ashes and to turn the limbs.

(14) With the intention of replacing them after the fire had been lit. Once the pieces had left the altar, it would not have been permitted to replace them, since they were reckoned as nothar.

(15) The ledge running round the altar half way up. V. Mid. III, 1.

(16) Which was counted as part of the altar. The 'and' is not in the text, but seems necessary for the sense, v. Sh. Mek. Var. lec. 'or on the Ascent'.

(17) Lit., 'apple'.

(18) Showing that a large number of sacrifices had been brought.

Talmud - Mas. Tamid 29a

THE PRIEST WAS NEGLECTFUL[1] IN TAKING OUT THE ASHES.[2] THEY THEN BEGAN TO TAKE UP THE LOGS[3] TO LAY THE FIRE. WERE ALL KINDS OF WOOD SUITABLE FOR THE FIRE? ALL KINDS OF WOOD WERE SUITABLE FOR THE FIRE EXCEPT VINE AND OLIVE WOOD. O WHAT THEY MOSTLY USED, HOWEVER, WERE BOUGHS OF FIG TREES AND OF NUT TREES AND OF OIL TREES: HE[4] THEN ARRANGED THE GREAT PILE[5] ON THE EAST SIDE OF THE ALTAR WITH ITS OPEN Slde[6] ON THE EAST,[7] WHILE THE INNER ENDS OF THE [SELECTED] LOGS TOUCHED THE CENTRAL HEAP. SPACES WERE LEFT BETWEEN THE LOGS IN WHICH THEY KINDLED THE BRUSHWOOD.[8] THEY PICKED OUT FROM THERE SOME SPECIALLY GOOD FIG-TREE BRANCHES AND WITH THESE HE LAID A SECOND FIRE FOR THE INCENSE[9] NEAR THE SOUTH-WESTERN CORNER SOME FOUR CUBITS TO THE NORTH OF IT,[10] USING AS MUCH WOOD AS HE JUDGED SUFFICIENT TO FORM FIVE SE'AHS OF CINDERS, AND ON SABBATH AS MUCH AS HE THOUGHT WOULD MAKE EIGHT SEAHS OF CINDERS, BECAUSE FROM THERE THEY USED TO TAKE FIRE FOR THE TWO DISHES OF FRANKINCENSE FOR THE SHEW-BREAD. THE LIMBS AND THE PIECES OF FAT WHICH HAD NOT BEEN CONSUMED OVER NIGHT WERE PUT BACK ON THE WOOD WHICH HAD BEEN LAID.[11] THEY THEN KINDLED THE TWO FIRES AND DESCENDED AND WENT TO THE CHAMBER OF HEWN STONE.[12] GEMARA. Said Raba: This[13] is an exaggeration. [Similarly with regard to the statement]. 'They made the beast for the daily offering drink from a gold cup'.[14] Raba said: This is an exaggera tion. R. Ammi said: The Torah used hyperbole, the prophets used hyperbole, the Sages used hyperbole. The Torah used hyperbole, as where it is written, The cities are great and fortified up to heaven.[15] Up to heaven, think you? No; but it is an exaggeration. ‘The Sages Used hyperbole’, in the cases we have just mentioned — the heap and the giving the sacrifice beast to drink from a gold cup. ‘The prophets used hyperbole’, as it is written, And the people piped with pipes. . . . so that the earth rent with the sound of them.[16] R. Jannai b. Nahmani said in the name of Samuel; In three places the Sages used the language of hyperbole, namely, in connection with the heap, the vine and the veil.[17] This excludes the case cited by Raba, where we have learnt, ‘They made the beast for the daily sacrifice drink from a gold cup’, and Raba said, This is an exaggeration. This teaches us that this is true of the other cases, but not of this one, because in the abode of wealth no sign of poverty is allowed.[18] [The exaggeration in the case of] the heap is as stated. In the case of the wine it is as has been taught:[19] A gold vine used to stand at the door of the inner temple, trailed on poles, and anyone who offered a leaf

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(1) I.e., if the ashes were left, it was not through neglect.

(2) Outside the camp, when there was a large quantity on the altar.

(3) Special large blocks of wood, well smoothed. (10) The reason is explained in the Gemara.

(4) The one who was chosen to clear away the ashes.

(5) So called by contrast with the other mentioned later.

(6) Lit., ‘transparency’. The open side from which it was touched, the other side was blocked by the central heap.

(7) So that there should be a draught from the door of the Azarah.

(8) To start the fire.

(9) I.e., to obtain coals for kindling the incense. For this it was reckoned a mark of respect to have a special fire.

(10) These five cubits of the altar faced the doorway of the Hekal, and could therefore be described as being ‘before the Lord’, and it was considered meritorious to obtain the coals for the incense from this space. The fifth cubit had to be used because four were taken up by the projections of the altar.

(11) It is not clear if this was before or after the daily offering was kindled.

(12) To cast further lots, half of this chamber being in unconsecrated ground. The Chamber of Hewn Stone was the Hall wherein the Great Sanhedrin used to sit. Schurer II, p. 264 identifies it with the Chamber ‘close to the Xystus’ on the western border of the Temple Mount, v. J. E. XII, 576.

(13) The statement that there were three hundred kor of ashes on the altar.

(14) Infra, 30a.

(15) Deut. I, 28. This is hardly a proof, as the Torah is here quoting the language of the spies.

(16) I Kings, I, 40.

(17) v. infra.

(18) I.e. no expense was to be spared in the Temple service.

(19) Mid. III, 8.

Talmud - Mas. Tamid 29b

or a single grape or a cluster used to bring it and hang it thereon. Said R. Eleazar son of R. Zadok: On one occasion three hundred priests were commissioned to clear it. The case of the veil as has been taught:[1] We have learnt: R. Simeon b. Gamaliel says: The thickness of the veil[2] was a handbreadth. It was formed of seventy-two strands, and each was made up of twenty-four threads.[3] Its length was forty cubits and its breadth was twenty cubits, and it was made by eighty-two young girls,[4] and two were made every year,[5] and it took three hundred priests to immerse it.[6] THEY BEGAN TO TAKE UP THE LOGS TO LAY THE FIRE. . . . EXCEPT VINE AND OLIVE WOOD. Why were these excepted? — R. Papa said: Because they have knots:[7] R. Aha b. Jacob said: Because of the amenities of the Land of Israel.[8] The following was cited in objection [to R. papa]: upon the wood that is on the fire which is upon the altar;[9] this implies wood which rapidly becomes fire.[10] Which kind is that? Thin boughs like spits which do not form knots, that is, that do not become knotted inwardly.[11] Are all kinds of wood suitable for the altar fire? All kinds are suitable excepts olive and vine, but what were mostly used were boughs of fig trees and nut trees and oil trees. R. Eleazar adds [as not suitable]: also wood from the matish[12] and the oak and the date tree and the carob and sycamore. There is no difficulty here for the one who says that it is because they are knotted. The difference according to him is that one authority holds that although they are not knotted on the inside, yet since they are knotted on the outside we do not use them,[13] while the other holds that since they are not knotted on the inside, although they are knotted on the outside we still bring them. But to the one who says, it is because of the amenities of the Land of Israel, we can object, does not the date tree contribute to the amenities of the Land of Israel? — He can reply to you: By the same reasoning does not the fig tree contribute to the amenities of the Land of Israel? But what do you answer to this? That we speak of a fig tree which does not produce fruit. Similarly we speak of a date tree which does not produce fruit. But are there fig trees which do not produce fruit? Yes, as stated by Rahabah. For Rahabah said: They bring white fig trees

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(1) Shek. 12b.

(2) Between the Hekal and the Holy of Holies.

(3) Of gold, purple, etc.

(4) Var. lec. It cost eighty-two thousand denars.

(5) In the second temple there were two veils with a cubit space between them, to take the place of the wall which was in the First Temple.

(6) Like all holy things, it was immersed in water before being used. The ‘three hundred’ is the exaggeration.

(7) Which retain moisture and so prevent the wood from catching.

(8) Lit., ‘the Settlement of the Land of Israel’. To which vines and olive trees were held to contribute in a high degree.

(9) Lev. I, 8.

(10) Lit. ‘which is dissolved to become fire’.

(11) It is only in this case that moisture forms.

(12) An unknown kind of hardwood tree.

(13) Since even so there is sufficient moisture to disqualify them.

Talmud - Mas. Tamid 30a

and scrape them with a rope of date tree bark on which seed is smeared,[1] and they are then planted in alluvial soil, and they produce trunks but no fruit, and three branches of one will break down a bridge. HE THEN ARRANGED THE GREAT PILE etc. What is the reason [for the opening]? R. Huna and R. Hisda [gave different reasons]. One said, it was in order that a draught might blow on it, the other said it was in order that they might kindle the brushwood from there. The following was cited in objection [to the latter opinion]: SPACES WERE LEFT BETWEEN THE LOGS IN WHICH THEY KINDLED THE BRUSHWOOD. He can reply: [Brushwood] was put in several places.[2]

CHAPTER III

MISHNAH. THE SUPERINTENDENT THEN SAID TO THEM: COME AND CAST LOTS, TO SEE WHO IS TO SLAUGHTER THE ANIMAL,[3] AND WHO IS TO SPRINKLE THE BLOOD, AND WHO IS TO CLEAR THE ASHES FROM THE INNER ALTAR,[4] AND WHO IS TO CLEAR THE ASH FROM THE CANDLESTICK, AND WHO IS TO LIFT THE LIMBS ON TO THE ASCENT, [NAMELY] THE HEAD, THE RIGHT LEG, THE BREAST AND THE NECK AND THE TWO FLANKS WITH THE ENTRAILS, ALSO THE FINE FLOUR[5] AND THE GRIDDLE CAKES[6] AND THE WINE.[7] THEY CAST LOTS AND ONE OR OTHER WAS SUCCESSFUL. HE THEN SAID TO THEM: GO OUT AND SEE IF IT IS YET TIME FOR THE SLAUGHTER. IF IT ACTUALLY WAS TIME, THE OBSERVER[8] SAID, THERE ARE FLASHES.[9] MATTITHIA B. SAMUEL SAYS: [HE USED TO SAY][10] THE WHOLE OF THE EAST [OF THE SKY] HAS LIT UP. [THEY WOULD ASK] AS FAR AS HEBRON? AND HE [THE OBSERVER] WOULD ANSWER YES. HE SAID TO THEM, GO OUT AND BRING A LAMB FROM THE LAMBS CHAMBER. NOW THE LAMBS CHAMBER WAS IN THE

NORTH-WESTERN CORNER.[11] THERE WERE FOUR CHAMBERS THERE[12] — THE LAMBS' CHAMBER, THE CHAMBER OF THE SEALS,[13] THE CHAMBER OF THE FIRE-ROOM[14] AND THE CHAMBER WHERE THE SHEWBREAD WAS PREPARED. THEY WENT INTO THE CHAMBER OF THE VESSELS AND BROUGHT OUT FROM THERE NINETY-THREE VESSELS OF SILVER AND GOLD. THEY GAVE THE ANIMAL FOR THE DAILY SACRIFICE A DRINK FROM A CUP

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(1) This was supposed to spoil the seed of the tree itself.

(2) I.e., both between the logs and in the opening.

(3) The lamb of daily sacrifice.

(4) The altar of incense.

(5) For the mealoffering.

(6) The daily offering of the High Priest. V. Lev. VI, 15.

(7) For the drink-offering.

(8) A priest stationed for the purpose on the roof.

(9) The first Bashes of dawn.

(10) Alifer: Mattithiah b. Samuel used to say etc., v. Yoma, (Sonc. ed.) p. 131 and notes.

(11) Of the Fire Room. In Mid. I, 6, this room is called the Chamber of Offering (al. Chamber of the Lamb(s) of Offering), and is said to have been in the south-west of the Fire Room; in Yoma 16a it is explained that this is the opinion of R. Eleaiar b. Jacob.

(12) Attached to the Fire Room; V. Mid, I, 7.

(13) V. Shek. V, 3.

(14) In Mid. l.c.,this is said to have been the room from which they went down to the bathing-place. Perhaps the fire burnt in this side room, so that it gave its name to the whole chamber.

Talmud - Mas. Tamid 30b

OF GOLD.[1] ALTHOUGH IT HAD BEEN EXAMINED ON THE PREvious EVENING IT WAS NOW EXAMINED AGAIN BY TORCHLIGHT. THOSE ON WHOM THE LOT HAD FALLEN TO CLEAR THE ASH FROM THE INNER ALTAR AND FROM THE CANDLESTICK WENT ON IN FRONT WITH FOUR VESSELS IN THEIR HANDS — THE TENI[2] AND THE KUZ[3] AND TWO KEYS. THE TENI RESEMBLED A TIRKAB[4] OF GOLD AND HELD TWO KABS AND A HALF. THE KUZ RESEMBLED A LARGE GOLD PITCHER. WITH ONE OF THE TWO KEYS HE HAD TO REACH DOWN AS FAR AS HIS ARMPIT[5] AND WITH THE OTHER HE OPENED IN FRONT OF HIM.[6] HE THEN CAME TO THE SMALL DOOR ON THE NORTH. THE GREAT GATE HAD TWO SMALL WICKETS LET IN, ONE ON THE NORTH AND ONE ON THE SOUTH. NO ONE EVER WENT IN BY THE DOOR ON THE SOUTH, IN ACCORDANCE WITH THE DISTINCT STATEMENT IN EZEKIEL, NAMELY, AND THE LORD SAID UNTO ME, THIS GATE SHALL BE CLOSED, IT SHALL NOT BE OPENED, AND NO MAN SHALL ENTER BY IT, FOR THE LORD GOD OF ISRAEL HAS ENTERED BY IT.[7] HE TOOK THE KEY AND OPENED THE SMALL DOOR AND WENT IN TO THE APARTMENT[8] AND FROM THE APARTMENT TO THE HEKAL, [WHICH HE TRAVERSED] UNTIL HE REACHED THE GREAT GATE. WHEN HE REACHED THE GREAT GATE HE DREW BACK THE BOLT AND THE LATCHES[9] AND OPENED IT. THE SLAUGHTERER DID NOT KILL TILL HE HEARD THE SOUND OF THE GREAT GATE BEING OPENED. FROM JERICHO[10] THEY HEARD THE SOUND OF THE GREAT GATE BEING OPENED. FROM JERICHO THEY HEARD THE SOUND OF THE 'SHOVEL'.[11] FROM JERICHO THEY HEARD THE SOUND OF THE SINGING [OF THE LEVITES].[12] FROM JERICHO THEY USED TO HEAR THE SOUND OF BEN ARZA CLASHING THE CYMBALS. FROM JERICHO THEY USED TO HEAR THE SOUND OF THE PIPES. FROM JERICHO THEY COULD HEAR THE VOICE OF GABIN THE HERALD.[13] FROM JERICHO THEY HEARD THE NOISE OF THE WOODEN PULLEY WHICH BEN KATIN MADE FOR THE LAVER.[14] FROM JERICHO THEY

HEARD THE SOUND OF THE SINGING [OF THE LEVITES]. FROM JERICHO THEY HEARD THE SOUND OF THE SHOFAR;[15] SOME SAY ALSO OF THE HIGH PRIEST WHEN HE PRONOUNCED THE DIVINE NAME ON THE DAY OF ATONEMENT. FROM JERICHO THEY COULD SMELL THE ODOUR OF THE COMPOUNDING OF INCENSE. R. ELEAZAR B. DIGLAI SAID: MY FATHER HAD SOME GOATS IN THE TOWNS OF MICHVAR,[16] AND THEY USED TO SNEEZE FROM THE SMELL OF THE INCENSE. THE PRIEST WHO HAD BEEN CHOSEN TO KILL THE DAILY OFFERING TOOK IT ALONG WITH HIM TO THE SLAUGHTER HOUSE, ACCOMPANIED BY THOSE WHO HAD BEEN CHOSEN TO HAND UP THE LIMBS. THE SLAUGHTER HOUSE WAS TO THE NORTH OF THE ALTAR.[17] BY IT WERE EIGHT DWARF PILLARS ON TOP OF WHICH WERE BLOCKS OF CEDAR WOOD, IN WHICH WERE FIXED HOOKS OF IRON, THREE ROWS IN EACH.[18] THE ANIMALS WERE HUNG ON THESE AND FLAYED OVER TABLES OF MARBLE BETWEEN THE PILLARS. THE ONE WHO HAD BEEN CHOSEN FOR CLEARING THE INNER ALTAR WENT IN CARRYING THE TENI WHICH HE SET DOWN IN FRONT OF IT, AND HE SCOOPED UP THE ASH IN HIS FISTS AND PUT IT INSIDE, AND IN THE END HE SWEPT UP WHAT WAS LEFT INTO IT, AND THEN HE LEFT IT THERE AND WENT OUT. THE ONE WHO HAD BEEN CHOSEN TO CLEAR THE CANDLESTICK WENT IN, AND IF HE FOUND THE TWO WESTERN LIGHTS BURNING,[19] HE CLEARED THE ASH FROM THE REST AND LEFT THESE TWO BURNING. IF HE[20] FOUND THAT THESE TWO HAD GONE OUT, HE CLEARED AWAY THEIR ASH AND KINDLED THEM FROM THOSE WHICH WERE STILL ALIGHT AND THEN HE CLEARED THE ASH FROM THE REST. THERE WAS A STONE IN FRONT OF THE CANDLESTICK[21] WITH THREE STEPS ON WHICH THE PRIEST STOOD IN ORDER TO TRIM THE LIGHTS. HE LEFT THE KUZ ON THE SECOND STEP AND WENT OUT.

CHAPTER IV

MISHNAH. THEY DID NOT USE TO TIE UP[22] THE LAMB BUT THEY STRUNG ITS LEGS TOGETHER.[23] THOSE ON WHOM THE LOT FELL FOR THE LIMBS TOOK HOLD OF IT. IT WAS STRUNG UP IN SUCH A WAY THAT ITS HEAD WAS TO THE SOUTH WHILE ITS FACE WAS TURNED TO THE WEST,[24] AND THE SLAUGHTERER STOOD TO THE EAST OF IT WITH HIS FACE TURNED TO THE WEST. THE MORNING SACRIFICE WAS KILLED BY THE NORTH-WESTERN CORNER OF THE ALTAR AT THE SECOND RING,[25] WHILE THE EVENING SACRIFICE WAS KILLED BY THE NORTH-EASTERN CORNER AT THE SECOND RING. WHILE ONE SLAUGHTERED ANOTHER RECEIVED THE BLOOD. THE LATTER PROCEEDED TO THE NORTH-EASTERN CORNER[26] AND CAST THE BLOOD ON THE EASTERN AND NORTHERN SIDES; HE THEN PROCEEDED TO THE SOUTHWESTERN CORNER AND CAST THE BLOOD ON THE WESTERN AND SOUTHERN SIDES. THE REMNANT OF THE BLOOD HE POURED OUT AT THE SOUTHERN BASE OF THE ALTAR.

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(1) Cf. supra, 29a.

(2) Lit., 'basket'. The receptacle for the ash from the altar.

(3) Lit., 'pitcher', the receptacle for the ashes from the candlestick.

(4) **;. A measure holding three kabs.

(5) Because the bolt was fixed in a socket in the ground.

(6) Because it was on a level with him.

(7) Ezek. XLIV, 2. Ezekiel is speaking of the outer gate, and we do not know by what authority the Rabbis applied his words to this door. The statement is repeated in Mid. IV, 1.

(8) Heb. to, a kind of cell let into the wall of the Hekal, V. Mid. IV, 3.

(9) Apparently the 'bolt' was fixed in a socket in the ground, and the 'latches' were cross-bars level with his own height.

(10) About twenty miles from Jerusalem. For this passage cf. Yoma 39b.

(11) Magrepah. A musical instrument shaped like a shovel. V. ‘Ar. 10b.

(12) These words are here out of place, and are repeated lower down.

(13) Summoning the priests and Levites to their duties before the dawn. Shek. V, 1.

(14) V. supra 28b.

(15) Blown every day over the sacrifices.

(16) A district of Peraea, beyond the Dead Sea.

(17) On this passage cf. Mid. IV, 4.

(18) So as to be adapted for animals of different sizes.

(19) These had more oil than the others.

(20) Apparently this refers not to this priest. but to the Priest who came in later, as explained infra VI, 1.

(21) Which was eighteen hand-breadths high-about a man's height.

(22) I.e., all four legs together, or the two fore legs and the two hind legs.

(23) Tying together a fore leg and a hind leg.

(24) The side of the Shechinah.

(25) Near the altar were a number of rows of semi-circular hoops fixed in the ground under the which the head of the animal was put to keep it in place. The second row was chosen as not being in the shade of the altar; V. Gemara infra.

(26) He started from the ascent which was on the south side and began going round to the right, passing by the south-eastern corner because it had no foundation. On this passage cf. Yoma, 14b.

Talmud - Mas. Tamid 31a

. HE DID NOT USE TO BREAK THE LEG,[1] BUT HE MADE A HOLE IN IT[2] AT THE JOINT AND SUSPENDED IT FROM THERE. HE THEN BEGAN TO FLAY IT AND WENT ON UNTIL HE CAME TO THE BREAST.[3] WHEN HE CAME TO THE BREAST HE CUT OFF THE HEAD AND GAVE IT TO THE ONE TO WHOSE LOT IT HAD FALLEN. HE THEN CUT OFF THE LEGS AND GAVE THEM TO THE ONE TO WHOSE LOT THEY HAD FALLEN. ON COMPLETING THE Flaying HE TORE OUT THE HEART AND SQUEEZED OUT THE BLOOD IN IT.[4] HE THEN CUT OFF THE FORE LEGS AND GAVE THEM TO THE ONE TO WHOSE LOT THEY HAD FALLEN. HE THEN WENT BACK TO THE RIGHT LEG AND CUT IT OFF AND GAVE IT TO THE ONE TO WHOSE LOT IT HAD FALLEN, AND THE TWO TESTICLES WITH IT. HE THEN TORE OPEN THE CARCASS SO THAT IT WAS ALL EXPOSED BEFORE HIM. HE TOOK THE FAT AND PUT IT ON TOP OF THE PLACE WHERE THE HEAD HAD BEEN SEVERED. HE TOOK THE INNARDS AND GAVE THEM TO THE ONE TO WHOSE LOT THEY HAD FALLEN TO WASH THEM. THE STOMACH WAS WASHED VERY THOROUGHLY IN THE WASHING CHAMBER, WHILE THE ENTRAILS WERE WASHED AT LEAST[5] THREE TIMES ON MARBLE TABLES WHICH STOOD BETWEEN THE PILLARS.[6] HE THEN TOOK A KNIFE AND SEPARATED THE LUNG FROM THE LIVER[7] AND THE FINGER OF THE LIVER[8] FROM THE LIVER,[9] BUT WITHOUT REMOVING IT FROM ITS PLACE. HE HOLLOWED OUT THE BREAST[10] AND GAVE IT TO THE ONE TO WHOSE LOT IT HAD FALLEN. HE CAME TO THE RIGHT FLANK AND CUT INTO IT AS FAR AS THE SPINE, WITHOUT HOWEVER TOUCHING THE SPINE, UNTIL HE CAME TO THE PLACE BETWEEN TWO SMALL RIBS. HE CUT IT OFF AND GAVE IT TO THE ONE TO WHOSE LOT IT HAD FALLEN, WITH THE LIVER ATTACHED TO IT. HE THEN CAME TO THE NECK, AND LEAVING TWO RIBS ON EACH SIDE OF IT[11] HE CUT IT OFF AND GAVE IT TO THE ONE TO WHOSE LOT IT HAD FALLEN, WITH THE WINDPIPE AND THE HEART AND THE LUNG ATTACHED TO IT. HE THEN CAME TO THE LEFT FLANK IN WHICH HE LEFT TWO THIN RIBS ABOVE AND TWO THIN RIBS BELOW;[12] AND HE HAD DONE SIMILARLY WITH THE OTHER FLANK. THUS HE LEFT TWO ON EACH SIDE ABOVE AND TWO ON EACH SIDE BELOW. HE CUT IT OFF AND GAVE IT TO THE ONE TO WHOSE LOT IT HAD FALLEN, AND THE SPINE WITH IT AND THE MILT ATTACHED TO IT. THIS WAS REALLY THE LARGEST PIECE, BUT THE RIGHT FLANK WAS CALLED THE LARGEST, BECAUSE THE LIVER WAS ATTACHED TO IT. HE THEN CAME TO THE

TAIL BONE, WHICH HE CUT OFF AND GAVE TO THE ONE TO WHOSE LOT IT HAD FALLEN, ALONG WITH THE TAIL, THE FINGER OF THE LIVER AND THE TWO KIDNEYS. HE THEN TOOK THE LEFT LEG AND CUT IT OFF AND GAVE IT TO THE ONE TO WHOSE LOT IT HAD FALLEN. BY THIS TIME THEY WERE ALL STANDING IN A ROW WITH THE LIMBS IN THEIR HANDS

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(1) In order to suspend it for laying, after the usual manner of butchers.

(2) The object being that the body should not fall to the ground when the leg was cut off.

(3) I.e., until the flaying was completed.

(4) The animal usually draws back some blood to the heart at the time of slaughter. This sentence seems to be out of place and should follow the word ‘breast’ above.

(5) Aliter: ‘in a vessel’ used for preserving olives. Var. lec. ‘on the smallest of the tables’.

(6) V. supra 30b.

(7) Because the lung was offered with the neck and the liver with the flank.

(8) A small projection from the liver.

(9) Because this finger was offered with the tail.

(10) I.e., he cut a piece out of the breast, making a hollow through which he could reach inside the body.

(11) I.e., the two ribs attached to each of the two flanks.

(12) I.e., two by the tail bone and two by the breast.

Talmud - Mas. Tamid 31b

. THE FIRST HAD THE HEAD AND THE [RIGHT] HIND LEG. THE HEAD WAS IN HIS RIGHT HAND WITH ITS NOSE TOWARDS HIS ARM, ITS HORNS BETWEEN HIS FINGERS, AND THE PLACE WHERE IT WAS SEVERED TURNED UPWARDS WITH THE FAT COVERING IT. THE RIGHT LEG WAS IN HIS LEFT HAND WITH THE PLACE WHERE THE FLAYING COMMENCED AWAY FROM HIM.[1] THE SECOND HAD THE TWO FORE LEGS, THE RIGHT LEG IN HIS RIGHT HAND AND THE LEFT LEG IN HIS LEFT HAND, THE PLACE WHERE THE FLAYING COMMENCED BEING TURNED AWAY FROM HIM. THE THIRD HAD THE TAIL BONE AND THE OTHER HIND LEG, THE TAIL BONE IN HIS RIGHT HAND WITH THE TAIL HANGING BETWEEN HIS FINGERS AND THE FINGER OF THE LIVER AND THE TWO KIDNEYS WITH IT, AND THE LEFT HIND LEG IN HIS LEFT HAND WITH THE PLACE WHERE THE FLAYING COMMENCED AWAY FROM HIM. THE FOURTH HAD THE BREAST AND THE NECK, THE BREAST IN HIS RIGHT HAND AND THE NECK IN HIS LEFT HAND, ITS RIBS BEING BETWEEN TWO OF HIS FINGERS. THE FIFTH HAD THE TWO FLANKS, THE RIGHT ONE IN HIS RIGHT HAND, AND THE LEFT ONE IN HIS LEFT HAND, WITH THE PLACE WHERE THE FLAYING COMMENCED AWAY FROM HIM. THE SIXTH HAD THE INNARDS ON A PLATTER[2] WITH THE KNEES ON TOP OF THEM. THE SEVENTH HAD THE FINE FLOUR,[3] THE EIGHTH THE GRIDDLE CAKES,[4] THE NINTH THE WINE.[5] THEY WENT AND PLACED THEM ON THE LOWER HALF OF THE ASCENT[6] ON ITS WESTERN SIDE, AND SALTED THEM[7] AND CAME DOWN AND WENT TO THE CHAMBER OF HEWN STONE TO RECITE THE SHEMA’.[8] GEMARA. One taught: The fore leg and the hind leg [tied together] like the binding of Isaac the son of Abraham. THEY DID NOT TIE UP THE LAMB. What was the reason? — R. Huna and R. Hisda gave different answers. One said it was to avoid showing disrespect to holy things. while the other said it was to avoid walking in the statutes of the other peoples.[9] What practical difference is there between them?[10] — In the case where it was tied with silk or with gold thread.[11] We have learnt elsewhere:[12] There were thirteen tables in the Temple.[13] There were eight of marble in the slaughter house on which they used to wash the innards; two to the west of the ascent, one of marble and one of silver — on the marble one they used to put the limbs and on the silver one vessels of service,[14] two in the Porch on the inner side by the door of the Sanctuary, one of silver and one of gold — on the silver one they used to place the Shewbread when it was first brought in,[15] and on the gold one when it was taken out, because with holy things we always go a step higher and not a step lower; and one of gold in the inner place on which the Shewbread always rested. Now let us see. There must be no sign of poverty in the abode of wealth.[16] Why then was the table[17] made of marble? It should have been made of silver or even of gold! R. Hinnena answered in the name of R. Assi, and R. Assi in the name of R. Samuel b. R. Isaac: Because [the metal] would heat the flesh.[18] THE MORNING SACRIFICE WAS KILLED BY THE NORTHWESTERN CORNER [etc.]. Whence is derived this rule? — R. Hisda replied: Because Scriptures says. Two to the day,[19] implying [that they should be killed] towards the day[light].[20] It has been taught to the same effect: Two to the day: this means, towards the day [light]. You say it means, towards the day[light]. Or perhaps it is not so, but it means, the obligation of each day? When the text says. The one lamb shalt thou offer in the morning and the other lamb shalt thou offer at dusk,[21] this states the obligation of the day. What then do I make of the words Two to the day? This must mean, towards the day [light]. How is this effected? The morning daily sacrifice was killed by the north-western corner by the second ring, and the evening daily sacrifice by the north-eastern corner by the second ring.[22] Alexander of Macedon put ten questions to the elders of the south country.[23] He asked:

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(1) I.e., exposed to the public, while the place where it was severed was in his hand.

(2) Being loose they could not be held in the hand.

(3) For the meal-offering.

(4) The daily offering of the High Priest, which was brought at the same time as the daily burnt-offering.

(5) For the drink-offering.

(6) The reason was apparently to make rather more ceremonious the actual bringing to the altar which took place later.

(7) In accordance with the injunction in Lev. II, 13.

(8) And pray for the acceptance of the sacrifice.

(9) Who used to bind their sacrifices in this way.

(10) Since each reason is in itself sufficient, why did not the later authority accept that given by the earlier?

(11) In this case there is no disrespect to holy things.

(12) Shek. 15b.

(13) Ten in the Azarah, and three others in the Sanctuary.

(14) The ninety-three vessels mentioned in our Mishnah.

(15) It was not taken directly to the table of gold. According to some it was brought in on Friday evening, though not placed on the table till the next day.

(16) A maxim frequently quoted in the Talmud: cf. supra.

(17) On which the limbs were put.

(18) Causing it to putrefy.

(19) Num. XXVIII, 3. E.V., ‘two day by day’.

(20) I.e., towards the rise of the sun, hence in the west, facing east.

(21) Ibid. 4.

(22) V. supra at the beginning of the chapter and notes.

(23) This passage is inserted here because Alexander's first question had reference to the sun.

Talmud - Mas. Tamid 32a

Which is further, from heaven to earth or from east to west? They replied: From east to west. The proof is that when the sun is in the east all can look at it, and when it is in the west all can look at it, but when the sun is in the middle of the sky no — one can look at it.[1] The Sages, however, say: The distance in both cases is the same, as it says, For as the heaven is high above the earth [so great is His mercy towards them that fear Him]; as far as the east is from the west, [so far hath He removed our transgressions from us].[2] Now if one of these distances is greater, the text should not write both but only the one which is the greater. What then is the reason why no — one can look at the sun when it is in the middle of the sky? Because it is absolutely clear and nothing obstructs the view.[3] He said to them: Were heavens created first or the earth? They replied: The heavens were created first, as it says. In the beginning God created the heaven and the earth.[4] He said to them: Was light created first, or darkness? They replied: This question cannot be solved. Why did they not reply that darkness was created first, since it is written, Now the earth was unformed and void and darkness,[5] and after that, And God said, Let there be light, and there was light?[6] — They thought to themselves: perhaps he will go on to ask what is above and what is below, what is before and what is after.[7] If that is the case, they should not have answered his question about the heaven either? — At first they thought that he just happened to ask that question, but when they saw that he pursued the same subject, they bethought themselves not to answer him lest he should go on to ask what was above and what was below what was before and what was after. He said to them: Who is called wise? They replied: Who is wise? He who discerns what is about to come to pass.[8] He said to them: Who is called a mighty man? They replied: Who is a mighty man? He who subdues his evil passions. He said to them: Who is called a rich man? They replied: Who is rich? He who rejoices in his lot. He said to them: What shall a man do to live? They replied: Let him mortify himself.[9] What should a man do to kill himself? They replied: Let him keep himself alive.[10] He said to them: What should a man do to make himself popular? They replied: Let him hate sovereignty and authority. He said to them: I have a better answer than yours: let him love sovereignty and authority and confer favours on mankind. He said to them: Is it better to dwell on sea or on dry land? They replied, It is better to dwell on dry land, because those who set out to sea are never free from anxiety till they reach dry land again. He said to them: Which among you is the wisest? They replied: We are all equal, because we have all concurred in the same answers to your questions. He said to them: Why do you resist me?[11] They replied: The Satan is too powerful.[12] He said to them: Behold I will slay you by royal decree. They replied: power is in the hands of the king, but it beseems not a king to be false.[13] Forthwith he clothed them with garments of purple and put chains of gold on their necks. He said to them: I want to go to the country of Africa. They said to him: You cannot get there, because the Mountains of Darkness are in the Way. He said to them: That will not stop me from going. Was it for that I asked you? But tell me what I am to do.[14] They said to him: Take Libyan asses that can travel in the dark and take coils of rope and fix them at the side [of the road] so that when you return you can guide yourself by them and reach your destination. He did so and set forth. He came to a place where there were only women. He wanted to make war with them, but they said to him, If you slay us, people will say that he killed women, and if we slay you they will call you the king who was killed by women. He said to them: Bring me bread. They brought him gold bread on a gold table.

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(1) The reason, presumably, being that it is nearer.

(2) Ps. CIII, II, 12.

(3) But on the east and west hills and mountains are in the way.

(4) Gen. I, 1.

(5) Ibid 2.

(6) Ibid 3.

(7) V. Hag. 11b.

(8) V. Aboth, IV, 1.

(9) Lit., ‘kill himself’, with study and hard work.

(10) I.e., indulge in luxuries.

(11) In keeping with your own religion.

(12) A double entendre. What they meant was that his power was due to the Satan, and was only given to him to try them.

(13) He had apparently given them a safe-conduct.

(14) What I want you to tell me is how to get there.

Talmud - Mas. Tamid 32b

. He said to them: Do people here eat gold bread? They replied: If you wanted bread, had you no bread in your own place to eat that you should have journeyed here? When he left the place he wrote on the gate of the city: ‘I, Alexander of Macedon, was a fool until I came to the city of women in Africa and I learnt counsel from the women’. As he was journeying he sat by a well and began to eat. He had with him some salted fish, and as they were being washed they gave off a sweet odour. He said: This shows that this well comes from the Garden of Eden. Some say that he took some of the water and washed his face with it; others say that he went alongside of it until he came to the door of the Garden of Eden. He cried out, Open the door for me. They replied, This is the gate of the Lord, [the righteous shall enter into it].[1] He replied: I too am a king; I am also of some account, give me something. They gave him an eyeball. He went and weighed all his silver and gold against it, and it was not equal to it. He said to the Rabbis: How is this? They replied: It is the eyeball of a human being, which is never satisfied. He said to them: How can you prove that this is so? They took a little dust and covered it, and immediately it was weighed down; and so it is written, The nether world and Destruction are never satiated; [so the eyes of man are never satiated].[2] The Tanna de-be Eliyahu taught: Gehinnom is above the firmament; some, however, say that is behind the Mountains of Darkness. R. Hiyya taught: If one studies the Torah at night, the Divine presence faces him, as it says, Arise, cry out in the night, at the beginning of the watches; pour out thy heart like water before the face of the Lord.[3] R. Eliezer b. Azariah said: The disciples of the wise increase peace in the world, as it says, And all thy children shall be taught of the Lord, and great shall be the peace of thy children.[4] Read not banayik, [thy children], but bonayik [thy builders].

CHAPTER V

MISHNAH. THE SUPERINTENDENT SAID TO THEM, PRONOUNCE ONE BLESSING,[5] AND THEY DID SO: THEY THEN RECITED THE TEN COMMANDMENTS,[6] AND THE FIRST, SECOND AND THIRD SECTIONS OF THE SHEMA’, AND THEY BLESSED THE PEOPLE WITH THREE BENEDICTIONS,[7] NAMELY, TRUE AND FIRM,[8] AND ABODAH,[9] AND THE PRIESTLY BENEDICTION.[10] ON SABBATH THEY ADDED A BENEDICTION TO BE SAID BY THE WATCH WHICH WAS LEAVING.[11]

MISHNAH . HE SAID TO THEM, THOSE WHO ARE FRESH TO THE INCENSE COME AND DRAW LOTS,[12] AND ONE OR OTHER WAS SUCCESSFUL. HE THEN SAID, NEW AND OLD, COME AND DRAW LOTS TO SEE WHO SHALL TAKE UP THE LIMBS FROM THE ASCENT TO THE ALTAR.[13] R. ELlezer B. JACOB SAYS, THE ONE WHO LIFTS THE LIMBS ON TO THE ASCENT ALSO TAKES THEM UP TO THE ALTAR.[14]

MISHNAH . HE THEN HANDED THEM OVER TO THE ATTENDANTS, WHO STRIPPED THEM OF THEIR GARMENTS,[15] LEAVING ON THEM ONLY THE BREECHES.[16] THERE WERE WINDOWS THERE[17] ON WHICH WAS INSCRIBED THE NAME OF THE GARMENT TO WHICH EACH WAS ASSIGNED.[18]

MISHNAH. THE ONE WHO HAD BEEN SELECTED TO OFFER THE INCENSE TOOK UP THE SPOON, WHICH WAS IN SHAPE LIKE A BIG TIRKAB[19] OF GOLD. IT HELD THREE KABS, AND THE [SMALL] DISH[20] WAS IN THE MIDDLE OF IT,

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(1) Ps. CXVIII, 20.

(2) Prov. XXVII, 20.

(3) Lam. II, 19.

(4) Isa. LIV, 13.

(5) There is a difference of opinion in Br. 11b as to whether this was ‘Who fashionest light’ or ‘Great love’ (P. B. p. 39). This and the succeeding prayers were said in the Chamber of Hewn Stone.

(6) V. Br. 12a.

(7) Since they had not time to say all the eighteen benedictions.

(8) The blessing following the Shema.

(9) The last but two of the eighteen benedictions.
(10) The last of the eighteen.
(11) They blessed the incoming watch. V. Ber. 12a.
(12) The incense was supposed to bring prosperity. and therefore a fresh priest was given the privilege of burning it every time.
(13) V. supra. p. 25.
(14) I.e., each one takes up to the altar the limb which he placed on the ascent.
(15) There is a difference of opinion in Yoma 24b, as to whether they cast lots in holy or in everyday garments. If the former, then those who were unsuccessful changed into everyday garments: if the latter, then those who were successful changed into holy garments.
(16) These they removed for themselves after changing into the other garments.
(17) In the wall of the Chamber of Hewn Stone.
(18) I.e., all garments of the same kind were kept in the same window space.
(19) A measure of capacity holding three kaba.
(20) Wherewith to scoop up the incense.

Talmud - Mas. Tamid 33a

HEAPED UP WITH INCENSE;[1] THIS HAD A COVERING, OVER WHICH WAS SPREAD A KIND OF JACKET.[2]

MISHNAH . THE ONE WHO HAD BEEN ASSIGNED THE SHOVELLING,[3] TOOK THE SILVER FIREPAN AND ASCENDED TO THE TOP OF THE ALTAR AND CLEARED AWAY THE LIVE COALS TO THIS SIDE AND THAT [AND SWEPT AWAY SOME OF THE ASH AT THE BOTTOM][4] AND THEN WENT DOWN AND EMPTIED THEM INTO A GOLD [FIREPAN]. ABOUT A KAB OF THE COALS WAS SPILT,[5] AND THESE HE SWEPT INTO THE SEWER[6] , ON SABBATH[7] HE USED TO PUT AN OVERTURNED POT[8] ON THEM. THIS POT WAS A LARGE VESSEL HOLDING A LETHEK.[9] IT HAD TWO CHAINS; WITH ONE HE USED TO DRAW IT DOWN,[10] AND WITH THE OTHER HE USED TO HOLD IT ABOVE SO THAT IT SHOULD NOT ROLL OVER.[11] IT WAS USED FOR THREE PURPOSES — FOR PLACING OVER LIVE COALS, AND OVER A [DEAD] CREEPING THING ON SABBATH,[12] AND FOR DRAWING DOWN THE ASHES FROM THE TOP OF THE ALTAR.

MISHNAH . WHEN THEY[13] CAME BETWEEN THE PORCH AND THE ALTAR, ONE TOOK THE ‘SHOVEL’[14] AND THREW IT BETWEEN THE PORCH AND THE ALTAR. PEOPLE COULD NOT HEAR ONE ANOTHER SPEAK IN JERUSALEM FROM THE NOISE OF THE SHOVEL. IT SERVED THREE PURPOSES. WHEN A PRIEST HEARD THE SOUND OF IT HE KNEW THAT HIS BROTHER PRIESTS WERE GOING IN TO PROSTRATE THEMSELVES,[15] AND HE WOULD RUN TO JOIN THEM. WHEN A LEVlte HEARD THE NOISE OF IT HE KNEW THAT HIS BROTHER LEVITES WERE GOING IN TO CHANT,[16] AND HE WOULD RUN TO JOIN THEM. AND THE HEAD OF THE MA'AMAD[17] USED TO MAKE THE UNCLEAN STAND IN THE EAST GATE.[18]

CHAPTER VI

MISHNAH . THEY[19] COMMENCED TO ASCEND THE STEPS OF THE PORCH.[20] THOSE WHO HAD BEEN CHOSEN TO CLEAR THE ASHES FROM THE INNER ALTAR[21] AND FROM THE CANDLESTICK LED THE WAY.[22] THE ONE WHO HAD BEEN CHOSEN TO CLEAR THE INNER ALTAR WENT IN AND TOOK THE TENI AND PROSTRATED HIMSELF AND WENT OUT AGAIN. THE ONE WHO HAD BEEN CHOSEN TO CLEAR THE CANDLESTICK WENT IN, AND IF HE FOUND THE TWO WESTERN LIGHTS[23] STILL BURNING HE CLEARED OUT THE EASTERN ONE[24] AND LEFT THE WESTERN ONE

BURNING,[25] SINCE FROM IT HE LIT THE CANDLESTICK FOR THE EVENING. IF HE FOUND THAT THIS ONE HAD GONE OUT, HE CLEARED THE ASH AWAY AND LIT IT FROM THE ALTAR OF BURNT-OFFERING. HE THEN TOOK THE KUZ FROM THE SECOND STEP[26] AND PROSTRATED HIMSELF AND WENT OUT.

MISHNAH . THE ONE WHO HAD BEEN CHOSEN FOR THE FIREPAN MADE A HEAP OF THE CINDERS ON THE TOP OF THE ALTAR AND THEN SPREAD THEM ABOUT WITH THE END OF THE FIREPAN[27] AND PROSTRATED HIMSELF AND WENT OUT. MISHNAH. THE ONE WHO HAD BEEN CHOSEN FOR THE INCENSE TO OK THE DISH FROM THE MIDDLE OF THE SPOON AND GAVE IT[28] TO HIS FRIEND OR HIS RELATIVE. IF SOME OF IT WAS SPILT INTO THE SPOON, HE WOULD PUT IT INTO HIS HANDS. THEY USED TO INSTRUCT HIM[29] SAYING, BE CAREFUL NOT TO BEGIN IMMEDIATELY IN FRONT OF YOU OR ELSE YOU MAY BURN YOURSELF.[30] HE THEN COMMENCED TO SCATTER THE INCENSE AND [AFTER FINISHING] WENT OUT. THE ONE WHO BURNT THE INCENSE DID NOT DO SO UNTIL THE SUPERINTENDENT SAID TO HIM, BURN THE INCENSE. IF IT WAS THE HIGH PRIEST WHO BURNT, HE WOULD SAY TO HIM, SIR,[31] PRAY BURN THE INCENSE. THE PEOPLE[32] LEFT AND HE BURNT THE CENSE AND PROSTRATED HIMSELF AND WENT OUT.

CHAPTER VII

MISHNAH .

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(1) And if any was spilt, it would fall into the spoon.

(2) Made of cloth or leather, to prevent the fragrance from escaping.

(3) Lit., ‘the firepan’. Of the cinders from the altar.

(4) These words are obviously a gloss inserted incorrectly from the Mishnah 28a dealing with the clearing away of the ashes.

(5) Because the silver firepan would hold four kabs and the gold one only three.

(6) V. Mid. III, 2 and Yoma 43b.

(7) When it was not permissible to sweep the cinders away.

(8) **, ‘a wine cooler’.

(9) Fifteen se'aha.

(10) From the top of the altar pile of ashes, v. infra.

(11) Because it was round-bottomed.

(12) When it was not permissible to remove it.

(13) Those who had been chosen for the firepan and the incense.

(14) Magrepah. V. supra p. 20, n. 2. Whether it is identical with the vessel mentioned there is difficult to say.

(15) After the offering of the incense.

(16) When the libation of wine was offered.

(17) Hore the word seems to mean the section of the priests on duty, elsewhere designated Mishmar. Maimonides, however, takes it in its usual sense (v. G]os. s.v.) and supposes that the unclean persons mentioned in the next sentence are lepers awaiting the sprinkling of the blood.

(18) All the priests of the beth ab (v. supra p. I, n. 9) which was on duty had to turn up, whether clean or unclean. The reason is given in Pes. 82a.

(19) Those who had been chosen for the incense and the firepan.

(20) There were twelve steps between the altar and the Porch. V. Mid. III, 6.

(21) The altar of incense.

(22) In order to remove the teni and the kuz which had been left there. V. Jupra, end of Ch. III.

(23) Those which he had left at the first clearance. V. Ch. III.

(24) He removed the wick and the oil and cleared out the socket and put in a fresh wick and oil.

(25) I.e., he poured in oil without putting it out first.

(26) Where it had been left when he trimmed the lights. V. supra end of Ch. III.
(27) So as to sprinkle the incense over them.
(28) The spoon.
(29) Since the burning of the incense was always assigned to a priest who had never had this privilege before. V. supra IV, 2.
(30) Because he would have to put his hand over the smoke to reach the further cinders.
(31) Lit., ‘My sir, the High Priest’.
(32) I.e., the priests between the court and the altar.

Talmud - Mas. Tamid 33b

WHEN THE HIGH PRIEST WENT IN[1] TO PROSTRATE HIMSELF,[2] THREE PRIESTS SUPPORTED HIM, ONE BY HIS RIGHT AND ONE BY HIS LEFT AND ONE BY THE PRECIOUS STONES.[3] WHEN THE SUPERINTENDENT HEARD THE SOUND OF THE FOOTSTEPS OF THE HIGH PRIEST AS HE WAS ABOUT TO ISSUE [FROM THE HEKAL], HE RAISED THE CURTAIN FOR HIM. HE WENT IN, PROSTRATED HIMSELF AND WENT OUT, AND THEN HIS BROTHER PRIESTS WENT IN AND PROSTRATED THEMSELVES AND WENT OUT.

MISHNAH . THEY[4] WENT AND STOOD ON THE STEPS OF THE PORCH. THE FIRST SET[5] STOOD AT THE SOUTH SIDE OF THEIR BROTHER PRIESTS HOLDING FIVE VESSELS; ONE HELD THE TENI, A SECOND THE KUZ, A THIRD THE FIREPAN, A FOURTH THE DISH, AND THE FIFTH THE SPOON AND ITS COVERING. THEY BLESSED THE PEOPLE WITH A SINGLE BENEDICTION;[6] IN THE COUNTRY THEY RECITED IT AS THREE BLESSINGS,[7] IN THE SANCTUARY AS ONE.[8] IN THE TEMPLE THEY PRONOUNCED THE DIVINE NAME AS IT IS WRITTEN,[9] BUT IN THE COUNTRY BY ITS SUBSTITUTE.[10] IN THE COUNTRY THE PRIESTS RAISED THEIR HANDS AS HIGH AS THEIR SHOULDERS, BUT IN THE TEMPLE RIGHT ABOVE THEIR HEADS, ALL EXCEPT THE HIGH PRIEST, WHO DID NOT RAISE HIS HANDS ABOVE THE PLATE.[11] R. JUDAH SAYS THAT THE HIGH PRIEST ALSO RAISED HIS HANDS ABOVE THE PLATE, SINCE IT SAYS, AND AARON LIFTED UP HIS HANDS TOWARD THE PEOPLE AND BLESSED THEM.[12]

MISHNAH . WHEN THE HIGH PRIEST DESIRED TO BURN THE OFFERINGS,[13] HE USED TO GO UP THE ASCENT WITH THE DEPUTY HIGH PRlest[14] AT HIS RIGHT HAND, AND WHEN HE REACHED THE MIDDLE OF THE ASCENT THE DEPUTY TOOK HOLD OF HIS RIGHT HAND AND HELPED HIM UP. THE FIRST [OF THE OFFICIATING PRIESTS] THEN HANDED TO HIM THE HEAD AND THE FOOT OF THE SACRIFICE AND HE LAID HIS HANDS ON THEM[15] AND THREW THEM [ON THE ALTAR FIRE]. THE SECOND THEN HANDED TO THE FIRST THE TWO FORE LEGS. AND HE HANDED THEM TO THE HIGH PRIEST WHO LAID HIS HANDS ON THEM AND THREW THEM [ON TO THE ALTAR]. THE SECOND THEN SLIPPED AWAY. IN THE SAME WAY ALL THE OTHER LIMBS WERE HANDED TO HIM AND HE LAID HANDS ON THEM AND THREW THEM [ON TO THE ALTAR FIRE]. IF HE PREFERRED, HE COULD LAY ON HANDS AND LET OTHERS THROW ON THE FIRE. WHEN HE CAME TO GO ROUND THE ALTAR[16] FROM WHERE DID HE COMMENCE? FROM THE SOUTH-EASTERN CORNER; FROM THERE HE WENT TO THE NORTH-EASTERN, THEN TO THE NORTH-WESTERN AND THEN TO THE SOUTH-WESTERN. THEY THERE HANDED TO HIM WINE FOR LIBATION. THE DEPUTY HIGH PRIEST STOOD ON THE HORN OF THE ALTAR[17] WITH THE FLAGS IN HIS HAND, AND TWO PRIESTS ON THE TABLE OF THE FAT[18] WITH TWO TRUMPETS IN THEIR HANDS. THEY BLEW A TEKI'AH, A TERU'AH AND A TEKI'AH,[19] AND THEN WENT AND STOOD BY BEN ARZA,[20] ONE ON HIS RIGHT HAND AND ONE ON HIS LEFT. WHEN HE

BENT DOWN TO MAKE THE Llbation THE DEPUTY HIGH PRIEST WAVED THE FLAGS AND BEN ARZA STRUCK THE CYMBALS AND THE LEVltes CHANTED THE PSALM. WHEN THEY CAME TO A PAUSE[21] A TERI'AH WAS BLOWN, AND THE PUBLIC PROSTRATED THEMSELVES; AT EVERY PAUSE THERE WAS A TEKI'AH AND AT EVERY TEKI'AH A PROSTRATlon. THIS WAS THE ORDER OF THE REGULAR DAILY SACRIFICE FOR THE SERVICE OF THE HOUSE OF OUR GOD. MAY IT BE GOD'S WILL THAT IT BE BUILT SPEEDILY IN OUR DAYS, AMEN.

MISHNAH . THE FOLLOWING ARE THE PSALMS THAT WERE CHANTED IN THE TEMPLE. ON THE FIRST DAY THEY USED TO SAY, THE EARTH IS THE LORD'S AND THE FULNESS THEREOF, THE WORLD AND THEY THAT DWELL THEREln.[22] ON THE SECOND DAY THEY USED TO SAY, GREAT IS THE LORD AND HIGHLY TO BE PRAISED, IN THE CITY OF OUR GOD. HIS HOLY MOUNTAln.[23] ON THE THIRD DAY THEY USED TO SAY, GOD STANDETH IN THE CONGREGATION OF GOD, IN THE MIDST OF THE JUDGES HE JUDGETH.[24] ON THE FOURTH DAY THEY USED TO SAY, O LORD, THOU GOD TO WHOM VENGEANCE BELONGETH, THOU GOD TO WHOM VENGEANCE BELONGETH, SHINE FORTH.[25] ON THE FIFTH DAY THEY USED TO SAY, SING ALOUD UNTO GOD OUR STRENGTH, SHOUT UNTO THE GOD OF JACOB.[26] ON THE SIXTH DAY THEY USED TO SAY, THE LORD REIGNETH, HE IS CLOTHED IN MAJESTY, THE LORD IS CLOTHED, HE HATH GIRDED HIMSELF WITH STRENGTH.[27] ON SABBATH THEY USED TO SAY, A PSALM, A SONG FOR THE SABBATH DAY:[28] A PSALM, A SONG FOR THE TIME TO COME, FOR THE DAY THAT WILL BE ALL SABBATH AND REST FOR EVERLASTING LIFE.

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(1) To the Hekal.

(2) After the offering of the incense.

(3) On the shoulder pieces of the ephod.

(4) All the priests who had officiated.

(5) The five particularly mentioned above, who had cleared the ashes from the inner altar and the candlestick.

(6) The priestly benediction, ‘The Lord bless thee and preserve thee etc.’ Num. VI, 24-26.

(7) Allowing the public to say Amen after each verse.

(8) Because Amen was not said in the Temple.

(9) YHVH.

(10) Adonai.

(11) Because the name of God was inscribed on it.

(12) Lev. IX, 22. Which shows that the priestly benediction must be said with raised hands. Tosaf. Yom Tob.

(13) The High Priest had the privilege of performing any service he wished without the formality of the lot.

(14) Selan

(15) This was not the regulation laying on of hands, which was performed when the animal was still alive, but a special mark of distinction for the High Priest.

(16) The ascent was on the south side of the altar and the place of libation was at the south-western corner, but as it was the rule for the officiating priest to move to the right, he had to go right round the altar to get to it.

(17) The horn was a cubit square.

(18) The marble table on which the limbs were put. V. supra.

(19) On these terms, v. Glos.

(20) V. Shek. V, 1.

(21) In the palm.

(22) Ps. XXIV.

(23) Ibid XLVIII.

(24) Ibid LXXXII.

(25) Ibid XCIV.

(26) Ibid LXXXI.

(27) Ib1d. XCIII.
(28) Ibid XCII. The reasons why these Psalms were chosen are given in R.H. 31a.

Mishna - Mas. Middoth Chapter 1

MISHNAH 1. IN THREE PLACES PRIESTS KEEP WATCH[1] IN THE TEMPLE[2] — IN THE CHAMBER OF ABTINAS, IN THE FLASH CHAMBER AND IN THE FIRE CHAMBER.[3] THE LEVITES KEEP WATCH IN TWENTY-ONE PLACES — FIVE AT THE FIVE GATES[4] OF THE TEMPLE MOUNT,[5] FOUR AT ITS FOUR CORNERS ON THE INSIDE, FIVE AT THE[6] FIVE GATES OF THE AZARAH.[7] FOUR AT ITS FOUR CORNERS ON THE OUTSIDE,[8] ONE AT THE OFFERING CHAMBER,[9] ONE AT THE CHAMBER OF THE VEIL,[10] AND ONE BEHIND THE PLACE OF THE MERCY SEAT.[11]

MISHNAH 2. THE OFFICER OF THE TEMPLE MOUNT USED TO GO ROUND TO EVERY WATCH, WITH LIGHTED TORCHES BEFORE HIM, AND IF ANY WATCHER DID NOT RISE [AT HIS APPROACH] AND SAY TO HIM, PEACE BE TO THEE, SUPERVISOR OF THE TEMPLE MOUNT, IT WAS OBVIOUS THAT HE WAS ASLEEP,[12] AND HE USED TO BELABOUR HIM WITH HIS STICK, AND HE WAS ALSO AT LIBERTY TO BURN HIS CLOTHES, AND THE OTHERS USED TO SAY, WHAT IS THE NOISE IN THE AZARAH? IT IS THE CRY OF A LEVITE WHO IS BEING BEATEN AND WHOSE CLOTHES ARE BEING BURNT, BECAUSE HE WAS ASLEEP AT HIS POST. R. ELIEZER B. JACOB SAID: ONCE THEY FOUND MY MOTHER'S BROTHER ASLEEP, AND THEY BURNT HIS CLOTHES.

MISHNAH 3. THERE WERE FIVE GATES TO THE TEMPLE MOUNT-THE TWO GATES OF HULDAH[13] ON THE SOUTH WHICH WERE USED BOTH FOR ENTRANCE AND EXIT, THE GATE OF KIPONUS[14] ON THE WEST WHICH WAS USED BOTH FOR ENTRANCE AND EXIT, THE GATE OF TADDI[15] ON THE NORTH WHICH WAS NOT USED [BY THE PUBLIC] AT ALL,[16] AND THE EASTERN GATE OVER WHICH WAS A REPRESENTATION OF THE PALACE OF SUSA[17] AND THROUGH WHICH THE HIGH PRIEST[18] WHO BURNT THE RED HEIFER AND ALL WHO ASSISTED WITH IT[19] USED TO GO FORTH TO THE MOUNT OF OLIVES.[20]

MISHNAH 4. THERE WERE THREE GATES IN THE AZARAH,[21] THREE IN THE NORTH AND THREE IN THE SOUTH AND ONE IN THE EAST. IN THE SOUTH THERE WAS FIRST THE GATE OF KINDLING,[22] THEN THE GATE OF OFFERING,[23] THEN THE WATER GATE.[24] IN THE EAST THERE WAS THE GATE OF NICANOR[25] WHICH HAD TWO ROOMS ATTACHED, ONE ON ITS RIGHT AND ONE ON ITS LEFT, ONE THE ROOM OF PHINEAS THE DRESSER[26] AND ONE THE ROOM OF THE GRIDDLE CAKE MAKERS.[27]

MISHNAH 5. ON THE NORTH WAS THE GATE OF THE FLASH[28] WHICH WAS SHAPED LIKE A VERANDAH.[29] IT HAD AN UPPER CHAMBER BUILT ON IT, AND THE PRIESTS USED TO KEEP WATCH ABOVE AND THE LEVITES BELOW, AND IT HAD A DOOR OPENING INTO THE HEL.[30] NEXT[31] TO IT WAS THE GATE OF OFFERING AND NEXT TO THAT THE FIRE CHAMBER.

MISHNAH 6. THERE WERE FOUR SIDE CHAMBERS TO THE FIRE ROOM LIKE ALCOVES OPENING INTO A HALL, TWO IN SACRED GROUND AND TWO IN NON-SACRED,[32] AND THERE WAS A ROW OF STONES[33] SEPARATING THE HOLY FROM THE PROFANE. FOR WHAT WERE THEY USED? THE ONE ON THE SOUTH-WEST WAS THE CHAMBER OF OFFERING,[34] THE ONE ON THE SOUTH-EAST WAS THE CHAMBER OF THE SHEWBREAD. IN THE ONE TO THE NORTH-EAST THE HASMONEANS DEPOSITED THE STONES OF THE ALTAR WHICH THE KINGS OF GREECE HAD DEFILED.[35] THROUGH THE ONE ON THE NORTHWEST THEY[36] USED TO GO DOWN TO THE BATHING PLACE.

MISHNAH 7. THE FIRE ROOM HAD TWO GATES, ONE OPENING ON TO THE HEL AND ONE ON TO THE AZARAH. R. JUDAH SAYS: THE ONE THAT OPENED ON TO THE AZARAH HAD A SMALL LATTICE GATE THROUGH WHICH THEY WENT IN TO SEARCH THE AZARAH.[37]

MISHNAH 8. THE FIRE ROOM WAS VAULTED. IT WAS A LARGE ROOM SURROUNDED[38] WITH STONE SLABS.[39] ON THESE THE ELDERS OF THE FATHERS' HOUSE[40] [ON DUTY] USED TO SLEEP HAVING WITH THEM THE KEYS OF THE AZARAH, WHILE THE PRIESTLY NOVITIATES[41] SLEPT EACH ON HIS GARMENT[42] ON THE GROUND.

MISHNAH 9. THERE WAS A PLACE THERE ONE CUBIT SQUARE ON WHICH WAS A SLAB OF MARBLE. IN THIS WAS FIXED A RING AND A CHAIN [UNDERNEATH] ON WHICH THE KEYS WERE HUNG. WHEN CLOSING TIME CAME, THE PRIEST WOULD RAISE THE SLAB BY THE RING AND TAKE THE KEYS FROM THE CHAIN. THEN THE PRIEST WOULD LOCK UP[43] WITHIN WHILE THE LEVITE WAS SLEEPING WITHOUT.[44] WHEN HE HAD FINISHED LOCKING UP, HE WOULD REPLACE THE KEYS ON THE CHAIN AND THE SLAB IN ITS PLACE AND LAY HIS GARMENT ON IT AND SLEEP THERE. IF A SEMINAL EMISSION HAPPENED TO ONE OF THEM, HE WOULD GO OUT BY THE WINDING STAIR[45] WHICH WENT UNDER THE BIRAH,[46] AND WHICH WAS LIGHTED WITH LAMPS ON BOTH SIDES, UNTIL HE REACHED THE BATHING PLACE. R. ELIEZER B. JACOB SAYS: HE DESCENDED BY THE WINDING STAIR WHICH WENT UNDER THE HEL AND HE WENT OUT BY THE TADDI GATE.

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(1) At night time. For the rule that there should be twenty-four watches, v. Tamid, 27a.

(2) Heb. Beth ha-Mikdush. 'House of the Sanctuary', a term covering the whole space round the Temple buildings which a person in a higher degree of ritual uncleanness was forbidden to enter, and the measurements of which are given in this Tractate.

(3) For the explanation of these names, v. Tamid, ad. init. (Sonc. ed.) and notes. These three rooms adjoined the priestly Azarah or court in which was the altar of sacrifice.

(4) Enumerated below in Mishnah 3.

(5) The name given to the outer wall of the Sanctuary. though it is also used to designate the space enclosed by the wall.

(6) In Mishnah 4 it says that there were seven gates to the Azarah, and in Tamid 27a we find a difference of opinion on the question, so it is doubtful whether we should translate here 'the five' or simply 'five'.

(7) Temple court, v. infra p. 2. n. 10.

(8) Because it was not permitted to sit down in the Azarah, and they were not required to stand the whole time.

(9) This may be the same as the Lamb Chamber mentioned in Tamid 27a as being one of four rooms opening out from the Flash Chamber.

(10) Where the new veils for the Holy of Holies were woven. V. Tamid, l.c. These two rooms were apparently under the places where the priests watched. V. infra 5 and Tamid 26b.

(11) The Holy of Holies retained this name in the second Temple, although it contained no Ark. The western part of the Azarah wall ran a short distance behind it.

(12) Var. lec.: If any watcher did not rise . . . . the officer would say to him, Peace be to thee, and if it was obvious that he was asleep, he would belabour him etc., v. Tamid 27b.

(13) It is not known whether these had any connection with Huldah the prophetess mentioned in II Kings, XXII, 14.

(14) A certain Koponius succeeded Archelaus as procurator of Judea and Samaria, A.D. 6-7 (Josephus, Ant. XVIII, 2 and 29). Possibly this gate was called after him.

(15) Or perhaps Todi = GR. **. The origin of this name is not known.

(16) But it was used for other purposes, as explained at the end of the section.

(17) According to Jewish tradition, this was in commemoration of the permission to rebuild the Temple given by the kings of Persia. Cf. Men. 98a.

(18) This follows the opinion of R. Meir. According to the Rabbis, any priest was competent to perform the ceremony.

Parah IV, 1.

(19) Maim. renders ‘all its appurtenances’.

(20) On the east of Jerusalem, where the heifer was burnt.

(21) The term here includes the whole of the area extending inward2 from the Court of the Israelites, in which the Temple services were carried out. It was evidently surrounded by a wall.

(22) So called because the wood for the fire was brought in by it.

(23) Perhaps the sacrificial animals were brought in by this gate. V. infra 5. Another reading is ‘gate of the firstborn’.

(24) V. infra, II, 6.

(25) For a tradition concerning this Nicanor, v. Yoma, 38a.

(26) I.e. it was called after a certain Phineas who used to robe the High Priest. V. Shek. V, I.

(27) Where the wafers were made for the High Priest's daily offering.

(28) Apparently the same as the ‘flash chamber’ mentioned above in Mishnah 1.

(29) I.e., it was open on one side, giving, perhaps a glimpse of the altar fire, whence its name.

(30) I.e., the back of it led out into the Hel, or outer circuit, v. infra II, 3.

(31) I.e., a little further south. The gate of the spark was near the north-west corner.

(32) The two former were to the south adjoining the Azarah and the other two to the north, adjoining the Hel.

(33) Lit., ‘heads of pebbles’, perhaps level with the floor but of a different colour.

(34) V. supra, Mishnah I. Var. lec.: the lambs for the offering.

(35) This incident is referred to in I Macc.,I, 46, 59. IV, 36. 46.

(36) Priests who had become defiled.

(37) To see that nothing had been left there. V. Tamid, 28a.

(38) On the outside.

(39) Let into the wall.

(40) The priests were divided into family groups of ‘fathers’ houses’, which ministered in rotation.

(41) Lit., ‘flowers of the priesthood’, young priests who had just commenced to minister.

(42) Var. lec. pillow.

(43) The gates of the Temple were always closed at nightfall.

(44) The point of this remark is not at all clear. Perhaps it means that the Levite was sleeping until it was time for him to rise and go on night duty.

(45) Heb. mesibbah. Lit., ‘circuit’. Hollis thinks perhaps it was only a gangway, not a stair.

(46) Lit., ‘palace’ or ‘fortress’, some building adjoining the Sanctuary on the north-west. V. Yoma 2a. For further notes on the passage v. Tamid (Sonc. ed.) p. 2.

Mishna - Mas. Middoth Chapter 2

MISHNAH 1. THE TEMPLE MOUNT WAS FIVE HUNDRED CUBITS BY FIVE HUNDRED.[1] THE GREATER PART OF IT[2] WAS ON THE SOUTH; NEXT TO THAT ON THE EAST; NEXT TO THAT ON THE NORTH; AND THE SMALLEST PART ON THE WEST. THE PART WHICH WAS MOST EXTENSIVE WAS THE PART MOST USED.[3]

MISHNAH 2. ALL WHO ENTERED THE TEMPLE MOUNT ENTERED BY THE RIGHT[4] AND WENT ROUND [TO THE RIGHT] AND WENT OUT BY THE LEFT, SAVE FOR ONE TO WHOM SOMETHING UNTOWARD HAD HAPPENED, WHO ENTERED AND WENT ROUND TO THE LEFT. [IF HE WAS ASKED], WHY DO YOU GO ROUND TO THE LEFT, [AND HE ANSWERED] BECAUSE I AM A MOURNER, [THEY SAID TO HIM], MAY HE WHO DWELLS IN THIS HOUSE COMFORT THEE. [IF HE SAID] BECAUSE I AM EXCOMMUNICATED. [THEY SAID] MAY HE WHO DWELLS IN THIS HOUSE INSPIRE THEM TO BEFRIEND THEE[5] AGAIN. SO R. MEIR. SAID R. JOSE TO HIM: YOU MAKE IT SEEM THAT THEY TREATED HIM UNJUSTLY.[6] WHAT THEN SHOULD THEY SAY? MAY HE WHO DWELLS IN THIS HOUSE INSPIRE THEE TO LISTEN TO THE WORDS OF THY COLLEAGUES[7] SO THAT THEY MAY BEFRIEND THEE AGAIN.

MISHNAH 3. WITHIN IT[8] WAS THE SOREG[9] TEN HANDBREADTHS HIGH. THERE WERE THIRTEEN BREACHES IN IT; THESE HAD BEEN ORIGINALLY MADE BY THE KINGS OF GREECE,[10] AND WHEN THEY REPAIRED THEM THEY ENACTED THAT THIRTEEN PROSTRATIONS SHOULD BE MADE FACING THEM.[11] WITHIN THIS WAS THE HEL,[12] WHICH WAS TEN CUBITS [BROAD]. THERE WERE TWELVE STEPS THERE.[13] THE HEIGHT OF EACH STEP WAS HALF A CUBIT AND ITS TREAD WAS HALF A CUBIT. ALL THE STEPS IN THE TEMPLE WERE HALF A CUBIT HIGH WITH A TREAD OF HALF A CUBIT, EXCEPT THOSE OF THE PORCH.[14] ALL THE DOORWAYS IN THE TEMPLE WERE TWENTY CUBITS HIGH AND TEN CUBITS BROAD EXCEPT THOSE OF THE PORCH.[15] ALL THE DOORWAYS THERE HAD DOORS IN THEM EXCEPT THOSE OF THE PORCH. ALL THE GATES THERE HAD LINTELS EXCEPT THAT OF TADDI WHICH HAD TWO STONES INCLINED TO ONE ANOTHER.[16] ALL THE ORIGINAL GATES WERE CHANGED FOR GATES OF GOLD EXCEPT THE GATES OF NICANOR, BECAUSE A MIRACLE WAS WROUGHT TO THEM;[17] SOME SAY, HOWEVER, IT WAS BECAUSE THE COPPER OF THEM GLEAMED [LIKE GOLD].

MISHNAH 4. ALL THE WALLS OF THE TEMPLE WERE HIGH EXCEPT THE EASTERN WALL, SO THAT THE PRIEST WHO BURNT THE RED HEIFER MIGHT WHILE STANDING ON THE TOP OF THE MOUNT OF OLIVES BY DIRECTING HIS GAZE CAREFULLY SEE THE DOOR OF THE HEKAL AT THE TIME OF THE SPRINKLING OF THE BLOOD.[18]

MISHNAH 5. THE WOMEN'S AZARAH[19] WAS A HUNDRED AND THIRTY-FIVE CUBITS LONG BY A HUNDRED AND THIRTY-FIVE BROAD. IT HAD FOUR CHAMBERS IN ITS FOUR CORNERS,[20] EACH OF FORTY CUBITS.[21] THEY WERE NOT ROOFED, AND SO THEY WILL BE IN THE TIME TO COME, AS IT SAYS, THEN HE BROUGHT ME FORTH INTO THE OUTER COURT, AND CAUSED ME TO PASS BY THE FOUR CORNERS OF THE COURT, AND BEHOLD IN EVERY CORNER OF THE COURT THERE WAS A COURT. IN THE FOUR CORNERS OF THE COURT THERE WERE SMOKED[22] COURTS;[23] AND SMOKED[24] MEANS ONLY THAT THEY WERE NOT ROOFED. FOR WHAT WERE THEY USED? THE SOUTHEASTERN ONE WAS THE CHAMBER OF THE NAZIRITES WHERE THE NAZIRITES USED TO BOIL THEIR PEACE-OFFERINGS AND POLL THEIR HAIR AND THROW IT UNDER THE POT.[25] THE NORTH-EASTERN ONE WAS THE WOOD CHAMBER WHERE PRIESTS WITH A PHYSICAL DEFECT USED TO PICK OUT THE WOOD WHICH HAD WORMS, EVERY PIECE WITH A WORM IN IT BEING UNFIT FOR USE ON THE ALTAR. THE NORTH-WESTERN ONE WAS THE CHAMBER OF THE LEPERS.[26] AS FOR THE SOUTHWESTERN ONE, A. ELIEZER B. JACOB SAID: I FORGET WHAT IT WAS USED FOR. ABBA SAUL SAYS: THEY USED TO STORE THERE WINE AND OIL, AND IT WAS CALLED THE OIL STORAGE ROOM.[27] IT [THE WOMEN'S AZARAH] HAD ORIGINALLY BEEN QUITE BARE BUT SUBSEQUENTLY THEY SURROUNDED IT WITH A BALCONY SO THAT THE WOMEN COULD LOOK ON FROM ABOVE WHILE THE MEN WERE BELOW, AND THEY SHOULD NOT MIX TOGETHER.[28] FIFTEEN STEPS LED UP FROM IT TO THE AZARAH OF ISRAEL, CORRESPONDING TO THE FIFTEEN [SONGS OF] ASCENTS MENTIONED IN THE BOOK OF PSALMS.[29] THE LEVITES USED TO CHANT PSALMS ON THESE.[28] THEY WERE NOT RECTANGULAR BUT CIRCULAR LIKE THE HALF OF A THRESHING FLOOR.

MISHNAH 6. THERE WERE CHAMBERS UNDERNEATH THE COURT OF ISRAEL WHICH OPENED INTO THE COURT OF WOMEN, WHERE THE LEVITES USED TO KEEP LYRES AND LUTES AND CYMBALS AND ALL KINDS OF MUSICAL INSTRUMENTS. THE COURT OF ISRAEL WAS A HUNDRED AND THIRTY-FIVE CUBITS IN LENGTH BY ELEVEN IN BREADTH. SIMILARLY THE COURT OF THE PRIESTS WAS A HUNDRED AND THIRTY-FIVE CUBITS IN LENGTH[30] BY ELEVEN IN BREADTH, AND A ROW OF

STONES[31] SEPARATED THE COURT OF ISRAEL FROM THE COURT OF THE PRIESTS. A. ELlezer B. JACOB SAYS: THERE WAS A STEP A CUBIT HIGH ON WHICH WAS PLACED A PLATFORM,[32] AND THIS HAD THREE STEPS EACH OF HALF A CUBIT. IN THIS WAY THE COURT OF THE PRIESTS WAS MADE TWO AND A HALF CUBITS HIGHER THAN THAT OF ISRAEL. THE WHOLE OF THE AZARAH[33] WAS A HUNDRED AND EIGHTY-SEVEN CUBITS IN LENGTH BY A HUNDRED AND THIRTY-FIVE IN BREADTH, AND THIRTEEN PROSTRATIONS WERE MADE THERE.[34] ABBA JOSE B. HANAN SAYS: THEY WERE MADE FACING THIRTEEN GATES.[35] ON THE SOUTH ADJOINING THE WEST THERE WERE THE UPPER GATE, THE GATE OF BURNING, THE GATE OF THE FIRSTBORN,[36] AND THE WATER GATE.[37] (WHY WAS IT CALLED THE WATER GATE? BECAUSE THEY BROUGHT IN THROUGH IT THE PITCHER OF WATER FOR LIBATION ON THE FESTIVAL. R. ELIEZER B. JACOB SAYS: IN IT THE WATER WELLED UP, AND IN THE TIME TO COME THEY WILL ISSUE FROM UNDER THE THRESHOLD OF THE TEMPLE).[38] CORRESPONDING TO THEM IN THE NORTH ADJOINING THE WEST WERE THE GATE OF JECONIAH, THE GATE OF THE OFFERING,[39] THE WOMEN'S GATE,[40] THE GATE OF SONG.[41] WHY WAS IT CALLED THE GATE OF JECONIAH? BECAUSE JECONIAH WENT FORTH INTO CAPTIVITY[42] THROUGH IT.[43] ON THE EAST WAS THE GATE OF NICANOR; IT HAD TWO WICKETS,[44] ONE ON ITS RIGHT AND ONE ON ITS LEFT. THERE WERE FURTHER TWO GATES IN THE WEST WHICH HAD NO SPECIAL NAME.

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(1) By ‘Temple Mount’ is apparently meant all that part of the temple area which lay outside of the Azarah, between the wall of the Azarah and the outer wall. This area was not actually consecrated but it had to be treated with a certain respect; thus one was not supposed to enter it with stick and wallet, to use it for a short cut etc. (Ber. 54a). According to Hollis, the corresponding areas in the present Haram-esh-Sherif are found by measurement to be 255,000 sq. feet on the southern side, 150,000 on the east, 92,900 on the north and 90,600 on the west, a total of 488,500 sq. ft., which reckoning a cubit at 12/2 feet, is nearly 500 cubits square.

(2) V. previous note.

(3) I.e. the majority of people entered from the south.

(4) I.e., on entering they turned to the right, even if their immediate objective was to the left, so that they had to make a circuit to reach it.

(5) Lit., ‘bring thee back’.

(6) So that it was necessary for them to alter their mind.

(7) Excommunication was usually inflicted on an elder who would not conform to the ruling of the majority.

(8) Viz., the wall of the Temple Mount.

(9) According to the Jewish commentators, this was a kind of lattice work, the root sarag meaning ‘to entwine’. Josephus, however, says It was of stone. Its exact purpose is not known as there was no higher degree of holiness till the Hel was reached.

(10) Cf. I Macc. IX, 54, 55.

(11) By worshippers in the Azarah. V. infra 6.

(12) A level promenade running right round the Azarah.

(13) Leading up from the Hel to the Court of Women. Apparently these steps ran the whole length of the Hel on its southern side.

(14) Which had a tread of a cubit.

(15) Which were forty cubits high and twenty broad.

(16) Hollis (p. 267) supposes this to mean that the two sides of the gate converged not in the vertical plane (which would have been unsafe), but in the horizontal, so that it was narrower on the outside than on the inside, and required no lintel. It is doubtful, however, if the Hebrew will bear this meaning.

(17) V. Yoma 38a.

(18) In accordance with the biblical injunction, And he shall sprinkle facing (E. V. toward) the front of the lent of meeting, Num. XIX. 4. There were three walls between the Mount of Olives and the door of the Hekal — the outer wall of the Temple Mount, the wall of the Women's Azarah, and the wall between the Court of Women and the Court of

Israel. As the ground level of the outer wall was much lower than that of the Hekal — over 22 cubits — this wall would have had to be very high to obstruct the view from the Mount of Olives, and Hollis therefore (p. 273) thinks that it is the inner wall, separating the Court of Women from the Court of Israel, which is referred to.
(19) V. Yoma 16a.
(20) It is not certain whether these rooms were in the court or adjoining it on the outside.
(21) It is not clear whether this means forty cubits square.
(22) E. V. inclosed.
(23) Ezek. XLVI, 21, 22.
(24) The Hebrew word is keturoth, which is connected by the Mishnah with the root katar, to send up smoke, and is taken to mean that the smoke was allowed to ascend without impediment.
(25) V. Num. VI, 18.
(26) Where they bathed on purification before the blood of the offering was placed on their thumb; v. Neg. XIV, 8-9.
(27) Lit., ‘room of the house of oils’.
(28) At the festival of the drawing of water. V. Suk. 51b.
(29) Ps. CXX-CXXXIV.
(30) Running alongside of the Women's Court. The longer side of any area is called by the Talmud its length.
(31) V. supra, p. 3. n. 12.
(32) From which the priests blessed the people. Perhaps it was really a movable pulpit.
(33) The whole of the sanctified area of the Temple from the Court of Israel to the Holy of Holies.
(34) By worshippers in the Azarah. According to the Rabbis, they were made towards the thirteen breaches in the soreg (v. supra), but Abba Jose b. Hanan differs.
(35) These were not all necessarily in the outer wall.
(36) Through which firstlings of flock and cattle were led to be offered, v. supra, p. 3, n. 2.
(37) These last three are mentioned in I, 4.
(38) V. Ezek. XLVII, 1, and Yoma 77b.
(39) Mentioned in I, 5. It is hard to say what was the relation of the other gates mentioned here to the ‘Room of the Flash’, and the Fire Chamber mentioned there.
(40) Which serves, perhaps, as exit for women.
(41) Through which, perhaps, the Levites brought in their instruments.
(42) V. II Kings XXIV, 8-16.
(43) After paying his last visit to the Temple.
(44) Not in it but adjoining it, and therefore reckoned as two separate gates.

Mishna - Mas. Middoth Chapter 3

MISHNAH 1. THE ALTAR[1] WAS THIRTY-TWO CUBITS BY THIRTY-TWO.[2] IT ROSE A CUBIT AND WENT IN A CUBIT, AND THIS FORMED THE FOUNDATION,[3] LEAVING THIRTY CUBITS BY THIRTY. IT THEN ROSE FIVE CUBITS AND WENT IN ONE CUBIT, AND THIS FORMED THE SURROUND, LEAVING TWENTY-EIGHT CUBITS BY TWENTY-EIGHT.[4] THE HORNS EXTENDED A CUBIT IN EACH DIRECTION,[5] THUS LEAVING TWENTY-SIX BY TWENTY-SIX.[6] A CUBIT ON EVERY SIDE WAS ALLOWED FOR THE PRIESTS TO GO ROUND, THUS LEAVING TWENTY-FOUR BY TWENTY-FOUR AS THE PLACE OF THE WOOD PILE [FOR THE ALTAR FIRE].

R. JOSE SAID: ORIGINALLY THE COMPLETE AREA [OCCUPIED BY THE ALTAR] WAS ONLY TWENTY-EIGHT CUBITS BY TWENTY-EIGHT, AND IT ROSE WITH THE DIMENSIONS MENTIONED[7] UNTIL THE SPACE LEFT FOR THE ALTAR PILE WAS ONLY TWENTY BY TWENTY. WHEN, HOWEVER, THEY RETURNED FROM THE CAPTIVITY,[8] THEY ADDED FOUR CUBITS ON THE NORTH,[9] AND FOUR ON THE WEST LIKE A GAMMA,[10] SINCE IT IS SAID: AND THE HEARTH[11] SHALL BE TWELVE CUBITS LONG BY TWELVE BROAD, SQUARE.[12] AM I TO SUPPOSE THAT IT WAS ONLY TWELVE CUBITS BY TWELVE? WHEN IT SAYS, IN THE FOUR SIDES THEREOF,[13] THIS SHOWS

THAT HE WAS MEASURING FROM THE MIDDLE, TWELVE CUBITS IN EVERY DIRECTION.

A LINE OF RED PAINT RAN ROUND IT IN THE MIDDLE[14] TO DIVIDE BETWEEN THE UPPER AND THE LOWER BLOOD.[15] THE FOUNDATION RAN THE WHOLE LENGTH OF THE NORTH AND OF THE WEST SIDES, BUT IT LEFT OPEN[16] ONE CUBIT ON THE SOUTH AND ONE ON THE EAST.[17]

MISHNAH 2. AT THE SOUTH-WESTERN CORNER [OF THE FOUNDATION] THERE WERE TWO OPENINGS LIKE TWO FINE NOSTRILS THROUGH WHICH THE BLOOD WHICH WAS POURED ON THE WESTERN SIDE OF THE FOUNDATION AND ON THE SOUTHERN SIDE[18] FLOWED DOWN TILL THE TWO STREAMS BECAME MINGLED IN THE CHANNEL,[19] THROUGH WHICH THEY MADE THEIR WAY OUT TO THE BROOK OF KIDRON.

MISHNAH 3. ON THE PAVEMENT BENEATH AT THAT CORNER THERE WAS A PLACE A CUBIT SQUARE ON WHICH WAS A MARBLE SLAB WITH A RING FIXED IN IT,[20] AND THROUGH THIS THEY[21] USED TO GO DOWN TO THE PIT[22] TO CLEAN IT OUT.[23] THERE WAS AN ASCENT ON THE SOUTH SIDE OF THE ALTAR, THIRTY-TWO CUBITS [LONG] BY SIXTEEN BROAD. IT HAD A CAVITY IN ITS WESTERN SIDE WHERE REJECTED SIN-OFFERINGS OF BIRDS WERE PLACED.[24]

MISHNAH 4. THE STONES BOTH OF THE ASCENT AND OF THE ALTAR WERE TAKEN FROM THE VALLEY OF BETH KEREM.[25] THEY DUG[26] INTO VIRGIN SOIL[27] AND BROUGHT FROM THERE WHOLE STONES ON WHICH NO IRON HAD BEEN LIFTED, SINCE IRON DISQUALIFIES BY MERE TOUCH, THOUGH A SCRATCH MADE BY ANYTHING COULD DISQUALIFY. IF ONE OF THEM RECEIVED A SCRATCH, IT WAS DISQUALIFIED, BUT THE REST WERE NOT. THEY WERE WHITEWASHED TWICE A YEAR, ONCE AT PASSOVER AND ONCE AT TABERNACLES, AND THE HEKAL WAS WHITEWASHED ONCE A YEAR, AT PASSOVER. RABBI SAYS: THEY WERE WHITEWASHED EVERY FRIDAY WITH A CLOTH ON ACCOUNT OF THE BLOOD STAINS. THE PLASTER WAS NOT LAID ON WITH A TROWEL OF IRON, FOR FEAR THAT IT MIGHT TOUCH AND DISQUALIFY, SINCE IRON WAS CREATED TO SHORTEN MAN'S DAYS AND THE ALTAR WAS CREATED TO PROLONG MAN'S DAYS, AND IT IS NOT RIGHT THEREFORE THAT THAT WHICH SHORTENS SHOULD BE LIFTED AGAINST THAT WHICH PROLONGS.

MISHNAH 5. THERE WERE RINGS[28] TO THE NORTH OF THE ALTAR, SIX ROWS OF FOUR EACH, OR, ACCORDING TO SOME, FOUR ROWS OF SIX EACH, AT WHICH THEY USED TO SLAUGHTER THE SACRIFICIAL ANIMALS. THE SLAUGHTERERS SHED WAS AT THE NORTH OF THE ALTAR. THERE WERE EIGHT DWARF PILLARS THERE, ON WHICH WERE BLOCKS OF CEDAR-WOOD. IN THESE WERE FIXED HOOKS OF IRON, THREE ROWS IN EACH, ON WHICH THEY HUNG THE CARCASSES, AND FLAYED THEM OVER TABLES OF MARBLE BETWEEN THE PILLARS.[29]

MISHNAH 6. THE LAVER[30] WAS BETWEEN THE PORCH AND THE ALTAR, A LITTLE TO THE SOUTH. THE SPACE BE TWEEN THE PORCH AND THE ALTAR WAS TWENTY-TWO CUBITS. THERE WERE TWELVE STEPS THERE, EACH STEP BEING HALF A CUBIT HIGH AND A CUBIT BROAD. THERE WAS A CUBIT, A CUBIT AND A LEVEL SPACE OF THREE CUBITS,[31] THEN A CUBIT, A CUBIT AND A LEVEL SPACE OF THREE CUBITS, THEN AT THE TOP A CUBIT, A CUBIT AND A LEVEL SPACE OF FOUR CUBITS. R. JUDAH SAYS THAT AT THE TOP THERE WAS A CUBIT, A CUBIT AND A LEVEL

SPACE OF FIVE CUBITS.[32]

MISHNAH 7. THE DOORWAY OF THE PORCH WAS FORTY CUBITS HIGH AND ITS BREADTH WAS TWENTY CUBITS. OVER IT WERE FIVE MAIN BEAMS OF CEDAR. THE LOWEST PROJECTED A CUBIT ON EACH SIDE BEYOND THE DOORWAY. THE ONE ABOVE PROJECTED BEYOND THIS ONE A CUBIT ON EACH SIDE. THUS THE TOPMOST ONE WAS THIRTY CUBITS LONG. THERE WAS A LAYER OF STONES BETWEEN EACH ONE AND THE NEXT.

MISHNAH 8. THERE WERE CROSS BARS OF STONE[33] STRETCHING FROM THE WALL OF THE HEKAL TO THE WALL OF THE PORCH TO PREVENT IT FROM BULGING.[34] THERE WERE CHAINS OF GOLD FIXED IN THE ROOF BEAMS OF THE PORCH BY WHICH THE PRIESTLY NOVITIATES[35] USED TO ASCEND AND SEE THE CROWNS,[36] AS IT SAYS, AND THE CROWNS SHALL BE TO HELEM AND TO TOBIJAH AND TO JEDAIAH AND TO HEN THE SON OF ZEPHANIAH AS A MEMORIAL IN THE TEMPLE OF THE LORD.[37] A GOLDEN VINE STOOD AT THE DOOR OF THE HEKAL TRAINED ON POLES, AND ANYONE WHO OFFERED A LEAF OR A GRAPE OR A BUNCH USED TO BRING IT AND HANG IT THEREON. R. ELIEZER SON OF R. ZADOK SAID: ON ONE OCCASION THREE HUNDRED PRIESTS WERE COMMISSIONED [TO CLEAR IT].

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(1) For a description of the altar, cf. Zeb. 54a.

(2) At its base.

(3) Which was thus a kind of step one cubit high and one wide going right round the altar.

(4) The Mishnah here does not mention that from the surround the altar rose three cubits, as this is known from the statement of Scripture, and the height thereof shall be three cubits (Ex. XXVII, 1).

(5) They were also one cubit high, so that the whole height of the altar was ten cubits.

(6) Quite clear of the horns.

(7) I.e., one for the foundation and five for the surround.

(8) Lit., ‘when the children of the exile came up’.

(9) So the text. The proper reading, however, is ‘south’ as appears from Zeb. 61b.

(10) I.e., two sides of a square.

(11) I.e., the place of the altar fire.

(12) Ezek. XLIII, 16.

(13) Ezek. XLIII, 16.

(14) Maim. calculates that this ‘middle’ was 26 handbreadths from the ground.

(15) The blood of animals brought as sin-offerings and of birds brought as burnt.offerings was sprinkled above the line, of other sacrifices below the line.

(16) Lit. ‘consumed’.

(17) I.e., the south-east corner. So Maim. Asheri, however, explains that it ran only one cubit on the south and on the east side. The reason is given in Zeb. 53b.

(18) The blood of the offerings which was left after the sprinkling.

(19) A channel which flowed through the Azarah into the brook of Kidron.

(20) In order to lift it.

(21) Young priests detailed for the task.

(22) Into which the wine of the libations flowed.

(23) According to Suk. 49a, this was done only once in seventy years.

(24) Until they became unrecognisable, when they were taken out and burnt. Birds were killed at the altar, and therefore if a disqualification was subsequently found in the bodies they could not be taken away.

(25) Mentioned in Jer. VI, 1. It was not far from Jerusalem.

(26) With wooden spades.

(27) So that it was certain that no plough had touched them.

(28) Hoops fixed round the necks of the animals to keep them in place. V. Tamid IV, 1.

(29) V. Tam. III, 5, (Sonc. ed.) notes.
(30) V. Ex. XXX, 18.
(31) This is taken by Asheri to mean that there were four steps each half a cubit high and each a cubit broad, which with level pavement of three cubits would make seven cubits. Then came four more steps and a level of three cubits, making another seven cubits, and then four more steps and a level space of four cubits, making eight cubits. Thus altogether between the altar and the porch there were twelve steps and twenty-two cubits. It is not clear on this explanation why it should say, ‘a cubit, a cubit’ and not ‘two cubits’ or ‘four steps’. Maim. takes the whole statement to refer to the wall of the porch and to mean that after every two cubits there was a projection issuing from the wall. Certainly the word robed which Asheri takes to mean ‘level pavement is used for ‘projection’ in Tamid I, 1, but it is much more natural to take the passage here as referring to the steps. The reading is uncertain.
(32) R. Judah (according to Asheri) must suppose that one of the previous level spaces was only two cubits.
(33) Var. lec.: ‘cedar’.
(34) On account of its great height.
(35) Lit., ‘flowers of the Priesthood’. v. supra. I, 8.
(36) Which were placed as ornaments in the windows of the upper chambers of the Porch. According to Asheri, the young priests climbed up to see if they were in good order, not merely for pleasure, which was forbidden.
(37) Zech. VI, 14.

Mishna - Mas. Middoth Chapter 4

MISHNAH 1. THE DOORWAY OF THE HEKAL[1] WAS TWENTY CUBITS HIGH AND TEN BROAD.[2] IT HAD FOUR DOORS, TWO ON THE INNER SIDE,[3] AND TWO ON THE OUTER, AS IT SAYS, AND THE TEMPLE AND THE SANCTUARY HAD TWO DOORS.[4] THE OUTER ONES OPENED INTO THE INTERIOR OF THE DOORWAY SO AS TO COVER THE THICKNESS OF THE WALL, WHILE THE INNER ONES OPENED INTO THE TEMPLE SO AS TO COVER THE SPACE BEHIND THE DOORS,[5] BECAUSE THE WHOLE OF THE TEMPLE WAS OVERLAID WITH GOLD EXCEPT THE SPACE BEHIND THE DOORS. R. JUDAH SAYS: THE DOORS[6] WERE PLACED WITHIN THE DOORWAY,[7] AND THEY RESEMBLED FOLDING DOORS,[8] ONE HALF COVERING TWO CUBITS AND A HALF [OF THE WALL] AND THE OTHER HALF COVERING TWO CUBITS AND A HALF, LEAVING HALF A CUBIT AND A DOORPOST AT THE ONE END AND HALF A CUBIT AND A DOORPOST AT THE OTHER END, AS IT SAYS: AND THE DOORS HAD TWO LEAVES APIECE, TWO TURNING LEAVES, TWO LEAVES FOR THE ONE DOOR AND TWO LEAVES FOR THE OTHER.[9]

MISHNAH 2. THE GREAT GATE[10] HAD TWO WICKETS, ONE TO THE NORTH AND ONE TO THE SOUTH. BY THE ONE TO THE SOUTH NO MAN EVER WENT IN, AND CONCERNING THIS THE RULE WAS DISTINCTLY LAID DOWN BY THE MOUTH OF EZEKIEL, AS IT SAYS, AND THE LORD SAID UNTO ME: THIS GATE SHALL BE SHUT, IT SHALL NOT BE OPENED, NEITHER SHALL ANY MAN ENTER IN BY IT, FOR THE LORD GOD OF ISRAEL HATH ENTERED IN BY IT; THEREFORE IT SHALL BE SHUT.[11] HE [THE PRIEST] TOOK THE KEY AND OPENED THE [NORTHERN] WICKET AND WENT IN TO THE CELL,[12] AND FROM THE CELL HE WENT IN TO THE HEKAL. R. JUDAH SAYS: HE USED TO WALK ALONG IN THE THICKNESS OF THE WALL[13] UNTIL HE CAME TO THE SPACE BETWEEN THE TWO GATES.[14] HE USED TO OPEN THE OUTER DOORS FROM WITHIN AND THE INNER DOORS FROM WITHOUT.[15]

MISHNAH 3. THERE WERE THIRTY-EIGHT CELLS THERE,[16] FIFTEEN ON THE NORTH, FIFTEEN ON THE SOUTH, AND EIGHT ON THE WEST. ON THE NORTH AND ON THE SOUTH THERE WERE FIVE OVER FIVE AND FIVE AGAIN OVER THESE;[17] ON THE WEST THERE WERE THREE OVER THREE AND TWO OVER THESE. EACH HAD THREE OPENINGS,[18] ONE TO THE CELL ON THE RIGHT AND ONE TO THE CELL ON THE LEFT

AND ONE TO THE CELL ABOVE. IN THE [ONE AT THE] NORTHEASTERN CORNER THERE WERE FIVE OPENINGS, ONE TO THE CELL ON THE RIght,[19] ONE TO THE CELL ABOVE, ONE TO THE MESIBBAH,[20] ONE TO THE WICKET,[21] AND ONE TO THE HEKAL.[22]

MISHNAH 4. THE LOWEST STOREY CHAMBER WAS FIVE CUBITS WIDE WITH A CEILING OF SIX CUBITS;[23] THE MIDDLE STOREY CHAMBER WAS SIX CUBITS WIDE WITH A CEILING OF SEVEN; THE TOP STOREY CHAMBER WAS SEVEN CUBITS WIDE, AS IT SAYS, THE NETHERMOST STOREY OF THE SIDE-STRUCTURE WAS FIVE CUBITS BROAD, AND THE MIDDLE WAS SIX CUBITS BROAD, AND THE THIRD WAS SEVEN CUBITS BROAD.[24]

MISHNAH 5. A WINDING PASSAGE[25] WENT UP FROM THE NORTH-EAST CORNER TO THE NORTH-WEST CORNER BY WHICH THEY USED TO MOUNT TO THE ROOFS OF THE CELLS. ONE ASCENDED THE PASSAGE FACING THE WEST, AND TRAVERSED THE WHOLE OF THE NORTHERN SIDE TILL HE REACHED THE WEST. WHEN HE REACHED THE WEST HE TURNED TO FACE SOUTH. HE THEN TRAVERSED THE WEST SIDE[26] TILL HE REACHED THE SOUTH. WHEN HE REACHED THE SOUTH HE TURNED TO FACE EASTWARDS. HE THEN TRAVERSED THE SOUTH SIDE TILL HE REACHED THE DOOR OF THE UPPER CHAMBER,[27] SINCE THE DOOR OF THE UPPER CHAMBER OPENED TO THE SOUTH. IN THE DOORWAY OF THE UPPER CHAMBER WERE TWO COLUMNS OF CEDAR BY WHICH THEY USED TO CLIMB[28] UP TO THE ROOF OF THE UPPER CHAMBER, AND AT THE TOP OF THEM WAS A ROW OF STONES[29] SHOWING THE DIVISION IN THE UPPER CHAMBER BETWEEN THE HOLY PART AND THE HOLY OF HOLIES.[30] THERE WERE TRAP DOORS IN THE UPPER CHAMBER OPENING INTO THE HOLY OF HOLIES BY WHICH THE WORKMEN WERE LET DOWN IN BASKETS SO THAT THEY SHOULD NOT FEED THEIR GAZE ON THE HOLY OF HOLIES.[31]

MISHNAH 6. THE HEKAL[32] WAS A HUNDRED CUBITS BY A HUNDRED[33] WITH A HEIGHT OF A HUNDRED. THE SUBSTRUCTURE[34] WAS SIX CUBITS, THEN IT ROSE FORTY, THEN A CUBIT FOR THE ORNAMENTATION, TWO CUBITS FOR THE GUTTERING,[35] A CUBIT FOR THE ROOF AND A CUBIT FOR THE PLASTERING. THE HEIGHT OF THE UPPER CHAMBER WAS FORTY CUBITS, THERE WAS A CUBIT FOR ITS ORNAMENTATION,[36] TWO CUBITS FOR THE GUTTERING, A CUBIT FOR THE CEILING, A CUBIT FOR THE PLASTERING, THREE CUBITS FOR THE PARAPET AND A CUBIT FOR THE SPIKES.[37] R. JUDAH SAYS THE SPIKES WERE NOT INCLUDED IN THE MEASUREMENT, THE PARAPET BEING FOUR CUBITS.

MISHNAH 7. FROM EAST TO WEST WAS A HUNDRED CUBITS — THE WALL OF THE PORCH FIVE CUBITS, THE PORCH ITSELF ELEVEN, THE WALL OF THE HEKAL SIX CUBITS AND ITS INTERIOR FORTY, A CUBIT FOR THE PARTITION[38] AND TWENTY CUBITS FOR THE HOLY OF HOLIES, THE WALL OF THE HEKAL SIX CUBITS,[39] THE CELL[40] SIX CUBITS AND THE WALL OF THE CELL FIVE. FROM NORTH TO SOUTH WAS SEVENTY CUBITS — THE WALL OF THE MESIBBAH FIVE CUBITS, THE MESIBBAH ITSELF THREE, THE WALL OF THE CELL FIVE AND THE CELL ITSELF SIX, THE WALL OF THE HEKAL SIX CUBITS AND ITS INTERIOR TWENTY, THEN THE WALL OF THE HEKAL AGAIN SIX AND THE CELL SIX AND ITS WALL FIVE, THEN THE PLACE OF THE WATER DESCENT[41] THREE CUBITS AND ITS WALL FIVE CUBITS. THE PORCH EXTENDED BEYOND THIS FIFTEEN CUBITS ON THE NORTH AND FIFTEEN CUBITS ON THE SOUTH, AND THIS SPACE WAS CALLED THE KNIFE-HOUSE WHERE THEY USED TO STORE THE [SLAUGHTERERS'] KNIVES.[42] THUS THE HEKAL WAS NARROW BEHIND AND BROAD IN FRONT, RESEMBLING A LION, AS IT SAYS, AH, ARIEL, ARIEL, THE CITY WHERE DAVID ENCAMPED.[43] JUST AS A LION IS NARROW BEHIND AND

BROAD IN FRONT, SO THE HEKAL WAS NARROW BEHIND AND BROAD IN FRONT.

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(1) The Temple proper exclusive both of the Holy of Holies and the Porch.
(2) It was also six cubits thick.
(3) Towards the Hekal.
(4) Ezek. XLI, 23.
(5) Thus the outer doors were drawn back a right angle, the inner ones a full half circle.
(6) I.e., the outer doors.
(7) Drawn back a little from the edge of the wall.
(8) They consisted of two leaves joined by hinges. R. Judah does not differ from the First Tanna, but adds a new detail.
(9) Ibid. 24.
(10) So the doorway of the Hekal is now called.
(11) Ezek. XLIV, 2.
(12) Heb. ta, a small apartment let into the wall. V. infra, 3.
(13) Parallel to the direction of the wall, back towards the gateway.
(14) I.e., between the two ends of the great gateway.
(15) The terms ‘within’ and ‘without’ here are used relatively to the Hekal. According to R. Judah, the priest did not enter directly from the cell into the Hekal.
(16) Surrounding the Temple.
(17) I.e., three stories of five each.
(18) This was the general rule, but some must have had more and some less.
(19) Of one looking towards the Hekal.
(20) V. infra. 5.
(21) V. supra. 2.
(22) This follows the view of the First Tanna above in 1. According to R. Judah, one door opened not into the Hekal, but into the great gateway.
(23) When the wall of the Hekal rose as high as the top of the lowest storey chambers, it narrowed one cubit, and this space was used for extending the ceiling beams of the chamber.
(24) I Kings VI, 6.
(25) Lit., ‘circuit’, an ascent running from the foot of the chambers on the north-east to the roof and then the whole length of the north side to the roof of the north-west.
(26) On the roofs of the chambers.
(27) This must have been a chamber adjoining the Holy of Holies and part of it must have projected over the Holy of Holies.
(28) By rungs or by hooks.
(29) V. supra p. 3, n. 12.
(30) I.e., the stones were exactly over the dividing partition. cf. n. 5.
(31) V. Pes. 26a.
(32) Including the Porch and the Holy of Holies.
(33) In front; behind it was narrow, as is explained infra.
(34) The lower blocks or packed earth on which the weight of the whole rested.
(35) Affording protection against a leak in the upper roof (Maim.).
(36) A panel ornamented with carvings and figures.
(37) Lit., ‘consuming the raven’, the object of the spikes being to keep birds from settling on the roof.
(38) The two curtains with one cubit space between them dividing the Hekal and the Sanctuary. V. Yoma 51b.
(39) The western wall of the Hekal embracing also the Holy of Holies.
(40) V. supra Mish. 4.
(41) This was really a continuation of the mesibbah on the south side, and it was called thus because it contained a conduit leading water to the brazen sea.
(42) Maim.: which had become disqualified.
(43) Isa. XXIX, I. ‘Ariel’, the lion of God.

Mishna - Mas. Middoth Chapter 5

Mishna - Mas. Middoth Chapter 5

MISHNAH 1. THE WHOLE OF THE AZARAH[1] WAS A HUNDRED AND EIGHTY-SEVEN CUBITS LONG BY A HUNDRED AND THIRTY-FIVE BROAD. FROM EAST TO WEST IT WAS A HUNDRED AND EIGHTY-SEVEN. THE SPACE TO WHICH THE ISRAELITES[2] HAD ACCESS WAS ELEVEN CUBITS. THE SPACE TO WHICH THE PRIESTS HAD ACCESS WAS ELEVEN CUBITS. THE ALTAR TOOK UP THIRTY-TWO. BETWEEN THE PORCH AND THE ALTAR WAS TWENTY-TWO CUBITS. THE HEKAL TOOK UP A HUNDRED CUBITS, AND THERE WERE ELEVEN CUBITS BEHIND THE MERCY SEAT.[3]

MISHNAH 2. FROM NORTH TO SOUTH WAS A HUNDRED AND THIRTY-FIVE CUBITS. THE ASCENT AND THE ALTAR TOOK UP SIXTY-TWO;[4] FROM THE ALTAR TO THE RINGS WAS EIGHT CUBITS. THE RINGS TOOK UP TWENTY-FOUR CUBITS. FROM THE RINGS TO THE TABLES WAS FOUR CUBITS, FROM THE TABLES TO THE DWARF PILLARS FOUR, AND FROM THE DWARF PILLARS TO THE WALL OF THE AZARAH EIGHT CUBITS, AND THE REMAINDER[5] WAS BETWEEN THE ASCENT AND THE WALL[6] AND THE SPACE OCCUPIED BY THE PILLARS.[7]

MISHNAH 3. THERE WERE SIX CHAMBERS IN THE AZARAH, THREE ON THE NORTH AND THREE ON THE SOUTH. ON THE NORTH WERE THE SALT CHAMBER, THE PARWAH[8] CHAMBER AND THE WASHERS CHAMBER. IN THE SALT CHAMBER THEY USED TO KEEP THE SALT FOR THE OFFERINGS. IN THE PARWAH CHAMBER THEY USED TO SALT THE SKINS OF THE ANIMAL-OFFERINGS. ON ITS ROOF WAS THE BATH USED BY THE HIGH PRIEST ON THE DAY OF ATONEMENT.[9] IN THE WASHERS' CHAMBER THEY USED TO WASH THE ENTRAILS OF THE SACRIFICIAL ANIMALS, AND FROM IT A WINDING ASCENT WENT UP TO THE ROOF OF THE PARWAH CHAMBER.

MISHNAH 4. ON THE SOUTH WERE THE WOOD CHAMBER, THE CHAMBER OF THE CAPTIVITY AND THE CHAMBER OF HEWN STONES. WITH REGARD TO THE WOOD CHAMBER, R. ELIEZER B. JACOB SAYS: I FORGET WHAT IT WAS USED FOR. ABBA SAUL SAYS:[10] THE CHAMBER OF THE HIGH PRIEST[11] WAS BEHIND TWO OF THEM, AND ONE ROOF COVERED ALL THREE. IN THE CHAMBER OF THE CAPTIVITY THERE WAS A FIXED CISTERN[12] WITH A WHEEL OVER IT, AND FROM THERE WATER WAS PROVIDED FOR ALL THE AZARAH. IN THE CHAMBER OF HEWN STONE[13] THE GREAT SANHEDRIN OF ISRAEL USED TO SIT AND JUDGE [AMONG OTHER THINGS THE APPLICANTS, FOR PRIESTHOOD. A PRIEST IN WHOM WAS FOUND A DISQUALIFICATION[14] USED TO PUT ON BLACK UNDER GARMENTS AND WRAP HIMSELF IN BLACK AND CLEAR AWAY. ONE IN WHOM NO DISQUALIFICATION WAS FOUND USED TO PUT ON WHITE UNDER GARMENTS AND WRAP HIMSELF IN WHITE AND GO IN AND MINISTER ALONG WITH HIS BROTHER PRIESTS. THEY USED TO MAKE A FEAST BECAUSE NO BLEMISH HAD BEEN FOUND IN THE SEED OF AARON THE PRIEST, AND THEY USED TO SAY THUS: BLESSED IS THE OMNIPRESENT,[15] BLESSED IS HE, BECAUSE NO BLEMISH HAS BEEN FOUND IN THE SEED OF AARON. BLESSED IS HE WHO CHOSE AARON AND HIS SONS TO STAND TO MINISTER BEFORE THE LORD IN THE HOLY OF HOLIES.

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(1) The Temple Court. The space which was called 'the camp of the divine presence'.

(2) Lit. 'place of the treading of the feet of the Israelites'.

(3) More precisely behind the western wall of the Hekal. V. supra p. 1, n. 11.

(4) Cf. supra III, 3. Apparently the base of the ascent was thirty cubits.

(5) Of the hundred and thirty-five cubits.

(6) I.e., the southern wall.

(7) We must also suppose the space occupied by the tables to be included, although strangely enough this is not mentioned.
(8) Supposed to have been so called after a man named Parwah. V. Yoma, 35a. Or it may be connected with parim, bulls.
(9) V. Yoma 30a.
(10) Abba Saul's remark has nothing to do with R. Eliezer's.
(11) This apparently is the ‘Chamber of Parhedrin’ mentioned at the beginning of Tractate Yoma.
(12) Supposed to have been dug by the returned exiles.
(13) V. Tam. (Sonc. ed.) p. 14, n. 9.
(14) E.g., that his mother had been a divorced woman.
(15) Heb. Ha-makom, lit., ‘the Place’.

Mishna - Mas. Kinim Chapter 1

MISHNAH 1. THE [SPRINKLING OF THE BLOOD OF A] SIN-OFFERING OF THE BIRD[1] IS PERFORMED BELOW,[2] BUT THAT OF A BEAST, ABOVE.[3] THE BURNT-OFFERING OF THE BIRD IS PERFORMED ABOVE,[4] BUT THE BURNT-OFFERING OF A BEAST, BELOW.[5] SHOULD ONE VARY THIS PROCEDURE WITH EITHER, THEN THE OFFERING IS DISQUALIFIED.[6] THE PRESCRIBED RITUAL IN THE CASE OF KINNIM[7] WAS AS FOL LOWS: IN THE CASE OF OBLIGATORY OFFERINGS,[8] ONE [BIRD] IS A SIN-OFFERING[9] AND ONE A BURNT-OFFERING.[10] IN RESPECT OF VOWS AND FREEWILL OBLIGATIONS, HOWEVER, ALL ARE BURNT-OFFERINGS.[11] WHAT CONSTITUTES A VOW-OFFERING? WHEN ONE SAYS: ‘IT IS INCUMBENT UPON ME TO BRING A BURNT-OFFERING’.[12] AND WHAT CONSTITUTES A FREEWILL-OFFERING? WHEN ONE SAYS: BEHOLD, THIS SHALL SERVE AS A BURNT-OFFERING’.[13] WHAT IS THE [PRACTICAL] DIFFERENCE BETWEEN VOWED AND FREEWILL OBLIGATIONS? IN THE CASE OF VOWS, ONE IS RESPONSIBLE FOR THEIR REPLACEMENT IN THE EVENT OF THEIR DEATH, OR THEIR HAVING BEEN STOLEN; BUT IN THE CASE OF FREEWILL OBLIGATIONS, ONE IS NOT HELD RESPONSIBLE FOR THEIR REPLACEMENT.

MISHNAH 2.IF A SIN-OFFERING BECOMES MIXED UP WITH BURNT-OFFERINGS,[14] OR BURNT-OFFERINGS WITH SIN-OFFERINGS, WERE IT EVEN ONE IN TEN THOUSAND, ALL MUST BE LEFT TO DIE.[15] IF [BIRDS ASSIGNED AS] SIN-OFFERINGS[16] BECOME MIXED UP WITH [UNASSIGNED] OBLIGATORY OFFERINGS,[17] THEN THOSE VALID CORRESPOND TO THE NUMBER OF SIN-OFFERINGS AMONG THE OBLIGATORY OFFERINGS;[18] SIMILARLY, IF [BIRDS ASSIGNED AS] BURNT-OFFERINGS BECOME MIXED UP WITH [UNASSIGNED] OBLIGATORY OFFERINGS,[19] THE NUMBER VALID IS IN PROPORTION TO THE NUMBER OF BURNT-OFFERINGS AMONG OBLIGATORY OFFERINGS.[20] [THIS RULE HOLDS GOOD] WHETHER THE [UNASSIGNED] OBLIGATORY OFFERINGS ARE IN THE MAJORITY AND THE FREEWILL-OFFERINGS IN THE MINORITY, OR THE FREEWILL-OFFERINGS ARE IN THE MAJORITY AND AND THOSE THAT ARE OBLIGATORY IN THE MINORITY,[21] OR WHETHER THEY ARE BOTH EQUAL IN NUMBER.[22]

MISHNAH 3. WHEN IS THIS SO?[23] WHEN OBLIGATORY OFFERINGS [GET MIXED UP] WITH VOLUNTARY OFFERINGS.[24] WHEN, HOWEVER, OBLIGATORY OFFERINGS GET MIXED UP ONE WITH ANOTHER,[25] WITH ONE [PAIR] BELONGING TO ONE [WOMAN] AND THE OTHER PAIR TO ANOTHER [WOMAN],[26] OR TWO [PAIRS] BELONGING TO ONE AND TWO [PAIRS] TO ANOTHER, OR THREE [PAIRS] TO ONE AND THREE [PAIRS] TO ANOTHER,[27] THEN HALF OF THESE ARE VALID AND THE OTHER HALF DISQUALIFIED.[28] IF, HOWEVER, ONE [PAIR] BELONGS TO ONE [WOMAN] AND TWO PAIRS TO ANOTHER, OR THREE PAIRS TO ANOTHER, OR TEN PAIRS TO ANOTHER OR A HUNDRED TO ANOTHER, ONLY THE LESSER NUMBER REMAINS VALID.[29] [THIS IS IRRESPECTIVE OF] WHETHER [THE PAIRS] ARE OF THE SAME DENOMINATION[30] OR OF TWO DENOMINATIONS,[31] OR WHETHER THEY BELONG TO ONE WOMAN OR TO TWO.

MISHNAH 4. WHAT IS MEANT BY ONE ‘DENOMINATION’?[32] [WHEN BOTH PAIRS ARE] FOR TWO BIRTHS,[33] OR FOR TWO ISSUES;[34] [SUCH A CASE] CONSTITUTES ONE DENOMINATION.[35] AND ‘TWO DENOMINATIONS’? [WHEN ONE PAIR IS BROUGHT] FOR A BIRTH, [AND THE OTHER] FOR AN ISSUE. WHAT IS MEANT BY ‘TWO WOMEN’? [WHEN] ONE [WOMAN] BRINGS [HER OFFERING] FOR A BIRTH AND THE OTHER FOR A BIRTH, OR [WHEN ONE BRINGS] AFTER AN ISSUE AND THE OTHER AFTER AN ISSUE, THIS ALSO CONSTITUTES ‘OF ONE DENOMINATION’. AND A CASE ‘OF TWO

DENOMINATIONS'? WHEN ONE BRINGS HER PAIR AS A RESULT OF A BIRTH AND THE OTHER AS A RESULT OF AN ISSUE. R. JOSE SAYS: WHEN TWO WOMEN PURCHASE THEIR KINNIM IN PARTNERSHIP,[36] OR GIVE THE PRICE OF THEIR KINNIM TO THE PRIEST [FOR HIM TO PURCHASE THEM], THEN THE PRIEST CAN OFFER WHICH ONE HE PLEASES AS A SIN-OFFERING OR AS A BURNT-OFFERING, IRRESPECTIVE OF THE FACT WHETHER THEY BELONG TO ONE DENOMINATION OR TO TWO.[37]

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(1) All the instances for which the Bible prescribes the offering of a couple of birds are cited in the Introduction heading this Tractate. One of these birds was regarded as a sin-offering (חטאת) and the other as a burnt-offering (עולה). V. Lev. V, 9-10. The Mishnah (Zeb. 53a) records that the חטאת was eaten by the males of the priesthood within the hangings of the Court on the same day and evening until midnight; whereas the עולה , which belongs to the holiest class of sacrifices (קדשי קדשים) has to be flayed, dismembered and totally consumed by fire.

(2) V. Mid. III, 1 for a graphic description of the altar. A red line, right across the centre of the altar, served to distinguish its upper part from the lower part thereof, a distinction necessary for the proper fulfilment of the blood-sprinkling attached to the various sacrifices. Our Mishnah refers to Lev. V, 9: 'And he shall sprinkle the blood of the sin-offering upon the side of the altar; and the rest of the blood shall be drained at the base of the altar: it is a sin-offering'. In the case of the חטאת 'the side of the altar' was that part below the red line, v. Zeb. 64b.

(3) V. Lev. IV, 30.

(4) Lev. I, 15: 'And the priest shall bring it upon the altar and pinch off its head and make it smoke on the altar, the blood thereof shall be drained on the side of the altar'. Since the draining (ונמצה) occurs side by side with the smoke of the sacrifices (והקטיר), which must refer to the top of the altar, the deducted inference is that the sprinkling of the עולה is also performed above.

(5) In the case of all burnt-offerings of beasts the sprinkling is done below the line, the Bible always using the words 'at the base of the altar', v. Zeb. 57a.

(6) I.e., in the sprinkling, or in the case of the 'burnt-offering of a bird' which had no sprinkling, in the draining of the blood.

(7) The Mishnah proper begins here, hitherto being merely introductory of the cases of confusion dealt with in this Tractate. The חטאת is mentioned first here, according to the order found in the Bible. קנים is pl. of קן (cf. Deut. XXII, 6; XXXII, 11), and always refers to the pair of sacrificial birds, whereas פרידה is used of a single bird (v. infra III, 6).

(8) V. Introduction. Though 'Kinnim' was the poor man's offering, yet in the case of a man or woman suffering a flux (זב וזבה), it sufficed even for the opulent.

(9) The blood-sprinkling taking place below the red line. In the case of the 'Kinnim' brought by the proselyte, both birds were regarded as burnt-offerings; not being so common an instance, the Mishnah does not deal with it. In Temple times, the new proselyte had to bring the silver equivalent of the 'Kinnim' (Tosef. Shek. IV, 22 and Baraitha R.H. 31b).

(10) With the blood-sprinkling above.

(11) Freewill-offerings consisted only of burnt- or peace-offerings; but as birds were ruled out from being offered as peace-offerings, they could, therefore, only serve as burnt-offerings. Peace-offerings could only be brought from the herd and from sheep and goats.

(12) Since he pledged himself the vow is not fulfilled until the replacement of the sacrifice (cf. R.H. 6a, Meg. 8a, Hul. 139a).

(13) No replacement is required, since he pledged the animal and that animal is now non-existent; cf. 'Arak. 20b.

(14) All the nouns in this Mishnah, though in the singular, are used in a collective sense.

(15) Since we have already been told in the preceding Mishnah that the slightest variation in the blood-sprinkling disqualifies the offering, what greater variations can there be than in the confusion here instanced? In the case of living creatures, the rule of 'majority' does not apply, on the ground that anything of outstanding importance cannot be declared 'non est'. To avoid the risk of their being unwittingly offered up by another, they had to be secluded in a special place, where they would ultimately perish.

(16) I.e., doves or pigeons already designated for this purpose (מפורשות).

(17) Not yet defined as to which should be a חטאת and which an עולה .

(18) An example will make this clearer. If one bird, specified as a sin-offering, gets confused with two pairs of birds brought as obligatory offerings but not yet specified (סתומות), then none of the five birds can be offered as a burnt-offering, since one is definitely a חטאת . To offer up three as sin-offerings is also not permissible, lest all the three may belong to the two ‘kinnim’ brought as obligatory offerings, of which not more than two are sin-offerings. Only two out of the five can be offered as sin-offerings, corresponding to the number of sin-offerings in the obligatory offerings. This only holds good if the two unspecified ‘kinnim’ belong to the same woman and were brought for similar causes, as for a past and present confinement, in which case they consist of two burnt-offerings and two sin-offerings.

(19) As above, a bird specified as a burnt-offering gets confused with two ‘kinnim’ still unspecified.

(20) V. supra n. 2; the example there given applies equally to this case. He cannot offer even one bird as a sin-offering, but only two as burnt-offerings.

(21) Freewill-offerings could only consist of burnt-offerings, whereas obligatory offerings consisted of an עולה and a חטאת . The Mishnah refers to obligatory offerings that have not been specified; in all these instances, the rule is that only that number is valid which corresponds to the number of burnt-offerings among the obligatory offerings.

(22) If two burnt-offerings or two specified sin-offerings get mixed up with an unassigned pair of birds, the rule applied is always the same.

(23) Lit., ‘when are these words said?’ Namely, that those valid correspond to the number of sin-offerings or burnt-offerings among the obligatory offerings. This Mishnah explains the preceding.

(24) That is when offerings comprising both burnt- and sin-offerings get mixed up with burnt-offerings.

(25) If unassigned kinnim brought by a woman after child-birth or a flux get confused with the kinnim of another brought for a similar cause.

(26) The word לזו is in the fem., as all the instances in this treatise refer to women, who brought these offerings more often (child-birth being only applicable to them and also because they have the flux more often).

(27) Each bringing an equal number, without yet specifying what offering each bird should be.

(28) Ct. III, 2 infra. Of the two kinnim that got confused, only one bird can be offered as a חטאת and the other as an עולה ; more than this number cannot be offered as either offering, lest the two birds offered, for instance, as burnt-offerings belong to the pair of one woman, of which only one is an עולה . This ruling equally applies to any number of kinnim that get confused. When the priest sacrifices the half that are valid, he must stipulate that they are on behalf of the woman who has specified them for this purpose. In addition, the two women must bring another offering in partnership and state that each allows the other to offer up the part belonging to herself. This was done in order to make the offering perfectly valid.

(29) Hitherto the examples quoted were of the women each with an equal number of kinnim. The Mishnah now discusses the case when one woman only brings one pair and the other two, three, ten or a hundred pairs. In this case, only two birds can be sacrificed, one as a חטאת and the other as an עולה . Similarly, if ten kinnim get confused with a hundred belonging to another woman, only ten kinnim can be sacrificed, half of them as burnt-offerings and half as sin-offerings. Maim. in his Pesule ha-Mukdashim VIII, 6 gives a somewhat different interpretation; v. the Kesef Mishneh a.l.

(30) Each woman being after child-birth or after having seen a flux; v. infra I, 4.

(31) That is, either when each woman brings two kinnim, each for a different cause, or when one brings her sacrificial pair after child-birth and the other after suffering a flux. The same rule applies — only the lesser number brought by one woman is valid. In the case, however, of one woman bringing two different kinnim for the same cause, say for a present child-birth and for one gone by, for which no offering had yet been brought, then all the birds are valid, provided that they were unspecified. Two birds are offered as sin-offerings and two as burnt-offerings.

(32) This Mishnah explains the one above.

(33) Lit., ‘for a birth and a birth’. Lev. XII, 8.

(34) Lev. XV. 29.

(35) And the law stated in the preceding Mishnah applies (המועט כשר).

(36) Without specifying which pair belonged to one, or which to another.

(37) Because the actual specification of the birds can take place either at the time of purchase or at the time of their offering by the priest, any intervening specification being of no effect (Yoma 41a). R. Jose's statement gave rise to much Talmudic discussion: v. ‘Er. 37a and especially Rashi's commentary a.l. The question arose: If the women had specified the nature of their offerings at the time of purchase or when they gave the money to the priest, but forgot them later, or had not specified at all — then how could the latter perform the sacrifice? Might he not offer up a burnt-offering for Rachel when she intended it for a sin-offering, since it is an established principle that ‘the Torah considers not of legal effect a retrospective assignment of things previously undefined as to their purpose’? (Cf. Bz. 38a; Hul. 14b). To solve these difficulties, the explanation arrived at by Rashi is as follows: When the women bought the birds or gave the purchase money to the priest, they left to the priest the option to offer them up as he thought fit, thus removing the difficulty of retrospective selection (ברירה). V. Tosaf. ibid. s.v. כשהתנו .

Mishna - Mas. Kinim Chapter 2

MISHNAH 1. IF A SINGLE PIGEON FROM AN UNASSIGNED PAIR OF BIRDS[1] ESCAPED INTO THE OPEN AIR, OR FLEW AMONG BIRDS THAT HAD BEEN LEFT TO DIE,[2] OR IF IT ITSELF DIED, THEN MUST A MATE BE SUPPLIED FOR THE SECOND ONE.[3] IF IT FLEW AMONG BIRDS THAT ARE TO BE OFFERED UP,[4] IT BECOMES INVALID[5] AND INVALIDATES ALSO ANOTHER BIRD AS ITS COUNTERPART [IN THE PAIR];[6] FOR THE PIGEON THAT FLEW AWAY BECOMES INVALID AND INVALIDATES ANOTHER BIRD AS ITS COUNTERPART [IN THE PAIR].[7]

MISHNAH 2. FOR EXAMPLE?[8] TWO WOMEN[9] — EACH WITH HER TWO PAIRS,[10] AND ONE BIRD FLIES FROM THE [PAIR OF] ONE TO ANOTHER [WOMAN'S PAIR]. THEN IT DISQUALIFIES BY ITS ESCAPE ONE [OF THE BIRDS FROM WHICH IT FLEW].[11] IF IT RETURNED, IT DISQUALIFIES YET ANOTHER[12] BY ITS RETURN.[13] IF IT FLEW AWAY AGAIN AND THEN RETURNED, AND YET AGAIN FLEW AWAY AND RETURNED, NO FURTHER LOSS IS INCURRED,[14] SINCE EVEN IF THEY HAD ALL BECOME MIXED TOGETHER, NOT LESS THAN TWO [PAIRS WOULD STILL BE VALID].[15]

MISHNAH 3. IF ONE [WOMAN] HAD ONE PAIR, ANOTHER TWO, ANOTHER THREE, ANOTHER FOUR, ANOTHER FIVE, ANOTHER SIX AND ANOTHER SEVEN PAIRS,[16] AND ONE BIRD FLEW FROM THE FIRST TO THE SECOND PAIR,[17] [AND THEN A BIRD FLEW FROM THERE] TO THE THIRD, [AND THEN A BIRD FLEW FROM THERE] TO THE FOURTH, [AND FROM THERE A BIRD FLEW] TO THE FIFTH. [AND FROM THERE FLEW ONE] TO THE SIXTH, [AND ONE FROM THERE FLEW] TO THE SEVENTH, AND THEN A BIRD RETURNS [IN THE SAME ORDER].[18] IT DISQUALIFIES A BIRD AT EACH FLIGHT AND RETURN.[19] UNTO THE FIRST AND SECOND [WOMEN] THERE ARE NONE LEFT,[20] UNTO THE THIRD THERE IS ONE PAIR,[21] UNTO THE FOURTH TWO, UNTO THE FIFTH THREE, UNTO THE SIXTH FOUR, AND UNTO THE SEVENTH SIX PAIRS.[22] IF AGAIN [ONE FROM EACH GROUP] FLEW AWAY AND RETURNED [IN LIKE ORDER].[23] IT DISQUALIFIES A BIRD BY ITS FLIGHT AND RETURN; [IN WHICH CASE] THE THIRD AND FOURTH WOMAN WILL HAVE NONE LEFT,[24] THE FIFTH WILL HAVE ONE PAIR,[25] THE SIXTH TWO PAIRS,[26] AND THE SEVENTH WOMAN FIVE PAIRS.[27] IF AGAIN ONE [FROM EACH GROUP] FLEW AWAY AND RETURNED,[28] IT DISQUALIFIES A BIRD BY ITS FLIGHT AND RETURN; IN WHICH CASE, THE FIFTH AND SIXTH WOMEN HAVE NONE LEFT,[29] AND THE SEVENTH HAS FOUR PAIRS.[30] BUT SOME SAY THAT THE SEVENTH WOMAN HAS THEREBY LOST NOTHING.[31] IF [A BIRD] FROM THOSE THAT ARE LEFT TO DIE[32] ESCAPED TO ANY OF ALL THE GROUPS, THEN ALL MUST BE LEFT TO DIE.[33]

MISHNAH 4. IF [THERE ARE TWO PAIRS], ONE UNASSIGNED[34] AND THE OTHER ASSIGNED,[35] AND ONE BIRD FROM THE UNASSIGNED [PAIR] FLEW OVER TO THE ASSIGNED [PAIR], THEN A MATE MUST BE TAKEN FOR THE SECOND [BIRD].[36] IF ONE BIRD FLEW BACK,[37] OR IF, IN THE FIRST PLACE, A BIRD FROM THE ASSIGNED PAIR FLEW [AMONG THE OTHER PAIR].[38] THEN ALL MUST BE LEFT TO DIE.[39]

MISHNAH 5. IF THERE ARE SIN-OFFERING[40] ON ONE SIDE, BURNT-OFFERING ON THE OTHER AND UNASSIGNED [PAIR] IN THE CENTRE, AND FROM THE CENTRE THERE FLEW A BIRD TO EACH SIDE, ONE HERE AND THE OTHER THERE, THEN NO LOSS ACCRUES, BUT HE [THE PRIEST] SAYS THAT THE BIRD THAT FLEW [FROM THE

CENTRE] TOWARDS THE SIN-OFFERING IS A SIN-OFFERING AND THE BIRD THAT FLEW TOWARDS THE BURNT-OFFERING IS A BURNT-OFFERING.[41] IF ONE [FROM EACH SIDE] RETURNS TO THE CENTRE, THEN [ALL] THOSE IN THE CENTRE MUST BE LEFT TO DIE, BUT THOSE [LEFT ON EITHER SIDE] CAN BE OFFERED UP AS SIN-OFFERINGS OR AS BURNT-OFFERINGS RESPECTIVELY.[42] IF AGAIN A BIRD [FROM THE CENTRE] RETURNED OR FLEW AWAY TO THE SIDES,[43] THEN ALL MUST BE LEFT TO DIE.[44]

ONE CANNOT PAIR TURTLE-DOVES WITH PIGEONS OR PIGEONS WITH TURTLE-DOVES.[45] FOR EXAMPLE? IF A WOMAN HAS BROUGHT A TURTLE-DOVE AS HER SIN-OFFERING AND A PIGEON AS HER BURNT-OFFERING, SHE MUST THEN BRING ANOTHER TURTLE-DOVE AS HER BURNT-OFFERING; IF HER BURNT-OFFERING HAD BEEN A TURTLE-DOVE AND HER SIN-OFFERING A PIGEON, THEN SHE MUST BRING ANOTHER PIGEON AS HER BURNT-OFFERING.[46] BEN ‘AZZAI SAYS: ONE IS GUIDED BY WHAT WAS THE FIRST [OFFERING].[47] IF A WOMAN BROUGHT HER SIN-OFFERING AND THEN DIED, HER HEIRS MUST BRING HER BURNT-OFFERING;[48] [BUT IF SHE FIRST BROUGHT] HER BURNT-OFFERING AND THEN DIED, HER HEIRS NEED NOT BRING HER SIN-OFFERING.[49]

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(1) The word סתומה points to the undesignated state of each bird; its opposite (מפורשת) is used of a pair of birds that have been specified as to which was to be offered as a sin-offering and which as a burnt-offering (B.B. 71a; Nazir 12a).

(2) Supra I, 2. Should this unassigned pair get confused with birds specified as sin-offerings, all may then be offered as sin-offerings and the bird still remaining of the unassigned pair is brought as a burnt-offering. (V. Rashi on Nazir 12a).

(3) We do not condemn it to exposure to die, but it is still fit to be offered up either as a חטאת or an עולה , once it has been supplied with a partner. If the bird escapes from a specified pair, this rule all the more applies.

(4) That have also not yet been specified. Our Mishnah speaks of סתומה ; for if a bird from a קן מפורשת gets confused with unassigned birds, the law is that of I, 2 supra. Moreover, if the nature of the escaped bird from the specified pair be unknown, then it would disqualify not only itself and one of the birds of the group into which it had flown, but also the bird remaining of the specified pair; v. infra II, 3.

(5) I.e., of the confused birds one remains invalid and not fit to be offered as representing the bird that had flown into them.

(6) Being unassigned, it can only disqualify its counterpart in the pair from which it flew (infra II, 4). The other birds can be offered up according to the number of sin- and burnt-offerings that were there before the confusion occurred.

(7) We expected a reason and get instead a repetition of the statement. Besides, these words refer only to the last case but not to the first instances quoted in the Mishnah. The stress, however, here is that the escaped bird can only disqualify both the one left behind and one of those into whose midst it flies. We do not apply here the principle of כל דפריש מרובא פריש , ‘that whatever proceeds from a mixed multitude has the legal status of the majority’. since it may easily be that the bird offered up is the one that remained stationary (kabua), and the principle is that the majority rule is not applicable. (For a discussion v. Zeb. 73b.)

(8) A fuller illustration of the principle clearly stated in the preceding Mishnah.

(9) Again women, for it is they who have more frequent occasion to bring bird-offerings.

(10) Still unassigned. Two pairs are cited, for if each had brought only one pair, the bird remaining would have become invalid even prior to the return of its escaped companion. In the case of one bringing one pair and the other woman several, the rule of ‘only the lesser number remains valid’ (supra I, 3) would apply here too.

(11) When a bird escapes from the four birds of one to the four of another, then three are left in one group and five in the other. Of the three one can be offered as a חטאת and the other as an עולה for were he to offer up two as burnt-offerings, both the third bird and the one that escaped would thereby be classed as sin-offerings. The result would then be that of the five birds he would be able to offer only two sin-offerings in accordance with the principle of supra I, 2. After having sacrificed two of the three birds, the third must be left to die; for were it brought as a sin-offering, the fear is lest its mate that swelled the other group to five also be offered as a חטאת . The result would then be that one pair would yield two sin-offerings. ‘quod impossible est’. Similarly, not more than four of the five birds are valid, two as sin-offerings and two as burnt-offerings. For were three birds offered as either kind of sacrifice, it is possible that they were of the two pairs brought by the same woman, of which only two are sin-offerings and only two are burnt-offerings. It thus stands to reason that the bird that escapes disqualifies itself and a bird from each of the groups from which it has flown and to which it escapes. (As in all other cases, the women, in order to fulfil their obligation meticulously. had to subscribe jointly for another pair and give each other full rights in the pair brought.)

(12) Of the birds from which it now flew.

(13) If one of the five birds flew towards the three. Once again there are two equal groups of four birds each, but of each group only one can be offered as a חטאת and one as an עולה since it might easily be that the bird that now escapes towards the three is not the bird that originally belonged to that group, so that we would now have three birds belonging to one woman and one to another, and as explained in n. 4 supra, only two birds of each group can be offered as a חטאת and an עולה respectively.

(14) Even with endless flying and returning at least two pairs remain valid.

(15) Of these two pairs only two can be offered as sin-offerings and two as burnt-offerings. The sole fear stressed in this Mishnah is lest if three be offered as either sacrifice, the three birds may belong to the two pairs of one woman.

(16) The pairs being yet unassigned.

(17) The bird left to her, who only brought one pair, becomes disqualified; v. supra land II n. 4.

(18) A bird from the seven kinnim flies towards the six kinnim, and from there another bird flies towards the five kinnim, and so on in reverse order. The result of this backward flight is that the women finish up each with the number with which they at first began.

(19) On account of the uncertainty of identity. V. Bertinoro s.v.

(20) The pair of the first is invalid, for one bird is disqualified at the first flight and the other remaining bird by the return of another bird. Similarly, of the four birds belonging to the second woman, two get disqualified by the first flight and two by the return flight.

(21) More she cannot offer, for four have become disqualified by the flight and return. Hence, the fourth, fifth and sixth women can offer their kinnim minus four as these may be of those belonging to the first and second, whose offerings are now invalid.

(22) Since only one bird escaped from her group when the birds began to fly back in reverse order; for at the first flight, her birds were not affected at all. In all cases the fear is lest more sin-offer ings and burnt-offerings than originally existed in each of the groups be sacrificed.

(23) This return can only refer to the groups commencing with the third woman onwards; for should a bird escape from the kinnim of the first two women that have been invalidated, and, therefore, condemned to die, then the concluding rule of our Mishnah IF A (BIRD) FLEW FROM THOSE THAT ARE LEFT TO DIE would be applicable. Some commentators (notably Asheri) do not agree that the disqualified kinnim of the first two women are to be left to die, and aver that if these disqualified birds again get mixed up with those about to be sacrificed, they would be rendered valid on the principle of (ספק ספיקא) double doubt. The return of the bird must be understood as taking place in the same order as the flight. Only reversed; e.g., from the seventh to the sixth, from the sixth to the fifth, and so on.

(24) Three comings and goings have now taken place from each group, and of the six birds belonging to the third woman, three have gone. The fear is lest these three departed birds be offered up either as sin-offerings or as עולות , and if in addition, we allow her to offer up even one pair, we would find four sacrifices of each kind offered from a possible three. A similar reasoning is applicable to the fourth woman of whose eight birds six have become invalid by the three movements from and into the kinnim (v. Tif. Israel).

(25) Of her original ten birds, four are deemed to have escaped. These might be offered up later as four sin-offerings or as four burnt-offerings; so by allowing the fifth woman more than one valid pair, the same situation as the one described above would arise-more sacrifices would be brought from her kinnim than possibly existed when she first brought them. Some commentators (Tif. Israel) question this ruling: since the third and fourth cannot offer up their kinnim at all, and since they are set aside, then why should not the fifth be allowed to offer up three pairs? But the fear is lest the fourth woman, whose remaining two birds have been disqualified on account of a preventive measure, might offer up those birds again after they had become mixed up with the others, in which case they would be rendered valid, as aforementioned, on account of ספק ספיקא (a double doubt).

(26) For the reasons above given; four birds have escaped and more than two pairs would increase the possible number of her offering.

(27) Hers is the least loss, since her kinnim have been affected Only at each return and not, as in the other cases, at each flight also. Were she allowed more than five pairs, the same impossible situation referred to in the above notes would arise.

(28) Since the kinnim of the first four women have become invalid, we must interpret this flight to be from the kinnim of the fifth downwards and the return, in reverse order, from the seventh to the sixth, and the sixth to the fifth.

(29) For the same reason as that given in the case of the third and fourth woman in p. 10, n. 2 supra.

(30) Since only three birds have been affected, she loses only three pairs, each fleeing and returning bird disqualifying a corresponding bird. To the question, why she be not allowed to offer more, since the kinnim of all the others have been disqualified, the same answer as that given in p. 10, n. 3 supra can be cited.

(31) This does not mean that she can offer up all her seven pairs, but simply that the third flight does not affect her and she may still offer up five pairs, as after the second flight. Wilna Gaon contends that HAS THEREBY LOST NOTHING means that all the seven pairs can be offered up since there is no fear of more than the possible sin- and burnt-offerings being brought, as all the other kinnim have been declared invalid. The Bertinoro disagrees on the contention that the third flight would thus qualify even those birds that had become invalid after the second flight, when the seventh was allowed to bring only five pairs.

(32) These may either be those birds our Mishnah disqualifies, or birds of owners who had died or had been forgiven before the sacrifice could take place.

(33) On the ground that living things are too important for the majority rule to be applied to them. Neither can the principle of נכבשנהו דניידי ‘let us force them to scatter’ (v. Zeb. 73b) or of כל דפריש מרובא פריש ‘whatever comes out of a mixed multitude presumably comes from the majority’ be applied, since the birds to be offered up may quite easily be of those that remained stationary, and the principle is that ‘if there be anything stationary the whole is treated as equally divided’. Cf. supra II, 1 (n. 7).

(34) The owners or the priest had not yet specified the kind of offering each bird should be.

(35) The owners at the time of purchase designated each bird, but can no longer identify which is for the sin-offering and which for the burnt-offering.

(36) This cannot be taken from the three birds now all mixed up with the assigned pair, since none of these can now be offered up. V. supra II. 1.

(37) From the three, back to the bird that had been left alone.

(38) Without knowing whether it was a חטאת or an עולה .

(39) Since the specific nature of each had been fixed, the present uncertainty disqualifies them from the altar.

(40) The sing. is used in a collective sense. The offerings in the two sides have already been specified.

(41) I.e., the priest, at the time of the sacrifice, declares the kind of offering the unassigned bird should be.

(42) Those in the centre are invalid, because they have become confused with the assigned offerings from each side, whereas those on either side are still valid, since we know the nature of the offerings.

(43) If birds from an assigned pair in the centre flew, a bird to each side, without knowing precisely which.

(44) On account of the confusion of sacrifices not only in the centre but also at the sides. Asheri reads חזר ופרח for או שפרח . Maim. translates this statement of חזר או שפרח thus: ‘a bird flies from the centre to one of the sides, and from that side the same, or another bird, flies to the other side’. The translation in our Mishnah is that given by R. Zerahia ha-Levy; Bertinoro simplifies the text by omitting OR FLEW AWAY.

(45) An introduction to the next chapter which deals with this subject.

(46) The sin-offering is mentioned first, on account of its pre-eminence in the Bible; cf. Lev. V, 8. The point stressed is that the pair of birds she brings must both be the same, either two pigeons or two turtle-doves, and when she brings one of each kind, she must bring another bird of the kind she had designated as a sin-offering, since that is the most important.

(47) Regardless whether this be a sin-offering or a burnt-offering.

(48) For the Temple authorities could claim from the heirs promises unredeemed by the death of the owner; v. Kid. 13b, Zeb. 5a and Men. 4b.

(49) Though as stated in n. 2 supra, the חטאת had to precede the עולה yet a reversal of this order by no means invalidated the offering. The point here stressed is that whereas a burnt-offering had to be brought by the heirs, a sin-offering had not to be brought, since death atones for any sin; cf. Ter. IV, 1.

Mishna - Mas. Kinim Chapter 3

MISHNAH 1. WHEN ARE THESE WORDS SAID?[1] WHEN THE PRIEST ASKS ADVICE;[2] BUT IN THE CASE OF A PRIEST WHO DOES NOT SEEK ADVICE, AND ONE [PAIR] BELONGS TO ONE [WOMAN] AND ONE TO ANOTHER, OR TWO [PAIRS] TO ONE AND TWO TO ANOTHER, OR THREE [PAIRS] TO ONE AND THREE TO ANOTHER,[3] AND HE OFFERED[4] ALL OF THEM ABOVE [THE RED LINE]. THEN HALF ARE VALID AND HALF INVALID.[5] [SIMILARLY], IF [HE OFFERED] ALL OF THEM BELOW, HALF ARE VALID AND HALF ARE INVALID. IF [HE OFFERED] HALF OF THEM ABOVE AND HALF OF THEM BELOW,[6] THEN OF THOSE [OFFERED] ABOVE, HALF ARE VALID AND HALF ARE INVALID, AND ALSO OF THOSE [OFFERED] BELOW, HALF ARE VALID AND HALF ARE INVALID.[7]

MISHNAH 2. IF ONE [PAIR] BELONGED TO ONE WOMAN AND TWO [PAIRS] TO ANOTHER, OR [EVEN] THREE [PAIRS] TO ANOTHER, OR [TEN] PAIRS TO ANOTHER OR A HUNDRED TO ANOTHER,[8] AND HE OFFERED ALL OF THEM ABOVE, THEN HALF ARE VALID AND HALF ARE INVALID. [SIMILARLY], IF HE OFFERED ALL OF THEM BELOW, HALF ARE VALID AND HALF ARE INVALID.[9] [IF HE OFFERED] HALF OF THEM ABOVE AND HALF BELOW, THEN THE [NUMBER OF BIRDS AS THERE IS IN THE] LARGER PART ARE VALID.[10] THIS IS THE GENERAL PRINCIPLE: WHENEVER YOU CAN SO DIVIDE THE PAIRS [OF THE BIRDS] SO THAT THOSE BELONGING TO ONE WOMAN NEED NOT HAVE PART OF THEM [OFFERED] ABOVE AND PART [OFFERED] BELOW,[11] THEN HALF OF THEM ARE VALID AND HALF ARE INVALID;[12] BUT WHENEVER YOU CANNOT SO DIVIDE THE PAIRS [OF BIRDS] WITHOUT SOME OF THOSE BELONGING TO ONE WOMAN BEING [OFFERED] ABOVE AND SOME BELOW,[13] THEN [THE NUMBER AS THERE IS IN] THE LARGER PART ARE VALID.[14]

MISHNAH 3. IF THE SIN-OFFERINGS BELONGED TO ONE AND THE BURNT-OFFERINGS TO ANOTHER,[15] AND THE PRIEST OFFERED THEM ALL ABOVE, THEN HALF ARE VALID AND HALF DISQUALIFIED.[16] IF HE OFFERED THEM ALL BELOW, HALF ARE VALID AND HALF DISQUALIFIED. IF HE OFFERED HALF OF THEM ABOVE AND HALF BELOW, THEN BOTH OF THEM ARE DISQUALIFIED, BECAUSE I CAN ARGUE THAT THE SIN-OFFERINGS WERE OFFERED ABOVE AND THE BURNT-OFFERINGS BELOW.[17]

MISHNAH 4. IF A SIN-OFFERING, A BURNT-OFFERING, AN UNASSIGNED PAIR OF BIRDS AND AN ASSIGNED[18] PAIR [BECAME MIXED UP], AND HE OFFERED THEM ALL ABOVE, THEN HALF ARE VALID AND HALF ARE INVALID;[19] [ALSO] IF ALL OF THEM BELOW, HALF ARE VALID AND HALF INVALID. IF HE OFFERED HALF OF THEM ABOVE AND HALF BELOW, NONE IS VALID EXCEPT THE UNASSIGNED PAIR,[20] AND THAT MUST BE DIVIDED BETWEEN THEM.[21]

MISHNAH 5. IF [BIRDS ASSIGNED AS] SIN-OFFERINGS WERE CONFUSED WITH [UNASSIGNED BIRDS THAT WERE] OBLIGATORY OFFERINGS, THEN ONLY THE NUMBER OF SIN-OFFERINGS AMONG THE OBLIGATORY OFFERINGS ARE VALID.[22] IF THE [UNASSIGNED] OBLIGATORY OFFERINGS BE TWICE AS MANY AS THE SIN-OFFERINGS,[23] THEN HALF ARE VALID AND HALF INVALID;[24] BUT IF THE SIN-OFFERINGS BE TWICE AS MANY AS THE [UNASSIGNED] OBLIGATORY OFFERINGS,[25] THEN THE NUMBER [OF SIN-OFFERINGS] AMONG THE OBLIGATORY OFFERINGS ARE VALID.[26] SO, TOO, IF [BIRDS ASSIGNED AS] BURNT-OFFERINGS WERE MIXED UP WITH [UNASSIGNED] OBLIGATORY OFFERINGS, ONLY THE NUMBER OF BURNT-OFFERINGS AMONG THE OBLIGATORY OFFERINGS ARE VALID,[27] IF THE [UNASSIGNED] OBLIGATORY OFFERINGS ARE TWICE AS MANY AS THE BURNT-OFFERINGS,[28] THEN HALF ARE VALID AND HALF DISQUALIFIED,[29] BUT IF THE BURNT-OFFERINGS ARE TWICE THE NUMBER OF [UNASSIGNED] OBLIGATORY

OFFERINGS, THEN THE NUMBER [OF BURNT-OFFERINGS] AMONG THE OBLIGATORY OFFERINGS ARE VALID.[30]

MISHNAH 6. IF A WOMAN SAYS: ‘I VOW A PAIR OF BIRDS IF I GIVE BIRTH TO A MALE CHILD’;[31] AND SHE DOES GIVE BIRTH TO A MALE CHILD, THEN SHE MUST OFFER UP TWO PAIRS — ONE FOR HER VOW AND ONE FOR HER OBLIGATION.[32] IF [BEFORE SHE ASSIGNED THEM] SHE GAVE THEM TO THE PRIEST,[33] AND THE PRIEST WHO OUGHT TO OFFER THREE BIRDS ABOVE AND ONE BELOW[34] DOES NOT DO SO, BUT OFFERS TWO ABOVE AND TWO BELOW, AND DOES NOT SEEK GUIDANCE,[35] THEN MUST SHE BRING ANOTHER BIRD [OF THE SAME KIND][36] AND OFFER THAT ABOVE.[37] [THIS IS IF THE BIRDS SHE BROUGHT] ARE OF ONE KIND. IF THEY WERE OF TWO KINDS, THEN MUST SHE BRING TWO OTHERS.[38] IF SHE HAD EXPRESSLY DEFINED HER VOW.[39] THEN MUST SHE BRING THREE OTHER BIRDS.[40] [THIS IS IF THE BIRDS SHE BROUGHT] ARE OF ONE KIND, FOR WERE THEY OF TWO KINDS, SHE MUST BRING FOUR OTHERS.[41] IF SHE MADE A DEFINITE FIXTURE AT THE TIME OF HER VOW,[42] THEN MUST SHE BRING ANOTHER FIVE BIRDS — [THAT IS, IF THOSE SHE ORIGINALLY BROUGHT] WERE OF ONE KIND.[43] IF THEY WERE OF TWO KINDS, THEN MUST SHE BRING SIX OTHERS.[44] IF SHE GAVE THEM TO THE PRIEST AND IT BE NOT KNOWN WHAT SHE GAVE,[45] AND THE PRIEST PERFORMED THE SACRIFICE, BUT KNOWS NOT NOW HOW HE PERFORMED IT,[46] THEN MUST SHE BRING FOUR OTHER BIRDS FOR HER VOW,[47] AND TWO FOR HER OBLIGATION[48] AND ONE FOR HER SIN-OFFERING.[49] BEN ‘AZZAI SAYS: [SHE MUST BRING] TWO SIN-OFFERINGS.[50] R. JOSHUA SAID: TO THIS APPLIES WHAT [THE SAGES] HAVE SAID: ‘WHEN [THE BEAST] IS ALIVE IT POSSESSES ONE SOUND, BUT WHEN IT IS DEAD ITS SOUND IS SEVENFOLD’.[51] IN WHAT WAY IS ITS SOUND SEVENFOLD? ITS TWO HORNS [ARE MADE INTO] TWO TRUMPETS,[52] ITS TWO LEG-BONES INTO TWO FLUTES, ITS HIDE INTO A DRUM, ITS ENTRAILS FOR LYRES AND ITS LARGE INTESTINES FOR HARP STRINGS; AND THERE ARE SOME WHO ADD THAT ITS WOOL IS USED FOR THE BLUE [POMEGRANATES.[53] R. SIMEON B. AKASHIAH SAYS: UNINSTRUCTED PERSONS, THE OLDER THEY BECOME, THE MORE THEIR INTELLECT GETS DISTRACTED, AS IT IS SAID: HE REMOVETH THE SPEECH OF MEN OF TRUST AND TAKETH AWAY THE SENSE OF THE ELDERS’;[54] WHEREAS OF AGED SCHOLARS, IT IS NOT SO. ON THE CONTRARY, THE OLDER THEY GET, THE MORE THEIR MIND BECOMES COMPOSED, AS IT IS SAID: ‘WITH AGED MEN THERE IS WISDOM, AND UNDERSTANDING IN LENGTH OF DAYS’.[55]

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(1) A reference back to the principles enumerated in I, 2 — 3 supra, that in the case of a sin-offering getting mixed up with a burnt-offering, or vice versa, both must be left to die; or that if one pair belonging to one woman gets confused with ten pairs or one hundred pairs belonging to another, only the lesser number of the two groups confused is valid.

(2) The passages above quoted speak of a case where the priest comes to consult the Sanhedrin as to the procedure (‘de jure’) in such cases of confusion; this chapter deals with cases of ‘de facto’ where the priest acts on his own initiative. Acc. to Maim. נמלך refers to the priest asking the woman which bird she had specified as the sin or burnt-offering; but from Zeb. 73b it would appear that this view is incorrect. V. Kesef. Mishneh, Maim. Pesule ha-Mukdashim.

(3) As indicated supra I, 3 these birds are unspecified, and accordingly of the half that are valid, half can be brought as sin-offerings and half as burnt-offerings.

(4) I.e., sprinkled the blood.

(5) Since only half of the half that are valid can be offered above as burnt-offerings, and half below as sin-offerings,

(6) The case is of detached birds that had become confused and which the priest now takes to offer up half as sin-offerings and half as burnt-offerings; for had the birds of each pair been bound together and then got mixed up with other pairs, and then offered up one bird as a חטאת and the other as an עולה , all would still have been valid. V. next note.

(7) The main fear is lest the priest offer up ali the pairs of one woman above and all those of another below; and though this fear may be too extreme, yet the principle is ‘any doubt concerning a Biblical command is to be interpreted rigorously', Bez. 3b, Hul. 9b. Since only half of the birds are valid and these are mixed up, so that one knows not whether they belong to one woman or another, the two women are advised to bring another pair of birds in joint-ownership, and make the condition that these be the birds for the woman whose sacrifice has not been offered up. If the priest had separated the birds, offering up half as sin-offerings and half as burnt-offerings (instead of a whole pair together above the red line) all the birds would have been valid on the plea that the priest, when he begins to sacrifice the unassigned birds, has the right to define the kind of sacrifice intended.

(8) Though we were told supra I, 3 that only the lesser number in such a case is valid, our present chapter deals with 'de facto' cases, in which the priest sacrifices without consulting as to the procedure.

(9) For in both cases half of the birds had been sacrificed in their proper places.

(10) In all such cases, where half are disqualified, the women, to fulfil their obligation, must bring other kinnim in partnership, and condition these as the sacrifices of her whose kinnim have been disqualified. An illustration will clarify the statement (THE NUMBER OF BIRDS AS THERE IS IN THE) LARGER PART ARE VALID. If the one pair belonging to A gets confused with the two pairs belonging to B, altogether six birds, and the priest offered three above and three below, then four birds are valid. For if we are to assume that all the three birds that were offered above belonged to B, then two of them are valid; and if on the other hand, we are to assume that two of the three offered above belonged to A, then these two birds are also valid, and the same applies to the three birds offered below, so that we have four birds, corresponding to the number belonging to B, valid. And the same applies to the case where the confusion arose among the pairs belonging to a larger number of women. If the one pair belonging to A gets confused with the two pairs belonging to B, and then with three other pairs, or ten pairs or a hundred other pairs belonging to others — a hundred and sixteen pairs altogether — and the priest offered up half of these birds above and half below the red line, then a hundred pairs are valid and sixteen pairs invalid. Why? If the one hundred and sixteen birds offered above belong to her who brought a hundred pairs, then a hundred birds are valid above, and sixteen invalid; but even if thirty-two of these hundred and sixteen belong to the other women, who brought these between them (one plus two plus three plus ten pairs), eighty-four birds are still valid since they belong to her who brought a hundred pairs, and of the thirty-two birds belonging to the others, sixteen would be valid above and sixteen below, thus still leaving a hundred birds valid, whether offered up above or below. This Mishnah differs from that previous in the fact that whereas the former cited the case of two women bringing an equal number of birds, the reference here is to women bringing each more than the other, the last one even bringing more than all the others put together.

(11) Since the priest offers up half of all the birds confused above and half below, it may be possible that all those birds offered up above belonged to one woman, or some to one and some to another. Here is an illustration: If A brings one pair, and B two pairs and C three pairs (together six pairs), and the priest offers half above, it is possible that either the six birds belong to A, B, or all to C. In this case, the priest may not have offered up half of the kinnim belonging to each woman above and half below.

(12) Whenever the number of the kinnim brought can be divided equally, as in the instance cited in a former note of A bringing one pair, B two pairs and C three pairs. In which case one plus two is three; or in the case of one, two, four or five pairs being brought, when one plus four is five, and the priest offers half of all the confused birds above and half below, then half are valid and half are not.

(13) If one pair gets confused with two pairs, and then with four pairs (together seven pairs), the kinnim cannot so be divided as to make any of them equal the largest number brought; as a result, it is possible that the priest offers some of the birds of one woman above and some below. Even in the case of three plus four plus five kinnim that get mixed up. though the total of twelve kinnim can be divided equally into two parts, yet of the numbers of the birds themselves no division can be made without one of the birds of a pair being above and the other below. Similarly, though the total number is a hundred and sixteen kinnim (v. n. 3, p. 15) one plus two plus three plus ten plus a hundred, yet the numbers cannot so be arranged as to make any equal the greatest number, with the result that the priest may be offering up part of the birds of one woman above and part below.

(14) Thus if one pair gets confused with two or four pairs, then four pairs are valid, to be offered up half above and half below. The numbers one plus two plus four cannot be so divided as to make any of the smaller numbers equal the larger number. So also of the numbers mentioned in n. 3, p. 15 (one plus two plus three plus ten plus a hundred), of which the smaller only combine to make sixteen. Thus the principle here stressed is that the greatest number brought (if more than all the other kinnim put together), is the number still valid after the mixing has taken place.

(15) This Mishnah further elucidates the principle stated supra I, 2. When do we say that 'if a sin-offering gets confused with a burnt-offering, then all must be left to die'? Only 'de jure', that is when the priest seeks guidance on the procedure. This chapter, however, deals with ‘Post facto’ cases (בלא נמלך), in which case half of those he sacrificed above and below the red line are valid.

(16) Evidently the number of sin-offerings equals that of burnt-offerings and, moreover, the birds have all been designated as to the nature of their offering (מפורשות); hence half must be valid.

(17) Since the birds had been designated, it may easily be that he just offered up the wrong ones above or below.

(18) An amplification of the previous Mishnah. Rashi (Zeb. 67b), followed by Asheri and Bertinoro explains that the case here is of two women, one of whom brings two sin-offerings and one burnt-offering and the other two burnt-offerings and one sin-offering. These three kinnim they bring in partnership. One pair they specify at the time of purchase that one bird should act as the עולה for the one and as the חטאת for the other. Concerning the other pair they stipulated nothing whilst the third pair they again condition which should be a sin-offering and which a burnt-offering, but without specifying on whose behalf the respective sacrifice be made. The priest then offers up the three kinnim, unaware of the nature of each in the manner above narrated. The burnt-offering and the sin-offering have to be brought in the name of the owner, but the priest could ‘de facto’ do so without this knowledge. The same ruling would have applied to the case of an assigned pair with an unassigned pair only, without further mention of a חטאת ועולה : (v. Tosaf. Zeb. 67b s.v. חטאת). Concerning these last three Mishnahs of our Chapter, all commentators (v. the Tif. Israel) agree that they are the most difficult in the whole Talmud, since they not only deal with a most complicated subject, but they also demand a knowledge of permutation. i.e., the variation of the order of a set of things lineally arranged.

(19) Let A be the specified sin-offering of Rachel and B the burnt-offering of Leah, and let CC stand for the unspecified pair (each bird being called C), and let D and E symbolize the sin-offering and burnt-offering respectively in the third pair, which differs from the first pair in that though the sacrifice be specified, yet it be not known on whose behalf it is offered. Each pair is then tied together separately, thus AB, CC, DE. The priest, under the impression that all are unspecified, offers up from each pair one bird above and one bird below the red line.

(20) A and B are invalid, since it is not known which was offered above and which below, and for the same reason, D and E are invalid; only CC are valid, since it is within the power of the officiating priest to specify the nature of the offering.

(21) D and E being disqualified, it is for the women to arrange between them which bird in the unspecified pair (that is valid) should act as a substitute for each of their offerings that had been rendered invalid as a result of their offerings getting mixed up. Rachel must further bring another sin-offering in lieu of A that was disqualified and Leah another burnt-offering in lieu of B that was disqualified.

(22) An explanation of supra I, 2. Whether the birds unassigned equal or double the number of those assigned, only the number of unspecified sin-offerings among the obligatory offerings are valid. This rule is in the case of a priest who comes to consult the Beth din; for a ‘de facto’ case v. supra I, 4.

(23) For instance, if four unspecified birds, of which half are sin-offerings and half are burnt-offerings get confused with two others which are designated sin-offerings, and the priest offers up half above and half below.

(24) That is two sin-offerings and one burnt-offering. Of the three birds offered below, two are valid for both in the two assigned and in the two unassigned kinnim there must be two sin-offerings; and of the three offered above, one is still valid as a burnt-offering. since if two were sin-offerings. the third is a burnt-offering. (Some commentators will not have these two sin-offerings and one burnt-offering sacrificed, though not actually disqualified, lest the priest eventually offer them for a purpose other than that originally intended.) Tosaf. Yom Tob somewhat differs from the explanation of the Bertinoro given above. His illustration of our passage is of eight sin-offerings getting confused with eight others, of which four are burnt-offerings and four are sin-offerings. — a total of twelve sin-offerings and four burnt-offerings. Of these sixteen birds, the priest unwittingly offers up half above and half below the red line; as a result, those above are unfit, lest all be sin-offerings, but of the eight offered up below, four are valid, since the majority are sin-offerings and also that number being the number of sin-offerings among obligatory offerings. To illustrate the case of sin-offerings being twice as many as the unassigned obligatory offerings, the Bertinoro cites the example of sixteen sin-offerings getting confused with eight obligatory offerings, of which half are burnt-offerings and half sin-offerings. The priest offers up twelve birds above and twelve below the red line, with the result that all those offered above are invalid, whereas of the twelve offered below, only four are invalid, lest they be burnt-offerings.

(25) Four sin-offerings get confused with two unspecified obligatory offerings.

(26) Only two are valid as sin-offerings. Why? The three offered above are invalid lest they be of the four specified sin-offerings; but two of the three offered below are valid, either because they may all be or because even if two of the three birds be the unspecified obligatory offerings, two are still valid as sin-offerings, since one bird is a sin-offering in any case. The number thus valid corresponds to the number of sin-offerings among the unspecified obligatory offerings. The same principle holds good in all cases where the number of unspecified obligatory offerings is double the number of sin-offerings. Should, however, the number of specified sin-offerings double that of the unspecified offerings, then instead of half being valid and half not, only a third of all the birds confused are still valid, that is, the amount corresponding to the number among the unspecified pairs. The Bertinoro cites this example: The woman can only offer one sin-offering of her two kinnim. She cannot offer two as burnt-offerings, lest they be the two sin-offerings that became confused; neither can she offer two as sin-offerings, lest one be the specified עולה . Accordingly, less than half are valid, that is, according to the least number among the obligatory offerings.

(27) Elaborating supra I, 2: IF BURNT-OFFERINGS BECAME MIXED UP WITH OBLIGATORY OFFERINGS; but whereas the first chapter deals with cases where the priest comes to ask advice, this chapter deals with ‘de facto’ cases.

(28) I.e., if four unspecified obligatory offerings get confused with two burnt-offerings, and the priest offers three birds above and three below the red line.

(29) Of the three offered above (as burnt-offerings) at least two are valid, even if all the three were unspecified; and of the three offered below (as sin-offerings) one is valid, since there are only two specified burnt-offerings. Thus only half of the birds are disqualified.

(30) The following example can serve as an illustration: Four burnt-offerings get confused with two unspecified birds and the priest offers up half above and half below, then all those offered up below are invalid, lest they be of the four burnt-offerings; whereas of those offered above, at least two are valid, whether all the three birds be of the burnt-offerings or only one be of the specified burnt-offerings and the other two of the unspecified, of which one must be a burnt-offering. Thus of all the six birds, only two are valid — according to the number of burnt-offerings among the obligatory offerings.

(31) The two birds brought as a result of her vow must both be burnt-offerings since a voluntary offering cannot consist of a sin-offering. Our instance is of a poor woman, for a rich woman was required to bring a lamb as her burnt-offering and a bird as her sin-offering. (The reason why a woman is more eager to have a male child is, according to some commentators, the belief that the pangs of birth are less than those for a daughter. v. Nid. 31a. More satisfactory is the reason cited by the רשב ץ , and that is, because a son is referred to in the Talmud (Keth. 64a) as ‘a staff for her old age’, a support. But this ascendancy of the male was not regarded with unanimity, for in B.B. 141a the preference is given to the birth of a girl, especially if she be the first child, since she will be a help to her mother in looking after the other children.)

(32) ‘And when the days of her purification are fulfilled, for a son or a daughter, she shall bring a lamb of the first year for a burnt-offering and a young pigeon or a turtle-dove for a sin offering, unto the door of the tent of meeting, unto the priest’ (Lev. XII, 6). The point to be noted is that whereas her obligatory offering had to be brought at the end of forty days for a male, and eighty days for a female child, her vow-offering had to be brought immediately at birth.

(33) Of these two pairs, three birds are burnt-offerings and one a sin-offering; the priest offers the four birds up as if they were two pairs of obligatory offerings.

(34) As already stated, no voluntary offering can consist of a sin-offering, whereas the obligatory offering consists of a sin-offering and a burnt-offering.

(35) Under the impression that these two kinnim represent two obligatory offerings.

(36) A turtle-dove if the others had been turtle-doves, or a pigeon if the others had been pigeons.

(37) Since of the four birds, three were burnt-offerings and the priest only offers up two above, another bird of the same kind to which the four belonged must be brought as a burnt-offering. (V. Rashi to Zeb. 67b-68a for a detailed commentary on our Mishnah.)

(38) I.e., one turtle-dove and one pigeon; since one kind cannot be substituted for another (supra II, 5) and the two pairs consisted of a pair of pigeons and a pair of turtle-doves, a bird of each kind must be brought and offered, as an עולה , to replace the one burnt-offering that was disqualified. In such cases the birds brought to replace those disqualified are regarded as her vow-offering, though. as already stated, the ‘vow’ had to be brought at child-birth and her obligatory offering at the expiration of her period of purification.

(39) פירשה . At the time of the vow or even later, she had made clear the kind she would bring as her vow-offering, and after child-birth she brought two pairs of birds of the same kind, and the priest, without any investigation, offers two birds above and two birds below, and the woman does not recollect now of which kind she had specified for her vow-offering.

(40) Two of the birds already offered are treated as her obligation offering, consisting of one sin-offering and one burnt-offering. Of the second pair, brought in fulfilment of her vow, one is invalid since it was treated as a sin-offering. Besides substituting for this disqualified bird, two others must be brought as burnt-offerings, lest the two offered be not of the kind she had defined in her vow. The Mishnah deals with the more common case.

(41) She brought each pair of a different kind, but has forgotten the kind she vowed to bring for each offering. Accordingly, two birds became disqualified, lest they be not of the kind specified in her vow, and two birds must now be brought of each kind as burnt-offerings. with the stipulation that the two birds which are of a different kind to her original vow must be considered as voluntary offerings. Tif. Israel.

(42) קבעה . At the time of her vow, she had planned to bring both her offerings of the same kind and at the same time. This she did, but did not tell the priest the circumstances. and as a result he offers two birds above and two below. The woman had now forgotten the kind she had defined as her vow-offering, only remembering of what kind she had brought the two pairs (Tif. Israel). According to the Bertinoro, פירשה means that the woman does not define the kind of bird at the time of her vow, but at the time of the actual bringing of her offering declares: ‘These birds shall serve as my vow-offering’; and קבעה means that this definition is made at the actual moment of her vow. Rashi, however, draws no such distinction between the two terms, both being the same, with the only difference that קבעה means that she declares to bring both her offerings at the same time. (V. also Men. 103a.) According to Wilna Gaon קבעה means that she defines at the time of the actual bringing of the pairs the kind she had stipulated at the time of her vow (פירשה), but which she had now forgotten.

(43) Though the birds she brought are all of one kind, the fear is lest those she had vowed were of a different kind; consequently, the two birds in fulfilment of her vow are invalid. Again, since she had vowed to bring both her offerings at the same time, and one of the offerings became invalid, her vow remains unfulfilled. Accordingly, she must now bring another two pairs of both kinds, and yet another bird of the same kind as that already offered as a sin-offering in fulfilment of her obligatory offering. These five birds must be sacrificed together. The principle behind all this is the rule laid down in Nazir V, 1 that any votive offering surrounded by doubt cannot be considered as a valid sacrifice.

(44) Four birds to fulfil her vow — since she has forgotten which kind had been offered — and two others to fulfil her obligation.

(45) She had forgotten the kind she had defined at the time of her vow and also the kind she had brought to the priest, and the latter also was unaware of the kind she had offered; accordingly, she must now bring seven other birds — four for her vow (two of each kind), two for her obligation offering and one as an additional sin-offering in case the other had been offered above. This would satisfy all doubts, since the slightest doubt concerning a sacrifice does not avail to render it valid.

(46) Did he offer all above or all below, or two above and two below? Accordingly, the woman cannot be said to have fulfilled any of her obligations.

(47) For she may have vowed all birds to be of one kind, whereas she has brought of two kinds, or the reverse. To allay doubt, let her bring a sacrificial pair of each kind.

(48) One of each kind, both of which must be offered as burnt-offerings, lest all the four birds had been offered below. The עולה of her obligatory offering must be of the same kind as her חטאת , the kind itself being immaterial.

(49) This can be of any kind she wishes, for she can pair the sin-offering to any burnt-offering she wishes to bring with it and she brings the burnt-offerings of both kinds.

(50) True to his principle that one is guided by what was first, supra II, 5. Since all the four birds may have been offered above, she has fulfilled the עולה of her obligation and she must now only bring the חטאת of the same kind as the burnt-offering; but the kind being unknown, two birds of different kind must be offered up as sin-offerings. The birds offered as sin-offerings, whether according to the first Tanna or Ben ‘Azzai, cannot be eaten, lest she had already offered her sin-offering and a sin-offering cannot be brought as a voluntary offering. Ben ‘Azzai, it would seem, prescribes that two sin-offerings be brought in all cases where the first Tanna of the Mishnah prescribes one to be brought.

(51) Symbolic of the number of additional birds prescribed by the Tanna of our Mishnah in consequence of the many doubts that have arisen. Thus one sacrifice is magnified sevenfold, and according to Ben ‘ Azzai, even eightfold. This Mishnaic parable is especially apt according to Rash (loc. cit.), who interprets the dispute between Ben ‘Azzai and the first Tanna only as to seven or eight birds; other commentators would have it that Ben ‘Assai requires two sin-offerings wherever the first Tanna prescribes only one.

(52) Another name for Shofar is, חצוצרה , Suk. 34a. Those used by the priests were of silver, whereas those used by the Levites were of horn.

(53) Attached to the robes of the High priest, Ex. XXVIII, 33.

(54) Job XII, 20 refers to the ignorant in the Torah, as can be seen from v. 24 of the same chapter. (Cf. also Shab. 152a.) The verses of the Bible are cited lest it be thought that the Rabbis are just praising themselves at the expense of the ignorant. The Torah becomes ‘wisdom’ with the very aged and ‘understanding’ with those still blessed with years to come.

(55) Job. XII, 12. This forms a fitting conclusion to the whole Order of Kodashim (‘Hallowed Things’), of which Kinnim is the last Tractate, since the Talmud (Shab. 31a) refers to Kodashim as ‘Wisdom’. Though this verse occurs earlier in the Biblical text than the one cited first, the compiler of the Mishnah thought it better to conclude with a statement on the scholar, the policy of Bible and Talmud being to conclude any prophecy or discussion on a joyful and optimistic note.

Mishna - Mas. Kelim Chapter 1

MISHNAH 1. THE FATHERS OF UNCLEANNESS[1] ARE A [DEAD] CREEPING THING,[2] SEMEN VIRILE, [AN ISRAELITE] WHO HAS CONTRACTED CORPSE UNCLEANNESS, A LEPER DURING THE DAYS OF HIS COUNTING[3] AND THE WATERS OF PURIFIcation[4] WHOSE QUANTITY IS LESS THAN THE MINIMUM PRESCRIBED FOR SPRINKLING.[5] BEHOLD, THESE CONVEY UNCLEANNESS TO MEN AND VESSELS BY CONTACT AND TO EARTHENWARE BY PRESENCE WITHIN THEIR AIRSPACE,[6] BUT[7] THEY CANNOT CONVEY UNCLEANNESS BY CARRIAGE.

MISHNAH 2. ON A HIGHER PLANE[8] THAN THESE[9] ARE CARRION AND WATERS OF PURIFICATION WHOSE QUANTITY IS SUFFICIENT TO BE SPRINKLED, FOR THESE CONVEY UNCLEANNESS TO MAN BY CARRIAGE,[10] SO THAT HE IN TURN[11] CONVEYS UNCLEANNESS TO CLOTHING BY CONTACT.[12] CLOTHING, HOWEVER,[13] IS FREE FROM UNCLEANNESS WHERE THERE WAS[14] CONTACT ALONE.[15]

MISHNAH 3. ON A HIGHER PLANE[16] IS THE MAN WHO HAD INTERCOURSE WITH A MENSTRUANT, FOR HE CONVEYS TO THAT ON WHICH HE LIES[17] THE SAME UNCLEANNESS AS [A ZAB[18] CONVEYS] TO THAT[19] WHICH LIES ABOVE HIM.[20] ON A HIGHER PLANE[16] THAN THESE ARE THE ISSUE OF A ZAB, HIS SPITTLE, HIS SEMEN AND HIS URINE, AND THE BLOOD OF A MENSTRUANT, FOR THEY CONVEY UNCLEANNESS[21] BOTH BY CONTACT AND BY CARRIAGE.[22] ON A HIGHER PLANE[16] THAN THESE IS AN OBJECT ON WHICH ONE CAN RIDE,[23] FOR IT CONVEYS UNCLEANNESS EVEN WHEN IT LIES UNDER A HEAVY STONE.[24] ON A HIGHER PLANE[16] THAN THE OBJECT ON WHICH ONE CAN RIDE IS THAT ON WHICH ONE CAN LIE, FOR IN THE LATTER CASE UNCLEANNESS[25] IS CONVEYED BY CONTACT AS BY CARRIAGE.[26] ON A HIGHER PLANE[16] THAN THE OBJECT ON WHICH ONE CAN LIE IS THE ZAB, FOR A ZAB CONVEYS UNCLEANNESS TO THE OBJECT ON WHICH HE LIES[27] WHILE THE OBJECT ON WHICH HE LIES[28] CANNOT CONVEY THE SAME UNCLEANNESS[23] TO THAT UPON WHICH IT LIES.[29]

MISHNAH 4. ON A HIGHER PLANE[16] THAN THE ZAB IS THE ZABAH,[30] FOR SHE CONVEYS UNCLEANNESS[31] TO THE MAN WHO HAS INTERCOURSE WITH HER.[32] ON A HIGHER PLANE THAN THE ZABAH IS THE LEPER, FOR HE CONVEYS UNCLEANNESS[33] BY ENTERING INTO A HOUSE.[34] ON A HIGHER PLANE THAN THE LEPER IS A BONE[35] OF THE SIZE OF A BARLEY GRAIN, FOR IT[36] CONVEYS AN UNCLEANNESS OF SEVEN DAYS. MORE RESTRICTIVE THAN ALL THESE IS A CORPSE, FOR IT CONVEYS UNCLEANNESS BY OHEL[37] WHEREBY ALL THE OTHERS CONVEY NO UNCLEANNESS.[38]

MISHNAH 5. TEN GRADES OF UNCLEANNESS[39] EMANATE FROM MEN: A MAN[40] BEFORE THE OFFERING OF HIS OBLIGATORY SACRIFICES[41] IS FORBIDDEN TO EAT HOLY THINGS BUT PERMITTED TO EAT TERUMAH AND [SECOND] TITHE. IF HE IS[42] A TEBUL YOM[43] HE IS FORBIDDEN TO EAT HOLY THINGS AND TERUMAH BUT PERMITTED THE EATING OF [SECOND] TITHE. IF HE[42] EMITTED SEMEN[44] HE IS FORBIDDEN TO EAT ANY OF THE THREE. IF HE[42] HAD INTERCOURSE WITH A MENSTRUANT HE CONVEYS THE SAME UNCLEANNESS TO THAT ON WHICH HE LIES AS [A ZAB CONVEYS] TO THAT WHICH LIES ABOVE HIM.[45] IF HE IS[42] A ZAB WHO HAS OBSERVED TWO DISCHARGES HE CONVEYS UNCLEANNESS TO THAT ON WHICH HE LIES OR SITS AND IS REQUIRED TO UNDERGO IMMERSION IN RUNNING WATER,[46] BUT IS EXEMPT FROM THE SACRIFICE.[47] IF HE OBSERVED THREE DISCHARGES HE MUST BRING THE SACRIFICE.[48] IF HE[49] IS A LEPER THAT WAS ONLY SHUT UP[50] HE

CONVEYS UNCLEANNESS[51] BY ENTRY[52] BUT IS EXEMPT FROM LOOSENING HIS HAIR,[53] FROM RENDING HIS CLOTHES,[53] FROM SHAVING[54] AND FROM THE BIRDS OFFERING;[55] BUT IF HE WAS A CONFIRMED LEPER[56] , HE IS LIABLE TO ALL THESE. IF A LIMB ON WHICH THERE WAS NOT THE PROPER QUANTITY OF FLESH[57] WAS SEVERED FROM A PERSON, IT CONVEYS UNCLEANNESS BY CONTACT AND BY CARRIAGE BUT NOT BY OHEL; BUT IF IT BEARS THE PROPER QUANTITY OF FLESH IT CONVEYS UNCLEANNESS BY CONTACT, BY CARRIAGE AND BY OHEL. A ‘PROPER QUANTITY OF FLESH’ IS SUCH AS IS CAPABLE OF HEALING. R. JUDAH EXPLAINED: IF IN ONE PLACE IT[58] HAS FLESH SUFFICIENT TO SURROUND IT[58] WITH [THE THICKNESS OF] A THREAD OF THE WOOF[59] IT IS CAPABLE OF HEALING.

MISHNAH 6. THERE ARE TEN GRADES OF HOLINESS: THE LAND OF ISRAEL IS HOLIER THAN ALL OTHER LANDS. AND WHAT IS THE NATURE OF ITS HOLINESS? THAT FROM IT ARE BROUGHT THE ‘OMER,[60] THE FIRSTFRUITS[61] AND THE TWO LOAVES,[62] WHICH MAY NOT BE BROUGHT FROM ANY OF THE OTHER LANDS.

MISHNAH 7. CITIES[63] THAT ARE WALLED[64] ARE HOLIER,[65] FOR LEPERS MUST BE SENT OUT OF THEM AND A CORPSE, THOUGH IT MAY BE CARRIED ABOUT WITHIN THEM AS LONG AS IT IS DESIRED,[66] MAY NOT BE BROUGHT BACK ONCE IT HAS BEEN TAKEN OUT.

MISHNAH 8. THE AREA WITHIN THE WALL[67] IS HOLIER, FOR IT IS THERE[68] THAT HOLY THINGS OF A MINOR DEGREE AND SECOND TITHE MAY BE EATEN. THE TEMPLE MOUNT[69] IS HOLler, FOR NEITHER ZABS NOR ZABAHS NOR MENSTRUANTS NOR WOMEN AFTER CHILDBIRTH MAY ENTER IT. THE RAMPART[70] IS HOLIER, FOR NEITHER IDOLATERS NOR ONE WHO CONTRACTED CORPSE UNCLEANNESS MAY ENTER IT. THE COURT OF WOMEN[71] IS HOLIER, FOR NO TEBUL YOM[72] MAY ENTER IT, THOUGH NO SIN-OFFERING IS THEREBY INCURRED. THE COURT OF THE ISRAELITES[73] IS HOLIER, FOR A MAN WHO HAS NOT YET OFFERED HIS OBLIGATORY SACRIFICES[74] MAY NOT ENTER IT, AND IF HE ENTERS HE INCURS THEREBY A SIN-OFFERING. THE COURT OF THE PRIESTS[75] IS HOLIER, FOR NO ISRAELITES MAY ENTER IT EXCEPT WHEN THEY ARE REQUIRED TO DO SO[76] IN CONNECTION WITH THE LAYING ON OF HANDS,[77] SLAYING OR WAVING.[78]

MISHNAH 9. THE AREA BETWEEN THE ULAM[79] AND THE ALTAR IS HOLIER,[80] FOR MEN AFFLICTED WITH BLEMISHES OR WITH A WILD GROWTH OF HAIR MAY NOT ENTER IT. THE HEKAL IS HOLIER, FOR NO ONE WHOSE HANDS OR FEET ARE UNWASHED MAY ENTER IT. THE HOLY OF HOLIES IS HOLler, FOR ONLY THE HIGH PRIEST, ON THE DAY OF ATONEMENT, AT THE SERVICE,[81] MAY ENTER IT.[82] R. JOSE STATED: IN FIVE RESPECTS IS THE AREA BETWEEN THE ULAM AND THE ALTAR ON A PAR WITH THE HEKAL, FOR THOSE AFFLICTED WITH BLEMISHES OR WITH A WILD GROWTH OF HAIR, OR WHO HAVE DRUNK WINE OR WHOSE HANDS OR FEET ARE UNWASHED MAY NOT ENTER THERE,[83] AND THE PEOPLE MUST KEEP AWAY FROM THE AREA BETWEEN THE ULAM AND THE ALTAR[84] WHEN THE INCENSE IS BEING BURNED.[85]

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(1) Sc. those that convey uncleanness to both men and vessels. An ‘offspring of uncleanness’ conveys uncleanness to foodstuffs and liquids but not to men and vessels.

(2) Any of the eight classes enumerated in Lev. XI, 29f.

(3) V. Lev. XIV, 8f.

(4) V. Num. XIX.

(5) V. Parah XII, 5.

(6) Even if there was no contact with the vessel. Through the external side of such a vessel, however, no uncleanness can be conveyed even by direct contact.
(7) In the absence of direct contact with them.
(8) In the intensity of uncleanness.
(9) The ‘fathers of uncleanness’ enumerated in the previous Mishnah.
(10) Even in the absence of direct contact between them and the man.
(11) While he is still carrying one of the uncleannesses mentioned.
(12) With any part of his body.
(13) Though it came in contact with the unclean man.
(14) Between the man and the ‘father of uncleanness’.
(15) Only where the man was carrying the ‘father of uncleanness’ at the time he came in contact with the clothing is uncleanness conveyed to the latter.
(16) In the intensity of uncleanness.
(17) Lit., ‘the lower couch’.
(18) A male who has a flux.
(19) Whether he came in direct contact with it or not.
(20) Sc. the former like the latter is subject only to the first grade of uncleanness. That on which a zab lies becomes a ‘father of uncleanness’.
(21) To clothes or vessels (other than earthenware).
(22) Sc. not only by the latter but also by the former.
(23) So Maim. Lit., ‘a riding seat’.
(24) On which the zab sat; though, owing to the heavy weight of the stone, the zab's weight could make no appreciable impression on the object. The unclean riding object under the stone has uncleanness conveyed to it by the zab sitting on the stone and conveys uncleanness to any clean person who sits upon the stone, v. Tosaf. Y T.
(25) To the person and the clothes he wears.
(26) In the former case uncleanness is conveyed through carriage only.
(27) Causing it to be a ‘father of uncleanness’.
(28) Even after it contracted the uncleanness of the zab (cf. prev. n.).
(29) The latter contracting a first grade of uncleanness only.
(30) A woman who has a flux.
(31) Of zibah (a ‘father of uncleanness’).
(32) A zab, however, by intercourse, conveys to a woman a minor form of uncleanness which lasts until sunset only.
(33) To men and vessels.
(34) If they (cf. prev. n.) were under the same roof.
(35) Of a corpse.
(36) Unlike the former where uncleanness terminates at sunset.
(37) ‘Overshadowing’ (v. Glos.). Irrespective of (a) whether, for instance, the whole body of the clean person was within the ohel (tent) or only a part of it, and (b) whether there was a partition in the ohel between the corpse and the clean person or not, and (c) whether or not the corpse or the clean person was stationary or moving.
(38) Even a leper conveys uncleanness by ohel only where (a) his entire body was within it, (b) there was no partition between the leper and the clean person and (c) the leper was not on the move.
(39) One more restrictive than the other.
(40) Such as a confirmed leper or a zab, or a zabah, whose restoration to cleanness depends on the offering of the prescribed sacrifice.
(41) Lit., ‘lacking atonement’.
(42) Lit., ‘he returned to be’.
(43) One who immersed himself on the selfsame day (v. Glos.).
(44) Lit., ‘master (or subject) of a mishap’.
(45) Cf. supra p. 8, n. 4.
(46) Unlike the others whose immersion may be performed in a ritual bath of standing water.
(47) Prescribed only for a zab who experienced three discharges (v. infra).
(48) Cf. prev. n.

(49) V. p. 9, n. 11.
(50) V. Lev. XIII, 4f.
(51) To men and objects in a house.
(52) Into that house.
(53) V. Lev. Xlii, 45.
(54) V. Lev. XIV, 8.
(55) V. Lev. XIV, 4.
(56) One whom the priest declared to be unclean.
(57) As prescribed infra.
(58) The limb.
(59) Which is twice as thick as that of the warp.
(60) V. Lev. XXIII, 10f.
(61) V. Deut. XXVI, 2ff.
(62) V. Lev. XXIII, 17.
(63) In the Land of Israel.
(64) Since the time of Joshua the son of Nun.
(65) Than the other parts of the Land.
(66) In connection with its funeral or burial arrangements.
(67) Of Jerusalem.
(68) And not without the wall.
(69) An area of five hundred by five hundred cubits in which the Temple buildings were situated.
(70) The Hel. A causeway ten cubits wide surrounding the inner precincts of the Temple (cf. Mid. II, 3).
(71) Situated within the Rampart.
(72) V. Glos.
(73) This was situated within the Court of the Women from which it was approached by an ascent of fifteen steps (cf. Mid. II, 5).
(74) Cf. supra p. 9, n. 9.
(75) Cf. Mid. II, 6.
(76) Lit., 'their requirements'.
(77) On a sacrifice (v. Lev. III, 2).
(78) Cf. Lev. VII, 30.
(79) The Porch, the Hall leading into the Hekal, the Sanctuary.
(80) In accordance with Pentateuchal (Maim.) or only Rabbinical (v. Bert. and L.) law.
(81) In the Temple.
(82) Four times: To burn incense, to sprinkle the blood of the bullock, to sprinkle the blood of the he-goat and to take out the spoon and the pan; v. Lev. XVI, 2ff.
(83) Except when necessary in connection with the Temple services (L.).
(84) And, much more so, from the Hekal.
(85) In the Holy of Holies or on the golden altar.

Mishna - Mas. Kelim Chapter 2

MISHNAH 1. VESSELS OF WOOD, VESSELS OF LEATHER, VESSELS OF BONE OR VESSELS OF GLASS THAT ARE FLAT ARE CLEAN[1] AND THOSE THAT FORM A RECEPTACLE ARE UNCLEAN.[2] IF THEY WERE BROKEN THEY BECOME CLEAN[1] AGAIN. IF ONE REMADE THEM INTO VESSELS THEY ARE SUSCEPTIBLE TO UNCLEANNESS HENCEFORTH.[3] EARTHEN VESSELS AND VESSELS OF ALUM-CRYSTALS ARE ON A PAR IN RESPECT OF UNCLEANNESS: THEY CONTRACT AND CONVEY[4] UNCLEANNESS THROUGH THEIR AIR-SPACE,[5] THEY CONTRACT UNCLEANNESS[6] THROUGH THEIR [CONCAVE] BOTTOMS BUT NOT[7] THROUGH THEIR BACKS;[8] AND WHEN BROKEN[9] THEY BECOME CLEAN.[1]

MISHNAH 2. AS REGARDS THE SMALLEST EARTHEN VESSELS, AND THE BOTTOMS AND SIDES [OF THE LARGER BUT BROKEN VESSELS] THAT CAN STAND[10] UNSUPPORTED,[11] THE PRESCRIBED SIZE[12] IS A CAPACITY TO HOLD OIL SUFFICIENT FOR THE ANOINTING OF A LITTLE FINGER OF A CHILD IF[13] THEIR FORMER CAPACITY[14] WAS THAT OF[15] A LOG. IF[13] THEIR FORMER CAPACITY[14] WAS FROM ONE LOG TO SE'AH THEIR PRESENT CAPACITY[12] MUST BE A QUARTER OF A LOG; IF IT WAS[14] FROM A SE'AH TO TWO SE'AH IT MUST BE[16] HALF A LOG; IF[17] FROM TWO SE'AH TO THREE SE'AH OR AS MUCH AS FIVE SE'AH IT MUST BE[18] A LOG; SO R. ISHMAEL. R. AKIBA STATED: I DO NOT PRESCRIBE ANY SIZE FOR THE UNBROKEN VESSELS,[19] BUT[20] THIS IS THE RULE: AS REGARDS THE SMALLEST EARTHEN VESSELS, AND THE BOTTOMS AND SIDES [OF LARGER BUT BROKEN ONES] THAT CAN STAND[21] UNSUPPORTED,[22] THE PRESCRIBED SIZE[23] IS A CAPACITY TO HOLD ENOUGH OIL TO ANOINT THE LITTLE FINGER OF A CHILD. [THIS SIZE IS PRESCRIBED FOR POTS] THAT ARE NOT BIGGER THAN[24] THE SMALL COOKING-POTS. FOR SMALL COOKING-POTS AND FOR THOSE BETWEEN THESE AND THE LYDDA JARS THE PRESCRIBED CAPACITY[23] IS A QUARTER OF A LOG. FOR THOSE WHICH HAVE A SIZE BETWEEN THAT OF LYDDA JARS AND THE BETHLEHEM JARS THE CAPACITY[23] MUST BE THAT OF HALF A LOG. FOR THOSE BETWEEN THE BETHLEHEM JARS AND LARGE STONE JARS THE CAPACITY[23] MUST BE THAT OF A LOG. R. JOHANAN B. ZAKKAI RULED: THE PRESCRIBED CAPACITY[23] FOR THE FRAGMENTS OF LARGE STONE JARS IS TWO LOGS, AND THAT FOR THE BOTTOMS OF BROKEN GALILEAN CRUSES AND SMALL JARS IS ANY WHATSOEVER, BUT THE FRAGMENTS OF THEIR SIDES ARE IN NO CASE SUSCEPTIBLE TO UNCLEANNESS.

MISHNAH 3. THE FOLLOWING[25] ARE NOT SUSCEPTIBLE TO UNCLEANNESS AMONG EARTHEN VESSELS: A TRAY WITHOUT A RIM, A FIRE-PAN WITH BROKEN SIDES, A TUBE FOR ROASTING CORN, GUTTERS EVEN IF THEY ARE BENT[26] AND EVEN IF THEY HAVE[27] SOME FORM OF RECEPTACLE,[28] A BASKET-COVER[29] THAT WAS TURNED INTO A BREAD-BASKET,[26] A PITCHER[30] THAT HAS BEEN ADAPTED[31] AS A COVER FOR GRAPES,[32] A JAR[30] FOR SWIMMERS,[33] A SMALL JAR[30] FIXED TO THE SIDES OF A LADLE,[34] A BED, A STOOL, A BENCH, A TABLE, A SHIP,[35] AND AN EARTHEN LAMP, BEHOLD THESE ARE INSUSCEPTIBLE TO UNCLEANNESS. THE FOLLOWING IS A GENERAL RULE:[36] ANY AMONG EARTHEN VESSELS THAT HAS NO INNER PART IS NOT SUSCEPTIBLE TO UNCLEANNESS ON ITS OUTER SIDES.[37]

MISHNAH 4. A LANTERN THAT HAS A RECEPTACLE FOR OIL IS SUSCEPTIBLE TO UNCLEANNESS, BUT ONE THAT HAS NONE IS INSUSCEPTIBLE. A POTTER'S MOULD ON WHICH ONE BEGINS TO SHAPE THE CLAY IS INSUSCEPTIBLE TO UNCLEANNESS,[38] BUT THAT ON WHICH ONE FINISHES IT IS SUSCEPTIBLE.[39] A FUNNEL FOR HOME USE[40] IS INSUSCEPTIBLE TO UNCLEANNESS,[38] BUT THAT OF PEDLARS IS SUSCEPTIBLE BECAUSE[41] IT ALSO SERVES AS A MEASURE;[42] SO R. JUDAH B. BATHYRA. R. AKIBA SAID: BECAUSE ONE PUTS IT ON ITS SIDE[43] SO AS TO LET THE BUYER SMELL IT.[44]

MISHNAH 5. THE COVERS OF WINE JARS AND OIL JARS AND THE COVERS OF PAPYRUS[45] JARS[46] ARE INSUSCEPTIBLE TO UNCLEANNESS, BUT IF THEY WERE ADAPTED FOR USE AS RECEPTACLES THEY ARE SUSCEPTIBLE. THE COVER OF A STEW-POT IS NOT SUSCEPTIBLE TO UNCLEANNESS WHEN IT HAS A HOLE[47] OR A POINTED TOP,[48] BUT IF IT HAS NEITHER HOLE NOR POINTED TOP IT IS SUSCEPTIBLE BECAUSE SHE[49] DRAINS THE VEGETABLES INTO IT. R. ELIEZER B. ZADOK SAID: BECAUSE SHE TURNS OUT THE CONTENTS [OF THE POT] ON TO IT.

MISHNAH 6. IF A DAMAGED JAR[50] WAS FOUND IN A FURNACE,[51] BEFORE ITS MANUFACTURE WAS COMPLETE[52] IT IS NOT SUSCEPTIBLE TO UNCLEANNESS,[53] BUT IF AFTER ITS MANUFACTURE WAS COMPLETE[54] IT IS SUSCEPTIBLE.[55] AS TO A SPRINKLER,[56] R. ELIEZER B. ZADOK HOLDS IT TO BE INSUSCEPTIBLE TO UNCLEANNESS; BUT R. JOSE HOLDS IT TO BE SUSCEPTIBLE BECAUSE IT LETS THE LIQUID OUT IN DROPS ONLY.[57]

MISHNAH 7. THE FOLLOWING AMONG EARTHEN VESSELS ARE SUSCEPTIBLE TO UNCLEANNESS: A TRAY WITH A RIM, AN UNBROKEN FIRE-PAN, AND A TRAY MADE UP OF[58] DISHES. IF ONE OF THEM[59] CONTRACTED UNCLEANNESS FROM A [DEAD] CREEPING THING[60] THEY DO NOT ALL BECOME UNCLEAN, BUT IF THE TRAY HAD A RIM THAT PROJECTED ABOVE THE RIMS OF THE DISHES AND ONE OF THEM[61] CONTRACTED UNCLEANNESS ALL ARE RENDERED UNCLEAN.[62] SIMILARLY WITH AN EARTHEN SPICE-POT[63] AND A DOUBLE INK-POT.[64] BUT IF ONE CONTAINER OF A WOODEN SPICE-BOX[63] CONTRACTED UNCLEANNESS FROM A LIQUID,[65] THE OTHER IS NOT RENDERED UNCLEAN.[66] R. JOHANAN B. NURI RULED: ITS THICKNESS[67] IS DEEMED TO BE DIVIDED[68] AND THAT SIDE WHICH SERVES THE UNCLEAN ONE IS UNCLEAN WHILE THAT WHICH SERVES THE CLEAN ONE REMAINS CLEAN. IF ITS RIM PROJECTS ABOVE THE OTHERS AND ONE OF THEM[69] CONTRACTED UNCLEANNESS THE OTHER ALSO IS RENDERED UNCLEAN.

MISHNAH 8. A TORCH[70] IS SUSCEPTIBLE TO UNCLEANNESS,[71] AND THE RESERVOIR[72] OF A LAMP CONTRACTS UNCLEANNESS[73] THROUGH ITS AIR- SPACE.[74] THE COMB[75] OF A COOLER,[76] R. ELIEZER RULED, IS NOT SUSCEPTIBLE TO UNCLEANNESS,[77] BUT THE SAGES RULED THAT IT WAS SUSCEPTIBLE.[78]

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(1) Sc. they are not susceptible to uncleanness.

(2) Cf. prev. n. mut. mut.

(3) They do not, however, resume their former uncleanness as metal vessels do.

(4) To foodstuffs and liquids.

(5) Even in the absence of contact with the vessel.

(6) By contact; but not through their air-space.

(7) Even if there was contact between the vessel and the uncleanness.

(8) Their outer flat or convex sides.

(9) But not by immersion as is the case with vessels made of other materials.

(10) When filled with liquid.

(11) Without shedding their contents.

(12) That renders them susceptible to uncleanness.

(13) In the case of broken vessels.

(14) While they were whole.

(15) Lit., ‘and until’.

(16) If it is to be susceptible to uncleanness.

(17) V. p. 13, n. 14.

(18) V. p. 13, n. 16.

(19) Lit., ‘in them’.

(20) The susceptibility to uncleanness being determined by the shape and place of origin of the vessel.

(21) V. p. 13, n. 10.

(22) V. p. 13, n. 11.

(23) V. p. 13, n. 12.

(24) V. p. 13, n. 15.

(25) Having no proper concave receptacle.

(26) Because the receptacle is an imperfect one.

(27) As a result of excavation by constantly dripping water.
(28) Since the cavity was not made for the purpose of serving as such.
(29) Shaped somewhat in the form of a receptacle but not originally intended to hold anything within it.
(30) Though it has a proper receptacle.
(31) By some alteration in its shape.
(32) In consequence of which it is no longer used as a receptacle.
(33) Being permanently stopped up on both sides it can no longer be regarded as having a proper receptacle (cf. prev. n.).
(34) To serve as its handle so as to facilitate its use (cf. supra n. 3).
(35) A ship's insusceptibility to uncleanness, despite its shape and use as a receptacle, is a Pentateuchal ordinance.
(36) That has some, though only an indirect, bearing on the preceding laws.
(37) Only when it has an inner part may uncleanness be imparted to its outer sides. The inner part of an earthen vessel contracts uncleanness through its inner air-space only. It can never contract uncleanness through its outer sides.
(38) Because it has no receptacle.
(39) Since it has a receptacle.
(40) Lit., ‘of householders’.
(41) By closing up the narrower hole of the funnel with a finger when filling it and removing the finger when holding the funnel over the buyer's utensil.
(42) And may, therefore, be regarded as a proper receptacle.
(43) To take up some of the liquid.
(44) A funnel is consequently susceptible to uncleanness even if it contains less than any known measure. According to the first Tanna, however, only when a funnel is capable of containing a known measure is it susceptible to uncleanness.
(45) Neyaroth. Some regard this word as a place name.
(46) Var. lec., ‘and the papyrus (covers of jars)’ .
(47) In consequence of which it cannot be used as a receptacle.
(48) Which prevents it from belong inverted and placed with its cavity upwards (cf. prev. n.).
(49) Sc. the housewife.
(50) Gastra, **; v. infra IV, 2-3.
(51) In which earthen vessels are baked.
(52) So that the defect occurred before the jar assumed the status of a ‘vessel’.
(53) Since only ‘vessels’ are susceptible.
(54) Cf. n. mut. mut.
(55) Because it is used as a receptacle for drops falling from a jar.
(56) Consisting of a perforated sieve-like receptacle in which the liquid is held by the closing up with the finger of a hole above.
(57) Such small holes do not allow a liquid to be taken in, and lt is only the bigger kind of holes that destroy the status of a vessel.
(58) Lit., ‘full’.
(59) The dishes in the last mentioned tray.
(60) And much more so from liquids.
(61) V. p. 16, n. 15.
(62) Since the creeping thing, when it is in the air-space of any of the dishes, is also within the air-space of the rim of the tray which encompasses all its constituents.
(63) That was made up of several containers.
(64) In their cases too the uncleanness of one container or pot does not affect the others unless a rim running round the whole contrivance projects above the rims of the constituents.
(65) Only a liquid. In the case of a dead creeping thing the entire contrivance becomes unclean.
(66) Since the uncleanness of the one container could be conveyed to the other only, by way of the adjoining sides, and the uncleanness of liquids cannot be conveyed, even Rabbinically, through the outside of a vessel.
(67) Of the side which separates the clean from the unclean container.
(68) Where one of them only came in contact with unclean liquids.
(69) The constituent containers.

(70) Consisting of an earthen bowl fixed to a pole and filled with wicks and oil.
(71) Though on account of its pointed bottom (which fits into the pole) it cannot stand unsupported.
(72) Lit., ‘the house of its sinking’.
(73) As any other earthen vessel that is shaped as a receptacle.
(74) Though it does not serve as a proper receptacle for the lamp which is only partly inserted into it.
(75) Projections around the rim in the shape of the teeth of a comb.
(76) Made of earthenware.
(77) Sc. an uncleanness on the comb is not regarded as one within the air-space of the cooler.
(78) Cf. prev. n. mut. mut.

Mishna - Mas. Kelim Chapter 3

MISHNAH 1. THE SIZE OF A HOLE THAT RENDERS AN EARTHEN VESSEL CLEAN[1] IS THE FOLLOWING: IF THE VESSEL WAS USED FOR FOODSTUFFS THE HOLE MUST BE BIG ENOUGH FOR OLIVES [TO FALL THROUGH],[2] IF IT WAS USED FOR LIQUIDS IT SUFFICES FOR THE HOLE TO BE BIG ENOUGH FOR LIQUIDS [TO BE ADMITTED THROUGH IT],[3] AND IF IT WAS USED FOR BOTH IT IS SUBJECTED TO THE GREATER RESTRICTION, VIZ., THAT THE HOLE MUST BE BIG ENOUGH FOR OLIVES [TO FALL THROUGH].[4]

MISHNAH 2. AS REGARDS A JAR THE SIZE OF THE HOLE[5] MUST BE SUCH THAT A DRIED FIG [WILL FALL THROUGH];[4] SO R. SIMEON. R. JUDAH SAID: WALNUTS.[6] R. MEIR SAID: OLIVES.[6] THE SIZE OF A HOLE[5] IN A STEW-POT OR A COOKING POT MUST BE SUCH THAT OLIVES [WILL FALL THROUGH]; IN A CRUSE AND A PITCHER, SUCH THAT OIL [WILL PENETRATE THROUGH IT];[7] AND IN A COOLER, SUCH THAT WATER [WILL PENETRATE THROUGH IT].[7] R. SIMEON RULED: THE SIZE OF THE HOLE IN THE CASE OF ALL THREE GROUPS[8] MUST BE SUCH THAT SEED [WILL FALL THROUGH IT]. IN A LAMP THE SIZE OF THE HOLE[5] MUST BE SUCH THAT OIL [WILL PENETRATE THROUGH IT].[7] R. ELIEZER SAID: SUCH THAT A SMALL PERUTAH [WILL DROP OUT THROUGH IT].[9] A LAMP[10] WHOSE NOZZLE HAS BEEN REMOVED IS CLEAN;[11] AND ONE MADE OF EARTH[12] WHOSE NOZZLE HAS BEEN BURNT BY THE WICK IS ALSO CLEAN.[11]

MISHNAH 3. IF A JAR[13] THAT HAD A HOLE[14] WAS MENDED WITH PITCH[15] AND THEN WAS BROKEN AGAIN,[16] IF THE FRAGMENT THAT WAS MENDED WITH THE PITCH CAN CONTAIN A QUARTER OF A LOG[17] IT IS UNCLEAN, SINCE THE DESIGNATION OF VESSEL HAS NEVER CEASED TO BE APPLIED TO IT. IF A POTSHERD HAD A HOLE THAT WAS MENDED WITH PITCH, IT IS CLEAN THOUGH IT CAN CONTAIN A QUARTER OF A LOG, BECAUSE THE DESIGNATION OF VESSEL HAS CEASED TO BE APPLIED TO IT.

MISHNAH 4. IF A JAR WAS CRACKED[18] BUT[19] , WAS LINED WITH CATTLE DUNG, ALTHOUGH THE POTSHERDS WOULD FALL APART WERE THE DUNG TO BE REMOVED,[20] IT IS UNCLEAN,[21] BECAUSE[22] IT NEVER CEASED TO BEAR THE NAME OF VESSEL. IF IT WAS BROKEN[23] AND SOME OF ITS SHERDS WERE STUCK TOGETHER AGAIN,[24] OR IF SOME POTTER'S CLAY WAS BROUGHT FOR THE PURPOSE[25] FROM ELSEWHERE, AND[26] IT WAS ALSO LINED WITH CATTLE DUNG, EVEN THOUGH THE POTSHERDS HOLD TOGETHER WHEN THE DUNG IS REMOVED, IT IS CLEAN,[27] BECAUSE IT[28] CEASED TO BEAR THE NAME OF VESSEL. IF IT[29] CONTAINED ONE SHERD THAT COULD HOLD[30] A QUARTER OF A LOG,[31] ALL ITS[29] PARTS[32] CONTRACT UNCLEANNESS BY CONTACT,[33] BUT THAT SHERD[34] CONTRACTS UNCLEANNESS THROUGH ITS AIR-SPACE.

MISHNAH 5. IF A SOUND VESSEL WAS LINED, R. MEIR AND R. SIMEON RULED: THE LINING[35] CONTRACTS UNCLEANNESS;[36] BUT THE SAGES RULED: A LINING OVER A SOUND VESSEL IS INSUSCEPTIBLE TO UNCLEANNESS,[37] , AND ONLY ONE OVER A CRACKED VESSEL IS SUSCEPTIBLE.[38] AND THE SAME DISPUTE[39] APPLIES TO THE HOOP[40] OF A PUMPKIN SHELL.[41]

MISHNAH 6. AS TO SCUTCHGRASS WHEREWITH THE LARGEST JARS[42] ARE LINED, ANY ONE THAT TOUCHES IT[43] BECOMES UNCLEAN.[44] THE PLUG OF A JAR[45] IS NOT REGARDED AS CONNECTED.[46] THAT[47] , WHICH TOUCHES THE LINING OF AN OVEN[48] IS UNCLEAN.[49]

MISHNAH 7. IF A CAULDRON[50] WAS LINED WITh MORTAR AND WITH POTTER'S CLAY, THAT WHICH TOUCHES THE MORTAR IS UNCLEAN[51] BUT THAT WHICH TOUCHES THE POTTER'S CLAY[52] IS CLEAN.[53] IF A KETTLE[54] WAS PUNCTURED AND THE HOLE WAS STOPPED WITH PITCH, R. JOSE RULES THAT IT IS CLEAN SINCE IT CANNOT HOLD HOT WATER[55] AS COLD.[56] THE SAME RULING HE ALSO GAVE[57] CONCERNING VESSELS MADE OF PITCH. IF COPPER VESSELS WERE LINED WITH PITCH THE LINING[58] IS CLEAN,[59] BUT IF THEY ARE USED FOR WINE[60] , IT IS UNCLEAN.[61]

MISHNAH 8. IF A JAR WAS PERFORATED AND THE HOLE WAS STOPPED UP WITH MORE PITCH[62] THAN WAS NECESSARY, THAT[63] WHICH TOUCHES THE NEEDED PORTION IS UNCLEAN, BUT THAT WHICH TOUCHES THE UNNEEDED PORTION[64] IS CLEAN. IF PITCH DRIPPED UPON A JAR,[65] WHAT TOUCHES THE FORMER[66] REMAINS CLEAN. IF A WOODEN OR EARTHEN FUNNEL WAS STOPPED UP WITH PITCH, R. ELEAZAR B. AZARIAH RULES THAT IT IS UNCLEAN.[67] R. AKIBA RULES THAT IT IS UNCLEAN WHERE IT IS OF WOOD[68] AND CLEAN WHERE IT IS OF EARTHENWARE.[69] R. JOSE RULES THAT BOTH ARE CLEAN.[70]

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(1) If (a) it was previously unclean; and if it was clean (b) insusceptible to all future uncleanness.

(2) If it was smaller, the vessel (cf. prev. n.) remains (a) unclean or (b) susceptible to future uncleanness, since it can still be used for foodstuffs. Only a vessel that can no longer serve its former purpose is exempt from all uncleanness.

(3) When the vessel is placed in a liquid. Such a hole is bigger than one which only allows a liquid within the vessel to flow out.

(4) Cf. n. 2 mut. mut.

(5) That renders the vessel (a) clean or (b) insusceptible to uncleanness.

(6) A smaller size than the previous one.

(7) Cf. supra n. 3 mut. mut.

(8) Stew-pot and cooking pot; cruse and pitcher; and cooler.

(9) A bigger size than the previous one.

(10) Of baked earthenware.

(11) V. p. 18, n. 1.

(12) That was unbaked.

(13) Whose capacity was from one log to a se'ah.

(14) Of the prescribed size (cf. prev. Mishnah) and in consequence of which the jar becomes clean.

(15) The jar thus resuming the status of a vessel and the susceptibility to uncleanness.

(16) Into fragments.

(17) And can also stand unsupported.

(18) To such an extent that, were it to be moved about while half a kab of dried figs were in it, it would collapse.

(19) In order to keep its parts together.

(20) So that the mainstay of the jar is the cattle dung which is insusceptible to uncleanness.

(21) If it was unclean before; and if it was clean it is susceptible to uncleanness.
(22) Though cracked.
(23) Its potsherds falling apart.
(24) With any adhesive substance.
(25) Of sticking the potsherds together.
(26) To provide further strength.
(27) Cf. p. 19 n. 3 mut. mut.
(28) When it was broken in pieces.
(29) The reconstructed vessel.
(30) Independently of the others.
(31) Of liquids.
(32) Which may be regarded as a handle to the biggest part.
(33) But not through their air-space, since a handle contracts uncleanness through contact only.
(34) That can hold a quarter of a log. Lit., ‘and opposite it’.
(35) Which is now a part of the vessel.
(36) If the vessel contracted any through its air-space. Foodstuffs and liquids that come in contact with such a lining consequently contract uncleanness.
(37) Since the parts of the vessel are held together without the aid of the lining the latter cannot be regarded as an integral part of the former.
(38) Cf. prev. n. mut. mut.
(39) Between R. Meir and R. Simeon on the one hand and the Sages on the other.
(40) Made of wood or iron.
(41) Which, when dry and hollow, was used for the drawing of water. The hoop in relation to the pumpkin is in the same position as the lining in relation to the vessel.
(42) Pitesin, sing. pitos cf. **.
(43) When the jar is unclean.
(44) Even according to the Rabbis (cf. prev. Mishnah). As the lining serves the purpose of preventing leakage of the wine it must be regarded as an integral part of the jar that is subject to the same uncleanness as the jar itself.
(45) Since it is movable.
(46) With the jar. If one contracted an uncleanness it does not convey it to the other.
(47) Foodstuffs.
(48) That was unclean.
(49) As the lining helps to preserve the heat of the oven it is regarded as an integral part of it.
(50) V. p. 20, n. 22.
(51) Since the mortar adheres thoroughly to the cauldron it is regarded as part of it and consequently contracts its uncleanness.
(52) Which crumbles and falls away.
(53) Cf. n. 2 mut mut.
(54) Which, unlike the cauldron mentioned before, is not used for the boiling of water.
(55) Which would melt the pitch.
(56) Much more so does this apply to a cauldron which is placed over a fire.
(57) For a similar reason.
(58) Since it is likely to be removed.
(59) Even where the vessels have contracted an uncleanness.
(60) Which is not kept hot.
(61) Because the lining is regarded as a part of the vessel.
(62) In thickness or extent.
(63) Foodstuffs or drinks.
(64) Lit., ‘more than its need’.
(65) That was unclean.
(66) Though it was only a drop and might have been presumed to lose itself in the identity of the jar.
(67) Since it can now hold liquids.

(68) To which pitch thoroughly adheres.

(69) From which the pitch falls away.

(70) A funnel in his opinion cannot be regarded as a proper receptacle even if it was stopped up.

Mishna - Mas. Kelim Chapter 4

MISHNAH 1. A POTSHERD[1] THAT CANNOT STAND UNSUPPORTED ON ACCOUNT OF ITS HANDLE,[2] OR A POTSHERD WHOSE BOTTOM IS POINTED AND THAT POINT CAUSES IT TO OVERBALANCE, IS CLEAN.[3] IF THE HANDLE WAS REMOVED OR THE POINT WAS BROKEN OFF IT IS STILL CLEAN.[4] R. JUDAH RULES THAT IT IS UNCLEAN.[5] IF A JAR WAS BROKEN[6] BUT IS STILL CAPABLE OF HOLDING SOMETHING IN ITS SIDES, OR IF IT WAS SPLIT INTO A KIND OF TWO TROUGHS, R. JUDAH DECLARES IT CLEAN[3] BUT THE SAGES DECLARE IT TO BE UNCLEAN.[5]

MISHNAH 2. IF A JAR WAS CRACKED AND CANNOT BE MOVED ABOUT WITH HALF A KAB OF DRIED FIGS IN IT, IT IS CLEAN.[7] IF A DAMAGED VESSEL[8] WAS CRACKED AND IT CANNOT HOLD ANY LIQUID, EVEN THOUGH IT CAN HOLD FOODSTUFFS, IT IS CLEAN,[3] SINCE ONE REMNANT[9] IS NOT USED FOR THE SAKE OF ANOTHER REMNANT.[10]

MISHNAH 3. WHAT IS MEANT BY A ‘DAMAGED VESSEL’?[11] ONE WHOSE HANDLES WERE REMOVED.[12] IF SHARP ENDS PROJECTED FROM IT,[13] ANY PART OF IT WHICH CAN CONTAIN OLIVES[14] CONTRACTS UNCLEANNESS BY CONTACT, WHILE ANY UNCLEANNESS OPPOSITE AN END[15] CONVEYS UNCLEANNESS TO THE VESSEL THROUGH ITS AIR-SPACE, BUT ANY PART OF IT WHICH CANNOT CONTAIN OLIVES[16] CONTRACTS UNCLEANNESS BY CONTACT. WHILE AN UNCLEANNESS OPPOSITE AN END[15] DOES NOT CONVEY UNCLEANNESS TO THE VESSEL THROUGH ITS AIR-SPACE. IF IT[17] WAS LEANING ON ITS SIDE[18] LIKE A KIND OF CATHEDRA,[19] ANY PART OF IT WHICH CAN CONTAIN OLIVES[14] CONTRACTS UNCLEANNESS BY CONTACT, WHILE ANY UNCLEANNESS OPPOSITE AN END CONVEYS UNCLEANNESS TO THE VESSEL THROUGH ITS AIR-SPACE, BUT ANY PART OF IT WHICH CANNOT CONTAIN OLIVES[16] CONTRACTS UNCLEANNESS BY CONTACT, WHILE AN UNCLEANNESS OPPOSITE AN END DOES NOT CONVEY UNCLEANNESS TO THE VESSEL THROUGH ITS AIR-SPACE.[20] BOWLS WITH KORFIAN[21] [BOTTOMS][22] , AND CUPS WITH ZIDONIAN[21] BOTTOMS,[23] ALTHOUGH THEY CANNOT STAND UNSUPPORTED, ARE SUSCEPTIBLE TO UNCLEANNESS, BECAUSE THEY WERE ORIGINALLY FASHIONED IN THIS MANNER.

MISHNAH 4. AS REGARDS AN EARTHEN VESSEL THAT HAS THREE RIMS, IF THE INNERMOST ONE PROJECTS ABOVE THE OTHERS ALL OUTSIDE IT IS NOT SUSCEPTIBLE TO UNCLEANNESS;[24] IF THE OUTERMOST ONE PROJECTS ABOVE THE OTHERS ALL WITHIN IT IS SUSCEPTIBLE TO UNCLEANNESS;[25] AND IF THE MIDDLE ONE PROJECTS ABOVE THE OTHERS, THAT WHICH IS WITHIN IT IS SUSCEPTIBLE TO UNCLEANNESS,[25] WHILE THAT WHICH IS WITHOUT IT IS NOT SUSCEPTIBLE TO UNCLEANNESS.[24] IF THEY[26] WERE EQUAL IN HEIGHT, R. JUDAH RULED: THE MIDDLE ONE IS DEEMED TO BE DIVIDED.[27] BUT THE SAGES RULED: ALL[28] IS INSUSCEPTIBLE TO UNCLEANNESS.[24] WHEN[29] DO EARTHEN VESSELS BECOME SUSCEPTIBLE TO UNCLEANNESS? AS SOON AS THEY ARE BAKED IN THE FURNACE, THAT BEING THE COMPLETION OF THEIR MANUFACTURE.[30]

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(1) Broken from a vessel.

(2) Lit., ‘ear’; sc. the handle of the vessel (that happened to be attached to the sherd in question) which overbalances it.

(3) If it was previously unclean. If it was clean it is insusceptible to future uncleanness.

(4) Because once a damaged earthen vessel becomes clean it remains so for all time.
(5) Cf. n. 3 mut. mut.
(6) In its bottom.
(7) Since it is regarded as a broken vessel.
(8) Gastra, v. supra II, 6, n. 6.
(9) A damaged vessel is a ‘remnant’ of a sound one.
(10) Sc. though one might well use a damaged vessel (‘a remnant’) for the purpose of collecting a liquid dripping from a tiny crack in an otherwise sound vessel (which is no remnant and one does not like to discard on account of so slight a crack) no one would so use a damaged vessel (‘a remnant’) when a crack occurs in a vessel that is already broken or seriously damaged (which is also ‘a remnant’).
(11) Which is rendered clean by the smallest hole that allows a liquid within it to flow out though the hole is not big enough to allow an olive to pass through it; cf. prev. Mishnah.
(12) Though it is otherwise sound.
(13) At the top where it was broken.
(14) Sc. where the sharp ends are to that extent close together.
(15) Cf. L.
(16) Cf. n. 3 mut. mut.
(17) A vessel half of which was broken away.
(18) Being incapable of standing on its bottom.
(19) **, a seat with a back; and that back had sharp broken ends.
(20) The point in this law is that, though the broken vessel cannot stand on its bottom (cf. n. 7), it is nevertheless on a par with the damaged one spoken of previously.
(21) Place name. Aliter: ‘pointed’.
(22) Which are pointed. Lit., ‘the bottoms of the Karfians’.
(23) Cf. prev. n. Lit., ‘the bottoms of the Zidonian cups’.
(24) Because it is regarded as the outside of the vessel which is not susceptible to uncleanness.
(25) As the inside of the vessel.
(26) The three rims.
(27) In its thickness, so that the outer part of it as well as all that is without it is regarded as the outside of the vessel and is insusceptible to uncleanness while its inner part and all within it is regarded as the inside of the vessel and is susceptible to uncleanness.
(28) That is without the innermost rim (Elijah Wilna).
(29) In the course of their manufacture.
(30) Though they have not yet passed the process of polishing.

Mishna - Mas. Kelim Chapter 5

MISHNAH 1. THE ORIGINAL HEIGHT OF A BAKING-OVEN[1] MUST BE NO LESS THAN FOUR HANDBREADTHS[2] AND WHAT IS LEFT OF IT[3] FOUR HANDBREADTHS;[4] SO R. MEIR. BUT THE SAGES RULED: THIS APPLIES ONLY TO A LARGE OVEN BUT IN THE CASE OF A SMALL ONE[1] ANY HEIGHT SUFFICES FOR ITS ORIGINAL BUILD[5] AND[3] THE GREATER PART OF THIS FOR WHAT IS LEFT OF IT.[4] [SUSCEPTIBILITY TO UNCLEANNESS[6] BEGINS] AS SOON AS THE OVEN'S MANUFACTURE IS COMPLETED.[7] WHAT IS REGARDED AS THE COMPLETION OF ITS MANUFACTURE? WHEN IT IS HEATED TO A DEGREE THAT SUFFICES FOR THE BAKING OF SPONGY CAKES.[8] R. JUDAH[9] RULED: WHEN A NEW OVEN[10] HAS BEEN HEATED TO A DEGREE THAT SUFFICED FOR THE BAKING OF SPONGY CAKES IN AN OLD ONE.[11]

MISHNAH 2. AS REGARDS A DOUBLE STOVE[12] ITS ORIGINAL HEIGHT[13] MUST BE NO LESS THAN THREE FINGERBREADTHS AND WHAT IS LEFT OF IT[14] THREE FINGERBREADTHS.[15] [ITS SUSCEPTIBILITY TO UNCLEANNESS BEGINS] AS SOON AS ITS MANUFACTURE IS COMPLETED.[16] WHAT IS REGARDED AS THE COMPLETION OF

ITS MANUFACTURE? WHEN IT IS HEATED TO A DEGREE THAT SUFFICES FOR THE COOKING ON IT OF THE LIGHTEST OF EGGS WHEN BROKEN AND PUT IN A SAUCEPAN. AS REGARDS A SINGLE STOVE,[17] IF IT WAS MADE FOR BAKING ITS PRESCRIBED SIZE[18] IS THE SAME AS THAT FOR A BAKING-OVEN,[19] AND IF IT WAS MADE FOR COOKING ITS PRESCRIBED SIZE[18] IS THE SAME AS THAT FOR A DOUBLE STOVE.[20] A STONE THAT PROJECTS ONE HANDBREADTH FROM A BAKING-OVEN[21] OR THREE FINGERBREADTHS FROM A DOUBLE STOVE[20] IS CONSIDERED A CONNECTION.[22] FOR ONE THAT PROJECTS FROM A SINGLE STOVE, IF THE LATTER WAS MADE FOR BAKING, THE PRESCRIBED SIZE[23] IS THE SAME AS THAT FOR A BAKING-OVEN, AND IF IT IS MADE FOR COOKING THE PRESCRIBED SIZE IS THE SAME AS THAT FOR A DOUBLE STOVE. SAID R. JUDAH: THEY[24] SPOKE OF A ‘HANDBREADTH’[25] ONLY WHERE THE PROJECTION WAS BETWEEN THE OVEN[26] AND A WALL.[27] IF TWO OVENS WERE ADJACENT TO ONE ANOTHER[28] ONE HANDBREADTH[23] IS ALLOWED TO THE ONE AND ANOTHER[29] TO THE OTHER WHILE THE REMAINDER[30] REMAINS CLEAN.[31]

MISHNAH 3. THE CROWN[32] OF A DOUBLE STOVE IS CLEAN.[33] AS TO THE FENDER AROUND AN OVEN, WHEN IT IS FOUR HANDBREADTHS HIGH IT CONTRACTS UNCLEANNESS BY CONTACT AND THROUGH ITS AIR-SPACE,[34] BUT IF IT WAS LOWER IT IS CLEAN.[35] IF IT[36] WAS JOINED TO IT,[37] EVEN IF ONLY BY THREE STONES,[38] IT IS UNCLEAN.[39] THE SOCKETS [ON THE STOVE][40] FOR THE OIL CRUSE, THE SPICE-POT, AND THE LAMP CONTRACT UNCLEANNESS BY CONTACT[41] BUT NOT THROUGH THEIR AIR-SPACE;[42] SO R. MEIR. R. ISHMAEL[43] RULES THAT THEY ARE CLEAN.[44]

MISHNAH 4. AN OVEN THAT WAS HEATED FROM WITHOUT,[45] OR ONE THAT WAS HEATED[46] WITHOUT THE OWNER'S KNOWLEDGE, OR ONE THAT WAS HEATED WHILE STILL IN THE CRAFTSMAN'S HOUSE[47] IS SUSCEPTIBLE TO UNCLEANNESS. IT ONCE HAPPENED THAT A FIRE BROKE OUT AMONG THE OVENS OF KEFAR SIGNAH,[48] AND WHEN THE CASE WAS BROUGHT UP AT JABNEH RABBAN GAMALIEL RULED THAT THEY WERE UNCLEAN.[49]

MISHNAH 5. THE CHIMNEY-PIECE[50] ON A HOUSEHOLDER'S OVEN IS CLEAN,[51] BUT THAT OF BAKERS IS UNCLEAN BECAUSE ONE RESTS ON IT THE ROASTING SPIT.[52] R. JOHANAN HASANDELAR[53] SAID: BECAUSE ONE BAKES ON IT WHEN PRESSED [FOR SPACE].[52] SIMILARLY THE RIM[50] OF A BOILER USED BY OLIVE SEETHERS IS SUSCEPTIBLE TO UNCLEANNESS,[54] BUT THAT OF ONE USED BY DYERS[55] IS NOT SUSCEPTIBLE.

MISHNAH 6. IF AN OVEN WAS HALF FILLED WITH EARTH,[56] THE PART FROM THE EARTH DOWNWARDS CONTRACTS UNCLEANNESS BY CONTACT ONLY[57] WHILE THE PART FROM THE EARTH UPWARDS CONTRACTS UNCLEANNESS FROM ITS AIR-SPACE ALSO.[58] IF AN OVEN WAS PLACED OVER THE MOUTH OF A CISTERN OR OVER THAT OF A CELLAR AND A STONE WAS INSERTED AT ITS SIDE,[59] R. JUDAH RULED: IF WHEN HEATED BELOW[60] IT BECOMES ALSO HEATED ABOVE[61] IT[62] IS SUSCEPTIBLE TO UNCLEANNESS.[63] BUT THE SAGES RULED: SINCE IT WAS HEATED, NO MATTER HOW,[64] IT IS SUSCEPTIBLE TO UNCLEANNESS.[65]

MISHNAH 7. IF AN OVEN CONTRACTED UNCLEANNESS HOW IS IT TO BE CLEANSED? IT MUST BE DIVIDED INTO THREE PARTS[66] AND THE PLASTERING[67] MUST BE SCRAPED OFF SO THAT [THE OVEN] TOUCHES THE GROUND.[68] R. MEIR RULED: IT IS NOT NECESSARY TO SCRAPE OFF THE PLASTERING NOR IS IT NECESSARY FOR [THE OVEN] TO TOUCH THE GROUND, BUT IT[69] NEED ONLY BE

REDUCED WITHIN[70] TO A HEIGHT OF LESS THAN FOUR HANDBREADTHS. R. SIMEON RULED: IT[71] MUST ALSO BE MOVED [FROM ITS POSITION]. IF IT WAS DIVIDED INTO TWO PARTS, ONE LARGE AND THE OTHER SMALL, THE LARGER REMAINS UNCLEAN AND THE SMALLER BECOMES CLEAN. IF IT WAS DIVIDED INTO THREE PARTS ONE OF WHICH WAS AS BIG AS THE OTHER TWO TOGETHER, THE BIG ONE REMAINS UNCLEAN AND THE TWO SMALL ONES BECOME CLEAN.

MISHNAH 8. IF AN OVEN WAS CUT UP BREADTHWISE INTO RINGS THAT ARE EACH LESS THAN FOUR HANDBREADTHS IN HEIGHT, IT IS CLEAN. IF IT WAS SUBSEQUENTLY[72] PLASTERED OVER WITH CLAY, IT BECOMES SUSCEPTIBLE TO UNCLEANNESS WHEN[73] IT IS HEATED TO A DEGREE THAT SUFFICES FOR THE BAKING OF SPONGY CAKES. IF THE PLASTERING WAS REMOVED,[74] AND SAND OR GRAVEL WAS PUT BETWEEN IT AND THE OVEN SIDES — OF SUCH AN OVEN IT HAS BEEN SAID, ‘A MENSTRUANT AS WELL AS A CLEAN WOMAN MAY BAKE IN IT AND IT REMAINS CLEAN’.[75]

MISHNAH 9. IF AN OVEN CAME IN SECTIONS[76] FROM THE CRAFTSMAN'S HOUSE AND HOOPS WERE PREPARED FOR IT AND PUT UPON IT[77] WHILE IT WAS CLEAN, AND WHEN[78] IT CONTRACTED AN UNCLEANNESS ITS HOOPS WERE REMOVED, IT IS AGAIN CLEAN.[79] EVEN IF THEY ARE PUT ON AGAIN THE OVEN REMAINS CLEAN.[80] IF, HOWEVER, IT WAS[81] PLASTERED WITH CLAY, IT BECOMES SUSCEPTIBLE TO UNCLEANNESS AND THERE IS NO NEED TO HEAT IT SINCE IT[82] WAS ONCE HEATED.

MISHNAH 10. IF AN OVEN WAS CUT UP[83] INTO RINGS, AND SAND WAS INSERTED BETWEEN EACH PAIR OF RINGS,[84] R. ELIEZER RULES: IT IS CLEAN;[85] BUT THE SAGES RULE: IT IS UNCLEAN.[86] SUCH AN OVEN IS KNOWN AS THE OVEN OF AKNAI.[87] AS REGARDS THE ARABIAN POTS, WHICH ARE HOLES DUG IN THE GROUND AND PLASTERED WITH CLAY, IF THE PLASTERING CAN STAND OF ITSELF IT IS SUSCEPTIBLE TO UNCLEANNESS;[88] OTHERWISE IT IS NOT SUSCEPTIBLE. AND THIS KIND OF OVEN IS KNOWN AS THE OVEN OF BEN DINAI.[89]

MISHNAH 11. AN OVEN OF STONE OR OF METAL IS CLEAN,[90] BUT THE LATTER IS UNCLEAN AS A METAL VESSEL.[91] IF A HOLE WAS MADE IN IT, OR IF IT WAS DAMAGED OR CRACKED, AND IT WAS PROVIDED WITH A LINING OF PLASTER OR WITH A RIM OF CLAY, IT IS UNCLEAN.[92] WHAT MUST BE THE SIZE OF THE HOLE?[93] IT MUST BE BIG ENOUGH FOR THE FLAME TO COME THROUGH. THE SAME APPLIES ALSO TO A STOVE. A STOVE OF STONE OR OF METAL IS CLEAN,[94] BUT THE LATTER IS UNCLEAN AS A METAL VESSEL.[95] IF A HOLE WAS MADE IN IT OR IF IT WAS DAMAGED OR CRACKED BUT WAS PROVIDED WITH PROPS[96] IT IS UNCLEAN. IF IT WAS LINED WITH CLAY, WHETHER INSIDE OR OUTSIDE, IT REMAINS CLEAN. R. JUDAH RULED: IF [THE LINING WAS] INSIDE IT IS UNCLEAN BUT IF OUTSIDE IT REMAINS CLEAN.

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(1) If it is to be susceptible to uncleanness.

(2) Baking-ovens were made of clay in the shape of a truncated cone, the wider side being attached with clay to the ground which constituted its bottom. Though such an oven has no bottom of its own it is regarded as a vessel and is susceptible to uncleanness if it conforms to the conditions laid down in our Mishnah.

(3) After it had contracted an uncleanness and was broken.

(4) If a lesser height remained it is clean.

(5) Since it is only used as a child's toy.

(6) In the case of either oven.

(7) But not earlier.

(8) These require less heat than cakes made of stiffer dough.
(9) Restricting the Law.
(10) Which needs more heating than an old one.
(11) Though it would not be sufficient for baking them in the new oven.
(12) A kind of box-shaped earthen vessel, hollow within and having two holes on top. The fire is kept within, while the cooking utensils are set over the holes or, sometimes, inside direct on the coals.
(13) If the stove is to be susceptible to uncleanness.
(14) After it had contracted an uncleanness and was broken.
(15) If a lesser height remained it is clean.
(16) But not earlier.
(17) Sc. a stove (cf. p. 25 n. 12) with one hole.
(18) And degree of heating.
(19) Supra Mishnah 1, q.v.
(20) Supra.
(21) In which case the stone may be regarded as a handle of the oven. If it was longer it cannot be so regarded because it would most likely be cut away.
(22) Sc. if the oven or stove contracted an uncleanness it is passed on to the stone; and if an object of uncleanness came in contact with the stone the oven or stove also contracts it.
(23) Of the stone.
(24) The Rabbis whose ruling has just been cited.
(25) In the case of an oven; and of ‘three fingerbreadths’ in that of a double stove. Sc. that the projection is considered a connection only where it is not longer than a handbreadth and three fingerbreadths respectively.
(26) Or double stove (cf. prev. n.).
(27) In such a case a longer projection would most likely be cut off in order that the oven should not be too far removed from the wall. Where, however, the stone projected in another direction it is not likely to be cut off and may well be regarded as a handle, and, therefore, as a proper connection.
(28) And a stone joined them together.
(29) On the other side of the stone nearest to the other oven.
(30) The length of stone between the two handbreadths which (cf. foll. n.) cannot be regarded as a handle to either oven.
(31) In agreement with the first Tanna and contrary to the view of R. Judah.
(32) A kind of detachable rim around the top of a stove which helps to preserve its heat.
(33) Even where the stove had contracted an uncleanness; because it is not considered a proper connection.
(34) If a dead creeping thing was suspended within its air-space the oven also becomes unclean.
(35) Since it is not considered a proper connection.
(36) The fender.
(37) The oven.
(38) Sc. by an imperfect connection (cf. Bert.). Aliter: Joined on three sides but not on the fourth (L.).
(39) Because it is regarded as a proper connection.
(40) On the top.
(41) Whether the uncleanness came into contact with any of them or with the stove all become unclean.
(42) Sc. an uncleanness suspended within the air-space of one of these or of the oven imparts no uncleanness to any of the others, though the uncleanness is imparted to that in whose air-space it was suspended.
(43) Var. lec. ‘Simeon’ or ‘and R. Simeon’.
(44) Always, even where there was contact with one of them. Only that one is unclean that came In contact with the uncleanness.
(45) Lit., ‘from its back’.
(46) Within.
(47) Sc. before its manufacture was completed.
(48) In Galilee.
(49) The fire was regarded by him as that of a furnace; the baking in which is the completion of their manufacture.
(50) Lit,, ‘addition’, ‘attachment’.
(51) Even where the oven is unclean, because it is not considered a connection.

(52) So that it forms an integral part of the oven.
(53) The Sandal-maker.
(54) Because they make use of the rim also.
(55) Who do not use the rim.
(56) So that its lower half had no longer any cavity as an air-space.
(57) If a dead creeping thing was embedded within the earth but did not touch the sides of the oven no uncleanness is imparted.
(58) And the uncleanness extends over the entire oven (L.) or only to that part which is above the earth (Bert.).
(59) Lit., 'there', between the oven and the wall to lessen the space and thus to keep the oven in position.
(60) From the cistern or cellar.
(61) The heat passing up through the bottom of the oven.
(62) The oven, on being heated for the first time (which constitutes the completion of its manufacture).
(63) For then it is deemed as joined to the ground and susceptible to uncleanness according to Lev. XI, 35 in the normal way (cf. supra Mishnah I). If the oven, however, can be heated from above only the heating from below does not render it susceptible to uncleanness.
(64) Even if it is entirely detached from the ground.
(65) The divergence of view between R. Judah and the Sages whether or not the oven to become susceptible to uncleanness must be attached to the ground depends on the interpretation of the Pentateuchal expression in Lev. XI, 35.
(66) Being cut perpendicularly.
(67) Which attaches the oven to the ground.
(68) So Maim.
(69) The plastering.
(70) Within the oven.
(71) The oven, sc. each of the three parts into which it is divided.
(72) The rings having been set up again and the oven resumed its original shape.
(73) Like a new oven (supra Mishnah 1).
(74) From the sides of the oven.
(75) Since it is insusceptible to uncleanness on account of the sand or gravel which prevents the plaster from adhering to the re-set oven.
(76) Lit., 'cut'.
(77) To hold the sections together.
(78) Subsequently.
(79) Since the sections are no longer held together the oven must be regarded as a broken one that is not susceptible to uncleanness.
(80) Because it is no longer considered a whole vessel. Only when the new sections come for the first time from the craftsman's house do the hoops unite them into one whole.
(81) After the sections were re-set.
(82) When it came in sections from the craftsman.
(83) Breadthwise.
(84) And plastered over.
(85) Because the sand is deemed to break up the oven into isolated fragments.
(86) Since the plaster over the sand joins the rings into one whole.
(87) Probably the name of a manufacturer of this kind of oven; v. B.M. 59a.
(88) After it had been duly heated to the prescribed degree.
(89) The name of a person (a robber) who designed or made this kind of oven; v. Sot. 47a. and Josephus. Ant. XX, 6, 1
(90) The former is not even susceptible to uncleanness while the latter is cleansed by ritual immersion. Neither contracts uncleanness through its air-space.
(91) So that if it is not attached to the ground it contracts uncleanness from its outside and it may also become a 'father of the father of uncleanness'.
(92) Sc. it is susceptible to uncleanness like an oven made of clay.
(93) For an oven to be regarded as broken and clean.
(94) V. p. 30, n. 15.

(95) V. p. 30, n. 16.

(96) Three clay props on the top of the stove on which the cooking pot is set (Elijah Wilna).

Mishna - Mas. Kelim Chapter 6

MISHNAH 1. IF THREE PROPS[1] WERE PUT UPON THE GROUND[2] AND JOINED TOGETHER WITH CLAY[3] SO THAT A POT COULD BE SET ON THEM, [THE STRUCTURE] IS SUSCEPTIBLE TO UNCLEANNESS.[4] IF THREE NAILS WERE FIXED IN THE GROUND[2] SO THAT A POT COULD BE SET ON THEM, EVEN THOUGH A PLACE WAS MADE ON THE TOP[5] WHEREON A POT COULD REST, [THE STRUCTURE] IS INSUSCEPTIBLE TO UNCLEANNESS.[6] IF ONE MADE A STOVE OF TWO STONES, JOINING THEM TOGETHER WITH CLAY, IT IS SUSCEPTIBLE TO UNCLEANNESS.[4] R. JUDAH RULES THAT IT IS INSUSCEPTIBLE TO UNCLEANNESS,[7] UNLESS A THIRD STONE IS ADDED OR [THE STRUCTURE] IS PLACED NEAR A WALL.[8] IF ONE STONE WAS JOINED TO THE OTHER WITH CLAY AND THE THIRD WAS NOT JOINED TO IT WITH CLAY, [THE STRUCTURE] IS INSUSCEPTIBLE TO UNCLEANNESS.[9]

MISHNAH 2. A STONE[10] ON WHICH A POT IS SET, [RESTING IT ON IT] AND ON AN OVEN, OR ON A DOUBLE STOVE, OR ON A STOVE,[11] IS SUSCEPTIBLE TO UNCLEANNESS. IF THE POT RESTED ON THE STONE[10] AND ON ANOTHER STONE,[12] ON A ROCK[13] OR ON A WALL,[14] [SUCH STOVE] IS INSUSCEPTIBLE TO UNCLEANNESS;[15] AND SUCH[16] WAS THE STOVE OF THE NAZIRITES IN JERUSALEM[17] WHICH WAS SET UP AGAINST A ROCK. AS REGARDS THE STOVE OF THE BUTCHERS,[18] WHENEVER THE STONES ARE PLACED SIDE BY SIDE,[19] IF ONE OF THE STOVES CONTRACTED UNCLEANNESS ALL THE OTHERS DO NOT BECOME UNCLEAN.[20]

MISHNAH 3. IF ONE MADE OF THREE STONES TWO STOVES[21] AND ONE OF THE OUTER ONES CONTRACTED AN UNCLEANNESS THE HALF OF THE MIDDLE ONE THAT SERVES THE UNCLEAN ONE[22] IS UNCLEAN BUT THE HALF OF IT THAT SERVES THE CLEAN ONE REMAINS CLEAN. IF THE CLEAN ONE WAS REMOVED, THE MIDDLE ONE IS REGARDED AS COMPLETELY TRANSFERRED TO THE UNCLEAN ONE.[23] IF THE UNCLEAN ONE WAS REMOVED, THE MIDDLE ONE IS REGARDED AS COMPLETELY TRANSFERRED TO THE CLEAN ONE. SHOULD THE TWO OUTER ONES CONTRACT UNCLEANNESS, IF THE MIDDLE STONE WAS LARGE EACH OUTER STONE IS ALLOWED SUCH A PART OF IT AS SUFFICES FOR THE SUPPORT OF A POT[22] AND THE REMAINDER IS CLEAN. BUT IF IT WAS SMALL ALL OF IT IS UNCLEAN. SHOULD THE MIDDLE STONE BE REMOVED, IF A BIG KETTLE CAN BE SET ON THE TWO OUTER STONES[24] THEY ARE UNCLEAN. IF THE MIDDLE STONE IS RESTORED ALL BECOMES CLEAN AGAIN.[25] IF IT WAS PLASTERED WITH CLAY[26] IT BECOMES SUSCEPTIBLE TO UNCLEANNESS WHEN[27] IT IS HEATED TO A DEGREE THAT SUFFICES FOR THE COOKING OF AN EGG.[28]

MISHNAH 4. IF TWO STONES WERE MADE INTO A STOVE AND THEY CONTRACTED AN UNCLEANNESS, AND A STONE WAS SET UP NEAR THE OUTER SIDE[29] OF THE ONE AND ANOTHER STONE NEAR THE OUTER SIDE OF THE OTHER,[30] [THE INNER HALF] OF EACH [INNER STONES][31] REMAINS UNCLEAN[32] WHILE [THE OUTER] HALF OF EACH [OF THESE STONES][33] IS CLEAN. IF THE CLEAN STONES[34] ARE REMOVED THE OTHERS[35] REVERT TO THEIR UNCLEANNESS.

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(1) Of clay.

(2) In a tripod arrangement.

(3) To form a stand.

(4) Sc. like an earthen vessel it contracts uncleanness through its air-space.
(5) Sc. each nail was provided at its top with a coating of clay (Tosaf. Y.T.)
(6) Like a metal vessel that is fixed to the ground.
(7) Because on two stones a pot cannot properly be set.
(8) On which one side of the pot could be supported.
(9) According to R. Judah (cf. n. 7).
(10) That was fixed to the ground with clay.
(11) The pot being supported both on the stone and on one of these earthen vessels.
(12) That was not fixed to the ground.
(13) In its primordial condition.
(14) All of which are insusceptible to uncleanness.
(15) Because to such a stove the prescription shall be broken in pieces (Lev. XI, 35) does not apply.
(16) A stone fixed to the ground.
(17) On which they cooked their peace-offerings (cf. Mid. II, 5).
(18) Who sold cooked meat and used a stove for the purpose.
(19) Each one being fixed to the ground with clay but separated from the others, and each pair serving as one stove on which a cooking pot could rest.
(20) Since each stove may be regarded as an isolated entity.
(21) The cooking pots resting on either Of the outer stones and the adjacent part of the middle one.
(22) Cf. prev. n.
(23) And it becomes unclean.
(24) I.e., if their distance from one another was not so great as to prevent the opposite sides of the kettle from resting on the two stones respectively.
(25) The stone restored being deemed to have broken the larger stove in two.
(26) And thus fixed to the ground.
(27) Like a new oven.
(28) As explained supra V, 2.
(29) Lit., ‘from here’.
(30) The four stones now forming three stoves.
(31) Which serves as part of the middle stove.
(32) As it was originally.
(33) Which is now forming a new stove with the outer stone adjacent to it.
(34) The outer ones that have been added to the original stove.
(35) The two stones that constituted the original stove.

Mishna - Mas. Kelim Chapter 7

MISHNAH 1. IF A DOMESTIC[1] FIRE-BASKET[2] WAS HOLLOWED OUT[3] TO A DEPTH OF LESS THAN THREE HANDBREADTHS,[4] IT REMAINS SUSCEPTIBLE TO UNCLEANNESS, BECAUSE WHEN IT IS HEATED FROM BELOW[3] A POT ABOVE WOULD STILL BOIL. IF, HOWEVER, IT WAS HOLLOWED OUT[3] TO A LOWER DEPTH IT IS INSUSCEPTIBLE TO UNCLEANNESS.[5] IF SUBSEQUENTLY A STONE OR GRAVEL WAS PUT INTO IT,[6] IT IS STILL INSUSCEPTIBLE TO UNCLEANNESS.[7] IF IT WAS PLASTERED OVER[8] WITH CLAY, IT MAY CONTRACT UNCLEANNESS HENCEFORWARD.[9] THIS WAS R. JUDAH'S REPLY[10] IN CONNECTION WITH THE OVEN THAT WAS PLACED OVER THE MOUTH OF A CISTERN OR OVER THAT OF A CELLAR.[11]

MISHNAH 2. A HOB[12] THAT HAS A RECEPTACLE FOR POTS[13] IS CLEAN AS A STOVE[14] BUT UNCLEAN AS A RECEPTACLE.[15] AS TO ITS[16] SIDES,[17] WHATEVER TOUCHES THEM DOES NOT BECOME UNCLEAN AS IF THE HOB HAD BEEN A STOVE,[18] BUT AS REGARDS ITS WIDE SIDE,[19] R. MEIR HOLDS IT TO BE CLEAN[20] WHILE R. JUDAH HOLDS IT TO BE UNCLEAN.[21] THE SAME LAW[22] APPLIES ALSO WHERE A BASKET WAS

INVERTED AND A STOVE WAS PUT UPON IT.[23]

MISHNAH 3. IF A DOUBLE STOVE WAS SPLIT INTO TWO PARTS LONGITUDINALLY IT BECOMES INSUSCEPTIBLE TO UNCLEANNESS.[24] BUT IF CROSSWISE[25] IT REMAINS SUSCEPTIBLE TO UNCLEANNESS. IF A SINGLE STOVE WAS SPLIT INTO TWO PARTS, WHETHER LONGITUDINALLY OR CROSSWISE, IT BECOMES INSUSCEPTIBLE TO UNCLEANNESS.[26] AS TO THE FENDER AROUND A STOVE,[27] WHENEVER IT[28] IS THREE FINGERBREADTHS HIGH IT CONTRACTS UNCLEANNESS BY CONTACT AND ALSO THROUGH ITS AIR-SPACE, BUT IF IT IS LESS IT CONTRACTS UNCLEANNESS THROUGH CONTACT AND NOT THROUGH ITS AIR- SPACE.[29] HOW[30] IS THE AIR-SPACE[31] DETERMINED?[32] R. ISHMAEL SAYS: A SPIT[33] IS INCLINED FROM ABOVE[34] DOWNWARDS[35] AND ALL BELOW IT[36] IS THE AIR-SPACE[37] THROUGH WHICH UNCLEANNESS IS IMPARTED. R. ELIEZER B. JACOB RULED: IF THE STOVE CONTRACTED UNCLEANNESS THE FENDER[38] ALSO BECOMES UNCLEAN, BUT IF THE FENDER CONTRACTS UNCLEANNESS THE STOVE DOES NOT BECOME UNCLEAN.

MISHNAH 4. IF THE FENDER WAS DETACHED FROM THE STOVE, WHENEVER IT WAS THREE FINGERBREADTHS HIGH IT CONTRACTS UNCLEANNESS BY CONTACT AND THROUGH ITS AIR-SPACE, BUT IF IT WAS LOWER OR IF THE FENDER WAS FLAT[39] IT IS CLEAN.[40] IF THREE PROPS[41] ON A STOVE WERE THREE FINGERBREADTHS HIGH, THEY CONTRACT UNCLEANNESS BY CONTACT AND THROUGH THEIR AIR-SPACE. IF THEY WERE LOWER THEY CONTRACT UNCLEANNESS ALL THE MORE,[42] EVEN WHERE THEY WERE FOUR IN NUMBER.[43]

MISHNAH 5. IF ONE OF THEM[44] WAS REMOVED, THE REMAINING ONES CONTRACT UNCLEANNESS BY CONTACT BUT NOT THROUGH THEIR AIR-SPACE;[45] SO R. MEIR. R. SIMEON RULES THAT THEY REMAIN CLEAN. IF ORIGINALLY ONLY TWO PROPS WERE MADE, ONE OPPOSITE THE OTHER,[46] THEY CONTRACT UNCLEANNESS BY CONTACT AND THROUGH THEIR AIR-SPACE; SO R. MEIR. R. SIMEON RULES THAT THEY ARE CLEAN. IF THEY WERE MORE THAN THREE FINGERBREADTHS HIGH, THE PARTS THAT ARE THREE FINGERBREADTHS HIGH AND DOWNWARDS[47] CONTRACT UNCLEANNESS BY CONTACT AND THROUGH THEIR AIR-SPACE BUT THE PARTS THAT ARE MORE THAN THREE FINGERBREADTHS HIGH CONTRACT UNCLEANNESS BY CONTACT AND NOT THROUGH THEIR AIR-SPACE; SO R. MEIR. R. SIMEON RULES THAT THEY[48] ARE CLEAN. IF THEY WERE WITHDRAWN FROM THE RIM,[49] THE PARTS WHICH ARE WITHIN THREE FINGERBREADTHS[49] CONTRACT UNCLEANNESS BY CONTACT AND THROUGH THEIR AIR-SPACE, AND THOSE PARTS THAT ARE REMOVED MORE THAN THREE FINGERBREADTHS[49] CONTRACT UNCLEANNESS BY CONTACT BUT NOT THROUGH THEIR AIR-SPACE; SO R. MEIR. R. SIMEON RULES THAT THEY ARE CLEAN.

MISHNAH 6. HOW IS THEIR AIR-SPACE[50] MEASURED?[51] R. SIMEON B. GAMALIEL SAYS: THE MEASURING-ROD[52] IS PLACED BETWEEN THEM,[53] AND ANY PART THAT IS OUTSIDE THE MEASURING-ROD IS CLEAN WHILE ANY PART INSIDE THE MEASURING-ROD, INCLUDING THE PLACE OF THE MEASURING-ROD ITSELF, IS UNCLEAN.

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(1) Lit., 'of householders'.

(2) **. A movable earthen stove, open above (where the pot is set) and closed below with a thick bottom (on which the coals rest).

(3) In its bottom.

(4) Lowering by so much the level of the fire.

(5) Because, on account of the distance of the fire from its top, it can no longer be used as a stove.
(6) To fill up the hollowed part.
(7) Since a movable object cannot be regarded as a valid part of the stove.
(8) Above the stone or gravel.
(9) Cf. n. 7 mut. mut.
(10) To the Sages who differed from him (supra V, 6).
(11) As here it is essential that the heat below shall suffice for the boiling of a pot above so, R. Judah maintained, it is also essential there.
(12) Dakon or (with MS.M.) Dikon, a projection from a stove (triangular in shape, the base of which and the stove have a common side) on which pots are placed to keep them warm. Aliter: An oblong chest filled with hot ashes on the top of which are holes for pots.
(13) Cf. prev. n.
(14) Sc. it is (a) insusceptible to uncleanness if it was fixed to the ground and (b) though the stove contracted an uncleanness the hob remains clean.
(15) Sc. if it was detached from the ground it becomes susceptible to uncleanness like any other earthen vessel.
(16) The hob's.
(17) That are not common to it and the stove.
(18) Even though the stove was unclean at the time.
(19) That which is common to it and the stove.
(20) Because, in his opinion, even the wide side is not wholly regarded as a part of the stove, their common side being considered as a mere stone intervening between two stoves which is deemed to be divided into two halves, that facing the hob remaining clean.
(21) Sc. if an uncleanness touched the hob it is as unclean as if the stove itself had been touched.
(22) That is applicable to the hob.
(23) The part of the basket that projects round about the oven and on which pots are placed to keep them warm, are subject to the same laws as the hob.
(24) Since neither part is capable of holding a pot.
(25) So that each stove is still capable of holding a pot on the unbroken hole on its top.
(26) Cf. n. 10. mut. mut.
(27) Lit., ‘court’, a flat foundation of clay with a rim around it.
(28) Cf. prev. n.
(29) Since it is only regarded as a ‘handle’ of the stove.
(30) In the case where the rim of the fender is three fingerbreadths high.
(31) Of the fender.
(32) In view of the fact that the stove is much higher than the rim of the fender.
(33) Or a similar rod.
(34) From the edge of the stove.
(35) To the rim of the fender.
(36) Lit., ‘and opposite it’.
(37) V. p. 36. n. 17.
(38) Which is merely an adjunct to it.
(39) Lit., ‘smooth’, sc. there was no rim at all.
(40) Though the stove was unclean; since it was completely detached from it.
(41) Of clay on which pots are set.
(42) Since they are definitely a part of the stove.
(43) When one of them is superfluous, since a pot could well be set on three props.
(44) Of the three props spoken of in the previous Mishnah.
(45) Since they are regarded as a mere ‘handle’ of the stove.
(46) So that the two, being capable of supporting a pot, are in the same condition as two stones of which a stove was made (v. supra VI, 1).
(47) Towards the stove.
(48) The parts that are more than three fingerbreadths high. Aliter: The entire height of the props.

(49) Of the stove or (with another commentary) the mouth of the stove, the props having been bent outwards.
(50) Lit., ‘them’, the props (v. prev. Mishnah).
(51) Sc. how is it determined which air-space is within the parts of the props that are ‘within three fingerbreadths’.
(52) With which the three fingerbreadths have been measured.
(53) Each pair of props in turn, at a distance of three fingerbreadths (cf. n. 2).

Mishna - Mas. Kelim Chapter 8

MISHNAH 1. IF WITHIN AN OVEN[1] A PARTITION OF BOARDS OR HANGINGS[2] WAS PUT UP AND A [DEAD] CREEPING THING WAS FOUND IN ONE COMPARTMENT ALL THE OVEN BECOMES UNCLEAN.[3] IF A HIVE THAT WAS BROKEN THROUGH[4] AND ITS GAP WAS STOPPED UP WITH STRAW[5] WAS SUSPENDED WITHIN THE AIR-SPACE OF AN OVEN[6] WHILE A [DEAD] CREEPING THING WAS WITHIN IT, THE OVEN BECOMES UNCLEAN.[7] IF A [DEAD] CREEPING THING WAS WITHIN THE OVEN, ANY FOODSTUFFS WITHIN THE HIVE BECOME UNCLEAN;[8] BUT R. ELIEZER RULES THAT THEY ARE CLEAN. R. ELIEZER ARGUED: IF SUCH A HIVE AFFORDS PROTECTION IN THE CASE OF A CORPSE[9] WHICH IS SUBJECT TO THE GREATER RESTRICTIONS,[10] SHOULD IT NOT AFFORD PROTECTION IN THE CASE OF AN EARTHENWARE WHICH IS SUBJECT TO LIGHTER RESTRICTIONS?[10] THEY ANSWERED HIM: IF IT AFFORDS PROTECTION IN THE CASE OF CORPSE UNCLEANNESS (THOUGH IT IS SUBJECT TO GREATER RESTRICTIONS) ON ACCOUNT OF THE FACT THAT TENTS MAY BE DULY DIVIDED,[11] SHOULD IT ALSO AFFORD PROTECTION IN THE CASE OF AN EARTHENWARE (THOUGH IT IS SUBJECT TO LIGHTER RESTRICTIONS) WHERE TENTS CANNOT BE USEFULLY DIVIDED?[12]

MISHNAH 2. IF A HIVE WAS IN A SOUND CONDITION, AND SO TOO IN THE CASE OF A HAMPER OR A SKIN-BOTTLE, AND A [DEAD] CREEPING THING WAS WITHIN IT[13] THE OVEN REMAINS CLEAN.[14] IF THE [DEAD] CREEPING THING WAS IN THE OVEN, ANY FOODSTUFFS IN THE HIVE REMAIN CLEAN.[14] IF IT[15] WAS PERFORATED, A VESSEL THAT IS USED FOR FOODSTUFFS MUST[16] HAVE A HOLE THAT IS LARGE ENOUGH FOR OLIVES TO FALL THROUGH, IF IT IS USED FOR LIQUIDS THE HOLE MUST BE LARGE ENOUGH FOR LIQUIDS TO PASS INTO IT,[17] AND IF IT IS USED FOR EITHER IT IS SUBJECTED TO THE GREATER RESTRICTION, VIZ., THE HOLE NEED ONLY BE LARGE ENOUGH FOR LIQUIDS TO PASS INTO IT.[18]

MISHNAH 3. IF A COLANDER[19] PLACED OVER THE MOUTH OF AN OVEN WAS SLIGHTLY SINKING INTO IT,[20] AND IT HAD NO RIMS,[21] AND A [DEAD] CREEPING THING WAS IN IT THE OVEN BECOMES UNCLEAN, AND IF THE CREEPING THING WAS IN THE OVEN, FOODSTUFFS IN THE COLANDER BECOME UNCLEAN, SINCE ONLY VESSELS[22] AFFORD PROTECTION AGAINST AN UNCLEANNESS IN AN EARTHEN VESSEL.[23] IF A JAR THAT WAS FULL OF CLEAN LIQUIDS[24] WAS PLACED BENEATH THE BOTTOM OF AN OVEN, AND A [DEAD] CREEPING THING WAS IN THE OVEN, THE JAR AND THE LIQUIDS REMAIN CLEAN.[25] IF IT[26] WAS INVERTED, WITH ITS MOUTH PROJECTING INTO THE AIR-SPACE OF THE OVEN, AND A DEAD CREEPING THING WAS IN THE OVEN, THE LIQUID THAT CLINGS TO[27] THE BOTTOM OF THE JAR REMAINS CLEAN.[28]

MISHNAH 4. IF A POT WAS PLACED IN AN OVEN AND A [DEAD] CREEPING THING WAS IN THE OVEN, THE POT REMAINS CLEAN SINCE NO EARTHEN VESSEL[29] IMPARTS UNCLEANNESS TO VESSELS. IF IT[30] CONTAINED DRIPPING LIQUID, THE LATTER CONTRACTS UNCLEANNESS AND THE POT ALSO BECOMES UNCLEAN.[31] THIS[32] MIGHT WELL SAY,[33] ‘THAT[34] WHICH MADE YOU UNCLEAN DID NOT MAKE ME

UNCLEAN, BUT YOU HAVE MADE ME UNCLEAN'.

MISHNAH 5. IF A COCK THAT SWALLOWED A CREEPING THING FELL[35] WITHIN THE AIR-SPACE OF AN OVEN, THE OVEN REMAINS CLEAN;[36] BUT IF THE COCK DIED,[37] THE OVEN BECOMES UNCLEAN.[38] IF A [DEAD] CREEPING THING WAS FOUND IN AN OVEN, ANY BREAD IN IT CONTRACTS A SECOND GRADE OF UNCLEANNESS SINCE THE OVEN[39] IS OF THE FIRST GRADE.[40]

MISHNAH 6. IF A LEAVEN POT[41] THAT HAD A TIGHTLY FITTING LID[42] WAS PUT WITHIN AN OVEN, AND THERE WAS SOME LEAVEN AND A [DEAD] CREEPING THING WITHIN THE POT, BUT THERE WAS A PARTITION[43] BETWEEN THEM,[44] THE OVEN IS UNCLEAN[45] BUT THE LEAVEN[46] IS CLEAN. BUT IF IT[47] WAS AN OLIVES BULK OF CORPSE,[48] BOTH THE OVEN AND THE HOUSE[49] BECOME UNCLEAN,[50] BUT THE LEAVEN[46] REMAINS CLEAN. IF, HOWEVER, THERE WAS IN THE PARTITION[43] AN APERTURE ONE HANDBREADTH SQUARE,[51] ALL[52] BECOME UNCLEAN.

MISHNAH 7. IF A [DEAD] CREEPING THING WAS FOUND IN THE OUTLET[53] OF AN OVEN OR OF A DOUBLE STOVE OR OF A SINGLE STOVE OUTSIDE THE INNER EDGE,[54] IT[55] REMAINS CLEAN.[56] IF IT[55] WAS IN THE OPEN AIR,[57] EVEN THOUGH AN OLIVE'S BULK OF CORPSE WAS FOUND IN THE OUTLET, IT[55] REMAINS CLEAN.[58] IF, HOWEVER, THERE WAS IN THE OUTLET AN OPENING OF ONE HANDBREADTH,[59] ALL[60] BECOME UNCLEAN.[51]

MISHNAH 8. IF A [DEAD] CREEPING THING WAS FOUND IN THE APERTURE[61] THROUGH WHICH WOOD IS PUT IN, R. JUDAH RULED: IF IT[62] WAS WITHIN THE OUTER EDGE OF THE APERTURE THE STOVE BECOMES UNCLEAN.[63] BUT THE SAGES RULED: IF IT[62] WAS WITHOUT THE INNER EDGE THE OVEN REMAINS CLEAN.[64] R. JOSE RULED: IF IT[62] WAS FOUND BENEATH THE SPOT WHERE THE POT IS SET, INWARDS, THE STOVE BECOMES UNCLEAN, BUT IF BENEATH THE SPOT WHERE THE POT IS SET, OUTWARDS, IT REMAINS CLEAN. IF IT[62] WAS FOUND ON THE PLACE[65] WHERE THE BATH-KEEPER[66] SITS, OR WHERE THE DYER SITS, OR WHERE THE OLIVE SEETHERS SIT, THE STOVE REMAINS CLEAN. THE STOVE BECOMES UNCLEAN[67] ONLY WHEN THE CREEPING THING IS FOUND WITHIN AND BEYOND THAT OPENING WHICH IS BLOCKED UP BY THE POT.[68]

MISHNAH 9. A PIT[69] WHICH HAS A PLACE ON WHICH A POT MAY BE SET IS UNCLEAN;[70] AND SO ALSO AN OVEN OF GLASS-BLOWERS. IF IT HAS A PLACE ON WHICH A POT MAY BE SET, IS UNCLEAN.[70] THE FURNACE OF LIME-BURNERS, OR OF GLAZIERS, OR OF POTTERS IS CLEAN. A LARGE SIZED BAKING-OVEN[71] , IF IT HAS A RIM,[72] IS UNCLEAN.[73] R. JUDAH RULED:[74] IF IT HAS A PERFORATED ROOF.[75] R. GAMALIEL RULED:[74] IF IT HAS A BORDER.[76]

MISHNAH 10. IF A MAN WHO CAME IN CONTACT WITH ONE WHO HAS CONTRACTED CORPSE UNCLEANNESS[77] HAD FOODSTUFFS OR LIQUIDS IN HIS MOUTH AND HE PUT HIS HEAD INTO THE AIR-SPACE OF AN OVEN THAT WAS CLEAN, THEY[78] CAUSE THE OVEN TO BE UNCLEAN.[79] IF A MAN WHO WAS CLEAN HAD FOODSTUFFS OR LIQUIDS IN HIS MOUTH AND HE PUT HIS HEAD INTO THE AIR-SPACE OF AN OVEN THAT WAS UNCLEAN, THEY[80] BECOME UNCLEAN.[81] IF A MAN WAS EATING A PRESSED FIG[82] WITH SOILED HANDS[83] AND HE PUT HIS HAND INTO HIS MOUTH TO REMOVE A SMALL STONE,[84] R. MEIR DECLARES THE FIG TO BE UNCLEAN[85] AND R. JUDAH REGARDS IT AS CLEAN.[86] R. JOSE RULED: IF HE[87] TURNED IT OVER[88] THE FIG IS UNCLEAN[85] BUT IF HE DID NOT TURN IT OVER[88] THE FIG

REMAINS CLEAN.[89] IF THE MAN HAD A PONDION[90] IN HIS MOUTH, R. JOSE RULED: IF HE KEPT IT THERE TO RELIEVE HIS THIRST IT BECOMES UNCLEAN.[91]

MISHNAH 11. IF MILK THAT DRIPPED FROM A WOMAN'S BREASTS[92] FELL INTO THE AIR-SPACE OF AN OVEN, THE OVEN BECOMES UNCLEAN,[93] SINCE A LIQUID[94] CONVEYS UNCLEANNESS IRRESPECTIVE OF WHETHER [ITS PRESENCE] IS ACCEPTABLE OR NOT ACCEPTABLE. IF SHE[95] WAS SWEEPING IT[96] OUT WHEN A THORN PRICKED HER AND SHE BLED, OR IF SHE BURNT HERSELF AND PUT HER FINGER INTO HER MOUTH, THE OVEN BECOMES UNCLEAN.[97]

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(1) Of earthenware.

(2) Dividing it up from top to bottom.

(3) The partition being completely disregarded.

(4) In consequence of which it ceased to be a valid vessel.

(5) And much more so if it was not stopped up (cf. prev. n.).

(6) Though its mouth was above that of the oven.

(7) Only where a dead creeping thing was within a sound vessel in the oven does the vessel protect the oven from the uncleanness within it.

(8) Having lost the status of a vessel (cf. supra n. 4) it cannot prevent uncleanness from penetrating either from itself into the oven or vice versa.

(9) No corpse uncleanness in a house can penetrate such a hive to any foodstuffs that it contains.

(10) Corpse uncleanness extends, for instance, over seven days and affects both men and vessels while that of an earthenware can be imparted to foodstuffs and liquids only.

(11) A partition in a tent or a house prevents any corpse uncleanness in that tent or house from penetrating through it into the other part.

(12) No partition (as stated supra n. 3 in the case of the oven) affords protection in an earthenware.

(13) While it was suspended within an oven with its mouth above, or on a level with, but not lower than, that of the oven.

(14) Because the uncleanness cannot penetrate through a sound vessel either into another vessel or from another vessel into it (cf. prev. n.).

(15) The hive, the hamper or the skin bottle that with foodstuffs in it was suspended in the oven that contained a dead creeping thing.

(16) If it is to lose the status of vessel and allow the uncleanness in the oven to penetrate through it.

(17) It is not enough if it only allows liquids to pass out.

(18) Even such a small hole destroys the status of the vessel and the uncleanness penetrates through it.

(19) A tablet with perforations made of earthenware. Aliter: An earthenware slab with no cavity that is used for kneading.

(20) Though its upper surface was above the mouth of the oven.

(21) In consequence of which it cannot be regarded as a valid ‘vessel’.

(22) Cf. prev. n.

(23) In which they are put.

(24) Much more so if it was full of foodstuffs, which, unlike liquids, can never impart uncleanness to a vessel.

(25) Even though the open bottom of the oven projected into the jar.

(26) The jar.

(27) Lit., ‘moistens’.

(28) Since it is without the cavity of the oven; nor does the jar contract uncleanness since no vessel contracts uncleanness through the air-space of an earthen vessel.

(29) Such as the oven in question.

(30) The pot.

(31) Through its contact with the liquids.

(32) The pot.

(33) To the liquid.

(34) The oven.

(35) Alive.

(36) As if the creeping thing within the body of the cock had been within a tightly closed vessel.

(37) And its carcass fell within the air-space of the oven before the creeping thing could be digested, viz., within twenty-four hours from the time it had been swallowed.

(38) A carcass cannot be regarded as a tightly closed vessel and the dead creeping thing is thus virtually within the air-space of the oven.

(39) Which contracted its uncleanness from the dead creeping thing that is a ‘father of uncleanness’.

(40) And a first grade imparts only a second grade of uncleanness.

(41) Of earthenware.

(42) Which affords protection against uncleanness to any thing within it; v. infra X, 2.

(43) Dividing up the pot from top to bottom into two compartments.

(44) The creeping thing and the leaven.

(45) On account of the dead creeping thing. A tightly fitting lid only prevents the ingress, but not the egress of an uncleanness.

(46) Which in its compartment is protected by the tightly fitting lid.

(47) The unclean object in one of the compartments of the leaven pot.

(48) Instead of a creeping thing.

(49) By ohel (v. Glos.).

(50) From the corpse.

(51) The minimum size of an opening that affords passage to corpse uncleanness.

(52) Even the leaven.

(53) Lit., ‘eye’, a hole for the admission of air or the escape of smoke.

(54) Of the outlet.

(55) The oven etc.

(56) Since the outlet, which is usually closed when the oven etc. is used (to preserve the heat), is not regarded as an integral part of the vessel.

(57) Where the law of ohel does not apply.

(58) Since the uncleanness cannot penetrate through the outlet which is smaller than the prescribed minimum.

(59) In length, breadth and height.

(60) The outlet and the oven etc.

(61) Of a stove.

(62) The creeping thing.

(63) Because the thickness of the oven sides is regarded as the inside of the oven.

(64) The thickness of the sides being regarded by them as the outside of the oven (cf. prev. n.).

(65) On a stove.

(66) Or ‘attendant’.

(67) Through its air-space.

(68) By contact, however, uncleanness is conveyed whatever the spot on which the creeping thing fell.

(69) Bor, a hole in the ground lined with clay in a manner that the lining can stand of itself, such as the oven of Ben Dinai (supra V, 10). Var. lec., Kur. ‘a crucible’.

(70) Sc. it is susceptible to uncleanness.

(71) Made of clay and having a door in its side.

(72) So that it is not attached to the ground and can be moved about.

(73) If, however, it has no rim, so that it is fixed to the ground, it is clean.

(74) It is unclean.

(75) **. Alter: An outlet for the smoke. Aliter: Mouldings. In either of these cases the oven would not be attached to the ground and, being movable, is susceptible to uncleanness. Only an oven whose opening is at its top is susceptible to uncleanness even when attached to the ground.

(76) Cf. prev. n. mut. mut.

(77) So that he contracted an uncleanness of the first grade. A corpse is the ‘father of the father of uncleanness’, the man who contracted corpse uncleanness becomes a ‘father of uncleanness’, and the man who came in contact with him contracts an uncleanness of the first grade.

(78) The liquids that become unclean by contact with the man.

(79) This is a Rabbinical ordinance applicable to liquids only. In the absence of liquids an oven or any other vessel can contract uncleanness from a ‘father of uncleanness’ only.

(80) The liquids, despite their concealed condition in the closed mouth of the man.

(81) A closed mouth is not regarded as a vessel with a tightly fitting cover (cf. infra X, 1).

(82) Of terumah.

(83) Sc. ‘unwashed’. These are subject to the second grade of uncleanness and consequently convey the third grade of uncleanness to the terumah with which they come in contact.

(84) And so touched the fig with his moistened hand.

(85) Because the spittle (a liquid) by moistening the fig rendered it susceptible to uncleanness. The hands that are unclean in the second grade convey to the spittle an uncleanness of the first grade (since whatever conveys uncleanness to terumah causes liquids to be unclean in the first grade) and the spittle conveys to the terumah an uncleanness of the second grade.

(86) Spittle while in one's mouth, he maintains, is deemed to be a part of the body and cannot, therefore, be regarded as a liquid that renders food susceptible to uncleanness.

(87) With the spittle in his mouth.

(88) In his mouth.

(89) Cf. ‘Er. 99a where the names of R. Judah and R. Jose are transposed.

(90) A coin = 16 perutahs.

(91) Since the spittle that is generated on account of the coin is regarded as a liquid which renders the fig susceptible to uncleanness.

(92) While she was unclean.

(93) Though the milk dropped against the woman's wish.

(94) That is unclean, as is the milk which contracted uncleanness.

(95) Being clean.

(96) The oven.

(97) From the spittle or the blood which is a liquid and which, contracting uncleanness from the woman's unwashed hands, becomes unclean in the first grade (as stated supra) and renders the oven unclean in the second grade.

Mishna - Mas. Kelim Chapter 9

MISHNAH 1. IF A NEEDLE[1] OR A RING[1] WAS FOUND [EMBEDDED] IN THE BOTTOM OF AN OVEN,[2] AND IT[3] WAS VISIBLE BUT DID NOT PROJECT,[4] THE OVEN IS UNCLEAN IF, WHEN IN BAKING, THE DOUGH WOULD TOUCH IT.[5] OF WHAT KIND OF ‘DOUGH’ DID THEY[6] SPEAK? OF ONE OF MEDIUM CONSISTENCY.[7] IF IT[5] WAS[3] FOUND IN THE PLASTERING OF THE OVEN[8] AND THE LATTER HAD A TIGHTLY FITTING COVER, IT[3] IS UNCLEAN WHERE THE OVEN IS UNCLEAN[9] AND CLEAN WHERE THE OVEN IS CLEAN.[10] IF IT[3] WAS FOUND IN THE [CLAY] STOPPER OF A JAR, IT IS UNCLEAN[11] IF IT WAS AT ITS SIDES,[12] AND CLEAN IF IT WAS OPPOSITE THE JAR'S MOUTH.[13] THOUGH IT[14] WAS VISIBLE FROM WITHIN. BUT DID NOT PROJECT INTO THE AIR-SPACE OF THE JAR[15] IT IS CLEAN. IF IT[14] WAS SUNK INTO [THE AIR-SPACE OF THE JAR] BUT THERE WAS UNDER IT[16] SOME CLAY, THOUGH THIN AS GARLIC PEEL, IT IS CLEAN.[17]

MISHNAH 2. IF A JAR[18] THAT WAS FULL OF CLEAN LIQUIDS, WITH A SIPHON[19] WITHIN IT, HAD A TIGHTLY FITTING COVER AND WAS PUT IN A TENT[20] IN WHICH THERE WAS A CORPSE, BETH SHAMMAI RULED: BOTH THE JAR AND THE LIQUIDS ARE CLEAN[21] BUT THE SIPHON[19] IS UNCLEAN,[22] AND BETH HILLEL RULED: THE SIPHON ALSO IS CLEAN. SUBSEQUENTLY[23] BETH HILLEL, CHANGING THEIR VIEW, RULED IN AGREEMENT WITH THAT OF BETH SHAMMAI.

MISHNAH 3. IF A DEAD CREEPING THING WAS FOUND BENEATH THE BOTTOM OF

AN OVEN,[24] THE OVEN REMAINS CLEAN, FOR I PRESUME[25] THAT IT FELL[26] WHILE IT WAS STILL ALIVE[27] AND THAT IT DIED ONLY NOW.[28] IF A NEEDLE OR A RING[29] WAS FOUND BENEATH THE BOTTOM OF AN OVEN,[30] THE OVEN REMAINS CLEAN, FOR IT MAY BE PRESUMED THAT THEY WERE THERE BEFORE THE OVEN ARRIVED. IF IT[31] WAS FOUND IN THE WOOD ASHES,[32] THE OVEN IS UNCLEAN SINCE ONE HAS NO GROUND ON WHICH TO BASE AN ASSUMPTION OF CLEANNESS.[33]

MISHNAH 4. IF A SPONGE HAD ABSORBED UNCLEAN LIQUIDS AND ITS OUTER SURFACE BECAME DRY AND IT FELL INTO THE AIR-SPACE OF AN OVEN, THE OVEN BECOMES UNCLEAN, FOR THE LIQUID[34] WOULD ULTIMATELY EMERGE. AND THE SAME APPLIES TO A PIECE OF TURNIP[35] OR REED GRASS.[35] R. SIMEON RULES: THE OVEN IS CLEAN IN BOTH THESE CASES.

MISHNAH 5. IF POTSHERDS THAT HAD BEEN USED FOR UNCLEAN LIQUIDS FELL INTO THE AIR-SPACE OF AN OVEN, AND THE OVEN WAS HEATED, IT BECOMES UNCLEAN, FOR THE LIQUID[36] WOULD[37] ULTIMATELY EMERGE.[38] AND THE SAME APPLIES TO FRESH OLIVE PEAT; BUT IF IT WAS OLD,[39] THE OVEN REMAINS CLEAN. IF, HOWEVER, IT WAS KNOWN THAT LIQUID EMERGES, EVEN AFTER THE LAPSE OF THREE YEARS,[40] THE OVEN BECOMES UNCLEAN.

MISHNAH 6. IF OLIVE PEAT OR GRAPE SKINS HAD BEEN PREPARED IN CONDITIONS OF CLEANNESS, AND UNCLEAN PERSONS TROD UPON THEM AND, AS A RESULT,[41] LIQUID EMERGED FROM THEM, THEY REMAIN CLEAN,[42] SINCE THEY HAD ORIGINALLY BEEN PREPARED IN CONDITIONS OF CLEANNESS.[43] IF A SPINDLE HOOK WAS SUNK[44] INTO THE SPINDLE, OR THE IRON POINT INTO THE OX GOAD, OR A RING INTO A BRICK, AND ALL THESE[45] WERE CLEAN, AND THEN THEY WERE BROUGHT INTO A TENT[46] IN WHICH WAS A CORPSE, THEY[47] BECOME UNCLEAN.[48] IF A ZAB CAUSED THEM TO SHAKE[49] THEY BECOME UNCLEAN.[50] IF THEY THEN FELL INTO THE AIR-SPACE OF A CLEAN OVEN, THEY CAUSE IT TO BE UNCLEAN.[50] IF A LOAF OF TERUMAH CAME IN CONTACT WITH THEM, IT REMAINS CLEAN.[51]

MISHNAH 7. IF A COLANDER[52] WAS FIXED OVER THE MOUTH OF AN OVEN, FORMING A TIGHTLY FITTING COVER, AND A SPLIT APPEARED BETWEEN THE OVEN AND THE COLANDER, THE MINIMUM SIZE[53] IS THAT OF THE CIRCUMFERENCE[54] OF THE TIP OF AN OX GOAD THAT CANNOT ACTUALLY ENTER IT.[55] R. JUDAH RULED: IT MUST BE ONE INTO WHICH THE TIP CAN ENTER.[56] IF A SPLIT APPEARED IN THE COLANDER, THE MINIMUM SIZE[57] IS THE CIRCUMFERENCE OF THE TIP OF AN OX GOAD THAT CAN ENTER IT.[56] R. JUDAH RULED: EVEN IF IT CANNOT ENTER.[58] IF THE SPLIT WAS CURVED[59] IT MUST NOT BE REGARDED AS STRAIGHT,[60] BUT INVARIABLY THE MINIMUM SIZE MUST BE THE CIRCUMFERENCE OF THE TIP OF AN OX GOAD THAT CAN ACTUALLY ENTER.[56]

MISHNAH 8. IF A HOLE APPEARED IN THE SEALED OUTLET[61] OF AN OVEN. THE MINIMUM SIZE[62] MUST BE THAT OF THE CIRCUMFERENCE OF A BURNING SPINDLE STAFF THAT CAN ENTER IT AND COME OUT.[63] R. JUDAH RULED: ONE THAT IS NOT BURNING.[64] IF THE HOLE APPEARED AT ITS[65] SIDE, THE MINIMUM SIZE[62] MUST BE THAT OF THE CIRCUMFERENCE OF A SPINDLE STAFF THAT CAN ENTER AND COME OUT WHILE IT IS NOT BURNING.[64] R. JUDAH RULED: WHILE BURNING.[66] R. SIMEON RULED: IF THE HOLE IS IN THE MIDDLE[65] ITS SIZE MUST BE SUCH THAT A SPINDLE STAFF CAN ENTER IT, BUT IF IT WAS AT THE SIDE IT NEED ONLY BE SUCH AS THE SPINDLE STAFF CANNOT ACTUALLY ENTER. AND SO HE USED TO RULE CONCERNING THE STOPPER OF A JAR IN WHICH A HOLE APPEARED: THE

PRESCRIBED SIZE[62] IS THE CIRCUMFERENCE[67] OF THE SECOND KNOT IN AN OAT STALK, BUT IF THE HOLE WAS IN THE MIDDLE THE STALK SHOULD BE ABLE TO ENTER, AND IF AT THE SIDE IT NEED NOT BE ABLE TO ENTER. SO HE USED ALSO TO RULE CONCERNING LARGE STONE JARS IN THE STOPPERS OF WHICH APPEARED A HOLE. THE PRESCRIBED SIZE[57] IS THE CIRCUMFERENCE OF THE SECOND KNOT IN A REED, BUT IF THE HOLE WAS IN THE MIDDLE[68] THE REED MUST BE ABLE TO ENTER IT, AND IF IT WAS AT THE SIDE THE REED NEED NOT BE ABLE TO ENTER IT. THIS, HOWEVER, APPLIES ONLY WHERE THE JARS WERE MADE TO STORE WINE,[69] BUT IF THEY WERE MADE TO STORE OTHER LIQUIDS, EVEN THOUGH THE HOLE WAS EVER SO SMALL,[70] THEY CONTRACT UNCLEANNESS.[71] THIS, FURTHERMORE, APPLIES ONLY WHERE THE HOLES WERE NOT MADE INTENTIONALLY,[72] BUT IF THEY WERE MADE INTENTIONALLY, EVEN THOUGH THEY WERE EVER SO SMALL,[73] [THE JARS] CONTRACT UNCLEANNESS.[74] IF A HOLE APPEARED IN THE VESSEL ITSELF, ITS PRESCRIBED SIZE[75] IS AS FOLLOWS: IF THE VESSEL WAS USED FOR FOODSTUFFS, [THE HOLE MUST BE ONE] THROUGH WHICH OLIVES CAN FALL OUT; IF FOR LIQUIDS, ONE THAT ADMITS LIQUIDS; IF FOR EITHER, THE GREATER RESTRICTION IS IMPOSED, VIZ., THERE MUST BE A TIGHTLY FITTING COVER AND [THE SIZE OF THE HOLE[75] NEED ONLY BE] ONE THAT ADMITS A LIQUID.

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(1) Which has come in contact with a corpse, becoming thereby a ‘father of uncleanness’ and thus imparting in turn to earthenware an uncleanness of the first grade (Bert.).

(2) Sc. in the ground on which the oven is fixed.

(3) The Heb. here as throughout the Mishnah is in the plural.

(4) Into the air-space of the oven.

(5) The needle or the ring. Since this very slight projection is actually within the air-space of the oven, uncleanness is duly imparted. This, however, applies only where the oven was put in its position after the object had been embedded in the ground. If the oven was there first, the object, by falling through the oven's air-space to its bottom, imparts uncleanness to the oven even before it reached its bottom.

(6) The Rabbis of this Mishnah.

(7) One that is neither too soft (which would run into the smallest crevices) nor too hard (which would not cling to the oven's sides).

(8) Which joins the oven to the ground; and both the oven and the metal object were clean, but were with a corpse under the same roof.

(9) Sc. where the cover was not properly tight and fitting.

(10) Sc. where the cover was tightly fitting. The needle or the ring. being embedded in the plastering. loses its independent existence and, being deemed to constitute an integral part of the oven, shares its fate; otherwise as metal vessels they would not be protected by a tightly-fitting cover.

(11) By overshadowing (cf. supra n. 8).

(12) I.e., the part of the stopper that was not opposite the mouth of the jar. (The plug was cone-shaped and thrust its narrow end down into the jar's mouth.) Since the clay in that part of the stopper serves no purpose it is deemed to be non-existent and the needle or ring receives no protection from the tightly fitting cover and is thus exposed to the uncleanness of the corpse under the same roof.

(13) And the cover was tightly fitting (cf. p. 46, n. 12 mut. mut.).

(14) V. p. 46, n. 3.

(15) Being completely sunk into the stopper.

(16) Between it and the air-space of the jar.

(17) Since it loses its identity in the stopper.

(18) Of earthenware, belonging to an ‘am ha-arez (v. Glos.).

(19) Of metal.

(20) I.e., under the same roof.

(21) Sc. the ‘am ha-arez may continue to use them, no restriction of uncleanness as a precaution against their use by a haber (v. Glos.) having been imposed upon them, since no haber would ever borrow from an ‘am ha-arez an earthenware or a liquid which cannot attain cleanness through immersion in a ritual bath.

(22) As it can attain cleanness by immersion in a ritual bath, a haber might sometimes borrow it and, being unaware that it was under the same roof as a corpse (which renders it unclean for seven days, on the third and seventh of which sprinkling is required), would treat it as an ordinary metal utensil of an ‘am ha-arez which becomes clean on the same day after ritual immersion and sunset. A tightly fitting cover affords protection to earthenware, foodstuffs and liquids only, but not to metal vessels.

(23) Having learned of Beth Shammai's reason as just explained; v. ‘Ed. I, 14.

(24) Sc. embedded in the ground on which the oven is fixed and which serves as its bottom.

(25) Even where the creeping thing is in a condition indicating recent death and cannot be presumed to have been buried in the ground before the oven was brought there.

(26) Through the air-space of the oven.

(27) So that no uncleanness could be conveyed to the oven through its air- space at that time.

(28) When it was no longer within the oven.

(29) Which comes under the category of metal vessels which, when found by chance, are Rabbinically unclean.

(30) Sc. embedded in the ground on which the oven is fixed and which serves as its bottom.

(31) The needle or the ring.

(32) Which are within the air-space of the oven.

(33) Lit., ‘for he has not (a peg) to hang on’.

(34) That is now absorbed.

(35) That absorbed unclean liquids and was dry on its surface etc.

(36) That is now absorbed.

(37) As a result of the heating.

(38) Hence the uncleanness even in a case where one does not mind its emergence. Where one does mind it, uncleanness is conveyed even before the oven had been heated.

(39) Sc. older than twelve months.

(40) Sc. the peat was more than three years old.

(41) Cf. L. Lit., ‘and after that’.

(42) They themselves, as dry refuse, cannot contract any uncleanness from the unclean persons, while the liquid, since it was neither intentionally pressed out nor was it acceptable, cannot render them susceptible.

(43) Had they not been prepared in such conditions the liquid that then emerged and was acceptable would have become unclean and on emerging after they had been re-absorbed they would obviously be unclean liquids.

(44) Completely.

(45) Metal objects.

(46) Sc. under the same roof.

(47) Though completely absorbed.

(48) Since such an absorption, unlike that within an earthen vessel with a tightly fitting cover, affords no protection against uncleanness.

(49) Though he did not touch them.

(50) Cf. n. 8 mut. mut.

(51) As the metal object cannot be extracted without breaking the wood or clay in which it is embedded the latter cannot be regarded as a valid receptacle and, therefore, constitute an interposition between the unclean metal and the loaf.

(52) V. supra VIII, 3.

(53) Of the split that would cause the colander to be no longer regarded as a tightly fitting cover.

(54) Lit., ‘fulness of’.

(55) Sc. it must be no less but need not be more than the actual circumference of the tip, which is one third of a handbreadth in diameter.

(56) I.e., the split must be slightly bigger than the circumference of the tip.

(57) V. p. 49, n. 13.

(58) V. p. 49, n. 15.

(59) In its passage from the upper to the inner surface so that the tip of an ox goad cannot pass through it (cf. T.Y.T.).

(60) Lit., ‘long’.

(61) Lit., ‘from its eye’.

(62) Of the hole (cf p. 49, n. 13).
(63) Sc. considerably bigger than the spindle staff.
(64) It need be only slightly bigger (cf. prev. n.).
(65) The outlet's.
(66) Sc. considerably bigger than the spindle staffs.
(67) Lit., ‘fulness of’.
(68) Of the stopper.
(69) In which case they would be continued in use after a small hole had appeared.
(70) Provided only that it admits a liquid in which it is placed.
(71) Sc. the hole deprives the contents from the protection against uncleanness which a tightly fitting cover affords.
(72) Lit., ‘by the hands of man’.
(73) Provided only that they admit a liquid in which the jar is placed.
(74) Sc. the hole deprives the contents from the protection against uncleanness which a tightly fitting cover affords.
(75) That deprives the contents of the vessel from the protection afforded by a tightly fitting cover.

Mishna - Mas. Kelim Chapter 10

MISHNAH 1. THE FOLLOWING VESSELS[1] PROTECT THEIR CONTENTS[2] WHEN THEY HAVE A TIGHTLY FITTING COVER:[3] THOSE MADE OF CATTLE DUNG, OF STONE, OF CLAY,[4] OF EARTHENWARE,[5] OF ALUM-CRYSTAL, OF THE BONES OF A FISH OR OF ITS SKIN, OR OF THE BONES OF ANY ANIMAL OF THE SEA OR OF ITS SKIN, AND SUCH WOODEN VESSELS AS[6] ARE ALWAYS CLEAN. THESE AFFORD PROTECTION WHETHER THE COVERS CLOSE THEIR MOUTHS OR THEIR SIDES,[7] WHETHER THEY STAND ON THEIR BOTTOMS OR LEAN ON THEIR SIDES. IF THEY WERE INVERTED WITH THEIR MOUTHS DOWNWARDS THEY[8] AFFORD PROTECTION TO ALL THAT IS BENEATH THEM TO THE NETHERMOST DEEP. R. ELIEZER RULES THAT THIS[9] IS UNCLEAN. THESE[10] PROTECT EVERYTHING, EXCEPT THAT AN EARTHEN VESSEL AFFORDS PROTECTION ONLY TO FOODSTUFFS, LIQUIDS AND EARTHEN VESSELS.[11]

MISHNAH 2. WHEREWITH MAY A VESSEL BE TIGHTLY COVERED?[12] WITH LIME OR GYPSUM, PITCH OR WAX, MUD OR EXCREMENT, CRUDE CLAY OR POTTER'S CLAY, OR ANY SUBSTANCE THAT IS USED FOR PLASTERING. ONE MAY NOT MAKE A TIGHTLY FITTING COVER[12] WITH TIN OR WITH LEAD BECAUSE THOUGH IT IS A COVERING, IT IS NOT TIGHTLY FITTING. ONE MAY NOT MAKE A TIGHTLY FITTING COVER[13] WITH SWOLLEN FIG-CAKES[14] OR WITH DOUGH THAT WAS KNEADED WITH FRUIT JUICE,[14] SINCE[15] IT MIGHT[16] CAUSE IT TO BECOME UNFIT.[17] IF, HOWEVER, A TIGHTLY FITTING COVER HAD BEEN MADE OF IT[18] PROTECTION FROM UNCLEANNESS IS AFFORDED.[19]

MISHNAH 3. A STOPPER OF A JAR THAT IS LOOSE BUT DOES NOT FALL OUT, R. JUDAH RULED, AFFORDS PROTECTION;[20] BUT THE SAGES RULED: IT DOES NOT AFFORD PROTECTION. IF ITS FINGER-HOLD[21] WAS SUNK WITHIN THE JAR AND A DEAD CREEPING THING WAS IN IT,[22] THE JAR BECOMES UNCLEAN,[23] AND IF THE CREEPING THING WAS IN THE JAR, ANY FOODSTUFFS IN IT,[22] BECOME UNCLEAN.[24]

MISHNAH 4. IF A BALL OR COIL OF REED GRASS WAS PLACED OVER THE MOUTH OF A JAR, AND ONLY ITS SIDES[25] WERE PLASTERED, NO PROTECTION IS AFFORDED UNLESS IT WAS ALSO PLASTERED ABOVE[26] OR[27] BELOW.[26] THE SAME LAW APPLIES TO A PATCH OF CLOTH.[28] IF THE STOPPER WAS ONE OF PAPER[29] OR LEATHER[30] AND BOUND[31] WITH A CORD, PROTECTION IS AFFORDED IF IT WAS PLASTERED AT THE SIDES ONLY.[32]

MISHNAH 5. IF [THE EARTHENWARE OF] A JAR[33] HAD SCALED OFF WHILE ITS PITCH [LINING][34] REMAINED INTACT,[35] AND SO ALSO IF POTS OF FISH BRINE WERE STOPPED UP WITH GYPSUM AT A LEVEL WITH THE BRIM,[36] R. JUDAH RULED: THEY AFFORD NO PROTECTION; BUT THE SAGES RULED: THEY AFFORD PROTECTION.[37]

MISHNAH 6. IF A JAR HAD A HOLE IN IT AND WINE LEES BLOCKED IT UP, THEY AFFORD PROTECTION.[38] IF IT WAS STOPPED UP WITH A VINE SHOOT [IT AFFORDS NO PROTECTION] UNLESS IT WAS PLASTERED AT THE SIDES.[39] IF THERE WERE[40] TWO VINE SHOOTS, [NO PROTECTION IS AFFORDED] UNLESS THEY WERE PLASTERED AT THE SIDES[39] AND ALSO BETWEEN THE ONE SHOOT AND THE OTHER. IF A BOARD[41] IS PLACED OVER THE MOUTH OF AN OVEN,[42] PROTECTION IS AFFORDED IF IT WAS PLASTERED AT THE SIDES.[39] IF THERE WERE TWO BOARDS NO PROTECTION IS AFFORDED UNLESS THESE ARE PLASTERED AT THE SIDES[39] AND ALSO BETWEEN THE ONE BOARD AND THE OTHER. IF, HOWEVER, THEY[43] WERE FASTENED TOGETHER WITH PEGS OR JOINTS THERE IS NO NEED FOR THEM TO BE PLASTERED IN THE MIDDLE.

MISHNAH 7. IF[44] AN OLD OVEN[45] WAS WITHIN A NEW ONE[46] AND A COLANDER[47] RESTED OVER THE MOUTH OF THE OLD OVEN[48] IN A MANNER THAT IF THE OLD ONE WERE TO BE REMOVED THE COLANDER WOULD DROP,[49] ALL BECOME UNCLEAN;[50] BUT IF IT WOULD NOT DROP,[51] ALL REMAIN CLEAN.[52] IF A NEW OVEN WAS WITHIN AN OLD ONE AND A COLANDER RESTED ON THE MOUTH OF THE OLD OVEN, AND THERE WAS NOT A HANDBREADTH OF SPACE BETWEEN THE NEW OVEN AND THE COLANDER,[53] ALL THE CONTENTS OF THE NEW ONE REMAIN CLEAN.[52]

MISHNAH 8. IF [EARTHEN] SAUCEPANS WERE PLACED ONE WITHIN THE OTHER BUT THEIR RIMS WERE ON THE SAME LEVEL, AND THERE WAS A [DEAD] CREEPING THING IN THE UPPERMOST ONE OR IN THE LOWEST ONE, THAT PAN ALONE[54] BECOMES UNCLEAN BUT ALL THE OTHERS REMAIN CLEAN.[55] IF [THEY WERE PERFORATED] TO THE EXTENT OF ADMITTING[56] A LIQUID,[57] AND THE CREEPING THING WAS IN THE UPPERMOST ONE, ALL BECOME UNCLEAN;[58] BUT IF IT WAS IN THE LOWEST ONE, THAT ALONE IS UNCLEAN WHILE ALL THE OTHERS REMAIN CLEAN.[59] IF[60] THE CREEPING THING WAS IN THE UPPERMOST ONE AND THE LOWEST PROJECTED ABOVE IT,[61] BOTH[62] BECOME UNCLEAN.[63] IF THE CREEPING THING WAS IN THE UPPERMOST ONE AND THE LOWEST PROJECTED ABOVE IT,[61] ANY OF THE INTERVENING ONES THAT CONTAINED DRIPPING LIQUID BECOMES[64] UNCLEAN.[65]

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(1) Since they are not susceptible to uncleanness even Rabbinically.

(2) Against corpse uncleanness under the same roof.

(3) V. Num. XIX, 15.

(4) That was unburnt in the furnace.

(5) Duly burnt.

(6) On account of their huge size, holding no less than forty se'ah (cf. infra XV, 1).

(7) If an aperture was there.

(8) If they were duly attached with clay to the ground.

(9) Anything under an inverted vessel.

(10) All the vessels enumerated, if they were provided with a tightly fitting cover.

(11) Within it. Objects that can attain cleanness by ritual immersion are not protected (cf. supra IX, 2, notes).

(12) That its contents be thereby protected in accordance with Num. XIX, 15.

(13) V. p. 52, n. 12.

(14) Though if it had never been moistened it is insusceptible to uncleanness.

(15) Should any liquid fall upon it it would be susceptible to uncleanness, and consequently unclean once it is overshadowed by a corpse.

(16) On contracting an uncleanness.

(17) To afford protection as a tightly fitting cover. Such a cover must be one that would remain clean in all circumstances.

(18) Any of the foodstuffs mentioned.

(19) So long as the cover has not become susceptible to uncleanness.

(20) Like a tightly fitting cover.

(21) A depression in a stopper wherein the fingers are inserted to facilitate the drawing out of the stopper.

(22) The finger-hold.

(23) The stopper being regarded as one with the jar.

(24) Since the stopper cannot be considered a valid vessel that affords protection to its contents.

(25) Where they came in contact with the jar.

(26) To stop up the air-spaces in the ball or coil.

(27) Cf. L.

(28) That was less than three by three finger-breadths in size (and, therefore, insusceptible to uncleanness) and rolled up in a ball to serve as a stopper.

(29) Papyrus, which is not susceptible to uncleanness.

(30) Of a size that is less than the prescribed minimum for susceptibility to uncleanness.

(31) Round the jar.

(32) Since, unlike a ball of reed-grass or cloth, neither paper nor leather contains holes large enough for an uncleanness to penetrate through them.

(33) That had a tightly fitting cover.

(34) On which the cover rests.

(35) Lit., ‘stands’.

(36) Cf. L.

(37) The point at issue is the interpretation of ‘alaw (‘upon it’) in Num. XIX, 15. According to R. Judah the word is to be taken literally and the stopper must, therefore, rest ‘upon’ the edge of the vessel, while according to the Sages it is not to be taken literally and the stopper may, therefore, rest slightly above (on the pitch) or on a level with the brim of the vessel.

(38) Though the lees are only on a level with the hole, in agreement with the Sages supra.

(39) Where the stopper meets the jar.

(40) In the hole, serving as a stopper.

(41) Which is a ‘flat vessel’ that is not susceptible to uncleanness (Bert.) or ‘no vessel at all’ (L.).

(42) Of earthenware.

(43) The two boards.

(44) Under the same roof as a corpse.

(45) That had been duly heated and was consequently susceptible to uncleanness.

(46) Which, not having been yet properly heated, is insusceptible to uncleanness and may, therefore, serve as a protection for the old one.

(47) That was not ‘tightly fitting’, not having been joined with plaster to the oven.

(48) Closing at the same time the mouth of the new one also, the brims of both having been on the same level.

(49) Sc. if the colander was entirely supported by the old oven and was just filling up the mouth of the new one.

(50) From the corpse's uncleanness; because the old oven had no tightly fitting cover (cf. supra n. 4) and the new one (since the colander rests entirely on the old one) is not sufficiently closed to afford the protection of a vessel with a tightly fitting cover.

(51) The colander having rested partly on the new oven.

(52) Because the new oven, which has not yet been properly heated, is not regarded as a valid vessel that cannot afford protection without a tightly fitting cover. Any cover, even one that is not tightly fitting, serves it as a proper covering to constitute it a valid partition between the uncleanness and the old oven.

(53) Cf. supra n. 4 mut. mut.

(54) In which the unclean object was found.

(55) Not only are the saucepans clean, (because a vessel does not contract uncleanness through the air.space of another earthen vessel) but even foodstuffs or liquids in them remain clean (since it is only to and from the inside of an exposed vessel that uncleanness is conveyed but not to or from the inside of one that is within another vessel).

(56) From their outsides.

(57) In which they are placed.

(58) Two restrictions are here imposed: In regard to itself the saucepan is still considered a valid vessel because the hole in it is not big enough for olives to fall through, and it is consequently susceptible to uncleanness; while in relation to the saucepans in which it stands it is considered (on account of the small hole in it) to have lost the status of vessel and thus to be virtually non-existent and incapable of preventing the uncleanness from spreading to the insides of the other saucepans.

(59) Since a vessel cannot contract uncleanness from the air-space of an earthen vessel.

(60) In the case of undamaged saucepans.

(61) The brim of the latter being higher than that of the former.

(62) Lit., ‘it and the lowest’.

(63) The uppermost is unclean because it contained the creeping thing and the lowest is unclean because on account of its projection above the other, the uncleanness is deemed virtually to be contained directly within itself. The intervening saucepans remain clean as explained supra n. 3.

(64) Since they are all sound vessels.

(65) From the liquid which contracted its uncleanness from the lowest saucepan (cf. n. 7).

Mishna - Mas. Kelim Chapter 11

MISHNAH 1. METAL VESSELS, WHETHER THEY ARE FLAT OR FORM A RECEPTACLE, ARE SUSCEPTIBLE TO UNCLEANNESS. ON BEING BROKEN THEY BECOME CLEAN.[1] IF THEY WERE RE-MADE INTO VESSELS THEY REVERT[2] TO THEIR FORMER UNCLEANNESS. RABBAN SIMEON B. GAMALIEL RULED: THIS[3] DOES NOT APPLY TO EVERY FORM OF UNCLEANNESS BUT ONLY TO THAT CONTRACTED FROM A CORPSE.

MISHNAH 2. EVERY METAL VESSEL[4] THAT HAS A NAME OF ITS OWN[5] IS SUSCEPTIBLE TO UNCLEANNESS, EXCEPTING A DOOR, A BOLT, A LOCK, A SOCKET UNDER A HINGE, A HINGE, A CLAPPER, AND THE [THRESHOLD] GROOVE UNDER A DOOR POST, SINCE THESE ARE INTENDED TO BE ATTACHED TO THE GROUND.[6]

MISHNAH 3. IF VESSELS ARE MADE FROM IRON ORE, FROM SMELTED IRON, FROM THE HOOP[7] OF A WHEEL, FROM SHEETS,[7] FROM PLATING,[7] FROM THE BASES, RIMS OR HANDLES OF VESSELS, FROM CHIPPINGS OR FILINGS, THEY ARE CLEAN.[1] R. JOHANAN B. NURI RULED: THIS[8] APPLIES ALSO TO THOSE MADE OF SHATTERED VESSELS. [VESSELS THAT ARE MADE] OF FRAGMENTS OF VESSELS, FROM SMALL WARE, OR FROM NAILS THAT WERE KNOWN TO HAVE BEEN MADE FROM VESSELS, ARE UNCLEAN.[9] [IF THEY WERE MADE] FROM ORDINARY NAILS,[10] BETH SHAMMAI RULE THAT THEY ARE UNCLEAN,[11] AND BETH HILLEL[12] RULE THAT THEY ARE CLEAN.

MISHNAH 4. IF UNCLEAN IRON[13] WAS SMELTED TOGETHER WITH CLEAN IRON AND THE GREATER PART WAS FROM THE UNCLEAN ONE, [THE VESSEL MADE OF THE COMPOSITION] IS UNCLEAN;[14] BUT IF THE GREATER PART WAS FROM THE CLEAN IRON THE VESSEL IS CLEAN. IF EACH REPRESENTED A HALF IT IS UNCLEAN.[14] THE SAME LAW ALSO APPLIES TO A MIXTURE OF CEMENT[15] AND CATTLE DUNG.[16] A DOOR BOLT[17] IS SUSCEPTIBLE TO UNCLEANNESS, BUT [ONE OF WOOD] THAT IS ONLY PLATED WITH METAL IS NOT SUSCEPTIBLE TO UNCLEANNESS.[18] THE CLUTCH AND THE CROSSPIECE [OF A LOCK] ARE SUSCEPTIBLE TO UNCLEANNESS. AS REGARDS A DOOR-BOLT, R. JOSHUA RULED: IT MAY BE DRAWN OFF ONE DOOR AND[19] HUNG ON ANOTHER ON THE SABBATH. R. TARFON RULED: IT IS LIKE ALL OTHER VESSELS AND MAY BE CARRIED ABOUT IN A COURTYARD.

MISHNAH 5. THE SCORPION [-SHAPED] BIT OF A BRIDLE IS SUSCEPTIBLE TO UNCLEANNESS, BUT THE CHEEK-PIECES ARE CLEAN.[20] R. ELIEZER RULES THAT THE CHEEK-PIECES ARE SUSCEPTIBLE TO UNCLEANNESS, AND THE SAGES HOLD THAT THE SCORPION BIT ALONE IS SUSCEPTIBLE TO UNCLEANNESS, BUT WHILE THEY[21] ARE JOINED TOGETHER THE WHOLE IS SUSCEPTIBLE TO UNCLEANNESS.

MISHNAH 6. A METAL SPINDLE-KNOB, R. AKIBA DECLARES TO BE SUSCEPTIBLE TO UNCLEANNESS BUT THE SAGES DECLARE IT INSUSCEPTIBLE.[22] IF IT[23] WAS ONLY PLATED [WITH METAL] IT IS CLEAN.[24] A SPINDLE, A DISTAFF, A ROD, A DOUBLE FLUTE AND A PIPE ARE SUSCEPTIBLE TO UNCLEANNESS IF THEY ARE OF METAL, BUT IF THEY ARE ONLY PLATED [WITH METAL] THEY ARE CLEAN. IF A DOUBLE FLUTE HAS A RECEPTACLE FOR THE WINGS[25] IT IS SUSCEPTIBLE TO UNCLEANNESS IN EITHER CASE.[26]

MISHNAH 7. A CURVED HORN[27] IS SUSCEPTIBLE TO UNCLEANNESS[28] AND A STRAIGHT ONE[29] IS CLEAN. IF ITS MOUTHPIECE WAS OF METAL IT[30] IS UNCLEAN. ITS WIDE SIDE[31] R. TARFON DECLARES TO BE SUSCEPTIBLE TO UNCLEANNESS AND THE

SAGES DECLARE IT CLEAN. WHILE THEY ARE JOINED TOGETHER THE WHOLE INSTRUMENT IS SUSCEPTIBLE TO UNCLEANNESS. SIMILARLY THE BRANCHES OF A CANDLESTICK ARE CLEAN AND THE CUPS AND THE BASE ARE SUSCEPTIBLE TO UNCLEANNESS, BUT WHILE THEY ARE JOINED TOGETHER THE WHOLE CANDLESTICK IS SUSCEPTIBLE TO UNCLEANNESS.

MISHNAH 8. A HELMET IS SUSCEPTIBLE TO UNCLEANNESS AND THE CHEEK-PIECES ARE CLEAN, BUT IF THE LATTER HAVE A RECEPTACLE FOR WATER[32] THEY ARE SUSCEPTIBLE TO UNCLEANNESS. ALL WEAPONS OF WAR ARE SUSCEPTIBLE TO UNCLEANNESS: A JAVELIN. A SPEAR-HEAD, GREAVES, AND BREASTPLATE ARE SUSCEPTIBLE TO UNCLEANNESS. ALL WOMEN'S ORNAMENTS ARE SUSCEPTIBLE TO UNCLEANNESS: A GOLDEN CITY,[33] A NECKLACE, EAR-RINGS, FINGER-RINGS (WHETHER THE RING IS WITH A SEAL OR WITHOUT ONE) AND NOSE-RINGS. IF A NECKLACE HAS METAL BEADS ON A THREAD OF FLAX OR WOOL AND THE THREAD BROKE, THE BEADS ARE STILL SUSCEPTIBLE TO UNCLEANNESS, SINCE EACH ONE IS A VESSEL IN ITSELF. IF THE THREAD WAS OF METAL AND THE BEADS WERE OF PRECIOUS STONES OR PEARLS OR GLASS, AND THE BEADS WERE BROKEN WHILE THE THREAD ALONE REMAINED, IT IS STILL SUSCEPTIBLE TO UNCLEANNESS. THE REMNANT OF A NECKLACE LONG ENOUGH FOR THE NECK OF A LITTLE GIRL, IS SUSCEPTIBLE TO UNCLEANNESS. R. ELIEZER RULED: EVEN IF ONLY ONE RING REMAINED IT IS UNCLEAN, SINCE IT ALSO IS HUNG AROUND THE NECK.

MISHNAH 9. IF AN EAR-RING WAS SHAPED LIKE A POT[34] AT ITS BOTTOM AND LIKE A LENTIL AT THE TOP AND THE SECTIONS FELL APART, THE POT-SHAPED SECTION[35] IS SUSCEPTIBLE TO UNCLEANNESS AS A RECEPTACLE, WHILE THE LENTIL SHAPED SECTION IS SUSCEPTIBLE TO UNCLEANNESS IN ITSELF.[36] THE HOOKLET[37] IS CLEAN. IF THE SECTIONS OF AN EAR-RING THAT WAS IN THE SHAPE OF A CLUSTER OF GRAPES FELL APART, THEY[35] ARE CLEAN.

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(1) Even if they have been formerly unclean.

(2) Rabbinically, though not Pentateuchally.

(3) The reversion to uncleanness.

(4) Though it does not form a receptacle.

(5) Sc. is not merely a part of another vessel.

(6) Hence they are insusceptible to uncleanness even before they have been attached.

(7) Of metal.

(8) The insusceptibility to uncleanness.

(9) Since the material may have formed a part of an unclean vessel. whose uncleanness is revived when the material is made into a new one.

(10) About which it is unknown whether they were made from old vessels or from unshaped iron.

(11) As a preventive measure. They may possibly have been made from a vessel.

(12) Holding that no preventive measure is necessary in this case.

(13) Sc. one that was known to have formed a part of an old vessel.

(14) The former uncleanness passes on to the new vessel.

(15) A vessel of which is susceptible to uncleanness as earthenware.

(16) Vessels from which are insusceptible to uncleanness.

(17) Of metal, which is sometimes used as a pestle.

(18) Since the metal plating is a mere attachment, the main part of the bolt being wood which is insusceptible to uncleanness.

(19) Dragging it on, without removing it from the ground. Not being a valid vessel, it is forbidden to be carried from place to place on the Sabbath.

(20) Serving as mere ornaments they are not susceptible to uncleanness.

(21) The bit, the bridle and the cheek-pieces.

(22) Since the knob has no independent name or existence it is like a piece of metal that serves a flat piece of wood which is insusceptible to uncleanness.

(23) The knob.

(24) Even according to R. Akiba.

(25) A bagpipe.

(26) Whether it is made of metal, or only plated with it.

(27) A musical pipe made up of links of horn

(28) Since it may be regarded as having a receptacle.

(29) Which forms no receptacle.

(30) Even a straight horn.

(31) If made of metal.

(32) From which one drinks in the course of a battle.

(33) A golden tiara shaped like, or engraven with the city of Jerusalem.

(34) Wide and hollow.

(35) Which can no longer be worn as an ornament.

(36) As an ornament, since it is still worn as such.

(37) Of an ear-ring.

Mishna - Mas. Kelim Chapter 12

MISHNAH 1. A FINGER-RING FOR A MAN IS[1] SUSCEPTIBLE TO UNCLEANNESS. A RING FOR CATTLE OR FOR VESSELS AND ALL OTHER RINGS ARE CLEAN.[2] A BEAM[3] FOR ARROWS IS SUSCEPTIBLE TO UNCLEANNESS,[4] BUT ONE FOR PRISONERS[5] IS CLEAN.[6] A NECK-IRON[7] IS SUSCEPTIBLE TO UNCLEANNESS. A CHAIN THAT HAS A LOCK-PIECE IS SUSCEPTIBLE TO UNCLEANNESS,[8] BUT ONE USED FOR TYING ON CATTLE IS CLEAN. THE CHAIN OF WHOLESALE PROVISION DEALERS[9] IS SUSCEPTIBLE TO UNCLEANNESS.[8] BUT THAT OF HOUSEHOLDERS[10] IS CLEAN.[11] R. JOSE EXPLAINED: THIS APPLIES ONLY WHERE[12] IT[13] CONSISTS OF ONE LINK, BUT IF IT CONSISTED OF TWO LINKS OR IF IT HAD A SLUG [-SHAPED] PIECE AT ITS END[14] IT IS SUSCEPTIBLE TO UNCLEANNESS.[15]

MISHNAH 2. THE BEAM OF THE WOOL-COMBERS' BALANCE IS SUSCEPTIBLE TO UNCLEANNESS[16] ON ACCOUNT OF THE HOOKS;[17] AND THAT OF THE HOUSEHOLDER, IF IT HAS HOOKS IS ALSO SUSCEPTIBLE TO UNCLEANNESS. THE LADING HOOKS OF PORTERS ARE CLEAN BUT THOSE OF PEDLARS[18] ARE SUSCEPTIBLE TO UNCLEANNESS.[19] R. JUDAH RULED: IN THE CASE OF THAT OF THE PEDLARS THE HOOK THAT IS IN FRONT IS SUSCEPTIBLE TO UNCLEANNESS[19] BUT THAT WHICH IS BEHIND IS CLEAN.[20] THE HOOK OF A BED- FRAME IS SUSCEPTIBLE TO UNCLEANNESS BUT THAT OF BED POLES[21] IS CLEAN. [THE HOOK OF] A CHEST IS SUSCEPTIBLE TO UNCLEANNESS BUT THAT OF A FISH TRAP IS CLEAN. THAT OF A TABLE IS SUSCEPTIBLE TO UNCLEANNESS BUT THAT OF A WOODEN CANDLESTICK IS CLEAN. THIS IS THE RULE: ANY HOOK THAT IS ATTACHED TO A SUSCEPTIBLE VESSEL[22] IS SUSCEPTIBLE TO UNCLEANNESS, BUT ONE THAT IS ATTACHED TO A VESSEL THAT IS INSUSCEPTIBLE TO UNCLEANNESS IS CLEAN. ALL THESE, HOWEVER, ARE BY THEMSELVES[23] CLEAN.[24]

MISHNAH 3. THE METAL COVER OF A BASKET OF HOUSEHOLDERS, RABBAN GAMALIEL DECLARES, IS SUSCEPTIBLE TO UNCLEANNESS,[19] AND THE SAGES HOLD THAT IT IS CLEAN;[25] BUT THAT OF PHYSICIANS[26] IS SUSCEPTIBLE TO UNCLEANNESS. THE DOOR[27] OF A CUPBOARD OF HOUSEHOLDERS IS CLEAN BUT THAT OF PHYSICIANS[28] IS SUSCEPTIBLE TO UNCLEANNESS. TONGS[29] ARE SUSCEPTIBLE TO

UNCLEANNESS BUT FIREBARS ARE CLEAN. THE SCORPION [-SHAPED] HOOK IN AN OLIVE-PRESS IS SUSCEPTIBLE TO UNCLEANNESS BUT THE HOOKS FOR THE WALLS[30] ARE CLEAN.[31]

MISHNAH 4. A BLOOD-LETTERS’ LANCET IS SUSCEPTIBLE TO UNCLEANNESS BUT [THE STYLE] OF A SUNDIAL IS CLEAN. R. ZADOK RULES THAT IT IS SUSCEPTIBLE TO UNCLEANNESS. A WEAVER'S PIN IS SUSCEPTIBLE TO UNCLEANNESS; THE CHEST OF A GRIST-DEALER, R. ZADOK RULES, IS SUSCEPTIBLE TO UNCLEANNESS, BUT THE SAGES RULE THAT IT IS CLEAN. IF ITS WAGON WAS MADE OF METAL IT IS SUSCEPTIBLE TO UNCLEANNESS.

MISHNAH 5. IF A NAIL[32] WAS ADAPTED TO OPEN OR TO SHUT A LOCK IT IS SUSCEPTIBLE TO UNCLEANNESS, BUT ONE THAT IS ONLY USED AS A SAFEGUARD[33] IS CLEAN. IF A NAIL WAS ADAPTED TO OPEN A JAR, R. AKIBA RULES THAT IT IS SUSCEPTIBLE TO UNCLEANNESS, AND THE SAGES RULE THAT IT IS CLEAN UNLESS IT WAS FORGED ANEW. A MONEY-CHANGER'S NAIL[34] IS CLEAN,[35] BUT R. ZADOK RULED THAT IT IS SUSCEPTIBLE TO UNCLEANNESS.[36] THERE ARE THREE THINGS WHICH R. ZADOK HOLDS TO BE SUSCEPTIBLE TO UNCLEANNESS AND THE SAGES HOLD CLEAN: THE NAIL OF A MONEY-CHANGER, THE CHEST OF A GRIST-DEALER AND THE STYLE OF A SUNDIAL. R. ZADOK RULES THAT THESE ARE SUSCEPTIBLE TO UNCLEANNESS AND THE SAGES RULE THAT THEY ARE CLEAN.

MISHNAH 6. THERE ARE FOUR THINGS WHICH RABBAN GAMALIEL DECLARES TO BE SUSCEPTIBLE TO UNCLEANNESS, AND THE SAGES DECLARE CLEAN: THE METAL COVER OF A BASKET OF HOUSEHOLDERS, THE HANGER OF A STRIGIL, UNFINISHED METAL VESSELS, AND AN EARTHEN SLAB[37] THAT WAS BROKEN INTO TWO EQUAL PARTS. THE SAGES, HOWEVER, AGREE WITH RABBAN GAMALIEL THAT WHERE A SLAB WAS BROKEN INTO TWO PARTS, ONE LARGE AND THE OTHER SMALL, THE LARGER IS SUSCEPTIBLE TO UNCLEANNESS AND THE SMALLER IS CLEAN.

MISHNAH 7. IF A DENAR THAT HAD BEEN INVALIDATED[38] WAS FASHIONED FOR HANGING AROUND A YOUNG GIRL'S NECK IT IS SUSCEPTIBLE TO UNCLEANNESS. SO, TOO, IF A SELA THAT HAD BEEN INVALIDATED WAS ADAPTED FOR USE AS A WEIGHT, IT IS SUSCEPTIBLE TO UNCLEANNESS. HOW MUCH MAY IT[39] DEPRECIATE WHILE ONE IS STILL PERMITTED TO KEEP IT? AS MUCH AS TWO DENARS[40] IF ITS VALUE IS LESS IT MUST BE CUT UP.[41]

MISHNAH 8. A PENKNIFE, A WRITING PEN, A PLUMMET, A WEIGHT, PRESSING PLATES, A MEASURING-ROD, AND A MEASURING-TABLE ARE SUSCEPTIBLE TO UNCLEANNESS. ALL UNFINISHED WOODEN VESSELS ALSO ARE SUSCEPTIBLE TO UNCLEANNESS, EXCEPTING THOSE MADE OF BOXWOOD.[42] R. JUDAH RULED: ONE MADE OF AN OLIVE-TREE BRANCH IS ALSO CLEAN UNLESS IT WAS FIRST HEATED.[43]

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(1) Like any other ornaments worn by men.

(2) Only ornaments for men are susceptible to uncleanness.

(3) Plated with iron and used as a target.

(4) Cf. supra XI, 8.

(5) Used as a foot- stock.

(6) Since it is immovable.

(7) Which is carried about when the prisoner moves from place to place, and is, therefore, considered a ‘vessel’.

(8) Being regarded as a vessel.

(9) Attached by one end to the wall, and by the other to a measure or weight.

(10) A mere ornament.
(11) Only ornaments for men are susceptible to uncleanness.
(12) Lit., ‘when, at the time’.
(13) The chain of householders.
(14) Lit., ‘top’; by which the chain is attached to the wall or door.
(15) Being then regarded as a vessel.
(16) Though it was made of wood.
(17) Which are metal and susceptible to uncleanness.
(18) Or spice dealers.
(19) Because it forms a receptacle.
(20) Since its receptacle is not used.
(21) Fixed at the head and at the foot of the bed.
(22) One that is susceptible to uncleanness.
(23) Sc. when detached from the vessel.
(24) Since they are not independent vessels but mere parts of others.
(25) Because a cover cannot be considered a vessel.
(26) Which is used as a receptacle for medicinal drugs.
(27) Of metal.
(28) On which medical instruments are hung.
(29) Wherewith smelters hold the crucible over the fire.
(30) Since they are attached to a permanent building structure.
(31) Even before they have been attached.
(32) Which is insusceptible to uncleanness.
(33) To detect whether anybody had entered the house.
(34) Whereby his shop's shutters (or his balances) are supported.
(35) Not intended to be moved about it cannot be considered a vessels.
(36) Since sometimes, when repairs are needed, it is moved from its position.
(37) Having a rim.
(38) Or ‘became defective’.
(39) A sela’.
(40) Sc. half a sela’ or fifty per cent.
(41) To prevent unscrupulous people from passing it on as a good coin.
(42) Whose bark is very thick. Only after the bark has been removed by polishing can the vessel be considered finished.
(43) To extract its moisture. Cf. prev. n. mut. mut.

Mishna - Mas. Kelim Chapter 13

MISHNAH 1. THE SWORD, KNIFE, DAGGER, SPEAR, HAND-SICKLE, HARVEST-SICKLE, CLIPPER,[1] AND BARBERS’ SCISSORS, EVEN THOUGH THEIR COMPONENT PARTS WERE SEPARATED, ARE SUSCEPTIBLE TO UNCLEANNESS. R. JOSE RULED: THE PART THAT IS NEAR THE HAND[2] IS SUSCEPTIBLE TO UNCLEANNESS, BUT THAT WHICH IS NEAR THE TOP[3] IS CLEAN. IF THE TWO PARTS OF SHEARS WERE SEPARATED R. JUDAH RULES THAT THEY ARE STILL SUSCEPTIBLE TO UNCLEANNESS[4] BUT THE SAGES RULE THAT THEY ARE CLEAN.

MISHNAH 2. A SHOVEL-FORK[5] WHOSE SHOVEL[6] HAS BEEN REMOVED IS STILL SUSCEPTIBLE TO UNCLEANNESS ON ACCOUNT OF ITS FORK;[7] IF ITS FORK HAS BEEN REMOVED IT IS STILL SUSCEPTIBLE ON ACCOUNT OF ITS SHOVEL. A KOHLSTICK[8] WHOSE [EAR-] SPOON IS MISSING IS STILL SUSCEPTIBLE TO UNCLEANNESS ON ACCOUNT OF ITS POINT; IF ITS POINT WAS MISSING IT IS STILL SUSCEPTIBLE ON ACCOUNT OF ITS [EAR-] SPOON. A STYLUS WHOSE WRITING POINT IS MISSING IS STILL SUSCEPTIBLE TO UNCLEANNESS ON ACCOUNT OF ITS ERASER;[9] IF ITS ERASER

IS MISSING IT IS SUSCEPTIBLE ON ACCOUNT OF ITS WRITING POINT. A SOUP-LADLE[10] WHOSE SPOON IS LOST IS STILL SUSCEPTIBLE TO UNCLEANNESS ON ACCOUNT OF ITS FORK; IF ITS FORK IS LOST IT IS STILL SUSCEPTIBLE ON ACCOUNT OF ITS SPOON. SO ALSO IS THE LAW IN REGARD TO THE PRONG OF A MATTOCK.[11] THE MINIMUM SIZE[12] FOR ALL THESE INSTRUMENTS IS ONE THAT WOULD SUFFICE FOR THE DUE PERFORMANCE OF THEIR USUAL WORK.

MISHNAH 3. A COULTER THAT IS DAMAGED[13] REMAINS SUSCEPTIBLE TO UNCLEANNESS UNTIL ITS GREATER PART IS LOST, BUT IF ITS SHAFT-SOCKET IS BROKEN IT IS CLEAN. A HATCHET-HEAD WHOSE CUTTING EDGE IS LOST REMAINS SUSCEPTIBLE TO UNCLEANNESS ON ACCOUNT OF ITS SPLITTING EDGE; IF ITS SPLITTING EDGE IS LOST IT REMAINS SUSCEPTIBLE ON ACCOUNT OF ITS CUTTING EDGE. IF ITS SHAFT-SOCKET IS BROKEN IT IS CLEAN.

MISHNAH 4. A SHOVEL WHOSE BLADE WAS MISSING IS STILL SUSCEPTIBLE TO UNCLEANNESS, SINCE IT IS STILL LIKE A HAMMER; SO R. MEIR. BUT THE SAGES RULE THAT IT IS CLEAN. A SAW WHOSE TEETH ARE MISSING ONE IN EVERY TWO[14] IS CLEAN, BUT IF AN HASIT[15] LENGTH OF CONSECUTIVE TEETH[16] REMAINED IT IS SUSCEPTIBLE TO UNCLEANNESS. AN ADZE, SCALPEL, PLANE, OR DRILL THAT WAS DAMAGED REMAINS SUSCEPTIBLE TO UNCLEANNESS, BUT IF ITS SHARP EDGE WAS MISSING IT IS CLEAN. IN ALL THESE CASES, HOWEVER, IF AN INSTRUMENT WAS SPLIT INTO TWO PARTS BOTH REMAIN SUSCEPTIBLE TO UNCLEANNESS, EXCEPTING THE DRILL. THE BLOCK OF A PLANE BY ITSELF[17] IS CLEAN.

MISHNAH 5. A NEEDLE WHOSE EYE OR POINT WAS MISSING IS CLEAN. IF IT WAS SUBSEQUENTLY ADAPTED AS A STRETCHING-PIN IT IS SUSCEPTIBLE TO UNCLEANNESS. A PACK-NEEDLE WHOSE EYE WAS MISSING IS STILL SUSCEPTIBLE TO UNCLEANNESS SINCE ONE WRITES WITH IT.[18] IF ITS POINT WAS MISSING IT IS CLEAN. A STRETCHING-PIN IS IN EITHER CASE[19] SUSCEPTIBLE TO UNCLEANNESS. A NEEDLE THAT HAS BECOME RUSTY IS CLEAN IF THIS HINDERS IT FROM SEWING, BUT OTHERWISE IT REMAINS SUSCEPTIBLE TO UNCLEANNESS. A HOOK THAT WAS STRAIGHTENED OUT IS CLEAN. IF IT IS BENT BACK IT RESUMES ITS SUSCEPTIBILITY TO UNCLEANNESS.

MISHNAH 6. WOOD THAT SERVES [AS A SUBSIDIARY PART OF] A METAL VESSEL IS SUSCEPTIBLE TO UNCLEANNESS BUT METAL THAT SERVES AS A SUBSIDIARY PART OF A WOODEN VESSEL IS CLEAN. FOR INSTANCE,[20] IF A LOCK IS OF WOOD AND ITS CLUTCHES ARE OF METAL, EVEN IF ONLY ONE OF THEM IS SO, IT IS SUSCEPTIBLE TO UNCLEANNESS; BUT IF THE LOCK IS OF METAL AND ITS CLUTCHES ARE OF WOOD, IT IS CLEAN. IF A RING WAS OF METAL AND ITS SEAL OF CORAL, IT IS SUSCEPTIBLE TO UNCLEANNESS, BUT IF THE RING WAS OF CORAL AND ITS SEAL OF METAL, IT IS CLEAN. THE TOOTH IN THE PLATE OF A LOCK OR IN A KEY IS SUSCEPTIBLE TO UNCLEANNESS BY ITSELF.[21]

MISHNAH 7. IF ASHKELON GRAPPLING-IRONS WERE BROKEN BUT THEIR HOOKS REMAINED, THEY REMAIN SUSCEPTIBLE TO UNCLEANNESS. IF A PITCH-FORK, WINNOWING-FAN, OR RAKE (AND THE SAME APPLIES TO A HAIR[22] -COMB) LOST ONE OF ITS TEETH[23] AND IT WAS REPLACED BY ONE OF METAL, IT IS SUSCEPTIBLE TO UNCLEANNESS. AND CONCERNING ALL THESE R. JOSHUA REMARKED: THE SCRIBES HAVE HERE INTRODUCED A NEW PRINCIPLE OF LAW,[24] AND I HAVE NO EXPLANATION TO OFFER.[25]

MISHNAH 8. IF THE TEETH OF A FLAX-COMB WERE MISSING BUT TWO REMAINED, IT IS STILL SUSCEPTIBLE TO UNCLEANNESS. IF ONLY ONE, HOWEVER, REMAINED IT IS CLEAN. AS REGARDS ALL THE TEETH[26] EACH ONE INDIVIDUALLY[27] IS SUSCEPTIBLE TO UNCLEANNESS. IF OF A WOOL-COMB ONE TOOTH OUT OF EVERY TWO IS MISSING[28] IT IS CLEAN. IF THREE CONSECUTIVE TEETH[29] REMAINED, IT REMAINS SUSCEPTIBLE TO UNCLEANNESS. IF THE OUTERMOST TOOTH[30] WAS ONE OF THEM, THE COMB IS CLEAN. IF TWO TEETH WERE REMOVED FROM THE COMB AND MADE INTO A PAIR OF FORCEPS, THEY ARE SUSCEPTIBLE TO UNCLEANNESS. EVEN IF ONLY ONE WAS REMOVED BUT IT WAS ADAPTED TO BE USED FOR A LAMP OR AS A STRETCHING-PIN, IT IS SUSCEPTIBLE TO UNCLEANNESS.

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(1) Or ‘razor’.

(2) Since it is used in holding the instrument.

(3) Which, owing to its proximity to the blade and the danger of cutting one's hand, is never used when the instrument is handled.

(4) Since each part can still be used.

(5) An instrument having at one end a fork, wherewith meat or bread is taken out from an oven, and at its other end a flat disk to shovel coals or ashes.

(6) Lit., ‘spoon’.

(7) Lit., ‘tooth’.

(8) Having at one end a point wherewith stibium is applied to the eyelids (to blacken them) while its other end is wider and is used to clean out the ears.

(9) Its flat end wherewith the wax written upon is smoothed over.

(10) Having at one end a spoon and at the other a fork.

(11) One end of which is used for digging and the other for crushing rubble. If one end is lost the instrument is still susceptible to uncleanness on account of the use of its other end.

(12) Of what must remain if it is still to be unclean or susceptible to uncleanness.

(13) On the side of its cutting edge.

(14) No three consecutive teeth remaining. Lit., ‘one from between (two)’.

(15) The distance between the tips of the thumb and the forefinger when outstretched; according to Maim. the distance between the outstretched fore and middle fingers.

(16) Lit., ‘in one place’.

(17) Having lest the blade.

(18) On a wax tablet.

(19) Whether its eye or point is missing.

(20) Lit., ‘how’.

(21) Since it can be used independently.

(22) Lit., ‘head’.

(23) Which are of wood.

(24) Since, as flat wooden vessels, the instruments mentioned should be exempt from uncleanness

(25) Lit., ‘I do not know what to answer (when asked for an explanation)’.

(26) Lit., ‘and they all’.

(27) Since it can be used then for writing on a wax tablet, as supra 5.

(28) No three consecutive teeth remaining. Lit., ‘one from between (two)’.

(29) Lit., ‘in one place’.

(30) At the end of the row of teeth, which is wider than the others and, therefore, unsuitable for combing.

Mishna - Mas. Kelim Chapter 14

MISHNAH 1. WHAT IS THE MINIMUM SIZE[1] OF METAL VESSELS?[2] A BUCKET MUST BE OF SUCH A SIZE AS ONE CAN DRAW WATER WITH; A KETTLE MUST BE SUCH AS WATER CAN BE HEATED IN IT; A BOILER, SUCH AS CAN HOLD SELA'S; A CAULDRON, SUCH AS CAN HOLD JUGS; JUGS, SUCH AS CAN HOLD PERUTAHS; WINE-MEASURES, SUCH AS CAN MEASURE WINE; AND OIL-MEASURES, SUCH AS CAN MEASURE OIL. R. ELIEZER RULED: THE SIZE PRESCRIBED FOR ALL THESE IS A CAPABILITY TO HOLD PERUTAHS. R. AKIBA RULED: A VESSEL THAT LACKS TRIMMING[3] IS SUSCEPTIBLE TO UNCLEANNESS, BUT ONE THAT LACKS POLISHING IS[4] CLEAN.[5]

MISHNAH 2. A STAFF[6] TO THE END OF WHICH IS ATTACHED A METAL KNOB IN THE SHAPE OF A CHESTNUT BUR IS SUSCEPTIBLE TO UNCLEANNESS.[7] IF THE STAFF WAS STUDDED WITH NAILS IT IS ALSO UNCLEAN. R. SIMEON RULED: THIS APPLIES ONLY WHERE THREE ROWS[8] WERE PUT IN. IN ALL CASES, HOWEVER, WHERE THEY ARE PUT IN FOR ORNAMENTATION THE STAFF IS CLEAN.[9] IF A TUBE[10] WAS ATTACHED TO ITS END, AND SO ALSO IN THE CASE OF A DOOR,[11] IT IS CLEAN.[12] IF IT[13] WAS ONCE AN INDEPENDENT VESSEL AND THEN IT WAS FIXED TO THE STAFF, IT REMAINS SUSCEPTIBLE TO UNCLEANNESS.[14] WHEN DOES IT ATTAIN CLEANNESS? BETH SHAMMAI RULED: WHEN IT IS DAMAGED; AND BETH HILLEL RULED: WHEN IT IS JOINED ON.[15]

MISHNAH 3. THE AUGER OF A BUILDER AND THE PICK OF A CARPENTER ARE SUSCEPTIBLE TO UNCLEANNESS.[16] TENT-PEGS AND SURVEYORS’ PEGS ARE SUSCEPTIBLE TO UNCLEANNESS.[17] A SURVEYOR'S CHAIN IS SUSCEPTIBLE TO UNCLEANNESS, BUT ONE USED FOR FAGGOTS[18] IS CLEAN.[19] THE CHAIN OF A BIG BUCKET [IS SUSCEPTIBLE TO UNCLEANNESS TO A LENGTH OF] FOUR HANDBREADTHS,[20] AND THAT OF A SMALL ONE [TO A LENGTH OF] TEN HANDBREADTHS.[20] A BLACKSMITH S JACK IS SUSCEPTIBLE TO UNCLEANNESS. A SAW[21] THE TEETH OF WHICH WERE INSERTED[22] IN A HOLE[23] IS UNCLEAN,[24] BUT IF THEY WERE TURNED FROM BELOW UPWARDS[25] IT IS CLEAN.[26] ALL COVERS ARE CLEAN[27] EXCEPT THAT OF A BOILER.[28]

MISHNAH 4. THE PARTS OF A WAGON THAT ARE SUSCEPTIBLE TO UNCLEANNESS ARE THE FOLLOWING: THE METAL YOKE,[29] THE CROSS-BAR, THE SIDE-PIECES THAT HOLD THE STRAPS, THE IRON BAR UNDER THE NECKS OF THE CATTLE, THE POLE-PIN, THE METAL GIRTH, THE TRAYS, THE CLAPPER, THE HOOK, AND ANY NAIL THAT HOLDS ANY OF ITS PARTS TOGETHER.

MISHNAH 5. THE CLEAN PARTS OF A WAGON ARE THE FOLLOWING: THE YOKE[30] THAT IS ONLY PLATED [WITH METAL]. SIDE-PIECES MADE FOR MERE ORNAMENTATION, TUBES THAT GIVE OUT A NOISE,[31] THE LEAD AT THE SIDE OF THE NECKS OF THE CATTLE, THE RIM OF THE WHEEL, THE PLATES[32] AND MOUNTINGS,[32] AND ALL OTHER NAILS.[33] ALL THESE ARE CLEAN. METAL SHOES OF CATTLE ARE SUSCEPTIBLE TO UNCLEANNESS AND THOSE MADE OF CORK ARE CLEAN. WHEN DOES A SWORD BECOME SUSCEPTIBLE TO UNCLEANNESS? WHEN IT HAS BEEN POLISHED. AND A KNIFE? WHEN IT HAS BEEN SHARPENED.

MISHNAH 6. A METAL BASKET-COVER[34] WHICH WAS TURNED INTO A MIRROR IS, R. JUDAH RULES, CLEAN;[35] AND THE SAGES RULE THAT IT IS SUSCEPTIBLE TO UNCLEANNESS.[36] A BROKEN MIRROR, IF IT DOES NOT REFLECT THE GREATER PART OF THE FACE, IS CLEAN.

MISHNAH 7. METAL VESSELS MAY REMAIN UNCLEAN[37] AND BECOME CLEAN[38] EVEN WHEN BROKEN;[39] SO R. ELIEZER. R. JOSHUA RULED: THEY CAN BE MADE CLEAN ONLY WHEN THEY ARE WHOLE.[40] IF THEY WERE SPRINKLED UPON[41] AND ON THE SAME DAY THEY WERE BROKEN AND THEN THEY WERE RECAST[42] AND

SPRINKLED UPON ON THE SAME DAY, THEY ARE CLEAN;[43] SO R. ELIEZER. R. JOSHUA RULED: THERE CAN BE NO EFFECTIVE SPRINKLING EARLIER THAN ON THE THIRD[44] AND THE SEVENTH DAY[45] RESPECTIVELY.

MISHNAH 8. A KNEE-SHAPED KEY THAT WAS BROKEN OFF AT THE KNEE[46] IS CLEAN.[47] R. JUDAH RULES THAT IT IS UNCLEAN BECAUSE ONE CAN OPEN WITH IT FROM WITHIN.[48] A GAMMA-SHAPED KEY,[49] HOWEVER, THAT WAS BROKEN OFF AT ITS SHORTER[50] ARM[51] IS CLEAN.[52] IF IT[53] RETAINED THE TEETH AND THE GAPS IT REMAINS UNCLEAN. IF THE TEETH WERE MISSING IT IS STILL UNCLEAN ON ACCOUNT OF THE GAPS; IF THE GAPS WERE BLOCKED UP IT IS UNCLEAN ON ACCOUNT OF THE TEETH. IF THE TEETH WERE MISSING AND THE GAPS WERE BLOCKED UP, OR IF THEY WERE MERGED INTO ONE ANOTHER,[54] THE KEY BECOMES CLEAN. IF IN A MUSTARD-STRAINER[55] THREE HOLES IN ITS BOTTOM WERE MERGED INTO ONE ANOTHER THE STRAINER BECOMES CLEAN;[47] BUT A METAL MILL-FUNNEL[56] IS[57] UNCLEAN.[58]

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(1) That is still susceptible to, or retains its former uncleanness.

(2) When they were broken.

(3) Var lec., ‘its cover’.

(4) Like all ‘unshaped’ vessels.

(5) Whereas the latter work requires special skill, the former can be done by the householder.

(6) Of wood.

(7) The wooden part being subsidiary to the metal knob the entire staff is subject to the restrictions of a metal vessel.

(8) Of nails.

(9) Since the metal ornamentation is only subsidiary to the wooden staff.

(10) Of metal.

(11) Where such a tube serves as a pivot.

(12) Since the metal ornamentation is only subsidiary to the wooden object.

(13) The metal tube.

(14) Its new use does not deprive it of its former status of a vessel.

(15) To the staff, with nails.

(16) Since their wooden handles are merely subsidiary to the metal parts.

(17) Though they are inserted in the ground they are not regarded as fixed to it, since they are there only temporarily.

(18) To bind them together.

(19) Since, like other metal objects that are subsidiary to wooden ones, it is insusceptible to uncleanness.

(20) From the bucket; since such a length is used when the bucket is handled.

(21) That was unclean.

(22) To serve as a door jamb.

(23) Of a door, the teeth turning outwards.

(24) Lying in a position that might injure passers-by it is not likely to remain there long and cannot consequently be regarded as a fixture in the ground.

(25) And sunk in the lintel.

(26) Since it is regarded as a permanent fixture in the ground (cf. prev. n. mut. mut.). Alternative rendering: A saw in which the teeth are set in sockets is susceptible, but if they were put in upside down it is not susceptible (Danby according to Maimonides).

(27) Because they are not used by themselves.

(28) Which, independently of the boiler, is also used by itself.

(29) Above the necks of the drawing horses or oxen.

(30) V. p. 70, n. 16.

(31) To drive on the cattle.

(32) Of metal.

(33) Which serve as were ornamentation.

(34) For domestic use which (cf. supra XII, 6) is (in does not agreement with the Sages) clean.
(35) Because its conversion into a mirror does not alter its former status of uncleanness.
(36) A mirror they hold, has the status of a valid vessel.
(37) If they were unclean before they were broken and were re-made into proper vessels after they were broken. If they came in contact with a man or a vessel while in their broken condition, uncleanness is conveyed retrospectively after they have been re-made (cf. L.).
(38) If the prescribed sprinkling had been performed while they were broken.
(39) Though they were afterwards re-made into proper vessels (Elijah Wilna).
(40) Cur. edd. insert ‘how’, which is deleted by Elijah Wilna.
(41) For the first time, on the third day, in accordance with Num. XIX, 17ff.
(42) And made into proper vessels.
(43) As if they had been duly sprinkled upon on the seventh day. Their broken condition that intervened between their first and their second sprinkling is deemed to be equivalent to the interval of the three days that must elapse between the usual first sprinkling on the third day and the second one on the seventh.
(44) For the first sprinkling.
(45) For the second.
(46) Sc. the part that is inserted in the lock was partly broken off.
(47) Since it can no longer serve its original purpose.
(48) Where a shorter length of key (cf. n. 5) would also reach the lock.
(49) In which the arm that is inserted in the lock is much shorter than in the knee- shaped key.
(50) Lit., ‘its gamma’.
(51) Sc. the part that is inserted in the lock was partly broken off.
(52) Even according to R. Judah, since owing to its shortness (cf. n. 8.) it can no longer be used at all.
(53) The part that remained.
(54) The teeth having been bent into the gaps.
(55) That was unclean.
(56) Although it has no bottom at all.
(57) In a similar condition.
(58) As a valid vessel, since it bears an independent name.

Mishna - Mas. Kelim Chapter 15

MISHNAH 1. OF[1] VESSELS OF WOOD, LEATHER, BONE OR GLASS THOSE THAT ARE FLAT ARE CLEAN[2] AND THOSE THAT FORM A RECEPTACLE ARE SUSCEPTIBLE TO UNCLEANNESS. IF THEY ARE BROKEN THEY BECOME CLEAN AGAIN. IF ONE REMADE THEM INTO VESSELS THEY ARE SUSCEPTIBLE TO UNCLEANNESS HENCEFORTH.[1] A CHEST, A BOX, A CUPBOARD,A STRAW BASKET,[3] A REED BASKET,[3] OR THE TANK OF AN ALEXANDRIAN SHIP,[4] THAT HAVE FLAT BOTTOMS AND CONTAIN A MINIMUM OF FORTY SE'AH IN LIQUID MEASURE WHICH REPRESENT TWO KOR IN DRY MEASURE, ARE CLEAN.[5] ALL OTHER VESSELS, HOWEVER, WHETHER THEY CONTAIN THE MINIMUM[6] OR DO NOT CONTAIN IT, ARE SUSCEPTIBLE TO UNCLEANNESS;[7] SO R. MEIR. R. JUDAH RULED: THE TUB OF A WAGON, THE FOOD CHESTS OF KINGS, THE TANNERS TROUGH, THE TANK OF A SMALL SHIP, AND AN ARK,[8] EVEN THOUGH THEY CONTAIN THE MINIMUM,[6] ARE SUSCEPTIBLE TO UNCLEANNESS, SINCE THEY ARE INVARIABLY INTENDED TO BE MOVED ABOUT WITH THEIR CONTENTS. AS TO ALL OTHER VESSELS, THOSE THAT CONTAIN THE MINIMUM[6] ARE CLEAN AND THOSE THAT CANNOT CONTAIN IT ARE SUSCEPTIBLE TO UNCLEANNESS. THE ONLY PRACTICAL DIFFERENCE BETWEEN THE RULING OF R. MEIR[9] AND THAT OF R. JUDAH[10] IS THE RULING CONCERNING A DOMESTIC BAKING TROUGH.[11]

MISHNAH 2. BAKERS’ BAKING-BOARDS ARE SUSCEPTIBLE TO UNCLEANNESS.[12]

THOSE IN DOMESTIC USE[13] ARE CLEAN, BUT IF THEY WERE COLOURED RED OR SAFFRON THEY ARE SUSCEPTIBLE TO UNCLEANNESS. IF A BAKERS' SHELF[14] WAS FIXED TO A WALL, R. ELIEZER RULES THAT IT IS CLEAN[15] AND THE SAGES RULE THAT IT IS SUSCEPTIBLE TO UNCLEANNESS.[16] THE BAKERS' FRAME[17] IS SUSCEPTIBLE TO UNCLEANNESS BUT ONE IN DOMESTIC USE IS CLEAN. IF A RIM WAS MADE ON ITS FOUR SIDES IT IS SUSCEPTIBLE TO UNCLEANNESS, BUT IF ONE SIDE WAS OPEN IT IS CLEAN. R. SIMEON RULED: IF IT WAS SO SHAPED THAT ONE CAN CUT THE DOUGH UPON IT, IT IS SUSCEPTIBLE TO UNCLEANNESS.[18] A ROLLING-PIN IS SIMILARLY SUSCEPTIBLE TO UNCLEANNESS.[19]

MISHNAH 3. THE CONTAINER OF THE FLOUR-DEALERS' SIFTER IS SUSCEPTIBLE TO UNCLEANNESS, BUT THE DOMESTIC ONE[20] , IS CLEAN. R. JUDAH RULED: ALSO ONE THAT IS USED BY A HAIRDRESSER IS SUSCEPTIBLE TO UNCLEANNESS AS A SEAT,[21] SINCE GIRLS SIT IN IT WHEN THEIR HAIR IS DRESSED.

MISHNAH 4. ALL HANGERS[22] ARE SUSCEPTIBLE TO UNCLEANNESS, EXCEPTING THOSE OF A SIFTER AND A RIDDLE THAT ARE FOR DOMESTIC USE;[23] SO R. MEIR. BUT THE SAGES RULED: ALL HANGERS ARE CLEAN, EXCEPTING THOSE OF A SIFTER OF FLOUR-DEALERS, OF A RIDDLE USED IN THRESHING-FLOORS, OF A HAND-SICKLE AND OF AN EXCISEMAN'S STAFF, SINCE THEY AFFORD AID WHEN THE INSTRUMENT IS IN USE.[24] THIS IS THE GENERAL RULE: [A HANGER] THAT IS INTENDED TO AFFORD AID WHEN THE INSTRUMENT IS IN USE IS SUSCEPTIBLE TO UNCLEANNESS AND ONE INTENDED TO SERVE ONLY AS A HANGER IS CLEAN.

MISHNAH 5. THE GRIST-DEALERS' SHOVEL IS SUSCEPTIBLE TO UNCLEANNESS[25] BUT THE ONE USED IN GRAIN STORES[26] IS CLEAN. THE ONE USED IN WINE- PRESSES IS SUSCEPTIBLE TO UNCLEANNESS[25] BUT THAT USED IN THRESHING- FLOORS[26] IS CLEAN. THIS IS THE GENERAL RULE: [A SHOVEL] THAT IS INTENDED TO HOLD ANYTHING IS SUSCEPTIBLE TO UNCLEANNESS BUT ONE INTENDED ONLY TO HEAP STUFF TOGETHER IS CLEAN.

MISHNAH 6. ORDINARY HARPS[27] ARE SUSCEPTIBLE TO UNCLEANNESS,[28] BUT THE HARPS OF THE SONS OF LEVI[29] ARE CLEAN.[30] ALL LIQUIDS[31] ARE SUSCEPTIBLE TO UNCLEANNESS, BUT THE LIQUIDS[32] IN THE SHAMBLES[33] ARE CLEAN. ALL BOOKS[34] CONVEY UNCLEANNESS TO THE HANDS,[35] EXCEPTING THE SCROLL OF THE TEMPLE COURT.[36] A WOODEN TOY HORSE[37] IS CLEAN.[38] THE LUTE, THE NIKTIMON[39] AND THE DRUM ARE SUSCEPTIBLE TO UNCLEANNESS. R. JUDAH RULED: THE DRUM IS UNCLEAN AS A SEAT[40] SINCE THE WAILING WOMAN SITS ON IT. A WEASEL-TRAP IS SUSCEPTIBLE TO UNCLEANNESS,[41] BUT A MOUSE- TRAP[42] IS CLEAN.

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(1) For notes v. supra II, 1.

(2) Pentateuchally. Some of these are Rabbinically unclean.

(3) Which is subject to the law applicable to wooden vessels.

(4) Name given to large ships that serve for long distances.

(5) Being heavy they are not moved about when full as when empty and, having flat bottoms, they come under the category of stationary wooden vessels which are insusceptible to uncleanness.

(6) Of forty se'ah.

(7) Since they are moved about when full as when empty.

(8) Or large chest. Aliter: coffin.

(9) Who enumerated the vessels that are clean and gave a general ruling that all others are susceptible to uncleanness.

(10) Who mentioned those that are susceptible to uncleanness, ruling that all the others are clean.

(11) Which neither mentioned. According to the former it is susceptible to uncleanness while according to the latter it is clean.

(12) Rabbinically; since, despite their flat shape, they have the form of a vessel.

(13) Since they have not the shape of a vessel (cf. prev. n.).

(14) Of metal.

(15) As any ‘vessel’ that is fixed to the ground.

(16) Once it had the status of a vessel the fixing of it to a wall cannot deprive it of that status unless it was damaged (cf. supra XIV, 2).

(17) Or ‘small trough’.

(18) Even though it had no rim.

(19) Rabbinically; because flat vessels that serve men and their needs are susceptible to uncleanness. In this case the vessels are of service to the man and to his dough.

(20) Which has no proper receptacle.

(21) If a zab sat on it.

(22) Being adjuncts to vessels.

(23) Since these hangers are not always attached to the vessels mentioned.

(24) When fatigued from work one's hand is put on the hanger to facilitate the handling of the instrument.

(25) Because it forms a receptacle.

(26) Which has no proper receptacle.

(27) Lit., ‘harps of song’.

(28) On account of the receptacle beneath their strings wherein one places any coins collected from the audience.

(29) Used in the temple.

(30) Since the receptacles in these harps are not intended to contain any objects.

(31) Sc. blood, water, dew, wine, oil, milk and honey.

(32) Water and blood.

(33) Of the Temple, v. ‘Ed. VIII, 4.

(34) Or ‘scrolls’, of Scripture.

(35) That touched them. This is a Rabbinical measure to prevent holy books from being placed near foodstuffs where mice that attack the food would also destroy them. By the enactment that hands that touch the books contract a second grade of uncleanness any terumah that would come in contact with such hands would become unclean, and care would, therefore, be taken to keep terumah (and similarly unconsecrated food) away from the books; v. Yad. IV, 5.

(36) In which the High Priest read on the Day of Atonement. Being very highly esteemed there is no likelihood of its ever being put together with foodstuffs. Var. lec., ‘the scroll of Ezra’.

(37) Aliter: The wooden arm of a harp.

(38) Sc. it is not subject to midras uncleanness since it is not intended for riding upon. One merely pretends to sit on the horse while in reality it is dragged along, the so-called rider merely walking or running.

(39) A musical instrument. Aliter: ‘a mask’, v. Shab. 66b.

(40) If a zab sat on it.

(41) Because it has a receptacle for the animal whose skin is of use.

(42) Which has no receptacle (cf. prev. n.), its only purpose being to crush the mouse. Even if it has a receptacle it is disregarded since a mouse serves no useful purpose.

Mishna - Mas. Kelim Chapter 16

MISHNAH 1. ANY WOODEN VESSEL THAT WAS BROKEN INTO TWO PARTS[1] BECOMES CLEAN,[2] EXCEPTING A FOLDING TABLE,[3] A DISH WITH COMPARTMENTS FOR [DIFFERENT KINDS OF] FOOD,[4] AND A DOMESTIC FOOTSTOOL.[5] R. JUDAH RULED: A DOUBLE DISH[3] AND A BABYLONIAN TRAY ARE SUBJECT TO THE SAME LAW.[6] AT WHAT STAGE[7] DO WOODEN VESSELS BEGIN TO BE SUSCEPTIBLE TO UNCLEANNESS? A BED AND A COT, AFTER THEY ARE RUBBED OVER WITH FISHSKIN.[8] IF THE OWNER DETERMINED NOT TO RUB THEM OVER THEY ARE SUSCEPTIBLE TO UNCLEANNESS [FORTHWITH].[9] R. MEIR RULED: A BED BECOMES SUSCEPTIBLE TO UNCLEANNESS AS SOON AS THREE ROWS OF MESHES HAVE BEEN KNITTED IN IT.

MISHNAH 2. WOODEN BASKETS [BECOME SUSCEPTIBLE TO UNCLEANNESS] AS SOON AS THEIR RIMS ARE BOUND ROUND AND THEIR ROUGH ENDS ARE SMOOTHED OFF; BUT THOSE THAT ARE MADE OF PALM-BRANCHES [BECOME SUSCEPTIBLE TO UNCLEANNESS] EVEN THOUGH THEIR ENDS WERE NOT SMOOTHED OFF ON THE INSIDE, SINCE THEY ARE ALLOWED TO REMAIN IN THIS CONDITION. A BASKET [OF REED-GRASS[10] BECOMES SUSCEPTIBLE TO UNCLEANNESS] AS SOON AS ITS RIM IS BOUND AROUND IT, ITS ROUGH ENDS ARE SMOOTHED OFF, AND ITS HANGER IS FINISHED. A CASE OF WICKERWORK FOR FLAGONS OR FOR CUPS [IS SUSCEPTIBLE TO UNCLEANNESS] EVEN IF THE ROUGH ENDS WERE NOT SMOOTHED OFF ON THE INSIDE, SINCE THESE ARE ALLOWED TO REMAIN IN THIS CONDITION.

MISHNAH 3. SMALL REED BASKETS AND WOMEN'S WORK BASKETS [ARE SUSCEPTIBLE TO UNCLEANNESS] AS SOON AS THEIR RIMS ARE BOUND ROUND AND THEIR ROUGH ENDS SMOOTHED OFF; LARGE REED BASKETS AND LARGE HAMPERS, AS SOON AS TWO CIRCLING BANDS HAVE BEEN MADE ROUND THEIR WIDE SIDES; THE CONTAINER OF A SIFTER OR A SIEVE AND A CUP OF THE BALANCES, AS SOON AS ONE CIRCLING BAND HAS BEEN MADE ROUND THEIR WIDE SIDES; A WILLOW[11] BASKET, AS SOON AS TWO TWISTS HAVE BEEN MADE AROUND ITS WIDE SIDES; AND A RUSH[12] BASKET,[13] AS SOON AS ONE TWIST HAS BEEN MADE ROUND IT.

MISHNAH 4. AT WHAT STAGE[14] DO LEATHER VESSELS BECOME SUSCEPTIBLE TO UNCLEANNESS? A SHEPHERD'S BAG, AS SOON AS ITS HEM HAS BEEN STITCHED, ITS ROUGH ENDS TRIMMED AND ITS THONGS SEWN ON. R. JUDAH RULED: SO SOON AS ITS EARS[15] HAVE BEEN SEWN ON. A LEATHER APRON[16] [BECOMES SUSCEPTIBLE TO UNCLEANNESS] AS SOON AS ITS HEM HAS BEEN STITCHED, ITS ROUGH ENDS TRIMMED AND ITS STRINGS SEWN ON. R. JUDAH RULED: AS SOON AS ITS LOOPS HAVE BEEN SEWN ON. A LEATHER BED COVER[17] [BECOMES SUSCEPTIBLE] AS SOON AS ITS HEM HAS BEEN STITCHED AND ITS ROUGH ENDS TRIMMED. R. JUDAH RULED: AS SOON AS ITS THONGS HAVE BEEN SEWN ON. A LEATHER CUSHION OR MATTRESS[18] [BECOMES SUSCEPTIBLE] AS SOON AS ITS HEM HAS BEEN STITCHED AND ITS ROUGH ENDS TRIMMED. R. JUDAH RULED: SO, SOON AS IT HAS BEEN SEWN UP AND LESS THAN FIVE HANDBREADTHS REMAINED OPEN.[19]

MISHNAH 5. A WILLOW BASKET[20] IS SUSCEPTIBLE TO UNCLEANNESS BUT A THORN BASKET[21] IS CLEAN.[22] MATS[23] MADE OF LEAVES ARE CLEAN, BUT THOSE MADE OF TWIGS ARE SUSCEPTIBLE TO UNCLEANNESS. THE WICKER WRAPPING [IN WHICH DATES ARE LEFT][24] AND INTO WHICH THEY CAN BE EASILY PUT[25] AND FROM WHICH THEY CAN EASILY BE TAKEN OUT[25] IS SUSCEPTIBLE TO UNCLEANNESS, BUT IF THIS CANNOT BE DONE WITHOUT TEARING IT OR UNDOING IT, IT IS CLEAN.

MISHNAH 6. THE LEATHER GLOVE[26] OF WINNOWERS, TRAVELLERS, OR FLAX WORKERS IS SUSCEPTIBLE TO UNCLEANNESS;[27] BUT THE ONE FOR DYERS OR BLACKSMITHS[28] IS CLEAN. R. JOSE RULED: THE SAME LAW APPLIES ALSO TO THE GLOVE[26] OF GRIST DEALERS. THIS IS THE GENERAL RULE: THAT WHICH IS MADE FOR HOLDING ANYTHING IS SUSCEPTIBLE TO UNCLEANNESS, BUT THAT WHICH ONLY AFFORDS PROTECTION AGAINST PERSPIRATION IS CLEAN.

MISHNAH 7. THE DUNG BAG OF A BULLOCK[29] AND ITS MUZZLE, A BEE-SMOKER, AND A FAN ARE CLEAN.[30] THE COVER OF A CASKET IS SUSCEPTIBLE TO UNCLEANNESS; THE COVER OF A CLOTHES-CHEST IS CLEAN. THE COVER OF A BOX, THE COVER OF A BASKET, A CARPENTER'S VICE, A CUSHION[31] UNDER A BOX[32] OR ITS

ARCHED COVER,[33] A READING-DESK FOR A BOOK, A BOLT-SOCKET, A LOCK-SOCKET, A MEZUZAH CASE, A LYRE CASE, A VIOLIN CASE, THE BLOCK OF THE TURBAN-MAKERS, A WOODEN MUSICAL TOY HORSE, THE CLAPPERS OF A WAILING WOMAN, A POOR MAN'S PARASOL,[34] BED STRUTS, A TEFILLIN MOULD, AND THE CLOAK-MAKER'S BLOCK — ALL THESE ARE CLEAN. THIS, SAID R. JOSE, IS THE GENERAL RULE: ALL OBJECTS[35] THAT SERVE AS A PROTECTION TO OBJECTS THAT A MAN USES, BOTH WHEN THE LATTER ARE IN USE AND WHEN THEY ARE NOT IN USE,[36] ARE SUSCEPTIBLE TO UNCLEANNESS; BUT THOSE THAT SERVE THEM AS A PROTECTION ONLY WHEN THE LATTER ARE IN USE ARE CLEAN.[37]

MISHNAH 8. THE SHEATH OF A SWORD, A KNIFE OR A DAGGER, THE CASE FOR SCISSORS, OR SHEARS OR A RAZOR, THE CASE OF KOHL-STICKS AND THE KOHL-BOX, THE STYLUS CASE, THE INKPOT CASE,[38] THE TABLET CASE, THE LEATHER APRON,[39] A QUIVER AND A JAVELIN CASE[40] — ALL THESE ARE SUSCEPTIBLE TO UNCLEANNESS. THE CASE FOR A DOUBLE FLUTE IS SUSCEPTIBLE TO UNCLEANNESS IF THE INSTRUMENT IS PUT IN FROM ABOVE,[41] BUT IF IT IS PUT IN FROM THE SIDE, IT[42] IS CLEAN. A CASE FOR PIPES, R. JUDAH RULES, IS CLEAN BECAUSE THESE ARE PUT IN FROM THE SIDE.[43] THE COVERING OF A CLUB, A BOW OR A SPEAR IS CLEAN. THIS IS THE GENERAL RULE: THAT WHICH SERVES AS A CASE IS SUSCEPTIBLE TO UNCLEANNESS, BUT THAT WHICH IS MERELY A COVERING IS CLEAN.

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(1) While it was unclean.

(2) And also insusceptible to future uncleanness.

(3) Consisting of two sound and independent parts.

(4) Cf. prev. n.

(5) Made up of sections.

(6) Viz., though they were broken into two parts they remain unclean.

(7) In their manufacture.

(8) Which gives them their smooth surface.

(9) Even though their surface is rough.

(10) Aliter: Of fruit.

(11) Cf. Danby.

(12) Or ‘cork’.

(13) Which is not so deep as the basket previously mentioned.

(14) In their manufacture.

(15) The flaps by which it is carried.

(16) Scortea, or ‘leather coat’, ‘leather table cover’, ‘leather bed sheet’.

(17) Or ‘leather table cover’.

(18) Or ‘bolster’.

(19) To admit the packing.

(20) In which figs or dates are kept. Aliter: A fig or date basket.

(21) For rubbish. Aliter: Provision basket.

(22) Because it is much too large to be carried about and consequently is not considered a vessel.

(23) Aliter: Little fruit baskets.

(24) Until they are ripened.

(25) Without tearing the wrapper.

(26) Or ‘head gear’, or ‘apron’, or ‘overall’.

(27) Since it forms a ‘receptacle’ for the dust or chaff.

(28) Which forms no receptacle, its purpose being merely to absorb the man's perspiration.

(29) For receiving its excrements while at work.

(30) Since they have not the shape of a ‘vessel’.

(31) Var. lec., a chair.

(32) To protect it from dampness.
(33) To protect the chest against rain.
(34) Or ‘the poor man's collecting-bag’.
(35) Though they are flat and form no receptacle.
(36) As, for instance, a cover or a book's case.
(37) If they are flat. Those that are concave and thus form a receptacle are in either case susceptible to uncleanness.
(38) Or ‘a box with many compartments’.
(39) Or ‘leather coat’, or ‘leather table-cover’.
(40) Or ‘catapult’.
(41) Sc. when the case is long and forms a proper receptacle.
(42) Since it can only be regarded as a mere cover.
(43) Cf. prev. n.

Mishna - Mas. Kelim Chapter 17

MISHNAH 1. ALL [WOODEN] VESSELS[1] THAT BELONG TO HOUSEHOLDERS[2] [BECOME CLEAN IF THERE APPEARED IN THEM HOLES OF] THE SIZE OF POMEGRANATES.[3] R. ELIEZER RULED: [THE SIZE OF THE HOLE DEPENDS] ON THE USE TO WHICH A VESSEL IS PUT.[4] GARDENERS’ VEGETABLE BASKETS [BECOME CLEAN IF THE HOLES IN THEM ARE OF] THE SIZE OF BUNDLES OF VEGETABLES;[5] BASKETS OF HOUSEHOLDERS [BECOME CLEAN IF] THE SIZE [OF THE HOLES WILL ADMIT] BUNDLES OF STRAW [TO DROP THROUGH]; THOSE OF BATH-KEEPERS, IF BUNDLES OF SHAVINGS [WILL DROP THROUGH]. R. JOSHUA RULED: [THE SIZE][6] IN THE CASE OF ALL THESE IS THAT OF POMEGRANATES.[3]

MISHNAH 2. A SKIN BOTTLE [BECOMES CLEAN IF THE HOLES IN IT ARE OF] A SIZE THROUGH WHICH WARP-CLEWS[7] [WILL DROP OUT]. IF [WOOF-CLEWS ARE USUALLY KEPT IN IT AND NOW][8] IT CAN NOT HOLD WARP-CLEWS BUT CAN STILL HOLD[9] WOOF ONES[10] IT REMAINS UNCLEAN.[11] A DISH HOLDER[12] THAT CANNOT HOLD DISHES BUT[13] CAN STILL HOLD TRAYS REMAINS UNCLEAN.[11] A CHAMBER- POT[14] THAT CANNOT HOLD LIQUIDS BUT CAN STILL HOLD EXCREMENTS REMAINS UNCLEAN.[15] R. GAMALIEL RULES THAT THE LAST MENTIONED POT IS CLEAN SINCE PEOPLE DO NOT USUALLY KEEP ONE THAT IS IN SUCH A CONDITION.

MISHNAH 3. BREAD-BASKETS [ATTAIN CLEANNESS IF] THE SIZE [OF THEIR HOLES IS SUCH] THAT LOAVES OF BREAD [WOULD FALL THROUGH]. FRAMES FOR HANGINGS, THOUGH REEDS WERE FASTENED TO THEM FROM THE BOTTOM UPWARDS TO STRENGTHEN THEM, ARE CLEAN.[16] IF TO SUCH A FRAME HANDLES OF ANY KIND WERE FIXED IT IS UNCLEAN. R. SIMEON RULED: IF IT CANNOT BE LIFTED UP BY THESE HANDLES[17] IT IS CLEAN.

MISHNAH 4. THE POMEGRANATES OF WHICH THE RABBIS HAVE SPOKEN[18] ARE THREE ATTACHED TO ONE ANOTHER.[19] R. SIMEON B. GAMALIEL RULED: IN A SIFTER OR A SIEVE [THE SIZE OF THE HOLE MUST BE SUCH THAT A POMEGRANATE WILL DROP OUT] WHEN ONE TAKES IT[20] UP AND WALKS ABOUT WITH IT;[21] IN A HAMPER IT MUST BE SUCH [AS WOULD ALLOW A POMEGRANATE] TO FALL THROUGH WHILE A MAN HANGS THE HAMPER BEHIND HIM;[22] AND AS REGARDS ALL OTHER VESSELS WHICH[23] CANNOT HOLD POMEGRANATES AS, FOR INSTANCE, THE QUARTER KAB MEASURE AND THE HALF QUARTER KAB MEASURE, AND SMALL BASKETS, THE SIZE [OF THEIR HOLES MUST BE] SUCH AS WOULD EXTEND OVER THE GREATER PART OF THEM; SO R. MEIR. R. SIMEON RULED: [THE HOLE IS MEASURED] WITH OLIVES.[24] IF THEIR SIDES WERE BROKEN[25] [THE SIZE OF THEIR HOLE MUST BE] SUCH AS OLIVES

WOULD DROP THROUGH. IF THEY ARE WORN AWAY THE SIZE [OF THEIR HOLES] MUST BE SUCH AS WOULD ALLOW THE OBJECTS WHICH ARE USUALLY KEPT IN THEM [TO DROP THROUGH].[26]

MISHNAH 5. THE POMEGRANATE OF WHICH THEY HAVE SPOKEN[27] REFERS TO ONE THAT IS NEITHER SMALL NOR BIG BUT OF MODERATE SIZE. AND FOR WHAT PURPOSE[28] WERE THE POMEGRANATES OF BADDAN[29] MENTIONED?[30] THAT WHATEVER THEIR QUANTITY THEY[31] CAUSE [OTHER POMEGRANATES][32] TO BE FORBIDDEN: SO R. MEIR. R. JOHANAN B. NURI SAID: THAT THEY ARE TO BE USED AS A MEASURE FOR HOLES IN VESSELS.[33] R. AKIBA SAID: THEY WERE MENTIONED FOR BOTH REASONS: THAT THEY ARE TO BE USED AS A MEASURE FOR HOLES IN VESSELS[26] AND THAT WHATEVER THEIR QUANTITY THEY CAUSE [OTHER POMEGRANATES][32] TO BE FORBIDDEN. R. JOSE[34] SAID: THE POMEGRANATES OF BADDAN AND THE LEEKS OF GEBA[35] WERE MENTIONED ONLY TO INDICATE THAT THEY MUST BE TITHED EVERYWHERE AS BEING CERTAINLY UNTITHED.[36]

MISHNAH 6. THE SIZE OF AN EGG WHICH THEY PRESCRIBED[37] IS THAT OF ONE THAT IS NEITHER BIG NOR SMALL BUT OF MODERATE SIZE. R. JUDAH RULED: THE LARGEST AND THE SMALLEST[38] MUST BE BROUGHT AND PUT IN WATER AND THE DISPLACED WATER IS THEN DIVIDED.[39] SAID R. JOSE: BUT WHO CAN TELL ME WHICH IS THE LARGEST AND WHICH IS THE SMALLEST?[40] ALL RATHER DEPENDS ON THE OBSERVER'S ESTIMATE.

MISHNAH 7. THE SIZE OF A DRIED FIG WHICH THEY PRESCRIBED[41] IS THAT OF ONE THAT IS NEITHER LARGE NOR SMALL BUT OF MODERATE SIZE. R. JUDAH STATED: THE BIGGEST[42] IN THE LAND OF ISRAEL IS LIKE ONE OF MODERATE SIZE IN OTHER LANDS.

MISHNAH 8. THE SIZE OF AN OLIVE WHICH THEY PRESCRIBED[43] IS THAT OF ONE THAT IS NEITHER LARGE NOR SMALL BUT OF A MODERATE SIZE, VIZ., ONE THAT IS FIT FOR STORAGE.[44] THE SIZE OF A BARLEYCORN WHICH THEY PRESCRIBED[45] IS THAT OF ONE THAT IS NEITHER LARGE NOR SMALL BUT OF MODERATE SIZE, VIZ., THE KIND THAT GROWS IN THE WILDERNESS. THE SEIZE OF THE LENTIL WHICH THEY PRESCRIBED[46] IS THAT OF ONE THAT IS NEITHER LARGE NOR SMALL BUT OF MODERATE SIZE, VIZ., THE EGYPTIAN KIND. ‘ANY[47] MOVABLE OBJECT CONVEYS UNCLEANNESS[48] IF IT IS OF THE THICKNESS OF AN OX GOAD’, REFERS TO ONE THAT IS NEITHER LARGE NOR SMALL BUT OF MODERATE SIZE. WHAT IS MEANT BY ‘ONE OF MODERATE SIZE’? ONE WHOSE CIRCUMFERENCE IS JUST A HANDBREADTH.

MISHNAH 9. THE STANDARD OF THE CUBIT WHICH THEY PRESCRIBED[49] IS ONE OF THE MODERATE SIZE.[50] THERE WERE TWO STANDARD CUBITS IN THE PALACE OF SHUSHAN,[51] ONE IN THE NORTH-EASTERN CORNER AND THE OTHER IN THE SOUTH-EASTERN CORNER. THE ONE IN THE NORTH-EASTERN CORNER EXCEEDED[52] THAT OF MOSES[53] BY HALF A FINGERBREADTH, WHILE THE ONE IN THE SOUTH-EASTERN CORNER EXCEEDED[52] THE OTHER BY HALF A FINGERBREADTH, SO THAT THE LATTER EXCEEDED THAT OF MOSES BY A FINGERBREADTH. BUT WHY DID THEY PRESCRIBE A LARGER AND A SMALLER CUBIT? ONLY FOR THIS REASON: THAT THE CRAFTSMEN[54] MIGHT TAKE THEIR ORDERS ACCORDING TO THE SMALLER CUBIT AND RETURN THEIR FINISHED WORK ACCORDING TO THE LARGER CUBIT,[55] SO THAT THEY MIGHT NOT BE GUILTY OF ANY POSSIBLE MAL-APPROPRIATION.[56]

MISHNAH 10. R. MEIR STATED: ALL CUBITS[57] WERE OF THE MODERATE LENGTH[50]

EXCEPT THAT FOR THE GOLDEN ALTAR, THE HORNS,[58] THE CIRCUIT[58] AND THE BASE.[58] R. JUDAH STATED: THE CUBIT USED FOR THE BUILDING[59] WAS ONE OF SIX HANDBREADTHS AND THAT FOR THE VESSELS ONE OF FIVE HANDBREADTHS.

MISHNAH 11. SOMETIMES, HOWEVER, THEY PRESCRIBED A SMALLER MEASURE: THE LIQUID AND DRY MEASURES[59] WERE PRESCRIBED TO BE OF THE ITALIAN STANDARD WHICH IS THE ONE THAT WAS USED IN THE WILDERNESS.[60] SOMETIMES, AGAIN,[61] THEY PRESCRIBED A MEASURE THAT VARIED ACCORDING TO THE INDIVIDUAL CONCERNED, AS IS THE CASE OF ONE WHO TAKES THE HANDFUL OF A MEAL-OFFERING,[62] ONE WHO TAKES BOTH HANDS FULL OF INCENSE,[63] ONE WHO DRINKS A MOUTHFUL ON THE DAY OF ATONEMENT,[64] AND THE PREPARATION OF FOOD FOR TWO MEALS IN CONNECTION WITH AN ‘ERUB,[65] THE QUANTITY BEING THE FOOD ONE EATS ON WEEKDAYS AND NOT ON THE SABBATH;[66] SO R. MEIR. R. JUDAH RULED: AS ON THE SABBATH AND NOT AS ON WEEKDAYS.[67] AND BOTH INTENDED TO GIVE THE MORE LENIENT RULING.[68] R. SIMEON RULED:[69] TWO THIRDS OF A LOAF, THREE OF WHICH ARE MADE OF A KAB.[70] R. JOHANAN B. BEROKA RULED:[69] NOT LESS THAN A LOAF THAT IS PURCHASED FOR A DUPONDIUM WHEN THE PRICE OF WHEAT IS FOUR SE'AH FOR A SELA’.[71]

MISHNAH 12. AND SOMETIMES[72] THEY PRESCRIBED A LARGE MEASURE: ‘A LADLEFUL OF CORPSE MOULD’[73] REFERS TO THE BIG LADLE OF PHYSICIANS; THE ‘SPLIT BEAN’ IN THE CASE OF LEPROSY[74] REFERS TO THE CILICIAN KIND; ‘ONE WHO EATS ON THE DAY OF ATONEMENT A QUANTITY OF THE BULK OF A LARGE DATE’,[75] REFERS TO THE SIZE OF ITSELF AND ITS STONE; IN THE CASE OF SKINS OF WINE AND OIL [THE HOLES][76] MUST BE AS BIG AS THEIR LARGE STOPPER; IN THE CASE OF A LIGHT HOLE THAT WAS NOT MADE BY MAN'S HANDS[77] THE PRESCRIBED SIZE OF WHICH[78] IS THAT OF A LARGE FIST, THE REFERENCE IS TO THE FIST OF BEN BATIAH[79] (R. JOSE STATED: AND IT IS AS BIG AS A LARGE HUMAN HEAD), AND IN THE CASE OF ONE[80] MADE BY MAN'S HANDS THE PRESCRIBED SIZE[78] IS THAT OF THE LARGE DRILL IN THE TEMPLE CHAMBER WHICH IS THE SIZE OF THE ITALIAN DUPONDIUM OR THE NERONIAN SELA’[81] OR LIKE THE HOLE IN A YOKE.

MISHNAH 13. ALL THAT LIVE IN THE SEA ARE[82] CLEAN,[83] EXCEPT THE SEA-DOG BECAUSE IT SEEKS REFUGE[84] ON DRY LAND; SO R. AKIBA. IF ONE MADE VESSELS FROM WHAT GROWS IN THE SEA AND JOINED TO THEM ANYTHING THAT GROWS ON LAND, EVEN IF ONLY A THREAD OR A CORD, PROVIDED IT IS SUSCEPTIBLE TO UNCLEANNESS, THEY ARE UNCLEAN.

MISHNAH 14. THE LAWS OF UNCLEANNESS CAN APPLY TO WHAT WAS CREATED ON THE FIRST DAY.[85] THERE CAN BE NO UNCLEANNESS IN WHAT WAS CREATED ON THE SECOND DAY.[86] TO WHAT WAS CREATED ON THE THIRD DAY[87] THE LAWS OF UNCLEANNESS CAN APPLY.[88] NO UNCLEANNESS APPLIES TO WHAT WAS CREATED ON THE FOURTH DAY[89] AND ON THE FIFTH DAY,[90] EXCEPT[91] TO THE WING OF THE VULTURE OR AN OSTRICH-EGG THAT IS PLATED.[92] R. JOHANAN B. NURI OBJECTED: WHY SHOULD THE WING OF A VULTURE BE DIFFERENT FROM ALL OTHER WINGS? TO ALL THAT WAS CREATED ON THE SIXTH DAY[93] THE LAWS OF UNCLEANNESS CAN APPLY.[94]

MISHNAH 15. IF ONE MADE A RECEPTACLE, WHATEVER ITS SIZE,[95] IT IS SUSCEPTIBLE TO UNCLEANNESS. IF ONE MADE A COUCH OR A BED, WHATEVER ITS SIZE,[96] IT IS SUSCEPTIBLE TO UNCLEANNESS. IF ONE MADE A PURSE FROM UNTANNED HIDE OR FROM PAPYRUS, IT IS SUSCEPTIBLE TO UNCLEANNESS. A

POMEGRANATE, AN ACORN AND A NUT WHICH CHILDREN HOLLOWED OUT TO MEASURE DUST THEREWITH OR FASHIONED THEM INTO A PAIR OF SCALES, ARE SUSCEPTIBLE TO UNCLEANNESS, SINCE IN THE CASE OF CHILDREN AN ACT[97] IS VALID THOUGH AN INTENTION IS NOT.[98]

MISHNAH 16. THE BEAM OF A BALANCE AND A STRIKE THAT CONTAIN A RECEPTACLE FOR METAL,[99] A CARRYING-YOKE THAT HAS A RECEPTACLE FOR MONEY,[100] A BEGGAR'S CANE THAT HAS A RECEPTACLE FOR WATER,[101] AND A STICK THAT HAS A RECEPTACLE FOR A MEZUZAH AND FOR PEARLS[102] ARE SUSCEPTIBLE TO UNCLEANNESS. ABOUT ALL THESE R. JOHANAN B. ZAKKAI REMARKED: ‘WOE TO ME IF I SHOULD SPEAK OF THEM; WOE TO ME IF I SHOULD NOT SPEAK’.[103]

MISHNAH 17. THE BASE OF THE GOLDSMITHS’ ANVIL[104] IS SUSCEPTIBLE TO UNCLEANNESS, BUT THAT OF THE BLACKSMITHS[105] IS CLEAN. A WHET-BOARD WHICH HAS A RECEPTACLE FOR OIL IS SUSCEPTIBLE TO UNCLEANNESS, BUT ONE THAT HAS NONE IS CLEAN. A WRITING-TABLET THAT HAS A RECEPTACLE FOR WAX IS SUSCEPTIBLE TO UNCLEANNESS, BUT ONE THAT HAS NONE IS CLEAN. A STRAW MAT OR A TUBE OF STRAW, R. AKIBA RULES, IS SUSCEPTIBLE TO UNCLEANNESS,[106] BUT R. JOHANAN B. NURI RULES THAT IS IT CLEAN. R. SIMEON RULED: THE HOLLOW STALK OF COLOCYNTH[107] IS SUBJECT TO THE SAME LAW.[108] A MAT OF REEDS OR RUSHES IS CLEAN. A REED-TUBE THAT WAS CUT FOR HOLDING ANYTHING REMAINS CLEAN UNTIL ALL THE PITH HAS BEEN REMOVED.

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(1) Which have contracted an uncleanness.

(2) Those belonging to craftsmen become clean even if only smaller holes have appeared (v. infra).

(3) Sc. holes big enough for pomegranates to fall through.

(4) Lit., ‘in what they are’. If big objects are kept in it the hole must be big enough to allow such objects to drop through; and if the objects are small, holes corresponding to their size suffice to render the vessel clean.

(5) Sc. that such bundles will drop through them.

(6) That renders a vessel clean.

(7) Which are smaller than woof-clews.

(8) Cf. L.

(9) Lit., ‘although’.

(10) Which are bigger than warp-clews (cf. supra n. 7).

(11) Because it can still serve its original purpose.

(12) Used for trays.

(13) Lit., ‘although’.

(14) For excrements.

(15) V. p. 81, n. 11.

(16) Since they are flat objects that have not the shape of a vessel.

(17) On account of their frail texture or weak connection with the frame.

(18) Supra Mishnah 1.

(19) A hole through which one of such three pomegranates would drop must be bigger than one through which a single pomegranate would drop (Tosaf. Y.T.).

(20) The sifter or the sieve.

(21) A smaller hole than one through which the fruit could drop out without the shaking of the vessel.

(22) Across his shoulders (cf. prev. n. mut. mut.).

(23) Owing to their small capacity.

(24) If it is one through which olives can pass, the vessel, though it can still hold bigger sized fruit, becomes clean.

(25) The holes previously spoken of were those in the bottom of a vessel.

(26) ‘The size (is determined) by what they are’, i.e., by the character of the vessels. Aliter: They are regarded as vessels as long as they hold any object.

(27) Supra Mishnah 1.
(28) In connection with prescribed sizes.
(29) In Samaria.
(30) Cf. ‘Or. III, 7.
(31) If they are ‘orlah or otherwise forbidden.
(32) With which they are mixed.
(33) Sc. wherever a pomegranate is given in connection with the prescribed size of a hole that renders a vessel clean a pomegranate of Baddan is meant.
(34) Var. lec., Judah.
(35) In Samaria.
(36) Since they are the products of Samaritan localities and the Samaritans are known to disregard the laws of tithe.
(37) In connection with the uncleanness of foodstuffs.
(38) Of eggs.
(39) To obtain the size of the average egg.
(40) Sc. there might somewhere be eggs that are much bigger or much smaller than any egg that can be obtained in one's locality.
(41) In connection with carrying on the Sabbath (cf. Shab. VII, 4, ‘Er. VII, 8).
(42) Var. lec. (Wilna, 1907, Berlin 1862), ‘smallest’.
(43) Frequently (cf. Ber. 39a, Hal. I, 2).
(44) Aliter: Of a specially good quality. Aliter: An olive that retains its oil. Aliter: Whose oil is collected like wine in the grape.
(45) Cf. supra I, 4; ‘Ed. VI, 3.
(46) Cf. Oh. I, 7; Mik. VI, 7.
(47) A citation from Oh. XVI, 1, which is presently explained.
(48) To the man that carries it (Bert.); from place to place which it overshadows (L.).
(49) For various ritual measurements (cf. ‘Er. I, 1; Suk. I, 1; Oh. XVI, 3).
(50) Six handbreadths. The larger cubit measured six and a sixth handbreadths, while the smaller one measured only five handbreadths.
(51) A mural sculpture above the eastern gate of the Temple (cf. Mid. I, 3) representing that palace (cf. Est. I, 2).
(52) In length.
(53) The cubit of six handbreadths which he used in the wilderness in the construction of the Tabernacle and its furniture.
(54) Engaged in Temple work.
(55) Thus making sure that they neither appropriated any material that belonged to the Temple nor received payment for labour they had not performed.
(56) Cf. prev. n.
(57) Used in the Temple.
(58) Of the brazen altar. These were measured by the smaller cubit of five handbreadths.
(59) Of the Temple.
(60) By Moses.
(61) When the thing measured was not a vessel but a part of the human body.
(62) Cf. Lev. II, 2.
(63) Cf. Lev. XVI, 12.
(64) When drinking is forbidden (cf. Yoma VIII, 2).
(65) Cf. ‘Er. VIII, 2.
(66) When more is eaten than on the working days of the week.
(67) Holding that on weekdays more is eaten in each meal than on Sabbath when three meals are prescribed.
(68) Sc. to reduce the prescribed size of the ‘erub (cf. ‘Er., Sonc. ed., p. 576, n. 3).
(69) In determining the quantity of bread required for two meals.
(70) Of wheat. Thus two ninths of a kab suffice for two meals. When three loaves are made from a kab 2/3 of each loaf = 1/3 X 2/3 = 2/9 kab.
(71) As four se'ah are equal to 4 x 6 kab = 24 X 2 = 48 half-kab, and as a sela’ contains 4 denars = 4 X 6 ma'ah = 4 X 6

X 2 = 48 dupondia, each loaf must weigh half a kab; but as the shopkeeper who buys at the price mentioned (1/2 a kab for a dupondium) sells at a higher price, allowing himself a profit of fifty per cent of the purchase price, he sells for each dupondium 1/2 of a half a kab — 1/4 of a kab. Each loaf, therefore, weighs 1/4 of a kab. Cf. ‘Er., Sonc. ed., pp. 576-578 and notes.

(72) Cf. prev. Mishnah ab init.

(73) A citation from Oh. II, 1.

(74) Cf. Neg. VI, 1.

(75) Is culpable (Yoma VIII, 2).

(76) That render them insusceptible to uncleanness.

(77) Oh. XIII, 1.

(78) That would enable uncleanness to spread through it from one room into another.

(79) A Palestinian giant in the time of the destruction of the Temple; v. Lam. Rab. I, 5.

(80) A light- hole.

(81) A sela’ named after the Emperor Nero.

(82) Unlike animals on land.

(83) Even when dead. Hence vessels made of their skins are insusceptible to uncleanness.

(84) Lit., ‘Bees’.

(85) The earth (Gen. I, 1). Earthen vessels are subject to the laws of uncleanness.

(86) The heathens (Gen. I, 6f).

(87) The trees and plants (Gen. I, 11f).

(88) Wooden vessels are subject to uncleanness.

(89) The luminaries (Gen. I, 14ff).

(90) Birds and fishes (Gen. I, 20ff).

(91) According to Rabbinic Law, though not Pentateuchally.

(92) With metal. It is not clear whether this refers to both wing and egg or to the latter only.

(93) Land animals and man (Gen. I, 24ff).

(94) To animals and men when dead, and to the latter under certain circumstances even when alive.

(95) Lit., ‘in every place (case)’. Sc. however little its capacity may be.

(96) Even if one can only lean on it.

(97) As in the cases mentioned.

(98) If they only intended to turn the fruits mentioned into receptacles their intention is disregarded.

(99) By secretly inserting the metal into the beam the scales can be made to turn either in favour of the seller or in that of the buyer. Similarly with the strike, when the metal is inserted the strike levels the measure much lower and benefits the seller. By removing the metal the strike exerts less pressure and the benefit is the buyer's.

(100) In which the carrier stealthily throws the money he received for his labour and claims a second payment.

(101) From which he drinks or into which he secretly pours any wine or oil he is able to steal.

(102) A device to evade customs duties.

(103) Cf. B.B. 89b: ‘Should I speak of them, knaves might learn them; and should I not speak, the knaves might say, "the scholars are unacquainted with our practice", and will deceive us still more’.

(104) In which chippings of gold are collected.

(105) Whose function is not the collection of the chippings of metal but the protection of the blacksmith from the falling sparks.

(106) Though the capacity of either is very little.

(107) Or ‘wild cucumbers’ or ‘small bitter water melons’.

(108) As the tube of straw (cf. n. 4).

Mishna - Mas. Kelim Chapter 18

MISHNAH 1. A WOODEN CHEST,[1] BETH SHAMMAI RULED, IS MEASURED[2] ON THE INSIDE[3] AND BETH HILLEL RULED: ON THE OUTSIDE.[4] BOTH, HOWEVER, AGREE THAT THE THICKNESS OF THE LEGS AND THE THICKNESS OF THE RIM ARE NOT INCLUDED IN THE MEASUREMENT. R. JOSE STATED: BOTH AGREE THAT THE

THICKNESS OF THE LEGS AND THE THICKNESS OF THE RIM ARE INCLUDED IN THE MEASUREMENT, BUT THE SPACE BETWEEN THEM[5] IS NOT INCLUDED. R. SIMEON SHEZURI RULED: IF THE LEGS ARE ONE HANDBREADTH HIGH THE SPACE BETWEEN THEM[5] IS NOT INCLUDED IN THE MEASUREMENT, OTHERWISE[6] IT IS INCLUDED.

MISHNAH 2. ITS[7] CARRIAGE,[8] IF IT CAN BE SLIPPED OFF, IS NOT REGARDED AS A CONNECTIVE,[9] NOR IS IT INCLUDED IN ITS MEASUREMENT,[10] NOR DOES IT AFFORD PROTECTION TOGETHER WITH IT IN THE TENT OF A CORPSE,[11] NOR MAY IT BE DRAWN ALONG ON THE SABBATH IF IT CONTAINED MONEY.[12] IF, HOWEVER, IT CANNOT BE SLIPPED OFF, IT IS REGARDED AS A CONNECTIVE, IT IS INCLUDED IN ITS MEASUREMENT, IT AFFORDS PROTECTION TOGETHER WITH IT IN THE TENT OF A CORPSE, AND IT MAY BE DRAWN ALONG ON THE SABBATH EVEN IF IT CONTAINS MONEY. ITS[13] ARCHED TOP, IF IT IS FIXED, IS A CONNECTIVE AND IS MEASURED WITH IT, BUT IF IT IS NOT FIXED IT IS NO CONNECTIVE AND IS NOT MEASURED WITH IT. HOW IS IT[14] MEASURED? AS AN OX-HEAD.[15] R. JUDAH RULED: IF IT[13] CANNOT STAND BY ITSELF[16] IT IS CLEAN.[17]

MISHNAH 3. IF ONE OF THE LEGS WAS MISSING FROM A CHEST, A BOX OR A CUPBOARD, EVEN THOUGH IT IS STILL CAPABLE OF HOLDING [OBJECTS],[18] IT IS CLEAN, SINCE IT CANNOT[19] HOLD THEM IN THE USUAL MANNER;[20] BUT R. JOSE RULED: IT IS SUSCEPTIBLE TO UNCLEANNESS. THE POLES OF A BED, ITS BASE, AND [ITS] WRAPPER[21] ARE CLEAN.[22] ONLY THE BED ITSELF AND ITS FRAME ARE SUSCEPTIBLE TO UNCLEANNESS. THE BED FRAMES OF THE SONS OF LEVI,[23] HOWEVER, ARE CLEAN.[24]

MISHNAH 4. A BED FRAME THAT WAS PUT ON PROPS,[25] R. MEIR AND R. JUDAH RULE, IS SUSCEPTIBLE TO UNCLEANNESS BUT R. JOSE AND R. SIMEON RULE THAT IT IS CLEAN. R. JOSE ARGUED: WHEREIN DOES THIS[26] DIFFER FROM THE BED FRAMES OF THE SONS OF LEVI WHICH ARE CLEAN?[27]

MISHNAH 5. IF A BED THAT HAD CONTRACTED MIDRAS UNCLEANNESS LOST A SHORT SIDE AND TWO LEGS IT STILL REMAINS UNCLEAN,[28] BUT IF A LONG SIDE AND TWO LEGS WERE LOST IT BECOMES CLEAN. R. NEHEMIA RULED: IT IS UNCLEAN. IF TWO PROPS AT OPPOSITE CORNERS WERE CUT OFF, OR IF TWO LEGS AT OPPOSITE CORNERS WERE CUT OFF,[29] OR IF THE BED[30] WAS REDUCED TO A LEVEL OF LESS THAN A HANDBREADTH,[31] IT BECOMES CLEAN.

MISHNAH 6. IF A BED HAD CONTRACTED MIDRAS UNCLEANNESS AND A LONG SIDE OF IT WAS BROKEN AND THEN IT WAS REPAIRED, IT STILL RETAINS ITS MIDRAS UNCLEANNESS BUT IF THE SECOND SIDE WAS ALSO BROKEN,[32] THOUGH IT WAS ALSO REPAIRED, IT BECOMES FREE FROM MIDRAS UNCLEANNESS BUT IS UNCLEAN FROM CONTACT WITH MIDRAS UNCLEANNESS.[33] IF BEFORE ONE COULD MANAGE TO REPAIR THE FIRST SIDE THE SECOND ONE WAS BROKEN THE BED BECOMES CLEAN.

MISHNAH 7. IF A [BED] LEG THAT HAD CONTRACTED MIDRAS UNCLEANNESS WAS JOINED TO A BED, ALL THE BED CONTRACTS MIDRAS UNCLEANNESS. IF IT WAS SUBSEQUENTLY TAKEN OFF, IT RETAINS ITS MIDRAS UNCLEANNESS WHILE THE BED IS UNCLEAN FROM CONTACT WITH MIDRAS. IF A BED LEG THAT WAS SUBJECT TO A SEVEN-DAY UNCLEANNESS[34] WAS JOINED TO A BED, ALL THE BED CONTRACTS SEVEN-DAY UNCLEANNESS. IF IT WAS SUBSEQUENTLY TAKEN OFF IT REMAINS SUBJECT TO SEVEN-DAY UNCLEANNESS WHILE THE BED IS ONLY SUBJECT TO

EVENING-UNCLEANNESS.[35] IF A LEG THAT WAS SUBJECT TO EVENING UNCLEANNESS WAS JOINED TO A BED, ALL THE BED CONTRACTS EVENING UNCLEANNESS. IF IT WAS SUBSEQUENTLY TAKEN OFF IT IS STILL SUBJECT TO EVENING UNCLEANNESS WHILE THE BED BECOMES CLEAN.[36] THE SAME LAW APPLIES ALSO TO THE PRONG OF A MATTOCK.[37]

MISHNAH 8. A PHYLACTERY[38] IS REGARDED AS CONSISTING OF FOUR VESSELS. IF THE FIRST COMPARTMENT WAS UNLOOSED,[39] AND THEN IT WAS MENDED IT RETAINS ITS CORPSE UNCLEANNESS. SO IS IT ALSO THE CASE WITH THE SECOND AND THE THIRD.[40] IF THE FOURTH WAS UNLOOSED[41] IT BE COMES FREE FROM CORPSE UNCLEANNESS BUT IS STILL UNCLEAN FROM CONTACT WITH CORPSE UNCLEANNESS.[42] IF SUBSEQUENTLY THE FIRST COMPARTMENT WAS AGAIN UNLOOSED AND MENDED IT REMAINS UNCLEAN FROM CONTACT.[43] SO ALSO IN THE CASE OF THE SECOND COMPARTMENT.[44] IF THE THIRD COMPARTMENT WAS SUBSEQUENTLY UNLOOSED AND MENDED IT BECOMES CLEAN, SINCE THE FOURTH IS UNCLEAN FROM CONTACT,[45] AND WHAT IS UNCLEAN FROM CONTACT CANNOT CONVEY UNCLEANNESS BY CONTACT.

MISHNAH 9. A BED THE HALF OF WHICH IS STOLEN OR LOST, OR ONE WHICH BROTHERS OR JOINT OWNERS DIVIDED BETWEEN THEMSELVES, BECOMES CLEAN.[46] IF IT WAS RESTORED[47] IT IS SUSCEPTIBLE TO UNCLEANNESS HENCEFORTH.[48] A BED MAY CONTRACT UNCLEANNESS AND BE RENDERED CLEAN[49] ONLY WHEN ALL ITS PARTS ARE BOUND TOGETHER; SO R. ELIEZER. BUT THE SAGES RULED: IT CAN CONTRACT UNCLEANNESS AND BE RENDERED CLEAN[49] EVEN IN SINGLE PARTS.[50]

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(1) Which (cf. supra XV, 1) is insusceptible to uncleanness if it has a capacity of no less than forty se'ah.

(2) To ascertain its capacity.

(3) Since the walls cannot be included in the capacity of the chest.

(4) The main reason for the uncleanness being the heavy weight of the chest, the walls also, which add to its weight may be included.

(5) Between the legs and between the bottom of the chest and the ground.

(6) Lit., ‘and if not’, if the height of the legs was less than a handbreadth.

(7) The chest's (cf. prev. Mishnah ab init.).

(8) Lit., ‘machine’, a contrivance under a chest to facilitate movement from place to place.

(9) And the chest and the carriage are independently susceptible or insusceptible to uncleanness.

(10) To supplement the prescribed minimum of forty se'ah.

(11) Only vessels within the chest (provided its capacity is forty se'ah and its cover is tightly fitting) are protected from the uncleanness, but not those within the carriage since the latter is itself susceptible to uncleanness.

(12) Being an independent object it becomes a base to the money and, therefore, forbidden like it to be moved about on the Sabbath (cf. Shab. XXI, 2).

(13) The chest's (cf. prev. Mishnah ab init.).

(14) The arched top that was fixed.

(15) Sc. straight lines are drawn from the highest point in the arched cover to the vertical sides of the chest and all the space contained between the arch of the cover and the lines is included in the measurement.

(16) But requires support.

(17) Even if its capacity is less than forty se'ah.

(18) Sc. no hole was made in the vessel.

(19) Var. lec., ‘and that which cannot . . . manner R. Jose . . . unclean’.

(20) It being necessary to prop it up.

(21) Or ‘its covering’, denoting any bed decorations (Maim.).

(22) Even if they are made of metal.

(23) Who take them on their journey when going to Jerusalem to serve their turn in the Temple.

(24) Because they are easily detachable and quite independent of the bed.
(25) Lit., ‘tongues’, sc. it did not rest on the bed legs themselves.
(26) Which is easily detachable.
(27) V. p. 91, n. 12.
(28) Since it is still useable as a couch.
(29) Var lec., ‘to the extent of a handbreadth square.’
(30) By cutting away parts of each of its four legs.
(31) From the ground.
(32) Even if this happened after the first one was already repaired.
(33) Since it came in contact with the bed that was suffering midras uncleanness.
(34) Having been in contact with a vessel that contracted corpse uncleanness (cf. Oh. I, 2).
(35) Sc. it is unclean until sunset only.
(36) Since the leg (which was subject only to a derived uncleanness) cannot impart any uncleanness to the bed which, as a ‘vessel’, can contract uncleanness from a ‘father of uncleanness’ only.
(37) Which stand respectively in the same relationship as the leg and the bed.
(38) Sc. Tefillah, sing. of tefillin (v. Glos.). Of the head, which consists of four compartments.
(39) After the phylactery had contracted corpse uncleanness.
(40) If either was unloosed and then mended it retains its corpse uncleanness.
(41) So that none of the original compartments remained intact.
(42) Since it came in contact with the other compartments which are subject to corpse uncleanness which is a ‘father of uncleanness’.
(43) With the second which is still a ‘father of uncleanness’.
(44) Since it came in contact with the third which, like the second, was still a ‘father of uncleanness’ (cf. prev. n.).
(45) With the third which was a ‘father of uncleanness’ before it was unloosed and mended the second time.
(46) Since the two parts are not likely ever to be joined again.
(47) The two parts again forming one whole.
(48) But free from all former uncleanness.
(49) By immersion in a ritual bath and/or by ritual sprinkling.
(50) Provided it was intended to bind them together again.

Mishna - Mas. Kelim Chapter 19

MISHNAH 1. IF A MAN DISMANTLED A BED IN ORDER THAT HE MIGHT IMMERSE IT,[1] ANY ONE WHO TOUCHES THE ROPES[2] REMAINS CLEAN.[3] WHEN[4] DOES THE ROPE[5] BEGIN TO CONSTITUTE A CONNECTIVE WITH THE BED? AS SOON AS THREE ROWS OF MESHES OF IT HAVE BEEN KNOTTED.[6] AND [IF AN OTHER ROPE WAS TIED TO THIS ONE] ANY PERSON WHO TOUCHES IT FROM THE KNOT INWARDS BECOMES UNCLEAN; BUT IF FROM THE KNOT OUTWARDS HE REMAINS CLEAN. AS TO THE LOOSE ENDS OF THE KNOT, ANY ONE THAT TOUCHES THAT PART WHICH IS NEEDED FOR IT[7] BECOMES UNCLEAN. AND HOW MUCH IS NEEDED FOR IT?[7] R. JUDAH STATED: THREE FINGERBREADTHS.

MISHNAH 2. A ROPE THAT HANGS OVER FROM [THE NETTING OF] A BED[8] IS CLEAN[9] IF IT IS SHORTER THAN FIVE HANDBREADTHS, BUT UNCLEAN IF IT IS FROM FIVE TO TEN HANDBREADTHS LONG, WHILE THAT PART WHICH IS OVER THE TEN HAND BREADTHS IS CLEAN; FOR IT IS ONLY WITH THE FORMER[10] THAT PASCHAL LAMBS WERE TIED[11] AND BEDS SUSPENDED.[12]

MISHNAH 3. IF A PART OF A BED-GIRTH HANGS OVER, IT IS UNCLEAN[13] WHATEVER ITS LENGTH;[14] SO R. MEIR. R. JOSE RULED: ONLY THAT WHICH IS SHORTER THAN TEN HANDBREADTHS.[15] THE REMNANT OF A BED-GIRTH[16] REMAINS UNCLEAN IF THE LENGTH IS NO LESS THAN SEVEN HANDBREADTHS FROM WHICH AN ASS'S

GIRTH CAN BE MADE.[17]

MISHNAH 4. IF A ZAB WAS CARRIED ON A BED AND ON ITS GIRTH,[18] THE LATTER[19] CAUSES AN UNCLEANNESS OF TWO GRADES[20] AND AN UNFITNESS[21] OF ONE GRADE;[22] SO R. MEIR. R. JOSE RULED: IF A ZAB WAS CARRIED ON A BED AND ON ITS GIRTH[18] THE PART THAT IS SHORTER THAN TEN HANDBREADTHS CAUSES AN UNCLEANNESS OF TWO GRADES[18] AND AN UNFITNESS[21] OF ONE GRADE,[22] BUT THAT WHICH IS OVER THE TEN HANDBREADTHS[23] CAUSES ONLY AN UNCLEANNESS OF ONE GRADE[24] AND AN UNFITNESS[21] OF ONE GRADE.[22] IF HE WAS CARRIED ON THE BED-GIRTH, [ON THE OVERHANGING PART] THAT WAS SHORTER THAN TEN HANDBREADTHS, IT BECOMES UNCLEAN,[25] BUT IF ON THE PART THAT WAS LONGER THAN TEN HANDBREADTHS IT REMAINS CLEAN.[26]

MISHNAH 5. IF AROUND A BED THAT HAD CONTRACTED MIDRAS UNCLEANNESS ONE WRAPPED A BED-GIRTH, THE WHOLE BECOMES SUBJECT TO MIDRAS UNCLEANNESS; IF IT WAS SUBSEQUENTLY REMOVED, THE BED REMAINS SUBJECT TO MIDRAS UNCLEANNESS BUT THE BED-GIRTH IS UNCLEAN ONLY FROM CONTACT WITH MIDRAS. IF THE BED WAS SUBJECT TO A SEVEN-DAY UNCLEANNESS AND A BED-GIRTH WAS SUBSEQUENTLY WRAPPED AROUND IT, THE WHOLE BECOMES SUBJECT TO A SEVEN-DAY UNCLEANNESS; IF IT WAS REMOVED, THE BED REMAINS SUBJECT TO A SEVEN-DAY UNCLEANNESS BUT THE BED-GIRTH IS SUBJECT ONLY TO EVENING UNCLEANNESS. IF THE BED WAS SUBJECT TO EVENING UNCLEANNESS AND AROUND IT WAS SUBSEQUENTLY WRAPPED A BED-GIRTH, THE WHOLE BECOMES SUBJECT TO EVENING UNCLEANNESS; IF IT WAS REMOVED, THE BED REMAINS SUBJECT TO EVENING UNCLEANNESS BUT THE BED-GIRTH BECOMES CLEAN.

MISHNAH 6. IF A BED-GIRTH WAS WRAPPED AROUND A BED AND A CORPSE TOUCHED THEM, THEY ARE SUBJECT TO A SEVEN-DAY UNCLEANNESS;[27] IF THEY ARE TAKEN APART THEY[28] ARE STILL SUBJECT TO A SEVEN-DAY UNCLEANNESS. IF A [DEAD] CREEPING THING TOUCHED THEM THEY ARE SUBJECT TO AN EVENING UNCLEANNESS; IF THEY ARE TAKEN APART THEY[28] ARE STILL SUBJECT TO EVENING UNCLEANNESS. IF FROM A BED[29] THE TWO LONGER SIDES WERE REMOVED[30] AND TWO NEW ONES WERE PREPARED FOR IT BUT THE ORIGINAL SOCKETS WERE NOT CHANGED, IF THE NEW SIDES WERE BROKEN THE BED[29] RETAINS ITS UNCLEANNESS,[31] BUT IF THE OLD ONES WERE BROKEN IT BECOMES CLEAN, SINCE[32] ALL DEPENDS ON THE OLD ONES.[33]

MISHNAH 7. A BOX WHOSE OPENING IS AT THE TOP IS SUSCEPTIBLE TO CORPSE UNCLEANNESS.[34] IF IT WAS DAMAGED ABOVE IT IS STILL SUSCEPTIBLE TO CORPSE UNCLEANNESS. IF IT WAS DAMAGED BELOW, IT[35] BECOMES CLEAN. THE COMPARTMENTS[36] WITHIN IT REMAIN UNCLEAN AND ARE NOT REGARDED AS A CONNECTIVE WITH IT.[37]

MISHNAH 8. IF A SHEPHERD'S BAG[38] WAS DAMAGED, THE POCKET WITHIN IT RETAINS ITS UNCLEANNESS AND IS NOT REGARDED AS A CONNECTIVE WITH IT. IF THE TESTICLE BAGS IN A SKIN[39] SERVE ALSO[40] AS RECEPTACLES[41] AND THEY WERE DAMAGED, THEY BECOME CLEAN,[42] SINCE THEY[43] WILL NO LONGER SERVE THEIR ORIGINAL PURPOSE.[44]

MISHNAH 9. A BOX WHOSE OPENING IS AT THE SIDE IS SUSCEPTIBLE TO BOTH MIDRAS UNCLEANNESS[45] AND CORPSE UNCLEANNESS. R. JOSE STATED: WHEN DOES

THIS APPLY? WHEN IT IS LESS THAN TEN HANDBREADTHS IN HEIGHT[46] OR WHEN IT HAS NOT A RIM ONE HANDBREADTH DEEP.[45] IF IT WAS DAMAGED ABOVE IT IS STILL SUSCEPTIBLE TO CORPSE UNCLEANNESS.[47] IF IT WAS DAMAGED BELOW, R. MEIR RULES THAT IT IS SUSCEPTIBLE TO UNCLEANNESS,[48] BUT THE SAGES RULE THAT IT IS CLEAN BECAUSE WHERE THE PRIMARY FUNCTION[49] CEASES[50] THE SECONDARY ONE[51] ALSO CEASES.

MISHNAH 10. A DUNG-BASKET THAT WAS SO DAMAGED[52] THAT IT WILL NOT HOLD POMEGRANATES, R. MEIR RULES, IS STILL SUSCEPTIBLE TO UNCLEANNESS,[53] BUT THE SAGES RULE THAT IT IS CLEAN BECAUSE WHERE THE PRIMARY FUNCTION[54] CEASES THE SECONDARY ONE[55] ALSO CEASES.

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(1) In agreement with the Sages in the previous Mishnah.

(2) That make up the netting in the bed frame.

(3) Even though the bed was a ‘father of uncleanness’ from which a man contracts an uncleanness of the first grade. The ropes do not constitute a part of the bed after the latter had been dismantled.

(4) In the case of a new bed.

(5) Cf. n. 2.

(6) Though the rope is much longer all of is unclean since one part contracts uncleanness from the other.

(7) The knot, sc. the part without which the knot would be undone.

(8) After the required netting in the frame had been duly completed.

(9) Even when the bed is unclean.

(10) Lit., ‘for with it’, with the part of the rope that was from five to ten handbreadths long.

(11) To the bed's legs. A ceremonial that preceded the offering of the lamb.

(12) When, for instance, they were to be immersed in a ritual bath.

(13) If the bed was unclean.

(14) It being invariably regarded as a connective with the bed.

(15) That which is longer cannot be regarded as a connective and, therefore, remains clean.

(16) That was worn away.

(17) A lesser length, which is entirely useless, becomes clean.

(18) Sc. while the girth was around the bed, though the girth did not come in direct contact with the zab.

(19) Which, like the bed, becomes a ‘father of uncleanness’.

(20) Sc. the object that touches it contracts an uncleanness of the first grade, and any foodstuffs that touch this object contract one of the second grade.

(21) In the case of terumah. The term ‘unfit’ in connection with uncleanness denotes that the uncleanness contracted cannot be carried to a further remove.

(22) The third. Any terumah that comes in contact with a second grade of uncleanness becomes ‘unfit’ as having contracted a third grade of uncleanness.

(23) Which cannot be treated as a connective with the bed and which, as being in contact with a ‘father of uncleanness’, is subject only to a first grade of uncleanness.

(24) Sc. a second grade.

(25) Because it is regarded as part of the bed.

(26) Cf. prev. n. According to another reading the uncleanness and cleanness apply to the bed.

(27) Even according to R. Jose. Only in regard to midras uncleanness does he dispute the connection of the girth with the bed.

(28) Since neither can in consequence be regarded as broken.

(29) That was unclean.

(30) But they were still useable and capable of restoration to the bed.

(31) Since the old sides can still be restored (cf. prev. n.).

(32) The new sides having changed the bed's entire character from old to new.

(33) Cf. prev. two notes.

(34) Though, owing to its unsuitability as a seat, it is free from midras uncleanness.

(35) As a broken vessel.
(36) Or ‘drawers’, that were undamaged.
(37) Cf. supra II, 7.
(38) V. p. 97, n. 3.
(39) E.g. of a sheep.
(40) Lit., ‘with it’, with the skin.
(41) Sc. they also are filled when the liquid is poured into the skin.
(42) Though independently of the skin they can still hold some liquid.
(43) Not being capable of receiving the liquid from the skin.
(44) Lit., ‘they do not receive in their usual way’.
(45) Since one can sit on it without interfering with its normal uses.
(46) Because then one can conveniently sit on it.
(47) But not to that of midras, since it can no longer he used as a seat.
(48) Midras uncleanness; since it is still possible to sit on it.
(49) To serve as a receptacle.
(50) On account of the damage below.
(51) That of being used as a seat.
(52) After it had contracted uncleanness.
(53) Midras uncleanness; since it is still possible to sit on it.
(54) V. p. 98, n. 16.
(55) V. p. 98, n. 18.

Mishna - Mas. Kelim Chapter 20

MISHNAH 1. BOLSTERS, PILLOWS, SACKS AND PACKING CASES THAT WERE DAMAGED[1] ARE STILL SUSCEPTIBLE TO MIDRAS UNCLEANNESS.[2] A FODDER-BAG THAT CAN HOLD FOUR KAB, A SHEPHERD'S BAG THAT CAN HOLD FIVE KAB, A TRAVELLING BAG THAT CAN HOLD A SE'AH, A SKIN THAT CAN HOLD SEVEN KAB (R. JUDAH RULED: ALSO A SPICE-BAG AND A FOOD WALLET THAT CAN HOLD THE SMALLEST QUANTITY) ARE STILL SUSCEPTIBLE TO MIDRAS UNCLEANNESS.[3] IF ANY OF THEM, HOWEVER, WAS DAMAGED IT BECOMES CLEAN, SINCE WHERE THE PRIMARY FUNCTION[4] CEASES[5] THE SECONDARY FUNCTION[6] ALSO CEASES.

MISHNAH 2. A BAGPIPE IS NOT SUSCEPTIBLE TO MIDRAS UNCLEANNESS.[7] A TROUGH FOR MIXING MORTAR, BETH SHAMMAI RULES, IS SUSCEPTIBLE TO MIDRAS UNCLEANNESS[8] , AND BETH HILLEL RULES THAT IT IS SUSCEPTIBLE TO CORPSE UNCLEANNESS ONLY.[9] IF A TROUGH OF A CAPACITY FROM TWO LOG TO NINE KAB IS SPLIT, IT BECOMES SUSCEPTIBLE TO MIDRAS UNCLEANNESS.[10] IF IT WAS LEFT IN THE RAIN AND IT SWELLED[11] IT IS SUSCEPTIBLE TO CORPSE UNCLEANNESS ALONE.[12] [IF IT WAS LEFT OUT] DURING THE EAST WIND AND IT SPLIT, IT IS SUSCEPTIBLE TO MIDRAS UNCLEANNESS.[13] IN THIS RESPECT THE LAW IS MORE RESTRICTED IN THE CASE OF REMNANTS OF WOODEN VESSELS THAN IN [THAT OF SUCH VESSELS] IN THEIR ORIGINAL CONDITION.[14] IT IS ALSO MORE RESTRICTED IN REGARD TO THE REMNANTS OF WICKER VESSELS THAN [TO SUCH VESSELS] AS ARE IN THEIR ORIGINAL CONDITION, FOR WHEN THEY ARE IN THEIR ORIGINAL CONDITION THEY ARE INSUSCEPTIBLE TO UNCLEANNESS UNTIL THEIR RIM IS FINISHED, BUT AFTER THEIR RIM HAS BEEN FINISHED, EVEN THOUGH THEIR EDGES FELL AWAY LEAVING ONLY THE SLIGHTEST TRACE OF THEM, THEY ARE UNCLEAN.

MISHNAH 3. IF A STICK WAS USED[15] AS A HAFT FOR A HATCHET, IT[16] IS REGARDED AS A CONNECTIVE[17] FOR UNCLEANNESS AT THE TIME OF USE. A YARN WINDER IS REGARDED AS A CONNECTIVE[18] FOR UNCLEANNESS AT THE TIME OF ITS USE. IF IT

WAS FIXED TO A POLE IT IS SUSCEPTIBLE TO UNCLEANNESS,[19] BUT THE LATTER CANNOT BE REGARDED AS A CONNECTIVE WITH IT. IF THE POLE ITSELF WAS[20] CONVERTED INTO A YARN WINDER, ONLY THAT PART[21] WHICH IS NEEDED FOR USE IS SUSCEPTIBLE TO UNCLEANNESS. A SEAT THAT WAS FIXED TO THE POLE IS SUSCEPTIBLE TO UNCLEANNESS, BUT THE LATTER IS NOT REGARDED AS A CONNECTIVE WITH IT. IF THE POLE WAS TURNED INTO A SEAT, ONLY THE PLACE OF THE SEAT IS SUSCEPTIBLE TO UNCLEANNESS. A SEAT THAT WAS FIXED TO THE BEAM OF AN OLIVE-PRESS IS SUSCEPTIBLE TO UNCLEANNESS, BUT THE LATTER IS NOT CONNECTIVE WITH IT. IF THE END OF A BEAM WAS TURNED INTO A SEAT IT REMAINS CLEAN, BECAUSE PEOPLE WOULD TELL HIM,[22] 'GET UP AND LET US DO OUR WORK'.[23]

MISHNAH 4. IF A LARGE TROUGH WAS SO DAMAGED THAT IT COULD NO LONGER HOLD POMEGRANATES AND IT WAS ADAPTED AS A SEAT, R. AKIBA RULES THAT IT BECOMES SUSCEPTIBLE TO UNCLEANNESS, BUT THE SAGES RULE THAT IT REMAINS CLEAN UNLESS ITS ROUGH PARTS HAVE BEEN SMOOTHED.[24] IF IT WAS TURNED INTO A CRIB FOR CATTLE, EVEN IF IT WAS FIXED TO A WALL, IT IS SUSCEPTIBLE TO UNCLEANNESS.[25]

MISHNAH 5. A BLOCK[26] THAT WAS FIXED TO A COURSE OF A WALL, WHETHER IT WAS ONLY FIXED AND NOT BUILT UPON OR BUILT UPON AND NOT FIXED, IS SUSCEPTIBLE TO UNCLEANNESS.[27] IF IT WAS FIXED AND ALSO BUILT UPON, IT[28] IS CLEAN.[29] MATTING THAT WAS SPREAD OVER THE ROOF-BEAMS,[30] WHETHER IT WAS FIXED AND NO PLASTERWORK WAS LAID OVER IT OR WHETHER PLASTERWORK WAS LAID OVER IT AND IT WAS NOT FIXED, IT IS SUSCEPTIBLE TO UNCLEANNESS.[31] IF IT WAS FIXED AND PLASTERWORK WAS LAID OVER IT, IT IS CLEAN.[29] A DISH THAT WAS FIXED TO A CHEST, BOX OR CUPBOARD IN SUCH A MANNER AS TO HOLD ITS CONTENTS IN THE USUAL WAY[32] IS SUSCEPTIBLE TO UNCLEANNESS,[31] BUT IF IT WAS IN A MANNER THAT IT CANNOT HOLD IT IN THE USUAL WAY[33] IT IS CLEAN.[29]

MISHNAH 6. IF A SHEET THAT WAS SUSCEPTIBLE TO THE UNCLEANNESS OF MIDRAS WAS MADE INTO A CURTAIN,[34] IT BECOMES INSUSCEPTIBLE TO MIDRAS UNCLEANNESS BUT[35] IS SUSCEPTIBLE TO CORPSE UNCLEANNESS. WHEN DOES IT BECOME INSUSCEPTIBLE TO UNCLEANNESS?[36] BETH SHAMMAI RULED: WHEN IT HAS BEEN CUT UP.[37] BETH HILLEL RULED: WHEN THE LOOPS HAVE BEEN TIED TO IT. R. AKIBA RULED: WHEN IT HAS BEEN FIXED.[38]

MISHNAH 7. A MAT[39] PROVIDED WITH REEDS THAT STRETCHED LENGTHWISE IS INSUSCEPTIBLE TO UNCLEANNESS;[40] BUT THE SAGES RULE: ONLY IF THEY LAY IN THE SHAPE OF [THE GREEK LETTER] CHI.[41] IF THEY WERE LAID ALONG ITS WIDTH AND THERE WAS A DISTANCE OF LESS THAN FOUR HANDBREADTHS[42] BETWEEN ANY TWO REEDS, IT IS INSUSCEPTIBLE TO UNCLEANNESS.[40] IF IT WAS DIVIDED ALONG ITS WIDTH, R. JUDAH RULES THAT IS CLEAN.[43] SO ALSO, WHERE THE END KNOTS[44] ARE UNTIED, IT IS CLEAN.[43] IF IT WAS DIVIDED ALONG ITS LENGTH[45] BUT THREE END-KNOTS REMAINED INTACT ACROSS A STRETCH OF SIX HANDBREADTHS,[46] IT IS SUSCEPTIBLE TO UNCLEANNESS. WHEN DOES A MAT BECOME SUSCEPTIBLE TO UNCLEANNESS? WHEN ITS ROUGH ENDS ARE TRIMMED, THIS BEING THE COMPLETION OF ITS MANUFACTURE.

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(1) So that they can no longer be used as receptacles.

(2) Because they can still be used as seats which was one of their original functions.

(3) Since they can be used as seats without interfering in any way with their functions as receptacles.

(4) To serve as receptacles.
(5) On account of the damage.
(6) Their use as seats.
(7) Even if one sat or lay on it; since it is not intended for such use.
(8) Since labourers sometimes sit on it.
(9) It is free from midras since most people would not sit on such a muddy trough.
(10) If, however, its capacity was smaller it is exempt.
(11) So that the split was closed up and the trough was again suitable for its original use.
(12) It is exempt from midras since, owing to its suitability for its original use, one would not be allowed to sit on it.
(13) Because it is no longer used for its original purpose and might well be used as a seat.
(14) The former are free from midras while the latter are susceptible to it.
(15) Occasionally.
(16) Though it is a flat wooden vessel which elsewhere is insusceptible to uncleanness.
(17) With the hatchet.
(18) With the metal cross-pieces which are temporarily attached to it.
(19) Even when not in use, since in that case the metal cross-pieces remain permanently fixed.
(20) By fixing the metal ends directly on it.
(21) Of the pole.
(22) Who would sit on it.
(23) For which a beam is intended.
(24) Sc. the adaptation was accomplished by a specific act and not by mere intention.
(25) Of a corpse or dead creeping thing, like a movable vessel. Only a vessel that was originally intended to be fixed to the ground (even before it was fixed) and one that is used only when fixed to the ground is insusceptible to uncleanness.
(26) Of wood or any other material that is suitable for the making of a seat.
(27) Of midras, if a zab sat even only on the structure above the block; because it can easily revert to its former use.
(28) As a part of the wall.
(29) As any ‘vessel’ that is permanently fixed to a building and is regarded as a part of the ground.
(30) Of a top floor.
(31) Cf. supra n. 6 mut. mut.
(32) Sc. with its bottom downwards.
(33) With its bottom upwards.
(34) Which is not used as a seat.
(35) Since it might still be used as a wrapper and must in consequence be regarded as a ‘vessel’.
(36) Of midras.
(37) To the size required for the curtain; var. lec., ‘sewn up’, ‘joined’.
(38) In its position as a curtain.
(39) Which is sometimes strengthened by the insertion of reeds across its width, at distances of four handbreadths from each other.
(40) Of midras; because reeds in the position mentioned render the mat unsuitable for lying upon.
(41) Sc. crosswise. If they only stretch lengthwise one can still use the mat by lying between the reeds, and it is, therefore, susceptible to uncleanness.
(42) Cf. n. 7.
(43) Since it would no longer be used as a mat. It would rather be discarded.
(44) Which keep the plaiting together.
(45) So that the reeds running along its width were broken.
(46) The minimum size of a mat.

Mishna - Mas. Kelim Chapter 21

MISHNAH 1. A MAN WHO TOUCHES THE UPPER BEAM,[1] THE LOWER BEAM,[1] THE HEDDLES, THE SLEY, THE THREAD THAT IS DRAWN[2] OVER PURPLE MATERIAL,[3] OR A SPOOL WHICH IS NOT TO BE SHOT BACK,[4] REMAINS CLEAN.[5] IF HE TOUCHES THE WOOF, THE STANDING WARP,[6] THE DOUBLE THREAD THAT IS DRAWN OVER PURPLE MATERIAL[7] OR A SPOOL WHICH IS TO BE SHOT BACK,[4] HE BECOMES UNCLEAN.[8] IF A MAN TOUCHES THE WOOL THAT IS ON THE DISTAFF, OR ON THE SPOOL, HE REMAINS CLEAN. IF HE TOUCHES THE SPINNER BEFORE IT WAS LAID BARE[9] HE BECOMES UNCLEAN, BUT IF HE TOUCHES IT AFTER IT WAS LAID BARE[10] HE REMAINS CLEAN.

MISHNAH 2. IF A MAN TOUCHED THE YOKE,[11] THE CROSSBAR, THE COLLAR-PIECE, OR THE THICK ROPES,[12] EVEN AT THE TIME THEY ARE USED, HE REMAINS CLEAN.[13] IF HE TOUCHED THE TAIL PIECE, KNEE OR HANDLE,[12] HE BECOMES UNCLEAN. IF HE TOUCHED THE METAL RINGS,[12] THE GUIDES,[12] OR THE FLANKS,[12] HE BECOMES UNCLEAN. R. JUDAH RULES THAT HE REMAINS CLEAN IF HE TOUCHED THE GUIDES, SINCE THEY ONLY SERVE TO INCREASE THE SOIL.[14]

MISHNAH 3. IF A MAN TOUCHED THE HANDLE OF A SAW[15] AT EITHER END[16] HE BECOMES UNCLEAN;[17] BUT IF HE TOUCHED ITS STRING,[18] CORD,[18] CROSS-PIECE OR SIDE-PIECES, A CARPENTER'S PRESS,[19] OR THE BOW-HANDLE OF A BOW-DRILL,[20] HE REMAINS CLEAN.[21] R. JUDAH RULED: ALSO HE WHO TOUCHES THE FRAME OF A LARGE SAW[15] REMAINS CLEAN. IF A MAN TOUCHED THE BOW-STRING[22] OR THE BOW, EVEN THOUGH IT WAS STRETCHED, HE REMAINS CLEAN.[23] A MOLE-TRAP IS CLEAN.[24] R. JUDAH RULED: WHILE IT IS SET THE SEPARATE PARTS ARE [REGARDED AS] CONNECTED.

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(1) Of a loom in which a piece of material that was partially woven had contracted corpse uncleanness.

(2) Temporarily.

(3) For its protection from dirt.

(4) In the web on the loom.

(5) Because none of the objects mentioned can be regarded as a connective with the material and, therefore, cannot contract its uncleanness.

(6) Before it was woven.

(7) And which is to be woven into the material.

(8) Since all the objects enumerated are connectives with the material and, therefore, contract uncleanness from it.

(9) When it is regarded as a part of the spindle and subject to its uncleanness.

(10) Cf. prev. n. mut. mut.

(11) Of the wagon.

(12) Of a plough.

(13) Even if the ploughshare is unclean; because the objects enumerated are not regarded as connections with it.

(14) And are not concerned with the main process of ploughing. Var. lec., ‘to break up the soil’.

(15) Whose blade was unclean.

(16) Of the saw.

(17) Since the handle at either end is regarded as a part of the instrument and subject to its uncleanness.

(18) Which joins the two handles and strengthens the saw.

(19) Whose metal part is unclean.

(20) The bow-shaped handle of a borer.

(21) Because the parts enumerated are not regarded as connectives.

(22) Of a bow.

(23) Because these are not regarded as connectives of the arrow and are not affected by its uncleanness.

(24) The wooden part remains clean even if the metal part was unclean.

Mishna - Mas. Kelim Chapter 22

MISHNAH 1. IF A TABLE[1] OR A SIDE-BOARD[2] WAS DAMAGED OR COVERED WITH MARBLE[3] BUT ROOM[4] WAS LEFT ON IT WHERE CUPS COULD BE SET, IT REMAINS UNCLEAN. R. JUDAH RULED: THERE MUST BE ROOM ENOUGH[5] FOR PIECES OF FOOD.[6]

MISHNAH 2. A TABLE[7] ONE OF WHOSE LEGS WAS LOST BECOMES CLEAN.[8] IF A SECOND LEG WAS LOST IT IS STILL CLEAN. BUT IF A THIRD WAS LOST[9] IT BECOMES UNCLEAN WHERE THE OWNER HAS THE INTENTION OF USING IT.[10] R. JOSE RULED: NO INTENTION IS NECESSARY.[11] THE SAME LAW APPLIES ALSO TO THE SIDE-BOARD.[12]

MISHNAH 3. A BENCH[13] ONE OF WHOSE LEGS WAS LOST BECOMES CLEAN.[14] IF ITS SECOND LEG ALSO WAS LOST IT[15] IS STILL CLEAN. IF, HOWEVER, IT[15] WAS ONE HANDBREADTH HIGH[16] IT REMAINS UNCLEAN. A FOOTSTOOL[17] ONE OF WHOSE LEGS WAS LOST REMAINS UNCLEAN;[18] AND THE SAME LAW APPLIES TO THE STOOL IN FRONT OF A CATHEDRA.[19]

MISHNAH 4. IF A BRIDE'S STOOL LOST ITS SEATBOARDS,[20] BETH SHAMMAI RULE THAT IT IS STILL SUSCEPTIBLE TO UNCLEANNESS,[21] AND BETH HILLEL RULE THAT IT IS CLEAN.[22] SHAMMAI RULED: EVEN THE FRAME OF THE STOOL[23] IS SUSCEPTIBLE TO UNCLEANNESS. IF A STOOL WAS FIXED TO A BAKING-TROUGH,[24] BETH SHAMMAI RULE THAT IT[25] IS SUSCEPTIBLE TO UNCLEANNESS.[26] AND BETH HILLEL RULE THAT IT IS CLEAN.[27] SHAMMAI RULED: EVEN ONE[28] MADE OUT OF IT[29] IS SUSCEPTIBLE TO UNCLEANNESS.[26]

MISHNAH 5. IF THE SEAT BOARDS[30] OF A STOOL DID NOT PROJECT[31] AND THEY WERE REMOVED, IT[32] IS STILL SUSCEPTIBLE TO UNCLEANNESS, FOR IT IS USUAL[33] TO TURN IT ON ITS SIDE AND TO SIT ON IT.

MISHNAH 6. IF THE MIDDLE SEAT BOARD OF A STOOL WAS LOST BUT THE OUTER ONES[34] REMAINED IT IS STILL SUSCEPTIBLE TO UNCLEANNESS. IF THE OUTER ONES[34] WERE LOST AND THE MIDDLE SEAT BOARD REMAINED IT IS ALSO SUSCEPTIBLE TO UNCLEANNESS. R. SIMEON RULED: ONLY IF IT[35] WAS A HANDBREADTH WIDE.[36]

MISHNAH 7. IF THE TWO ADJACENT SEAT BOARDS OF A STOOL WERE LOST, R. AKIBA RULED, IT IS SUSCEPTIBLE TO UNCLEANNESS; AND THE SAGES RULE THAT IT IS CLEAN. SAID R. JUDAH: ALSO IF THE SEAT BOARDS OF A BRIDE'S STOOL WERE LOST,[37] THOUGH THE RECEPTACLE UNDER REMAINED,[38] IT IS CLEAN, SINCE WHERE THE PRIMARY FUNCTION HAS CEASED[37] THE SECONDARY ONE[39] ALSO CEASES.

MISHNAH 8. A CHEST[40] WHOSE TOP PART[41] WAS LOST IS STILL SUSCEPTIBLE TO UNCLEANNESS ON ACCOUNT OF ITS BOTTOM; IF ITS BOTTOM WAS LOST IT IS STILL SUSCEPTIBLE TO UNCLEANNESS ON ACCOUNT OF ITS TOP PART.[42] IF BOTH THE TOP PART AND THE BOTTOM WERE LOST, R. JUDAH RULES THAT IT IS SUSCEPTIBLE TO UNCLEANNESS ON ACCOUNT OF ITS SIDES,[43] AND THE SAGES RULE THAT IT IS CLEAN. A STONECUTTER'S SEAT[44] IS SUBJECT TO MIDRAS UNCLEANNESS.[45]

MISHNAH 9. IF A [WOODEN] BLOCK WAS PAINTED RED OR SAFFRON, OR WAS POLISHED, R. AKIBA RULES THAT IT IS SUSCEPTIBLE TO UNCLEANNESS,[46] BUT THE

SAGES[47] RULE THAT IT REMAINS CLEAN UNLESS IT WAS HOLLOWED OUT.[48] A SMALL BASKET OR A BIG ONE THAT WAS FILLED WITH STRAW OR FLOCKING REMAINS CLEAN[49] IF IT WAS PREPARED AS A SEAT;[50] BUT IF IT WAS PLAITED OVER WITH REED-GRASS OR WITH A CORD[51] IT BECOMES SUSCEPTIBLE TO UNCLEANNESS.[52]

MISHNAH 10. A NIGHT STOOL[53] IS SUBJECT TO BOTH MIDRAS AND CORPSE UNCLEANNESS. IF THE LEATHER SEAT WAS SUNDERED,[54] THE LEATHER[55] IS SUBJECT TO MIDRAS UNCLEANNESS AND THE IRON[56] IS SUBJECT ONLY TO CORPSE UNCLEANNESS. A TRIPOD STOOL WHOSE COVER IS OF LEATHER IS SUBJECT TO BOTH MIDRAS AND CORPSE UNCLEANNESS. IF IT WAS TAKEN APART, THE LEATHER[55] IS SUBJECT TO MIDRAS UNCLEANNESS WHILE THE TRIPOD[57] IS ALTOGETHER CLEAN. A BATH-HOUSE BENCH[58] THAT HAS TWO WOODEN LEGS IS[59] SUSCEPTIBLE TO UNCLEANNESS.[60] IF ONE LEG WAS OF WOOD AND THE OTHER OF STONE IT[61] IS CLEAN. IF BOARDS IN A BATH-HOUSE WERE JOINED TOGETHER,[62] R. AKIBA RULES THAT THEY ARE SUSCEPTIBLE TO [MIDRAS] UNCLEANNESS;[63] BUT THE SAGES RULE THAT THEY ARE CLEAN, SINCE THEY ARE MADE ONLY FOR THE WATER TO FLOW UNDER THEM.[64] A FUMIGATION-CAGE THAT CONTAINS A RECEPTACLE FOR GARMENTS IS SUSCEPTIBLE TO UNCLEANNESS,[65] BUT ONE THAT IS MADE LIKE A BEE-HIVE[66] IS CLEAN.

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(1) That was unclean.

(2) Delphim, a three-legged side table on which food is placed.

(3) Which, as a stone vessel, should not be susceptible to uncleanness.

(4) Undamaged and uncovered with marble respectively.

(5) If the table or side-board is to remain unclean.

(6) Which are of direct service to man. It is not enough that there is room for cups alone which only serve objects that serve man.

(7) That was three-legged and unclean.

(8) Since it can no longer serve its original purpose.

(9) So that, having no legs at all, it can be used as a low table.

(10) In its present condition.

(11) The fact that it can be used (cf. supra n. 9) is sufficient to subject it to uncleanness.

(12) If all its legs were missing.

(13) That has two wide legs, one at each end of a board that is used as a seat and is unclean.

(14) Since the bench, being lop-sided, can no longer be used as a seat.

(15) The board (cf. n. 13).

(16) Either on account of its thickness, though it rests on the ground, or in account of the remnants of its legs which are one handbreadth high.

(17) Cf. supra n. 13 mut. mut.

(18) Since it can still be used for its original purpose.

(19) A chair with back.

(20) Lit., ‘its coverings’.

(21) V. foll. n.

(22) Because, though it may still be used as a seat, it is not useable as a bride's stool.

(23) That never had a proper seat.

(24) Which is not susceptible to midras uncleanness since its main use is not for sitting.

(25) The stool.

(26) Because its identity is not merged in the trough.

(27) Cf. prev. n. mut. mut.

(28) A stool.

(29) The troughs, sc. a stool that never had a separate existence.

(30) These were three in number, v. next Mishnah.
(31) Beyond its sides.
(32) Sc. the stool.
(33) Owing to the absence of the projections.
(34) Sc. its sides.
(35) The centre seat board.
(36) If it was not so wide it is insusceptible to uncleanness.
(37) So that it was no longer useable as a seat.
(38) The receptacle under the seat boards of a bride's stool for the reception of things.
(39) Its use as a receptacle.
(40) Containing less than forty se'ah, which is consequently susceptible to uncleanness.
(41) Its cover.
(42) Which also forms a kind of receptacle.
(43) On which one can sit.
(44) A small block of wood on which he sits when engaged in his work.
(45) As a proper seat.
(46) Since it may be used as a seat.
(47) Regarding it as a mere block of wood.
(48) To provide it with a seat.
(49) Sc. it is not susceptible to midras uncleanness.
(50) Since most people do not use it as a seat his eccentric act must be disregarded.
(51) To prevent the straw or the flocking from falling out.
(52) Sc. to midras uncleanness, since it might well be used as a seat.
(53) Having a square iron frame and a leather seat.
(54) From the iron frame.
(55) Which can still be used as a seat.
(56) Which can be used for various purposes other than that of sitting.
(57) Since it has no receptacle to be regarded as a vessel and since, on account of its smallness, it is useless as a seat.
(58) Of stone.
(59) On account of its wooden legs.
(60) Of midras.
(61) The bench.
(62) Aliter: planed.
(63) Because they are used for sitting on.
(64) But not for sitting purposes.
(65) Though its bottom is perforated with holes larger than the size of a pomegranate.
(66) Without a bottom.

Mishna - Mas. Kelim Chapter 23

MISHNAH 1. IF A BALL, A SHOE-LAST, AN AMULET OR TEFILLIN[1] WERE TORN,[2] HE THAT TOUCHES THEM BECOMES UNCLEAN,[3] BUT HE THAT TOUCHES THEIR CONTENTS[4] REMAINS CLEAN. IF A SADDLE WAS TORN,[2] HE THAT TOUCHES ITS CONTENTS[5] BECOMES UNCLEAN, BECAUSE THE STITCHING JOINS THEM.[6]

MISHNAH 2. THE FOLLOWING ARE SUSCEPTIBLE TO UNCLEANNESS[7] AS OBJECTS THAT ARE FIT FOR RIDING UPON:[8] AN ASHKELON GIRTH, A MEDIAN MORTAR,[9] A CAMEL'S PACK-SADDLE, AND A HORSE-CLOTH.[10] R. JOSE RULED: A HORSE- CLOTH[10] IS ALSO SUSCEPTIBLE TO UNCLEANNESS[7] AS A SEAT,[11] SINCE PEOPLE STAND ON IT[12] IN THE ARENA;[13] BUT A SADDLE OF A FEMALE CAMEL IS SUSCEPTIBLE TO UNCLEANNESS.[14]

MISHNAH 3. WHAT IS THE PRACTICAL DIFFERENCE BETWEEN [THE UNCLEANNESS AS AN OBJECT USED FOR] RIDING UPON AND [AS ONE USED FOR] SITTING UPON? IN THE CASE OF THE FORMER THE EFFECT OF CONTACT WITH IT[15] IS DIFFERENT FROM THE EFFECT OF CARRYING IT,[16] BUT IN THE CASE OF THE LATTER THERE IS NO DIFFERENCE BETWEEN THE EFFECT OF COMING IN CONTACT WITH IT OR CARRYING IT.[17] THE PACK-FRAME OF AN ASS ON WHICH A ZAB HAS SAT REMAINS CLEAN;[18] BUT IF THE SIZE OF THE SPACES[19] HAS BEEN CHANGED[20] OR IF THEY HAVE BEEN BROKEN ONE INTO ANOTHER[20] IT IS SUSCEPTIBLE TO UNCLEANNESS.[21]

MISHNAH 4. THE BIER, THE MATTRESS AND THE PILLOW OF A CORPSE ARE SUSCEPTIBLE TO THE UNCLEANNESS OF MIDRAS.[22] A BRIDE'S STOOL, A MIDWIFE'S TRAVAILING STOOL, AND A FULLER'S STOOL ON WHICH HE PILES[23] THE CLOTHES, R. JOSE RULED, CANNOT BE REGARDED AS A SEAT.[24]

MISHNAH 5. A FISHING NET IS SUSCEPTIBLE TO UNCLEANNESS ON ACCOUNT OF ITS BAG.[25] NETS, SNARES, BIRD-TRAPS, SLINGS AND FISHERMEN'S[26] SKEINS ARE SUSCEPTIBLE TO UNCLEANNESS.[27] A FISH-TRAP, A BIRD-BASKET AND A BIRD- CAGE ARE NOT SUSCEPTIBLE TO UNCLEANNESS.

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(1) All these are leather objects, filled either with some stuffing or (as in the case of the last two) with parchment rolls.

(2) At the seams, after contracting corpse uncleanness.

(3) Since only their seams were torn they are still useable as receptacles.

(4) Which, not being joined to them, cannot be regarded as connectives.

(5) Not only he who touches its leather case (cf. n. 3 mut. mut.).

(6) The contents and the casing, to form one object.

(7) Of midras.

(8) Lit., ‘riding object’.

(9) Or ‘saddle’.

(10) Or ‘saddle-cushion’.

(11) But not as an object fit for riding upon.

(12) Which in the case of zab is equivalent to sitting.

(13) Campus.

(14) As an object that is used for riding upon, the ruling being that of R. Jose. Aliter: As a seat, according to the first Tanna.

(15) On the part of a clean person.

(16) One who carries it causes, while still carrying it, the uncleanness of clothes and vessels while one who only comes in contact with it conveys uncleanness to foodstuffs alone.

(17) Both convey uncleanness to clothes and vessels.

(18) Since it is not usual for people to sit on it.

(19) Lit., ‘holes’.

(20) To facilitate the sitting on it.

(21) As a ‘seat’ because it may be regarded as a proper seat.

(22) Since the mourning women sit on them while lamenting the dead.

(23) Aliter: Folds and presses.

(24) That is subject to midras uncleanness. These objects, being reserved for special uses, cannot properly serve as a zab's seat even if he did sit on them.

(25) In its lower parts, which is closely woven and has the status of a garment.

(26) Lit., ‘makers of water locks (for fishing purposes)’.

(27) Of a corpse or a dead creeping thing: not to that of midras.

Mishna - Mas. Kelim Chapter 24

MISHNAH 1. THREE[1] DIFFERENT LAWS[2] ARE APPLICABLE TO SHIELDS: THE BENT SHIELD[3] IS SUSCEPTIBLE TO MIDRAS UNCLEANNESS;[4] THE SHIELD WITH WHICH COMBATANTS PLAY IN THE ARENA IS SUSCEPTIBLE TO CORPSE UNCLEANNESS;[5] AND THE TOY-SHIELD OF THE ARABS[6] IS FREE FROM ALL UNCLEANNESS.

MISHNAH 2. THREE DIFFERENT LAWS ARE APPLICABLE TO WAGONS: ONE MADE LIKE A CATHEDRA[7] IS SUSCEPTIBLE TO MIDRAS UNCLEANNESS;[4] ONE MADE LIKE A BED IS SUSCEPTIBLE TO CORPSE UNCLEANNESS,[5] AND ONE FOR [THE TRANSPORT OF] STONES IS FREE FROM ALL UNCLEANNESS.

MISHNAH 3. THREE DIFFERENT LAWS ARE APPLICABLE TO BAKING-TROUGHS: IF A BAKING-TROUGH OF A CAPACITY FROM TWO LOG TO NINE KAB WAS SPLIT[8] IT IS SUSCEPTIBLE TO MIDRAS UNCLEANNESS; IF IT WAS WHOLE IT IS SUSCEPTIBLE TO CORPSE UNCLEANNESS; AND IF IT HOLDS THE PRESCRIBED MEASURE[9] IT IS FREE FROM ALL UNCLEANNESS.

MISHNAH 4. THREE DIFFERENT LAWS APPLY TO BOXES: A BOX WHOSE OPENING IS AT THE SIDES[10] IS SUSCEPTIBLE TO MIDRAS UNCLEANNESS; IF IT IS ON THE TOP IT IS SUSCEPTIBLE TO CORPSE UNCLEANNESS;[11] AND IF IT HOLDS THE PRESCRIBED MEASURE[9] IT IS FREE FROM ALL UNCLEANNESS.

MISHNAH 5. THREE DIFFERENT LAWS ARE APPLICABLE TO LEATHER COVERS:[12] THAT OF BARBERS IS SUSCEPTIBLE TO MIDRAS UNCLEANNESS;[13] THAT ON WHICH PEOPLE EAT IS SUSCEPTIBLE TO CORPSE UNCLEANNESS; AND THAT FOR [SPREADING[14] OUT] OLIVES IS FREE FROM ALL UNCLEANNESS.[15]

MISHNAH 6. THREE DIFFERENT LAWS ARE APPLICABLE TO BASES: ONE WHICH LIES BEFORE A BED OR BEFORE A SCRIVENER[16] IS SUSCEPTIBLE TO MIDRAS UNCLEANNESS; ONE FOR A SIDE-BOARD IS SUSCEPTIBLE TO CORPSE UNCLEANNESS; AND ONE FOR A CUPBOARD IS FREE FROM ALL UNCLEANNESS.

MISHNAH 7. THREE DIFFERENT LAWS APPLY TO WRITING TABLETS: THAT OF PAPYRUS[17] IS SUSCEPTIBLE TO MIDRAS UNCLEANNESS; THAT WHICH HAD A RECEPTACLE FOR WAX IS SUSCEPTIBLE TO CORPSE UNCLEANNESS; AND THAT WHICH IS POLISHED IS FREE FROM ALL UNCLEANNESS.

MISHNAH 8. THREE DIFFERENT LAWS APPLY TO BEDS: ONE THAT IS USED FOR LYING UPON IS SUSCEPTIBLE TO MIDRAS UNCLEANNESS; ONE USED BY GLASS MAKERS[18] IS SUSCEPTIBLE TO CORPSE UNCLEANNESS; AND ONE USED BY HARNESS MAKERS IS FREE FROM ALL UNCLEANNESS.

MISHNAH 9. THREE DIFFERENT LAWS APPLY TO REFUSE BASKETS: ONE FOR DUNG[19] IS SUSCEPTIBLE TO MIDRAS UNCLEANNESS; ONE FOR STRAW IS SUSCEPTIBLE TO CORPSE UNCLEANNESS; AND A CAMEL'S ROPE BAG[20] IS FREE FROM ALL UNCLEANNESS.

MISHNAH 10. THREE DIFFERENT LAWS APPLY TO MATS: ONE USED FOR SITTING UPON IS SUSCEPTIBLE TO MIDRAS UNCLEANNESS; ONE USED BY DYERS[21] IS SUSCEPTIBLE TO CORPSE UNCLEANNESS; AND ONE USED IN WINE-PRESSES IS FREE FROM ALL UNCLEANNESS.

MISHNAH 11 THREE DIFFERENT LAWS APPLY TO WATER SKINS AND THREE

DIFFERENT LAWS APPLY TO SHEPHERDS WALLETS: THOSE THAT CAN HOLD THE PRESCRIBED QUANTITY[22] ARE SUSCEPTIBLE TO MIDRAS UNCLEANNESS; THOSE THAT CANNOT HOLD THE PRESCRIBED QUANTITY ARE SUSCEPTIBLE TO CORPSE UNCLEANNESS; AND THOSE MADE OF FISH SKIN ARE FREE FROM ALL UNCLEANNESS.[23]

MISHNAH 12. THREE DIFFERENT LAWS APPLY TO HIDES: THAT WHICH IS USED AS A RUG[24] IS SUSCEPTIBLE TO MIDRAS UNCLEANNESS; THAT WHICH IS USED AS A WRAPPER FOR VESSELS[25] IS SUSCEPTIBLE TO CORPSE UNCLEANNESS; AND THAT WHICH IS INTENDED FOR STRAPS AND SANDALS IS FREE FROM ALL UNCLEANNESS.[26]

MISHNAH 13. THREE DIFFERENT LAWS APPLY TO SHEETS: ONE USED FOR LYING UPON IS SUSCEPTIBLE TO MIDRAS UNCLEANNESS; ONE USED AS A CURTAIN IS SUSCEPTIBLE TO CORPSE UNCLEANNESS; AND ONE USED AS A MURAL DECORATION[27] IS FREE FROM ALL UNCLEANNESS.

MISHNAH 14. THREE DIFFERENT LAWS APPLY TO NAPKINS: THAT FOR THE HANDS IS SUSCEPTIBLE TO MIDRAS UNCLEANNESS;[28] THAT FOR BOOKS[29] IS SUSCEPTIBLE TO CORPSE UNCLEANNESS;[30] AND THAT WHICH IS USED AS A SHROUD AS WELL AS THAT USED FOR THE HARPS OF THE LEVITES IS FREE FROM ALL UNCLEANNESS.

MISHNAH 15. THREE DIFFERENT LAWS APPLY TO LEATHERN GLOVES: THOSE USED BY THE HUNTERS OF ANIMALS AND BIRDS ARE SUSCEPTIBLE TO MIDRAS UNCLEANNESS; THOSE USED BY LOCUST-CUTTERS ARE SUSCEPTIBLE TO CORPSE UNCLEANNESS; AND THOSE USED BY FRUIT-PICKERS[31] ARE FREE FROM ALL UNCLEANNESS.

MISHNAH 16. THREE DIFFERENT LAWS APPLY TO HEADNETS: A GIRL'S IS SUSCEPTIBLE TO MIDRAS UNCLEANNESS; AN OLD WOMAN'S IS SUSCEPTIBLE TO CORPSE UNCLEANNESS; AND A HARLOT'S[32] IS FREE FROM ALL UNCLEANNESS.

MISHNAH 17. THREE DIFFERENT LAWS APPLY TO STORE-BASKETS: IF A WORN-OUT BASKET IS PATCHED ON TO A SOUND ONE,[33] ALL IS DETERMINED BY THE SOUND ONE;[34] IF A SMALL BASKET IS PATCHED ON TO A LARGE ONE[35] ALL IS DETERMINED BY THE LARGE ONE;[36] IF THEY ARE EQUAL ALL IS DETERMINED BY THE INNER ONE.[36] R. SIMEON RULED: IF THE CUP OF A BALANCE[37] WAS PATCHED ON TO THE BOTTOM OF A BOILER ON THE INSIDE, THE LATTER BECOMES UNCLEAN; BUT IF ON THE OUTSIDE IT REMAINS CLEAN. IF IT WAS PATCHED ON TO THE SIDE, WHET HER ON THE INSIDE OR THE OUTSIDE. THE LATTER REMAINS CLEAN.

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(1) Lit., ‘there are three shields’. The general principles underlying the laws throughout this chapter are the following: An object that is normally used for lying, sitting or leaning upon is susceptible to midras uncleanness. An earthenware is excluded since it cannot attain cleanness through immersion. A mat, though it cannot attain cleanness through immersion, is (by an inference from a Pentateuchal amplification) susceptible to midras uncleanness provided it had not been reduced to less than six by six handbreadths. An object that is not intended for lying upon is susceptible to corpse uncleanness unless it cannot be regarded as a proper vessel when it is free from all uncleanness.

(2) Cf. Bert.

(3) Which protects the warrior on three sides, and which in a war is used by him for lying upon.

(4) And much more so to corpse uncleanness.

(5) And much more so to that of a dead creeping thing and nebelah, but not to that of midras.

(6) Used for the entertainment of children.

(7) A chair with back.
(8) So that it can no longer be used as a baking trough.
(9) Forty se'ah of liquid.
(10) Thus being capable of use as a seat as well as for its normal use
(11) V. p. 112, n. 5.
(12) Or ‘cases’.
(13) Since they sit on it.
(14) Or ‘pressing’.
(15) Because it is not a vessel used for objects that serve men.
(16) Which is used as a seat.
(17) Which is big and suitable for sitting upon.
(18) For the placing of their wares.
(19) V. 113, n. 9.
(20) Which has big holes and is unsuitable either for sitting upon or for any other human use.
(21) For wrapping up the articles that are to be dyed.
(22) Supra XX, 1; and much more so if they can hold more.
(23) Cf. supra XVII, 13.
(24) To sit on.
(25) Knives, for instance.
(26) Since its manufacture is not yet completed. Finished straps and sandals, however, are susceptible to uncleanness.
(27) Lit., ‘of figures’ or ‘forms’, one on which ornamental figures are painted which, being used to decorate a wall, is deemed to be a part of it.
(28) Since it is also used sometimes as a rest for the head when lying down.
(29) Used as a cover.
(30) Because it is folded in the shape of a receptacle.
(31) Aliter: Those that dry figs. Var. lec., those that gather thorns.
(32) Lit. ‘that goes out’.
(33) To strengthen it.
(34) If the latter is clean the combination is clean; and if it is unclean, the combination also becomes unclean.
(35) Irrespective of whether both were worn out or sound.
(36) V. p. 115, n. 8.
(37) That was unclean.

Mishna - Mas. Kelim Chapter 25

MISHNAH 1. ALL VESSELS ARE SUBJECT[1] TO DIFFERENT LAWS[2] IN REGARD TO THEIR OUTER AND INNER SIDES RESPECTIVELY,[3] AS, FOR INSTANCE, CUSHIONS, BOLSTERS, SACKS AND PACKING-BAGS;[4] SO R. JUDAH. R. MEIR RULED: ANY ARTICLE THAT HAS HANGERS[5] IS SUBJECT TO DIFFERENT LAWS IN ITS OUTER AND INNER SIDES RESPECTIVELY,[6] BUT ONE THAT HAS NO HANGERS[7] IS NOT SUBJECT TO DIFFERENT LAWS IN REGARD TO OUTER AND INNER SIDES.[8] A TABLE AND A SIDE-BOARD[9] ARE SUBJECT TO DIFFERENT LAWS IN REGARD TO THEIR OUTER AND INNER SIDES RESPECTIVELY; SO R. JUDAH. R. MEIR RULED: THEY ARE NOT SUBJECT TO THE LENIENT LAW IN REGARD TO THEIR OUTER SIDES.[5] THE SAME LAW ALSO APPLIES TO A RIMLESS TRAY.

MISHNAH 2. AN OX-GOAD[10] IS SUBJECT[1] TO DIFFERENT LAWS[2] IN ITS OUTER AND INNER PARTS RESPECTIVELY,[3] [THE FORMER BEING THAT SECTION OF THE SHAFT THAT LIES BETWEEN] SEVEN HANDBREADTHS FROM THE BROAD BLADE[11] AND FOUR HANDBREADTHS FROM THE POINT;[11] SO R. JUDAH. R. MEIR RULED: IT IS NOT [SUBJECT TO SUCH DISTINCTION],[12] THE FOUR AND THE SEVEN HANDBREADTHS HAVING BEEN MENTIONED ONLY IN REGARD TO ITS REMNANTS.[13]

MISHNAH 3. MEASURES OF WINE OR OIL, A SOUP-LADLE, A MUSTARD-STRAINER AND A WINE-FILTER ARE SUBJECT[14] TO DIFFERENT LAWS IN REGARD TO THEIR OUTER AND INNER SIDES RESPECTIVELY;[15] SO R. MEIR. R. JUDAH RULED: THEY ARE NOT [SUBJECT TO THESE DISTINCTIONS].[16] R. SIMEON RULED: THEY ARE [SUBJECT TO DIFFERENT LAWS]. FOR IF THEIR OUTER PARTS CONTRACTED UNCLEANNESS THEIR INNER PARTS REMAIN CLEAN;[17] THOUGH[18] IMMERSION[19] IS REQUIRED.

MISHNAH 4. IF [IN A MEASURE CONSISTING OF] A QUARTER [OF A LOG] AND HALF A QUARTER [OF A LOG][20] THE QUARTER MEASURE CONTRACTED UNCLEANNESS THE HALF-QUARTER MEASURE DOES NOT BECOME UNCLEAN, AND IF THE HALF QUARTER CONTRACTED UNCLEANNESS THE QUARTER DOES NOT BECOME UNCLEAN. THE STUDENTS ARGUED BEFORE R. AKIBA:[21] SINCE THE HALF QUARTER MEASURE IS THE OUTER PART OF THE QUARTER MEASURE, SHOULD NOT THE OUTER SIDE OF THE VESSEL WHOSE INNER SIDE CONTRACTED UNCLEANNESS BECOME UNCLEAN? HE ANSWERED THEM: DOES IT[22] THEN BELONG TO THE CLASS THAT TAKES PRECEDENCE?[23] IT IS EQUALLY POSSIBLE THAT THE QUARTER IS TO BE REGARDED AS THE OUTER SIDE OF THE HALF QUARTER AND, SURELY, THE INNER SIDE OF A VESSEL DOES NOT BECOME UNCLEAN IF THE OUTER SIDE CONTRACTED UNCLEANNESS.

MISHNAH 5. IF THE QUARTER[24] CONTRACTED UNCLEANNESS, THE QUARTER AND ITS OUTER SIDE ARE UNCLEAN;[25] BUT THE HALF QUARTER AND ITS OUTER SIDE REMAIN CLEAN.[26] IF THE HALF QUARTER CONTRACTED UNCLEANNESS, THE HALF QUARTER AND ITS OUTER SIDE ARE UNCLEAN,[26] BUT THE QUARTER AND ITS OUTER SIDE REMAIN CLEAN. IF THE OUTER SIDE OF THE QUARTER CONTRACTED UNCLEANNESS, THE OUTER SIDE OF THE HALF QUARTER REMAINS CLEAN. SO R. MEIR. BUT THE SAGES RULED: THE OUTER SIDE CANNOT BE DIVIDED.[27] WHEN HOWEVER IMMERSION IS PERFORMED[28] THE WHOLE OF THE VESSEL MUST BE IMMERSED.

MISHNAH 6. IF ON THE BASES, RIMS, HANGERS OR HANDLES OF VESSELS THAT HAVE A RECEPTACLE UNCLEAN LIQUID FELL ONE MERELY DRIES THEM AND THEY REMAIN CLEAN. BUT [IF UNCLEAN LIQUID FELL] ON A PART OF ANY OTHER VESSEL (WHICH CANNOT HOLD POMEGRANATES)[29] IN WHICH NO DISTINCTION IS MADE[30] BETWEEN ITS OUTER AND INNER SIDES,[31] THE WHOLE BECOMES UNCLEAN. IF THE OUTER SIDE OF A VESSEL CONTRACTED UNCLEANNESS FROM A LIQUID, ONLY ITS OUTER SIDE IS UNCLEAN BUT ITS INNER SIDE, RIM, HANGER AND HANDLES REMAIN CLEAN. IF ITS INNER SIDE CONTRACTED UNCLEANNESS THE WHOLE IS UNCLEAN.

MISHNAH 7. ALL VESSELS ARE[32] SUBJECT TO DIFFERENT LAWS[33] IN REGARD TO THEIR OUTER AND INNER SIDES RESPECTIVELY[34] AND ALSO IN REGARD TO THE PART BY WHICH THEY ARE HELD.[35] R. TARFON RULED: THIS[36] APPLIES ONLY TO A LARGE WOODEN BAKING TROUGH. R. AKIBA RULED: IT APPLIES ALSO TO CUPS. R. MEIR RULED: IT APPLIES ONLY TO UNCLEAN AND CLEAN[37] HANDS. R. JOSE STATED: THEY SPOKE ONLY OF CLEAN HANDS.[37]

MISHNAH 8. IN WHAT MANNER?[38] IF ONE'S HANDS WERE CLEAN AND THE OUTER SIDE OF A CUP WAS UNCLEAN, A MAN MAY HOLD IT BY ITS HOLDING-PLACE AND NEED HAVE NO SCRUPLES LEST HIS HANDS HAVE CONTRACTED UNCLEANNESS FROM THE OUTER SIDE OF THE CUP. IF[39] HE WAS DRINKING FROM A CUP WHOSE OUTER SIDE WAS UNCLEAN HE NEED HAVE NO SCRUPLES LEST THE LIQUID IN HIS

MOUTH CONTRACTED UNCLEANNESS FROM THE OUTER SIDE OF THE CUP AND THAT IT THEN[40] CONVEYED UNCLEANNESS TO THE CUP. IF A KETTLE[41] WAS BOILING ONE NEED HAVE NO SCRUPLES LEST LIQUID SHOULD ISSUE FROM IT AND TOUCH ITS OUTER SIDE AND RETURN AGAIN WITHIN IT.

MISHNAH 9. HOLY VESSELS ARE NOT SUBJECT TO DIFFERENT LAWS[42] IN REGARD TO THEIR OUTER AND INNER SIDES OR IN REGARD TO THE PART BY WHICH THEY ARE HELD,[43] NOR MAY VESSELS THAT ARE WITHIN ONE ANOTHER BE IMMERSED[44] IF THEY ARE TO BE USED FOR HALLOWED THINGS.[45] ALL VESSELS BECOME SUSCEPTIBLE TO UNCLEANNESS BY MERE INTENTION,[46] BUT THEY CANNOT BE RENDERED INSUSCEPTIBLE EXCEPT BY A CHANGE-EFFECTING ACT;[47] FOR AN ACT[48] DISANNULS AN EARLIER ACT AS WELL AS AN EARLIER INTENTION, WHILE AN INTENTION ANNULS NEITHER AN EARLIER ACT NOR AN EARLIER INTENTION.

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(1) In respect to uncleanness contracted from liquids, which in the case of vessels is only Rabbinical.

(2) In order to distinguish the Rabbinical uncleanness from that which is Pentateuchal.

(3) If the inner side of a vessel contracted uncleanness from a liquid the outside also becomes unclean, but if the outer side contracted uncleanness the inner side remains clean.

(4) Though each of these objects can be turned inside out when its outer side becomes its inner one and vice versa.

(5) Which distinguished its outer, from its inner side.

(6) Since (cf. prev. n.) the outer side can never become an inner one.

(7) So that the outer may become an inner side.

(8) The outer side or part being subject to the same restriction as the inner one.

(9) Cf. n. 4 mut. mut.

(10) Consisting of a wooden shaft of the thickness of a third of a handbreadth at the one end of which is a broad blade for cutting away roots, and at its opposite end is a pointed piece of metal wherewith the animal is goaded on when ploughing.

(11) Cf. p. 117, n. 10.

(12) But the outer side or part is subject to the same restriction as the inner one.

(13) Sc. if an ox-goad was broken and so much as seven handbreadths from the shaft remained with the broad blade, or four handbreadths of it remained with the pointed end, it is still susceptible to uncleanness.

(14) V. p. 117, n. 1.

(15) V. p. 117, n. 3.

(16) But, having a kind of receptacle at the back, their outer and inner sides are independent of each other and the uncleanness of the one does not affect the other.

(17) In agreement with R. Meir.

(18) Contrary to R. Meir's view.

(19) Of the vessel whose outer part contracted an uncleanness.

(20) The receptacle proper of the utensil measuring a quarter log, and its concave bottom a half quarter; or the double measure consisting of two receptacles side by side like a double inkpot.

(21) Against the first ruling.

(22) The quarter log.

(23) To be regarded in consequence as the inner side of the utensil. Aliter: ‘This question has been asked already by an earlier group of students who received the reply that follows’.

(24) Cf. prev. Mishnah and nn.

(25) Except the outer side of its bottom, which is the inner side of the half quarter, that remains clean.

(26) Cf. prev. n. mut. mut.

(27) Sc. if the part of the side that belongs to the quarter contracted uncleanness the part of the side belonging to the half quarter is also unclean and vice versa.

(28) In the case dealt with in the first clause.

(29) Cf. supra XVII, 8.

(30) In respect to uncleanness contracted from liquids, which in the case of vessels is only Rabbinical.

(31) Cf. Mishnah I and nn. supra.
(32) V. p. 119, n. 9.
(33) In order to distinguish the Rabbinical uncleanness from that which is Pentateuchal.
(34) V. supra, p. 217, n. 3.
(35) Sc. if the outer side contracted uncleanness this part remains clean and vice versa, v. Hag. 22b.
(36) Cf. prev. n.
(37) This is explained in the following Mishnah.
(38) Cf. prev. n.
(39) The following is an independent ruling, having no bearing on the question with which our Mishnah began.
(40) From its inner side.
(41) Whose outer side was unclean.
(42) In respect to uncleanness contracted from liquids, which in the case of vessels is only Rabbinical.
(43) Sc. whichever part contracted uncleanness the entire vessel is unclean.
(44) After an uncleanness.
(45) Because the weight of the inner vessels upon the outer one may prevent the access of the water to all its parts.
(46) A ring, for instance, which is used for an animal (and is not susceptible to uncleanness) becomes susceptible if it was intended to be used for a man.
(47) Cf. prev. n. mut. mut.
(48) That is change-effecting.

Mishna - Mas. Kelim Chapter 26

MISHNAH 1. THE SANDAL OF IMKI[1] AND A LACED-UP BAG[2] (R. JUDAH RULED: ALSO AN EGYPTIAN BASKET;[3] R. SIMEON B. GAMALIEL RULED: THE SAME LAW APPLIES ALSO TO A LAODICEAN SANDAL)[2] CAN BE MADE SUSCEPTIBLE TO UNCLEANNESS[4] AND AGAIN BE MADE INSUSCEPTIBLE[5] WITHOUT THE AID OF A CRAFTSMAN. SAID R. JOSE: ‘BUT CANNOT ALL VESSELS BE MADE SUSCEPTIBLE TO UNCLEANNESS AND BE RENDERED INSUSCEPTIBLE WITHOUT THE AID OF A CRAFTSMAN?[6] BUT THESE, EVEN WHEN THEY ARE UNLACED, ARE SUSCEPTIBLE TO UNCLEANNESS SINCE A LAYMAN IS ABLE TO RESTORE THEM’.[7] THEY[8] SPOKE ONLY OF AN EGYPTIAN BASKET[3] WHICH EVEN A CRAFTSMAN CANNOT [EASILY][9] RESTORE.

MISHNAH 2. A LACED-UP BAG WHOSE LACES WERE REMOVED[10] IS STILL SUSCEPTIBLE TO UNCLEANNESS; BUT IF IT WAS MADE FLAT[11] IT BECOMES INSUSCEPTIBLE TO UNCLEANNESS. IF A STRIP OF LINING HAS BEEN PUT ON IT BELOW,[12] IT REMAINS SUSCEPTIBLE. IF A BAG WAS WITHIN ANOTHER BAG AND ONE OF THEM CONTRACTED UNCLEANNESS FROM A LIQUID, THE OTHER DOES NOT BECOME UNCLEAN.[13] A PEARL POUCH IS SUSCEPTIBLE TO UNCLEANNESS. AS TO A MONEY POUCH, R. ELIEZER RULES THAT IT IS SUSCEPTIBLE TO UNCLEANNESS, AND THE SAGES RULE THAT IT IS INSUSCEPTIBLE.[14]

MISHNAH 3. THE HAND-COVER OF THORN-PICKERS[15] IS INSUSCEPTIBLE TO UNCLEANNESS.[16] A BELT[17] AND LEG GUARDS[17] ARE SUSCEPTIBLE TO UNCLEANNESS. SLEEVES[17] ARE SUSCEPTIBLE TO UNCLEANNESS BUT LEGGINGS[17] ARE NOT SUSCEPTIBLE. ANY FINGER-STALL IS INSUSCEPTIBLE TO UNCLEANNESS EXCEPT THAT OF FRUIT[18] -PICKERS, SINCE THE LATTER HOLDS THE SUMACH BERRIES.[19] IF IT[20] WAS TORN, IT IS INSUSCEPTIBLE TO UNCLEANNESS, PROVIDED IT CANNOT HOLD THE GREATER PART OF A SUMACH BERRY.

MISHNAH 4. A SANDAL[21] ONE OF WHOSE STRAPS WAS TORN OFF BUT WAS MENDED AGAIN, RETAINS ITS MIDRAS UNCLEANNESS.[22] IF A SECOND STRAP WAS TORN OFF, THOUGH IT WAS MENDED AGAIN, IT[23] BECOMES FREE FROM MIDRAS

UNCLEANNESS BUT IS UNCLEAN FROM CONTACT WITH MIDRAS.[22] IF THE SECOND STRAP WAS TORN OFF BEFORE THE FIRST COULD BE MENDED, IT[23] BECOMES CLEAN.[22] IF ITS HEEL WAS TORN OFF, OR IF ITS TOE-PIECE WAS REMOVED, OR IF IT[23] WAS TORN IN TWO, IT[23] BECOMES CLEAN.[24] A HEEL-LESS SLIPPER[17] THAT WAS TORN ANYWHERE BECOMES CLEAN. A SHOE THAT WAS DAMAGED BECOMES CLEAN IF IT CANNOT CONTAIN THE GREATER PART OF THE FOOT. A SHOE THAT IS STILL ON THE LAST, R. ELIEZER RULES, IS INSUSCEPTIBLE TO UNCLEANNESS,[25] BUT THE SAGES RULE THAT IT IS SUSCEPTIBLE. ALL WATER SKINS WHOSE HOLES[26] HAVE BEEN TIED UP ARE INSUSCEPTIBLE TO UNCLEANNESS,[27] EXCEPT THOSE OF THE ARABS.[28] R. MEIR RULES: IF THEY ARE TIED UP FOR A WHILE, THEY ARE CLEAN; BUT IF THEY ARE TIED WITH A PERMANENT KNOT[29] THEY ARE UNCLEAN. R. JOSE RULED: ALL TIED UP WATER SKINS[30] ARE CLEAN.

MISHNAH 5. THE FOLLOWING HIDES ARE SUSCEPTIBLE TO MIDRAS UNCLEANNESS: A HIDE WHICH IS INTENDED FOR USE AS A RUG,[31] A HIDE USED AS A TANNER'S APRON, A HIDE USED AS THE LOWER COVERING OF A BED, A HIDE USED AS AN APRON BY AN ASS-DRIVER,[32] BY A FLAX-WORKER, BY A PORTER OR BY A PHYSICIAN,[33] A HIDE USED FOR A COT, A HIDE PUT OVER A CHILD'S HEART,[34] A HIDE OF A CUSHION OR A BOLSTER. ALL THESE ARE SUSCEPTIBle TO MIDRAS UNCLEANNESS. A HIDE FOR WRAPPING UP COMBED WOOL AND A HIDE WORN BY A WOOL-COMBER, R. ELIEZER RULES, IS SUSCEPTIBLE TO MIDRAS, BUT THE SAGES RULE THAT IT IS SUSCEPTIBLE TO CORPSE UNCLEANNESS ONLY.[35]

MISHNAH 6. A BAG[36] OR WRAPPER[36] FOR GARMENTS IS SUSCEPTIBLE TO MIDRAS. A BAG OR WRAPPER FOR PURPLE WOOL, BETH SHAMMAI RULE, IS SUSCEPTIBLE TO MIDRAS, BUT BETH HILLEL RULE THAT[37] IT IS ONLY SUSCEPTIBLE TO CORPSE UNCLEANNESS.[38] IF A HIDE IS USED AS A COVERING FOR VESSELS IT IS NOT SUSCEPTIBLE TO UNCLEANNESS, BUT IF IT IS USED AS A COVERING FOR WEIGHTS[39] IT IS SUSCEPTIBLE. R. JOSE IN THE NAME OF HIS FATHER RULES THAT IT IS INSUSCEPTIBLE.

MISHNAH 7. WHENEVER NO ACT IS LACKING[40] INTENTION[41] ALONE[42] CAUSES AN ARTICLE TO BE SUSCEPTIBLE TO UNCLEANNESS, BUT WHEREVER AN ACT IS LACKING[40] INTENTION[41] ALONE DOES NOT RENDER IT SUSCEPTIBLE TO UNCLEANNESS, EXCEPT FUR SKINS.[43]

MISHNAH 8. THE HIDES OF A HOUSEHOLDER BECOME SUSCEPTIBLE TO UNCLEANNESS BY INTENTION,[44] BUT THOSE THAT BELONG TO A TANNER[45] DO NOT BECOME SUSCEPTIBLE BY MERE INTENTION. THOSE TAKEN BY A THIEF[46] BECOME SUSCEPTIBLE BY INTENTION,[47] BUT THOSE TAKEN BY A ROBBER[48] DO NOT BECOME SUSCEPTIBLE BY MERE INTENTION.[49] R. SIMEON STATED: THE RULE IS TO BE REVERSED; THOSE TAKEN BY A ROBBER[50] BECOME SUSCEPTIBLE BY MERE INTENTION, BUT THOSE TAKEN BY A THIEF[51] DO NOT BECOME SUSCEPTIBLE BY INTENTION, SINCE IN THE LATTER CASE THE OWNER DOES NOT ABANDON THE HOPE FOR RECOVERY.[52]

MISHNAH 9. IF A HIDE HAD CONTRACTED MIDRAS UNCLEANNESS AND ITS OWNER THEN INTENDED IT TO BE USED FOR STRAPS OR SANDALS[53] IT BECOMES CLEAN AS SOON AS HE PUT THE KNIFE INTO IT; SO R. JUDAH. BUT THE SAGES RULED: IT DOES NOT BECOME CLEAN UNTIL HE HAS REDUCED ITS SIZE TO LESS THAN FIVE HANDBREADTHS. R. ELIEZER SON OF R. ZADOK RULED: EVEN IF ONE MADE A NAPKIN FROM THE HIDE[54] IT[55] REMAINS UNCLEAN,[56] BUT IF FROM A BOLSTER IT

BECOMES CLEAN.[57]

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(1) From Kefar Imki or Amiku, north-east of Acre. Aliter: ‘Worn in valleys’.

(2) These objects are flat (and, therefore, insusceptible to uncleanness), but they can be laced or sewn up to form a kind of receptacle which is susceptible to uncleanness.

(3) Aliter: A basket of palm- twigs.

(4) By being laced or sewn up.

(5) By unlacing or unsewing them.

(6) Of course they can. What then is the difference between these and the others?

(7) To their laced condition.

(8) The Sages in laying down that when unlaced it is clean.

(9) V. Shab. 58b and 83b.

(10) From the loops, but are still suspended from the bag. Aliter: (according to R. Judah) Whose laces are missing.

(11) Thus forming no receptacle.

(12) So that a receptacle remains even when the bag is made flat.

(13) The uncleanness that vessels contract from liquids being only Rabbinical, the law has been relaxed. In the case of a Pentateuchal uncleanness the one bag causes the uncleanness of the other.

(14) Since it is continually opened to take money out, it is not regarded as a valid receptacle.

(15) A flat piece of leather which covers the palm of the hand and protects it against the thorns.

(16) Since it forms no receptacle.

(17) Made of leather.

(18) Or ‘thorn’.

(19) Thus forming a receptacle.

(20) The latter.

(21) That contracted midras uncleanness.

(22) Cf. nn. supra XVIII, 6.

(23) The sandal.

(24) From its former uncleanness. It is, however, susceptible to future uncleanness.

(25) Since its manufacture has not yet been completed.

(26) That appeared in them after they had contracted an uncleanness and that have rendered them clean.

(27) Since the knots may be easily undone.

(28) Whose knots cannot be easily undone.

(29) Cf. prev. n. mut.mut.

(30) Even if the knot was permanent.

(31) To sit upon. V. nn. supra XXIV, 12.

(32) Var. lec., ‘a hide of (to protect) an ass.’

(33) As a protection against the spurting of blood.

(34) To protect it against the bite of a cat.

(35) But not to that of midras.

(36) Of leather.

(37) Since, on account of the high value of the purple, it would not be used as a seat.

(38) But not to midras.

(39) Which cause a depression and give it the shape of a receptacle.

(40) To complete its manufacture.

(41) To use it for a particular purpose.

(42) Even before it was actually used.

(43) Which become susceptible to uncleanness by mere intention to use them, even before they have been trimmed, since they can be used without any trimming.

(44) To use them; even before actual use.

(45) Who, before manufacture is completed, might change his mind.

(46) Since the owner, not knowing the thief, abandons all hope of recovery.

(47) Of the thief who steals secretly. As the owner abandoned hope the thief is regarded as the legal owner.

(48) Who steals openly and is known to the owner who, in consequence, does not abandon the hope for recovery.
(49) Of the robber who (cf. prev. n.) cannot be regarded as legal owner.
(50) Who is much stronger than a thief and recovery from whom is impossible.
(51) A weaker man from whom recovery of the article is quite possible.
(52) Cf. prev. n.
(53) Cf. supra XXIV, 12.
(54) That had contracted midras uncleanness.
(55) Since it may be regarded as a small rug on which one can sit.
(56) Since the change is but slight.
(57) Though it is susceptible to future uncleanness.

Mishna - Mas. Kelim Chapter 27

MISHNAH 1. CLOTH IS SUSCEPTIBLE TO[1] FIVE FORMS[2] OF UNCLEANNESS; SACKING[3] IS SUSCEPTIBLE TO[1] FOUR; LEATHER TO[1] THREE; WOOD TO TWO; AND AN EARTHEN VESSEL TO ONE. AN EARTHEN VESSEL[4] IS SUSCEPTIBLE TO UNCLEANNESS [ONLY] AS A RECEPTACLE.[5] ANY EARTHEN VESSEL THAT HAS NO INNER PART IS NOT SUSCEPTIBLE TO UNCLEANNESS FROM[6] ITS OUTER PART.[7] WOOD IS SUBJECT TO AN ADDITIONAL FORM OF UNCLEANNESS IN THAT IT IS ALSO SUSCEPTIBLE TO UNCLEANNESS[8] AS A SEAT.[9] SIMILARLY A TABLET WHICH HAS NO RIM IS SUSCEPTIBLE TO UNCLEANNESS IF IT IS A WOODEN OBJECT AND INSUSCEPTIBLE IF IT IS AN EARTHEN ONE. LEATHER IS SUSCEPTIBle TO AN ADDITIONAL FORM OF UNCLEANNESS IN THAT IT IS ALSO SUSCEPTIBLE TO THE UNCLEANNESS OF OHEL.[10] SACKING HAS AN ADDITIONAL FORM OF UNCLEANNESS IN THAT IT IS SUSCEPTIBLE TO UNCLEANNESS AS WOVEN WORK.[11] CLOTH HAS AN ADDITIONAL FORM OF UNCLEANNESS IN THAT IT IS SUSCEPTIBLE TO UNCLEANNESS WHEN IT IS ONLY THREE BY THREE FINGERBREADTHS.[12]

MISHNAH 2. CLOTH IS SUSCEPTIBLE TO UNCLEANNESS OF MIDRAS WHEN IT IS[13] THREE HANDBREADTHS SQUARE, AND TO CORPSE UNCLEANNESS[14] WHEN IT IS THREE FINGERBREADTHS SQUARE.[15] SACKING WHEN IT IS FOUR HANDBREADTHS SQUARE, LEATHER FIVE HANDBREADTHS SQUARE AND MATTING SIX HANDBREADTHS SQUARE ARE EQUALLY SUSCEPTIBLE TO BOTH MIDRAS AND CORPSE UNCLEANNESS. R. MEIR RULED: WHAT REMAINS OF SACKING IS SUSCEPTIBLE TO UNCLEANNESS IF IT IS FOUR HANDBREADTHS, BUT WHEN IN ITS FIRST CONDITION IT BECOMES SUSCEPTIBLE ONLY AFTER ITS MANUFACTURE IS COMPLETED.

MISHNAH 3. IF ONE MADE UP A PIECE OF MATERIAL FROM TWO HANDBREADTHS OF CLOTH AND ONE OF SACKING, OR OF THREE OF SACKING AND ONE OF LEATHER OR FOUR OF LEATHER AND ONE OF MATTING, IT IS NOT SUSCEPTIBLE TO UNCLEANNESS.[16] IF, HOWEVER, THE PIECE OF MATERIAL WAS MADE UP OF FIVE HANDBREADTHS OF MATTING AND ONE OF LEATHERS OR FOUR OF LEATHER AND ONE OF SACKING, OR THREE OF SACKING AND ONE OF CLOTH IT IS SUSCEPTIBLE TO UNCLEANNESS. THIS IS THE GENERAL RULE: IF THE MATERIAL ADDED IS SUBJECT TO GREATER RESTRICTIONS[17] IT[18] IS SUSCEPTIBLE TO UNCLEANNESS,[19] BUT IF THE MATERIAL ADDED WAS SUBJECT TO LESSER RESTRICTIONS[20] IT[18] IS NOT SUSCEPTIBLE.[21]

MISHNAH 4. IF FROM ANY OF THESE[22] A PIECE ONE HANDBREADTH SQUARE WAS CUT OFF[23] IT IS SUSCEPTIBLE TO UNCLEANNESS.[24] [IF A PIECE] ONE HANDBREADTH SQUARE[23] [WAS CUT OFF] FROM THE BOTTOM OF A BASKET IT IS SUSCEPTIBLE TO

UNCLEANNESS.[24] [IF IT WAS CUT] FROM THE SIDES OF THE BASKET, R. SIMEON RULES THAT IT IS NOT SUSCEPTIBLE TO UNCLEANNESS, BUT THE SAGES RULE THAT WHEREVER A SQUARE HANDBREADTH IS CUT OFF[25] IT IS SUSCEPTIBLE TO UNCLEANNESS.

MISHNAH 5. WORN-OUT PIECES OF A SIFTER OR A SIEVE THAT WERE ADAPTED FOR USE AS A SEAT, R. AKIBA RULES ARE SUSCEPTIBLE TO UNCLEANNESS, BUT THE SAGES RULE THAT THEY ARE NOT SUSCEPTIBLE UNLESS THEIR ROUGH ENDS WERE CUT OFF.[26] A CHILD'S STOOL THAT HAS LEGS, EVEN THOUGH IT IS LESS THAN A HANDBREADTH HIGH, IS SUSCEPTIBLE TO UNCLEANNESS.[27] A CHILD'S SHIRT, R. ELIEZER RULES, IS SUSCEPTIBLE TO UNCLEANNESS HOWEVER SMALL IT MAY BE; BUT THE SAGES RULED: IT IS SUSCEPTIBLE ONLY IF IT IS OF THE PRESCRIBED SIZE[28] AND MEASURED WHEN DOUBLED.[29]

MISHNAH 6. THE FOLLOWING ARE MEASURED[30] WHEN DOUBLED:[29] SOCKS, LONG STOCKINGS, DRAWERS, A CAP AND A MONEY-BELT. AS REGARDS A PATCH SEWN ON THE HEM,[31] IF IT WAS UNDOUBLED[32] IT IS MEASURED UNDOUBLED,[33] BUT IF IT WAS DOUBLED IT IS MEASURED WHEN DOUBLED.[34]

MISHNAH 7. IF A PIECE OF CLOTH WAS WOVEN TO THE EXTENT OF THREE [HANDBREADTHS] SQUARE, WHEN IT CONTRACTED MIDRAS UNCLEANNESS, AND AFTER THE ENTIRE PIECE WAS COMPLETED ONE REMOVED[35] A SINGLE THREAD FROM THE ORIGINAL PART,[36] IT[37] IS RELEASED FROM MIDRAS UNCLEANNESS BUT[38] IS STILL UNCLEAN FROM CONTACT WITH MIDRAS UNCLEANNESS. IF A THREAD WAS REMOVED FROM THE ORIGINAL PART AND THEN ALL THE CLOTH WAS FINISHED, IT[39] IS STILL UNCLEAN FROM CONTACT WITH MIDRAS UNCLEANNESS.

MISHNAH 8. SIMILARLY[40] IF A PIECE OF CLOTH WAS WOVEN TO THE EXTENT OF THREE [FINGER BREADTHS] SQUARE, WHEN IT CONTRACTED CORPSE UNCLEANNESS, AND AFTER THE ENTIRE PIECE WAS FINISHED ONE REMOVED[41] A SINGLE THREAD FROM ITS ORIGINAL PART,[42] IT[37] IS RELEASED FROM CORPSE UNCLEANNESS[43] BUT[44] IS STILL UNCLEAN FROM CONTACT WITH CORPSE UNCLEANNESS. IF A THREAD WAS REMOVED FROM THE ORIGINAL PART[42] AND THEN ALL THE CLOTH WAS FINISHED IT REMAINS CLEAN, FOR THE SAGES HAVE RULED: IF A PIECE OF THREE [FINGERBREADTHS] SQUARE IS LESSENED IT BECOMES CLEAN,[45] BUT IF ONE OF THREE HAND BREADTHS SQUARE IS LESSENED, EVEN THOUGH IT IS RELEASED FROM MIDRAS, IT IS STILL SUSCEPTIBLE TO ALL OTHER FORMS OF UNCLEANNESS.

MISHNAH 9. IF A SHEET THAT HAD CONTRACTED MIDRAS UNCLEANNESS WAS MADE[46] INTO A CURTAIN, IT IS RELEASED FROM MIDRAS UNCLEANNESS BUT IS STILL UNCLEAN FROM CONTACT WITH MIDRAS UNCLEANNESS. SAID R. JOSE: BUT WHAT MIDRAS UNCLEANNESS HAS THIS[47] TOUCHED![48] ONLY IF A ZAB HAD TOUCHED IT[49] IS IT UNCLEAN FROM CONTACT WITH A ZAB.

MISHNAH 10. IF A PIECE OF CLOTH THREE [HANDBREADTHS] SQUARE[50] WAS DIVIDED,[51] IT IS RELEASED FROM THE MIDRAS UNCLEANNESS BUT IS STILL UNCLEAN FROM CONTACT WITH MIDRAS UNCLEANNESS. SAID R. JOSE: BUT WHAT MIDRAS UNCLEANNESS HAS THIS TOUCHED![52] ONLY IF A ZAB HAD TOUCHED IT IS IT UNCLEAN FROM CONTACT WITH A ZAB.

MISHNAH 11. IF A PIECE OF CLOTH THREE [HANDBREADTHS] SQUARE [WAS

FOUND] ON A RUBBISH HEAP IT MUST[53] BE BOTH SOUND AND CAPABLE OF WRAPPING UP SALT;[54] BUT [IF IT WAS FOUND] IN THE HOUSE IT NEED ONLY BE[55] EITHER SOUND OR CAPABLE OF WRAPPING UP SALT. HOW MUCH SALT MUST IT BE CAPABLE OF WRAPPING UP? A QUARTER OF A KAB. R. JUDAH STATED: THIS REFERS TO FINE SALT, BUT THE SAGES STATED: IT REFERS TO COARSE SALT. BOTH INTENDED TO RELAX THE LAW.[56] R. SIMEON RULED: THE LAW CONCERNING A PIECE OF CLOTH THREE [HANDBREADTHS] SQUARE ON A RUBBISH HEAP IS THE SAME AS THAT FOR A PIECE OF CLOTH THAT WAS THREE [FINGERBREADTHS] SQUARE IN A HOUSE.[57]

MISHNAH 12. [A PIECE OF CLOTH] THREE [HANDBREADTHS] SQUARE THAT WAS TORN[58] BECOMES INSUSCEPTIBLE TO UNCLEANNESS IF ON BEING PUT ON A STOOL ONE'S FLESH[59] WOULD[60] TOUCH THE STOOL; OTHERWISE IT REMAINS SUSCEPTIBLE TO UNCLEANNESS. [A PIECE OF CLOTH] THREE [FINGERBREADTHS] SQUARE ONE THREAD OF WHICH WAS WORN AWAY, OR ON WHICH A KNOT WAS FOUND, OR IN WHICH TWO THREADS RAN ALONGSIDE EACH OTHER, IS NOT SUSCEPTIBLE TO UNCLEANNESS. [A PIECE OF CLOTH] THREE [FINGERBREADTHS] SQUARE THAT WAS CAST ON THE RUBBISH HEAP BECOMES INSUSCEPTIBLE TO UNCLEANNESS. IF IT WAS TAKEN BACK AGAIN IT BECOMES SUSCEPTIBLE TO UNCLEANNESS. THROWING IT AWAY INVARIABLY RENDERS IT INSUSCEPTIBLE TO UNCLEANNESS AND TAKING IT BACK AGAIN RENDERS IT SUSCEPTIBLE TO UNCLEANNESS,[61] EXCEPT WHEN IT IS OF PURPLE OR FINE CRIMSON.[62] R. ELIEZER RULED: A PATCH OF NEW CLOTH IS ALSO SUBJECT TO THE SAME LAW. R. SIMEON RULED: ALL THESE MATERIALS[63] BECOME INSUSCEPTIBLE;[64] AND THE LATTER[65] HAVE BEEN MENTIONED [AS DISTINGUISHABLE FROM OTHERS] ONLY IN CONNECTION WITH THE RETURN OF LOST PROPERTY.[66]

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(1) Lit., 'on account of'.

(2) Lit., 'names'.

(3) Made of goats' hair and the like.

(4) Here begins the illustration of the general statements just made.

(5) However small it might be. Otherwise it is not susceptible to any form of uncleanness.

(6) Lit., 'it has not'.

(7) Even though its bottom is concave.

(8) Even though it forms no receptacle.

(9) On which a zab might sit. It must, however, have no less an area than three handbreadths square.

(10) Whereby, if it forms the ohel, it becomes a 'father of uncleanness', however small its size (Elijah Wilna and L. contra Bert.).

(11) However small its size might be; provided there was no intention to extend the texture. If it was intended to extend it the size must be no less than four handbreadths square.

(12) Even if it was not woven.

(13) Lit., 'on account of'.

(14) And also to any uncleanness other than midras.

(15) This, however, applies only to the remnant of a cloth made of wool or flax. For one made of other materials a remnant having a minimum of three handbreadths square is required even in the case of corpse uncleanness. New cloth is susceptible to all forms of uncleanness other than midras whatever its size.

(16) Of midras. If, however, the piece of material came in contact with corpse uncleanness it remains clean if the contact was with the sacking only (since it is smaller than the prescribed minimum), but if the contact was with the cloth, only the sacking remains clean while the cloth contracts the uncleanness.

(17) Than the material to which it was added.

(18) The piece of combined materials.

(19) Since the latter may well make up the minimum prescribed for the former.

(20) Than the material to which it was added.

(21) Because the latter whose prescribed minimum is greater cannot be effective when the total area of the material is less than that minimum.

(22) Four materials mentioned in the previous Mishnah.

(23) For use as a seat. (If it was cut off for the purpose of lying upon, the minimum area for susceptibility to uncleanness is three handbreadths).

(24) As a seat (cf. prev. n.).

(25) Even if from the sides of a basket.

(26) To render them fit for a seat.

(27) An adult's stool must be no less than one handbreadth high if it is to be susceptible to uncleanness.

(28) As laid down supra Mishnah 2.

(29) So as to allow the prescribed length of material both for the front and the back.

(30) To ascertain whether they are of the prescribed size of three fingerbreadths square in respect of corpse uncleanness or three handbreadths square in respect of midras.

(31) Around the neck.

(32) Having been patched on one side of the hem only.

(33) The prescribed size being the one in Mishnah 2 supra.

(34) The length required being twice the size prescribed (cf. p. 129 n. 8.).

(35) Var. lec. inserts here ‘the cloth, all the cloth is susceptible to midras; if one removed’.

(36) The three handbreadths square which have contracted the midras uncleanness.

(37) The entire cloth.

(38) Since it was in contact with midras uncleanness.

(39) As a connective.

(40) Cf. prev. Mishnah.

(41) Var. lec. inserts here ‘the cloth, all the cloth is susceptible to corpse uncleanness; if one removed’.

(42) The three fingerbreadths square which have contracted corpse uncleanness.

(43) Since less than the prescribed minimum remained.

(44) Having come in close contact with corpse uncleanness.

(45) Since it can no longer serve any useful purpose.

(46) By some adaptation which effected a change in it (cf. supra XX, 6.).

(47) The curtain.

(48) Obviously none, since the previous uncleanness of the sheet has disappeared with its change into a curtain. Hence it should be free from all uncleanness.

(49) The curtain (Bert.), the sheet (L.).

(50) That has contracted midras uncleanness.

(51) And each part was smaller than the prescribed minimum.

(52) Cf. supra n. 3 mut. mut.

(53) It is to be susceptible to midras uncleanness.

(54) Sc. the texture must be closely woven.

(55) If it is to be susceptible to midras uncleanness.

(56) R. Judah insists on a closely woven texture which can hold fine salt, while the Sages insist on a sound material which can wrap up coarse salt.

(57) Both being susceptible to corpse, but not to midras uncleanness.

(58) But the parts were not completely severed.

(59) That of the man who sits on it.

(60) Owing to the width of the tear.

(61) Irrespective of the number of times this may have been repeated.

(62) Being valuable materials they remain susceptible to uncleanness even when thrown on the rubbish heap.

(63) Even the last mentioned.

(64) If thrown on the rubbish heap.

(65) Purple and fine crimson.

(66) Being of greater value than other materials the finding of them even on a rubbish heap must be duly announced in order to afford the loser an opportunity of claiming them; v. B.M. II, 1.

Mishna - Mas. Kelim Chapter 28

MISHNAH 1. [A PIECE OF CLOTH] THREE [FINGERBREADTHS] SQUARE THAT[1] WAS STUFFED INTO A BALL OR WAS ITSELF MADE INTO A BALL BECOMES CLEAN.[2] BUT [A PIECE OF CLOTH] THREE [HANDBREADTHS] SQUARE THAT[3] WAS STUFFED INTO A BALL REMAINS UNCLEAN.[4] IF THE LATTER[3] WAS ITSELF MADE INTO A BALL IT BECOMES CLEAN[5] BECAUSE THE SEWING REDUCES ITS SIZE.

MISHNAH 2. [A PIECE OF CLOTH] LESS THAN THREE [HANDBREADTHS] SQUARE THAT WAS ADAPTED FOR THE PURPOSE OF STOPPING UP A HOLE IN A BATH HOUSE,[6] OF EMPTYING A COOKING-POT[7] OR OF WIPING WITH IT THE MILL STONES, WHETHER IT WAS OR WAS NOT KEPT IN READINESS FOR ANY SUCH USE,[8] IS SUSCEPTIBLE TO UNCLEANNESS; SO R. ELIEZER. R. JOSHUA RULED: WHETHER IT WAS OR WAS NOT KEPT IN READINESS IT IS NOT SUSCEPTIBLE TO UNCLEANNESS. R. AKIBA RULED: IF IT WAS KEPT IN READINESS IT IS SUSCEPTIBLE, AND IF IT WAS NOT KEPT IN READINESS IT IS NOT SUSCEPTIBLE.

MISHNAH 3. IF A PLASTER IS MADE OF CLOTH OR LEATHER IT IS NOT SUSCEPTIBLE TO UNCLEANNESS.[9] A[10] POULTICE IS INSUSCEPTIBLE TO UNCLEANNESS IF IT IS ON CLOTH,[11] BUT IF ON LEATHER IT IS SUSCEPTIBLE.[12] RABBAN SIMEON B. GAMALIEL RULED: EVEN IF IT WAS ON CLOTH THE LATTER REMAIN SUSCEPTIBLE TO UNCLEANNESS BECAUSE THE FORMER[13] CAN BE SHAKEN OFF.[14]

MISHNAH 4. SCROLL WRAPPERS, WHETHER THEY ARE ORNAMENTED WITH [EMBROIDERED] FIGURES OR NOT, ARE SUSCEPTIBLE TO UNCLEANNESS ACCORDING TO THE VIEW OF BETH SHAMMAI. BETH HILLEL RULED: THOSE THAT ARE ORNAMENTED WITH FIGURES ARE INSUSCEPTIBLE TO UNCLEANNESS,[15] BUT THOSE THAT ARE NOT ORNAMENTED ARE SUSCEPTIBLE. RABBAN GAMALIEL RULED: BOTH THE FORMER AND THE LATTER ARE INSUSCEPTIBLE.

MISHNAH 5. IF A HEAD-WRAP THAT[16] HAD CONTRACTED MIDRAS UNCLEANNESS WAS WRAPPED AROUND A SCROLL, IT IS RELEASED FROM MIDRAS UNCLEANNESS[17] BUT REMAINS SUSCEPTIBLE TO CORPSE UNCLEANNESS. A SKIN[18] THAT WAS MADE INTO A RUG[19] OR A LEATHER RUG THAT WAS MADE INTO A SKIN[18] BECOMES CLEAN.[20] A SKIN[18] THAT WAS MADE INTO A [SHEPHERD'S] WALLET OR A [SHEPHERD'S] WALLET THAT WAS MADE INTO A SKIN; OR A CUSHION COVER THAT WAS MADE INTO A SHEET OR A SHEET THAT WAS MADE INTO A CUSHION COVER; OR A BOLSTER COVER THAT WAS MADE INTO A PLAIN SHEET OR A PLAIN SHEET THAT WAS MADE INTO A BOLSTER COVER, REMAINS UNCLEAN. THIS IS THE GENERAL RULE: ANY OBJECT THAT HAS BEEN CHANGED INTO ONE OF THE SAME CLASS[21] REMAINS UNCLEAN, BUT IF INTO ONE OF ANOTHER CLASS IT BECOMES CLEAN.

MISHNAH 6. IF A PATCH[22] WAS SEWN ON TO A BASKET,[23] THE LATTER[24] CONVEYS[25] ONE GRADE OF UNCLEANNESS[26] AND[27] ONE OF UNFITNESS.[28] IF IT WAS SEVERED FROM THE BASKET, THE LATTER CONVEYS ONE GRADE OF UNCLEANNESS AND ONE OF UNFITNESS, BUT THE PATCH[29] BECOMES CLEAN.[30] IF IT WAS SEWN ON TO CLOTH[31] THE LATTER[32] CONVEYS TWO GRADES OF UNCLEANNESS[33] AND ONE OF UNFITNESS.[27] IF IT WAS SEVERED FROM THE CLOTH, THE LATTER[34] CONVEYS[25] ONE GRADE OF UNCLEANNESS[26] AND[27] ONE OF UNFITNESS, WHILE THE PATCH CONVEYS

TWO GRADES OF UNCLEANNESS AND ONE OF UNFITNESS.[35] THE SAME LAW[36] APPLIES ALSO WHERE A PATCH WAS SEWN ON TO SACKING OR LEATHER; SO R. MEIR. R. SIMEON RULES THAT THEY[37] ARE CLEAN.[38] R. JOSE RULED: IF IT WAS SEWN ON LEATHER IT BECOMES CLEAN; BUT IF ON SACKING IT REMAINS UNCLEAN, SINCE THE LATTER IS A WOVEN MATERIAL.[39]

MISHNAH 7. THE PRESCRIBED MINIMUM OF THREE (FINGERBREADTHS] SQUARE OF WHICH THEY HAVE SPOKEN[40] IS EXCLUSIVE OF THE HEM; SO R. SIMEON. BUT THE SAGES RULED: EXACTLY THREE [FINGERBREADTHS] SQUARE.[41] IF A PATCH[42] WAS SEWN ON TO A CLOTH BY ONE SIDE ONLY,[43] IT CANNOT BE REGARDED AS A CONNECTIVE.[44] IF IT WAS SEWN ON BY TWO OPPOSITE SIDES, IT IS A CONNECTIVE.[45] IF IT WAS SEWN ON THE SHAPE OF A GAMMA,[46] R. AKIBA RULES THAT THE CLOTH IS UNCLEAN, BUT THE SAGES RULE THAT IT IS CLEAN. R. JUDAH STATED: THIS[47] APPLIES ONLY TO A CLOAK,[48] BUT IN THE CASE OF A SHIRT[49] THE PATCH IS REGARDED AS A CONNECTIVE IF IT WAS SEWN ON ONLY BY ITS UPPER SIDE,[50] BUT IF BY ITS LOWER SIDE IT IS NO CONNECTIVE.[46]

MISHNAH 8. POOR MEN'S CLOTHES, THOUGH MADE UP OF PIECES NONE OF WHICH MEASURES THREE [FINGERBREADTHS] SQUARE ARE SUSCEPTIBLE TO MIDRAS UNCLEANNESS,[51] IF A CLOAK BEGAN TO BE TORN, AS SOON AS ITS GREATER PART IS AFFECTED [THE FRAGMENTS] ARE NOT REGARDED AS JOINED.[52] EXCEPTIONALLY THICK OR THIN MATERIALS[53] ARE NOT GOVERNED BY THE PRESCRIBED MINIMUM OF THREE [FINGERBREADTHS] SQUARE.[54]

MISHNAH 9. A PORTER'S PAD[55] IS SUSCEPTIBLE TO MIDRAS UNCLEANNESS. A WINE FILTER[56] IS NOT SUSCEPTIBLE TO UNCLEANNESS AS A SEAT.[57] AN OLD WOMAN'S HAIR-NET[58] IS SUSCEPTIBLE TO UNCLEANNESS AS A SEAT.[59] A HARLOT'S SHIRT WHICH IS WOVEN LIKE NET WORK IS NOT SUSCEPTIBLE TO UNCLEANNESS.[60] A GARMENT MADE OF A FISHING NET IS NOT SUSCEPTIBLE TO UNCLEANNESS;[60] BUT ONE MADE OF ITS NET WORK BAG IS SUSCEPTIBLE. R. ELIEZER B. JACOB RULED: EVEN IF A GARMENT IS MADE OUT OF A FISHING NET BUT IS MADE DOUBLE IT IS SUSCEPTIBLE TO UNCLEANNESS.[61]

MISHNAH 10. A HAIR-NET THAT ONE BEGAN TO MAKE FROM ITS HEM REMAINS INSUSCEPTIBLE TO UNCLEANNESS UNTIL ITS BOTTOM SECTION IS FINISHED; AND IF ONE BEGAN FROM ITS BOTTOM SECTION, IT REMAINS INSUSCEPTIBLE TO UNCLEANNESS UNTIL ITS HEM IS FINISHED. ITS HEAD BAND IS SUSCEPTIBLE TO UNCLEANNESS IN ITSELF.[62] ITS STRINGS ARE SUSCEPTIBLE TO UNCLEANNESS AS CONNECTIVES.[63] A HAIR-NET THAT IS TORN BECOMES INSUSCEPTIBLE TO UNCLEANNESS IF IT CANNOT CONTAIN THE GREATER PART OF THE HAIR.

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(1) Having contracted corpse uncleanness.

(2) Since it lost the status of cloth by becoming a ball or part of a ball.

(3) After contracting midras uncleanness.

(4) Owing to its comparatively large size its identity cannot be merged into that of the ball.

(5) From midras uncleanness, but not from any other. Aliter: From all uncleanness (Rabad).

(6) To prevent the escape of heat.

(7) By holding it with the rag.

(8) It was hung up on a nail to be ready for use, v. Shab. 29b.

(9) Since the greasy substances with which it is smeared render it unfit for sitting on or for any other use.

(10) Some edd. in parenthesis read, ‘R. Jose ruled: On leather it is insusceptible to uncleanness’.

(11) Since the greasy substances with which it is smeared render it unfit for sitting on or for any other use.

(12) Because leather can be used even after a poultice has been on it.
(13) The ingredients of the poultice when they dry up.
(14) From the cloth which in consequence can again be used.
(15) Since the embroidered figures are sufficient evidence that the wrapper was intended for the ornamentation only and not for any man's personal use, v. supra XVI, ad finem.
(16) Being suitable to sit upon; cf. supra XXIV, 16.
(17) If it was set aside for exclusive use with the scroll.
(18) Intended for the holding of liquids.
(19) By being cut open and spread out for the purpose of sitting on it.
(20) Sc. it is released from any midras uncleanness it may have contracted, because the adaptation is regarded as the breaking up of the former vessel. It remains, however, susceptible to future midras uncleanness.
(21) Lit., ‘to his name’; a skin and a wallet, for instance, are used for similar purposes and so also is a cushion cover and a sheet.
(22) That contracted midras uncleanness.
(23) Which, not being suitable for midras, cannot contract such an uncleanness.
(24) As a first grade of uncleanness owing to its contact with the patch that was (before it was sewn on to it) suffering from midras uncleanness.
(25) To foodstuffs.
(26) Rendering them unclean in the second grade.
(27) If the second grade came in contact with terumah.
(28) I.e., the uncleanness is not carried over to a further remove.
(29) As any other part that is severed from the basket.
(30) If it was not intended for sitting on. If it was so intended it is again susceptible in the future to midras uncleanness.
(31) Which is itself susceptible to midras.
(32) The cloth as well as the patch on it, since the use of the patch has not been changed to one of a different class, having first been a piece of cloth and being now again part of a piece of cloth.
(33) Being a ‘father of uncleanness’ it causes a first grade of uncleanness which, in turn, causes a second grade.
(34) V. supra n. 3.
(35) As laid down supra XVIII, 7.
(36) That is applicable to a patch on cloth.
(37) Sacking and leather.
(38) Since they are not of the same kind of material as the patch they are to be treated under the law that applies to a basket on which a patch was sewn.
(39) And is thus of the same kind as the patch.
(40) In regard to cloth that came in contact with a dead creeping thing or carrion, or that was leprous.
(41) Inclusive of the hem.
(42) That was three handbreadths square and had contracted midras uncleanness.
(43) The other three sides remaining unsewn and detached from the cloth.
(44) And the larger cloth remains clean.
(45) Cf. prev. n. mut. mut.
(46) Sc. by two adjacent sides.
(47) That if the patch was sewn on by one side only it is no connective.
(48) Which may also be put on upside down so that the patch falls back and exposes the tear.
(49) Which cannot be worn upside down.
(50) Since in this case the patch always remains in position and covers up the tear.
(51) Because the garment as a whole measures no less than three handbreadths square.
(52) If one of them, e.g., contracts an uncleanness the other remains clean.
(53) Felt or silk, for instance.
(54) Their prescribed minimum in regard to corpse uncleanness being three handbreadths square, as pieces of lesser size cannot in their case be put to any use.
(55) Used as a protection for his shoulders or back.
(56) Made of a textile.

(57) Being soiled with lees no one is likely to sit on it.
(58) That is also in regular use for sitting upon.
(59) If, however, it is not intended for sitting upon it is not susceptible.
(60) Of midras; though one can sit on it. As, owing to its holes, it is not suitable for its primary function (a proper article of dress) it loses also its secondary function (seat).
(61) Because the doubling prevents the exposure of the body, and the garment can be properly worn.
(62) Since it can be removed from one hair-net to another.
(63) If the net contracts uncleanness the strings are equally affected, and vice versa.

Mishna - Mas. Kelim Chapter 29

MISHNAH 1. THE FRINGES[1] OF A SHEET, A SCARF, A HEAD-WRAP AND A FELT CAP ARE REGARDED AS CONNECTIVES[2] UP TO A LENGTH OF SIX FINGERBREADTHS;[3] THOSE OF AN UNDERGARMENT UP TO TEN [FINGERBREADTHS]. THE FRINGES OF A THICK CLOAK, A VEIL, A SHIRT, OR A LIGHT CLOAK ARE REGARDED AS CONNECTIVES UP TO A LENGTH OF THREE FINGERBREADTHS. THE FRINGES[1] OF AN OLD WOMAN'S HEAD-WRAP, OF THE FACE WRAPS OF THE ARABS, OF THE CILICIAN GOAT'S-HAIR CLOTH, OF A MONEY-BELT, OF A TURBAN OR OF A CURTAIN ARE REGARDED AS CONNECTIVES WHATSOEVER THEIR LENGTH MAY BE.

MISHNAH 2. THREE WOOLLEN BOLSTER-COVERS,[4] SIX LINEN ONES,[4] THREE SHEETS,[4] TWELVE HANDKERCHIEFS,[4] TWO ARM-CLOTHS,[4] ONE SHIRT,[5] ONE CLOAK,[5] OR ONE WINTER-CLOAK,[5] ARE REGARDED AS CONNECTIVES IN RESPECT OF BOTH UNCLEANNESS[6] AND SPRINKLING.[7] IF THEY EXCEED THIS NUMBER THEY ARE REGARDED AS CONNECTIVES IN RESPECT OF UNCLEANNESS[6] BUT NOT IN RESPECT OF SPRINKLING.[8] R. JOSE RULED, NOT EVEN IN RESPECT OF UNCLEANNESS.[9]

MISHNAH 3. THE CORD OF [THE COMMON] PLUMMET[10] IS REGARDED AS A CONNECTIVE[11] UP TO A LENGTH OF TWELVE [CUBITS];[12] THAT OF THE CARPENTERS' PLUMMET, UP TO EIGHTEEN [CUBITS];[12] AND THAT OF THE BUILDERS' PLUMMET[13] UP TO FIFTY CUBITS. THE PARTS THAT EXCEED THESE LENGTHS, EVEN IF IT WAS DESIRED TO RETAIN THEM,[14] REMAIN INSUSCEPTIBLE TO UNCLEANNESS.[15] THE CORD OF THE PLUMMET OF PLASTERERS OR MOULDERS IS REGARDED AS A CONNECTIVE WHATSOEVER ITS LENGTH.

MISHNAH 4. THE CORD OF THE BALANCES OF GOLDSMITHS[16] OR THE WEIGHERS OF FINE PURPLE IS REGARDED AS A CONNECTIVE UP TO A LENGTH OF THREE FINGERBREADTHS,[17] THE SHAFT OF AN AXE BEHIND THE GRIP, UP TO A LENGTH OF THREE FINGERBREADTHS.[15] R. JOSE RULED: IF THE LENGTH BEHIND THE GRIP IS NO LESS THAN ONE HANDBREADTH THE ENTIRE SHAFT IS UNSUSCEPTIBLE TO UNCLEANNESS.[18]

MISHNAH 5. THE CORD OF THE BALANCES OF SHOPKEEPERS[16] OR HOUSEHOLDERS IS REGARDED AS A CONNECTIVE UP TO A LENGTH OF ONE HANDBREADTH;[17] THE SHAFT OF AN AXE IN FRONT OF THE GRIP, UP TO ONE HANDBREADTH; THE PROJECTION[19] OF THE SHAFT OF A PAIR OF COMPASSES, UP TO ONE HANDBREADTH; THAT OF THE SHAFT OF THE STONE-MASONS' CHISEL, ONE HANDBREADTH.

MISHNAH 6. THE CORD OF THE BALANCES OF WOOL DEALERS[20] OR OF GLASS-WEIGHERS IS REGARDED AS A CONNECTIVE UP TO A LENGTH OF TWO HANDBREADTHS; THE SHAFT OF A MILLSTONE CHISEL, UP TO A LENGTH OF TWO HANDBREADTHS; THE SHAFT OF THE BATTLE-AXE OF THE LEGIONS, UP TO A

LENGTH OF TWO HANDBREADTHS; THE SHAFT OF THE GOLDSMITHS' HAMMER, UP TO A LENGTH OF TWO HANDBREADTHS; AND THAT OF THE BLACKSMITHS' HAMMER, UP TO THREE HANDBREADTHS.

MISHNAH 7. THE REMNANT OF THE SHAFT OF AN OX-GOAD[21] AT ITS UPPER END[22] IS REGARDED AS A CONNECTIVE TO A LENGTH OF FOUR [HANDBREADTHS];[23] THE SHAFT OF A SPADE, TO A LENGTH OF FOUR [HANDBREADTHS]; THE SHAFT OF A WEEDING-SPADE, TO FIVE HANDBREADTHS; THE SHAFT OF A SMALL HAMMER, TO FIVE HANDBREADTHS; THAT OF A COMMON HAMMER, TO SIX HANDBREADTHS; THE SHAFT OF AN AXE USED FOR SPLITTING WOOD OR OF ONE USED FOR DIGGING, TO SIX [HANDBREADTHS]; AND THE SHAFT OF THE STONE-TRIMMERS' AXE, UP TO SIX HANDBREADTHS.

MISHNAH 8. THE REMNANT OF THE SHAFT OF AN OX-GOAD[21] AT ITS LOWER END[24] IS REGARDED AS A CONNECTIVE TO A LENGTH OF SEVEN HANDBREADTHS; THE SHAFT OF THE TROWEL OF HOUSEHOLDERS — BETH SHAMMAI RULED: TO A LENGTH OF SEVEN [HANDBREADTHS], AND BETH HILLEL RULED: TO ONE OF EIGHT [HANDBREADTHS]; THAT OF THE PLASTERERS — BETH SHAMMAI RULED: NINE [HANDBREADTHS] AND BETH HILLEL RULED: TEN [HANDBREADTHS]. ANY PARTS EXCEEDING THESE LENGTHS, IF IT WAS DESIRED TO RETAIN IT, IS ALSO SUSCEPTIBLE TO UNCLEANNESS.[25] THE SHAFTS OF FIRE INSTRUMENTS[26] ARE SUSCEPTIBLE TO UNCLEANNESS WHATSOEVER THEIR LENGTH.

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(1) Sc. the loose threads of the warp hanging from the ends or the garments enumerated.

(2) So that where the fringe contracted uncleanness the main garment also contracts it, and vice versa.

(3) Beyond this length the fringes are insusceptible to uncleanness and, therefore, they neither convey to, nor contract from the garment any uncleanness.

(4) That were stitched together by the fuller or kept together in the weaving by the threads of the warp.

(5) However large it may be.

(6) If one of them contracted it, all become unclean.

(7) At the conclusion of a period of uncleanness. If only one of them was sprinkled upon (cf. Num. XIX, 18) all become clean.

(8) Cf. prev. n. mut. mut. Only the one that was sprinkled upon becomes clean.

(9) Sc. they are always treated as separate and independent units.

(10) Used in the construction of small buildings.

(11) With the plummet. If the plummet contracted uncleanness only the length of use given also becomes unclean; but if uncleanness touches any part beyond this length, the main portion of the plummet remains clean.

(12) Aliter: Handbreadths.

(13) Used in the construction of big buildings.

(14) For practical use.

(15) Since only that part which is essential for ordinary use may be regarded as a connective.

(16) Whereby the beam is suspended or held.

(17) If the balance contracted uncleanness that length of cord also becomes unclean.

(18) Since such a shaft renders the axe useless for work and would eventually be entirely discarded.

(19) Lit., 'remnants'.

(20) Whereby the beam is suspended or held.

(21) That was broken.

(22) The part adjacent to the pointed end of the goad (cf. supra XXV, 2).

(23) Beyond that and beyond seven handbreadths from the broad blade the shaft is insusceptible to all uncleanness.

(24) That part that is adjacent to the broad blade (cf. n. 3).

(25) As a connective.

(26) A spit, for instance.

Mishna - Mas. Kelim Chapter 30

MISHNAH 1. AMONG GLASS-WARE THOSE THAT ARE FLAT ARE NOT SUSCEPTIBLE TO UNCLEANNESS AND THOSE THAT FORM RECEPTACLES ARE SUSCEPTIBLE.[1] AFTER THEY ARE BROKEN THEY BECOME CLEAN;[2] AND IF ONE AGAIN MADE UTENSILS OF THEM THEY BECOME HENCEFORTH SUSCEPTIBLE TO UNCLEANNESS. A GLASS TRAY OR A FLAT DISH IS NOT SUSCEPTIBLE TO UNCLEANNESS. IF THEY HAVE A RIM THEY ARE SUSCEPTIBLE. THE CONCAVE BOTTOM OF A GLASS[3] BOWL OR PLATE[3] WHICH WAS ADAPTED FOR USE REMAINS INSUSCEPTIBLE TO UNCLEANNESS.[4] IF THEY WERE POLISHED OR SCRAPED WITH A FILE THEY BECOME SUSCEPTIBLE TO UNCLEANNESS.[5]

MISHNAH 2. A MIRROR IS INSUSCEPTIBLE TO UNCLEANNESS. A TRAY[6] THAT WAS MADE INTO A MIRROR REMAINS SUSCEPTIBLE, BUT IF IT WAS ORIGINALLY MADE TO SERVE AS A MIRROR[7] IT IS INSUSCEPTIBLE.[8] A SPOON[6] THAT IS LAID ON A TABLE IS SUSCEPTIBLE TO UNCLEANNESS IF IT CAN HOLD ANYTHING WHATSOEVER; BUT IF IT CANNOT DO SO,[9] R. AKIBA RULES THAT IT IS SUSCEPTIBLE,[10] AND R. JOHANAN B. NURI RULES THAT IT IS INSUSCEPTIBLE.[11]

MISHNAH 3. A CUP[6] THE GREATER PART OF WHICH IS BROKEN OFF IS INSUSCEPTIBLE TO UNCLEANNESS. IF IT WAS BROKEN IN THREE PLACES[12] EXTENDING OVER ITS GREATER PART IT IS ALSO INSUSCEPTIBLE TO UNCLEANNESS. R. SIMEON RULED: IF IT LETS THE GREATER PART OF THE WATER LEAK OUT IT IS INSUSCEPTIBLE TO UNCLEANNESS. IF A HOLE APPEARED IN IT AND IT WAS MENDED WITH TIN OR PITCH IT IS STILL INSUSCEPTIBLE TO UNCLEANNESS.[13] R. JOSE RULED: IF WITH TIN IT IS SUSCEPTIBLE TO UNCLEANNESS,[14] BUT IF WITH PITCH IT IS INSUSCEPTIBLE.

MISHNAH 4. A SMALL FLASK WHOSE NECK[15] WAS REMOVED REMAINS SUSCEPTIBLE TO UNCLEANNESS,[16] BUT A LARGE ONE WHOSE NECK WAS REMOVED BECOMES INSUSCEPTIBLE.[17] ONE OF SPIKENARD OIL WHOSE NECK[15] WAS REMOVED BECOMES INSUSCEPTIBLE TO UNCLEANNESS, SINCE IT[18] SCRATCHES THE HAND. LARGE FLAGONS[19] WHOSE NECKS WERE REMOVED REMAIN SUSCEPTIBLE TO UNCLEANNESS, SINCE THEY ARE ADAPTED FOR THE USE OF HOLDING PICKLED FOODSTUFFS. A GLASS MILL-FUNNEL IS CLEAN.[20] R. JOSE OBSERVED: ‘BLESSED ART THOU, O KELIM; FOR, THOUGH THOU DIDST ENTER WITH UNCLEANNESS,[21] THOU ART GONE FORTH IN CLEANNESS’.[22]

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(1) Cf. supra II, 1; XV, 1.

(2) Even where they were formerly unclean.

(3) That was broken.

(4) Since the rough edges of the broken sides constitute a source of danger.

(5) Cf. prev. n. mut. mut.

(6) Of glass.

(7) Even though it had a receptacle.

(8) Since the receptacle was not intended to hold anything.

(9) When its bottom, for instance, is concave.

(10) Because this is the manner of its use.

(11) As it cannot hold anything it cannot be regarded as a valid receptacle.

(12) Var. lec., ‘a third’.

(13) Because neither sticks for long to glass.

(14) Being a metal.
(15) Lit., ‘mouth’.
(16) Since it can be easily carried on one hand without risk of injury it continues to be used as a receptacle for liquids.
(17) Having to be carried with both hands there is the danger of receiving a cut from the broken edges in consequence of which the flask is unusable.
(18) By being carried, owing to the smallness of its size, within the hollow of one hand.
(19) V. p. 141, n. 6.
(20) Sc. insusceptible to uncleanness. Being open at the bottom it forms no valid receptacle.
(21) ‘FATHERS OF UNCLEANNESS’ (supra I, 1).
(22) ‘MILL-FUNNEL IS CLEAN’, the last ruling in the tractate. A moral lesson to man to endeavour to achieve purity of life before his time comes to depart from this world.

Mishna - Mas. Oholoth Chapter 1

MISHNAH 1. [SOMETIMES] TWO [SERIES OF OBJECTS CAN] BE DEFILED THROUGH A CORPSE,[1] ONE BEING DEFILED WITH A SEVEN [DAYS'] DEFILEMENT AND ONE BEING DEFILED WITH A DEFILEMENT [LASTING TILL THE] EVENING.[2] [SOMETIMES] THREE [SERIES CAN] BE DEFILED THROUGH A CORPSE, TWO BEING DEFILED WITH A SEVEN [DAYS'] DEFILEMENT AND ONE WITH A DEFILEMENT [LASTING TILL THE] EVENING. [SOMETIMES] FOUR [SERIES CAN] BE DEFILED THROUGH A CORPSE, THREE BEING DEFILED WITH A SEVEN [DAYS'] DEFILEMENT AND ONE WITH A DEFILEMENT [LASTING TILL THE] EVENING. HOW [IS THE CASE OF] TWO [SERIES TO BE PRESENTED]? A PERSON WHO TOUCHES A CORPSE IS DEFILED WITH A SEVEN [DAYS'] DEFILEMENT AND A PERSON WHO TOUCHES HIM IS DEFILED WITH A DEFILEMENT [LASTING TILL THE] EVENING.[3]

MISHNAH 2. HOW [IS THE CASE OF] THREE [SERIES TO BE PRESENTED]? VESSELS TOUCHING A CORPSE[4] AND [OTHER] VESSELS [TOUCHING THESE] VESSELS ARE DEFILED WITH A SEVEN [DAYS'] DEFILEMENT, THE THIRD [SERIES]. WHETHER [CONSISTING OF] PERSONS OR VESSELS, IS DEFILED WITH A DEFILEMENT [LASTING TILL THE] EVENING.

MISHNAH 3.HOW [IS THE CASE OF] FOUR [SERIES TO BE PRESENTED]? VESSELS TOUCHING A CORPSE, A PERSON [TOUCHING THESE] VESSELS, AND [OTHER] VESSELS [TOUCHING THIS] PERSON,[5] ARE DEFILED WITH A SEVEN [DAYS'] DEFILEMENT. THE FOURTH [SERIES], WHETHER [CONSISTING OF] PERSONS OR VESSELS, IS DEFILED WITH A DEFILEMENT [LASTING TILL THE] EVENING. R. AKIBA SAID: I HAVE [A CASE OF] A FIFTH SERIES, [IF] A PEG[6] WAS FIXED IN A TENT, THE TENT,[7] THE PEG,[8] A PERSON TOUCHING THE PEG[9] AND VESSELS [TOUCHING] THE PERSON[10] ARE DEFILED WITH A SEVEN [DAYS'] DEFILEMENT. THE FIFTH [SERIES], WHETHER [CONSISTING OF] PERSONS OR VESSELS, IS DEFILED WITH A DEFILEMENT [LASTING TILL THE] EVENING. [THE SAGES] SAID TO HIM: THE TENT IS NOT RECKONED.[11]

MISHNAH 4. [BOTH] PERSONS AND VESSELS CAN BE DEFILED THROUGH A CORPSE.[12] A GREATER STRINGENCY [APPLIES IN SOME CASES] TO PERSONS THAN TO VESSELS AND [IN OTHER CASES] TO VESSELS THAN TO PERSONS; FOR WITH VESSELS [THERE CAN BE] THREE [SERIES OF DEFILEMENT].[13] WHEREAS WITH PERSONS [THERE CAN BE ONLY] TWO.[14] A GREATER STRINGENCY APPLIES TO PERSONS, FOR WHENEVER THEY FORM AN INTERMEDIATE [SERIES] THERE CAN BE FOUR [SERIES].[15] WHEREAS WHEN THEY DO NOT FORM AN INTERMEDIATE [SERIES] THERE CAN BE [ONLY] THREE.

MISHNAH 5. [BOTH] PERSONS AND GARMENTS CAN BE DEFILED BY A ZAB.[16] A GREATER STRINGENCY [APPLIES IN SOME CASES] TO PERSONS THAN TO GARMENTS AND [IN OTHER CASES] TO GARMENTS THAN TO PERSONS; FOR A PERSON WHO TOUCHES A ZAB CAN DEFILE GARMENTS,[17] WHEREAS GARMENTS THAT TOUCH A ZAB[18] CANNOT DEFILE [OTHER] GARMENTS. A GREATER STRINGENCY [APPLIES] TO GARMENTS, IN AS MUCH AS GARMENTS WHICH FORM THE SUPPORT OF A ZAB CAN DEFILE PERSONS,[19] WHEREAS A PERSON WHO FORMS THE SUPPORT OF A ZAB CAN NOT DEFILE[20] [OTHER] PERSONS.

MISHNAH 6. A PERSON CAN NOT DEFILE [AS A CORPSE] UNTIL HIS SOUL IS GONE FORTH, SO THAT EVEN IF HE HAS HIS ARTERIES SEVERED OR EVEN IF HE IS IN HIS

LAST AGONIES HE[21] [STILL] MAKES LEVIRATE MARRIAGE OBLIGATORY[22] AND LIBERATES FROM LEVIRATE MARRIAGE.[23] QUALIFIES [HIS MOTHER][24] FOR EATING TERUMAH[25] AND DISQUALIFIES [HIS MOTHER][26] FROM EATING TERUMAH. SIMILARLY IN THE CASE OF CATTLE OR WILD ANIMALS, THEY CANNOT DEFILE UNTIL THEIR SOUL IS GONE FORTH. IF THEIR HEADS HAVE BEEN CUT OFF, EVEN THOUGH THEY ARE MOVING CONVULSIVELY, THEY ARE UNCLEAN;[27] [MOVING. THAT IS TO SAY.] LIKE A LIZARD'S TAIL, WHICH MOVES CONVULSIVELY.

MISHNAH 7. MEMBERS[28] [OF THE BODY] HAVE NO [RESTRICTION AS TO] SIZE: EVEN LESS THAN AN OLIVE-SIZED PORTION OF A CORPSE. OR LESS THAN AN OLIVE-SIZED PORTION OF CARRION, OR LESS THAN A LENTIL-SIZED PORTION OF A REPTILE CAN DEFILE,[29] [EACH AFTER THE MANNER OF] THEIR RESPECTIVE DEFILEMENTS.[30]

MISHNAH 8. THERE ARE TWO HUNDRED AND FORTY-EIGHT MEMBERS IN A HUMAN BODY: THIRTY IN THE FOOT, [THAT IS] SIX TO EVERY TOE,[31] TEN IN THE ANKLE, TWO IN THE SHIN, FIVE IN THE KNEE, ONE IN THE THIGH, THREE IN THE HIP,[32] ELEVEN RIBS, THIRTY IN THE HAND, [THAT IS] SIX TO EVERY FINGER, TWO IN THE FORE-ARM, TWO IN THE ELBOW, ONE IN THE UPPER ARM AND FOUR IN THE SHOULDER, [THUS MAKING] ONE HUNDRED AND ONE ON THE ONE SIDE [OF THE BODY] AND ONE HUNDRED AND ONE ON THE OTHER; THEN EIGHTEEN VERTEBRAE IN THE SPINE, NINE [MEMBERS] IN THE HEAD, EIGHT IN THE NECK, SIX IN THE KEY OF THE HEART,[33] AND FIVE IN THE GENITALS. EACH ONE [OF THESE MEMBERS] CAN DEFILE BY CONTACT, CARRIAGE OR OVERSHADOWING. WHEN IS THIS SO? WHEN THEY HAVE UPON THEM [THEIR] APPROPRIATE FLESH,[34] BUT IF THEY HAVE NOT [THEIR] APPROPRIATE FLESH UPON THEM, THEY[35] CAN DEFILE BY CONTACT AND CARRIAGE BUT CANNOT DEFILE[36] BY OVERSHADOWING.[37]

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(1) In concatenation, the first series of objects being defiled directly by the corpse, the second by the first after this has ceased to be in contact with the corpse, and so on.

(2) These two periods of defilement are mentioned in Num. XIX, 11 and 22.

(3) A corpse possesses the highest power of defiling, being regarded as the originating source, the ‘father of fathers’ of defilement (אבי אבות הטומאה). It can confer a generating defilement ‘a father of defilement (אב הטומאה) on objects with which it comes into connection. Both these degrees of defilement require a cleansing period of seven days and hence are sometimes referred to as טומאת שבעה . The generating defilement can, in turn, confer a generated defilement (ולד הטומאה) of the first grade (ראשון לטומאה). This requires a cleansing period lasting only till sundown and hence is referred to as טומאת ערב . In our ease, the first person acquires a generating defilement from the corpse and the second person a generated defilement from the first.

(4) Vessels, apart from those of earthenware, (according to a special rule deduced from Num. XIX, 16 in Naz. 53b) acquire the same degree of defilement as the source which defiles them; v. ‘Ed., Sonc. ed., p. 10, n. I. Here the first series becomes אבי אבות הטומאה and the second אב הטומאה and not until the third series do we get ולד הטומאה .

(5) These latter vessels become אב הטומאה through contact with the preceding person who has that degree of defilement.

(6) שפוד Lit., ‘a metal spit’, explained by Bert. as a tent-peg and by Maim. as a tent-pole.

(7) In which there is a corpse. The tent, if made of wool or tax, becomes אבי אבות הטומאה .

(8) Also אבי אבות הטומאה even that portion of it outside the tent, because the peg is overshadowed by a tent containing a corpse.

(9) He becomes a ‘father of defilement’.

(10) These too become like the source from which they contracted uncleanness, i.e., ‘fathers of defilement’.

(11) The peg, being in the tent containing a corpse, is to be regarded as acquiring its defilement, not from the tent, but directly from the corpse. Thus there are four series only.

(12) This Mishnah summarizes the result of the three previous Mishnahs.
(13) V.p. 149. n.2.
(14) V.p. 149, n. I end.
(15) V.p 149, n. 3.
(16) A person who has a flux. The laws of a zab are given in Lev. XV, 1-15. As a ‘father of defilement’ he defiles persons (v. 7) and vessels (v. 12) by contact and other means.
(17) I.e., the garments he is wearing when he touches the zab, according to an explicit statement in Lev XV. 7.
(18) Becoming thereby ‘generated defilement’, they cannot confer defilement on other garments, since no garments can acquire defilement of a lesser grade than the first.
(19) Lev. XV, 10. Garments upon which a zab rides can defile persons. i.e., they are אב . This applies to any garments upon which a zab is supported. i.e., upon which he stands, sits or lies, by which he is balanced or against which he leans, v. Zab II. 4. This is called midras (pressure-) defilement.
(20) They themselves are only ‘generated defilement’.
(21) Even though he is manifestly dying, he is still not accounted a corpse and unclean, but living and possessing the full legal implications of a living man as in the four following cases.
(22) On his childless brother's widow (v. Deut. XXV, 5). Until he actually passes away, or grants her halizah (v. Deut. XXV, 9), she cannot marry another person.
(23) If he is the sole son, he can liberate his widowed mother from the obligation of marrying her levir.
(24) If she, being herself the daughter of a non-priest, is the widow of a priest, since she may continue to eat terumah as long as she has a son (a priest).
(25) Heave-offering, permitted to be eaten only by priests and their families.
(26) If she, being the daughter of a priest, is the widow of a non-priest. since she is precluded from returning to her father's house to eat terumah as long as she has a son (a non-priest).
(27) The movement is not a sign of life.
(28) A unit part of the body having flesh, sinew and bone.
(29) If these portions form complete members (v. p. 153. n. 4).
(30) A member of a corpse by contact, carriage and overshadowing (v. p. 153. n. 4), that of carrion by contact and carriage (v. Kel. I, 2) and of a dead reptile by contact only (v. Kel. I, I).
(31) Reckoning from the ankle to the tip of the toe and in the case of the hand, from the wrist to the finger tips.
(32) Socket of the hip bone.
(33) The chest, so called according to Maim, because by its movements it causes the lungs to breathe upon the heart, opening the way for fresh air.
(34) Defined (Kel. 1.5) as sufficient to form the basis of a growth of healing flesh if the member were part of a living organism.
(35) But not members of a dead animal or reptile. which, if they have not sufficient flesh upon them, are clean.
(36) For defilement by overshadowing, either a whole corpse or a whole member of a corpse is required (deduced from Nun,. XIX, 14, v. Maim.).
(37) For a detailed account of the criticism to which this Mishnah has been subjected from a medical point of view and for an anatomical commentary on the terminology v. Katzenelsohn, I. L. Talmud und Medizin (Berlin 1928) pp. 234-303. On p. 257 he states, ‘The Rabbinical numeration accords exactly with the number of bones in a seventeen year old male’. That the anatomical knowledge of the Rabbis was based on practical experiments by dissection is known from Bek. 45a.’ ‘The disciples of R. Ishmael dissected the body of a prostitute who had been condemned to death by the government. By examination they found two hundred and fifty-two members’. Four were deducted as being found in the female but not in the male body, thus obtaining the figure 248. V. also J.E. VIII, p. 410 and Preuss, Biblische u. Talmudische Medizin, pp. 66f., who criticizes Katzenelsohn's views.

Mishna - Mas. Oholoth Chapter 2

MISHNAH 1. THESE THINGS DEFILE[1] BY OVERSHADOWING: A CORPSE,[2] AN OLIVE-SIZED [PORTION OF FLESH] OF A CORPSE, AN OLIVE-SIZED [PORTION] OF NEZEL,[3] A LADLEFUL[4] OF CORPSE-MOULD,[5] THE SPINE OR THE SKULL,[6] [ANY] MEMBER OF A CORPSE, OR [ANY] MEMBER [SEVERED] FROM A LIVING PERSON, A

QUARTER[7] [OF A KAB] OF BONES COMPRISING THE STRUCTURAL MAJORITY[8] OR NUMERICAL MAJORITY, THE STRUCTURAL MAJORITY OR NUMERICAL MAJORITY [OF THE BONES] OF A CORPSE EVEN THOUGH THEY DO NOT AMOUNT TO A QUARTER [OF A KAB]; [ALL THESE] ARE UNCLEAN. HOW MANY [BONES] FORM THE NUMERICAL MAJORITY? ONE HUNDRED AND TWENTY-FIVE.

MISHNAH 2. [THE FOLLOWING LIKEWISE DEFILE:] A QUARTER[9] [OF A LOG] OF BLOOD,[10] A (QUARTER [OF A LOG] OF MIXED BLOOD[11] FROM ONE CORPSE. R. AKIBA SAYS: EVEN FROM TWO CORPSES.[12] [WITH REGARD TO] THE BLOOD OF A CHILD THAT HAS COMPLETELY FLOWED FORTH, R. AKIBA SAYS: [IT DEFILES] BE IT OF ANY QUANTITY SOEVER,[13] BUT THE SAGES SAY: [THERE MUST BE] A QUARTER [OF A LOG].[14] [WITH REGARD TO] AN OLIVE-SIZED [PORTION] OF [CORPSE] WORMS WHETHER ALIVE OR DEAD, R. ELIEZER DECLARES [IT] UNCLEAN, LIKE THE FLESH [WHENCE IT COMES], BUT THE SAGES DECLARE [IT] CLEAN. [WITH REGARD TO] THE ASHES OF CREMATED PERSONS, R. ELIEZER DECLARES ITS [MINIMUM] QUANTITY [FOR DEFILEMENT TO BE] A QUARTER [OF A KAB], BUT THE SAGES DECLARE [THEM TO BE] CLEAN. A LADLEFUL AND [A LITTLE] MORE[15] OF GRAVE-DUST[16] IS UNCLEAN. R. SIMEON DECLARES [IT TO BE] CLEAN. A LADLEFUL OF CORPSE-MOULD KNEADED WITH WATER IS NOT [REGARDED AS] JOINED [INTO ONE MASS] FOR [THE PURPOSES OF] DEFILEMENT.[17]

MISHNAH 3. THE FOLLOWING DEFILE BY CONTACT AND CARRIAGE BUT NOT BY OVERSHADOWING: A BONE OF BARLEYCORN SIZE,[18] EARTH FROM A FOREIGN COUNTRY,[19] A BETH PERAS,[20] A MEMBER OF A CORPSE, OR A MEMBER [SEVERED] FROM A LIVING PERSON WHICH HAS NO LONGER ITS APPROPRIATE FLESH, A SPINE OR A SKULL WHICH IS DEFICIENT. HOW MUCH IS [CONSIDERED] A DEFICIENCY IN THE SPINE? BETH SHAMMAI SAY: TWO VERTEBRAE, BUT BETH HILLEL SAY: EVEN ONE VERTEBRA. AND IN THE SKULL? BETH SHAMMAI SAY: [THE SIZE OF A] HOLE [MADE] BY A DRILL, BUT BETH HILLEL SAY: AS MUCH AS IF IT WERE TAKEN FROM A LIVING PERSON, HE WOULD DIE.[21] OF WHAT DRILL DID THEY SPEAK? OF THE SMALL ONE [USED] BY PHYSlcians.[22] [THIS] IS. THE OPINION OF R. MEIR, BUT THE SAGES SAY: OF THE LARGE ONE IN THE TEMPLE-CHAMBER.[23]

MISHNAH 4. THE COVERING STONE[24] AND THE BUTTRESSING[25] STONE [OF A GRAVE] DEFILE BY CONTACT AND OVERSHADOWING[26] BUT NOT BY CARRIAGE.[27] R. ELIEZER SAYS: THEY DO DEFILE BY CARRIAGE. R. JOSHUA SAYS: IF THERE IS GRAVE DUST BENEATH THEM, THEY DEFILE BY CARRIAGE, BUT IF NOT THEY DO NOT DEFILE BY CARRIAGE. WHAT IS THE BUTTRESSING STONE'? THAT UPON WHICH THE COVERING STONE IS SUPPORTED. THE STONE THAT SERVES AS BUTTRESS TO THE BUTTRESSING STONE, HOWEVER, IS CLEAN.

MISHNAH 5. THESE ARE CLEAN IF THEY ARE DEFICIENT:[28] AN OLIVE-SIZED [PORTION] OF A CORPSE, AN OLIVE-SIZED [PORTION] OF NEZEL, A LADLEEUL OF CORPSE-MOULD, A QUARTER [OF A LOG] OF BLOOD, BONE OF THE SIZE OF A BARLEY-CORN, AND A MEMBER [SEVERED] FROM A LIVING PERSON, THE BONE OF WHICH [MEMBER] IS DEFICIENT.

MISHNAH 6. A BACKBONE OR A SKULL [MADE UP FROM THE BONES] OF TWO CORPSES, A QUARTER [OF A LOG] OF BLOOD FROM TWO CORPSES, A QUARTER [OF A KAB] OF BONES FROM TWO CORPSES, A MEMBER OF A CORPSE FROM TWO CORPSES, AND A MEMBER [SEVERED] FROM A LIVING PERSON, [SUCH A MEMBER BEING MADE UP] FROM TWO PERSONS, THESE R. AKIBA DECLARES UNCLEAN BUT THE SAGES

DECLARE CLEAN.

MISHNAH 7. A BONE THE SIZE OF A BARLEY-CORN THAT IS DIVIDED INTO TWO, R. AKIBA DECLARES UNCLEAN BUT R. JOHANAN B. NURI DECLARES CLEAN. R. JOHANAN B. NURI SAID: THEY DID NOT SAY ‘BONES’ THE SIZE OF A BARLEY-CORN, BUT ‘BONE’ THE SIZE OF A BARLEY-CORN. A QUARTER [OF A KAB] OF BONES CRUSHED SO FINE THAT THERE IS NOT A SINGLE [BONE] OF BARLEY-CORN SIZE, R. SIMEON DECLARES CLEAN BUT THE SAGES UNCLEAN. A MEMBER [SEVERED] FROM A LIVING PERSON, WHICH [MEMBER] HAS BEEN DIVIDED INTO TWO IS CLEAN. R. JOSE DECLARES [IT] UNCLEAN; BUT HE AGREES THAT IF IT IS TAKEN FROM THE LIVING PERSON BY HALVES IT IS CLEAN.[29]

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(1) Cf. Nab. VII, 2.

(2) Explained in Naz. 50a as being that of an abortion, of less than olive-size.

(3) Possibly from nazal, ‘to melt’; explained in Naz. 50a as ‘the flesh of a corpse that has coagulated, and liquid secretions from a corpse that has been heated and has congealed’.

(4) Tarwad; Syrian ‘large spoon or ladle’. ‘Aruch on Kel. XVII, 12: ‘the large ladle of physicians’.

(5) Dust known to have originated solely from a corpse. e.g dust from a corpse buried naked in a marble coffin (v. Naz. 51a).

(6) Either of these, even if they had not their appropriate flesh. They are recognisably part of a human skeleton (Bert.).

(7) One kab = four logs = twenty-four eggs, roughly equivalent to two litres.

(8) Bones which make op the greater part of the skeleton's structure e.g.. two shin bones and a thigh bone (Bek. 45a).

(9) One log (cf. Lev. XIV, 10) = six eggs, roughly, equivalent to half a litre.

(10) That has flowed forth after death.

(11) That has flowed forth partly hire and partly after death (v. III, 5).

(12) For the reasons the dispute between R. Akiba and the Sages v. Hul. 72a.

(13) Making the case of blood analogous to that of bones, the majority of the skeleton defiling whatever size it be (v. supra 9).

(14) Because one cannot tell, as one call in the case of bones, when the whole amount is present.

(15) According to the text in most Mishnah editions. But the text printed in the Vilna editions of the Talmud read: ‘A ladleful of corpse-mood and some grave-dust’. V. Nid. 27b where the same disputants differ over a case of a ladleful of corpse-mould and some (ordinary) dust.

(16) Dust, mixed with blood and cadaverous secretions, from a marble coffin A ladleful and more of this dust is presumed to contain a ladleful of mould.

(17) So that if only a part of his ladleful vote overshadowed, it could not convey tent-defilement. Human agency cannot effect a connection For defilement (v. Infra III, 4).

(18) Katzenelsohn (op. cit , p. 234, n. I) suggests that this size may have been chosen because the ossa sesamoidea, the smallest human bones, are of barleycorn size.

(19) Clods of foreign earth brought in to Palestine were decreed unclean by Jose b. Jo'ezer and Jose b. Johanan (Shab. 15a; v. also Naz. 54b).

(20) A grave-area; a field into which human bodies have been ploughed (v. infra XVIII, 1ff.). Peras according to Bert. from the root meaning ‘to break’ and according to Maim. from the meaning ‘to spread’ (viz,the area of uncleanness).

(21) Explained in Bek. 37b as a portion the size of a sela’ (a silver coin worth approx. four shillings).

(22) The trepan.

(23) An instrument making a hole the size of a dupondium (Roman penny): v. Kel. XVII, 12.

(24) Golel. Maim. (in comment. on the M.) ‘the stone (or wooden board etc.) covering a grave’. Rashi (on Keth. 4b) ‘the cover of a coffin’. Perhaps from גלל ‘to roll’, hence a stone too heavy for lifting and needing to be rolled into position. Cf. אבן גלל Ezra V, 8.

(25) Dofek, from root ‘to strike, knock against’, hence ‘frame against which the golel knocks’. Preuss however (op. cit. p. 609) explains golel as the great rolling stone blocking the entrance to a cave tomb and dofek as the wedge holding it in position.

(26) The grave is expressly included with the corpse in Num. XIX, 16 for defilement by contact, in the passage following the one giving rules for defilement by overshadowing.

(27) Defilement by carriage is not taught in Scripture directly in connection with a corpse but is derived by the Rabbis a fortiori from carrion (v. Sifre on Num. XIX, 16). The Rabbis applied it to a corpse but not to the grave-stones. R. Eliezer here applies it even to the grave-stones

(28) I.e.,if they fall short of the prescribed measure.

(29) Because the member has never been of the size to acquire uncleanness

Mishna - Mas. Oholoth Chapter 3

MISHNAH 1. [WITH REGARD TO] ALL[1] OBJECTS DEFILING BY OVERSHADOWING,[2] IF THEY[3] WERE DIVIDED AND BROUGHT INTO A HOUSE, R. DOSA B. HARKINAS DECLARES CLEAN [WHATSOEVER IS IN THE HOUSE],[4] BUT THE SAGES DECLARE [IT] UNCLEAN. HOW [IS THIS DIFFERENCE OF OPINION TO BE UNDERSTOOD]? IF [A PERSON] TOUCHES TWO [PORTIONS] OF CARRION,[5] EACH OF THE SIZE OF HALF AN OLIVE, OR CARRIES THEM, OR, IN THE CASE OF A CORPSE, IF HE TOUCHES [A PORTION] OF THE SIZE OF HALF AN OLIVE AND OVERSHADOWS [ANOTHER PORTION] OF THE SIZE OF HALF AN OLIVE, OR IF HE TOUCHES [A PORTION] OF THE SIZE OF HALF AN OLIVE AND [ANOTHER PORTION] OF THE SIZE OF HALF AN OLIVE OVERSHADOWS HIM, OR IF HE OVERSHADOWS TWO [PORTIONS, EACH] OF THE SIZE OF HALF AN OLIVE, OR IF HE OVERSHADOWS [A PORTION] OF THE SIZE OF HALF AN OLIVE AND [ANOTHER PORTION] OF THE SIZE OF HALF AN OLIVE OVERSHADOWS HIM, R. DOSA B. HARKINAS DECLARES HIM CLEAN, AND THE SAGES DECLARE HIM UNCLEAN. BUT IF HE TOUCHES [A PORTION] OF THE SIZE OF HALF AN OLIVE AND [HAS] ANOTHER OBJECT[6] OVERSHADOWING HIM AND [ANOTHER PORTION] OF THE SIZE OF HALF AN OLIVE, OR IF HE OVERSHADOWS [A PORTION] OF THE SIZE OF HALF AN OLIVE AND [HAS] ANOTHER OBJECT OVERSHADOWING HIM AND [ANOTHER PORTION] OF THE SIZE OF HALF AN OLIVE, HE IS CLEAN.[7] (R. MEIR SAID: EVEN HERE R. DOSA B. HARKINAS DECLARES HIM CLEAN AND THE SAGES DECLARE HIM UNCLEAN. EVERY [CASE] IS UNCLEAN[8] EXCEPT [A CASE OF] CONTACT [COMBINED] WITH CARRIAGE OR OF CARRIAGE [COMBINED] WITH OVERSHADOWING). THIS IS THE GENERAL PRINCIPLE:[9] EVERY OBJECT [WHOSE DEFILEMENT] PROCEEDS FROM ONE CAUSE[10] IS UNCLEAN, FROM TWO CAUSES IS CLEAN.

MISHNAH 2. IF A LADLEFUL OF CORPSE-MOULD WAS SCATTERED ABOUT IN A HOUSE, THE HOUSE IS UNCLEAN[11] BUT R. SIMEON DECLARES IT CLEAN.[12] IF A QUARTER [OF A LOG] OF BLOOD WAS ABSORBED IN [THE GROUND] OF A HOUSE, THE HOUSE IS CLEAN. [IN THE CASE OF] IT BEING ABSORBED BY A GARMENT, IF THIS IS WASHED AND A QUARTER [OF A LOG] OF BLOOD EMERGES FROM IT,[13] IT IS UNCLEAN,[14] IF NOT, IT IS CLEAN,[15] SINCE ANYTHING ABSORBED THAT CANNOT EMERGE IS CLEAN.[16]

MISHNAH 3. [IN THE CASE OF] IT[17] BEING POURED OUT IN THE OPEN AIR, IF THE PLACE [WHERE IT FELL] WAS AN INCLINE AND [A PERSON] OVERSHADOWED PART OF IT, HE [REMAINS] CLEAN.[18] IF IT WAS A CAVITY,[19] OR IF THE BLOOD CONGEALED,[20] HE [BECOMES] UNCLEAN. IF IT WERE POURED OUT ON A THRESHOLD WHICH INCLINED EITHER INWARDS OR OUTWARDS AND THE HOUSE OVERSHADOWED IT,[21] [THE HOUSE] IS CLEAN.[18] IF THERE WAS A CAVITY,[22] OR IF IT CONGEALED, [THE HOUSE BECOMES] UNCLEAN. EVERYTHING APPERTAINING TO A CORPSE IS UNCLEAN EXCEPT THE TEETH, HAIR AND NAILS;[23] BUT WHEN THEY ARE JOINED [TO THE CORPSE], THEY ARE ALL UNCLEAN.

MISHNAH 4. HOW IS THIS[24] [TO BE ILLUSTRATED]? IF THE CORPSE WERE OUTSIDE

AND ITS HAIR INSIDE, THE HOUSE IS UNCLEAN. [WITH REGARD TO] A BONE WHICH HAD UPON IT AN OLIVE-SIZED PORTION OF FLESH, IF ONE BROUGHT PART OF IT WITHIN, SO THAT THE HOUSE WAS OVERSHADOWING IT, [THE HOUSE] IS UNCLEAN.[25] [WITH REGARD TO] TWO BONES WHICH HAD UPON THEM TWO PORTIONS[26] OF FLESH, [EACH] OF THE SIZE OF HALF AN OLIVE, IF ONE BROUGHT PART OF THEM WITHIN SO THAT THE HOUSE WAS OVERSHADOWING THEM, [THE HOUSE] IS UNCLEAN. BUT IF [THE PIECES OF FLESH] WERE FIXED IN POSITION BY HUMAN AGENCY, THE HOUSE IS CLEAN SINCE CONNECTIONS EFFECTED BY HUMAN AGENCY ARE NOT [REGARDED AS BEING] CONNECTED.[27]

MISHNAH 5. WHAT IS ‘MIXED BLOOD?[28] ‘THE BLOOD OF A CORPSE OF WHICH AN EIGHTH [OF A LOG] ISSUED DURING LIFETIME AND AN EIGHTH AFTER DEATH. THIS IS THE OPINION OF R. AKIBA. R. ISHMAEL SAYS: [WE MUST IMAGINE] A QUARTER [OF A LOG TO HAVE ISSUED] DURING LIFETIME AND A QUARTER AFTER DEATH, [THEN IT IS] A QUARTER TAKEN FROM BOTH OF THESE. R. ELEAZAR SON OF R. [JUDAH[29] SAYS: BOTH OF THESE[30] ARE AS WATER. WHAT THEN IS ‘MIXED BLOOD’? IT IS THAT OF A CRUCIFIED PERSON WHOSE BLOOD IS STREAMING FORTH AND UNDER WHOM IS FOUND A QUARTER [OF A LOG] OF BLOOD. IT IS UNCLEAN.[31] THAT, HOWEVER, OF A CORPSE WHOSE BLOOD DRIPS FORTH AND UNDER WHOM IS FOUND A QUARTER [OF A LOG] OF BLOOD, IS CLEAN.[32] R. JUDAH SAYS: NOT SO, BUT THAT WHICH STREAMS FORTH IS CLEAN[33] AND THAT WHICH DRIPS FORTH[34] IS UNCLEAN.

MISHNAH 6. FOR AN OLIVE-SIZED PORTION OF A CORPSE, AN OPENING [IN THE ROOM IN WHICH IT IS FOUND] OF ONE HANDBREADTH [SQUARE], AND FOR A [WHOLE] CORPSE, AN OPENING OF FOUR HANDBREADTHS [SQUARE, SUFFICES] TO PREVENT THE UNCLEANNESS FROM [SPREADING TO THE OTHER] OPENINGS;[35] BUT FOR ALLOWING THE UNCLEANNESS TO COME FORTH,[36] AN OPENING OF ONE HANDBREADTH [SQUARE SUFFICES].[37] [A PORTION] GREATER THAN THE SIZE OF AN OLIVE IS RECKONED AS A [WHOLE] CORPSE. R. JOSE SAYS: [ONLY][38] THE SPINE AND THE SKULL ARE RECKONED AS A [WHOLE] CORPSE.

MISHNAH 7. [AN OBJECT] ONE HANDBREADTH SQUARE[39] [STANDING] ONE HANDBREADTH HIGH[40] CAN BRING UNCLEANNESS[41] AND SCREEN[42] FROM UNCLEANNESS. HOW DOES IT [SCREEN]?[43] IN THE CASE OF AN ARCHED-UP[44] DRAIN BENEATH A HOUSE, IF THERE WAS A SPACE OF A HANDBREADTH WIDE[45] THEREIN AND ITS OUTLET[46] WAS A HANDBREADTH WIDE, WHEN THERE IS UNCLEANNESS[47] INSIDE IT, THE HOUSE REMAINS CLEAN;[48] AND WHEN THERE IS UNCLEANNESS IN THE HOUSE, THAT WHICH IS WITHIN [THE DRAIN] REMAINS CLEAN, FOR THE MANNER OF THE UNCLEANNESS IS TO GO OUT AND NOT TO GO IN. IF THERE WAS A SPACE OF ONE HANDBREADTH WIDE THEREIN BUT ITS OUTLET WAS NOT ONE HANDBREADTH WIDE, WHEN THERE IS UNCLEANNESS THEREIN, THE HOUSE BECOMES UNCLEAN;[49] BUT WHEN THERE IS UNCLEANNESS IN THE HOUSE, THAT WHICH IS WITHIN IT REMAINS CLEAN, FOR THE MANNER OF THE UNCLEANNESS IS TO GO OUT[50] AND NOT TO GO IN.[51] IF THERE WAS NOT A SPACE OF ONE HANDBREADTH WIDE THEREIN AND ITS OUTLET WAS NOT ONE HANDBREADTH WIDE,[52] WHEN THERE IS UNCLEANNESS WITHIN IT, THE HOUSE BECOMES UNCLEAN; AND WHEN THERE IS UNCLEANNESS IN THE HOUSE, IT [ALSO] BECOMES UNCLEAN. IT IS ONE [AND THE SAME IF THE SPACE IS] A CAVITY EXCAVATED BY WATER OR BY VERMIN OR IF IT HAD BEEN EATEN OUT BY A SALINE SUBSTANCE; AND SIMILARLY [IF IT IS IN] A ROW[53] OF STONES OR A PILE[54] OF BEAMS. R. JUDAH SAYS: ANY ‘TENT’ NOT MADE BY HUMAN AGENCY[55] IS NOT CONSIDERED A TENT’. BUT HE AGREES THAT CREVICES AND CRAGS [CAN BE CONSIDERED AS ‘TENTS’].

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(1) Cf. ‘Ed. III, 1.

(2) Mentioned supra II, 1f.

(3) I.e., a portion of the minimum quantity for defilement.

(4) In their divided state they cannot combine to convey defilement by overshadowing.

(5) The dispute apparently also included defilement by carrion.

(6) A board, etc.

(7) Even according to the Sages. The reason is discussed in Hul. 125b.

(8) R. Meir, continuing his exposition of the opinion of the Sages. According to him they hold that two quantities may combine to form the minimum quantity in any mixed case of contact and overshadowing (regarded as one and the same cause), but not in any other mixed case arising from two causes.

(9) Resuming the view of the first Tanna interrupted by the exposition of R. Meir.

(10) The object is being affected by two portions which together form the minimum quantity, and which both defile through the same cause, either contact, carriage or overshadowing.

(11) The scattered Portions are regarded as combining.

(12) Maintaining that since it Presumably is now mixed with the dust of the house, it is just like that corpse-mould originating from a mixture of corpse matter and non-cadaverous dust which does not defile (v. supra II, 1, n. 5).

(13) This fact is ascertained by mingling a quarter of a log of blood with a quantity of water equal to that used in washing the garment and comparing the colours of the two mixtures (Bert.).

(14) And renders the house in which it is brought unclean by overshadowing.

(15) In so far as it does not render the house unclean.

(16) v. Nid. 62b.

(17) A quarter log of blood from a corpse.

(18) The incline cannot be regarded as a connective, holding the full quarter of a log together.

(19) The equivalent word in Arabic means ‘swamp’. ‘gathering together of waters’.

(20) Even on an incline.

(21) I.e., part of it.

(22) In the threshold.

(23) Either because they change their substance continually or because they did not exist at the time the person was created.

(24) The last fact mentioned in the previous Mishnah.

(25) The bone forms the handle (יד) for the flesh in transmitting the uncleanness; v. ‘Uk. I, 1.

(26) One portion upon each bone.

(27) Hence the bone, in this last instance, cannot be considered as forming the ‘handle’ for the flesh in transmitting uncleanness.

(28) . Referred to in supra II, 2.

(29) Sometimes known as R. Eleazar of Bertotha (v. Ab. III, 7).

(30) Definitions of ‘mixed blood’ according to R. Akiba and R. Ishmael.

(31) Such blood, streaming forth continually, is regarded as containing that drop issuing forth at the moment of death and also as containing at least half its bulk of unclean blood, issued after death.

(32) Each drop of unclean cadaverous blood is regarded as being neutralised as it falls into the greater bulk of non-cadaverous blood.

(33) Since it is regarded as possible that the drop of blood issuing from the crucified man at the moment of death did not fall into the quarter of a log but remained on the cross (Bert.).

(34) The slow rate at which the blood issues proving that it is cadaverous (Maim.). The question is discussed in Nid. 71a. V. also Preuss (op. cit.) p. 242.

(35) As explained infra VII, 3, corpse uncleanness through overshadowing extends beyond the room to the doors thereof, and even if they are closed, to the objects beneath their lintels, because it is assumed that the corpse is due to be removed through any one of them. Where, however, it is known that a definite exit will be used, that exit alone becomes unclean and all the rest, provided the doors be closed, remain clean. The Mishnah gives the minimum size of such an exit.

(36) And proceed to an adjacent space.

(37) Even for a whole corpse.
(38) So Wilna Gaon.
(39) At least one handbreadth in length and breadth.
(40) Above the uncleanness.
(41) To other objects in the same space.
(42) The object forming the roof protects other things above it from being defiled. If, however, the roof is less than one handbreadth high, the uncleanness will cleave its way upward and downward (v. infra VI, 6).
(43) So Bert. and most comm., the screening effect being the novel aspect that needs illustrating.
(44) קמור The word is akin to Gr. ** and Latin camera, ‘a vaulted space’.
(45) I.e., a space one handbreadth cube.
(46) Carrying the waste out into the street.
(47) An olive-sized portion of a corpse, a greater quantity necessitating an outlet of four handbreadths.
(48) Since the uncleanness proceeds by the outlet into the street. The drain, by being of the stipulated size, thus screens the house from uncleanness.
(49) There being no outlet for the uncleanness, the drain becomes a ‘closed grave’ whose uncleanness cleaves upwards and downwards.
(50) To the street.
(51) To the drain.
(52) The dimensions of the outlet in this case are really immaterial, the drain in any case being reckoned as part of the ground of the house.
(53) מרבך The word occurs in the quotation from this Mishnah in Suk. 20b as מדבך . which is, no doubt, from the same root as נדבך , Ezra VI, 4. The root דבך may possibly be the same as דבק ‘to join together’, hence a ‘course of stones’. If one stone falls out a shelter can be formed.
(54) סואר (also found as סוור). Explained in ‘Aruch from the cognate Arabic as ‘pile’. Possibly from a root similar to ‘to collect’.
(55) The reason of R. Judah's statement is given in Suk. 21a. He considers that ‘tent’ should be similar in manner to the ‘Tent of Meeting’, the tabernacle of the wilderness, made by human agency.

Mishna - Mas. Oholoth Chapter 4

MISHNAH 1. [WITH REGARD TO] A CUPBOARD[1] STANDING IN THE OPEN AIR, IF THERE IS UNCLEANNESS WITHIN IT, VESSELS IN THE [NICHES[2] IN THE] THICKNESS [OF ITS WALLS] REMAIN CLEAN.[3] IF THERE IS UNCLEANNESS IN [THE NICHES IN] ITS THICKNESS, VESSELS INSIDE [THE CUPBOARD] REMAIN CLEAN. R. JOSE SAYS: HALF AND HALF.[4] WHEN IT IS STANDING INSIDE A HOUSE, IF THERE IS UNCLEANNESS INSIDE [THE CUPBOARD]. THE HOUSE BECOMES UNCLEAN;[5] IF THERE IS UNCLEANNESS IN THE HOUSE, THAT WHICH IS WITHIN [THE CUPBOARD] REMAINS CLEAN,[6] FOR THE MANNER OF UNCLEANNESS IS TO GO OUT[7] AND NOT TO GO IN.[8] [WITH REGARD TO] VESSELS WHICH ARE BETWEEN [THE CUPBOARD] AND THE GROUND, OR BETWEEN IT AND THE WALL, OR BETWEEN IT AND THE ROOFBEAMS, IF THERE IS A SPACE OF ONE CUBIC HANDBREADTH THERE, THEY BECOME UNCLEAN[9] BUT IF NOT THEY REMAIN CLEAN.[10] IF THERE IS UNCLEANNESS THERE,[11] THE HOUSE BECOMES UNCLEAN.[12]

MISHNAH 2. [WITH REGARD TO] A DRAWER OF THE CUPBOARD, WHICH IS OF ONE CUBIC HANDBREADTH, BUT WHOSE OUTLET IS NOT A SQUARE HANDBREADTH IN SIZE, IF THERE IS UNCLEANNESS THEREIN, THE HOUSE BECOMES UNCLEAN; BUT IF THERE IS UNCLEANNESS IN THE HOUSE, THAT WHICH IS WITHIN [THE DRAWER] REMAINS CLEAN, FOR THE MANNER OF UNCLEANNESS IS TO GO OUT AND NOT TO GO IN. R. JOSE DECLARES [THE HOUSE][13] CLEAN, SINCE HE CAN REMOVE [THE UNCLEANNESS] BY HALVES[14] OR BURN IT WHERE IT STANDS.[15]

MISHNAH 3. [IN THE CASE WHERE] THE CUPBOARD IS STANDING IN THE DOORWAY AND IS OPENED OUTWARD, IF THERE IS UNCLEANNESS THEREIN, THE HOUSE REMAINS CLEAN. IF THERE IS UNCLEANNESS IN THE HOUSE, THAT WHICH IS WITHIN [THE CUPBOARD] BECOMES UNCLEAN.[16] FOR THE MANNER OF UNCLEANNESS IS TO GO OUT AND NOT TO GO IN. IF ITS WHEELED BASE[17] PROTRUDED THREE FINGERBREADTHS BEHIND IT[18] AND THERE WAS UNCLEANNESS THEREIN[19] UNDER THE ROOF-BEAMS, THE HOUSE REMAINS CLEAN.[20] WHEN DOES THIS RULING APPLY? WHEN THERE IS A SPACE THEREIN OF ONE CUBIC HANDBREADTH,[21] WHEN IT IS NOT DETACHABLE,[22] AND WHEN THE CUPBOARD IS OF THE STIPULATED SIZE.[23]

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(1) Of wood, with a cubic content of forty se'ahs. According to Kel. XV, 1 such a cupboard cannot receive uncleanness.

(2) These niches, of less than a cubic handbreadth in size, go right through the thickness of the walls and open inwards and outwards.

(3) The niches are reckoned as pertaining to the open air.

(4) The outside half of the niche is reckoned as pertaining to the open air and the inside half to the cupboard.

(5) Even if the cupboard doors are closed because the uncleanness must eventually proceed into the house.

(6) If the cupboard doors are closed.

(7) From the cupboard to the house.

(8) From the house to the cupboard.

(9) When there is a corpse in the house.

(10) The uncleanness not being able to penetrate.

(11) The space being less than a cubic handbreadth.

(12) The cupboard, though forming a ‘tent’ within a ‘tent’, cannot prevent the uncleanness from escaping, just as a sealed cover cannot do it (cf. Kel. VIII, 6).

(13) In the former case.

(14) So that the uncleanness going forth would be of less than the prescribed minimum size.

(15) So that the uncleanness would never go out.

(16) The text in Hul. 125b apparently followed by Bert. reads: ‘clean’. This reading regards the uncleanness as going out of the house and missing the cupboard. The reading in this Mishnah is explained by Tosaf. Y.T. as applying to the case where the cupboard occupies almost the whole of the doorway. The uncleanness being unable to emerge. has to force its way through the cupboard walls.

(17) מוכני Gr. **, machine (v. Kel. XVIII, 2).

(18) I.e., as the cupboard was standing in the doorway.

(19) In a container in the base.

(20) The base is regarded as belonging to the cupboard.

(21) The uncleanness is then not in a confined space and cannot cleave upwards.

(22) The base forms part of the cupboard.

(23) Forty se'ahs, v. Mishnah I, n. 1.

Mishna - Mas. Oholoth Chapter 5

MISHNAH 1. [WITH REGARD TO] AN OVEN WHICH STOOD IN A HOUSE, WITH ITS OUTLET[1] CURVED TO THE OUTSIDE [OF THE HOUSE]. IF CORPSE-BEARERS OVERSHADOWED IT,[2] BETH SHAMMAI SAY: ALL BECOMES UNCLEAN.[3] BETH HILLEL SAY: THE OVEN BECOMES UNCLEAN, BUT THE HOUSE REMAINS CLEAN. R. AKIBA SAYS: EVEN THE OVEN REMAINS CLEAN.[4]

MISHNAH 2. [WITH REGARD TO] A HATCHWAY[5] BETWEEN THE HOUSE AND THE UPPER STOREY, IF THERE WAS A POT PLACED OVER IT AND THIS WAS PERFORATED [BY A HOLE OF SUFFICIENT SIZE] TO ADMIT LIQUID,[6] BETH SHAMMAI SAY: ALL BECOMES UNCLEAN.[7] BETH HILLEL SAY: THE POT BECOMES UNCLEAN[8] BUT THE

UPPER STOREY REMAINS CLEAN. R. AKIBA SAYS: ALL REMAINS CLEAN.

MISHNAH 3. IF [THE POT][9] WAS WHOLE, BETH HILLEL SAY: IT PROTECTS ALL [FROM UNCLEANNESS]. BETH SHAMMAI SAY: IT PROTECTS ONLY FOOD, DRINK AND EARTHENWARE VESSELS.[10] BETH HILLEL RETRACTED AND TAUGHT AS BETH SHAMMAI.

MISHNAH 4. [WITH REGARD TO] A FLAGON,[11] FULL OF LIQUID, THE FLAGON IS DEFILED WITH A DEFILEMENT OF SEVEN [DAYS' DURATION] BUT THE LIQUID REMAINS CLEAN.[12] BUT IF ONE POURED IT OUT INTO ANOTHER VESSEL,[13] IT BECOMES UNCLEAN.[14] IF A WOMAN WAS KNEADING [IN THE UPPER STOREY.] AT A TROUGH, THE WOMAN AND THE TROUGH BECOME UNCLEAN, BUT THE DOUGH REMAINS CLEAN. BUT IF ONE TURNED IT OUT INTO ANOTHER VESSEL, IT BECOMES UNCLEAN. BETH HILLEL RETRACTED AND TAUGHT AS BETH SHAMMAI.[15]

MISHNAH 5. IF [LYING OVER THE HATCHWAY] THERE WERE VESSELS OF [BAKED] ORDURE,[16] VESSELS OF STONE, OR VESSELS OF [UNBAKED] EARTH,[17] ALL [IN THE UPPER STOREY] REMAINS CLEAN. IF IT WAS A VESSEL KNOWN TO BE CLEAN FOR HOLY THINGS OR FOR [THE WATER OF] PURIFICATION,[18] ALL REMAINS CLEAN,[19] EVERYONE[20] BEING TRUSTED WITH [REGARD TO MATTERS OF] PURIFICATION;[21] FOR CLEAN VESSELS AND EARTHENWARE VESSELS THAT ARE [KNOWN TO BE] CLEAN[22] PROTECT IN ASSOCIATION WITH THE WALLS OF 'TENTS'.[23]

MISHNAH 6 HOW [IS THE CASE TO BE IMAGINED]? IF THERE WAS A CISTERN OR A CELLAR[24] IN A HOUSE[25] AND AN OLIVE-BASKET[26] WAS PLACED OVER IT, [THE CONTENTS OF THE CISTERN OR CELLAR] REMAIN CLEAN. BUT IF IT WAS A WELL [WITH ITS UPPER EDGE] LEVEL [WITH THE GROUND]. OR A DEFICIENT[27] BEEHIVE. UPON WHICH THE OLIVE-BASKET WAS PLACED, [THE CONTENTS] BECOME UNCLEAN.[28] IF IT WAS A SMOOTH BOARD OR A KNEADING BOARD[29] WITHOUT RIMS, [THE CONTENTS] REMAIN CLEAN.[30] FOR VESSELS CANNOT PROTECT ALONG WITH WALLS OF SHELTERS UNLESS THEY THEMSELVES HAVE WALLS. HOW MUCH MUST THE WALL BE? A HANDBREADTH. IF THERE WAS HALF A HANDBREADTH ON ONE AND HALF A HANDBREADTH ON THE OTHER,[31] IT IS NOT [CONSIDERED] A WALL, AS THERE MUST BE A WHOLE HANDBREADTH ON ONE OBJECT.

MISHNAH 7. JUST AS THEY[32] PROTECT INSIDE [A 'TENT'] SO DO THEY PROTECT OUTSIDE. HOW SO? IN THE CASE OF AN OLIVE-BASKET SUPPORTED ON PEGS[33] ON THE OUTSIDE [OF A 'TENT']. IF THERE WAS UNCLEANNESS BENEATH IT, VESSELS IN THE OLIVE-BASKET REMAIN CLEAN.[34] BUT IF IT WAS [NEXT TO] THE WALL OF A COURTYARD OR OF A GARDEN, IT DOES NOT AFFORD PROTECTION.[35] [IN THE CASE OF] A BEAM[36] PLACED ACROSS FROM ONE WALL TO AN OTHER,[37] WITH A POT HANGING FROM IT,[38] IF THERE WAS UNCLEANNESS BENEATH IT,[39] R. AKIBA DECLARES THE VESSELS INSIDE IT TO BE CLEAN,[40] BUT THE SAGES DECLARE THEM UNCLEAN.[41]

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(1) Of one handbreadth square (v. Kel. VIII, 7). The reference is to an earthenware pot.

(2) With the corpse.

(3) The uncleanness penetrating the house by way of the outlet.

(4) Since only the outlet was overshadowed, not the oven itself.

(5) Of one handbreadth square.

(6) For the prescribed test to determine this fact, v. Nid. 49a.

(7) When there is a corpse in the house. The earthenware pot, because it is defective, is considered on its own and not as a continuation of the roof of the house. It cannot protect its own contents from uncleanness since it no longer has the equivalent of a tightly fitting lid between itself and the defiling source. Hence it cannot protect the objects in the upper storey.

(8) A precautionary measure of the Sages, but really it is clean and therefore can protect the upper storey.

(9) This Mishnah deals with the case of a pot belonging to an ‘am ha-arez, a person negligent of Rabbinic law (Bert.). V. ‘Ed. I, 14, Sonc. ed., p. 8, for the full argument.

(10) These objects, If they belonged to all ‘am ha-arez would not, in any case, be used by a haber, a scrupulous observer of Rabbinic law, without due precaution. Other vessels, however, might be used unless they were definitely declared unclean.

(11) ‘Flagon’, here of metal or wood. The flagon is in the upper storey, with the pot set over the hatchway.

(12) Being protected by the pot, according to Beth Shammai in supra 3.

(13) Of wood or metal, in the upper storey, which had thus already suffered corpse uncleanness.

(14) Food and drink are only protected when they are in their original container.

(15) V. ‘Ed. I, 14.

(16) גללים ‘Aruch and Bert. ‘cattle dung’. but Rashi (on Shab. 16b) ‘marble’.

(17) All these vessels being insusceptible to uncleanness and affording protection to everything, even wood or metal vessels.

(18) Cf. Par. V, 1; Num. XIX, 17. It was the water used for compounding the ashes of the red heifer.

(19) Cf. n. 7.

(20) Even an ‘am ha-arez

(21) Cf. Par. V, 1.

(22) Such as those mentioned in this Mishnah.

(23) As in the case of the pot over the hatchway. No such protection can, however, be afforded by these vessels on their own as is explained in the next Mishnah.

(24) A cistern or chamber with walls of masonry situated beneath a house. Both cistern and cellar have walls projecting at Least one handbreadth above the floor.

(25) In which there is a corpse.

(26) A large basket in which olives were placed in order to become soft. Having a capacity of more than forty Se'ahs, it is insusceptible to uncleanness, cf. Kel. XV, I.

(27) A beehive of more than forty se'ahs’ capacity which had been broken and had not been stopped up with straw or the like. Var. lec., ‘open’. i.e., at both ends.

(28) In neither case are there any walls that could be associated with the walls of the olive-basket to protect from the uncleanness.

(29) So Bert. Maim.: a perforated board, colander.

(30) Not being regarded as vessels, they require no ‘tent’ walls with which to be associated.

(31) I.e., half a handbreadth on the vessel and half on the projecting wall.

(32) Vessels in association with ‘tent walls.

(33) The basket standing one handbreadth above the ground.

(34) The basket touching the wall of the ‘tent’ is associated with it to protect its own contents.

(35) The walls not being themselves made to serve as ‘tent’ walls.

(36) One handbreadth broad, one handbreadth above the ground.

(37) In the open air.

(38) At a distance from the beam of less than a handbreadth.

(39) The beam.

(40) Just as in a room, where uncleanness is not able to penetrate into a space of less than a handbreadth.

(41) The pot, not being directly associated with the walls of any ‘tent’, cannot protect its own contents.

Mishna - Mas. Oholoth Chapter 6

MISHNAH 1. BOTH PERSONS AND VESSELS CAN FORM[1] ‘TENTS’ TO BRING UNCLEANNESS, BUT NOT TO [PROTECT OBJECTS SO THAT THEY] REMAIN CLEAN.[2] HOW [CAN THIS BE ILLUSTRATED]? [BY THE CASE OF] FOUR PERSONS CARRYING[3] A

BLOCK OF STONE.[4] IF THERE IS UNCLEANNESS BENEATH IT, VESSELS UPON IT BECOME UNCLEAN.[5] IF THERE IS UNCLEANNESS UPON IT, VESSELS BENEATH IT BECOME UNCLEAN. R. ELIEZER DECLARES THEM CLEAN.[6] [IN THE CASE OF THE LARGE STONE] BEING PLACED UPON FOUR VESSELS, EVEN IF THEY BE VESSELS OF [BAKED] ORDURE, VESSELS OF STONE, OR VESSELS [UNBAKED] OF EARTH,[7] IF THERE IS UNCLEANNESS BENEATH [THE STONE], VESSELS UPON IT BECOME UNCLEAN. IF THERE IS UNCLEANNESS BENEATH IT, VESSELS UPON IT BECOME UNCLEAN. [IN THE CASE OF THE LARGE STONE] BEING PLACED ON FOUR STONES OR ON ANY LIVING CREATURE, IF THERE IS UNCLEANNESS BENEATH IT, VESSELS UPON IT REMAIN CLEAN.[8] IF THERE IS UNCLEANNESS UPON IT VESSELS BENEATH IT REMAIN CLEAN.

MISHNAH 2. IN THE CASE WHERE THE CORPSE-BEARERS WERE PASSING ALONG A PORTICO[9] AND ONE OF THEM[10] SHUT A DOOR[11] AND[12] LOCKED IT WITH A KEY, IF THE DOOR CAN REMAIN IN ITS POSITION ON ITS OWN,[13] [THE CONTENTS OF THE HOUSE][14] REMAIN CLEAN, BUT IF NOT, THEY BECOME UNCLEAN. SIMILARLY [IN THE CASE OF] A BARREL[15] OF DRIED FIGS OR A BASKET OF STRAW[16] PLACED IN A WINDOW,[17] IF THE DRIED FIGS OR THE STRAW CAN REMAIN IN THEIR POSITION ON THEIR OWN, [THE CONTENTS OF THE ROOM] REMAIN CLEAN, BUT IF NOT THEY BECOME UNCLEAN. [IN THE CASE OF] A HOUSE PARTITIONED OFF BY WINE-JARS, WHICH HAD BEEN PLASTERED WITH CLAY,[18] IF THE CLAY CAN REMAIN IN ITS POSITION ON ITS OWN, [THE SPACE PARTITIONED OFF] REMAINS CLEAN, BUT IF NOT, IT BECOMES UNCLEAN.

MISHNAH 3. A WALL SERVING A HOUSE IS TREATED BY HALVES. HOW SO? [IN THE CASE OF] A WALL LOOKING TOWARDS AN OPEN SPACE, HAVING UNCLEANNESS WITHIN IT, IF THIS IS IN THE INWARD HALF, THE HOUSE BECOMES UNCLEAN, BUT WHAT IS ABOVE [THE WALL][19] REMAINS CLEAN.[20] IF IT IS IN THE OUTWARD HALF, THE HOUSE REMAINS CLEAN, BUT WHAT IS ABOVE [THE WALL] BECOMES UNCLEAN.[21] IF IT IS EXACTLY IN THE MIDDLE, THE HOUSE BECOMES UNCLEAN, AND AS FOR WHAT IS ABOVE, R. MEIR DECLARES IT UNCLEAN, BUT THE SAGES CLEAN.[22] R. JUDAH SAYS: THE WHOLE OF THE WALL[23] APPERTAINS TO THE HOUSE.

MISHNAH 4. [IN THE CASE OF] A WALL BETWEEN TWO HOUSES,IF THERE IS UNCLEANNESS WITHIN IT, THE HOUSE NEARER TO THE UNCLEANNESS IS UNCLEAN, AND THE HOUSE NEARER TO THE CLEAN PART IS CLEAN. IF [THE UNCLEANNESS] IS IN THE MIDDLE, BOTH ARE UNCLEAN. IF THERE IS UNCLEANNESS IN ONE OF THE [HOUSES] AND THERE ARE VESSELS IN [THE THICKNESS OF] THE WALL, THOSE IN THE HALF NEARER THE UNCLEANNESS ARE UNCLEAN, THOSE IN THE HALF NEARER THE CLEAN [HOUSE] ARE CLEAN, AND THOSE IN THE MIDDLE ARE UNCLEAN. [WITH REGARD TO THE] PLASTER-WORK BETWEEN THE HOUSE AND THE UPPER STOREY, IF THERE IS UNCLEANNESS THEREIN IN THE LOWER HALF, THE HOUSE [BELOW] IS UNCLEANNESS AND THE UPPER STOREY IS UNCLEAN AND THE HOUSE IS CLEAN: BUT IF IT IS IN THE MIDDLE, BOTH ARE UNCLEAN. IF THERE IS UNCLEANNESS IN EITHER [THE] HOUSE OR THE UPPER STOREY] AND THERE ARE VESSELS INSIDE THE PAYMENT, THOSE IN THE HALF NEARER THE UNCLEANNESS ARE UNCLEAN, AND THOSE IN THE HALF NEARER THE CLEAN [SPACE] ARE CLEAN. IF THEY ARE IN THE MIDDLE, THEY ARE UNCLEAN. R. JUDAH SAYS: ALL THE PLASTER-WORK [IS RECKONED] TO APPERTAIN TO THE UPPER STOREY.

MISHNAH 5. [IN THE CASE OF] UNCLEANNESS AMONG THE ROOF-BEAMS, [WITH A COVERING] BENEATH IT THIN AS GARLIC-SKIN,[24] IF THERE IS A SPACE WITHIN[25] OF A

CUBIC HANDBREADTH, EVERYTHING BECOMES UNCLEAN.[26] IF THERE IS NOT A SPACE OF A CUBIC HANDBREADTH, THE UNCLEANNESS IS CONSIDERED PLUGGED UP.[27] IF THE UNCLEANNESS WAS VISIBLE WITHIN THE HOUSE, IN EITHER CASE THE HOUSE BECOMES UNCLEAN.

MISHNAH 6. A HOUSE SERVING [TO FORM] A WALL[28] IS SUBJECT TO THE PRINCIPLE OF GARLIC-SKIN. HOW SO? [IN THE CASE OF] A WALL BETWEEN TWO TOMB-NICHES OR TWO CAVERNS, IF THERE IS UNCLEANNESS IN THESE SPACES AND IN THE WALLS ARE VESSELS, OVER WHICH THERE IS A COVERING THIN AS GARLIC-SKIN, THEY REMAIN CLEAN. IF THE UNCLEANNESS IS IN THE WALL AND THE VESSELS ARE IN THE SPACE, AND THERE IS A COVERING THIN AS GARLIC-SKIN OVER THE UNCLEANNESS, THEY REMAIN CLEAN. IF THERE IS UNCLEANNESS BENEATH A PILLAR, THE UNCLEANNESS[29] CLEAVES UPWARDS AND DOWNWARDS.

MISHNAH 7. VESSELS BENEATH THE CAPITAL[30] [OF A PILLAR] REMAIN CLEAN.[31] R. JOHANAN B. NURI DECLARES THEM UNCLEAN. [IN THE CASE OF] THE UNCLEANNESS AND THE VESSELS BEING [TOGETHER] BENEATH THE CAPITAL, IF THERE IS A SPACE OF ONE CUBIC HANDBREADTH THERE, [THE VESSELS] BECOME UNCLEAN; IF NOT, THEY REMAIN CLEAN.[32] [IN THE CASE OF] TWO WALL-CUPBOARDS,[33] ONE BESIDE THE OTHER, OR ONE ABOVE THE OTHER,[34] IF ONE OF THEM WERE OPENED, BOTH IT AND THE HOUSE BECOME UNCLEAN, BUT ITS COMPANION REMAINS CLEAN.[35] THE WALL-CUPBOARDS ARE CONSIDERED[36] AS IF PLUGGED UP,[37] AND ARE SUBJECT TO THE PRINCIPLE OF HALVES[38] FOR CONVEYING UNCLEANNESS INTO THE HOUSE.

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(1) Either by they themselves overshadowing or else by supporting a ‘tent’ as explained further in this Mishnah.

(2) As can clean vessels in association with the walls of ‘tents’ (v. supra v, 5).

(3) In the open air.

(4) נדבך . Bert. renders the word here ‘a large and broad stone’. The reading adopted by the ‘Aruch, however, is rendered ‘bier’. If this reading is adopted. it is of course understood that there is no corpse on the bier.

(5) The stone overshadows all beneath it, causing all to be unclean, but cannot act as a ‘tent’ to prevent anything upon it from acquiring uncleanness from the source beneath.

(6) In both cases (so Bert.), R. Eliezer regarding persons and vessels as forming ‘tents’, valid for all purposes.

(7) These vessels are insusceptible to uncleanness but are too small (less than forty se'ahs) to afford protection.

(8) The stones not being vessels, they serve as valid sides of a ‘tent’ for all purposes.

(9) Exedra, a covered walk in front of a house.

(10) Of those who followed in the procession (Bert.).

(11) Leading directly from the portico to a house.

(12) L. suggests ‘or’, The man either keeping The door closed by his own weight or with a key.

(13) Without support of the key. or (L.) of the man.

(14) To which the door gives access.

(15) Of earthenware, with its mouth turned outwards.

(16) These foods, being spoiled beyond all possibility of edible value even for cattle are, of their own, insusceptible to uncleanness (Bert.).

(17) Not less than one handbreadth square and communicating between a clean and unclean space.

(18) There being uncleanness on one side of the partition.

(19) Even if directly above The uncleanness.

(20) The uncleanness being considered as belonging for all purposes to the house alone and not as ‘compressed’. with powers of cleaving upwards and downwards.

(21) As compressed uncleanness cleaves upwards.

(22) Whereas R. Meir considers the wall to appertain both to the house and to the open space, the Sages hold that it belongs entirely to the house.

(23) Even the half towards the open space.

(24) Preventing the uncleanness from being visible within the house (v. Kel. IX, 1).
(25) Where the uncleanness is.
(26) The space becomes a ‘closed grave’ defiling all its surroundings, in this case both the house and the upper storey.
(27) Compressed uncleanness, cleaving upwards and downwards.
(28) I.e., the wall has been formed by the excavation of two adjacent houses or caves.
(29) Being compressed beneath the pillar in this vault (cf. supra III, 7, n. 6).
(30) Lit., ‘flower’, hence applied to the flower-like decoration on the capital of a pillar.
(31) Even when there is ‘compressed’ uncleanness beneath another part of the capital, since this kind of uncleanness does not spread sidewards.
(32) Less than one handbreadth being insufficient to convey uncleanness by overshadowing.
(33) פרדסקים , Aramaic ‘wall-cupboard’. Perhaps some form from Gk. ** ‘a tower’, hence ‘tower-like structure’.
(34) With uncleanness beneath one of them. Each has a content of less than a cubic handbreadth ‘(L.), a space of greater size constituting a closed grave. (V. Mishnah 5, n. 5).
(35) The uncleanness is not considered as ‘compressed’ but Follows the law of uncleanness in a wall. When the companion cupboard is closed, it cannot receive the uncleanness.
(36) When they are closed.
(37) Forming part of the solid wall.
(38) When the uncleanness lies beneath them (v. Mishnah 3).

Mishna - Mas. Oholoth Chapter 7

MISHNAH 1. IF THERE IS UNCLEANNESS IN A WALL [IN A FREE] SPACE OF ONE CUBIC HANDBREADTH, ALL UPPER STOREYS ABOVE IT, EVEN IF THERE ARE TEN OF THEM,[1] ARE UNCLEAN.[2] IF THERE WAS A SINGLE UPPER STOREY [BUILT] OVER TWO HOUSES,[3] THAT ONE BECOMES UNCLEAN BUT ALL UPPER STOREYS ABOVE IT REMAIN CLEAN.[4] [IN A] BEACH-[5] WALL, UNCLEANNESS CLEAVES UPWARDS AND DOWNWARD.[6] [WITH REGARD TO] A SOLID TOMB MONUMENT,[7] A PERSON WHO TOUCHES IT FROM THE SIDE REMAINS CLEAN, SINCE [ITS] UNCLEANNESS CLEAVES UPWARDS AND DOWNWARDS.[8] BUT IF THERE WAS A [FREE] SPACE OF A CUBIC HANDBREADTH IN THE PLACE WHERE THE UNCLEANNESS WAS, A PERSON TOUCHING IT ANYWHERE BECOMES UNCLEAN, BECAUSE IT IS LIKE A CLOSED GRAVE. IF BOOTHS WERE PLACED ADJACENT TO [THE MONUMENT] THEY BECOME UNCLEAN.[9] R. JUDAH DECLARES THEM CLEAN.[10]

MISHNAH 2. ALL SLOPING [PARTS] OF ‘TENTS’ ARE RECKONED AS ‘TENTS’.[11] [IN THE CASE OF] A ‘TENT’ [WHOSE SIDES] SLOPED DOWNWARDS AND FINISHED OFF [WITH A ROOF][12] OF ONE FINGERBREADTH, IF THERE IS UNCLEANNESS IN THE ‘TENT’,[13] VESSELS BENEATH THE SLOPE BECOME UNCLEAN. IF THERE IS UNCLEANNESS BENEATH THE SLOPE, VESSELS IN THE ‘TENT’ BECOME UNCLEAN. IF THERE HAD BEEN[14] UNCLEANNESS WITHIN, A PERSON WHO TOUCHES [THE TENT’] FROM THE INSIDE ACQUIRES A SEVEN [DAYS’] DEFILEMENT,[15] BUT FROM THE OUTSIDE, A DEFILEMENT [LASTING TILL] EVENING.[16] IF THERE HAD BEEN UNCLEANNESS OUTSIDE, A PERSON WHO TOUCHES THE ‘TENT’ FROM THE OUTSIDE ACQUIRES A SEVEN [DAYS’] DEFILEMENT, BUT FROM THE INSIDE, A DEFILEMENT [LASTING TILL] EVENING. IF THERE WAS [A PORTION OF UNCLEANNESS] OF THE SIZE OF HALF AN OLIVE [TOUCHING IT] FROM WITHIN AND HALF AN OLIVE FROM WITHOUT,[17] A PERSON WHO TOUCHES [THE ‘TENT’] EITHER FROM WITHIN OR WITHOUT ACQUIRES A DEFILEMENT [LASTING TILL] EVENING.[18] IF A PART [OF THE ‘TENT’ SIDE] TRAILED ALONG THE GROUND, WHEN THERE IS UNCLEANNESS BENEATH OR ABOVE [THIS PART]. THE UNCLEANNESS [THEREOF] CLEAVES UPWARDS AND DOWNWARDS. [IN THE CASE OF] A ‘TENT’ ERECTED IN AN UPPER STOREY, WITH A PORTION [OF ITS SIDE] TRAILING OVER THE HATCHWAY BETWEEN

THE HOUSE AND THE UPPER STOREY, R. JOSE SAYS: IT PROTECTS.[17] R. SIMEON SAYS: IT DOES NOT PROTECT UNLESS IT BE STRETCHED OUT AFTER THE USUAL MANNER OF ERECTING ‘TENTS.

MISHNAH 3. IF A CORPSE IS IN A HOUSE IN WHICH THERE ARE MANY DOORS, THEY ALL BECOME UNCLEAN.[19] IF ONE OF THEM WAS OPENED, THAT ONE BECOMES UNCLEAN BUT ALL THE REST REMAIN CLEAN. IF IT WAS INTENDED TO CARRY OUT THE CORPSE THROUGH ONE OF THEM OR THROUGH A WINDOW OF FOUR HAND BREADTHS SQUARE, THAT PROTECTS ALL THE OTHER DOORS.[20] BETH SHAMMAI SAY: THE INTENTION MUST HAVE BEEN FORMED BEFORE THE PERSON DIED.[21] BETH HILLEL SAY: EVEN AFTER HE DIED.[22] IF [A DOOR] WAS BLOCKED UP AND IT WAS DECIDED TO OPEN IT, BETH SHAMMAI SAY: [IT IS EFFECTIVE][23] AS SOON AS [A SPACE] FOUR HANDBREADTHS SQUARE HAS BEEN OPENED UP. BETH HILLEL SAY: AS SOON AS [THE PROCESS] HAS BEGUN. THEY AGREE, HOWEVER, THAT WHEN MAKING AN OPENING FOR THE FIRST TIME, FOUR HANDBREADTHS MUST BE OPENED UP.

MISHNAH 4. IF A WOMAN WAS IN HARD TRAVAIL AND WAS CARRIED FROM ONE HOUSE TO ANOTHER,[24] THE FIRST HOUSE BECOMES UNCLEAN BECAUSE OF DOUBT[25] AND THE SECOND OF A CERTAINTY. R. JUDAH SAID: WHEN IS THIS SO? WHEN SHE IS CARRIED OUT [SUPPORTED] BY THE ARMPITS, BUT IF SHE WAS ABLE TO WALK, THE FIRST HOUSE REMAINS CLEAN, FOR AFTER THE TOMB’[26] HAS BEEN OPENED THERE IS NO POSSIBILITY OF WALKING. STILLBORN CHILDREN ARE NOT [DEEMED TO HAVE] OPENED THE ‘TOMB’ UNTIL THEY PRESENT A HEAD ROUNDED LIKE A SPINDLE-KNOB.[27]

MISHNAH 5. IF [AT THE BIRTH OF TWINS] THE FIRST PROCEEDED FORTH DEAD AND THE SECOND ALIVE, THE [LIVE ONE] IS CLEAN.[28] IF THE FIRST WAS ALIVE AND THE SECOND DEAD, THE [LIVE CHILD] IS UNCLEAN.[29] R. MEIR SAYS: IF THEY WERE IN ONE MEMBRANE, [THE LIVE CHILD] IS UNCLEAN,[30] BUT IF THERE WERE TWO MEMBRANES, IT REMAINS CLEAN.[31]

MISHNAH 6. IF A WOMAN IS IN HARD TRAVAIL, ONE CUTS UP THE CHILD IN HER WOMB AND BRINGS IT FORTH MEMBER BY MEMBER, BECAUSE HER LIFE COMES BEFORE THAT OF [THE CHILD]. BUT IF THE GREATER PART HAS PROCEEDED FORTH, ONE MAY NOT TOUCH IT, FOR ONE MAY NOT SET ASIDE ONE PERSON'S LIFE FOR THAT OF ANOTHER.[32]

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(1) All connected with this wall by having their floor beams fixed into it.

(2) The wall is regarded as a closed grave, defiling all around.

(3) And this unclean wall between the two houses supports the upper storey.

(4) The first upper storey affording them complete protection.

(5) שונית Bert.: a wall built in the place to which the sea comes in rough weather levelling out all free (hollow) spaces. Var. lec. (followed by L.) is שנית , ‘rock’.

(6) The wall is regarded as part of the earth, in which no uncleanness is ever treated as a ‘closed grave’. According to var. lec., the reason is because the principle of ‘free space’ applies only to a wall made by human agency (Wilna Gaon).

(7) Lit., ‘resting place’. i.e.,tomb (cf. Shek. II, 5).

(8) Like compressed uncleanness and not like a closed grave.

(9) Being regarded as ‘tents’ over corpses.

(10) Since they are placed against the sides.

(11) I.e., spaces under the sloping sides are considered as part of the ‘tent’ itself.

(12) So Bert. Cf. Shab. 138b where it is implied that the minimum size for the roof of a ‘tent’ must be a handbreadth. In spite of this rule, for the purpose of conveying uncleanness, a smaller size does not prevent this ‘tent from being constituted.

(13) I.e., under the roof.

(14) In the past. However the uncleanness was not present when the ‘tent’ was touched.

(15) The inner side and the outer side of the ‘tent’ being reckoned as two vessels (Bert.). The inner side, having come into contact with the corpse, acquires its degree of uncleanness, אבי אבות הטומאה (cf. supra I, 2 n. 4) and confers both upon the person and the outer side of the ‘tent’ a generating defilement.

(16) The outer side conferring a generated defilement on the person touching it.

(17) In which case the ‘tent’ acquires a seven days’ defilement, the two half olives combining on the view of the Sages, supra III, 1.

(18) The sides, in relation to those who touch them, being regarded as two vessels. (8) Although it is formed of a substance which is susceptible to uncleanness because it is part of a tent.

(19) V. Supra III, 6, n. 7.

(20) That are closed. Henceforth objects placed underneath them do not become unclean.

(21) After which, only a positive action can avail to afford protection from uncleanness.

(22) Nevertheless, vessels already in position at the time of death remain unclean.

(23) To protect other doors. V. Preuss op. cit. p. 458.

(24) And gave birth there to a dead child. V. also Preuss p. 236.

(25) Perhaps the womb had opened there and the child's head had protruded.

(26) I.e.,the opening of the womb.

(27) Cf. Bek. 22a.

(28) It the dead child had been removed from the house. Uncleanness cannot be contracted in the womb.

(29) Having passed through an opening through which uncleanness is due to pass.

(30) Since it presumably touched the dead child outside the womb. On the membrane (שפיר) v. Preuss p. 456.

(31) On the theory that the dead child does not defile until it is out of the womb.

(32) On this principle v. Preuss p. 607.

Mishna - Mas. Oholoth Chapter 8

MISHNAH 1. SOME THINGS FORM A PASSAGE[1] FOR UNCLEANNESS AND [ALSO] A SCREEN [AGAINST IT]; [SOME] FORM A PASSAGE FOR UNCLEANNESS BUT NOT A SCREEN; [SOME] FORM A SCREEN BUT NOT A PASSAGE; [AND SOME] FORM NEITHER A PASSAGE NOR A SCREEN. THE FOLLOWING FORM [BOTH] A PASSAGE AND A SCREEN: A CHEST,[2] A BOX, A CUPBOARD, A BEEHIVE OF STRAW, A BEEHIVE OF REEDS, OR THE WATER-TANK OF AN ALEXANDRIAN[3] SHIP, SUCH OF WHICH [OBJECTS] HAVE [FLAT] BOTTOMS[4] AND A CONTENT OF [AT LEAST] FORTY SEAHS[5] LIQUID MEASURE OR TWO KORS[6] DRY MEASURE.[7] [FURTHER] A CURTAIN, A LEATHERN APRON,[8] A LEATHERN UNDERCOVER,[9] A SHEET, A MATTING UNDERLAY[10] OR A MAT[11] WHEN MADE INTO’ TENTS’;[12] A HERD OF CATTLE,[13] UNCLEAN OR CLEAN, PACKS[14] OF WILD ANIMALS OR BIRDS, A RESTING BIRD,[15] A [SHADY] PLACE THAT [A WOMAN] MAKES FOR HER SON AMONGST THE EARS OF CORN; THE IRIS,[16] THE IVY,[17] ASS HERBS,[18] GREEK GOURDS[19] AND CLEAN FOODSTUFFS.[20] R. JOHANAN B. NURI DID NOT AGREE WITH REGARD TO CLEAN FOODSTUFFS EXCEPT IN THE CASE OF A CAKE OF DRIED FIGS.[21]

MISHNAH 2. [FURTHER.] PROJECTING CANOPIES,[22] BALCONIES,[23] DOVE-COTES, CREVICES AND CRAGS,[24] GROTTOES,[25] [OVERHANGING] PINNACLES, INTERLACED BOUGHS AND PROTRUDING STONES SUCH AS ARE CAPABLE OF SUSTAINING THIN PLASTER-WORK; ACCORDING TO R. MEIR. BUT THE SAGES SAY A MEDIUM PLASTER-WORK. THE FOLLOWING IS A CASE OF INTERLACED BOUGHS’: A TREE WHICH THROWS SHADE OVER THE GROUND. PROTRUDING STONES’ ARE [STONES] THAT PROJECT FROM A WALL.

MISHNAH 3. THE FOLLOWING FORM A PASSAGE BUT NOT A SCREEN: A CHEST, A BOX, A CUPBOARD, A BEEHIVE OF STRAW, A BEEHIVE OF REEDS, OR THE WATERTANK OF AN ALEXANDRIAN SHIP, SUCH OF WHICH [OBJECTS] HAVE NOT [FLAT] BOTTOMS OR HAVE NOT A CONTENT OF FORTY SE'AHS LIQUID MEASURE OR TWO KORS DRY MEASURE.[26] [FURTHER.] A CURTAIN, A LEATHERN APRON, A LEATHERN UNDERCOVER, A SHEET, A MATTING UNDERLAY OR A MAT WHEN NOT MADE INTO ‘TENTS’,[26] CATTLE OR WILD ANIMALS WHEN THEY ARE DEAD, AND FOODSTUFFS THAT ARE [LIABLE TO BECOME] UNCLEAN.[27] IN ADDITION TO THESE, A MILL [WORKED BY] MAN-POWER.[28]

MISHNAH 4. THE FOLLOWING FORM A SCREEN BUT NOT A PASSAGE: A LOOM [WITH A WEB] SPREAD OUT,[29] THE ROPEWORK OF A BED, REFUSE BASKETS,[30] AND WINDOW-LATTICES.[31]

MISHNAH 5. THE FOLLOWING FORM NEITHER A PASSAGE NOR A SCREEN: SEEDS, PLANTS [STILL] ATTACHED TO THE SOIL, EXCEPT FOR THE PLANTS MENTIONED ABOVE,[32] A LUMP[33] OF HAIL, SNOW, FROST, ICE AND SALT. [FURTHER ANYTHING] THAT HOPS FROM ONE PLACE TO ANOTHER, OR LEAPS FROM ONE PLACE TO ANOTHER, A FLYING BIRD, A LOOSELY-FLAPPING GARMENT,[34] OR A SHIP FLOATING [FREELY] ON THE WATER. IF THE SHIP WERE TIED WITH SOMETHING THAT CAN KEEP IT STEADY, OR A STONE WERE [PLACED SO AS] TO HOLD DOWN THE GARMENT, THEY CAN FORM A PASSAGE FOR THE UNCLEANNESS. R. JOSE SAYS: A HOUSE ON A SHIP CANNOT FORM A PASSAGE FOR UNCLEANNESS.[35]

MISHNAH 6. IF TWO JARS CONTAINING TWO PORTIONS [ONE IN EACH] OF A CORPSE OF THE SIZE OF HALF AN OLIVE, AND SEALED WITH TIGHTLY FITTING LIDS[36] WERE LYING IN A HOUSE, THEY REMAIN CLEAN,[37] BUT THE HOUSE BECOMES UNCLEAN.[38] IF ONE OF THEM WAS OPENED, THAT [JAR] AND THE HOUSE BECOME UNCLEAN, BUT ITS COMPANION REMAINS CLEAN. A SIMILAR RULE APPLIES TO TWO ROOMS THAT OPEN INTO A HOUSE.[39]

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(1) Cf. supra III, 7.

(2) Heb. Shiddah. This word is frequently found (cf. Shab. 120a, Naz. 55a etc) in connection with tebah and migdal, the two words rendered here ‘box’ and ‘cupboard’. Hence it probably means something similar to them. Kel. XVIII, 1 and 2 contains a description of certain parts of a ‘shiddah’ from which Rashi (on Shab. 44a) infers that it is a wheeled cart used for carrying people. Bert. and L. describe it as a larger version of tebah. ‘Aruch suggests the word is possibly derived from late Gk. **, a chair. Perhaps it means a ‘wheeled box chair’.

(3) Grain ships going from Alexandria to Rome.

(4) So that they can rest in stable equilibrium.

(5) One se'ah = six kabs, roughly twelve litres.

(6) Cf. ‘Uk V, 2. One kor = thirty se'ahs, roughly three hundred ninety-three litres = nearly eleven bushels.

(7) These dimensions are given in connection with the above vessels in Kel. XV, 1, where it is explained that vessels of such a size are insusceptible to uncleanness.

(8) Lat. scortea, ‘a leathern article’. Bert., ‘workman's apron’; Maim., ‘bedcover’.

(9) Gk. **, something ‘thrown over’ the bed, as an undercover.

(10) Cf. Kel. XXIV, 10; XXVII, 2; B.K. 25b. Perhaps from נפץ ‘to spread’.

(11) מחצלת . Cf.Kel. XVII, 17: XX, 7. ‘Aruch quotes the cognate Arabic meaning ‘slender twigs’ from which mats are woven.

(12) These articles, of their own, are susceptible to uncleanness. When forming ‘tents’, however, they can convey and screen in the normal manner.

(13) Standing in one place, packed tightly together (Bert.).

(14) מכונות Maim. ‘packs’. The word is usually taken to mean ‘habitation’ and here might well be rendered ‘stalls’, ‘coops’ (last.). The context, however, suggests a parallel with ‘herd of cattle’.
(15) According to Bert., a captive bird, tied to the place.
(16) Cf. Kil. V, 8.
(17) Cf. Kil. l.c.
(18) ירקות חמור a kind of wild gourd. ‘cucumis aqrestis’.
(19) All the above-mentioned plants are regarded as having broad leaves (Bert.). or as being evergreen (L.). Moreover the reference is to such as are still connected with the soil, so that they form a suitable ‘tent’ and are insusceptible to uncleanness.
(20) I.e., such as are insusceptible to uncleanness, not having come in contact with any liquid of the seven kinds, v. Maksh. VI, 4.
(21) Which he regards as the only foods likely to be used as a shelter.
(22) Zizirt. ‘Aruch quotes the cognate Arabic root meaning ‘to project’. Cf. B.B. III, 6 and also Oh. XIV, 2 for the distinction between this and the following word.
(23) גזריות . A similar word, גזוזטרא (Mid. 11,5; Shab. 96a etc.) is taken by ‘Aruch from Gk. **’ ‘gallery’. Our word may be a Hebraized form of this word.
(24) V. supra III end.
(25) גהרים corrected by ‘Aruch to גחרים , quoting cognate Arabic ‘grotto’. Maim.: from גהר , ‘to stretch’ (I. Kings XVIII, 42) hence ‘projecting rock’. Bert.: ‘light-holes’.
(26) Thereby being susceptible to uncleanness.
(27) Through the process mentioned in Maksh. VI, 4.
(28) Not by animal power. A portable mill is susceptible to uncleanness.
(29) The web, consisting of the warp threads alone, spread over a hatchway.
(30) Cf. Kel. XXIV, 9. ‘Aruch connects the word with זבל ‘dung’.
(31) All the articles in this Mishnah have holes in their structure. These holes, however, are less than one square handbreadth in area and therefore form valid screens (cf. Rashi on Hul. 125b).
(32) V. supra I end.
(33) Lit., ‘a stone’.
(34) Flying loose through the air.
(35) If it sheltered over a corpse in the sea and vessels on the ship (L.).
(36) The tightly fitting lid (Num. XIX, 15) forms a screen for an earthenware jar.
(37) Each containing only half an olive's bulk of a corpse.
(38) Since It contains an olive-sized portion of a corpse, a tightly fitting lid, while it serves as a screen for what is contained in an earthenware jar, does not prevent any uncleanness in the vessel from penetrating beyond it and defiling what is outside; v. Kel. VIII, 6.
(39) If two sealed rooms each contain a portion of a corpse of half an olive size, they remain clean, but the house through which the uncleanness must pass becomes unclean.

Mishna - Mas. Oholoth Chapter 9

MISHNAH 1. WITH REGARD TO A BEEHIVE[1] [LYING] IN THE DOORWAY[2] WITH ITS MOUTH [POINTING] OUTSIDE, IF AN OLIVE-SIZED [PORTION] OF A CORPSE WERE PLACED BELOW THAT [PART OF THE HIVE] WHICH IS OUTSIDE [THE HOUSE]. EVERYTHING DIRECTLY[3] BELOW OR ABOVE THAT OLIVE-SIZED [PORTION] BECOMES UNCLEAN;[4] BUT EVERYTHING THAT IS NOT DIRECTLY [BELOW OR ABOVE] THAT OLIVE-SIZED [PORTION]. OR THAT IS WITHIN [THE HIVE][5] OR WITHIN THE HOUSE, REMAINS CLEAN. [IF THE UNCLEANNESS IS] WITHIN THE HOUSE, NOTHING BECOMES UNCLEAN EXCEPT THAT WHICH IS WITHIN THE HOUSE.[6] [IF THE UNCLEANNESS IS] WITHIN [THE HIVE] EVERYTHING BECOMES UNCLEAN.[7]

MISHNAH 2. [IN THE CASE OF THE HIVE] BEING ONE HANDBREADTH HIGH OFF THE GROUND, IF THERE IS UNCLEANNESS BELOW IT OR IN THE HOUSE OR ABOVE IT, EVERYTHING BECOMES UNCLEAN[8] EXCEPT THAT WHICH IS WITHIN [THE HIVE]. [IF THE UNCLEANNESS IS] WITHIN THE HIVE EVERYTHING BECOMES UNCLEAN.

MISHNAH 3. WHEN DO THESE RULES APPLY? WHEN [THE HIVE RETAINS THE STATUS OF] A VESSEL AND IS PERFORATED.[9] [IN THE CASE OF ITS] BEING DEFECTIVE, ALTHOUGH [ITS DEFICIENCY MAY BE] STOPPED UP WITH STRAW[10] OR BLOCKED UP[11] (WHAT IS [CONSIDERED] 'BLOCKED UP?' ANYTHING WHICH HAS NO [LONGER AN OPENING OF] ONE HANDBREADTH [SQUARE] IN ONE PLACE). IF AN OLIVE-SIZED [PORTION] OF A CORPSE IS PLACED BELOW IT, [EVERYTHING] DIRECTLY [BELOW THE PORTION] TO THE NETHERMOST DEEP BECOMES UNCLEAN;[12] [IF PLACED] ABOVE [THE HIVE EVERYTHING] DIRECTLY ABOVE TO THE SKY BECOMES UNCLEAN. [IF THE UNCLEANNESS IS] IN THE HOUSE, NOTHING BECOMES UNCLEAN EXCEPT THE HOUSE. [IF THE UNCLEANNESS IS] WITHIN [THE HIVE]. NOTHING BECOMES UNCLEAN EXCEPT THAT WHICH IS WITHIN [THE HIVE].

MISHNAH 4. [IN THE CASE OF SUCH A HIVE] BEING [PLACED] ONE HANDBREADTH HIGH OFF THE GROUND, IF THERE IS UNCLEANNESS BELOW IT OR IN THE HOUSE, [THE SPACE] BELOW IT AND THE HOUSE BECOME UNCLEAN,[13] BUT [THE SPACE] ABOVE AND WITHIN REMAINS CLEAN.[14] [IF THE UNCLEANNESS IS] WITHIN, NOTHING IS UNCLEAN EXCEPT WHAT IS WITHIN; IF ABOVE [THE HIVE]. WHAT IS DIRECTLY ABOVE UP TO THE SKY BECOMES UNCLEAN.

MISHNAH 5. WHEN DO THESE RULES APPLY? WHEN THE MOUTH [OF THE HIVE IS POINTING] OUTWARDS. IN THE CASE OF THE MOUTH [POINTING] INWARDS, IF AN OLIVE-SIZED PORTION OF THE CORPSE IS PLACED BELOW OR ABOVE [THAT PART OF THE HIVE WHICH IS] OUTSIDE, EVERYTHING DIRECTLY BELOW OR ABOVE[15] THAT OLIVE-SIZED PORTION BECOMES UNCLEAN, AND EVERYTHING NOT DIRECTLY [BELOW OR ABOVE IT]. AND WHAT IS WITHIN [THE HIVE] AND THE HOUSE, REMAINS CLEAN. [IF THE UNCLEANNESS IS] WITHIN THE HIVE OR THE HOUSE, EVERYTHING BECOMES UNCLEAN.[16]

MISHNAH 6. [IN THE CASE OF THE HIVE IN THIS POSITION] BEING ONE HANDBREADTH HIGH OFF THE GROUND, IF THE UNCLEANNESS IS BELOW IT OR IN THE HOUSE OR WITHIN [THE HIVE] OR ABOVE IT, EVERYTHING BECOMES UNCLEAN.

MISHNAH 7. WHEN DO THESE RULES APPLY? WHEN [THE HIVE RETAINS THE STATUS OF] A VESSEL AND IS PERFORATED. [IN THE CASE OF ITS] BEING DEFECTIVE, ALTHOUGH [ITS DEFICIENCY MAY BE] STOPPED UP WITH STRAW OR BLOCKED UP (WHAT IS CONSIDERED BLOCKED UP? ANYTHING WHICH HAS NO [LONGER AN OPENING OF] ONE HANDBREADTH [SQUARE] IN ONE PLACE), IF AN OLIVE-SIZED [PORTION] OF A CORPSE IS PLACED BELOW IT, [EVERYTHING] DIRECTLY [BELOW THE PORTION] TO THE NETHERMOST DEEP BECOMES UNCLEAN; [IF PLACED] ABOVE [THE HIVE, EVERYTHING] DIRECTLY [ABOVE] TO THE SKY BECOMES UNCLEAN. [IF THE UNCLEANNESS IS PLACED] WITHIN [THE HIVE] OR IN THE HOUSE, EVERYTHING BECOMES UNCLEAN.[17]

MISHNAH 8. [IN THE CASE OF SUCH A HIVE IN THIS POSITION] BEING ONE HANDBREADTH HIGH OFF THE GROUND, IF THERE IS UNCLEANNESS BELOW IT OR IN THE HOUSE OR WITHIN [THE HIVE]. EVERYTHING[18] BECOMES UNCLEAN EXCEPT WHAT IS ABOVE IT. IF THE UNCLEANNESS IS ABOVE IT, [EVERYTHING] DIRECTLY [ABOVE] TO THE SKY BECOMES UNCLEAN.

MISHNAH 9. [IN THE CASE WHEN THE HIVE] OCCUPIES ALL THE HOUSE AND THERE WAS NOT A SPACE OF A HANDBREADTH BETWEEN IT[19] AND THE ROOF BEAMS, IF THERE IS UNCLEANNESS WITHIN [THE HIVE], THE HOUSE BECOMES UNCLEAN; BUT IF THERE IS UNCLEANNESS IN THE HOUSE, WHAT IS WITHIN [THE HIVE] REMAINS CLEAN, FOR THE MANNER OF THE UNCLEANNESS IS TO GO OUT AND NOT TO GO IN.[20] [THIS APPLIES] WHETHER [THE HIVE] IS STANDING UPRIGHT, OR LYING ON ITS SIDE, WHETHER THERE IS ONE [HIVE] OR TWO.[21]

MISHNAH 10. [IN THE CASE WHERE THE NON-DEFECTIVE HIVE] WAS STANDING UPRIGHT IN THE DOORWAY AND THERE WAS NOT A SPACE OF ONE HANDBREADTH BETWEEN IT AND THE LINTEL, IF THERE IS UNCLEANNESS WITHIN IT, THE HOUSE REMAINS CLEAN; BUT IF THERE IS UNCLEANNESS IN THE HOUSE, WHAT IS WITHIN [THE HIVE] BECOMES UNCLEAN,[22] FOR THE MANNER OF THE UNCLEANNESS IS TO GO OUT AND NOT TO GO IN.[23]

MISHNAH 11. [IN THE CASE WHERE] IT[24] WAS LYING ON ITS SIDE IN THE OPEN AIR, IF AN OLIVE-SIZED [PORTION] OF A CORPSE WAS PLACED BELOW IT OR ABOVE IT, EVERYTHING DIRECTLY BELOW OR ABOVE THE OLIVE-SIZED [PORTION] BECOMES UNCLEAN; BUT EVERYTHING THAT IS NOT DIRECTLY BELOW OR ABOVE, AND WHAT IS WITHIN [THE HIVE] REMAINS CLEAN. [IF THE UNCLEANNESS IS] WITHIN [THE HIVE] EVERYTHING BECOMES UNCLEAN.

MISHNAH 12. [IN THE CASE WHERE THIS HIVE IN THE OPEN AIR] WAS ONE HANDBREADTH HIGH OFF THE GROUND, IF THERE IS UNCLEANNESS BELOW IT OR ABOVE IT, EVERYTHING BECOMES UNCLEAN EXCEPT WHAT IS WITHIN THE HIVE]. [IF THE UNCLEANNESS IS] WITHIN, EVERYTHING BECOMES UNCLEAN. WHEN DO THESE RULES APPLY? WHEN [THE HIVE RETAINS THE STATUS OF] A VESSEL. [IN THE CASE OF ITS] BEING DEFECTIVE, ALTHOUGH [ITS DEFICIENCY MAY BE] STOPPED UP WITH STRAW, OR ACCORDING TO THE SAGES,[25] [IN THE CASE OF IT] CONTAINING FORTY SE' AHS, IF AN OLIVE-SIZED [PORTION] OF A CORPSE WERE PLACED BELOW IT, [EVERYTHING] DIRECTLY [BELOW] UNTO THE NETHERMOST DEEP BECOMES UNCLEAN; ABOVE IT, [EVERYTHING] DIRECTLY ABOVE TO THE SKY BECOMES UNCLEAN. [IF THE UNCLEANNESS IS] WITHIN [THE HIVE]. NOTHING IS UNCLEAN EXCEPT THAT WHICH IS WITHIN. [IN THE CASE WHERE] IT WAS ONE HANDBREADTH HIGH OFF THE GROUND, IF THERE WAS UNCLEANNESS BELOW IT, WHAT IS BELOW BECOMES UNCLEAN;[26] [IF THE UNCLEANNESS] WAS WITHIN IT, WHAT IS WITHIN BECOMES UNCLEAN; ABOVE IT, [EVERYTHING] DIRECTLY [ABOVE] TO THE SKY BECOMES UNCLEAN.

MISHNAH 13. [IN THE CASE WHERE] IT WAS RESTING ON ITS BOTTOM AND [RETAINED THE STATUS OF] A VESSEL, IF THERE IS UNCLEANNESS BELOW IT, WITHIN IT OR ABOVE IT,[27] THE UNCLEANNESS CLEAVES UPWARDS AND DOWNWARDS.[28] [IN THE CASE WHERE] IT WAS ONE HANDBREADTH HIGH OFF THE GROUND OR COVERED[29] OR INVERTED [SO AS TO STAND] UPON ITS MOUTH, IF THERE IS UNCLEANNESS BELOW IT, WITHIN IT OR ABOVE IT, EVERYTHING BECOMES UNCLEAN.

MISHNAH 14. WHEN DO THESE RULES APPLY? WHEN [THE HIVE RETAINS THE STATUS OF] A VESSEL. [IN THE CASE OF ITS] BEING DEFECTIVE, ALTHOUGH [THE DEFICIENCY MAY BE] STOPPED UP WITH STRAW, OR ACCORDING TO THE SAGES, [IN THE CASE OF IT] CONTAINING FORTY SE'AHS, IF THE UNCLEANNESS IS BELOW IT, WITHIN IT OR ABOVE IT, THE UNCLEANNESS CLEAVES UPWARDS AND

DOWNWARDS. R. ELIEZER AND R. SIMEON SAY: UNCLEANNESS CAN NEITHER ASCEND INTO [THE DEFECTIVE HIVE] NOR DESCEND FROM IT.[30] [IN THE CASE WHERE] IT WAS ONE HANDBREADTH HIGH OFF THE GROUND, IF THERE IS UNCLEANNESS BELOW IT, WHAT IS BELOW BECOMES UNCLEAN; WITHIN IT OR ABOVE IT, [EVERYTHING] DIRECTLY [ABOVE] IT TO THE SKY BECOMES UNCLEAN.

MISHNAH 15. WITH REGARD TO A COFFIN[31] WHICH IS BROAD BELOW AND NARROW ABOVE, AND HAD A CORPSE WITHIN, A PERSON TOUCHING IT BELOW[32] REMAINS CLEAN; BUT ABOVE, BECOMES UNCLEAN.[33] IF IT IS BROAD ABOVE AND NARROW BELOW, A PERSON TOUCHING IT ANYWHERE BECOMES UNCLEAN. IF IT WAS THE SAME [ABOVE AND BELOW], A PERSON TOUCHING IT ANYWHERE BECOMES UNCLEAN. THIS IS THE OPINION OF R. ELIEZER, BUT R. JOSHUA SAYS: A HANDBREADTH AND MORE[34] BELOW IS CLEAN,[35] BUT FROM THAT HANDBREADTH UPWARDS IS UNCLEAN. IF IT IS MADE LIKE A CLOTHES-CHEST,[36] A PERSON TOUCHING IT ANYWHERE BECOMES UNCLEAN. IF IT WAS MADE LIKE A CASE,[37] A PERSON TOUCHING IT ANYWHERE AT THE PLACE WHERE IT OPENS, REMAINS CLEAN.

MISHNAH 16. [WITH REGARD TO] A JAR[38] RESTING ON ITS BOTTOM IN THE OPEN AIR, IF AN OLIVE-SIZED [PORTION] OF A CORPSE IS PLACED BENEATH IT OR WITHIN IT DIRECTLY [ABOVE] ITS BOTTOM, THE UNCLEANNESS CLEAVES UPWARDS AND DOWNWARDS,[39] AND THE JAR BECOMES UNCLEAN.[40] [IF THE UNCLEANNESS IS] OUTSIDE BELOW THE SIDE, THE UNCLEANNESS CLEAVES UPWARDS AND DOWNWARDS,[41] BUT THE JAR REMAINS CLEAN.[42] [IN THE CASE WHERE THE UNCLEANNESS IS] WITHIN [THE JAR] AND BENEATH THE SIDES,[43] IF THERE IS WITHIN THE [CAVITY OF] THE SIDES A SPACE OF A CUBIC HANDBREADTH EVERYTHING[44] [WITHIN THE CAVITY] BECOMES UNCLEAN, BUT WHAT LIES DIRECTLY [BELOW] THE MOUTH REMAINS CLEAN. IF THERE IS NOT [A SPACE OF A CUBIC HANDBREADTH]. THE UNCLEANNESS CLEAVES UPWARDS AND DOWNWARDS. WHEN DO THESE RULES APPLY? WHEN THE JAR IS CLEAN.[45] [IN THE CASE WHERE IT WAS CAPABLE OF BECOMING] UNCLEAN,[46] OR WAS ONE HANDBREADTH HIGH OFF THE GROUND,[47] OR COVERED,[48] OR INVERTED [SO AS TO STAND] ON ITS MOUTH,[49] IF THERE IS UNCLEANNESS BENEATH IT, WITHIN IT OR ABOVE IT, EVERYTHING BECOMES UNCLEAN.[50]

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(1) A wooden cylinder open at one end (its mouth) for the collection of honey, and perforated at the closed end to give ingress to the bees. It is less than forty se'ahs in content and therefore is to be considered a vessel and not a valid ‘tent’ on its own; but the fact that it has perforations renders it insusceptible to uncleanness (L.).

(2) Part inside and part outside the house.

(3) In a vertical line.

(4) Being a vessel, the hive can afford no protection (supra VI, 1).

(5) Being insusceptible to uncleanness, the hive can protect its own contents.

(6) The contents of the hive remain clean, the uncleanness not entering by the perforations. regarded as being loosely stopped up.

(7) The uncleanness going out by the perforations.

(8) A ‘tent’ is thereby formed and the uncleanness is carried into the house.

(9) מחלחלת . Some commentators, basing their interpretation of these words on Kel. X, 3, render ‘lying loosely in the doorway’. But there seem to be two qualities required here. Firstly the hive must be a useable vessel and not defective. Secondly, it must have perforations that are free and not blocked up. L. and Bert. both render ‘perforated’.

(10) The straw cannot restore it to the status of a vessel.

(11) אפוצה . Some commentators, taking this word to be the opposite of מחלחלת, and basing their interpretation on a passage in J. Pes. I, 27c (where these two words appear as contrasts) render ‘fixed tightly in the entrance’. ‘Aruch from Arabic ‘to compress’, whence Bert. ‘with the perforations blocked up’.

(12) But all else remains clean. Not being a vessel, the hive can protect.

(13) The uncleanness being transferred from one space to another.

(14) The hive protecting.

(15) Some texts add ‘or within (the hive)’.

(16) Even within the hive, the uncleanness entering its mouth.

(17) Only in this respect does this Mishnah differ from Mishnah 3.

(18) cf Mishnah 5 end n. 2.

(19) The hive is regarded as resting on its bottom so that there is not a handbreadth's space between the mouth and the roof beams.

(20) Cf. supra III, 7.

(21) The one standing on top of the other.

(22) Var. lec., clean. V. Rashi.

(23) For this reason if the uncleanness is within the hive the house is clean.

(24) The unbroken hive.

(25) Who maintain, as against R. Meir (v. Tosef. Kel. pt. II, V, 1) that certain articles when they are of the size of forty se'ahs, no longer retain the status of a vessel, but take on that of a ‘tent’. V. also Kel. XV, 1.

(26) All below, the object acting as a ‘tent’.

(27) Above the opening.

(28) Even when the uncleanness is within, since the open month is in direct communication with the air above.

(29) With another vessel, which cannot protect what is within the hive from uncleanness.

(30) Being defective, it can, In their opinion, afford protection.

(31) Excavated from the living rock.

(32) I.e., touching a portion of the rock not directly beneath the inner wall-surface of the tomb but outside it. Not immediately supporting the covering stone (supra II, 4) it is clean, being reckoned part of the ordinary rock.

(33) Touching the covering stone.

(34) Measured from the lower base of the hollow of the coffin.

(35) Being reckoned part of the ordinary rock.

(36) ‘A box’ (cf. Kel. XVI. 7). The cover lies over the thickness of the sides (Bert.).

(37) גלוסקום perhaps from Gr. ** (the LXX rendering For ארון II Chron. XXIV. 8) ‘a case’. The cover sinks in within the sides, not touching their thicknesses. It therefore resembles the first case in our Mishnah (Bert.).

(38) Made of a substance insusceptible to uncleanness. It is narrow above and below, bulging in the middle.

(39) Cf. Mishnah 13. n. 4.

(40) I.e., what is within the jar in a direct line with the uncleanness.

(41) In a direct line. There is not a space of one cubic handbreadth below the bulge of the jar, hence the uncleanness is compressed.

(42) Being insusceptible to uncleanness from the outside.

(43) I.e.,in the cavity formed by the bulge.

(44) Reckoned a ‘tent’.

(45) Insusceptible to uncleanness.

(46) And consequently unable to serve as a screen to protect the contents in the jar where the uncleanness is outside beneath the bulge.

(47) In this case the jar forms a ‘tent’ which conveys uncleanness and does not serve as a screen (v. supra VI, I). spreading consequently the uncleanness in every case to the jar and its contents.

(48) Whilst they would not affect the case where the uncleanness was outside under the bulge of the jar, where it was placed beneath the jar or within it directly above its bottom or beneath the sides, the contents of the jar become unclean because a tightly fitting cover does not serve as a screen against compressed uncleanness (v. Kel. X. 2). with the result that the cover itself forms a ‘tent’ defiling the contents of the jar.

(49) Cf. previous note mut. mut.

(50) The cases vary in detail (L.). V. nn. 12-13.

Mishna - Mas. Oholoth Chapter 10

Mishna - Mas. Oholoth Chapter 10

MISHNAH 1. [WITH REGARD TO] A HATCHWAY IN A HOUSE,[1] WHICH [HATCHWAY] HAS AN OPENING OF A [SQUARE] HANDBREADTH, IF THERE IS UNCLEANNESS IN THE HOUSE,[2] WHAT IS DIRECTLY [BELOW] THE HATCHWAY REMAINS CLEAN.[3] IF THE UNCLEANNESS IS DIRECTLY [BELOW] THE HATCHWAY, THE HOUSE REMAINS CLEAN. IF THE UNCLEANNESS IS EITHER IN THE HOUSE OR DIRECTLY [BELOW] THE HATCHWAY, AND A PERSON PLACED HIS FOOT ABOVE [THE HATCHWAY]. HE HAS COMBINED[4] [WITH THE ROOF TO BRING] UNCLEANNESS. IF PART OF THE UNCLEANNESS IS IN THE ROOM AND PART OF IT DIRECTLY [BELOW] THE HATCHWAY,[5] THE HOUSE BECOMES UNCLEAN AND WHAT IS DIRECTLY [AGAINST] THE UNCLEANNESS BECOMES UNCLEAN.[6]

MISHNAH 2. [IN THE CASE WHERE] THE HATCHWAY HAS NOT AN OPENING OF A [SQUARE] HANDBREADTH, IF THERE IS UNCLEANNESS IN THE HOUSE, WHAT IS DIRECTLY [BELOW] THE HATCHWAY REMAINS CLEAN. IF THE UNCLEANNESS IS DIRECTLY [BELOW] THE HATCHWAY, THE HOUSE REMAINS CLEAN.[7] [IN THE CASE WHERE] THE UNCLEANNESS IS IN THE HOUSE, IF HE PLACED HIS LEG ABOVE [THE HATCHWAY]. HE REMAINS CLEAN.[8] [IN THE CASE WHERE] THE UNCLEANNESS IS DIRECTLY [BELOW] THE HATCHWAY, IF HE PLACED HIS LEG ABOVE IT, R. MEIR DECLARES [HIM] UNCLEAN, BUT THE SAGES SAY: IF THE UNCLEANNESS WAS [IN POSITION] BEFORE HIS LEG, HE BECOMES UNCLEAN,[9] BUT IF HIS LEG WAS [IN POSITION] BEFORE THE UNCLEANNESS, HE REMAINS CLEAN.[10] R. SIMEON SAYS: [IN THE CASE WHERE] TWO [MEN'S] LEGS, ONE ABOVE THE OTHER, WERE [IN POSITION] BEFORE THE UNCLEANNESS. IF THE FIRST PERSON WITHDREW HIS LEG AND THE OTHER PERSON'S LEG WAS STILL THERE, [THE SECOND] REMAINS CLEAN, BECAUSE THE FIRST PERSON'S LEG WAS [IN POSITION] BEFORE THE UNCLEANNESS.[11]

MISHNAH 3. IF PART OF THE UNCLEANNESS IS IN THE HOUSE AND PART DIRECTLY [BELOW] THE HATCHWAY,[12] THE HOUSE BECOMES UNCLEAN, AND WHAT IS DIRECTLY [ABOVE] THE UNCLEANNESS BECOMES UNCLEAN.[13] THIS IS THE OPINION OF R. MEIR. R. JUDAH SAYS: THE HOUSE BECOMES UNCLEAN BUT WHAT IS DIRECTLY [ABOVE] THE UNCLEANNESS REMAINS CLEAN.[14] R. JOSE SAYS: IF THERE IS SUFFICIENT[15] OF THE UNCLEANNESS FOR IT TO BE DIVIDED SO THAT [ONE PART] DEFILES THE HOUSE AND [THE OTHER PART] DEFILES WHAT IS DIRECTLY [ABOVE] THE UNCLEANNESS,[16] [BOTH SPACES] BECOME UNCLEAN; IF NOT, THE HOUSE BECOMES UNCLEAN BUT WHAT IS DIRECTLY [ABOVE] THE UNCLEANNESS REMAINS CLEAN.

MISHNAH 4. [IN THE CASE OF] MANY HATCHWAYS, ONE ABOVE THE OTHER,[17] HAVING AN OPENING OF ONE HANDBREADTH [SQUARE], IF THERE IS UNCLEANNESS IN THE HOUSE,[18] WHAT IS DIRECTLY [BELOW] THE HATCHWAYS REMAINS CLEAN. IF THE UNCLEANNESS IS DIRECTLY [BELOW] THE HATCHWAYS, THE HOUSE REMAINS CLEAN. [IN THE CASE] WHERE THE UNCLEANNESS IS EITHER IN THE HOUSE OR DIRECTLY [BELOW] THE HATCHWAYS, IF AN ARTICLE SUSCEPTIBLE TO UNCLEANNESS WERE PLACED EITHER IN THE UPPER OR THE LOWER [HATCHWAY], ALL BECOMES UNCLEAN.[19] IF THE ARTICLE IS INSUSCEPTIBLE TO UNCLEANNESS, WHAT IS BELOW BECOMES UNCLEAN,[20] BUT WHAT IS ABOVE REMAINS CLEAN.[21]

MISHNAH 5. [IN THE CASE] WHERE THE HATCHWAYS HAVE NOT AN OPENING OF A SQUARE HANDBREADTH, IF THERE IS UNCLEANNESS IN THE HOUSE, WHAT IS DIRECTLY [BELOW] THE HATCHWAYS REMAINS CLEAN. IF THERE IS UNCLEANNESS DIRECTLY [BELOW] THE HATCHWAYS, THE HOUSE REMAINS CLEAN. [IN THE CASE]

WHERE THE UNCLEANNESS IS IN THE HOUSE,[22] IF AN ARTICLE WHETHER SUSCEPTIBLE TO UNCLEANNESS OR INSUSCEPTIBLE TO UNCLEANNESS WAS PLACED EITHER IN THE UPPER OR THE LOWER [HATCHWAY], NOTHING BECOMES UNCLEAN EXCEPT THE LOWER STOREY.[23] [IN THE CASE] WHERE THE UNCLEANNESS IS DIRECTLY [BELOW] THE HATCHWAYS, IF AN ARTICLE SUSCEPTIBLE TO UNCLEANNESS WERE PLACED EITHER IN THE UPPER OR LOWER [HATCHWAY], EVERYTHING BECOMES UNCLEAN.[24] IF THE ARTICLE IS INSUSCEPTIBLE TO UNCLEANNESS, WHETHER [IT IS PLACED] IN THE UPPER OR LOWER [HATCHWAY], NOTHING BECOMES UNCLEAN EXCEPT THE LOWER STOREY.[25]

MISHNAH 6. [WITH REGARD TO] A HATCHWAY IN A HOUSE WITH A POT SO PLACED BELOW IT THAT, IF IT WAS RAISED, ITS RIMS WOULD NOT TOUCH THE [EDGES OF THE] HATCHWAY, IF THERE IS UNCLEANNESS BELOW, WITHIN OR ABOVE [THE POT], THE UNCLEANNESS CLEAVES UPWARDS AND DOWNWARDS.[26] [IN THE CASE] WHERE [THE POT] WAS ONE HANDBREADTH HIGH OFF THE GROUND, IF THERE IS UNCLEANNESS BELOW IT OR IN THE HOUSE, WHAT IS BELOW IT AND IN THE HOUSE BECOMES UNCLEAN,[27] BUT WHAT IS WITHIN [THE POT] OR ABOVE IT, REMAINS CLEAN.[28] [IF THE UNCLEANNESS IS] WITHIN OR ABOVE [THE POT], EVERYTHING BECOMES UNCLEAN.[29]

MISHNAH 7. [IN THE CASE WHERE THE POT WAS] SO PLACED ON THE SIDE OF THE THRESHOLD[30] SO THAT IF IT WAS RAISED IT WOULD TOUCH THE LINTEL OVER A [SPACE OF A SQUARE] HANDBREADTH,[31] IF THERE IS UNCLEANNESS BELOW, WITHIN OR ABOVE [THE POT], THE UNCLEANNESS CLEAVES UPWARDS AND DOWNWARDS. [IN THE CASE] WHERE IT WAS ONE HANDBREADTH HIGH OFF THE GROUND, IF THERE IS UNCLEANNESS BELOW IT OR IN THE HOUSE, WHAT IS BELOW IT AND IN THE HOUSE BECOMES UNCLEAN. IF THE UNCLEANNESS IS WITHIN OR ABOVE [THE POT], EVERYTHING BECOMES UNCLEAN.[32] [IN THE CASE WHERE THE POT] IF RAISED WOULD NOT TOUCH THE LINTEL OVER A [SPACE OF A SQUARE] HANDBREADTH, OR IS JOINED TO THE LINTEL,[33] IF THERE IS UNCLEANNESS BELOW IT, NOTHING IS UNCLEAN EXCEPT WHAT IS BELOW [THE POT].[34]

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(1) In the roof, giving access to the open air.

(2) under the roof away from the hatchway.

(3) Not being overshadowed.

(4) Cf. supra VI, 1. The man's foot has combined with the roof to form a ‘tent’ For the uncleanness and everything in the room, even what is directly below the hatchway, is unclean.

(5) Although the whole does not exceed an olive's hulk, so that neither part has sufficient to convey uncleanness.

(6) Since vessels overshadowing but a portion of the prescribed minimum of uncleanness present (cf. supra III, 4) become unclean.

(7) These rules are the same as in Mishnah 1.

(8) No uncleanness escapes through a hole less than a square handbreadth in area (Tosef. XI, 7) but all the house becomes unclean as in Mishnah 1 by combination of Foot with roof.

(9) because it overshadowed uncleanness.

(10) Because his leg had already combined to Form a complete ‘tent’ before the uncleanness had come, and the latter cannot escape now through a hole of less than a square handbreadth in a valid ‘tent’.

(11) He is not regarded as coming into position after the uncleanness.

(12) Of less than a square handbreadth in size.

(13) V. Mishnah 1, n, 6.

(14) Any continuation of a portion of uncleanness not being able to defile through an opening of less than a handbreadth.

(15) I.e., a minimum of twice the size of an olive.

(16) Though they are not so divided in fact.

(17) One in the ceiling of the ground floor and the other in the roof, vertically above the first.

(18) Not under the hatchways.

(19) Including whatever is in the house, the article placed over the hatchway Forming a ‘tent’ overshadowing all. Even if the article was only in the lower hatchway the upper storey would become unclean, seeing that the article is susceptible to uncleanness and cannot therefore screen the upper storey, and hence is regarded as being in the upper hatchway (Bert.). ‘

(20) Being overshadowed by the article.

(21) It Forms a valid screen.

(22) In the lower storey.

(23) The uncleanness being unable to escape through an opening of less than a square handbreadth.

(24) As in Mishnah 4.

(25) Where the uncleanness is, the article screening.

(26) Even penetrating the earthenware pot which normally cannot be defiled From its outside.

(27) Since the pot combines with the roof and brings the uncleanness by overshadowing.

(28) The pot screening in conjunction with the walls of the house (cf. supra V, 5).

(29) I.e.,the pot, which consequently cannot serve as a screen, and hence all else in the house as in Mishnah 4.

(30) I.e., on the outer side of the house where also the uncleanness was.

(31) It is a case where the pot was wider below and getting narrower towards the opening, so that when it is raised the opening would be entirely outside the lintel, whereas the bottom part would still be covering the lintel over the space of a handbreadth.

(32) As in Mishnah 6, n. 4.

(33) In such a manner as not to touch a handbreadth of the lintel,

(34) Since there is no handbreadth under the lintel the uncleanness does not pass into the house and consequently what is within and above the pot is clean.

Mishna - Mas. Oholoth Chapter 11

MISHNAH 1. [WITH REGARD TO] A HOUSE, [WHOSE ROOF] HAS BEEN SPLIT [INTO TWO].[1] IF THERE IS UNCLEANNESS IN THE OUTER [PART].[2] VESSELS IN THE INNER [PART] REMAIN CLEAN.[3] IF THE UNCLEANNESS IS IN THE INNER [PART]. VESSELS IN THE OUTER [PART ARE DECLARED CLEAN]. ACCORDING TO BETH SHAMMAI, WHEN THE SPLIT IS FOUR HANDBREADTHS WIDE;[4] BUT BETH HILLEL SAY: [WHEN THE SPLIT IS OF] ANY SIZE.[5] R. JOSE SAYS IN THE NAME OF BETH HILLEL: [WHEN IT IS] ONE HANDBREADTH WIDE.

MISHNAH 2. [WITH REGARD TO] A PORTICO WHICH HAS BEEN SPLIT [INTO TWO]. IF THERE IS UNCLEANNESS ON THE ONE SIDE,[6] VESSELS ON THE OTHER SIDE REMAIN CLEAN.[7] IF A PERSON PLACED HIS LEG OR A REED ABOVE [THE SPLIT],[8] HE HAS COMBINED [WITH THE ROOF TO BRING THE] UNCLEANNESS.[9] IF HE PLACED THE REED ON THE GROUND,[10] IT DOES NOT FORM A PASSAGE FOR THE UNCLEANNESS, [NOR CAN IT DO SO] UNTIL IT IS ONE HANDBREADTH OFF THE GROUND.[11]

MISHNAH 3. A THICK WOOLLEN BLANKET OR A THICK WOODEN BLOCK[12] CANNOT FORM A PASSAGE FOR UNCLEANNESS[13] UNLESS THEY ARE ONE HANDBREADTH HIGH OFF THE GROUND. IF [GARMENTS] ARE FOLDED ONE ABOVE THE OTHER THEY CANNOT FORM A PASSAGE FOR THE UNCLEANNESS UNLESS THE UPPERMOST IS ONE HANDBREADTH HIGH OFF THE GROUND.[14] IF A PERSON WERE PLACED THERE,[15] BETH SHAMMAI SAY: HE CANNOT FORM A PASSAGE FOR THE UNCLEANNESS. BUT BETH HILLEL SAY: A MAN IS HOLLOW AND HIS UPPERMOST SURFACE FORMS A PASSAGE FOR THE UNCLEANNESS.

MISHNAH 4. IF A PERSON WAS LOOKING OUT OF A WINDOW AND OVERSHADOWED A FUNERAL PROCESSION,[16] BETH SHAMMAI SAY: HE DOES NOT FORM A PASSAGE FOR THE UNCLEANNESS.[17] BUT BETH HILLEL SAY: HE DOES FORM A PASSAGE FOR THE UNCLEANNESS. THEY AGREE THAT IF HE WAS DRESSED IN HIS CLOTHES OR IF THERE WERE TWO PERSONS, ONE ABOVE THE OTHER, THESE[18] FORM A PASSAGE FOR THE UNCLEANNESS.[19]

MISHNAH 5. [IN THE CASE] WHERE THE PERSON WAS LYING ON THE THRESHOLD AND THE FUNERAL PROCESSION OVERSHADOWED HIM,[20] BETH SHAMMAI SAY: HE DOES NOT FORM A PASSAGE FOR THE UNCLEANNESS.[21] BUT BETH HILLEL SAY: HE DOES FORM A PASSAGE FOR THE UNCLEANNESS.

MISHNAH 6. [IN THE CASE] WHERE THE UNCLEANNESS WAS IN THE HOUSE AND CLEAN PERSONS OVERSHADOWED HIM,[22] BETH SHAMMAI DECLARE THEM CLEAN, BUT BETH HILLEL DECLARE THEM UNCLEAN.[23]

MISHNAH 7. [WITH REGARD TO] A DOG WHICH HAD EATEN THE FLESH OF A CORPSE, HAD [SUBSEQUENTLY] DIED[24] AND WAS LYING OVER THE THRESHOLD, R. MEIR SAYS: IF ITS NECK HAS A THICKNESS OF ONE HANDBREADTH IT CAN FORM A PASSAGE FOR THE UNCLEANNESS, BUT IF NOT, IT CANNOT FORM A PASSAGE FOR THE UNCLEANNESS. R. JOSE SAYS: WE [EXAMINE TO] SEE WHERE THE UNCLEANNESS IS. [IF IT LIES FROM BENEATH] THE LINTEL INWARDS, THE HOUSE BECOMES UNCLEAN; [FROM BENEATH] THE LINTEL OUTWARDS, THE HOUSE REMAINS CLEAN. R. ELIEZER SAYS: IF ITS MOUTH [POINTS] INWARDS, THE HOUSE REMAINS CLEAN; IF ITS MOUTH [POINTS] OUTWARDS, THE HOUSE BECOMES UNCLEAN, SINCE THE UNCLEANNESS PROCEEDS FORTH THROUGH ITS HINDER

PARTS. R. JUDAH B. BATHYRA SAYS: WHETHER THE ONE [CONDITION] OR THE OTHER [APPLIES]. THE HOUSE BECOMES UNCLEAN.[25] HOW LONG SHOULD [THE UNCLEANNESS] HAVE REMAINED IN ITS ENTRAILS?[26] THREE WHOLE DAYS.[27] [IN THE CASE OF THE UNCLEANNESS BEING IN THE ENTRAILS] OF FISHES OR BIRDS, AS LONG AS [IT TAKES FOR THE UNCLEANNESS] TO FALL IN THE FIRE AND BE CONSUMED; SO R. SIMEON. R. JUDAH B. BATHYRA SAYS: IN THE CASE OF FISHES OR BIRDS, TWENTY-FOUR HOURS.

MISHNAH 8. WITH REGARD TO A CELLAR[28] IN A HOUSE,[29] WITH A CANDLESTICK [STANDING] THEREIN WHOSE CALYX[30] PROTRUDES[31] AND [SUPPORTS] AN OLIVE-BASKET SO PLACED THAT IF THE CANDLESTICK IS TAKEN AWAY THE OLIVE-BASKET WOULD STILL REMAIN OVER THE MOUTH OF THE CELLAR,[32] BETH SHAMMAI SAY: THE CELLAR REMAINS CLEAN[33] BUT THE CANDLESTICK BECOMES UNCLEAN.[34] BETH HILLEL SAY: THE CANDLESTICK ALSO REMAINS CLEAN. BUT THEY AGREE THAT IF THE OLIVE-BASKET WOULD FALL [INTO THE CELLAR] IF THE CANDLESTICK WAS TAKEN AWAY, ALL WOULD BECOME UNCLEAN.

MISHNAH 9. VESSELS [THAT ARE] BETWEEN THE RIMS OF THE OLIVE-BASKET[35] AND THE RIMS OF THE CELLAR, EVEN TO THE NETHERMOST DEEP,[36] REMAIN CLEAN.[37] IF THERE IS UNCLEANNESS IN THE CELLAR, THE HOUSE BECOMES UNCLEAN.[38] IF THERE IS UNCLEANNESS IN THE HOUSE, VESSELS IN THE WALLS OF THE CELLAR[39] REMAIN CLEAN, IF THE PLACE WHERE THEY ARE HAS A CONTENT OF ONE CUBIC HANDBREADTH;[40] IF NOT, THEY BECOME UNCLEAN. IF THE WALLS OF THE CELLAR ARE WIDER [APART][41] THAN THOSE OF THE HOUSE, IN EITHER CASE THE VESSELS REMAIN CLEAN.[42]

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(1) Two separate ‘tents’ thus being formed.

(2) Nearer the exit of the house.

(3) Because the uncleanness goes out by the exit and not into the inner portion. however narrow the split.

(4) The uncleanness can be taken out through the wide split.

(5) Subject to a minimum thickness of a plumb-line (Tosef.).

(6) Of the split.

(7) Cf. n. 3 mut. mut.

(8) Either in the case of the house or portico.

(9) Cf. supra X, 1.

(10) Directly below the split.

(11) And thus forming a common ‘tent’ with the roof connecting both parts of the house.

(12) כופת from כפת ‘to invert’, a wooden block used as a low seat.

(13) Even though one handbreadth high and placed directly below the split.

(14) Rather: they form a passage for the uncleanness if only the uppermost is one handbreadth high from the ground (Wilna Gaon).

(15) Directly under the object. V. ‘Ed. IV, 12.

(16) And the corpse.

(17) Sc. into the house from which he was looking out. because he is not one handbreadth high above the sill. Beth Shammai differ from Beth Hillel and do not regard the man as being hollow, and his body forms a partition between the corpse and the house.

(18) The garments or the upper person.

(19) Since these are one handbreadth above the sill.

(20) And the corpse.

(21) To bring it into the house, as in Mishnah 4.

(22) The person described in Mishnah 5.

(23) Each school in accordance with its respective view in Mishnahs 4 and 5.

(24) If the dog was alive, any uncleanness that it had swallowed would not defile (v. Hul. 71b).
(25) For notes on this Mishnah v. Hul., Sonc. ed., p. 126a.
(26) Before the dog died so that it would have time to be digested.
(27) V. Shab. 155b for a Talmudic statement based upon this observation.
(28) חדות The same word as דות supra V, 6.
(29) In which there is a corpse.
(30) פרח Cf. Kei. XI, 7. The flower-shaped structure which holds the lamp.
(31) Into the house.
(32) I.e., it would not fall down into the cellar.
(33) Being protected by the olive-basket.
(34) Being made of metal and protruding into the house.
(35) That was not supported by the candlestick.
(36) I.e., even those in the ground.
(37) The basket affording protection otherwise the corpse uncleanness In the house would spread to the vessels in the ground of the cellar, v. infra XV, 5.
(38) Cf. supra IV, 1.
(39) I.e., those parts which are not covered by the basket, the basket being round, whereas the cellar is square, so that the corners of the opening the latter remain uncovered.
(40) V. supra III, 7.
(41) So that the cellar walls are not the continuation of the walls of the house.
(42) In this case the walls of the cellar are not regarded at all as part of the house.

Mishna - Mas. Oholoth Chapter 12

MISHNAH 1. [WITH REGARD TO] A BOARD PLACED OVER THE MOUTH OF A NEW[1] OVEN,[2] OVERLAPPING IT ON ALL SIDES TO THE EXTENT OF A HANDBREADTH, IF THERE IS UNCLEANNESS BENEATH [THE BOARD]. VESSELS ABOVE IT REMAIN CLEAN; IF THERE IS UNCLEANNESS ABOVE IT, VESSELS BENEATH IT REMAIN CLEAN.[3] IN THE CASE OF AN OLD OVEN, THEY BECOME UNCLEAN.[4] R. JOHANAN B. NURI DECLARES THEM CLEAN.[5] [IN THE CASE WHERE THE BOARD] IS PLACED OVER THE MOUTH OF TWO [OLD] OVENS, IF THERE IS UNCLEANNESS BETWEEN THEM, THEY BECOME UNCLEAN. R. JOHANAN B. NURI DECLARES THEM CLEAN.

MISHNAH 2. [WITH REGARD TO] A COLANDER[6] PLACED[7] OVER THE MOUTH OF AN OVEN, [SO THAT THIS IS] CLOSED WITH A SEALED LID,[8] IF THERE IS UNCLEANNESS BELOW OR ABOVE IT, EVERYTHING BECOMES UNCLEAN; BUT WHAT IS DIRECTLY [ABOVE] THE AIR-SPACE OF THE OVEN REMAINS CLEAN.[9] IF THERE IS UNCLEANNESS DIRECTLY [ABOVE] THE AIR-SPACE OF THE OVEN, EVERYTHING DIRECTLY ABOVE IT EVEN TO THE SKY BECOMES UNCLEAN.

MISHNAH 3. [IN THE CASE WHERE] THE BOARD PLACED OVER THE MOUTH OF AN OLD OVEN PROJECTS FROM EITHER [END] TO THE EXTENT OF ONE HAND BREADTH BUT NOT FROM THE SIDES, IF THERE IS UNCLEANNESS UNDER ONE END [OF THE BOARD]. VESSELS [UNDER] THE OTHER END REMAIN CLEAN.[10] R. JOSE DECLARES THEM UNCLEAN.[11] A BATH[12] DOES NOT FORM A PASSAGE FOR UNCLEANNESS.[13] IF THERE WAS A BRACKET[14] IN IT, R. ELIEZER SAYS: IT [STILL] DOES NOT FORM A PASSAGE FOR THE UNCLEANNESS. R. JOSHUA SAYS: THE BATH IS REGARDED AS NOT BEING THERE, AND THE BRACKET ABOVE FORMS A PASSAGE FOR THE UNCLEANNESS.

MISHNAH 4. [WITH REGARD TO] THE SHOE[15] OF A CRADLE,[16] FOR WHICH A HOLE HAD BEEN MADE [IN THE CEILING TO BRING IT] INTO THE HOUSE [BELOW],[17] IF [THE

HOLE] IS ONE HANDBREADTH SQUARE, EVERYTHING[18] BECOMES UNCLEAN;[19] BUT IF IT WAS NOT [ONE HANDBREADTH SQUARE]. ITS [UNCLEANNESS] IS COMPUTED AS ONE RECKONS WITH [CASES OF CONTACT WITH] A CORPSE.[20]

MISHNAH 5. [WITH REGARD TO] THE ROOF BEAMS[21] OF THE HOUSE AND OF THE UPPER STOREY WHICH HAVE NO CEILING-WORK UPON THEM AND ARE IN A LINE, [THE UPPER ONES EXACTLY ABOVE THE LOWER]. IF THERE IS UNCLEANNESS BENEATH ONE OF THEM, ALL BENEATH THAT ONE BECOMES UNCLEAN. IF IT IS BETWEEN A LOWER AND AN UPPER [BEAM]. WHAT IS BETWEEN THEM BECOMES UNCLEAN. IF IT IS ABOVE THE UPPER [ROOF BEAMS], WHAT IS DIRECTLY ABOVE TO THE SKY BECOMES UNCLEAN. [IN THE CASE] WHERE THE UPPER [ROOF BEAMS] WERE [OVER THE GAPS] BETWEEN THE LOWER [ROOF BEAMS],[22] IF THERE IS UNCLEANNESS BENEATH ONE OF THEM, WHAT IS BENEATH ALL OF THEM BECOMES UNCLEAN; IF ABOVE THEM, WHAT IS DIRECTLY ABOVE TO THE SKY BECOMES UNCLEAN.

MISHNAH 6. [WITH REGARD TO] A BEAM WHICH IS PLACED ACROSS FROM ONE WALL TO ANOTHER AND WHICH HAS UNCLEANNESS BENEATH IT, IF IT IS ONE HANDBREADTH WIDE, IT CONVEYS THE UNCLEANNESS TO ALL BENEATH IT; IF IT IS NOT [ONE HANDBREADTH WIDE], THE UNCLEANNESS CLEAVES UPWARDS AND DOWNWARDS. HOW MUCH MUST ITS CIRCUMFERENCE BE SO THAT ITS WIDTH SHOULD BE ONE HANDBREADTH? IF IT IS ROUND, ITS CIRCUMFERENCE MUST BE THREE HANDBREADTHS; IF SQUARE, FOUR HANDBREADTHS, SINCE A SQUARE HAS A [CIRCUMFERENCE] ONE QUARTER GREATER THAN [THAT OF] A CIRCLE.[23]

MISHNAH 7. [WITH REGARD TO] A PILLAR LYING [ON ITS SIDE] IN THE OPEN AIR, IF ITS CIRCUMFERENCE IS TWENTY-FOUR HANDBREADTHS, IT FORMS A PASSAGE FOR UNCLEANNESS FOR ALL BENEATH ITS SIDE;[24] BUT IF IT IS NOT, THE UNCLEANNESS CLEAVES UPWARDS AND DOWNWARDS.

MISHNAH 8.IF AN OLIVE-SIZED PORTION OF A CORPSE ADHERES TO THE THRESHOLD,[25] R. ELIEZER DECLARES THE HOUSE UNCLEAN. R. JOSHUA DECLARES IT CLEAN. IF IT WAS PLACED BENEATH THE THRESHOLD, THE [CASE] IS JUDGED BY THE HALF [IN WHICH THE UNCLEANNESS IS].[26] IF IT IS ADHERING TO THE LINTEL, THE HOUSE BECOMES UNCLEAN. R. JOSE DECLARES IT CLEAN. IF IT WAS IN THE HOUSE, A PERSON TOUCHING THE LINTEL BECOMES UNCLEAN.[27] [AS FOR] A PERSON TOUCHING THE THRESHOLD, R. ELIEZER DECLARES HIM UNCLEAN. R. JOSHUA SAYS: [IF HE TOUCHES IT AT A POINT] BELOW A HANDBREADTH [FROM THE UPPER SURFACE]. HE REMAINS CLEAN; ABOVE THAT HANDBREADTH HE BECOMES UNCLEAN.[28]

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(1) One not yet kindled (v. Kel. V, 1). It is not reckoned a vessel and is unsusceptible to uncleanness; hence it can protect against uncleanness.

(2) Standing in the open air,

(3) The board and new oven serving as a screen.

(4) Heated ovens are vessels susceptible to uncleanness and hence (v. supra VI, 2) serve as ‘tents’ to bring uncleanness, but not to protect against it.

(5) Ovens differing, in his opinion, from other vessels in respect of the law laid down in VI, 1, being completely attached to the ground.

(6) Cf. supra V, 6.

(7) In the same position as the board in Mishnah 1.

(8) As in Kel. IX. 7.

(9) Since the air-space itself remains clean because of the sealed lid.

(10) The board affording no passage for the uncleanness and the oven serving as partition between the two ‘tents’ formed by each projection.

(11) In his view the oven forms no partition.

(12) Attached to the ground, בטח Some readings have אבטח ‘Aruch gives a cognate Arabic root meaning ‘a bath’ or ‘sill’, whence Bert. renders ‘bath’ and Maim. ‘windowsill’.

(13) If there is a board placed over it projecting at both ends.

(14) זיז found also in supra VIII, 2 meaning ‘wall-projection’. The bracket overlies the whole length of the bath and the board is over the bracket.

(15) סנדל ‘sandal’, explained as metal shoe placed under the cradle legs for protection or adornment.

(16) Placed in the upper storey.

(17) Where there is a corpse.

(18) In the upper storey. Var. lec.: it forms a passage for the uncleanness.

(19) The shoe affording no protection.

(20) The shoe and cradle acquiring seven-day uncleanness, and the child in it uncleanness lasting till evening (v. supra I, 2).

(21) Each of one handbreadth in width.

(22) And were of the same size as those gaps.

(23) Of a diameter equal to the side of the square. The circumference of the square is four handbreadths and of the circle, three, using the simplified calculation employed in the Talmud here and elsewhere (‘Er. I, 5; Suk. 7b).

(24) Such a pillar has, according to the Rabbinic reckoning, a diameter of eight handbreadths. When a circle of this size is inscribed in a square, there is sufficient space in the corners between the circle and the square to inscribe a smaller square with a side of one handbreadth. Therefore under a pillar of these dimensions a space of one cubic handbreadth, the minimum size of a shelter for uncleanness, can be found. Mathematically computed, the side of the smaller square inscribed in the corner between a circle and the circumscribed square has a relation to the side of the larger square of 1: 4+2/2. The circle thus has a circumference Gr. ** (4+2/2) times the side of the smaller square. If that side was one handbreadth, the circumference would be approximately twenty-one and a half handbreadths. The measurement in our Mishnah is thus slightly too large. V. figure given by Hoffmann (Itzkowski-Kanel ed. Mishnah VI, 2 p. 210).

(25) Outside the door jamb and not under the lintel.

(26) Only the inner half of the threshold being reckoned with the inside of the house.

(27) cf. supra VII, 3.

(28) Cf. supra IX, 15.

Mishna - Mas. Oholoth Chapter 13

MISHNAH 1. [WITH REGARD TO] A LIGHT HOLE NEWLY MADE, ITS MINIMUM SIZE[1] IS THAT OF A HOLE MADE BY THE LARGE DRILL OF THE TEMPLE CHAMBER.[2] [IN THE CASE OF] THE RESIDUE OF A LIGHT-HOLE[3] [THE SIZE IS] TWO FINGERBREADTHS HIGH BY A THUMB-BREADTH BROAD. THE FOLLOWING IS CONSIDERED A RESIDUE OF A LIGHT-HOLE A WINDOW THAT A PERSON HAD BLOCKED UP BUT HAD NOT BEEN ABLE TO FINISH. [IN THE CASE OF A HOLE] BORED BY WATER, OR BY REPTILES. OR EATEN AWAY BY SALTPETRE. THE MINIMUM SIZE IS THAT OF A FIST.[4] IF THE HOLE HAD BEEN INTENDED FOR [DOMESTIC] USE, ITS MINIMUM SIZE IS ONE HANDBREADTH SQUARE; FOR LIGHTING. ITS MINIMUM SIZE IS THAT OF A HOLE MADE BY THE DRILL. THE HOLES IN GRATING[5] OR LATTICE-WORK[6] MAY BE JOINED TOGETHER TO FORM [AN OPENING] THE SIZE OF A HOLE MADE BY THE DRILL, ACCORDING TO THE OPINION OF BETH SHAMMAI. BETH HILLEL SAY: [NOTHING CAN BE RECKONED] UNLESS THERE IS A HOLE OF THE SIZE MADE BY THE DRILL IN ONE PLACE. [THE FOREGOING SIZES APPLY] FOR PURPOSES OF ALLOWING THE UNCLEANNESS TO COME IN OR TO GO OUT.[7] R. SIMEON SAYS: ONLY FOR ALLOWING THE UNCLEANNESS TO COME IN; BUT FOR ALLOWING THE UNCLEANNESS TO GO OUT [THE MINIMUM SIZE] IS ONE HANDBREADTH SQUARE.

MISHNAH 2. [WITH REGARD TO] A WINDOW MADE FOR LETTING IN AIR, ITS MINIMUM SIZE IS THAT OF A HOLE MADE BY THE DRILL. IF A HOUSE WAS BUILT OUTSIDE IT, ITS MINIMUM SIZE BECOMES ONE HANDBREADTH SQUARE. IF THE ROOF[8] WAS PLACED AT THE HEIGHT OF THE MIDDLE OF THE WINDOW, THE MINIMUM SIZE OF THE LOWER PART IS ONE HANDBREADTH SQUARE AND OF THE UPPER PART THAT OF A HOLE MADE BY THE DRILL.

MISHNAH 3. [WITH REGARD TO] A HOLE IN THE DOOR, ITS MINIMUM SIZE IS THAT OF A FIST. THIS IS THE OPINION OF R. AKIBA. R. TARFON SAYS: ONE HANDBREADTH SQUARE. IF THE CARPENTER HAD LEFT A SPACE AT THE BOTTOM OR THE TOP [OF THE DOOR]. OR IF ONE HAD SHIFT [THE DOOR] BUT NOT CLOSED IT TIGHTLY,[9] OR IF THE WIND BLEW IT OPEN, THE MINIMUM SIZE IS THAT OF A FIST.

MISHNAH 4. IF A PLACE[10] WAS MADE FOR A ROD, A STAVE,[11] OR A LAMP, THE MINIMUM SIZE IS WHATEVER IS NEEDFUL, ACCORDING TO THE OPINION OF BETH SHAMMAI. BETH HILLEL SAY: ONE HANDBREADTH SQUARE. [IF IT WAS MADE] FOR A PEEP-HOLE,[12] FOR SPEAKING THROUGH TO HIS FELLOW, OR FOR [DOMESTIC] USE, THE MINIMUM SIZE IS ONE HANDBREADTH SQUARE.

MISHNAH 5. THE FOLLOWING [OBJECTS SERVE TO] REDUCE [THE AREA OF A SQUARE] HANDBREADTH:[13] [A PORTION] OF LESS THAN AN OLIVE-SIZE OF FLESH [OF A CORPSE] REDUCES [THE OPENING FOR UNCLEANNESS THAT IS] CAUSED BY A QUARTER OF A KAB OF BONES[14] [FROM A CORPSE]; [A PORTION] OF LESS THAN A BARLEY-CORN SIZE OF BONE REDUCES [THE OPENING FOR UNCLEANNESS THAT IS] CAUSED BY AN OLIVE-SIZED PORTION OF Flesh; LESS THAN AN OLIVE-SIZED PORTION OF A CORPSE,[15] LESS THAN AN OLIVE-SIZED PORTION OF CARRION, LESS THAN A LENTIL-SIZED PORTION OF REPTILE, LESS THAN AN EGG-SIZED PORTION OF FOOD, A PLANT GROWING AGAINST THE WINDOW,[16] A COBWEB[17] HAVING SUBSTANCE, THE CARCASE OF A CLEAN BIRD THAT HAVE NOT BEEN INTENDED [FOR FOOD],[18] AND THE CARCASE OF AN UNCLEAN BIRD THAT HAD BEEN INTENDED [FOR FOOD] THAT HAD NOT BEEN RENDERED SUSCEPTIBLE [TO UNCLEANNESS], OR WHICH HAD BEEN RENDERED SUSCEPTIBLE [TO UNCLEANNESS] BUT HAD NOT BEEN INTENDED [FOR FOOD].[19]

MISHNAH 8. THE FOLLOWING CANNOT REDUCE [THE AFORESAID AREA]: BONE CANNOT REDUCE [THE AREA] FOR [OTHER] BONES;[20] NOR [CORPSE] FLESH FOR [OTHER] FLESH; NOR AN OLIVE-SIZED [PORTION] OF A CORPSE, NOR AN OLIVE-SIZED PORTION OF CARRION, NOR A LENTIL-SIZED PORTION OF REPTILE, NOR AN EGG-SIZED PORTION OF FOOD, NOR A PLANT GROWING IN THE WINDOWS,[21] NOR A COBWEB HAVING NO SUBSTANCE, NOR THE CARCASE OF A CLEAN BIRD WHICH HAD BEEN INTENDED [FOR FOOD], NOR THE CARCASE OF AN UNCLEAN BIRD WHICH HAD BEEN INTENDED [FOR FOOD] AND HAD BEEN RENDERED SUSCEPTIBLE TO UNCLEANNESS, NOR WARP AND WOOF THREADS SMITTEN WITH PLAGUE,[22] NOR A BRICK FROM A BETH PERAS.[23] [THIS LAST IS] THE OPINION OF R. MEIR,[24] BUT THE SAGES SAY: THE BRICK CAN REDUCE, BECAUSE THE DUST [OF THE BETH PERAS] IS CLEAN.[25] THIS IS THE GENERAL RULE: WHAT IS CLEAN REDUCES [THE AREA], AND WHAT IS UNCLEAN DOES NOT REDUCE IT.

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(1) For giving passage to the uncleanness.

(2) V. supra II, 3.

(3) Already made but partially blocked.

(4) Of a giant called Ben Batiah (Kel. XVII, 12).

(5) V. supra VIII, 4. Such as are used for the doors of food safes (Bert.).

(6) רפפות from the root רפף ‘to shake’, hence ‘loosely-moving shutters’. (Tosef. XIV, 3, those of summer houses).

(7) Some commentators refer the ease of going out to that in supra VII, 3.

(8) Of the adjacent house.

(9) מירקה , from מרק ‘to finish’.

(10) I.e, a hole.

(11) The staff with which the weaver beats together the newly spun woof-threads.

(12) לזון את עיניו ‘to feast his eyes’. i.e., to allow of a look-out. Preuss, however, p. 329. translates ‘to nourish the eyes’. i.e., to effect a cure on them.

(13) Making the opening too small to allow passage for the uncleanness.

(14) But nor for an olive-sized portion of flesh, in which case the two portions would combine to convey the uncleanness.

(15) This has already been mentioned, but is repeated here to teach that it reduces the opening in, respect of all things enumerated in II, 1-2, as conveying uncleanness by overshadowing.

(16) But planted some little distance away (according to L. three handbreadths away).

(17) כביי ‘Aruch quotes a cognate Arabic word meaning ‘spider's web’ (so Bert.). In Mel, XVII, 17 the same word, as is shown by the context, means ‘reed-pith’.

(18) And is therefore not yet susceptible to uncleanness. The law's concerning a clean bird are detailed in Toh. I, 1.

(19) Unclean birds require both conditions to be fulfilled, intention for food and predisposition by moisture (Maksh.) as in Toh. 1, 3

(20) V. supra 5, n. 7.

(21) In a part where such a growth is undesirable and would ultimately be removed (Bert).

(22) Which are unclean (Neg. XI, 8).

(23) V. Supra II, 3; infra XVII, 1.

(24) He holds that such bricks are unclean.

(25) When the original clod has been broken up.

Mishna - Mas. Oholoth Chapter 14

MISHNAH 1. A CANOPY[1] FORMS A PASSAGE FOR THE ‘UNCLEANNESS,[2] BE IT OF WHATSOEVER WIDTH;[3] BUT A BALCONY OR ROUNDED [PROJECTION[4] ONLY] WHEN THEY ARE ONE HANDBREADTH WIDE. WHAT IS A CANOPY? THAT [PROJECTION] WHOSE [MAIN] SURFACE FACES DOWNWARDS, WHILE A BALCONY HAS ITS [MAIN] SURFACE FACING UPWARDS. IN WHAT [CIRCUMSTANCES] WAS IT SAID THAT A CANOPY FORMED A PASSAGE FOR UNCLEANNESS BE IT OF WHATSOEVER WIDTH? WITH REGARD TO A CANOPY WHICH IS THREE COURSES,[5] OR TWELVE HANDBREADTHS, ABOVE THE DOORWAY. WHEN HIGHER THAN THAT, IF FORMS A PASSAGE FOR UNCLEANNESS ONLY IF IT IS ONE HANDBREADTH WIDE. CORNICES[6] AND CARVINGS FORM A PASSAGE FOR THE UNCLEANNESS WHEN THEY ARE ONE HANDBREADTH WIDE.

MISHNAH 2. A CANOPY THAT IS ABOVE A DOORWAY FORMS A PASSAGE FOR THE UNCLEANNESS WHEN IT IS ONE HANDBREADTH WIDE;[7] IF ABOVE A WINDOW TWO FINGERBREADTHS HIGH OR THE SIZE OF A HOLE MADE BY A DRILL,[6] WHEN OF ANY WIDTH WHATSOEVER. R. JOSE SAYS: WHEN OF EQUAL SIZE [TO THE PARTICULAR WINDOW].

MISHNAH 3. A ROD ABOVE A DOORWAY,[8] EVEN IF ONE HUNDRED CUBITS HIGHER,[9] FORMS A PASSAGE FOR THE UNCLEANNESS WHEN IT IS OF ANY WIDTH. THIS IS THE OPINION OF R. JOSHUA. R. JOHANAN B. NURI SAYS: LET NOT THIS CASE BE MORE STRINGENT THAN THAT OF A CANOPY.

MISHNAH 4. [IN THE CASE OF] A CANOPY[10] GOING ALL ROUND THE HOUSE, OCCUPYING SPACE ABOVE THE DOORWAY TO THE EXTENT OF [BUT] THREE FINGERBREADTHS, IF THERE IS UNCLEANNESS IN THE HOUSE, VESSELS BENEATH [THE CANOPY] BECOME UNCLEAN.[11] IF THE UNCLEANNESS IS BENEATH [THE CANOPY]. R. ELIEZER DECLARES THE HOUSE UNCLEAN,[12] BUT R. JOSHUA DECLARES IT CLEAN. A SIMILAR [RULE APPLIES] TO A COURTYARD SURROUNDED BY A PORTICO.[13]

MISHNAH 5. [WITH REGARD TO] TWO CANOPIES, ONE [DIRECTLY] ABOVE THE OTHER, HAVING [EACH] A WIDTH OF ONE HANDBREADTH AND THERE BEING A SPACE OF ONE HANDBREADTH BETWEEN THEM, IF THERE IS UNCLEANNESS BENEATH THEM,[14] WHAT IS BENEATH THEM BECOMES UNCLEAN; IF IT IS BETWEEN THEM, WHAT IS BETWEEN THEM BECOMES UNCLEAN; ABOVE THEM,[15] EVERYTHING DIRECTLY [ABOVE] TO THE SKY BECOMES UNCLEAN. [IN THE CASE WHERE] THE UPPER [CANOPY] OVERLAPPED THE LOWER TO THE EXTENT OF ONE HANDBREADTH, IF THERE IS UNCLEANNESS BENEATH OR BETWEEN THEM, WHAT IS BENEATH AND BETWEEN THEM BECOMES UNCLEAN;[16] IF IT IS ABOVE THEM, WHAT IS DIRECTLY [ABOVE] TO THE SKY BECOMES UNCLEAN. [IN THE CASE WHERE] THE UPPER [CANOPY] OVERLAPPED THE LOWER TO AN EXTENT OF LESS THAN A HANDBREADTH, IF THERE IS UNCLEANNESS BENEATH THEM, WHAT IS BENEATH AND BETWEEN THEM BECOMES UNCLEAN; IF IT IS BETWEEN THEM OR BENEATH THE OVERLAPPING [PART]. R. ELIEZER SAYS: WHAT IS BENEATH THEM AND BETWEEN THEM BECOMES UNCLEAN. R. JOSHUA SAYS: WHAT IS BETWEEN THEM AND BENEATH THE OVERLAPPING [PART] BECOMES UNCLEAN, BUT WHAT IS BENEATH [THE LOWER ONE] REMAINS CLEAN.

MISHNAH 6. [IN THE CASE WHERE] THEY HAD A WIDTH OF A HANDBREADTH BUT THERE WAS NOT A SPACE OF A HANDBREADTH BETWEEN THEM, IF THERE IS UNCLEANNESS BENEATH THEM, WHAT IS BENEATH BECOMES UNCLEAN; IF IT IS BETWEEN THEM[17] OR ABOVE THEM, EVERYTHING DIRECTLY [ABOVE] TO THE SKY BECOMES UNCLEAN.[18]

MISHNAH 7. [IN THE CASE WHERE] THEY DID NOT HAVE A WIDTH OF A HANDBREADTH, WHETHER THERE IS A SPACE OF A HANDBREADTH BETWEEN THEM OR WHETHER THERE IS NOT, IF THERE IS UNCLEANNESS BENEATH, BETWEEN OR ABOVE THEM, THE UNCLEANNESS CLEAVES UPWARDS AND DOWNWARDS. A SIMILAR [RULE APPLIES] TO TWO CURTAINS,[19] [THE LOWER ONE OF WHICH IS] ONE HANDBREADTH HIGH OFF THE GROUND.[20]

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(1) V. supra VIII, 2, n. 9. Here it seems to be a kind of ornamental moulding going round the house.

(2) Beneath it, transferring it to the house.

(3) Since it is joined to the house (L.).

(4) גבלית . The cognate Arabic word means ‘hill’. The Tosef. XIV explains it as a balcony rounded off at both ends. The word may be similar to גבן ‘humpy’.

(5) Sc. of bricks. נדבך . Cf. supra VI. I, n. 4.

(6) עטרות , ornaments in the shape of a crown (corana hence cornice) above doorways and windows.

(7) This rule seems to contradict that in the previous Mishnah. Bert. explains this case to apply when the door is closed; L. when the canopy extends over the doorway alone. (8) V. supra XIII, 1.

(8) Placed parallel to the top of the entrance.

(9) In contradistinction to a canopy where there is the limit of twelve handbreadths.

(10) One handbreadth wide (Bert.).

(11) Rendered so by the ultimately emerging uncleanness.
(12) Because of the stringency of the laws applying to canopies of even less than a handbreadth in width (Bert.).
(13) Whose roofed portion extends for three fingerbreadths over the door of a house in the courtyard.
(14) Beneath the lower canopy, and so elsewhere.
(15) Above the upper canopy, and so elsewhere.
(16) The overlapping combining the upper and lower canopies to form a passage for the uncleanness.
(17) Being in a space of less than a cubic handbreadth, the uncleanness cleaves upwards and downwards.
(18) A variant followed by Bert. reads as follows: (In the case where) the canopies had a width of a handbreadth but the spaces were not a handbreadth wide, if there is uncleanness beneath or between them, what is beneath or between them becomes unclean; if it is above, what is directly (above) to the sky becomes unclean. The spaces referred to are those between the canopies and between the lower canopy and the ground. The lower canopy, since there is not a space of a handbreadth below or above it, is treated as non-existent.
(19) Stretched horizontally.
(20) The upper curtain being one handbreadth above the lower.

Mishna - Mas. Oholoth Chapter 15

MISHNAH 1. A THICK WOOLLEN BLANKET OR A THICK WOODEN BLOCK DO NOT FORM A PASSAGE FOR UNCLEANNESS UNLESS THEY ARE ONE HANDBREADTH HIGH OFF THE GROUND. IF [THE GARMENTS] ARE FOLDED ONE ABOVE THE OTHER THEY DO NOT FORM A PASSAGE FOR THE UNCLEANNESS UNLESS THE UPPERMOST IS ONE HANDBREADTH HIGH OFF THE GROUND.[1] TABLETS OF WOOD [PLACED] ONE ABOVE THE OTHER DO NOT FORM A PASSAGE FOR THE UNCLEANNESS UNLESS THE UPPERMOST IS ONE HANDBREADTH HIGH OFF THE GROUND; BUT IF THEY WERE OF MARBLE, THE UNCLEANNESS[2] CLEAVES UPWARDS AND DOWNWARDS.[3]

MISHNAH 2. [WITH REGARD TO] WOODEN TABLETS TOUCHING EACH OTHER AT THEIR CORNERS,[4] AND ONE HANDBREADTH HIGH OFF THE GROUND, IF THERE IS UNCLEANNESS BENEATH ONE OF THEM, [A PERSON] TOUCHING THE SECOND [TABLET][5] BECOMES DEFILED WITH A SEVEN-DAY DEFILEMENT. VESSELS UNDER THE FIRST [TABLET] BECOME UNCLEAN; BUT THOSE UNDER THE SECOND REMAIN CLEAN.[6] A TABLE CANNOT FORM A PASSAGE FOR UNCLEANNESS UNLESS IT CONTAINS A SQUARE? OF ONE HANDBREADTH.

MISHNAH 3. [WITH REGARD TO] JARS STANDING ON THEIR BOTTOMS OR LYING ON THEIR SIDES IN THE OPEN AIR AND TOUCHING ONE ANOTHER TO THE EXTENT OF A HANDBREADTH,[7] IF THERE IS UNCLEANNESS BENEATH ONE OF THEM, THE UNCLEANNESS CLEAVES UPWARDS AND DOWNWARDS.[8] WHEN DOES THIS RULE APPLY? WHEN THE [JARS] ARE CLEAN.[9] BUT IN THE CASE WHERE THEY WERE UNCLEAN[10] OR ONE HANDBREADTH HIGH OFF THE GROUND, IF THERE IS UNCLEANNESS BENEATH ONE OF THEM, WHAT IS BENEATH ALL BECOMES UNCLEAN.

MISHNAH 4. [WITH REGARD TO] A HOUSE,[11] PARTITIONED OFF BY BOARDS OR CURTAINS FROM THE SIDES OR FROM THE ROOF BEAMS,[12] IF THERE IS UNCLEANNESS IN THE HOUSE, VESSELS BEYOND THE PARTITION REMAIN CLEAN.[13] IF THERE IS UNCLEANNESS BEYOND THE PARTITION, VESSELS IN THE HOUSE BECOME UNCLEAN.[14] [WITH REGARD TO] THE VESSELS BEYOND THE PARTITION,[15] IF THERE IS A SPACE OF A [CUBIC] HANDBREADTH THERE, THEY BECOME UNCLEAN, BUT IF NOT, THEY REMAIN CLEAN.[16]

MISHNAH 5. [IN THE CASE WHERE] IT WAS PARTITIONED OFF FROM THE FLOOR, IF

THERE IS UNCLEANNESS BENEATH THE PARTITION, VESSELS IN THE HOUSE BECOME UNCLEAN.[17] [IN THE CASE WHERE] THE UNCLEANNESS IS IN THE HOUSE, VESSELS BENEATH THE PARTITION, IF THERE IS A SPACE THERE OF ONE CUBIC HAND BREADTH, REMAIN CLEAN; BUT IF NOT, THEY BECOME UNCLEAN, SINCE THE FLOOR OF THE HOUSE IS RECKONED AS THE HOUSE EVEN TO THE NETHERMOST DEEP.

MISHNAH 6. [WITH REGARD TO] A HOUSE FILLED WITH STRAW, WITHOUT A SPACE OF A HANDBREADTH [BEING LEFT] BETWEEN [THE STRAW] AND THE ROOF BEAMS, IF THERE IS UNCLEANNESS WITHIN [THE STRAW] VESSELS AT THE EXIT[18] BECOME UNCLEAN.[19] [IN THE CASE WHERE] THE UNCLEANNESS WAS OUTSIDE,[20] THE VESSELS WITHIN, IF THEY ARE IN A SPACE OF A CUBIC HANDBREADTH, REMAIN CLEAN, BUT IF NOT THEY BECOME UNCLEAN.[21] IF THERE IS A SPACE OF A HAND BREADTH BETWEEN THE STRAW AND THE ROOF BEAMS, IN EITHER CASE THE VESSELS BECOME UNCLEAN.[22]

MISHNAH 7. [WITH REGARD TO] A HOUSE FILLED WITH EARTH[23] OR PEBBLES WHICH HAD BEEN DEEMED VALUELESS,[24] ON SIMILARLY A HEAP OF PRODUCE OR A MOUND OF PEBBLES EVEN AS ACHAN'S MOUND,[25] EVEN IF THE UNCLEANNESS IS BY THE SIDE OF THE VESSELS, THE [IN CLEANNESS CLEAVES UPWARDS AND DOWNWARDS.[26]

MISHNAH 8. [WITH REGARD TO] THE FORECOURT OF A TOMB, A PERSON STANDING THEREIN REMAINS CLEAN AS LONG AS THERE IS A SPACE OF FOUR CUBITS SQUARE, ACCORDING TO THE OPINION OF BETH SHAMMAI. BETH HILLEL SAY: FOUR HANDBREADTHS [IS THE MINIMUM SIZE]. [WITH REGARD TO] A ROOF BEAM WHICH HAD BEEN USED AS A COVER ING STONE[27] FOR A TOMB, WHETHER IT IS STANDING UPRIGHT[28] OR LYING ON ITS SIDE, NOTHING BECOMES UNCLEAN EXCEPT WHAT IS OPPOSITE THE OPENING OF THE GRAVE. IF THE END [OF THE BEAM] WERE MADE THE COVERING STONE OF A GRAVE, ONLY [THAT PART] UP TO FOUR HANDBREADTHS [FROM THE GRAVE] BECOMES UNCLEAN. [THIS APPLIES] WHEN [THE BEAM] IS GOING TO BE CUT. R. JUDAH SAYS: ALL THE BEAM IS REGARDED AS BEING ONE.

MISHNAH 9. [WITH REGARD TO] A JAR FULL OF CLEAN LIQUID AND SEALED WITH A TIGHTLY FITTING LID,[29] WHICH HAD BEEN MADE THE COVERING STONE OF A TOMB, A PERSON TOUCHING IT CONTRACTS SEVEN-DAY UNCLEANNESS BUT THE JAR AND THE LIQUID REMAIN CLEAN.[30] [IN THE CASE OF] A BEAST[31] THAT HAD BEEN USED AS A COVERING STONE, A PERSON TOUCHING IT CONTRACTS SEVEN-DAY UNCLEANNESS. R. MEIR SAYS: NOTHING POSSESSING THE BREATH OF LIFE CAN CONVEY UNCLEANNESS ON ACCOUNT OF [ITS BEING USED AS] A COVERING STONE.[32]

MISHNAH 10. IF A PERSON TOUCHES A CORPSE AND [SUBSEQUENTLY][33] TOUCHES VESSELS, OR OVERSHADOWS A CORPSE AND [SUBSEQUENTLY][33] TOUCHES VESSELS, THESE BECOME UNCLEAN. IF HE OVERSHADOWS A CORPSE AND OVERSHADOWS VESSELS,[32] OR TOUCHES A CORPSE AND OVERSHADOWS VESSELS,[34] THESE REMAIN CLEAN. IF HIS HAND HAS A SURFACE OF A HANDBREADTH SQUARE, THEY BECOME UNCLEAN. [WITH REGARD TO] TWO HOUSES CONTAINING TWO PORTIONS OF CORPSE-FLESH OF HALF AN OLIVE SIZE [ONE IN EACH], IF A PERSON STRETCHED BOTH HIS HANDS INTO THEM, AND HIS HANDS WERE EACH ONE HAND BREADTH SQUARE, HE CONVEYS THE UNCLEANNESS;[35] BUT IF [THEY WERE] NOT [ONE

HANDBREADTH SQUARE], HE DOES NOT CONVEY THE UNCLEANNESS.

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(1) Repeated from supra XI, 3.

(2) Beneath them.

(3) The uncleanness under the marble tablets being regarded as compressed, though the upper is more than a handhreadth high off the ground.

(4) But to the extent of ‘less than a handbreadth.

(5) Which has contracted אבי אבות הטומאה from direct contact with the ‘tent’ over the uncleanness (v. supra I, 1 n. 3; 3, n. 3).

(6) The uncleanness can only be conveyed from the first by contact, not by overshadowing, as the connection between the two tablets is less than one square bandbreadth in area. (7) Explained by L. as the minimum area of a square that can be inscribedd in a circular table.

(7) This proviso is mentioned on account of the final clause.

(8) Being regarded as ‘compressed’.

(9) And are therefore treated like marble tablets.

(10) Since unclean vessels cannot serve as a screen they are treated like wooden tablets, and the upper parts of the vessels touching each other (as stated) form a ‘tent’ to spread the uncleanness to all vessels.

(11) Consisting of a single room.

(12) I.e., vertically or horizontally.

(13) The partition serving as a screen, cf. supra VI, 2.

(14) Through the emerging uncleanness, since a partition like a closely fitted cover can afford protection only against the entrance of uncleanness; but it does not prevent its egress, v. Kel. VIII, 6.

(15) In which was the uncleanness.

(16) The uncleanness cleaving upwards and downwards only.

(17) V. n. 8, and supra III, 7.

(18) The space left free near the exit.

(19) As in Mishnah 4 where the vessels in the house become unclean through the uncleanness in the part partitioned off.

(20) I.e., in the above-mentioned free space.

(21) As is the case with the vessels beyond the partition where the uncleanness was in the house.

(22) In this case the straw is regarded not as a partition but as contents of the house and not able to offer protection

(23) Var. lec., straw

(24) Lit., ‘and he abandoned it’.

(25) V. Josh. VII, 26.

(26) And the vessels remains clean.

(27) V. supra II, 4, n. 4.

(28) I.e., sloping, its lower end resting on the tomb and the upper leaning on some other object.

(29) V. Kel. X, 2.

(30) An earthen jar being insusceptible to uncleanness on its outer surface and its contents being protected by the tightly fitting lid.

(31) A live one, tied to its place.

(32) Agreeing with his decision in ‘Er. I, 7.

(33) L.

(34) Even at the same time, as long as the same part of the body is not performing the two actions (L.).

(35) Into both houses, since he joins the two portions into one.

Mishna - Mas. Oholoth Chapter 16

MISHNAH 1. ALL MOVABLE THINGS FORM A PASSAGE FOR THE UNCLEANNESS[1] WHEN THEY ARE OF THE THICKNESS OF AN OX-GOAD.[2] R. TARFON SAID: MAY I [SEE THE] RUIN[3] OF MY SONS IF THIS IS [NOT] A RUINED HALACHAH[4] WHICH SOMEONE [DEDUCED FROM THE FOllowing CASE WHICH HE HAD] HEARD AND MISUNDERSTOOD. A FARMER WAS PASSING BY AND OVER HIS SHOULDER WAS AN

OX-GOAD, ONE END OF WHICH OVERSHADOWED A GRAVE. HE WAS DECLARED UNCLEAN ON ACCOUNT [OF CARRYING] VESSELS THAT WERE OVERSHADOWING A CORPSE.[5] R. AKIBA SAID: I CAN AMEND [THE HALACHAH] SO THAT THE WORDS OF THE SAGES CAN EXIST [AS THEY ARE]: ALL MOVABLE THINGS FORM A PASSAGE FOR THE UNCLEANNESS TO COME UPON A PERSON CARRYING THEM, WHEN THEY ARE OF THE THICKNESS OF AN OX-GOAD; UPON THEMSELVES. WHEN THEY ARE OF WHATSOEVER THICKNESS;[6] AND UPON OTHER MEN OR VESSELS [WHICH THEY OVERSHADOW]. WHEN THEY ARE ONE HANDBREADTH WIDE.[7]

MISHNAH 2. HOW [CAN THIS RULE BE ILLUSTRATED]? [BY THE CASE OF] A SPINDLE[8] FIXED INTO THE WALL., WITH [A PORTION OF CORPSE FLESH] OF HALF AN Olive-SIZE ABOVE IT AND [A PORTION OF CORPSE FLESH] OF HALF AN OLIVE-SIZE BELOW IT. EVEN THOUGH ONE [PORTION] IS NOT DIRECTLY [ABOVE] THE OTHER, [THE SPINDLE] BECOMES UNCLEAN.[9] HENCE IT IS FOUND THAT [A MOVABLE OBJECT] FORMS A PASSAGE FOR THE UNCLEANNESS TO COME UPON ITSELF WHATSOEVER ITS THICKNESS. IF A POT SELLER PASSES BY A GRAVE WHEN HE HAS ON HIS SHOULDER HIS CARRYING-YOKE,[10] ONE END OF WHICH OVERSHADOWS A GRAVE, VESSELS ON THE OTHER SIDE REMAIN CLEAN. IF THE YOKE IS ONE HANDBREADTH WIDE, THEY BECOME UNCLEAN.[11]

MOUNDS WHICH ARE NEAR TO A CITY OR TO A ROAD, WHETHER THEY ARE NEW OR OLD, ARE UNCLEAN.[12] [AS FOR THOSE THAT ARE] AFAR OFF, NEW ONES ARE CLEAN BUT OLD ONES ARE UNCLEAN.[13] WHICH [MOUND IS ACCOUNTED] NEAR? ONE FIFTY CUBITS [AFAR OFF]. AND OLD? ONE SIXTY YEARS OLD. [THIS IS] THE OPINION OF R. MEIR. R. JUDAH SAYS: ‘NEAR’ [MEANS] THERE IS NONE NEARER THAN IT, AND OLD’ [MEANS] THAT NO ONE REMEMBERS [WHEN IT WAS MADE].

MISHNAH 3. IF ONE FINDS[14] A CORPSE UNEXPECTEDLY.[15] LYING IN ITS NATURAL POSITION,[16] HE MAY REMOVE IT ALONG WITH THE [BLOOD-] SATURATED EARTH[17] [ROUND ABOUT].[18] IF HE FINDS TWO, HE MAY REMOVE THEM ALONG WITH THE [BLOOD-] SATURATED EARTH [ROUND ABOUT]. [IN THE CASE WHERE] HE FINDS THREE, IF THERE IS A SPACE OF FROM FOUR TO EIGHT CUBITS BETWEEN THE FIRST AND THE LAST, THAT IS, THE SPACE OF A BIER AND ITS BEARERS,[19] THEN IT MUST BE ACCOUNTED A GRAVEYARD,[20] AND HE MUST SEARCH [THE GROUND] FOR TWENTY CUBITS[21] FROM THAT POINT. IF HE FOUND [ANOTHER CORPSE] AT THE END OF THOSE TWENTY CUBITS, HE MUST SEARCH FOR A FURTHER TWENTY CUBITS FROM THAT PLACE, SINCE THERE ARE ALREADY GROUNDS FOR BELIEF[22] [THAT THIS IS A GRAVEYARD], IN SPITE OF THE FACT THAT IF HE HAD FOUND THIS [LONE GRAVE] IN THE FIRST CASE, HE COULD NAVE REMOVED IT WITH THE [BLOOD-] SATURATED EARTH [ROUND ABOUT].

MISHNAH 4. HE WHO SEARCHES[23] MUST DO SO OVER A SQUARE CUBIT AND THEN LEAVE A CUBIT, [DIGGING DOWN][24] UNTIL HE REACHES ROCK OR VIRGIN SOIL. [A PRIEST][25] CARRYING OUT EARTH FROM A PLACE OF UNCLEANNESS MAY EAT OF HIS TERUMAH,[26] BUT IF HE IS CLEARING AWAY A RUIN,[27] HE MAY NOT EAT OF HIS TERUMAH.

MISHNAH 5. IF HE WAS SEARCHING AND CAME TO A RIVER BED, A POOL[28] OR A PUBLIC ROAD, HE MAY DISCONTINUE [HIS SEARCH]. [WITH REGARD TO] A FIELD WHERE MEN HAVE BEEN SLAIN, THE BONES MAY BE GATHERED TOGETHER ONE BY ONE, AND ALL [THE AREA] MAY BE ACCOUNTED CLEAN.[29] IF A PERSON IS REMOVING A GRAVE FROM HIS FIELD, HE MAY GATHER TOGETHER THE BONES ONE

BY ONE, AND ALL MAY BE ACCOUNTED CLEAN. [WITH REGARD TO] A PIT INTO WHICH ABORTIONS OR PEOPLE THAT HAD BEEN SLAIN USED TO BE THROWN, THE BONES MAY BE GATHERED TOGETHER ONE BY ONE, AND ALL MAY BE ACCOUNTED CLEAN. R. SIMEON SAYS: IF IN THE FIRST PLACE IT HAD BEEN PREPARED AS A GRAVE, THERE IS [THE QUESTION OF BLOOD-] SATURATED EARTH [TO BE CONSIDERED].[30]

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(1) By acting as temporary ‘tents’.

(2) Defined as having a circumference of one handbreadth, which is less than the minimum handbreadth in width required with immovable things (Bert.).

(3) אקפח ‘to destroy’. ‘cut off’. The phrase the equivalent of ‘May I bury my sons’, was a common one of H. Tarfon's. v. B.M. 85a.

(4) Rule.

(5) Which vessels rendered the bearer unclean through carriage. But the person reporting the halachah at the beginning of the Mishnah thought (wrongly according to R. Tarfon) that the man was deemed unclean because he had been overshadowed by a goad simultaneously overshadowing a corpse.

(6) No standard being fixed for the defilement of objects which themselves form a ‘tent’.

(7) For further notes v. Shab. Sonc. ed., p. 16b.

(8) כוש Jast. ‘something hollow’, ‘reed’, cf. כום כים . Here ‘spindle’, cf. Kel. IX, 6. Its size is less than a handbreadth.

(9) Both combine to form an olive's bulk according to the view of the Sages, supra III. 2.

(10) סל. Probably, as Kel. XVII, 16. אסל from Gk. ** ‘a carrying-yoke’.

(11) The carrying-yoke forming a ‘tent’ overshadowing the vessels on both sides.

(12) Since they may have been used for the secret burial of abortions.

(13) Since they may have been near when newly made.

(14) Whilst ploughing the field. This Mishnah occurs in Naz. 64b, Sonc. ed., p. 244. where it is discussed in the ensuing Gemara. V. loc. cit. for notes: v. also B.B. 101b.

(15) בתחלה , Lit ‘in the first place’. I.e without knowing before that there was a corpse lying there. The word is missing in the version of B B. loc. cit.

(16) Showing that there had been a normal burial.

(17) C.f. supra III, 5.

(18) The field being thereby restored to a state of cleanliness.

(19) This explanation of the distance is missing from Naz. loc. cit. but appears in the B.B. version. The size of the intervening space is evidence of a regular graveyard.

(20) The graves must then not he disturbed.

(21) The reason for this size is given in B.B.

(22) Lit., ‘the matter has legs’.

(23) The prescribed area.

(24) So Bert.

(25) Who may, in the case of emergency, occupy himself with such work.

(26) דמעו Ex. XXII, 28. The word is referred by Rabbinic commentators to terumah. V. Rashi ad loc. דמע ‘tear’, ‘liquor’.

(27) Of a house that has fallen on a man who may have died.

(28) שלולית ‘pool’. V. B.K. 61a for the possible meanings and suggested derivations of this word.

(29) No account being taken of blood-saturated earth either in this or the succeeding cases.

(30) no note.

Mishna - Mas. Oholoth Chapter 17

MISHNAH 1. IF A GRAVE IS PLOUGHED [INTO A FIELD] THIS MAKES IT A BETH PERAS.[1] TO WHAT EXTENT IS IT SO MADE? FOR THE LENGTH OF A FURROW OF A HUNDRED CUBITS,[2] [THAT IS TO SAY, OVER] AN AREA OF FOUR SE'AHS.[3] P. JOSE

SAYS: AN AREA OF FIVE [SE'AHS]. [THIS[4] APPLIES WHEN THE PLOUGH IS DRIVEN] ON A DOWNWARD SLOPE;[5] BUT WHEN ON AN UPWARD SLOPE, A QUARTER [OF A KAB] OF VETCH SEED SHOULD BE PLACED ON THE KNEE[6] OF THE PLOUGH,[7] AND THE SPACE UNTIL WHERE [THE LAST] THREE VETCHES GROW NEXT TO EACH OTHER[8] IS MADE INTO A BETH PERAS. R. JOSE SAYS: [A BETH PERAS IS ONLY MADE BY A PLOUGH GOING] DOWNWARDS BUT NOT UPWARDS.

MISHNAH 2. IF A PERSON WAS PLOUGHING[9] AND STRUCK AGAINST A ROCK OR A FENCE, OR IF HE SHOOK THE PLOUGHSHARE,[10] [ONLY] TO THAT PLACE IS THE BETH PERAS FORMED. R. ELIEZER SAYS: ONE BETH PERAS CAN FORM ANOTHER BETH PERAS.[11] R. JOSHUA SAYS: SOMETIMES IT CAN, BUT AT OTHER TIMES IT CANNOT. HOW SO? IF HE PLOUGHED FOR HALF A FURROW'S LENGTH[12] AND THEN RETURNED AND PLOUGHED A [FURTHER] HALF, OR SIMILARLY [IF HE PLOUGHED] TO THE SIDE, HE MAKES A BETH PERAS. IF HE PLOUGHED A FULL FURROW'S LENGTH AND THEN RETURNED AND PLOUGHED FROM THAT POINT BEYOND, HE DOES NOT MAKE THIS[13] A BETH PERAS.

MISHNAH 3. IF A PERSON PLOUGHS FROM A QUARRY,[14] OR FROM A HEAP OF BONES,[15] OR FROM A FIELD IN WHICH A GRAVE HAD BEEN LOST,[16] OR IN WHICH A GRAVE WAS SUBSEQUENTLY FOUND,[17] OR IF HE PLOUGHS A FIELD WHICH WAS NOT HIS OWN,[18] OR IF A GENTILE PLOUGHED, THIS DOES NOT MAKE IT A BETH PERAS; FOR THE RULE OF BETH PERAS DOES NOT APPLY [EVEN] TO SAMARITANS.

MISHNAH 4. [IN THE CASE WHERE] THERE WAS A BETH PERAS ABOVE A CLEAN FIELD, IF RAIN WASHED DOWN SOIL FROM THE BETH PERAS TO THE CLEAN FIELD, EVEN WHERE THIS WAS REDDISH AND THE [OTHER SOIL] TURNED IT WHITE, OR WHERE THIS WAS WHITE AND THE OTHER TURNED IT RED,[19] THIS DOES NOT MAKE IT A BETH PERAS.[20]

MISHNAH 5. [WITH REGARD TO] A FIELD IN WHICH A GRAVE HAD BEEN LOST, AND IN WHICH A HOUSE HAD BEEN BUILT WITH AN UPPER STOREY ABOVE IT, IF THE DOOR OF THE UPPER ROOM WAS DIRECTLY ABOVE THE DOOR OF THE HOUSE, THE UPPER STOREY REMAINS CLEAN;[21] BUT IF NOT THE UPPER STOREY BECOMES UNCLEAN.[22] [WITH REGARD TO] SOIL FROM A BETH PERAS, OR SOIL FROM A FOREIGN COUNTRY[23] THAT CAME IN WITH VEGETABLES, [SCATTERED PARTICLES ARE REGARDED AS] COMBINING TOGETHER [TO FORM A PORTION] THE SIZE OF A PACKING-BAG[24] SEAL.[25] THIS IS THE OPINION OF R. ELIEZER; BUT THE SAGES SAY: THERE MUST BE ONE PORTION OF THE SIZE OF A PACKING-BAG SEAL. R. JUDAH SAYS: IT HAPPENED ONCE THAT LETTERS CAME FROM OVERSEAS FOR THE SONS OF THE HIGH PRIESTS[26] AND THEY HAD ON THEM ABOUT A SE'AH OR TWO SE'AHS OF SEALS,[27] BUT THE SAGES DID NOT HAVE ANY SCRUPLES ON ACCOUNT OF UNCLEANNESS.[28]

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(1) V. supra II, 3. n. 8.

(2) Each way, length and breadth. So Bert. but Tosef XVII, I has ‘in every direction’. The plough is presumed to carry bones with it to that extent.

(3) In which four seeks of seed can be sown. According to ‘Er. 23b, the tabernacle area, one hundred cubits by fifty, could be sown by two se'ahs. One se'ah==six kabs (v. supra II, I, n. 7).

(4) Area of four se'ahs.

(5) Or on the level (Bert.). the hones in these cases being likely to be carried the full distance.

(6) בורך V. Kel. XXI, 2. A knee-shaped receptacle in the plough sometimes used for containing seed which is gradually shaken out in decreasing number on to the field by the movement of the implement.

(7) Which is then driven upwards.

(8) I.e where no more than three had fallen together out of the knee, thus indicating that practically all the seeds (and hence also bones) have been shaken off.

(9) Over a grave.

(10) So as to free it of soil. All these processes tend to remove any bones that may have been attached to the plough.

(11) If one begins to plough from a point within the original area.

(12) Fifty cubits.

(13) Outer portion.

(14) מלטמיא Possibly Gk. ** ‘quarry’, presumably one containing bones. Bert. מלא טמיא ‘(pit) filled with bones’.

(15) Treated leniently because of the unlikelihood of such a procedure.

(16) Doubt existing as to whether any bones have actually been touched and even then, as to whether they have been scattered.

(17) He acted unwittingly.

(18) And therefore which he cannot render unclean by any doubtful action.

(19) Proving definitely that soil had been transferred.

(20) The land of a Beth Peres applies only to solid soil not to washed down soil.

(21) Even if the grave is under the entrance, the uncleanness proceeds into the house and not to the upper storey.

(22) The grave might possibly be directly under the entrance.

(23) Cf. supra II, 3, n. 7.

(24) מרצופין ‘packing-bags’, from רצף ‘to pack’, ‘pave’. It is mentioned in connection with shipping in B.B. V, 1, and may well have been the common Levantine trade term for the object. As such it was possibly adopted by the Greeks as Gr.**. (Lat. marsupium, Eng. marsupial).

(25) The minimum size for uncleanness for a clod.

(26) Cf. Keth. XIII, I.

(27) Sc. of clay.

(28) No single seal attaining the minimum size.

Mishna - Mas. Oholoth Chapter 18

MISHNAH 1. ROW CAN THE GRAPES OF A BETH PERAS BE GATHERED?[1] THE MEN AND THE VESSELS MUST BE SPRINKLED [ONCE][2] AND THEN A SECOND TIME.[3] THEREUPON THEY GATHER THE GRAPES AND TAKE THEM OUT OF THE BETH PERAS. OTHERS[4] THEN RECEIVE [THE GRAPES] AND TAKE THEM TO THE WINEPRESS.[5] IF THE LATTER SET [OF PERSONS] CAME INTO CONTACT WITH THE FORMER, THEY BECOME UNCLEAN. THIS IS ACCORDING TO THE OPINION OF BETH HILLEL. BETH SHAMMAI SAY: [THE GATHERER] MUST HOLD THE SICKLE WITH BAST,[6] OR MUST CUT OFF THE GRAPES WITH A SHARP FLINT,[7] LETTING [THE GRAPES FALL] INTO AN OLIVE-BASKET,[8] AND THEN HE TAKES [THEM] TO THE WINEPRESS.[9] R. JOSE SAID: WHEN DO THESE RULES APPLY? [ONLY] IN THE CASE OF A VINEYARD WHICH SUBSEQUENTLY BECAME A BETH PERAS; BUT A PERSON WHO PLANTS [VINES] IN A BETH PERAS MUST SELL [THE GRAPES] IN THE MARKET.[10]

MISHNAH 2. THE RE ARE THREE [KINDS OF] BETH PERAS:[11] A FIELD INTO WHICH A GRAVE HAS BEEN PLOUGHED MAY BE PLANTED WITH ANY KIND OF PLANT,[12] BUT MUST NOT BE SOWN WITH ANY KIND OF SEED,[13] EXCEPT WITH SEED [YIELDING PRODUCE] WHICH IS REAPED. IF [SUCH PRODUCE] WERE PLUCKED, THE THRESHING-FLOOR MUST BE PILED UP IN [THE FIELD] ITSELF,[14] AND THE [GRAIN] SIFTED THROUGH TWO SIEVES.[15] THIS IS THE OPINION OF R. MEIR. BUT THE SAGES SAY: GRAIN [MUST BE SIFTED] THROUGH TWO SIEVES, BUT PULSE THROUGH THREE SIEVES.[16] THE STUBBLE AND THE STALKS MUST BE BURNED.[17] [SUCH A FIELD] CONVEYS UNCLEANNESS BY CONTACT AND CARRIAGE BUT DOES NOT CONVEY

UNCLEANNESS BY OVERSHADOWING.[18]

MISHNAH 3.A FIELD IN WHICH A GRAVE HAS BEEN LOST[19] MAY BE SOWN WITH ANY KIND OF SEED,[20] BUT MUST NOT BE PLANTED WITH ANY KIND OF PLANT,[21] NOR MAY ANY TREES BE PERMITTED TO REMAIN THERE EXCEPT SHADE-TREES WHICH DO NOT PRODUCE FRUIT.[22] [SUCH A FIELD] CONVEYS UNCLEANNESS BY CONTACT, CARRIAGE AND OVERSHADOWING.

MISHNAH 4. A MOURNERS' FIELD[23] MAY NEITHER BE PLANTED NOR SOWN,[24] BUT ITS EARTH IS REGARDED AS CLEAN AND OVENS MAY BE MADE OF IT FOR HOLY USE.[25] [WITH REGARD TOT HE FIRST[26] CASE OF A BETH PERAS] BETH SHAMMAI AND BETH HILLEL AGREE THAT IT IS EXAMINED[27] FOR ONE WHO WOULD PERFORM THE PASCHAL SACRIFICE,[28] BUT IS NOT EXAMINED FOR ONE WHO WOULD EAT TERUMAH.[29] [WITH REGARD TO A] NAZIRITE,[30] BETH SHAMMAI SAY: IT IS EXAMINED,[31] BUT BETH HILLEL SAY: IT IS NOT EXAMINED.[32] HOW IS IT EXAMINED? THE EARTH THAT IS ABLE TO BE MOVED IS TAKEN,[33] PLACED INTO A SIEVE WITH FINE MESHES, AND CRUMBLED. IF A BONE OF BARLEY-CORN SIZE IS FOUND THERE [THE PERSON PASSING THROUGH THE FIELD] IS DEEMED UNCLEAN.

MISHNAH 5. HOW IS A BETH PERAS[34] RENDERED CLEAN? [SOIL TO A DEPTH OF] THREE HANDBREADTHS[35] IS REMOVED FROM IT, OR[36] [SOIL TO A HEIGHT OF] THREE HANDBREADTHS IS PLACED UPON IT. IF FROM THE ONE HALF [SOIL TO A DEPTH OF] THREE HANDBREADTHS WAS REMOVED, AND UPON THE OTHER HALF [SOIL TO A HEIGHT OF] THREE HAND BREADTHS WAS PLACED, IT BECOMES CLEAN. R. SIMEON SAYS: EVEN IF ONE HANDBREADTH AND A HALF WAS REMOVED[37] AND ONE HANDBREADTH AND A HALF FROM ANOTHER PLACE WAS PLACED UPON IT, IT BECOMES CLEAN. IF A BETH PERAS IS PAVED WITH STONES THAT CANNOT [EASILY] BE MOVED, IT BECOMES CLEAN. R. SIMEON SAYS: EVEN IF [THE SOIL OF] A BETH PERAS IS BROKEN UP IT BECOMES CLEAN.

MISHNAH 6. A PERSON WHO WALKS THROUGH A BETH PERAS[38] ON STONES THAT CANNOT [EASILY] BE MOVED, OR [WHO RIDES] ON A MAN OR BEAST WHOSE STRENGTH IS GREAT, REMAINS CLEAN; [BUT IF HE WALKS] ON STONES THAT CAN [EASILY] BE MOVED, OR [RIDES] UPON A MAN OR BEAST WHOSE STRENGTH IS SMALL,[39] HE BECOMES UNCLEAN.[40] A PERSON WHO TRAVELS IN THE LAND OF THE GENTILES OVER MOUNTAINS OR ROCKS, BECOMES UNCLEAN;[41] BUT IF [HE TRAVELS] BY THE SEA OR ALONG THE STRAND,[42] HE REMAINS CLEAN. WHAT IS [MEANT BY] 'THE STRAND'? ANY PLACE TO WHICH THE SEA RISES WHEN IT IS STORMY.

MISHNAH 7. IF ONE BUYS A FIELD IN SYRIA NEAR TO THE LAND OF ISRAEL, IF IT CAN BE ENTERED IN CLEANNESS,[43] IT IS DEEMED CLEAN AND IS SUBJECT TO [THE LAWS OF] TITHES AND SABBATICAL YEAR [PRODUCE];[44] BUT IF IT CANNOT BE ENTERED IN CLEANNESS, IT [IS DEEMED] UNCLEAN, ALTHOUGH IT IS STILL SUBJECT TO [THE LAWS OF] TITHES AND SABBATICAL YEAR [PRODUCE].[45] THE DWELLING-PLACES OF HEATHENS[46] ARE UNCLEAN.[47] HOW LONG MUST [THE HEATHEN] HAVE REMAINED IN [THE DWELLING-PLACES] FOR THEM TO REQUIRE EXAMINATION? FORTY DAYS,[48] EVEN IF THERE WAS NO WOMAN WITH HIM. IF, HOWEVER, A SLAVE[49] OR [AN ISRAELITE] WOMAN WATCHED OVER [THE DWELLING-PLACE], IT DOES NOT REQUIRE EXAMINATION.

MISHNAH 8. WHAT DO THEY EXAMINE? DEEP DRAINS AND EVIL-SMELLING

WATERS. BETH SHAMMAI SAY: EVEN ASH-HEAPS AND CRUMBLED EARTH.[50] BETH HILLEL SAY: ANY PLACE WHERE A PIG OR A WEASEL[51] CAN GO REQUIRES NO EXAMINATION.[52]

MISHNAH 9. COLONNADES[53] ARE NOT [SUBJECT TO THE LAWS] OF HEATHEN DWELLING’ PLACES.[54] R. SIMEON B. GAMALIEL SAYS: A HEATHEN CITY[55] THAT HAS BEEN DESTROYED IS NOT [SUBJECT TO THE LAWS] OF HEATHEN DWELLING-PLACES. THE EAST [SIDE] OF CAESAREA[56] AND THE WEST [SIDE] OF CAESAREA[57] ARE GRAVEYARDS. THE [NATURE OF THE] EAST [SIDE] OF ACRE WAS DOUBTFUL,[58] BUT THE SAGES DECLARED IT CLEAN. RABBI AND HIS LAW COURT VOTED [TO DECIDE] ABOUT KENI[59] AND DECLARED IT CLEAN.

MISHNAH 10. [THE FOLLOWING] TEN PLACES ARE NOT [SUBJECT TO THE LAWS] OF HEATHEN DWELLING-PLACES: ARABS’ TENTS,[60] FIELD-HUTS, LEAN-TO SHEDS, FRUIT-SHELTERS,[61] SUMMER SHELTERS,[62] A GATE-HOUSE, THE OPEN SPACES OF A COURTYARD, A BATH-HOUSE, AN ARMOURY[63] AND THE PLACE WHERE THE LEGIONS [CAMP].[64]

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(1) So that they remain clean and can be used for making wine without rendering unclean by virtue of the law of Lev. XI, 38.

(2) On the third day (Num. XIX, 18f) notice of the gathering having been given.

(3) The sprinkling serves as a precaution, reminding the gatherers of the laws of uncleanness appertaining to a Beth peras and thereby preventing carelessness. Although the grapes have been rendered susceptible to uncleanness by virtue of the gathering (v. Shab. 14a), they are not affected by the uncleanness of Beth Peras ‘which is only Rabbinical, and the method whereby they have been rendered susceptible also being only Rabbinical.

(4) Who did not enter the Beth Peras.

(5) Once taken to the winepress they become susceptible to uncleanness by virtue of Biblical law, and to such the uncleanness of Beth Peras applies, hence they must be taken to the winepress by others.

(6) סיב ‘fibre’, palm-bast’. (perhaps from סאב ‘to be hairy’). East is insusceptible to uncleanness and therefore protects the sickle and hence also the grapes against uncleanness.

(7) Insusceptible to uncleanness.

(8) Cf. supra V, 6.

(9) Having taken these precautions, he will be reminded of the laws of Beth Peras even whilst in the winepress.

(10) As a penalty he is not allowed to use the methods enabling wine to be made.

(11) Enumerated respectively in Mishnahs 2, 3 and 4.

(12) Because its fruit cannot become unclean, as the law of overshadowing does not apply to such a field (v. end of Mishnah).

(13) The roots of such plants are sometimes pulled out with the produce and they may have been in contact with a portion of bone.

(14) So as nor to spread the uncleanness abroad.

(15) To detect any portion of bone.

(16) More earth being found in association with this type of produce.

(17) On the field.

(18) The field owes its uncleanness to the possible presence of a barleycorn-sized portion of bone and therefore has the same laws as that object (v. supra II, 3).

(19) The exact location of the grave being unknown. This is the second type of Beth Peras.

(20) Because the roots could not reach as far as the grave (Maim). Tosef. XVIII, 11, however, has the reading, in the name of R. Judah. ‘may not be sown’, and this is read also in our Mishnah by Beth. and others.

(21) Because the roots would reach to the grave (Maim.). Bert.: Otherwise people might be attracted to the field and thus contract defilement by overshadowing.

(22) Such may be planted at the outset (Bert.).

(23) שדה בוכין Lit. ‘field of those who bewail’. This is the third type of Beth Peras. It is explained in M.K. 5b as a field in which final leave is taken of the departed before the burial. It was close to the cemetery. Tosef. XVII, 12 reads כוכין ‘tomb niches’.

(24) Because the owner has given up hope of ever using the field again, and it now becomes common property. v. M.K. loc. cit. Maim. explains the prohibition as a precaution lest a corpse may possibly be concealed therein, since it is in proximity to the cemetery.

(25) The field differs in this respect from the two former types.

(26) So Bert.

(27) To determine whether it is unclean or not.

(28) Who must definitely be clean (Num. IX, 6).

(29) The neglect to eat terumah is not as grave as in the case of the paschal lamb.

(30) Who passed through such a field.

(31) B. Sh. afford the Nazirite an opportunity of having himself declared clean.

(32) The Nazirite is considered unclean and must perform the rites prescribed in Num. VI, 9-12.

(33) I.e., loose earth.

(34) Of the first type.

(35) The depth to which a ploughshare penetrates (cf. B.B. II. 12).

(36) Some texts prefix ‘Rabbi (Judah the Patriarch) says’.

(37) From the surface of the whole field.

(38) Of the first type

(39) As defined in B.M. 105b.

(40) By his own weight he may have moved a bone.

(41) Earth from the neighbouring regions may have collected there and it is unclean (supra II, 3).

(42) שונית . V. supra VII, 1. Possibly from שן ‘rock’.

(43) No gentile land intervening.

(44) It is considered part of the Land of Israel.

(45) The laws of Sabbatical year produce applied in Syria (v. Tosef. Kel. BK I, 5).

(46) כנענים . I.e., heathens living in the Land of Israel.

(47) Because of the heathen practice of burying abortions in their houses (Bert.).

(48) The time of the formation of the child in the womb. V. Nid. III, 7.

(49) Of an Israelite.

(50) The crumbling may be an indication of a burial.

(51) חולדה Bert. reads instead ברדלם (‘hyena’ or ‘marten’) which is found together with חולדה in the Tosef. XVI, 13.

(52) The animals would have discovered and devoured the uncleanness.

(53) אצטונית . From Gk. **, ‘colonnade’.

(54) As no abortions are likely to be buried there.

(55) Situated in the Land of Israel.

(56) Maritima, the Roman capital of Palestine.

(57) קסרין In a variant version קסריון the district of Caesarea (Phillipi). in the north of Palestine, near the headwaters of the Jordan. It was a less important city than C. Maritima, hence the diminutive form.

(58) According to one opinion as to whether it was on Israelite territory (cf. Git. I, 1), and to another as to whether it was a graveyard.

(59) Neubauer's Geographie du Talmud p. 276 suggests an identification with Wady Kanah (in Samaria). Perhaps Cana (of Galilee), five miles from Sepphoris, the seat of Rabbi's court.

(60) Of the nomadic Bedouin who move their tents from one place to another. The place on which they stand is only temporarily occupied.

(61) According to Bert. a field-shelter in which the fruit was kept in order to guard it from rain (v. Ma'as. III, 7 where the word is found along with the other agricultural buildings mentioned here).

(62) אלקטיות ‘Aruch quotes Aramaic קיטא ‘summer’. Bert. describes the structure as one which has a roof but no walls.

(63) Lit., ‘the place of the arrows’.

(64) All these places are only temporarily occupied and hence no fear is entertained lest abortion had been buried in them.

Mishna - Mas. Nega'im Chapter 1

MISHNAH 1. THE COLOURS OF LEPROSY SIGNS[1] ARE TWO[2] WHICH, IN FACT, ARE[3] FOUR.[4] THE BRIGHT SPOT IS BRIGHT WHITE LIKE SNOW; SECONDARY TO IT IS THE LEPROSY SIGN AS WHITE AS THE LIME OF THE TEMPLE.[5] THE RISING IS AS WHITE AS THE SKIN OF AN EGG; SECONDARY TO IT IS THE LEPROSY SIGN AS WHITE AS WOOL.[6] SO R. MEIR. BUT THE SAGES RULED: THE RISING IS AS WHITE AS WHITE WOOL AND SECONDARY TO IT IS THE LEPROSY SIGN AS WHITE AS THE SKIN OF AN EGG.[7]

MISHNAH 2. THE VARIEGATION[8] OF THE SNOW-LIKE WHITENESS[9] IS LIKE WINE MINGLED WITH SNOW.[10] THE VARIEGATION[8] OF THE LIME-LIKE WHITENESS IS LIKE BLOOD[11] MINGLED WITH MILK.[12] SO R. ISHMAEL. R. AKIBA RULED: THE REDDISHNESS[13] IN EITHER OF THEM IS LIKE WINE MINGLED WITH WATER, ONLY THAT IN THE SNOW-LIKE WHITENESS THE COLOUR IS BRIGHT WHILE IN THAT OF LIME-LIKE WHITENESS IT IS DULLER.

MISHNAH 3. THESE[14] FOUR COLOURS[15] ARE COMBINED WITH EACH OTHER[16] IN RESPECT OF DECLARING A SIGN FREE FROM UNCLEANNESS, OF CERTIFYING[17] IT AS UNCLEAN, OR OF CAUSING IT TO BE SHUT UP.[18] ‘OF CAUSING IT TO BE SHUT UP’,[19] WHEN IT[20] CONTINUED UNCHANGED[21] BY THE END OF THE FIRST WEEK;[22] ‘OF DECLARING A SIGN FREE FROM UNCLEANNESS’, WHEN IT[20] CONTINUED UNCHANGED[21] BY THE END OF THE SECOND WEEK;[23] ‘OF CERTIFYING IT AS UNCLEAN’, WHEN IT[20] HAD PRODUCED QUICK FLESH OR WHITE HAIR IN THE BEGINNING,[24] BY THE END OF THE FIRST WEEK,[25] BY THE END OF THE SECOND WEEK[25] OR AFTER IT HAD BEEN DECLARED FREE [FROM UNCLEANNESS]. [OR AGAIN] ‘OF CERTIFYING IT AS UNCLEAN’, WHEN A SPREADING HAS ARISEN IN IT BY THE END OF THE FIRST WEEK,[25] BY THE END OF THE SECOND WEEK,[26] OR AFTER IT HAD BEEN DECLARED FREE FROM UNCLEANNESS; [ALSO] ‘OF CERTIFYING IT AS UNCLEAN’, WHEN ALL ONE'S SKIN TURNED WHITE AFTER THE SIGN[26] HAD BEEN DECLARED FREE FROM UNCLEANNESS; OF DECLARING A SIGN FREE FROM UNCLEANNESS’ ALSO, WHEN ALL THE SKIN TURNED WHITE AFTER THE SIGN HAD BEEN CERTIFIED UNCLEAN OR AFTER IT HAD BEEN SHUT UP. THESE[27] ARE THE COLOURS OF LEPROSY SIGNS WHEREON DEPEND ALL DECISIONS CONCERNING LEPROSY SIGNS.[28]

MISHNAH 4. R. HANINA, THE SEGAN[29] OF THE PRIESTS, RULED: THE COLOURS OF LEPROSY SIGNS ARE SIXTEEN.[30] R. DOSA B. HARKINAS RULED: THE COLOURS OF LEPROSY SIGNS ARE THIRTY-SIX.[31] AKABIAH B. MAHALALEEL RULED SEVENTY-TWO.[32] R. HANINA, THE SEGAN OF THE PRIESTS, RULED: LEPROSY SIGNS MAY NOT BE INSPECTED FOR THE FIRST TIME ON A SUNDAY,[33] SINCE THE END OF THAT WEEK[34] WILL FALL ON THE SABBATH;[35] NOR ON A MONDAY, SINCE THE END OF THE SECOND WEEK[36] WILL FALL ON THE SABBATH; NOR ON A TUESDAY, IN THE CASE OF HOUSES, SINCE THE END OF THE THIRD WEEK WILL FALL ON THE SABBATH.[37] R. AKIBA RULED: THEY MAY BE INSPECTED AT ALL TIMES, AND IF THE TIME FOR THE SECOND INSPECTION[38] FALLS ON A SABBATH IT IS POSTPONED TO THE SUNDAY; AND THIS PROCEDURE LEADS SOMETIMES TO A RELAXATION OF THE LAW[39] AND SOMETIMES TO RESTRICTIONS.[39]

MISHNAH 5. HOW DOES IT[40] LEAD TO A RELAXATION OF THE LAW? IF THE LEPROSY SIGN HAD[41] WHITE HAIRS[42] AND[43] THESE WHITE HAIRS DISAPPEARED;[44] IF THEY WERE WHITE[42] AND THEN[43] TURNED BLACK; IF ONE HAIR WAS WHITE AND THE OTHER BLACK, AND[43] BOTH TURNED BLACK;[45] IF THEY WERE LONG[42] AND

THEN[43] THEY BECAME SHORT;[44] IF[41] ONE WAS LONG AND THE OTHER SHORT AND[43] BOTH BECAME SHORT;[45] IF[41] A BOIL ADJOINED BOTH HAIRS[46] OR ONE OF THEM;[46] IF THE BOIL ENCOMPASSED[43] BOTH HAIRS OR ONE OF THEM,[47] OR IF THEY WERE[43] SEPARATED FROM EACH OTHER BY A BOIL, THE QUICK FLESH OF A BOIL, A BURNING, OR THE QUICK FLESH OF A BURNING, OR A TETTER;[47] IF IT HAD[41] QUICK FLESH[42] AND THIS QUICK FLESH DISAPPEARED;[43] IF IT WAS[43] FOUR SIDED[48] AND THEN[41] BECAME ROUND[49] OR LONG;[49] IF IT[50] WAS[41] ENCOMPASSED[51] AND THEN[41] SHIFTED TO THE SIDE; IF IT WAS[41] UNITED[52] AND THEN[43] IT WAS DISPERSED, OR A BOIL APPEARED[43] AND MADE ITS WAY INTO IT;[50] IF IT WAS[43] ENCOMPASSED, PARTED OR LESSENED BY A BOIL, THE QUICK FLESH OF A BOIL, A BURNING, THE QUICK FLESH OF A BURNING, OR A TETTER; IF IT HAD[41] A SPREADING AND THEN[43] THE SPREADING DISAPPEARED; IF THE FIRST SIGN ITSELF DISAPPEARED OR WAS SO LESSENED THAT BOTH[53] ARE LESS THAN THE SIZE OF A SPLIT BEAN; OR IF A BOIL, THE QUICK FLESH OF A BOIL, A BURNING, THE QUICK FLESH OF A BURNING, OR A TETTER, FORMED A DIVISION BETWEEN THE FIRST SIGN AND THE SPREADING-BEHOLD THESE LEAD TO A RELAXATION OF THE LAW.

MISHNAH 6. HOW DOES IT[54] LEAD TO RESTRICTIONS? IF THE LEPROSY SIGN HAD[55] NO WHITE HAIRS[56] AND THEN[57] WHITE HAIRS APPEARED;[58] IF THEY WERE[58] BLACK[54] AND THEN[57] TURNED WHITE;[58] IF[55] ONE HAIR WAS BLACK AND THE OTHER WHITE AND BOTH TURNED[57] WHITE;[58] IF THEY WERE[55] SHORT[54] AND THEY BECAME[57] LONG;[58] IF[55] ONE WAS SHORT AND THE OTHER LONG AND BOTH BECAME[57] LONG;[58] IF[55] A BOIL ADJOINED BOTH HAIRS OR ONE OF THEM,[56] IF[55] A BOIL ENCOMPASSED BOTH HAIRS OR ONE OF THEM[56] OR IF[55] THEY WERE PARTED FROM ONE ANOTHER BY A BOIL, THE QUICK FLESH OF A BOIL, A BURNING, OR THE QUICK FLESH OF A BURNING, OR A TETTER, AND THEN[57] THEY DISAPPEARED;[58] IF[55] IT HAD NO QUICK FLESH[56] AND THEN QUICK FLESH APFEARED;[58] IF IT WAS[55] ROUND OR LONG[56] AND THEN[57] BECAME FOUR SIDED;[58] IF IT WAS[54] AT THE SIDE[56] AND THEN[57] IT BECAME ENCOMPASSED;[58] IF IT WAS[55] DISPERSED[56] AND THEN[57] IT BECAME UNITED[58] OR A BOIL APPEARED[57] AND MADE ITS WAY INTO IT;[58] IF IT WAS[55] ENCOMPASSED,[58] PARTED OR LESSENED BY A BOIL, THE QUICK FLESH OF A BOIL, A BURNING, THE QUICK FLESH OF A BURNING OR A TETTER,[58] AND THEN[57] THEY DISAPPEARED;[58] IF[55] IT HAD NO SPREADING[56] AND THEN[57] A SPREADING APPEARED;[58] IF A BOIL, THE QUICK FLESH OF A BOIL, A BURNING, THE QUICK FLESH OF A BURNING, OR A TETTER FORMED A DIVISION[55] BETWEEN THE FIRST SIGN AND THE SPREADING[56] AND THEN[57] THEY DISAPPEARED[58] — BEHOLD THESE LEAD TO RESTRICTIONS.

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(1) V. Lev. XIII-XIV on which the laws in this tractate are based.

(2) VII., those of the bright spot and the rising (Lev. XIII, 2).

(3) By the addition of another two colours derived by a Rabbinical deduction from sappahath (ibid.) which signifies ‘attachment’, ‘addition’ (E.v. scab).

(4) One secondary colour added to each of the two mentioned (cf. supra n. 2).

(5) Cf. Mid. III, 4.

(6) Of a lamb one day old that was duly washed.

(7) Which is the dullest of the four shades of white mentioned. Whiter than the skin of an egg is white wool, whiter than the wool is the lime of the Temple, and whiter than the lime is snow.

(8) With red. Lit., mixture.

(9) Which (cf. Lev. XIII, 19) is another colour of leprosy.

(10) In the proportion of one of wine to two of snow.

(11) Var. lec. wine.

(12) One of blood to two of milk.

(13) Sc. the variegation spoken of supra (cf. n. 8).

(14) Var. lec. ‘(some) of these’ (cf. Bert. and L.).
(15) Cf. supra MISHNAH 1.
(16) To make up the prescribed minimum of the size of a split bean.
(17) Lit., ‘to determine’.
(18) Cf. Lev. XIII, 4.
(19) For a second week (cf. infra n. 9).
(20) Lit., ‘that which’.
(21) In size and colour.
(22) Since its appearance. The colours are similarly combined on its first appearance when it is to he shut up for a week.
(23) If, for instance, a bright spot of the size of two split beans was shut up and found at the end of the second week to have the colour of the bright spot extending over an area of the size of one split bean and that of rising over the other, the two colours are regarded as combined and the sign is deemed to be unchanged.
(24) When it was first shown to the priest.
(25) Since it was shut up.
(26) Having continued unchanged for two weeks.
(27) The four colours and their variegations enumerated supra.
(28) On the human body.
(29) Deputy High Priest, and chief of the priests; v. Glos.
(30) Viz., the four simple colours given supra (MISHNAH 1), the three colours obtained by the combination of that of the bright spot with each of the other three, the one colour which is a combination of lime and the skin of an egg, and another eight colours consisting of the variegations of each of these eight. Some texts omit the entire sentence from ‘R. Hanina’ to ‘sixteen’.
(31) The four simple colours and their four variegations in the leprosy signs of the skin, the eight corresponding colours of the boil and the burn, the eight leprosy signs on the baldness of the scalp and the forehead, the eight of the scall, two of greenishness and reddishness in garments and similar two in houses.
(32) The thirty-six colours enumerated in the previous note, (when a leprosy sign makes its first appearance) and another thirty-six corresponding colours when a leprosy sign has been shut up for a week or two weeks in the case of men or for three weeks in the case of houses.
(33) Lit., ‘after the Sabbath’.
(34) During the seven days of which the leprosy sign might have to be shut up.
(35) On which no leprosy signs are examined.
(36) The second period of seven days which begins on the following Sunday, that day being counted both as the last day of the first week and as the first day of the second week.
(37) Cf. prev. n. mut. mut.
(38) The seventh day after the first inspection.
(39) As will be explained in the MISHNAH following.
(40) Cf. the final clause of the prev. MISHNAH .
(41) On the Sabbath when the second inspection (after the first period of seven days) was due.
(42) Which are a sign of uncleanness.
(43) On the Sunday which the inspection took place.
(44) Thus exempting the man from the sacrifices and shaving.
(45) This instance seems purposeless, since the leprosy sign is clean in either case.
(46) Which is no sign of uncleanness; while on the Sabbath when the inspection was due the hairs were within the leprosy sign and constituted uncleanness.
(47) Cf. prev. n. mut. mut.
(48) And just of the size of a split bean which is the minimum prescribed for an unclean leprosy sign.
(49) Which, being of the minimum size (cf. prev. n.), is no sign of uncleanness.
(50) The quick flesh.
(51) By the bright spot.
(52) Which is a sign of uncleanness.
(53) The first sign aid the spreading.
(54) Cf. MISHNAH 4.

(55) V. p. 236, n. 1.
(56) Which is a sing of cleanness.
(57) V. p. 236, n. 11.
(58) V. p. 236, n. 12.

Mishna - Mas. Nega'im Chapter 2

MISHNAH 1. THE BRIGHT SPOT IN A GERMAN[1] APPEARS AS DULL WHITE,[2] AND THE DULL WHITE ONE IN AN ETHIOPIAN[3] APPEARS AS BRIGHT WHITE.[4] R. ISHMAEL[5] STATED: THE CHILDREN OF ISRAEL[6] (MAY I BE AN ATONEMENT FOR THEM!)[7] ARE LIKE BOXWOOD, NEITHER BLACK NOR WHITE BUT OF AN INTERMEDIATE SHADE'.[8] R. AKIBA STATED: PAINTERS HAVE MATERIALS WHEREWITH THEY PORTRAY FIGURES IN BLACK, IN WHITE, AND IN AN INTERMEDIATE SHADE; LET, THEREFORE, A PAINT OF AN INTERMEDIATE SHADE BE BROUGHT AND APPLIED ROUND THE LEPROSY SIGN FROM WITHOUT, AND IT WILL THEN APPEAR AS ON A SKIN OF INTERMEDIATE SHADE. R. JUDAH RULED: IN DETERMINING THE COLOURS OF LEPROSY SIGNS THE LAW IS TO BE RELAXED BUT NEVER TO BE RESTRICTED; LET, THEREFORE, THE LEPROSY SIGN OF THE GERMAN BE INSPECTED ON THE COLOUR OF HIS OWN BODY[9] SO THAT[10] THE LAW IS THEREBY RELAXED, AND LET THAT OF THE ETHIOPIAN BE INSPECTED AS IF IT WERE ON THE INTERMEDIATE SHADE[11] SO THAT[10] THE LAW IS THEREBY ALSO RELAXED. THE SAGES, HOWEVER, RULED: THE ONE AS WELL AS THE OTHER IS TO BE TREATED AS IF THE LEPROSY SIGN WERE ON THE INTERMEDIATE SHADE.[12]

MISHNAH 2. LEPROSY SIGNS MAY NOT BE INSPECTED IN THE EARLY MORNING OR IN THE EVENING, NOR WITHIN A HOUSE, NOR ON A CLOUDY DAY, BECAUSE THEN THE DULL WHITE APPEARS LIKE BRIGHT WHITE; NOR MAY IT BE INSPECTED AT NOON, BECAUSE THEN THE BRIGHT WHITE APPEARS LIKE DULL WHITE. WHEN ARE THEY TO BE INSPECTED? DURING THE THIRD, FOURTH, FIFTH,[13] EIGHTH OR NINTH HOUR;[14] SO R. MEIR. R. JUDAH RULED: DURING THE FOURTH, FIFTH, EIGHTH OR NINTH HOUR.[14]

MISHNAH 3. A PRIEST WHO IS BLIND IN ONE EYE OR THE LIGHT OF WHOSE EYES IS DIM MAY NOT INSPECT LEPROSY SIGNS; FOR IT IS WRITTEN, AS FAR AS APPEARETH IN THE EYES OF THE PRIEST.[15] IN A DARK HOUSE[16] ONE MAY NOT OPEN UP WINDOWS IN ORDER TO INSPECT ITS LEPROSY SIGN.[17]

MISHNAH 4. IN WHAT POSTURE IS A LEPROSY SIGN TO BE INSPECTED? A MAN IS INSPECTED IN THE POSTURE OF ONE THAT HOES[18] AND ONE THAT GATHERS OLIVES;[18] AND A WOMAN IN THAT OF ONE WHO ROLLS OUT DOUGH[19] AND[20] ONE WHO SUCKLES HER CHILD, AND ONE THAT WEAVES AT AN UPRIGHT LOOM[21] IF THE LEPROSY SIGN WAS WITHIN THE RIGHT ARMPIT. R. JUDAH RULED: ALSO IN THE POSTURE OF ONE THAT SPINS FLAX[22] IF IT WAS WITHIN THE LEFT ARMPIT. THE SAME POSTURE THAT A MAN ADOPTS[16] IN THE CASE OF HIS LEPROSY SIGN HE IS ALSO TO ADOPT IN THE CASE OF THE CUTTING OFF OF HIS HAIR.[23]

MISHNAH 5. A MAN MAY EXAMINE ALL LEPROSY SIGNS[24] EXCEPT HIS OWN. R. MEIR RULED: NOT EVEN THE LEPROSY SIGNS OF HIS RELATIVES.[25] A MAN[26] MAY ANNUL ALL VOWS EXCEPT HIS OWN. R. JUDAH RULED: NOT EVEN THOSE VOWS OF HIS WIFE[27] THAT AFFECT RELATIONSHIPS BETWEEN HER AND OTHERS.[28] A MAN MAY EXAMINE ALL FIRSTLINGS[29] EXCEPT HIS OWN FIRSTLINGS.

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(1) Whose skin is bright white.
(2) Hence it must be pronounced clean.
(3) Who is dark.
(4) And must be shut up; each case being determined according to the individual concerned.
(5) Differing from the ruling just enunciated.
(6) With whose leprosy signs the law is concerned.
(7) An expression of love and homage. ‘May I be the victim making atonement for any punishment that may have to come upon them’.
(8) A leprosy sign is, therefore, to be determined by its appearance on such an intermediate shade.
(9) Which causes the leprosy sign to appear dull white.
(10) He being as a result pronounced clean.
(11) As a result of which the leprosy sign would appear duller than on his own dark skin.
(12) Though this, in the case of a German, would result in a restriction.
(13) Some texts add ‘seventh’.
(14) Of the day, beginning with sunrise, each hour being equal to one twelfth of the day.
(15) Lev. XIII, 12, emphasis on ‘appeareth’ and ‘eyes’
(16) One that had no windows.
(17) Cf. Lev. XIV, 34ff.
(18) In such a position he exposes some of the concealed parts of his body while others still remain concealed. Only a leprosy on the latter is deemed to be ‘concealed’ and, therefore, clean. (7) Cf. prev. n. mut. mut.
(19) If the leprosy sign is under the breast.
(20) When the right arm is raised.
(21) Who raises her left arm.
(22) Lit., ‘as he is seen’.
(23) Lev. XIV, 9. Concealed hair need not be cut off.
(24) Sc. even those of his nearest relatives whose lawsuits he may not try.
(25) Cf. prev. n. mut. mut.
(26) Who possesses the required authority; a Sage.
(27) May one annul.
(28) But do not affect him.
(29) To ascertain whether they have a permanent blemish (cf. Bek. VI, 1ff).

Mishna - Mas. Nega'im Chapter 3

MISHNAH 1. ALL CAN CONTRACT LEPROSY UNCLEANNESS, EXCEPT A HEATHEN AND A RESIDENT ALIEN.[1] ALL[2] ARE QUALIFIED TO INSPECT LEPROSY SIGNS, BUT ONLY A PRIEST[3] MAY DECLARE THEM UNCLEAN OR CLEAN. HE[4] IS TOLD,[5] ‘SAY: UNCLEAN’, AND HE REPEATS ‘UNCLEAN’, OR SAY: CLEAN, AND HE REPEATS ‘CLEAN’. TWO LEPROSY SIGNS MAY NOT BE INSPECTED SIMULTANEOUSLY WHETHER IN ONE MAN OR IN TWO MEN; BUT THE ONE MUST BE INSPECTED FIRST AND SHUT UP, CERTIFIED UNCLEAN OR PRONOUNCED CLEAN, AND THEN THE SECOND IS INSPECTED. ONE WHO IS SHUT UP[6] MAY NOT[7] BE SHUT UP AGAIN[8] NOR MAY ONE WHO IS CERTIFIED UNCLEAN[6] BE CERTIFIED[7] UNCLEAN AGAIN.[8] ONE WHO IS CERTIFIED UNCLEAN[6] MAY NOT[7] BE SHUT UP[8] NOR MAY ONE WHO IS SHUT UP[6] BE CERTIFIED[7] UNCLEAN.[8] BUT IN THE BEGINNING,[9] OR AT THE END OF A WEEK,[10] HE[11] MAY SHUT UP ON ACCOUNT OF THE ONE LEPROSY SIGN AND SHUT UP ON ACCOUNT OF ANOTHER ONE ALSO; THE MAN[11] WHO CERTIFIES ONE SIGN UNCLEAN MAY ALSO CERTIFY THE OTHER UNCLEAN; HE MAY SHUT UP THE ONE SIGN AND DECLARE THE OTHER CLEAN, OR CERTIFY THE ONE UNCLEAN AND DECLARE THE OTHER CLEAN.

MISHNAH 2. A BRIDEGROOM ON WHOM A LEPROSY SIGN HAS APPEARED IS GRANTED EXEMPTION FROM INSPECTION DURING THE SEVEN DAYS OF THE

MARRIAGE FEAST IN RESPECT OF HIS OWN PERSON; AND ALSO IN RESPECT OF HIS HOUSE AND HIS GARMENT.[12] SIMILARLY DURING A FESTIVAL, ONE[13] IS GRANTED EXEMPTION FROM INSPECTION DURING ALL THE DAYS OF THE FESTIVAL.

MISHNAH 3. THE SKIN OF THE FLESH[14] BECOMES UNCLEAN FOR TWO WEEKS[15] AND BY ONE OF THE FOLLOWING THREE TOKENS:[16] BY WHITE HAIR OR BY QUICK FLESH OR BY A SPREADING. ‘BY WHITE HAIR OR BY QUICK FLESH IN THE BEGINNING,[17] AT THE END OF THE FIRST WEEK,[18] AT THE END OF THE SECOND WEEK,[18] OR AFTER IT[19] HAD BEEN PRONOUNCED CLEAN. ‘OR BY A SPREADING’, AT THE END OF THE FIRST WEEK,[18] AT THE END OF THE SECOND WEEK,[18] OR AFTER IT[19] HAD BEEN PRONOUNCED CLEAN. IT BECOMES UNCLEAN FOR TWO WEEKS WHICH ARE ONLY THIRTEEN DAYS.[20]

MISHNAH 4. A BOIL OR A BURNING BECOMES UNCLEAN FOR ONE WEEK[21] AND BY ONE OF THE FOLLOWING TWO TOKENS:[16] BY WHITE HAIR OR BY A SPREADING. BY WHITE HAIR, IN THE BEGINNING,[17] BY THE END OF THE WEEK,[18] OR AFTER IT[19] HAS BEEN PRONOUNCED CLEAN. ‘OR BY A SPREADING. AT THE END OF THE WEEK,[18] OR AFTER IT[19] HAD BEEN DECLARED CLEAN. THEY BECOME UNCLEAN FOR A WEEK WHICH REPRESENTS SEVEN DAYS.

MISHNAH 5. SCALLS BECOME UNCLEAN FOR TWO WEEKS[22] AND BY ONE OF THE FOLLOWING TWO TOKENS:[23] BY YELLOW THIN HAIR OR BY A SPREADING. BY YELLOW THIN HAIR IN THE BEGINNING,[24] AT THE END OF THE FIRST WEEK,[25] AT THE END OF THE SECOND WEEK,[25] OR AFTER THEY HAVE BEEN PRONOUNCED CLEAN. ‘OR BY A SPREADING’, AT THE END OF THE FIRST WEEK,[25] AT THE END OF THE SECOND WEEK[25] OR AFTER THEY HAVE BEEN PRONOUNCED CLEAN. THEY BECOME UNCLEAN FOR TWO WEEKS WHICH ARE ONLY THIRTEEN DAYS.[26]

MISHNAH 6. SCALP BALDNESS OR FOREHEAD BALDNESS BECOME UNCLEAN FOR TWO WEEKS[22] AND BY ONE OF THE FOLLOWING TOKENS:[23] BY QUICK FLESH OR BY A SPREADING. ‘BY QUICK FLESH’, IN THE BEGINNING,[24] AT THE END OF THE FIRST WEEK,[25] AT THE END OF THE SECOND WEEK,[25] OR AFTER THEY HAVE BEEN PRONOUNCED CLEAN. ‘OR BY A SPREADING’, AT THE END OF THE FIRST WEEK,[25] AT THE END OF THE SECOND WEEK,[25] OR AFTER THEY HAVE BEEN PRONOUNCED CLEAN. THEY BECOME UNCLEAN FOR TWO WEEKS WHICH ARE ONLY THIRTEEN DAYS.[26]

MISHNAH 7. GARMENTS BECOME UNCLEAN FOR TWO WEEKS[22] AND BY ONE OF THREE TOKENS:[23] BY A GREENISH COLOUR OR BY A REDDISH COLOUR OR BY A SPREADING. ‘BY A GREENISH COLOUR OR BY A REDDISH COLOUR’, IN THE BEGINNING,[24] AT THE END OF THE FIRST WEEK,[25] AT THE END OF THE SECOND WEEK,[25] OR AFTER THEY HAVE BEEN PRONOUNCED CLEAN. ‘OR BY A SPREADING’, AT THE END OF THE FIRST WEEK,[25] AT THE END OF THE SECOND WEEK,[25] OR AFTER THEY HAVE BEEN PRONOUNCED CLEAN. THEY BECOME UNCLEAN FOR TWO WEEKS WHICH ARE BUT THIRTEEN DAYS.[26]

MISHNAH 8. HOUSES BECOME UNCLEAN FOR THREE WEEKS[27] AND BY ONE OF THE FOLLOWING THREE TOKENS:[28] BY A GREENISH COLOUR OR BY A REDDISH COLOUR OR BY A SPREADING. ‘BY A GREENISH COLOUR OR BY A REDDISH COLOUR’, IN THE BEGINNING,[29] AT THE END OF THE FIRST WEEK,[30] AT THE END OF THE SECOND WEEK,[30] AT THE END OF THE THIRD WEEK,[30] OR AFTER THEY HAVE BEEN PRONOUNCED CLEAN. ‘OR BY A SPREADING’, AT THE END OF THE FIRST WEEK,[30] AT

THE END OF THE SECOND WEEK,[30] AT THE END OF THE THIRD WEEK,[30] OR AFTER THEY HAVE BEEN PRONOUNCED CLEAN. THEY BECOME UNCLEAN FOR THREE WEEKS WHICH ARE BUT NINETEEN DAYS.[31] NONE OF THE LEPROSY SIGNS IS SHUT UP FOR LESS THAN A WEEK[32] OR FOR MORE THAN THREE WEEKS.[33]

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(1) Ger Toshab, a heathen who acquired Palestinian citizenship on condition that he renounced idolatry and undertook to observe the seven Noachian laws (cf. G. F. Moore, Judaism I, 338ff).
(2) Even an unlearned priest under the guidance of an Israelite scholar (v. infra).
(3) Cf. prev. n.
(4) The unlearned priest.
(5) By the Israelite scholar who accompanies him.
(6) On account of a leprosy sign.
(7) Before the conclusion of the prescribed period.
(8) On account of a second leprosy sign that appeared.
(9) Sc. if the second leprosy sign appeared before the first had received attention.
(10) During which one was shut up on account of a first leprosy sign.
(11) Sc. the priest.
(12) If a leprosy sign appeared on either.
(13) Any person on whom a leprosy sign appeared.
(14) On which there appeared a leprosy sign.
(15) At least, if there was no change in the sign; since in consequence it has to be shut up for no less than two periods of seven days, making a total of two weeks.
(16) Which render it unclean even earlier.
(17) When the sign is first inspected.
(18) During which it was shut up.
(19) The leprosy sign.
(20) Since the last day of the first week is counted also as the beginning of the second week.
(21) Even in the absence of any token of uncleanness, since it must invariably be shut up for a week.
(22) At least, if there was no change in the sign; since in consequence it has to be shut up for no less than two periods of seven days, making a total of two weeks.
(23) V. p. 242, n. 5.
(24) V. p. 242, n. 6.
(25) V. p. 242, n. 7.
(26) V. p. 242, n. 9.
(27) Cf. p. 243, n. 1 mut. mut.
(28) V. p. 242, n. 5.
(29) V. p. 242, n. 6.
(30) V. p. 242, n. 7.
(31) Cf. p. 242, n. 9 mut. mut.
(32) The boil and the burning.
(33) The leprosy of houses.

Mishna - Mas. Nega'im Chapter 4

MISHNAH 1. CERTAIN RESTRICTIONS APPLY TO THE WHITE HAIR THAT DO NOT APPLY TO THE SPREADING, WHILE OTHER RESTRICTIONS APPLY TO THE SPREADING AND DO NOT APPLY TO THE WHITE HAIR. WHITE HAIR NAMELY CAUSES UNCLEANNESS AT THE BEGINNING,[1] IT CAUSES UNCLEANNESS WHATEVER THE STATE OF ITS WHITENESS,[2] AND IT IS NEVER A TOKEN OF CLEANNESS.[3] ‘OTHER RESTRICTIONS APPLY TO THE SPREADING’, FOR THE SPREADING CAUSES UNCLEANNESS HOWEVER SMALL ITS EXTENT,[4] IT CAUSES UNCLEANNESS IN ALL FORMS OF LEPROSY SIGNS[5] AND ALSO WHERE IT IS OUTSIDE THE SIGN,[6] WHICH

RESTRICTIONS DO NOT APPLY TO THE WHITE HAIR.[7]

MISHNAH 2. CERTAIN RESTRICTIONS APPLY TO THE QUICK FLESH THAT DO NOT APPLY TO THE SPREADING, WHILE OTHER RESTRICTIONS APPLY TO THE SPREADING AND DO NOT APPLY TO THE QUICK FLESH. QUICK FLESH NAMELY CAUSES UNCLEANNESS AT THE BEGINNING,[1] IT CAUSES UNCLEANNESS WHATEVER ITS COLOUR,[8] AND IT IS NEVER A TOKEN OF CLEANNESS.[3] ‘OTHER RESTRICTIONS APPLY TO THE SPREADING’, FOR THE SPREADING CAUSES UNCLEANNESS HOWEVER SMALL ITS EXTENT, IT CAUSES UNCLEANNESS IN ALL FORMS OF LEPROSY SIGNS[9] AND ALSO WHERE IT IS OUTSIDE THE LEPROSY SIGN,[10] WHICH RESTRICTIONS DO NOT APPLY TO THE QUICK FLESH.[11]

MISHNAH 3. CERTAIN RESTRICTIONS APPLY TO WHITE HAIR THAT DO NOT APPLY TO THE QUICK FLESH, WHILE OTHER RESTRICTIONS APPLY TO QUICK FLESH AND NOT TO WHITE HAIR. WHITE HAIR NAMELY CAUSES UNCLEANNESS IN A BOIL AND IN A BURNING, WHETHER GROWING TOGETHER OR DISPERSED,[12] AND WHETHER ENCOMPASSED[13] OR UNENCOMPASSED. ‘OTHER RESTRICTIONS APPLY TO QUICK FLESH’, FOR QUICK FLESH CAUSES UNCLEANNESS IN SCALP BALDNESS AND IN FOREHEAD BALDNESS, WHETHER IT WAS TURNED[14] OR WAS NOT TURNED,[15] IT[16] HINDERS THE CLEANNESS OF ONE WHO IS ALL TURNED WHITE,[17] AND CAUSES UNCLEANNESS WHATEVER ITS COLOUR, WHICH RESTRICTIONS DO NOT APPLY TO WHITE HAIR.[11]

MISHNAH 4. IF THE TWO HAIRS[18] WERE BLACK AT THE ROOT AND WHITE AT THE TIP THE MAN IS CLEAN. IF THEY WERE WHITE AT THE ROOT AND BLACK AT THE TIP THE MAN IS UNCLEAN. HOW MUCH OF WHITENESS MUST THERE BE?[19] R. MEIR RULED: ANY. R. SIMEON RULED: ENOUGH TO BE CUT WITH A PAIR OF SCISSORS. IF IT WAS SINGLE AT THE ROOT BUT SPLIT AT THE TIP, HAVING THE APPEARANCE OF TWO HAIRS, THE MAN IS CLEAN. IF A BRIGHT SPOT HAD [TWO] WHITE HAIRS AND[20] BLACK HAIR THE MAN IS UNCLEAN. THERE IS NO NEED TO CONSIDER THE POSSIBILITY THAT THE PLACE OF THE BLACK HAIR[21] LESSENED THE SPACE OF THE BRIGHT SPOT,[22] SINCE THE FORMER[23] IS OF NO CONSEQUENCE.[24]

MISHNAH 5. IF A BRIGHT SPOT WAS OF THE SIZE OF A SPLIT BEAN AND A STREAK EXTENDED FROM IT, THE LATTER, PROVIDED IT WAS TWO HAIRS IN BREADTH, SUBJECTS IT[25] TO THE RESTRICTIONS IN RESPECT OF WHITE HAIR AND SPREADING,[26] BUT NOT TO THAT IN RESPECT OF ITS QUICK FLESH.[27] IF THERE WERE TWO BRIGHT SPOTS AND A STREAK EXTENDED FROM ONE TO THE OTHER, PROVIDED IT WAS TWO HAIRS IN BREADTH, IT COMBINES THEM;[28] OTHERWISE IT DOES NOT COMBINE THEM.

MISHNAH 6. IF A BRIGHT SPOT OF THE SIZE OF A SPLIT BEAN HAD WITHIN IT QUICK FLESH OF THE SIZE OF A LENTIL AND THERE WAS WHITE HAIR WITHIN THE QUICK FLESH, IF THE QUICK FLESH DISAPPEARED[29] THE SPOT BECOMES UNCLEAN ON ACCOUNT OF THE WHITE HAIR; IF THE WHITE HAIR DISAPPEARED[30] IT BE COMES UNCLEAN ON ACCOUNT OF THE QUICK FLESH. R. SIMEON RULES THAT[31] IT IS CLEAN, SINCE IT WAS NOT THE BRIGHT SPOT[32] THAT CAUSED THE HAIR TO TURN WHITE.[33] IF A BRIGHT SPOT TOGETHER WITH THE QUICK FLESH IN IT WAS OF THE SIZE OF A SPLIT BEAN AND THERE WAS WHITE HAIR WITHIN THE SPOT, IF THE QUICK FLESH DISAPPEARED[34] THE SPOT IS UNCLEAN ON ACCOUNT OF THE WHITE HAIR; IF THE WHITE HAIR DISAPPEARED IT IS UNCLEAN ON ACCOUNT OF THE (QUICK FLESH. R. SIMEON RULES THAT[34] T[35] IS CLEAN, SINCE IT WAS NOT A BRIGHT

SPOT OF THE SIZE OF A SPLIT BEAN THAT CAUSED THE HAIR TO TURN WHITE. HE AGREES, HOWEVER, THAT IT IS UNCLEAN IF IT WAS OF THE SIZE OF A SPLIT BEAN[36] WHERE THE WHITE HAIR WAS.

MISHNAH 7. WITH REGARD TO A BRIGHT SPOT[37] WITHIN WHICH WAS[38] QUICK FLESH AND A SPREADING,[39] IF THE QUICK FLESH DISAPPEARED IT IS UNCLEAN ON ACCOUNT OF THE SPREADING; IF THE SPREADING DISAPPEARED IT IS UNCLEAN ON ACCOUNT OF THE QUICK FLESH. SO ALSO IN THE CASE OF WHITE HAIR AND A SPREADING.[40] IF A LEPROSY SIGN[37] DISAPPEARED[41] AND APPEARED AGAIN AT THE END OF THE WEEK,[42] IT IS REGARDED AS THOUGH IT HAD REMAINED AS IT WAS.[43] IF IT REAPPEARED AFTER IT[44] HAD BEEN PRONOUNCED CLEAN, IT MUST BE INSPECTED AS A NEW ONE.[45] IF IT HAD BEEN BRIGHT WHITE BUT WAS NOW DULL WHITE, OR IF IT HAD BEEN DULL WHITE BUT WAS NOW BRIGHT WHITE,[34] T[46] IS REGARDED AS THOUGH IT HAD REMAINED AS IT WAS, PROVIDED THAT IT DOES NOT BECOME LESS WHITE THAN THE FOUR PRINCIPAL COLOURS.[47] IF IT[48] CONTRACTED AND THEN SPREAD, OR IF IT SPREAD[49] AND THEN CONTRACTED, R. AKIBA RULES THAT IT IS UNCLEAN,[50] BUT THE SAGES RULE THAT IT IS CLEAN.[51]

MISHNAH 8. IF A BRIGHT SPOT OF THE SIZE OF A SPLIT BEAN[52] SPREAD TO THE EXTENT OF HALF A SPLIT BEAN, WHILE OF THE ORIGINAL SPOT THERE DISAPPEARED AS MUCH AS HALF A SPLIT BEAN, R. AKIBA RULED: IT MUST BE INSPECTED AS A NEW ONE,[53] BUT THE SAGES RULE THAT IT IS CLEAN.[54]

MISHNAH 9. IF A BRIGHT SPOT OF THE SIZE OF A SPLIT BEAN SPREAD TO THE EXTENT OF HALF A SPLIT BEAN AND A LITTLE MORE, WHILE AS MUCH AS HALF THE SIZE OF A SPLIT BEAN DISAPPEARED FROM THE ORIGINAL SPOT, R. AKIBA RULES THAT IT IS UNCLEAN,[55] BUT THE SAGES RULE THAT IT IS CLEAN.[56] IF THE BRIGHT SPOT WAS OF THE SIZE OF A SPLIT BEAN AND IT SPREAD TO THE EXTENT OF A SPLIT BEAN AND A LITTLE MORE, WHILE THE ORIGINAL SPOT DISAPPEARED, R. AKIBA RULES THAT IS IT UNCLEAN,[57] BUT THE SAGES RULE THAT IT SHOULD BE INSPECTED AS A NEW ONE.[58]

MISHNAH 10. IF A BRIGHT SPOT OF THE SIZE OF A SPLIT BEAN SPREAD[59] TO THE EXTENT OF A SPLIT BEAN, AND IN THE SPREADING THERE APPEARED QUICK FLESH OR WHITE HAIR, WHILE THE ORIGINAL SPOT DISAPPEARED, R. AKIBA RULES THAT IT IS UNCLEAN,[60] BUT THE SAGES RULE THAT IT MUST BE INSPECTED AS A NEW ONE.[61] IF IN A BRIGHT SPOT OF THE SIZE OF HALF A SPLIT BEAN NOTHING ELSE[62] APPEARED, AND THEN THERE APPEARED[63] A BRIGHT SPOT OF THE SIZE OF HALF A SPLIT BEAN AND IN IT THERE GREW ONE HAIR, SUCH A SPOT MUST BE SHUT UP. IF A BRIGHT SPOT OF THE SIZE OF HALF A SPLIT BEAN HAD ONE HAIR AND THEN THERE APPEARED[63] ANOTHER SPOT OF THE SIZE OF HALF A SPLIT BEAN WHICH ALSO HAD ONE HAIR, SUCH A SPOT MUST BE SHUT UP.[64] IF A BRIGHT SPOT OF THE SIZE OF HALF A SPLIT BEAN HAD TWO HAIRS AND ANOTHER SPOT OF THE SIZE OF HALF A SPLIT BEAN APPEARED[63] WITH ONE HAIR,[65] SUCH A SPOT MUST BE SHUT UP.[66]

MISHNAH 11. IF IN A BRIGHT SPOT OF THE SIZE OF A SPLIT BEAN THERE WAS NOTHING ELSE, AND THEN THERE APPEARED[63] A BRIGHT SPOT OF THE SIZE OF HALF A SPLIT BEAN HAVING TWO HAIRS, SUCH MUST BE CERTIFIED UNCLEAN,[67] BECAUSE IT HAS BEEN LAID DOWN: IF THE BRIGHT SPOT PRECEDED THE WHITE HAIR THE MAN IS UNCLEAN; IF THE WHITE HAIR PRECEDED THE BRIGHT SPOT HE IS CLEAN; AND IF THIS IS A MATTER OF DOUBT HE IS UNCLEAN. R. JOSHUA REGARDS THIS AS UNSOLVABLE.[68] .

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(1) When a leprosy sign is first inspected.
(2) Even if it is dimmer than any of the four principal colours.
(3) A spreading, however, may be one when it extended over the whole body.
(4) White hair is subject to a minimum of two hairs of a prescribed length.
(5) Even in those of garments and houses.
(6) White hair, however, is no token of uncleanness unless it appeared within the leprosy sign.
(7) Cf. prev. nn.
(8) While the spreading causes uncleanness only if it has one of the four principal colours.
(9) Quick flesh, however, causes uncleanness only if it is of the prescribed size and only on skin, flesh, scalp baldness and forehead baldness.
(10) But quick flesh is a cause of uncleanness only if it appears within the leprosy sign.
(11) Cf. prev. nn.
(12) One hair at one side of the leprosy sign and another at the other side.
(13) By the leprosy sign.
(14) Cf. Lev. XIII, 13. V. foll. n.
(15) Sc. whether the quick flesh appeared after the bright spot or whether the latter appeared after the former. In the case of white hair if it preceded the bright spot no uncleanness is caused.
(16) If its size is no less than that of a lentil.
(17) Cf. Ibid. XIII, 12ff. White hair in such a case causes no uncleanness.
(18) In a leprosy sign.
(19) On the hairs to be regarded as turned white.
(20) Var. lec. ‘or’.
(21) According to var. lec. (in previous note) add ‘or the white hair’.
(22) In consequence of which the bright spot may have been reduced to less than the prescribed minimum of a split bean.
(23) The hair follicles whose size is almost imperceptible.
(24) Lit., ‘substance’, ‘reality’.
(25) The bright spot.
(26) If either of these signs appear in the streak the spot is deemed unclean.
(27) Which must be encompassed by the bright spot.
(28) The two bright spots. Both are in all respects regarded as one unit to make up the prescribed minimum of a split bean and to combine the two hairs if one grew on the one and the other on the other side of the spot.
(29) The leprosy sign having spread over its place.
(30) Having fallen off or turned black.
(31) In the first case.
(32) But the quick flesh from which it grew.
(33) The first Tanna, however, maintains that in this respect the quick flesh is regarded as a part of the bright spot.
(34) The leprosy sign having spread over its place.
(35) V. p. 247, n. 12.
(36) Without the addition of the quick flesh.
(37) Of the prescribed size of a split bean that had been shut up for a week.
(38) At the end of the week (cf. prev. n.).
(39) In consequence of which it was certified unclean.
(40) If one disappeared it is still unclean on account of the other that remained.
(41) During the week.
(42) Or if it disappeared at the end of the week on the day of inspection and appeared again later on the same day.
(43) And is to be shut up again for a second week. It is not to be treated as a new leprosy sign to be possibly shut up for two weeks.
(44) Having been diminished in size.
(45) Lit., ‘as at the beginning’. Var lec., ‘in the beginning’.
(46) Since its size still conformed to the minimum prescribed.
(47) Enumerated supra I, 1. If It did become less white it must be pronounced clean.

(48) A leprosy sign of the size of a split bean.
(49) At the end of the first or the second week.
(50) In his opinion the spreading, in either case, is a mark of uncleanness.
(51) The spreading, they maintain, may be disregarded, since the size of the leprosy sign is now the same as it was originally.
(52) That was shut up.
(53) Because, of the original, less than the prescribed minimum remained, while the remainder together with the extension conform to the prescribed minimum.
(54) Since the original spot had been reduced to half the prescribed minimum it must be regarded as clean. Its clean remainder, therefore, cannot be added to the extension to constitute a new leprosy sign.
(55) Because the spreading exceeded the size of half a split bean.
(56) Since, owing to the disappearance of half of the original spot, the new one (only slightly bigger than half a split bean) is less than the prescribed minimum.
(57) Since the spot is now bigger than it was originally.
(58) Because the original spot had entirely disappeared.
(59) After it had been pronounced clean.
(60) The spreading taking the place of the original spot.
(61) Hence two sacrifices will have to be brought, one for each spot.
(62) Neither quick flesh nor white hair.
(63) At its side.
(64) Since the first hair preceded the second half of the spot.
(65) And much more so if it had no hair at all.
(66) Since the fill sized spot did not precede the first two hairs.
(67) Provided that it is known that the second half of the spot preceded the two hairs.
(68) Aliter: Doubtful; alter: Demurred; aliter: Rejected, v. Nid. 19b.

Mishna - Mas. Nega'im Chapter 5

MISHNAH 1. ANY CONDITION OF DOUBT IN LEPROSY SIGNS IS REGARDED AS CLEAN, EXCEPT THIS CASE[1] AND ONE OTHER. WHICH IS THAT? IF A MAN HAD A BRIGHT SPOT OF THE SIZE OF A SPLIT BEAN AND IT WAS SHUT UP, AND BY THE END OF THE WEEK IT WAS AS BIG AS A SELA', AND IT IS DOUBTFUL WHETHER IT IS THE ORIGINAL ONE[2] OR WHETHER ANOTHER HAS ARISEN IN ITS PLACE, THE MAN MUST BE REGARDED AS UNCLEAN.

MISHNAH 2. IF A MAN HAD BEEN CERTIFIED UNCLEAN ON ACCOUNT OF WHITE HAIR, AND THE WHITE HAIR DISAPPEARED AND OTHER WHITE HAIR APPEARED, AND SO ALSO IN THE CASE OF QUICK FLESH[3] AND A SPREADING,[3] WHETHER THIS[4] OCCURRED IN THE BEGINNING,[5] AT THE END OF THE FIRST WEEK, AT THE END OF THE SECOND WEEK, OR AFTER THE MAN HAD BEEN RELEASED FROM UNCLEANNESS, HE[6] IS REGARDED AS BEING IN THE SAME POSITION AS BEFORE.[7] IF HE HAD BEEN CERTIFIED UNCLEAN ON ACCOUNT OF QUICK FLESH, AND THE QUICK FLESH DISAPPEARED AND OTHER QUICK FLESH APPEARED, AND SO ALSO IN THE CASE OF WHITE HAIR[8] AND A SPREADING,[8] WHETHER THIS[4] OCCURRED IN THE BEGINNING,[5] AT THE END OF THE FIRST WEEK, AT THE END OF THE SECOND WEEK, OR AFTER THE MAN HAD BEEN RELEASED FROM UNCLEANNESS, HE[6] IS REGARDED AS BEING IN THE SAME POSITION AS BEFORE.[7] IF HE HAD BEEN CERTIFIED UNCLEAN ON ACCOUNT OF A SPREADING, AND THE SPREADING DISAPPEARED AND ANOTHER SPREADING APPEARED, AND SO ALSO IN THE CASE OF WHITE HAIR,[9] WHETHER THIS[10] OCCURRED AT THE END OF THE FIRST WEEK, AT THE END OF THE SECOND WEEK, OR AFTER THE MAN HAD BEEN RELEASED FROM UNCLEANNESS, HE[11] IS IN THE SAME POSITION AS BEFORE.[12]

MISHNAH 3. DEPOSITED HAIR, AKABIAH B. MAHALALEEL HOLDS TO BE UNCLEAN. BUT THE SAGES HOLD IT TO BE CLEAN. WHAT IS ‘DEPOSITED HAIR’?[13] IF A MAN HAD A BRIGHT SPOT WITH WHITE HAIR IN IT, AND THE BRIGHT SPOT DISAPPEARED LEAVING THE WHITE HAIR IN POSITION AND THEN IT REAPPEARED AKABIAH B. MAHALALEEL HOLDS THE MAN TO BE UNCLEAN,[14] BUT THE SAGES HOLD HIM TO BE CLEAN. R. AKIBA OBSERVED: IN THIS CASE I ADMIT THAT THE MAN IS CLEAN; BUT WHAT IS ‘DEPOSITED HAIR’?[15] IF A MAN HAD A BRIGHT SPOT OF THE SIZE OF A SPLIT BEAN WITH TWO HAIRS IN IT, AND A PART THE SIZE OF A HALF SPLIT BEAN DISAPPEARED LEAVING THE WHITE HAIR IN THE PLACE OF THE WHITE SPOT AND THEN IT REAPPEARED.[16] THEY[17] SAID TO HIM: AS THEY[18] REJECTED THE RULING OF AKABIAH SO IS THERE NO VALIDITY IN YOUR RULING.[19]

MISHNAH 4. ANY CONDITION OF DOUBT IN LEPROSY SIGNS IN THE BEGINNING IS REGARDED AS CLEAN BEFORE UNCLEANNESS HAS BEEN ESTABLISHED, BUT AFTER UNCLEANNESS HAS BEEN ESTABLISHED A CONDITION OF DOUBT IS REGARDED AS UNCLEAN. IN WHAT MANNER? IF TWO MEN CAME TO THE PRIEST ONE HAVING A BRIGHT SPOT OF THE SIZE OF A SPLIT BEAN AND THE OTHER HAVING ONE OF THE SIZE OF A SELA’, AND AT THE END OF THE WEEK THAT OF EACH WAS OF THE SIZE OF A SELA, AND IT IS NOT KNOWN ON WHICH OF THEM THE SPREADING HAD OCCURRED (WHETHER THIS OCCURRED WITH ONE MAN[20] OR WITH TWO MEN). EACH ONE IS CLEAN. R. AKIBA RULED: IF ONE MAN IS INVOLVED HE IS UNCLEAN,[21] BUT IF TWO MEN ARE INVOLVED EACH IS CLEAN.

MISHNAH 5. ‘BUT AFTER UNCLEANNESS HAS BEEN ESTABLISHED A CONDITION OF DOUBT IS REGARDED AS UNCLEAN’.[22] IN WHAT MANNER? IF TWO MEN CAME TO THE PRIEST, ONE HAVING A BRIGHT SPOT OF THE SIZE OF A SPLIT BEAN AND THE OTHER HAVING ONE OF THE SIZE OF A SELA’ AND AT THE END OF THE WEEK THAT OF EACH WAS OF THE SIZE OF A SELA’ AND A LITTLE MORE, BOTH ARE UNCLEAN; AND EVEN THOUGH BOTH RESUMED THE SIZE OF A SELA’ BOTH ARE UNCLEAN, AND REMAIN SO UNLESS BOTH RESUME THE SIZE OF A SPLIT BEAN. IT IS THIS THAT WAS MEANT WHEN IT WAS LAID DOWN, ‘BUT AFTER UNCLEANNESS HAS BEEN ESTABLISHED A CONDITION OF DOUBT IS REGARDED AS UNCLEAN’.

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(1) The last mentioned (supra IV, 11).

(2) That had spread.

(3) That appeared in the place of the white hair.

(4) The certification as unclean.

(5) When the first inspection took place.

(6) So MS.M. Var. lec., ‘it’.

(7) He is unclean and there is no need again to certify his uncleanness.

(8) Appearing in place of the quick flesh.

(9) ‘Quick flesh’ is omitted since under certain circumstances it is a cause of cleanness.

(10) V. p. 251, n. 4.

(11) V. p. 251, n. 6.

(12) V. p. 251, n. 7.

(13) This is explained presently.

(14) As the bright spot reappeared where it was originally it is regarded as the original spot which preceded the white hair and which was certified unclean.

(15) That is a token of uncleanness.

(16) Only in such a case is the man unclean.

(17) His colleagues.

(18) The Sages.
(19) Since a leprosy sign that is less than half a split bean is deemed to be non-existent.
(20) Who had two bright spots.
(21) Since one of the spots at least is unclean.
(22) Cf. prev. MISHNAH .

Mishna - Mas. Nega'im Chapter 6

MISHNAH 1. THE MINIMUM SIZE[1] OF A BRIGHT SPOT[2] MUST BE THAT OF A CILICIAN SPLIT BEAN SQUARED.[3] THE SPACE COVERED BY A SPLIT BEAN EQUALS THAT OF NINE LENTILS, THE SPACE COVERED BY A LENTIL EQUALS THAT OF FOUR HAIRS;[4] THUS THE SIZE OF A BRIGHT SPOT MUST BE NO LESS THAN THAT OF THIRTY-SIX HAIRS.

MISHNAH 2. IF A BRIGHT SPOT WAS OF THE SIZE OF A SPLIT BEAN AND IN IT THERE WAS QUICK FLESH OF THE SIZE OF A LENTIL,[5] IF THE BRIGHT SPOT GREW LARGER[6] IT IS UNCLEAN,[7] BUT IF IT GREW SMALLER IT IS CLEAN. IF THE QUICK FLESH GREW LARGER IT IS UNCLEAN,[8] AND IF IT GREW SMALLER IT IS CLEAN.

MISHNAH 3. IF A BRIGHT SPOT WAS OF THE SIZE OF A SPLIT BEAN AND IN IT THERE WAS QUICK FLESH LESS IN SIZE THAN A LENTIL, IF THE BRIGHT SPOT GREW LARGER IT IS UNCLEAN,[7] BUT IF IT GREW SMALLER IT IS CLEAN. IF THE QUICK FLESH GREW LARGER IT IS UNCLEAN, BUT IF IT GREW SMALLER,[9] R. MEIR RULES THAT IT IS UNCLEAN;[10] BUT THE SAGES RULE THAT IT IS CLEAN, SINCE A LEPROSY SIGN CANNOT BE DEEMED TO SPREAD WITHIN ITSELF.[11]

MISHNAH 4. IF A BRIGHT SPOT WAS LARGER IN SIZE THAN A SPLIT BEAN AND IN IT THERE WAS QUICK FLESH LARGER IN SIZE THAN A LENTIL, IRRESPECTIVE OF WHETHER THEY INCREASED OR DECREASED, THEY ARE UNCLEAN, PROVIDED THAT THEY DO NOT DECREASE TO LESS THAN THE PRESCRIBED MINIMUM.[12]

MISHNAH 5. IF A BRIGHT SPOT WAS OF THE SIZE OF A SPLIT BEAN, QUICK FLESH OF THE SIZE OF A LENTIL ENCOMPASSING IT, AND OUTSIDE THE QUICK FLESH THERE WAS ANOTHER BRIGHT SPOT, THE INNER ONE MUST BE SHUT UP AND THE OUTER ONE MUST BE CERTIFIED UNCLEAN.[13] R. JOSE RULED: THE QUICK FLESH IS NO TOKEN OF UNCLEANNESS FOR THE OUTER ONE, SINCE THE INNER BRIGHT SPOT IS WITHIN IT.[14] IF[12] T[15] DECREASED OR DISAPPEARED, RABBAN GAMALIEL RULED: IF ITS DESTRUCTION WAS ON ITS INNER SIDE[16] IT IS A TOKEN OF A SPREADING OF THE INNER BRIGHT SPOT[17] WHILE THE OUTER ONE IS CLEAN,[18] BUT IF ITS DESTRUCTION WAS ON ITS OUTER SIDE,[19] THE OUTER ONE IS CLEAN[20] WHILE THE INNER ONE[21] MUST BE SHUT UP. R. AKIBA RULED: IN EITHER CASE[22] IT[23] IS CLEAN.[24]

MISHNAH 6. R. SIMEON[25] STATED: WHEN IS THIS THE CASE?[26] WHEN THE QUICK FLESH WAS EXACTLY THE SIZE OF A LENTIL;[27] BUT IF IT EXCEEDED THE SIZE OF A LENTIL THE EXCESS IS A TOKEN OF SPREADING OF THE INNER ONE,[28] AND THE OUTER ONE IS UNCLEAN.[29] IF THERE WAS THERE[30] A TETTER LESS IN SIZE THAN A LENTIL, IT[31] IS A TOKEN OF THE SPREADING[32] OF THE INNER BRIGHT SPOT[33] BUT IT IS NO TOKEN OF SPREADING OF THE OUTER ONE.[34]

MISHNAH 7. THERE ARE TWENTY-FOUR TIPS OF LIMBS IN THE HUMAN BODY THAT DO NOT BECOME UNCLEAN ON ACCOUNT OF QUICK FLESH:[35] THE TIPS OF THE FINGERS AND THE TOES, THE TIPS OF THE EARS, THE TIP OF THE NOSE, THE TIP OF

THE MEMBRUM; AND ALSO THE NIPPLES OF A WOMAN. R. JUDAH RULED: THOSE OF A MAN ALSO. R. ELIEZER RULED: ALSO WARTS AND WENS DO NOT BECOME UNCLEAN ON ACCOUNT OF QUICK FLESH.[36]

MISHNAH 8. THE FOLLOWING PLACES IN MEN[37] DO NOT BECOME UNCLEAN ON ACCOUNT OF A BRIGHT SPOT:[38] THE INSIDE OF THE EYE, THE INSIDE OF THE EAR, THE INSIDE OF THE NOSE AND THE INSIDE OF THE MOUTH, WRINKLES,[39] WRINKLES IN THE NECK, UNDER THE BREAST[40] AND THE ARMPIT,[41] THE SOLE OF THE FOOT,[42] THE NAILS, THE HEAD AND THE BEARD;[43] AND A BOIL, A BURNING AND A BLISTER[44] THAT ARE FESTERING. ALL THESE DO NOT BECOME UNCLEAN ON ACCOUNT OF LEPROSY SIGNS NOR ARE THEY COMBINED[45] WITH OTHER LEPROSY SIGNS,[46] NOR IS A LEPROSY SIGN DEEMED TO SPREAD INTO THEM,[47] NOR DO THEY BECOME UNCLEAN ON ACCOUNT OF QUICK FLESH,[48] NOR ARE THEY[49] A HINDRANCE[50] WHERE A PERSON IS ALL TURNED[51] WHITE.[52] IF SUBSEQUENTLY A BALD SPOT AROSE IN THE HEAD OR BEARD,[53] OR IF A BOIL, A BURNING OR A BLISTER FORMED A SCAR, THEY MAY BECOME UNCLEAN BY LEPROSY SIGNS THOUGH THEY CANNOT BE COMBINED WITH OTHER LEPROSY SIGNS,[54] NOR IS A LEPROSY SIGN DEEMED TO SPREAD INTO THEM,[47] NOR DO THEY BECOME UNCLEAN ON ACCOUNT OF QUICK FLESH. THEY ARE, HOWEVER, A HINDRANCE[50] WHERE[49] A PERSON IS ALL TURNED WHITE.[52] THE HEAD AND THE BEARD BEFORE THEY HAVE GROWN HAIR, AND WENS ON THE HEAD OR THE BEARD, ARE[55] TREATED AS THE SKIN OF THE FLESH.

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(1) Lit., ‘body’.

(2) That is to be pronounced unclean.

(3) Sc. each of its four sides must be as long as a Cilician split bean.

(4) Growing on the body other than the head or face.

(5) Thus reducing its size to less than the prescribed minimum.

(6) Extending outwards.

(7) On account of the spreading.

(8) Var. lec., ‘clean’, since the bright spot decreased where the quick flesh had spread.

(9) The bright spot having spread in that direction.

(10) An extension within being as unclean as one without.

(11) Only an external expansion is regarded as a spreading that causes uncleanness.

(12) Viz., quick flesh of the size of a lentil surrounded on all sides by a bright spot of the size of a lentil.

(13) On account of the quick flesh within it.

(14) Only quick flesh that is encompassed by a bright spot is a token of uncleanness. The quick flesh in this case is not only encompassed, but also broken up by a bright spot.

(15) The quick flesh under discussion.

(16) The inner bright spot having covered up the quick flesh.

(17) And it must be certified as unclean.

(18) Since its quick flesh disappeared or decreased to less than the prescribed minimum.

(19) The outer bright spot having covered it up.

(20) Because its quick flesh was destroyed and its spreading inwards is of no consequence.

(21) Having retained its size.

(22) Whether the reduction or disappearance was on the inner or the outer side.

(23) The inner bright spot.

(24) In the former case, because, as stated, the spreading of the outer one inwards is of no consequence; and in the latter case, because the spreading of the inner one into the outer spot is similarly of no consequence.

(25) Referring to R. Akiba's ruling in the previous MISHNAH ad fin.

(26) That the outer one is clean.

(27) Lit., ‘like a lentil brought’ or ‘applied’.

(28) If it spread over that excess.

(29) On account of the quick flesh.
(30) Between the inner bright spot and the quick flesh around it.
(31) The extension of the inner bright spot.
(32) And of uncleanness.
(33) Because a tetter that is less than the prescribed minimum may be disregarded.
(34) Because its quick flesh was destroyed and its spreading inwards is of no consequence.
(35) Because, owing to their convexity it is usually impossible to see at once the prescribed minimum of quick flesh and the leprosy sign.
(36) Cf. prev. n.
(37) Which are either not included in the expression, ‘skin of his flesh’ (Lev. XIII, 2) or are concealed parts of the body.
(38) Or any other of the four colours (supra I, 1).
(39) In any part of the body.
(40) Of a suckling woman, which is covered when the child is nursed.
(41) Which is concealed when the person is in the posture of one plucking olives (cf. supra II, 4).
(42) Its hardened part which cannot be regarded as normal skin.
(43) Where the only unclean leprosy sign is the scall (cf. Lev. XIII, 29ff).
(44) That was due to an external cause.
(45) To make up the prescribed minimum.
(46) Even though their greater part is on the normal skin.
(47) Sc. even if there was a spreading it is no sign of uncleanness.
(48) That appeared in a leprosy sign on them.
(49) If they did not turn white.
(50) To cleanness.
(51) Except for any of these places.
(52) Which is a mark of cleanness (cf. Lev. XIII, 13).
(53) Thus assuming the character of normal skin of the body.
(54) E.g. one on the head with one on the beard.
(55) In all respects.

Mishna - Mas. Nega'im Chapter 7

MISHNAH 1. THE FOLLOWING BRIGHT SPOTS ARE CLEAN: THOSE THAT ONE HAD BEFORE THE TORAH WAS GIVEN,[1] THOSE THAT A HEATHEN HAD WHEN HE BECAME A PROSELYTE OR A CHILD WHEN IT WAS BORN, OR THOSE THAT WERE IN A CREASE[2] AND WERE SUBSEQUENTLY LAID BARE. IF THEY WERE ON THE HEAD OR THE BEARD, ON A BOIL, A BURNING OR BLISTER THAT IS FESTERING, AND SUBSEQUENTLY THE HEAD OR THE BEARD BECAME BALD, AND THE BOIL, BURNING OR BLISTER TURNED INTO A SCAR, THEY ARE CLEAN. IF THEY WERE ON THE HEAD OR THE BEARD BEFORE THESE GREW HAIR,[3] AND THEY THEN GREW HAIR[4] AND SUBSEQUENTLY BECAME BALD,[3] OR IF THEY WERE ON THE BODY BEFORE THE BOIL, BURNING OR BLISTER WAS FORMED[5] AND THEN THESE[6] FORMED A SCAR[7] OR WERE HEALED,[3] R. ELIEZER B. JACOB RULES THAT THEY ARE UNCLEAN SINCE AT THE BEGINNING AND AT THE END THEY WERE UNCLEAN, BUT THE SAGES RULE THAT THEY ARE CLEAN.[8]

MISHNAH 2. IF THEIR COLOUR[9] CHANGED,[10] WHETHER THE CHANGE WAS A CAUSE OF LENIENCY OR ONE OF RESTRICTION — (HOW IS IT A ‘CAUSE OF LENIENCY’? IF, FOR INSTANCE, A BRIGHT SPOT HAD BEEN[11] AS WHITE AS SNOW AND[12] IT BECAME WHITE AS THE LIME OF THE TEMPLE, AS WHITE WOOL OR AS THE SKIN OF AN EGG. OR IF A RISING[13] HAS ASSUMED A SECONDARY SHADE,[14] OR IF ONE AS WHITE AS SNOW HAS ASSUMED A SECONDARY SHADE.[14] HOW IS IT ‘ONE OF RESTRICTION’? IF, FOR INSTANCE, ITS COLOUR WAS[15] THAT OF THE SKIN OF AN EGG AND IT

ASSUMED[12] THAT OF WHITE WOOL, THE LIME OF THE TEMPLE OR SNOW) — R. ELIEZER[16] B. AZARIAH RULES THAT THEY ARE CLEAN. R. ELIEZER[16] HISMA RULED: IF THE CHANGE WAS A CAUSE OF LENIENCY[17] THE BRIGHT SPOT IS CLEAN, BUT IF IT WAS ONE OF RESTRICTION THE SPOT MUST BE INSPECTED AS IF IT WERE A NEW ONE. R. AKIBA RULED: WHETHER THE CHANGE WAS A CAUSE OF LENIENCY OR ONE OF RESTRICTION THE SPOT MUST BE INSPECTED AS IF IT WERE A NEW ONE.

MISHNAH 3. A BRIGHT SPOT IN WHICH[18] THERE WERE NO SIGNS OF UNCLEANNESS[19] AT THE BEGINNING,[20] OR AT THE END OF THE FIRST WEEK, MUST BE SHUT UP; AT THE END OF THE SECOND WEEK OR AFTER IT HAD BEEN PRONOUNCED CLEAN, IT MUST HENCEFORTH BE HELD TO BE CLEAN. IF WHILE THE PRIEST WAS ABOUT TO SHUT IT UP OR TO PRONOUNCE IT CLEAN TOKENS OF UNCLEANNESS[21] APPEARED IN IT, HE MUST CERTIFY IT AS UNCLEAN. A BRIGHT SPOT IN WHICH APPEARED[18] TOKENS OF UNCLEANNESS MUST BE CERTIFIED AS UNCLEAN. IF WHILE THE PRIEST WAS ABOUT TO CERTIFY IT AS UNCLEAN THE TOKENS OF UNCLEANNESS DISAPPEARED EITHER AT THE BEGINNING,[20] OR AT THE END OF THE FIRST WEEK, IT MUST BE SHUT UP; BUT IF THEY DISAPPEARED AT THE END OF THE SECOND WEEK OR AFTER THE SPOT HAD BEEN PRONOUNCED CLEAN,[22] IT MUST HENCEFORTH BE HELD TO BE CLEAN.

MISHNAH 4. A MAN WHO PLUCKS OUT TOKENS OF UNCLEANNESS[23] OR CAUTERIZES QUICK FLESH TRANSGRESSES A NEGATIVE COMMANDMENT.[24] AND AS REGARDS CLEANNESS, IF THEY WERE PLUCKED OUT BEFORE THE MAN CAME TO THE PRIEST, HE IS CLEAN; BUT IF AFTER HE HAD BEEN CERTIFIED AS UNCLEAN, HE REMAINS UNCLEAN. SAID R. AKIBA: I ASKED RABBAN GAMALIEL AND R. JOSHUA WHEN THEY WERE ON THE WAY TO NADWAD,[25] ‘WHAT IS THE RULING IF THE PLUCKING OCCURRED WHILE IT WAS SHUT UP?’ THEY SAID TO ME, ‘WE HEARD NO SUCH RULING, BUT WE HAVE HEARD THAT IF THEY WERE PLUCKED BEFORE THE MAN CAME TO THE PRIEST HE IS CLEAN, AND IF AFTER HE HAD BEEN CERTIFIED AS UNCLEAN HE REMAINS UNCLEAN’. I BEGAN TO BRING THEM PROOFS[26] TO THE EFFECT THAT, WHETHER THE MAN STANDS BEFORE THE PRIEST[27] OR WHETHER HE IS THEN[27] SHUT UP, HE IS CLEAN UNLESS THE PRIEST HAD PRONOUNCED HIM UNCLEAN. WHEN DOES HE[28] ATTAIN CLEANNESS? R. ELIEZER RULED: AFTER ANOTHER LEPROSY SIGN HAS ARISEN IN HIM AND HE HAS ATTAINED CLEANNESS AFTER IT; BUT THE SAGES RULED: ONLY AFTER ANOTHER LEPROSY SIGN HAS SPREAD OVER HIS WHOLE BODY OR AFTER HIS BRIGHT SPOT HAS BEEN REDUCED TO LESS THAN THE SIZE OF A SPLIT BEAN.

MISHNAH 5. IF A MAN HAD A BRIGHT SPOT AND IT WAS CUT OFF, HE BECOMES CLEAN; BUT IF HE CUT IT OFF INTENTIONALLY, R. ELIEZER RULED: HE BECOMES CLEAN ONLY AFTER ANOTHER LEPROSY SIGN HAS ARISEN IN HIM AND HE HAS ATTAINED CLEANNESS AFTER IT; BUT THE SAGES RULED: ONLY AFTER IT HAS SPREAD OVER ALL HIS BODY. IF IT[29] WAS ON THE TIP OF ONE'S FORESKIN, CIRCUMCISION[30] IS PERMITTED.[31]

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(1) Though they continued after it was given.

(2) Of the body.

(3) Which, being like the normal skin of the body, would be a cause of uncleanness.

(4) Normally a cause of cleanness.

(5) ‘A scar’ is, with some texts, to be deleted.

(6) The boil, burning or blister, a bright spot on which is clean.

(7) A bright spot on which is unclean.

(8) Because there was an interval of cleanness between the two phases of uncleanness.
(9) That of the clean bright spots spoken of in the previous MISHNAH .
(10) During the periods of their uncleanness.
(11) While the man for instance was still a heathen.
(12) After he became a proselyte.
(13) Whose colour is white as white wool.
(14) That of lime of the Temple or the skin of an egg, which is dimmer than its first colour.
(15) V. p. 258, n. 11.
(16) Var. lec., ‘Eleazar’.
(17) Sc. if a bright colour assumed a dimmer shade.
(18) When inspected by the priest.
(19) Lit., ‘nothing’, neither quick flesh nor white hair.
(20) When it was first submitted to the priest's inspection.
(21) White hair or quick flesh.
(22) Sc. tokens of uncleanness that appeared after it had been pronounced clean disappeared before the priest had certified it as unclean.
(23) E.g. white hair from a leprosy sign on a normal skin.
(24) Cf. Deut. XXIV, 8.
(25) Var. lec., Narwad, Nadabath.
(26) These are given in Tosef. Neg. III, 4.
(27) When his tokens of uncleanness were plucked out.
(28) The man whose tokens of uncleanness were plucked after he had been certified unclean.
(29) The spreading of the leprosy sign.
(30) Even when it is performed later than the prescribed eighth day after birth. Circumcision on the eighth day, which overrides the Pentateuchal prohibition against work on the Sabbath, obviously overrides that against the removal of a leprosy sign which is but a Rabbinical prohibition.
(31) Since the positive commandment of circumcision overrides the negative one of removing a token of uncleanness.

Mishna - Mas. Nega'im Chapter 8

MISHNAH 1. IF LEPROSY BROKE OUT ABROAD[1] WHEN A MAN WAS UNCLEAN,[2] HE BECOMES CLEAN;[3] BUT IF ONLY THE ENDS OF HIS MEMBERS[4] REAPPEARED,[5] HE BECOMES UNCLEAN[6] UNTIL THE BRIGHT SPOT IS REDUCED TO LESS THAN THE SIZE OF A SPLIT BEAN. [IF IT BROKE OUT ABROAD] WHEN HE WAS [DECLARED] CLEAN,[7] HE BECOMES UNCLEAN;[8] BUT IF THE ENDS OF HIS MEMBERS REAPPEARED, HE REMAINS UNCLEAN UNTIL HIS BRIGHT SPOT RESUMES ITS FORMER SIZE.

MISHNAH 2. IF A BRIGHT SPOT OF THE SIZE OF A SPLIT BEAN IN WHICH WAS QUICK FLESH OF THE SIZE OF A LENTIL BROKE OUT ABROAD COVERING A PERSON'S ENTIRE SKIN AND THEN THE QUICK FLESH DISAPPEARED, OR IF THE QUICK FLESH DISAPPEARED AND THEN[9] THE BRIGHT SPOT BROKE OUT ABROAD COVERING ALL HIS SKIN, HE IS CLEAN.[10] IF QUICK FLESH AROSE SUBSEQUENTLY HE IS UNCLEAN.[6] IF HE GREW WHITE HAIR, R. JOSHUA RULES THAT HE IS UNCLEAN,[11] BUT THE SAGES RULE THAT HE IS CLEAN.[12]

MISHNAH 3. IF A BRIGHT SPOT IN WHICH GREW WHITE HAIR[13] BROKE OUT ABROAD COVERING A MAN'S ENTIRE SKIN, EVEN THOUGH THE WHITE HAIR REMAINED IN ITS PLACE,[14] HE IS CLEAN. IF A BRIGHT SPOT IN WHICH THERE WAS A SPREADING[15] BROKE OUT ABROAD COVERING A MAN'S ENTIRE SKIN, HE IS CLEAN. BUT IN THE CASE OF ALL THESE[16] IF THE ENDS OF THE MAN'S MEMBERS REAPPEARED,[17] THE MAN IS UNCLEAN. IF THE LEPROSY BROKE OUT ABROAD COVERING A PART[18] OF THE MAN'S SKIN HE IS UNCLEAN; IF IT BROKE OUT ABROAD

COVERING ALL HIS SKIN HE IS CLEAN.

MISHNAH 4. IN ALL CASES OF BREAKING OUT ABROAD AND COVERING THE ENDS OF THE MEMBERS WHEREBY THE UNCLEAN HAVE BEEN PRONOUNCED CLEAN, IF THEY[19] REAPPEARED[20] THESE[21] BECOME UNCLEAN AGAIN. IN ALL CASES OF REAPPEARANCE OF THE ENDS OF THE MEMBERS[20] WHEREBY THE CLEAN HAVE BEEN PRONOUNCED UNCLEAN, IF THEY[19] WERE COVERED AGAIN THESE[21] BECOME CLEAN AGAIN. IF SUBSEQUENTLY THEY BECOME UNCOVERED THESE[21] ARE UNCLEAN, EVEN IF THIS OCCURS A HUNDRED TIMES.

MISHNAH 5. ANY PART [OF THE BODY] THAT CAN BE SUBJECT TO THE UNCLEANNESS OF A LEPROSY SIGN[22] OF A BRIGHT SPOT MAY[23] PREVENT THE EFFECTIVENESS[24] OF THE BREAKING OUT ABROAD, AND ANY PART THAT CANNOT BE SUBJECT TO THE UNCLEANNESS OF A LEPROSY SIGN OF THE BRIGHT SPOT DOES NOT PREVENT THE EFFECTIVENESS[24] OF THE BREAKING OUT ABROAD. FOR INSTANCE: IF IT[25] BROKE OUT ABROAD, COVERING ALL ONE'S SKIN, BUT NOT THE HEAD OR THE BEARD,[26] OR A FESTERING BOIL, BURNING OR BLISTER,[26] AND THEN THE HEAD OR THE BEARD BECAME BALD,[27] OR THE BOIL, BURNING OR BLISTER TURNED INTO A SCAR,[27] THE MAN IS NEVERTHELESS CLEAN.[28] IF IT BROKE OUT ABROAD, COVERING ALL ONE'S SKIN, EXCEPT A SPOT OF THE SIZE OF HALF A LENTIL[29] NEAR THE HEAD OR BEARD, OR NEAR A BOIL, BURNING OR BLISTER, AND THEN THE HEAD OR THE BEARD BECAME BALD, OR THE BOIL, BURNING OR BLISTER TURNED INTO A SCAR, EVEN THOUGH THE PLACE OF THE QUICK FLESH[30] BECAME[31] A BRIGHT SPOT, THE MAN IS UNCLEAN[32] UNLESS IT BREAKS OUT ABROAD COVERING ALL HIS BODY.

MISHNAH 6. IF THERE WERE TWO BRIGHTS SPOTS, THE ONE UNCLEAN AND THE OTHER[33] CLEAN, AND LEPROSY BROKE OUT FROM ONE TO THE OTHER, AND THEN IT BROKE OUT ABROAD COVERING ALL THE MAN'S SKIN, HE BECOMES CLEAN.[34] IF THE BRIGHT SPOTS[35] WERE RESPECTIVELY ON HIS UPPER LIP AND LOWER LIP, ON TWO OF HIS FINGERS, OR ON HIS TWO EYELIDS, EVEN THOUGH THEY CLEAVE TOGETHER AND APPEAR AS ONE,[36] HE IS CLEAN. IF IT[37] BROKE OUT ABROAD COVERING ALL HIS SKIN EXCEPT A TETTER,[38] HE IS UNCLEAN. IF[39] THE ENDS OF THE MEMBERS REAPPEARED IN THE COLOUR OF A TETTER, HE IS CLEAN.[40] IF THE ENDS OF THE MEMBERS REAPPEARED TO THE EXTENT OF LESS THAN A LENTIL, R. MEIR RULES THAT HE IS UNCLEAN, BUT THE SAGES RULE THAT A TETTER [OR SKIN],[41] LESS IN SIZE THAN A LENTIL, IS A TOKEN OF UNCLEANNESS IN THE BEGINNING,[42] BUT IS NO TOKEN OF UNCLEANNESS AT THE END.[43]

MISHNAH 7. A MAN WHO CAME[44] WITH ALL HIS BODY WHITE MUST BE SHUT UP. IF SUBSEQUENTLY[45] WHITE HAIR GREW, HE MUST BE CERTIFIED UNCLEAN. IF BOTH HAIRS OR ONE OF THEM TURNED BLACK,[46] IF BOTH OR ONE OF THEM BECAME SHORT, IF A BOIL ADJOINED BOTH OR ONE OF THEM, OR IF A BOIL ENCOMPASSED BOTH OR ONE OF THEM, OR IF A BOIL, THE QUICK FLESH OF A BOIL, A BURNING, THE QUICK FLESH OF A BURNING, OR A TETTER SUNDERED THEM,[47] AND THEN[48] THERE AROSE QUICK FLESH OR WHITE HAIR, HE IS UNCLEAN; BUT IF NEITHER QUICK FLESH NOR WHITE HAIR AROSE HE IS CLEAN. IN ALL THESE CASES, HOWEVER, IF THE ENDS OF THE MEMBERS REAPPEARED THE MAN[49] REMAINS AS HE WAS BEFORE.[50] IF THE LEPROSY THEN[51] BROKE OUT ABROAD, COVERING A PART OF THEM,[52] HE IS UNCLEAN.[53] IF SUBSEQUENTLY[54] IT BROKE OUT ABROAD COVERING ALL OF THEM, HE IS CLEAN.[55]

MISHNAH 8. IF[56] LEPROSY BROKE OUT ABROAD COVERING ALL A MAN'S SKIN AT ONCE, HE IS UNCLEAN IF THIS ORIGINATED IN A CONDITION OF CLEANNESS,[57] AND CLEAN IF IT ORIGINATED IN A CONDITION OF UNCLEANNESS.[57] THE MAN WHO ATTAINS CLEANNESS AFTER HE WAS SHUT UP IS EXEMPT FROM THE OBLIGATION OF LOOSENING THE HAIR AND RENDING THE CLOTHES,[58] FROM CUTTING OFF THE HAIR[59] AND FROM BRINGING THE BIRDS.[60] IF HE ATTAINS CLEANNESS AFTER HE HAD BEEN CERTIFIED UNCLEAN, HE IS LIABLE TO ALL THESE. BOTH, HOWEVER, CONVEY UNCLEANNESS[61] BY ENTERING.[62]

MISHNAH 9. IF A MAN CAME[63] WITH HIS WHOLE BODY WHITE, AND ON IT THERE WAS QUICK FLESH TO THE EXTENT OF A LENTIL,[64] AND THEN[65] THE LEPROSY BROKE OUT ABROAD COVERING ALL HIS SKIN,[66] AFTER WHICH[67] THE ENDS OF THE MEMBERS REAPPEARED, R. ISHMAEL RULED: THE LAW IN THIS CASE IS THE SAME AS WHEN THE ENDS OF THE MEMBERS REAPPEAR IN THAT OF A LARGE BRIGHT SPOT.[68] R. ELIEZER[69] B. AZARIAH RULED: AS WHEN THE ENDS OF THE MEMBERS REAPPEARED IN A SMALL BRIGHT SPOT.[70]

MISHNAH 10. SOME MAN MIGHT SHOW HIS LEPROSY SIGN TO THE PRIEST AND THEREBY GAIN ADVANTAGE, WHILE ANOTHER MIGHT SHOW HIS AND LOSE THEREBY. IN WHAT MANNER? IF A MAN WAS CERTIFIED UNCLEAN AND THE TOKENS OF HIS UNCLEANNESS DISAPPEARED, AND BEFORE HE COULD SHOW IT TO THE PRIEST THE LEPROSY BROKE OUT ABROAD COVERING ALL HIS SKIN, HE IS CLEAN; WHEREAS IF HE HAD SHOWN IT TO THE PRIEST[71] HE WOULD HAVE BEEN UNCLEAN.[72] IF HE HAD A BRIGHT SPOT IN WHICH THERE WAS NOTHING ELSE, AND BEFORE HE COULD SHOW IT TO THE PRIEST IT BROKE OUT ABROAD COVERING ALL HIS SKIN, HE IS UNCLEAN;[73] WHEREAS IF HE HAD SHOWN IT TO THE PRIEST[74] HE WOULD HAVE BEEN CLEAN.[75]

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(1) And covered all his skin. Cf. Lev. XIII, 12.

(2) Either after certification or even only when shut up.

(3) Ibid. 13.

(4) Though quick flesh on these is no cause of uncleanness.

(5) Sc. were freed from the leprosy.

(6) Ibid. 14.

(7) Either after being shut up or after the termination of a certified uncleanness, cf. infra p. 263.

(8) As the Biblical text refers only to a case where the plague broke out abroad in one who had been declared unclean.

(9) Before the priest could pronounce the man clean.

(10) On the same principle as in MISHNAH 1.

(11) As if quick flesh arose.

(12) Since the text speaks only of quick flesh.

(13) And consequently had been declared unclean by the priest.

(14) And much more so if it fell off and the priest had not yet pronounced the man to be clean.

(15) V. p. 262 n. 13.

(16) That were ruled supra (MISHNAH 2 and 3) to be clean.

(17) V. p. 262 n. 5.

(18) Even if it was the greater part.

(19) The ends of the members.

(20) After they and all the man's skin had been covered by bright spot.

(21) The cases of bright spot.

(22) Cf. supra VI, 8.

(23) If any part of it remained free from leprosy.

(24) Sc. as a cause of cleanness.

(25) The bright spot.

(26) Which is not subject to the uncleanness of bright spot.

(27) When it is subject as a rule to the uncleanness of bright spot like the normal skin of the body.

(28) Because at the time the bright spot first covered the body these were not subject to its uncleanness.

(29) Which was covered by quick flesh.

(30) Cf. prev. n.

(31) Subsequently.

(32) Since the leprosy did not break out abroad, covering all parts that can be affected, either before or now.

(33) Having remained unchanged for two weeks.

(34) Even where the breaking out began from the clean one, since its merging with the unclean one subjects it to the same status.

(35) Each being of the size of half a split bean.

(36) Of the size of a split bean.

(37) The leprosy.

(38) Bohak, a spot on the skin dimmer than any of the four principal colours; Lev. XIII, 39.

(39) After the tetter too had been covered with the leprosy, and thus pronounced clean.

(40) Since it is not ‘quick flesh’.

(41) Cf L.

(42) These prevent the effectiveness of the breaking out abroad to make the leper clean.

(43) When the small space mentioned reappeared after the entire skin had been covered.

(44) To the priest, for a first inspection.

(45) Having been shut up.

(46) After the certification.

(47) The two hairs.

(48) Having in virtue of these been released from the uncleanness of the white hair.

(49) Who COMES WITH ALL HIS BODY WHITE.

(50) If, for instance, he was to be shut up for a week and during that time the ends of the members reappeared, he must be shut up again for a similar period. If, on the other hand, they reappeared after he had been pronounced clean he remains clean (v. L. and cf. Bert.).

(51) After the ends of the members have reappeared.

(52) Of the ends of the members.

(53) On account of the spreading.

(54) After a part had been covered and the man had become unclean.

(55) Since the breaking out arose from a condition of uncleanness (cf. next MISHNAH).

(56) As set forth in previous MISHNAH .

(57) This is taken as the continuation of the preceding MISHNAH . One comes with his whole body white and is subjected to the various regulations set forth, and then the ends of members reappear only subsequently to be again affected with leprosy.

(58) Cf. Lev. XIII, 45.

(59) Cf. Ibid. XIV, 8.

(60) Cf. Ibid. XIV, 4.

(61) To all that is in a room.

(62) The room (cf. prev. n.).

(63) To the priest, for a first inspection.

(64) So that, quick flesh being a token of uncleanness at a first inspection, the man should have been pronounced unclean.

(65) Before the priest pronounced him unclean (cf. prev. n.).

(66) As a result of which he must be shut up (cf. supra VII, 3).

(67) Having been shut up.

(68) Sc. it is regarded as though the whole body is still white, as in MISHNAH 7.

(69) Var. lec., ‘Eleazar’.

(70) I.e., one confined to a part of the skin and unclean as in MISHNAH 3 (Bert.).

(71) Who would have pronounced it clean.

(72) Since the breaking out would have begun in a condition of cleanness.

(73) Sc. it must be shut up.

(74) Who would have shot him up for a week.

(75) Because the breaking out would have begun from a leprosy that was shut up.

Mishna - Mas. Nega'im Chapter 9

MISHNAH 1. A BOIL[1] OR A BURNING[1] MAY BECOME UNCLEAN IN A WEEK[2] AND BY TWO TOKENS, VIZ., BY WHITE HAIR OR BY A SPREADING.[3] WHAT EXACTLY IS A ‘BOIL’? AN INJURY RECEIVED FROM WOOD, STONE, OLIVE PEAT, OR THE WATER OF TIBERIAS,[4] OF FROM ANY OTHER OBJECT WHOSE HEAT IS NOT DUE TO FIRE IS A BOIL. WHAT EXACTLY IS A ‘BURNING’? A BURN CAUSED BY A LIVE COAL, HOT EMBERS, OR ANY OBJECT WHOSE HEAT IS DUE TO FIRE IS A BURNING.

MISHNAH 2. A BOIL AND A BURNING CANNOT BE COMBINED,[5] NOR CAN THEY EFFECTIVELY[6] SPREAD FROM ONE TO THE OTHER, FROM THEM TO THE SKIN OF THE FLESH, OR FROM THE SKIN OF THE FLESH TO THEM.[7] IF THEY FESTERED THEY ARE CLEAN.[8] IF THEY FORMED A SCALE AS THICK AS GARLIC PEEL, SUCH IS THE SCAR OF THE BOIL THAT IS SPOKEN OF IN THE TORAH.[9] IF THEY WERE SUBSEQUENTLY HEALED, EVEN THOUGH THERE WAS A CICATRIX IN THEIR PLACE, THEY ARE REGARDED AS ‘THE SKIN OF THE FLESH’.[10]

MISHNAH 3. R. ELIEZER WAS ASKED, ‘WHAT IS THE RULING WHERE A BRIGHT SPOT OF THE SIZE OF A SELA’ AROSE ON THE INSIDE OF ONE'S HAND AND COVERED UP[11] THE SCAR OF A BOIL?’[12] HE REPLIED: ‘IT MUST BE SHUT UP’. THEY SAID TO HIM, ‘FOR WHAT PURPOSE, SEEING THAT IT IS NEITHER CAPABLE OF GROWING WHITE HAIR[13] NOR CAN IT EFFECTIVELY[14] SPREAD[15] NOR DOES QUICK FLESH[16] CAUSE IN IT ANY UNCLEANNESS?’ HE REPLIED, ‘IT IS POSSIBLE THAT IT WILL CONTRACT[17] AND THEN SPREAD AGAIN’.[18] THEY SAID TO HIM, ‘BUT WHAT ABOUT WHEN ITS EXTENT BE ONLY THAT OF A SPLIT BEAN?’[19] ‘I HAVE NOT HEARD THE REASON’, HE REPLIED.[20] SAID R. JUDAH B. BATHYRA TO HIM, ‘I WOULD SUBMIT AN ARGUMENT ON IT’. THE OTHER REPLIED, ‘IF YOU WOULD THEREBY CONFIRM THE RULING OF THE SAGES, WELL AND GOOD’. HE SAID, ‘IT IS POSSIBLE THAT ANOTHER BOIL WOULD ARISE OUTSIDE IT? AND THE LATTER[21] WOULD THEN SPREAD TO THE FORMER,[22] ‘YOU ARE A GREAT SAGE’, THE OTHER EXCLAIMED, ‘FOR YOU HAVE CONFIRMED A RULING OF THE SAGES.

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(1) V. supra, III, 4.

(2) If there appeared a bright spot.

(3) During which the sufferer is shut up.

(4) Flowing from its hot springs.

(5) To make up the prescribed size of a split bean.

(6) To be a cause of uncleanness.

(7) Only a spreading on the boil or burning itself is effective.

(8) Though covered by a bright spot.

(9) Lev. XIII, 23.

(10) Lev. XIII, 3.

(11) Lit., ‘and its place’.

(12) So that nothing of the scar is visible.

(13) Since no hair grows on the inside of a hand.

(14) To be a cause of uncleanness.

(15) As stated supra MISHNAH 2.

(16) Which is not one of its two tokens of uncleanness (supra MISHNAH 1).

(17) To the size of a split bean.

(18) Over the scar; and thus cause uncleanness.

(19) 'For what purpose should it then be shut up?' For were it to contract it would be less than the minimum size and would become altogether clean.

(20) Though the ruling in the latter case also is that the sufferer is to be shut up.

(21) The one already there that is to be shut up.

(22) And this would, of course, be a cause of uncleanness.

Mishna - Mas. Nega'im Chapter 10

MISHNAH 1. SCALLS[1] MAY BECOME UNCLEAN FOR TWO WEEKS[2] AND BY TWO TOKENS, VIZ., BY YELLOW THIN[3] HAIR OR BY A SPREADING. BY YELLOW THIN HAIR', MEANS SO DISEASED THAT IT IS SHORT; SO R. AKIBA. R. JOHANAN B. NURI SAID: EVEN THOUGH IT IS LONG.[4] R. JOHANAN B. NURI ARGUED: WHAT IS THE MEANING OF THE EXPRESSION WHEN PEOPLE SAY, 'THIS STICK IS THIN', OR 'THIS REED IS THIN'? DOES 'THIN' IMPLY THAT IT IS STUNTED[5] AND SHORT AND NOT[6] STUNTED, AND LONG?[7] R. AKIBA REPLIED: BEFORE WE LEARN FROM THE REED LET US LEARN FROM THE HAIR. IN 'SO AND SO'S HAIR IS THIN', 'THIN' MEANS THAT IT IS STUNTED[5] AND SHORT AND NOT STUNTED AND LONG.

MISHNAH 2. YELLOW THIN HAIR CAUSES UNCLEANNESS WHETHER IT IS CLUSTERED TOGETHER[8] OR DISPERSED, WHETHER IT IS ENCOMPASSED[9] OR UNENCOMPASSED, OR WHETHER IT CAME AFTER THE SCALL[10] OR BEFORE IT; SO R. JUDAH. R. SIMEON RULED: IT CAUSES UNCLEANNESS ONLY WHEN IT CAME AFTER THE SCALL. R. SIMEON ARGUED: THIS IS A LOGICAL INFERENCE: IF WHITE HAIR,[11] AGAINST WHICH OTHER HAIR AFFORDS NO PROTECTION,[12] CAUSES UNCLEANNESS ONLY WHEN IT COMES AFTER THE SCALL,[10] HOW MUCH MORE THEN SHOULD YELLOW THIN HAIR, AGAINST WHICH OTHER HAIR DOES AFFORD PROTECTION,[13] CAUSE UNCLEANNESS ONLY WHEN IT COMES AFTER THE SCALL? R. JUDAH REPLIED: WHENEVER IT WAS NECESSARY TO SAY, 'IF IT COMES AFTER'[14] SCRIPTURE HAS SAID, 'IF IT COMES AFTER', BUT THE SCALL, SINCE ABOUT IT SCRIPTURE SAID, THERE BE IN IT NO YELLOW HAIR,[15] CAUSES UNCLEANNESS WHETHER IT CAME BEFORE OR AFTER IT.

MISHNAH 3. [BLACK HAIR][16] THAT GROWS UP[17] AFFORDS PROTECTION AGAINST YELLOW HAIR AND AGAINST A SPREADING,[18] WHETHER IT WAS CLUSTERED TOGETHER OR DISPERSED, WHETHER IT WAS ENCOMPASSED OR UNENCOMPASSED. AND THAT WHICH IS LEFT[19] AFFORDS PROTECTION AGAINST YELLOW HAIR AND AGAINST A SPREADING, WHETHER IT IS CLUSTERED TOGETHER OR DISPERSED, AND ALSO WHEN ENCOMPASSED, BUT IT AFFORDS NO PROTECTION WHERE IT IS AT THE SIDE[20] UNLESS IT IS DISTANT FROM THE STANDING HAIR BY THE PLACE OF TWO HAIRS. IF ONE HAIR[21] WAS YELLOW AND THE OTHER BLACK, OR IF ONE WAS YELLOW AND THE OTHER WHITE,[22] THEY AFFORD NO PROTECTION.

MISHNAH 4. YELLOW HAIR THAT PRECEDED A SCALL IS CLEAN. R. JUDAH RULES THAT IT IS UNCLEAN. R. ELIEZER B. JACOB EXPLAINED:[23] IT NEITHER CAUSES UNCLEANNESS NOR DOES IT AFFORD PROTECTION. R. SIMEON EXPLAINED:[23] ANY GROWTH IN A SCALL THAT IS NOT A TOKEN OF UNCLEANNESS IS IPSO FACTO A TOKEN OF CLEANNESS.

MISHNAH 5. HOW IS ONE SHAVED WHO HAS A SCALL?[24] THE SPACE OUTSIDE IT IS SHAVED WHILE NEXT TO IT TWO HAIRS ARE LEFT[25] IN ORDER THAT IT MAY BE NOTICED WHETHER IT SPREADS. IF IT WAS CERTIFIED UNCLEAN ON ACCOUNT OF YELLOW HAIR, AND THEN THE YELLOW HAIR DISAPPEARED AND OTHER YELLOW HAIR APPEARED, AND SO ALSO IF THERE WAS A SPREADING,[26] IRRESPECTIVE OF WHETHER THE CERTIFICATION[27] TOOK PLACE AT THE BEGINNING,[28] AT THE END OF THE FIRST WEEK, AT THE END OF THE SECOND WEEK OR AFTER THE RELEASE FROM UNCLEANNESS, THE MAN REMAINS AS HE WAS BEFORE.[29] IF THE MAN WAS CERTIFIED UNCLEAN ON ACCOUNT OF A SPREADING, AND THE SPREADING DISAPPEARED AND THEN REAPPEARED, AND SO ALSO IF THERE WAS YELLOW HAIR,[30] IRRESPECTIVE OF WHETHER THE CERTIFICATION TOOK PLACE AT THE END OF THE FIRST WEEK, AT THE END OF THE SECOND WEEK OR AFTER RELEASE FROM UNCLEANNESS, THE MAN REMAINS AS HE WAS BEFORE.[29]

MISHNAH 6. IF THERE WERE TWO SCALLS[31] SIDE BY SIDE AND A LINE OF HAIR INTERVENED BETWEEN THEM, IF A GAP APPEARED[32] IN ONE PLACE THE MAN IS UNCLEAN,[33] BUT IF IT APPEARED IN TWO PLACES HE IS CLEAN.[34] HOW BIG SHOULD THE GAP[35] BE?[36] THE SPACE OF TWO HAIRS. IF THERE WAS A GAP IN ONE PLACE, EVEN THOUGH IT IS AS BIG AS A SPLIT BEAN, THE MAN IS UNCLEAN.[37]

MISHNAH 7. IF THERE WERE TWO SCALLS ONE WITHIN THE OTHER AND A LINE OF HAIR INTERVENED BETWEEN THEM, IF[38] THERE APPEARED A GAP IN ONE PLACE THE INNER ONE IS UNCLEAN,[39] BUT IF IN TWO PLACES IT IS CLEAN.[40] HOW BIG MUST THE GAP[41] BE?[42] THE SPACE OF TWO HAIRS. IF THERE WAS A GAP IN ONE PLACE OF THE SIZE OF A SPLIT BEAN[43] THE MAN IS CLEAN.[44]

MISHNAH 8. A MAN WHO HAS A SCALL WITH YELLOW HAIR WITHIN IT IS UNCLEAN.[45] IF SUBSEQUENTLY BLACK HAIR GREW IN IT, HE IS CLEAN; EVEN IF THE BLACK HAIR DISAPPEARED AGAIN[46] HE REMAINS CLEAN. R. SIMEON B. JUDAH CITING R. SIMEON RULED: ANY SCALL THAT HAS ONCE BEEN PRONOUNCED CLEAN CAN NEVER AGAIN BE SUBJECTED TO UNCLEANNESS.[47] R. SIMEON RULED: ANY YELLOW HAIR THAT HAS ONCE BEEN PRONOUNCED CLEAN CAN NEVER AGAIN BE SUBJECTED TO UNCLEANNESS.[48]

MISHNAH 9. IF A MAN HAD A SCALL OF THE SIZE OF A SPLIT BEAN AND IT SPREAD[49] OVER ALL HIS HEAD[50] HE BECOMES CLEAN.[51] THE HEAD AND THE BEARD ARE NOT INTERDEPENDENT;[52] SO R. JUDAH. R. SIMEON RULED: THEY ARE INTERDEPENDENT. R. SIMEON ARGUED: IS NOT THIS A LOGICAL INFERENCE: IF THE SKIN OF THE FACE AND THE SKIN OF THE BODY, BETWEEN WHICH SOMETHING[53] INTERVENES, ARE NEVERTHELESS INTERDEPENDENT, IS THERE NOT MORE REASON TO ASSUME THAT THE HEAD AND THE BEARD, BETWEEN WHICH NOTHING INTERVENES, SHOULD BE INTERDEPENDENT? THE HEAD AND THE BEARD[54] CANNOT BE COMBINED,[55] NOR IS A SPREADING[56] FROM ONE TO THE OTHER EFFECTIVE.[57] WHAT EXACTLY COUNTS AS THE BEARD? THE HAIR FROM THE JOINT OF THE JAW[58] TO THE THYROID CARTILAGE.[59]

MISHNAH 10. SCALP BALDNESS OR FOREHEAD BALDNESS[60] MAY BECOME UNCLEAN[61] FOR TWO WEEKS[62] AND BY TWO TOKENS, VIZ., BY QUICK FLESH OR BY A SPREADING. WHAT CONSTITUTES BALDNESS? IF A MAN HAD EATEN NESHEM[63] OR SMEARED HIMSELF WITH NESHEM OR HAD A WOUND FROM WHICH HAIR CAN NO LONGER GROW. WHAT IS THE EXTENT OF SCALP BALDNESS? FROM THE CROWN SLOPING BACKWARDS TO THE PROTRUDING CARTILAGE OF THE NECK. WHAT IS

THE EXTENT OF FOREHEAD BALDNESS? FROM THE CROWN SLOPING FORWARDS TO THE REGION FACING THE HAIR ABOVE.[64] SCALP BALDNESS AND FOREHEAD BALDNESS CANNOT BE COMBINED,[65] NOR IS A SPREADING FROM ONE TO THE OTHER EFFECTIVE.[57] R. JUDAH RULED: IF THERE IS HAIR BETWEEN THEM THEY CANNOT BE COMBINED,[65] BUT IF THERE IS NONE THEY MUST BE COMBINED.

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(1) Cf. Lev. XIII, 30ff.

(2) During which the sufferer is shut up, and is in consequence in a condition of uncleanness even though no token of uncleanness had made its appearance.

(3) Dak (Lev. XIII, 30).

(4) ‘Thin’ (dak) referring to sparseness only.

(5) In thickness.

(6) Var. lec., ‘or’.

(7) The answer, of course, is that the latter meaning is also included.

(8) Sc. a minimum of two yellow hairs in one place.

(9) By the leprosy sign.

(10) Lit., ‘turned over’.

(11) In a leprosy sign on the normal skin.

(12) Even the presence of black hair does not nullify the effect of the white hair which are a token of uncleanness.

(13) Two black hairs in a scall nullify the effect of the yellow hair.

(14) V. p. 270 n. 10.

(15) Lev. XIII, 32.

(16) No less than two hairs.

(17) In a scall.

(18) If, for instance, the scall was certified unclean on account of any of these tokens and then black hair grew up the man becomes clean.

(19) Of the black hair which was there before the scall.

(20) Of the scall.

(21) That came before the scall and caused no uncleanness.

(22) Two white hairs, however, like two black ones, afford protection (Elijah Wilna).

(23) The ruling of the first Tanna.

(24) Cf. Lev. XIII, 33.

(25) All round the scall, so that a circle of two hairs in depth is formed around it.

(26) After the yellow hair disappeared, though no other yellow hair has made its appearance.

(27) As unclean, on account of the yellow hair.

(28) When the priest first inspected the scall.

(29) Sc. unclean.

(30) After the spreading had disappeared, no other spreading appearing.

(31) Each of the size of a split bean.

(32) In the line of hair.

(33) Since the scall has spread.

(34) Because black hair is now encompassed by the scall and provides protection.

(35) In each place.

(36) That it should be capable of offering protection.

(37) Because the black hair is unencompassed.

(38) During the week it was shut up.

(39) Since it spread and the black hair growing at its side is not encompassed. The outer scall, however, remains clean since black hair that is left and is encompassed affords protection (cf. MISHNAH 3 supra).

(40) Because both scalls are regarded as merged into one and the hair encompassed affords protection to both.

(41) In each place.

(42) That it should be capable of affording protection.

(43) A gap that causes the two scalls, to be regarded as one.

(44) Cf. supra n. 3.
(45) Since yellow hair is a token of uncleanness at all times.
(46) Only the yellow hair remaining.
(47) Even though subsequently there was a spreading or other yellow hair grew up.
(48) It is unclean, however, where other yellow hair grew or a new spreading appeared after the black hair disappeared.
(49) After it had been pronounced unclean on account of one of the tokens of uncleanness.
(50) Or beard.
(51) As a bright spot that breaks out abroad and covers all one's skin.
(52) Sc. if the scall spread all over one and not over the other the man is nevertheless clean.
(53) The hair off the chin.
(54) In respect of scalls.
(55) A scall on the former cannot be combined with a scall on the latter to form the prescribed size if either is less than that minimum.
(56) Of a scall.
(57) To be a cause of uncleanness.
(58) The upper one.
(59) Or (with Danby) ‘the knob of the windpipe’.
(60) Cf. Lev. XIII, 40ff.
(61) If they have a bright spot of one of the four colours enumerated supra I, n. 1.
(62) Cf. supra p. 270, n. 2.
(63) A drug that causes the hair to fall out.
(64) Excluding the eyebrows.
(65) To constitute the prescribed minimum.

Mishna - Mas. Nega'im Chapter 11

MISHNAH 1. ALL GARMENTS[1] MAY CONTRACT THE UNCLEANNESS OF LEPROSY EXCEPT THOSE OF GENTILES.[2] IF GARMENTS [WITH LEPROSY SIGNS] ARE BOUGHT FROM GENTILES THEY[3] MUST BE INSPECTED AS IF THE SIGNS HAD THEN FIRST APPEARED. THE HIDES [OF THE ANIMALS] OF THE SEA CANNOT CONTRACT THE UNCLEANNESS OF LEPROSY. IF ONE JOINED TO THEM ANYTHING OF THAT WHICH GROWS ON LAND, EVEN IF IT IS ONLY A THREAD OR A CORD,[4] PROVIDED IT IS OF A MATERIAL THAT IS SUSCEPTIBLE TO UNCLEANNESS, THEY ALSO BECOME SUSCEPTIBLE TO UNCLEANNESS.

MISHNAH 2. CAMEL'S HAIR AND SHEEP'S WOOL THAT HAVE BEEN HACKLED TOGETHER[5] ARE NOT SUSCEPTIBLE TO LEPROSY UNCLEANNESS IF THE GREATER PART IS CAMEL'S HAIR; BUT IF THE GREATER PART IS SHEEP'S WOOL THEY ARE SUSCEPTIBLE TO LEPROSY UNCLEANNESS. IF EACH REPRESENTS A HALF[6] THEY ARE ALSO SUSCEPTIBLE TO LEPROSY UNCLEANNESS. AND THE SAME LAW APPLIES ALSO TO FLAX AND HEMP THAT HAVE BEEN HACKLED TOGETHER.[5]

MISHNAH 3. COLOURED[7] HIDES AND GARMENTS ARE NOT SUSCEPTIBLE TO LEPROSY UNCLEANNESS. HOUSES,[8] WHETHER THEY ARE COLOURED OR NOT COLOURED, ARE SUSCEPTIBLE TO LEPROSY UNCLEANNESS; SO R. MEIR. R. JUDAH RULED: HIDES ARE [SUBJECT TO THE SAME RESTRICTIONS] AS HOUSES. A. SIMEON RULED: THOSE THAT ARE NATURALLY[9] [COLOURED] ARE SUSCEPTIBLE TO UNCLEANNESS BUT THOSE THAT ARE ARTIFICIALLY[10] [DYED] ARE NOT SUSCEPTIBLE TO UNCLEANNESS.

MISHNAH 4. IN A GARMENT WHOSE WARP WAS COLOURED AND WHOSE WOOF WAS WHITE, OR WHOSE WOOF WAS COLOURED AND WHOSE WARP WAS WHITE, ALL DEPENDS ON WHAT IS THE MORE APPARENT. GARMENTS CONTRACT UNCLEANNESS IF THEY ARE AN INTENSE GREEN OR AN INTENSE RED. IF A LEPROSY SIGN WAS GREEN[11] AND IT SPREAD OUT[12] RED, OR IF IT WAS RED AND IT SPREAD OUT GREEN, IT IS UNCLEAN. IF ITS COLOUR CHANGED[12] AND THEN IT SPREAD, OR IF IT CHANGED AND IT DID NOT SPREAD, IT IS REGARDED AS IF IT HAD NOT CHANGED.[13] R. JUDAH RULED: LET IT BE INSPECTED AS IF IT THEN APPEARED FOR THE FIRST TIME.[14]

MISHNAH 5. [A LEPROSY SIGN] THAT REMAINED UNCHANGED DURING THE FIRST WEEK[15] MUST BE WASHED[16] AND SHUT UP AGAIN. ONE THAT REMAINS UNCHANGED DURING THE SECOND WEEK MUST BE BURNED. ONE THAT SPREAD DURING THE FIRST OR THE SECOND WEEK MUST BE BURNED. IF IT BECOMES DIMMER IN THE BEGINNING,[17] R. ISHMAEL RULED: IT SHOULD BE WASHED AND BE SHUT UP. BUT THE SAGES RULED: THIS IS NOT REQUIRED.[18] IF THE LEPROSY SIGN BECAME DIMMER DURING THE FIRST WEEK IT MUST BE WASHED AND SHUT UP. IF IT BECAME DIMMER DURING THE SECOND WEEK IT MUST BE TORN OUT, AND THAT WHICH IS TORN OUT MUST BE BURNT, BUT IT IS NECESSARY FOR A PATCH TO BE PUT ON.[19] R. NEHEMIAH RULED: A PATCH IS NOT NECESSARY.

MISHNAH 6. IF THE LEPROSY SIGN HAS REAPPEARED ON THE GARMENT,[20] THE PATCH IS PROTECTED;[21] IF IT REAPPEARED ON THE PATCH THE GARMENT MUST BE BURNT.[22] IF FROM THE MATERIAL OF A GARMENT THAT WAS SHUT UP[23] A PATCH WAS MADE ON A CLEAN GARMENT AND THE LEPROSY SIGN REAPPEARED ON THE GARMENT,[24] THE PATCH MUST BE BURNT; BUT IF IT REAPPEARED ON THE PATCH, THE FIRST GARMENT[24] MUST BE BURNT, AND THE PATCH SERVES THE SECOND

GARMENT WHILE THE TOKENS ARE UNDER OBSERVATION.[25]

MISHNAH 7. IN A SUMMER GARMENT THAT HAD COLOURED AND WHITE STRIPES[26] A LEPROSY SIGN MAY EFFECTIVELY SPREAD[27] FROM ONE OF THE LATTER TO THE OTHERS.[28] R. ELIEZER WAS ASKED: BUT SUPPOSE THERE WAS ONLY ONE WHITE STRIPE?[29] HE REPLIED: I HAVE HEARD NO RULING ON THIS QUESTION. SAID R. JUDAH B. BATHYRA TO HIM: ‘I WOULD SUBMIT AN ARGUMENT ON THIS’. THE OTHER REPLIED, IF THIS WOULD CONFIRM THE WORDS OF THE SAGES, WELL AND GOOD’. ‘IT IS POSSIBLE’, EXPLAINED THE FIRST, ‘THAT IT WOULD REMAIN ON IT IN AN UNCHANGED CONDITION FOR TWO WEEKS, AND THAT WHICH REMAINS UNCHANGED ON GARMENTS FOR TWO WEEKS IS UNCLEAN’.[30] ‘YOU ARE’, THE OTHER EXCLAIMED, ‘A GREAT SAGE, FOR YOU HAVE CONFIRMED THE WORDS OF THE SAGES’. A SPREADING THAT ADJOINS [A FIRST LEPROSY SIGN IS EFFECTIVE][31] HOWEVER SMALL IT MAY BE; ONE THAT IS Dlstant[32] [IS EFFECTIVE’ ONLY] IF IT IS OF THE SIZE OF A SPLIT BEAN; AND ONE THAT REAPPEARS[33] [IS ALSO EFFECTIVE[31] IF IT IS] OF THE SIZE OF A SPLIT BEAN.[34]

MISHNAH 8. THE WARP AND THE WOOF MAY FORTHWltl.[35] CONTRACT THE UNCLEANNESS OF LEPROSY SIGNS. R. JUDAH RULED: THE WARP, ONLY AFTER IT HAD BEEN BOILED; BUT THE WOOF, FORTHWITH; AND BUNDLES OF FLAX,[36] AFTER THEY HAVE BEEN BLEACHED. HOW MUCH MUST THERE BE IN A COIL[37] FOR IT TO BE CAPABLE OF CONTRACTING THE UNCLEANNESS OF LEPROSY SIGNS? AS MUCH AS TO WEAVE FROM IT A PIECE OF THREE FINGERBREADTHS SQUARE, EITHER WARP OR WOOF, THOUGH IT IS ALL WARP OR ALL WOOF. IF IT[38] CONSISTED OF BROKEN THREADS[39] IT DOES NOT CONTRACT THE UNCLEANNESS OF LEPROSY SIGNS. R. JUDAH RULED: EVEN IF THE THREAD WAS BROKEN ONLY IN ONE PLACE, THOUGH IT WAS KNOTTED TOGETHER, IT DOES NOT CONTRACT THE UNCLEANNESS OF LEPROSY SIGNS.

MISHNAH 9. IF A THREAD WAS WOUND FROM ONE COIL TO ANOTHER,[40] OR FROM ONE SPOOL TO ANOTHER,[40] OR FROM THE UPPER BEAM[41] TO THE LOWER BEAM,[40] AND SO ALSO IN THE CASE OF THE TWO WINGS OF A SHIRT,[42] IF A LEPROSY SIGN APPEARED ON THE ONE, THE OTHER REMAINS CLEAN. IF IT APPEARED ON THE SHEDDED WEFT OR ON THE STANDING WARP, THESE MAY FORTHWITH CONTRACT THE UNCLEANNESS OF LEPROSY. R. SIMEON RULED: THE WARP MAY CONTRACT UNCLEANNESS ONLY IF IT IS CLOSELY ORDERED.

MISHNAH 10. [IF A LEPROSY SIGN] APPEARED ON THE STANDING WARP THE WEB REMAINS CLEAN; IF IT APPEARED ON THE WEB THE STANDING WARP REMAINS CLEAN. IF IT APPEARED ON A SHEET THE FRINGES ALSO MUST BE BURNT; IF IT APPEARED ON THE FRINGES THE SHEET REMAINS CLEAN. A SHIRT ON WHICH A LEPROSY SIGN APPEARED AFFORDS PROTECTION TO ITS HEMS,[43] EVEN THOUGH THEY ARE OF PURPLE WOOL.[44]

MISHNAH 11. ANY OBJECT THAT IS SUSCEPTIBLE TO CORPSE UNCLEANNESS, THOUGH INSUSCEPTIBLE TO MIDRAS UNCLEANNESS, MAY CONTRACT THE UNCLEANNESS OF LEPROSY SIGNS; AS, FOR INSTANCE, THE SAIL OF A SHIP, A CURTAIN, THE FOREHEAD BAND OF A HAIR-NET, THE WRAPPINGS OF SCROLLS, A GIRDLE, THE STRAPS OF A SHOE OR SANDAL; IF THESE ARE AS WIDE AS A SPLIT BEAN THEY MAY CONTRACT THE UNCLEANNESS OF LEPROSY SIGNS. A THICK CLOAK ON WHICH A LEPROSY SIGN APPEARED REMAINS CLEAN, R. ELIEZER B. JACOB RULED, UNLESS THE SIGN APPEARED ON THE TEXTURE AND ON THE SOFT

WOOL.[45] A SKIN BOTTLE OR A SHEPHERD'S LEATHER WALLET ARE INSPECTED IN THE POSITION IN WHICH THEY ARE USED,[46] AND A LEPROSY SIGN MAY EFFECTIVELY SPREAD[47] FROM ITS INNER SIDE TO ITS OUTER SIDE AND FROM ITS OUTER SIDE TO ITS INNER SIDE.

MISHNAH 12. IF A GARMENT[48] THAT HAD BEEN SHUT UP WAS MIXED UP WITH OTHERS,[49] ALL ARE CLEAN.[50] IF IT WAS CUT UP AND MADE INTO SHREDS,[51] IT IS CLEAN, AND BENEFIT MAY BE DERIVED FROM IT; BUT IF A GARMENT THAT HAD BEEN CERTIFIED UNCLEAN WAS MIXED UP WITH OTHERS, ALL ARE UNCLEAN. IF IT WAS CUT UP AND MADE INTO SHREDS IT ALSO REMAINS UNCLEAN AND IT IS FORBIDDEN TO HAVE ANY BENEFIT FROM IT.[52]

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(1) Cf. Lev. XIII, 47ff.

(2) Cf. supra III, 1.

(3) However old the signs.

(4) Which, if not attached to the hide of a sea animal, is itself insusceptible to leprosy uncleanness unless it is of a prescribed length.

(5) And used in the manufacture of a garment.

(6) Of the mixture.

(7) Artificially or naturally.

(8) Cf. Lev. XIV, 34ff.

(9) Lit., ‘by the hands of heaven’.

(10) Lit., ‘by the hands of man’.

(11) And of the prescribed minimum.

(12) While it was shut up.

(13) Hence it is burned in the former case and shut up for a second week in the latter.

(14) A change, in his opinion causes the leprosy sign to be regarded as a new one.

(15) Of being shut up.

(16) Sc. the place of the sign alone is washed with the seven substances specified in Nid. IX, 6.

(17) When it was first submitted to the priest's inspection before he ordered its shutting up.

(18) The garment being clean in any case.

(19) Over the hole. The reason is apparent from the following MISHNAH.

(20) In a different spot.

(21) Sc. it need not be burned though the garment must be burned.

(22) The patch itself, if its size is of no less than three by three fingerbreadths, must be shut up again.

(23) Sc. a garment the colour of whose leprosy sign did not become dimmer until the second week when the place of the sign is torn out and burnt.

(24) That was shut up.

(25) The patch is shut up together with the garment as if the leprosy sign had been on the latter. The former, however, must ultimately be burnt even where the garment attained complete cleanness.

(26) Or ‘checks’.

(27) To be a cause of uncleanness.

(28) The coloured stripes or checks forming no valid intervention.

(29) Which was completely covered by a leprosy sign, the rest of the garment being coloured. Why, then, should such a garment be shut up, seeing that the leprosy sign can never effectively spread?

(30) Cf. Lev. XIII, 55.

(31) To be a cause of uncleanness.

(32) From the first leprosy sign; but on the same side of the garment.

(33) After a leprosy sign that became dimmer during the second week had been torn out and the garment had been washed.

(34) In which case the entire garment must be burnt.

(35) Sc. as soon as they are woven even before they have been bleached.

(36) The threads of which are of the same thickness for both the warp and the woof.
(37) Of thread.
(38) The coil.
(39) That were not knotted together.
(40) So that both are joined together by the threads.
(41) Of the loom.
(42) That are held together by a single thread.
(43) Sc. they remain clean.
(44) Much more so if they are of silk which cannot contract leprosy uncleanness.
(45) The woolly hairs on the surface of the material.
(46) So that a leprosy sign on parts that are joined together when in use is a cause of uncleanness though these parts are separated from each other when it is not in use.
(47) To be a cause of uncleanness.
(48) Which, e.g., had been dyed after it had contracted leprosy so that no leprosy sign on it is now distinguishable.
(49) With other coloured garments not susceptible to leprosy uncleanness, v. supra XI, 13.
(50) Since a doubtful uncleanness is regarded as clean.
(51) Each smaller than three fingerbreadths square and all hanging to each other.
(52) V. Lev. XIII, 52; the phrase ‘a malignant leprosy’ implying that it is forbidden for any use.

Mishna - Mas. Nega'im Chapter 12

MISHNAH 1. ALL HOUSES[1] MAY CONTRACT LEPROSY UNCLEANNESS,[2] EXCEPT THOSE OF GENTILES. IF ONE BOUGHT HOUSES FROM GENTILES,[1] ANY LEPROSY SIGNS IN THEM[3] MUST BE INSPECTED AS IF THEY HAD THEN[4] FIRST APPEARED. A ROUND HOUSE, A TRIANGULAR HOUSE, OR A HOUSE BUILT ON A SHIP,[5] ON A RAFT[5] OR ON FOUR BEAMS,[5] DOES NOT CONTRACT LEPROSY UNCLEANNESS; BUT IF IT WAS FOUR-SIDED, EVEN IF IT WAS BUILT ON FOUR PILLARS,[6] IT MAY CONTRACT UNCLEANNESS.

MISHNAH 2. A HOUSE ONE OF WHOSE WALLS IS COVERED WITH MARBLE,[7] WITH ROCK,[8] WITH BRICKS OR WITH EARTH,[9] IS NOT SUSCEPTIBLE TO LEPROSY UNCLEANNESS.[10] A HOUSE THAT HAD NOT IN IT[11] STONES, WOOD AND EARTH,[12] AND A LEPROSY SIGN APPEARED IN IT, THOUGH AFTERWARDS STONES, WOOD AND EARTH WERE INTRODUCED INTO IT, REMAINS CLEAN. SO ALSO A GARMENT IN WHICH THERE WAS NO WOVEN PART OF THREE FINGERBREADTHS SQUARE AND A LEPROSY SIGN APPEARED IN IT, THOUGH AFTERWARDS THERE WAS WOVEN INTO IT A PIECE OF THREE FINGERBREADTHS SQUARE, REMAINS CLEAN. A HOUSE DOES NOT CONTRACT LEPROSY UNCLEANNESS UNLESS THERE ARE IN[1] T[11] STONES, WOOD AND EARTH.[12]

MISHNAH 3. AND HOW MANY STONES MUST THERE BE IN IT?[13] R. ISHMAEL RULED: FOUR.[14] R. AKIBA RULED: EIGHT.[15] FOR R. ISHMAEL USED TO RULE: A LEPROSY SIGN IS NO CAUSE OF UNCLEANNESS UNLESS IT APPEARED IN THE SIZE OF TWO SPLIT BEANS ON TWO STONES OR ON ONE STONE.[16] R. AKIBA RULED: UNLESS IT APPEARS IN THE SIZE OF TWO SPLIT BEANS ON TWO STONES, AND NOT ON ONE STONE.[17] R. ELIEZER SON OF R. SIMEON RULED: UNLESS IT APPEARS IN THE SIZE OF TWO SPLIT BEANS, ON TWO STONES, ON TWO WALLS IN A CORNER, ITS LENGTH BEING THAT OF TWO SPLIT BEANS AND ITS BREADTH THAT OF ONE SPLIT BEAN.

MISHNAH 4. THE QUANTITY OF WOOD[18] MUST BE SUCH AS WOULD SUFFICE TO BE SET UNDER THE LINTEL. R. JUDAH RULED: IT MUST SUFFICE TO MAKE THE SUPPORT AT[19] THE BACK OF THE LINTEL.[20] THE QUANTITY OF EARTH MUST BE SUCH AS

WOULD SUFFICE TO FILL UP THE SPACE BETWEEN ONE ROW OF STONES AND ANOTHER. THE WALLS OF A CATTLE-STALL OR THE WALLS OF A PARTITION[21] DO NOT CONTRACT THE UNCLEANNESS OF LEPROSY SIGNS. A HOUSE IN JERUSALEM OR IN ANY PLACE OUTSIDE THE LAND OF ISRAEL DOES NOT CONTRACT UNCLEANNESS OF LEPROSY SIGNS.[22]

MISHNAH 5. WHAT IS THE PROCEDURE IN THE INSPECTION OF A HOUSE?[23] THEN HE THAT OWNETH THE HOUSE SHALL COME AND TELL THE PRIEST, SAYING, THERE SEEMETH TO ME TO BE AS IT WERE A PLAGUE IN THE HOUSE.[24] EVEN IF HE IS A LEARNED SAGE AND KNOWS THAT IT IS DEFINITELY A LEPROSY SIGN, HE MAY NOT SPEAK WITH CERTAINTY SAYING, A LEPROSY SIGN HAS APPEARED TO ME IN THE HOUSE', BUT ONLY, 'THERE SEEMETH TO ME TO BE AS IT WERE A PLAGUE IN THE HOUSE'. AND THE PRIEST SHALL COMMAND THAT THEY EMPTY THE HOUSE, BEFORE THE PRIEST GO IN TO SEE THE PLAGUE, THAT ALL THAT IS IN THE HOUSE BE NOT MADE UNCLEAN; AND AFTERWARD THE PRIEST SHALL GO IN TO SEE THE HOUSE;[25] EVEN BUNDLES OF WOOD[26] AND EVEN BUNDLES OF REEDS MUST BE REMOVED; SO R. JUDAH. R. SIMEON OBSERVED: THIS[27] IS A BUSINESS FOR AN IDLER ONLY.[28] SAID R. MEIR: BUT WHICH [OF HIS GOODS] COULD BECOME UNCLEAN? IF YOU WERE TO SAY, 'HIS ARTICLES OF WOOD, OF CLOTH OR OF METAL', THESE, SURELY, CAN BE IMMERSED IN A RITUAL BATH WHEN THEY BECOME CLEAN. WHAT IS IT THAT THE TORAH HAS SPARED? HIS EARTHENWARE, EVEN HIS CRUSE AND HIS EWER.[29] IF THE TORAH THUS SPARED A MAN'S HUMBLE POSSESSIONS, HOW MUCH MORE SO WOULD IT SPARE HIS CHERISHED POSSESSIONS! IF FOR HIS MATERIAL POSSESSIONS SO MUCH CONSIDERATION IS SHOWN, HOW MUCH MORE SO FOR THE LIFE OF HIS SONS AND DAUGHTERS! IF FOR THE POSSESSIONS OF A WICKED MAN[30] SUCH CARE IS EXERCISED, HOW MUCH MORE SO FOR THE POSSESSIONS OF A RIGHTEOUS ONE!

MISHNAH 6. [THE PRIEST] MUST NOT GO INTO[31] HIS OWN HOUSE TO SHUT UP,[32] NOR MAY HE STAND WITHIN THE HOUSE WHEREIN IS THE LEPROSY SIGN TO SHUT IT UP. HE MUST RATHER STAND AT THE DOOR OF THE HOUSE WHEREIN IS THE LEPROSY SIGN, AND SHUTS IT FROM THERE;[33] FOR IT IS SAID, THEN THE PRIEST SHALL GO OUT OF THE HOUSE TO THE DOOR OF THE HOUSE, AND SHUT UP THE HOUSE SEVEN DAYS.[34] HE COMES AGAIN AT THE END OF THE WEEK AND INSPECTS THE SIGN. IF IT HAS SPREAD, THEN THE PRIEST SHALL COMMAND THAT THEY TAKE OUT THE STONES IN WHICH THE PLAGUE IS, AND CAST THEM INTO AN UNCLEAN PLACE WITHOUT THE CITY.[35] AND THEY SHALL TAKE OTHER STONES, AND PUT THEM IN THE PLACE OF THOSE STONES; AND HE SHALL TAKE OTHER MORTAR, AND SHALL PLASTER THE HOUSE.[36] HE MUST NOT TAKE STONES FROM THE ONE SIDE AND BRING THEM TO THE OTHER; NOR EARTH FROM THE ONE SIDE AND BRING IT TO THE OTHER; NOR LIME FROM ANYWHERE.[37] HE MUST NOT BRING ONE STONE TO REPLACE TWO, NOR TWO TO REPLACE ONE. HE MUST RATHER BRING TWO TO REPLACE TWO OR TO REPLACE THREE OR TO REPLACE FOUR. FROM THIS TEXT[38] IT HAS BEEN INFERRED: WOE TO THE WICKED,[39] WOE TO HIS NEIGHBOUR: BOTH[40] MUST TAKE OUT THE STONES,[35] BOTH MUST SCRAPE THE WALLS,[41] AND BOTH MUST BRING THE NEW STONES.[42] HE[43] ALONE, HOWEVER, BRINGS THE EARTH, FOR IT IS SAID, AND HE[44] SHALL TAKE OTHER EARTH,[45] AND PLASTER THE HOUSE;[42] HIS NEIGHBOUR NEED NOT JOIN WITH HIM IN IN THE PLASTERING.

MISHNAH 7. HE[46] COMES AGAIN AT THE END OF THE WEEK[47] AND INSPECTS THE SIGN. IF IT HAS RETURNED, HE SHALL BREAK DOWN THE HOUSE, THE STONES OF IT, AND THE TIMBER THEREOF, AND ALL THE MORTAR OF THE HOUSE; AND HE SHALL

CARRY THEM FORTH OUT OF THE CITY INTO AN UNCLEAN PLACE.[48] A SPREADING THAT IS ADJOINING[49] IS EFFECTIVE[50] HOWEVER SMALL IT MAY BE; ONE THAT IS DISTANT MUST BE[50] NO LESS THAN THE SIZE OF A SPLIT BEAN; AND A LEPROSY SIGN THAT RETURNS IN HOUSES MUST BE[50] NO LESS THAN THE SIZE OF TWO SPLIT BEANS.[51]

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(1) In Palestine.

(2) Cf. Lev. XIV, 34ff.

(3) However old.

(4) When they were bought.

(5) Since it is not resting on the ground.

(6) The walls being suspended in the air.

(7) Which is not susceptible to leprosy uncleanness.

(8) Primordial.

(9) In lumps.

(10) For each wall must be of stone, earth and wood.

(11) ln each of its walls.

(12) Cf. Lev. XIV, 45.

(13) In a house that may he susceptible to leprosy uncleanness. Cf. prev. MISHNAH ad fin.

(14) One in each wall.

(15) Two stones in each of the four walls.

(16) Hence his ruling that four stones suffice for a house of four walls.

(17) He, therefore, ruled that for a house of four walls eight stones are required.

(18) In each wall of a house that may he susceptible to leprosy uncleanness.

(19) Lit., ‘sandal’.

(20) A block of wood protecting the lintel against the knocking of the door.

(21) Used merely as screens against the sun.

(22) Since it is written, ‘Which I give to you for a possession’, Lev. XIV, 34, excluding lands outside Palestine; and as for Jerusalem, this was not divided for possession among the tribes.

(23) In which appeared a leprosy sign.

(24) Cf. Lev. XIV, 35.

(25) Cf. Ibid., 36.

(26) V. following note.

(27) The removal of the bundles mentioned which are not susceptible to uncleanness.

(28) Sc. they need not be removed, and remain clean (Bert.).

(29) Which if they remained in the house, would have become permanently unclean, as these cannot be made clean by immersion (cf. Ibid. XV, 12).

(30) Leprosy is a punishment for the sin of slander.

(31) Var. lec., ‘stand within’.

(32) Sc. the house with a leprosy sign in it.

(33) I.e., by means of an agent or a long rope.

(34) Lev. XIV, 38.

(35) Ib. 40.

(36) Ib. 42.

(37) Since lime is not regarded as ‘earth’.

(38) Ibid. XIV, 40-42, where the relevant verbs are in the plural, implying that if the wall with the leprosy sign served also the house of a neighbour the latter also must join the work (v. foll. n. but one).

(39) Leprosy is a punishment for the sin of slander.

(40) The owner of the leprous house and his neighbour on the other side of the wall (cf. prev. n. but one).

(41) Ibid. XIV, 42.

(42) Ib. 42.

(43) The owner of the leprous house.

(44) Sing., the owner alone.
(45) E.V. mortar.
(46) The priest.
(47) The second week during which the house was shut up after it had been replastered.
(48) Lev. XIV, 45.
(49) The original leprosy sign.
(50) To cause uncleanness.
(51) The same minimum that is prescribed for such a leprosy sign when it appears for the first time.

Mishna - Mas. Nega'im Chapter 13

MISHNAH 1. THERE ARE TEN [CASES OF LEPROSY IN] HOUSES: IF DURING THE FIRST WEEK A LEPROSY SIGN BECAME FAINT OR DISAPPEARED,[1] IT[2] MUST BE SCRAPED AND IS THEN CLEAN. IF DURING THE SECOND WEEK IT BECAME FAINT OR DISAPPEARED,[3] IT[2] MUST BE SCRAPED AND THE OWNER MUST BRING THE BIRDS.[4] IF IT SPREAD DURING THE FIRST WEEK, THE STONES MUST BE TAKEN OUT AND THE WALL SCRAPED AND[5] PLASTERED, AND ANOTHER WEEK MUST BE ALLOWED.[6] IF IT THEN RETURNED THE ENTIRE HOUSE MUST BE PULLED DOWN; IF IT DID NOT RETURN, THE BIRDS[4] MUST BE BROUGHT.[3] IF IT REMAINED UNCHANGED DURING THE FIRST WEEK BUT SPREAD DURING THE SECOND WEEK, THE STONES MUST BE TAKEN OUT AND THE WALL SCRAPED AND[5] PLASTERED, AND ANOTHER WEEK MUST BE ALLOWED.[6] IF IT THEN RETURNED, THE HOUSE MUST BE PULLED DOWN; IF IT DID NOT RETURN THE BIRDS[4] MUST BE BROUGHT.[3] IF IT REMAINED UNCHANGED IN BOTH WEEKS, THE STONES MUST BE TAKEN OUT, AND THE WALL SCRAPED AND[5] PLASTERED, AND A WEEK MUST BE ALLOWED.[6] IF IT THEN RETURNED THE HOUSE MUST BE PULLED DOWN; IF IT DID NOT RETURN, THE BIRDS[4] MUST BE BROUGHT.[3] IF BEFORE CLEANNESS WAS ATTAINED THROUGH THE BIRDS A NEW LEPROSY SIGN APPEARED, THE HOUSE MUST BE PULLED DOWN; BUT IF IT APPEARED AFTER CLEANNESS THROUGH THE BIRDS HAD BEEN ATTAINED, IT MUST BE INSPECTED AS IF IT HAD APPEARED FOR THE FIRST TIME.

MISHNAH 2. IN THE CASE OF A STONE IN A CORNER,[7] WHEN THE STONE IS TAKEN OUT IT MUST BE TAKEN OUT WHOLLY; BUT WHEN [THE HOUSE IS] PULLED DOWN ITS OWNER PULLS DOWN HIS OWN [PART][8] AND LEAVES THAT WHICH BELONGS TO HIS NEIGHBOUR. THUS IT FOLLOWS THAT THERE ARE GREATER RESTRICTIONS FOR TAKING OUT[9] THAN FOR PULLING DOWN.[10] R. ELIEZER RULED: IF A HOUSE IS BUILT OF ROWS OF BIG STONES[11] AND SMALL STONES,[12] AND A LEPROSY SIGN APPEARED ON A BIG STONE,[13] ALL OF IT[14] MUST BE TAKEN OUT; BUT IF IT APPEARED ON THE SMALL STONES, HE[15] TAKES OUT HIS STONES AND LEAVES THOSE OF HIS NEIGHBOUR.

MISHNAH 3. IF A HOUSE IN WHICH THERE APPEARED A LEPROSY SIGN HAD AN UPPER ROOM ABOVE IT, THE BEAMS[16] ARE ALLOWED TO THE UPPER ROOM.[17] IF THE LEPROSY SIGN APPEARED IN THE UPPER ROOM THE BEAMS[16] ARE ALLOWED TO THE LOWER ROOM.[18] IF THERE WAS NO UPPER ROOM ABOVE IT, ITS STONES AND WOOD AND EARTH MUST BE PULLED DOWN WITH IT. ONE MAY, HOWEVER, SAVE THE FRAMES[19] AND THE WINDOW LATTICES. R. JUDAH RULED: A FRAME[20] THAT IS BUILT OVER THE HOUSE MUST BE PULLED DOWN WITH IT. ITS STONES AND WOOD AND EARTH CONVEY UNCLEANNESS IF THEY ARE OF THE MINIMUM SIZE OF AN OLIVE. R. ELIEZER HISMA RULED: WHATEVER THEIR SIZE.

MISHNAH 4. A HOUSE THAT IS SHUT UP[21] CONVEYS UNCLEANNESS[22] FROM ITS

INNER SIDE;[23] AND ONE THAT HAS BEEN CERTIFIED UNCLEAN, BOTH FROM ITS INNER SIDE AND FROM ITS OUTER SIDE. BOTH,[24] HOWEVER, CONVEY UNCLEANNESS IF ONE ENTERS IN.[25]

MISHNAH 5. IF A MAN BUILDS STONES FROM A HOUSE THAT WAS SHUT UP[26] INTO A CLEAN ONE,[27] AND THE LEPROSY SIGN RETURNED TO THE [FORMER] HOUSE, THE STONES MUST BE TAKEN OUT. IF IT RETURNED TO THE STONES,[28] THE FIRST HOUSE MUST BE PULLED DOWN, AND THE STONES SERVE THE SECOND HOUSE WHILE THE TOKENS ARE UNDER OBSERVATION.[29]

MISHNAH 6. IF A HOUSE OVERSHADOWED A LEPROUS HOUSE, AND SO ALSO IF A TREE OVERSHADOWED A LEPROUS HOUSE, ANY ONE WHO ENTERS THE OUTER [OF THE TWO] REMAINS CLEAN; SO R. ELEAZAR[30] B. AZARIAH. R. ELIEZER[31] OBSERVED: IF ONE STONE OF IT[32] CAUSES UNCLEANNESS BY ENTERING,[33] SHOULD NOT THE HOUSE ITSELF CAUSE UNCLEANNESS BY ENTERING?[34]

MISHNAH 7. IF AN UNCLEAN MAN[35] STOOD UNDER A TREE AND A CLEAN MAN PASSED BY, THE LATTER BECOMES UNCLEAN. IF A CLEAN MAN STOOD UNDER A TREE AND AN UNCLEAN ONE[35] PASSED BY, THE FORMER REMAINS CLEAN IF THE LATTER STOOD STILL, THE FORMER BECOMES UNCLEAN. SIMILARLY IN THE CASE OF A LEPROUS STONE[36] HE[37] REMAINS CLEAN; BUT IF IT WAS SET DOWN[38] HE BECOMES UNCLEAN.

MISHNAH 8. IF A MAN WHO WAS CLEAN PUT HIS HEAD AND THE GREATER PART OF HIS BODY INSIDE AN UNCLEAN HOUSE,[39] HE BECOMES UNCLEAN; AND IF AN UNCLEAN MAN[39] PUT HIS HEAD AND THE GREATER PART OF HIS BODY INSIDE A CLEAN HOUSE HE CAUSES IT TO BE UNCLEAN. IF OF A CLEAN CLOAK A PART THAT WAS THREE FINGERBREADTHS SQUARE WAS PUT INSIDE AN UNCLEAN HOUSE, THE CLOAK BECOMES UNCLEAN; AND AN UNCLEAN [CLOAK], OF WHICH EVEN ONLY THE SIZE OF AN OLIVE WAS PUT INSIDE A CLEAN HOUSE, CAUSES THE LATTER TO BE UNCLEAN.

MISHNAH 9. IF A MAN ENTERED A LEPROUS HOUSE, CARRYING HIS CLOTHES UPON HIS SHOULDERS, AND HIS SANDALS AND RINGS IN HIS HANDS,[40] BOTH HE AND THEY BECOME UNCLEAN FORTHWITH.[41] IF, HOWEVER, HE WAS WEARING HIS CLOTHES AND HAD HIS SANDALS ON HIS FEET AND HIS RINGS ON HIS HANDS, HE BECOMES UNCLEAN FORTHWITH, BUT THEY[42] REMAIN CLEAN,[43] UNLESS HE STAYED AS MUCH TIME AS IS REQUIRED FOR THE EATING[44] OF HALF A LOAF[45] OF WHEATEN BREAD BUT NOT OF BARLEY BREAD,[46] WHILE IN A RECLINING POSTURE[47] AND EATING WITH SOME CONDIMENT.[48]

MISHNAH 10. IF A MAN WAS STANDING WITHIN,[49] STRETCHING HIS HANDS OUTSIDE, WITH HIS RINGS ON HIS HANDS,[50] IF HE STAYED AS MUCH TIME AS IS REQUIRED FOR THE EATING OF HALF A LOAF, THEY BECOME UNCLEAN.[51] IF HE WAS STANDING OUTSIDE, STRETCHING HIS HANDS INSIDE, WITH HIS RINGS ON HIS HANDS,[50] R. JUDAH RULES THAT THEY[52] ARE UNCLEAN FORTHWITH, BUT THE SAGES RULED: ONLY AFTER HE STAYED THERE AS MUCH TIME AS IS REQUIRED FOR THE EATING OF HALF A LOAF.[53] THEY[54] SAID TO R. JUDAH: IF WHEN ALL HIS BODY IS UNCLEAN[55] HE DOES NOT RENDER THAT WHICH IS ON HIM UNCLEAN UNLESS HE STAYED THERE LONG ENOUGH TO EAT HALF A LOAF, IS THERE NOT MORE REASON THAT, WHERE NOT ALL HIS BODY IS UNCLEAN,[56] HE SHOULD NOT RENDER THAT WHICH IS ON HIM UNCLEAN UNLESS HE STAYED THERE LONG ENOUGH TO EAT

HALF A LOAF?[57]

MISHNAH 11. IF A LEPER ENTERED A HOUSE ALL VESSELS IN IT, EVEN TO THE HEIGHT OF THE ROOF BEAMS, BECOME UNCLEAN. R. SIMEON RULED: ONLY TO A HEIGHT OF FOUR CUBITS.[58] VESSELS[59] BECOME UNCLEAN FORTHWITH. R. JUDAH RULED: ONLY IF THE LEPER STAYED THERE AS MUCH TIME AS IS REQUIRED FOR THE LIGHTING OF A LAMP.

MISHNAH 12. IF HE[60] ENTERS A SYNAGOGUE, A PARTITION TEN HANDBREADTHS HIGH AND FOUR CUBITS WIDE MUST BE MADE FOR HIM.[61] HE MUST ENTER FIRST AND COME OUT LAST.[62] ANY VESSEL THAT AFFORDS PROTECTION[63] BY HAVING A TIGHTLY FITTING COVER IN THE TENT OF A CORPSE[64] AFFORDS PROTECTION BY A TIGHTLY FITTING COVER IN A LEPROUS HOUSE; AND WHATSOEVER AFFORDS PROTECTION,[65] WHEN COVERED,[66] IN THE TENT OF A CORPSE[64] AFFORDS PROTECTION WHEN COVERED IN A LEPROUS HOUSE; SO R. MEIR. R. JOSE RULED: ANY VESSEL THAT AFFORDS PROTECTION BY HAVING A TIGHTLY FITTING COVER IN THE TENT OF A CORPSE AFFORDS PROTECTION WHEN COVERED[66] IN A LEPROUS HOUSE; AND WHATSOEVER AFFORDS PROTECTION WHEN COVERED IN THE TENT OF A CORPSE REMAINS CLEAN EVEN WHEN UNCOVERED IN A LEPROUS HOUSE.

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(1) These are the first two cases.

(2) The place of the sign only.

(3) These represent another two cases, of the ten cases referred to above.

(4) Cf. Lev. XIV, 49.

(5) After other stones had been put in their place.

(6) For keeping the house shut under observation.

(7) Between two walls one of which has a leprosy sign and belongs to one man while the other belongs to the house of a neighbour.

(8) Although it forms part of his neighbour's house.

(9) A stone or stones.

(10) The entire house.

(11) Covering the full thickness of the walls and seen, therefore, from either side of the walls.

(12) That (cf. prev. n.) can be seen from one side of the walls only.

(13) In a wall between the houses of two neighbours.

(14) Even the part that faces the neighbour's house.

(15) Whose house is affected.

(16) Of the roof of the lower room which serves also as the floor of the upper room.

(17) Sc. they need not be dismantled when the lower room is pulled down; but may he pinned under and left in position.

(18) Cf. prev. n. mut. mut.

(19) Of the windows (or the tiles on the roof’) if these are not built into the house.

(20) For holding the beams of the roof.

(21) On account of a leprosy sign in it.

(22) Even if only one limb of a person came in contact with it.

(23) But not from its outer side. The affected stone alone conveys uncleanness from both its sides.

(24) A house shut up as well as one that was certified unclean.

(25) With entire body or with its greater part and the head (cf. supra n. 2).

(26) For the second week, on account of a leprosy sign.

(27) Cf. supra XI, 6.

(28) While they were in the clean house.

(29) The second house being treated as if a leprosy sign appeared in it for the first time. After the condition of the house is duly determined the stones must be pulled out; cf. supra XI, 6.

(30) Var lec., Eliezer.

(31) Var. Iec., Eleazar.
(32) A house that is otherwise clean.
(33) Sc. the one afflicted stone causes the uncleanness of the entire house
(34) To the outer house or the tree.
(35) Afflicted with leprosy.
(36) That was carried by under the tree.
(37) The clean person standing once the same tree.
(38) Or If the man who carried it stood still.
(39) V. p. 288, n. 15.
(40) Sc. he did not wear them.
(41) Since the clothes, sandals and rings were only carried by the man (and not worn) they, like himself, come under the Pentateuchal law of ‘he that goeth into the house . . . shall be unclean’ Lev. XIV, 46.
(42) Since they were worn in the usual manner.
(43) They are included in the category of ‘clothes’ which need only be washed (cf. Lev. XIV, 47 and the definition of ‘eateth’ in foll. n.).
(44) This is the definition of ‘eateth’ (v. prev. n.).
(45) The bulk of four eggs (Rashi) or three eggs (Maim).
(46) The former is more tasteful than the latter and is eaten much quicker.
(47) A position in which a man eats quicker than when he walks about (cf. prev. n.).
(48) Cf. prev. n. mut. mut.
(49) Within a leprous house.
(50) In the manner they are usually worn.
(51) Like himself, since his main body was within the house.
(52) The man's hands and rings.
(53) His hands, however, even according to the Sages, become unclean forthwith.
(54) The Sages.
(55) In the case where the man was standing within.
(56) Where he stands outside.
(57) R. Judah, however, maintains that in certain cases one who is unclean is subjected to lesser restrictions than one who is clean.
(58) Any vessel above this height remains clean.
(59) To the height of the beams according to the first Tanna, and to the height of four cubits according to R. Simeon.
(60) A leper (cf. prev. MISHNAH).
(61) One of smaller measurements constitutes no valid protection for the remainder of the synagogue.
(62) Since otherwise, should he happen to stand still in his passage from the door to the partition, he would render the people in the synagogue unclean.
(63) Cf. Kelim X, 1.
(64) Sc. under a roof that overshadows a corpse.
(65) Cf. Oh. V, 6.
(66) Even when the cover was not tightly fitting.

Mishna - Mas. Nega'im Chapter 14

MISHNAH 1. HOW WAS A LEPER CLEANSED?[1] A NEW EARTHENWARE FLASK WAS BROUGHT AND A QUARTER OF A LOG OF LIVING WATER[2] WAS PUT IN IT. TWO UNDOMESTICATED[3] BIRDS ARE ALSO BROUGHT. ONE OF THESE WAS SLAUGHTERED OVER THE EARTHENWARE VESSEL AND OVER THE LIVING WATER, A HOLE WAS DUG AND IT WAS BURIED IN HIS[4] PRESENCE. THEREUPON CEDARWOOD, HYSSOP AND SCARLET WOOL WERE TAKEN AND BOUND TOGETHER WITH THE PROJECTING ENDS OF THE STRIP OF WOOL.[5] NEAR TO THESE WERE BROUGHT THE TIPS OF THE WINGS AND THE TIP OF THE TAIL OF THE SECOND BIRD, AND ALL TOGETHER WERE DIPPED,[6] AND THEREWITH THE BACK OF THE LEPER'S HAND WAS SPRINKLED UPON

SEVEN TIMES. SOME SAY THAT THE SPRINKLING WAS DONE UPON HIS[4] FOREHEAD. IN THE SAME MANNER ONE SPRINKLED THE LINTEL OF A HOUSE[7] FROM THE OUTSIDE.

MISHNAH 2. WHEN HE WAS ABOUT TO SET FREE THE LIVING BIRD,[8] HE DID NOT TURN HIS FACE TOWARDS THE SEA OR TOWARDS THE CITY OR TOWARDS THE WILDERNESS, FOR IT IS SAID, BUT HE SHALL LET GO THE LIVING BIRD OUT OF THE CITY INTO THE OPEN FIELD.[9] WHEN HE WAS ABOUT TO CUT OFF THE HAIR OF THE LEPER HE PASSED THE RAZOR OVER THE WHOLE OF HIS SKIN,[10] AND THE LATTER WASHED HIS GARMENTS AND IMMERSED HIMSELF. HE IS THEN CLEAN SO FAR AS NOT TO CONVEY UNCLEANNESS BY ENTERING IN,[11] BUT HE STILL CONVEYS UNCLEANNESS LIKE A [DEAD] CREEPING THING.[12] HE MAY ENTER WITHIN THE WALL,[13] BUT MUST KEEP AWAY FROM HIS HOUSE FOR SEVEN DAYS, AND[14] HE IS FORBIDDEN MARITAL INTERCOURSE.

MISHNAH 3. ON THE SEVENTH DAY HE CUT OFF HIS HAIR A SECOND TIME IN THE MANNER OF THE FIRST CUTTING, HE WASHED HIS GARMENTS AND IMMERSED HIMSELF, AND THEN HE WAS CLEAN IN SO FAR AS NOT TO CONVEY UNCLEANNESS AS A DEAD CREEPING THING, BUT HE WAS STILL LIKE A TEBUL YOM.[15] HE[16] MAY EAT SECOND TITHE; AND AFTER HE HAD AWAITED SUNSET HE MAY ALSO EAT TERUMAH. AFTER HE HAD BROUGHT[17] HIS OFFERING OF ATONEMENT, HE MAY ALSO EAT HALLOWED THINGS. THUS THERE ARE THREE GRADES IN THE PURIFICATION OF A LEPER[18] AND THREE GRADES IN THAT OF A WOMAN AFTER CHILD BIRTH.[19]

MISHNAH 4. THREE CLASSES OF PERSONS CUT OFF THEIR HAIR,[20] AND THEIR CUTTING OF IT IS A COMMANDMENT: THE NAZIRITE,[21] THE LEPER,[22] AND THE LEVITES.[23] ALL THESE, FURTHERMORE, IF THEY CUT THEIR HAIR BUT NOT WITH A RAZOR, OR IF THEY LEFT BUT TWO HAIRS, THEIR ACT IS OF NO VALIDITY.

MISHNAH 5. THE TWO BIRDS[24] MUST, ACCORDING TO THE COMMANDMENT, BE ALIKE IN APPEARANCE, IN SIZE AND IN PRICE; AND THEY MUST BE PURCHASED AT THE SAME TIME. BUT THOUGH THEY ARE NOT ALIKE THEY ARE VALID; AND IF ONE WAS PURCHASED ON ONE DAY AND THE OTHER ON THE MORROW THEY ARE ALSO VALID. IF AFTER ONE OF THE BIRDS HAD BEEN SLAUGHTERED IT WAS FOUND THAT IT WAS NOT UNDOMESTlcated, A FELLOW MUST BE PURCHASED FOR THE SECOND, AND THE FIRST MAY BE EATEN. IF AFTER IT HAD BEEN SLAUGHTERED IT WAS FOUND TO BETREFAH, A FELLOW MUST BE PURCHASED FOR THE SECOND AND THE FIRST MAY BE MADE USE OF.[25] IF THE BLOOD[26] HAD BEEN POURED AWAY[27] THE BIRD THAT WAS TO BE LET GO[28] MUST BE LEFT TO DIE. IF THE ONE THAT WAS TO BE LET GO DIED, THE BLOOD[26] MUST BE POURED AWAY.

MISHNAH 6. THE PRESCRIBED MEASUREMENTS OF THE CEDARWOOD[24] ARE ONE CUBIT IN LENGTH, AND IN THICKNESS A QUARTER OF THAT OF THE LEG OF A BED, WHEN ONE LEG IS DIVIDED INTO TWO HALVES AND THESE TWO INTO FOUR.[29] THE PRESCRIBED KIND OF HYSSOP IS ONE THAT IS NEITHER THE GREEK HYSSOP NOR STIBIUM HYSSOP NOR ROMAN HYSSOP NOR WILD HYSSOP NOR ANY KIND OF HYSSOP THAT HAS A SPECIAL NAME.

MISHNAH 7. ON THE EIGHTH DAY[30] HE[31] BROUGHT THREE BEASTS: A SIN-OFFERING, A GUILT-OFFERING AND A BURNT-OFFERING; AND A POOR MAN[32] BROUGHT A SIN-OFFERING OF A BIRD AND A BURNT-OFFERING OF A BIRD.[33]

MISHNAH 8. APPROACHING THE GUILT-OFFERING HE PUT HIS TWO HANDS ON IT AND THEN SLAUGHTERED IT. TWO PRIESTS RECEIVED ITS BLOOD, THE ONE IN A VESSEL AND THE OTHER IN HIS HAND.[34] HE WHO RECEIVED IT IN THE VESSEL PROCEEDED TO SPRINKLE IT ON THE WALL OF THE ALTAR, WHILE THE OTHER WHO RECEIVED IT IN HIS HAND APPROACHED THE LEPER. THE LEPER IN THE MEANTIME HAD IMMERSED HIMSELF IN THE CHAMBER OF THE LEPERS,[35] AND CAME AND TOOK UP A POSITION AT THE NIKANOR GATE.[36] R. JUDAH STATED: HE DID NOT REQUIRE IMMERSION.[37]

MISHNAH 9. [THE LEPER] PUT IN HIS HEAD[38] AND [THE PRIEST] APPLIED [THE BLOOD] TO THE TIP OF HIS EAR; [HE PUT IN] HIS HAND AND [THE PRIEST] APPLIED [THE BLOOD] TO THE THUMB OF HIS HAND; [HE PUT IN] HIS FOOT AND [THE PRIEST] APPLIED [THE BLOOD] TO THE GREAT TOE OF HIS FOOT. R. JUDAH STATED: HE PUT IN ALL THE THREE TOGETHER. IF HE HAD NO THUMB ON HIS HAND OR NO GREAT TOE ON HIS FOOT OR NO RIGHT EAR HE COULD NEVER ATTAIN CLEANNESS.[39] R. ELIEZER RULED: [THE BLOOD] IS APPLIED TO THE PLACE WHERE THEY[40] WERE ORIGINALLY. R. SIMEON RULED: IF IT WAS APPLIED TO THE LEFT SIDE, THE OBLIGATION HAS BEEN FULFILLED.

MISHNAH 10. [THE PRIEST] THEN TOOK SOME [OF THE CONTENTS] OF THE LOG OF OIL[41] AND POURED IT INTO HIS COLLEAGUE'S HAND;[42] BUT EVEN IF HE POURED IT INTO HIS OWN HAND, THE OBLIGATION IS FULFILLED. HE THEN DIPPED [HIS RIGHT FOREFINGER] IN THE OIL AND SPRINKLED IT SEVEN TIMES TOWARDS THE HOLY OF HOLIES, DIPPING IT FOR EVERY SPRINKLING. HE THEN APPROACHED THE LEPER, AND TO THE SAME PLACES THAT HE APPLIED THE BLOOD HE NOW APPLIED THE OIL, FOR IT IS SAID, UPON THE PLACE OF THE BLOOD OF THE GUILT-OFFERING. AND THE REST OF THE OIL THAT IS IN THE PRIEST'S HAND HE SHALL PUT UPON THE HEAD OF HIM THAT IS TO BE CLEANSED TO MAKE ATONEMENT.[43] THUS IF HE ‘PUT UPON’, ATONEMENT IS MADE, BUT IF HE DID NOT ‘PUT UPON’, NO ATONEMENT IS MADE; SO R. AKIBA. R. JOHANAN B. NURI RULED: THESE[44] ARE BUT THE RESIDUE OF THE PRECEPT[45] AND, THEREFORE, WHETHER HE PUT UPON OR DID NOT ‘PUT UPON’, ATONEMENT IS MADE,[46] ONLY TO HIM[47] IT IS ACCOUNTED AS IF HE MADE NO ATONEMENT.[48] IF ANY OIL WAS MISSING FROM THE LOG BEFORE IT WAS POURED OUT[49] IT MAY BE FILLED UP AGAIN; IF AFTER IT WAS POURED OUT, OTHER OIL[50] MUST BE BROUGHT ANEW; SO R. AKIBA. R. SIMEON RULED: IF ANY OIL WAS MISSING FROM THE LOG BEFORE IT WAS APPLIED,[51] IT MAY BE FILLED UP; BUT IF AFTER IT HAD BEEN APPLIED, OTHER OIL[50] MUST BE BROUGHT ANEW.

MISHNAH 11. IF A LEPER BROUGHT HIS SACRIFICE AS A POOR MAN[52] AND HE BECAME RICH, OR AS A RICH MAN[53] AND HE BECAME POOR, ALL DEPENDS ON THE SIN-OFFERING;[54] SO R. SIMEON. R. JUDAH RULED: ALL DEPENDS ON THE GUILT-OFFERING.[55]

MISHNAH 12. A POOR LEPER WHO BROUGHT THE SACRIFICE OF A RICH MAN HAS FULFILLED HIS DUTY; BUT A RICH LEPER THAT BROUGHT THE SACRIFICE OF A POOR MAN HAS NOT FULFILLED HIS DUTY. A MAN[56] MAY BRING A POOR MAN'S SACRIFICE FOR HIS SON, HIS DAUGHTER, HIS BONDMAN OR BONDWOMAN, AND THEREBY ENABLE THEM TO EAT OF THE OFFERINGS.[57] R. JUDAH RULED:[58] FOR HIS WIFE ALSO[59] HE MUST BRING THE SACRIFICE OF A RICH MAN; AND THE SAME APPLIES TO ANY OTHER SACRIFICE TO WHICH SHE IS LIABLE.

MISHNAH 13. IF THE SACRIFICES OF TWO LEPERS WERE MIXED UP AND AFTER THE SACRIFICE OF ONE OF THEM HAD BEEN OFFERED ONE OF THE LEPERS DIED, — THIS[60] IS WHAT THE MEN OF ALEXANDRIA ASKED OF R. JOSHUA. HE ANSWERED THEM: LET HIM ASSIGN[61] HIS POSSESSIONS TO ANOTHER PERSON,[62] AND BRING THE POOR MAN'S SACRIFICE.[63]

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(1) Cf. Lev. XIV, 2ff.
(2) Sc. from an ever flowing spring.
(3) Lit., ‘free’.
(4) The leper's.
(5) The strip of scarlet wool having been longer than the cedarwood and the hyssop.
(6) In the mixture of the blood and the water in the earthenware vessel.
(7) That was cleansed after a leprosy.
(8) Cf. Lev. XIV, 7, 53.
(9) Ibid. XIV, 53.
(10) Other than the concealed parts (cf. supra II, 4).
(11) A house; or by his bed and seat.
(12) Which conveys uncleanness to a man and vessels by contact only but not by carriage (cf. Lev. XI, 31).
(13) Of Jerusalem.
(14) So Elijah Wilna. Aliter: ‘viz’. (Maim. Bert. and L.).
(15) Who disqualifies terumah.
(16) Like a tebul yom.
(17) On the day following.
(18) Viz., after the first hair cutting he no longer conveys uncleanness by entering in; after the second hair cutting and the sunset of that day he may also eat terumah; and after he had brought the prescribed offering he may also eat hallowed things.
(19) Cf. Lev. XII, 2ff. After seven days and fourteen days from the birth of a male and a female respectively she is clean for her husband; after immersion (fourty and eighty days after the birth of a male and a female respectively) and the sunset on that day she is also clean for terumah; and after she had brought her prescribed offering she may also eat hallowed things (Elijah Wilna).
(20) Before their full cleanness can be attained.
(21) Cf. Num. VI, 18.
(22) Cf. Lev. XIV, 8.
(23) Cf. Num. VIII, 7.
(24) Cf. Lev. XIV, 4.
(25) Though it may not be eaten.
(26) Of the first bird.
(27) Before the sprinkling.
(28) Cf. Ibid. XIV, 7.
(29) Sc. the thickness must be exactly one quarter, neither more nor less.
(30) If he had cut off his hair on the seventh (cf. Ibid. XIV, 9f.).
(31) The leper.
(32) Cf. Ibid. XIV, 21f.
(33) For a guilt-offering, however, he also must bring a beast.
(34) The left (Elijah Wilna).
(35) Cf. Mid. II, 5.
(36) Cf. Mid. II, 3.
(37) On the eighth day, since he had once immersed himself on the seventh.
(38) From the Nikanor Gate into the Court of the Israelites whither he was not yet allowed to enter.
(39) This, however, applies only where the limb was lost after he became unclean or (according to another opinion) after he reached the stage of undergoing the ceremonial of cleansing.
(40) The missing limbs.

(41) Cf. Lev. XIV, 15.
(42) A fellow priest's.
(43) Lev. XIV, 28f.
(44) The applications spoken of.
(45) Sc. they are not essentials.
(46) And the leper attains cleanness.
(47) The priest.
(48) Since he did not carry out the commandment in all its details.
(49) Into the priest's hand.
(50) To make up a full log.
(51) To the prescribed limbs of the leper.
(52) A bird. Cf. Ibid. XIV, 21.
(53) A beast.
(54) I.e., the condition of the man when he offered his sin-offering. If he was poor at the time and brought the sin-offering of a poor man (a bird), the burnt-offering that is brought after it must also be that of a poor man (a bird) although he became rich in the meantime. If he was rich at the time and brought the sin-offering of a rich man (a ewe lamb), the burnt-offering also must be that for a rich man (a he-lamb) although he became poor in the meantime. The guilt-offering does not come under consideration since it is the same for both rich and poor.
(55) Which is the first to be offered. The condition of the man at that moment determines the value of the sin — and the burnt-offerings that follow it. Both R. Simeon and A. Judah derive their rulings from an interpretation of a Scriptural text.
(56) Even if rich.
(57) Cf. supra XIV, 3.
(58) With reference to the ruling supra that a rich leper cannot fulfil his duty by bringing the sacrifice of a poor man.
(59) A wife's condition being determined by that of her husband.
(60) Sc. what is to be done by the surviving leper that the should attain his cleanness. He cannot attain it by the offering of the live sin-offering, since it might not be his but the dead man's; and he cannot rely upon the one that was offered, since that one might have been the dead man's and not his. He cannot bring another sin-offering, since the one that was already offered might possibly have been his, and the new animal brought as a sin-offering would in consequence remain unconsecrated and, therefore, forbidden to be offered on the altar.
(61) Temporarily.
(62) Thus becoming poor for the time being.
(63) A bird; which, unlike a beast, even if it is only an uncertain offering may be offered up on the altar, v. Nid. 69b.

Mishna - Mas. Parah Chapter 1

MISHNAH 1. R. ELIEZER RULED: THE HEIFER[1] MUST BE NO MORE THAN ONE YEAR OLD AND THE RED COW[2] NO MORE THAN TWO YEARS OLD. BUT THE SAGES RULED: THE HEIFER[1] MAY BE EVEN TWO YEARS OLD AND THE RED COW[2] EVEN THREE OR FOUR YEARS OLD. R. MEIR RULED: EVEN FIVE YEARS OLD. ONE THAT IS OLDER IS VALID, BUT THEY DID NOT WAIT WITH IT SO LONG SINCE IT MIGHT IN THE MEANTIME GROW SOME BLACK HAIRS AND [THUS] BECOME INVALID.[3] R. JOSHUA STATED: I ONLY HEARD[4] OF [A COW] THAT WAS SHELASHETH.[5] THEY SAID TO HIM: WHAT DOES THE EXPRESSION 'SHELASHETH' SIGNIFY? HE REPLIED: THUS HAVE I HEARD IT WITHOUT ANY EXPLANATION. BEN 'AZZAI SAID, I WILL EXPLAIN: IF YOU SAY SHELISHITH THE MEANING IS 'THE THIRD' IN NUMBER TO OTHERS,[6] BUT WHEN YOU SAY SHELASHETH THE MEANING IS ONE THAT IS 'THREE YEARS OLD. SIMILARLY IT WAS SPOKEN OF A VINEYARD THAT IS REBA'I. THEY SAID TO HIM: WHAT DOES THE EXPRESSION REBA'I' SIGNIFY? HE REPLIED: THUS HAVE I HEARD IT WITHOUT ANY EXPLANATION. BEN AZZAI SAID, I WILL EXPLAIN: IF YOU SAY 'REBI'[1] ' THE MEANING IS 'THE FOURTH IN NUMBER TO OTHERS, BUT WHEN YOU SAY 'REBA'I' THE MEANING IS ONE THAT IS FOUR YEARS OLD'. SIMILARLY IT WAS RULED: IF A MAN ATE[7] IN A LEPROUS HOUSE HALF A LOAF, THREE[8] OF WHICH ARE MADE OF A KAB, HE BECOMES UNCLEAN.[9] THEY SAID TO HIM: SAY RATHER, 'EIGHTEEN[8] OF WHICH ARE MADE OF A SE'AH'.[10] HE REPLIED: THUS HAVE I HEARD IT WITHOUT ANY EXPLANATION. BEN'AZZAI SAID, I WILL EXPLAIN: WHEN YOU SAY, THREE OF WHICH ARE MADE OF A KAB THE LOAF WOULD CONTAIN NO DOUGH-OFFERING,[11] BUT IF YOU SAY, EIGHTEEN OF WHICH ARE MADE OF A SE'AH', THE LOAF[12] HAS BEEN REDUCED BY ITS DOUGH-OFFERING.[13]

MISHNAH 2. R. JOSE THE GALILEAN RULED: BULLOCKS[14] MUST BE NO MORE THAN TWO YEARS OLD, FOR IT IS SAID, AND THE SECOND[15] YOUNG BULLOCK SHALT THOU TAKE FOR A SIN-OFFERING.[16] BUT THE SAGES RULED: THEY MAY BE EVEN THREE YEARS OLD. R. MEIR RULED: EVEN THOSE THAT ARE FOUR OR FIVE YEARS OLD ARE VALID, BUT OLD ANIMALS ARE NOT BROUGHT[17] OUT OF RESPECT.[18]

MISHNAH 3. LAMBS[14] MUST BE NO MORE THAN ONE YEAR OLD, AND RAMS[14] NO MORE THAN TWO YEARS OLD; AND ALL THESE YEARS ARE RECKONED FROM DAY TO DAY.[19] ONE THAT IS THIRTEEN MONTHS OLD IS NOT VALID EITHER AS A RAM OR AS A LAMB. R. TARFON CALLED IT PALGAS;[20] BEN 'AZZAI CALLED IT NUKAD;[21] R. ISHMAEL CALLED IT PARAKDIGMA.[22] IF A MAN OFFERED IT HE MUST BRING FOR IT THE DRINK-OFFERING OF A RAM,[23] BUT IT IS NOT COUNTED AS HIS OFFER ING.[24] ONE THAT IS THIRTEEN MONTHS OLD AND A DAY IS REGARDED AS A RAM.

MISHNAH 4. THE SIN-OFFERINGS OF THE CONGREGATION AND THEIR BURNT-OFFERINGS,[25] THE SIN-OFFERING OF AN INDIVIDUAL,[26] THE GUILT-OFFERING OF A NAZIRITE[27] AND THE GUILT-OFFERING OF A LEPER[28] ARE VALID FROM THE THIRTIETH DAY[29] ONWARDS, AND ALSO ON THE THIRTIETH DAY. IF, HOWEVER, THEY WERE OFFERED ON THE EIGHTH DAY[25] THEY ARE VALID. VOW-OFFERINGS AND FREEWILL-OFFERINGS, FIRSTLINGS AND THE TITHE OF CATTLE AND THE PASCHAL LAMB ARE VALID FROM THE EIGHTH DAY[25] ONWARDS, AND ALSO ON THE EIGHTH DAY.

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(1) Prescribed in Deut. XXI, 3ff.

(2) The red heifer, Num. XIX, 2ff.

(3) Var. lec. 'or (otherwise) became invalid'. By bearing the yoke or contracting a blemish (cf. Ibid. XIX, 2).

(4) That it is valid.
(5) This is explained presently.
(6) One third born which was deemed specially good.
(7) Or spent time enough to eat.
(8) Whole loaves.
(9) Cf. Neg. XIII, 9.
(10) Since a se'ah contains six kab.
(11) And, therefore, could wholly be eaten. Only a minimum of five quarters of a kab is liable to the dough-offering.
(12) Being liable (cf. prev. n.) to the dough-offering, which must be given to the priest.
(13) So that its size would be smaller than the other from which no dough-offering had been taken.
(14) Prescribed as sacrifices.
(15) ‘Sheni’ (E. V. another’) which is superfluous, is rendered as ‘two year old’.
(16) Num. VIII, 8.
(17) As sacrifices.
(18) For the sanctity of the altar.
(19) Sc. from the day in one calendar year to the corresponding one in the next calendar year.
(20) Composed of ‘pelag’ and ‘gas’, ‘a half of a grown up’. Aliter. Gr. ** lit., ‘young person’.
(21) (Or noked. Lit., ‘a distinct coin’ (Jast.); aliter: Noked, the term used in Amos I, I to denote a herdsman of a special kind of sheep.
(22) (Or prokadegma. Var. lec. ‘parakarigma’ Cf. Gr. ** ‘counterfeit coin’.
(23) A third of a hin.
(24) If he was under an obligation to bring either a ram or a he-lamb.
(25) For new moons and festivals, for instance, which consist of lambs and young goats.
(26) If it is a lamb or a goat.
(27) Which is a ewe lamb (cf. Num. VI, 14).
(28) A he-lamb (cf. Lev. XIV, 12).
(29) Of their birth; v. ibid XXII, 27.

Mishna - Mas. Parah Chapter 2

MISHNAH 1. R. ELIEZER RULED: A [RED] COW FOR THE SIN-OFFERING[1] THAT IS WITH YOUNG[2] IS VALID,[3] BUT THE SAGES RULE THAT IT IS INVALID. R. ELIEZER RULED: IT[4] MAY NOT BE BOUGHT FROM IDOLATERS,[5] BUT THE SAGES RULE THAT SUCH A ONE IS VALID;[6] AND NOT ONLY THIS, BUT ALL OFFERINGS OF THE CONGREGATION OR THE INDIVIDUAL MAY BE BROUGHT FROM THE LAND OF ISRAEL AND FROM OUTSIDE THE LAND, FROM NEW PRODUCE AND FROM THE OLD; EXCEPT THE OMER[7] AND THE TWO LOAVES,[8] WHICH MAY BE BROUGHT ONLY FROM NEW PRODUCE AND FROM WITHIN THE LAND.

MISHNAH 2. IF THE HORNS OR THE HOOFS OF THE [RED] COW ARE BLACK THEY ARE CHOPPED OFF.[9] THE EYE BALL, THE TEETH AND THE TONGUE[10] CAUSE NO INVALIDITY IN THE [RED] COW.[11] ONE THAT IS DWARF-LIKE IS VALID. IF THERE WAS ON IT A WEN AND THIS WAS CUT OFF, R. JUDAH RULES THAT IT IS INVALID.[12] R. SIMEON RULED: [ONLY] WHEREVER, IF REMOVED, NO RED HAIR GROWS IN ITS PLACE IS IT INVALID.

MISHNAH 3. ONE THAT IS BORN FROM THE SIDE,[13] THE HIRE OF A HARLOT OR THE PRICE OF A DOG IS INVALID.[14] R. ELIEZER RULES THAT IT IS VALID, FOR IT IS WRITTEN, THOU SHALT NOT BRING THE HIRE OF A HARLOT OR THE PRICE OF A DOG INTO THE HOUSE OF THE LORD THY GOD,[15] WHILE THIS[16] WAS NOT BROUGHT INTO THE HOUSE.[17] ALL BLEMISHES THAT CAUSE CONSECRATED ANIMALS TO BE INVALID[18] CAUSE ALSO THE [RED] COW TO BE INVALID. IF ONE HAD RIDDEN ON IT.[16]

LEANED ON IT, HUNG ON ITS TAIL, CROSSED[19] A RIVER BY ITS HELP, DOUBLED ON ITS LEADING ROPE,[20] OR PUT ONE'S CLOAK ON IT, IT IS INVALID.[21] BUT IF ONE HAD ONLY FASTENED IT BY ITS LEADING ROPE OR MADE FOR IT A SANDAL TO PREVENT IT FROM SLIPPING OR SPREAD ONE'S CLOAK ON IT BECAUSE OF FLIES, IT REMAINS VALID. THIS IS THE GENERAL RULE: WHEREVER ANYTHING IS DONE FOR ITS OWN SAKE, IT REMAINS VALID; BUT IF FOR THE SAKE OF ANY OTHER,[22] IT BECOMES INVALID.

MISHNAH 4. IF A BIRD RESTED ON IT, IT REMAINS VALID. IF A MALE BEAST MOUNTED IT, IT BECOMES INVALID.[23] R. JUDAH RULED: IF THE MALE WAS MADE TO MOUNT, IT BECOMES INVALID; BUT IF IT DID SO OF ITSELF, IT REMAINS VALID.

MISHNAH 5. IF IT[16] HAD TWO BLACK OR WHITE HAIRS GROWING WITHIN ONE FOLLICLE,[24] IT IS INVALID. R. JUDAH SAID, ‘WITHIN[25] ONE KOS’.[26] IF THEY GREW WITHIN TWO FOLLICLES THAT WERE ADJACENT TO[27] ONE ANOTHER, IT IS INVALID. R. AKIBA RULED: EVEN IF THERE WERE FOUR OR EVEN FIVE BUT THEY WERE DISPERSED, THEY MAY BE PLUCKED OUT.[28] R. ELIEZER RULED: EVEN AS MANY AS FIFTY.[29] R. JOSHUA B. BATHYRA RULED: EVEN IF IT HAD BUT ONE ON ITS HEAD AND ONE ON ITS TAIL, IT IS INVALID. IF IT HAD TWO HAIRS[30] WITH THEIR ROOTS BLACK AND THEIR TIPS RED OR WITH THEIR ROOTS RED AND THEIR TIPS BLACK, ALL IS DETERMINED BY WHAT IS VISIBLE;[31] SO R. MEIR. BUT THE SAGES RULED: BY THE ROOT.[32]

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(1) A phrase whereby the red cow is designated.

(2) Provided the covering was done without the owner's knowledge.

(3) Though the carrying of any other burden renders it invalid. The embryo being regarded as a part of the mother's body does not come under the category of ‘burden’.

(4) The red cow.

(5) Since they may have subjected it to improper use.

(6) For reasons cf. Bert., L.and Elijah Wilna.

(7) Cf. Lev. XXIII, 10ff.

(8) Cf. Ibid. XXIII, 17.

(9) And the red cow is then valid.

(10) Though they are not red.

(11) Where no other is available (Elijah Wilna).

(12) As is the case with other sacrifices, v. lbid. XXII, 22.

(13) By means of the caesarean cut.

(14) As a red cow, as it is invalid for any other sacrifice.

(15) Deut. XXIII. 19’ emphasis on ‘house’.

(16) The red cow.

(17) ‘The house of the Lord’.

(18) As sacrifices.

(19) Aliter: Hung . . . tail and crossed.

(20) Placing it on its back.

(21) In accordance with Num. XIX, 2, and upon which never came yoke.

(22) Though it was for its own sake also.

(23) Because the latter is supposed to be with the approval of the owner.

(24) ‘Guma’ (v. next note but one).

(25) ‘Even’, in cur. edd. is to be deleted (Bert.).

(26) ‘Follicle’, kos in this context having the same meaning as ‘guma’ (follicle) used by the first Tanna (cf. prev. n. but one). The difference between R. Judah and the first Tanna lies only in the Hebrew and Aramaic terms they respectively use.

(27) Aliter: opposite.

(28) And the cow is valid even before they were plucked, the plucking being done only for appearance sake.

(29) Or even any larger number may be plucked (cf. prev. n.).

(30) In one follicle.

(31) Sc. the tips. If they were red the cow is valid; if they were black it is invalid.

(32) Cf. prev. n. mut. mut.

Mishna - Mas. Parah Chapter 3

MISHNAH 1. SEVEN DAYS BEFORE THE BURNING OF THE [RED] COW THE PRIEST WHO WAS TO BURN THE COW WAS REMOVED FROM HIS HOUSE TO A CHAMBER THAT WAS FACING THE NORTH-EASTERN CORNER OF THE BIRAH;[1] AND WHICH WAS CALLED THE STONE CHAMBER.[2] THROUGHOUT THE SEVEN DAYS[3] HE WAS SPRINKLED UPON[4] WITH [A MIXTURE[5] OF] ALL THE SIN-OFFERINGS THAT WERE THERE.[6] R. JOSE STATED: HE WAS SPRINKLED UPON ON THE THIRD AND THE SEVENTH DAYS ONLY. R. HANINA THE VICE-HIGH PRIEST STATED: ON THE PRIEST THAT WAS TO BURN THE COW THEY SPRINKLED ALL THE SEVEN DAYS, BUT ON THE ONE THAT WAS TO PERFORM THE SERVICE ON THE DAY OF ATONEMENT THEY SPRINKLED ON THE THIRD AND THE SEVENTH DAYS ONLY.

MISHNAH 2. COURTYARDS WERE BUILT IN JERUSALEM OVER A ROCK,[7] AND BENEATH THEM WAS A HOLLOW WHICH SERVED AS A PROTECTION AGAINST A GRAVE IN THE DEPTHS,[8] AND THEY USED TO BRING THERE PREGNANT WOMEN, AND THERE THEY GAVE BIRTH TO THEIR CHILDREN AND THERE THEY REARED THEM.[9] AND[10] THEY BROUGHT OXEN, UPON WHOSE BACKS WERE PLACED DOORS,[11] AND THE CHILDREN SAT UPON THEM WITH STONE CUPS[12] IN THEIR HANDS. WHEN THEY REACHED SILOAM[13] THEY ALIGHTED AND FILLED THE CUPS WITH WATER[14] AND THEN THEY ASCENDED AND SAT AGAIN ON THE DOORS.[11] R. JOSE SAID: EACH CHILD USED TO LET DOWN HIS CUP[15] AND FILL IT FROM HIS PLACE.[16]

MISHNAH 3. HAVING ARRIVED[17] AT THE TEMPLE MOUNT THEY ALIGHTED. BENEATH THE TEMPLE MOUNT AND THE COURTS[18] WAS A HOLLOW WHICH SERVED AS A PROTECTION AGAINST A GRAVE IN THE DEPTHS,[19] WHILE AT THE ENTRANCE OF THE COURT[20] THE JAR OF THE ASHES OF THE SIN-OFFERINGS[21] WAS PROVIDED. A MALE FROM AMONG THE SHEEP WAS BROUGHT AND A ROPE WAS TIED BETWEEN ITS HORNS, AND A STICK OR[22] A BUSHY TWIG WAS TIED AT THE OTHER END OF THE ROPE, AND THIS[23] WAS THROWN INTO THE JAR.[24] THE MALE [SHEEP] WAS THEN STRUCK SO THAT IT STARTED BACKWARDS[25] WHEN [A CHILD] TOOK THE ASHES AND MIXED[26] AS MUCH OF IT AS COULD BE VISIBLE ON THE WATER. R. JOSE SAID: DO NOT GIVE THE HERETICS[27] AN OPPORTUNITY TO CAVIL;[28] BUT [A CHILD] HIMSELF TOOK IT[29] AND MIXED IT.[30]

MISHNAH 4. ONE MAY NOT BRING A SIN-OFFERING[31] BY VIRTUE OF [THE PURIFICATIONS MADE FOR] ANOTHER SIN-OFFERING,[32] NOR ONE CHILD[33] BY VIRTUE OF [THE PREPARATIONS MADE FOR] ANOTHER.[34] THE CHILDREN, FURTHERMORE, HAD TO BE SPRINKLED;[35] SO R. JOSE THE GALILEAN. R. AKIBA STATED: THEY HAD NO NEED TO BE SPRINKLED.[36]

MISHNAH 5. IF THEY DID NOT FIND THE RESIDUE OF THE ASHES OF THE SEVEN [RED COWS][37] THEY PERFORMED THE SPRINKLING WITH THOSE OF SIX, OF FIVE, OF FOUR, OF THREE, OF TWO OR OF ONE, AND WHO PREPARED THESE?[38] MOSES PREPARED THE FIRST, EZRA PREPARED THE SECOND, AND FIVE WERE PREPARED

SINCE EZRA; SO R. MEIR. BUT THE SAGES STATED: SEVEN WERE PREPARED SINCE THE DAYS OF EZRA. AND WHO PREPARED THEM? SIMEON THE JUST AND JOHANAN THE HIGH PRIEST PREPARED TWO ELIEHOENAI THE SON OF HA-KOF AND HANAMEL THE EGYPTIAN AND ISHMAEL THE SON OF PIABI PREPARED ONE EACH.[39]

MISHNAH 6 A CAUSEWAY WAS MADE FROM THE TEMPLE MOUNT TO THE MOUNT OF OLIVES, BEING CONSTRUCTED OF ARCHES ABOVE ARCHES, EACH ARCH PLACED DIRECTLY ABOVE EACH PIER [OF THE ARCH BELOW] AS A PROTECTION[40] AGAINST A GRAVE IN THE DEPTHS,[41] WHEREBY THE PRIEST WHO WAS TO BURN THE COW, THE COW ITSELF AND ALL WHO AIDED IN ITS PREPARATION WENT FORTH TO THE MOUNT OF OLIVES.

MISHNAH 7. IF THE COW REFUSED TO GO OUT, THEY MAY NOT TAKE OUT WITH IT A BLACK ONE LEST IT BE SAID, ‘A BLACK (COW] HAS BEEN SLAIN’ NOR ANOTHER RED [COW] LEST IT BE SAID, ‘TWO HAVE BEEN SLAIN’. R. JOSE STATED: IT WAS NOT FOR THIS REASON BUT BECAUSE IT IS SAID IN SCRIPTURE AND HE SHALL BRING HER FORTH,[42] BY HERSELF.[43] THE ELDERS OF ISRAEL USED TO PRECEDE THEM ON FOOT TO THE MOUNT OF OLIVES, WHERE THERE WAS A PLACE OF IMMERSION.[44] THE PRIEST THAT WAS TO BURN THE COW WAS (DELIBERATELY] MADE UNCLEAN ON ACCOUNT OF THE SEDDUCEES: IN ORDER THAT THEY SHOULD NOT SAY,[45] ‘ONLY BY THOSE ON WHOM THE SUN HAS SET[46] MUST IT BE PREPARED’.

MISHNAH 8. THEY LAID THEIR HANDS UPON HIM[47] AND SAID,[48] MY LORD THE HIGH PRIEST,[49] PERFORM IMMERSION ONCE. HE THEREUPON WENT DOWN AND IMMERSED HIMSELF AND CAME UP AND DRIED HIMSELF. DIFFERENT KINDS OF WOOD WERE SET IN ORDER THERE: CEDAR ‘WOOD, PINE, SPRUCE AND THE WOOD OF SMOOTH FIG TREES.[50] [THE PILE] WAS BUILT UP IN THE SHAPE OF A TOWER FURNISHED WITH AIR HOLES;[51] AND ITS FORESIDE[52] WAS TURNED TOWARDS THE WEST.[53]

MISHNAH 9. IT[54] WAS BOUND WITH A ROPE OF BAST[55] AND PLACED ON THE PILE WITH ITS HEAD TOWARDS THE SOUTH AND ITS FACE TOWARDS THE WEST.[53] THE PRIEST STOOD IN THE EAST WITH HIS FACE TOWARDS THE WEST. HE SLAUGHTERED WITH HIS RIGHT HAND AND RECEIVED THE BLOOD WITH HIS LEFT. R. JUDAH SAID: HE RECEIVED THE BLOOD WITH HIS RIGHT HAND, PUT IT ON HIS LEFT HAND AND THEN SPRINKLED WITH HIS RIGHT. SEVEN TIMES HE DIPPED HIS FINGER IN THE BLOOD AND SPRINKLED IT TOWARDS THE HOLY OF HOLIES, DIPPING ONCE AGAIN FOR EACH SPRINKLING. HAVING FINISHED THE SPRINKling HE WIPED HIS HAND ON THE BODY OF THE COW, CAME DOWN AND KINDLED THE FIRE WITH CHIPS. R. AKIBA SAID: WITH DRY BRANCHES OF PALM-TREES.

MISHNAH 10. WHEN IT[54] BURST[56] HE TOOK UP A POSITION OUTSIDE ITS PIT[57] AND TAKING HOLD OF CEDAR WOOD, HYSSOP AND SCARLET WOOL, HE SAID TO THE BYSTANDERS, ‘IS THIS CEDARWOOD? IS THIS CEDARWOOD?’ ‘IS THIS HYSSOP? IS THIS HYSSOP’ ‘IS THIS SCARLET WOOL? IS THIS SCARLET Wool?’ THREE TIMES HE REPEATED EACH QUESTION AND THEY ANSWERED HIM ‘YEA, YEA!’ — THREE TIMES TO EACH QUESTION.

MISHNAH 11. HE THEN WRAPPED THEM[58] TOGETHER WITH THE ENDS OF THE STRIP OF WOOL[59] AND CAST THEM INTO THE BURNING HEAP, WHEN IT WAS BURNT UP IT WAS BEATEN WITH RODS AND THEN[60] SIFTED WITH SIEVES. R. ISHMAEL STATED: THIS WAS DONE WITH STONE HAMMERS[61] AND STONEWARE SIEVES.[61] A BLACK

CINDER ON WHICH THERE WERE SOME ASHES WAS CRUSHED BUT ONE ON WHICH THERE WERE NONE WAS LEFT BEHIND. A BONE WAS CRUSHED IN EITHER CASE. IT[62] WAS THEN DIVIDED INTO THREE PARTS: ONE PART WAS DEPOSITED ON THE RAMPART, ONE ON THE MOUNT OF OLIVES, AND ONE WAS DIVIDED AMONG THE COURSES.[63]

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(1) The Temple (cf. I Chron. XXIX, 1). Aliter: The name of a place on the Temple mount (cf. Yoma 2a).

(2) So named because all services in connection with the red cow had to be performed only in vessels made either of baked ordure or of earthenware or of any material which, like stone, is insusceptible to uncleanness (cf. Yoma 2a).

(3) Except the fourth.

(4) As a precaution against the possibility of having contracted corpse uncleanness.

(5) So Elijah Wilna.

(6) From the days of Moses, when the first red cow was prepared, to date.

(7) That was primordial.

(8) Sc. the possibility of the existence of an unknown grave under the rock, טומאת התהום . unless there is a minimum space of a cubic handbreadth above it the uncleanness of the grave penetrates through the rock and beyond it; v. Suk. 21a.

(9) For the service of the red cow.

(10) When the water for the red cow had to be brought from Siloam.

(11) Which prevented any uncleanness below from penetrating to the children.

(12) Which are not susceptible to uncleanness.

(13) Heb. ha-Shiluah, the conduit near Jerusalem the completion of which is recorded on the famous Siloam inscription.

(14) In order to use them for sprinkling on the priest who was to burn the red cow.

(15) Without leaving his place on the door.

(16) As a precaution against the uncleanness of a possible grave in the depth near Siloam.

(17) On their return journey.

(18) Of the Temple.

(19) Cf. supra p. 309, n. 8. And therefore they could safely alight.

(20) Of the women, on a particular spot between it and the Rampart.

(21) In which were preserved ashes of all previously burnt red cows.

(22) Var. lec. ‘and’.

(23) The stick or the twig.

(24) It is not permitted to put it there directly since the man who did it, if he were suffering from the uncleanness of a flux or the like, would, by hesset, (v. Glos.), have conveyed uncleanness to the ashes.

(25) And, as a result of his sudden movement, spilled the ashes collected on the stick.

(26) With water. Lit., ‘sanctified’.

(27) Or ‘Sadducees’.

(28) Or ‘mock’, at such excessive care and precaution.

(29) The ashes from the jar.

(30) With water. Lit., ‘sanctified’.

(31) Sc. a red cow for which the necessary preparations in regard to cleanness have not been made.

(32) Which died or became invalid after all the necessary preparations for it have been completed.

(33) Even if he was kept in conditions of cleanness.

(34) Who died or became unclean after he has been duly prepared for a particular red cow for which the first mentioned child (cf. prev. n.) was not specifically prepared. it was necessary that the preparations be made solely and specifically for each particular red heifer and that a particular child also be specifically assigned for it.

(35) With the ashes of the red cow, In case any of them had become unclean through a dead creeping thing. They themselves performed the sprinkling upon one another since no one could possibly be cleaner than they. Bert. on the basis of the Tosef. explains that this complicated procedure was adopted by the exiles on their return From Babylon when they were all unclean as a result of corpse-uncleanness and had no other means of becoming clean, save through the medium of children and the ashes of the red cows of former generations that had been left in safe keeping when they went to exile. B. Jose states that there were still among them a few individuals who had kept themselves Free from corpse-uncleanness all the time and they could have made the necessary preparations.

(36) They only required immersion as a precaution against the possibility of having become unclean through contact with a dead creeping thing.

(37) That had been burnt since the days of Moses to that day. The sprinkling had to be done with a compound of the ashes of all the seven cows (cf. supra III, I and nn).

(38) Seven cows.

(39) R. Meir disregards one cow of each pair since owing to invalidity it was entirely superseded by the other.

(40) For those who crossed the causeway.

(41) Whose corpse uncleanness would otherwise have penetrated (cf. supra p 309, n. 8).

(42) Num. XIX, 3, emphasis on ‘her’.

(43) The practical difference between the first Tanna and R. Jose is the permissibility of taking out with it any other animal or beast. According to R. Jose even this is not permitted.

(44) Also built, like the causeway, over a hollow as a protection against a corpse uncleanness in the depths.

(45) Var. lec., ‘because they used to say’.

(46) Sc. those only who are in all respects clean.

(47) The priest who was to horn the cow.

(48) If he happened to be a High Priest.

(49) V. infra IV, I.

(50) All these kinds of wood produce suitable ashes.

(51) Lit., ‘and they opened windows in it’.

(52) The largest opening into which the fire was put.

(53) Where was the Holy of Holies.

(54) The red cow.

(55) Which is insusceptible to uncleanness.

(56) From the heat.

(57) In which it was being burnt.

(58) The cedarwood and the hyssop.

(59) Which, being longer than the cedarwood and the hyssop, projected downwards.

(60) When it had been pounded to dust.

(61) Which are insusceptible to uncleanness.

(62) The ashes of the red cow.

(63) The twenty-four courses of the priests that took the Temple services in turn, v. Glos. s. v. Mishmar.

Mishna - Mas. Parah Chapter 4

MISHNAH 1. IF A COW FOR THE SIN-OFFERING WAS SLAIN UNDER SOME OTHER NAME, OR IF ITS BLOOD WAS RECEIVED OR SPRINKLED UNDER SOME OTHER NAME, OR IF THIS[1] WAS DONE UNDER ITS OWN NAME AND UNDER SOME OTHER NAME, OR UNDER SOME OTHER NAME AND UNDER ITS NAME, IT IS INVALID.[2] R. ELIEZER RULES THAT IT IS VALID.[3] IF THE SERVICE[1] WAS PERFORMED BY ONE WHOSE HANDS OR FEET WERE UNWASHED,[4] IT IS INVALID; BUT R. ELIEZER RULES THAT IT IS VALID.[3] IF IT[4] WAS PERFORMED BY ONE WHO WAS NOT THE HIGH PRIEST, IT IS INVALID; BUT R. JUDAH RULES THAT IT IS VALID. IF IT WAS PERFORMED BY ONE WHO WAS NOT WEARING ALL THE PRESCRIBED GARMENTS,[5] IT IS INVALID; AND IT WAS IN WHITE GARMENTS[5] THAT IT WAS TO BE PREPARED.

MISHNAH 2. IF IT WAS BURNT OUTSIDE ITS PIT,[6] OR IN TWO PITS,[7] OR IF TWO COWS WERE BURNT IN THE SAME PIT, IT IS INVALID. IF [THE BLOOD] WAS SPRINKLED BUT NOT EXACTLY IN THE DIRECTION OF THE ENTRANCE OF THE HOLY OF HOLIES, IT IS INVALID. IF HE MADE THE SEVENTH SPRINKLING OUT OF THE SIXTH[8] AND THEN SPRINKLED AGAIN A SEVENTH TIME, IT IS INVALID. IF HE SPRINKLED AN EIGHTH TIME OUT OF THE SEVENTH[9] AND THEN SPRINKLED AGAIN AN EIGHTH TIME, IT IS

VALID.[10]

MISHNAH 3. IF IT WAS BURNT UP WITHOUT WOOD,[11] OR WITH ANY KIND OF WOOD,[12] AND EVEN IF ONLY WITH STRAW OR STUBBLE, IT IS VALID. IF IT WAS FLAYED AND CUT UP, IT IS VALID. IF IT WAS SLAIN WITH THE INTENTION OF EATING ITS FLESH OR DRINKING ITS BLOOD, IT IS VALID. R. ELIEZER RULED: NO [UNLAWFUL] INTENTION[13] CAUSES IN VALIDITY IN THE RED COW.

MISHNAH 4. ALL WHO ARE ENGAGED IN THE PREPARATION OF THE [RED] COW, FROM THE BEGINNING UNTIL THE END, RENDER THEIR GARMENTS[14] UNCLEAN, AND THEY ALSO RENDER IT[15] INVALID BY [OTHER] WORK.[16] IF SOME IN VALIDITY OCCURRED WHILE IT WAS BEING SLAIN, IT CONVEYS NO UNCLEANNESS TO GARMENTS. IF IT OCCURRED WHILE THE BLOOD WAS BEING SPRINKLED, FOR ALL WHO WERE ATTENDING TO IT BEFORE THE INVALIDITY OCCURRED, IT RENDERS GARMENTS UNCLEAN, BUT FOR THOSE WHO ATTENDED TO IT AFTER IT HAD BECOME INVALID IT DOES NOT RENDER GARMENTS UNCLEAN. THUS IT FOLLOWS THAT THE RESTRICTION[17] TURNS INTO A RELAXATION.[18] THE LAW OF SACRILEGE[19] APPLIES TO IT THROUGHOUT.[20] WOOD MAY BE ADDED TO THE FIRE.[20] ITS SERVICES[21] MUST BE PERFORMED BY DAY AND BY A PRIEST.[22] WORK[23] RENDERS IT INVALID UNTIL IT BECOMES ASHES, AND WORK[23] CAUSES THE WATER TO BE INVALID UNTIL THE ASHES ARE PUT INTO IT.

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(1) The slaying, receiving or sprinkling.

(2) Since Scripture described it as a ‘sin-offering’ the services mentioned must in their entirety be performed under that name alone; v. Zeb. 2a.

(3) Because, unlike other sin-offerings, the services mentioned were performed outside the Temple precincts.

(4) V. Ex. XXX, 19, 20.

(5) Worn by the officiating priest.

(6) The cavity on the Mount of Olives opposite the Holy of Holies in which the red cows were burnt.

(7) A portion in each.

(8) Sc. having dipped his finger for the sixth sprinkling he used the same blood for both the sixth and the seventh sprinklings. Aliter: ‘Sprinkled the seventh instead of the sixth’, having made a mistake in the counting.

(9) Cf. p. 315, n. 8 mut.mut.

(10) The one additional sprinkling cannot invalidate the heifer after the seven prescribed sprinklings have been duly performed.

(11) The fire having been set to the body of the cow itself.

(12) Other than those prescribed supra III, 8.

(13) However wrong the act intended.

(14) Or any utensils with which they may come in contact.

(15) The red cow.

(16) Done during the time one was engaged in the preparation of the red cow.

(17) Invalidity of the cow where one is engaged in other work.

(18) Exemption of the man's clothes from uncleanness.

(19) Me'ah (v. Glos.). cf. Lev. V, 15f.

(20) Until it is burnt into ashes.

(21) With the exception of the collection of the ashes, the filling of the jar with water and the mixing of the water and ashes which may also he done by night and by a non-priest.

(22) V Yoma, 42a.

(23) Other than that connected with the service of the cow.

Mishna - Mas. Parah Chapter 5

MISHNAH 1. HE WHO BRINGS THE EARTHEN VESSEL FOR THE SIN-OFFERING[1] MUST PERFORM IMMERSION,[2] AND SPEND THE NIGHT[3] BY THE FURNACE.[4] R. JUDAH RULED: HE MAY ALSO BRING IT FROM THE HOUSE[5] AND IT IS VALID,[6] FOR ALL ARE DEEMED TRUSTWORTHY IN REGARD TO THE SIN-OFFERING.[7] IN THE CASE OF TERUMAH[8] ONE MAY OPEN THE FURNACE[9] AND TAKE OUT [THE VESSEL]. R. SIMEON RULED: FROM THE SECOND ROW.[10] R. JOSE RULED: FROM THE THIRD ROW.[11]

MISHNAH 2. IF A MAN IMMERSED A VESSEL FOR THE SIN-OFFERING[12] IN WATER THAT IS NOT FIT FOR THE MIXING[13] HE MUST DRY IT;[14] IF IN WATER THAT IS FIT FOR THE MIXING HE NEED NOT DRY IT,[15] BUT IF [HE INTENDED][16] TO COLLECT IN IT[17] WATER THAT WAS ALREADY MIXED WITH THE ASHES, HE MUST DRY IT IN EITHER CASE.[18]

MISHNAH 3. IF A PUMPKIN SHELL[19] WAS IMMERSED[20] IN WATER THAT WAS NOT FIT FOR THE MIXTURE,[21] IT IS PERMISSIBLE[22] TO MIX IN IT THE ASHES WITH THE WATER,[23] PROVIDED IT HAD NEVER BEFORE CONTRACTED UNCLEANNESS. IF IT HAS CONTRACTED AN UNCLEANNESS, IT IS NOT PERMISSIBLE[24] TO MIX IN IT THE ASHES WITH THE WATER.[25] R. JOSHUA ARGUED: IF ONE IS ALLOWED TO MIX IN IT THE ASHES AND WATER AT THE BEGINNING,[26] ONE SHOULD ALSO[27] BE ALLOWED TO DO SO AT THE END;[28] AND IF ONE IS NOT ALLOWED[29] TO DO THIS AT THE END[28] ONE SHOULD NOT BE ALLOWED[29] TO DO IT AT THE BEGINNING.[26] IN[30] EITHER CASE[31] IT IS NOT PERMISSIBLE TO COLLECT IN IT[17] WATER THAT WAS ALREADY PREPARED.[32]

MISHNAH 4. A REED PIPE THAT WAS CUT[33] [FOR USE AS A CONTAINER] FOR [THE WATER OR ASHES OF] THE SIN-OFFERING, R. ELIEZER RULED, MUST[34] BE IMMERSED FORTHWITH.[35] R. JOSHUA RULED: IT MUST FIRST BE RENDERED UNCLEAN AND THEN IT IS IMMERSED.[36] ALL ARE ELIGIBLE TO PREPARE THE MIXTURE,[37] EXCEPT A DEAF MUTE, AN IMBECILE AND A MINOR. R. JUDAH HOLDS A MINOR TO BE ELIGIBLE, BUT DISQUALIFIES A WOMAN AND A HERMAPHRODITE.

MISHNAH 5. THE MIXTURE[37] MAY BE PREPARED IN ALL KINDS OF VESSELS, EVEN IN VESSELS MADE OF CATTLE DUNG, OF STONE OR OF EARTH.[38] THE MIXTURE[35] MAY ALSO BE PREPARED IN A SHIP.[39] IT MAY NOT BE PREPARED IN THE SIDES OF VESSELS,[40] OR IN THE FLANKS OF A LADLING JAR, OR IN THE BUNG OF A JAR, OR IN ONE'S CUPPED HANDS, FOR THE WATER OF THE SIN-OFFERING MAY BE DRAWN IN, MIXED IN, AND SPRINKLED FROM A VESSEL ONLY. PROTECTION[41] BY A TIGHTLY FITTING COVER[42] CAN BE AFFORDED ONLY BY VESSELS, AS PROTECTION AGAINST AN UNCLEANNESS WITHIN AN EARTHEN VESSEL CAN BE AFFORDED ONLY BY VESSELS.[43]

MISHNAH 6.THE POTTERS’ EGG[44] IS FIT [AS A VESSEL].[45] R. JOSE HOLDS THAT IT IS UNFIT. A HEN'S EGG, R. MEIR AND R. JUDAH RULE, IS FIT [AS A VESSEL]; BUT THE SAGES RULE THAT IT IS UNFIT.

MISHNAH 7. IN A TROUGH THAT IS [HEWN] IN A ROCK[46] IT IS NOT PERMISSIBLE TO COLLECT THE WATER,[47] OR TO PREPARE THE MIXTURE,[48] NOR MAY THE SPRINKLING BE DONE FROM IT. IT, FURTHERMORE, NEEDS NO TIGHTLY FITTING COVER,[49] AND IT DOES NOT RENDER A RITUAL BATH[50] INVALID.[51] IF IT WAS FIRST A MOVABLE VESSEL AND IT WAS SUBSEQUENTLY JOINED TO THE GROUND WITH LIME, IT IS PERMISSIBLE TO COLLECT THE WATER[47] IN IT, TO PREPARE THE MIXTURE IN IT AND TO SPRINKLE FROM IT. IT ALSO NEEDS A TIGHTLY FITTING COVER[52] AND RENDERS A RITUAL BATH INVALID.[53] IF THERE WAS A HOLE IN IT[54]

BELOW, AND IT WAS STOPPED UP WITH A RAG, THE WATER IN IT IS INVALID,[55] SINCE[56] IT IS NOT WHOLLY ENCLOSED BY THE VESSEL. IF THE HOLE WAS IN THE SIDE[57] AND IT WAS STOPPED UP WITH A RAG, THE WATER IN IT IS VALID, SINCE IT IS WHOLLY ENCLOSED BY THE VESSEL. IF THE VESSEL WAS PROVIDED WITH A BRIM OF CLAY AND THE WATER HAD RISEN TO THAT SPOT, IT[58] IS INVALID; BUT IF IT[59] WAS FIRM ENOUGH FOR THE VESSEL TO BE MOVED WITH IT,[60] THE WATER REMAINS VALID.

MISHNAH 8. IF THERE WERE TWO TROUGHS IN ONE STONE[61] AND THE MIXTURE[62] WAS PREPARED IN ONE OF THEM, THE WATER IN THE OTHER IS NOT PREPARED THEREBY.[63] IF A HOLE OF THE SIZE OF THE SPOUT OF A WATER SKIN[64] WAS PASSING FROM ONE TO THE OTHER, OR IF THE WATER OVERFLOWED BOTH,[65] EVEN IF ONLY [TO A DEPTH OF] THE THICKNESS OF GARLIC PEEL, AND THE MIXTURE[66] WAS PREPARED IN ONE OF THEM, THE WATER IN THE OTHER IS ALSO PREPARED THEREBY.[67]

MISHNAH 9. IF TWO STONES WERE PLACED CLOSE TO ONE ANOTHER AND MADE INTO A TROUGH,[68] AND SO ALSO IN THE CASE OF TWO KNEADING TROUGHS,[69] AND SO ALSO IN THE CASE OF A TROUGH THAT WAS SPLIT,[70] THE WATER BETWEEN THEM[71] IS NOT DEEMED TO BE PREPARED.[72] IF THEY WERE JOINED TOGETHER WITH LIME OR GYPSUM AND THEY CAN BE MOVED TOGETHER, THE WATER BETWEEN THEM[71] IS DEEMED TO HAVE BEEN DAILY PREPARED.

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(1) In which the ashes are mixed with water for the sprinkling.

(2) Cleansing himself thereby from any possible uncleanness.

(3) That follows the immersion.

(4) Where the earthen vessels are burnt. As vessels become susceptible to uncleanness only after their manufacture has been completed by being burnt in the furnace, he has to stand by all the time so that no unclean person may open the furnace to see whether the vessel is done, and render it unclean by contact.

(5) Of the potter.

(6) Even if the potter is an ‘am-ha-arez who is usually careless in matters of uncleanness.

(7) This was a special provision intended to prevent the ‘am ha-arez class from preparing separate red cows for themselves.

(8) Sc. if a vessel is required for foodstuffs of terumah.

(9) At any time, even though no watch was kept after the vessels have been duly burnt and because susceptible to uncleanness.

(10) May a vessel be taken for the purposes mentioned. It may not be taken from the first row where the ‘am ha-arez may possibly, by opening first the furnace, have caused it to shake and thus rendered It unclean.

(11) Cf. prev. n. mut. mut.

(12) Sc. to draw the water with it or to mix in it the ashes with the water.

(13) Cf. prev. n. Only living or running water may be used.

(14) After the immersion, before he fills it with suitable water.

(15) Though they get mixed up with the water that he deliberately puts in subsequently for mixing it with the ashes. As he must have known in the course of the immersion that some of the water would cling to the vessel, this water may he regarded as having been put in deliberately.

(16) When immersing it.

(17) Var. lec. ‘to add to it’.

(18) Sc. irrespective of whether the immersion took place in water that was, or water that was not fit far the mixing; for even in the former ease the water would render invalid the water that was already mixed with the ashes (v. infra VI, 2.)

(19) That was clean and used for drawing water.

(20) As an extra precaution (cf. prev. n.).

(21) Of the ashes of the red cow with the water; var. lec. ‘that was fit for the mixture’.

(22) After it had been dried.
(23) The possibility of its giving out some of the unfit water which it had previously absorbed is disregarded owing to the insignificance of its quantity which is neutralised in the fit water.
(24) Even after immersion.
(25) Since the smallest drop that it might give out would convey uncleanness to all its contents.
(26) Sc. before it contracted uncleanness.
(27) Since the re-issue of absorbed liquid is disregarded.
(28) After uncleanness had been contracted.
(29) On account of the possible re-issue of some absorbed liquid.
(30) This is a continuation of the ruling of the first Tanna.
(31) Whether the pumpkin-shell had contracted uncleanness before or not.
(32) Lit., ‘Sanctified’. Sc. in which the ashes of the red cow have been mixed with the water.
(33) Directly from the ground where, as a growing plant, it was not susceptible to uncleanness.
(34) Though clean.
(35) And used before sunset (v. foll. n).
(36) As a demonstration against the Sadducees (cf. supra III, 7). According to R. Eliezer the use before sunset (cf. prev. n.) is alone a sufficient demonstration.
(37) Of the ashes and water of the sin-offering.
(38) Sc. unbaked clay.
(39) Though it is not regarded as a ‘vessel’ in respect of susceptibility to uncleanness.
(40) That were broken.
(41) Against uncleanness under the same roof beneath which lay a corpse.
(42) For the contents under it. Cf. Kelim X, 1.
(43) Cf. Kel. VIII, 3.
(44) An egg-shaped lump of clay with a cavity in it runs which the pot is formed.
(45) For the mixing if the ashes of the sin-offering with the water.
(46) Which was fixed to the ground.
(47) For mixing it with the ashes of the red cow.
(48) because it is not considered a ‘vessel’.
(49) To afford protection to its contents under a roof over itself and a corpse. Having the same status as a pit or ditch any cover on it affords the same protection, v. Oh. V. 6.
(50) That contained less water than the prescribed minimum.
(51) If rain water that collected in it flowed into the bath. As the trough is an immovable fixture the water in it is not regarded as ‘drawn water’ which renders a ritual bath invalid.
(52) If it is to protect its contents under a roof overshadowing it and a corpse.
(53) Cf. supra n. 6 mut. mut.
(54) A vessel that was fit for the preparation of the mixture of the water and ashes.
(55) For mixing it with ashes of the red cow.
(56) Owing to the interposition of the rag.
(57) Of the vessel.
(58) The water that reached the brim.
(59) The brim.
(60) When grasping the brim only.
(61) That was movable.
(62) Of the ashes of the red cow and the water.
(63) And may not, therefore, he used for sprinkling.
(64) Sc. one in which the two fingers nearest the thumb can be easily turned.
(65) The separating partition between them being lower than the other sides.
(66) v. p. 321, n. 17.
(67) Provided that the quantity of the ashes put in was sufficient to be visible in both.
(68) Some gap remaining between the two stones.
(69) That were placed close together to form one large receptacle leaving some gap between them.

(70) Thus leaving some gap between the two halves.

(71) In the gaps (cf. prev. three nn.).

(72) Even where the main body of the water ‘was duly mixed with the ashes of the red cow.

Mishna - Mas. Parah Chapter 6

MISHNAH 1. IF A MAN WAS ABOUT TO MIX THE ASHES WITH THE WATER[1] AND THE ASHES[2] FELL UPON HIS HAND OR UPON THE SIDE OF THE TROUGH[3] AND THEN FELL INTO THE TROUGH, THE MIXTURE IS INVALID.[4] IF THEY[5] FELL[6] FROM THE TUBE[7] INTO THE TROUGH, THE MIXTURE IS INVALID. IF HE TOOK THE ASHES FROM THE TUBE[7] AND THEN[8] COVERED IT,[9] OR SHUT A DOOR,[10] THE ASHES[1] REMAIN VALID BUT THE WATER BECOMES INVALID.[11] IF[8] HE PUT IT[9] UP ERECT ON THE GROUND,[12] THE WATER BECOMES INVALID;[13] IF IN HIS HAND, THE WATER IS VALID, SINCE[14] IT IS POSSIBLE PROPERLY[15] TO DO SO.[16]

MISHNAH 2. IF THE ASHES[2] FLOATED ON THE WATER, R. MEIR AND R. SIMEON RULED: ONE MAY TAKE SOME OF THEM[17] AND USE THEM IN ANOTHER PREPARATION; BUT THE SAGES RULED: WITH ANY ASHES THAT HAVE TOUCHED WATER NO OTHER MIXTURE MAY BE PREPARED. IF THE WATER[18] WAS EMPTIED OUT AND SOME ASHES[19] WERE FOUND AT THE BOTTOM, R. MEIR AND R. SIMEON RULED: ONE MAY DRY THEM AND THEN USE THEM FOR ANOTHER PREPARATION; BUT THE SAGES RULED: WITH ANY ASHES THAT HAVE TOUCHED WATER NO OTHER MIXTURE MAY BE PREPARED.

MISHNAH 3. IF THE MIXTURE WAS PREPARED IN A TROUGH[20] WHILE A EWER WAS WITHIN IT, HOWEVER NARROW ITS NECK,[21] THE WATER IN THE LATTER IS DEEMED TO USE DULY PREPARED. IF THERE WAS A SPONGE IN THE TROUGH, THE WATER IN IT[22] IS INVALID.[23] HOW SHOULD ONE PROCEED?[24] ONE EMPTIES OUT THE WATER[25] UNTIL THE SPONGE IS REACHED.[26] IF ONE TOUCHED THE SPONGE,[27] HOWEVER MUCH THE WATER THAT WASHES OVER IT, THE WATER BECOMES INVALID.[28]

MISHNAH 4. IF A MAN PLACED HIS HAND OR HIS FOOT OR LEAVES OF VEGETABLES[29] IN SUCH A MANNER AS TO ENABLE THE WATER TO RUN INTO A JAR, THE WATER IS INVALID.[30] IF HE USED[31] LEAVES OF REEDS OR LEAVES OF NUTS[32] THE WATER IS VALID. THIS IS THE GENERAL RULE: [WATER PASSING OVER] THAT WHICH IS SUSCEPTIBLE TO UNCLEANNESS IS INVALID, BUT [WATER PASSING OVER] THAT WHICH IS NOT SUSCEPTIBLE TO UNCLEANNESS IS VALID.

MISHNAH 5. IF A WELL WAS DIVERTED INTO A WINE VAT OR INTO CISTERNS, THE WATER[33] IS INVALID FOR ZABS[34] AND LEPERS;[35] AND ALSO FOR THE PREPARATION OF THE WATER OF THE SIN-OFFERING,[36] BECAUSE IT WAS NOT DRAWN INTO A VESSEL.[37]

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(1) Lit., ‘sanctifying’, mixing the ashes of the red cow with suitable water in a trough.

(2) Lit., ‘sanctification’.

(3) That contained the water.

(4) Since the ashes must be put direct (cf. Num. XIX, 17) into the vessel. They must not fall into it of their own accord.

(5) The ashes.

(6) Of their own accord.

(7) In which they are kept.

(8) Before putting the ashes into the water.

(9) The tube.

(10) Thus doing other ‘work’ while engaged in the preparation of the mixture.
(11) As supra IV, 4 ad fin.
(12) So as to prevent the ashes in the tube from spilling.
(13) The act distracting his mind from the preparation of the mixture.
(14) Being a very simple act.
(15) Without distracting one's mind from the preparation of the mixture.
(16) Hence it is not regarded as work. Var. lec. ‘since it is impossible (to do otherwise)’, if one is to prevent the ashes in the tube from spilling without covering ‘it.
(17) Of the floating ashes.
(18) Of a mixture.
(19) Lit., ‘sanctification’.
(20) Containing water.
(21) Lit., ‘mouth’.
(22) The sponge.
(23) Because a sponge cannot be regarded as a ‘vessel.’
(24) In the latter case, if all the water is not to become invalid.
(25) From the trough into another vessel.
(26) As the water above has not been in contact with the sponge it remains valid and may be used.
(27) So that some of its absorbed contents might possibly have been squeezed out.
(28) Since the water that issued from the sponge gets mixed up with that in the trough.
(29) Under running water.
(30) Because it has passed over an object that is susceptible to uncleanness.
(31) Instead of his hand, foot or vegetable leaves.
(32) Which are not susceptible to the uncleanness of food-stuffs.
(33) In the vat or cistern since it can no longer he regarded as ‘running’ water.
(34) Whose immersion must he performed in running water (Lev. XV, 13).
(35) For whose sprinkling running water is required (Lev. XIV, 5).
(36) Even in the vat or cistern itself.
(37) Neither vat nor cistern call be regarded as a valid ‘vessel’.

Mishna - Mas. Parah Chapter 7

MISHNAH 1. IF FIVE MEN FILLED[1] FIVE JARS TO PREPARE WITH THEM FIVE MIXTURES[2] [RESPECTIVELY][3] AND THEN THEY CHANGED THEIR MINDS TO PREPARE[4] ONE MIXTURE FROM ALL OF THEM, OR IF THEY FILLED THE JARS TO PREPARE WITH THEM ONE MIXTURE AND THEN THEY CHANGED THEIR MINDS TO PREPARE WITH THEM FIVE MIXTURES,[3] ALL THE WATER REMAINS VALID.[5] IF ONE MAN FILLED[1] FIVE JARS INTENDING TO PREPARE FIVE [SEPARATE] MIXTURES, EVEN THOUGH HE CHANGED HIS MIND TO PREPARE ONE MIXTURE[4] FROM ALL OF THEM, ONLY THE LAST[6] IS VALID.[7] IF HE[8] INTENDED TO PREPARE ONE MIXTURE FROM ALL OF THEM AND THEN HE CHANGED HIS MIND TO PREPARE FIVE SEPARATE MIXTURES, ONLY THE WATER IN THE ONE THAT WAS MIXED FIRST IS VALID.[9] IF HE[8] SAID[10] TO ANOTHER MAN, PREPARE MIXTURES[11] FROM THESE FOR YOURSELF’, ONLY THE FIRST[12] IS VALID;[13] BUT IF HE SAID, PREPARE A MIXTURE[11] FROM THESE FOR ME’, ALL ARE VALID.[14]

MISHNAH 2. IF A MAN FILLED THE WATER WITH ONE HAND AND DID SOME OTHER WORK WITH THE OTHER HAND, OR IF HE FILLED THE WATER FOR HIMSELF AND FOR ANOTHER MAN,[15] OR IF HE FILLED TWO JARS AT THE SAME TIME,[16] THE WATER OF BOTH IS INVALID, FOR WORK[17] CAUSES INVALIDITY WHETHER ONE ACTS FOR ONESELF OR FOR ANOTHER MAN.

MISHNAH 3. IF A MAN PREPARED THE MIXTURE[18] WITH ONE HAND AND DID SOME OTHER WORK WITH THE OTHER HAND, THE MIXTURE IS INVALID[19] IF HE PREPARED IT FOR HIMSELF, BUT IF HE PREPARED IT FOR ANOTHER MAN, IT IS VALID.[20] IF THE MAN PREPARED A MIXTURE[18] BOTH FOR HIMSELF AND FOR ANOTHER MAN,[21] HIS IS INVALID AND THAT OF THE OTHER MAN IS VALID.[22] IF HE PREPARES MIXTURES FOR TWO MEN SIMULTANEOUSLY, BOTH ARE VALID.[22]

MISHNAH 4. [IF A MAN SAID TO AN OTHER.][23] ‘PREPARE THE MIXTURE FOR ME AND I WILL PREPARE THE ONE FOR YOU, THE FIRST[24] IS VALID.[25] [IF HE SAID.] ‘FILL IN THE WATER FOR ME AND I WILL FILL THE WATER FOR YOU’, THAT OF THE LATTER IS VALID.[26] [IF HE SAID,] ‘PREPARE THE MIXTURE FOR ME AND I WILL DRAW THE WATER FOR YOU’, BOTH MIXTURES ARE VALID.[27] [IF HE SAID.] ‘FILL THE WATER FOR ME AND I WILL PREPARE THE MIXTURE[28] FOR YOU’,[29] BOTH MIXTURES ARE INVALID.[30]

MISHNAH 5. IF A MAN IS DRAWING WATER FOR HIS OWN USE[31] AND FOR THE MIXTURE OF THE SIN-OFFERING, HE MUST DRAW FOR HIMSELF FIRST AND FASTEN [THE BUCKET] TO THE CARRYING YOKE AND THEN HE DRAWS THE WATER FOR THE SIN-OFFERING. IF, HOWEVER, HE DREW FIRST THE WATER FOR THE SIN-OFFERING AND THEN HE DREW THE WATER FOR HIMSELF, IT IS INVALID. HE MUST[32] PUT HIS OWN BEHIND HIM AND THAT FOR THE SIN-OFFERING BEFORE HIM,[33] AND IF HE PUT THAT FOR THE SIN-OFFERING BEHIND HIM IT IS INVALID.[30] IF BOTH WERE FOR THE SIN-OFFERING, HE MAY[32] PUT ONE BEFORE HIM AND ONE BEHIND HIM AND BOTH ARE VALID, SINCE IT IS IMPOSSIBLE TO DO OTHERWISE.[34]

MISHNAH 6. IF A MAN CARRIED THE ROPE[35] IN HIS HAND, [THE MIXTURE] IS VALID IF HE KEEPS TO HIS USUAL WAY; BUT IF HE GOES OUT OF HIS WAY, IT IS INVALID.[36] THE QUESTION WAS SENT ON TO JABNEH ON THREE FESTIVALS AND ON THE THIRD FESTIVAL.[37] IT WAS RULED THAT THE MIXTURE WAS VALID, AS A TEMPORARY MEASURE.[38]

MISHNAH 7. IF A MAN COILS THE ROPE LITTLE BY LITTLE,[39] [THE MIXTURE] IS VALID;[40] BUT IF HE COILED IT AFTERWARDS,[41] IT IS INVALID.[42] R. JOSE STATED: THIS ALSO HAD BEEN RULED TO BE VALID AS A TEMPORARY MEASURE.

MISHNAH 8. IF A MAN PUT THE JAR[43] AWAY IN ORDER THAT IT SHALL NOT BE BROKEN, OR IF HE INVERTED IT IN ORDER TO DRY IT SO THAT HE MIGHT DRAW MORE WATER WITH IT,[44] [THE WATER HE HAD ALREADY DRAWN] IS VALID;[45] BUT IF HE INTENDED TO CARRY IN IT THE ASHES, IT IS INVALID.[42] IF HE CLEARED POTSHERDS FROM A TROUGH[46] IN ORDER THAT IT MAY HOLD MORE WATER, THE WATER IS VALID;[47] BUT IF IT WAS INTENDED THAT THEY SHOULD NOT HINDER HIM WHEN HE POURS OUT THE WATER,[48] IT IS INVALID.

MISHNAH 9. IF A MAN CARRYING HIS WATER ON HIS SHOULDER DECIDED A MATTER OF LAW, OR SHOWED OTHERS THE WAY, OR KILLED A SERPENT OR A SCORPION, OR TOOK FOODSTUFFS FOR STORAGE, IT IS INVALID; BUT [IF HE TOOK] FOODSTUFFS TO EAT, THEN IT IS VALID.[49] IF HE KILLED A SERPENT OR A SCORPION THAT HINDERED HIM, IT REMAINS VALID. R. JUDAH STATED: THIS IS THE GENERAL RULE: IN THE CASE OF ANY ACT THAT IS IN THE NATURE OF WORK, THE MIXTURE IS INVALID WHETHER THE MAN STOPPED[50] OR NOT, BUT IF IT WAS NOT IN THE NATURE OF WORK,[51] THE MIXTURE IS INVALID IF HE STOPPED, BUT IF HE DID NOT STOP IT REMAINS VALID.

MISHNAH 10. IF A MAN ENTRUSTED[52] HIS WATER[53] TO AN UNCLEAN MAN, IT IS INVALID;[54] BUT IF TO A CLEAN ONE IT IS VALID.[55] R. ELIEZER RULED: EVEN IF IT WAS ENTRUSTED TO AN UNCLEAN MAN IT IS VALID,[56] PROVIDED THE OWNER DID NO OTHER WORK IN THE MEANTIME.

MISHNAH 11. IF TWO MEN WERE DRAWING WATER FOR THE SIN-OFFERING AND ONE ASSISTED THE OTHER TO RAISE IT OR IF ONE PULLED OUT A THORN[57] FOR THE OTHER, IT IS VALID IF THERE IS TO BE ONLY ONE MIXTURE;[58] BUT IF THERE ARE TO BE TWO SEPARATE MIXTURES, IT IS INVALID.[59] R. JOSE RULED: EVEN IF THERE ARE TO BE TWO MIXTURES THE WATER IS VALID IF THE TWO MEN HAD MADE A MUTUAL AGREEMENT BETWEEN THEM.[60]

MISHNAH 12. IF A MAN[61] BROKE DOWN A FENCE[62] WITH THE INTENTION OF PUTTING IT UP AGAIN,[63] THE WATER REMAINS VALID;[64] BUT IF HE PUT [A FENCE] UP,[65] THE WATER BECOMES INVALID. IF[66] HE ATE[67] FIGS INTENDING[68] TO STORE SOME OF THEM, THE WATER IS VALID;[69] BUT IF HE STORED FIGS[70] IT IS INVALID. IF[66] HE WAS EATING FIGS AND, LEAVING SOME OVER, THREW WHAT WAS IN HIS HAND UNDER THE FIG TREE OR AMONG DRYING FIGS IN ORDER THAT IT SHALL NOT BE WASTED, THE WATER BECOMES INVALID.[71]

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(1) With suitable water.

(2) Of ashes of the red cow with the water.

(3) Each man his own mixture with the water he drew.

(4) In one vessel.

(5) Since no act of extraneous work intervened between the putting of the water in each jar and the mixing of it with the ashes.

(6) Between the filling of which and the mixing in it of the ashes no extraneous act of work intervened.

(7) The water in all the others is invalid since an act of extraneous work (the filling of the next jar or jars) intervened between the drawing of the water and the mixing of the ashes with it.

(8) The man who filled all the five jars.

(9) Because, all the five jars having been filled for one mixture, there is no intervention of extraneous work between the filling of the first jar and the mixing of its contents with the ashes. The mixtures of the other jars are invalid since the mixing of the first one, which is an act of work, intervened between the filling of them with the water and the mixing of that water with the ashes.

(10) After he filled the five jars intending to use them for one single mixture.

(11) Each jar separately.

(12) Between the filling of which and the mixing in it of the ashes no other act of work intervened.

(13) Cf. supra n. 9.

(14) Since the first man (who filled the jar) did no work between the filling and the mixing, while the second (who prepared the mixtures) cannot cause invalidity to that which does not belong to him.

(15) At the same time. The filling for the other man being an act of extraneous work.

(16) Cf. prev. n. mut. mut.

(17) Other than that necessitated for the preparation on which one is engaged.

(18) Of ashes of the red cow with the water.

(19) On account of the other work that was done by him while he was engaged in the preparation.

(20) Since that man did no other work. Only in the filling of the water is the act of an agent (who may be paid for his services and who derives benefit from his act) deemed to be identical with that of the owner, but in the preparation of the mixture (or which no fee may be paid) the act of the agent cannot be regarded as that of the owner.

(21) At the same time.

(22) Since the mixture that was not his could not be rendered invalid by his work.

(23) After each of them had already drawn his water.

(24) Sc. the mixture that was prepared first.

(25) The mixture that was prepared subsequently is invalid since its owner made an interruption between the filling of the vessels with the water for it and its mixing by the act of the preparation of the first mixture which in relation to it is extraneous work.

(26) Since there was no interruption by other work on the part of the owner between the filling of the vessel and the mixing of the ashes. That old the first, however, is invalid since he had done an act of extraneous work, by filling the water for the other man, between the filling of the water for his own mixture, and the preparation of it.

(27) Because in neither case was there any interruption by extraneous work.

(28) ‘With the water which you have drawn for yourself before I asked you to draw for me’.

(29) ‘Before I will prepare mine’.

(30) Since in the ease of both mixtures there was an interruption by other work done by their respective owners.

(31) For his ordinary needs.

(32) When carrying the two buckets of water.

(33) Because, in accordance with Scripture, it has to be carefully guarded.

(34) Var. lec. ‘It is possible’, Sc. it is possible in this case, since the bucket before him is for the sin-offering, to bestow equal care upon the bucket behind also.

(35) Which he had borrowed for the purpose of drawing the water for mixing with the ashes and which he now returns to the lender.

(36) The extra journey is regarded as ‘other work’ which causes invalidity.

(37) V. Hul. 48a.

(38) Having regard to the exigencies of the time.

(39) While drawing water from the well.

(40) The coiling being regarded as part of the work of the preparations for the red cow.

(41) After the water had been drawn.

(42) Cf. supra p. 328, n. 11 mut. mut.

(43) After emptying the water he drew with it into the vessel, but prior to the mixing of the ashes.

(44) For the same mixture.

(45) Since the acts mentioned are the usual procedure they cannot be regarded as ‘extraneous work’.

(46) Between his drawing of the water and his mixing it with the ashes.

(47) Since the act is part of the services in connection with the preparation of the mixture.

(48) For the sprinkling after the mixing of the ashes.

(49) As this serves to fortify him in his task it is not deemed extraneous work.

(50) When the act was done.

(51) As those mentioned in this Mishnah.

(52) For safe keeping and protection against uncleanness.

(53) For the mixture of the ashes of the red cow.

(54) Because an unclean person cannot he trusted to exercise all the necessary care.

(55) Even if the owner did some other work in the meantime. While the water is under the protection of the guardian it is deemed to he in his (and not in the owner's) possession, and only if the guardian did some other work does the water become invalid.

(56) For, knowing that the guardian is unclean, the owner himself keeps his eye on it.

(57) That happened to stick in his finger, in the interval between the drawing of the water and its mixing with the ashes.

(58) Since the assistance afforded, which was essential fur the joint effort, cannot he regarded as extraneous work.

(59) Because the assistance given was not essential for the giver's mixture, it is extraneous work and causes invalidity.

(60) To assist each other in all their preparations for the mixtures. As each one was entirely dependent on the other, any help rendered is deemed to he work on one's own preparation.

(61) While carrying the water for the ashes of the red cow.

(62) That was in his way.

(63) And much more so if be had no intention of putting it up again.

(64) Elijah Wilna: The destruction is not regarded as constructive work though it is preparatory to it.

(65) On his own accord, before the water had been mixed with the ashes. According to the second interpretation (previous note). the reference is to the same fence, if he put it up.

(66) During the interval between the drawing of the water and the mixing of it with the ashes of the red heifer.
(67) V. Mishnah 9.
(68) Under compulsion by one who, otherwise, refused to allow him to eat.
(69) Even if the storing was done before the preparation of the mixture. Since the storing was an essential of his eating (cf. prev. n.) and the latter was a necessity for his drawing of the water, the storing is regarded as an act essential to the preparation.
(70) V. prev. n. mut. mut.
(71) Since the storing of foodstuffs is an act of extraneous work.

Mishna - Mas. Parah Chapter 8

MISHNAH 1. IF TWO MEN WERE KEEPING WATCH OVER THE TROUGH[1] AND ONE OF THEM CONTRACTED UNCLEANNESS, THE WATER[2] REMAINS VALID, SINCE IT IS STILL UNDER THE PROTECTION OF THE OTHER. IF THE FIRST BECAME CLEAN AND THE OTHER CONTRACTED UNCLEANNESS THE WATER IS STILL VALID SINCE IT IS UNDER THE PROTECTION OF THE FIRST. IF BOTH CONTRACTED UNCLEANNESS SIMULTANEOUSLY THE WATER BECOMES INVALID. IF ONE OF THEM DID[3] SOME WORK,[4] THE WATER REMAINS VALID SINCE IT IS UNDER THE PROTECTION OF THE OTHER. IF THE FIRST CEASED[5] AND THE OTHER DID SOME WORK,[4] THE WATER STILL REMAINS VALID SINCE IT IS UNDER THE PROTECTION OF THE FIRST. IF BOTH DID SOME WORK[4] AT THE SAME TIME THE WATER BECOMES INVALID.

MISHNAH 2. THE MAN THAT PREPARES THE MIXTURE[6] OF THE SIN-OFFERING[7] MUST NOT WEAR HIS SANDALS, FOR WERE SOME OF THE LIQUID[8] TO FALL ON A SANDAL THE LATTER WOULD BECOME UNCLEAN[9] AND THUS CONVEY UNCLEANNESS TO HIM.[10] WELL MAY HE SAY, ‘THAT[11] WHICH MADE YOU UNCLEAN DID NOT MARE ME UNCLEAN, BUT YOU HAVE MADE ME UNCLEAN IF SOME OF THE LIQUID FELL ON HIS SKIN[12] REMAINS CLEAN.[13] IF IT FELL ON HIS GARMENT THE LATTER BECOMES UNCLEAN AND CONVEYS UNCLEANNESS TO HIM. WELL MAY HE SAY, THAT[14] WHICH MADE YOU UNCLEAN DID NOT MAKE ME UNCLEAN, BUT YOU HAVE MADE ME UNCLEAN

MISHNAH 3. HE WHO BURNS THE RED COW[15] OR THE BULLOCKS[16] AND HE THAT LEADS AWAY THE SCAPEGOAT,[17] RENDER GARMENTS[18] UNCLEAN.[19] THE RED COW, HOWEVER, AND THE BULLOCKS AND THE SCAPEGOAT DO NOT THEMSELVES CONVEY UNCLEANNESS TO GARMENTS.[20] WELL MAY IT[21] SAY,[22] ‘THOSE[23] THAT CAUSE YOU TO BE UNCLEAN DO NOT CAUSE ME TO BE UNCLEAN, BUT YOU HAVE CAUSED ME TO BE UNCLEAN’.

MISHNAH 4. A MAN THAT EATS UP THE CARRION OF A CLEAN BIRD, WHILE IT IS YET IN HIS GULLET,[24] CAUSES GARMENTS TO BE UNCLEAN;[25] BUT THE CARRION ITSELF DOES NOT CAUSE GARMENTS TO BE UNCLEAN. WELL MAY IT[21] SAY,[22] ‘THAT[26] WHICH CAUSED YOU TO BE UNCLEAN DID NOT CAUSE ME TO BE UNCLEAN, BUT YOU CAUSED ME TO BE UNCLEAN’.

MISHNAH 5. ANY DERIVED UNCLEANNESS CONVEYS NO UNCLEANNESS TO VESSELS, BUT [IT DOES CONVEY IT] TO A LIQUID. IF A LIQUID BECAME UNCLEAN IT CAN CONVEY UNCLEANNESS TO THEM.[27] WELL MAY THEY[27] SAY,[28] ‘THAT’[29] WHICH CAUSED YOU TO BE UNCLEAN DID NOT CAUSE ME TO BE UNCLEAN, BUT YOU CAUSED ME TO BE UNCLEAN’.

MISHNAH 6. AN EARTHEN VESSEL CANNOT CONVEY UNCLEANNESS TO ANOTHER

SUCH VESSEL, BUT [CAN CONVEY IT] TO A LIQUID; AND WHEN THE LIQUID BECOMES UNCLEAN IT CAN CONVEY UNCLEANNESS TO THE VESSEL. WELL MAY IT[30] SAY,[31] ‘THAT[32] WHICH HAS CALLED YOUR UNCLEANNESS COULD NOT CAUSE ME TO BE UNCLEAN, BUT YOU HAVE CAUSED ME TO BE UNCLEAN’.

MISHNAH 7. WHATSOEVER[33] CAUSES TERUMAH TO BE INVALID CAUSES LIQUID[34] TO BECOME UNCLEAN IN THE FIRST GRADE SO THAT THEY CAN CONVEY UNCLEANNESS[35] AT ONE REMOVE, AND RENDER UNFIT[36] AT ONE OTHER REMOVE,[37] EXCEPT ONLY A TEBUL YOM.[38] WELL MAY IT[39] SAY,[40] ‘WHAT[41] HAD CAUSED YOU TO BE UNCLEAN COULD NOT CAUSE ME TO BE UNCLEAN, BUT YOU HAVE CAUSED ME TO BE UNCLEAN’.

MISHNAH 8. ALL SEAS ARE[42] ON A PAR WITH A RITUAL BATH,[43] FOR IT IS SAID, AND THE GATHERING OF THE WATERS CALLED HE SEAS;[44] SO R. MEIR. R. JUDAH RULED: ONLY THE GREAT SEA[45] IS ON A PAR WITH A RITUAL BATH,[46] ‘SEAS’[47] HAVING BEEN STATED[44] ONLY BECAUSE THERE ARE IN IT[45] MANY KINDS OF SEAS. R. JOSE RULED: ALL SEAS[48] AFFORD CLEANNESS WHEN RUNNING,[49] AND YET THEY ARE UNFIT[50] FOR ZABS AND LEPERS AND FOR THE PREPARATION OF THE WATER OF THE SIN-OFFERING.[51]

MISHNAH 9. AFFECTED[52] WATERS ARE UNFIT.[53] THE FOLLOWING ARE AFFECTED[52] WATERS: THOSE THAT ARE SALTY OR LUKEWARM. WATERS THAT FAIL: ARE UNFIT.[53] THE FOLLOWING ARE WATERS THAT FAIL; THOSE THAT FAIL EVEN ONCE IN A SEPTENNIAL CYCLE. THOSE THAT FAIL ONLY IN TIMES OF WAR[54] OR IN YEARS OF DROUGHT ARE FIT.[53] R. JUDAH RULED: THEY ARE UNFIT.[53]

MISHNAH 10. THE WATERS OF THE KERAMIYON AND THE WATERS OF PUGAH[55] ARE UNFIT,[53] BECAUSE THEY ARE MARSH WATERS.[56] THE WATERS OF THE JORDAN AND THE WATERS OF THE YARMUK[57] ARE UNFIT,[53] BECAUSE THEY ARE MIXED WATERS.[58] AND THE FOLLOWING ARE MIXED WATERS: A FIT KIND AND AN UNFIT KIND THAT WERE MIXED TOGETHER. IF TWO KINDS THAT ARE FIT WERE MIXED TOGETHER BOTH REMAIN FIT: R. JUDAH RULES THAT THEY ARE UNFIT.[59]

MISHNAH 11. AHAB'S WELL AND THE POOL IN THE CAVE OF PAMIAS[60] ARE FIT.[53] WATER THAT HAS CHANGED ITS COLOUR AND THE CHANGE AROSE FROM ITSELF, REMAINS FIT. A WATER CHANNEL THAT COMES FROM A DISTANCE[61] IS FIT, PROVIDED ONLY THAT IT IS WATCHED SO THAT NO ONE CUTS IT OFF.[62] R. JUDAH RULED; THE PRESUMPTION ALWAYS[63] IS THAT IT IS IN A PERMITTED STATE. IF THERE FELL INTO A WELL SOME CLAY OR EARTH, ONE MUST WAIT[64] UNTIL IT BECOMES CLEAR; SO R. ISHMAEL. R. AKIBA RULED: IT IS NOT NECESSARY TO WAIT.

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(1) That contained water for mixing with the ashes of the red cow

(2) Cf. prev. n.

(3) While he was supposed to keep watch over the water.

(4) That had no connection with the preparation of the the mixture of the ashes and the water.

(5) From his work.

(6) And likewise he that sprinkles it.

(7) Much more so the man who sprinkle it.

(8) Of the mixture.

(9) From the liquid which had become invalid the moment it dropped on the sandal and was no longer subjected to the special care prescribed for the mixture of the sin-offering.

(10) As a special measure enacted in connection with the preparations of the red cow mixture.

(11) The liquid.
(12) Lit., ‘flesh’
(13) As laid down infra IX, 8.
(14) The liquid.
(15) Cf. Num. XIX, 8.
(16) That were not burnt on the altar (cf. Lev. IV, 12, 21; XVI, 27); and the same law applies also to certain he-boats (cf. Lev. XVI, 27f). Same edd. add, ‘and the he-goat’.
(17) cf. Lev. XVI, 26.
(18) Which they wear or touch at the time.
(19) Only men and earthen vessels do not contract uncleanness from such touch (cf. prev. n.).
(20) Which they touched.
(21) Each garment.
(22) To the man.
(23) The red cow, the bullocks and the Scapegoat.
(24) Before he had swallowed it.
(25) V. Toh. I, 1.
(26) The carrion.
(27) Vessels.
(28) To the liquid.
(29) A derived uncleanness.
(30) The second vessel.
(31) To the liquid.
(32) The first vessel.
(33) E.g. a second grade if uncleanness.
(34) As a preventive measure.
(35) To foodstuffs even if they are common hullin (v. Glos.).
(36) To terumah, but not to common foodstuffs. To become ‘unfit’ denotes to contract an uncleanness without being able to convey it further.
(37) But no more.
(38) V. Glos. Though a tebul you renders terumah unfit, he cannot cause liquids, even if they are terumah, to become a first grade of uncleanness.
(39) A foodstuff (cf. supra n. 6).
(40) To the liquids.
(41) The second grade of uncleanness.
(42) In respect of ritual immersion.
(43) Lit., ‘a gathering (of water)’. They are not like a spring. They are consequently unfit for the immersion of a zab and a leper and far mixing with the ashes of the red heifer, and do not cleanse when running.
(44) Gen. I, 10.
(45) The Mediterranean.
(46) Not the smaller inland seas.
(47) The plural instead of the singular.
(48) Including the Great Sea.
(49) Like springs.
(50) Like gathered water.
(51) All of which require spring water.
(52) Or ‘harmful’. Lit., ‘smitten’.
(53) For use where running water is required.
(54) When the passing troops consume much water.
(55) Var. lec., Pigah.
(56) V. B.B., Sonc. ed., p. 298, n. 10.
(57) The great eastern tributary of the Jordan.
(58) These rivers being fed by tributaries whose waters ‘fail’ or ‘are affected’.

(59) As a preventive measure against the possibility of using a mixture of two kinds of water one of which was unfit.
(60) Or ‘Banias’, one of the sources of the Jordan.
(61) Having its source in a spring.
(62) From its source. Should it be cut off, it can no longer be regarded as spring water.
(63) Even if it was not kept under watch.
(64) Before the water may be used.

Mishna - Mas. Parah Chapter 9

MISHNAH 1. IF A DROP[1] OF WATER FELL INTO A FLASK,[2] R. ELIEZER RULED, THE SPRINKLING MUST BE DONE TWICE;[3] BUT THE SAGES RULE THAT THE MIXTURE IS INVALID.[4] IF DEW DROPPED INTO IT,[5] R. ELIEZER RULED: LET IT[5] BE PUT OUT IN THE SUN AND THE DEW WILL RISE[6] BUT THE SAGES RULE THAT THE MIXTURE IS INVALID. IF A LIQUID OR FRUIT JUICE FELL INTO IT,[5] ALL THE CONTENTS MUST BE POURED AWAY AND IT IS ALSO NECESSARY TO DRY THE FLASK.[7] IF ONLY INK, GUM OR COPPERAS, OR ANYTHING THAT LEAVES A MARK, FELL INTO IT,[5] THE CONTENTS MUST BE POURED AWAY BUT IT IS NOT NECESSARY TO DRY THE FLASK.[8]

MISHNAH 2. IF INSECTS OR CREEPING THINGS FELL INTO IT,[5] AND THEY BURST ASUNDER[9] OR THE COLOUR OF THE WATER CHANGED, THE CONTENTS BECOME INVALID. A BEETLE[10] CAUSES INVALIDITY IN ANY CASE,[11] BECAUSE IT IS LIKE A TUBE.[12] R. SIMEON AND R. ELIEZER B. JACOB RULED: A MAGGOT OR A WEEVIL OF THE CORN[10] CAUSES NO INVALIDITY, BECAUSE IT CONTAINS NO MOISTURE.

MISHNAH 3. IF A BEAST OR A WILD ANIMAL DRANK FROM IT,[13] IT BECOMES INVALID.[14] ALL BIRDS[15] CAUSE INVALIDITY, EXCEPT THE DOVE SINCE IT ONLY SUCKS UP THE WATER.[16] ALL CREEPING THINGS CAUSE NO INVALIDITY, EXCEPT THE WEASEL SINCE IT LAPS UP THE WATER. R. GAMALIEL RULED: THE SERPENT ALSO[17] BECAUSE IT VOMITS. R. ELIEZER RULED: THE MOUSE ALSO.[17]

MISHNAH 4. IF ONE INTENDED[18] TO DRINK THE WATER OF THE SIN-OFFERING, R. ELIEZER RULED: IT BECOMES INVALID. R. JOSHUA RULED: ONLY WHEN ONE TIPS THE FLASK.[19] R. JOSE STATED: THIS[20] APPLIES ONLY TO WATER THAT HAD NOT YET BEEN PREPARED,[21] BUT IN THE CASE OF WATER THAT HAD BEEN PREPARED,[22] R. ELIEZER RULED: IT BECOMES INVALID [ONLY] WHEN ONE TIPS THE FLASK;[19] AND R. JOSHUA RULED: [ONLY] WHEN ONE DRINKS.[23] AND IF IT WAS POURED DIRECT INTO ONE'S THROAT,[24] IT REMAINS VALID.

MISHNAH 5. IF THE WATER OF THE SIN-OFFERING[25] BECAME INVALID IT MAY NOT BE STAMPED INTO THE MUD SINCE IT MIGHT BECOME A SNARE FOR OTHERS.[26] R. JUDAH RULED: IT[27] BECOMES NEUTRALISED.[28] IF A COW DRANK OF THE WATER OF THE SIN-OFFERING, ITS FLESH[29] BECOMES UNCLEAN FOR TWENTY-FOUR HOURS.[30] R. JUDAH RULED: IT BECOMES NEUTRALISED IN ITS BOWELS.[31]

MISHNAH 6. NO MAN MAY CARRY WATER OF THE SIN-OFFERING[32] OR THE ASHES OF THE SIN-OFFERING[33] ACROSS A RIVER ON BOARD A SHIP,[34] NOR MAY ONE FLOAT THEM UPON THE WATER,[35] NOR MAY ONE STAND ON THE BANK ON ONE SIDE AND THROW THEM ACROSS TO THE OTHER SIDE.[35] A MAN[36] MAY, HOWEVER, CROSS OVER[37] WITH THE WATER UP TO HIS NECK. HE THAT IS CLEAN FOR THE SIN-OFFERING[32] MAY CROSS [A RIVER][38] CARRYING IN HIS HANDS AN EMPTY VESSEL THAT IS CLEAN FOR THE SIN-OFFERING[32] OR WATER THAT HAS NOT YET BEEN DULY PREPARED.[39]

MISHNAH 7. IF VALID ASHES[40] WERE MIXED [UP WITH WOOD ASHES,[41] ONE IS GUIDED BY THE GREATER QUANTITY IN RESPECT OF THE CONVEYANCE OF UNCLEANNESS,[42] BUT [THE MIXTURE][43] MAY NOT BE PREPARED WITH IT.[44] R. ELIEZER RULED: THE MIXTURE[43] MAY BE PREPARED WITH ALL OF THEM.[45]

MISHNAH 8. WATER OF THE SIN-OFFERING, EVEN IF IT IS INVALID,[46] CONVEYS UNCLEANNESS[47] TO A MAN WHO IS CLEAN FOR TERUMAH[48] [BY CONTACT] WITH HIS HANDS OR WITH HIS BODY; AND TO A MAN WHO IS CLEAN FOR THE SIN-OFFERING IT CONVEYS UNCLEANNESS NEITHER [BY CONTACT] WITH HIS HANDS NOR [BY CONTACT] WITH HIS BODY.[49] IF IT[50] BECAME UNCLEAN, IT CONVEYS UNCLEANNESS TO A MAN WHO IS CLEAN FOR TERUMAH [BY CONTACT EITHER] WITH HIS HANDS OR WITH HIS BODY, AND TO THE MAN WHO IS CLEAN FOR THE SIN-OFFERING IT CONVEYS UNCLEANNESS [BY CONTACT] WITH HIS HANDS BUT NOT [BY CONTACT] WITH HIS BODY.[51]

MISHNAH 9. IF VALID ASHES WERE PUT ON WATER THAT WAS UNFIT FOR THE PREPARATION,[52] [THE LATTER] CONVEYS UNCLEANNESS TO HIM THAT IS CLEAN FOR TERUMAH [BY CONTACT] WITH HIS HANDS OR WITH HIS BODY, BUT TO HIM WHO IS CLEAN[53] FOR THE SIN-OFFERING IT CONVEYS UNCLEANNESS NEITHER [BY CONTACT] WITH HIS HANDS NOR WITH HIS BODY.

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(1) Lit., ‘any soever’.

(2) Zelohith, the vessel containing the mixture of the ashes of the red cow and the water, duly prepared for sprinkling.

(3) Thus making sure that one drop at least was valid water.

(4) V. Zeb. 80a.

(5) The flask.

(6) Leaving the mixture free from all dew.

(7) Before it can be used again for a valid mixture.

(8) For, had any of the foreign substance remained, a mark would have been left in the flask.

(9) The water penetrating them and carrying back some of the moisture of their body into the mixture.

(10) If it fell into the mixture.

(11) Whether it burst asunder or not and whether or not the colour of the water changed.

(12) Through which the water of the mixture passes and absorbs moisture from its body.

(13) The contents of the flask (cf. supra p. 336n. 10).

(14) Since spittle mixes with the water.

(15) If they drank from the mixture.

(16) Cf. supra n. 2 mut. mut.

(17) Causes invalidity if it drank from the mixture.

(18) Expressing his intention.

(19) To drink out of it. Intention alone does not suffice to cause invalidity.

(20) The ruling of R. Eliezer as well as that of R. Joshua just cited.

(21) By the mixture of the ashes.

(22) When it is evident that the water had been drawn only for that purpose.

(23) From the flask.

(24) So that no spittle could possibly have been mixed up with the contents that remained.

(25) The prepared mixture of the water and the ashes of the red cow.

(26) Who, unsuspecting the existence of the water in the mud, would touch the latter and contract uncleanness without being aware of it.

(27) On being mixed up with the mud.

(28) And no longer conveys any uncleanness.

(29) If the cow has been slain.

(30) From the time of drinking.
(31) And no longer conveys any uncleanness.
(32) The prepared mixture of the water and the ashes of the red cow.
(33) Even if it was not mixed with the water.
(34) As a preventive measure. It once happened that a piece of a corpse was found stock in the deck of a ship on board of which the mixture of the water and ashes of the red heifer was carried, v. Hag. 28a.
(35) Since this is similar to carrying them on board a ship.
(36) Carrying the mixture or the ashes.
(37) On foot.
(38) Even in a ship.
(39) By the mixture of the ashes, having only been drawn for the purpose.
(40) Of the red cow.
(41) That are unfit for sprinkling.
(42) By touch. If the valid ashes constitute the greater quantity, one who touched it is unclean; and if the wood ashes constitute the greater quantity no uncleanness is conveyed.
(43) Of the ashes with water.
(44) Even where the greater quantity was valid ashes.
(45) With both kinds of ashes whether the greater part was wood ashes or valid ashes. As no minimum quantity of ashes was prescribed for the sprinkling, and as each application would contain at least some fraction of the valid ashes, the entire mixture may be regarded as valid and used for the purpose.
(46) Owing, for instance, to a change in colour that was due to an external cause.
(47) Rabbinically.
(48) But not to one who is only clean for common food; for, owing to the invalidity of the water it is no longer subject to Pentateuchal uncleanness.
(49) So that, though he becomes unclean in certain other respects, he remains clean to draw the water, to mix it with the ashes of the red cow (the sin-offering), and to sprinkle it.
(50) The water of the sin-offering.
(51) Liquid uncleanness can generally be conveyed only by contact with the hands.
(52) Which are thus on a par with water that became invalid.
(53) Var. lec., ‘the hands of him who is clean for terumah and the hands of him who is clean’.

Mishna - Mas. Parah Chapter 10

MISHNAH 1. ANY OBJECT THAT IS SUSCEPTIBLE TO MIDRAS UNCLEANNESS[1] IS FOR THE PURPOSE OF THE WATER OF THE SIN-OFFERING DEEMED TO BE UNCLEAN OF MIDDAF,[2] WHETHER IT WAS OTHERWISE UNCLEAN OR CLEAN.[3] A MAN TOO[4] IS SUBJECT TO THE SAME RESTRICTION.[5] ANY OBJECT THAT IS SUSCEPTIBLE TO CORPSE UNCLEANNESS,[6] WHETHER IT IS OTHERWISE UNCLEAN OR CLEAN, R. ELIEZER RULED, IS NOT DEEMED TO BE UNCLEAN OF MIDDAF;[7] R. JOSHUA RULED: IT IS DEEMED TO BE UNCLEAN OF MIDDAF;[8] AND THE SAGES RULED: THAT WHICH WAS UNCLEAN IS DEEMED TO BE UNCLEAN OF MIDDAF,[3] AND THAT WHICH WAS CLEAN IS NOT DEEMED TO BE UNCLEAN OF MIDDAF.[7]

MISHNAH 2. IF A MAN WHO WAS CLEAN FOR THE WATER OF THE SIN-OFFERING TOUCHED WHAT WAS UNCLEAN OF MIDDAF,[9] HE[10] BECOMES UNCLEAN.[11] IF A FLAGON THAT WAS APPOINTED FOR THE WATER OF THE SIN-OFFERING TOUCHED A MIDDAF UNCLEANNESS,[12] IT BECOMES UNCLEAN. IF A MAN WHO WAS CLEAN FOR THE WATER OF THE SIN-OFFERING TOUCHED FOODSTUFFS OR LIQUIDS[13] WITH HIS HAND, HE BECOMES UNCLEAN, BUT IF HE DID IT WITH HIS FOOT HE REMAINS CLEAN. IF HE SHIFTED THEM WITH HIS HAND,[14] R. JOSHUA RULES THAT HE BECOMES UNCLEAN, AND THE SAGES RULE THAT HE REMAINS CLEAN.

MISHNAH 3. AN [EARTHEN] JAR OF THE WATER OF THE SIN-OFFERING THAT TOUCHED A [DEAD] CREEPING THING, REMAINS CLEAN.[15] IF THE JAR WAS PUT ON IT,[16] R. ELIEZER RULES THAT IT REMAINS CLEAN, AND THE SAGES RULE[17] THAT IT BECOMES UNCLEAN. IF THE JAR TOUCHED FOODSTUFFS OR LIQUIDS[18] OR THE HOLY SCRIPTURES,[19] IT REMAINS CLEAN.[15] IF IT WAS PUT ON THEM, R. JOSE RULES THAT IT REMAINS CLEAN,[20] AND THE SAGES RULE THAT IT BECOMES UNCLEAN.[21]

MISHNAH 4. A MAN WHO WAS CLEAN FOR THE WATER OF THE SIN-OFFERING THAT TOUCHED AN OVEN[22] WITH HIS HAND BECOMES UNCLEAN,[23] BUT IF HE DID IT WITH HIS FOOT HE REMAINS CLEAN.[23] IF HE STOOD ON AN OVEN AND PUT OUT HIS HAND BEYOND THE OVEN WITH THE FLAGON[24] IN HIS HAND, AND SO ALSO IN THE CASE OF A CARRYING-YOKE WHICH WAS PLACED OVER THE OVEN AND FROM WHICH TWO JARS WERE SUSPENDED ONE AT EITHER END,[25] R. AKIBA RULES THAT THEY REMAIN CLEAN,[26] BUT THE SAGES RULE THAT THEY ARE UNCLEAN.[27]

MISHNAH 5. IF HE WAS STANDING OUTSIDE AN OVEN AND HE STRETCHED FORTH HIS HAND TO A WINDOW WHEREFROM HE TOOK A FLAGON AND PASSED IT OVER THE OVEN, R. AKIBA RULES THAT IT IS UNCLEAN,[28] AND THE SAGES RULE THAT IT IS CLEAN. HE, HOWEVER, WHO WAS CLEAN FOR THE WATER OF THE SIN-OFFERING MAY STAND OVER AN OVEN WHILE HOLDING IN HIS HAND AN EMPTY VESSEL THAT IS CLEAN FOR THE WATER OF THE SIN-OFFERING OR ONE FILLED WITH WATER THAT HAS NOT YET BEEN MIXED WITH THE ASHES OF THE RED COW.

MISHNAH 6. IF A FLAGON CONTAINING THE WATER OF THE SIN-OFFERING TOUCHED A VESSEL CONTAINING CONSECRATED FOOD OR TERUMAH, THAT CONTAINING THE WATER OF THE SIN-OFFERING BECOMES UNCLEAN,[29] BUT THE ONE CONTAINING THE CONSECRATED FOOD OR THE TERUMAH REMAINS CLEAN.[30] IF HE HELD THE TWO VESSELS[31] ONE IN EACH OF HIS TWO HANDS, BOTH BECOME UNCLEAN.[32] IF THEY WERE BOTH WRAPPED IN SEPARATE PAPERS, THEY REMAIN CLEAN.[33] IF THE VESSEL OF THE WATER OF THE SIN-OFFERING WAS WRAPPED IN A PAPER WHILE THAT OF THE TERUMAH WAS HELD IN HIS HAND,[34] BOTH BECOME UNCLEAN.[35] IF THE ONE CONTAINING THE TERUMAH WAS HELD IN HIS HAND WRAPPED UP IN PAPER WHILE THAT CONTAINING THE WATER OF THE SIN-OFFERING WAS HELD IN HIS HAND, BOTH REMAIN CLEAN.[36] R. JOSHUA RULED: THAT CONTAINING THE WATER OF THE SIN-OFFERING BECOMES UNCLEAN. IF BOTH WERE PLACED ON THE GROUND AND A MAN TOUCHED THEM,[37] THAT OF THE SIN-OFFERING BECOMES UNCLEAN[38] BUT THAT OF THE CONSECRATED FOOD OR TERUMAH REMAINS CLEAN.[39] IF HE ONLY SHIFTED IT,[40] R. JOSHUA RULES THAT IT IS UNCLEAN, AND THE SAGES RULE THAT IT IS CLEAN.

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(1) Sc. one that is appointed for use as a couch or a seat, v. Glos. s.v.

(2) A form of a minor or indirect uncleanness imposed Rabbinically (v. Glos. s.v.).

(3) Hence if a man who is clean for the purposes of the sin-offering shifted (hesset) any such object (unless it had been specially guarded for the purposes of the sin-offering) he becomes unclean and unfit for the services of the mixing or sprinkling of the water and ashes of the red cow as if he had shifted an actual midras uncleanness.

(4) Even if he was clean for holy things but not specially cleansed for the purposes of the sin-offering.

(5) As the objects mentioned. Hence if the man who is clean for the sin-offering water touched him he becomes equally unclean and unfit (cf. prev. n. but one).

(6) But not to midras.

(7) Hence a man who is clean for the water of the sin-offering does not become unclean by shifting it as when he shifted that which is subject to midras uncleanness.

(8) Even if the object shifted was clean.

(9) Sc. the coverlet of a zab that was not in direct contact with the zab, (other coverlets having intervened) which is Rabbinically unclean as middaf.

(10) Even if he did not touch it with his hand but only with his body.

(11) Much more so if he touched the bedding under the zab, which is Pentateuchally a ‘father of uncleanness.’

(12) Cf. supra n. 2.

(13) That were clean in regard to terumah and consecrated things, but not in regard to the water of the sin-offering.

(14) Without touching them.

(15) Since earthenware do not contract uncleanness from their outer sides.

(16) The dead creeping thing.

(17) On the strength of a deduction from Num. XIX, 9 according to which the container of the water of the sin-offering must be set in ‘a clean place’.

(18) That were unclean.

(19) Which Rabbinically convey uncleanness to the hands or foodstuffs that touch them (cf. Yad. IV, 6).

(20) Since it did not rest on a ‘father of uncleanness’.

(21) Because, in their view, it must rest in a place which is clean in all respects (cf. supra n. 6).

(22) Even one that was clean for holy things.

(23) As In the case of foodstuffs (supra X, 2).

(24) For the water of the sin-offering.

(25) Outside the oven.

(26) Being outside and beyond the oven they may he regarded as resting on a clean place.

(27) Since they are supported by the man, or the yoke that rests on the oven, they also are deemed to rest on a place that is unclean.

(28) Passing in the air-space above the oven is in his opinion regarded as on a par with passing through the interior of the oven.

(29) Even for common food. The flagon that contracted uncleanness from the vessel of the terumah conveys uncleanness to the water of the sin-offering within it, and this unclean water then renders the flagon itself unclean in the first degree.

(30) Since it only touched an uncleanness of the first degree which cannot convey any uncleanness to vessels.

(31) That of the water of the sin-offering and that of the consecrated food or terumah.

(32) That of the sin-offering becomes unclean on account of its contact with the man's hand which has become unclean like all his body, when he touched that of the Terumah, while the vessel of terumah for consecrated food becomes unclean by contact with the man who was carrying the water of the sin-offering.

(33) Because, though a vessel of paper (papyrus) may contract uncleanness, a scrap of paper does not, and it, therefore, forms an intervention between the uncleanness and the man.

(34) With no paper wrapper around it.

(35) Because, when the man had touched with his hand the vessel of the terumah, that of the sin-offering becomes unclean since the paper in this case constitutes no interposition. The man who becomes unclean because of his carrying of the invalid water of the sin-offering conveys uncleanness to the vessel of the terumah which he had touched with his hand.

(36) That of the terumah remains clean because the paper constitutes an Interposition between the hand and the other vessel, and that of the water of the sin-offering remains clean since the uncleanness of the man, which was caused by this water, cannot be retransmitted to the water that caused it.

(37) Simultaneously.

(38) Since the man who became unclean by touching the flagon of the terumah conveys uncleanness to the water of the sin-offering which, in turn conveys uncleanness to the Hagon that contains them.

(39) Since the man did not carry the invalid water but only touched its container which, being but a first grade of uncleanness, cannot convey any uncleanness to the man who is only susceptible to the uncleanness imparted by a ‘father of uncleanness’.

(40) But did not directly touch it.

Mishna - Mas. Parah Chapter 11

MISHNAH 1. A FLASK[1] THAT ONE HAS LEFT UNCOVERED AND ON RETURNING FOUND IT TO BE COVERED, IS INVALID.[2] IF ONE LEFT IT COVERED AND ON RETURNING FOUND IT TO BE UNCOVERED, IT IS INVALID IF A WEASEL[3] COULD HAVE DRUNK FROM IT[4] OR, ACCORDING TO THE RULING OF RABBAN GAMALIEL,[5] A SERPENT, OR IF IT WAS POSSIBLE FOR DEW TO FALL INTO IT IN THE Nlght.[6] THE WATER OF THE SIN-OFFERING[7] IS NOT PROTECTED[8] BY A TIGHTLY FITTING COVER;[9] BUT WATER THAT HAD NOT YET BEEN MIXED WITH THE ASHES IS PROTECTED BY A TIGHTLY FITTING COVER.[10]

MISHNAH 2. ANY CONDITION OF DOUBT THAT IS REGARDED AS CLEAN IN THE CASE OF TERUMAH IS ALSO REGARDED AS CLEAN IN THE CASE OF THE WATER OF THE SIN-OFFERING. IN ANY CONDITION OF SUSPENSE WHERE TERUMAH IS CONCERNED[11] THE WATER OF THE SIN-OFFERING IS POURED AWAY. IF CLEAN THINGS WERE HANDLED[12] ON ACCOUNT OF IT,[13] THEY MUST BE HELD IN SUSPENSE.[14] WOODEN LATTICE WORK[15] IS CLEAN IN RESPECT OF HOLY FOOD, TERUMAH, AND THE WATER OF THE SIN-OFFERING. R. ELIEZER RULED: LOOSELY FASTENED BOARDS[16] ARE UNCLEAN[17] IN THE CASE OF THE WATER OF THE SIN-OFFERING.[18]

MISHNAH 3. IF PRESSED FIGS OF TERUMAH FELL INTO THE WATER OF THE SIN-OFFERING AND WERE TAKEN OUT AND EATEN, THE WATER BECOMES UNCLEAN,[19] AND HE WHO EATS OF THE FIGS INCURS DEATH[20] IF THEIR BULK WAS NO LESS THAN THE SIZE OF AN EGG,[21] IRRESPECTIVE OF WHETHER THEY WERE UNCLEAN OR CLEAN. IF[22] THEIR BULK WAS LESS THAN THE SIZE OF AN EGG, THE WATER REMAINS CLEAN BUT[23] HE WHO EATS OF THEM INCURS DEATH. R. JOSE RULED: IF THEY[24] WERE CLEAN THE WATER REMAINS CLEAN.[25] IF A MAN WHO WAS CLEAN FOR THE WATER OF THE SIN-OFFERING PUT IN HIS HEAD AND THE GREATER PART OF HIS BODY INTO THE WATER OF THE SIN-OFFERING, HE BECOMES UNCLEAN.[26]

MISHNAH 4. ALL[27] THAT[28] REQUIRE IMMERSION IN WATER ACCORDING TO THE RULINGS OF THE TORAH CONVEY UNCLEANNESS TO CONSECRATED THINGS, TO TERUMAH, TO COMMON FOOD,[29] AND TO SECOND TITHE; AND[30] IS FORBIDDEN TO ENTER THE SANCTUARY. AFTER IMMERSION[31] ONE[30] CONVEYS [UNCLEANNESS TO HOLY THINGS AND CAUSES TERUMAH TO BE UNFIT; SO R. MEIR. BUT THE SAGES RULED: HE[30] CAUSES CONSECRATED THINGS AND TERUMAH TO BE INVALID,[32] BUT IS PERMITTED UNCONSECRATED FOOD AND SECOND TITHE; AND IF HE ENTERED THE SANCTUARY,[33] WHETHER BEFORE OR AFTER HIS IMMERSION, HE INCURS GUILT.[34]

MISHNAH 5. ALL[35] THAT REQUIRE IMMERSION IN WATER IN ACCORDANCE WITH THE WORDS OF THE SCRIBES CONVEY UNCLEANNESS TO CONSECRATED THINGS AND CAUSE TERUMAH TO BE UNFIT, BUT[30] ARE PERMITTED UNCONSECRATED FOOD AND SECOND TITHE; SO R. MEIR. BUT THE SAGES FORBID[30] SECOND TITHE. AFTER IMMERSION[36] A MAN IS PERMITTED ALL THESE, AND IF HE ENTERED THE SANCTUARY, WHETHER BEFORE OR AFTER HIS IMMERSION, HE INCURS NO GUILT.

MISHNAH 6. ALL THAT REQUIRE IMMERSION IN WATER, WHETHER ACCORDING TO THE WORDS OF THE TORAH OR ACCORDING TO THE WORDS OF THE SCRIBES, CAUSE[37] WATER OF THE SIN-OFFERING, THE ASHES OF THE SIN-OFFERING, AND HIM

WHO SPRINKLED THE WATER OF THE SIN-OFFERING,[38] TO BECOME UNCLEAN EITHER THROUGH CONTACT OR THROUGH CARRYING; AND ALSO CAUSE THE HYSSOP THAT HAS BEEN RENDERED SUSCEPTIBLE TO UNCLEANNESS, THE WATER THAT HAD NOT YET BEEN PREPARED,[39] AND AN EMPTY VESSEL THAT IS CLEAN FOR THE SIN-OFFERING TO BECOME UNCLEAN THROUGH CONTACT AND CARRYING; SO R. MEIR. BUT THE SAGES RULED: ONLY BY CONTACT[40] BUT NOT BY CARRYING.

MISHNAH 7. ANY HYSSOP THAT BEARS A SPECIAL NAME IS INVALID.[41] ORDINARY[42] HYSSOP IS VALID. GREEK HYSSOP, STIBIUM HYSSOP, ROMAN HYSSOP OR WILD HYSSOP IS INVALID. THAT OF UNCLEAN TERUMAH[43] IS INVALID; BUT THAT OF CLEAN TERUMAH[44] SHOULD NOT BE USED FOR SPRINKLING,[45] THOUGH IF ONE HAD USED IT FOR SPRINKLING IT IS VALID. THE SPRINKLING MUST NOT BE DONE EITHER WITH THE YOUNG SHOOTS OR WITH THE BERRIES.[46] NO GUILT IS INCURRED [AFTER THE SPRINKLING HAD BEEN DONE] WITH YOUNG SHOOTS FOR ENTERING THE SANCTUARY. R. ELIEZER RULED: NOR IF IT WAS DONE WITH THE BERRIES. THE FOLLOWING ARE REGARDED AS YOUNG SHOOTS: THE STALKS BEFORE THE BUDS HAVE RIPENED.

MISHNAH 8. THE HYSSOP THAT WAS USED FOR SPRINKLING [THE WATER OF THE SIN-OFFERING] IS Also FIT FOR CLEANSING THE LEPER.[47] IF IT[48] WAS GATHERED FOR FIREWOOD, AND LIQUID[49] FELL UPON IT, IT MAY BE DRIED AND IT BECOMES FIT.[50] IF IT[48] WAS GATHERED FOR FOOD, AND LIQUID[51] FELL UPON IT, EVEN THOUGH IT WAS DRIED, IT IS INVALID.[52] IF IT[53] WAS GATHERED FOR [THE SPRINKLING OF THE WATER OF] THE SIN-OFFERING, IT IS SUBJECT TO THE SAME LAW AS IF IT WERE GATHERED FOR FOOD. SO R. MEIR. R. JUDAH, R. JOSE AND R. SIMEON RULED: AS IF IT WERE GATHERED FOR FIREWOOD.

MISHNAH 9. THE PRESCRIBED RITE OF THE HYSSOP IS [THAT THE BUNCH[54] SHALL CONTAIN THREE STALKS BEARING THREE BUDS.[55] R. JUDAH RULED: STALKS BEARING THREE BUDS EACH. HYSSOP THAT CONSISTS OF A GROWTH OF THREE STALKS[56] SHOULD BE CUT UP[57] AND THEN BOUND TOGETHER. IF THE STALKS WERE SEVERED BUT WERE NOT BOUND TOGETHER, OR IF THEY WERE BOUND TOGETHER BUT WERE NOT SEVERED, OR IF THEY WERE NEITHER SEVERED NOR BOUND TOGETHER, THEY ARE NEVERTHELESS VALID. R. JOSE RULED: THE PRESCRIBED RITE OF THE HYSSOP IS THAT THE BUNCH SHALL CONTAIN THREE[58] BUDS, BUT ITS REMNANTS[59] NEED ONLY HAVE TWO, WHILE ITS STUMPS[60] MAY BE[61] OF THE SMALLEST SIZE.

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(1) Zelohith (cf. relevant n. supra IX, I) containing the water and the ashes of the red cow for sprinkling.

(2) Since it is obvious that someone had handled it and this one might have been unclean for the sin-offering, who thus conveyed uncleanness to it.

(3) Which vomits when it drinks.

(4) Because its spittle, mingling with the water, causes invalidity.

(5) supra IX, 3.

(6) Otherwise it is valid, since no man would be likely to uncover it (cf. supra n. 2).

(7) That was already mixed with the ashes; and the same applies to the ashes alone.

(8) From uncleanness, if it is with a corpse under the same roof.

(9) Though other objects are thereby protected (cf. Num. XIX, 25). The protection cannot be extended to the water of the sin-offering since under the same roof as the corpse it cannot be said to be set in a clean place (cf. Num. XIX, 9).

(10) Since the requirement to set in ‘a clean place’ (cf. prev. n) does not apply, to the water alone.

(11) Sc. when it is neither eaten nor burned.

(12) By a person who became clean (v. foll. n.).

(13) Sc. after the water that had to be poured away was sprinkled upon him.
(14) Cf. supra p. 344, n. 11.
(15) Which is nor susceptible to midras or corpse uncleanness.
(16) Hare'adoth, ‘which shake’ when one leans on them.
(17) As middaf.
(18) Since they might be used to sit or lie upon and thus are susceptible to midras uncleanness, v. supra X, 1.
(19) On account of its contact with the figs of terumah whose grade of cleanness is deemed to be an uncleanness in respect of the water of the sin-offering.
(20) Sc. by the hands of Heaven; for eating terumah while his body is unclean on account of the water on it.
(21) The minimum of foodstuffs required for conveying uncleanness.
(22) Some edd. omit this sentence to ‘death’.
(23) ‘But . . . death’ is omitted in some edd. and by Elijah Wilna.
(24) The pressed figs.
(25) In his opinion the grade of uncleanness required for Terumah is not regarded as unclean in respect of the water of the sin-offering.
(26) From the water in the vessel which being ‘drawn’ has a defiling effect, v. Zab. V, I. This water in turn, being sin-offering water, coming in contact with him is rendered unclean and assumes the restrictions of a ‘father of uncleanness’ which causes him in turn to be unclean in the first grade.
(27) Men and vessels.
(28) Having contracted uncleanness from a ‘father of uncleanness’ and became a first grade of uncleanness.
(29) Since a first grade of uncleanness causes even ordinary food to become a second grade of uncleanness.
(30) In the case of a man. According to Maim. this applies equally in vessels.
(31) Before the sun had set over him when as a tebul yom he is still subject to a second grade of uncleanness.
(32) Sc. even consecrated things do not become unclean (and thus capable of conveying uncleanness) but unfit only.
(33) The Court of the Israelites.
(34) No guilt, however, is incurred for entering the Court of the Women, though entry into it is forbidden.
(35) Such as men who ate or drank what is unclean, or vessels that have touched unclean liquids.
(36) Even before sunset.
(37) Even after an immersion that was not intended as a preparation for the services of the sin-offering.
(38) Sc. all who are clean for the sin-offering.
(39) By mixing it with the ashes of the red cow.
(40) Do these become unclean.
(41) For the sprinkling of the water of the sin-offering.
(42) Lit., ‘this’.
(43) Though it was less in bulk than the size of an egg which, in regard to the water of the sin-offering, is insusceptible to uncleanness.
(44) That was duly prepared for the water of the sin-offering.
(45) In case the water of the sin-offering might become invalid and thus convey uncleanness to the terumah.
(46) Of the hyssop.
(47) Cf. lev. XIV, 4ff.
(48) The hyssop.
(49) That was unfit for the water of the sin-offering.
(50) For use in the sprinkling of the water of the sin-offering. Such use is forbidden while the liquid is upon it since the invalid liquid would cause invalidity to water of the sin-offering with which it mingles.
(51) v. p. 347, n. 11.
(52) Because the liquid caused the hyssop to be susceptible to uncleanness and at the same time (since it was unfit for the sin-offering) conveyed uncleanness to it.
(53) V. p. 347, n. 10.
(54) With which the sprinkling is done.
(55) One bud on each stalk.
(56) Growing from one root.
(57) Into three separate stalks.

(58) Some edd. insert ‘stalks having three’.
(59) If one was lost in the course of sprinkling.
(60) Which must originally be a handbreadths in length.
(61) If the bunch was worn away from use.

Mishna - Mas. Parah Chapter 12

MISHNAH 1. HYSSOP THAT IS TOO SHORT[1] MAY BE MADE TO SUFFICE[1] WITH A THREAD AND A SPINDLE-REED. IT[2] IS THEN DIPPED AND BROUGHT UP AGAIN, WHEN ONE GRASPS THE HYSSOP ITSELF AND SPRINKLES WITH IT. R. JUDAH AND R. SIMEON RULED: AS THE SPRINKLING MUST BE DONE WITH THE HYSSOP ITSELF SO MUST THE DIPPING ALSO BE DONE WITH THE HYSSOP ITSELF.

MISHNAH 2. IF A MAN SPRINKLED[3] AND IT IS DOUBTFUL. WHETHER THE WATER CAME FROM THE THREAD OR THE SPINDLE-REED OR THE BUDS, THE SPRINKLING IS INVALID.[4] IF HE SPRINKLED UPON TWO VESSELS AND IT IS DOUBTFUL WHETHER HE SPRINKLED ON BOTH OR WHETHER SOME WATER FROM THE ONE HAD DRIPPED ON TO THE OTHER, IT IS IN VALID. IF A NEEDLE WAS FIXED TO AN EARTHENWARE AND THE MAN SPRINKLED UPON IT, AND IT IS DOUBTFUL WHETHER HE SPRINKLED ON THE NEEDLE OR WHETHER SOME WATER DRIPPED ON IT FROM THE EARTHENWARE, HIS SPRINKLING IS INVALID. IF THE FLASK[5] HAS A NARROW MOUTH, ONE MAY DIP IN[6] AND DRAW OUT IN THE USUAL WAY.[7] R. JUDAH RULED: THIS MAY BE DONE ONLY FOR THE FIRST SPRINKLING.[8] IF THE WATER OF THE SIN-OFFERING WAS DIMINISHED,[9] ONE MAY DIP ONLY THE TIPS OF THE BUDS AND SPRINKLE, PROVIDED THE HYSSOP DOES NOT ABSORB [ANY OF THE MOISTURE ON THE SIDES OF THE FLASK].[10] IF A MAN INTENDED TO SPRINKLE IN FRONT OF HIM AND HE SPRINKLED BEHIND HIM, OR BEHIND HIM AND HE SPRINKLED IN FRONT OF HIM, HIS SPRINKLING IS INVALID. IF HE INTENDED TO SPRINKLE IN FRONT OF HIM AND HE SPRINKLED TO THE SIDES IN FRONT OF HIM, HIS SPRINKLING IS VALID. IT IS PERMITTED TO SPRINKLE UPON A MAN WITH HIS KNOWLEDGE OR WITHOUT HIS KNOWLEDGE, AND IT IS PERMITTED TO SPRINKLE UPON A MAN AND VESSELS[11] EVEN THOUGH THERE ARE A HUNDRED OF THEM.

MISHNAH 3. IF A MAN INTENDED TO SPRINKLE UPON A THING THAT IS SUSCEPTIBLE TO UNCLEANNESS AND HE SPRINKLED UPON ONE THAT WAS NOT SUSCEPTIBLE TO UNCLEANNESS,[12] THERE IS NO NEED TO DIP AGAIN IF ANY OF THE WATER[13] STILL REMAINED ON THE HYSSOP.[14] [IF HE INTENDED TO SPRINKLE] UPON A THING THAT IS NOT SUSCEPTIBLE TO UNCLEANNESS AND HE SPRINKLED ON THAT WHICH IS SUSCEPTIBLE TO UNCLEANNESS, EVEN THOUGH THERE WAS STILL SOME WATER[13] ON THE HYSSOP, HE MUST DIP AGAIN.[15] [IF HE INTENDED TO SPRINKLE] UPON A MAN AND HE SPRINKLED UPON A BEAST, HE NEED NOT DIP[15] AGAIN IF ANY OF THE WATER[13] REMAINED ON THE HYSSOP; BUT [IF HE INTENDED TO SPRINKLE] UPON A BEAST AND HE SPRINKLED UPON A MAN, EVEN THOUGH THERE WAS STILL SOME WATER[13] ON THE HYSSOP, HE MUST DIP AGAIN. THE WATER THAT DRIPS OFF[16] IS VALID,[17] AND THEREFORE IT CONVEYS UNCLEANNESS AS THE USUAL WATER OF THE SIN-OFFERING.

MISHNAH 4. IF ONE WAS SPRINKLING[18] FROM A WALL-NICHE[19] IN A PUBLIC DOMAIN AND [A MAN WHO WAS SO SPRINKLED UPON][20] ENTERED THE SANCTUARY,[21] AND THE WATER WAS FOUND TO BE INVALID, HE IS BLAMELESS;[22] BUT IF THE SPRINKLING WAS DONE FROM A PRIVATE WALL-NICHE AND [A MAN WHO WAS SO SPRINKLED UPON][20] ENTERED THE SANCTUARY,[21] AND THE WATER

WAS FOUND TO BE INVALID, HE INCURS THE PENALTY.[23] A HIGH PRIEST, HOWEVER, IS EXEMPT,[24] WHETHER THE SPRINKLING UPON HIM WAS DONE FROM A PRIVATE WALL-NICHE OR FROM ONE IN A PUBLIC DOMAIN, FOR A HIGH PRIEST NEVER INCURS A PENALTY FOR ENTERING THE SANCTUARY. [THE PEOPLE] USED TO SLIP BEFORE A CERTAIN WALL-NICHE IN A PUBLIC DOMAIN,[25] AND MOREOVER[26] THEY TROD[27] [ON THAT SPOT] AND DID NOT REFRAIN [FROM ENTERING THE SANCTUARY]. BECAUSE IT WAS LAID DOWN THAT WATER OF THE SIN-OFFERING THAT SERVED ITS PURPOSE[28] CONVEYED NO UNCLEANNESS.

MISHNAH 5. A CLEAN PERSON MAY HOLD IN HIS SKIRT AN UNCLEAN AXE[29] AND SPRINKLE UPON IT;[30] AND ALTHOUGH THERE IS ON IT[31] SUFFICIENT WATER FOR A SPRINKLING HE REMAINS CLEAN.[32] OF WHAT QUANTITY MUST THE WATER CONSIST TO BE SUFFICIENT FOR A SPRINKLING? SUFFICIENT FOR THE TOPS OF THE BUDS TO BE DIPPED THEREIN AND FOR THE SPRINKLING TO BE PERFORMED.[33] R. JUDAH RULED: THEY[34] ARE REGARDED AS THOUGH THEY WERE ON A HYSSOP OF BRASS.[35]

MISHNAH 6. IF THE SPRINKLING WAS DONE WITH UNCLEAN HYSSOP,[36] THE WATER BECOMES INVALID, AND THE SPRINKLING IS INVALID IF IT[37] WAS OF THE BULK OF AN EGG. IF IT WAS LESS THAN THE BULK OF AN EGG,[38] THE WATER REMAINS VALID BUT THE SPRINKLING IS INVALID.[39] IT[40] ALSO CONVEYS UNCLEANNESS[41] TO OTHER HYSSOP,[42] AND THAT OTHER HYSSOP TO OTHER, EVEN IF THEY BE A HUNDRED.[43]

MISHNAH 7. IF THE HANDS[44] OF A MAN WHO WAS CLEAN FOR THE WATER OF THE SIN-OFFERING BECAME UNCLEAN, HIS BODY ALSO BECOMES UNCLEAN, AND HE CONVEYS UNCLEANNESS TO HIS FELLOW, AND HIS FELLOW TO HIS FELLOW, EVEN IF THEY BE A HUNDRED.

MISHNAH 8. SHOULD THE OUTER PART OF A FLAGON[45] BECOME UNCLEAN,[46] ITS INNER PART ALSO BECOMES UNCLEAN,[47] AND IT CONVEYS UNCLEANNESS TO AN OTHER FLAGON, AND THE OTHER TO ANOTHER, EVEN IF THEY ARE A HUNDRED. A BELL AND A CLAPPER ARE REGARDED AS CONNECTED.[48] IN THE CASE OF A SPINDLE USED FOR COARSE MATERIAL, ONE MUST NOT SPRINKLE ON ITS ROD[49] OR RING,[49] YET IF IT WAS SO SPRINKLED IT IS VALID; IN A SPINDLE USED FOR FLAX THEY[50] ARE REGARDED AS CONNECTED. IF A LEATHER COVER OF A COT IS FASTENED TO ITS KNOBS, BOTH[51] ARE REGARDED AS CONNECTED.[48] THE BASE[52] DOES NOT CONSTITUTE A CONNECTION[53] EITHER IN RESPECT OF UNCLEANNESS[54] OR CLEANNESS.[55] ALL DRILLED HANDLES OF UTENSILS[56] ARE REGARDED AS CONNECTIVES.[57] R. JOHANAN B. NURI RULES: ALSO THOSE[58] THAT[59] ARE WEDGED INTO HOLES IN THE UTENSILS.[60]

MISHNAH 9. THE BASKETS OF A PACK-SADDLE,[61] THE BED OF A BARROW,[62] THE IRON[63] CORNER OF A BIER, THE [DRINKING] HORNS OF TRAVELLERS,[62] A KEY CHAIN,[64] THE LOOSE STITCHES OF WASHERMEN,[65] AND A GARMENT STITCHED TOGETHER WITH KIL'AYIM ARE REGARDED AS CONNECTIVES[66] IN RESPECT OF UNCLEANNESS[67] BUT NOT IN THAT OF SPRINKLING.[55]

MISHNAH 10. IF THE LID OF A KETTLE IS JOINED TO A CHAIN,[68] BETH SHAMMAI RULED: THESE[69] ARE REGARDED AS CONNECTED IN RESPECT OF UNCLEANNESS[70] BUT NOT IN RESPECT OF SPRINKLING.[71] BETH HILLEL RULED: IF THE KETTLE[72] WAS SPRINKLED UPON IT IS THE SAME AS IF THE LID[73] ALSO WAS SPRINKLED UPON; BUT IF THE LID ONLY[73] WAS SPRINKLED UPON IT IS NOT THE SAME AS IF THE KETTLE ALSO[72] WAS SPRINKLED UPON. ALL[74] ARE ELIGIBLE TO SPRINKLE, EXCEPT A

TUMTUM,[75] A HERMAPHRODITE, A WOMAN, AND A CHILD THAT IS WITHOUT UNDERSTANDING. A WOMAN MAY ASSIST [A MAN] WHILE HE SPRINKLES, AND HOLD THE WATER[76] FOR HIM WHILE HE DIPS AND SPRINKLES. IF SHE HELD HIS HAND, EVEN IF ONLY AT THE TIME OF SPRINKLING,[77] IT IS INVALID.[78]

MISHNAH 11. IF THE HYSSOP WAS DIPPED[79] IN THE DAYTIME AND THE SPRINKLING ALSO WAS DONE ON THE SAME DAY, IT IS VALID.[80] IF ONE DIPPED IT IN THE DAYTIME AND SPRINKLED AT NIGHT, OR DIPPED AT NIGHT AND SPRINKLED ON THE FOLLOWING DAY, (OR DIPPED IN THE DAYTIME AND SPRINKLED ON THE FOLLOWING DAY),[81] THE SPRINKLING IS INVALID.[82] [THE MAN HIMSELF], HOWEVER, MAY PERFORM IMMERSION AT NIGHT AND DO THE SPRINKLING ON THE FOLLOWING DAY, FOR SPRINKLING IS NOT ALLOWED[83] UNTIL THE SUN IS RISEN;[84] YET IF ANY OF THESE WAS DONE AS EARLY AS THE RISE OF DAWN IT IS VALID.

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(1) To reach the water of the sin-offering in the flask.

(2) Being held by the spindle.

(3) The water of the sin-offering.

(4) Since the man is under presumptive uncleanness. Only when it is certain that the water came from the hyssop is the sprinkling valid.

(5) Containing the water and the ashes of the red cow.

(6) The hyssop in the water.

(7) One need have no scruples lest the water on the hyssop would be squeezed out in its passage through the narrow neck.

(8) But not For a subsequent one when any water that would have been squeezed out from the first might have returned to the flask and tendered its contents invalid.

(9) Being insufficient for the proper dipping of the hyssop into it.

(10) The requirement being to dip into the water.

(11) Simultaneously, by one movement.

(12) This is explained presently.

(13) Of the sin-offering.

(14) From the first dip.

(15) The hyssop in the water.

(16) Into the flask From the hyssop that was dipped with the intention of sprinkling upon a thing that is insusceptible to uncleanness.

(17) For sprinkling.

(18) The water with the ashes of the red cow.

(19) A special niche with water of sin-offering was provided For the purification of the unclean.

(20) Having been unclean and requiring the performance of the rite.

(21) Not ascertaining beforehand whether the water was valid.

(22) Because, a doubtful condition of uncleanness in a public domain being regarded as clean, he was under no obligation to enquire after the validity of the water.

(23) Of a sacrifice. As a doubtful condition of uncleanness in a private domain is deemed to he unclean it was his duty to enquire after the validity of the water before he entered the Sanctuary.

(24) If he entered the Sanctuary after he had been sprinkled upon with water that was found to be invalid.

(25) On account of the abundance of the water of the sin-offering that was sprinkled there.

(26) Though such water would be expected to convey uncleanness

(27) Intentionally.

(28) Sprinkling.

(29) Though it was a ‘Father of uncleanness’.

(30) Since the skirt which, owing to contact with the axe (cf. prev. n.), becomes only a first grade of uncleanness cannot convey any uncleanness to the man to whom only a ‘Father of uncleanness’ could convey uncleanness.

(31) The axe, after the sprinkling.

(32) Having served their purpose they no longer convey uncleanness.
(33) Sc. there must be as much water as to suffice For these as well as for the quantity of water absorbed by the buds.
(34) The buds.
(35) Which absorbs no water. Hence the water absorbed is added to what remains on the surface and a smaller quantity (cf. supra n. 2) suffices.
(36) Sc. unclean for the water of the sin-offering though clean in other respects.
(37) The hyssop having been gathered For Food (cf. supra XI, 8.)
(38) The prescribed minimum for conveying uncleanness.
(39) Since the hyssop was not clean for the sin-offering (cf. supra n. 5).
(40) The unclean hyssop.
(41) By contact.
(42) Rendering consequently unclean him who touches it.
(43) Rendering it unfit For sprinkling. Since in regard to the water of the sin-offering the conveyance of uncleanness is not limited to the third grade.
(44) Or even only one hand.
(45) Containing the water of the sin-offering.
(46) From unclean liquids.
(47) Contrary to the rule in other cases (cf. Kel. XXV, 9).
(48) Both as regards uncleanness and sprinkling. Contact with or sprinkling upon one equally affects the other.
(49) Alone; since they are not regarded as connected. The sprinkling must be done on the spindle-hook which is the principal part of the instrument.
(50) Rod and ring.
(51) Cot and cover.
(52) On which the cot or a bed stands.
(53) With the cot or bed.
(54) If only one contracted uncleanness the other remains clean.
(55) If one was sprinkled upon the other still remains unclean.
(56) The handle of a knife, for instance, into the hole of which the blade is inserted and secured.
(57) With the utensils.
(58) Handles.
(59) No hole being drilled in them.
(60) Are connectives with the utensils.
(61) That are joined together.
(62) Consisting of detachable parts.
(63) And detachable.
(64) Holding a number of keys.
(65) Whereby garments are held together and protected against loss.
(66) The baskets with each other, the parts of the barrow, the iron corner and the bier, the parts of the drinking horns, the stitches and the garments, and the garment stitched together with kil'ayim.
(67) If one part becomes unclean the other also becomes similarly unclean.
(68) Which is attached to the kettle.
(69) The lid and the kettle.
(70) v. p. 353, n. 20.
(71) V. p. 353, n. 8.
(72) Which is the main vessel.
(73) Which is only subsidiary to the kettle.
(74) Even the uncircumcised.
(75) V. Glos.
(76) Of the sin-offering.
(77) Much more so if she held it when he was dipping.
(78) Since, according to Num. XIX, 18, a ‘clean man’ must perform these services.
(79) In the water of the sin-offering.

(80) Though there may have been a long interval between the dipping and the sprinkling.
(81) Var. lec. omits.
(82) Cf. ibid. 19.
(83) In the night.
(84) Hence the sprinkling must be performed by day.

Mishna - Mas. Taharoth Chapter 1

MISHNAH 1. THIRTEEN RULINGS GOVERN THE CARRION OF A CLEAN BIRD: THERE MUST BE[1] INTENTION[2] BUT[3] IT NEED NOT BE RENDERED SUSCEPTIBLE;[4] IT CONVEYS FOOD UNCLEANNESS[5] IF ITS MINIMUM BULK IS THAT OF AN EGG; AND IT CONVEYS UNCLEANNESS[6] WHEN IN ONE'S GULLET[7] IF ITS MINIMUM BULK IS THAT OF AN OLIVE; HE THAT EATS OF IT MUST WAIT[8] UNTIL SUNSET;[9] GUILT IS INCURRED ON ACCOUNT OF IT FOR ENTERING THE SANCTUARY;[10] TERUMAH IS BURNT ON ACCOUNT OF IT;[11] HE WHO EATS A MEMBER OF IT WHILE IT IS ALIVE MUST SUFFER THE PENALTY OF FORTY STRIPES;[12] SLAUGHTERING IT[13] OR WRINGING ITS NECK[14] FREES IT FROM UNCLEANNESS EVEN WHEN IT IS TREFA.[15] SO R. MEIR.[16] R. JUDAH RULED: THEY DO NOT FREE IT FROM UNCLEANNESS. R. JOSE RULED: THE SLAUGHTERING[13] DOES FREE IT FROM THE UNCLEANNESS BUT THE WRINGING OF ITS NECK[14] DOES NOT.

MISHNAH 2. THE LARGE FEATHERS[17] AND THE DOWN[18] CONTRACT UNCLEANNESS,[19] AND[20] CONVEY UNCLEANNESS[21] BUT DO NOT COMBINE [WITH THE FLESH TO CONSTITUTE THE PRESCRIBED MINIMUM].[22] R. ISHMAEL RULED: THE DOWN DOES COMBINE [WITH THE FLESH]. THE BEAK[23] AND THE CLAWS[24] CONTRACT UNCLEANNESS[19] AND[20] CONVEY UNCLEANNESS AND ALSO COMBINE[WITH THE FLESH TO CONSTITUTE THE PRESCRIBED MINIMUM].[22] R.JOSE RULED: ALSO THE ENDS[25] OF THE WINGS AND THE END[25] OF THE TAIL COMBINE [WITH THE FLESH TO CONSTITUTE THE MINIMUM].[22] SINCE THEY ARE LEFT UNPLUCKED ON FATTENED BIRDS.[26]

MISHNAH 3. THE CARRION OF AN UNCLEAN BIRD NECESSITATES[27] INTENTION[28] AND[27] IT MUST BE RENDERED SUSCEPTIBLE;[29] IT CONVEYS FOOD UNCLEANNESS[30] IF ITS MINIMUM BULK[31] IS THAT OF AN EGG; THE CONSUMPTION OF A HALF OF HALF A LOAF'S BULK[32] OF IT[33] RENDERS ONE'S PERSON UNFIT TO EAT TERUMAH;[34] AN OLIVE'S BULK OF IT IN ONE'S GULLET CONVEYS NO UNCLEANNESS; HE WHO EATS OF IT NEED NOT WAIT FOR SUNSET;[35] NO GUILT IS INCURRED ON ACCOUNT OF IT[36] FOR ENTERING THE SANCTUARY;[37] BUT ON ACCOUNT OF IT[36] TERUMAH[38] MUST BE BURNT; HE WHO EATS A MEMBER OF IT WHILE IT IS ALIVE IS NOT SUBJECT TO THE PENALTY OF FORTY STRIPES,[39] BUT SLAUGHTERING IT DOES NOT IMMEDIATELY[40] RENDER IT FIT.[41] THE LARGE FEATHERS AND THE DOWN CONTRACT UNCLEANNESS AND CONVEY UNCLEANNESS AND COMBINE WITH THE FLESH TO CONSTITUTE THE PRESCRIBED MINIMUM. THE BEAK AND THE CLAWS CONTRACT UNCLEANNESS AND CONVEY UNCLEANNESS AND COMBINE [WITH THE FLESH TO MAKE UP THE PRESCRIBED MINIMUM].

MISHNAH 4. IN THE CASE OF CATTLE, THE HIDE, GREASE, SEDIMENT,FLAYED-OFF FLESH, BONES, SINEWS, HORNS AND HOOFS COMBINE[42] [WITH THE FLESH] TO CONVEY FOOD UNCLEANNESS[43] BUT NOT TO CONVEY CARRION UNCLEANNESS.[44] SIMILARLY, IF A MAN[45] SLAUGHTERED AN UNCLEAN BEAST FOR AN IDOLATER AND IT WAS STILL JERKING ITS LIMBS,[46] IT CONVEYS FOOD UNCLEANNESS;[47] BUT IT CONVEYS NO CARRION UNCLEANNESS UNTIL IT IS DEAD OR ITS HEAD IS CHOPPED OFF.[48] [SCRIPTURE THUS] LAID DOWN MORE RESTRICTIONS IN REGARD TO THE CONVEYANCE OF FOOD UNCLEANNESS THAN IN REGARD TO THE CONVEYANCE OF CARRION UNCLEANNESS.

MISHNAH 5. A FOODSTUFF THAT CONTRACTED UNCLEANNESS FROM A ‘FATHER OF UNCLEANNESS’ AND ONE THAT CONTRACTED UNCLEANNESS FROM A DERIVED

UNCLEANNESS[49] MAY BE COMBINED TOGETHER[50] TO CONVEY UNCLEANNESS ACCORDING TO THE LIGHTER GRADE OF THE TWO.HOW SO? IF THE BULK OF HALF AN EGG OF FOOD OF A FIRST GRADE OF UNCLEANNESS AND THE BULK OF HALF AN EGG OF FOOD OF A SECOND GRADE OF UNCLEANNESS WERE MIXED TOGETHER, THE TWO[51] ARE REGARDED AS SUFFERING ONLY SECOND GRADE UNCLEANNESS;[52] AND IF THE BULK OF HALF AN EGG OF FOOD OF A SECOND GRADE OF UNCLEANNESS AND THE BULK OF HALF AN EGG OF FOOD OF A THIRD GRADE OF UNCLEANNESS WERE MIXED TOGETHER, THE TWO[51] ARE REGARDED AS SUFFERING ONLY THIRD GRADE OF UNCLEANNESS.[53] IF THE BULK OF AN EGG OF FOOD OF A FIRST GRADE OF UNCLEANNESS AND THE BULK OF AN EGG OF FOOD OF A SECOND GRADE OF UNCLEANNESS WERE MIXED TOGETHER, BOTH[51] ARE REGARDED[54] AS SUFFERING FIRST GRADE UNCLEANNESS;[55] BUT IF THEY WERE THEN DIVIDED, EACH PART[56] IS REGARDED AS SUFFERING ONLY A SECOND GRADE OF UNCLEANNESS.[57] IF EACH PART[58] SEPARATELY FELL ON A LOAF OF TERUMAH, THEY CAUSE IT TO BECOME UNFIT,[59] BUT IF THE TWO FELL TOGETHER THEY CAUSE IT TO SUFFER SECOND GRADE OF UNCLEANNESS.

MISHNAH 6. THE BULK OF AN EGG OF FOOD OF A SECOND GRADE OF UNCLEANNESS AND THE BULK OF AN EGG OF FOOD OF A THIRD GRADE OF UNCLEANNESS THAT WERE MIXED TOGETHER ARE[51] REGARDED AS SUFFERING SECOND GRADE OF UNCLEANNESS.[60] IF THEY WERE THEN DIVIDED, EACH PART[61] IS REGARDED AS SUFFERING ONLY THIRD GRADE OF UNCLEANNESS.[62] IF EACH PART SEPARATELY FELL ON A LOAF OF TERUMAH THEY DO NOT RENDER IT INVALID,[63] BUT IF THE TWO FELL TOGETHER THEY CAUSE IT TO SUFFER THIRD GRADE OF UNCLEANNESS. THE BULK OF AN EGG OF FOOD OF A FIRST GRADE OF UNCLEANNESS AND THE BULK OF AN EGG OF FOOD OF A THIRD GRADE OF UNCLEANNESS THAT WERE MIXED TOGETHER ARE[64] REGARDED AS SUFFERING FIRST GRADE OF UNCLEANNESS,[65] BUT IF THEY WERE THEN DIVIDED, EACH PART IS REGARDED AS SUFFERING ONLY SECOND GRADE UNCLEANNESS,[60] FOR EVEN THE THIRD GRADE THAT TOUCHED THE FIRST HAS BECOME ONLY A SECOND GRADE. IF THE BULK OF TWO EGGS OF FOOD OF THE FIRST GRADE OF UNCLEANNESS AND THE BULK OF TWO EGGS OF FOOD OF THE SECOND GRADE OF UNCLEANNESS WERE MIXED TOGETHER THEY ARE REGARDED AS SUFFERING FIRST GRADE OF UNCLEANNESS. IF THEY WERE THEN DIVIDED, EACH PART IS STILL REGARDED AS SUFFERING FIRST GRADE OF UNCLEANNESS. BUT IF THEY WERE DIVIDED INTO THREE OR FOUR PARTS, EACH IS REGARDED AS SUFFERING FROM SECOND GRADE. IF THE BULK OF TWO EGGS OF FOOD OF THE SECOND GRADE OF UNCLEANNESS AND THE BULK OF TWO EGGS OF FOOD OF THE THIRD GRADE OF UNCLEANNESS WERE MIXED TOGETHER, THEY ARE REGARDED AS SUFFERING SECOND GRADE OF UNCLEANNESS. IF THEY WERE THEN DIVIDED, EACH PART IS STILL REGARDED AS SUFFERING SECOND GRADE OF UNCLEANNESS. BUT IF THEY WERE DIVIDED INTO THREE OR FOUR PARTS, EACH IS REGARDED AS SUFFERING ONLY THIRD GRADE OF UNCLEANNESS.

MISHNAH 7. IF PIECES OF DOUGH[66] CLUNG TO EACH OTHER[67] OR IF LOAVES ADHERED TO EACH OTHER,[68] AND ONE OF THEM CONTRACTED UNCLEANNESS FROM A [DEAD] CREEPING THING,[69] THEY ALL BECOME UNCLEAN IN THE FIRST GRADE;[70] AND IF THEY WERE THEN SEPARATED THEY ARE STILL REGARDED AS SUFFERING FIRST GRADE OF UNCLEANNESS. IF ONE OF THEM CONTRACTED UNCLEANNESS FROM A LIQUID[71] THEY ALL SUFFER SECOND GRADE OF UNCLEANNESS;[70] AND IF THEY WERE THEN SEPARATED THEY ARE STILL REGARDED AS SUFFERING SECOND GRADE OF UNCLEANNESS. IF ONE OF THEM CONTRACTED

UNCLEANNESS FROM THE HANDS,[72] THEY ALL BECOME UNCLEAN IN THE THIRD GRADE; AND IF THEY WERE THEN SEPARATED THEY ARE STILL REGARDED AS SUFFERING THIRD GRADE OF UNCLEANNESS.

MISHNAH 8. IF TO A PIECE OF DOUGH[73] THAT WAS SUFFERING FIRST GRADE OF UNCLEANNESS OTHERS WERE MADE TO ADHERE,[67] THEY ALL BECOME UNCLEAN IN THE FIRST GRADE;[70] AND IF IT WAS SEPARATED, IT STILL REMAINS UNCLEAN IN THE FIRST GRADE BUT ALL THE OTHERS ARE REGARDED AS SUFFERING ONLY SECOND GRADE OF UNCLEANNESS.[74] IF TO A PIECE OF DOUGH[73] THAT WAS SUFFERING SECOND GRADE OF UNCLEANNESS OTHERS WERE MADE TO ADHERE,[67] THEY ALL BECOME UNCLEAN IN THE SECOND GRADE;[70] AND IF IT WAS SEPARATED, IT STILL REMAINS UNCLEAN IN THE SECOND GRADE BUT ALL THE OTHERS ARE ONLY UNCLEAN IN THE THIRD GRADE OF UNCLEANNESS. IF TO A PIECE[73] THAT WAS UNCLEAN IN THE THIRD GRADE OTHERS WERE MADE TO ADHERE,[67] IT REMAINS UNCLEAN IN THE THIRD GRADE BUT ALL THE OTHERS REMAIN CLEAN,[75] IRRESPECTIVE OF WHETHER THEY WERE SUBSEQUENTLY SEPARATED FROM IT OR WHETHER THEY WERE NOT SEPARATED.

MISHNAH 9. IF OF HOLY LOAVES[76] IN WHOSE HOLLOWS THERE WAS HOLY WATER[77] ONE CONTRACTED UNCLEANNESS FROM A [DEAD]CREEPING THING, THEY ALL BECOME UNCLEAN.[78] IN THE CASE OF LOAVES OF TERUMAH,[79] UNCLEANNESS IS CONVEYED TO TWO LOAVES[80] AND INVALIDITY TO ONE.[81] IF THERE WAS DRIPPING LIQUID BETWEEN THEM,[82] EVEN IN THE CASE OF TERUMAH ALL[82] BECOME UNCLEAN.[83]

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(1) If it is to convey uncleanness.

(2) To use it as human food.

(3) Unlike other dry permitted foodstuffs.

(4) To uncleanness, by purposely bringing it in contact with a liquid.

(5) Sc. renders clean foodstuffs, which it touches, unclean in the second grade.

(6) To the man who eats it who becomes a ‘father of uncleanness’ and in turn conveys an uncleanness of the first grade to clothes or vessels with which he is then in contact.

(7) Even before it had been swallowed.

(8) Before he can attain cleanness.

(9) Immersion alone being insufficient.

(10) After eating of it.

(11) If it or the man who ate it came in contact with the terumah.

(12) A round figure for the prescribed thirty-nine.

(13) Outside the Temple.

(14) In the Temple, as a sacrifice (cf. Lev. I, 15).

(15) And forbidden as food.

(16) Whose nine (out of the thirteen) rulings have so far been enumerated. The other four follow in the next Mishnah anonymously and are likewise the rulings of R. Meir.

(17) Aliter: The small feathers.

(18) Of a clean bird

(19) In case the bird was not carrion and a dead creeping thing touched it.

(20) If the bird was carrion.

(21) To foodstuffs that touched them.

(22) Of an egg or an olive (cf. supra I, I ab init.) to convey uncleanness. These do not act as ‘protection’ to the flesh to serve as correctives, v. ‘Uk. I, I.

(23) So much of it as is covered with flesh.

(24) Cf. prev. n.

(25) Nearest the body.
(26) Thus constituting a union with the flesh.
(27) If it is to contract and convey uncleanness.
(28) To use it as food.
(29) To uncleanness, by purposely bringing it in contact with a liquid.
(30) Renders foodstuffs that it touches unclean.
(31) That touched a dead creeping thing.
(32) The bulk of two eggs (Rashi) or one and a half eggs (Maim.).
(33) When it was unclean.
(34) Before performing immersion, though there is no need to wait for sunset.
(35) But may eat terumah even before.
(36) If a man ate the prescribed minimum after it had become unclean.
(37) Since the uncleanness conveyed to the man is only Rabbinical.
(38) That the man touched.
(39) Because the relevant prohibition does not apply to forbidden creatures (v. Hul. 102a).
(40) While it is still struggling and subject to the prohibition of a ‘member from the living’.
(41) For a Noachite who is permitted carrion but not a ‘member from the living’.
(42) To make up the prescribed minimum of the bulk of an egg.
(43) If the flesh had contracted uncleanness from a dead creeping thing for instance.
(44) To make up the bulk of an olive, for eating. touching or carrying, which is the prescribed minimum in the case of carrion.
(45) An Israelite.
(46) When to a Noachite it is still forbidden as a ‘member of a living animal’.
(47) Because the slaughtering performed by the Israelite, which renders a clean beast fit for consumption, also causes an unclean beast to be regarded as food both in respect of contracting uncleanness and of conveying it.
(48) This is derived in Hul. 117b from Lev. XI, 39.
(49) So that the former is subject to a first grade, and the latter only to a second grade of uncleanness.
(50) To make up the prescribed minimum of the bulk of an egg.
(51) While they are together.
(52) Which causes no uncleanness to unconsecrated foodstuffs and only invalidity to terumah.
(53) That causes no invalidity even to terumah.
(54) Since the mixture contains the full prescribed minimum of this grade of uncleanness.
(55) Which consequently causes unconsecrated food to be unclean.
(56) Which contains only a half of the prescribed minimum of each grade.
(57) As supra.
(58) Which is suffering second grade of uncleanness.
(59) Since terumah is rendered invalid by a second grade of uncleanness. The term ‘unfit’ in connection with uncleanness denotes that the uncleanness contracted is not capable of being conveyed a grade further.
(60) V. p. 364, n. 4.
(61) V. p. 364, n. 8.
(62) V. p. 364, n. 9.
(63) A third grade of uncleanness (unlike a second grade) cannot cause terumah to be invalid.
(64) V. p. 364, n. 3.
(65) V. p. 364, n. 7.
(66) Of terumah.
(67) To such an extent that it is impossible to separate one from the other without tearing away some dough from the one or the other.
(68) Cf. prev. n.
(69) Which is a ‘father of uncleanness’ and imparts a first grade of uncleanness.
(70) Their adhesion causing them to be regarded as one.
(71) Which is invariably subject to the first grade of uncleanness.
(72) Which, unless especially taken care of, are always regarded as suffering second grade of uncleanness and impart

third grade of uncleanness.

(73) Of terumah.

(74) Imparted to them by the piece that is first grade of uncleanness.

(75) Since there is no fourth grade of uncleanness in terumah.

(76) E.g., Shewbread; and the loaves were touching each other.

(77) I.e., water that was prepared in purity under conditions of holiness.

(78) Since the first loaf that was touched by the creeping thing contracted a first grade of uncleanness; the second loaf contracted from the first one a second grade of uncleanness; the third loaf contracts from the second a third grade of uncleanness and (since in the case of holy things a third grade may cause a fourth grade of uncleanness) it also imparts uncleanness to the water on it which (in accordance with the uncleanness of liquids) becomes unclean in the first grade and causes the loaf to contract second grade of uncleanness and so impart to the next loaf third grade of uncleanness. The next loaf, for the same reason, imparts second grade of uncleanness to the one next to it, and so on ad infinitum. Var. lec.: If consecrated loaves lay in their hollows (i.e., the loaves were each lying in separate hollows of a board), and similarly holy water (in the hollows of a stone).

(79) Which, unlike holy things, never suffers fourth grade of uncleanness.

(80) First grade uncleanness is conveyed by the creeping thing to the first loaf which it touched, and second grade uncleanness is conveyed by the first loaf to the second one that touched it.

(81) The third loaf that was touched by the second. Since in terumah a third cannot make a fourth it becomes only invalid but not unclean. As the loaf in the third grade cannot convey uncleanness, the water on it remains clean so that neither it nor the water can convey uncleanness to the next loaf that touched it, which (like the next loaf that touched it and the one that touched the next, and so on) consequently remains clean.

(82) The loaves.

(83) The liquid between the first loaf and a second becomes, in accordance with the law of unclean liquids, unclean in the first grade and consequently conveys uncleanness of the second grade to the second loaf that touched it. Similarly the water between the second and the third loaves becomes unclean in the first grade and causes the third loaf to be unclean in the second grade, and so on ad infinitum.

Mishna - Mas. Taharoth Chapter 2

MISHNAH 1. IF A WOMAN WHO[1] WAS PRESERVING VEGETABLES[2] IN A POT TOUCHED[3] A PROJECTING LEAF OUTSIDE THE POT ON A DRY SPOT,[4] EVEN THOUGH THERE WAS AN EGG'S BULK[5] IN THE LEAF,[6] IT ALONE BECOMES UNCLEAN[7] WHILE ALL THE REST[8] REMAINS CLEAN.[9] IF SHE TOUCHED IT[10] AT A WET SPOT[11] AND THERE WAS AN EGG'S BULK[5] IN THE LEAF,[6] ALL[12] BECOMES UNCLEAN.[13] IF THERE WAS NOT AN EGG'S BULK[5] IN IT,[14] IT ALONE BECOMES UNCLEAN BUT ALL THE REST REMAINS CLEAN. IF IT IS RETURNED INTO THE POT, ALL[15] BECOMES UNCLEAN.[16] IF THE WOMAN WAS UNCLEAN[17] OWING TO CONTACT WITH ONE WHO CONTRACTED CORPSE UNCLEANNESS,[18] AND SHE TOUCHED THE LEAF EITHER AT A WET SPOT OR AT A DRY SPOT, ALL[19] BECOMES UNCLEAN IF THERE WAS AN EGG'S BULK IN THE LEAF;[20] BUT IF THERE WAS NOT AN EGG'S BULK[21] IN IT, IT ALONE BECOMES UNCLEAN AND ALL THE REST REMAINS CLEAN. IF A WOMAN WHO WAS A TEBULATH YOM[22] EMPTIED OUT THE POT WITH UNWASHED[23] HANDS,[24] AND SHE OBSERVED SOME LIQUID ON HER HANDS, AND IT IS UNCERTAIN WHETHER IT WAS SPLASHED FROM THE POT OR WHETHER A STALK[25] HAD TOUCHED HER HANDS, THE VEGETABLES ARE INVALID[26] BUT THE POT REMAINS CLEAN.[27]

MISHNAH 2. R. ELIEZER RULED: HE WHO EATS FOOD OF FIRST[GRADE UNCLEANNESS[28] CONTRACTS] FIRST [GRADE UNCLEANNESS];[HE WHO EATS FOOD OF] SECOND [GRADE UNCLEANNESS[28] CONTRACTS] SECOND [GRADE UNCLEANNESS]; [IF IT WAS] THIRD[GRADE UNCLEANNESS HE CONTRACTS] THIRD [GRADE UNCLEANNESS]. R. JOSHUA RULED: HE WHO EATS FOOD OF FIRST[GRADE] OR OF SECOND [GRADE UNCLEANNESS CONTRACTS]SECOND [GRADE

UNCLEANNESS]; [IF IT WAS] THIRD [GRADE UNCLEANNESS, HE CONTRACTS] SECOND [GRADE UNCLEANNESS] IN REGARD TO HOLY THINGS[29] BUT NOT IN REGARD TO TERUMAH.[30] ALL THIS APPLIES TO COMMON FOODSTUFFS THAT WERE PREPARED IN CONDITION OF CLEANNESS THAT ARE APPROPRIATE FOR TERUMAH.[31]

MISHNAH 3. FIRST [GRADE UNCLEANNESS] IN COMMON FOOD IS UNCLEAN AND CONVEYS UNCLEANNESS;[32] SECOND [GRADE UNCLEANNESS[33]] CONVEYS INVALIDITY[34] BUT DOES NOT CONVEY UNCLEANNESS;[35] AND THIRD [GRADE UNCLEANNESS][36] MAY BE EATEN IN A DISH MIXED WITH TERUMAH.[37]

MISHNAH 4. FIRST [GRADE] AND SECOND [GRADE UNCLEANNESS] IN TERUMAH ARE UNCLEAN AND CONVEY UNCLEANNESS;[38] THIRD[GRADE UNCLEANNESS][39] CAUSES INVALIDITY[40] BUT CONVEYS NO UNCLEANNESS; AND THE FOURTH [GRADE UNCLEANNESS][41] MAY BE EATEN IN A DISH CONTAINING HOLY FOOD.[42]

MISHNAH 5. FIRST, SECOND AND THIRD [GRADES OF UNCLEANNESS]IN HOLY FOODSTUFFS ARE UNCLEAN AND CONVEY UNCLEANNESS;[40] THE FOURTH [GRADE OF UNCLEANNESS] IS INVALID[43] AND CAUSES NO UNCLEANNESS; AND THE FIFTH [GRADE OF UNCLEANNESS][44] MAY BE EATEN IN A DISH CONTAINING CONSECRATED FOOD.

MISHNAH 6. SECOND [GRADE UNCLEANNESS] IN COMMON FOOD CONVEYS UNCLEANNESS TO UNCONSECRATED LIQUIDS[45] AND CAUSES INVALIDITY TO FOODSTUFFS OF TERUMAH.THIRD [GRADE OF UNCLEANNESS] IN TERUMAH CONVEYS UNCLEANNESS TO CONSECRATED LIQUIDS[45] AND CAUSES INVALIDITY TO HOLY FOODSTUFFS IF IT[46] WAS PREPARED IN CONDITIONS OF CLEANNESS APPROPRIATE TO HOLY FOOD; BUT IF IT WAS ONLY PREPARED UNDER CONDITIONS OF CLEANNESS APPROPRIATE TO TERUMAH, IT CONVEYS UNCLEANNESS AT A FIRST AND AT A SECOND REMOVE, AND CAUSES INVALIDITY TO HOLY FOOD AT ONE ADDITIONAL REMOVE.[47]

MISHNAH 7. R. ELIEZER OBSERVED: THE THREE OF THEM[48] ARE ON A PAR IN THE FOLLOWING CASES. THE FIRST GRADE OF UNCLEANNESS IN HOLY FOOD, IN TERUMAH OR IN COMMON FOOD CONVEYS UNCLEANNESS AT TWO REMOVES[49] AND CAUSES INVALIDITY AT ONE ADDITIONAL REMOVES IN THE CASE OF HOLY FOOD; IT CONVEYS UNCLEANNESS AT ONE REMOVE[50] AND CAUSES INVALIDITY AT ONE ADDITIONAL REMOVE[47] IN THE CASE OF TERUMAH; AND IN COMMON FOOD IT ONLY CAUSES INVALIDITY.THE SECOND [GRADE OF UNCLEANNESS] IN THE CASE OF ALL OF THEM[48] CONVEYS UNCLEANNESS AT ONE REMOVE[47] AND CAUSES INVALIDITY AT ONE ADDITIONAL REMOVE[51] AS REGARDS HOLY FOOD; IT CONVEYS UNCLEANNESS TO COMMON LIQUIDS[45] AND CAUSES THE INVALIDITY OF FOODSTUFFS OF TERUMAH. THE THIRD GRADE [OF UNCLEANNESS] IN THE CASE OF ALL THESE[52] CONVEYS UNCLEANNESS TO HOLY LIQUIDS[53] AND CAUSES INVALIDITY TO HOLY FOODSTUFFS.

MISHNAH 8. IF A MAN EATS FOOD OF A SECOND [GRADE OF UNCLEANNESS[52] HE MUST NOT WORK IN AN OLIVE-PRESS.[54] COMMON FOODSTUFFS THAT WERE PREPARED UNDER CONDITIONS PROPER TO THE CLEANNESS OF CONSECRATED FOOD ARE STILL REGARDED AS COMMON FOOD.[55] R. ELIEZER SON OF R. ZADOK RULED: THEY ARE REGARDED AS TERUMAH TO CONVEY UNCLEANNESS AT TWO REMOVES[56] AND TO RENDER TERUMAH INVALID AT ONE ADDITIONAL REMOVE.[57]

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(1) When in a condition of cleanness.
(2) Of terumah.
(3) With her hands which, having been unwashed, are regarded as being in a state of second grade uncleanness.
(4) Which, unlike the wet part of the leaf within the pot, had never come in contact with liquids and, therefore, has never been rendered susceptible to uncleanness.
(5) The prescribed minimum for capability to convey uncleanness to others.
(6) As a whole.
(7) Strictly speaking, ‘invalid’; i.e. in the third grade of uncleanness, having contracted it from the woman's hands (cf. supra n. 3).
(8) Whose uncleanness could be derived only from contact with this leaf.
(9) Because a third grade of uncleanness in terumah cannot convey uncleanness to others.
(10) The leaf under discussion.
(11) So that her hands (in accordance with the laws of uncleanness governing liquids) conveyed to the liquid a first grade of uncleanness.
(12) The pot itself as well as its contents.
(13) Because the water (cf. prev. n. but one) imparts to the leaf a second grade of uncleanness which in turn conveys to the water in the pot a first grade of uncleanness which conveys to the pot and its contents a second grade of uncleanness.
(14) From ‘ALL BECOMES UNCLEAN’ to ‘IT’ is omitted from some edd.
(15) The wet part of the leaf touched.
(16) Even if the bulk of the leaf was less than that of an egg, because the smallest quantity of liquid on the leaf conveys uncleanness.
(17) In the first grade.
(18) The corpse being a ‘father of the fathers of uncleanness’. the man who came in contact with it is a ‘father of uncleanness’, and imparts to the woman first grade uncleanness.
(19) The pot as well as its contents.
(20) Since the leaf which, owing to the moisture on it was susceptible to uncleanness, conveys an uncleanness of the first grade to the liquid in the pot and this in turn causes the pot and its contents to contract second grade uncleanness.
(21) The prescribed minimum for capability to convey uncleanness to others.
(22) Fem. of tebul yom; a tebul yom continues until sunset unclean in the second degree.
(23) Lit., ‘soiled’.
(24) Which are regarded as suffering second grade uncleanness.
(25) Of the wet vegetable.
(26) As the uncleanness of a tebul yom is Pentateuchal any condition of doubt must be decided restrictively as certain uncleanness.
(27) Since a tebul yom does not render liquids unclean in the first grade (cf. Parah VIII, 7) and the hands (whose uncleanness is but Rabbinical) are in this matter of doubt regarded as clean, there is nothing that could impart uncleanness to the pot.
(28) A minimum of the bulk of two eggs (Rashi) or of one and a half eggs (Maim.).
(29) Which may contract from it third grade uncleanness and convey to other consecrated things fourth grade of uncleanness.
(30) Which he may consequently touch, though he must not eat it.
(31) Otherwise common food cannot give rise to a third grade uncleanness; nor can it apply to actual terumah or to holy food which, if unclean, must not be eaten at all.
(32) To terumah, which in turn can render other terumah ‘invalid’. If it touched common food it only renders it ‘invalid’, but the latter can convey no uncleanness or even invalidity to other common food.
(33) In common food.
(34) To terumah.
(35) Sc. the terumah it touched conveys neither uncleanness nor ‘invalidity’ to other terumah and much less so to common food.
(36) Applicable to unconsecrated food that was kept under conditions of terumah cleanness.
(37) If the mixing was accidental. Aliter: It may under certain conditions be intentionally mixed with it.
(38) The first grade conveys uncleanness to terumah and the second grade conveys uncleanness to holy things only.

(39) In terumah.
(40) To holy food.
(41) Applicable to terumah that was kept under conditions of cleanness appropriate to holy food.
(42) Since in respect of terumah it is altogether clean.
(43) Var. lec., ‘causes invalidity’.
(44) In the case of holy foodstuffs that were kept under conditions of cleanness proper to the ashes of the red heifer.
(45) Rendering them unclean in the first grade.
(46) The terumah.
(47) A third.
(48) Holy food, terumah and common food.
(49) Second and third.
(50) A second.
(51) A fourth.
(52) V. p. 371, n. 6.
(53) V. p. 371 n. 3.
(54) Where any oil of terumah would become invalid through contact with it.
(55) Which cannot contract a third grade of uncleanness. The one particular man's fancy in treating them as consecrated food is disregarded in view of the common practice to treat them as common food.
(56) First and second.
(57) V. p. 371, n. 5.

Mishna - Mas. Taharoth Chapter 3

MISHNAH 1. GREASE, BEAN-MASH AND MILK,[1] WHEN IN A CONDITION OF FLUIDITY,[2] ARE[3] UNCLEAN IN THE FIRST GRADE. IF[4] THEY TURNED SOLID THEY[5] BECOME UNCLEAN IN THE SECOND GRADE. IF THEY AGAIN TURNED INTO FLUIDITY THEY ARE CLEAN IF THEIR BULK WAS EXACTLY THAT OF AN EGG;[6] BUT IF IT WAS MORE THAN THE BULK OF AN EGG THEY REMAIN UNCLEAN, FOR AS SOON AS THE FIRST DROP ISSUED FORTH IT BECAME UNCLEAN BY CONTACT WITH AN EGG'S BULK.[7]

MISHNAH 2. R. MEIR RULED: OIL[1] ALWAYS[8] REMAINS UNCLEAN IN THE FIRST GRADE;[9] AND THE SAGES RULED: HONEY ALSO.[9] R. SIMEON OF SHEZUR RULED: ALSO WINE.[9] IF A MASS OF OLIVES[1] FELL INTO AN OVEN THAT WAS HEATED[10] THE LATTER REMAINS CLEAN IF THE BULK OF THE OLIVES WAS EXACTLY THAT OF AN EGG;[11] BUT IF IT WAS MORE THAN THAT OF AN EGG THE OVEN BECOMES UNCLEAN,[12] FOR SO SOON AS THE FIRST DROP ISSUED FORTH IT BECAME UNCLEAN BY CONTACT WITH AN EGG'S BULK. IF THE OLIVES WERE SEPARATED THE OVEN REMAINS CLEAN EVEN IF THERE WAS A SE'AH OF THEM.[13]

MISHNAH 3. IF A MAN WHO CONTRACTED CORPSE UNCLEANNESS PRESSED OUT[14] THE JUICE OF OLIVES OR GRAPES[15] WHOSE BULK WAS EXACTLY THAT OF AN EGG, THE JUICE REMAINS CLEAN[16] PROVIDED HE DOES NOT TOUCH THE PLACE ON WHICH THE LIQUID IS; BUT [IF THE BULK WAS] MORE THAN THAT OF AN EGG, THE JUICE BECOMES UNCLEAN,[17] FOR SO SOON AS THE FIRST DROP ISSUED FORTH IT BECAME UNCLEAN BY CONTACT WITH AN EGG'S BULK. IF THE PERSON[18] WAS A ZAB OR A ZABAH [THE JUICE] BECOMES UNCLEAN EVEN IF ONLY ONE BERRY [WAS PRESSED OUT]. FOR SO SOON AS THE FIRST DROP ISSUED FORTH IT[19] BECAME UNCLEAN[20] BY CARRYING.[21] IF A ZAB MILKED A GOAT, THE MILK BECOMES UNCLEAN, FOR SO SOON AS THE FIRST DROP COMES FORTH IT[19] BECOMES UNCLEAN[20] BY CARRYING.[21]

MISHNAH 4. IF AN EGG'S BULK[22] OF FOODSTUFFS[23] , WAS LEFT IN THE SUN AND IT

SHRANK,[24] AND SO ALSO IN THE CASE OF AN OLIVE'S BULK OF CORPSE,[25] AN OLIVE'S[22] BULK OF CARRION,[25] A LENTIL'S BULK[22] OF A DEAD CREEPING THING,[25] AN OLIVE'S[22] BULK OF PIGGUL,[26] AN OLIVE'S BULK[22] OF NOTHAR,[26] OR AN OLIVE'S BULK[22] OF FORBIDDEN FAT[25] THEY BECOME CLEAN; NOR DOES ONE INCUR GUILT ON ACCOUNT OF THESE FOR TRANSGRESSING THE LAW OF PIGGUL, NOTHAR OR UNCLEANNESS.[27] IF THEY WERE THEN LEFT OUT IN THE RAIN AND THEY SWELLED, THEY[28] BECOME UNCLEAN AND GUILT IS INCURRED ON ACCOUNT OF THEM FOR TRANSGRESSING THE LAW OF PIGGUL, NOTHAR OR UNCLEANNESS.

MISHNAH 5. ALL DOUBTFUL CASES OF UNCLEANNESS ARE DETERMINED ACCORDING TO THEIR APPEARANCE AT THE TIME THEY ARE FOUND: IF THEY WERE THEN[29] UNCLEAN THEY ARE ASSUMED TO HAVE BEEN UNCLEAN [ALL THE TIME][30] AND IF CLEAN[29] THEY ARE ASSUMED TO HAVE BEEN CLEAN [ALL THE TIME]; IF THEY WERE THEN[29] COVERED[31] THEY ARE ASSUMED TO HAVE BEEN COVERED [ALL THE TIME] AND IF UNCOVERED[29] THEY ARE ASSUMED TO HAVE BEEN UNCOVERED [ALL THE TIME]; IF A NEEDLE WAS FOUND FULL OF RUST[32] OR BROKEN,[32] IT IS CLEAN,[33] FOR ALL DOUBTFUL CASES OF UNCLEANNESS ARE DETERMINED ACCORDING TO THEIR APPEARANCE AT THE TIME THEY ARE FOUND.

MISHNAH 6. IF A DEAF-MUTE, AN IMBECILE OR A MINOR WAS FOUND IN AN ALLEY WAY[34] THAT CONTAINED AN UNCLEANNESS, HE IS PRESUMED TO BE CLEAN;[35] BUT ANY ONE OF SOUND SENSES[36] IS PRESUMED TO BE UNCLEAN.[37] FURTHER MORE, WHATSOEVER LACKS UNDERSTANDING[38] TO BE INQUIRED OF IS IN A CASE OF DOUBTFUL UNCLEANNESS PRESUMED TO BE CLEAN.

MISHNAH 7. IF A CHILD[39] WAS FOUND AT THE SIDE OF A GRAVEYARD WITH LILIES IN HIS HAND, AND THE LILIES GREW ONLY IN A PLACE OF UNCLEANNESS, HE IS NEVERTHELESS CLEAN, FOR IT MAY BE ASSUMED THAT AN OTHER PERSON GATHERED THEM AND GAVE THEM TO HIM.[40] SO ALSO WHERE AN ASS WAS AMONG THE GRAVES[41] HIS HARNESS REMAINS CLEAN.[42]

MISHNAH 8. IF A CHILD[43] WAS FOUND[44] BESIDE DOUGH[45] WITH A PIECE OF DOUGH IN HIS HAND, R. MEIR RULES THAT THE DOUGH[46] IS CLEAN;[47] BUT THE SAGES RULE THAT IT IS UNCLEAN, SINCE IT IS THE NATURE OF A CHILD TO SLAP DOUGH.[48] IF A DOUGH[49] BORE TRACES OF HENS' PICKINGS AND THERE WAS UNCLEAN LIQUID IN THE SAME HOUSE, THE LOAVES[50] ARE DEEMED TO BE CLEAN IF THERE WAS DISTANCE ENOUGH BETWEEN THE LIQUID AND THE LOAVES FOR THE HENS TO DRY THEIR MOUTHS ON THE GROUND;[51] AND, IN THE CASE OF A COW OR A DOG, IF THERE WAS DISTANCE ENOUGH[52] FOR IT TO LICK ITS TONGUE;[53] AND, IN THE CASE OF ALL OTHER BEASTS, IF THERE WAS DISTANCE ENOUGH[52] FOR THEIR TONGUE TO DRY. R. ELIEZER B. JACOB HOLDS THE DOUGH TO BE CLEAN IN THE CASE OF A DOG WHO IS SAGACIOUS; FOR IT IS NOT ITS HABIT TO LEAVE FOOD[54] AND GO AFTER THE WATER.[55]

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(1) That contracted any uncleanness.

(2) Capable also of moistening other foodstuffs.

(3) As is the rule of unclean liquids.

(4) After contracting uncleanness.

(5) Having been in contact, so to speak, with a liquid (their former shape) of the first grade of uncleanness.

(6) Because, when the first drop was formed, the solid part was thereby reduced to less than an egg's bulk and, therefore, became incapable of conveying any uncleanness to that drop (and much less to any subsequent drop) which, having assumed a new form of existence, has also passed into a state of cleanness.

(7) Of the remaining solid. The rest of the liquified matter then contracts uncleanness from that drop since any quantity of liquid is capable of conveying uncleanness.
(8) Even when congealed.
(9) Like liquids, since it never changes into a proper solid.
(10) The heat causing some liquid to flow out from the solid olives.
(11) V. supra n. 6.
(12) From contact with the liquid.
(13) Since each olive is less than an egg's bulk.
(14) In a container that was insusceptible to uncleanness.
(15) Which he had touched before he pressed them.
(16) V. p. 373, n. 6.
(17) From contact with the unclean olives or grapes.
(18) Who pressed out the juice.
(19) Whatever its quantity.
(20) In the first grade.
(21) Or ‘shaking’ (hesset) on the part of the zab, even if there was no direct contact.
(22) The minimum that can convey uncleanness.
(23) That contracted uncleanness.
(24) So that less than the prescribed minimum (cf. prev. n. but one) remained.
(25) That shrank (cf. prev. n.).
(26) V. Glos.
(27) Var. lec. ‘and forbidden fat’.
(28) Consisting now of the prescribed minimum.
(29) When found.
(30) If, for instance, a body was touched in the dark, and it is unknown whether it was that of a live or of a dead person, but later in the daylight it was found to be a corpse, it is assumed that death had occurred by the time it was touched, and the man that touched it is, therefore, unclean.
(31) In cases where such covering affords protection against uncleanness.
(32) A condition in which uncleanness ceases.
(33) Even after the rust is removed or the needle is repaired, it being assumed that it was already in a rusty or broken condition at the time contact with the unclean object had taken place.
(34) Which has the status of a private domain where doubtful cases of uncleanness are deemed to be unclean.
(35) Because, as stated infra, one who is incapable of giving sensible information in reply to an enquiry is, in cases of doubtful uncleanness, deemed to be clean even in a private domain.
(36) About whom there is doubt whether he did or did not touch an uncleanness.
(37) In a private domain. In a public domain doubtful cases of uncleanness are always presumed to be clean.
(38) Not only the categories of person mentioned but also cattle and utensils.
(39) Who ‘lacks understanding to be inquired of’ (cf. prev. Mishnah); v. Sot. 28aff.
(40) Since the child accordingly was not in the graveyard, and since the lilies which suffered first grade uncleanness only cannot convey uncleanness to a human being, the child remains clean.
(41) So that it is doubtful whether he did or did not overshadow a grave.
(42) It being presumed that there was no overshadowing.
(43) Who was unclean.
(44) In a private domain.
(45) That was clean.
(46) At the side of which he was found.
(47) Since some children (a minority) have not the habit of slapping dough and since the dough was in a presumptive state of cleanness the child in question (on the principle of minority plus presumption) may be assumed to belong to the class of children who do not slap dough, and the piece of dough in his hand may be presumed to have been given to him by some clean person.
(48) As the majority of children do slap dough, the child in question must be presumed to be one of that class, and the dough that has presumably been touched by him must, therefore, be regarded as unclean.

(49) Made into loaves.
(50) Cf. prev. n.
(51) After drinking of the unclean liquid, as is their nature after a drink.
(52) Between the liquid and the dough.
(53) Cf. p. 376, n. 14.
(54) The dough, which is not easily procurable.
(55) Which he can get much more easily. Hence it may well be presumed that before drinking the water he bad well finished with the dough.

Mishna - Mas. Taharoth Chapter 4

MISHNAH 1. IF AN UNCLEAN[1] OBJECT WAS THROWN FROM ONE PLACE TO ANOTHER:[2] A LOAF[3] AMONG KEYS[4] OR A KEY[5] AMONG LOAVES,[6] [THAT WHICH WAS CLEAN REMAINS] CLEAN.[7] R. JUDAH[8] RULED: IF A LOAF[3] WAS THROWN AMONG KEYS[4] THE FORMER BECOMES UNCLEAN, BUT IF A KEY[5] WAS THROWN AMONG LOAVES[6] THE LATTER REMAIN CLEAN.

MISHNAH 2. IF A DEAD CREEPING THING WAS HELD IN THE MOUTH OF A WEASEL THAT WAS PASSING OVER LOAVES OF TERUMAH AND IT IS DOUBTFUL WHETHER THE CREEPING THING DID OR DID NOT TOUCH THEM, SUCH CONDITION OF DOUBT IS DEEMED CLEAN.[9]

MISHNAH 3. IF A WEASEL HELD IN ITS MOUTH A [DEAD] CREEPING THING OR IF A DOG HAD CARRION IN ITS MOUTH AND THEY PASSED BETWEEN CLEAN [PERSONS] OR IF CLEAN PERSONS PASSED BETWEEN THEM,[10] THEIR CONDITION OF DOUBT IS DEEMED CLEAN, SINCE THE UNCLEANNESS[11] , HAD NO RESTING PLACE.[12] IF THEY[13] WERE PICKING AT THEM[14] WHILE THESE[15] LAY ON THE GROUND,[16] AND A PERSON STATED, ‘I WENT TO THAT PLACE BUT I DO NOT KNOW WHETHER I DID OR DID NOT TOUCH IT’,[15] HIS CONDITION OF DOUBT IS DEEMED UNCLEAN, SINCE THE UNCLEANNESS HAD A RESTING PLACE.

MISHNAH 4. IF AN OLIVE'S BULK OF CORPSE WAS HELD IN A RAVEN'S MOUTH AND IT IS DOUBTFUL WHETHER IT OVERSHADOWED A MAN OR VESSELS IN A PRIVATE DOMAIN, THE MAN'S CONDITION OF DOUBT IS DEEMED TO BE UNCLEAN[17] BUT THE VESSELS’ CONDITION OF DOUBT IS DEEMED CLEAN.[18] IF A MAN DREW WATER IN TEN BUCKETS[19] AND A DEAD CREEPING THING WAS FOUND IN ONE OF THEM,[20] IT ALONE IS DEEMED UNCLEAN BUT ALL THE OTHERS REMAIN CLEAN.[21] IF ONE POURED OUT FROM ONE VESSEL INTO ANOTHER AND A DEAD CREEPING THING WAS FOUND IN THE LOWER VESSEL, THE UPPER ONE REMAINS CLEAN.[22]

MISHNAH 5. ON ACCOUNT OF SIX DOUBTFUL CASES OF UNCLEANNESS IS TERUMAH BURNT:[23] ON ACCOUNT OF THE DOUBT OF A BETH HA-PERAS [GRAVE AREA],[24] ON ACCOUNT OF EARTH[25] ABOUT WHICH THERE IS DOUBT WHETHER IT CAME FROM THE LAND OF THE GENTILES,[26] ON ACCOUNT OF A DOUBT ABOUT THE GARMENTS OF AN ‘AM HA-AREZ,[27] ON ACCOUNT OF A DOUBT ABOUT VESSELS FOUND BY CHANCE,[28] ON ACCOUNT OF SPITTLE ENCOUNTERED BY CHANCE,[29] ON ACCOUNT OF A DOUBT ABOUT HUMAN URINE[29] THAT WAS NEAR THE URINE OF A BEAST.[30] ON ACCOUNT OF A CERTAINTY OF HAVING TOUCHED THESE, WHICH GIVES RISE TO THE DOUBTFUL UNCLEANNESS,[31] TERUMAH IS BURNT. R. JOSE RULED: ALSO ON ACCOUNT OF THEIR DOUBTFUL CONTACT[32] IN A PRIVATE DOMAIN;[33] BUT THE SAGES RULED: IN A PRIVATE DOMAIN THE TERUMAH IS ONLY HELD IN SUSPENSE[34] AND IN A PUBLIC DOMAIN IT IS DEEMED CLEAN.[35]

MISHNAH 6. IN THE CASE OF TWO KINDS OF SPITTLE, ONE OF WHICH WAS [POSSIBLY] UNCLEAN[36] AND THE OTHER WAS DECIDEDLY CLEAN, [ANY TERUMAH] IS TO BE HELD IN SUSPENSE IF [TOUCHED BY ONE WHO] TOUCHED OR CARRIED OR SHIFTED [ONE OF THE TWO KINDS OF SPITTLE] WHILE THEY WERE IN A PRIVATE DOMAIN, OR, WHO TOUCHED ONE OF THEM IN A PUBLIC DOMAIN WHILE IT WAS STILL MOIST, OR WHO CARRIED IT IRRESPECTIVE OF WHETHER IT WAS MOIST OR DRY. IF THERE WAS BUT ONE [KIND OF POSSIBLY] UNCLEAN Spittle AND A MAN TOUCHED, CARRIED OR SHIFTED IT IN A PUBLIC DOMAIN, TERUMAH[37] IS BURNT ON ACCOUNT OF IT; AND IT IS STILL MORE EVIDENT THAT THIS IS THE CASE IF IT WAS[38] IN A PRIVATE DOMAIN.

MISHNAH 7. THE FOLLOWING CASES OF DOUBTFUL UNCLEANNESS THE SAGES DECLARED TO BE CLEAN:[39] A CONDITION OF DOUBT CONCERNING DRAWN WATER IN RESPECT OF A RITUAL BATH,[40] AND A CONDITION OF DOUBT CONCERNING AN OBJECT OF UNCLEANNESS THAT FLOATED UPON THE WATER.[41] IN THE CASE OF A CONDITION OF DOUBT CONCERNING LIQUIDS AS TO WHETHER THEY HAVE CONTRACTED UNCLEANNESS IT IS DEEMED UNCLEAN, BUT IF IT WAS WHETHER UNCLEANNESS HAS BEEN CONVEYED IT IS DEEMED CLEAN. IF THERE IS DOUBT CONCERNING THE HANDS AS TO WHETHER THEY HAVE CONTRACTED UNCLEANNESS, HAVE CONVEYED UNCLEANNESS OR[42] HAVE ATTAINED CLEANNESS, THEY ARE DEEMED CLEAN. [THE SAGES, MOREOVER, DECLARED AS CLEAN] A CONDITION OF DOUBT THAT AROSE IN A PUBLIC DOMAIN;[43] A CONDITION OF DOUBT CONCERNING AN ORDINANCE OF THE SCRIBES; A CONDITION OF DOUBT CONCERNING COMMON FOODSTUFFS;[41] A CONDITION OF DOUBT CONCERNING CREEPING THINGS; A CONDITION OF DOUBT CONCERNING LEPROSY SIGNS; A CONDITION OF DOUBT CONCERNING A NAZIRITE VOW; A CONDITION OF DOUBT CONCERNING FIRSTLINGS; AND A CONDITION OF DOUBT CONCERNING SACRIFICES.

MISHNAH 8. ‘A CONDITION OF DOUBT CONCERNING AN OBJECT OF UNCLEANNESS THAT FLOATED UPON THE WATER’[44] [IS DEEMED CLEAN] WHETHER[45] THE WATER WAS IN VESSELS OR IN THE GROUND. R. SIMEON RULED: IF IN VESSELS IT IS DEEMED UNCLEAN[46] BUT IF IN THE GROUND IT IS DEEMED CLEAN.[47] R. JUDAH RULED: IF THE DOUBT[48] AROSE WHEN THE MAN WENT DOWN INTO THE WATER HE IS DEEMED UNCLEAN,[49] BUT IF WHEN HE CAME UP[50] HE IS DEEMED CLEAN. R. JOSE RULED: EVEN IF THE ROOM AVAILABLE[51] WAS NO MORE THAN WHAT SUFFICED FOR THE MAN AND THE UNCLEANNESS THE FORMER REMAINS CLEAN.

MISHNAH 9. ‘IN THE CASE OF A CONDITION OF DOUBT CONCERNING LIQUIDS AS TO WHETHER THEY HAVE CONTRACTED UNCLEANNESS IT IS DEEMED UNCLEAN’.[52] IN WHAT CIRCUMSTANCES? IF AN UNCLEAN PERSON STRETCHED HIS FOOT BETWEEN CLEAN LIQUIDS AND THERE IS DOUBT WHETHER HE TOUCHED THEM OR NOT, SUCH A CONDITION OF DOUBT IS DEEMED TO BE UNCLEAN. IF A MAN HAD AN UNCLEAN LOAF IN HIS HAND AND HE STRETCHED IT OUT[53] BETWEEN CLEAN LIQUIDS, AND THERE IS DOUBT WHETHER IT TOUCHED THEM OR NOT, SUCH A CONDITION OF DOUBT IS DEEMED TO BE UNCLEAN. ‘BUT IF IT WAS WHETHER UNCLEANNESS HAS BEEN CONVEYED, IT IS DEEMED CLEAN’.[52] IN WHAT CIRCUMSTANCE? IF A MAN HAD IN HIS HAND A STICK ON THE END OF WHICH THERE WAS AN UNCLEAN LIQUID AND HE THREW IT AMONG CLEAN LOAVES AND THERE IS DOUBT WHETHER IT TOUCHED THEM[54] OR NOT, SUCH A CONDITION OF DOUBT IS DEEMED CLEAN.

MISHNAH 10. R. JOSE RULED: A CONDITION OF DOUBT[55] IN THE CASE OF LIQUIDS IS DEEMED UNCLEAN IN RESPECT OF FOODSTUFFS[56] AND CLEAN IN RESPECT OF VESSELS.[57] HOW SO? IF THERE WERE TWO JARS,[58] THE ONE UNCLEAN AND THE OTHER CLEAN, AND A DOUGH WAS PREPARED WITH THE CONTENTS OF ONE OF THEM AND A DOUBT AROSE AS TO WHETHER IT WAS PREPARED WITH THE CONTENTS OF THE UNCLEAN, OR OF THE CLEAN ONE, SUCH IS ‘A CONDITION OF DOUBT IN THE CASE OF LIQUIDS [WHICH] IS DEEMED UNCLEAN IN RESPECT OF FOODSTUFFS AND CLEAN IN RESPECT OF VESSELS’.

MISHNAH 11. ‘IF THERE IS DOUBT CONCERNING THE HANDS AS TO WHETHER THEY HAVE CONTRACTED UNCLEANNESS,[59] HAVE CONVEYED UNCLEANNESS[60] OR HAVE ATTAINED CLEANNESS, THEY ARE DEEMED CLEAN’.[61] ‘ANY CONDITION OF DOUBT[62] THAT AROSE IN A PUBLIC DOMAIN’[61] IS DEEMED CLEAN’ ‘A CONDITION OF DOUBT CONCERNING AN ORDINANCE OF THE SCRIBES’[61] [NAMELY, IF A MAN IS UNCERTAIN WHETHER] HE ATE UNCLEAN FOODSTUFFS OR DRANK UNCLEAN LIQUIDS, WHETHER HE IMMERSED HIS HEAD AND THE GREATER PART OF HIS BODY IN DRAWN WATER,[63] OR WHETHER THERE FELL ON HIS HEAD AND THE GREATER PART OF HIS BODY THREE LOG OF DRAWN WATER,[64] SUCH A CONDITION OF DOUBT[65] IS DEEMED CLEAN. IF, HOWEVER, A CONDITION OF DOUBT AROSE CONCERNING A FATHER OF UNCLEANNESS EVEN THOUGH IT WAS ONLY RABBINICAL, IT IS DEEMED UNCLEAN.

MISHNAH 12. ‘A CONDITION OF DOUBT CONCERNING COMMON FOODSTUFFS’[61] REFERS TO THE CLEANNESS PRACTICED BY PHARISEES.[66] ‘A CONDITION OF DOUBT CONCERNING CREEPING THING’[67] — [THIS IS DETERMINED] ACCORDING [TO THEIR CONDITION AT] THE TIME THEY ARE FOUND.[68] ‘A CONDITION OF DOUBT CONCERNING LEPROSY SIGNS’[67] — [A LEPROSY SIGN][69] IS DEEMED CLEAN IN THE BEGINNING BEFORE IT HAD BEEN DETERMINED TO BE UNCLEAN, BUT AFTER IT HAD BEEN DETERMINED TO BE UNCLEAN, A CONDITION OF DOUBT[70] IS DEEMED UNCLEAN. ‘A CONDITION OF DOUBT CONCERNING A NAZIRITE VOW’[67] — [IN SUCH A CONDITION OF DOUBT[71] THE MAN] IS PERMITTED [ALL THAT IS FORBIDDEN TO A NAZIRITE].[72] ‘A CONDITION OF DOUBT CONCERNING FIRSTLINGS’[69] — [IN SUCH A CASE ONE IS EXEMPT FROM GIVING THE FIRSTLINGS TO THE PRIEST] IRRESPECTIVE OF WHETHER THEY ARE FIRSTBORN OF MEN[73] OR FIRSTLINGS OF CATTLE,[74] WHETHER THE FIRSTLINGS OF AN UNCLEAN BEAST[75] OR A CLEAN ONE, FOR IT IS THE MAN WHO ADVANCES THE CLAIM[76] AGAINST HIS FELLOW THAT MUST PRODUCE THE PROOF.[77]

MISHNAH 13. ‘AND A CONDITION OF DOUBT CONCERNING SACRIFICES’[67] — IF A WOMAN HAS EXPERIENCED FIVE DOUBTFUL CASES OF MISCARRIAGE OR FIVE DISCHARGES OF DOUBTFUL ZIBAH SHE BRINGS ONLY ONE SACRIFICE[78] AND MAY THEN EAT OF THE SLAIN SACRIFICES, SHE BEING UNDER NO OBLIGATION TO BRING THE REMAINDER.[79]

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(1) Or clean (cf. foll. n.).

(2) So that a doubt arose whether it touched anything clean or whether the clean object (cf. prev. n.) touched anything unclean.

(3) That was clean (cf. prev. n. but one).

(4) That were unclean.

(5) That was unclean.

(6) That were clean.

(7) The assumption being that there was no contact after the haphazard throw between the clean and the unclean objects, and furthermore because the clean object under consideration lacks understanding, v. supra III, 6.

(8) Drawing a distinction between an uncleanness at rest and one on the move.

(9) Because the uncleanness was on the move, and because the bread lacks understanding, v. Shek. II, 7.

(10) It being doubtful whether there was contact between the clean and the unclean.

(11) Which was on the move.

(12) This principle applying even to persons, though these do not lack understanding.

(13) Sc. the weasel or the dog.

(14) The creeping thing or the carrion.

(15) V. p. 378, n. 14.

(16) In a private domain.

(17) For overshadowing, which reaches to the ground, is on a par with a resting uncleanness, and the man affected is capable of answering an enquiry (cf. supra III, 6).

(18) Since vessels are not capable of answering an enquiry (cf. prev. n.).

(19) One after the other.

(20) A doubt thus arising whether the creeping thing was in the well and thus conveyed uncleanness to all the buckets.

(21) It being assumed that where the uncleanness was found there it was all the time; and, though it came in contact with the water in the well, it conveyed no uncleanness to it, since the latter is regarded as attached to the ground which is not susceptible to uncleanness.

(22) It is not assumed that the creeping thing was first in the upper vessel from which it subsequently dropped into the lower one.

(23) In all other cases of doubtful uncleanness terumah may not be burnt.

(24) Into which terumah was carried; on Beth ha-Peras, v. Glos.

(25) Which came in contact with terumah.

(26) In which case it would be unclean.

(27) It being uncertain whether he did or did not touch them. If he did, uncleanness would have been conveyed to them.

(28) Which might possibly be unclean ones.

(29) Which might be that of a zab or a menstruant and which would, therefore, convey uncleanness.

(30) And thus distinguishable from it. If one kind alone is encountered a double doubt arises: Whether (a) it is that of a man or a beast and, if it is that of a man, whether (b) that man was unclean or clean.

(31) Owing, as stated supra, to the doubtful nature of their uncleanness.

(32) With terumah; though in such a case a double doubt arises.

(33) Is terumah burnt.

(34) Owing to the double doubt involved (cf. prev. n. but one).

(35) For further notes on this Mishnah v. Shab. (Sonc. ed.) p. 156 notes.

(36) In the case of certain uncleanness the terumah, touched in a private domain by one who came in contact with the spittle, would have had to be definitely burnt.

(37) That the man subsequently touched.

(38) Lit., ‘and there is no need to say’ that the terumah is to be burnt.

(39) Irrespective of whether they occurred in a private or in a public domain.

(40) It being doubtful whether the drawn water had fallen into the ritual bath that contained less than the prescribed minimum of valid water or, if it was certain that it fell into it, whether its quantity was as much as three logs which constitute the minimum for invalidating a ritual bath.

(41) This and the following cases are explained infra.

(42) Having been unclean.

(43) Even concerning a Pentateuchally ordained uncleanness.

(44) Cf. prev. Mishnah.

(45) It being uncertain whether a man had touched the uncleanness.

(46) Sc. the man concerning whom a doubt arose as to whether he touched the unclean object is deemed unclean.

(47) Cf. p. 381, n. 8 mut. mut.

(48) Whether the man has touched the unclean object.

(49) Since it is in the nature of a floating object to be drawn towards one descending into the water.

(50) When the floating object naturally recedes from him.

(51) In the water.
(52) Supra IV, 7.
(53) Var. lec. ‘threw it’ (cf. foll. n.).
(54) After it had come to a rest.
(55) As to their uncleanness.
(56) Because, in his opinion, liquids convey uncleanness to foodstuffs according to a Pentateuchal law.
(57) Whose contraction of uncleanness from liquids is but a Rabbinical ordinance.
(58) Containing water.
(59) From unclean foodstuffs or liquids.
(60) To foodstuffs.
(61) Supra IV, 7.
(62) Of uncleanness.
(63) Which renders the immersion invalid.
(64) Which cause a clean person to become unclean.
(65) As to whether he subsequently performed immersion and much more so if there is doubt as to whether uncleanness had at all been contracted.
(66) Lit., ‘the cleanness of separation’. To keep away from the clothes of those who are not so meticulous as oneself in the observance of the laws of cleanness and uncleanness. If a Pharisee is in doubt whether he came in contact with such cloths he may regard himself as clean and continue to eat his usual food that he keeps under conditions of cleanness.
(67) Supra IV, 7.
(68) Sc. if a creeping thing was thrown among clean foodstuffs but was not found touching any of them, they are deemed to be clean. It is not assumed that before it came to rest it touched them.
(69) Concerning which there is doubt whether it increased in size.
(70) Sc. whether it had diminished in size.
(71) Where, for instance, a man made his vow dependent on an assertion that a heap of wheat contained a certain number of measures, and the heap was lost before the assertion could be checked.
(72) The drinking of wine and shaving for instance.
(73) Who are redeemed with five shekels which are given to the priest.
(74) Which are the priest's due.
(75) An ass.
(76) The priest who claims the firstling or the redemption of the firstborn.
(77) As there is doubt no proof is possible, and the father of the firstborn and the owner of the firstling are exempt.
(78) A sin-offering of a bird, brought as doubtful offering.
(79) V. Ker. 8a.

Mishna - Mas. Taharoth Chapter 5

MISHNAH 1. IF IN A PUBLIC DOMAIN THERE WAS A [DEAD] CREEPING THING[1] AND A FROG,[2] AND SO ALSO [IF THERE WAS THERE] AN OLIVE'S BULK OF A CORPSE[3] AND AN OLIVE'S BULK OF CARRION,[4] A BONE OF A CORPSE[5] AND A BONE OF CARRION,[2] A CLOD OF CLEAN EARTH[2] AND A CLOD FROM A GRAVE AREA[6] OR A CLOD OF CLEAN EARTH[2] AND A CLOD FROM THE LAND OF THE GENTILES,[4] OR IF THERE WERE TWO PATHS, THE ONE UNCLEAN[7] AND THE OTHER CLEAN, AND A MAN WALKED THROUGH ONE OF THEM BUT IT IS NOT KNOWN WHICH,[8] OR OVERSHADOWED ONE OF THEM BUT IT IS NOT KNOWN WHICH,[9] OR HE SHIFTED[10] ONE OF THEM BUT IT IS NOT KNOWN WHICH,[11] R. AKIBA RULED THAT HE IS UNCLEAN,[12] BUT THE SAGES RULE THAT HE IS CLEAN.[13]

MISHNAH 2. WHETHER[14] THE MAN SAID,[15] ‘I TOUCHED AN OBJECT ON THIS SPOT BUT I DO NOT KNOW[16] WHETHER IT WAS UNCLEAN OR CLEAN’, OR ‘I TOUCHED ONE BUT I DO NOT KNOW WHICH OF THE TWO I TOUCHED’, R. AKIBA RULES THAT HE IS UNCLEAN,[17] BUT THE SAGES RULE THAT HE IS CLEAN.[18] R. JOSE RULES THAT HE IS

UNCLEAN IN EVERY CASE[19] AND CLEAN ONLY IN THAT OF THE PATH,[20] SINCE IT IS THE USUAL PRACTICE FOR MEN TO GO[21] BUT IT IS NOT THEIR USUAL PRACTICE TO TOUCH.[22]

MISHNAH 3. IF THERE WERE TWO PATHS,[23] THE ONE UNCLEAN[24] AND THE OTHER CLEAN,[25] AND A MAN WALKED BY ONE OF THEM AND THEN PREPARED CLEAN FOODSTUFFS[26] WHICH WERE SUBSEQUENTLY CONSUMED AND, HAVING BEEN SPRINKLED UPON ONCE AND A SECOND TIME[27] AND HAVING PERFORMED IMMERSION AND ATTAINED CLEANNESS, HE WALKED BY THE SECOND PATH AND THEN PREPARED CLEAN FOODSTUFFS,[26] THE LATTER ARE DEEMED CLEAN.[28] IF THE FIRST FOODSTUFFS WERE STILL IN EXISTENCE BOTH MUST BE HELD IN SUSPENSE.[29] IF HE HAD NOT ATTAINED CLEANNESS IN THE MEANTIME,[30] THE FIRST ARE HELD IN SUSPENSE[31] AND THE SECOND MUST BE BURNT.[32]

MISHNAH 4. IF THERE WAS A DEAD CREEPING THING AND A FROG IN A PUBLIC DOMAIN AND A MAN TOUCHED ONE OF THEM[33] AND THEN PREPARED CLEAN FOODSTUFFS[34] WHICH WERE SUBSEQUENTLY CONSUMED; AND THEN HE PERFORMED IMMERSION, TOUCHED THE OTHER AND THEN PREPARED CLEAN FOODSTUFFS,[34] THE LATTER ARE DEEMED CLEAN.[35] IF THE FIRST FOODSTUFFS WERE STILL IN EXISTENCE BOTH MUST BE HELD IN SUSPENSE.[36] IF HE DID NOT PERFORM IMMERSION IN THE MEANTIME,[37] THE FIRST ARE HELD IN SUSPENSE[38] AND THE SECOND MUST BE BURNT[39] .

MISHNAH 5. IF THERE WERE TWO PATHS, THE ONE UNCLEAN AND THE OTHER CLEAN, AND A MAN WALKED BY ONE OF THEM AND THEN PREPARED CLEAN FOODSTUFFS,[34] AND SUBSEQUENTLY ANOTHER MAN CAME AND WALKED BY THE SECOND PATH AND THEN PREPARED CLEAN FOODSTUFFS,[34] R. JUDAH RULED: IF EACH BY HIMSELF ASKED FOR A RULING THEY ARE BOTH TO BE DECLARED CLEAN;[40] BUT IF THEY ASKED FOR A RULING SIMULTANEOUSLY,[41] BOTH ARE TO BE DECLARED UNCLEAN. R. JOSE RULED: IN EITHER CASE THEY ARE BOTH UNCLEAN.

MISHNAH 6. IF THERE WERE TWO LOAVES, THE ONE UNCLEAN AND THE OTHER CLEAN, AND A MAN ATE ONE OF THEM AND THEN PREPARED CLEAN FOODSTUFFS, AND AFTERWARDS ANOTHER MAN CAME AND ATE THE SECOND LOAF AND THEN PREPARED CLEAN FOODSTUFFS, R. JUDAH RULED: IF EACH BY HIMSELF ASKED FOR A RULING THEY ARE BOTH TO BE DECLARED CLEAN,[40] BUT IF THEY ASKED FOR ONE SIMULTANEOUSLY[41] BOTH ARE TO BE DECLARED UNCLEAN. R. JOSE RULED: IN EITHER CASE THEY ARE BOTH UNCLEAN.

MISHNAH 7. IF A MAN SAT IN A PUBLIC DOMAIN AND SOMEONE[42] CAME AND TROD ON HIS CLOTHES, OR SPAT AND THE FORMER TOUCHED THE SPITTLE, ON ACCOUNT OF THE SPITTLE TERUMAH[43] MUST BE BURNT,[44] BUT ON ACCOUNT OF THE CLOTHES THE MAJORITY PRINCIPLE IS FOLLOWED.[45] IF A MAN SLEPT IN THE PUBLIC DOMAIN, WHEN HE RISES HIS GARMENTS SUFFER MIDRAS UNCLEANNESS;[46] SO R. MEIR. BUT THE SAGES[47] RULE THAT THEY ARE CLEAN. IF A MAN TOUCHED SOMEONE IN THE NIGHT AND IT IS NOT KNOWN WHETHER IT WAS ONE WHO WAS ALIVE OR DEAD, BUT IN THE MORNING WHEN HE GOT UP HE FOUND HIM TO BE DEAD, R. MEIR RULES THAT HE[48] IS CLEAN, BUT THE SAGES RULE THAT HE IS UNCLEAN,[49] SINCE ALL DOUBTFUL CONDITIONS OF UNCLEANNESS ARE [DETERMINED] IN ACCORDANCE WITH [THEIR APPEARANCE AT] THE TIME THEY ARE DISCOVERED.

MISHNAH 8. IF THERE WAS IN THE TOWN AN IMBECILE, A HEATHEN, OR A SAMARITAN WOMAN, ALL SPITTLE ENCOUNTERED IN THE TOWN IS DEEMED UNCLEAN.[50] IF A WOMAN TROD ON A MANS CLOTHES OR SAT WITH HIM IN A BOAT,[51] HIS CLOTHES REMAIN CLEAN IF SHE KNEW HIM TO BE EATING TERUMAH;[52] BUT IF NOT, HE MUST ASK HER.

MISHNAH 9. IF A WITNESS SAYS,[53] 'YOU HAVE CONTRACTED UNCLEANNESS', BUT HE SAYS, 'I HAVE NOT CONTRACTED ANY UNCLEANNESS', HE IS REGARDED AS CLEAN. IF TWO WITNESSES SAY,[53] 'YOU HAVE CONTRACTED UNCLEANNESS', AND HE SAYS, 'I HAVE NOT CONTRACTED ANY UNCLEANNESS', R. MEIR RULES THAT HE IS UNCLEAN,[54] BUT THE SAGES RULE: HE MAY BE BELIEVED ON HIS OWN EVIDENCE.[55] IF A WITNESS SAYS,[53] 'YOU HAVE CONTRACTED UNCLEANNESS', BUT TWO WITNESSES SAY, HE HAS NOT CONTRACTED ANY UNCLEANNESS, WHETHER IN A PRIVATE DOMAIN OR IN A PUBLIC DOMAIN, HE IS REGARDED AS CLEAN. IF TWO WITNESSES SAY, 'HE HAS CONTRACTED UNCLEANNESS', AND ONE WITNESS SAYS, 'HE HAS NOT CONTRACTED ANY UNCLEANNESS', WHETHER IN A PRIVATE DOMAIN OR IN A PUBLIC DOMAIN, HE IS REGARDED AS UNCLEAN. IF ONE WITNESS SAYS, 'HE HAS CONTRACTED UNCLEANNESS', AND ANOTHER SAYS, 'HE HAS NOT CONTRACTED ANY UNCLEANNESS', OR IF ONE WOMAN SAYS, 'HE HAS CONTRACTED UNCLEANNESS', AND ANOTHER WOMAN SAYS, 'HE HAS NOT CONTRACTED ANY UNCLEANNESS', HE IS REGARDED AS UNCLEAN IF THE EVIDENCE RELATES TO A PRIVATE DOMAIN,[56] BUT IF IT RELATED TO A PUBLIC DOMAIN HE IS REGARDED AS CLEAN.[57]

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(1) One of the eight enumerated in Lev. XI, 29, which are 'fathers of uncleanness' and convey uncleanness by contact.

(2) Which conveys no uncleanness whatsoever.

(3) Which conveys uncleanness (cf. prev. n. but one) by overshadowing also.

(4) That conveys uncleanness by contact and carrying only.

(5) Which conveys uncleanness by hesset (v. Glos.).

(6) Beth ha- Peras (v. Glos.). This conveys uncleanness by contact and carrying only.

(7) There having been a grave across its breadth which any one going through the path must pass over and thus overshadow it and contract uncleanness.

(8) Of the two paths.

(9) Whether the olive's bulk of corpse or that of the carrion.

(10) Or carried.

(11) Whether it was the bone of the corpse or that of the carrion.

(12) Because, in his opinion, only food which, if once unclean, cannot any more be rendered clean, is deemed to be clean in a case of doubt in a public domain, but not men and vessels which may attain cleanness through immersion and sprinkling. Aliter: A doubtful case of uncleanness is deemed clean, according to R. Akiba, in a public domain only when a number of people are involved but not, as in this case, where only an individual is concerned (Wilna Gaon).

(13) Cf. prev. n. mut. mut.

(14) This is a continuation of the previous rulings.

(15) In the case where there was in the public domain a creeping thing and a frog.

(16) Owing to the similarity of the frog and the creeping thing.

(17) V. p. 385, n. 12.

(18) V. p. 385, n. 13.

(19) Enumerated in this and in the preceding Mishnah.

(20) Supra V, 1.

(21) And the imposition of uncleanness in such a case would involve undue hardship. Hence the relaxation of the restriction.

(22) As uncleanness could, therefore, be avoided the restriction could well be maintained.

(23) In a public domain.

(24) V. supra p. 385, n. 7.
(25) But it was not known which was which.
(26) Of terumah which must be kept in conditions of cleanness.
(27) On the third and the seventh day respectively.
(28) Because the doubt occurred in a public domain.
(29) Since both have to be considered simultaneously and one at least is obviously unclean.
(30) Between the preparation of the first and the second foodstuffs.
(31) Neither eaten nor burnt. Var. lec., ‘are clean’.
(32) Since they are unclean in any case.
(33) But did not know whether it was the clean or the unclean.
(34) Of terumah which must be kept in conditions of cleanness.
(35) Because the doubt occurred in a public domain.
(36) Since both have to be considered simultaneously and one at least is obviously unclean.
(37) Between the preparation of the first and the second foodstuffs.
(38) Neither eaten nor burnt. Var. lec., ‘are clean’.
(39) Being unclean in any case.
(40) Since neither can be declared unclean when his uncleanness is only a matter of doubt in a public domain.
(41) When it is impossible to declare them both clean since one at least must be unclean.
(42) Who could possibly be suspected of uncleanness.
(43) Which the first man touched.
(44) As a preventive measure against contact with spittle that was known to be unclean.
(45) Sc. only if the greater number of people in the place were zabs is midras uncleanness (v. Glos.) imposed.
(46) Since it is possible that most of the people have trodden on them and that among these was a zab.
(47) Holding that even in a case like this a condition of doubt in a public domain is deemed clean.
(48) The live man.
(49) Provided the dead man was not seen alive in the previous evening.
(50) Since the class of women mentioned do not exercise the necessary care when they are in their menstruation periods.
(51) Where, if she was a menstruant, she would convey to him midras uncleanness (cf. Zab. III, 1).
(52) Since in that case she would keep away from his clothes and would not enter the same boat when in her menstruation.
(53) To any man.
(54) Since two witnesses on whose evidence a man may be sent to death may well be relied upon in subjecting one to uncleanness which involves no greater liability than that of a sacrifice for entering the Sanctuary in an unclean state.
(55) Because he could well claim, even if the witnesses’ evidence is accepted, that he has subsequently attained cleanness through immersion.
(56) As is the rule with any condition of doubtful uncleanness in such a domain.
(57) Cf. prev. n. mut. mut.

Mishna - Mas. Taharoth Chapter 6

MISHNAH 1. IF A PLACE THAT WAS A PRIVATE DOMAIN HAS BECOME A PUBLIC DOMAIN[1] AND THEN WAS TURNED AGAIN INTO A PRIVATE DOMAIN, WHILE IT IS A PRIVATE DOMAIN ANY CONDITION OF DOUBT ARISING IN IT IS DEEMED UNCLEAN BUT WHILE IT IS A PUBLIC DOMAIN ANY CONDITION OF DOUBT ARISING IN IT IS DEEMED CLEAN. IF A MAN WHO WAS DANGEROUSLY ILL IN A PRIVATE DOMAIN WAS TAKEN OUT INTO A PUBLIC DOMAIN AND THEN BROUGHT BACK INTO A PRIVATE DOMAIN,[2] WHILE HE IS IN THE PRIVATE DOMAIN ANY CONDITION OF DOUBT ARISING THROUGH HIM[3] IS DEEMED UNCLEAN[4] BUT WHILE HE IS IN THE PUBLIC DOMAIN ANY CONDITION OF DOUBT ARISING THROUGH HIM[3] IS DEEMED CLEAN.[5] R. SIMEON RULED: THE PUBLIC DOMAIN CAUSES A BREAK.[6]

MISHNAH 2. FOUR CASES OF DOUBT, R. JOSHUA RULED, ARE DEEMED UNCLEAN

AND THE SAGES RULE THAT THEY ARE DEEMED CLEAN. FOR INSTANCE? IF AN UNCLEAN MAN[7] STOOD[8] AND A CLEAN MAN PASSED BY[9] OR THE CLEAN MAN STOOD AND THE UNCLEAN ONE PASSED BY;[9] OR IF AN UNCLEAN OBJECT WAS IN A PRIVATE DOMAIN AND A CLEAN ONE IN THE PUBLIC DOMAIN OR THE CLEAN OBJECT WAS IN THE PRIVATE DOMAIN AND THE UNCLEAN ONE IN THE PUBLIC DOMAIN, AND THERE IS DOUBT WHETHER THERE WAS CONTACT[10] OR NOT, OR WHETHER THERE WAS OVERSHADOWING[10] OR NOT, OR WHETHER THERE WAS SHIFTING[11] OR NOT, R. JOSHUA RULES THAT THE CLEAN BECOMES UNCLEAN,[12] BUT THE SAGES RULE THAT THE CLEAN REMAINS CLEAN.

MISHNAH 3. IF A TREE STANDING IN A PUBLIC DOMAIN HAD WITHIN IT AN OBJECT OF UNCLEANNESS AND A MAN CLIMBED TO THE TOP OF IT, AND THE DOUBT AROSE AS TO WHETHER HE DID OR DID NOT TOUCH THE OBJECT OF UNCLEANNESS. SUCH A CONDITION OF DOUBT IS DEEMED UNCLEAN.[13] IF A MAN[14] PUT HIS HAND INTO A HOLE IN WHICH THERE WAS AN OBJECT OF UNCLEANNESS AND THERE IS DOUBT WHETHER HE DID OR DID NOT TOUCH IT, SUCH A CONDITION OF DOUBT IS DEEMED UNCLEAN.[13] IF A SHOP THAT WAS UNCLEAN WAS OPEN TOWARD A PUBLIC DOMAIN AND THERE IS DOUBT WHETHER A MAN DID OR DID NOT ENTER IT, SUCH A CONDITION OF DOUBT IS DEEMED CLEAN.[15] IF THERE IS DOUBT WHETHER HE DID OR DID NOT TOUCH ANYTHING, SUCH A CONDITION OF DOUBT IS DEEMED CLEAN.[16] IF THERE WERE TWO SHOPS, THE ONE UNCLEAN AND THE OTHER CLEAN, AND A MAN ENTERED INTO ONE OF THEM, AND A DOUBT AROSE AS TO WHETHER HE ENTERED THE UNCLEAN, OR THE CLEAN ONE, SUCH A CONDITION OF DOUBT IS DEEMED UNCLEAN.[17]

MISHNAH 4. HOWEVER MANY THE DOUBTS AND THE DOUBTS ABOUT DOUBTS THAT ONE CAN MULTIPLY, A CONDITION OF DOUBT IN A PRIVATE DOMAIN IS DEEMED UNCLEAN, AND IN A PUBLIC DOMAIN IT IS DEEMED CLEAN. FOR INSTANCE? IF A MAN ENTERED AN ALLEY[18] AND AN UNCLEAN OBJECT WAS IN THE COURTYARD, AND A DOUBT AROSE AS TO WHETHER THE MAN DID OR DID NOT ENTER IT;[19] OR IF AN OBJECT OF UNCLEANNESS WAS IN A HOUSE AND THERE IS DOUBT WHETHER A MAN ENTERED OR NOT; OR EVEN WHERE HE ENTERED, THERE IS DOUBT WHETHER THE UNCLEANNESS WAS THERE OR NOT; OR EVEN WHERE IT WAS THERE THERE IS DOUBT WHETHER IT CONSISTED OF THE PRESCRIBED MINIMUM OR NOT; OR EVEN WHERE IT CONSISTED OF THE PRESCRIBED MINIMUM, THERE IS DOUBT WHETHER IT WAS UNCLEAN OR CLEAN; OR, EVEN WHERE IT WAS UNCLEAN, THERE IS DOUBT WHETHER THE MAN HAD TOUCHED IT OR NOT, ANY SUCH CONDITION OF DOUBT IS DEEMED UNCLEAN. R. ELIEZER[20] RULED: ANY CONDITION OF DOUBT IN REGARD TO ENTERING IS DEEMED CLEAN, BUT ANY CONDITION OF DOUBT IN REGARD TO CONTACT WITH THE UNCLEANNESS IS DEEMED UNCLEAN.[21]

MISHNAH 5. IF A MAN ENTERED A VALLEY[22] IN THE RAINY SEASON[23] AND THERE WAS AN UNCLEANNESS IN A CERTAIN FIELD, AND HE STATED, ‘I WENT INTO THAT PLACE[24] BUT I DO NOT KNOW WHETHER I ENTERED THAT FIELD[25] OR NOT’, R. ELIEZER RULES THAT HE IS CLEAN,[26] BUT THE SAGES RULE THAT HE IS UNCLEAN.[27]

MISHNAH 6. A CONDITION OF DOUBT OCCURRING IN A PRIVATE DOMAIN IS DEEMED UNCLEAN UNLESS THE MAN CONCERNED CAN SAY, ‘I DID NOT TOUCH THE UNCLEAN THING’. A CONDITION OF DOUBT IN A PUBLIC DOMAIN IS DEEMED CLEAN UNLESS THE MAN CONCERNED CAN SAY, ‘I DID TOUCH THE UNCLEAN THING’. WHAT IS REGARDED AS A PUBLIC DOMAIN? THE PATHS OF BETH GILGUL[28] AND

SIMILAR PLACES ARE REGARDED AS A PRIVATE DOMAIN[29] IN RESPECT OF THE LAWS OF THE SABBATH, AND A PUBLIC DOMAIN IN RESPECT OF THOSE OF UNCLEANNESS.[30] R. ELIEZER[31] STATED: THE PATHS OF BETH GILGUL WERE MENTIONED ONLY BECAUSE THEY ARE REGARDED AS A PRIVATE DOMAIN IN BOTH RESPECTS.[32] PATHS THAT OPEN OUT TOWARDS CISTERNS, PITS, CAVERNS OR WINE-PRESSES ARE REGARDED AS A PRIVATE DOMAIN IN RESPECT OF THE LAWS OF THE SABBATH AND AS A PUBLIC DOMAIN IN RESPECT OF THOSE OF UNCLEANNESS.

MISHNAH 7. A VALLEY IN SUMMER TIME[33] IS REGARDED AS A PRIVATE DOMAIN IN RESPECT OF THE LAWS OF THE SABBATH, BUT AS A PUBLIC DOMAIN IN RESPECT OF THOSE OF UNCLEANNESS; AND IN THE RAINY SEASON[34] IT IS REGARDED AS A PRIVATE DOMAIN IN BOTH RESPECTS.[35]

MISHNAH 8. A BASILICA[36] IS REGARDED AS A PRIVATE DOMAIN IN RESPECT OF THE LAWS OF THE SABBATH BUT AS A PUBLIC DOMAIN IN RESPECT OF THOSE OF UNCLEANNESS. R. JUDAH RULED: IF A MAN STANDING AT ONE DOOR CAN SEE THOSE THAT ENTER AND LEAVE AT THE OTHER DOOR, IT IS REGARDED AS A PRIVATE DOMAIN IN BOTH RESPECTS; OTHERWISE IT IS REGARDED AS A PRIVATE DOMAIN IN RESPECT OF THE SABBATH AND AS A PUBLIC DOMAIN IN RESPECT OF UNCLEANNESS.

MISHNAH 9. A FORUM[37] IS REGARDED AS A PRIVATE DOMAIN IN RESPECT OF THE SABBATH LAWS AND AS A PUBLIC DOMAIN IN RESPECT OF THE LAWS OF UNCLEANNESS; AND THE SAME APPLIES TO ITS SIDES.[38] R. MEIR RULED: THE SIDES ARE REGARDED AS A PRIVATE DOMAIN IN BOTH RESPECTS.[39]

MISHNAH 10. COLONNADES[40] ARE REGARDED AS A PRIVATE DOMAIN IN RESPECT OF THE SABBATH LAWS AND AS A PUBLIC DOMAIN IN RESPECT OF THE LAWS OF UNCLEANNESS. A COURTYARD INTO WHICH MANY PEOPLE ENTER BY ONE DOOR AND LEAVE BY ANOTHER,[41] IS REGARDED AS A PRIVATE DOMAIN IN RESPECT OF THE SABBATH LAWS AND AS A PUBLIC DOMAIN IN RESPECT OF THE LAWS OF CLEANNESS.

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(1) A valley, for instance, is a private domain in the winter when on account of the growing crops people are kept out of it, and a public domain in the summer when many labourers carry on in it the various activities associated with the harvest.

(2) Where he was found to be dead.

(3) Sc. if there is doubt whether a person had touched him while he was still alive or when he was already dead.

(4) It being assumed that he was dead in the private domain before he was taken out into the public domain. Hence the man who touched him in the private domain, whether before or after he had been taken into the public domain, is deemed unclean.

(5) And any one who touched him in the public domain before he was brought back into the private domain remains clean.

(6) Between the first and the second presence in the private domain; sc. since the dead man is deemed to have been alive while he was in the public domain he cannot possibly have been dead prior to that. Hence any condition of doubt during his first presence in the private domain must be deemed clean.

(7) A leper.

(8) Under any form of roof.

(9) The doubt arising whether (a) there was contact between the two or (b) the man that walked remained stationary for a moment while under the roof (cf. prev. n.) and the clean man thus contracted uncleanness by overshadowing.

(10) Cf. prev. n.

(11) Of the unclean by the clean.

(12) In his opinion a doubt involving both a private and a public domain is to be regarded as involving the former alone.

(13) Because though, in respect of the Sabbath laws, a tree or a hole in a public domain is regarded as a public domain, in respect of uncleanness it is treated as a private domain.

(14) While standing in the public domain.

(15) The unclean shop in the public domain is on a par with a dead creeping thing lying in a public domain, and the doubt concerning entry into it is on a par with the doubt concerning the touching of the creeping thing; the former, therefore, like the latter are deemed clean (cf. supra V, lf).

(16) Cf. prev. n.

(17) Since there is no doubt that he entered one private domain at least.

(18) Which in this respect is like a private domain.

(19) The courtyard.

(20) Var. lec. Eleazar.

(21) This is derived by analogy from the conditions governing a sotah, (v. Glos).

(22) Comprising many fields.

(23) When the fields are sown and, therefore, regarded as a private domain.

(24) The valley.

(25) Which contained the uncleanness.

(26) Since the fields are separated from each other the condition of doubt is one relating to entry which is deemed clean.

(27) Because the valley unites all the fields into one unit.

(28) Which are not frequented by many people. On Beth Gilgul v. MGWJ 1921, p. 88 and 320.

(29) Sc. not a public domain. They are in fact a karmelith (v. Glos).

(30) Even if less than three men were present when the doubt arose. Where three men are present even a private domain proper is treated as a public domain in respect of the laws of uncleanness.

(31) Var. lec. Eleazar.

(32) The laws of the Sabbath and the laws of uncleanness.

(33) When it is frequented by the labourers engaged in it in various harvesting activities.

(34) When it is deserted.

(35) V. p. 393, n. 9.

(36) A large hall with doors opening in all directions, used as a public meeting place but not as a thoroughfare.

(37) Faron, a building in the style of a basilica whose doors are directly opposite one another. Aliter: A house in the heart of a public domain.

(38) On either side of the passage from one door to the other.

(39) The laws of the Sabbath and the laws of uncleanness.

(40) In front of shops, having behind them raised benches on which the traders sit or display their wares.

(41) Though the doors are not directly opposite one another.

Mishna - Mas. Taharoth Chapter 7

MISHNAH 1. IF A POTTER[1] LEFT HIS POTS[2] AND WENT DOWN TO DRINK,[3] THE INNERMOST POTS REMAIN CLEAN[4] BUT THE OUTER ONES ARE DEEMED UNCLEAN.[5] R. JOSE RULED: THIS APPLIES ONLY WHERE THEY ARE NOT TIED TOGETHER, BUT WHERE THEY ARE TIED TOGETHER, ALL THE POTS[6] ARE DEEMED CLEAN.[7] IF A MAN ENTRUSTED HIS KEY TO AN ‘AM HA-AREZ THE HOUSE REMAINS CLEAN, SINCE HE ENTRUSTED HIM ONLY WITH THE GUARDING OF THE KEY.[8]

MISHNAH 2. IF A MAN LEFT AN ‘AM HA-AREZ IN HIS HOUSE AWAKE AND[9] FOUND HIM AWAKE, OR ASLEEP AND[9] FOUND HIM ASLEEP, OR AWAKE AND[9] FOUND HIM ASLEEP, THE HOUSE REMAINS CLEAN.[10] IF HE LEFT HIM ASLEEP AND FOUND HIM AWAKE, THE HOUSE IS DEEMED UNCLEAN;[11] SO R. MEIR. BUT THE SAGES RULED: ONLY THAT PART IS UNCLEAN TO WHICH HE CAN STRETCH OUT HIS HAND AND TOUCH IT.[12]

MISHNAH 3. IF ONE LEFT CRAFTSMEN IN HIS HOUSE, THE HOUSE IS DEEMED UNCLEAN; SO R. MEIR. BUT THE SAGES RULED: ONLY THAT PART IS UNCLEAN TO WHICH THEY CAN STRETCH OUT THEIR HANDS AND TOUCH IT.[13]

MISHNAH 4. IF THE WIFE OF A HABER[14] LEFT THE WIFE OF AN ‘AM HA-AREZ GRINDING CORN IN HER HOUSE, THE HOUSE IS DEEMED UNCLEAN IF SHE CEASED FROM TURNING THE HANDMILL,[15] BUT IF SHE DID NOT CEASE FROM TURNING THE HANDMILL, ONLY THAT PART OF THE HOUSE IS DEEMED UNCLEAN TO WHICH SHE CAN STRETCH OUT HER HAND AND TOUCH IT. IF THERE WERE TWO WOMEN,[16] THE HOUSE IS UNCLEAN IN EITHER CASE,[17] SINCE, WHILE THE ONE IS GRINDING, THE OTHER CAN GO ABOUT TOUCHING; SO R. MEIR. BUT THE SAGES RULED: ONLY THAT PART OF THE HOUSE IS UNCLEAN TO WHICH THEY CAN STRETCH OUT THEIR HANDS AND TOUCH IT.

MISHNAH 5. IF A MAN LEFT AN ‘AM HA-AREZ IN HIS HOUSE TO GUARD IT, WHENEVER HE[18] CAN SEE THOSE THAT ENTER AND LEAVE,[19] ONLY FOODSTUFFS AND LIQUIDS AND UNCOVERED EARTHENWARE ARE DEEMED UNCLEAN,[20] BUT COUCHES AND SEATS AND EARTHENWARE THAT HAVE TIGHTLY FITTING COVERS REMAIN CLEAN; AND WHENEVER HE[18] CANNOT SEE EITHER THOSE WHO ENTER OR THOSE WHO LEAVE,[19] EVEN THOUGH THE ‘AM HA-AREZ[21] HAS TO BE LED AND EVEN THOUGH HE WAS BOUND, ALL IS DEEMED UNCLEAN.[22]

MISHNAH 6. IF TAX COLLECTORS[23] ENTERED A HOUSE,[24] THE HOUSE[25] IS DEEMED UNCLEAN.[26] EVEN THOUGH AN IDOLATER WAS WITH THEM[27] THEY ARE BELIEVED IF THEY SAY,[28] ‘WE HAVE ENTERED BUT TOUCHED NOTHING’.[29] IF[30] THIEVES ENTERED A HOUSE, ONLY THAT PART IN WHICH THE FEET OF THE THIEVES HAVE TRODDEN IS DEEMED UNCLEAN.[29] AND WHAT DO THEY CAUSE TO BE UNCLEAN? FOODSTUFFS AND LIQUIDS AND OPEN EARTHENWARE ONLY, BUT COUCHES AND SEATS AND EARTHENWARE THAT HAVE TIGHTLY FITTING COVERS REMAIN CLEAN. IF AN IDOLATER[31] OR A WOMAN[32] , WAS WITH THEM, ALL IS DEEMED UNCLEAN.[33]

MISHNAH 7.IF A MAN LEFT HIS CLOTHES IN A WALL-NICHE OF A BATH-HOUSE,[34] R. ELEAZAR B. AZARIAH RULES THAT THEY ARE DEEMED CLEAN,[35] BUT THE SAGES RULED: THEY CANNOT BE REGARDED AS CLEAN UNLESS HE GIVES HIM[36] THE KEY[37] OR THE SEAL[37] OR UNLESS HE LEFT SOME SIGN ON THEM. IF A MAN[38] LEFT[39] HIS CLOTHES[40] FROM ONE VINTAGE TO THE NEXT, HIS[41] CLOTHES REMAIN CLEAN;[42] BUT IF HE LEFT THEM WITH AN ISRAELITE[43] THE CLOTHES ARE DEEMED UNCLEAN UNLESS HE[44] DECLARES, ‘I HAVE TAKEN GOOD CARE[45] TO GUARD THEM’.

MISHNAH 8. IF ONE[46] WHO WAS CLEAN HAD GIVEN UP THE THOUGHT OF EATING [HIS TERUMAH]. R. JUDAH RULES THAT IT[47] STILL[48] REMAINS CLEAN, SINCE IT IS USUAL FOR UNCLEAN PERSONS TO KEEP AWAY FROM IT.[49] BUT THE SAGES RULE THAT IT[50] IS DEEMED UNCLEAN.[51] IF HIS HANDS WERE CLEAN AND HE HAD GIVEN UP THE THOUGHT OF EATING TERUMAH, EVEN[52] THOUGH HE SAYS, ‘I KNEW THAT MY HANDS HAVE CONTRACTED NO UNCLEANNESS’, HIS HANDS ARE DEEMED UNCLEAN, SINCE THE HANDS ARE ALWAYS BUSY.[53]

MISHNAH 9. IF A WOMAN WHO ENTERED HER HOUSE TO BRING OUT SOME BREAD FOR A POOR MAN AND, WHEN SHE CAME OUT, FOUND HIM STANDING AT THE SIDE OF LOAVES OF TERUMAH, AND SIMILARLY IF A WOMAN WHO WENT OUT FOUND HER NEIGHBOUR RAKING OUT COALS UNDER A COOKING POT OF TERUMAH, R. AKIBA RULES THAT THEY[54] ARE UNCLEAN, BUT THE SAGES RULE THAT THEY ARE

CLEAN. SAID R. ELIEZER B. PILA:[55] IS BUT WHY DOES R. AKIBA RULE THAT THEY ARE UNCLEAN AND THE SAGES RULE THAT THEY ARE CLEAN? ONLY FOR THIS REASON: THAT WOMEN ARE GLUTTONOUS AND EACH MAY BE SUSPECTED OF UNCOVERING HER NEIGHBOUR'S COOKING POT TO GET TO KNOW WHAT SHE IS COOKING.[56]

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(1) Who was a haber (v. Glos).

(2) In a public domain, and thereby caused obstruction on the road.

(3) Thus losing sight of his wares which, in his absence, might be rendered unclean, v. n. 5.

(4) V. next note.

(5) Because the skirts of an ‘am ha-arez might have been caught in the interior (air-space) of the pots. This is, however, not likely to happen with the inner pots, v. Keth. 24b.

(6) Even the inner ones (cf. foll. n.).

(7) Even the outer ones are clean, because when they are tied to the others the mouths of the pots are not sufficiently exposed upwards to catch in their interior the skirts of passers-by. Maim. reads: Unclean, because by moving the outer ones the ‘am ha-arez might indirectly have moved the inner ones also to which they are tied.

(8) The ‘am ha- arez would not, therefore, venture to enter the house which was not placed under his care.

(9) On returning.

(10) For, having been left awake the ‘am ha-arez would not dare to touch anything for fear that the master would return any moment. When he is left asleep and found asleep there is no need to suspect that he awoke in the meantime.

(11) Since the ‘am ha-arez is not afraid to move about the house touching its contents because he assumes that the owner who left him asleep would be in no hurry to return.

(12) From where he lay, that is where the master found him on that same spot.

(13) Without having to ascend or descend.

(14) Who is trusted as much as the haber himself.

(15) Before the haber's wife returned; since this would give her time to walk about the house and touch things.

(16) Grinding the corn, each being the wife of an ‘am ha-arez.

(17) Whether grinding did or did not cease before the haber's wife returned.

(18) The householder.

(19) The house.

(20) Since the ‘am ha-arez might have touched them.

(21) Being incapable of walking.

(22) Since another person, capable of conveying uncleanness to these objects, may have visited the house and touched them.

(23) Of the ‘am ha-arez class.

(24) To seize a pledge for unpaid taxes.

(25) Sc. all the articles in it.

(26) Because, when searching the house for a pledge, they may have touched the various objects in it.

(27) In which case it might have been assumed that out of fear of him they would make a thorough search and, therefore, touch every article in the house.

(28) Var. lec. inserts, ‘we did not enter; but they are not believed if they say’.

(29) V. Hag. 26a.

(30) Var. lec., ‘and so if’.

(31) Who is considered as a zab.

(32) Who might well have been a menstruant.

(33) Since he or she may have touched all the objects in the house.

(34) Odiarin; Aliter: A bath-attendant, Heb. Odiarin. (Var. lec., oriarin), cf. Lat. olearius.

(35) Since no one would put his hands on them for fear of being suspected of stealing.

(36) The bath- attendant or the bath, keeper (cf. prev. n. but one) to the owner of the clothes. Aliter: The owner of the clothes to the bath-attendant or bath-keeper.

(37) Of the locker in which the clothes are kept.

(38) An Israelite who was engaged in the vintage of an idolater's vineyard to prepare wine under conditions of purity.

(39) With the idolater
(40) That were clean.
(41) Some edd. read, ‘with an idolater, his’.
(42) Since the idolater would not dare to touch them for fear of spoiling his vintage.
(43) Who was an ‘am ha-arez and who is not so conscientious in this respect.
(44) The ‘am ha-arez.
(45) Lit., ‘there was in my heart’.
(46) A priest.
(47) The terumah. Aliter: He (the priest).
(48) Despite the priest's lack of interest in it. Aliter: Despite his decision not to eat terumah.
(49) The terumah. Aliter: Him (the priest).
(50) Aliter. he.
(51) Cf. prev. n. but one mut. mut.
(52) Var. lec. ‘R. Judah rules even’.
(53) And consequently might have touched an unclean object without the man's awareness of it.
(54) The loaves and the contents of the pot.
(55) I.e., Philo. Var. lec. Piabi.
(56) In the case of the poor man, however, R. Akiba agrees with the Sages.

Mishna - Mas. Taharoth Chapter 8

MISHNAH 1. IF A MAN WHO DWELT IN THE SAME COURTYARD WITH AN ‘AM HA-AREZ FORGOT SOME VESSELS IN THE COURTYARD, EVEN THOUGH THEY WERE JARS WITH TIGHTLY FITTING COVERS, OR AN OVEN WITH A TIGHTLY FITTING COVER, THEY ARE DEEMED UNCLEAN.[1] R. JUDAH RULES THAT AN OVEN[2] IS CLEAN WHENEVER IT HAS A TIGHTLY FITTING COVER. R. JOSE RULED: AN OVEN ALSO IS DEEMED UNCLEAN UNLESS IT WAS PROVIDED WITH A SCREEN TEN HANDBREADTHS HIGH.[3]

MISHNAH 2. IF A MAN DEPOSITED VESSELS WITH AN ‘AM HA-AREZ THEY ARE DEEMED TO BE UNCLEAN WITH CORPSE UNCLEANNESS[4] AND WITH MIDRAS UNCLEANNESS.[5] IF THE LATTER KNEW HIM[6] TO BE A CONSUMER OF TERUMAH,[7] THEY ARE FREE FROM CORPSE UNCLEANNESS[8] BUT[9] ARE UNCLEAN WITH MIDRAS UNCLEANNESS.[10] R. JOSE RULED: IF THE MAN[6] ENTRUSTED HIM[1] , WITH A CHEST FULL OF CLOTHES, THEY ARE DEEMED TO BE UNCLEAN WITH MIDRAS WHEN THEY ARE TIGHTLY PACKED,[11] BUT IF THEY ARE NOT TIGHTLY PACKED THEY ARE ONLY DEEMED TO BE UNCLEAN WITH MIDDAF,[12] EVEN THOUGH THE KEY IS IN THE POSSESSION OF THE OWNER.[13]

MISHNAH 3. IF AN ARTICLE WAS LOST DURING THE DAY AND WAS FOUND ON THE SAME DAY IT REMAINS CLEAN.[14] IF IT WAS LOST DURING DAYTIME AND FOUND IN THE NIGHT, OR IF IT WAS LOST IN THE NIGHT AND FOUND DURING THE DAY[15] OR IF IT WAS LOST ON ONE DAY AND FOUND ON THE NEXT DAY, IT IS DEEMED TO BE UNCLEAN.[16] THIS IS THE GENERAL RULE: PROVIDED A NIGHT OR PART OF A NIGHT HAS PASSED OVER IT IT IS DEEMED UNCLEAN. IF CLOTHES HAVE BEEN SPREAD OUT[17] IN A PUBLIC DOMAIN, THEY REMAIN CLEAN;[18] BUT IF IN A PRIVATE DOMAIN THEY ARE DEEMED UNCLEAN.[19] IF, HOWEVER, ONE KEPT WATCH OVER THEM, THEY REMAIN CLEAN.[20] IF THEY FELL DOWN AND HE[21] WENT TO BRING THEM, THEY ARE DEEMED UNCLEAN.[22] IF A MAN'S BUCKET FELL INTO THE CISTERN OF AN ‘AM HA-AREZ AND HE WENT TO BRING SOMETHING WHEREWITH TO DRAW IT UP, IT IS DEEMED UNCLEAN, SINCE IT WAS LEFT FOR A TIME IN THE DOMAIN OF AN ‘AM HA-AREZ.

MISHNAH 4. IF A MAN LEFT HIS HOUSE OPEN AND FOUND IT OPEN,[23] OR CLOSED AND FOUND IT CLOSED,[24] OR OPEN[23] AND FOUND IT CLOSED, IT REMAINS CLEAN;[25] BUT IF HE LEFT IT CLOSED AND FOUND IT OPEN, R. MEIR RULES THAT IT IS DEEMED UNCLEAN,[26] AND THE SAGES RULE THAT IT REMAINS CLEAN,[27] SINCE, THOUGH THIEVES HAD BEEN THERE, THEY MAY HAVE CHANGED THEIR MIND[28] AND GONE AWAY.

MISHNAH 5. IF THE WIFE OF AN ‘AM HA-AREZ ENTERED A HABER'S HOUSE[29] TO TAKE OUT HIS SON OR HIS DAUGHTER OR HIS CATTLE, THE HOUSE REMAINS CLEAN, SINCE SHE HAD ENTERED IT WITHOUT PERMISSION.[30]

MISHNAH 6. A GENERAL RULE HAS BEEN LAID DOWN CONCERNING CLEAN FOODSTUFFS: WHATEVER IS DESIGNATED AS FOOD FOR HUMAN CONSUMPTION IS SUSCEPTIBLE TO UNCLEANNESS UNLESS IT IS RENDERED UNFIT TO BE FOOD FOR A DOG; AND WHATEVER IS NOT DESIGNATED AS FOOD FOR HUMAN CONSUMPTION IS NOT SUSCEPTIBLE TO UNCLEANNESS UNLESS IT IS DESIGNATED FOR HUMAN CONSUMPTION. FOR INSTANCE? IF[31] A PIGEON FELL INTO A WINE-PRESS[32] AND ONE INTENDED TO PICK IT OUT FOR AN IDOLATER,[33] IT BECOMES SUSCEPTIBLE TO UNCLEANNESS; BUT IF HE INTENDED IT FOR A DOG IT IS NOT SUSCEPTIBLE TO UNCLEANNESS. R. JOHANAN B. NURI RULES THAT IT IS SUSCEPTIBLE TO UNCLEANNESS. IF A DEAF MUTE, AN IMBECILE OR A MINOR INTENDED IT AS FOOD,[34] IT REMAINS INSUSCEPTIBLE; BUT IF THEY PICKED IT UP[34] IT BECOMES SUSCEPTIBLE; SINCE ONLY AN ACT OF THEIRS[35] IS EFFECTIVE WHILE THEIR INTENTION IS OF NO CONSEQUENCE.

MISHNAH 7. THE OUTER PARTS OF VESSELS THAT HAVE CONTRACTED UNCLEANNESS FROM LIQUIDS, R. ELIEZER RULED, CONVEY UNCLEANNESS TO LIQUIDS[36] BUT[37] DO NOT RENDER FOODSTUFFS UNFIT.[38] R. JOSHUA RULED: THEY CONVEY UNCLEANNESS TO LIQUIDS[36] AND ALSO RENDER FOODSTUFFS[39] UNFIT. SIMEON THE BROTHER OF AZARIAH[40] RULED: THEY DO NEITHER THE ONE NOT THE OTHER,[41] BUT LIQUIDS THAT CONTRACTED UNCLEANNESS FROM THE OUTER PARTS OF VESSELS CONVEY UNCLEANNESS[42] AT ONE REMOVE AND CAUSE UNFITNESS AT A SECOND REMOVE.[43] IT[44] MAY THUS SAY,[45] ‘THEY[46] THAT RENDERED YOU UNCLEAN DID NOT RENDER ME UNCLEAN BUT YOU HAVE RENDERED ME UNCLEAN’.

MISHNAH 8. IF A KNEADING TROUGH WAS SLOPING DOWNWARDS AND THERE WAS DOUGH[47] IN THE HIGHER PART AND DRIPPING MOISTURE IN THE LOWER PART, THEN THREE PIECES[48] THAT JOINTLY MAKE UP THE BULK OF AN EGG[49] CANNOT[50] BE COMBINED TOGETHER,[51] BUT TWO[52] ARE COMBINED.[53] R. JOSE RULED: THE TWO ALSO CANNOT BE COMBINED UNLESS THEY COMPRESS LIQUID BETWEEN THEM.[54] IF THE LIQUID, HOWEVER, WAS LEVEL,[55] EVEN THOUGH THE PIECE RESEMBLED MUSTARD SEED[56] THEY[57] ARE COMBINED TOGETHER.[53] R. DOSA RULED: CRUMBLED FOOD CANNOT BE COMBINED TOGETHER.[53]

MISHNAH 9. IF A STICK IS COMPLETELY COVERED WITH UNCLEAN LIQUID[58] IT BECOMES CLEAN AS SOON AS IT[59] HAS TOUCHED THE [WATER IN THE] RITUAL BATH;[60] SO R. JOSHUA. BUT THE SAGES RULED: ONLY WHEN THE WHOLE OF IT[61] IS IMMERSED.[62] A JET,[63] A SLOPE[64] OR DRIPPING MOISTURE[65] DOES NOT SERVE AS A CONNECTIVE[66] EITHER FOR UNCLEANNESS[67] OR FOR CLEANNESS.[68] A POOL OF WATER,[69] HOWEVER, SERVES AS A CONNECTIVE IN RESPECT BOTH OF

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(1) Since the jars may have been shifted by his menstruant wife (v. Glos. s. v. hesset). The oven, even if attached to the ground, is deemed unclean as a preventive measure against confusing what is detached from the ground (which is unclean) with what is attached.
(2) Which is attached to the ground (cf. prev. n.) and is consequently immovable.
(3) Which could serve as a reminder to the household of the ‘am ha-arez to keep away from it.
(4) Requiring sprinkling with the ashes of the red heifer on the third and the seventh day.
(5) So that any man that carried them or was carried on them becomes unclean.
(6) The depositor.
(7) I.e., a priest.
(8) It is assumed that the ‘am ha-arez will keep away from the terumah if he suffers from corpse uncleanness.
(9) If the vessels are suitable for midras.
(10) For, though the man might take care to keep them in a condition of cleanness in respect of corpse uncleanness, he cannot be sure that his wife did not sit on them during her menstruation uncleanness. (11) The ‘am ha-arez.
(11) Since one sitting on the lid would exercise pressure on all the clothes.
(12) A minor grade of uncleanness that can be conveyed to foodstuffs and liquids only.
(13) Since shifting (hesset) is possible in a closed chest also.
(14) Had any man touched it he would also have picked it up.
(15) Sc. on the next day.
(16) With midras. In the darkness of the night a menstruant or an idolater may have trodden on the lost article without being aware of it.
(17) To dry.
(18) As any other condition of doubt in a public domain which is deemed clean. There is no need to provide, as is the case with a lost article, against the possibility of midras, since people as a rule do not tread on clothes that are spread out to dry.
(19) As is the rule with a condition of doubt in such a domain.
(20) Even in a private domain. There is no need to consider the possibility of an occasional lapse.
(21) Having lost sight of them.
(22) They might have contracted an uncleanness while they were out of sight.
(23) Finding it open, a thief would be afraid to enter, knowing as he does that the owner might at any moment return.
(24) In which case it is unlikely that a thief has dared and managed to open it, to touch the objects within, and also to close it.
(25) Cf. prev. two notes.
(26) A thief having apparently been there.
(27) If nothing had been stolen.
(28) Before they touched anything in the house.
(29) Without his permission.
(30) Though it was for the owner's benefit, she is afraid to remain in it long enough to touch its contents.
(31) With reference to the last clause.
(32) Where it died and deteriorated and thus became unfit for human consumption.
(33) Who does not mind eating the bird even in its deteriorated condition.
(34) For an idolater's consumption.
(35) In this case the picking out.
(36) Even if the latter are unconsecrated.
(37) Since their uncleanness is only Rabbinical.
(38) Even if they were terumah.
(39) Of terumah.
(40) V. Zeb. 2a.
(41) Sc. they neither convey uncleanness to unconsecrated liquids nor to foodstuffs or terumah.
(42) To terumah.
(43) If the terumah they have rendered unclean touched other terumah.

(44) The terumah.
(45) To the liquids from which it contracted the uncleanness.
(46) The outer parts of the vessels.
(47) That was unclean.
(48) Two of which are on the dry part of the trough and one within the liquid, the middle one touching the upper piece and the lower piece while separating them from each other.
(49) The prescribed minimum for conveying uncleanness.
(50) On account of the two pieces that do not directly touch each other (cf. prev. n. but one).
(51) To convey uncleanness to the liquid which in turn would have conveyed uncleanness to the trough.
(52) Sc. the middle one and the one below it in the liquid, if together they make up the bulk of an egg.
(53) To constitute the prescribed minimum.
(54) Sc. they are so close to each other that the liquid between them seems to be compressed.
(55) Lit., ‘standing’, the trough lying level and the pieces of unclean dough floating in the liquid.
(56) Small and numerous but together making up the bulk of an egg.
(57) On account of the liquid that forms a connecting link.
(58) Water. The ruling does not apply to any other liquids.
(59) Sc. only one end of it.
(60) Though the remainder of the stick was outside the water. The water on the stick, which forms a slope, serves as a connective.
(61) The stick.
(62) Only then does the water on the stick become clean.
(63) Of water.
(64) Water running down an incline.
(65) With which one touching it could not moisten another object.
(66) Between the clean vessel from which it comes and the unclean one into which it descends.
(67) If the jet of water, for instance, came from a clean vessel, that vessel remains clean though the jet descended into an unclean vessel.
(68) As, for instance, in the case of the stick, if the lower end alone touched the ritual bath the stick remains unclean.
(69) Lit., ‘a marsh’, a collection of standing water.

Mishna - Mas. Taharoth Chapter 9

MISHNAH 1. AT WHAT STAGE DO OLIVES[1] BECOME SUSCEPTIBLE TO UNCLEANNESS?[2] WHEN THEY EXUDE THE MOISTURE [PRODUCED] BY [THEIR LYING IN] THE VAT[3] BUT NOT THE ONE [PRODUCED WHILE THEY ARE STILL] IN THE BASKET.[4] THIS IS ACCORDING TO THE VIEW OF BETH SHAMMAI. R. SIMEON RULED: THE MINIMUM TIME PRESCRIBED FOR PROPER EXUDATION[5] IS THREE DAYS.[6] BETH HILLEL RULED: AS SOON AS THREE OLIVES STICK TOGETHER.[7] R. GAMALIEL RULED: AS SOON AS THEIR PREPARATION[8] IS FINISHED;[9] AND THE SAGES AGREE WITH HIS VIEW.

MISHNAH 2. IF A MAN HAD FINISHED THE GATHERING[10] BUT INTENDED TO BUY SOME MORE,[11] OR IF HE HAD FINISHED BUYING BUT INTENDED TO BORROW[12] SOME MORE, OR IF[13] A TIME OF MOURNING, A WEDDING FEAST OR SOME OTHER HINDRANCE BEFELL HIM[14] THEN EVEN IF ZABS AND ZABAHS WALKED OVER THEM[15] THEY[15] REMAIN CLEAN.[16] IF ANY UNCLEAN LIQUIDS FELL UPON THEM,[15] ONLY THE PLACE WHERE IT TOUCHED THEM BECOMES UNCLEAN,[17] AND ANY SAP THAT ISSUES FORTH FROM THEM[18] IS[19] CLEAN.[20]

MISHNAH 3. WHEN THEIR PREPARATION IS FINISHED THEY[15] BECOME SUSCEPTIBLE TO UNCLEANNESS. IF AN UNCLEAN LIQUID FELL UPON THEM THEY[21] BECOME UNCLEAN.[22] THE SAP THAT ISSUES FROM THEM[23] R. ELIEZER RULES IS

CLEAN,[20] BUT THE SAGES[24] RULE THAT IT IS UNCLEAN. R. SIMEON STATED: THEY DID NOT DISPUTE THE RULING THAT SAP THAT ISSUES FROM OLIVES IS CLEAN; BUT ABOUT WHAT DID THEY DIFFER? ABOUT THAT WHICH COMES FROM THE VAT,[25] WHICH R. ELIEZER REGARDS AS CLEAN AND THE SAGES REGARD AS UNCLEAN.[26]

MISHNAH 4. IF A MAN[27] HAD FINISHED [THE GATHERING OF HIS OLIVES] AND[28] PUT[29] ASIDE[30] ONE BASKETFUL, LET[31] HIM GIVE IT TO A POOR[32] PRIEST;[33] SO R. MEIR. R. JUDAH RULED: HE[34] MUST HAND HIM[35] OVER THE KEY FORTHWITH.[36] R. SIMEON RULED:[37] WITHIN TWENTY-FOUR HOURS.

MISHNAH 5. IF A MAN PUT HIS OLIVES IN A BASKET[38] , THAT THEY MIGHT BE SOFTENED SO THAT THEY BE EASY TO PRESS, THEY BECOME SUSCEPTIBLE TO UNCLEANNESS;[39] BUT IF TO BE SOFTENED SO THAT THEY MAY BE SALTED[40] BETH SHAMMAI RULED: THEY BECOME SUSCEPTIBLE. BETH HILLEL RULED: THEY DO NOT BECOME SUSCEPTIBLE.[41] IF A MAN CRUSHED OLIVES[42] WITH UNWASHED[43] HANDS[44] HE CAUSES THEM TO BE UNCLEAN.[45]

MISHNAH 6. IF A MAN PUT HIS OLIVES ON A ROOF TO DRY, EVEN THOUGH THEY ARE PILED UP TO THE HEIGHT OF A CUBIT,[46] THEY DO NOT BECOME[47] SUSCEPTIBLE TO UNCLEANNESS.[48] IF HE PUT THEM IN THE HOUSE TO PUTRIFY, THOUGH HE INTENDS TO TAKE THEM UP ON THE ROOF,[49] OR IF HE PUT THEM ON THE ROOF THAT THEY MIGHT OPEN SO THAT THEY COULD BE SALTED,[50] THEY BECOME SUSCEPTIBLE TO UNCLEANNESS. IF HE PUT THEM IN THE HOUSE WHILE HE SECURED[51] HIS ROOF[52] OR UNTIL HE COULD TAKE THEM ELSEWHERE,[53] THEY DO NOT BECOME SUSCEPTIBLE TO UNCLEANNESS.[48]

MISHNAH 7. IF THE MAN DESIRED TO TAKE FROM THEM[54] [A QUANTITY SUFFICIENT FOR] ONE PRESSING OR FOR TWO PRESSINGS,[55] BETH SHAMMAI RULED: HE MAY TAKE OFF [WHAT HE REQUIRES] IN A CONDITION OF UNCLEANNESS[56] , BUT MUST COVER UP [WHAT HE TAKES] IN A CONDITION OF CLEANNESS.[57] BETH HILLEL RULED: HE MAY ALSO COVER IT UP IN A CONDITION OF UNCLEANNESS.[58] R. JOSE RULED: HE MAY[59] DIG OUT [WHAT HE REQUIRES] WITH METAL AXES[60] AND CARRY IT TO THE PRESS IN A CONDITION OF UNCLEANNESS.[61]

MISHNAH 8. IF A [DEAD] CREEPING THING WAS FOUND IN THE MILLING STONES,[62] ONLY THE PLACE THAT IT HAS TOUCHED BECOMES UNCLEAN; BUT IF THE MOISTURE WAS RUNNING,[63] ALL BECOMES UNCLEAN.[64] IF IT[65] WAS FOUND ON THE LEAVES,[66] THE OLIVE-PRESS MEN[67] SHALL BE ASKED[68] WHETHER THEY CAN SAY, ‘WE DID NOT TOUCH IT’. IF IT[65] TOUCHED THE MASS [OF OLIVES], EVEN BY AS LITTLE AS THE BULK OF A BARLEY GRAIN, [THE MASS BECOMES] UNCLEAN.

MISHNAH 9. IF IT[65] WAS FOUND ON BROKEN OFF PIECES[69] BUT IT TOUCHED AS MUCH AS AN EGGS BULK,[70] [THE ENTIRE MASS] BECOMES UNCLEAN.[71] IF IT WAS FOUND ON SEVERED PIECES THAT LAY UPON OTHER SEVERED PIECES,[72] EVEN THOUGH IT TOUCHED[73] AS MUCH AS AN EGG'S BULK[70] ONLY THE PLACE[73] IT TOUCHED BECOMES UNCLEAN.[74] IF IT[65] WAS FOUND BETWEEN THE WALL AND THE OLIVES, THE LATTER REMAIN CLEAN.[75] IF IT WAS FOUND [ON OLIVES[76] THAT WERE LYING] ON THE ROOF [OF THE VAT],[77] [THE OLIVES IN] THE VAT REMAIN CLEAN.[75] IF IT[65] WAS FOUND IN THE VAT, [THE OLIVES ON] THE ROOF[76] ARE [ALSO] REGARDED AS UNCLEAN.[78] IF IT[65] WAS FOUND BURNT[79] UPON THE OLIVES, AND SO ALSO IN THE CASE OF A RAG[80] THAT WAS SCORCHED,[81] [THE OLIVES REMAIN] CLEAN, BECAUSE ALL CASES OF UNCLEANNESS ARE DETERMINED IN ACCORDANCE WITH THEIR

APPEARANCE AT THE TIME THEY ARE FOUND.[82]

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(1) That are intended for the manufacture of oil.

(2) On account of the moisture they exude.

(3) This liquid being desired and welcomed by the owner is, like all liquids that are deliberately put on foodstuffs or whose presence on the food is desired, capable of rendering the olives susceptible to uncleanness, v. Maksh. I, 1.

(4) In which the olives are gathered and the moisture in which runs to waste through its holes. Such moisture is useless to the owner and, therefore, undesired by him (cf. prev. n.).

(5) Before which time the moisture cannot be regarded as valid oil.

(6) Only after the third day can the moisture be regarded as oil and thus render the olives susceptible to uncleanness. Seven kinds of liquids, of which oil is one, are capable of imparting such susceptibility to foodstuffs.

(7) In the vat, owing to the moisture exuded.

(8) Lit., ‘their work’.

(9) Sc. when no more olives are to be added to the batch of olives finally harvested and ready to be placed in the vat. It is then that exudation is desired and it is, therefore, then that the liquid is capable of rendering the olives susceptible to uncleanness.

(10) Of his olives, from the tree.

(11) To add to those in the vat; in consequence of which the exudation of the first batch is unwelcome, since by the time the second batch would begin to exude the first would be too soft and spoilt.

(12) Var. lec. ‘to gather’. Cf. prev. n.

(13) Before he completed the packing of the vat.

(14) So that he is compelled to complete the packing later, and the exudation of the first batch is consequently unwelcome to him (cf. prev. n. but two).

(15) The olives.

(16) Since the liquid, as stated supra, was undesired and, therefore, incapable of rendering the olives susceptible.

(17) Because only that place that has been touched by the liquid has been rendered by it susceptible to uncleanness as well as unclean simultaneously.

(18) Before the packing has been completed.

(19) Since it is unwelcome.

(20) Sc. it neither causes the olives to be susceptible to uncleanness nor does it itself contract any uncleanness.

(21) Even the olives that have not been directly touched by the liquid.

(22) Since the unclean liquid is mixed up with their sap.

(23) Which, according to R. Eliezer, is no proper oil and cannot, therefore, be classed among the seven liquids that render foodstuffs susceptible to uncleanness.

(24) Regarding the sap as one of the liquids that may cause susceptibility to the uncleanness of foodstuffs.

(25) After the good oil had been removed.

(26) Since some particles of good oil must remain in it.

(27) Who was an ‘am ha-arez and who, after the season of gathering, is not trusted to keep his olives in conditions of cleanness.

(28) In order that it may not become susceptible to uncleanness like the others.

(29) Var. lec. ‘let him put’.

(30) To keep it in conditions of cleanness so that terumah for the priest may be taken from it.

(31) Var. lec., ‘and let’.

(32) Var. lec., ‘in the presence of a’. The reading ‘poor’ does not exclude a wealthy priest; but the scanty terumah given after the season is usually allotted to a poor priest.

(33) Who must himself press out the oil and take off the terumah under conditions of certain cleanness.

(34) Who was an ‘am ha-arez and who, after the season of gathering, is not trusted to keep his olives in conditions of cleanness.

(35) The priest.

(36) Sc. the same day on which the gathering of his olives had been finished; thus making sure that no uncleanness whatsoever could be conveyed to them.

(37) With reference to the time within which the key must be given to the priest.

(38) Var. lec., ‘press’.
(39) Owing to the exuding moisture which was welcomed by him.
(40) And eaten in that condition.
(41) Since the exuding moisture is not welcomed, the owner preferring it to remain in the olives.
(42) Of terumah.
(43) Lit., ‘unclean’.
(44) Which, unless washed, are always deemed to be unclean in the second grade and to convey invalidity to terumah and first grade uncleanness to liquids.
(45) As the exuding moisture is welcomed by him it renders the olives susceptible to uncleanness and also unclean in the second grade, since the moisture that becomes unclean in the first grade conveys to the olives an uncleanness of the second grade.
(46) So that the weight of the upper olives inevitably presses down on the lower ones and causes exudation.
(47) Var. lec., ‘behold they are’.
(48) Since the exuding moisture is not welcomed, the owner preferring it to remain in the olives.
(49) To dry.
(50) Var. lec., ‘that they might putrify or open’.
(51) Aliter: While he prepares a watchman's hut on.
(52) Where they are subsequently to be taken to dry.
(53) Cf. prev. n.
(54) The mass of olives that are not yet susceptible to uncleanness.
(55) Sc. he is not taking the entire batch to which he intends to add some more olives.
(56) And it nevertheless remains clean, since the olives are still insusceptible to uncleanness.
(57) Since its separation from the mass constitutes the completion of its preparation for the olive-press and the exuding moisture renders it susceptible to uncleanness.
(58) So long as the greater part of the mass remains in the basket incomplete.
(59) Even when moving the entire mass.
(60) Though such axes are subject to many restrictions of uncleanness.
(61) In his opinion the olives remain insusceptible to uncleanness until the actual pressing had begun.
(62) Of olives.
(63) Thus connecting the creeping thing with the mass of olives.
(64) From contact with the moisture that contracted uncleanness from the creeping thing.
(65) The creeping thing.
(66) That cover up the olives, and that are insusceptible to uncleanness.
(67) Though they belong to the class of the ‘am ha-arez.
(68) Since in this matter even the word of an ‘am ha-arez may be relied upon.
(69) Of the main mass of olives, each piece being less than egg's bulk and lying on the main mass.
(70) Made up of the broken off pieces.
(71) On account of its contact with the egg's bulk of the small pieces that contracted uncleanness from the creeping thing.
(72) The former being separated from the main mass by the latter.
(73) Of the upper pieces.
(74) The lower pieces remain clean since each in turn only touched an unclean piece above it that was smaller than the prescribed minimum. The pieces are not combined to constitute the required bulk.
(75) It being assumed that it had never touched them.
(76) Taken from the vat.
(77) To dry.
(78) As these olives were once in the vat it is assumed that the creeping thing was there with them before they were taken up to the roof.
(79) When it no longer conveys any uncleanness.
(80) Of a zab.
(81) V. p. 408, n. 18.
(82) Hence it is assumed that the creeping thing or the scorched rag was in that condition during all the time that it lay on

the olives.

Mishna - Mas. Taharoth Chapter 10

MISHNAH 1. IF A MAN LOCKED IN THE LABOURERS[1] IN THE OLIVE-PRESS[2] AND THERE WERE OBJECTS THEREIN SUFFERING MIDRAS UNCLEANNESS, R. MEIR RULED: THE OLIVE-PRESS IS DEEMED TO BE UNCLEAN.[3] R. JUDAH RULED: THE OLIVE-PRESS REMAINS CLEAN.[4] R. SIMEON RULED: IF THEY[5] REGARD THEM[6] AS CLEAN, THE OLIVE-PRESS IS DEEMED UNCLEAN;[7] BUT IF THEY REGARD THEM AS UNCLEAN,[8] THE OLIVE-PRESS REMAINS CLEAN. SAID R. JOSE: WHY INDEED IS UNCLEANNESS IMPOSED?[9] ONLY BECAUSE THE ‘AM HA-AREZ CLASS[10] ARE NOT VERSED IN THE LAWS OF HESSET.[11]

MISHNAH 2. IF THE LABOURERS IN AN OLIVE-PRESS[12] WENT IN AND OUT,[13] AND IN THE OLIVE-PRESS[14] THERE WAS UNCLEAN LIQUID, THE LABOURERS REMAIN CLEAN IF THERE IS SPACE ENOUGH BETWEEN THE LIQUID AND THE OLIVES FOR THEIR FEET TO BE DRIED[15] ON THE GROUND.[16] IF AN UNCLEANNESS WAS FOUND IN A FRONT OF LABOURERS[17] IN THE OLIVE-PRESS OR GRAPE HARVESTERS,[17] THEY ARE BELIEVED IF THEY DECLARE, ‘WE HAVE NOT TOUCHED IT’; AND THE SAME LAW APPLIES ALSO TO THE YOUNG CHILDREN[18] AMONG THEM.[19] THEY[20] MAY, FURTHERMORE, GO OUTSIDE THE DOOR OF THE OLIVE-PRESS AND RELIEVE THEMSELVES BEHIND THE WALL, AND STILL BE DEEMED CLEAN. HOW FAR MAY THEY GO AND STILL BE DEEMED CLEAN? AS FAR AS THEY CAN BE SEEN.[21]

MISHNAH 3. IF THE LABOURERS IN THE OLIVE-PRESS OR THE GRAPE HARVESTERS WERE ONLY BROUGHT WITHIN THE PRECINCTS OF THE CAVERN[22] IT SUFFICES;[23] SO R. MEIR. R. JOSE RULED: IT IS NECESSARY THAT ONE[24] SHOULD STAND OVER THEM UNTIL IMMERSION IS PERFORMED.[25] R. SIMEON RULED: IF THEY REGARD THE VESSELS AS CLEAN, ONE MUST STAND OVER THEM UNTIL THEIR IMMERSION IS PERFORMED; BUT IF THEY REGARD THEM AS UNCLEAN, IT IS NOT NECESSARY FOR ONE TO STAND OVER THEM UNTIL IMMERSION IS PERFORMED.

MISHNAH 4. IF A MAN DESIRES TO PUT GRAPES [INTO THE WINE-PRESS] FROM THE BASKETS OR FROM WHAT WAS SPREAD OUT ON THE GROUND, BETH SHAMMAI RULED: HE MUST PUT THEM IN WITH CLEAN HANDS, FOR IF HE PUTS THEM IN WITH UNCLEAN HANDS HE RENDERS THEM UNCLEAN.[26] BETH HILLEL RULED: HE MAY PUT THEM IN WITH UNCLEAN HANDS AND YET HE MAY SET ASIDE HIS TERUMAH IN A CONDITION OF CLEANNESS.[27] [IF THEY ARE TAKEN] FROM THE GRAPE-BASKET[28] OR FROM WHAT WAS SPREAD OUT ON LEAVES,[29] ALL AGREE THAT THEY MUST BE PUT IN WITH CLEAN HANDS, FOR IF THEY ARE PUT IN WITH UNCLEAN HANDS THEY BECOME UNCLEAN.

MISHNAH 5. IF A MAN EATS GRAPES OUT OF THE BASKETS OR FROM WHAT IS SPREAD OUT ON THE GROUND, EVEN THOUGH THEY WERE BURST AND DRIPPED INTO THE WINE-PRESS, THE WINE-PRESS REMAINS CLEAN.[27] IF HE EATS THE GRAPES OUT OF THE GRAPE-BASKET[28] OR FROM WHAT WAS SPREAD OUT ON LEAVES, AND A SINGLE BERRY DROPPED INTO THE VAT, IF IT HAS A SEAL[30] ALL IN THE VAT REMAINS CLEAN;[31] BUT IF IT HAS NO SEAL, ALL IN THE VAT BECOMES UNCLEAN.[32] IF HE DROPPED[33] SOME OF THE GRAPES[34] AND TROD THEM[35] IN AN EMPTY PART OF THE WINE-PRESS,[36] THE CONTENTS OF THE LATTER REMAIN CLEAN IF THE BULK OF THE GRAPES WAS EXACTLY THAT OF AN EGG;[37] BUT IF IT WAS MORE THAN THE BULK OF AN EGG, THE CONTENTS BECOME UNCLEAN, FOR SO SOON AS THE FIRST

DROP ISSUED IT CONTRACTED UNCLEANNESS FROM THE REMAINDER WHOSE BULK IS THAT OF AN EGG.

MISHNAH 6. IF A MAN[38] WAS STANDING AND SPEAKING BY THE EDGE OF THE CISTERN[39] AND SOME SPITTLE[40] SPIRTED FROM HIS MOUTH, AND THERE ARISES THE DOUBT WHETHER IT REACHED THE CISTERN OR NOT, THE CONDITION OF DOUBT IS REGARDED AS CLEAN.[41]

MISHNAH 7. IF THE CISTERN[39] IS EMPTIED OUT[42] AND A [DEAD] CREEPING THING WAS FOUND IN THE FIRST JAR, ALL THE OTHER JARS ARE DEEMED UNCLEAN;[43] BUT IF IT WAS FOUND IN THE LAST, ONLY THAT ONE IS UNCLEAN BUT ALL THE OTHERS[44] REMAIN CLEAN.[45] WHEN DOES THIS APPLY? ONLY WHEN THE WINE IS DRAWN DIRECTLY WITH EACH JAR, BUT IF IT WAS DRAWN WITH A LADLING- JAR[46] AND A [DEAD] CREEPING THING WAS FOUND IN ONE OF THE JARS, IT ALONE[44] IS UNCLEAN.[45] WHEN DOES THIS APPLY? ONLY WHEN THE MAN EXAMINED [THE JAR AND THE LADLING-JAR][47] BUT DID NOT[48] COVER UP [THE CISTERN AND THE JAR],[49] OR COVERED THEM UP BUT DID NOT EXAMINE THEM;[50] BUT IF HE BOTH EXAMINED THEM AND COVERED THEM UP AND A [DEAD] CREEPING THING WAS FOUND IN ONE JAR, ALL THE CONTENTS OF THE CISTERN[51] ARE DEEMED UNCLEAN; IF IT WAS FOUND IN THE CISTERN, ALL ITS CONTENTS ARE DEEMED UNCLEAN AND IF IT WAS FOUND IN THE LADLING-JAR AL THE CONTENTS OF THE CISTERN[51] ARE DEEMED UNCLEAN.

MISHNAH 8. [THE SPACE] BETWEEN THE ROLLERS[52] AND [THE PILE OF] GRAPE SKINS IS REGARDED[53] AS A PUBLIC DOMAIN.[54] A VINEYARD IN FRONT OF THE GRAPE HARVESTERS[55] IS DEEMED[53] TO BE A PRIVATE DOMAIN[56] AND THAT WHICH IS BEHIND THE HARVESTERS[57] IS DEEMED[53] TO BE A PUBLIC DOMAIN.[58] WHEN DOES THIS LAW[59] APPLY? ONLY WHEN THE PUBLIC ENTER AT ONE END AND GO OUT AT THE OTHER.[60] THE IMPLEMENTS OF THE OLIVE-PRESS, THE WINE-PRESS AND THE BASKET-PRESS,[61] IF THEY ARE OF WOOD, NEED ONLY BE DRIED[62] WHEN[63] THEY BECOME CLEAN; BUT IF THEY ARE OF REED GRASS[64] THEY MUST BE LEFT UNUSED[65] FOR TWELVE MONTHS, OR THEY MUST BE SCALDED IN HOT WATER.[66] R. JOSE RULED: IT SUFFICES IF THEY ARE IMMERSED[67] IN THE CURRENT OF THE RIVER.[68]

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(1) Who belonged to the ‘am ha-arez class and who are usually careless in the observance of the laws of cleanness and uncleanness but for whose cleansing he had especially arranged.

(2) Thus making sure that they would not come out and contract any uncleanness from without and that no unclean person would get in and convey uncleanness.

(3) The ‘am ha-arez, in his opinion, cannot be trusted to keep away from the unclean objects even in such circumstances.

(4) Having been made clean for the purpose the labourers may be relied upon to keep away from all possible uncleanness.

(5) The labourers.

(6) The unclean objects in the olive-press.

(7) Since they would not mind handling those objects and thus contract and convey uncleanness.

(8) In which case they would avoid them.

(9) In the case under discussion.

(10) Who, contrary to the view of R. Meir, are not suspected of being so careless as actually to touch an unclean object.

(11) V. Glos. And, shifting one of the objects even without directly touching it, would unknowingly contract and convey uncleanness.

(12) Who were free from uncleanness.

(13) Walking with their bare feet on the ground.

(14) On the floor.

(15) Before they reached the olives.

(16) In such a case the liquid which, having dried up, does not come in contact with the olives, cannot possibly convey any uncleanness to them, while the labourers themselves are not affected by the liquid which conveys no uncleanness to men.

(17) V. p. 410, n. 12.

(18) Who are presumed to be unclean on account of their contact with menstruants who do not refrain from embracing them.

(19) Sc. they are believed if they declare that they have not touched the children.

(20) Who belonged to the ‘am ha-arez class and who are usually careless in the observance of the laws of uncleanness and cleanness but for whose cleansing one had especially arranged.

(21) By the owner, from his position at the press.

(22) Containing the ritual bath for their immersion or that of the vessels which they are going to use.

(23) To regard them as clean, even if the owner did not witness the actual immersion.

(24) Who is versed in the laws of immersion.

(25) Since they themselves are not familiar with these laws.

(26) Since unclean hands convey uncleanness to exuding liquid and the liquid in turn conveys uncleanness to the grapes.

(27) The exuding liquid, in their opinion, does not render the grapes susceptible to uncleanness since in a basket or on the ground it runs to waste and is, therefore, undesired and unwelcomed.

(28) Lined with pitch to prevent the waste of any liquid.

(29) In which cases the liquid is not wasted and, therefore, welcomed.

(30) Sc. its stalk was still on it sealing it up, so that no liquid would come forth.

(31) For, though the berry became susceptible to uncleanness when it was cut with the intention of putting it in the wine-press and, in consequence, contracted uncleanness from the man's hands, it nevertheless cannot convey uncleanness to the contents of the vat since (a) a foodstuff cannot convey uncleanness to another foodstuff and (b) it is smaller than the prescribed minimum.

(32) Since the liquid in the berry contracted uncleanness from the man's hands and, there being no prescribed minimum for liquids, it conveys uncleanness to the contents of the wine-press.

(33) Into the wine-press.

(34) Of those whose stalks were still on them, that were cut with the intention of being put into the wine-press, and that in consequence became susceptible to uncleanness and then contracted uncleanness from the hands.

(35) To press the wine out.

(36) Sc. one on which there was no liquid.

(37) For, as soon as the first drop exudes, there remains less than the minimum prescribed for the conveyance of uncleanness.

(38) An ‘am ha-arez.

(39) In which the wine is gathered.

(40) Which is deemed unclean and, in accordance with a Rabbinical law, conveys uncleanness to foodstuffs and liquids.

(41) As is the case with any other unclean object that is thrown through space.

(42) With a number of jars in succession.

(43) It being assumed, since an uncleanness at one time may be presumed to have existed at an earlier time, that the unclean object was in the jar all the time and that it conveyed uncleanness to all the contents of the cistern when that jar was lowered into the water.

(44) Since it is not presumed that an uncleanness found in one place was first present in another place.

(45) The assumption being that the unclean object in the jar was never in the cistern.

(46) Which draws the wine from the cistern and then empties it into the jar.

(47) Before using them.

(48) After each drawing of the wine.

(49) To prevent any unclean object from falling into them. In such a case it may well be assumed that it was only then that the unclean object had fallen in.

(50) So that it may well be presumed that the unclean object was in the jar all the time.

(51) In which it must obviously have been first.

(52) Beams kept for the purpose of placing upon the grape skins (after the main part of the juice had been pressed out) in order to squeeze out any possible juice that still remained in them.

(53) In respect of conditions of doubtful uncleanness which are deemed clean in public, and unclean in a private domain.

(54) Since many men are required for the lifting up and the carrying of the beams from their position to the pile of grape skins.

(55) Sc. a vineyard or a part of it that had not yet been harvested.

(56) Since the public are kept out of it.

(57) Sc. the part that had already been harvested.

(58) Since the public freely use it.

(59) The last mentioned.

(60) Otherwise it must still be regarded as a private domain.

(61) ‘Ikal or ‘Ekel, a basket or bale of some loose texture into which the pressed out olives are packed to undergo a further process of pressing.

(62) After being washed with a mixture of ashes and water.

(63) After due ritual immersion.

(64) Which has a greater capacity for absorption.

(65) Lit., ‘he causes them to grow old’.

(66) After which due ritual immersion restores them to cleanness.

(67) For twelve hours.

(68) Where the rapidity of the water current expels the absorbed moisture.

Mishna - Mas. Mikva'oth Chapter 1

MISHNAH 1. THERE ARE SIX DEGREES OF GATHERINGS OF WATER,[1] EACH SUPERIOR TO THE OTHER.[2] THE WATER OF PITS[3] — IF AN UNCLEAN PERSON DRANK OF IT AND THEN A CLEAN PERSON DRANK OF IT, HE BECOMES UNCLEAN;[4] IF AN UNCLEAN PERSON DRANK OF IT AND WATER WAS THEN DRAWN FROM IT IN A CLEAN VESSEL, [THE VESSEL] BECOMES UNCLEAN;[4] IF AN UNCLEAN PERSON DRANK OF IT AND THEN A LOAF OF TERUMAH[5] FELL IN AND WAS WASHED IN IT, IT BECOMES UNCLEAN; BUT IF IT WAS NOT WASHED IN IT, IT CONTINUES CLEAN.[6]

MISHNAH 2. IF ONE DREW WATER FROM IT IN AN UNCLEAN VESSEL AND THEN A CLEAN PERSON DRANK [OUT OF THE PIT]. HE BECOMES UNCLEAN;[7] IF ONE DREW WATER [FROM IT] IN AN UNCLEAN VESSEL AND THEN DREW WATER FROM IT IN A CLEAN VESSEL, IT BECOMES UNCLEAN; IF ONE DREW WATER [FROM IT] IN AN UNCLEAN VESSEL AND A LOAF OF TERUMAH FELL IN AND WAS WASHED IN IT, IT BECOMES UNCLEAN; BUT IF IT WAS NOT WASHED IN IT, IT CONTINUES CLEAN.

MISHNAH 3. IF UNCLEAN WATER[8] FELL INTO IT AND A CLEAN PERSON DRANK OF IT, HE BECOMES UNCLEAN; IF UNCLEAN WATER FELL INTO IT AND THEN WATER WAS DRAWN FROM IT IN A CLEAN VESSEL, IT BECOMES UNCLEAN; IF UNCLEAN WATER FELL INTO IT AND A LOAF OF TERUMAH FELL IN AND WAS WASHED IN IT, IT BECOMES UNCLEAN; BUT IF IT WAS NOT WASHED IN IT, IT CONTINUES CLEAN. R. SIMEON SAYS: IT BECOMES UNCLEAN[9] WHETHER IT WAS WASHED IN IT OR WHETHER IT WAS NOT WASHED IN IT.

MISHNAH 4. IF A CORPSE FELL INTO IT OR AN UNCLEAN PERSON[10] WALKED IN IT, AND A CLEAN PERSON DRANK OF IT, HE CONTINUES CLEAN. THE SAME RULE APPLIES TO THE WATER OF PITS, THE WATER OF CISTERNS,[11] THE WATER OF DITCHES,[12] THE WATER OF CAVERNS,[13] THE WATER OF RAIN DRIPPINGS[14] WHICH HAVE STOPPED,[15] AND MIKWEHS[16] OF LESS THAN FORTY SE'AHS: THEY ARE ALL CLEAN DURING THE TIME OF RAIN;[17] WHEN THE RAIN HAS STOPPED THOSE NEAR TO A CITY OR TO A ROAD ARE UNCLEAN,[18] AND THOSE DISTANT REMAIN CLEAN UNTIL THE MAJORITY OF PEOPLE PASS [THAT WAY].[19]

MISHNAH 5. WHEN ARE THEY ACCOUNTED CLEAN AGAIN? BETH SHAMMAI SAY: WHEN THEIR CONTENTS HAVE BEEN INCREASED[20] [BY MORE THAN THE ORIGINAL QUANTITY] AND THEY OVERFLOW.[21] BETH HILLEL SAY: WHEN THEIR CONTENTS HAVE BEEN INCREASED[22] [BY MORE THAN THEIR ORIGINAL QUANTITY] ALTHOUGH THEY DO NOT OVERFLOW. R. SIMEON SAYS: WHEN THEY OVERFLOW ALTHOUGH THEIR CONTENTS HAVE NOT BEEN SO[23] INCREASED. [ALL SUCH PIT- WATER][24] IS VALID [FOR PREPARING DOUGH] FOR HALLAH[25] AND FOR THE WASHING OF THE HANDS.[26]

MISHNAH 6. SUPERIOR TO SUCH [WATER] IS THE WATER OF RAIN DRIPPINGS WHICH HAVE NOT STOPPED.[27] IF AN UNCLEAN PERSON DRANK OF IT AND THEN A CLEAN PERSON DRANK OF IT, HE CONTINUES CLEAN;[28] IF AN UNCLEAN PERSON DRANK OF IT AND WATER WAS THEN DRAWN FROM IT IN A CLEAN VESSEL, IT CONTINUES CLEAN; IF AN UNCLEAN PERSON DRANK OF IT AND A LOAF OF TERUMAH FELL IN, EVEN IF IT WAS WASHED IN IT, IT CONTINUES CLEAN; IF ONE DREW WATER FROM IT IN AN UNCLEAN VESSEL AND THEN A CLEAN PERSON DRANK [OUT OF THE POOL]. HE CONTINUES CLEAN; IF ONE DREW WATER FROM IT IN AN UNCLEAN VESSEL AND A LOAF OF TERUMAH FELL [INTO THE POOL]. EVEN IF

IT WAS WASHED IN IT, IT CONTINUES CLEAN; IF UNCLEAN WATER FELL INTO IT AND A CLEAN PERSON DRANK OF IT, HE CONTINUES CLEAN; IF UNCLEAN WATER FELL INTO IT AND ONE DREW WATER FROM IT IN A CLEAN VESSEL, IT CONTINUES CLEAN; IF UNCLEAN WATER FELL INTO IT AND A LOAF OF TERUMAH FELL IN, EVEN IF IT WAS WASHED IN IT, IT CONTINUES CLEAN. [ALL SUCH WATER] IS VALID FOR TERUMAH[29] AND FOR THE WASHING OF THE HANDS.[30]

MISHNAH 7. SUPERIOR TO SUCH [WATER] IS [THE WATER OF] THE MIKWEH CONTAINING FORTY SE'AHS,[31] FOR IN IT PERSONS MAY IMMERSE THEMSELVES[32] AND IMMERSE OTHERS.[33] SUPERIOR AGAIN IS [THE WATER OF] A FOUNTAIN WHOSE OWN WATER IS LITTLE BUT HAS BEEN INCREASED BY A GREATER QUANTITY OF DRAWN WATER; IT IS EQUIVALENT TO THE MIKWEH IN AS MUCH AS IT MAY RENDER CLEAN BY STANDING WATER,[34] AND TO AN [ORDINARY] FOUNTAIN IN AS MUCH AS ONE MAY IMMERSE IN IT WHATEVER THE QUANTITY OF ITS CONTENTS.[35]

MISHNAH 8. SUPERIOR AGAIN ARE ‘SMITTEN WATERS[36] WHICH CAN RENDER CLEAN EVEN WHEN FLOWING. SUPERIOR AGAIN ARE ‘LIVING WATERS’[37] WHICH SERVE FOR THE IMMERSION OF PERSONS WHO HAVE A RUNNING ISSUE[38] AND FOR THE SPRINKLING OF LEPERS,[39] AND ARE VALID FOR THE PREPARATION OF THE WATER OF PURIFICATION.[40]

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(1) במקואות, here used in the ordinary and more original sense of an assemblage of water, as in biblical Hebrew (e.g., Gen. I, 10). and not in the later technical sense of a ritual bathing-pool; cf. Introduction. The six degrees are: I, water of pits (mishna 1); II, water of rain drippings (mishna 6); III, the mikweh; IV, the fountain (mishna 7); V. smitten water; VI, living water (mishna 8).

(2) In their power of imparting and removing uncleanness.

(3) גביאים, cf. Isa. XXX, 14. The contents are less than 40 se'ahs. If the pit contains 40 se'ahs or more, it becomes a mikweh.

(4) The water taken up by the drinker in his mouth having become unclean, it may be feared that a drop of it fell from his mouth back’ into the water of the pit, and was afterwards drunk by the clean person, or was taken up in the clean vessel.

(5) Heave-offering which, by reason of its sanctity, is susceptible to uncleanness more than ordinary food; cf. Zabim V, 12; Shab. 14a.

(6) The water in the pit is considered as joined to the ground, and as such is incapable of becoming unclean or of conveying uncleanness (cf Lev. XI, 36), until it is deliberately removed from the pit. Therefore, if the person did not wash the loaf, the unclean drop of water, which may have been absorbed by the loaf, was neutralized and its uncleanness rendered ineffective by the rest of the water in the pit. But when the person washed the loaf, he deliberately removed from the pit water absorbed by the loaf, which may have included the unclean drop. This drop, therefore, was not neutralized, but imparted its uncleanness to the loaf.

(7) The same rule obtains in the case of an unclean vessel as in the case of an unclean drinker. The vessel imparts uncleanness to the water it takes up from the pit. A drop of this unclean water may have fallen back from the vessel into the pit, and may have been taken up again by the drinker in his mouth.

(8) The rule applying to a drop falling back into the pit from an unclean drinker or from an unclean vessel applies also to unclean water which falls into the pit.

(9) In all the three cases discussed above. He holds that even when the loaf was not washed, we may suspect that it was the clean water alone which escaped from the loaf when lifted from the pit, and that the unclean water adhered to the loaf, and rendered it unclean.

(10) The corpse or the unclean person did not make the water unclean, because, as stated above p. 423, n. 6, water in a pit is considered joined to the ground, and is not susceptible to uncleanness unless it is deliberately separated from the pit.

(11) They are shaped round like wells.

(12) Shaped long and narrow.

(13) These are more or less square-shaped and roofed.

(14) Pools formed by rain water running down from the hills.
(15) To trickle down from the hills. If they have not stopped, they would neutralize an unclean drop falling into them.
(16) Artificial pools designed for ritual immersion (cf. Introd.), somewhat rectangular in shape, but not roofed.
(17) When wayfarers are few and drinking water is abundant. There is then no need to suspect that an unclean person had drunk from them, or that water had been drawn from them in an unclean vessel. And if by chance this did happen, the flowing rain water would have neutralized the unclean drop.
(18) It may be suspected that an unclean wayfarer had drunk from them, or that water was drawn from them in an unclean vessel.
(19) Among whom there may have been an unclean person who drank of the water, or a person who drew water in an unclean vessel.
(20) By rain water.
(21) So that it may be assumed that the unclean quantity had escaped.
(22) The larger quantity of rain water is sufficient to neutralize the unclean quantity; cf. Maksh. II, 3.
(23) Even if the new rain water was less than the original contents, but was sufficient to overfill the receptacle.
(24) As defined Supra I, n. 3.
(25) I.e. dough from which hallah, or dough-offering, has to be taken; cf. Num. XV, 20; Hal. I. 1.
(26) Before eating of common food; cf. Hag. II, 5.
(27) Cf. p. 425 nn. 3, 4.
(28) A possible unclean drop falling back into the pool is neutralized by the fresh flow of water coming down from the hills.
(29) For preparing in it food of heave- offering.
(30) Even for eating terumah; cf. Hag. l.c.
(31) Not filled by the hand of man; cf. Introd.
(32) All persons who require purification by immersion, with the exception of persons with a running issue; cf. next Mishnah.
(33) Unclean vessels and the hands before eating of the meat of sacrifices; cf. Hag. l.c.
(34) Whereas a fountain with its water coming from under the ground can purify also when the water is flowing.
(35) It does not require to have 40 se'ahs, but just sufficient for the complete immersion of persons or of utensils; cf. Introd.
(36) Salty water or hot water from a spring.
(37) Pure and sweet spring water.
(38) Cf. Lev. XV, 13.
(39) Ibid. XIV, 5-7.
(40) Num. XIX, 17.

Mishna - Mas. Mikva'oth Chapter 2

MISHNAH 1. IF AN UNCLEAN MAN WENT DOWN TO IMMERSE HIMSELF AND IT IS DOUBTFUL WHETHER HE DID IMMERSE HIMSELF OR NOT,[1] OR EVEN IF HE DID IMMERSE HIMSELF,[2] IT IS DOUBTFUL WHETHER THE MIKWEH CONTAINED FORTY SE'AHS OR NOT, OR IF THERE WERE TWO MIKWEHS, ONE CONTAINING FORTY SE'AHS BUT NOT THE OTHER, AND HE IMMERSED HIMSELF IN ONE OF THEM BUT HE DOES NOT KNOW IN WHICH OF THEM HE IMMERSED HIMSELF, IN SUCH A DOUBT HE IS ACCOUNTED UNCLEAN.[3]

MISHNAH 2. IF A MIKWEH WAS MEASURED AND WAS FOUND LACKING [IN ITS PRESCRIBED QUANTITY],[4] ALL THINGS WHICH HAD BEEN PURIFIED IN IT HITHERTO,[5] WHETHER IN PRIVATE PREMISES OR IN PUBLIC PREMISES,[6] ARE ACCOUNTED UNCLEAN. TO WHAT DOES THIS RULE APPLY?[7] TO A SERIOUS UNCLEANNESS.[8] BUT IN THE CASE OF A LESSER UNCLEANNESS,[9] NAMELY IF ONE ATE UNCLEAN FOODS[10] OR DRANK UNCLEAN LIQUIDS, OR IF HIS HEAD AND THE GREATER PART OF HIS BODY ENTERED INTO DRAWN WATER,[11] OR IF THREE LOGS OF DRAWN WATER FELL

ON HIS HEAD AND THE GREATER PART OF HIS BODY,[12] AND HE THEN WENT DOWN TO IMMERSE HIMSELF AND HE IS IN DOUBT WHETHER HE IMMERSED HIMSELF OR NOT, OR EVEN IF HE DID IMMERSE HIMSELF THERE IS [STILL] A DOUBT WHETHER THE MIKWEH CONTAINED FORTY SE'AHS OR NOT, OR IF THERE WERE TWO MIKWEHS, ONE CONTAINING FORTY SE'AHS AND NOT THE OTHER, AND HE IMMERSED HIMSELF IN ONE OF THEM BUT DOES NOT KNOW IN WHICH OF THEM HE IMMERSED HIMSELF, IN SUCH A DOUBT HE IS ACCOUNTED CLEAN. R. JOSE CONSIDERS HIM UNCLEAN, FOR R JOSE SAYS: ANYTHING WHICH IS PRESUMPTIVELY UNCLEAN ALWAYS REMAINS IN A CONDITION OF UNFITNESS UNTIL IT IS KNOWN THAT IT HAS BECOME CLEAN;[13] BUT IF THERE IS A DOUBT WHETHER A PERSON BECAME UNCLEAN[14] OR CAUSED UNCLEANNESS,[15] IT IS TO BE ACCOUNTED CLEAN.

MISHNAH 3. IN THE CASE OF A DOUBT ABOUT DRAWN WATER WHICH THE SAGES HAVE DECLARED CLEAN,[16] WHEN THERE IS A DOUBT WHETHER [THREE LOGS OF DRAWN WATER] FELL INTO THE MIKWEH OR NOT, OR IF, THOUGH THEY DID FALL IN, THERE IS A DOUBT WHETHER [THE MIKWEH] CONTAINED FORTY SE'AHS OR NOT, OR IF THERE WERE TWO MIKWEHS OF WHICH ONE CONTAINED FORTY SE'AHS AND THE OTHER DID NOT, AND DRAWN WATER FELL INTO ONE OF THEM AND IT IS NOT KNOWN INTO WHICH OF THEM IT FELL, IN SUCH A DOUBT IT IS ACCOUNTED CLEAN,[17] BECAUSE THERE EXISTS [A POSSIBILITY][18] ON WHICH WE MAY DEPEND [IN DECLARING IT CLEAN]. IF THEY BOTH CONTAINED LESS THAN FORTY SE'AHS, AND [DRAWN WATER] FELL INTO ONE OF THEM AND IT IS NOT KNOWN INTO WHICH OF THEM IT FELL, IN SUCH A DOUBT IT IS ACCOUNTED UNCLEAN, BECAUSE THERE EXISTS NO [POSSIBILITY][19] ON WHICH WE MAY DEPEND [IN DECLARING IT CLEAN].

MISHNAH 4. R. ELIEZER SAYS: A QUARTER-LOG OF DRAWN WATER IN THE BEGINNING[20] MAKES THE MIKWEH INVALID, AND THREE LOGS ON THE SURFACE OF THE WATER.[21] BUT THE SAGES SAY: BOTH IN THE BEGINNING AND AT THE END, THE MEASURE [WHICH MAKES THE MIKWEH INVALID] IS THREE LOGS.

MISHNAH 5. IF THERE WERE THREE CAVITIES[22] IN A MIKWEH[23] EACH HOLDING A LOG OF DRAWN WATER, IF IT IS KNOWN THAT THERE FELL THEREIN FORTY SE'AHS OF VALID WATER BEFORE REACHING THE THIRD CAVITY, [SUCH A MIKWEH IS][24] VALID; OTHERWISE IT IS INVALID. BUT R. SIMEON DECLARES IT VALID, SINCE IT RESEMBLES A MIKWEH ADJOINING ANOTHER MIKWEH.[25]

MISHNAH 6. IF THE MUD[26] HAD BEEN MOVED TO THE SIDES AND THEN THREE LOGS [OF WATER] WERE DRAWN OUT FROM IT, [THE MIKWEH IS STILL] VALID. BUT IF THE MUD HAD BEEN REMOVED AWAY[27] AND THREE LOGS WERE DRAWN FROM IT [INTO THE MIKWEH]. IT BECOMES INVALID.[28] BUT R. SIMEON PRONOUNCES IT VALID, SINCE THERE WAS NO INTENTION TO DRAW [THE WATER].[29]

MISHNAH 7. IF ONE HAD LEFT WINE-JARS ON THE ROOF TO DRY[30] AND THEY BECAME FILLED WITH WATER,[31] R. ELIEZER SAYS: IF IT WAS THE SEASON OF RAIN[32] AND[33] THERE WAS [IN THE CISTERN] A LITTLE WATER, ONE MAY BREAK THE JARS;[34] OTHERWISE ONE MAY NOT BREAK THEM.[35] R. JOSHUA SAYS: IN EITHER CASE ONE MAY BREAK THEM OR TILT THEM OVER,[36] BUT ONE MAY NOT EMPTY[37] [THEM INTO THE CISTERN].

MISHNAH 8. IF A PLASTERER FORGOT HIS LIME-TUB IN A CISTERN AND IT BECAME FILLED WITH WATER, IF WATER FLOWED ABOVE IT HOWEVER LITTLE,[38] IT MAY BE BROKEN;[39] OTHERWISE IT MAY NOT BE BROKEN.[40] THIS IS THE OPINION OF R.

ELIEZER. BUT R. JOSHUA SAYS: IN EITHER CASE IT MAY BE BROKEN.[41]

MISHNAH 9. IF ONE HAD ARRANGED WINE-JARS IN A CISTERN[42] AND THEY BECAME FILLED WITH WATER, EVEN THOUGH THE WATER OF THE CISTERN WAS ALL SOAKED UP,[43] THEY MAY BE BROKEN.[44]

MISHNAH 10. IF A MIKWEH CONTAINED FORTY SE'AHS OF WATER AND MUD[45] [COMBINED]. R. ELIEZER SAYS: ONE MAY IMMERSE OBJECTS IN THE WATER BUT ONE MAY NOT IMMERSE THEM IN THE MUD. BUT R. JOSHUA SAYS: IN THE WATER AND ALSO IN THE MUD. IN WHAT KIND OF MUD MAY OBJECTS BE IMMERSED? MUD OVER WHICH WATER FLOATS.[46] IF THE WATER WAS ON THE ONE SIDE ONLY. R. JOSHUA ADMITS THAT OBJECTS MAY BE IMMERSED IN THE WATER BUT MAY NOT BE IMMERSED IN THE MUD.[47] OF WHAT KIND OF MUD HAVE THEY SPOKEN?[48] MUD INTO WHICH A REED WILL SINK OF ITSELF.[49] THIS IS THE OPINION OF R. MEIR. R. JUDAH SAYS: [MUD] IN WHICH[50] A MEASURING-ROD WILL NOT STAND UPRIGHT.[51] ABBA ELEAZAR B. DULA'I SAYS: [MUD] INTO WHICH A PLUMMET WILL SINK. R. ELIEZER SAYS: SUCH AS WILL GO DOWN INTO THE MOUTH OF A JAR.[52] R. SIMEON SAYS: SUCH AS WILL ENTER INTO THE TUBE OF A WATER- SKIN.[53] R. ELEAZAR B. ZADOK SAYS: SUCH AS CAN BE MEASURED IN A LOG MEASURE.[54]

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(1) Whether the immersion was carried out in accordance with the prescribed regulations.

(2) He is sure the immersion was carried out properly.

(3) The doubtful purification has not the power of undoing the certain state of a previous defilement.

(4) 40 se'ahs.

(5) Since the time it was known to have contained 40 se'ahs until it was measured.

(6) Although the rule is that a doubtful defilement in public premises is deemed clean (cf. Toh. IV, 7, 11; ‘Ed. (Sonc. ed.) p. 11, n. 6; p. 19, n. 13.), because the doubt here is not about the defilement but about the purification of a previous certain defilement.

(7) In this and in the last Mishnah.

(8) Caused by a principal defilement (אב הטימאה; ‘Ed. (Sonc. ed.) p. 10, n. 1), enacted by the Torah.

(9) Caused by a secondary defilement enacted by rabbinic law only.

(10) Of a secondary defilement of the first or second degree; cf. ‘Ed. l.c.

(11) Immediately after immersion in a mikweh.

(12) All these acts cause secondary defilement in accordance with rabbinic law only, disqualifying the person from eating terumah; cf. Toh. IV, 11; Zabim V, 12; Shab. 13b.

(13) R. Jose makes no distinction between a defilement according to Mosaic law and a defilement according to rabbinic law. In either case when the defilement is certain and the purification doubtful, the defilement continues. Only when the doubt is about a defilement according to rabbinic law may it be deemed clean.

(14) By any of the named secondary defilements.

(15) After the person had become unclean by a secondary defilement, there arose a doubt whether he had conveyed uncleanness to terumah things.

(16) Cf. Toh. IV, 7.

(17) In both cases the mikwehs are valid when their contents are brought up to 40 se'ahs.

(18) Viz., that the three logs did not fall in at all, or that the mikweh did contain 40 se'ahs, or, finally, that the three logs fell into the mikweh containing 40 se'ahs.

(19) Since one of the two mikwehs was certainly rendered invalid, and as we do not know which of the two, both must be considered invalid.

(20) Before the mikweh became filled with rain water, a quarter-log of drawn water was put into it.

(21) Poured in after the mikweh had been filled with rain water, but with less than 40 se'ahs.

(22) One above the other in the wall of the mikweh.

(23) Which was empty.

(24) Because when the contents of the mikweh reached 40 se'ahs, the quantity of drawn water in it was still less than three logs.

(25) The cavities are to be considered as distinct and separate from the main mikweh, and as if they were themselves mikwehs. But the validity of a mikweh is not affected by its contiguity with an invalid mikweh.

(26) In a mikweh holding less than 40 se'ahs.

(27) Out of the mikweh.

(28) The water from the mud is considered drawn water.

(29) The intention was only to remove the mud but not the water contained therein; therefore the water is deemed as still belonging to the mikweh.

(30) But if the intention was that they should be filled with water, the water would become equivalent to drawn water.

(31) Rain water.

(32) When the mikweh under the roof might be expected to be filled with nearly 40 se'ahs of rain water.

(33) Var. lec. ‘or’.

(34) So that their water may flow into the mikweh below and make up 40 se'ahs.

(35) If it is not the rainy season and the mikweh cannot be expected to be filled with rain water, it may not, according to R. Eliezer, be filled with water from a receptacle, even though the water flows freely without human touch from the receptacle into the mikweh. Again, if the cistern had no water at all, it may be feared that a quarter-log of water would run over from the jars into the empty mikweh before the jars are broken, and this would invalidate the mikweh in accordance with R. Eliezer's opinion in Mishnah 4.

(36) So as to let the water flow freely from the jars into the mikweh below.

(37) By hand, for this would render the water in the jars drawn water.

(38) Its contents are then part of the contents of the cistern.

(39) And its contents allowed to mingle with the contents of the cistern which serves as a mikweh. But the tub must not be lifted from the cistern and emptied into the cistern, for its contents would then become drawn water.

(40) The contents of the tub are equivalent to drawn water.

(41) And let its contents flow into the cistern, because the water in the tub is not deemed drawn water.

(42) Which held water, in order that the porous sides of the wine-jars might become saturated with water and not be able afterwards to soak in any wine.

(43) In the soil, and there is no water left save that which is in the jars.

(44) And their contents may be used for making a mikweh in the cistern, because they are not deemed drawn water since it was not his intention for the water to fill the jars.

(45) Thin mud; cf. infra VII, 1.

(46) For the cavity formed by the immersed object becomes filled with water.

(47) Although the mud serves to make up the 40 se'ahs.

(48) That it may combine with water to form the 40 se'ahs, and that objects may be immersed in it.

(49) Without being pressed down by the hand. Of the opinions that follow, each assumes a thicker mud than the preceding opinion.

(50) Lit., ‘a place’.

(51) But must be held by the hand.

(52) And so cannot serve as a stopper to the jar.

(53) Even if it can stop the mouth of a jar.

(54) Like a liquid.

Mishna - Mas. Mikva'oth Chapter 3

MISHNAH 1. R. JOSE SAYS: IF THERE ARE TWO MIKWEHS NEITHER OF WHICH CONTAINS FORTY SE'AHS, AND A LOG AND A HALF [OF DRAWN WATER] FELL INTO EACH, AND THEY ARE MINGLED TOGETHER, THEY REMAIN VALID, SINCE THEY HAD NEVER[1] BEEN EXPLICITLY ACCOUNTED AS INVALID; BUT IF THERE IS A MIKWEH HOLDING LESS THAN FORTY SE'AHS, AND THREE LOGS [OF DRAWN WATER] FELL INTO IT, AND IT WAS THEN DIVIDED INTO TWO,[2] IT IS INVALID, SINCE IT HAD ALREADY BEEN EXPLICITLY ACCOUNTED AS INVALID.[3] R. JOSHUA DECLARES IT VALID; FOR R. JOSHUA USED TO SAY: ANY MIKWEH CONTAINING LESS THAN FORTY

SE'AHS INTO WHICH THREE LOGS [OF DRAWN WATER] FELL AND FROM WHICH A KORTOB[4] WAS WITHDRAWN BECOMES VALID, SINCE THE THREE LOGS HAVE ALSO BEEN DIMINISHED.[5] BUT THE SAGES SAY: IT ALWAYS REMAINS INVALID UNTIL THE FORMER CONTENTS THEREOF ARE REMOVED AND A LITTLE MORE.[6]

MISHNAH 2. IN WHAT MANNER? IF THERE WAS A CISTERN[7] IN A COURTYARD AND THREE LOGS [OF DRAWN WATER] FELL INTO IT, IT WILL ALWAYS REMAIN INVALID UNTIL THE WHOLE OF IT IS REMOVED AND A LITTLE MORE, OR UNTIL [ANOTHER MIKWEH CONTAINING] FORTY SE'AHS IS PLACED IN THE COURTYARD,[8] SO THAT THE HIGHER[9] MIKWEH IS RENDERED VALID BY THE LOWER.[10] R. ELIEZER B. AZARIAH DECLARES IT INVALID UNLESS THE [NEW MIKWEH] IS STOPPED UP.[11]

MISHNAH 3. IF THERE WAS A CISTERN FULL OF DRAWN WATER AND A CHANNEL[12] LED INTO IT AND OUT OF IT, IT CONTINUES INVALID UNTIL IT CAN BE RECKONED THAT THERE DOES NOT REMAIN IN IT THREE LOGS OF THE FORMER [WATER].[13] IF TWO MEN POURED[14] EACH A LOG AND A HALF [OF DRAWN WATER] INTO A MIKWEH, OR IF ONE WRUNG OUT HIS CLOTHES AND SO POURED IN [WATER] FROM SEVERAL PLACES,[15] OR IF ONE EMPTIED OUT A WATER-COOLER[16] AND SO POURED IN [WATER] FROM SEVERAL, PLACES, R. AKIBA DECLARES IT VALID,[17] BUT THE SAGES DECLARE IT INVALID. R. AKIBA SAID: THEY[18] DID NOT SAY ‘IF THEY POURED IN’, BUT ‘IF ONE[19] POURED IN’. BUT THEY SAID: THEY SAID NEITHER THUS NOR THUS, BUT ONLY IF THERE FELL THEREIN THREE LOGS[20] [OF DRAWN WATER]’.

MISHNAH 4. [IF THE THREE LOGS OF DRAWN WATER FELL IN] FROM ONE VESSEL OR FROM TWO OR FROM THREE, THEY COMBINE TOGETHER;[21] BUT IF FROM FOUR, THEY DO NOT COMBINE TOGETHER.[22] IF A MAN WHO HAD A SEMINAL ISSUE WAS SICK AND NINE KABS OF WATER[23] FELL ON HIM, OR IF THERE FELL ON THE HEAD AND THE GREATER PART OF THE BODY OF A CLEAN PERSON THREE LOGS OF DRAWN WATER[24] FROM ONE VESSEL OR FROM TWO OR FROM THREE, THEY COMBINE TOGETHER; BUT IF FROM FOUR, THEY DO NOT COMBINE TOGETHER. IN WHAT CASE DOES THIS APPLY?[25] WHEN THE SECOND BEGAN BEFORE THE FIRST FINISHED. AND IN WHAT OTHER CASE DOES [THE OTHER STATEMENT][26] APPLY? WHEN THERE WAS NO INTENTION TO INCREASE[27] IT. BUT IF THERE WAS AN INTENTION TO INCREASE IT, IF ONLY A KORTOB IN A WHOLE YEAR, THEY COMBINE TOGETHER TO ADD UP TO THE THREE LOGS.

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(1) Before they became mingled, when the amount of drawn water which fell into each was less than three logs.

(2) And each had its contents increased to 40 se'ahs.

(3) Before it was divided into two.

(4) The smallest liquid measure, viz., one sixty-fourth of a two.

(5) The kortob which was withdrawn must have included also some portion of the drawn water.

(6) To make the mikweh valid a quantity of water must be withdrawn from it, which is equal to the quantity which the mikweh contained when the drawn water fell into it, and a little more to reduce the drawn water in the mikweh to less than three logs.

(7) Containing less than 40 se'ahs.

(8) One above the other and connected.

(9) Var. lec.: ‘the lower’.

(10) Var. lec.: ‘the higher’.

(11) פקק, so that one has to come first to the old mikweh. Var. lec.: פסק, until all its water is used up.

(12) Of rain water less than 40 se'ahs in quantity.

(13) That through the channel leading out of the cistern there flowed away the former contents of drawn water in the cistern, leaving of them less than three logs plus the quantity of fresh rain water which entered the cistern on the one side and flowed out on the other side. This together will be considerably more than the former contents of the cistern, required in the last Mishnah, because there the former contents of the cistern consisted of valid water which only became invalid by the addition of three logs of drawn water, whereas here all the former contents were invalid water.

(14) Simultaneously; cf. next Mishnah.

(15) To the quantity of three logs.

(16) Containing a sieve-like filter within its neck; cf. Kelim II, 8.

(17) He holds that the three logs of water which invalidate the mikweh must all come from one receptacle.

(18) The Sages who formulated the rule regarding drawn water in a mikweh.

(19) Which wording implies that all the three logs must come from one vessel.

(20) Which may imply also pouring in from more than one vessel. Cf. ‘Ed. I, 3. The dispute between R. Akiba and the Sages turns on the exact wording of the traditional formula of the rule.

(21) In accordance with the opinion of the Sages, provided each vessel contains one log.

(22) Because one of them must contain less than one log.

(23) Which is sufficient purification for a person with such a defilement who, owing to sickness, is unable to undergo full immersion in a mikweh, provided the defilement was unintentional. If, however, the defilement was intentional, he needs complete immersion before he can occupy himself with the study of the Torah; cf. Ber. 22b, and infra VIII, 1, n. 3.

(24) Which confers a defilement of the second degree, disqualifying a person from eating terumah; cf. Zabim V. 6; Shab. 13b.

(25) That three logs of drawn water derived from two or three vessels combine to invalidate the mikweh.

(26) That the contents of more than three vessels are not reckoned together to invalidate the mikweh.

(27) To increase the quantity of water in the mikweh by the addition of the drawn water.

Mishna - Mas. Mikva'oth Chapter 4

MISHNAH 1. IF ONE PUT VESSELS UNDER A WATER-SPOUT,[1] WHETHER THEY BE LARGE VESSELS[2] OR SMALL VESSELS[3] OR EVEN VESSELS OF DUNG, VESSELS OF STONE OR EARTHEN VESSELS,[4] THEY MAKE THE MIKWEH INVALID.[5] IT IS ALL ALIKE WHETHER THEY WERE PUT THERE [PURPOSELY] OR WERE [MERELY] FORGOTTEN. THIS IS ACCORDING TO THE OPINION OF BETH SHAMMAI. BUT BETH HILLEL DECLARE IT CLEAN IN THE CASE OF ONE WHO FORGETS.[6] R. MEIR SAID: THEY VOTED AND BETH SHAMMAI HAD A MAJORITY OVER BETH HILLEL;[7] YET THEY AGREE[8] IN THE CASE OF ONE WHO FORGETS [AND LEAVES VESSELS] IN A COURTYARD[9] THAT THE MIKWEH REMAINS CLEAN.[10] R. JOSE SAID: THE CONTROVERSY STILL REMAINS AS IT WAS.

MISHNAH 2. IF ONE PUT A BOARD UNDER A WATER-SPOUT AND IT HAD A RIM[11] TO IT, IT MAKES THE MIKWEH INVALID; OTHERWISE IT DOES NOT MAKE THE MIKWEH INVALID. IF HE MADE IT STAND UPRIGHT TO BE RINSED, IN NEITHER CASE DOES IT MAKE THE MIKWEH INVALID.

MISHNAH 3. IF ONE MAKES[12] A HOLLOW IN A WATER-SPOUT TO COLLECT THE GRAVEL,[13] IT MAKES THE MIKWEH INVALID[14] IN THE CASE OF A WOODEN [SPOUT] IF IT HOLDS HOWEVER LITTLE, BUT IN THE CASE OF AN EARTHENWARE [SPOUT] IF IT WILL HOLD A QUARTER-LOG.[15] R. JOSE SAYS: ALSO IN THE CASE OF AN EARTHENWARE [SPOUT] IF IT HOLDS HOWEVER LITTLE: THEY HAVE SPOKEN OF ‘A QUARTER-LOG’[16] ONLY IN THE CASE OF BROKEN SHERDS OF AN EARTHENWARE UTENSIL. IF THE PIECES OF GRAVEL MOVED ABOUT INSIDE [THE HOLLOW]. IT MAKES THE MIKWEH INVALID.[17] IF EARTH CAME DOWN INTO IT AND WAS PRESSED DOWN,[18] [THE MIKWEH CONTINUES] VALID. IF THE SPOUT WAS NARROW AT EACH END AND WIDE IN THE MIDDLE, IT DOES NOT MAKE [THE MIKWEH] INVALID, BECAUSE IT[19] HAD NOT BEEN FASHIONED FOR GATHERING [ANYTHING IN IT].[20]

MISHNAH 4. IF DRAWN WATER AND RAIN WATER WERE MINGLED TOGETHER IN A COURTYARD OR IN A CAVITY OR ON THE STEPS OF A CAVE,[21] IF THE GREATER PART WAS VALID,[22] THE WHOLE IS VALID; AND IF THE GREATER PART WAS INVALID,[23] THE WHOLE IS INVALID. IF THEY WERE EQUAL IN QUANTITY. THE WHOLE IS INVALID. WHEN [DOES THIS APPLY]?[24] WHEN THEY WERE MINGLED TOGETHER BEFORE THEY ARRIVED AT THE MIKWEH. BUT IF THEY FLOWED [EACH ONE DIRECT] INTO THE WATER [OF THE Mikweh].[25] IF IT WAS KNOWN THAT THERE FELL IN FORTY SE'AHS OF VALID WATER BEFORE THERE CAME DOWN THREE LOGS OF DRAWN WATER, [THE MIKWEH IS] VALID; OTHERWISE IT IS INVALID.

MISHNAH 5. IN THE CASE OF A TROUGH[26] IN THE ROCK,[27] WATER MAY NOT BE GATHERED IN IT,[28] NOR MAY THE WATER OF PURIFICATION BE CONSECRATED[29] THEREIN, NOR MAY ONE SPRINKLE[30] THEREFROM; AND IT DOES NOT REQUIRE A TIGHTLY STOPPED-UP COVERING,[31] AND IT DOES NOT MAKE THE MIKWEH INVALID.[32] IF IT WAS A [MOVABLE] VESSEL[33] AND HAD BEEN JOINED TO THE GROUND WITH LIME, WATER MAY BE GATHERED IN IT, AND THE WATER OF PURIFICATION MAY BE CONSECRATED THEREIN, AND ONE MAY SPRINKLE THEREFROM, AND IT REQUIRES A TIGHTLY STOPPED-UP COVERING, AND IT MAKES THE MIKWEH INVALID. IF A HOLE WAS MADE IN IT BELOW OR AT THE SIDE SO THAT IT COULD NOT CONTAIN WATER IN HOWEVER SMALL A QUANTITY,[34] IT IS VALID.[35] AND HOW GREAT SHOULD BE THE HOLE? LIKE THE TUBE OF A WATER-SKIN. R. JUDAH B. BATHYRA SAID: IT HAPPENED IN THE CASE OF THE TROUGH OF JEHU[36] IN JERUSALEM THAT THERE WAS A HOLE IN IT LIKE THE TUBE OF A WATER-SKIN, AND IT WAS USED FOR ALL THINGS IN JERUSALEM WHICH NEEDED A STATE OF PURITY. BUT BETH SHAMMAI SENT AND BROKE IT DOWN, FOR BETH SHAMMAI SAY: [IT REMAINS A VESSEL] UNLESS THE GREATER PART OF IT IS BROKEN DOWN.

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(1) Conveying rain water from the roof.

(2) Containing more than 40 se'ahs.

(3) Too small to become unclean; cf. Kelim II, 2.

(4) These are not susceptible to uncleanness.

(5) If their contents of three logs are emptied into a mikweh containing less than 40 se'ahs (so also below where this phrase occurs). For, unlike the case discussed in II, 7, these serve for the special purpose of receiving the water from the spout.

(6) Because there was no intention to collect water in them.

(7) And the controversy was settled in accordance with the opinion of Beth Shammai; cf. Shab. I, 4.

(8) Beth Shammai.

(9) Not under a water-spout.

(10) Since evidently there was no intention to collect the water.

(11) It is considered a receptacle, and the rain water passing from the roof along the board becomes drawn water.

(12) Before fixing the spout to the roof.

(13) Coming down in the rain water.

(14) The cavity becomes a receptacle for the water that passes through it into the mikweh. The spout itself is not deemed a receptacle, because it is open at both ends.

(15) If it holds less than a quarter-log, it is not considered a vessel; cf. Kelim II, 2.

(16) As the minimum capacity of a vessel.

(17) Though the gravel fills the cavity.

(18) Filling the cavity.

(19) The wide part in the middle.

(20) But only for facilitating the flow of the water.

(21) Containing a mikweh.

(22) The rain water exceeds in quantity the drawn water.

(23) Consisting of drawn water.

(24) That the mikweh is valid when rain water makes up the greater part of the mixture.

(25) I.e., the drawn water flowed directly from the vessel into the mikweh.

(26) Cf. Parah V, 7.

(27) If filled with water from a fountain. Being naturally joined to the ground, it cannot be considered a vessel; cf. supra I, 1, n. 6.

(28) For the Water of Purification, for which a vessel is required; cf. Num. XIX, 17.

(29) By mixing in it the ashes of the Red Heifer.

(30) If properly prepared Water of Purification is put on to it; ibid. XIX, 18.

(31) Ibid. XIX, 15. It protects its contents against defilement from a corpse even if it has only an ordinary covering; cf. Ohol. V, 6.

(32) If three logs of rain water flow from it into a mikweh containing less than 40 se'ahs.

(33) The trough had been hollowed out in a movable stone.

(34) It loses the character of a vessel and becomes like a channel.

(35) The water which flows from it does not render the mikweh invalid.

(36) The site of this trough is not known. The name Jehu occurs in Judah, I Chron. II, 38. etc. S. Klein conjectures that the trough belonged to a family which traced its descent from Jehu, King of Israel; cf the Well of Ahab, Parah VIII, 11; v. ציון, IV (Jerusalem, 1938), p. 40f.

Mishna - Mas. Mikva'oth Chapter 5

MISHNAH 1. [WATER FROM] A FOUNTAIN WHICH IS MADE TO PASS OVER INTO A TROUGH[1] BECOMES INVALID;[2] IF IT WAS MADE TO PASS OVER THE EDGE IN ANY QUANTITY, [WHAT IS] OUTSIDE [THE TROUGH] IS VALID,[3] FOR [THE WATER OF] A FOUNTAIN PURIFIES HOWEVER LITTLE ITS QUANTITY.[4] IF IT IS MADE TO PASS OVER INTO A POOL AND THEN IS STOPPED, THE POOL COUNTS AS A MIKWEH;[5] IF IT IS MADE TO FLOW AGAIN,[6] IT IS STILL INVALID FOR PERSONS WITH A RUNNING ISSUE AND FOR LEPERS AND FOR THE PREPARATION OF THE WATER OF PURIFICATION[7] UNTIL IT IS KNOWN THAT THE FORMER [WATER] IS GONE.

MISHNAH 2. IF IT WAS MADE TO PASS OVER THE OUTSIDE OF VESSELS OR OVER A BENCH, R. JUDAH SAYS: LO, IT REMAINS AS IT WAS BEFORE.[8] R. JOSE SAYS: LO, IT IS LIKE A MIKWEH,[9] EXCEPT THAT ONE MAY NOT IMMERSE ANYTHING ABOVE THE BENCH.[10]

MISHNAH 3.IF [WATER FROM] A FOUNTAIN THAT FLOWS INTO MANY CHANNELS[11] WAS INCREASED[12] IN QUANTITY SO THAT IT WAS MADE TO FLOW IN ABUNDANCE, IT REMAINS AS IT WAS BEFORE.[13] IF IT WAS A STANDING FOUNTAIN[14] AND ITS QUANTITY WAS INCREASED[15] SO THAT IT WAS MADE TO FLOW, IT BECOMES EQUAL TO A MIKWEH IN THAT IT CAN PURIFY IN STANDING WATER,[16] AND TO A FOUNTAIN IN THAT ONE MAY IMMERSE [OBJECTS] THEREIN HOWEVER SMALL ITS QUANTITY.

MISHNAH 4. ALL SEAS[17] ARE DEEMED VALID AS A MIKWEH,[18] FOR IT IS WRITTEN, ‘AND THE MIKWEH[19] OF THE WATERS CALLED HE SEAS’,[20] THIS IS THE OPINION OF R. MEIR. R. JUDAH SAYS: THE GREAT SEA[21] ALONE IS A VALID MIKWEH, FOR THE REASON THAT SCRIPTURE SAYS ‘SEAS’ IS BECAUSE IN IT ARE MANY KINDS OF SEAS.[22] R. JOSE SAYS: ALL SEAS PURIFY AS FLOWING WATERS,[23] BUT THEY ARE INVALID FOR PERSONS WITH A RUNNING ISSUE AND FOR LEPERS AND FOR THE PREPARATION OF THE WATER OF PURIFICATION.[24]

MISHNAH 5 .FLOWING WATER[25] IS AS WATER OF A FOUNTAIN AND DRIPPING WATER[26] IS AS A MIKWEH. R. ZADOK[27] TESTIFIED THAT IF FLOWING WATER

EXCEEDED DRIPPING WATER [WITH WHICH IT WAS MIXED] IT WAS VALID [AS FLOWING WATER].[28] IF DRIPPING WATER BECAME FLOWING WATER, ITS FLOW MAY BE BLOCKED[29] BY A STICK OR BY A REED OR EVEN BY A MAN OR A WOMAN WHO HAS A RUNNING ISSUE, AND THEN ONE MAY GO DOWN AND IMMERSE ONESELF THEREIN. THIS IS THE OPINION OF R. JUDAH. R. JOSE SAYS: ONE MAY NOT STOP THE FLOW OF WATER[30] WITH ANYTHING WHICH IS LIABLE TO UNCLEANNESS.

MISHNAH 6. IF A WAVE WAS SEPARATED [FROM THE SEA] AND COMPRISED FORTY SE'AHS, AND IT FELL ON A MAN OR ON VESSELS,[31] THEY BECOME CLEAN. ANY PLACE CONTAINING FORTY SE'AHS IS VALID FOR IMMERSING ONESELF AND FOR IMMERSING OTHERS.[32] ONE MAY IMMERSE IN TRENCHES[33] OR IN DITCHES[34] OR EVEN IN A DONKEY-TRACK[35] THE WATER OF WHICH IS JOINED[36] [WITH A VALID MIKWEH] IN A VALLEY. BETH SHAMMAI[37] SAY: ONE MAY IMMERSE IN A RAIN TORRENT.[38] BUT BETH HILLEL SAY: ONE MAY NOT IMMERSE.[39] THEY[40] ADMIT, HOWEVER, THAT ONE MAY BLOCK ITS FLOW WITH VESSELS[41] AND IMMERSE ONESELF THEREIN, BUT THE VESSELS WITH WHICH THE FLOW IS BLOCKED ARE NOT THEREBY [VALIDLY] IMMERSED.[42]

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(1) Which had been hollowed out in a movable stone and then fixed to the ground; cf. supra IV, 5.

(2) For immersion either in the trough itself or in the water that passes out of the trough, for since the trough is like a vessel, this water becomes drawn water.

(3) For immersion.

(4) Cf. supra I, 7.

(5) And requires 40 se'ahs of standing water; cf. supra I, 7.

(6) The flow from the fountain into the pool was restored. It then becomes valid for immersion even if its quantity is less than 40 se'ahs, but not for those who require for their purification ‘living water’.

(7) Cf. supra I, 8, and notes 5-7.

(8) With the efficacy of a fountain.

(9) And requires 40 se'ahs of standing water.

(10) Or above the backs of the vessels, lest one may be led to immerse things in vessels.

(11) Lit., ‘is drawn out like a centipede’.

(12) By pouring into it drawn water.

(13) It retains the characteristics of a fountain.

(14) I.e., a well or a lake.

(15) By the addition of drawn water.

(16) But not in its flowing water, since this is derived from drawn water.

(17) Parah VIII, 8.

(18) And require 40 se'ahs of standing water, and are invalid for those who need ‘living water’.

(19) ‘The gathering together’; cf. Introd.

(20) Gen. I. 10.

(21) The Mediterranean, and likewise the oceans, to the exclusion of inland seas and lakes.

(22) It gathers water from numerous sources.

(23) Like fountains.

(24) Because these require ‘living water’ and sea water being salty is ‘smitten water’, cf. supra I, 8.

(25) Streams and rivers.

(26) Rain water.

(27) Cf. ‘Ed. VII, 3. (Sonc. ed.) p. 42, and notes.

(28) And is treated as a fountain.

(29) So as to make it standing water, as required in a mikweh.

(30) So most commentators explain the reading in the editions מוחילין, which being in the causative stem (hiph'il) should rather be rendered ‘one may not cause to flow’. However, the Cambridge text (cf. Introd. n. 1). and MS.M. read מוחלים, which may be interpreted as a privative pi'el, to prevent or stay the flow.

(31) Who were unclean, immersing them accidentally.
(32) Vessels and the hands before eating sacrificial meat; cf. I, 7, n. 7.
(33) Square-shaped like caverns, but not roofed over; cf. I, 4, n. 2.
(34) Narrow at the top and wide at the bottom; cf. B.K. 5ob.
(35) Or holes made by the feet of other animals.
(36) Through a hole of the size prescribed infra VI, 1.
(37) ‘Ed. V, 2.
(38) In the running water, though the whole stream contains no more than 40 se'ahs.
(39) Except when the stream forms a pool of 40 se'ahs of standing water.
(40) Beth Hillel.
(41) So as to form standing water.
(42) Because only one of their sides is immersed in standing water.

Mishna - Mas. Mikva'oth Chapter 6

MISHNAH 1. ANY [GATHERING OF WATER]. WHICH IS JOINED WITH [THE WATER OF] A MIKWEH IS AS VALID AS THE MIKWEH[1] [ITSELF]. ONE MAY IMMERSE IN HOLES OF A CAVERN[2] AND IN CREVICES OF A CAVERN[2] JUST AS THEY ARE;[3] BUT ONE MAY NOT IMMERSE IN THE PIT[4] OF A CAVERN EXCEPT IT HAD A HOLE AS BIG AS THE TUBE OF A WATER-SKIN. R. JUDAH SAID: WHEN [IS THIS THE CASE]? WHEN IT STANDS BY ITSELF;[5] BUT IF IT DOES NOT STAND BY ITSELF, ONE MAY IMMERSE THEREIN JUST AS IT IS.[6]

MISHNAH 2. IF A BUCKET WAS FULL OF UTENSILS AND THEY WERE[7] IMMERSED, LO, THEY BECOME CLEAN; BUT IF [THE BUCKET] WAS NOT IMMERSED [FOR ITS OWN SAKE][8] . THE WATER IN THE BUCKET IS NOT RECKONED AS JOINED[9] [WITH THE WATER OF THE MIKWEH] UNLESS IT BE JOINED [BY MEANS OF THE NECK OF THE BUCKET WHICH IS AS BIG] AS THE TUBE OF A WATER-SKIN.

MISHNAH 3. IF THERE WERE THREE MIKWEHS, TWO OF WHICH HELD TWENTY SE'AHS [OF VALID WATER] AND THE THIRD HELD TWENTY SE'AHS OF DRAWN WATER, AND THAT HOLDING DRAWN WATER WAS AT THE SIDE. IF THREE PERSONS WENT DOWN[10] AND IMMERSED THEMSELVES THEREIN AND [THE WATER OF THE THREE MIKWEHS] JOINED,[11] THE MIKWEHS ARE CLEAN[12] AND THEY THAT IMMERSED THEMSELVES BECOME CLEAN. IF THE ONE HOLDING THE DRAWN WATER WAS IN THE MIDDLE[13] AND THREE PERSONS WENT DOWN AND IMMERSED THEMSELVES THEREIN AND [THE WATER OF THE THREE MIKWEHS] JOINED, THE MIKWEHS CONTINUE AS THEY WERE BEFORE[14] AND THEY THAT IMMERSED THEMSELVES ARE AS THEY WERE BEFORE.[15]

MISHNAH 4. IF A SPONGE OR A BUCKET CONTAINING THREE LOGS OF WATER FELL INTO A MIKWEH,[16] THEY DO NOT MAKE IT INVALID, BECAUSE THEY HAVE ONLY SAID:[17] ‘IF THREE LOGS FELL IN’.[18]

MISHNAH 5. ONE MAY NOT IMMERSE IN A COFFER OR IN A BOX[19] WHICH IS IN THE SEA EXCEPT IT HAS A HOLE[20] AS LARGE AS THE TUBE OF A WATER-SKIN. R. JUDAH SAYS: IN THE CASE OF A LARGE VESSEL[21] [THE HOLE SHOULD BE] FOUR HANDBREADTHS, AND IN A SMALL ONE [THE HOLE SHOULD BE AS LARGE AS] THE GREATER PART OF IT. IF THERE IS IN THE SEA A SACK OR A BASKET, ONE MAY IMMERSE THEREIN AS IT IS. SINCE THE WATER [IN THE SEA AND IN THE SACK OR BASKET] IS JOINED TOGETHER.[22] IF THEY ARE PLACED UNDER A WATER-SPOUT, THEY DO NOT MAKE THE MIKWEH INVALID,[23] AND THEY MAY BE IMMERSED AND

BROUGHT OUT IN THE ORDINARY WAY.[24]

MISHNAH 6. IF THERE WAS A DEFECTIVE [EARTHENWARE] VESSEL IN THE MIKWEH AND UTENSILS WERE IMMERSED THEREIN, THEY BECOME CLEAN FROM THEIR [FORMER] UNCLEANNESS[25] BUT ARE AGAIN RENDERED UNCLEAN BECAUSE OF THE EARTHENWARE VESSEL;[26] BUT IF WATER FLOWED ABOVE IT IN ANY QUANTITY. THEY WILL REMAIN CLEAN.[27] IF [WATER OF] A FOUNTAIN ISSUED FROM AN OVEN[28] AND A MAN WENT DOWN AND IMMERSED HIMSELF, HE IS CLEAN[29] BUT HIS HANDS BECOME UNCLEAN;[30] BUT IF [THE WATER WAS AS] HIGH ABOVE THE OVEN AS THE HEIGHT OF HIS HANDS,[31] HIS HANDS ALSO ARE CLEAN.

MISHNAH 7. MIKWEHS CAN BE JOINED TOGETHER [AS ONE IF THEIR CONNECTION IS AS BIG] AS THE TUBE OF A WATER-SKIN IN THICKNESS AND IN CAPACITY, IN WHICH TWO FINGERS[32] CAN BE TURNED ROUND IN FULL. IF THERE IS A DOUBT [WHETHER IT IS AS BIG] AS THE TUBE OF A WATER SKIN OR NOT, IT IS INVALID, BECAUSE [THE RULE CONCERNING IMMERSION] IS A COMMAND OF THE TORAH.[33] THE SAME APPLIES ALSO TO THE OLIVE'S BULK OF A CORPSE AND THE OLIVE'S BULK OF CARRION AND THE LENTIL'S BULK OF A CREEPING THING.[34] ANYTHING WHICH REMAINS[35] IN [THE SPACE MEASURING] THE TUBE OF A WATER-SKIN LESSENS [ITS MEASURE].[36] RABBAN SIMEON B. GAMALIEL SAYS: IF IT IS ANY WATER CREATURE[37] WHATSOEVER, [THE MIKWEHS] REMAIN CLEAN.

MISHNAH 8. MIKWEHS MAY BE MADE CLEAN [BY JOINING DRAWN WATER FROM] A HIGHER [MIKWEH TO VALID WATER] FROM A LOWER [MIKWEH OR DRAWN WATER FROM] A DISTANT [MIKWEH TO VALID WATER] IN A [MIKWEH] NEAR AT HAND. IN WHAT MANNER? ONE BRINGS A TUBE OF EARTHENWARE OR OF LEAD[38] AND PUTS HIS HAND BENEATH IT[39] TILL IT IS FILLED WITH WATER; THEN HE DRAWS IT ALONG TILL [THE TWO WATERS] TOUCH — EVEN IF IT BE BY A HAIR'S BREADTH IT IS SUFFICIENT. IF IN THE HIGHER [MIKWEH] THERE WERE FORTY SE'AHS AND NOTHING IN THE LOWER, ONE MAY DRAW WATER AND CARRY IT ON THE SHOULDER[37] AND PLACE IT IN THE HIGHER [MIKWEH] TILL FORTY SE'AHS HAVE FLOWED DOWN INTO THE LOWER [MIKWEH].[40]

MISHNAH 9. IF A WALL BETWEEN TWO MIKWEHS[41] HAD A PERPENDICULAR CRACK, [THEIR WATERS] MAY BE RECKONED TOGETHER [TO MAKE UP THE REQUIRED QUANTITY]; [IF IT WAS CRACKED] LENGTHWISE, THEY CANNOT BE RECKONED TOGETHER, UNLESS THERE IS AT ONE PLACE [A HOLE AS BIG] AS THE TUBE OF A WATER-SKIN. R. JUDAH SAYS: THE RULE IS JUST THE REVERSE. IF THERE IS A BREACH[42] [ON THE TOP OF THE WALL] FROM ONE [MIKWEH] TO THE OTHER, [THEY CAN BE RECKONED TOGETHER] IF THE HEIGHT IS AS [THE THICKNESS OF] THE SKIN OF GARLIC AND THE BREADTH LIKE THE TUBE OF A WATER-SKIN.

MISHNAH 10. THE OUTLET[43] OF A BATH, IF IT IS IN THE CENTRE, RENDERS [THE BATH] INVALID[44] [AS A MIKWEH]; BUT IF IT IS AT THE SIDE, IT DOES NOT RENDER IT INVALID, BECAUSE THEN IT IS LIKE ONE MIKWEH ADJOINING ANOTHER MIKWEH. THIS IS THE OPINION OF R. MEIR. BUT THE SAGES SAY: IF THE BATH- BASIN CAN CONTAIN A QUARTER-LOG BEFORE [THE WATER] REACHES THE OUTLET,[45] IT IS VALID; BUT IF NOT, IT IS NOT VALID.[46] R. ELEAZAR B. ZADOK SAYS: IF THE OUTLET CAN CONTAIN [WATER]. IT IS INVALID IN ANY POSITION WHATEVER.

MISHNAH 11. IF IN THE BATH'S ‘PURIFIER’[47] THE BOTTOM [PIPE] WAS FULL OF DRAWN [WATER] AND THE TOP [PIPE] FULL OF VALID[48] [WATER]. IF [THE SPACE] IN

FRONT OF THE HOLE CAN CONTAIN THREE LOGS IT IS INVALID[49] [AS A MIKWEH]. HOW LARGE NEED THE HOLE BE TO CONTAIN THREE LOGS? A THREE-HUNDRED-AND-TWENTIETH PART[50] OF THE POOL. THIS IS THE OPINION OF R. JOSE. BUT R. ELEAZAR SAYS: EVEN THOUGH THE BOTTOM [PIPE] WERE FULL OF VALID [WATER] AND THE TOP [PIPE] FULL OF DRAWN [WATER] AND BY THE HOLE'S SIDE WERE THREE LOGS, [THE BATH IS] VALID, FOR THEY HAVE ONLY SAID: ‘IF THREE LOGS FELL IN’.[51]

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(1) It becomes part of the mikweh. One may immerse in it though it contains less than 40 se'ahs, and it may serve to make up 40 se'ahs in the mikweh itself.

(2) Forming a mikweh.

(3) Their water need not be joined by a hole to the water in the cavern.

(4) As explained by R. Judah in the following.

(5) It forms an independent pool separated by a wall from the pool in the cavern.

(6) It is part of the pool in the cavern, and need not have 40 se'ahs, nor be connected with the pool by a hole.

(7) Var. lec.: ‘it was’. The bucket as well as the utensils needed immersion.

(8) Lit., ‘if one did not immerse’, i.e., the bucket itself was clean, and needed no immersion; cf. Hag. 22a.

(9) For the purpose of purifying the utensils. The text is very doubtful. Hag. l.c. and some commentators omit ‘not’.

(10) Simultaneously.

(11) By overflowing through the immersion of the three persons.

(12) All the three mikwehs become valid. They are now considered as one mikweh containing 40 se'ahs of valid water to which were added 20 se'ahs of drawn water.

(13) Thus preventing the junction of the two with the valid water.

(14) They remain three separate mikwehs, two with valid water but of insufficient quantity, and one with invalid water.

(15) Unclean.

(16) Containing less than 40 se'ahs.

(17) Cf. supra III, 3, n. 13.

(18) Whereas here some portion of the three logs remained in the pores of the sponge or in the folds of the bucket.

(19) Even though they contain 40 se'ahs.

(20) Which joins their water to the water in the sea.

(21) Some nine handbreadths in height.

(22) Through their holes.

(23) The rain water from the spout flowing through them into the mikweh is not deemed drawn water as in supra IV, I, n. 5.

(24) And not bottom upwards as prescribed for a bolster or a cushion of leather, v. infra VII, 6.

(25) Because the water in the defective or broken earthenware vessel is considered as joined to the water in the mikweh through the breakage in the vessel.

(26) If it is unclean. For an earthenware vessel is not rendered clean by immersion in a mikweh (Lev. XI, 33), and though the water in it, as part of the mikweh, is clean, yet uncleanness remains in the air-space of the vessel above the water. Hence when utensils are immersed in such an earthenware vessel, the water which adheres to them renders them unclean as they are raised into the airspace of the earthenware vessel.

(27) Because the air-space of the unclean earthenware vessel is all covered by the clean water.

(28) Of earthenware, fixed to the ground and open at the top, and large enough to hold a man. The oven is unclean.

(29) Because a man's body is not rendered unclean by the air-space of an unclean vessel.

(30) Hands do become unclean by the air-space; cf. Yad, III, 1.

(31) The surface of the water covered his hands.

(32) Those near the thumb.

(33) And in the case of a doubt respecting the fulfillment of a Mosaic law we must abide by the more stringent alternative.

(34) These are the minimum quantities which cause defilement, and if there is a doubt whether they were of the required quantity or not, we must assume that they were, and that they did cause defilement.

(35) And not carried off by the water flowing through the opening which joins the two mikwehs.

(36) And the two mikwehs remain separate.
(37) It is considered part of the water.
(38) Or of any other metal.
(39) To shut the lower end of the tube.
(40) I.e., fill the lower mikweh with drawn water through the higher one. For since the two mikwehs are reckoned as one, and the upper one has 40 se'ahs of valid water, no amount of drawn water can render either of them invalid.
(41) One of which had less than 40 se'ahs.
(42) Which forms a connecting channel between the two mikwehs.
(43) In the shape of a receptacle, having a hole for the discharge of foul water with a stopper.
(44) Because the outlet is then regarded as a receptacle and water which is made to flow over vessels is thus invalid.
(45) The outlet is higher than the bottom of the bath-basin, so that water gathers in the bath-basin before any water reaches the outlet.
(46) Even if the outlet is at the side.
(47) An arrangement for a cold-water douche after a hot bath, consisting of two pipes one above the other with a hole in the upper pipe communicating with the lower one.
(48) Less than 40 se'ahs.
(49) The three logs of drawn water at the hole in the lower pipe render the water in the upper pipe invalid. It goes without saying that such would be the case also if the upper pipe contained drawn water and the lower pipe contained valid water.
(50) This is the proportion of three logs to 40 se'ahs, since a se'ah consists of 24 logs; cf. Introd., n. 2.
(51) But here the drawn water does not fall into the valid water, but both, the valid water of one pipe and the drawn water of the other pipe, are mixed together in the mikweh; and since the valid water is more in quantity than the drawn water, the mikweh is valid as in the case discussed above, IV, 4.

Mishna - Mas. Mikva'oth Chapter 7

MISHNAH 1. SOME MATERIALS MAKE UP THE MIKWEH [TO THE REQUIRED QUANTITY][1] AND DO NOT MAKE IT INVALID;[2] SOME MAKE IT INVALID AND DO NOT MAKE UP [THE REQUIRED QUANTITY] AND SOME NEITHER MAKE UP [THE REQUIRED QUANTITY] NOR MAKE IT INVALID. THESE MAKE UP THE REQUIRED QUANTITY AND DO NOT MAKE THE MIKWEH INVALID: SNOW, HAIL, HOARFROST, ICE, SALT, AND THIN[3] MUD. R. AKIBA SAID: R. ISHMAEL ONCE ARGUED AGAINST ME SAYING; SNOW DOES NOT MAKE UP THE MIKWEH [TO ITS REQUIRED QUANTITY]. BUT THE MEN OF MADEBA[4] TESTIFIED IN HIS NAME THAT HE HAD ONCE TOLD THEM: GO AND BRING SNOW AND WITH IT FROM THE FIRST[5] PREPARE A MIKWEH. R. JOHANAN B. NURI SAYS: HAILSTONES ARE LIKE DRAWN WATER. IN WHAT MANNER DO THEY MAKE UP [THE REQUIRED QUANTITY] AND DO NOT RENDER IT INVALID? IF THE MIKWEH CONTAINED FORTY SE'AHS LESS ONE, AND A SE'AH[6] OF THEM[7] FELL IN AND MADE UP [THE REQUIRED QUANTITY], THEY THUS MAKE UP [THE REQUIRED QUANTITY] BUT DO NOT RENDER IT INVALID.

MISHNAH 2. THESE RENDER THE MIKWEH INVALID AND DO NOT MAKE UP [THE REQUIRED QUANTITY]: DRAWN WATER, WHETHER CLEAN OR UNCLEAN, WATER THAT HAS BEEN USED FOR PICKLING OR FOR SEETHING, AND GRAPE-SKIN[8] WINE STILL UNFERMENTED.[9] IN WHAT MANNER DO THEY MAKE THE MIKWEH INVALID AND DO NOT MAKE UP [THE REQUIRED QUANTITY]? IF A MIKWEH CONTAINED FORTY SE'AHS LESS A KORTOB,[10] AND A KORTOB OF THESE FELL INTO IT, IT DOES NOT MAKE UP [THE REQUIRED QUANTITY]; AND IF THERE WERE THREE LOGS OF ANY OF THESE, THEY WOULD RENDER THE MIKWEH INVALID. BUT THE OTHER LIQUIDS,[11] AND THE JUICE OF FRUITS, BRINE, AND LIQUID IN WHICH FISH HAS BEEN PICKLED, AND GRAPE-SKIN WINE THAT HAS FERMENTED AT TIMES MAKE UP [THE REQUIRED QUANTITY] AND AT TIMES DO NOT MAKE IT UP.[12] HOW IS THIS? IF A

MIKWEH CONTAINED FORTY SE'AHS LESS ONE, AND A SE'AH OF ANY OF THESE FELL IN IT, THIS DOES NOT MAKE UP[13] [THE REQUIRED QUANTITY]. BUT IF THE MIKWEH CONTAINED FORTY SE'AHS AND A SE'AH OF ANY OF THESE WAS PUT IN AND ONE SE'AH WAS REMOVED, LO, THE MIKWEH IS STILL VALID.[14]

MISHNAH 3. IF BASKETS OF OLIVES OR BASKETS OF GRAPES WERE WASHED IN THE MIKWEH AND THEY CHANGED ITS COLOUR, IT CONTINUES VALID. R. JOSE SAYS: DYE-WATER RENDERS IT INVALID BY A QUANTITY OF THREE LOGS,[15] BUT NOT THROUGH CHANGING ITS COLOUR.[16] IF WINE OR THE SAP OF OLIVES FELL INTO IT AND CHANGED ITS COLOUR, IT BECOMES INVALID.[17] WHAT SHOULD ONE DO [TO MAKE IT VALID AGAIN]?[18] ONE SHOULD WAIT WITH IT TILL THE RAIN FALLS AND THE COLOUR REVERTS TO THE COLOUR OF WATER. IF IT CONTAINED FORTY SE'AHS,[19] WATER MAY BE DRAWN AND CARRIED ON THE SHOULDER AND PUT THEREIN UNTIL THE COLOUR REVERTS TO THAT OF WATER.

MISHNAH 4. IF WINE OR THE SAP OF OLIVES FELL INTO THE MIKWEH[20] AND CHANGED THE COLOUR OF A PORTION OF THE WATER,[21] ONE MAY NOT IMMERSE ONESELF THEREIN IF IT HAS NOT FORTY SE'AHS WITH THE COLOUR OF WATER.

MISHNAH 5. IF A KORTOB OF WINE FELL INTO THREE LOGS OF WATER AND ITS COLOUR BECAME LIKE THAT OF WINE, AND THE WATER THEN FELL INTO A MIKWEH,[22] IT DOES NOT RENDER IT INVALID.[23] IF THERE WERE THREE LOGS OF WATER LESS A KORTOB INTO WHICH A KORTOB OF MILK FELL, AND THEIR COLOUR REMAINED LIKE THE COLOUR OF WATER, AND THEN THEY FELL INTO A MIKWEH, THEY DO NOT RENDER IT INVALID.[24] R. JOHANAN B. NURI SAYS: ALL GOES BY THE COLOUR.[25]

MISHNAH 6. IF A MIKWEH CONTAINED FORTY SE'AHS EXACTLY AND TWO PERSONS WENT DOWN AND IMMERSED THEMSELVES ONE AFTER THE OTHER, THE FIRST BECOMES CLEAN BUT THE SECOND REMAINS UNCLEAN.[26] R. JUDAH SAYS: IF THE FEET OF THE FIRST WERE STILL TOUCHING THE WATER,[27] THE SECOND ALSO BECOMES CLEAN. IF ONE IMMERSED A THICK CLOAK[28] AND WHEN HE DREW IT OUT A PART WAS STILL IN CONTACT WITH THE WATER [AND THEN ANOTHER PERSON IMMERSED HIMSELF IN THE MIKWEH], HE BECOMES CLEAN.[29] IF A BOLSTER OR A CUSHION OF LEATHER WAS IMMERSED, AS SOON AS IT IS TAKEN OUT OF THE WATER BY ITS OPEN ENDS THE WATER WHICH STILL REMAINS IN IT IS DRAWN WATER.[30] HOW SHOULD ONE DO IT? ONE SHOULD IMMERSE THEM AND DRAW THEM UP BY THEIR LOWER EDGES.[31]

MISHNAH 7. IF A BED WAS IMMERSED THEREIN,[32] ALTHOUGH ITS FEET SINK INTO THE THICK MUD, IT STILL BECOMES CLEAN BECAUSE THE WATER TOUCHED THEM BEFORE [THE MUD].[33] IF THE WATER OF A MIKWEH[34] IS TOO SHALLOW,[35] ONE MAY PRESS DOWN EVEN BUNDLES OF STICKS, EVEN BUNDLES OF REEDS, SO THAT THE LEVEL OF THE WATER MAY RISE,[36] AND THEN GO DOWN AND IMMERSE ONESELF. IF AN [UNCLEAN] NEEDLE IS PLACED ON THE STEP[37] [LEADING DOWN TO A MIKWEH] IN A CAVERN, AND THE WATER IS PUT IN MOTION, ONCE A WAVE HAS PASSED OVER IT, [THE NEEDLE] BECOMES CLEAN.

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(1) If they enter a mikweh containing less than 40 se'ahs.

(2) If three logs of them fall into a mikweh of less that 40 se'ahs.

(3) Lit., ‘like spittle’.

(4) East of the Jordan, cf. Num. XXI, 30.

(5) To make a new mikweh.
(6) A quantity which when melted was equal to a se'ah.
(7) Of the materials in the above list.
(8) ‘Tamed’, an inferior wine made by steeping in water husks and stones of pressed grapes; cf. Ma'as. Sh. I, 3.
(9) It is still considered water.
(10) V. supra III, 1, n. 4.
(11) The seven liquids enumerated in Maksh. VI, 4, including wine, oil, milk, etc.
(12) Neither do these liquids render the mikweh invalid if they fall into it and do not change the colour of the water. These liquids thus form the third class of materials which neither make up the required quantity of the mikweh, nor render it invalid.
(13) But neither does it render the water in the mikweh invalid.
(14) Although the greater portion of the se'ah removed must have consisted of the valid water, so that now the mikweh must contain less than 40 se'ahs of its original water.
(15) Like ordinary drawn water.
(16) Because the dye is an artificial addition to the water.
(17) Because the colour of wine or olives is natural to them and inseparable from them. A mikweh so coloured would appear to be not a mikweh of water, as prescribed by the Torah, but a mikweh filled with wine or with the sap of olives.
(18) In the case of a mikweh containing less than 40 se'ahs which may not be increased by drawn water.
(19) Which does not become invalid by the addition of any quantity of drawn water.
(20) Holding less than 40 se'ahs.
(21) At one side of the mikweh. That portion can no longer be reckoned as part of the mikweh.
(22) Holding less than 40 se'ahs, and the colour of which was not changed.
(23) Because the three logs are no longer considered as water.
(24) Because milk cannot make up the required quantity of the three log of water.
(25) And if the milk did not change the colour of the water, it combines with the water to make up three logs, and so renders the mikweh invalid.
(26) Because some water must have adhered to the body of the first person, thus reducing the quantity of the mikweh to less than 40 se'ahs.
(27) When the second person immersed himself, the whole of the body of the first person may thus be considered as if still in the water.
(28) In a mikweh containing 40 se'ahs exactly.
(29) The water absorbed by the cloak is considered as if still in the mikweh.
(30) They form a receptacle, and if immersed in a mikweh of 40 se'ahs exactly, the water running down from them into the mikweh, if three logs in quantity, will render the mikweh invalid.
(31) So that no water will be held inside them.
(32) In a mikweh containing 40 se'ahs exactly.
(33) Or, according to some commentators, because the water fills the holes in the mud before the feet of the bed sink in them.
(34) Containing more than 40 se'ahs.
(35) For the body to be completely covered by it.
(36) Lit., ‘swell up’.
(37) The owner will not immerse the needle in the cavern for fear of its being lost.

Mishna - Mas. Mikva'oth Chapter 8

MISHNAH 1. THE LAND OF ISRAEL IS CLEAN[1] AND ITS MIKWEHS ARE CLEAN.[2] THE MIKWEHS OF THE NATIONS OUTSIDE THE LAND ARE VALID FOR THOSE WHO HAD A SEMINAL ISSUE[3] EVEN THOUGH THEY ARE FILLED WITH A SWIPE-BEAM;[4] THOSE IN THE LAND OF ISRAEL WHEN OUTSIDE THE ENTRANCE [TO THE CITY][5] ARE VALID ALSO FOR MENSTRUANTS,[6] AND THOSE WITHIN THE ENTRANCE [TO THE CITY] ARE VALID FOR THOSE WHO HAD A SEMINAL ISSUE BUT INVALID FOR ALL [OTHERS] WHO ARE UNCLEAN.[7] R. ELIEZER SAYS: THOSE WHICH ARE NEAR TO A CITY OR TO A

ROAD ARE UNCLEAN BECAUSE OF THE WASHING [OF CLOTHES[8] THEREIN]; BUT THOSE AT A DISTANCE ARE CLEAN.

MISHNAH 2. THESE ARE THE PERSONS THAT HAD A SEMINAL ISSUE WHO REQUIRE IMMERSION: IF HE NOTICED THAT HIS URINE ISSUED IN DROPS OR WAS MUDDY, AT THE BEGINNING[9] HE IS CLEAN;[10] IN THE MIDDLE AND AT THE END, HE IS UNCLEAN;[11] FROM THE BEGINNING TO THE END, HE IS CLEAN.[10] IF IT WAS WHITE AND VISCOUS, HE IS UNCLEAN.[12] R. JOSE SAYS: WHAT IS WHITE COUNTS LIKE WHAT IS MUDDY.[13]

MISHNAH 3. IF HE EMITTED THICK DROPS FROM THE MEMBER, HE IS UNCLEAN.[12] THIS IS THE OPINION OF R. ELEAZAR HISMA. IF ONE HAD IMPURE DREAMS IN THE NIGHT AND AROSE AND FOUND HIS FLESH[14] HEATED, HE IS UNCLEAN.[15] IF A WOMAN[16] DISCHARGED SEMEN ON THE THIRD DAY,[17] SHE IS CLEAN.[18] THIS IS THE OPINION OF R. ELEAZAR B. AZARIAH. R. ISHMAEL SAYS: SOMETIMES THERE ARE FOUR ‘ONAHS,[19] AND SOMETIMES FIVE, AND SOMETIMES SIX. R. AKIBA SAYS: THERE ARE ALWAYS FIVE.

MISHNAH 4. IF A GENTILE WOMAN DISCHARGED SEMEN FROM AN ISRAELITE, IT IS UNCLEAN. IF AN ISRAELITE WOMAN DISCHARGED SEMEN FROM A GENTILE, IT IS CLEAN. IF A WOMAN HAD INTERCOURSE AND THEN WENT DOWN AND IMMERSED HERSELF BUT DID NOT[20] SWEEP OUT THE HOUSE,[21] IT IS AS THOUGH SHE HAD NOT IMMERSED HERSELF.[22] IF A MAN WHO HAD A SEMINAL ISSUE IMMERSED HIMSELF BUT DID NOT FIRST PASS URINE, HE AGAIN BECOMES UNCLEAN WHEN HE PASSES URINE.[23] R. JOSE SAYS: IF HE WAS SICK OR OLD HE IS UNCLEAN, BUT IF HE WAS YOUNG AND HEALTHY HE REMAINS CLEAN.[24]

MISHNAH 5. IF A MENSTRUANT PLACED COINS IN HER MOUTH AND WENT DOWN AND IMMERSED HERSELF, SHE BECOMES CLEAN FROM HER [FORMER] UNCLEANNESS,[25] BUT SHE BECOMES UNCLEAN ON ACCOUNT OF HER SPITTLE.[26] IF SHE PUT HER HAIR IN HER MOUTH[27] OR CLOSED HER HAND[27] OR PRESSED HER LIPS TIGHTLY,[27] IT IS AS THOUGH SHE HAD NOT IMMERSED HERSELF.[28] IF A PERSON HELD ON TO ANOTHER MAN OR TO VESSELS AND IMMERSED THEM, THEY REMAIN UNCLEAN;[29] BUT IF HE HAD WASHED HIS HAND BEFORE IN THE WATER, THEY BECOME CLEAN.[30] R. SIMEON SAYS: HE SHOULD HOLD THEM LOOSELY THAT WATER MAY ENTER INTO THEM. THE SECRET[31] AND WRINKLED PARTS OF THE BODY DO NOT NEED THAT WATER SHOULD ENTER INTO THEM.[32]

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(1) Even localities occupied by non-Jews.

(2) They are not suspected of having become invalid by drawn water.

(3) To purify them for the study of the Torah; cf. supra III, 4, n. 3. Such a defilement can be removed by immersion even in a mikweh with drawn water.

(4) Carrying drawn water.

(5) Where few people come, and one need not suspect the presence of drawn water in a mikweh.

(6) Even for such a severe defilement as that of menstruation; cf. Lev. XX, 18.

(7) Because such mikwehs are used for ordinary bathing and for washing clothes, and may be suspected of having been filled with drawn water.

(8) Even though they are filled with rain water, they may yet be suspected of having received three logs of water wrung out of the clothes washed in them and thus rendered drawn before they had 40 se'ahs of rain water.

(9) Of his urination.

(10) It is not semen.

(11) It is semen.

(12) V. p. 452, n. 11.

(13) And it differs according as it is discharged at the beginning or in the middle and at the end.
(14) A euphemism for the male member; cf. Lev. XV, 2, etc.
(15) Even though he did not perceive a discharge.
(16) Cf. Shab. IX, 3.
(17) After intercourse. The number of days is derived from Ex. XIX, 15.
(18) After such a time the semen loses its efficacy.
(19) During which the discharge remains unclean. An ‘onah (lit.. ‘period’) is a day or a night, half an astronomical day. R. Ishmael holds that two full astronomical days (viz., a complete night and the day following it) must elapse to render the discharge clean. Thus if intercourse took place at the end of the first day and the discharge at the beginning of the fourth day, two complete days or four ‘onahs intervening, it is clean. But if intercourse took place in the morning of the first day, the discharge will still not be clean till the beginning of the fourth day, a lapse of five ‘onahs. Likewise, if intercourse took place in the evening (preceding) the first day, the discharge is not clean till the beginning of the fourth day, a lapse of six ‘onahs.
(20) Previous to immersion.
(21) A euphemism; did not clean her private parts from any trace of semen.
(22) Because she may have a discharge after her immersion.
(23) The urine may carry a discharge of semen.
(24) The original discharge must have been complete, leaving nothing behind for an additional discharge in the urine.
(25) For fresh intercourse.
(26) Before the immersion some spittle may have come on the coin in her mouth. This spittle does not become clean by the immersion like the rest of the spittle in her mouth, and conveys uncleanness to the woman.
(27) Preventing their contact with the water.
(28) Because the immersion was not complete.
(29) The water in the mikweh did not cover the place held by the hand.
(30) The water adhering still to his hand combines with the water of the mikweh to serve as immersion for the place held by the hand.
(31) The inside of the mouth, ears, and nose.
(32) But they must be left free for contact with the water.

Mishna - Mas. Mikva'oth Chapter 9

MISHNAH 1. THE FOLLOWING INTERPOSE[1] IN THE CASE OF A PERSON: THREADS OF WOOL AND THREADS OF FLAX AND THE RIBBONS ON THE HEADS OF GIRLS.[2] R. JUDAH SAYS: THOSE OF WOOL OR OF HAIR DO NOT INTERPOSE, BECAUSE WATER ENTERS THROUGH THEM.

MISHNAH 2. THE MATTED HAIR ON THE HEART AND ON THE BEARD AND ON A WOMAN'S[3] SECRET PARTS; PUS OUTSIDE THE EYE, HARDENED PUS OUTSIDE A WOUND AND THE PLASTER OVER IT, DRIED-UP JUICE, CLOTS OF EXCREMENT ON THE BODY, DOUGH UNDER THE FINGER NAIL, SWEAT-CRUMBS, MIRY CLAY, POTTER'S CLAY, AND ROAD-CLAY. WHAT IS MEANT BY ‘MIRY CLAY’? THIS MEANS THE CLAY IN PITS, FOR IT IS WRITTEN: ‘HE BROUGHT ME UP OUT OF A HORRIBLE PIT, OUT OF THE MIRY CLAY’.[4] ‘POTTER'S CLAY’ IS ACCORDING TO ITS LITERAL SENSE. R. JOSE DECLARES POTTER'S CLAY CLEAN,[5] BUT CLAY FOR PUTTY UNCLEAN. ‘ROAD-CLAY’[6] IS CLAY WHICH BECOMES LIKE ROAD-SIDE PEGS.[7] IN THESE [KINDS OF CLAY][8] ONE MAY NOT IMMERSE ONESELF NOR IMMERSE WITH THEM;[9] BUT IN ALL OTHER CLAY ONE MAY IMMERSE WHEN IT IS WET. ONE MAY NOT IMMERSE ONESELF WITH DUST [STILL] ON ONE'S FEET.[10] ONE MAY NOT IMMERSE A KETTLE WITH SOOT [ON IT] EXCEPT IT HAS BEEN SCRAPED.

MISHNAH 3. THE FOLLOWING DO NOT INTERPOSE: THE MATTED HAIR OF THE HEAD AND OF THE ARMPITS AND OF A MAN'S SECRET PARTS. R. ELIEZER SAYS: IT IS

THE SAME WITH A MAN OR A WOMAN: IF IT IS SOMETHING WHICH ONE FINDS ANNOYING, IT INTERPOSES; BUT IF IT IS SOMETHING WHICH ONE DOES NOT FIND ANNOYING, IT DOES NOT INTERPOSE.

MISHNAH 4. PUS WITHIN THE EYE, HARDENED PUS WITHIN A WOUND, JUICE THAT IS MOIST, MOIST EXCREMENT ON THE BODY, EXCREMENT INSIDE THE FINGER NAIL, AND A DANGLING FINGER NAIL.[11] THE DOWNY HAIR OF A CHILD IS NOT LIABLE TO UNCLEANNESS[12] AND DOES NOT CAUSE UNCLEANNESS. THE SKIN WHICH FORMS OVER A WOUND IS LIABLE TO UNCLEANNESS AND CAUSES UNCLEANNESS.

MISHNAH 5.IN THE CASE OF ARTICLES THE FOLLOWING INTERPOSE: PITCH AND MYRRH[13] IN THE CASE OF GLASS VESSELS, WHETHER INSIDE OR OUTSIDE; THEY INTERPOSE [WHEN FOUND] ON A TABLE OR ON A BOARD OR ON A COUCH THAT ARE [USUALLY] KEPT CLEAN,[14] BUT THEY DO NOT INTERPOSE [WHEN FOUND] ON THESE ARTICLES IF ALLOWED TO REMAIN DIRTY. THEY INTERPOSE IN THE CASE OF BEDS BELONGING TO HOUSEHOLDERS,[15] BUT THEY DO NOT INTERPOSE ON BEDS BELONGING TO A POOR PERSON. THEY INTERPOSE ON THE SADDLE OF A HOUSE-HOLDER, BUT THEY DO NOT INTERPOSE ON THE SADDLE OF A DEALER IN WATER-SKINS. THEY INTERPOSE IN THE CASE OF A PACK-SADDLE.[16] RABBAN SIMEON B. GAMALIEL SAYS: [ONLY IF THE STAIN IS AS BIG] AS AN ITALIAN ISSAR.[17]

MISHNAH 6. THEY DO NOT INTERPOSE [IF FOUND] ON CLOTHING ON ONE SIDE [ONLY]. BUT [IF FOUND] ON TWO SIDES[18] THEY INTERPOSE. R. JUDAH SAYS IN THE NAME OF R. ISHMAEL: ON ONE SIDE ALSO. R. JOSE SAYS: IN THE CASE OF BANNA'IM[19] THEY INTERPOSE ALSO IF ON ONE SIDE, BUT IN THE CASE OF THE UNCULTURED ONLY IF ON BOTH SIDES.

MISHNAH 7. THEY DO NOT INTERPOSE IN THE CASE OF APRONS BELONGING TO WORKERS IN PITCH, POTTERS, OR TRIMMERS OF TREES. R. JUDAH SAYS: THE SAME APPLIES ALSO TO SUMMER FRUIT-DRIERS. THIS IS THE GENERAL RULE: IF IT IS SOMETHING WHICH CAUSES ANNOYANCE, IT INTERPOSES; BUT IF IT IS SOMETHING WHICH DOES NOT CAUSE ANNOYANCE, IT DOES NOT INTERPOSE.

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(1) Between the body and the water of the mikweh to render the immersion void if they are worn on the body while immersing; cf. supra VIII, 5. nn. 5-7, and Introd.

(2) If tied tightly or interlaced.

(3) A married woman only, who finds such hair annoying in intercourse with her husband.

(4) Psalms XL, 3. This shows that miry clay (טיט היון) is found in pits.

(5) Water can penetrate through this clay, but not through putty.

(6) גת יוני, of uncertain meaning and pointing (יוני); cf. Kohut, ‘Aruch, II, p. 341.

(7) When it becomes dry and hard; cf. B.K. 81a.

(8) If any such clay is in the mikweh.

(9) If any such clay is sticking to the body.

(10) The dust may turn in the water into clay.

(11) This concludes the list of things which do not interpose.

(12) If it comes in contact with a defilement.

(13) והמור. Var. lec.: וחמר, ‘and bitumen’.

(14) And the stain causes annoyance.

(15) A rich person who is fastidious about the cleanness of his furniture.

(16) Some texts omit this sentence.

(17) The Roman As, a coin which was equal to 1/24 of a denar.

(18) When a stain causes annoyance.

(19) בנאים, ‘builders’ explained in Shab. 114a as scholars learned in the law who build up the world (cf. Ber. 64a). Another explanation given there is ‘bath-attendants’ (בלנאים or בלנים), but this does not correspond to the following ‘uncultured’ (בןר).

Mishna - Mas. Mikva'oth Chapter 10

MISHNAH 1. ANY HANDLES OF VESSELS WHICH HAVE BEEN FIXED NOT IN THEIR CUSTOMARY MANNER, OR, IF FIXED IN THEIR CUSTOMARY MANNER, HAVE NOT BEEN FIXED FIRMLY, OR, IF FIXED FIRMLY, HAVE BEEN BROKEN,[1] LO, THEY INTERPOSE.[2] IF A VESSEL IS IMMERSED WITH ITS MOUTH DOWNWARDS, IT IS AS THOUGH IT HAD NOT BEEN IMMERSED.[3] IF IMMERSED IN THE REGULAR MANNER BUT WITHOUT THE ATTACHMENT,[4] [IT BECOMES CLEAN] ONLY IF TURNED ON ITS SIDE.[5] IF A VESSEL IS NARROW AT EACH END AND BROAD IN THE CENTRE, IT BECOMES CLEAN ONLY IF TURNED ON ITS SIDE.[5] A FLASK WHICH HAS ITS MOUTH TURNED INWARDS[6] BECOMES CLEAN ONLY IF A HOLE IS MADE AT THE SIDE.[5] AN INKPOT OF LAYMEN[7] BECOMES CLEAN ONLY IF A HOLE IS MADE AT THE SIDE. THE INKPOT OF JOSEPH THE PRIEST HAD A HOLE AT ITS SIDE.[8]

MISHNAH 2. IN THE CASE OF A BOLSTER AND A CUSHION OF LEATHER IT IS NECESSARY THAT THE WATER ENTER INSIDE THEM;[9] BUT IN THE CASE OF A ROUND CUSHION OR A BALL OR A BOOTMAKER'S LAST OR AN AMULET OR A PHYLACTERY,[10] IT IS NOT NECESSARY THAT THE WATER ENTER INSIDE THEM. THIS IS THE GENERAL RULE: ANY ARTICLE THE FILLING OF WHICH IS NOT HABITUALLY TAKEN OUT AND PUT IN MAY BE IMMERSED UNOPENED.

MISHNAH 3. THE FOLLOWING DO NOT REQUIRE THAT THE WATER SHALL ENTER INSIDE THEM: KNOTS [IN THE CLOTHES] OF A POOR MAN,[11] OR IN TASSELS, OR IN THE THONG OF A SANDAL, OR IN A HEAD-PHYLACTERY[12] IF IT IS FASTENED TIGHTLY, OR IN AN ARM-PHYLACTERY[12] IF IT DOES NOT MOVE UP OR DOWN, OR IN THE HANDLES OF A WATER-SKIN, OR IN THE HANDLES OF A WALLET.[13]

MISHNAH 4. THE FOLLOWING REQUIRE THAT WATER SHALL ENTER INSIDE THEM: THE KNOT IN AN UNDERGARMENT[14] WHICH IS TIED TO THE SHOULDER, (LIKEWISE THE HEM OF A SHEET[15] MUST BE STRETCHED OUT), AND THE KNOT OF A HEAD-PHYLACTERY IF IT IS NOT FASTENED TIGHTLY, OR OF THE ARM-PHYLACTERY IF IT MOVES UP AND DOWN, AND THE LACES OF A SANDAL. CLOTHES WHICH ARE IMMERSED WHEN THEY HAVE JUST BEEN WASHED[16] MUST BE KEPT IMMERSED UNTIL THEY THROW UP BUBBLES,[17] BUT IF THEY ARE IMMERSED WHEN ALREADY DRY, THEY MUST BE KEPT IMMERSED UNTIL THEY THROW UP BUBBLES AND THEN CEASE TO THROW UP BUBBLES.[18]

MISHNAH 5. ANY HANDLES OF VESSELS WHICH ARE TOO LONG AND WHICH WILL BE CUT SHORT, NEED ONLY BE IMMERSED UP TO THE POINT OF THEIR PROPER MEASURE.[19] R. JUDAH SAYS: [THEY ARE UNCLEAN] UNTIL THE WHOLE OF THEM IS IMMERSED. AS FOR THE CHAIN OF A LARGE BUCKET, TO THE LENGTH OF FOUR HANDBREADTHS, AND A SMALL BUCKET, TO THE LENGTH OF TEN HANDBREADTHS; AND THEY NEED ONLY BE IMMERSED UP TO THE POINT OF THEIR PROPER MEASURE.[20] R. TARFON SAYS: IT IS NOT CLEAN UNLESS THE WHOLE OF THE RING[21] IS IMMERSED. THE ROPE BOUND TO A BASKET IS NOT COUNTED AS A CONNECTION UNLESS IT HAS BEEN SEWN ON.[22]

MISHNAH 6. BETH SHAMMAI SAY: HOT WATER[23] MAY NOT BE IMMERSED IN COLD, OR COLD IN HOT, FOUL IN FRESH OR FRESH IN FOUL.[24] BUT BETH HILLEL SAY: IT MAY BE IMMERSED. IF ONE IMMERSED A VESSEL FULL OF LIQUIDS.[25] IT IS AS THOUGH IT HAD NOT BEEN IMMERSED;[26] IF IT WAS FULL OF URINE, THIS IS RECKONED AS WATER; IF IT CONTAINED WATER OF PURIFICATION,[27] [IT IS UNCLEAN] UNLESS THE WATER [OF THE MIKWEH WHICH ENTERS THE VESSEL] EXCEEDS THE WATER OF PURIFICATION. R. JOSE SAYS: EVEN IF A VESSEL WITH THE CAPACITY OF A KOR[28] CONTAINS BUT A QUARTER-LOG.[29] IT IS AS THOUGH IT HAD NOT BEEN IMMERSED.

MISHNAH 7. ALL FOODS[30] COMBINE TOGETHER[31] TO MAKE UP THE HALF OF A HALF-LOAF[32] WHICH MAKES THE BODY UNFIT. ALL LIQUIDS COMBINE TOGETHER[33] TO MAKE UP THE QUARTER-LOG WHICH MAKES THE BODY UNFIT. THIS FORMS A RULE OF GREATER STRINGENCY IN THE CASE OF ONE WHO DRINKS UNCLEAN LIQUIDS THAN IN THE CASE OF THE MIKWEH, FOR IN HIS CASE THEY HAVE MADE ALL OTHER LIQUIDS LIKE WATER.[34]

MISHNAH 8. IF ONE ATE UNCLEAN FOODS OR DRANK UNCLEAN LIQUIDS. AND HE IMMERSED HIMSELF AND THEN VOMITED THEM UP,[35] THEY ARE STILL UNCLEAN BECAUSE THEY DID NOT BECOME CLEAN IN THE BODY.[36] IF ONE DRANK UNCLEAN WATER AND IMMERSED HIMSELF AND THEN VOMITED IT UP, IT IS CLEAN BECAUSE IT BECAME CLEAN IN THE BODY.[37] IF ONE SWALLOWED A CLEAN RING AND THEN WENT INTO THE TENT OF A CORPSE,[38] IF HE SPRINKLED HIMSELF ONCE AND TWICE[39] AND IMMERSED HIMSELF AND THEN VOMITED IT UP, LO, IT REMAINS AS IT WAS BEFORE.[40] IF ONE SWALLOWED AN UNCLEAN RING, HE MAY IMMERSE HIMSELF AND EAT TERUMAH;[41] IF HE VOMITED IT UP, IT IS UNCLEAN[42] AND IT RENDERS HIM UNCLEAN.[43] IF AN ARROW WAS STUCK INTO A MAN, IT INTERPOSES SO LONG AS IT IS VISIBLE;[44] BUT IF IT IS NOT VISIBLE, HE MAY IMMERSE HIMSELF AND EAT TERUMAH.[45]

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(1) In all these cases the handle cannot be considered a permanent or an essential part of the vessel.

(2) They prevent the water from covering that part of the vessel where the handle is attached.

(3) Because air remains in the vessel and prevents the water from filling it.

(4) The reading and meaning of this word are very doubtful. It is variously explained as an additional opening, or handle, or long neck, or saucer-like bottom.

(5) To enable the water to fill it completely.

(6) In order to prevent the escape of the liquid when the flask is turned upside down.

(7) Or ‘private persons’ who are not professional scribes. The inkpot was made in the same fashion with the rim of its mouth turned inwards. The Cambridge text (cf. Introd. n. 1.) omits ‘of laymen’.

(8) In accordance with this rule.

(9) Because they are sometimes opened for a change of their filling.

(10) These are not usually opened.

(11) To tie up rents.

(12) Cf. Deut. VI, 8.

(13) They are permanent knots.

(14) It has a wide opening at the neck, which is drawn in and tied to the shoulder.

(15) Which serves as a curtain with folds at the top hem.

(16) And are full of folds and wrinkles.

(17) The bubbles show that the water still adhering to the clothes has mingled with the water of the mikweh, and has thus become part of the water of the mikweh. It is not necessary then for the water of the mikweh to penetrate into all the folds of the clothes.

(18) When we may be sure that the water of the mikweh has penetrated into all the folds and wrinkles of the clothes.

(19) As given in Kelim XXIX. The rest is not considered as belonging to the vessel.

(20) Even if this ends in the middle of a ring. Cf. Kelim XIV, 3.

(21) If the appointed measure ends in the middle of the ring.

(22) Therefore when not sewn on, it must be undone before the basket is immersed.

(23) Water can be rendered clean by filling it in a vessel in which it is immersed to the rim, when the water in the vessel establishes contact with the water of the mikweh.

(24) The water to be immersed must be of the same kind as the water of the mikweh.

(25) Other than water; cf. supra VII, 2, p. 449 n. 3.

(26) These liquids do not mingle with the water of the mikweh, and therefore they interpose between the inside of the vessel and the water of the mikweh.

(27) This water, on account of its importance, cannot be considered as mingled with the water of the mikweh, unless the latter exceeds it in quantity.

(28) Cf. Ezek. XLV, 14. It is equal to thirty se'ahs.

(29) Of liquid other than water or of Water of Purification.

(30) Cf. Me'ilah IV, 5.

(31) If a man ate small quantities of unclean foods of different kinds, these quantities may be reckoned together to make up the minimum quantity of unclean food which renders a person unfit for eating terumah.

(32) A bulk of two eggs, (Rashi), or of an egg and a half, according to Maimonides.

(33) If a person drank small quantities of unclean liquids of different kinds.

(34) To combine with water in order to make up the required quantity, whereas in the case of the mikweh other liquids do not combine with water.

(35) Before they had remained in the stomach sufficiently long for digestion.

(36) Unclean foods and liquids except water cannot be purified by immersion.

(37) Unclean water can be purified by immersion, cf. p. 460, n. 5.

(38) Or any other premises with remains of a dead human body.

(39) With Water of Purification, in accordance with the law in Num. XIX, 19.

(40) The ring remains clean, because a swallowed article is not affected by the defilement of the person after swallowing it.

(41) The ring had a principal defilement (אב הטומאה), and by coming in contact with it before swallowing it, the person received a secondary defilement of the first degree, and requires immersion for eating terumah.

(42) It did not become clean by the person's immersion.

(43) By coming in contact with the ring in the act of vomiting it out.

(44) It sticks out of the body.

(45) Even if the arrow is unclean, because an object enclosed in the body cannot convey uncleanness.

Talmud - Mas. Nidah 2a

CHAPTER I

MISHNAH. . SHAMMAI RULED: FOR ALL WOMEN[1] IT SUFFICES [TO RECKON] THEIR [PERIOD OF UNCLEANNESS FROM THE] TIME [OF THEIR DISCOVERING THE FLOW].[2] HILLEL RULED: [THEIR PERIOD OF UNCLEANNESS IS TO BE RECKONED RETROSPECTIVELY] FROM THE [PREVIOUS] EXAMINATION TO THE [LAST] EXAMINATION,[3] EVEN [IF THE INTERVAL EXTENDED] FOR MANY DAYS. THE SAGES, HOWEVER, RULED: [THE LAW IS] NEITHER IN AGREEMENT WITH THE OPINION OF THE FORMER[4] NOR IN AGREEMENT WITH THAT OF THE LATTER,[5] BUT [THE WOMEN ARE DEEMED TO HAVE BEEN UNCLEAN] DURING [THE PRECEDING] TWENTY-FOUR HOURS[6] WHEN THIS[7] LESSENS THE PERIOD FROM THE [PREVIOUS] EXAMINATION TO THE [LAST] EXAMINATION, AND DURING THE PERIOD FROM THE [PREVIOUS] EXAMINATION TO THE [LAST] EXAMINATION WHEN THIS[8] LESSENS THE PERIOD OF TWENTY-FOUR HOURS.

FOR ANY WOMAN WHO HAS A SETTLED PERIOD IT SUFFICES [TO RECKON HER PERIOD OF UNCLEANNESS FROM] THE TIME SHE DISCOVERS THE FLOW: AND IF A WOMAN USES TESTING-RAGS WHEN[9] SHE HAS MARITAL INTERCOURSE, THIS IS INDEED[10] LIKE AN EXAMINATION WHICH LESSENS EITHER THE PERIOD OF THE [PAST] TWENTY-FOUR HOURS OR THE PERIOD FROM THE [PREVIOUS] EXAMINATION TO THE [LAST] EXAMINATION. HOW [IS ONE TO UNDERSTAND THE RULING THAT][11] IT SUFFICES [TO RECKON HER PERIOD OF UNCLEANNESS FROM] THE TIME SHE DISCOVERS THE FLOW'? IF SHE WAS SITTING ON A BED AND WAS OCCUPIED WITH RITUALLY CLEAN OBJECTS[12] AND, HAVING LEFT THEM, OBSERVED A FLOW, SHE IS RITUALLY UNCLEAN WHILE THE OBJECTS[13] REMAIN RITUALLY CLEAN.

ALTHOUGH THEY[14] HAVE LAID DOWN THAT SHE[15] CONVEYS UNCLEANNESS FOR A PERIOD OF TWENTY-FOUR HOURS [RETROSPECTIVELY][16] SHE COUNTS [THE SEVEN DAYS OF HER MENSTRUATION][17] ONLY FROM THE TIME SHE OBSERVED THE FLOW.

GEMARA. What is Shammai's reason?[18] — He is of the opinion that a woman[19] should be presumed to enjoy[20] her usual status, and the status of the woman[21] was one of cleanness.[22] And Hillel?[23] — When is it said that an object is presumed to possess its usual status? Only when the unfavourable condition[24] is not internal;[25] but as regards a woman,

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(1) In respect of menstrual uncleanness.

(2) It being assumed that up to that moment there was no vestige of blood even in the ante-chamber (cf. Mishnah infra 40a). Hence only objects that were touched by the woman after the discovery become ritually unclean. All objects touched prior to that moment remain clean.

(3) When she discovered the discharge. If the last, for instance, took place at 5 p.m. on a Thursday and the previous one at 8 a.m. on the preceding Sunday, all objects touched since the Sunday examination are deemed to be ritually unclean because it is assumed that some blood, prevented from leaving the body by the walls of the womb, may have made its way into the ante-chamber immediately after that examination.

(4) Shammai, whose ruling is too lenient.

(5) Hillel, who is too restrictive, since blood could not well be retained in the ante-chamber for a very long time.

(6) Me'eth le'eth, lit., 'from time to time'.

(7) An interval of more than twenty-four hours having intervened between the two examinations.

(8) The two examinations having taken place within twenty-four hours.

(9) Before and after.

(10) Lit., 'behold this'.

(11) In the case of 'ANY WOMAN WHO HAS A SETTLED PERIOD (supra).
(12) In the preparation, for instance, of foodstuffs.
(13) The bed, and the foodstuffs which she handled.
(14) The Sages.
(15) A woman who had no settled period.
(16) From the time she observed the flow.
(17) Prescribed in Lev. XV, 19.
(18) For his ruling in the first clause of our Mishnah.
(19) About whom it is uncertain when her flow began.
(20) Lit., 'cause to stand . . . upon'.
(21) Spoken of in our Mishnah.
(22) Since she was occupied with ritually clean things.
(23) How, in view of Shammai's reason, can he maintain his ruling.
(24) Which might impair its status.
(25) But is due to some external cause. MS.M. adds, 'as, for instance, when it is doubtful whether one did, or did not touch (an unclean object)'.

Talmud - Mas. Nidah 2b

since what she observes [is a discharge] from her own body, it cannot be held that she is presumed to have her usual status.

Wherein, however, does this[1] essentially differ[2] from that of a ritual bath of which we learnt: If a ritual bath[3] was measured and found lacking, all purifications that have heretofore been effected through it, whether it was in a public[4] or in a private domain,[5] are regarded[6] as unclean?[7] According to Shammai[8] the difficulty arises from 'heretofore'; while according to Hillel the difficulty arises, does it not, from the certainty; for, whereas in the case of the twenty-four hours' period[9] of the menstruant [any terumah[10] she touched] is only held in suspense, it being neither eaten nor burned,[11] here[12] the uncleanness is regarded as a certainty?[13] — The reason[14] there[15] is that it may be postulated that the unclean person shall be regarded as being in his presumptive status[16] and assumed[17] not to have performed proper immersion.[18] On the contrary! Why not postulate that the ritual bath shall be regarded as being in its presumptive status of validity and assume that it was not lacking?[19] — Surely a lacking [bath] is before you. But in this case also,[20] is not blood before you? — She has only just now observed it.[21] In that case[22] too, is it not[23] lacking only just now?[24] — What a comparison![25] In that case[22] it might well be presumed that the water was gradually diminishing,[26] but can it here also be presumed that she was gradually observing the flow?[27] — What an objection is this! Is it not possible that she observed the blood only when it was coming in profusion?[28] — In the former case[29] there are two unfavourable factors[30] while in the latter[31] there is only one unfavourable factor.[32] Wherein, however,[33] does this[31] differ from the case of the jug concerning which we have learnt:[34] If one tested[35] a wine jug for the purpose of periodically taking from it terumah [for wine kept in other jugs][36] and, subsequently,[37] it was found to contain vinegar,[38] all[39] three days it is certain,[40] and after that it is doubtful.[41] Now does not this[42] present an objection against Shammai?[43] — The reason there[44] is that it can be postulated that the tebel[45] shall be regarded as having its presumptive status, and then it may be presumed that it had not been ritually prepared.[46] On the contrary! Why not postulate that the wine be regarded as having its presumptive status[47] and then it might be assumed that it had not become sour? — Surely it stands sour before you. But in that case also[48] is there not blood before you? — She has only just now observed it. But in that case too[49] is it not sour only just now? — What a comparison! In the latter case[49] it might well be presumed that the wine turned sour by degrees,[50] but can it also be said in the former case[48] that she observed the flow by degrees?[51] — What an objection is this! Is it not possible that she observed the blood only when it came in profusion? — In the former case[49] there are two unfavourable factors[52] while in the latter[48] there is only one such factor.[53]

An incongruity, however, was pointed out between the case of the jug[54] and that of the ritual bath:[55] Wherein lies the essential difference between the two[56] that in the latter case[57] [the retrospective uncleanness is regarded as] a certainty while in that of the former[58] [the uncleanness of the terumah is deemed] doubtful? — R. Hanina of Sura replied: Who is the author [of the ruling concerning the] jug? R. Simeon, who in respect of a ritual bath also regards [the retrospective uncleanness] as a matter of doubt; for it was taught:[59] If a ritual bath was measured and found lacking all purifications heretofore effected through it whether it was in a public or in a private domain, are regarded as unclean.[60] R. Simeon ruled: In a public domain they are regarded as clean but in a private domain they are regarded as being in suspense.[61]

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(1) The case of the menstruant.

(2) Both according to Shammai and Hillel.

(3) Which must contain a minimum of forty se'ah of water.

(4) Where a case of doubtful uncleanness is elsewhere regarded as clean.

(5) Where a doubtful case is regarded as unclean (cf. prev. n.).

(6) Since the bath is now ritually invalid.

(7) Mik. II, 2.

(8) Who ruled that the period of uncleanness of menstruant women begins FROM THE TIME OF THEIR DISCOVERY OF THE FLOW and not retrospectively.

(9) According to the Sages; or the interval between her last and previous examinations according to Hillel (v. our Mishnah).

(10) V. Glos.

(11) As explained infra 6a.

(12) In the case of the ritual bath, where it is categorically stated ‘are retrospectively unclean’.

(13) And the terumah must be burned.

(14) For the restrictions.

(15) The case of the ritual bath.

(16) Of uncleanness, which before valid immersion is a certainty.

(17) On account of the discovered invalidity of the ritual bath he used.

(18) Since the invalidity may have begun at the time the immersion took place.

(19) At the time of the immersion.

(20) That of the menstruant.

(21) Hence there is no need to assume that the flow began any earlier.

(22) Ritual bath.

(23) As far as is known.

(24) Why then should it be assumed to have been lacking earlier?

(25) Lit., ‘thus, now’.

(26) So that the presumptive state of validity has long ago been impaired. And since it is not known when the process began the restrictive ruling given is well justified.

(27) Obviously not. Hence it may well be assumed that the flow began only at the moment when it was discovered.

(28) While in fact a particle of it which is quite sufficient to cause uncleanness (cf. infra 40) may have been in the antechamber long before she was aware of any flow.

(29) That of the ritual bath.

(30) The assumption that the unclean person was in his confirmed status of uncleanness and the lacking condition of the bath.

(31) The case of the menstruant.

(32) The present observation of the blood. Since against this factor there is the favourable one of the woman's previous condition of confirmed cleanness it may well be assumed that the flow began not earlier than the moment when it was observed.

(33) According to Shammai.

(34) What follows is a Baraitha (Tosef. Ter. IV) and is quoted here as Mishnah. This is not an isolated instance. V.

Higger Ozar ha Beraitoth, pp. 37ff.

(35) Either by tasting some of its contents (Rashi) the terumah and tithe having been duly taken from it (Rashb. B.B. 96a) or by smelling it (Tosaf. l.c.).

(36) In order that he might be allowed to use the wine in the other jugs he keeps this one jug for the purpose of taking from it daily, or whenever required, the appropriate quantity of wine as terumah or tithe for the wine in the other jugs.

(37) After a month or two, for instance.

(38) A liquid which (according to Rabbi, B.B. 84b) may not be used as terumah for wine.

(39) So MS.M. and Rashal. Cur. edd. in parenthesis insert ‘the first’.

(40) V. following note.

(41) Tosef. Ter. IV. The meaning according to R. Johanan (B.B. 96a) is that during the first three days after the test the contents of the jug are regarded as ‘certain’ wine because in less than three days wine cannot turn into vinegar. Even if it be assumed that it began to turn sour immediately after the test it could not be called ‘vinegar’ until full three days had elapsed. The terumah given within these three days must inevitably have been wine and consequently have exempted the wine in the other jugs. After three days the contents are regarded as ‘doubtful wine’ since it is possible that the wine began to deteriorate only three days before it was found to be vinegar, into which it may have turned just at that moment. As the terumah is accordingly of a doubtful nature another portion must be set aside for the purpose. The meaning according to R. Joshua b. Levi (ibid.) is that during the last three days prior to the discovery that it had turned into vinegar, it is regarded as ‘certain’ vinegar because, in his opinion, the contents are deemed to be vinegar as soon as the wine begins to deteriorate in odour though its taste may still be that of wine. Since it is now proper vinegar the deterioration must have commenced at least three days earlier. Prior to the three days it is regarded as ‘doubtful’ because it is unknown when the deterioration had set in.

(42) The ruling in the Baraitha cited according to which where unfavourable factors exist restrictions are applied retrospectively.

(43) Who ruled in our Mishnah that menstruants are not deemed to have been unclean for any length of time retrospectively, but reckon their period of uncleanness only from the moment OF THEIR DISCOVERING THE FLOW.

(44) In the Baraitha cited.

(45) The untithed wine, v. Glos.

(46) Sc. that the priestly and levitical dues have not been duly set aside for it.

(47) Of being wine.

(48) That of the menstruant.

(49) That of the jug of wine.

(50) So that it lost its status long before it completely turned into vinegar.

(51) Of course not. Hence the assumption that the flow began the moment it was discovered.

(52) The confirmed status of the wine as tebel and its present sour condition.

(53) The present observation of the blood.

(54) Cited supra from Tosef. Ter. IV.

(55) Mik. II, 2, also cited supra.

(56) In both of which (as stated supra) there are equally two unfavourable factors.

(57) Mik. II, 2.

(58) Cited supra from Tosef. Ter. IV.

(59) So marg. gl. Cur. edd. ‘we learnt’.

(60) Supra q.v. notes.

(61) Tosef. Mik. I; the reason is discussed infra.

Talmud - Mas. Nidah 3a

And both[1] deduced it[2] from no other law than that of sotah.[3] The Rabbis[4] hold [that the law of the ritual bath is the same] as that of sotah; as [the offence of] the sotah is a matter of doubt and is regarded as a certainty[5] so here also[6] [where the uncleanness is] a matter of doubt it is regarded as a certainty. If [the inference, however, is made] from the sotah might it not be argued: It is like the sotah in this respect, viz., that as the sotah is clean [if she is suspected of an offence] in a public domain[7] so should [all the purifications effected in] this case also[6] be regarded as clean [if the bath was] in a public domain? — What a comparison![8] There[9] the cause[10] is seclusion[11] but seclusion in a public domain is impossible,[12] but here,[6] the cause[13] being the deficiency,[14] what matters it whether the deficiency takes place in a public, or in a private domain?[15] And should you argue: Is not every doubtful case of ritual uncleanness in a public domain regarded as clean [it could be retorted:] Since [in the case of the bath] there are two unfavourable factors[16] it is regarded as certain uncleanness. R. Simeon, however, holds [that the law of the ritual bath is the same as that of sotah [in this respect]: As the sotah is regarded as clean [where she is suspected of an offence] in a public domain so also here[17] [are all the purifications effected regarded as] clean [if the bath was] In a public domain. If [the inference, however, is made] from the sotah, might it not be argued: It is like the sotah in this respect viz., that as the sotah [if suspected of the offence] in a private domain is regarded as definitely unclean so should also [all purifications effected in this case] be deemed to be definitely unclean [where the bath was] in a private domain? — What a comparison![18] In that case[19] there is some basis for the suspicion,[20] seeing that he[21] had warned her and she had secluded herself with the stranger; what basis for uncleanness,[20] however, is there here?[22]

And if you prefer I might say that this is R. Simeon's reason:[23] He infers the law of the termination of uncleanness[24] from that of the inception of uncleanness;[25] as with the inception of uncleanness if it is doubtful whether an object has or has not touched an uncleanness in a public domain it is deemed to be clean, so also with the termination of uncleanness, if it is doubtful whether an object had been duly immersed or not, in a public domain it is deemed to be clean. And the Rabbis?[26] — What an inference![27] There,[28] since the man is in the presumptive status of ritual cleanness, we cannot on account of a doubt transfer him to a state of uncleanness, but here,[29] seeing that the man is in the presumptive status of uncleanness, we cannot on account of a doubt release him from his uncleanness.

Wherein, however, does this[30] essentially differ[31] from the case of an alley of which we learnt: If a dead creeping thing was found in an alley it causes ritual uncleanness retrospectively[32] to such time as one can testify, ‘I examined this alley and there was no creeping thing in it’,[33] or to such time as it was last swept?[34] — There[35] also, since there are creeping things from the alley itself and also creeping things that make their way into it from the outside world, the case is the same as one that has two unfavourable factors. And if you prefer I might reply,[36] This is Shammai's reason:[37] Because a woman is herself conscious [when she suffers a flow].[38] And Hillel?[39] — She might have thought that the sensation[40] was that of urine. As to Shammai, is there not [the possibility of suffering a flow while] asleep?[41] — A woman asleep too would[42] awake on account of the pain,[43] as is the case where one feels a discharge of urine.[44] But is there not the case of an imbecile?[45] — Shammai agrees[46] in the case of an imbecile. But did he not state, ALL WOMEN?[47] — [He meant:] All sensible women. Then why did he not merely state WOMEN?[48] — He intended to indicate that the law is not in agreement with R. Eliezer; for R. Eliezer mentioned ‘Four classes of women’[49] and no more, hence he[50] informed us [that the law applies to] ALL WOMEN. But is there not the case of stains?[51] Must we then[52] assume that we learnt the Mishnah about stains[53] in disagreement with Shammai? — Abaye replied: Shammai agrees[54] in the case of stains. What is the reason? — Since she was neither handling a slaughtered bird nor was she passing through the butchers’ market, whence could that blood have come?[55] And[56] if you prefer I might reply, This is Shammai's reason: If in fact any blood were there[57] it would have flowed out earlier.[58] And Hillel?[59] — The walls of the womb may have held it back.[60] And Shammai?[61] — The walls of the womb do not hold blood back. But what can be said for a woman[62] who[63] uses an absorbent in her marital intercourse?[64] — Abaye replied: Shammai agrees[65] in the case of one who uses an absorbent,[66] Raba replied: An absorbent too [does not affect Shammai's ruling, since] perspiration causes it to shrink.[67] Raba, however, agrees[68] in the case of a tightly packed absorbent.[69]

What, however, is the practical difference between the latter explanations[70] and the former explanation?[71]

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(1) R. Simeon and the first Tanna.

(2) Each his respective rulings in the Baraitha just cited.

(3) V. Glos., in connection with whom Scripture speaks of uncleanness or defilement (cf. Num. V, 13).

(4) Sc. the first Tanna (cf. supra n. 7).

(5) A sotah, until her innocence is proved by the test (cf. Num. V, 15-28), being definitely forbidden to her husband.

(6) The case of the ritual bath under discussion.

(7) Where no privacy is possible.

(8) Lit., ‘thus, now’.

(9) Sotah.

(10) Of the woman's uncleanness or prohibition to her husband.

(11) Of the woman with the suspected stranger.

(12) Hence the ruling that in such a case the woman is deemed clean.

(13) Of uncleanness.

(14) Of the water in the bath.

(15) Nothing. Hence the Rabbis’ ruling that all purifications effected, irrespective of domain, are deemed to be unclean.

(16) As pointed out supra 2b.

(17) The case of the ritual bath under discussion.

(18) Lit., ‘thus, now’.

(19) Sotah.

(20) Lit., ‘there are feet for the thing’

(21) Her husband.

(22) In the case of the bath. As there is no basis whatever for the assumption that this deficiency occurred before the purifications had been effected it may well be assumed that it occurred afterwards immediately before the bath was measured. It has thus been shown, as R. Hanina replied supra, that according to R. Simeon all cases of doubtful uncleanness in a private domain where there is no basis for the affirmation of the uncleanness, are regarded as being in suspense.

(23) For holding doubtful cases of uncleanness in a public domain to be clean.

(24) Sc. ritual immersion which takes place when the period of uncleanness is concluded.

(25) I.e., uncleanness contracted from coming in contact with an unclean object.

(26) How, in view of R. Simeon's inference, could they maintain (v. supra 2b ad fin.) that ‘all purifications . . . whether it was in a public or in a private domain, are unclean’?

(27) Lit., ‘thus, now’.

(28) The case of the inception of uncleanness.

(29) In a case of termination of uncleanness.

(30) The case of the menstruant in our Mishnah.

(31) According to Shammai.

(32) To all clean objects that were in the alley prior to its discovery.

(33) Sc. only clean objects that were in the alley prior to that examination are ritually clean since the examination has established that during that time there was no creeping thing in the alley.

(34) Infra 56a; and no creeping thing was found. The sweeping, which is presumably accompanied by a search for any unclean things, has the same force as a direct examination. Hence (cf. prev. n.) only objects that were in the alley prior to the sweeping are clean while those that were there after the sweeping, since a creeping thing may have fallen into the alley immediately after the sweeping was over, are regarded as unclean. Now seeing that here uncleanness in a doubtful case is caused retrospectively, why does Shammai in our Mishnah restrict the period of uncleanness to the time of THEIR DISCOVERING only?

(35) The case of the alley in the Mishnah just cited.

(36) To the objection raised against Shammai.

(37) For his ruling that menstruants begin their period of uncleanness from the time OF THEIR DISCOVERING OF THE FLOW only and not, as in the case of the alley, retrospectively.

(38) As she did not feel any prior to her present discovery it may be safely assumed that previously there had not been any.

(39) How, in view of this argument, can he maintain that a menstruant's uncleanness is RECKONED RETROSPECTIVELY?

(40) Of the menstrual flow.

(41) When the woman is unconscious of it. As this is quite possible, why does not Shammai extend the period of uncleanness retrospectively?

(42) In Shammai's opinion.

(43) Of the flow.

(44) As she did not awake, it may well be presumed that the flow began just before its discovery.

(45) Who is incapable of distinguishing the first appearance of a flow.

(46) That the period of uncleanness extends retrospectively.

(47) Which presumably includes the imbecile also.

(48) Omitting ‘ALL’.

(49) Infra 7a.

(50) Shammai.

(51) Of menstrual blood, which (v. infra 56a) cause uncleanness retrospectively, though prior to the moment of its discharge the woman was unaware of any flow.

(52) Since Shammai does not extend the unclean period retrospectively, maintaining that a woman is invariably aware when her flow first appears.

(53) Where it was ruled that a stain causes uncleanness even where the woman had felt no flow whatever.

(54) That the menstruant's uncleanness is extended retrospectively.

(55) Hence it must be assumed to have come from the woman's menstrual flow.

(56) So Bah. Cur. edd. omit ‘and’.

(57) Sc. prior to its discovery.

(58) As none flowed out it may well be assumed that the flow began only just before it had been discovered.

(59) Sc. how can he maintain his ruling in view of the argument here advanced for Shammai?

(60) As, however, it might have made its way to the ante-chamber the period of uncleanness must extend from that time onwards.

(61) Cf. prev. n. but one mut. mut.

(62) Of the three classes enumerated infra 45a.

(63) To prevent conception.

(64) As the material used would also absorb any menstrual blood, there could be no proof that the discharge did not begin prior to the discovery. How then could Shammai rule that the menstrual uncleanness begins only at ‘THE TIME OF THEIR DISCOVERING THE FLOW’?

(65) That menstrual uncleanness is reckoned retrospectively.

(66) Cf. prev. n. but one.

(67) Lit., ‘on account of perspiration it inevitably shrinks’ and consequently, enables the blood to pass out. As no blood appeared prior to the discovery Shammai may well maintain that the uncleanness does not begin prior to the DISCOVERING OF THE FLOW.

(68) With Abaye.

(69) Since the blood cannot pass through it.

(70) That (a) ‘a woman feels’ and (b) ‘it would have flowed out earlier’ (supra).

(71) Supra 2a, ‘a woman should be presumed to enjoy her usual status’.

Talmud - Mas. Nidah 3b

— The practical difference between them is the possibility of pointing out an incongruity [between the ruling in our Mishnah and the rulings concerning] the jug, the ritual bath and the alley:[1] According to the former explanation such an incongruity may justifiably be pointed out[1] while according to the latter explanations such an incongruity does not exist. But what practical difference is there [in the case of the latter] between the one and the other explanation? — According to Abaye[2] there is the case of the absorbent,[3] and according to Raba[2] there is the case of the absorbent tightly packed.[4] It was taught in agreement with that explanation that ‘if in fact any blood were there it would have flowed out earlier’: Hillel said to Shammai, ‘Do you not agree that in the case of a basket one corner of which was used for levitically clean objects while in another corner was found[5] a dead creeping thing, the objects that were formerly clean are regarded as unclean retrospectively?’[6] — ‘Indeed’, the other replied. ‘Then [Hillel rejoined] what is the difference between the one case and the other?’[7] — ‘The one[8] [Shammai replied] has a bottom,[9] the other[10] has none.’[11] Raba stated: Shammai's reason[12] is to avoid[13] neglect of marital life.[14] So it was also taught: Shammai said to Hillel, ‘If so,[15] you cause the daughters of Israel the neglect of marital life’.[16] Now according to him[17] who taught this explanation[18] [it may be objected:] Was it not taught,[19] in agreement with the former explanation,[18] that ‘if in fact any blood were there it would have flowed out earlier’? — There[19] it was Hillel who erred. He thought that Shammai's reason was that if any blood had been there it would have flowed out earlier and, therefore, he raised an objection against him from the case of the basket,[20] but Shammai answered him, ‘My reason is the avoidance of the neglect of marital life; and as regards your erroneous assumption too, in consequence of which you raised an objection from the case of the basket, the latter has a bottom while the former has none.[21]

But according to him who taught[22] the first explanation[23] [it may be objected:] Was it not in fact taught, in agreement with the latter version, that the reason is to avoid the neglect of propagation? It is this that Hillel in fact said to Shammai, ‘Even if you give as your reason that "if in fact any blood were there it would have flowed out earlier," you must nevertheless make a fence[24] for your ruling, for why should this law be different from all the Torah for which a fence is made?’ To this the other replied, ‘If so,[25] you would cause the daughters of Israel to neglect marital life’.[26] And Hillel?[27] — ‘Do I [he can reply] speak of marital life?[28] I only speak of levitical cleanness’. And Shammai?[29] — [Restrictions, he holds, must] not [be imposed] even as regards levitical cleanness, since otherwise[30] the man might have scruples[31] and keep away altogether.[32]

(Mnemonic:[33] Bottom examined covered in a corner.)

It was stated: If one corner of a basket was used for levitically clean objects and a dead creeping thing was found in another corner, Hezekiah ruled that the objects that were formerly[34] clean remain clean. R. Johanan ruled: The objects that were formerly[35] clean are now regarded as retrospectively unclean. But do not Shammai[36] and Hillel in fact agree[37] in the case of a basket that the objects that were formerly clean are deemed to be retrospectively unclean?[38] — Shammai and Hillel agree[39] only in the case of a basket that had a bottom,[40] while Hezekiah and R. Johanan differ in that of a basket that had no bottom.[41] But if the basket had no bottom what could be R. Johanan's reason?[42] — It had no bottom, but it had[43] a rim.[44] But surely, it was taught:[45] ‘If a man drew[46] ten buckets of water one after the other[47] and a creeping thing was found in one of them, this one[48] is unclean and all the others[49] remain clean’;[50] and in connection with this Resh Lakish citing R. Jannai stated, ‘This[51] was taught only in a case where the bucket had no rim[52] but if it had a rim[53] all the buckets of water are deemed to be unclean.’ Now must it be assumed that Hezekiah[54] does not adopt the view of R. Jannai?[55] — [No, since] water[56] glides[57] while fruits[58] do not glide;[59] or else [it may be replied] one is not particular with water[60] but with fruit one is particular.[61] And if you prefer I might reply: Shammai and Hillel agree[62] only in respect of a basket that was not [previously][63] examined[64]

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(1) Supra 2b and 3a.

(2) Supra 3a ad fin.

(3) If the explanation is that ‘a woman feels’ the period of menstrual uncleanness would begin at the time of the discovery of the blood even where a woman used an absorbent, while if the explanation is that ‘it would have flowed out earlier’ uncleanness would begin retrospectively since the discharge might have begun earlier but was soaked up by the absorbent.

(4) Cf. prev. note.

(5) After the clean objects had been removed from the basket.

(6) Lit., ‘the former clean are unclean’, because it is possible that the creeping thing was in the basket before the objects had been removed and that it consequently imparted uncleanness to the basket from which it was conveyed to the objects. If the creeping thing, it may be added, had been found in the same corner in which the objects were previously kept there could be no question that the latter remain clean, since it may be regarded as certain that they had been removed before the creeping thing had fallen into the basket. For if it had been there earlier it would have been discovered at the time the objects were being removed.

(7) Sc. why is the uncleanness deemed to be retrospective in the case of the basket and not in that of the menstruant?

(8) The basket.

(9) Where the creeping thing may well have rested quite unobserved by the person who removed the objects.

(10) The menstruant.

(11) Sc. had any blood found its way to the ante-chamber it would inevitably have flowed out.

(12) For his ruling in the first clause of our Mishnah that the uncleanness is not retrospective.

(13) Lit., ‘on account of’.

(14) Lit., propagation’. Were it to be assumed that blood can make its way to the vagina even when the woman is unconscious of it, men would abstain from all marital intercourse in order to avoid possible complications of uncleanness.

(15) That menstrual uncleanness is to be retrospective (v. our Mishnah).

(16) Cf. note 10.

(17) Raba.

(18) Of Shammai's reason.

(19) Supra.

(20) Where it is not assumed (on the analogy of the blood of the menstruant) that if a creeping thing had been there it would have come out together with the objects when the basket had been cleared.

(21) Cf. notes supra.

(22) Supra.

(23) That Shammai's reason is that if any blood had been in the vagina it would have flowed out earlier.

(24) I.e., add some restriction (retrospective uncleanness) in order to avoid possible transgression of the law itself.

(25) That menstrual uncleanness is to be retrospective (v. our Mishnah).

(26) V. supra p. 11 n. 10.

(27) How, in view of this reply, could he maintain his ruling.

(28) No. He did not say that any marital relations were to be affected.

(29) Cf. note 8 mut. mut.

(30) Lit., ‘for if so’, were retrospective uncleanness to be imposed.

(31) Owing to the possibility of some flow of blood in the vagina.

(32) Lit., ‘his heart beats him and he separates (from his wife)’.

(33) Containing striking words or phrases from each of the four following explanations of the points on which Shammai and Hillel on the one hand and Hezekiah and R. Johanan on the other differ.

(34) Lit., ‘the first’.

(35) Lit., ‘the first’.

(36) So Bah and MS.M. Cur. edd. in parenthesis insert ‘Beth’.

(37) Supra. — MS.M. reads, ‘Does not Shammai agree with Hillel’.

(38) How then can Hezekiah differ from the unanimous ruling of both?

(39) Var. lec. ‘Shammai agrees with Hillel’ (MS.M.).

(40) And the objects were removed through the open top, so that it was quite possible for the creeping thing to be at the time of the removal at the bottom of the basket and thus to have escaped observation.

(41) And that was used while it was lying on its side. In such circumstances the objects would be removed by inverting the basket in which case all its contents, including any creeping thing that might have been there, would fall out.

(42) For treating the objects as unclean.

(43) Near the position of the bottom.

(44) Turning inwards, so that the creeping thing might have been caught by it and there remained unobserved.

(45) Var. lec., ‘we learnt’ (Bah citing Toh. IV, 4, which, however, differs slightly from the version here cited).

(46) With the same bucket.

(47) All of which were poured into one large tank.

(48) In which the creeping thing was found.

(49) Since no creeping thing was observed to be in them when they were being emptied into the tank.

(50) It being assumed that the creeping thing had not fallen into the bucket until it was filled for the last time.

(51) That all the others remain clean.

(52) Turning inwards so that the creeping thing could not possibly have remained in the bucket when it was tipped over the tank.

(53) On which the creeping thing might have been caught and remained unobserved at the time.

(54) Who, as explained supra in the case of the basket, holds the objects to be clean even where the basket had a rim.

(55) Is it likely, however, that Hezekiah would differ from such an authority?

(56) When the bucket is tipped.

(57) Hence it is not necessary to incline the bucket at too great an angle when it is being emptied. The creeping thing might, therefore, well have remained within the bucket, held by the rim and unobserved.

(58) From a basket.

(59) If the basket is only slightly inclined. As it must consequently be turned upside down before all the fruit it contains can be emptied it is quite impossible for the creeping thing to have remained within. If, therefore, one was subsequently found in the basket it may be safely assumed that it fell in after the clean objects had been removed.

(60) And does not mind if some of it remains in the bucket. Hence one does not tip the bucket very much, and the creeping thing might consequently have remained within the bucket behind the rim.

(61) And turns the bucket upside down in order to get out even the last fruit (cf. prev. n. but one mut. mut.).

(62) Var. lec. ‘Shammai agrees with Hillel’ (MS.M.).

(63) Before the clean objects were put into it.

(64) Hence it cannot be regarded as having a presumptive state of cleanness.

Talmud - Mas. Nidah 4a

while Hezekiah and R. Johanan differ in the case of a basket that had been examined. One Master[1] holds [the objects to be clean because the basket] surely had been examined,[2] and the other Master[3] [holds them to be unclean, since] it might be assumed that the creeping thing fell in just when the man[4] removed his hand.[5] But [the case of the basket,][6] surely, was taught in the same manner as that of the woman,[7] and is not a woman[8] deemed to be duly examined?[9] Since the flow of blood from her body is a regular occurrence she is regarded as unexamined.[10] And if you prefer I might reply:[11] Shammai and Hillel agree[12] only in respect of a basket that[13] is uncovered,[14] while Hezekiah and R. Johanan differ in respect of a covered basket .[15] ‘Covered’! Then how [could the creeping thing][16] have fallen into it? — [This is possible when] for instance, the way of using it was by [opening and closing] its cover.[17] But [the case of the basket] surely, was taught in the same manner as that of the woman,[18] and is not a woman[19] in the condition of being covered?[20] — Since the flow of blood from her body is a regular occurrence she is regarded as being in an uncovered condition.[21] And if you prefer I might reply:[22] Shammai and Hillel agree[23] only in respect of the corner of a basket, while Hezekiah and R. Johanan differ in that of the corner of a room.[24] But was not a ‘basket’ spoken of?[25] — It is this that was meant:[25] If a basket was used for clean objects in one corner of a room and, when it was moved into another corner,[26] a creeping thing was found [in it while it was] in that other corner, Hezekiah holds that we do not presume the uncleanness found in one place[27] to apply to another place,[28] while R. Johanan holds that we do presume.[29] But do we[29] apply the rule of presumptive uncleanness? Have we not learnt: ‘If a man touched someone in the night and he did not know whether it [was a person who was] alive or [one that was] dead, and in the morning when he got up he found him to be dead, R. Meir declares [the man] clean, but the Sages declare [him] to be unclean because all questions of uncleanness are determined by [the condition of the objects at] the time they are found’,[30] and in connection with this it was taught, ‘As at the time they are found and in accordance with the place in which they are found’?[31] And should you reply that this[32] holds good only[33] in respect of the law of burning[34] but that in respect of the law of suspense it is well applied,[35] have we not learnt, [it could be retorted,] If a needle[36] was found[37] full of rust or broken[38] it is regarded as clean[39] because all questions of uncleanness are determined by [the condition of the objects at] the time they are found?[40] Now why should this be so?[41] Why should it not rather be assumed that this needle was formerly[42] in a sound condition[43] and that it produced the rust just now?[44] Furthermore, have we not learnt: If a burnt creeping thing was found upon olives and so also if a tattered[45] rag[46] was found upon them it is clean,[47] because all [questions of] uncleanness are determined by [the conditions of the objects at] the time they are found?[48] And should you reply that [the uncleanness is determined] in accordance with [the condition of the objects at] the time they are found, irrespective of whether the result is a relaxation[49] or a restriction of the law,[50] only in the place where they[51] are found, but [if the doubt arises] in regard to the place in which they[51] were not found[52] the objects[53] are not to be burned but are nevertheless to be held in suspense,[54] was it not in fact taught,[55] [it could be retorted,] If a loaf of bread was lying on a shelf under which[56] lay an object of a minor degree of uncleanness,[57] [the loaf,][58] although if it had fallen down it would have been impossible for it not to touch the unclean object,[59] is clean, because it is assumed that a clean person entered there and removed it,[60] unless one can testify, 'I am certain that no one entered there',[61] in connection with which R. Eleazar stated: This assumption[62] was required only in the case of a sloping shelf?[63] — There[64] the reason[65] is as stated,[66]

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(1) Hezekiah.

(2) And since at the time it contained no unclean objects a presumptive state of cleanness has been established.

(3) R. Johanan.

(4) Who conducted the examination.

(5) And the clean objects were still in the basket.

(6) On which Shammai and Hillel differ.

(7) Hillel having asked (supra 3b) 'what is the difference between the one case and the other?'

(8) Whose duty it is to examine herself every morning and evening.

(9) Apparently she is. Hence the basket also, which is in a similar condition (cf. prev. n. but one), must be deemed to be duly examined. Now since it was stated that the objects that were in the basket were regarded as retrospectively unclean an objection arises against Hezekiah.

(10) And so also the basket. Hence the justification for Hezekiah's ruling.

(11) To the difficulty raised supra 3b ad fin on the apparent contradiction between the joint ruling of Shammai and Hillel and the view of Hezekiah.

(12) MS.M. 'Shammai agrees with Hillel'.

(13) Though examined.

(14) So that the creeping thing might well have fallen in as soon as the examiner has removed his hand.

(15) Into which nothing could fall in by accident. Hence the justification for Hezekiah's ruling that the objects are clean.

(16) Which was actually found in it.

(17) Hezekiah is of the opinion that as long as clean objects are in the basket one is careful to keep it closed in order to prevent any unclean object from falling into it, but when the basket is empty care is no longer exercised and it is quite possible, therefore, for the creeping thing to have fallen in then. R. Johanan, however, holds that it is possible for the creeping thing to have fallen in unobserved, even while the clean objects were still in the basket, at a moment when the latter was opened in the ordinary course of use.

(18) Hillel having asked (supra 3b) 'what is the difference between the one case and the other?'

(19) Since no blood from the outside can flow into her body.

(20) Cf. supra p. 14, n. 19, mut. mut.

(21) And so also the basket. Hence the justification for Hezekiah's ruling.

(22) V. supra p. 14, n. 21.

(23) MS.M., 'Shammai agrees with Hillel'.

(24) This is explained presently. Lit., 'house'.

(25) In the statement, supra 3b ad fin, under discussion.

(26) After the objects had been taken out.

(27) If the unclean object was first discovered in the second place.

(28) It is rather assumed that the creeping thing fell into the basket when it was already in the second place after the objects had been removed from it.

(29) Even in such a case.

(30) Lit., ‘as the time of their finding’, Toh. V, 7.

(31) Sc. if in the morning the person was found dead in the place where he was touched in the night the man who touched him is unclean, but if he was found dead in a different place he remains clean. Thus it follows that we do not presume uncleanness found in one place to apply to another. How then could R. Johanan maintain that the rule is applied even in such a case?

(32) That the rule that we do not presume uncleanness found in one place to apply to another.

(33) Since the uncleanness is not a matter of certainty.

(34) If it was terumah; sc. the terumah need not be burned on account of the doubtful nature (cf. prev. n.) of its uncleanness.

(35) Lit., ‘to suspend we suspend’, i.e., the uncleanness of the objects thus affected is treated as a matter of doubt, and R. Johanan's ruling might be given the same interpretation and may thus be reconciled with that of the Mishnah just cited.

(36) That was known to be unclean.

(37) In contact with clean objects.

(38) Conditions which render it useless as a ‘vessel’. Only a proper vessel contracts and conveys uncleanness.

(39) I.e., it (cf. prev. n.) conveys no uncleanness whatsoever to the objects with which it was found in contact.

(40) Toh. III, 5. Hence it is assumed that’ the objects and the needle came in contact after the latter had lost the status of ‘vessel’ when it was no longer able to convey any uncleanness.

(41) That the objects should be regarded as absolutely clean and their uncleanness should not be regarded even as doubtful.

(42) When it first came in contact with the objects under discussion.

(43) When it duly conveyed its uncleanness to the objects.

(44) Since, however, the assumption is not made and the objects are not subjected either to a certain or to a suspended condition of uncleanness, even, presumably, where there was a change of place, how could R. Johanan maintain, even only in respect of a condition of suspense, that the rule of presumptive uncleanness is applied?

(45) Aliter: scorched.

(46) That was cut off from the unclean garment of a zab (v. Glos.).

(47) Sc. it is assumed that the creeping thing or the rag did not come in contact with the olives until after it had lost its uncleanness (the former by the burning and the latter by becoming tattered or scorched) and was unable to convey any.

(48) Toh. IX, 9. Now since the olives are not subjected even to the status of suspended uncleanness (as the categorical rule ‘it is clean’ implies) it follows that presumptive uncleanness does not apply when there was a change of time and so also, presumably, where there was a change of place. How then could R. Johanan maintain his ruling?

(49) As in the case of the needle and the rag (cited from Toh. III, 5 and IX, 9) where the objects are declared clean.

(50) Where a man touched some person in the night (cited from Toh. V, 7) in which case the man, according to the Sages, is decidedly unclean.

(51) The objects about which the doubt had arisen.

(52) I.e., whence the objects have been removed, as is the case with the basket with which R. Johanan was concerned.

(53) Terumah, for instance.

(54) And the same interpretation might also be given to R. Johanan's ruling which would thus be reconciled with the one cited from Toh. IX, 9.

(55) V. marg. glos. Cur. edd. ‘we learnt’.

(56) On the ground.

(57) Middaf. This is now assumed to be an object (a garment, for instance) which, though not subject to midras (v. Glos.) uncleanness (which could convey uncleanness to both man and vessels) conveys nevertheless uncleanness to foodstuffs and the like, Pentateuchally.

(58) Found on the ground away from the unclean object.

(59) Which would have conveyed uncleanness to it.

(60) From the shelf, and placed it on the ground where it was found.

(61) Tosef. Toh. IV.

(62) ‘That a clean person entered etc.’

(63) From which the loaf is most likely to slide down and fall on the unclean object below. Now, since even in such a case it is not presumed that the loaf fell upon the unclean object and contracted uncleanness before it rolled away to its present position, it follows that the rule of presumptive uncleanness is not applied when two different places are involved. How then could R. Johanan rule supra (3b ad fin.) that presumptive uncleanness is applied even (as in the case of the basket and the creeping thing) where two places are involved?

(64) In the Baraitha just cited.

(65) Why the rule of presumptive uncleanness is not applied to the loaf.

(66) Lit. — 'as he learned the reason'.

Talmud - Mas. Nidah 4b

'Because it is assumed that a clean person entered there and removed it'.[1] But why should it not be assumed here also[2] that a raven came and dropped [the creeping thing into the basket]?[3] — In the case of a man who acts[4] with intention such an assumption[5] is made, but in that of a raven which[6] does not act with intention such an assumption[7] is not made. But consider: The loaf[8] is a case of doubtful uncleanness in a private domain. Now is not any case of doubtful uncleanness in a private domain regarded as unclean?[9] — [The loaf is deemed to be unclean] because it is a thing that possesses no intelligence to answer questions,[10] and any thing that possesses no intelligence to answer questions, irrespective of whether it was in a public or in a private domain, is in any doubtful case of uncleanness regarded as clean.[11] And if you prefer I might reply: Here[12] we are dealing with a Rabbinical uncleanness.[13] A deduction [from the wording][14] also supports this view, for the expression used is 'middaf'[15] which is analogous to the Scriptural phrase, 'a driven [niddaf] leaf'.[16]

THE SAGES, HOWEVER, RULED: [THE LAW IS] NEITHER IN AGREEMENT WITH THE OPINION OF THE FORMER NOR IN AGREEMENT WITH THAT OF THE LATTER etc. Our Rabbis taught: And the Sages ruled, [The law is] neither in agreement with the opinion of the former nor in agreement with that of the latter, neither [that is] in agreement with the opinion of Shammai who[17] provided no fence for his ruling[18] nor in agreement with the opinion of Hillel who[19] restricted far too much,[20] but [the women are deemed to be unclean] during the preceding twenty-four hours when this lessens the period from the [previous] examination to the [last] examination, and during the period from the [previous] examination to the [last] examination when this lessens the period of twenty-four hours. '[The women are deemed to be unclean] during the preceding twenty-four hours when this lessens the period from the [previous] examination to the [last] examination'. How is this to be understood? If a woman examined her body on a Sunday[21] and found herself to be clean and then she spent Monday and Tuesday without holding any examination while on Wednesday she examined herself and found that she was unclean, it is not ruled that she should be deemed to be unclean retrospectively from the previous examination to the last examination but only [that she should be deemed to be unclean] during the preceding twenty-four hours. 'And during the period from the [previous] examination to the [last] examination when this lessens the period of twenty-four hours'. How is this to be understood? If the woman examined her body during the first hour of the day and found herself to be clean and then she spent the second and the third hour without holding any examination while in the fourth hour she examined herself and found that she was unclean, it is not ruled that she should be deemed to be unclean retrospectively for a period of twenty-four hours but only during the period from the previous examination to the last examination. But is it not obvious that, since she has examined herself during the first hour and found that she was clean, she is not to be deemed unclean retrospectively for twenty-four hours?[22] — As it was taught, 'during the preceding twenty-four hours when this lessens the period from the [previous] examination to the [last] examination'[23] it also stated,[24] 'during the period from the [previous] examination to the [last] examination when this lessens the period of twenty-four hours'.

Rabbah stated: What is the reason of the Rabbis?[25] Because a woman well feels herself.[26] Said Abaye to him: If so,[27] [a period of uncleanness from] the time of her observation of the flow should suffice![28] And Rabbah?[29] — He only wished to exercise Abaye's wits.[30] What then is the reason of the Rabbis?[31] — It is one such as that which Rab Judah gave in the name of Samuel: The Sages have ordained for the daughters of Israel that they should examine themselves in the morning and in the evening; ‘in the morning’, in order to verify the cleanness of objects they handled during the previous night,[32] ‘and in the evening’ in order to verify the cleanness of objects they handled during the previous day;[33] but this woman,[34] since she did not [regularly] examine her body,[35] has[36] lost one ‘onah.[37] But what could be meant by ‘one ‘onah’?[38] — One additional ‘onah.[39] Said R. Papa to Raba: But would you not sometimes find that there are three ‘onahs in twenty-four hours?[40] — The Sages have laid down a uniform limit[41] in order that there shall be no variations in the twenty-four hours’ period. And[42] if you prefer I might reply:[43] [the period extends to three ‘onahs] in order that the sinner[44] shall not[45] be at an advantage.[46] What is the practical difference between them?[47] — The practical difference between them is the case of a woman who was the victim of circumstances and in consequence of which she did not hold her examination.[48]

FOR ANY WOMAN WHO HAS A SETTLED PERIOD etc. Must it be conceded that our Mishnah represents the view of R. Dosa and not that of the Rabbis seeing that it was taught:[49] R. Eliezer ruled, For four classes of women it suffices [to reckon the period of their uncleanness from the time they discovered the discharge,] viz., a virgin,[50] a pregnant woman, a woman that gives suck and an old woman; and R. Dosa ruled, For any woman who has a settled period it suffices [to reckon her period of uncleanness from] the time she discovered the discharge?[51] — It may even be held [that our Mishnah represents the view of] the Rabbis, for the Rabbis differ from R. Dosa only [in respect of a flow] that did not occur at the woman's set time[52] but [in the case of one that did occur] at her set time they might agree with him; and our Mishnah deals with a flow that occurred at the woman's set time and it, therefore, represents the view of both.[53] Thus[54] it follows that R. Dosa maintains his view even where a flow did not occur at the woman's set time. Who then is the author of the following which the Rabbis taught: Though a woman has a settled period her bloodstain[55] is deemed to be unclean retrospectively,[56] for were she to observe a flow when it is not her set time she would be unclean retrospectively for a period of twenty-four hours?[57] Must it be conceded[58] to be the Rabbis only and not R. Dosa?[59] — It may be said to be even R. Dosa; for R. Dosa may disagree with the Rabbis only in the case where the flow occurred at the woman's set time but where it occurred when it was not her set time he agrees with them;[60] and our Mishnah deals with one that occurred at her set time and it is, therefore, in agreement with the opinion of R. Dosa

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(1) This assumption cannot, of course, be made in the case of the basket, with which R. Johanan deals, since the unclean object (the dead creeping thing) was actually found in it, and when it was found it was still in its state of uncleanness.

(2) In the case of the basket and the creeping thing.

(3) After the clean objects had been removed from it and after it had been moved into its new position.

(4) When he removed the loaf from the sloping shelf.

(5) That the man entered and moved the loaf to its present safer place.

(6) Even if it were to drop the creeping thing into the basket.

(7) That the raven dropped the thing after the clean objects had been removed etc. (cf. supra n. 11).

(8) Since (a) it is uncertain whether it touched the unclean object or not and (b) it was found within a house.

(9) The answer being in the affirmative, the difficulty arises, why is the loaf deemed to be clean?

(10) Lit., ‘to be asked’, whether it came in contact with the unclean object or not.

(11) Because the rule that doubtful uncleanness in a private domain is deemed to be unclean is deduced from that of sotah (v. Glos.) and consequently only rational beings like the sotah herself (who is able to answer whether she was or was not defiled) are subject to the same restrictions.

(12) In the case of the loaf.

(13) One, for instance, of those enumerated in Hag. 18b and 20b. A doubtful case of Rabbinical uncleanness is regarded as clean even in a private domain.

(14) Of the Tosef. Toh. IV cited.

(15) Rendered (supra 4a) ‘an object of a minor degree of uncleanness’.

(16) Lev. XXVI, 36; the rt. of niddaf, and so also that of middaf implying something ‘light’, ‘of minor importance’, hence a ‘minor degree of or Rabbinical uncleanness’.

(17) Having laid down that the period of uncleanness begins only ‘FROM THE TIME OF THEIR DISCOVERING OF THE FLOW’.

(18) I.e., made no restriction whatever against the possible infringement of the actual law.

(19) Laying down that the period of uncleanness ‘IS TO BE RECKONED RETROSPECTIVELY FROM THE PREVIOUS EXAMINATION’.

(20) Lit., ‘who broke through beyond his measures.

(21) Lit., ‘on the first of the week’.

(22) Of course it is. Why then should such an obvious ruling have to be stated?

(23) A ruling that had to be enunciated, since otherwise it could have been argued that the flow began on the Sunday immediately after the examination.

(24) As a kind of antithesis.

(25) For fixing a twenty-four hours’ period of uncleanness. The reason for Hillel's period, ‘from examination to examination’ (cf. our Mishnah), is quite intelligible since the flow may well have begun as soon as the previous examination was concluded, but the twenty-four hours’ period appears to have no logical justification whatsoever.

(26) Any flow. Had it begun immediately after the conclusion of her previous examination she would have been aware of it.

(27) That a woman is aware of the flow as soon as it begins.

(28) It being obvious that the flow began only at that moment, for if it had begun earlier she (cf. prev. n.) would have been aware of the fact. Why then should her period of uncleanness extend backwards for twenty-four hours? An objection against Rabbah.

(29) Sc., why did he take up such an untenable position?

(30) Lit., ‘to sharpen (the mind) of Abaye’. Rabbah advanced the reason merely to afford an opportunity for Abaye, whose guardian and teacher he was, to prove it to be wrong.

(31) Cf. p. 20. n. 5.

(32) If a woman finds herself on examination to be clean it is thereby verified that all clean objects she handled during the previous night are to be regarded as clean; and should she discover any flow later at the evening examination the doubtful uncleanness would extend only to objects she handled during the day.

(33) Cf. prev. n. mut. mut.

(34) Spoken of in our Mishnah, and in the Baraitha cited.

(35) In defiance of the ordinance of the Rabbis.

(36) As a penalty.

(37) Lit., ‘a time’ or ‘a period’ of one day or night, sc. her uncleanness begins retrospectively one ‘onah earlier.

(38) Seeing that the uncleanness extends backwards for twenty-four hours which represent two ‘onahs.

(39) I.e., in addition to the ‘onah immediately preceding the one in which her last examination was held (during which she is in any case unclean owing to the doubt as to when the flow began), she must suffer the penalty of being treated as unclean retrospectively even during the ‘onah that preceded that one.

(40) When, for instance, the first examination after a number of days without an examination took place at midday. If the uncleanness extended backwards for a period of twenty-four hours it would cover

(41) the ‘onah of the day of the examination,

(42) the ‘onah of the preceding night and

(43) the ‘onah of the day preceding that night. Now since the penalty imposed was only one additional ‘onah why should it in this case be increased to two ‘onahs? (1) Lit., ‘made their measures equal’, i.e., the period of twenty-four hours has been fixed, irrespective of whether it covers two ‘onahs or three. (2) So Bah. Cur. edd. omit. (3) To the objection why in the case mentioned (cf. supra p. 21, n. 15) the uncleanness should extend over three ‘onahs.

(44) The woman who, not only failed to examine her body regularly in accordance with the ordinance of the Sages but also delayed her last examination from the morning hour to noon.

(45) By having her period of uncleanness reduced to less than twenty-four hours.

(46) Over one in a similar position who held her examination in the early morning and whose period of uncleanness is extended retrospectively for a full period of twenty-four hours to the previous morning.

(47) The two replies offered.

(48) According to the first reply she would be subject to uncleanness for a full period of twenty-four hours, while according to the second reply, since in this case she is no sinner, the period would be reduced to two ‘onahs and her uncleanness would be reckoned from the beginning of the previous evening only.

(49) What follows, with the exception of R. Dosa's ruling occurs also in the Mishnah infra 7a.

(50) I.e., one, whether married or unmarried, who suffered a flow for the first time in her life.

(51) Now, since the Rabbis elsewhere differ from R. Dosa's ruling, must it be conceded that our Mishnah represents his view only?

(52) As the appearance is obviously irregular it may well be suspected that one occurred earlier also.

(53) Lit., 'and the words of all', those of the Rabbis as well those of R. Dosa.

(54) Since the dispute between R. Dosa and the Rabbis has been limited to a flow that did not occur at the set time.

(55) Sc. one on a garment of hers.

(56) From the time it had been washed.

(57) As in this case, despite the woman's settled period, the uncleanness is deemed to be retrospective so it is retrospective in the case of the stain also.

(58) Since, from what has been said, it is only the Rabbis who impose retrospective uncleanness in the case of a woman who, though having a settled period, suffered a flow before or after that time.

(59) Is it likely, however, that R. Dosa would differ from an anonymous Baraitha?

(60) That the uncleanness is retrospective.

Talmud - Mas. Nidah 5a

while the Baraitha[1] is in agreement with both.[2] But why should not the final assumption be[3] reversed?[4] — As it is possible to adopt an explanation that leads to a relaxation of the law[5] and one that leads to a restriction of it[6] we adopt the one that leads to the restriction.

Now it was just taught,[7] 'For were she to observe a flow when it is not her set time she would be unclean retrospectively for a period of twenty-four hours' — [If this[8] is] the reason[9] [it follows] that only in the case of a woman who has a settled period do the Rabbis draw a distinction between her stain and her observation[10] [of a flow],[11] but in the case of the other women[12] concerning whom the Sages ruled that it sufficed for them to reckon their uncleanness from the time they discovered the flow[13] [the extent of the uncleanness of] their stains is like that of their observation of a flow.[14] Now whose view is this? — It is that of R. Hanina b. Antigonus; for Rab Judah citing Samuel who had it from R. Hanina b. Antigonus stated, In the case of all women their stains cause uncleanness retrospectively but in that of the women[12] concerning whom the Sages ruled that it sufficed for them to reckon their uncleanness from the time they discovered the flow [the extent of the uncleanness of] their stains is like that of their observation of a flow,[14] the exception being a child who has not yet attained the age of the suffering of a flow of whom, though her sheets are soiled with blood,[15] no notice is to be taken.[16] But does R. Hanina at all uphold[17] the law of the uncleanness of a stain?[18] Was it not taught: In the case of all women their stains are unclean and also in the case of the women concerning whom the Sages ruled that it sufficed for them to reckon their period of uncleanness from the time they discovered the flow their stains are unclean; while R. Hanina b. Antigonus ruled, The women concerning whom the Sages ruled that it sufficed for them to reckon their uncleanness from the time they discovered the flow are not subject to the law of uncleanness of the stain? Now does not this mean that they are not subject at all to the law of uncleanness of the stain?[19] — No, it means that they are not subject to the law of the uncleanness of the stain retrospectively but they are well subject to it from now[20] onwards. Does this[21] then imply that the first Tanna[22] is of the opinion that their uncleanness is even retrospective? — Yes; it[23] being the view of R. Meir who restricts the law in respect of stains. For it was taught: In the case of all women their stains are unclean retrospectively and also in the case of the women concerning whom the Sages ruled that it sufficed for them to reckon their period of uncleanness from the time they discovered the flow their stains are unclean retrospectively; so R. Meir. R. Hanina b. Antigonus ruled, In the case of the women concerning whom the Sages ruled that it sufficed for them to reckon their period of uncleanness from the time they discovered the flow [the uncleanness of] their stains is like that of their observation [of their flow]; and a child who has attained the age of suffering a flow is subject to the law of the uncleanness of the stain while one who has not attained that age is not subject to the uncleanness of a stain, and when does she attain the age of suffering a flow? When she attains her maidenhood.[24]

AND IF A WOMAN USES TESTING-RAGS WHEN SHE HAS MARITAL INTERCOURSE etc. Rab Judah citing Samuel ruled: A testing-rag used before[25] marital intercourse does not reduce [the doubtful period[26] of retrospective uncleanness] as an examination. What is the reason? — R. Kattina replied: Because the woman is in a hurry to do her marital duty.[27] But what matters it even if she is in a hurry to do her marital duty? — Since she is in a hurry to do it she does not insert the testing-rag into depressions and folds.[28]

We learnt: IF A WOMAN USES TESTING-RAGS WHEN SHE HAS MARITAL INTERCOURSE, THIS IS INDEED LIKE AN EXAMINATION. Does not this mean that she uses one before intercourse and one after it?[29] — No, the one as well as the other is used after intercourse but[30] one is for the man[31] and the other is for her; as we learnt: It is the custom of the daughters of Israel when having marital intercourse to use two testing-rags, one for the man and the other for herself.[32] What a comparison![33] If you concede that one is used before intercourse and the other after it one can well understand the necessity for the ruling.[34] As it might have been presumed that on account of her being in a hurry to do her marital duty she does not properly perform her test we were informed that THIS IS INDEED LIKE AN EXAMINATION. If you maintain, however, that the one testing-rag as well as the other is used after marital intercourse, is not the ruling obvious?[35] — It might have been presumed [that the test should be ineffective][36] on account of the possibility of the appearance of a drop of blood of the size of a mustard seed[37] which semen might cover up,[38] hence we were informed [that such a remote possibility need not be considered]. And if you prefer I might reply: The Rabbis required a woman to perform two tests, one before intercourse and one after it,[39] and in stating 'THIS IS INDEED LIKE AN EXAMINATION' the reference is to the one after the intercourse. But was it not stated, IF A WOMAN USES etc.?[40] — Read: And a woman shall use.[41]

LESSENS EITHER THE PERIOD OF THE PAST TWENTY-FOUR HOURS. Now that you stated that it[42] lessens THE PERIOD OF THE PAST TWENTY-FOUR HOURS[43]

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(1) Just cited, dealing with the bloodstain.

(2) Cf. supra n. 3.

(3) Lit., 'and let him make it stand'.

(4) As has been suggested at first, that our Mishnah represents the view of the Rabbis as well as that of R. Dosa while the Baraitha represents only that of the Rabbis.

(5) As has been previously suggested: That a flow at the set time causes no retrospective uncleanness in accordance with the general opinion, while one occurring at any other time is subject to retrospective uncleanness only in accordance with the view of the Rabbis.

(6) The one finally adopted: That a flow at the set time causes retrospective uncleanness according to the Rabbis at least, while one at any other time causes retrospective uncleanness even according to R. Dosa.

(7) In the Baraitha supra 4b ad fin.

(8) 'For were she to observe etc.'.

(9) Why a stain causes retrospective uncleanness, sc. though a stain cannot be subject to greater restrictions than a discharge it causes uncleanness retrospectively, since a flow that occurred at any time other than the set time also causes retrospective uncleanness.

(10) At the set time.

(11) Sc. while in the latter case the uncleanness is not retrospective in the former, for the reason stated (cf. prev. n.) it is.

(12) The four classes, for instance, mentioned supra 4b and infra 7a.

(13) So that in their case the law of retrospective uncleanness never applies.

(14) Sc. both are not retrospective.

(15) It being unknown whether it came from her body or from elsewhere.

(16) It being assumed, though the assumption might be most unlikely, that she passed through a butcher's market and soiled her sheets there. In no case is it assumed that the blood came from her own body because the law of uncleanness, as far as stains are concerned, is merely Rabbinical, and in the case of a minor no Rabbinical measure was enacted.

(17) In the case of the four classes of women mentioned.

(18) Even after it had been discovered.

(19) How then could it be said supra that R. Hanina does uphold the law of the uncleanness of the stain?

(20) The time of discovery.

(21) The explanation according to which R. Hanina agrees with the first Tanna as regards the uncleanness of stains from the time they are discovered onwards, and that he only differs from him in rejecting their retrospective uncleanness.

(22) Whose opinion is stated in the first clause of the Baraitha cited.

(23) The first clause (cf. prev. n.).

(24) The age when she assumes the status of na'arah (v. Glos.), i.e., the age when she grows two pubic hairs or (she has no pubic hairs) when she is twelve years and one day old.

(25) I.e., only before but not after (cf. relevant note on our Mishnah).

(26) Either that of the twenty-four hours or the one between the previous and the last examination.

(27) Lit., ‘she is in a state of excitement about her house’.

(28) The examination, therefore, is not a proper one.

(29) Which shows that the test before intercourse, despite R. Kattina's argument, is deemed to be a proper one.

(30) In reply to the objection, why two rags.

(31) For wiping.

(32) Infra 14a.

(33) Lit., ‘that, what’.

(34) In our Mishnah, that the test is effective.

(35) And why should an obvious ruling be enunciated?

(36) Even though it took place after intercourse.

(37) That is sufficient to cause uncleanness.

(38) Thus rendering the test useless.

(39) Hence the mention of RAGS in the plural.

(40) Emphasis on IF which implies that there is no obligation. How then could it be maintained that ‘the Rabbis required her etc.’?

(41) Sc. the clause is to be divided into two separate rulings, (a) that a woman shall use two testing-rags, one before intercourse and the other after it and (b) the second test is indeed like an examination.

(42) The testing-rag examination.

(43) Though it is a comparatively long period extending as it does to the previous day.

Talmud - Mas. Nidah 5b

was it also necessary to state that it lessens THE PERIOD FROM THE PREVIOUS EXAMINATION TO THE LAST EXAMINATION?[1] — As it might have been presumed that only in the case of the twenty-four hours’ period did the Rabbis[2] take into consideration the possible loss of clean things[3] but not in that of the period from the previous examination to the last examination,[4] we were informed [that both periods are equally reduced].

HOW [IS ONE TO UNDERSTAND THE RULING THAT] ‘IT SUFFICES [TO RECKON HER PERIOD OF UNCLEANNESS FROM] THE TIME SHE DISCOVERS THE FLOW’ etc. What need was there[5] for stating, IF SHE WAS SITTING ON A BED AND WAS OCCUPIED WITH RITUALLY CLEAN OBJECTS, when it should rather have been stated,[6] IF SHE WAS OCCUPIED[7] WITH RITUALLY CLEAN OBJECTS AND HAVING LEFT THEM, OBSERVED A FLOW? — It is this that we were informed:[8] The reason [why the bed is regarded as clean is] because [in the case of that woman][9] it suffices [for her to reckon] her [period of uncleanness from the] time [of her discovery of the flow] but[10] [where the uncleanness extends backwards over] twenty-four hours the bed also is regarded as unclean.[11] This provides support for Ze'iri, for Ze'iri ruled: [A woman[12] during] the twenty-four hours preceding her discovery of a menstrual flow causes bed and seat[13] to convey uncleanness to a man who in turn conveys it to his clothes.[14] But consider: This bed is a thing that has no sense to answer questions,[15] and is not doubtful uncleanness[16] in the case of an object that has no sense to answer questions regarded as clean?[17] Ze'iri explained: [This[18] refers to a case] where her friends were carrying her in the bed so that the latter may be regarded as the hand of her friends.[19] Now, however, that R. Johanan ruled that in the case of doubtful uncleanness conveyed through a human agency[20] the object in doubt,[21] though lying on the ground, is deemed to be capable of answering questions as if it had been a human being who has the sense to answer questions[22] [this[23] holds good] even though her friends were not carrying her in the bed.

[Reverting to] the [above] text, ‘R. Johanan ruled: In the case of doubtful uncleanness conveyed through a human agency the object in doubt, though lying on the ground, is deemed to be capable of answering questions as if it had been a human being who has the sense to answer questions’.[24] An objection was raised: If a man was wrapping himself in his cloak while clean or unclean objects were at his side[25] or above his head and it is doubtful whether there was contact[26] or not, they[27] are deemed to be clean,[28] but if it was impossible [for the cloak and the other objects] not to have come in contact they[29] are regarded as unclean. R. Simeon b. Gamaliel ruled: The man is told, ‘Do it again’[30] and he does it again.[31] They,[32] however, said to him: No repetition [test[33] is recognized] in questions of cleanness.[34] Now why [should they[35] be clean][36] seeing that this is a case of uncleanness that is conveyed through a human agency?[37] — This is beside the point,[38] for R. Hoshaia learnt: In a private domain [such a case of] doubtful uncleanness[39] is regarded as unclean, and in a public domain it is regarded as clean.[40]

[Reverting to] the [above] text, ‘Ze'iri ruled: [A woman during] the twenty-four hours preceding her discovery of a menstrual flow causes bed and seat to convey uncleanness to a man who in turn conveys it to his clothes’.[41] But, surely, this cannot be correct.[42] For did not Abimi from Be Hozai[43] when he came bring with him[44] a Baraitha which stated, ‘During the twenty-four hours preceding the discovery of her menstrual flow a woman's bed and seat are [as unclean] as the object she touches’, which means, does it not, that as an object she touches does not convey uncleanness to a human being[45] so also does not her bed convey uncleanness to a human being?[46] — Raba retorted: And do you understand this ruling[47] seeing that it [may be refuted by an inference] a minori ad majus: If an earthen vessel that was covered with a tight fitting lid, which is protected from uncleanness in a corpse's tent,[48] is yet not so protected [from the uncleanness] of the twenty-four hours preceding the discovery of a menstrual flow,[49] is it not logical that the beds and seats [of a menstruant], which are not protected from uncleanness in a corpse's tent, should not be protected from the uncleanness of the twenty-four hours preceding the discovery of a menstrual flow?[50] — But did not Abimi of Be Hozai quote a Baraitha?[51] — Read:[52] A woman's bed and seat[53]

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(1) Which is a much shorter one (cf. prev. n.) being confined to the limits of the same day.

(2) By enacting that the test is effective and reduces it.

(3) Which the woman may have handled during this comparatively long time.

(4) A shorter period (cf. supra n. 10) during which not many things could have been handled and a much lesser loss is consequently involved.

(5) Lit., ‘wherefore to me’.

(6) Lit., ‘let him teach’.

(7) Omitting the apparently superfluous ‘WAS SITTING ON A BED’.

(8) By the additional words (cf. prev. n.).

(9) Who has a settled period.

(10) In the case of a woman whose periods were not regular.

(11) As the bed of a confirmed menstruant (cf. Lev. XV, 21) which conveys uncleanness to the man that touches it as well as to the clothes he wears though the latter did not come in direct contact with it.

(12) Cf. prev. n. but one.

(13) On which she lay or sat.

(14) Cf. supra n. 6.

(15) Lit., ‘to be asked’.

(16) Such as that caused by the woman in question during the twenty-four hours preceding the time she observed the flow.

(17) Of course it is, since the law of treating doubtful uncleanness as unclean is deduced from that of the sotah (v. Glos.) who is able to answer questions.

(18) The ruling in our Mishnah, which does regard (by implication) the bed on which the woman sat as unclean.

(19) The hand, being part of a human being who is well able to answer questions, is justly compared to the sotah whose doubtful uncleanness is regarded as unclean. It is for a similar reason (that things handled by a human being are regarded as his hand), it may be added, that the things the woman handled when sitting on the bed are regarded as unclean even where the bed was resting on the ground, and this explains why the objection supra was raised in connection with the bed and not in connection with the things the woman has handled.

(20) As in that of the bed and the menstruant during the twenty-four hours preceding the observation of the flow or in that of a dead creeping thing that was carried by a man and a doubt arose as to whether it came in contact with a certain clean object.

(21) Since the uncleanness, if any, was brought to it by a human agency.

(22) And in a private domain is regarded as unclean. Only when the inanimate object in doubt was near an unclean one that was also inanimate, and ‘no human agency was involved, is it regarded as clean.

(23) V. p. 28, n. 14.

(24) Supra q.v. notes.

(25) He being either unclean (in the former case) or clean (in the latter one).

(26) Between the cloak and the objects in its vicinity. If there was contact, the cloak that (in the former case) contracted uncleanness from its wearer would convey uncleanness to the clean objects, or the unclean objects (in the latter case) would convey uncleanness to the cloak.

(27) The objects in the vicinity (in the former case) and the cloak (in the latter case).

(28) Even, it is now assumed, in a private domain, because the cloak as well as the objects in its vicinity are incapable of answering questions.

(29) The objects in the vicinity (in the former case) and the cloak (in the latter case).

(30) Sc. to wrap himself again in his cloak in the same place and position in which he did it first.

(31) In this manner it is ascertained whether the cloak and the other objects have or have not come in contact.

(32) The Rabbis who disagreed with him.

(33) Since it may not exactly reproduce the former conditions.

(34) Tosef. Toh. IV which, however, has the following variation: ‘R. Dosa ruled, He is told, "Do it again" ... They, however, said to him, No repetition . . . R. Simeon b. Gamaliel ruled, He sometimes does it again’.

(35) V. p. 29, n. 10.

(36) According to the first Tanna.

(37) Which according to R. Johanan is unclean.

(38) Lit., ‘outside of that’.

(39) One involving conveyance through a human agency.

(40) No objection, therefore, may be raised from the Tosef. cited which may be explained to refer to a case in a public domain.

(41) Supra q.v. notes.

(42) Lit., ‘I am not’.

(43) The Khuzistan.

(44) Lit., ‘came and brought’.

(45) Only a primary uncleanness can do that. An object touched by a menstruant assumes only the status of a first grade of uncleanness which conveys uncleanness to objects but not to a human being.

(46) The answer apparently being in the affirmative, the difficulty arises: How could Ze'iri maintain that the woman causes bed and seat to convey uncleanness to a man who in turn etc.’?

(47) Which seems to reduce the uncleanness of the bed and seat of the menstruant in question to a lower degree than that of earthenware.

(48) Only when uncovered does it contract uncleanness (cf. Num. XIX, 15).

(49) If it was touched by the woman during the twenty-four hours (cf. infra 6a)

(50) As the soundness of this argument cannot be questioned Abimi's ruling is obviously untenable and may well be disregarded.

(51) Which is an authoritative utterance.

(52) The ruling in the Baraitha.

(53) During the twenty-four hours preceding her discovery of a menstrual flow.

Talmud - Mas. Nidah 6a

are [as unclean] as that which touches the body of the menstruant herself; just as the touching of her body causes the uncleanness of a human being who in turn causes the uncleanness of the clothes he wears[1] so does the touching of her bed or seat cause the uncleanness of a human being who in turn causes the uncleanness of the clothes he wears.

It was taught in agreement with Raba: A woman who observed a bloodstain[2] conveys uncleanness retrospectively.[3] And what are the things to which she conveys the uncleanness?[4] Foodstuffs and drinks,[5] beds and seats,[6] as well as any earthen vessel, even though it was covered with a tightly fitting lid,[7] and her counting[8] is[9] disturbed,[10] and she conveys[11] uncleanness to the man who cohabited with her retrospectively. R. Akiba[12] ruled: She conveys uncleanness to the man who cohabited with her but begins her counting[13] from the time only of her observing a flow. If she observed a flow of blood,[14] she conveys uncleanness retrospectively for twenty-four hours.[15] And what are the things to which she conveys uncleanness?[16] Foodstuffs and drinks,[17] beds and seats[18] as well as any earthen vessel, though it was covered with a tightly fitting lid,[19] her counting[20] is not[21] disturbed and she does not convey[22] uncleanness to the man who cohabited with her.[23] In either case, however,[24] the uncleanness[25] is held in suspense [and any consecrated foodstuffs touched] must neither be eaten nor burned.[26] As to Raba, however,[27] if he heard of the Baraitha,[28] why did he not say [that his ruling is derived from] a Baraitha? And if he did not hear of the Baraitha, whence did he [derive the law for his inference] a minori ad majus? — The fact is that he heard of the Baraitha, but[29] were he to derive his ruling from the Baraitha it could have been objected [that the uncleanness[30] is conveyed] either to the man or to his clothes[31] but not to the man as well as to the clothes he wears,[32] hence he had recourse to his inference a minori ad majus.[33]

R. Huna ruled: [The retrospective uncleanness during] the twenty-four hours [preceding the observation] of a menstrual flow is conveyed only to hallowed things but not to terumah. But if so, should not this law have been mentioned together with those of the other grades [of sanctity]?[34] — Only cases that involve definite uncleanness are enumerated but any in which no definite uncleanness is involved[35] is not mentioned.

An objection was raised: What are the things to which she conveys uncleanness? Foodstuffs and drinks.[36] Does not this[37] mean those that are hallowed as well as those that are terumah? — No, only those that are hallowed.[38]

Come and hear: R. Judah ruled [that priestly women must examine their bodies] even after they have concluded a meal[39] of terumah;[40] and the point raised, ‘Is not the consumed meal a matter of the past?’[41] [And to this] R. Hisda replied: This[42] was necessary only for the sake of ensuring the fitness of the remnants before her?[43] — R. Huna reads:[44] ‘To burn the remnants that were in her hands’,[45] the examination being held immediately after[46] [the meal].[47]

Come and hear: It once happened that Rabbi acted[48] in accordance with the ruling of R. Eliezer,[49] and after he reminded himself[50] he observed, ‘R. Eliezer deserves to be relied upon

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(1) Torath kohanim on Lev. XV, 19.

(2) So Bah and MS.M. Cur. edd. ‘blood’.

(3) Cf. prev. n. (Cur. edd. read ‘twenty-four hours’), from the time the garment was last washed, it being unknown how soon after this the stain was made.

(4) During the period mentioned (cf. prev. n.).

(5) Which she touched (cf. foll. n.).

(6) On which she lay or sat. (Cur. edd. reverse the order.)

(7) Provided the woman shook the vessel and did not merely touch it.

(8) Of the ‘eleven days’ following the seven days of a menstrual period.

(9) Cur. edd. ‘is not’.

(10) So MS.M and Rashi; because it is unknown when the flow actually appeared and the limits of the menstruation period cannot consequently be determined.

(11) Cur. edd. ‘does not convey’.

(12) MS.M inserts R. Akiba's ruling infra before ‘In either case, however’.

(13) Of the seven days of menstruation.

(14) So Bah and MS.M. Cur. edd., ‘stain’.

(15) Bah and MS.M. Cur. edd. omit ‘for twenty-four hours’.

(16) During the period mentioned.

(17) Which she touched.

(18) On which she lay and sat.

(19) Provided the woman shook the vessel and did not merely touch it.

(20) Of the ‘eleven days’ following the seven days of a menstrual period.

(21) Cf. Rashi and MS.M. Cur. edd. omit ‘not’.

(22) So MS.M. Cur. edd., ‘she conveys’.

(23) Cur. edd. add, ‘but begins her counting from the time only of her observing of the flow’.

(24) Whether there was only a stain or a flow.

(25) During the period mentioned.

(26) Thus it has been shown that, in agreement with Raba, the Baraitha tacitly assumes that the beds and seats under discussion convey uncleanness not only to the man who came in contact with them but also to the clothes he wears (cf. Tosaf. Asheri a.l.).

(27) Who (supra 5b ad fin.) took the law of the uncleanness of an earthen vessel for granted and deduced from it that of the bed.

(28) That was just cited, in which the law of the earthen vessel is explicitly enunciated.

(29) As to the reason why he did not quote it.

(30) Of the bed or seat.

(31) Whichever of them came in contact with the unclean object.

(32) Which did not come in direct contact with the seat or the bed.

(33) From an earthenware vessel.

(34) In Hag. 20b where are enumerated the restrictions that are applicable to hallowed things and not to terumah and vice versa.

(35) Such as that of the twenty-four hours’ period under discussion where the uncleanness is merely a preventive measure.

(36) Supra, in the Baraitha last cited.

(37) ‘Foodstuffs and drinks’.

(38) The oil of a meal-offering, for instance, or the wine of libation.

(39) Lit., ‘at the time of their passing away from eating’.

(40) Infra 11a.

(41) Lit., ‘what has been, has been’, sc. what is the use of an examination after the meal has been consumed when nothing can be done even if the woman were to be found unclean.

(42) The examination.

(43) Should a woman, for instance, discover a flow later in the day the examination after her morning meal would ensure the cleanness of the terumah that remained from that meal. Thus it follows that in the absence of an examination the terumah would be deemed to be unclean retrospectively. How, then, could R. Huna maintain that the uncleanness is conveyed to hallowed things only?

(44) In place of R. Hisda's version of R. Judah's meaning.

(45) Sc., if she finds herself on examination to be unclean the remnants of her meal, since she touched them, are deemed to be unclean and, as unclean terumah must be burned.

(46) Heb. Keshi'ur weseth (v. Rashi). Evthion (Tosaf. Asheri) **, ‘forthwith’ (cf. Jast.).

(47) So that it may be taken for granted that the terumah she had just handled had come in contact with a confirmed menstruant. Where, however, the woman held no examination immediately after her meal, a subsequent discovery of a place causes no retrospective uncleanness to the terumah she handled.

(48) In the case of a young woman who did not suffer a flow during three consecutive periods (of thirty days each).

(49) That the period of uncleanness is to be reckoned from the discovery of the flow and not retrospectively. The Rabbis who differ from R. Eliezer hold this ruling to apply to an old woman only (whose senility might be assumed to be the cause of the irregularity) but not to a young one (cf. prev. n.).

(50) This is discussed presently.

Talmud - Mas. Nidah 6b

in an emergency’.[1] And the point was raised, What could be the meaning of ‘after he reminded himself’? If it be explained, ‘After he remembered that the halachah was not in agreement with R. Eliezer but in agreement with the Rabbis’, [the difficulty would arise:] How could he act according to the former's ruling[2] even in an emergency? Hence,[3] [it means after he recalled] that it was not stated whether the law was in agreement with the one Master or with the other Master, and having recalled that it was not an individual that differed from him[4] but that many differ from him he observed, ‘R. Eliezer deserves to be relied upon in an emergency’.[1] Now if it is granted [that retrospective uncleanness applies also] to terumah[5] one can well understand the incident[6] since terumah was in existence in the days of Rabbi, but if it is maintained [that retrospective uncleanness is applicable only] to hallowed things[7] [the objection would arise:] Were there hallowed things in the days of Rabbi?[8] — [This may be explained] on the lines of a statement of ‘Ullah. As ‘Ulla stated, ‘The Associates’[9] in Galilee[10] keep their things[11] in levitical cleanness’;[12] so they may have done it in the days of Rabbi.

Come and hear: It once happened that R. Gamaliel's[13] maid was baking bread loaves of terumah and after each[14] she rinsed her hands with water and held an examination. After the last one when she held the examination she found herself to be unclean and she came and asked R. Gamaliel who told her that they were all unclean.[15] ‘Master’, she said to him, ‘did I not hold an examination after each one’?[14] ‘If so’, he told her, ‘the last[16] is unclean[17] while all the others are clean’. At all events was it not here stated, ‘bread loaves of terumah’?[18] — By terumah was meant[19] the bread loaves[20] of a thanksgiving-offering.[21] But how does it come about that the loaves of a thanksgiving-offering[22] should require to be baked?[23] This is a case where they[24] were set aside[25] while they were being kneaded,[26] this being in line with what R. Tobi b. Kattina[27] ruled: ‘If a man baked the loaves of a thanksgiving-offering in four loaves[28] he has performed his duty’. [For when] the objection was raised, ‘Do we not require forty loaves’,[29] [the reply was that] this[30] is just a religious requirement.[31] But, surely, [it was asked,] is it not necessary to separate terumah[25] from each?[32] And should you reply that one might break off a piece from each[33] [it could be retorted that:] The All Merciful said, one[34] which implies that one must not break off a piece.[25] [To this] it was replied that ‘they were set aside while they were being kneaded’;[35] so here also[36] it may be explained that they were separated while they were being kneaded.[37]

Come and hear: Another incident took place when R. Gamaliel's maid was sealing wine jars with clay that after each she rinsed her hands with water and held an examination. After the last one when she held the examination and found herself to be unclean she came and asked R. Gamaliel who told her that they were all unclean. ‘But, surely’, she said to him, ‘I held an examination after each one’. ‘If so’, he told her, ‘the last[38] is unclean while all the others are clean’. Now if it is conceded that one incident[39] concerned hallowed things and the other terumah, it can be well understood why she asked a second time, but if it is contended that the former as well as the latter concerned hallowed things, why should she have asked him a second time? — [Each] incident occurred with a different maid.[40]

Another version: R. Huna ruled, [The retrospective uncleanness during] the twenty-four hours [preceding the observation] of a menstrual flow is conveyed both to hallowed things and to terumah. Whence is this[41] inferred? From its omission in the enumeration of[42] the various grades [of sanctity].[43] Said R. Nahman to him: Surely, a Tanna[44] recited [that the retrospective uncleanness][45] applies only to hallowed things and not to terumah. R. Samuel son of R. Isaac accepted this [teaching][46] from him [and explained it] as applying to common food that was prepared under conditions of hallowed things and not to common food that was prepared in conditions of terumah.[47] We learnt elsewhere: If a question of doubtful uncleanness has arisen about a dough[48] before it was rolled[49] it may be prepared in uncleanness,[50] [but if the doubt has arisen] after it had been rolled[51] it must be prepared in cleanness.[52] 'Before it was rolled it may be prepared in uncleanness', because it is common food and it is permitted to cause uncleanness to common food in Erez Israel. 'After it had been rolled it must be prepared in cleanness', because common food that is in a condition of tebel[53] in respect of the dough-offering is regarded as dough-offering, and it is forbidden to cause uncleanness to the dough-offering. A Tanna taught:

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(1) Infra 9b. Lit., 'in the time of pressure'. For the nature of the emergency cf. Tosaf. contra Rashi.
(2) Which is contrary to the halachah.
(3) Cur. edd. in parenthesis insert 'not'.
(4) R. Eliezer.
(5) Contrary to the view of R. Huna (supra 6a).
(6) That occurred in Rabbi's time.
(7) As R. Huna laid down (cf. prev. n. but one).
(8) Surely not, since the Temple was no longer in existence at that time!
(9) Habraiya pl. of haber (v. Glos.).
(10) In their hope and expectation that the Temple might at any moment be rebuilt.
(11) Wine, for instance, which was used in the Temple for libation or oil that was used for the meal-offerings.
(12) Sc. bestow upon them the same care as if they were hallowed things. V. Hag., Sonc. ed., p. 157 notes.
(13) R. Gamaliel the Elder (Rashb.), prob. R. Gamaliel of Jamnia (Tosaf.).
(14) Lit., 'between each one and one'.
(15) On account of the twenty-four hours of her retrospective uncleanness.
(16) Lit., 'it'.
(17) Owing to retrospective uncleanness from the previous examination to the last examination.
(18) And yet the law of retrospective uncleanness was applied (cf. prev. n.). How then could R. Huna maintain (supra 6a) that it applies only to hallowed things?
(19) Lit., 'what terumah?'
(20) Sc. the four loaves (one from each of the four kinds) which are given to the priest and are subject to the restrictions of hallowed things though they are called terumah (cf. Lev. VII, 14).
(21) Cf. Lev. VII, 11ff.
(22) I.e., the four that (cf. prev. n. but one) are given to the priest, which are to be taken from the forty (cf. Men. 76a) baked loaves of the offering.
(23) After they have been hallowed by having been given to the priest.
(24) The four loaves.
(25) For the priest.
(26) Hence the baking after they have been hallowed (cf. supra n. 10).
(27) Var. lec. 'b. R. Kisna'.
(28) I.e., of the dough of each of the four kinds he made only one loaf instead of the prescribed ten (cf. Men. 76a).
(29) How then can four suffice?

(30) The number of forty.
(31) But no sine qua non.
(32) Of the four kinds, one from each.
(33) Of the four big loaves.
(34) Lev. VII, 14, ‘and . . . shall offer one’, ‘one’ implying a whole one. (Men. 77b.)
(35) One loaf from each kind was set aside for the priest while nine of each were left for the owner, and subsequently each of the four small and the four large (representing nine small) loaves were duly baked.
(36) In the case of R. Gamaliel's maid.
(37) The maid having been engaged in the baking of the priest's share.
(38) Lit., ‘it’.
(39) Of the two in which the maid figured.
(40) Lit., ‘it was with two maids’.
(41) That the uncleanness mentioned is equally applicable to terumah and hallowed things.
(42) Lit., ‘since he does not teach it at’.
(43) Hag. 20b where the restrictions that apply to hallowed things and not to terumah and vice versa are enumerated.
(44) V. Glos. s.v. (b).
(45) During the twenty-four hours preceding the observation of a flow.
(46) Reported by R. Nahman in the name of a Tanna.
(47) It does not, however, apply to
(48) Lit., ‘was produced about it’.
(49) So that it was not yet subject to the dough-offering. Only after it had been rolled is a dough regarded as ready and, therefore, subject to the dough-offering.
(50) Because owing to its doubtful state of uncleanness it may not be eaten in any case.
(51) When it is already subject to the obligation of the offering (cf. prev. n. but one) and when consequently part of it is virtually hallowed.
(52) Hal. III, 2; since it is forbidden to cause uncleanness to a hallowed thing (cf. Bek. 34a) though the dough in question could not in any case be eaten on account of its doubtful condition of uncleanness.
(53) V. Glos.

Talmud - Mas. Nidah 7a

Its dough-offering[1] is in a suspended condition[2] and it may neither be eaten nor burned. In respect of what doubt did they[3] give this ruling?[4] In respect of a doubt applicable to the dough-offering.[5] What is meant by ‘a doubt applicable to the dough-offering’? — Both Abaye and Raba explained: That one should not assume that the ruling[6] applies only to[7] a case of likely uncleanness[8] such as that of the two paths,[9] for in that case even mere common food contracts uncleanness;[10] but that it applies also in the case

actual terumah which is subject to the same restrictions as hallowed things where only ‘leaning’ might be assumed;[11] for we learnt: If a zab[12] and a clean person were unloading an ass or loading it,if the load was heavy[13] [the latter] is unclean; if it was light[14] he is clean and in either case[15] he is regarded as clean[16] [even if he is] of the members of the Synagogue[17] but as unclean[18] in respect of terumah,[19] and ‘unconsecrated food that is in a condition of tebel in respect of the dough-offering’ is regarded as dough-offering.[20] But have we not learnt:[21] A woman who is a tebulath yom[22] may[23] knead her dough and cut off from it its dough-offering[24] and put it on an inverted basket of palm-twigs or on a board,[25] and then[26] bring it close [to the major portion of the dough] and designate it [as dough-offering;[27] this procedure being permitted] because the uncleanness of the dough[28] is only of the third grade,[29] and the third grade is regarded as clean in common food.[30] Now if you were to maintain that ‘common food that is in a condition of tebel in respect of the dough-offering is regarded as dough-offering’ [the objection would arise:] Did she not in fact convey uncleanness to it?[31] — Said Abaye: In regard to any object,[32] that conveys certain uncleanness to common food, uncleanness has been imposed as a preventive measure, even in a doubtful case, where common food that is in a condition of tebel in respect of the dough-offering is concerned,[33] but in regard to the woman who is a tebulath yom, since she does not convey certain uncleanness to common food,[34] no uncleanness has been imposed as a preventive measure in a doubtful case where common food that is in a condition of tebel in respect of the dough-offering is concerned.[33] But is there not the case of the retrospective uncleanness of the twenty-four hours [preceding the observation] of a menstrual flow which[35] conveys certain uncleanness to common food and in connection with which, nevertheless, no uncleanness has been imposed as a preventive measure in a case of doubt[36] where common food that is in a condition of tebel in respect of the dough-offering is concerned;[33] for has not the Master said, ‘R. Samuel son of R. Isaac accepted from him this [teaching, and explained it] as applying to common food that was prepared under conditions of hallowed things and not to common food that was prepared in conditions of terumah’?[37] — In the former case[38] no terumah is kneaded up with the common food[39] but in the latter case terumah[40] is kneaded up with the dough.[41] And if you prefer I might reply: Leave out of the question the retrospective uncleanness of the twenty-four hours, since it is merely a Rabbinical measure.

MISHNAH. R. ELIEZER RULED: IN THE CASE OF FOUR CLASSES OF WOMEN IT SUFFICES [FOR THEM TO RECKON] THEIR [PERIOD OF UNCLEANNESS FROM] THE TIME [OF THEIR DISCOVERING OF THE FLOW]: A VIRGIN,[42] A WOMAN IN PREGNANCY,[42] A NURSING WOMAN,[42] AND AN OLD WOMAN.[42] R. JOSHUA SAID: I HAVE ONLY HEARD [THE RULING[43] APPLIED TO] A VIRGIN.[44]

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(1) Though it was prepared in cleanness.

(2) On account of the doubt that had arisen earlier before the offering had been set aside.

(3) The Rabbis.

(4) That the dough-offering is in a suspended state of uncleanness.

(5) And not to common food, hullin (v. Glos.). This is explained presently.

(6) Concerning the uncleanness of the dough.

(7) Lit., ‘we learnt’.

(8) Lit., ‘evidences’.

(9) One of which was clean and the other unclean, and a person walked through one of them and it is unknown which one it was (Rashi). For a different interpretation cf. Tosaf.

(10) And is applicable to common food which is prepared under conditions of levitical purity. Much more then would this uncleanness apply to the common food from which dough-offering must be, set aside, and the ruling would he superfluous.

(11) Sc. (cf. next n. but one) where the likelihood of uncleanness is rather remote and not applicable to common food prepared under conditions of levitical purity.

(12) V. Glos.

(13) Since it is possible that on account of its heavy weight one of the men leaned on the other and was thus shaken by him, ‘shaking’ (hesset) being a means of conveying the uncleanness of a zab (cf. Rashi and Tosaf. Asheri).

(14) Cf. prev. n. mut. mut.

(15) Lit., ‘and all of them’, i.e., even in the case of a heavy load (Rashi); a light load (Tosaf.).

(16) Since (a) there might have been no shaking at all and (b) if there was it could not obviously have been a proper shaking.

(17) Who observe levitical cleanness in common food also.

(18) Rabbinically.

(19) Zabin III, 2. Similarly in the case of the dough-offering under discussion the expression ‘a doubt applicable to the dough-offering’ means a doubtful uncleanness that does not apply to members of the Synagogue in respect of common food but applies to common food from which the dough-offering has to be taken.

(20) Which is in the same category as terumah and consequently subject to uncleanness arising from doubtful leaning.

(21) So MS.M and marg. n. Cur. edd., ‘it was taught’.

(22) Fem. of tebul yom (v. Glos.).

(23) Though she, as cleanness could not be completely attained before sunset, is still subject to an uncleanness of the second grade.

(24) Without designating it as such, so that it still retains its status of common food.

(25) Sc. on an object that is not susceptible to ritual uncleanness. Neither the board, nor the basket in its inverted position, has a receptacle, and it is only 'vessels' with proper receptacles that are susceptible to uncleanness.

(26) Since the dough-offering when being set aside must be close to the dough for which it is offered.

(27) By that time the uncleanness of the woman can no longer be imparted to it since the object on which it rests (cf. prev. n. but one) intervenes.

(28) Lit., 'it'; that had been touched by the woman who (v. supra) is of the second grade of uncleanness.

(29) A clean object touched by an unclean one being always (with some exceptions) subject to a grade of uncleanness that is by one grade lower than the latter.

(30) T.Y. IV, 2; such as the dough is presumably before the dough-offering had been taken from it.

(31) When she first touched it. What then was the use of the entire procedure and precaution after that?

(32) Such, e.g., as the load carried by a zab.

(33) Lit., 'on account of'.

(34) A third grade of uncleanness, as stated supra, being regarded as clean.

(35) During the actual period of the flow.

(36) I.e., during the twenty-four hours preceding the observation of the flow when the uncleanness is only doubtful.

(37) Supra 6b ad fin. 'Common food that was prepared in conditions of terumah' being presumably in an analogous position to 'common food that is in a condition of tebel in respect of the dough-offering' both should be subject to the same restrictions. Why then was the former exempted from the restriction while the latter was subjected to it?

(38) Cf. prev. n. Lit., 'there'.

(39) Lit., 'in them'.

(40) Sc. the dough-offering.

(41) The latter must consequently be subject to greater restrictions.

(42) This is explained presently.

(43) Of R. Eliezer that IT SUFFICES etc.

(44) But not to the other three classes.

Talmud - Mas. Nidah 7b

THE HALACHAH, HOWEVER, IS IN AGREEMENT WITH R. ELIEZER.

WHO IS REGARDED AS 'VIRGIN'? ANY WOMAN, EVEN THOUGH SHE IS MARRIED, WHO HAS NEVER YET OBSERVED A FLOW. 'A WOMAN IN PREGNANCY'? ONE WHOSE EMBRYO CAN BE DISCERNED. 'A NURSING WOMAN'? A WOMAN BEFORE SHE HAS WEANED HER CHILD. IF SHE GAVE HER CHILD TO A NURSING WOMAN, IF SHE WEANED IT, OR IF IT DIED, R. MEIR RULED: SHE CONVEYS UNCLEANNESS RETROSPECTIVELY FOR TWENTY-FOUR HOURS;[1] BUT THE SAGES RULED: IT SUFFICES FOR HER[2] [TO RECKON HER PERIOD OF UNCLEANNESS FROM] THE TIME OF HER [OBSERVATION OF THE FLOW]. WHO IS REGARDED AS 'AN OLD WOMAN'? ANY WOMAN OVER WHOM THREE 'ONAHS[3] HAVE PASSED[4] NEAR THE TIME OF HER OLD AGE.[5] R. ELIEZER[6] RULED: FOR ANY WOMAN[7] OVER WHOM HAVE PASSED[4] THREE 'ONAHS IT SUFFICES [TO RECKON HER PERIOD OF UNCLEANNESS FROM] THE TIME OF HER [OBSERVING OF A FLOW]. R. JOSE RULED: FOR A WOMAN IN PREGNANCY AND A NURSING WOMAN OVER WHOM THREE 'ONAHS HAVE PASSED[8] IT SUFFICES [TO RECKON THEIR PERIOD OF UNCLEANNESS FROM] THE TIME OF THEIR [OBSERVATION OF THE FLOW].[9]

AND OF WHAT DID THEY[10] SPEAK[11] WHEN THEY LAID DOWN[12] THAT 'IT SUFFICES [FOR THEM TO RECKON] THEIR PERIOD OF UNCLEANNESS FROM THE TIME [OF THEIR DISCOVERING OF THE FLOW]'? OF A FIRST OBSERVATION,[13] BUT AT A SUBSEQUENT OBSERVATION[14] SHE CONVEYS UNCLEANNESS RETROSPECTIVELY

FOR A PERIOD OF TWENTY-FOUR HOURS. IF, HOWEVER, SHE SUFFERED THE FIRST FLOW ON ACCOUNT OF AN ACCIDENT[15] IT SUFFICES FOR HER EVEN AT A SUBSEQUENT OBSERVATION [TO RECKON HER UNCLEANNESS FROM] THE TIME OF HER [OBSERVING OF THE FLOW].

GEMARA. It was taught: R. Eliezer said to R. Joshua, ‘You have not heard[16] but[17] I have heard; you have only heard one tradition but I have heard many;[18] people do not ask him who has not seen the new moon to come and tender evidence[19] but only him who has seen it.’ Throughout the lifetime of[20] R. Eliezer the people acted in accordance with the ruling of R. Joshua, but after the passing away of R. Eliezer, R. Joshua re-introduced the earlier practice.[21] Why did he[22] not follow R. Eliezer during his lifetime? — Because R. Eliezer was a disciple of Shammai[23] and he[24] felt that if they[25] would act in agreement with his ruling in one matter[26] they[25] would act in agreement with his rulings in other matters also[27] and that out of respect for R. Eliezer no one could interfere[28] with them; but after the passing away of R. Eliezer, when the people[29] could well be interfered with, he[24] re-introduced the original practice.

Rab Judah citing Samuel ruled: The halachah is in agreement with R. Eliezer in four cases. One is that which has just been mentioned.[30] The other is that about a woman who was in a hard travail[31] [concerning whom it was stated:] For how long must she be relieved from pain[32] so as to be regarded a zabah?[33] Twenty-four hours;[34] so R. Eliezer.[35] And the halachah is in agreement with his view.[36] And the third[37] is the following: If a zab and a zabah[38] examined themselves on the first day[39] and found themselves clean and on the seventh day also[40] and found themselves clean, but did not examine themselves during the other days,[41] R. Eliezer ruled: Behold these[42] are in a presumptive condition of cleanness,[43] and R. Joshua ruled: They are entitled [to reckon as clean] only the first day and the seventh day,[44] while R. Akiba ruled: They are entitled [to reckon as clean] the seventh day alone,[45] and it was taught: R. Simeon and R. Jose stated, ‘The view of R. Eliezer[46] is more feasible than that of R. Joshua,[47] while that of R. Akiba is more feasible than those of both,[48] but the halachah agrees with that of R. Eliezer’.[49] And the fourth is the following.[50] For we have learnt: If the outer sides[51] of vessels were rendered unclean[52] by liquids,[53] R. Eliezer ruled, they convey uncleanness[52] to other liquids[54] but they[55] do not render foodstuffs unfit.[56] ‘They convey uncleanness to liquids’ even where the latter are common, but they ‘do not render foodstuffs unfit’, even where the latter are terumah. R. Joshua ruled: They convey uncleanness to liquids and also render foodstuffs unfit.[57] Said R. Joshua: This may be inferred a minori ad majus: If a tebul yom who[58] does not convey uncleanness to a common liquid,[59] nevertheless renders foodstuffs of terumah unfit how much more then should the outsides of vessels which do convey uncleanness to an unconsecrated liquid render foodstuffs of terumah unfit. And R. Eliezer?[60] — The uncleanness of the outsides of vessels[61] is only Rabbinical[62] while that of a tebul yom[63] is pentateuchal;[64] and, where it is a question of deducing a Rabbinical from a Pentateuchal law, no inference a minori ad majus can be applied.[65] For in accordance with Pentateuchal law no foodstuff conveys uncleanness to a vessel and no liquid conveys uncleanness to a vessel, and it is only the Rabbis that have ordained such uncleanness as a preventive measure against possible laxity in the case of the fluid[66] of a zab or a zabah;[67] hence it is only in the case of liquids, which are prone to contract uncleanness, that the Rabbis have enacted a preventive measure, but in that of foodstuffs, since they are not prone to contract uncleanness, the Rabbis enacted no preventive measure. What, however, is the reason for the mention of the outsides of vessels?[68] — Because their restrictions are lighter.[69] For we have learnt: If the outside of a vessel came in contact with unclean liquids,[70] its outside becomes unclean while its inside, its hanger,[71] its rim and its handles remain clean, but if its inside has become unclean all of it is unclean.[72]

But what does Samuel teach us,[73] seeing that in all these cases we learnt that the law [was in agreement with R. Eliezer]? And should you reply that he mainly informed us about the ‘outsides of vessels’ concerning which we did not learn [elsewhere what the law was], why [it could be retorted] did he not simply state, ‘The halachah is in agreement with R. Eliezer in the case of the outsides of vessels’? — The fact is that it is this that he informed us:[74] That the halachah may not be derived from a theoretical statement.[75]

But are there no more [than the four rulings]?[76] Is there not in fact another, since we have learnt: R. Eliezer ruled,

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(1) Preceding the time of her observation of the flow.

(2) During the twenty-four months after the child's birth throughout which she is expected to suckle it (v. Gemara infra).

(3) ‘Periods’. This is explained in the Gemara infra.

(4) Without her observing of a flow.

(5) This is explained in the Gemara infra.

(6) Var. lec., ‘Eleazar’.

(7) Even a young one.

(8) Without her observing of a flow.

(9) If three consecutive ‘onahs, however, have not passed, there applies the law of retrospective uncleanness, contrary to the view of R. Eliezer and the first Tanna supra.

(10) The Rabbis, supra.

(11) So Bah. Cur. edd. ‘he spoke’.

(12) Supra in the case of the CLASSES OF WOMEN. This is discussed in the Gemara infra.

(13) After the three ‘onahs have passed over the virgin, the woman in pregnancy or the old woman.

(14) Lit., ‘at the second’, since her natural proneness to the flow is re-established.

(15) So that it cannot be ascribed to the woman's natural disposition (cf. prev. n.).

(16) Cf. R. Joshua's statement in our Mishnah.

(17) Cf. Bah. Cur. edd. omit the waw.

(18) Reading harbeh. Var. lec. arba’ (‘four’) sc. women, cf. Bah.

(19) That he has seen it. Such evidence was essential to enable the Great Beth-din in Jerusalem (who regulated the lengths of the months and the fixation of the festival dates) to proclaim the beginning of a new month.

(20) Lit., ‘all his days’.

(21) Lit., ‘restored the thing to its old (state)’, when the practice was in agreement with the view of R. Eliezer.

(22) R. Joshua.

(23) So R. Tam and Rashb. (contra Rashi who, referring to B.M. 59b, renders shamuthi ‘one placed under the ban’). Wherever Beth Hillel differed from Beth Shammai the law (with a very few exceptions) is always in agreement with the former.

(24) R. Joshua.

(25) Lit., ‘we’.

(26) I.e., the one mentioned in our Mishnah where the law in fact is in agreement with his view.

(27) Sc. even in those where the law is in agreement with Beth Hillel.

(28) Lit., ‘we are not able to prevent’.

(29) If they were to follow R. Eliezer in other matters (cf. prev. n. but one) also.

(30) Cf. supra n. 6.

(31) For three days (during the ‘eleven days’ between the menstrual periods) on each of which there was a discharge of blood. If the discharge was not due to the travail she, having observed the blood on three consecutive days, would be subject to the restrictions of a zabah; but if it was due to travail she would be exempt from these restrictions. If a zabah she would have to count after childbirth seven days (as a zabah) in addition to the number of days prescribed for a woman after childbirth, and she would also have to bring two sacrifices one as a zabah and the other as one after childbirth.

(32) After the three days mentioned (cf. prev. n.) and before the birth of the child.

(33) Retrospectively, on account of the discharges on the three days. If the pain had continued until delivery it would have been obvious that the discharge on the three days mentioned was also due to the same cause, but if it ceased some considerable time before birth it may well be concluded that that discharge had no connection with the childbearing and the woman would consequently come within the category of zabah (cf. prev. n. but one).

(34) If such a period has intervened it is obvious that the discharge mentioned was in no way due to travail.
(35) Infra 36b.
(36) Though R. Joshua differs from him.
(37) Lit., ‘and the other’.
(38) Sc. the same law applies to either.
(39) After the flux had ceased.
(40) Cf. prev. n. Seven days without any discharge must pass before a zab or a zabah can attain cleanness.
(41) The intermediate five.
(42) Since on the first and the last day they were definitely clean.
(43) And on performing immersion at the close of the seventh day they became clean.
(44) Sc. two days only. As the cleanness of the intermediate days is a matter of doubt they must count another five days to make up the prescribed number of seven. In the case of a certain discharge on any of the days all the prescribed seven days must, of course, be counted all over again.
(45) Infra 68b; since it is possible that there was a discharge on the sixth day, when there was no examination (cf. prev. n. last clause).
(46) Who is consistent in disregarding completely the possibility of a discharge on any of the five days that intervened between the first and last clean ones. Cf. following n.
(47) Who (cf. prev. n.) is inconsistent, seeing that he assumes the possibility of a discharge during the intermediate days and at the same time allows counting the first day as one of the seven clean days.
(48) A possible, like a certain discharge (cf. supra n. 11, last clause) on the sixth day might quite reasonably be regarded as sufficient ground for cancelling all the previous days counted, including the first.
(49) Infra 68b.
(50) Lit., ‘and the other’.
(51) In a case where the insides are not affected (as explained infra) lit., ‘backs’.
(52) Rabbinically (cf. following two notes).
(53) Through contracting uncleanness from a dead creeping thing. The latter being a primary uncleanness causes the liquids to be an uncleanness of the first grade which (though Pentateuchally, since their uncleanness is not a primary one, it cannot, as explained in Pes. 18a, convey uncleanness to vessels) renders the vessels unclean Rabbinically. As the uncleanness that is conveyed to vessels by liquids is merely Rabbinical, and as it was desired to make a distinction between Pentateuchal and Rabbinical uncleanness, it was enacted that, in such a case, only the outsides of vessels and not their insides shall contract the uncleanness.
(54) Because liquids are prone to uncleanness. In consequence they contract from the vessels a first grade of uncleanness, the same grade as that of the outer sides of the vessels themselves.
(55) Since Pentateuchally (cf. prev. n. but one) they are deemed to be clean.
(56) Toh. VIII, 7; much less do they render them unclean. (This is explained presently.)
(57) Toh. VIII, 7.
(58) Being subject to a secondary grade of uncleanness only (v. following n.).
(59) As explained in Pes. 14b.
(60) How in view of this inference can he maintain his ruling?
(61) Contracted from liquids.
(62) Cf. supra n. 3.
(63) In respect of conveying uncleanness to foodstuffs of terumah.
(64) As deduced from Scripture in Yeb. 74b.
(65) Since it is obvious that Pentateuchal uncleanness should be subject to greater restrictions.
(66) E.g., spittle.
(67) Which is a primary uncleanness Pentateuchally (cf. Lev. XV, 8).
(68) Lit., ‘wherein is the difference . . . that he took up’, sc. why should not the Mishnah equally speak of the insides of vessels that similarly contracted from liquids Rabbinical uncleanness?
(69) Than those that govern the insides of vessels. In the latter case R. Eliezer agrees that terumah is rendered invalid.
(70) Lit., ‘a vessel whose back became unclean by liquids’.
(71) Lit., ‘its ear’.
(72) Kelim XXV, 6.

(73) By stating supra that ‘the halachah is in agreement with R. Eliezer in four cases’.

(74) By laying down the halachah (cf. prev. n.) in the case of rulings where a similar statement was actually embodied in the Mishnah.

(75) Talmud, lit., ‘learning’. All statements as to what is the halachah added by a Tanna to a ruling in a Mishnah or a Baraitha must be regarded as a mere opinion or theory which a disciple expressed with reference to a ruling of his master. It is only the carefully considered decisions of the later Amoras that, being based on a minute examination and thorough analysis of their predecessor's views that may be relied upon as authoritative in determining the halachah (cf. Rashi).

(76) Referred to supra by Rab Judah in the name of Samuel, concerning which the halachah is in agreement with R. Eliezer.

Talmud - Mas. Nidah 8a

‘A minor[1] is to be instructed[2] to exercise her right of mi'un against him’[3] and in connection with this Rab Judah citing Samuel stated, ‘The halachah is in agreement with R. Eliezer’?[4] — When Samuel stated ‘the halachah is in agreement with R. Eliezer in four cases he referred to rulings in the Order of Toharoth,[5] but in the other Orders there are many such rulings. This[6] also stands to reason, for we learnt: R. Eliezer ruled, Also in the case of one who shovels out loaves of bread[7] from an oven and puts them into a basket,[8] the basket causes them to be combined in respect of their liability to the dough-offering’,[9] and in connection with this Rab Judah citing Samuel stated, ‘The halachah is in agreement with R. Eliezer.’[10] This is conclusive. But why is the latter[11] a more valid proof[12] than the former?[13] — Because in the former case R. Eleazar takes up the same standpoint as he,[14] for we learnt: R. Eleazar ruled, The minor is to be instructed[15] to exercise her right of mi'un against him.[16] But does he[17] take up the same standpoint?[18] Have we not in fact shown[19] that both[20] were required because they are not like one another?[21] — Rather say, Because R. Judah b. Baba takes up the same position as he,[22] for we learnt,[23] ‘R. Judah b. Baba testified concerning five things: That minors are urged to exercise their right of mi'un,[24] that a woman[25] is allowed to remarry on the evidence of one witness,[26] that a cock was stoned[27] in Jerusalem because it had killed a person,[28] that[29] wine which was only forty days old[30] was poured as a drink-offering upon the altar, and that[29] the continual morning sacrifice was offered[31] [as late as] at the fourth hour [of the day]’.[32] Now does not the expression ‘minors’[33] imply[34] the one of which R. Eleazar and the one of which R. Eliezer spoke?[35] — No; by the expression[36] ‘minors’ minors in general[37] were meant.[38] If so,[39] should it not have been stated, in the case of the woman[40] also, ‘women’, meaning thereby[41] women in general?[42] As in the latter case,[43] however, it was stated ‘woman’,[44] and in the former ‘minors’[45] it may be concluded that the expressions are to be taken literally.[46] This is conclusive.

R. Eleazar[47] also[48] stated, ‘The halachah is in agreement with R. Eliezer in four things’. But are there no more of such rulings?[49] Have we not in fact learnt, ‘R. Eliezer ruled, The minor is to be instructed to exercise her right of mi'un against him’[50] and R. Eleazar stated, ‘The halachah is in agreement with R. Eliezer’?[51] And were you to reply that when R. Eleazar stated, ‘The halachah is in agreement with R. Eliezer in four things’ he referred to the rulings in the Order of Toharoth, but that in the other Orders there are many more such rulings[49] [it could be retorted:] But are there any such? Have we not in fact learnt, ‘The rose, henna,[52] lotus[53] and balsam as well as their proceeds are subject to the laws of the Sabbatical year[54] and they and their proceeds are also subject to the law of removal,’[55] in connection with which R. Pedath[56] is observed, ‘Who taught[57] that balsam is a fruit?[58] R. Eliezer’; and R. Zera replied, ‘I see that between[59] you and your father you will cause balsam to be permitted to the world,[60] since you said, "Who taught that balsam is a fruit? R. Eliezer" and your father said, "The halachah is in agreement with R. Eliezer in four things".’[61] Now, if it were so,[62] why did he[63] not reply to him,[64] ‘When my father said, "The halachah is in agreement with R. Eliezer in four things" he referred only to rulings in the Order of Toharoth but in other Orders there are many more’?[65] — But then,[66] does not the previous difficulty[67] arise? — [In the case of mi'un[68] the halachah is in agreement with R. Eliezer] because R. Eleazar [b. Shammua’] takes up the same standpoint as he; for we have learnt: R. Eleazar ruled, The minor is to be instructed to exercise her right of mi'un against him.[69] But does he[70] take up the same standpoint? Have we not in fact shown that both[71] were required because they are not like one another?[72] — Rather say: Because R. Judah b. Baba takes up the same standpoint as he.[70] But are there no more such rulings?[73]

Have we not in fact learnt: 'R. Akiba ruled, One says it[74] as an independent benediction;[75] R. Eliezer ruled, One includes it in the benediction of thanksgiving';[76] and in connection with this R. Eleazar[77] stated,[78] 'The halachah is in agreement with R. Eliezer'? — R. Abba replied: [The halachah agrees with him] in that case because he [may have] said it in the name of R. Hanina b. Gamaliel, for it was taught: R. Akiba ruled, One says it[79] as an independent benediction;[75] R. Hanina b. Gamaliel ruled, One includes it in the benediction of thanksgiving.

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(1) Who was fatherless and was given in marriage by her mother or brothers (so that her marriage is only Rabbinically valid) and who had a sister that was of age and was married to the minor's husband's brother who died without issue. In accordance with the laws of the levirate marriage the surviving brother must marry the widow, but such marriage cannot take place in this case on account of the prohibition to marry a wife's sister. The minor, furthermore, is now forbidden to live with her husband (whose marriage with her is only Rabbinically valid) on account of the levirate bond between him and her sister (which is Pentateuchal). Rashi speaks here of two 'orphan' sisters, but the Mishnah in Yeb, speaks of 'deaf' sisters.

(2) In order to avoid (cf. prev. n.) the difficulties mentioned.

(3) Her husband. In virtue of mi'un (v. Glos.) she annuls her marriage and sets her husband free to perform the Pentateuchal law of the levirate marriage. Yeb. 109a.

(4) Yeb. 110a.

(5) The sixth, and last order of the Talmud in which the tractate of Niddah is included.

(6) That Samuel referred to the Order of Toharoth alone.

(7) That were made of quantities of dough each of which was never greater than five kab. Only when dough is no less than five kab in bulk is it subject to the dough-offering.

(8) And in their total they amounted to no less than five kab.

(9) Hal. II, 4.

(10) Which shows that outside the Order of Toharoth there are other rulings concerning which the halachah is in agreement with R. Eliezer.

(11) Hal. II, 4.

(12) In support of the explanation given (cf. n. 10).

(13) The ruling cited from Yeb. Lit., 'and what is the strength of that from that?'

(14) R. Eliezer.

(15) In certain cases enumerated in Yeb. 111a.

(16) Yeb. 111a, a ruling that is analogous to that of R. Eliezer in Yeb. 109a, and it might have been assumed that only in this case, since R. Eliezer is supported by the authority of R. Eleazar, is the halachah in agreement with the former but not in other cases where he has no such support; hence the citation from Hal, where the halachah is in agreement with R. Eliezer even though his ruling has his own authority alone.

(17) R. Eleazar.

(18) As R. Eliezer.

(19) Yeb. 111b.

(20) Statements of Samuel, that the halachah is in agreement with (a) R. Eliezer and (b) R. Eleazar.

(21) How then could it be suggested here that R. Eleazar's ruling provides support for that of R. Eliezer?

(22) R. Eliezer.

(23) So MS.M. Cur. edd. 'it was taught'.

(24) Cf. notes on the similar ruling of R. Eliezer (cited from Yeb. 109a supra).

(25) Whose husband left for a country overseas.

(26) Who testifies that her husband was dead.

(27) In accordance with Ex. XXI, 28 (as expounded in B.K. 54b), though the text speaks only of an ox.

(28) It pecked out the brain of a child.

(29) Lit., ‘and about’.
(30) One that is less than forty days old is invalid as ‘wine from the vat’, which is too new (cf. B.B. 97a, Sonc. ed. p. 405).
(31) On one occasion, during the Syrian Greek siege of Jerusalem, when no sacrifice could be secured.
(32) ‘Ed. VI, 1.
(33) Sc. the use of the plural form.
(34) Lit., ‘what minors? Not?’ etc.
(35) The answer being presumably in the affirmative it follows that R. Eliezer's ruling is supported by the authority of R. Judah b. Baba.
(36) Lit., ‘what’.
(37) Of the class spoken of by R. Eleazar.
(38) Excluding the one spoken of by R. Eliezer who, consequently, stands unsupported.
(39) That the plural form in this context is used to indicate the class.
(40) ‘That a woman is allowed etc.’
(41) Lit., ‘and let us say’.
(42) Obviously it should.
(43) Lit., ‘since here’ (cf. supra p. 47, n. 25).
(44) In the sing., though the whole class is included.
(45) In the plural.
(46) Lit., ‘he learns exactly’, sc. that ‘minors’ in the plural refers to the two classes of minor, the one dealt with by R. Eleazar and the one spoken of by R. Eliezer.
(47) I.e., R. Eleazar b. Pedath who was an Amora. R. Eleazar who laid down the rule of mi'un is a Tanna and was b. Shammua’.
(48) Like Rab Judah who cited Samuel supra 7b.
(49) In regard to which the halachah is in agreement with R. Eliezer.
(50) Supra q.v. notes.
(51) Yeb. 110a.
(52) Or ‘cyprus flower’.
(53) Or ‘gum-mastich’.
(54) Shebi. VII, 6: sc. during that year they must be treated as hefker (v. Glos.) and no trade may be carried on with them.
(55) Sc., as soon as none of these products respectively remained in the field the owner must remove from his house all that he had previously gathered in. The last quoted part, ‘and they . . . removal’ is wanting in the Mishnah.
(56) The son of R. Eleazar b. Pedath.
(57) In the Mishnah cited from Sheb.
(58) Were it no fruit it would not have been subject to the laws of the Sabbatical Year.
(59) Lit., ‘from’.
(60) During the Sabbatical Year, i.e., to be exempt from its restrictions.
(61) But no more. R. Eliezer's restrictive law concerning balsam, since it is not included in the four, must consequently be against the halachah and must, therefore, be disregarded.
(62) That outside the Order of Toharoth there are other rulings of R. Eliezer in agreement with the halachah.
(63) R. Pedath.
(64) R. Zera.
(65) And R. Zera's objection would thus have been met. Since R. Pedath, however, gave no such reply it follows that R. Eleazar's statement that ‘the halachah is in agreement with R. Eliezer in four things’ applies to all the Orders of the Talmud.
(66) Cf. prev. n.
(67) How is it that in the case of mi'un (which is not included in the four) the halachah is also in agreement with R. Eliezer?
(68) Though it is not one of the four (cf. prev. n.).
(69) Supra q.v. notes.
(70) R. Eleazar [b. Shammua’].

(71) The rulings of R. Eliezer and R. Eleazar respectively.
(72) Supra q.v. notes.
(73) Concerning which the halachah is in agreement with R. Eliezer.
(74) The benediction of habdalah in the evening service at the conclusion of the Sabbath (cf. P.B., p. 46).
(75) Sc. it is not to be included in any of the statutory benedictions.
(76) Ber. 29a, 33a. Cf. P.B., p. 51.
(77) b. Pedath (cf. supra).
(78) M. J. Ber. (Tosaf).
(79) The benediction of habdalah in the evening service at the conclusion of the Sabbath (cf. P.B., p. 46).

Talmud - Mas. Nidah 8b

But was he[1] not much older than he?[2] — Rather say:[3] Because R. Hanina b. Gamaliel took up[4] the same line as he, But did he[5] take it up? Was it not in fact taught: On the night of the Day of Atonement[6] one recites in his prayers seven benedictions and makes confession; in the morning[6] one recites seven benedictions and makes confession; during the additional prayer[7] one recites seven benedictions and makes confession; in the afternoon prayer one recites seven benedictions and makes confession; In the concluding prayer[8] one recites seven benedictions and makes confession, and in the evening[9] one recites seven benedictions embodying the substance of the Eighteen;[10] and R. Hanina b. Gamaliel in the name of his ancestors ruled: One must recite in his prayers[11] all the eighteen benedictions because it is necessary to include habdalah[12] in ‘who favourest man with knowledge’?[13] — R. Nahman b. Isaac replied: He cited it[14] in the name of his ancestors but he himself[15] does not uphold it.

Said R. Jeremiah to R. Zera:[16] But do you not yourself hold that he who taught that balsam was a fruit is R. Eliezer, seeing that we have learnt: R. Eliezer ruled, Milk curdled with the sap of ‘orlah is forbidden?[17] — This[18] might be said to agree even with the view of the Rabbis, since they differed from R. Eliezer only in respect of the sap of the tree but in the case of the sap of the fruit they agree with him, for we have learnt: R. Joshua stated, I have explicitly heard that milk curdled with the sap of the leaves or with the sap of the roots is permitted, but if it was curdled with the sap of unripe figs it is forbidden because the latter is regarded as a proper fruit.[19] And if you prefer I might reply: The Rabbis differ from R. Eliezer only in respect of a fruit producing tree but in the case of a tree that does not produce fruit they agree that its sap is regarded as its fruit, for we have learnt: R. Simeon ruled, Balsam is not subject to the laws of the Sabbatical Year[20] and the Sages ruled, Balsam is subject to the laws of the Sabbatical Year because the sap of the tree is regarded as its fruit.[21] Now who are the Sages? Are they not in fact the Rabbis who differ[22] from R. Eliezer?[23] — Thus, a certain elder replied to him, said R. Johanan, ‘Who are the "Sages"? R. Eliezer who ruled that its balsam is its fruit’. But if by the ‘Sages’ R. Eliezer was meant what was the point in speaking of a tree that does not produce fruit seeing that even where a tree produces fruit its sap is regarded as its fruit? — He[24] spoke to them[25] according to the view of the Rabbis. ‘According to my view’ [he said in effect,] ‘even in the case of a fruit producing tree its sap is regarded as its fruit, but according to your view[26] agree with me at least in this case of a tree that produces no fruit that its sap is its fruit. But the Rabbis told him: No difference is made.[27]

WHO IS REGARDED AS A ‘VIRGIN’? ANY WOMAN WHO HAS NOT YET OBSERVED etc. Our Rabbis taught: [If a virgin] married and observed a discharge of blood that was due to the marriage, or if when she bore a child she observed a discharge of blood that was due to the birth, she is still called a ‘virgin’, because the virgin of whom the Rabbis spoke is one that is a virgin as regards menstrual blood but not one who is so in regard to the blood of virginity.[28] Can this, however, be correct?[29] Has not R. Kahana in fact stated, ‘A Tanna taught: There are three kinds of virgin, the human virgin, the soil virgin and the sycamore virgin. The "human virgin" is one that never[30] had any sexual intercourse, the practical issue[31] being her eligibility to marry a High Priest[32] or else her claim to a kethubah of two hundred zuz;[33] the "virgin soil" is one that had never[30] been cultivated, the practical issue[31] being its designation as "a rough valley"[34] or else its legal status as regards purchase and sale;[35] the "virgin sycamore" is one that has never[36] been cut,[37] the practical issue[38] being its legal status as regards purchase and sale[39] or else the permissibility to cut it[37] in the Sabbatical Year, as we have learnt: A virgin sycamore may not be cut in the Sabbatical Year because such cutting is regarded as cultivation'.[40] Now if this[41] were correct why did he[42] not mention this one also? — R. Nahman b. Isaac replied: He only mentioned such as has no special[43] name[44] but one which bears a special[43] name[45] he does not mention. R. Shesheth son of R. Idi replied: He[46] only mentioned those, the loss of whose virginity[47] is dependent on an act[48] but one the loss of whose virginity[47] is not dependent on an act[49] he does not mention. R. Hanina son of R. Ika replied: He[46] only mentioned those[47] which do not change[50] into their original condition[51] but one which does change to its original condition[52] he does not mention. Rabina replied: He[53] only mentioned that to which a purchaser is likely to object[54] but that to which a purchaser is not likely to object[55] he does not mention. But do not people object?[56] Was it not in fact taught, 'R. Hiyya stated: As leaven is wholesome for the dough so is menstrual blood wholesome for a woman'[57] and it was also taught in the name of R. Meir, 'Every woman who has an abundance of menstrual blood has many children'?[57] — Rather say: He[53] only mentioned that which a purchaser is anxious to acquire[58] but that[59] which a purchaser is not anxious to acquire[60] he does not mention.

Our Rabbis taught: What is meant by a virgin soil? One which[61] turns up clods[62] and whose earth is not loose. If[61] a potsherd is found in it, it may be known that it had once been cultivated;[63] if flint, it is undoubtedly[64] virgin soil.

'A WOMAN IN PREGNANCY'? ONE WHOSE EMBRYO 'CAN BE DISCERNED. At what stage[65] is the embryo discernible? — Symmachus citing R. Meir replied: Three months after conception. And though there is no actual proof for this statement there is an allusion[66] to it, for it is said in Scripture, And it came to pass about three months after[67] etc. 'An allusion to it' [you say], is not this a text of Scripture and a most reliable[68] proof? — [It can only be regarded as an allusion] because some women[69] give birth after nine months and others after seven months.[70]

Our Rabbis taught: If a woman was[71] in a condition of presumptive pregnancy and after observing a discharge of blood she miscarried an inflated object[72] or any other object which had no vitality[73] she[74] is still deemed to be[75] in the condition of her presumptive pregnancy and it suffices for her to reckon her period of menstrual uncleanness from the time of her observation of the discharge.[76] And though there is no actual proof for this ruling[77] there is an allusion[78] to it, for it is said in Scripture, We have been with child, we have been in pain, we have as it were brought forth wind.[79] But why only 'an allusion to it' seeing that the text provides actual[80] proof? — That text was in fact written about males.[81]

I would, however, point out an incongruity: If a woman was in hard labour[82] for two days[83] and on the third day[84] she miscarried an inflated object or any thing that had no vitality, she[85] is regarded as bearing in the condition of a zabah.[86] Now if you maintain that such miscarriage is a proper birth

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(1) R. Eliezer, a contemporary and brother-in-law of R. Gamaliel the son of Simeon who was one of the 'Ten Royal Martyrs' (Rashi).

(2) Hanina, who was a son of R. Gamaliel of Jamnia (v. Tosaf.). Now is it likely that an older scholar would quote a tradition on the authority of a younger one?

(3) In explanation why the halachah is in agreement with R. Eliezer in this particular case.

(4) At a later date. Lit., 'stands'.

(5) R. Hanina.

(6) The 'Day' extending over a night and the following day.

(7) Musaf, which on Sabbaths and festivals is recited after the morning service.

(8) Ne'ilah, the last prayer before sunset on the Day of Atonement.
(9) That follows the solemn day.
(10) I.e., instead of all the ‘eighteen (now nineteen) benedictions’ that are to be recited at ordinary weekday services (cf. P.B., p. 44ff) one recites on this occasion only the first three and the last three benedictions, and inserts between a shortened prayer embracing the salient features of the intermediate ones (cf. P.B., p. 55).
(11) Even on the evening mentioned.
(12) The prayer added to the service at the conclusion of Sabbaths and festival days (cf. P.B., p. 46).
(13) Yoma 87b, Pes. 3a. Cf. P.B., l.e. In the shortened prayer, where this benediction is reduced to a few words, this cannot be done. Now, since R. Hanina here states that habdalah is to be included in the benediction ‘who favourest etc.’ how could it be said supra that he adopts the same line as R. Eliezer who requires it to be included in the benediction of thanksgiving?
(14) The last quoted ruling.
(15) Who is in agreement with R. Eliezer.
(16) Who objected (supra 8a) to R. Pedath's assertion as to the authorship of the ruling on balsam.
(17) ‘Orlah I, 7; because the sap is considered a fruit to which the prohibitions of ‘orlah apply. Balsam also being a sap, must not the ruling that balsam is a fruit obviously be that of R. Eliezer?
(18) The ruling just cited.
(19) ‘Orlah I, 7.
(20) ‘Because it is not regarded as a fruit’, Sheb. VII, 6.
(21) This quotation does not actually occur in the Mishnah cited (cf. prev. n.) but is implied from the ruling of the first Tanna ibid.
(22) In the case of other trees.
(23) Presumably they are. Thus it follows, as R. Zera submitted, that in the case of balsam the Rabbis are of the same opinion as R. Eliezer and that there is no need, therefore, to attribute to him the ruling which is in agreement with the halachah.
(24) R. Eliezer.
(25) Those who differed from him.
(26) Which does not regard the sap of a fruit bearing tree as fruit.
(27) Between the two kinds of tree. In neither case can sap be regarded as fruit.
(28) Or birth.
(29) Lit., ‘I am not’.
(30) Lit., ‘all the time that she (had) not’.
(31) Between being regarded as a virgin or not.
(32) Cf. Lev. XXI, 13.
(33) Only a virgin is entitled to that sum. One who is no virgin is entitled to one hundred zuz only.
(34) Deut. XXI, 4, in the case where a murdered man was found in a field and his murderers cannot be discovered when a heifer is brought into a rough valley and a prescribed ceremonial is performed (v. ibid. 1ff).
(35) If a plot of land has been sold or bought as ‘virgin soil’ it must be one that has never before been cultivated.
(36) Lit., ‘all the time that she (had) not’.
(37) Since the cutting causes new growth.
(38) Between being regarded as a virgin or not.
(39) Cf. supra n. 10 mut. mut.
(40) Which is forbidden (cf. Lev. XXV, 4); Sheb. IV, 5.
(41) That there is also a virginity as regards menstrual blood.
(42) R. Kahana who only spoke of three kinds of virgin.
(43) Lit., ‘attached’, ‘accompanying’.
(44) ‘Virgin’ alone being sufficient.
(45) Such as the ‘virgin in respect of menstrual blood’ whom ‘virgin’ alone would not sufficiently describe.
(46) R. Kahana who only spoke of three kinds.
(47) Lit., ‘a thing that’.
(48) Such as intercourse, cultivation or cutting.
(49) As is the case with a discharge of menstrual blood which is a natural and involuntary process.

(50) After intercourse, cultivation and cutting respectively.

(51) Lit., ‘to its creation’, neither the woman nor the soil nor the sycamore can (cf. prev. n.) change into her or its original condition.

(52) A woman in old age loses her flow and changes, in this respect, into a condition similar to her original virginity.

(53) R. Kahana who only spoke of three kinds.

(54) No one who could help it would be likely to marry a non-virgin or to buy land that was already exploited or a sycamore that was cut.

(55) One who marries a virgin does not care whether or not she ever had her menstrual flow.

(56) Cf. prev. n.

(57) Keth. 10b.

(58) Lit., ‘that . . . jumps on it’, people are anxious to marry a virgin, to buy a plot of land that was never before exploited and a sycamore that was never before cut.

(59) A virgin who has no menstrual flow.

(60) For the reasons indicated by R. Hiyya and R. Meir supra.

(61) On being broken up.

(62) That need crushing.

(63) How else could the potsherd have found its way into it?

(64) Lit., ‘behold this’.

(65) Lit., ‘and how much’.

(66) Lit., ‘remembrance’.

(67) That it was told . . . she is with child, Gen, XXXVIII, 24.

(68) Lit., ‘great’.

(69) Lit., ‘there is’.

(70) And it might have been assumed that the three months of the text (representing a third of nine) applied to the former only while in the case of the latter the stage of recognition begins after 7/3 = 2 1/3, months.

(71) Lit., ‘behold she was’.

(72) Lit., ‘wind’.

(73) Lit., ‘existence’.

(74) Despite the fact that her pregnancy, as is now evident, was not natural.

(75) As regards retrospective uncleanness.

(76) Not twenty-four hours retrospectively as is the case with one who is not pregnant.

(77) That an inflated object (cf. supra n. 12) is regarded as a viable embryo in respect of pregnancy.

(78) Lit., ‘remembrance’,

(79) Emphasis on the last word. Isa. XXVI, 18. Tosef. Nid. I.

(80) Lit., ‘great’.

(81) In whose case conception and birth are mere metaphorical expressions.

(82) Accompanied by a flow of blood.

(83) During the eleven days in which she is susceptible to the uncleanness of a zabah (v. foll. nn.).

(84) After a further discharge of blood, so that (cf. prev. n. but one) her bleeding and pain extended over three consecutive days.

(85) Since there was no proper birth though she had no relief from her pain between the time of the discharge and the miscarriage.

(86) V. Glos. Sc. she must count seven days and bring the sacrifice prescribed for a zabah before she can attain cleanness.

Talmud - Mas. Nidah 9a

did not the All Merciful [it may be objected] ordain that [a flow of blood in] painful labour immediately before birth[1] is regarded as clean?[2] — R. Papi replied: Leave alone the question of the twenty-four hours retrospective uncleanness[3] which only involves a Rabbinical enactment.[4] R. Papa replied: The actual reason[5] is that the woman[6] feels a heaviness in her head and limbs;[7] well then, here also[8] she feels a heaviness in her head and in her limbs.[9]

R. Jeremiah enquired of R. Zera: What is the ruling[10] where a woman observed a flow and immediately after her pregnancy was discerned? Is she retrospectively unclean because her pregnancy was not known at the time she observed the flow or is she not retrospectively unclean since she observed it immediately before she became aware of her pregnancy? — The other replied: The sole reason[11] is that she[12] feels a heaviness in her head and limbs[13] but[14] at the time she observed the flow she felt no heaviness either in her head or in her limbs.[15]

A certain old man asked R. Johanan: 'What is the ruling if, when the time of her fixed period had come during the days of her pregnancy and she did not examine herself? I am raising this question on the view of the authority who laid down [that a woman's duty to hold an examination on the arrival of her] fixed periods is an ordinance of the Torah.[16] What is the ruling [I ask]? Must she[17] examine herself since [the duty of holding an examination on the arrival of] the fixed periods is an ordinance of the Torah[16] or is it possible that since[18] her menstrual blood is suspended,[19] she requires no examination'?[20] — The other[21] replied, You have learnt it: R. Meir ruled, If a woman was in a hiding-place[22] when the time of her fixed period arrived and she did not examine herself she is nevertheless clean because fear suspends the menstrual flow.[23] Now the reason is[24] that there was fear, but if there had been no fear and the time of her fixed period had arrived and she did not examine herself she would have been deemed unclean. It is thus clear[25] [that a woman's duty to examine herself at the time of the arrival of her] fixed periods is an ordinance of the Torah and that, nevertheless, since there was fear, her menstrual blood is deemed to be suspended and she requires no exemption; so also here,[26] since her menstrual blood is suspended she requires no examination.

'A NURSING WOMAN'? A WOMAN BEFORE SHE HAS WEANED etc. Our Rabbis taught: A nursing mother whose child died within twenty-four months[27] is in exactly the same position as all other women[28] and causes retrospective uncleanness for a period of twenty-four hours or from the previous to the last examination. If, therefore,[29] she continued to suck it for four or five years it suffices for her to reckon her period of uncleanness from the time she has observed the flow; so R. Meir. R. Judah, R. Jose and R. Simeon ruled: Only during the twenty-four months[30] does it suffice for women to reckon their uncleanness from the time they have observed a flow.[31] Therefore,[32] even if she suckled it for four or five years she causes uncleanness retrospectively for twenty-four hours or from the previous to the last examination.[33] Now if you will carefully consider [the views just expressed] you will find that[34] according to the view of R. Meir the menstrual blood is decomposed and turns into milk while according to the view of R. Jose, R. Judah and R. Simeon the woman's limbs[35] are disjointed and her natural vigour[36] does not return before the lapse of twenty-four months. Why the necessity for the 'therefore'[37] of R. Meir?[38] — On account of the 'therefore'[39] of R. Jose. But why the necessity for the 'therefore' of R. Jose?[40] — It might have been assumed that R. Jose maintains that[41] there are two [causes];[42] hence we were informed[43] [that he upholds the one cause only].[44] So it was also taught: The menstrual blood[45] is decomposed and turns into milk; so R. Meir. R. Jose stated: Her limbs[46] are disjointed and her natural strength does not return before twenty-four months.[47] R. Elai explained: What is R. Meir's reason?[48] That it is written, Who can bring a clean thing[49] from out of an unclean?[50] Is it not the Only One?[51] And the Rabbis?[52] — R. Johanan replied: The reference[53] is to semen which is unclean, while the man who is created from it is clean; and R. Eleazar replied: The reference[53] is to the water of sprinkling[54] in the case of which the man who sprinkles it as well as the man upon whom it is sprinkled is clean while he who touches it is unclean. But is the man who sprinkles it clean? Is it not in fact written, And he that sprinkleth the water of sprinkling shall wash his clothes?[55] — What is meant by 'He that sprinkleth'? He that touches it. But is it not actually written, 'He that sprinkleth'[55] and also 'He that toucheth'?[55] Furthermore, is not 'He that sprinkleth' required to wash his clothes[55] while 'He that toucheth' is not required to do so?[55] — Rather say: What is meant by 'He that sprinkleth'? He that carries.[56] Then why was it not written, 'He that carries'? — We were informed[57] that uncleanness is not contracted unless one carried the minimum quantity prescribed for sprinkling. This is a satisfactory explanation according to him who holds[58] that sprinkling must be performed with a prescribed minimum of the water[59] . What, however, can be said according to him who holds that no prescribed minimum is required?[58] — Even according to him who holds that no prescribed quantity is required the ruling refers only to the quantity applied to the body of the man but as regards that which is in the vessel a prescribed quantity is required; as we have learnt: What must be the quantity of water[59] that it shall suffice for a sprinkling? As much as suffices for both the dipping therein of the tops of the stalks and for the sprinkling.[60] It is, in fact, in view of such laws[61] that Solomon observed, I said: ‘I will get wisdom’; but it was far from me.[62]

WHO IS REGARDED ‘AN OLD WOMAN’? ANY WOMAN OVER WHOM THREE ONAHS HAVE PASSED NEAR THE TIME OF HER OLD AGE. What is to be understood by NEAR THE TIME OF HER OLD AGE? — Rab Judah replied: The age when her women friends speak of her as an old woman; and R. Simeon[63] replied:

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(1) The woman having had no relief from her pain between the appearance of the flow and birth (cf. prev. n. but one).

(2) V. infra 37b. Why then should the woman here be treated as a zabah?

(3) With which the first of the apparently contradictory Baraithas deals.

(4) And could, therefore, be relaxed even in the case of a pregnancy that ended in a miscarriage. As regards the pentateuchal uncleanness of a zabah, however, a miscarriage of the nature spoken of in the last cited Baraitha cannot be regarded as a proper birth.

(5) Why a pregnant woman is to reckon her menstrual uncleanness from the very moment she has observed a discharge and not retrospectively.

(6) During her pregnancy.

(7) Sc. she is suffering from a malady which causes her menstrual flow to disappear.

(8) In the case of a pregnancy that ended in a miscarriage spoken of in the first of the Baraithas under discussion.

(9) It is obvious, therefore, that she also suffers from the same malady (cf. prev. n. but one) in consequence of which she is entitled to the same privileges (cf. supra n. 10).

(10) In respect of the twenty-four hours retrospective uncleanness.

(11) V. p. 55, n. 10.

(12) During her pregnancy.

(13) V. p. 55, n. 12.

(14) In the case about which R. Jeremiah enquired.

(15) She cannot, therefore, be regarded as a pregnant woman, and her uncleanness is retrospective.

(16) Sc. a traditional halachah handed down from the time of Moses (Rashi), so that since the flow may be expected to make its appearance on the regular day, a woman who did not examine herself at such a period, must be regarded as unclean (v. infra 16a).

(17) If she is to be regarded as clean.

(18) During pregnancy.

(19) And the regular appearance of her menstrual blood need not be expected.

(20) I.e., she is deemed to be clean even if she did not examine herself.

(21) R. Johanan.

(22) In fear of her life.

(23) Infra 39a.

(24) Why in this particular case the woman is regarded as clean.

(25) Since in the absence of fear the woman is deemed to be unclean.

(26) The case of the pregnant woman referred to in the old man's enquiry.

(27) After birth. This is the normal period a mother is expected to suckle her child.

(28) Who are not pregnant or nursing; because the menstrual flow is suspended only on account of its transformation into the mother's milk, but when the child dies and the milk is no longer used the blood changes into its original condition.

(29) Since the cleanness of the woman is entirely due to her suckling (cf. prev. n.).

(30) Irrespective of whether the child is suckled or not.

(31) The suspension of the menstrual blood for twenty-four months being due in their opinion to the physical disturbance caused by the process of childbearing.

(32) Since it is the process of bearing and not the suckling of the child (cf. prev. n.) that causes the suspension of the blood and since that suspension does not continue longer than twenty-four months.

(33) Cf. Tosef. Nid. II where, however, ‘R. Judah’ is omitted.

(34) Lit., ‘as you will find to say’.

(35) When she is in childbirth.

(36) Manifested by her menstrual flow.

(37) ‘If, therefore, she continued etc.’ supra.

(38) Sc. since R. Meir ruled that the death of the child causes its mother to resume the status of an ordinary non-nursing woman it obviously follows that the main cause of her former exemption from retrospective uncleanness was her suckling of the child, what need then was there to specify an inference (cf. prev. n.) which is all too obvious?

(39) ‘Therefore, even if she suckled etc.’, supra.

(40) Cf. prev. n. but one mut. mut.

(41) For the suspension of the menstrual flow.

(42) (a) The blood turns into milk and (b) the woman's limbs are disjointed on account of (b) the woman is exempt from retrospective uncleanness during the twenty-four months following her childbearing, irrespective of whether the child is suckled or not, while on account of (a) she should be similarly exempt throughout the time she is suckling the child.

(43) By the addition of ‘Therefore’ (cf. supra n. 14).

(44) That ‘the woman's limbs are disjointed’.

(45) Of a nursing woman.

(46) Those of a woman in childbirth.

(47) Bek. 6b.

(48) For holding that the menstrual blood turns into milk.

(49) Milk.

(50) Menstrual blood.

(51) Job XIV, 4; E. V. ‘not one’.

(52) Sc. how do they, who differ from R. Meir, in maintaining that the blood does not turn into milk, explain the text cited?

(53) In Job XIV, 4 cited.

(54) Cf. Num. XIX, 9.

(55) Ibid. 21.

(56) The water of sprinkling.

(57) By the expression, ‘He that sprinkleth’ instead of ‘he that carries’.

(58) Cf. Zeb. 80a.

(59) The water of sprinkling.

(60) Parah XII, 5.

(61) Which are apparently paradoxical: The man who sprinkles the water or is sprinkled upon is clean while he who merely touched it is unclean.

(62) Eccl. VII, 23.

(63) MS.M. adds ‘b. Lakish’.

Talmud - Mas. Nidah 9b

when people call her mother in her presence[1] and she does not blush. R. Zera and R. Samuel b. Isaac differ:[2] One says, ‘[When she is called mother] and[3] she does not mind,’ and the other says, ‘And[3] she does not blush’ — What is the practical difference between them? — The practical difference between them is the case of one who blushes but does not mind.

What is the length of an ‘onah? — Resh Lakish citing R. Judah Nesi'ah[4] replied: A normal ‘onah is thirty days; but Raba, citing R. Hisda, replied: Twenty days. In fact, however, there is no difference of opinion between them. One Master[5] reckons both the clean and the unclean days[6] while the other Master[7] does not reckon the unclean days.[8]

Our Rabbis taught: If over an old woman have passed three ‘onahs[9] and then she observed a flow, it suffices for her to reckon her period of uncleanness from the time she observed the flow; if another three ‘onahs have passed[9] and then she observed a flow, it again suffices for her to reckon her uncleanness from the time she observed it. If, however, another three ‘onahs have passed[9] and then she observed a flow she is regarded[10] as all other women and causes uncleanness retrospectively for twenty-four hours or from the previous examination to the last examination. This[11] is the case not only[12] where she observed the flow at perfectly regular intervals[13] but even where she observed it at successively decreasing intervals or[14] increasing intervals.[15] [You say,] ‘Even[16] where she observed it at successively decreasing intervals’. It thus follows[17] that there is no need to mention that this law[11] applies where she observed the flow at perfectly regular ones. But should not the law be reversed, seeing that where she observes a flow at perfectly regular intervals she thereby establishes for herself a fixed period and it should, therefore, suffice for her to reckon her period of uncleanness from the time she observed the flow? And should you reply that this[18] represents the view of the Rabbis who differ from R. Dosa in maintaining that even a woman who has a fixed period causes retrospective uncleanness for twenty-four hours,[19] [it could be objected:] Should not the order[20] have been reversed to read as follows: Not only where she observed the flow at successively decreasing intervals or increasing intervals[21] but even where she observed it at perfectly regular ones?[22] — Read: Not only where she observed the flow at successively decreasing intervals or increasing intervals[21] but even where she observed it at perfectly regular ones.[23] And if you prefer I might reply, It is this that was meant: This[24] does not apply where a woman observed the flow at perfectly regular intervals but only where she observed it at successively decreasing or increasing ones. Where, however, she observed it at perfectly regular intervals she thereby establishes for herself a fixed period and it suffices for her to reckon her uncleanness from the time she has observed the flow. And whose view does this represent? That of R. Dosa.[19]

R. ELIEZER RULED: FOR ANY WOMAN OVER WHOM HAVE PASSED etc. It was taught: R. Eliezer said to the Sages. It once happened to a young woman at Haitalu[25] that her menstrual flow was interrupted for three ‘onahs, and when the matter was submitted to the Sages they ruled that it sufficed for her to reckon her uncleanness from the time she observed the flow. They replied: A time of emergency is no proof. What was the emergency? — Some say, It was a time of dearth,[26] while others say, The quantity of foodstuffs the woman had prepared[27] was rather large and the Rabbis took into consideration the desirability of avoiding the loss of the levitically clean things.

Our Rabbis taught: It once happened that Rabbi acted in agreement with the ruling of R. Eliezer, and after he reminded himself observed, ‘R. Eliezer deserves to be relied upon in an emergency’. What could be the meaning of ‘after he reminded himself’? If it be explained: After he reminded himself that the halachah was not in agreement with R. Eliezer but in agreement with the Rabbis [the difficulty would arise:] How could he act according to the former's ruling even in an emergency? — The fact is that it was not stated whether the law was in agreement with the one Master or with the other Master. Then what is meant by ‘after he reminded himself’? — After he reminded himself that it was not an individual that differed from him but that many differed from him, he observed ‘R. Eliezer deserves to be relied upon in an emergency’.

Our Rabbis taught: If a young girl who had not yet attained the age of menstruation[28] observed a discharge, after the first time it suffices for her to reckon her uncleanness from the time she observed it; after the second time also[29] it suffices for her to reckon her uncleanness from the time she observed it, but after the third time[30] she is in the same position as all other women[31] and[32] causes uncleanness retrospectively[33] for twenty-four hours or from her previous examination to her last examination. If subsequently three ‘onahs have passed over her[34] and then she again observed a discharge it suffices for her[35] to reckon her uncleanness from the time she observed it.[36] If another three ‘onahs have passed over her[34] and then again she observed a discharge it suffices for her to reckon her uncleanness from the time she observed it. But if another three ‘onahs have passed over her[37] and she again observed a discharge she is in the same position as all other women[38] and causes uncleanness retrospectively for twenty-four hours or from her previous examination to her last one.[39] When, however, a girl had attained the age of menstruation,[40] after the first observation it suffices for her to reckon her uncleanness from the time she observed the discharge, while after the second time she causes uncleanness retrospectively for twenty-four hours or from her previous examination to her last examination.[41] If subsequently three ‘onahs have passed over her[42] and then she again observed a discharge, it suffices for her to reckon her uncleanness from the time she observed it.[43]

The Master said,[44] ‘If subsequently three ‘onahs have passed over her and then she again observed a discharge, it suffices for her to reckon her uncleanness from the time she observed it’.

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(1) So MS.M. Cur. edd. ‘mother, mother’.

(2) On what was meant by ‘near old age’.

(3) Lit., ‘all that’.

(4) The Prince, Judah II.

(5) Resh Lakish.

(6) I.e., the interval between one period and another which is thirty days.

(7) Raba.

(8) Which number ten (seven as menstruant and three as zabah) leaving (thirty minus ten are) twenty clean days (Rashi. Cf., however, Tosaf.).

(9) Without her observing any flow during all this time.

(10) Lit., ‘behold she’; since the appearance of the flow for the third time establishes the fact that her menstrual flow had not yet ceased and that only the length of the intervals between its periodic appearances has changed.

(11) That after a third appearance the woman's uncleanness begins twenty-four hours retrospectively.

(12) Cf. MS.M and marg. n. Cur. edd. ‘and it is not necessary (to state)’, the word ‘necessary’ appearing in parenthesis.

(13) I.e., if each interval was, for instance, exactly ninety days.

(14) Cur. edd. in parenthesis. ‘and even’.

(15) Sc. irrespective of whether (a) the first interval extended over ninety-three days, the second over ninety-two and the third only over ninety or (b) the first extended over ninety-one days, the second over ninety-two and the third over ninety-three days.

(16) Emphasis on this word.

(17) Since the expression ‘even’ is used (cf. prev. n.).

(18) That the woman is unclean retrospectively even when she has a fixed period.

(19) Supra 4b.

(20) Of the Baraitha under discussion.

(21) Is her uncleanness retrospective for twenty-four hours.

(22) Where it might have been presumed that she has thereby established for herself a fixed period.

(23) Cf. prev. n. but one; the ruling representing the view of the Rabbis (supra 4b).

(24) That after a third appearance the woman's uncleanness begins twenty-four hours retrospectively.

(25) [Babylonian form for Aitalu, modern Aiterun, N.W. of Kadish. V. S. Klein, Beitrage, p. 47.]

(26) When a decision to regard all the foodstuffs the woman had touched during the preceding twenty-four hours as unclean would have involved a serious loss and undue hardship.

(27) During the preceding twenty-four hours.

(28) Lit., ‘whose time to see (the menses) has not arrived’.

(29) Since presumptive menstruation like any other condition of presumption cannot be established by one occurrence.

(30) Since according to Rabbi (with whose view, as shown infra, this Baraitha agrees) two occurrences suffice to establish a condition of presumption.

(31) Who are in a condition of presumptive menstruation.

(32) In accordance with Rabbinic law.

(33) As a preventive measure enacted in the case of all such women (cf. prev. n. but one).

(34) Without her observing any discharge.

(35) Since the complete absence of the flow for three ‘onahs is regarded as the cessation of the flow.

(36) In agreement with R. Eliezer (cf. our Mishnah).

(37) Without her observing any discharge.

(38) Who are in a condition of presumptive menstruation.

(39) Because the appearance of the discharge for the third time proved that her flow had not ceased and that only the intervals between the discharges had been lengthened.

(40) This being the case spoken of in our Mishnah: AND OF WHAT DID THEY SPEAK . . . OF A FIRST OBSERVATION.

(41) Cf. our Mishnah: BUT AT A SUBSEQUENT OBSERVATION . . . HOURS.

(42) Without her observing any discharge.

(43) In agreement with R. Eliezer (cf. our Mishnah).

(44) Supra; in regard to a young girl who had not yet attained the age of menstruation and who observed a discharge at the end of each of three consecutive ‘onahs.

Talmud - Mas. Nidah 10a

What is the ruling where[1] she again observes discharges at the end of subsequent single ‘onahs?[2] — R. Giddal citing Rab replied: After the first time and after the second time it suffices for her to reckon her uncleanness from the time of her observation of the discharge, but after the third time she causes uncleanness retrospectively for twenty-four hours or from her previous examination to her last examination.

‘If another three ‘onahs have passed over her and then again she observed a discharge it suffices for her to reckon her uncleanness from the time she observed it’. What is the ruling where she again observes discharges at the end of single ‘onahs?[3] — R. Kahana citing R. Giddal who had it from Rab replied: After the first time it suffices for her to reckon her uncleanness from the time she observed the discharge but after the second time she causes uncleanness retrospectively for twenty-four hours or from her previous examination to her last examination. Whose view does this[4] represent? That of Rabbi who laid down that if a thing has occurred twice presumption is established.[5] Read then the final clause:[6] ‘If subsequently three ‘onahs have passed over her and then she again observed a discharge, it suffices for her to reckon her uncleanness from the time she observed it’. Does not this agree only with the view of R. Eliezer?[7] And should you reply that it in fact represents the view of Rabbi but that in the case of [an interval of three] ‘onahs he holds the same view as R. Eliezer, [it could be retorted]: Does he indeed hold the same view seeing that it was stated, ‘After he reminded himself’?[8] — The fact is that it represents the view of R. Eliezer but[9] [in respect of presumption in the case of] menstrual periods he is of the same opinion as Rabbi.[10]

A stain [discovered by one who had not yet reached the age of menstruation] between her first and second [observation of a discharge] is regarded as clean,[11] but as regards one discovered between her second and third observation, Hezekiah ruled: It is unclean, while R. Johanan ruled: It is clean. ‘Hezekiah ruled: It is unclean’, since, when she observed [a discharge for the third time] she becomes unclean [retrospectively],[12] her stain also[13] causes her to be unclean; ‘while R. Johanan ruled: It is clean,’ for this reason: Since[14] she was not yet confirmed in the condition of presumptive menstruation[15] she cannot be regarded as unclean on account of her stain.

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(1) After the one discharge at the end of the three ‘onahs respectively.

(2) Sc. does it suffice for her to reckon her uncleanness from the time she observes the discharge or is her uncleanness to be retrospective? The reasons for and against are discussed in Rashi.

(3) V. p. 63, n. 10.

(4) The ruling that after the second time she is already in a condition of presumptive menstruation.

(5) Infra 64a, Keth. 43b, Yeb. 26a.

(6) The case of one who ‘had attained the age of menstruation’.
(7) Who ruled in our Mishnah: FOR ANY WOMAN OVER WHOM HAVE PASSED THREE ‘ONAHS IT SUFFICES . . . TO RECKON FROM THE TIME SHE OBSERVED IT.
(8) Supra 9b q.v., from which it is evident that only after much hesitation and reluctance did he follow R. Eliezer's view.
(9) As regards the difficulty of establishing presumption after two occurrences.
(10) Who in all cases holds that two occurrences constitute presumption.
(11) I.e., it is not deemed to be due to menstrual blood. Cf. supra 5a.
(12) Which shows that her presumptive menstruation begins after her second discharge.
(13) Since it appeared at a period of (cf. prev. n.) presumptive menstruation.
(14) At the time the stain was discovered.
(15) This condition being established retrospectively only after the appearance of a third discharge.

Talmud - Mas. Nidah 10b

R. Elai demurred:[1] But what is the difference between this class of woman and a virgin [just married] whose blood is clean?[2] — R. Zera replied: In the case of the latter her secretion[3] is frequent[4] but in that of the former her secretion is not frequent.[5]

‘Ulla stated: R. Johanan who had it from R. Simeon b. Jehozadak[6] ruled, ‘If a young girl who had not yet attained the age of menstruation observed a discharge, her spittle or her midras- uncleanness in the street[7] after a first discharge and after a second discharge is clean,[8] and her stain is also clean’; but I do not know [whether the last ruling][9] was his own or his Master's.[10] In what practical issue could this matter? — In respect of establishing the ruling[11] to be the view of one authority[11] against two authorities.[12] When Rabin and all the other seafarers came[13] they stated that the ruling was in agreement with the view of R. Simeon b. Jehozadak.

R. Hilkiah b. Tobi ruled: In the case of a young girl who had not yet reached the age of menstruation[14] a discharge of menstrual blood, even if it continued[15] throughout all the seven days,[16] is regarded as a single observation.[17] [Since you say,] ‘Even[18] if it continued’[15] it follows that there is no necessity to state that the law is so[19] where there was a break.[20] But is not this contrary to reason, seeing that a break would cause the discharge to be like two separate observations? — Rather read: In the case of a young girl who had not yet reached the age of menstruation,[14] a discharge of menstrual blood that[21] continued throughout all the seven days[22] is regarded as a single observation. R. Shimi b. Hiyya ruled: Dripping is not like an observation.[23] is But does not the woman in fact observe it?[24] — Read: It is not like a continuous discharge but like one broken up.[25] Does this[26] then imply that the continuous discharge[27] was one like[28] a river?[29] — Rather read: It is only like a continuous discharge.[30]

Our Rabbis taught: It is established that the daughters of Israel before reaching the age of puberty are definitely[31] in a condition of presumptive cleanness and the [elder] women need not examine them. When they have reached the age of puberty they are definitely[31] in a condition of presumptive uncleanness and [elder] women must examine them. R. Judah ruled: They must not examine them with their fingers[32] because they might corrupt them,[33] but they dab them with oil within and wipe it off from without and they are thus self examined.[34]

R. JOSE RULED: FOR A WOMAN IN PREGNANCY etc. A Tanna recited in the presence of R. Eleazar, ‘R. Jose ruled: As for a woman in pregnancy and a nursing woman over whom three onahs have passed it suffices for her[35] [to reckon her[35] period of uncleanness from] the time of her [observation of the flow]’. ‘You’, the other remarked, ‘began with two[36] and finished with one;[37] do you perchance mean: A pregnant woman who was also[38] a nurse,[39] and this[40] teaches us incidentally the law that [in respect of an interval of three ‘onahs][41] the days of a woman's pregnancy supplement those of her nursing and those of her nursing supplement those of her pregnancy? As it was taught:

‘The days of her pregnancy supplement those of her nursing and the days of her nursing supplement those of her pregnancy. In what manner? If there was a break[42] of two ‘onahs during her pregnancy and of one during her nursing, or of two during her nursing and one during her pregnancy, or of one and a half during her pregnancy and one and a half during her nursing, they are all combined into a series of three ‘onahs’.[43] One can well understand the ruling that ‘the days of her pregnancy supplement those of her nursing’ since this is possible where a woman became pregnant while she was still continuing her nursing. But how is it possible that ‘the days of her nursing[44] supplement those of her pregnancy’?[45] — If you wish I might reply: This is possible in the case of a dry birth.[46] And if you prefer I might reply: Menstrual blood is one thing and birth blood is another thing.[47] And if you prefer I might reply: Read the first clause only.[48]

OF WHAT DID THEY SPEAK WHEN THEY LAID DOWN THAT IT SUFFICES [FOR THEM TO RECKON] THEIR [PERIOD OF UNCLEANNESS FROM] THE TIME [OF THEIR DISCOVERY OF THE FLOW]’? etc. Rab stated: This[49] refers to all of them,[50] and Samuel stated: This[49] was learnt only in respect of a virgin[51] and an old woman[52] but for pregnant or nursing women[53] it suffices for them, throughout all the days of their pregnancy and throughout all the days of their nursing respectively to reckon their uncleanness from the time of their observing a flow. In the same manner R. Simeon b. Lakish stated: This[54] refers to all of them; while R. Johanan stated: This was learnt only in respect of a virgin and an old woman but for pregnant or nursing women it suffices throughout all the days of their pregnancy and throughout all the days of their nursing respectively to reckon their uncleanness from the time of their observing the flow. This dispute[55] is analogous to one between Tannas. [For it was taught]: If pregnant or nursing women were

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(1) Against Hezekiah.

(2) In the case of the latter the blood is assumed to be that of the wound caused by a first intercourse which is exempt from the laws of uncleanness. If on the following day, however, the colour of the discharge changed the woman becomes unclean, but a bloodstain discovered after intercourse (cf. infra 60a) is nevertheless clean. Why then should a stain in the former case be unclean on account of the subsequent discharge? (V. Tosaf.).

(3) The discharge of the wound (cf. prev. n.).

(4) So that there is a double reason why the stain should be regarded as clean. For (a) it might be attributed to blood that issued from a foreign body and (b) even if it is to be attributed to blood of the woman's own body that blood might have been the secretion of the wound (v. Tosaf.).

(5) And if the stain is due to blood that originated from the woman's body it could not be other than menstrual which causes uncleanness.

(6) This is not the scholar of the same name mentioned in Sanh. 26a who was spoken of disparagingly in the presence of R. Johanan (R. Tam.). The one here mentioned was a teacher of R. Johanan whose honour the latter would have protected had anything derogatory been said against him in his presence.

(7) I.e., if it was discovered in a public place and it is uncertain whether the girl was a menstruant at that time.

(8) As presumptive menstruation had not yet been established uncleanness cannot be imposed in a doubtful case (cf. prev. n.).

(9) Concerning the stain.

(10) R. Simeon b. Jehozadak's.

(11) Of Hezekiah (supra 10a).

(12) R. Johanan and R. Simeon b. Jehozadak; and the law would accordingly be in agreement with the majority. If R. Johanan, however, gave the ruling in his own name alone Hezekiah is opposed by one authority only and the law need not necessarily be against him.

(13) From Palestine to Babylon.

(14) Lit., ‘whose time to see (the menses) has not arrived’.

(15) Lit., ‘she pours’.

(16) The normal period of menstruation.

(17) Sc. until there were two more observations her period of uncleanness does not begin retrospectively but from the time she observes the discharge.

(18) Emphasis on this word.
(19) That the discharge ‘throughout all the seven days is regarded as a single observation’.
(20) Though it was followed by a renewal of the discharge.
(21) Omitting ‘even’ (cf. supra n. 9) used in the first version supra.
(22) The normal period of menstruation.
(23) Lit., ‘one who drips is not like one who sees’. This is now assumed to mean that dripping is not regarded even as a single observation.
(24) The dripping. How then can it be maintained that it is not regarded even as one observation (cf. prev. n.)?
(25) I.e., like a number of separate observations. By the time the dripping ceases completely the woman is deemed to be in a confirmed condition of presumptive menstruation and any subsequent discharge causes her uncleanness to be retrospective.
(26) The distinction drawn between ‘dripping’ and a ‘continual discharge’.
(27) Since it is regarded as a single observation.
(28) Cur. edd. in parenthesis, ‘also’.
(29) Sc. without a stop. But is this likely? No woman surely could survive a discharge of blood that was continuous for seven days.
(30) It is regarded as one observation and the girl is not subject to retrospective uncleanness before she has experienced two more menstrual discharges.
(31) Lit., ‘behold they’.
(32) Lit., ‘with the hand’.
(33) By teaching them unnatural gratification (Jast.). Aliter: They might injure them with their nails (Rashi).
(34) Since at puberty an application of oil induces the menstrual flow.
(35) The use of the sing, for the plural is discussed presently.
(36) ‘A woman in pregnancy and a nursing woman’.
(37) By using the sing. (cf. prev. n. but one).
(38) Rendering the waw as ‘who’ instead of ‘and’.
(39) A woman, for instance, (v. infra) who became pregnant while she was still nursing her last-born child.
(40) Since the same law applies also to one who is pregnant only.
(41) Which exempts a woman from retrospective uncleanness.
(42) In the menses.
(43) Infra 36a.
(44) Between which and pregnancy there must be the childbirth and consequent bleeding.
(45) Would not the bleeding at childbirth interrupt the bloodless interval of the three ‘onahs?
(46) So that there is no bleeding (cf. prev. n. but one) to interrupt the three ‘onahs.
(47) I.e., the latter does not in any way interrupt the interval of the former.
(48) Lit., ‘one’, viz., ‘the days of her pregnancy supplement those of her nursing’, omitting the final clause, ‘the days of her nursing . . . pregnancy’.
(49) The statement just quoted the conclusion of which is that ‘AT A SUBSEQUENT OBSERVATION SHE CONVEYS UNCLEANNESS RETROSPECTIVELY FOR A PERIOD OF TWENTY-FOUR HOURS’.
(50) Sc. the four classes enumerated earlier in our Mishnah.
(51) Who, after two observations, may well be deemed to have reached the age of presumptive menstruation.
(52) Who also, since after the interruption she had her menses twice, may be assumed to be reverting to her former status of presumptive menstruation while the interruption might be attributed to a mere delay in the appearance of the discharge.
(53) Whose menstrual flow must normally cease and any discharge of blood on whose part, however often that may occur (cf. Tosaf.), can only be regarded as an irregular and passing phase.
(54) For notes on the statements of R. Simeon b. Lakish and R. Johanan cf. those on the statements of Rab and Samuel supra.
(55) Between the Amoras mentioned regarding a pregnant and a nursing woman.

Talmud - Mas. Nidah 11a

bleeding profusely it suffices for them, throughout all the days of their pregnancy and throughout all the days of their nursing respectively, to reckon their uncleanness from the time of their observing their flow; so R. Meir. R. Jose and R. Judah and R. Simeon, however, ruled: Only after a first observation did [the Sages] rule that it suffices for them[1] to reckon their uncleanness from the time of their observing the flow but after a second observation they cause uncleanness retrospectively for twenty-four hours or from their previous examination to their last examination.

IF, HOWEVER, SHE SUFFERED THE FIRST FLOW etc. R. Huna ruled: If on three occasions she jumped and suffered a flow she[2] has thereby established for herself a fixed period.[3] In what respect?[4] If it be suggested, In respect of certain days,[5] could it not be objected that on any day on which she did not jump she observed no flow?[6] — Rather, [the fixation meant is in respect] of jumps.[7] But surely it was taught: 'Any regular discharge established as a result of an accident, even though it had been repeated many times, does not establish a fixed period'. Does not this mean that no fixed period whatsoever[8] is established? — No, it means that no fixed period is established in respect of days alone[9] or jumps alone,[10] but as regards days and jumps jointly[11] a fixed period is well established.[12] But 'is it not obvious[13] [that no fixed period can be established] in respect of days alone?[14] — R. Ashi replied: [This[15] was necessary in a case] for instance, where the woman jumped on two Sundays and suffered a flow while on a Sabbath[16] she jumped and suffered no flow but on the Sunday following she observed one without jumping. As it might have been presumed that it had now become known retrospectively that[17] it was the day[18] and not the jumping[19] that had caused the flow,[20] we were informed[21] that it was the jump of the previous day[16] 'that was the cause[22] and that the reason why the woman did not observe it was because the jump was premature.[23]

Another reading:[24] R. Huna' ruled: If on three occasions she jumped and suffered a flow she has thereby established for herself a fixed period in respect of days but not in respect of jumps. In what circumstances?[25] — R. Ashi replied: If a woman jumped on two Sundays and on each occasion suffered a flow while[26] on one[27] Sunday she suffered one without jumping where it is obvious that it is the day[28] that is the cause.[29]

MISHNAH. ALTHOUGH [THE SAGES] HAVE LAID DOWN THAT [FOR A WOMAN WHO HAS A SETTLED PERIOD] IT SUFFICES TO RECKON HER PERIOD OF UNCLEANNESS FROM THE TIME SHE OBSERVED THE FLOW, SHE MUST NEVERTHELESS EXAMINE HERSELF [REGULARLY],[30] EXCEPT WHERE SHE IS A MENSTRUANT[31] OR[32] IS CONTINUING IN THE BLOOD OF PURIFICATION.[33] SHE[34] MUST ALSO USE TESTING-RAGS WHEN[35] SHE HAS MARITAL INTERCOURSE EXCEPT WHEN SHE CONTINUES IN THE BLOOD OF PURIFICATION[33] OR WHEN SHE IS A VIRGIN[36] WHOSE BLOOD IS CLEAN.[37] AND TWICE [DAILY] MUST SHE[34] EXAMINE HERSELF: IN THE MORNING[38] AND AT THE [EVENING] TWILIGHT,[39] AND ALSO WHEN SHE IS ABOUT[40] TO PERFORM HER MARITAL DUTY.[41] PRIESTLY WOMEN ARE SUBJECT TO AN ADDITIONAL RESTRICTION [IN HAVING TO MAKE EXAMINATION] WHEN THEY ARE ABOUT TO EAT TERUMAH. R. JUDAH RULED: [THESE MUST EXAMINE THEMSELVES] ALSO AFTER THEY HAVE CONCLUDED A MEAL[42] OF TERUMAH.

GEMARA. EXCEPT WHEN SHE IS A MENSTRUANT, because during the days of her menstruation she needs no examination.[43] This[44] is quite satisfactory according to R. Simeon b. Lakish who ruled, 'A woman may establish for herself a settled period during the days of her zibah[45] but not during the days of her menstruation',[46] [since the discarding of an examination would be] well justified.[47] According to R. Johanan, however, who ruled, 'A woman may establish for herself a settled period during the days of her menstruation', why should she not examine herself seeing that it is possible that she had established for herself a settled period?[48] — R. Johanan can answer you: I only spoke of a case where the woman observed the flow issuing[49] from a previously closed source,[50] but I did not speak of one where she observed it issuing[51] from an already open source.[52]

OR IS CONTINUING IN THE BLOOD OF PURIFICATION. It was assumed that the reference is to one who is only desirous of continuing in the blood of purification.[53] Now this[54] is quite satisfactory according to Rab who holds that ‘it[55] all emanates from the same source which the Torah declared to be unclean [during a certain period][56] and clean [during another period]’[57] [since the discarding of an examination would be] well justified;[58] but according to Levi who holds that ‘it[55] emanates from two different sources’[59] why should she not examine herself, seeing that it is possible[60] that the unclean source had not yet ceased to flow?[61] — Levi can answer you: This[62] is in agreement with[63]

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(1) Pregnant and nursing women.

(2) Though a flow resulting from a jump is obviously an accident.

(3) This is explained presently.

(4) Is the period fixed.

(5) I.e., if the jump and resulting flow took place, for instance, on three Sundays, every subsequent Sunday is regarded as the fixed day so that even in the absence of a jump, if on examination she discovered a flow, her uncleanness is not retrospective, while if she failed to examine herself she is deemed to be unclean on the presumption that the flow had appeared at the fixed time.

(6) Which proves that the day itself is not the fixed period. How then could a Sunday on which she does not jump (cf. prev. n.) be regarded as the fixed period?

(7) Sc. on any day she jumped she is presumed to be unclean unless on examination she found herself to be clean.

(8) Even in respect of jumps.

(9) The Sundays, for instance, (cf. supra, p. 69, n. 7) on which she did not jump.

(10) On any day other than a Sunday.

(11) I.e., a Sunday on which she jumped.

(12) If she jumped on any Sunday that day is deemed to be her fixed period.

(13) Since each discharge was preceded by a jump.

(14) The answer being in the affirmative the difficulty arises: What need was there to teach the obvious?

(15) The ruling that no fixed period is established in respect of days alone.

(16) Saturday.

(17) As on the Saturday on which she jumped she suffered no flow while on the Sunday following on which she did not jump she observed one.

(18) The Sunday, since it was the third on which she observed a flow.

(19) Cf. prev. n. but one.

(20) And Sunday might consequently be regarded as her fixed period irrespective of whether she jumped on it or not.

(21) By the ruling under discussion (cf. supra n. 10).

(22) Of the discharge on the Sunday.

(23) Lit., ‘the time of jumping had not yet arrived’. Her fixed period, therefore, is only a Sunday (not any other day of the week) on which she jumped (and no Sunday on which she did not jump).

(24) Cf. nn. on first reading supra, mut. mut.

(25) Lit., ‘how is this to be imagined?’

(26) Cur. edd. in parenthesis, ‘and on the Sabbath (Saturday) she jumped and did not observe (a flow)’. Cf. Elijah Wilna's glosses.

(27) Cur. edd. insert ‘another’ in parenthesis.

(28) In this case the Sunday.

(29) Of the discharge. Hence the ruling that a fixed period has been established ‘in respect of days’.

(30) Morning and evening; in order to make sure that there was no discharge whatsoever.

(31) Who, having suffered a flow, is unclean for seven days irrespective of whether she had a flow or not on any of the last six days.

(32) After a childbirth.

(33) Cf. Lev. XII, 4. The examination would be purposeless since even the appearance of blood would not affect her cleanness.

(34) WHO HAS A FIXED PERIOD.
(35) Before or after.
(36) Newly married
(37) During the first four nights (cf. supra n. 9).
(38) To make sure that the objects she handled during the previous night are clean.
(39) Cf. prev. n. mut. mut.
(40) Lit., ‘passes’.
(41) Lit., ‘to serve her house’.
(42) Lit., ‘at the time of their passing away from eating’.
(43) Cf. relevant n. on our Mishnah.
(44) That no examination is necessary.
(45) I.e., during the eleven days between the periods of menstruation. If, for instance, she suffered a menstrual flow on the first day of two consecutive months and also on the fifteenth day (which is one of the eleven days of zibah) of the same months, while on the first of the third month she had no menstrual flow and on the fifteenth of that month she again observed a flow she (on account of the three observations on the fifteenth) establishes for herself a settled period on the fifteenth of the subsequent months though the first two observations had taken place during the eleven days of zibah.
(46) If, for instance, she suffered a flow on the first and on the fifth day of one month and again on the fifth of the two subsequent months no settled period is thereby established for the fifth of the month, because during menstruation, a woman normally bleeds and a recurrent discharge proves no settled habit.
(47) Lit., ‘beautiful’, ‘right’. Such an examination could serve no useful purpose whatsoever. It cannot serve the purpose of ascertaining whether she is clean (since she is in any case unclean even in the absence of a discharge) and it cannot serve the purpose of enabling her to establish a settled period (since no settled period can be established during the seven days of menstruation).
(48) Cf. prev. n. but one mut. mut.
(49) On each of the three occasions.
(50) If, e.g., the flow made its first appearance (cf. infra 39b) on the first day of three consecutive months as well on the twenty-fifth of the second month. In this case the first day of each subsequent month is regarded as the settled period, because the first two of the three discharges originated from a closed source (there having been no flow before) while the last (though it appeared after the menstruation had begun on the twenty-fifth of the previous months) is also regarded as originating from a closed source since the discharge on the twenty-fifth which originated from a closed source is deemed to be the commencement of the flow on the first of the following month that followed it.
(51) Even on one of the three occasions.
(52) As is the case spoken of in our Mishnah where even the first observation would be made during menstruation where the source is already open.
(53) But had not yet commenced then, i.e., a woman after childbirth who concluded the seven unclean days for a male or the fourteen unclean days for a female (cf. Lev. XII, 1-5).
(54) The ruling that no examination is necessary on the seventh or fourteenth day (cf. prev. n.).
(55) The blood discharged within forty or eighty days respectively after childbirth (cf. Lev. XII, 1-5).
(56) Cf. supra, n. 3.
(57) The thirty-three days after the seven for a male and the sixty-six days after the fourteen for a female (cf. Lev. XII, 4f).
(58) Lit., ‘beautiful’, ‘right’. Such an examination would be purposeless since after the seventh and the fourteenth day respectively the woman would in any case be clean irrespective of whether there was any discharge or not.
(59) The unclean source being open during the first seven and fourteen days respectively and after the forty and eighty days respectively when the clean one is closed, while the latter is open during the thirty-three and sixty-six days respectively when the former is closed.
(60) Where there was a continuous issue from the unclean period into the clean one (cf. infra 35b).
(61) Unless there was an examination and it had been ascertained that there was a definite break in the flow at the end of the seven and the fourteen days respectively the woman might still be unclean even though the unclean period prescribed had passed. Why then should no examination be necessary?
(62) The ruling that the menstruant needs no examination.
(63) Lit., ‘whose’.

Talmud - Mas. Nidah 11b

Beth Shammai who hold that ‘it[1] all emanates from the same source’.[2] But would the Tanna teach an anonymous Mishnah[3] in agreement with the view of Beth Shammai?[4] — This is an anonymous ruling that is followed by a divergence of opinion, and wherever an anonymous ruling is followed by a dispute the halachah does not agree with the anonymous ruling. And if you prefer I might reply: Was it stated,[5] ‘desirous of CONTINUING’?[6] It was only stated, ‘CONTINUING’.[7] But if the woman was already ‘continuing’[7] what was the purpose of stating the ruling?[8] — It might have been assumed that she should examine herself in case she establishes for herself[9] a settled period, hence we were informed [that no examination is necessary] because no settled period can be established [by the regularity of a discharge from] a clean source for that of an unclean one. This is satisfactory according to Levi who stated that there are two sources,[10] but according to Rab who stated that there was only one source[10] why should she not examine herself seeing that she might have established for herself[9] a settled period? — Even in that case she cannot establish a settled period in the clean days for the unclean ones.

SHE MUST ALSO USE TESTING-RAGS WHEN SHE HAS MARITAL INTERCOURSE etc. We have learnt elsewhere: If a young girl, whose age of menstruation[11] had not yet arrived, married, Beth Shammai ruled: She is allowed[12] four nights,[13] and Beth Hillel ruled: Until the wound is healed.[14] R. Giddal citing Samuel stated: They[15] learnt this[16] only in the case where bleeding through intercourse had not ceased, though she subsequently observed a discharge that may not have been due to intercourse;[17] but if bleeding through intercourse had ceased[18] and then she observed a discharge[19] she[20] is unclean.[21] If one night has passed without intercourse and then she observed a discharge she is unclean. If the colour of her blood changed[22] she is unclean.

R. Jonah raised an objection:[23] OR WHEN SHE IS A VIRGIN WHOSE BLOOD IS CLEAN [she need not use testing-rags]. But why should she not rather use testing-rags[24] seeing that it is possible that the colour of her blood had changed? — Raba replied, Read the first clause: EXCEPT WHERE SHE IS A MENSTRUANT OR IS CONTINUING IN THE BLOOD OF PURIFICATION, from which it follows that only in those cases no examination is required but that a virgin whose blood is clean does require one.[25] But, then, are not the two rulings[26] mutually contradictory? — The former[27] refers to one who had marital intercourse, where it might well be assumed that the membrum was the cause of the change;[28] while the latter[29] refers to one who had no marital intercourse.[30] So it was also taught: This[31] applies only in the case where ‘bleeding through intercourse had not ceased, though she subsequently observed a discharge that may not have been due to intercourse, but if bleeding through intercourse had ceased and then she observed a discharge she is unclean. If one night has passed without intercourse and then she observed a discharge she is unclean. If the colour of her blood has changed she is unclean.[32]

TWICE [DAILY] MUST SHE etc. Rab Judah citing Samuel stated: They learnt this[33] only in respect of clean things, but to her husband she is permitted.[34] Is not this[35] obvious, seeing that we learnt, IN THE MORNING?[36] — Rather, if the statement[37] was at all made it was in connection with the final clause: AND[38] ALSO WHEN SHE IS ABOUT TO PERFORM HER MARITAL DUTY; Rab Judah citing Samuel stated, They learnt this only as regards a woman who was handling clean things, who, since it is necessary that she examine herself[39] for the sake of the clean things,[40] must also examine herself[41] for the sake of her husband, but if a woman was not handling clean things she requires no examination. But what new point does he[42] teach us, seeing that we have learnt: All women are in a condition of presumptive cleanness for their husbands?[43] — If the ruling were to be derived from the Mishnah[43] it might have been presumed that the ruling applied only to a woman who had a settled period but that a woman who had no settled period does require examination.[44] But does not our Mishnah[45] deal with one who has a settled period?[46] — Our Mishnah deals with both one who had a settled period, and one who had no settled period,[47] and it is this that was meant,[48] that although she had a settled period, since she must be examined for the sake of the clean things she handled she must also be examined for the sake of her husband. But did not Samuel state this[49] once, for R. Zera citing R. Abba b. Jeremiah who had it from Samuel stated, 'A woman who had no settled period may not perform marital intercourse before she has examined herself'[50] and it has been explained[50] to refer to one who was engaged in the handling of clean things?[51] — The one statement[52] was inferred from the other.[53] So it was also taught: This[54] applies only to clean things[55] but to her husband she is permitted.[56] This,[57] however, applies only where he left her in a state of presumptive cleanness, but if he left her in one of presumptive uncleanness she remains for ever in her uncleanness until she tells him, 'I am clean'.

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(1) The blood discharged within the forty or eighty days respectively after childbirth (cf. Lev. XII, 1-5).

(2) Infra 35b.

(3) Which, as a rule, represents the halachah.

(4) Whose rulings generally are contrary to the halachah which is in agreement with those of Beth Hillel.

(5) As has been arbitrarily assumed supra.

(6) Certainly not.

(7) Sc. the clean days had already begun.

(8) That no examination is necessary. Is it not obvious that an examination in such circumstances could serve no purpose whatsoever?

(9) During the period of clean days, by a discharge at regular intervals.

(10) Supra 11a.

(11) Lit., 'her time to see'.

(12) After the first intercourse.

(13) In which intercourse with her husband is permitted despite the flow of blood, it being assumed that the flow is not due to menstruation (as is the case with one who married after attaining the age of menstruation) but to the wound that had been caused by the first intercourse.

(14) Keth. 6a. Cf. prev. two nn. mut. mut.

(15) Beth Hillel.

(16) 'Until the wound is healed'.

(17) As intercourse invariably caused the wound to bleed, any discharge of blood before the wound is healed is attributed to the same cause.

(18) Even if only on one occasion.

(19) Irrespective of whether it occurred during intercourse or at any other time.

(20) Since during one intercourse at least there was no bleeding and the wound may consequently be presumed to have been healed.

(21) The discharge being attributed to menstruation.

(22) From that of the blood at the first intercourse.

(23) Against the last ruling, 'If the colour etc.'.

(24) Before and after intercourse.

(25) As R. Jonah expected.

(26) The one referred to by R. Jonah and the inference from the first clause of our Mishnah cited by Raba.

(27) Lit., 'here', the ruling referred to by R. Jonah.

(28) Lit., 'the attendant (euphemism) disturbed them', so that the test after the intercourse would prove nothing: and since no test is to be made after intercourse none is required before it (v. Rashi).

(29) The inference of Raba.

(30) And a change of colour would be a clear indication that the wound is healed and the blood is that of menstruation.

(31) For notes v. those on R. Giddal's statement supra.

(32) For notes v. those on R. Giddal's statement supra.

(33) That there must be an examination (v. our Mishnah).

(34) Even without an examination.

(35) That the ruling had no reference to the woman's permissibility to her husband.

(36) When no marital intercourse is permitted.
(37) Of Samuel, ‘They learnt this only etc.’.
(38) She must examine herself.
(39) After intercourse.
(40) It being possible that intercourse was the cause of some menstrual discharge.
(41) Before intercourse.
(42) Samuel, by the statement cited.
(43) Infra 15a.
(44) Hence the necessity for Samuel's ruling that even such a woman requires no examination in respect of her husband.
(45) Which begins, ALTHOUGH . . . A WOMAN WHO HAS A SETTLED PERIOD and to which Samuel referred.
(46) How then could it have been maintained that Samuel applied the law to one who had no settled period?
(47) Since (as has explicitly been stated) the former requires examination it is self-evident that the latter also requires it.
(48) By our Mishnah.
(49) That even a woman who had no settled period need not be examined as far as her husband is concerned unless she was also in the habit of handling clean things.
(50) Infra 12b.
(51) But not to one who was not so engaged.
(52) Cited in the name of Samuel.
(53) Samuel himself having made one statement only.
(54) That examination is required.
(55) Sc. to ascertain whether the things the woman has handled are clean.
(56) Even without an examination.
(57) That to her husband she is permitted even without an examination.

Talmud - Mas. Nidah 12a

R. Zera enquired of Rab Judah: Should[1] a wife examine herself[2] for her husband? — The other replied: She should not examine herself. But [why should she not] examine herself, seeing that none could be the worse for it?[3] If [she were to do] so her husband would be uneasy in his mind[4] and he would keep away from her.

R. Abba enquired of R. Huna: Must[5] a woman examine herself immediately [after intercourse] in order to make her husband liable to a sin-offering?[6] The other replied: Is it at all possible for an examination to take place immediately [after intercourse], seeing that it was taught: ‘What is meant by "immediately"? This may be illustrated by the parable of an attendant[7] and the witness[8] who stand at the side of the lintel[9] where the witness enters immediately after the attendant goes out, this being the interval which the Rabbis allowed as regards wiping off[10] but not as regards examination’?[11] — The question rather is whether she must wipe herself.[12] Some there are who say that it was this that he[13] enquired of him:[14] Must a woman examine herself [after intercourse][15] in order to make her husband liable[16] to a suspended guilt-offering?[17] — The other replied: She should not examine herself. But [why should she not] examine herself, seeing that none could be the worse for it?[18] — If [she were to do] so[19] her husband would be uncertain in his mind[20] and he would keep away from her.

AND ALSO WHEN SHE IS ABOUT etc. R. Ammi citing R. Jannai remarked: And this is the test[21] of virtuous women.[22] Said R. Abba b. Memel to R. Ammi: The Tanna learnt MUST,[23] [how then could] you learn ‘virtuous women’?[22] — The other replied: Because I maintain that whosoever observes the enactments of the Sages may be described as[24] virtuous.[25] Said Raba: Would then[26] one who does not observe the enactments of the Sages merely lose the designation of[27] virtuous man but would not be called wicked? Rather, said Raba, as for virtuous women the testing-rag, with which they have examined themselves before one intercourse, they do not use it before any other intercourse, but those who are not virtuous use it and do not mind.

[Reverting to] the main text,[28] 'R. Zera citing R. Abba b. Jeremiah who had it from Samuel stated: A woman who has no settled period may not perform marital intercourse before she has examined herself'. Said R. Zera to R. Abba b. Jeremiah: Is it[29] only one who has no settled period that must have an examination while a woman who has a settled period requires no examination?[30] — The other replied: A woman who has a settled period must have an examination[31] only when she is awake[32] but not when she is asleep;[33] while a woman who has no settled period must have an examination whether she is awake or asleep. Raba observed: Could he[34] not reply[35] that a woman who had a settled period must be examined[36] in respect of clean things[37] but not in respect of her husband [alone][38] while a woman who had no settled period must have an examination even in respect of her husband [alone]?[39] As, however, he did not give such a reply it may be inferred that Samuel holds the view that in respect of her husband alone[38] a woman[40] needs no examination.[41]

Our Rabbis taught: The wives of ass-drivers,[42] labourers[43] and people coming from a house of mourning[43] or a house of feasting[44] are in respect of their husbands[45] deemed to be in a state of presumptive cleanness and the latter may, therefore, come and stay with them whether they are asleep or awake. This, however, applies only where the men[46] left the woman in a state of presumptive cleanness but if they left them in a state of presumptive uncleanness each woman is forever regarded as unclean until she announces to her husband 'I am clean'. But how does Samuel[47] explain this case?[48] If it refers to a woman who has a settled period, does not a difficulty arise from the case where she is awake?[49] And if it refers to one who has no settled period, does not a difficulty arise both from the case where she is awake and from that where she is asleep?[50] — As a matter of fact it refers to one who had a settled period[51] but[52] as the husband had solicited her[53] there can be no more reliable[54] examination than this.[55]

R. Papa asked Raba: May one[56] act in accordance with that Baraitha?[57]

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(1) Lit., what is it (the ruling)'.

(2) Before intercourse.

(3) Lit., 'and what is there in it'.

(4) Lit., 'his heart beats him'.

(5) Lit., 'what is it (the ruling)'.

(6) Should any trace of blood be found. If any blood is discovered immediately after intercourse the discharge is presumed to have begun before or during intercourse and the man is liable to a sin-offering (cf. infra 14a.).

(7) Euphemism, 'the membrum'.

(8) The testing-rag. The consonants of the Hebrew equivalent may be rendered 'witness' as well as 'testing-rag'.

(9) Euphemism.

(10) Externally.

(11) Infra 14b; which requires a longer interval. How then could it happen that an examination should be carried out 'immediately'?

(12) Immediately after intercourse, so as to ascertain (cf. supra p. 77, n. 17) whether her husband is liable to a sin-offering.

(13) R. Abba.

(14) R. Huna.

(15) After the lapse of the interval defined supra as 'immediately'.

(16) Should any blood be discovered.

(17) Which is incurred in the case of a doubtful transgression. The discovery of blood (cf. prev. n.) is no proof that the discharge began before or during the intercourse as it may have begun after.

(18) Lit., 'and what is there in it'.

(19) Even if only after intercourse.

(20) Lit., 'his heart beats him'.

(21) Lit., 'their time' or 'testing-rag'.

(22) Ordinary women, however, examine themselves only morning and evening (cf. Mishnah infra 14a).
(23) Implying that every woman is subject to the obligation.
(24) Lit., ‘is called’.
(25) Sc. it is the duty of every woman who desires to live in accordance with Rabbinic law to examine herself on each of the occasions specified in our Mishnah.
(26) If R. Ammi's submission is correct.
(27) Lit., ‘would not be called’.
(28) Quoted supra 11b ad fin.
(29) Since Samuel spoke only of a woman ‘who has no settled period’.
(30) But how could this assumption be upheld in view of our Mishnah which prescribes an examination though it speaks of a woman who had a settled period?
(31) Before intercourse is permitted.
(32) Because (a) as she is then able to handle clean things and would have to be examined for the purpose she must also be examined for the sake of her husband: and (b) an examination when one is awake does not involve undue inconvenience.
(33) When (a) she is unable to handle clean things and (b) an examination would mean much inconvenience (cf. prev. n. mut. mut.).
(34) R. Abba b. Jeremiah.
(35) To R. Zera.
(36) For the sake of her husband also.
(37) Sc. if she handled such objects. As she must be examined on account of the latter she must also be examined on account of the former.
(38) If she handled no clean things.
(39) Sc. even if no clean things had been handled by her.
(40) Even if she has no settled period.
(41) Samuel's statement supra that ‘a woman . . . may not . . . before she examined herself’ refers, therefore, to one who was engaged in the handling of clean things.
(42) Sc. people whose occupations take them away from their homes for considerable periods.
(43) Cf. prev. n.
(44) Beth ha-mishteh, usually a wedding feast.
(45) When these return home.
(46) On departing.
(47) Who, according to R. Abba b. Jeremiah, holds that (a) one who has a settled period must be examined when awake but not when asleep, while (b) one who has no settled period must be examined even when asleep.
(48) In the Baraitha just cited.
(49) Of course it does. According to this Baraitha no examination is required while according to Samuel (cf. (a) note 6) an examination is required.
(50) In both cases (even when the woman is awake), no examination is expected, while according to Samuel (cf. (b) note 6) an examination must be held even when she is asleep.
(51) Hence the ruling that no examination is necessary when she is asleep (cf. note 6).
(52) In reply to the objection why no examination is required when she is awake.
(53) And she consented.
(54) Lit., ‘great’.
(55) Had she not ascertained beforehand that she was clean she would not have consented. Samuel's ruling, however, which ordains an examination applies only to husbands whose occupations do not take them away from their homes, and not to such (of whom the Baraitha speaks) as returned home after a considerable absence (cf. Tosaf. and Tosaf. Asheri).
(56) Lit., ‘what is it’.
(57) Of the ass- drivers etc., i.e., (cf. Tosaf. contra Rashi) that no examination is necessary, as far as the husband is concerned, where the woman is half asleep (v. Tosaf, s.v. בין).

Talmud - Mas. Nidah 12b

— The other replied: Brewer,[1] no; because [otherwise][2] she would become repulsive to him.

R. Kahana stated, ‘I asked the women folk of the house of R. Papa and of R. Huna son of R. Joshua, "Do the Rabbis on coming home from the schoolhouse require you to undergo an examination"? And they answered me in the negative’. But why did he[3] not ask[4] the Rabbis themselves? — Because it is possible that they imposed additional restrictions upon themselves.[5]

Our Rabbis taught: A woman who has no settled period is forbidden marital intercourse and is entitled neither to a kethubah[6] nor to a usufruct[7] nor to maintenance,[8] nor to her worn-out clothes.[9] Her husband, furthermore, must divorce her and may never marry her again; so R. Meir. R. Hanina b. Antigonus ruled: She must use two testing-rags when she has marital intercourse; they render her unfit[10] and they also render her fit.[11] In the name of Abba Hanan it was stated: Woe to her husband.[12] ‘She is forbidden marital intercourse’, because she might[13] cause him moral injury. ‘And is entitled neither to a kethubah’, since she is unfit for cohabitation she is not entitled to a kethubah. ‘Nor to usufruct nor to maintenance nor to her worn-out clothes’ because the provisions[14] embodied in the agreed terms of a kethubah are subject to the same laws as the kethubah itself.[15] ‘Her husband, furthermore, must divorce her and may never marry her again’. Is not this obvious?[16] — It was necessary in the case where she was subsequently cured.[17] As it might have been presumed that [in such a case] he may remarry her we were informed [that this is forbidden], because it may sometimes happen that having proceeded to marry another man she would be cured and [her first husband] would then say, ‘Had I known that to be the case I would not have divorced her even if you had given me a hundred maneh’, and the get would thus be annulled and her children would be bastards.[18]

‘In the name of Abba Hanan it was stated: Woe to her husband’. Some explain: He said this in opposition to R. Meir,[19] because [Abba Hanan maintains that] she must be allowed to collect her kethubah. Others there are who explain: He said it in opposition to R. Hanina b. Antigonus,[20] because [Abba Hanan maintains that intercourse is always forbidden] since thereby she might[21] cause her husband to sin.

Rab Judah citing Samuel stated: The halachah is in agreement with R. Hanina b. Antigonus. But in what case? If it is one where the woman is engaged in the handling of clean things, has not Samuel [it may be objected] said it once?[22] And if it is one where she was not engaged in the handling of clean things, did he not say [it may again be objected] that as far as her husband is concerned she requires no examination, for did not R. Zera in fact state in the name of R. Abba b. Jeremiah who had it from Samuel, ‘A woman who had no settled period may not perform marital intercourse before she examines herself’, and it has been explained to refer to one who was engaged in the handling of clean things?[23] — He who taught the one did not teach the other.[24] [

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(1) Sodani, reference to R. Papa's occupation. (Cf. B.M. 65a). Aliter: ‘Learned’ or ‘wise man’ (v. Rashi).

(2) I.e., (cf. Tosaf.) if it had been necessary for the husband to rouse her and to wait until she has collected her thoughts and was in a condition to reply (contra Rashi).

(3) R. Kahana.

(4) What the law was.

(5) And this could be ascertained only by enquiring from the women. Had the enquiry been addressed to the Rabbis themselves they might have given the lenient ruling which applied to all, while R. Kahana was anxious to adopt any additional restrictions which the Rabbis may have imposed upon themselves.

(6) Sc. the fixed amount that is due to her from her husband on divorce or when he dies (v. Glos.).

(7) Of the melog (v. Glos.) property which she brought to her husband. Her husband is entitled to the usufruct despite the fact that she is deprived of her kethubah.

(8) Sc. if her husband before divorcing her went abroad the court does not authorize her to collect her maintenance expenses from his estate.

(9) Though a woman as a rule is entitled to take with her when divorced whatever is left of the clothes she brought to her husband on marriage as melog property (cf. Keth. 79b).

(10) If any blood is observed on them.

(11) If they remained clean.

(12) This is explained infra.

(13) Should a discharge occur during intercourse.

(14) Such as are the benefits mentioned.

(15) As she cannot claim her kethubah she cannot claim these benefits either.

(16) Why then should an obvious ruling have to be enunciated?

(17) I.e., acquired a settled period.

(18) Hence the ruling that he may never again marry her, even if she subsequently acquired a settled period. On the basis of this ruling the husband is duly cautioned when divorce is arranged that his act is definite and final and, consequently, any subsequent plea of his ‘Had I known etc.’ has no validity whatsoever (cf. Git. 46a).

(19) Who ruled that she is not entitled to her kethubah from her husband.

(20) Who holds that if she uses testing-rags she may have intercourse.

(21) Were a discharge to occur during intercourse.

(22) Cf. supra 11b ad fin. and infra.

(23) Supra l.c.

(24) It refers indeed to the case where the woman was engaged in handling clean things: but Samuel having given his ruling only once, Rab Judah applied it to the ruling of R. Hanina b. Antigonus, while R. Abba quoted it as an independent ruling.

Talmud - Mas. Nidah 13a

CHAPTER II

MISHNAH. EVERY HAND THAT MAKES FREQUENT EXAMINATION IS IN THE CASE OF WOMEN PRAISEWORTHY,[1] BUT IN THE CASE OF MEN IT OUGHT TO BE CUT OFF.[2]

GEMARA. Wherein [in this respect][3] do women differ from men?[4] — Women [in this matter] are not sensitive,[5] hence they are praiseworthy,[1] but in the case of men who are highly sensitive [their hands] ought to be cut off.[2] But, if so,[2] what was the point in saying ‘MAKES FREQUENT’ [seeing that the same reason[2] applies] also where [the examinations are] infrequent? — When ‘MAKES FREQUENT’ was mentioned it was intended to refer to women only.[6]

One taught: This[7] applies only to the emission of semen but as regards flux[8] a man also is as praiseworthy as the women;[9] and even in regard to the emission of semen, if he desires to make the examination with a splinter or with a potsherd[10] he may do so. May he not, however, do it with a rag, seeing that it was taught: A man may examine himself with a rag or with any other thing he wishes? — As Abaye stated elsewhere: ‘With a thick rag’.[10] so also here[11] it may be explained: With a thick rag.[10] And in what connection was Abaye's statement made? In connection with the following: If a priest, while eating terumah, felt a shiver run through his body[12] he takes hold of his membrum[13] and swallows the terumah.[14] ‘Takes hold’! But has it not been taught: R. Eliezer said, ‘Whoever holds his membrum when he makes water is as though he had brought a flood on the world’?[15] To this Abaye replied. ‘With a thick rag’.[16] Raba replied: It[17] may even be said to apply to a soft rag for once the semen has been detached the subsequent touch does no longer matter.[18] And Abaye?[19] — He made provision against the possibility of an additional discharge.[20] And Raba? — He does not consider the possibility of any additional discharges. But does he not, seeing that it was taught, ‘To what may this[21] be compared? To the putting of a finger upon the eye where, as long as the finger remains on it, the eye continues to tear’?[22] Now Raba?[23] — It is quite uncommon for one to get heated twice in immediate succession.[24]

[Reverting to] the main text: ‘R. Eliezer said, Whoever holds his membrum when he makes water is as though he had brought a flood on the world’. But, they said to R. Eliezer, would not the spray bespatter his feet and he would appear to be maimed in his privy parts so that he[25] would be the cause of casting upon his children the reflection of being illegitimate? — It is preferable, he answered them, that a man should be the cause of casting upon his children the reflection of being illegitimate than that he should make himself a wicked man, even for a while, before the Omnipresent. Another [Baraitha] taught: R. Eliezer replied to the Sages. It is possible for a man to stand on a raised spot and to make water or to make water in loose earth and thus to avoid making himself wicked, even for a while, before the Omnipresent. Which[26] did he[27] tell them[28] first? If it be suggested that it was the first mentioned statement that he gave them first [is it likely, it may be objected], that after he spoke to them of a prohibition[29] he would merely offer a remedy?[30] — The fact is that it was the last mentioned statement[31] that he gave them first, and when they asked him, ‘What is he to do when he can find no raised spot or loose earth’, he answered them, ‘It is preferable that a man should be the cause of casting upon his children the reflection of being illegitimate than that he should make himself a wicked man, even for a while, before the Omnipresent’.

But why all these precautions?[32] — Because otherwise one might emit semen in vain, and R. Johanan stated: Whosoever emits semen in vain deserves death, for it is said in Scripture. And the thing[33] which he did[33] was evil in the sight of the Lord, and He slew him also.[34] R. Isaac and R. Ammi said. He[35] is as though he shed blood, for it is said in Scripture. Ye that inflame yourselves among the terebinths, under every leafy tree, that slay the children in the valleys under the clefts of the rocks;[36] read not ‘that slay’[37] but ‘that press out’.[38] R. Assi said: He[39] is like one who worships idols; for here[36] it is written, ‘Under every leafy tree’ and elsewhere[40] it is written, upon the high mountains . . . and under every leafy tree.[41]

Rab Judah and Samuel once stood upon the roof of the Synagogue of Shaf-weyathib[42] in Nehardea. Said Rab Judah to Samuel ‘I must make water’. ‘Shinena’,[43] the other replied, ‘take hold of your membrum[44] and make the water outside [the roof]’. But how could he[45] do so, seeing that it was taught: R. Eliezer said, Whoever holds his membrum when he makes water is as though he brought a flood on the world? — Abaye replied: He treated this case as that of a reconnoitering troop, concerning which we learnt, ‘If a reconnoitering troop has entered a town in time of peace the open wine jars are forbidden[46] and the closed ones are permitted,[47] but in times of war the former as well as the latter are permitted because the troops have no time to offer libations’.[48] Thus it clearly follows that owing to their being in a state of fear they do not think[49] of offering libations, and so also in this case, since he[45] was in a state of fear he would not think of lustful matters. But what fear could there be here? — If you wish I might reply: The fear of the night and of the roof.[50] If you prefer I might reply: The fear of his Master.[51] If you prefer I might say: The fear of the Shechinah.[52] If you prefer I might say: The fear of the Lord that was[53] upon him,[54] for Samuel once remarked of him[55] ‘This man is no mortal being’.[55] If you prefer I might say: He was a married man, and concerning such R. Nahman ruled, ‘If a man was married, this is permitted’. If you prefer I might say: It was this that he taught him, vis., that which R. Abba the son of R. Benjamin b. Hiyya learnt: But he may support the testicles from below. And if you prefer I might say: It was this that he taught them, viz., that which R. Abbahu stated in the name of R. Johanan: It has a limit; from the corona downward [touch] is permitted

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(1) Since both husband and wife are thereby saved either from doubtful uncleanness or from certain transgression.

(2) Because of masturbation.

(3) FREQUENT EXAMINATION.

(4) Sc. why is the hand of the former PRAISEWORTHY while that of the latter OUGHT TO BE CUT OFF?

(5) I.e., the examination does not unduly excite their passions.

(6) Cf. n. 1.

(7) The culpability of men who make such examinations.

(8) I.e., when a man is suffering from gonorrhoea and is desirous of ascertaining the number of attacks he had (v. next n.).
(9) Since it is necessary to ascertain whether the attack occurred only twice or three times. In the former case the man is only unclean while in the latter he must also bring a sacrifice.
(10) Avoiding masturbation.
(11) In the Baraitha just cited.
(12) Lit., ‘that his limbs trembled’, an indication of the imminent emission of semen.
(13) To restrain the emission. Uncleanness does not set in until the semen has actually left the body.
(14) Infra 40a.
(15) Shab. 41a, infra 43a. The generation of the flood were guilty of such offences (cf. R.H. 12a). Now how, in view of R. Eliezer's statement, could one be allowed to commit an offence even for the sake of terumah?
(16) Avoiding masturbation.
(17) In the Baraitha just cited.
(18) Lit., ‘since it was uprooted it was uprooted’, no more semen would be emitted despite the heat engendered.
(19) Why, in view of Raba's explanation, does he restrict the application to a thick rag only?
(20) Of semen.
(21) The touching of the membrum after an emission.
(22) Infra 43a. Lit. ‘tears and tears again’.
(23) How could he differ from this Baraitha?
(24) Lit., ‘any being heated and being heated again in its time’. Hence the ruling in the Mishnah infra 40a. The Baraitha infra 43a, on the other hand, refers to one who practised self-abuse.
(25) Being assumed to be incapable of procreation.
(26) Of the two statements cited.
(27) R. Eliezer.
(28) The Sages.
(29) Which applies in all cases.
(30) Implying that where the remedy is inapplicable the prohibition may be disregarded.
(31) Lit., ‘that’.
(32) Lit., ‘and all such, why’.
(33) ‘He spilled it on the ground’ (Gen. XXXVIII, 9).
(34) Gen. XXXVIII, 10.
(35) Who emits semen in vain.
(36) Isa. LVII, 5.
(37) שוחטי.
(38) סוחטי interchange of the sibilants shin and sin.
(39) Who emits semen in vain.
(40) In reference to idolatry.
(41) Deut. XII, 2; an inference by analogy.
(42) The name of a man or place. v. Meg. (Sonc. ed.) p. 175, n. 5.
(43) ‘Keen-witted’, ‘long-toothed’ (denoting some facial characteristic) or ‘man of iron endurance’, cf. B.B. (Sonc. ed.) p. 561, n. 14.
(44) To prevent the water from falling on the roof.
(45) Rab Judah.
(46) Because the troops may have offered them as libation to their idols.
(47) It being assumed that the troops who have at their disposal the open jars would not meddle with the closed ones.
(48) Keth. 27a, A.Z., 70b.
(49) Lit., ‘come’.
(50) Standing on its edge in the darkness of the night he is afraid of falling off.
(51) Samuel.
(52) Which abides in the Synagogue.
(53) Always, even when not on a roof or in the darkness of night.
(54) So that no impure thoughts would occur to him even at any other time or place.

(55) Lit., ‘born of woman’.

Talmud - Mas. Nidah 13b

but from the corona upwards[1] it is forbidden.

Rab stated: ‘A man who wilfully causes erection should be placed[2] under the ban’. But why did he[3] not say, ‘This is forbidden’? Because the man[4] merely incites his evil inclination against himself.[5] R. Ammi, however, stated: He[4] is called a renegade, because such is the art of the evil inclination: To-day it incites man to do one wrong thing,[6] and to-morrow[7] it incites him to worship idols and he proceeds to worship them.

There are others who read: R. Ammi[8] stated, He who excites himself by lustful thoughts will not be allowed to enter the division of the Holy One, blessed be He. For here it is written, Was evil in the sight of the Lord,[9] and elsewhere it is written, For Thou art not a God that hath pleasure in wickedness; evil shall not sojourn with Thee.[10]

R.[11] Eleazar stated: Who are referred to[12] in the Scriptural text, Your hands are full of blood?[13] Those that commit masturbation with their hands.

It was taught at the school of R. Ishmael, Thou shalt not commit adultery[14] implies, Thou shalt not practise masturbation either with hand or with foot.

Our Rabbis taught: ‘proselytes and those that play with children delay the advent of the Messiah’. The statement about proselytes may be understood on the lines of the view of R. Helbo, for R. Helbo said, ‘proselytes are as hard for Israel to endure as a sore’,[15] what, however, could be meant by ‘those that play with children’?[16] If it be suggested: Those that practise pederasty [it could well be objected]: Are not such people subject to stoning?[17] If, however, it be suggested: Those that practise onanism through external contact[18] [it could be objected]: Are not such deserving destruction by flood?[17] — The meaning rather is: Those that marry minors who are not capable of bearing children, for R. Jose[19] stated: The Son of David[20] will not come before all the souls in Guf[21] will have been disposed of, since it is said, For the spirit that enwrappeth itself is from Me, and the souls which I have made.[22] BUT IN THE CASE OF MEN IT OUGHT TO BE CUT OFF. The question was raised: Have we here[23] learnt a law or merely an execration? ‘Have we here learnt a law’ as in the case where R. Huna cut off one's hand;[24] ‘or merely an execration’? — Come and hear what was taught: R. Tarfon said, ‘If his hand touched the membrum let his hand be cut off upon his belly’. ‘But’, they said to him,[25] ‘would not his belly be split’? ‘It is preferable’, he replied, ‘that his belly shall be split rather than that he should go down into the pit of destruction’.[26] Now if you concede that we have here[27] learnt a law[28] one can well understand why they said, ‘Would not his belly be split’; but if you maintain that we have only learnt of an execration,[29] what could be meant by [the question] ‘His belly be split’? — What then would you suggest, that we have learnt here a law, would it not suffice, [it may be objected, that the cutting off shall] not be done on his belly? — The fact, however, is that it was this that R. Tarfon meant: Whosoever puts his hand below his belly that hand shall be cut off. They said to R. Tarfon, ‘If a thorn stuck in his belly, should he not remove it’? ‘No’, he replied. ‘But [they said] would not his belly be split’?[30] ‘It is preferable’, he replied, ‘that his belly shall be split rather than that he should go down to the pit of destruction’.[26] MISHNAH. IN THE CASE OF A DEAF,[31] AN IMBECILE, A BLIND OR AN INSANE[32] WOMAN, IF OTHER WOMEN OF SOUND SENSES ARE AVAILABLE[33] THEY ATTEND TO HER,[34] AND SHE MAY THEN EAT TERUMAH.

GEMARA. Why should not a DEAF woman make her own examination, seeing that it was taught: Rabbi stated, A deaf woman was living in our neighbourhood and not only[35] did she examine herself but her friends also on observing a discharge would show it to her?[36] — There it was a woman who could speak but not hear while here the reference is to one who can neither speak nor hear; as we have learnt: The deaf person of whom the Sages spoke is always[37] one who can neither hear nor speak.[38]

A BLIND. Why should she not make her own examination and show the testing-rag to her friend? — R. Jose son of R. Hanina replied: The 'blind' is no part of the Mishnah.[39]

OR AN INSANE WOMAN. Is not this exactly the same as IMBECILE?[40] This refers to one whose mind was deranged owing to a disease.

Our Rabbis taught: A priest who is an imbecile may be ritually immersed and then fed with terumah[41] in the evening.[42] He must also be watched that he does not fall asleep.[43] If he falls asleep he is deemed unclean[44] and if he does not fall asleep he remains clean. R. Eliezer son of R. Zadok ruled: He should be provided with a leather bag.[45] The Rabbis said to him: 'Would not this cause heat all the more'? 'According to your view', he replied, 'should an imbecile have no remedy'? 'According to our view', they retorted, 'only if he falls asleep[46] is he deemed unclean but if he does not fall asleep he remains clean, while according to your view there is the possibility that he might discharge a drop of blood of the size of a mustard seed and this would be absorbed in the bag'.[47]

A Tanna taught: It was stated in the name of R. Eleazar, The imbecile is to be provided with a metal bag. Abaye explained: It must be one of copper, as we have learnt:[48] R. Judah ruled, Those buds of hyssop[49] are regarded[50] as if they had been made of copper.[51]

R. Papa remarked: From this[52] it may be inferred that breeches[53] are forbidden. But is it not written in Scripture, And thou shalt make them linen breeches to cover the flesh of their nakedness?[54] — That may be explained as it was taught: To what were the breeches of the priests like? They were like the knee breeches of horsemen, reaching upwards to the loins and downwards to the thighs. They also had laces but had no padding either back or front.[55]

Abaye stated:

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(1) In the direction of the body.

(2) Cf. Tosaf.

(3) Rab.

(4) Who indulges in the reprehensible practice.

(5) The practice, therefore, could only be condemned but not forbidden.

(6) Lit.,'tells him: Do so'.

(7) Lit., 'and on the morrow'.

(8) MS.M., 'Assi'.

(9) Gen. XXXVIII, 10.

(10) Ps. V, 5. analogy between the two expressions of 'evil'. Alfasi (Shab. XIV) inserts, 'R. Eleazar said, What is meant by evil shall not sojourn with thee? The evil (minded) man shall not sojourn in Thy dwelling'.

(11) So MS.M. and Bah. Cur. edd. and Alfasi, 'and R.'

(12) Lit., 'what'.

(13) Isa. I, 15.

(14) Ex. XX, 13.

(15) V. Yeb. 47b.

(16) Who apparently commit no crime at all.

(17) They are; while here they are merely described as delaying the advent of the Messiah.

(18) Lit., 'by way of limbs'.

(19) Var. lec. 'Assi' (Yeb. 62a) 'Joseph' (MS.M.).

(20) The Messiah.
(21) Lit., ‘Body’, the region inhabited by the souls of the unborn.
(22) Isa. LVII, 16.
(23) In the expression of ‘OUGHT TO BE CUT OFF’.
(24) Though the same expression (cf. prev. n.) was used. Sanh. 58b.
(25) Cur. edd. in parenthesis, ‘If a thorn stuck in his belly should he not remove it? He said to them: No’.
(26) Gehenna.
(27) In the expression of ‘OUGHT TO BE CUT OFF.
(28) So that R. Tarfon's statement is to be taken literally.
(29) The ‘cutting off’ being a mere figure of speech.
(30) By the thorn.
(31) I.e., deaf-mute (v. Gemara infra).
(32) Lit., ‘whose mind was deranged’.
(33) Lit., ‘they have’.
(34) Lit., ‘they prepare them’, i.e., make the necessary examination and supervise the prescribed ritual immersion.
(35) Lit., ‘it was not enough’.
(36) Who was an authority on the subject, in order to obtain her opinion on the colour whether it was that of clean or of unclean blood.
(37) Lit., ‘in every place’.
(38) Hag. 2b.
(39) It is a spurious addition.
(40) Apparently it is; why then the repetition?
(41) Which is forbidden to an unclean priest.
(42) Since after due immersion one attains to cleanness at nightfall.
(43) In his sleep under his bedclothes heat might be engendered and this would cause him to emit semen which would render him unclean and, therefore, unfit to eat terumah.
(44) Cf. prev. n.
(45) Which can be examined for traces of semen before any terumah is given to him.
(46) After immersion and after nightfall.
(47) Tosef. Nid. II. As it would thus be lost to sight the priest would be regarded as clean and terumah would, as a result, be eaten by one who is in fact unclean; and consequently an offence that is punishable by death (at the hand of God) would unconsciously be committed.
(48) MS.M. and marg. n. Cur. edd., ‘as it was taught’.
(49) Used in connection with the water of purification.
(50) When the water is measured to ascertain whether it contained sufficient for a sprinkling (cf. supra 9a).
(51) Parah Xli, 5. Sc. as if they did not absorb any water at all; from which it follows, in support of Abaye's explanation, that copper is a non-absorbent.
(52) The prohibition of a bag supra on account of the heat it engenders.
(53) Such as engender heat, v. infra.
(54) Ex. XXVIII, 42.
(55) Hanging loosely round the organ the breeches could engender no heat.

Talmud - Mas. Nidah 14a

Camel riders[1] are forbidden to eat terumah.[2] So it was also taught: All camel-drivers are wicked,[3] all sailors are righteous,[4] but among the ass-drivers some are wicked and others righteous. Some say: The latter are those who use a saddle[5] and the former are those who use no saddle;[6] while others say: The former are those who ride astraddle[7] and the latter are those who do not ride astraddle.[8]

R. Joshua b. Levi cursed the man who sleeps on his back.[9] But this, surely, is not correct,[10] for did not R. Joseph rule that one lying on his back should not read the shema’,[11] from which it follows, does it not, that it is only the shema’ that he must’ not read but that he may well sleep in this manner? — As regards sleeping on one's back this is quite proper if one slightly inclines sideways, but as regards the reading of the shema’ even if one inclines sideways this is forbidden.[12] But did not R. Johanan turn slightly on his side and read the shema’? — R. Johanan was different [from other people] because he was corpulent.[13]

MISHNAH. IT IS THE CUSTOM OF THE DAUGHTERS OF ISRAEL WHEN HAVING MARITAL INTERCOURSE TO USE TWO TESTING-RAGS, ONE FOR THE MAN AND THE OTHER FOR HERSELF,[14] AND VIRTUOUS WOMEN PREPARE ALSO A THIRD RAG WHEREBY TO MAKE THEMSELVES FIT FOR MARITAL DUTY.[15] IF A VESTIGE OF BLOOD IS FOUND ON HIS RAG[16] THEY ARE BOTH UNCLEAN[17] AND ARE ALSO UNDER THE OBLIGATION OF BRINGING A SACRIFICE.[18] IF ANY BLOOD IS FOUND ON HER RAG IMMEDIATELY AFTER THEIR INTERCOURSE THEY ARE BOTH UNCLEAN AND ARE ALSO UNDER THE OBLIGATION OF BRINGING A SACRIFICE. IF, HOWEVER, ANY BLOOD IS FOUND ON HER RAG AFTER A TIME THEY ARE UNCLEAN[19] BY REASON OF DOUBT[20] BUT EXEMPT FROM THE SACRIFICE. WHAT IS MEANT BY ‘AFTER A TIME’? WITHIN AN INTERVAL IN WHICH SHE CAN DESCEND FROM THE BED AND WASH HER FACE.[21] BUT [IF BLOOD WAS FOUND SOME TIME] AFTER SUCH AN INTERVAL SHE CAUSES UNCLEANNESS RETROSPECTIVELY[22] FOR A PERIOD OF TWENTY-FOUR HOURS[23] BUT SHE DOES NOT CAUSE THE MAN WHO HAD INTERCOURSE WITH HER TO BE UNCLEAN.[24] R. AKIBA RULED: SHE[25] ALSO CAUSES THE MAN WHO HAD INTERCOURSE WITH HER TO BE UNCLEAN.[26] THE SAGES, HOWEVER, AGREE WITH R. AKIBA THAT ONE WHO OBSERVED A BLOODSTAIN CONVEYS UNCLEANNESS TO THE MAN WHO HAD INTERCOURSE WITH HER.

GEMARA. But[27] why should not the possibility be considered that the blood might be that of a louse?[28] — R. Zera replied that place is presumed to be tested as far as a louse is concerned. There are others, however, who reply: It is too narrow for a louse. What is the practical difference between them?[29] — The practical difference between them is the case where a crushed louse was found.[30] According to the reply[31] that the place is presumed to be tested, this must have come from somewhere else,[32] but according to the reply[31] that the place is too narrow it might be presumed that the attendant[33] has crushed it.[34]

It was stated: If a woman examined herself with a rag that she had previously examined,[35] and then she pressed it against her thigh on which she found blood on the following day, Rab ruled: She[36] is subject to the uncleanness of a menstruant.[37] Said R. Shimi b. Hiyya to him: But, surely, you told us, ‘She has only to take the possibility[38] into consideration’. It was also stated: Samuel ruled: She is subject to the uncleanness of a menstruant.[37] And so they also ruled at the schoolhouse: She is subject to the uncleanness of a menstruant.

It was stated: If a woman examined herself with a rag which she had not previously examined and having put it into a box she found upon it, on the following day, some blood,[39] R. Joseph stated: Throughout all his lifetime R. Hiyya regarded [her] as unclean but in his old age he ruled that [she] was clean. The question was raised: What[40] does he[41] mean: That throughout all his[42] lifetime he regarded [her] as menstrually unclean[43] and in his old age he ruled that [she] was clean as far as menstruation is concerned but unclean on account of the bloodstain,[44] or it is possible that throughout his lifetime he regarded [her] as unclean on account of the stain[44] and in his old age he ruled that [she] was absolutely[45] clean? — Come and hear what was taught: If a woman examined herself with a rag which she had not previously examined and having put it into a box she found upon it, on the following day, some blood, Rabbi ruled: She is regarded as menstrually unclean,[46] and R. Hiyya ruled: She is regarded as unclean on account of the bloodstain.[47]

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(1) Though priests.

(2) The friction is apt to engender heat resulting in an emission of semen which renders them unclean and therefore unfit to eat terumah.

(3) Cf. prev. n.

(4) Because, though most of their life is spent on the perilous seas, they nevertheless remain constant in their ancestral faith.

(5) When riding. Hence no heat is engendered (v. foll. n.).

(6) Cf. prev. n. Contact with the animal's bare back engenders heat, as in the case of the camel-riders who never use a saddle.

(7) Which is a cause of friction.

(8) Holding both legs on one side.

(9) Since this causes erection.

(10) Lit., ‘I am not’.

(11) Cf. P. B., p. 40ff.

(12) One must either sit or lie fully on his side.

(13) It would have been too great a strain for him to lie on his side.

(14) Supra 5a q.v. notes.

(15) By examining themselves before intercourse. On the difference between the practice of the virtuous and that of the ordinary women cf. supra 12a.

(16) Even though he made use of it some considerable time after intercourse.

(17) Since it is obvious that the blood was due to a menstrual discharge during intercourse. As the woman is unclean the man also is unclean (cf. Lev. XV, 24).

(18) For the sin of intercourse during uncleanness.

(19) For seven days.

(20) Anything they touched is, therefore, in a suspended state of uncleanness.

(21) Euphemism.

(22) According to Rabbinic, but not Pentateuchal law.

(23) Both to objects and human beings, their uncleanness lasting until the evening.

(24) For seven days. He is unclean, however, on the same day until evening in accordance with Rabbinic law (cf. prev. two nn.).

(25) On account of the doubt.

(26) For seven days (cf. supra 6a).

(27) With reference to the ruling that IF A VESTIGE OF BLOOD IS FOUND . . . THEY ARE BOTH UNCLEAN . . . AND ARE ALSO UNDER THE OBLIGATION OF BRINGING A SACRIFICE.

(28) As this is not impossible the uncleanness should only be one of a doubtful nature, so that if any terumah is involved it should not be burned but only kept in suspense, and the sacrifice also should be one for doubtful (asham talui) and not one for certain trespass (asham waddai).

(29) The two replies.

(30) On the testing-rag at some distance from the blood mark.

(31) Lit., ‘that expression which says’.

(32) The blood must, therefore, be assumed to be that of menstruation.

(33) Euphemism.

(34) During intercourse, and the blood may consequently be attributed to it.

(35) And ascertained that it was clean.

(36) Since the rag was examined by her before use and found to be clean, and the blood that was transferred from it to her thigh must consequently be that of menstruation.

(37) Sc. her uncleanness is definitely established. It is not regarded as one of a doubtful nature despite the possibility that the blood on her thigh may have come from some object other than the rag.

(38) That the blood was that of menstruation.

(39) And it is uncertain whether the blood was that of menstruation or of some other source with which the rag may have come in contact before the woman had used it.

(40) Lit., ‘how’.

(41) R. Joseph.

(42) R. Hiyya's.
(43) I.e., certain uncleanness.
(44) I.e., uncleanness of a doubtful nature.
(45) Lit., ‘from nothing’.
(46) I.e., certain uncleanness.
(47) I.e., uncleanness of a doubtful nature.

Talmud - Mas. Nidah 14b

Said R. Hiyya to him: ‘Do you not agree that it[1] must be slightly bigger than the size of a bean?’[2] ‘Indeed’, the other replied. ‘If so’,[3] the first retorted, ‘you also regard it as a stain’.[4] Rabbi, however, holds the opinion that it is necessary for the stain to be slightly bigger than the size of a bean in order to exclude the possibility of its being the blood of a louse, but as soon as this possibility is ruled out the blood must undoubtedly have come from her body. Now did not this occur[5] when he was in his old age but when he was young he regarded it[6] as menstrually unclean?[7] This is conclusive.

Rabbi was commending R. Hama b. Bisa to R. Ishmael son of R. Jose as a great man, when the latter said to him, ‘If you come across him[8] bring him to me’. When he[9] came he[10] said to him, ‘Ask me something’. ‘What is the ruling’, the other asked, ‘if a woman examined herself with a rag which she had not previously examined and having put it into a box she found some blood upon it on the following day?’ ‘Shall I give you,’ the first answered, ‘the ruling according to the views of my father[11] or shall I rather give it to you according to the views of Rabbi?’[12] ‘Tell me,’ the other said, ‘the ruling according to Rabbi’. ‘Is this the person’, R. Ishmael exclaimed, ‘of whom it is said that he is a great man! How could one ignore[13] the views of the Master[14] and listen to those of the disciple?[15] R. Hama b. Bisa, however, was of the opinion that since Rabbi was the head of the college and the Rabbis were frequently in his company his traditions were more reliable.[16] What is the view of Rabbi [that has just been referred to] and what is that of R. Jose? — R. Adda b. Mattena replied: — A Tanna taught, Rabbi declares her[17] unclean and R. Jose declares her clean. In connection with this R. Zera stated: When Rabbi declared her unclean he did so in agreement with the ruling of R. Meir, but when R. Jose declared her clean he did so in accordance with his own view. For we learnt:[18] If a woman when attending to her needs[19] observed a discharge of blood, R. Meir ruled: If she was standing at the time she is unclean but if she was sitting she is clean. R. Jose ruled: In either case she is regarded as clean.[20] Said R. Aha son of Raba to R. Ashi: But did not R. Jose the son of R. Hanina state that when R. Meir ruled that the woman was unclean he did so only on account of the bloodstain,[21] whereas Rabbi regarded her as unclean by reason of menstruation?[22] — The other replied, What we maintain is this: When that ruling[23] was stated it was that the uncleanness was due to menstruation.[24]

IF ANY BLOOD IS FOUND ON HER RAG IMMEDIATELY AFTER HER INTERCOURSE THEY ARE BOTH UNCLEAN etc. Our Rabbis taught:[25] What is meant by ‘immediately’? This may be illustrated by the parable of the attendant and the witness who stood at the side of the lintel where the witness enters immediately after the attendant goes out, this being the interval which the Rabbis allowed as regards wiping off,[26] but not as regards an examination.[27]

IF, HOWEVER, ANY BLOOD IS FOUND ON HER RAG AFTER A TIME etc. A Tanna taught: They[28] do incur the obligation of bringing a suspensive guilt-offering. But what is the reason of our Tanna?[29] — It is essential[30] [that the doubt shall be of the same nature as in the case of the consumption of] one piece of two pieces.[31]

WHAT IS MEANT BY ‘AFTER A TIME’? etc. Is not, however, this[32] incongruous with the following: What is meant by ‘after a time’? R. Eleazar[33] son of R. Zadok explained: Within an interval in which[34] she can stretch out her hand, put it under the cushion or bolster, take out a testing-rag and make examination with it?[35] — R. Hisda replied: By AFTER is meant the interval following this interval.[36] But was it not stated in connection with this,[37] IF, HOWEVER, ANY BLOOD IS FOUND ON HER RAG AFTER A TIME THEY ARE UNCLEAN, BY REASON OF THE DOUBT BUT EXEMPT FROM THE SACRIFICE. WHAT IS MEANT BY ‘AFTER A TIME’? WITHIN AN INTERVAL IN WHICH SHE CAN DESCEND FROM THE BED AND WASH HER FACE?[38] — It is this that was implied:[39] WHAT IS MEANT BY ‘AFTER A TIME’? Within an interval in which she can stretch out her hand, put it under the cushion or bolster, take out a testing-rag and make examination with it; and WITHIN AN INTERVAL IN WHICH SHE CAN DESCEND FROM THE BED AND WASH HER FACE [the question of uncleanness is subject to] a divergence of view between R. Akiba and the Sages. But was it not stated,[40] AFTER SUCH AN INTERVAL?[41] — It is this that was meant: And this is the interval concerning which R. Akiba and the Sages are at variance.

R. Ashi replied: The former and the latter[42] represent the same length of time; when she has the testing-rag in her hand the time IS WITHIN AN INTERVAL IN WHICH SHE CAN DESCEND FROM THE BED AND WASH HER FACE, but if she has not the rag in her hand the time is limited to ‘within an interval in which she can stretch out her hand, put it under the cushion or bolster, take out a testing-rag and make examination with it’.

An objection was raised: What is meant by ‘after a time’? This question was submitted by R. Eleazar son of R. Zadok to the Sages at Usha when he asked them,

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(1) The bloodmark on the rag.

(2) Lit., ‘like a bean and more’. If it is smaller it may be presumed to be that of a louse (cf. infra 58b).

(3) That the stain must be no less than a certain minimum.

(4) Cf. supra n. 2. Had it been regarded as menstrual blood the smallest speck of it would have sufficed to cause certain uncleanness (cf. infra 40a)

(5) Lit., ‘he stood’.

(6) In agreement with Rabbi.

(7) Obviously he did, since in his youth he would not have ventured to differ from Rabbi who was his master (Rashi). Aliter: In his youth he would not have addressed Rabbi in the second person (cf. B.B. 158b) but as ‘the Master’ (Tosaf.).

(8) Lit., ‘when he comes to your hand’.

(9) R. Hama.

(10) R. Ishmael.

(11) R. Jose.

(12) These views are stated infra.

(13) Lit., ‘put down’.

(14) R. Jose.

(15) Rabbi.

(16) Lit., ‘sharpened’.

(17) The woman referred to in R. Bisa's question.

(18) So MS.M. and marg. gl. Cur. edd., ‘it was taught’.

(19) Making water.

(20) Mishnah infra 59b q.v. notes.

(21) I.e., doubtful uncleanness.

(22) Certain uncleanness. How then could R. Zera maintain that Rabbi followed the view of R. Meir?

(23) Of R. Jose b. Hanina.

(24) Cf. prev. n. but one mut. mut.

(25) Supra 12a, q.v. notes.

(26) Externally, which takes place instantly after intercourse.

(27) Internally, which must inevitably take place after a longer interval than the one allowed had elapsed. In the former case the uncleanness is certain and the sacrifice incurred is a sin-offering, while in the latter case the uncleanness is of a doubtful nature and the sacrifice incurred is a suspensive guilt-offering.

(28) Husband and wife, contrary to the ruling of the Tanna of our Mishnah that they are EXEMPT FROM THE SACRIFICE.

(29) Cf. prev. n.

(30) If a suspensive guilt-offering is to be incurred.

(31) One of which was e.g., permitted fat and the the other was forbidden fat, and it is not known which of the two pieces the person in question had consumed. Only in such a case of doubt is a suspensive guilt-offering incurred (cf. Ker. 17b). Where, however, the doubt involves only one object or person (as is the case under discussion where only one woman is concerned) no suspensive guilt-offering can be incurred.

(32) The definition of ‘AFTER A TIME’

(33) So Bah. Cur. edd. ‘Eliezer’.

(34) While still in bed.

(35) This interval (cf. prev. n.) being shorter than the one IN WHICH SHE CAN DESCEND FROM THE BED etc., it follows that, according to this Baraitha, during the longer interval the woman does not convey uncleanness to her husband and is only subject to the lesser restrictions of the twenty-four hours’ period of retrospective uncleanness. How then are the two rulings to be reconciled?

(36) Defined in our Baraitha. Lit., ‘after the after’. During the interval as defined in the Baraitha both husband and wife are subject to doubtful uncleanness but after that interval, and during the one defined in our Mishnah, the woman, according to the Rabbis, as stated in the next clause of the Mishnah, does not convey any uncleanness to her husband.

(37) The interval defined in our Mishnah.

(38) Which clearly shows, does it not, that during the interval spoken of in our Mishnah the woman does carry uncleanness to her husband?

(39) Sc. some words are missing from our Mishnah and are to be regarded as inserted.

(40) In connection with the dispute between R. Akiba and the Sages.

(41) Sc. after the one defined in our Mishnah; from which it follows that during this interval both agree that the woman does carry uncleanness to her husband.

(42) The interval defined in our Mishnah and the one defined in the Baraitha.

Talmud - Mas. Nidah 15a

‘Are you perchance of the same opinion as R. Akiba that the woman[1] carries uncleanness to the man who had intercourse with her?’[2] ‘We’, they answered him, ‘have not heard his ruling’.[3] ‘Thus’, he said to them, ‘did the Sages at Jamnia enunciate the ruling: If the woman did not delay more than the time in which she can descend from the bed and wash her face,[4] this[5] is regarded as ‘within the time limit’ and both are unclean on account of the doubt,[6] and exempt from bringing a sacrifice but they are subject to the obligation of a suspensive guilt-offering. If she delayed for such a time during which she could descend from the bed and wash her face,[7] this[8] is regarded as being ‘after the time’,[9] Similarly if she delayed[10] for twenty-four hours[11] or for a period between her previous and her present examination,[12] the man who had intercourse with her is unclean on account of his contact,[13] but not on account of his intercourse.[14] R. Akiba ruled: He also contracts uncleanness on the ground of his intercourse.[15] R. Judah son of R. Johanan b. Zakkai ruled: Her husband may enter the Temple and burn incense.[16] Now according to R. Hisda[17] one can well see why the Rabbis declare the man clean, but according to R. Ashi[18] why do the Rabbis declare him clean? And should you reply that this is a case where she did not have the rag in her hand[19] [it could be retorted:] Should not then[20] a distinction have been made explicitly between the case where the woman had a rag in her hand and where she had no rag in her hand?[21] — This is a difficulty.

‘R. Judah son of R. Johanan b. Zakkai ruled: Her husband may enter the Temple and burn incense’. But why should not a prohibition be imposed[22] on the ground that the man came in contact with a menstruant during the twenty-four hours of her retrospective uncleanness? — He[23] holds the same view as Shammai who ruled: For all women it suffices to reckon their period of uncleanness from the time of their discovering the flow.[24] But should not a prohibition be imposed[21] on the ground that the man has experienced an emission of semen? — This is a case where his intercourse was not consummated.[25]

THE SAGES, HOWEVER, AGREE WITH R. AKIBA THAT ONE WHO OBSERVED A BLOODSTAIN. Rab explained: [She conveys UNCLEANNESS] retrospectively and the ruling is that of R. Meir.[26] Samuel, however, explained: [She conveys UNCLEANNESS] from now[27] onwards and the ruling is that of the Rabbis. 'From now onwards'! Would not this[28] be obvious? — It might have been presumed that, since retrospective uncleanness for a period of twenty-four hours is only a Rabbinical measure and the uncleanness of bloodstains at all times[29] is also only a Rabbinical measure, as during the twenty-four hours' period a woman does not convey uncleanness to the man who had intercourse with her so also in the case of a stain[29] does she not convey uncleanness to the man who had intercourse with her, hence we were informed [that she does convey uncleanness to the man]. Might it not, however, be suggested that the law is so indeed?[30] — [No, since] in the former case there is no slaughtered ox in your presence[31] but here there is a slaughtered ox in your presence.[32] Resh Lakish also explained in the same way[33] [that uncleanness is conveyed] retrospectively and that the ruling is that of R. Meir. R. Johanan explained: [The uncleanness is conveyed] from now onwards and the ruling is that of the Rabbis.

MISHNAH. ALL WOMEN ARE IN THE CONDITION OF PRESUMPTIVE CLEANNESS FOR THEIR HUSBANDS.[34] FOR THOSE WHO RETURN FROM A JOURNEY THEIR WIVES ARE IN THE CONDITION OF PRESUMPTIVE CLEANNESS.

GEMARA. What need was there[35] to state,[36] THOSE THAT RETURN FROM A JOURNEY? — It might have been presumed that this[37] applies only to a husband who was in the town, since in such a case the woman thinks of her duties[38] and duly examines herself, but not to a husband who was not in town since the question of [marital] duty does not occur to her, hence we were informed [that the law applies to the latter case also). Resh Lakish in the name of R. Judah Nesi'ah[39] observed: But this[40] applies only where the husband came and found her within her usually clean period.[41] R. Huna observed: This[41] was learnt only of a woman who had no settled period, but if she had a settled period intercourse with her is forbidden.[42] Topsy turvy![43] Does not, on the contrary, the reverse stand to reason, since in the case of a woman who has no settled period it might well be assumed that she experienced a discharge, but where she has a settled period [she should be presumed to be clean] since her period was fixed? — Rather, if the statement was at all made it was made in the following terms: R. Huna said, This[44] was learnt only in the case of a woman the time of whose settled period had not arrived[45] but if that time had arrived[45] she is forbidden,[42] for he[46] is of the opinion that [the laws of] settled periods[47] are Pentateuchal. Rabbah b. Bar Hana said: Even if the time of her settled period has arrived she is also permitted,[48] for he is of the opinion that [the laws relating to] settled period are only Rabbinical.[49] R. Ashi reported thus: R. Huna said,

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(1) For a period of twenty-four hours retrospectively.

(2) This (cf. prev. n.) being the only time limit recognized.

(3) Sc. his time limit. Consequently they could not possibly have adopted it.

(4) Sc. the time elapsed was no longer than that during which she can examine herself while still in bed.

(5) The discovery of a discharge within that space of time (cf. prev. n.).

(6) In agreement with R. Hisda supra.

(7) A period of time which is longer than the former (cf. supra n. 1).

(8) The discharge discovered after the period mentioned (cf. prev. n.).

(9) I.e., 'the interval following this interval' as R. Hisda explained (supra 14b).

(10) Longer than the periods mentioned.

(11) After intercourse.

(12) When the discharge was discovered.

(13) With the woman. Such a contact with a menstruant within the twenty-four hours' period only subjects him to one day's uncleanness until nightfall and the uncleanness is only Rabbinical and of an uncertain character.

(14) With a menstruant; sc. the uncleanness, even in its uncertain character, does not extend over seven days as would have been the case with one who had intercourse with a confirmed menstruant.

(15) Cf. prev. n. mut. mut.

(16) This is explained infra.

(17) Who explained supra that the interval within which SHE CAN DESCEND FROM THE BED is regarded as the ‘interval after this interval’.

(18) Who maintained supra that ‘the former and the latter represent the same length of time’.

(19) So that after she descended from the bed she spent some more time in taking up the rag.

(20) In order to avoid the possible mistake that even within the shorter interval, when the woman had the rag in her hand, the Rabbis hold the man to be clean.

(21) Of course it should. Since no such distinction, however, is made it is obvious, is it not, that the Rabbis hold the man to be clean even if the discharge was discovered after the interval in which the woman can descend from the bed with the rag in her hand?

(22) Lit., ‘and let (the prohibition) be inferred’.

(23) R. Judah.

(24) Supra 2a.

(25) R. Akiba, however, maintains that the first stage of intercourse with a menstruant is regarded as its consummation, and consequently uncleanness is conveyed even in such a case (Rashi).

(26) Who in regard to bloodstains adopts (supra 5a and infra 52b) the more restrictive view.

(27) The time of the discovery of the stain.

(28) That the Rabbis agree she conveys uncleanness after the discovery of a stain (cf. prev. n.).

(29) Even after discovery.

(30) That she does not convey uncleanness to the one who had intercourse with her after the discovery of a bloodstain just as she does not render him unclean retrospectively during the twenty-four hours prior to her having observed a discharge.

(31) Metaphor. Within the twenty-four hours prior to her having observed a discharge.

(32) Sc. the bloodstain had actually been discovered.

(33) As Rab supra.

(34) In respect of intercourse; sc. no examination is required for the purpose. It is necessary only for determining the condition of any clean objects the woman may have handled.

(35) Lit., ‘wherefore to me’.

(36) After the ruling in the first clause which applies to all husbands.

(37) The ruling in the first clause.

(38) Lit., ‘she throws upon herself’ —

(39) The Prince, R. Judah II.

(40) The ruling in the final clause.

(41) I.e., within thirty days after her last observation of a discharge. After the thirty days, since most women have monthly periods, intercourse must be preceded by an examination. (12) That ‘within her usually clean period’ no examination is required.

(42) Unless there was previous examination.

(43) Lit., ‘towards where’ or towards the tail’ (cf. B.B. (Sonc. ed.) p. 435, n. 17).

(44) That ‘within her usually clean period’ no examination is required.

(45) During the husband's absence from town.

(46) R. Huna.

(47) Sc. that when the date of a settled period arrives the woman is presumed to be in a state of doubtful uncleanness.

(48) No previous examination being required.

(49) Sc. the Rabbis required a woman to examine herself when the date of her settled period arrives in order to ascertain whether there was a discharge or not. If, however, her husband was out of town and on his return it was unknown to him whether she did or did not examine herself she is not to be regarded as being in a condition of doubtful uncleanness.

Talmud - Mas. Nidah 15b

This[1] was learnt only of a woman who had no settled period that was determinable by days alone but one that was determinable by both days and leaps, so that since the period depends on some specific act it might well be presumed, that she did not leap and that, therefore, did not observe any discharge. Where, however, she has a settled period that was determinable by the days alone, she must have no intercourse, for he is of the opinion that the restrictions relating to settled periods are Pentateuchal. Rabbah b. Bar Hana ruled: Even if she has a settled period that was determined by the days alone, she is permitted intercourse, for he holds the opinion that [the restrictions relating to] settled periods are only Rabbinical.

R. Samuel citing R. Johanan ruled: If a woman has a settled period, her husband[2] may[3] calculate the days of that period and[4] come in unto her.[5] Said R. Samuel b. Yeba to R. Abba: Did R. Johanan refer also to a young wife who[6] is too shy to perform immersion? — The other replied: Did then R. Johanan speak of one who had actually[7] observed a discharge? It may [in fact be held] that R. Johanan spoke[8] only of a case where it is doubtful whether or not the woman did observe a discharge and where, [so that] even if some reason could be found for assuming that she did observe one, it may also be assumed that she had since performed immersions,[9] but in a case where it is certain that she had observed a discharge, who could say that she had since performed immersion? And, seeing that it is a question of a doubt[10] being opposed by a certainty[11] [she must be deemed unclean] since a doubt cannot take one out of a certainty. But does it not? Was it not in fact taught: If a haber[12] died and left a store-room full of fruits, even if they were only then due to be tithed,[13] they are presumed to have been properly prepared.[14] Now here it is a case of certain tebel[15] and there is only the doubt as to whether or not it was tithed, and the doubt nevertheless sets aside the certainty? — No, there it is a case of a certainty against a certainty, in agreement with a statement of R. Hanina of Hozae,[16] for R. Hanina of Hozae said: It is presumed with a haber that he does not allow anything to pass out of his control unless it has been duly prepared. And if you prefer I might say: It is a case of doubt against doubt, since [the man might have acted] in accordance with a suggestion of R. Oshaia, for R. Oshaia said: A man[17] may resort to a device with his produce and store it[18] together with its chaff[19] so that[20] his cattle may eat of it[21] and it is exempt from the tithe.[22]

But does not a doubt set aside a certainty? Surely it has been taught: It once happened that the handmaid of a certain tax-collector in Rimmon[23] threw the body of a premature child into a pit, and a priest[24] came and gazed into it to ascertain whether it was male or female,[25] and when the matter came before the Sages[26] they pronounced him clean because weasels and martens are commonly found there.[27] Now here, surely, it is a certainty that the woman had thrown a premature child into the pit and a doubt whether they had dragged it away or not, and yet does not the doubt set aside the certainty? — Do not read, ‘Threw the body of a premature child into a pit’ but

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[1] That the woman is presumed to be clean even if the date of her settled period had already arrived.

[2] Having been out of town for seven days after that period.

[3] On returning home during the days in which she had the opportunity of performing immersion and attain cleanness.

[4] Without asking her whether she had made use of her opportunity (cf. prev. n.).

[5] On the assumption that she had duly performed immersion and is now clean.

[6] Unless urged by her husband.

[7] Lit., ‘certainly’.

[8] That the woman need not be asked.

[9] And since R. Johanan's ruling is based on the existence of these doubts there can be no distinction between a younger and an older woman.

[10] As to whether there was immersion in consequence of which she would be clean.

[11] Of a discharge which renders her unclean.

[12] V. Glos.

[13] Lit., ‘sons of their day’.

(14) A.Z. 41b; i.e., that the priestly and levitical dues have been duly set aside for them.
(15) V. Glos. Since the fruit had reached a stage when it was liable to the dues (cf. prev. n.).
(16) A district on the eastern side of the Tigris.
(17) Desirous of avoiding tithes.
(18) Lit., 'and brings it in'.
(19) Only corn that had been winnowed before it was brought into the store-room within the house is liable to tithe.
(20) Since it was brought in unwinnowed (cf. prev. n.).
(21) Even after its subsequent winnowing. A human being, though permitted to eat it in accordance with Pentateuchal law, may not do so in accordance with a Rabbinic measure.
(22) Even Rabbinically. Now since it is possible that the produce was taken to the store-room in accordance with R. Oshaia's suggestion (a case of doubtful tebel) and it is also possible that it had been duly tithed, we have here a case of doubt against doubt. As a haber is presumed not to allow anything to pass out of his hand unless it had been duly prepared the Rabbis in this case waived aside their restriction and allowed a human being also to eat of the produce.
(23) A town near Jerusalem.
(24) Who was ignorant of the laws of uncleanness (cf. Rashi's fourth interpretation and Tosaf.) and unaware that by bending over the pit just above the embryo he would contract uncleanness.
(25) The period of a woman's uncleanness after childbirth is twice as long in the case of the latter as in that of the former (cf. Lev. XII, 2ff).
(26) To decide whether the priest contracted uncleanness by bending over the pit and thus 'overshadowing' the dead body.
(27) In pits. Tosef. Oh. XVI. These creatures might be presumed to have devoured or dragged away the body so that there was no 'overshadowing' on the part of the priest.

Talmud - Mas. Nidah 16a

'a kind of premature child'.[1] But was it not stated, 'To ascertain whether it was male or female'?[2] — It is this that was meant: And a priest came and gazed into it to ascertain whether she had aborted an inflated object or a premature child and, if some ground could be found for assuming that she aborted a premature child, to ascertain whether it was male or female. And if you prefer I might reply: Since weasels and martens are commonly found there they had certainly dragged it away.[3]

An enquiry was addressed to[4] R. Nahman: [Is the examination at] regular menstrual periods Pentateuchal[5] or only Rabbinical?[6] The latter replied: Since our colleague Huna citing Rab ruled, If a woman who has a settled period did not make an examination when that period arrived but later on[7] observed a discharge, she must take into consideration the possibility [of a discharge] on the date of the settled period,[8] and also the possibility of [twenty-four hours retrospective uncleanness] on account of her observation.[9] Thus[10] it clearly follows that [the examination at] regular menstrual periods is Pentateuchal. There are others who say that he[11] replied thus: The reason then[12] is that she had 'observed a discharge,'[13] but if she had not observed one the possibility[14] need not be taken into consideration. Thus[15] it follows clearly that [the examination at] regular menstrual periods is only Rabbinical.

It was stated: If a woman had a settled period, and when the time of that period arrived she did not make the examination and later she did make one, Rab ruled: If on examination she found that she was unclean she is unclean but if she found that she was clean she remains clean. Samuel, however, ruled, Even if on examination she found herself clean she is deemed unclean, since the guest[16] comes at the usual time. Must it be assumed that they[17] differ on [the question of the necessity for an examination at] regular menstrual periods, one Master[18] holding that it is Pentateuchal[19] and the other Master[20] maintaining that it is only Rabbinical?[21] R. Zera replied: Both[17] may agree that[22] [the examination at] regular menstrual periods is Pentateuchal, but[23] one ruling[24] refers to a woman who examined herself within the period of the duration of her menstruation[25] while the other[26] refers to a woman who did not examine herself within the period of the duration of her menstruation.[27] R.

Nahman b. Isaac maintained: They[17] differ on the very question of [the necessity for an examination at] the regular menstrual periods, one Master[28] holding that it is Pentateuchal[29] while the other Master[30] maintains that it is only Rabbinical.

R. Shesheth observed: [The discussion here] is analogous to that of the following Tannas: [For it was taught:] R. Eliezer[31] ruled, She[32] is to be regarded as menstrually unclean,[33] while R. Joshua[34] ruled: Let her be examined.[35] And these Tannas[36] differ on the same principle as the following Tannas. For it was taught: R. Meir ruled, She[37] is to be regarded as menstrually unclean,[38] while the Sages[34] ruled, Let her be examined.[35] Abaye observed, We also learnt to the same effect. For we learnt: R. Meir ruled, If a woman was in a hiding place[39] when the time of her regular period arrived and she did not examine herself, she is nevertheless clean, because fear suspends the menstrual flow.[40] The reason then[41] is that there was fear, but if there had been no fear she would have been deemed unclean. Thus it clearly follows [that the necessity for an examination at] regular periods is Pentateuchal. May it be assumed that the following Tannas also differ on the same principle? For it was taught: If a woman observed some blood [that might be] due to a wound,[42] even if this occurred during her usual period of menstruation, she is deemed to be clean;[43] so R. Simeon b. Gamaliel. Rabbi ruled: If she has a regular period[44] she[45] must take her period into consideration.[46] Now do they not differ on this principle, one Master[47] holding that [the examinations at] the regular periods are Pentateuchal, while the other Master[48] holds that they are only Rabbinical? — Rabina replied: No; both may agree that [the examinations at] the regular periods are only Rabbinical, but it is on the question whether the interior of the uterus is unclean[49] that they differ. R. Simeon b. Gamaliel holds that the woman is clean[50] but the blood[51] is unclean because it comes through the uterus,[52] and Rabbi[53] in effect said to him: If[54] you take into consideration the possibility of her usual menstrual flow, the woman also should be unclean,[55] and if[56] you do not take into consideration the possibility of her usual menstrual flow, [the blood also should be clean since] the interior of the uterus[57] is clean.

MISHNAH. BETH SHAMMAI RULED: A WOMAN NEEDS TWO[58] TESTING-RAGS FOR EVERY INTERCOURSE,[59] OR SHE MUST PERFORM IT IN THE LIGHT OF A LAMP.[60] BETH HILLEL RULED: TWO TESTING-RAGS[61] SUFFICE HER FOR THE WHOLE NIGHT.[62] [

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(1) Sc. it was not certain whether it was a child at all. Hence it is here also a case of doubt against doubt.

(2) Implying that it was definitely a child and that the only doubt was as to its sex.

(3) Hence it is a case of a certainty against a certainty.

(4) Var. lec., 'Raba enquired of' (MS.M. and Asheri).

(5) So that if a woman failed to make the examination at the proper time she is deemed to be unclean (on the ground that the discharge had appeared at its usual time) even though she observed no blood when she examined herself some time later (since it might have dropped on the ground and been lost).

(6) Hence if she failed to make the examination at the proper time she is regarded as clean.

(7) Sc. at the first examination after the settled period.

(8) If it was due prior to the period of twenty-four hours immediately preceding the observation. Her uncleanness in such a case extends backward to the time of the settled period.

(9) If less than twenty-four hours intervened between the time of the settled period and the observation.

(10) Since the possibility of a discharge at the time of the settled period is taken into consideration presumably even where no subsequent discharge had been observed. It is now assumed that 'discharge' was mentioned only on account of the second clause, 'the possibility . . . on account of her observation'.

(11) R. Nahman.

(12) Why 'she must take into consideration . . . the date of the settled period'.

(13) It being assumed that as she discovered a discharge on examination she might also have discovered one if she had made an examination at the time of her settled period.

(14) Cf. prev. n. but one.

(15) Since in the absence of an examination she is regarded as clean.

(16) Euphemism, sc. the regular menstrual discharge.
(17) Rab and Samuel.
(18) Samuel.
(19) Hence the woman's uncleanness in the absence of one.
(20) Rab.
(21) Cf. prev. n. but one mut. mut. But how could this be reconciled with the first version of R. Nahman supra according to which Rab is of the opinion that the examination is Pentateuchal?
(22) Lit., ‘that all the world’.
(23) As to the difficulty raised (v. supra n. 11).
(24) The last cited.
(25) As she nevertheless discovered no discharge, it may safely be assumed that there was none even earlier when the regular menstruation period had begun.
(26) The first version of R. Nahman.
(27) But did so later on. As it is quite likely that earlier, during the period of menstruation, there was a discharge, the woman must well be deemed unclean. An old ed. inserts here: ‘And there are others who say that one Master spoke of one particular case and the other spoke of another particular case and there is in fact no difference of opinion between them’ (v. Maharsha and marginal gloss).
(28) Samuel.
(29) Hence the woman's uncleanness in the absence of one.
(30) Rab.
(31) Maintaining that the examination is Pentateuchal.
(32) A woman who failed to make the examination at the time of her regular period.
(33) From the time her regular period was due to commence.
(34) Holding that the examination is only Rabbinical.
(35) Even though her period of menstruation had passed. If on examination she finds herself to be clean she is regarded as clean (despite the possibility of an earlier discharge) and if she finds herself unclean, the uncleanness is retrospective from the time her settled period was due.
(36) R. Eliezer and R. Joshua.
(37) A woman who failed to make the examination at the time of her regular period.
(38) From the time her regular period was due to commence.
(39) Sheltering from robbers or raiders.
(40) Infra 39a.
(41) Why she is regarded as clean.
(42) In her womb.
(43) The blood being attributed to the wound.
(44) If she has no regular period Rabbi, for the reason given in prev. n., agrees with R. Simeon b. Gamaliel.
(45) If the blood was observed on the day the period was due to commence.
(46) Sc. she is regarded as unclean, since it is possible that some particle of menstrual blood was mixed up with that of the wound.
(47) Rabbi.
(48) R. Simeon b. Gamaliel.
(49) Lit. ‘as to the source, the place thereof is unclean’. And, therefore, capable of imparting uncleanness to any clean blood that passes through it.
(50) Sc. she is not subject to the major uncleanness of menstruation which extends over seven days.
(51) Though coming from a wound.
(52) Where it contracts an uncleanness (a ‘father of uncleanness’) which causes it to impart a one day's uncleanness to a human being, so that any object touched by the woman on that day becomes unclean.
(53) Relaxing the law.
(54) By regarding the blood as unclean.
(55) For seven days, as any other menstruant.
(56) Since you exempt the woman from menstrual uncleanness.
(57) Lit., ‘the source of its place’.

(58) Previously unused.

(59) One is used before, and the other after and both are preserved until the morning when they are to be examined in daylight.

(60) So that the testing-rag may be immediately examined.

(61) One of which is used prior to the first intercourse and the other after the last.

(62) This being sufficient to determine whether she is menstrually unclean and whether she is to convey uncleanness to any clean object she may have handled. (So Rashi; cf., however, Tosaf. and Tosaf. Asheri for a different interpretation.)

Talmud - Mas. Nidah 16b

GEMARA. Our Rabbis taught: Although [the Sages] have said, 'He who has intercourse in the light of a lamp is contemptible',[1] Beth Shammai ruled: A woman needs two[2] testing-rags for every intercourse[3] or she must perform it in the light of a lamp, but Beth Hillel ruled: Two testing-rags suffice for her for the whole night.

It was taught: Beth Shammai said to Beth Hillel, 'According to your view[4] is there no need to provide against the possibility that she might emit[5] a drop of blood of the size of a mustard seed in the course of the first act and this would be covered up with semen during the second act?'[6] 'But', replied Beth Hillel, even according to your view[7] is there no need to provide against the possibility that the spittle,[8] while still in the mouth,[9] was crushed out of existence?'[10] '[We maintain our view,] the former retorted, 'because what is crushed once is not the same as that which is crushed twice'.

It was taught: R. Joshua stated, 'I approve[5] of the view of Beth Shammai'.[7] 'Master', said his disciples to him, 'what an extension [of the restrictions] you have imposed upon us!' 'It is a good thing', he replied, 'that I should impose extensive restrictions upon you in this world in order that your days may be prolonged in the world to come.

R. Zera remarked: From the words of all these authorities[11] we may infer[12] that a conscientious man should not indulge in intercourse twice in succession.[13] Raba said: One may indulge in intercourse twice in succession, for that ruling[14] was taught only in respect of clean objects.[15] So it was also taught: This[16] applies only to clean objects[15] but to her husband she is permitted.[17] This,[18] however, applies only where he had left her in a state of presumptive cleanness, but if he left her in a state of presumptive uncleanness she is presumed to be in that state forever until she tells him, 'I am clean'.

R. Abba citing R. Hiyya b. Ashi who had it from Rab ruled: If a woman[19] examined herself with a testing-rag which was subsequently lost she is forbidden intercourse until she had reexamined herself. R. Ela demurred: If it had not been lost[20] would she not[21] have been allowed intercourse even though she is unaware [whether there was or there was not a discharge], why then should she not now also[22] be allowed intercourse? — Raba replied: In the former case her proof is in existence,[23] but in the latter case[22] her proof is not in existence.[24]

R. Johanan stated: It is forbidden to perform one's marital duty in the day-time.[25] What is the Scriptural proof? That it is said, Let the day perish wherein I was born, and the night wherein it was said: 'A man-child is brought forth'.[26] The night is thus set aside[27] for conception but the day is not set aside for conception. Resh Lakish stated: [The proof is] from here: But he that despiseth His ways[28] shall die.[29] As to Resh Lakish, how does he expound R. Johanan's text?[26] — He requires it for the same exposition as that made by R. Hanina b. Papa. For R. Hanina b. Papa made the following exposition: The name of the angel who is in charge of conception is 'Night', and he takes up a drop and places it in the presence of the Holy One, blessed be He, saying, 'Sovereign of the universe, what shall be the fate of this drop? Shall it produce a strong man or a weak man, a wise man or a fool, a rich man or a poor man?' Whereas 'wicked man' or 'righteous one' he does not mention, in agreement with the view of R. Hanina. For R. Hanina stated: Everything is in the hands of heaven except the fear of God, as it is said, And now, Israel, what doth the Lord thy God require of thee, but to fear etc.[30] And R. Johanan?[31] — If that were the only meaning,[32] Scripture should have written,[33] ‘A man-child is brought forth’[34] why then was it stated, ‘was brought forth a man-child’?[35] To indicate that the night[36] is set aside for conception[36] but the day is not set aside for conception. As to R. Johanan how does he expound the text of Resh Lakish?[29] — He requires it for [an application to the same types] as those described in the Book of Ben Sira:[37] ‘There are three [types] that I hate, yea, four that I do not love: A Scholar[38] who frequents wine-shops[39] [or, as others say, a scholar that is a gossip],[40] a person who sets up a college in the high parts of a town,[41] one who holds the membrum when making water and one who enters his friend's house suddenly’.[42] R. Johanan observed:[43] Even his own house.

R. Simeon b. Yohai observed: There are four [types][44] which the Holy One, blessed be He, hates, and as for me, I do not love them: The man who enters his house suddenly and much more so [if he so enters] his friend's house, the man who holds the membrum when he makes water,

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(1) The reason is given infra.
(2) Previously unused.
(3) V. supra p. 108, n. 16.
(4) That there is no need for a testing-rag after every act.
(5) Lit., ‘see’.
(6) So that the test after that act would not reveal it.
(7) That testing-rags must be used after each act.
(8) Sc. a drop of blood.
(9) Euphemism; the uterus; i.e., during the first intercourse.
(10) So that the test after that act would not reveal it.
(11) Lit., ‘all of them’, even Beth Hillel who requires only one test after the last act.
(12) Since intercourse is presumed lo be the possible cause of a discharge.
(13) If there was no examination after the first act.
(14) That each or, at least, the last intercourse must be followed by an examination.
(15) Sc. to make sure that the woman did not convey to them uncleanness when handling them. As regards intercourse, however, when a woman is in a presumptive state of cleanness no examination is necessary.
(16) That each or, at least, the last intercourse must be followed by an examination.
(17) Even in the absence of an examination.
(18) That as regards her husband no examination is required.
(19) At night, before intercourse.
(20) Lit., ‘it is’.
(21) Since the examination of the rags, according to Beth Hillel, is never to take place before the following morning and, even according to Beth Shammai, no lamp is required at night and the examination is equally postponed until the morning whenever two rags are used for each act.
(22) Where the rag is lost.
(23) And it may well be examined in the morning to ascertain, regarding clean objects the woman had handled, whether she is clean or unclean. As regards intercourse too, should it be found that her uncleanness began prior to the act, she could bring a sin-offering.
(24) Were intercourse to be allowed in such a case there would be no possible means of ascertaining the condition of the woman any more than if there had been no examination at all. Hence Rab's prohibition.
(25) Cur. edd. insert in parenthesis, ‘said R. Hamnuna. MS.M. reads for ‘Hamnuna’ ‘Huna’.
(26) Job III, 3.
(27) Lit., ‘given’.
(28) Sc. has intercourse at an improper time.
(29) Prov. XIX, 16.
(30) Deut. X, 12.

(31) Since Job III, 3 is required for the exposition of R. Hanina, whence does he derive his rulings?
(32) Lit., ‘if so’.
(33) As E.V. in fact renders the Heb.
(34) Sc. the word gaber (male-child) should have preceded horoh (brought forth).
(35) Horoh (cf. prev. n.) preceding gaber and thus standing close to the word ‘night’.
(36) Cf. prev. n.
(37) Cf. Ecclesiasticus XXI, 23.
(38) Lit., ‘chief’.
(39) Lit., ‘a house of drinkings’.
(40) Cur. edd. in parenthesis insert ‘and others say, an excitable scholar’.
(41) A manifestation of arrogance.
(42) It was to types like these that Prov. XIX, 16 alluded.
(43) Not only ‘his friend's house’.
(44) Lit., ‘things’.

the man who when naked makes water in front of his bed, and the man who has intercourse in the presence of any living creature. ‘Even’, said Rab Judah to Samuel, ‘in the presence of mice?’ ‘Shinena’,[1] the other replied, ‘no; but [the reference is to] a house like that of So and so where they have intercourse in the presence of their men-servants and maidservants.[2] But what was the exposition they made? — Abide ye here with[3] the ass,[4] implies: peoples that are like an ass. Rabbah son of R. Huna used to chase away the wasps from his curtained bed.[5] Abaye drove away the flies.[6] Rabba[7] chased away the mosquitoes.[6]

R. Simeon b. Yohai stated, There are five things which [cause the man] who does them to forfeit his life and his blood is upon his own head: Eating[8] peeled garlic, a peeled onion or a peeled egg, or drinking diluted liquids that[9] were kept over night; spending a night in a graveyard; removing one's nails and throwing them away in a public thoroughfare; and blood-letting followed immediately by intercourse.

‘Eating peeled garlic etc.’ Even though they are deposited in a basket and tied up and sealed, an evil spirit rests upon them. This, however, has been said only where their roots or peel did not remain[10] with them, but if their roots or peel remained with them there can be no objection.[11] ‘And drinking diluted liquids that were kept over night’. Rab Judah citing Samuel explained: This applies only where they were kept over night in a metal vessel. R. Papa stated: Vessels made of alum crystals are the same in this respect as vessels made of metal. So also said R. Johanan: This applies only where they were kept in a metal vessel; and vessels made of alum crystals are the same in this respect as vessels made of metal.

‘Spending a night in a graveyard’, in order that a spirit of uncleanness may rest upon him.[12] [This should not be done] since in consequence he might sometimes be exposed to danger.

‘Removing one's nails and throwing them away in a public thoroughfare’. [This is dangerous] because a pregnant woman passing over them would miscarry. This, however, has been said only of a case where one removes them with a pair of scissors. Furthermore, this has been said only of a case where one removes the nails of both hands and feet. Furthermore, this has been said only in the case where one did not cut anything immediately after cutting them but if something was cut immediately after they were cut there can be no danger.[13] This, however, is not [to be relied upon]. One should be on his guard in all the cases mentioned.[14]

Our Rabbis taught: Three things have been said about the disposal of nails: He who burns them is a pious man, he who buries them is a righteous man, and he who throws them away is a wicked man.[15]

‘And blood-letting followed immediately by intercourse’. [This should be avoided] because a Master said: If a man has intercourse immediately after being bled, he will have feeble[16] children; and if intercourse took place after both husband and wife have been bled, they will have children afflicted with ra'athan.[17] Rab[18] stated: This has been said only in the case where nothing was tasted after the bleeding but if something was tasted after it there can be no harm.[19]

R. Hisda ruled: A man is forbidden to perform his marital duty in the day-time, for it is said, But thou shalt love thy neighbour as thyself.[20] But what is the proof? — Abaye replied: He might observe something repulsive in her and she would thereby become loathsome to him.

R. Huna said, Israel are holy and do not perform their marital duties in the day-time. Raba said, But in[21] a dark house this is permitted; and a scholar[22] may darken a room with his cloak and perform his marital duty. [But] we have learnt, OR SHE MUST PERFORM IT IN THE LIGHT OF A LAMP? — Read: SHE MUST examine IT IN THE LIGHT OF A LAMP.

Come and hear: Although [the Sages] have said, He who has intercourse in the light of a lamp is loathsome [etc.]?[23] — Read: He who examines his bed[24] in the light of a lamp is loathsome.[25]

Come and hear: And the people of the house of Monobaz[26] did three things, and on account of these they were honourably mentioned: They performed their marital duties in the day-time, they examined their beds with cotton,[27] and they observed the rules of uncleanness and cleanness in the case of snow. At all events, was it not here stated, 'They performed their marital duties in the day-time'? Read: They examined their beds in the day-time. This may also be supported by logical argument. For if one were to imagine [that the reading is] 'performed their marital duties', would they have been 'honourably mentioned'? — Yes, indeed;[28] because owing to the prevalence[29] of sleep[30] she is likely to become repulsive to him.

'They examined their beds with cotton.' This provides support for a ruling of Samuel. For Samuel ruled: The bed[31] may be examined only with cotton tufts or with clean and soft wool. Rab observed: This explains what they said in Palestine[32] on Sabbath eves,[33] when I was there, 'Who requires cotton tufts for his bread',[31] and I did not understand at the time what they meant.

Raba stated: Old flax garments are admirably suited for examination purposes. But can this be correct,[34] seeing that the school of Manasseh taught: The bed[31] may not be examined either with a red rag or with a black one or with flax,[35] but only with cotton tufts or with clean and soft wool?[36] This is no difficulty, since the latter refers to flax while the former refers to garments of flax. And if you prefer I might reply: Both refer to garments of flax but the latter deals with new ones while the former deals with old ones.[37]

'They observed the rules of uncleanness and cleanness in the case of snow.' We learnt elsewhere: Snow is neither a food nor a drink. Though one intended to use it as food it is not subject to the laws of the uncleanness of foodstuffs,[38] [but if one intended to use it] as a drink it is subject to the laws of the uncleanness of drinks. If a part of it contracted uncleanness all of it does not become unclean,[39] but if a part of it became clean[40] all of it becomes clean. Now is not this self contradictory? You first said, 'If a part of it contracted uncleanness all of it does not become unclean', and then you said, 'If a part of it became clean all of it becomes clean', which implies, does it not, that all of it was previously unclean?[41] — Abaye replied: This is a case, for instance, where it[42] was carried across the air-space of an oven,[43] [in which case all the snow is unclean] because the Torah testified concerning an earthen vessel[44] that

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(1) Cf. n. supra 13a.

(2) Who were heathens.

(3) The Heb. equivalent may be read both 'im (with) and 'am (a people).

(4) Gen. XXII, 5.

(5) So Aruch. V. Tosaf. contra Rashi.

(6) So that no living creature should be near.

(7) Var. lec. 'R. Papa' (MS.M and 'En Jacob).

(8) Lit., 'he who eats'.

(9) The adjectival clause qualifies all the foodstuffs mentioned.

(10) Lit., 'he did not leave'.

(11) Lit., 'we have nothing against it'.

(12) 'To enable him to foretell the future', cf. Sanh. (Sonc. ed.) p. 446.

(13) Lit., 'we have nothing against it'.

(14) Lit., 'we fear for all the thing'.

(15) V. M.K. 18a.
(16) Or ‘nervous’.
(17) Ra'athan is one of the skin diseases causing extreme debility and nervous trembling. Cf. Keth. (Sonc. ed.) p. 486f.
(18) The parallel passage in Keth. 77b has ‘R. Papa’.
(19) Lit., ‘we have nothing against it’.
(20) Lev. XIX, 18.
(21) Lit., ‘and if there was’.
(22) Who may be relied upon properly to darken the place.
(23) V. supra 16b. Emphasis on the last word, implying that there is no actual prohibition.
(24) Euphemism.
(25) Since no proper examination can be made in its dim light.
(26) King of Adiabene, whose family embraced Judaism.
(27) Or ‘clean and soft wool’, on which the smallest particle of blood could be detected. Lit., ‘wool of Parhaba’ (Probably a geographical name), v. Jast.
(28) Lit., ‘thus also’.
(29) In the night-time.
(30) Which numbs the passions.
(31) Euphemism.
(32) Lit., ‘there’.
(33) Fridays. Friday night is the time appointed for scholars.
(34) Lit., ‘I am not’.
(35) Which is not white enough to show up a small speck of blood.
(36) An objection against Raba.
(37) The more they are washed the more suitable they are for the purpose.
(38) Since it is more like a drink than a food.
(39) Because each particle of snow is regarded as a separate entity; and only that entity that had directly been touched by the unclean object contracts the uncleanness.
(40) By coming in contact with the water of a ritual bath (v. Bez. 17b).
(41) But how is it possible for an uncleanness to have come in contact with all of it?
(42) The snow.
(43) In which there was a dead creeping thing.
(44) Such as the oven spoken of.

Talmud - Mas. Nidah 17b

even if it was full of mustard seed[1] [all within it is unclean].[2]

MISHNAH. THE SAGES SPOKE OF A WOMAN IN METAPHOR: [THERE IS IN HER] CHAMBER[3] AN ANTE-CHAMBER[4] AND AN UPPER CHAMBER.[5] THE BLOOD OF THE CHAMBER[6] IS UNCLEAN, THAT OF THE UPPER CHAMBER[7] IS CLEAN. IF BLOOD IS FOUND IN THE ANTE-CHAMBER, AND THERE ARISES A DOUBT ABOUT ITS CHARACTER,[8] IT IS DEEMED UNCLEAN, BECAUSE IT IS PRESUMED TO HAVE COME FROM THE SOURCE.[3]

GEMARA. Rami b. Samuel and R. Isaac son of Rab Judah learnt the tractate of Niddah at R. Huna's. Rabba son of R. Huna once found them while they were sitting at their studies and saying: The chamber is within, the ante-chamber is without and the upper chamber is built above them,[9] and a duct communicates between the upper chamber and the ante-chamber.[10] If blood is found anywhere from the duct inwards, and there is any doubt about its character,[8] it is deemed unclean[11] but if it is found anywhere from the duct outwards, and there is a doubt about its character,[8] it is deemed clean.[12] He[13] thereupon proceeded to his father and said to him, ‘You told them, Master,[14] that "if there is any doubt about its character[15] it is deemed unclean", but have we not learnt:

BECAUSE IT IS PRESUMED TO HAVE COME FROM THE SOURCE?’[16] ‘I’, the other replied, ‘meant this: [Blood found anywhere] from the duct inwards is[17] undoubtedly unclean,[18] [but if it was found anywhere] from the duct outwards, it is deemed to be doubtfully unclean’.[19] Said Abaye: Why is[20] it [that if blood is found anywhere] from the duct outwards it is deemed to be doubtfully unclean?[21] Obviously because it is possible that she bowed down and the blood flowed thither from the chamber. [But, then, why in the case where blood is found anywhere] from the duct inwards, is it not also assumed that she might have staggered backwards[22] and the blood originated from the upper chamber?[23] Rather, said Abaye, if you follow possibilities[24] the uncleanness is doubtful in either case[25] and if you follow presumption [blood found anywhere] from the duct inwards is undoubtedly unclean,[26] [but if it was found anywhere] from the duct outwards it is undoubtedly clean.[27]

R. Hiyya taught: Blood found in the ante-chamber[28] renders [the woman] liable [for a sin-offering] if she enters the Sanctuary,[29] and terumah[30] must be burnt on its account.[29] R. Kattina, however, ruled: No sin-offering[31] is incurred if she enters the Sanctuary,[32] and terumah[30] is not burnt on its account.[32] According to the first alternative[33] which Abaye mentioned, viz., ‘If you follow possibilities’,[34] support is available for the ruling of R. Kattina[35] but[36] a divergence of view is presented against R. Hiyya. According to the second alternative[33] you mentioned, viz., ‘If you follow presumption’[37] support is provided for the ruling of R. Hiyya[38]

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(1) So that only those seeds that are actually round the sides of the oven could possibly come into direct contact with the oven.

(2) V. Hul. 24b. Which proves that, in the case of an earthenware oven, uncleanness is conveyed to objects within it, even though these had not come in direct contact with it.

(3) The uterus.

(4) Vagina.

(5) The urinary bladder (from the point of view of a woman lying on her back).

(6) Being menstrual.

(7) Being due to some internal wound.

(8) Sc. whether it originated in the uterus or urinary bladder.

(9) Cf. supra n. 7.

(10) So that blood from the former may trickle down into the latter.

(11) Since it is obvious that it came from the chamber. Had it come from the upper chamber it could not in the natural course have made its way backwards to the spot where it was discovered.

(12) Because it is presumed to have originated from the upper chamber.

(13) Rabbah b. R. Huna.

(14) So MS.M. Cur. edd., ‘you told us, Master’.

(15) The expression of ‘doubt’ obviously implying that there was no proof whatsoever that the blood originated in the chamber.

(16) Emphasis on PRESUMED. If it is presumed to originate from the source (sc. the chamber) the uncleanness could not be described as a matter of ‘doubt’ but as one of certainty.

(17) In agreement with our Mishnah.

(18) V. supra p. 216, n. 13.

(19) It being impossible to decide whether it originated in the chamber or in the upper chamber.

(20) Lit., ‘what is the difference’.

(21) Though, since on that spot it is most likely to have come from the upper chamber, one might well have expected it to be clean.

(22) And thus caused the blood to flow inwards.

(23) Since this is obviously a possibility the uncleanness should only be a matter of doubt and not, as R. Huna asserted, a certainty.

(24) Bending forward or staggering backwards.

(25) Whether the blood is found on the one or on the other side of the duct, since in either case two possibilities (cf. prev. n.) may be equally assumed.

(26) Since it may well be presumed to have originated in the chamber. Had it originated in the upper chamber it would have made its way to the outer side of the duct only. Our Mishnah's ruling, IT IS DEEMED UNCLEAN etc. may thus refer to such a case.

(27) Since in that place it is presumed to have come from the upper chamber, and the possibility of bending forward is disregarded.

(28) It is explained infra on which side of the duct.

(29) Because the blood is certainly unclean.

(30) That was touched by the woman.

(31) Though the entry is forbidden.

(32) Since the character of her blood cannot be determined with any degree of certainty.

(33) Lit., 'that expression'.

(34) Sc. that the uncleanness is merely a matter of doubt.

(35) Who also regards the uncleanness as doubtful. R. Kattina might thus refer to both cases, where the blood was found on the one, or on the other side of the duct.

(36) Since no certain uncleanness is recognized.

(37) In accordance with which a distinction is drawn between blood found from the duct inwards or outwards.

(38) Whose ruling would thus refer to blood found from the duct inwards.

Talmud - Mas. Nidah 18a

but[1] a divergence of view is presented against R. Kattina.[2] According to the ruling of R. Huna[3] neither of them differs from the other,[4] since one[5] might deal with blood found anywhere from the duct inwards while the other[6] might deal with such as was found anywhere from the duct outwards. According to Rami b. Samuel and R. Isaac the son of Rab Judah, however, who ruled, 'From the duct outwards, and there is a doubt about its character, it is deemed clean' and 'from the duct inwards, and there is a doubt about its character, it is deemed unclean', how are these rulings[7] to be explained? Obviously [as referring[8] to blood found] anywhere from the duct inwards.[9] Must it then be assumed[10] that their ruling differs from that of R. Hiyya?[11] — This is no difficulty, since one[12] refers to blood found on the floor of the ante-chamber[13] while the others[14] refer to blood found on the roof of the ante-chamber.[15]

R. Johanan stated: In three instances[16] did the Sages follow the majority rule[17] and treated them as certainties, viz., the 'source', the 'placenta' and the 'piece'. The 'source'? The case already spoken of.[18] The 'placenta'? Concerning which we have learnt: If a placenta[19] is within a house, the house is unclean;[20] and this is so not because a placenta is regarded as a child but because generally there is no placenta without a child in it.[21] R. Simeon said, The child might have been mashed[22] before it came forth.[23] A 'piece'? For it was taught:[24] If a woman aborted a shaped[25] hand or a shaped foot she[26] is subject to the uncleanness of birth,[27] and there is no need to consider the possibility[28] that it might have come from a shapeless body.[29] But are there[30] no others?[31] Is there not in fact the case of nine shops[32] concerning which it was taught: If there were nine shops[32] all of which were selling ritually killed meat and one shop that was selling nebelah[33] meat and a man bought some meat in one of them and he does not know in which of them he bought it, the meat is forbidden on account of the doubt;[34] but if[35] meat is found,[36] the majority rule is to be followed?[37] — We[38] speak of uncleanness;[39] we do not discuss the question of a prohibition.[40] But is there not the case of the nine [dead] frogs among which there was one [dead] creeping thing[41] and a man touched one of them and he does not know which one it was that he touched, where he is unclean on account of the doubt if this occurred in a private domain,[42] but if it occurred in a public domain such a doubtful case is regarded as clean; and if one[43] was found[44] the majority rule is to be followed?[45] — We[46] deal with the uncleanness of a woman; we do not discuss general questions of uncleanness. But is there not the following case of which R. Joshua b. Levi spoke: If a woman crossed a river

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(1) As no doubtful uncleanness is recognized.

(2) Who does recognize it (cf. prev. n.).
(3) Who told his son that blood on the inward side of the duct is unclean and on its outward side is clean.
(4) Neither R. Hiyya and R. Kattina differ from each other nor either of them from him.
(5) R. Hiyya.
(6) R. Kattina.
(7) Of R. Hiyya and R. Kattina.
(8) In agreement with R. Kattina.
(9) Since blood found on its outward side is deemed to be clean and the woman is not only exempt from a sin-offering if she enters the Sanctuary, but is not even forbidden to enter it.
(10) Since in no case do they recognize certain uncleanness.
(11) Who does recognize certain uncleanness. Is it likely, however, that they would both differ from him?
(12) R. Hiyya, in ruling that the blood is definitely unclean.
(13) Which is the natural passage for blood issuing from the chamber.
(14) Rami and R. Isaac, who regard the blood as only doubtfully unclean.
(15) Which is nearer to the upper chamber.
(16) Lit., ‘places’, where doubts existed.
(17) Sc. the majority of the respective cases concerning which no doubt exists.
(18) In the last clause of our Mishnah, and in the ruling of R. Hiyya (supra 17b), from which it is obvious that, since mostly the blood in question issues from the source, any blood in the ante-chamber is assumed to originate from that source.
(19) About which it is unknown whether it did or did not contain a dead embryo.
(20) As overshadowing a corpse, though it is unknown (cf. prev. n.) whether the placenta contained one.
(21) From which it is obvious that the uncleanness of the placenta is regarded as a certainty by the majority rule, since most placentas contain embryos.
(22) And mixed up with the blood of birth which, representing the greater part of the mixture, neutralizes it.
(23) Infra 26a.
(24) Cf. marg. gl. Cur. edd., ‘we learnt’.
(25) Lit., ‘cut’.
(26) Lit., ‘its mother’.
(27) And, since it is unknown whether it was that of a male or a female, the restrictions of both are imposed upon her.
(28) Which (cf. infra 24a) would exempt her from the certainty of uncleanness.
(29) Infra 24a, which proves that by the majority rule, the doubtful case is regarded as a certainty because the majority of births (which are normal) is followed.
(30) Beside the three instances mentioned by R. Johanan.
(31) Where the majority rule is followed.
(32) In a market in which there were ten such shops.
(33) V. Glos.
(34) Because the shop with the prohibited meat, being a fixed place, has the same status as half the number of all the shops in the market; and, consequently, the majority rule does not apply.
(35) On the floor of the market in which the ten shops were situated.
(36) So that the meat did not come from a fixed place.
(37) V. Hul. 95a; and, since the majority of the shops sold meat that was ritually killed, the meat found is also regarded as ritually fit. Now since this provides another instance of a doubtful case that, by reason of the majority rule, is regarded as a certainty, why did R. Johanan mention three instances only?
(38) Sc. R. Johanan in mentioning the three instances.
(39) With which all the three instances deal.
(40) To which the last case cited refers.
(41) The latter conveys uncleanness but not the former (cf. Lev. XI, 29).
(42) Since the creeping thing was in a fixed place which is equal in status to half of all the animals in the place.
(43) Of the ten creatures mentioned.
(44) Sc. the man touched an isolated animal which had no fixed place.
(45) Tosef. Toh. VI. As the majority are frogs the man is clean. Now why was not this case of doubtful uncleanness

mentioned by R. Johanan?

(46) Sc. R. Johanan in mentioning the three instances.

Talmud - Mas. Nidah 18b

and miscarried[1] in it, she must bring a sacrifice which may be eaten, since we follow the majority of women, and the majority of women bear normal children?[2] — We spoke of Tannaitic rulings;[3] we did not discuss reported traditions.[4] But, surely, when Rabin came[5] he stated, ‘R. Jose son of R. Hanina raised an objection [against R. Joshua b. Levi from a Baraitha dealing with] a forgetful woman,[6] but I do not know what objection it was’,[7] Does not this mean that it[8] presented no objection but rather provided support?[9] — No; it is possible [that he meant that it] neither presented an objection nor provided any support.

What does it[10] exclude?[11] If it be suggested that it[10] was intended to exclude the case[12] where the majority rule is opposed by the rule of presumption[13] so that in such a case terumah[14] may not be burnt on its account,[15] surely [it could be retorted] did not R. Johanan once say this,[16] for we learnt, ‘If a child is found at the side of dough, with a piece of dough in his hand, R. Meir declares the dough clean, but the Sages declare it unclean because it is the nature of a child to slap[17] [dough]’;[18] and when it was asked, ‘What is R. Meir's reason’ [the answer given was that] he holds the view that though most children slap dough a minority of them do not, and since this dough stands in the presumption of cleanness;[19] you combine the status of the minority[20] with the rule of presumption[21] and the majority rule[22] is impaired,[23] while the Rabbis [regard] the minority as non-existent, and, where the majority rule is opposed by that of presumption, the majority rule takes precedence; and in connection with this Resh Lakish citing R. Oshaia stated: This is a presumption[24] on the strength of which terumah is burnt,[25] while R. Johanan stated, This[26] is not a presumption on the strength of which terumah is burnt?[27] — It[28] was rather intended to exclude the rule of majority of which R. Judah spoke.[29] For we learnt: If a woman aborted a shapeless object,[30] if there was blood with it she is unclean[31] otherwise she is clean; R. Judah ruled: In either case she is unclean.[32] And in connection with this Rab Judah citing Samuel stated: R. Judah declared the woman unclean only where the shapeless object had the colour of one of the four kinds of blood,[33] but if it had that of any other kinds of blood[34] the woman is clean, while R. Johanan stated: [If it had the colour] of one of the four kinds of blood[35] all[36] agree that she is unclean, and if it had that of any other kinds of blood all agree that she is clean; they[37] differ only in the case where she aborted something

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(1) In consequence of which it is unknown whether or not the miscarriage was a developed child.

(2) Infra 29a. Now since her sacrifice, a bird sin-offering (the method of whose killing by pinching would have caused an unconsecrated, or doubtfully consecrated bird to be nebelah), may be eaten, it follows that the bird is deemed to be duly consecrated because, by reason of the majority rule, the woman's doubtful birth is regarded as a certain birth of a normal child. Why then did not R. Johanan mention this case which concerns a woman's uncleanness?

(3) Lit., ‘our Mishnah’, sc. rulings occurring in a Mishnah or a Baraitha.

(4) Of Amoras. R. Joshua b. Levi was an Amora.

(5) From Palestine to Babylon.

(6) Lit., ‘mistaken’, one who cannot tell the date on which she bore her child.

(7) Infra 29a.

(8) The Baraitha dealing with the forgetful woman.

(9) For R. Joshua b. Levi's ruling. Since the answer is presumably in the affirmative the ruling given here in the name of R. Joshua b. Levi has its origin in a Baraitha. Why then, since it is a case of the uncleanness of a woman and is also a Tannaitic ruling, was it not included among those cited supra by R. Johanan?

(10) R. Johanan's limitation of the instances supra to three.

(11) I.e., what other doubtful instance is there that, despite the majority rule, is not treated as a certainty?

(12) Of a woman's uncleanness.

(13) Lit., ‘there . . . with it’.

(14) Being doubtfully unclean.
(15) Sc. on account of the doubtful uncleanness.
(16) Explicitly, in other cases of uncleanness. Why then should he repeat it here by implication?
(17) Toh. III, 8.
(18) In consequence of which he imparts to it the uncleanness which he is presumed to have contracted from menstrual women who coddle him or play with him (R. Tam.). Aliter (Rashi): ‘To dabble in the rubbish heap’, where he contracts uncleanness from dead creeping things. His contact with the dough is regarded as a certainty (cf. Tosaf.).
(19) As is any dough, unless the contrary is proved.
(20) Of children who do not slap dough and, therefore, cannot impart to it their uncleanness (so according to Tosaf.). Aliter: Who do not dabble in the rubbish heap and, therefore, contract no uncleanness (according to Rashi).
(21) The dough is presumed to be clean (cf. prev. n. but one).
(22) That ‘most children slap dough’ or ‘dabble in the rubbish heap’.
(23) By the major force of two to one.
(24) Sc. that it is a child's nature to slap dough (Rashi). The term ‘presumption’ is here used loosely and really denotes ‘majority’.
(25) Sc. the majority rule by which it is offered has been given the force of a certainty.
(26) Since ‘the presumption of uncleanness’ is here opposed by ‘majority’.
(27) Because it has not the force of a certainty. Now, since R. Johanan made here this explicit statement on the relative importance of the majority rule and that of presumption, what need was there to repeat it implicitly supra?
(28) R. Johanan's limitation supra to three instances.
(29) Sc. that in that case the uncleanness which is dependent on the majority rule is not regarded as a certainty. It is only one of a doubtful character and, in consequence, terumah that is subject to such uncleanness may not be burnt.
(30) Lit., ‘piece’.
(31) As a menstruant. Since the abortion cannot be regarded as a child she is exempt from the uncleanness of childbirth.
(32) Infra 21a. It is impossible in his opinion for an abortion to be free from all blood, though the latter might sometimes escape attention.
(33) Described in the Mishnah infra 19a, as unclean. Black and red blood are here regarded as of the same colour, the latter being a deteriorated form of the former. The Mishnah treating them as two gives the total number of kinds of unclean blood as five. In R. Judah's opinion the colour of unclean blood is proof that the entire mass is a piece of clotted blood. Hence the woman's menstrual uncleanness. The Rabbis, however, do not regard it as blood but as a shapeless piece of flesh.
(34) Green or white, for instance.
(35) Cf. prev. n. but one.
(36) Even the Rabbis.
(37) The Rabbis and R. Judah.

Talmud - Mas. Nidah 19a

and she does not know what she has aborted.[1] [In such a case,] R. Judah holds, one must be guided by the nature of most of such shapeless objects, and most such objects have the colour of one of the four kinds of blood, while the Rabbis hold that we do not say that one must be guided by the nature of most such objects.[2]

MISHNAH. FIVE KINDS OF BLOOD IN A WOMAN ARE UNCLEAN: RED, BLACK, A COLOUR LIKE BRIGHT CROCUS, OR LIKE EARTHY WATER OR LIKE DILUTED WINE.[3] BETH SHAMMAI RULED: ALSO A COLOUR LIKE THAT OF FENUGREEK WATER OR THE JUICE OF ROASTED MEAT; BUT BETH HILLEL DECLARE THESE CLEAN. ONE THAT IS YELLOW, AKABIA B. MAHALALEL DECLARES UNCLEAN AND THE SAGES DECLARE CLEAN. R. MEIR SAID: EVEN IF IT DOES NOT CONVEY UNCLEANNESS AS A BLOODSTAIN IT CONVEYS UNCLEANNESS AS A LIQUID.[4] R. JOSE RULED: IT DOES NEITHER THE ONE NOR THE OTHER.[5]

WHAT COLOUR IS REGARDED AS ‘RED’? ONE LIKE THE BLOOD OF A WOUND.[4] ‘BLACK’? LIKE THE SEDIMENT OF INK; IF IT IS DARKER IT IS UNCLEAN AND IF LIGHTER IT IS CLEAN. BRIGHT CROCUS COLOUR’? LIKE THE BRIGHTEST SHADE IN IT.[4] ‘A COLOUR LIKE EARTHY WATER’? EARTH FROM THE VALLEY OF BETH KEREM[6] OVER WHICH WATER IS MADE TO FLOAT. ‘ONE LIKE DILUTED WINE’? TWO PARTS OF WATER AND ONE OF WINE OF THE WINE OF SHARON.

GEMARA. Whence is it deduced that there is clean discharge of blood in a woman? Is it not possible that all blood that issues from her is unclean? — R. Hama b. Joseph citing R. Oshaia[7] replied: Scripture says, If there arise a matter too hard for thee in judgment, between blood and blood,[8] which implies between clean blood and unclean blood. But then, would the expression ‘between a leprous stroke and a leprous stroke’[8] also mean between an unclean stroke and a clean one? And should you reply: This is so indeed, [it could be retorted:] Is there at all a leprous stroke that is clean? And should you reply, ‘It is all turned white; he is clean’,[9] [it could be retorted:] That is called a white scurf![10] Consequently it must mean: Between human leprosy and the leprosy of houses and the leprosy of garments, all of which are unclean; why then should it not be said heres also that the distinction implied is that between the blood of a menstruant and that of one suffering from gonorrhoea both of which are unclean?[11] — What a comparison! There[12] [the controversy[13] is well justified[14] since] a difference of opinion might arise in the case of human leprosy on the lines of that between R. Joshua and the Rabbis. For we have learnt: If the bright spot[15] preceded the white hair, he[16] is unclean; if the reverse was the case, he is clean. If [the order of appearance is] a matter of doubt he is unclean; but R. Joshua said: It is as though darkened,[17] and in connection with this Rabbah explained: It is as though [the spot] darkened[18] and he is therefore clean.[19] As regards leprosy in houses the point at issue[20] may be the one between R. Eleazar son of R. Simeon and the Rabbis. For we have learnt: R. Eleazar son of R. Simeon ruled: A house never becomes unclean unless the leprosy appears in the size of two beans on two stones,[21] in two walls,[21] at a corner,[22] and it must be two beans in length and one bean in breadth.[23] What is R. Eleazar son of R. Simeon's reason? — It is written[24] wall[25] and it is also written walls,[26] now what wall is it that is like two walls? Admit that that is a corner.[27] As regards leprosy in garments the divergence of opinion[28] may be the one between R. Jonathan b. Abtolemos and the Rabbis. For it was taught: R. Jonathan[29] b. Abtolemos stated, Whence is it deduced that leprosy that is spread over entire garments is clean? Since karahath[30] and gabahath[31] are mentioned in respect of garments, and karahath[32] and gabahath[33] are also mentioned in the case of human beings, as in the latter case if the leprosy spread over the whole body, he is clean so also in the former case if it spread over the whole garment it is clean.[34] Here,[35] however, if clean blood does not exist, what could be the point at issue between them?[36] But whence is it inferred that these kinds of blood are clean and the others are unclean?[37] — R. Abbahu replied: Since Scripture says, And the Moabites saw the water as red as blood,[38] which indicates that blood is red.[39] Might it not be suggested that only red blood[40] is unclean but no other?[41] — R. Abbahu replied: Scripture says; Her blood,[42] Her blood[43] implying four kinds.[44] But have we not learnt, FIVE KINDS? — R. Hanina replied: Black blood is really red [blood] that had deteriorated.[45] So it was also taught: Black blood is like the sediment of ink; if it is dark it is unclean, and if lighter, even though it has the colour of stibium, it is clean. And black blood is not black originally. It[46] assumes the black colour only after it is discharged, like the blood of a wound which becomes black after it had been discharged from it.

BETH SHAMMAI RULED: ALSO A COLOUR LIKE THAT OF FENUGREEK. But do not Beth Shammai uphold the deduction from, Her blood,[42] her blood[43] which imply four kinds?[44] — If you wish I may reply that they do not uphold it — And if you prefer I may reply that they do uphold it, but[47] did not R. Hanina explain, ‘Black blood is really red [blood] that had deteriorated’?[48] Well, here also[49] it may be explained that [the blood][50] had merely deteriorated.

BUT BETH HILLEL DECLARE THESE CLEAN. Is not this ruling identical with that of the first

Tanna?[51] — The practical difference between them is

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(1) The object having been lost.

(2) Because they do not agree that most such objects have one or other of the colours of the unclean kinds of blood. R. Johanan, by his limitation to three (supra 18a) of the cases in which the majority rule is given the force of a certainty, has implicitly indicated that, in the case dealt with by R. Judah, the uncleanness of the woman, which is entirely dependent on the majority rule, is not one of certainty but one of a doubtful nature. Consequently terumah that had been touched by the woman may not be burnt.

(3) Mazug, wine mixed with water.

(4) This is explained in the Gemara infra.

(5) Lit., ‘neither so nor so’.

(6) V. Nid. III, 4.

(7) MS.M., ‘Joshua’.

(8) Deut. XVII, 8.

(9) Lev. XIII, 13.

(10) Not a leprous stroke.

(11) An objection against R. Oshaia's reply.

(12) In the case of leprosy.

(13) Implied in Deut. XVII, 8.

(14) Though all leprosy is unclean.

(15) In leprosy. Cf. Lev. XIII, 2-4.

(16) The man affected.

(17) Neg. IV, II.

(18) Cf. If the plague be dim (or dark) . . . then the priest shall pronounce him clean (Lev. XIII, 6).

(19) The dispute implied in Deut. XVII, 8, may consequently be analogous to the one between R. Joshua and the Rabbis.

(20) Implied in Deut. XVII, 8.

(21) The size of one bean on each.

(22) Where the walls meet.

(23) Neg. Xli, 3; so that each stone is covered by leprosy of the size of one bean by one bean, which is the minimum required for effecting uncleanness.

(24) In respect of leprosy.

(25) Lev. XIV, 37.

(26) Ibid.

(27) The divergence of view implied in Deut. XVII, 8, may consequently be one analogous to that between R. Eleazar son of R. Simeon and the Rabbis.

(28) Referred to in Deut. XVII, 8.

(29) Var. lec. ‘Nathan’ (v. Zeb. 49b).

(30) E.V., within, Lev. XIII, 55.

(31) E.V., without, ibid.

(32) E.V., bald head, ibid. 42.

(33) E.V. bold forehead, ibid.

(34) Sanh. 87b, Zeb. 44b. The dispute implied in Deut. XVII, 8, may consequently be the one between R. Jonathan b. Abtolemos and the Rabbis.

(35) In the case of a divergence of view in respect of blood.

(36) The authorities in dispute regarding blood referred to in Deut. XVII, 8. Consequently it must be conceded that clean blood also exists.

(37) Cf. our Mishnah.

(38) II Kings III, 22.

(39) As red is the usual colour of blood, all blood which has one of the five colours enumerated in our Mishnah (all of which are shades of red) is unclean.

(40) But if so, why does our Mishnah declare the others also to be unclean?

(41) One like that of a wound.

(42) Dameha, the plural form, Lev. Xli, 7.
(43) Ibid. XX, 18 (cf. prev. n.).
(44) Twice two (cf. prev. two notes).
(45) The two colours may, therefore, be treated as one.
(46) Being originally red.
(47) As to the objection from the limitation of the number to five.
(48) Supra. Of course he did.
(49) Blood of the colour of fenugreek.
(50) Being originally red.
(51) In the first clause of our Mishnah.

Talmud - Mas. Nidah 19b

the question of suspense.[1]

ONE THAT IS YELLOW, AKABIA B. MAHALALEL DECLARES UNCLEAN. But does not Akabia uphold the deduction from ‘Her blood, her blood’, which imply four kinds?[2] — If you wish I may reply: He does not uphold it. And if you prefer I may reply: He does uphold it; but did not R. Hanina explain, ‘Black blood is really red [blood] that had deteriorated’? Well, here also it may be explained that [the blood] had merely deteriorated.[2]

AND THE SAGES DECLARE IT CLEAN. Is not this ruling identical with that of the first Tanna?[3] — The practical difference between them is the question of suspense.[4]

R. MEIR SAID: EVEN IF IT DOES NOT CONVEY UNCLEANNESS AS A BLOODSTAIN etc. R. Johanan stated: R. Meir took up[5] the line of Akabia b. Mahalalel and declared it[6] unclean;[7] and it is this that he in effect said to the Rabbis, ‘Granted that where a woman finds a yellow bloodstain on her garment you do not regard her as unclean;[8] where she observed a discharge of yellow blood from her body[9] she must be deemed unclean’. If so, instead of saying, EVEN IF IT DOES NOT CONVEY UNCLEANNESS AS A BLOODSTAIN IT CONVEYS UNCLEANNESS AS A LIQUID, should he not have said ‘on account of her observation’?[10] — Rather, it is this that he in effect said to them, ‘Granted that where the woman observed yellow blood at the outset you do not[11] regard her as unclean;[12] where she observed first red blood[13] and then a yellow discharge the latter also must be deemed unclean,[14] since it is something like the liquids[15] of a zab or a zabah’.[16] And the Rabbis?[17] — [An unclean liquid must be] similar to spittle; as spittle is formed in globules when it is discharged so must any other unclean liquid be one that is formed in globules when it is discharged; that liquid[18] is therefore excluded since it is not formed in globules when discharged. If so, do not the Rabbis indeed give R. Meir a most satisfactory answer?[19] — It is rather this that he said to them in effect: ‘It[18] should have the status of a liquid in respect of rendering seed susceptible to uncleanness’.[20] And the Rabbis?[21] — [For such a purpose] it is necessary that it shall be like the blood of the slain,[22] which is not the case here. If so, did not the Rabbis indeed answer R. Meir well?[19] — It is rather this that he in effect said to them: ‘Deduce this[23] by gezera shawah;[24] here[25] it is written, Thy shoots[26] are a park of pomegranates[27] and elsewhere it is written, And sendeth[28] water upon the fields.[29] And the Rabbis?[30] A man may infer a ruling a minori ad majus on his own but he may not infer on his own one that is derived from a gezera shawah.[31]

R. JOSE RULED: IT DOES NEITHER THE ONE NOR THE OTHER etc. Is not this ruling identical with that of the first Tanna?[32] — It is this that we were informed: Who is the first Tanna? R. Jose; for he who repeats a thing in the name of him who said it brings deliverance into the world.[33]

WHAT COLOUR IS REGARDED AS RED? ONE LIKE THE BLOOD OF A WOUND. What is meant by LIKE THE BLOOD OF A WOUND? — Rab Judah citing Samuel replied: Like the blood of a slaughtered ox.[34] Why then was it not stated, 'Like the blood of slaughtering'? — If it had been stated, 'Like the blood of slaughtering' it might have been presumed to mean like the blood during the entire process of slaughtering,[35] hence we were told, LIKE THE BLOOD OF A WOUND, meaning like that caused by the first stroke of the knife. 'Ulla replied:[36] Like the blood of [a wound inflicted on] a live bird. The question was raised: Does 'live'[37] exclude a slaughtered bird or does it possibly exclude an emaciated one? — This is undecided.[38] Ze'iri citing R. Hanina replied:[36] Like the blood of a head louse. An objection was raised: If she[39] killed a louse she may attribute the stain to it.[40] Does not this refer to a louse of any part of the body? — No, to one of her head. Ammi of Wardina[41] citing R. Abbahu replied:[36] Like the blood of the little finger of the hand that was wounded and healed and wounded again. Furthermore, it does not mean that of any person but only that of a young unmarried man. And up to what age? — Up to that of twenty.

An objection was raised: She[39] may attribute it to her son[42] or to her husband.[42] [Now the attribution] to her son is quite reasonable since it is possible [that he was unmarried],[43] but how is this possible in the case of her husband?[44] — R. Nahman b. Isaac replied: Where, for instance, the woman entered the bridal chamber but had no intercourse.[45] R. Nahman replied:[46] Like the blood of the arteries.[47]

An objection was raised: It once happened that R. Meir attributed it[48]

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(1) I.e., whether blood of a colour other than those of the five enumerated is (a) absolutely clean or (b) only doubtfully so. Beth Hillel are in agreement with (a) and the first Tanna agrees with (b).

(2) Cf. nn. on previous paragraph but one.

(3) In the first clause of our Mishnah.

(4) Cf. prev. n. but one mut. mut.

(5) Lit., 'descended'.

(6) A yellow discharge.

(7) As menstrual blood.

(8) Being yellow (an unusual colour for blood) it might well be presumed to have originated from some source other than her body.

(9) So that its origin is certain.

(10) Of an actual discharge.

(11) Despite the observation.

(12) Because yellow is not the colour of blood; UNCLEANNESS AS A BLOODSTAIN meaning: As other blood whose stain conveys uncleanness.

(13) Which causes her to be definitely unclean.

(14) Sc. in respect of conveying uncleanness to man or object that comes in contact with it.

(15) Spittle, for instance.

(16) Which, though they are no blood, convey uncleanness.

(17) How, in view of this argument, could they maintain that a yellow discharge is clean in all circumstances?

(18) A yellow discharge.

(19) How then could R. Meir still maintain his view?

(20) Cf. Lev. XI, 38.

(21) Cf. supra n. 3.

(22) Num. XXIII, 24, sc. blood on which life depends (cf. Pes. 16a).

(23) That a yellow discharge renders seed susceptible to uncleanness.

(24) V. Glos.

(25) In respect of menstrual discharges.

(26) Shelahayik (rt. שלח) euphemism (cf. prev. n.).

(27) Cant. IV, 13.

(28) Wesholeah (rt. שלח).

(29) Job V, 10. Analogy between the two words of the same root: As the water referred to in Job renders seed susceptible to uncleanness so does a woman's discharge alluded to in Cant.
(30) How can they maintain their view in opposition to the gezera shawah?
(31) Which must be traditional if it is to be valid. As R. Meir drew the analogy on his own the Rabbis could well disregard it.
(32) In the first clause of our Mishnah. Why then the repetition?
(33) Cf. Ab. VI, 6.
(34) The true colour of red. Cf. Yoma 56b.
(35) During which the colours change.
(36) To the question supra, what is meant by LIKE THE BLOOD OF A WOUND?
(37) Heb. hai (fem. haiyah) may mean both ‘live’ and ‘sound’, ‘healthy’.
(38) Teku.
(39) A woman who discovered a bloodstain.
(40) Infra 58b.
(41) Place name (cf. ‘Er. 49a). Wardina or Barada on the eastern bank of the Tigris was two hours distance from the north of Bagdad (cf. ‘Er. (Sonc. ed.) p. 340, n. 11). Aliter: ‘The fragrant (werad = rose) Ammi’ (cf. Rashi).
(42) If either of them was afflicted with a wound. Infra 58b.
(43) And the blood of his wound satisfies, therefore, all the conditions laid down by R. Abbahu.
(44) Who must be a married man (cf. prev. n. mut. mut.).
(45) So that the blood is in reality that of an unmarried man (cf. prev. n. but one).
(46) To the question, supra, what is meant by ‘LIKE THE BLOOD OF A WOUND’?
(47) Hakazah, lit,, ‘blood letting’.
(48) A stain.

Talmud - Mas. Nidah 20a

to collyrium[1] and Rabbi attributed it to the sap of a sycamore.[2] Now did not these cases[3] deal with the question of red blood?[4] — No; with that of other kinds of blood.

Amemar and Mar Zutra and R. Ashi once sat before a cupper,[5] and when the first cupping-horn was taken off Amemar he saw it and said to the others, ‘The red[6] of which we have learnt[7] is a shade like this’. When the second one was taken off from him, he said to them, ‘This has a different shade’. ‘One like myself’, observed R. Ashi, ‘Who does not know the difference between the one and the other must not act as an examiner of blood’.

‘BLACK? LIKE THE SEDIMENT [OF INK]. Rabbah son of R. Huna stated: The HERETH[8] of which the Rabbis spoke[7] is ink. So it was also taught: Black[9] is a colour like hereth and the ‘black’ of which the Rabbis spoke[9] is the colour of ink. Then why was it not directly stated, ‘Ink’? — If ‘ink’ had been stated, it might have been presumed to refer to the watery part of the ink,[10] hence we were informed that the colour is like that of the sediment of the ink. The question was raised: Is the reference to liquid, or to dry ink? — Come and hear of [the practice of] R. Ammi who used to split a grain of dry ink and with its aid performed the necessary examination.

Rab Judah citing Samuel ruled: [If a woman's discharge has a colour] like that of black wax, black ink or a black grape she is unclean; and it is this that was meant by what we learnt: IF IT IS DARKER IT IS UNCLEAN.

R. Eleazar ruled: [A discharge that has a colour] like that of a black olive, pitch or a raven is clean; and it is this that was alluded to in what we have learnt: IF LIGHTER IT IS CLEAN.

‘Ulla explained:[11] One like a Siwa[12] cloak. ‘Ulla once visited Pumbeditha when he noticed an Arab merchant who was wearing a black cloak. ‘The black of which we have learnt’,[13] he told them, ‘is a colour like this’. They pulled it off him in bits[14] and paid him for it four hundred zuz.

R. Johanan explained:[11] [One of the colour of] those court[15] clothes that are imported from courtiers beyond the sea. This then implies that such clothes are black, but did not R. Jannai address the following request to his sons: ‘My children, do not bury me either in black shrouds or white shrouds; "either in black", peradventure I may be worthy [of a place in paradise] and I would be like a mourner among bridegrooms;[16] "or in white", peradventure I might not be worthy and would be like a bridegroom among mourners;[17] but [bury me] only in court[15] clothes that are imported from countries beyond the sea’, which clearly proves, does it not, that these are not black?[18] — This is no difficulty, the latter[19] referring to wrappers,[20] while the former[21] refers to clothes worn[22] at table.[23]

Rab Judah citing Samuel ruled: And all these[24] must be tested only on a white strip of cloth. R. Isaac b. Abudemi ruled: But black blood may be tested on a red strip of cloth. R. Jeremiah of Difti observed: There is really no difference of opinion between them,[25] since the latter speaks only of black blood while the former refers to the other kinds of blood. R. Ashi demurred: If so, why did not Samuel say, ‘With the exception of black’? Rather, said R. Ashi, they[26] differ on the very question of black itself.

‘Ulla ruled: In the case of all these[27] if the discharge is darker[28] It is unclean and if it is lighter[28] it is clean, as is the case with black.[29] Then why did it mention only black? — As it might have been presumed that, since R. Hanina stated, ‘Black [blood] is really red blood that had deteriorated’, it should, therefore, be unclean even if it is lighter, hence we were informed [that IF LIGHTER IT IS CLEAN].

R. Ammi b. Abba ruled: In the case of all these[27] if the discharge is darker[28] it is unclean and if it is lighter it is also unclean, the only exception being black.[30] What then[31] was the use of the standard shade laid down by the Rabbis? — To exclude[32] one that was extremely faint.[33] There are others who read: Rami b. Abba ruled: In the case of all these[34] if the discharge is darker[35] it is clean and if it is lighter it is also clean, the only exception being black;[30] and it is in this case that the Rabbinical standard is of use.

Bar Kappara ruled: In the case of all these[34] if the discharge is darker it is unclean and if lighter it is clean, the exception being [the colour of] diluted wine in which a darker shade is clean and a lighter one is also clean. Bar Kappara was shown a lighter shade[36] and he declared it clean, and when he was shown a darker shade[36] he also declared it clean. ‘How great is the man’, exclaimed R. Hanina, ‘who in practice acts[37] in agreement with his view.

A COLOUR LIKE BRIGHT CROCUS. A Tanna taught: Fresh crocus and not dry one. One [Baraitha] taught: Like the lower leaf[38] but not like the upper one, and another [Baraitha] taught: Like the upper leaf but not like the lower one, while a third [Baraitha] taught: Like the upper leaf and much more so like the lower one, and a fourth [Baraitha] taught: Like the lower leaf and much more so like the upper one![39] — Abaye replied: The crocus has three rows of leaves[40] and there are three leaves in each row; keep[41] to the middle row[42] and the middle leaf of that row.[43] When they came before R. Abbahu he told them: What we learnt [about the colour of the crocus refers to such as are still] attached to their clods.[44]

OR LIKE EARTHY WATER. Our Rabbis taught: Like earthy water — one brings fertile soil from the valley of Beth Kerem over which he causes water to float; so R. Meir. R. Judah[45] said: From the valley of Jotapata.[46] R. Jose said: From the valley of Sikni.[47] R. Simeon said: Also from the valley of Gennesaret[48] and similar soil. Another [Baraitha] taught: And like earthy water — one brings fertile soil from the valley of Beth Kerem and over it he causes water to float until it forms a layer as thin as the husk of garlic; and no quantity has been prescribed for the water since none has been prescribed for the earth.[49] The water, furthermore, is not to be examined when it is clean but when turbid. If they become clear they must be stirred up again;[50] and when they are stirred one must not do it with the hand but with a vessel. The question was raised: [Does the expression,] ‘One must not do it with the hand but with a vessel’ mean that a man must not put it in his hand and stir it in it but that where it is in a vessel it is quite proper for him to stir it with his hand, or is it possible that the meaning is that one must not stir it with his hand[51] but with an instrument?[52] — Come and hear: When he examines it[53] he must do it in a cup only.[54] But does not the question yet remain: If the examination must be in a cup, wherewith must the stirring be done? — This is undecided.[55]

When they came before Rabba b. Abbuha he told them: What we learnt [about the earth refers to such as is] in its own place.[56]

R. Hanina used to break up a piece of potter's clay and thereby performed the examination. R. Ishmael son of R. Jose cursed with croup any other person who adopts such a method

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(1) ** a reddish eyesalve, which the woman had handled that day.

(2) Infra 58b, Cf. prev. n. mut. mut.

(3) From which it follows that colours like that of collyrium or sycamore sap that are not intensely red are regarded as similar to that of menstrual blood.

(4) But, if so, how could the authorities (supra 19b) maintain that menstrual blood is intensely red like that, for instance, of a young unmarried man?

(5) For an operation of blood drawing with cupping horns.

(6) In respect of menstrual blood.

(7) In our Mishnah.

(8) Rendered in our Mishnah SEDIMENT OF INK.

(9) In respect of a woman's discharge.

(10) I.e., the upper part above the sediment. This is not so black as the lower part.

(11) The unclean black in our Mishnah.

(12) A place where dark clothes were manufactured. Aliter: Dirty-dark.

(13) In our Mishnah.

(14) To be preserved as models of the standard black.

(15) Aliter: bathing attendants.

(16) The righteous who are clad in white.

(17) The wicked in Gehenna.

(18) Is not this then contradictory to R. Johanan's view?

(19) Spoken of by R. Jannai.

(20) Which are red.

(21) R. Johanan's statement.

(22) Or ‘cloths used’.

(23) Which are black.

(24) Five kinds of blood (v. our Mishnah).

(25) Samuel and R. Isaac b. Abudemi.

(26) Samuel and R. Isaac b. Abudemi.

(27) Five kinds of blood (v. our Mishnah).

(28) Than the standard shade.

(29) Concerning which the limitations are specifically laid down in our Mishnah.

(30) Which IF LIGHTER IT IS CLEAN.

(31) In the case of the colours other than black which, as has just been stated, not only a darker, but also a lighter shade is unclean.

(32) From uncleanness.

(33) Lit., ‘lighter of lighter’. Such a shade is clean.

(34) Five kinds of blood (v. our Mishnah).

(35) Than the standard shade.
(36) Of a discharge of the colour of diluted wine.
(37) So Maharsha. Cur. edd., ‘whose heart’.
(38) Of the crocus.
(39) How are the four contradictory statements to be reconciled?
(40) One below the other.
(41) As the most correct standard for the blood test.
(42) Which has the ‘lower leaf’ as compared with the top row (first Baraitha) and the ‘upper leaf’ as compared with the lowest row (second Baraitha). V. foll. n.
(43) Though the other leaves in that row may also be taken as the standard. The middle leaf is the ‘lower one’ as compared with the one above it (third Baraitha) and the ‘upper one’ as compared with the one below it (fourth Baraitha).
(44) Of earth. Their colour then is much brighter than that of the detached plant which may not be used as a standard.
(45) So MS.M. and Elijah Wilna. Cur. edd., ‘Akiba’.
(46) A fortress in Galilee.
(47) Or Siknin, on the north of Jotapata.
(48) In Lower Galilee on the banks of the lake of the same name.
(49) The more the earth the more the water and vice versa.
(50) To mix up the earth with it.
(51) Even when it is in a vessel.
(52) The Heb. Keli may bear both significations.
(53) The earthy water.
(54) Which proves that no examination may be performed with the water and the earth in one's hand.
(55) Teku (v. Glos.).
(56) Exported earth changes its colour.

Talmud - Mas. Nidah 20b

for R. Hanina was wise enough;[1] all others are not so wise. R. Johanan remarked: The wisdom of R. Hanina caused me not to examine any blood, for when I declared any unclean he declared it clean and when I declared it clean he declared it unclean. R. Eleazar remarked: R. Hanina's modesty is the cause of my examining blood. [For I felt] if R. Hanina who was modest allowed himself to be involved in doubt and examined blood, should not I examine it? R. Zera remarked: The Babylonian coinage was the cause of my refusing to examine blood; for I thought: If I do not understand the coinage system would I understand the nature of blood? This then implies that capability to examine blood depends on an understanding of the coinage; but did not Rabbah in fact understand the coinage system and yet did not understand the qualities of blood? — He was really drawing an inference a minori ad majus: If Rabbah who understood the coinage system refused to examine blood, should I[2] examine it?

‘Ulla once visited Pumbeditha[3] and when some blood was brought to him for examination he refused to see it. If, he said, R. Eleazar who was the supreme authority in the Land of Israel[4] refused to see blood whenever he visited the place of R. Judah, should I see it?[5] And why was he described as the supreme authority in the Land of Israel? — Because a woman once brought some blood before R. Eleazar when R. Ammi sat in his presence. Having smelt it he[6] told her, ‘This is blood of lust’.[7] After she went out R. Ammi joined her and she told him, ‘My husband was away on a journey but I felt an intense longing for him’. Thereupon he[8] applied to him[6] the text, The counsel of the Lord is with them that fear Him.[9]

Ifra Hormiz,[10] the mother of King Shapur, once sent some blood to Raba when R. Obadiah was sitting in his presence. Having smelt it he said to him, ‘This is blood of lust’.[7] ‘Come and see’, she remarked to her[11] son, ‘how wise the Jews are’. ‘It is quite possible’, he replied, ‘that he[12] hit upon it like a blind man on a window’. Thereupon she sent to him[12] sixty different kinds of blood and he identified them all but the last one which was lice blood with which he was not acquainted. Luckily,[13] however, he sent her[14] a comb that exterminates lice. ‘O, you Jews’, she exclaimed, you seem to live in the inner chamber of one's heart’.[15]

Rab Judah stated: ‘At first I used to examine blood, but since the mother of my son Isaac told me, "We do not bring the first drop to the Rabbis because it is dirty", I refuse to see it.[16] [An examination, however, for the purpose of distinguishing] between the blood of uncleanness and cleanness[17] I certainly do perform’.[18]

Yaltha[19] once brought some blood to Rabbah b. Bar Hana who informed her that it was unclean. She then took it to R. Isaac the son of Rab Judah who told her that it was clean. But how could he act in this manner, seeing that is was taught: If a Sage declared [aught] unclean another Sage[20] may not declare it clean; if he forbade anything his colleague may not permit it?[21] — At first he[22] informed her indeed that it was unclean,[23] but when she told him that on every other occasion he[24] declared such blood as clean, but that on the last occasion he had a pain in his eye, he gave her his ruling that it was clean. But are women believed in such circumstances? — Yes, and so it was also taught: A woman[25] is believed when she says, ‘I saw a kind of blood like this one[26] but I have lost it.’[27]

The question was raised: What is the law [where a woman says], A kind of blood like this[28] has been declared clean by such and such a Sage?[29] — Come and hear: A woman[25] is believed when she says, ‘I saw a kind of blood like this one[26] but I have lost it.’[30] But is not that case[31] different, since the blood is not available?[32] — Come and hear the case of Yaltha: She once brought some blood to Rabbah b. Bar Hana who informed her that it was unclean. She then took it[33] to R. Isaac the son of Rab Judah who told her that it was clean. But how could he act in this manner, seeing that it was taught: If a Sage declared [a person or an article] unclean no other Sage[34] may declare it clean etc. And we explained that at first he[22] informed her indeed that it was unclean, but when she told him that on every other occasion he[24] declared such blood as clean but that on that day he had a pain in his eye, he changed his view and gave her his ruling that it was clean.[35] Now this proves quite clearly, does it not, that a woman is believed? — R. Isaac b. Judah may have relied on his own traditions and experience.[36]

Rabbi once examined some blood at night and declared it unclean but when he examined it in the day time he declared it clean. Then he waited a while and again declared it unclean. ‘Woe to me’, he said, ‘I may have made a mistake’.[37] ‘I may have made a mistake’! Has he not in fact made a mistake, seeing that it was taught: A Sage must not say,[38] ‘If it had been moist it would undoubtedly have been unclean’; he must rather say, ‘The judge must be guided only by what his eyes see’? — At first[39] he presumed it to be definitely unclean, but when he observed in the morning that its colour had changed[40] he said[41] that it was undoubtedly clean but that at night it could not be seen properly. When, however, he observed that the colour had changed again[42] he said, ‘It must be unclean blood but the colour is steadily fading away.

Rabbi examined blood in the light of a lamp. R. Ishmael son of R. Joseph[43] examined it even on a cloudy day between the pillars.[44] R. Ammi b. Samuel ruled: All kinds of blood must be examined only between the sunshine and the shade. R. Nahman citing Rabbah b. Abbuha ruled: The examination may be performed in the sunshine under the shadow of one's hand.[45] ‘ONE LIKE DILUTED WINE’? TWO PARTS etc. A Tanna taught:

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(1) And was, therefore, capable of using the method.

(2) Who do not understand the coinage system.

(3) Which was under the jurisdiction of Rab Judah (cf. Sanh. 17b).

(4) V. Git. 19b.

(5) Cf. prev. n.

(6) R. Eleazar.
(7) A discharge due to sexual desire.
(8) R. Ammi.
(9) Ps. XXV, 14.
(10) A gentile woman who observed some of the Jewish ritual (cf. also Zeb. 116b).
(11) So Emden, Cur. edd. ‘his’.
(12) Raba.
(13) Lit., ‘the matter came to assistance’.
(14) As a gift.
(15) Nothing is hidden from them.
(16) Because the colour changes and though the second drop may be one of clean blood it could not establish a woman's cleanness if the first drop, which she did not present for examination, was one of unclean blood.
(17) At the end of the period of cleanness after a childbirth which is the fortieth day for a male and the eightieth for a female (cf. Lev. XII, 1-5).
(18) The blood in such circumstances being free from dirt a woman submits for examination the first drop she sees.
(19) R. Nahman's wife.
(20) Lit,, ‘his colleague’.
(21) Hul. 44b.
(22) R. Isaac.
(23) Out of respect for Rabbah b. Bar Hana (v. infra).
(24) Rabbah.
(25) Who does not submit the original blood.
(26) Which she produces.
(27) And if the blood she submits is clean she may be declared clean.
(28) Which a friend of hers showed her.
(29) May her judgment, it is asked, on the exact similarity of the two kinds be relied upon by her friend or not.
(30) Which proves that a woman's judgment in such cases (cf. prev. n.) is relied upon.
(31) Just cited.
(32) Lit., ‘it is not before her’.
(33) So Bah. Cur. edd. omit the last four words.
(34) Lit., ‘his colleagues’.
(35) Supra.
(36) Not on Yaltha's evidence. The reason why he at first declared the blood as unclean was merely to show his respect to Rabbah b. Bar Hana.
(37) In finally declaring the blood unclean, since the colour now was of a clean kind.
(38) When examining a dry stain.
(39) At the night examination.
(40) It assumed a lighter shade.
(41) So Emden. Cur. edd. in parenthesis ‘to him’.
(42) To a still lighter shade,
(43) MS.M. ‘Jose’.
(44) Of the schoolhouse where the light was never too bright.
(45) Held between the sun and the object.

Talmud - Mas. Nidah 21a

Sharon wine[1] [diluted] is regarded[2] as the Carmel wine in its natural undiluted state when it is new.[3] R. Isaac b. Abudemi ruled: All these[4] must be examined only in a plain Tiberian cup.[5] What is the reason? — Abaye replied: Generally[6] a cup that contains a log is made of a maneh[7] and one that contains two log is made of two hundred zuz, but the plain Tiberian cup, even if it contains two log, is made of one maneh, and since it is so thin [the colour of the wine can] be recognized better [than in any other kind of cup].

CHAPTER III

MISHNAH. IF A WOMAN ABORTED A SHAPELESS OBJECT,[8] IF THERE WAS BLOOD WITH IT, SHE IS UNCLEAN,[9] OTHERWISE SHE IS CLEAN[10] . R. JUDAH RULED: IN EITHER CASE SHE IS UNCLEAN.[11]

IF A WOMAN ABORTED AN OBJECT THAT WAS LIKE A RIND, LIKE A HAIR, LIKE EARTH, LIKE RED FLIES, LET HER PUT IT IN WATER AND IF IT DISSOLVES[12] SHE IS UNCLEAN,[9] BUT IF IT DOES NOT SHE IS CLEAN.[13]

IF AN ABORTION WAS IN THE SHAPE OF FISHES, LOCUSTS, OR ANY FORBIDDEN ANIMALS OR CREEPING THINGS, IF THERE WAS BLOOD WITH THEM SHE IS UNCLEAN,[9] OTHERWISE SHE IS CLEAN.[13]

IF AN ABORTION HAD THE SHAPE OF A BEAST, A WILD ANIMAL OR A BIRD, WHETHER CLEAN OR UNCLEAN,[14] IF IT WAS A MALE SHE MUST CONTINUE [IN UNCLEANNESS AND SUBSEQUENT CLEANNESS FOR THE PERIODS PRESCRIBED] FOR A MALE,[15] AND IF IT WAS A FEMALE SHE MUST CONTINUE [IN UNCLEANNESS AND SUBSEQUENT CLEANNESS FOR THE PERIODS PRESCRIBED] FOR A FEMALE,[16] BUT IF THE SEX IS UNKNOWN SHE MUST CONTINUE [IN UNCLEANNESS AND SUBSEQUENT CLEANNESS FOR THE PERIODS PRESCRIBED] FOR BOTH MALE AND FEMALE;[17] SO R. MEIR. THE SAGES, HOWEVER, RULED: ANYTHING THAT HAS NOT THE SHAPE OF A HUMAN BEING CANNOT BE REGARDED AS A HUMAN CHILD.

GEMARA. Rab Judah citing Samuel stated: R. Judah declared the woman[18] unclean only where the object had the colour of one of the four kinds of blood,[19] but if it had that of any of the other kinds of blood[20] she is clean.[21] R. Johanan, however, stated: [If the object had the colour] of one of the four kinds of blood[22] all[23] agree that the woman is unclean and if it had the colour of any of the other kinds of blood all[24] agree that she is clean; they[25] differ only in the case where she aborted something and she does not know what she aborted.[26] [In such a case.] R. Judah holds, one must be guided by the nature of most of shapeless objects, and most shapeless objects have the colour of one of the four kinds of blood, while the Rabbis hold that we do not say, ‘most shapeless objects have the colour of one of the four kinds of blood’. But is this correct?[27] Surely when R. Hoshaia arrived from Nehardea he came [to the schoolhouse] and brought with him a Baraitha: If a woman aborted a shapeless object that was red, black, green or white,[28] if there was blood with it, she is unclean, otherwise she is clean. R. Judah ruled: In either case she is unclean. Now does not this present a difficulty against Samuel in one respect and against R. Johanan in two respects? ‘Against Samuel in one respect, since Samuel stated, ‘R. Judah declared the woman unclean only where the shapeless object had the colour of one of the four kinds of blood’ whereas here ‘green and white’[29] were mentioned and R. Judah nevertheless disagrees.[30] And were you to reply that R. Judah differs only in respect of red and black but not in that of green or white [the question would arise:] For whose benefit then was green and white mentioned? If it be suggested: For that of the Rabbis,[31] [it could be retorted:] Since the Rabbis declared the woman clean even in the case of red and black blood,[32] was it any longer necessary to state that the same law applies also to green and white?[29] Must it not then be conceded that these[33] were mentioned for the benefit of R. Judah[34] who, it thus follows, does differ.[35] Furthermore, according to R. Johanan[36] who also stated, ‘[If it had the colour] of one of the four kinds of blood all agree that she is unclean’, [the additional difficulty arises:] Were not red and black also mentioned and the Rabbis nevertheless differ.[37] And should you reply that the Rabbis differ only in regard to green and white but not in that of red and black [the difficulty would arise:] For whose benefit, then, were red and black mentioned? If it be suggested: For that of R. Judah [it could be retorted:] Since green and white are regarded as unclean, was it at all necessary to mention red and black? Must it not then be conceded that these were mentioned for the benefit of the Rabbis who, it follows, do differ?[37] — Rather, explained R. Nahman b. Isaac: The point at issue between them[38] is the question whether it is possible for the uterus[39] to open[40] without bleeding.[41] They[38] thus differ on the same principle as that on which the following Tannas differ. For it was taught: If a woman was in hard labour for two days[42] and on the third she aborted and[43] does not know what she had aborted[44]

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(1) Composed of one part of wine and two parts of water (cf. our Mishnah).

(2) In respect of its colour.

(3) Lit., 'new and not old'. According to an interpretation of Maimonides and Semag (cf. Maharsha) the Sharon wine, when used in an examination of blood, must first be new and undiluted and then mixed expressly for the purpose of the examination with two parts of water.

(4) Kinds of wine.

(5) Which is made of thin and transparent glass.

(6) Lit., 'of all the world'.

(7) The weight of one hundred zuz.

(8) Lit., 'piece'.

(9) As a menstruant.

(10) Because, in the absence of blood, she cannot be regarded as a menstruant, and, since a shapeless object is no proper birth, she cannot be regarded as a woman in childbirth.

(11) This is explained in the Gemara infra.

(12) Into liquid blood.

(13) Cf. supra n. 3 mut. mut.

(14) Cf. Lev. XI.

(15) Cf. Lev. XII, 2-4.

(16) Cf. ibid. 5.

(17) Sc. she is subject to the restrictions of both: The period of her uncleanness is fourteen days (as for a female) and not seven (as for a male) while the subsequent period of her cleanness terminates on the fortieth day (as for a male) and not on the eightieth (as for a female).

(18) Who ABORTED A SHAPELESS OBJECT.

(19) Described in the Mishnah supra 19a as unclean. (Black and red which in the Mishnah are regarded as two different colours and, therefore, bring the total number of unclean colours to five, are here regarded as one colour since the former is but a deterioration of the latter). R. Judah holds that the shapeless object is but a piece of clotted blood. Hence, if its colour is that of unclean blood, the woman, though not in childbirth, must be deemed unclean as a menstruant.

(20) White or green, for instance.

(21) Since she is neither in childbirth nor a menstruant.

(22) Cf. supra n. 2.

(23) Even the Rabbis.

(24) Even R. Judah.

(25) The Rabbis and R. Judah (cf. prev. two nn.).

(26) The object having been lost.

(27) Lit., 'I am not'.

(28) The first two are of the unclean colours while the last two are among the clean ones (cf. supra 19a).

(29) Which are not of the four unclean kinds.

(30) With the Rabbis, maintaining that the woman is unclean.

(31) I.e., to indicate that the Rabbis regard the woman in such cases as clean.

(32) Which are among the four unclean colours.

(33) Green and white.

(34) Viz., that even with such colours R. Judah regards the woman as unclean.

(35) From the Rabbis. How then could Samuel maintain that in such cases R. Judah regards the woman as clean?

(36) Against whom, since he stated that in the case of the other kinds of blood 'all agree that she is clean', the difficulty just pointed out against Samuel equally applies.

(37) From R. Judah and declare it clean.
(38) R. Judah and the Rabbis.
(39) Lit., ‘grave’.
(40) When an embryo or any other object passes out.
(41) Blood of labour. Both R. Judah and the Rabbis regard the shapeless object as a piece of flesh, and not as a mass of congealed blood. Hence whatever its colour the woman cannot be regarded as a menstruant. R. Judah, however, maintains that the uterus never opens without some bleeding though this may sometimes escape observation. The woman is, therefore, unclean on account of the inevitable discharge of the blood of labour even though the object was green or white and no blood whatsoever had been observed. The Rabbis, on the other hand, maintain that the uterus sometimes opens without any accompanying bleeding and the woman is, therefore, clean whenever no discharge is observed.
(42) Within the eleven days’ period intervening between the menstrual periods.
(43) Besides being uncertain whether the abortion was accompanied by bleeding.
(44) Sc. whether it was an embryo or a mere lump of flesh.

Talmud - Mas. Nidah 21b

her case is one of doubtful childbirth and doubtful zibah, and[1] she must, therefore, bring a sacrifice[2] which may not be eaten.[3] R. Joshua ruled: She must bring a sacrifice and it may be eaten, since it is impossible for the uterus to open without some bleeding.[4]

Another version reads as follows. Rab Judah citing Samuel stated: R. Judah declared the woman unclean only where the object had the colour of one of the four kinds of blood, but if it had that of any of the other kinds of blood she is clean. But is this correct? Surely when R. Hoshaia arrived from Nehardea he came [to the schoolhouse] and brought with him a Baraitha: If a woman aborted a shapeless object that was red, black, green or white, if there was blood with it, she is unclean, otherwise she is clean; but R. Judah ruled: In either case she is unclean. Now here red, black, green and white were mentioned and R. Judah nevertheless disagrees.[5] And should you reply that R. Judah differs only in respect of red and black but not in that of green and white [the question would arise]: For[6] whose benefit then was green and white mentioned? If it be suggested: For that of the Rabbis [it could be retorted]: Since the Rabbis declared the woman clean even in the case of red and black blood, was it any longer necessary to state that the same law applies also to green and white? Must it not then be conceded that these were mentioned for the benefit of R. Judah who,[7] it thus follows, does differ?[8] — Rather, said R. Johanan,[9] the point at issue between them is the question whether it is possible for the uterus to open without bleeding.[5] They thus differ on the same principle as that on which the following Tannas differ. For it was taught: If a woman was in hard labour for two days and on the third she aborted and she does not know what she had aborted, her case is one of doubtful childbirth and doubtful zibah, and she must, therefore, bring a sacrifice which may not be eaten. R. Joshua ruled: She must bring a sacrifice, and it may be eaten, since it is impossible for the uterus to open without some bleeding.[5]

Our Rabbis taught: If a woman aborted a shapeless object. Symmachus ruled in the name of R. Meir, and R. Simeon b. Menasia likewise gave the same ruling: It must be split, and if there was blood in it the woman is unclean and if there is none in it she is clean. This is in agreement with the Rabbis but also more restrictive than the ruling of the Rabbis. It is ‘in agreement with the Rabbis’ who ruled that it was possible for the uterus to open without bleeding; but it is ‘also more restrictive than the ruling of the Rabbis’, since they hold that only where the blood was with it[10] is the woman unclean[11] but not where it was only within it,[12] while Symmachus holds that [the woman is unclean] even if the blood was only within it.[12] Another [Baraitha] taught: If a woman aborted a shapeless object. R. Aha ruled: It must be split, and if its interior shows red,[13] the woman is unclean, otherwise she is clean. This is in agreement with Symmachus,[14] but also more restrictive than the ruling of Symmachus.[15] Again another [Baraitha] taught: If a woman aborted a shapeless object, R. Benjamin ruled: It must be split, and if there was a bone in it, its mother is unclean by reason of childbirth.[16] R.

Hisda explained: This applies only to a white object.[17] So also when a pair [of scholars][18] from Adiabene arrived they came [into the schoolhouse] and brought with them the following Baraitha: If a woman aborted a white shapeless object it must be split and if there was a bone in it the mother is unclean by reason of childbirth.[16]

R. Johanan citing R. Simeon b. Yohai ruled: If a woman aborted a shapeless object it must be split, and if it contained a quantity of accumulated blood she is unclean, otherwise[19] she is clean. This is in agreement with Symmachus[20] but is also the most lenient of all the previous rulings.[21]

R. Jeremiah enquired of R. Zera: What is the ruling where a woman observed a discharge of blood in a tube?[22] Since the All Merciful has said, In her flesh[23] He implied: But not in a tube,[24] or is it possible that the text, 'In her flesh', was required for the deduction that it[25] causes uncleanness within[26] as well as without?[27] — The other replied: The All Merciful said, In her flesh[23] implying: But not in a tube; for if the expression 'In her flesh' had been required for the deduction that it[25] causes uncleanness within as well as without, Scripture should have said, Her flesh,[28] why then did it say, 'In her flesh'? Both rulings may, therefore, be deduced. But did not R. Johanan rule in the name of R. Simeon b. Yohai: If a woman aborted a shapeless object it must be split, and if there was in it a quantity of accumulated blood she is unclean, otherwise she is clean?[29] — What a comparison![30] In that case it is usual for a woman to observe blood in a shapeless abortion,[31] but in this case it is not usual for a woman to observe blood in a tube.[32]

May it be suggested that the question of blood in a tube is a point at issue between Tannas? For it was taught: If a woman aborted a shapeless object, even though it is full of blood, it is only where there was a discharge of blood with it[33] that the woman is unclean; otherwise she is clean. R. Eliezer ruled: 'In her flesh'[23] implies: But not [where the blood was] within a sac or within any shapeless abortion. (Is not R. Eliezer's ruling identical with that of the first Tanna?[34] — Read: For R. Eliezer ruled, 'In her flesh' implies: But not [where the blood was] within a sac or within any shapeless abortion). But the Sages ruled: This is not menstrual blood but the blood of a shapeless object.[35] Now does not the first Tanna also declare her clean?[36] But the fact is that the difference between them is the case where the abortion was chapped. The first Tanna is of the opinion that 'In her flesh' implies: But not [where the blood was] in a sac or in a shapeless object,[37] and the same applies also to a tube.[37] This, however, holds good only where it[38] was smooth,[39] but if it was chapped[40] the woman is unclean. What is his reason? It may be described as 'In her flesh'.[41] Thereupon the Rabbis came to declare: Although it[38] was chapped [the woman is clean since] the discharge is not menstrual but that of the shapeless object.[42] Menstrual blood, however, is undoubtedly a cause of uncleanness[43] even if it was in a tube![44] — Abaye replied: As regards a tube all[45] agree that the woman is clean,[46]

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(1) Since it is not known whether (a) the abortion was an embryo in consequence of which, whether there was bleeding or not, she is to bring the sacrifice prescribed for a woman in childbirth; or (b) a mere lump of flesh, in which case, if there was no bleeding, no such sacrifice is due; or (c) there was a discharge of blood with (b) in which case (being that of a discharge on three consecutive days) she must bring the sacrifice prescribed for zibah.

(2) To provide (cf. prev. n.) against the possibility of (a) or (c).

(3) Since it is possible, as explained in note 3(b). that she is neither in the position of one in childbirth nor in that of one in zibah, in consequence of which she is not liable to either sacrifice, and the bird that she brought as a sin-offering, having had its head pinched off in accordance with the ritual prescribed for such a sacrifice, is (owing to the possibility that it is no sacrifice at all and that it is, therefore, subject to the rules of slaughter appertaining to unconsecrated animals) thus forbidden to be eaten as the flesh of nebelah.

(4) So that a sacrifice is due in either case: If she gave birth to an embryo she has to bring the sacrifice prescribed for one in childbirth, and if she merely aborted a lump of flesh, since this was inevitably accompanied by bleeding, she (cf. supra n. 4) is regarded as a zabah and is liable to bring the one prescribed for zibah.

(5) Cf. notes on prev. version.

(6) Cf. Bah.
(7) Since he ruled, ‘In either case she is unclean’.
(8) From the Rabbis who declared the woman clean. How then could Samuel maintain that ‘if it had that of any of the other kinds of blood she is clean’?
(9) Cf. Rashal. Cur. edd. in parenthesis, ‘Rab Judah’.
(10) Externally, sc. the passing out of the abortion was accompanied by bleeding.
(11) Lit., ‘yes’.
(12) The object.
(13) Though it contained no collected blood
(14) Who laid down supra that blood in the interior of the object causes the same uncleanness as external blood that was discharged with it.
(15) He required accumulated blood while here mere redness is regarded as a cause of uncleanness.
(16) And she is subject to the restrictions of the laws of the prescribed days of both uncleanness and cleanness. Her period of uncleanness extends over fourteen days (prescribed for the birth of a female, and not seven as for a male) while her period of cleanness terminates on the fortieth day (prescribed for a male and not on the eightieth prescribed for a female).
(17) Which is regarded as a kind of flesh.
(18) Zuga. Var. lec. ‘Zuza’ and ‘Zuwa’. (prop. noun).
(19) Sc. if the blood is not accumulated in a considerable quantity.
(20) Who ruled that blood in the interior is a cause of menstrual uncleanness as external blood.
(21) Since according to it blood that is not accumulated (contrary to Symmachus) and a red interior (contrary to R. Aha) are no causes of uncleanness.
(22) That was inserted in the uterus.
(23) Lev. XV, 19, dealing with the menstruant.
(24) The woman is consequently clean.
(25) Menstrual blood.
(26) In the vagina after it had left the uterus.
(27) Sc. when it had completely left the body. In the case of zibah and the emission of semen there can be no uncleanness before the discharge had left the body.
(28) V. marg. gl. Cur. edd. in parenthesis ‘in flesh’.
(29) Supra. Now if the blood in the abortion causes uncleanness why should not also blood in a tube?
(30) Lit., ‘thus, now’.
(31) It comes, therefore, under the description ‘in her flesh’; hence the woman's uncleanness.
(32) Hence R. Zera's ruling that the woman is clean.
(33) When it passed out.
(34) Obviously it is. Why then should R. Eliezer merely repeat another authority's statement?
(35) The woman is consequently clean.
(36) Cf. prev. n. What then is the difference between their respective views?
(37) Since in these cases there is an interposition between the woman's body (‘her flesh’) and the blood.
(38) The abortion.
(39) So that all the blood within it is completely separated from the woman's body.
(40) In consequence of which some of the blood and the woman's body come in direct contact.
(41) It being a Pentateuchal ordinance that when the blood was in direct contact with the woman's body uncleanness is caused.
(42) As it is not menstrual at all it matters little whether it did, or did not come in contact with the body of the woman who, consequently, is in either case regarded as clean.
(43) Since the discharge came from the uterus.
(44) It thus follows that R. Zera's view is that of the first Tanna while the Rabbis opposed this view. Is it likely, however, that R. Zera adopted the view of the first Tanna, an individual, when it was opposed by the Rabbis who were in the majority?
(45) Even the Rabbis.
(46) Since the Scriptural text ‘In her flesh’ cannot be applied to it (Rashal).

and they only differ in the case of a shapeless object.[1] One Master[2] holds that it is usual for a woman to observe blood in a shapeless object[3] and the Masters[4] hold that it is not usual for a woman to observe blood in such an object.[5] Raba replied that all[6] agreed that it is not usual for a woman to observe blood in a shapeless object, but it is on the question whether the woman is clean[7] and the interior of the uterus is unclean[8] that they differ, R. Eliezer being of the opinion that though the woman is clean[9] the blood is unclean since it comes through the uterus,[10] while the Rabbis hold the opinion that the woman is clean and the interior of the uterus is also clean.[11]

Rabba required of R. Huna: What is the ruling where one observed semen on a splinter?[12] Did the Divine Law say, From him[13] to indicate that the man is unclean only when it[14] issued naturally from his body but not when it was brought out by means of a splinter, or is it possible that the expression 'from him' implies [that the man is unclean] only when his uncleanness[12] has come out of his body, in which case [he is unclean] even though that was effected by means of a splinter? — The other replied: You can infer the ruling [from the fact] that the man himself[15] becomes unclean only when the quantity of semen emitted suffices to close up the orifice of the membrum.[16] This then[17] implies that the man[18] is regarded as having touched the semen.[19] But, then, this[20] should not cause [the counting of the clean days] after a zibah to be void.[21] Why then was it taught: This is the law of him that hath an issue,[22] and of him from whom the flow of seed[23] goeth out,[24] as zibah[25] causes [the counting of the clean days] to be void[26] so does semen? — The other replied: As regards counting again, this is the reason why the previous counting is void: because it is impossible for semen to be emitted[27] without an admixture of some particles of zibah.[28] Now then,[29] this should cause the counting of all the seven days[30] to be void,[31] why then was it taught: ' This is the law of him that hath an issue etc.', as zibah causes the clean days to be counted again so does semen? But in case you should assume that as zibah causes the counting of all the seven days[30] to be void so does semen also, it was expressly stated, So that he is unclean thereby;[24] you can apply to it[32] only that which had been said about it,[33] hence it causes the counting of one day only to be void?[34] — The other[35] replied: It is a decree of Scripture that an absolute zibah in which no semen is mixed causes the counting of all seven days to be void, but particles of zibah in which semen is mixed cause only the counting of one day[36] to be void.

R. Jose son of R. Hanina enquired of R. Eleazar: What is the ruling in the case of dry blood?[37] Did the Divine Law say, Have an issue[38] of her blood[39] to indicate that it must be actually flowing,[40] hence it refers only to fluid blood but not to dry, or is it possible that the expression, 'have all issue of her blood'[41] was used merely because blood usually flows, but the same law in fact applies to dry blood also? — The other replied: You have learnt it: The blood of a menstruant and the flesh of a corpse convey uncleanness when fresh or when dry.[42] Said he [R. Jose] to him, 'Where the blood was first fresh and then it dried up, I have no question to ask; my question arises only where it was originally dry'.[43] 'This also', the other replied, 'you have learnt: IF A WOMAN ABORTED AN OBJECT THAT WAS LIKE A RIND, LIKE A HAIR, LIKE EARTH, LIKE RED FLIES, LET HER PUT IT IN WATER

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(1) That was chapped.

(2) The first Tanna.

(3) The woman is, therefore, unclean. Only when the abortion is smooth, and the blood contained within it does not come in contact with the woman's body, the text, 'In her flesh' cannot, be applied to it.

(4) The Rabbis.

(5) And if she does observe any it is no menstrual blood and she consequently remains clean.

(6) Even the first Tanna.

(7) Because the blood was not menstrual.

(8) And so conveys uncleanness to any blood that passes through it.

(9) Because the blood was not menstrual.

(10) Cf. prev. n. The blood consequently conveys uncleanness to any object with which it comes in contact and also to the woman herself to the extent that her uncleanness lasts until sunset.

(11) So that the blood remains clean even after it had passed through the uterus.

(12) After it had been inserted into the membrum.

(13) And if any man's seed of copulation go out from him (A.V. Lev. XV, 16).

(14) The semen.

(15) Even where there was a natural discharge of semen.

(16) Since the splinter used is inevitably smaller than the orifice, the quantity of semen extracted by it must obviously be less than the prescribed minimum.

(17) Since (as in the case of nebelah for instance) a minimum has been prescribed, below which semen conveys no uncleanness.

(18) Who is deemed unclean on account of the semen.

(19) Had the uncleanness been conveyed to him on account of his observation of it, no minimum would have been prescribed, as none was prescribed for menstrual blood (a case of uncleanness through observation) and where the smallest drop of blood suffices to cause uncleanness.

(20) The man's contact (cf. prev. nn.) with the semen, as his contact with a dead creeping thing, for instance, whose uncleanness also is conveyed through contact.

(21) As is the case where there was such contact with a dead creeping thing.

(22) Sc. zibah.

(23) Semen.

(24) Lev. XV, 32.

(25) That occurs during the counting of the seven clean days after the termination of a previous zibah.

(26) And, before ritual cleanness is attained seven clean days must be counted again.

(27) During the days following a period of zibah.

(28) It is the zibah, and not the semen, that causes the necessity for a new counting of the seven clean days.

(29) Since (cf. prev. n.) the zibah is the cause.

(30) If the discharge was discovered on the seventh day.

(31) As is the case with a discharge of zibah.

(32) Semen, which causes uncleanness for one day only.

(33) Sc. (cf. prev. n.) it cannot be expected to cause a recount of seven days when it never causes uncleanness for more than one day.

(34) How then could R. Huna maintain that zibah is the cause of the recount?

(35) R. Huna.

(36) The last, on which it was discovered.

(37) Sc. does it, or does it not convey uncleanness?

(38) Lit., ‘will flow a flowing’ (v. infra).

(39) Lev. XV, 25.

(40) Cf. prev. n. but one.

(41) Lev. XV, 25.

(42) Infra 54b.

(43) Sc. the abortion was a piece of dry blood.

Talmud - Mas. Nidah 22b

AND IF IT DISSOLVES SHE IS UNCLEAN.[1] But if so,[2] [should not uncleanness be caused] even if the object was not dissolved? — Rabbah replied: If it is not dissolved it is an independent creature.[3] But is there such a phenomenon?[4] Yes; and so it was taught: R. Eleazar son of R. Zadok stated, A report of the following two incidents was brought up by my father from Tib'in[5] to Jamnia. It once happened that a woman was aborting objects like pieces of red rind and the people came and asked my father, and my father asked the Sages, and the Sages asked the physicians who explained to them that that woman had an internal sore [the crust] of which she cast out in the shape of the pieces of red rind. [It was ruled that] she should put them in water and if they dissolved she should be declared unclean. And yet another incident occurred when a woman was aborting objects like red hairs, and she came and asked my father, and my father asked the Sages, and the Sages asked the physicians who explained to them that the woman had a wart[6] in her internal organs and that that was the cause of her aborting objects like red hairs.[7]

LET[8] HER PUT IT IN WATER AND IF IT DISSOLVES SHE IS UNCLEAN. Resh Lakish ruled: And [this must be done] with lukewarm water.[9] So it was also taught: Let her put it in water, viz., in lukewarm water. R. Simeon b. Gamaliel ruled: She [must attempt to] crush it with spittle on her nail. What is the practical difference between them?[10] — Rabina replied: The practical difference between them is [an abortion that can be] crushed by the exercise of pressure.[11]

Elsewhere we have learnt: How long must they[12] be soaked in the lukewarm water?[13] Twenty-four hours.[14] Now in this case,[15] what length of time is required? Do we require a period of twenty-four hours or not?[16] Is it only in regard to a creeping thing and carrion, which are tough, that a twenty-four hours' soaking is required but not in that of blood, which is soft, or is it possible that there is no difference? — This is undecided.[17]

IF AN ABORTION WAS IN THE SHAPE OF FISHES. But why does not R. Judah[18] disagree[19] in this case also?[20] — Resh Lakish replied: This[21] was indeed learnt as a controversial ruling,[22] and it[21] represents only the opinion of the Rabbis. R. Johanan, however, replied: It[23] may even be said to agree with R. Judah,[24] for R. Judah gave his ruling[25] only there, in the case of a SHAPELESS OBJECT, since it is the nature of blood to congeal and to assume the form of a shapeless object,[26] but [not here,[27] since] it[28] can never assume the form of a creature.[29] According, however, to that version in which R. Johanan stated that 'the point at issue between them is the question whether it is possible for the uterus to open without bleedings',[30] should not R. Judah[31] have disagreed in this case also? — He who learnt that version[32] reads here: Both R. Johanan and Resh Lakish replied: This[33] was learnt as a controversial ruling,[34] and it[33] represents only the view of the Rabbis.

IF AN ABORTION HAD THE SHAPE OF A BEAST etc. Rab Judah citing Samuel stated: What is the reason of R. Meir? Since in their case[35] an expression of forming[36] is used as in that of man.[37] Now then, if an abortion was in the likeness of a sea-monster[38] would its mother be unclean by reason of child-birth, since an expression of forming was used in its case as in that of man, it having been said, And God created[39] the great sea-monsters?[40] — I can answer: An expression of forming[41] may be deduced from another expression of forming[42] but one of creating[43] may not be deduced from one of forming.[44] But where lies the practical difference between the two expressions? Surely the School of R. Ishmael taught: And the priest shall return,[45] and the priest shall come,[46] 'returning' and 'coming' are the same thing![47] Furthermore, why should not one expression of 'creating'[43] be deduced from another expression of 'creating', it being written, And God created man in His own image?[48] — I can answer: 'And . . . created'[48] is required for its own context while 'and . . . formed is available for deduction, hence it is that the expression of 'forming'[49] may be deducted from the similar one of 'forming'.[44] On the contrary [might it not be submitted that] 'And... formed'[44] was required for its own context while 'and . . . created'[48] is available for deduction, hence the expression of 'creating'[43] may be deduced from 'creating'?[48] — The fact is that the expression 'And . . . formed' is available for deduction on the two sides: It is available in the case of man[50] and it is also available in that of beast;[51] but the expression of 'And . . . created' is available for deduction only in the case of man[52] but it is not available for the purpose in that of sea-monsters.[53] But why is it[54] regarded available for deduction in the case of beast? If it be suggested because it is written, And God made the beast of the earth[55] and it is also written, And out of the ground the Lord God formed every beast of the field,[56] is not a similar expression [it may be retorted] also available for deduction in the case of a sea-monster, since it is written, And God made . . . and every thing that creepeth upon the ground,[57] and it is also written, And God created the great seamonsters?[58] — ‘Every thing that creepeth’ that was written in the previously mentioned verse refers to those on the dry land. What, however, is the practical difference between an expression that is available for deduction on one side and one that is available for deduction on two sides?[59] — The practical difference is the statement Rab Judah made in the name of Samuel who had it from R. Ishmael:[60] From any gezerah shawah[61] neither of whose terms is available for deduction[62] no deduction may be made;[63] if one of the terms is available for the purpose, then according to R. Ishmael, a deduction may be made and no refutation may be offered, while according to the Rabbis deduction may be made[64] but a refutation[65] may be offered; and if both terms are available for deduction, all[66] agree that deduction may be made and no refutation may be offered. As to R. Ishmael,however, what is the practical difference between a gezerah shawah one of whose terms only is available for deduction and one both of whose terms are available for the purpose? — The practical difference is that where there is one of which one term only is available for deduction and another both of which both terms are available for deduction we must leave the former

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(1) Because it is regarded as unclean blood though when she first observed the object it was as dry, for instance, as earth.

(2) That dry blood also causes uncleanness.

(3) And cannot be regarded as congealed blood.

(4) An abortion LIKE A RIND OR LIKE A HAIR.

(5) In Galilee west of Sepphoris.

(6) From which grew hairs.

(7) Tosef. Nid. IV.

(8) Cf. Bomb. ed. Cur. edd. do not indicate that this is a quotation from our Mishnah.

(9) Resistance to which is proof that it is no mass of congealed blood. Resistance to cold water alone is no proof that it is not congealed blood, since it is possible that it would dissolve in lukewarm water and the woman, therefore, cannot be declared clean.

(10) R. Simeon b. Gamaliel and the first Tanna.

(11) But cannot be dissolved by mere immersion in lukewarm water. According to the first Tanna, since lukewarm water cannot dissolve it, it cannot be regarded as blood, while according to R. Simeon b. Gamaliel, since it may be squashed by pressure, it must be regarded as blood.

(12) Unclean things such, for instance, as a dead creeping thing and carrion which have become dry.

(13) To restore them to their original condition of freshness. These (as stated infra) convey uncleanness only when fresh but not when dry.

(14) Infra 54b.

(15) RIND, HAIR, EARTH etc. spoken of in our Mishnah.

(16) Sc. even a lesser period suffices to establish that they are masses of congealed blood.

(17) Teku.

(18) Who in an earlier clause of our Mishnah ruled, IN EITHER CASE SHE IS UNCLEAN.

(19) With the ruling that, OTHERWISE SHE IS CLEAN.

(20) Sc. why does he not here also maintain that the woman is unclean in either case?

(21) The anonymous ruling under discussion.

(22) R. Judah and the Rabbis being in disagreement on it.

(23) The anonymous ruling under discussion.

(24) Who in this case is of the same opinion as the Rabbis.

(25) That IN EITHER CASE SHE IS UNCLEAN.

(26) Hence his ruling (cf. prev. n.) whenever the object had the colour of one of the four kinds of unclean blood. His ruling is thus entirely independent of the question whether the uterus does or does not open without bleeding.

(27) In the case of an abortion of FISHES, LOCUSTS etc.

(28) Blood.

(29) And since the abortion under discussion did assume the form of a creature, R. Judah agrees with the Rabbis that OTHERWISE SHE IS CLEAN.

(30) Supra 21b.

(31) Since the character of the abortion itself is of no consequence.
(32) The one just referred to.
(33) The anonymous ruling under discussion.
(34) R. Judah and the Rabbis being in disagreement on it.
(35) Beasts and birds.
(36) And . . . the Lord God formed every beast . . . and every fowl (Gen. II, 19).
(37) Then the Lord God formed man (ibid. 7).
(38) Which may be classed as a kind of fish.
(39) This is now assumed to be analogous to an expression of ‘forming’.
(40) Gen. I, 21. The answer being presumably in the affirmative, how could our Mishnah rule that IF AN ABORTION WAS IN THE SHAPE OF FISHES . . . SHE IS CLEAN?
(41) And . . . the Lord God formed every beast . . . and every fowl (Gen. II, 19).
(42) Then the Lord God formed man (ibid. 7).
(43) Used about sea-monsters in Gen. I, 21.
(44) Then the Lord God formed man (ibid. II, 7).
(45) Lev. XIV, 39.
(46) Ibid. 44.
(47) And an analogy between them may be drawn, though they are derived from different roots, v. Hul. 85a. Why then should no analogy be drawn between ‘forming’ and ‘creating’?
(48) Gen. I, 27.
(49) And . . . the Lord God formed every beast . . . and every fowl (Gen. II, 19).
(50) Since the expression of ‘creating’ (Gen. I, 27) has also been used about him.
(51) As will be explained presently.
(52) Concerning whom there is also the expression of ‘forming’ (Gen. II, 7).
(53) Since Scripture contains no other similar expression about them.
(54) The expression of ‘forming’.
(55) Gen. I, 25; an expression of ‘making’.
(56) Ibid. II, 19; expression of ‘forming’.
(57) Ibid. I, 25, an expression of ‘making’ which presumably includes the sea-monsters.
(58) Gen. I, 21, an expression of ‘creating’ which is superfluous in view of that of ‘making’ (cf. prev. n.) and, therefore, available for deduction.
(59) I.e., why is deduction in the latter case preferable to the former?
(60) The last six words apparently require emendation.
(61) V. Glos.
(62) Lit., ‘that is not vacant at all’.
(63) Even where no refutation can be offered.
(64) If no refutation can be offered against it.
(65) If one can be suggested.
(66) Even the Rabbis.

Talmud - Mas. Nidah 23a

and make the deduction from the latter. And it is for this reason[1] that in the case of beast the All Merciful made both terms available for deduction: In order that no deduction shall be made from one of which one term only is available for deduction.[2]

R. Aha son of Raba taught this[3] in the name of R. Eleazar in the direction of leniency. From any gezerah shawah none of whose terms is available for deduction, one may make the deduction and one may also offer a refutation; if one of its terms only is available for the purpose, deduction, according to R. Ishmael, may be made and no refutation may be offered, while according to the Rabbis deduction may be made and a refutation may be offered; and if two of its terms are available for deduction, all agree that deduction may be made and no refutation may be offered. But according to the Rabbis[4] what is the practical difference between one whose one term is available for deduction and one none of whose terms is available for deduction? — The practical difference between them is the case where you find a gezerah shawah one of whose terms is available for deduction and another none of whose terms is available for the purpose, and neither the one nor the other can be refuted, in such a case we must leave the one neither of whose terms is available and make deduction from the one of which one term is available. But what refutation is there in this case?[5] — One might object:[6] A man is different[7] since he contracts uncleanness[8] even when he is alive.[9]

R. Hiyya b. Abba citing R. Johanan also stated,[10] This is the reason of R. Meir: Since the expression of 'forming' has been used in its case as in that of man. Said R. Ammi to him: Now then, If an abortion was in the shape of a mountain would the woman who aborted it[11] be unclean by reason of the birth because it is said, For, lo, He that formeth[12] the mountains and createth the wind?[13] — The other replied: Does she ever abort a mountain? She can only abort something in the shape of a stone, and that can only be described as a lump.[14] But then, if the abortion was some inflated object would the woman who aborted it[11] be unclean by reason of the birth because the expression of 'creating' has been used about it as about man, since it is written, And createth[15] the wind?[13] And should you reply: it[16] is not available for deduction,[17] [it could be retorted:] Since it could have been written, 'Formeth the mountains and the wind', and yet it was written 'And createth the wind' it may be inferred, may it not, that it[16] was intended to be made available for deduction? — The other replied: An analogy for legal purposes may be drawn between words that occur in the Pentateuch[18] but no analogy may be drawn between words that occur respectively in the Pentateuch and in the post-Pentateuchal books.[19]

Rabbah[20] b. Bar Hana citing R. Johanan stated, This is the reason of R. Meir: Because [the pupils[21] of] their[22] eyes are similar to those of human beings. Now then, if an abortion was in the likeness of a serpent would the woman who aborted it[11] be unclean on account of the birth since its eye-ball is round like that of a human eye? And should you suggest that the law is so indeed [it could be retorted]: Why then was not the serpent mentioned?[23] — If the serpent had been mentioned[23] it might have been presumed that only in the case of the serpent do the Rabbis disagree with R. Meir, since the expression of 'forming' was not written about it but that in the case of a beast or a wild animal they do not differ from him since the expression of 'forming' had been written about it.[24] But was it not stated in regard to blemishes,[25] 'One whose eyeball is like that of a man'?[26] — This is no difficulty, the one[27] refers to the black of the eye[28] while the other refers to the slit.[29]

R. Jannai stated, This is the reason of R. Meir: Because their[30] eyes are fixed in the front of their heads[31] like those of men. But what about[32] a bird whose eyes are not fixed in the front of its head and R. Meir nevertheless ruled that it is a cause of uncleanness? — Abaye replied: This[33] applies only to the kadia[34] and the kipufa.[35] It[33] does not then apply to other birds! An objection was raised: R. Hanina b. Gamaliel[36] stated, I approve of the view of R. Meir in regard to beasts and wild animals and that of the Sages in regard to birds. Now what did he mean by 'birds'? If it be suggested: kadia[34] and kipufa[35] [the difficulty would arise]: Wherein do beasts and wild animals differ [from other creatures]? [Obviously in that] that their eyes are fixed in front of their heads like those of men. Now are not those of the kadia[34] and the kipufa[35] fixed in the same position?[37] Consequently[38] he must have meant other birds. Thus it may be implied, may it not, that R. Meir differs from the Rabbis in regard to the other birds?[39] — Some part is missing[40] and this is the correct reading: R. Hanina b. Gamaliel[36] stated, I approve of the view of R. Meir in regard to beasts and wild animals, this applying also to the kadia and the kipufa; and that of the Sages in regard to other birds; for even R. Meir disagreed with them only in regard to the kadia and the kipufa, but in the case of other birds he agrees with them. And so it was also taught: R. Eliezer son of R. Zadok stated: An abortion that had the shape of a beast or a wild animal is, according to the view of R. Meir, regarded as a valid birth, but according to the view of the Sages it is no valid birth; and in the case of birds an examination should take place. Now according to whose view should an examination take place? Obviously[41] according to that of R. Meir who ruled that the law[42] applied[43] to the kadia and the kipufa and not to the other birds! R. Aha son of R. Ika retorted: No; the examination should take place according to the Rabbis who ruled that kadia and kipufa are regarded as valid births[43] but not other birds. But wherein does the kadia or the kipufa in this respect differ from beasts and wild animals?[44] — In that they have jaws like those of men.[45]

R. Jeremiah enquired of R. Zera: According to R. Meir who ruled: 'A beast that was in a woman's body is a valid birth', what is the law where its father[46] received for it a token of betrothal?[47] — In what respect could this[48] ever matter? — In respect of causing its sister to be forbidden.[49] This then presumes[50] that it is viable! But did not Rab Judah citing Rab state: R. Meir gave his ruling[51] only because in the case of its own species[52] it is viable?[53] Said R. Aha b. Jacob: 'To such an extent did R. Jeremiah try[54] to make R. Zera laugh; but the latter did not laugh'.[55]

[Reverting to] the [previous] text, 'Rab Judah citing Rab stated: R. Meir gave his ruling only because in the case of its own species it is viable.' Said R. Jeremiah of Difti:

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(1) According to the Rabbis.

(2) Since such a gezerah shawah, as stated supra, could be refuted.

(3) The statement cited supra by Rab Judah.

(4) Who maintain that whether one, or none of the terms is available for deduction both deduction and refutation are admissible.

(5) The analogy (supra 22b) with man. Sc. since, as was explained supra, the only reason why deduction is made from a gezerah shawah both of whose terms are available for the purpose in preference to one of which one term only is available is the consideration that while the latter can be refuted when a logical refutation is offered the former cannot be refuted even in such a case, it follows that where no refutation can be offered it is immaterial whether the deduction is made from the one or the other. And since R. Meir (supra 22b) preferred the gezerah shawah between man and beast (both of whose terms are available) to that of man and sea-monsters (whose one term only is available) he must have intended to avoid thereby a refutation that had suggested itself to him. Now what was that refutation?

(6) Lit., 'because there is (an argument) to refute'.

(7) From other creatures.

(8) From a dead creeping thing, for instance.

(9) Other creatures, however, while alive can never become unclean. It could, therefore, have been argued that man who is subject to the one restriction of uncleanness may also be a cause of uncleanness to his mother when he is born, but any other creature which is not subject to the former restriction is also exempt from the latter.

(10) Like Rab Judah, supra 22b.

(11) Lit., 'its mother'.

(12) An expression of 'forming' like that used of man.

(13) Amos IV, 13.

(14) To which the term 'mountain' cannot apply.

(15) An expression of 'creating' like that used of man.

(16) Cf. prev. n.

(17) I.e., it is required for its own context.

(18) Torah, in its restrictive connotation.

(19) Kabalah, lit., 'acceptance', 'tradition' as distinct from Torah. (Cf. prev. n.).

(20) Cur. edd. in parenthesis 'he said'.

(21) V. Rashi and infra.

(22) Beasts.

(23) In our Mishnah, among the shapes of creatures that cause the woman's uncleanness.

(24) Hence the omission of the serpent.

(25) Which disqualify a beast.

(26) Bek. 40a. Now since such likeness is regarded as a blemish it is obvious that the normal eye of a beast is different from the human one. How then could R. Johanan maintain that a beast's eyes are like human eyes?

(27) R. Johanan's statement.
(28) The pupil, which has the same round shape in man and beasts.
(29) In which the eye is fixed. This is not so round in the eye of a beast as in the human eye.
(30) Beasts’.
(31) Lit., ‘go before them’. Those of fishes and serpents are fixed in the sides of their heads.
(32) Lit., ‘and behold’.
(33) R. Meir's ruling just cited.
(34) Or (as cur. edd.) ‘karia’, a species of owls.
(35) Also a species of owls.
(36) Cf. Tosaf. supra 8b. s.v. והא. Cur. edd. in parenthesis, ‘Antigonus’.
(37) Of course they are. Consequently they should have been subject to the same law as beasts and wild animals.
(38) Since he made them subject to a different law.
(39) If he had not differed, there would have been no point in R. Hanina's statement, ‘I would approve . . . that of the Sages’.
(40) In R. Hanina's statement.
(41) Lit., ‘not?’
(42) That the birth is regarded as valid.
(43) Lit., ‘yes’.
(44) Who also have their eyes in the sides of their heads. If according to the Rabbis an abortion of the former causes uncleanness why should not also the latter?
(45) Which beasts and wild animals have not.
(46) Who is entitled to effect the betrothal of his daughter while she is a minor.
(47) Which is a valid kinyan (v. Glos.) in the case of a normal child.
(48) Such an absurd betrothal.
(49) To marry the man who betrothed it. It is forbidden to marry a wife's sister.
(50) Since a wife's sister is forbidden to a man only during the lifetime of his wife.
(51) That an abortion of a beast or wild animal is regarded as a valid birth.
(52) Beast born from beast or wild animal from wild animal.
(53) But not when a woman aborted such creatures. The question of wife's sisters, consequently, could never arise in such a case. What then was the point in R. Jeremiah's peculiar enquiry?
(54) By his absurd enquiries.
(55) It is forbidden to indulge in laughter in this world (cf. Ber. 31a).

Talmud - Mas. Nidah 23b

We also learnt the same thing:[1] An abortion in the shape of a beast, wild animal or bird [is regarded as a valid birth];[2] so R. Meir. And the Sages ruled: [It is no valid birth][3] unless it has the features of a human being. But if the abortion was a sandal,[4] a placenta or a foetus with some articulated shape, or if a child issued cut up in pieces, the son born after it is regarded as the firstborn in respect of inheritance but he is no firstborn as far as the priest is concerned.[5] Now if one could imagine that such an abortion is viable, would the son born after it be regarded as the firstborn in regard to inheritance?[6] Said Raba: It may well be maintained that it is viable but the case there[7] is different [from what might have been expected][8] since Scripture said, The first of his mourning[9] which refers to the one for whom[10] his[11] heart aches, and thus excludes an abortion for which[12] his heart does not ache.[13]

R. Adda b. Ahaba enquired of Abaye: According to R. Meir who ruled that a beast that was in the bowels of a woman is a valid birth, what is the ruling where a human child was in the bowels of a beast?[14] — In what respect does this matter? — In that of permitting it to be eaten.[15] But why can you not solve this question from the following ruling of R. Johanan; for R. Johanan ruled: If one slaughtered a beast and found in it an object of the shape of a dove it[16] is forbidden to be eaten?[17] — What a comparison! In that case[16] there are neither cloven feet nor hoofs, but in this case, granted that there are no cloven feet, there is at least some thing like a hoof.[18]

THE SAGES, HOWEVER, RULED: ANYTHING THAT HAS NOT etc. R. Jeremiah b. Abba citing Rab stated: All[19] agree that if its body was that of a he-goat and its face that of a human being it is regarded as a human child;[20] if its body was that of a human being and its face that of a he-goat it is no valid birth.[20] They[19] differ only where it had the face of a human being but was so created that one of its eyes was like that of a beast, since R. Meir holds that it[21] need only have some of the features of a human face[22] while the Sages hold that it[21] must have all the features of a human face. They[23] said to R. Jeremiah b. Abba, Was not the reverse taught: R. Meir said, ‘It must have all the features of a human face’[24] while the Sages said, ‘It need only have some of the features of a human face’?[24] — He answered them: If this was taught so you may well rely on it.[25]

R. Jeremiah b. Abba citing R. Johanan ruled:[26] The forehead, the eyebrows, the eyes, the cheeks and the chin must all be present at the same time.[27] Raba, however, citing Hasa ruled:[26] The forehead, the eyebrow, the eye, the cheek and the chin must all be present at the same time.[27] These, however,[28] do not differ in principle from one another, since the former ruled according to him who said that[27] ‘it must have all the features of a human face’. while the latter ruled according to him who stated, ‘it need only have some of the features of a human face’.

An objection was raised: By the ‘shape of the face’ of which the Sages spoke[29] was meant the presence of even only one of the features of the face,[30] except the ear.[31] This shows, does it not, that a single feature suffices?[32] — Abaye replied: That[33] was taught only to indicate what constitutes a hindrance,[34] and it[33] is in agreement with him who stated [that the reading][35] was ‘it must have all the features of a human face’. And if you prefer I might say: It[33] is in fact in agreement with him who stated that the reading[35] was it need only have one of the features of a human face’ but[36] the meaning[37] of ‘one’[38] is one of each.[39]

Raba ruled: If a foetus was created with one eye and one thigh, the woman who gives birth to it[40] is unclean[41] if these were on the side,[42] but if they were in the middle[43] she is clean.[44] Raba further ruled: If a child's gullet is perforated[45] his mother is unclean,[46] but if his gullet is closed up[47] she is clean.[48]

Our Rabbis taught: If a woman aborted a stumped body she is not unclean by reason of such a birth. And what is meant by a stumped body? — Rabbi replied: One short of a part which if taken from a live person would cause him to die. And what is the extent of the part that if taken from a live person would cause him to die? — R. Zakkai replied:

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(1) That an abortion of a beast or wild animal is not viable.

(2) In regard to the birthright. If a son is born after such an abortion, though he is entitled to a double share in his father's estate (as a firstborn son, since the abortion is not viable) he (unlike an actual firstborn son) need not be redeemed from the priest. The words in square brackets are wanting in the Mishnah Bek. 46a and appear in cur. edd. here in parenthesis.

(3) Even (cf. prev. n.) as regards the exemption from redemption of the son born after it.

(4) Flat, fish-shaped.

(5) Bek. 46a. Cf. supra n. 2.

(6) Of course not. Since, however, he is so regarded in respect of inheritance it is obvious that an abortion of the nature described is not viable.

(7) Inheritance.

(8) From its viability.

(9) Deut. XXI, 17. E.V., The first of his strength.

(10) If he dies.

(11) The father's.

(12) Cf. prev. n. but one.

(13) Hence it is that an abortion cannot be treated as ‘firstborn’ and the privilege is, therefore, passed on to the next child if it is a son.
(14) And was discovered after the beast had been slain.
(15) Like the beast in which it was found.
(16) The dove-like object.
(17) Hul. 69a.
(18) The two cases cannot consequently be compared, and the fanciful question must remain unsolved.
(19) R. Meir and the Sages.
(20) The face being the determining factor.
(21) To be a valid birth.
(22) One human eye, therefore, suffices.
(23) So Bomb. ed. and marg. gl. Cur. edd. ‘he’.
(24) For a justification of the rendering cf. Tosaf.
(25) Lit., ‘it was taught’, sc. while he was certain that what he reported had behind it the weighty authority of Rab, it was quite legitimate for them, since they had a tradition to the contrary, to follow their own tradition.
(26) According to the Rabbis (v. infra).
(27) If the abortion is to be regarded as a valid birth.
(28) R. Johanan and Hasa, though with the exception of the forehead, the former speaks in the plural and the latter in the singular.
(29) As a determining factor whether an abortion is a valid birth.
(30) One eye or the forehead, for instance.
(31) Tosef. Nid. IV. Though the ear has the human shape the abortion is no valid birth if the other features are like those of a beast.
(32) To determine that a birth is valid. How then could it he said supra that all the features must be human?
(33) The Baraitha just cited as an objection.
(34) Sc. that even the presence of one feature that was not human causes the abortion, according to the Rabbis, to be regarded as an invalid birth.
(35) According to the Rabbis.
(36) In justification of Hasa's ruling.
(37) Lit., ‘and what (is the meaning of)’.
(38) ‘One of the features of the face’, in the Baraitha cited.
(39) Of the double features; as Hasa in fact stated.
(40) Lit., ‘its mother’.
(41) As one who bore a normal child.
(42) Of the face and body respectively. sc. in their normal position.
(43) Cf. prev. n. mut. mut.
(44) Since such an abortion is no valid birth.
(45) When it is born.
(46) Because, the child being viable, the birth is valid.
(47) So that the child is not viable.
(48) Such a birth being invalid.

Talmud - Mas. Nidah 24a

To the top of the knee joint.[1] R. Jannai replied: To his lower orifices.[2] R. Johanan citing R. Jose b. Joshua replied: To the position of his navel. The point at issue between R. Zakkai and R. Jannai is whether a trefah[3] animal[4] can survive.[5] The latter holds that a trefah animal can survive[6] while the former holds that it cannot survive.[7] The point at issue between R. Jannai and R. Johanan[8] is a ruling of R. Eleazar; for R. Eleazar ruled: If the haunch and its hollow were removed the animal is nebelah.[9] R. Papa stated: The dispute[10] refers only to cases where the lower part of the body is affected[11] but if the upper part is affected,[12] even if the missing part is ever so small the woman is clean.[13] So also said R. Giddal in the name of R. Johanan: If a woman aborted a foetus whose skull is a shapeless lump she[14] is clean.[13] R. Giddal citing R. Johanan further stated: If a woman aborted a foetus shaped like the ramification of a palmtree[15] she is clean.[13]

It was stated: If a woman aborted a foetus whose face was mashed,[16] R. Johanan ruled: She[14] is unclean; and Resh Lakish ruled: She is clean. R. Johanan raised an objection against Resh Lakish: If a woman aborted a shaped[17] hand or a shaped foot she[14] is subject to the uncleanness of birth[18] and there is no need to consider the possibility[19] that it might have come from a shapeless body.[20] Now if it were so,[21] should it not have been stated, 'The possibility that it might have come from a shapeless body or from a foetus whose face was mashed'?[22]

R. Papi stated:[23] Where its[24] face was mashed no one[25] disputes the ruling that the woman is unclean. They only differ where its face was entirely covered over,[26] and the statement[27] was made in the reverse order: R. Johanan ruled: His mother is clean; and Resh Lakish ruled: His mother is unclean. Should not then[28] Resh Lakish raise an objection against R. Johanan from that [Baraitha]?[29] — Because the latter could have answered him: 'A stumped body' and 'a foetus whose face was entirely covered over are identical terms.[30]

The sons of R. Hiyya once toured the countryside. When they appeared before their father he asked them, 'Has any case been submitted for your consideration?' 'The case of a foetus whose face was entirely covered over', they told him 'has been submitted to us, and we decided that the woman was unclean'. 'Go back', he said to them, 'and declare as clean that which you have declared unclean. For what did you think?[31] That you are restricting the law;[32] but this is a restriction that results in a relaxation, for thereby[33] you also allow her[34] the days of cleanness'.[35]

It was stated: If one aborted a creature that had two backs and two spinal columns, Rab ruled: In the case of a woman it is no valid birth[36] and in that of a beast it is forbidden to be eaten;[37] but Samuel ruled: In the case of a woman it is a valid birth[38] and in that of a beast it is permitted to be eaten.[39] On what principle do they[40] differ? — On that of R. Hanin b. Abba; for R. Hanin b. Abba stated, 'The cloven'[41] is a creature that has two backs and two spinal columns'.[42] Rab maintains that such a creature exists nowhere in the world, and that when the All Merciful taught Moses about it[43] he must have taught him about one that was still in her dam's bowels, while Samuel maintains that such a creature does exist in the world so that when the All Merciful taught Moses about it[43] he taught him about the species in general,[44] but one that is still in its dam's bowels is well permitted to be eaten.[45] R. Shimi b. Hiyya pointed out an objection to Rab: R. Hanina b. Antigonus stated, Any [firstling of beasts] that had two backs and two spinal columns is unfit for the Temple service;[46] from which[47] it is obvious, is it not, that it is viable?[48] — 'Is it you, Shimi?' the other[49] replied, 'this[50] refers to a case where its spinal column was only crooked'.[51]

An objection was raised: Among embryos[52] there are some that are forbidden[53] viz, a four monthly embryo among small cattle, and an eight monthly one among large cattle, and one that is younger[54] is equally forbidden. From this is excluded one that had two backs and two spinal columns. Now what is meant by 'is excluded'? Obviously that it[55] is excluded from the category of embryos[56] in that it is forbidden to be eaten even while still in its dam's body?[57] — Rab[58] explains in accordance with his own view, and Samuel[59] explains it in accordance with his view. 'Rab explains in accordance with his own view', thus: A four monthly embryo among small cattle and an eighth monthly one among large cattle, and one that is younger is equally forbidden. This applies only where it saw the light[60] but while it is still in its dam's bowels it is permitted; but from this is excluded one that has two backs and two spinal columns which, even while still in its dam's bowels, is also forbidden.

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(1) Inclusive; form the foot upwards. A person cannot live after such an amputation (v. infra).

(2) Of the intestines and the urethra. Cf. prev. n. second clause.

(3) V. Glos.
(4) Including man.
(5) V. Hul 42a.
(6) Hence his ruling that the birth is valid unless the missing part of the body extended as high as the lower orifices.
(7) The birth is consequently invalid even if the missing part extended as far as the knee joint only.
(8) Both of whom agree that a fatally wounded animal can survive.
(9) V. Glos. Hul. 21a, 32b.
(10) On the extent of the missing part of the body that renders a birth invalid and causes the woman to remain clean.
(11) Lit., ‘from below to above’.
(12) Lit., ‘from above to below’; if a part of the skull, for instance, is missing.
(13) Since such a child is not viable and his birth is no valid one.
(14) Lit., ‘his mother’.
(15) Sc. the lower part of his body was shapeless while his limbs branched out from its upper part.
(16) But its features were not entirely indistinguishable.
(17) Lit., ‘cut’.
(18) Sc. since it is unknown whether the abortion was a male or a female the restrictions of both are imposed upon her.
(19) Which would exempt her from the certainty of uncleanness.
(20) Supra 18a, infra 28a.
(21) That, as Resh Lakish maintains, the birth of a foetus with a mashed face causes no uncleanness to its mother.
(22) Since both these possibilities would be causes of the woman's cleanness. Why then was only the former possibility mentioned?
(23) In accordance with a tradition he received from his teacher (v. Rashi).
(24) A foetus’.
(25) Not even Resh Lakish.
(26) Sc. none of the features was distinguishable.
(27) Of the dispute.
(28) Since it is now R. Johanan who declared the woman clean.
(29) From which the latter raised an objection supra against the former; thus: Why did not the Baraitha add ‘the possibility that it may have come . . . from a foetus whose face was entirely covered over’?
(30) Both indicating an abortion none of whose features are distinguishable. This could not be given as a reply in the case of a mashed face where some of the features are not altogether indistinguishable.
(31) When declaring the woman unclean.
(32) Since it was unknown whether the foetus was male or female the woman, having been declared unclean, would have to remain in her uncleanness for a period of fourteen days (as for a female) and not only for seven days (as for a male).
(33) By regarding the abortion as a valid birth.
(34) As a woman after childbirth.
(35) Which even in the case of a male, are no less than thirty-three. Any discharge of blood within this period would consequently be regarded as clean, whereas if the abortion had not been declared to be a valid birth the discharge would have imposed upon the woman the uncleanness of a menstruant.
(36) And she remains, therefore, clean.
(37) Even if it was found in the ritually slaughtered body of its dam, and much more so if it was aborted.
(38) And the woman is consequently subject to the laws of uncleanness prescribed for one after childbirth.
(39) As deduced from Scripture in Hul. 69b.
(40) Rab and Samuel.
(41) Ha-Shesu'ah, Deut. XIV, 7.
(42) Hul. 60b.
(43) That it must not be eaten.
(44) Lit., ‘in the world’.
(45) Wherever the dam is of the clean beasts and was ritually slain.
(46) Bek. 43b; because these are regarded as blemishes.
(47) Since it is only forbidden as a sacrifice and is presumably permitted for consumption in the case of unconsecrated

animals.

(48) If it had not been viable it could not have been permitted to be eaten. The permissibility to eat the creature, even after it was born, thus raises an objection against both Rab (who ruled that it was always forbidden) and against Samuel (who permitted it only when it was in its dam's bowels). V. Marginal Gloss. Cur. edd. in parenthesis add ‘and this is a difficulty against Rab’.

(49) Rab, who was his grandfather.

(50) R. Hanina's ruling from which it follows that a double-backed creature is viable.

(51) And consequently had the appearance of two backs. Such a creature is viable.

(52) Of clean beasts.

(53) To be eaten, as nebelah, even after their birth.

(54) Lit., ‘from it and below’.

(55) The beast with the two backs and the two spinal columns.

(56) Which are permitted if found in their dam's body.

(57) How then could Samuel maintain that even while it is in its dam's body it is permitted?

(58) Against whom no objection was raised from the last cited Baraitha but who nevertheless finds a difficulty in its present form in reconciling its first and last clauses. As the first clause deals with those who saw the light the last one (double-backed creatures) also deals obviously with one who saw the light. But its permissibility would be contrary to the ruling of Rab.

(59) Who has to explain the objection raised against him (cf. prev. n. but one).

(60) Lit., ‘went out to the air of the world’.

Talmud - Mas. Nidah 24b

Samuel also ‘explains it in accordance with his view’, thus: A four monthly embryo among small cattle, and an eight monthly one among large cattle, and one that is younger is equally forbidden. This, however, applies only to one whose period of pregnancy[1] had not ended, but if the period has ended it is permitted; and from this is excluded one who had two backs and two spinal columns which, even though its period of pregnancy had ended,it is forbidden if it saw the light[2] but permitted when still in its dam's body.[3]

A Tanna recited before Rab: As it might have been assumed that if an abortion was a creature with a shapeless body or with a shapeless head its mother is unclean by reason of its birth, it was explicitly stated in Scripture, If a woman be delivered, and bear a man-child etc.[4] And in the eighth day the flesh of his foreskin shall be circumcised etc.,[5] thus implying[6] that only a child that is fit for the covenant of the eight days[7] [causes uncleanness to his mother] but these[8] are excluded, since they are not fit for the covenant of the eight days. ‘And’, said Rab to him, ‘conclude your statement thus:[9] And one who had two backs and two spinal columns’.

R. Jeremiah b. Abba intended to give a practical decision[10] in agreement with the view of Samuel,[11] but R. Huna said to him: ‘What have you in your mind? To impose a restriction?[12] But this is a restriction that results in a relaxation, since you must in consequence[13] allow her also a period of clean blood.[14] Act rather in accordance with the view of Rab, since we have an established rule that in ritual matters the law is in agreement with Rab irrespective of whether this leads to a relaxation or a restriction.

Raba said: It has been stated that a woman may bear[15] at nine months[16] and also at seven months.[16] Can [then] large cattle who bear[17] at nine months also bear[17] at seven months or not? — R. Nahman b. Isaac replied, Come and hear: ‘One that is younger is equally forbidden’.[18] Does not this also refer to the large cattle?[19] — No, it may only refer to the small cattle.[20] What an argument this is! If you grant that the reference[21] was to the large cattle also, one can well see the necessity for it. For it might have been presumed that since [a seven monthly] is viable in the case of a woman it is also viable in that of cattle, we were informed that it is not viable; but if you maintain that reference was made to small cattle only, this would be obvious, for can a three monthly abortion live?[22] — It[23] was necessary: As it might have been presumed that anyone [born within] less than two months [before the conclusion of the normal conception] can survive,[24] hence we were informed that it[25] was not viable.

Rab Judah citing Samuel ruled: If an abortion had the likeness of Lilith[26] its mother is unclean by reason of the birth, for it is a child, but it has wings. So it was also taught: R. Jose stated, It once happened at Simoni[27] that a woman aborted the likeness of Lilith, and when the case came up for a decision before the Sages they ruled that it was a child but that it also had wings. If an abortion had the likeness of a serpent, Hanina the son of R. Joshua's brother ruled: Its mother is unclean by reason of the birth. R. Joseph proceeded to report the ruling to R. Gamaliel when the latter sent word [to][28] R. Joshua, ‘Take charge of[29] your nephew and come with him to me’. As they were going, Hanina's[30] daughterin-law came out to meet R. Joshua.[31] ‘Master’, she said to him, ‘what is your ruling where an abortion had the likeness of a serpent?’ ‘Its mother’, he replied, ‘is clean’. ‘But’, she retorted, ‘was it not in your name that my mother-in-law told me that its mother was unclean?’ ‘And’, he asked her, ‘on what ground?’ ‘Since [she told him] its eye-ball is round like that of a human being’. As a result of her statements R. Joshua recollected his ruling and sent the following message to R. Gamaliel: ‘Hanina gave his ruling on my authority’.[32] Abaye observed: From this incident it may be learnt that when a scholar gives a ruling he should also indicate his reason so that when he is ever reminded of it he would recollect it.

MISHNAH. IF A WOMAN ABORTED A SAC FULL OF WATER, FULL OF BLOOD, OR FULL OF MATTER OF VARIOUS COLOURS, SHE NEED NOT TAKE INTO CONSIDERATION THE POSSIBILITY OF ITS BEING A VALID BIRTH; BUT IF ITS LIMBS WERE FASHIONED SHE MUST CONTINUE [IN UNCLEANNESS AND SUBSEQUENT CLEANNESS FOR THE PERIODS PRESCRIBED] FOR BOTH MALE AND FEMALE.[33] IF SHE ABORTED A SANDAL OR A PLACENTA SHE MUST ALSO CONTINUE [IN UNCLEANNESS AND CLEANNESS AS] FOR BOTH MALE AND FEMALE.[33]

GEMARA. One can well understand why BLOOD or WATER[34] [constitutes no valid birth, since in this respect] it is of no consequence;[35] but as regards MATTER OF VARIOUS COLOURS,[36] why should not the possibility be taken into consideration that it had originally been a child that was now squashed? — Abaye replied: How much of undiluted wine must the mother of this thing have drunk that her embryo should be squashed within her bowels![37] Raba replied: We have learnt, FULL OF, and if it were the case that the embryo had been squashed something would have been missing.[38] R. Adda b. Ahaba replied: We have learnt, MATTER OF VARIOUS COLOURS, and if it were the case that an embryo had been squashed it would all have been reduced to the same colour.

It was taught: Abba Saul stated, I was once a grave-digger[39] when I made a practice of carefully observing the bones of the dead. The bones of one who drinks undiluted wine are burned; those of one who drinks wine excessively diluted are dry;[40] and those of one who drinks wine properly mixed are full of marrow.[41] The bones of a person whose drinking exceeds his eating are burned; those of one whose eating exceeds his drinking are dry,[40] and those of one who eats and drinks in a proper manner are full of marrow.[41]

It was taught: Abba Saul (or, as some say, R. Johanan stated): I was once a grave-digger.[39] On one occasion, when pursuing a deer, I entered the thigh-bone of a corpse, and pursued it for three parasangs but did neither reach the deer nor the end of the thigh-bone.[42] When I returned I was told that it was the thigh-bone of Og, King of Bashan.[43]

It was taught: Abba Saul stated, I was once a grave-digger[39] and on one occasion there was opened a cave under me and I stood in the eye-ball of a corpse up to my nose. When I returned I was told that it was the eye of Absalom. And should you suggest that Abba Saul was a dwarf [it may be mentioned that] Abba Saul was the tallest man in his generation, and R. Tarfon reached to his shoulder and that R. Tarfon was the tallest man in his generation and R. Meir reached to his shoulder. R. Meir was the tallest man in his generation and Rabbi reached to his shoulder. Rabbi was the tallest man in his generation and R. Hiyya reached to his shoulder, and R. Hiyya was the tallest in his generation and Rab reached to his shoulder. Rab was the tallest man in his generation and Rab Judah reached to his shoulder, and Rab Judah was the tallest man in his generation and his waiter Adda reached to his shoulder.

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(1) Lit.,’its months’.

(2) Not being viable it is forbidden as nebelah.

(3) As part of that beast which was a clean one and ritually slaughtered.

(4) She shall be unclean. Lev. XII, 2.

(5) Ibid. 3.

(6) By the juxtaposition of the texts.

(7) The covenant of circumcision.

(8) Which are not viable.

(9) I.e., insert between ‘these’ and are excluded’.

(10) In the case of an abortion without bleeding of a two-backed foetus.

(11) That the woman is unclean by reason of the birth which he regards as valid.

(12) By treating the woman as unclean.

(13) ‘Of your regarding the birth as valid’.

(14) From the seventh to the fortieth day for a male, and from the fourteenth to the eightieth day for a female. Should there be a discharge of blood within these periods respectively the woman could not be subjected to menstrual uncleanness.

(15) A viable child.

(16) After conception.

(17) Viable young.

(18) Supra 24a.

(19) Mentioned earlier in the Baraitha (supra 24a) immediately after the ‘small cattle’, and in whose case an ‘eight monthly’ was spoken of. ‘One that is younger’ would consequently include a seven monthly abortion also who would thus be ‘equally forbidden’.

(20) In whose case (cf. prev. n.) only a ‘four monthly’ abortion was spoken of. The question of a seven monthly abortion cannot, therefore, be solved from this Baraitha.

(21) ‘One that is younger is equally forbidden’.

(22) Of course not; and there would have been no necessity to mention it.

(23) The reference to small cattle.

(24) Sc. as in the case of man and large cattle one born at seven months after conception (two months before the normal period of nine months) is viable (though one born at eight months is not viable) so also in the case of small cattle (though one born at four months is not viable) one born at three months after conception (also two months before the normal period of five months) is viable.

(25) A three monthly abortion.

(26) A female demon of the night, reputed to have wings and a human face.

(27) Semunige in Lower Galilee.

(28) So MS.M. Cur. edd. omit.

(29) Lit., ‘lead’.

(30) Curr. edd. in parenthesis insert ‘R’.

(31) So Rashi, Cur. edd. reading ‘to meet him’ omit ‘R. Joshua’.

(32) Lit., ‘from my mouth’.

(33) Cf. Lev. XII, 2-5.

(34) In a SAC.

(35) Lit., ‘nothing’.

(36) Being neither water nor blood.
(37) Fabulous quantities, of course, which no woman could possibly be suspected of doing. The suggestion that a normal embryo was squashed is, therefore, untenable.
(38) From the sac.
(39) Lit., 'one who buries the dead'.
(40) Aliter: Black; aliter: Transparent.
(41) Lit., 'anointed', 'oiled'.
(42) Lit., 'and the thigh-bone did not end'.
(43) A Biblical giant (cf. Deut. III, 11).

Talmud - Mas. Nidah 25a

Pushtabna[1] of Pumbeditha reached to[2] half the height of the waiter Adda, while everybody else reached only to the loins of Pushtabna of Pumbeditha.

A question was raised in the presence of Rabbi: What is the ruling where a woman aborted a sac full of flesh? 'I did not hear of such a law', he answered them. 'Thus', announced R. Ishmael son of R. Jose before him, 'said my father: If it was full of blood the woman is unclean as a menstruant, but if it was full of flesh she is unclean as a woman after childbirth'. The other said to him: Had you told us something new in the name of your father we would have listened to you; but now, since his first ruling[3] was given in accordance with the view of an individual, viz., in agreement with Symmachus who cited R. Meir,[4] his second ruling also[5] might be one given in accordance with the view of R. Joshua;[6] but the halachah is not in agreement with R. Joshua. For it was taught: If an abortion was a sac with no fashioned limbs, R. Joshua ruled: It[7] is regarded as a valid birth[8] but the Sages ruled, it is no valid birth.[9]

R. Simeon b. Lakish citing R. Oshaia stated: The dispute[10] refers only to a sac that was turbid[11] but if it was clear[12] all agree that it is no valid birth. R. Joshua b. Levi, however, stated: The dispute[10] refers to the case of a clear sac. The question was raised:[13] Do they differ only in the case of a clear sac but in that of a turbid one all agree that it is a valid birth or is it possible that they differ about the one as well as about the other? — This stands undecided.[14] An objection was raised: This exposition was made by R. Joshua b. Hananiah: And the Lord God made for Adam and for his wife garments of skins, and clothed them[15] teaches that the Holy One, blessed be He, makes no skin for man before[16] he is formed. Thus it is clearly proved that a valid birth[17] depends on the skin irrespective of whether the sac was turbid or clear. Now if you grant[18] that the dispute[19] refers to the case of a clear sac there is full justification for his[20] need for a Scriptural text;[21] but if you maintain[22] that the dispute refers only to a turbid sac,[23] what need was there for a Scriptural text seeing that the reason[24] is a matter of logic? Consequently it may be inferred that the dispute refers also to a clear sac.[25] This is conclusive.

R. Nahman citing Rabbah b. Abbuha also[26] stated: They[27] differ only in regard to a turbid sac but as regards a clear one all agree that it is no valid birth. Raba raised an objection against R. Nahman: But they ruled: The token of a valid birth[28] in small cattle is a discharge from the womb,[29] in large cattle the placenta,[30] and in a woman the sac or placenta',[31] but,it follows, the abortion of a sac in cattle provides no exemption.[32] Now, if you grant that they[27] differ in the case of a clear sac, one can well see the reason why only a woman whose case Scripture specifically included,[33] was granted exemption in respect of a sac[31] while cattle whose case Scripture did not include no exemption was granted in respect of a sac, but if you maintain that the dispute concerns only a turbid sac consider! [The question of the validity of the birth being dependent] on a logical reason[34] what difference in this respect could there be between a woman and cattle?[35] — You think that R. Joshua was quite certain [of the nature of the sac],[36] but the fact is that R. Joshua was rather doubtful on the matter and, therefore, he followed a restrictive course in both cases.[37] [Only the question of the firstborn son] of[38] a woman, which is a mere monetary matter,[39] [did he rule that the abortion of a sac constitutes a valid birth,[40] because] in a case of doubt in monetary matters a lenient course[41] is followed.[42] On the question of the firstling of cattle, however, which involves a ritual prohibition of shearing[43] and of work[44] [he ruled the abortion of a sac to be an invalid birth,[45] because] in case of doubt in a ritual prohibition a restrictive course must be followed; and so also [on the question of the uncleanness] of a woman [the abortion of a sac is deemed to be a valid birth,[46] because] in a case of doubtful uncleanness[47] a restrictive course must be followed. But was he[48] in doubt?[49] Did he not, in fact, quote a Scriptural text?[50] — The ruling is only Rabbinical[51] and the Scriptural text is a mere prop.[52]

Said R. Hanina b. Shelemya to Rab: We have[53] the statements of[54] Rabbi,[55] of[54] R. Ishmael son of R. Jose,[56] of R. Oshaia[57] and of R. Joshua b. Levi;[58] with whose view does the Master agree? — I maintain, the other replied, that in neither case[59] need she take into consideration the possibility of a valid birth. Samuel, however, ruled: In either case[60] must she consider the possibility of a valid birth.[61] Samuel in this ruling follows his previously expressed view. For R. Dimi when he came[62] stated: Never at Nehardea[63] did they declare [one who aborted] a sac[64] to be clean[65] except in the case of a certain sac that was submitted to Samuel on which a hair that lay on one side could be seen through the other side when he said: If it were in fact an embryo it would not have been so transparent.

BUT IF ITS LIMBS WERE FASHIONED etc. Our Rabbis taught: What is meant by a sac the limbs of which are fashioned? Abba Saul explained: A foetus which in its primary stage resembles a locust,[66] and its two eyes are like two drippings[67] of a fly. R. Hiyya taught: They are far removed from one another. Its two nostrils are like two drippings of a fly. R. Hiyya taught: They are near one to another. Its mouth is as narrow as a stretched hair,[68] its membrum[69] is of the size of a lentil[70] and in the case of a female [the organ] has the appearance of the longitudinal [slit][71] of a barley grain; but it has no shaped hands or feet.[72] Of such a foetus there is this description in the post-Pentateuchal Scriptures:[73] Hast thou not poured me out as milk, and curdled me like cheese? Thou hast clothed me with skin and flesh and knit me together with bones and sinews. Thou hast granted me life and favor, and Thy providence hath preserved my spirit.[74] It[75] must not be examined in water because water is hard[76]

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(1) Or (with Aruk) Pashtikna. Cur. edd., Parshtabina. One of the tallest men.

(2) Lit., 'stood to him'.

(3) A sac filled with blood.

(4) Supra 21b.

(5) On a sac filled with flesh.

(6) Also an individual.

(7) Even if it was filled with flesh only.

(8) And the woman is unclean by reason of childbirth.

(9) Cf. prev. two notes. Since the Sages who are the majority differ from R. Joshua the halachah cannot be in agreement with his view.

(10) Between R. Joshua and the Sages.

(11) In which case it may well be assumed that the foetus in it had been crushed.

(12) Filled with clear water.

(13) On R. Joshua b. Levi's statement.

(14) Teku.

(15) Gen. III, 21.

(16) Lit., 'but if so', 'unless'.

(17) Lit., 'thing'.

(18) As R. Joshua b. Levi submitted.

(19) Between R. Joshua and the Sages.

(20) R. Joshua's.
(21) Since by showing that skin alone proves the existence of an embryo he can support his view against that of the Sages.
(22) As Resh Lakish does.
(23) The reason for his view being not the presence of skin but the possibility that the embryo had been crushed.
(24) For being regarded as a valid birth.
(25) An objection thus remains against Resh Lakish.
(26) Like R. Oshaia.
(27) R. Joshua and the Rabbis.
(28) In respect of exempting the one born after it from the obligations of ‘firstling’ or ‘first-born son’.
(29) After a conception.
(30) The young born after such a birth is not regarded as a firstling
(31) Bek. 19a. A son born after such an abortion is no ‘first-born son.
(32) Of the next born young from the restrictions of a firstling.
(33) As deduced supra by R. Joshua b. Hananiah.
(34) And not on a Scriptural text which specially refers to the human species.
(35) If the foetus may be assumed to have been crushed in the one case why may it not be so assumed in the other?
(36) That its abortion constitutes a valid birth.
(37) In that of a firstling of cattle and in that of a woman's uncleanness (as will be explained presently).
(38) Lit., ‘at’.
(39) A first-born son must be redeemed by the payment of five shekels to the priest.
(40) And the son born subsequently is no firstborn, and no redemption money on his behalf need be paid to the priest.
(41) In favour of the possessor of the money.
(42) The priest, therefore, cannot claim the redemption money (cf. prev. n. but one).
(43) Its wool.
(44) With the animal. It is forbidden to do any work with a firstling or to shear its wool (cf. Deut. XV, 19).
(45) Thus imposing the restrictions of a firstling on the next born young.
(46) Which imposes uncleanness upon the woman.
(47) Also a ritual matter.
(48) R. Joshua.
(49) Whether the abortion of a sac is a valid birth.
(50) Gen. III, 21, supra, in support of his view, which proves that his ruling is Pentateuchal and definite.
(51) Based, on account of the doubt, on the principle quoted supra.
(52) In support of the Rabbinical ruling.
(53) Supra.
(54) Lit., ‘that’.
(55) Who said (supra) ‘I did not hear of such a law’.
(56) Who said, ‘If it was full of flesh she is unclean’.
(57) Who said, ‘The dispute refers only to a sac that was turbid’.
(58) Who said, ‘The dispute refers to the case of a clear sac’.
(59) Neither in that of a turbid sac nor in that of a clear one.
(60) Cf. prev. n. mut. mut.
(61) Sc. she must remain unclean for the prescribed period of childbirth uncleanness, but is not entitled to the privilege of the subsequent period of clean days.
(62) From Palestine to Babylon.
(63) The principal town under Samuel's jurisdiction.
(64) Even if there was no bleeding with the abortion.
(65) I.e., to be exempt from the period of uncleanness prescribed for a woman after childbirth.
(66) Reading (with R. Han. and R. Tam) kerashom (cf. Aruk.) Cur. edd. ‘from its head’.
(67) Cf. Jast. ‘Eyes’ (Rashi).
(68) Lit., ‘stretched as a hair thread’.
(69) When sex is distinguishable.

[70] The case spoken of in our Mishnah (q.v.) is one of doubtful sex.
[71] Cf. the reading of ‘En Jacob and infra 25b.
[72] Sc. fingers and toes are not yet articulated.
[73] Lit., ‘acceptance’, ‘tradition’.
[74] Job X, 10-12.
[75] A foetus in the conditions described.
[76] Lit., ‘strong’.

Talmud - Mas. Nidah 25b

and disturbs its shape. It must rather be examined in oil because oil is mild and makes it clear. Furthermore, it must be examined in sunlight only. How is it to be examined? ‘How is it to be examined’ [you ask]! Of course as has just been described. — Rather, wherewith is it to be examined in order to ascertain whether it was male or female? — Abba Saul b. Nashor, as others say, Abba Saul b. Ramash replied: One brings a splinter with a smooth top and moves it [in an upward direction] in that place.[1] If it is caught it will be known that the foetus is a male,[2] and if not it will be known to be a female. R. Nahman citing Rabbah b. Abbuha stated: This[3] was learnt only of a movement in an upward direction,[2] but if sideways [it is no reliable test, since] it may be assumed [that the obstruction] was caused by the sides of the womb. R. Adda b. Ahaba stated: A Tanna taught, If the foetus was a female the organ has the appearance of the [longitudinal] slit of a barley grain.[4] R. Nahman demurred: Is it not possible that it[5] is merely the depression between[6] the testes? — Abaye replied: Since the testes themselves are indistinguishable, would the depression between them be distinguishable?[7]

R. Amram stated: A Tanna taught, ‘Its[8] two thighs are like two silk threads’, and in connection with this R. Amram explained: Like those of the woof;[9] ‘and its two arms are like two threads of silk’, in connection with which R. Amram explained: Like those of the warp.[9]

Samuel said to Rab Judah: Shinena,[10] give no practical decision [on the validity of a birth] unless the embryo has hair [on its head]. But could Samuel have said such a thing, seeing that he ruled, ‘In either case must she consider the possibility of a valid birth’? — R. Ammi b. Samuel replied: This was explained to me by the Master Samuel: She must indeed take into consideration the possibility of a valid birth;[11] but she is not allowed the privilege of the clean days[12] unless the embryo had hair [on its head]. This then implies that Samuel was doubtful on the point.[13] But is it not a fact that when a certain sac was submitted to the Master Samuel he said, ‘This is forty-one days old’, but on calculating the time since the woman had gone to perform her ritual immersion[14] until that day and finding that there were no more than forty days he declared, ‘This man[15] must have had marital intercourse during her menstrual period’ and having been arrested[16] he confessed?[17] — Samuel was different from other people because his knowledge was exceptional.[18]

IF SHE ABORTED A SANDAL etc. Our Rabbis taught: A sandal is like a sea-fish [of the same name].[19] At first it is a normal foetus but later it is crushed. R. Simeon b. Gamaliel said: A sandal resembles the tongue of a big ox. In the name of our Masters it was testified: A sandal[20] must have the facial features.[21] Rab Judah citing Samuel stated: The halachah is that a sandal[20] must have the facial features. R. Adda citing R. Joseph who had it from R. Isaac ruled: A sandal[20] must have the facial features even if only at the back, this being a case similar to that of a man who slapped his fellow and caused his face to turn backwards.

In the days of R. Jannai it was desired to declare [the mother of] a sandal that had no facial features as clean.[22] Said R. Jannai to them: You would declare [the mother of newly born] children[23] as clean![24] — But was it not taught, ‘In the name of our Masters it was testified: A sandal[25] must have the facial features’?[26] — R. Bibi b. Abaye citing R. Johanan replied: It was on the evidence of

R. Nehunya[27] that this ruling[28] was learnt.[29] R. Ze'ira observed: R. Bibi was lucky [to be the first] with his reported traditions, for both I and he were sitting in the presence of R. Johanan when he discoursed upon this tradition, but he[30] forestalled me and, reporting it first, gained the advantage.

Why was a sandal[31] at all mentioned, seeing that there can be no birth of a sandal without that of an embryo with it?[32] — If a female child were to be born with it this would be so indeed,[33] but here we are dealing with one with which a male was born.[34] As it might have been presumed that, since R. Isaac b. Ammi stated, 'If the woman is first to emit the semen she bears a male child and if the male is first to do it she bears a female child', the one[35] is a male as well as the other is a male,[36] hence we were informed [that no such assumption is made, for] it might equally be assumed that both emitted their semen simultaneously so that one might be a male while the other[35] is a female.[37] Another explanation:[38] [Sandal[39] was mentioned] in order that if a woman bore a female child before sunset and a sandal after sunset[40] she must count the beginning of her period of menstruation in accordance with the first birth and in accordance with the second birth.[41]

As regards the sandal that we learnt

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(1) Euphemism.
(2) The obstruction being attributed to the membrum.
(3) The splinter test.
(4) Cf. the reading supra 25a, ad fin. The latter reading adds 'slit' which is wanting in the original of the former.
(5) The presumed female organ.
(6) Lit., 'thread of'.
(7) Obviously not.
(8) Referring to the foetus in its early stages.
(9) The threads of the woof are thicker than those of the warp.
(10) Keen witted (rt. שנן 'to sharpen'); long-toothed (שן, 'tooth'): or man of iron.
(11) Sc. to remain unclean for fourteen days.
(12) After the conclusion of the unclean ones.
(13) The stages in the development of a foetus.
(14) Following the conclusion of her menstrual period.
(15) The husband of the woman.
(16) Lit., 'he bound him'.
(17) An incident which shows Samuel's remarkable and accurate knowledge of the nature of a foetus.
(18) Lit., 'because his strength is great'. Other people, however, whose physiological knowledge is not so great must adopt a cautious course and take into consideration the possibility suggested.
(19) Cf. Rashi.
(20) If it is to be deemed a valid birth.
(21) Tosef. Nid. IV.
(22) Regarding it as no valid birth.
(23) A sandal being regarded as a valid birth.
(24) Contrary to Pentateuchal law.
(25) If it is to be deemed a valid birth.
(26) Tosef. Nid. IV.
(27) An individual authority.
(28) Lit., 'teaching', the ruling that a sandal that is to be deemed a valid birth must have the facial features.
(29) Hence (cf. prev. n. but one) it may well be disregarded.
(30) R. Bebai.
(31) The law that it causes a woman's uncleanness (cf. our Mishnah).
(32) So that the woman would be unclean even in the absence of a sandal.
(33) There would have been no necessity at all to mention the sandal (cf. prev. n. but one), since it could add no uncleanness, whatever its sex: If it is a female it would subject the woman to the very same uncleanness as the female

that was born with it, and if it is a male, the period of uncleanness it causes is a lesser one than that of the female.

(34) So that if the sandal were a female the period of the woman's uncleanness would extend over a longer period.

(35) The sandal.

(36) In consequence of which the woman's uncleanness would be that of a male birth only.

(37) Hence the law of the sandal which imposes the restrictions of a female birth (fourteen unclean days instead of seven) as well as those of a male birth (thirty-three days of cleanness instead of sixty-six).

(38) Which justifies the necessity for the law of sandal even where a female was born.

(39) The law that it causes a woman's uncleanness (cf. our Mishnah).

(40) The day concluding at sunset, when another day begins, and the sandal being thus born a day later than the female child.

(41) I.e., the restrictions of both are imposed upon her: As the sandal might be a male the eighty-first day from the female birth (if there was a discharge) is regarded as the first day of menstruation though that day is still the eightieth from the sandal's birth which in the case of a female is one (the last) of the clean days. The seventh day after the eightieth again is not regarded as the termination of the seven days of menstruation (which began on the eightieth day) since it is possible that the sandal was a female whose eightieth day coincided with the eighty-first of the female child and in accordance with which the woman's seven days of menstruation began a day later (the eighty-second day after the first birth) and consequently terminated a day later.

Talmud - Mas. Nidah 26a

in the laws of the firstborn,[1] what practical law[2] is thereby taught?[3] — That the son who follows it[4] is regarded as a firstborn son in respect of inheritance[5] but not [in regard to his redemption] from the priest.[6] What practical law is taught by that of the sandal of which we learnt in the case of those who incur the penalty of kareth?[7] — That if the embryo[8] is born from her side,[9] and the sandal from her womb she[10] must bring a sacrifice on account of the sandal. But according to R. Simeon who ruled that ‘a foetus born from the side constitutes a valid birth’,[11] what can be said?[12] — R. Jeremiah replied: That if a woman bears the child while she is an idolatress and the sandal after she has been converted [to Judaism] she[13] must bring a sacrifice on account of the sandal.

The following was said by the Rabbis before R. Papa: But are all these answers[14] tenable? Was it not in fact taught, ‘When they[15] issue they do so only while clinging to one another’?[16] — R. Papa replied: From this[17] it may be inferred that the embryo clings to the sandal at the middle of the latter[18] which lies across the head of the former.[19] Consequently, as regards the law of the firstborn, [the reference is to a case], for instance, where the embryo[20] issued with its head first[21] so that the sandal[22] issued first.[23] As regards the law concerning those punishable by kareth it is a case where they[24] issued with their feet first so that the embryo was born first.[25] R. Huna b. Tahlifa citing Raba explained: It may even be said that they[26] cling together side by side, but reverse the previous statement:[27] As regards the law of the firstborn [the reference is to a case] where they[26] issued with their feet first; so that the embryo, being animated hangs on and does not easily come out; while the sandal, not being animated, glides and comes speedily out. As regards the law concerning those subject to the penalty of kareth [the reference is to a case] where they issued with their heads first, so that the embryo, being animated is deemed to have consummated its birth as soon as its head came out; while the sandal [being inanimated cannot be deemed to have been born] until its greater part came out.

MISHNAH. IF A PLACENTA IS WITHIN A HOUSE, THE HOUSE IS UNCLEAN;[28] NOT BECAUSE A PLACENTA IS A CHILD BUT BECAUSE GENERALLY THERE CAN BE NO PLACENTA WITHOUT A CHILD. R. SIMEON SAID, THE CHILD MIGHT HAVE BEEN MASHED[29] BEFORE IT CAME FORTH.[30]

GEMARA. Our Rabbis taught: The placenta in its first stage resembles a thread of the woof and in its final stage it resembles a lupine. It is hollow like a trumpet; and no placenta is smaller than a handbreadth. R. Simeon b. Gamaliel stated: The placenta resembles the craw of a hen[31] out of which the small bowels issue.[32]

R. Oshaia, the youngest of the fellowship,[33] taught:[34] Five things have a prescribed minimum of a handbreadth, and they are the following. A placenta, a shofar, a spine, a sukkah wall and a bundle of hyssop. As to the placenta there is the ruling just mentioned.[35] ‘Shofar’?[36] For it was taught: What must be the size of a shofar?[37] R. Simeon b. Gamaliel explained: It must be of such a size as can be held in one's hand and be seen at either end, viz.,[38] a handbreadth.[39] What is meant by ‘spine’? The ruling which R. Parnak laid down in the name of R. Johanan: The spine of the lulab must be long enough to project a handbreadth above the myrtle.[40] ‘The Sukkah[41] wall’? As it was taught: Two walls[42] must be proper ones but the third is valid even if it is only one handbreadth wide. ‘Hyssop’? As R. Hiyya taught: The bundle of hyssop[43] must be a handbreadth long.

R. Hanina b. Papa stated: Shila of the village of Tamartha discoursed on three Baraithas and two reported traditions dealing with the prescribed size of a handbreadth. ‘Two’[44] [you say]; is it not only one?[45] — Abaye replied, read:[46] R. Hiyya stated,[47] ‘The bundle of hyssop must be a handbreadth long’. But are there no others?[48] Is there not in fact [the law that an enclosed space of] one handbreadth square and one handbreadth in height, forming a cube[49] conveys uncleanness[50] and constitutes a screen[51] against uncleanness?[52] — We spoke of the size of ‘a handbreadth’; we did not speak of ‘a handbreadth square’. But is there not the law concerning a stone that projected one handbreadth from an oven[53] or three fingerbreadths from a double stove[54] in which case it serves as a connecting link?[55] We spoke only of cases where the size of less than a handbreadth is invalid, but here the law would apply all the more to such a case where the size is of less than a handbreadth and it is a handle of the oven. But is there not

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(1) Bek. 46a.

(2) In respect of the child born after it.

(3) Sc. since the birth of a sandal is always accompanied by the birth of an embryo how could the former's presence any more than its absence affect the birthright of a subsequently born son whose status would in any case be determined by that of the embryo.

(4) Sc. the embryo accompanying it if it was a male and was born after it.

(5) He is entitled to a double portion in his deceased father's estate (cf. Deut. XXI, 17).

(6) Cf. Num. XVIII, 15-16.

(7) Supra 7b in respect of the duty of bringing a sacrifice. Cf. supra n. 6 mut. mut.

(8) That accompanied the sandal.

(9) Extracted by means of the Caesarean cut.

(10) Though on account of the embryo, since it was not born from the normal place, she incurs no sacrifice of childbirth.

(11) Infra 40a; so that a sacrifice is incurred in any case.

(12) In reply to the objection: ‘What practical law is taught by that of the sandal?’

(13) Who incurs no obligation of a sacrifice on account of the child, since she was still an idolatress when it was born.

(14) Just given, in reply to the objections as to what practical purpose was served by the law of the sandal.

(15) Sandal and embryo.

(16) How then is it possible, for instance, that a woman should be converted between the birth of the child and the birth of the sandal which are simultaneous processes or for one to be born by Caesarean section and the other by natural birth?

(17) From (a) the law relating to those incurring the penalty of kareth which presumes the embryo to precede the sandal and (b) the law of the firstborn which presumes the sandal to precede the embryo and (c) the statement that embryo and sandal issue while clinging to one another.

(18) Sc. the head of the embryo is in contact with the centre part of the sandal.

(19) But does not come in contact with the lower part of its body.

(20) The sandal and embryo clinging to one another in the manner described.

(21) Lit., ‘by way of their heads’.

(22) Lying across the embryo's head.

(23) Sc. before the birth of the embryo was consummated. As the sandal was the first to issue the embryo cannot be regarded as a firstborn son to be subject to the obligation of redemption from the priest.
(24) Clinging to one another in the manner described.
(25) Hence the obligation to bring the sacrifice prescribed for a woman in childbirth.
(26) Sandal and embryo.
(27) The one made by R. Papa.
(28) As if overshadowed by an actual corpse.
(29) And having been mixed up with the blood of childbearing which was the greater quantity became neutralized in it.
(30) Hence it can no longer convey any uncleanness.
(31) Lit., ‘hens’.
(32) Tosef. Nid. IV.
(33) [Aliter: Oshaia Zeira of Haberya a village in the Hawram district; v. Horowitz, Palestine p. 263].
(34) Cf. Bomb. ed. and MS.M. Cur. edd., ‘it was taught’.
(35) In the citation from Tosef. Nid. IV
(36) Cf. MS.M.
(37) Ram's horn used on the two days of the New Year festival (cf. Lev. XXIII, 24, Num. XXIX, 1).
(38) Cf. Tosaf. Asheri.
(39) A handbreadth is equal to the size of four thumbs which equals that of four fingers plus. Hence the prescription that when ‘held in one's hand’, sc. with the four fingers, it must ‘be seen at either end’, i.e., it must slightly project to make up the required size.
(40) With which it is bound to form with the willows the Tabernacles festive wreath (cf. Lev. XXIII, 40).
(41) V. Glos.
(42) Of a sukkah (cf. Lev. XXIII, 42).
(43) Cf. Lev. XIV, 4.
(44) ‘Two reported traditions’.
(45) That on the spine of the lulab cited in the name of R. Johanan. All the others are Baraithas.
(46) Instead of ‘R. Hiyya taught’.
(47) As an Amora. R. Hiyya lived at the end of the period of the Tannas and the beginning of that of the Amoras. When he ‘taught’ he was citing a Baraitha but when he ‘stated’ or ‘said’ he was speaking only as an Amora.
(48) Whose prescribed size is a handbreadth.
(49) Thus constituting a ‘tent’ of minimum size.
(50) By overshadowing. If an unclean object and a clean one were overshadowed by it the latter becomes unclean even though it had not come in direct contact with the former.
(51) Where the clean object was above, and the unclean one under such a ‘tent’.
(52) Oh. III, 7.
(53) So that it can be used as its handle.
(54) Cf. prev. n. On the rendering of ‘double stove’ cf. Tosaf. 26b, s.v. בפלוגתא, contra Rashi.
(55) Kel. V, 2. Between an object on the stone and the oven or stove. If the object was unclean its uncleanness is conveyed to the oven or stove and if one of the latter was unclean its uncleanness is conveyed to the object.

Talmud - Mas. Nidah 26b

the law of ovens of the size of one handbreadth?[1] For we learnt:[2] — An oven [if it is to be susceptible to uncleanness must] ab initio[3] be no less than four handbreadths high, and what remains of it[4] must[5] be no less than four handbreadths high; so R. Meir. But the Sages ruled: This applies only to a big oven but if it is a small one [it is susceptible to uncleanness] ab initio, after its manufacture is completed, whatever its size, and what is left of it [remains unclean] if it was the greater part of it.[6] And [to the question] what is meant by ‘whatever its size’, R. Jannai replied: One handbreadth, since ovens of the height of one handbreadth are made![7] — He[8] did not speak of laws about which a divergence of view exists.[9] Now that you have arrived at this argument that law[10] [it may be explained][11] is also one in dispute, for in the final clause it was stated: R. Judah said, They spoke of the length of a handbreadth only between the oven and the wall.[12] But is there not also a border of a handbreadth?[13] — He does not deal with sizes that are prescribed in Scripture. But is there not the ark-cover that was one handbreadth thick?[14] — He[8] does not discuss holy things. But is there not [the following law]: It suffices for a cross-beam[15] to be one handbreadth wide?[16] — He[17] does not discuss Rabbinical laws.[18] [He was concerned only] with such as are prescribed in Scripture and in connection with which no sizes[19] have been specified.

R. Isaac b. Samuel b. Martha once sat at his studies before R. Kahana and in the course of the session he observed: Rab Judah citing Rab laid down that throughout the first three days[20] the placenta[21] is attributed to the child,[22] but henceforth the possibility of the birth of a second child[23] must be considered.[24] Said the other to him: But could Rab have said such a thing? Did not Rab in fact state, 'One child is not detained at all after the other [had been born]'?[25] The first remained silent. Said the other to him: Is it not possible that one statement[26] referred to an abortion, while the other[27] referred to a child that was viable? — You, the first[28] answered, have indeed stated Rab's actual rulings, for Rab has explicitly made the following statement: If a woman aborted an embryo and after that she aborted a placenta, if this occurred within three days[29] the placenta is attributed to the embryo, but if it occurred at any subsequent time the possibility of the abortion of a second embryo must be taken into consideration. If, however, she gave birth to a normal child and subsequently aborted a placenta, even if that occurred between that moment and ten days later,[30] the possibility of the abortion of a second child[31] need not be considered at all.

Samuel and the disciples of Rab and Rab Judah[32] were once sitting at their studies when R. Joseph the son of R. Menashya of Dewil passed along in great haste. 'There comes towards us', he exclaimed, 'a man whom we can throw down with a piece of straw[33] and he would allow himself to be thrown down and pushed out'.[34] In the meanwhile he approached them. What, said Samuel to him, did Rab rule in regard to a placenta? — Thus, the other replied, said Rab: The placenta may be attributed only to a child that is viable.[35] Samuel then put the question to all the disciples of Rab and they told him the same thing. Thereupon he turned round and looked at Rab Judah with displeasure.[36]

R. Jose b. Saul enquired of Rabbi: What is the law where there was an abortion in the shape of a raven and [this was followed by] a placenta?[37] — The other replied: We can attribute a placenta only to an embryo in whose species[38] the placenta is [one of their organs].[39] What is the law where the placenta is tied to it?[40] — You, the other replied, have asked a question about that which does not exist. He raised an objection against him: If a woman aborted something in the shape of a beast, a wild animal or a bird, and a placenta with them, whenever the placenta is attached to it there is no need to take into consideration the possibility of the existence of a second embryo, but if no placenta is attached to it the possibility of the existence of a second embryo[41] must be considered, and one[42] must [impose on the woman] on account of them[43]

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(1) Used as toys (cf. Rashi and Gold.)

(2) Cf. MS.M. Cur. edd., 'for it was taught'.

(3) When its manufacture is completed.

(4) Sc. of a big oven that contracted uncleanness and was then broken.

(5) If its uncleanness is to be retained.

(6) Kel. V, 1. For a fuller explanation cf. Hul. 124a.

(7) Now why was not this law included among the five enumerated by R. Oshaia supra?

(8) R. Oshaia.

(9) The size of the handbreadth in this case being disputed by R. Meir.

(10) About the stone that projected from an oven cited supra from Kel. V, 2.

(11) As a reason why it was not mentioned by R. Oshaia.

(12) Near which the oven is placed. Where a stone is of greater length it prevents the oven from being brought up to the wall and is removed in consequence. Only in such a case is the size restricted to a handbreadth. Where, however, the stone projects on another side, since it would not be removed, it is regarded as a handle.

(13) Ex. XXV, 25.

(14) Cf. Ex. XXV, 17, as explained in Suk. 4b.

(15) Placed above the entrance to a blind alley in connection with the permissibility of the movement of objects on the Sabbath.

(16) ‘Er. 13b.

(17) R. Oshaia.

(18) Ali the Sabbath laws in connection with an alley are merely Rabbinical.

(19) Lit., ‘their sizes’.

(20) After the birth of a child.

(21) That issued after the childbirth.

(22) That was born. The days of the woman's uncleanness and cleanness are consequently reckoned from the day of the child's birth and not from the latter day on which the placenta issued.

(23) Who was crushed within the placenta and who might have been a female.

(24) And the restrictions of a female birth (fourteen unclean days instead of seven, for instance,) are imposed.

(25) How then could he have ruled that after three days had passed the placenta might still be attributed to a second child?

(26) According to which a second child might be born three or more days after the birth of the first one.

(27) ‘One child is not detained at all after the other’.

(28) Who, thanks to R. Kahana's suggestion, recollected Rab's actual words and as a result was grateful and complimentary (cf. R. Gershom, contra Rashi).

(29) After the abortion of the embryo.

(30) Lit., ‘from here and onwards’.

(31) That may have been crushed in the placenta.

(32) Who was a former disciple of Rab and joined Samuel's academy for some time after Rab's death.

(33) Lit., ‘straw of the wheat’. Metaphor: The man could be upset by the simplest of arguments. Aliter: On whom we may throw wheat-chaff, i.e., embarrass with petty questions (Jast.).

(34) Cf. prev. n. He would not be able to open his mouth in defence of his views.

(35) As suggested supra by R. Kahana and confirmed by R. Isaac.

(36) ‘He considered it a discourtesy on the part of Rab Judah (cf. supra n. 3) not to have informed him earlier of such an important ruling of Rab.

(37) Is the placenta, it is asked, attributed to the raven-shaped embryo or is it attributed to a human embryo that may have been crushed in it?

(38) Man and beast.

(39) Birds are, therefore, excluded.

(40) The raven-shaped object.

(41) That may have been crushed within the placenta.

(42) Lit., ‘behold I’.

(43) The two embryos.

Talmud - Mas. Nidah 27a

the restrictions of the two births;[1] for it is assumed[2] that the foetus of the placenta may have been crushed[3] and that the placenta of the foetus[4] was also crushed.[5] This is indeed a refutation.

Rabbah b. Shila citing R. Mattena who had it from Samuel stated: It once happened that a placenta was attributed to an embryo as late as[6] ten days [after the latter's birth].[7] [The law, however, that it] is to be attributed [to the existing embryo] applies only[8] where the expulsion of the placenta followed the birth of the embryo.[9] Rabbah b. Bar Hana citing R. Johanan stated: It once happened that a placenta was attributed to an embryo as late as[10] twenty-three days [after the birth of the latter]. ‘You once told us’, said R. Joseph to him, ‘as late as twenty-four days’. R. Aha son of ‘Awira citing R. Johanan[11] stated: It once happened that the birth of an embryo was delayed for thirty-three days after that of its predecessor. ‘You’, said R. Joseph to him, ‘have in fact told us thirty-four days.’ [Such an incident may be explained] satisfactorily according to him who holds that a woman who bears at nine months does not necessarily complete the full number,[12] since in such circumstances it is possible that the features of one embryo were completed at the end[13] of seven months[14] and those of the other at the beginning[13] of the ninth month,[15] but according to him who maintains that a woman who bears at nine months does complete the full number,[12] what can be said [in explanation of the incident]?[16] — Reverse the statements:[17] Thirty-three days in the case of the placenta[18] and twenty-three days in that of the embryo.[19]

R. Abin b. R. Adda citing R. Menahem of Kefar She'arim or, as some say, Beth She'arim, stated: It once happened that a child was born three months later than its predecessor and lo, both sit before us in the schoolhouse. And who are they? — Judah and Hezekiah the sons of R. Hiyya. But did not a Master say that a woman in conception cannot conceive again?[20] — Abaye replied: It was the same drop but it was divided in two sections; the features of one of these were completed at the beginning of the seventh month and those of the other were completed at the end of the ninth month.

IF A PLACENTA IS WITHIN A HOUSE, THE HOUSE IS UNCLEAN. Our Rabbis taught: If a placenta is in a house, the house is unclean; not because a placenta is a child but because generally there can be no placenta with which there is no child; so R. Meir. R. Jose, R. Judah and R. Simeon regard [the house] as clean. ‘Do you not agree’, they said to R. Meir, ‘that if it had been carried out in a bowl into an outer room it would be clean?’ ‘Indeed’, he replied. ‘But why?’[21] ‘Because it[22] is no longer in existence’. ‘As’, they retorted, ‘it is not in existence in the outer room so is it not in existence in the inner room’.[23] ‘What was mashed once’, he replied, ‘is not like that which was mashed twice.’[24] R. Papa once sat behind R. Bubi in the presence of R. Hamnuna and in the course of the session he observed: What is R. Simeon's reason?[25] He is of the opinion that any uncleanness with which anything of a different kind of uncleanness has been mixed is neutralized. Said R. Papa to them: ‘Is this also the reason of R. Judah and R. Jose?’[26] They laughed at him. ‘Is not this obvious’, they said, ‘why should there be any difference?’[27] — ‘Even such a question’,[28] said R. Papa, ‘a man should submit to his Master[29] and not be content with silence;[30] for it is said, If thou hast done foolishly[31] thou art[32] lifting up thyself;[33] but[34] if thou hast planned devices,[35] lay thy hand upon thy mouth.[36]

R. Simeon[37] follows the view he expressed elsewhere. For it was taught: If some earth fell into a ladleful of corpse-mould [the latter remains] unclean, but R. Simeon holds it to be clean. What is R. Simeon's reason? — Raba[38] replied: ‘I met the Rabbis of the schoolhouse while they were sitting at their studies and explaining that[39] it is impossible that [somewhere in the mixture] two particles of earth to one of the corpse-mould should not represent the larger portion, so that[40] something is missing’,[41] and I said to them, ‘On the contrary! It is impossible that [somewhere in the mixture] two particles of the corpse-mould should not represent a part greater than

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(1) If, for instance, the embryo aborted was a male, the placenta is presumed to contain the crushed embryo of a female, and the woman must, therefore, count fourteen unclean days (as for a female) and not only seven (as prescribed for a male). According to the Rabbis (who do not regard a bird or a beast as a valid birth) the restriction imposed would be to regard ‘neither birth as valid and to deprive the woman in consequence of the advantage of the clean days prescribed for a woman after a childbirth.

(2) Lit., ‘for I say’.

(3) So that the placenta belonged to that foetus and not to the one in existence.

(4) That is in existence.

(5) And lost. Hul. 77a. It is thus shown that a placenta is sometimes attached to the foetus. How then could Rabbi maintain (supra 26b ad fin.) that such a thing ‘does not exist’?

(6) Lit., ‘until’.

(7) Despite the long interval between the birth of the embryo and the expulsion of the placenta no assumption was made that the placenta of the embryo in existence was lost and that the placenta in existence belonged to a second embryo that was crushed.

(8) Lit., 'and they only said'.

(9) If, however, it preceded it the possibility must be taken into consideration that it belonged to another embryo that had been crushed; and consequently the restrictions applying to the two embryos must be imposed.

(10) Lit., 'until'.

(11) So Bah. Cur. edd., 'R. Isaac'.

(12) Of the nine months. Limekuta'in (from a rt. meaning 'to lop off').

(13) Within a day or two.

(14) In consequence of which it is viable.

(15) The eighth month consisting of twenty-nine or thirty days together with the odd days of the seventh and the ninth months (cf. prev. n. but one) making up the interval of thirty-three days.

(16) Apparently nothing whatever. If the first was born in the seventh month (even if on the last day) and the second in the ninth month the interval would not be one of thirty-three days but one of no less than two months. If they were both born in the seventh month the interval would inevitably be less than thirty-three days (since a Hebrew month never contains more than thirty days). If again, one was born in the seventh and the other in the eighth month the latter could not be viable, whereas the incident which speaks of a welad ('child') and not of nefel ('abortion') seems to refer to two viable children.

(17) Of R. Johanan.

(18) The first incident described supra.

(19) The second of the incidents supra. This is quite possible where both embryos were born in the seventh month, since all agree that a child may be viable even if the full number of seven months was not completed.

(20) Lit., 'a woman does not conceive and conceive again'. How then was it possible for a child to be born three months after its predecessor.

(21) Should then the first house be unclean.

(22) Having been mashed in the water.

(23) Since it was mashed in the placenta.

(24) 'There is no comparison between one presumption that the embryo was mashed and two such suppositions (that the placenta of one embryo and the embryo of another placenta were mashed)'. Jast.

(25) Sc. granted that the embryo was mashed, does not a mashed corpse convey uncleanness?

(26) Who are of the same opinion as R. Simeon supra.

(27) None whatever (cf. prev. n.).

(28) Which might cause one to be an object of ridicule.

(29) To make sure of his tradition.

(30) By relying on his own intelligence.

(31) Sc. asked what might appear to be a ridiculous question.

(32) E.V., 'in'.

(33) One's knowledge is of the highest order and first hand.

(34) E.V., 'or'.

(35) In seeking to escape possible ridicule.

(36) Prov. XXX, 32; he will not be able to give an authoritative answer when a question on the subject is addressed to him.

(37) In his ruling supra that 'Any uncleanness with which anything of a different kind . . . has been mixed is neutralized'.

(38) So MS.M. and Bah. Cur. edd., 'Rabbah'.

(39) Though the earth is much less than the corpse-mould.

(40) Since in that part of the mixture, at least, the corpse-mould is neutralized and loses its uncleanness.

(41) From the prescribed minimum of a ladleful. The whole mixture is consequently clean.

Talmud - Mas. Nidah 27b

one particle of earth,[1] so that[2] the quantity is increased'.[3] The fact, however, is, said Raba,[4] that this is the reason of R. Simeon: Its final stage[5] is treated as its first stage.[6] As in its first stage any other matter[7] becomes its antidote[8] so also in its final stage[5] any other matter[9] becomes its antidote,[8] What is that law?[10] — It was taught: In what circumstances is a corpse subject to the uncleanness of[11] corpse-mould and in what circumstances is a corpse not subject to the uncleanness of corpse-mould? If a corpse was buried naked in a marble sarcophagus or on a stone floor[12] it is one that is subject to the uncleanness of corpse-mould. And in what circumstances is a corpse not subject to the uncleanness of corpse-mould? If it was buried in its shroud,[13] or in a wooden coffin,[14] or on a brick floor[14] it is one that is not subject to the uncleanness of corpse-mould.[15] And [the Sages] spoke of the uncleanness of corpse-mould only in the case of one who died, thus excluding a killed person who[16] is not [subject to this law].[17]

[To turn to] the main text, ‘If some earth fell into a ladleful of corpse-mould [the latter remains] unclean, but R. Simeon holds it to be clean. If a ladleful of corpse-mould was scattered in a house the house is unclean,[18] but R. Simeon holds it to be clean’.[19] And both these rulings were required. For if we had been informed of the first one only[20] it might have been presumed that only in that case do the Rabbis maintain their view,[21] since it[22] is collected together but that where it was scattered they agree with R. Simeon, since a succession of incomplete overshadowings[23] is of no consequence.[24] And if we had been informed of the latter only[25] it might have been presumed that only in that case does R. Simeon maintain his view,[26] since a succession of incomplete overshadowings[23] is of no consequence,[27] but that in the former case[28] he agrees with the Rabbis.[21] Hence both were required.

Elsewhere we learnt:[29] A ladleful and more of the earth of a graveyard[30] is unclean,[31] but R. Simeon regards it as clean.[32] What is the reason of the Rabbis? — Because it is impossible to have ‘a ladleful[33] and more’ of the earth of a graveyard in which there is not contained a ladleful of corpse-mould.[34]

Now that you have explained that R. Simeon's reason is because ‘its final stage is treated as its first stage’,[35] what could be his reason in the case of a PLACENTA?[36] — R. Johanan replied: Because the law of neutralization in the larger quantity[37] has been applied to it.[38] R. Johanan in fact follows here[39] a view he expressed elsewhere. For R. Johanan stated: R. Simeon and R. Eliezer b. Jacob laid down the same ruling.[40] R. Simeon laid down the ruling we have just spoken of.[41] R. Eliezer [also laid down the same ruling] for we learnt:[42] R. Eliezer b. Jacob ruled, If a beast[43] of the class of large cattle discharged a clot of blood, this[44] shall be buried[45] and [the beast] is exempt from the law of the firstling;[46] and in connection with this R. Hiyya taught: It[44] does not convey uncleanness either through touch or through carriage.[47] But since it conveys no uncleanness either through touch or through carriage[48] why[49] should it be buried? — In order to publish the fact that [the beast] is exempt from the law of the firstling. It thus clearly follows that it[44] is deemed to be a proper embryo,[50] then why did R. Hiyya teach, ‘It does not convey uncleanness either through touch or through carriage’? — R. Johanan replied: Because the law of neutralization in the larger quantity[51] has been applied to it,[52]

R. Ammi citing R. Johanan stated: R. Simeon, however,[53] agrees that its mother is unclean by reason of childbirth. Said a certain old man to R. Ammi: ‘I will explain to you R. Johanan's reason:[54] For Scripture says, If a woman conceived seed[55] and bore a man-child etc.,[56] which implies: Even if she bore in the same manner only as she ‘conceived seed’[57] she is unclean by reason of childbirth.

Resh Lakish ruled: A sac that was beaten up in its fluid assumes the same status as a corpse whose shape was destroyed.[58] Said R. Johanan to Resh Lakish: Whence do we infer that a corpse whose shape had been destroyed is clean? If it be suggested, From the following statement which R. Shabthai cited in the name of R. Isaac of Magdala or, as others say, R. Isaac of Magdala cited in the name of R. Shabthai, ‘If a corpse has been burnt but its shape remained[59] it is unclean. It once happened that on account of such a corpse[60] the big[61] doors[62] were declared unclean[63]

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(1) With which they are mixed in that particular section.
(2) The earth also becoming unclean on account of the greater part of the corpse-mould with which it is mixed.
(3) We-nafish (cf. marg. n. and Bomb. ed.) Cur. edd., we-nafil (and it falls).
(4) So MS.M., Cur. edd. ‘Rabbah’.
(5) When a corpse is already converted into corpse-mould.
(6) When the corpse is buried.
(7) That is mixed up with the decaying corpse.
(8) Cf. Rashi. Gingilon (or gilgilon, cf. Tosaf.), lit., ‘belt’ (cf. cingulum); sc. the smallest piece of material buried with a corpse neutralizes the uncleanness of its mould.
(9) That mixed with the mould.
(10) About the first stage just referred to.
(11) Lit., ‘which is the corpse that has’.
(12) So that there is no foreign matter in the vicinity of the corpse that is likely to be mixed up with its mould.
(13) Which on decaying would naturally be mixed up with the decaying matter of the corpse.
(14) Which would moulder (cf. prev. n.).
(15) Since the foreign matter that mixes with the decaying matter of the corpse neutralizes it and liberates the corpse-mould from its uncleanness.
(16) Being regarded as a defective corpse (cf. Naz. 51b) on account of the blood he lost.
(17) Tosef. Nid. II, Naz. 51a.
(18) On account of ohel or overshadowing.
(19) Oh. III, 2.
(20) Earth mixed with corpse-mould.
(21) That the mould remains unclean.
(22) The corpse-mould.
(23) Sc. one part of the roof does not overshadow the prescribed minimum of corpse-mould but one part of it overshadows one part of the minimum while another part overshadows another part of it.
(24) Lit., ‘that one does not make a tent and make a tent again’, and the room, therefore, remains clean.
(25) Corpse-mould scattered.
(26) That the house is clean.
(27) Cf. prev. n. but two mut. mut.
(28) Earth mixed with corpse-mould.
(29) V. marg. gl. Cur. edd. ‘in another Baraitha it was taught’.
(30) Which consists of a mixture of corpse-mould and earth.
(31) The reason is explained presently.
(32) The reason is given supra by Raba.
(33) Lit., ‘to fill a ladle’.
(34) The required minimum.
(35) Cf. prev. n. but two.
(36) Where this comparison cannot be made.
(37) There is more blood of labour than mashed embryo.
(38) Lit., ‘they touched it’. As the blood of labour which is the larger quantity is clean, the lesser quantity of the mashed embryo is neutralized in it, and is, therefore, clean.
(39) In the answer just given.
(40) That a mashed embryo is neutralized in the larger quantity of the blood of labour.
(41) An embryo mashed in a placenta causes no uncleanness.
(42) Cf. marg. gl. and Bomb. ed. Cur. edd., ‘for it was taught’.
(43) Which had never before born any young.
(44) The clot.
(45) It being possible that it contained a mashed firstling which is sacred.
(46) Bek. 21b; sc. its next born young is not regarded as a firstling and need not be given to the priest.
(47) Not being regarded as nebelah (v. Glos.) the man who touches or carries it remains clean.
(48) From which it follows that it is not regarded as an embryo.

(49) Since it is consequently no firstling.
(50) Had it not had that status the beast would not have been exempt from the law of the firstling.
(51) There being more blood of labour than mashed embryo.
(52) The mashed embryo is consequently neutralized and is, therefore, clean.
(53) Though he ruled in our Mishnah that the house is clean because THE CHILD MIGHT HAVE BEEN MASHED etc.
(54) For subjecting the woman to the uncleanness of childbirth even when the embryo is mashed.
(55) So according to A.V, and R.V. and the exposition that follows. J.T., 'be delivered'.
(56) Lev. XII, 2.
(57) Sc. the former was in a fluid state like the latter.
(58) Sc. burned and scattered. Such human remains convey no uncleanness.
(59) I.e., its ashes still kept together so that the body appears whole.
(60) Lit., 'for him'.
(61) No less than four handbreadths wide.
(62) Of the house in which it lay.
(63) Since the corpse can be carried intact through them.

Talmud - Mas. Nidah 28a

but the small doors[1] were declared clean'; from which you infer that the reason [why the big doors were declared unclean is] because its shape is still intact but had it not been in such a condition they[2] would have been clean; on the contrary [it could be retorted] draw from this the following inference:[3] Only when its shape is intact were the small doors declared clean but otherwise the small doors also are unclean, since everyone of them is fit for carrying through it one limb at a time.[4] Said Rabina to R. Ashi: [Do you know] in agreement with whose view R. Johanan made his statement?[5] In agreement with that of R. Eliezer, For we learnt: The ashes of burnt corpses, R. Eliezer ruled, [convey uncleanness] if they are a quarter of a kab in quantity.[6] How is one to imagine a corpse that was burnt but whose shape remained intact? — Abaye replied: In such a case, for instance, as where it was burnt on a leather spread.[7] Raba replied: In such a case, for instance, as where it was burnt on a hard cemented substance.[8] Rabina replied: Where, for instance, it was only charred.[9]

Our Rabbis taught: If a woman aborted a shaped[10] hand or a shaped[11] foot she[12] is subject to the uncleanness of childbirth and there is no need to consider the possibility that it might have come from a shapeless body.[13] Both R. Hisda and Rabbah b. R. Huna ruled: She[14] is not allowed the days of cleanness.[15] What is the reason? — It might be assumed that[16] her bearing took place long ago.[17] R. Joseph raised an objection: If a woman aborted an embryo and[18] it is unknown what [was the sex of the embryo] she aborted she must continue [her periods of uncleanness and cleanness as] for both a male child and a female child.[19] Now if it is to be upheld[20] that in any such case[21] it might be assumed that her bearing took place long ago,[22] why[23] was it not also stated, 'and as for menstruation'?[24] — Abaye replied: If 'as for menstruation' had been mentioned it might have been presumed that[25] she brings a sacrifice[26] which[27] may not be eaten; hence we were informed[28] that it may be eaten.[29]

R. Huna ruled: If an embryo put forth its hand and then drew it back its mother is unclean on account of childbirth; for it is said, And it came to pass, when she bore,[30] that one put out a hand.[31] Rab Judah raised an objection: If an embryo put forth its hand its mother need not consider the possibility of any restriction![32] — R. Nahman replied: This was explained to me by R. Huna that the woman must indeed consider the possibility [that it is a valid birth],[33] but we do not allow her the privilege of the clean days[34] unless the greater part of the embryo has issued forth. But was it not stated 'Its mother need not consider the possibility of any restriction'? — Abaye replied: Pentateuchally she need not consider the possibility of any restriction, but it is Rabbinically that she must take into consideration the possibility [that it might have constituted a valid birth]. But did he[35] not quote a Scriptural text?[36] — The restriction is Rabbinical, and the Scriptural text is a mere prop.[37]

MISHNAH. IF A WOMAN ABORTED A TUMTUM OR AN ANDROGINOS,[38] SHE MUST CONTINUE [IN HER UNCLEANNESS AND CLEANNESS AS] FOR BOTH A MALE[39] AND A FEMALE,[40] IF SHE GAVE BIRTH TO A TUMTUM AND A MALE, OR TO AN ANDROGINOS AND A MALE, SHE MUST ALSO CONTINUE [IN UNCLEANNESS AND CLEANNESS AS] FOR BOTH A MALE[39] AND A FEMALE.[40] IF SHE HAVE A TUMTUM AND A FEMALE OR AN ANDROGINOS AND A FEMALE, SHE NEED CONTINUE [IN UNCLEANNESS AS] FOR A FEMALE ONLY.[41] IF THE EMBRYO ISSUED IN PIECES[42] OR IN A REVERSED POSITION[43] IT IS DEEMED BORN AS SOON AS ITS GREATER PART ISSUED FORTH. IF IT CAME FORTH IN THE NORMAL WAY [IT IS NOT DEEMED BORN] UNTIL THE GREATER PART OF ITS HEAD ISSUED FORTH. AND WHAT IS MEANT [BY THE ISSUE OF] THE ‘GREATER PART OF ITS HEAD’? THE ISSUE[44] OF ITS FOREHEAD.

GEMARA. Now that it has been laid down that for a TUMTUM alone or for an ANDROGINOS alone SHE MUST CONTINUE [IN HER UNCLEANNESS AND CLEANNESS AS] FOR BOTH A MALE AND A FEMALE, why should it again be necessary [to state that the same law applies where she gave birth to] A TUMTUM AND A MALE OR TO AN ANDROGINOS AND A MALE? — This was necessary: As it might have been suggested that since R. Isaac had stated, ‘If the woman emits her semen first she bears a male and if the man emits his first she bears a female’,[45] it should be assumed that since the one is a male the other[46] also is a male, hence we were informed [that no such assumption is made, since] it might equally be assumed that both[47] emitted their semen simultaneously, the one resulting in a male and the other in a female.[48] R. Nahman citing Rab ruled: If a tumtum or an androginos observed a white,[49] or a red[50] discharge he[51] does not incur the obligation of an offering for entering the Sanctuary[52] nor is terumah[53] to be burnt on his account.[54] If he[51] observed a simultaneous discharge of white and red,[55] he incurs indeed no obligation of an offering for entering the Sanctuary[56] but terumah[53] must be burnt on his account;[57] for[58] it is said, Both male and female

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(1) Less than four handbreadths in width, through which, owing to the availability of larger doors, the corpse would not be carried.

(2) The big doors,

(3) Lit., ‘to that side’.

(4) From which it would follow that ‘a corpse whose shape had been destroyed’ is also unclean; contrary to the view of Resh Lakish (supra 27b, ad fin.).

(5) That a corpse whose shape had been destroyed is also unclean (cf. prev. n.).

(6) Oh. II, 2.

(7) Katabela, cf. K** (Jast.); a skin boiled and hardened which is not consumed when the corpse is burnt (v. Rashi) and moulded in the shape of a human body (Tosaf.) so that the burned remains are kept together.

(8) Or ‘over the dung on a cemented stable-floor’ (Jast.); marble (Rashi); providing a mould for the corpse (cf. prev. n.).

(9) In which case the body is kept together without any external aid.

(10) Lit., cut’, sc. with fingers well defined.

(11) Cf. prev. n. mut. mut.

(12) Lit., ‘his mother’.

(13) Which has not the status of a child.

(14) Though subject to the uncleanness of a normal birth.

(15) Which, in the case of a normal birth, follow the period of uncleanness.

(16) Since the embryo was aborted in parts and it is unknown when the birth of the greater part of it occurred.

(17) And by the time the hand or foot in question was aborted the prescribed period of uncleanness may have passed.

(18) Having been aborted in fractions.

(19) Infra 29a; sc. the restrictions of both are imposed upon her.

(20) Lit., ‘it goes up to your mind’.

(21) Abortion in parts.
(22) Cf. p. 190, n. 14.
(23) Since in this case also it is not known when the birth of the greater part of the embryo took place.
(24) I.e., the uncleanness should not only extend over fourteen days (prescribed for the birth of a female child) irrespective of whether blood was or was not observed, but even any subsequent discharge of blood, which in the case of a normal birth is clean, should (since her period of clean days may have already passed) be regarded as that of menstruation. (On the mention of male child v. infra 30a).
(25) Since the ruling that the woman is subject to the restrictions of menstruation implies that it is not certain whether the embryo is, or is not to be regarded as a normal child.
(26) Prescribed for a woman after a childbirth.
(27) As the embryo possibly may not have the status of a normal child (cf. prev. n. but one).
(28) By the omission of ‘as for menstruation’ which indicates that there is no doubt whatever that the embryo is in this respect regarded as a normal child, and that it was only its sex that was in doubt.
(29) As any other valid sacrifice brought by a woman after a childbirth.
(30) E. V., ‘she travailed’.
(31) Gen. XXXVIII, 28; emphasis on bore and hand which shows that the issue of a hand alone is described as a ‘birth’.
(32) How then could R. Huna maintain that a woman in such circumstances is subject to the uncleanness of childbirth?
(33) Sc. she must continue in the days of uncleanness as after a normal childbirth.
(34) That normally follow those of uncleanness.
(35) R. Huna.
(36) How then could the restriction be said to be Rabbinical only?
(37) Asmakta.
(38) Hermaphrodite.
(39) In respect of the period of cleanness, thirty-three days instead of the sixty-six prescribed for a female birth.
(40) Fourteen unclean days instead of the seven prescribed for the birth of a male.
(41) Since even if the tumtum were a male, the unclean period prescribed for the birth of a male is completely absorbed by the longer one prescribed for the birth of a female (cf. prev. n.); and the same applies also to the clean period (cf. prev. n. but one).
(42) Lit., ‘cut’.
(43) With its feet first.
(44) Lit., ‘as soon as . . . issued’.
(45) Supra 25b.
(46) The tumtum or the androginos.
(47) Husband and wife.
(48) That other being the tumtum.
(49) Which resembles semen; a discharge that causes no uncleanness in a woman.
(50) Resembling menstrual blood, a discharge that causes no uncleanness in a man.
(51) The Heb. uses the plural throughout the passage.
(52) Since his uncleanness is a matter of doubt (cf. prev. two notes) and his sacrifice in connection with it would consequently be an unconsecrated beast which is forbidden to be offered on the altar.
(53) Which he touched.
(54) It must only be kept in suspense owing to the doubtful nature of its uncleanness.
(55) So that he is inevitably unclean whatever his sex.
(56) For the reason explained presently.
(57) Cf. prev. n. but one.
(58) This is a reason for the first ruling, why ‘he incurs no guilt for entering the Sanctuary’.

Talmud - Mas. Nidah 28b

shall ye put out,[1] only a confirmed male or a confirmed female [shall ye put out], but not a tumtum or an androginos. May it be suggested that the following provides support for his[2] view? [For it was taught:] ‘If a tumtum or an androginos observed a white,[3] or a red discharge, he incurs no obligation of an offering for entering the Sanctuary nor is terumah to be burnt on his account. If he observed a simultaneous discharge of white and red he incurs indeed no obligation of an offering for entering the Sanctuary but terumah must be burnt on his account'. Now is not the reason[4] because it is said, Both male and female shall ye put out,[5] which implies only a confirmed male and a confirmed female [shall ye put out] but not a tumtum or an androginos?[6] — 'Ulla replied: No; this may represent the view of[7] R. Eliezer.[8] For we learnt: R. Eliezer stated, [It is written, If any one touch . . . the carcass of] unclean swarming things and . . . it being hidden from him,[9] one incurs the obligation of an offering only when the unclean swarming thing is hidden from him[10] but no offering is incurred when the Sanctuary is hidden from him.[11] R. Akiba stated, [Scripture says:] It being hidden from him that he is unclean,[9] one incurs the obligation of an offering only when it is 'hidden from him that he is unclean'[10] but no offering is incurred when the Sanctuary is hidden from him.[12] And when it was asked, 'What is the practical difference between them?'[13] Hezekiah replied: The practical difference between them is [the case of a man who is uncertain whether he touched] a dead creeping thing or the carcass of a beast, R. Eliezer[14] holding that it is necessary[15] that a person shall know[16] whether he had contracted uncleanness through a creeping thing or through the carcass of a beast, while R. Akiba[17] maintains that this is not necessary.[18] Now did not R. Eliezer state there[18] that 'it is necessary that a person should know whether he contracted uncleanness through a creeping thing or the carcass of a beast'?[19] Well here also[20] it is necessary[21] that the person[22] should know whether he became unclean on account of the white discharge or an account of the red one; but according to R. Akiba who stated that a person incurs the obligation of an offering on account of uncleanness[23] an offering would be incurred here[20] also on account of the uncleanness.[23] But, according to Rab, why is it that they[22] incur no offering for entering the Sanctuary? Because [you say] it is written, Both male and female shall ye put out,[24] which implies that only a confirmed male and a confirmed female [must be put out] but not a tumtum or an androginos. But, if so, terumah[25] also should not be burnt, since it is written, And of them that have an issue, whether it be a man, or a woman,[26] which implies[27] does it not, that only a confirmed male and a confirmed female [is subject to the restrictions][28] but not a tumtum or an androginos?[29] — That text[26] is required for an exposition like the one made by R. Isaac; for R. Isaac stated: 'whether it be a man'[26] includes[30] a male leper as regards his sources,[31] 'or a woman'[26] includes a female leper as regards her sources.[32] But is not that text[33] also required [for a deduction that the injunction[34] applies only] to that which may attain cleanness in a ritual bath,[35] thus excluding an earthenware vessel;[36] so R. Jose?[37] — If so[38] the All Merciful should have written, 'man'.[39] And should you retort that if the All Merciful had only written 'man' it might have been presumed that a metal vessel need not be sent out[40] [it may be pointed out that this[41] could have been] deduced from Whatsoever[42] is unclean by the dead,[43] what need then was there for the specification of 'male and female'? Obviously to deduce the same ruling as Rab did. Might it not then be suggested that the entire text served the same purpose as that to which Rab applied it?[44] — If that were the case[45] it should have been written, 'male and female' why then the expression 'both male and female'?[46] 'Both'[47] consequently includes all objects that attain cleanness in a ritual bath. But if so,[48] even if he[49] became unclean through any other cause of uncleanness,[50] he should not be sent out, should he?[51] — Scripture said, 'from[52] male' [implying that the text deals only with] an uncleanness that is discharged from the male.[53] Does, however, any Scriptural expression of 'both male and female' serve to exclude the tumtum and the androginos? Surely in the case of valuations it is written, 'The male',[54] and it was taught: 'The male'[54] but no tumtum or androginos. As it might have been presumed that he is not subject to the valuation of a man but is subject to that of a woman it was explicitly stated. 'The male[55] . . . And if it be a female'[56] implying:[57] Only a confirmed male and a confirmed female[58] but no tumtum or androginos.[59] Is not then the reason [for the exclusion][60] that it was written, 'The male[55] . . . And if it be a female',[56] but from the expression of 'male and female' alone neither[61] could have been excluded?[62] — That text[63] is required

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(1) Num. V, 3, a reference to the sending out of unclean persons from the Sanctuary (v. Rashi).

(2) Rab's.

(3) For notes v. supra on Rab's statement.
(4) For the first ruling (cf. supra n. 14). Lit., ‘what is the reason? Not?’
(5) V. p. 193, n. 15.
(6) Does this then provide support for Rab's view?
(7) Lit., ‘this, whose?’
(8) Who is of the opinion that no offering in connection with an uncleanness may be brought unless the person affected is fully aware of the actual cause of his uncleanness? Similarly in the case cited, since the actual cause of uncleanness is unknown to the tumtum or to the androginos, no obligation of an offering is incurred. The Rabbis, however, who differ from R. Eliezer in subjecting one to the obligation of an offering even where the actual cause of the uncleanness is unknown, would equally subject the tumtum and the androginos to the obligation of an offering in the case cited. As the halachah is in agreement with the Rabbis who are in the majority, no authoritative support for Rab's statement is forthcoming from this Baraitha.
(9) Lev. V, 2.
(10) Sc. when entering the Sanctuary the man forgot that he was unclean.
(11) Sc. he well remembered when entering the Sanctuary that he was unclean but forgot that it was the Sanctuary that he was entering.
(12) Shebu. 14b. Cf. prev. n.
(13) R. Eliezer and R. Akiba.
(14) Who explicitly mentioned ‘unclean swarming thing’.
(15) If an offering is to be incurred.
(16) At the time he became unclean.
(17) Who merely speaks of uncleanness in general.
(18) Shebu. 18b.
(19) Of course he did.
(20) The case of a simultaneous discharge of red and white.
(21) If an offering is to be incurred.
(22) The tumtum or the androginos.
(23) Though the actual cause of it is unknown to him.
(24) Num. V, 3.
(25) Which they touched.
(26) Lev. XV, 33.
(27) As does the expression ‘male and female’ in Num. V, 3.
(28) Of the laws spoken of in the text.
(29) But this is, of course, absurd.
(30) Since the expression is not required for the context which spoke previously in general terms in the same verse ‘of them that have an issue’.
(31) His mouth, for instance. Sc. not only is his body a primary uncleanness but, as the zab of which the text explicitly speaks, his spittle also is a primary uncleanness and may, therefore, impart uncleanness of the first grade to man and articles.
(32) Cf. prev. n. No further deduction, therefore, can be made from the same expression.
(33) Num. V, 3, from which deduction is made in the Mishnah cited from Shebu. 14b supra.
(34) To send out from the Temple court.
(35) As ‘a male and female’ may.
(36) Which cannot attain cleanness by immersion.
(37) ‘Er. 104b. How then can Rab deduce his ruling from the very same text?
(38) That only the deduction just quoted was to be made.
(39) Heb. adam, which would have included both sexes and implied the deduction.
(40) And that it is for this reason that Scripture specified ‘both male and female’ in order to indicate (by the specific mention of the two sexes) that the deduction must have a reference to a law that applied to both sexes viz., the attainment of cleanness in a ritual bath, so that metal vessels also should be included.
(41) The law that an unclean metal vessel must also be sent out of the Temple court.
(42) E.V. ‘whosoever’.

[43] Num. V, 2, emphasis on the first three words which include metal vessels also. The use of ‘man’, therefore, would inevitably have excluded earthen vessels.

[44] But, if so, whence is the deduction made that the same law applies to all that attain cleanness in a ritual bath?

[45] That only Rab's ruling is to be deduced.

[46] Lit., ‘from male until female’.

[47] Heb, ‘ad, lit. ‘until’.

[48] That, as Rab laid down (supra 28a), a tumtum or an androginos who observed a red and a white discharge is exempt from the law requiring an unclean person to be sent out from the Temple court since he is neither a confirmed male nor a confirmed female.

[49] A tumtum or an androginos.

[50] By coming in contact with a corpse, for instance.

[51] But this surely is contrary to the accepted law.

[52] E.V., ‘both’.

[53] Thus excluding one contracted from a foreign body.

[54] Lev. XXVII, 3.

[55] Cf. prev. n., emphasis on ‘the’.

[56] Lev. XXVII, 4, emphasis on ‘if’.

[57] By the additional ‘the’ and ‘if’ (cf. prev. nn.).

[58] Are subject to the valuations given.

[59] ‘Ar 4b.

[60] Of the tumtum and the androginos from the valuations laid down.

[61] Cf. prev. n.

[62] How then could it be implied supra that ‘any Scriptural expression of "both male and female" serves to exclude the tumtum etc.’?

[63] ‘Male’ and ‘female’ in the section of valuations.

Talmud - Mas. Nidah 29a

to indicate a distinction between the valuation of a man and the valuation of a woman.[1]

IF THE EMBRYO ISSUED IN PIECES OR IN A REVERSED CONDITION etc. R. Eleazar ruled: Even if the head was with them;[2] but R. Johanan ruled: This[3] was learnt only in a case where the head was not with them but where the head was with them the embryo is deemed born.[4] May it be suggested that they[5] differ on a principle of Samuel for Samuel has laid down: The head[6] does not exempt[7] in the case of miscarriages?[8] — Where it[9] is whole there is no difference of opinion whatever;[10] they only differ in a case where it[9] issued in pieces, one Master[11] holding the opinion that the head is of importance[12] only where the miscarriage is whole but where it is in pieces it is of no importance, while the other Master[12] holds that even where it[9] is in pieces the head is of importance.[13] There[14] are some who teach this passage as an independent discussion:[15] R. Eleazar ruled, The head[16] has not the status of the greater part of the limbs[17] but R. Johanan ruled: The head has the same status as the greater part of the limbs. They thus differ on the validity of Samuel's principle.[18]

We learnt: IF THE EMBRYO ISSUED IN PIECES OR IN A REVERSED POSITION IT IS DEEMED BORN AS SOON AS ITS GREATER PART ISSUED FORTH. Now since ‘OR[19] IN A REVERSED POSITION’ was specifically stated it follows that ‘IN PIECES’ refers to one that issued in a normal position,[20] and yet it was stated, IT IS DEEMED BORN AS SOON AS ITS GREATER PART ISSUED. Does not this then present an objection against R. Johanan? — R. Johanan can answer you: Read, ISSUED IN PIECES and IN A REVERSED POSITION. But was it not stated ‘OR’?[21] It is this that was meant: IF THE EMBRYO ISSUED IN PIECES OR whole, but in either case, IN A REVERSED POSITION, IT IS DEEMED BORN AS SOON AS ITS GREATER PART ISSUED FORTH. R. Papa stated, [This[22] is] a matter of dispute between the following Tannas: ‘If an embryo issued in pieces or in a reversed position it is deemed born as soon as its greater part issued forth. R. Jose ruled: Only when it issued in the normal way’. What does he[23] mean? — R. Papa replied: It is this that was meant:[24] If the embryo issued in pieces and in a reversed position[25] it is deemed born as soon as its greater part issued forth, but [it follows] if it issued in the normal way[20] the head alone[26] causes exemption.[27] R. Jose ruled: Only where its greater part issued in the normal manner.[28] R. Zebid demurred:[29] Thus it follows[30] that where the embryo issued in a reversed position[31] even the issue of its greater part causes no exemption,[30] but surely, have we not an established rule that the greater part[32] counts as the whole? Rather, said R. Zebid, it is this that was meant:[33] If the embryo issued in pieces and in a reversed position it is deemed born as soon as its greater part issued forth, but [it follows] if it issued in the normal way the head alone causes exemption.[27] R. Jose[34] ruled: Only[35] where it issued in the normal manner in a condition of viability.[36] So it was also taught: If the embryo issued in pieces and[37] in a reversed position it is deemed born as soon as its greater part issued forth, but, it follows, if it issued in the normal way the head alone causes exemption. R. Jose ruled: Only when it issued in the normal manner in a condition of viability. And what is ‘the normal manner in a condition of viability’? The issue[38] of the greater part of its head. And what is meant by ‘the greater part of its head’? R. Jose[39] said: The issue of its temples. Abba Hanan citing R. Joshua said: The issue of its forehead; and some say: The appearance[40] of the corners of its head.[41]

MISHNAH. IF A WOMAN ABORTED AND[42] IT IS UNKNOWN WHAT WAS [THE SEX OF THE EMBRYO] SHE MUST CONTINUE [HER PERIODS OF UNCLEANNESS AND CLEANNESS AS] FOR BOTH A MALE CHILD[43] AND A FEMALE CHILD.[44] IF IT IS UNKNOWN WHETHER IT WAS A CHILD OR NOT, SHE MUST CONTINUE [HER PERIODS OF CLEANNESS AND UNCLEANNESS AS] FOR A MALE AND A FEMALE[45] AND AS A MENSTRUANT.[46]

GEMARA. R. Joshua b. Levi ruled: If a woman crossed a river and miscarried in it, she[47] must bring a sacrifice which may ‘be eaten, since we are guided by the nature of[48] the majority of women and the majority of women bear normal children.

We learnt: IF IT IS UNKNOWN WHETHER IT WAS A CHILD OR NOT, SHE MUST CONTINUE [HER PERIODS OF CLEANNESS AND UNCLEANNESS AS] FOR A MALE AND A FEMALE AND AS A MENSTRUANT. But[49] why should she continue as a menstruant. Why should it not be said, ‘Be guided by the nature of the majority of women and the majority of women bear normal children’.[50] — Our Mishnah deals with a case where there was no presumption of the existence of an embryo,[51] while R. Joshua b. Levi spoke of one where there was such presumption.

Come and hear: ‘If a beast went out[52] full[53] and returned[54] empty, the young that is born subsequently is deemed to be a firstling of a doubtful nature’.[55] But[49] why [should its nature be a matter of doubt]? [Why not] be guided by the majority of beasts and, since the majority of beasts bear normal young, this one also[56] must be an ordinary beast?[57] — Rabina replied, Because it may be said: Most beasts bear young that are exempt from the law of the firstling[58] and a minority of them bear young that are not exempt from the law of the firstling but all that bear secrete,[59] and in the case of this beast, since it did not secrete, the majority rule has been impaired. If, however, all that bear secrete, must not the young, since this beast did not secrete, be a valid firstling?[60] — Rather say: Most of those that bear secrete, and in the case of this beast, since it did not secrete, the majority rule is impaired. When Rabin came[61] he stated: ‘R. Jose b. Hanina raised an objection[62] [from a Baraitha dealing with] a forgetful woman,[63] but I do not know what objection it was’. What was it? — It was taught:

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(1) Hence the necessity for the additional ‘the’ and ‘if’ which serve the purpose of the deduction. In the text of Num. V, 3, however, the full expression of ‘male and female’, which could well have been condensed to ‘man’, clearly suggests the deduction made by Rab.

(2) With some of the pieces; sc. even in such a case the embryo is not deemed born unless ITS GREATER PART ISSUED FORTH.

(3) Cf. prev. n.

(4) V. marg. gl. Cur. edd. in parenthesis, ‘the head exempts’.

(5) R. Eleazar and R. Johanan.

(6) Of a twin, if it was drawn back after it had been put out.

(7) The other twin (that was born first) from the duty of redemption (cf. Num. XVIII, 15, 16) even if it was viable.

(8) Bek. 46b. Does then R. Eleazar adopt Samuel's principle?

(9) The miscarriage.

(10) Both R. Eleazar and R. Johanan agree that the issue of the head alone suffices to constitute birth.

(11) R. Eleazar.

(12) Constituting birth. (22) R. Johanan.

(13) Constituting birth.

(14) Cur. edd. in parenthesis add; ‘Another reading: The reason then is that it issued in pieces or in a reversed condition but if it issued in the normal manner the (putting out of the) head would have caused exemption. (Thus) both do not uphold Samuel's ruling, for Samuel said, The head does not exempt in the case of miscarriages’.

(15) Sc. not in connection with our Mishnah.

(16) Of a miscarriage.

(17) Its issue, therefore, constitutes no birth.

(18) R. Eleazar agreeing with Samuel while R. Johanan differs from him. According to the former version (which attaches the dispute to our Mishnah) it might be maintained (as has been submitted supra) that R. Eleazar also differs from him.

(19) Cf. Bah. Cur. edd. omit.

(20) Head first.

(21) How can ‘or’ be understood as ‘and’?

(22) R. Johanan's ruling.

(23) R. Jose.

(24) By both the first Tanna and R. Jose.

(25) Feet foremost.

(26) Even if the body issued in pieces.

(27) Cf. n. supra, sc. the embryo is deemed to have been born, in agreement with the view of R. Johanan.

(28) Only then is the embryo deemed to have been born. According to R. Jose the issue of the greater part of the body (but with its feet first) or the lesser part (head first) constitutes no valid birth, since, wherever an embryo issued in pieces, both conditions are essential.

(29) Against R. Papa's explanation.

(30) Cf. prev. n. but one.

(31) Feet foremost.

(32) Or ‘its majority’.

(33) By both the first Tanna and R. Jose.

(34) Objecting to the last clause (the inference).

(35) Only then does the issue of the head cause exemption.

(36) But not where the embryo issued in pieces when it cannot possibly live. In such a case the issue of the head constitutes no valid birth.

(37) So MS.M. Cur: edd. in parenthesis ‘or’.

(38) Lit., ‘when it went out’.

(39) MS.M., ‘Nathan’.

(40) Lit., ‘since they will appear’.

(41) The projection of the head above the neck (Rashi).

(42) Being known that the abortion was a child.

(43) In respect of cleanness: Only thirty-three days instead of sixty-six.

(44) Fourteen unclean days instead of seven.

(45) Cf. prev. two notes.

(46) Sc. if she observes a discharge of blood even during the ‘thirty-three clean’ days, she must be regarded as menstrually unclean, since it is possible that the abortion was no child at all in consequence of which she is not entitled to any of the privileges of childbirth.

(47) Though the abortion was lost in the water and it is unknown whether it was an embryo or a mere inflated sac.

(48) Lit., ‘follow’.

(49) If R. Joshua b. Levi's argument is tenable.

(50) And consequently she ought to be entitled, at least, to the thirty-three clean days prescribed for a male birth (during which she is exempt from all menstrual uncleanness).

(51) The rule of the majority is consequently inapplicable.

(52) To the pasture.

(53) Pregnant.

(54) On the same day.

(55) Since it is unknown whether it followed the birth of a developed embryo, in which case it is no firstling, or the abortion of an inflated sac, in which case it is a valid firstling. A doubtful firstling may be eaten by its owner after it had contracted a blemish and the priest has no claim upon it.

(56) Having thus been born after the birth of a normal one.

(57) Not even a doubtful firstling, and its owner should consequently be allowed to eat it even if it had no blemish.

(58) Since each beast can only bear one firstling.

(59) A day prior to their delivery.

(60) Why then was it described as one of a doubtful nature?

(61) From Palestine to Babylon.

(62) Against R. Joshua b. Levi.

(63) Lit., ‘erring’, a woman who does not remember the time of her delivery; v. supra 18b.

Talmud - Mas. Nidah 29b

If a woman who departed in a condition of pregnancy[1] and returned[2] without child[3] spent, within our cognizance,[4] three clean weeks[5] and another ten weeks which were alternately unclean[6] and clean,[7] she may perform her marital duty on the night preceding the thirty-fifth day[8] and she is ordered to undergo ninety-five ritual immersions;[9] so Beth Shammai. But Beth Hillel ruled: Thirty-five immersions.[10] R. Jose son of R. Judah ruled: It suffices if one immersion is performed after the final [period of uncleanness]. Now[11] one can well understand why the woman may not perform her marital duty during the first week,[12] since she might be presumed to have given birth[13] to a male child.[14] During the second week she might be presumed to have given birth[13] to a female child.[15] During the third week she might be presumed to have given birth[13] to a female child while she was in the condition of a zabah.[16] But[17] why should she[18] not be permitted to perform her marital duty in the fourth week though she had observed a discharge of blood seeing that it is clean blood?[19] Must it not then be admitted that the reason[20] is because we are not guided here by the majority rule?[21] — What then[22] [is the justification for the statement] ‘I do not know what objection it was’?-It might be presumed that her delivery took place a long time ago.[23] But why should she not be allowed to perform her marital duty during the fifth week[24] which[25] is a clean one? — In the case of the fourth week[26] every day might be regarded as being possibly the conclusion of [the clean days prescribed for] a childbirth and the beginning of the period of menstruation, so that the twenty-eighth day itself[27] might be presumed to be the first day of the menstrual period and she must consequently continue [her uncleanness for] seven days in respect of her menstruation.[28] But why should she not be permitted to perform her marital duty on the twenty-first day?[29] — This[30] is in agreement with the view of R. Simeon who ruled: It is forbidden to do so[31] since, thereby, she[32] might be involved in a doubtful uncleanness.[33] But[34] why should she not be permitted intercourse in the evening?[35] — This is a case where she observed the discharge in the evening.[36] ‘And she is ordered to undergo ninety-five ritual immersions: During the first week[37] she is ordered immersion every night, since it might be presumed that she gave birth[38] to a male child.[39] During the second week she is ordered immersion every night,[40] since it might be presumed that she gave birth[41] to a female child;[39] and every day, since it might also be presumed that she gave birth to a male child while she was in a condition of zibah.[42] During the third week she is ordered immersion every day, since it might be presumed that she gave birth to a female child while she was in a state of zibah;[43] and every night, because Beth Shammai follow the view they expressed elsewhere that one who performed immersion on a long day[44] must again perform immersion [at its conclusion].[45]

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(1) Lit., ‘who went out full’.

(2) After some considerable time.

(3) Lit., ‘empty’; and she was unaware when birth took place.

(4) Lit., ‘and she brought before us’.

(5) Sc. having arrived in the day-time she experienced no discharge from the moment of her arrival for three weeks.

(6) I.e., experiencing a discharge on each of the seven days of the first alternate weeks.

(7) I.e., she experienced no discharge on any of the seven days of the second alternate weeks.

(8) Of her arrival, viz., the last night of the fifth week. After that night, however, as will be explained presently, no cohabitation can be allowed.

(9) One after each period of uncleanness as will be explained presently.

(10) Cf. prev. n. mut. mut.

(11) Here begins the ‘objection’ to which Rabin referred (supra 29a ad fin.).

(12) After her return. ‘First week’ includes the day of her return.

(13) During her absence and immediately before her return.

(14) So that everyone of the first seven days might be one of the seven unclean days prescribed for a woman after a male childbirth.

(15) The period of uncleanness after whose birth is two weeks (cf. prev. n. mut. mut.).

(16) I.e., during the ‘eleven days’ that intervene between the menstrual periods. Since it is possible that she experienced painless discharges on three consecutive days during this period she must, in addition to the fourteen days (cf. prev. n.), wait a period of another seven clean days (irrespective of whether she did, or did not observe any discharge during the fourteen days) before she can attain to cleanness.

(17) If R. Joshua b. Levi's rule, that most women bear normal children, is tenable.

(18) Who was known to be pregnant before her departure (v. supra), and who must, therefore, (cf. prev. n.) be presumed to have given birth to a normal child.

(19) Since the fourth week is inevitably excluded from the unclean periods (seven days for a male and fourteen for a female) that follow childbirth, and included in the thirty-three clean days prescribed for a male birth.

(20) Why the woman is treated as unclean even during the fourth week.

(21) So that there is no presumption of the birth of any child and no consequent allowance of any period of clean blood. How then could R. Joshua b. Levi, contrary to this Baraitha, maintain that in such cases the majority rule is followed?

(22) In view of the forceful objection just advanced.

(23) And her clean blood period also has terminated long before the fourth week. The Baraitha would consequently present no objection against R. Joshua b. Levi, since the tenability of his majority rule in no way affects the uncleanness of the fourth week, while, as regards the imposition upon the woman of the obligation of the sacrifice prescribed for one after childbirth, the rule is in fact upheld even in this case.

(24) I.e., on any of its seven days and not only (as laid down supra) on the night preceding the last one (the thirty-fifth day).

(25) Since the ten weeks were alternately unclean and clean.

(26) On every day of which she suffered a discharge.

(27) The last day of the fourth week.

(28) Which, beginning on the last day of the fourth week, terminates on the sixth day of the fifth week. Hence the permissibility of marital duty (after due ritual immersion) on the night following that day (the one preceding the thirty-fifth day of her return). During the weeks that follow all intercourse would be forbidden, since each alternate ‘clean’ week might he regarded as the period of seven days that must be allowed to elapse after the zibah of the previous ‘unclean’ week before cleanness is attained.

(29) Of her return. This day (the last one of the third week) must inevitably be a clean one. For even if the woman had been delivered on the very day of her return her period of childbirth uncleanness would have terminated (even in the case of a female child) on the fourteenth day, while the seven days following could be counted as the prescribed seven days following a period of zibah on the last of which she is permitted to perform ritual immersion at any time of the day and to attain to a state of cleanness (cf. Yoma 6a) for the rest of that day.

(30) The prohibition of intercourse on the twenty-first day.

(31) To have intercourse on the seventh day after the termination of a zibah even though ritual immersion had been performed.

(32) If she happened to suffer a discharge later in the day after intercourse.

(33) Of zibah. A discharge on the seventh day following the termination of zibah renders void all the previous counting, since the seven clean days must be complete.

(34) Since on the twenty-first day she was still clean and her first discharge in the following (fourth) week occurred presumably on the twenty-second day.

(35) Following the twenty-first day.

(36) Cf. prev. n. And similarly in the case of all the alternate unclean weeks the discharges occurred in the evenings.

(37) After her return.

(38) Seven days previously.

(39) So that each day of the first week might possibly be the first one after the termination of the unclean days and it is a religious duty to perform ritual immersion immediately after the unclean days had terminated.

(40) Cf. Bah for a different reading.

(41) Fourteen days previously.

(42) So that each day of the first week counted as the sixth of the clean days after zibah which (cf. supra n. 5) must be immediately followed (during the day-time of the following day) by ritual immersion.

(43) Cf. prev. n. mut. mut.

(44) The fourteen unclean days (after which the woman performs immersion) and the sixty-six clean days that follow (during which she is forbidden to eat terumah) are regarded as one long day on which immersion had been performed and sunset is awaited (sunset being represented by that of the eightieth day after childbirth) to complete and terminate ail traces of uncleanness.

(45) Sc. on the night following the eightieth day and preceding the eighty-first one. As every day of the third week might possibly be the eightieth, immersion must be performed on every night of that week. The same reason could, of course, be given for the necessity for immersion in the previous weeks had there been no other reasons to justify it.

Talmud - Mas. Nidah 30a

Consider! How many[1] are the days of cleanness?[2] Sixty-six.[3] Deduct[4] the third week[5] in which the woman was required to perform [nightly] immersions[6] there remain sixty minus one. Now, sixty minus one and thirty-five[7] are ninety-four, how then is the number of ninety-five obtained?[8] — R. Jeremiah of Difti replied: This is a case, for instance, where the woman[9] made her appearance before us at twilight,[10] so that[11] we impose upon her an additional immersion.[12] According to Beth Hillel, however, who maintain that one who performed immersion on a long day[13] requires no immersion [at the conclusion][14] how is the number thirty-five obtained?[8] — Twenty-eight, as has been explained,[15] while during the fifth week we require the woman to undergo immersion every night, since[16] it might be assumed [that each day[17] is the] last of the days of her menstruation.[18] What need was there for the mention of ten weeks[19] seeing that eight and a half[20] would suffice?[21] — Since he had to mention half a week he mentioned all of it, and since he had to mention an unclean week[22] he also mentioned a clean one.[23] But are there [not also the additional] immersions[24] due to the possibility of the woman's being a zabah?[25] They[26] only count the immersions before intercourse[27] but not those that follow. But according to Beth Shammai who[28] count also the immersions that follow intercourse, why was no mention made of the immersions that are due to the possibility of the woman's being a zabah? — They[29] only deal with immersions that are occasioned by childbirth but do not discuss those that are due to zibah. Is there then [no mention of the possibility that the woman might have] given birth to a child while she was in a condition of zibah?[30] — They do take note of the ‘possibility of a birth in a condition of zibah, but no note is taken of zibah alone. Why should not the woman perform immersion in the day-time of each of the days of the first week after she appeared before us, seeing that it is possible that her counting[31] ended on that day?[32] — This is in agreement with[33] R. Akiba who ruled: It is required that the counting[31] shall take place within our cognizance.[34] But why should she not perform immersion at the end of the first week?[35] — They do not discuss one day of a week. But why should she not perform immersion on the first day she comes to us, seeing that it is possible that she is awaiting a day for a day?[36] — They deal with a major zabah[37] but not with a minor one.[38] Three rulings may thus be inferred: It may be inferred that it was R. Akiba who ruled that the counting[39] must take place within our cognizance; and it may be inferred that it was R. Simeon who stated, 'The Sages have truly laid down that it is forbidden to do so since thereby she might be involved in a doubtful uncleanness';[40] and it may also be inferred that it is a religious duty to perform immersion at the proper time.[41] R. Jose son of R. Judah, however, ruled: It suffices if one immersion is performed after the final [period of uncleanness], and we do not uphold the view that it is a religious act to perform immersion at the proper time.[41]

MISHNAH. IF A WOMAN MISCARRIED ON THE FORTIETH DAY,[42] SHE NEED NOT TAKE INTO CONSIDERATION THE POSSIBILITY OF A VALID CHILDBIRTH; BUT IF ON THE FORTY-FIRST DAY,[42] SHE MUST CONTINUE [HER PERIODS OF UNCLEANNESS AND CLEANNESS AS] FOR BOTH A MALE AND A FEMALE[43] AND AS FOR A MENSTRUANT.[44] R. ISHMAEL RULED: [IF SHE MISCARRIED ON] THE FORTY-FIRST DAY[42] SHE CONTINUES [HER PERIODS OF UNCLEANNESS AND CLEANNESS AS] FOR A MALE[45] AND AS FOR A MENSTRUANT, BUT IF ON THE EIGHTY-FIRST DAY SHE MUST CONTINUE [THESE PERIODS AS] FOR A MALE AND A FEMALE AND A MENSTRUANT; BECAUSE A MALE IS FULLY FASHIONED[46] ON THE FORTY-FIRST DAY AND A FEMALE ON THE EIGHTY-FIRST DAY. THE SAGES, HOWEVER, MAINTAIN THAT BOTH THE FASHloning[47] OF THE MALE AND THE FASHIONING[47] OF THE FEMALE TAKE THE SAME COURSE, EACH LASTING FORTY-ONE DAYS. GEMARA. Why was MALE mentioned?[48] If in respect of the days of uncleanness, FEMALE was mentioned;[49] and if in respect of the days of cleanness,[50]

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(1) On the assumption that the birth was that of a female child.

(2) That follow the fourteen days of uncleanness, and the last day of which might be presumed to coincide with any of the days under discussion.

(3) So that during the presumed days of cleanness no more than sixty-six immersions can be expected owing to the presumption that each might possibly be the eightieth day.

(4) From these sixty-six days.

(5) Which comprises the first seven of these.

(6) On account of the same possibility that each was the eightieth day (in addition to her daily immersions necessitated by the possibility of her bearing in the condition of zibah).

(7) Seven during the first week and fourteen during the second as well as during the third week (7 + 2 X 14 = 7 + 28 = 35).

(8) Lit., 'what is their doing'.

(9) On her return.

(10) Of the day preceding the one from which the counting begins. As twilight is a time of doubtful day and doubtful night it cannot be definitely regarded as either.

(11) Owing to the doubt.

(12) Immediately after her appearance. That day, however, owing to the doubtful nature of twilight (cf. prev. n. but one) cannot be counted among the days and nights under discussion.

(13) Cf. p. 204, n. 10.

(14) So that in the third week (cf. supra 29b ad fin.) only seven immersions are to be performed, and these together with the fourteen of the second week and the seven of the first week only amount to twenty-eight.

(15) Cf. prev. n.

(16) Owing to her' 'daily discharge during the fourth week.

(17) Of the fifth week.
(18) Which may have begun on any of the days of the fourth week each of which might have been preceded by the last of the days of cleanness.
(19) Supra 29b ab init.
(20) In addition to the three clean weeks.
(21) To make up the number 80: 3 + 8 1/2 weeks = 11 1/2 weeks = 11 X 7 + 3 = 80 days.
(22) The ninth; the first of each pair of alternate weeks, commencing with the first, being assumed (cf. supra 29b ab init.) to be an unclean one.
(23) The tenth; being second of the last pair.
(24) Every day after the fourth week.
(25) During the preceding unclean week. Only in the case of the fourth week which has been preceded by clean weeks could no such immersions be expected.
(26) Beth Hillel. Lit., ‘he’.
(27) On the night preceding the thirty-fifth day.
(28) Giving the number as ninety-five.
(29) Beth Shammai.
(30) Of course there is. How then could it be maintained that immersions due to zibah are not discussed?
(31) Of the seven days of menstruation.
(32) Why then was it stated (supra 29b ad fin.) that she performs immersion in the nights only?
(33) Lit., ‘this whose?’
(34) No valid counting, therefore, is possible before a week had passed from the date of her return.
(35) The seventh day after her return, when the counting did take place within our cognizance.
(36) A clean day for an unclean one, sc. she might be within the period of the eleven days of zibah that intervene between the menstrual periods, during which she must perform immersion on the clean day following the one on which she experienced a discharge.
(37) The result of discharges on three consecutive days within the eleven days period (cf. prev. n.).
(38) Due to a discharge on one or two days only.
(39) Of the seven days of menstruation.
(40) Supra 29b ad fin. q. v. notes.
(41) I.e., at the earliest possible moment.
(42) After presumed conception.
(43) I.e., since it is possible that the abortion was the embryo of a child either male or female, the restrictions of both are imposed upon her but none of the relaxations of either.
(44) It being possible that the embryo was neither male nor female so that there was no valid childbirth.
(45) I.e., seven days of uncleanness even if there was no bleeding at the miscarriage.
(46) Lit., ‘finished’.
(47) Lit., ‘creation’.
(48) In the ruling, FOR BOTH A MALE AND A FEMALE AND AS FOR A MENSTRUANT.
(49) Whose fourteen days of uncleanness obviously absorb the seven unclean days of a male birth.
(50) Sc. that she is only entitled to the thirty-three clean days of the male and not to the sixty-six days of the female.

Talmud - Mas. Nidah 30b

was not menstruant mentioned?[1] — In order that if the woman observed a discharge on the thirty-fourth day[2] and then observed one on the forty-first day[3] she[4] shall remain unclean[5] until the forty-eighth day.[6] And so also in respect [of the possible birth of] a female[7] [the last word had to be mentioned] so that if she observed any blood on the seventy-fourth day and these again on the eighty-first day she shall remain unclean until the eighty-eighth day.[8]

R. ISHMAEL RULED: [IF SHE MISCARRled ON] THE FORTY-FIRST DAY SHE CONTINUES [HER PERIODS OF UNCLEANNESS AND CLEANNESS AS] FOR A MALE AND AS FOR A MENSTRUANT etc. It was taught: R. Ishmael stated, Scripture prescribed uncleanness[9] and cleanness[10] in respect of a male[11] and it also prescribed uncleanness[12] and cleanness[13] in respect of a female,[14] as in the case of the former[15] his fashioning period[16] corresponds to his unclean and clean periods[17] so also in the case of the latter[18] her fashioning period[19] corresponds to her unclean and clean periods.[17] They[20] replied: The duration of the fashioning period cannot be derived from that of uncleanness. Furthermore, they said to R. Ishmael, A story is told of Cleopatra the queen of Alexandria[21] that when her handmaids were sentenced to death by royal decree they[22] were subjected to a test[23] and it was found that both [a male and a female embryo] were fully fashioned on the forty-first day. He replied: I bring you proof from the Torah and you bring proof from some fools! But what was his ‘proof from the Torah’? If it was the argument, ‘Scripture prescribed uncleanness and cleanness in respect of a male and it also prescribed uncleanness and cleanness in respect of a female etc.’, have they not already replied, ‘The duration of the fashioning period cannot be derived from that of uncleanness’? — The Scriptural text says, She bear,[24] Scripture thus[25] doubles the ante-natal period[26] in the case of a female.[27] But why [should the test spoken of by the Rabbis be described as] ‘proof from some fools’? — It might be suggested that the conception of the female preceded that of the male by forty days.[28] And the Rabbis?[29] — They[30] were made to drink[31] a scattering drug[32] And R. Ishmael?[33] — Some constitution is insusceptible[34] to a drug.[35] Then said R. Ishmael to them:[36] A story is told of Cleopatra the Grecian[37] queen that when her handmaids were sentenced to death under a government order they were subjected to a test and it was found that a male embryo was fully fashioned on the forty-first day[38] and a female embryo on the eighty-first day. They replied: No one adduces proof from fools. What is the reason?[39] — It is possible that the handmaid with the female delayed[40] [intercourse] for forty days and that it was only then that conception occurred.[41] And R. Ishmael?[42] — They were placed in the charge of a warden.[43] And the Rabbis?[44] — There is no guardian against unchastity;[45] and the warden himself might have intercourse with them. But[46] is it not possible that if a surgical operation had been performed on the forty-first day the female embryo also might have been found in a fully fashioned condition like the male?[47] — Abaye replied: They[48] were equal as far as these distinguishing marks were concerned.[49]

THE SAGES, HOWEVER, MAINTAIN THAT BOTH THE FASHIONING OF THE MALE AND THE FASHIONING OF THE FEMALE etc. Is not the ruling of the Sages identical with that of the first Tanna?[50] And should you reply that the object[51] was to indicate that the anonymous Mishnah represented the view of the Rabbis because when an individual is opposed by many the halachah is in agreement with the many, is not this[52] obvious?[53] — It might have been presumed that R. Ishmael's reason is acceptable since it is also supported by a Scriptural text,[54] hence we were informed[55] [that the halachah is in agreement with the Sages].[56]

R. Simlai delivered the following discourse: What does an embryo resemble when it is in the bowels of its mother? Folded writing tablets.[57] Its hands rest on its two temples respectively, its two elbows on its two legs and its two heels against its buttocks. Its head lies between its knees, its mouth is closed and its navel is open, and it eats what its mother eats and drinks what its mother drinks, but produces no excrements because otherwise it might kill its mother. As soon, however, as it sees the light[58] the closed organ[59] opens and the open one[60] closes, for if that had not happened the embryo could not live even one single hour. A light burns above its head and it looks and sees from one end of the world to the other, as it is said, then his lamp shined above my head, and by His light I walked through darkness.[61] And do not be astonished at this, for a person sleeping here[62] might see a dream in Spain. And there is no time in which a man enjoys greater happiness than in those days,[63] for it is said, O that I were as the months of old, as in the days when God watched over me;[64] now which are the days’ that make up ‘months’[65] and do not make up years? The months of pregnancy of course.[66] It is also taught all the Torah from beginning to end,[67] for it is said, And he taught me, and said unto me: ‘Let thy heart hold fast my words, keep my commandments and live’,[68] and it is also said, When the converse of God was upon my tent.[69] Why the addition of[70] ‘and it is also said’? — In case you might say that it was only the prophet who said that,[71] come and hear ‘when the converse of God was upon my tent.[69] As soon as it, sees the light an angel approaches, slaps it on its mouth and causes it to forget all the Torah completely,[67] as it is said, Sin coucheth at the door.[72] It does not emerge from there before it is made to take an oath,[73] as it is said, That unto Me every knee shall bow, every tongue shall swear;[74] ‘That unto Me every knee shall bow’ refers to the day of dying of which it is said All they that go down to the dust shall kneel before Him;[75] ‘Every tongue shall swear’ refers to the day of birth of which it is said, He that hath clean hands, and a pure heart, who hath not taken My name[76] in vain, and hath not sworn deceitfully.[77] What is the nature of the oath that it is made to take? Be righteous, and be never wicked; and even if all the world tells you, You are righteous’, consider yourself wicked.[78] Always bear in mind[79] that the Holy One, blessed be He, is pure, that his ministers are pure and that the soul which He gave you is pure; if you preserve it in purity, well and good, but if not, I will take it away from you. The school of R. Ishmael taught: This may be compared to the case of a priest who handled over some terumah to an ‘am ha-arez and told him, ‘If you preserve it under conditions of cleanness, well and good, but if not, I will burn it in your presence’. R. Eleazar

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(1) Whose discharges of blood are invariably unclean whatever the day.

(2) When she is held to be unclean on account of possible menstruation, though the day is only (34 — 7 = 27) the twenty-seventh of the thirty-three clean days prescribed for a male birth.

(3) Which is the eighth day after the discharge on the thirty-fourth.

(4) Despite the previous assumption of menstruation on the thirty-fourth day, which would put the forty-first day outside the seven days of the menstruation period (when the observation of a discharge necessitates the waiting of no more than one single day).

(5) Lit., ‘damaged’.

(6) It being assumed that the miscarriage was a male and that the thirty-fourth day was therefore still within the thirty-three clean days prescribed for a male birth, so that the second discharge on the forty-first day was the first menstrual one after the completion of the thirty-three clean days in consequence of which she must wait another seven days to complete the menstruation period. Her ritual immersion, therefore, cannot take place before (41 + 7 = 48) the forty-eighth day.

(7) I.e., the restrictions on account of this possibility imposed in our Mishnah.

(8) Cf. prev. nn. mut. mut.

(9) Seven days (Lev. XII, 2).

(10) Thirty-three days (ibid. 4).

(11) Making a total of forty days.

(12) Fourteen days (Lev. XII, 5).

(13) Sixty-six days (ibid.).

(14) A total of eighty days.

(15) Lit., ‘when it prescribed uncleanness and cleanness in respect of the male’.

(16) Forty days.

(17) Lit., ‘similarly’.

(18) Cf. prev. n. but two mut. mut.

(19) Eighty days.

(20) The Rabbis at the schoolhouse.

(21) Cur. edd. ‘Alexandrus’ (cf. Jast.). The following incident may have its origin in a legend that Cleopatra (68-30 B.C.E.) before committing suicide attempted various forms of execution on her slaves (cf. Golds.).

(22) Having forfeited their lives and being at her mercy.

(23) Fertilization and subsequent operation.

(24) Lev. XII, 5.

(25) By the superfluous expression of ‘she bear’ the omission of which could in no way have affected the sense of the text.

(26) In which the embryo is fashioned. Lit., ‘added to her . . . another birth’, sc. forty days in addition to the forty days during which a male embryo is fashioned.

(27) Which proves that the fashioning period of a female embryo is (40 + 40 =) 80 days.

(28) And that this was the reason why in the Cleopatra test both were found to be fully fashioned.

(29) How could they rely upon such inconclusive evidence?
(30) Cleopatra's handmaids.
(31) Before they were experimented on.
(32) I.e., destroying the semen in the womb.
(33) What objection then could he have put forward against the proof of the Rabbis?
(34) Lit., ‘does not receive’.
(35) It was quite possible, therefore, that despite the drug the conception of the female took place forty days prior to that of the male.
(36) The Rabbis.
(37) Egypt in Cleopatra's reign was under the influence of Greek institutions and Greek culture.
(38) After conception.
(39) Why the incident cited should not be accepted as proof. MS.M. reads: ‘What is the reason why no proof is adduced from fools?’
(40) Cf. Bah.
(41) The ‘eighty-first day’ was, therefore, in reality the forty-first one.
(42) How in view of this possibility can he maintain that the incident provides the required proof?
(43) Whose duty it was to prevent all intercourse except on one particular day.
(44) How in view of this safeguard could it be suggested that the conception of the female was delayed for forty days?
(45) Popular proverb.
(46) Since the test in respect of the female took place on the eighty-first day.
(47) An objection against R. Ishmael.
(48) The male and the female.
(49) Those of the male embryo on the fortieth day were like those of the female on the eighty-first.
(50) Who earlier in the Mishnah ruled that ‘IF ON THE FORTY-FIRST DAY SHE MUST CONTINUE . . . FOR BOTH A MALE AND A FEMALE AND FOR A MENSTRUANT’ from which it follows that a female also is fully fashioned on the forty-first day.
(51) Of repeating in the name of the Sages an earlier anonymous ruling.
(52) That the anonymous ruling is the view of the Rabbis.
(53) Of course it is, since all anonymous rulings generally represent the views of the majority of Sages and the halachah is in agreement with them.
(54) As quoted by R. Ishmael supra.
(55) By repeating the anonymous Mishnah in the name of the Sages.
(56) Despite R. Ishmael's argument and text.
(57) Pinkas, cf. **.
(58) Lit., ‘went out to the air space of the world’.
(59) Its mouth.
(60) Navel.
(61) Job XXIX, 3.
(62) Babylon.
(63) Lit., ‘and you have no days in which a man dwells in more happiness than in these days’.
(64) Job XXIX, 2.
(65) Lit., ‘in which there are the months’ (of bearing).
(66) Lit., ‘be saying, these are the months of bearing’.
(67) Lit., ‘all of it’.
(68) Prov. IV, 4.
(69) Job XXIX, 4.
(70) Lit., ‘what’.
(71) So that it does not apply to other men.
(72) Gen. IV, 7.
(73) Its nature is described presently.
(74) Isa. XLV, 23.
(75) Ps. XXII, 30.

(76) So the kre. The kethib is ‘his name.
(77) Ps. XXIV, 4.
(78) Lit., ‘be in your eyes like a wicked man’.
(79) Lit., ‘be knowing’.

Talmud - Mas. Nidah 31a

observed: What is the Scriptural proof?[1] From my mother's womb Thou art gozi.[2] What is the proof that ‘gozi’ implies ‘swearing’? — Because it is written, Swear [gozi] concerning thy naziriteship and cast away.[3]

R. Eleazar further stated: What does an embryo resemble when it is in its mother's bowels? A nut floating in a bowl of water. Should someone put his finger upon it, it would sink on the one side or on the other.

Our Rabbis taught: During the first three months[4] the embryo occupies the lowest chamber, during the middle ones it occupies the middle chamber and during the last months it occupies the uppermost chamber; and when its time to emerge arrives it turns over and then emerges, and this is the cause of the woman's pains.[5] This also agrees with what was taught:[6] The pains of a female birth are more intense than those of a male birth. R. Eleazar further observed, ‘What is the Scriptural proof for this?[7] When I was made in secret, and curiously wrought in the lowest parts of the earth;[8] it does not say ‘dwelt’ but ‘curiously wrought’.[9] Why are the pains of a female birth greater than those of a male birth? — The female emerges in the position she assumes during intercourse and the male emerges in the position he assumes during intercourse. The former, therefore, turns her face upwards[10] while the latter[11] need not turn his face.

Our Rabbis taught: During the first three months[4] marital intercourse is injurious to the woman and it is also injurious to the child. During the middle ones it is injurious to the woman but beneficial for the child. During the last months it is beneficial for both the woman and the child, since on account of it the child becomes well-formed and of strong vitality.

One taught: He who indulges in marital intercourse on the ninetieth day[4] is as though he had shed blood. But whence could one know this?[12] — Rather, said Abaye, one carries on marital intercourse in the usual manner and the Lord preserveth the simple.[13]

Our Rabbis taught: There are three partners in man, the Holy One, blessed be He, his father and his mother. His father supplies the semen of the white substance out of which are formed the child's bones, sinews, nails, the brain in his head and the white in his eye; his mother supplies the semen of the red substance out of which is formed his skin, flesh, hair, blood[14] and the black of his eye; and the Holy One, blessed be He, gives him the spirit and the breath,[15] beauty of features, eyesight, the power of hearing[16] and the ability to speak[17] and to walk,[18] understanding and discernment. When his time to depart from the world approaches the Holy One, blessed be He, takes away his share and leaves the shares of his father and his mother with them. R. Papa observed: It is this that people have in mind when they say, ‘Shake off the salt[19] and cast the flesh to the dog’.[20]

R. Hinena b. Papa gave the following exposition: What is the purport of the Scriptural text, Who doeth great things past finding out,’ yea, marvellous things without number?[21] Come and see the contrast between the potency of the Holy One, blessed be He, and that of mortal man.[22] A man might put his things[23] in a skin bottle[24] [whose holes[25] are] tied up and whose orifice is turned upwards and yet it is doubtful whether [the things] would be preserved or not, whereas the Holy One, blessed be He, fashions the embryo in a woman's internal organ that is open and whose orifice is turned downwards and yet it is preserved. Another exposition: If a man puts his things on the scale of a balance, the heavier they are the lower the scale descends, whereas the Holy One, blessed be He, [fashioned the woman in such a manner that] the heavier the embryo the higher it rises.[26]

R. Jose the Galilean gave the following exposition: What is the purport of the Scriptural text, I will give thanks unto Thee, for I am fearfully and wonderfully made; wonderful are Thy works; and that my soul knoweth right well?[27] Come and see the contrast between the potency of the Holy One, blessed be He, and that of mortal man.[28] If a man[29] puts different seeds in a bed each grows in the manner of its own particular species, whereas the Holy One, blessed be He, fashions the embryo in the woman's bowels in such a manner that all[30] grow into one and the same kind. Another exposition: If a dyer puts different ingredients into a boiler they all unite into one colour, whereas the Holy One, blessed be He, fashions the embryo in a woman's bowels in a manner that each element develops in its own natural way.[31]

R. Joseph gave the following exposition: What is the purport of the Scriptural text, I will give thanks unto Thee, O Lord; for though Thou wast angry with me, Thine anger is turned away, and Thou comfortest me.[32] The text alludes to[33] two men who set out on a trading expedition when a thorn got into [the foot of] one of them who[34] began to blaspheme and to revile. After a time, however, when he heard that his friend's ship had sunk into the sea he[35] began to laud and praise. Hence it is written, ‘Thine anger is turned away, and Thou comfortest me’. This is indeed in line with what R. Eleazar stated: What is implied by the Scriptural text, Who doeth wondrous things alone;[36] and blessed be His glorious name for ever?[37] Even the person for whom a miracle is performed[38] is unaware of the miracle.[39]

R. Hanina b. Papa made the following exposition: What is the implication of the Scriptural text, Thou measurest my going about and my lying down, and art acquainted with all my ways?[40] It[41] teaches that man is not fashioned from all the drop but only from its purest part. The school of R. Ishmael taught: This is analogous to the action of one who, winnowing[42] in threshing floors, takes up the edible part and leaves the refuse. This is in agreement with an exposition of R. Abbahu. For R. Abbahu pointed out an incongruity: It is written, For Thou hast winnowed me from[43] strength[44] and it is also written,[45] The God that girdeth me with strength![46] David in effect said to the Holy One, blessed be He, ‘Sovereign of the world, Thou hast winnowed me[47] and Thou hast girded me with strength’.

R. Abbahu also gave this exposition: What is the implication of the Scriptural text, Who hath counted the dust of Jacob, or numbered the stock of Israel?[48] It teaches that the Holy One, blessed be He, sits and counts the stock of Israel. ‘When [He wonders] will appear the drop from which a righteous man could be fashioned’? Moreover, it is for this reason that the eye of the wicked Balaam was blinded. He said, ‘Would He who is pure and holy and whose ministers are pure and holy look upon such a thing?’ His eye was forthwith blinded, for it is written, And the saying of the man whose eye is closed.[49] This is in line with what R. Johanan stated: What is the implication of the Scriptural text, And he lay with her in that night?[50] It teaches that the Holy One, blessed be He, assisted in that matter. For it is said, Issachar is a large-boned ass;[51] it is the ass[52] that has caused[53] the birth of Issachar.

R. Isaac citing R. Ammi[54] stated: If the woman emits her semen first she bears a male child; if the man emits his semen first she bears a female child; for it is said, If a woman emits semen[55] and bear a man-child.[56]

Our Rabbis taught: At first it used to be said that ‘if the woman emits her semen first she will bear a male, and if the man emits his semen first she will bear a female’, but the Sages did not explain the reason, until R. Zadok came and explained it: These are the sons of Leah, whom she bore unto Jacob in Paddan-aram, with his daughter Dinah,[57] Scripture thus ascribes the males to the females[58] and the females to the males.[59]

And the sons of Ulam were mighty men of valour, archers; and had many sons, and sons' sons.[60] Now is it within the power of man to increase[61] the number of 'sons and sons' sons'? But the fact is that because

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(1) That an oath is taken on the day of one's birth.
(2) Ps. LXXI, 6; E.V., Thou art He that took me out of my mother's womb.
(3) Jer. VII, 29; E.V., Cut off thy hair, and cast it away. .
(4) Of pregnancy.
(5) At a childbirth.
(6) So Bomb. ed. Cur. edd. 'we learnt'.
(7) That the embryo first occupies the lowest chamber.
(8) Ps. CXXXIX, 15.
(9) Implying the inception of the embryo; and this is stated to be 'in the lowest parts'.
(10) The turning intensifying the pains.
(11) Since the embryo is all the time lying face downwards.
(12) When the ninetieth day is.
(13) Ps. CXVI, 6; those who are unable to protect themselves.
(14) So MS.M. and Elijah Wilna. Cur. edd. omit.
(15) Or 'soul'.
(16) Lit., 'of the ear'.
(17) Lit., 'of the mouth'.
(18) Lit., 'walking of the feet'.
(19) Metaph. for the soul, 'the preserver of the human body'.
(20) Proverb. The lifeless body is of little more value.
(21) Job IX, 10.
(22) Lit., 'that not like the measure of . . . is the measure of flesh and blood'.
(23) Cf. MS.M. Cur. edd., 'the measure of flesh and blood he puts a thing'.
(24) Hemeth, a skin drawn off the body of the animal in such a manner as not to damage it except for the cuts at the tail and legs.
(25) Cf. prev. n.
(26) Beginning in the lowest chamber at conception it rises steadily to the highest, as stated supra.
(27) Ps. CXXXIX, 14.
(28) V. p. 214, n. 10.
(29) Cf. MS.M. Cur. edd. add, 'the measure of flesh and blood'.
(30) The semen of both parents.
(31) The one develops into bones, sinews, nails etc. while the other develops into skin, flesh etc., as stated supra.
(32) Isa. XII, 1.
(33) Lit., 'of what does Scripture speak? Of'.
(34) Having been compelled by the accident to interrupt his journey.
(35) Being gratified at the turn of events which prevented him from embarking on the disastrous expedition.
(36) Emphasis on 'alone'. E.V., Who only . . . things.
(37) Ps. LXXII, 18f.
(38) Lit., 'master of the miracle'.
(39) Only God alone knows it. Cf. prev. n. but two.
(40) Ps. CXXXIX, 3.
(41) The expression of zeritha ('Thou measureth') which coming from the root זרה, may be rendered, 'thou winnowest'.
(42) Cf. prev. n.
(43) E.V, 'girded me with'.
(44) II Sam. XXII, 40.

(45) In the corresponding passage.
(46) Ps. XVIII, 33.
(47) Cf. supra n. 2.
(48) Num. XXIII, 10.
(49) Ibid. XXIV, 3. E.V., ‘is opened’.
(50) Gen. XXX, 16; emphasis on הוא.
(51) Ibid. XLIX, 14.
(52) On which Jacob rode and which stopped at Leah's tent.
(53) Garem (‘large-boned’) is derived from a root which in Aramaic signifies also ‘to cause’. The consonants may be vocalized as garam. Hamor garam, ‘the ass was the cause’.
(54) Var. lec. Assi (‘En Jacob).
(55) E.V., ‘be delivered’.
(56) Lev. XII, 2.
(57) Gen. XLVI, 15.
(58) ‘Sons of Leah’.
(59) ‘His daughter Dinah’.
(60) I Chron. VIII, 40.
(61) The Heb. for ‘had many’ is the Hif. of רבה which may be rendered ‘cause to increase’.

Talmud - Mas. Nidah 31b

they contained themselves during intercourse[1] in order that their wives should emit their semen first so that their children shall be males, Scripture attributes to them the same merit as if they had themselves caused the increase of the number of their sons and sons’ sons. This explains what R. Kattina said, ‘I could make all my children to be males’. Raba stated: One who desires all his children to be males should cohabit twice in succession.

R. Isaac citing R. Ammi[2] further stated: A woman conceives only immediately before her menstrual period, for it is said, Behold I was brought forth in iniquity;[3] but R. Johanan stated: A woman conceives only immediately after her ritual immersion, for it is said, And in cleansing[4] did my mother conceive me.[5] What is the proof that ‘het’[6] bears the meaning of cleansing? — Since it is written ‘we-hitte[7] the house’[8] and this is translated,[9] ‘And so shall he cleanse the house’. And if you prefer I might reply: The proof is derived from the following: Purge[10] me with hyssop and I shall be clean.[11]

R. Isaac citing R. Ammi further stated: As soon as a male comes into the world peace comes into the world, for it is said, Send ye a gift[12] for the ruler of the land[13] [and the Hebrew for] male[14] [is composed of the consonants of the ‘words for] ‘this is a gift’.[15]

R. Isaac citing[16] R. Ammi further stated: When a male comes into the world his provision comes with him, [the Hebrew for] male [zakar, being composed of the consonants of the words for] ‘this is provision [zeh kar]’,for it is written, And he prepared a great provision [kera] for them.[17] A female has nothing with her, [the Hebrew for] female [nekebah] implying ‘she comes with nothing’ [nekiyyah ba'ah]. Unless she demands her food nothing is given to her, for it is written, Demand [nakebah][18] from[19] me thy wages and I will give it.[20]

R. Simeon b. Yohai was asked by his disciples: Why did the Torah ordain that a woman after childbirth should bring a sacrifice? He replied: When she kneels in bearing she swears impetuously that she will have no intercourse with her husband. The Torah, therefore, ordained that she should bring a sacrifice. (R. Joseph demurred: Does she not[21] act presumptuously[22] in which case the absolution of the oath[23] depends on her regretting it?[24] Furthermore, she should[25] have brought a sacrifice prescribed for an oath!)[16] And why did the Torah ordain that in the case of a male [the woman is clean] after seven days and in that of a female after fourteen days? [On the birth of a] male with whom all rejoice she regrets her oath after seven days, [but on the birth of a female] about whom everybody is upset she regrets her oath after fourteen days. And why did the Torah ordain circumcision on the eighth day?[26] In order that the guests[27] shall not enjoy themselves[28] while his father and mother are not in the mood for it.[29] It was taught: R. Meir used to say, Why did the Torah ordain that the uncleanness of menstruation should continue for seven days? Because being in constant contact with his wife[30] [a husband might] develop a loathing towards her. The Torah, therefore, ordained: Let her[31] be unclean for seven days[32] in order that[33] she shall be beloved by her husband as at the time of her first entry into the bridal chamber.

R. Dostai son of R. Jannai was asked by his disciples: Why[34] does a man go in search of a woman and no woman goes in search of a man? This is analogous to the case of a man who lost something. Who goes in search of what? He who lost the thing goes in search of what he lost.[35] And why does the man lie face downwards and the woman face upwards towards the man? He [faces the elements] from which he was created[36] and she [faces the man] from whom she was created.[37] And why is a man easily pacified and a woman is not easily pacified? He [derives his nature] from the place from which he was created[38] and she [derives hers] from the place from which she was created.[39] Why is a woman's voice sweet and a man's voice is not sweet? He [derives his] from the place from which he was created[40] and she [derives hers] from the place from which she was created.[41] Thus it is said, For sweet is thy voice, and thy countenance is comely.[42]

CHAPTER IV

MISHNAH. THE DAUGHTERS OF THE SAMARITANS[43] ARE REGARDED AS MENSTRUANTS FROM THEIR CRADLE;[44] AND THE SAMARITANS IMPART UNCLEANNESS TO A COUCH UNDERNEATH AS TO A COVER ABOVE,[44] SINCE THEY COHABIT WITH MENSTRUANTS BECAUSE [THEIR WIVES] CONTINUE [UNCLEAN FOR SEVEN DAYS] ON ACCOUNT OF A DISCHARGE OF ANY BLOOD.[45] ON ACCOUNT OF THEIR [UNCLEANNESS,][46] HOWEVER, NO OBLIGATION[47] IS INCURRED FOR ENTRANCE INTO THE TEMPLE NOR IS TERUMAH[48] BURNT ON THEIR ACCOUNT, SINCE THEIR UNCLEANNESS[49] IS ONLY OF A DOUBTFUL NATURE.[50]

GEMARA. How is this[51] to be imagined? If they[52] observed a discharge, then[53] even our daughters also [should in such circumstances be regarded as unclean]; and if they[54] have not observed any discharge, their daughters also should not be regarded as unclean, should they? — Raba son of R. Aha son of R. Huna citing R. Shesheth replied: Here we are dealing with cases of which nothing definite is known, but since a minority exists that experience discharges, the possibility of such a discharge is taken into consideration. And who is the Tanna that[55] takes a minority into consideration?

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(1) Lit., in the belly'.

(2) Var. lec. Assi ('En Jacob).

(3) Ps. LI, 7. The last word is taken as an allusion to the menstruation period when intercourse is an iniquity' and the prefixed beth ('in') is rendered 'near'.

(4) E.V., 'sin'.

(5) Ps. LI, 7.

(6) The Heb. word here rendered 'cleansing' (E.V., 'sin').

(7) Of the same rt. as het.

(8) Lev. XIV, 52.

(9) I.e., by the Targum Onkelos.

(10) Tehate'eni (cf. prev. n. but one).

(11) Ps. LI, 9.

(12) Kar; E.V. ‘lambs’.
(13) Isa. XVI, 1.
(14) Zakar.
(15) Zeh kar. Gifts foster peace.
(16) V. marg. gl. Cur. edd., ‘the school of’.
(17) II Kings VI, 23.
(18) The same consonants as those for female (nekebah).
(19) E.V., ‘appoint’.
(20) Gen. XXX, 28.
(21) When swearing.
(22) Of course she does.
(23) Lit., ‘the thing’.
(24) It does. Now in such a case it is only a Sage who, after satisfying himself of the sincerity of her plea, may absolve her. A sacrifice, however, has no place here at all.
(25) Instead of the sacrifice of a bird prescribed for a woman after a confinement. (17) A lamb or a goat.
(26) After birth, and not on the seventh which is the last day of uncleanness
(27) Lit., ‘all.’
(28) At the festive meal given in honour of the circumcision.
(29) Lit., ‘sad’, on account of the prohibition of intercourse which remains in force until the conclusion of the seventh day.
(30) Lit., ‘with her’.
(31) Even after the least discharge of blood.
(32) When intimate intercourse is forbidden.
(33) By being deprived of her intimacy for certain recurrent periods.
(34) In matrimony.
(35) The rib from which Eve was built was taken from Adam.
(36) The earth.
(37) Cf. prev. n. but one.
(38) Earth, which yields.
(39) The unyielding bone of a rib.
(40) A beat upon the earth produces no note.
(41) A bone can be made to produce certain notes.
(42) Cant. II, 14.
(43) Kuthim, the people of Cutha and other places of Assyria who were transported to Samaria after the destruction of the northern kingdom and who combined their former idol-worship with a belief in the God of Israel (II Kings XVII, 24ff). Their descendants were for a time regarded as suspected Israelites and finally were entirely excluded from the community.
(44) This is explained in the Gemara infra.
(45) Even blood that is clean. Should a discharge of clean blood on one day be followed by one of unclean on the following day, the Samaritan woman would count the seven days of uncleanness from the first day, regarding the second discharge as having occurred within the seven days of menstruation, so that on the eighth day she regards herself as clean, while as a matter of fact her uncleanness began on the second day and continues for seven days, the last of which is the eighth from the first discharge on which she is still menstrually unclean.
(46) If a person, for instance, covered himself with the unclean articles mentioned.
(47) Of a sacrifice.
(48) That came in contact with these articles (cf. prev. n. but one).
(49) Though Rabbinically valid as a preventive measure.
(50) While a sacrifice and terumah are Pentateuchal. A Rabbinical rule can have no force where its observance involves interference with a Pentateuchal ordinance.
(51) The first clause of our Mishnah.
(52) THE DAUGHTERS OF THE SAMARITANS.
(53) Since menstruation may begin at the earliest stage of life (v. infra 32a).

(54) THE DAUGHTERS OF THE SAMARITANS.
(55) In respect of restriction.

Talmud - Mas. Nidah 32a

— It is R. Meir. For it was taught: A minor, whether male or female, may neither perform, nor submit to halizah, nor contract levirate marriage; so R. Meir. They[1] said to R. Meir: You spoke well when you ruled that they ‘may neither perform, nor submit to halizah’, since in the Pentateuchal section[2] man[3] was written, and we draw a comparison between woman and man.[4] What, however, is the reason why they may not contract levirate marriage? He replied: Because a minor male might be found to be a saris;[5] a minor female might be found to be incapable of procreation;[6] and thus the law of incest[7] would be violated where no religious act[8] is thereby performed. And the Rabbis?[9] — Follow the majority of minor males and the majority of minors are no sarisim; follow the majority of minor females, and the majority of minor females are not incapable of procreation.[10] Might it not be suggested that R. Meir was heard [to take a minority into consideration only where that] minority is frequent; was he, however, heard [to maintain his view in regard to] an infrequent minority? — This also is a frequent minority, for it was taught: R. Jose stated, It happened at ‘En Bol[11] that the infant was made to undergo ritual immersion[12] before her mother;[13] and Rabbi stated, It once happened at Beth She'arim that the infant was made to undergo ritual immersion[12] before her mother;[13] and R. Joseph stated, It once happened at Pumbeditha that the infant was made to undergo ritual immersion[12] before her mother;[13] One can well understand the incidents spoken of by R. Joseph and Rabbi[14] since [immersion was necessary as a protection for] the terumah[15] of Palestine; but why was that necessary[16] in the case spoken of by R. Joseph,[17] seeing that Samuel had laid down: The terumah of a country outside the Land of Israel is not forbidden unless [it came in contact] with a person whose uncleanness emanated from his body,[18] and this applies only to eating but not to contact?[19] — Mar Zutra replied: This[20] was required only in regard to anointing her with the oil of terumah;[21] for it was taught: And they shall not profane the holy things of the children of Israel, which they set apart unto the Lord[22] includes[23] one who anoints oneself or drinks.[24] But what need was there for a Scriptural text [for inclusion in the prohibition of] one who drinks, seeing that drinking is included in eating?[25] — Rather [say that the text[22] was intended] to include one who anoints oneself [in the same prohibition] as one who drinks.[26] And if you prefer I might reply, The prohibition[27] is derived from here: And it is come into his inward parts like water, and like oil into his bones.[28] But if so[29] should not our daughters also [be unclean from their cradle]? — For us who make a deduction of the use of ‘and if a woman’[30] instead of ‘a woman’ and [our daughters,] when observing any discharge are kept away,[31] the Rabbis enacted no preventive measure; but as regards the Samaritans[32] who do not make any deduction from the use of ‘and if a woman’[30] instead of ‘a woman’, and [their daughters] when observing any discharge are not kept away,[31] the Rabbis enacted the preventive measure. What is the exposition of ‘a woman’, ‘and if a woman’? — It was taught: [If it had been written,][33] ‘A woman’, I would only know that a woman [is subject to the restrictions of menstrual uncleanness], whence could it be deduced that an infant one day old is also subject to the restrictions of menstruation? Hence it was explicitly stated, ‘And if a woman’.[33] Thus it is evident that in including a child Scripture included even one who is one day old. May not, however, an incongruity be pointed out: [If Scripture had only written,][34] ‘the woman’ I would only know [that the restriction applies to] a woman, whence could it be derived that a child who is three years and one day old [is equally under the restrictions] in respect of cohabition? Hence it was explicitly stated, ‘The woman also’?[34] — Raba replied: These[35] are traditional laws but the Rabbis tacked them on to Scriptural texts. Which one [can be deduced from] the Scriptural text and which is only a traditional law?[36] If it be suggested that the law relating to an infant one day old is traditional and that the one relating to such as is three years and one day old is deduced from a Scriptural text,is not the text [it may be retorted] written in general terms?[37] — Rather say: The law relating to one who is three years and one day old is traditional and the one derived from the text is that concerning an infant who is one day old. But since the former law is traditional, what was the purpose of the Scriptural text?[38]

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(1) The Rabbis who disagreed with him.

(2) That deals with halizah.
(3) . Deut. XXV, 7; thus excluding the minor.
(4) As the latter must be a grown-up man so must the former be a grown-up woman.
(5) One wanting in generative powers. Only one capable of having a child to succeed in the name of his brother (Deut. XXV, 6) is subject to the duty of the levirate marriage.
(6) Cf. prev. n.
(7) Marriage with a brother's wife.
(8) Cf. prev. n. but two.
(9) How in view of R. Meir's reason can they maintain their view?
(10) Yeb. 61b.
(11) [Ain Ibl, north west of Safed, v. Klein S.. N. B. p. 41.]
(12) To protect any terumah which may come in contact with her.
(13) Whose immersion is performed on the fourteenth day. That of the menstruant takes place on the seventh.
(14) Both of which occurred in Palestinian towns.
(15) Which is rendered unfit through contact with a menstruant (cf. prev. n. but two).
(16) Lit., ‘wherefore to me’.
(17) Which occurred in a Babylonian town.
(18) A zab, for instance, or a menstruant.
(19) Bek. 27a.
(20) The immersion of the infant spoken of by R. Joseph.
(21) Anointing being forbidden like eating.
(22) Lev. XXII, 15, in the section dealing with persons unclean for terumah.
(23) In the prohibition.
(24) Which proves that anointing is forbidden like eating.
(25) Cf. Shebu. 22b; and since eating was forbidden drinking also was obviously forbidden.
(26) Reading כשןתה instead of ואת השותה.
(27) Of anointing.
(28) Ps. CIX, 18.
(29) That in imposing a restriction a minority also must be taken into consideration.
(30) Lev. XV, 19, from which it is inferred infra that uncleanness may begin at infancy.
(31) From holy things, during the prescribed unclean period.
(32) Lit., ‘they’.
(33) In Lev. XV, 19.
(34) Ibid. 18, dealing with uncleanness through cohabitation.
(35) The two restrictions under discussion.
(36) Sc. since Scripture uses the same expression we-ishah (rendered ‘and if a woman’ in Lev. XV, 19 and ‘the woman also’ ibid. 18) in both verses what age exactly was implied?
(37) And, since there is no reason why the age of three years and one day should be meant rather than that of two or of four years, the lowest possible age. vis., that of one day, should obviously be the one intended.
(38) Sc. why the additional waw in we-ishah?

Talmud - Mas. Nidah 32b

— To exclude a man from the uncleanness of a red discharge.[1] But consider the following Baraitha:[2] From the term of ‘woman’[3] I would only infer that a woman [is subject to the restriction of zibah], whence, however, could it be deduced that a female child that is ten days old[4] is also subject to the restrictions of zibah? Hence it was explicitly stated, And if a woman.[3] Now, what need was there for this text,[5] seeing that the law could have been inferred from that of menstruation?[6] — It was necessary. For if the All Merciful had written the law in regard to a menstruant only it might have been presumed that it applied only to the menstruant, since even if she observed a discharge on one day only she must continue unclean for seven days, but not to a zabah for whom, if she observed a discharge[7] on one day, it suffices to wait only one day corresponding to it;[8] hence the necessity for the second text. Then why should not the All Merciful write the law in regard to a zabah and there would be no need to give it again in regard to a menstruant, since one knows that there can be no zabah unless she was previously a menstruant? — That is so indeed. Then what was the need for the Scriptural text?[9] — To exclude a man from the uncleanness of a red discharge.[10] But was he not already once excluded?[11] — One text serves to exclude him from the uncleanness of a discharge of red semen and the other from that of blood.

The same law[12] applies also to males. For it was taught:[13] 'A man, a man',[14] what need was there for the repetition of 'man'? To include a male child one day old who also is to be subject to the uncleanness of zibah; so R. Judah. R. Ishmael son of R. Johanan b. Beroka said: This[15] is not necessary, for, surely, Scripture says, Whether it be a man or a woman,[16] 'whether it be a man' implies any one who is man, whether adult or infant; 'or a woman' implies any one who is a female irrespective of whether she is adult or minor. If so, why was it expressly stated, 'a man, a man'?[17] The Torah used an ordinary form of speech.[18] Thus it is evident that in including a child Scripture included even an infant one day old. Does not, however, an incongruity arise: [If Scripture had only written][19] 'a man' I would only know [that the law applied to] a man, whence could it be derived that it also applies to a child who is nine years and one day old? Hence it was explicitly stated, And a man?[19] — Raba replied: These[20] are traditional laws but the Rabbis found props for them in Scriptural texts. Which one is only a traditional law and which can be deduced from the Scriptural text? If it be suggested that the law relating to an infant one day old is traditional and that relating to a child who is nine years and one day old is deduced from a Scriptural text, is not the text [it could be objected] written in general terms?[21] — Rather say: The law relating to a child who is nine years and one day old is traditional and the one relating to an infant one day old is derived from the Scriptural text. But, since the former is a traditional law, what was the purpose of the Scriptural text? — To exclude a woman from the uncleanness of a white discharge. What need was there for Scripture to write [an additional word[22] and letter][23] as regards males and females respectively?[24] — These were necessary. For if the All Merciful had written the law in respect of males only it might have been presumed that it applied to them alone since they become unclean by [three] observations[25] [on the same day] as by [three observations on three successive] days,[26] but not to females who do not become unclean by [three] observations [on the same day] as by [three observations on three successive] days. And if the All Merciful had written the law in respect of females alone, it might have been presumed to apply to them only, since they become unclean even if a discharge was due to a mishap but not to males who do not become unclean when a discharge is due to a mishap.[27] [The additional letters and words were, therefore,] necessary.

THE SAMARITANS IMPART UNCLEANNESS TO A COUCH UNDERNEATH AS TO A COVER ABOVE, What is meant by A COUCH UNDERNEATH AS A COVER ABOVE? If it be suggested to mean that if there were ten spreads[28] and he sat upon them they all become unclean, is not this [it could be retorted] obvious seeing that he exercised pressure upon them?[29] — The meaning rather is that a couch underneath one who had intercourse with a menstruant is subject to the same law of uncleanness as the cover above a zab.[30] As the cover above a zab imparts uncleanness to foods and drinks only so does the couch underneath one who had intercourse with a menstruant impart uncleanness to foods and drinks only. Whence is the law concerning the cover above a zab deduced? — From the Scriptural text, And whosoever toucheth any thing that was under him shall be unclean.[31] For what could be the meaning of 'under him'?

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(1) Of semen (v. infra) which is similar in nature to the discharge dealt with in the text under discussion. Only a woman's is subject to uncleanness but not that of a man.

(2) Lit., 'and that which was taught'.

(3) Lev. XV, 25, dealing with zibah.

(4) One younger than ten days cannot possibly be subject to this form of uncleanness since one cannot be a confirmed zabah before the elapse of seven days of menstruation and three subsequent days on each of which a discharge is observed.

(5) Lit., ‘wherefore to me’.

(6) Sc. since, as has been shown supra, an infant of one day is subject to the uncleanness of menstruation it naturally follows that on her tenth day (cf. prev. n. but one) she is also subject to that of zibah.

(7) After the seven days of menstruation.

(8) And if she observed a discharge on the second day also, she need only wait one day, after which she is clean. Only a discharge that continued for three consecutive days would subject her to the uncleanness of a confirmed zabah.

(9) The additional waw in the case of the menstruant.

(10) The text implying that only a woman is subject to the uncleanness of a red discharge but not a man.

(11) Supra.

(12) That a child one day old is subject to the uncleanness of a discharge as an adult.

(13) ‘Ar. 3a.

(14) Lev. XV, 2, dealing with the laws of a zab. E.V., ‘any man’.

(15) The exposition of Lev. XV, 2 (v. prev. n.).

(16) Lev. XV, 33.

(17) Lev. XV, 2 dealing with the laws of a zab. E.V., ‘any man’.

(18) Lit., ‘spoke as is the language of man’.

(19) Lev. XV, 16, in regard to the emission of semen.

(20) The law of zibah in respect of an infant one day old and the law of the emission of semen in regard to a boy who is nine years and one day old.

(21) Cf. supra p. 223, n. 8 mut. mut.

(22) Man.

(23) Waw (‘and’) in we-ishah.

(24) Sc. why could not the same ages of the male and of the female be derived from one another?

(25) Of discharges.

(26) Cf. B.K. 24a.

(27) Infra 36b.

(28) One above the other.

(29) Midras (v. Glos.) is one of the means whereby a zab conveys uncleanness.

(30) And not as the couch under him which imparts uncleanness to human beings also.

(31) Lev. XV, 10.

Talmud - Mas. Nidah 33a

If it be suggested: Under the zab [it could be objected: This][1] is derived from, And whosoever toucheth his bed.[2] Consequently it must mean: Whosoever toucheth any thing under which the zab was’;[3] and this is[4] the cover above the zab,[5] Scripture[6] segregated it from a grave uncleanness[7] and transferred it to a lighter uncleanness in order to tell you that it imparts uncleanness to foods and drinks only.[8] Might it not be suggested that Scripture segregated it from the grave uncleanness only in order that it shall not impart uncleanness to a man[9] and thereby also impart uncleanness to his clothes, but that it does impart uncleanness to a man[9] or to clothes?[10] — Scripture said: Shall be unclean,[11] which implies[12] an uncleanness of a lighter character, And whence is the law concerning the couch beneath one who had intercourse with a menstruant deduced? — From what was taught: And her impurity be upon him.[13] As it might have been presumed that he is released from his uncleanness as soon as he is released,[14] it was explicitly stated, He shall be unclean seven days.[13] Then why was it explicitly stated, ‘And her impurity be upon him’? As it might have been presumed that he imparts no uncleanness to man or earthenware, it was explicitly stated, ‘And her impurity be upon him’,[13] as she imparts uncleanness to man[15] and to earthenware[16] so does he impart uncleanness to man[15] and earthenware.[16] In case it might be suggested:[17] As she causes a couch or a seat to become unclean so as to impart uncleanness to a man and thereby also impart uncleanness to his clothes, so does he also cause his couch and seat to impart uncleanness to man and thereby impart uncleanness to his clothes, it was explicitly stated: And every bed whereon he lieth shall be unclean.[18] For[19] it should not have been stated. 'and every bed on which he lieth shall be unclean', then why was it written, 'And every bed on which etc.'? Scripture has, thereby, segregated it from a grave uncleanness[20] and transferred it to a lighter uncleanness, to tell you that it imparts uncleanness to foods and drinks only. R. Ahai demurred: Might it not be suggested that Scripture had segregated it from a grave uncleanness and transferred it to a lighter uncleanness only in order that it shall not impart uncleanness to a man and thereby also convey it to his clothes, but that it does impart uncleanness to a man[21] or to clothes?[22] — R. Assi replied: Shall be unclean[23] implies[24] an uncleanness of a lighter nature. Might it not be argued: 'And her impurity be upon him'[18] is a generalization, 'and every bed'[18] is a specification[25] and, since the scope of a generalization when followed by a specialization already comprehended in it is limited by the thing specified, only[26] a bed and a seat, but no other thing should convey uncleanness? — Abaye replied: 'He shall be unclean for seven days'[18] makes a break in the context, so that this is a case of a generalization and a specification that are distant from one another and whenever a generalization and a specification are distant from one another the rule of generalization and specification does not apply. Raba replied: The rule[27] in fact does apply, but the expression of 'and every'[18] is an extension.[28] R. Jacob demurred: Might it not be argued that he[29] is[30] subject to the same uncleanness as she in this respect: As in her case no distinction is made between her touch and her bed as regards the conveyance of uncleanness to a person and to his clothes, thus adopting the stricter course,[31] so also in his case no distinction should be made between his touch and his bed as regards the conveyance of uncleanness to a person and to his clothes, the lenient course being adopted?[32] — Raba replied:[33] 'Upon him' implies: To put a load upon him.[34]

SINCE THEY COHABIT WITH MENSTRUANTS etc. Do they all[35] cohabit with menstruants? — R. Isaac of Magdala replied: This was learnt about married persons only.

BECAUSE [THEIR WIVES] CONTINUE [UNCLEAN FOR SEVEN DAYS] ON ACCOUNT OF A DISCHARGE OF ANY BLOOD etc. It was taught: R. Meir stated, If they continue [unclean for seven days] on account of a discharge of any blood,[36] is not this[37] rather an important safeguard for them? But the fact is that when they observe a discharge of red blood they treat it as supplementary to a previous discharge of yellow blood.[38] Another explanation: She includes the day on which her discharge ceases[39] in the number of the seven days.[40] Rami b. Hama demurred: Why indeed should she not count it,[41] and why should not we also count it,[41] seeing that we have an established rule that part of a day is regarded as the whole of it? — Raba retorted: If so,[42] how could it be possible for an emission of semen to cause the counting[43] after a zibah to be void seeing that a part of the day is to be counted as the whole of it?[44] If one had observed the discharge in the middle of the day the law might indeed be so,[45] but here we might be dealing with one who observed the discharge near sunset?[46] — Could it then definitely be assumed that[47] the Scriptural text was written only [in regard to a discharge] near sunset? — Yes; you must indeed allow the text to be so explained, for it[48] forces this interpretation upon itself.

Rami b. Hama enquired: If a woman[49] ejected some semen;[50] does she cause her counting[51] after a zibah to be void? Is she regarded as one who observed an emission of semen and causes, therefore, the counting[51] to be void

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(1) Since it is midras (cf. Prev. n. but two).

(2) Lev. XV, 5.

(3) The Heb, yiheyeh tahtaw may be rendered as E.V. 'that was under him' as well as 'under which he (the zab) was'.

(4) Lit., 'and what is it',

(5) Cf. Rashal and Rashi. Cur. edd. in parenthesis add: 'And he who carries shall also be unclean; and what is that? What is being carried. What is the reason? It is written: And that which is carried'.

(6) By separating the law of touching from that of carrying with the expression of 'shall be unclean'.

(7) Carrying which imparts uncleanness to a person as well as to his clothes.

(8) But not to a person.
(9) Who touches it.
(10) That came in direct contact with it.
(11) Lev. XV, 10.
(12) Since the washing of garments was not mentioned in that part of the verse.
(13) Lev. XV, 24.
(14) Lit., ‘he shall go up at her foot’. sc. if, for instance, on the sixth day of her uncleanness he became unclean through her he should become clean on the following day (which is her seventh day) on which she is released from her uncleanness.
(15) And to the clothes he wears.
(16) By heset (v. Glos.).
(17) Lit., ‘if’.
(18) Lev, XV, 24.
(19) Since it was written, ‘and her impurity be upon him’ and about her it is written, that one who touches her bed must wash his garments.
(20) That of the couch of the menstruant which imparts uncleanness to a person as well as to the clothes he wears.
(21) Who touches it.
(22) That came in direct contact with it.
(23) Lev. XV, 10.
(24) Since the washing of garments was not mentioned in that part of the verse.
(25) Of the same general rule.
(26) Lit., ‘yes’.
(27) Of generalization followed by a specification.
(28) Of the general rule. The rule of generalization and specification does not, therefore, apply here.
(29) Who cohabits with a menstruant.
(30) Since the man and the woman were compared.
(31) Sc. that both the person and his clothes are unclean.
(32) Viz., that neither his person nor his clothes contract uncleanness.
(33) Var. lec. Scripture said.
(34) I.e., in his case too the stricter course must be adopted.
(35) Sc. married and unmarried men.
(36) Whether clean or unclean.
(37) The counting of seven days after each discharge whose colour differed from the previous one.
(38) Cf. relevant n. on our Mishnah.
(39) Sc. the third day of three consecutive days (after the termination of her period of menstruation) on each of which she experienced a discharge and in consequence of which, she is a confirmed zabah.
(40) While in the case of a zabah the law requires seven full days clear of any discharge whatsoever.
(41) As one of the seven clean days.
(42) That as regards the counting of the clean days after zibah a part of a day could be regarded as the whole of it.
(43) Of any one of the seven days (cf. supra 22a).
(44) And a part of the day presumably remains after the emission.
(45) The remaining part of the day being counted as a full day and the counting of the seven days is in no way interrupted.
(46) So that no part of the day remained,
(47) Lit., ‘and let him arise and say to him to’.
(48) In view of the accepted rule that part of a day counts as the whole of it.
(49) Who had intercourse during her zibah.
(50) While she was counting her clean days after her zibah had terminated.
(51) Of the one day on which the ejection occurred.

Talmud - Mas. Nidah 33b

or is she rather regarded as one who merely touched it and, therefore, she does not cause the counting to be void? — Raba replied, His error is as deep as his subtlety: Granted that she causes her counting to be void, how many days could be affected? Should it be suggested that the counting of all the seven days should be void [it could be objected]: Is it not enough that she is treated like the man who had the intercourse with her?[1] Should it be suggested that she should cause the counting of one day to be void [it could be retorted:] Did not the All Merciful say, And after that she shall be clean,[2] 'after' means after all of them, implying that no uncleanness[3] may intervene between them? — But according to your view, how could a zab himself cause the counting of one day to be void seeing that the All Merciful said, He shall number to himself seven days for his cleansing.[4] which implies that no uncleanness must intervene between them?[5] What then have you to say in reply? That the meaning is that only the uncleanness of zibah must not intervene between them;[6] well, here also it may be explained that the meaning is that only the uncleanness of zibah must not intervene between them.[7]

ON ACCOUNT OF THEIR [UNCLEANNESS]. HOWEVER, NO OBLIGATION IS INCURRED FOR ENTRANCE INTO THE TEMPLE etc. R. Papa once visited Tuak[8] when he remarked, 'If there lives a scholar in this place I would go and pay him my respects'.[9] 'A scholar lives here', said an old woman to him, 'and his name is R. Samuel and he learns Tannaitic traditions. May it be God's will that you be like him'. 'Since',he thought. 'she blesses me by him I can gather[10] that he is a God[11] -fearing man'. He thereupon visited him when the latter treated him to[12] a bull; and he also treated him to an incongruity[13] between Tannaitic teachings: We have learnt, ON ACCOUNT OF THEIR [UNCLEANNESS]. HOWEVER, NO OBLIGATION IS INCURRED FOR ENTRANCE INTO THE TEMPLE NOR IS TERUMAH BURNT ON THEIR ACCOUNT, SINCE THEIR[14] UNCLEANNESS IS ONLY OF A DOUBTFUL NATURE, from which it is evident that terumah is not burnt in a case of doubt. But have we not learnt to the contrary: In six doubtful cases of uncleanness is terumah burnt [and one of them is] the doubtful uncleanness of the clothes of an 'am ha-arez?[15] — 'May it be God's will', exclaimed R. Papa, 'that this bull shall be eaten in peace:[16] Here[17] we are dealing with the case of a Samaritan who was a haber'.[18] 'But would you presume[19] [the other retorted] that a Samaritan who is a haber had intercourse with a menstruant?' When he left him[20] and came to R. Shimi b. Ashi the latter said to him: Why did you not answer him [that our Mishnah[21] deals] with the case of a Samaritan who, having performed ritual immersion, came up and trod upon the clothes[22] of a haber and the clothes[22] of this haber then came in contact with terumah,[23] so that if [the terumah were to be treated as unclean] on account of the uncleanness of the 'am ha-arez [it could be objected]: He has, surely, performed ritual immersion.[24] And if the uncleanness were to be attributed to his likely intercourse with a menstruant [it could be objected]: It is doubtful whether he had his intercourse recently or some time ago.[25] And even if you were to find some ground for assuming that his intercourse took place recently there is still the doubt whether she had completed her period of cleanness for yellow blood or not.[26] This then is a case of double doubt,[27] and no terumah may be burnt on account of a doubly doubtful uncleanness. But why should not the uncleanness of the terumah be established[28] on account of its contact with the clothes of an 'am ha-arez, a Master having stated: The clothes of an 'am ha-arez are like midras uncleanness[29] to Pharisees?[30] — The other replied: This is a case of a naked Samaritan.

MISHNAH. THE DAUGHTERS OF THE SADDUCEES, SO LONG AS THEY ARE IN THE HABIT OF WALKING IN THE PATHS OF THEIR FATHERS, ARE TO BE REGARDED AS SAMARITAN WOMEN, IF THEY LEFT THOSE PATHS[31] TO 'WALK IN THE PATHS OF ISRAEL. THEY ARE TO BE REGARDED AS ISRAELITISH WOMEN. R. JOSE RULED: THEY ARE ALWAYS REGARDED AS ISRAELITISH WOMEN UNLESS THEY LEAVE THE PATHS OF ISRAEL TO WALK IN THE PATHS OF THEIR FATHERS.

GEMARA. The question was raised: What is the law[32] where their attitude is unknown?[33] — Come and hear: THE DAUGHTERS OF THE SADDUCEES, SO LONG AS THEY ARE IN THE

HABIT OF WALKING IN THE PATHS OF THEIR FATHERS, ARE TO BE REGARDED AS SAMARITAN WOMEN; from which it follows that if their attitude is unknown they are like Israelitish women. Read then the final clause: IF THEY LEFT THESE PATHS TO WALK IN THE PATHS OF ISRAEL, THEY ARE TO BE REGARDED AS ISRAELITISH WOMEN; from which it follows that if their attitude is unknown they are like Samaritan women! But the fact is that no inference may be drawn from this [Mishnah].

Come and hear what we have learnt: R. JOSE RULED, THEY ARE ALWAYS REGARDED AS ISRAELITISH WOMEN UNLESS THEY LEAVE THE PATHS OF ISRAEL TO WALK IN THE PATHS OF THEIR FATHERS. Thus it follows that the first Tanna[34] holds that when their attitude is unknown they are to be regarded as Samaritan women. This is conclusive.

Our Rabbis taught: It once happened that a Sadducee was conversing with a High Priest in the market place when some spittle was squirted from his mouth and fell on the clothes of the High Priest. The face of the High Priest[35] turned yellow and he hurried to his[36] wife[37] who assured him that although they were wives of Sadducees they paid homage to the Pharisees and showed their blood to the Sages.[38] R. Jose observed: We[39] know them better than anybody else [and can testify] that they show their menstrual blood to the Sages. There was only one exception, a woman who lived in our neighbourhood who did not show her blood to the Sages but she died. But why was he[40] not concerned about the uncleanness[41] that is occasioned by the spittle of an ‘am ha-arez?[42] — Abaye replied: This was a case of a Sadducee who was a haber.[43] Said Raba: Is a Sadducee who is a haber presumed[44] to have intercourse with a menstruant? Rather, said Raba:

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(1) If a man who was a zab emitted semen on one of the seven clean days following a zibah he loses that day only.

(2) Lev, XV, 28.

(3) Even that of one day.

(4) Lev. XV, 13.

(5) The seven days. How then is he allowed to interrupt his seven days by the exclusion of the day on which he emitted semen?

(6) Sc. if there was such an intervention, all the days counted are void and another seven days must be counted.

(7) The uncleanness of an emission of semen, however, is not regarded as an intervention.

(8) Near Naresh, the home of R. Papa not far from Sura, v. Obermeyer. p. 208.

(9) Lit., ‘I will receive his countenance’.

(10) Lit., ‘infer from it’.

(11) Lit., ‘heaven’.

(12) Lit., ‘cast down for him’, sc. had it slaughtered to prepare a feast in his honour.

(13) Lit., ‘cast for him’, (cf. prev. n.).

(14) So our Mishnah. The reading here is ‘her’.

(15) That came in contact with the terumah; Toh. IV, 5. As a Samaritan is presumably in the same category why is the terumah spoken of in our Mishnah not to be burnt?

(16) Sc. that the feast shall not be disturbed by his inability to reconcile the apparent contradiction.

(17) In our Mishnah.

(18) Whose clothes could not be suspected of any uncleanness.

(19) Lit., ‘make’.

(20) Rashi: He left his host because he embarrassed him.

(21) According to which terumah is not burnt on account of its contact with a couch that was underneath a Samaritan.

(22) Sc. the bed clothes, a couch.

(23) The terumah thus coming in contact with midras uncleanness.

(24) Whereby his uncleanness came to an end.

(25) In the latter case his uncleanness may have terminated before he performed the immersion and he is now clean.

(26) It is quite possible that she counted her clean days after a discharge of unclean blood.

(27) Lit., ‘a doubt of a doubt’,

(28) Lit., ‘and let it go out for him’.
(29) As midras conveys uncleanness to man and clothes so do the clothes of an ‘am ha-arez.
(30) Who were meticulous in the observance of the laws of cleanness, Hag. 18b.
(31) Lit., ‘they separated’.
(32) According’ to the first Tanna who ruled: IF THEY ARE IN THE HABIT OF WALKING IN THE PATHS OF THEIR FATHERS THEY ARE TO BE REGARDED AS SAMARITAN WOMEN and IF THEY LEFT THESE PATHS for THE PATHS OF ISRAEL THEY ARE TO BE REGARDED AS ISRAELITISH WOMEN.
(33) Are they then regarded as Samaritan, or as Israelitish women?
(34) Who obviously differs from R. Jose.
(35) Who was afraid that the Sadducee may have been unclean owing to intercourse with his menstruant wife and that his spittle consequently conveyed uncleanness to the clothes on which it fell.
(36) The Sadducee's.
(37) To ascertain whether she observed the laws of menstruation and knew the distinction between clean and unclean blood.
(38) Who gave their decisions in accordance with the rulings of the Pharisees.
(39) Who live in their neighbourhood.
(40) The High Priest.
(41) Lit., ‘and let it go out to him’.
(42) Even if he is not suspected of intercourse with a menstruant.
(43) V. Glos.
(44) Lit., ‘you make’,

Talmud - Mas. Nidah 34a

The incident occurred during a festival and the uncleanness of an ‘am ha-arez[1] during a festival the Rabbis treated as clean; for it is written, So all the men of Israel were gathered again against the city, knit together[2] as one man,[3] the text thus treated them all[4] as haberim.[5]

MISHNAH. THE BLOOD[6] OF AN IDOLATRESS AND THE CLEAN BLOOD[7] OF A LEPROUS WOMAN, BETH SHAMMAI DECLARE CLEAN[8] AND BETH HILLEL HOLD THAT IT IS LIKE HER SPITTLE OR HER URINE,[9] THE BLOOD OF A WOMAN AFTER CHILDBIRTH WHO DID NOT[10] UNDERGO RITUAL IMMERSION, BETH SHAMMAI RULED, IS LIKE HER SPITTLE OR HER URINE,[9] BUT BETH HILLEL RULED: IT CONVEYS UNCLEANNESS BOTH WHEN WET AND WHEN DRY, THEY[11] AGREE, HOWEVER, THAT IF SHE GAVE BIRTH WHILE IN ZIBAH, IT CONVEYS UNCLEANNESS BOTH WHEN WET AND WHEN DRY.

GEMARA. But do not Beth Shammai uphold the tradition: Speak unto the children of Israel, and say unto them, when any man hath an issue,[12] only the children of Israel convey uncleanness by zibah and idolaters do not convey uncleanness by zibah, but a preventive measure has been enacted against them that they should be regarded as zabim in all respects?[13] — Beth Shammai can answer you:[14] How should it act? If it were to convey uncleanness both when wet and when dry, you would treat it as a Pentateuchal uncleanness.[15] If it were to convey uncleanness only when wet and not when dry, you might also make the same distinction in a Pentateuchal uncleanness.[16] If so, should not the same provision[17] be made in the case of her spittle and her urine also?[18] — Since a distinguishing rule has been laid down in regard to her blood[19] it is sufficiently known that her spittle and her urine are only Rabbinically unclean. And why should no distinguishing rule be laid down in respect of her spittle or her urine while her blood should be ruled to be unclean? — Concerning her spittle and her urine, since they are frequently discharged, the Rabbis have enacted a preventive measure, but concerning her blood which is not frequently discharged the Rabbis have enacted no preventive measure.

Raba ruled: His[20] discharge' in zibah is unclean[21] even according to Beth Shammai[22] and his discharge of semen is clean even according to Beth Hillel.[23] 'His discharge in zibah is unclean even according to Beth Shammai' since a distinguishing rule[24] can be made in connection with the discharge of his semen. 'His discharge of semen is clean even according to Beth Hillel', since the Rabbis have enacted a distinguishing rule[24] in order that terumah or other holy things shall not be burnt on its account.[25] But why should not the distinguishing rule be enacted in regard to his discharge in zibah while his discharge of semen should be declared unclean? — Concerning his discharge in zibah which is not dependent on an act of his the Rabbis have enacted a preventive measure, but concerning a discharge of his semen which does depend on an act of his[26] the Rabbis enacted no preventive measure.

May it be suggested that the following provides support to his[27] ruling: If an idolatress discharged the semen of an Israelite, it is unclean; but if the daughter of an Israelite discharged the semen of an idolater, it is clean.[28] Now does not this mean that it is completely clean?[29] — No; clean Pentateuchally but unclean Rabbinically. Come and hear: It thus follows[30] that the semen of an Israelite is unclean everywhere,

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(1) Who was no Sadducee and whose wife as a rule properly observed the laws of menstruation.

(2) Haberim, plural of haber.

(3) Judges XX, 11.

(4) When assembled together. as is also the case on a festival.

(5) Cf. prev. n. but two. Haberim meticulously observe all the laws of uncleanness.

(6) Cf. Lev. XV, 19 and 25.

(7) The blood of purification (Lev. XII, 5).

(8) This is discussed in the Gemara infra.

(9) Which conveys uncleanness when wet but not when dry.

(10) Seven days after the birth of a male child or fourteen days after that of a female child (cf. Lev. XII, 2, 5).

(11) Beth Shammai.

(12) Lev, XV, 2.

(13) Shab. 83a; how then could Beth Shammai in our Mishnah declare their blood clean?

(14) So Maharsha and old edd. Cur. edd. insert in parenthesis 'that was stated about males, for if about females'.

(15) And this might lead to the erroneous assumption that it also causes the burning of terumah and other sacred things.

(16) That of an Israelite woman. By ruling that it is clean such erroneous conclusions are avoided.

(17) To regard it as clean.

(18) Since otherwise the same erroneous conclusion might be drawn.

(19) By imposing upon it an uncleanness that is less restrictive than that of Pentateuchal uncleanness.

(20) An idolater's.

(21) Conveying it by contact.

(22) Who in our Mishnah relax the law in regard to an idolatrous woman.

(23) Cf. prev. n. mut. mut.

(24) Whereby it is indicated that the uncleanness of an idolater is merely Rabbinical.

(25) In the absence of the distinction it might have been presumed that the uncleanness is Pentateuchal and that, therefore, even terumah and other holy things must be burnt if they came in contact with it.

(26) Sexual excitement.

(27) Raba's.

(28) Mik. VIII, 4.

(29) In agreement with Raba.

(30) Lit., 'you are found saying'.

Talmud - Mas. Nidah 34b

even in the bowels of an idolatress,[1] while that of an idolater is clean everywhere, even in the bowels of an Israelitish woman, with the exception of any urine of hers that is mixed up with it.[2] And should you argue that here also it is only Pentateuchally clean but unclean Rabbinically, [it could be retorted:] Does then her urine convey uncleanness Pentateuchally?[3] Consequently it may be inferred that it[4] is clean even Rabbinically. This is conclusive.

The Master said, ‘The semen of an Israelite is unclean everywhere, even in the bowels of an idolatress’. May you not thereby solve a question of R. Papa; for R. Papa enquired. ‘What is the law regarding the semen of an Israelite in the bowels of an idolatress?’ [Concerning a discharge] within three days[5] R. Papa raised no questions. His enquiry related only to one after three days.[6] What, he asked, is the law? Is it only in the case of Israelites, who are anxious to observe the commandments, that their bodies engender heat and the semen decomposes[7] but in the case of idolaters, who are not anxious to observe the commandments, their bodies engender no heat and their [semen] therefore does not decompose, or is it possible that on account of their consumption of forbidden animals and reptiles their bodies also engender heat and their semen also decomposes? — This remains undecided.

THE CLEAN BLOOD OF A LEPROUS WOMAN, BETH SHAMMAI etc. What is Beth Hillel's reason? — R. Isaac replied: ‘Whether it be a man’[8] includes[9] a male leper as regards his sources;[10] ‘or a woman’[8] includes[9] a female leper as regards her sources. Now what could be meant by ‘her sources’? If it be suggested: Her other sources[11] [the objection could be made that the uncleanness of these] could be inferred from that of the male.[12] The reference consequently must be to [the uncleanness of] her blood,[13] to declare her ‘CLEAN BLOOD’ unclean. And Beth Shammai?[14] — [The uncleanness of] a female could not be deduced from that of a male, for it can be objected: The position of the male is different[15] since he is also required[16] to uncover his head and to rend his clothes[17] and he is also forbidden cohabitation; [how then could his uncleanness] be compared to that of a female[18] who is not [subject to his restrictions]?[19] And Beth Hillel?[20] — The All Merciful could have written down the restrictions in regard to the female and there would have been no need to repeat them in regard to the male; for it could have been argued: If in the case of a female,[18] who is not required to uncover her head or to rend her clothes and who is not forbidden cohabitation either, the All Merciful included her sources[21] how much more then should this be the rule[18] in the case of the male.[22] Now since the text serves no purpose in regard to the male,[23] apply it to the female; and since it can serve no purpose as far as her other sources[24] are concerned,[25] apply it to her blood, to declare her ‘CLEAN BLOOD’ unclean. And Beth Shammai?[26] — The uncleanness of a male cannot be deduced from that of a female, for it can be objected: The position of a female is different,[27] since she becomes unclean[28] even as a result of a mishap; [how then could her uncleanness] be compared to that of a male who is not [subject to such a restriction]? And Beth Hillel?[26] — The subject dealt with is the position of[29] the leper, how can they raise an objection against it from that of the zab?[30] And Beth Shammai?[26] — They raise objections from any form of uncleanness. And if you prefer I might reply that Beth Shammai can answer you: The expression[30] ‘whether it be a man’[31] is required for the following exposition: ‘Whether it be a man’ whosoever is a man irrespective of whether he is of age or only a minor.[32] And Beth Hillel?[33] — They derive this ruling from ‘This is the law of him that hath an issue’[34] which implies, whether he be of age or a minor.

R. Joseph stated: When R. Simeon b. Lakish discoursed on the zab he raised the following question.[35] Does the first observation[36] of a zab who was a minor convey uncleanness by contact? The All Merciful having said, This is the law of him that hath an issue and of him from whom the flow of seed goeth out,[37] therefore only if his ‘flow of seed’ causes uncleanness does his first observation also cause uncleanness, but the minor,[38] since his ‘flow of seed’ conveys no uncleanness, his first observation also conveys no uncleanness; or is it possible that it is unclean, since if he observed two discharges the two are combined?[39] — Raba replied. Come and hear: This is the law of him that have an issue,[37] implies, whether he is of age or a minor; as in the case of an adult a first observation conveys uncleanness so also in that of a minor a first observation conveys uncleanness.

R. Joseph enquired: Does the blood of a first observation of a leper convey uncleanness by contact? Is the place of the zibah a source and, therefore, conveys uncleanness,[40] or is it possible that it is no source and, therefore, conveys no uncleanness?[41] — Raba replied, Come and hear: His issue is unclean,[42] this teaches concerning an issue of a zab that it is unclean.[43] Now of what kind of person has this been said? If it be suggested: Of one who is only a zab[44]

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(1) If she discharged it on a garment.
(2) As the idolater's semen is here ruled to be clean everywhere, support is adduced for Raba's ruling.
(3) Of course not. Its uncleanness is only Rabbinical.
(4) An idolater's semen.
(5) After intercourse.
(6) Which in the case of an Israelitish woman is clean.
(7) After three days, and in consequence of this it is regarded as clean.
(8) Lev. XV, 33.
(9) Since the expression is not required for its context that previously in the same verse dealt in general terms ‘of him that have an issue’.
(10) His mouth, for instance. Sc. not only is his body a primary uncleanness but, as the zab of which the text explicitly speaks, his spittle also is a primary uncleanness and may, therefore, impart uncleanness of the first degree to man and articles.
(11) Those that do not discharge blood but spittle or urine.
(12) As these sources of the male are unclean, so are the similar sources of the female.
(13) Which does not apply to the male.
(14) How can they maintain their ruling in view of this argument?
(15) From that of a female.
(16) When leprous.
(17) Cf. Lev. XIII, 45.
(18) When leprous.
(19) Cf. Ker. 8b.
(20) V. p. 237. n. 10.
(21) As regards uncleanness,
(22) Who is subject to these restrictions.
(23) Whose case, as has just been shown, could well have been deduced from that of the female.
(24) Those that do not discharge blood but spittle or urine.
(25) These having been deduced supra from ‘or a woman’,
(26) How can they maintain their ruling in view of this argument?
(27) From that of a male.
(28) In the case of zibah.
(29) Lit., ‘stand at’,
(30) Lit., ‘that’.
(31) Lev. XV, 33.
(32) In either case is he subject to the uncleanness of zibah. Now since the text is required for this exposition it cannot also serve the purpose for which Beth Hillel seek to employ it.
(33) Having used the text for their ruling in our Mishnah whence do they derive this ruling?
(34) Lev. XV, 32.
(35) Lit., ‘enquired thus’.
(36) Of a discharge.
(37) Lev. XV, 32.
(38) Lit., that’.
(39) Constituting him a confirmed zab in respect of the uncleanness of seven days, as an adult zab.

(40) As the other sources of a leper.
(41) Except by contact.
(42) Lev. XV, 2, referring (since the root meaning ‘issue’ is repeated) to a second discharge.
(43) And conveys it not only by contact but also by carriage (cf. infra 55a).
(44) But no leper.

Talmud - Mas. Nidah 35a

[the difficulty would arise:] If it[1] causes the uncleanness of others,[2] is it not obvious that it causes that of the man himself?[3] It is consequently obvious that this has been said of a zab who is a leper.[4] And since a Scriptural text was required to include him in the category of uncleanness after a second observation,[5] it may be inferred that the place of the zibah is no source.[6] Said Rab Judah of Diskarta[7] to Raba: What is the proof?[8] Is it not still possible to maintain that the text deals with one who is only a zab;[9] and as to your objection ‘If it causes the uncleanness of others, is it not obvious that it causes that of the man himself?’ [It can be retorted:] The case of the scapegoat[10] proves [the invalidity of your argument], for it causes uncleanness to others[11] while it is itself clean.[12] Abaye observed: Why did he[13] at all raise such a question, seeing that he himself stated, ‘This is the law of him that hath an issue,[14] implies, whether he is of age or a minor’, and since this law[15] has been deduced by him from that text,[14] the expression of ‘whether it be a man’[16] remains free for the purpose of including a leper in regard to his source and ‘or a woman’ serves to include a female leper in regard to her sources; and the All Merciful has compared[17] the leper to the confirmed zab:[18] As the confirmed zab conveys uncleanness through carriage so does the first discharge of a leper convey uncleanness by carriage.

R. Huna ruled: The first observed discharge of a zab conveys uncleanness[19] even in the case of a mishap; for it is said, This is the law of him that hath an issue, and of him from whom the flow of seed goeth out;[14] as ‘the flow of seed’ conveys uncleanness even in the case of a mishap so does the first observed discharge of a zab convey uncleanness even in the case of a mishap. Come and hear: If he observed a first discharge, he must be examined.[20] Is not this done to determine his[21] uncleanness?[22] — No; in regard to a sacrifice.[23] Come and hear: At the second observation of a discharge he must be examined.[20] Now for what purpose? If it be suggested: For that of a sacrifice but not for that of uncleanness[24] [it could be retorted:] Apply here the Scriptural text ‘out of his flesh’.[25] which implies, but not as a result of a mishap.[26] Consequently it must be for the purpose of uncleanness. And since the final clause refers to an examination in regard to uncleanness must not the first clause also refer to one for uncleanness?[27] — What an argument! Each might refer to an examination for different purposes.[28] Come and hear: R. Eliezer ruled: Even at the third observation he must be examined on account of the sacrifice.’ From which it follows, does it not, that the first Tanna requires it[29] on account of the uncleanness?[22] — No; all may require it[29] on account of the sacrifice, but here they[30] differ on the exposition of the eth[31] particles. The Rabbis base no exposition on the eth particles and R. Eliezer does. ‘The Rabbis base no exposition on the eth particles’: ‘He that hath an issue’[32] represents one discharge, ‘his issue’[33] represents a second one; so far ‘for the man’;[34] while at the third discharge the All Merciful compared him to the woman.[35] ‘And R. Eliezer does’: ‘He that hath an issue’[36] represents one discharge, ‘eth’[37] represents a second one, ‘his issue’[38] represents a third one, while at the fourth discharge the All Merciful compared him to the woman.[39]

Come and hear: R. Isaac said, A zab, surely, was included in the same law of uncleanness as one who emitted semen,[40] why then was he excluded?[41] In order to relax the law for him in one respect and to restrict it for him in another respect. ‘To relax the law for him’ in that he does not become unclean in case of a mishap; and to restrict it for him’

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(1) The issue of a zab.

(2) Anything that the zab carries is unclean.
(3) What need then is there to mention the obvious?
(4) To whom, being unclean on account of his leprosy, the inference a minori ad majus cannot be applied.
(5) Thus implying that a first issue is clean.
(6) And, therefore, causes no uncleanness by carriage. Had it been a source the first discharge would have been unclean and there would have been no need to include in the uncleanness a second one.
(7) [Deskarah, sixteen parasangs N.E. of Bagdad. v. Obermeyer. p. 146].
(8) Lit., ‘from what’.
(9) While the discharge of a leper requires no Scriptural text to tell of its uncleanness since even a first one is unclean by reason of its issue from a leper's source.
(10) Cf. Lev, XVI, 5ff.
(11) The man who carries it to Azazel (cf. Lev. XVI, 8, 26).
(12) As any other live beast.
(13) R. Joseph.
(14) Lev. XV, 32.
(15) The uncleanness of a minor.
(16) Lev. XV, 33, from which it was deduced supra that the first discharge of a minor is unclean.
(17) By including the expression of ‘whether it be a man’ (applied to the leper) in the text dealing with the zab.
(18) One who observed two discharges (for the proof cf. Rashi).
(19) Of a light nature: Only by contact and for the duration of one day; and only when it was followed by a second discharge does the person become a confirmed zab in respect of the counting of the seven days of uncleanness.
(20) Zabim II, 2.
(21) Lit., ‘what, not to’.
(22) By ascertaining whether the discharge was or was not due to a mishap. In the former case it would be deemed clean. An objection against R. Huna.
(23) Which must be brought after three observed discharges. In case of a mishap the discharge is not reckoned as one of the three.
(24) Sc. the major uncleanness.
(25) Lev. XV, 2, dealing with one who observed two discharges.
(26) How then could it be held that no examination is required for this purpose?
(27) Cf. supra n. 3,
(28) Lit., ‘that as it is and that as it is’. sc. while the latter examination serves the purposes of ascertaining the person's subjection to uncleanness, the former (as stated supra) may serve that of ascertaining whether he is liable to a sacrifice.
(29) The examination.
(30) R. Eliezer and the first Tanna.
(31) Grammatically the sign of the defined accusative.
(32) Lev. XV. 33. V. following n.
(33) Ibid. E.V.. Of them that have an issue,
(34) Ibid. (E.V.. whether it be a man). Sc. in the case of a mishap it is not subject to uncleanness.
(35) Ibid. (E.V. or a woman). Sc. even in the case of a mishap it is subject to uncleanness (cf. infra 36b) and also the obligation of a sacrifice.
(36) Lev. XV, 33. V. infra n. 3.
(37) Grammatically the sign of the defined accusative.
(38) Ibid. E.V., Of them that have an issue.
(39) Cf. prev. nn. In this case, however, the comparison is restricted to the case of a mishap. viz., if such a discharge occurred after some of the seven days have been counted all the counting is void. Uncleanness sets in after two discharges while a sacrifice is incurred after the third discharge.
(40) As will he shown infra.
(41) In being given a special section to himself.

Talmud - Mas. Nidah 35b

in that he causes a couch and a seat to be unclean.[1] Now when [does this ruling apply]? If it be suggested: When a second discharge was observed [the objection would arise]: How could he then be included in ‘the same law of uncleanness as one who emitted semen’? It is consequently obvious [that is was meant to apply] when a first discharge was observed;[2] and yet it was stated, was it not, ‘To relax the law for him in that he does not become unclean in case of a mishap’?[3] — But how do you understand this: ‘To restrict it for him in that he causes a couch and a seat to be unclean’; is he capable[4] after a first observation to cause a couch and a seat to be unclean? But the fact is that it is this that was meant: ‘R. Isaac said, A zab after his first observation was surely included in the same law of uncleanness as one who emitted semen, why then was he in the case of a second observation excluded? In order to relax the law for him in one respect and to restrict it for him in another respect. "To relax the law for him" in that he does not become unclean in case of a mishap; "and to restrict it for him" in that he causes a couch and a bed to be unclean’.[5]

R. Huna stated: The discharge of a zab resembles the dough water of barley. The discharge of the zab issues from dead flesh while semen issues from live flesh. The former is watery and resembles the white of a crushed egg while the latter is viscous and resembles the white of a sound egg.

THE BLOOD OF A WOMAN AFTER CHILDBIRTH WHO DID NOT UNDERGO RITUAL IMMERSION etc. It was taught: Beth Hillel said to Beth Shammai, Do you not agree that if a menstruant who did not undergo ritual Immersion observed some blood she is unclean?[6] Said Beth Shammai to them: [This is] no [comparison]. If you apply this law[7] to a menstruant who, even after she had undergone immersion, is unclean if she observed a discharge, would you also apply it to a woman after childbirth who, if she had undergone immersion and then observed a discharge, is clean? The former retorted: The case of one who gave birth during zibah proves our case; for if such a woman had undergone ritual immersion[8] and observed a discharge after the counted days she is clean[9] while if she did not undergo immersion and observed a discharge she is unclean. The latter replied: The same law[10] applies,[11] and this is our reply. This then implies that they[12] are in disagreement.[13] But have we not learnt: THEY[12] AGREE, HOWEVER, THAT IF SHE GAVE BIRTH WHILE IN ZIBAH, IT CONVEYS UNCLEANNESS BOTH WHEN WET AND WHEN DRY? — This is no difficulty, since the latter[14] refers to one who already counted the prescribed days while the former[15] refers to one who did not count them.[16] And so it was also taught: If a woman who gave birth during zibah had counted the prescribed number of clean days but did not undergo ritual immersion and then observed a discharge. Beth Shammai gave their ruling[17] in accordance with their own view[18] and Beth Hillel ruled in accordance with their own view.[19]

It was stated: Rab said, [the blood discharge[20] emanates[21] from] one and the same source; but it is the Torah that declared it unclean during one period[22] and clean during another.[23] Levi, however, said, It emanates from two different sources. When the unclean one is closed[24] the clean one opens, and when the clean one closes,[25] the unclean one opens. What is the practical difference between them?[26] — The practical difference between them is the case of a continuous discharge from within the seven days into the period following these seven days, or from within the fourteen days into the period after the fourteenth, or from within the forty days to the period after the forty days or from within the eighty days into the period following eighty days. According to Rab the law is to be relaxed in the first case[27] and restricted in the latter;[28] but according to Levi the law is to be restricted in the first case[29] and relaxed in the latter.[30]

An objection was raised: THE BLOOD OF A WOMAN AFTER CHILDBIRTH WHO DID NOT UNDERGO RITUAL IMMERSION, BETH SHAMMAI RULED, IS LIKE HER SPITTLE AND HER URINE, BUT BETH HILLEL RULED: IT CONVEYS UNCLEANNESS BOTH WHEN WET AND WHEN DRY, It was now presumed that this is a case where[31] there was a break.[32] This then is satisfactory according to Rab who said that the discharge emanates from one and the same source,[33] for this reason it conveys uncleanness both when wet and dry.[34] But according to Levi who said that it emanated from two different sources why[35] should it convey uncleanness both when wet and when dry? — Levi can answer you: We are here dealing with the case of a woman whose discharge was continuous.[36] But if the discharge was continuous, what is Beth Shammai's reason? — Beth Shammai are of the opinion that there exists only once source. According to Levi[37] one can quite well see the point that divides Beth Shammai from Beth Hillel;[38] but, according to Rab,[39] what[40] is the point that divides them?[41] — The point that divides them in the question whether[42] both the termination of the prescribed number of days and also ritual immersion are required; Beth Shammai holding that the All Merciful made the cleanness dependent on the days alone while Beth Hillel hold that[43] it is dependent on both the days and immersion.[44]

Come and hear: THEY AGREE, HOWEVER, THAT IF SHE GAVE BIRTH WHILE IN ZIBAH, IT CONVEYS UNCLEANNESS BOTH WHEN WET AND WHEN DRY. It was now assumed that here also[45] it is a case where there was a break.[46] Now, according to Rab who stated that there exists only one source one can quite well see the reason why the discharge conveys UNCLEANNESS BOTH WHEN WET AND WHEN DRY;[47] but according to Levi who stated that the sources are two why does the discharge[48] CONVEY UNCLEANNESS BOTH WHEN WET AND WHEN DRY?[49] — He can answer you: Here also it is a case of a continuous discharge. But if the discharge was continuous, what was the need of stating the law?[50] — It was necessary to state it for the sake of Beth Shammai: Although Beth Shammai maintain that there is only one source and that the All Merciful had ordained the uncleanness to be dependent entirely on the lapse of the prescribed number of days,[51] this applies only to a woman in normal[52] childbirth, the prescribed number of whose unclean days had passed,[53] but not to a woman who gave birth in zibah who is required also to count seven clean days.[54]

Come and hear: Her sickness shall be unclean[55] includes[56] the man who had intercourse with her;[57] ‘her sickness shall be unclean’[55] includes[58] the nights;[59] ‘her sickness shall she be unclean’[60] includes[58] a woman who gave birth while in zibah who remains in her uncleanness[61] until seven clean days have passed.[62] This[63] is quite intelligible according to Rab who said that there exists only one source, since it is for this reason that she[64] requires seven clean days,[65]

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(1) As a ‘father of uncleanness’.

(2) When (cf. supra 34b ad fin.) he may well be compared to one who emitted semen.

(3) An objection against R. Huna.

(4) Lit., ‘a son of’.

(5) As a ‘father of uncleanness’.

(6) If they do in this case, why do they differ in that of a WOMAN AFTER CHILDBIRTH?

(7) Of uncleanness.

(8) After counting the seven clean days in addition to the unclean days of childbirth.

(9) Because it is clean blood.

(10) That is applicable to a woman after childbirth in the absence of zibah.

(11) To a childbirth in zibah: sc. the latter also is clean, if the discharge occurred after the unclean days of childbirth and the seven clean days after zibah had been counted, though she had undergone no immersion.

(12) Beth Shammai and Beth Hillel.

(13) On the uncleanness of one who was in childbirth during zibah.

(14) The Baraitha.

(15) Our Mishnah.

(16) Sc. the discharge occurred before the lapse of seven clean days after the zibah. As she is then still a zibah her discharge (unlike that of a woman in childbirth in the absence of zibah that is unclean only when wet) is unclean whether wet or dry.

(17) Lit., ‘went’,

(18) Expressed in the case of a childbirth that was free from zibah, viz., that even prior to immersion the discharge is clean if the prescribed number of clean days had been duly counted.

(19) That cleanness cannot be attained unless there was immersion as well as the due counting of the clean days.
(20) After childbirth.
(21) During the prescribed unclean and clean days.
(22) For seven days after the birth of a male child and for fourteen days after the birth of a female child.
(23) For thirty-three days after the seven in the case of the birth of a male and for sixty-six days after the fourteen in the case of the birth of a female.
(24) At the end of seven and the fourteen days respectively (cf. prev. n. but one).
(25) At the termination (cf. prev. n. but one) of the forty and the eighty days respectively.
(26) Rab and Levi.
(27) From within the seven and the fourteen days to the respective periods following them. Though the discharge was continuous it becomes clean, in accordance with the ordinance of the Torah, after the seventh and the fourteenth day respectively.
(28) From within the forty and the eighty days to the respective periods following them. Cf. prev. n. mut. mut.
(29) Cf. prev. n. but one. Since the discharge was continuous it must be assumed that the unclean source had not yet closed.
(30) Cf. prev. n. mut. mut.
(31) At the termination of the unclean days.
(32) In the continuity of the discharge.
(33) And that it is only an ordinance of the Torah that brings about the distinction.
(34) As the woman had not yet undergone ritual immersion the source must remain unclean and the discharge continues to convey uncleanness whether it is wet or dry.
(35) Since at the termination of the unclean days the clean source opens.
(36) Sc. there was no break in it when the unclean period had ended, which is an indication that the unclean source had not yet been closed.
(37) Who stated that according to Beth Hillel there are two different sources.
(38) According to the latter, since the sources are two, and since the unclean one had not yet closed, the discharge must be unclean; while according to the former, since there is only one source and the Torah ordained that after the unclean days prescribed it becomes clean, the discharge must be clean.
(39) Who stated that there is only one source.
(40) If Beth Hillel uphold this view.
(41) Beth Shammai from Beth Hillel, seeing that both agree that there is only one source for the clean and the unclean blood.
(42) To enable the woman to attain cleanness.
(43) Irrespective of whether the discharge was continuous or ceased for a time at the termination of the unclean days.
(44) One without the other does not suffice for the attainment of cleanness.
(45) Where, as was explained supra, the days prescribed for a childbirth had passed but the seven clean days that are to follow zibah had not yet been counted.
(46) In the continuity of the discharge, at the conclusion of the unclean period.
(47) The reason being that the Torah ordained the blood to be regarded as unclean until the seven clean days that must follow zibah had passed.
(48) Which after the unclean period emanates from the clean source.
(49) Sc. while, by reason of its emanating from the source of a zab, it is rightly unclean when wet, why should it also be unclean when dry?
(50) That it CONVEYS UNCLEANNESS BOTH etc.
(51) Sc. that the discharge after these unclean days have passed becomes naturally clean.
(52) Lit., ‘alone’.
(53) Lit., ‘completed’.
(54) After the zibah. So long as she had not counted these days she remains subject to the uncleanness of zibah.
(55) Lev. XII, 2.
(56) Since otherwise the text is superfluous after the previous statement ‘then she shall be unclean seven days as in the days of impurity’ (ibid.).
(57) Sc. that he becomes as unclean as she.

(58) V. p. 246. n. 12.
(59) I.e., that the uncleanness is not restricted to the days, though ‘days’ only were spoken of in the context.
(60) Lev. XII, 2.
(61) After all discharge had ceased.
(62) Infra 37b.
(63) The last mentioned ruling.
(64) To attain cleanness.
(65) The discharge emanating from the same source as the unclean blood, the Torah (by its insertion of the superfluous text mentioned) ordained that cleanness cannot be attained before the woman had counted seven clean days.

Talmud - Mas. Nidah 36a

but according to Levi, who said that the sources were two, why should it be necessary to count seven days, seeing that the slightest [break][1] should suffice?[2] — It is this that was meant: It is necessary for her that[3] there shall be a slight [break][4] in order that [the following days] shall be counted as her seven clean ones.

Come and hear: The days of her pregnancy supplement those of her nursing,[5] and the days of her nursing supplement those of her pregnancy. In what manner? If there was a break of two ‘onahs during her pregnancy and of one during her nursing, or of two during her nursing and of one during her pregnancy, or of one and a half during her pregnancy and of one and a half during her nursing, they are all combined into a series of three ‘onahs.[6] Now according to Rab who said that there was only one source this ruling is quite justified, for it is for this reason[7] that there must be a break of three ‘onahs,[8] but according to Levi who said that there were two sources why[9] should a break of three ‘onahs be required, seeing that the slightest [break] should suffice?[10] — It is this that was meant: It is necessary for her that there shall be a slight [break] in order that [the following days] shall be counted for her[11] as three ‘onahs.

Come and hear: Both,[12] however, are of the same opinion that where a woman observed a discharge after her clean blood period[13] it suffices for her to reckon her uncleanness from the time of her observation. Now according to Levi who said that there exist two sources one may well concede this ruling since it is for this reason[14] that[15] it suffices for her to reckon her uncleanness from the time of her observation,[16] but according to Rab who said that there existed only one source, why should it suffice for her to reckon her uncleanness from the time of her observation seeing that[17] she should have become unclean for twenty-four hours retrospectively? — This is a case where there was not time enough.[18] But why should she not be unclean from her previous examination to her last examination?[19] — As there was no interval of twenty-four hours[20] the Rabbis enacted no preventive measure even in regard to uncleanness from the previous examination to the last examination.

Come and hear: If a woman who was in childbirth during zibah had counted the prescribed number of clean days but did not undergo ritual immersion, and then observed a discharge, Beth Shammai gave their ruling in accordance with their own view and Beth Hillel ruled in accordance with their own view.[21] Now according to Rab who said that there was only one source this ruling is quite justified, since it is for this reason[22] that[23] the discharge causes uncleanness both when wet and when dry; but according to Levi who said that there were two sources, why[24] does the discharge cause uncleanness both when wet and when dry? — Levi can answer you: I maintain the same view as the Tanna who stated that ‘both, however, are of the same opinion’.[25] And if you prefer I might reply that here we are dealing with one whose discharge is continuous. But was it not stated that she had counted?[26] — Here we are dealing with one who gave birth to a female child while in zibah and whose discharge ceased during the first week[27] but continued again[28] in the second week,[27] he being of the opinion that the unclean days of childbirth in which no discharge is observed are counted among the clean days of one's zibah.[29] Rabina said to R. Ashi: R. Shamen of Sikara[30] told us, ‘Mar

Zutra once visited our place when he delivered a discourse In which he laid down: The law is to be restricted in agreement with Rab[31] and it is also to be restricted in agreement with Levi'.[32] R. Ashi stated: The law is in agreement with Rab both in his relaxations[33] and his restrictions.[34] Meremar in his discourse laid down: The law is in agreement with Rab both in his relaxations[33] and restrictions.[31] And the law is in agreement with Rab both in his relaxations[33] and restrictions.[31]

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(1) At the termination of the unclean period.

(2) For the closing up of the unclean source. As all the blood that is discharged subsequently emanates from the clean source it should suffice for the woman to wait after the unclean period no more than seven days and attain cleanness at their termination, irrespective of whether she observed any discharge during these days or not.

(3) At the termination of the unclean period.

(4) An indication that the unclean source had been closed.

(5) As regards the establishment of a regular period.

(6) Supra 10b q.v. notes.

(7) That there is only one source.

(8) In the absence of such a break the discharge cannot be regarded as having ceased.

(9) Since the blood after the unclean period emanates from the clean source, while the unclean one is closed.

(10) Cf. supra p. 247. n. 11 mut. mut.

(11) Even if she observed a discharge.

(12) Shammai and Hillel who differ on the question of twenty-four hours retrospective uncleanness.

(13) This is now presumed to mean even if a considerable time after, on the eighty-third or ninetieth day after child-birth, for instance.

(14) That there exist two sources.

(15) The blood from the unclean source having ceased for many days.

(16) Which (cf. prev. n.) is rightly regarded as a first discharge after many days from the unclean source. A first discharge in the case of a nursing-woman, as in that of another three categories of woman, does not cause any retrospective uncleanness.

(17) Since that source has also been discharging during the clean period and the present discharge cannot be regarded as a first one.

(18) Sc. less than a twenty-four hours interval has elapsed between the end of the clean period and the observation of the discharge. Hence even if the blood discharged had been in the outer chamber twenty-four hours previously the woman (since her blood at that time was still clean) could not be deemed unclean.

(19) If, for instance, on examining herself in the morning she observed a discharge, her uncleanness should be retrospective and all objects she handled during the night should be regarded as unclean. The previous answer that 'there was not time enough' cannot be given here, since in such a case there would have been no necessity whatsoever to state, what is so obvious, that in such a case it suffices to reckon the uncleanness from the time of observation.

(20) Cf. prev. n. but one.

(21) That before ritual immersion the discharge is unclean both when wet and when dry.

(22) That there existed only one source.

(23) In the absence of ritual immersion.

(24) Seeing that the required number of days had been counted and the unclean source must have been stopped.

(25) That if there was a discharge after the termination of the clean blood period, even though (as explained supra) more than twenty-four hours intervened, it suffices for the woman to be unclean from the time she observed a discharge; which shows that he also holds that there exist two sources.

(26) It does. Now, if the flow of blood had not ceased, how could she even begin to count?

(27) Of the two unclean weeks prescribed for a woman after the birth of a female.

(28) Lit., 'did not cease', 'break off'.

(29) Hence the statement that 'she had counted'. As in the second week, however, the discharge began again and continued into the third week, it conveys uncleanness, according to Beth Hillel, both when wet and when dry, since it emanates from an unclean source which the Torah did not regard as clean before the prescribed number of days had been counted and immersion had been performed.

(30) On the Tigris near Mahoza.

(31) That if the discharge was continuous from within the clean period into the unclean one following, it conveys uncleanness as if it had emanated from an unclean source.
(32) That where a discharge continued from within the clean days period into the clean one that follows, it is not regarded as clean blood since the continuous discharge is an indication that the unclean source had not yet closed up.
(33) That where the discharge continued from within the unclean period into the clean one following, it is regarded as clean after the last unclean day, despite its continuity.
(34) This is explained in the Gemara infra.

Talmud - Mas. Nidah 36b

MISHNAH. A WOMAN IN PROTRACTED LABOUR IS REGARDED AS A MENSTRUANT. IF HAVING BEEN IN LABOUR[1] FOR THREE DAYS OF THE ELEVEN DAYS,[2] SHE WAS RELIEVED FROM HER PAINS FOR TWENTY-FOUR HOURS AND THEN GAVE BIRTH, SHE IS REGARDED AS HAVING GIVEN BIRTH IN A ZIBAH;[3] SO R. ELIEZER. R. JOSHUA RULED: THE RELIEF FROM PAIN[4] MUST HAVE CONTINUED FOR A NIGHT AND A DAY,[5] AS THE NIGHT AND THE DAY OF THE SABBATH.[6] THE RELIEF [SPOKEN OF IS ONE] FROM PAIN, NOT FROM BLEEDING.[7] HOW LONG MAY PROTRACTED LABOUR CONTINUE?[8] R. MEIR RULED: ‘EVEN FORTY OR FIFTY DAYS.[9] R. JUDAH RULED: HER [NINTH] MONTH SUFFICES FOR HER.[10] R. JOSE AND R. SIMEON RULED: PROTRACTED LABOUR CANNOT CONTINUE[8] FOR MORE THAN TWO WEEKS.

GEMARA. Is then[11] every woman IN PROTRACTED LABOUR REGARDED AS A MENSTRUANT?[12] — Rab replied : She[13] is deemed to be a menstruant for one day.[14] Samuel, however, ruled: The possibility must be taken into consideration[15] that she might be relieved from her pain,[16] while R. Isaac ruled: A discharge on the part of a woman in labour[17] is of no consequence.[18] But was it not stated, A WOMAN IN PROTRACTED LABOUR IS REGARDED AS A MENSTRUANT? — Raba replied: During the days of her menstruation[19] SHE[20] IS DEEMED TO BE A MENSTRUANT,[21] but during the days of zibah[22] she is clean. And so it was also taught: If a woman is in protracted labour during the days of her menstruation[19] she is deemed to be a menstruant,[20] but if this occurred during the days of her zibah[22] she is clean. In what circumstances? If she was in labour for one day and had relief from pains for two days, or if she was in labour for two days and had relief from pain for one day,[23] or if she was relieved from pains and then was again in labour and then was again relieved from pain,[23] such a woman is regarded as having given birth in zibah; but if she was relieved from pain for one day and then was in labour for two days, or if she was relieved for two days and then was in labour for one day, or if she was in labour and then was relieved and then was again in labour, such a woman is not regarded as having given birth in zibah; the general rule being that where the pains of labour immediately precede[24] birth the woman is not regarded as having given birth in zibah, but if release from pain immediately precedes[24] birth the woman[25] must be regarded as having given birth in zibah.[26] Hananiah the son of R. Joshua's brother ruled: Provided her pains of labour were experienced[27] on her third day.[28] even though she had relief during the rest of that day, she[29] is not regarded as having given birth in zibah. What does the expression ‘The general rule’ include? — It includes the ruling of Hananiah.

Whence is this[30] deduced? — Our[31] Rabbis taught: Her blood[32] refers to blood that is normally discharged,[33] but not to such as is due to childbirth.[34] You say. ‘[Not to such as is] due to childbirth’; is it not possible that only that blood is excluded[35] which is due to an accident?[34] As it was said, And if a woman have an issue of her blood,[36] a discharge that is due to an accident is included;[37] to what then could one apply the limitation of ‘her blood’?[36] Obviously to this: "Her blood" refers to blood that is normally discharged but not to such as is due to childbirth’. But[38] what reason do you see for holding the blood of childbirth clean and that which is due to an accident unclean? I hold that which is due to childbirth clean since it is followed by cleanness,[39] but hold that which is due to an accident unclean since it is not followed by cleanness. On the contrary! That which is due to an accident should be held clean since a discharge from a zab that is due to an accident is clean? — Now at all events we are dealing with the case of a woman, and we do not find that in the case of a woman blood due to an accident is ever clean. And if you prefer I might reply: What opinion do you hold? Is it to regard a discharge that is due to an accident clean and one that is due to childbirth unclean? Surely you cannot point to any occurrence that is more in the nature of an accident[40] than this.[41] If so,[42] why should it not be said in the case of a menstruant also: Her issue[43] refers to an issue that is normally discharged but not to such as is due to childbirth?[44] You say, ‘[not to such as is due to] childbirth’; is it not possible that only that blood is excluded[34] which is due to an accident?[34] As it was said, And if a woman have an issue,[43] a discharge that is due to an accident is included;[45] to what then could one apply the limitation of ‘her issue’?[46] Obviously to this: ‘Her issue’ refers to an issue that is normally discharged but not to such as is due to childbirth![47] — Resh Lakish answered: Scripture said, She shall continue[48] which implies:[49] You have another continuation which is of the same nature as this one;[50] and which is it?[51] It is that of protracted labour during the days of her zibah. Might it not be suggested that this refers to protracted labour during the days of her menstruation? — Rather, said Samuel's father, Scripture said, Then she shall be unclean two weeks, as in her menstruation,[49] [implying] but not ‘as in her zibah’, from which it may be inferred that her zibah is clean; and which is it?[51] It is that of protracted labour during the days of her zibah. Now, however, that it is written, Then she shall be unclean two weeks as in her menstruation,[52] what need was there for the expression of ‘her blood’?[53] — If not for the expression ‘her blood’ it might have been presumed that the deduction ‘as in her menstration’[52] and not ‘as in her zibah’ implies that the discharge is clean even where the woman was relieved from pain,[54] hence we were informed[55] [that the discharge is clean only where it is due to childbirth].[56]

Shila b. Abina gave a practical decision in agreement with the view of Rab.[57] When Rab's soul was about to depart to its eternal rest he[58] said to R. Assi, ‘Go and restrain him,[59] and if he does not listen to you try to convince him’.[60] The other thought that he was told, ‘put him under the ban’.[61] After Rab's soul came to its eternal rest he[62] said to him,[63] ‘Retract, for Rab has retracted’. ‘If’, the other retorted, ‘he had retracted he would have told me so’.[64] As he[63] did not listen to him’ the latter put him under the ban. ‘Is not the Master’, the other[63] asked him, ‘afraid of the fire?’[65] ‘I’, the former replied, ‘am Issi b. Judah[66] who is Issi b. Gur-aryeh[67] who is Issi b. Gamaliel who is Issi b. Mahalalel, a brazen mortar[68] over which rust has no power’. ‘And I’, the other retorted, ‘am Shila b. Abina, an iron pestle that breaks the brazen mortar Thereupon R. Assi fell ill and they had to put him in hot [blankets] to relieve him from chills and in cold [compresses] to relieve him from heat,[69] and his soul departed to its eternal rest.

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(1) And bleeding.

(2) That intervene between the menstrual periods and during which a discharge of blood is ordinarily attributed to zibah.

(3) As the pains ceased before birth it is evident that the previous discharge (cf. prev. n. but one) was not due to the labour but to zibah. Had the pains continued until birth all the previous bleeding would have been attributed to that of the labour which is Pentateuchally clean.

(4) As result of which the bleeding must be regarded as zibah and is not to be attributed to the labour.

(5) Not merely for twenty-four hours that began and ended at any time of the day or the night.

(6) Which begins at sunset of Friday and terminates at that of Saturday.

(7) I.e., even if she was bleeding, the relief from pain alone suffices to subject her to the uncleanness of zibah.

(8) In respect of exempting the woman from zibah (cf. supra p. 250. n. 8) even if she bled.

(9) Prior to childbirth; provided only that there was no period of relief from pain (as defined supra) before birth.

(10) Sc. only blood discharged during that month may be attributed to labour. Should the discharge begin during the ‘eleven days’ of the previous month and continue for three days she is deemed a zabah (on account of the discharge on these three days) even though the bleeding continued throughout the ninth month also.

(11) Since our Mishnah seems to lay down a general rule.

(12) But this, surely, is absurd. During the eleven days of zibah the woman could not be regarded as a MENSTRUANT but as a zabah.

(13) Even if the discharge in the course of her labour occurred during the eleven days of zibah.
(14) And on undergoing immersion in the evening she attains to cleanness. A woman who was not in labour, if she had such a discharge, must allow another day (free from any discharge) to pass before she can attain to cleanness.
(15) In accordance with Rabbinic law, though Pentateuchally this is not necessary.
(16) Before childbirth. As a result it would be evident that the discharge was one of zibah and the man cohabiting with the woman would be subject to kareth in Pentateuchal law. The woman, like any other who observed a discharge during the eleven days of zibah, must consequently remain unclean until another day, that was free from any further discharge, had passed.
(17) Even during the ‘eleven days’ of zibah.
(18) Sc. it is regarded as the blood of labour and the woman is deemed to be clean even on the same day.
(19) Sc. the period during which a discharge is deemed to be menstrual.
(20) Though in labour.
(21) The reason is given infra.
(22) Cf. prev. n. but one mut. mut.
(23) While still bleeding.
(24) Lit., ‘near’.
(25) Where her discharge continued for three days.
(26) The release from pain serving as proof that the previous discharge was not due to childbirth but to zibah.
(27) Even if only for a short while.
(28) Ordinarily it is the discharge on the third day that causes a woman to be a confirmed or major zabah. A discharge on not more than one or two days only causes her to be a minor zabah.
(29) Since on the third day her relief did not extend over the whole night and the whole day.
(30) That the blood of labour is clean.
(31) Lit., ‘for our’.
(32) Lev. XV, 25.
(33) Lit., ‘on account of herself’.
(34) The latter being clean.
(35) Lit., ‘or it is not but’.
(36) Lev. XV, 25.
(37) Since the text draws no distinctions.
(38) Seeing that the text does not specifically mention either the blood of childbirth or that which is due to an accident.
(39) The period of unclean blood after a childbirth (seven days for a male and fourteen days for a female) is followed by one of clean blood (thirty-three days for a male and sixty-six days for a female).
(40) Sc. that is not dependent on the woman's will.
(41) If then blood that is due to an accident (cf. prev. n.) is clean that which is due to childbirth must equally be clean.
(42) If the deduction just discussed is tenable.
(43) Lev. XV, 19. in the section dealing with a menstruant.
(44) But if that exposition is upheld how could it be said supra that blood of labour discharged during the menstrual period is unclean?
(45) Since the text draws no distinctions.
(46) Lev. XV, 19, in the section dealing with a menstruant.
(47) V. p. 253. n. 11.
(48) Lev. XII, 4, referring to clean blood.
(49) Since the expression could well have been omitted without destroying the general meaning of the text.
(50) Sc. in both cases the discharge is clean.
(51) I.e., how could zibah be clean?
(52) Lev. XII, 5. E.V., ‘as in her impurity’.
(53) From which the same deductions, that a discharge of blood that was due to childbirth is clean, was made supra.
(54) Before the birth of the child.
(55) By the additional expression of ‘her blood’.
(56) Relief from pain is an indication that the previous discharge was not due to childbirth and is therefore, unclean.
(57) That a woman who was in labour during the eleven days of zibah and discharged some blood is unclean for that day

(v. supra).
(58) Having changed his former view.
(59) From acting in the same manner.
(60) Garyeh, lit., ‘attract him’.
(61) Gadyeh, lit., ‘cut him off’.
(62) R. Assi.
(63) Shila.
(64) He was a disciple of Rab.
(65) Sc. that he would suffer for his high handed action.
(66) [He probably meant that his name Assi bore resemblance to that of Assi b. Judah who bore a variety of names, v. Pes., Sonc. ed., p. 585. n. 6.].
(67) Lit., ‘lion's whelp’ (cf. Gen. XLIX. 9).
(68) Assitha, play upon ‘Assi’ or ‘Issi’.
(69) Aliter: They got him hot to relieve him from chills; they got him cold to relieve him from fever (Jast.).

Talmud - Mas. Nidah 37a

Shila proceeded to his wife and said to her, ‘prepare for me my shroud in order that he have no opportunity of going to Rab and saying things about me’. She prepared his shroud for him; and when the soul of Shila came to its eternal rest people saw a myrtle[1] flying from the one bier to the other. ‘We may conclude’, they said, ‘that the Rabbis have been reconciled.’

Raba enquired: Does labour[2] render all previous counting in zibah[3] void? Does any discharge that causes uncleanness render all previous counting void and, therefore, this also [does it, since] it causes uncleanness like the days of menstruation; or is it possible that only that which[4] causes the uncleanness of zibah that renders all the previous counting void, and this, therefore, [does not do it, since] it is no cause of such uncleanness? — Abaye replied: A zibah that is due to an accident provides the answer,[5] for this is no cause of the uncleanness of zibah[6] and yet renders all previous counting void.[7] The other retorted: Indeed, this[8] also is a cause of the uncleanness of zibah, for we have learnt: If he observed a first discharge he must be examined, if he observed a second discharge he must be examined, but if he observed a third he need not be examined.[9] But according to R. Eliezer who ruled, ‘Even after a third discharge he must be examined’[10] would you also maintain that, since it is no cause of the uncleanness of zibah, it does not render the previous counting void? — The other replied: According to R. Eliezer the law is so indeed.

Come and hear: R. Eliezer ruled, Even after a third discharge he must be examined, but after a fourth one he need not be examined.[11] Does not this refer to the rendering of previous counting void?[12] — No, to the imposition on that drop of an uncleanness that may be conveyed through carriage.

Come and hear: After a third discharge. R. Eliezer ruled, he must be examined; after a fourth one he need not be examined; and it is in regard to a sacrifice that I said this[13] but not in regard to the rendering void of all previous counting.[14] But the fact is that[15] according to R. Eliezer you may well solve from here that even that which causes no uncleanness of zibah renders all previous counting void. What, however, [it is asked], is the solution of the problem according to the Rabbis? — Come and hear what the father of R. Abin learnt: ‘What had his zibah caused him? Seven days.[16] Hence it renders void the counting of seven days. What had his emission of semen caused him? The [uncleanness of] one day. Hence it renders void the counting of one day’. Now what is meant by ‘seven days’? If it be suggested that it causes him to be unclean for seven days, [the objection would arise that] in that case it should have been said: As on account of his zibah he is unclean for seven days. Consequently[17] it follows, that only that which causes the uncleanness of zibah renders void the counting of the seven days, but that which does not cause the uncleanness of zibah does not render void all previous counting. This is conclusive. Abaye stated: We have an accepted tradition that labour does not render void all previous counting in zibah; and should you find a Tanna who said that it did render the counting void, that must be R. Eliezer.[18]

It was taught: R. Marinus ruled, A birth does not render void the previous counting after a zibah.[19] The question was raised: Is it included in the counting?[20] — Abaye replied: It neither renders void the days that were previously counted[21] nor is it counted in the prescribed days.[21] Raba replied: It does not render void the days counted and it is counted among the prescribed days.[22] Whence, said Raba, do I derive this? From what was taught: And after that she shall be clean,[23] 'after' means after all of them, implying that no uncleanness may intervene between them.[24] Now if you agree that [these days][25] are included one can well see the justification for saying that no uncleanness may intervene between them, but if you contend that these days[25] are not included the birth, surely, would cause a break between them. And Abaye?[26] — He can answer you: The meaning is that the uncleanness of zibah shall not intervene between them.[27] Whence, said Raba, do I derive this? From what was taught: Of her issue,[23] 'of her issue' implies but not of her leprosy,[28] 'of her issue' but not of her childbirth.[29] And Abaye?[30] — He can answer you: Deduce once 'Of her issue[31] but not of her leprosy' and do not deduce again, 'but not of her childbirth'. And Raba?[32] — What an argument is this![33] If you agree that 'of her issue'[31] implies 'but not of her childbirth' one can well justify the text; for since it was required for the deduction about childbirth, leprosy also was mentioned on account of childbirth; but if you contend that 'of her issue' implies only 'but not of her leprosy', [the objection would arise] that this could be deduced from And when he that hath an issue is cleansed of his issue,[34] which implies 'of his issue' and not of his leprosy. And Abaye?[30] — One[35] refers to a zab and the other to a zabah, both being necessary. For if the All Merciful had only written

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(1) It was customary to lay a myrtle on a bier (Rashi).

(2) That was accompanied by bleeding.

(3) The prescribed seven days.

(4) By appearing on three days.

(5) Lit., proves'.

(6) As was stated supra.

(7) V. infra.

(8) Zibah that is due to an accident.

(9) Zabim II, 2. Thus it is shown that a third discharge, even if it was due to an accident, provided the first two discharges were not due to such a cause, renders a person a confirmed or major zab.

(10) Zabim l.c., which proves that zibah that is due to an accident never causes a person to be a confirmed zab.

(11) Cf. supra 35a, Naz. 65b.

(12) An objection against Raba, who laid down that that which is no cause of the uncleanness of zibah does not render void the previous counting.

(13) That an examination is necessary.

(14) The counting being always void and is in no way dependent on an examination. Now does not this then prove that even that which causes no uncleanness of zibah renders the counting void?

(15) Contrary to what has been explained before.

(16) This is explained presently.

(17) Since the expression used was 'caused'.

(18) Who holds that zibah due to an accident, though it causes no zibah uncleanness, renders void all previous counting.

(19) If the counting was interrupted by a birth it may be continued after the birth had taken place.

(20) Sc. if the birth took place during the seven days following a zibah, and the days following it were free from all discharge, are these days counted as clean ones and make up the required number of seven?

(21) The counting must be resumed after the clean days of birth have passed.

(22) If the days after birth were free from all discharge.

(23) Lev. XV. 28.

(24) Supra 33b.

(25) That follow a birth.

(26) How in view of this argument can he maintain his view?

(27) That of childbirth does not matter.

(28) Sc. as soon as she counted the days prescribed for zibah (cf. Lev. XV, 28) she brings the required sacrifice, and attains cleanness from zibah irrespective of whether she was or was not still afflicted with leprosy.

(29) As soon as she is free from her zibah she begins to count the seven days and need not wait until the unclean days of childbirth had passed. It is thus obvious that a birth during the days of zibah does not render void the previous counting and that the days following birth are included in the counting.

(30) How in view of this argument can he maintain his view?

(31) Lev. XV, 28.

(32) How can he make two deductions from the same expression?

(33) Lit., that, what'.

(34) Lev. XV, 13.

(35) Of the two texts cited.

Talmud - Mas. Nidah 37b

of a zab it might have been presumed to apply to him only, since he does not become unclean through a discharge that is due to an accident, but not to a zabah who becomes unclean even through a discharge that is due to an accident. Hence the necessity for the text about the zabah. And if the All Merciful had written only of a zabah, it might have been presumed to apply only to her, since she does not become unclean through observations [on less than three days] as on [three] days,[1] but not to a zab who becomes unclean through [three] observations[2] as [through observations on three] days.[3] Hence both texts were required.

Said Abaye: Whence do I derive this?[4] From what was taught: Her sickness shall she be unclean,[5] includes the man who had intercourse with her; 'her sickness shall she be unclean' includes the nights;[6] 'her sickness shall she be unclean' includes a woman who gave birth in zibah who is required to continue in her uncleanness until seven clean days have passed. Now does not this mean: Clean from the uncleanness of birth?[7] — No, clean from that of blood.[8]

Abaye further stated, Whence do I derive this?[9] From what was taught: As are the days of her menstruation so are the days of her bearing. As the days of her menstruation are not suitable [for counting as the days] after her zibah[10] and they cannot be included in the counting of the prescribed seven days, so also the days following her bearing which[11] are not suitable [for counting as the days] after her zibah may not[12] be included in the counting of the seven prescribed days. And Raba? — This is in agreement with[13] R. Eliezer who ruled: It[14] also renders void all previous counting.[15] But may an inference be drawn from the impossible[16] for the possible?[17] R. Ahadboy b. Ammi replied: This is the view of R. Eliezer who holds that the possible may be inferred from the impossible.[18] R. Shesheth, however, replied: Scripture has perforce compared them[19] to one another.[20]

There are some who say: R. Ahadboy b. Ammi citing R. Shesheth replied. This represents the view of R. Eliezer who holds that the possible may be deduced from the impossible; but R. Papa replied: Scripture has perforce compared them to one another.

IF HAVING BEEN IN LABOUR FOR THREE DAYS etc. The question was raised: What is the ruling where she was relieved from both?[21] — R. Hisda replied: She is unclean.[22] R. Hanina replied: She is clean.[23] R. Hanina explained: This may be compared to a king who, when going on a tour, is preceded[24] by his troops and it is known that they are the king's troops.[25] But R. Hisda, said: [Immediately before his arrival] he would require even more troops.[26]

We learnt: R. JOSHUA RULED, THE RELIEF FROM PAIN MUST HAVE CONTINUED FOR

A NIGHT AND A DAY. AS THE NIGHT AND THE DAY OF THE SABBATH. THE RELIEF [SPOKEN OF IS ONE] FROM PAIN, NOT FROM BLEEDING. The reason then[27] is because [she had relief] FROM PAIN and NOT FROM BLEEDING, but if she had relief from both[21] she is clean. Does not this present an objection against R. Hisda? — R. Hisda can answer you: There was no need to state that, if she had relief from both, she is unclean, since [metaphorically] the troops completely disappeared; but even where she had relief from pain and not from bleeding where it might have been presumed that as she had not ceased to bleed she has not ceased to labour either and that it was merely stupor that seized her. Hence we were informed [that even in this case she is unclean].

We learnt: IF HAVING BEEN IN LABOUR FOR THREE DAYS OF THE ELEVEN DAYS, SHE WAS RELIEVED FROM HER PAINS FOR TWENTY-FOUR HOURS AND THEN GAVE BIRTH. SHE IS REGARDED AS HAVING GIVEN BIRTH IN ZIBAH. Now, how are we to imagine the circumstances? If it be suggested: As it was stated,[28] [the objection would arise:] What need was there to mention THREE seeing that it suffices[29] if the labour lasted two days and the relief[30] one day? Consequently it must be this that was meant: IF HAVING BEEN IN LABOUR FOR THREE DAYS she was relieved from both,[31] or if having been in labour for two days, SHE WAS RELIEVED FROM HER PAINS FOR TWENTY-FOUR HOURS, SHE IS REGARDED AS HAVING GIVEN BIRTH IN ZIBAH, and this presents, does it not, an objection against R. Hanina? — R. Hanina can answer you: No; the circumstances may in fact be as stated,[32] but it is this that we were informed, that although the labour continued[33] [for a part only] of the third day and she was relieved from her pains for twenty-four hours[34] she is nevertheless unclean, contrary to the view[35] of R. Hanina.[36]

HOW LONG MAY PROTRACTED LABOUR CONTINUE? R. MEIR RULED etc. Now since protracted labour may continue for FIFTY DAYS is there any necessity to mention FORTY? — R. Hisda replied: This is no difficulty. the one[37] referring to an ailing woman and the other[38] to a woman in good health.

R. Levi ruled: [The birth of] a child is a cause of the cleanness of those days only in which a woman may normally become a zabah,[39] but Rab ruled: Even in the days that are suitable for the counting prescribed for a zabah.[40] Said R. Adda b. Ahabah: And according to Rab's view[41]

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(1) Only a discharge that made its appearance on three successive days causes her uncleanness.

(2) Even on the same day.

(3) Cf. B.K. 24a.

(4) His ruling supra 37a.

(5) Lev. XII, 2.

(6) Though the text speaks only of days.

(7) Sc. that no birth must intervene; from which it follows that if it did intervene the days following it may not be included in the prescribed seven days.

(8) Only those days on which a discharge occurred may not be included in the counting, but where the birth was free from bleeding the days following it may well be included.

(9) His ruling supra 37a.

(10) Since the zibah period follows that of menstruation and not vice versa, while a subsequent menstruation period cannot begin before seven clean days have passed after the zibah had ceased.

(11) Like those of menstruation.

(12) If birth took place during the counting.

(13) Lit., ‘this whose’.

(14) Childbirth.

(15) From which it is self-evident that the days following it cannot be included in the counting of the seven days. According to the Rabbis, however, whose view Raba follows, birth does not render void all previous counting and the days following, it may well be included in the prescribed seven days.

(16) Menstruation during zibah.
(17) Birth, which may well occur during a zibah period.
(18) Cf. Men. 82b.
(19) Birth and menstruation.
(20) Only a gezerah shawah (v. Glos.) may be questioned, but not a comparison made in the Biblical text itself (hekkesh) despite any argument that might be raised against it.
(21) Pain and bleeding.
(22) Since at any rate she had relief from pain it is obvious that the previous bleeding was not due to childbirth.
(23) The relief from both is an indication that the bleeding also was due to childbirth. Only where the bleeding continued and the pain ceased is it manifest that the former was not due to the labour.
(24) By a day or two.
(25) Similarly the pains and bleeding that precede childbirth must be ascribed to it despite the interval (cf. prev. n.) between them.
(26) As the bleeding ceased it must be obvious that the childbirth had no connection with it.
(27) Why the woman is unclean.
(28) LABOUR FOR THREE DAYS, relief FOR TWENTY-FOUR HOURS, and bleeding all the time.
(29) For the woman to be unclean.
(30) From pain but not from bleeding.
(31) Pain and bleeding.
(32) LABOUR FOR THREE DAYS, relief FOR TWENTY-FOUR HOURS, and bleeding all the time.
(33) Cf. Rashal. Cur. edd. ‘began’.
(34) And not for a full night and a full day.
(35) Lit., ‘to take out’.
(36) Sc. Hananiah the son of the brother of R. Joshua who stated (supra 36b), ‘Provided her pains of labour were experienced on her third day . . . she is not regarded as having given birth in zibah’.
(37) Lit., ‘here’, the number fifty.
(38) Forty.
(39) I.e., the eleven days between the menstruation periods. If a birth, however, takes place after these ‘days the woman becomes unclean as a menstruant (as stated supra).
(40) Sc. if labour began during the eleven days of zibah not only are these days clean but also the seven days that follow them. Only when the bleeding continued beyond these seven days does the woman become unclean as a menstruant.
(41) That even the days following the zibah period are clean if the labour began during the zibah days.

Talmud - Mas. Nidah 38a

even the days that are suitable for counting after the previous counting had been rendered void[1] are also clean.[2]

We have learnt: HOW LONG MAY PROTRACTED LABOUR CONTINUE? R. MEIR RULED: EVEN FORTY OR FIFTY DAYS. Now this might quite possibly happen according to Rab on R. Adda b. Ahabah's interpretation,[3] but according to Levi[4] does not this present a difficulty?[5] — Levi can answer you: Was it stated that she was clean throughout all these days?[6] [No; if the birth occurs] in the days of menstruation[7] she is regarded as a menstruant and only when it occurs in the days of her zibah[7] is she clean.[8]

Another reading. R. Levi ruled: [The birth of] a child is a cause of cleanness[9] in those days only in which a woman may normally become a major zabah.[10] What is the reason? It is written in Scripture,[11] Her blood many days.[12] Abba Saul in the name of Rab[13] ruled: Even in the days in which she may normally become a minor zabah. What is the reason? Days[14] and All the days[14] are written in the context.[15]

We have learnt: HOW LONG MAY PROTRACTED LABOUR CONTINUE? R. MEIR RULED:

EVEN FORTY OR FIFTY DAYS. Does not this present a difficulty against both of them?[16] — Was it stated that she was clean throughout all of them?[17] [No;] if she was in labour during the days of her menstruation she is regarded a menstruant and only where this occurred during the days of her zibah[18] is she clean.

It was taught: R. Meir used to say. A woman may sometimes bleed[19] for a hundred and fifty days[20] without becoming a major zabah.[21] How? The two days[22] preceding the period of her menstruation,[23] the seven days of menstruation, two days after menstruation,[24] fifty days[25] which childbirth causes to be clean, eighty days[26] prescribed for a female birth,[27] seven days of menstruation[28] and the two days[29] after the menstruation.[30] If so,[31] they[32] said to him, might not a woman bleed all the days of her life and no major zibah would occur in them?[33] — He replied: 'What is it that you have in mind? Is it the possibility of frequent abortions? The law of protracted labour[34] does not apply to abortions'.[35]

Our Rabbis taught: A woman may sometimes[36] observe a discharge on a hundred days and yet no major zibah would result from it. How? The two days[37] prior to the time of menstruation,[38] the seven days of menstruation, two days after menstruation,[39] eighty days following the birth of a female child,[40] seven days of menstruation and the two days[39] after menstruation. What new law does this[41] teach us? — That the law differs[42] from him who ruled that it was impossible for the uterus to open without some bleeding, [since thereby][43] we were informed that it is possible for the uterus to open without previous bleeding.[44]

R. JUDAH RULED: . . . SUFFICES FOR HER etc. It was taught: R. Judah citing R. Tarfon ruled, Her [ninth] month suffices for her[45] and in this there is one aspect of a relaxation of the law[46] and one of restriction.[47] How? If she was in labour for two days at the end of the eighth month and for one day at the beginning of the ninth month, even though she gave birth to the child at the beginning of the ninth month, she is regarded as having born it in zibah;[48] but if she was in labour for one day at the end of the eighth month and for two days at the beginning of the ninth, even though she bore the child at the end of the ninth month,[49] she is not regarded as having given birth in zibah.[50] Said R. Adda b. Ahabah: From this[51] it may be inferred that R. Judah holds that it is the shofar[52] that is the cause.[53] But could this[54] be right,[55] seeing that Samuel stated: A woman can conceive and bear only on the two hundred and seventy-first day[56] or on the two hundred and seventy-second day[57] or on the two hundred and seventy-third day?[57] He[58] follows the view of the pious men of old; for it was taught: The pious men of old performed their marital duty on a Wednesday only, in order that their wives[59] should not be led to[60]

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(1) I.e., for ever, since any seven days following a discharge that occurred within any seven days counted after a previous discharge are suitable for counting.

(2) Once labour began within the eleven days of zibah all subsequent days are clean unless the woman was relieved from her pain for the prescribed period, prior to the birth of the child.

(3) Since the counting of the days may sometimes continue for a very long time (cf. prev. n. but one).

(4) Who restricts the labour and birth to the eleven days of zibah.

(5) Sc. how is it possible for a woman to be clean when labour is protracted for forty or fifty days?

(6) The forty or fifty days.

(7) After the protracted labour.

(8) The purport of R. Meir's ruling being that there is no obligation to bring a sacrifice or to count the prescribed number of clean days even though labour continued for forty or fifty days; but the woman remains clean only where the birth occurred in the days of zibah. If it occurs, however, in the days of menstruation she becomes unclean.

(9) Exempting the woman from a sacrifice and from the counting of seven clean days.

(10) I.e., where she experienced a discharge on three consecutive days in the course of the eleven days' period. If the discharge, however, appeared only on one day. she need not wait more than one clean day corresponding to the one unclean day.

(11) In the text from which it was derived that a birth in zibah is a cause of cleanness.
(12) Lev. XV. 25, 'many days' implying a major zabah (cf. prev. n. but one).
(13) Var. lec. Rabbi (Ronsburg).
(14) Lev. XV, 25; instead of 'days' the text has 'all the days' and from this is derived (infra 73a) the law of a minor zabah.
(15) Cf. supra p. 262, n. 12.
(16) Rab and Levi both of whom confined the period of cleanness within the eleven days of zibah.
(17) The forty or fifty days.
(18) After the third day according to Levi, and after the first or second one according to Rab.
(19) Lit., 'be in protracted labour', labour extending over a part of the period.
(20) In succession.
(21) Lit., 'and zibah does not rise among them'.
(22) The last of the eleven days of the zibah period.
(23) As zibah is not established unless a discharge appeared on three consecutive days in the zibah period, and as the third day was already one of the menstruation period, none of the days can be counted as one of a major zibah.
(24) These two days which begin a new zibah period are not sufficient to establish a major zibah (cf. prev. n. mut. mut).
(25) Of protracted labour on the part of an ailing woman (cf. supra 37b ad fin).
(26) The child having been born on the day following the (2 + 7 + 2 + 50 =) 61st day.
(27) During which there can be no zibah.
(28) Following the (61 + 80 =) 141st day.
(29) V.supra n. 11.
(30) 2 + 7 + 141 (cf. prev. nn.)= 150.
(31) That such a long period may pass without zibah.
(32) The Rabbis who disagreed with him.
(33) Owing to frequent abortions.
(34) Sc. that childbirth at their termination renders them all clean.
(35) Only a viable child confers the privilege.
(36) In the absence of protracted labour.
(37) The last of the eleven days.
(38) V. p. 263. n. 10.
(39) V. p. 263. n. 11.
(40) During which there can be no zibah.
(41) Which is self-evident.
(42) Lit., 'to exclude'.
(43) By implying that a birth on the day following the first two days of the zibah period on each of which a discharge was observed, does not cause zibah.
(44) Had there been bleeding it would have been regarded, in the absence of the pains of labour, as a discharge on the third day (cf. prev. n.) which turns the woman into a confirmed or major zabah.
(45) Cf. relevant n. on our Mishnah.
(46) A month and one day being sometimes regarded as clean.
(47) The cleanness sometimes does not extend even to one day.
(48) Since the greater part of the duration of the labour (two days out of three) was in the eighth month when labour is no cause of cleanness.
(49) During all of which, with the exception of the first two days, she had complete relief from pain.
(50) Provided only that there was no bleeding during the time she was free from pain. The reason follows.
(51) The ruling that two days of labour in the ninth month are a cause of uncleanness.
(52) The trumpet that announces the beginning of a new month.
(53) Of the birth of the child; sc. as soon as the ninth month begins the process of bearing begins with it, irrespective of the moment when birth actually took place. Hence all the blood of labour in that month must be attributed to the child, however long the interval of relief may have lasted.
(54) That birth should take place at the beginning of the ninth month.
(55) Lit., 'I am not'.

(56) Full nine months (of thirty days each) plus one day after intercourse.

(57) Conception being sometimes delayed one or two days (cf. prev. n.).

(58) Samuel, in differing from R. Judah.

(59) By bearing on a weekday. 271, 272 and 273 days make up 38 weeks and 5, 6 and 7 days respectively, so that a conception on a Wednesday results in a birth on a Sunday, Monday or Tuesday.

(60) Lit., 'come into the hand of', by bearing on the Saturday.

Talmud - Mas. Nidah 38b

a desecration of the Sabbath.[1] 'On a Wednesday', but not later?[2] — Read: From Wednesday onwards.[3] Mar Zutra stated: What was the reason of the pious men of old? — Because it is written, And the Lord gave her conception [herayon],[4] and the numerical value of herayon[5] is two hundred and seventy-one.[6]

Mar Zutra further stated: Even according to him who holds that a woman who bears at nine months does not give birth before the full number of months has been completed,[7] a woman who bears at seven months may give birth before the full number of months has been completed, for it is stated in Scripture. And it came to pass, after the cycles of days[8] that Hannah conceived, and bore a son;[9] the minimum of 'cycles'[10] is two,[11] and the minimum of 'days[10] is two.[12]

R. JOSE AND R. SIMEON RULED: PROTRACTED LABOUR CANNOT CONTINUE FOR MORE THAN TWO WEEKS. Samuel stated: What is the reason of the Rabbis? Because it is written in Scripture. Then she shall be unclean two weeks, as in her menstruation,[13] which implies: Only 'as in her menstruation' but not as in her zibah; from which it follows that her zibah is clean for[14] 'two weeks'.

Our Rabbis taught: A woman may sometimes be in labour[15] for twenty-five days and no major zibah would intervene.[16] How? Two days preceding her menstruation period;[17] seven days of menstruation, two days following menstruation and the fourteen days which[18] the childbirth causes to be clean. It is impossible, however, for her to be in labour for twenty-six days, where there is no child,[19] without giving birth to it is in zibah.[20] But if there was no child would not[21] three days suffice?[22] — R. Shesheth replied. Read: Where there is a child. Said Raba to him: But was it not stated 'where there is no child'? Rather, said Raba, it is this that was meant: It is impossible for her to be in labour for twenty-six days, where there is a child, without giving birth to it in zibah; and where there is no child but an abortion she is a zabah even after three days. What is the reason? — The law of protracted labour[23] does not apply to abortions. MISHNAH. IF A WOMAN WAS IN PROTRACTED LABOUR DURING THE EIGHTY DAYS[24] PRESCRIBED FOR THE BIRTH OF A FEMALE, ALL KINDS OF BLOOD THAT SHE MAY OBSERVE[25] ARE CLEAN,[26] UNTIL THE CHILD IS BORN, BUT R. ELIEZER HOLDS THEM TO BE UNCLEAN.[27] THEY SAID TO R. ELIEZER: IF IN A CASE WHERE THE LAW WAS RESTRICTED IN REGARD TO BLOOD DISCHARGED IN THE ABSENCE OF PAIN,[28] IT WAS NEVERTHELESS RELAXED.[29] IN REGARD TO BLOOD DISCHARGED DURING PROTRACTED LABOUR, IS THERE NOT EVEN MORE REASON TO RELAX THE LAW[30] IN REGARD TO THE BLOOD OF LABOUR IN A CASE WHERE[31] IT WAS RELAXED[32] EVEN IN REGARD TO A DISCHARGE IN THE ABSENCE OF PAIN?[26] HE REPLIED: IT IS ENOUGH THAT THE CASE INFERRED[33] SHALL BE TREATED IN THE SAME MANNER AS THE ONE[34] FROM WHICH IT IS INFERRED. FOR IN WHAT RESPECT WAS THE LAW RELAXED FOR A WOMAN IN THE LATTER CASE?[35] IN THAT OF THE UNCLEANNESS OF ZIBAH[36] ONLY; WHILE SHE IS STILL SUBJECT TO THE UNCLEANNESS OF THE MENSTRUANT.

GEMARA. Our Rabbis taught: She shall continue [in the blood of her purification],[37] includes a woman who was in protracted labour during the eighty days[24] prescribed for the birth of a female, viz., that all kinds of blood that she may observe are clean, until the embryo is born,[38] but R. Eliezer holds them to be unclean. They said to R. Eliezer: If in the case where the law was restricted in regard to blood discharged in the absence of pain before the child was born,[39] it was nevertheless relaxed in regard to blood discharged in the absence of pain after the child was born,[40] is there not even more reason to relax the law in regard to the blood of labour after the child was born[40] in a case where it was relaxed in regard to the blood of labour before the child was born? He replied: It is enough that the case inferred[41] shall be treated in the same manner as the ones from which it is inferred. For in what respect was the law relaxed for a woman in the latter case?[42] In that of the uncleanness of zibah only, while she is still subject to the uncleanness of the menstruant. They said to him, We would submit to you an objection in a different form: If in the case where the law was restricted in regard to blood discharged in the absence of pain before the child was born,[39] it was nevertheless relaxed in regard to blood discharged at such a time[43] in protracted labour, is there not even more reason that, where 'the law was relaxed in regard to blood discharged in the absence of pain after the child was born,[44] the law should be relaxed in regard to blood discharged at such a time[43] during protracted labour? He replied: Even if you were to offer objections all day long it must be enough that the case inferred[44] shall be treated in the same manner as the one[42] from which it is inferred. For in what respect was the law relaxed for a woman in the latter case?[42] In that of the uncleanness of zibah only, while she is still subject to the uncleanness of the menstruant. Raba observed, R. Eliezer could successfully have offered the Rabbis the following reply: Did you not explain Her blood[45] thus: 'Her blood' refers to blood that is normally discharged, but not to such as is due to childbirth?[46] Well, here also, it may be explained: And she shall be cleansed from the fountain of her blood,[47] 'her blood' refers to blood that is normally discharged but not to such as is due to childbirth.[48] But might it not be suggested[49] [that if a discharge occurred] during the days of menstruation she is a menstruant, [while if it occurred] during the days of zibah she is clean? — Scripture said, She shall continue,[50] which implies: One form of continuation throughout all these days.[51]

MISHNAH. THROUGHOUT ALL THE ELEVEN DAYS[52] A WOMAN IS IN A PRESUMPTIVE STATE OF CLEANNESS.[53]

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(1) Childbirth would necessitate the performance of certain work (e.g., making a fire, boiling hot water) which is otherwise forbidden on the Sabbath.

(2) But why not, seeing that conception on a Thursday, Friday or Saturday would equally result in a birth on a weekday?

(3) But not on the nights preceding (and ritually belonging to) Sunday, Monday and Tuesday, since conception on any of these might result in a birth on a Sabbath which is the two hundred and seventy-third from a Sunday, the two hundred and seventy-second from a Monday and the two hundred and seventy-first from a Tuesday.

(4) Ruth IV, 13.

(5) הריון.

(6) ה = 5, ר = 200, י = 10, ו= 6, ן = 50.

(7) Limekuta'in, 'incompleted (number)'.

(8) E.V., When the time was come about.

(9) I Sam. I, 20.

(10) The plural number.

(11) Each cycle (tekufah) consisting of three months (the year being divided into four cycles) and two cycles consisting, therefore, of six months.

(12) As the text speaks of Hannah's conception and birth of Samuel it follows that a viable child may be born in the seventh month after the short pregnancy of six months and two days.

(13) Lev. XII, 5, E.V., impurity.

(14) Lit., 'and how much'.

(15) Either with or without pains.

(16) Prior to birth.

(17) For notes v. supra 38a.

(18) According to R. Jose and R. Simeon.

(19) This is discussed presently.

(20) Since a child causes the cleanness of fourteen days only (that immediately precede its birth), thus leaving twelve days at the beginning of the period of twenty-six days, there remain three days (between the first seven days of menstruation and the last fourteen) in the course of which she becomes a major zabah.

(21) In the zabah period.

(22) To render her a major zabah.

(23) Sc. the law that a discharge in such circumstances is clean.

(24) The fourteen unclean and sixty-six clean ones (cf. Lev. XII, 5).

(25) During the sixty-six clean days. Within the fourteen days (cf. prev. n.) labour is, of course, impossible.

(26) During the sixty-six days the blood is regarded (cf. Lev. XII, 5) as invariably clean.

(27) If the birth took place during the period of menstruation. During the sixty-six days (cf. prev. n. but one) she is only free from the uncleanness of zibah but not from that of menstruation.

(28) A woman who gave birth to a child after she had experienced a discharge without pain on three consecutive days is regarded as having given birth in zibah.

(29) The woman being exempt from zibah.

(30) To exempt the woman from all forms of uncleanness.

(31) As in the case of a woman who gave birth during the sixty-six clean days (cf. supra n. 1).

(32) To exempt the woman from all forms of uncleanness.

(33) A discharge during labour in the sixty-six days.

(34) Protracted labour at any other time.

(35) Cf. prev. n. Lit,, ‘from what did he make it lighter for her’.

(36) Cf. supra n. 8.

(37) Lev. XII, 4.

(38) When she becomes unclean by reason of the birth.

(39) V. supra p. 267, n. 5.

(40) During the sixty-six days.

(41) Protracted labour after the birth of a previous child.

(42) Protracted labour before a birth.

(43) Lit., ‘which is with it’.

(44) A discharge during labour in the sixty-six days.

(45) Lev. XV, 25.

(46) Supra 36b, q.v. notes.

(47) Lev. XII, 7.

(48) Only the former is clean, but not the latter.

(49) According to R. Eliezer.

(50) Lev. XII, 4.

(51) They are either all clean or all unclean. No distinction can, therefore, be made between the periods of zibah and menstruation.

(52) That follow the seven days’ period of menstruation.

(53) This is discussed in the Gemara infra.

Talmud - Mas. Nidah 39a

IF SHE NEGLECTED TO[1] EXAMINE HERSELF, IRRESPECTIVE OF WHETHER THE NEGLECT[2] WAS UNWITTING, UNDER CONSTRAINT OR WILFUL, SHE IS CLEAN. IF THE TIME OF HER REGULAR PERIOD HAS ARRIVED AND SHE FAILED TO EXAMINE HERSELF SHE IS DEFINITELY UNCLEAN.[3] R. MEIR RULED: IF A WOMAN WAS IN A HIDING-PLACE[4] WHEN THE TIME OF HER REGULAR PERIOD ARRIVED AND SHE FAILED TO EXAMINE HERSELF SHE IS DEFINITELY CLEAN, BECAUSE FEAR SUSPENDS THE FLOW OF BLOOD. BUT THE DAYS PRESCRIBED FOR A ZAB OR A ZABAH[5] OR FOR ONE WHO AWAITS DAY AGAINST DAY[6] ARE[7] PRESUMED TO BE UNCLEAN.[8]

GEMARA. In respect of what laws had this[9] to be stated? — Rab Judah replied: In order to lay down that no examination[10] is required.[11] But since it was stated in the final clause, IF SHE NEGLECTED TO EXAMINE HERSELF,[12] it follows, does it not, that at the outset an examination is required? — The final clause applies to the days of the menstruation period; and it is this that was meant: THROUGHOUT ALL THE ELEVEN DAYS A WOMAN IS IN A PRESUMPTIVE STATE OF CLEANNESS[13] and no examination is necessary, but during the days of her menstruation period[14] an examination[15] is required;[16] but IF SHE NEGLECTED TO EXAMINE HERSELF, IRRESPECTIVE OF WHETHER THE NEGLECT WAS UNWITTING, UNDER CONSTRAINT OR WILFUL, SHE IS CLEAN.[17]

R. Hisda replied: This[18] was only required to indicate that R. Meir's ruling that[19] a woman who has no regular period is forbidden marital intercourse,[20] applies only to the days of her menstruation period, but during the days of her zibah she enjoys[21] A PRESUMPTIVE STATE OF CLEANNESS. If so,[22] why did R. Meir rule: He must divorce her and never remarry her?[20] — Since it is possible to be tempted[23] to improper conduct during the days of the menstruation period. But since it was stated in the final clause. IF THE TIME OF HER REGULAR PERIOD HAS ARRIVED AND SHE FAILED TO EXAMINE HERSELF, may it not be concluded that we are here dealing with one who had a REGULAR PERIOD? — The Mishnah is defective and the proper reading is this: THROUGHOUT ALL THE ELEVEN DAYS A WOMAN IS IN A PRESUMPTIVE STATE OF CLEANNESS and is, therefore, permitted to her husband, but during the days of her menstruation period she is forbidden to him. This, however, applies only to a woman who has no regular period, but if she has a regular period she is permitted to him and only an examination is necessary. IF SHE NEGLECTED TO EXAMINE HERSELF, IRRESPECTIVE OF WHETHER THE NEGLECT WAS UNWITTING, UNDER CONSTRAINT OR WILFUL, SHE IS CLEAN. IF THE TIME OF HER REGULAR PERIOD HAS ARRIVED AND SHE FAILED TO EXAMINE HERSELF SHE IS DEFINITELY UNCLEAN. But, since the final clause is the view of R. Meir,[24] the first one is not that of R. Meir, is it? — All the Mishnah represents the view of R. Meir and this is the proper reading: If she was not in a hiding place and the time of her regular period has arrived and she did not examine herself she is unclean, for R. MEIR RULED: IF A WOMAN WAS IN A HIDING PLACE WHEN THE TIME OF HER REGULAR PERIOD ARRIVED AND SHE FAILED TO EXAMINE HERSELF SHE IS CLEAN, BECAUSE FEAR SUSPENDS THE FLOW OF THE BLOOD.

Raba replied: This[25] is to tell that she[26] does not[27] cause twenty-four hours retrospective uncleanness. An objection was raised: A menstruant,[28] a zabah,[28] and a woman who awaits day against day[29] or who is in childbirth[30] cause twenty-four hours retrospective uncleanness! — This is indeed a refutation.

R. Huna b. Hiyya[31] citing Samuel replied: This[25] is to tell that she cannot establish for herself a regular period during the days of her zibah.[32]

R. Joseph[33] remarked: I have not heard this traditional explanation.[34] Said Abaye[35] to him, You yourself have told it to us,[36] and it was in connection with the following that you told it to us: If she was accustomed to observe a flow of menstrual blood on the fifteenth day,[37] and this was changed[38] to the twentieth day,[37] marital intercourse is forbidden[39] on both dates.[40] If this was changed twice to the twentieth day,[41] marital intercourse is again forbidden on both dates. And in connection with this you have told us: Rab Judah citing Samuel explained. This[42] was learnt only [when she was accustomed to observe a flow] on the fifteenth day after her ritual immersion[43] which is the twenty-second day[44] after her observation of her discharge, since on such a day[45] she is already within the days of her menstruation period,[46] but the fifteenth day after her observation, on which she is still within the days of her zibah period,[47] cannot be established as a regular period. R. Papa stated: I recited this tradition before R. Judah of Diskarta [and asked:] Granted that she cannot establish thereby[48] a regular period,[49] must we take into consideration the possibility of such a regular period?[50] The latter remained silent and said nothing at all. Said R. Papa: Let us look into the matter ourselves. [It has been laid down that] if she was accustomed to observe a flow of menstrual blood on the fifteenth day and this was changed to the twentieth day, marital intercourse is forbidden on both days.[51]

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(1) Lit., 'she sat and did not'.

(2) Lit., 'and she did not examine'.

(3) It being presumed that the discharge had made its appearance at the regular time.

(4) Taking refuge from raiders or brigands.

(5) The seven clean days that must be counted after a confirmed zibah before cleanness is attained.

(6) One clean day for one unclean one, where the discharge appeared on no more than two days.

(7) Though within the ELEVEN DAYS.

(8) Unless the contrary was proved by an examination.

(9) The first clause of our Mishnah.

(10) Morning and evening (cf. supra 11a).

(11) After the eleven days such examination must be resumed.

(12) This presumably referring to the eleven days of the zibah period.

(13) Since her flow of blood had come to an end during menstruation.

(14) Following the conclusion of the eleven days of zibah.

(15) Morning and evening (cf. supra 11a).

(16) Ab initio.

(17) Only when THE TIME OF HER REGULAR PERIOD HAS ARRIVED AND SHE FAILED TO EXAMINE HERSELF IS SHE UNCLEAN.

(18) The first clause of our Mishnah.

(19) Lit., 'but according to R. Meir who said'.

(20) Supra 12b.

(21) Lit., 'stands'.

(22) That during the eleven days of zibah intercourse is permitted.

(23) Lit., 'come'.

(24) His name having been given explicitly.

(25) The first clause of our Mishnah.

(26) As the flow of her blood is suspended.

(27) After the first discharge during these days.

(28) On the first day of her observing a discharge.

(29) Cf. prev. n. After three observations she also would, of course, become a zabah.

(30) As soon as the uterus opened.

(31) Var. lec. Hiyyah b. R. Huna (Bomb. ed. and Rashi).

(32) Though menstruation began on the same day in three successive months.

(33) A disciple of Rab Judah who was the disciple of both Rab and Samuel.

(34) Attributed to Samuel.

(35) A disciple of R. Joseph who was often reminding his Master of traditions he had forgotten owing to a serious illness (cf. Ned. 41a).

(36) 'Before your illness'.

(37) After undergoing ritual immersion, as will be explained infra.

(38) Once.

(39) In the next two months.

(40) It is forbidden on the fifteenth which is the date of her regular period, and it is also forbidden on the twentieth since it is possible that henceforth that day would become her regular period. If in the third month also she experiences the discharge on the twentieth, she establishes thereby a new regular period and henceforth only the twentieth is forbidden while the fifteenth becomes permitted.

(41) V. p. 271, n. 14.

(42) That the fifteenth day is regarded as a regular period that cannot be altered unless the discharge appeared three times in three consecutive months respectively on a different date.

(43) Which is performed at the conclusion of the seven days' period of menstruation.

(44) The seven days of menstruation (cf. prev. n.) plus the fifteen days.

(45) Lit., 'for there'.

(46) Which begins after eighteen days (i.e., the seven days of menstruation plus the eleven, the days of the zibah period) have passed since the first day of the discharge, and continues for seven days.

(47) Cf. prev. n.

(48) By observing a discharge for three months on the same date during zibah.

(49) That could not be abolished by less than three observations on a different date in three consecutive months respectively.

(50) So that where a woman observed a discharge on the fifteenth day in each of three consecutive months intercourse on that day should be forbidden in the fourth months on the ground that, despite the zibah period in which the fifteenth day occurs, a regular period may have been established and the discharge would again appear on that date.

(51) Supra q.v. notes.

Talmud - Mas. Nidah 39b

And in connection with this Rab Judah citing Samuel stated: This[1] was learnt only [when she was accustomed to observe a flow] on the fifteenth day after her ritual immersion,[2] which is the twenty-second day[3] after her observation of her discharge, and it was changed to the twenty-seventh day[4] so that when the twenty-second day[5] comes round again she is well within the days of her zibah period,[6] and yet it was stated that intercourse was forbidden on both days. It is thus clear that the possibility of a regular period[7] must be taken into consideration.[8] R. Papa is thus[9] of the opinion that the twenty-two days[10] are reckoned from the twenty-second day[11] while the beginning of the menstruation and zibah period[12] is reckoned from the twenty-seventh day.[13] Said R. Huna son of R. Joshua to R. Papa: Whence do you draw your ruling? Is it not possible that the twenty-second day also is reckoned from the twenty-seventh day,[14] so that when the twenty-second day comes round again the woman is within the days of her menstruation period?[15] And this[16] is also logical. For if you do not admit this,[16] consider the case of a[17] hen that laid eggs on alternate days[18] and once ceased laying for two days and again laid on the following day. When it reverts to its former habit,[19] does it do so in accordance with the present[20] or in accordance with the past?[21] You have no alternative but to admit that it would do it in accordance with the present.[22] Said R. Papa to him: With reference, however, to what Resh Lakish ruled, 'A woman may establish for herself a settled period during the days of her zibah but not during the days of her menstruation' and to what R. Johanan ruled, 'A woman may establish for herself a settled period during the days of her menstruation', is not one to understand this as being a case,[23] for instance, where she observed a discharge on the first day of the month, on the fifth of the month and again on the first of the second month and on the fifth of that month, and finally[24] she observed a discharge on the fifth of the month while on the first of that month she observed none? And yet it was stated that 'a woman may establish for herself a settled period during the days of her menstruation'. It thus clearly follows[25] that we reckon the days from the first day of the month?[26] — No, the other replied, it is this that R. Johanan meant: A woman, for instance, who observed a discharge on the first day of the month, on the first day of the next month and on the twenty-fifth of that month, and on the first day of the following month, in which case we presume that[27] she experienced an influx of additional blood.[28] So also Rabin and all seafarers, when they came,[29] reported the tradition[30] in agreement with the explanation of R. Huna son of R. Joshua. [

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(1) V. supra p. 272, n. 4.

(2) Which is performed at the conclusion of the seven days' period of menstruation.

(3) The seven days of menstruation (cf. prev. n.) plus the fifteen days.

(4) After her discharge.

(5) Since the day on which the discharge should have appeared.

(6) There being only (22 — 5 =) 17 days since her last discharge on the twenty-seventh. The seventeenth day, (the last of the seven days of menstruation and the ten of the eleven days of zibah) is obviously within the zibah period.

(7) Even on a day in the zibah period.

(8) V. supra p. 272, n. 12.

(9) Since he regards the twenty-second day as one of the days of the zibah period.

(10) On which intercourse was forbidden.

(11) Sc. the days on which formerly the discharge usually made its appearance and not from the twenty-seventh day.

(12) At the conclusion of the menstruation period, seven days later.

(13) The day on which the discharge last appeared. The twenty-second day after the twenty-second is only the seventeenth day after the twenty-seventh (cf. prev. n. but five).

(14) On which the discharge last appeared.

(15) The twenty-two days consisting of 7 (menstruation) + 11 (zibah) + 4 (of the seven of the present menstruation period) days.

(16) That the reckoning should begin from the day of the last discharge rather than from the day on which the discharge should have appeared.

(17) Lit., ‘(what about) that’.

(18) Lit., ‘that lays on a day and holds back on (the next) day’ (bis).

(19) Laying on alternate days.

(20) Lit., ‘as before it’, i.e., laying on alternate days beginning with the last day (the sixth in the case submitted) refraining on the seventh and laying again on the eighth, and so on.

(21) Lit., ‘as originally’, i.e., alternating with the day on which laying should have taken place (the fifth in the case submitted), thus laying on both the seventh as well as the sixth.

(22) Since alternation with the day on which laying should have taken place would only result (cf. prev. n.) in a new disturbance of the regularity (laying on two consecutive days). Similarly, in the case of the woman, a reversion to her regular periods can only be effected by counting the days from the one on which her discharge last appeared, viz., from the twenty-seventh day.

(23) Lit., ‘how is one to imagine, not?’

(24) Lit., ‘and now’.

(25) Since the fifth day of the month is regarded as of the ‘days of her menstruation’.

(26) Though on that day no discharge had appeared. From which it follows that the counting of the days begins from the day on which the discharge should have appeared and not from that on which it appeared the last time.

(27) The reason why the discharge made its appearance on the twenty-fifth day of the second month and not on the first day of the following month.

(28) And, as a result, the discharge whose regular time of appearance was still the first of the month made its appearance a little earlier. The first day of the month being within seven days from the twenty-fifth of the previous month (on which the discharge appeared) may well be described as within the days of menstruation.

(29) From Palestine to Babylon.

(30) Of R. Johanan.

Talmud - Mas. Nidah 40a

CHAPTER V

MISHNAH. FOR A FOETUS BORN FROM ITS MOTHER'S SIDE[1] THERE IS NO NEED[2] TO SPEND[3] THE PRESCRIBED DAYS OF UNCLEANNESS[4] OR THE DAYS OF CLEANNESS;[5] NOR DOES ONE INCUR ON ITS ACCOUNT THE OBLIGATION TO BRING A SACRIFICE.[6] R. SIMEON RULED: IT IS REGARDED AS A VALID BIRTH. ALL WOMEN ARE SUBJECT TO UNCLEANNESS[7] [IF BLOOD APPEARED] IN THE OUTER CHAMBER,[8] FOR IT IS SAID IN SCRIPTURE, HER ISSUE IN HER FLESH BE BLOOD;[9] BUT A ZAB AND ONE WHO EMITTED SEMEN CONVEY NO UNCLEANNESS UNLESS THE DISCHARGE[10] CAME OUT

OF THE BODY. IF A MAN WAS EATING TERUMAH WHEN HE FELT THAT HIS LIMBS SHIVERED,[11] HE TAKES HOLD OF HIS MEMBRUM[12] AND SWALLOWS THE TERUMAH. AND THE DISCHARGES CONVEY UNCLEANNESS, HOWEVER SMALL THE QUANTITY, EVEN IF IT IS ONLY OF THE SIZE OF A MUSTARD SEED OR LESS.

GEMARA. R. Mani b. Pattish stated: What is the Rabbis' reason?[13] Scripture said, If a woman have conceived seed and born[14] a man child,[15] implying:[16] Only if she bears where she conceives.[17] And R. Simeon?[18] — That text[19] implies that even if she bore in the same manner only as she conceived[20] she[21] is unclean by reason of childbirth.[22] What, however, is R. Simeon's reason?[23] — Resh Lakish replied: Scripture said, She bear,[24] to include[25] A FOETUS BORN FROM ITS MOTHER'S SIDE. And the Rabbis?[26] — That text[24] is required to include[27] a tumtum[28] and an hermaphrodite. Since it might have been presumed that as it is written man child[29] and maid child[30] [the laws in the context apply only to] one who is undoubtedly male or undoubtedly female but not to a tumtum or an hermaphrodite, hence we were informed that the law applies to the latter also. And R. Simeon?[31] — He deduces it[32] from a teaching of Bar Liwai; for Bar Liwai taught. For a son,[33] implies: For any son, whatsoever his nature; For a daughter,[33] for any daughter, whatsoever her nature. And the Rabbis?[34] — They require this text for the deduction that a separate sacrifice is due for each son and for each daughter.[35] And R. Simeon?[31] — He deduced it[32] from the following which a Tanna recited before R. Shesheth: This is the law for her that beareth[36] teaches[37] that a woman brings one sacrifice for many children. It might be presumed that she brings only one sacrifice for a birth and for a zibah . . . But would then one sacrifice suffice for a woman after childbirth who ate blood or for one after childbirth who ate forbidden fat? — Rather say: It might be presumed that a woman brings only one sacrifice for a birth that took place before the completion of her clean days and for one that took place after their completion.[38] Therefore it was expressly written, 'This'.[39] And the Rabbis?[40] — Although 'this'[41] was written it was also necessary to have the text, 'For a son or for a daughter'.[42] For it might have been presumed that this law[43] applies only to two distinct conceptions[44] but[45] that in the case of a simultaneous conception as, for instance, that of Judah and Hezekiah the sons of R. Hiyya,[46] one sacrifice suffices,[47] hence we were informed [that even in such a case separate sacrifices are required for each birth].

R. Johanan stated: R. Simeon, however, agrees that in the case of consecrated beasts [the body of the young extracted by means of a caesarean cut] is not sacred.[48] What is the reason? He deduces the expression of 'birth' here[49] from that of 'birth' in the case of the firstling:[50] As in the latter case[51] the reference is to one that openeth the womb[52] so here also it is only to one that 'openeth the womb'. But why should not the expression of 'birth' here[49] be deduced from that of 'birth' in the case of a human being:[53] As in the latter case[54] a foetus extracted from its mother's side is included[55] so here also the young extracted from its mother's side should be included? — It stands to reason that the deduction should be made from the firstling, since 'the dam'[56] might also be deduced from 'the dam'.[57] On the contrary! Should not the deduction be made from the expression used of the human being, since thereby an ordinary birth[58] would be deduced from an ordinary birth?[59] But the fact is that the deduction was properly to be made from the firstling since in both cases[60] the expression 'dam'[61] is used, both are sacred beasts and both are subject to the laws of piggul, nothar[62] and uncleanness.[63] On the contrary! Should not the deduction be made from the expression used of the human being since both cases[64] are those of ordinary birth,[65] neither is restricted to the male sex,[66] neither[67] is naturally sacred,[68] and neither[69] is a priestly gift?[70] The former[71] are more in number.[72]

R. Hiyya son of R. Huna citing Raba observed, A Baraitha was taught which provides support for the statement of R. Johanan:[73] R. Judah stated, This is the law of the burnt-offering, it is that which goeth up,[74] behold these[75] are three limitations

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(1) By means of the caesarean operation. Lit., 'goes out of a wall'.

(2) For its mother.

(3) Lit., ‘(women) do not sit for it’.
(4) Seven for a male and fourteen for a female (v. Lev. XII, 2,5).
(5) Thirty-three days after the seven (cf. prev. n.) for a male and sixty-six days after the fourteen for a female (v. Lev. XII, 4f).
(6) Prescribed for a woman after childbirth (v. Lev. XII, 6ff).
(7) Of menstruation.
(8) The vagina; though it did not flow out beyond it.
(9) Lev. XV, 19; emphasis on ‘in her flesh’ implying: Even if the discharge did not flow out of her body.
(10) Lit., ‘uncleanness’.
(11) A symptom of the imminent discharge of semen.
(12) To prevent outflow.
(13) For their ruling in the first clause of our Mishnah.
(14) So A.V. The A.J.V. reads, ‘be delivered and bear’.
(15) Lev. XII, 2, dealing with the laws of cleanness and uncleanness and the prescribed sacrifice after childbirth.
(16) By the juxtaposition of ‘conceived’ and ‘born’.
(17) Only then do the laws (cf. prev. n.) apply, but not where a caesarean operation had to be performed.
(18) How in view of this exposition can he differ from the Rabbis?
(19) V. p. 276. n. 15.
(20) A mashed foetus (cf. supra 26a, 27b).
(21) Lit., ‘his mother’.
(22) The Rabbis, however, require no text for this ruling since in their opinion (cf. supra 26a) the presence of the placenta alone is a sufficient cause of uncleanness.
(23) For his ruling in our Mishnah.
(24) But if she bear a maid-child, Lev. XII, 5.
(25) By the superfluity of the expression, since it would have sufficed to state ‘but if a maid-child’.
(26) How can they maintain their ruling in view of this exposition?
(27) Among those who subject their mothers to the laws prescribed in the context.
(28) V. Glos.
(29) Lev. XII, 2.
(30) Lev. XII, 5.
(31) Whence does he deduce the last mentioned law?
(32) Cf. prev. n.
(33) Lev. XII, 6.
(34) What deduction do they make from this text?
(35) Though conception of the latter took place before the completion of the clean days of the former.
(36) Lev. XII, 7.
(37) Since ‘beareth’ is not restricted to one child only.
(38) If a child is born after the completion of the eighty days (fourteen unclean and sixty-six clean ones) prescribed for the birth of a female child, the former was obviously born ‘before their completion’.
(39) Lev. XII, 7, implying, This birth alone requires a sacrifice, but an additional birth requires an additional sacrifice.
(40) In view of this text what need was there for that of Lev. XII, 6?
(41) V. supra note 2.
(42) Lev. XII, 6.
(43) That one birth ‘before the completion’ of the eighty days and one ‘after their completion’ require two separate sacrifices.
(44) The second one having begun during the eighty days that followed the first, and its birth having occurred after the completion of these days.
(45) Cf. Rashal. Cur. edd. in parenthesis insert: ‘One of which was an abortion’.
(46) The second of whom was born three months after the former (supra 27a).
(47) Lit., ‘with one sacrifice it is sufficient for her’.
(48) Like other beasts whose blemish preceded their consecration, its value only is consecrated. It may, therefore, be sold, when it loses its sanctity and may be used for shearing or work, while its price is used for the purchase of valid

sacrifices.

(49) When a bullock, or a sheep, or a goat, is born (E.V. brought forth) in the context dealing with consecrated beasts (Lev. XXII, 27).

(50) All the firstling males that are born (Deut. XV, 19).

(51) Lit., 'there'.

(52) Ex. XXXIV, 19.

(53) If a woman be delivered and bear a man-child (Lev. XII, 2).

(54) Lit., 'there'.

(55) As R. Simeon laid down in our Mishnah.

(56) It shall be seven days under the dam (Lev. XXII, 27) about consecrated beasts.

(57) It shall be with its dam (Ex. XXII, 29) about the firstling.

(58) I.e., a beast that is not a firstling.

(59) I.e., a child that is not a firstborn son, the text (Lev. XII, 2) speaking of any child whether a firstborn or not.

(60) The consecrated beast and the firstling.

(61) Cf. supra nn. 3 and 4.

(62) On these terms v. Glos.

(63) To a human being none of these applies.

(64) Those of the child and the consecrated beast.

(65) Cf. supra nn. 5 and 6.

(66) While only a male is subject to the law of a firstling.

(67) Unlike the firstling that is sacred from birth.

(68) The consecration of the beast is entirely due to a human act.

(69) Unlike the firstling which is the priest's due.

(70) A peace-offering, for instance, remains the property of its owner. A burnt-offering is completely burnt on the altar.

(71) The five points of likeness between the consecrated beast and the firstling.

(72) Than the four points of likeness between the beast and a human being.

(73) Supra, that R. Simeon agrees in the case of consecrated beasts that the body of the young extracted from one by means of a caesarean cut is not sacred.

(74) Lev. VI, 2.

(75) The expressions, 'this', 'it', 'which goes up'.

Talmud - Mas. Nidah 40b

excluding[1] a sacrifice that was slain in the night, whose blood was poured out,[2] or whose blood was taken outside the hangings,[3] which, even though it was placed upon the altar, must be taken down.[4] R. Simeon stated: From the term 'burnt-offering'[5] I would only know that the law applied to[6] a valid burnt-offering; whence, however, the inference for including[7] one that was slain in the night, whose blood was poured out,[8] whose blood was taken outside the hangings[3] or was kept overnight, that was taken out,[9] that was unclean, nothar,[10] one slain with the intention of eating it later than its permitted time limit or beyond its permitted place limits, whose blood was received or sprinkled by disqualified men,[11] those sacrifices whose blood is to be sprinkled above[12] and was sprinkled below,[12] those whose blood is to be sprinkled below[12] and was sprinkled above,[12] those whose blood is to be applied within[13] and was applied without,[14] and a paschal lamb and a sin-offering that had not been slain as such?[15] Whence, I ask, is the inference? Since it was explicitly said in Scripture, This is the law of the burnt-offering,[16] the scope of the law is widened: One law for all that are placed upon the altar, so that once they have been put up they must not be taken down. As one might presume that I also include[7] a beast that covered[17] or was covered,[18] that was set aside[19] for an idolatrous purpose, that was worshipped, the hire of a harlot, the price of a dog, kil'ayim, trefah[20] and one that had been extracted by means of a caesarean operation, it was explicitly stated, 'This'.[21] But what reason do you see for including[22] the former and for excluding the latter?

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(1) From the scope of the law in the context that once a sacrifice had been placed upon the altar it must never be removed from it.

(2) So that the essential service of sprinkling upon the altar could not be performed with it.

(3) Sc. the enclosure around the Temple that corresponded to the hangings of the court of the Tabernacle of Moses in the wilderness.

(4) Only the other disqualified sacrifices, enumerated infra in R. Simeon's ruling, must not, according to R. Judah also, be taken down from the altar once they have been put upon it (cf. Zeb. 84b).

(5) Lev. VI, 2.

(6) Lit., ‘I have not but’.

(7) In the scope of the law.

(8) So that the essential service of sprinkling upon the altar could not be performed with it.

(9) Sc. the flesh of a burnt-offering that was taken out and then brought back and placed upon the altar.

(10) Sacrificial meat that was kept beyond the time allowed for its consumption.

(11) Priests who had a blemish, for instance.

(12) The red line around the altar's sides.

(13) Sc. the inner altar that was placed within the Hekal.

(14) On the altar in the Temple court.

(15) Lit., ‘not for their name’, the man intending them at the time to serve respectively as different kinds of sacrifices.

(16) Lev. VI, 2, emphasis on ‘law’.

(17) A woman.

(18) By a man.

(19) In a special place.

(20) On these terms v. Glos.

(21) Which implies a limitation.

(22) In the scope of the law.

Talmud - Mas. Nidah 41a

Since Scripture both widened and limited the scope of the law, you might rightly say:[1] I include the former whose disqualification arose within the Sanctuary and exclude the latter whose disqualification did not arise within the Sanctuary.[2] At all events, it was here taught that the young extracted by means of a caesarean operation is not included in the scope of the law;[3] and this refers, does it not, to the young that were so extracted in the case of a consecrated beast?[4] — R. Huna son of R. Nathan replied: No, the reference is to one so extracted in the case of a firstling. But is not the law of the firstling[5] deduced from the expression of openeth the womb.[6] What then do you suggest? That the reference is to one of the consecrated beasts? Is not[7] this [it could be retorted] inferred from a deduction of ‘the dam’ from ‘the dam’?[8] — What a comparison![9] If you grant that the reference is to a consecrated beast one can well understand the necessity for two Scriptural texts:[10] One[11] to exclude[12] the young of an unconsecrated beast born by way of a caesarean cut and then consecrated, and the other,[13] to exclude[14] the young of a consecrated beast[15] born by way of the caesarean cut,[16] he being of the opinion that the young of consecrated beasts become sacred only after they come into a visible existence,[17] but if you maintain that the reference is to a firstling [the objection would arise:] Is not this[18] deduced from the expression openeth the womb?[19] This[20] may also be supported by reason. For ‘a beast that covered or was covered, that was set aside for an idolatrous purpose, that was worshipped and kil'ayim’ were mentioned.[21] Now is the law concerning these deduced from this text?[22] Is it not in fact deduced from a different text:[22] Of the cattle[23] excludes[24] a beast that covered or was covered, Of the herd[23] excludes[24] a beast that was worshipped, Of the flock[23] excludes[24] one that was set aside for an idolatrous purpose, Or of the flock[23] excludes[25] one that gores?[26] And, furthermore, is the law concerning kil'ayim[27] deduced from here? Is it not in fact deduced from a different text: When a bullock, or a sheep, or a goat, is brought forth;[28] ‘a bullock’ excludes kil'ayim, ‘or a goat’ excludes one that[29] only resembles it?[30] But the fact is that two series of texts were required there: One in connection with an unconsecrated beast[31] and the other in connection with a consecrated beast; well then, in this case also two texts were similarly required.

Our Rabbis taught: If a woman was in protracted labour[32] for three days,[33] but the embryo was born by way of a caesarean cut, she is to be regarded as having given birth in zibah.[34] R. Simeon, however,[35] ruled: A woman in such circumstances is not regarded as[36] having given birth in zibah. The blood, furthermore, that issues from that place[37] is unclean, but R. Simeon declared it clean. The first clause may be well understood, since R. Simeon follows his known view[38] and the Rabbis follow theirs; on what principle, however, do they differ in the final clause?[39] — Rabina replied: This is a case where, for instance, the embryo was born through the side

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(1) By recourse to a process of reasoning.

(2) V. Zeb. 27b.

(3) So that it is obviously not regarded as sacred.

(4) In agreement with R. Johanan's interpretation of R. Simeon s view.

(5) Viz., that a firstling extracted by means of a caesarean cut is not subject to the restrictions and sanctity of a firstling.

(6) Ex. XXXIV, 19; emphasis on the last word. Now since it is not sacred it is obviously to be treated like an ordinary beast and must be removed from the altar even after it had been placed upon it; what need then was there to exclude it by the text of Lev. VI, 2.

(7) That the one so extracted is not sacred.

(8) Supra 40a ad fin.

(9) Lit., ‘that, what’.

(10) ‘This’ and ‘the dam’.

(11) ‘The dam’.

(12) From sanctity, in consequence of which it must be removed from the altar even after it had been placed on it.

(13) ‘This’.

(14) From the law that requires a sacrifice that was once upon the altar never to be taken down.

(15) Though the dam is sacred.

(16) Since the disqualification arose without the Sanctuary.

(17) Sc. on being born, but no earlier; and when the young was born it was already disqualified. Rashi deletes ‘he being . . . existence’.

(18) V. supra p. 281, n. 8.

(19) Of course it is. Hence the conclusion that the reference must be to a consecrated beast.

(20) That all the disqualifications enumerated supra, including the young born by way of the caesarean cut, apply only to consecrated beasts and to their young.

(21) Supra 40b.

(22) Lit., ‘from there’.

(23) Lev. I, 2.

(24) ‘Of’ implying a limitation.

(25) By the use of the redundant ‘or’.

(26) And killed a human being. The last three classes (covered, was covered and gores) are such whose status was determined on the evidence of only one witness or their owner. Hence they are only forbidden as sacrifices but permitted for ordinary use; but if their status is determined on the evidence of two witnesses they are forbidden for ordinary use also.

(27) In beasts; a cross-breed between a goat and a sheep.

(28) Lev. XXII, 27.

(29) Being born from a goat and having the appearance of a lamb.

(30) The goat. Now, since it follows from these texts that the beasts are not sacred, what need was there for an additional text from which to deduce that even though they have already been put upon the altar they must be taken down from it?

(31) Which a man consecrated.

(32) Accompanied by bleeding.

(33) During her zibah period; the discharge having made its appearance on each of the three days.

(34) Sc. she is subject to the restrictions of a confirmed or major zabah. Only in the case of normal birth is the blood during the labour preceding it exempt from the uncleanness of zibah.

(35) Being of the opinion (v. our Mishnah) that such a birth is valid.
(36) Lit., 'this is not'.
(37) This is explained infra.
(38) Expressed in our Mishnah (cf. prev. n. but two).
(39) If the blood issued through the caesarean cut the opinions should have been reversed: According to R. Simeon, who regards the birth as valid, the blood should be unclean while according to the Rabbis it should be clean.

Talmud - Mas. Nidah 41b

while the blood issued[1] through the womb; and R. Simeon follows his view while the Rabbis follow theirs.[2] R. Joseph demurred: Firstly, is not then the final clause identical with the first?[3] And, furthermore, 'from that place' means, does it not, the place of birth?[4] Rather, said R. Joseph, this is a case, where, for instance, both the embryo and the blood issued through the side,[5] and the point at issue between them[6] is whether the interior of the uterus is unclean. The Masters hold that the interior of the uterus is unclean,[7] while the Master holds that the interior of the uterus is clean.[8]

Resh Lakish stated: According to him who holds the blood to be unclean the woman also[9] is unclean[10] and according to him who holds the blood to be clean the woman also is clean. R. Johanan, however, stated: Even according to him who holds the blood to be unclean the woman is clean. In this R. Johanan follows a view he previously expressed. For R. Johanan citing R. Simeon b. Yohai stated: Whence is it deduced that a woman is not unclean[11] unless the discharge issues through its normal channel? From Scripture which says, And if a man shall lie with a woman having her sickness,[12] and shall uncover her nakedness — he hath made naked her fountain,[13] which teaches that a woman is not unclean[11] unless the discharge of her sickness issues through its normal channel.

Resh Lakish citing R. Judah Nesi'ah[14] ruled: If the uterus[15] became detached and dropped upon the ground the woman is unclean, for it is said, Because thy filthiness[16] was poured out,[17] and thy nakedness[18] uncovered.[19] In what respect?[20] If it be suggested: In that of an uncleanness for seven days[11] [the objection would arise:] Did not the All Merciful speak of blood and not of a solid piece? — As a matter of fact the reference is to the uncleanness until evening.[21]

R. Johanan ruled: If the uterus produced a discharge that was[22] like two pearl drops[23] the woman is unclean. In what respect? Should it be suggested: In respect of an uncleanness for seven days[11] [it might be objected:] Are there not just five unclean kinds of the blood for a woman, and no more? — The fact is that the reference is to the uncleanness until evening.[24] This, however, applies only to two drops but if there was only one drop it may be assumed that it originated elsewhere.[25]

ALL WOMEN ARE SUBJECT TO UNCLEANNESS [IF BLOOD APPEARED] IN THE OUTER CHAMBER. Which is the OUTER CHAMBER? — Resh Lakish replied: All that part which, when a child sits, is exposed. Said R. Johanan to him: Is not that place deemed exposed as regards contact with a dead creeping thing?[26] Rather, said R. Johanan, as far as the glands.[27] The question was raised: Is the region between the glands regarded as internal or as external? — Come and hear what R. Zakkai taught: The region up to the glands and that between the glands is regarded as internal. In a Baraitha it was taught: As far as the threshing-place. What is meant by threshing-place? — Rab Judah replied: The place where the attendant threshes.[28]

Our Rabbis taught: In her flesh[29] teaches that she[30] contracts uncleanness internally as externally. But from this text I would only know of the menstruant, whence the deduction that the same law applies to a zabah? It was explicitly stated, Her issue[31] in her flesh.[29] Whence the proof that the same law applies also to one who emitted semen? It was explicitly stated, Be.[32] R. Simeon, however, ruled: It is enough that she be subject to the same stringency of uncleanness as the man who had intercourse with her. As he is not subject to uncleanness unless the unclean discharge issued forth, so is she not subject to uncleanness unless her unclean discharge issued forth. But could R. Simeon maintain that ‘it is enough that she be subject to the same stringency of uncleanness as the man who had intercourse with her’? Was it not in fact taught: ‘They shall both bathe themselves in water, and be unclean until the even.[33] What, said R. Simeon, does this[34] come to teach us? If that it applies also to one who came in contact with semen[35] [it could be retorted:] Was it not in fact[36] stated below, Or from whomsoever [the flow of seed goeth out]?[37] But [this is the purpose of the text:] Since the uncleanness arises in a concealed region[38] and since an uncleanness in a concealed region is elsewhere ineffective, a special Scriptural ordinance was required[39] [to give it effect in this particular case]’[40] — This is no difficulty: The latter deals with one who received the semen at intercourse,[41] while the former refers to one who ejected it subsequently.[42] ‘Ejected’! Should not her uncleanness be due[43] to her preceding intercourse?[44] — This is a case where she had undergone ritual immersion in respect of her intercourse.[45] This then[46] says that for one who had intercourse it suffices to be unclean only until the evening. But did not Raba rule: A woman who had intercourse is forbidden to eat terumah for three days since it is impossible that she should not eject some semen during that time?[47] — Here[48] we are dealing with one who was immersed[49] with her bed.[50] It may thus[51] be inferred that Raba[52] spoke of a woman[53] who went herself on foot and performed immersion, but then is it not possible that she had ejected the semen while she was walking?[54]

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(1) During the three days of labour, that preceded the birth.

(2) Cf. supra no. 2.

(3) It is; why then the needless repetition?

(4) How then could Rabina explain this as ‘the womb’?

(5) The clause thus differing from the first one which deals with an issue of blood from the normal place during labour.

(6) R. Simeon and the Rabbis.

(7) The blood that comes in contact with the uterus causes, therefore, uncleanness for a day until the evening, though, having finally issued through the caesarean cut, it cannot be regarded as a menstrual discharge to subject the woman to an uncleanness of seven days.

(8) The blood that issued through the caesarean cut, though it passed through the uterus, is, therefore, regarded as the blood of a mere wound which conveys no uncleanness. Should the blood issue through the womb, provided there was no relief from pain prior to the birth, the blood, as that of labour, would also, during the zibah period, be clean on account of the birth of the child despite its emergence by way of a caesarean cut.

(9) Though the birth was from her side.

(10) Seven days, as a menstruant.

(11) As a menstruant.

(12) Dawah, applied to the menstrual discharge.

(13) Lev. XX, 18.

(14) The Prince, Judah II.

(15) Or a part of it. Lit., source.

(16) Nehushtek, applied to the uterus.

(17) Sc. ‘dropped upon the ground’.

(18) Erwatek, synonymous with uncleanness.

(19) Ezek. XVI, 36; which shows that a uterus dropped out is as unclean as when it is in its place; hence the uncleanness.

(20) Is the uncleanness caused.

(21) On account of the woman's external contact with the unclean uterus.

(22) Lit., perspired’.

(23) White and clear.

(24) The discharge having been in contact with the uterus which is in contact with the woman.

(25) Lit., ‘came from the world’, not from the uterus, and is consequently clean.

(26) Sc. if the latter came in contact with that place uncleanness is conveyed to the woman though contact with an internal organ conveys no uncleanness. Now since the place is deemed to be exposed, how can Resh Lakish apply to it the expression ‘in her flesh’ (cf. infra) and regard it as internal?

(27) Of the vagina.

(28) Euphemism.
(29) Lev. XV, 19.
(30) A menstruant of whom the text speaks.
(31) A Heb. word of the same root as zabah.
(32) Her issue in her flesh be etc. (Lev. XV, 19).
(33) Lev. XV, 18.
(34) The repetition of the law of bathing which, as far as the man is concerned, was already stated earlier in Lev. XV, 16.
(35) Sc. the woman.
(36) Lit., 'already'.
(37) Lev. XXII, 4, and this was explained (infra 43b) to apply to a woman who came in external contact with semen virile. Why then the repetition?
(38) Of the body, where internal contact with the semen virile takes place.
(39) Lit., 'it is'.
(40) From which it is evident that, according to R. Simeon, though a man is not subject to an uncleanness arising in an unexposed region of the body, a woman is subject to such an uncleanness. How then could it be maintained that according to R. Simeon 'it is enough that she be subject to the same stringency of uncleanness as the man who had intercourse with her'?
(41) Whose uncleanness is due to a special Scriptural ordinance.
(42) And for whose uncleanness it is enough to be as stringent as that of the man.
(43) Lit., 'let it go out for him'.
(44) Cf. prev. n. but two.
(45) The ejection having taken place after the immersion.
(46) Since, as has been explained, the law subjecting the woman to 'be unclean until the even' (Lev. XV, 18) applies to one who had intercourse.
(47) After three days the semen becomes vapid and conveys uncleanness no longer. Now since during the three days the woman invariably remains unclean, how, according to Raba, could R. Simeon rule that the woman is clean if she had undergone ritual immersion before the three days have passed?
(48) In R. Simeon's ruling (cf. prev. n.).
(49) After intercourse.
(50) As she herself did not move her body it is quite possible for her to avoid ejection.
(51) Since R. Simeon's rule, according to which the uncleanness terminates at evening, refers only to a woman who was carried in a bed.
(52) Who holds the woman to be unclean for three days after intercourse.
(53) Lit., 'that when Raba said'.
(54) So that her subsequent immersion should render her completely free from both the uncleanness of intercourse and that of the ejection. How then could Raba maintain that she is unclean for three days?

Talmud - Mas. Nidah 42a

And should you reply: It is possible that[1] some remained[2] [the objection would arise]: If so, should not the expression used have been:[3] We take into consideration the possibility that some might have remained? — The fact, however, is that according to Raba also this is a case where the woman was immersed with her bed, but there is no difficulty since one ruling[4] deals with a woman who[5] turned over[6] while the other[7] deals with one who[5] did not turn over;[8] and Raba[9] interpreted the Scriptural text in this manner:[10] When Scripture wrote, They shall both bathe themselves in water and be unclean until the even,[11] it referred to a woman who did not turn over but one who did turn over is forbidden to eat terumah for three days since it is impossible that she should not eject some semen during this time.

R. Samuel b. Bisna enquired of Abaye: 'Is a woman ejecting semen[12] regarded as observing a discharge or as coming in contact with one?[13] The practical issue[14] is the question of rendering[15] any previous counting[16] void,[17] and of conveying uncleanness by means of the smallest quantity[17] and of conveying uncleanness internally as well as externally'.[17] But what is the question?[18] If he[19] heard of the Baraithas [he should have known that] according to the Rabbis she is regarded as observing a discharge while according to R. Simeon she is regarded as coming in contact with one; and if he[19] did not hear of the Baraitha,[20] is it not logical that[21] she should be regarded as coming in contact with one?[22] — Indeed he may well have heard of the Baraitha and, as far as the Rabbis are concerned, he had no question at all;[23] what he did ask concerned only the view of R. Simeon. Furthermore, he had no question[24] as to whether uncleanness is conveyed internally as externally;[25] what he did ask was whether any previous counting is rendered void and whether uncleanness is conveyed by means of the smallest quantity. When [he asked in effect] R. Simeon ruled that 'it is enough that she be subject to the same stringency of uncleanness as the man who had intercourse with her' he meant it only in respect of conveying uncleanness internally as externally[26] but as regards rendering any previous counting void and conveying uncleanness by means of the smallest quantity she is regarded as one observing a discharge, or is it possible that[27] there is no difference?[28] There are others who read: Indeed he[19] may never have heard of the Baraitha,[29] but[30] it is this that he asked in effect: Since the All Merciful has considered it proper to impose a restriction[31] at Sinai on those who emitted semen,[32] she must be regarded as one who observed a discharge, or is it possible that no inference may be drawn from Sinai, since it was placed under an anomalous law, seeing that zabs and lepers who are elsewhere subject to major restrictions were not subjected by the All Merciful to that restriction?[31] — The other[33] replied: She is regarded as one who has observed a discharge. He[34] then came to Raba[35] and put the question to him. The latter replied: She is regarded as one who observed a discharge. He thereupon came to R. Joseph who also told him: She is regarded as one who observed a discharge. He[34] then returned to Abaye and said to him: 'You all spit the same thing',[36] 'We', the other replied, 'only gave you the right answer. For when R. Simeon ruled that "it is enough that she be subject to the same stringency of uncleanness as the man who had intercourse with her" it was only in respect of conveying uncleanness internally as externally,[37] but in respect of rendering any previous counting void and in respect of conveying uncleanness by means of the smallest quantity she is regarded as one who observed a discharge.[38]

Our Rabbis taught: A menstruant,[39] a zabah,[40] one who awaits a day for a day[40] and a woman after childbirth[41] contract uncleanness internally[42] as well as externally. Now, the enumeration of three of these cases[43] may well be justified, but how is one to explain the mention of the woman after childbirth? If the birth[44] occurred during her menstruation period she is a menstruant,[45] and if it occurred during her zibah period she is a zabah?[45] — The mention[46] was necessary only in the case of one who went down[47] to perform ritual immersion in order to pass out thereby from the period of uncleanness to that of cleanness;[48] and this[49] is in agreement with a ruling given by R. Zera citing R. Hiyya b. Ashi who had it from Rab: If a woman after childbirth went down[47] to perform ritual immersion in order to pass out thereby from her period of uncleanness to that of cleanness,[48] and some blood was detached from her body,[50] while she was going down,[51] she is unclean,[52] but if it occurred while she was going up, she is clean.[53] Said R. Jeremiah to R. Zera: Why should she be unclean if this occurred 'while she was going down'? Is not the blood merely an absorbed uncleanness?[54] — Go, the other replied, and ask it of R. Abin to whom I have explained the point at the schoolhouse and who nodded to me with his head.[55] He went and asked him [the question], and the latter replied: This was treated like the carcass of a clean bird which[56] conveys uncleanness to garments[57] while it is still passing through the oesophagus.[58] But are the two cases at all similar

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(1) Even after the ejection.

(2) And that the uncleanness of which Raba spoke is due to this possibility.

(3) Instead of the statement, 'it is impossible that she should not eject'.

(4) Raba's.

(5) After the immersion.

(6) Hence 'it is impossible that she etc.'.

(7) R. Simeon's.

(8) Her uncleanness, therefore, terminates at evening.
(9) In his ruling.
(10) Lit., ‘took his stand on the text and thus he said’.
(11) Lev. XV, 18.
(12) After she had undergone ritual immersion and was freed thereby from the uncleanness of intercourse to which she was subject (as stated supra) under a specific Scriptural ordinance.
(13) Externally. Internal contact, being within a concealed region, is (as stated supra 41b) of no consequence.
(14) Between uncleanness through (a) observation and (b) contact.
(15) During the eleven days of zibah.
(16) Of the prescribed seven days.
(17) Which is the case with an observation but not with contact.
(18) Lit., ‘what is your desire?’
(19) R. Samuel who raised the question.
(20) Supra 41b, where the Rabbis ruled that the ejection of semen conveys uncleanness internally as well as externally, while R. Simeon ruled that it is enough for the woman to be as unclean as the man who had intercourse with her. For the reading ‘Baraitha’ cf. Bomb. ed. Cur. edd. ‘our Mishnah’.
(21) Since the discharge does not originate from the woman's own body.
(22) Of course it is. Why then did R. Samuel raise the question at all?
(23) Since the Rabbis ruled that uncleanness is conveyed internally as well as externally it is obvious that the woman is regarded as one observing a discharge, and is, therefore, subject all the more to the other restrictions.
(24) Even according to R. Simeon.
(25) Well knowing that no internal uncleanness is conveyed (cf. supra n. 6).
(26) Sc. as the man is free from internal uncleanness so is she.
(27) Since he regarded her only as one coming in contact with a discharge.
(28) And she is in all respects to be treated as such.
(29) V. supra p. 288 n. 5.
(30) In reply to the objection, ‘Is it not logical that she should be regarded as coming in contact with one?’
(31) Not to approach the mountain.
(32) V. Ex. XIX, 15. ‘Come not near a woman’. This shows that the emission of semen is subject to a higher degree of uncleanness than contact with a dead creeping thing, which did not subject a person to the restriction.
(33) Abaye.
(34) R. Samuel b. Bisna.
(35) Var. lec. Rabbah (Bah).
(36) Lit., ‘spittle’, i.e., your opinions are all traceable to the same source.
(37) Sc. as the man is free from internal uncleanness so is she.
(38) Since in the case of the man also (to whose degree of uncleanness hers is compared) any previous counting is rendered void and the smallest quantity conveys uncleanness.
(39) After one observation during her menstrual period.
(40) Cf. prev. n. mut. mut. If this single observation is followed by two other observations the woman is a confirmed zabah and must count seven days before she attains to cleanness, but if no other observation followed she only awaits one clean day for the unclean one.
(41) This is explained presently.
(42) Sc. as soon as the discharge made its way into the vagina.
(43) Lit ‘(almost) all of them’.
(44) And the discharge observed.
(45) Who was already specifically enumerated among the first three cases.
(46) Of the woman after childbirth.
(47) After the seven or fourteen days of uncleanness following the birth of a male and a female respectively.
(48) The period of thirty-three clean days after the seven, and the sixty-six clean days after the fourteen (cf. prev. n.).
(49) The ruling that a woman in such circumstances contracts uncleanness internally.
(50) In the vagina, where it remained for a day or two.
(51) Since the mere passing of the seven or fourteen days does not restore the woman to cleanness unless immersion had

been performed (cf. supra 35b). When the unclean blood (cf. next n.) is completely discharged from the body a second immersion is required since no cleanness had been attained by the first.

(52) While the blood is retained in the vagina, on account of her carriage of, or contact with the detached blood in it.

(53) When, owing to the immersion, her clean period had already begun and the blood is clean. It has thus been shown that the Baraitha under discussion is in agreement with the first case, ‘while she was going down, she is unclean’ of R. Zera.

(54) Which (cf. Hul. 71a) cannot convey uncleanness either through contact or through carriage. Granted that a menstrual, or a zibah discharge causes a woman's uncleanness even while it is still absorbed in the vagina (as deduced supra from a Scriptural text), how can this blood, which is neither menstrual nor one of zibah and which (if it had come in external contact with the woman) could only have caused one day's uncleanness convey to the woman any uncleanness at all while still absorbed?

(55) As a mark of approval.

(56) Though it conveys no uncleanness to the garments of the man who comes in contact with it.

(57) Those of the man who eats of it.

(58) An ‘absorbed uncleanness’.

Talmud - Mas. Nidah 42b

seeing that in the latter case no uncleanness is conveyed by external contact[1] while here uncleanness would be conveyed when it emerges from the body?[2] — Here also it is a case where the discharge emerged from the body.[3] But if it emerged from the body, what need was there to mention such a case?[4] — It might have been presumed that as the immersion is effective in respect of blood that is internal it is also effective in respect of the other,[5] hence we were informed [that in the latter case the immersion is of no avail]. The difficulty about our cited tradition[6] is well solved; but as regards the woman after childbirth[7] [the difficulty arises again]: If the birth occurred during her menstruation period she is a menstruant, and if it occurred during her zibah period she is a zabah?[8] — Here we are dealing with the case of a dry birth.[9] But in the case of a dry birth,[10] what point is there in the statement that uncleanness is contracted internally as well as externally?[11] — The statement is justified in a case for instance, where the embryo put its head out of the ante-chamber;[12] and this[13] is in agreement with R. Oshaia, for R. Oshaia stated, ‘This[14] is a preventive measure[15] against the possibility that the embryo might put its head out of the ante-chamber’;[16] and this[17] is also in line with the following ruling: A certain person once came before Raba and asked him, ‘Is it permissible to perform a circumcision on the Sabbath?’ ‘This’, the other replied, ‘is quite in order’. After that person went out Raba considered: Is it likely that this man did not know that it was permissible to perform a circumcision on the Sabbath? He thereupon followed him and said to him, ‘Pray tell me all the circumstance of the case’.[18] ‘I’, the other told him, ‘heard the child cry late on the Sabbath eve but it was not born until the Sabbath’. ‘This is a case’, the first explained to him, ‘of a child[19] who put his head out of the ante-chamber[20] and consequently his circumcision[21] is one that does not take place at the proper time,[22] and on account of a circumcision that does not take place at the proper time the Sabbath may not be desecrated.’[23] The question was raised: Is that region in a woman[24] regarded as an absorbed place or as a concealed one? — In what respect could this matter? — In the case, for instance, where her friend inserted in her in that region a piece of nebelah of the size of an olive. If you say that it is regarded as an absorbed place, this nebelah being now an absorbed uncleanness[25] would convey no uncleanness to the woman,[26] but if you say that it is a concealed place, granted that no uncleanness could be conveyed by means of contact[27] uncleanness would be conveyed by means of carriage?[28] — Abaye replied: It is regarded as an absorbed place. Raba replied: It is regarded as a concealed one. Said Raba: Whence do I derive this? From what was taught: Since the uncleanness arises in a concealed region, and since an uncleanness in a concealed region is elsewhere ineffective, a special Scriptural ordinance was required [to give it effect in this particular case].[29] And Abaye?[30] — The meaning[31] is this: There is one reason and there is yet another.[32] In the first place the woman should be clean since the uncleanness is an absorbed one; and, furthermore, even if you were to find some ground for saying that it is a concealed uncleanness and an uncleanness in a concealed region is ineffective, this[33] is a specific Scriptural ordinance.

The question was raised: Is the region through which the nebelah of a clean bird conveys uncleanness to a human being[34] regarded as an absorbed place or as a concealed one? In what respect can this matter? — In a case, for instance, where his friend pushed a piece of nebelah of the size of an olive into his mouth.[35] If you regard it as an absorbent place, this nebelah being now an absorbed uncleanness would convey no uncleanness, but if[36] you say that it is a concealed one, granted that no uncleanness is conveyed by means of contact,[37] uncleanness would be conveyed by means of carriage?[38] — Abaye replied: It is an absorbed place, but Raba replied: It is a concealed one. Whence, said Abaye, do I derive this? From what was taught: As it might have been presumed that the nebelah of a beast conveys uncleanness to a person's garments by way of his oesophagus,[39] it was explicitly stated in Scripture, That which dieth of itself,[40] or is torn of beasts, he shall not eat to defile himself therewith,[41] which implies: Only that[42] which has no other form of uncleanness but that which is conveyed through the eating thereof[42] [conveys uncleanness by way of the oesophagus],[39] but this[43] is excluded since it conveys uncleanness even before one had eaten of it. But why should not this[44] be inferred a minori ad majus from the nebelah of a clean bird: If the nebelah of a clean bird which is not subject to uncleanness externally is subject to uncleanness internally[39] how much more then should this,[43] which is subject to uncleanness externally, be subject to uncleanness internally? — Scripture said, ‘therewith’[41] which implies: Only therewith[45] but not with any other.[43] If so, why was it stated in Scripture, And he that eateth?[46] To prescribe for one who touches or carries it the same size as that which was prescribed for one who eats of it: As one who eats of it incurs guilt on consuming the full size of an olive so also one who touches or carries it contracts uncleanness only if it is of the size of an olive.

Raba ruled: A man holding a dead creeping thing in a fold of his body[47] is clean, but if he holds nebelah in a fold of his body he is unclean. ‘A man holding a dead creeping thing in a fold of his body is clean’, since a dead creeping thing conveys uncleanness by means of touch, while a concealed region of the body[47] is not susceptible to the uncleanness of touch. ‘If he holds nebelah in a fold of his body he is unclean’ for, granted that he contracts no uncleanness through touch, he contracts it, at any rate, through carriage. If a man held a dead creeping thing in the fold of his body[48] and he thus brought it into the air spaces[49] of an oven[50] the latter is unclean. Is not this obvious?[51] — It might have been presumed that the All Merciful said, Into the inside of which,[52] implying:

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(1) Cf. prev. n. but two.

(2) From which it is evident that it is rather like other kinds of uncleanness. Why then should it be different from those in conveying uncleanness even while in an absorbed condition?

(3) Sc. if the blood was detached before the immersion the woman becomes unclean after, but not before its complete emergence.

(4) Apparently none, since it is obvious that unclean blood conveys uncleanness when it emerges from the body.

(5) That was detached and remained for a time within the vagina.

(6) R. Zera's ruling.

(7) Included in the Baraitha under discussion, which can now no longer be compared with the ruling of R. Zera.

(8) Cf. relevant notes supra 42a ad fin.

(9) And one that was free from bleeding: so that the question of menstrual, or zibah blood does not arise.

(10) Where there is no detached blood either within or without.

(11) How can there be uncleanness in the absence of all blood?

(12) And then draw it back (cf. Strashun). Although the head is now within (internal) the woman is unclean as if the embryo had actually been born (external).

(13) The ruling that the projection of the head of the embryo without the ante-chamber is regarded as birth.

(14) That a midwife is unclean for seven days if she touched a dead embryo before it was extracted, though its mother remains clean until extraction had been effected.

(15) Enacted by the Rabbis. Pentateuchally the embryo, being at the time an ‘absorbed uncleanness’, would convey no uncleanness at all.
(16) Hul. 72a; and the midwife would then touch it when, having touched a corpse, her uncleanness would be Pentateuchal. Thus it follows that according to R. Oshaia the projection of the embryo's head without the ante-chamber is regarded as the actual birth. Similarly in the case under discussion, as soon as the embryo had put its head out of the ante-chamber its mother is subject to the uncleanness of birth as if the birth had taken place.
(17) V. supra n. 2.
(18) Lit., ‘how was the body of the incident?’
(19) Whose cry could be heard.
(20) On the Friday, when he was heard crying.
(21) On any day after the following Friday which is the eighth day of his virtual birth.
(22) Circumcision being due on the eighth day of birth.
(23) The circumcision must, therefore, be postponed until the Sunday. At all events, Raba's ruling shows that the projection of the embryo's head without the ante-chamber is regarded as birth (cf. supra n. 2).
(24) Euphemism.
(25) And, therefore, regarded as non-existent.
(26) Either through contact or carriage (cf. prev. n.).
(27) The uncleanness by contact not applying to a concealed region of the body.
(28) Since the woman was carrying the nebelah.
(29) Supra 41b q.v. notes.
(30) How can he maintain his view in contradiction to Raba's citation?
(31) Of the cited statement.
(32) Lit., ‘one and more he says’.
(33) The woman's uncleanness (cf. supra n. 5).
(34) Sc. the oesophagus. Only by swallowing it does the nebelah of a clean bird convey uncleanness to man.
(35) So that he himself did not touch it with his hands.
(36) Cur. ed. insert the last two words in parenthesis, and marg. n. substitutes ‘what would you say’.
(37) The uncleanness by contact not applying to a concealed region of the body.
(38) The man having carried the nebelah in his mouth.
(39) Sc. by swallowing it.
(40) Heb. nebelah.
(41) Lev. XXII, 8.
(42) The nebelah of a clean bird.
(43) Nebelah of a beast.
(44) That the nebelah of a beast conveys uncleanness by way of the oesophagus.
(45) Sc. only if a person swallowed the nebelah of a clean bird do his garments become unclean.
(46) Lev. XI, 40, in respect of the nebelah of a beast.
(47) Under his arm-pit, for instance.
(48) Under his arm-pit, for instance.
(49) Without touching its sides.
(50) Of earthenware.
(51) Apparently it is, since all earthen vessels contract uncleanness from a dead creeping thing within their air spaces though there was no direct contact between it and the creeping thing.
(52) E.V., ‘whereinto’; Every earthen vessel whereinto any of them falleth (Lev. XI, 33).

Talmud - Mas. Nidah 43a

But not the inside of its inside,[1] hence we were informed [that the oven is unclean].[2]

Resh Lakish ruled: If a reed was held in a fold of the body of a zab and he shook therewith a clean person the latter remains clean.[3] If a reed was held in the fold of the body of a clean person and he shook therewith a zab the former is unclean.[4] What is the reason?[5] Because Scripture said, And whomsoever he that hath issue[6] toucheth, without having rinsed his hands in water,[7] and this[8] refers to the shaking of a zab, a form of conveyance of uncleanness the like of which we do not find anywhere in all the Torah; and the All Merciful expressed this in the term of touching,[9] in order to tell that shaking and touching must be performed with a part of the body which is like one's hands; as one's hands are exposed[10] so must any other part of the body[11] be exposed.

BUT A ZAB AND ONE WHO EMITTED SEMEN CONVEY NO UNCLEANNESS etc. A ZAB, because it is written in Scripture, When any man hath an issue out of his flesh,[12] [which implies that no uncleanness is conveyed] unless his issue emerged ‘out of his flesh’; ONE WHO EMITTED SEMEN, because It is written, And if the flow of seed go out from a man.[13]

IF A MAN WAS EATING TERUMAH WHEN HE FELT etc. Was it not, however, taught: R. Eliezer stated, whoever holds his membrum when he makes water is as though he had brought a flood on the world?[14] — Abaye replied: One does it with a thick rag.[15] Raba stated: It may even be done with a soft rag, for once the semen has been detached the subsequent touch is of no consequence.[16] And Abaye?[17] — He takes into consideration the possibility of an additional discharge. And Raba? — He does not consider the possibility of an additional discharge. But does he not?[18] Was it not in fact taught: ‘To what may this be compared? To the putting of a finger upon the eye when, so long as the finger remains on it, the eye continues to tear’? Now Raba?[19] — It is unusual to get heated twice in immediate succession.[20]

Samuel ruled, Any semen the emission of which is not felt throughout one's body causes no uncleanness. What is the reason? — The All Merciful has said, The flow of seed,[21] implying that the text[22] deals only with such as is fit to produce seed. An objection was raised: If a man was troubled with unchaste thoughts in the night and when he rose up he found his flesh heated, he is unclean![23] — R. Huna explained this to apply to a man who dreamt of indulging in sexual intercourse, it being impossible to indulge in the act without experiencing the sensation. Another rendering: Samuel ruled, Any semen which does not shoot forth like an arrow causes no uncleanness. What is the practical difference between the latter reading and the former reading? — The practical difference between them is the case where the detachment of the semen was perceived but the emergence was not felt.[24] Now this ruling which was quite obvious to Samuel was a matter of enquiry for Raba. For Raba enquired: What is the law where the detachment of the semen was perceived but its emergence was not felt?[25] — Come and hear: If a man who emitted semen performed immersion[26] before he had made water, his uncleanness is resumed when he makes water![27] — There it is different, since the emergence of most of the semen was perceived. Others have a different reading: Samuel ruled, Any semen which does not shoot forth like an arrow causes no fructification. It is only fructification that it does not cause but it does cause uncleanness, for it is said in Scripture. If there be among you any man, that is not clean by reason of that which chanceth him,[28] which implies: Even a chance emission[29] whatever its nature.[30]

Raba enquired: What is the law where an idolater indulged in sexual thoughts,[31] and then[32] he went down and performed ritual immersion?[33] If you were to find some case where we follow the time of detachment[34] [the question would arise]. Does this apply only where the law is thereby restricted,[35] but not here[36] where the law would thereby be relaxed,[37] or is it possible that no distinction is made? — This is undecided.

Raba enquired: What is the ruling where the urine of a zabah had been detached from the source[38] and then she went down and performed ritual immersion?[39] If you were to find some case where we follow the time of the detachment [the question would arise], Does this apply only to semen, since it cannot be restrained,[40] but not to her urine which she is able to restrain,[41] or is it possible that no distinction is made? — This is undecided.

Raba enquired: What is the law where the urine of an idolatress[42] who was a zabah had been detached

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(1) Inside, for instance, an arm-pit which is inside the oven.

(2) The implication, 'but not the inside of its inside' excludes only the case where a creeping thing was within a vessel whose rim and mouth projected above the vessel in which it was contained.

(3) The reason is given presently.

(4) Since he 'carried' the zab. The carrying of a zab as the carrying 'of his couch conveys uncleanness to the carrier (cf. Lev. XV, 10).

(5) Why a person who was shaken by a reed held in the fold of the body of a zab remains clean.

(6) Heb. zab.

(7) Lev. XV, 11.

(8) Since the text cannot refer to direct touch which was already dealt with in Lev. XV, 7.

(9) 'Toucheth'.

(10) Lit., 'as there from outside'.

(11) If it is to convey uncleanness.

(12) Lev. XV, 2, emphasis on 'out'.

(13) Ibid. 16. Cf. prev. n.

(14) Supra 13a.

(15) Which intercepts the warmth of one's hand.

(16) Lit., 'since it uprooted it uprooted'.

(17) Why, in view of Raba's explanation, does he insist on a thick rag?

(18) So with Bah. Cur. edd. omit.

(19) What has he to say to this?

(20) Lit., 'any being heated and being heated again at the time is not usual'. The comparison with the eye holds good only when a discharge was originally due to friction.

(21) Lev. XV, 16, emphasis on the last word.

(22) Then he shall . . . . be unclean (ibid.).

(23) Mik. VIII, 3; because he might also have emitted some semen. As this would presumably occur without his being aware of it, an objection arises against Samuel.

(24) According to the first reading uncleanness would, and according to the latter reading would not be caused.

(25) Is uncleanness thereby conveyed or not?

(26) Which frees him from his uncleanness.

(27) Mik. VIII, 4 (cur. edd. '3', is an error). Now here there was obviously no perception, and yet uncleanness is nevertheless conveyed. An objection against Samuel.

(28) Deut. XXIII, 11, mikreh of the rt. קרה (v. foll. n.).

(29) Keri of the rt. קרי (cf. prev. n.).

(30) Lit., 'in the world'.

(31) As a result of which semen had been detached but did not emerge.

(32) For the purpose of his conversion to Judaism.

(33) Subsequent to which the semen emerged.

(34) Sc. that, in the case of an Israelite, uncleanness is caused where the detachment was perceived even though the emergence was not felt.

(35) Uncleanness is caused.

(36) The case of the idolater.

(37) Since at the time of the detachment the man was still an idolater and free from the laws of uncleanness.

(38) Which is a 'father of uncleanness'.

(39) Whereby she is freed from her uncleanness; and then she made the water. Is she, it is asked, unclean because at the time of the detachment she was unclean or is she clean because the emergence took place when she was already in a condition of cleanness?

(40) In consequence of which detachment must be regarded as virtual emergence.

(41) So that the emergence is a separate process which, having taken place after immersion, causes no uncleanness.

(42) Which is Rabbinically unclean.

Talmud - Mas. Nidah 43b

from the source, and then she[1] went down and performed ritual immersion? If you were to find a case[2] where we follow the time of the detachment even where the woman can restrain the discharge [the question would arise], Does this apply only to the Israelitish woman who is Pentateuchally unclean but not to an idolatress who was a zabah, since she is only Rabbinically unclean,[3] or is it possible that no difference is made between them? — This is undecided.

AND THE DISCHARGES CONVEY UNCLEANNESS HOWEVER SMALL THE QUANTITY. Samuel ruled: [the discharge of] a zab[4] must be such a quantity as would stop the orifice of the membrum, for it is said in Scriptures Or his flesh be stopped from his issue.[5] But have we not learnt: AND THE DISCHARGES CONVEY UNCLEANNESS, HOWEVER SMALL THE QUANTITY? — He[6] maintains the same view as R. Nathan. For it was taught: R. Nathan citing R. Ishmael ruled, [the discharge of] a zab[4] must be such a quantity as would stop the orifice of the membrum; but [the Rabbis] did not agree with him.[7] What is R. Ishmael's reason? — Because Scripture said, Or his flesh be stopped from his issue.[5] And the Rabbis?[8] — That text[9] is required for the inference that the discharge conveys uncleanness only when in a state of fluidity[10] but not when it is dry.[11] And R. Ishmael?[12] — That[13] is inferred from run.[14] And the Rabbis?[15] — That text[14] serves the purpose of indicating the number:[16] His issue,[9] implies once; His flesh run,[9] implies twice; With his issue,[9] implies three times; thus it was taught that a zab who observed three discharges is under an obligation to bring a sacrifice; Or his flesh be stopped from his issue, it is his uncleanness,[9] implies that he is unclean even on account of a part of the number of his issues,[17] this teaches that a zab who observed only two discharges conveys uncleanness to his couch and seat. As to R. Ishmael, however,[18] whence does he deduce the number required?[19] — He derives it from an exposition of R. Simai; for it was taught: R. Simai stated, Scripture enumerated two issues and described the man as unclean[20] and it also enumerated three issues and described the man as unclean,[21] how is this to be reconciled? Two observations subject a man to the restrictions of uncleanness, and three observations render him liable to bring a sacrifice. But according to the Rabbis[22] who deduced both numbers from ‘This shall be his uncleanness in his issue’,[23] what deduction do they make from the text ‘when any man hath an issue out of his flesh’?[24] — They require it for the deduction that uncleanness does not begin until the discharge emerged from one's flesh. What need, however, was there for ‘His issue be unclean’?[24] — ‘This teaches that the issue itself[25] is unclean.

R. Hanilai citing R. Eliezer son of R. Simeon ruled: Semen conveys uncleanness to the man who emitted it,[26] however small its quantity, but as regards the man who touched it its quantity must be of the bulk of a lentil.[27] But did we not learn, AND THE DISCHARGES CONVEY UNCLEANNESS, HOWEVER SMALL THE QUANTITY, which applies, does it not, to the case of one who touched semen? — No, it applies only to one who emitted it.[26]

Come and hear: In one respect the law of semen is more restrictive than that of a dead creeping thing while in another respect the law of a dead creeping thing is more restrictive than that of semen. ‘The law of a dead creeping thing is more restrictive’ in that no distinction [of age] is made about its uncleanness,[28] which is not the case with semen.[29] ‘The law of semen is more restrictive’ in that uncleanness is conveyed by its smallest quantity, which is not the case with a creeping thing.[30] Now does not this apply to one who touched the semen?[31] — No, it applies only to one who emitted it.[32] But was it not taught as being on a par with the creeping thing: As the latter is a case of touching so also the former?[31] — R. Adda b. Ahabah replied: The ruling referred to a creeping thing in general[33] and to semen in general.[34] But does a creeping thing convey no uncleanness even when it is of the smallest bulk? Have we not in fact learnt: Members of the body[35] have[36] no prescribed minimum size [and uncleanness is, therefore, conveyed] by less than the size of an olive of corpse,[37] by less than the size of an olive of nebelah or by less than the size of a lentil of a dead creeping thing?[38] — It is different with a member of the body[39] since the whole of it takes the place of the size of a lentil; for were any part of it[40] missing,[41] would the member[42] have conveyed any uncleanness?[43] What is meant by the ‘distinction in uncleanness’ in the case of semen? If it be suggested: The distinction between the semen of an Israelite and that of foreigners [it could be objected]: Is there not in this case also[44] a distinction between a sea-mouse and a land-mouse?[45] — The distinction rather is that between a minor and an adult.[46]

R. Papa stated: This ruling[47] is a point at issue between Tannas:[48] [For it was taught] whence do we derive the inclusion in uncleanness of one who touched semen? From Scripture which explicitly stated, Or whosoever;[49] and elsewhere Tannas differ on a relevant point,[50] for there are those who hold that a deduction is carried through in all respects[51] while others hold that a deduction is limited by its original basis.[52] Now according to those who hold that a deduction is carried through in all respects[51] it follows that as a dead creeping thing[53] conveys uncleanness through touch so does semen convey uncleanness by touch and, consequently,[54] as a dead creeping thing conveys uncleanness only when it is of the bulk of a lentil so does semen convey uncleanness only when it is of the bulk of a lentil; while according to him who maintained that a deduction is limited by its original basis[55] it also follows that as a dead creeping thing conveys uncleanness through touch so does semen convey uncleanness through touch, but then, limiting it to its original basis, as semen conveys uncleanness to the man who emitted it, however small its quantity, so does it also convey uncleanness to the man who touched it, however small its quantity.[56] Said[57] R. Huna son of R. Nathan to R. Papa: Whence the proof that the inclusion in uncleanness of one who touched semen is deduced from the expression of ‘Or whosoever occurring in the context dealing with the creeping thing?[58] Is it not possible that the inclusion is derived from the expression of ‘Or from whomsoever the flow of seed goeth out,[59] and[60] all may be of the opinion that a deduction is to be carried through in all respects?[61] The Tannas[62] were asked[63] Some recited as R. Papa while others recited in agreement with R. Huna son of R. Nathan.

MISHNAH. A GIRL ONE DAY OLD IS SUBJECT TO THE UNCLEANNESS OF MENSTRUATION. ONE WHO IS TEN DAYS OLD IS SUBJECT TO THE UNCLEANNESS OF ZIBAH. A BOY ONE DAY OLD IS SUBJECT TO THE UNCLEANNESS OF ZIBAH, AND TO THE UNCLEANNESS OF LEPROSY AND THAT OF CORPSEUNCLEANNESS; HE SUBJECTS [HIS DECEASED BROTHER'S WIDOW] TO THE DUTY OF LEVIRATE MARRIAGE;[64] HE EXEMPTS [HIS MOTHER] FROM THE LEVIRATE MARRIAGE,[65] HE ENABLES HER[66] TO EAT TERUMAH AND HE ALSO CAUSES HER TO BE DISQUALIFIED FROM EATING TERUMAH;[67]

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(1) For the purpose of her conversion to Judaism.

(2) In respect of an Israelitish woman.

(3) Cf. supra n. 5.

(4) If it is to convey uncleanness.

(5) Lev. XV, 3.

(6) Samuel.

(7) Pes. 67b.

(8) How can they maintain their ruling in view of this text?

(9) Lev. XV, 3.

(10) Lit., ‘wet’, when the orifice can ‘be stopped’ by it.

(11) When it crumbles away and is incapable of adhesion.

(12) How, in view of this explanation, can he still maintain his ruling?

(13) That a discharge conveys uncleanness only when in a state of fluidity.

(14) Run with his issue (Lev. XV, 3).

(15) How can they maintain their ruling in view of this text?

(16) Of issues that determine the various grades of uncleanness.
(17) ‘From his issues’ (emphasis on ‘from’) implying ‘a part’.
(18) Who requires the expression of ‘run with his issue’ for the inference he mentioned supra.
(19) As just indicated according to the Rabbis.
(20) When any man hath an issue out of his flesh (Lev. XV, 2), counts as one; his issue be unclean (ibid), counts as a second.
(21) This shall be his uncleanness in his issue (Lev. XV, 3) counts as one; His flesh run with his issue (ibid.) counts as a second; or his flesh be stopped from his issue (ibid.) counts as a third.
(22) Lit., ‘him’.
(23) Supra.
(24) Cf. supra n. 12.
(25) And not only the man who suffered from it.
(26) Lit., ‘to the one who observes’.
(27) A lesser quantity, as is the case with a dead creeping thing, conveys no uncleanness.
(28) Young and old are equally unclean.
(29) The uncleanness on account of an emission of semen being restricted to one who is over nine years of age.
(30) Tosef. Kel. I. Cf. supra n. 2.
(31) But this would present an objection against R. Hanilai's ruling.
(32) Lit., ‘to the one who observes’.
(33) Lit., ‘the name of’ or ‘any’.
(34) Sc. it referred to the form of uncleanness appropriate to each. A dead creeping thing can never convey uncleanness unless its bulk is of the prescribed size, while semen, when it concerns the man who had emitted it, may convey uncleanness, however small its quantity.
(35) Sc. any part of it which consists of flesh, sinews and bones (v. Bertinoro).
(36) In regard to the conveyance of uncleanness.
(37) Cf. prev. n. but one.
(38) Oh. I, 7, which shows that a dead creeping thing conveys uncleanness, however small its bulk.
(39) V. p. 300, n. 10.
(40) Lit., ‘a portion’.
(41) Cf. supra p. 300, n. 10.
(42) That was smaller than a lentil.
(43) Obviously not; which shows that it is only on account of its importance that the force of conveying uncleanness (as a piece of the prescribed size) was imparted to it. Any other part of the body, however, is subject to the prescribed minimum.
(44) That of a creeping thing.
(45) Of course there is! A sea-mouse (cf. Hul. 126b) conveys no uncleanness.
(46) No uncleanness is conveyed by that of a child under nine years of age.
(47) Of R. Hanilai, that semen less in quantity than the bulk of a lentil conveys no uncleanness by means of touch.
(48) Lit., ‘like Tannas’.
(49) This is now presumed to refer to Lev. XXII, 5, which deals with the uncleanness of a creeping thing.
(50) Which (as will be shown presently) has a bearing on this deduction:
(51) Lit., ‘judge from it and (again) from it’, i.e., all that applies to the case from which deduction is made is also applicable to the case deduced
(52) Lit., ‘judge from it and set it in its (original) place’, i.e., the rules applicable to the case deduced limit the scope of the deduction.
(53) From the law of which that of semen had presumably been deduced (cf. n. 12).
(54) Lit., ‘and from it’, since ‘a deduction is carried through in all respects.’
(55) V. p. 301, n. 15.
(56) It has thus been shown that R. Hanilai's ruling is a point at issue between Tannas. Is it likely, however, that R. Hanilai would differ from the Tannas who presumably hold a different view?
(57) In an attempt to remove the difficulty (cf. prev. n. second clause).
(58) Lev. XXII, 5, as presumed by R. Papa supra.

(59) Lev. XXII, 4.
(60) Since the deduction is not made from the contact of the creeping thing.
(61) Sc. even if all were to uphold this view, uncleanness would nevertheless be conveyed by the touch of the smallest quantity of semen, since the inference is made, not from the uncleanness of the creeping thing but from that of the emission of semen which is conveyed by the smallest quantity.
(62) Those who recited Mishnahs and Baraithas at the college; v. Glos. s.v. (b).
(63) To give a decision as to whether R. Papa or R. Huna was in the right.
(64) Provided he was born prior to his brother's death.
(65) If he was born after his father's death though he only lived for a short while.
(66) His mother, the daughter of an Israelite, who was married to a priest, though the latter was dead when the child was born.
(67) This is now presumed to refer to a priest's daughter who was married to an Israelite who died and was survived by a son one day old (v. Gemara infra.)

Talmud - Mas. Nidah 44a

HE INHERITS AND TRANSMITS;[1] HE WHO KILLS HIM IS GUILTY OF MURDER, AND HE COUNTS TO HIS FATHER, TO HIS MOTHER AND TO ALL HIS RELATIVES AS[1] A FULLY GROWN MAN.[2]

GEMARA. Whence is this ruling[3] deduced? — [From the following]. For our Rabbis taught: From the term woman[4] I would only know that the laws[5] are applicable to a grown-up woman, whence, however, the inference that a girl one day old is also subject to the uncleanness of menstruation? Since it was explicitly stated, And a woman.[6]

ONE WHO IS TEN DAYS OLD IS SUBJECT TO THE UNCLEANNESS OF ZIBAH. Whence is this ruling deduced? [From the following]. For our Rabbis taught: From the term woman[7] I would only know that the laws are applicable to a grown-up woman, whence, however, the inference that a girl who is ten days old is also subject to the uncleanness of zibah? Since it was explicitly stated, And a woman.[8]

A BOY ONE DAY OLD etc. Whence is this ruling deduced? — [From the following Scriptural text]. For the Rabbis taught: When any man,[9] what was the object of stating, ‘When any man’?[10] To include a boy one day old in the restrictions of the uncleanness of zibah; so R. Judah. R. Ishmael son of R. Johanan b. Beroka said, This deduction is not necessary, for surely it is stated in Scripture, And of them that have an issue, whether it be a man or a woman;[11] ‘whether it be a man’ means one of any age, whether adult or minor, ‘or a woman means one of any age, whether an adult or minor. But if so[12] what need was there to state, ‘When any man’?[13] The Torah employed ordinary phraseology.[14]

[IS SUBJECT TO . . .] THE UNCLEANNESS OF LEPROSY, since it is written, When a man shall have in the skin of his flesh,[15] implying a man of any age.

[IS SUBJECT TO . . .] THAT OF CORPSE-UNCLEANNESS, because it is written, And upon the persons that were there,[16] implying a person of any age.

HE SUBJECTS [HIS DECEASED BROTHER'S WIDOW] TO THE DUTY OF LEVIRATE MARRIAGE, for it is written, If brethren dwell together,[17] implying brothers who are contemporaries.[18]

HE EXEMPTS [HIS MOTHER] FROM THE LEVIRATE MARRIAGE, for the All Merciful has said, And have no child,[17] but this man has one.

HE ENABLES HER TO EAT TERUMAH, for it is written, And such as are born in his house, they may eat[19] of his bread,[20] read it as, 'Shall cause to eat[21] of his bread'.

AND HE ALSO CAUSES HER TO BE DISQUALIFIED FROM EATING TERUMAH. For the All Merciful has said, And have no child,[22] but she has one. But what was the point of speaking of a 'child' seeing that the same applies even to an embryo, for it is written,[23] As in her youth,[22] which excludes[24] one who is pregnant?[25] Both texts were required. For if the All Merciful had only written, 'And have no child' [it might have been presumed that the law[26] applied to that case] because originally there was but one body and now there are two bodies,[27] but that in this case,[28] where there was originally one body and now also there is only one body, it may be held that the woman may eat terumah, hence the All Merciful has written, 'As in her youth'.[29] And if the All Merciful has only written, 'As in her youth' [it might have been presumed that the law[30] applied to that case alone] since originally the woman's body was empty and now it is a full one, but that in this case,[31] where her body was originally empty and is now also empty, the woman may well eat terumah. Hence the necessity for both texts. Now, the Scriptural texts have been well explained, but as regards our Mishnah, why just A BOY ONE DAY OLD, seeing[32] that even an embryo also disqualifies its mother? — R. Shesheth replied: We are here dealing with the case of a priest who had two wives, one who had previously been a divorced woman[33] and the other was not a divorced woman,[34] and he had sons from the latter[35] and one son from the former,[36] so that the latter[37] causes the slaves of his father[38] to be disqualified from eating terumah;[39] thus indicating that the law is contrary to the view[40] of R. Jose. He having laid down that an embryo[41] also causes disqualification we were informed here that only A BOY ONE DAY OLD causes disqualification but not an embryo.[42]

HE INHERITS AND TRANSMITS. From whom does he INHERIT? Obviously from his father; and to whom does he TRANSMIT? Obviously to his paternal brothers;[43] but could not these if they wished inherit from their father and, if they preferred, inherit from him?[44] — R. Shesheth replied: The meaning is, He[45] inherits the estate of his mother to transmit it[46] to his paternal brothers;[47] hence only then when he is ONE DAY OLD but not when he is an embryo. What is the reason? — Because it[48] dies first,[49] and no son may inherit from his mother

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(1) This is explained in the Gemara.

(2) Lit., 'bridegroom'.

(3) That A GIRL ONE DAY OLD etc.

(4) Lev. XV, 19, which deals with the laws of the menstruant.

(5) Cf. prev. n.

(6) Lev. XV, 19. E.V. and if a woman.

(7) Cf. prev. n. but two. The exposition now is based on what follows in the Scriptural text: Her issue...be blood.

(8) Cf. prev. two notes.

(9) Lev. XV, 2. Lit. 'a man, a man'.

(10) Sc. it would have sufficed if one 'man' (cf. prev. n.) had been omitted, the rendering being, 'when a man'.

(11) Lev. XV, 33.

(12) That the law has been enunciated in Lev. XV, 33.

(13) Lev. XV, 2. Lit., 'a man, a man'.

(14) Lit., 'spoke in the language of men', who are in the habit of repeating their words. No inference, therefore, may be drawn from the repetition of 'a man'.

(15) Lev. XIII, 2.

(16) Num. XIX, 18, in the context dealing with corpse-uncleanness.

(17) Deut. XXV, 5, in the context of the law of levirate marriage and halizah.

(18) Lit., 'who had one (and the same) sitting in the world'.

(19) יאכלו, yokelu (kal).

(20) Lev. XXII, 11.

(21) יאכילו, ya'akilu (hif.).

(22) Lev. XXII, 13.

(23) In the same context.

(24) From the privilege of eating terumah.

(25) Sc. if an embryo causes its mother to be disqualified from eating terumah it is self-evident that a child does it, what need then was there for the text, ‘and have no child’?

(26) Of disqualification (cf. p. 304, n. 14).

(27) Mother and born child.

(28) Lit., ‘here’, that of a pregnant woman.

(29) To indicate that even a pregnant woman is disqualified.

(30) Of disqualification (cf. supra p. 304, n. 14).

(31) Where the child was already born.

(32) As has just been shown.

(33) Whom a priest is forbidden to marry and whose children from a priestly marriage are disqualified priests and are themselves forbidden to eat terumah and, of course, have no right to confer the privilege of eating it upon their slaves.

(34) And whose sons from her marriage with the priest are qualified priests who also confer upon their slaves the right of eating terumah.

(35) Cf. prev. n.

(36) Cf. supra n. 8.

(37) After the death of his father, the priest.

(38) Whom he and his brothers jointly inherit from their deceased father.

(39) On account of his share in them; it being impossible to distinguish which of the slaves are his and which are his brothers’.

(40) Lit., ‘to bring out’.

(41) From a forbidden marriage (cf. supra n. 8).

(42) The disqualification spoken of in our Mishnah thus referring to the slaves and not, as has previously been assumed, to the child's mother, the difficulty raised supra is now solved.

(43) Since only paternal relatives are entitled to inherit one's estate.

(44) Of course they could, since the child's estate would in any case revert on his death to his father from whom they would inherit it. What meaning then could be assigned to the law that he TRANSMITS?

(45) A BOY ONE DAY OLD.

(46) When he dies.

(47) Who were born from the same father but not from the same mother.

(48) The embryo, when its mother dies.

(49) Sc. before its mother.

Talmud - Mas. Nidah 44b

in the grave[1] to transmit the inheritance to his paternal brothers. But, surely, this[2] is not? so, for was there not a case where an embryo made three convulsive movements?[3] — Mar son of R. Ashi replied: [Those were only reflexive movements] like those of the tail of the lizard which moves convulsively [even after it has been cut off].[4]

Mar son of R. Joseph citing Raba explained: This[5] means to say that he causes a diminution in the portion of the birthright.[6] Mar son of R. Joseph citing Raba further ruled: A son born after the death of his father causes no diminution in the portion of the birthright.[7] What is the reason?[8] It is required that They shall have born to him.[9] Thus[10] it was taught at Sura; but at Pumbeditha it was taught as follows: Mar son of R. Joseph citing Raba ruled, A firstborn son that was born after the death of his father[11] does not receive a double portion. What is the reason? It is necessary that He shall acknowledge,[12] and [‘he’,] surely, is not [there to acknowledge]. And the law is in agreement with all those versions which Mar son of R. Joseph cited in the name of Raba.

HE WHO KILLS HIM IS GUILTY OF MURDER, since it is written, And he that smiteth any man mortally,[13] implying, whatever the age.[14]

AND HE COUNTS TO HIS FATHER, TO HIS MOTHER AND TO ALL HIS RELATIVES AS A FULLY GROWN MAN, In respect of what law? — R. Papa replied: In respect of that of mourning. In agreement with whose view [is our Mishnah]?[15] It cannot be, can it, in agreement with[16] R. Simeon b. Gamaliel who ruled: Any human[17] child[18] that survived for thirty days cannot be, regarded as a miscarriage,[19] from which it follows that if he had not lived so long he would have been a doubtful case?[20] — Here[21] we are dealing with the case of a child concerning whom it is established that the months of his pregnancy were duly fulfilled.[22]

MISHNAH. A GIRL OF THE AGE OF THREE YEARS AND ONE DAY MAY BE BETROTHED[23] BY INTERCOURSE; IF THE YABAM[24] HAD INTERCOURSE WITH HER, HE ACQUIRES HER THEREBY;[25] THE GUILT[26] OF ADULTERY[27] MAY BE INCURRED THROUGH HER,[28] AND SHE[29] CAUSES UNCLEANNESS TO THE MAN WHO HAD INTERCOURSE WITH HER SO THAT HE IN TURN CONVEYS UNCLEANNESS TO THAT UPON WHICH HE LIES,[30] AS TO A GARMENT WHICH HAS LAIN UPON [A ZAB].[31] IF SHE WAS MARRIED TO A PRIEST, SHE MAY EAT TERUMAH. IF ANY OF THE INELIGIBLE PERSONS[32] COHABITED WITH HER HE DISQUALIFIES HER FROM THE PRIESTHOOD.[33] IF ANY OF THE FORBIDDEN DEGREES ENUMERATED IN THE TORAH COHABITED WITH HER HE IS TO BE EXECUTED ON HER ACCOUNT, BUT SHE[34] IS EXEMPT [FROM THE PENALTY]. IF ONE WAS YOUNGER THAN THIS AGE INTERCOURSE WITH HER IS LIKE PUTTING A FINGER IN THE EYE.

GEMARA. Our Rabbis taught: A girl of the age of three years may be betrothed by intercourse; so R. Meir. But the Sages say: Only one who is three years and one day old. What is the practical difference between them? — The school of R Jannai replied: The practical difference between them is the day preceding the first day of the fourth year.[35] R. Johanan, however, replied: The practical difference between them is the rule that thirty days of a year are counted as the full year.[36]

An objection was raised: A girl of the age of three years and even one of the age of two years and one day may be betrothed by intercourse; so R. Meir. But the Sages say: Only one who is three years and one day old.

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(1) Sc. after his death.

(2) That an embryo dies before its mother.

(3) After its mother was dead.

(4) But are no signs of life.

(5) The law that A BOY ONE DAY OLD... TRANSMITS.

(6) If, for instance, there were two brothers other than the boy in question, and one of them was the firstborn, the estate is divided, not into three portions (two for the ordinary portions of the two brothers and one for the birthright), but into four portions. Each brother, including the young child, receives one such portion and the firstborn receives the additional fourth portion as his birthright. The firstborn thus receives, as the portion of his birthright, a quarter of the estate, and not (as would have been the case if the child were excluded) a third.

(7) Though he receives his due portion in the estate. In the case mentioned as an instance in the prev. n. the estate would first be divided into three portions (as if the embryo did not exist) and the firstborn would receive, as his birthright, one of these, which represents a third of the estate. The remaining two thirds would then be divided into three equal shares, each of the three brothers receiving one, I.e., two ninths of the estate. The full portion of the firstborn would accordingly amount to (1/3 + 2/9 = 5/9) five ninths of the estate, while, where the child was one day old, the firstborn's full portion would only amount to half the estate, i.e., (5/9 — 1/2 = 1/18) one eighteenth less.

(8) That a born child does, and an embryo does not cause a diminution in the portion of the birthright.

(9) Deut. XXI, 15, emphasis on ‘him’, sc. while the father is alive. An embryo cannot come within the category of ‘have born'.

(10) The version just given.

(11) In the case, for instance, where his widow bore twins, or where he was survived by two widows and both bore sons and one of these was the firstborn.

(12) Deut. XXI, 17.

(13) Lev. XXIV, 17.

(14) Lit., 'from any place'.

(15) Which, treating an infant one day old in the various laws embodied in it as a grown-up man, obviously assumes him to be viable.

(16) Lit., 'that not as'.

(17) Opp. to cattle where the period is only eight days.

(18) Of doubtful premature birth.

(19) Thirty days being a period that suffices to establish the viability of a child.

(20) Now since according to our Mishnah a child may be regarded as viable on the first day of its life (cf. p. 307, n. 9) its view must differ from that of R. Simeon b. Gamaliel, must it not?

(21) In our Mishnah.

(22) Lit., 'whose months have ended'. The child's viability is beyond question even according to R. Simeon b. Gamaliel who (cf. p. 307, n. 12) referred only to a doubtful premature birth.

(23) Subject to her father's approval.

(24) The brother of her deceased childless husband, whose duty it is to contract the levirate marriage with her.

(25) In consequence of which he gains possession of his deceased brother's estate, is entitled if she dies to inherit her own estate and even if he is a priest, he may defile himself to her as to a legally married wife.

(26) Punishable by death.

(27) Lit., 'on account of the wife of a man'.

(28) If, for instance, her father betrothed her to one man and another cohabited with her.

(29) When a menstruant.

(30) Lit., 'lower couch'.

(31) Lit., 'like the upper'.

(32) A bastard or a slave, for instance.

(33) Sc. if she was the daughter of a priest she loses the privilege of eating terumah.

(34) Being a minor.

(35) Lit., 'the eve of the beginning of the year'. According to R. Meir she attains the prescribed age on that day while according to the Rabbis she does not attain it until the following day.

(36) According to R. Meir the prescribed age is attained as soon as thirty days of the third year have passed, while according to the Rabbis it is not attained until the first day of the fourth year.

Talmud - Mas. Nidah 45a

Now, all is well according to R. Johanan, for just as there is a Tanna[1] who holds[2] that one day of a year is counted as a year so there may also be a Tanna who holds[3] that thirty days of a year are counted as a full year; but, according to R. Jannai,[4] does not this[5] present a difficulty? — This is a difficulty.

IF ONE WAS YOUNGER THAN THIS AGE, INTERCOURSE WITH HER IS LIKE PUTTING A FINGER IN THE EYE. It was asked, Do the features of virginity[6] disappear[7] and reappear again[8] or is it possible that they cannot be completely destroyed until after the third year of her age? In what practical respect could this matter? — In one, for instance, where her husband had intercourse with her before the age of[9] three and found blood, and when he had intercourse after the age of three he found no blood. If you grant that they disappear and reappear again [it might well be assumed][10] that[11] there 'was not sufficient time for their reappearance, but if you maintain that they cannot be destroyed until after the age of three years it would be obvious that[12] a stranger cohabited with her.[13] Now what is your decision? — R. Hiyya son of R. Ika demurred: But who can tell us that a wound inflicted within the three years is not healed[14] forthwith, seeing it is possible that it is immediately healed and it would thus be obvious[12] that a stranger had cohabited with her?[13] Rather the practical difference is the case, for instance, where her husband had intercourse with her while she was under[15] three years of age and found blood and when he had intercourse after the age of three he also found blood. If you grant that the features disappear and reappear again the blood might well be treated as that of virginity, but if you maintain that they cannot be destroyed until after the age of three years, that[16] must be the blood of menstruation. Now what is your decision? — R. Hisda replied, Come and hear: IF ONE WAS YOUNGER THAN THIS AGE, INTERCOURSE WITH HER IS LIKE PUTTING A FINGER IN THE EYE; what need was there to state, LIKE PUTTING A FINGER IN THE EYE' instead of merely saying: IF ONE WAS YOUNGER THAN THIS AGE, INTERCOURSE WITH HER IS of no consequence'? Does not this then teach us that as the eye tears and tears again so do the features of virginity disappear and reappear again.

Our Rabbis taught: It is related of Justinia[17] the daughter of ‘Aseverus son of Antonius that she once appeared before Rabbi ‘Master’, she laid to him, ‘at what age may a woman marry?’. ‘At the age of three years and one day’, he told her. ‘And at what age is she capable of conception?’ ‘At the age of twelve years and one day’, he replied. ‘I’, she said to him, ‘married at the age of six and bore a child at the age of seven; alas for the three years that I have lost at my father's house’. But can a woman conceive at the age of six years? Did not R. Bibi recite in the presence of R. Nahman: Three classes of woman may use an absorbent[18] in their marital intercourse:[19] A minor, and an expectant and a nursing mother. The minor,[20] because otherwise she might become pregnant and die. An expectant mother,[20] because otherwise she might cause her foetus to degenerate into a sandal.[21] A nursing mother,[20] because otherwise she might have to wean her child prematurely,[22] and this would result in his death. And what is the age of such a ‘minor’?[23] From the age of eleven years and one day to the age of twelve years and one day. One who is under[24] or over this age[25] must carry on her marital intercourse in a normal manner; so R. Meir. But the Sages ruled: The one as well as the other carries on her marital intercourse in a normal manner and mercy[26] will be vouchsafed from heaven, for it is said in Scripture, The Lord preserveth the simple?[27] — If you wish I might reply: Whose flesh is as the flesh of asses.[28] And if you prefer I might reply: Whose mouth speaketh falsehood, and their right hand is a right hand of lying.[29]

Our Rabbis taught: A story is told of a certain woman who came before R. Akiba and said to him, ‘Master, intercourse has been forced upon me[30] when I was under[31] three years of age; what is my position towards the priesthood?’[32] ‘You are fit for the priesthood’,[33] he replied. ‘Master’, she continued, ‘I will give you a comparison; to what may the incident be compared? To a babe whose finger was submerged[34] in honey. The first time and the second time he cries about it, but the third time he sucks it’.[35] ‘If so’, he replied, ‘you are unfit for the priesthood’.[36] Observing that the students were looking at each other,[37] he said to them, ‘Why do you find the ruling difficult?’[38] ‘Because’, they replied, ‘as all the Torah is a tradition that was handed to Moses at Sinai so is the law that a girl under the age of three years[39] is fit for the priesthood one that was handed to Moses at Sinai’. R. Akiba too made his statement[40] only for the purpose of exercising the wits of[41] the students.[42]

MISHNAH. IF A BOY OF THE AGE OF NINE YEARS AND ONE DAY COHABITED WITH HIS CHILDLESS BROTHER'S WIDOW, HE[43] ACQUIRES HER THEREBY,[44] BUT[45] HE CANNOT DIVORCE HER UNTIL HE ATTAINS HIS MAJORITY. HE CONTRACTS UNCLEANNESS THROUGH INTERCOURSE WITH A MENSTRUANT AND HE IN TURN CONVEYS THE SAME DEGREE OF UNCLEANNESS TO THAT UPON WHICH HE LIES AS [DOES A ZAB] TO THAT WHICH HAS LAIN UPON HIM.[46] HE[47] DISQUALIFIES A WOMAN FROM THE PRIESTHOOD,[48] BUT[49] CANNOT CONFER UPON ONE[50] THE RIGHT TO EAT TERUMAH.[51] HE RENDERS A BEAST[52] INVALID FOR THE ALTAR, AND IT IS STONED ON HIS ACCOUNT.[53] IF HE HAD INTERCOURSE WITH ANY OF THE FORBIDDEN

DEGREES THAT ARE ENUMERATED IN THE TORAH, SHE IS TO BE EXECUTED ON HIS ACCOUNT, THOUGH HE[54] IS EXEMPT FROM PUNISHMENT.

GEMARA. But when HE ATTAINS HIS MAJORITY, is[55] a divorce alone sufficient? Was it not taught: The cohabitation of a boy of nine years[56] of age was given the same validity as that of a ma'amar[57] by an adult; as a ma'amar by an adult requires[58] a divorce in respect of his ma'amar and halizah in respect of his marital bond so does the cohabitation of a boy of nine years of age[56] require[58] a divorce in respect of his ma'amar[59] and halizah in respect of his marital bond?[60] — Rab replied: It is this that was meant:[61]

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(1) In the Baraitha just cited.

(2) As evidenced by his ruling, ‘Even one of the age of two years and one day’.

(3) As R. Johanan submitted supra according to R. Meir.

(4) Sc. the school of R. Jannai who submitted supra that even R. Meir does not regard the part of the third year as a full year.

(5) Cf prev. n. but two.

(6) Of one under three years of age.

(7) As a result of intercourse.

(8) Lit., ‘going do they go and come’.

(9) Lit., ‘within’.

(10) As a reason for the absence of blood.

(11) Owing to his continued intercourse.

(12) Lit., ‘surely’, since the husband found no traces of bleeding.

(13) After she had attained the age of three. She would consequently be subjected to the disqualifications of a harlot.

(14) Lit., ‘returns’.

(15) Lit., ‘within’.

(16) The blood found while she was under three.

(17) For a different reading and a biographical note v. Golds.

(18) Muk, flax or hackled wool.

(19) To avoid conception.

(20) Is permitted the use of the absorbent.

(21) A fish-shaped abortion. Lit., ‘flat-fish’.

(22) On account of her second conception which causes the deterioration of her breast milk.

(23) Of whom it has been said that she is capable of conception but is thereby exposed to fatal consequences.

(24) When conception is impossible.

(25) When conception involves no danger.

(26) To protect them from harm.

(27) Ps. CXVI, 6; sc. those who are unable to protect themselves. At any rate it was here stated that a minor under eleven years of age is incapable of conception. How then is Justinia's story to be reconciled with this statement?

(28) Ezek. XXIII, 20.

(29) Ps. CXLIV, 8.

(30) By a disqualified person.

(31) Lit., ‘within’.

(32) Sc. is she permitted to marry a priest?

(33) Cf. prev. n.

(34) Lit., ‘they hid for him’.

(35) Sc. he ultimately enjoyed the experience.

(36) Cf. prev. n.

(37) Amazed or perplexed.

(38) Lit., ‘why is the thing difficult in your eyes’.

(39) Who had intercourse.

(40) ‘If so, you are unfit etc.’

(41) Lit., ‘to sharpen’.
(42) By affording them the opportunity of questioning his ruling.
(43) Since his marriage with the widow is Pentateuchally ordained.
(44) And in consequence gains possession of his deceased brother's estate, though elsewhere a minor cannot acquire possession.
(45) Since his deceased brother's marriage was fully valid and his own bond with the widow is consequently equally valid, while his divorce, being merely that of a minor, has no validity.
(46) Lit., ‘the lower couch as the upper’.
(47) If he is a disqualified person, a bastard, for instance, or a slave.
(48) If she was the daughter of a priest she loses her right to the eating of terumah.
(49) Though a priest.
(50) If, for instance, he had intercourse with his childless brother's widow.
(51) Though he acquires her as his wife.
(52) If he covered it, though his act was seen by one witness only.
(53) If his act (cf. prev. n.) was observed by two witnesses.
(54) On account of his minority.
(55) As our Mishnah seems to imply.
(56) And one day.
(57) V. Glos.
(58) If the parties have agreed upon a divorce.
(59) Which corresponds to intercourse which is another form of kinyan (v. Glos.) Alfasi reads: in respect of his intercourse.
(60) How then could it be ruled here that a divorce alone suffices?
(61) By our Mishnah.

Talmud - Mas. Nidah 45b

when HE ATTAINS HIS MAJORITY he shall cohabit with her[1] and give her a divorce.[2]

MISHNAH. THE VOWS OF A GIRL OF THE AGE OF ELEVEN YEARS AND ONE DAY MUST BE EXAMINED;[3] THE VOWS OF ONE WHO IS OF THE AGE OF TWELVE YEARS AND ONE DAY ARE VALID;[4] AND THROUGHOUT THE TWELFTH YEAR THEY ARE TO BE EXAMINED.[3] THE VOWS OF A BOY OF THE AGE OF TWELVE YEARS AND ONE DAY MUST BE EXAMINED;[5] THE VOWS OF ONE WHO IS OF THE AGE OF THIRTEEN YEARS AND ONE DAY ARE VALID; AND THROUGHOUT THE THIRTEENTH YEAR THEY ARE TO BE EXAMINED.[5] PRIOR TO THIS AGE,[6] EVEN THOUGH THEY SAID, ‘WE KNOW IN HONOUR OF WHOSE NAME WE HAVE MADE OUR VOW’ OR ‘IN HONOUR OF WHOSE NAME WE HAVE MADE OUR DEDICATION’, THEIR VOW[7] IS NO VALID VOW AND THEIR DEDICATION IS NO VALID DEDICATION. SUBSEQUENT TO THIS AGE,[8] EVEN THOUGH THEY SAID, ‘WE DO NOT KNOW IN THE HONOUR OF WHOSE NAME WE HAVE MADE OUR VOW’ OR ‘IN HONOUR OF WHOSE NAME WE HAVE MADE OUR DEDICATION’, THEIR VOW IS A VALID VOW AND THEIR DEDICATION IS A VALID DEDICATION.

GEMARA. But since it was stated, THE VOWS OF A GIRL OF THE AGE OF ELEVEN YEARS AND ONE DAY MUST BE EXAMINED,[9] what need was there for stating, THE VOWS OF ONE WHO IS OF THE AGE OF TWELVE YEARS AND ONE DAY ARE VALID? — It might have been presumed that henceforth they must always be examined,[10] hence we were informed that after the age of twelve years and a day the vows are invariably valid. But since it was stated, THE VOWS OF ONE WHO IS OF THE AGE OF TWELVE YEARS AND ONE DAY ARE VALID,[11] what need was there for stating, AND THROUGHOUT THE TWELFTH YEAR THEY ARE TO BE EXAMINED?[12] — It might have been presumed that, since a Master has laid down that

‘Thirty days of a year are counted as a full year’, where we examined her vows during a period of thirty days[13] and she knew not how to express their significance,[14] no further examinations[15] should be held[16] hence we were informed that her vows are to be examined all through the twelfth year. Then let the last two cases be stated, THE VOWS OF ONE WHO IS OF THE AGE OF TWELVE YEARS AND ONE DAY ARE VALID, AND THROUGHOUT THE TWELFTH YEAR THEY ARE TO BE EXAMINED, but[17] what was the need for the statement, THE VOWS OF A GIRL OF THE AGE OF ELEVEN YEARS AND ONE DAY MUST BE EXAMINED? — It was required: Since it might have been suggested that as a rule examination was necessary in the twelfth year and unnecessary in the eleventh year, but that where we see that the girl is particularly bright she might also be examined in the eleventh year,[18] we were informed that the period of examination invariably begins at the age of eleven years and one day. What was the need[19] for stating, PRIOR TO THIS AGE and SUBSEQUENT TO THIS AGE? — It might have been presumed that the previous rulings[20] applied only where the children themselves spontaneously say nothing[21] but that where they do assert spontaneous opinion[22] we may rely upon them, hence we were informed that even their own assertions do not affect the age limits.

Our Rabbis taught: These[23] are the rulings of Rabbi. R. Simeon b. Eleazar stated, The age limits that were assigned to the girl apply to the boy while those assigned to the boy apply to the girl.[24] R. Hisda stated: What is Rabbi's reason? Because it is written in Scripture, And the Lord God built[25] the rib[26] which teaches that the Holy One, blessed be He, endowed the woman with more understanding[27] than the man. And the other?[28] — He requires that text[25] for the same deduction as the one made by Resh Lakish, for Resh Lakish citing R. Simeon b. Menasya stated, And the lord God built the rib which he took from the man into a woman, and he brought her unto the man,[29] teaches that the Holy One, blessed be He, plaited Eve's hair and then brought her to Adam, for in the sea-towns they describe net-work as binyatha.[30] But what is R. Simeon b. Eleazar's reason? — R. Samuel son of R. Isaac replied: As a boy frequents the house of his teacher his subtlety[31] develops earlier.[32]

It was asked: Is the intervening period[33] regarded as that of under, or of over age?[34] — In respect of what law could this matter: If in that of vows, it is neither regarded as that of under age nor as that of over age?[35] — Rather in respect of punishments.[36] Now what is the ruling? — Both Rab and R. Hanina replied: The intervening period is regarded as that of under age.[37] Both R. Johanan and R. Joshua b. Levi replied: The intervening period is regarded as that of over age. Said R. Nahman b. Isaac: Your mnemonic[38] is: Now this was the custom in former time in Israel.[39]

R. Hamnuna raised an objection:[40] SUBSEQUENT TO THIS AGE, EVEN THOUGH THEY SAID, WE DO NOT KNOW IN HONOUR OF WHOSE NAME WE HAVE MADE OUR VOW’ OR ‘IN HONOUR OF WHOSE NAME WE HAVE MADE OUR DEDICATION’ THEIR VOW IS A VALID VOW AND THEIR DEDICATION IS A VALID DEDICATION. Thus[41] it follows, does it not, that the intervening period is regarded as that of under age? Said Raba to him, Read then the first clause: PRIOR TO THIS AGE, EVEN THOUGH THEY SAID, ‘WE KNEW IN HONOUR OF WHOSE NAME WE HAVE MADE OUR VOW’ OR ‘IN HONOUR OF WHOSE NAME WE HAVE MADE OUR DEDICATION’, THEIR VOW IS NO VALID VOW AND THEIR DEDICATION IS NO VALID DEDICATION. Thus[42] it follows, does it not, that the intervening period is regarded as that of over age? — This, however, is no argument, Raba having laboured under a misapprehension. He thought that R. Hamnuna drew his inference from a Mishnah redundancy,[43] [hence he argued that] instead of drawing an inference from the final clause he might as well have drawn one from the first clause; but this was not the case. R. Hamnuna in fact drew his inference from the very wording[44] of our Mishnah. How [he reasoned] is one to understand the expression of ‘SUBSEQUENT TO THAT AGE’? If by that time one had not yet grown two hairs, one would, surely, still be a minor.[45] Consequently it must refer to one who had grown two hairs,

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(1) Thus, being of age, affecting valid kinyan of marriage.
(2) Being now in all respects her lawful husband, halizah is no longer necessary.
(3) To ascertain whether the girl was aware of their significance.
(4) No examination being necessary.
(5) Cf. prev. n. but one, mut. mut.
(6) The first day of the twelfth year in the case of a girl and the first day of the thirteenth year in that of a boy.
(7) Since they are still minors.
(8) Twelve years and a day in the case of a girl and thirteen years and a day in that of a boy when they respectively attain their majority.
(9) From which it might well be inferred that at a later age her vows are valid and no examination is necessary.
(10) And that the age of eleven years and one day is only the limit below which even an examination does not establish the validity of a vow.
(11) And it has previously been stated that from the age of eleven years and one day vows must be examined.
(12) A ruling which evidently follows (cf. prev. n.) from the previous statements.
(13) The first of the twelfth year.
(14) Thus revealing her mental incapacity.
(15) During the remaining months of that year.
(16) On the assumption that the examinations during the thirty days have established for the rest of that year that her mental state was that of a minor.
(17) In view of the explicit statement that examinations are conducted throughout the twelfth year.
(18) And if she shows sufficient mental development her vows are valid even at that early age.
(19) In view of the earlier statements.
(20) On the limits of minority and majority.
(21) Sc. they do not claim ‘we know’ when they are under the age limit or ‘we do not know’ when they are above the limit.
(22) Cf. Prev. n. mut. mut.
(23) The statements on the respective age limits of a boy and a girl, according to which the latter matures earlier than the former.
(24) The boy, in his opinion, maturing earlier.
(25) Wa-yiben.
(26) Gen. II, 22. E.V., And the rib...made He.
(27) Binah, of a root that is analogous to that of wa-yiben (prev. n. but one).
(28) R. Simeon b. Eleazar; how in view of this deduction can he maintain his view?
(29) Gen. II, 22. E.V., And the rib . . . made He.
(30) ‘Building’.
(31) Or ‘shrewdness .
(32) Lit., ‘enters into him first’.
(33) From the age of eleven years and a day to that of twelve years and a day and from twelve years and a day to thirteen years and a day in the case of a girl and a boy respectively.
(34) Lit., ‘as before time or as after time’.
(35) As stated supra.
(36) And in the case where the boy or the girl had grown two pubic hairs. In the absence of these, even one of age is exempt from punishments.
(37) And exempt from punishment.
(38) An aid to the recollection of the respective authorship of the two views just expressed.
(39) R. Joshua b. Levi was a Levite, whilst Rab and R. Hanina were Israelites; and those who were ‘in Israel’ (Israelites) gave former time’ which recalls ‘before time’ (‘under age’) as their ruling (Tosaf. Asheri).
(40) Against R. Johanan and R. Joshua b. Levi.
(41) Emphasizing SUBSEQUENT.
(42) Emphasis on PRIOR.
(43) Sc. the apparent superfluity of the rulings PRIOR TO THIS AGE etc. and SUBSEQUENT TO etc. discussed and explained supra.

(44) Lit., 'from the body'.
(45) How then could it be ruled, THEIR VOW IS VALID etc.

Talmud - Mas. Nidah 46a

the reason for the ruling[1] being that one was over age, when all requirements[2] were satisfied.[3] Thus it follows, does it not, that the intervening period[4] is regarded as that of under age?[5] A further objection was [also] raised by R. Zera: When . . . man . . . shall clearly utter a vow, the vow of . . .[6] What was the purpose of stating 'man'? To include in the scope of the law a boy of the age of thirteen years and one day whose vows are valid, though he is unable to 'utter clearly'. Now how is this to be understood? If it be suggested that the reference is to a boy who had not yet grown two hairs, [the objection could be raised:] Such a boy would still have the status of a minor.[7] The reference consequently must be to one who had grown two hairs, the reason being that he is thirteen years and one day old, when he is regarded as a 'man'. Thus[8] it follows, does it not, that the intervening period is regarded as that of under age?[9] — This is indeed a refutation.

R. Nahman stated, The question[10] is a point at issue between Tannas:[11] [For it was taught:] If a boy of the age of seven years grew two hairs they are attributed to a mole;[12] from the age of nine years to that of twelve years and one day they are also to be attributed to a mole,[12] but R. Jose son of R. Judah ruled: They[13] are a sign of puberty; at the age of thirteen years and one day, all agree that they are a sign of puberty.[14] Now is not this self-contradictory: You said, 'From the age of nine years to that of twelve years and one day they are also to be attributed to a mole', from which it follows that at the actual age of thirteen years they are a sign of puberty; but then it is stated, 'At the age of thirteen years and one day . . . they are a sign of puberty', from which it follows, does it not, that at the actual age of thirteen years they are to be attributed to a mole? Must you not concede then that this question[15] is a point at issue between the Tannas, one Master[16] holding that the intervening period is regarded as that of over age while the other Master maintains that the intervening period is regarded as that of under age?[17] No; all may agree that the intervening period is regarded as that under age, but both clauses refer to a girl the first[18] supporting the view of Rabbi[19] while the latter[20] represents that of R. Simeon b. Eleazar.[21] And if you prefer I[22] might reply: Both clauses refer to a boy, and the first represents the view of R. Simeon b. Eleazar while the latter represents the view of Rabbi.[23] And if you prefer I[24] might reply: Both clauses are the view of Rabbi, but one[25] refers to a boy while the other[26] refers to a girl. And if you prefer I[24] might say: Both clauses are the view of R. Simeon b. Eleazar, but the one[26] refers to a boy while the other[25] refers to a girl.

'R. Jose son of R. Judah ruled: They are a sign of puberty.' R. Keruspedai son of R. Shabbethai explained: This applies only where they[27] are still on him.[28] So it was also taught: If a boy of the age of nine years and one day had grown two hairs they are to be attributed to a mole; from the age of nine years to that of twelve years and one day, though the hairs are still on him, they are to be attributed to a mole. R. Jose son of R. Judah ruled: They are a sign of puberty.

Raba stated: The law is that the intervening period is regarded as that of under age. R. Samuel b. Zutra taught Raba's tradition in the following form:[29] Raba stated, A minor all through her twelfth year may make a declaration of mi'un[30] and go away,[31] but from that age upwards she may not make a declaration of mi'un[32] but[33] she may not submit to halizah.[34] Is not this statement, however, self contradictory? You said, 'she may not make a declaration of mi'un' from which it is evident that[35] she is regarded as one of age; but if she is of age why may she not submit to halizah? And were you to reply that he[36] was in doubt,[37] [it could be retorted:] Was he in doubt? Did not Raba in fact rule: A minor on attaining the age of majority need not be examined[38] since there is presumption that she has grown the signs of puberty? — This[39] applies only to general cases, but not here where an examination was held and no hairs were found. If so,[40] why should she not be allowed to make a declaration of mi'un? The possibility is taken into consideration that they might have fallen off. This would be a satisfactory explanation according to him who holds that such a possibility is taken into consideration, but what explanation can be offered according to him who holds that such a possibility need not be taken into consideration? Was it not stated: R. Kahana[41] ruled, There is no need to consider the possibility that they may have fallen off and R. Papi ruled, The possibility must be considered? — This[42] applies only to the matter of halizah,[43] but as regards mi'un the possibility is taken into consideration.[44] Thus it follows that according to him who holds that the possibility[45] is taken into consideration she may submit to halizah; but [it may be objected:] Did he not merely say that the possibility[46] is taken into consideration?[47] The fact is that this[48] is a case where she was not examined,[49] but the possibility[50] is taken into consideration as regards halizah,[51] and when Raba stated 'There is presumption' he meant it in regard to mi'un,[52] but in regard to halizah[53] an examination[54] is a pre-requisite. R. Dimi of Nehardea stated: The law is that the possibility that the hairs may have fallen off is taken into consideration.[55] This,[56] however, applies only where one had betrothed her[57] during the intervening period and cohabited after that period, since a Pentateuchal doubt is thereby involved,[58] but not to the original betrothal alone.[59]

R. Huna ruled: If [a child][60] dedicated some food and then ate it, he[61] is subject to flogging, for it is said in Scripture, When... man . . . shall clearly utter a vow,[62] and He shall not break his word,[63] which[64] implies that whosoever is able to 'utter clearly'[65] is subject to the prohibition of 'he shall not break his word'[66] and only he who is not able to 'utter clearly' is not subject to the injunction of 'he shall not break his word'. R. Huna b. Judah addressed an objection to[67] Raba[68] in support of R. Huna:

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(1) Cf. prev. n.

(2) Age and external marks of puberty.

(3) Lit., 'when the thing was completed'.

(4) When the prescribed age limit had not yet been reached.

(5) An objection against R. Johanan, and R. Joshua b. Levi.

(6) Num. VI, 2.

(7) How then could his vow be valid?

(8) Since the law is applicable only to one who is above the age of thirteen years and a day.

(9) An objection against R. Johanan. and R. Joshua b. Levi.

(10) To which age the intervening period belongs.

(11) Lit., 'as Tannas'.

(12) From which hair grows; and they are, therefore, no evidence of puberty.

(13) In the latter case, from nine years to twelve years and a day.

(14) Kid. 16b.

(15) To which age the intervening period belongs.

(16) The first Tanna.

(17) Which proves R. Nahman's contention.

(18) According to which the growth of the hairs at the age of thirteen years is sufficient evidence.

(19) Who stated supra that in the case of a girl the age of thirteen years is regarded as over the prescribed age.

(20) From which it is inferred that the growth of hairs at the age of thirteen is attributed to a mole.

(21) Who, as stated supra, regards a girl at the age of thirteen years as being under the age prescribed.

(22) Still maintaining that the intervening period is regarded as that of under age.

(23) V. supra 45b.

(24) Still maintaining that the intervening period is regarded as that of under age.

(25) The last clause.

(26) The first clause.

(27) The two hairs.

(28) When he attained his majority. If by that time they have fallen off it is obvious that their growth was merely due to a mole.

(29) From which also it may be inferred that the intervening period is regarded as that of under age.

(30) V. Glos.

(31) And there is no need to consider the possibility that she may have grown two hairs. If any hairs had grown they must be attributed to a mole. It thus follows that the intervening period is regarded as that of under age.

(32) Since at this age the possibility must be considered that she may have grown two hairs.

(33) If her husband died childless.

(34) Because her majority is not yet established.

(35) If she has grown two hairs.

(36) Raba.

(37) Whether a girl at such an age had, or had not grown pubic hairs; and consequently he forbade mi'un in case she was already of age, and forbade halizah in case she was still a minor.

(38) For the presence of hairs.

(39) Raba's ruling just cited.

(40) That an examination has established the absence of hairs.

(41) So MS.M. and marg. gl. Cur. edd. ‘Papa’.

(42) That where no hairs were found there is no need to consider the possibility that they may have fallen off.

(43) Since by forbidding it the law is thereby restricted.

(44) And mi'un is, therefore, forbidden and (cf. prev. n. mut. mut.) only a proper divorce can dissolve the marriage.

(45) That the hairs may have fallen off.

(46) Emphasis on this word.

(47) Of course he said. How then can he allow halizah when the question of majority is still a matter of doubt?

(48) Raba's ruling just cited.

(49) And as she has attained the age of majority, when she might be presumed to have grown pubic hairs, she must be forbidden mi'un and subjected to the restrictions of divorce.

(50) That she never grew pubic hairs.

(51) And he cannot submit to halizah in order to be exempt from divorce. Since the law must always be restricted.

(52) Cf. prev. n. but two.

(53) Sc. to allow her to submit to halizah and be exempt from divorce (cf. prev. n. but one).

(54) To establish the presence of hair.

(55) Once she has attained the age of majority, though on examination no hairs are found, she may no longer exercise the right of mi'un.

(56) Cf. prev. n.

(57) With the approval of her mother or brothers.

(58) Cohabitation, which is a Pentateuchal form of ‘acquisition’ in marriage, having taken place at an age when she may well be presumed to have attained her majority.

(59) That was not followed by cohabitation after the age of majority had been attained. As the betrothal of a minor (if it was not effected through her father) has only Rabbinical sanction, the Rabbis did not insist on the restrictions of a divorce where her majority was in doubt. Where, however, hairs have grown, though betrothal took place during her minority, the Rabbis forbade mi'un and insisted on the restrictions of a divorce as a preventive measure against the possibility of allowing mi'un to one with whom cohabitation took place after majority had been attained.

(60) Who understands the significance of dedications and vows.

(61) Though exempt from penalties in other cases.

(62) Num. VI, 2, from which it is deduced that a minor approaching manhood (or womanhood), viz., a boy in his thirteenth year (or a girl in her twelfth), provided he (or she) understands the significance of vows and dedications, is regarded as a man (or woman).

(63) Num. XXX, 3.

(64) By analogy.

(65) Sc. understands the significance of vows.

(66) A negative precept punishable by flogging.

(67) Not ‘against’.

(68) MS.M. and Maharsha delete the last two words the Heb. for which in cur. edd. is enclosed in parenthesis. [The objection is against those who hold infra that others who ate it are subject to flagellation but not the child. V. Maharsha].

Talmud - Mas. Nidah 46b

Talmud - Mas. Nidah 46b

Since we find that Scripture has put a minor on a par with an adult[1] as regards a presumptuous oath, a self-imposed prohibition[2] and [the injunction] not to break his word, it might have been presumed that he should also incur the liability of a sacrifice for eating that which he had dedicated, hence it was explicitly stated,[3] This is the thing.[4] At any rate, was it not here stated that guilt was incurred for infringing a self imposed prohibition or [the injunction] not to break one's word?[5] Read: The prohibition[6] not to break his word.[7] [You say,] 'The prohibition not to break his word'! Whatever your assumption may be [a difficulty arises]. If an intelligent minor[8] approaching manhood is Pentateuchally forbidden to break his word, he should also incur the penalty of flogging;[9] and if an intelligent minor approaching manhood is not Pentateuchally forbidden to do it, there should not be[10] even a mere prohibition?[11] — The prohibition[12] applies to those who are responsible for him.[13] May it then be inferred from this ruling[14] that if a minor eats nebelah[15] it is the duty of Beth din to take it away from him?[16] Here we may be dealing with a case, for instance, where the minor dedicated the food and others[17] ate it.[18] This explanation is quite satisfactory according to him who laid down that if a minor dedicated some food and others[17] ate it the latter are to be flogged, but what can be said in explanation according to him who ruled that they were not to be flogged; for it was stated: If a minor dedicated some food and others ate it, R. Kahana ruled, They are not to be flogged, while both R. Johanan and Resh Lakish ruled, They are to be flogged? — The prohibition[19] is[20] merely Rabbinical[21] and the Scriptural text[22] serves as a mere prop.

[Reverting to] the above text, 'If a minor dedicated some food and others ate it, R. Kahana ruled, They are not to be flogged, while both R. Johanan and Resh Lakish ruled, They are to be flogged'. On what principle do they differ? — The Masters[23] are of the opinion that an intelligent minor approaching manhood is under a Pentateuchal obligation[24] while the Master[25] is of the opinion that an intelligent minor approaching manhood is only under a Rabbinical obligation.[24] R. Jeremiah raised an objection: If a fatherless girl[26] made a vow, her husband may disallow it for her. Now if you grant that an intelligent minor approaching manhood is only under a Rabbinical obligation[24] one can well justify the ruling,[27] since the force of a Rabbinical marriage[28] may well annul a Rabbinical vow, but if you maintain that the obligation[24] is Pentateuchal, could [it may be objected] the force of a Rabbinical marriage[29] annul a Pentateuchal vow? — R. Judah citing Samuel replied: Her husband may disallow her vow for her whatever your assumption might be. If the minor's obligation[24] is Rabbinical, the whole matter is a Rabbinical affair; and if the obligation is Pentateuchal, it is a case of a minor who eats nebelah[30] where it is not the duty of the Beth din to take it away from him. But would she not be eating, in reliance upon the first disallowance,[31] even when she attains her majority?[32] — Rabbah b. Liwai replied: Her husband disallows her vow for her every now and then.[33] This,[34] however, applies only to one who cohabited with her.[35] But, surely, no husband may disallow vows made prior to marriage?[36] — This[37] is in agreement with R. Phinehas who cited Raba,[38] for R. Phinehas citing Raba stated: Any woman who vows acts in reliance on the opinion of her husband.[39]

Said Abaye, Come and hear: If a minor has not yet grown two hairs, R. Judah ruled, his terumah is not[40] valid; while R. Jose ruled, Before reaching the age when his vows are valid[41] his terumah is not valid, but after reaching the age when his vows are valid[42] his terumah is valid.[43] Assuming[44] that R. Jose is of the opinion that terumah at the present time is a Pentateuchal institution, his ruling would be well justified if you grant that an intelligent minor approaching manhood is under a Pentateuchal obligation,[45] since a man under a Pentateuchal obligation may well render fit[46] Pentateuchal tebel,[47] but if you maintain that he is only under a Rabbinical obligation,[48] could a man under a Rabbinical obligation render fit Pentateuchal tebel?[49] — No, R. Jose is of the opinion that terumah at the present time is only a Rabbinical institution. But does R. Jose hold that terumah at the present time is only Rabbinical? Was it not in fact taught in Seder Olam:[50] 'Which thy fathers possessed and thou shalt possess it,[51] they had a first,[52] and a second[53] possession[54] but they had no need for a third one';[55]

and R. Johanan stated, ‘Who is the author of Seder Olam? R. Jose?’[56] — R. Jose may well be its compiler[57] but he himself does not uphold this view.[58] This[59] may also be supported by a process of reasoning. For it was taught: A dough[60] that had become subject to the restrictions of terumah[61] or became sour through a leaven of terumah,

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(1) Cf. supra n. 9.

(2) V. Num. XXX, 3.

(3) In the same context as the oath and a self-imposed prohibition.

(4) Num. XXX, 2, emphasis on ‘this’, sc. but no other.

(5) Evidently it was; but since such a negative precept is punishable by flogging, R. Huna's ruling evidently finds support in the citation.

(6) Issur instead of issar (‘bond’, self-imposed prohibition).

(7) Without incurring a flogging.

(8) Sc. one understanding the significance of vows and dedications.

(9) As in the case of all Pentateuchal prohibitions.

(10) Since the Rabbis do not subject minors to preventive measures.

(11) Issur (cf. prev. n. but three).

(12) Spoken of supra, which is in fact only Rabbinical.

(13) Not to the minor himself (cf. prev. n. but two).

(14) According to which those responsible for a minor must prevent him from encroaching even on that which is only Rabbinically forbidden.

(15) Symbolic of any religious transgression.

(16) But if so why (cf. Yeb. 114a) was there a divergence of view on this question?

(17) Adults.

(18) The original reading, ‘prohibition and [the injunction] not to break’, may, therefore, be retained and yet no support would be forthcoming for R. Huna since the penalty of flogging does not apply to the minor but to the adults who ate that which he has dedicated.

(19) Sc. ‘the prohibition not to break his vow’.

(20) According to R. Kahana.

(21) As was first suggested supra.

(22) From which deduction was made supra 46a ad fin.

(23) R. Johanan and Resh Lakish.

(24) To observe the laws of vows and dedications.

(25) R. Kahana.

(26) A minor whose marriage was contracted by her mother or brothers.

(27) The husband's right by virtue of his marriage with the minor (cf. prev. n.) to disallow her vows.

(28) The marriage of a minor contracted in the absence of her father has only Rabbinical sanction.

(29) Cf. prev. n.

(30) Cf. supra p. 322, n. 14.

(31) Which has only Rabbinical validity.

(32) When she is subject to Pentateuchal prohibitions.

(33) Even after she has attained her majority.

(34) That the disallowance has Pentateuchal force.

(35) After she had attained majority. Cohabitation at that age having the Pentateuchal force of ‘acquisition’ the marriage which thus has Pentateuchal sanction may well enable the husband to disallow a vow that has Pentateuchal sanction.

(36) How then can he disallow here a vow that was made by a minor before her subsequent Pentateuchally valid marriage?

(37) The ruling that the husband may disallow the minor's vow though when she comes of age her vow would assume Pentateuchal validity.

(38) Sc. there is no need to explain, as presumably suggested, that the husband ‘disallows the vow every now and then’, for even though he only disallowed it during her minority, there is no need to disallow it again when she attains her majority.

(39) As the minor was at least Rabbinically married when her vow was made, its validity is entirely dependent on her husband's pleasure. Only where a woman was not married at all at the time her vow was made is her subsequently married husband precluded from disallowing it.
(40) In the separate edd. of the Mishnah this word is missing.
(41) V. foll. n.
(42) Sc. an intelligent minor approaching manhood whose vows are to be examined.
(43) Ter. I, 3.
(44) Lit., ‘they (the Rabbis of the college) thought’.
(45) In regard to his vows and dedications and consequently also in regard to his terumah.
(46) By separating terumah from it.
(47) Sc. produce the separation of terumah from which is Pentateuchally ordained, v. Glos.
(48) As R. Kahana maintains.
(49) An objection against R. Kahana.
(50) ‘Order of the World’, a chronological compilation by R. Jose b. Halafta in the first half of the second century.
(51) Deut. XXX, 5, repetition of the verb ‘to possess’.
(52) After the conquest of Joshua’.
(53) In the days of Ezra.
(54) Sc. the sanctity of the Land of Israel having ceased with the destruction of the first Temple and the Babylonian exile, a second ‘possession’ (sc. sanctification) was necessary.
(55) Since the second sanctification (as the Scriptural text implies) remained for all time. As the land remained sacred the Pentateuchal obligation of terumah also obviously remained in force.
(56) How then (cf. prev. n.) could it be maintained here that R. Jose holds the institution of terumah at the present time to be merely Rabbinical?
(57) Lit., ‘taught it’.
(58) That the second sanctification remained for all time. He may well be of the opinion that it ceased with the destruction of the second Temple and the Roman exile and that terumah at the present time is merely a Rabbinical institution.
(59) Cf. prev. n.
(60) Ordinary and unconsecrated.
(61) Where for instance, some terumah fell into a dough that was less than a hundred times the quantity of the former. Rabbinically, terumah cannot be neutralized unless it was mixed up with unconsecrated commodities that exceeded its quantity a hundredfold.

is subject to the obligation of the dough-offering[1] and[2] does not become unfit through contact with a tebul yom;[3] so R. Meir and R. Judah, but R. Jose and R. Simeon exempt it from the obligation of the dough-offering. Assuming[4] that he who holds that the institution of terumah[5] is Pentateuchal also holds that of the dough-offering[5] to be Pentateuchal and that he who holds that terumah[5] is Rabbinical also holds the dough-offering[5] to be Rabbinical, the ruling would be well justified if you grant that R. Jose[6] is of the opinion that the dough offering at the present time is only Rabbinical, since the Rabbinic law which subjects the dough to the restrictions of terumah may well override the Rabbinical law of the dough-offering, but if you maintain that the institution of the dough-offering[7] is Pentateuchal,[8] could the Rabbinic law which subjects the dough to the restrictions of terumah override the institution of the dough offering which is Pentateuchal?[9] — But is it not possible that R. Jose holds that terumah at the present time is a Pentateuchal institution while the dough offering is only a Rabbinical one, as in fact R. Huna son of R. Joshua stated in a reply?[10] For R. Huna son of R. Joshua stated, I found the Rabbis of the college sitting at their studies and saying, ‘Even according to him who holds that terumah at the present time is a Rabbinical institution, the dough offering is a Pentateuchal one, for during the seven years in which they[11] conquered Canaan and during the seven years in which they divided it[12] they were under the obligation of the dough offering though they were under no obligation to give tithe’; and I told them, ‘Even according to him who holds that terumah at the present time is Pentateuchal, the dough offering is only Rabbinical, for it was taught: If Scripture had written, "when you come"[13] it might have been presumed [that the obligation of the dough-offering should come into force] as soon as two or three spies had entered, hence it is said, In your coming,[14] I have spoken[15] only of the coming of all of you and not of the coming of a portion of you; but when Ezra brought them up not all of them went up with him.’[16]

MISHNAH. THE SAGES SPOKE OF [THE PHYSICAL DEVELOPMENT OF] A WOMAN IN FIGURATIVE SPEECH: AN UNRIPE FIG, A FIG IN ITS EARLY RIPENING STAGE AND A RIPE FIG. SHE IS LIKE AN UNRIPE FIG’ WHILE SHE IS YET A CHILD; A FIG IN ITS EARLY RIPENING STAGE’ WHEN SHE IS IN THE AGE OF[17] HER MAIDENHOOD. DURING BOTH THE LATTER AND THE FORMER AGES,[18] THEY[19] RULED, HER FATHER IS ENTITLED TO ANYTHING SHE FINDS AND TO HER HANDIWORK AND TO THE RIGHT OF INVALIDATING HER VOWS. ‘A RIPE FIG’ — AS SOON AS SHE BECOMES A BOGERETH, AND HER FATHER HAS NO LONGER ANY RIGHT OVER HER.

WHAT ARE THE MARKS [OF A BOGERETH]? R. JOSE THE GALILEAN SAYS: THE APPEARANCE OF[20] THE WRINKLE BENEATH THE BREAST. R. AKIBA SAYS: THE HANGING DOWN OF[21] THE BREASTS. BEN AZZAI SAYS: THE DARKENING OF THE RING AROUND THE NIPPLE. R. JOSE SAYS: [THE DEVELOPMENT OF THE BREAST TO A STAGE] WHEN ONE'S HAND BEING PUT ON THE NIPPLE IT SINKS AND ONLY SLOWLY RISES AGAIN.

GEMARA. SHE IS LIKE ‘AN UNRIPE FIG’[22] WHILE SHE IS YET A CHILD, as it is written in Scripture, The fig-tree putteth forth her green figs.[23]

‘A FIG IN ITS EARLY RIPENING STAGE’,[24] WHEN SHE IS IN THE AGE OF HER MAIDENHOOD, as we have learnt: Figs [become subject to tithe] as soon as they reach an early stage of ripening[25] and Rabbah b. Bar Hana explained this to mean: As soon as their tips grow white. And if you prefer I might say that the meaning[26] is derived from the following: For my soul became impatient of them, and their soul also loathed[27] me.[28]

A RIPE FIG’,[29] as one would say, ‘It has come forth complete.’[30]

WHAT ARE THE MARKS [OF A BOGERETH]? R. JOSE THE GALILEAN SAYS: THE APPEARANCE OF THE WRINKLE. Samuel explained: Not the actual appearance of the wrinkle, but it suffices if, when putting her hands behind her, the wrinkle beneath the breast seems to appear. Samuel[31] examined his slave and paid her four zuz compensation for the indignity. Samuel thereby followed his principle, for Samuel stated: Of them[32] may ye make bondmen[33] for ever,[34] I have given them to you for work[35] but not to be subjected to indignities. Samuel assigned his female slaves to individual husbands.[36] R. Nahman interchanged them.[37] R. Shesheth entrusted them to Arabs[38] but told them ‘Be careful to have no intercourse with an Israelite’.

R. JOSE SAYS etc. What is the meaning of ukaz?[39] — Samuel replied: The nipple of the breast.

Our Rabbis taught: What are the marks of bagruth? R. Eleazar son of R. Zadok stated, When the breasts begin to shake.[40] R. Johanan b. Beroka stated, When the top of the nose[41] grows white. But is not a woman when this grows white already old? — Rather said R. Ashi, when the top of the nose splits.[42] R. Jose stated, When a ring is formed around the nipple. R. Simeon stated, When the mons veneris grows lower.

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(1) Though terumah proper is exempt.

(2) Cf. prev. n. mut. mut.

(3) V. Glos.

(4) Lit., ‘they thought’ (cf. supra p. 324, n. 12).

(5) At the present time.

(6) Who exempts the dough under discussion from the dough-offering.

(7) At the present time.

(8) And that, consequently, terumah at the present time is also Pentateuchal.

(9) Of course not. A Rabbinical enactment could not override a Pentateuchal law. Consequently it must be admitted (as stated supra 46b ad fin.) that R. Jose holds terumah at the present time to be merely a Rabbinical institution.

(10) Of course it is possible. Hence the Baraitha cited provides no proof for the contention supra that the view that R. Jose holds terumah at the present time to be Rabbinical ‘may be supported by a process of reasoning’.

(11) The Israelites in the days of Joshua.

(12) Years that may well be compared to the ‘present time’.

(13) Ki thabo'u, so MS.M. Cur. edd., bebo'akem.

(14) Num. XV, 18, in the context of the dough-offering; Heb. beboa'kem, emphasis on kem ‘your’.

(15) Of the obligation of the dough-offering.

(16) Since that time, therefore, there could be no Pentateuchal obligation; and the dough offering of the present time must consequently be a mere Rabbinical institution.

(17) Lit., ‘these are the days of’.

(18) Childhood and maidenhood.

(19) The Sages.

(20) Lit., ‘when it rises’.

(21) Lit., ‘when they incline’.

(22) Paggah (v. foll. n.).

(23) Cant. II, 13, paggeha, the noun absolute being paggah (with the pron. suff. of the third sing. fem. and the omission of the dagesh in the pe owing to a preceding he) which proves that the term is applied to the earliest stage of growth.

(24) Bohal (v. foll. n.).

(25) Misheyibahalu, of the same root as bohal.

(26) Of bohal.

(27) Bahalah, of the same rt. as bohal.

(28) Zech. XI, 8; loathing is an early stage in the ‘rising’ of the food.

(29) צמל Zemel.

(30) Phonetic etymology. יצתה מלאה, yazetha mele'ah containing the letters of צמל.

(31) In his investigations on the applicability of R. Jose's ruling.

(32) Canaanitish slaves.
(33) Ta'abodu, lit., 'you may cause them to work'.
(34) Lev. XXV, 46.
(35) Cf. Prev. n. but one.
(36) Lit., 'he appointed for them', sc. he did not allow promiscuous intercourse among his slaves. To each female slave was assigned one particular male slave.
(37) Unlike Samuel he did not mind promiscuity among his slaves.
(38) Their morality, he held, was not his concern.
(39) Rendered supra 'nipple'.
(40) In walking. Aliter: 'to become stiff' (v. Jast.).
(41) The central circle of the oblate part of the breast (Jast.),
(42) Aliter (Jast.). When the skin of the central circle of the oblate part of the breast appears wrinkled.

Talmud - Mas. Nidah 47b

So also did R. Simeon[1] state: The Sages have indicated in [the physical development of] a woman three marks below and corresponding ones above. If, namely, she is like an unripe fig above, it may be taken for granted[2] that she has not yet grown two hairs. If she is above like a fig in its early ripening, it may be taken for granted[2] that she has already grown two hairs. If she is like a ripe fig above it may be taken for granted that the mons veneris has grown lower. What is meant by mons veneris? — R. Huna replied: There is a rounded eminence above that place,[3] and as the girl grows in age it steadily grows lower.

Rabbi was asked:[4] In agreement with whose view is the halachah? He sent word in reply: In agreement with all so as to restrict[5] the law.[6] R. Papa and R. Hinena son of R. Ika differ. One taught it[7] in connection with this,[8] while the other taught it in connection with the law of the Tyrian courtyard. For we have learnt: Which courtyard[9] imposes the obligations of tithe?[10] R. Simeon[11] ruled: A Tyrian courtyard in which objects are safely kept.[12] (Why is this described as a Tyrian courtyard? — Rabbah b. Bar Hana citing R. Johanan replied: Since in Tyre they put a watchman at the door of a courtyard.) R. Akiba ruled: Any courtyard which one may open and another close[13] is exempt from tithe.[14] R. Nehemiah ruled: Any courtyard in which no one is ashamed to eat is subject to tithe.[15] R. Jose ruled: Any courtyard into which people may enter and none is asked, 'What do you want?' is exempt.[14] R. Judah ruled: If there were two courtyards, one within the other, the inner one is subject to tithe[15] while the outer one is exempt.[14] Rabbi was asked: In agreement with whose view is the halachah? He replied: The halachah is in agreement with all of them so as to restrict the law.[16]

MISHNAH. IF A WOMAN AT THE AGE OF TWENTY DID NOT PRODUCE TWO HAIRS,[17] SHE MUST BRING EVIDENCE THAT SHE IS TWENTY YEARS OF AGE AND SHE BECOMES CONFIRMED AS A WOMAN WHO IS INCAPABLE OF PROCREATION AND NEITHER PERFORMS HALIZAH NOR IS TAKEN IN LEVIRATE MARRIAGE. IF A MAN OF THE AGE OF TWENTY YEARS DID NOT PRODUCE TWO HAIRS,[17] THEY[18] MUST BRING EVIDENCE THAT HE IS TWENTY YEARS OLD AND HE BECOMES CONFIRMED[19] AS A SARIS[20] AND NEITHER SUBMITS TO HALIZAH NOR PERFORMS THE LEVIRATE MARRIAGE; SO BETH HILLEL. BETH SHAMMAI RULED: WITH THE ONE AS WELL AS WITH THE OTHER [THIS TAKES PLACE AT] THE AGE OF EIGHTEEN. R. ELIEZER RULED IN THE CASE OF THE MALE, IN AGREEMENT WITH BETH HILLEL, WHILE IN THAT OF THE FEMALE, IN AGREEMENT WITH BETH SHAMMAI, SINCE A WOMAN MATURES EARLIER THAN A MAN. GEMARA. But I would point out an incongruity: The same law applies whether one is[21] of the age of nine years and one day or whether one is of the age of twenty years but had not produced two hairs![22] — R. Samuel son of R. Isaac citing Rab replied: This law[23] applies only where other symptoms of a saris[24] also appeared on him. Raba observed: This[25] may also be arrived at by a deduction. For it was stated, AND HE BECOMES CONFIRMED AS A

SARIS.[26] This is conclusive.

Where, however, no other symptoms of a saris had developed, how long [is one[27] regarded as a minor]? — R. Hiyya taught: Until he has passed middle age.[28] Wherever people come with such a case[29] before R. Hiyya,[30] he used to tell them, if the youth was emaciated, ‘Let him first be fattened’; and if he was stout, he used to tell them, ‘Let him first be made to lose weight’;[31] for these symptoms[32] appear[33] sometimes as a result of emaciation and sometimes they appear as a result of stoutness.

Rab stated: It is the law throughout this chapter that age is calculated from one point of time to another point of time;[34] but ‘Ulla stated: This is the case only where we have explicitly learnt it.[35] According to ‘Ulla all is well since there is a satisfactory reason why in one case it was stated[36] ‘one day’ while in the other this was not stated; but according to Rab, why was not this[37] stated in all cases?[38] Furthermore, it was taught: R. Jose b. Kipper stated in the name of R. Eliezer, If thirty days of the twentieth year have passed it is exactly the same as if the entire year had passed;[39] and so also Rabbi at Lydda ruled, If thirty days of the eighteenth year have passed it is exactly the same as if the entire year had passed.[40] Now one may well agree that there is no difficulty [as regards the contradiction between the ruling] of Rabbi and that of R. Jose b. Kipper, since the former[41] is in agreement with Beth Shammai[42] while the latter[43] is in agreement with Beth Hillel;[42] but does not this[44] present a difficulty against Rab?[45] — This[46] is a question in dispute between Tannas.[47] For it was taught: The year that is mentioned in connection with consecrated things;[48] the year that is mentioned in connection with houses in walled cities;[49] the two years[50] in connection with a field of one's possession;[51] the six years in connection with a Hebrew servant,[52] and so also the years in the age of a son and a daughter[53] are all to be calculated from one point of time to another point of time.[54] Whence do we deduce the duration of the year that was mentioned in connection with consecrated things? R. Aha b. Jacob replied: Scripture said, A lamb of its[55] year,[56] which implies, Its own year and not a calendar year.[57] Whence do we deduce the duration of the year that was mentioned in connection with the houses in walled cities? — Scripture said, Until the end of his year of sale[58] which implies, Only his year of sale but not a calendar year.[57] Whence do we deduce the duration of the two years in connection with a field of one's possession? — Scripture said, According unto the number of

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(1) Cur. edd. in parenthesis add ‘b. Yohai’.

(2) Lit., ‘it is known’.

(3) Euphemism.

(4) With reference to the various views given supra on the marks of bogruth.

(5) Sc. whichever of the marks appears the girl is regarded as a bogereth and her father has no longer the right to annul her vows. Aliter: Even if only the earliest of the marks has appeared she enters a doubtful state of bogruth and if her father received on her behalf a token of betrothal from one man and she received a similar token from another she must be properly divorced from both. She must be divorced from the latter in case she is already a bogereth when her father's act cannot annul hers; and she must be divorced from the former in case she is not a bogereth before all the tokens have appeared.

(6) MS.M., Alfasi and Asheri add, ‘R. Johanan and Sabya say: the halachah is in agreement with all of them so as to restrict the law’.

(7) Rabbi's reply.

(8) The marks of a bogereth.

(9) So MS.M. and sep. edd. of the Mishnah. Cur. edd. read, ‘Tyrian courtyard’.

(10) On produce that was brought into it (cf. Bezah 34b).

(11) Var. lec. Ishmael (v. separate edd. of the Mishnah).

(12) Ma'as. III, 5. Such may be treated for the purpose of tithes as a house and consequently it imposes the obligations of tithe on any produce that is brought into it.

(13) Sc. there is no one man responsible for both the opening and the closing.

(14) Sc. produce brought into it does not become subject to tithe, since such a courtyard cannot be regarded as a suitable place for the safe keeping of objects.
(15) V. p. 329, n. 11.
(16) I.e., if it is in any one of the conditions mentioned it subjects to tithe any produce brought into it.
(17) The marks of puberty.
(18) The relatives of the widow who desire her to be exempt from the duties of halizah and the levirate marriage.
(19) By a display of the prescribed symptoms.
(20) A eunuch.
(21) Lit., ‘it is one (and the same) to me’.
(22) Yeb. 96b. So long as the pubic hairs have not appeared a person retains the status of a minor. How then is this to be reconciled with our Mishnah which assigns a new legal status at the age of eighteen or twenty?
(23) Of our Mishnah (cf. prev. n.).
(24) Described in Yeb. 80b.
(25) That before one is regarded a saris other symptoms, besides the absence of pubic hairs, must also have made their appearance.
(26) Which implies that other independent symptoms of a saris had already developed earlier.
(27) If two pubic hairs did not appear.
(28) Lit., ‘most of his years’.
(29) Of one who attained the age of twenty without having grown two hairs.
(30) Var. lec. ‘Raba’ (cf. Yeb. 97a).
(31) Lit., ‘cause him to be lean’.
(32) Described in Yeb. 80b.
(33) The reading in Yeb. 97a is ‘disappear’.
(34) The age of twenty, for instance, is deemed to have been attained at the completion of full twenty years of life and not merely at the beginning of the twentieth calendar year.
(35) Lit., ‘where we learnt we learnt’ etc., sc. only where the years and the first day of the year following were specifically mentioned as, for instance, ‘three years and one day’ (supra 44b), ‘eleven years and one day’ (supra 45b). Where, however, (as in our Mishnah) the years only are given one day of the twentieth calendar year is regarded as the whole of that year and the person is deemed to be twenty years of age from that day.
(36) Lit., ‘that is it that it was stated here’.
(37) ‘And one day’.
(38) Lit., ‘let him teach’.
(39) Lit., ‘behold it is like the twentieth year in all its matters’.
(40) Cf. prev. n.
(41) Eighteen years.
(42) V. our Mishnah.
(43) Twenty years.
(44) The view accepted by both authorities cited that the part of a year is regarded as the whole of it.
(45) Who stated supra that the years must be complete.
(46) Whether the part of a year is regarded as the entire one.
(47) One of whom, as will be shown presently, holds the same view as Rab.
(48) Sc. that certain beasts for sacrifices must be one year old.
(49) Cf., If a man sell a dwelling house in a walled city, he may redeem it within a whole year (Lev. XXV, 29).
(50) This is deduced infra.
(51) Cf. Lev. XXV, 14ff.
(52) Cf., If thou buy a Hebrew servant, six years shall he serve (Ex. XXI, 2).
(53) Which (so it is now presumed) were discussed in our Mishnah.
(54) Cf. p. 331, n. 14 supra.
(55) E.V., ‘the first’.
(56) Lev. XII, 6.
(57) Lit., ‘the year of the number of the world’.
(58) Lev. XXV, 29, E.V., Within a whole year after it is sold.

years of the crops he shall sell unto thee,[1] which implies[2] that one may sometimes sell three crops in two years.[3] Whence do we deduce the duration of the six years in connection with a Hebrew servant? — Scripture said, Six years he shall serve, and in the seventh,[4] which implies that in the seventh [calendar] year also he shall serve.[5] In regard to what law was mention made of ‘the years in the age of a son and a daughter’?[6] — R. Giddal citing Rab replied: In regard to valuations.[7] R. Joseph, however, replied: In regard to the ages[8] given in our chapter of ‘For a foetus born from its mother's side’.[9] Said Abaye to him,[10] ‘Are you in disagreement?’[11] — ‘No’, the other replied, ‘he made one statement and I made another statement but there is no essential difference between us’. This is also logically right; for if it could be imagined that there is a radical difference between them and that the one[12] who replied, ‘In regard to valuations’ does not accept the reply, ‘In regard to our present chapter’[13] [the difficulty would arise:] Did not Rab in fact state, ‘It is the law throughout this chapter that age is calculated from one point of time to another point of time’?[14] But, then, why did not the one[15] who replied, ‘In regard to valuations’ also add, In regard to our chapter?[16] — [The reference[17] must be to cases] similar to those previously enumerated: As those[18] were recorded in the Scriptures so must these[17] be such as were recorded in the Scriptures.[19] And the other?[20] — [If that were so] it should have been said,[17] instead of ‘the age of a son and a daughter’, the age of a male and a female.[21]

R. Isaac b. Nahmani citing R. Eleazar[22] stated: The halachah is in agreement with the ruling which R. Jose b. Kipper cited in the name of R. Eliezer.[23] R. Zera observed: May I be worthy to go up[24] and to learn the tradition[25] from the Master's mouth. When he went up[24] he met R. Eleazar and asked him, ‘Did you say: The halachah is in agreement with R. Jose b. Kipper?’ — ‘What I said was’, the other replied, ‘that it seemed to be reasonable. For since, throughout the chapter, "one day" was explicitly added[26] while in this case[27] it was not mentioned it may well be inferred that it seems reasonable [that the halachah is] in agreement with him’.

CHAPTER VI

MISHNAH. IF THE LOWER MARK[28] APPEARED BEFORE THE UPPER ONE[29] HAD YET MADE ITS APPEARANCE, SHE MAY PERFORM HALIZAH OR CONTRACT LEVIRATE MARRIAGE.[30] IF THE UPPER MARK[29] APPEARED BEFORE THE LOWER ONE[28] HAD MADE ITS APPEARANCE, THOUGH THIS IS IMPOSSIBLE,[31] R. MEIR RULED, SHE MAY NEITHER PERFORM HALIZAH NOR CONTRACT THE LEVIRATE MARRIAGE; BUT THE SAGES RULED, SHE MAY EITHER PERFORM HALIZAH OR CONTRACT THE LEVIRATE MARRIAGE, BECAUSE THEY MAINTAIN: IT IS POSSIBLE FOR THE LOWER MARK TO APPEAR BEFORE THE UPPER ONE HAD YET MADE ITS APPEARANCE, BUT IT IS IMPOSSIBLE FOR THE UPPER MARK TO APPEAR BEFORE THE LOWER ONE HAD MADE ITS APPEARANCE.[32]

GEMARA. ‘THOUGH THIS IS IMPOSSIBLE’! But has it not in fact APPEARED?[33] — ‘APPEARED’, according to R. Meir;[34] ‘THOUGH THIS IS IMPOSSIBLE’ according to the Rabbis.[35] Why then was it not stated: ‘If the upper mark appeared, R. Meir ruled, She may neither perform halizah nor contract levirate marriage but the Sages ruled, She may either perform halizah or contract levirate marriage’. and I would well have known that their reason is that it is impossible?[36] — If ‘THOUGH THIS IS IMPOSSIBLE had not been stated, It might have been presumed that in most women the lower mark appears first and in that of a minority the upper mark appears first, and that R. Meir[37] is guided by his principle according to which he takes even a minority into consideration,[38] while the Rabbis[39] are guided by their principle according to which they do not take a minority into consideration;[40] and that this[41] applies only to a general case, but where an examination was held and no [lower mark] was found the Rabbis, it might have been assumed, agree with R. Meir[37] since the upper mark has appeared first, hence we were informed that this IS IMPOSSIBLE and that the lower mark[42] had undoubtedly appeared earlier but merely fell off. According to R. Meir[43] one may well justify the Scriptural text, Thy breasts[44] were fashioned, and thy hair[45] was grown,[46] but according to the Rabbis,[47] should not the order have been reversed?[48] — It is this that was meant: As soon as the 'breasts are fashioned' it is known that 'thy hair was grown'. According to R. Meir[49] one can well see the justification for the order of the Scriptural text, When they from Egypt bruised thy breasts[44] for the bosom[45] of thy youth.[50] but according to the Rabbis,[47] should not the order have been reversed?[48] — It is this that was meant: As soon as 'thy breasts' appeared it is known that thy youth[45] had appeared. And if you prefer I might reply: As to the meaning of[51] shede,[52] all the clause was written with regard to the breasts; and it is this that the Holy One, blessed be He, said in effect to Israel:

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(1) Lev. XXV, 15.

(2) Since the minimum of 'years' (plural) is two, and the plural 'crops' denotes all the crops which can be produced in two years.

(3) And this is only possible in two complete years, or a full period of twenty-four months, where the sale took place before the produce of the first calendar year had been harvested. In two calendar years there can be no more than two crops.

(4) Ex. XXI, 2.

(5) But this is possible only if one serves six full years from the date of purchase which took place in the middle of a calendar year. The end of the sixth full year would in such a case coincide with the middle of the seventh calendar year.

(6) Supra 47b ad fin.

(7) Which differ with the ages of the persons valued (cf. Lev. XXVII, 2ff). The ruling here serves the purpose of indicating that, even where the Scriptural text provides no clear guidance on the point, the years mentioned throughout the context are full periods each of twelve months duration.

(8) Even where 'and a day' does not follow the number of years.

(9) Sc. the present Chapter V which begins with these words.

(10) R. Joseph.

(11) With Rab.

(12) Rab.

(13) Lit., 'for a foetus born from its mother's side' (cf. p. 333, n. 11).

(14) Supra 47b. Of course he did. Consequently it must be admitted that Rab and R. Joseph are essentially of the same opinion.

(15) Rab.

(16) Lit., 'for a foetus born from its mothers' side' (cf. prev. n. but one).

(17) In the expression, 'the years in the age of a son and a daughter' (supra 47b).

(18) Consecrated things, houses in wall cities, etc.

(19) Hence his reply that the reference was to valuations (which are also recorded in the Scriptures) though he fully agrees that the same principle applies also to the years in the ages dealt with in the present chapter (which are not Scriptural but merely traditional).

(20) R. Joseph; why does he not add, 'In regard to valuation'?

(21) Which are the expressions of the Scriptures in the context of valuations (cf. Lev. XXVII, 3f.).

(22) R. Eleazar b. Pedath, the famous Palestinian Amora.

(23) Supra 27b.

(24) To Palestine (cf. prev. n. but one).

(25) Cited by R. Isaac b. Nahmani.

(26) Lit., 'learned', after the number of the years.

(27) A man of the age of twenty years (cf. our Mishnah).

(28) Two pubic hairs.

(29) 'A fig in its early ripening' (v. Mishnah supra 47a).

(30) Because she is deemed to have attained her majority.

(31) The apparent contradiction is described in the Gemara infra.
(32) Though it cannot be discovered the hairs may be presumed to have fallen off.
(33) Of course it had; since it was explicitly stated, IF THE UPPER MARK APPEARED BEFORE THE LOWER ONE.
(34) Who ruled that SHE MAY NEITHER PERFORM HALIZAH etc., thus regarding her as a minor because, obviously, the upper mark may appear though the lower one had not yet made its appearance.
(35) THE SAGES, who in either case (v. our Mishnah) regard her as of age.
(36) And this would avoid the insertion of the ambiguous clause, ‘THOUGH THIS IS IMPOSSIBLE’.
(37) In regarding the girl as a minor.
(38) And since a minority have the upper before the lower mark, every girl producing the upper mark alone must be regarded as a minor in case she belonged to the minority.
(39) THE SAGES, who in either case (v. our Mishnah) regard her as of age.
(40) As soon, therefore, as the upper mark appeared it may be taken for granted that the lower one had appeared previously.
(41) The ruling of the Sages, which is dependent on the principle of following the majority.
(42) Cf. Bah, wanting in cur. edd.
(43) Who maintains that the upper mark sometimes appears first.
(44) The upper mark.
(45) The lower one.
(46) Ezek. XVI, 7, since the marks do sometimes appear in this order.
(47) Who hold that the upper mark can never appear first.
(48) Hair first and breasts afterwards.
(49) Who maintains that the upper mark sometimes appears first.
(50) Ezek. XXIII, 21.
(51) Lit., ‘what’.
(52) The word rendered supra ‘bosom’.

Talmud - Mas. Nidah 48b

‘Thy breasts were swollen, yet thou didst not repent; yea, thy breasts were dried up, yet thou didst not repent’.[1] All[2] at any rate agree that[3] we rely on the lower mark; whence do we deduce this? — Rab Judah citing Rab replied and so it was taught at the school of R. Ishmael: Scripture said, When a man or a woman shall commit any sin that men commit,[4] Scripture[5] compared the ‘woman’ to the ‘man’ in respect of all the punishments in the Torah; as a man is subject to punishments on the appearance of the one mark[6] so is also a woman subject to punishments on the appearance of the one mark. Might it not be suggested: Either the one or the other?[7] — Like the man: As with the man [the determining factor] is the lower mark and not the upper one so also with the woman it is the lower one that determines majority but not the upper one. So[8] it was also taught: R. Eliezer son of R. Zadok stated, Thus did they explain and promulgate at Jamnia: As soon as the lower mark makes its appearance no attention need any longer be paid to the upper one.

It was taught: R. Simeon b. Gamaliel stated, Among towns-women the lower mark appears earlier because they are in the habit of taking baths; among village women the upper mark appears earlier because they grind with millstones.[9] R. Simeon b. Eleazar stated: Among the daughters of the rich the right hand side develops earlier because it rubs against their scarves;[10] among the daughters of the poor the left side develops earlier because they carry[11] jars of water on them. And if you prefer I might say, Because they carry their brothers on their sides.

Our Rabbis taught: The left side develops earlier than the right side. R. Hanina the son of the brother of R. Joshua stated: The left side never developed earlier than the right side except in the case of one woman who lived in our neighbourhood whose left side developed earlier than the right one which later regained its normal strength.

Our Rabbis taught: All girls to be examined must be examined by women. So also R. Eliezer entrusted the examination to his wife, and R. Ishmael entrusted it to his mother. R. Judah ruled: Before the period[12] and after the period,[13] women examine them.[14] During the period[15] no woman may examine them, since in doubtful cases[16] no woman is allowed to marry[17] on the evidence of women. R. Simeon ruled, Even during the period[15] women examine them. And a woman may be relied upon when by her evidence the law is restricted but not when it is relaxed thereby. How so? [She may be relied upon when she states: ‘The girl] is of age’, so that the latter should thereby be denied the right of mi'un, or ‘She is a minor’, so that she should thereby be denied the right of performing halizah; but she is not trusted when asserting, ‘She is a minor’, so that she should have the right of exercising mi'un, or ‘She is of age’, so that she should be entitled to perform halizah.

The Master said, ‘R. Judah ruled: Before the period and after the period women examine them’. One can well concede that before the period an examination is required, for should [the same hairs][18] be found after the period they would be regarded as a mole;[19] but what need could there be for an examination after the period seeing that Raba has laid down that a minor who has attained the age of her majority need not be examined since there is presumption that she had by that time produced the marks of puberty? — When Raba stated, ‘there is presumption’, he meant it in respect of mi'un,[20] but as regards halizah[21] an examination is still required.[22] ‘During the period no women may examine them’, because he is of the opinion [that the presence of hairs] during the period [is a mark of majority] as after the period;[23] but after the period, when Raba's presumption is applicable, we rely upon women who may, therefore, conduct the examination,[22] while during the period, when Raba's presumption is not applicable, we cannot rely upon women, and women, therefore, may not conduct the examination. ‘R. Simeon ruled, Even during the period women examine them’, for he is of the opinion [that the presence of hairs] during the period [is no more a mark of puberty] than it is before the period; and an examination is, therefore, required so that if [the same hairs][24] should be found after the period they would be regarded as a mole.[25] ‘And a woman may be relied upon when by her evidence the law is restricted but not when it is relaxed thereby.’ Who taught this? — If you wish I might say: R. Judah, and [the reference is to evidence] during the period.[26]

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(1) Aliter (Jast.) and cf. Rashi's first interpretation: Thy breasts began to develop, yet thou didst not repent, thy breasts were fully developed, yet etc.

(2) Lit., ‘that all the world’. R. Meir and the Sages.

(3) In determining whether a girl is of age.

(4) Num. V, 6.

(5) By placing the two nouns in juxtaposition.

(6) The lower one, which is the only mark he possesses.

(7) The analogy between ‘man’ and ‘woman’ extending only as far as a single mark is concerned, sc. that one mark (upper or lower) suffices to establish the majority of a woman as one mark (the lower) establishes the majority of a man.

(8) That the lower mark alone is the determining factor.

(9) The constant exercise of their arms distends their breasts.

(10) Which are worn on the right side.

(11) So with a certain reading. Cur. edd. ‘draw’.

(12) Sc. before the age of eleven years and a day.

(13) After the age of twelve years and a day.

(14) But, whether they report the presence of hair or their absence, the girls in the former case (a time when hairs are regarded as a mere ‘mole’) are treated as minors. In the latter case (a time when pubic hairs and maturity may well be expected) the girls are deemed to be of age if the women report the presence of hairs; but even if they report their absence, the girls cannot be treated as minors (since the hairs may have fallen off) and they are consequently deprived of the right of mi'un (v. Glos.).

(15) From the age of eleven years and one day to that of twelve years and one day, when their status is a matter of doubt and is entirely dependent on the presence or absence of the hairs.

(16) Cf. prev. n. In the first two cases (cf. prev. n. but one) a doubt hardly exists.

(17) If the women were to report the presence of hairs the girls would have to be allowed to contract levirate marriage.
(18) And no others.
(19) And the girl would still be deemed a minor and denied the right of performing halizah.
(20) Sc. to impose the restriction of denying her the right of mi'un.
(21) I.e., to relax the law by allowing the performance of the rite.
(22) A woman's evidence being in such a case relied upon, since a girl at the age mentioned usually has all the mark of puberty.
(23) Cur. edd. in parenthesis insert ‘like’.
(24) And no others.
(25) And the girl would still be deemed a minor and denied the right of performing halizah.
(26) His opinion being that hairs discovered during the period are evidence of puberty as are hairs discovered after the period. If the women report the presence of hairs as a result of which the girl is deprived of the right of mi'un they are relied upon since the law is thereby restricted. Their evidence, however, is not relied upon as regards entitling her to perform halizah since thereby the law would be relaxed.

Talmud - Mas. Nidah 49a

And if you prefer I might say: R. Simeon, and [the reference is to evidence] after the period,[1] for he does not uphold the principle of Raba's presumption.

BECAUSE THEY MAINTAIN: IT IS POSSIBLE etc. What need again was there for this statement, seeing that it was already taught in the earlier clause? And were you to reply: Because it was desired to lay down an anonymous statement[2] in agreement with the Rabbis [it could be objected:] Is not this obvious, since in a dispute between an individual authority and a number of authorities the halachah is in agreement with the majority? — It might have been presumed that R. Meir's reason is more acceptable because Scriptural texts[3] provide support for his view, hence we were informed[4] [that the halachah is in agreement with the view of the Rabbis]. And if you prefer I might reply: Because it was desired to state,[5] ‘Similarly’.[6]

MISHNAH. SIMILARLY[7] ANY [HOLE IN] AN EARTHEN VESSEL THAT LETS IN A LIQUID[8] WILL[9] LET IT OUT,[10] BUT THERE MAY BE ONE THAT WILL LET IT OUT AND WILL NOT LET IT IN.[11] ANY LIMB[12] THAT GROWS A NAIL HAS ALSO A BONE IN IT[13] BUT THERE MAY BE ONE THAT HAS A BONE IN IT BUT GROWS NO NAIL.[14] WHATEVER CONTRACTS MIDRAS-UNCLEANNESS[15] ALSO CONTRACTS CORPSE-UNCLEANNESS[16] BUT THERE ARE SUCH AS CONTRACT CORPSE UNCLEANNESS[17] AND DO NOT CONTRACT MIDRAS-UNCLEANNESS.[18]

GEMARA. A vessel with a hole THAT LETS IN A LIQUID is unfit for the water of purification[19] and is [even more so] unfit[20] as a defective vessel;[21] one with a hole THAT WILL LET IT OUT[22] is fit for the water of purification[23] but unfit as a defective vessel.[24]

R. Assi stated, It was learnt,[25] The minimum size [of a hole to render] an earthen vessel [unfit for the consecration of the water of purification] is one that will let a liquid in;[26] and one that will let a liquid out[22] was mentioned only in respect of a defective vessel.[24] What is the reason?[27] — Mar Zutra son of R. Nahman replied: Because people do not say,[28] ‘Bring a defective vessel for another defective vessel’.[29]

Our Rabbis taught: How is an earthen vessel to be tested in order to ascertain whether its perforation is big enough to admit a liquid or not? One brings a tub full of water and puts the pot[30] into it. If it absorbs any of the liquid, it may be taken for granted that it lets liquids in; and if not, it may be taken for granted that it only lets liquids out.

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(1) And even then women's evidence is accepted only in so far as to impose restrictions (denial of the right of mi'un). It is not accepted, however, for the purpose of relaxing the law (allowing the performance of halizah).
(2) Which, as a rule, is the accepted law.
(3) From Ezekiel XVI and XXIII (supra 48a).
(4) By the anonymous statement, BECAUSE THEY MAINTAIN etc. (cf. prev. n. but one).
(5) In the next Mishnah.
(6) Introducing similar cases where one process follows or is the result of another though the reverse is impossible.
(7) Cf. prev. n.
(8) In which the vessel stands,
(9) If the liquid was within the vessel.
(10) A lesser hole in fact being required for the latter process than for the former.
(11) Cf. prev. n. mut. mut. The legal purpose of this statement is discussed in the Gemara infra.
(12) Sc. a redundant finger.
(13) And is, therefore, regarded as a proper limb which (cf. supra 43b) conveys uncleanness by overshadowing even though it is smaller than the minimum prescribed for the flesh of a corpse.
(14) In such a case, if the limb is a redundant one, the conveyance of uncleanness (cf. prev. n.) is subject to the prescribed minimum.
(15) Of a zab, to be a ‘father of uncleanness (v. Glos.).
(16) Of the same grade (cf. prev. n.) since whatever object is suitable as midras for a zab has the status of a ‘vessel’ and is, therefore, subject to corpse-uncleanness also.
(17) Having the status of a vessel in respect of susceptibility to all forms of uncleanness including that of ‘father of uncleanness’ if it came in contact with a corpse.
(18) Sc. to become a ‘father of uncleanness’ through the midras of a zab. This is further discussed infra in the Gemara.
(19) Which (cf. Num. XIX, 17) must be consecrated in a sound vessel.
(20) To contract uncleanness.
(21) Defective vessels which are still suitable for certain uses are, under given conditions, susceptible to uncleanness (cf. Hul. 54b) but when they have a hole of the nature mentioned they lose even the status of a defective vessel and, like broken sherds, are immune from all forms of uncleanness.
(22) But will not let it in, sc. a smaller hole.
(23) Such a small hole being disregarded in the case of an otherwise sound vessel.
(24) Being already defective the smallest hole deprives it altogether of its status (cf prev. n. but two).
(25) Shonin Sc. as an oral tradition handed down to Moses from Sinai (Rashi).
(26) If the hole is smaller the vessel retains in all respects the status of a sound one (cf. Shab. 95b.).
(27) For the last ruling.
(28) When there is a leak in a defective vessel.
(29) That the former should receive the leakage from the latter. A defective vessel may be so used under an otherwise sound one, since the latter is not discarded on account of a very small hole. When such a hole, however, occurs in a defective vessel it is completely discarded and, therefore, loses its status (cf. supra n. 10).
(30) That is to be tested.

Talmud - Mas. Nidah 49b

R. Judah[1] said: One inverts the handles of the pot into the tub[2] and allows water to float over it. If it then absorbs any, it may be taken for granted that it will let liquids in; but if not, it may be taken for granted that it only lets liquids out. Or else, it[3] may be put upon a fire. If the fire stops the leakage it is certain that the pot will only let liquids out; but if not it is certain that it also lets liquids in. R. Jose said: One does not put it upon the actual[4] fire since the fire stops it,[5] but it is put upon embers. If the embers stop it, it is certain that it only lets liquids out, but if not, it is certain that it also lets liquids in. If it drips drop after drop[6] it is certain that it lets liquids in. What is the practical difference between the first Tanna[7] and R. Judah? — ‘Ulla replied: The practical difference between them is a case of absorption under pressure.[8]

ANY LIMB THAT GROWS A NAIL etc. If it grows a nail[9] it[10] conveys uncleanness[11] by means of touch, carriage and overshadowing. If it contains a bone but grows no nail it conveys uncleanness[12] by means of touch and carriage but does not convey it by means of overshadowing.[13]

R. Hisda stated: The following was said by our great Master,[14] may the Omnipresent be his help. A redundant finger that contains a bone but grows no nail conveys uncleanness[12] by means of touch and carriage but does not convey it by means of overshadowing. Rabbah b. Bar Hana explained: This is the case only when it[15] is not counted in [the row of the fingers of] the hand.[16]

WHATEVER CONTRACTS MIDRAS — UNCLEANNESS etc. Whatever object is fit for midras contracts corpse-uncleanness, but there are such as contract corpse-uncleanness and do not contract midras-uncleanness. What is this rule intended to include? — It is intended to include a se'ah measure and a tarkab;[17] for it was taught: And he that sitteth on any thing;[18] as it might have been presumed that if the zab inverted a se'ah measure and sat upon it or a tarkab measure and sat upon it, it shall be unclean,[19] it was explicitly stated, Whereon he that hath the issue sat,[18] implying[20] that the text refers only to a thing that is appointed for sitting;[21] but this one[22] is excluded, since people would tell him, ‘Get up that we may do our work with it’.[23]

MISHNAH. WHOSOEVER IS FIT TO TRY CAPITAL CASES IS ALSO FIT TO TRY MONETARY SUITS, BUT ONE MAY BE FIT TO TRY MONETARY SUITS AND YET BE UNFIT TO TRY CAPITAL CASES.

GEMARA. Rab Judah stated: This[24] was meant to include a bastard.[25] Have we not, however, learnt this once before: ‘All are eligible to try monetary suits but not all eligible to try capital cases’;[26] and when the question was raised, ‘What was this intended to include?’ Rab Judah replied, ‘It was intended to include a bastard’?[27] — One statement was intended to include a proselyte and the other to include a bastard. And both statements were necessary. For if we had been informed of the proselyte only it might have been presumed that it applied to him alone because he is eligible to enter the Assembly[28] but not to a bastard who is not eligible to enter the Assembly.[29] And if we had been informed of the bastard only it might have been presumed to apply to him alone because he issues from an eligible source[30] but not to a proselyte who issues from an ineligible source.[31] Hence the necessity for both rulings.

MISHNAH. WHOSOEVER IS ELIGIBLE TO ACT AS JUDGE IS[32] ELIGIBLE TO ACT AS WITNESS, BUT ONE MAY BE ELIGIBLE TO ACT AS WITNESS AND NOT AS JUDGE.

GEMARA. What [was this[33] intended] to include? — R. Johanan replied: To include one who is blind in one eye;[34] and who is the author?

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(1) Objecting to the previous test which, since the bottom of the pot is inevitably pressed against the water, would cause the latter to penetrate even through the smallest of holes.

(2) Lit., ‘into it’, while it is still empty.

(3) The pot to be tested, with water in it.

(4) Lit., ‘even not’.

(5) Even if the hole is big.

(6) This is another test, independent of the former.

(7) Supra 49a ad fin.

(8) According to the first Tanna this also is proof that the vessel lets liquids in, while according to R. Judah this is no proof (cf. supra n. 2).

(9) Though the limb is a redundant one, a sixth finger for instance.

(10) Being regarded as a proper limb (cf. relevant n. on our Mishnah).

(11) However small its bulk.

(12) If the bone is not smaller than a barley-grain.
(13) Unless the bulk of the flesh was no less than that of an olive.
(14) Rab.
(15) Being situated outside the row of the normal fingers.
(16) A normal finger, or even a redundant one in the normal row, conveys uncleanness by overshadowing, however small in bulk it may be, as any proper limb.
(17) A measure of capacity containing two kabs; Aliter: ** = three kabs or half a se'ah, a dry measure.
(18) Lev. XV, 6.
(19) Midras-uncleanness that is conveyed to men and objects which become thereby a ‘father of uncleanness’.
(20) Emphasis on ‘sat’ (v. Hag. Sonc. ed., p. 149, n. 2).
(21) Such an object only is subject to the major grade of uncleanness (cf. prev. n. but two).
(22) An inverted measure.
(23) Hence they contract from a zab the uncleanness of touch only and this subjects them only to the uncleanness of the first grade, while through contact with a corpse they become a ‘father of uncleanness’.
(24) The second clause of our Mishnah.
(25) Who is a fit person to act as judge in monetary suits but not in capital cases (cf. Sanh. 36b).
(26) Sanh. 32a.
(27) That he is fit to adjudicate in indictory cases. Ibid. 36b. Why then the repetition.
(28) Sc. to marry the daughter of an Israelite.
(29) Cf. Deut. XXIII, 3.
(30) Lit., ‘a fit drop’, sc. pure Israelite origin.
(31) Heathen origin. Cf. prev. n. mut. mut.
(32) Much more so.
(33) The second rule in our Mishnah.
(34) Such a person is eligible as witness but not as judge. One blind in both eyes is ineligible even as witness.

Talmud - Mas. Nidah 50a

— R. Meir.[1] For it was taught: R. Meir used to say, What was the purport of the Scriptural text, According to their word shall every controversy and every leprosy be?[2] What connection could controversies have with leprosies? But[3] controversies were compared to leprosies, as leprosies must be examined by day, since it is written, And in the day when . . . appeareth in him,[4] so must controversies be tried by day; and[5] as leprosies are not to be examined by a blind man,[6] since it is written, Wherever the priest looketh,[7] so are controversies not to be tried by a blind man.[6] And[8] leprosies are further compared to controversies: As controversies are not to be tried by relatives, so are leprosies not to be examined by relatives. In case [one were to argue:] ‘As controversies must be tried by three men so must leprosies also be examined by three men, this being logically arrived at a minori ad majus: If controversies affecting one's wealth must be tried by three men, how much more so matters affecting one's body’, it was explicitly stated, When he shall be brought unto Aaron the priest or unto one of his sons the priests.[9] Thus you have learnt that even a single[10] priest may examine leprosies.[11]

A certain blind man who lived in the neighbourhood of R. Johanan used to try lawsuits and the latter[12] told him nothing against it. But how could he[12] act in this manner, seeing that R. Johanan actually stated, ‘The halachah is in agreement with an anonymous Mishnah’, and we have learnt,[13] WHOSOEVER IS ELIGIBLE TO ACT AS JUDGE IS ELIGIBLE TO ACT AS WITNESS, BUT ONE MAY BE ELIGIBLE TO ACT AS WITNESS AND NOT AS JUDGE,and when the question was raised, ‘What was this intended to include?’ R. Johanan replied, ‘To include one who is blind in one eye’?[14] — R. Johanan found another anonymous Mishnah.[15] For we have learnt, Monetary suits must be tried by day and may be concluded by night.[16] But why should this anonymous Mishnah[17] be deemed more authoritative than the former?[18] If you wish I might reply: An anonymous Mishnah which represents the view of a majority[19] is preferable. And if you prefer I might reply: Because it[20] was taught among the laws of legal procedure.[21]

MISHNAH. WHATSOEVER IS SUBJECT TO TITHES IS SUSCEPTIBLE TO FOOD-UNCLEANNESS;[22] BUT THERE IS A KIND OF FOODSTUFF[23] THAT IS SUSCEPTIBLE TO FOOD-UNCLEANNESS AND IS NOT SUBJECT TO TITHES.

GEMARA. What was this[24] intended to include? — To include flesh, fish and eggs.[25]

MISHNAH. WHATSOEVER IS SUBJECT TO THE OBLIGATION OF PE'AH[26] IS ALSO SUBJECT TO THAT OF TITHES; BUT THERE IS A KIND OF PRODUCE WHICH IS SUBJECT TO THE OBLIGATION OF TITHES AND IS NOT SUBJECT TO THAT OF PE'AH.

GEMARA. What was this[24] intended to include? — To include the fig-tree and vegetables, which are not subject to the obligation of pe'ah.[27] For we have learnt: They[28] have laid down a general rule concerning pe'ah. Whatsoever is a foodstuff, is kept under watch, grows[29] from the ground, is all harvested at the same time, and is taken in for storage, is subject to pe'ah.[30] ‘A foodstuff’, excludes the after-growths of woad and madder;[31] ‘is kept under watch’, excludes hefker; ‘grows[32] from the ground’, excludes morils and truffles;[33] ‘is all harvested at the same time’, excludes the fig-tree;[34] and is taken in for storage’, excludes vegetables. As regards tithes, however, we have learnt: Whatsoever is a foodstuff, is kept under watch and grows from the ground is subject to the obligation of tithes;[35] whereas ‘is all harvested at the same time[36] and is taken in for storage’[37] was not mentioned.[38] But if garlic or onions[39] grew among them[40] they are subject [to pe'ah]. For we have learnt: As regards plots of onions between other vegetables, R. Jose ruled, Pe'ah must be left from each[41] and the Sages ruled, From one for all.[42]

Rabbah b. Bar Hana citing R. Johanan ruled: If endives were originally sown for cattle-food and then [the owner] changed his mind[43] to use them for human food,

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(1) Who disqualifies a man blind in one eye from acting as judge.

(2) Deut. XXI, 5.

(3) Owing to juxtaposition.

(4) Lev. XIII, 14, emphasis on ‘day’. (E.V. ‘whensoever’ for ‘in the day when’).

(5) By a further analogy (cf. prev. n. but one).

(6) Even by one who is blind in one eye only.

(7) Lev. XIII,12 emphasis on the last word.

(8) Owing to juxtaposition.

(9) Lev. XIII, 2 emphasis on ‘Aaron’ and ‘one’.

(10) Cf. prev. n.

(11) At any rate it follows, as was stated above, that according to R. Meir a blind man (even if in one eye only) is eligible as judge. Our Mishnah, therefore, represents his view.

(12) R. Johanan.

(13) As an anonymous Mishnah.

(14) Which clearly shows that according to R. Johanan no blind man is eligible to act as judge. Why then did he raise no objection against the blind man's conduct?

(15) Which allows a blind man to act as judge.

(16) Sanh. 32a; which shows that, according to this Mishnah, ‘controversies’ were not compared to ‘leprosies’ for though the latter may not be examined by night the trying of the former may well be concluded by night. And since the two were not compared in this respect they were not compared as regards the ineligibility of a blind man either.

(17) The latter, cited from Sanh.

(18) Our Mishnah. Lit., ‘and what is the strength of that anonymous etc.’

(19) As does the one from Sanh. Our Mishnah, as was explained supra, represents the view of R. Meir alone.

(20) The latter, cited from Sanh.

(21) With which the tractate of Sanh. deals. A law occurring in a tractate that is devoted to similar laws is more reliable than one occurring in a tractate that is mainly devoted to a totally different subject.
(22) Since only foodstuffs are subject to tithe.
(23) This is presently explained in the Gemara.
(24) The second clause of our Mishnah.
(25) Only foodstuffs that grow from the ground are subject to tithe.
(26) Lit., ‘corner’. Cf. When ye reap the harvest . . . thou shalt not wholly reap the corner of thy field . . . thou shalt leave them for the poor (Lev. XIX, 9f).
(27) But are liable to tithes.
(28) The Rabbis.
(29) Var. lec. ‘draws its nourishment’ (v. Tosaf.).
(30) Pe'ah I, 4.
(31) Plants used only in dyeing which are unsuitable as food.
(32) Var. lec. ‘draws its nourishment’ (v. Tosaf.).
(33) Which are not planted Aliter: Which (cf. prev. n.) do not draw their nourishment from the ground.
(34) And similar trees whose fruit ripens at different times.
(35) Ma'as. I, 1.
(36) Which would have excluded the fig-tree and the like.
(37) Which would have excluded vegetables.
(38) It thus follows that figs and vegetables are liable to tithes though exempt from pe'ah. The tithe mentioned is, of course, only Rabbinical, since Pentateuchally only corn, wine and oil are subject to the obligations of tithe.
(39) Vegetables that are taken in for storage.
(40) The other vegetables.
(41) Since the other vegetables form a division between one plot and another.
(42) The intervening vegetables being disregarded, Pe'ah III, 4.
(43) While they were still attached to the ground.

Talmud - Mas. Nidah 50b

it is necessary[1] that he should intend them for the purpose[2] after they had been detached; he being of the opinion that intention[2] concerning attached [produce] is no valid intention. Raba observed: We also have learnt a rule to the same effect: Thirteen things have been said about the carrion of a clean bird, (and the following is one of them).[3] It is necessary[4] that it should be intended for food but there is no need for it to be rendered[5] susceptible to uncleanness.[6] Thus it is clearly evident that[7] an intention concerning a live being is no valid intention; so also here[8] it must be said, that an intention concerning attached [produce][9] is no valid intention.[10] R. Zera said:[11] We are dealing here[12] with a [flying] pigeon that dropped from on high, so that it was not before us[13] to enable one to have any intentions about it.[14] Said Abaye to him:[15] What can be said about the [case of the] hen of Jamnia?[16] — That, the other[15] replied, was a wild cock.[17] They laughed at him: A wild cock is an unclean bird and an unclean bird does not convey uncleanness![18] — ‘When a great man’, Abaye told them, ‘said something, do not laugh at him. This was a case of a hen that ran away;[19] and as to the meaning[20] of "wild", it turned wild as far as its master was concerned’.[21] R. Papa said: It was a field-hen.[22] R. Papa thus followed his known view. For R. Papa ruled, A field-cock is forbidden and a field-hen is permitted; and your mnemonic is ‘A male Ammonite[23] but not a female Ammonite’. Amemar laid down in his discourse that a field-hen is forbidden.[24] The Rabbis observed that it stamps on its prey[25] when eating it;[26] and it is this bird that is known as girutha.[27]

Our Rabbis taught: If a pigeon[28] fell into a winepress[29] and it was intended to pick it up for a Samaritan,[30] it is unclean;[31] but if it was intended for a dog it is clean,[32] R. Johanan b. Nuri[33] ruled, Even if intended for a dog it is unclean.[31] R. Johanan b. Nuri argued: This is arrived at a minori ad majus. If it[34] conveys a major uncleanness,[35] though there was no intention,[36] should it not convey a minor uncleanness[37] though there was no intention? They answered him: No; if you maintain your view in the case of a major uncleanness, which never descends to that,[38] would you also maintain it in the case of a minor uncleanness which does descend to that?[38] He replied: the hen of Jamnia proves my contention, for it descends to that and, though there was no intention, it was declared unclean. ‘From there’, they retorted, ‘is your proof? In that place there were Samaritans and it was intended that they shall eat it.’ Now with what case are we dealing here? If it be suggested with big cities [the objection would arise]: What need was there for intention, seeing that we have learnt: The carcass of a clean beast anywhere[39] and the carcass of a clean bird and forbidden fat in large towns[40] require neither intention nor to be rendered susceptible.[41] If, however, it is suggested: Of villages, [the difficulty arises:] Is there any authority who maintains that in this case no intention is required, seeing that we have learnt: The carcass of an unclean beast[42] anywhere[43] and the carcass of a clean bird in villages[44] require[45] intention[46] but need not be rendered susceptible?[47] — R. Ze'ira b. Hanina replied: We are in fact dealing with an incident in a big city, but[48] the winepress caused it[49] to be objectionable[50] and thus caused the town to be regarded as a village.

‘R. Johanan b. Nuri argued: This is arrived at a minori ad majus. If it conveys a major uncleanness, though there was no intention, should it not convey a minor uncleanness though there was no intention? They answered him: No; if you maintain your view in the case of a major uncleanness which never descends to that.’ What is meant by ‘it never descends to that’? — Raba replied: It is this that they[51] in effect said to him,[52] ‘No; if you maintain your view

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(1) If they are to be rendered susceptible to food-uncleanness as human food.

(2) To be used as human food.

(3) The bracketed words are not in the cited Mishnah.

(4) Cf. prev. n. but one mut. mut.

(5) By intentionally wetting it.

(6) As is the case with other dry foodstuffs which must come in contact with liquids before they can be capable of contracting uncleanness. Toh. I, 1.

(7) Since intention is required when it is already carrion though a live bird is usually intended for food.

(8) R. Johanan's ruling.

(9) Which, analogous to a live animal, is not susceptible to uncleanness.

(10) Support is thus adduced for R. Johanan's ruling.

(11) The cited Mishnah affords no support to R. Johanan.

(12) The Mishnah of Toh. cited.

(13) While it was yet alive.

(14) Hence the ruling that ‘it is necessary that it should be intended for food’ after it was carrion. Where, however, a live animal was intended to be used in due course as food no further intention is necessary after it had been killed,

(15) R. Zera.

(16) Which (v. infra) was in its owner's possession before it died and yet was regarded as a food for the sole reason that the Samaritans living there intended it as such after it was dead.

(17) Not usually intended for food. Hence the necessity for intention after its death.

(18) Through one's oesophagus, v. Hul. 100b. Now since the uncleanness of the hen at Jamnia was conveyed through the oesophagus (sc. by the swallowing of it) it could not possibly have been a wild cock.

(19) Lit., ‘rebelled’, and thus was not before us while alive and for this reason intention would be necessary after it died. It was one of the young of this hen that dropped at Jamnia and gave rise to the discussion.

(20) Lit., ‘and what’,

(21) Lit., ‘from its master’. As the bird in question was consequently a clean one it may well have conveyed uncleanness (as stated) through the oesophagus.

(22) Or ‘a hen of the marshes’, which in his opinion (v. infra) is a clean bird.

(23) Is forbidden to enter the Assembly (cf. Deut. XXIII, 4).

(24) As food.

(25) In the manner of birds of prey.

(26) No clean birds eat in this manner.

(27) Presumably the moor-hen. The girutha is an unclean bird (cf. Hul. 109b).
(28) A clean bird.
(29) Where it got crushed and died, becoming repulsive for eating.
(30) To give it to him to eat.
(31) Food-uncleanness. It conveys uncleanness to other foodstuffs through contact, without being rendered susceptible.
(32) Such an intention being invalid.
(33) Holding that no intention is required (v. infra).
(34) The pigeon.
(35) The uncleanness of the person and the clothes worn by him when he ate it.
(36) When, for instance, the man was unaware that he was eating that particular pigeon.
(37) That of food and drink by means of contact.
(38) This is explained presently.
(39) Even in a village where there are not many consumers.
(40) Where consumers are many and any sort of food finds buyers.
(41) ‘Uk. III, 3; since a clean beast is usually intended for food both in town and in villages while the carcass of a clean bird and forbidden fat would find consumers in large towns only but not in villages (cf. prev. two notes). Intention, therefore, is required in the latter case but not in the former.
(42) Which is not usually eaten.
(43) Even in large towns,
(44) Where consumers are few.
(45) Since they are not usually eaten.
(46) To enable them to convey uncleanness. In the case of the former, uncleanness is conveyed even in the absence of intention provided its bulk was no less than that of an olive. The intention, however, avails where the bulk of carcass was less than that of an olive and that of other food was less than the bulk of an egg. In such a case the two quantities combine to form together the prescribed bulk of an egg which contracts uncleanness through contact with a dead creeping thing.
(47) Since they would eventually be subject to a major uncleanness.
(48) The reason why the Rabbis require intention.
(49) The pigeon.
(50) So that it is not so very suitable for consumption.
(51) The Rabbis.
(52) R. Johanan b. Nuri.

Talmud - Mas. Nidah 51a

in the case of a major uncleanness which never causes an uncleanness of the same grade,[1] would you also maintain it in the case of a minor uncleanness which does cause an uncleanness of the same grade?’[2] Said Abaye to him: [Should not this[3] apply to the latter] with even more reason: If a major uncleanness, concerning which the law has been relaxed in that it does not cause an uncleanness of the same grade,[4] conveys uncleanness in the absence of intention, how much more then should a minor uncleanness, concerning which the law has been restricted in that it does cause uncleanness of the same grade,[5] convey uncleanness even where there was no intention? — Rather, said R. Shesheth, It is this that they[6] implied: ‘No; if you maintain your view[7] in the case of a major uncleanness, which need not be rendered susceptible,[8] would you also maintain it[7] in the case of a minor uncleanness which does require to be rendered susceptible?’ But is it required to be rendered susceptible? Have we not in fact learnt:[9] Three[10] things have been said about the carrion of a clean bird,[11] it is necessary that it should be intended for food, it conveys uncleanness through the oesophagus only,[12] and there is no need for it to be rendered susceptible?[13] — Granted that it is not required that a dead creeping thing shall render it susceptible,[14] it is nevertheless necessary that it shall be rendered susceptible[15] by means of water.[16] Why[17] is it not required that a dead creeping thing shall render it susceptible? In agreement with what the school of R. Ishmael taught. But then there should be no need for it to be rendered susceptible by means of water also in agreement with what the school of R. Ishmael taught; for the school of R. Ishmael taught: Upon any sowing seed which is to be sown,[18] as seeds[15] which do not eventually contract a major uncleanness[19] must[20] be rendered susceptible so must any other thing which does not eventually contract a major uncleanness be rendered susceptible; the carcass of a clean bird is excluded, in that it need not be rendered susceptible, since it eventually contracts a major uncleanness?[21] — Rather, replied Raba, or as some say R. Papa, [the reference[22] is to] a major uncleanness in general and to a minor uncleanness in general.[23]

Raba stated: R. Johanan,[24] however, agrees in regard to tithe that intention[25] concerning attached [produce] is a valid intention.[26] Raba explained, Whence do I derive this? From what we learnt: Savory,[27] hyssop and calamint[28] that are grown in a courtyard, if they are kept under watch,[29] are subject to tithe.[30] Now how are we to imagine the circumstances?[31] If it be suggested that these herbs were originally sown for human consumption [the difficulty would arise]: Was it at all necessary to enunciate such a law?[32] Consequently the circumstances must be such, must they not, that the herbs were originally sown for cattle food; and yet it was stated, ‘if they are kept under watch’[33] they ‘are subject to tithe’.[34] R. Ashi retorted: Here[30] we are dealing with a courtyard in which the herbs grew spontaneously[35] so that as a rule they are destined for human consumption, and[36] it is this that was meant: If the courtyard affords protection for the produce it grows[37] the herbs are subject to tithe; otherwise they are exempt.[38]

R. Ashi objected:[39] Whatsoever is subject to tithes is susceptible to food uncleanness.[40] Now if that were so,[41] would there not be the case of these[42] which are liable to tithe[43] and yet[44] do not become susceptible to the uncleanness of food?[45] — The fact is, said Raba, that it is this that was meant: Any species that is liable to tithe is susceptible to food uncleanness. This[46] is also logically sound. For in the final clause[47] it was stated, Whatsoever is subject to the law of the first of the fleece[48] is also subject to that of the priestly gifts[49] but there may be a beast[50] that is subject to the law of the priestly gifts and is not subject to that of the first of the fleece.[51] Now if it were so[52] [the objection would arise]: Is there not also the case of the terefah which is subject to the law of the first of the fleece and yet is not subject to that of the priestly gifts?[53] — Rabina retorted: This[54] represents the view of[55] R. Simeon. For it was taught:[56] R. Simeon exempts the terefah from the law of the first of the fleece.[57] R. Shimi b. Ashi replied,[58] Come and hear: If a man declared his vineyard hefker[59] and, rising early in the morning, he cut its grapes, he is liable[60] to peret,[61] ‘oleloth,[62] the forgotten sheaf[63] and pe'ah[64] but[65] is exempt from tithe.[66] But have we not learnt: WHATSOEVER IS SUBJECT TO THE OBLIGATION OF PE'AH IS ALSO SUBJECT TO THAT OF TITHES?[67] Must you not then infer from this[68] that the reference[69] was[70] to the whole species?[71] This is conclusive.

Elsewhere we have learnt:[72] The Sages agree with R. Akiba that if a man sowed dill or mustard seed in two or three different spots he must allow pe'ah from each.[73]

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(1) When a carcass (a ‘father of uncleanness’), for instance, imparted uncleanness to a person the latter cannot impart it to another person, since only a ‘father of uncleanness’ can carry uncleanness to persons.

(2) Foodstuffs, for instance, that contracted an uncleanness may (Rabbinically) convey the same uncleanness to other foodstuffs.

(3) The view that no intention is necessary.

(4) Cf. p. 350, n. 12.

(5) V. p. 350, n. 13.

(6) The Rabbis.

(7) The view that no intention is necessary.

(8) A carcass, for instance, is unclean irrespective of whether it had been rendered susceptible by liquids or not.

(9) MS.M., ‘was it not taught?’

(10) In the Mishnah citation supra the reading for ‘three’ is ‘thirteen’ (cf. prev. n.)

(11) A minor uncleanness.
(12) Sc. only when it is being swallowed is uncleanness conveyed to the person and to his clothes.
(13) Cf. supra 50b q.v. notes.
(14) Sc. that it shall cause it to become unclean.
(15) Like any other foodstuffs.
(16) Only after it had been purposely wetted is it susceptible to uncleanness.
(17) Lit., 'wherein the difference?'
(18) Lev. XI, 37.
(19) Sc. they can never convey uncleanness to a person.
(20) If they are to contract any uncleanness.
(21) How then could it be maintained that it is 'necessary that it shall be rendered susceptible by means of water'?
(22) In the argument of the Rabbis.
(23) In the case of the former susceptibility is never required; hence it is that no intention is required either. In the case of the latter susceptibility is usually (though not in the particular case of a bird) required; hence it is that intention also is necessary.
(24) Though he stated (supra 50b) that in regard to uncleanness intention concerning an attached plant is no valid intention.
(25) To use the produce as food for men.
(26) And it is in consequence subject to tithe.
(27) Satureia Thymbra.
(28) Or 'thyme'.
(29) For the purpose, so it is now assumed, of using them for human consumption.
(30) Ma'as. III, 9.
(31) In which the law mentioned applies.
(32) Of course not. The law is too obvious to be stated.
(33) For the purpose, so it is now assumed, of using them for human consumption.
(34) Which shows that intention regarding the use of attached produce in the case of tithe is valid.
(35) Sc. they were never intended to be used as cattle food.
(36) In reply to the objection: What need was there for enunciating a law that was too obvious?
(37) In consequence of which the herbs cannot be regarded as hefker (v. Glos.).
(38) Hefker being exempt from tithe.
(39) Against Raba.
(40) Supra 50a.
(41) That intention to use attached produce for human consumption is valid enough as regards liability to tithe.
(42) Endives sown for the purpose of producing cattle food concerning which the grower changed his mind, while they were still attached to the ground, and decided to use the crop as food for human consumption.
(43) Since intention in this respect (cf. prev. n. but one) is valid.
(44) Intention regarding attached produce being invalid in respect of susceptibility to uncleanness.
(45) How then is Raba's statement to be reconciled with the Mishnah cited?
(46) Raba's interpretation just given.
(47) The Mishnah infra 51b which is the continuation of the previous Mishnah.
(48) Cf. Deut, XVIII, 4.
(49) The shoulder, the two cheeks and the maw given from slaughtered cattle (cf. ibid. 3).
(50) An ox or a goat.
(51) Infra 51b.
(52) That a general statement like 'whatsoever etc.' includes every individual case.
(53) Hul. 136b. Must it not consequently be admitted, as Raba explained, that by the general rule (cf. prev. n.) the whole species was meant?
(54) The Mishnah just cited.
(55) Lit., 'that whose? It is'.
(56) V. marg. gl. Cur. edd. 'for we learnt'.
(57) No proof, therefore, may be adduced from this Mishnah that a general rule refers to the entire species.

(58) Justifying Raba's submission (cf. prev. n. but four).
(59) V. Glos.
(60) For the reason cf. B.K. 94a.
(61) Single grapes dropped during the cutting (cf. Lev. XIX, 10) which must be left for the poor.
(62) ‘Gleanings’ of the vineyards or a small single bunch of grapes on a single branch ‘which are the portion of the poor (cf. Lev. XIX, 10 and Deut. XXIV, 21).
(63) Which had to be left for the poor (cf. Deut. XXIV, 19).
(64) V. Glos. Cf. Lev. XIX, 9.
(65) Since the vineyard is hefker.
(66) Ned. 44b. B.K, 94a.
(67) How then are the two Tannaitic statements to be reconciled?
(68) Cf. prev. n.
(69) In the general rule, ‘Whatsoever etc.’.
(70) Not to each individual case.
(71) Of course one must. Raba's submission is thus confirmed.
(72) This is quoted here because an objection against it is raised from our Mishnah.
(73) Pe'ah III, 2.

Talmud - Mas. Nidah 51b

Now dill, surely, since it is liable to pe'ah is also liable[1] to tithe, for we have learnt, WHATSOEVER IS SUBJECT TO THE OBLIGATION OF PE'AH IS ALSO SUBJECT TO THAT OF TITHES; and since it is liable to tithe it is also susceptible to food uncleanness. It is accordingly evident that anything that is used as a flavouring is susceptible to food uncleanness, since dill is used as a flavouring. But is not this incongruous with the following: ‘Castus,[2] amomum,[3] and the principal spices, crowfoot, asafoetida, pepper and lozenges of bastard safron may be bought with second tithe money but they are not susceptible to food uncleanness; so R. Akiba. Said R. Johanan b. Nuri to him: If they may be bought with second tithe money why are they not susceptible to food uncleanness? And if they are not susceptible,[4] they[5] should not be bought with second tithe money’,[6] and in connection with this R. Johanan b. Nuri stated, ‘A vote was taken and they decided that these are not to be bought with second tithe money and that they are not susceptible to food uncleanness’?[7] — R. Hisda replied: When that Mishnah[8] was taught the reference was to dill intended as an ingredient[9] of kamak.[10] R. Ashi stated, I submitted the following argument before R. Kahana:[11] Do not say, ‘The reference was to dill intended[12] as an ingredient of kamak’, from which it would follow that generally[13] it is used as flavouring matter,[14] but rather that dill is generally intended as an ingredient of kamak.[15] For we have learnt: Dill,[16] as soon as it has imparted some flavour to a dish, is no longer subject to the restrictions of terumah[17] and it is no longer susceptible to food uncleanness.[18] From which it follows that before it had imparted any flavour to a dish it is subject to the restrictions of terumah and is susceptible to food uncleanness.[19] Now if you were to imagine that as a rule it is used for flavouring[14] [the difficulty would arise]: Even if it had not imparted any flavour to a dish [should it not be free from the restrictions of food since] as a rule it is used for flavouring?[20] Must you not then infer from this[21] that generally it is used as an ingredient of kamak?[15] This is conclusive.

MISHNAH. WHATSOEVER IS SUBJECT TO THE LAW OF THE FIRST OF THE FLEECE[22] IS ALSO SUBJECT TO THAT OF THE PRIESTLY GIFTS,[23] BUT THERE MAY BE [A BEAST][24] THAT IS SUBJECT TO THE LAW OF THE PRIESTLY GIFTS AND NOT TO THAT OF THE FIRST OF THE FLEECE. WHATSOEVER IS SUBJECT TO THE LAW OF REMOVAL[25] IS ALSO SUBJECT TO THE RESTRICTIONS OF THE SABBATICAL YEAR,[26] BUT THERE IS [A KIND OR PRODUCE] THAT IS SUBJECT TO THE RESTRICTIONS OF THE SABBATICAL YEAR[26] AND IS NOT SUBJECT TO THE LAW OF REMOVAL.[25]

GEMARA. As, for instance, the leaves of arum and of miltwaste.[27]

THERE IS A KIND OF PRODUCE THAT IS SUBJECT TO THE RESTRICTIONS OF THE SABBATICAL YEAR AND IS NOT SUBJECT TO THE LAW OF REMOVAL, the root of the arum and the root of miltwaste, since it is written in Scripture, And for thy cattle and for the beasts that are in thy land, shall all the increase thereof be for food,[28] as long as 'the beasts' eat[29] from the field you may feed 'thy cattle' in the house, but when the produce comes to an end for 'the beasts' in the field you must bring it to an end for 'thy cattle' which are in the house; but these,[30] surely, have not come to an end.

MISHNAH. WHATSOEVER[31] HAS SCALES HAS FINS BUT THERE ARE SOME THAT HAVE FINS AND NO SCALES. WHATSOEVER[32] HAS HORNS HAS HOOFS BUT THERE ARE SOME THAT HAVE HOOFS AND NO HORNS.

GEMARA. WHATSOEVER HAS SCALES [etc.] [viz.] a clean fish,[33] THERE ARE SOME THAT HAVE FINS AND NO SCALES, refers to an unclean fish.[34] Now consider: Since we[35] rely on the scales,[36] what need then was there for the All Merciful to mention[37] fins?[38] — If the All Merciful had not written fins it might have been presumed that the written word kaskeseth[39] meant[40] fins and that even an unclean fish [is, therefore, permitted]. Hence has the All Merciful written 'fins' and 'scales'.[41] But now that the All Merciful has written both 'fins' and 'scales', whence is it deduced that kaskeseth[39] means the covering? Because it is written, And he was clad with a coat of mail.[42] Then why[43] did not the All Merciful write kaskeseth[39] and there would be no need for the mention of fins?[44] — R. Abbahu replied and so it was also taught at the school of R. Ishmael: To make the teaching great and glorious.[45]

MISHNAH. WHATSOEVER REQUIRES A BENEDICTION AFTER IT REQUIRES ONE BEFORE IT, BUT THERE ARE THINGS THAT REQUIRE A BENEDICTION BEFORE THEM AND NOT AFTER THEM.

GEMARA. [What was the last clause[46] intended] to include? — To include vegetables. But according to R. Isaac who did say a benediction[47] after the eating of vegetables, what was this[46] intended to include? — To include water. But according to R. Papa who said a benediction[47] after he drank water, what was it[46] intended to include? — To include the performance of commandments.[48] But according to the Palestinians[49] who after removing their tefillin say the benediction of ' . . . who hath sanctified us by his commandments, and hath commanded us to keep his statutes', what does this[50] include? — It includes

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(1) V. Bah,

(2) **, a fragrant root,

(3) Cf. **, a spice indigenous to India and Syria.

(4) To food uncleanness, which is evidence that they are not regarded as a foodstuff.

(5) Since only foodstuffs may be bought with second tithe money.

(6) 'Uk. III, 5.

(7) Now how is this Mishnah (from which it follows that flavouring spices are not susceptible to food uncleanness) to be reconciled with the inference drawn supra from the Mishnah of Pe'ah III, 2?

(8) Of Pe'ah, from which it was inferred that dill is regarded as food.

(9) Not as a mere flavouring.

(10) A milk sauce. Such dill is rightly regarded as a foodstuff and is consequently susceptible to food uncleanness.

(11) Cur. edd. in parenthesis add, 'he said'.

(12) Emphasis on this word.

(13) Where the owner's intention has not been expressed.

(14) Lit., 'for (the flavouring of) the dish', and should, therefore, be exempt from food uncleanness.

(15) And so subject to all the laws of a foodstuff.

(16) Of terumah.
(17) Should the root subsequently fall into a dish of ordinary food no complications would arise.
(18) ‘Uk. III, 4; it being regarded as mere flavouring matter.
(19) I.e., it is regarded as food.
(20) Of course it should. Why then was its exemption from the restrictions made dependent on the imparting of some flavour to a dish?
(21) Cf. Prev. n,
(22) Cf. Deut. XVIII, 4.
(23) Sc. the shoulder, the two cheeks and the maw that are due to the priest from slaughtered cattle (cf. Deut. XVIII, 3).
(24) An ox or a goat.
(25) In the Sabbatical year. When no produce is left in the field for the beasts the owner must remove all stored produce from his house into the field (cf. Deut. XXVI, 13).
(26) Cf. Lev. XXV, 2ff.
(27) These and similar products are SUBJECT TO THE LAW OF REMOVAL since (cf. infra) their supply is exhausted before the end of the year, and also TO THE RESTRICTIONS OF THE SABBATICAL YEAR.
(28) Lev. XXV, 7.
(29) Okeleth of the same rt. as le'ekol (rendered supra, for food’).
(30) The roots of the herbs mentioned.
(31) Among fishes.
(32) Among animals.
(33) Sc. one that may be eaten.
(34) Cf. prev. n. mut. mut.
(35) In determining whether a fish is clean or unclean.
(36) As has been stated in our Mishnah, WHATSOEVER HAS SCALES HAS FINS.
(37) As one of the marks of a clean fish in Lev. XI, 9ff.
(38) Lit., fins which the All Merciful has written, wherefore to me’.
(39) The word rendered scales’.
(40) Lit., ‘what kaskeseth that is written.’
(41) Thus indicating that each is a distinctive mark.
(42) Kaskasim (of the same rt, as kaskeseth). I Sam. XVII, 5.
(43) Since the meaning of kaskeseth is definitely established and cannot be mistaken for that of fins.
(44) Since WHATSOEVER HAS SCALES HAS FINS.
(45) Isa. XLII, 21. Even an apparently superfluous word adds to the greatness and glory of the Torah.
(46) BUT THERE ARE etc.
(47) ‘... who createst many living beings’ (cf. P. B. p. 290).
(48) Those, for instance, of lulab, shofar, zizith and tefillin which require a benediction only before and not after they are performed.
(49) Lit., ‘the sons of the west’. Palestine lay to the west of Babylon where the discussion took place.
(50) BUT THERE ARE etc.

Talmud - Mas. Nidah 52a

fragrant odours.[1]

MISHNAH. IF A GIRL[2] HAS GROWN TWO PUBIC HAIRS SHE[3] MAY EITHER PERFORM HALIZAH OR CONTRACT LEVIRATE MARRIAGE, AND SHE IS UNDER AN OBLIGATION TO PERFORM ALL THE COMMANDMENTS THAT ARE ENUMERATED IN THE TORAH. SO ALSO A BOY, IF HE HAS GROWN TWO PUBIC HAIRS, IS UNDER AN OBLIGATION TO PERFORM ALL THE COMMANDMENTS ENUMERATED IN THE TORAH. HE IS FURTHERMORE LIABLE TO THE PENALTY OF A STUBBORN AND REBELLIOUS SON[4] AS SOON AS HE HAS GROWN TWO HAIRS UNTIL THE TIME WHEN HIS BEARD FORMS A CIRCLE.[5] (THIS REFERS TO THE LOWER, AND NOT TO THE UPPER ONE, BUT[6] THE

SAGES USED A EUPHEMISM,)[7] A GIRL WHO HAS GROWN TWO HAIRS[8] MAY NO LONGER EXERCISE THE RIGHT OF MI'UN. R. JUDAH RULED: MI'UN MAY BE EXERCISED UNTIL THE BLACK[9] PREDOMINATES.[10]

GEMARA. But since we have learnt, SHE IS UNDER AN OBLIGATION TO PERFORM ALL THE COMMANDMENTS THAT ARE ENUMERATED IN THE TORAH, what need was there for stating, SHE MAY EITHER PERFORM HALIZAH OR CONTRACT LEVIRATE MARRIAGE?[11] — To exclude a ruling of R. Jose who stated, ‘In the Biblical section[12] it is written man,[13] but as regards a woman there is no difference between a major and a minor’.[14] Hence we were informed that[15] if she has grown two hairs she may perform halizah,[16] but otherwise she may not. What is the reason? A woman is to be compared to man.[17]

But since it was stated, SO ALSO A BOY, IF HE HAS GROWN TWO PUBIC HAIRS,[18] what need was there for stating, HE IS UNDER AN OBLIGATION TO PERFORM ALL THE COMMANDMENTS ENUMERATED IN THE TORAH? And should you reply: Because it was desired to teach, HE IS FURTHERMORE LIABLE TO THE PENALTY OF A STUBBORN AND REBELLIOUS SON [the objection would arise]: Have we not learnt this once: ‘When does one become liable to the penalty of a stubborn and rebellious son? As soon as one grows two hairs until the time the beard forms a circle. (By this was meant the lower, and not the upper one, but the Sages used a euphemism)’? — This is so indeed; only because details were specified about the girl those relating to the boy were also specified.

IF A GIRL HAS GROWN etc. R. Abbahu citing R. Eleazar stated, The halachah is in agreement with R. JUDAH. R. Judah, however, agrees that if she was subjected to cohabitation after she had grown two hairs,[19] she may no longer exercise the right of mi'un.[20] The colleagues of R. Kahana desired to give a practical decision[21] in agreement with the ruling of R. Judah, although intercourse had taken place, but R. Kahana addressed them as follows: Did not such an incident happen with the daughter of R. Ishmael?[22] She, namely, came to the schoolhouse to exercise the right of mi'un while her son was riding on her shoulder; and on that day were the views of R. Ishmael mentioned at the schoolhouse; and the Rabbis wept bitterly[23] saying, ‘Over a ruling which that righteous man[24] had laid down should his offspring stumble!’ For Rab Judah citing Samuel who had it from R. Ishmael stated: And she be not seized,[25] [then only][26] is she forbidden,[27] but if she was seized she is permitted. There is, however, another class of woman who is permitted[27] even if she was not seized. And who is that? A woman whose betrothal was a mistaken one,[28] and who, even if her son sits riding on her shoulder, may exercise the right of mi'un and go away.[29] Thereupon they took a vote and decided: Up to what age may a girl[30] exercise the right of mi'un? Until that at which she grows two hairs. [On hearing this incident] they[31] abstained and did not act as they first intended.[32]

R. Isaac and the disciples of R. Hanina gave a practical decision in agreement with R. Judah, though the girl had been subjected to intercourse. R. Shamin b. Abba proceeded to tell it in the presence of R. Johanan; R. Johanan proceeded to tell it in the presence of R. Judah Nesi'ah[33] and the latter sent a constable[34] who took her away.[35]

R. Hisda citing Mar Ukba stated: The meaning[36] is not that the black must actually predominate but that it shall be such as, when two hairs lie flat, has the appearance[37] of the black predominating over the white,[38] Raba stated: Two hairs that reach from rim to rim.

R. Helbo citing R. Huna stated: The two hairs of which the Rabbis spoke[39] must[40] have follicles at their roots. R. Malkio citing R. Adda b. Ahabah ruled: Follicles suffice even in the absence of hairs. Said R. Hanina the son of R. Ika: The rulings concerning a spit,[41] bondwomen[42] and follicles[43] were laid down by R. Malkio, but those concerning a forelock,[44] wood-ash[45] and cheese[46] were laid down by R. Malkia. R. Papa, however, stated: If the statement was made on a Mishnah or a Baraitha the author is R. Malkia but if on reported traditions[47] the author is R. Malkio. And the mnemonic[48] is, ‘The mathnitha[49] is queen’.[50] What is the practical difference between them?[51] — The practical difference between them is the statement on bondwomen.[52] R. Ashi stated, Mar Zutra told me that R. Hanina of Sura felt about this the following difficulty: Would not a single Tanna[53] go out of his way to teach[54] us the law of the follicles? — If one[55] had informed us of the law of the follicles it might have been presumed that [puberty is not established] unless there were two hairs in two follicles respectively, hence we were informed[56] that even two hairs in one follicle are sufficient. But is there such a phenomenon?[57] Is it not in fact written in Scripture, He that would break me with a tempest, and multiply my wounds without cause[58] in connection with which Raba[59] remarked: Job blasphemed with the mention of tempest and he was answered with a tempest. He ‘blasphemed with the mention of tempest’, saying to Him, ‘Sovereign of the world, perhaps a tempest has passed before Thee, and caused Thee to confuse "Job"[60] with "enemy"?’[61] ‘He was answered with a tempest’: Then the Lord answered

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(1) Before the smelling of which, but not after, a benediction (cf. P.B. p. 290) is said.

(2) Being twelve years and one day old.

(3) If her husband died childless.

(4) Cf. Deut. XXI, 18ff and Sanh. 68b.

(5) When he is regarded as an adult who is no longer subject to this law.

(6) In speaking in vague terms.

(7) Lit., ‘spoke in clean language’.

(8) Having thus passed out of her minority.

(9) The pubic hair.

(10) The growth of no more than two hairs does not suffice in his opinion to deprive her of the right of mi'un (cf. Gemara infra).

(11) Which are rites already included in the general rule.

(12) Of halizah.

(13) Deut. XXV, 7; ‘man’, excluding the woman, implies that only the male must be of age.

(14) Sc. a minor also may perform halizah.

(15) In the case of a girl also.

(16) Lit., ‘yes’.

(17) Cf. Yeb. 105b, B.B. 156a.

(18) A statement which brings the boy under the same obligations as the girl.

(19) So that there was a valid marriage kinyan (cf. Kid, 2a) after she had attained her majority.

(20) Only where no intercourse had taken place after two hairs have grown does R. Judah maintain his view (cf. relevant n. on our Mishnah). The first Tanna, however, maintains that, even if she allowed only one moment to pass after the growth of two hairs, irrespective of whether intercourse did or did not take place, her right to mi'un is lost.

(21) Lit., ‘to do a deed’.

(22) Who, after her father's death, while she was in her minority was given in marriage by her mother.

(23) Lit., ‘a great weeping’. For the reading cf. MS.M. Cur. edd. ‘and she wept . . . in the schoolhouse and they said’.

(24) R. Ishmael.

(25) Num, V, 13. E. V. neither she be taken in the act.

(26) Sc. if she did not act under compulsion but willingly.

(27) To her husband.

(28) If, for instance, a condition was attached to it and the condition remained unfulfilled, or if the marriage was with a minor (in the absence of her father) whose act (even with the consent of her mother) has no validity. In such a case the woman may leave her husband without a letter of divorce and she has the status of a feme sole who had never before been married.

(29) Since the marriage had no validity.

(30) Lit., ‘the daughter’.

(31) R. Kahana's colleagues.

(32) Lit., ‘and did not do the deed’.

(33) The Prince, Judah II.
(34) Or ‘a detachment of police. Lit., ‘searcher’.
(35) From her second husband who had married her in reliance on her mi'un.
(36) Of R. Judah's ruling on our Mishnah.
(37) Owing to the length of the hairs.
(38) The skin.
(39) V. our Mishnah.
(40) If they are to be taken as a mark of puberty.
(41) That has been used on a festival for the roasting of meat, may, by an indirect movement, be made to slip into a corner, though direct movement is forbidden (v. Bezah 28b).
(42) Brought by a woman to her husband at her marriage (v. Keth. 59b).
(43) The law cited here.
(44) The law that an Israelite who trims the hairs of a heathen must withdraw his hand at a distance of three fingers’ breadth on every side of the forelock (v. A.Z. 29a).
(45) Forbidden to be spread on a wound because it gives it the appearance of an incised imprint (v. Mak. 21a).
(46) If made by a heathen is forbidden to be eaten on account of the lard that he smears over it.
(47) Shemathatha, those not recorded in a Mishnah or a Baraitha.
(48) To help one to recollect which of the statements mentioned were made by R. Malkio and R. Malkia respectively.
(49) Mathnitha, a general term for both Mishnah and Baraitha as opposed to shemathatha (cf. prev. n. but one).
(50) Sc. more authoritative than a reported statement. Malkia (מלכיא) whose name closely resembles מלכתא (queen) is to be associated with the Mishnah and the Baraitha that are designated ‘queen’.
(51) R. Hanina and R. Papa.
(52) Which is recorded in a Mishnah. According to R. Papa the comment on it must be that of R. Malkia (cf. prev. n. but one) while according to R. Hanina it is one of the rulings attributed to R. Malkio,
(53) If follicles alone, in the absence of hairs, sufficed to establish puberty.
(54) Anywhere in the Mishnah.
(55) Tanna.
(56) By the mention of two hairs only.
(57) Two hairs in one follicle.
(58) Job IX, 17.
(59) Var. lec. Rabbah (cf. B.B. 16a).
(60) איוב (Iyob).
(61) אויב (Oyeb).

Talmud - Mas. Nidah 52b

Job out of the whirlwind, and said[1] to him, ‘Most foolish man,[2] I have created many hairs[3] in a man's head and for every hair I have created a separate follicle, so that two should not suck from the same follicle, for if two were to suck from the same follicle they would impair the sight of man. I did not confuse one follicle with another, would I confuse "Job" and "enemy"?’[4] — This is no difficulty since one[5] refers to the body while the other[6] refers to the head.

Rab Judah citing Samuel ruled: The two hairs of which they spoke [establish puberty] even if one is on the crest and the other on the testes. So it was also taught: The two hairs of which they spoke [establish puberty] even if one grows on her back and the other on her belly, one on the joints of the fingers of her hand and the other on the joints of her toes; so R. Simeon b. Judah of Kefar Akko who cited it in the name of R. Ishmael.[7] But Rab citing R. Assi ruled: puberty is not established unless two hairs grow in the same spot.

Our Rabbis taught: Up to what age may a girl exercise the right of mi'un? Until she grows two hairs; so R. Meir. R. Judah ruled: Until the black predominates.[8] R. Jose ruled: Until a ring is formed around the nipple. Ben Shelakoth ruled: Until she grows her hair in profusion.[9] In connection with this R. Simeon stated: Hanina b. Hakinai once met me at Zidon and said to me,[10] ‘When you arrive at R. Akiba's ask him "until what age may a girl exercise the right of mi'un". If he tells you, "Until she grows two hairs", ask him this: Did not Ben Shelakoth testify in the presence of all of you at Jamnia, "Until she grows her hair in profusion", and you did not say to him a word to the contrary?’ When I arrived at R. Akiba's the latter told me, ‘I do not know anything about the growing of hair in profusion, and I do not know Ben Shelakoth; a girl may exercise the right of mi'un until the age when she grows two hairs’.

MISHNAH. THE TWO HAIRS SPOKEN OF IN REGARD TO THE RED HEIFER[11] AND IN REGARD TO LEPROSY[12] AS WELL AS THOSE SPOKEN OF ANYWHERE ELSE[13] MUST BE LONG ENOUGH FOR THEIR TIPS TO BE BENT TO THEIR ROOTS; SO R. ISHMAEL. R. ELIEZER RULED: LONG ENOUGH TO BE GRASPED BY A FINGER-NAIL, R. AKIBA RULED: LONG ENOUGH TO BE TAKEN OFF WITH SCISSORS.

GEMARA. R. Hisda citing Mar Ukba stated: The halachah is in agreement with the views of all these in that the law is thereby invariably restricted.[14]

MISHNAH. A WOMAN WHO OBSERVED A BLOOD-STAIN[15] IS IN AN UNSETTLED CONDITION[16] AND MUST[17] TAKE INTO CONSIDERATION THE POSSIBILITY THAT IT WAS DUE TO ZIBAH; SO R. MEIR. BUT THE SAGES RULED: IN THE CASE OF BLOOD-STAINS THERE IS NO [NEED TO CONSIDER THE POSSIBILITY OF THEIR BEING] DUE TO ZIBAH.

GEMARA. Who are THE SAGES? — R. Hanina b. Antigonus. For it was taught: R. Hanina b. Antigonus ruled, In the case of blood-stains there is no [need to consider the possibility of their being] due to zibah, but sometimes blood-stains do lead to zibah. How so? If a woman[18] put on three shirts that she had previously examined and then found a blood-stain on each of them, or if she[19] observed a discharge[20] on two days and [a blood-stain on] one shirt,[21] these are the blood-stains that lead to zibah. But since in the case of three shirts, where she observed no direct discharge from her body, the possibility of zibah is taken into consideration, why was it necessary to mention[22] that of ‘two days and one shirt’? — It might have been presumed[23] that in any instance like this[24] the woman brings a sacrifice which may be eaten,[25] hence we were informed [that only the possibility[26] of zibah is taken into consideration].[27] Raba observed: In this matter R. Hanina b. Antigonus vindicated his case against the Rabbis. For why is it [that when a bloodstain] less than three beans in size is in one spot we do not take into consideration the possibility of zibah? [presumably] because we assume that it is the result of observations on two days.[28] But then why should we not, even if a stain of the size of three beans was in one spot, similarly assume that only to the extent of the size of two and a half beans the discharge was from her body while the rest is the blood of a louse due to the filth?[29] — And the Rabbis?[30] — Since the stain[31] can be divided up into parts of the size of a bean and over for each day[32] we do not ascribe it to any external cause. As to R. Hanina b. Antigonus, is it[33] only when a stain of the size of three beans in one spot that we do not take the possibility of zibah into consideration, but if it is in three different places[34] the possibility is taken into consideration? But did you not say[35] that this[36] applies only to stains on[37] three shirts,[38] from which it follows that it does not apply to stains[39] in three spots?[40] — He[41] spoke to them on the line of the view of the Rabbis. As far as I am concerned, he said in effect, it[42] applies only to three shirts[38] and not to three spots;[40] but according to your view, agree with me at least that, where she had observed a stain of the size of three beans in one spot, we assume that to the extent of two and a half beans the discharge came from her body while the rest is the blood of a louse due to the filth. And the Rabbis? — Since the stain[43] can be divided up into parts of the size of a little more than a bean for each day,[44] we do not ascribe it to any external cause,

Our Rabbis taught: If a woman observed a blood-stain, if it is big enough[43] to be divided into parts corresponding respectively to three beans, each of which being slightly bigger than the size of a bean, she must take into consideration the possibility of zibah; otherwise, she need not take this possibility into consideration. R. Judah b. Agra citing R. Jose ruled: In the one case and in the other[45] the possibility must be taken into consideration.[46]

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(1) Job XXXVIII, 1.

(2) Lit., ‘fool that (you are) in the world’.

(3) The Heb. word for tempest, ‘se'arah’, may also be rendered ‘hair’.

(4) From which it is obvious that two hairs can never grow from the same follicle. How then could it be maintained (supra 52a) that two hairs may sometimes grow from the same follicle?

(5) The case of the hairs mentioned in our Mishnah.

(6) The hairs mentioned in connection with Job,

(7) The reading to ‘ruled’ is that of MS.M. Cur. edd. read, ‘And the Rabbis [what is their view]? R. Hisda replied’. Bah substitutes ‘Ashi’ for ‘Hisda’.

(8) Cf. relevant n. on our Mishnah,

(9) Cf. Tosaf.

(10) So MS.M.

(11) Cf. A.Z. 24a and Parah II, 5.

(12) Cf. Neg. I, 5.

(13) In regard to the marks of puberty.

(14) Sc. as soon as the hairs grow to the smallest length mentioned in our Mishnah she is no longer regarded as minor and the right of mi'un is denied to her, while halizah may not be performed until the hairs grew to the maximum of the lengths mentioned, when her majority is beyond all doubt.

(15) On her underclothing.

(16) Lit., ‘damaged’, sc. the calculations (that enable her to determine in which days she is liable to menstruation and in which she is susceptible to zibah) are upset since she is unable to ascertain when exactly the discharge (of which the blood-stain is the result) had occurred.

(17) Under certain circumstances (cf. Gemara infra).

(18) On three consecutive days respectively during the period in which she is susceptible to zibah,

(19) In the zibah period (cf. prev. n.).

(20) An actual flow of blood.

(21) That was previously duly examined.

(22) That zibah must be taken into consideration.

(23) If the latter case had not been mentioned.

(24) Two actual discharges and one blood-stain.

(25) Sc. that the sacrifice is deemed to be valid as in the case of certain zibah.

(26) But not the certainty.

(27) So that the sacrifice is of a doubtful nature. As the method of killing that is prescribed for a bird sacrifice renders an unconsecrated bird nebelah and forbidden to be eaten, the bird sacrifice offered in this case must (on account of its doubtful nature) be forbidden to be eaten.

(28) While zibah cannot be established unless discharges occurred on three consecutive days.

(29) Of menstruation; so that (cf. prev. n.) there was no zibah at all.

(30) How can they maintain their ruling in view of this argument?

(31) Being of generous dimensions and rather larger than the size of three beans.

(32) So that on each day there may have been a new stain of the size prescribed.

(33) As Raba's statement seems to suggest.

(34) Though on the same shirt.

(35) In the Baraitha supra.

(36) That the possibility of zibah is taken into consideration.

(37) Lit., ‘yes’.

(38) One stain on each.

(39) Lit., ‘not’.

(40) On the same shirt.
(41) R. Hanina according to Raba's submission.
(42) That the possibility of zibah is taken into consideration.
(43) Being of generous dimensions and rather larger than the size of three beans.
(44) So that on each day there may have been a new stain of the size prescribed.
(45) Sc. even if the stain was no bigger than the size of two beans.
(46) Since it is possible that at least one of the stains was due to a discharge at twilight which counts as two (v. infra).

Talmud - Mas. Nidah 53a

Rabbi stated: R. Judah b. Agra's ruling is acceptable where she did not examine[1] and the ruling of the Sages where she did examine. What is meant by ‘she did examine’ and by ‘she did not examine’? — Raba replied: I found the Rabbis of the schoolhouse sitting at their studies and discoursing thus: ‘Here[2] we are dealing with the case of a woman who examined herself,[3] but did not examine her shirt;[4] and even her own body was examined by her only at the twilight of R. Judah,[5] while at the twilight of R. Jose[6] she did not examine herself. In such a case, the Rabbis being of the opinion that at the twilight of R. Jose it is already night, [the question of zibah does not arise] since she had examined herself at the twilight of R. Judah,[7] and R. Jose follows his own view, he having stated that twilight is a doubtful time’.[8] But I said to him: ‘Had her hands been kept in her eyes[9] throughout the twilight[10] you would[11] have spoken well,[12] but now,[13] is it not possible that she experienced a discharge[14] as soon as she had removed her hands?’[15] They then told me, ‘We only spoke of a case where the woman had her hands in her eyes[9] throughout the twilight’.

‘Rabbi stated: R. Judah b. Agra's ruling[16] is acceptable where she did not examine’. Now[17] what is meant by ‘she did not examine’? If it be suggested that she examined herself in the twilight of R. Judah but did not examine herself in the twilight of R. Jose [the difficulty would arise]: From this[18] it follows that R. Judah holds[19] that even where she examined herself both times,[20] the possibility of zibah must be considered; [but why should this be so] seeing that she did examine herself?[21] It is obvious then [that the meaning[22] is] that she did not examine herself either in the twilight of R. Judah or in that of R. Jose;[23] but if she had examined herself in R. Judah's twilight[24] and did not examine herself in R. Jose's[25] there is no need for her to consider the possibility [of zibah].[26] It is thus clear that the twilight of R. Jose is according to Rabbi[27] regarded as night.[28] Now read the final clause: ‘And the ruling of the Sages where she did examine’ — What is meant by ‘she did examine’? If it be suggested that she examined herself in the twilight of R. Judah but did not examine herself in that of R. Jose,[29] it would follow[30] that the Rabbis are of the opinion that even if she did not examine herself in either[31] there is no need to consider the possibility of zibah [but why should this be so] seeing that she did not examine herself?[32] It is obvious then that [the meaning[33] is] that she examined herself both in the twilight of R. Judah and in that of R. Jose, but that if she had examined herself in the twilight of R. Judah and not in that of R. Jose the possibility of zibah[34] must be considered.[35] It is thus clear that the twilight of R. Jose is according to Rabbi[36] regarded as doubtful time.[37] Does not this then present a contradiction between two statements of Rabbi?[38] — It is this that he[39] meant: The view of R. Judah b. Agra[40] is acceptable to the Rabbis[41] when she did not examine herself at all either in R. Judah's twilight or in that of R. Jose's, for even the Sages differed from him[42] only when she has examined herself in R. Judah's twilight[43] and did not examine herself in that of R. Jose,[44] but where she did not examine herself at all they agree with him,[45] But does not the following show incongruity?[46] [For it was taught:] If a woman observed a bloodstain, the observation being one of a large one,[47] she must take into consideration the possibility of a discharge at twilight,[48] but if the observation was one of a small stain[49] she should not take the possibility into consideration. This is the ruling of R. Judah b. Agra who cited it in the name of R. Jose. Said Rabbi: I heard from him[50] that in both cases must the possibility be taken into consideration; ‘and’, he said to me, ‘it is for this reason: What if she had been a menstruant who did not[51] make sure of her cleanness[52] from the minha time[53] and onwards, would she not[54] have been regarded as being in a presumptive state of uncleanness?[55] And his ruling is acceptable to me where she has examined herself. Now what is meant by ‘she has examined herself’? If it be suggested that she has examined herself in the twilight of R. Judah and did not examine herself in that of R. Jose, it would follow that R. Judah b. Agra holds that even though she did not examine herself either in the twilight of R. Judah or in that of R. Jose the possibility need not be considered; but why should this be so seeing that she did not examine herself? It must be obvious then that she did examine herself both in the twilight of R. Judah and in that of R. Jose. Thus it follows that R. Judah b. Agra holds that if she examined herself in the twilight of R. Judah and not in that of R. Jose she need not consider the possibility. It is thus clear that the twilight of R. Jose is according to R. Judah b. Agra regarded as night. Does not this then present a contradiction between two rulings of R. Judah b. Agra?[56] In the absence of Rabbi's interpretations[57] there would well be no difficulty, since the former ruling might refer to a case where she has examined herself in R. Judah's twilight and not in that of R. Jose while here it is a case where she has examined herself in R. Jose's twilight as in that of R. Judah's; but with Rabbi's interpretations[58] does not the contradiction arise? — Two Tannas expressed different views as to the opinion of R. Judah b. Agra. The first Tanna holds that the twilight of R. Judah ends first

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(1) This is discussed presently.

(2) In the dispute between R. Judah b. Agra and the Rabbis,

(3) Each day at twilight.

(4) Which was examined for the first time on the third day when a stain of the size of two beans was discovered. As it is thus unknown when the stain was made, the possibility must be taken into consideration that there may have been a discharge at the twilight of each, or at least one, of the two days; and, since a discharge at twilight counts as two (one for the passing and one for the coming day), that she had experienced no less than three discharges on three consecutive days.

(5) Which extends after sunset for a time during which one can walk a distance of a thousand cubits.

(6) Which lasts no longer than a ‘wink of the eye’, beginning and ending later than R. Judah's twilight.

(7) When she had ascertained that on that day she was clean, Any subsequent discharge at the twilight of R. Jose could only be counted as one for the following day. The total of her discharges cannot consequently have been more than two.

(8) Cf. prev. n. but one, As it is possible that there was a discharge at that time (which counts as both possible day and possible night) the woman must be treated as if she experienced two discharges (one on the passing, and one on the incoming day) in addition to the discharge on the other day in question, thus making a total of three discharges.

(9) Euphemism.

(10) Of R. Judah.

(11) As far as the Rabbis are concerned.

(12) Since it would have been definitely established that during the passing day no discharge had occurred.

(13) That a general statement was made that the discharge is always ascribed to one day only.

(14) During the twilight of R. Judah.

(15) And this would count as two.

(16) That the possibility of zibah is to be considered even where a stain is not big enough to be divided into three parts, each of the prescribed minimum.

(17) Since Rabbi stated that only in this case he accepted the ruling of R. Judah b. Agra, it follows that where she did examine herself he does not accept his ruling though R. Judah himself maintains that the possibility of zibah must be considered even in the latter case.

(18) Since ‘no examination’ only means the absence of one in R. Jose's twilight though one did take place in R. Judah's twilight.

(19) Cf. prev. n. but one.

(20) The twilight of R. Judah and the twilight of R. Jose.

(21) Making sure that on that day there was no discharge. How then could one subsequent possible discharge in the night be counted as two?

(22) Of the expression ‘she did not examine’,

(23) So that the possibility must be considered that she may have experienced a discharge in R. Judah's twilight.

(24) Thus ascertaining that she was clean on that day.

(25) Which is regarded as night.
(26) Since one discharge in the night cannot possibly be counted as two discharges.
(27) Who on this point disagrees with R. Judah.
(28) Cf. prev. n. but two
(29) And it is in this case only that Rabbi stated that the ruling of the Sages is acceptable but, it follows, where she examined herself in neither, though the Rabbis still maintain that the possibility of zibah need not be considered he holds that it must be taken into consideration.
(30) Cf. prev. n.
(31) Lit., ‘in the two’. The twilights of R. Judah and R. Jose respectively.
(32) In consequence of which she may have experienced a discharge at twilight when the one discharge is counted as two. How then could the possibility of zibah be ruled out?
(33) Of the expression ‘she did examine’, in Rabbi's approval of the ruling of the Sages.
(34) According to Rabbi who in this case disagrees with the Sages’ ruling.
(35) It being possible that she experienced a discharge in R. Jose's twilight when one discharge is counted as two.
(36) Who on this point disagrees with the Sages.
(37) Cf. prev. n. but one.
(38) Lit., ‘a difficulty of Rabbi on Rabbi’. According to the inference from the first clause R. Jose's twilight is regarded by him as right while according to the inference from the final clause it is doubtful whether it is day or night.
(39) Rabbi.
(40) That the possibility of a discharge at twilight is to be considered.
(41) Not to himself; sc. Rabbi did not express any opinion as to what view he accepted and with whom he agreed (as was previously assumed when the contradiction was pointed out) but merely explained the extent and limits of the dispute between the Sages and R. Judah b. Agra.
(42) In maintaining that the possibility (cf. p. 368, n. 14) may be disregarded.
(43) Thus ascertaining that there was no discharge at twilight.
(44) Which in their opinion is regarded as night.
(45) Cf. p. 368 n. 14. R. Jose, however, who holds his twilight to be a doubtful time, takes into consideration the possibility of a discharge in his twilight which would be regarded as two, one of which must be attributed to the passing, and the other to the incoming day.
(46) With what had been said supra that according to R. Judah b. Agra it is not certain whether the twilight of R. Jose is night or day.
(47) One that can be divided into three stains each of which is slightly bigger than the size of a bean.
(48) Which counts as two.
(49) Sc. one not bigger than a little more than the size of two beans, so that it can only be divided into two stains of the prescribed minimum.
(50) R. Jose.
(51) On the seventh day after menstruation.
(52) Lit., ‘separated in cleanness’.
(53) Two and a half seasonal hours before nightfall.
(54) Though in the morning she made sure of her cleanness.
(55) Of course she would, and in consequence she would not be allowed to undergo immersion in the evening. Thus it follows that in the absence of an examination, the possibility of a discharge is considered. Similarly in the case of the stain under discussion, since no examination was held at twilight, the possibility of a discharge that must be counted as two must be taken into consideration.
(56) According to his first ruling supra the twilight of R. Jose is only a doubtful time while according to his present ruling it is definitely night.
(57) Both here and supra.
(58) Which inevitably lead to the conclusion (as stated supra) that, according to the first ruling, R, Judah b. Agra holds R. Jose's twilight to be a doubtful time, while according to his second ruling, it is definitely night.

Talmud - Mas. Nidah 53b

and then begins the twilight of R. Jose,[1] while the second Tanna holds that the twilight of R. Jose is absorbed in that of R. Judah.[2]

Our Rabbis taught: A woman who observes a bloodstain causes uncleanness to herself[3] and to consecrated things retrospectively;[4] so Rabbi. R. Simeon b. Eleazar ruled: She causes uncleanness[5] to consecrated things but does not cause uncleanness to herself, since her bloodstain cannot be subject to greater restrictions than her observation.[6] But[7] do we not find that her bloodstain is subject to greater restrictions in regard to consecrated things? — Read rather thus: R. Simeon b. Eleazar ruled, Even to consecrated things she conveys no uncleanness,[8] since her bloodstain should in no case be subject to greater restrictions than her observation.[6]

Our Rabbis taught: If a woman observed first a bloodstain and then[9] she observed a discharge of blood she may for a period of twenty-four hours ascribe her stain to her observation;[10] so Rabbi. R. Simeon b. Eleazar ruled: Only during the same day.[11] Said Rabbi: His view seems more acceptable than mine, since he improves[12] her position while I make it worse. ‘He improves it’! Does he not in fact[13] make it worse? — Rabina replied: Reverse the statement,[14] R. Nahman said: You need not really reverse it, [the meaning being:] Since he improves her position in regard to the laws of zibah while I make her position worse as regards the laws of zibah.[15]

R. Zera enquired of R. Assi: Do stains[16] necessitate an interval of cleanness[17] or not? The other remained silent, answering him nothing at all. Once he[18] found him[19] as he was sitting at his studies and discoursing as follows: ‘She may for twenty-four hours ascribe her stain to her observation. This is the ruling of Rabbi. In connection with this Resh Lakish explained that it applied only where she has examined herself,[20] while R. Johanan explained: Even though she did not examine herself’.[21] ‘Thus it follows’, he[18] said to him,[19] ‘that[22] stains necessitate an interval of cleanness’. ‘Yes’, the other[19] replied. ‘But did I not ask you this question many a time and you gave me no answer at all? It is likely that you recalled the tradition[23] in the rapidity of your reviewing?’[24] — ‘Yes’, the other replied, ‘in the rapidity of my reviewing I recalled it’.

MISHNAH. IF A WOMAN OBSERVED A DISCHARGE OF BLOOD ON THE ELEVENTH DAY[25] AT TWILIGHT,[26] AT THE BEGINNING OF A MENSTRUATION PERIOD AND AT THE END OF A MENSTRUATION PERIOD,[27] AT THE BEGINNING OF A ZIBAH PERIOD AND AT THE END OF A ZIBAH PERIOD,[27] ON THE FORTIETH DAY AFTER THE BIRTH OF A MALE[28] OR ON THE EIGHTIETH DAY AFTER THE BIRTH OF A FEMALE,[29] [THE DISCHARGE HAVING BEEN OBSERVED] AT TWILIGHT IN ALL THESE CASES,[30] BEHOLD WOMEN IN SUCH CIRCUMSTANCES[31] ARE IN A STATE OF PERPLEXITY.[32] SAID R. JOSHUA: BEFORE YOU MAKE PROVISION FOR THE FOOLISH WOMEN[33] COME AND MAKE PROVISION FOR THE WISE ONES.[34]

GEMARA. AT THE BEGINNING OF A MENSTRUATION PERIOD AND AT THE END OF A MENSTRUATION PERIOD! Is it[35] not rather the beginning of a menstruation period and the end of a zibah period?[36] — R. Hisda replied: It is this that was meant: IF A WOMAN OBSERVED A DISCHARGE OF BLOOD ON THE ELEVENTH DAY AT TWILIGHT a time which is THE BEGINNING OF A MENSTRUATION PERIOD AND THE END OF A ZIBAH PERIOD, or on the seventh day of her menstruation when it is THE END OF A MENSTRUATION PERIOD AND THE BEGINNING OF A ZIBAH PERIOD.

SAID R. JOSHUA: BEFORE YOU MAKE PROVISION FOR THE FOOLISH WOMEN etc. But are these

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(1) Hence it is uncertain whether it still belongs to the day or to the following night.

(2) And since in his opinion the examination must extend over all the twilight of the latter it obviously covers also the twilight of the former, so that the examination took place in both twilights.

(3) Sc. if she was in the process of counting her clean days she must start anew (Tosaf.).

(4) To the time the article on which the stain was found had been washed.

(5) Retrospectively.

(6) In the latter case the uncleanness is retrospective for twenty-four hours only, while in the former it would go back to the time the article had been washed.

(7) Since R. Simeon b. Eleazar agrees with Rabbi in the case of consecrated things.

(8) Retrospectively.

(9) Within twenty-four hours.

(10) Sc. her uncleanness does not extend retrospectively to the time the article had been washed but begins at the time the stain was found.

(11) Sc. only where the stain was observed on the same day as the discharge of the blood may the former be ascribed to the latter (cf. prev. n.); but if the stain was discovered in the daytime while the blood was not observed until after sunset, though this took place within twenty-four hours, the former cannot be ascribed to the latter.

(12) This is discussed presently.

(13) By reducing the period of twenty-four hours.

(14) Reading, ‘my view seems more acceptable etc.’.

(15) According to Rabbi who for a period of twenty-four hours ascribes the stain to the observation of the blood the woman is deemed to have been unclean on the day of her observation as well as on the previous day. If, therefore, she were to observe some blood on the next day following she would be regarded as a confirmed zabah, while according to R. Simeon who ascribes a stain to blood observed during the same day only the woman would be deemed unclean on one day only and could not become a confirmed zabah unless blood was observed on the two following days also (R. Han.).

(16) According to Rabbi who attributes a stain to an observation of blood if the latter took place within twenty-four hours, and does not regard the woman's uncleanness as having begun at the time the article (on which the stain was found) had been washed,

(17) Sc. must the woman have examined herself between the time the article had been washed and the discovery of the stain? (Tosaf.).

(18) R. Zera.

(19) R. Assi.

(20) Near the time of discovering the stain, within twenty-four hours; but if twenty-four hours have passed between the examination and the discovery of the stain the woman is deemed unclean retrospectively from the time of the examination (Tosaf.).

(21) Sc. near the examination between which and the discovery of the stain an interval of twenty-four hours had been allowed to pass. Despite this interval the woman's uncleanness is not retrospective since less than twenty-four hours have passed between the time the article had been washed and the discovery on it of the stain. As the uncleanness in such a case is not retrospective to the time of the washing of the article, it is equally not retrospective over the twenty-four hours’ period (Tosaf.). Cf. Tosaf. Asheri.

(22) According to both Resh Lakish and R. Johanan.

(23) Lit., ‘it came to thee’.

(24) Cf. Jast,

(25) After the termination of a menstruation period. Any issue of blood within the eleven days is deemed to be zibah.

(26) A time which is neither certain day nor certain night, so that it is doubtful whether the issue was one of zibah or one of menstruation. If the time were certain day the issue (cf. prev. n.) would be zibah and if it were certain night (when a new menstruation period commences) it would be menstrual.

(27) This is discussed in the Gemara infra.

(28) All discharges of blood from the eighth to the fortieth day after the birth of a male is regarded as clean and after that begins the menstruation period of seven days followed by the zibah one of eleven days.

(29) From the fifteenth to the eightieth day after the birth of a female all discharges of blood are clean and after the eightieth day the menstruation period followed by that of zibah (cf. prev. n.) begins.

(30) Cf. prev. n. but three.

(31) Lit., ‘these’.

(32) Lit., 'erring', as regards the counting of the clean and unclean days prescribed in the various cases mentioned; because they are unable to determine on which of the 'two days involved they had observed the discharge.

(33) Those of the type just mentioned.

(34) Women who observed their discharges in the day or the night when no doubt arises. This is further explained in a Baraitha cited infra.

(35) The twilight of THE ELEVENTH DAY.

(36) Since the zibah period which began after the seventh day of the menstruation period terminated at the conclusion of the eleventh day when a second menstruation period begins.

Talmud - Mas. Nidah 54a

FOOLISH WOMEN? Are they not merely IN A STATE OF PERPLEXITY?[1] — Rather read: Women who are in a state of perplexity. For[2] it was taught: [If a woman is alternately] unclean on one day and clean on the next,[3] she may perform her marital duty[4] on the eighth day,[5] the night following being included,[6] and on four nights out of every eighteen days.[7] If, however, she observed any issue in the evening,[8] she performs her marital duty on the eighth day[9] only.[10] [If she is alternately] unclean[11] for two days and clean for two days, she may perform her marital duty on the eighth,[12] the twelfth,[13] the sixteenth[14] and the twentieth.[15] But why is she not allowed to perform her marital duty on the nineteenth?[16] — R. Shesheth replied: This[17] proves that the 'gluttony'[18] of which we have learnt[19] is forbidden. R. Ashi[20] replied: Granted that the eleventh day[21] requires no safeguard,[22] the tenth day[23] at any rate does require a safeguard.[24] If she is alternately unclean for three days and clean for three days, she may perform her marital duty on two days[25] and may never again perform it.[26] If she is alternately unclean for four days and clean for four days she performs her marital duty on one day,[27] and may never again perform it.[28] If she is alternately unclean for five days and clean for five days, she performs her marital duty on three days[29] and may never again perform it.[28] If she is alternately unclean for six days and clean for six days she performs her marital duty on five days[30] and may never again perform it.[28] If she is alternately unclean for seven days and clean for seven days, she may perform her marital duty during a quarter of her lifetime, [seven days][31] out of each twenty-eight days.[32] If she is alternately unclean for eight days and clean for eight days, she may perform her marital duty on fifteen days[33] out of every forty-eight days.[34] But is not the number[35] fourteen?[36] — R. Adda b. Isaac replied: This proves that the days of her menstruation in which she observes no discharge[37] are reckoned in the counting[38] prescribed for her zibah;[39] for the question was raised:

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(1) V. supra p. 373, n. 6.

(2) The following series of rules applies to the WISE ONES of which R. Joshua spoke.

(3) Sc. is discharging blood every alternate day.

(4) If the discharge never occurs in the night.

(5) Counting from the one on which her first discharge was observed. On the eighth day her cleanness is established beyond any possible doubt since her unclean period of menstruation terminated with the seventh, and the eighth is one of her alternate clean days.

(6) Lit., 'and its night with it', since (cf. Prev. n. but one) she never discharges any blood in the night.

(7) Again counting from the day of the first discharge (cf. prev. n. but one). As she never discharges on three consecutive days she can never become a major zabah (who must allow seven clean days to pass before she can attain cleanness). When she discharges on the ninth day (one of the alternate unclean days) she, as a minor zabah (the discharge having taken place within the eleven days of the zibah period which began on the eighth), must allow one clean day (the tenth) to pass and may perform her marital duty in the night following it. Observing a discharge on the eleventh day (one of the alternate unclean days) she allows the twelfth day to pass and performs her duty in the night that follows. Similarly she may perform her marital duty on the nights following respectively the fourteenth and the sixteenth. By the time eighteen days have passed with the sunset of the eighteenth day she has, in addition to the eighth day and night following it, the four nights that follow respectively the tenth, twelfth, fourteenth and sixteenth day. The night following the eighteenth day is again one in which performance of marital duty is permitted, but it belongs to the next cycle. On the nineteenth, the seven days of menstruation begin again and the cycle is repeated.

(8) Of the alternate unclean days.

(9) After her first discharge, sc. the day and the night preceding it. On the day she is definitely clean since her discharge does not appear until evening, and in the previous night she is also clean since with the day preceding it (the seventh) her unclean menstruation period had come to an end.

(10) During the first seven days she is unclean as a menstruant and in the night following the eighth (one of the alternate unclean nights) she is unclean as a minor zabah (the zibah period having commenced on the eighth) and must consequently allow one day, the ninth, to pass. On the night following the ninth (another of the alternate unclean nights) she is again unclean as a minor zabah and must again allow a day, the tenth, to pass, and so on until the termination of eighteen days when a new cycle of the same number of days begins in which again she is allowed marital duty on the eighth day and the night preceding it only.

(11) The discharge making its appearance (as is also the case in all the following rulings) in the evenings.

(12) Which (with the night preceding) is the second of the two alternating clean days and (unlike the first of these two days) follows the immersion on the seventh day of the unclean seven days of the menstruation period.

(13) The preceding night included, On the ninth and the tenth (two of the alternating unclean days) she is (since these days are within her zibah period) a minor zabah and must in consequence allow the eleventh also to pass, performing immersion in the evening of that day and thus attaining cleanness on the twelfth.

(14) Including also the night preceding it. On the thirteenth and fourteenth (cf. prev. n. mut. mut.) she is a minor zabah, the fifteenth is the day she must allow to pass and in the evening of which she performs immersion and attains cleanness by the sixteenth.

(15) Cf, prev. n. mut. mut. The uncleanness on the twenty-first and twenty-second is already part of a menstruation period and belongs to the next cycle.

(16) The day following the eleventh day of the zibah period, which (as stated infra 72b) need not be passed before cleanness is attained.

(17) The prohibition of marital intercourse on the nineteenth.

(18) Lit., ‘glutton’.

(19) Infra 72a: If a woman observed a discharge on the eleventh day of her zibah period, and performed immersion on the twelfth, and, after intercourse, again observed a discharge, her husband (who had not the patience to allow the twelfth day to pass) is described by Beth Hillel as a glutton.

(20) Maintaining that ‘gluttony’ is not forbidden,

(21) Of the zibah period (the eighteenth in the cycle).

(22) Sc. allowing one clean day to pass after it before cleanness is attained.

(23) The seventeenth in the cycle which is also one of the two alternating unclean days.

(24) Cf. prev. n. but one. As the day following it (the eleventh of zibah or the eighteenth in the cycle) is an unclean one, the next clean day (the nineteenth in the cycle) must be allowed to pass as a safeguard. Hence it is that marital intercourse cannot in this case be permitted before the twentieth.

(25) The eleventh and twelfth after her first discharge. On the first seven days she is unclean as a menstruant, on the eighth and the ninth (two of the alternating three unclean days) being within the eleven days of the zibah period, she is unclean as a minor zabah, and the tenth must be allowed to pass as a safeguard against these days.

(26) Since after the twelfth day she will never attain cleanness. The thirteenth, fourteenth and fifteenth (three of the alternating three unclean days) will be unclean days within her zibah period that subject her to the restrictions of a major zabah who cannot attain cleanness before seven clean days have passed, but (owing to these three alternating unclean days) she will never experience a full period of seven clean days.

(27) The eighth, the first day after her first unclean menstruation period, which is the last of the second group of four clean days.

(28) Cf. prev. n, but one mut. mut.

(29) The eighth, ninth and tenth (immediately following the first menstruation period) being the last three of the first group of five clean days.

(30) The eighth to twelfth. Cf. prev. n. mut. mut.

(31) That follow the unclean seven days of the menstruation period.

(32) Made up as follows: Seven unclean days of menstruation, seven days of cleanness (in which marital intercourse is permitted), seven days of uncleanness in which the woman becomes a major zabah and seven days that must be counted after the confirmed zibah; and so on with each cycle of twenty-eight days.

(33) The tenth to the sixteenth (seven days), the twenty-sixth to the thirty-second (seven days) and the forty-eighth (7 + 7 + 1 = 15 days). Cf. foll. n.

(34) Composed as follows: Eight unclean days (the last of which being the first of the eleven days of zibah turns the woman into a minor zabah); one day (the first of the second group of eight days) that must be allowed to pass by a minor zabah before cleanness is attained, and seven clean days in which marital intercourse is permitted; two days (the first of the third group of eight days) of zibah (being the last two of the eleven days of the first zibah period) and six days of the second menstruation period; one day (the first of the fourth group of eight days) completing the seventh day of menstruation, and seven days in which marital intercourse is permitted; eight days of uncleanness (the fifth group of eight days during the first three of which she becomes a major zabah); seven days (the first of the sixth group) that serve as the number of days prescribed for a major zabah and one day (the last of the sixth group and the forty-eighth day in the cycle) in which marital intercourse is permitted.

(35) Lit. ‘behold they are’, the days on which marital intercourse is permitted.

(36) Since the forty-eighth day should be excluded. It is now assumed that in the sixth group of eight days five clean days only are available for the prescribed counting, since the first three days of the group completed a menstruation period that began on the fifth day of the fifth group, and, since seven clean days have not yet passed, the forty-eighth, as the day following it, should be equally forbidden for marital intercourse.

(37) As is the case with the first three days of the sixth group in which she was clean.

(38) Sc. of the seven days.

(39) Since the counting thus begins with the first day of the sixth group of eight days it terminates (cf. prev. n.) on the seventh. On the eighth day, the forty-eighth of the cycle, the woman having attained cleanness and undergone immersion on the preceding night, marital intercourse is permitted.

Talmud - Mas. Nidah 54b

May the days succeeding childbirth[1] on which the woman observes no discharge[2] be reckoned in the counting prescribed for her zibah?[3] R. Kahana replied, Come and hear: If a woman[4] observed a discharge on two days, and on the third day she miscarried but was unaware what she miscarried, behold this is a case of doubtful zibah and doubtful birth[5] and[6] she must bring a sacrifice[7] which may not be eaten[8] while the days succeeding her childbirth[9] on which she observes no discharge are reckoned in the counting prescribed for her zibah.[10] R. Papa retorted: There[11] the case is quite different,[12] since it might be assumed[11] that she gave birth to a male child,[13] so that all the extra seven days that we impose upon her[14] may well be reckoned in the counting prescribed for her zibah.[15] Said R. Huna son of R. Joshua to R. Papa: Is there[11] only the doubt of having given birth to a male child, and is there no doubt as to the possibility of the birth of a female child?[16] But the fact is that[17] you may well infer from here that they[18] may be reckoned.[19] This is conclusive.

If a woman is alternately unclean for nine days and clean for nine days she may have marital intercourse on eight days out of every eighteen days.[20] If she is alternately unclean for ten days and clean for ten days, the days in which she is permitted marital intercourse are the same in number as the days of her zibah.[21] And the same[22] applies to cycles of a hundred[23] and so also to cycles of a thousand.[24]

CHAPTER VII

MISHNAH. THE BLOOD OF A MENSTRUANT AND THE FLESH OF A CORPSE CONVEY UNCLEANNESS WHEN WET AND WHEN DRY. BUT THE ISSUE, PHLEGM AND SPITTLE OF A ZAB, A DEAD CREEPING THING, A CARCASS AND SEMEN CONVEY UNCLEANNESS WHEN WET BUT NOT WHEN DRY. IF, HOWEVER, ON BEING SOAKED, THEY ARE CAPABLE OF REVERTING TO THEIR ORIGINAL CONDITION THEY CONVEY UNCLEANNESS WHEN WET AND WHEN DRY. AND WHAT IS THE DURATION[25] OF THEIR SOAKING?[26] TWENTY-FOUR HOURS IN LUKEWARM WATER.[27] R. JOSE RULED:

IF THE FLESH OF A CORPSE IS DRY, AND ON BEING SOAKED CANNOT REVERT TO ITS ORIGINAL CONDITION, IT IS CLEAN.[28]

GEMARA. Whence are these rulings[29] deduced? — Hezekiah replied: From Scripture which says, And of her that is sick with her impurity,[30] her impurity[31] is like herself, as she conveys her uncleanness so does her impurity convey similar uncleanness. Thus we find the law concerning wet blood,[32] whence the deduction concerning dry blood? — R. Isaac replied: Scripture said, Be,[33] it shall retain its original force.[34] But might it not be suggested that this[35] applies only to blood that was wet and then dried up; whence, however, the deduction that it applies also to blood that was originally[36] dry? And, furthermore, with reference to what we have learnt, 'If a woman aborted an object that was like a rind, like earth, like a hair, like red flies, let her put it in water and if it dissolves she is unclean', whence is this[37] deduced? — 'Be'[38] is an inclusive statement.[39] If [it be argued:] As she causes couch and seat to convey uncleanness to man and to his garments[40] so should her blood also cause couch and garment to convey uncleanness to man and his garments. [it can be retorted:] Is then her blood capable of using a couch or a seat?[41] — But according to your argument[42] [it could also be objected]: Is a leprous stone[43] capable of using a couch or a seat that a text should be required to exclude it?[44] For it was taught. 'It might have been presumed that a leprous stone should cause a couch and a seat to convey uncleanness to man and to his garments, this being arrived at logically, for if a zab who does not convey uncleanness by means of entry[45] causes couch and seat to convey uncleanness to man and to his garments, how much more then should a leprous stone, which does convey uncleanness by means of entry,[46] convey uncleanness to couch and seat to convey it to man and his garments, hence it was specifically stated, He that hath the issue,[47] implying only 'he that hath the issue' [is subject to the restriction][48] but not a leprous stone'. Now the reason[49] is that Scripture has excluded it, but if that had not been the case it would have conveyed the uncleanness, would it not?[50] — A reply may indeed be forthcoming from this very statement,[51] for did you not say. 'He that hath the issue[52] [is subject to the restriction] but not a leprous stone'? Well here also Scripture said, Whereon she sitteth,[53] only she but not her blood.

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(1) Which took place in zibah that immediately ceased.

(2) But is nevertheless Pentateuchally unclean.

(3) So that at the conclusion of seven days, and the due performance of immersion, she is exempt from the restrictions that are imposed upon a zabah.

(4) During the eleven days of her zibah period.

(5) Since it is possible that she gave birth to a proper child and that no bleeding accompanied it, in which case it is a valid birth and no zibah. It is equally possible that the birth was not that of a proper child and that it was accompanied by a flow of blood, in which case it is a proper zibah and no valid birth. It is also possible that the birth was a proper one and that it was accompanied by bleeding in which case it is both a valid birth and a proper zibah. It is equally possible that there was neither proper birth nor bleeding so that there was neither zibah nor valid birth.

(6) Adopting the most restrictive course in order to meet all possible circumstances,

(7) In case the birth was a valid one.

(8) Since it is possible that the birth was not valid, that in consequence no sacrifice was required, and that the bird that was mistakenly killed in the manner prescribed for a sacrifice was, therefore, nebelah,

(9) During the first fourteen days of which, since it is possible that the birth was that of a female, the woman is unclean even though no discharge was observed,

(10) To the restrictions of which she is subject on account of the possibility that the miscarriage was accompanied by bleeding. Thus it has been shown that the days succeeding childbirth on which no discharge is observed are reckoned in the counting prescribed for a zabah.

(11) In the case just cited by R. Kahana where uncertainties exist,

(12) From that discussed supra 54a where no doubtful factor is involved,

(13) After the birth of whom a woman is unclean for seven days only.

(14) A total of fourteen days as a precaution against the possibility that the birth was that of a female child.

(15) Had it, however, been certain that the birth was that of a female child (similar to the certainty supra 54a) the days succeeding birth could not be reckoned in the counting prescribed for a zabah.

(16) Of course there is. The birth of the latter is as possible as the birth of the former and the possibility, therefore, exists that the woman is unclean for fourteen days.

(17) Lit., ‘but not’.

(18) The days succeeding a childbirth during which no discharge is observed.

(19) In the seven days prescribed for a zabah.

(20) In the first group of nine days she is a menstruant during the first seven days and a minor zabah on the last two days; and in the second group of nine days she allows the first day to pass (as prescribed for a minor zabah) while in the remaining eight days, being fully clean, she is permitted marital intercourse. The same process is repeated in every cycle of eighteen day.

(21) During the first ten days she is a menstruant for seven days and a zabah during the last three days, while during the second group of ten days she counts the prescribed seven days and has three days left in which she is clean and permitted marital intercourse. The three latter days are thus equal in number to the three days of her zibah.

(22) That the number of days in which marital intercourse is permitted is equal to the number of the days of zibah.

(23) The woman is menstrual during the first seven days of the first hundred and is a zabah during the remaining ninety-three days, while the first seven days of the second hundred are counted as the days prescribed after the zibah and in the remaining ninety-three days she is permitted marital intercourse.

(24) Cf. prev. n. mut. mut.

(25) Sc. the maximum time.

(26) To cause them to be regarded as CAPABLE OF REVERTING TO THEIR ORIGINAL CONDITION.

(27) But if they do not resume their original freshness unless soaked for a longer time or in warmer water they convey uncleanness when wet only.

(28) V. Gemara.

(29) That the blood of menstruation conveys uncleanness by contact and carriage.

(30) Lev. XV, 33, emphasis on ‘her’ and ‘impurity’.

(31) Sc. menstrual blood.

(32) Which is its natural state when discharged from the body.

(33) Her issue . . be blood (Lev. XV, 19).

(34) Lit., ‘in its being it shall be’.

(35) Retention of its original force.

(36) Sc. when it was discovered. Cf. the cited Mishnah that follows.

(37) That subsequent solution renders the originally dry object unclean.

(38) Her issue . . . be blood (Lev. XV, 29).

(39) Covering all the objects mentioned.

(40) Sc. she does not merely convey to them an uncleanness of a degree next to, and lower than her own but one, that of ‘father of uncleanness’, which is on a par with hers. Only a ‘father of uncleanness’ can effect the uncleanness of a man.

(41) Of course not. The analogy, therefore, cannot be drawn.

(42) That since blood cannot use a couch or a seat it cannot cause it to be a ‘father of uncleanness’.

(43) Cf. Lev. XIV, 34ff.

(44) From the restriction of causing a couch and a seat to become ‘fathers of uncleanness’.

(45) If a clean person enters with a zab into the same house the former does not thereby become unclean.

(46) Cf. Lev. XIV, 46.

(47) Lev. XV, 4.

(48) Of causing couch and seat to convey uncleanness to man and his garments.

(49) Why a leprous stone was excluded from the restriction (cf. prev. n.).

(50) Though it is not capable of using couch or seat.

(51) Lit., ‘and from it’.

(52) Lev. XV, 4.

(53) Lev. XV. 23. emphasis on ‘she’.

Talmud - Mas. Nidah 55a

But might it not be suggested that[1] as she conveys uncleanness to objects under a heavy stone[2] so does her blood also convey uncleanness to objects under a heavy stone? — R. Ashi replied: Scripture said, And he that beareth those things,[3] implying[4] an exclusion.[5]

AND THE FLESH OF A CORPSE. Whence is this deduced? — Resh Lakish replied: Scripture said, Whatsoever uncleanness he hath,[6] implying all forms of uncleanness[7] that emanate from him.[8] R. Johanan replied: Or a bone of a man, or a grave,[9] 'a man' is[10] on a par with 'a bone'; as a bone [conveys uncleanness when] dry so does a man.[11] What is the practical difference between them?[12] — The practical difference between them is the case of flesh that[13] crumbles.[14]

An objection was raised: The flesh of a corpse that was crumbled is clean?[15] — There it is a case where it was pulverised and turned into dust.

An objection was raised:[16] Every part of a corpse conveys uncleanness except the teeth, the hair and the nails, but while they are attached [to the corpse] they are all unclean?[17] — R. Adda b. Ahabah replied: It[18] must be exactly like a bone; as a bone was created simultaneously with it[19] so must every other part[20] be such as was created with it.[21] But are there not the hair and nails that were created with it[19] and they are nevertheless clean? — Rather, said R. Adda b. Ahabah, It[20] must be exactly like a bone; as a bone was created simultaneously with it[19] and when cut[22] does not grow again[23] so must every other part[20] be such as was created with it and when cut[22] does not grow again. The teeth are, therefore, excluded since they were not created with it,[19] and the hair and nails were excluded since, though they were created with it, they[22] grow again. But skin surely [is a part of the body] that[22] grows again, for[24] we have learnt: A skinned animal,[25] R. Meir declares, is ritually fit,[26] and only the Sages declare it to be unfit.[27] And even the Rabbis declare it to be unfit only because in the meantime[28] the air affects it and it would die, but the skin[29] would, as a matter of fact, grow again;[30] and yet have we not learnt: In the case of the following their skins are on a par with their flesh,[31] viz., the skin of a human being?[32] — Surely in connection with this ruling it was stated: 'Ulla said, 'Pentateuchally the skin of a human being is clean, and what is the reason why they ruled it to be unclean? It is a preventive measure against the possibility that a person might use the skins of his father and mother as spreads for an ass.'

Others there are who read: Skin, surely, [is a part of the body] that[33] does not grow again, for[34] we have learnt: And the Sages declare it to be unfit.[35] And even R. Meir declares it to be fit only because its flesh hardens and the animal recovers its health but it does not, as a matter of fact, grow again,[36] and yet did not 'Ulla state, 'Pentateuchally the skin of a man is clean'? — When 'Ulla's statement was made it had reference to the final clause[37] only: But all these,[38] if they were dressed or trodden upon sufficiently to render them fit for dressing, are clean[39] with the exception of a human skin.[40] And it was in connection with this ruling that 'Ulla stated, 'Pentateuchally the human skin is clean if it had been dressed; and what is the reason why they ruled it to be unclean? It is a preventive measure against the possibility that a person might use the skins of his father and mother as spreads'. But does not flesh grow again and yet it is unclean? — Mar son of R. Ashi replied: The place of missing flesh becomes a scar.[41]

BUT THE ISSUE. Whence is this[42] deduced? — It was taught: His issue is unclean,[43] teaches concerning an issue of a zab that it is unclean.[44] But cannot this be arrived at by a process of reasoning: If it[45] causes uncleanness to others[46] would it not, with more reason, cause uncleanness to itself?[47] The case of the scapegoat proves the contrary, since it causes uncleanness to others[48] while it is itself clean. You also should not, therefore, be surprised in this case[49] where, though the issue carries uncleanness to others,[46] it is itself[49] clean. Hence it was specifically stated, 'His issue is unclean'[43] teaching thereby that the issue is unclean. But might it not be suggested that this[50] applies only to contact [uncleanness] but not to carriage, this being a case similar to that of a dead creeping thing?[51] — R. Bibi b. Abaye replied: There was no need for a Scriptural text as far as contact is concerned, since it[50] is not inferior[52] to semen,

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(1) Lit., ‘if’.
(2) On which she sits; though her weight can hardly exercise any tangible pressure on the objects (Tosaf.). Lit., ‘a stone (used) for closing (a pit)’. V. Shab., Sonc. ed., p. 394, n. 2.
(3) Lev. XV, 10, dealing with the couch of a zab which (as explained in Torath Kohanim) when carried on a heavy stone conveys uncleanness to objects under the stone.
(4) Emphasis on ‘those’.
(5) Sc. only those but not blood.
(6) Lev. XXII, 5.
(7) Whether wet or dry.
(8) Lit., ‘separate’.
(9) Num. XIX, 16.
(10) By analogy.
(11) Sc. his corpse.
(12) R. Johanan and Resh Lakish.
(13) Owing to its extreme dryness.
(14) While according to Resh Lakish it would still be unclean since it emanates from a corpse, it would lose its uncleanness according to R. Johanan since it is not one solid piece like a bone.
(15) An objection against Resh Lakish.
(16) Both against Resh Lakish and R. Johanan.
(17) Oh. III,3. Now teeth are on a par with bones and yet it was stated that when detached from the corpse they are clean (cf. prev. n.).
(18) To convey uncleanness.
(19) The body.
(20) To convey uncleanness.
(21) Teeth grow later.
(22) Lit., ‘its stem’.
(23) Lit., ‘changes’, sc. once a bone has been removed no other will grow in its place.
(24) So MS.M. and marg. note. Cur. edd., ‘and’.
(25) One whose skin has worn away owing to scabs or excessive work.
(26) For consumption, sc. it is not forbidden as terefah, since the skin grows again.
(27) Hul. 54a.
(28) Before a new skin has grown.
(29) Lit., ‘its stem’.
(30) So that according to R. Adda b. Ahabah the skin should be clean.
(31) Sc. the former are as unclean as the latter.
(32) Hul. 122a.
(33) Lit., ‘whose root’.
(34) So MS.M. and marg. note. Cur. edd., ‘and’.
(35) Hul. 54a; because it does not grow again.
(36) The skin should consequently have been unclean.
(37) Of the Mishnah, beginning ‘In the case of the following their skins etc.’ cited supra.
(38) The skins which the Sages ruled to be unclean.
(39) Since they have lost all resemblance to flesh.
(40) Hul. 122a, Pes. 46a.
(41) Sc. it does not grow again to its original shape as is the case with hair or nails.
(42) That the issue of a zab is unclean.
(43) Lev. XV, 2.
(44) Supra 34b.
(45) The issue.
(46) Sc. the zab.

(47) What need then was there for the text of Lev. XV, 2?
(48) The man who carries it away (cf. Lev. XVI, 26).
(49) Zibah.
(50) The conveyance of uncleanness by an issue.
(51) Which also conveys uncleanness by means of contact but not by carriage.
(52) In its uncleanness.

Talmud - Mas. Nidah 55b

so that if a Scriptural text was required it was only in respect of carriage. But might it not be suggested that by means of carriage it conveys uncleanness to both man and his garments, while by means of contact it conveys uncleanness to man but not to his garments, this being a case similar to that of contact with a carcass?[1] — This cannot be entertained, for it was taught: Others[2] Say, Of them that have an issue, whether it be a man, or a woman,[3] his 'issue' is compared[4] to himself;[5] as in his case you make no distinction between his contact and his carriage as regards the conveyance of uncleanness to man and to his garments,[6] so also in that of his issue. But now that the law[7] is deduced from 'Of them that have an issue',[3] what need is there for 'His issue is unclean'?[8] — R. Judah of Daskarta[9] replied: It was required; since[10] it might have been presumed that the case of the scapegoat proves the contrary,[11] for it causes uncleanness to others[12] while it itself is clean; and as to the deduction from[13] 'Of them that have an issue' [it might have been explained that] it serves the purpose of indicating the number,[14] viz., 'issue', one; 'his issue',[15] two; while after the third issue the All Merciful compared him to the 'woman',[16] hence the All Merciful has written, 'His issue is unclean'. And now that the All Merciful has also written, 'His issue is unclean'[17] you may apply to the other text[18] this exposition[19] also.

AND SPITTLE. Whence do we deduce [the uncleanness of] spittle? — It was taught And if he[20] . . . spit.[21] As this might be presumed to apply even if the spittle did not touch,[22] it was explicitly stated, upon him that is clean,[21] only if it touched him that is clean.[23] Thus I know the law concerning his spittle only,[24] whence could I deduce the uncleanness of his mucus, phlegm and nasal discharge? From the explicit statement, And[25] if he . . . spit.[26]

The Master said, 'As this might be presumed to apply even if the spittle did not touch',[27] but whence could this uncleanness[28] be deduced? — It might have been presumed that the expression of 'spit' here[26] may be inferred from that of 'spit'[29] mentioned in the case of a yebamah, as there the act[30] is valid though the spittle does not touch [the yabam] so is the act[31] valid here also even though the spittle did not touch the clean person, hence we were informed [that actual contact is essential]. But might it not be suggested that this[31] applies only to touch[32] but not to carriage, the law being similar to that of a dead creeping thing?[33] — Resh Lakish replied: The school of R. Ishmael taught, Scripture said, 'upon that[34] which is with the clean',[26] implying, whatever is in the hand of him that is clean,[35] I have declared it to be unclean to you.[36] But might it not be suggested that by carriage it conveys uncleanness to the man and his garments while by contact it conveys uncleanness to man only but not to his garments, this law being similar to that of the touch of nebelah? — Resh Lakish replied and so it was also taught at the school of R. Ishmael: Scripture said, 'upon that which is with the clean'[37] implying that that which I have declared to you as clean elsewhere I have declared to you as unclean here, and what is this? It is the touch of nebelah.[38] But might it not be suggested that this[39] refers to[40] the carrying of a dead creeping thing?[41] — If that were so, Scripture should have written, 'upon that which is with a man',[42] why then did it write 'upon that which is with the clean'?[43] Consequently the two deductions may be made.[44]

'And nasal discharge'. What [uncleanness] is [there in a] nasal discharge?[45] — Rab replied: This is the case where it was drawn and discharged through the mouth,[46] since in the circumstances it is impossible for the nasal secretion to be free from particles of spittle. R. Johanan, however, stated that it is unclean even if it is drawn and discharged through the nose. It is thus clear that he is of the opinion that the nose is a source,[47] the All Merciful[48] having included it.[49] As to Rab,[50] why should not the tears of a zab's eyes[51] be enumerated?[52] For[53] has not Rab stated, He who wishes to blind his eye shall have it painted by an idolater,[54] and Levi stated, He who wishes to die shall have his eyes painted by an idolater, and in connection with this R. Hiyya b. Goria explained, ‘What is Rab's reason for not saying "He who wishes to die [etc.]"? Because one might sniff them up and discharge them, through the mouth’.[55] Now[56] what is Rab's explanation?[57] — Granted that the poison is discharged,[58] the tears themselves are not so discharged.

Come and hear: ‘There are nine fluids of[59] a zab. His sweat, foul secretion and excrement are free from all uncleanness of zibah; the tears of his eye, the blood of his wound and the milk of a woman convey the uncleanness of liquids[60] if they consist of a minimum quantity of a quarter of a log; but his zibah, his spittle and his urine[61] convey major uncleanness’;[62] but nasal discharge was not mentioned. Now according to Rab[63] one can well see why this was not mentioned, since it was not definite enough to be mentioned, for it is only sometimes that it is discharged through the mouth while at other times it is discharged through the nose;[64] but according to R. Johanan[65] why was it not mentioned? — But according to your view,[66] was his mucus and phlegm[67] mentioned?[68] But the fact is that spittle was mentioned and the same law applies to all other secretions the law of whose uncleanness was derived from the Pentateuchal amplification,[69] and so also here[70] spittle was mentioned and all other secretions the law of whose uncleanness was derived from the amplification are also included. ‘The tears of his eye’ [is legally a fluid] since it is written in Scripture, And given them tears to drink in large measure,[71] ‘the blood of his wound’, since it is written, And drink the blood of the slain,[72] and there is no difference[73] between striking one down outright or striking one down in part;[74] ‘the milk of a woman’, since it is written, And she opened a bottle of milk, and gave him drink.[75] Whence do we derive the law that ‘his urine’ [is legally a fluid]? — It was taught: His issue is unclean, and this[76] includes his urine in respect of uncleanness. But may not this[77] be arrived at by a logical argument? If spittle, that emanates from a region of cleanness, is unclean how much more so his urine that emanates

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(1) Cf. Lev. XI, 39, 40.

(2) Sc. R. Meir.

(3) Lev. XV, 33.

(4) By juxtaposition and analogy.

(5) The zab.

(6) Cf. Lev. XV, 7, 10. The latter verse speaks of the zab's couch and seat and applies with greater force to the zab himself.

(7) That the issue of a zab conveys uncleanness by contact and carriage.

(8) Lev. XV, 2.

(9) Darkarah, 16 parasangs N.E. of Bagdad.

(10) If the text of Lev. XV, 2, had not been available.

(11) Of what is deduced from Lev. XV, 33.

(12) The man who carries it away (cf. Lev. XVI, 26).

(13) Lit., ‘and if on account of’.

(14) Lit., ‘it is for the number that it came’.

(15) E.V., ‘of them that have’.

(16) Who becomes unclean even in a case of an accidental issue. After no more than two issues a man does not become unclean unless they were intentional.

(17) From which the principle of the uncleanness of an issue is deduced.

(18) From which the prescribed number of issues had already been deduced.

(19) That no distinction is to be made between contact and carriage.

(20) A zab.

(21) Lev. XV, 8.

(22) The clean person in whose direction it was thrown.
(23) Only then is he unclean.
(24) Lit., ‘I have not but’.
(25) Emphasis on ‘and’ which might well have been omitted.
(26) Lev. XV, 8.
(27) The clean person in whose direction it was thrown.
(28) Cf. prev. n.
(29) Deut. XXV, 9.
(30) Halizah.
(31) The conveyance of uncleanness by the zab's spittle.
(32) Sc. only if it came in contact with the clean person does it convey uncleanness to him.
(33) Which also conveys uncleanness by contact but not through carriage if an object intervened between it and the person.
(34) E.V. Upon him that is clean, Sc. within his hand.
(35) Sc. even if the spittle has fallen on an object that was merely carried by the clean person, so that the spittle did not come in direct contact with the man.
(36) Sc. that it conveys uncleanness to the person.
(37) Emphasis on ‘clean’.
(38) Which causes the uncleanness of the man alone who touched it while his garments remain clean. In the case of the spittle of a zab, however, its touch by a clean man conveys uncleanness to his garments also.
(39) The deduction just made (cf. MS.M.).
(40) Cur. edd. ‘like’.
(41) Sc. the garments which remain clean in the case of the carrying of a dead creeping thing are unclean in this case (cf. p. 386, n. 15). Whence, however, the proof that touch in this case is not like the touch of nebelah which causes the uncleanness of the man only and not that of his garments?
(42) From which (cf. supra p. 386, nn. 11 and 12) the deduction (‘whatever is in the hand etc.’) could well have been made.
(43) Emphasis on ‘clean’.
(44) Cf. supra p. 386, n. 15 (second clause) and supra n. 2 (first clause).
(45) Seeing that Scripture speaks of spittle only.
(46) The uncleanness being due to the spittle.
(47) In the case of a zab whose sources are unclean.
(48) By the use of the expression ki yarok (E.V., if he spit) which (by change of vowels) may be read as one word, kerok, ‘like spittle’, Sc. any thing that is similar to spittle is subject to the same uncleanness.
(49) Among the sources of a zab.
(50) Who does not regard the nose as a source and attributes the uncleanness of a discharge from it to the particles of spittle that get mixed up with it when it passes through the mouth.
(51) Which might also pass through his mouth and collect particles of spittle.
(52) Among the unclean discharges.
(53) The following is evidence that Rab agrees that tears may be made to pass through the mouth.
(54) Who may well be suspected of mixing poisonous drugs in the eye paint.
(55) And thus avoid swallowing them.
(56) Cf. prev. n. but two.
(57) Of the omission of tears of the eye (cf. supra p. 387, nn. 11 and 12) from the list of unclean discharges.
(58) Through the mouth.
(59) Cf. MS.M. and Bomb. ed.
(60) Sc. cause the uncleanness of food and drink (as other unclean liquids) but not that of man and garments.
(61) Being sources.
(62) I.e., that of man and garments. Ker. 13a.
(63) V. supra p. 387, n. 11.
(64) When it is free from uncleanness. Hence it could not be included among those discharges that are invariably unclean.

(65) Who ruled that it is always unclean, irrespective of the channel through which it passed.
(66) That a discharge that is always unclean should have been mentioned among the others.
(67) Which are undoubtedly as unclean as his spittle.
(68) Of course not.
(69) V. supra p. 387, n. 9.
(70) The Baraitha cited from Ker. 13a.
(71) Ps. LXXX, 6; emphasis on 'drink'.
(72) Num. XXIII, 24, cf. prev. n.
(73) In respect of the blood.
(74) Lit., 'what (difference is there) to me (whether) he killed all of him . . . his half'.
(75) Judges IV, 19, cf. p. 388, n. 14
(76) Lev. XV, 2f, emphasis on 'and this', sc. and another fluid also is unclean.
(77) The uncleanness of urine.

Talmud - Mas. Nidah 56a

from an unclean region?[1] — The blood that issues from the orifice of the membrum[2] could prove the contrary, for though it issues from an unclean region it is nevertheless clean; you also need not, therefore, be surprised at this that, though it issues from an unclean region, it should be clean. Hence it was explicitly stated, 'His issue is unclean and this', to include his urine in respect of uncleanness. Whence is it deduced that the blood that issues from the orifice of the membrum[2] is clean? — From what was taught It might have been assumed that blood that issues from his[2] mouth or from the orifice of the membrum is unclean,[3] hence it was explicitly stated, As to his issue it is unclean,[4] only 'it' is unclean, but blood that issues from his mouth or from his membrum is not unclean but clean.[5] But might I not reverse the deductions?[6] — R. Johanan citing R. Simeon b. Yohai replied: It[7] must be similar to spittle; as spittle is formed in globules when it is discharged so must any other unclean fluid be one that is formed in globules when it is discharged; blood is, therefore, excluded since it is not formed in globules when it is discharged. But is not a woman's milk formed in globules when it is discharged and the Master nevertheless stated that 'a woman's milk conveys the uncleanness of liquids' which implies: Only[8] the uncleanness of liquids but not major uncleanness? — Rather said R. Johanan citing R. Simeon b. Yohai: It[7] must be similar to spittle, as spittle is formed in globules when discharged but[9] may be re-absorbed, so must any other unclean fluid be one that is formed in globules when discharged and that[10] may be re-absorbed; blood is, therefore, excluded since it is not formed in globules when it is discharged, and a woman's milk is excluded since, though it is formed in globules when discharged, it cannot be re-absorbed. But why should not deduction be made from the zab's issue: As his issue which is not formed in globules when it is discharged causes uncleanness so does any other fluid?[11] — Raba replied: One cannot make a deduction from his issue, since it also causes uncleanness to others.[12]

A DEAD CREEPING THING. Resh Lakish ruled: A dead creeping thing that dried up but whose shape was retained is unclean. But have we not learnt that they CONVEY UNCLEANNESS WHEN WET BUT NOT WHEN DRY? — R. Zera replied: This is no difficulty since the former[13] refers to a whole[14] while the latter[15] refers to a part;[16] for it was taught: R. Isaac son of R. Bisna citing R. Simeon b. Yohai stated, In them,[17] one might presume that it is necessary[18] to touch a whole, hence it was explicitly stated, Of them.[19] If only 'Of them' had been written it might have been presumed that it suffices[18] to touch a part, hence it was explicitly stated 'In them'.[17] How then are the two to be reconciled? The one[20] refers to a wet creeping thing while the other[21] refers to a dry one. Raba ruled: The lizards of Mahuza,[22] if their shapes are retained, are unclean.

Resh Lakish further stated: If a dead creeping thing was burnt while its shape was retained it is unclean. An objection was raised: If a burnt creeping thing was found upon olives and so also if a tattered rag[23] was found upon them they are clean, because all questions of uncleanness are determined by the condition of the objects at the time they are found![24] — R. Zera replied: This is no difficulty since the former[25] refers to a whole[26] while the latter[27] refers to a part; for it was taught: R. Isaac son of R. Bisna citing R. Simeon b. Yohai stated, In them',[28] one might presume that it is necessary[29] to touch a whole, hence it was explicitly stated, Of them.[30] If only 'of them' had been written it might have been presumed that it suffices[29] to touch a part, hence it was explicitly stated, 'in them'. How then are the two to be reconciled? The one[31] refers to a burnt creeping thing while the other refers to one that is not burnt.

CONVEY UNCLEANNESS WHEN WET. The ISSUE?[32] Because it is written, His flesh run.[33] His mucus, PHLEGM AND SPITTLE?[32] Because it is written, If he that hath the issue spit[34] implying[35] any fluid like spittle. A DEAD CREEPING THING?[32] The All Merciful said, When they are dead,[36] implying when they have the appearance of being dead.[37] SEMEN?[32] Since it must be capable of causing fertilization. A CARCASS?[32] Since it is written, If . . . die[38] implying when they have the appearance of being dead.[37]

IF, HOWEVER, ON BEING SOAKED THEY ARE CAPABLE. R. Jeremiah enquired: Is the soaking to be from beginning to end[39] in LUKEWARM WATER,[40] or only at the beginning although it is not so at the end?[41] — Come and hear what was taught: For how long must they be soaked in lukewarm water? Judah b. Nakosa replied, For twenty-four hours, being lukewarm at the beginning though not at the end. R. Simeon b. Gamaliel replied, They must be lukewarm throughout the twenty-four hours.

R. JOSE RULED: THE FLESH OF A CORPSE etc. Samuel explained: It is CLEAN in so far only as not to convey uncleanness if it is of the bulk of an olive, but it does convey the uncleanness of corpse mould.[42] So it was also taught: R. Jose ruled, The flesh of a corpse that is dry and, on being soaked, cannot return to its original condition is clean in so far only as not to convey uncleanness if it is of the bulk of an olive but it is subject to the uncleanness of corpse-mould.[42]

MISHNAH. IF A DEAD CREEPING THING WAS FOUND IN AN ALLEY IT CAUSES UNCLEANNESS RETROSPECTIVELY TO SUCH TIME AS ONE CAN TESTIFY, 'I EXAMINED THIS ALLEY AND THERE WAS NO CREEPING THING IN IT', OR TO SUCH TIME AS IT WAS LAST SWEPT. SO ALSO A BLOODSTAIN, IF IT WAS FOUND ON A SHIRT, CAUSES UNCLEANNESS RETROSPECTIVELY TO SUCH TIME AS ONE CAN TESTIFY, 'I EXAMINED THIS SHIRT AND THERE WAS NO STAIN ON IT' OR TO SUCH TIME AS IT WAS LAST WASHED. AND IT[43] CONVEYS UNCLEANNESS[44] IRRESPECTIVE OF WHETHER IT IS WET OR DRY.[45] R. SIMEON RULED: IF IT IS DRY[45] IT CAUSES UNCLEANNESS RETROSPECTIVELY,[46] BUT IF IT IS WET[45] IT CAUSES UNCLEANNESS ONLY TO A TIME WHEN IT COULD STILL HAVE BEEN WET.[47]

GEMARA. The question was raised: Is the alley TO SUCH TIME AS IT WAS LAST SWEPT in the presumptive state of having been duly examined,[48] or is it possible that it is in the presumptive state of having been properly swept?[49] And in what case could this[50] matter? — In that where a person declared that he had swept the alley but did not examine it.[51] If you say that 'it is in the presumptive state of having been duly examined'[48] surely, he had not examined it;[52] but if you say, 'it is in the presumptive state of having been properly swept'[49] surely, at that time[53] it was properly swept.[54]

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(1) Whence actual zibah comes.

(2) Of a confirmed zab.

(3) As his spittle and issue respectively are unclean.

(4) Lev. XV, 2.

(5) Yeb. 105a.

(6) ‘And this’ including blood that issues from his mouth or membrum, and ‘as to his issue etc.’ excluding urine.
(7) A fluid that is to be included in the same law of uncleanness as spittle.
(8) Lit., ‘yes’.
(9) If it is not ejected.
(10) If it is not ejected.
(11) Though it is not formed in globules when discharged.
(12) Sc. the zab himself.
(13) The ruling of Resh Lakish.
(14) Such is unclean even when dry.
(15) Our Mishnah.
(16) Cf. MS.M. Cur. edd., ‘in all of them . . . in their part’.
(17) Lev. XI, 31. E.V. ‘them’.
(18) In order to become unclean.
(19) Lev. XI, 32; emphasis on ‘of’, sc. a part.
(20) Uncleanness through contact with a part.
(21) Requiring contact with a whole.
(22) Which are discovered dry.
(23) Which is no longer subject to uncleanness.
(24) Toh. IX, 9; thus the burnt creeping thing, like the tattered rag, is regarded as clean: how then could Resh Lakish maintain that it is unclean?
(25) The ruling of Resh Lakish.
(26) Which is unclean even if burnt.
(27) The Mishnah cited.
(28) Lev. XI, 31 E.V., ‘them’.
(29) In order to become unclean.
(30) Lev. Xl, 32; emphasis on ‘of’, sc. a part.
(31) Requiring contact with a whole.
(32) Conveys uncleanness when wet.
(33) Lev. XV, 3.
(34) Lev. XV, 8, Heb.; ki yarok (v. next note).
(35) Since ki yarok by change of vowels might be made to read kerok, ‘like spittle’.
(36) Lev. XI, 31.
(37) Sc. while still moist.
(38) Lev. XI, 39.
(39) ‘Sc. throughout the TWENTY-FOUR HOURS.
(40) I.e., even if they resume their original moist condition only after soaking in lukewarm water for the full period of twenty-four hours they are unclean.
(41) Sc. they are regarded as clean if they have not resumed their original condition after being soaked in water that was at first lukewarm and then turned cold, though they would have resumed that condition if they had been soaked all the time in lukewarm water.
(42) Sc. a ladleful of it conveys uncleanness by means of touch, carriage and overshadowing.
(43) The dead creeping thing as well as the bloodstain.
(44) RETROSPECTIVELY to the times indicated.
(45) When discovered.
(46) To the times previously indicated, since it is possible that the creeping thing or stain may have been there soon after the alley had been swept or the shirt washed.
(47) And not to the times previously indicated if they are earlier. For if it had been there since the earlier times it would have been dry by now.
(48) By the person who swept it who had thus definitely ascertained that there was no unclean object in it at the time.
(49) So that if any unclean object had been there at the time it would have been swept away.
(50) The assumption of the former or of the latter.
(51) To ascertain whether any unclean object remained after the sweeping.

(52) And the uncleanness would be retrospective to the time before the sweeping.

(53) Though no examination took place.

(54) And no unclean object could have remained. Hence the uncleanness could be retrospective only to the time of the sweeping.

Talmud - Mas. Nidah 56b

Or also in the case where the creeping thing was found in a hole.[1] If you say that 'it is in the presumptive state of having been duly examined', any one who examines the alley examines also any hole in it; but if you say that 'it is in the presumptive state of having been properly swept', a hole is not usually swept.[2]

SO ALSO A BLOODSTAIN etc. The question was raised: Is the shirt TO SUCH TIME AS IT WAS LAST WASHED in the presumptive state of having been duly examined,[3] or is it possible that it is in the presumptive state of having been properly washed?[4] And in what case could this[5] matter? — In that where a person declared that he had washed the shirt but did not examine it — If you say that 'it is in the presumptive state of having been duly examined', surely, he had not examined it,[6] but if you say that 'it is in the presumptive state of having been properly washed', surely, it had been properly washed.[7] Or also in the case where the stain was discovered in a fold.[8] If you say that 'it is in the presumptive state of having been duly examined', anyone engaged in an examination examines also the folds,[9] but if you say that 'it is in the presumptive state of having been properly washed', a stain in a fold may not have been washed out.[10] Now what is the decision? — Come and hear: For it was taught: R. Meir stated, Why did they[11] rule that if a dead creeping thing was found in an alley it causes uncleanness retrospectively to such time as one can testify, 'I examined this alley and there was no creeping thing in it', or to such time as it was last swept?[12] Because there is presumption that the children of Israel examine their alleys at the time they are swept; but if they did not examine them, they impaired its presumptive cleanness retrospectively.[13] And why did they[11] rule that a bloodstain, if found on a shirt, causes uncleanness retrospectively to such time as one can testify, 'I examined this shirt and there was no stain on it', or to such time as it was last washed?[14] Because there is presumption that the daughters of Israel examine their shirts at the time they are washing them; but if they did not examine them, they impair its presumptive cleanness retrospectively.[15] R. Aha ruled: Let her[16] wash it again. If its colour fades[17] it may be taken for granted[18] that it was made after the previous washing,[19] but if it does not fade it may be taken for granted[18] that it was made before the previous washing. Rabbi said, A stain after its washing is not like a stain before it had been washed, for the former penetrates into the material while the latter remains clotted on its surface. Thus it may be inferred[20] that[21] there is presumption that it was duly examined. This is conclusive.

AND IT CAUSES UNCLEANNESS IRRESPECTIVE OF WHETHER IT IS WET etc. R. Eleazar explained: This[22] was learnt only concerning the dead creeping thing, but a wet bloodstain also causes uncleanness retrospectively,[23] for it might be assumed that it was already dry but water had fallen upon it. But can it not be assumed in the case of a dead creeping thing also that it was already dry but water had fallen upon it? — If that were the case it would have been completely dismembered.[24]

MISHNAH. ALL BLOODSTAINS[25] THAT COME FROM REKEM[26] ARE CLEAN.[27] R. JUDAH DECLARES THEM UNCLEAN, BECAUSE THE PEOPLE WHO LIVE THERE ARE PROSELYTES[28] THOUGH MISGUIDED.[29] THOSE[30] THAT COME FROM THE HEATHENS[31] ARE CLEAN.[32] THOSE THAT COME FROM ISRAELITES OR FROM SAMARITANS, R. MEIR DECLARES, ARE UNCLEAN, BUT THE SAGES DECLARED THEM CLEAN[33] BECAUSE THEY ARE UNDER NO SUSPICION[33] IN REGARD TO THEIR STAINS.

GEMARA. Since the statement[34] was made categorically[35] it follows, does it not, that it applies even to those from Tarmod?[36] — R. Johanan replied: This proves that proselytes may be accepted from Tarmod.[37] But can this be right[38] seeing that both R. Johanan and Sabya ruled, No proselytes may be accepted from Tarmod? And should you reply that R. Johanan only said, ‘This’,[39] but he himself[40] does not hold this view [it could be retorted]: Did not R. Johanan lay down, ‘The halachah is in accordance with an anonymous Mishnah’?[41] — It is a question in dispute between Amoras as to what was actually R. Johanan's view.

FROM ISRAELITES etc. As to the Rabbis,[42] if they declare the menstrual blood of Israelites clean, whose do they hold to be unclean? — Some words are missing from our Mishnah, this being the correct reading: FROM ISRAELITES are unclean, FROM SAMARITANS, R. MEIR DECLARES, ARE UNCLEAN, since Samaritans are true proselytes,[43] BUT THE SAGES DECLARED THEM CLEAN because, in their opinion, Samaritans are merely lion-proselytes.[44] If so, instead of saying, BECAUSE THEY ARE UNDER NO SUSPICION IN REGARD TO THEIR STAINS, It should have been said, Because they are lion-proselytes? — The fact rather is that it is this that was meant: FROM ISRAELITES OR FROM SAMARITANS they are unclean, since Samaritans are true proselytes; those that are found in Israelite cities[45] are clean since they are not suspected of leaving their stains exposed, for they rather keep them in privacy; and those that are found[45] in Samaritan cities, R. MEIR DECLARES, ARE UNCLEAN because they are suspected of leaving their stains exposed, BUT THE SAGES DECLARED THEM CLEAN BECAUSE THEY[46] ARE UNDER NO SUSPICION IN REGARD TO THEIR STAINS.

MISHNAH. ALL BLOODSTAINS, WHERESOEVER THEY ARE FOUND,[47] ARE CLEAN, EXCEPT THOSE THAT ARE FOUND INDOORS[48] OR ROUND ABOUT A CHAMBER FOR[49] UNCLEAN WOMEN.[50] A CHAMBER FOR[49] UNCLEAN SAMARITAN WOMEN CONVEYS UNCLEANNESS BY OVERSHADOWING[51] BECAUSE THEY BURY MISCARRIAGES THERE. R. JUDAH STATED, THEY DID NOT BURY THEM BUT THREW THEM AWAY AND THE WILD BEASTS DRAGGED THEM OFF. THEY[52] ARE BELIEVED WHEN THEY DECLARE, ‘WE BURIED MISCARRIAGES THERE’, OR ‘WE DID NOT BURY THEM’. THEY[52] ARE BELIEVED WHEN THEY DECLARE CONCERNING — A BEAST WHETHER IT HAD GIVEN BIRTH TO A FIRSTLING[53] OR HAD NOT GIVEN BIRTH TO ONE. THEY[52] ARE BELIEVED WHEN GIVING INFORMATION ON THE MARKING OF GRAVES,[54] BUT THEY ARE NOT BELIEVED EITHER IN REGARD TO OVERHANGING BRANCHES,[55] OR PROTRUDING STONES[55] OR A BETH HA-PERAS.[55] THIS IS THE GENERAL RULE: IN ANY MATTER WHERE THEY ARE UNDER SUSPICION THEY ARE NOT BELIEVED.

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(1) And the sweeper made no declaration at all.

(2) And the creeping thing may have been lying in that hole long before the alley had been swept (cf. n. 5).

(3) At the time it was washed, when it was definitely ascertained that there was then no stain on it.

(4) When any stain that may have been on it would have been washed out.

(5) Our assumption of the former or of the latter.

(6) The uncleanness would, therefore, be retrospective to the time before the washing.

(7) And the uncleanness could be retrospective to the time of washing only.

(8) . Lit., ‘side’, ‘border’; and the washer did not make any declaration.

(9) V. p. 393, n. 14.

(10) V. p. 393, n. 13.

(11) The Rabbis.

(12) Sc. why does not the uncleanness begin prior to the sweeping?

(13) To the time prior to the sweeping.

(14) Sc. why does not the uncleanness begin before the washing?

(15) The uncleanness beginning prior to the washing.

(16) Who did not examine her shirt when she washed it and subsequently found a bloodstain on it, and it is unknown whether that stain was there before the washing or was made subsequently.

(17) As a result of the last washing.

(18) Lit., ‘it is known’.

(19) For if it had been there before the previous washing it would have faded in the course of that washing. Hence the uncleanness is retrospective to the time of the previous washing only.

(20) From R. Meir's ruling.

(21) When nothing to the contrary is definitely known.

(22) R. Simeon b. Gamaliel's ruling.

(23) To the time it had last been washed.

(24) The assumption can, therefore, be applied to a bloodstain only.

(25) On women's garments.

(26) V. Yeb., Sonc. ed., p. 88, n. 10.

(27) Because no Israelites of pure stock live there. The menstrual blood of heathens is levitically clean.

(28) Whose menstrual blood is unclean like that of Israelites proper.

(29) Sc. though they no longer observed the religious laws of Israel.

(30) Bloodstains.

(31) Sc. from places where no Israelites live.

(32) Cf. n. 6.

(33) This is discussed in the Gemara infra.

(34) THOSE THAT CAME FROM THE HEATHENS ARE CLEAN.

(35) Lit., ‘he decided and teaches’.

(36) Whose inhabitants were reputed to have an admixture of Jewish blood. But how could this be reconciled with the law that Jewish menstrual blood is unclean?

(37) Palmyra: the inhabitants being regarded in all respects as heathens and not as a mixed breed of bastards from whom no proselytes may be accepted.

(38) Lit., ‘I am not.

(39) Sc. ‘this proves etc.’

(40) Maintaining that no proselytes may be accepted from Tadmor.

(41) From which, as shown supra, it follows that proselytes may be accepted from the Tarmodites.

(42) THE SAGES.

(43) Whose menstrual blood is, therefore, as unclean as that of a proper Israelite.

(44) Sc. proselytes who were converted to Judaism not out of religious convictions but out of fear of the lions that attacked them (cf. II Kings XVII, 25).

(45) In an open place.

(46) Keeping them in privacy.

(47) In an Israelite locality.

(48) Lit., ‘in rooms’, it being assumed that, since they are kept in privacy, they must be menstrual.

(49) Lit., ‘a house of’.

(50) Sc. a chamber used by menstruants.

(51) Sc. any person who enters into the chamber.

(52) Samaritans.

(53) So that the next birth is free from the restrictions imposed on a firstling.

(54) Sc. any place not so marked may be treated as clean.

(55) This is explained in the Gemara infra.

Talmud - Mas. Nidah 57a

GEMARA. What exposition did they rely upon?[1] — Thou shalt not remove they neighbour's landmark,[2] which they of old time have set, in thine inheritance,[3] whosoever has an ‘inheritance’[4] has also a ‘landmark’,[2] but whosoever has no inheritance[5] has no landmark.[2]

THEY ARE BELIEVED WHEN THEY SAY, ‘WE BURIED . . .’ But,[6] surely, they do not uphold, do they, the exposition of the injunction, Nor put a stumbling-block before the blind?[7] — R. Abbahu replied: This[8] is a case where a [Samaritan] priest stood there.[9] But is it not possible that the priest was unclean?[10] — It is a case where he holds terumah in his hand.[11] But is it not possible that the terumah was unclean?[10] — It is a case where he was eating of it.[12] If so,[13] what was the need of stating it?[14] — It might have been presumed that they are not acquainted with the stages of formation,[15] hence we were informed [that we do rely upon them].[16]

THEY ARE BELIEVED WHEN THEY DECLARE CONCERNING A BEAST etc. But, surely, they do not uphold, the exposition of the injunction, Nor put a stumbling-block before the blind, do they?[17] — R. Hiyya b. Abba citing R. Johanan replied: It is the case of a beast that is shorn and engaged in work.[18] If so, what was the need of stating such a law?[14] — It might have been presumed that they are not acquainted with the nature of a discharge [from the womb],[19] hence we were informed [that they are to be believed].

THEY ARE BELIEVED WHEN GIVING INFORMATION ON THE MARKING OF etc. Although this[20] is only a Rabbinical institution[21] they are careful to observe it, since it is mentioned in Scripture. For it is written, And any seeth a man's bone, then shall he set up a sign by it.[22]

BUT THEY ARE NOT BELIEVED EITHER IN REGARD TO OVERHANGING BRANCHES etc. 'OVERHANGING BRANCHES', as we have learnt: The following are regarded as overhanging branches. The foliage of a tree that affords a covering over the ground.[23]

PROTRUDING STONES, as we have learnt: protruding stones that project from a wall.[24]

BETH HA-PERAS. Rab Judah citing Samuel ruled: A man[25] may[26] blow away the earth in a beth ha-peras[27] and[28] continue on his way. R. Judah b. Ammi citing Rab Judah ruled: A beth peras that had been trodden out is clean.[29] One further taught: If one ploughs a graveyard he forms thereby a beth ha-peras.[30] And to what extent does he form it? To that of a full length of a furrow of a hundred cubit [squared, which covers an area of] four beth se'ah.[31] R. Jose ruled: Five beth se'ah. But are they[32] not believed?[33] Was it not in fact taught, 'Concerning a field in which a grave was lost[34] a Samaritan is believed when he stated, "There is no grave there",[35] since he gives his evidence only about the grave itself;[36] concerning a tree whose foliage affords a covering over the ground[37] he is believed when he stated, "There is no grave under it",[38] since he renders evidence only about the grave itself'?[36] — R. Johanan replied: This[39] is a case where he walks backward and forward throughout all its area.[40] If so,[41] what was the need of stating it?[42] — It might have been presumed that a narrow strip jutted out,[43] hence we were informed that[44] he is believed.[45]

THIS IS THE GENERAL RULE etc. What is the expression THIS IS THE GENERAL RULE intended to include? — To include Sabbath boundaries[46] and wine of libation.[47] [

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(1) In not burying their miscarriages (v. our Mishnah.).

(2) Sc. his ancestral grave-yard (Sifri).

(3) Deut. XIX, 14.

(4) Sc. a normal child.

(5) A miscarriage.

(6) How can they be relied upon?

(7) Lev. XIX, 14, which is homiletically applied to the supply of misleading information which leads the unwary into sin. As the Samaritans do not mind misleading in such matters, how could their evidence on the cleanness or uncleanness of a place be acted upon?

(8) The law that Samaritans may be relied upon when they declare 'WE DID NOT BURY THEM'.

(9) Had there been a grave in that place the priest would not have been there.

(10) So that he has nothing to lose by remaining in the unclean place.

(11) He would not have held the terumah there if the place had been unclean.

(12) A certain proof that the terumah was clean. Unclean terumah is forbidden to a clean, and much more so to an unclean priest.

(13) Cf. prev. n.

(14) A law that is self-evident.

(15) Sc. of the embryo; so that a mature one might be mistaken by them for an abortion and, in consequence, they would declare a place to be free from graves when in fact it is not clean.

(16) Because they are well capable of distinguishing between an abortion and a normal child.

(17) Cf. supra p. 397, nn. 15f mut. mut.

(18) In the case of a firstling both these are forbidden and the Samaritan would not have ventured to shear it or to work with it.

(19) Which in the case of small cattle is an indication of a birth that exempts the next from the restrictions of a firstling (cf. Bek. 21b); sc. they might mistake an ordinary discharge for one of abortion and thus erroneously regard the next birth as free from the restrictions of a firstling.

(20) The marking of graves.

(21) Which Samaritans usually disregard.

(22) Ezek. XXXIX, 15.

(23) Oh. VIII, 2. If one of the branches overshadowed a grave, uncleanness is conveyed only to a person under it but not to one under any of the other branches; but when the exact spot of the grave is unknown all the area overshadowed by the foliage is on account of the doubt subject to the same restriction. A Samaritan who is lax in the observance of uncleanness in a doubtful case, is not to be relied upon when he states that the grave was overshadowed by a particular branch or branches and that the others did not overshadow it.

(24) Cf. prev. n. mut. mut.

(25) Who desires to remain clean while making his way through a beth peras.

(26) Since no flesh of the corpse need be expected, while the bones which the plough crushed (v. infra) to fractions convey uncleanness (if they are no smaller than a barley-grain) only by means of touch or carriage.

(27) A grave area, v. Hag., Sonc. ed., p. 160, n. 1.

(28) By thus making sure that his feet would touch no bone.

(29) Because the bones are crushed and scattered by the constant treading and no bone of the prescribed minimum bulk (cf. prev. n. but one) remains.

(30) Peras is derived from a root meaning ‘to crush’ the bones being crushed by the plough. Aliter: ‘Peras’ means a ‘half’, the extent of the unclean area being half a furrow in each direction from the grave. Aliter: ‘Peras’ is derived from a root meaning ‘to extend’, the uncleanness being extended to an area larger than that of the grave.

(31) Which means a hundred times a hundred cubits.

(32) The Samaritans.

(33) About a beth ha-peras.

(34) And which also, like a field in which a grave was ploughed, is subject to the uncleanness of a beth ha-peras (cf. M.K. 5b).

(35) Sc. in any particular spot in the field.

(36) Which is subject to Pentateuchal uncleanness which Samaritans observe. As his evidence amounts to an assertion that no Pentateuchal uncleanness is involved in that particular place he may well be relied upon. How then is this to be reconciled with our Mishnah?

(37) Cf. supra p. 399, n. 2.

(38) Under any particular branch.

(39) The cited Baraitha according to which a Samaritan is relied upon.

(40) Which may well be taken as reliable evidence that there was no grave there. Our Mishnah, however, refers to a case where the Samaritan walks only across a part of the field. As he omits the other part there is reason to suspect that he knows it to contain a grave and that his evidence on the doubtful part of the field is intended to mislead Israelites so that they become subject to an uncleanness in which he himself does not believe. Hence the ruling of our Mishnah.

(41) That the Samaritan walked throughout the suspected area.

(42) A rule that is self evident. As a grave was known to have been in the field and the Samaritan nevertheless walked through all its area, it must be obvious that he knew that the corpse had been removed.

(43) From the field; and that he assumed the grave to be located within that strip. As the rest of the field is still a suspected area the doubtful uncleanness of which Samaritans disregard his evidence aught not to be relied upon.
(44) Since he walked across its four sides.
(45) The possibility of a narrow strip jutting out not being taken into consideration.
(46) Which are a Rabbinical institution. Samaritans who reject it are not trusted when they state where the limit is.
(47) Yen nesek, wine touched by an idolater and suspected of having been dedicated by him to idolatry. Samaritans do not regard such wine as forbidden and their evidence in such a case cannot, therefore, be trusted.

Talmud - Mas. Nidah 57b

CHAPTER VIII

MISHNAH. IF A WOMAN OBSERVED A BLOODSTAIN ON HER BODY,[1] IF IT WAS NEAR THE PUDENDA SHE IS UNCLEAN[2] BUT IF IT WAS NOT NEAR THE PUDENDA SHE REMAINS CLEAN. IF[3] IT WAS ON HER HEEL OR ON THE TIP OF HER GREAT TOE, SHE IS UNCLEAN.[4] ON HER THIGH OR ON HER FEET, IF ON THE INNER SIDE, SHE IS UNCLEAN; IF ON THEIR OUTER SIDE, SHE REMAINS CLEAN; AND IF ON THE FRONT AND BACK SIDES[5] SHE REMAINS CLEAN. IF SHE OBSERVED IT ON HER SHIRT BELOW THE BELT, SHE IS UNCLEAN,[2] BUT IF ABOVE THE BELT, SHE REMAINS CLEAN. IF SHE OBSERVED IT ON THE SLEEVE OF HER SHIRT, SHE IS UNCLEAN IF IT[6] CAN REACH AS LOW AS THE PUDENDA,[2] BUT IF IT CANNOT, SHE REMAINS CLEAN. IF SHE TAKES IT OFF AND COVERS HERSELF WITH IT IN THE NIGHT, SHE IS UNCLEAN WHEREVER THE STAIN IS FOUND,[7] SINCE IT CAN TURN ABOUT.[8] AND THE SAME LAW[9] APPLIES TO A PALLIUM.[10]

GEMARA. Samuel ruled: If a woman examined the ground[11] and after sitting on it, found on it some blood, she remains clean, for it is said, In her flesh,[12] implying that she is not unclean unless she feels[13] in her flesh. But the expression[14] ‘in her flesh’ is required for the deduction that she conveys uncleanness within[15] as without?[16] — If so,[17] Scripture could have said, ‘In flesh’, why then did it say’ ‘in her flesh’? It may, therefore, be deduced that she is not unclean ‘unless she feels[18] in her flesh’. But still, is not the expression required for the deduction, ‘In her flesh, but not within a sac or within a lump of flesh’?[19] — Both deductions may be made from it.

Come and hear: If a woman while attending to her needs[20] observed a discharge of blood, R. Meir ruled: If she was standing at the time she is unclean,[21] but if she was then sitting she remains clean.[22] Now how is one to imagine the circumstance?[23] If she felt the discharge, why should she be clean where she was sitting? Consequently this must be a case where she did not feel a discharge, and yet it was taught, was it not, that she was unclean?[24] — This may in fact be a case where she did feel a discharge but[25] it might be assumed that the feeling was that of the ejection of the urine. When she stands, the urine might well return to the interior of her womb[26] and then carry out some blood with it, but if she sits,[27] she remains clean.

Come and hear: If on a testing rag that was placed under a pillow some blood was found, it is regarded as clean if it[28] was round,[29] but if it was elongated it is unclean. Now how are we to understand the circumstances? If she felt a discharge, why should it be clean when round? Consequently it must be a case where she felt no discharge, and yet it was stated, was it not, that if it was elongated it is unclean?[30] — No, it may in fact be a case where[31] she felt the discharge, but it might be assumed that it was the feeling of the testing rag. Hence if it is elongated it must certainly have issued from her body.[32] but if it is round[33] it is clean.[34]

Come and hear: If a vestige of blood is found on his rag they are both unclean and are also under the obligation of bringing a sacrifice. If any blood is found on her rag immediately after their intercourse they are both unclean and are also under the obligation of bringing a sacrifice. If, however, any blood is found on her rag after a time they are both unclean by reason of the doubt but exempt from the sacrifice.[35] Now how are we to imagine the circumstance? If she has felt a discharge, why should they be exempt from the sacrifice where the blood is found after a time? Must it not then be a case where she did not feel any discharge, and yet it was taught, was it not, that 'if any blood is found on her rag immediately after their intercourse they are both unclean and are also under the obligation of bringing a sacrifice'?[30] — No, she may in fact have felt the discharge, but it might be assumed that it was the feeling of the attendant.[36]

Come and hear: You are thus in a position[37] to say that three forms of doubt appertain to a woman. A bloodstain on her body, concerning which there is doubt whether it is unclean and clean, is regarded as unclean;[38] on her shirt, when it is doubtful whether it is unclean or clean, is regarded as clean;[38] and in regard to the laws of the uncleanness of contact and heset[39] you follow the majority. Now what is meant by 'you follow the majority'? Is it not that if on most days she is unclean[40] this is a cause of uncleanness[41] even when she felt no discharge?[30] — No, the meaning is that if on most days her observation of the blood is accompanied by a feeling of the discharge she is unclean since it might be assumed that she had felt it this time also but did not pay any attention to it.

The Master said, 'A bloodstain on her body, concerning which there is doubt whether it is unclean or clean, is regarded as unclean; on her shirt, when it is doubtful whether it is unclean or clean, is regarded as clean'. How is one to understand the circumstances? If it[42] was below her belt, why, when on her shirt, is it regarded as clean seeing that we have learnt, BELOW THE BELT, SHE IS UNCLEAN; and if it was above her belt, why, when on her body is it regarded as unclean, seeing that we have learnt that if she observed blood on her body, IF IT WAS NOT NEAR THE PUDENDA, SHE REMAINS CLEAN? — If you wish I could reply that the stain was below the belt; and if you prefer I might reply that it was above the belt. 'If you wish I could reply that the stain was below the belt', in a case, for instance, where she passed through a butchers' market. If the stain was on her body it must have emanated from herself, for if it had emanated from an external source[43] it should have been found on her shirt; but if it is found on her shirt, it must have emanated from an external source,[43] for if it had emanated from herself it should have been found on her body. 'And if you prefer I might reply that it was above her belt', in a case, for instance, where she jumped backwards. If the stain is on her body it must undoubtedly have emanated from herself, for if it had emanated from an external source[43] it should have been found on her shirt; but if it is found on her shirt, it must have emanated from an external source,[43] for if it had emanated from herself, it should have been found on her body. At all events, it was stated, was it not, 'A bloodstain on her body, concerning which there is doubt whether it is unclean or clean, is regarded as clean', presumably even if she did not feel any discharge?[44] Furthermore, we have learnt, IF A WOMAN OBSERVED A BLOODSTAIN ON HER BODY. IF IT WAS NEAR THE PUDENDA, SHE IS UNCLEAN. Does not this imply even where she did not feel any discharge?[45] — R. Jeremiah of Difti replied: Samuel agrees that[46] she is unclean

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(1) Lit., 'flesh'.

(2) Since it may be attributed to menstruation.

(3) The following illustrates the previous general rule.

(4) The reason follows infra in the Gemara.

(5) Lit., 'and on the sides from here and from here'.

(6) The place of the stain.

(7) Sc. even if it is on a part which when worn cannot reach as low as the pudenda.

(8) And the upper part then comes in contact with the lower parts of the body.

(9) That she is UNCLEAN WHEREVER THE STAIN IS FOUND.

(10) ** a square sheet used as a cloak and as a bed cover. When used as a cover the upper part might well turn about (cf. prev. n. but one).

(11) Lit., ‘floor of the world’.
(12) Lev. XV, 19.
(13) The discharge.
(14) Lit. ‘that’.
(15) Sc. while the blood is still within her body.
(16) Supra 21b q.v. nn. How then can Samuel's deduction be made from the same expression?
(17) That only the latter deduction is to be made.
(18) The discharge.
(19) Sc. if blood is found within any of these abortions, but not on the woman's person, she remains clean (supra 21b).
(20) Making water.
(21) Since owing to the narrowness of the passage occasioned by her standing position, her urine may have returned to the interior of her womb whence it gathered up some menstrual blood.
(22) Infra 59b, supra 14a, the blood being attributed to a wound in the bladder.
(23) In which R. Meir's rule applies.
(24) An objection against Samuel.
(25) As to the reason why she remains clean.
(26) Lit., source’.
(27) A position which does not block the passage.
(28) The blood mark.
(29) Because it cannot be the result of the test which would produce an elongated patch.
(30) An objection against Samuel.
(31) In the course of the test.
(32) This being the shape that a blood mark would assume on a testing rag.
(33) And, therefore, likely to be the result of some wound.
(34) Because it cannot be the result of the test which would produce an elongated patch.
(35) Mishnah supra 14a q.v. notes.
(36) Euphemism.
(37) Lit., ‘thou art found’.
(38) This is explained infra.
(39) V. Glos.
(40) Cf. Rashi and Tosaf. for different illustrations of this uncleanness.
(41) Lit., ‘unclean’.
(42) The stain.
(43) Lit., ‘from the world’.
(44) An objection against Samuel.
(45) An objection against Samuel.
(46) Since it is possible that she was so much pre-occupied at the time of the discharge that she was unconscious of her sensation.

Talmud - Mas. Nidah 58a

according to Rabbinic law.[1] R. Ashi[2] replied: Samuel gave his ruling in accordance with the view of R. Nehemiah. For we learnt: R. Nehemiah ruled, Any thing that is not susceptible to uncleanness is not susceptible to stains.[3] According to R. Ashi one can well see the reason why he[4] mentioned ‘ground’,[5] but according to R.Jeremiah of Difti,[6] what was the point of mentioning ‘ground’, seeing that even in the case of a cloak[7] the woman is subject to the same law? — This is a case of an implied climax:[8] There is no question [that the woman is clean where she sat on] a cloak since it cannot be thoroughly examined and one may, therefore, well assume [that the stain] emanated from an external source,[9] but even [where she sat on] the ground which can well be thoroughly examined,[9] and where[10] it might justifiably be assumed that it emanated from her body, she is nevertheless regarded as clean.

ON HER HEEL OR ON THE TIP OF HER GREAT TOE. SHE IS UNCLEAN etc. One can well concede that HER HEEL[11] is likely[12] to come in contact with that place,[13] but what is the reason for the uncleanness in the case of a stain on THE TIP OF HER GREAT TOE? And should you reply: It might sometimes touch her heel [the objection would arise]: Do we [as regards] uncleanness presume transfer from place to place? Was it not in fact taught: If she[14] had a wound on her neck in a position to which the blood stain might be attributed,[15] she may so attribute it;[16] if it was on her shoulder, in which case she cannot so attribute it,[17] she must not so attribute it; and we do not suggest that it is possible that she had taken it[18] with her hand and transferred it there?[19] — The fact rather is that THE TIP OF HER TOE is in a different category.[20] because [direct dropping of blood] might occur while she is walking. But do we not [as regards] uncleanness presume transfer from place to place? Was it not in fact taught: If it[21] was found on her finger joints.[22] she is unclean, because hands are active.[23] Now what is the reason?[24] Is it not this: That we assume that she had examined herself with one hand[25] and then touched it with her other hand?[26] — No, her hand is different[20] since all of it might come in direct contact[27] [with the menstrual source].

ON HER THIGH OR ON HER FEET, IF ON THEIR INNER SIDE etc. How far[28] ON THEIR INNER SIDE?[29] — The school of R. Jannai replied: As far as the place of hebek.[30] The question was asked: Is the place of the hebek.[31] regarded as the inner, or as the outer side? — Come and hear what R. Kattina learnt: As far as the place of the hebek, and the hebek itself is regarded as the inner side. R. Hiyya son of R. Iwya taught this[32] explicitly: The School of R. Jannai ruled, As far as the place of the hebek and the hebek itself is regarded as in the inner side.

R. Jeremiah enquired: What is the ruling[33] where a bloodstain had the shape of a ring, of a straight line of drops,[34] or of a splash of drops.[35] or where it runs across the breadth of her thigh? — Come and hear: ‘A bloodstain on her body concerning which there is doubt whether it is unclean or clean, is regarded as unclean’. Now does not ‘on her body’ imply stains of such shapes? — No, it might only refer to one that is shaped like a stripe.[36]

A woman once found blood on her web. When she came to R. Jannai[37] he told her to experiment by repeating[38] her forward and backward movements.[39] But was it not taught: No repetition [test is recognized] in questions of cleanness?[40] — We say that no repetition test is recognized only[41] where the law would thereby[42] be relaxed, but where it is thereby restricted we do recognize a test of repetition.[43]

IF SHE TAKES IT OFF etc. It was taught: R. Eleazar son of R. Jose stated, In such a case[44] I gave a ruling in the city of Rome imposing a prohibition,[45] and when I came to the Sages of the South they said to me, ‘You have given the right decision.

Our Rabbis taught: Where a tall woman put on the shirt[46] of a short woman or if a short one put on the shirt[46] of a tall one, if [a blood stain][47] corresponds to the position of the pudenda of the tall one, they are both unclean, but if it does not correspond to it,[48] the tall one is clean while the short one is unclean. Another Baraitha taught: If a woman examined her shirt[49] and then[50] lent it to her friend,[51] she is clean, but her friend may attribute it[52] to her. R. Shesheth explained: This[53] was learnt only in regard to the civil law,[54] but as regards the law of uncleanness the lender is clean while her friend is unclean.

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(1) The ruling cited in objection to Samuel being also Rabbinical only. Samuel's ruling, however, was concerned with the Pentateuchal law.

(2) Maintaining that Samuel's ruling is not at all based on the principle that the woman must feel the discharge.

(3) Infra 59b, sc. a stain found on such an object is no cause of uncleanness to the person in whom it may possibly have originated. As the ground on which the woman sat is not susceptible to uncleanness the woman also, despite the stain found, remains clean. All the rulings cited in objection to Samuel based on the principle of ‘feeling’, are, therefore, irrelevant.

(4) Samuel.

(5) Since the ground is not susceptible to uncleanness.

(6) Who, as appears from his reply, accepted the view that Samuel based his ruling on the absence of sensation.

(7) If, while sitting on it, the woman experienced no sensation of a discharge.

(8) Lit., 'there is no question, he implied'.

(9) Before the woman sat on it.

(10) Since no stain was noticed before she sat down but was found after she rose.

(11) When she sits with her legs folded under her body in eastern fashion.

(12) Lit., 'does'.

(13) Euphemism. Hence the uncleanness.

(14) A woman who discovered a bloodstain near her pudenda.

(15) Sc. if the position of the wound was such that when the woman bends down some blood might drop from it on to the spot where the stain was discovered.

(16) And remain clean.

(17) Because even when she bends her head low the blood from the shoulder would not fall on the spot (cf. prev. n. but two) where the stain was discovered.

(18) The blood from the shoulder wound.

(19) How then could it be suggested here that the blood might have been transferred from the heel to the toe?

(20) From the shoulder.

(21) A bloodstain.

(22) On the back of her hand.

(23) And might, though the woman was not conscious of the fact, have touched menstrual blood.

(24) That blood on the back of the hand (cf. prev. n. but one), which one would not expect to come in contact with the menstrual source, even in the course of an examination, should be regarded as unclean.

(25) The palm of which became soiled in the process.

(26) Which proves, does it not, that we do presume transfer as regards uncleanness?

(27) Lit., 'does that it touches'.

(28) From their front and back.

(29) Sc. at what distance from their front and back is a stain regarded as being on their inner side.

(30) The sinews that connect the thigh and the leg. The part of the leg beneath this junction and the part of the thigh above it are regarded as the INNER SIDE (cf. Rashi and Tosaf. Asheri). Aliter: The place where the leg meets the thigh when the woman squats (Aruk); the part of the leg to the place where the (ankle) loop sits (Jast.).

(31) Sc. the sinews themselves (cf. Rashi and Tosaf. Asheri). Aliter: The ankle itself (Jast.).

(32) The ruling that was just given in the form of a question and answer.

(33) As regards menstrual uncleanness.

(34) Cf. Tosaf. and Tosaf. Asheri.

(35) Lit., 'drops, drops'.

(36) Running downwards, which is the natural shape that may be expected if the blood was menstrual.

(37) To enquire whether the stain was to be regarded as menstrual.

(38) At the loom.

(39) Lit., 'let her go and come'. By repeating the process several times she would be able to ascertain whether the web comes sometimes in contact with the menstrual source.

(40) Supra 5b q.v. notes.

(41) Lit., when do we say'.

(42) By sanctioning the test.

(43) Because here, since it was found neither on her body nor shirt, in the absence of evidence we assume her to be clean.

(44) Lit., 'this thing', a shirt that a woman used at night as a covering (v. our Mishnah).

(45) Sc. that the blood is regarded as menstrual and that the woman is consequently unclean.

(46) Without previously examining it.

(47) Discovered subsequently.

(48) Not reaching so low.
(49) Var. lec., 'herself and her shirt' (v. Bah.).
(50) Having made sure that it was clean.
(51) And subsequently a stain was found on it.
(52) The stain.
(53) That the borrower may attribute the stain to the lender.
(54) Sc. the lender, having no valid proof that the shirt was clean when she had lent it to the other, has no legal claim on the other for the cost of washing.

Talmud - Mas. Nidah 58b

But why is this case different from the following where it was taught: If two women were engaged in the preparation of one bird which contained no more than one sela' of blood, and then a stain of the size of a sela' was found on each, they are both unclean?[1] — There[2] the law is different since there was an additional sela'.[3]

Our Rabbis taught: Where a woman put on three shirts[4] that she had previously examined[5] [and then found blood on one of them]. if she is in a position to attribute [the blood to an external source][6] she may do so even though [the blood was found] on the lowest shirt, but if she is not in a position to attribute [it to an external cause][6] she may not do so even though [the blood was found] on the uppermost shirt. How so? If she passed through a butchers' market she may attribute the blood to it even though it was found on the lowest shirt, but if she did not pass through a butchers' market she may not attribute the blood to it even if it was found on the uppermost.

MISHNAH. [A WOMAN] MAY ATTRIBUTE [A BLOODSTAIN] TO ANY [EXTERNAL] CAUSE TO WHICH SHE CAN POSSIBLY ATTRIBUTE IT.[7] IF [FOR INSTANCE] SHE HAD SLAIN A DOMESTIC BEAST, A WILD ANIMAL OR A BIRD, IF SHE WAS HANDLING BLOODSTAINS OR SAT BESIDE THOSE WHO HANDLED THEM. OR IF SHE KILLED A LOUSE. SHE MAY ATTRIBUTE THE BLOODSTAIN TO IT. HOW LARGE A STAIN MAY BE ATTRIBUTED TO A LOUSE?[8] R. HANINA B. ANTIGONUS REPLIED: ONE UP TO THE SIZE[9] OF A SPLIT BEAN; [AND IT MAY BE ATTRIBUTED TO A LOUSE] EVEN THOUGH SHE DID NOT KILL IT.[10] SHE MAY ALSO ATTRIBUTE IT TO HER SON OR TO HER HUSBAND.[11] IF SHE HERSELF HAD A WOUND THAT[12] COULD OPEN AGAIN AND BLEED SHE MAY ATTRIBUTE IT TO IT. A WOMAN ONCE CAME TO R. AKIBA AND SAID TO HIM: I HAVE OBSERVED A BLOODSTAIN'. 'HAD YOU PERHAPS', HE SAID TO HER. 'A WOUND?' YES'. SHE REPLIED, 'BUT IT HAS HEALED'. IS IT POSSIBLE HE AGAIN ASKED HER, THAT IT COULD OPEN AGAIN AND BLEED?' 'YES', SHE REPLIED; AND R. AKIBA DECLARED HER CLEAN. OBSERVING THAT HIS DISCIPLES LOOKED AT EACH OTHER IN ASTONISHMENT. HE SAID TO THEM, ' WHY DO YOU FIND THIS DIFFICULT, SEEING THAT THE SAGES DID NOT LAY DOWN THE RULE[13] IN ORDER TO IMPOSE RESTRICTIONS BUT RATHER TO RELAX THEM, FOR IT IS SAID IN SCRIPTURE, AND IF A WOMAN HAVE AN ISSUE, AND HER ISSUE IN HER FLESH BE BLOOD.[14] ONLY BLOOD[15] BUT NOT A BLOODSTAIN. IF ON A TESTING RAG THAT WAS PLACED UNDER A PILLOW SOME BLOOD WAS FOUND, IF THE STAIN IS ROUND IT IS CLEAN BUT IF IT IS ELONGATED IT IS UNCLEAN; SO R. ELIEZER SON OF R. ZADOK.

GEMARA. Thus we have here[16] learnt what our Rabbis taught elsewhere: It once happened that R. Meir attributed it to collyrium, and Rabbi attributed it to the sap of a sycamore.[17]

OR SAT. Only where SHE SAT[18] but not [where she believes that] she did not sit.[19] Thus[20] we have here learnt what our Rabbis taught elsewhere: If a woman passed through a butchers' market, and it is a matter of doubt whether any blood was or was not squirted on her she may attribute [any bloodstain on her to a possible contingency]; but if it is doubtful whether she did or did not pass the market she[21] is unclean.[22]

IF SHE KILLED A LOUSE. Only where SHE KILLED[18] but not where she did not kill any. Whose view then does our Mishnah[23] represent? — That of R. Simeon b. Gamaliel. For it was taught: If she killed a louse she may attribute a bloodstain to it, but if she did not kill any she may not so attribute it; so R. Simeon b. Gamaliel. But the Sages ruled: In either case she may attribute the one to the other. Said R. Simeon b. Gamaliel: According to my view there is no limit[24] and according to the view of my colleagues there is no end.[24] 'According to my view there is no limit' since you could hardly find[25] a woman who could be regarded as clean for her husband, seeing that there is hardly[25] a bed that does not contain ever so many drops of louse blood.[26] 'According to the view of my colleagues there is no end', since there is hardly[25] a woman who could be regarded as unclean for her husband, seeing that there is hardly a sheet on which there are not ever so many drops of blood;[27] but the view of R. Hanina b. Antigonus is more feasible than mine and theirs, for he has laid down, 'How large a stain may be attributed to a louse? One not bigger than the size of a split bean',[28] and we rule in agreement with his view.[29] But according to the Rabbis who ruled, SHE MAY ATTRIBUTE,[30] how large may be the stain?[31] — R. Nahman b. Isaac replied: She may attribute it to a bed-bug even if it is as big as a lupine.[32]

Our Rabbis taught: A[33] bed-bug is of the same length and breadth and the taste of it is like its odour. Whosoever crushes it cannot help[34] smelling it. It was stated to be of 'the same length and breadth' in regard to bloodstains.[35] 'The taste of it is like its odour' has been stated in regard to terumah.[36] For we have learnt: 'Or if he tasted the flavour of a bed-bug in his mouth he must spit it out.[37] But how could he know this?[38] Because 'the taste of it is like its odour'. But still, whence could he know this?[39] [Because] 'whosoever crushes it cannot help[34] smelling it'.

R. Ashi ruled: In a town in which there are pigs there is no need to consider the possibility of menstrual bloodstains.[40] R. Nahman b. Isaac stated: The condition of[41] Dokereth[42] is[43] like that of a town in which there are pigs.[44]

HOW LARGE A STAIN MAY BE ATTRIBUTED etc. R. Huna explained: If the stain is equal in size to a split bean it may not be attributed to a louse; if it is smaller in size than a split bean it may be attributed to it. R. Hisda, however, explained: If it was of the same size as a split bean it may be attributed to it, but if it was bigger than the size of a split bean it may not be attributed to it. Must it be assumed that they[45] differ on the question whether UP TO' is meant to include the terminus,[46] R. Huna[47] holding the opinion that 'up to' does not include the terminus[48] while R. Hisda[49] holds that 'up to' is inclusive of the terminus?[50] — R. Huna can answer you: 'Up to' may sometimes include the terminus and sometimes exclude it, but in either case[51] the meaning must be one that leads to a restriction,[52] while R. Hisda can answer you: Elsewhere I agree with you[53] that we adopt a meaning that leads to a restriction and not one that leads to a relaxation, but here the meaning must be in agreement with a ruling of R. Abbahu, R. Abbahu having ruled: All prescribed minima of the Sages are intended to impose restrictions, except the prescribed size of a split bean in the case of bloodstains which is intended to relax the law.[54] There are others who give this tradition[55] as an independent statement:[56] R. Huna ruled, A bloodstain of the size of a split bean is treated as one bigger than the size of a split bean;[57] while R. Hisda ruled, One of the size of a split bean is treated as one that is less than the size of a split bean;[58] but they differ on the interpretation of UP TO here, as has just been explained.[59]

An objection was raised:

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(1) Sc. as in this case, though one stain could well be attributed to the bird, both women are unclean, so also in the former case, since it is possible that the lender did not properly examine her shirt, both lender and borrower should be unclean.

(2) The latter case.

(3) Which cannot possibly be attributed to the bird. As the stain of one woman at least must be an unclean one, and since it cannot be ascertained which one it is, uncleanness must be imposed on both women. In the former case, however, where one woman examined the shirt and the other did not, uncleanness may well be imposed on the latter only.

(4) One on the top of the other.

(5) Lit., ‘that are examined to her’.

(6) This is explained presently.

(7) And thus regard herself as clean.

(8) Lit., until how much may she attribute?’

(9) This is discussed infra in the Gemara.

(10) Contrary to the view of the Rabbis.

(11) If any of them had a wound.

(12) Though it is already dry.

(13) About bloodstains.

(14) Lev. XV, 19.

(15) Causes uncleanness.

(16) In our Mishnah.

(17) Supra 19b f q.v. notes.

(18) Does the law apply. Lit., ‘yes’.

(19) Though it might well be possible that she did sit there without being conscious of the fact (cf. Rashi and Tosaf. Asheri).

(20) Since the possibility of an unconscious act is here disregarded.

(21) If any bloodstain was found on her.

(22) Cf. prev. n. but two mut. mut.

(23) Sc. the anonymous ruling which is contrary to the view of R. Hanina b. Antigonus.

(24) This is explained presently.

(25) Lit., ‘since you have not’.

(26) So that the woman, unless she was certain that she killed one, would always be unclean, however minute the speck of blood.

(27) And these can be attributed to lice, however big the stain.

(28) Even if she killed nothing; while if it is bigger it is unclean even though a louse was killed.

(29) So Elijah Wilna. Cf. MS.M. Cur. edd., ‘and we agree with his view’.

(30) Even if she is not aware of killing anything.

(31) To be regarded as clean. If it is very big it could not obviously be attributed to a louse.

(32) Cf. prev. n.

(33) Lit., ‘this’.

(34) Lit., ‘a covenant is made for it’. sc. a protection for its preservation.

(35) A stain, though bigger than a split bean, may be regarded as clean if its length is equal to its breadth since it may be attributed to a bug.

(36) And the same applies to unconsecrated produce. Terumah was mentioned because the Mishnah of Ter. cited happens to deal with terumah.

(37) Ter. VIII, 2.

(38) The taste of vermin.

(39) Its odour.

(40) Since the pigs, eating all sorts of creeping things and vermin, scatter about their blood.

(41) Lit., ‘and that of’.

(42) Darankat on the Tigris. v. Obermeyer p. 197.

(43) Since it had many butchers’ shops and swarmed with dung hills and vermin.

(44) Cf. prev. n. but three.

(45) R. Huna and R. Hisda.

(46) Lit., ‘until and until included’.

(47) Who holds that a stain that is equal in size to a split bean may not be attributed to vermin.

(48) Which is (cf. our Mishnah) ‘THE SIZE OF A SPLIT BEAN’.

(49) Who maintains that a stain of the size of a split bean may be attributed to vermin.

(50) But if so how could each respectively reconcile his view with (cf. Hul. 55a) the cases to the contrary?

(51) Lit., ‘and here . . . and here’.

(52) As in the case of stains here under discussion the law is restricted by excluding the terminus, he justifiably maintains that the stain of the size of a split bean is excluded.

(53) Lit., ‘In the world I will tell you’.

(54) Hence the inclusion of the terminus in the ruling of our Mishnah.

(55) The dispute between R. Huna and R. Hisda.

(56) Sc. not as an explanation of our Mishnah.

(57) Sc. is regarded as unclean.

(58) Is regarded as clean.

(59) R. Huna, here as elsewhere, adopting the meaning that leads to a restriction while R. Hisda regards the meaning here as an exception in agreement with R. Abbahu's ruling.

Talmud - Mas. Nidah 59a

If a woman had drops of blood on her body below her belt[1] and drops of blood above it, she may attribute [the former to the blood that is assumed to be the cause of the drops] on the latter[2] up to the size of a split bean. Now does not this[3] mean a stain of the size of a split bean below her belt?[4] — No, a stain of the size of a split bean above the belt.[5]

It was stated: If on the body of a woman[6] was found a stain of the size of a split bean plus some addition,[7] and to that addition clung a louse, R. Hanina ruled: She is unclean;[8] and R.Jannai ruled: She is clean.[9] ‘R. Hanina ruled: She is unclean’, since she may attribute a stain to a louse only where the former is of the size of a split bean but not where it is of the size of a split bean plus. ‘R. Jannai ruled: She is clean’, since this restriction[10] applies only where no louse clings to the addition, but where a louse clings to it, it is quite evident that the addition is the blood of a louse, so that only a stain of the size of a split bean remains;[11] and since such a size may elsewhere[12] be attributed to a louse it may also here be so attributed.

R. Jeremiah enquired: What is the ruling where a woman handled some blood of the bulk of a split bean but on her body was found a bloodstain of the size of a split bean and a little more? This question arises according to R. Hanina and it also arises according to R. Jannai. ‘This question arises according to R. Hanina’, since R. Hanina may have maintained his view there[13] that the woman was unclean, only because she did not handle any blood, but here, where she did handle some, she may well attribute [the stain to an extraneous cause].[14] or is it possible that, even according to R. Jannai who ruled[13] that she was clean, the ruling applies only where a louse clings to the stain, but where no louse clings to it, the stain may not be attributed to it? — Come and hear: If she was handling red stuff she may not attribute to it a black stain; if she was handling a small quantity[15] she may not attribute to it a large stain. Now how is one to imagine the circumstances?[16] Would you not agree that they were of the same nature?[17] — No, this[16] might be a case, for instance, where she handled a quantity of blood of the bulk of a split bean while on her body was found a stain of the size of two split beans and a little more in excess.[18] But if so,[19] what was the need of mentioning it?[20] — It might have been presumed that one takes the part of the stain[21] that may be attributed to the blood of the bird[22] to be in the middle[23] so that there remains less than the prescribed minimum on either of its sides,[24] hence we were informed [that the stain cannot be attributed to it[25] at all].

Raba ruled: If one kind of material[26] was found upon a woman[27] she may attribute to it any kind of stain.[28] It was objected: If she was handling red stuff she may not attribute to it a black stain![29] — A case where she had handled the stuff is different.[30] There are some who say: Raba ruled, If a woman was handling one kind of material, she may attribute to it any kinds of stain.[28] It was objected: If she was handling red stuff she may not attribute to it a black stain![31] — When Raba laid down his ruling he referred to a woman who was handling a hen which contains several kinds of blood.

A WOMAN ONCE etc. But was it not taught: Seeing that the Sages did not lay down the rule in order to relax the law but rather to restrict it?[32] — Rabina replied: The meaning is that they did not lay down the rule to relax Pentateuchal laws,[33] but rather to add restrictions to them;[34] but the uncleanness of bloodstains is altogether a Rabbinical enactment.[35]

IF ON A TESTING RAG THAT WAS PLACED. The question was raised: Do the Rabbis differ from R. Eliezer son of R. Zadok or not? — Come and hear: A long stain is counted[36] but scattered drops are not combined.[37] Now whose view does this represent? If it be suggested: That of R. Eliezer son of R. Zadok [the difficulty would arise:] Why was there need[38] for the combination, seeing that he ruled that even a stain that was only slightly elongated is unclean. Must we not then conclude that it represents the view of the Rabbis? Thus it follows, does it not, that they differ from his view? — No, this may indeed represent the view of R. Eliezer son of R. Zadok, for he laid down the law[39] in regard to a testing rag[40] but not in regard to a bloodstain.[41]

Come and hear[42] what Rab Judah citing Samuel stated: ‘The halachah is in agreement with R. Eliezer son of R. Zadok’. Now since the halachah had to be declared it follows that they[43] differ from him.[44] This is conclusive. [

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(1) So Tosaf. and Tosaf. Asheri, (contra Rashi) whose interpretation is here followed.

(2) Lit., ‘on the upper’. As the drops above the belt may be attributed to blood from a source external to her body so may also the drops below it.

(3) The prescribed ‘size of a split bean’.

(4) But if so, it would follow that only where there are bloodstains above the belt are stains of the size of a split bean below it regarded as originating from the same extraneous source as those above and, therefore, treated as clean, but that where there are no drops of blood above the belt, even a stain of the size of a split bean below it is regarded as unclean. An objection against R. Hisda who ruled that a stain of such size is invariably attributed to vermin and is, therefore, clean.

(5) Sc. so long as the stain above is not smaller than the size of a split bean the stain below, though bigger than the size of a split bean, may be attributed to the same cause as that of the stain above. When the stain below, however, is no bigger than the size of a split bean, it is invariably clean irrespective of whether the body above was or was not stained with drops of blood.

(6) Lit., ‘upon her’.

(7) Lit., ‘and more’.

(8) It being regarded as due to menstrual blood.

(9) Sc. it is not attributed to blood of menstruation.

(10) That only a stain no bigger than a split bean is attributed to a louse.

(11) In doubt as to its origin.

(12) Where there is no addition to it.

(13) In the statement just cited.

(14) One part of the stain, to the extent of the size of a bean, might be attributed to the blood of the same quantity that she had previously handled while the remainder might be attributed to some vermin.

(15) Of the blood of a bird (cf. infra).

(16) In the latter case.

(17) As the case submitted by R. Jeremiah. Would then a solution be forthcoming from here?

(18) As the excess over the size of a split bean amounts to more than a split bean, it cannot possibly be attributed to vermin. Hence the uncleanness.

(19) Cf. prev. n.

(20) A ruling that is self-evident.
(21) The size of one split bean.
(22) Cf. supra n. 5.
(23) Lit., 'take like the size of a split bean; threw it in the middle' of the stained area.
(24) Lit., 'go here there is no prescribed size (bis)'. As the stain is thus smaller than the size prescribed it might have been presumed to be clean.
(25) The blood of the bird.
(26) Collyrium or sap, for instance, which leaves a stain after it is removed.
(27) Lit., 'upon her'.
(28) That she subsequently discovers; though the latter is not of the same colour as the material to which it is attributed.
(29) How then can Raba maintain that a stain of any colour may be attributed to any stuff that was previously found on the woman?
(30) From where, unknown to herself, something had clung to her body. In this latter case, since she was unaware of the particular stuff that clung to her, she may well be presumed to have been unaware also of the presence upon her of the substance from which the stain had originated. In the former case, however, where she had handled a red substance and was fully aware of it no ground for such an assumption exists.
(31) Cf. prev. n. but one mut. mut.
(32) An objection against R. Akiba.
(33) Regarding menstruation.
(34) Sc. by declaring certain stains (which are Pentateuchally clean) to be unclean they have added restrictions to the Pentateuchal laws.
(35) Hence wherever it is possible to attribute one to a cause that would exempt it from uncleanness the lenient course must be followed.
(36) Lit., 'combined', sc. is regarded as compact in respect of the prescribed size of a split bean.
(37) Cf. prev. n. mut. mut.
(38) in the case of a long stain.
(39) That even a stain that is only slightly elongated is unclean.
(40) An elongated stain on which is obviously the natural shape of one obtained in the course of the test.
(41) Which he does not regard as unclean unless it was no less in size than a split bean.
(42) In reply to the question whether the Rabbis differ from R. Eliezer son of R. Zadok.
(43) The Rabbis.
(44) Had they been in agreement with him the question of the halachah would not have arisen.

Talmud - Mas. Nidah 59b

CHAPTER IX

MISHNAH. IF A WOMAN WHEN ATTENDING TO HER NEEDS[1] OBSERVED AN ISSUE OF BLOOD, R. MEIR RULED: IF SHE WAS STANDING SHE IS UNCLEAN[2] BUT IF SHE WAS SITTING SHE REMAINS CLEAN. R. JOSE RULED: IN EITHER CASE SHE REMAINS CLEAN. IF A MAN AND A WOMAN ATTENDED TO THEIR NEEDS[1] IN THE SAME BOWL AND BLOOD WAS FOUND ON THE WATER, R. JOSE[3] RULED THAT IT WAS CLEAN,[4] WHILE R. SIMEON RULED THAT IT WAS UNCLEAN, SINCE IT IS NOT USUAL FOR A MAN TO DISCHARGE BLOOD, BUT THE PRESUMPTION IS THAT BLOOD ISSUES FROM THE WOMAN.

GEMARA. Wherein does the case where the woman WAS STANDING differ [from that of sitting]? [Obviously] in that we presume that the urine had returned to the source[5] and brought back blood with it. But then, even where SHE WAS SITTING why should it not also be assumed that the urine had returned to the source and brought back blood with it? — Samuel replied: The reference is to a woman who discharges in a gush.[6] But even where a discharge is gushing is it not possible that[7] the blood issued[8] after the water had ceased to flow?[9] — R. Abba replied. The reference is to a woman who sat on the rim of a bowl, discharging into the bowl, and blood was found within the bowl, [in which case it is obvious] that if the blood had issued after the water had ceased to flow it[10] should have been found on the rim of the bowl.[11] Samuel ruled or, as some say, Rab Judah citing Samuel ruled: The halachah is in agreement with R. Jose; and also R. Abba gave a ruling to Kala:[12] The halachah is in agreement with R. Jose.

IF A MAN AND A WOMAN etc. The question was asked: Where both the man and the woman were standing.[13] what, pray tell me, is the ruling of[14] R. Meir?[15] Did R. Meir maintain his view[16] only where one doubt[17] is involved, but where a double doubt[18] is involved he does not hold the woman to be unclean, or is it possible that there is no difference? — Resh Lakish replied: His ruling[19] is the same in both. Whence is this[20] inferred? — Since it was not stated:[21] R. Meir and R. Jose[22] ruled that she remains clean'. If so,[23] [the difficulty arises:] Now that R. Meir holds the woman to be unclean where a double doubt is involved,[24] was there any need for his ruling[25] where only one doubt is involved?[26] — Yes, in order to inform you how far reaching is the ruling[27] of R: Jose who laid down that the woman is clean even where only one doubt is involved. But, instead of disputing about such a case involving only one doubt in order to inform you how far reaching is the ruling of R. Jose, why should they not dispute about a case involving a double doubt in order to inform you how far reaching is the ruling of R. Meir?[28] The power of a lenient view[29] is preferred.[30] R. Johanan, however, replied: R. Meir gave his ruling[31] only where one doubt is involved, but where a double doubt is involved[32] he did not maintain his view. But if so,[33] why was it not stated:[34] R. Meir and R. Jose[35] ruled that she remains clean? — This should indeed have been done,[36] but since he had just left R. Jose[37] he also began[38] With R. Jose. As to R. Jose, however, since he holds the woman clean where only one doubt is involved,[39] was there any need for his ruling where a double doubt is involved?[40] — As it might have been presumed that his ruling applied only ex post facto[41] but not ab initio,[42] we were informed[43] that the ruling applied even ab initio. It was taught in agreement with R. Johanan: If a man and a woman attended to their needs in the same bowl and blood was found on the water, R. Meir and R. Jose declared it clean and R. Simeon declared it unclean.

The question was raised: Where a woman[44] was sitting,[45] what, pray tell me, is the ruling of[46] R. Simeon? Did R. Simeon maintain his view only where she is standing, since her passage is then compressed.[47] but not where she was sitting;[48] or is it possible that there is no difference? — Come and hear what was taught: If she was sitting she may attribute [any discharge of blood to an internal wound], but if she was standing she may not attribute [it to it]; so R. Meir. R. Jose ruled: In either case she may attribute [it to it]. R. Simeon ruled: In either case she may not attribute [it to it].

The question was raised: Where a man and a woman were sitting.[49] what, pray tell me, is the ruling of[46] R. Simeon? Did R. Simeon maintain his view only where the woman was standing, since her passage is then compressed,[50] or where she was sitting, since only one doubt is involved, but not where a double doubt is involved;[51] or is it possible that there is no difference? — Come and hear: Since R. Simeon ruled, THE PRESUMPTION IS THAT BLOOD ISSUES FROM THE WOMAN,[52] no distinction is to be made between an issue when they[53] were standing and one when they were sitting.

MISHNAH. IF SHE LENT HER SHIRT TO A GENTILE WOMAN OR TO A MENSTRUANT SHE MAY ATTRIBUTE A STAIN[54] TO EITHER.[55] IF THREE WOMEN HAD WORN THE SAME SHIRT OR HAD SAT ON THE SAME WOODEN BENCH AND SUBSEQUENTLY BLOOD WAS FOUND ON IT, ALL ARE REGARDED AS UNCLEAN.[56] IF THEY HAD SAT ON A STONE BENCH[57] OR ON THE PROJECTION WITHIN THE COLONNADE OF A BATH HOUSE,[57] R. NEHEMIAH RULES THAT THEY ARE CLEAN;[58] FOR R. NEHEMIAH HAS LAID DOWN: ANY THING THAT IS NOT SUSCEPTIBLE TO UNCLEANNESS IS NOT SUSCEPTIBLE TO STAINS.[59]

GEMARA. Rab explained: The reference[60] is to a GENTILE WOMAN

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(1) Making water.

(2) This is discussed in the Gemara infra.

(3) Who regards the blood as clean even where, as in the first clause, only one doubt is involved, viz., whether the blood originated in the menstrual source or in a wound in the bladder.

(4) Since in addition to the doubt mentioned (cf. prev. n.) there is also the one whether the blood issued from the woman or from the man. The necessity for this ruling will be discussed infra in the Gemara.

(5) Whence the menstrual blood issues.

(6) Sc. in the natural manner, no strain being involved in the process. Only when a strain is involved (as where the woman is standing or where the discharge is slow) is it likely for the urine to return to the source and to re-issue mixed with blood, but not where the discharge is flowing normally and easily.

(7) Though the urine does not return to the source.

(8) From the menstrual source, independently of the other discharge.

(9) Why then is the woman regarded as clean?

(10) Since the discharge of blood is not bow-shaped.

(11) As, however, it was found within the bowl it must be assumed to have found its way there together with the water.

(12) A person who sought ‘his opinion on the question.

(13) When attending to their needs; and blood was found in the bowl.

(14) Lit. ‘what, to me, said’.

(15) Who (v. our Mishnah) regards a woman as unclean if she was standing alone.

(16) cf. prev. n.

(17) Whether the blood emanated from the menstrual source or from a wound in the bladder.

(18) Lit., ‘doubt of a doubt’. Firstly there is the doubt whether the blood emanated from the woman or from the man; and secondly, even if it emanated from the woman, there remains the doubt previously mentioned (cf. prev. n.).

(19) That the woman is unclean.

(20) Resh Lakish's statement.

(21) In our Mishnah in the case where A MAN AND A WOMAN ATTENDED etc.

(22) Instead of the latter name alone.

(23) That even in the latter case, where a double doubt is involved (cf. n. 11). R. Meir holds the woman to be unclean.

(24) Cf. prev. n.

(25) In the first clause of our Mishnah.

(26) Apparently not. For if the woman is unclean in the case of a double doubt it is obvious that she is unclean in the case of one doubt. Why then was R. Meir's ruling given in the first clause, from which the second cannot be derived, instead of in the second clause from which the first would be self-evident?

(27) Lit., ‘the power’.

(28) Who even in such a case regards the woman as unclean.

(29) As is that of R. Jose who holds the woman to be clean.

(30) To that which is more restrictive. While the former must be the result of careful study and conviction the latter may be due to mere indecision and doubt.

(31) That the woman is unclean.

(32) As in the case of A MAN AND A WOMAN etc.

(33) That in the latter case (cf. prev. n.). R. Meir is of the same opinion as R. Jose that the woman is clean.

(34) In our Mishnah in the case where A MAN AND A WOMAN ATTENDED etc.

(35) Instead of the latter name alone.

(36) Lit., ‘yes, thus also’.

(37) At the conclusion of the preceding clause.

(38) The clause under discussion.

(39) In the first clause of our Mishnah.

(40) Cf. supra p. 418, n. 11.

(41) Where the woman, for instance, had already handled clean things.

(42) Sc. if she had not yet come in contact with clean things she is to be ordered to keep away from them.
(43) By the additional and apparently superfluous clause.
(44) Alone.
(45) When attending to her needs; and blood was found in the bowl.
(46) Lit., ‘what, to me, said’.
(47) Lit., ‘the world is pressed for her’. As a result of the narrowness of the passage blood from the menstrual source might well be presumed to issue together with the returned urine, and since this presumption almost amounts to a certainty there remains no more than one doubt, as to whether the blood emanated from the man or the woman, which well justifies R. Simeon's ruling that the blood is unclean.
(48) And the passage allowed of the free movement of the urine. Any blood discharged in this case might well be attributed to a wound in the bladder, and, therefore, regarded as clean.
(49) When attending to their needs; and blood was found in the bowl.
(50) And the presumption that the blood emanated from the menstrual source is then so strong that, despite the double doubt involved, R. Simeon, disregarding one of the doubts, maintains his view.
(51) Whether (a) the blood issued from the woman or the man and (b) if from the woman whether from the menstrual source or from some internal wound.
(52) Which clearly indicates that he never attributes it to the man.
(53) The man and the woman.
(54) That was found on it after she herself had worn it.
(55) Lit., ‘on her’; and she remains clean. Such a presumption is permitted since neither the gentile woman nor the menstruant is thereby placed at a disadvantage, the former being free from the restrictions in any case while the latter is already in a state of uncleanness.
(56) Since each one might be presumed to have been the cause.
(57) Which, unlike a wooden one, is not susceptible to uncleanness.
(58) [The same applies to one woman sitting on a stone bench etc. The plural is used here in continuation of the preceding clause. v. Strashun].
(59) Sc. no uncleanness of the person is assumed by reason of a stain that was found on it. This is further explained in the Gemara infra.
(60) In our Mishnah.

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who once experienced a discharge.[1] Whence is this derived? From the fact that she is placed on a par with A MENSTRUANT. As the menstruant is a woman who experienced a discharge[1] so must the GENTILE WOMAN be one who experienced a discharge.[1] R. Shesheth remarked, Rab must have made this statement when he was lying down and about to doze, for it was taught: ‘She may attribute it[2] to the gentile woman.[3] R. Meir said, To the gentile woman who is capable of a menstrual discharge’,[4] Now even R. Meir[5] only spoke of one who is ‘capable of a menstrual discharge’ but did not require one who actually experienced a discharge.[6] Raba retorted: But do you understand R. Meir to restrict the law?[7] R. Meir in fact relaxes it. For it was taught: ‘She may not attribute it[8] to the gentile woman. R. Meir ruled: She may attribute it to her’.[9] But, then, does not a difficulty arise[10] from the former?[11] — Explain thus:[12] Only when she[13] experienced a discharge once before; and R. Meir said, If she is capable of a menstrual discharge even though she never yet experienced one.[14]

Our Rabbis taught: A woman may attribute a stain[15] to another woman[16] who was awaiting a day for a day, if it[17] was the latter's second day,[18] and[19] to a woman[16] who counted seven days[20] before she had performed ritual immersion.[21] Hence she is at an advantage[22] while her friend is at a disadvantage;[23] so R. Simeon b. Gamaliel. Rabbi ruled, She[24] may not so attribute it.[25] Hence both are at a disadvantage. They[26] agree, however, that she may attribute a stain to a woman who was awaiting a day for a day if it[27] was the latter's first day,[28] and to a woman who was abiding in her clean blood,[29] and to a virgin whose blood is clean.[30] Why was it necessary to state the ‘hence’ of R. Simeon b. Gamaliel?[31] — On account of the ruling of Rabbi.[32] Why was it necessary to state the ‘hence’ of Rabbi?[33] — It might have been presumed that only the woman on whom the stain was found shall be at a disadvantage while the other shall not be disadvantaged, hence we were informed that both are at a disadvantage.

R. Hisda stated: If a clean and an unclean person walked respectively in two paths one of which was clean and the other unclean,[34] we arrive at the dispute between Rabbi and R. Simeon b. Gamaliel.[35] R. Adda demurred: Rabbi may have maintained his view only[36] there, because both are in similar conditions,[37] but what difference [to the unclean person in this case] could our assumption make?[38] And R. Hisda?[39] — After all[40] she has yet to perform the immersion.[41] It was stated:[42] R. Jose son of R. Hanina ruled, If a clean and an unclean person, and even if a clean, and a doubtfully clean person walked respectively in two paths one of which was unclean and the other clean, it may be assumed, according to the opinion of all,[43] that the unclean path was taken by the doubtfully clean person and the clean path by the clean one.

R. Johanan enquired of R. Judah b. Liwai: May a stain[44] be attributed to [another woman[45] who was unclean on account of] a stain? So far as Rabbi's view is concerned the question does not arise; for, since in that case[46] where the woman had observed a discharge from her own body[47] you said [that the other woman's stain] may not be attributed [to her], how much less then may this be done in this case where the stain may have originated from an external cause.[48] The question arises only in connection with the view of R. Simeon b. Gamaliel: Is it only in that case,[46] where the woman had observed a discharge from her own body,[47] that the other woman's stain may be attributed to her, but here, where the stain may have originated from an external cause,[48] she may not so attribute it,[49] or is it possible that no difference is made between the two cases? — The other replied: One may not so attribute it. What is the reason? — Because [there is a tradition that][50] one may not so attribute it.[51]

He pointed out to him the following objection: ‘Is it not permissible to attribute a stain[52] to [another woman[53] who was unclean on account of] a stain. If a woman[54] had lent her shirt to a gentile woman or to one who continued unclean by reason of a stain, she may attribute its to her[55] . (But is not this Baraitha self contradictory: In the first clause you stated, ‘it is not permissible to attribute’ while in the final clause you stated that it was permissible to attribute? — This is no difficulty: The former is the view of Rabbi while the latter is that of R. Simeon b. Gamaliel. There are some who read: The latter as well as the former represents the view of Rabbi, but[56] the latter[57] applies to her first day[58] while the former[59] applies to her second day.[60] R. Ashi replied: The former[61] as well as the latter[57] represents the view of R; Simeon b. Gamaliel and yet there is no difficulty,

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(1) Lit., ‘who sees’.

(2) A stain found on her shirt.

(3) And thus remain clean.

(4) Sc. one of mature age.

(5) Who seems to be more restrictive than the first Tanna.

(6) Much less (cf. prev. n.) would the Rabbis (the first Tanna) require that the gentile woman should be one who actually experienced a discharge once before.

(7) More than the Rabbis. V. p. 421, nn. 12,13.

(8) A stain found on her shirt.

(9) And since the first Tanna restricts the law he may well uphold also the restriction imposed by Rab.

(10) Against the Baraitha cited by Raba from which it is evident that R. Meir is more lenient than the Rabbis.

(11) Lit., ‘that’, the Baraitha cited by R. Shesheth from which it appears that R. Meir is more restrictive.

(12) The Baraitha cited by R. Shesheth, according to which the first Tanna ruled that ‘she may attribute it to a gentile woman’.

(13) The gentile woman.

(14) Similarly the Baraitha cited by Raba is to be explained that the first Tanna holds that ‘she may not attribute it to the gentile woman' unless the latter had experienced a discharge once before, while R. Meir maintains that it may be attributed to her even if she is only capable of a discharge, though she had not experienced one. Both Baraithas thus give the same rulings in different words, and Rab's view is upheld by that of the first Tanna in each.

(15) Found on her underclothing.

(16) To whom she had previously lent it.

(17) The day on which the latter had worn it.

(18) Sc. the day during a zibah period following the one on which she observed a discharge, though on that day none had been observed. This assumption in favour of the former is permitted (despite the slight disadvantage to the latter of having to wait another day) because of the latter's known condition of uncleanness.

(19) For a similar reason (cf. prev. n. second clause).

(20) After an established zibah.

(21) Though the latter would in consequence have to count again a new period of seven days.

(22) Lit., 'repaired', 'sound', sc. she remains clean.

(23) Lit., 'spoilt', 'damaged'; the one having to wait an additional day (cf. supra n. 12) and the other to count another seven days (cf. prev. n. but one).

(24) Since her attribution would be a disadvantage to her friend.

(25) Though she herself would in consequence be regarded as unclean.

(26) Rabbi and R. Simeon b. Gamaliel.

(27) The day on which the latter had worn it.

(28) When the assumption that the stain was due to her would impose no additional uncleanness upon her.

(29) From the eighth to the fortieth day after the birth of a male child and from the fifteenth to the eightieth after the birth of a female child. Cf. prev. n.

(30) Cf. supra 10b and prev. n. but one.

(31) Sc. in view of his specific statement that the stain may be attributed to the other woman who was already in a state of uncleanness, is it not obvious that the former is at an advantage while the latter is at a disadvantage?

(32) According to which both women are at a disadvantage.

(33) Cf. prev. n. but one mut. mut.

(34) And it is unknown who walked in which.

(35) According to the latter, who ruled that a stain found on a clean woman may be attributed by her to a woman who was known to be unclean while she herself remains clean, it may be here assumed that the clean person walked in the clean path and the unclean walked in the unclean one; while according to Rabbi no such assumption could be allowed and both persons must be regarded as unclean.

(36) Lit., 'until here Rabbi only said'.

(37) Since even the woman who was hitherto unclean could, by performing immersion, attain cleanness on the day the stain was found. The assumption would consequently place her at an undeserved disadvantage.

(38) None; since whatever the assumption he is unclean. As the assumption would not place him under any disadvantage Rabbi in this case may well agree with R. Simeon b. Gamaliel.

(39) How in view of this argument could he maintain his statement?

(40) Granted the woman could attain to cleanness by immersion.

(41) Before doing which she is still unclean in all respects. As Rabbi nevertheless rules out the assumption that the stain was due to her, it is obvious that he would equally rule out the assumption that it was the unclean person who walked in the unclean path.

(42) In agreement with R. Adda's view that even according to Rabbi it may be assumed that the clean person walked in the clean path and the unclean person in the unclean one.

(43) Sc. even according to Rabbi.

(44) Found on the under garment of a woman who was known to be clean.

(45) Who had previously worn that garment.

(46) Discussed supra. Lit., 'there'.

(47) A case of certain uncleanness.

(48) Lit., 'where it came from the world'; a case of doubtful uncleanness.

(49) And both women are, therefore, unclean.

(50) Since the uncleanness that is due to a stain is merely of a doubtful nature, it being possible that the stain originated from an external cause, and the woman cannot in consequence be regarded as prone to a discharge.

(51) And both women are, therefore, unclean.

(52) Found on the under garment of a woman who was known to be clean.

(53) Who had previously worn that garment.

(54) Who discovered the stain.

(55) The stain she discovered.

(56) As to the apparent contradiction.

(57) ‘It is permissible to attribute’.

(58) Sc. the stain was discovered by the woman on the same day on which the other (to whom the garment had been lent) had found a stain on an under garment of hers which caused her to be unclean on that day and also imposed upon her the restriction of remaining unclean until a second day (a day for a day) had passed. Since she has in any case to lose a second day, the attribution does not cause her any disadvantage.

(59) Which does not allow the attribution.

(60) When the attribution would place her under a disadvantage by extending her uncleanness to the third day.

(61) Which does not allow the attribution.

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for the former applies to retrospective uncleanness[1] while the latter applies to future uncleanness.)[2] At all events does not a difficulty arise?[3] — Rabina replied: This is no difficulty for it is this that was meant:[4] If she had lent her shirt to a gentile woman,[5] she who discovered[6] the stain[7] may attribute it to her.[8] But was it not stated, ‘or to one who continued unclean by reason of a stain’?[9] — It is this that was meant: Or to one who continued clean owing to clean blood,[10] she who discovered[11] the stain may attribute it to her.[12]

IF THREE WOMEN HAD WORN etc. FOR R. NEHEMIAH HAS etc. R. Mattenah stated: What is R. Nehemiah's reason? That it is written, And clean[13] she shall sit upon the ground,[14] provided she sat on the ground she is clean.[15] R. Huna citing R. Hanina stated: R. Nehemiah rules that they are clean if they sat even on the back of an earthenware vessel. But is not this obvious?[16] — It might have been presumed that a restriction shall be imposed on its back as a preventive measure against the possible relaxation of the law in regard to its inside,[17] hence we were informed that on the back of an earthenware vessel they are clean. Abaye stated: R. Nehemiah holds them to be clean if they sat on strips of cloth that were less than three by three fingerbreadths, since such are unsuitable for use either by the poor or the rich.[18]

R. Hiyya son of R. Mattenah citing Rab stated in his discourse: The halachah is in agreement with R. Nehemiah. Said R. Nahman to him: Abba[19] learnt, ‘A case was once submitted to the Sages and they declared the woman concerned to be unclean’ and you state, ‘the halachah is in agreement with R. Nehemiah’? — What was that case? — The one concerning which it was taught: If two women were grinding with a hand mill and blood was found under the inner one,[20] both are unclean.[21] If it was found under the outer one,[22] the outer one is unclean[23] but the inner one remains clean.[24] If it was found between the two, both are unclean.[25] It once happened that blood was found on the edge of a bath,[26] and on an olive leaf while they were making a fire in an oven, and when the case was submitted to the Sages they declared them to be unclean.[27] This[28] is a point at issue between Tannas. For it was taught: R. Jacob[29] ruled that they were unclean and R. Nehemiah ruled that they were clean, and the Sages[30] ruled in agreement with R. Nehemiah.

MISHNAH. IF THREE WOMEN SLEPT IN ONE BED AND BLOOD WAS FOUND UNDER ONE OF THEM, THEY ARE ALL UNCLEAN. IF ONE OF THEM EXAMINED HERSELF AND WAS FOUND TO BE UNCLEAN, SHE ALONE IS UNCLEAN WHILE THE TWO OTHERS ARE CLEAN. THEY MAY ALSO ATTRIBUTE THE BLOOD TO ONE ANOTHER.[31] AND IF THEY WERE NOT LIKELY[32] TO OBSERVE A DISCHARGE,[31] THEY MUST BE REGARDED

AS THOUGH THEY WERE LIKELY TO OBSERVE ONE.

GEMARA. Rab Judah citing Rab explained: But this[33] applies only where she examined herself immediately [after the discovery of the blood],[34] He is of the same opinion as Bar Pada who laid down: Whenever her husband is liable to a sin-offering,[35] her clean things[36] are[37] to be unclean;[38] where her husband is liable to a suspensive guilt-offering,[39] her clean things[40] are regarded as being in a suspended state of uncleanness;[41] and where her husband is exempt,[42] her clean things[43] remain clean. But R. Oshaia[44] ruled: Even where her husband is liable to a sin-offering,[45] her clean things are[46] deemed to be in a suspended state.[47] One can see the reason[48] there, since it might well be assumed that the waiter[49] had caused the obstruction of the blood; but, in this case,[50] if it were a fact that the blood was there,[51] what could have caused its obstruction?[52] R. Jeremiah observed: As to R. Oshaia's metaphor[53] to what may this be compared? To an old man and a child who were walking together on a road. While they are underway the child restrains his gait.[54] but after they enter the town[55] the child accelerates his pace.[56] Abaye on the other hand observed: As to the metaphor of R. Oshaia, to what may this be compared? To a man who puts his finger on his eye. While the finger is on the eye the tears are held back, but as soon as the finger is removed the tears quickly come forth.[56]

THEY MAY ALSO ATTRIBUTE THE BLOOD TO ONE ANOTHER. Our Rabbis taught: In what manner do they attribute it to one another? If one was a pregnant woman[54] and the other was not pregnant, the former may attribute the blood to the latter. If one was a nursing woman[57] and the other was not a nursing woman, the former may attribute the blood to the latter. If one was an old woman[57] and the other was not an old woman, the former may attribute the blood to the latter. If one was a virgin[58] and the other was no virgin, the former may attribute the blood to the latter. If both were pregnant, nursing, old or virgins — it is [a case like] this concerning which we have learnt, IF THEY WERE NOT LIKELY TO OBSERVE A DISCHARGE, THEY MUST BE REGARDED

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(1) Sc. to a case where the owner of the shirt discovered the stain on it before the other to whom she had lent it had discovered the stain on her own under garment, Though the other subsequently discovered the stain, she cannot be regarded as unclean retrospectively (from the time the owner of the shirt had discovered the stain) since at that time she was still in a condition of cleanness (cf. Tosaf. and Tosaf. Asheri, contra Rashi).

(2) The stain on the lent shirt having been discovered after the woman who borrowed it had discovered hers (cf. prev. n.).

(3) Apparently it does; for since, according to the Baraitha cited, R. Simeon b. Gamaliel allows the attribution how could R. Judah b. Liwai maintain that he does not.

(4) By the Baraitha under discussion.

(5) Who experienced a discharge.

(6) Lit., ‘the owner of’.

(7) Sc. the Israelitish woman.

(8) The gentile, who loses thereby nothing, while the Israelitish woman remains clean.

(9) Of course it was. Now if the reference is to the woman who just discovered the stain, how could the expression ‘continued’ (which implies that the counting of the clean days had already begun) be used?

(10) I.e., either to a gentile woman who is free from the restrictions of uncleanness or to an Israelitish woman who for the reason stated is exempt from uncleanness.

(11) Lit., ‘the owner of’.

(12) Since neither would thereby be adversely affected while she remains clean in consequence.

(13) E.V., utterly bereft.

(14) Isa. III, 26.

(15) I.e., a stain found on the ground does not render her unclean.

(16) Apparently it is, since like a stone bench, the back of an earthenware vessel is not susceptible to uncleanness.

(17) Which is susceptible to uncleanness, and a stain on which would in accordance with Rabbinic law subject a woman to uncleanness.

(18) And hence unsusceptible to uncleanness.
(19) Abba Arika or Rab. ‘My father’ (Golds.), MS.M., ‘ana’ (‘I’).
(20) The one nearer to the mill.
(21) Since the other who sits behind her would naturally shift her position towards the mill and, assuming sometimes the same position as the inner one, would be as likely as she to be the cause of the stain in that spot. As it is thus uncertain which of the two was the cause both must be regarded as unclean.
(22) A position which the inner one would never occupy, the tendency being to come up as close as possible to the mill.
(23) Since she may have been the cause of the stain.
(24) Cf. prev. n. but one.
(25) Because either might have been the cause.
(26) Which two women were using.
(27) Now an olive leaf is not susceptible to uncleanness and yet the Sages (the majority) ruled that a stain on it causes uncleanness. How then could it be said that the halachah agrees with R. Nehemiah who was only an individual?
(28) Whether R. Nehemiah is opposed by an individual authority or by a majority.
(29) An individual.
(30) The majority.
(31) This is explained in the Gemara infra.
(32) Lit., ‘suitable’.
(33) That IF ONE OF THEM EXAMINED HERSELF . . . SHE ALONE IS UNCLEAN WHILE THE TWO OTHERS ARE CLEAN.
(34) If, however, her examination had been delayed the others too are unclean.
(35) In the case, for instance, where she discovered menstrual blood immediately after their intercourse, when it is assumed that the discharge had occurred during intercourse.
(36) Terumah, for instance, which may be eaten only when clean.
(37) If she discovered menstrual blood immediately after her contact with them.
(38) It being assumed (cf. prev. n. but two) that the discharge occurred while she was still handling the clean things. In such a case the uncleanness is regarded as certain and the things she handled must be burnt.
(39) This is the case where she discovered the blood after an interval had elapsed during which she could descend from the bed and wash her genitals it being doubtful whether the discharge had occurred during or after intercourse.
(40) If she discovered the blood after such an interval (cf. prev. n.) had passed since she handled them.
(41) Sc. they may be neither eaten nor burnt.
(42) In the case where the longer interval (cf. prev. n. but two) had passed before the blood was discovered, when it is regarded as certain hat the discharge occurred after intercourse.
(43) If a similar interval (cf. prev. n.) had elapsed between the time she has handled them and the discovery of the blood.
(44) Maintaining that even if a discovery of blood was made immediately after she handled the clean things one cannot be sure that the discharge had occurred earlier when she was still handling them.
(45) V. supra n. 2.
(46) On account of the doubt.
(47) Thus it follows that our Mishnah which ruled that only the woman who found herself on examination to be unclean is regarded as the cause of the blood while the two others remain clean, upholds the opinion of Bar Pada who, where the examination took place immediately after the clean things had been handled, regards the things as definitely unclean. It must be contrary to the view of R. Oshaia who, even in such a case (an examination after the shortest interval), regards the clean things as being merely in a suspected state.
(48) Why it may be assumed that the discharge occurred earlier during intercourse.
(49) Euphemism.
(50) The handling of clean things.
(51) Sc. that the discharge occurred earlier.
(52) Obviously nothing. Hence it is only in the case of intercourse (where the assumption is possible) that the husband becomes liable for a sin-offering, but in the case of clean things (where no such assumption is possible) no certain uncleanness may be presumed and only that of a doubtful nature may be imposed upon them Rabbinically for twenty-four hours retrospectively.
(53) ‘The waiter had caused the obstruction of the blood’.

(54) Lit., ‘delays to come’, waiting for the lead of the old man.
(55) When they walk in different directions to their own respective homes.
(56) Lit., ‘hastens to come’.
(57) Who usually loses her menstrual flow.
(58) Sc. a young woman (whether unmarried or married) who had not yet experienced any menstrual discharge (cf. supra 8b).

Talmud - Mas. Nidah 61a

AS THOUGH THEY WERE LIKELY TO OBSERVE ONE. MISHNAH. IF THREE WOMEN SLEPT IN ONE BED, AND BLOOD WAS FOUND UNDER THE MIDDLE ONE, THEY ARE ALL UNCLEAN. IF IT WAS FOUND UNDER THE INNER ONE,[1] THE TWO INNER ONES[2] ARE UNCLEAN WHILE THE OUTER ONE IS CLEAN. IF IT WAS FOUND UNDER THE OUTER ONE,[3] THE TWO OUTER ONES[4] ARE UNCLEAN WHILE THE INNER ONE[5] IS CLEAN. WHEN[6] IS THIS THE CASE?[7] WHEN THEY PASSED[8] BY WAY OF THE FOOT OF THE BED,[9] BUT IF THEY PASSED ACROSS IT,[10] THEY ARE ALL UNCLEAN.[11] IF ONE OF THEM EXAMINED HERSELF AND WAS FOUND CLEAN, SHE REMAINS CLEAN WHILE THE TWO OTHERS ARE UNCLEAN. IF TWO, EXAMINED THEMSELVES AND WERE FOUND TO BE CLEAN THEY REMAIN CLEAN WHILE THE THIRD IS UNCLEAN. IF THE THREE EXAMINED THEMSELVES AND WERE FOUND TO BE CLEAN, THEY ARE ALL UNCLEAN. TO WHAT MAY THIS BE COMPARED? TO AN UNCLEAN HEAP[12] THAT WAS MIXED UP WITH TWO CLEAN HEAPS, WHERE, IF THEY EXAMINED ONE OF THEM AND FOUND IT TO BE CLEAN, IT IS CLEAN WHILE THE TWO OTHERS ARE UNCLEAN; IF THEY EXAMINED TWO OF THE HEAPS AND FOUND THEM TO BE CLEAN, THEY ARE CLEAN WHILE THE THIRD ONE IS UNCLEAN; AND IF THEY EXAMINED THE THREE AND THEY WERE FOUND TO BE CLEAN, THEY ARE ALL UNCLEAN; SO R. MEIR, FOR R. MEIR RULED: ANY OBJECT THAT IS IN A PRESUMPTIVE STATE OF UNCLEANNESS ALWAYS REMAINS UNCLEAN UNTIL IT IS KNOWN TO YOU WHERE THE UNCLEANNESS IS. BUT THE SAGES RULED: ONE CONTINUES THE EXAMINATION OF THE HEAP UNTIL ONE REACHES BEDROCK OR VIRGIN SOIL.[13]

GEMARA. Why is it that in the first clause[14] no distinction is made[15] while in the final clause[16] a distinction is made? — R. Ammi replied: The former is a case where the women were interlocked.[17]

IF ONE OF THEM EXAMINED HERSELF etc. What need was there for stating, ‘TO WHAT MAY THIS BE COMPARED’? — It is this that R. Meir in effect said to the Rabbis: Why is it that in the case of blood you do not differ from me[18] while in that of a heap you differ?[19] — And the Rabbis?[20] — There [the heap may be regarded as clean] since it might well be assumed that a raven had carried away the piece of corpse, but here, whence[21] could the blood have come?[22]

It was taught: R. Meir stated, It once happened that a sycamore tree at Kefar Saba, held to be in a presumptive state of uncleanness, was examined and no object of uncleanness was found. After a time the wind blew upon it and uprooted it when the skull of a corpse was found stuck in its root.[23] They[24] answered him: ‘Do you adduce proof from there? It might be suggested that the examination was not thorough enough’.[25]

It was taught: R. Jose stated, It once happened that a cave at Shihin, held to be in a presumptive state of uncleanness, was examined until ground, that was as smooth as a finger nail[26] was reached, but no unclean object was found. After a time labourers entered it to shelter from[27] rain, and chopping with their axes found a mortar full of bones.[28] They[29] answered him: ‘Do you adduce proof from there? It might be suggested that the examination was not thorough enough’.[30]

It was taught: Abba Saul stated, It once happened that a clod at Beth Horon was held in a presumptive state of uncleanness, and the Sages could not properly examine it because its area was extensive.[31] But there was an old man in the place[32] whose name was R. Joshua b. Hananiah and he said to them, ‘Bring me some sheets’. They brought to him sheets and he soaked them in water and then spread them over the clod.[33] The clean area[34] remained dry while the unclean area[35] became moist. And, having examined the latter, they found a large pit full of bones. One taught: That was the pit which Ishmael the son of Nethaniah had filled with slain bodies, as it is written, Now the pit wherein Ishmael cast all the dead bodies of the men whom he had slain by the hand[36] of Gedaliah.[37] But was it Gedaliah that killed them? Was it not in fact Ishmael that killed them?[38] — But owing to the fact that he[39] should have taken note of the advice of Johanan the son of Kareah[40] and did not do so Scripture regards him as though he had killed them.

Raba observed: As to slander, though one should not believe[41] it one should nevertheless take note of it. There were certain Galileans about whom a rumour was spread that they killed a person. They came to R. Tarfon and said to him, ‘Will the Master hide us?’ ‘How’, he replied, ‘should I act? Should I not hide you, they[42] would see you.[43] Should I hide you, I would be acting contrary to the statement of the Rabbis,[44] "As to slander, though one should not believe[45] it, one should take note of it".[46] Go you and hide yourselves’.

And the Lord said unto Moses: Fear him not’.[47] Consider: Sihon and Og were brothers, for a Master stated, ‘Sihon and Og were the sons of Ahijah the son of Shamhazai’,[48] then why was it that he feared Og while he did not fear Sihon? R. Johanan citing R. Simeon b. Yohai replied: From the answer that was given[49] to[50] that righteous man[51] you may understand what was in his mind.[52] He thought: Peradventure the merit of our father Abraham will stand him[53] by, for it is said, And there came one that had escaped, and told Abram the Hebrew,[54] in connection with which R. Johanan explained: This refers to Og who escaped the fate of the generation of the flood.[55]

Our Rabbis taught:[56] If a [woman's] bloodstain was lost in a garment[57] one must apply to it[58] seven substances[59] and thus neutralize it. R. Simeon b. Eleazar ruled:

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(1) The woman that was nearest to the wall.

(2) Sc. the one under whom the blood was found (cf. prev. n.) and the middle one.

(3) The woman furthest from the wall.

(4) The one mentioned and the middle one.

(5) The woman that was nearest to the wall.

(6) Sep. edd. of the Mishnah read, ‘R. Judah said, When’.

(7) That IF IT WAS FOUND UNDER THE OUTER ONE. . . THE INNER ONE IS CLEAN.

(8) On entering the bed.

(9) So that the inner one never passed the spot where the blood was found.

(10) Lit., ‘the way over it’. The inner two thus passing over the place of the outer one.

(11) Even the middle and the inner one, since it is possible that either discharged the blood when she was passing over that spot.

(12) One that contained a piece of corpse of the minimum size of an olive.

(13) And if no uncleanness can be found even there, it may be presumed that the heap is clean.

(14) The previous Mishnah, supra 60b.

(15) Between blood found under the middle, the inner or the outer woman.

(16) Our Mishnah.

(17) As they were so close to each other it is quite possible for the blood of the one to be found under the other.

(18) Agreeing that if the three women examined themselves and were found to be clean, they are all unclean.

(19) Maintaining that, if the examination was continued down to bedrock or virgin soil and no trace of corpse was found, the heap may be regarded as clean despite the presumptive existence of a piece of corpse in one of the heaps.

(20) On what ground do they maintain their view?

(21) If all the women are clean.
(22) Hence the ruling that they are all unclean.
(23) This, in the opinion of R. Meir, proves that an examination that revealed no unclean object is no evidence of cleanness.
(24) The Rabbis who disagreed with him.
(25) Lit., ‘they did not examine all its requirement’.
(26) Sc. that was never cultivated.
(27) Lit., ‘on account of’.
(28) Cf. supra p. 431, n. II mut. mut.
(29) The Rabbis who disagreed with him.
(30) Lit., ‘they did not examine all its requirement’.
(31) Lit., ‘much’.
(32) Lit., ‘there’.
(33) Lit., ‘them’.
(34) The soil of which had never been dug and was, therefore, hard and impervious to the moisture from the sheets.
(35) Which contained corpses and which, having been dug, consisted of loose earth that absorbed the moisture.
(36) E.V., ‘side’.
(37) Jer. XLI, 9.
(38) Why then was it stated, ‘By the hand of Gedaliah’?
(39) Gedaliah.
(40) Who told him that Simeon b. Nethaniah wished to kill him. V. Jer. XL, 13ff.
(41) Lit., ‘accept’.
(42) The avengers of the blood.
(43) And execute vengeance.
(44) Lit., ‘surely the Rabbis said’.
(45) Lit., ‘accept’.
(46) And in case the report about you is true, I have no right to shield you.
(47) Num. XXI, 34.
(48) One of the fallen angels referred to in Gen. VI, 2, 4 as ‘sons of God’ or ‘Nephilim’.
(49) By God.
(50) Lit., ‘of’.
(51) Moses.
(52) Lit., ‘heart’.
(53) Og.
(54) Gen. XIV, 13.
(55) Cf. Zeb. 113b.
(56) The following Baraithas have been suggested to the compiler by the law supra concerning heaps in which an unclean object had been lost beyond recovery.
(57) By falling, for instance, into water or was soiled with the blood of an animal.
(58) Lit., causes to pass’.
(59) Enumerated in next Mishnah.

Talmud - Mas. Nidah 61b

One must examine it in small sections.[1] If semen was lost in it, when new it should be examined with a needle,[2] and when worn out it should be examined in sunlight.[3] One taught: No section need be smaller than three fingerbreadths.

Our Rabbis taught: A garment in which kil'ayim[4] was lost[5] may not be sold to an idolater,[6] nor may one make of it a packsaddle for an ass, but it may be made into[7] a shroud for a corpse. R. Joseph observed: This[8] implies that the commandments will be abolished in the Hereafter.[9] Said Abaye (or as some say R. Dimi) to him: But did not R. Manni[10] in the name of R. Jannai state, ‘This[8] was learnt only in regard to the time of the lamentations[11] but for burial[12] this is forbidden'?[13] — The other replied: But was it not stated in connection with it, 'R. Johanan ruled: Even for burial'? And thereby R. Johanan followed his previously expressed view, for R. Johanan stated: 'What is the purport of the Scriptural text, Free[14] among the dead?[15] As soon as a man dies he is free from the commandments'.

Rafram b. Papa citing R. Hisda ruled: A garment in which kil'ayim was lost may be dyed[16] and[17] it is then permitted to be worn.[18] Said Raba to Rafram b. Papa: Whence does the old man derive this?[19] The other replied: It is in our Mishnah, for we have learnt, ONE CONTINUES THE EXAMINATION OF THE HEAP UNTIL ONE REACHES BEDROCK; and if it[20] is not there, it is obviously assumed that a raven had carried it away. Here too, dye does not have the same effect on wool and flax and, since no [difference could be] discerned,[21] it may well be assumed [that the compromising threads] had dropped out.

R. Aha son of R. Yeba citing Mar Zutra ruled: If a man inserted flaxen threads in his woollen garment and then pulled them out but is not sure whether he pulled them [all] out or not, it is quite proper [for him to wear the garment]. What is the reason? — Pentateuchally, since it is written sha'atnez[22] the prohibition does not apply unless the material was hackled, spun and woven,[23] but it is only the Rabbis who imposed a prohibition on it,[24] and since the man is not quite sure about the pulling out of the threads the garment is permitted. R. Ashi demurred: Might it not be suggested that it[25] must be either hackled or spun or woven? — The law, however, is in agreement with Mar Zutra, because the All Merciful expressed them in one word.[23]

Our Rabbis taught: A dyed garment is susceptible to the uncleanness of a bloodstain. R. Nathan b. Joseph ruled: It is not susceptible to the uncleanness of a stain, for dyed garments were ordained for women only in order to relax the law in regard to their bloodstains. 'Were ordained'! Who[26] ordained them? — Rather read: For dyed garments were permitted to women only in order to relax the law in regard to their bloodstains. 'Were permitted'! Does this then imply that they were once forbidden? — Yes, for we have learnt: At the time of the Vespasian invasion they[27] prohibited the wearing of garlands by bridegrooms and the beating of drums at weddings. They also desired to prohibit dyed garments, but felt that it was better not to do so,[28] in order to relax the law in regard to their bloodstains.

MISHNAH. SEVEN SUBSTANCES MUST BE APPLIED TO A STAIN:[29] TASTELESS SPITTLE,[30] THE LIQUID OF CRUSHED BEANS, URINE, NATRON, LYE

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(1) The size of each section is given presently.

(2) Dried up semen offers some resistance to its penetration.

(3) When holding up the garment to the light the place of the semen appears darker than the rest of it. A new garment, however, whose texture is close would not show up such a stain even in front of the light.

(4) V. Glos.

(5) Sc. it was known that a thread of wool had been woven into a garment of flax or a thread of flax into a garment of wool but the thread could not be traced so as to be extracted.

(6) Since he might re-sell it to an Israelite.

(7) Lit., 'makes of it'.

(8) The permissibility to use kil'ayim for a shroud.

(9) At the resurrection. Had they remained in force the revived dead (cf. prev. n) would he transgressing the law of kil'ayim.

(10) Var. lec., Ammi.

(11) Lit., 'to lament for him'.

(12) Lit., 'to bury him'.

(13) How then can R. Joseph derive from this ruling that 'the commandments will be abolished in the Hereafter'?

(14) E.V., ‘set apart’.
(15) Ps. LXXXVIII, 6.
(16) As the colour effect of dye on wool is different from that on flax the one could be distinguished and separated from the other.
(17) If the same shade of colour is shown throughout.
(18) The assumption being that the threads of the other kind have somehow dropped out of the texture.
(19) Cf. prev. n.
(20) The unclean object.
(21) Even after the dye had been applied.
(22) Deut. XXII, 11. E.V., ‘mingled stuff’.
(23) Shu'a, tawui and nuz, three words Rabbinically assumed to make up the word sha'atnez.
(24) On a material that does not satisfy all the three requirements.
(25) A material that is to be forbidden as Kil'ayim.
(26) Lit., ‘what’.
(27) The Rabbis.
(28) Lit., ‘they said that was better’.
(29) If it is desired to ascertain whether it is blood or dye.
(30) This is explained presently.

, CIMOLIAN EARTH, AND LION'S LEAF. IF ONE IMMERSED IT[1] AND, HAVING HANDLED CLEAN THINGS ON IT, APPLIED TO IT THE SEVEN SUBSTANCES AND THE STAIN DID NOT FADE AWAY IT MUST BE A DYE; AND THE CLEAN THINGS REMAIN CLEAN AND THERE IS NO NEED TO IMMERSE IT[2] AGAIN. IF THE STAIN FADED AWAY OR GREW FAINTER,[3] IT MUST BE A BLOODSTAIN AND THE CLEAN THINGS ARE UNCLEAN AND IT IS NECESSARY[4] TO PERFORM IMMERSION AGAIN.[5] WHAT IS MEANT BY TASTELESS SPITTLE'? THAT OF A MAN WHO ON THAT DAY[6] TASTED NOTHING. THE LIQUID OF CRUSHED BEANS'? PASTE MADE OF CRUSHED BEANS THAT WERE NATURALLY[7] PEELED OFF. URINE'? THIS REFERS TO SUCH AS HAS FERMENTED. ONE MUST SCOUR THE STAIN THREE TIMES WITH EACH OF THE SUBSTANCES. IF THEY WERE NOT APPLIED IN THE PRESCRIBED ORDER, OR IF THE SEVEN SUBSTANCES WERE APPLIED SIMULTANEOUSLY, NOTHING USEFUL HAS THEREBY BEEN DONE.[8]

GEMARA. One taught:[9] The Alexandrian natron and not the Antipatrian one.

BORITH.[10] Rab Judah stated: This means ahala.[11] But was it not taught: The borith and the ahal?[12] — The fact is that borith means sulphur. An incongruity was pointed out: They[13] added to them[14] the bulb of ornithogalum[15] and garden-orache,[16] the borith and the ahal. Now if 'borith' means sulphur [the objection would arise:] Is it subject to the restrictions of the Sabbatical year, seeing that it was taught:[17] This is the general rule, Whatsoever has a root[18] is subject to the restrictions of the Sabbatical year and whatsoever has no root is not subject to the restrictions of the Sabbatical year? — What then do you suggest: That borith means ahala? But was it not taught: 'The borith and the ahal'?[19] — There are two kinds of ahala.

KIMONIA.[20] Rab Judah explained: Shelof-doz.[21] And eshlag.[22] Samuel stated: I enquired of the seamen and they told me that its name was eshlaga, that it was to be found between the cracks of pearls and that it was extracted with an iron nail.

IF ONE IMMERSED IT AND, HAVING HANDLED etc. Our Rabbis taught: If one applied to it[23] the seven substances[24] and it did not fade away and then applied to it soap and it disappeared, one's clean things are unclean.[25] But does not soap remove dye also?[26] — Rather read: If one applied to it[23] six of the substances and it did not fade away and when soap had been applied it disappeared, his clean things are unclean, since it is possible that if one had first applied to it the seventh substance it might also have disappeared.[27] Another [Baraitha] taught: If one applied to it[23] the seven substances and it did not fade away but when one applied them a second time it disappeared, one's clean things remain clean.[28] R. Zera stated: This[29] was taught only in regard to clean things that were handled between the first and the second wash;[29] but the clean things that were handled after the second wash[30] are unclean, since the person was particular about it[31] and it had disappeared.[32]

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(1) The garment with the suspicious stain.

(2) The garment with the suspicious stain.

(3) As a result of the application of the seven substances.

(4) Now that the stain had disappeared.

(5) The first immersion when the stain was still on the garment being of no avail.

(6) Lit., 'all who'. This is discussed in the Gemara infra.

(7) Sc. not by human hands.

(8) Lit., 'he did not do anything'.

(9) With reference to NATRON in our Mishnah.

(10) Rendered supra LYE.

(11) An alcalic plant used as soap.

(12) Ahal and ahala being the same, how could Rab Judah maintain that ahala is synonymous with borith seeing that the latter is placed in juxtaposition with ahal?
(13) The Rabbis.
(14) The fruits that are subject to the restrictions of the Sabbatical year.
(15) Or ‘Bethlehem-star’.
(16) Or ‘orach’.
(17) V. marg. gl. Cur. edd., ‘We learnt’.
(18) By means of which it draws its nourishment from the ground.
(19) V. p. 436, n. 11.
(20) Rendered supra CIMOLIAN EARTH.
(21) Lit., ‘pull out, stick in’, the popular name for Cimolian earth.
(22) Rendered LION'S LEAF supra.
(23) A stain on a woman's garment.
(24) Enumerated in our Mishnah.
(25) Because the disappearance of the stain under the application is evidence that it was one of blood.
(26) It does. What proof then is there that the stain was not one of dye?
(27) And any stain that disappears under an application of the seven substances can only be a bloodstain.
(28) Since the stain must be one of dye. Had it been a bloodstain it would have disappeared after the first application.
(29) That ‘the clean things remain clean’.
(30) Sc. the application of the substances.
(31) The stain; as is evidenced by his second attempt to remove it.
(32) As a result of the second application, which brings it within the category of bloodstains that disappear under the application of the seven substances.

Talmud - Mas. Nidah 62b

Said R. Abba to R. Ashi: Does then the uncleanness[1] depend on whether one is particular? — Yes, the other replied, for it was taught, ‘R. Hiyya ruled: To that which is certain menstrual blood one may apply the seven substances and[2] thereby[3] neutralize it’.[4] But why should this be so,[5] seeing that it is menstrual blood? It is obvious then[6] that uncleanness[1] depends[7] on whether one is particular. Here also[8] then uncleanness[1] may depend on whether one is particular.

Elsewhere we learnt: If potsherds which a zab has used[9] absorbed liquids and then fell into the air-space of an oven,[10] and the oven[11] was heated, the oven becomes unclean, because the liquid[12] would[13] ultimately emerge.[14] Resh Lakish stated: This[15] was learnt only in regard to liquids of a minor uncleanness[16] but in the case of liquids of a major uncleanness[17] the oven becomes unclean even though it was not heated.[18] R. Johanan stated: Whether the liquids were subject to a minor or a major uncleanness the oven is unclean only if it was heated but not otherwise.[19]

R. Johanan raised an objection against Resh Lakish: IF ONE IMMERSED IT AND, HAVING HANDLED CLEAN THINGS ON IT, APPLIED TO IT THE SEVEN SUBSTANCES AND THE STAIN DID NOT FADE AWAY, IT MUST BE A DYE; AND THE CLEAN THINGS REMAIN CLEAN AND THERE IS NO NEED TO IMMERSE IT AGAIN.[20] The other replied: Leave alone the laws of stains[21] which are merely Rabbinical.[22] But [R. Johanan objected] did not R. Hiyya teach, ‘To that which is certain menstrual blood one may apply the seven substances and thereby neutralize it’?[23] — The other replied: If Rabbi[24] has not taught[25] it,[26] whence could R. Hiyya[27] know it?[28]

R. Johanan pointed out another objection against Resh Lakish: ‘If a quarter of a log of blood[29] was absorbed in the floor of a house [all[30] that is in] the house becomes unclean,[31] but others say: [All that is in] the house remains clean. These two versions, however, do not essentially differ, since the former refers to vessels that were there originally[32] while the latter refers to vessels that were brought in subsequently.[33] Where 'blood was absorbed in a garment, and on being washed, a quarter of a log of blood would emerge from it, it is unclean, but otherwise it is clean![34] — R. Kahana replied: Here they have learnt some of the more lenient rulings concerning quarters of a log [both referring to a mixture of clean and unclean blood]; [and the law of] mixed blood[35] is different[36] since it[37] is only Rabbinical.[38] Resh Lakish raised an objection against R. Johanan: Any absorbed uncleanness that cannot emerge is regarded as clean.[39] Thus it follows, does it not, that if it can emerge it is unclean even though it had not yet emerged?[40] — R. Papa replied: Wherever it[41] cannot emerge[42] and the owner did not mind absorption,[43] all agree that it is regarded as clean. If it can emerge and the owner does mind the absorption, all agree that it is unclean. They only differ where it can emerge but the owner does not mind its absorption. One Master[44] holds the view that since it can emerge [it is unclean], though the owner did not mind its absorption;[45] and the other Master[46] holds that although it can emerge

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(1) Lit., 'thing'.

(2) Though the stain is still slightly visible.

(3) Since the application of the substances destroys its natural and original appearance.

(4) Since no one minds such a faint stain it becomes clean.

(5) Cf. prev. n.

(6) From the fact that it is regarded as clean.

(7) In this case of R. Hiyya.

(8) The case supra 62a ad fin.

(9) And thus rendered unclean.

(10) Without touching the oven itself.

(11) Which was an earthen vessel, that contracts uncleanness through its air-space.

(12) Which has contracted uncleanness from the unclean potsherd into which it was absorbed.

(13) Owing to the heat of the oven which warms up the potsherds.

(14) Into the air-space and thus convey uncleanness to the oven. Cf. Kel. IX, 5, where this Mishnah occurs with some variations.

(15) That uncleanness is conveyed to the oven only where it was heated, but if it was not heated the absorbed liquids convey no uncleanness to it.

(16) Sc. that are not 'father of uncleanness' as for instance, a zab's tears. Since the uncleanness that such liquids convey to a vessel is only Rabbinical the oven remains clean when the liquids are in an absorbed state.

(17) Which convey uncleanness to a vessel even according to Pentateuchal law.

(18) And no liquid has emerged. Since heat causes it to emerge the liquid cannot be regarded as an absorbed uncleanness.

(19) Lit., 'if the oven was heated yes; if not, not', since an absorbed uncleanness (cf. Hul. 71a) conveys no uncleanness.

(20) Now if it be granted (with R. Johanan) that an absorbed uncleanness, though it emerges under certain special conditions, is treated as clean, the assumption here that the stain was one of dye and, therefore, clean is well justified; for even though it was blood it would (being absorbed) convey no uncleanness. But if it is maintained (with Resh Lakish) that even an absorbed uncleanness, wherever it would emerge under certain conditions, conveys uncleanness, how could the law be relaxed in this case where the possibility of blood cannot be ruled out?

(21) With which our Mishnah deals.

(22) And may be relaxed. Pentateuchally no uncleanness is involved unless blood was found on the woman's body.

(23) Supra q.v. notes. This shows that even actual blood, if it is in an absorbed state, though it would emerge under an application of soap, is regarded as clean. How then could Resh Lakish maintain that where the oven was not heated, uncleanness is conveyed by the absorbed liquids?

(24) The compiler of the Mishnah.

(25) In his authoritative compilation.

(26) R. Hiyya's ruling.

(27) Who was the disciple of Rabbi.

(28) It is obvious that he could not. The Baraitha cited must, therefore, be treated as spurious.

(29) Of a corpse.

(30) That is susceptible to uncleanness.

(31) Because the blood of a corpse of the quantity prescribed conveys uncleanness by overshadowing as the corpse itself.

(32) Before the blood was absorbed, and thus contracted uncleanness by overshadowing.

(33) After the blood had been absorbed, when it conveys uncleanness no longer.

(34) Oh. III, 2; though a full quarter of a log of blood is absorbed in it. Those two rulings prove that an absorbed uncleanness, though it would emerge under special conditions, is regarded as clean. An objection against Resh Lakish.

(35) Dam tebusah (defined infra 71a) whose uncleanness is doubtful.

(36) From blood that is definitely unclean.

(37) Even in an unabsorbed condition.

(38) Hence 'the relaxation of the law when it is absorbed.

(39) Oh. III, 2.

(40) How then could R. Johanan maintain in the case of the potsherd that the oven is unclean only when the liquids emerged?

(41) The unclean substance.

(42) From the object that absorbed it.

(43) MS.M., Maharsha, and some old edd. omit the last eight words.

(44) Resh Lakish.

(45) Hence his ruling in the case of the potsherd where the liquid would emerge if the oven were heated.

(46) R. Johanan.

Talmud - Mas. Nidah 63a

it is unclean only if the owner minds the absorption, but not otherwise.[1]

WHAT IS MEANT BY 'TASTELESS SPITTLE'. One taught:[2] That of a man who tasted nothing since the previous evening. R. Papa intended to explain before Raba [that this bears the same meaning] as when one says that he had tasted nothing in the evening.[3] But Raba[4] pointed out to him: Does it say 'in the evening'?[3] It only says, 'Since the previous evening',[5] thus excluding only the case of one who got up early[6] and ate.[7] Rabbah b. Bar Hana citing R. Johanan stated: What is meant by tasteless spittle? [That of a person] who spent half a night in sleep.[8] This then implies that the quality of spittle[9] depends on sleep. But have we not learnt:[10] If a man slept all day his is no tasteless spittle and if he was awake all night it is tasteless spittle?[11] — There[12] it is a case, where one was in a state of drowsiness.[13] What state of drowsiness is hereby to be understood? — R. Ashi replied: Where a man is half asleep and half awake;[14] when addressed he answers but is unable to give any rational reply, and when he is reminded of any thing he can recall it.

One taught: If a man rose up early in the morning and studied his lesson, his is no tasteless spittle.[15] But for how long?[16] — R. Judah b. Shila citing R. Ashi who had it from R. Eleazar replied: For a period during 'which[17] can be uttered the greater part of one's usual talk in the course of three hours.

THE LIQUID OF CRUSHED BEANS? — PASTE MADE OF CRUSHED BEANS etc. May it be suggested that this[18] provides support for Resh Lakish; for Resh Lakish said: There must be tasteless spittle with each of the substances? — It is possible that the heat of one's mouth suffices.[19] Our Mishnah[20] is not in agreement with R. Judah. For it was taught: R. Judah explained,[21] Boiling liquid of crushed beans before ['ober] salt is put into it.[22] What is the proof that the expression[23] 'ober' means 'before'? — R. Nahman b. Isaac replied: Since Scripture says, Then Ahimaaz ran by way of the plain, and overran [wa-ya'abor][24] the Cushite.[25] Abaye replied, The proof comes from here: And he himself passed over ['abar][24] before them.[26] And if you prefer I might reply that the proof comes from here: And their king is passed on [wa-ya'abor][24] before them, and the Lord before them.[27]

URINE? THIS REFERS TO SUCH AS HAS FERMENTED. One taught: What must be the duration of[28] their fermentation? Three days. R. Johanan observed, All the standards of the Sages in respect of bloodstains need additional standards to define them:[29] [Is the urine that] of a child or of an old man,[30] of a man or of a woman,[30] covered[30] or uncovered, of the summer season[30] or of the winter season?

ONE MUST SCOUR THE STAIN THREE TIMES. R. Jeremiah enquired: Does the forward and backward movement[31] count as one or is it possible that it counts as two? Now what is the decision? — This stands undecided.[32]

IF THEY WERE NOT APPLIED IN THE PRESCRIBED ORDER. Our Rabbis taught: If the latter[33] were applied before the former,[34] one Baraitha teaches, 'The latter[35] are counted[36] and the former[37] are not counted,'[38] while another [Baraitha] teaches, 'The former are counted and the latter are not counted'![39] — Abaye replied: According to both statements the latter[35] are counted, and the former[40] are not; but 'former'[41] refers to those that are[42] first in the prescribed order[43] though second in the process of application.

MISHNAH. FOR EVERY WOMAN THAT HAS A SETTLED PERIOD IT SUFFICES [TO RECKON HER PERIOD OF UNCLEANNESS FROM] HER SET TIME. AND THESE ARE THE SYMPTOMS OF SETTLED PERIODS: [IF THE WOMAN][44] YAWNS, SNEEZES, FEELS PAIN AT THE TOP OF[45] HER STOMACH OR THE BOTTOM OF HER BOWELS, DISCHARGES,[46] OR IS SEIZED BY A KIND OF SHIVERING, OR ANY OTHER SIMILAR SYMPTOMS.[46] ANY WOMAN WHO ESTABLISHED FOR HERSELF [ONE OF THE SYMPTOMS][44] THREE TIMES MAY BE DEEMED TO HAVE[47] A SETTLED PERIOD.

GEMARA. Have we not learnt once before, 'For any woman who has a settled period it suffices [to reckon her period of uncleanness from] her set time'?[48] — There the reference is to settled periods [that are determined by the number] of days[49] while here the reference is to settled periods [that are determined by conditions] of the body; as it was actually taught, 'The following are the symptoms of settled periods: If a woman yawns, sneezes, feels pain at the top of her stomach or the bottom of her bowels or discharges'. 'Discharges'! Is she not then[50] constantly discharging?[51] — 'Ulla son of R. Elai replied:

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(1) Lit., 'yes; if not, not'. The inference from the Mishnah cited by Resh Lakish, from which it follows that 'if it can emerge it is unclean even though it had not yet emerged', applies to a case where the owner minded the absorption.

(2) In explanation of TASTELESS SPITTLE.

(3) Sc. had nothing to eat since sunset of the previous day.

(4) MS.M., Rabina.

(5) Sc. a part of the night.

(6) Before day-break.

(7) Since the food sweetens the spittle and causes it to lose its strength. The food, however, that one eats in the early evening before going to bed has no such weakening effect.

(8) Lit., over whom half a night has passed, and in sleep'.

(9) Lit., 'thing'.

(10) Emden reads, 'was it not taught'.

(11) Which shows that it is the night and not sleep that is the determining factor.

(12) The statement, 'If he was awake etc.'

(13) Not fully awake. Two conditions are necessary for spittle to be tasteless: Sleep or dozing and night. Sleep in the day-time (after one has had some food which sweetens the spittle) or night without sleep (when the effect of the food has not passed) is not enough.

(14) Lit., 'asleep and not asleep, awake and not awake'.

(15) Speech also takes away its edge

(16) Must his study have extended. Lit., ‘and unto how much?’
(17) Lit., ‘all’.
(18) The ruling in our Mishnah that the beans must be crushed into a paste that is presumably mixed with spittle.
(19) To make the paste. Lit., ‘avails’.
(20) In its definition of the liquid of crushed beans.
(21) Cf. prev. n.
(22) Since salt would weaken it.
(23) Lit., ‘that’.
(24) Of the same root as "ober’.
(25) II Sam. XVIII, 23.
(26) Gen. XXXIII, 3.
(27) Micah II,13.
(28) Lit., ‘how long’.
(29) Lit., ‘a standard to their standard’.
(30) This is stronger and more effective.
(31) Lit., ‘carrying out and bringing in’ of the hand in the process of scouring .
(32) Teku; v. Glos.
(33) The last four of the seven substances enumerated in our Mishnah.
(34) The first three.
(35) Sc. those applied last (first mentioned in our Mishnah).
(36) Lit., ‘went up for him’.
(37) Sc. the substances (last mentioned in our Mishnah) that were applied first.
(38) So that, if the four substances last mentioned in our Mishnah are subsequently applied again, the prescribed order of application is duly complied with.
(39) Now how are the two apparently contradictory rulings to be reconciled?
(40) V. p. 442, n. 16.
(41) In the second Baraitha.
(42) Lit., ‘and what’.
(43) In our Mishnah.
(44) Before experiencing a menstrual discharge.
(45) Lit., mouth’.
(46) This is discussed in the Gemara.
(47) Lit., ‘behold this’.
(48) Mishnah supra 2a.
(49) Every fifth or tenth day of the month, for instance.
(50) Since every menstrual discharge is preceded by another discharge.
(51) And since no symptom precedes the first discharge, which is presumably also an unclean one, how could a settled period ever be established?

Talmud - Mas. Nidah 63b

This is a case where she discharges unclean blood as a result of a discharge[1] of clean blood.[2]

OR . . A KIND OF SHIVERING etc. What was the expression, OR ANY OTHER SIMILAR SYMPTOMS, intended to include? — Rabbah b. ‘Ullah replied: To include a woman who feels a heaviness in her head[3] or a heaviness in her limbs, who shivers or belches. R. Huna b. Hiyya citing Samuel observed: Behold [the Sages] have ruled that ‘for settled periods [that are determined by the number] of days two [occurrences are required],[4] for settled periods [that are determined by the condition] of the body one occurrence suffices,[5] for settled periods [that are determined by conditions] which the Sages did not enumerate three occurrences are required;[6] But [I do not know] what the expression, ‘for settled periods that are determined by conditions which the Sages did not enumerate intended to include? — R. Joseph replied: To include a woman who feels a heaviness in the head,[3] a heaviness in her limbs, who shivers or belches. Said Abaye to him:[7] What does he teach us thereby,[8] seeing that this is actually a ruling in our Mishnah,[9] Rabbah b. 'Ulla having thus[10] explained it? — Rather, said Abaye, it[8] was intended to include one who ate garlic and observed a discharge, one who ate onions and observed a discharge, and one who chewed pepper and observed a discharge. R. Joseph observed: I have not heard this tradition.[11] Said Abaye to him: You yourself have told it to us, and it was in connection with the following that you told it to us:[12] If a woman was in the habit of observing a discharge on the fifteenth day of the month and this was changed to the twentieth day, intercourse is forbidden to her on both days.[13] If she observed a discharge on three consecutive months[14] on the twentieth day, intercourse on the fifteenth becomes permitted[15] and she establishes the twentieth day as her settled period: for no woman can establish for herself a settled period unless the discharge had appeared three times on the same date.[16] And in connection with this you told us: Rab Judah citing Samuel stated, This is the view of R. Gamaliel son of Rabbi who cited it in the name of R. Simeon b. Gamaliel,[17] but the Sages ruled: If she observed a discharge once[18] she need not[19] repeat it a second time and a third time. And when we asked you, 'Since you said, "She need not repeat it a second time" was there any need to state that she need not repeat it a third time'? you replied' She need not repeat it a second time in the case of settled periods [that are determined by the condition] of her body and she need not repeat it a third time in the case of settled periods [determined by the number] of days. But why did he not simply say, 'This is the view of R. Simeon b. Gamaliel'?[17] — It is this that Samuel informed us: That R. Gamaliel the son of Rabbi holds the same view as R. Simeon b. Gamaliel.

MISHNAH. IF A WOMAN HAD THE HABIT OF OBSERVING HER MENSTRUAL DISCHARGES AT THE ONSET OF THE SYMPTOMS[20] OF HER SETTLED PERIODS, ALL CLEAN THINGS[21] THAT SHE HANDLED WHILE THE SYMPTOMS WERE IN PROGRESS[22] ARE UNCLEAN; BUT IF SHE HAD THE HABIT OF OBSERVING THEM AT THE END OF THE SYMPTOMS, ALL CLEAN THINGS[21] THAT SHE HANDLED WHILE THE SYMPTOMS LASTED[22] REMAIN CLEAN. R. JOSE RULED: SETTLED PERIODS MAY ALSO BE DETERMINED BY DAYS AND HOURS.[23] IF[24] SHE HAD THE HABIT OF OBSERVING HER MENSTRUAL DISCHARGES AT SUNRISE SHE IS FORBIDDEN INTERCOURSE AT SUNRISE ONLY.[25] R. JUDAH RULED: SHE[26] IS PERMITTED IT DURING ALL THAT DAY.[27]

GEMARA. One taught: What[28] did R. Jose mean by 'Settled periods may also be determined by days and hours'? If a woman had the habit of observing her discharge on the twentieth day of the month[29] and at the sixth hour of the day,[30] and the twentieth day arrived and she observed no discharge, she is forbidden intercourse during all the first six hours;[31] so R. Judah. R. Jose, however, permits it until the beginning of the sixth hour[32] but during the sixth hour she must take into consideration [the possibility of a discharge].[33] If the sixth hour has passed and she observed no discharge, she is still forbidden intercourse all that day; so R. Judah, R. Jose, however, permits it from the time of the afternoon service[34] onwards.

IF SHE HAD THE HABIT [etc.]. But was it not taught: R. Judah ruled, She[35] is permitted intercourse all night?[36] — This is no contradiction. The Baraitha deals with the case of[37] one who had the habit of observing the discharge at the beginning of the day[38] while the Mishnah deals with one who had the habit of observing the discharge at the end of the night.[39]

One [Baraitha] taught: R. Judah forbids intercourse before her settled period, and permits it after the period while another [Baraitha] taught: [R. Judah] forbids it after her settled period and permits it before the period. This,[40] however, represents no difficulty, since the former is a case where she usually observes her discharge at the end of the night while the latter is a case where she usually observes it at the beginning of the day.[41]

Raba stated: The halachah is in agreement with R. Judah. But could Raba have said this, seeing that it was taught: Thus shall ye separate the children of Israel from their uncleanness;[42] from this, R. Jeremiah[43] observed, follows a warning to the children of Israel that they shall separate from their wives near their periods. And for how long? Raba[44] replied: One ‘onah.[45] Now does not this mean: An additional ‘onah?[46] — No; the same ‘onah. But then, what need is there for the two statements?[47] — Both are required. For, if he had informed us of the former statement only, it might have been presumed that it applied only to the law relating to clean things but not to that relating to a woman's permissibility to her husband. Hence we were informed [of the latter statement]. And if [our information were to be derived] from the latter statement only it might have been presumed that near her settled period an additional ‘onah is required, hence we were informed that only one ‘onah is necessary.

MISHNAH. IF SHE WAS ACCUSTOMED TO OBSERVE A FLOW OF MENSTRUAL BLOOD ON THE FIFTEENTH DAY[48] AND THIS WAS CHANGED[49] TO THE TWENTIETH DAY,[48] MARITAL INTERCOURSE IS FORBIDDEN ON BOTH DAYS.[50] IF THIS WAS TWICE CHANGED TO THE TWENTIETH INTERCOURSE IS AGAIN FORBIDDEN ON BOTH DAYS.[50] IF THIS WAS CHANGED THREE TIMES TO THE TWENTIETH DAY, INTERCOURSE IS NOW PERMITTED ON THE FIFTEENTH[51] AND THE TWENTIETH IS ESTABLISHED AS HER SETTLED PERIOD. FOR A WOMAN MAY NOT REGARD HER MENSTRUAL PERIODS AS SETTLED UNLESS THE RECURRENCE HAS BEEN REGULAR THREE TIMES; NOR IS SHE RELEASED FROM THE RESTRICTIONS OF A SETTLED PERIOD UNLESS IT HAS VARIED[52] THREE TIMES.

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(1) Lit., ‘from the midst’.

(2) That is not menstrual, as can be ascertained by an examination of its colour. A settled period is established where menstrual discharge is preceded by one of clean blood, v. infra.

(3) Lit., ‘whose head is heavy upon her’.

(4) Lit., ‘for days two’; sc. if the discharge appeared twice on the same day of the month, that day is established as a settled period.

(5) To establish a settled period (cf. prev. n. mut. mut.).

(6) cf. prev. n. but one mut. mut.

(7) R. Joseph.

(8) By the addition, ‘for settled periods...did not enumerate’.

(9) OR ANY OTHER SIMILAR etc.

(10) As R. Joseph.

(11) Just cited in the name of Samuel.

(12) R. Joseph, as a result of a serious illness, had lost his memory and had very often to be reminded of the traditions he himself had reported.

(13) Lit., ‘this and this is forbidden’, both the fifteenth (in case her first settled period is re-established) and the twentieth (since this date might form now or become her settled period).

(14) Lit., ‘three times’.

(15) Since a new settled period has been established.

(16) Lit., ‘until she will fix it three times’.

(17) Who holds that presumption cannot be established unless an occurrence was repeated three times (cf. Yeb. 64b).

(18) On a certain date.

(19) In order to establish a settled period.

(20) In the condition of her body (cf. prev. Mishnah).

(21) Terumah, for instance, or any other foodstuffs that may be eaten only when clean.

(22) Lit., ‘within (the symptoms of) the settled period’.

(23) This is explained in the Gemara infra.

(24) This is a continuation of R. Jose's ruling.

(25) But is permitted it during the preceding night and, if no discharge appeared at sunrise, during all that day also.

(26) If no discharge was observed at sunrise.

(27) Lit., ‘all the day is hers’, but, contrary to the view of R. Jose, not the preceding night.
(28) Lit., ‘how’.
(29) Lit., ‘from the twentieth day to the twentieth day’.
(30) Lit., ‘and from six hours to six hours’.
(31) Since in his opinion a discharge that usually occurs in the day time causes intercourse to be forbidden all day and one that usually occurs in the night causes it to be forbidden all night.
(32) Because the discharge is not due earlier. In his opinion intercourse is forbidden only at the hour the discharge usually occurs, neither earlier nor later.
(33) And consequently abstain from intercourse during all that hour.
(34) Sc. from midday (v. Rashi. Cf.,however, Tosaf.).
(35) A woman who had the habit of observing her discharge at sunrise.
(36) Lit., ‘all the night is hers’. How then is this to be reconciled with R. Judah's ruling in our Mishnah that SHE IS PERMITTED IT ALL DAY’?
(37) Lit., ‘that’.
(38) Hence intercourse is forbidden in the day time only but not during the preceding night.
(39) This being the meaning of the phrase AT SUNRISE in our Mishnah. Intercourse is, therefore, forbidden in the night only but not during the following day.
(40) Apparent contradiction.
(41) cf. supra p. 446, n. 7.
(42) Lev. XV, 31.
(43) Var. lec. ‘Josiah’. Cf. Bomb. ed. and Shebu. 18b.
(44) Marg. gl. ‘Rabbah’.
(45) A period. Sc. a day or a night.
(46) Sc. if the discharge occurs during day time the prohibition extends over that day and the previous night,and if it occurs during the night the prohibition extends over that night and the previous day. But, if so, would not this be contradictory to what Raba said here?
(47) Of Raba.
(48) Of the month.
(49) Lit., ‘and she changed to be seeing’.
(50) Lit., ‘this and this (the fifteenth and the twentieth) are forbidden.’
(51) As was the case before that day had been established as a settled period.
(52) Lit., ‘that it shall be rooted out from her’.

Talmud - Mas. Nidah 64a

GEMARA. It was stated: If a woman observed a discharge on the fifteenth day of one month, on the sixteenth of the next month and on the seventeenth of the third month, Rab ruled: She has thereby established for herself a settled period in arithmetical progression,[1] but Samuel ruled: No settled period can be established unless the progression is repeated three times.[2] Must it be conceded that Rab and Samuel differ on the same principle as that on which Rabbi and R. Simeon b. Gamaliel differ? For it was taught: If a woman was married to one man who died and to a second one who also died, she may not be married to a third one; so Rabbi. R. Simeon b. Gamaliel ruled: She may be married to a third but may not be married to a fourth?[3] — No, all[4] may concede that the law is in agreement with R. Simeon b. Gamaliel but it is this principle on which they[5] differ here: Rab holds that the fifteenth day is included in the number while Samuel holds that the fifteenth, since the observation on it was not in arithmetic progression, is not included in the number.[6]

He raised an objection against him: If a woman had been accustomed to observe her discharge on the fifteenth day[7] and this was changed[8] to the sixteenth, intercourse is forbidden[9] on both days.[10] If this was changed[11] to the seventeenth day, intercourse[12] on the sixteenth is again permitted[13] but on the fifteenth[14] and the seventeenth[15] it is forbidden. If[12] this was changed to the eighteenth intercourse[12] is again permitted on all the former dates;[16] and[17] is forbidden only on the day after[18] the eighteenth and onwards.[19] Now does not this[20] present an objection against Rab?[21] — Rab can answer you: Where a woman was accustomed to observe her discharge on a certain date[22] the law is different.[23] But as to him who raised the objection, on what possible ground did he raise it?[24] — [He assumed that the case of] one who was accustomed to a settled period had to be stated:[25] As it might have been presumed that since she was accustomed to observe her discharge on a settled date and this was changed, the change is effective[26] even if this[27] occurred only twice, hence we had to be informed [that[28] the change must have recurred three times].

An objection was raised: If she observed a discharge on the twenty-first day of one[29] month, on the twenty-second of the next month and on the twenty-third of the third month, she has thereby established for herself a settled period. If she skipped over[30] to the twenty-fourth[31] day of the month, she has not established for herself a settled period.[32] Does not this[33] present an objection against Samuel?[34] — Samuel can answer you: Here we are dealing with the case of a woman, for instance, who was accustomed to observe her discharge on the twentieth day and this[35] was changed to the twenty-first.[36] An inference from the wording also justifies this view;[37] for the twentieth day was left out[38] and the twenty-first was mentioned.[39] This is conclusive.

FOR A WOMAN MAY NOT REGARD HER MENSTRUAL PERIOD AS SETTLED UNLESS THE RECURRENCE HAS BEEN REGULAR etc. R. Papa explained: This[40] was said only in regard to the establishment of a settled period,[41] but as regards taking the possibility of a discharge into consideration[42] one occurrence suffices.[43] But what[44] does he[45] teach us, seeing that we have learnt: IF SHE WAS ACCUSTOMED TO OBSERVE A FLOW OF MENSTRUAL BLOOD ON THE FIFTEENTH DAY AND THIS WAS CHANGED TO THE TWENTIETH DAY, MARITAL INTERCOURSE IS FORBIDDEN ON BOTH DAYS?[46] — If the inference had to be made from there,[47] it might have been presumed that the ruling[48] applied only where the woman was still[49] within her menstruation period,[50] but where she is not within her menstruation period[51] she[52] need not consider the possibility of a discharge,[53] hence we were informed[54] [that even in the latter case the possibility of a discharge must be taken into consideration].

NOR IS SHE RELEASED FROM THE RESTRICTIONS OF A SETTLED PERIOD etc. R. Papa explained: This, that it is necessary for the change to recur three times before a settled period can be abolished, was said only where a settled period had been established by three regular occurrences, but one that was established by two recurrences only may be abolished by one change. But what[55] does he[56] teach us, seeing that we learnt: A WOMAN MAY NOT REGARD HER MENSTRUAL PERIODS AS SETTLED UNLESS THE RECURRENCE HAS BEEN REGULAR THREE TIMES?[57] — It might have been presumed[58] that one occurence[59] is required for the abolition of one,[60] two[61] for two[62] and three[61] for three,[62] hence we were informed[63] [that even for two occurrences[64] only ones is required].[65] It was taught in agreement with R. Papa:[66] If a woman had a habit of observing her menstrual discharge on the twentieth day,[67] and this was changed to the thirtieth, intercourse is forbidden[68] on both days. If the twentieth day[68] arrived and she observed no discharge, she is permitted intercourse until the thirtieth but must consider the possibility of a discharge on the thirtieth day itself.[69] If the thirtieth day arrived and she observed a discharge, the twentieth[68] arrived and she observed none, the thirtieth arrived and she observed none and the twentieth[68] arrived and she observed one, the thirtieth[68] becomes a permitted day[70]

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(1) Lit., 'in skipping'. The eighteenth day of the fourth month, the nineteenth of the fifth and so on are consequently forbidden days.

(2) Sc. only if in the intercourse given, the discharge had actually appeared on the eighteenth of the fourth month. The appearance on the fifteenth is not counted since it was the first of the series when the process of progression had not yet been apparent (v. infra).

(3) Is the case of the husbands, it is asked, analogous to that of the periods, so that Rab's view coincides with that of Rabbi and the view of Samuel with that of R. Simeon b. Gamaliel? But, if so, why should the same principle be discussed twice?

(4) Even Rab.

(5) Rab and Samuel.

(6) Cf. prev. n. but three.

(7) Of the month.

(8) In a subsequent month.

(9) In the month following that in which the discharge appeared on the sixteenth.

(10) The fifteenth and sixteenth.

(11) In the month following that in which the discharge appeared on the sixteenth.

(12) In the month following.

(13) As a discharge appeared on it once only, the prohibition on it also is abolished by one change.

(14) Which was the day of her established settled period.

(15) The day on which her discharge was last observed.

(16) It is permitted on the sixteenth and seventeenth for the reason given supra (prev. n. but two); and on the fifteenth it is permitted because in three consecutive months the discharge appeared on days (sixteenth, seventeenth and eighteenth) other than the fifteenth which, in consequence, can no longer be regarded as the settled period.

(17) Since the discharge appeared three times on days that represent an arithmetical progression.

(18) Lit., ‘from’.

(19) Sc. on the nineteenth of the next month, the twentieth of the one following it, and so on in arithmetical progression in each succeeding month.

(20) From which it is obvious that, since only three occurrences cause the abolition of the old, and the establishment of a new settled period, the first occurrence is not counted.

(21) Who ruled that even a change on two dates in arithmetical progression abolishes the old, and establishes a new settled period.

(22) As is the case in the Baraitha cited.

(23) From that dealt with by Rab. In the former case, the first of the dates under discussion might well be added to the similar dates in the previous months and hence could not be counted as the first in the arithmetical progression. In the case dealt with by Rab, however, either the first of the dates under discussion was one on which the woman observed a discharge for the very first time, or the woman was one who had never before had a settled period or one whose settled period was on a day other than the first of those under discussion. The first day, therefore, may well be counted as one of the three days that establish a settled period.

(24) Sc. did he not know of the difference between a settled and an unsettled period?

(25) Though the same law applies to one who had no settled period.

(26) Sc. the first date is no longer regarded as a settled period.

(27) The change from the date mentioned.

(28) If a new settled period is to be established.

(29) Lit., ‘this’.

(30) From the twenty-second.

(31) Instead of the twenty-third.

(32) Since the difference between the dates of the first and the second month was only one day while that between the second and the third was two days.

(33) The first case where three observations, including the first one, establish a settled period.

(34) Who maintains that no settled period in arithmetical progression can be established unless the discharge appeared on three dates exclusive of the first.

(35) The first discharge mentioned.

(36) So that the change actually occurred three times (on the twenty-first, twenty-second and twenty-third) on dates in arithmetical progression exclusive of the first date which was the twentieth.

(37) That we are here dealing with a case where the woman ‘was accustomed to observe her discharge on the twentieth’.

(38) From the three dates given.

(39) Had not the woman had the habit of observing her discharge on the twentieth, that date (which is simpler than the twenty-first) would have been taken as an example of the first of the three dates, and the twenty-first and twenty-second would have been taken as examples of the subsequent dates.

(40) That the occurrence must be repeated three times.
(41) Sc. that the uncleanness should begin just at the time of the period and not earlier; and that the settled period should not be abolished unless a change occurred three times.
(42) Sc. to treat the date on which a discharge appeared in one month as one on which intercourse is forbidden in the next month.
(43) Lit., ‘in one time she fears’. If, for instance, she observed a discharge on the fifteenth of one month intercourse is forbidden on the same date in the next month.
(44) That we did not know before.
(45) R. Papa.
(46) A ruling which embodies that of R. Papa.
(47) Our Mishnah.
(48) As enumerated by R. Papa.
(49) When the discharge appeared.
(50) As is the case in our Mishnah where the discharge occurred on the fifteenth day after immersion, which is the fourth day (11 days of zibah + 4 days of the 7 of menstruation = 15) of a menstruation period. Hence the restriction when the next fifteenth day (also within the menstruation period) arrives.
(51) But in the zibah period; where, for instance, her discharge appeared on the tenth day after immersion, which is still within the eleven days of a zibah period that follows that of the seven days of menstruation.
(52) Since the zibah period is one during which a discharge is unusual.
(53) And intercourse should, therefore, be permitted when the next similar date arrives.
(54) By R. Papa.
(55) That we did not know before.
(56) R. Papa.
(57) And since this is followed by NOR IS SHE RELEASED . . . UNLESS IT HAS VARIED THREE TIMES it is obvious that the three occurrences for the abolition of a settled period (the latter case) are necessary only where there were three occurrences for its establishment (the first case). What need then was there for R. Papa's ruling?
(58) If only our Mishnah were available and not R. Papa's ruling.
(59) A change of date
(60) Discharge on a certain date.
(61) Changes.
(62) Discharges on similar dates.
(63) By R. Papa.
(64) Discharges on similar dates.
(65) To release a woman from the restrictions of a settled period.
(66) That one change of date suffices to release a woman from the restrictions of a settled period that had been established by two occurrences.
(67) Of a month.
(68) In the next month.
(69) And must consequently abstain from intercourse.
(70) Because, though in the course of two months a discharge appeared on it, there was none, in the third one, and one change suffices to release the woman from its restrictions (cf. prev. n. but three).

Talmud - Mas. Nidah 64b

and the twentieth[1] becomes a forbidden one, because the guest[2] comes in his usual time. MISHNAH. WOMEN IN REGARD TO THEIR VIRGINITY ARE LIKE VINES. ONE VINE MAY HAVE RED WINE[3] WHILE ANOTHER HAS BLACK WINE, ONE VINE MAY YIELD MUCH WINE WHILE ANOTHER YIELDS LITTLE.[4] R. JUDAH STATED: EVERY NORMAL VINE YIELDS[5] WINE,[6] AND ONE THAT YIELDS NO WINE IS BUT A DORKETAI.[7]

GEMARA. One taught:[8] A generation cut off.[9] R. Hiyya taught: As leaven is wholesome for the dough so is [menstrual] blood wholesome for a woman. One taught in the name of R. Meir: Every woman who has an abundance of [menstrual] blood has many children.

CHAPTER X

MISHNAH. IF A YOUNG GIRL, WHOSE AGE OF MENSTRUATION[10] HAS NOT ARRIVED, MARRIED, BETH SHAMMAI RULED: SHE IS ALLOWED[11] FOUR NIGHTS,[12] AND BETH HILLEL RULED: UNTIL THE WOUND IS HEALED.[13] IF THE AGE OF HER MENSTRUATION HAS ARRIVED[14] AND SHE MARRIED, BETH SHAMMAI RULED: SHE IS ALLOWED[11] THE FIRST NIGHT, AND BETH HILLEL RULED: FOUR NIGHTS, UNTIL THE EXIT OF THE SABBATH.[15] IF SHE HAD OBSERVED A DISCHARGE WHILE SHE WAS STILL IN HER FATHER'S HOUSE,[16] BETH SHAMMAI RULED: SHE IS ONLY ALLOWED THE OBLIGATORY MARITAL INTERCOURSE,[17] AND BETH HILLEL RULED: ALL THAT[18] NIGHT.

GEMARA. R. Nahman b. Isaac explained:[19] Even if she already observed a discharge.[20] Whence is this inferred? — Since in the final clause[21] a distinction is drawn between one who did and one who did not observe a discharge it follows that in the case in the first clause no distinction is made between the one and the other.[22] So it was also taught: Beth Hillel ruled: Intercourse is allowed until the wound is healed irrespective of whether she already[23] did or did not observe a discharge.

UNTIL THE WOUND IS HEALED. For how long?[24] — Rab Judah replied: Rab said, ‘So long as it discharges matter’, but when I mentioned this in the presence of Samuel the latter said to me, ‘I do not know what that "discharging" exactly means; rather explain.[25] So long as spittle is engendered in the mouth[26] on account of intercourse’.[27] How is one to understand the ‘discharging’ of which Rab spoke? — R. Samuel son of R. Isaac replied. This was explained to me by Rab: If when standing she observes a discharge and when sitting she does not observe one, it may be known that the wound has not healed; if when lying on the ground she observes a discharge and when lying on cushions and bolsters she does not observe one, it may be known that the wound had not healed; and if when lying on any of these she either observes a discharge or does not observe one, it may be known that the wound is healed.

IF THE AGE OF HER MENSTRUATION HAS ARRIVED etc. It was stated: If she had intercourse in the day time,[28] Rab ruled, She has not lost thereby the right to intercourse during the nights. but Levi ruled, She has thereby lost the right to intercourse in the nights. Rab ruled, ‘She has not lost thereby the right to intercourse during the nights’, because we learnt, UNTIL THE EXIT OF THE SABBATH.[29] ‘But Levi ruled, She has thereby lost the right to intercourse in the nights’, for the meaning of[30] FOUR NIGHTS mentioned is four ‘onahs.[31] But according to Rab[32] what was the purpose of mentioning FOUR NIGHTS? — We were thereby informed of what is regarded as good manners, viz., that intercourse should take place at night.[33] But according to Levi[34] it should only have been stated FOUR NIGHTS, what was the purpose of saying, UNTIL THE EXIT OF THE SABBATH? — It is this that we were informed:[35] That it is permitted to perform the first marital intercourse[36] on the Sabbath,[37] in agreement with a ruling of Samuel; for Samuel ruled: It is permissible to enter through a narrow breach[38] on the Sabbath although one causes pebbles to fall.[39]

It was stated: If a man had marital intercourse[40] and found no blood but, having repeated the act,[41] he found blood, R. Hanina ruled: The woman is unclean;[42] but R. Assi ruled: She is clean. ‘R. Hanina ruled: The woman is unclean’, for if it were the case that the blood was that of virginity it would have issued on the first occasion. ‘But R. Assi ruled: She is clean’, because it is possible that something unusual may have happened to her, in accordance with a statement of Samuel; for Samuel stated, ‘I could perform a number of acts of intercourse without causing any bleeding’. And the other?[43] — Samuel is different from ordinary people since his capability[44] was great.

Rab stated: A woman who has reached her maturity[45] is[46] allowed[47] all the first night.[48] But this applies only to a woman who had never yet observed a discharge, but if she did observe one she is permitted the obligatory act of intercourse only and no more. An objection was raised: It once happened that Rabbi allowed a woman intercourse on four nights in twelve months.[49] Now how is one to understand his ruling? If it be suggested that he allowed her all these nights[50] during the period of her minority

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(1) The established settled period which was changed to the thirtieth no more than twice. (The absence of a discharge on the twentieth in the month in which there was none on the thirtieth is not counted as a deviation from the established habit since there was no discharge whatever in that month.)

(2) The established period that re-appeared on the twentieth.

(3) Lit., ‘there is a vine whose wine is red’.

(4) Similarly with the blood of virginity. It may be red or black, much or little.

(5) Lit., ‘has’.

(6) Every normal woman has the blood of virginity.

(7) Cf. ** a grape that yields no wine and is used for eating only. Aliter: Dorketai dor katu'a. This is explained presently.

(8) In explanation of DORKETAI.

(9) Cf. prev. two notes. A woman who has no blood of virginity cannot have many children.

(10) Lit., ‘her time to see’.

(11) For marital intercourse.

(12) Though blood appeared, it is assumed to be that of injured virginity which, unlike menstrual blood, is clean.

(13) This is explained in the Gemara infra.

(14) But she experienced no discharge.

(15) Saturday night. A virgin's marriage takes place usually on a Wednesday, v. Keth. 2a.

(16) Sc. before her marriage.

(17) But no more, since the blood may possibly be that of menstruation.

(18) The first.

(19) The ruling of Beth Hillel in the first clause of our Mishnah.

(20) Before marriage, when she was still in her father's house. Even in such a case, since the age of menstruation had not yet arrived, Beth Hillel allow intercourse UNTIL THE WOUND IS HEALED.

(21) Dealing with one whose age of menstruation had arrived.

(22) Lit., ‘no difference whether thus and no difference (whether) thus’, sc. whether she did or did not observe any menstrual discharge before her marriage.

(23) Before her marriage.

(24) Is the wound regarded as unhealed.

(25) The statement, UNTIL THE WOUND etc.

(26) Euphemism.

(27) Sc. when intercourse is accompanied by bleeding.

(28) Lit., ‘in the days’, the four days following marriage.

(29) Implying both the intervening days and the intervening nights.

(30) Lit., ‘what’.

(31) An ‘onah (period) being either a day or a night.

(32) Who allows intercourse during both the days and the nights.

(33) Lit., ‘that the way of . . . in the nights’.

(34) Who allows no more than four ‘onahs.

(35) By the statement mentioned, from which it follows that if intercourse had taken place on two weekday ‘onahs only the night and the day of the Sabbath are also permitted ‘onahs.

(36) Sc. the one before virginity is finally removed.

(37) Though virginity is injured in the process.

(38) Euphemism. After the two acts of intercourse the opening is still narrow.

(39) Injures virginity.

(40) With a virgin, for the first time.

(41) Within the following four nights.
(42) The blood being deemed to be menstrual.
(43) R. Hanina. How in view of Samuel's statement can he maintain that the blood must be menstrual?
(44) Lit., ‘his strength’.
(45) Bogereth, v. Glos.
(46) Even according to Beth Hillel.
(47) For intercourse despite the possibility of bleeding.
(48) Of her married life.
(49) The husband having departed for three months after each of the first three acts of intercourse every one of which has been accompanied by bleeding. Despite the length of time Rabbi regarded the bleeding to be due to virginity.
(50) Lit., ‘all of them’.

Talmud - Mas. Nidah 65a

the objection would arise: Have we not learnt, UNTIL THE WOUND IS HEALED?[1] If, however, it is suggested that he allowed her all the nights during the period of her na'aruth[2] the difficulty would arise: Does na'aruth ever extend over twelve months, seeing that Samuel had stated: The period intervening between the commencement of na'aruth and maturity is only six months? And should you suggest that the meaning is that the period is not shorter but may be longer[3] it could be retorted: Did he not in fact state ‘only’?[4] If, however, it is suggested that he allowed her two nights during the days of her minority and two during her na'aruth, the difficulty would arise: Did not R. Hinena b. Shelemya once ask Rab, ‘what is the ruling where her age of menstruation arrived when she was already under the authority of her husband?’ and the other replied: All acts of intercourse which one performs[5] are regarded as one act only and the other[6] make up the four nights?[7] Consequently this must be a case where he allowed her one night during her minority, two nights during her na'aruth period and one night during the days of her maturity. Now if you grant that a woman of mature age generally is allowed[8] more than one night[9] one can well see the justification for the ruling;[10] for, as intercourse during minority has the effect of reducing one night[11] during her na'aruth period, so intercourse during the na'aruth period has the effect of reducing one night[12] during her maturity;[13] but if you maintain[14] that a woman of mature age generally[8] is not allowed more than one night, should he[15] not have allowed her[16] but one act of the obligatory marital intercourse and no more?[17] — The fact is that he[15] allowed her one night during her minority and three nights during her na'aruth period,[18] but[19] it was not as you think[20] that every three months represented a period; every two months rather represented a period.

Menjamin of Saksanah was embarking on a journey[21] to the locality of Samuel where he intended to act[22] according to the ruling of Rab,[23] even where the woman had observed a discharge, assuming that Rab drew no distinction between one who did and one who did not observe a discharge, but he died while he was underway. Samuel accordingly applied to Rab[24] the Scriptural text, There shall no mischief befall the righteous.[25]

R. Hinena b. Shelemya observed: As soon as a person's teeth fall out[26] his means[27] of a livelihood are reduced; for it is said: And I also have given you cleanness of teeth[26] in all your cities, and want of bread in all your places.[28]

IF SHE OBSERVED A DISCHARGE WHILE SHE WAS STILL etc. Our Rabbis taught: If a girl observed a discharge while she was still in her father's house, Beth Hillel ruled: She is permitted marital intercourse all the night[29] and, moreover, she is allowed a full ‘onah. And how long is a full ‘onah?[30] — R. Simeon b. Gamaliel explained: A night and half a day. But do we require an ‘onah to be so long?[31] Is not [such a requirement] rather incongruous with the following: If a person's winepresses or oil-presses were unclean and he desired to prepare his wine and oil respectively[32] in conditions of cleanness, how is he to proceed? He rinses the boards,[33] the twigs[34] and the troughs;

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(1) Why then ‘four nights’?
(2) V. Glos.
(3) Lit., ‘less than this only there is not, but there is more’.
(4) He did, thus implying that the period cannot be longer than six months.
(5) During her minority.
(6) Performed subsequently.
(7) Why then did Rabbi allow only two (instead of three) nights during her na'aruth period?
(8) If she married after attaining the age of maturity.
(9) Sc. two nights at least.
(10) Of Rabbi who allowed, as just explained, one night during the woman's maturity period.
(11) Of the four.
(12) Of the two (cf. prev. n. but two).
(13) Hence Rabbi's ruling (cf. prev. n. but two).
(14) As Rab did (supra 64b ad fin.).
(15) Rabbi.
(16) The woman who, as explained, had been allowed some nights during her minority and na'aruth periods.
(17) How then could he ignore completely all previous intercourse and allow her a full night?
(18) So that the question of maturity does not arise at all.
(19) As to the objection, How is it possible for three three-monthly periods to be included in the one six-monthly period of na'aruth?
(20) Lit., ‘do you think?’
(21) Lit., ‘took and went’.
(22) Lit., ‘to do a deed’.
(23) That one of mature age is allowed all the first night (supra 64b ad fin.).
(24) Whose ruling was misinterpreted by Menjamin.
(25) Prov. XII, 21. Rab was spared the mischief that would have ensued if Menjamin had acted in accordance with his erroneous interpretation (cf. prev. n.).
(26) Metaph. for old age.
(27) Lit., ‘his foods’.
(28) Amos IV, 6.
(29) That follows her marriage. Lit., ‘all the night is hers’.
(30) A period,
(31) Lit., all this’.
(32) Lit., ‘to do them’.
(33) That are placed on the grapes or the olives.
(34) Wherewith the presses are swept and cleaned.

Talmud - Mas. Nidah 65b

and as for the wickerwork, if it is made of willows and hemp it must be scoured, and if of bast or reeds it must remain unused;[1] and for how long must they remain unused? For twelve months. R. Simeon b. Gamaliel ruled: One must leave them from one period of wine-pressing to another[2] and from one period of oil-pressing to another.[2] (But is not this ruling[3] identical with that of the first Tanna?[4] — The practical difference between them arises in the case of early or late ripening fruit.)[5] R. Jose stated: If a person desires to obtain cleanness forthwith he pours over them boiling water or scalds them with olive water. R. Simeon b. Gamaliel citing R. Jose ruled: He puts them under a pipe through which runs a continuous stream of water or in a fountain with flowing water. And for how long? For one ‘onah. (As these provisions were applied to yen nesek so were they applied to matters of cleanness. But is not the order[6] reversed, seeing that we are here dealing with the laws of cleanness? — Rather say: As these provisions were applied to matters of cleanness so were they applied to yen nesek.) And how long is an ‘onah? R. Hiyya b. Abba citing R. Johanan replied: Either a day or a night. R. Hana She'una or, as some say, R. Hana b. She'una citing Rabbah b. Bar Hana who had it from R. Johanan replied: Half a day and half a night. And in connection with this R. Samuel b. R. Isaac explained: There is no real difference between them,[7] the former referring to the spring and autumn equinoxes[8] and the latter to the summer and winter solstices?[9] — Here also, in the case of the menstruant woman,[10] read: Half a day and half a night. But did he not say ‘a night and half a day’? — Rather say: Either ‘a night’ in the spring or autumn equinox or ‘half a day and half a night’ in the winter or summer solstice. And if you prefer I might reply: The case involving a kethubah[11] is different[12] since protracted negotiations take place[13] before it is signed.[14]

Both Rab and Samuel laid down: The halachah is that[15] one performs the obligatory marital act and withdraws forthwith. R. Hisda raised an objection: It once happened that Rabbi allowed a woman intercourse on four nights in twelve months![16] — Said Rabbah[17] to him: What need have you[18] for repeating the same objection? Rather raise one from our Mishnah?[19] — But he was of the opinion that a practical decision[20] is weightier.[21] At all events,[22] does not a difficulty arise against Rab and Samuel?[23] They acted in agreement with our Masters; for it was taught: Our Masters decided by a second count of votes[24] that one only performs the obligatory marital act and withdraws forthwith.

‘Ulla stated: When R. Johanan and Resh Lakish were engaged in the discussions of the chapter on the ‘Young Girl’[25] they carried away from it only what a fox carries away from a ploughed field,[26] and concluded it[27] with this statement: One performs the obligatory marital act and withdraws forthwith. Said R. Abba to R. Ashi: Now then,[28] should a scrupulous man[29] not even finish his act? — The other replied: If that were to be the rule[30] one would be ill at ease[31] and would withdraw altogether.

Our Rabbis taught: But all these women if they[32] were continually discharging blood during[33] the four nights and after the four nights or[34] during the night and after it, must without exception[35] examine themselves;[36] and in the case of all these R. Meir imposes restrictions in agreement with the view of Beth Shammai.[37] In regard, however, to other observations of blood,[38] concerning which a difference of opinion exists between Beth Shammai[39] and Beth Hillel,[40] he is guided[41] by the colour of the blood; for R. Meir ruled: The colours of the various kinds of blood are different from one another. In what manner? Menstrual blood is red, the blood of virginity is not so red; menstrual blood is turbid, the blood of virginity is not turbid; menstrual blood issues from the source, the blood of virginity issues from the sides. R. Isaac son of R. Jose citing R. Johanan stated: This is the ruling of R. Meir alone, but the Sages maintain: All the colours of the various kinds of blood are the same.

Our Rabbis taught: A woman who observes a discharge of blood[42] as a result of marital intercourse may perform her marital duty the first, second and third time. Henceforward,[43] however, she may not perform it until she is divorced

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(1) Lit., ‘causes them to be old’.

(2) Presumably twelve months.

(3) Of R. Simeon b. Gamaliel.

(4) Apparently (cf. prev. n. but one) it is.

(5) Where the period intervening between the pressing seasons of two succeeding years is sometimes less, and sometimes more than twelve months.

(6) That compares the laws of cleanness to those of yen nesek v. Glos.

(7) R. Hiyya and Rabbah b. Bar Hana.

(8) Lit., ‘in the cycle of Nisan and of Tishri’. When the days and the nights are equal an onah of twelve hours is either a day or a night.

(9) Lit., ‘in the cycle of Tammuz and Tebeth’. Since the days and the nights are unequal an ‘onah of twelve hours is half a day and half a night. Now in view of this definition and explanation, how could R. Simeon b. Gamaliel maintain (supra

65a ad fin.) that an ‘onah is ‘a night and half a day’?
(10) Sc. the case dealt with by R. Simeon b. Gamaliel which bears on the laws of menstruation.
(11) Cf. prev. n. mut. mut.
(12) From that of cleanness.
(13) On its terms.
(14) Hence it was necessary to extend the ‘onah to a full night and half a day.
(15) Irrespective of whether the girl's age of menstruation has, or has not been reached.
(16) Supra 64b, ad fin.; q.v. notes.
(17) V. marg. gl. Cur. edd., ‘Raba’.
(18) So MS.M. Cur. edd., ‘I’.
(19) Which also allows more than one marital act.
(20) As was that of Rabbi.
(21) Than a mere theoretical ruling.
(22) Whether from Rabbi's decision or from our Mishnah.
(23) Who allow no more than one marital act. How could they differ from a Tannaitic ruling?
(24) Lit., ‘they were counted again’.
(25) Sc. the present (the tenth) chapter of Niddah, which begins, IF A YOUNG GIRL.
(26) I.e., nothing. They completely disregarded its rulings.
(27) In agreement with ‘our Masters’.
(28) Since one must withdraw immediately after the act, in order to avoid possible blood of menstruation.
(29) Lit., ‘the master of a soul’.
(30) Lit., ‘if so’.
(31) Lit., ‘his heart beats him’.
(32) Being in the category of such as observed no discharge while still in their father's homes.
(33) Lit., ‘from the midst of’.
(34) In the case of those who did observe a discharge in the homes of their fathers.
(35) Lit., ‘all of them’.
(36) In order that it may be ascertained (from the colour of the blood) whether the bleeding was due to injured virginity or to menstruation.
(37) Thus, a minor is allowed four nights and she must, therefore, examine herself if the bleeding continued beyond the fourth night while a na'arah who is allowed one night must examine herself if the bleeding continued after the first night.
(38) Where bleeding did not continue after the four nights in the case of the minor or after the first night in that of the na'arah.
(39) Who hold the blood to be unclean irrespective of whether its colour did, or did not change.
(40) Who maintain that the blood is clean even if its colour had changed.
(41) In deciding whether the blood is clean or unclean. Lit., ‘go’.
(42) Of menstruation.
(43) If she observed a discharge three times as a result of intercourse.

Talmud - Mas. Nidah 66a

and marries another man.[1] If she was married to another man and again observed a discharge of blood as a result of her marital intercourse, she may perform her marital duty the first, second and third time. Henceforward, however, she may not perform it until she is divorced and marries another man. If she was married to another man and again observed a discharge of blood as a result of her intercourse she may perform her marital duty the first, second and third time. Henceforward, however, she may not perform it unless she first examines herself. How does she examine herself? She inserts a tube within which rests a painting stick to the top of which is attached an absorbent. If blood is found on the top of the absorbent it may be known that it[2] emanated from the source[3] and if no blood is found on the top, it may be known that it[2] emanated from the sides.[4] If, however, she has a wound in that place she may attribute the blood to her wound.[4] If she has a fixed period[5] she may attribute it to her fixed period,[6] but if the nature of the blood of her wound is different from that of the blood of her observation she may not so attribute it. A woman, furthermore, is believed when she says, ‘I have a wound in the source from which blood is discharged’;[4] so Rabbi.[7] R. Simeon b. Gamaliel ruled: The blood of a wound that is discharged through the source is unclean. Our Masters, however, testified that the blood of a wound that is discharged through the source is clean. What is the point at issue between them?[8] — ‘Ulla replied: The point at issue between them is the question whether the interior of the uterus is unclean.[9] Would not a tube[10] bruise her?[11] — Samuel replied: The examination is performed with a leaden tube whose edge[12] is bent inwards. But, said Resh Lakish to R. Johanan, why should she not[13] examine herself[14] after the third intercourse with her first husband?[15] — The other replied: Because not all fingers[16] are alike.[17] But, the former said, why should she not[18] have to examine herself[14] after the first intercourse with her third husband? — Because not all ejections[19] are of equal force.[20]

A certain woman once came to Rabbi [with such a complaint].[21] Go, he said to Abdan, and frighten her. As the latter approached and frightened her a clot of blood dropped from her. This woman, Rabbi exclaimed, is now cured. A certain woman [with a similar complaint][21] once came to the Master Samuel. Go, he said to R. Dimi b. Joseph, and frighten her. The latter approached and frightened her but nothing dropped from her. This woman, Samuel pronounced, is one full of blood which she scatters,[22] and any woman who is full of blood which she scatters[22] has no cure. Once there came to R. Johanan a certain woman who, whenever she emerged from her ritual immersion, observed a discharge of blood. It is possible, he said to her, that the gossip of your townspeople[23] has caused the affliction;[24] arrange[25] for your intercourse with him to take place near the river side.[26] There is one who says: He[27] said to her, Reveal your affliction to your friends so that, as they were astounded in one way,[28] they may also be astounded in the other.[29] There is also one who says: He[30] said to her, Announce your trouble to your friends so that they may offer prayers for mercy to be vouchsafed to you. For it was taught: And shall cry, ‘Unclean, unclean’,[31] he must announce his trouble to the public so that they may pray for mercy to be vouchsafed to him. R. Joseph stated: Such an incident once occurred at Pumbeditha and the woman was cured.

R. Joseph citing Rab Judah who had it from Rab stated: Rabbi ordained at Sadoth,[32] If a woman observed a discharge on one day she[33] must wait[34] six days in addition to it.[35] If she observed discharges on two days she[33] must wait[34] six days in addition to these.[36] If she observed a discharge on three days she[33] must wait[34] seven clean days.[37] R. Zera stated: The daughters of Israel have imposed upon themselves the restriction that even if they observe a drop of blood of the size of a mustard seed they wait on account of it seven clean days.

Raba took R. Samuel out for a walk[38] when he discoursed as follows: If a woman[39] was in protracted labour[40] for two days and on the third she miscarried she must wait seven clean days; he being of the opinion that the law relating to protracted labour[41] does not apply to miscarriages and that it is impossible for the uterus[42] to open without bleeding. Said R. Papa to Raba: What is the point in speaking of one who was in protracted labour for two days seeing that the same applies even where there was the minutest discharge, since R. Zera stated, The daughters of Israel have imposed upon themselves the restriction that even where they observe only a drop of blood of the size of a mustard seed they wait on account of it seven clean days? — The other replied: I am speaking to you of a prohibition,[43] and you talk of a custom which applies only where the restriction has been adopted.[44]

(Mnemonic. Had an offer, natron, In warm water, to perform immersion, folds upon a haven.)[45] Raba stated: If a woman had an offer of marriage and she accepted it she[46] must allow seven clean days to pass.[47]

Rabina was engaged in preparations for the marriage of his son at R. Hanina's.[48] ‘Does the Master’, the latter said to him, ‘intend writing the kethubah four days hence?’ ‘Yes’, the other replied; but when the fourth day arrived he waited for another four days and thus caused a delay of seven days after the day in question.[49] ‘Why’, the first asked, ‘all this delay?’[50] ‘Does not the Master’, the other replied, ‘hold the opinion of Raba, Raba having ruled: If a woman had an offer of marriage and she accepted she must allow seven clean days to pass?’ ‘It is possible’, the first suggested, that Raba spoke only of one of mature age who is likely to discharge menstrual blood,[51] but did he speak of a minor who is unlikely to discharge menstrual blood?’ ‘Raba’, the other replied, ‘has explicitly stated: There is no difference between one of mature age and a minor. For what is the reason why one of mature age is subject to the restriction? Because her passions are excited;[52] well, those of a minor also are excited.

Raba ruled: A woman

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(1) The reason is explained infra.
(2) The blood.
(3) The uterus; and is unclean.
(4) And it is clean.
(5) During which intercourse causes her to bleed.
(6) And is consequently permitted intercourse at other times without previous examination.
(7) This refers to the last ruling only. All the previous rulings in the Baraitha, however, represent the view of R. Simeon.
(8) Rabbi and our Masters on the one hand and R. Simeon on the other.
(9) Lit., ‘the source, its place is unclean’.
(10) Presumably a reed.
(11) Why then is she expected to carry out her examination with it?
(12) Lit., and its mouth’.
(13) Instead of being divorced.
(14) Before each subsequent intercourse.
(15) And thus continue to live with him.
(16) Euphemism.
(17) Sc. the husband might have been the cause. It is preferable, therefore, that she marries another man with whom she can lead a normal life than continue to live with one in an abnormal condition.
(18) Since a repetition of the occurrence with three husbands establishes presumption.
(19) Lit., ‘forces’.
(20) Hence it is necessary for the occurrence to be repeated three times with the third husband before presumption is established.
(21) Bleeding occasioned by intercourse.
(22) As a result of intercourse.
(23) Sc. their ‘evil eye’; jealousy at the affection between her and her husband.
(24) Lit., ‘went up on thee’.
(25) Lit., ‘go’.
(26) Thus avoiding the town's gossip.
(27) R. Johanan.
(28) Lit., ‘side’; at her husband's affection (cf. prev. n. but four).
(29) At her affliction. They would in consequence no longer envy her and the influence of their ‘evil eye’ would disappear.
(30) R. Johanan.
(31) Lev. XIII, 45.
(32) A place that was inhabited by unlettered people who were incapable of calculating the dates of the menstrual, and the zibah periods.
(33) Before she attains cleanness.
(34) Lit.,’she shall sit’.
(35) Sc. seven days, the number prescribed for a menstruant, since (cf. prev. n. but two) it is possible that the discharge occurred during a menstruation period.

(36) Since it is possible that the first of the two days was the last of a zibah period while the second was the first of a menstruation one.
(37) It being possible that the discharge occurred in a period of zibah.
(38) אדבריה V. Ta'an., (Sonc. ed.), p. 60 n. 5.
(39) In her zibah period.
(40) Accompanied by bleeding.
(41) Which regards accompanying bleeding as exempt from uncleanness.
(42) Lit., ‘the grave’.
(43) Which is Pentateuchally applicable to all.
(44) Lit., ‘where it was restricted it was restricted; where it was not etc.’
(45) Words or phrases occurring in the following rulings of Raba. ‘Folds’ should be inserted before ‘to perform’ to correspond with the order of the rulings in cur. edd.
(46) Since the excitement of the proposal and its acceptance may have produced some menstrual discharge.
(47) Before she may regard herself as clean.
(48) Var. lec. Habiba (MS.M. and Bah.)
(49) Lit., ‘that day’, on which the proposal was made to the girl.
(50) Lit., ‘what that’.
(51) Lit., ‘who sees blood’.
(52) Lit., ‘that she covets’.

Talmud - Mas. Nidah 66b

must not wash her head either with natron or with ohal.[1] ‘With natron’, because it plucks out the hair;[2] and ‘with ohal’ because it causes the hairs to cling to one another.[3]

Amemar also citing Raba ruled: A woman[4] must wash her head in warm water only and she may do it even with such as was warmed by the sun[5] but not with cold water. Why not with cold water? — Because cold water[6] loosens[7] the hair.[8]

Raba further ruled: A man should always give instructions to his household that a woman[9] should wash the folds of her body[10] with water. An objection was raised: It is not necessary for the water[11] to penetrate into the folds of the body[12] or to its concealed parts![13] — Granted that it is not necessary for the water to penetrate,[14] it is necessary nevertheless that it be capable of penetration to every part;[15] in agreement with a ruling of R. Zera. For R. Zera ruled: Wherever proper mingling[16] is possible actual mingling is not essential,[17] but where proper mingling is not possible[18] the actual mingling is indispensable.[19]

Rabin son of R. Adda citing R. Isaac stated: It once happened that a bondmaid of Rabbi performed immersion and when she ascended [from the water] a bone constituting an interposition was found between her teeth, and[20] Rabbi required her to perform a second immersion.[21]

Raba further ruled: If a woman performed immersion, and when she ascended [from the water] an object that caused an interposition was found upon her, she need not wash her head or perform immersion again if her immersion was performed immediately after the washing of her head;[22] otherwise, she must wash her head and perform immersion again. There are others who say: If she performed her immersion on the same day on which she washed her head, she need not wash her head or perform immersion again, otherwise she must wash her head and perform immersion again. What is the practical difference between them?[23] — The practical difference between them is the question whether immersion must follow immediately upon the washing of the head,[24] and whether a woman may wash her head during the day and perform her immersion at night.

Raba ruled: A woman may not stand upon an earthenware when she is to perform ritual immersion. R. Kahana intended to say, ‘What is the reason? Because a preventive measure has been enacted against the possibility of using[25] bath-houses,[26] but that it is quite proper to stand upon a block of wood’. Said R. Hanan of Nehardea to him, ‘What is the reason[27] there?[28] Because she is frightened;[29] on a chip of wood she is also frightened’.[29]

R. Samuel b. R. Isaac ruled: A woman shall not perform immersion

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(1) An alcalic plant. So Aruk, Alfasi and Asheri. Cur. edd. ‘sand’.
(2) Which, remaining on the head, form an interception between the water of the ritual bath and the body.
(3) Cf. prev. n. mut. mut.
(4) Before ritual immersion.
(5) For the sequence of the rulings cf. MS.M., Bah and Asheri.
(6) Cf. Bah.
(7) Aliter: hardens.
(8) Cf. prev. n. but five mut. mut.
(9) Before performing ritual immersion.
(10) Her armpits for instance.
(11) Of a ritual bath.
(12) Lit., ‘the house of folds’.
(13) How then could Raba maintain that the folds must be washed?
(14) Into the folds.
(15) Lit., ‘a place that is suitable for the entry of the water we require’.
(16) Of the flour and the oil of a meal-offering. Perfect mingling is effected with one log of oil to sixty ‘esronim of flour in one pan; v. Men. 103b.
(17) The meal-offering being acceptable even if no mingling took place.
(18) If, for instance, the proportions were less than a log of oil to sixty ‘esronim of flour.
(19) Similarly in the case of ritual immersion, though the water need not penetrate to all parts of the body, the immersion is invalid if owing to dirt or some other interception the water cannot penetrate everywhere.
(20) Though it is not necessary for the water to come in contact with the teeth.
(21) In agreement with R. Zera's rule.
(22) It being assumed in such a case that the interposition became attached to the body after the immersion.
(23) The two readings.
(24) According to the first reading it must.
(25) For ritual immersion.
(26) Where the benches on which people stand when bathing are made of earth and are thus similar to earthenware. Were a woman to be allowed to stand on earthenware when performing ritual immersion in a ritually valid bath she might assume that ritual immersion is also valid when she stands on an earthen bench in a bath-house.
(27) Why a woman must not stand on earthenware.
(28) Where immersion is performed in a ritual bath.
(29) That she might fall; and in consequence might not perform the immersion in a proper manner.

Talmud - Mas. Nidah 67a

in a harbour;[1] although there may be no [mud][2] now[3] it may well be assumed that it had fallen off with the drippings.[4] Samuel's father made ritual baths for his daughters in the days of Nisan[5] and mats[6] in the days of Tishri.[7]

R. Giddal citing Rab ruled: If a woman gave to her child some cooked food and then performed her ritual immersion and ascended from the water,[8] her immersion has no validity,[9] because, though there may be no food[10] now,[11] it may well be assumed that it had fallen off with the drippings.[12]

Rami b. Abba[13] ruled: Scars[14] constitute no interposition[15] during the first[16] three days;[17]

henceforth they constitute an interposition.

Mar Ukba ruled: Pus within the eye constitutes no interposition when it is moist, but when it is dry it constitutes one. When is it called ‘dry’? — From the time it begins to turn yellow.

Samuel ruled: Stibium within the eye constitutes no interposition but on the outside of the eye it constitutes one. If a woman's eyes were twitching it constitutes no interposition even if it is on the outside of the eye.[18]

R. Johanan ruled: If a woman[19] opened her eyes too wide[20] or shut them too closely,[21] her immersion has no validity.

Resh Lakish ruled: A woman must perform immersion only when standing in her natural position;[22] as we have learnt:[23] A man[24] is inspected[25] in the same position as when he hoes[26] or[27] gathers olives;[28] and a woman[24] is inspected[25] in the same position as when she weaves[29] or[27] suckles her child.[28]

Rabbah b. R. Huna[30] stated, ‘One knotted hair constitutes an interposition,[31]

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(1) Where mud, stirred up by the incoming and outgoing ships, might cling to her body and constitute an interposition between it and the water.

(2) On the woman's body.

(3) After she has emerged from the water.

(4) Beridyoni. Aliter: Into the stream.

(5) When the flowing river, swollen by rainwater, could not be used for the purpose since no ritual immersion may be performed in rainwater that is not collected and stationary.

(6) To spread under the feet of the bathers so as to protect them from the river mud which might cling to their feet and constitute an interposition. Aliter: He hung up mats on the river shore, to serve as screens for the bathers. Aliter: He put up reed tents; v. Ned., (Sonc. ed.), p. 129 notes.

(7) When the river contained its normal flow (cf. prev. n. but one mut. mut.).

(8) With nothing of the food clinging to it.

(9) Lit., ‘did not go up for her’, since it is possible that some of the food clung to her body during the immersion when it constitutes an interposition.

(10) On the woman's body.

(11) After she has emerged from the water.

(12) Beridyoni. Aliter: Into the stream.

(13) MS.M. Hama.

(14) Lit. , ‘the patches of the lancet’, ‘the marks of the punctures’.

(15) In ritual immersion.

(16) Lit., ‘until’

(17) Following the bleeding. Being tender they are regarded as a part of the body.

(18) Because the frequent movement of the eye-lids prevents the accumulation of the matter and no interposition can be formed.

(19) When performing immersion.

(20) Thus forming above the eye a fold that prevents the water from penetrating to every part of that region.

(21) Forming a fold below the eye (cf. prev. n.).

(22) Sc. she must neither press her arms to her body nor her legs or feet to each other, since thereby she prevents the water from reaching parts that are normally exposed; nor need she stretch any natural fold or expose any concealed part to enable the water to reach every part of it, since these regions are normally concealed.

(23) Neg. II, 4.

(24) Afflicted with leprosy.

(25) By the examining priest.

(26) Sc. if the eruption is high in his arm-pit there is no need for the man to raise his arm higher than he does when hoeing. If, as a result, the priest cannot see it the man must be declared clean.
(27) In the case of an eruption in the concealed region of the genitals.
(28) When one does not bend too low (cf. prev. n. but one mut. mut.).
(29) In the case of an eruption in her arm-pit (cf. prev. n. but five mut. mut).
(30) The reading in the parallel passage in Suk. 6a is ‘b. Bar Hana’.
(31) Since it is possible to tie it so closely that no water could penetrate to all its parts.

Talmud - Mas. Nidah 67b

three hairs[1] constitute no interposition;[2] but I do not know the ruling in the case of two’. R. Johanan, however, stated, ‘We have only this one principle: R. Isaac said, According to traditional law[3] an interposition on its[4] major part[5] to which a man objects constitutes an interposition but one which he does not mind constitutes no interposition; but the Rabbis ruled that an interposition on its[4] greater part shall constitute an interposition, even when the man does not mind it, as a preventive measure against the possibility of allowing an interposition on its major part to which the man does object; and they also ruled that an interposition on its minor part to which a man objects shall constitute an interposition as a preventive measure against the possibility of allowing an interposition on its major part to which a man objects.[6] But why should no prohibition be enacted also against an interposition on its lesser part, to which one does not object, as a preventive measure against the possibility of allowing an interposition over the lesser part to which one does object?[7] — This ruling itself[8] is but a preventive measure, shall we go so far[9] as to institute a preventive measure against the possibility of infringing a preventive measure?[10]

Rab ruled: If a menstruant performs immersion at ‘the proper time[11] she may do it only at night[12] but if she performs it after the proper time[13] she may do it either in the day time or at night.[14] R. Johanan ruled: Whether at the proper time or after the proper time a menstruant may perform immersion only at night, on account of the possibility of her daughter's following her lead.[15] Rab, moreover, also withdrew his ruling; for R. Hiyya b. Ashi citing Rab laid down: Whether at the proper time or after the proper time[13] a menstruant may perform immersion only at night on account of the possibility of her daughter's following her lead.[15] R. Idi ordained at Narash that immersion shall be performed on the eighth day[16] on account of lions.[17] R. Aha b. Jacob issued a similar ordinance at Papunia on account of thieves.[17] Rab Judah did the same at Pumbeditha on account of the cold. Rabbah[18] acted similarly at Mahoza on account of the guards of the city gates.[19] Said R. Papa[20] to Raba,[21] Consider: At the present time the Rabbis have put all menstruants on the same level as zabahs,[22] why then should they not allow them[23] to perform immersion in the daytime of the seventh day?[24] — This cannot be allowed on account of the following ruling of R. Simeon. For it was taught: After that she shall be clean,[25] ‘after’ means after all of them, implying that no uncleanness may intervene between them; but R. Simeon stated: After that she shall be clean[24] implies that after the act[26] she shall[27] be clean, but the Sages have ruled that it was forbidden to do so in case she might thereby land in a doubtful situation.[28]

R. Huna ruled: A woman[29] may wash her head on a Sunday[30] and perform immersion on the following Tuesday,[31] since similarly she[32] is allowed to wash her head[33] on a Friday[34] and undergo immersion on the following Saturday night.[35] A woman may wash her head on a Sunday and undergo immersion on the following Wednesday, since similarly she[36] is allowed to wash her head[37] on a Friday[34] and undergo immersion in the night following a festival that occurred on a Sunday. A woman may wash her head on a Sunday and undergo immersion on the following Thursday, since similarly she may wash her head on a Friday and undergo immersion in the night following the two festival days of the New Year that happened to fall immediately after a Saturday. R. Hisda, however, stated: In all these cases[38] we rule as mentioned[39] but we do not draw the inference of ‘since similarly’; for where [the avoidance of an interval] is possible an interval must be avoided,[40] and only where this is impossible[41] may an interval be allowed.[42] R. Yemar, however, stated: We may even draw the inferences of ‘since similarly’[43] except in the case where a woman is permitted to wash her head on a Sunday and undergo immersion on the following Thursday, for the parallel of the night following the two festival days of the New Year that happened to fall immediately after a Saturday does not hold, since it is possible for the woman to wash her head and undergo immersion in the same night.[44] Meremar in his discourse laid down: The law is in agreement with R. Hisda[45] but[46] in accordance with the interpretation of R. Yemar.[47]

The question was raised: May a woman wash her head at night[48] and perform immersion the same night?[49] — Mar Zutra forbids this, but R. Hinena of Sura permits it. Said R. Adda to R. Hinena of Sura:[50] Did not the following incident[51] actually occur[52] to the wife of the exilarch Abba Mari? She having had some quarrel[53] R. Nahman b. Isaac proceeded to pacify her, and when she said to him, ‘What is the hurry now?[54]

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(1) Which cannot be tied very closely.
(2) Though they were knotted.
(3) Debar Torah, lit., ‘the word of the (oral) law’.
(4) One's hair.
(5) When each single hair is knotted.
(6) Sc. while traditional law restricts a disqualifying interposition to (a) its extension over the major part of one's hair and (b) the man's objection to it, the Rabbis regard (a) without (b) or (b) without (a) also as a disqualifying interposition.
(7) Both cases involving a lesser part.
(8) The one forbidding an interposition over the lesser part to which one objects.
(9) Lit., ‘we shall arise
(10) Certainly not.
(11) On the seventh day.
(12) Before nightfall the seven prescribed unclean days have not been completed.
(13) On the eighth day.
(14) Cf. prev. n. but one mut. mut.
(15) Not knowing the difference between an immersion on the seventh and one on the eighth she, following the example of her mother on an eighth day, would perform immersion in the day time on a seventh also.
(16) Instead of the night following the seventh day.
(17) That the woman might encounter at night.
(18) So with old edd. and Maharsha. Cur. edd., Raba.
(19) Who were men of doubtful morality. Aliter: Dangerous caverns on the road to the ritual bath.
(20) MS.M., Papi.
(21) So with Alfasi and Bomb, ed. Cur. edd. insert ‘and to Abaye’.
(22) Who must allow seven clean days to pass before they can attain cleanness,
(23) As in the case of a zabah
(24) And should one happen to be no zabah but a menstruant her uncleanness had in fact terminated seven days earlier.
(25) Lev. XV, 28.
(26) Of counting the seventh day, even before the day had ended.
(27) On performing immersion.
(28) Of cleanness. She might have intercourse on that day and experience a discharge subsequently before its termination, in which case her counting as well as her immersion must be deemed invalid, and her intercourse has thus taken place during a period of doubtful cleanness.
(29) About to undergo immersion.
(30) Lit., ‘on the first day of the week’.
(31) Sc. an interval of a day may be allowed between the washing of her head and her immersion.
(32) Whose immersion is due on a Saturday night.
(33) An act forbidden on a Saturday which is the Sabbath day. This question is asked on the view that the washing of the head may not be performed on the same night as the immersion, v. infra.

(34) Lit., ‘Sabbath eve’.
(35) Lit., at the goings out of the Sabbath’. As an interval of one day must inevitably be allowed in this case (cf. prev. nn.) it is also allowed where the interval is merely a matter of the woman's convenience.
(36) Whose immersion is due on the termination of a festival day that fell on a Sunday.
(37) An act forbidden on a festival day.
(38) Where immersion is due on a night that followed a Sabbath or a festival day on which the washing of one's head is forbidden.
(39) That an interval of a day or more is permitted between the time of the washing of the head and immersion.
(40) Lit., ‘possible’.
(41) As in the cases where the days preceding the nights of immersion are ones on which the washing of the head is forbidden.
(42) Lit., ‘it is not possible’.
(43) Sc. an interval may be allowed even on account of a woman's personal convenience, since she is allowed a similar interval when the day preceding the night of her immersion is one on which it is forbidden to wash one's head.
(44) The one following the second festival day of the New Year. Had she been allowed to wash her head on the preceding Friday the interval between the washing and the immersion would have been too long; hence it is preferable that the washing be done in the same night as the immersion. As a long interval of three day is not allowed even in such a case, where the washing of the head on the day preceding the night of the immersion is impossible, it cannot be allowed, with much more reason, where the interval is no necessity but a matter of convenience.
(45) That ‘we do not draw the inference of since similarly’ and that, consequently, no interval for the sake of a woman's personal convenience may be allowed between the washing of her head and her immersion.
(46) Though R. Hisda allows an interval where the day preceding the immersion is one on which labour is forbidden.
(47) Who allows the interval only in the first two cases but not in the third case where the immersion is due on the termination of the New Year festival that happened to fall on a Sunday and a Monday.
(48) The night in which her immersion is due.
(49) Is she, it is asked, likely to pay scant attention to the former on account of her hurry to get through with her immersion?
(50) Var. lec., R. Adda of Sura to Mar Zutra (Bah).
(51) Which proves that washing the head and immersion may take place the same night.
(52) Lit., ‘was not thus the incident’.
(53) With her husband, as a result of which she refused to perform immersion.
(54) At night.

Talmud - Mas. Nidah 68a

There will be time enough to-morrow’, he understood what she meant[1] and retorted, ‘Are you short of kettles? Are you short of buckets?[2] Are you short of servants?’[3]

Raba delivered the following discourse: A woman may wash her head on the Sabbath eve[4] and perform immersion at the termination of the Sabbath.[5] Said R. Papa to Raba: But did not Rabin send in his letter the message that ‘a woman must not wash her head on the Sabbath eve and perform immersion at the termination of the Sabbath’? And, furthermore, is it not surprising to yourself that a woman should be allowed to[6] wash her head in the day time and perform immersion at night seeing that it is required that immersion should follow immediately after the washing of the head, which is not the case here? Raba subsequently appointed an amora[7] in connection with this matter and delivered the following discourse: The statement I made to you is an erroneous one,[8] but in fact it was this that was reported in the name of R. Johanan, ‘A woman may not wash her head on the Sabbath eve and perform immersion at the termination of the Sabbath’; and, furthermore, it would be surprising that a woman should be allowed to[6] wash her head in the day time and perform immersion at night seeing that it is required that immersion should closely follow the washing of the head, which would not be the case here. But the law is that a woman may wash her head in the day time and perform immersion at night. And the law is that a woman may wash her head at night only.[9] But does not a contradiction arise between the one law and the other? — There is no contradiction: The former refers to a case where washing in the day time is possible while the latter refers to one where this is impossible.[10]

MISHNAH. IF A MENSTRUANT EXAMINED HERSELF ON THE SEVENTH DAY[11] IN THE MORNING AND FOUND HERSELF TO BE CLEAN, AND AT TWILIGHT[12] SHE DID NOT ASCERTAIN HER SEPARATION,[13] AND AFTER SOME DAYS SHE EXAMINED HERSELF AND FOUND THAT SHE WAS UNCLEAN, BEHOLD SHE IS[14] IN A PRESUMPTIVE STATE OF CLEANNESS.[15] IF SHE EXAMINED HERSELF ON THE SEVENTH DAY[16] IN THE MORNING AND FOUND THAT SHE WAS UNCLEAN, AND AT TWILIGHT[17] SHE DID NOT ASCERTAIN HER SEPARATION,[13] AND AFTER A TIME SHE EXAMINED HERSELF AND FOUND THAT SHE WAS CLEAN, BEHOLD SHE IS[14] IN A PRESUMPTIVE STATE OF UNCLEANNESS.[18] SHE[19] CONVEYS, HOWEVER, UNCLEANNESS FOR TWENTY-FOUR HOURS RETROSPECTIVELY OR DURING THE TIME BETWEEN THE LAST AND THE PREVIOUS EXAMINATION, BUT IF SHE HAD A SETTLED PERIOD, IT SUFFICES FOR HER TO BE DEEMED UNCLEAN FROM THE TIME OF HER DISCHARGE. R.[20] JUDAH RULED: ANY WOMAN WHO DID NOT,[21] FOLLOWING THE AFTERNOON, ASCERTAIN HER SEPARATION TO A STATE OF CLEANNESS IS REGARDED AS BEING IN A PRESUMPTIVE STATE OF UNCLEANNESS.[22] BUT THE SAGES RULED: EVEN IF SHE EXAMINED HERSELF ON THE SECOND DAY OF HER MENSTRUATION AND FOUND THAT SHE WAS CLEAN, AND AT TWILIGHT SHE DID NOT ASCERTAIN HER SEPARATION, AND AFTER A TIME SHE EXAMINED HERSELF AND FOUND THAT SHE WAS UNCLEAN, SHE IS REGARDED AS BEING IN A PRESUMPTIVE STATE OF CLEANNESS.[23]

GEMARA. It was stated: Rab ruled: She[24] is a certain zabah, but Levi ruled: She is a doubtful zabah. What do they refer to? If it be suggested: To the first clause [it could be objected]: Was it not stated, BEHOLD SHE IS IN A PRESUMPTIVE STATE OF CLEANNESS? If, on the other hand, they refer[25] to the final clause,[26] one can well see the logic of regarding the woman[27] as a doubtful zabah,[28] but why also[29] a certain zabah seeing that she has examined herself and found that she was clean?[30] The fact is that when the statements of Rab and Levi were made they were given as independent rulings:[31] If a menstruant examined herself on the seventh day in the morning and found that she was unclean, and at twilight she did not ascertain her separation, and after some days she examined herself and found that she was unclean, Rab ruled: She is a certain zabah, but Levi ruled: She is a doubtful zabah. ‘Rab ruled: she is a certain zabah’, since she was previously found to be unclean and now also she was found to be unclean, she must be definitely unclean. ‘But Levi ruled: She is a doubtful zabah’, because it might be assumed that the discharge may have been discontinued in the intervening time.

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(1) Viz., that she had not washed her head before nightfall.

(2) Tashteke. Aliter: Bath chairs. Aliter: Combs.

(3) To bring, and warm up the water. This proves that the washing of the head may take place the same night.

(4) Friday.

(5) Saturday night.

(6) Lit., ‘and wonder at yourself how’.

(7) To expound and clarify his discourse to the public.

(8) Lit., ‘they ate an error in my hand’.

(9) Sc. immediately before immersion.

(10) Where, for instance, immersion is due on a night that follows a Sabbath or a festival day.

(11) After her first discharge, sc. on the last day of her seven days period of menstruation.

(12) When the prescribed menstruation period terminates.

(13) Lit., ‘she did not separate’, sc. did not examine herself to make sure of the separation of her clean, from her unclean days.

(14) In regard to the days intervening between the seventh and the one on which she found herself unclean.

(15) It being assumed that the discharge did not occur before the moment she had discovered it. All clean things which she handled between the time of her immersion (on the night following the seventh day) and the time of her last examination are consequently regarded as clean.

(16) After her first discharge, sc. on the last day of her seven days' period of menstruation.

(17) When the prescribed menstruation period terminates.

(18) Since she was known to be unclean on the seventh day and at its twilight she did not ascertain that the discharge had ceased.

(19) In the case dealt with in the first clause.

(20) V. margl. gl. Cur. edd., 'and R.'

(21) On the seventh day.

(22) Even though she examined herself earlier in the day and found that she was clean.

(23) The examination on the second day being sufficient to establish a presumptive cleanness.

(24) This is explained presently.

(25) Lit., 'but'.

(26) SHE EXAMINED HERSELF . . . IN THE MORNING AND FOUND THAT SHE WAS UNCLEAN AND AT TWILIGHT SHE DID NOT ASCERTAIN HER SEPARATION.

(27) According to Levi.

(28) Since on the seventh day in the morning she was still unclean and since at twilight of that day it was not ascertained that she was clean, it may well be suspected that there was a discharge on the eighth, ninth and tenth in consequence of which she would become a zabah.

(29) According to Rab.

(30) In consequence of which it might justifiably be assumed that as she was now found clean she was also clean previously.

(31) Not in connection with our Mishnah.

Talmud - Mas. Nidah 68b

Levi also taught the same ruling in a Baraitha: After these days[1] irrespective of whether she examined herself and found that she was clean or whether she examined herself and found that she was unclean, behold she is to be regarded as a doubtful zabah.

SHE CONVEYS, HOWEVER, UNCLEANNESS FOR TWENTY-FOUR HOURS RETROSPECTIVELY. Must it be conceded that this[2] represents an objection against a view of Raba, since Raba stated: This[3] tells that[4] a woman during the days of her zibah does not[5] cause twenty-four hours retrospective uncleanness? — But was not an objection against Raba raised once before?[6] - It is this that we meant: Must it be conceded that an objection may be raised against Raba from this Mishnah also? — Raba can answer you: When it was stated, SHE CONVEYS, HOWEVER, UNCLEANNESS FOR TWENTY-FOUR HOURS RETROSPECTIVELY, the reference was to the beginning of this chapter, viz., to a girl who observed a discharge while she was still in her father's house.[7] As it might have been presumed that, since clean days intervened, the discharge should be regarded as one at the beginning of her menstruation and she[8] should in consequence convey no retrospective uncleanness for twenty-four hours, hence we were informed [that she does].

BUT IF SHE HAS A SETTLED PERIOD. Must it be conceded that this[9] presents an objection against the view of R. Huna b. Hiyya cited in the name of Samuel, since R. Huna b. Hiyya citing Samuel stated: This[10] tells that a woman cannot establish for herself a regular period[11] during the days of her zibah? — R. Huna b. Hiyya can answer you: When we ruled that 'a woman cannot establish for herself a regular period during the days of her zibah' we meant that it is not necessary for her[12] to have a change of period three times for the purpose of abolishing a settled period because we maintain that her blood is suspended; and, since her blood is suspended, IT SUFFICES FOR HER TO BE DEEMED UNCLEAN FROM THE TIME OF HER DISCHARGE.

R. JUDAH RULED. It was taught: They said to R. Judah, Had her hands been lying in her eyes[13] throughout twilight you would have spoken well, but now, since it might be assumed that she experienced a discharge as soon as she removed her hands, what practical difference is there between the case where she ascertained her separation to a state of cleanness on the seventh day following the afternoon and that where she has ascertained her separation to a state of cleanness on the first day? ‘On the first day’! Is there any authority who holds such a view?[14] — Yes; and so it was taught: Rabbi stated, ‘I once asked R. Jose and R. Simeon when they were underway: What is the law where a menstruant examined herself on the seventh day in the morning and found that she was clean, and at twilight she did not ascertain her separation,[15] and after some days she examined herself and found that she was unclean? And they replied:[16] Behold such a woman is in a presumptive state of cleanness. What, I asked, is the law where she examined herself on the sixth, fifth, fourth, third or second? And they replied: There is no difference. As regards an examination on the first day I did not ask, but it was a mistake on my part that I did not ask. For is she not on all these days in a state of presumptive uncleanness and yet as soon as the discharge ceased it is deemed to have completely ceased, so also in regard to the first day as soon as the discharge ceased it may be deemed to have ceased completely’.[17] What view, however, did he[18] hold at first?[19] — [That the woman is unclean] since there is[20] the presumption of an open source.

MISHNAH. IF A ZAB AND A ZABAH[21] EXAMINED THEMSELVES ON THE FIRST DAY[22] AND FOUND THEMSELVES CLEAN AND ON THE SEVENTH DAY[22] ALSO AND FOUND THEMSELVES CLEAN, BUT DID NOT EXAMINE THEMSELVES DURING THE OTHER, INTERVENING, DAYS, R. ELIEZER RULED: BEHOLD THESE ARE IN A PRESUMPTIVE CONDITION OF CLEANNESS. R. JOSHUA RULED: THEY ARE ENTITLED [TO RECKON AS CLEAN] ONLY THE FIRST DAY AND THE SEVENTH DAY. R. AKIBA RULED: THEY ARE ENTITLED TO RECKON AS CLEAN THE SEVENTH DAY ALONE.[23]

GEMARA. It was taught: Said R. Eliezer to R. Joshua, According to your view[24] you would be counting with interruptions; but did not the Torah state, After that she shall be clean,[25] ‘after’ meaning ‘after all of them’, implying that no uncleanness may intervene between them?[26] — Said R. Joshua to him: But do you not agree that a zab who[27] observed an emission of semen[28] or a nazirite who[29] walked under overshadowing branches or mural projections[30] counts with interruptions though the Torah said,[31] But the former days shall be void?[32] And R. Eliezer?[33] — All is well there[34] since the All Merciful has said,[35] So that he is unclean thereby,[36] implying that it renders void one day only.[37] And if the imposition of a restriction[38] be suggested, on account of the possibility of mistaking one uncleanness for another,[39] it could be retorted: A zab would not be mistaken for one who emitted semen. All is also well[40] with a nazirite who walked under overshadowing branches or mural projections, since Pentateuchally it is necessary[41] that the [overshadowing] tent shall be a proper one and it is only the Rabbis who enacted the ruling[42] as a preventive measure, and no one would mistake a Rabbinic law for a Pentateuchal one; but here,[43] if we were to take into consideration the possibility of a doubtful observation,[44] one might mistake this case for one of a certain observation.[45]

It was taught: R. Jose and R. Simeon stated, The view of R. Eliezer is more feasible than that of R. Joshua, and the view of R. Akiba is more acceptable than those of all of them, but the halachah is in agreement with R. Eliezer.

The question was raised: If a zab or a zabah examined themselves on the first day[46] and on the eighth day[47] and found that they were clean while on the other days they did not examine themselves,

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(1) Referred to in the second clause of our Mishnah (cf. prev. n. but five).

(2) The ruling that if after the passing of her menstruation period a woman found that she was unclean (the first clause in our’ Mishnah) her uncleanness is retrospective for twenty-four hours (the third clause of our Mishnah which, as explained supra, is an interpretation of the first).

(3) The first clause of the second Mishnah supra 38b: Throughout all the eleven days a woman is in a presumptive state of cleanness.

(4) Since during the zibah period the menstrual flow is suspended.

(5) After the first discharge.

(6) Of course it was, supra 39a where the objection remained unsolved.

(7) Supra 64b. In such a case Beth Hillel ruled that intercourse is permitted all night, and to this our Mishnah adds that if the woman found subsequently that she was unclean, her uncleanness is retrospective for twenty-four hours.

(8) As a virgin who experienced a discharge for the first time.

(9) That IF SHE HAS A SETTLED PERIOD and she observed a discharge at that period in the days of her zibah, IT SUFFICES FOR HER TO BE DEEMED UNCLEAN FROM THE TIME OF HER DISCHARGE, It is now assumed that this ruling of our Mishnah referred to the case where AFTER SOME DAYS (viz., after the termination of the menstruation period and during one of zibah) SHE EXAMINED HERSELF AND FOUND THAT SHE WAS UNCLEAN.

(10) The first clause of the second Mishnah supra 38b: Throughout all the eleven days a woman is in a presumptive state of cleanness.

(11) Though menstruation began on the same date in three consecutive months.

(12) In the days of her zibah.

(13) Euphemism.

(14) That an examination whereby uncleanness was established on the first day has the same validity as one on the seventh day.

(15) From her state of uncleanness to that of cleanness.

(16) Lit., ‘they said to me’ (Emden). Cur. edd. ‘they said to him’.

(17) A question as to the first day might consequently have elicited the same reply as the one concerning the other days mentioned.

(18) Rabbi.

(19) When he was reluctant to put the question to them.

(20) On the first day.

(21) Whose discharge has ceased.

(22) Of the prescribed seven days.

(23) Since it is possible that during the intervening days they have experienced a discharge which caused the counting of the previous days to be null and void.

(24) That the first and the seventh days are counted,

(25) Lev, XV, 28.

(26) How then could the five days that are presumably unclean be allowed to intervene?

(27) While he was counting, after the termination of his zibah, the prescribed number of seven days.

(28) Which renders him unclean for one day while on the following day he resumes his counting from the interrupted number.

(29) While counting the thirty days prescribed for him.

(30) Under which lay parts of a corpse. As the branches and the projections have the character of a doubtful ‘tent’ the nazirite is subject to uncleanness for one day only, and on the following one he continues his interrupted counting.

(31) Where a longer uncleanness interrupted the counting.

(32) Num, VI, 12.

(33) How in view of this argument of R. Joshua can he maintain his ruling?

(34) The case of a zab who emitted semen where an interrupted counting is allowed.

(35) About such an uncleanness.

(36) Lev. XV, 32, emphasis on the last word.

(37) Lit,, ‘its day’.

(38) That interrupted counting should not be allowed,

(39) And, as a result, such interrupted counting would also be allowed in the case of a discharge of zibah.

(40) With the permission for interrupted counting.

(41) If corpse uncleanness is to be conveyed by overshadowing.

(42) That even an imperfect ‘tent’ conveyed uncleanness for one day.

(43) The case discussed by R. Eliezer and R. Joshua.

(44) On the days on which no examination took place; and, in consequence, those days would not be counted,

(45) And, assuming that on the uncounted days the woman was definitely unclean, one would also allow interrupted counting in the case of the intervention of a certain uncleanness.

(46) Of the seven that must be counted after a zibah before cleanness is attained.

(47) Cf. prev. n. The eighth day is the one that follows the period of the seven prescribed days in which obviously it is not included.

Talmud - Mas. Nidah 69a

what is the law according to R. Eliezer.[1] Is it necessary[2] that an examination should take place both at the beginning and at the end of the prescribed days[3] [hence this case is excluded][4] since there was one at the beginning only[5] but not at the end,[6] or is it possible that an examination at the beginning[5] suffices although there was none at the end?[6] — Rab replied: The law is the same in either case,[7] an examination at the beginning sufficing although there was none at the end. R. Hanina, however, replied: It is necessary[2] that there be an examination both at the beginning and at the end[8] [hence this case is excluded] since there was one at the beginning only but not at the end.

An objection was raised: But both hold the same opinion,[9] where a zab and a zabah examined themselves on the first day and on the eighth day and found themselves clean, that they may count the eighth day only as clean.[10] Now who are referred to in the expression ‘both hold the same opinion’? Is it not R. Eliezer and R. Joshua?[11] — No; R. Joshua and R. Akiba.[12]

R. Shesheth citing R. Jeremiah b. Abba who had it from Rab stated: If a menstruant has ascertained her separation to a state of cleanness on her third day,[13] she may count it in the number of the seven clean days.[14] ‘A menstruant’! What need has she for counting?[15] — Rather read: If a zabah has ascertained her separation to a state of cleanness on her third day,[13] she may count it in the number of the seven clean days.[14] Said R. Shesheth to R. Jeremiah b. Abba: Did then Rab pronounce his ruling in agreement with the view of the Samaritans who ruled that the day on which a woman ceases to have her discharge may be counted by her in the number of the prescribed seven days?[16] — When Rab spoke he meant: Exclusive of the third day.[17] But if ‘exclusive of the third day’ is not the ruling obvious? — The ruling was necessary only in a case, for instance, where the woman[18] did not examine herself until the seventh day,[19] so that[20] we were informed there[21] that an examination at the beginning[22] suffices although there was none at the end,[23] while here[24] we were informed that an examination at the end[23] suffices[25] even though there was none at the beginning.[22] As it might have been presumed that only where there was an examination at the beginning,[22] though there was none at the end,[23] do we assume [the days to be clean], because we regard them as remaining in their presumptive state,[26] but not where the examination was held at their conclusion[23] and[27] not at their beginning,[22] hence we were informed [that in either case the days are regarded as clean]. But can this[28] be correct seeing that[29] when Rabin came[30] he stated, ‘R. Jose b. Hanina raised an objection [from a Baraitha dealing with] a forgetful[31] woman but I do not know what his objection was’, and[32] we have an established rule that during the first week of her appearance before us we require her to undergo immersion in the nights[33] but we do not require her to undergo immersion in the day time. Now if it could be entertained that it is not necessary that the days[34] be counted in our presence, she[35] should have been made to undergo immersion in the day time also, since it is possible that she gave birth during a zibah period and had completed the counting on that day. Must it not consequently be inferred from the ruling that it is necessary for the counting to take place in our presence?[36] — But have we not explained this ruling to be in agreement with the view of R. Akiba who ruled that it was necessary for the counting to take place in our presence?[37] — And whence do you infer that according to the Rabbis it is not necessary for the counting to take place in our presence? — From what was taught:[38] ‘If a forgetful[39] woman stated, "I observed some uncleanness on a certain day",[40] she[41] is expected to undergo nine immersions, seven[42] in respect of menstruation[43] and two[44] in respect of zibah.[45] If she states, "I observed some uncleanness at twilight", she is to undergo eleven immersions’. ‘Eleven’! For what purpose?[46] — R. Jeremiah of Difti replied: This is a case, for instance, where the woman[47] actually appeared before us at twilight,[48] so that provision has to be made for[49] eight immersions in respect of menstruation[50] and for three in respect of zibah.[51] ‘If she states, "I observed no discharge whatsoever", she is to undergo fifteen immersions’.[52] Raba observed: ‘This kind of law that is a negation of all reason[53] is in vogue at Galhi where there is a law that one who owns a bull must feed the town's cattle one day while one who owns no bull must feed them on two days. Once they had occasion to deal with[54] an orphan the son of a widow. Having been entrusted with the bulls [to feed] he proceeded to kill them, saying to the people, "He who owned a bull shall receive one hide and he who owned no bull shall receive two hides". "What", they said to him, "is this that you say?" "The conclusion of this process", he answered them, "follows the same principle as the beginning of the process. Was it not the case with the beginning of this process that one who owned nothing was better off? Well, at the conclusion of the process too, one who owned nothing is better off". Here also: If where a woman states, "I observed a discharge", it suffices for her to undergo either nine immersions or eleven immersions,[55] should it be necessary for her, where she states, "I observed no discharge whatsoever", to undergo fifteen immersions?’ — Rather read thus: If she states, ‘I observed a discharge and I do not know how long it continued[56] and whether I observed it during a menstruation period or a zibah one’, she is to undergo fifteen immersions. For if she appeared before us in the day-time we allow her seven days in respect of menstruation[55]

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(1) Who, in the case of an examination on the first and the seventh, regards all the seven days as clean.

(2) If the seven days are to be regarded as clean.

(3) Lit,, ‘their beginning and their end’.

(4) And the days are regarded as unclean,

(5) On the first of the seven days.

(6) On the seventh day, the examination having taken place on the eighth.

(7) Lit., ‘it it’, the seven days are regarded as clean in both cases.

(8) Lit., ‘their beginning and their end’.

(9) Lit., ‘and equal’.

(10) Lit., ‘that they have only the eighth day’.

(11) Who agree in this case with R. Akiba though they differ from him where the examination took place on the first and the seventh. How then could Rab maintain his view on the ruling of R. Eliezer?

(12) But R. Eliezer maintains, as Rab stated, that since the examination on the first day proved the person to be clean all the seven days also are regarded as clean.

(13) Since her discharge first appeared.

(14) Sc. the clean days may begin to be counted from that day.

(15) None, since a menstruant becomes clean after seven days irrespective of whether these were clean or not.

(16) Supra 33a.

(17) The counting beginning from the following day.

(18) Though her discharge ceased on the third day.

(19) So that the beginning of the counting was not in a condition of ascertained cleanness.

(20) Rab adopting two relaxations of the law.

(21) Where Rab stated that R. Eliezer holds the woman clean if she examined herself on the first and the eighth.

(22) On the first day.

(23) On the seventh.

(24) In the last cited ruling of Rab.

(25) To justify the assumption that all the six preceding days were also clean,
(26) Which, owing to the examination, was known to be one of cleanness.
(27) Lit,, 'although'.
(28) Rab's ruling that it is not necessary to make sure that each of the seven days individually has been a clean one,
(29) Lit., 'I am not, for surely'.
(30) From Palestine to Babylon,
(31) Lit,, 'erring'.
(32) So with Bah. Cur. edd. 'for'.
(33) Since of each night it might be said that it is the one following the seventh day of the period of uncleanness prescribed after the birth of a male child.
(34) Following zibah.
(35) Since a zabah undergoes immersion on her seventh clean day.
(36) Apparently it must; and thus an objection arises against Rab.
(37) And, since the Rabbis differ from R. Akiba, Rab may follow their view.
(38) V. marg. glos. Cur. edd., 'for we learnt'.
(39) Lit., 'erring'.
(40) But she is unable to say whether it happened on the same, or on any other day, or whether that day was one of the days of her menstruation or of her zibah.
(41) In order to perform the precept of immersion at the proper time and at the earliest possible moment.
(42) On the following seven nights, if she arrived in the day time.
(43) V. supra p. 482, n. 12.
(44) In the day time.
(45) On the first day of her arrival she must undergo immersion since it is possible that the previous day was one of her zibah period and her discharge appeared that day (a woman who experienced a discharge on one of the days of her zibah period awaits one day, viz., the following one, and on that day she undergoes immersion in the day time). On the second day of her arrival she again undergoes immersion for a similar reason, since it is possible that the day on which her discharge had appeared was not the previous one but the day of her arrival. On the third day no immersion is necessary since it is certain that on the second there was no discharge.
(46) Sc. why should more immersions be required in this case, where she states that her discharge took place at twilight, than in the former where she does not specify the time of day.
(47) Who did not merely state during the day that her discharge took place at twilight.
(48) And stated that her discharge occurred either earlier or possibly at that very moment when it is doubtful whether it was day or night.
(49) Lit,, 'and they are'.
(50) In addition to the seven immersions as in the former case (beginning on the night that followed the twilight at which she arrived) there must be one on the eighth night because it is possible that her discharge took place actually at the twilight of her arrival which was part of the following night, so that the menstruation period did not terminate until the seven following days have passed and her cleanness is attained by her immersion on the last, which is the eighth night after her arrival.
(51) She performs the first two immersions for the same reason as in the former case, since it is possible that her discharge in zibah took place on the day prior to her arrival (so that immersion must be performed immediately at the twilight when she arrived) or on that day (so that immersion has to be performed on the following day). She must also undergo immersion on the third day since it is possible that the discharge occurred at the twilight at which she arrived and that that time was a part of the night, so that she was unclean on the day following, and having waited the second day she becomes clean on the third when the immersion is performed.
(52) This is discussed presently.
(53) Lit., 'this law that is no law'.
(54) Lit., 'it happened to them'.
(55) As explained supra.
(56) Sc. whether it appeared on one day only or on three days.

Talmud - Mas. Nidah 69b

and eight in respect of zibah;[1] and if she appeared before us at night we allow her eight in respect of menstruation[2] and seven in respect of zibah.[3] But does not menstruation require eight days?[4] — Rather say: In either case[5] seven in respect of menstruation and eight in respect of zibah. But if she appeared at night, does she not require[4] eight in respect of menstruation?[6] — In respect of zibah where the number of immersions is fixed, since it does not vary whether she appeared before us in the day time or at night, [the eighth immersion] was counted, but in respect of menstruation where the number is not fixed, for only where she appeared before us at night does she require eight immersions while if she appeared before us in the day time she does not require eight [the eighth immersion] was not counted. Now, if it could be entertained that it is necessary for all the counting to take place in our presence, what need is there[7] for all these immersions?[8] Should she not rather count the seven days and then undergo immersion?[9] Consequently it may be inferred from here that[10] it is the Rabbis[11] who hold that it is not necessary for the counting to take place in our presence.[12] Said R. Aha son of R. Joseph to R. Ashi, Have we not had recourse to explanations of this ruling?[13] Explain it then in the following manner and read thus: If a woman states, ‘I counted[14] and know not how many days I counted and whether I counted them during the period of menstruation or during that of zibah’, she is to undergo fifteen immersions.[15] But if she stated, ‘I counted and know not how many days I counted’, it is at any rate impossible that she should not have counted one day, at least,is she then not short of one immersion?[16] Rather read: If she states, ‘I know not whether I did or did not count’.[17]

MISHNAH. IF A ZAB, A ZABAH, A MENSTRUANT, A WOMAN AFTER CHILDBIRTH OR A LEPER HAVE DIED [THEIR CORPSES] CONVEY UNCLEANNESS BY CARRIAGE[18] UNTIL THE FLESH HAS DECAYED. IF AN IDOLATER HAS DIED HE CONVEYS NO UNCLEANNESS.[19] BETH SHAMMAI RULED: ALL WOMEN DIE AS MENSTRUANTS;[18] BUT BETH HILLEL RULED: A WOMAN[20] CANNOT BE REGARDED AS A MENSTRUANT UNLESS SHE DIED WHILE SHE WAS IN MENSTRUATION.

GEMARA. What is the meaning of BY CARRIAGE? If it be suggested: By actual carriage, [the objection would arise:] Does not in fact every corpse convey uncleanness by carriage?[21] — Rather say that BY CARRIAGE means[22] through a heavy[23] stone,[24] for[25] it is written, And a stone was brought, and laid[26] upon the mouth of the den.[27] What is the reason?[28] — Rab replied: This[29] is a preventive measure against the case where they[30] swoon.[31] One taught: In the name of R. Eliezer it was stated, This possibility must be taken into consideration until his stomach bursts.

IF AN IDOLATER HAS DIED etc. It was taught: Rabbi stated, On what ground did they rule that if an idolater has died he conveys no uncleanness by carriage? Because his uncleanness when alive[32] is not Pentateuchal, but Rabbinical.

Our Rabbis taught: Twelve questions did the Alexandrians address to R. Joshua b. Hananiah.[33] Three were of a scientific nature,[34] three were matters of aggada, three were mere nonsense and three were matters of conduct.[35]

‘Three were of a scientific nature’: If a zab, a zabah, a menstruant, a woman after childbirth or a leper have died, how long do their corpses convey uncleanness by carriage? He replied: Until the flesh has decayed. Is the daughter of a woman that was divorced and remarried by her first husband[36] allowed to marry a priest? Do we say that this might be inferred a minori ad majus: If the son of a widow who was married to a High priest, who is not forbidden to all,[37] is nevertheless tainted,[38] how much more so the offspring of her[39] who is forbidden to all;[40] or is it possible to refute the argument, thus: The case of a widow married to a High Priest is different because she herself is profaned?[41] He replied:

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(1) Because each of the eight days might be the last of the seven clean days that followed a zibah discharge that had extended over three days. No immersion is necessary on the ninth day because even if the very day of the woman's arrival had been the last of the three days on which her zibah discharge had been making its appearance seven clean days have elapsed since that day.
(2) On the first night of her arrival and on the following six nights immersion is necessary because each might be the night following the seventh day, while on the eighth immersion is required on account of the possibility of the discharge having appeared on the very night of her arrival which caused the day following to be regarded as the first of the prescribed seven days of menstruation.
(3) This is discussed presently.
(4) As explained supra.
(5) Whether the woman arrived at night or in the day time.
(6) Of course she does.
(7) In respect of zibah,
(8) That the woman is expected to perform in the day time.
(9) But not before; since even if her seven clean days have terminated she, owing to her neglect of examining herself, is not fit for immersion,
(10) As submitted supra 69a.
(11) Who differ from R. Akiba.
(12) And Rab in his ruling supra follows their view.
(13) We had; since in the absence of explanations it bristles with difficulties,
(14) Sc. she examined herself on certain days and ascertained that she was then clean.
(15) As explained supra.
(16) Obviously she is; why then was the number given fifteen and not fourteen?
(17) So that it is possible that she did not count even one clean day.
(18) This is discussed in the Gemara infra.
(19) Lit., ‘clean from causing uncleanness’.
(20) Who died.
(21) Of course it does; why then did our Mishnah restrict it to the classes specified?
(22) Lit., ‘but what by carriage’.
(23) Mesamma, lit., ‘closing’ (cf. foll. n.).
(24) One used for closing up a pit. If the corpse lay on such a heavy stone, and certain objects rested under it, the latter contract the uncleanness though the weight of the corpse can hardly be perceptible.
(25) The following explains the etymology of mesamma (‘heavy’).
(26) Wesumath, a word of a sound similar to mesamma (v. prev. n. but two).
(27) Dan. VI, 18.
(28) Why the corpses enumerated in our Mishnah convey uncleanness through the stone mentioned while others do not.
(29) The enactment that the corpses enumerated in our Mishnah shall convey uncleanness even through a heavy stone.
(30) The persons mentioned.
(31) As such persons when alive, if they sit on such a stone, convey uncleanness to objects under it, in accordance with Pentateuchal law, a Rabbinic enactment has imposed a similar restriction when they are dead in case they might be merely in a swoon and mistaken for a corpse. Were the objects to be deemed clean in ‘the case of a corpse they might erroneously be deemed clean even when the person is alive.
(32) Through zibah, for instance.
(33) V. marg. glos. and Bomb. ed. Cur. edd., ‘Hinena’.
(34) Halachah,
(35) Lit., ‘the way of the earth’, worldly affairs.
(36) After she had been married and divorced by a second husband. Such a marriage is forbidden according to Deut. XXIV, 1-4.
(37) A widow being forbidden to a High Priest only (v. Lev. XXI, 14).
(38) Though not actually a bastard he would be, if of priestly stock, disqualified from the priesthood.
(39) A remarried divorcee after she had been married and divorced by another man.
(40) Non-priests as well as priests.

(41) If the High Priest to whom she was unlawfully married dies she may not marry even a common priest, and if she was a priest's daughter she is henceforth forbidden to eat terumah. No such restrictions are imposed on the woman who was remarried after her divorcement.

Talmud - Mas. Nidah 70a

She is an abomination,[1] but her children are no abomination. If the sacrifices of two lepers were mixed up and after the sacrifice of one of them was offered[2] one of them died, what is to be done about the other?[3] He replied: He assigns[4] his possessions to others so that he becomes a poor man and then[5] brings a bird sin-offering which may be brought[6] even in a case of doubt. But is there not also a guilt-offering?[7] — Samuel replied: This[8] applies only where his guilt-offering had been duly offered.[9] R. Shesheth observed: A great man like Samuel should say such a thing! In agreement with whose view [could his answer[10] have been given)? If in agreement with that of R. Judah[11] [the difficulty arises:] Did he not state that[12] the guilt-offering[13] determines a person's status,[14] so that since the guilt-offering determined for him[15] a status of wealth he could no longer bring a sin-offering in the state of poverty? For we have learnt, ‘If a leper brought the sacrifice of a poor man[16] and then[17] became rich or if he brought that of a rich man[18] and became poor, all depends[19] on[20] the sin-offering;[21] so R. Simeon. R.[22] Judah ruled: All depends on the guilt-offering.[23] R. Eliezer b. Jacob ruled: All depends on the birds’.[24] And if [Samuel has given his answer] in agreement with the view of R. Simeon who ruled that the sin-offering[25] determines the man's status,[26] why should he not bring another sacrifice[27] even where the guilt-offering had not been offered,[28] for, surely, we have heard R. Simeon say, ‘Let him bring one and make his stipulation’; for it was taught: R. Simeon ruled,[29] On the morrow[30] he brings his guilt-offering and its log[31] with it, places it at the Nikanor gate[32] and pronounces over it the following stipulation: If he is a leper, behold his guilt-offering and its log[31] with it, and if he is not, let this guilt-offering be a freewill peace-offering. Now this guilt-offering[33] is

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(1) Deut. XXIV, 4, dealing with a remarried divorcee. Emphasis on ‘she’

(2) It being unknown whose sacrifice it was.

(3) The survivor. Sc. how is he to attain cleanness? He cannot bring the second sacrifice, since it may possibly be the one that belonged to the dead man and a sin-offering whose owner is dead may not be offered upon the altar; and he cannot bring a new sacrifice, since it is possible that the one that was already offered was his so that he is now exempt from bringing any other sacrifice and the new one he would bring would have no sanctity and, as an unconsecrated animal, is forbidden to be brought into the Temple court.

(4) Lit., ‘writes’.

(5) Exercising the privilege of the poor.

(6) Into the Temple.

(7) Which a leper whether rich or poor, must bring. Of course there is. Now since the sacrifice (presumably both the sin- and the guilt-offerings) were mixed up, how can he bring an animal as a guilt-offering in a case of doubt?

(8) R. Joshua's ruling.

(9) Before the other leper died.

(10) ‘Where his guilt-offering had been duly offered’

(11) Who, holding that a guilt-offering may not be brought conditionally, could find no remedy for the leper if his guilt-offering had not been offered up before.

(12) Cf. marg. n., Rashi and Bomb. ed. Cur. edd., ‘for he said’.

(13) The first of the three sacrifices which a leper must bring at the termination of his uncleanness.

(14) Sc. if at that time he was rich or poor his other two sacrifices must be those prescribed for a rich or poor man respectively, irrespective of whether at the time he brings the latter his condition has changed from wealth to poverty of from poverty to wealth.

(15) Lit., for itself’, dative of advantage.

(16) A bird.

(17) Before bringing his burnt-offering, the last of the prescribed sacrifices.

(18) A ewe-lamb.
(19) As regards the burnt-offering.
(20) Lit., 'follows'.
(21) Cf. p. 488, n. 15 mut. mut.
(22) V. marg. n. Cur. edd. 'and R.'
(23) Cf. p. 488, n. 15.
(24) Which the leper brings seven days before the ritual cutting of his hair. His financial condition at that time determines whether the sacrifices he is to bring later are to be those of a rich man or of a poor man.
(25) And not the guilt-offering.
(26) So that even though the guilt-offering was brought when the man was rich he may still bring a poor man's sin-offering if he subsequently became poor.
(27) As a conditional guilt-offering (v. infra).
(28) And the adoption of this procedure would remove the necessity for Samuel to limit the case supra to one who had already brought his guilt-offering.
(29) In the case of a doubtful leprosy.
(30) The day following immersion on which the sacrifices have to be brought.
(31) Of oil,
(32) Of the Temple court. A leper is not permitted to enter into the court.
(33) Being subject to the requirements of both guilt-offerings and peace-offerings.

Talmud - Mas. Nidah 70b

to be slain[1] in the north[2] and is subject to the requirements of application[1] in the thumbs,[3] leaning,[4] drink-offerings, waving[5] and the presentation of the breast and shoulder to the priest.[5] It may also be eaten by the priestly males on the same day and the following night;[1] but the Sages did not agree with R. Simeon because[6] one might[7] cause holy things[8] to be brought into the place of disqualified sacrifices.[9] — Samuel may hold the same view as R. Simeon in one respect[10] while differing from him in another.[11]

'Three were matters of aggada'; One verse says, For I have no pleasure in the death of him that dieth,[12] but another verse says, Because the Lord would slay them?[13] — The former refers to those who are penitents while the latter refers to those who are not penitent. One verse says, who regardeth not persons,[14] nor taketh reward,[15] but another verse says, The Lord lift up his countenance upon thee?[16] — The former refers to the time before sentence is passed while the latter refers to the time after the sentence has been passed. One verse says, For the Lord hath chosen Zion,[17] but another verse says, For this city[18] hath been to me a provocation of Mine anger and of My fury from the day that they built it even unto this day?[19] The former applied to the time before Solomon married the daughter of Pharaoh while the latter applied to the time after Solomon married the daughter of Pharaoh.

'Three were mere nonsense': Does the wife of Lot[20] convey uncleanness? He replied: A corpse conveys uncleanness but no pillar of salt conveys uncleanness. Does the son of the Shunamite[21] convey uncleanness?[22] He replied: A corpse conveys uncleanness but no live person conveys uncleanness. Will the dead in the hereafter[23] require to be sprinkled upon[24] on the third and the seventh[25] or will they not require it? He replied: When they will be resurrected we shall go into the matter.[26] Others say: When our Master Moses will come with them.

'Three were concerned with matters of conduct': What must a man do that he may become wise? He replied: Let him engage much in study[27] and a little in business. Did not many, they said, do so and it was of no avail to them? — Rather, let them pray for mercy from Him to whom is the wisdom, for it is said, For the Lord giveth wisdom, out of His mouth cometh knowledge and discernment.[28] R. Hiyya taught: This[29] may be compared to the action of a mortal king who prepared for his servants a banquet but to his friends he sent from that which he had before himself. What then[30] does he[31] teach us?[32] That one without the other[33] does not suffice. What must a man do that he may become rich? He replied: Let him engage much in business[34] and deal honestly. Did not many, they said to him, do so but it was of no avail to them? — Rather, let him pray for mercy from Him to whom are the riches, for it is said, Mine is the silver, and Mine the gold.[35] What then[36] does he[37] teach us?[38] — That one without the other[39] does not suffice. What must a man do that he may have male children? He replied: He shall marry a wife that is worthy of him

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(1) As a guilt-offering.
(2) Of the altar.
(3) Cf. Lev, XIV, 17.
(4) As a peace-offering (cf. Lev. III, 2).
(5) As peace-offerings.
(6) By restricting the time of consumption to a day and a night.
(7) If some of the sacrificial meat remained after the day and the night (cf. prev. n.) have passed.
(8) Sc. this sacrifice which, in case the man was no leper, is a peace-offering that may be eaten on two days.
(9) Lit., ‘the house of disqualification’, the enclosure where disqualified sacrificial meat was burnt. Now since Samuel follows R. Simeon and the latter allows a conditional sacrifice why was it necessary for the former to explain (supra 70a) that the guilt-offering had been offered while the man was rich?
(10) That the guilt-offering of a leper does not determine his financial condition in regard to his other two sacrifices,
(11) Maintaining, contrary to R. Simeon's view, that a guilt-offering may not be offered up conditionally.
(12) Ezek. XVIII, 32.
(13) I Sam, II, 25.
(14) Heb. lo yissa panim, lit., ‘shall not lift up the countenance’,
(15) Deut. X, 17.
(16) Num. VI, 26.
(17) Ps. CXXXII, 13.
(18) Zion.
(19) Jer. XXXII, 31.
(20) Who became a pillar of salt (Gen. XIX, 26.).
(21) "Whom Elisha restored to life (II Kings IV, 35).
(22) As if he were still dead.
(23) At the resurrection.
(24) As is the case with one who was in contact with a corpse.
(25) Of the seven days that are to be counted after one had contracted corpse uncleanness.
(26) Lit., ‘we shall be wise about them’.
(27) Lit., ‘in sitting (in the schoolhouse)’.
(28) Prov. II, 6.
(29) The knowledge that is given ‘out of His mouth’.
(30) Seeing that one has in any case to pray for mercy.
(31) Samuel who stated, ‘Let him engage much’ etc.
(32) Sc. what is the use of study if mercy from heaven must in any case be sought?
(33) Study without prayer and vice-versa.
(34) ‘Engage . . . business’ is deleted by Elijah Wilna.
(35) Hag. II, 8.
(36) Seeing that one has in any case to pray for mercy.
(37) Samuel who stated, ‘Let him engage much’ etc.
(38) Cf. prev. n. but five mut. mut.
(39) Honest dealing without prayer and vice versa.

Talmud - Mas. Nidah 71a

and conduct himself in modesty[1] at the time of marital intercourse. Did not many, they said to him, act in this manner but it did not avail them? — Rather, let him pray for mercy from Him to whom are the children, for it is said, Lo, children are a heritage of the Lord; the fruit of the womb is a reward.[2] What then[3] does he teach us? That one without the other does not suffice. What is exactly meant by ‘the fruit of the womb is a reward’? — R. Hama son of R. Hanina replied: As a reward for containing oneself during intercourse in the womb, in order that one's wife may emit the semen first, the Holy One, blessed be He, gives one the reward of the fruit of the womb.

BETH SHAMMAI RULED etc. What is Beth Shammai's reason? If it be suggested: Because it is written, And the queen was exceedingly pained,[4] and Rab explained, ‘This teaches that she had experienced a menstrual discharge’, so that here also,[5] owing to the fright of the angel of death, she experiences a discharge [it could be retorted]: Have we not in fact learnt that fear causes blood to disappear?[6] — This is no difficulty since fear[6] detains it while sudden fright[7] loosens it. But [then what of] that which was taught,[8] ‘Beth Shammai stated: All men die as zabs and Beth Hillel stated: No dying man is deemed to be a zab unless he died when he was actually one’, why[9] should not one apply here[10] the text, Out of his flesh[11] but not on account of a mishap?[12] — Beth Shammai's reason is rather as it was taught: Formerly they were wont to subject to ritual immersion all utensils that had been used by dying menstruants,[13] but as living menstruants felt ashamed in consequence[14] it was enacted that utensils used by all dying women should be subject to immersion,[15] out of a deference to the living menstruants. Formerly they were wont to subject to ritual immersion utensils used by dying zabs,[16] but as living zabs felt ashamed in consequence it was enacted that utensils used by all dying men[17] should be subject to ritual immersion, out of deference to the living zabs.[18]

MISHNAH. IF A WOMAN DIED AND A QUARTER OF A LOG OF BLOOD ISSUED FROM HER, IT[19] CONVEYS UNCLEANNESS AS A BLOODSTAIN[20] AND IT[21] ALSO CONVEYS UNCLEANNESS BY OVERSHADOWING.[22] R. JUDAH RULED: IT DOES NOT CONVEY UNCLEANNESS AS A STAIN, SINCE IT WAS DETACHED AFTER SHE HAD DIED.[23] R. JUDAH, HOWEVER, AGREES THAT WHERE A WOMAN SITTING ON THE TRAVAILING STOOL DIED AND A QUARTER OF A LOG OF BLOOD ISSUED FROM HER, IT[24] CONVEYS UNCLEANNESS AS A BLOODSTAIN.[20] R. JOSE RULED: HENCE[24] IT CONVEYS NO UNCLEANNESS BY OVERSHADOWING.[25]

GEMARA. Does it then follow[26] that the first Tanna[27] holds that even though blood was detached after she died[28] it conveys uncleanness as a bloodstain?[29] — Ze'iri[30] replied: The difference between them[31] is[32] the question whether the interior of the uterus is unclean.[33] R. JUDAH, HOWEVER, AGREES. Does it then follow that the first Tanna[34] holds that it conveys uncleanness by overshadowing also?[35] — Rab Judah replied: The difference between them[36] is[37] the question of mingled blood;[38] for it was taught: What is meant by ‘mingled blood’?[39] R. Eleazar son of R. Judah explained: If blood issued from a slain man both while he was still alive and when he was dead and it is doubtful whether [a full quarter of a log] issued while he was still alive or when he was already dead or whether it partly issued while he was alive and partly while he was dead, such is mingled blood.[39] But the Sages[40] ruled: In a private domain such a case of doubt is unclean while in a public domain such a case of doubt is clean. What then is meant by ‘mingled blood’?[39] If a quarter of a log of blood issued from a slain man both while he was still alive and when he was dead and the flow had not yet ceased[41] and[42] it is doubtful whether the greater part[43] issued while he was alive and the lesser part when he was dead or whether the lesser part issued while he was alive and the greater part when he was dead, such is mingled blood.[44] R. Judah ruled: The blood of a slain man, from whom a quarter of a log of blood issued while he was lying in a bed with his blood dripping into a hole, is unclean, because the drop of death is mingled with it, but the Sages hold it to be clean[45] because[46]

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(1) Cf. Rashi. Lit., ‘and sanctify himself’.

(2) Ps. CXXVII, 3.

(3) Seeing that one has in any case to pray for mercy.
(4) Est. IV, 4,
(5) The case of dying women spoken of in our Mishnah.
(6) Supra 39a, Sot. 20b.
(7) As was the case with Esther or with a dying woman who sees the angel of death.
(8) So MS.M. Cur. edd., ‘we have learnt’.
(9) According to Beth Shammai, if in their opinion the discharge is due to the fright of the angel of death.
(10) The discharge of a dying man.
(11) Lev. XV, 2; only in that case is the man unclean.
(12) In which case he is clean; and since a discharge that is due to the fright of the angel of death is evidently a mishap, why should the man be unclean?
(13) Since uncleanness is conveyed from the person to the utensils.
(14) For being differentiated from all other women even when dying.
(15) Even though they did not come in contact with them after death.
(16) V. p. 492, n. 12.
(17) V. p. 492, n. 14.
(18) Tosef. Nid. IX, M.K. 27b; from which it follows that the reason for the uncleanness of the utensils any dying person had used is a Rabbinical enactment instituted in deference to the feeling of living menstruants and zabs. This reason is also that of Beth Shammai in our Mishnah.
(19) Sc. the minutest drop of the blood.
(20) Of a menstrual discharge. As the blood of a corpse it could convey no uncleanness unless it consisted of no less a quantity than a quarter of a log.
(21) If all the quarter-log is accumulated.
(22) As the blood of a corpse.
(23) When menstrual uncleanness does not apply.
(24) Since it was detached while the woman was still alive.
(25) Only a corpse or the prescribed minimum of a part of it conveys uncleanness in this manner.
(26) From R. Judah's ruling.
(27) From whom R. Judah obviously differs.
(28) When menstrual uncleanness does not apply.
(29) But on what ground could such a view be justified?.
(30) So MS.M. Cur. edd. in parenthesis add, ‘R.’
(31) R. Judah and the first Tanna.
(32) Not the point whether the blood is menstrual or not.
(33) According to the first Tanna it is unclean, hence the uncleanness of the blood that was within it when the woman was alive though when it emerged the woman was dead and no longer subject to the uncleanness of menstruation. According to R. Judah it is clean.
(34) With whom R. Judah agrees only on the one point mentioned. Rashi and Meharsha read ‘R. Jose’ for ‘the first Tanna’.
(35) But how could uncleanness be conveyed in this manner, seeing that the blood issued when the woman was still alive?
(36) R. Judah and the first Tanna.
(37) Not, as has been assumed, the question whether the blood is subject to corpse uncleanness.
(38) Sc. the blood of a corpse mingled with that of a living person. According to R. Judah, since it is doubtful whether all the blood was detached while the woman was still alive or whether part of it was detached after she died, it is regarded as mingled blood which Rabbinically conveys uncleanness by overshadowing (though Pentateuchally it cannot do so unless the prescribed minimum had been detached after death), while the first Tanna (or R. Jose according to Rashi and Meharsha) maintains that, since the woman was in travail, all the blood that issued may be presumed to have been detached while she was alive so that the question of mingled blood does not arise.
(39) The corpse uncleanness of which is Rabbinic, and is conveyed by overshadowing.
(40) Maintaining that in such a case, since one must take into account the possibility that all the quarter of a log may have issued after death, a possible Pentateuchal uncleanness is involved.

(41) So that it is yet possible for the quantity of blood to increase to the prescribed minimum of a quarter of a log. Where the flow ceased, so that it is certain that the blood issuing after death will never make up the prescribed minimum, not even a Rabbinical prohibition is imposed (cf. Tosaf. Asheri).

(42) Though it is certain that a full quarter of a log of blood did not issue after death.

(43) Of the quarter.

(44) V. p. 494, n. 6.

(45) Even if the greater part issued after his death.

(46) Since the blood did not emerge in a continuous flow but in single drops.

Talmud - Mas. Nidah 71b

each single drop[1] is detached from the other.[2] But did not the Rabbis speak well to R. Judah?[3] — R. Judah follows his own principle, for he laid down that no blood can neutralize other blood.[4] R. Simeon ruled: If the blood of a man crucified upon the beam was flowing slowly[5] to the ground, and a quarter of a log of blood was found under him, it is unclean.[6] R. Judah declared it clean, since it might be held[7] that the drop of death remained on the beam. But why should not R. Judah say to himself[8] 'Since it might be held[7] that the drop of death remained on the bed'? — [The case of blood] in a bed is different[9] since it percolates.[10]

MISHNAH. FORMERLY IT WAS RULED: A WOMAN WHO ABIDES IN CLEAN BLOOD[11] MAY POUR OUT[12] WATER[13] FOR [WASHING OF] THE PASCHAL LAMB.[14] SUBSEQUENTLY THEY CHANGED THEIR VIEW: IN RESPECT OF CONSECRATED FOOD SHE IS LIKE ONE WHO CAME IN CONTACT WITH A PERSON THAT WAS SUBJECT TO CORPSE UNCLEANNESS.[15] THIS ACCORDING TO THE VIEW OF BETH HILLEL. BETH SHAMMAI RULED: EVEN AS ONE WHO IS SUBJECT TO CORPSE UNCLEANNESS.[16]

GEMARA. 'SHE MAY POUR OUT' only, but may not touch it![17] It is thus evident[18] that unconsecrated foodstuffs prepared in conditions of holiness[19] are treated as holy. But then read the final clause: SUBSEQUENTLY THEY CHANGED THEIR VIEW: IN RESPECT OF CONSECRATED FOOD SHE IS LIKE ONE WHO CAME IN CONTACT WITH A PERSON THAT WAS SUBJECT TO CORPSE UNCLEANNESS. Thus only[20] IN RESPECT OF CONSECRATED FOOD but not in respect of unconsecrated food.[21] It is thus evident, is it not, that unconsecrated foodstuffs prepared in conditions of holiness[19] are not treated as holy? — Who is the author of our Mishnah?[22] It is Abba Saul; for it was taught: Abba Saul ruled, A tebul yom is unclean in the first grade in respect of consecrated food to cause two further grades of uncleanness[23] and one grade of disqualification.[24]

MISHNAH. BUT THEY[25] AGREE THAT SHE[26] MAY EAT[27] SECOND TITHE; SHE MAY SET ASIDE HER[28] DOUGH-OFFERING,[29] BRING IT NEAR[30] TO THE DOUGH[31] AND DESIGNATE IT AS SUCH;[32] AND THAT IF ANY OF HER SPITTLE OR OF THE BLOOD OF HER PURIFICATION[33] FELL ON A LOAF OF TERUMAH THE LATTER REMAINS CLEAN. BETH SHAMMAI RULED: SHE REQUIRES IMMERSION AT THE END [OF HER DAYS OF PURIFICATION],[34] AND BETH HILLEL RULED: SHE REQUIRES NO IMMERSION AT THE END.

GEMARA. Because[35] a Master ruled: If a person performed immersion and came up [from his bathing] he may[36] eat of second tithe.

SHE MAY SET ASIDE HER DOUGH-OFFERING. For unconsecrated dough that is tebel[37] in respect of the dough-offering[38] is not treated like the dough-offering.[39]

BRING IT NEAR. Because a Master stated: It is a religious duty to set aside the offering from dough that is in close proximity to that for which it is set aside.

AND DESIGNATE IT AS SUCH. Since it might have been presumed that this should be forbidden as a preventive measure against the possibility of her touching the dough[40] from the outside,[41] we were informed [that this is permitted].

AND IF ANY OF HER SPITTLE . . . FELL. For we have learnt: The liquid [issues] of a tebul yom[42] are like the liquids that he touches, neither of them conveying uncleanness. The exception is the liquid issue of a zab[43] which is a father of uncleanness.

BETH SHAMMAI. What is the point at issue between them?[44] — R. Kattina replied: The point at issue between them is the necessity for immersion[45] at the end of a long day.[46]

MISHNAH. IF A WOMAN OBSERVED A DISCHARGE ON THE ELEVENTH DAY[47] AND PERFORMED IMMERSION IN THE EVENING AND THEN HAD MARITAL INTERCOURSE, BETH SHAMMAI RULED: THEY[48] CONVEY UNCLEANNESS[49] TO COUCH AND SEAT[50] AND THEY ARE LIABLE TO A SACRIFICE,[51]

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(1) Lit., ‘first first’.

(2) And so soon as it drops into the hole it becomes neutralized in the clean blood that issued while the man was still alive. Only where the flow of the blood is continuous and the man lies on the ground, so that there is no mingling of the two kinds of blood, is corpse uncleanness imposed by the Rabbis where the greater part issued after death.

(3) They did. How then (cf. prev. n.) can R. Judah maintain his view?

(4) V. Zeb. 78a.

(5) In a continuous stream. Had it been falling in drops each drop would have been neutralized as it fell into the clean blood that issued earlier while the man was still alive.

(6) Since the blood that issued after death and that could not be neutralized (cf. prev. n.) is subject to corpse uncleanness.

(7) Lit., ‘because I say’.

(8) In the case of his previous ruling about a slain man lying in a bed (supra 71a ad fin.) where R. Judah ruled that the blood is unclean.

(9) From that on the beam.

(10) Through the bed to the ground.

(11) Sc. from the eighth to the fortieth, and from the fifteenth to the eightieth day after the birth of a male and female child respectively (cf. Lev. XII, 2ff).

(12) Lit., was pouring out’.

(13) From one vessel into another, the water itself not being touched by her (v. next n. final clause).

(14) Sc. she is subject to the second grade of uncleanness like a tebul yom (v. Glos.), since her immersion was performed at the end of the seven, and the fourteen days respectively, and the sunset prior to the first day of her complete cleanness will not occur before the fortieth and eightieth day respectively. One who is subject to second grade of uncleanness conveys a third grade of uncleanness to foodstuffs only but not to vessels.

(15) Sc. her uncleanness in this respect is of the first grade. In regard to unconsecrated things, however, she is still subject to the second grade of uncleanness only.

(16) Who is a ‘father of uncleanness’ and conveys an uncleanness of the first grade to vessels also.

(17) The water.

(18) Since she may not touch the water itself.

(19) As in the case of the water under discussion which was being prepared for the washing of the paschal lamb.

(20) Lit., ‘yes’.

(21) So that the woman may touch the water itself.

(22) Sc. of the final clause.

(23) The consecrated food that comes in contact with him is unclean in the second grade and that which comes in contact with this food is unclean in the third grade.

(24) If terumah, for instance, came in contact with the food that is unclean in the third grade (cf. prev. n.) it becomes disqualified but cannot convey any uncleanness to other foodstuffs.

(25) Beth Shammai and Beth Hillel.

(26) Cf. prev. Mishnah.

(27) Like a tebul yom.

(28) Lit., ‘for herself’.

(29) Before she designates it as such.

(30) In the vessel in which she has put it.

(31) Since the dough-offering must be close to the dough for which it is taken when it is named as the offering for it.

(32) After which, of course, she must not touch it (cf. prev. n. but one).

(33) Cf. supra p. 496, n. 1.

(34) After the fortieth and eightieth day respectively.

(35) A reason for the first ruling in our Mishnah.

(36) Even before sunset.

(37) V. Glos.

(38) Sc. from which the dough-offering had not been taken.

(39) A tebul yom (as one subject to the second grade of uncleanness) cannot, therefore, impart any uncleanness to it.

(40) Lit., ‘it’, after it had been designated as dough offering.

(41) Sc. she might put her hand across the sides of the vessel in which the dough-offering is kept, and so impart uncleanness to the offering.

(42) ‘The liquids that issue from him’ is added in cur. edd., in parenthesis.

(43) The passage from here to the end of the sentence is deleted by Elijah Wilna.

(44) Beth Shammai and Beth Hillel.

(45) If earlier in that day immersion had already been performed.

(46) That terminated a period of uncleanness. The forty as well as the eighty days (cf. supra p. 496, n. 1) are regarded as one long day in the course of which (on the seventh and the fourteenth day respectively) immersion had already been performed.

(47) Sc. the last day of a zibah period which is followed by the first day of the next menstruation period.

(48) The woman and her husband.

(49) As a woman under the obligation of allowing a clean day to pass after a day of uncleanness and as the man who had intercourse with such a woman respectively.

(50) I.e., to any object on which they lie or sit, which in turn conveys uncleanness to foodstuffs and drinks.

(51) Prescribed for a woman and a man who had intercourse in such circumstances (cf. prev. n. but one).

Talmud - Mas. Nidah 72a

BUT BETH Hlllel[1] RULED: THEY ARE EXEMPT FROM THE SACRIFICE.[2] IF SHE PERFORMED IMMERSION ON THE NEXT DAY[3] AND THEN HAD MARITAL INTERCOURSE AND AFTER THAT OBSERVED A DISCHARGE, BETH SHAMMAI RULED: THEY[4] CONVEY UNCLEANNESS[5] TO COUCH AND SEAT[6] AND ARE EXEMPT FROM THE SACRIFICE,[7] BUT BETH HILLEL RULED: SUCH A PERSON[8] IS A GLUTTON,[9] THEY[10] AGREE, HOWEVER, THAT, WHERE A WOMAN OBSERVED A DISCHARGE DURING THE ELEVEN DAYS[11] AND PERFORMED IMMERSION IN THE EVENING AND THEN HAD INTERCOURSE, BOTH[12] CONVEY UNCLEANNESS TO COUCH AND SEAT[13] AND ARE LIABLE TO A SACRIFICE.[14] IF SHE PERFORMED IMMERSION ON THE NEXT DAY[15] AND THEN HAD INTERCOURSE, SUCH AN ACT IS IMPROPER[16] CONDUCT,[17] BUT THE UNCLEANNESS OF THEIR TOUCH AND THEIR LIABILITY TO A SACRIFICE ON ACCOUNT OF THEIR INTERCOURSE ARE IN SUSPENSE.[18] GEMARA. Our Rabbis taught: And both[19] agree[20] that if a woman performs immersion at night after a zibah[21] the immersion is invalid, for both agree that if a woman who observed a discharge during the eleven days[21] and performed immersion in the evening and then had intercourse she conveys uncleanness to couch and seat and both are liable to a sacrifice. They[19] only differ where a discharge occurred on the eleventh day in which case Beth Shammai ruled: They[22] convey uncleanness to couch and seat and are liable to a sacrifice, and Beth Hillel exempt them from the sacrifice. Said Beth Shammai to Beth Hillel: Why should in this respect the eleventh day differ from one of the intermediate of the eleven days; seeing that the former is like the latter in regard to uncleanness, why should it not also be like it in regard to the sacrifice? Beth Hillel answered Beth Shammai: No; if you ruled that a sacrifice is due after a discharge in the intermediate of the eleven days because the following day[23] combines with it in regard to zibah, would you also maintain the same ruling in regard to the eleventh day which[24] is not followed by one that we could combine with it in regard to zibah? Said Beth Shammai to them: You must be consistent;[25] if the one is like the other in regard to uncleanness it should also be like it in regard to the sacrifice, and if it is not like it in regard to the sacrifice it should not be like it in regard to uncleanness either. Said Beth Hillel to them: If we impose upon a man[26] uncleanness in order to restrict the law[27] we cannot on that ground impose upon him the obligation of a sacrifice which might[28] lead to a relaxation of the law.[29] And, furthermore, you stand refuted[30] Out of your own rulings. For, since you rule that if she performed immersion on the next day and having had intercourse she observed a discharge, uncleanness is conveyed to couch and seat and she is exempt from a sacrifice, you also must be consistent.[31] If the one is like the other in regard to uncleanness it should also be like it in regard to the sacrifice and if it is not like it in regard to the sacrifice it should not be like it in regard to uncleanness either. The fact, however, is that they are like one another only where the law is thereby restricted but not where it would thereby be relaxed; well, here also, they are like one another where the law is thereby restricted but not where it is thereby relaxed.

R. Huna stated: Couches and seats[32] which she occupies on the second day[33] are held to be unclean[34] by Beth Shammai even though she performed immersion[35] and even though she observed no discharge.[35] What is the reason? — Because if she had observed a discharge she would have been unclean,[36] she is therefore now[37] also unclean.[34] Said R. Joseph: What new law does he[38] teach us,[39] seeing that we have learnt, IF SHE PERFORMED IMMERSION ON THE NEXT DAY[40] AND THEN HAD MARITAL INTERCOURSE AND AFTER THAT OBSERVED A DISCHARGE, BETH SHAMMAI RULED: THEY[41] CONVEY UNCLEANNESS TO COUCH AND SEAT[42] AND ARE[41] EXEMPT FROM THE SACRIFICE?[43] R. Kahana objected:[44] Where she observed a discharge[45] the case is different.[46] Said R. Joseph: But what matters it that she observed a discharge[47] seeing that it is one of menstruation?[48] — Abaye answered R. Joseph: R. Kahana[49] had this difficulty: Where the woman did observe a discharge one can well see the reason why uncleanness has been imposed since[50] an observation of menstruation had to be declared unclean as a preventive measure against the possibility of an observation of a discharge of zibah, but where one observed no discharge[51] what possibility was there to be provided against? And, furthermore, we have learnt:[52] If a man observed one discharge of zibah, Beth Shammai ruled: He is like a woman who waits a day for a day[53] and Beth Hillel ruled: Like a man who emitted semen,[54]

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(1) Maintaining that a woman who observed a discharge on the eleventh day of her zibah period need not allow a clean day to pass before cleanness can be established.

(2) But, in accordance with a Rabbinical enactment, are subject to uncleanness, as a preventive measure against a discharge during the eleven days (other than the last) in which case the uncleanness is Pentateuchal unless a portion at least of the following day had passed in cleanness.

(3) The day following the zibah period (which is the first day of that of menstruation), a portion of that day having passed in cleanness.

(4) The woman and her husband.

(5) Rabbinically as a preventive measure (cf. p. 498, n. 14).

(6) V. p. 498, n. 11.

(7) Since a portion of the day at least, has passed in cleanness. The discharge observed later in the day has no bearing on zibah since that day belonged to the menstruation period.

(8) Lit., ‘behold this’, the person who is in such a hurry as not to allow even one clean day to pass after a zibah discharge.

(9) Sexually. Such hurry is indecent, since it might lead one to act similarly in the case of a discharge in the intermediate days of the zibah period when a Pentateuchal prohibition might be infringed. The uncleanness of zibah, however, does not apply.

(10) Beth Shammai and Beth Hillel.

(11) Other than the last.

(12) Husband and wife.

(13) Though no discharge appeared on the following day.

(14) Since, as a minor zabah (one who experienced a discharge on one of the days of a zibah period) she must allow one clean day to pass before she can regard herself as clean.

(15) So that a part of the day at least had passed in cleanness.

(16) Lit., ‘bad’.

(17) Because a discharge that might possibly occur later in the day would continue and extend the uncleanness of the previous day and render the immersion invalid.

(18) Until the evening. If later in the day she experienced a discharge their touch conveys the uncleanness of zibah and they are liable to bring the prescribed sacrifice; but if no discharge appeared the touch conveys no uncleanness and no liability to a sacrifice is incurred.

(19) Beth Shammai and Beth Hillel.

(20) Though Beth Hillel hold that, where a discharge appeared on the eleventh day and immersion was performed in the evening, intercourse in that night does not involve the bringing of a sacrifice.

(21) Sc. on any day other than the eleventh.

(22) Husband and wife.

(23) Which is also one of the days of the zibah period.

(24) Being the last of the zibah days and followed by the first of those of menstruation.

(25) Lit., ‘make your measures equal’.

(26) Lit., ‘we brought him’.

(27) Rabbinically.

(28) In case the sacrifice is not obligatory.

(29) Offering on the altar an unconsecrated beast.

(30) Noshekin, lit., ‘you bite’. Golds. suggests the reading mushabin, ‘you are answered’.

(31) Lit., ‘make your measures equal’.

(32) So MS.M. and Rashi. Cur. edd. ‘her couch and seat’.

(33) Sc. the day following one of the intermediate days of the zibah period on which she experienced a discharge.

(34) Rabbinically.

(35) On the second day.

(36) Retrospectively, in accordance with Pentateuchal law, since the discharge on the second day is joined to that on the first to constitute a continuous zibah.

(37) As a preventive measure.

(38) R. Huna.

(39) By his statement.

(40) The day following the eleventh of a zibah period, which is the first of the following menstruation period, and a discharge on which cannot be treated as a continuation of the zibah discharge of the previous day.

(41) Cur. edd. use here the fem. sing.

(42) In cur. edd., the plural is here used.

(43) Now, since a discharge on the twelfth day cannot be treated as a continuation of that on the eleventh (cf. prev. n. but two) and since it does not invalidate the immersion on that day, that discharge, as far as zibah is concerned, might well be regarded as if it had never occurred. The case is consequently similar to that of R. Huna where a discharge on an intermediate day in the zibah period was followed by a day on which none had occurred. As in the Mishnah, where the second discharge occurred on the twelfth, uncleanness has been imposed Rabbinically as a preventive measure against the possibility of a second discharge occurring on the eleventh so also in the case of R. Huna uncleanness must be imposed where no discharge occurred on the second day as a preventive measure against the possibility of a discharge occurring on the second day. What need then was there for R. Huna to make a statement which is implicit in the ruling of our Mishnah?

(44) Against R. Huna.

(45) The case dealt with in our Mishnah though that discharge could not be attributed to zibah.
(46) From one where there was no discharge at all. How then could R. Huna maintain his statement?
(47) The case in our Mishnah.
(48) Which cannot be attributed to zibah; and consequently (cf. p. 501, n. 13) might be regarded (as in the case of R. Huna) as if no discharge had taken place. What then is the basis of R. Kahana's objection?
(49) Who advanced the opinion that ‘where she observed a discharge the case is different’.
(50) The ruling concerning one discharge being likely to be misunderstood for that of another discharge.
(51) And since the absence of a discharge is not likely to be misunderstood for a discharge.
(52) Contrary to the view of R. Huna.
(53) Sc. who must allow one clean day to pass for every day on which she experienced a discharge before she may be regarded as clean. As the uncleanness of the touch of such a woman on the second day after she performed immersion is left in suspense to provide against the possibility of a discharge appearing later in the day, so must also be the uncleanness of such a person if after experiencing the discharge he performed immersion. If, e.g., he touches tithe its uncleanness must remain in suspense in case he observes a second discharge which would continue his former zibah.
(54) Sc. he is clean in regard to tithe immediately after his immersion. At all events it was here stated that, according to Beth Shammai, a woman who waits a day for a day is on a par with a man who experienced a first discharge of zibah.

Talmud - Mas. Nidah 72b

and it was taught:[1] If a man[2] caused the shaking of the [first] observed discharge, Beth Shammai ruled: The man must be held in suspense,[3] and Beth Hillel declared him clean.[4] As to couches and seats occupied between a first and a second discharge, Beth Shammai hold them in suspense and Beth Hillel declare them clean. Now in the first clause it was stated, ‘If a man observed one discharge of zibah, Beth Shammai ruled: He is like a woman who waits a day for a day’, from which it is evident, is it not, that in the case of a woman who waits a day for a day the uncleanness is held in suspense?[5] — Do not read, ‘A woman who waits a day for a day’ but read: Like a man who had intercourse with one who waits a day for a day.[6] But why is it that he[7] does not convey uncleanness to couch and seat,[8] while she does convey uncleanness to them?[9] — About him, since he does not usually bleed, the Rabbis enacted no preventive measure,[10] but in her case, since she does usually bleed, the Rabbis enacted a preventive measure. But[11] why is it that she conveys uncleanness to couch and seat and does not convey uncleanness to the man who had intercourse with her? — To couch and seat which are in common use she conveys uncleanness but to the man who had intercourse, which in such circumstances is an unusual occurrence, no uncleanness is conveyed.

We learnt, IF SHE PERFORMED IMMERSION ON THE NEXT DAY AND THEN HAD INTERCOURSE, SUCH AN ACT IS IMPROPER CONDUCT, BUT THE UNCLEANNESS OF THEIR TOUCH AND THEIR LIABILITY TO A SACRIFICE ON ACCOUNT OF THEIR INTERCOURSE ARE IN SUSPENSE. Does not this represent the general view?[12] — No, it is only the view of Beth Hillel. For it was taught: Said R. Judah to Beth Hillel: Do you then call such an act improper conduct, seeing that this man only intended to have intercourse with a menstruant? — ‘A menstruant’! How could such an idea be entertained? — Rather read: To have intercourse with a zabah. ‘A zabah’! How could this idea be entertained? — Rather read: To have intercourse with one who waits a day for a day.

It was stated: As to the tenth day,[13] R. Johanan ruled, The tenth is on a par with the ninth; as the ninth[14] must be followed[15] by observation[16] so must the tenth[17] be followed by observation.[18] Resh Lakish ruled: The tenth is on a par with the eleventh; as the eleventh[19] need not be followed by observation[20] so the tenth need not be followed by observation.

Some there are who teach this[21] in connection with the following. R. Eleazar b. ‘Azariah said to R. Akiba, Even if you were all day to draw inferences from[22] the repetition of ‘with oil’[23] I would not listen to you, the fact being that the prescribed quantities of half a log of oil for a thanksgiving-offering, and a quarter of a log of wine for a nazirite, and the eleven days that intervene between one menstruation period and the next are the halachah of Moses handed down from Sinai. What is the ‘halachah’ referred to? — R. Johanan replied: The one halachah applicable to the eleventh day.[24] Resh Lakish replied: The halachahs[25] applicable to the eleventh day. ‘R. Johanan replied: The one halachah applicable to the eleventh day’ i.e., the eleventh day[26] only need not be followed[27] by a day of observation[28] but for the other days[29] it[30] does serve as a day of observation. But ‘Resh Lakish replied: The halachahs applicable to the eleventh day’, i.e., neither need the eleventh be followed by one of observation nor does it serve as one of observation for the tenth.[31] But are these[32] halachahs? Are they not in fact derived from Scriptural texts? For it was taught: As it might have been presumed that if a woman observes a discharge on three consecutive days at the beginning of a menstruation period she shall be a zabah,[33] and that the text[34] ‘If a woman have an issue and her issue in her flesh be blood’[35] applies[36] to one who observed a discharge on one day only[37] it was, therefore, explicitly stated,

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(1) Regarding a zab who experienced one discharge.

(2) Who was clean.

(3) Until evening. If the zab experienced a second discharge on that day he becomes a confirmed zab retrospectively and the man who shook the discharge becomes unclean.

(4) As is the case with one who caused the shaking of semen who remains clean.

(5) And if she experiences no second discharge she is clean.

(6) Because R. Huna agrees in the case of the man that, if the intercourse took place on the second day after the woman's immersion, the question of his uncleanness must he held in suspense and that before a second discharge appears he is even Rabbinically free from certain uncleanness.

(7) The man who had the intercourse.

(8) Which he alone occupied.

(9) To couch and seat that have been occupied by her.

(10) That, even where the woman observed no discharge after their intercourse, he shall convey uncleanness to couch and seat.

(11) Since a preventive measure was enacted in her case on account of her tendency to bleed.

(12) Even that of Beth Shammai who accordingly hold that on the day following a discharge during the intermediate days of the zibah period the woman's touch causes only a suspended uncleanness. An objection thus arises against R. Huna who maintained that according to Beth Shammai couch and seat in such circumstances are held to be unclean.

(13) Sc. a first discharge on the tenth day of the zibah period. Such a discharge can never develop into a major zibah (by being repeated on three consecutive days) since the tenth day is followed by one day only of the zibah period (the eleventh) the twelfth being the first of the next menstruation period.

(14) Since a discharge on it may develop (if it is repeated on the tenth and the eleventh) into a major zibah.

(15) Lit., ‘requires’.

(16) On the next day.

(17) If it was the first day in the zibah period on which a discharge appeared.

(18) On the eleventh; though a repeated discharge on the latter day would not constitute a major zibah.

(19) Which is the last day of the zibah period.

(20) According to Beth Hillel the day following being one of menstruation.

(21) The dispute between R. Johanan and Resh Lakish.

(22) Lit., increase, i.e., to regard every Scriptural mention of ‘with oil’, in connection with the thanksgiving-offering, as implying an addition to the quantity specified. Any two additions imply a reduction (cf. Zeb. 82a, 89a).

(23) Lit., ‘with oil, with oil,’ (cf. Rashal and Bah).

(24) Of a zibah period.

(25) Two.

(26) If a discharge was observed on it.

(27) As any other of the eleven days must.

(28) Since the next day is the first of the menstruation period.

(29) The tenth.

(30) The eleventh.

(31) This is the Pentateuchal law. Rabbinically, however, even the eleventh day must be followed by one of observation before the woman may be regarded as clean.

(32) The rules regarding the eleventh day.

(33) Requiring a count of seven days after the third, and a sacrifice at the end of the counting.

(34) Lit., and what do I establish', sc, what is derived from.

(35) Lev. XV, 19, which implies that neither the counting of seven days nor any sacrifice is required.

(36) Cf. prev. n. but one.

(37) Cf. Rashal. Cur. edd. in parenthesis, 'but she who observes on three days at the beginning shall be a zabah'.

Talmud - Mas. Nidah 73a

Not in the time of her menstruation,[1] implying,[2] close to the time of her menstruation.[3] Thus I only know about[4] the three days that immediately follow[5] the period of her menstruation, whence is it deduced that the same restrictions apply where the three days are separated from the period of her menstruation by one day? It was explicitly stated, Or if she have an issue.[6] Thus I only know about an interval of one day, whence is it deduced that the restrictions extend [where the day or the days on which the discharge appeared were] separated [from the menstruation period] by two, three, four, five, six, seven, eight, nine or ten days? You may reason thus: As we find in the case of the fourth day[7] that[8] it is suitable for the counting[9] and[10] is also appropriate as one for zibah[11] so may I also introduce[12] the tenth day[13] since it is both suitable for the prescribed counting[14] and appropriate as one for zibah.[15] But whence is it deduced that the eleventh day[16] is also included?[17] It was explicitly stated, Not in the time of her menstruation.[18] Might I also[19] include[17] the twelfth day?[7] You must admit that this cannot be done.[20] But what reason do you see for including[17] the eleventh and for excluding the twelfth? I include the eleventh since it is suitable for being counted [as one of the seven clean days following the one[21] that is deduced[22] from] 'or if she have an issue'[23] and I exclude the twelfth since it is not suitable for being counted as one of the seven clean days following the one that is deduced from 'or if she have an issue'.[24] But so far I only know that zibah[25] is established after a discharge on[26] three days, whence is it deduced that the restrictions apply to a discharge on two days? It was explicitly stated, Days.[27] Whence the deduction that the same applies also to a discharge on one day? It was explicitly stated, All the days.[27] 'Unclean',[27] implies that she conveys uncleanness to the man who had intercourse with her like a menstruant. 'She',[27] implies that only she conveys uncleanness to the man who had intercourse with her but that the zab conveys no uncleanness to the woman with whom he had intercourse. But is there not an argument [a minori ad majus]: If she, who does not contract uncleanness on account of observation[28] as on account of days,[29] does convey uncleanness to the man who had intercourse with her, is there not more reason that the man who does contract uncleanness on account of observation as on account of days[30] should convey uncleanness to the woman with whom he had intercourse? It was expressly stated, 'she',[27] implying that only she conveys uncleanness to the man who had intercourse with her but that a zab does not convey uncleanness to the woman with whom he had intercourse. But whence is it deduced that he conveys uncleanness to couch and seat? It was expressly stated, As the bed of her menstruation.[31] From this,[31] however, I would only know the case of a man who experienced a discharge on three days, whence the deduction that the restrictions apply to a discharge on two days? It was explicitly stated, 'Days'. But whence the deduction that the same applies to a discharge on one day? It was stated, 'All the days' — And whence do we infer that the woman must count one day to correspond to one day?[32] It was stated, She shall be.[33] As it might have been presumed that she should count seven days after a discharge has appeared on two days only, this being arrived at by the following argument, 'If the man who does not count one day to correspond to one day[34] counts seven days after a discharge on two days, how much more reason is there that she who does count one day to correspond to one day[32] should count seven days after a discharge on two days', it was explicitly stated, She shall be,[33] implying that she counts one day only. It is thus evident,[35] is it not, that these[36] are derived from Scriptural texts?[37] — According to R. Akiba they are derived from

Scriptural texts, but according to R. Eleazar b. ‘Azariah they are traditional halachahs.

Said R. Shemaiah[38] to R. Abba:[39] Might it be suggested that on account of a discharge in the day time[40] a woman is a zabah, and that on account of one in the night[41] she is a menstruant? — For your sake,[42] the other replied, Scripture stated, By[43] the time of her menstruation,[44] implying[45] a discharge close to the time of her menstruation. Now which is a discharge that is close to the time of her menstruation? One that occurred in the night;[46] and yet Scripture called her a zabah.[47]

The Tanna debe Eliyahu[48] [teaches]: Whoever repeats[49] halachahs every day may rest assured that he will be a denizen of the world to come, for it is said, Halikoth — the world is his;[50] read not halikoth[51] but halakoth.[52]

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(1) Lev. XV, 25. E.V., ‘of her impurity’.

(2) Cur. edd. in parenthesis, ‘beyond the time of her menstruation’.

(3) Sc. the three consecutive days on which a discharge appears and which subject the woman to the restrictions of a major zabah must be close to (not within) the seven days of the menstruation period, viz., the first three days of the period of zibah.

(4) Lit., ‘and I have not but’.

(5) Lit., ‘near to’.

(6) Lev. XV, 25.

(7) After the menstruation period.

(8) Where the discharge appeared on the first three days following menstruation and then ceased.

(9) Of the prescribed seven days beginning with it.

(10) As has just been deduced from Lev. XV, 25: Or if she have an issue.

(11) If the discharge first appeared on the second day following menstruation and was repeated on the third and fourth.

(12) Under the zibah restrictions.

(13) And, much more so, the other days enumerated.

(14) Where the discharge appeared on the first three days after menstruation.

(15) If the discharge occurred on it as well as on the preceding two days.

(16) Which, if the discharge appeared on the first three days, cannot be counted among the seven days prescribed.

(17) In the restrictions, so that if a discharge appeared on it and on the preceding two days zibah is established.

(18) Lev. XV, 25. E.V. ‘of her impurity’.

(19) As a deduction from the text just cited.

(20) A discharge on the twelfth being regarded as one of menstruation that cannot be added to the zibah.

(21) The fourth day.

(22) Supra.

(23) The seven days following a discharge on the fourth terminating on the eleventh.

(24) It being the first day of menstruation.

(25) That conveys uncleanness to couch and seat.

(26) Lit., ‘and I have not but’.

(27) Lev. XV, 25.

(28) If, e.g., she experienced three discharges on one day she is not regarded as a major zabah (v. foll. n.) to incur the obligation of a sacrifice.

(29) A discharge that appeared on three consecutive days confirms a woman as a major zabah (cf. prev. n.).

(30) A man is confirmed as a zab irrespective of whether he observed three discharges on three consecutive days respectively or all the three discharges on the same day (cf. B.K. 24a).

(31) Lev. XV, 16.

(32) Sc. if she experienced a discharge on one day she must allow one clean day to pass before she may be regarded as clean.

(33) Lit., ‘shall be to her’, Lev. XV, 25.

(34) After one discharge on one day he performs immersion in the evening and resumes his cleanness.

(35) The argument begun on 72b ad fin. is now resumed and concluded.

(36) The laws regarding the intervals between the menstruation periods, viz., that each interval extends over eleven days; that a discharge on three consecutive days of these eleven subjects the woman to the restrictions of a major zabah; that after a discharge on only one or two of these days no more than one clean day need be allowed to pass; that after the eleven days’ period the menstruation period begins, and that a discharge on the first of these causes the woman to be unclean on that day and on the following six days.

(37) How then could it be stated supra that these laws were halachahs?

(38) Var. lec., Isaiah (Yalkut).

(39) Var. lec., Raba (MS.M.).

(40) Since the text from which the laws of zibah are derived (Lev. XV, 25) speaks of days.

(41) When (cf. prev. n.) she cannot be regarded a zabah.

(42) Sc. in order to avert the possibility of his deduction.

(43) ‘Al, E.V. ‘beyond’.

(44) Lev. XV, 25. E.V. ‘her impurity’.

(45) By the use of ‘al (‘by’).

(46) Since the menstruation period comes to an end at the sunset of the seventh day.

(47) The verb rendered by ‘have an issue’ (Lev. XV, 25) being derived from the same root as zabah.

(48) A treatise bearing this name is mentioned in Keth., (Sonc. ed.,) p. 680, n. 2

(49) Or ‘learns’.

(50) Hab. III, 6. E.V. ‘his goings are of old’.

(51) ‘Goings out’.

(52) Or ‘halachahs’ (the Mishnah, Baraitha, and the oral laws that were handed down through Moses from Sinai). If a man studies these ‘halachahs, the world (to come) is his’.

Mishna - Mas. Makshirin Chapter 1

MISHNAH 1. ANY LIQUID[1] WHICH WAS DESIRED AT THE BEGINNING[2] THOUGH IT WAS NOT DESIRED AT THE END, OR WHICH WAS DESIRED AT THE END THOUGH IT WAS NOT DESIRED AT THE BEGINNING, COMES UNDER THE LAW OF ‘IF WATER BE PUT’.[3] UNCLEAN LIQUIDS RENDER UNCLEAN[4] WHETHER [THEIR ACTION] IS DESIRED OR IS NOT DESIRED.

MISHNAH 2. IF ONE SHOOK A TREE IN ORDER TO CAUSE FOOD OR AN UNCLEAN THING[5] TO DROP DOWN FROM IT, [THE RAIN WATER DROPPING DOWN FROM IT] DOES NOT COME[6] UNDER THE LAW OF ‘IF WATER BE PUT’. IF [HE SHOOK THE TREE] IN ORDER TO CAUSE LIQUIDS TO DROP DOWN FROM IT, BETH SHAMMAI SAY: BOTH [THE LIQUIDS] THAT DROP DOWN AND [THE LIQUIDS] THAT REMAIN[7] [ON THE TREE] COME UNDER THE LAW OF ‘IF WATER BE PUT’. BUT BETH HILLEL SAY: [THE LIQUIDS] THAT DROP DOWN COME UNDER THE LAW OF ‘IF WATER BE PUT’, BUT [THE LIQUIDS] THAT REMAIN [ON THE TREE] DO NOT COME UNDER THE LAW OF ‘IF WATER BE PUT’, BECAUSE HIS INTENTION WAS THAT [THE LIQUIDS] SHOULD DROP DOWN FROM ALL THE TREE.[8]

MISHNAH 3. IF ONE SHOOK A TREE[9] AND IT FELL[10] ON ANOTHER TREE, OR A BRANCH AND IT FELL ON ANOTHER BRANCH, AND UNDER THEM WERE SEEDS OR VEGETABLES [STILL] JOINED TO THE GROUND, BETH SHAMMAI SAY: THIS COMES UNDER THE LAW OF ‘IF WATER BE PUT’. BUT BETH HILLEL SAY: THIS DOES NOT COME[11] UNDER THE LAW OF ‘IF WATER BE PUT’. R. JOSHUA SAID[12] IN THE NAME OF ABBA JOSE CHOLIKOFRI,[13] A CITIZEN OF TIBEON:[14] MARVEL AT THYSELF IF THERE IS ANYTHING IN THE TORAH ABOUT A LIQUID CAUSING SUSCEPTIBILITY TO UNCLEANNESS EXCEPT ONE PUT IT ON WITH INTENTION, FOR IT IS SAID: ‘IF WATER BE PUT UPON THE SEED’.[15]

MISHNAH 4. IF ONE SHOOK[16] A BUNDLE OF VEGETABLES AND [WATER] DROPPED DOWN FROM THE UPPER [SIDE] TO THE LOWER [SIDE], BETH SHAMMAI SAY: THIS COMES[17] UNDER THE LAW OF ‘IF WATER BE PUT’. BUT BETH HILLEL SAY: THIS DOES NOT COME[18] UNDER THE LAW OF ‘IF WATER BE PUT’. BETH HILLEL SAID TO BETH SHAMMAI: IF ONE SHAKES A STALK, DO WE APPREHEND LEST WATER DROPS FROM ONE LEAF ON THE OTHER LEAF?[19] BETH SHAMMAI SAID TO THEM: A STALK IS ONLY ONE, BUT A BUNDLE HAS MANY STALKS.[20] BETH HILLEL SAID TO THEM: LO, IF ONE LIFTED[21] A SACK FULL OF FRUIT AND PUT IT BESIDE THE RIVER,[22] DO WE APPREHEND LEST WATER DROPS FROM THE UPPER [SIDE] TO THE LOWER [SIDE]?[23] IF, HOWEVER, HE LIFTED TWO SACKS AND PLACED THEM ONE UPON THE OTHER, THE LOWER [SACK] COMES[24] UNDER THE LAW OF ‘IF WATER BE PUT’. R. JOSE SAYS: THE LOWER [SACK] ALSO REMAINS INSUSCEPTIBLE TO UNCLEANNESS.

MISHNAH 5. IF ONE RUBBED[25] A LEAK OR PRESSED HIS HAIR[26] WITH HIS GARMENT, R. JOSE SAYS: THE LIQUID WHICH CAME OUT COMES[27] UNDER THE LAW OF ‘IF WATER BE PUT’, BUT THE LIQUID THAT REMAINED DOES NOT COME UNDER THE LAW OF ‘IF WATER BE PUT’, BECAUSE HIS INTENTION WAS THAT THE LIQUID SHOULD COME OUT OF ALL OF IT.[28]

MISHNAH 6. IF ONE BLEW ON LENTILS IN ORDER TO TRY WHETHER THEY WERE GOOD,[29] R. SIMEON SAYS: THIS DOES NOT COME[30] UNDER THE LAW OF ‘IF WATER BE PUT’. BUT[31] THE SAGES SAY: THIS DOES COME[32] UNDER THE LAW OF ‘IF WATER BE PUT’. IF ONE ATE SESAME WITH HIS FINGER[33] AND LIQUID CAME ON HIS HAND, R.

SIMEON SAYS: THIS DOES NOT COME[34] UNDER THE LAW OF ‘IF WATER BE PUT’. BUT THE SAGES SAY: THIS DOES COME[35] UNDER THE LAW OF ‘IF WATER BE PUT’. IF ONE HID HIS FRUIT IN WATER FROM THIEVES, IT DOES NOT COME[36] UNDER THE LAW OF ‘IF WATER BE PUT’. ONCE IT HAPPENED THAT THE MEN OF JERUSALEM HID THEIR FIG CAKES IN WATER FROM THE ROBBERS,[37] AND THE SAGES DECLARED THAT THEY WERE NOT SUSCEPTIBLE TO UNCLEANNESS. IF ONE PUT HIS FRUIT IN THE STREAM OF A RIVER TO MAKE IT COME DOWN WITH HIM, IT DOES NOT COME UNDER THE LAW OF ‘IF WATER BE PUT’.

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(1) Any one in the list given infra VI, 4-5.

(2) The moistening of the produce by the liquid first pleased the owner, but afterwards displeased him; or, on the contrary, it first displeased him and then pleased him. According to other commentators the meaning is that the owner was pleased with the beginning of the flow of the liquid for some other purpose, but was displeased when in the end the liquid settled on the produce, or the reverse.

(3) Lev. XI, 38; i.e., such a liquid when it has moistened the produce renders it capable of contracting an uncleanness by the touch of an unclean thing; cf. Introduction.

(4) When they moisten produce, they render it susceptible to uncleanness and at the same time make it unclean by their touch.

(5) Such as a piece from a dead creature left in the branches by a bird.

(6) If the rain water fell on produce, it does not render it capable of contracting an impurity, because he did not intend to shake down the rain water.

(7) If what remains in the tree afterwards falls on produce. His intention to bring down the rain water extends also to what remains in the tree.

(8) And since he left some behind in the tree, it follows that he did not attach any value to this remainder.

(9) To bring down its fruit.

(10) And the fruit fell from the second tree or from the second branch on to the ground into seed or vegetables which had water on them.

(11) Because he did not intend them to fall on the other tree or on the other branch. The text and the interpretation of this passage are very uncertain. The explanation given here follows Maimonides and Bertinoro.

(12) In support of Beth Hillel's opinion.

(13) So named after some unknown locality.

(14) A town in lower Galilee.

(15) And since in this case it was not put on with intention, it cannot render susceptible.

(16) To shake off some water.

(17) Because the water fell on the lower side by the owner's deliberate act.

(18) His intention was to shake off the water altogether, and not to wet the lower side.

(19) And render it susceptible to uncleanness. But if no susceptibility is caused in the case of a stalk, why should it be caused in the case of a bundle?

(20) Therefore in the case of a bundle it is like dropping liquid from one fruit to another fruit.

(21) From the river in which it had fallen accidentally.

(22) To let the water run out of the sack.

(23) No, because the fruit in the lower side of the sack does not become susceptible. Similarly, the lower stalk in a bundle of vegetables should not become susceptible by the water coming down upon it from the upper stalks of the same bundle.

(24) Because by placing one sack upon the other he must have intended that water should flow from the upper sack upon the lower sack.

(25) To remove its moisture.

(26) Which had become wet by rain.

(27) It renders produce susceptible to uncleanness, because it came out by his deliberate act.

(28) In accordance with the opinion of Beth Hillel, supra p. 470. n. 1.

(29) And his spittle fell upon the lentils and moistened them.

(30) The moistening was done without intention.

(31) Some texts omit this sentence.

(32) His blowing was done with intention, and the moistening is the direct act of the blowing.

(33) By wetting his finger so as to pick up easily the grains of the sesame, and thus transferring moisture to the sesames on the palm of his hand.

(34) His intention was only to wet his finger but not the palm.

(35) The moisture on the palm is a direct consequence of his wetting the finger.

(36) It was not his intention to moisten the fruit.

(37) סיקרין, Latin sicarii, armed terrorists who infested Jerusalem in the last days of the Second Temple. Another reading is סיקריקין, confiscators of property; cf. Bik. I, 2; II, 3; Git. 55b.

Mishna - Mas. Makshirin Chapter 2

MISHNAH 1. THE EXUDATION OF HOUSES, OF CISTERNS, OF DITCHES AND CAVERNS[1] DOES NOT CAUSE[2] SUSCEPTIBILITY TO UNCLEANNESS. A MAN'S PERSPIRATION DOES NOT CAUSE SUSCEPTIBILITY TO UNCLEANNESS. IF A MAN DRANK UNCLEAN WATER AND PERSPIRED, HIS PERSPIRATION DOES NOT CAUSE[3] SUSCEPTIBILITY TO UNCLEANNESS. IF HE ENTERED[4] INTO DRAWN WATER AND PERSPIRED, HIS PERSPIRATION CAUSES[5] SUSCEPTIBILITY TO UNCLEANNESS. IF HE DRIED HIMSELF AND THEN PERSPIRED, HIS PERSPIRATION DOES NOT CAUSE SUSCEPTIBILITY TO UNCLEANNESS.

MISHNAH 2. THE EXUDATION OF AN UNCLEAN BATH[6] IS UNCLEAN,[7] BUT THAT OF A CLEAN BATH[8] COMES[9] UNDER THE LAW OF ‘IF WATER BE PUT’. IF THERE WAS A POOL IN A HOUSE WHICH CAUSED THE HOUSE TO EXUDE AND THE POOL WAS UNCLEAN, THE EXUDATION OF ALL THE HOUSE WHICH WAS CAUSED BY THE POOL[10] IS UNCLEAN.

MISHNAH 3. IF THERE WERE TWO POOLS, THE ONE CLEAN AND THE OTHER UNCLEAN, WHAT EXUDES NEAR THE UNCLEAN POOL IS UNCLEAN, AND WHAT EXUDES NEAR THE CLEAN POOL IS CLEAN, AND WHAT IS AT EQUAL DISTANCE [FROM BOTH POOLS] IS UNCLEAN.[11] IF[12] UNCLEAN IRON[13] WAS SMELTED WITH CLEAN IRON AND THE GREATER PART [CAME] FROM THE UNCLEAN IRON, IT IS UNCLEAN; IF THE GREATER PART [CAME] FROM THE CLEAN IRON, IT IS CLEAN; BUT IF THERE WAS HALF OF EACH, IT IS UNCLEAN. IF IN POTS WHICH ISRAELITES AND HEATHENS USED FOR PASSING WATER THE GREATER PART [OF THE CONTENTS CONSISTED] OF UNCLEAN [URINE],[14] IT IS UNCLEAN; IF THE GREATER PART [OF THE CONTENTS CONSISTED] OF CLEAN [URINE],[15] IT IS CLEAN; BUT IF THERE WAS HALF OF EACH, IT IS UNCLEAN. IF IN SLOP-WATER, IN WHICH RAIN HAD FALLEN, THE GREATER PART CONSISTED OF THE UNCLEAN WATER,[16] IT IS UNCLEAN; IF THE GREATER PART CONSISTED OF CLEAN WATER,[17] IT IS CLEAN; BUT IF THERE WAS HALF OF EACH, IT IS UNCLEAN. WHEN [IS THIS THE CASE]?[18] WHEN THE SLOP-WATER CAME FIRST; BUT IF THE RAIN WATER CAME BEFORE [THE SLOP-WATER]. IT IS UNCLEAN[19] WHATEVER THE QUANTITY [OF THE RAIN WATER].

MISHNAH 4. IF ONE SECURED HIS ROOF OR WASHED HIS GARMENT[20] AND RAIN CAME DOWN UPON IT,[21] IF THE GREATER PART[22] CONSISTED OF THE UNCLEAN WATER, IT IS UNCLEAN; IF THE GREATER PART CONSISTED OF THE CLEAN WATER, IT IS CLEAN; BUT IF THERE WAS HALF OF EACH, IT IS UNCLEAN. R. JUDAH SAYS: IF THE DRIPPING INCREASED,[23] [IT IS CLEAN].

MISHNAH 5. IF IN A CITY IN WHICH ISRAELITES AND HEATHENS DWELT TOGETHER THERE WAS A BATH WORKING[24] ON THE SABBATH, IF THE MAJORITY [OF

THE INHABITANTS] WERE HEATHENS, ONE MAY BATHE THEREIN IMMEDIATELY[25] [AFTER THE CONCLUSION OF THE SABBATH]; IF THE MAJORITY WERE ISRAELITES, ONE MUST WAIT UNTIL THE WATER CAN BE HEATED;[26] IF THEY WERE HALF AND HALF, ONE MUST [ALSO] WAIT UNTIL THE WATER CAN BE HEATED. R. JUDAH SAYS: IF THE BATH-BASIN WAS SMALL AND THERE WAS THERE A [HEATHEN] AUTHORITY, ONE MAY BATHE THEREIN IMMEDIATELY[27] [AFTER THE CONCLUSION OF THE SABBATH].

MISHNAH 6. IF ONE FOUND VEGETABLES SOLD THEREIN [ON THE SABBATH]. IF THE MAJORITY [OF THE INHABITANTS] WERE HEATHENS, ONE MAY BUY THEREOF IMMEDIATELY[28] [AFTER THE CONCLUSION OF THE SABBATH]; IF THE MAJORITY WERE ISRAELITES, ONE MUST WAIT UNTIL [VEGETABLES] CAN ARRIVE FROM THE NEAREST PLACE;[29] IF THEY WERE HALF AND HALF, ONE MUST [ALSO] WAIT UNTIL [VEGETABLES] CAN ARRIVE FROM THE NEAREST PLACE; BUT IF THERE WAS THERE A [HEATHEN] AUTHORITY, ONE MAY BUY IMMEDIATELY [AFTER THE CONCLUSION OF THE SABBATH].

MISHNAH 7. IF AN ABANDONED CHILD WAS FOUND THERE, IF THE MAJORITY [OF THE INHABITANTS] WERE HEATHENS, IT MAY BE DEEMED A HEATHEN;[30] IF THE MAJORITY WERE ISRAELITES, IT MUST BE DEEMED AN ISRAELITE; IF THEY WERE HALF AND HALF, IT MUST [ALSO] BE DEEMED AN ISRAELITE. R. JUDAH SAYS: WE MUST CONSIDER WHO FORM THE MAJORITY OF THOSE WHO ABANDON THEIR CHILDREN.[31]

MISHNAH 8. IF ONE FOUND THERE LOST PROPERTY, IF THE MAJORITY [OF THE INHABITANTS] WERE HEATHENS, HE NEED NOT PROCLAIM[32] IT; IF THE MAJORITY WERE ISRAELITES, HE MUST PROCLAIM IT; IF THEY WERE HALF AND HALF, HE MUST [ALSO] PROCLAIM IT. IF ONE FOUND BREAD THERE, WE MUST CONSIDER WHO FORM THE MAJORITY OF THE BAKERS.[33] IF IT WAS BREAD OF PURE FLOUR,[34] WE MUST CONSIDER WHO FORM THE MAJORITY OF THOSE WHO EAT BREAD OF PURE FLOUR. R. JUDAH SAYS: IF IT WAS COARSE BREAD, WE MUST CONSIDER WHO FORM THE MAJORITY OF THOSE WHO EAT COARSE BREAD.[35]

MISHNAH 9. IF ONE FOUND MEAT THERE, WE MUST CONSIDER WHO FORM THE MAJORITY OF THE BUTCHERS. IF IT WAS COOKED MEAT, WE MUST CONSIDER WHO FORM THE MAJORITY OF THOSE WHO EAT COOKED MEAT.

MISHNAH 10. IF ONE FOUND FRUIT BY THE WAYSIDE,[36] IF THE MAJORITY [OF THE INHABITANTS] GATHERED FRUIT FOR THEIR HOMES,[37] HE IS ABSOLVED [FROM TITHES];[38] IF [THE MAJORITY GATHERED IT] FOR SELLING IN THE MARKET,[39] HE IS LIABLE [TO TITHES]; BUT IF THEY WERE HALF AND HALF, THE FRUIT IS DEMAI.[40] IF THERE WAS A GRANARY INTO WHICH BOTH ISRAELITES AND HEATHENS LAID IN THEIR PRODUCE, IF THE MAJORITY WERE HEATHENS, [THE PRODUCE MUST BE CONSIDERED] CERTAINLY UNTITHED;[41] IF THE MAJORITY WERE ISRAELITES, [IT MUST BE CONSIDERED] DEMAI;[42] IF THEY WERE HALF AND HALF, [IT MUST BE CONSIDERED] CERTAINLY UNTITHED. THIS IS THE OPINION OF R. MEIR. BUT THE SAGES SAY: EVEN IF THEY WERE ALL HEATHENS, AND ONLY ONE ISRAELITE LAID HIS PRODUCE INTO THE GRANARY, [IT MUST BE CONSIDERED] DEMAI.[43]

MISHNAH 11. IF THE FRUIT OF THE SECOND YEAR[44] EXCEEDED IN QUANTITY THE FRUIT OF THE THIRD YEAR, OR THE FRUIT OF THE THIRD YEAR EXCEEDED THE FRUIT OF THE FOURTH YEAR, OR THE FRUIT OF THE FOURTH YEAR EXCEEDED THE

FRUIT OF THE FIFTH YEAR,[45] OR THE FRUIT OF THE FIFTH YEAR EXCEEDED THE FRUIT OF THE SIXTH YEAR, OR THE FRUIT OF THE SIXTH YEAR EXCEEDED THE FRUIT OF THE SEVENTH YEAR,[46] OR THE FRUIT OF THE SEVENTH YEAR EXCEEDED THE FRUIT OF THE YEAR AFTER THE CONCLUSION OF THE SEVENTH YEAR,[47] WE MUST CONSIDER WHAT FORMS THE GREATER PART; IF THEY ARE HALF AND HALF, WE MUST DECIDE ACCORDING TO THE MORE STRINGENT ALTERNATIVE.[48]

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(1) From their walls. Cf. Mik. I, 4.

(2) Exudation and perspiration do not come within the category of liquids enumerated infra VI, 4ff; cf. ibid. 7.

(3) The water he drank was digested, and the perspiration is not the same as the water.

(4) Even without intention.

(5) Because the perspiration mingled with the water which adhered to his body, and which was drawn by a deliberate human act. But if he had entered without intention into a pool of water which had been filled automatically without human agency and perspired, his perspiration would not cause susceptibility, because there was no deliberate human act in connection with that water.

(6) A bath containing unclean drawn water; cf. Mik. Introduction.

(7) When it touches food it renders it both susceptible and unclean.

(8) Consisting of a spring or a pool of rain water.

(9) It renders produce susceptible if, namely, the exudation is acceptable to the owner.

(10) But what is not caused by the pool is like the exudation of houses spoken of in Mishnah 1.

(11) There being a doubt whether it came from the clean pool or from the unclean pool, we must adopt the stringent alternative.

(12) Cf. Kelim XI, 4. From here to the end of the chapter a series of cases is given to illustrate the principle that where is a doubt we must adopt the more stringent alternative.

(13) Derived from broken vessels which were unclean.

(14) Viz., of the heathens, whose urine is unclean according to a rabbinic enactment, like the urine of persons with a running issue (זב); cf. Shab. 17b.

(15) Of the Israelites.

(16) The presumption is that the slops are unclean.

(17) The rain water.

(18) That the slop-water is neutralized by the larger quantity of rain water.

(19) The unclean slop-water when poured into rain water rendered it unclean.

(20) With unclean slop-water.

(21) On the dripping roof or on the dripping garment.

(22) Of the mixture of dripping water.

(23) In frequency, though not in volume. The increased frequency proves that the rain water is more than the dirty water.

(24) And heated on the Sabbath for bathing. It is forbidden to make use of the work done on the Sabbath by a non-Jew for a Jew.

(25) The bath was heated on the Sabbath for the majority who are non-Jews.

(26) After the conclusion of the Sabbath, when one may presume that the bath was not heated for the Jews on the Sabbath.

(27) It is assumed that it was heated on the Sabbath for the non-Jewish authority for whom a bath must ever be ready.

(28) They were cut and brought into the city on the Sabbath for the non-Jewish majority.

(29) Where vegetables are grown for the market.

(30) And may be given food forbidden to an Israelite.

(31) And these as a rule are non-Jews.

(32) So that the owner may report himself and recover his lost property; cf. B.M. II, 1. In the case of the lost property of a heathen one is not bound to make an effort to trace its owner, because heathens do not restore lost property to its owner.

(33) If the majority are heathens, the bread is forbidden by a rabbinic enactment; cf. Shab. 17b.

(34) Lit., ‘of dough’.

(35) This was the kind of bread generally in use in the place of R. Judah (Tosaf. Yom Tob).

(36) On the way from the field to the city.

(37) In such a case the fruit does not become liable to tithes till it is brought into the house.

(38) And also from setting apart the priestly terumah. But only if he wants to make of the fruit a light meal; cf. Ma'as. I, 5.

(39) In such a case the produce becomes liable to tithes and terumah as soon as it is gathered in the field.

(40) ‘Doubtful’, like the produce of an ‘am ha-arez, who is suspected of failing to tithe his produce; cf. Demai, Introduction. In such a case the produce is liable to tithes only, but not to terumah.

(41) This Tanna being of the opinion that the produce grown on the soil of a heathen is liable to tithes.

(42) Subject only to the rules regulating the produce of an ‘am ha-arez, because it is assumed that there is an ‘am ha-arez among the Israelites who stores his produce in the granary.

(43) The Sages hold that the produce grown on the soil of a heathen is exempt from tithes and consequently, unless the granary is used also by at least one Israelite, there is no liability to tithes.

(44) Of the Sabbatical cycle (שמיטה); cf. Lev. XXV, 2ff. In the first, second, fourth and fifth years of the cycle. produce was liable to the First Tithe given to the Levite, and to the Second Tithe which had to be consumed, itself or its value, in Jerusalem (cf. Deut. XIV, 23ff). In the third and sixth years of the cycle, produce was liable to the First Tithe of the Levite and to the Third Tithe which was given to the poor; cf. Demai, Introduction 2 (3). In the case of a mixture of the produce of the different years enumerated in the text, the question arises whether the mixture is liable, beside to the First Tithe, also to the Second Tithe or to the Third Tithe or to both.

(45) Some texts omit this clause, since the fourth and fifth years are alike in their obligation respecting tithes.

(46) The Sabbatical year, when produce was subject to the special regulations set out in Tractate Shebi'ith. Seventh year produce was exempt from all tithes.

(47) Viz., the first year of the new Sabbatical cycle.

(48) Viz., according to the rules governing both years. In the case of a mixture of the produce of the second and third years and of the fifth and sixth years, beside First Tithe, Second Tithe must be separated and its value given to the poor to be consumed in Jerusalem. In the case of a mixture of produce of the sixth and seventh years, First and Third Tithes must be given, and in a mixture of the seventh and first years. First and Second Tithes must be given, and in both these cases the regulations of seventh year produce must be observed.

Mishna - Mas. Makshirin Chapter 3

MISHNAH 1. IF A SACK FULL OF FRUIT WAS PUT BY THE SIDE OF A RIVER OR BY THE SIDE OF THE MOUTH OF A CISTERN[1] OR ON THE STEPS OF A CAVERN, AND [THE FRUIT] ABSORBED WATER, ALL [THE FRUIT] WHICH ABSORBED THE WATER COMES[2] UNDER THE LAW OF ‘IF WATER BE PUT’. R. JUDAH SAYS: ALL [THE FRUIT] WHICH FACED[3] THE WATER COMES UNDER THE LAW OF ‘IF WATER BE PUT’, BUT ALL [THE FRUIT] WHICH DID NOT FACE THE WATER DOES NOT COME UNDER THE LAW OF ‘IF WATER BE PUT’.

MISHNAH 2. IF A JAR[4] FULL OF FRUIT WAS PUT INTO LIQUIDS, OR IF A JAR FULL OF LIQUIDS WAS PUT INTO FRUIT AND [THE FRUIT] ABSORBED WATER, ALL [THE FRUIT] WHICH ABSORBED THE WATER COMES UNDER THE LAW OF ‘IF WATER BE PUT’. OF WHAT LIQUIDS HAVE THEY SAID IT? OF WATER, WINE AND VINEGAR;[5] BUT ALL THE OTHER LIQUIDS[6] DO NOT CAUSE SUSCEPTIBILITY TO UNCLEANNESS. R. NEHEMIAH DECLARES PULSE INSUSCEPTIBLE,[7] BECAUSE PULSE DOES NOT ABSORB [LIQUIDS].

MISHNAH 3. IF[8] ONE DREW OFF[9] HOT BREAD[10] AND PUT IT UPON THE MOUTH OF A JAR OF WINE, R. MEIR DECLARES IT SUSCEPTIBLE TO UNCLEANNESS;[11] BUT R. JUDAH DECLARES IT INSUSCEPTIBLE.[11] R. JOSE DECLARES IT INSUSCEPTIBLE[11] IN THE CASE OF WHEATEN BREAD AND SUSCEPTIBLE IN THE CASE OF BARLEY BREAD, BECAUSE BARLEY ABSORBS [LIQUIDS].

MISHNAH 4. IF ONE SPRINKLED HIS HOUSE[12] [WITH WATER] AND PUT WHEAT

THEREIN AND IT BECAME MOIST, IF [THE MOISTURE CAME] FROM THE WATER, IT COMES UNDER THE LAW OF ‘IF WATER BE PUT’; BUT IF [THE MOISTURE CAME] FROM THE STONY FLOOR, IT DOES NOT COME[13] UNDER THE LAW OF ‘IF WATER BE PUT’. IF ONE WASHED HIS GARMENT IN A TUB AND PUT WHEAT THEREIN[14] AND IT BECAME MOIST, IF [THE MOISTURE CAME] FROM THE WATER,[15] IT COMES UNDER THE LAW OF ‘IF WATER BE PUT’; BUT IF [THE MOISTURE CAME] OF ITSELF,[16] IT DOES NOT COME UNDER THE LAW OF ‘IF WATER BE PUT’. IF ONE MOISTENED [PRODUCE] WITH SAND, THIS COMES[17] UNDER THE LAW OF ‘IF WATER BE PUT’. IT HAPPENED WITH THE MEN OF MAHOZ[18] THAT THEY USED TO MOISTEN [THEIR PRODUCE] WITH SAND, AND THE SAGES SAID TO THEM: IF YOU HAVE ALWAYS DONE THUS,[19] YOU HAVE NEVER PREPARED YOUR FOOD IN PURITY.[20]

MISHNAH 5. IF ONE MOISTENED [PRODUCE] WITH DRYING CLAY, R. SIMEON SAYS: IF THERE WAS STILL IN IT DRIPPING LIQUID, IT COMES UNDER THE LAW OF ‘IF WATER BE PUT’; BUT IF THERE WAS NOT, IT DOES NOT COME UNDER THE LAW OF ‘IF WATER BE PUT’. IF ONE SPRINKLED[21] HIS THRESHING-FLOOR WITH WATER, HE NEED NOT APPREHEND LEST WHEAT BE PUT THERE AND IT BECOME MOIST.[22] IF ONE GATHERED GRASS WITH THE DEW STILL ON IT IN ORDER TO MOISTEN WHEAT THEREWITH,[23] IT DOES NOT COME UNDER THE LAW OF ‘IF WATER BE PUT’; BUT IF HIS INTENTION WAS FOR THIS PURPOSE,[24] IT DOES COME UNDER THE LAW OF ‘IF WATER BE PUT’. IF ONE CARRIED WHEAT TO BE MILLED AND RAIN CAME DOWN UPON IT AND HE WAS GLAD OF IT, IT COMES UNDER THE LAW OF ‘IF WATER BE PUT’. R. JUDAH SAID: ONE CANNOT HELP BEING GLAD OF IT;[25] NAY, [IT COMES UNDER THE LAW] ONLY IF HE STOPPED [ON HIS WAY].[26]

MISHNAH 6. IF HIS OLIVES WERE PUT ON THE ROOF AND RAIN CAME DOWN UPON THEM AND HE WAS GLAD OF IT, IT COMES UNDER THE LAW OF ‘IF WATER BE PUT’. R. JUDAH SAYS: ONE CANNOT HELP BEING GLAD; NAY, [IT COMES UNDER THE LAW] ONLY IF HE STOPPED UP THE RAIN-PIPE[27] OR IF HE SHOOK [THE OLIVES] THEREIN.

MISHNAH 7. IF ASS-DRIVERS WERE CROSSING A RIVER AND THEIR SACKS [FILLED WITH PRODUCE] FELL INTO THE WATER AND THEY WERE GLAD OF IT, IT COMES UNDER THE LAW OF ‘IF WATER BE PUT’. R. JUDAH SAYS: ONE CANNOT HELP BEING GLAD OF IT; NAY, [IT COMES UNDER THE LAW] ONLY IF THEY TURNED OVER [THE SACKS].[28] IF ONE'S FEET WERE FULL OF CLAY (LIKEWISE, TOO, THE FEET OF HIS BEAST) AND HE CROSSED A RIVER AND HE WAS GLAD OF IT,[29] THIS COMES UNDER THE LAW OF ‘IF WATER BE PUT’.[30] R. JUDAH SAYS: ONE CANNOT HELP BEING GLAD OF IT; NAY, [IT COMES UNDER THE LAW] ONLY IF HE STOPPED AND RINSED[31] [THE FEET]. BUT IN THE CASE OF A MAN[32] OR AN UNCLEAN BEAST[33] IT ALWAYS CAUSES[34] SUSCEPTIBILITY TO UNCLEANNESS.

MISHNAH 8. IF ONE LOWERED INTO WATER WHEELS OR GEAR OF OXEN AT THE TIME OF THE EAST WIND[35] IN ORDER THAT THEY MIGHT BECOME TIGHTENED, THIS COMES[36] UNDER THE LAW OF ‘IF WATER BE PUT’. IF ONE TOOK DOWN A BEAST TO DRINK, THE WATER WHICH CAME UP ON ITS MOUTH COMES[37] UNDER THE LAW OF ‘IF WATER BE PUT’, BUT THAT WHICH CAME UP ON ITS FEET DOES NOT COME[38] UNDER THE LAW OF ‘IF WATER BE PUT’. IF, HOWEVER, HE INTENDED THAT ITS FEET SHOULD BE WASHED, ALSO THE WATER THAT CAME UP ON ITS FEET COMES UNDER THE LAW OF ‘IF WATER BE PUT’. AT THE TIME OF FOOTSORENESS OR OF THRESHING[39] IT ALWAYS CAUSES SUSCEPTIBILITY TO UNCLEANNESS. IF A DEAF-MUTE OR AN IDIOT OR A MINOR TOOK IT DOWN, EVEN THOUGH HIS INTENTION WAS THAT ITS FEET SHOULD BE WASHED, IT DOES NOT COME UNDER

THE LAW OF ‘IF WATER BE PUT’, BECAUSE WITH THESE THE ACT ALONE COUNTS, BUT NOT THE INTENTION.[40]

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(1) Containing a pool of water.

(2) It becomes susceptible to uncleanness, because it is the owner's wish that the fruit should become fuller and heavier by the absorption of moisture.

(3) And thus absorbed moisture direct from the water.

(4) Of porous material like earthenware which absorbs water.

(5) These are capable of being absorbed.

(6) Of the list infra VI, 4.

(7) Even if moistened by water, wine or vinegar.

(8) Cf. Ter. X, 3.

(9) From the sides of the baking-oven.

(10) Which was kneaded in fruit juice. Bread kneaded in water becomes susceptible by the water before it is baked.

(11) Or, according to another interpretation, unclean, clean. The bread had been kneaded in water, and was thus already susceptible before it was baked. But the wine was unclean, and the controversy turns on whether the exudation of the wine absorbed by the hot bread can render the bread unclean.

(12) The floor to lay the dust.

(13) Like the exudation of houses, supra II, 1.

(14) After emptying the tub.

(15) Which may have adhered to the inside of the tub.

(16) From dampness in the air, or the like.

(17) The sand contained some moisture.

(18) Which was rich in sand dunes; cf. ‘Ar. III, 2. It was probably situated near Jabneh.

(19) Under the impression that the produce did not become susceptible.

(20) It had become susceptible by the sand, and then may have contracted an impurity.

(21) To lay the dust on it.

(22) The floor is sure to get dry before the wheat is put there.

(23) In the grass itself.

(24) To use the moisture of the dew.

(25) And on your view, the law should apply in any case.

(26) To let the wheat get wet by the rain, thus showing by his action that he desired it. Mere intention without an attendant action does not impart, on the view of R. Judah, susceptibility to uncleanness (Bert.).

(27) That the water should not escape from the roof.

(28) To let them get wet on all sides.

(29) That the water of the river had washed off the mud of his feet.

(30) The water on the feet causes susceptibility to uncleanness.

(31) The feet of a domestic animal like an ox which is used for rough work, and its owner is indifferent about the cleanliness of its feet. Therefore, water on its feet cannot be considered as desired by the owner, unless he stopped and rinsed its feet.

(32) Who is fastidious about the cleanliness of his feet.

(33) A domestic animal, the flesh of which is forbidden for food (Lev. XI, 2ff.; Deut. XIV, 4ff.), like a horse or an ass, which is used only for riding. The owner is anxious that the feet of a riding-animal should be clean.

(34) One is particularly pleased when the feet of a man or of a riding-animal are washed in the river, therefore even R. Judah admits that the water falling from their feet after crossing a river can render produce susceptible to uncleanness.

(35) Which causes wooden articles to crack by its dry heat; cf. Kelim XX, 2.

(36) Water dripping from them causes produce to become susceptible, because the water came on these articles by the wish of the owner.

(37) Because it is usual for its mouth to get wet, and is therefore considered as if intended by the owner.

(38) Because it is not necessary that its feet should become wet when drinking, and is therefore not considered as if it was desired by the owner.

(39) Because then the wetting of the feet is desired by the owner for the sake of the health of the animal, or for the cleanliness of the corn.

(40) Cf. infra VI, 1; Toh. VIII, 6; Kelim XVII, 15.

Mishna - Mas. Makshirin Chapter 4

MISHNAH 1. IF ONE STOOPED DOWN TO DRINK,[1] THE WATER WHICH CAME UP ON HIS MOUTH OR ON HIS MOUSTACHE COMES UNDER THE LAW OF ‘IF WATER BE PUT’;[2] BUT [WHAT CAME UP] ON HIS NOSE OR ON HIS HEAD OR ON HIS BEARD[3] DOES NOT COME UNDER THE LAW OF ‘IF WATER BE PUT’. IF ONE DREW WATER WITH A JAR, THE WATER WHICH CAME UP ON THE BACK THEREOF, OR ON THE ROPE WHICH WAS WOUND ROUND ITS NECK, OR ON THE ROPE WHICH WAS NEEDED FOR ITS USE,[4] COMES UNDER THE LAW OF ‘IF WATER BE PUT’. HOW MUCH ROPE IS NEEDED FOR ITS USE? R. SIMEON B. ELEAZAR SAYS: A HANDBREADTH. IF HE PUT THE JAR UNDER THE RAIN-PIPE, IT[5] DOES NOT COME UNDER THE LAW OF ‘IF WATER BE PUT’.

MISHNAH 2. IF RAIN CAME DOWN UPON A PERSON,[6] EVEN IF HE WAS UNCLEAN WITH A PRINCIPAL DEFILEMENT,[7] IT DOES NOT COME[8] UNDER THE LAW OF ‘IF WATER BE PUT’; BUT IF HE SHOOK IT OFF, IT[9] DOES COME UNDER THE LAW OF ‘IF WATER BE PUT’. IF ONE STOOD UNDER A RAIN-PIPE TO COOL HIMSELF OR TO WASH HIMSELF, [THE WATER FALLING ON HIM] IS UNCLEAN[10] IF HE IS UNCLEAN; BUT IF HE IS CLEAN, IT [ONLY] COMES UNDER THE LAW OF IF WATER BE PUT.

MISHNAH 3. IF ONE INCLINED A DISH AGAINST A WALL THAT IT MIGHT BE RINSED,[11] IT COMES UNDER THE LAW OF ‘IF WATER BE PUT’; BUT IF IN ORDER THAT THE WALL MIGHT NOT BE DAMAGED,[12] IT DOES NOT COME UNDER THE LAW OF ‘IF WATER BE PUT’.

MISHNAH 4. IF DRIPPINGS [FROM A ROOF] FELL[13] INTO A JAR,[14] BETH SHAMMAI SAY: IT SHOULD BE BROKEN.[15] BUT BETH HILLEL SAY: IT MAY BE EMPTIED OUT.[16] BUT THEY[17] AGREE THAT ONE MAY PUT OUT HIS HAND AND TAKE FRUIT THEREFROM AND LEAVE IT INSUSCEPTIBLE TO UNCLEANNESS.[18]

MISHNAH 5. IF DRIPPINGS [FROM A ROOF] FELL[13] INTO A TUB, THE WATER WHICH SPLASHED OUT OR RAN OVER DOES NOT COME UNDER THE LAW OF ‘IF WATER BE PUT’. IF ONE MOVED THE TUB IN ORDER TO POUR OUT THE WATER, BETH SHAMMAI SAY: IT COMES[19] UNDER THE LAW OF ‘IF WATER BE PUT’. BUT BETH HILLEL SAY: IT DOES NOT COME[20] UNDER THE LAW OF ‘IF WATER BE PUT’. IF ONE PLACED THE TUB IN ORDER THAT THE DRIPPINGS [FROM THE ROOF] SHOULD FALL INTO IT,[21] BETH SHAMMAI SAY: THE WATER THAT SPLASHES OUT OR RUNS OVER[22] COMES UNDER THE LAW OF ‘IF WATER BE PUT’, BUT BETH HILLEL SAY: IT[23] DOES NOT COME UNDER THE LAW OF ‘IF WATER BE PUT’. IF ONE MOVED THE TUB IN ORDER TO POUR OUT THE WATER, BOTH AGREE THAT IT[24] COMES UNDER THE LAW OF ‘IF WATER BE PUT’. IF ONE IMMERSED VESSELS OR WASHED HIS GARMENT IN A CAVERN,[25] THE WATER THAT CAME UP ON HIS HANDS[26] COMES UNDER THE LAW OF ‘IF WATER BE PUT’; BUT WHAT CAME UP ON HIS FEET[27] DOES NOT COME UNDER THE LAW OF ‘IF WATER BE PUT’. R. ELIEZER SAYS: IF IT WAS NOT POSSIBLE FOR HIM TO GO DOWN INTO THE CAVERN WITHOUT SOILING HIS FEET, WHAT CAME UP ON HIS FEET ALSO COMES[28] UNDER THE LAW OF ‘IF WATER BE PUT’.

MISHNAH 6. IF A BASKET FULL OF LUPINES WAS PLACED IN A MIKWEH,[29] ONE MAY PUT[30] OUT HIS HAND AND TAKE LUPINES THEREFROM AND LEAVE THEM CLEAN.[31] BUT IF HE LIFTED THEM[32] OUT OF THE WATER, THOSE THAT TOUCH THE

BASKET ARE UNCLEAN,[33] BUT THE REST OF THE LUPINES ARE CLEAN.[34] IF THERE WAS A RADISH IN A CAVERN,[35] A MENSTRUANT WOMAN MAY RINSE IT AND LEAVE IT CLEAN.[36] BUT IF SHE LIFTED IT, HOWEVER LITTLE, OUT OF THE WATER, IT BECOMES UNCLEAN.[37]

MISHNAH 7. IF FRUIT FELL INTO A CHANNEL OF WATER,[38] AND ONE WHOSE HANDS WERE UNCLEAN PUT OUT HIS HANDS AND TOOK IT, HIS HANDS BECOME CLEAN[39] AND THE FRUIT [ALSO] REMAINS CLEAN.[40] BUT IF HIS INTENTION WAS THAT HIS HANDS SHOULD BE RINSED, HIS HANDS BECOME CLEAN AND THE FRUIT COMES[41] UNDER THE LAW OF ‘IF WATER BE PUT.’

MISHNAH 8. IF A POT[42] FULL OF WATER WAS PLACED IN A MIKWEH, AND A MAN WHO WAS UNCLEAN WITH A PRINCIPAL DEFILEMENT PUT HIS HAND INTO THE POT, IT BECOMES UNCLEAN.[43] BUT IF [HE WAS UNCLEAN] BY THE TOUCH OF A DEFILEMENT,[44] THE POT REMAINS CLEAN,[45] BUT ANY OF THE OTHER LIQUIDS[46] [CONTAINED IN THE POT] BECOMES UNCLEAN, FOR WATER CANNOT PURIFY THE OTHER LIQUIDS.[47]

MISHNAH 9. IF ONE DREW WATER THROUGH A CHANNEL,[48] IT CAUSES[49] SUSCEPTIBILITY TO UNCLEANNESS FOR THREE DAYS. R. AKIBA SAYS: IF THE CHANNEL WAS DRIED, IT AT ONCE DOES NOT CAUSE[50] SUSCEPTIBILITY TO UNCLEANNESS; BUT IF IT WAS NOT DRIED, IT CAUSES SUSCEPTIBILITY EVEN FOR THIRTY DAYS.

MISHNAH 10. IF UNCLEAN LIQUIDS FELL UPON WOOD AND RAIN CAME DOWN UPON IT[51] AND [THE RAIN WATER] EXCEEDED [THE LIQUIDS] IN QUANTITY. THEY BECOME CLEAN;[52] BUT IF THE WOOD HAD BEEN TAKEN OUTSIDE IN ORDER THAT RAIN SHOULD COME DOWN UPON IT, THEY ARE UNCLEAN[53] EVEN THOUGH [THE RAIN WATER] EXCEEDED IN QUANTITY. IF [THE WOOD] HAD ABSORBED UNCLEAN LIQUIDS,[54] THEY BECOME CLEAN EVEN THOUGH THE WOOD HAD BEEN CARRIED OUTSIDE IN ORDER THAT RAIN SHOULD COME DOWN UPON IT.[55] BUT ONE MAY NOT LIGHT THE WOOD IN AN OVEN EXCEPT WITH CLEAN HANDS.[56] R. SIMEON SAYS: IF THE WOOD WAS FRESHLY-CUT WHEN IT WAS LIGHTED, AND THE LIQUIDS THAT CAME OUT OF IT[57] EXCEEDED IN QUANTITY THE LIQUIDS WHICH IT HAD ABSORBED, THEY BECOME CLEAN.[58]

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(1) From a river.

(2) Since the mouth and the moustache necessarily get wet when one is drinking, the water on them may be considered as desired by the drinker.

(3) These need not get wet, and therefore the water on them cannot be considered as desired by the drinker; cf. supra III, 8, nn. 8, 9.

(4) These necessarily get wet.

(5) Any water on the back of the jar or on its rope, since in this case they need not get wet.

(6) Accidentally.

(7) Cf. Kelim I, 1; ‘Ed. (Sonc. ed.) p. 9, n. 4.

(8) Since the rain water fell on the unclean person without his wish, it does not become unclean (cf. infra VI, 8), and therefore does not come within the category of unclean liquids which render unclean and cause susceptibility even when not desired (supra I, 1, n. 4).

(9) The water that fell off, in accordance with the opinion of Beth Hillel, supra I, 2.

(10) And renders produce susceptible and unclean at the same time; cf. supra I, 1 n. 4.

(11) In the rain water coming down the wall.

(12) By the rain water, which is not wanted.

(13) Against one's wishes.

(14) Containing produce.

(15) In order to get out the produce inside it; for if he tilts the jar over to empty it, the water running out together with the falling produce will render the produce susceptible.

(16) By tilting over the jar, since he only wishes to empty the produce and not the water.

(17) Beth Shammai.

(18) Even though his hand may cause the water to come on the produce.

(19) Since he poured the water away only when the tub was moved to another place, it may be said that he did not object to the water when the tub was in its original place.

(20) His pouring away showed that he did not want the water even in the tub's original place.

(21) And not in the courtyard.

(22) And all the more so the water inside the tub.

(23) Only what splashed out and what ran over, but not what is inside.

(24) Even what splashed out and what ran over.

(25) Containing a pool of water.

(26) He is satisfied with this water.

(27) This is against his wish.

(28) Because he wishes his feet to be cleaned by the water.

(29) A pool for the purification of a defilement by immersion; cf. Mikwaoth Introduction.

(30) Even a person affected with a principal defilement; cf. supra 2, n. 7.

(31) The water in the mikweh being joined to the ground cannot cause susceptibility to uncleanness; cf. Introduction.

(32) The lupines together with the basket.

(33) The basket becomes unclean with a secondary defilement of the first degree (ראשון לטומאה), and the lupines, having become susceptible by the water which adhered to them when lifted, contract a secondary defilement of the second degree (שני לטומאה); cf. ‘Ed. (Sonc. ed.) p. 9, n. 4.

(34) In spite of their contact with the unclean lupines of the second degree, for a second degree defilement cannot convey uncleanness to produce of a common character (חולין), like these lupines, but only to produce of priestly heave-offering (תרומה).

(35) In a pool of water.

(36) V. p. 486, n. 4.

(37) The water on it when lifted makes it susceptible to contract uncleanness from the touch of the menstruant woman.

(38) Joined to a valid mikweh.

(39) Although this washing of the hands was unintentional, it suffices for handling produce of a common character.

(40) Since it fell in accidentally, it did not become susceptible.

(41) It becomes susceptible by the water on his hands.

(42) Of earthenware.

(43) An earthenware vessel becomes unclean by the entry into its air-space of a principal defilement, but cannot be made clean by the water of a mikweh; cf. Lev. XI, 33; Mik, (Sonc. ed.) VI, 6, n. 4.

(44) He was unclean by a secondary defilement of the first degree after he had touched a principal defilement; cf. supra 6, nn. 13, 14.

(45) An earthenware vessel cannot be rendered unclean except by a principal defilement. The water in the pot is also clean, by coming in contact with the water of the mikweh; v. Mik. (Sonc. ed.) X, 6, n. 5.

(46) Enumerated infra VI, 4, 5.

(47) Because they cannot mingle with the water of the mikweh; cf. Mik. (Sonc. ed.) X, 6, n. 8.

(48) חולין, **. Maimonides and others explain it as a swape-pipe or bucket; cf. Mik. VIII, 1.

(49) Any moisture in the channel.

(50) The moisture cannot be from the water which had passed through the channel.

(51) Unexpectedly.

(52) The rain water neutralizes the unclean liquid.

(53) Because the rain water, being expected and desired, becomes itself unclean by the liquid.

(54) And the liquid disappeared from the surface of the wood.

(55) Because there is no contact between the unclean liquid and the rain water.

(56) The hands may render the rain water on the wood unclean, and this may convey uncleanness to the oven.
(57) The natural sap of the wood.
(58) The unclean liquid is neutralized by the sap.

Mishna - Mas. Makshirin Chapter 5

MISHNAH 1. IF A MAN IMMERSED HIMSELF IN A RIVER[1] AND THERE WAS IN FRONT OF HIM ANOTHER RIVER AND HE CROSSED IT,[2] THE SECOND [WATER] PURIFIES[3] THE FIRST [WATER]. IF HIS FELLOW WHO WAS INTOXICATED PUSHED HIM IN OR HIS BEAST,[4] THE SECOND [WATER] PURIFIES THE FIRST [WATER]; BUT IF [HE DID IT] OUT OF PLAYFULNESS, IT COMES[5] UNDER THE LAW OF 'IF WATER BE PUT'.

MISHNAH 2. IF A MAN SWAM IN WATER, THE WATER THAT SPLASHED OUT[6] DOES NOT COME UNDER THE LAW OF 'IF WATER BE PUT'; BUT IF IT WAS HIS INTENTION TO SPLASH HIS FELLOW, THIS COMES UNDER THE LAW OF 'IF WATER BE PUT'. IF ONE MADE A 'Blrd'[7] IN THE WATER, NEITHER [THE WATER] THAT SPLASHED OUT[8] NOR WHAT REMAINED IN IT[9] COMES UNDER THE LAW OF 'IF WATER BE PUT'.

MISHNAH 3. IF DRIPPINGS [FROM A ROOF] CAME DOWN INTO FRUIT AND IT WAS MIXED UP IN ORDER THAT IT MIGHT BECOME DRY[10] [QUICKLY]. R. SIMEON SAYS: IT COMES[11] UNDER THE LAW OF 'IF WATER BE PUT'. BUT THE SAGES SAY: IT DOES NOT COME[12] UNDER THE LAW OF 'IF WATER BE PUT'.

MISHNAH 4. IF A CISTERN WAS MEASURED WHETHER FOR ITS DEPTH OF FOR ITS BREADTH, IT COMES[13] UNDER THE LAW OF 'IF WATER BE PUT'. THIS IS THE OPINION OF R. TARFON. BUT R. AKIBA SAYS: IF [IT WAS MEASURED] FOR ITS DEPTH,[14] IT COMES UNDER THE LAW OF 'IF WATER BE PUT'; BUT IF FOR ITS BREADTH, IT DOES NOT COME[15] UNDER THE LAW OF 'IF WATER BE PUT'.

MISHNAH 5. IF ONE PUT HIS HAND OR HIS FOOT OR A REED INTO A CISTERN IN ORDER TO ASCERTAIN WHETHER IT HAD ANY WATER, IT DOES NOT COME[16] UNDER THE LAW OF 'IF WATER BE PUT'; BUT IF TO ASCERTAIN HOW MUCH WATER IT HAD, THIS COMES[17] UNDER THE LAW OF 'IF WATER BE PUT'. IF ONE THREW A STONE INTO A CISTERN TO ASCERTAIN WHETHER IT HAD ANY WATER, [THE WATER] THAT WAS SPLASHED DOES NOT COME UNDER THE LAW OF 'IF WATER BE PUT', AND ALSO [THE WATER] THAT IS ON THE STONE[18] IS CLEAN.[19]

MISHNAH 6. IF ONE BEAT UPON A HIDE[20] OUTSIDE THE WATER, IT COMES[21] UNDER THE LAW OF 'IF WATER BE PUT'; BUT IF [HE BEAT IT] INSIDE THE WATER,[22] IT DOES NOT COME[23] UNDER THE LAW OF 'IF WATER BE PUT'. R. JOSE SAYS: IT COMES UNDER THE LAW OF 'IF WATER BE PUT' ALSO IF [HE BEAT IT] INSIDE THE WATER, BECAUSE HIS INTENTION WAS THAT THE WATER SHOULD COME OFF TOGETHER WITH THE FILTH.[24]

MISHNAH 7. THE WATER THAT COMES UP INTO A SHIP OR INTO THE BILGE OR ON THE OARS DOES NOT COME[25] UNDER THE LAW OF 'IF WATER BE PUT'. THE WATER THAT COMES UP IN SNARES, NETS, OR GINS, DOES NOT COME[25] UNDER THE LAW OF 'IF WATER BE PUT'; BUT IF THEY WERE SHAKEN,[26] IT DOES COME[27] UNDER THE LAW OF 'IF WATER BE PUT'. IF A SHIP WAS LED OUT INTO THE GREAT SEA[28] IN ORDER TO TIGHTEN IT,[29] OR IF A NAIL[30] WAS TAKEN OUT INTO THE RAIN IN ORDER TO TEMPER IT. OR IF A BRAND WAS LEFT IN THE RAIN IN ORDER TO EXTINGUISH IT, THIS COMES[31] UNDER THE LAW OF 'IF WATER BE PUT'.

MISHNAH 8. [WATER ON] THE COVERING OF TABLES OR ON THE MATTING OF BRICKS DOES NOT COME[32] UNDER THE LAW OF ‘IF WATER BE PUT’; BUT IF THEY WERE SHAKEN, IT DOES COME[33] UNDER THE LAW OF ‘IT WATER BE PUT’.

MISHNAH 9. ANY UNINTERRUPTED FLOW OF LIQUID[34] IS CLEAN,[35] EXCEPT [THE FLOW] OF HONEY OF ZIPHIM[36] AND OF BATTER.[37] BETH SHAMMAI SAY: ALSO [THE FLOW OF] THICK POTTAGE OF GRITS, OR OF BEANS, BECAUSE IT BOUNDS BACKWARDS.

MISHNAH 10. [THE FLOW] OF HOT WATER POURED[38] INTO HOT WATER, OF COLD WATER [POURED] INTO COLD WATER, OF HOT WATER [POURED] INTO COLD WATER REMAINS CLEAN; BUT [THE FLOW] OF COLD WATER [POURED] INTO HOT WATER BECOMES UNCLEAN.[39] R. SIMEON SAYS: ALSO [THE FLOW] OF NOT WATER POURED INTO NOT WATER BECOMES UNCLEAN IF THE STRENGTH OF THE HEAT OF THE LOWER [WATER] IS GREATER THAN THAT OF THE UPPER [WATER].[40]

MISHNAH 11. IF A WOMAN WHOSE HANDS WERE CLEAN STIRRED[41] AN UNCLEAN POT AND HER HANDS PERSPIRED, THEY BECOME UNCLEAN.[42] IF HER HANDS WERE UNCLEAN AND SHE STIRRED A CLEAN POT AND HER HANDS PERSPIRED THE POT BECOMES UNCLEAN.[43] R. JOSE SAYS: ONLY IF HER HANDS DRIPPED.[44] IF GRAPES WERE WEIGHED IN THE SCALE OF A BALANCE, THE WINE[45] IN THE SCALE IS CLEAN[46] UNTIL IT IS POURED INTO A VESSEL.[47] LO, THIS IS LIKE BASKETS OF OLIVES AND GRAPES WHEN THEY ARE DRIPPING [WITH SAP].[48]

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(1) The water of this river which was still on his body could render produce susceptible, because he wished it to come on his body.

(2) Against his wish.

(3) I.e., neutralizes it, so that neither the water from the first river nor from the second river can cause susceptibility.

(4) Into a river after they had become wet with intention.

(5) The second water was also acceptable.

(6) Without the intention of the swimmer.

(7) A game for blowing bubbles by means of a tube placed in water; var. lec. ‘a tube’.

(8) Without intention.

(9) In the tube.

(10) The owner mixed up the wet fruit with the dry fruit, so as to accelerate the drying of the moisture by spreading it over a wider space.

(11) The dry fruit was deliberately moistened by the owner's act.

(12) His intention was not to moisten any of the fruit, but to remove the moisture from the whole fruit as quickly as possible.

(13) The water of the measuring-rod.

(14) When the water on the measuring-rod is necessary, in order to indicate by its mark on the rod the exact depth of the water.

(15) In measuring the breadth the water on the measuring-rod is immaterial for ascertaining the extent of the cistern.

(16) The water on the hand or on the foot or on the rod is not wanted.

(17) The water on the hand or on the foot or on the rod is wanted, in order to show by its mark the exact quantity of water in the cistern.

(18) Even on the part of the stone above the surface of the water in the cistern.

(19) It cannot contract an uncleanness nor can it cause susceptibility to uncleanness.

(20) To remove the moisture after washing the hide in a pool.

(21) The moisture coming out of the hide causes susceptibility, because there is here the intention of removing the moisture, as in the case of a tree which is shaken in order to drop the rain water from its branches, supra I, 2.

(22) The hide is beaten while inside the pool in order to remove its hair and its filth.
(23) There can be no intention here of removing moisture, since the hide still remains in the water.
(24) In order to get on it fresh clean water and complete its cleansing.
(25) One is indifferent to such water.
(26) To remove the water.
(27) The removal was done by intention, as in p. 490. n. 10.
(28) The Mediterranean, or into any other sea.
(29) To tighten the wooden planks which had become loose while the boat was ashore.
(30) Hot from the fire.
(31) In all these cases the water is desired.
(32) The water is not wanted.
(33) Cf. p. 490, n. 10.
(34) Poured from a clean vessel into an unclean vessel.
(35) In the upper vessel; cf. Toh. VIII, 9; Yad. IV, 7.
(36) According to an explanation in Sot. 58b the honey is so named after Ziph in the south of Judah; cf. Joshua XV, 55; Ps. LIV, 2.
(37) צפחת. The meaning of this word is uncertain. It is usually taken as צפיחית. Ex. XVI 31. Maim. explains it as honey from a place called Zappahath. These are thick liquids, and when the flow stops suddenly, it is likely to bound back from the unclean vessel into the clean vessel, and thus render it unclean.
(38) From a clean vessel into an unclean vessel.
(39) The hot water in the unclean vessel causes steam to rise which mixes with the water in the clean vessel and renders it unclean.
(40) Thus forming steam in the lower unclean vessel, which rises into the cooler clean vessel.
(41) With a ladle.
(42) The perspiration caused by the steam of the unclean pot renders her hands unclean.
(43) By the perspiration of her unclean hands.
(44) But not by the steam of the hot sweat.
(45) The sap that escapes from the grapes.
(46) Nor can it cause susceptibility to uncleanness.
(47) Only then can it be considered a liquid.
(48) Which likewise is not considered a liquid until it is poured into a vessel; cf. infra VI, 8.

Mishna - Mas. Makshirin Chapter 6

MISHNAH 1. IF ONE CARRIED UP HIS FRUIT TO THE ROOF BECAUSE OF MAGGOTS,[1] AND DEW CAME DOWN UPON IT, IT DOES NOT COME UNDER THE LAW OF ‘IF WATER BE PUT’; BUT IF HIS INTENTION WAS FOR THIS PURPOSE,[2] IT COMES UNDER THE LAW OF ‘IF WATER BE PUT’. IF A DEAF-MUTE, OR AN IDIOT, OR A MINOR CARRIED IT UP, ALTHOUGH HE EXPECTED THAT DEW SHOULD COME DOWN UPON IT, IT DOES NOT COME UNDER THE LAW OF ‘IF WATER BE PUT’, BECAUSE WITH THESE THE ACT ALONE COUNTS, BUT NOT THE INTENTION.[3]

MISHNAH 2. IF ONE CARRIED UP TO THE ROOF BUNDLES [OF VEGETABLES] OR CAKES OF FIGS OR GARLIC SO AS TO KEEP THEM FRESH, IT DOES NOT COME[4] UNDER THE LAW OF ‘IF WATER BE PUT’. ALL BUNDLES [OF VEGETABLES] IN THE MARKET PLACES ARE UNCLEAN.[5] R. JUDAH DECLARES THEM CLEAN IF THEY ARE FRESH.[6] R. MEIR SAID: WHEREFORE HAVE THEY DECLARED THEM UNCLEAN? ONLY BECAUSE OF LIQUID FROM THE MOUTH.[7] ALL COARSE AND FINE FLOURS OF THE MARKET PLACES ARE UNCLEAN.[8] CRUSHED WHEAT, GROATS, AND PEARL- BARLEY[9] ARE UNCLEAN EVERYWHERE.[10]

MISHNAH 3. ALL EGGS MAY BE PRESUMED CLEAN EXCEPT THOSE OF DEALERS IN

LIQUIDS;[11] BUT IF THEY SOLD WITH THEM DRY FRUIT, THEY ARE CLEAN.[12] ALL FISH MAY BE PRESUMED UNCLEAN.[13] R. JUDAH SAYS: PIECES OF ILTITH,[14] EGYPTIAN FISH WHICH ARRIVES IN A BASKET, AND SPANISH TUNNY, THESE MAY BE PRESUMED CLEAN.[15] ALL KINDS OF BRINE MAY BE PRESUMED UNCLEAN. CONCERNING ALL THESE[16] AN ‘AM HA-AREZ[17] MAY BE TRUSTED WHEN HE DECLARES THEM TO BE CLEAN, EXCEPT IN THE CASE OF FISH,[18] SINCE THEY[19] ARE USUALLY STORED WITH ANY ‘AM HA-AREZ.[20] R. ELIEZER B. JACOB SAYS: CLEAN BRINE INTO WHICH WATER FELL IN ANY QUANTITY MUST BE DEEMED UNCLEAN.[21]

MISHNAH 4. THERE ARE SEVEN LIQUIDS:[22] DEW, WATER, WINE, OIL, BLOOD,[23] MILK AND BEES’ HONEY. HORNETS’ HONEY DOES NOT CAUSE SUSCEPTIBILITY TO UNCLEANNESS AND MAY BE EATEN.

MISHNAH 5.A SUB-SPECIES OF WATER[24] ARE THE LIQUIDS THAT COME FORTH FROM THE EYE, FROM THE EAR, FROM THE NOSE AND FROM THE MOUTH, AND URINE, WHETHER OF ADULTS OR OF CHILDREN,[25] WHETHER [ITS FLOW IS] CONSCIOUS OR UNCONSCIOUS. A SUB-SPECIES OF BLOOD ARE BLOOD FROM THE SLAUGHTERING OF CATTLE AND WILD ANIMALS AND BIRDS THAT ARE CLEAN, AND BLOOD FROM BLOOD LETTING FOR DRINKING.[26] WHEY IS DEEMED LIKE MILK, AND THE SAP OF OLIVES IS DEEMED LIKE OIL, SINCE IT IS NEVER FREE FROM OIL.[27] THIS IS THE OPINION OF R. SIMEON. R. MEIR SAYS: EVEN THOUGH IT CONTAINS NO OIL. THE BLOOD OF A CREEPING THING IS DEEMED LIKE ITS FLESH,[28] IT CAUSES UNCLEANNESS BUT DOES NOT CAUSE SUSCEPTIBILITY TO UNCLEANNESS, AND WE HAVE NOTHING LIKE IT.[29]

MISHNAH 6. THE FOLLOWING CAUSE UNCLEANNESS AND ALSO SUSCEPTIBILITY[30] [TO UNCLEANNESS]; THE ISSUE[31] OF A PERSON WHO HAS A RUNNING ISSUE, HIS SPITTLE, HIS SEMEN AND HIS URINE, A QUARTER-LOG FROM A CORPSE, AND THE BLOOD OF A MENSTRUANT WOMAN. R. ELIEZER SAYS: SEMEN DOES NOT CAUSE SUSCEPTIBILITY. R. ELEAZAR B. ‘AZARIAH SAYS: THE BLOOD OF A MENSTRUANT WOMAN DOES NOT CAUSE SUSCEPTIBILITY. R. SIMEON SAYS: THE BLOOD OF A CORPSE DOES NOT CAUSE SUSCEPTIBILITY, AND IF IT FELL ON A GOURD, IT SHOULD BE SCRAPED OFF,[32] AND IT REMAINS CLEAN.

MISHNAH 7.THE FOLLOWING CAUSE NEITHER UNCLEANNESS NOR SUSCEPTIBILITY TO UNCLEANNESS: SWEAT,[33] ILL-SMELLING SECRETION, EXCREMENT, BLOOD ISSUING WITH ANY OF THESE, LIQUID[34] [ISSUING FROM A STILL-BORN CHILD] OF EIGHT MONTHS (R. JOSE SAYS: EXCEPT ITS BLOOD).[35] [THE DISCHARGE FROM THE BOWELS OF] ONE WHO DRINKS THE WATER OF TIBERIAS[36] EVEN THOUGH IT COMES OUT CLEAN, BLOOD FROM THE SLAUGHTERING OF CATTLE AND WILD ANIMALS AND BIRDS THAT ARE UNCLEAN, AND BLOOD FROM BLOODLETTING FOR HEALING.[37] R. ELIEZER DECLARES THESE[38] UNCLEAN. R. SIMEON B. ELEAZAR SAYS: THE MILK OF A MALE IS CLEAN.[39]

MISHNAH 8. A WOMAN'S MILK RENDERS UNCLEAN WHETHER [ITS FLOW IS] DESIRED OR IS NOT DESIRED,[40] BUT THE MILK OF CATTLE RENDERS UNCLEAN ONLY IF [ITS FLOW IS] DESIRED. R. AKIBA SAID: THE MATTER CAN BE PROVED BY AN INFERENCE FROM MINOR TO MAJOR: IF A WOMAN'S MILK, THE USE OF WHICH IS CONFINED TO INFANTS, CAN RENDER UNCLEAN WHETHER [ITS FLOW IS] DESIRED OR IS NOT DESIRED, ALL THE MORE SHOULD THE MILK OF CATTLE, THE USE OF WHICH IS COMMON TO INFANTS AND TO ADULTS, RENDER UNCLEAN BOTH WHEN [ITS FLOW IS] DESIRED AND WHEN IT IS NOT DESIRED. BUT THEY[41] SAID TO HIM: NO;

A WOMAN'S MILK RENDERS UNCLEAN WHEN [ITS FLOW IS] NOT DESIRED, BECAUSE THE BLOOD ISSUING FROM HER WOUND IS UNCLEAN;[42] BUT HOW COULD THE MILK OF CATTLE RENDER UNCLEAN WHEN [ITS FLOW IS] NOT DESIRED, SEEING THAT THE BLOOD ISSUING FROM ITS WOUND IS CLEAN? HE SAID TO THEM: I ADOPT A MORE RIGOROUS RULING IN THE CASE OF MILK THAN IN THE CASE OF BLOOD, FOR IF ONE MILKS FOR HEALING,[43] [THE MILK] IS UNCLEAN,[44] WHEREAS IF ONE LETS BLOOD FOR HEALING, [THE BLOOD] IS CLEAN.[45] THEY SAID TO HIM: LET BASKETS OF OLIVES AND GRAPES PROVE[46] IT; FOR LIQUIDS FLOWING FROM THEM ARE UNCLEAN ONLY WHEN [THE FLOW IS] DESIRED, BUT WHEN [THE FLOW IS] NOT DESIRED THEY ARE CLEAN.[47] HE SAID TO THEM: NO; IF YOU SAY [THUS] OF BASKETS OF OLIVES AND GRAPES WHICH ARE AT FIRST A SOLID FOOD AND AT THE END BECOME A LIQUID, COULD YOU SAY [THE SAME] OF MILK WHICH REMAINS A LIQUID FROM BEGINNING TO END?[48] THUS FAR WAS THE ARGUMENT.[49] R. SIMEON SAID: FROM THENCEFORWARD WE[50] USED TO ARGUE BEFORE HIM: LET RAIN WATER PROVE IT, FOR IT REMAINS A LIQUID FROM BEGINNING TO END, AND RENDERS UNCLEAN ONLY WHEN [ITS FLOW IS] DESIRED. BUT HE SAID TO US: NO; IF YOU SAY [THUS] OF RAIN WATER, IT IS BECAUSE MOST OF IT IS INTENDED NOT FOR MAN[51] BUT FOR THE SOIL AND FOR TREES, WHEREAS MOST MILK IS INTENDED FOR MAN.

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(1) To prevent the fruit from becoming wormy.

(2) To get the fruit damp by the dew.

(3) Cf. supra III, 8.

(4) If dew fell on the vegetables.

(5) Because the dealers are wont to sprinkle them with water to keep them fresh, thus rendering them susceptible to uncleanness, and then they are handled by unclean hands.

(6) Fresh vegetables are not sprinkled by the dealers, and thus have not become susceptible to uncleanness from unclean hands.

(7) R. Meir holds that the reason why vegetables in the market have been declared unclean is not because they are handled by unclean hands, but because the dealers, who may be affected by a running issue (cf. infra 6), undo the bundles with their teeth, and thus cause unclean spittle from their mouth to com e upon the vegetables. Therefore there is no difference whether the vegetables are fresh or not.

(8) Because the wheat is damped before milling, and thus the flour has become susceptible to uncleanness by the contact of those who handle it.

(9) For the exact meaning of these kinds of grain, cf. M.K. 13b.

(10) Even not in the market place, because they are damped in the process of crushing. and are then handled by unclean hands.

(11) Who handle the eggs with liquid dripping from their hands and thus render them susceptible to become unclean by those who handle them.

(12) Because they are careful to keep their hands dry.

(13) Cf. ‘Uk. III, 8. They have been rendered susceptible by the water shaken off from the nets.

(14) A species of large fish.

(15) These are spoilt by water, and have therefore been kept dry.

(16) Eggs. fruit and brine.

(17) עם הארת. Lit., ‘the people of the land’, the untutored peasant, or any other person who is lax about the observance of the laws of purity and the laws of tithing produce, as distinguished from the learned חבר, or associate of those who are scrupulous about these laws. Cf. supra II, 10. n. 4; Demai, Introduction 3; ‘Ed. I, 14 (Sonc. ed.) p. 8, n. 1.

(18) According to some commentators ‘the brine of fish’. The ‘am ha-arez is not to be trusted when he declares that fish (or the brine of fish) has not become susceptible.

(19) Var. lec. ‘it’, viz., fish.

(20) Which proves that he can be trusted.

(21) Water renders it susceptible, and it then becomes unclean by handling.

(22) Which render produce susceptible to uncleanness.

(23) Human blood, v. next Mishnah.
(24) That causes susceptibility under the heading of water.
(25) According to other commentators: ‘Whether liquid excrement or real urine’.
(26) Its flow is desired.
(27) It contains a proportion of oil.
(28) It can be added to the flesh to make up a lentil's bulk which is the minimum quantity of a creeping thing to convey uncleanness; cf. Me'il. IV, 3.
(29) That blood should be accounted as flesh.
(30) Simultaneously.
(31) Cf. Kelim I, 3.
(32) Because blood is forbidden to be eaten.
(33) Cf. supra II, 1.
(34) Such as blood, urine, etc.
(35) Its blood conveys impurity.
(36) Which acts as a purgative.
(37) Its flow is not desired.
(38) The last two kinds of blood.
(39) Like mere perspiration.
(40) If it dripped from the breast automatically; cf. Kelim VIII, 11.
(41) The Sages holding the opinion as given in the beginning of the Mishnah.
(42) Like the blood of a corpse, and this blood flows from the wound automatically.
(43) An animal to relieve its pain.
(44) It is capable of becoming unclean, since its flow is desired.
(45) As stated in the last Mishnah.
(46) Animal's milk may be compared to the juice flowing from such baskets, since both serve as human food.
(47) Cf. supra V, 11, n. 11.
(48) Milk is more of a liquid than fruit juice.
(49) Between R. Akiba and his colleagues.
(50) R. Akiba's disciples.
(51) The use of rain for man is limited, therefore rain cannot render human food susceptible to uncleanness unless a man desires its flow upon his food.

Mishna - Mas. Zavim Chapter 1

MISHNAH 1. IF A MAN HAS SEEN ONE ISSUE OF THE FLUX,[1] BETH SHAMMAI SAY: HE IS TO BE COMPARED TO [A WOMAN] WHO AWAITS DAY AGAINST DAY;[2] BUT BETH HILLEL SAY: HE IS TO BE COMPARED TO ONE WHO HAS SUFFERED [NOCTURNAL] POLLUTION.[3] SHOULD HE SEE AN ISSUE [ONE DAY]. AND ON THE SECOND IT STOPPED, AND ON THE THIRD DAY HE SAW TWO [ISSUES], OR ONE [ISSUE] THAT WAS AS COPIOUS AS TWO,[4] BETH SHAMMAI SAY: HE IS A REAL ZAB;[5] BUT BETH HILLEL SAY: HE DEFILES THOSE OBJECTS ON WHICH HE SITS OR LIES, AND MUST ALSO OBTAIN IMMERSION IN RUNNING WATER, BUT HE IS EXEMPT FROM THE OFFERING.[6] R. ELEAZAR B. JUDAH SAID: BETH SHAMMAI CONCUR THAT IN SUCH A CASE HE CANNOT BE DEEMED A REAL ZAB;[7] WHERE THEY DO DISPUTE IS IN THE CASE OF ONE WHO HAD SUFFERED TWO [ISSUES], OR ONE [ISSUE] THAT WAS AS COPIOUS AS TWO [ON ONE DAY], AND STOPPED ON THE SECOND DAY, AND ON THE THIRD DAY HE SAW ANOTHER [ISSUE]. IN SUCH A CASE BETH SHAMMAI SAY: HE IS A REAL ZAB;[8] BUT BETH HILLEL SAY: HE ONLY DEFILES THOSE OBJECTS ON WHICH HE SITS OR LIES, AND MUST OBTAIN IMMERSION IN RUNNING WATER, BUT IS EXEMPT FROM THE OFFERING.[9]

MISHNAH 2. IF ONE SUFFERS AN ISSUE OF SEMEN ON THE THIRD DAY OF COUNTING AFTER HIS FLUX,[10] BETH SHAMMAI SAY: IT RENDERS VOID THE TWO CLEAN DAYS THAT HAVE PRECEDED;[11] BUT BETH HILLEL SAY: IT RENDERS VOID ONLY THAT DAY.[12] R. ISHMAEL SAYS: IF HE SUFFERED IT ON THE SECOND DAY,[13] IT RENDERS VOID THE PRECEDING DAY;[14] BUT R. AKIBA SAYS: IT MATTERS NOT WHETHER HE SUFFERED IT ON THE SECOND OR THIRD DAY[15] — [IN EITHER CASE] BETH SHAMMAI SAY, IT RENDERS VOID THE TWO PRECEDING DAYS, AND BETH HILLEL SAY, IT RENDERS VOID ONLY THAT DAY ITSELF. BUT THEY[16] CONCUR THAT IF HE SUFFERED IT ON THE FOURTH DAY [OF COUNTING] IT RENDERS VOID ONLY THAT DAY [OF THE COUNTING],[17] PROVIDED IT WAS A DISCHARGE OF SEMEN; BUT IF IT HAD BEEN AN ISSUE OF FLUX, THEN EVEN IF THIS HAD OCCURRED ON THE SEVENTH DAY, IT RENDERS VOID ALL THE DAYS THAT HAD PRECEDED.[18]

MISHNAH 3. IF HE SAW ONE ISSUE ON ONE DAY AND TWO ON THE NEXT DAY, OR TWO ON ONE DAY AND ONE ON THE MORROW, OR THREE ON THREE [CONSECUTIVE] DAYS, OR THREE NIGHTS, HE IS DEEMED A REAL ZAB.[19]

MISHNAH 4. IF HE SAW ONE [ISSUE] AND A PAUSE TOOK PLACE OF SUFFICIENT DURATION TO ALLOW AN IMMERSION AND A DRYING,[20] AND AFTER THAT HE SAW TWO ISSUES, OR ONE AS COPIOUS AS TWO,[21] OR IF HE SAW TWO [ISSUES] OR ONE AS COPIOUS AS TWO, AND AN INTERVAL TOOK PLACE OF SUFFICIENT DURATION TO ALLOW AN IMMERSION AND A DRYING, AND AFTER THAT HE AGAIN SAW AN ISSUE, HE IS A REAL ZAB.

MISHNAH 5. IF HE SAW ONE ISSUE WHICH WAS AS COPIOUS AS THREE, LASTING AS LONG [AS IT TAKES TO GO] FROM GAD-YAWAN[22] TO SILOAH,[23] IN WHICH TIME ONE CAN BATHE AND DRY TWICE,[24] HE BECOMES A REAL ZAB. IF HE SAW ONE ISSUE WHICH WAS AS COPIOUS AS TWO, HE DEFILES [OBJECTS] ON WHICH HE LIES OR SITS AND MUST OBTAIN IMMERSION IN RUNNING WATER, BUT IS EXEMPT FROM BRINGING A SACRIFICE. R. JOSE SAID: THEY HAVE NOT SPOKEN OF ONE ISSUE AS COPIOUS UNLESS THERE WAS SUFFICIENT THEREIN TO MAKE UP THREE.[25]

MISHNAH 6. IF HE BEHELD ONE ISSUE AT DAY-TIME AND ANOTHER AT TWILIGHT, OR ONE AT TWILIGHT AND THE OTHER ON THE MORROW, THEN IF IT WERE KNOWN[26] THAT PART OF THE ISSUE[27] OCCURRED AT DAY-TIME AND PART THEREOF ON THE MORROW,[28] HIS STATUS IS CERTAIN IN RESPECT OF A SACRIFICE AND UNCLEANNESS;[29] BUT IF IT IS IN DOUBT WHETHER PART [OF THE ISSUE] OCCURRED DURING THE DAY AND PART THERE OF [ON WHAT IS] THE DAY FOLLOWING,[30] HE IS IN A STATUS OF CERTAINTY IN RESPECT OF DEFILEMENT,[31] BUT IN ONE OF DOUBT IN RESPECT OF A SACRIFICE.[32] IF HE HAD SEEN ISSUES ON TWO SEPARATE DAYS AT TWILIGHT,[33] HIS STATUS IS IN DOUBT BOTH IN RESPECT OF DEFILEMENT[34] AND IN RESPECT OF A SACRIFICE.[35] IF [HE HAD SEEN ONLY] ONE ISSUE AT TWILIGHT, THERE IS A DOUBT [ALSO] IN RESPECT OF [HIS] DEFILEMENT.[36]

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(1) A zab is one who is afflicted with gonorrhoea as distinct from a semen discharge.

(2) Who, though not treated as a real zabah until she has had three issues (as defined), nevertheless defiles objects on which she sits or lies after the first issue; cf. Nid. 39a. cf., however, ibid. 72b.

(3) Cf. Lev. XV, 16ff. Such a one does not convey uncleanness to objects lain or sat upon; neither does it defile by carriage but only by contact.

(4) I.e., the issue lasted as long as he could traverse during its duration a distance of fifty cubits. The measure of time usually employed is the time taken by man to immerse and dry himself.

(5) Subject to all laws enumerated in Lev. XV, 12-15. When one has seen two issues on one day, or on two consecutive days, he must begin to count seven clean days, but is exempt from bringing a sacrifice; but if he has suffered three issues on one day, or on three consecutive days, he becomes a real zab and he must count seven clean days and bring a sacrifice (Lev. XV, 2-3). In the case of a woman, however, these three issues had to occur on three consecutive days.

(6) The differentiating points of view between the two rival schools are these: Beth Shammai say a real zab is one who has beheld three issues, even if there was an interval of a fluxless day between the first and third, but according to Beth Hillel, the fluxless second day neutralizes the issue of the first.

(7) Since the fluxless second day neutralizes the issue beheld on the previous day.

(8) Maintaining that since the counting of seven clean days has begun with the appearance of two issues on the first day, the fluxless second day is of no account, and it is as if he had beheld three issues; accordingly a sacrifice must be brought.

(9) Due to the absence of issue on the second day, he cannot be pronounced as a real zab; hence no offering is brought.

(10) Having suffered two issues of flux and thereupon commenced the counting of seven clean days.

(11) And another counting of seven days must commence; Nid. 22a.

(12) On which he suffered an issue of semen, and only five further days are to be counted; the first two being included in the total of seven.

(13) I.e., he had counted one clean day and had beheld an issue of semen on the second day.

(14) Even Beth Hillel agree that in such a case the preceding day is rendered void.

(15) Maintaining that in such an instance the dispute holds good.

(16) Beth Shammai.

(17) Since three clean days had transpired.

(18) For the Bible lays emphasis on seven clean days; viz., until all the seven consecutive days are free from flux; v. Nid. 33b.

(19) V. supra I, 2.

(20) Less than this time is not accounted an interval, and the second flux is included with the first. To count it as two distinct issues, this lapse of time must ensue.

(21) I.e., there is sufficient time between the commencement and conclusion of the flux for immersion and drying the body.

(22) Gad (the God of Fortune) of the Greeks cf. Isa LXV, 11. Probably the name of a pool connected with Siloah, near Jerusalem; cf. Sanh. 63b. V. ‘Er. 22b; Toh. VI, 6. Aliter: the shrine of a pagan idol (Bert.).

(23) Siloam; Isa. VIII, 6.

(24) I.e., in which a distance of one hundred cubits can be traversed.

(25) Only then was the sacrifice obligatory. According to R. Jose, no issue, copious as it was, could be deemed as more than one, unless quantitatively it contained the amount of three separate issues.

(26) I.e., theoretically, as in point of fact this can not be ascertained.
(27) Which was seen at twilight.
(28) Even if there be not the stipulated time of immersion and drying between; the reason being that twilight is at the parting of two distinct days a day dying and a day awaiting birth.
(29) Having witnessed three issues; for the one at twilight, being at the parting of two days, is deemed as two.
(30) For the issue may have terminated while it was yet day, or commenced only after nightfall.
(31) Having at least beheld two issues.
(32) Since it is questionable whether the issue at twilight is to be deemed one or two.
(33) The first issue was when twilight commenced, and the second when twilight ended. An Illustration: If he had seen an issue on Friday eve, with the appearance of twilight, and the second issue at the termination of the Sabbath — the Sabbath Day itself being issue-less — accordingly, he had not experienced two issues on two consecutive days. If, however, twilight is reckoned either as belonging to the day or night, there are two issues on two consecutive days, and the counting of seven clean days must commence, though no sacrifice is brought. On the other hand, if twilight be divided as partly belonging to day and partly to night, then the issue beheld is deemed as two, and together with the one witnessed in that day, constitute three issues, and sacrifice must be brought, though he must not eat thereof on account of doubt of its liability (Bert.).
(34) Lest one clear day had elapsed between the two issues.
(35) Since the twilight's issue may have been bipartite, belonging both to this day and the day following.
(36) Lest it be only of sufficiency for one issue.

Mishna - Mas. Zavim Chapter 2

MISHNAH 1. ALL PERSONS[1] BECOME UNCLEAN THROUGH A FLUX, ALSO PROSELYTES AND SLAVES WHETHER FREED OR NOT, A DEAF-MUTE, AN IMBECILE OR MINOR, A EUNUCH WHETHER [HE HAD BEEN EMASCULATED] BY MAN, OR WAS A EUNUCH FROM [THE TIME OF SEEING] THE SUN.[2] UPON ONE WHOSE SEX WAS UNKNOWN, OR UPON A HERMAPHRODITE,[3] THE STRINGENCIES APPERTAINING TO BOTH MAN AND WOMAN ARE IMPOSED: THEY DEFILE THROUGH BLOOD LIKE A WOMAN, AND THROUGH FLUX[4] LIKE A MAN. THEIR UNCLEANNESS, HOWEVER, STILL REMAINS IN DOUBT.[5]

MISHNAH 2. ALONG [THE FOLLOWING] SEVEN LINES IS A ZAB EXAMINED AS LONG AS HE HAD NOT ENTERED THE BOUNDS OF ZIBAH:[6] [ENQUIRIES] AS TO [WHAT WAS] HIS FOOD,[7] DRINK,[8] AS [TO WHAT] HE HAD BORNE, WHETHER HE HAD JUMPED, WHETHER HE HAD BEEN ILL, WHAT HE HAD SEEN,[9] OR [WHETHER HE HAD] OBSCENE REFLECTIONS. [IT DIFFERED LITTLE] WHETHER HE HAD REFLECTED [OBSCENELY] PRIOR TO SEEING [A WOMAN], OR WHETHER HE HAD SEEN [A WOMAN] PRIOR TO HIS [OBSCENE] REFLECTIONS.[10] R. JUDAH ADDS: EVEN IF HE HAD WATCHED BEASTS, WILD ANIMALS OR BIRDS HAVING INTERCOURSE WITH EACH OTHER, AND EVEN WHEN HE HAD SEEN A WOMAN'S DYED GARMENTS. R. AKIBA ADDED: EVEN IF HE HAD EATEN ANY KIND OF FOOD, BE IT GOOD OR BAD, OR HAD DRUNK ANY KIND OF LIQUID.[11] WHEREUPON THEY EXCLAIMED TO HIM: [‘ACCORDING TO YOUR VIEW] THERE WILL BE NO ZABIM IN THE WORLD HENCEFORTH!’[12] HIS RETORT TO THEM WAS: YOU ARE NOT HELD RESPONSIBLE FOR THE EXISTENCE OF ZABIM!’[13] AS SOON, HOWEVER, AS IT HAD ENTERED THE BOUNDS OF ZIBAH,[14] NO FURTHER EXAMINATION TOOK PLACE.[15] [HIS FLUX] RESULTING[16] FROM AN ACCIDENT, OR THAT WAS AT ALL DOUBTFUL,[17] OR AN ISSUE OF SEMEN, THESE ARE UNCLEAN,[18] SINCE THERE IS WHEREON TO RELY.[19] IF HE BEHELD A FIRST [ISSUE] HE IS EXAMINED; ON THE SECOND [ISSUE] HE IS EXAMINED,[20] BUT ON THE THIRD [ISSUE] NO EXAMINATION TAKES PLACE.[21] R. ELIEZER SAYS: ALSO ON THE THIRD [ISSUE] HE IS EXAMINED TO ASCERTAIN HIS LIABILITY TO A SACRIFICE.

MISHNAH 3. IF ONE SUFFERED [A DISCHARGE OF] SEMEN HE DOES NOT CONVEY UNCLEANNESS BY REASON OF A FLUX[22] FOR TWENTY-FOUR HOURS.[23] R. JOSE SAYS: [ONLY] THAT DAY. IF A GENTILE EXPERIENCED A DISCHARGE OF SEMEN, AND HE BECAME A PROSELYTE, HE BECOMES IMMEDIATELY UNCLEAN BY REASON OF A FLUX.[24] IF [A WOMAN] HAD [AN ISSUE] OF BLOOD,[25] OR HAD EXPERIENCED DIFFICULTY [IN CHILDBIRTH],[26] [THE TIME PRESCRIBED] IS TWENTY-FOUR HOURS.[27] IF ONE SMITES HIS SERVANT, THE ‘DAY OR TWO’[28] IS TWENTY-FOUR HOURS. IF A DOG ATE A CORPSE'S FLESH, THE THREE DAYS [DURING WHICH IT CONTINUES WITHIN] IN A NATURAL STATE ARE OF TWENTY-FOUR HOURS.[29]

MISHNAH 4. A ZAB[30] DEFILES THOSE OBJECTS ON WHICH HE LIES[31] BY FIVE WAYS, WITH THE RESULT THAT THEY [IN TURN] DEFILE MEN AND GARMENTS.[32] [THESE ARE:] BY STANDING, SITTING, LYING, LOUNGING OR LEANING. WHAT HE LIES UPON DEFILES MAN BY SEVEN WAYS, SO THAT HE [IN TURN] DEFILES GARMENTS.[32] [THESE ARE:] BY STANDING, SITTING, LYING, LOUNGING, OR LEANING UPON IT, OR BY TOUCHING OR CARRYING IT.[33]

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(1) The term ‘all’ is always inclusive in sense; here it serves to include even a child of a day old.

(2) I.e., a eunuch by nature, v. Yeb. VIII, 4.

(3) Cf. Bik. IV.

(4) Lit., ‘white’.

(5) As a man he should be clean on experiencing a flow of blood; as a woman he should be clean on suffering a discharge of flux. If, however, he experienced a flow of both (blood and flux) then he is certainly unclean; and if he had touched terumah it has to be burnt.

(6) If he had not yet suffered two issues that make it necessary for him to begin the seven days’ counting, he is examined as to whether that second issue was not due to some accidental external cause, and hence treated like semen.

(7) Solid meals of oily foods often precipitated a discharge of semen.

(8) So did excessive drinking, and the carrying of heavy burdens.

(9) The mere sight of a very attractive woman would also often be a cause.

(10) For each independently could have been a cause of semen, and consequently it is not treated as flux.

(11) Even such that do not usually suffuse the body with a glow of warmth.

(12) Since few, if any, would as a result be declared as zabim.

(13) Who says there must be zabim in the world!

(14) I.e., after he had beheld two issues not accidentally.

(15) Even if the third issue resulted from accidental causes he has to bring the prescribed sacrifice on becoming clean. Similarly, if during the counting of the seven clean days he had beheld a flux, though accidental, the counting must commence anew.

(16) As enumerated above.

(17) Whether it was semen or a flux. V. Nazir 66a.

(18) Defiling also by contact, v. Kel. I, 3.

(19) Lit., ‘the matter has feet (to stand on)’. No further evidence is necessary since we have already established the fact that he is a zab.

(20) Whether or not it was accidental and thereby determine his obligation to bring a sacrifice should he have two more issues. Even if the first issue was pronounced as a result of accidental causes, but the second was natural, he defiles objects on which he sits or lies, requires immersion in running water, and the counting of seven clean days.

(21) Neither for uncleanness nor for sacrifice.

(22) On the second issue.

(23) Attributing the flux to some external cause, as in Mishnah 2.

(24) A proselyte assumes the legal status of a newly-born child. Accordingly the flux beheld now that he is an Israelite has no connection with that experienced prior to his conversion.

(25) The following instances are not germane to our theme, but are cited here to include these instances in which twenty-four hours is a criterion.

(26) Outside the period of menstruation such blood-issue is not unclean.
(27) For the former case v. Nid. 2a, and for the latter, ibid 36b.
(28) Ex. XXI, 21.
(29) V. Ohol. XI, 7. The examples above by no means exhaust all cases of twenty-four hours.
(30) The zab is cited but it refers to a menstruant, a leper, or one who has given birth to a child.
(31) Or sits upon.
(32) I.e., the men in turn defiling the garments which they touched while still in contact with the unclean object.
(33) Viz., the object which the zab had used as a couch.

Mishna - Mas. Zavim Chapter 3

MISHNAH 1. IF A ZAB AND ONE THAT WAS CLEAN SAT TOGETHER IN A BOAT, OR ON A RAFT, OR RODE TOGETHER ON A BEAST, THEY,[1] THOUGH THEIR GARMENTS HAD NOT ACTUALLY TOUCHED,[2] SUFFER MIDRAS[3] UNCLEANNESS. IF THEY SAT TOGETHER ON A PLANK, A BENCH OR A BEDFRAME,[4] OR ON A BEAM, WHEN THESE WERE NOT FIXED TIGHTLY,[5] [OR] IF THEY HAD BOTH CLIMBED A TREE OF INFERIOR STRENGTH,[6] OR [WERE SWAYING] ON A BRANCH OF INFERIOR STRENGTH[7] OF A FIRM TREE; OR IF THEY WERE BOTH [CLIMBING] ON AN EGYPTIAN LADDER,[8] NOT SECURED BY A NAIL,[9] OR IF THEY SAT TOGETHER ON A BRIDGE, RAFTER OR DOOR, NOT SECURED BY CLAY, THEY[10] ARE UNCLEAN. ACCORDING TO R. JUDAH THEY ARE CLEAN.

MISHNAH 2. IF THEY WERE BOTH[11] CLOSING OR OPENING [A DOOR], [HE THAT WAS CLEAN AND HIS GARMENTS BECOME UNCLEAN]. BUT THE SAGES SAY: [UNCLEANNESS IS NOT CONVEYED][12] UNLESS ONE WAS SHUTTING AND THE OTHER OPENING [IT].[13] IF ONE WAS LIFTING THE OTHER OUT OF A PIT [UN CLEANNESS IS CONVEYED]. BUT R. JUDAH SAID, ONLY IF HE THAT WAS CLEAN WAS PULLING OUT HIM THAT WAS UNCLEAN.[14] IF THEY WERE TWISTING ROPES TOGETHER [UNCLEANNESS IS CONVEYED]. BUT THE SAGES SAY, UNLESS THE ONE PULLED ONE WAY AND THE OTHER PULLED THE OTHER WAY. IF THEY WERE BOTH WEAVING TOGETHER, WHETHER THEY WERE STANDING OR SITTING, OR GRINDING WHEAT, [UNCLEANNESS IS CONVEYED]. R. SIMEON DECLARES [THE CLEAN MAN] IN EVERY CASE UNDEFILED, EXCEPT WHERE THEY [BOTH] WERE GRINDING WITH A HAND-MILL. IF THEY [BOTH] WERE UNLOADING OR LOADING AN ASS, THEY[15] ARE UNCLEAN IF THE LOAD WAS HEAVY, BUT CLEAN IF THE LOAD WAS LIGHT. IN BOTH CASES,[16] HOWEVER, THEY ARE CLEAN FOR MEMBERS OF THE SYNAGOGUE,[17] BUT ARE UNCLEAN FOR HEAVE-OFFERING.[18]

MISHNAH 3. IF THE ZAB AND THE CLEAN PERSON SAT TOGETHER IN A LARGE BOAT (WHAT IS A LARGE BOAT? R. JUDAH SAID: ONE THAT DOES NOT SWAY WITH A MAN'S WEIGHT), OR IF THEY SAT ON A PLANK, BENCH, BED-FRAME, OR BEAM WHEN THESE WERE FIRMLY SECURED;[19] OR IF THEY BOTH CLIMBED A STRONG TREE, A FIRM BRANCH, OR A TYRIAN[20] LADDER, OR AN EGYPTIAN LADDER FIXED BY A NAIL; OR IF THEY SAT ON A BRIDGE, RAFTER OR DOOR, WHEN THESE WERE FASTENED WITH CLAY, IF ONLY AT ONE END, THEY REMAIN CLEAN. IF THE CLEAN MAN STRUCK THE UNCLEAN, HE STILL REMAINS CLEAN;[21] BUT IF THE UNCLEAN STRUCK HIM THAT WAS CLEAN, HE BECOMES DEFILED; FOR [IN THAT CASE] IF HE THAT WAS CLEAN DREW BACK, THE UNCLEAN WOULD HAVE FALLEN.[22]

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(1) The clean man and his garments.
(2) The clean person, by his weight, causes the boat, raft or beast to sink to one side and rise at the other, thereby causing the zab to be lifted up or suspended by him.

(3) v. Glos.

(4) A frame on which a couch is spread; it used to be placed in a little bed-chamber and taken apart; or it was placed against the wall in day-time. Aliter: boards placed under a bed to prevent its rotting owing to the humidity of the ground below.

(5) With the result that they both swayed and each leaned against the other.

(6) The tree's strength was determined by ability to hollow out of its stem the size of a quarter of a kab (Bert.).

(7) Which could be hidden in the palm of a man's hand; B.M. 105a.

(8) Of the small variety; B.B. III, 6.

(9) With the result that it bent.

(10) The man that was clean and his garments.

(11) The zab and the clean person.

(12) From the zab to the clean man.

(13) At the same time. The clean person thus bearing the counter-weight of the zab.

(14) In that case, the clean person is bearing the weight of the zab. This would not be so if the reverse was the case.

(15) The man who was clean and his garments.

(16) Be the load heavy or light.

(17) Who eat hullin in purity, since doubt is attached if the clean person actually bore the weight of the sob.

(18) This being a Rabbinic injunction even in the case of uncertain defilement.

(19) Cf. supra III, 1.

(20) Of a larger variety than the Egyptian ladder; v. B.B. III, 6.

(21) From midras uncleanness, since he does not bear the weight of the zab. He and his garments do suffer hesset uncleanness, having been ‘shifted’ by the zab; v. infra V, 1.

(22) In his attempt to strike, hence it is as if the zab had actually leaned against him.

Mishna - Mas. Zavim Chapter 4

MISHNAH 1. R. JOSHUA SAID: IF A MENSTRUANT[1] SAT IN ONE BED WITH ONE THAT WAS CLEAN, [EVEN] THE CAP ON HER[2] HEAD SUFFERS MIDRAS UNCLEANNESS; AND IF SHE SAT IN A BOAT, THE VESSELS ON THE TOP OF THE MAST [ALSO] CONTRACT MIDRAS UNCLEANNESS.[3] IF SHE TOOK A TUB FULL OF CLOTHES AND THEIR WEIGHT WAS HEAVY, THEY BECOME UNCLEAN,[4] BUT IF THEIR WEIGHT WAS LIGHT, THEY REMAIN CLEAN. IF A ZAB KNOCKED AGAINST A BALCONY AND THEREBY CAUSED A LOAF OF TERUMAH TO FALL DOWN, IT REMAINS CLEAN.[5]

MISHNAH 2. IF HE KNOCKED AGAINST A JOIST, A RAFTER-FRAME, WATER-SPOUT, OR SHELF, THOUGH FIXED WITH ROPES,[6] OR IF [HE KNOCKED AGAINST] AN OVEN, OR A FLOUR CONTAINER,[7] OR THE LOWER MILL-STONE, OR THE JACK[8] OF A HAND-MILL, OR THE SE'AH MEASURE[9] OF AN OLIVE-GRINDER, [THE LOAF REMAINS CLEAN].[10] R. JOSE ADDS: ALSO [IF HE KNOCKS] AGAINST THE BEAM OF THE BATH-KEEPER.[11] IT REMAINS CLEAN.

MISHNAH 3. IF HE KNOCKED AGAINST A DOOR, DOORBOLT,[12] LOCK, OAR,[13] MILL-STONE FRAME,[14] OR AGAINST A WEAK TREE, OR WEAK BRANCH OF A STRONG TREE, OR AGAINST AN EGYPTIAN LADDER UNSECURED BY NAILS, OR AGAINST A BRIDGE, BEAM OR DOOR, NOT MADE SECURE WITH CLAY, THEY BECOME UNCLEAN.[15] [IF HE KNOCKED] AGAINST A CHEST,[16] BOX OR CUPBOARD, THEY BECOME UNCLEAN. R. NEHEMIAH AND R. SIMEON, HOWEVER, PRONOUNCE THEM CLEAN IN SUCH CASES.[17]

MISHNAH 4. A ZAB WHO LAY LENGTHWISE ACROSS FIVE BENCHES, OR FIVE MONEY-BAGS, [MAKES THEM] UNCLEAN,[18] BUT [IF HE LAY ACROSS] THEIR BREADTH, THEY ARE CLEAN.[19] IF HE SLEPT [ON THEM],[20] AND IT WAS FEARED LEST

HE HAD TURNED HIMSELF ABOUT[21] ON THEM, THEY ARE UNCLEAN. IF HE WAS LYING ON SIX SEATS, WITH TWO HANDS ON TWO [SEATS]. TWO FEET ON ANOTHER TWO, HIS HEAD ON ONE, WITH HIS BODY ON ANOTHER ONE, ONLY THAT ONE ON WHICH HIS BODY LAY[22] IS RENDERED UNCLEAN. IF [A ZAB] STOOD ON TWO SEATS, R. SIMEON SAYS: IF THESE WERE DISTANT ONE FROM THE OTHER, THEY REMAIN CLEAN.[23]

MISHNAH 5. IF THERE WERE PILED TEN CLOAKS ONE ON TOP OF THE OTHER AND HE SAT ON THE UPPERMOST ONE, ALL ARE UNCLEAN.[24] IF THE ZAB WAS IN ONE SCALE OF THE BALANCE AND IN THE OTHER SCALE OPPOSITE THERE WERE OBJECTS FIT TO SIT OR LIE UPON, AND THE ZAB OVERWEIGHED, THEY ARE CLEAN;[25] BUT IF THEY OVERWEIGHED, THEY ARE UNCLEAN. R. SIMEON SAYS:[26] IF THERE WAS BUT ONE [PLACE][27] IT BECOMES UNCLEAN;[28] BUT IF THERE WERE MANY[29] THEY REMAIN CLEAN, SINCE NONE OF THEM HAD BORNE THE GREATER PART [OF THE ZAB'S WEIGHT].[30]

MISHNAH 6. IF A ZAB [SAT] IN ONE SCALE OF THE BALANCE, WHILST FOOD AND LIQUIDS WERE IN THE OTHER SCALE, [THE LATTER BECOME] UNCLEAN;[31] IN THE CASE OF A CORPSE,[32] HOWEVER, EVERYTHING[33] REMAINS CLEAN,[34] SAVE A MAN.[35] THIS IS [AN EXAMPLE OF] THE GREATER STRINGENCY APPLYING TO A ZAB THAN TO A CORPSE; AND THERE IS ALSO ANOTHER INSTANCE OF GREATER STRINGENCY IN THE CASE OF A ZAB THAN A CORPSE.[36] FOR WHEREAS THE ZAB DEFILES ALL OBJECTS ON WHICH HE SITS OR LIES UPON, SO THAT THESE LIKEWISE CONVEY UNCLEANNESS TO MEN AND GARMENTS,[37] AND CONVEY, MOREOVER. TO WHAT IS ABOVE HIM A MIDDAF UNCLEANNESS,[38] SO THAT THESE IN TURN DEFILE FOOD AND LIQUIDS. IN THE CASE OF A CORPSE NO SUCH UNCLEANNESS TAKES PLACE.[39] GREATER STRINGENCY IS ALSO FOUND IN THE CASE OF A CORPSE, SINCE IT CAN CONVEY UNCLEANNESS BY OVERSHADOWING,[40] AND IMPOSES SEVEN DAYS' DEFILEMENT, WHEREAS IN THE CASE OF A ZAB NO SUCH UNCLEANNESS IS CONVEYED.

MISHNAH 7. IF HE SAT ON A BED AND THERE WERE FOUR CLOAKS UNDER THE FOUR LEGS OF THE BED, ALL BECOME UNCLEAN, SINCE THE BED CANNOT STAND ON THREE LEGS;[41] BUT R. SIMEON DECLARES THEM CLEAN.[42] IF HE RODE ON A BEAST[43] AND THERE WERE FOUR CLOAKS UNDER THE LEGS OF THE BEAST, THEY ARE CLEAN, SINCE THE BEAST CAN STAND UPON THREE LEGS.[44] IF THERE WAS ONE CLOAK UNDER ITS TWO FORELEGS OR ITS TWO HINDLEGS, OR UNDER A FORELEG AND A HINDLEG, IT BECOMES UNCLEAN.[45] R. JOSE SAYS: A HORSE CONVEYS UNCLEANNESS THROUGH ITS HINDLEGS. BUT AN ASS THROUGH ITS FORELEGS, SINCE A HORSE LEANS UPON ITS HINDLEGS AND AN ASS UPON ITS FORELEGS. IF HE[46] SAT ON A BEAM OF AN OLIVE-PRESS, THE VESSELS IN THE OLIVE-PRESS[47] ARE UNCLEAN; BUT IF HE SAT ON A FULLER'S PRESS, THE GARMENTS BENEATH IT ARE CLEAN;[48] R. NEHEMIAH, HOWEVER, DECLARES THEM UNCLEAN.[49]

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(1) Applies also to the zab and the clean person.

(2) The clean person.

(3) Defilement is contracted, though it be impossible for unclean persons to tread there.

(4) Cf. supra III, 2.

(5) Since its fall was not actually due to direct pressure of the zab, but to his vibration.

(6) I.e., not with nails, as is usually done, to secure more firmness.

(7) To collect the flour when wheat is ground.

(8) The receptacle which harbours the hand-mill.

(9) A large measure fixed in the ground.

(10) Being considered firm enough to withstand the knocking of the unclean person; and since the falling of the loaf is only due to vibration, no defilement takes place.

(11) On which he sits.

(12) A door-pin fitting into sockets top and bottom.

(13) Cf Ezek. XXVII, 29.

(14) A hopper to receive the flour dust. It was of a portable nature.

(15) Being unsteady they bore the full weight of the zab.

(16) A strong box; v. Git. 68a.

(17) Referring to the last three objects, on account of their massive character.

(18) Since the greater part of each had borne his weight as he lay on his back or stomach.

(19) In this position his weight was not felt on each.

(20) Across their breadth.

(21) Lengthwise;

(22) And which had borne his weight. The other seats also suffer minor uncleanness for having touched the zab, but they do not carry uncleanness to man and object.

(23) For none had borne his full weight.

(24) Not necessarily ten cloaks; for even if the zab sits on a large stone on top of one hundred cloaks, all the cloaks below become unclean, as objects on which the zab had sat.

(25) I.e., from midras uncleanness, due to the absence of direct pressure from the zab; but they do contract minor uncleanness, middaf uncleanness (v. Glos.).

(26) Following his view in Mishnah 4.

(27) At the opposite end of the scale to sit or lie upon.

(28) If that end went down the scales; in that case it bears the zab's full pressure.

(29) Places opposite the zab fit to sit or lie upon.

(30) Each of the places bearing only a minor part of his full weight.

(31) Through pressure (hesset), regardless of the fact which overweighed the other, as above.

(32) I.e., if a corpse was in one of the scales.

(33) In the other scale, whether food, liquids, or objects serving as seats or couches.

(34) A corpse does not defile through pressure.

(35) Who is defiled when he overweighs a corpse at the other end of the scale; cf. Nid. 69a.

(36) Var. lec.: ‘and there is greater stringency in the case of a corpse than a zab’.

(37) V. supra II, 4.

(38) Heb. מדף (‘driving’, ‘breathing’). Hence slight or indirect contact. Middaf is not a ‘father of uncleanness’ but a minor grade, infecting only foods and liquids, but not men and vessels. Maimonides explains middaf as the stench arising from the corpse, thereby contaminating all surrounding objects.

(39) The objects beneath the corpse do not defile man so that he should defile garments.

(40) Levitical uncleanness arising from being under the same roof with, or forming a shelter over, a corpse.

(41) Each leg, therefore, can be said to support the whole weight of the zab.

(42) Cf. supra IV, 5.

(43) The beast remaining at a standstill; for were it trotting along, the cloaks would become unclean. For the animal always has in trotting one leg up, and really stands on three legs.

(44) Each foot being regarded only as a help, but not as essential to bear the full weight of the zab.

(45) Since an animal cannot remain standing on two legs, the cloak bore at one time the full weight of the zab.

(46) The zab.

(47) עקל is variously explained as a rope-basket in which olives are kept during the pressing process (Bert.); or a basket into which the pressed olives are thrown (so Maim.); cf. Meg. I, 7; Toh X, 8.

(48) By sitting on a corner of the press, the garments that are being creased within do not bear his full weight (v. Bert.).

(49) For it is impossible that some of the garments should not bear his full weight.

Mishna - Mas. Zavim Chapter 5

MISHNAH 1. HE WHO TOUCHES A ZAB, OR WHOM A ZAB TOUCHES, WHO MOVES[1] OR WHOM A ZAB MOVES, DEFILES FOOD AND LIQUIDS AND VESSELS THAT ARE RINSED[2] BY TOUCH, BUT NOT BY CARRIAGE.[3] THIS WAS THE GENERAL PRINCIPLE WHICH R. JOSHUA FORMULATED: ALL THOSE THAT DEFILE GARMENTS[4] WHILE STILL IN CONTACT [WITH THEIR SOURCE OF UNCLEANNESS] ALSO DEFILE FOODS AND LIQUIDS SO AS TO BECOME [UNCLEAN] IN THE FIRST GRADE, AND THE HANDS[5] SO THAT THEY BECOME [UNCLEAN] IN THE SECOND GRADE; BUT THEY DO NOT DEFILE MEN OR EARTHENWARE VESSELS. ONCE, HOWEVER, THEY HAVE BEEN SEPARATED FROM THEIR SOURCE OF UNCLEANNESS THEY DEFILE LIQUIDS SO AS TO BECOME [UNCLEAN] IN THE FIRST GRADE,[6] AND FOOD AND THE HANDS SO THAT THEY BECOME [UNCLEAN] IN THE SECOND GRADE,[7] BUT THEY DO NOT DEFILE GARMENTS.

MISHNAH 2. YET ANOTHER GENERAL PRINCIPLE DID THEY FORMULATE: ALL THAT IS CARRIED ABOVE A ZAB BECOMES DEFILED,[8] BUT ALL THOSE THINGS ABOVE WHICH HE IS CARRIED ARE CLEAN;[9] EXCLUDING SUCH OBJECTS ON WHICH HE CAN SIT OR LIE UPON,[10] AND A MAN. HOW SO? IF A ZAB HAD HIS FINGER[11] BENEATH A LAYER OF STONES AND ONE THAT WAS CLEAN WAS ABOVE,[12] HE CONVEYS UNCLEANNESS AT TWO [REMOVES]. AND RENDERS UNFIT [TERUMAH] AT ONE [FURTHER REMOVE]. IF HE SEPARATED [FROM THE SOURCE OF UNCLEANNESS].[13] HE STILL DEFILES WITH FIRST-GRADE UNCLEANNESS AND RENDERS [TERUMAH] UNFIT AT YET ONE [FURTHER REMOVE]. IF THE UNCLEAN WAS ABOVE, AND THE CLEAN PERSON BELOW,[14] HE CONVEYS UNCLEANNESS AT TWO [REMOVES],[15] AND RENDERS [TERUMAH] UNFIT AT YET ONE [FURTHER REMOVE]. IF HE SEPARATED [FROM THE SOURCE OF UNCLEANNESS], HE DEFILES AT ONE [REMOVE] AND RENDERS [TERUMAH] UNFIT AT YET ONE [MORE REMOVE]. IF FOODS OR LIQUIDS, OR OBJECTS ON WHICH HE COULD SIT OR LIE UPON OR OTHER ARTICLES[16] WERE ABOVE,[17] THEY DEFILE AT THE TWO REMOVES,[18] AND RENDER [TERUMAH] UNFIT AT ONE [FURTHER REMOVE]. IF THEY HAD BECOME SEPARATED [FROM THE SOURCE OF UNCLEANNESS], THEY DEFILE AT ONE [REMOVE] AND RENDER [TERUMAH] UNFIT AT ONE [MORE REMOVE]. ALL OBJECTS FIT TO SIT OR LIE UPON THAT WERE BELOW[19] DEFILE AT TWO [REMOVES], AND RENDER [TERUMAH] UNFIT AT ONE [MORE REMOVE]. FOODS AND LIQUIDS AND OTHER ARTICLES[20] THAT ARE BELOW, REMAIN CLEAN.[21]

MISHNAH 3. SINCE IT WAS SAID[22] THAT WHATSOEVER CARRIES OR IS CARRIED BY OBJECTS ON WHICH ONE SITS OR LIES UPON REMAIN CLEAN, EXCLUDING THE CASE OF A MAN;[23] WHATSOEVER CARRIES OR IS CARRIED BY CARRION IS CLEAN,[24] SAVE HIM THAT MOVES IT.[25] R. ELIEZER ADDS: ALSO HE THAT CARRIES IT.[26] HE WHO CARRIES OR IS CARRIED UPON A CORPSE REMAINS CLEAN, SAVE WHEN OVERSHADOWING TAKES PLACE,[27] OR A MAN WHEN HE MOVES IT.[28]

MISHNAH 4. IF PART OF AN UNCLEAN PERSON[29] RESTS UPON A CLEAN PERSON, OR PART OF A CLEAN PERSON RESTS UPON AN UNCLEAN PERSON, OR IF THE CONNECTIVES[30] OF AN UNCLEAN PERSON REST UPON A CLEAN PERSON, OR THE CONNECTIVES OF A CLEAN PERSON UPON ONE UNCLEAN, HE[31] BECOMES UNCLEAN. R. SIMEON SAYS: IF PART OF AN UNCLEAN PERSON IS UPON A CLEAN PERSON, HE IS UNCLEAN;[32] BUT IF PART OF A CLEAN PERSON IS UPON ONE THAT IS UNCLEAN, HE IS CLEAN.

MISHNAH 5. IF AN UNCLEAN PERSON[33] RESTS UPON PART OF AN OBJECT FIT TO LIE UPON, OR A CLEAN PERSON[33] RESTS UPON PART OF AN OBJECT FIT TO LIE

UPON,[34] IT BECOMES UNCLEAN.[35] IF PART OF AN UNCLEAN PERSON RESTS ON AN OBJECT FIT TO LIE UPON, OR PART OF A CLEAN PERSON RESTS UPON SUCH AN OBJECT,[34] IT REMAINS CLEAN.[36] THUS WE FIND THAT UNCLEANNESS IS CONTRACTED AND CONVEYED BY THE LESSER PART THEREOF.[37] SIMILARLY,[38] IF A LOAF OF TERUMAH WAS PLACED UPON AN OBJECT FIT TO LIE UPON [THAT WAS UNCLEAN]. AND THERE WAS A LAYER OF PAPER BETWEEN, WHETHER IT[39] WAS ABOVE OR BELOW, IT REMAINS CLEAN. SIMILARLY, IN THE CASE OF A STONE SMITTEN WITH LEPROSY[40] IT[41] REMAINS CLEAN;[42] BUT R. SIMEON PRONOUNCED SUCH A CASE UNCLEAN.[43]

MISHNAH 6. HE WHO TOUCHES A ZAB, OR A ZABAH, A MENSTRUANT, OR A WOMAN AFTER CHILDBIRTH, OR A LEPER, OR ANY OBJECT ON WHICH THESE HAD BEEN SITTING OR LYING, CONVEYS UNCLEANNESS AT TWO [REMOVES]. AND RENDERS [TERUMAH] UNFIT AT ONE [FURTHER REMOVE].[44] IF HE HAD BECOME SEPARATED,[45] HE STILL CONVEYS UNCLEANNESS AT ONE [REMOVE], AND RENDERS [TERUMAH] UNFIT AT ONE [FURTHER REMOVE]. THIS IS THE CASE WHETHER HE HAD TOUCHED, OR HAD MOVED, OR HAD CARRIED, OR WAS CARRIED.[46]

MISHNAH 7. IF ONE TOUCHES THE FLUX OF A ZAB, HIS SPITTLE, SEMEN OR URINE, OR THE BLOOD OF A MENSTRUANT, HE CONVEYS UNCLEANNESS AT TWO [REMOVES], AND RENDERS [TERUMAH] UNFIT AT ONE [MORE REMOVE]; BUT IF HE BECAME SEPARATED,[47] HE DEFILES AT ONE [REMOVE] AND RENDERS [TERUMAH] UNFIT AT ONE [MORE REMOVE]. THIS IS THE CASE WHETHER HE HAD TOUCHED OR MOVED IT.[48] R. ELIEZER SAID: ALSO IF HE HAD LIFTED IT.[49]

MISHNAH 8. IF HE CARRIED THAT WHICH WAS RIDDEN UPON,[50] OR IF HE WAS CARRIED THEREON, OR HAD MOVED IT, HE DEFILES AT TWO [REMOVES], AND RENDERS [TERUMAH] UNFIT AT ONE [MORE REMOVE]; BUT IF HE BECAME SEPARATED [FROM THE UNCLEANNESS], HE DEFILES AT ONE [REMOVE] AND RENDERS [TERUMAH] UNFIT AT ONE [MORE REMOVE]. IF HE CARRIES CARRION, OR THE WATER OF THE SIN-OFFERING OF WHICH THERE WAS SUFFICIENT FOR A SPRINKLING,[51] HE DEFILES AT TWO [REMOVES], AND RENDERS [TERUMAH] UNFIT AT ONE [MORE REMOVE]; BUT IF HE BECAME SEPARATED,[47] HE DEFILES AT ONE [REMOVE] AND RENDERS [TERUMAH] UNFIT AT ONE [MORE REMOVE].

MISHNAH 9. HE WHO ATE OF THE CARRION OF A CLEAN BIRD, AND IT STILL IS IN HIS GULLET,[52] HE DEFILES AT TWO [REMOVES], AND RENDERS [TERUMAH] UNFIT AT ONE [MORE REMOVE]. IF HE PUT HIS HEAD WITHIN THE AIR-SPACE OF AN OVEN,[53] BOTH HE AND THE OVEN ARE CLEAN;[54] BUT IF HE VOMITED OR SWALLOWED IT, HE DEFILES AT ONE [REMOVE] AND RENDERS [TERUMAH] UNFIT AT ONE [MORE REMOVE].[55] BUT AS LONG AS IT IS STILL IN HIS MOUTH, THAT IS PRIOR TO SWALLOWING IT, HE REMAINS CLEAN.[56]

MISHNAH 10. HE WHO TOUCHES A DEAD REPTILE, OR SEMEN, OR HIM THAT HAS SUFFERED CORPSE UNCLEANNESS, OR A LEPER DURING HIS DAYS OF COUNTING,[57] OR WATER OF SIN-OFFERING OF INSUFFICIENT QUANTITY WITH WHICH TO PERFORM THE SPRINKLING,[58] OR CARRION, OR AN OBJECT RIDDEN UPON,[59] DEFILES AT ONE [REMOVE] AND RENDERS [TERUMAH] UNFIT AT ONE [MORE REMOVE].[60] THIS IS THE GENERAL PRINCIPLE: ALL WHO TOUCH ANY OBJECT REGARDED BY THE TORAH AS A ‘FATHER OF UNCLEANNESS’[61] DEFILE AT ONE [REMOVE] AND RENDER [TERUMAH] UNFIT AT ONE [MORE REMOVE], WITH THE EXCLUSION [OF THE CORPSE] OF A MAN.[62] IF HE[63] HAD BECOME SEPARATED,[64] HE DEFILES AT ONE [REMOVE] AND

RENDERS [TERUMAH] UNFIT AT ONE [MORE REMOVE].

MISHNAH 11. HE WHO HAS SUFFERED A [NOCTURNAL] POLLUTION IS LIKE ONE WHO HAS TOUCHED A DEAD REPTILE,[65] AND HE THAT HAS HAD CONNECTION WITH A MENSTRUANT IS LIKE ONE WHO HAS SUFFERED CORPSE UNCLEANNESS.[66] HE WHO HAS HAD CONNECTION WITH A MENSTRUANT, HOWEVER, HAS THE MORE STRINGENT IMPOSITION IN THAT HE CONVEYS MINOR GRADES OF UNCLEANNESS TO WHAT HE LIES OR SITS UPON, SO AS TO MAKE FOODS AND LIQUIDS UNCLEAN.[67]

MISHNAH 12. THE FOLLOWING RENDER TERUMAH UNFIT:[68] ONE WHO EATS FOODS OF FIRST OR SECOND GRADE UNCLEANNESS, AND WHO DRINKS UNCLEAN LIQUIDS,[69] AND THE ONE WHO HAS IMMERSED HIS HEAD AND THE GREATER PART OF HIM IN WATER WHICH HAD BEEN DRAWN,[70] AND A CLEAN PERSON UPON WHOSE HEAD AND GREATER PART OF HIM THERE FELL THREE LOGS OF DRAWN WATER,[71] AND A SCROLL [OF SCRIPTURES],[72] AND [UNWASHED] HANDS,[73] AND ONE THAT HAS HAD IMMERSION THAT SAME DAY,[74] AND FOODS AND VESSELS WHICH HAVE BECOME DEFILED BY LIQUIDS.[75]

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(1) By causing the board on which the zab stands to shake.

(2) Which need only to be rinsed (immersed) in order to regain levitical purity. Made usually of wood or metal; those of earthenware must be broken when defiled; Lev. XV, 12.

(3) If at the time of his contact with the zab he was carrying garments which had not been touched, they are clean.

(4) Viz., those that are in contact with a zab or zabah.

(5) Sc. of a clean person not touched by the zab.

(6) Liquids suffer first-grade uncleanness even when touched not by those who are ‘fathers’, on account of their susceptibility to defilement, unlike foodstuffs which require special preparation to render them susceptible.

(7) On account of their separation from the source.

(8) Including such things not usually borne above a zab, and even if there were many things blocking the way between them.

(9) Provided they are untouched.

(10) Specially designated for this purpose. Also objects on which he can ride.

(11) The bulk of the zab's body pressure being required only when he lies upon an object.

(12) With such a layer thickness, the clean person cannot be said to be exerting pressure on the zab; yet he is here deemed to be carried by the zab and becomes a ‘father of uncleanness’.

(13) Either by removal of the zab's finger from beneath the layer of stones, or by the departure of the clean person from his stone seat. His uncleanness is then only of the first grade.

(14) Having only his finger beneath the layer.

(15) Since the zab is, as it were, carried by him.

(16) Heb. middaf, i.e., the uncleanness of objects arising from their indirect contact with sources of impurity; such uncleanness was deemed to be only of a minor degree. Hence other articles not fit for sitting or lying on.

(17) I.e., above the layer of stones beneath which was the zab's finger.

(18) Objects on which he sits or lies upon always being deemed ‘fathers of uncleanness’.

(19) And that bore the brunt of the zab's pressure above.

(20) V. p. 517, n. 8.

(21) In accordance with the principle enunciated above which declared objects above which a zab was borne clean, save those things on which a man sits or lies.

(22) This Mishnah explains the rule laid down in the one preceding, and gives a reason for proclaiming clean the foods and liquids below the layer of stones under which the zab had his finger. Var. lec. delete the words SINCE IT WAS SAID.

(23) Who becomes defiled by carrying objects used for sitting purposes, even without touching or moving them.

(24) Even if it were a man who was the carrier.

(25) He becomes defiled.

(26) Cf. Hul. 124b where this is emended to read: ‘that is, if he carries it’, and not just by moving it.
(27) There can be a case of carrying without overshadowing, i.e., if there is a top storey intervening in which there are vessels weighing down boards of the ceiling of a room in which there is a corpse.
(28) But if the corpse is not moved from its place, he is clean.
(29) I.e., a zab, whose very finger defiles by the touch.
(30) These are hair, nails or teeth.
(31) Namely, the person that was clean. The point reemphasized is that the full pressure of the bulk of the zab's body is required only when he is lying on an object.
(32) Maintaining that even in this case it is essential for the bulk of a zab's body to be upon the clean person, if defilement was to be the result.
(33) Viz., the greater part of him.
(34) Which was unclean.
(35) Namely, that which had been clean.
(36) Viz., the person or object hitherto clean.
(37) Of what is fit to lie on.
(38) In illustration of the first ruling in Mishnah 3.
(39) I.e., the source of defilement.
(40) Either below or above the loaf of bread separated by a piece of Paper.
(41) The loaf.
(42) The leprous stone does convey uncleanness through overshadowing only to objects that are under the same roofing as itself.
(43) Maintaining that a leprous stone defiles through overshadowing in the same way as a corpse.
(44) The five sources of uncleanness enumerated are of so rigid a nature that their mere touch is sufficient to cause the defilement of garments and vessels. They are all ‘fathers of uncleanness’.
(45) From the original course of uncleanness.
(46) Even without touching; a law derived by the Rabbis from the Bible; cf. Pes. 67b, Shab. 3b.
(47) From the source of uncleanness.
(48) V. Mishnah 3, n. 5.
(49) Bert. renders R. Eliezer's meaning thus: ‘Provided be had lifted it’, maintaining that touching and moving alone are insufficient. The halachah does not concur with his point of view.
(50) By the unclean enumerated in Mishnah 6.
(51) This water defiles garments by carrying, but not by touch. If it is of insufficient quantity, it defiles by contact and not by mere carrying.
(52) I.e., as long as it remains in his gullet he is regarded as a ‘father of uncleanness’; V. Toh. I. 1.
(53) And the carrion is still in his gullet.
(54) Though he defiles garments, he cannot contaminate man or earthenware vessels.
(55) Since he is no longer a ‘father of uncleanness’; cf. Shebu. 9b.
(56) And not even the slightest uncleanness attaches to him; for the Bible makes the actual ‘eating’ the criterion; V. Lev. XXII, 8.
(57) I.e., during the seven intermediate days between his first and second shaving.
(58) Cf. Mishnah 8, n. 6.
(59) By a zab.
(60) All the things hitherto enumerated defile garments only with carrying, but not by touch; hence he who touches them, though still connected with the source of uncleanness, is not a ‘father of uncleanness’.
(61) I.e., a zab, menstruant, woman after childbirth, one who has suffered corpse-uncleanness and others not enumerated in the Mishnahs above.
(62) He who touches it becomes a ‘father of uncleanness’ and remains so even after he had separated from the corpse, and consequently defiles at two removes, etc.
(63) Sc. who touched a dead reptile etc.
(64) From the source of defilement.
(65) Who does not become a ‘father of uncleanness’ but suffers first-grade uncleanness only.
(66) Who is a ‘father of uncleanness’ suffering seven days’ defilement.

(67) Unlike the case of one who suffers corpse-defilement. V. Lev. XV, 7 with its insistence that only the zab renders vessels which serve as a seat or couch unclean; cf. Kel. I, 3.

(68) V. Shab. 13bff.

(69) In these three instances second-grade uncleanness is contracted. The Rabbinic precaution was lest he eat of the terumah whilst these things are still in his mouth.

(70) A further precaution lest the law of the ritual bath (mikweh) be forgotten from Israel.

(71) For until he has obtained complete immersion his touch invalidates terumah.

(72) Cf. Toh. XV, 6; Yad. III, 2.

(73) A precautionary measure in favour of terumah, v. Shab. 24a.

(74) He must await sunset to be wholly pronounced clean. If in the meantime he touches terumah it must be burnt.

(75) Being more susceptible to contract uncleanness they became impure at a first remove.

Mishna - Mas. Tevul Yom Chapter 1

MISHNAH 1. IF ONE[1] HAD COLLECTED DOUGH-OFFERING[2] [PORTIONS] WITH THE INTENTION OF SEGREGATING THEM AFTERWARDS AGAIN, BUT IN THE MEANTIME THEY HAD BECOME STUCK TOGETHER,[3] BETH SHAMMAI SAY: THEY SERVE AS CONNECTIVES[4] IN THE CASE OF A TEBUL YOM. BUT BETH HILLEL SAY: THEY DO NOT SERVE AS CONNECTIVES. PIECES OF DOUGH[5] THAT HAD BECOME STUCK TOGETHER, OR LOAVES[5] THAT HAD BECOME JOINED, OR A BATTER-CAKE THAT HAD BEEN BAKED ON TOP OF ANOTHER BATTER-CAKE BEFORE IT COULD FORM A CRUST IN THE OVEN, OR IF THERE WAS FROTH[6] ON THE WATER THAT WAS BUBBLING, OR THE FIRST SCUM[7] THAT RISES WHEN BOILING GROATS OF BEANS, OR THE SCUM OF NEW WINE (R. JUDAH SAYS: ALSO THAT OF RICE) BETH SHAMMAI SAY: ALL SERVE AS CONNECTIVES IN THE CASE OF THE TEBUL YOM. BUT BETH HILLEL SAY: THEY DO NOT SERVE AS CONNECTIVES.[8] THEY[9] CONCUR, HOWEVER, [THAT THEY SERVE AS CONNECTIVES] IF THEY COME INTO CONTACT WITH OTHER KINDS OF UNCLEANNESS, WHETHER THEY BE OF MINOR[10] OR MAJOR GRADES.[11]

MISHNAH 2. IF ONE HAD COLLECTED PIECES OF DOUGH-OFFERING NOT WITH THE INTENTION OF SEGREGATING THEM AFTERWARDS, OR A BATTER-CAKE THAT HAD BEEN BAKED ON ANOTHER AFTER A CRUST HAD FORMED IN THE OVEN,[12] OR A FROTH HAD APPEARED IN THE WATER PRIOR TO ITS BUBBLING UP, OR THE SECOND SCUM THAT APPEARED IN THE BOILING OF GROATS OF BEANS, OR THE SCUM OF OLD WINE, OR THAT OF OIL OF ALL KINDS,[13] OR OF LENTILS (R. JUDAH SAYS: ALSO THAT OF BEANS[14]) — ALL THESE ARE RENDERED UNCLEAN[15] WHEN TOUCHED BY A TEBUL YOM. AND NEEDLESS TO SAY, [THIS IS THE CASE IF TOUCHED] BY OTHER SOURCES OF UNCLEANNESS.

MISHNAH 3. THE KNOB[16] ON THE BACK OF THE LOAF, OR THE SMALL GLOBULE OF SALT,[17] OR THE BURNT CRUST LESS THAN A FINGER'S BREADTH — R. JOSE SAYS: WHATSOEVER IS EATEN WITH THE LOAF BECOMES UNCLEAN [WHEN TOUCHED BY THE TEBUL YOM].[18] AND NEEDLESS TO SAY, THIS IS SO [WHEN TOUCHED] BY OTHER UNCLEAN THINGS.

MISHNAH 4. A PEBBLE IN A LOAF OR A LARGE GLOBULE OF SALT, OR A LUPINE,[19] OR A BURNT CRUST LARGER THAN A FINGER'S BREADTH,[20] [DO NOT SERVE AS CONNECTIVES]. BUT R. JOSE SAYS: [ONLY] WHATSOEVER THAT IS NOT EATEN WITH THE LOAF REMAINS CLEAN EVEN WHEN TOUCHED BY A FATHER OF UNCLEANNESS';[21] AND NEED LESS TO SAY [IS THIS SO WHEN TOUCHED] BY A TEBUL YOM.

MISHNAH 5. UNSHELLED[22] BARLEY OR SPELT, ROOT OF CROWFOOT,[23] ASAFOETIDA,[24] SILRHIUM[25] (R. JUDAH SAYS: BLACK BEANS)[26] REMAIN CLEAN[27] EVEN [WHEN COMING INTO CONTACT] WITH A 'FATHER OF UNCLEANNESS', LET ALONE [IF TOUCHED] BY A TEBUL YOM. SO R. MEIR: BUT THE SAGES SAY: THEY ARE CLEAN IF TOUCHED BY A TEBUL YOM, BUT UNCLEAN [WHEN TOUCHED] BY OTHER SOURCES OF DEFILEMENT. IN THE CASE OF SHELLED BARLEY OR SPELT, OR WHEAT EITHER WITH THE HUSK ON OR WITHOUT IT, OR BLACK CUMMIN, OR SESAME OR PEPPER (R. JUDAH SAYS: ALSO WHITE BEANS), THEY BECOME UNCLEAN EVEN WHEN TOUCHED BY A TEBUL YOM,[28] LET ALONE [WHEN THEY HAVE COME INTO CONTACT] WITH OTHER SOURCES OF UNCLEANNESS.

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(1) The priest made a house-to-house collection and piled the pieces of dough on top of each other.

(2) V. Num. XV, 18-21; v. Glos., s. v. Hallah.

(3) Lit., and they bit'.

(4) To hallah is attributed the same sanctity and the same degree of susceptibility to uncleanness as to terumah, and hence it becomes pasul' (unfit) if touched by the tebul yom. Even if only part were touched the whole becomes unclean; for it is regarded as one inseparable mass.

(5) Of terumah, and so in all that follows we ate concerned with terumah.

(6) קרולית something hollow or round'; a hollow ball of water, bubble. The water needed for terumah shares it,' stringencies; hence if a tebul yom touches the froth or first scum, he conveys uncleanness to the whole, according to Beth Shammai.

(7) The first scum does not yet render the beans into one solid mass, yet Beth Shammai already regard it as a connective.

(8) The distinction between hallah and terumah is that whereas the former comprises only a Rabbinical injunction in these times, the latter even now enjoys the rank of a Biblical command, hence both cases had to be stated (L.).

(9) Beth Hillel. They dispute only in the case of a tebul yom, since he lacks only sunset to be wholly clean.

(10) Derived uncleanness.

(11) A 'father of uncleanness'

(12) For once a crust has formed it is hard to separate them, and the two cakes are considered as one.

(13) Lit., 'always'; i.e., both old or new oil.

(14) Or 'vetchlings'.

(15) If of terumah.

(16) The peg-shaped attachment to a loaf supposed to serve as a trade mark.

(17) That had become stuck to the loaf and baked with it.

(18) And since they are occasionally eaten with the loaf, they serve as connectives.

(19) On account of their extreme hardness lupines had to be cooked at least six times before they were fit to be eaten.

(20) These things served either as trade marks or marked the grades of the loaf. As such they were 'never eaten, and hence could not be deemed as connect ives for bread, even when touched by a 'father of uncleanness' itself.

(21) Where they are eaten with the loaf even these serve as connectives.

(22) A state unfit for human consumption, accordingly not susceptible to uncleanness.

(23) Used as a spice, but considered noxious for beasts.

(24) An umbelliferous plant used as a resin, or in leaves, for a spice, or for medicinal purposes; cf. Shab. 14a, Hul. 58b.

(25) A mucilaginous plant; Lat. 'Alum', of the same species as asafoetida.

(26) Which were used specifically for medicinal purposes.

(27) Since only the smallest portion was placed in the food, they cannot be regarded as food and susceptible to uncleanness.

(28) Since they are all regular food ingredients.

Mishna - Mas. Tevul Yom Chapter 2

MISHNAH 1. LIQUIDS THAT ISSUE[1] FROM A TEBUL YOM ARE LIKE THOSE[2] WHICH HE HAS TOUCHED: NEITHER OF THEM HAS POWER TO DEFILE.[3] WITH REGARD TO ALL OTHERS THAT ARE UNCLEAN, BE THEY OF MINOR[4] OR MAJOR[5] [DEGREE]. THE LIQUIDS ISSUING FROM THEM ARE LIKE THOSE THEY TOUCH; BOTH ARE CONSIDERED OF FIRST GRADE UNCLEANNESS.[6] THE SOLE EXCEPTION BEING SUCH LIQUID THAT IS IN ITSELF A 'FATHER OF UNCLEANNESS .[7]

MISHNAH 2. IF A POT WAS FULL OF LIQUID AND A TEBUL YOM TOUCHED IT, THE LIQUID BECOMES UNFIT IF IT IS TERUMAH, BUT THE POT IS CLEAN.[8] BUT IF THE LIQUID IS COMMON FOOD [HULLIN] THEN ALL REMAINS CLEAN.[9] IF HIS HANDS WERE SOILED, ALL BECOMES UNCLEAN.[10] HERE GREATER STRINGENCY IS APPLIED TO SOILED HANDS THAN TO A TEBUL YOM; BUT GREATER STRINGENCY IS APPLIED TO A TEBUL YOM THAN TO SOILED HANDS, SINCE ANY DOUBT RESPECTING THE TEBUL YOM RENDERS TERUMAH UNFIT, BUT ANY DOUBT CONCERNING [SOILED] HANDS IS DEEMED CLEAN.[11]

MISHNAH 3. IF THE PORRIDGE WAS OF TERUMAH AND THE GARLIC OR OIL [IT CONTAINED] WAS OF HULLIN, AND A TEBUL YOM TOUCHED PART OF THEM, THEN THE WHOLE BECOMES UNFIT;[12] BUT IF THE PORRIDGE WAS OF HULLIN AND THE GARLIC OR OIL IT CONTAINED WAS OF TERUMAH, AND A TEBUL YOM TOUCHED PART OF THEM, HE RENDERS UNFIT ONLY THE PART HE HAS TOUCHED.[13] IF THE GREATER PART WAS GARLIC THEN THEY GO AFTER THE MAJORITY.[14] WHEN IS IT SO?[15] SAID R. JUDAH: WHEN IT[16] FORMED ONE COHESIVE MASS IN THE POT, BUT IF IT WAS SCATTERED SMALL IN THE MORTAR, THEN IT IS CLEAN, SINCE IT IS HIS WISH THAT IT SHOULD BE SO SCATTERED.[17] [SIMILARLY] WITH ALL OTHER MASHED FOODS WHICH WERE MASHED WITH LIQUIDS;[18] THOSE, HOWEVER, WHICH ARE USUALLY MASHED[19] WITH LIQUIDS AND YET WERE MASHED WITHOUT LIQUIDS, THOUGH[20] THEY FORMED ONE COHESIVE MASS IN THE POT, ARE REGARDED AS A CAKE OF PRESERVED FIGS.[21]

MISHNAH 4. IF THE PORRIDGE AND BATTER-CAKE[22] WERE OF HULLIN AND THE OIL OF TERUMAH WAS FLOATING ABOVE THEM, AND A TEBUL YOM TOUCHED THE OIL, HE RENDERS UNFIT ONLY THE OIL. IF, HOWEVER, HE STIRRED IT ALTOGETHER, ALL THE PLACES WHITHER THE OIL GOES BECOME UNFIT.[23]

MISHNAH 5. IF A FILM OF JELLY[24] HAD FORMED OVER THE FLESH OF HALLOWED THINGS, AND A TEBUL YOM HAD TOUCHED THE JELLY, THE SLICES [OF FLESH] ARE CLEAN;[25] BUT IF HE TOUCHED ONE OF THE SLICES, THAT SLICE AND ALL [THE JELLY] THAT COMES UP WITH IT[26] FORM A CONNECTIVE THE ONE WITH THE OTHER. R. JOHANAN B. NURI SAYS: THE TWO OF THEM SERVE AS CONNECTIVES TO EACH OTHER.[27] SIMILARLY, WITH [COOKED] BEANS THAT HAVE FORMED A LAYER OVER PIECES OF BREAD.[28] BEANS COOKED IN A POT, AS LONG AS THEY ARE STILL SEPARATE, DO NOT SERVE AS CONNECTIVES; BUT WHEN THEY BECOME A SOLID PULP,[29] THEY DO ACT AS CONNECTIVES. IF THEY FORMED SEVERAL SOLID PULPS,[30] THEY ARE TO BE COUNTED.[31] IF OIL FLOATS ON WINE AND A TEBUL YOM TOUCHED THE OIL, ONLY THE OIL IS RENDERED UNFIT; BUT R. JOHANAN B. NURI SAYS: EACH SERVES AS A CONNECTIVE WITH THE OTHER.[32]

MISHNAH 6. IF A JAR[33] HAD SUNK INTO A CISTERN CONTAINING WINE,[34] AND A TEBUL YOM TOUCHED IT, AND [HE TOUCHED IT] WITHIN THE RIM,[35] IT SERVES AS A CONNECTIVE;[36] BUT IF OUTSIDE THE RIM,[37] IT DOES NOT ACT AS A CONNECTIVE. R. JOHANAN B. NURI, HOWEVER, SAYS: EVEN THOUGH [THE LEVEL OF WINE IN THE CISTERN] IS THE HEIGHT OF A MAN[38] [ABOVE THE SUNKEN JAR], AND HE TOUCHED [THE WINE] DIRECTLY ABOVE THE MOUTH OF THE JAR, IT SERVES AS A CONNECTIVE.

MISHNAH 7. IF A JAR[39] HAD A HOLE EITHER AT ITS NECK,[40] BOTTOM OR SIDES, AND A TEBUL YOM TOUCHED IT [AT THE HOLE], IT BECOMES UNCLEAN.[41] R. JUDAH SAYS: ONLY IF THE HOLE IS AT ITS NECK OR BOTTOM IT BECOMES UNCLEAN; BUT IF ON ITS SIDES, ON THIS SIDE OR ON THAT, IT REMAINS CLEAN.[42] IF ONE POURED [LIQUID] FROM ONE VESSEL INTO ANOTHER, AND A TEBUL YOM TOUCHED THE STREAM, AND THERE WAS SOMETHING WITHIN THE VESSEL, THEN [WHATSOEVER HE TOUCHES] IS NEUTRALIZED IN A HUNDRED AND ONE.[43]

MISHNAH 8. IF A BUBBLE[44] OF A JUG WAS PIERCED WITH HOLES ON ITS INNER SIDE AND ON ITS OUTER SIDE, WHETHER ABOVE OR BELOW,[45] [AND THE HOLES ARE] OPPOSITE ONE ANOTHER, IT BECOMES UNCLEAN [IF TOUCHED] BY A ‘FATHER OF

UNCLEANNESS’;[46] AND IT [LIKEWISE] BECOMES UNCLEAN IF IT IS IN A TENT WHEREIN LIES A CORPSE.[47] IF THE INNER HOLE IS BELOW AND THE OUTER ABOVE, IT BECOMES UNCLEAN [IF TOUCHED] BY A ‘FATHER OF UNCLEANNESS’, AND IT BECOMES UNCLEAN IN A TENT WHEREIN THERE IS A CORPSE; IF THE INNER HOLE IS ABOVE AND THE OUTER BELOW, IT REMAINS CLEAN IF TOUCHED BY A ‘FATHER OF UNCLEANNESS’,[48] BUT IT BECOMES UNCLEAN IN A TENT WHEREIN THERE IS A CORPSE.[49]

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(1) Such as spittle, urine, tears, blood of a wound and milk from a woman (Bert.).

(2) Of terumah.

(3) Suffering only third grade uncleanness.

(4) When touched by a dead reptile.

(5) When coming into contact with a zab.

(6) Bestowing second and third grade respectively.

(7) As, for instance, the issue of a person with a flux, a zab.

(8) For it is only terumah, on account of its great sanctity that even a tebul yom can invalidate. Terumah that becomes unfit cannot in its turn convey uncleanness.

(9) Since a tebul yom cannot render unclean hullin or tithe-offerings.

(10) Soiled hands defile liquids (v. Parah VIII, 7); when liquids are thus defiled they become first grade uncleanness, making vessels second grade.

(11) Such as a doubt arising as to which of the two loaves of terumah lying before him the tebul yom has touched, when we pronounce both to be unclean. In the case, however, of soiled hands the loaves are clean; cf. Yad. II, 4.

(12) Even if he touched merely the oil and garlic, these as ingredients serve as connectives to the porridge.

(13) The porridge cannot serve as a connective to the garlic and oil.

(14) The porridge in this case can serve as a connective.

(15) That if he touches the garlic the whole porridge is rendered unclean.

(16) The garlic.

(17) To be used in small portions as ingredients; in which case it cannot be regarded as a connective for the other contents in the mortar.

(18) A distinction is made as to whether they are served whole in the pot or whether they are mashed in the mortar.

(19) Var. lec.: But with all other mashed . . . with liquids or that are usually mashed etc.

(20) V. L.

(21) In which case we do not say that if part thereof is touched, all becomes unclean; single figs are not regarded as connectives.

(22) This is the wafer that used to be placed into the jelly or porridge.

(23) Being impossible to separate oil.

(24) This jelly comprises all the pot ingredients which had become congealed.

(25) Not regarding the jelly as a connective.

(26) But the other jelly does not serve as a connective.

(27) Hence, even if he touches the film of the jelly, the slices of flesh become unclean.

(28) Which were usually spread with beans.

(29) The process of cooking first splits them, then forms them into a solid pulp.

(30) And then came into contact with a dead reptile.

(31) If the separate pups touched each other. That touched by a dead reptile becomes first grade unclean; the piece that touches that which is ‘first grade’ becomes second grade unclean.

(32) So that if the tebul yom touched the oil, the wine also is rendered unfit.

(33) Containing wine of terumah.

(34) Of hullin; and this wine flowing into the jar floats on the surface, forcing the terumah wine to the bottom of the jar.

(35) Touching the hullin wine floating on top.

(36) Though he did not come into contact with the terumah.

(37) I.e., he does not touch the wine inside the jar but only the hullin wine floating round the jar.

(38) Even if the wine in the cistern rises above the sunken jar up to a man's height, and he touches the wine directly above the mouth of the jar, it serves as a connective and the whole jar's contents become unclean.

(39) Containing wine of terumah.

(40) Var. lec. omit.

(41) Since the hole causes the wine to flow into it, the part touched serves as a connective.

(42) His view-point being that only when the hole is at the neck or bottom may all the wine pass through it; but when it is at its sides, only a small portion of the wine will pass through. The portion he touches, which alone is invalidated, becomes neutralized in one hundred and one times the quantity; cf. Ter. V, 4.

(43) I.e., if the wine in the receiving vessel is a hundred times the quantity of that he had touched, maintaining that only the stream of liquid is defiled, and does not act as a connective. It is like a case of unclean terumah getting mixed with clean terumah, where neutralization is I : 101. In the case of major sources of uncleanness, the stream of liquid serves as a connective and defiles all the liquid in both vessels.

(44) An imperfection found in a clay jar formed while it was being baked. If pierced on the inner and outer side when the jar is filled the liquid penetrates the bubble through the inner hole and in Its attempt to seek exit surges through the outer one.

(45) I.e., on top or at the bottom of the jar.

(46) And if he touched the hole on the outer side, all the wine in the jar becomes unclean.

(47) And even if the mouth of the jar was sealed with ‘a tightly stopped-up cover’; cf. Kel. X, 2.

(48) A stream of liquid can serve as a connective only with what is below but not with what is above.

(49) The holes serving as a door for the uncleanness to penetrate into the vessel.

Mishna - Mas. Tevul Yom Chapter 3

MISHNAH 1. ALL [STALKS THAT SERVE AS] HANDLES TO FRUITS, WHICH COUNT AS CONNECTIVES WHEN TOUCHED BY A ‘FATHER OF UNCLEANNESS’, ALSO COUNT AS CONNECTIVES WHEN TOUCHED BY A TEBUL YOM. IF A FOODSTUFF WAS SEVERED YET A SMALL PART WAS STILL ATTACHED, R. MEIR SAYS: IF ONE TAKES HOLD OF THE LARGER PART AND THE SMALLER PART IS PULLED AWAY WITH IT, THEN THE LATTER IS REGARDED AS THE FORMER.[1] R. JUDAH. HOWEVER, SAYS: IF ONE TAKES HOLD OF THE SMALLER PART FIND THE GREATER IS ALSO PULLED AWAY WITH IT, THEN THE LATTER IS LIKE THE FORMER. R. NEHEMIAH SAYS: [THIS REFERS ONLY] TO THE CASE OF THE CLEAN PORTION,[2] BUT THE SAGES SAY: [IT REFERS ONLY] TO THE UNCLEAN PORTION.[3] IN THE CASE OF ALL OTHER FRUITS,[4] THOSE USUALLY HELD BY THE LEAF SHOULD BE TAKEN BY THE LEAF, AND THOSE USUALLY HELD BY THE STALK SHOULD BE TAKEN BY THE STALK.[5]

MISHNAH 2. IF A BEATEN EGG WAS ON TOP OF VEGETABLES OF TERUMAH,[6] AND A TEBUL YOM TOUCHES THE EGG, THEN HE RENDERS UNFIT ONLY THAT STALK [OF THE VEGE TABLES] THAT IS OPPOSITE THE PART [OF THE EGG] HE TOUCHED.[7] R. JOSE, HOWEVER, SAYS: IT AFFECTS THE WHOLE OF THE UPPER LAYER;[8] AND IF IT WAS ARRANGED LIKE A CAP[9] IT DOES NOT SERVE AS A CONNECTIVE.

MISHNAH 3. THE STREAK OF AN EGG[10] THAT HAD BECOME CONGEALED ON THE SIDE OF A PAN THAT HAD BEEN TOUCHED BY A TEBUL YOM WITHIN THE RIM [OF THE PAN]. SERVES AS A CONNECTIVE;[11] BUT IF OUTSIDE THE RIM, IT DOES NOT SERVE AS A CONNECTIVE. R. JOSE MAINTAINS THAT ONLY THE STREAK AND THE PART THAT CAN BE PEELED AWAY WITH IT [SERVES AS A CONNECTIVE].[12] THE SAME APPLIES TO BEANS THAT HAD FORMED A LAYER OF JELLY ON THE RIM OF THE POT.[13]

MISHNAH 4. DOUGH[14] THAT HAD BEEN MIXED [WITH DOUGH OF TERUMAH]. OR THAT HAD BEEN LEAVENED WITH YEAST OF TERUMAH, IS NOT RENDERED UNFIT BY [THE TOUCH OF] A TEBUL YOM;[15] R. JOSE AND R. SIMEON, HOWEVER, PRONOUNCE IT UNFIT. DOUGH[16] THAT HAD BECOME SUSCEPTIBLE [TO UNCLEANNESS] BY A LIQUID,[17] AND IT WAS KNEADED WITH FRUIT JUICE,[18] AND LATER TOUCHED BY A TEBUL YOM, R. ELEAZAR B. JUDAH OF BARTHOTHA SAYS IN THE NAME OF R. JOSHUA: IT BECOMES TOTALLY UNFIT.[19] R. AKIBA, HOWEVER, SAYS IN HIS NAME: HE RENDERS UNFIT ONLY THE PART THAT HE TOUCHED.[20]

MISHNAH 5. IF VEGETABLES OF HULLIN WERE COOKED WITH OIL OF TERUMAH AND A TEBUL YOM TOUCHED IT, R. ELEAZAR B. JUDAH OF BARTHOTHA SAYS IN THE NAME OF R. JOSHUA: IT BECOMES TOTALLY UNFIT.[21] R. AKIBA, HOWEVER, SAYS IN HIS NAME: HE RENDERS UNFIT ONLY THE PART THAT HE TOUCHED.[22]

MISHNAH 6. IF A CLEAN PERSON CHEWED FOOD AND IT FELL ON HIS GARMENTS AND ON A LOAF OF TERUMAH, IT[23] IS NOT RENDERED SUSCEPTIBLE TO UNCLEANNESS.[24] IF HE ATE CRUSHED OLIVES OR MOIST DATES WITH THE INTENTION OF SUCKING THE STONE THEREOF, AND IT FELL ON HIS GARMENTS AND ON A LOAF OF TERUMAH, [THE LATTER] BECOMES SUSCEPTIBLE TO UNCLEANNESS.[25] . IF, HOWEVER, HE ATE DRIED OLIVES, OR DRIED FIGS WITHOUT THE INTENTION OF SUCKING THE STONE THEREOF, AND THEY FELL ON HIS GARMENTS AND ON A LOAF OF TERUMAH, THE LATTER IS NOT RENDERED SUSCEPTIBLE TO UNCLEANNESS.[26] THIS IS THE CASE IRRESPECTIVE OF THE FACT WHETHER IT WAS A CLEAN MAN OR A TEBUL YOM [WHO WAS EATING]. R. MEIR SAYS: IN EITHER CASE IT BECOMES SUSCEPTIBLE TO UNCLEANNESS IN THE CASE OF A TEBUL YOM, SINCE LIQUIDS ISSUING FROM UNCLEAN PERSONS RENDER ANYTHING SUSCEPTIBLE REGARDLESS OF THE ACCEPTABILITY OF THEIR PRESENCE OR NOT. BUT THE SAGES SAY: A TEBUL YOM IS NOT REGARDED AS AN UNCLEAN PERSON.[27]

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(1) Serving as a connective, so that if the tebul yom touches one portion, the other, too, is affected.

(2) I.e., this estimation is only made of the part untouched by the tebul yom, and if it is pulled away with the part touched, whether it be larger or smaller, it becomes unclean; v. Hul. 227b.

(3) According to the Sages this estimation is only made of the part that had become unclean, and if it was pulled away with the clean part it becomes unclean.

(4) Vegetables.

(5) And if the whole becomes severed then each part serves as a connective. It is obvious that if the bigger portion is pulled away together with the smaller, it serves as a connective to the smaller.

(6) Within a pot. Were the egg whole, it would not have served as a connective.

(7) Though the egg is hullin, which cannot be defiled by a tebul yom, yet those vegetables exactly opposite the part of the egg touched are rendered unclean.

(8) Viz., the whole top layer of the stalk on which the egg lies is affected.

(9) In cooking the eggs get blown up, forming a helmet-shape over the vegetables with vacant space between it and the vegetables below. Since the egg does not, therefore, actually touch the vegetables, it cannot be counted among the connectives.

(10) Boiled with terumah that is liable to be invalidated by a tebul yom.

(11) Rendering all the contents unclean.

(12) Even if the streak of the egg is without the pan.

(13) Having the same ruling as eggs.

(14) Of hullin; cf. Hal. l, 4.

(15) Since the tebul yom cannot defile the hullin in the dough. Though the mixture is forbidden to non-priests it is not deemed in this respect of the rank of terumah because the prohibition of the mixture is only due to Rabbinical injunction; for according to Biblical ruling it is neutralized in the proportion of 1: 2; v. ‘Orlah II, 6.

(16) Of terumah.

(17) V. Lev. XI, 38. Edibles coming into contact with liquids become susceptible provided that such liquid was applied purposively, or whose presence on the food was at least acceptable.

(18) Which was not one of the seven liquids enumerated in Maksh. VI, 4 that rendered foods susceptible. If the dough had not received water before, the fruit juice now does not make it susceptible.

(19) Contending that the fruit juice serves the dough as a connective.

(20) Maintaining that since fruit juice does not make the dough susceptible, it is deemed non-existent.

(21) Being of the opinion that oil renders susceptible and acts as a connective.

(22) Being of the opinion that fruit juice, even which renders susceptible, such as oil, does not serve as a connective with the dough to defile it, since the dough is hullin.

(23) The loaf.

(24) Lit., 'is clean'. Since this liquid was not dropped on purpose (Maim.).

(25) Since his intention was to extract juice, he should have known that some would fall on the loaf.

(26) For on no account could the moisture have been said to have been applied on purpose.

(27) Accordingly, he cannot make all liquids, whether acceptable or not, predisposed to uncleanness. Cf. Maksh. l.

Mishna - Mas. Tevul Yom Chapter 4

MISHNAH 1. IF FOOD THAT WAS TITHE-OFFERING HAD BEEN RENDERED SUSCEPTIBLE BY A LIQUID, AND A TEBUL YOM OR UNWASHED HANDS[1] TOUCHED IT, TERUMAH OF TITHE[2] MAY STILL BE SET APART FROM IT IN PURITY, SINCE IT ONLY SUFFERED THIRD GRADE UNCLEANNESS, AND THIRD GRADE UNCLEANNESS COUNTS AS CLEAN IN HULLIN.

MISHNAH 2. A WOMAN THAT HAD IMMERSED HERSELF THE SAME DAY MAY KNEAD DOUGH, CUT OFF THE DOUGH-OFFERING,[3] AND SET IT APART, BUT MUST PLACE IT ON AN INVERTED BASKET OF TWIGS,[4] OR ON A TRAY[5] , AND THEN BRING IT NEAR[6] AND DECLARE IT BY ITS NAME.[7] FOR IT[8] SUFFERED ONLY THIRD GRADE UNCLEANNESS,[9] AND THIRD GRADE UNCLEANNESS IS DEEMED AS CLEAN IN HULLIN.

MISHNAH 3. IN A TROUGH WHICH HAD BEEN IMMERSED THAT VERY DAY, ONE MAY KNEAD DOUGH AND CUT OFF THE PORTION FOR HALLAH AND BRING IT NEAR AND EVEN PRO NOUNCE IT BY NAME [AS HALLAH];[10] FOR IT[11] SUFFERS ONLY THIRD GRADE UNCLEANNESS AND A THIRD GRADE COUNTS AS CLEAN IN HULLIN.

MISHNAH 4. IF A FLAGON THAT HAD BEEN IMMERSED THE SAME DAY AND HAD BEEN FILLED OUT OF A CASK CONTAINING TITHES FROM WHICH THE HEAVE-OFFERING[12] HAD NOT YET BEEN TAKEN, AND ONE SAID, LET THIS BE HEAVE-OFFERING OF TITHE AFTER NIGHTFALL,[13] IT BECOMES HEAVE-OFFERING OF TITHE. BUT IF HE SAID: LET THIS BE THE FOOD FOR THE [SABBATH] 'ERUB,[14] HIS REMARKS ARE NOT VALID AT ALL.[15] IF THE CASK WAS BROKEN,[16] THE CONTENTS OF THE FLAGON STILL REMAIN TITHE FROM WHICH HEAVE-OFFERING HAD NOT YET BEEN TAKEN;[17] IF THE FLAGON IS BROKEN,[18] THEN WHAT IS IN THE CASK STILL REMAINS TITHE FROM WHICH HEAVE-OFFERING HAD NOT YET BEEN TAKEN.[19]

MISHNAH 5. FORMERLY THEY USED TO SAY: ONE MAY REDEEM[20] FOR THE PRODUCE OF AN AM HA-AREZ.[21] LATER THEY RECONSIDERED AND SAID: ALSO FOR MONEY OF HIS.[22] FORMERLY THEY USED TO SAY: IF A MAN IS LED OUT IN CHAINS[23] AND COMMANDS: WRITE A BILL OF DIVORCE FOR MY WIFE', IT HAD TO BE WRITTEN AND DELIVERED;[24] BUT AFTER CONSIDERATION THEY ADDED THE CASE OF A MAN UNDERTAKING A SEA VOYAGE, OR SETTING OUT WITH A CARAVAN.[25] R. SIMEON OF SHEZUR ADDED THE CASE OF ONE WHO WAS AT THE POINT OF DEATH.[26]

MISHNAH 6. ASHKELON LEVERS[27] THAT HAD BECOME BROKEN, ONLY THEIR HOOKS STILL REMAINING, ARE SUSCEPTIBLE TO UNCLEANNESS.[28] A PITCH-FORK, WINNOWING-FAN, RAKE[29] [SO-TOO, A HAIR COMB]. WHICH HAD LOST ONE OF ITS TEETH, AND ANOTHER OF METAL WAS CONSTRUCTED FOR IT, ARE ALL SUSCEPTIBLE TO UNCLEANNESS.[30] CONCERNING ALL THESE,[31] R. JOSHUA SAID: THIS IS A NEW THING WHICH THE SCRIBES HAVE MADE AND I HAVE NOTHING TO REPLY.[32]

MISHNAH 7. IF ONE WAS TAKING TERUMAH[33] FROM A CISTERN AND SAID: ‘LET THIS BE TERUMAH PROVIDED IT COMES UP SAFELY’, [IT IS IMPLIED THAT HE MEANT] SAFELY FROM BEING BROKEN OR SPILLED,[34] BUT NOT FROM CONTRACTING UNCLEANNESS;[35] BUT R. SIMEON DECLARES: ALSO FROM UNCLEANNESS.[36] IF IT WERE BROKEN,[37] IT DOES NOT RENDER [THE CONTENTS OF THE CISTERN] SUBJECT TO THE RESTRICTIONS OF TERUMAH. HOW FAR AWAY[38] CAN IT BE BROKEN AND STILL NOT MAKE IT SUBJECT TO TERUMAH RESTRICTIONS? ONLY SO FAR THAT IF IT ROLLS BACK, IT CAN REACH THE CISTERN.[39] R. JOSE ADDS: EVEN IF ONE HAD THE INTENTION OF MAKING SUCH A STIPULATION, BUT DID NOT DO SO, AND IT GOT BROKEN, IT DOES NOT NEVERTHELESS MAKE IT SUBJECT TO TERUMAH RESTRICTIONS, FOR THIS IS A STIPULATION LAID DOWN BY THE BETH DIN.[40]

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(1) Both possessing second grade impurity only.

(2) Given to the priest by the Levite from the tithe received from the Israelites (Num. XVIII, 25ff.); this was regarded as hullin, which a tebul yom could not defile. Accordingly, this additional tithe could be taken therefrom.

(3) But without designating it as such; for once this is done it is no longer hullin.

(4) Not susceptible to uncleanness. This was stipulated in order that she may no longer touch the dough-offering.

(5) Which does not possess distinct receptacles and consequently is not susceptible to uncleanness. Neither of these two vessels is ‘susceptible’.

(6) To the rest of the dough, of which it is to constitute a portion dedicated as hallah. For this requirement v. Hal I, 9.

(7) Hallah.

(8) I.e., the dough she had touched.

(9) Since the tebul yom possesses only second grade uncleanness.

(10) On account of an uncleanness it had contracted. From the tebul yom the Mishnah now turns to a vessel that had been immersed that very day. The point stressed is that we are not afraid lest it be exchanged for anything unclean.

(11) I.e., the dough which has touched the kneading-trough.

(12) The tithe which the Levite has to give to the priest from the tithe he receives.

(13) I.e., when the flagon becomes completely clean.

(14) Lit., ‘mixture’. According to Sabbath law, the movements of people in a town are restricted on a Sabbath to two thousand cubits from the boundaries of a town. But if enough food for his meals is despatched in an accessible place on the eve of Sabbath, at the prescribed two thousand cubits’ distance, this spot counts as a man's temporary abode, thereby allowing him a range of two thousand cubits beyond the common Sabbath limit. Similarly, an ‘erub may be arranged as between various domiciles within a courtyard; for if all the occupants have a share in the deposit of food placed in a known place in the courtyard, they are all thereby given unrestricted access to the premises of the other occupants.

(15) Because an ‘erub can only be made of such food that is ready to be eaten before sunset; but here nightfall is still needed to make it permissible for common use.

(16) Before nightfall.

(17) For when heave-offering could at last be taken therefrom, it was already non-existent.

(18) While yet day.

(19) Cf. n. 6.

(20) Second-tithe money in Jerusalem; Deut. XIV, 22ff. The owner had to take his money to Jerusalem, there to spend it, or else he had to ‘redeem’ it by putting aside coins of value (plus one fifth) in order to make that produce free for use as hullin; the coins themselves then count as second-tithe money, to which their sanctity is transferred, or to other coins for which they, in turn, may be exchanged. These coins were taken to Jerusalem, there to be exchanged for food, or peace-offerings, and consumed in purity.

(21) Though one tithe could not be used in exchange for another, we do not suspect the ‘am ha-arez of tithing his produce (Bert.).

(22) Without fearing that this money itself may be of second-tithe products (Bert.).

(23) As a prisoner; Git. VI, 5.

(24) Although he did not say ‘deliver it’, we surmise that his omission is due to the perturbed state of his mind.

(25) These expeditions in olden times used to be fraught with serious danger.

(26) There could be no greater perturbation of mind than this; moreover, in this state, breath is scarce and words must be used economically. (Though the last statement of the Mishnah is somewhat irrelevant to the main issue, yet the Mishnah follows the usual practice of citing other similar statements).

(27) With which pitchers used to be hooked out of the wells. Aliter. ‘pitched stands’ or water coolers’; Kel. XIII, 7.

(28) Since they can still serve their purpose they are still regarded as vessels.

(29) An agricultural implement with many teeth, forming a sort of sieve whereby to separate the grain from the chaff; Kel. Ibid.

(30) As metal utensils.

(31) Some opine that ‘all these’ refer to supra IV, 2.

(32) ‘To those who would question their ruling’. Perhaps he was inclined himself to agree with the critics.

(33) Of wine or oil.

(34) A common fear; and if the wine or oil is spilled in the cistern, no terumah was taken.

(35) Accordingly, even if it becomes unclean it is still regarded as terumah.

(36) Being assumed that he meant also safe from contamination. The significance of his stipulation is the object of discussion.

(37) And the wine fell back into the cistern.

(38) From the cistern.

(39) For such a short distance is included in his stipulation.

(40) The Beth din took for granted that each person desires to make such stipulations, only is deterred from so doing by forgetfulness.

Mishna - Mas. Yadayim Chapter 1

MISHNAH 1. [A MINIMUM OF] A QUARTER [OF A LOG][1] OF WATER MUST BE POURED[2] OVER THE HANDS[3] [TO BE SUFFICIENT] FOR ONE [PERSON] AND IS EVEN [SUFFICIENT] FOR TWO;[4] A MINIMUM OF HALF[5] A LOG MUST BE POURED OVER THE HANDS [TO BE SUFFICIENT] FOR THREE OR FOUR PERSONS;[6] ONE LOG OR MORE [IS SUFFICIENT] FOR FIVE, TEN, OR ONE HUNDRED PERSONS.[7] R. JOSE SAYS: BUT PROVIDED ONLY THERE IS NOT LESS THAN A QUARTER OF A LOG LEFT FOR THE LAST PERSON AMONG THEM. MORE [WATER] MAY BE ADDED TO THE SECOND WATER,[8] BUT MORE MAY NOT BE ADDED TO THE FIRST WATER.[9]

MISHNAH 2. WATER MAY BE POURED OVER THE HANDS OUT OF ANY KIND OF VESSEL, EVEN OUT OF VESSELS MADE OF ANIMAL ORDURE,[10] OUT OF VESSELS MADE OF STONE[10] OR OUT OF VESSELS MADE OF CLAY.[10] WATER MAY NOT BE POURED FROM THE SIDES OF [BROKEN] VESSELS[11] OR FROM THE BOTTOM OF A LADLE[11] OR FROM THE BUNG OF A BARREL.[12] NOR MAY ANYONE POUR [WATER] OVER THE HANDS OF HIS FELLOW OUT OF HIS CUPPED HANDS BECAUSE ONE MAY NOT DRAW, NOR SANCTIFY,[13] NOR SPRINKLE[14] THE WATER OF PURIFICATION,[15] NOR POUR WATER OVER THE HANDS EXCEPT IN A VESSEL. AND ONLY VESSELS CLOSELY COVERED WITH A LID PROTECT [THEIR CONTENTS FROM UNCLEANNESS][16] AND[17] ONLY VESSELS PROTECT [THEIR CONTENTS FROM UNCLEANNESS] FROM EARTHENWARE VESSELS.[18]

MISHNAH 3. IF WATER HAS BECOME SO UNFIT[19] THAT IT CANNOT BE DRUNK BY CATTLE, IF IT WAS IN A VESSEL IT IS INVALID,[20] BUT IF IT WAS IN THE GROUND[21] IT IS VALID. IF THERE FELL INTO IT INK, RESIN,[22] OR VITRIOL[23] AND ITS COLOUR CHANGED, IT IS INVALID.[24] IF A PERSON DID ANY WORK WITH IT[25] OR SOAKED HIS BREAD THEREIN, IT IS INVALID.[24] SIMEON OF TEMAN SAYS: EVEN IF HE INTENDED TO SOAK HIS BREAD IN ONE WATER AND IT FELL IN ANOTHER WATER [DO YOU STILL CONSIDER THE OTHER WATER TO BE INVALID? IN SUCH A CASE I CONSIDER THAT THE OTHER WATER] IS VALID.[26]

MISHNAH 4. IF HE CLEANSED VESSELS THEREIN OR SCRUBBED[27] MEASURES THEREIN, [THE WATER] IS INVALID; IF HE RINSED THEREIN VESSELS WHICH HAD ALREADY BEEN RINSED OR NEW VESSELS, IT IS VALID. R. JOSE DECLARES IT TO BE INVALID IF THEY WERE NEW VESSELS.[28]

MISHNAH 5. WATER IN WHICH THE BAKER DIPS GELUSK[20] N[29] IS INVALID;[30] BUT IF HE [MERELY] MOISTENED HIS HANDS THEREIN[31] IT IS VALID. ALL ARE FIT TO POUR WATER OVER THE HANDS, EVEN A DEAF-MUTE, AN IMBECILE, OR A MINOR. A PERSON MAY PLACE THE BARREL BETWEEN HIS KNEES AND POUR OUT THE WATER[32] OR HE MAY TURN THE BARREL ON ITS SIDE AND POUR IT OUT.[33] AN APE[34] MAY POUR WATER OVER THE HANDS. R. JOSE DECLARES THESE [LATTER] TWO CASES INVALID.[35]

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(1) A log is a liquid measure equal in quantity to the liquid contents of six eggs. Cf. B.B. 90a.

(2) Lit., 'they put (water) upon the hands'.

(3) I.e., in order to cleanse them.

(4) Even though there may not be as much as a quarter of a log of water remaining to be poured over the hands of the second person, it is nevertheless valid, as it originally formed part of the requisite quantity necessary to produce a condition of cleanness. Cf. Hul. 107a.

(5) Var. lec.: 'a half log or more'.

(6) According to calculation, the minimum for three should be 3/8, nevertheless half a log was required for fear that each person in concern for those that follow him would economize in the use of water and not wash his hands properly (Bert.).

(7) Not to be taken literally but meaning that a minimum of a log of water will suffice for any number as long as there is enough water remaining to be poured over the hands of the last person in the manner prescribed. Cf. Asheri ad loc. Maim. is of the opinion that this Mishnah refers to the water poured over the hands the second time and that a minimum of a quarter of a log must be poured over the hands of each person the first time. Cf. next note and infra II, 1.

(8) Water must be poured over the hands twice to ensure that they become absolutely clean. Maim. explains that after water has been poured over the hands the first time the water becomes unclean through the hands, hence a second cleansing is necessary. The first pouring is designated the first water, the second, the second water.

(9) The water must cover the hands as far as the wrist both times, hence if at the first pouring out the amount of water is insufficient to cover the hands as far as the wrist, they still remain unclean, and therefore the water may not be added to, but a fresh quantity of water must be used after first drying the hands.

(10) Though vessels made of these materials are not susceptible to uncleanness (cf. Par. V, 5), they are nevertheless considered ‘vessels’ for the purpose of washing the hands.

(11) Because they are not whole vessels but broken parts of a vessel.

(12) A bung cannot itself be used as a vessel. But if it were shaped into a vessel it could be used to pour water over the hands. Cf. Tosef. ad loc. and Hul. 107a.

(13) By mixing the ashes of the Red Heifer with the water.

(14) By dipping hyssop into the water containing the ashes and sprinkling it over the unclean object. Cf. Num. XIX, 18.

(15) The reference here is to the Red Heifer the ashes of which were mixed with running water in a vessel and sprinkled over the person or vessel which had become unclean through contact with a dead body or through being present in the tent where the dead body lay; cf. Num. XIX, 17.

(16) In the tent where the dead body lay. Every open vessel which hath no covering close-bound upon it is unclean (Num. XIX, 15). Thus only whole vessels and not broken parts of a vessel protect their contents from contracting uncleanness in the Tent, when closely covered with a lid.

(17) שאין equivalent to ואין . Cf. parallel passage in Par. V, 5.

(18) For notes v. Par. (Sonc. ed.) V, 5.

(19) I.e., unfit by reason of stench and putridity; cf. Zeb. 22a.

(20) I.e., invalid to be used for pouring over the hands.

(21) The water in the ground forms a ritual bath and is valid for the purpose of immersing the hands therein; cf. Tosef. ad loc. and Hul. 106a.

(22) קומוס , gum, resin, especially ink prepared with gum.

(23) קנקנתום sometimes קלקנתום , vitriol, used as an ingredient of shoe-black and of ink.

(24) Since the water is no longer in its natural state.

(25) E.g., if he cooled wine in it (Asheri).

(26) So Bert. Aliter: If he intended to soak his bread in one water and it fell in another it is invalid. Aliter: ‘Even if he intended to soak his bread in one water and it fell in another it is valid’, and needless to say, where there was no intention at all to soak the bread.

(27) To remove the traces of anything which had adhered to the measure.

(28) Because although they are clean it is customary to rinse them first before using them.

(29) Round bread of fine meal. The reference here is to the dough before it is baked.

(30) As he had done work with it. Cf. supra I, 3.

(31) And then moistened the bread with his wet hands, it is valid because no work has been done with the actual water in the vessel.

(32) The water must be poured out through human action, כח גברא (cf. Hul. 107a). By placing the barrel between his knees this requirement is considered fulfilled.

(33) Once he has turned the barrel on to its side and the water is flowing he may even leave it and it is still considered valid as satisfying the above requirement.

(34) This Tanna considers כח גברא to mean that the water must be poured out through someone's effort but not necessarily through human action.

(35) R. Jose is of the opinion that ‘human action’ is essential and therefore an ape may not pour out the water.

Furthermore he considers that no human action comes into force on the actual washing of the hands if he merely turns the barrel on its side.

Mishna - Mas. Yadayim Chapter 2

MISHNAH 1. IF A PERSON POURS[1] WATER OVER ONE OF HIS HANDS WITH A SINGLE RINSING HIS HAND BECOMES CLEAN.[2] IF OVER BOTH HIS HANDS WITH A SINGLE RINSING, R. MEIR DECLARES THEM TO BE UNCLEAN UNTIL HE POURS A MINIMUM OF A QUARTER OF A LOG OF WATER OVER THEM.[3] IF A LOAF OF TERUMAH[4] FELL ON THE WATER THE LOAF IS CLEAN.[5] R. JOSE DECLARES IT TO BE UNCLEAN.[6]

MISHNAH 2. IF HE POURED THE FIRST WATER[7] OVER HIS HANDS [WHILST STANDING] IN ONE PLACE, AND THE SECOND WATER OVER HIS HANDS [WHILST STANDING] IN ANOTHER PLACE, AND A LOAF OF TERUMAH FELL ON THE FIRST WATER,[8] THE LOAF BECOMES UNCLEAN. BUT IF IT FELL ON THE SECOND WATER IT REMAINS CLEAN.[9] IF HE POURED THE FIRST AND THE SECOND WATER [WHILST STANDING] IN ONE PLACE, AND A LOAF OF TERUMAH FELL THEREON, THE LOAF BECOMES UNCLEAN.[10] IF HE POURED THE FIRST WATER OVER HIS HANDS AND A SPLINTER OR A PIECE OF GRAVEL IS FOUND ON HIS HANDS, THEY REMAIN UNCLEAN,[11] BECAUSE THE LATTER WATER ONLY MAKES THE FIRST WATER ON THE HANDS CLEAN. R. SIMEON B. GAMALIEL. SAYS: IF ANY WATER-CREATURE [FALLS ON THE HANDS WHILST THEY ARE BEING CLEANED] THEY NEVERTHELESS BECOME CLEAN.[12]

MISHNAH 3. HANDS BECOME UNCLEAN AND ARE MADE CLEAN AS FAR AS THE WRIST. HOW SO? IF HE POURED THE FIRST WATER OVER THE HANDS AS FAR AS THE WRIST AND POURED THE SECOND WATER OVER THE HANDS BEYOND THE WRIST AND THE LATTER FLOWED BACK TO THE HANDS, THE HANDS NEVERTHELESS BECOME CLEAN.[13] IF HE POURED THE FIRST AND THE SECOND WATER OVER THE HANDS BEYOND THE WRIST AND THEY FLOWED BACK TO THE HANDS, THE HANDS REMAIN UNCLEAN.[14] IF HE POURED THE FIRST WATER OVER ONE OF HIS HANDS AND THEN CHANGED HIS MIND AND POURED THE SECOND WATER OVER BOTH HIS HANDS, THEY REMAIN UNCLEAN.[15] IF HE POURED THE FIRST WATER OVER BOTH HIS HANDS AND THEN CHANGED HIS MIND AND POURED THE SECOND WATER OVER ONE OF HIS HANDS, HIS ONE HAND BECOMES CLEAN. IF HE POURED WATER OVER ONE OF HIS HANDS AND RUBBED IT ON THE OTHER HAND IT REMAINS UNCLEAN.[16] IF HE RUBBED IT ON HIS HEAD OR ON THE WALL[17] IT BECOMES CLEAN. WATER MAY BE POURED OVER THE HANDS OF FOUR OR FIVE PERSONS, EACH HAND BEING BY THE SIDE OF THE OTHER, OR BEING ONE ABOVE THE OTHER, PROVIDED THAT THE HANDS ARE HELD LOOSELY SO THAT THE WATER FLOWS BETWEEN THEM.

MISHNAH 4. IF THERE WAS A DOUBT WHETHER ANY WORK HAS BEEN DONE WITH THE WATER OR NOT,[18] OR WHETHER THE WATER CONTAINS THE REQUISITE QUANTITY OR NOT, OR WHETHER IT IS UNCLEAN[19] OR CLEAN, THEN WHERE THERE IS SUCH A DOUBT THE WATER IS CONSIDERED TO BE CLEAN. BECAUSE THEY[20] HAVE SAID IN A CASE OF DOUBT CONCERNING HANDS AS TO WHETHER THEY HAVE BECOME UNCLEAN OR HAVE CONVEYED UNCLEANNESS OR HAVE BECOME CLEAN, THEY ARE CONSIDERED TO BE CLEAN. R. JOSE SAYS: IN A CASE [OF DOUBT AS TO] WHETHER THEY HAVE BECOME CLEAN THEY ARE CONSIDERED TO BE UNCLEAN. HOW SO? IF HIS HANDS WERE CLEAN AND THERE WERE TWO UNCLEAN LOAVES BEFORE HIM AND THERE WAS A DOUBT WHETHER HE TOUCHED THEM OR NOT;[21] OR IF HIS HANDS WERE UNCLEAN AND THERE WERE TWO CLEAN LOAVES[22] BEFORE

HIM AND THERE WAS A DOUBT WHETHER HE TOUCHED THEM OR NOT; OR IF ONE OF HIS HANDS WAS UNCLEAN AND THE OTHER CLEAN AND THERE WERE TWO CLEAN LOAVES[22] BEFORE HIM AND HE TOUCHED ONE OF THEM AND THERE WAS A DOUBT WHETHER HE TOUCHED IT WITH THE UNCLEAN HAND OR WITH THE CLEAN HAND; OR IF HIS HANDS WERE CLEAN AND THERE WERE TWO LOAVES BEFORE HIM ONE OF WHICH WAS UNCLEAN AND THE OTHER CLEAN AND HE TOUCHED ONE OF THEM AND THERE WAS A DOUBT WHETHER HE TOUCHED THE UNCLEAN ONE OR THE CLEAN ONE; OR IF ONE OF HIS HANDS WAS UNCLEAN AND THE OTHER CLEAN AND THERE WERE TWO LOAVES BEFORE HIM ONE OF WHICH WAS UNCLEAN AND THE OTHER CLEAN, AND HE TOUCHED BOTH OF THEM, AND THERE IS A DOUBT WHETHER THE UNCLEAN HAND TOUCHED THE UNCLEAN LOAF OR WHETHER THE CLEAN HAND TOUCHED THE CLEAN LOAF OR WHETHER THE CLEAN HAND TOUCHED THE UNCLEAN LOAF OR WHETHER THE UNCLEAN HAND TOUCHED THE CLEAN LOAF, THE HANDS REMAIN IN THE SAME STATE AS THEY WERE BEFORE AND THE LOAVES REMAIN IN THE SAME STATE AS THEY WERE BEFORE.

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(1) נטל an elliptical expression for נטל מים על ידיו cf. Levy op. cit. According to Strack, Einleitung in Talmud und Midrash, elliptic for נטילת כלי לתן על הידים i.e., lifting the vessel in order to pour water over the hands. Some derive it from נטלא , the name for the vessel used for pouring out the water. Cf. Frankel, Aramaische Fremdworter in Arabischen, p. 65. The root נטל however, occurs in Biblical Hebrew. Cf. B.D.B. p. 642, with the meaning, to lift; and cf. note to supra I, I נוטלין לידים .

(2) Even if there be less than a quarter of a log of water in the vessel. This is the case when he is not the first person to wash his hands from the water but washes them from the ‘residue of the requisite quantity’ necessary. Cf. supra I, 1. The one hand nevertheless becomes clean with a single rinsing and a second pouring out is unnecessary. But if he pours out the water over both his hands with a single rinsing, even though the water be the residue of the requisite quantity it is not sufficient and he must pour the water over his hands a second time as far as the wrist.

(3) R. Meir is of the opinion that a second pouring of water over the hands is only necessary if there was less than a quarter of a log of water poured out on the first occasion. Cf. Asheri ad loc.

(4) V. Glos.

(5) I.e., if he has poured out a quarter of a log over his hands the first time and the loaf of terumah fell in the water as it lay on the ground, or if he touched it whilst his hands were still wet, or before he poured the second water over his hands, the loaf is nevertheless clean since his hands have been cleansed by the first water which was a quarter of a log in quantity.

(6) Since the water itself is unclean.

(7) Being less than a quarter of a log in quantity. This is the case when the water is the residue of the ‘requisite quantity’. v. supra I, 2. If it were more than a quarter of a log in quantity, the loaf of terumah would remain clean if it touched the first water. Cf supra II, 1.

(8) I.e., it fell on the spot where the first water had fallen.

(9) Because the second water is clean.

(10) Because the second water only makes the first water on the hands clean but not the water on the ground. V. infra.

(11) They are unclean even if he pours the second water over them, because the water on the splinter or on the piece of gravel becomes unclean by being in contact with the hands, and the second water only makes the first water clean and not the water on the splinter or on the piece of gravel, which consequently makes his bands unclean. Maim: The splinter or gravel forms an interposition and consequently the second water does not cleanse his hands.

(12) Water-creatures such as, for example, water-gnats are treated as water.

(13) All the regulations relating to the uncleanness of hands apply up to the wrist. Consequently in this case the second water makes the first water on the hands clean as far as the wrist only, and as the first water did not flow beyond the wrist the part of the second water beyond the wrist does not come into contact with it, nor does it become unclean by coming into contact with that part of the hand beyond the wrist, and therefore the hands become clean.

(14) Beyond the wrist the second water cannot cleanse the first water, and since the second water comes there into contact with the first water, the hands remain unclean; cf. Sot. 4b.

(15) I.e., if he poured the first water over each hand separately and then poured the second water over both hands held together. The first water on each hand becomes unclean on coming into contact with the unclean water on the other hand, and so conveys uncleanness to each hand. The second water therefore does not cleanse them since each hand is still unclean. Maim. ad loc. explains that he poured the first water on one hand only and poured the second water over both hands held together. The second water becomes unclean on being poured over the other unclean hand, and therefore does not cleanse the hands.

(16) Since the other hand is unclean and therefore conveys uncleanness to the water on the hand when he touches it.

(17) In order to dry the hands.

(18) Cf. supra 1, 3.

(19) I.e., unclean for the purpose of pouring the water over the hands.

(20) I.e., the Sages; cf. Toh. IV. 7.

(21) Unclean food conveys uncleanness to the hands. Cf. infra III, 2.

(22) I.e., loaves of terumah which are rendered unfit if touched by the hands. Cf. infra III, 1.

Mishna - Mas. Yadayim Chapter 3

MISHNAH 1. IF A PERSON PUTS HIS HANDS INSIDE A HOUSE SMITTEN WITH LEPROSY,[1] HIS HANDS BECOME UNCLEAN IN THE FIRST DEGREE.[2] [THESE ARE] THE WORDS OF R. AKIBA. BUT THE SAGES SAY: HIS HANDS BECOME UNCLEAN IN THE SECOND DEGREE. WHOEVER CONVEYS UNCLEANNESS TO THE GARMENTS AT THE TIME WHEN HE TOUCHES [THE UNCLEANNESS][3] CONVEYS A FIRST DEGREE OF UNCLEANNESS TO THE HANDS.[4] [THESE] ARE THE WORDS OF R. AKIBA. BUT THE SAGES SAY: IN SUCH A CASE HE CONVEYS A SECOND DEGREE OF UNCLEANNESS. THEY SAID TO R. AKIBA: WHERE DO WE FIND ANYWHERE THAT THE HANDS BECOME UNCLEAN IN THE FIRST DEGREE? HE SAID TO THEM: BUT HOW IS IT POSSIBLE FOR THEM TO BECOME UNCLEAN IN THE FIRST DEGREE WITHOUT HIS WHOLE BODY BECOMING UNCLEAN,[5] SAVE ONLY IN THESE CASES?[6] FOODSTUFFS AND VESSELS WHICH HAVE BEEN RENDERED UNCLEAN BY LIQUIDS CONVEY A SECOND DEGREE OF UNCLEANNESS TO THE HANDS. [THESE ARE] THE WORDS OF R. JOSHUA. BUT THE SAGES SAY: THAT WHICH HAS BEEN RENDERED UNCLEAN BY A FATHER OF UNCLEANNESS CONVEYS UNCLEANNESS TO THE HANDS, BUT THAT WHICH HAS BEEN RENDERED UNCLEAN BY AN OFFSPRING OF UNCLEANNESS[7] DOES NOT CONVEY UNCLEAN NESS TO THE HANDS. R. SIMEON B. GAMALIEL SAID: A PRACTICAL INSTANCE OCCURRED WHEN A CERTAIN WOMAN CAME BEFORE MY FATHER AND SAID TO HIM, MY HANDS PROTRUDED INTO THE AIR-SPACE INSIDE AN EARTHENWARE VESSEL.[8] HE SAID TO HER: MY DAUGHTER, WHAT WAS THE CAUSE OF ITS UNCLEANNESS?[9] BUT I DID NOT HEAR WHAT SHE SAID TO HIM. THE SAGES SAID: THE MATTER IS CLEAR. THAT WHICH HAS BEEN RENDERED UNCLEAN BY A ‘FATHER OF UNCLEANNESS’ CONVEYS UNCLEANNESS TO THE HANDS, BUT IF BY AN OFFSPRING OF UNCLEANNESS’ IT DOES NOT CONVEY UNCLEANNESS TO THE HANDS.

MISHNAH 2. EVERYTHING WHICH RENDERS TERUMAH UNFIT.[10] CONVEYS A SECOND DEGREE OF UNCLEANNESS TO THE HANDS.[11] ONE [UNWASHED] HAND CAN CONVEY UNCLEANNESS TO THE OTHER HAND. [THESE[11] ARE] THE WORDS OF R. JOSHUA.[11] BUT THE SAGES SAY: THAT WHICH IS IN THE SECOND DEGREE OF UNCLEANNESS CANNOT CONVEY A SECOND DEGREE OF UNCLEANNESS. HE SAID TO THEM: BUT DO NOT THE HOLY SCRIPTURES WHICH ARE IN THE SECOND DEGREE OF UNCLEANNESS[12] RENDER UNCLEAN THE HANDS?[13] THEY SAID TO HIM: THE LAWS OF THE TORAH MAY NOT BE ARGUED FROM THE LAWS OF THE SCRIBES, NOR MAY THE LAWS OF THE SCRIBES BE ARGUED FROM THE LAWS OF THE TORAH, NOR MAY THE LAWS OF THE SCRIBES BE ARGUED FROM [OTHER] LAWS OF THE SCRIBES.[14]

MISHNAH 3. THE STRAPS OF THE TEFILLIN[15] [WHEN CONNECTED] WITH THE TEFILLIN RENDER UNCLEAN THE HANDS.[16] R. SIMEON SAYS: THE STRAPS OF THE TEFILLIN DO NOT RENDER UNCLEAN THE HANDS.

MISHNAH 4. THE MARGIN ON A SCROLL[17] WHICH IS ABOVE[18] OR BELOW OR AT THE BEGINNING[19] OR AT THE END RENDERS UNCLEAN THE HANDS. R. JUDAH SAYS: THE MARGIN AT THE END DOES NOT RENDER UNCLEAN [THE HANDS] UNTIL A HANDLE IS FASTENED TO IT.[20]

MISHNAH 5. A SCROLL[21] ON WHICH THE WRITING HAS BECOME ERASED AND EIGHTY-FIVE LETTERS REMAIN THEREON, AS MANY AS ARE IN THE SECTION BEGINNING, ‘AND IT CAME TO PASS WHEN THE ARK SET FORWARD’,ETC.[22] RENDERS UNCLEAN THE HANDS. A SINGLE SHEET[23] ON WHICH THERE ARE WRITTEN EIGHTY-FIVE LETTERS, AS MANY AS ARE IN THE SECTION BEGINNING, ‘AND IT CAME TO PASS WHEN THE ARK SET FORWARD’, RENDERS UNCLEAN THE HANDS. ALL THE HOLY WRITINGS[24] RENDER UNCLEAN THE HANDS. THE SONG OF SONGS AND ECCLESIASTES RENDER UNCLEAN THE HANDS.[25] R. JUDAH SAYS: THE SONG OF SONGS RENDERS UNCLEAN THE HANDS, BUT THERE IS A DISPUTE ABOUT ECCLESIASTES.[26] R. JOSE SAYS: ECCLESIASTES DOES NOT RENDER UNCLEAN THE HANDS, BUT THERE IS A DISPUTE ABOUT THE SONG OF SONGS. R. SIMEON SAYS: [THE RULING ABOUT] ECCLESIASTES IS ONE OF THE LENIENCIES OF BETH SHAMMAI AND ONE OF THE STRINGENCIES OF BETH HILLEL.[26] R. SIMEON B. AZZAI SAID: I RECEIVED A TRADITION FROM THE SEVENTY-TWO[27] ELDERS ON THE DAY WHEN THEY APPOINTED R. ELEAZAR B. AZARIAH HEAD OF THE ACADEMY[28] THAT THE SONG OF SONGS AND ECCLESIASTES RENDER UNCLEAN THE HANDS. R. AKIBA SAID: FAR BE IT! NO MAN IN ISRAEL DISPUTED ABOUT THE SONG OF SONGS [BY SAYING] THAT IT DOES NOT RENDER UNCLEAN THE HANDS. FOR THE WHOLE WORLD IS NOT AS WORTHY AS THE DAY ON WHICH THE SONG OF SONGS WAS GIVEN TO ISRAEL; FOR ALL THE WRITINGS ARE HOLY BUT THE SONG OF SONGS IS THE HOLY OF HOLIES. SO THAT IF THEY HAD A DISPUTE, THEY HAD A DISPUTE ONLY ABOUT ECCLESIASTES. A. JOHANAN B. JOSHUA THE SON OF THE FATHER-IN-LAW OF R. AKIBA SAID: IN ACCORDANCE WITH THE WORDS OF BEN AZZAI SO THEY DISPUTED,[29] AND SO THEY REACHED A DECISION.[30]

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(1) V. Neg. XII-XIII.

(2) The house smitten with leprosy is a ‘father of uncleanness’ and therefore according to R. Akiba conveys uncleanness of the first degree to the hands.

(3) I.e., where one touches any of the uncleannesses specified in Zab. V. 7: e.g., the spittle of a zab.

(4) Although he who had come into contact with such uncleanness does not convey further uncleannesses to a man.

(5) For to suffer firstgrade uncleanness one must have contracted it from a ‘father of uncleanness’; but if the hands had come into contact with such a grade of uncleanness the whole body becomes unclean.

(6) Which are exceptions.

(7) Liquids are ‘offsprings of uncleanness’.

(8) Which had been rendered unclean.

(9) Was it rendered unclean by a ‘father of uncleanness’ or by an ‘offspring of uncleanness’, such as a liquid?

(10) Terumah is rendered unfit by anything which is in the second degree of uncleanness. Cf. Zab. V, 12 and supra III, 1, n. 2. They are enumerated in the eighteen decrees of Beth Shammai. Cf. Shab. 14a.

(11) Both statements are by R. Joshua.

(12) Among the eighteen decrees enacted by Beth Shammai was that the Holy Scriptures rendered terumah unfit on coming into contact with it; the reason being that the priests stored the terumah side by side with the Scrolls of the Holy Scriptures with the result that the mice which gnawed the terumah nibbled also at the Scrolls. The object of this decree was to prevent this desecration. Cf. Shab. 14a and Rashi loc. cit. Holy Scriptures were thus declared to be in the second degree of uncleanness so as to render terumah unfit.

(13) In order to ensure that the Holy Scriptures would not be touched by the bare hands, it was further enacted that hands which touched a Scroll of the Scriptures became unclean in the second degree and therefore rendered terumah unfit. Cf. Shab. 14a and Tosaf. s. v. האוחז .

(14) The Scribes, i.e., Solomon, enacted that hands must he cleansed since they convey uncleanness, v. Introduction. The Scribes, i.e the Rabbis, enacted that the Holy Scriptures convey uncleanness. Hence one cannot deduce that just as in the case of the Holy Scriptures a second degree of uncleanness conveys a second degree of uncleanness, so in the ease of other defilements, a second degree of uncleanness conveys a second degree.

(15) V. Glos.

(16) The tefillin contain four sections of the Pentateuch. The Sages thus extend the principle that hands which have touched the Holy Scriptures render terumah unfit.

(17) I.e., a scroll of a Book of the Holy Scriptures.

(18) I.e., above the writing on the scroll. The width of the margin above most be three fingerbreadths and the width of that below must be one span. Cf. Men. 30a.

(19) At the beginning of the scroll there must be a margin sufficient in width for winding round the cylinder, and at the end there must be a margin sufficient for winding round the whole circumference of the scroll when it is rolled up; cf. B. B. 13a.

(20) R. Judah is of the opinion that until a handle is fastened to the scroll the margin at the end has no holiness attached to it, as it can be cut away if desired.

(21) Sc. of the Pentateuch.

(22) Num. X, 35-36. These two verses were considered to constitute a separate Book, of Shab. 116a.

(23) One of the sheets of a Pentateuch scroll. Lit., ‘a scroll’.

(24) I.e., not only the Books of the Pentateuch but also the Prophetical Books and the Hagiographa.

(25) Since they are part of the Holy Scriptures.

(26) The earliest discussion as to whether Ecclesiastes should be regarded as a sacred book took place between Beth Shammai and Beth Hillel. According to the former, Ecclesiastes did not convey uncleanness to the hands, i.e., was not to be regarded as a sacred work and therefore not to be included in the Canon, but according to Beth Hillel it did convey uncleanness to the hands and therefore was to be included in the Canon; cf. ‘Ed. V, 3. The basis of Beth Shammai's contention was evidently that recorded in Shab. 30b where it is stated that the Sages did not intend to include Ecclesiastes in the Canon of the Bible, because its statements seemed to contradict one another. They finally decided to include it because It begins and ends with words which indicate its sacred character. A further reason which supports the view of Beth Shammai is given by R. Simeon b. Menasyah who expressed the view that the Song of Songs conveyed uncleanness to the hands because it was inspired by the Holy Spirit, whereas Ecclesiastes was inspired solely by the Wisdom of Solomon himself. Cf. Tosef. ad loc. and Meg. 7a.

(27) The Greater Sanhedrin consisted of seventy-one members; of. Sanh. I, 6. Various suggestions have been made to account for the additional one member referred to in this Mishnah. According to Tosaf. Sanh. 16b s. v. אחד there was an additional member of the Sanhedrin known as the Mufla, i.e., the distinguished member of the Sanhedrin who was first in authority. Lauterbach suggests that the number seventy-two included both Rabban Gamaliel and K. Eleazar b. ‘Azariah. Cf. J. E. s. v. Sanhedrin and Ber. 28a.

(28) V. Ber. 27b.

(29) About both the Song of Songs and Ecclesiastes.

(30) That both render unclean the hands.

Mishna - Mas. Yadayim Chapter 4

MISHNAH 1. ON THAT DAY[1] THE VOTES WERE COUNTED AND THEY DECIDED THAT A FOOTBATH HOLDING FROM TWO LOGS TO NINE KABS[2] WHICH WAS CRACKED COULD CONTRACT MIDRAS[3] UNCLEANNESS. BECAUSE R. AKIBA SAID A FOOTBATH [MUST BE CONSIDERED] ACCORDING TO ITS DESIGNATION.[4]

MISHNAH 2. ON THAT DAY THEY SAID: ALL ANIMAL SACRIFICES[5] WHICH HAVE BEEN SACRIFICED UNDER THE NAME OF SOME OTHER OFFERING[6] ARE

[NEVERTHELESS] VALID,[7] BUT THEY ARE NOT ACCOUNTED TO THEIR OWNERS AS A FULFILMENT OF THEIR OBLIGATIONS,[8] WITH THE EXCEPTION OF THE PASCHAL-OFFERING[9] AND THE SIN-OFFERING.[9] [THIS APPLIES TO] THE PASCHAL-OFFERING IN ITS DUE TIME[10] AND TO THE SIN-OFFERING AT ANY TIME. R. ELIEZER SAYS: [WITH THE EXCEPTION] ALSO OF THE GUILT-OFFERING.[11] [SO THAT THIS APPLIES TO] THE PASCHAL-OFFERING IN ITS DUE TIME AND TO THE SIN- AND GUILT-OFFERINGS AT ANY TIME. R. SIMEON B. AZZAI SAID: I RECEIVED A TRADITION FROM THE SEVENTY-TWO ELDERS ON THE DAY WHEN THEY APPOINTED R. ELEAZAR B. AZARIAH HEAD OF THE COLLEGE THAT ALL ANIMAL SACRIFICES WHICH ARE EATEN AND WHICH HAVE NOT BEEN SACRIFICED UNDER THEIR OWN NAME ARE NEVERTHELESS VALID, BUT THEY ARE NOT ACCOUNTED TO THEIR OWNERS AS A FULFILMENT OF THEIR OBLIGATIONS, WITH THE EXCEPTION OF THE PASCHAL-OFFERING AND THE SIN-OFFERING. BEN AZZAI ONLY ADDED [TO THESE EXCEPTIONS] THE BURNT-OFFERING, BUT THE SAGES DID NOT AGREE WITH HIM.

MISHNAH 3. ON THAT DAY THEY SAID: WHAT IS THE LAW APPLYING TO AMMON AND MOAB IN THE SEVENTH YEAR?[12] R. TARFON DECREED TITHE FOR THE POOR;[13] AND R. ELEAZAR B. AZARIAH DECREED SECOND TITHE.[14] R. ISHMAEL SAID: ELEAZAR B. ‘AZARIAH, THE ONUS IS UPON YOU TO PRODUCE YOUR PROOF BECAUSE YOU ARE EXPRESSING THE STRICTER VIEW;[15] FOR THE ONUS IS UPON THE PERSON WHO EXPRESSES A STRICTER VIEW TO PRODUCE THE PROOF. R. ELEAZAR B. AZARIAH SAID TO HIM: ISHMAEL, MY BROTHER, I HAVE NOT DEVIATED FROM THE SEQUENCE OF YEARS,[16] TARFON, MY BROTHER, HAS DEVIATED THEREFROM AND THE ONUS IS UPON HIM TO PRODUCE THE PROOF. R. TARFON ANSWERED: EGYPT IS OUTSIDE THE LAND OF ISRAEL, AMMON AND MOAB ARE OUTSIDE THE LAND OF ISRAEL: JUST AS EGYPT MUST GIVE TITHE FOR THE POOR IN THE SEVENTH YEAR,[17] SO MUST AMMON AND MOAB GIVE TITHE FOR THE POOR IN THE SEVENTH YEAR. R. ELEAZAR B. ‘AZARIAH ANSWERED: BABYLON IS OUTSIDE THE LAND OF ISRAEL, AMMON AND MOAB ARE OUTSIDE THE LAND OF ISRAEL: JUST AS BABYLON MUST GIVE SECOND TITHE IN THE SEVENTH YEAR,[18] SO MUST AMMON AND MOAB GIVE SECOND TITHE IN THE SEVENTH YEAR. R. TARFON SAID: ON EGYPT WHICH IS NEAR, THEY IMPOSED TITHE FOR THE POOR SO THAT THE POOR OF ISRAEL MIGHT BE SUPPORTED THEREBY DURING THE SEVENTH YEAR; SO ON AMMON AND MOAB WHICH ARE NEAR, WE SHOULD IMPOSE TITHE FOR THE POOR SO THAT THE POOR OF ISRAEL MAY BE SUPPORTED THEREBY DURING THE SEVENTH YEAR. R. ELEAZAR B. ‘AZARIAH SAID TO HIM: BEHOLD, THOU ART LIKE A PERSON WHO WOULD BENEFIT THEM WITH GAIN, YET THOU ART REALLY AS ONE WHO CAUSES SOULS TO PERISH. WOULDST THOU ROB THE HEAVENS SO THAT DEW OR RAIN SHOULD NOT DESCEND?[19] AS IT IS SAID, WILL A MAN ROB GOD? YET YE ROB ME. BUT YE SAY WHEREIN HAVE WE ROBBED THEE? IN TITHES AND HEAVE-OFFERINGS.[20] R. JOSHUA SAID: BEHOLD, I SHALL BE AS ONE WHO REPLIES ON BEHALF OF TARFON, MY BROTHER, BUT NOT IN ACCORDANCE WITH THE SUBJECT MATTER OF HIS ARGUMENTS. THE LAW REGARDING EGYPT IS A NEW ACT AND THE LAW REGARDING BABYLON IS AN OLD ACT, AND THE LAW WHICH IS BEING ARGUED BEFORE US IS A NEW ACT. A NEW ACT SHOULD BE ARGUED FROM [ANOTHER] NEW ACT, BUT A NEW ACT SHOULD NOT BE ARGUED FROM AN OLD ACT. THE LAW REGARDING EGYPT IS THE ACT OF THE ELDERS AND THE LAW REGARDING BABYLON IS THE ACT OF THE PROPHETS, AND THE LAW WHICH IS BEING ARGUED BEFORE US[21] IS THE ACT OF THE ELDERS. LET ONE ACT OF THE ELDERS BE ARGUED FROM [ANOTHER] ACT OF THE ELDERS, BUT LET NOT AN ACT OF THE ELDERS BE ARGUED FROM AN ACT OF THE PROPHETS. THE VOTES WERE COUNTED AND THEY DECIDED THAT AMMON AND MOAB SHOULD GIVE TITHE FOR THE POOR IN THE

SEVENTH YEAR. AND WHEN R. JOSE B. DURMASKITH[22] VISITED R. ELIEZER[23] IN LYDDA HE SAID TO HIM: WHAT NEW THING DID YOU HAVE IN THE HOUSE OF STUDY TO-DAY? HE SAID TO HIM: THEIR VOTES WERE COUNTED AND THEY DECIDED THAT AMMON AND MOAB MUST GIVE TITHE FOR THE POOR IN THE SEVENTH YEAR. R. ELIEZER WEPT AND SAID: THE COUNSEL OF THE LORD IS WITH THEM THAT FEAR HIM: AND HIS COVENANT, TO MAKE THEM KNOW IT.[24] GO AND TELL THEM: DO NOT HAVE ANY APPREHENSION ON ACCOUNT OF YOUR VOTING. I RECEIVED A TRADITION FROM R. JOHANAN B. ZAKKAI WHO HEARD IT FROM HIS TEACHER, AND HIS TEACHER FROM HIS TEACHER, AND SO BACK TO AN HALACHAH GIVEN TO MOSES FROM SINAI,[25] THAT AMMON AND MOAB MUST GIVE TITHE FOR THE POOR IN THE SEVENTH YEAR.

MISHNAH 4. ON THAT DAY JUDAH, AN AMMONITE PROSELYTE, CAME AND STOOD BEFORE THEM IN THE HOUSE OF STUDY. HE SAID TO THEM: HAVE I THE RIGHT TO ENTER INTO THE ASSEMBLY?[26] RABBAN GAMALIEL SAID TO HIM: THOU ART FORBIDDEN. R. JOSHUA SAID TO HIM: THOU ART PERMITTED. RABBAN GAMALIEL SAID TO HIM: THE SCRIPTURAL VERSE SAYS, AN AMMONITE OR A MOABITE SHALL NOT ENTER INTO THE ASSEMBLY OF THE LORD: EVEN TO THE TENTH GENERATION, ETC.[27] R. JOSHUA SAID TO HIM: BUT ARE THE AMMONITES AND MOABITES STILL IN THEIR OWN TERRITORY? SENNACHERIB, THE KING OF ASSYRIA, HAS LONG SINCE COME UP AND MINGLED ALL THE NATIONS, AS IT IS SAID: IN THAT I HAVE REMOVED THE BOUNDS OF THE PEOPLES, AND HAVE ROBBED THEIR TREASURES, AND HAVE BROUGHT DOWN AS ONE MIGHTY THE INHABITANTS.[28] RABBAN GAMALIEL SAID TO HIM: THE SCRIPTURAL VERSE SAYS, BUT AFTERWARD I WILL BRING BACK THE CAPTIVITY OF THE CHILDREN OF AMMON,[29] SO THAT THEY HAVE ALREADY RETURNED. R. JOSHUA SAID TO HIM: THE SCRIPTURAL VERSE SAYS, I WILL TURN THE CAPTIVITY OF MY PEOPLE ISRAEL AND JUDAH.[30] YET THEY HAVE NOT ALREADY RETURNED. SO THEY PERMITTED HIM TO ENTER THE ASSEMBLY.

MISHNAH 5. THE ARAMAIC SECTIONS IN EZRA AND DANIEL RENDER UNCLEAN THE HANDS.[31] IF AN ARAMAIC SECTION WAS WRITTEN[32] IN HEBREW, OR A HEBREW SECTION WAS WRITTEN[32] IN ARAMAIC, OR HEBREW SCRIPT,[33] IT[34] DOES NOT RENDER UNCLEAN THE HANDS. IT NEVER RENDERS UNCLEAN THE HANDS UNTIL IT IS WRITTEN IN THE ASSYRIAN SCRIPT,[35] ON HIDE, AND IN INK.

MISHNAH 6. THE SADDUCEES SAY: WE COMPLAIN AGAINST YOU, O YE PHARISEES, BECAUSE YOU SAY THAT THE HOLY SCRIPTURES RENDER UNCLEAN THE HANDS,[36] BUT THE BOOKS OF HAMIRAM[37] DO NOT CONVEY UNCLEANNESS TO THE HANDS. R. JOHANAN B. ZAKKAI SAID: HAVE WE NOTHING AGAINST THE PHARISEES EXCEPTING THIS?[38] BEHOLD THEY SAY THAT THE BONES OF AN ASS ARE CLEAN, YET THE BONES OF JOHANAN[39] THE HIGH PRIEST ARE UNCLEAN.[40] THEY SAID TO HIM: PROPORTIONATE TO THE LOVE FOR THEM, SO IS THEIR UNCLEANNESS, SO THAT NOBODY SHOULD MAKE SPOONS OUT OF THE BONES OF HIS FATHER OR MOTHER. HE SAID TO THEM: SO ALSO THE HOLY SCRIPTURES; PROPORTIONATE TO THE LOVE FOR THEM, SO IS THEIR UNCLEANNESS. THE BOOKS OF HAMIRAM WHICH ARE NOT PRECIOUS DO NOT CONVEY UNCLEANNESS TO THE HANDS.[41]

MISHNAH 7. THE SADDUCEES SAY: WE COMPLAIN AGAINST YOU, O YE PHARISEES, THAT YOU DECLARE AN UNINTERRUPTED FLOW OF A LIQUID TO BE CLEAN.[42] THE PHARISEES SAY: [DO] WE COMPLAIN AGAINST YOU, O YE SADDUCEES, THAT YOU DECLARE A STREAM OF WATER WHICH FLOWS FROM THE BURIAL-GROUND TO BE CLEAN?[43] THE SADDUCEES SAY: WE COMPLAIN AGAINST YOU, O YE PHARISEES, IN

THAT YOU SAY, MY OX OR ASS WHICH HAS DONE INJURY IS LIABLE,[44] YET MY MANSERVANT OR MAIDSERVANT WHO HAS DONE INJURY IS NOT LIABLE'.[45] NOW IF IN THE CASE OF MY OX OR MY ASS' FOR WHICH I AM NOT RESPONSIBLE IF THEY DO NOT FULFIL RELIGIOUS DUTIES,[46] YET I AM RESPONSIBLE FOR THEIR DAMAGE, IN THE CASE OF MY MANSERVANT OR MAIDSERVANT FOR WHOM I AM RESPONSIBLE TO SEE THAT THEY FULFIL RELIGIOUS DUTIES,[47] HOW MUCH MORE SO THAT I SHOULD BE RESPONSIBLE FOR THEIR DAMAGE? THEY SAID TO THEM: NO, IF YOU ARGUE ABOUT MY OX OR MY ASS' WHICH HAVE NO UNDERSTANDING, CAN YOU DEDUCE ANYTHING THEREFROM CONCERNING MY MANSERVANT OR MAIDSERVANT WHO HAVE UNDERSTANDING? SO THAT IF I WERE TO ANGER EITHER OF THEM THEY WOULD GO AND BURN ANOTHER PERSON'S STACK AND I SHOULD BE LIABLE TO MAKE RESTITUTION?[48]

MISHNAH 8. A GALILEAN SADDUCEE[49] SAID: I COMPLAIN AGAINST YOU, O YE PHARISEES, THAT YOU WRITE THE NAME OF THE RULER AND THE NAME OF MOSES TOGETHER ON A BILL OF DIVORCEMENT.[50] THE PHARISEES SAID: [DO] WE COMPLAIN AGAINST YOU, O GALILEAN SADDUCEE, THAT YOU WRITE THE NAME OF THE RULER TOGETHER WITH THE DIVINE NAME ON A SINGLE PAGE? AND FURTHERMORE THAT YOU WRITE THE NAME OF THE RULER ABOVE AND THE DIVINE NAME BELOW? AS IT IS SAID, AND PHAROAH SAID, WHO IS THE LORD THAT I SHOULD HEARKEN UNTO HIS VOICE TO LET ISRAEL GO?[51] BUT WHEN HE WAS SMITTEN WHAT DID HE SAY? THE LORD IS RIGHTEOUS.[52]

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(1) I.e., on the day when they appointed R. Eleazar b. 'Azariah head of the Academy after Rabban Gamaliel had been deposed. V. supra III, 4. Wherever the words בו ביום occur, this day is meant. V. Ed. (Sonc. ed.) Introduction.

(2) A kab is a measure of capacity equal in quantity to four logs.

(3) V. Glos. A footbath which was cracked and therefore could no longer hold any water was used for sitting on. Cf. Maim. on Kel. XX, 5. It therefore comes within the category of a 'utensil' and is thus liable to contract midras uncleanness. Cf. Lev. XV, 4.

(4) I.e as a footbath only and does not come within the category of a 'utensil', and thus does not contract midras uncleanness.

(5) Cf. Zeb. I. 1.

(6) E.g., if an animal brought as a burnt-offering is offered as a peace-offering.

(7) I.e the blood must nevertheless be sprinkled on the altar and the relevant portions burnt on the altar or eaten.

(8) He must still bring the offering which he vowed to offer; cf. Deut. XXIII, 24, That which is gone out of thy lips thou shalt observe and do. V. Zeb. 2a.

(9) Which if sacrificed under the name of another offering are invalid; v. Zeb. 7b.

(10) I.e., if the Paschal-offering is sacrificed on the eve of Passover under the name of another offering it is invalid; but if it be offered up before mid-day of the fourteenth of Nisan or after the eve of Passover it is considered a peace-offering and all the laws appertaining to peace-offerings apply. Cf. Zeb. 8a.

(11) Cf. Lev. VII, 1.

(12) I.e., which tithe must Israelites living in these countries give in the Sabbatical year? Tithe is payable from harvest reaped in the seventh year in countries outside the Land of Israel. Cf. Sheb. VI, 1. In the Land of Israel itself no harvest was permitted to be reaped in the seventh year (cf. Lev. XXV, 4ff.) and therefore no tithe was payable.

(13) Tithe given to the poor every third and sixth year of a cycle of seven years. Cf. Deut. XIV, 28ff.

(14) Tithe given every first, second, fourth and fifth year of a cycle of seven years. Second tithe had to be consumed in Jerusalem, (Deut. XIV, 22ff.) or redeemed by its equivalent in money plus one-fifth of its value (Lev. XXVII, 30f). The latter sum had to be spent on food and drink in Jerusalem (Deut. XIV, 26).

(15) Since second tithe is consecrated, being eaten only in Jerusalem, but tithe for the poor is unconsecrated. Cf. Maim. ad loc.'

(16) Second tithe is ordinarily given in the year following that in which tithe for the poor is given. Since tithe for the poor is given in the sixth year of the seven years' cycle, it follows that in countries outside the Land of Israel second tithe should be given in the seventh year.

(17) An ordinance of the Elders who lived after the time of Ezra.

(18) An ordinance of the Prophets.

(19) Cf. Mal. III, 10.

(20) Ibid. III, 8.

(21) That of Ammon and Moab.

(22) I.e., of Damascus. Cf. A.T. 393ff.

(23) R. Eliezer had been placed under the ban (cf. B. M. 59b). He was thus unable to participate in the discussions which took place in the House of Study.

(24) Ps. XXV, 14.

(25) I.e., an ancient ordinance.

(26) I.e., can marry an Israelite woman? Cf. Yeb. VIII, 3.

(27) Deut. XXIII, 4.

(28) Isa. X, 13; said by the boastful king of Assyria. It can therefore no longer be said that anyone born in Ammon is a real Ammonite, as he is a descendant of mixed races.

(29) Jer. XLIX, 6.

(30) Jer. XXX, 3.

(31) Since they are part of the Holy Scriptures.

(32) I.e., translated.

(33) כתב עברי Hebrew Script. This is the name given to the older form of the Hebrew alphabet which was used by the Hebrews, Moabites, and Phoenicians. It was angular in shape, and can be seen on the Moabite stone and on various Hebrew inscriptions discovered in Samaria, Gezer and Siloam. The ‘Hebrew Script’ was replaced by the ‘Assyrian Script’ i.e., the square alphabet now in use. This was introduced by Ezra, and was so called because (a) it was brought back from Assyria, or (b) because its characters are straight in form, שמאושרת בכתב . Cf. Sanh. 21b and 22a and notes in Sonc. ed. a. l.

(34) I.e., a book of the Holy Scriptures.

(35) I.e., the square characters.

(36) Cf. supra II, 2.

(37) The meaning of this word is obscure. The Mishnah is evidently referring to a well known example of secular writings. Aruch offers three explanations s. v. מרום viz., (a) heretical books, from מור to change: (b) the books of מרום the name of a heretic (so also Maim. and Rosh reading מירם): (c) books of Greek wisdom called in Greek, Homeros. Many scholars have suggested that it refers to the works of Homer. Kohut in the J. Q. R. Vol. III 546-548, who collects all the various conjectures, himself suggests pleasure. entertainment, i.e., books of entertainment.

(38) Speaking ironically.

(39) Evidently the Johanan referred to in Ber. 29a as having become a Sadducee after eighty years’ service as High Priest.

(40) The Sadducees accepted the principle that the bones of an ass are clean whereas those of the human being are unclean.

(41) R. Johanan answered the Sadducees by using the principle which they themselves accepted.

(42) Cf. Maksh. V, 9. If a liquid is poured from a clean vessel into an unclean vessel, the liquid remaining in the former vessel remains clean, as the uninterrupted flow does not form a connective.

(43) Cf. Mik. I. 4. The Sadducees agreed that this was the case. On this controversy v. Finkelstein, The Pharisees II, p. 638.

(44) I.e., I am responsible for the damage they do. Cf. Ex. XXI, 35. The Sadducees did not dispute this, as it is expressly stated in the Torah.

(45) Cf. B.K. VIII, 4. Not being expressly ‘stated in the Torah, the Sadducees did not accept this.

(46) Since the Torah does not enjoin religious duties on animals.

(47) E.g., to see that they do not work on the Sabbath.

(48) Hence the law provides that I should not be liable for the damage they do. On this controversy v. Finkelstein L. op. cit. II, p. 684.

(49) Var. lec. a Galilean min (v. Glos.). Finkelstein (op. cit. p. 645) holds the heretic involved to have been a Galilean Nationalist who opposed the recognition of the non-Davidic and of the Roman rulers in Jewish ceremonial.

(50) The bill of divorcement began with the date which stated the year of the rule of the reigning king. It ended with the words, ‘in accordance with the religion of Moses and of Israel’. According to this Sadducee, the mention of both names on the one document was derogatory to Moses.

(51) Ex. V, 2. I.e., it is not in the least derogatory since in the Scriptures the name of the ruler is mentioned even before the Divine name.

(52) Ex. IX, 27. This is added so as to avoid ending the Tractate with the Previous verse which expresses defiance of God.

Mishna - Mas. Uktzin Chapter 1

MISHNAH 1. THAT WHICH SERVES AS A HANDLE,[1] THOUGH NOT ACTUALLY AS A PROTECTION,[2] BOTH CONTRACTS UNCLEANNESS[3] AND CONVEYS UNCLEANNESS;[4] BUT IT IS NOT INCLUDED.[5] IF IT SERVES AS A PROTECTION THOUGH NOT AS A HANDLE,[6] IT CONTRACTS AND CONVEYS UNCLEANNESS AND IS INCLUDED.[7] IF IT SERVES NEITHER AS A PROTECTION NOR AS A HANDLE,[8] IT NEITHER CONTRACTS NOR CONVEYS UNCLEANNESS.[9]

MISHNAH 2. ROOTS OF GARLIC, ONIONS OR LEEKS[10] THAT ARE YET MOIST, OR THEIR TOP-PARTS,[11] BE THEY MOIST OR DRY, ALSO THE SCAPE THAT IS WITHIN THE EDIBLE PART,[12] THE ROOTS OF THE LETTUCE, THE RADISH AND THE TURNIP,[13] [ARE INCLUDED]. SO R. MEIR. R. JUDAH SAYS: ONLY THE LARGE ROOTS OF THE RADISH ARE SO INCLUDED, BUT ITS FIBROUS ROOTS ARE NOT INCLUDED. THE ROOTS OF THE MINT, RUE,[14] WILD HERBS AND GARDEN HERBS THAT HAVE BEEN UPROOTED IN ORDER TO BE PLANTED ELSEWHERE,[15] AND THE SPINAL CORD OF AN EAR OF CORN TOGETHER WITH ITS HUSK,[16] (R. ELEAZAR SAYS: ALSO THE COBWEB-LIKE COVERING OF FRUITS)[17] ALL THESE THINGS CONTRACT AND CONVEY UNCLEANNESS[18] AND ARE INCLUDED.[19]

MISHNAH 3. THE FOLLOWING BOTH CONTRACT AND IMPART UNCLEANNESS, BUT ARE NOT INCLUDED [TOGETHER WITH THE REST]: ROOTS OF GARLIC,[20] ONIONS OR LEEKS WHEN THEY ARE DRY, THE SCAPE THAT IS NOT WITHIN THE EDIBLE PART,[21] THE TWIG OF A VINE,[22] A HANDBREADTH LONG ON EITHER SIDE,[23] THE STEM OF THE CLUSTER, WHATSOEVER BE ITS LENGTH,[24] THE TAIL OF THE CLUSTER BEREFT OF GRAPES,[25] THE STEM OF THE ‘BROOM’[26] OF THE PALM-TREE TO A LENGTH OF FOUR HANDBREADTHS,[27] THE STALK OF THE EAR [OF CORN] TO A LENGTH OF THREE HANDBREADTHS, AND THE STALK OF ALL THINGS THAT ARE CUT, TO THE LENGTH OF THREE HANDBREADTHS.[28] IN THE CASE OF THOSE THINGS NOT USU ALLY CUT, THEIR STALKS AND ROOTS OF ANY SIZE WHATSOEVER.[29] AS FOR THE OUTER HUSKS OF GRAINS,[30] THEY BOTH CONTRACT AND IMPART UNCLEANNESS,[31] BUT ARE NOT INCLUDED.[32]

MISHNAH 4. THE FOLLOWING, HOWEVER, NEITHER CONTRACT NOR IMPART UNCLEANNESS, AND ARE NOT INCLUDED:[32] THE ROOTS OF CABBAGE-STALKS,[33] YOUNG SHOOTS OF BEET GROWING OUT OF THE ROOT,[34] AND SUCH TURNIP-HEADS THAT ARE ORDINARILY CUT OFF BUT IN THIS CASE WERE PULLED UP [WITH THEIR ROOTS].[35] R. JOSE DECLARES THEM ALL SUSCEPTIBLE TO CONTRACT UNCLEANNESS,[36] BUT HE DECLARES INSUSCEPTIBLE CABBAGE-STALKS AND TURNIP-HEADS.[37]

MISHNAH 5. STALKS OF ALL EDIBLES THAT HAVE BEEN THRESHED IN THE THRESHING-FLOOR ARE CLEAN;[38] BUT R. JOSE PRONOUNCES THEM UNCLEAN.[39] A SPRIG OF A VINE WHEN STRIPPED OF ITS GRAPES IS CLEAN,[38] BUT IF ONE GRAPE ALONE IS LEFT THEREON, IT IS UNCLEAN.[40] A TWIG OF A DATE-TREE STRIPPED OF ITS DATES IS CLEAN,[41] BUT IF ONE DATE REMAINS THEREON, IT IS SUSCEPTIBLE, SIMILARLY, WITH PULSE:[42] IF THE PODS WERE STRIPPED FROM THE STEM IT IS CLEAN, BUT IF EVEN ONE POD ALONE REMAINS, IT IS UNCLEAN. R. ELEAZAR B. ‘AZARIAH DECLARES [THE STALK] OF THE BEAN CLEAN,[43] BUT DECLARES UNCLEAN THE STALK OF OTHER PULSE,[44] SINCE IT IS OF USE[45] WHEN [THE PULSE] IS HANDLED.[46]

MISHNAH 6. STALKS OF FIGS AND DRIED FIGS, KELUSIM FIGS,[47] AND CAROBS BOTH CONTRACT AND IMPART UNCLEANNESS, AND ARE INCLUDED.[48] R. JOSE SAYS: ALSO THE STALKS OF THE GOURD,[49] OF PEARS AND PIPPINS,[50] QUINCES,[51] AND CRAB-APPLES.[52] THE STALKS OF THE GOURD[53] AND THE ARTICHOKE [TO THE LENGTH OF] ONE HANDBREADTH (R. ELEAZAR SON OF R. ZADOK SAYS: TWO HANDBREADTHS) — [ALL] THESE CONTRACT AND IMPART UNCLEANNESS; BUT ARE NOT INCLUDED.[54] AS FOR THE STALKS OF ALL OTHER FRUITS, THEY NEITHER CONTRACT NOR IMPART UNCLEANNESS.[55]

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(1) To fruit or plants, like the stalks of apples, grapes, plums, or a marrowless bone held in the hand in order to enjoy the meat thereon.

(2) Thus excluding that part of the stalk actually touching the fruit and attached to the kernel.

(3) For though the handle itself is not edible, but since it serves as a connective to the fruit, it is rendered unclean when the edible part suffers uncleanness.

(4) If the handle suffers uncleanness the edible part becomes also unclean. Derived from Lev. XI, 37 (v. Bert.).

(5) With the rest of the food to complete the egg's bulk necessary for the transmission of uncleanness.

(6) I.e., the husk of plant or fruit protecting it, which men do not grip hold of when eating; accordingly, it is regarded as part of the fruit itself.

(7) Which includes such things as wheat and barley in their husks used for the purpose of sowing. This is inferred from Lev. XI, 37, for were it to refer merely to the contraction and imparting of uncleanness, it would have been too obvious.

(8) Like the fibrous substance of fruits or vegetables.

(9) And, of course, cannot be included.

(10) With heads to them.

(11) The protuberance on blossom-end of fruits, having the appearance of a pestle seated in a mortar; hence the upper portion of fruit.

(12) I.e., the radical stem, bearing fructification, but no leaves. The scape is the central stalk of the onion, as far as it is surrounded by the edible part (v. L.).

(13) נפוס , a kind of radish resembling the carrot as to foliage, and the radish as to taste, cf. Kil. I, 3, 5.

(14) Cf Kil. I, 8: ‘You must not graft rue on white cassia because it would be a combination of a herb with a tree’.

(15) With the result that he takes good care to see that the roots are plucked up with herbs, to which they serve as a protection.

(16) Which serves as a protection to the ear of corn.

(17) The downy growth on the tops of vegetables, resembling almost a spider's web, a view with which the halachah does not concur.

(18) As protection.

(19) To make up the required egg's bulk to impart uncleanness.

(20) Being dried up, they no longer serve as ‘protection’, but solely as ‘handles’.

(21) V. p. 573 n. 12.

(22) From which a grape-cluster hangs.

(23) Were the branch less, it could not be called ‘handle’, being too slender to support a heavy cluster of grapes, and not of sufficient size of which to take a grip (L.).

(24) Even if this be very great. So Bert. According to L., however, even if it be smaller than a handbreadth.

(25) After the grapes had fallen off, the tail of the cluster need not be of the stipulated handbreadth.

(26) The fanshaped twig of the palm-tree which resembles a broom, with which it is possible to sweep the house; cf. Suk. 40a.

(27) But not more.

(28) The three handbreadths are thus explained: one of which the reaper takes hold, one that is left near the ears of corn, and one below, so that his hand does not receive a cut from the sickle.

(29) I.e., long or short, for once they have been uprooted he does not mind how much is left of the ear of corn.

(30) The glumes of the ears of corn; Hul. 119b.

(31) Since all are stalks whereby the fruit is held.

(32) Together with the rest to constitute the egg's bulk.

(33) On top of the cabbage are leaves of helmet shape. These are usually thrown away.

(34) Left in the soil when the beets are cut for others to grow.

(35) All these serve neither as ‘handles’ nor as ‘protection’.

(36) Regarding them all as ‘handles’ to the food.

(37) Which he agrees are of no purpose whatsoever.

(38) Viz., not susceptible to defilement. Threshing used to be done with the aid of animals or sticks, thus rendering the stalks too weak to be considered after this as handles; Hul. 118a.

(39) Namely susceptible to uncleanness; his contention being that they are liable to be upturned with the pitchfork together with the grain, hence they serve as handles; cf. Suk. 14a.

(40) This one grape causes the sprig to be considered as a handle.

(41) Not regarding this twig as a handle to the stalk of the broom.

(42) Others render ‘summer-fruits’.

(43) Being of the large kind, they do not need the protection of the twig.

(44) Being small, the twig of necessity acts as a kind of protection to them.

(45) Lit., ‘he desires’.

(46) Accordingly, he wishes them to be attached to the sprig, which thus acts as a handle to them; Hul. 119a.

(47) A species of dried figs, so Maim.; according to Rashi: a kind of pea or bean. Aliter: the fruit of the Judas tree. These were used for cooking purposes; Ned. 50a. Aliter: acorns.

(48) To constitute the required egg's bulk, for occasionally they are eaten with the fruit.

(49) A general name for cucumbers and pumpkins. These gourd-stalks are sometimes cooked together with the edible parts.

(50) Kerustemilin. According to L., a kind of crab-apple; cf. Ma'as. I, 3 where it refers to the ‘crustumenian pear’.

(51) Perishin (lit., ‘set aside, excellent’); they are so called because there is no species of fruit so well adapted for cooking as this (J. Kil. I, 27a); cf. Suk. 31a.

(52) Medlars, a small and shrunken fruit.

(53) Bert. stresses that the Mishnah only refers to the Greek species of gourd; for the stalks of others are very tiny.

(54) With the food to constitute the required amount to convey uncleanness.

(55) Needless to say, they are not included with the rest to constitute the egg's bulk.

Mishna - Mas. Uktzin Chapter 2

MISHNAH 1. LEAVES OF OLIVES PICKLED[1] TOGETHER WITH THE OLIVES REMAIN CLEAN,[2] FOR THEIR PICKLING WAS ONLY FOR THE SAKE OF APPEARANCES.[3] THE FIBROUS SUBSTANCE[4] ON A CUCUMBER AND THE FLOWER-LIKE SUBSTANCE THEREIN ARE CLEAN;[5] BUT R. JUDAH IS OF THE OPINION THAT AS LONG AS IT IS STILL LYING BEFORE THE MERCHANT, IT IS UNCLEAN.[6]

MISHNAH 2. ALL KINDS OF FRUIT-STONES BECOME UNCLEAN AND IMPART UNCLEANNESS BUT ARE NOT INCLUDED;[7] BUT THE STONES OF FRESH DATES,[8] EVEN WHEN DETACHED [FROM THE EDIBLE PART], ARE INCLUDED;[9] BUT THOSE OF DRIED DATES ARE NOT INCLUDED. ACCORDINGLY, THE PERICARP[10] OF DRIED DATES IS INCLUDED,[11] BUT THAT OF FRESH DATES IS NOT INCLUDED.[12] IF ONLY PART OF A FRUIT-STONE IS DETACHED, THEN ONLY THAT PART NEAR THE EDIBLE PORTION IS INCLUDED.[13] [SIMILARLY] WITH A BONE ON WHICH THERE IS FLESH, ONLY THAT PART THAT IS CLOSE TO THE EDIBLE PART IS INCLUDED. [IF THE BONE] HAS FLESH ONLY UPON ONE SIDE THEREOF, R. ISHMAEL SAYS: WE TAKE IT AS THOUGH [THE FLESH] ENCOMPASSES IT LIKE A RING;[14] BUT THE SAGES SAY: [ONLY] THAT PART CLOSE TO THE EDIBLE PART IS INCLUDED [AS IS THE CASE] FOR EXAMPLE WITH SAVORY,[15] HYSSOP AND THYME.[16]

MISHNAH 3. IF A POMEGRANATE OR MELON HAS ROTTED IN PART, [WHAT IS ROTTEN] IS NOT INCLUDED;[17] AND IF [THE FRUIT] IS SOUND AT EITHER END BUT

HAS ROTTED IN THE MIDDLE, [WHAT IS ROTTEN] IS NOT INCLUDED.[18] THE NIPPLE OF A POMEGRANATE IS INCLUDED, BUT THE FIBROUS SUBSTANCE THEREOF IS NOT INCLUDED. R. ELEAZAR SAYS: ALSO THE COMB[19] [THEREOF] IS NOT SUSCEPTIBLE TO UNCLEANNESS.[20]

MISHNAH 4. ALL KINDS OF HUSKS CONTRACT AND IMPART UNCLEANNESS, AND ARE INCLUDED.[21] R. JUDAH SAYS: AN ONION HAS THREE SKINS: THE INNERMOST ONE WHETHER IT IS IN ITS ENTIRE STATE OR WHETHER IT BE PIERCED WITH HOLES[22] IS INCLUDED; THE MIDDLE ONE WHEN IT IS IN A WHOLE STATE IS INCLUDED, BUT WHEN IT IS PIERCED WITH HOLES IT IS NOT INCLUDED;[23] THE OUTERMOST SKIN IS IN EITHER CASE REGARDED AS INSUSCEPTIBLE TO UNCLEANNESS.[24]

MISHNAH 5. IF ONE CHOPS UP [FRUIT] FOR COOKING PURPOSES, EVEN IF [THE CHOPPING HAD] NOT BEEN COMPLETELY FINISHED,[25] IT IS NOT REGARDED AS CONNECTED. IF HIS INTENTION, HOWEVER, HAD BEEN TO PICKLE[26] OR TO BOIL IT,[27] OR TO SET IT ON THE TABLE,[28] THEN IT IS REGARDED AS CONNECTED.[29] IF HE BEGAN TO TAKE [THE PIECES] APART, [ONLY] THAT PART OF THE FOOD WHICH HE BEGAN TO TAKE APART IS NOT CONSIDERED A CONNECTIVE.[30] NUTS THAT HAD BEEN STRUNG TOGETHER,[31] OR ONIONS THAT HAD BEEN PILED TOGETHER, COUNT AS CONNECTIVES.[32] IF HE BEGAN TO TAKE THE NUTS APART,[33] OR TO STRIP THE ONIONS, ONLY THAT [ON WHICH HE BEGAN] IS NOT DEEMED AS CONNECTIVE.[34] [SHELLS OF] NUTS AND ALMONDS ARE CONSIDERED AS CONNECTIVES [WITH THE EDIBLE PART] UNTIL THEY ARE CRUSHED.[35]

MISHNAH 6. [THE SHELL OF] A ROASTED EGG[36] [IS CONSIDERED A CONNECTIVE][37] UNTIL IT IS CRACKED;[38] THAT OF A HARD-BOILED EGG [IS CONSIDERED A CONNECTIVE] UNTIL IT IS ENTIRELY BROKEN UP.[39] A MARROW-BONE SERVES AS A CONNECTIVE[40] UNTIL IT IS WHOLLY CRUSHED;[41] AND [THE RIND OF] A POMEGRANATE THAT HAS BEEN DIVIDED INTO HALVES SERVES AS CONNECTIVE UNTIL IT HAS BEEN KNOCKED WITH A STICK.[42] SIMILARLY, LOOSE STITCHES OF LAUNDRYMEN[43] OR A GARMENT THAT HAD BEEN STITCHED TOGETHER WITH THREADS OF MIXED STUFF,[44] SERVE AS CONNECTIVES UNTIL ONE BEGINS TO LOOSEN THEM.[45]

MISHNAH 7. THE [OUTER] LEAVES OF VEGETABLES IF THEY ARE GREEN[46] ARE INCLUDED,[47] BUT IF THEY HAVE WHITENED[48] THEY ARE NOT INCLUDED. R. ELEAZAR B. ZADOK SAYS: THE WHITE LEAVES OF CABBAGE ARE INCLUDED BECAUSE THEY ARE EDIBLE. SO ALSO THOSE OF LETTUCES,[49] BECAUSE THEY PRESERVE THE EDIBLE PART.

MISHNAH 8. WITH REGARD TO THE LEEK-LIKE SPROUTS OR THE CENTRE SPROUTS OF ONIONS, IF THERE IS SAP IN THEM THEY ARE TO BE MEASURED AS THEY ARE;[50] IF THERE IS A VACUUM WITHIN THEM, IT MUST BE SQUEEZED TIGHTLY TOGETHER.[51] SPONGY BREAD[52] IS MEASURED AS IT IS,[50] BUT IF THERE IS A VACUUM WITHIN IT, IT MUST BE PRESSED FIRMLY. THE FLESH OF A CALF WHICH HAD SWOLLEN,[53] OR THE FLESH OF AN OLD [BEAST] THAT HAS SHRUNKEN IN SIZE, ARE MEASURED IN THE CONDITION THEY ARE IN.[54]

MISHNAH 9. A CUCUMBER PLANTED IN A POT[55] WHICH SO GREW TILL IT REACHED OUT OF THE POT IS NOT DEEMED SUSCEPTIBLE.[56] R. SIMEON SAID: WHAT IS THEREIN TO MAKE IT CLEAN?[57] NO;[58] THAT WHICH HAS ALREADY BECOME UNCLEAN

CONTINUES IN ITS UNCLEANNESS,[59] AND ONLY THAT WHICH IS INSUSCEPTIBLE[60] CAN BE EATEN.

MISHNAH 10. VESSELS MADE OF CATTLE DUNG OR OF EARTH[61] THROUGH WHICH THE ROOTS CAN PENE TRATE,[62] DO NOT RENDER THE SEEDS SUSCEPTIBLE.[63] A PERFORATED PLANT-POT DOES NOT RENDER SEEDS SUSCEPTIBLE;[64] BUT IF IT HAS NO HOLE, THE SEEDS DO BECOME SUSCEPTIBLE.[65] WHAT SHOULD BE THE HOLE'S DIMENSION? SUCH THAT A SMALL ROOT CAN PUSH ITS WAY THROUGH. IF IT WAS FILLED WITH EARTH TO ITS BRIM,[66] IT IS DEEMED AS A BOARD WITHOUT AN EDGE.[67]

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(1) In wine or vinegar, or other preservative liquids.

(2) I.e., they are insusceptible to uncleanness, as they are regarded neither as handle nor protection to the olives.

(3) For when the leaves are still attached, the olives lend the appearance of having just been plucked, and serve as a guarantee for freshness. Thus his intention never was to eat the olive leaves, or to preserve the olives from getting spoiled.

(4) A parasitic growth on shrubs.

(5) Being neither handle nor protection.

(6) While still unsold, this fibrous substance gives the cucumber the appearance of having been just plucked and proves more attractive to the purchaser. Accordingly, they may be regarded as a kind of protection to the fruit. In addition, they prevent the cucumber from being soiled by the fingers of intending purchasers whose custom it is to feel the fruit before buying. In this wise, they differ from the case first cited in our Mishnah concerning the leaves of the olives, with the ruling on which R. Judah agrees.

(7) To constitute the required egg's bulk; these stones being considered as handles but not as protection.

(8) Containing sap, they can be sucked in the mouth.

(9) With the edible part, since their juice is acceptable.

(10) The membranous enclosure separating the stone of the date from the flesh.

(11) With the edible part. In dry dates, the skin is thing and can he eaten with the fruit.

(12) Being bitter, the husk is usually cast aside.

(13) Part of the fresh fig was left with the fruit-stone, and the part near the edible portion was regarded as a protection.

(14) And all that part which could be then encompassed is included.

(15) A plant classified with the hyssop; Ma'as. III, 9; Sheb. VIII, 1.

(16) The stalks close to the edible parts of these plants are included (Asheri).

(17) To form the egg's bulk, since the rotted part must be cast away.

(18) Since the rotted centre can in no wise be included as edible. V. L. for the necessity of adding this statement.

(19) The sprouting hairs on the nipple of the pomegranate bear a striking resemblance to a comb.

(20) For even when they are lopped off from the fruit, the fruit-stones are not revealed; hence, they cannot be regarded as a protection. In the case of the nipple, however, the fruit-stones are laid bare when that is cut off, and the fruit does suffer as a consequence.

(21) To form the required bulk. Bert. excludes from this general statement the moist outward shells of nuts at the time of their gathering, for these also are not a protection; cf. Hul. 119b on the subject.

(22) Though such a state can scarcely be regarded as a protection to the edible part of the onion.

(23) For unlike the innermost skin, it is not eaten.

(24) Regardless of the fact whether it is whole or pierced. This skin is very thin and peels off when only touched by the hand; accordingly it can be regarded neither as handle nor as protection.

(25) I.e., some of the pieces are still attached. Since in the process of cooking they will eventually become detached, they are already considered apart.

(26) In vinegar or pungent salt water.

(27) Lit., ‘to seethe them’; i.e., to overboil them. For שליקה is a more intensive process than plain cooking, בישול . In the case of pickling and boiling intensively, they become hard again and do not fall apart as in the case of plain cooking.

(28) Without chopping them up, separating them just sufficiently to enable his guests to take up separate portions, being content that they should be attached until such time as required.

(29) Each one serving as a handle to the other, and because they are considered as one pile, since the cutting has not been complete.

(30) And we do not surmise that since he began to separate some of them his intention was to do so to all.

(31) On a thread to dry whilst they are still in a tender state.

(32) Being considered as one pile.

(33) A few nuts began to break, leaving a portion still attached.

(34) For the others will soon follow suit.

(35) For the shells, even when cracked, still serve as a protection to the nuts.

(36) Or, ‘lightly-boiled’.

(37) For the smallest hole therein enables one to sip the contents of the egg still in a liquid state.

(38) Cf. Hul. 92b. Once a crack has occurred, the liquid will find a way out through the hole, and the shell will no longer act as a protection.

(39) For the egg will still remain within the shell, even if the latter suffers a severe crack. It is, therefore, a protection until completely broken.

(40) With the marrow.

(41) When it cannot serve as protection to the marrow.

(42) To extract its edible seeds.

(43) It was their custom loosely to sew the garments together so that they should not get lost, and then to separate them.

(44) Cf. Par. XII, 9. His avowed intention was to unloose them later, for kil'ayim is forbidden in the Torah, but as long as they are sewn together they are counted as connectives.

(45) Hence should one of the garments contract uncleanness, the other also is affected. Once he begins to loosen the stitches which bind them together, they can no longer be deemed as one garment.

(46) When they are eaten.

(47) With the edible parts.

(48) I.e., when they have withered, a condition which renders them inedible.

(49) Which though not eaten still serve as a protection.

(50) Viz., without squeezing the core as in the case of the vacuum.

(51) In order to include the sap so as to obtain the egg's bulk necessary to impart uncleanness.

(52) I.e., bread blown up like a sponge.

(53) In the process of cooking, the flesh of the calf swells in dimension, whereas that of an old beast shrinks.

(54) Though the calf's flesh may have been less than the size of an egg prior to the cooking, or the flesh of an old beast more, still we estimate them in their present condition; cf. Toh. V, 7.

(55) Which has no hole beneath, with the result that the cucumber has not the legal ruling applied to things growing directly out of the soil (v. next Mishnah). Our Mishnah deals with a case where the cucumber had already received contact with liquid.

(56) Since the cucumber now reaches outside the pot, and only air separates it from the soil, even if that part of the cucumber within the pot had come into contact with defilement prior to its replanting, it now becomes clean, as is the law of all unclean seedlings that have been planted; v. Ter. IX, 7 (Bert.).

(57) Why should that part within the pot which had become unclean now be declared clean? Is it not enough to pronounce just that part outside the pot clean, but that within as unclean, since the pot has no hole beneath?

(58) R. Simeon is continuing his argument.

(59) Viz., that part within the pot.

(60) The part without the pot.

(61) Unbaked clay. There are three utensils which do not contract uncleanness neither according to Biblical nor Rabbinical injunction: vessels of stone, cattle-dung or unbaked clay.

(62) Though the vessels themselves are not actually perforated, yet their sides are so thin that their roots within can force their way out. Hence does the Mishnah omit stone vessels, the sides of which can obviously resist the drive of the roots outwards.

(63) For such vessels are accounted as if they had been part of the soil; hence the objects within are insusceptible to uncleanness.

(64) Being considered as if growing directly out of the soil. Having a hole, which connects the plant directly with the soil beneath, the pot loses the status of a vessel.

(65) For then it is regarded as a vessel, and the plants therein have the same ruling as those that have already been plucked from the soil.

(66) The unperforated plant pot was filled with earth, and thus not accounted at all as a vessel.

(67) I.e., an edge, by which a flat utensil is made into a vessel-like receptacle. Because it has no such receptacle it cannot be considered susceptible, and is regarded as the soil itself from which it is separated on the four sides thereof only by air; cf. Kel. II, 3 where the general principle is laid down that ‘those earthenware vessels which have no inner part, no regard is paid to their outward part’.

Mishna - Mas. Uktzin Chapter 3

MISHNAH 1. SOME THINGS NEED TO BE RENDERED SUSCEPTIBLE [TO UNCLEANNESS].[1] BUT THEY DO NOT NEED INTENTION,[2] [WHILST OTHERS NEED] INTENTION AND TO BE RENDERED SUSCEPTIBLE. [STILL OTHERS THERE ARE THAT] NEED INTENTION, BUT DO NOT NEED TO BE RENDERED SUSCEPTIBLE, [WHILST OTHERS THAT] NEED NEITHER TO BE RENDERED SUSCEPTIBLE NOR INTENTION. SUCH EDIBLES THAT ARE DESIGNATED AS HUMAN FOOD NEED TO BE RENDERED SUSCEPTIBLE, BUT DO NOT NEED INTENTION.[3]

MISHNAH 2. THAT WHICH HAS BEEN SEVERED FROM A MAN,[4] BEAST, WILD ANIMAL, BIRD, OR FROM THE CARRION OF AN UNCLEAN BIRD,[5] AND THE FAT IN VILLAGES,[6] AND (ALL KINDS OF WILD VEGETABLES,[7] SAVE TRUFFLES[8] OR FUNGUS[9] — R. JUDAH SAYS, SAVE FIELD-LEEKS,[10] PURSLANE[11] AND THE ASPHODEL.[12] AND R. SIMEON SAYS, SAVE CARDOON,[13] AND R. JOSE SAYS, SAVE ACORNS[14] — BEHOLD ALL THESE[15] NEED BOTH INTENTION AND TO BE RENDERED SUSCEPTIBLE [TO UNCLEANNESS].[16]

MISHNAH 3. THE CARRION OF AN UNCLEAN BEAST AT ALL PLACES,[17] AND OF A CLEAN BIRD IN VILLAGES, NEED INTENTION[18] BUT DO NOT NEED TO BE RENDERED SUSCEPTIBLE.[19] THE CARRION OF A CLEAN BEAST IN ALL PLACES,[20] AND THAT OF A CLEAN BIRD, AND ALSO FAT[21] IN THE MARKET PLACES, REQUIRE NEITHER INTENTION[22] NOR TO BE RENDERED SUSCEPTIBLE.[23] R. SIMEON SAYS, ALSO[24] [THE CARRION OF] THE CAMEL, RABBIT, CONEY OR PIG.

MISHNAH 4. THE DILL[25] STALK AFTER HAVING GIVEN ITS TASTE TO A DISH IS NO LONGER SUBJECT TO THE LAWS OF TERUMAH,[26] AND ALSO NO LONGER IMPARTS FOOD UNCLEANNESS.[27] THE YOUNG SPROUTS OF THE SERVICE-TREE,[28] OF GARDEN CRESS,[29] OR LEAVES OF THE WILD ARUM,[30] DO NOT IMPART FOOD UNCLEANNESS UNTIL THEY ARE SWEETENED.[31] R. SIMEON SAYS: ALSO [THE LEAVES OF] THE COLOCYNTH ARE LIKE THEM.

MISHNAH 5. COSTUS,[32] AMOMUM,[33] PRINCIPAL SPICES, [ROOTS OF] CROWFOOT,[34] ASAFOETIDA,[35] PEPPER AND LOZENGES MADE OF SAFFRON[36] MAY BE BOUGHT WITH TITHE MONEY,[37] BUT THEY DO NOT CONVEY FOOD UNCLEANNESS.[38] SO R. AKIBA. SAID R. JOHANAN B. NURI TO HIM: IF THEY MAY BE BOUGHT WITH [SECOND] TITHE MONEY, THEN WHY SHOULD THEY NOT IMPART FOOD UNCLEANNESS? AND IF THEY DO NOT IMPART FOOD UNCLEANNESS, THEN THEY SHOULD ALSO NOT BE BOUGHT WITH [SECOND] TITHE MONEY.[39]

MISHNAH 6. UNRIPE FIGS OR GRAPES, R. AKIBA SAYS, CONVEY FOOD UNCLEANNESS; BUT R. JOHANAN B. NURI SAYS: [THIS IS ONLY] WHEN THEY HAVE REACHED THE SEAS ON WHEN THEY ARE LIABLE TO TITHES.[40] OLIVES AND GRAPES

THAT HAVE HARDENED,[41] BETH SHAMMAI SAY, BECOME SUSCEPTIBLE TO UNCLEANNESS,[42] WHEREAS BETH HILLEL SAY: THEY ARE INSUSCEPTIBLE.[43] BLACK CUMMIN, BETH SHAMMAI SAY, IS NOT SUSCEPTIBLE, BUT BETH HILLEL SAY: IT IS SUSCEPTIBLE.[44] [THEIR DISPUTE ALSO EXTENDS] TO [THEIR LIABILITY TO] TITHES.[45]

MISHNAH 7. THE TERMINAL BUD OF A PALM[46] IS LIKE WOOD IN EVERY RESPECT,[47] SAVE THAT IT MAY BE BOUGHT FOR [SECOND] TITHE MONEY.[48] UNRIPENED DATES[49] ARE CONSIDERED FOOD,[50] BUT ARE EXEMPT FROM TITHES.[51]

MISHNAH 8. WHEN DO FISH BECOME SUSCEPTIBLE TO UNCLEANNESS?[52] BETH SHAMMAI SAY: AFTER THEY HAVE BEEN CAUGHT.[53] BETH HILLEL SAY: ONLY AFTER THEY ARE DEAD.[54] R. AKIBA SAYS: [IT ALL DEPENDS] IF THEY CAN STILL LIVE.[55] IF A BRANCH OF A FIG TREE WAS BROKEN OFF, BUT IT WAS STILL ATTACHED BY ITS BARK,[56] R. JUDAH SAYS: [THE FRUIT THEREON] IS STILL NOT SUSCEPTIBLE TO UNCLEANNESS; BUT THE SAGES SAY: [IT ALL DEPENDS] WHETHER THEY COULD STILL LIVE.[57] GRAIN THAT HAD BEEN UPROOTED, EVEN THOUGH IT BE ATTACHED TO THE SOIL BY THE SMALLEST OF ROOTS, IS NOT SUSCEPTIBLE TO UNCLEANNESS.[58]

MISHNAH 9. THE FAT [OF THE CARCASE] OF A CLEAN BEAST IS NOT REGARDED AS UNCLEAN WITH CARRION UNCLEANNESS;[59] FOR THIS REASON IT MUST FIRST BE MADE SUSCEPTIBLE. THE FAT OF AN UNCLEAN BEAST, HOWEVER, IS REGARDED AS UNCLEAN WITH CARRION UNCLEANNESS;[60] FOR THIS REASON IT NEED NOT BE MADE AT FIRST SUSCEPTIBLE.[61] AS FOR UNCLEAN FISH AND UNCLEAN LOCUSTS,[62] INTENTION IS REQUIRED IN VILLAGES.[63]

MISHNAH 10. A BEE-HIVE,[64] SAYS R. ELIEZER, IS TREATED AS IF IT WERE IMMOVABLE PROPERTY;[65] HENCE A PROZBUL[66] MAY BE WRITTEN ON ITS SECURITY; IT IS ALSO NOT SUSCEPTIBLE TO UNCLEANNESS AS LONG AS IT REMAINS IN ITS OWN PLACE.[67] THE ONE WHO SCRAPES HONEY THEREFROM ON A SABBATH DAY BECOMES LIABLE TO A SIN-OFFERING.[68] BUT THE SAGES SAY: IT IS NOT TO BE TREATED AS IF IT WERE IMMOVABLE PROPERTY, AND HENCE NO PROZBUL MAY BE WRITTEN ON ITS SECURITY; IT IS SUSCEPTIBLE EVEN IF IT REMAINS IN ITS OWN PLACE; AND THE ONE WHO SCRAPES HONEY THEREFROM ON THE SABBATH IS EXEMPT [FROM A SIN-OFFERING].[69]

MISHNAH 11. WHEN DO HONEYCOMBS BECOME SUSCEPTIBLE TO UNCLEANNESS ON ACCOUNT OF THEIR BEING REGARDED AS LIQUIDS?[70] BETH SHAMMAI SAY: FROM THE MOMENT HE BEGINS TO SMOKE[71] THE BEES OUT; BUT BETH HILLEL SAY: FROM THE TIME AFTER [THE HONEYCOMB] HAS BEEN BROKEN.[72]

MISHNAH 12. R. JOSHUA B. LEVI SAID: IN THE WORLD TO COME[73] THE HOLY ONE, BLESSED BE HE, WILL MAKE EACH RIGHTEOUS PERSON TO INHERIT THREE HUNDRED AND TEN WORLDS, FOR IT IS WRITTEN: ‘THAT I MAY CAUSE THOSE THAT LOVE ME TO INHERIT YESH;[74] AND THAT I MAY FILL THEIR TREASURIES’.[75] R. SIMEON B. HALAFTA SAID: THE HOLY ONE, BLESSED BE HE, FOUND NO VESSEL THAT COULD CONTAIN BLESSING FOR ISRAEL SAVE THAT OF PEACE, AS IT IS WRITTEN: ‘THE LORD WILL GIVE STRENGTH UNTO HIS PEOPLE; THE LORD WILL BLESS HIS PEOPLE WITH PEACE’.[76]

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(1) By coming in contact with any one of the seven liquids enumerated in Maksh. VI, 4.

(2) To be used as food so as to make them subject to rules of food uncleanness.

(3) Since they will eventually be used for food, though not set aside for the purpose now. Even if such fruit had not been specifically plucked for human consumption, but had fallen of its own accord, it becomes unclean after having been rendered susceptible.
(4) Only the entire limb from a living being makes objects unclean, but not the flesh. Hence both contact with liquid and intention are required. If the flesh had been cut off to throw to a dog to eat, it is deemed sufficient intention; cf. Ker. 21a.
(5) For though dead, no major defilement attaches to it; Toh. I, 3. Accordingly it requires to be rendered susceptible both in town and village.
(6) Where it is not usual for fat to be eaten, hence intention is required. In towns, however, where among the large throngs there are sure to be those who also eat fat, no specific intention is required; but in both places it needs to be rendered susceptible. (V. discussion in L.).
(7) Growing of their own accord without having been sown; hence not specified for human food.
(8) Heb. shemarka'im, ‘a species of very acrid onions’ (Maim.).
(9) Though these two plants likewise grow wild, yet on account of their being occasionally served as human food, require contact with liquids, but no specific intention.
(10) As also not requiring intention.
(11) A low succulent herb used in salads.
(12) A genus of lilaceous plants.
(13) A composite kitchen garden plant allied to the artichoke; a species of edible thistles.
(14) Heb. balosin. Jast. emends to bulbus, and renders ‘a bulbous root, a delicious kind of onion’.
(15) I.e., all enumerated things apart from those excepted by the three Rabbis, whose contention was that since they are sometimes eaten, no specific intention is required.
(16) This intention must precede the contact with the liquid (v. L.).
(17) For they are not usually eaten, even in towns.
(18) To convey food uncleanness even where it is less than an olive's bulk, provided it was combined with some foodstuff of less than an egg's bulk, v. Ker. 21a.
(19) Being already unclean per se; v. infra 9, n. 7. For the purpose of elucidation, this Rabbinic ruling must be cited: carrion, whether of wild animals, clean or unclean cattle, imparts uncleanness by contact and carrying. The carrion of a clean bird has but the one uncleanness — that when there is an olive's bulk thereof in the eater's gullet (v. Toh. I, 1). The carrion of an unclean bird, of fish, clean and unclean, and of locusts, have no uncleanness at all.
(20) Bing regarded as food.
(21) Sc. carrion fat of an unclean beast which defiles as the flesh does; v. however Rashi, Ker. 21a.
(22) Since there are bound to be some people who occasionally eat such food.
(23) Since it will later be the cause of major defilement (gullet uncleanness), contact with liquids is non-essential.
(24) As not requiring intention in the towns, since there are bound to be some therein who eat even these things. Specific intention is only required in such cases where the food is not used for human consumption whatsoever. R. Simeon differs from the Tanna of our Mishnah who generalized that: ‘the carrion of unclean beasts anywhere requires attention’.
(25) Of terumah. An umbelliferous annual yellow-flowered herb; cf. Shab. 126b; M. K. 3a.
(26) And, accordingly, a non-priest eating thereof is not deemed culpable.
(27) For once it had been cooked all its taste departs and it becomes uneatable.
(28) The interior of which is eaten as a relish, after they have been pickled.
(29) Aliter: ‘candy-tuft’, a plant with white, pink or purple flowers in flat tufts.
(30) A plant similar to colocasia, with edible leaves and not bearing beans; usually classified with onions and garlic.
(31) And then they become edible.
(32) The name of a fragrant root or shrub, forming one of the ingredients of frankincense.
(33) An Indian spice; cf. Gen. R. XLV, where amomum is prescribed as a medicine for sterility.
(34) Used as a spice, but considered poisonous for beasts.
(35) An umbelliferous plant used as a resin, or in leaves for a spice and for medicinal purposes.
(36) Or ‘safflower’, a thistlelike plant yielding red dye, used especially for rouge.
(37) Refers to the second tithe, which the owner had to take to Jerusalem there to consume; or else he must redeem it by putting aside coins equivalent to their value plus one-fifth, after which that produce becomes free for ordinary use. The coins themselves assume the sanctity of the tithe and must also be taken to Jerusalem to buy therewith food or peace-offerings, and there to be consumed in cleanness.

(38) Since they are not used for food but only for flavouring.

(39) His argument being that since Deut. XIV, 26 stresses: ‘And thou shalt bestow thy money . . . . and thou shalt eat’, the obvious implication is that only such things that can be eaten in their natural condition may be bought for the money.

(40) Each fruit has a different season for tithing purposes; Ma'as. I, 1ff.

(41) Prior to their ripening.

(42) Still being regarded as food on account of the oil therein.

(43) Not considered as food, since none will take the trouble of extracting the oil therefrom.

(44) Cf. Ber. 40a.

(45) According to Beth Shammai it will not be liable to tithes, since it is not susceptible to uncleanness, not being regarded as food.

(46) Kor is the marrow or white heart of a palm or cabbage-tree. During the summer months it is soft and edible, but during the winter it hardens exceedingly.

(47) V. ‘Er. 28b; hence it is not susceptible to food uncleanness.

(48) Being considered as food that had received its growth directly from the soil.

(49) Kofniyoth is the inflorescense of palms, a date-berry in its early stages; cf. M. Sh. I, 14 where they are considered fruit in every respect.

(50) For the purpose of imparting uncleanness.

(51) Because the fruit has not yet ripened.

(52) For as long as they are still alive they are not susceptible to, and cannot impart, uncleanness.

(53) When they are already counted as dead, though still struggling in their nets. As fish do not require ritual slaughter, their death is only a matter of course.

(54) Since nobody eats live fish, they can only be considered susceptible after they are dead.

(55) I.e., if they can still survive after they have been taken out of the net and cast back into the sea, then they are not susceptible.

(56) Thus the figs on the branch are still connected with the tree and regarded as rooted to the soil; cf. Hul. 126b. The same applies to other fruits, but the bark of the fig is mentioned on account of its thickness, and even when the bough is broken it still remains attached to the tree.

(57) I.e., whether the fruit would grow again if fastened to the tree.

(58) Maintaining that this is sufficient to make the grain sprout afresh.

(59) This Mishnah is an explanation of supra III, 3. The guiding principle is that if eventually it will become a source of major defilement (so as to convey uncleanness to men and vessels), no preliminary contact with one of the seven liquids is required.

(60) Provided, of course, it has the required egg's bulk. The Bible declared clean only the fat of the clean beast that afterwards became carrion (v. Lev. VII, 25), but the fat of an unclean beast defiles together with the flesh thereof.

(61) Before it imparts food uncleanness; but there must be intention since it is not usually eaten; v. Mishnah 3, n. 11.

(62) That are dead.

(63) But not in the towns. Contact with liquids they must have everywhere, seeing that they do not carry with them any major defilement.

(64) Cf. Shebi, X, 7.

(65) And can, therefore, be acquired with the three legal procedures of money, document and usucaption.

(66) Cf. Shebi. X, 6; Git. 37a; v. Glos.

(67) Being then treated as if it were actually attached to the soil.

(68) As in the case of plucking anything rooted to the soil on the Sabbath.

(69) Thus regarding the bee-hive in every respect as something entirely detached from the soil. The reference is to a hive which is just lying on the ground, uncemented to the soil with lime.

(70) For as long as the honey is in the hive it is regarded as food (v. previous Mishnah), and subject to the regulations of food uncleanness. As a liquid, however, it contracts first grade uncleanness if touched by anything unclean, v. Par. VIII, 7.

(71) He sets twigs on fire to drive out bees from the hive. Maim.: ‘He heats the honeycomb in order to make its honey sweeter’. Aliter: ‘When he stirs up strife with the bees to drive them out’. Aliter: ‘When he contemplates scraping out the honey’.

(72) When he is about to scrape the honey out of the hive, he cuts it with a knife and extracts therefrom the honeycomb.

This act is described as a breaking of the honeycomb.

(73) Since this Mishnah sets the seal on the entire Talmud, it was thought appropriate to indicate the heavenly blessing to be meted out in the world to come as a reward of its long and arduous study. In some editions this last Mishnah is omitted.

(74) יש , (E. V. ‘substance’) numerically equivalent to 310. This is a recognized Rabbinic exegetic device called Gematria; cf. Aboth III, 19. The pleasure awaiting him who has made the study of the Torah his ‘chief delight’ and his meditation day and night’ will be 310 times greater than any kind of earthly pleasure.

(75) Prov. VIII, 21. The entire chapter is devoted to the importance of a study of the Torah.

(76) Ps. XXIX, 11.